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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Tuesday, November 27, 1979*

(Legislative day of Thursday, November 15, 1979)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Creator and Lord of Life, who hast made the heart of man a temple for Thy spirit, in this quiet pause, open our hearts that we may be receptive to the divine entrance. May there come upon us the hush of solemn thoughts, a new awareness of Thy presence, a more fervent love of Thy ways, a more resolute determination to do Thy will.

Grant Thy comforting grace to those who mourn the loss of a loved one, David, who labored among us.

In this time of testing, draw the nations of the world closer together in mutual trust, in reverence for life, and in honest endeavor for peace. To the President give Thy higher wisdom, and to all emissaries of the Nation give Thy special grace.

Guide Thy servants here in the deliberations and decisions of this day that they may enhance the Nation's welfare and advance Thy kingdom. At evening, give us the peace of those who are kept by Thy grace and live to do Thy will. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 27, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to yield back the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the acting minority leader.

FUEL ASSISTANCE TO THOSE IN NEED

Mr. STEVENS. Mr. President, as we witnessed the President's signing of the Interior appropriations bill this morning, the majority leader was very gracious in his comments concerning the participation of other Senators and particularly the action of the Senator from New York (Mr. JAVITS) in offering the amendment which made available $1.2 billion for assistance to those in need of aid to get through the winter in meeting the increased costs of fuel.

On behalf of those who were present, and particularly myself, I thank the majority leader for his kind comments.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

My feeble comments were not as deserving as they should have been for the performance by way of cooperation and incisive action taken by the distinguished Senator from New York (Mr. JAVITS) in offering the amendment to provide assistance to the elderly and low-income people of this country, in the face of rising energy costs.

I fell far short in stating as well as I should the services that were rendered by the distinguished acting Republican leader, who is the ranking minority member of the Interior Appropriations Subcommittee.

I simply add that I think not only the Senate but the people are in their debt. DEE HUDDLESTON was a very able acting chairman throughout the markup of the bill, the conduct of the hearings, and the conduct of the conference. Mr. YATES and Mr. NATCHER likewise on the other side of the Capitol were most cooperative and most understanding. It was a pleasure to work in conference with these gentlemen. All together I think the Senate and House of Representatives produced a fine piece of legislation that committed this country to a synfuels program, committed it to aiding the poor and the elderly.

I can only say that I am very proud of my colleagues as we have seen them demonstrate the kind of unity that is necessary in dealing with a very contentious, divisive, and difficult problem, the problem of energy.

I only hope that we will be able to see the conferees of both Houses once they are all named get together and work out, hammer out legislation dealing with the Energy Mobilization Board, the Energy Security Corporation, conservation, and the synfuels program. In this regard may I say that Mr. JACKSON and Mr. JOHNSTON have indicated every willingness and a great deal of eagerness to get on with that job.

The Senate is presently devoting its time to the debate of the excess profit tax bill. Progress has not been rapid thus far. I hope that as the days come and go we can strengthen the bill so that the people of the country will feel that the Senate has acted in a very responsible way, that we have a meaningful energy tax bill, one that is fair and equitable to the oil companies, but one that is also fair and equitable to the American people.

I commend Mr. LONG, Mr. DOLE, and the members of the Finance Committee on the work that they have contributed to this point.

I hope that the Senate will rise to the occasion and meet the needs of the moment because in the face of the Iranian

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

situation certainly this country is reminded once again that we cannot continue to rely upon unreliable sources of oil from abroad and that as we import increasing amounts of oil we import inflation, unemployment, and further problems for ourselves in connection with our economy and we also are playing very dangerously with our national security interests.

So much is at stake here and I hope that the Senate will rise to the occasion.

I thank the distinguished Senator for yielding.

Mr. STEVENS. I yield back the remainder of my time.

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. SCHMITT) is recognized for not to exceed 15 minutes.

THE IRANIAN SPECTER

Mr. SCHMITT. Mr. President, the "Iranian specter" will hang over this Nation and its allies for years to come. It will be present somewhere in the world until we have produced and conserved our way back to energy independence, until we have bought and trained our way back to defensive superiority, until we have thought and acted our way back to international respectability.

Personal terrorism, economic blackmail, military intimidation and international contempt will not disappear because of cries for retaliation or because of intemperate name calling or because of the identification of scapegoats. These symptoms of the weakened state of the Union will only disappear when we are capable of both recognizing and then eliminating the causes of the diseases with which the country is now afflicted.

History will show that the following four facts are true:

First, because of decades of bad Federal energy policy we import 50 percent of our crude oil needs. This at a time when we have vast natural and technological energy resources that could be produced quickly by our free-enterprise system.

The question is, will we allow that system, the most efficient in the world, to produce and conserve our way back to energy independence? So far, the answer has been no.

Second, because of years of bad Federal defense policy, we can be intimidated by superior conventional, strategic, intelligence and civil defense forces in the hands of our adversaries. This at a time when we could have vastly superior technological defense systems potentially available to us and a vastly superior human cause to advocate.

The question is, will we allow ourselves to buy and train our way back to defense superiority? So far, the answer has been no.

Third, because of decades of excessive taxation, Federal spending and over regulation, we are being destroyed by inflation and foreign economic competition. This at a time when we have a capability for innovation and competition unmatched by any other society on Earth.

The question is, will we allow taxes, spending and regulation to be cut so that we can invest and produce our way back to economic stability? So far, the answer has been no.

Fourth and finally, because of 3 years of bad foreign policy, there is no reward for nations to be our friends and no penalty for nations to be our enemies. This at a time when freedom and the benefits of freedom are so obviously desired by all those who have known oppression.

The question is, will we find the intellectual and commonsense leaders who can think and act our way back to international respectability, leaders who can think and act beyond the limits of the dogma and demagoguery of the past? So far, the answer has been no.

Our enemy is not "big oil"; it is a fear of American enterprise.

Our enemy is not the "Ayatollah," it is an unwillingness to be both strong and compassionate in the long term struggle between oppression and freedom.

At the same time that we must work in imaginative and principled ways to secure the release of the American hostages in Iran, we also must realize that the "Iranian specter," or something close to it, will remain. The "Iranian specter" will remain until we become Americans again, in thought, in productivity and, most importantly, in dedication to the advancement of freedom.

Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be again charged against my time under the standing order and without prejudice to the next speaker.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

RECOGNITION OF SENATOR LUGAR

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana (Mr. LUGAR) is recognized for not to exceed 15 minutes.

S. 2046—CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

Mr. LUGAR. Mr. President, I seek to draw the attention of the Senate to the Chrysler Corp., whose financial crisis and plea for taxpayer assistance now occupy the agenda of the Senate Banking Committee and soon, possibly, the Senate itself. I address this issue after participation in 6 days of intensive hearings; on a first-hand acquaintance with Chrysler operations in Indiana, which is second only to Michigan in Chrysler activities; and on my active involvement in Congress' other recent experience with a socially complex, politically powerful entity, New York City.

I mention New York City because several parallels are obvious. Neither New York City nor Chrysler would have engaged the attention of Congress but for its size and its political muscle. Last year, 7,000 businesses failed in this country without so much as a memorial service in this Chamber. But we are told that Chrysler's sheer size, like that of New York, makes its financial salvation a matter of the highest national urgency.

Solely on the basis of size, we are asked to suspend the rules of fair competition for credit; to place, through Federal loan guarantees, a large losing company at the front of the loan window line ahead of smaller, more creditworthy enterprises and entrepreneurs. Solely on the basis of size, we are asked to void in one special case the inescapable concomitant to the economic right to succeed—the right to fail.

A brand new Federal law on bankruptcy and reorganization, a comprehensive safety net of unemployment insurance, food stamps, and other income protections—we are told that all these mechanisms are inadequate to their assigned tasks, solely on the basis of Chrysler's size.

I do not belittle the impact of a Chrysler failure. On the contrary, few Senators are more aware or more concerned; 17,170 Hoosiers in direct Chrysler employment, many concentrated in communities where the company payroll takes in 12 to 14 percent of the entire population, have made certain that I knew every aspect of a grim predicament.

Nor do I disparage the argument that Congress should help repair damage which the Congress has inflicted. No honest observer can dismiss the causative role of Federal laws and regulations—sometimes sensible, sometimes fatuous, always well-intentioned, always very costly—in bringing on this emergency. These requirements, whatever their individual merit, have had a cumulative effect on Chrysler's cost structure which has been devastating. I have offered legislation which addresses this aspect of the problem, but enthusiasm in the committees whose previous judgments are in question has been predictably nonexistent.

Accordingly, I have inspected very carefully the plan brought to the Senate by the company and its would-be joint venturer, the Carter administration. I have analyzed it with two thoughts in mind: First will the plan, if implemented, succeed in preserving the 140,000 jobs in jeopardy? And second, does the plan meet reasonable standards of borrower contribution and lender protection which should be observed before the Congress puts the taxpayers' dollars at extraordinary risk? My conclusion, and my report to my fellow Senators today, is that the administration plan fails totally on both counts.

Predicated on falsely optimistic assumptions, the administration bill will only forestall and not avert a Chrysler bankruptcy. The market for new cars will not produce 9.6 million sales in the United States in 1980 as contemplated by the administration plan, next year or any time in the foreseeable future. Expert testimony consistently has placed this projection in the vicinity of 9 or even 8 million sales per year. Persistent inflation, along with continued uncertainty about foreign oil supplies, amply illustrated by events taking place at this moment, have rewritten the guidelines which once governed the transportation choices of American consumers.

Moreover, the principle that extraordinary relief should be accompanied by extraordinary protections for the taxpayers, a notion recognized and embodied in the New York City legislation, is ignored in the administration bill. The Federal loan guarantees would be by far the largest single commitment in the package; they would stand behind other creditors in the event of failure; and the whole arrangement would be overseen not by an independent, hardheaded review authority, but rather by one Cabinet department which has already revealed its vulnerability to political pressure in this controversy.

Thus, the scenario posited by Chrysler and its allies—$1.5 billion of federally backed loans versus a loss of billions in unemployment costs—is a false and misleading choice. If we follow their plan, we will throw away $1.5 billion of taxpayer money, and incur the job losses and other costs as well.

Mr. President, there is a suspicion at large among the American people that none of the usual rules apply to the big in our society; that big government can exempt itself from the rules of sound budgeting; that big business can enjoy special treatment from the regulatory or judicial systems; that big labor, together with big business, can suspend the rules of free competition and coerce the taxpayers into perpetual subsidies of their inefficiency and their special privileges.

Any Chrysler aid package must serve to reinforce and not undermine the principles of fairness and equal treatment, to require of the big the same degree of sacrifice and the same severity of terms which the small would expect to make in return for the compassionate largess of their neighbors.

I submit four basic principles which must apply before I can vote to risk the taxpayers' money on Chrysler's behalf. These are principles which were applied during the New York City debate in 1977, and which should apply with even more force when the petitioner is a private corporation rather than a major governmental entity.

First. All commitments must be known in advance. No Hoosier farmer buys a pig in a poke, and I will not force him to do so involuntarily by putting up his tax dollars before the hard cash of the other parties is on the table. These commitments must bear the certification of a reviewing entity other than the Secretary of the Treasury, so that we are certain that the non-Federal funds are real dollars, and not illusory aid created through the mirrors of creative accounting.

Second. The private assistance must demonstrate a will to make sacrifice, and must exceed the public portion of the package. This is not a matching funds exercise in which Congress is devising ways to induce non-Federal spending in the public interest. Chrysler and its friends are the initiators of a private relief measure, and as such should bear the greatest burden. This may not be the last sacrifice which the bankers, stockholders, and employees of Chrysler are asked to make. Better that the American people find out now how determined the Chrysler family is to save itself.

Third. The taxpayers' money must have the highest degree of protection. The Federal loan guarantee is the indispensable element which will catalyze all other components of this reaction. As the most essential element it deserves the greatest security, in terms of both legal right and review mechanisms. Such security was established for the New York City guarantees and, after much gnashing of bankers' teeth has been endured once again, it can be established in this case as well.

Fourth. The chance of repetition must be minimized. This means simply that the terms of the guarantee must be so stern and so demanding that other potential applicants are dissuaded and not stimulated. Rigorous observation of the first three principles will produce this corollary result.

Without a point-by-point itemization, suffice it to say that the administration proposal and all its variations are oblivious to all these ideals. Those Senators who subscribe to them confront the option of flatly opposing aid to Chrysler, or crafting a new plan consistent with these principles. I will offer the second option to my Banking Committee colleagues at Thursday's markup.

In brief outline, I propose the following:

First. Increasing the amount of money to be raised by the Chrysler community—management, labor, bankers, suppliers, and host communities—from $1.5 to about $3 billion. This is to be accomplished through a 3-year freeze on all management compensation; a 3-year freeze on wages and some, not all, benefits of hourly workers; a stock offering which produces $50 million in new equity capital in 1980; and a requirement that Chrysler assemble $1.6 billion from all other sources, such as loans, sales of assets, additional stock offerings, credit and price concessions by suppliers, and tax abatement and other relief from State and local governments.

As originally presented to the Banking Committee, the Chrysler assistance would grant $1.5 billion in subsidized loans while leaving untouched a new union contract costing the company $1.3 billion. In other words, the taxpayers are to pick up the tab for a large pay increase even as the company and the jobs of the workers in question face extinction. The company and its union expect to be excused, on the basis of bigness, from the kinds of sacrifices to which the average struggling company and its workers have absolutely no alternative. This is clearly intolerable, and my plan would correct this unfairness.

Second. Establishment of several layers of security for the tax dollars which will back Chrysler loans. The guaranteed loans will have priority in the event of a general default; the government-backed loans can be drawn down only after the non-Federal funds are committed in prescribed ratios; all outstanding Federal loans must be repaid before dividends may be paid on either common or preferred stock; no loan can be guaranteed for a period greater than 10 years; and the guaranteed loan agreements must contain all affirmative and negative protective covenants customary in the private sector.

Further protections will guard the guaranteed funds against reneging by the nonguaranteed contributors. No Federal dollars will be obligated until the board has certified that all $1.6 billion of outside resources are in place. In the first 2 years, $3 of private funds must actually be utilized by Chrysler prior to the guarantee of $2 in federally guaranteed loans. In other words, commitments must actually be delivered on before each distribution of Federal guarantees can be made.

For instance, the State of Michigan has promised to loan $100 million in return for a mortgage on the Chrysler headquarters in Detroit. That constitutes a commitment, usable in reaching the $1.6 billion requirement. But this loan must actually be made before it qualifies to match $67 million of Federal guarantees in the prescribed 3-to-2 ratio. This insures that, at each step, risk is shared more than equally by the non-Federal parties.

Third. Creation of an independent review board charged with enforcing the terms of the loans and certifying to Congress that all conditions precedent to the federal guarantees have been met. The intent is to place the public's money under the stewardship of an entity less susceptible to political pressure than any one single cabinet officer.

Only after all these conditions are met will $1.0 billion—a reduction of $500 million from the $1.5 billion in the administration version, and about one-fourth rather than one-half of the total assistance package—be backed by Federal guarantees. Because of the urgency of Chrysler's immediate needs, and to inspire the confidence needed to secure private loans, concessions, and stock purchases, up to 60 percent of these guarantees would be available in the first year. The allowable guarantees in the 3 later years would be $200 million, $100 million, and $100 million, respectively.

The total resulting package of $4.1 billion exceeds the administration plan by over $1 billion. By increasing the total dollars infused, the company will have a chance to survive and compete even under the recession conditions which are far more likely than the optimistic scenario underlying the current bill. Furthermore, by altering the cost structure of the company favorably and dramatically, this plan would make Chrysler more competitive and more creditworthy in its own right.

While the largest dollar amount from nonguarantee sources comes from the hourly worker wage freeze, the level of sacrifice being asked of other parties is equivalent. Shareholders will see their equity diluted by as much as 15 to 20 percent. Chrysler's lenders will be required virtually to double an outstanding loan balance about which they are already understandably nervous. Chrysler hourly workers, whose average wage already exceeds that of the average American worker by 42 percent, will not be alone in this endeavor. At the end of the freeze, they will still be far better compensated than average workers in other industries, and this is before generous fringe benefits and pension compensation is considered. They are being asked to do no more than those thousands of less fortunate employees at smaller companies who will struggle against bankruptcy this year without congressional attention.

At Thursday's markup, we will hear that these restrictions are unprecedented, that we are violating the traditions of banking, of the stock market, of the collective bargaining process. But those who would take from the taxpayers an unprecedented assistance must be prepared to do the unprecedented in return. In any event, examples of Federal preconditions affecting wages, hours, and terms of employment abound already in the law, and we do no violence to tradition by adding one more instance.

After the reporting of an unqualified bailout bill by the House Banking Committee, one self-satisfied lobbyist was quoted as saying that there was no significant opposition to the Chrysler demands. But the smug assumption that Chrysler, its union, and its bankers are too big to be rejected has been dispelled during 6 days of searching inquiry led by our able committee chairman, Senator WILLIAM PROXMIRE. Many Members, perhaps a majority, have come to the realization that the administration bill and its close variations are short-term political copouts—too little aid to save the jobs, too little effort by the parties seeking the aid, and too little protection for the taxpayers whose aid is sought.

The easy course in this political season is the quick fix of a simple bailout. But a bailed out boat still leaks. The course of courage is to demand repairs as the price of the aid, repairs which give hope that the bailing is not in vain. That is the course and the plan which I offer today.

To paraphrase Chrysler Chairman Lee Iococca, I am not asking my colleagues to buy this plan on faith, I'm asking you to compare, and then to help the workers and associates of Chrysler to help themselves, permanently, in a cooperative venture which reaffirms rather than mocks the fundamental principles of care for tax dollars and free competitive enterprise.

Mr. President, I submit with this statement a bill to accomplish the purposes I have outlined. I ask unanimous consent that the text of my bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "borrower" means the Chrysler Corporation, any of its subsidiaries or affiliates, or any other entity the Board may designate from time to time which borrows funds for the benefit or use of the Corporation;

(2) the term "Corporation" means the Chrysler Corporation and its subsidiaries and affiliates;

(3) the term "financing plan" means the financing plan required pursuant to section 4(3) and revised in accordance with section 5(a)(4);

(4) the term "fiscal year" means the fiscal year of the Corporation;

(5) the term "operating plan" means the plan required pursuant to section 4(2), and revised in accordance with section 5(a)(4);

(6) the term "persons with an existing economic stake in the health of the corporation" means banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, state, local, and other governments, and others directly deriving benefit from the production, distribution, and sale of products of the Corporation;

(7) the term "labor organization" has the same meaning as in section 2 of the Labor-Management Relations Act of 1947;

(8) the term "wages and benefits" means any direct or indirect compensation paid by the Corporation to employees of the Corporation and shall include, but is not limited to, amounts paid in accordance with wage scales, straight time hourly wage rates, base wage rates, base salary rates, salary scales, and periodic salary grades, overtime premiums, night shift premiums, vacation payments, holiday payments, relocation allowance, call-in pay, bonuses, bereavement pay, jury duty pay, paid absence allowances, short-term military duty pay, paid leaves of absence, holiday pay including personal holidays, and medical, health, accident, sickness, disability, hospitalization, insurance, pension, educational, and supplemental unemployment benefits; and

(9) the term "Board" means the Chrysler Review Board established by section 3.

CHRYSLER REVIEW BOARD

SEC. 3. (a) There is established a Chrysler Review Board which shall consist of the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, one member of the Board of Governors of the Federal Reserve System to be elected by the Board of Governors, and three individuals with business experience in the automobile industry to be appointed by the President.

(b) The Secretary of the Treasury shall be the chairperson of the Board. Five members of the Board shall constitute a quorum for the transaction of business.

(c) Upon making any determination under section 4, 5, or 6, the Board shall promptly transmit to the appropriate committees of the Congress a written report thereon.

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

SEC. 4. The Board, on such terms as it deems appropriate, may make commitments to guarantee loans to a borrower only if at the time the commitment is issued, the Board determines that—

(1) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof, or competition in the automobile industry in the United States;

(2)(A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding three fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business, and after December 31, 1983, to continue such operations without additional guarantees or other Federal financing; and

(B) the Board has received such assurances regarding the feasibility of the operating plan as it may require;

(3) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such plan, and which includes an aggregate amount of nonfederally guaranteed assistance of at least $1,650,000,000—

(A) of which $1,600,000,000 shall be from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of their outstanding commitments or concessions as of October 17, 1979, or from the issuance of securities in excess of the amount required by subparagraph (D), except that for the purpose of this paragraph, the Corporation may not treat as a concession any amount not expended as a result of the application of section 6 or as a result of any reduction in the interest payable on a loan guarantee under this Act attributable to the added security of a Federal guarantee;

(B) from capital to be obtained through merger, sale of securities, in excess of the amount required by subparagraph (D), or otherwise after October 17, 1979;

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979; and

(D) from the issuance of $50,000,000 of stock of the Corporation not later than the close of fiscal year 1980;

(4) the Corporation has commitments for all financing contemplated by the financing plan and that such financing is adequate (taking into account the amount of guarantees to be issued) to meet all the Corporation's projected financing needs during the period covered by the financing plan;

(5) the Corporation's existing creditors have certified to the Board that they will continue to waive their rights to recover under any price credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (2) or the financing plan submitted under paragraph (3); and

(6) the financing plan submitted under paragraph (3) provides that expenditures under such financing plan will contribute

to the domestic economic viability of the Corporation.

REQUIREMENTS FOR LOAN GUARANTEES

SEC. 5. (a) Loan guarantees may be issued under this Act only pursuant to a commitment issued under section 4. The terms of any such commitment shall provide that a loan guarantee may be issued under this Act only if at the time the loan guarantee is issued, the Board determines that—

(1) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the operating plan;

(2) there is a reasonable prospect of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable;

(4) the operating plan and the financing plan of the Corporation continue to meet the requirements of section 4 or appropriate revisions to such plans (including extensions of such plans to cover the then current four-year period) have been submitted to the Board to meet such standards;

(5) the Corporation is in compliance with such plans;

(6) the Board has received such assurances regarding the feasibility of such plans and the Corporation's compliance with such plans as it may require;

(7) the Corporation has agreed for as long as guarantees issued under this Act are outstanding—

(A) to have prepared and submitted on or before the thirtieth day preceding each fiscal year beginning after December 31, 1980, a revised operating plan and financial plan which cover the four-year period commencing with such fiscal year and which meet the requirements of section 4; and

(B) to prepare and deliver to the Board within one hundred and twenty days of the end of each fiscal year, an analysis reconciling the Corporation's actual performance for such fiscal year with the operating plan and the financial plan for such fiscal year; and

(8) the borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Board pursuant to section 8(b), except to the extent that such terms and conditions are modified, amended, or waived by the Board.

(b) Any determination by the Board that the conditions established by this Act have been met shall be conclusive, and such determination shall be evidenced by the making of the guarantee for which such determination is required. The validity of any guarantee made by the Board under this Act shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any guarantee made under this Act shall be issued.

(c) The Board shall prescribe and collect no less frequently than annually a guarantee fee in connection with each guarantee made under this Act. Such fee shall be at least one-half of 1 per centum per annum on the outstanding principal amount of loans guaranteed under this Act computed daily. In addition, the Board is authorized to negotiate any terms it deems appropriate to compensate adequately the United States for the risk it assumes in issuing guarantees under this Act. Such terms may include a portion of the net profits as determined by the Board based on the difference between the loan guarantee rate charged and the implicit rate of interest based on the risk involved. All amounts collected by the Board pursuant to this subsection shall be deposited in miscellaneous receipts of the Department of the Treasury.

LABOR REQUIREMENTS FOR LOAN GUARANTEES

SEC. 6. (a) No loan may be guaranteed under this Act if the Board determines that—

(1) the Corporation, before September 13, 1982, has entered into, implemented, or continued an agreement with a labor organization which directly or indirectly—

(A) increases wages and benefits beyond the levels and amounts provided on September 13, 1979;

(B) increases wages and benefits according to a cost-of-living allowance or other mechanism providing automatic wage and benefit increases reflecting fluctuations in foreign or domestic consumer price indices relative to price inflation, living costs, or consumer purchasing power;

(C) grants automatic or periodic wage and benefit increases in accordance with an annual improvement factor or a similar mechanism of any kind;

(D) provides wage and benefit increases in excess of the rates or amounts provided by the Corporation on September 13, 1979 relative to incentive job classifications; or

(E) defers any wage and benefit increases; or

(2) for any fiscal year before December 31, 1982, the total annual cost to the Corporation of wages and benefits for employees not represented by a labor organization shall exceed the total annual cost of such wages and benefits for such employees for the fiscal year ending December 31, 1982.

(b) The limitations set forth in subsection (a) of this section shall not apply to any increase in wages or benefits required by law.

(c) Any increase in the wages and benefits of a person employed by the Corporation resulting from reclassification or reevaluation of a job or a promotion effected in order to evade the provisions of this section shall be considered an indirect form of compensation.

LIMITATIONS ON GUARANTEE AUTHORITY

SEC. 7. (a) The authority of the Board to extend guarantees under this Act shall not at any time exceed $1,000,000,000 in the aggregate principle amount outstanding.

(b) During the fiscal year ending on December 31, 1980, not to exceed the lesser of $600,000,000 or 66⅔ per centum of the amount of non-Federal financial assistance made available and taken into account for the purpose of section 4(3)(A) shall be available for loan guarantees under this Act.

(c) During the fiscal year ending on December 31, 1981, not to exceed the lesser of—

(1) the sum of (A) $200,000,000, and (B) $600,000,000 reduced by the principal amount of loans guaranteed prior to January 1, 1981 and outstanding on the date on which the guarantees are made under this subsection, or

(2) 66⅔ per centum of the amount of non-Federal financial assistance taken into account for the purpose of section 4(3)(A) of this Act,

shall be available for loan guarantees under this Act.

(d) During the fiscal year ending on December 31, 1982, not to exceed the sum of—

(1) $100,000,000, and

(2) $800,000,000 reduced by the principal amount of loans guaranteed prior to January 1, 1982, and outstanding on the date on which the guarantees are made under this subsection,

shall be available for loan guarantees under this Act.

(e) During the fiscal year ending on December 31, 1983, not to exceed the sum of—

(1) $100,000,000; and

(2) $900,000,000 reduced by the principal amount of loans guaranteed prior to January 1, 1983, and outstanding on the date on which the guarantees are made under this subsection,

shall be available for loan guarantees under this Act.

(f) Notwithstanding subsections (d) and (e), no guarantee may be made during fiscal year 1982 or 1983 unless, prior to the issuance of any commitment during such year, the Corporation has received at least $200,000,000 in each such year in financial assistance which may be taken into account for the purpose of section 4(3)(A).

TERMS AND CONDITIONS OF LOAN GUARANTEES

SEC. 8. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms of such loans shall provide that they cannot be amended, or any provision waived, without the Board's consent.

(b) Any commitment to issue guarantees entered into pursuant to this Act shall contain all the affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this Act, subordination of existing and future loans to the Corporation to the loans to be guaranteed, and prohibition of the payment of dividends on any common or preferred stock issued by the Corporation while any guaranteed loan is outstanding.

INSPECTION OF DOCUMENTS; AUDIT BY THE GENERAL ACCOUNTING OFFICE

SEC. 9. (a) At any time a request for a loan guarantee under this Act is pending or indebtedness guaranteed under this Act is outstanding, the Board is authorized to inspect and copy all accounts, books, records, memorandums, correspondence, and other documents of the Corporation and any other borrower.

(b) Upon request by the Board, the General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of all accounts, books, records, and transactions of the Corporation and any other borrower. No guarantee may be made under this Act unless and until the Corporation and any other borrower agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report annually the results of all such audits to the Congress and the Board.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 10. (a) The Board shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency therefor as a result of the issuance of guarantees under this Act.

(b) The Board shall be entitled to recover from the borrower, or any other person liable therefor, the amount of all payments made pursuant to any guarantee entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(c) The remedies provided in this Act shall be cumulative and not in limitation of or substitution for any other remedy available to the Board or the United States.

(d) The Board may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

(e) A loan shall not be guaranteed under this Act if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

(f) If any provision of this Act is held to be invalid, or the application of such provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

FEDERAL RESERVE BANKS AS RESERVE AGENTS

SEC. 11. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

REPORTS TO CONGRESS

SEC. 12. The Board shall submit to the Congress semiannually a full report of its activities under this Act during fiscal years 1980 and 1981, and annually thereafter so long as any guaranteed loans are outstanding.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without fiscal year limitation, such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of this Act, the authority of the Board to make any guarantee under this Act shall be limited to the extent such amounts are provided in advance in appropriations Acts.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining which I yielded back earlier?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may yield that to the Senator from Massachusetts (Mr. TSONGAS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD assumed the chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for a period of 15 minutes.

Mr. TSONGAS. Thank you, Mr. President.

I might say that the comments made by the Senator from Indiana are very much like my own and even though we come to this issue, perhaps, from a different philosophical perspective, we, apparently, have ended up in very much the same place.

CHRYSLER: SACRIFICE FOR SURVIVAL

Mr. TSONGAS. Mr. President, I regret that without major alterations, I cannot support the administration's legislation to provide emergency Federal loan guarantees to the Chrysler Corp. I say this after active participation in the Banking Committee's review of Chrysler's crisis and with a sober appreciation of the human costs if Chrysler fails. I am convinced that we cannot ask American taxpayers both to put aside their tradition of free enterprise and to take the enormous risk of providing assistance for a private corporation without significant changes.

Before committing the money of American taxpayers, we must have hard sacrifice by all Chrysler Corp. workers, from the assembly line to the executive suite. Chrysler must get past tokenism and accept real reductions in all employees' income. We must also demand a much greater contribution from every member of the private sector involved with the Chrysler Corp. Without major new commitments inside the company and out, Chrysler and others dependent on it simply will not survive.

Hard sacrifice is essential for Chrysler's survival. Greater sacrifice also is needed to protect the Federal Treasury from a dangerous precedent of easy money for bad management. We must substantially reduce the risk of Government involvement, and we must insure that the Government profits equally in any potential upswing in company operations.

Ultimately, Washington cannot guarantee Chrysler's survival. But the Government can improve the company's prospects for the future with a much more equitable distribution of commitment than the administration proposes. Let me give two other examples of the legislation's deficiencies before outlining my own proposals.

First, the proposed $3 billion is too little to get Chrysler through the hard times ahead for the automobile industry. The administration's assumptions are overly optimistic. They are blind to a new reality in Iran, and to its impact on our energy situation and on the domestic automobile market. I think the Senate has estimates as to the number of automobiles to be manufactured next year and the year after, which are quite accurate. At the same time that the Department of Transportation seeks to "reinvent the car," this legislation fails to allow Chrysler the full resources to build its technological capability.

Second, the administration proposal would leave too much discretion in the hands of the Secretary of the Treasury. We need a tough minded review of Chrysler's operating plans by individuals primarily concerned with whether the corporation exists 5 and 10 years from now—not just until next November. There is also too little input from other Cabinet Secretaries and from the private sector—the source of the greatest expertise and toughest judgment in this matter.

These particular flaws and others—including the flagrant lack of serious sacrifice at Chrysler and by private enterprises involved with the company—make the administration bill unacceptable to me in its present form. I believe that the will of the Senate requires another approach, which has the possibility of long-range success that the administration bill fails to deliver.

Mr. President, I plan to introduce legislation that addresses these major deficiencies in the proposed bill. I must say that in many respects they parallel the recommendations made by the Senator from Indiana a few minutes ago. Today I will describe five components of my legislation to help the Chrysler Corp. turn itself around. Then I will discuss ways in which the risk to Federal moneys can be minimized. Finally, I will look at Chrysler's future in light of new conditions and past policies.

TO INCREASE PRIVATE SECTOR INVESTMENT

I propose to increase the level of private investment relative to Federal investment, setting it at a ratio of nearly 2 to 1. If the Federal Government is going to issue loan guarantees in the amount of $1.5 billion, the private sector should provide financial resources for the corporation in the amount of $2.5 to $3 billion. This contribution must represent new commitments, and must be raised equitably by all sectors of the private community: the banks, the dealers and suppliers, management, labor, and other members of the business and financial community.

While I propose to give the Chrysler Assistance Board the power to negotiate with every member of the private sector for a reasonable dollar commitment, I believe that we must establish goals for each of these participants.

First, I think that we can expect the banking community to provide up to $400 million in new debt financing, as well as maintenance and extension of maturities on existing commitments.

It must be noted that the banks have little investment actually at risk in their loans outstanding to Chrysler. Of the $1.6 billion outstanding, banks estimate a loss in the event of bankruptcy of only $250 million. Additionally, their investors are an independent constituency and, as such, the banks have been reticent to agree to aid Chrysler. They have not completely dismissed the possibility of additional loans, lower interest rates, or longer terms, although they have not agreed to support them either. They, furthermore, have completely dismissed the idea of banks converting some of their loans into stock.

In recognition of these facts, I recommend the following: The banks must agree to provide uninsured loans of not less than one-fifth of the total Federal loan guarantees—$300 million—to Chrysler. The Secretary should negotiate any appropriate bank actions, including the maintenance of old loans or the stretching of maturities, to aid the Chrysler plan. We believe this is not too excessive a burden in light of the banks' limited stake in Chrysler.

Second, in light of Chrysler's pressing need for new equity, we should insist that labor, management, dealers, and suppliers purchase stocks and warrants to purchase stock. Requiring that constituents purchase warrants, warrants that allow procurement of Chrysler stock at some future date, is an attractive proposition. Chrysler's debt to equity ratio is too high, therefore selling stock is necessary to secure equity. Due to the present low value of stock, however, it may be unwise to issue too much additional stock, for this would dilute the stock and cause additional incentives to leave Chrysler as an investment. Warrants can generate equity without initially diluting stocks. I believe that about $400 million in equity can be raised through such sales.

Dealers and suppliers have an enormous stake in the continued viability of Chrysler Corp., and they stand to profit greatly in the event of a turnaround. In addition to purchasing stock and warrants for stocks, dealers and suppliers should be required to make price concessions and favorable credit terms for the Chrysler Corp. wherever possible.

A number of State and local governments have a great stake in the future of the Chrysler Corp., and they must be prepared to provide substantial assistance to insure against a failure.

There are a number of options for the way in which the six major Chrysler States and their cities can assist Chrysler. I propose a package of loans, loan guarantees and tax incentives, including short-term concessions on property income and loss carryback. This amount could total up to $500 million, with approximately 60 percent of this amount coming from Michigan.

An additional source of financing from the private sector is a wage freeze for both management and labor. Again, this is an issue that was raised by the Senator from Indiana, and it was also raised by the Senator from Utah.

This source is not specifically addressed by the administration bill, and I think it should be mandated in legislation as a condition of Federal assistance. We have been trying in the Banking Committee to establish some tough rules, but evidently Chrysler and the UAW feel that we are engaging in an academic exercise when it comes to pay freezes.

They evidently feel that they can negotiate 33 percent pay increases for the workers and take token 2 to 10 percent pay cuts at the very top level.

I for one will not support any Federal assistance until I am assured that both labor and management will not take pay increases, and I want more than token pay cuts at the top level. I am not going to support gifts charged to the American taxpayer that allow certain people to remain sacrosanct continuing to enjoy fat salaries.

There is going to have to be a dip in the UAW contract, no matter how distasteful that may be. There will have to be a severe change in that sweetheart agreement.

In addition, Mr. Iacocca and his top 1,700 executives are going to have to play a much greater financial role in their company's survival than they have done up to this point.

TO MINIMIZE GOVERNMENT RISK

Loan guarantees, even though they involve no immediate cash outlay, do involve a real cost to the public—the potential call of creditors on the Government's funds if the enterprise fails. Economists estimate the value of this call by comparing the interest rate that private lenders would demand from Chrysler if no Government assistance was available, with the borrowing rate which Government guarantees permit.

At this point, Chrysler has a severe cash flow problem and a high debt to equity ratio. I feel it would be unwise to require full compensation to the Federal Government until those situations are corrected. However, at some point, the Government must be compensated for the cost and risk entailed in making assistance to Chrysler. If at some later date the company attains profitability, I think the Federal Government should have the opportunity to enjoy some of the large profits that may accrue to the stockholders. At the very least, the taxpayers should stand to gain as much as Mr. Iacocca.

Therefore, I propose the following. First, I would increase the minimum guarantee fee from one-half of 1 percent to 1 percent. Second, I would give the board the authority to negotiate for greatly increased fees in the case of a Chrysler turnaround.

As a further step toward minimizing Government risk, I believe that the Government-guaranteed loans should not be subordinated to other debts in the event of a corporation failure. The present legislation allows a waiver of the Government's senior position. I proposed to limit that waiver authority to no more than 50 percent of the amount of loan guarantees, and insure that waivers be given only if they are directly related to reducing the Government's risk.

Finally, I propose the formation of a board to negotiate the loan guarantees and to oversee the implementation of the corporation's operating plan and the financial plan. This board must have broad participation by both Federal officials and representatives of the private sector. Only in this way can we insure that we have a nonpartisan group of experts who can bring to bear tough-minded business practices which will insure the long term viability of the corporation.

CHRYSLER'S POSITION

There are a number of troubling aspects to this legislation.

First, it is precedent-setting. It must not be the first of a long lien of bailout requests. We must make sure that the elements of the package make clear that it is a last resort measure for a troubled industry. I said during the hearings that it must be painful for those with an economic stake in the industry to come to Congress for this kind of help. Sacrifices must be made by all who have an economic stake, proportionate to their involvement. The legislation I propose will specify those commitments.

Second, the assumptions Chrysler makes about increasing its market share and about the market in general appear fragile. We are living in a period when major changes in consumer buying habits will be dictated by soaring gasoline prices, shortages and disruptions of imported fuel, economic recession, and declining birth rates. A cataclysmic event in any one of these areas will render this legislative package useless. Further, Chrysler tells us they make almost no profit from smaller cars, yet the above trends indicate that these are the cars that will sell and upon which the Big Three must rely.

Third, Chrysler assumes market penetration by its new K-body vehicle. Yet GM will be fully downsized at the same time the K-bodies come on line. Many foreign cars continue to get higher gas mileage than American-made cars and will undoubtedly continue to gain large shares of the U.S. market.

Mr. President, I do not intend to prop up Chrysler for the next several years, then have it return to Congress for further assistance, or ultimately fail. I am seriously concerned about the future of the automobile industry as a whole and Chrysler's viability in that market.

The motor vehicle industry is in the process of responding to unprecedented pressures, due in large part to the reduced availability of petroleum and its continuous price increases. Hampered by several years of lag time necessary to design and produce new, lighter, more fuel-efficient vehicles, Chrysler and the entire American industry have been undercut by foreign automobile manufacturers who have already responded to these pressures. And the American consumer has responded to these pressures, too. The foreign manufacturers now provide 25 percent of the American market, while Chrysler and the others cannot sell their full-sized cars.

The next question is: What pressures will make consumers stop buying cars, and how long will it be before this happens? It seems clear that we do not know the answers to this and many similar questions. We should not make any long- or short-term investment in the automobile industry until we have a better picture of the future of the automobile market.

Thus, I am requesting two things. First, the Secretary of Transportation would submit to the Chrysler Assistance Board, as soon as practical but in no case later than 6 months after the enactment of this legislation, an assessment of the long-term viability of Chrysler's involvement in the automobile industry. The study shall assess the impact of likely energy trends and events on the auto industry, including long-term capital requirements, the rate of technological change, and shifting market characteristics. The study shall also assess the capability of the industry as a whole to respond to the requirements of the 1980's. The study shall evaluate the adequacy of the industry's existing structure to make necessary technological and corporate adjustments.

The Board shall take the results of the study into account when assessing the corporation's financial and operating plans. The Secretary of Transportation shall consult with the Secretary of Energy in assessing energy trends.

Second, I am requesting the Department of Transportation to undertake a long-range planning study of the automobile industry. Economic and energy pressures are causing changes in the automobile market which have implications on personal mobility, industry capital and material resource requirements, national and regional employment, trade and balance of payments, and industry productivity and structure. In order to anticipate the effect of these changes and be responsive, the Secretary of Transportation shall direct the transportation system center, the research branch of DOT, to collect data and perform the analyses necessary for the preparation of an annual comprehensive assessment of the state of the motor vehicle industry and its interaction in an integrated economy.

The assessment shall include, but not be limited to, issues pertaining to personal mobility, capital and material requirements and availability, national and regional employment, trade and the balance of payments, the industry's competitive structure, and the effects of using other modes of transportation. Without a comprehensive annual study of the motor vehicle industry, the repair industry, and their related supply industries, foreign planning techniques and production methods, energy and resources availability and cost, and consumer attitudes, we as legislators are now and will continue to be forced to make major legislative decisions with wide ramifications for the economy without a real understanding of the market and the long-range impacts of our decisions.

THE AUTOMOBILE INDUSTRY

It is painfully clear that we have a dinosaur mentality in the automobile industry. Our industry lacked the vision of VW in the 1950's and 1960's, and that may be forgivable. But we had a major oil crisis 6 years ago, and Chrysler is just now getting around to dealing with the reality of the small, fuel-efficient car.

Chrysler and the other giants have consistently done their best to prevent Congress from instituting standards for fuel efficiency. In 1975, when the Congress was writing the Fuel Efficiency Act, we had Mr. Iacocca and the auto industry types coming down hard on the Republicans and the UAW coming down hard on the Democrats to kill a cash rebate for fuel efficient cars and a tax for gas guzzlers. That effort only got 50 votes, and Mr. Iacocca and the unions went away happy.

This sort of willingness to use influence and pressure for self-interest has sadly betrayed the national interest. Now, after stalling and sandbagging and refusing to deal with reality for the past two decades, the industry is forced to spend billions of dollars to play a game of catchup.

Before issuing a commitment to guarantee stabilization funds for Chrysler, a national energy efficiency plan must be submitted and approved by the Chrysler Assistance Board. The plan shall include all efforts by the corporation to maximize the energy efficiency of its products, the impact of these efforts on national energy consumption, factors that limit the corporation's efforts to increase efficiency, the corporation's R. & D. program, and specific plans that the corporation has for shifting to alternate automotive technologies starting in the mid-1980's. This is a modification of a provision by Representative REUSS in the House version.

It was not until I visited Detroit 11 days ago that I understood that it is a one-industry town—not unlike the cities and mill towns of New England. In my region, the textile industry moved south and the shoe industry was supplanted by imports. There was not Federal aid to those industries and very little for the communities. Lawrence, Mass., near my hometown of Lowell, lost 25,000 jobs in 2½ years in the 1950's. This was the largest job outflow per capita in the country, and nobody offered help at that point. I for one do not want to be part of doing to Detroit and those communities in Indiana what happened to my community back in the 1950's.

The devastation of such dislocation remains long after—the economic as well as the psychological. Parents lose enthusiasm about their community—children grow up with negative feelings and attitudes. I grew up in this atmosphere and my memories are not pleasant. It takes an incredible effort to turn this around.

I came away from Detroit much more sympathetic about aiding Chrysler. Not to do so is to pull the rug from under the successful revitalization in Detroit. Not to do so is to disrupt cities and smaller communities in Michigan, Indiana, Missouri, and elsewhere, where Chrysler is the single largest employer and where virtually every family in the community has a connection to the industry and will suffer from its collapse.

Justification for some form of assistance also comes from the frequently stated notion during the Banking Committee hearings of "the cost of not helping Chrysler." These add up in the form of unemployment benefits, guarantees for pensions, adjustment assistance for workers, and a whole variety of welfare costs—as well as the tax loss from the company and employees that a Chrysler failure would produce.

Mr. President, what I am proposing today is not pleasant. I am well aware that the sacrifices which are being demanded are significant; there is no question about that. But let me point something out: We are talking about offering an opportunity to Chrysler Corp. which literally thousands of firms with a much better job generation record and with a much better record of compliance with Federal regulation are not given the opportunity to do. We are offering an opportunity for a firm to restructure without going into a bankruptcy situation, without the loss of thousands of jobs, without the loss of stockpayers dividends over the long term.

Chrysler is being offered a unique opportunity. If they are not willing to make the sacrifices we want in order to have this opportunity for Federal loan guarantees, then let them join the ranks of the thousands of other firms that go down the drain every year without a penny in Federal support.

I look forward to working with the Senator from Indiana in putting together a package that I think can pass Congress, and will set a precedent that is not simply embarrassing to Chrysler but will make sure that no one else comes down this road again.

I thank the majority leader for the time.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator is welcome.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be instructed to send a copy of this morning's prayer by the Chaplain to the family of David Watson.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any other orders for the recognition of Senators?

The PRESIDING OFFICER (Mr. PRYOR). There are no other special orders for the recognition of Senators.

Mr. ROBERT C. BYRD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 3919, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed consideration of the bill.

AMENDMENT NO. 699

The PRESIDING OFFICER. The pending question is on amendment No. 699 by the Senator from Texas (Mr. BENTSEN), on which there shall be 1½ hours of debate, to be equally divided and controlled by the Senator from New York (Mr. MOYNIHAN) and the Senator from Texas (Mr. BENTSEN).

Who yields time at this moment?

Mr. SCHMITT. Will the Senator from Texas yield the Senator from New Mexico 5 minutes?

Mr. BENTSEN. I am delighted to yield 5 minutes to the Senator.

WINDFALL PROFIT TAX: THE SELF-DESTRUCT SYNDROME

Mr. SCHMITT. Mr. President, I support the substitute amendment of the Senator from Texas which would protect, I believe, American crude oil production capacity.

In the background of thus current energy debate are reports of a foreign government holding our fellow Americans hostage in Iran. Is this not a strong enough signal to us here in Congress and to all the American people that we need to do all we can to increase our dependence on the resources of our own great Nation?

It makes no sense in this context that we would want to spend money to establish one of the most complex new tax systems ever devised. To make matters worse, we want to impose this tax system which will impede our energy production, at a time when our domestic production is declining and our foreign suppliers are threatening. The wish to self-destruct is afoot.

At first glance it seems that the oil industry is dominated by a few large multinational firms which do not necessarily always have the best interests of the United States in mind. But, if one looks closely, one will see that it is the U.S. independent produced who finds and develops most new domestic oil reserves. After all, the oil industry is not a multinational Goliath; it is made up largely of a lot of smaller, truly American Davids. Approximately 12,000 is the latest estimate. It is these American independent producers I am worried about and that this country should be worried about.

Twelve thousand independent oil producers historically have drilled 90 percent of the wildcat wells. Independents have found 75 percent of new fields and account for more than 50 percent of the oil and natural gas reserves discovered to date.

The independent producers take risks every day; risks that could financially ruin them; risks that the major multinational oil producers will not take and have no interest in taking.

The independents seize opportunities in looking for oil that the multinational producers cannot exploit due to their size, rigidity, and often, a loss of imagination.

Inflation has not left the independent oil industry untouched. Drilling costs have gone up from an average of $50,000 per well to $260,000 per well since 1956. Individual wells can cost over $3 million on land and over $6 million at sea. The average annual well costs have increased 25 percent annually since 1973.

Production costs have roughly doubled between 1971 and 1975. The industry's total production costs went from $3.85 billion to $6.7 billion in the 5-year period. Much of this cost increase was due to new taxes and regulations, both of which will be aggravated by this new tax and regulation of production.

The cost increase also was due, in part, to inflation that not only effects producers directly, but also through the inflation plaguing the industries that support the oil industry. The most obvious of such support industries is the steel industry. For example, the oil industry must absorb a twofold increase in production costs that the steel industry has experienced in the past 6 years. Again, it is the independent producer that has the hardest time coping with the variety of inflationary pressures imposed on them.

A major source of capital for the independents comes from production revenues. This production tax called a windfall profit tax will further deplete revenues the independents would otherwise reinvest in new oil research and production.

The independent producers also must struggle in the money market for investors. This production tax, called a windfall profit tax, could reduce the rate of return on an investment by not taking into account actual expenditures. It would be too late for people who have already invested in the independents to get the rate of return they expected if the windfall profit tax becomes law.

What does all this mean for future investment into independent oil exploration, development, and production? It means less when we so obviously need more.

Many of the independents not only do not have the financial resources to pay the tax at the moment it is due, but they also cannot afford the people to handle the work and paperwork that this complex morass of regulation will create. Now, in addition to many other regulatory agencies they must contend with an entirely new, inexperienced, bureaucratic, antienergy monster called, you guessed it, the Internal Revenue Service.

Mr. President, I have prepared a chart, which happens to be 5 feet long and very detailed, of the procedures that are necessary for an independent permit to drill onshore for oil and gas. It also has an extensive amendment. I shall not subject the Senate to that chart at this time, but it is impressive.

Let me briefly describe the current procedures for obtaining drilling permits on an onshore Federal oil and gas lease. First, a lease must be issued by the Bureau of Land Management. Regional and site specific environmental assessments and possibly an environmental impact statement must be completed before issuance of such a lease. The preliminary environmental review includes an assessment of the drill site or sites, access roads, and other potential surface disturbances as well as a review of cultural values, critical habitat, and endangered species.

At this point, the lessee submits his application for permit to drill. This application includes a surveyed drilled site or sites, equipment to be used, drilling depth, casing program, pressure control equipment, anticipated hazards and mitigation plans and duration of operation. If the USGS determines that the proposed drilling activities constitute a major Federal action, then an EIS is required. Following this decision or the completion of an EIS, the permit is then issued, modified, or rejected.

There are presently pending, nationwide, over 350 applications for permits to drill. This backlog has increased from 240 in just 9 months. The average time for issuance of a drilling permit is 45 to 60 days and increasing. It must be pointed out, however, that many permits take 6 months to several years to issue because of redundant procedures, slow Federal interagency coordination, a proliferation of overlapping environmental assessments, or just because some bureaucrat does not want to give out the permit.

Mr. President, now we are moving to place another burden on our domestic producers—this production tax which inhibits our Nation's capacity to increase our energy supply. And to top things off in this absurd soap opera, the tax audits and regulations will be administered by an agency that has heretofore had nothing significant to do with energy regulations.

What are we trying to do here? It sounds to me like we are intent on self-destruction in the name of "sticking it to big oil." I would like to stick it to big international oil too. I am as disturbed about certain activities as anybody else. My constituents would love me for it, love me until they discovered I had contributed to their economic ruin. The first step will be further injury to the American free enterprise system through the strangulation of the independent oil business. The next step will be higher prices at the pumps; the next step will be more gas lines; the final step will be more foreign blackmail.

This tax ignores reality. The production tax called a windfall profit tax will leave us with a monolithic, multinational oil industry which will hardly know the tax has been enacted. They will merely collect from the consumer in the form of higher prices at the pumps.

Americans can only pray that this form of energy madness will soon run its course and we can go to work to produce our way out of this drift into second-class nationhood.

Mr. President, I thank the Senator from Texas for his courtesy.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise in opposition to the amendment of my friend, the distinguished Senator from Texas (Mr. BENTSEN), who introduced this amendment yesterday. It was, of course, debated yesterday.

I wish to make several points, repeating points that were made in yesterday's debate.

The first is to ask the Senate to understand that this proposal came before the Senate Finance Committee and was rejected by the Senate Finance Committee as unnecessary and unwise.

We are involved here in a curious, almost semantical exercise in that a proposal to transfer $9 billion of potential tax revenue to a small group of deserving, but nonetheless, in the main, usually successful businessmen, has somehow acquired a different cast because these businessmen are described as independent oil producers and the romance of the prospector has been invoked in their behalf.

Having nothing but the highest regard for such entrepreneurs, let me make it clear that the distinction between the independent oil producer and the other oil companies—these are all oil companies—is the distinction between Exxon Corp. and companies only somewhat smaller.

If one owns oil fields, but not oil refineries, one is an independent producer. That scarcely makes it a small business. These are large businesses. They are speculative in some circumstances, not in others.

They have been the object of very considerable previous legislation.

It ought to be understood by each Member of the Senate who votes today that independent producers already receive extraordinary advantages compared to the oil companies generally because they receive a percentage depletion allowance. The old percentage depletion allowance persists for these firms.

I ask that it be considered that a 15-percent depletion deduction on a $30 barrel of oil, that is a 15-percent depletion deduction, which is in place now, in the law, is equivalent to a price increase of $10 a barrel for a taxpayer in the 70-percent bracket. It is to these persons that we are going to be legislating today—and the percentage depletion deduction is 22 percent, not 15 percent.

I ask the Senate to consider that the Finance Committee bill already provides major benefits for these oil companies by exempting newly discovered oil. About 30 percent of the newly discovered oil in the next decade will be produced, we anticipate, by this particular group of oil companies and by persons who own the stripper wells that, in aggregate, produce up to 1,000 barrels a day.

I remind the Senate further of a point made yesterday, that despite all the invocations of entrepreneurial zeal, one-third of this $9 billion, and more, will go to persons whose only interest is royalty interest.

They own shares of production. They do not in any way actively operate companies and make investment or exploring decisions.

I hope, Mr. President, that the Senate would look to its reputation in this matter. The Finance Committee judged that this was not a good idea, not wise, not necessary, produced no new oil. It only refers to the profits on existing wells, profits from persons of very considerable affluence, and whose efforts to bring this change about have scarcely been concealed, which are, indeed, notorious.

Mr. President, the Chair knows of my respect for this body. No one in this body would ever consider anything that is either dishonorable or questionable. Nobody would. But we have to consider our appearances. We have to ask, what will it be seen that we did? What will it be judged that we have done?

We have only heard hard words on the floor. The Senate will not hear hard words from me, Mr. President. But hard words have been used describing the behavior of the Senate in this matter, and they pain me. They give pain to each of us. I fear we give credence to them if we move forward in this matter.

Mr. RIBICOFF. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. RIBICOFF. Is it not correct that a similar amendment by the distinguished Senator from Texas was rejected in the Finance Committee by a vote of 13 to 7?

Mr. MOYNIHAN. The Senator is exactly correct.

Mr. RIBICOFF. And the bill now provides for a stripper oil exemption of up to 1,000 barrels which will cost some $16 billion; is that not correct?

Mr. MOYNIHAN. That is correct.

Mr. RIBICOFF. And the Bentsen amendment expands this exemption so we lose another $9 billion in revenue?

Mr. MOYNIHAN. I am sorry to say that that is the case.

Mr. RIBICOFF. I thank the Senator.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. BENTSEN. The reference has been made to the Bentsen amendment in the committee. It was not this amendment. That has been repeatedly said, that this was considered and rejected.

The Senator from New York used the words "this amendment." There is quite a difference in this particular amendment. We are talking about substantially less in the way of exemption. The amendment that was proposed in the committee was 3,000 barrels a day. This is 1,000 barrels, one-third the exemption that was proposed in the committee.

Mr. MOYNIHAN. It would appear that there is indeed this difference. No intent of misrepresentation was involved.

Mr. BENTSEN. I understand.

Mr. MOYNIHAN. We dealt with the question of exempting to "independent producers" an amount per day. Three thousand barrels was proposed and was rejected.

It is not for me to say, but I cannot think the committee would have accepted 1,000 barrels, either.

I feel, as the Senator from Connecticut has said, that this fails in the purpose of our legislation, which is threefold: First, to produce more oil in the United States; second, to provide funds to produce alternative forms of energy; third, to provide funds to ease the impact of the OPEC-stimulated price increases upon poor and low-income persons in this Nation.

This measure meets not one of those three criteria. It does not produce any more oil. The Senator from Kansas was candid in that matter yesterday. The oil being produced from these wells is being produced from these wells. It produces no additional oil, and it reduces revenues, thereby defeating the second and third purposes of our legislation and in no way advancing the first.

There can be no justification for this measure, save the understandable desire of these active businessmen to increase their already considerable profits. There is nothing unusual in that desire. What is unusual is the spectacle of the U.S. Senate conceding to such a small segment of the business community such an extraordinary benefit.

It defies easy explanation, and I am sorry to say that unattractive explanations will be put forward and the Senate will suffer. I wish to be very careful in what I say, as I wish to make it clear that nothing but the highest integrity is involved in the individuals putting forth this matter.

Mr. DOMENICI. Mr. President, will the Senator from New York yield for a question?

Mr. MOYNIHAN. I should like to conclude my statement.

The individual considerations that have led Senators to vote for as well as against this measure are of the most impeccable kind; but we have to look to the perception of the Senate, and I cannot see that we are serving the large interests of the Nation or of this body in this matter.

I yield to the Senator from New Mexico.

Mr. DOMENICI. I would like to ask the Senator a question.

Mr. MOYNIHAN. Since the time is equally divided and is short, can the Senator obtain time from the Senator from Texas?

Mr. DOMENICI. Mr. President, will the Senator from Texas yield 3 minutes?

Mr. BENTSEN. I yield.

Mr. DOMENICI. I ask this question of the junior Senator from New York: Did I correctly understand him to say that the windfall profit tax is calculated to produce more oil?

Mr. MOYNIHAN. Yes, it is.

Mr. DOMENICI. The tax itself?

Mr. MOYNIHAN. The tax bill we have brought forward, as the Senator from Connecticut has said with absolute clarity, has as its principal purpose the production of more energy, bringing about more energy in this country.

Mr. DOMENICI. Then, the Senator is saying that the whole theory of the Finance Committee tax bill is calculated to produce more oil?

Mr. MOYNIHAN. I said that the theory is threefold, and in this respect we distinguished ourselves from the House bill. First, we want to produce more oil in the most specific sense. Second, we want to produce more energy from alternate sources and find the funds for that. Third, we look to providing some relief to low-income persons who will be most impacted, as we might say, by the price increases.

Mr. DOMENICI. I was going to ask about alternative fuels, but I will stay with the matter of producing more oil.

Is it not correct that what the Senator really means is that if the windfall profit tax is to be a disincentive, the committee has provided some exceptions and exemptions which the committee thinks will get rid of that disincentive and thus produce more than the disincentive of the broad tax? That is what the Senator means with respect to producing oil, does he not?

Mr. MOYNIHAN. The Senator is not wrong in that matter. We are quite open on that. It is perfectly clear that a tax is a disincentive and that the Finance Committee, in deciding what to tax and what not to tax, will not tax newly discovered oil; so that there will be maximum incentive to discover new oil.

We will obtain the necessary revenues for these programs and produce the equity that the Nation properly thinks is forthcoming from existing, producing wells.

Mr. DOMENICI. I ask this of the Senator: When he speaks of alternatives, he is not suggesting that the windfall profit tax, per se—the Finance Committee's version or the version of the House—is going to produce alternative energy sources, is he?

Mr. MOYNIHAN. I am saying that it is going to provide, one, investment needed in conservation, which will have large energy results; and, two, the investment necessary for the synthetic fuel programs.

Mr. DOMENICI. What the Senator means is not that the windfall profit tax will do that but that the Senate Finance Committee's version of how that tax will be used, assuming that it is a good tax and a salutary tax, will produce that benefit. Is that not correct?

Mr. MOYNIHAN. I do not see a difference between the two propositions as the Senator has put them; but I will be happy, for the purpose of continuing this exchange, to say yes, that is correct.

If the Senator is saying that the effect of this tax will be whatever the effect is, I agree.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. DOMENICI. Mr. President, will the Senator from Texas yield an additional minute?

Mr. BENTSEN. I yield.

Mr. DOMENICI. I thank the Senator from New York.

I just want to make this point now, and perhaps I will speak in a few moments, if we have time, with respect to the independent exemption.

For the Senator from New York to say that the windfall profit tax is going to produce oil, that the windfall profit tax is going to produce alternative energy sources, that the windfall profit tax is going to help poor people, is to assume that the tax itself, the imposition of it, is going to have all these benevolent results for America. The truth is that the tax itself does none of these.

The Senator is saying that if you agree that we should take this money in, we will be able to use it in these other ways. The tax itself does none of this: It does not produce oil, does not help the poor, and does not produce alternative energy sources.

Mr. MOYNIHAN. Mr. President, the point made by the Senator from New Mexico is a sound one.

We must always ask what actually is the result of what we do, not what we hope will be the result.

For the record, I want to be clear: The tax incentives for conservation and the production of alternative fuels are in the legislation before us. There are specific incentives in the tax system in this bill, and there are trust funds for mass transit. A tax credit is provided for low-income persons, and there is no tax on newly discovered oil. The revenues will come from existing, producing, profitable wells.

To make the investments of a small group of businessmen even more profitable than they are now—much more profitable than they had reason to anticipate before the OPEC cartel began to change the energy price structure in this country—seems to me contrary to the spirit and the purpose of the proposed legislation, and it seems to us to be wrong.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, will the Senator from Texas yield 2 minutes to the Senator from Wyoming?

Mr. BENTSEN. I am delighted to yield 2 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, it is wrong to assume that this amendment has an ultimate revenue effect on the windfall profit tax as long as we keep the phaseout which, as Senators know, is tailored to begin phasing out after a certain revenue level has been reached. So merely by adopting this amendment, we may slow down the intake of revenue but we will not ultimately, as long as we keep the phaseout intact, affect the total revenue to be raised by the windfall profit tax.

Second, I wish to make a point that all the conversation so far has dealt around supply response and that is a good piece of conversation. It is a necessary consideration. But one thing we have not dealt with is what redounds to the Nation by way of additional reserve with all things that the Finance Committee bill has done, and that is much more in keeping with an ultimate judgment as to whether the actions of the Finance Committee are responsible than merely the supply response on a given day and a given year.

It seems to this Senator that if in our gambling, and everyone, as pointed out yesterday, when looking at this matter is gambling to some extent because no one can foretell exactly what is going to happen. Supply responses, reserve responses, and other things are something that are in the nature of good fortune.

However, we can be absolutely certain that we will not have any supply response or any reserve response if we do not have the incentive to go and explore in the first place. That, I think, is where we want to come down ultimately in our deliberations, and different people will have different views as to what is a reasonable way of getting that.

INDEPENDENT PRODUCER EXEMPTION

Mr. President, I rise in support of the amendment to exempt independent producers from the first 1,000 barrels a day of oil production. The proposed excise tax on domestic crude oil production, designed to provide incentives while recapturing so-called windfall profits, actually imposes an undue hardship on the majority of all domestic producers—the 10,000 independents who account for 90 percent of the wildcat drilling and who discover 50 percent of the new reserves in this country.

The independent segment of the industry has proven over time that, given incentive, it will add to the Nation's proven oil reserves and increase domestic oil production. The independents have established an aggressive record of investment in domestic petroleum production. Between 1973 and 1977, according to the latest figures available from the U.S. Census Bureau, investments by independent oil and gas producers in finding, developing, and producing domestic petroleum exceeded 100 percent of their gross revenues for both oil and natural gas.

During the 5-year period, independent producers received a total of $33.5 billion in gross wellhead receipts. They spent a total of $34.9 billion.

Spending more than one receives may seem paradoxical. However, the money invested in exploration, development, and production is a combination of funds generated internally, cash acquired from private investors, and capital borrowed from financial institutions.

The amount of outside capital that becomes available for investment in domestic petroleum operations is a function of how profitable crude oil will be, something which is determined by the wellhead value of each barrel of crude. The greater the wellhead value of crude oil, the more attractive an investment becomes. The independent has only one profit center: Production—the sale at the wellhead of crude oil and natural gas.

It may be argued that because independents have a record of drilling over 90 percent of the wildcat exploratory wells, they will derive the greatest benefit from the new oil exemption and that therefore they need no further incentive.

This argument recognizes the aggressive oil exploration and production role played by the independents but it fails to acknowledge the financial realities facing producers. The exemption for newly discovered oil creates the incentive to explore and drill for this resource by offering a potential for future profits. However, the exemption does nothing to assist the independents in meeting the heavy financial demands attendant to the exploration of energy.

Independents do not have the easy access to conventional money markets enjoyed by major corporations. Banks do not loan money for wildcats. Producers costs have climbed over the past several years, barely keeping pace with the rising price of energy. Over the next 4 years the tax burden on independents will increase as much as 32 percent as a result of changes already enacted in the treatment of percentage depletion.

Another problem lies in the fact that many independent producers operate and are taxed as individuals, not corporations and are therefore taxed at a 70 percent margin rather than the 46 percent corporate rate.

In addition to paying the income tax, the independent must meet royalty payments, severance taxes, and State income taxes. In order to demonstrate how Rocky Mountain independents would be affected by the windfall profit tax, I have prepared charts showing the after tax situation of both incorporated and unincorporated Wyoming, North Dakota, and Montana independents.

An unincorporated Wyoming independent would receive 27 cents out of each dollar of increased revenue resulting from decontrol and no windfall profit tax. If the windfall tax is imposed at a 50 percent rate, the after tax "windfall" revenue amounts to only 9.8 cents per barrel. With a 60 percent tax, the Wyo-

ming unincorporated independent would receive 7.3 cents from every incremental dollar, and only 4.7 cents if the tax were at 70 percent. Similar figures for North Dakota, Montana independents show that this tax will only cripple the financial ability of independents to explore for oil. One is forced to ask "windfall" for whom, producers or Government.

Mr. President, I ask unanimous consent that these tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Impact on typical unincorporated Wyoming independent[1]		Estimated effect of taxes and royalty payments on revenue increases to producers (incorporated)[2]	
WITHOUT WINDFALL TAX			
$1.00 −.14	Royalty.	$1.00 −.14	Royalty.
.86 −.102	4-percent severance and 6.2-percent property tax.	.86 −.05	Severance tax.
.758 NA		.81 −.03	4-percent State income tax.
.758 .531	70-percent Federal income tax.	.78 −.35	45-percent Federal income tax.[3]
.227		.43	Net to producers.

WITH WINDFALL TAX

Percent windfall tax					
50	60	70			
$1.00 .14	$1.00 −.14	$1.00 −.14	Royalty.	$1.00 −.14	Royalty.
.86 .43	.86 −.516	.86 −.602	Windfall tax.	.86 −.43	50-percent windfall tax.
.43 .102	.344 −.102	.258 −.102	10.2-percent severance and property tax.	.43 −.05	Severance tax.
.328 NA	.242 NA	.156 NA	State income tax.	.38 −.02	4-percent State income tax.
.328 .23	.242 −.169	.156 −.109	70-percent Federal income tax.	.36 −.16	45-percent Federal income tax.[3]
.098	.073	.047	Net to unincorporated Wyoming independent producer.	.20 +.09	Adjustments to reflect revenues from released lower tier oil not subject to lower tier tax.
				.29	Overall net to producers through Oct. 1, 1981.

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[1] Example prepared for producer in Wyoming where State severance tax is 4 percent and property tax is 6.2 percent of wellhead value. A 70-percent marginal Federal income tax rate is used.

[2] Example supplied by U.S. Treasury Department and included with White House Fact Sheet released Apr. 26, 1979.

[3] A 45-percent marginal Federal income tax rate is used here because it is applied to taxable rather than gross income.

Impact on typical unincorporated Montana independent[1]		Estimated effect of taxes and royalty payments on revenue increases to producers (incorporated)[2]	
WITHOUT WINDFALL TAX			
$1.00 −.14	Royalty.	$1.00 −.14	Royalty.
.86 −.129	2.65-percent severance tax and 12.36-percent net proceeds tax (Musselshell County) equals 15.01-percent.	.86 −.05	Severance tax.
		.81 −.03	4-percent State income tax.
.731 −.080	11-percent State income tax.	.78 −.35	45-percent Federal income tax.[3]
.651 −.456	70-percent Federal income tax.	.43	Net to producers.
.195			

Impact on typical unincorporated Montana independent[1]		Estimated effect of taxes and royalty payments on revenue increases to producers (incorporated)[2]	
WITH WINDFALL TAX			
60-percent windfall tax			
$1.00 −.14	Royalty.	$1.00 −.14	Royalty.
.86 −.516	60-percent windfall profit tax.	.86 −.43	50-percent windfall tax.
.344 −.023	2.65-percent severance tax.	.43 −.05	Severance tax.
.321 −.040	12.36-percent net proceeds tax (Musselshell County).	.38 −.02	4-percent State income tax.
.281 −.031	11-percent State income tax.	.36 −.16 .20	45-percent Federal income tax.[3] Net to producers.
.250		+.09	Adjustments to reflect revenues from released lower tier oil not subject to lower tier tax.
−.175	70-percent Federal income tax.		
.075		.29	Overall net to producers through Oct. 1, 1981.

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[1] Example prepared for producer in Montana where State severance tax is 2.65 percent and net proceeds tax (Musselshell County) is 12.36 percent. A 70-percent marginal Federal income tax rate is used.

[2] Example supplied by U.S. Treasury Department and included with White House Fact Sheet released Apr. 26, 1979.

[3] A 45-percent marginal Federal income tax rate is used here because it is applied to taxable rather than gross income.

Impact on typical unincorporated North Dakota independent[1]		Estimated effect of taxes and royalty payments on revenue increases to producers (incorporated)[2]	
WITHOUT WINDFALL TAX			
$1.00 −.14	Royalty.	$1.00 −.14	Royalty.
.86 −.043	5-percent gross production tax.	.86 −.05	Severance tax.
.817 −.069	7.5-percent State income tax and 1-percent privilege tax equals 8.5 percent.	.81 −.03	4-percent State income tax.
.748 −.524	70-percent Federal income tax.	.78 −.35	45-percent Federal income tax.[3]
.224		.43	Net to producers.
WITH WINDFALL TAX			
60-percent windfall tax			
$1.00 −.14	Royalty.	$1.00 −.14	Royalty.
.86 −.516	60-percent windfall profit tax.	.86 −.43	50-percent windfall tax.
.344 −.043	5-percent gross production tax.	.43 −.05	Severance tax.
.301 −.026	7.5-percent State income tax and 1-percent privilege tax equals 8.5 percent.	.38 −.02	4-percent State income tax.
.275 −.193	70-percent Federal income tax.	.36 −.16	45-percent Federal income tax.[3]
.082		.20 +.09	Net to producers. Adjustments to reflect revenues from released lower tier oil not subject to lower tier tax.
		.29	Overall net to producers through Oct. 1, 1981.

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[1] Example prepared for producer in North Dakota where gross production tax is 5 percent. A 70 percent marginal Federal income tax rate is used.

[2] Example supplied by U.S. Treasury Department and included with White House Fact Sheet released Apr. 26, 1979.

[3] A 45 percent marginal Federal income tax rate is used here because it is applied to taxable rather than gross income.

Mr. WALLOP. Mr. President, as an excise tax imposed at the point of sale, the windfall profit tax fails to distinguish between large and small incomes, profits, owners and investments. As an energy measure, the proposed tax fails to provide incentives for increased production and seriously hinders the exploration and development efforts of the independents.

These immediate concerns are compounded by a number of longstanding problems. Federal Government policy has thinned the ranks of the independent explorer-producers by 50 percent in the last quarter century. While demand for petroleum fuels has almost doubled in the past 17 years, total well production has declined by more than 50 percent—from 58,000 in 1956 to 29,000 in 1972—60 percent of the drilling rigs in the United States were deactivated or cannibalized. In the past 17 years we have seen a 54-percent drop in exploratory drilling—from 16,200 to 7,500. This downturn of activity results from the fact that half the independent explorers and producers failed financially, quit or sold out, meaning that they are no longer contributing to the most practical solution of the energy problem—increased domestic production.

Independent producers have not had the access to conventional money markets enjoyed by major corporations. These corporations provide both incentive for investment in exploration and drilling activity. Independents face the problems of cash flow to cover the continuously escalating cost of maintaining production, paying the heavy tax burden imposed by State and Federal governments, covering the cost of dry holes and providing a livelihood for the producer and family. It is not the cost of producing the oil they have found that hurts the independent. It is the cost of replacing the oil produced that hits the hardest.

There are people who say a tax must be imposed because Mobil Oil bought Marcor Corp. in 1974 or because Exxon is buying Reliance Electric. But these companies could make such purchases if all domestic crude was taxed at 100 percent because the vast majority of their earnings are attributable to foreign oil, which is not subject to a tax. Imposing hardships on small producers who are unable to absorb the added tax will only increase concentration within the oil industry.

Exempting independent producers from windfall profit tax will provide increased revenues to independent producers that may then be reinvested into exploration and development. Independents have demonstrated an unfailing track record of full profit reinvestment in exploration and energy development. It would be tragic to deny the most dynamic and aggressive segment of the domestic oil industry the financial wherewithal to explore for new energy when the Nation faces such a desperate energy supply shortage.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 29 minutes remaining.

Mr. BENTSEN. I yield myself 7 minutes. If the Chair will advise me when my time has expired, I would appreciate it.

Mr. President, we dwell at great length on our energy problems. As well we should. They are enormous, they are complex, and they are compelling. But it is important to understand that America has energy assets as well as liabilities. In our rush to do something dramatic about the energy crisis there is a tendency to overlook some of the simple, basic things that can be done to bring our resources to bear on the problem.

One thing we can do, one thing we must do, is increase domestic energy production to the maximum possible extent. When it comes to oil, this Nation has passed its energy prime. We do not expect to ever again approach self-sufficiency in oil. But we can do better than we do now—much better. There are billions of barrels of oil remaining to be found in America. And with every additional barrel we produce, we decrease our costly and dangerous dependence on foreign sources of supply.

Mr. President, who is going to find, who is going to drill for the oil that remains to be found in this country? There are really only two possibilities: The major integrated energy companies—the Mobils, Exxons, and Shells of this world—and the 12,000 independent producers of America.

Some people might be surprised to learn that most of the oil and gas found in this country is due to the efforts of the independents. Unlike the majors, our independent producers have no other fish to fry. They do not have overseas operations; they are not refiners and distributors. Their only activity, their sole source of income, is to search for oil and gas.

They drill the wells that are not big enough or profitable enough for the majors; they take the chances considered too risky by the majors. And day in and day out they find oil—millions of barrels of oil—that would otherwise remain under the ground.

The statistics are by now familiar. Independents drill 90 percent of the wildcat wells in this country. They find 75 percent of the new oil and gas fields. They account for 54 percent of our new oil and gas reserves.

The statistics also suggest that the independents must drill more to find less than the majors. The majors find 46 percent of our oil by drilling 10 percent of our wells.

Why? Because only the majors have the resources to drill and explore in hostile environments like the north slope, offshore, and in the Beaufort Sea where vast new deposits are to be found.

We need these major finds, Mr. President, but we also need the thousands of minor, less dramatic finds that the independents turn up every year. Because when you add all these small finds together, you end up with 54 percent of the energy produced in America. You see that the independents provide us with more domestic energy than the majors.

I do not pretend that independent producers take the risks to find oil in this country out of a sense of patriotism. They are motivated by the prospect of making a profit on their activities—a motive all of us can understand.

The vast majority of independents are unincorporated, and their profits are subject to a maximum tax rate of 70 percent—not the 46 percent corporate tax rate enjoyed by their competition. The prospect of punishing taxation creates a strong incentive to invest revenues in new exploration and drilling, where it is exempt from taxation.

The "push" of the tax code and the "pull" of the profit motive have over the years created a unique situation in which independent producers have reinvested 105 percent of wellhead revenues in new exploration.

Mr. President, that is an astounding statistic. What it says is that the independent producer who generates $100 in revenue—not profit, mind you, but gross revenue—has consistently demonstrated an ability to turn that money into $105 worth of activity directed at greater energy independence for America.

If we are sincerely concerned about increasing domestic oil and gas production, I can think of no more effective or efficient means to go about it. Give the independent producers $100 in incentives, and they will invest $105 in new production at a time we desperately need every drop of oil we can produce in this country.

Mr. President, some people considering this amendment do a little mental arithmetic: They multiply and come up with 365,000 barrels a year. Then they figure in an average price of $28 per barrel and say, "That is $10 million. That is a lot of money. These are not small producers."

We are not talking about mom and pop operations, let us recognize that fact. We are not talking about a farmer with an old drilling rig in his barn who goes out with a divining rod on weekends and drills here and there hoping to find a little oil on the property. Mom and pop operations do not find oil at 10,000 feet; they cannot spend hundreds of thousands of dollars on exploration; they cannot afford to invest a $1 million in a well.

Those who rely on simple arithmetic also make some simple mistakes. They tend to confuse gross revenue with profits: They conveniently overlook the fact that it costs a great deal of money to find and bring oil to the surface. If you are concerned only with gross revenues, then the Chrysler Corp. is in fine shape. The notion that $10 million in income from 365,000 barrels of oil is somehow equivalent to $10 million in profit is nonsense. It is absurd. It neglects the cost of production, $10 million in gross revenue does not guarantee the independent producer a single cent of profit.

The second point, Mr. President, is that $10 million a year in gross revenue hardly makes for a giant corporation. There are over 30,000 businesses in this country that have revenues in excess of $10 million a year. If you are in the wholesale or construction or manufacturing business you can generate this kind of revenue and still qualify for a small business loan.

An independent producing 1,000 barrels a day is not a corner grocery store, but it is a small business by any reasonable definition, particularly when compared to the competition—the major integrated oil companies—where revenues are measured in the billions of dollars.

Opponents of my amendment also point out that it will result in a revenue loss of some $9.9 billion over the next decade. Let us assume they are correct in this estimate.

What happens to that money? Where does it go? It goes, Mr. President, right back into new exploration and new drilling at the rate of 105 percent. The $9.9 billion in additional revenue becomes $10.4 billion invested in our energy future, $10.4 billion spent in the search for new oil and gas in America.

With that additional revenue, 15,200 new wells can be drilled. With these new wells we would have over 300,000 barrels per day of additional production by 1987; we would add 1.7 billion barrels to our domestic energy reserves.

Over the next 10 years, Mr. President, we are talking about additional domestic energy production of almost 1 billion barrels. That is 1 billion barrels of oil we shall not be forced to purchase from OPEC. We are talking about tens of billions of dollars that will remain here in our economy and be recycled through the system to produce jobs and savings and investment capital for America.

The windfall, Mr. President, is not in the profit, but in greater energy self-sufficiency for this country.

Our immediate energy crisis is a short-term crisis; for the next decade or so we will be forced to cope until we can find new sources of energy for the future.

This amendment I am offering promises to produce an additional 1 billion barrels of American energy, and the cost of finding that energy is less than $10 per barrel.

There is no other way we could achieve an equivalent increase in domestic energy production over the same time period. Regardless of the size of the investment we make in synthetic fuels, a billion barrels of new production over the next decade is out of the question.

Without this amendment, and the increased revenue flow it will generate, you can write off that additional billion barrels of American oil because the independents will not have the resources to go out and find it.

Make no mistake about it, Mr. President. We are going to need that billion barrels of oil. We are going to consume it. The only question is whether we shall buy it from OPEC—at a cost of $30, $40, or perhaps $50 billion—or whether we shall supply it from our own resources.

There can be no doubt that the provisions of my amendment will have a positive impact on our energy outlook. By the same token, failure to adopt the Bentsen amendment would place a heavy burden on the 12,000 independent producers in this country. I am talking about the burden of regulation.

What does it mean for the average independent when the heavy hand of Federal regulation falls on his operation? In this instance it means that oil from a single well could be priced and taxed simultaneously in three separate categories. That portion of production below the lower tier pricing and tier 1 taxing decline curves would be exempt from taxation; production above the pricing decline curve and below the taxing decline would be priced as upper tier and taxed at 75 percent in tier 1; and any production that exceeds both the pricing and taxing decline curves would be priced as upper tier oil and taxed at the rate of 60 percent in tier 2.

Now, if that sounds a little confusing, it is. If you happen to be Mobil or Exxon and you are hit with this barrage of new regulation and new requirements for information, you hire on some more lawyers and accountants. You fill out the forms and comply with the regulations. The impact on your total earnings picture is minimal, because you are dealing in billions of dollars annually.

But, Mr. President, if you are an independent producer this additional regulatory burden can be the difference between staying in business and looking for something else to do. Your competition—the seven sisters—can absorb the impact with minimal difficulty. It is just one more bag of cement on the back of a truck. But for the inpendent producer the costs are magnified tremendously: That bag of regulatory cement is placed squarely on his shoulders, and it is a heavy burden to bear.

To the extent that the independent is able to stay in business and cope with the redtape, regulation, and reporting requirements contained in this legislation, he obviously does so at some cost.

With more money spent on regulatory requirements, he has less capital available for exploration and drilling. His contribution to increased domestic production and his competitive position in regard to the majors is diminished accordingly.

Mr. President, if we want to make maximum use of our energy assets in this country, it simply makes no sense to place a windfall profit tax on the first 1,000 barrels of daily production from our independent operators.

The effect of such a tax is clear and indisputable: It would take resources away from those who invest in our energy future. It would inhibit production by those most committed to developing our energy potential to the fullest. It would increase our dependence on imported energy. It would impose a huge regulatory burden on those least able to contend with it.

The so-called windfall profit that will be earned by the independents will be reinvested—dollar for dollar and then some—in activities leading to greater production of American oil and gas. That is a trend we should encourage, particularly at a time when it is becoming increasingly costly and risky to find oil and gas in this country.

The revenue loss that would result from this amendment would be more than offset by the benefits that would be gained from a billion barrels of new American oil—a billion barrels that will remain underground if this amendment is not approved.

Mr. President, I urge the adoption of this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I am happy to yield to the Senator from Connecticut such time as he may desire.

Mr. RIBICOFF. I thank the Senator from New York.

Mr. President, the committee has given the Senate a bill which has put the energy production needs of America first. We have to produce energy and conserve energy as rapidly as we can.

The philosophy which guided my decisions in the Finance Committee was to release new oil and tertiary oil to market forces, to give maximum incentive to produce new oil. In doing so we dropped $100 billion in revenue from the tax, compared to the House bill. We thought it was a good risk. But on old oil, we generally followed the practice of imposing a reasonably stiff tax. Thus on tier I oil we put the tax at 75 percent, substantially higher than the House bill.

The committee fell short of this philosophy by exempting production of old stripper oil up to 1,000 barrels a day. That exemption would cost $16 billion in revenues needed to develop other sources of energy. We did that on a divided vote of 11 to 7, but only after rejecting two amendments similar to the one before you today. Now we are asked to expand this exemption and lose another $9 billion in revenues. This is not a new amendment to this bill. Senator BENTSEN tried one similar to it in the Finance Committee and the committee rightly rejected it by a vote of 13 to 7. For the same reasons the committee rejected it, the Senate should reject it today. The principle is the same: too much generosity for too few recipients without any concern for the overall energy needs of the Nation.

I have no objection to lowering the tax if I thought it would get us additional production. How much additional production will we get from this exemption? Given the profitability cash flow, and economic characteristics of those entities known as "independents" we have to conclude there will be no substantial increase in domestic production resulting from this exemption.

The second general point I want to make is this: The American Petroleum Institute wrote me to say that without a windfall profit tax at all, we would be producing 4 million barrels per day above "what otherwise would be produced." But here is the problem: According to the American Petroleum Institute, even with no crude oil tax, that 4 million barrels additional will give us a total domestic production of only 9 million barrels per day. If we consume the same amount as today, 18½ million barrels, we are still short 9 million barrels. It is going to take a lot of money to produce and conserve us out of that 9 million barrel shortfall. That is why the revenue side of this bill is important too.

HOUSE BILL—NO EXEMPTION

The bill the House passed was not the Ways and Means bill, but a substitute offered by Members from producing States, from Oklahoma and Louisiana. Yet it contains no special exemption for independents or stripper oil. Why not? These Representatives never even tried for such an exemption. They knew such a break was indefensible and would have been rejected by their colleagues.

Let me draw your attention to what was said by the authors of the House substitute, which contains no exemption:

Congressman MOORE from Louisiana:

> We are trying to give incentive to 10,000 small producers all across this country to go out in old oil wells in Pennsylvania, in Indiana, Illinois as well as the current producing States, and produce additional oil for this Nation.
>
> I urge you to support this substitute and send a reasonable bill to the Senate.

There was no mention of an independent exemption.

Congressman LONG from Louisiana:

> I have fought long and hard for incentives which would increase domestic production of crude oil. The Jones-Moore proposal is a well designed plan to encourage the production of . . . oil. It should succeed in increasing our domestic energy supplies.

Apparently this well-designed plan by the House-producing State Members never gave a thought to the kind of sweeping exemption we are presented with today.

Who exactly are the "independents" that we are protecting from any windfall tax here?

The designation of independent has lost its technical definition of an oilman who goes out and discovers and develops oil fields. The term is applied to any business entity or individual which is not integrated—that is not engaged in the other levels of the oil business, such as refining, marketing, or transporting. Thus, royalty owners, people who happen to own land or mineral rights and lease them out to an operator, qualify as independents. The royalty owner is exempt from the tax under this exemption. And it is a sizable sum.

Under the limited stripper exemption in the Finance Committee bill, royalty owners accounted for 13 percent of the exemption, or $2.1 billion. The figures for the full independent exemption should be much higher. What does the Nation gain from the loss of this revenue? Royalty owners will contribute nothing to increased production, and we lose enough money to fund the entire low-income fuel assistance program for next year.

The royalty owner is a passive landowner who leases his oil rights. He finds no oil himself. Nor will he produce more from a property in which he has an economic interest. He just gets a somewhat bigger check in the mail. Similarly, a business executive who owns an interest in a limited partnership which helps finance drilling programs may be exempt. He is not an oilman. Why should not he pay a tax?

What about those independents who actually produce oil? How exceptional a group do we have here? They account for drilling 75 to 80 percent of exploratory wells in the United States, but they have never accounted for more than 25 to 35 percent of annual production in the United States. This is because they often operate farm-outs, developing leases already held by the majors or because they have exploited less promising leases, or go for the most accessible reservoirs in mature production zones. Production of oil in the United States is predominantly from giant fields, most of which are developed by expensive long-term means usually by the the majors. The independents account for only 20 percent of the geophysical and geological survey work. So their success rate is lower than the majors and their fields are less prolific. Though the majors drill less, they have found more than 60 percent of the recoverable reserves.

Are there special economic characteristics of these independents which merit this special exemption from the windfall tax?

The proponents of the exemption argue that:

Independents have difficulty raising capital to go after new oil, but they invest consistently more than 100 percent of their earnings. So they have a cash flow problem.

Independents have higher current production costs.

Independents depend more on equity capital because they are small.

They already pay a high tax rate.

How true are these contentions?

Mr. President, the distinguished Senator from Texas is one of the most able men in this body and very persuasive, and I do not believe there is another person here who knows more about the oil industry than the Senator from Texas.

Let us examine the arguments he has made for this amendment. He has just concluded on the problem of raising capital and cash flow. Do the independents have trouble raising capital, and do they have a cash flow problem?

First, in this bill we have put no tax on the new oil discoveries, and the distinguished Senator from New York and I voted for that proposal, and we will continue voting for it as this discussion takes place and amendments are presented to this bill. With the very high rate of return on new drilling, wildcatters and explorers should have no trouble borrowing money. So a good index of their ability to get capital will be the rate of return in the future, rather than present cash flow.

Second, even present cash flow has been more than ample to spur the independents to record heights of activity over the last 2 years. Proponents of this exemption say the great amounts of drilling activity that independents do suggest they should be rewarded without having to pay a tax. The argument goes that every extra penny will go into producing new oil. But what is happening in the industry? Activity by the independents has been so intense in the last 2 years it is baffling why further incentives will be needed. The business has been booming.

The Oil and Gas Journal did a special report last month on independents. The Journal found that—

> Spurred by sharply improved profits, independent operators are in the midst of drilling programs that assure they will maintain their dominant role in exploration and development this year. Oil and Gas Journal estimates that independents will account for more than 80 percent of the 48,860 total wells and 86 percent of the 10,881 wildcats drilled during 1979.

Further down the article we get to the profit figures: In a paragraph entitled "Profits surge" we find that—

> Improved prices and, in some cases, increased production are providing a sharp boost for independent profits this year. A Journal tally of profits of 71 independent operators shows combined earnings of more than $687 million in the first half of 1979. That is up a little more than $44 million from the year earlier period. Much of the improvement took place in the latest 3-month period, when combined profits advanced a resounding 84 percent to $414.2 million. More than a dozen companies on the Journal's list of independents scored record earnings during the latest period.

For example, Superior Oil Co., first quarter 1979 net profits are $48.6 million, up 111.3 percent from 1978.

Freeport Minerals Co., first quarter 1979 net profits are $25.3 million, up 248 percent from 1978.

Energy Reserves Group, Inc., first quarter 1979 $10.4 million, up 1,453 percent over 1978.

Louisiana Land Offshore Exploration Co,, $970,000 first quarter 1979, up 373 percent.

Tomlinson Oil Co., Inc., $1.3 million, up 569 percent.

Buttes Gas and Oil Co., $531,000, up 848 percent.

Wichita Industries Inc., $132,000 first quarter 1979, up 1,550 percent.

Pauley Petroleum Inc., $2.9 million first quarter 1979, up 3,820 percent.

I ask unanimous consent that the table from this Oil and Gas Survey be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HOW 71 INDEPENDENTS ARE FARING FINANCIALLY

[Dollar amounts in millions]

	Net profits			
	1st half 1979 (millions)	Percent change from 1978	1st quarter 1979 (millions)	Percent change from 1978
Superior Oil Co	$88.900	+95.8	$48.600	+111.3
Louisiana Land & Exploration Co	87.000	+75.7	53.300	+95.9
Texas Oil & Gas Corp	67.253	+15.9	24.969	+18.5
Enserch Corp	52.177	+69.9	18.182	
Freeport Minerals Co	45.612	+331.4	25.376	+248.5
Natomas Co	44.401	+23.2	25.325	+34.3
Tesoro Petroleum Corp	35.528	+31.4	14.752	+96.1
Mapco Inc	31.323	+2.9	17.967	+10.6
Belco Petroleum Corp	31.206	+32.3	16.801	+49.4
Mesa Petroleum Co	25.671	+17.4	11.314	+20.2
Helmerich & Payne Inc	24.243	+21.4	8.564	+26.7
Southland Royalty Co	21.907	−2.4	11.802	+4.8
Mitchell Energy & Development Corp	20.022	+14.5	11.411	+30.9
Aminoil U.S.A. Inc	17.500	+1,150	16.300	
Reading & Bates Corp	12.214	+26.1	6.471	+20.8
Inexco Oil Co	7.598	+24.8	3.859	+33.4
Apache Corp	7.283	+16.2	3.947	+18.0
Energy Reserves Group, Inc	7.216	+306.9	10.409	+1,453.5
Supron Energy Corp	6.273	+21.9	3.127	+36.9
Hamilton Bros. Petroleum Corp	5.339	+16.6	3.544	+101.4
Pacific Resources Inc	5.163	+40.1	1,851	+15.4
Adobe Oil & Gas Corp	4.672	+27.5	2.879	+50.8
First Mississippi Corp	4.660	+11.7	4.955	+30.0
Felmont Oil Corp	4.271	+30.0	1.820	+33.4
Sabine Corp	3.820	−3.0	1.666	−15.9
Lear Petroleum Corp	3.704	+125.8	1.114	+143.7
Crystal Oil Co	3.579		2.560	
Louisiana Land Offshore Exploration Co	3.047	+616.9	.970	+373.1
Forest Oil Corp	2.975	−43.8	.752	−64.3
Wainoco Oil Corp	2.408	+49.1	.974	+15.6
Dyco Petroleum Corp	2.249	+59.6	1.384	+97.4
Tomlinson Oil Co., Inc	2.039	+240.4	1.420	+569.8
Patrick Petroleum Co	1.983	+4.0		
Gulf Energy & Development Corp	1.732	+41.5	1.171	+46.5
Texas American Oil Corp	1.683	−9.6	1.411	+122.2
Maynard Oil Co	1.584	+.1		
Tipperary Corp	1.309	−39.2	1.030	+37.3
Damson Oil Corp	$1.253	+29.3	$.728	+27.4
McCulloch Oil Corp	1.241	+661.3	.071	−93.7
Universal Resources Corp	1.229	−43.8	.616	−37.2
Equity Oil Co	1.167		.0623	−37.9
Wilshire Oil Co. of Texas	1.063	−9.5	.532	−19.8
C&K Petroleum, Inc	.991	+44.6	.328	+1.5
Buttes Gas & Oil Co	.983	+296.3	.531	+848.2
Delhi International Oil Corp	.980	+56.8	.561	−46.8
May Petroleum, Inc	.973	+52.0	.616	+180.0
Moran Bros., Inc	.843	−71.5	.558	−40.1
Statex Petroleum Inc	.580	−31.0	.303	−23.8
Worldwide Energy Corp	.578	−10.3	.371	+19.6
Oxoco	.262	+2,083.3	.127	+209.7
Vanderbilt Energy Corp	.259	−33.4	.096	−41.4
Wichita Industries, Inc	.142	+39.2	.132	+1,550.0
Premier Resources, Ltd	.131	−69.5	.089	+217.8
MGF Oil Corp	.033	−98.1	(.299)	
Transierra Exploration Corp	.110	−50.1		
Arapaho Petroleum, Inc	.105			
Petrol Industries, Inc	.056	+7.6	.079	+12.8
Norris Oil Co	(.121)		(.075)	
Energy Sources, Inc	(.122)			
Barber Oil Corp	(.129)		.617	−65.0
Pauley Petroleum, Inc	(.222)		2.901	+3,820.2
Galaxy Oil Co	(.312)		(.287)	
Sundance Oil Co	(.462)		.117	
Consolidated Oil & Gas Inc	(.562)		1.722	+87.3
Hamilton Bros. Exploration Co	(.673)		(.370)	
Pennzoil Louisiana & Texas Offshore, Inc	(11.777)		(5.053)	
Champlin Petroleum Co			49.000	+162.0
Adams Resources & Energy, Inc			2.147	+511.7
North American Royalties, Inc			.426	−79.6
Patton Oil Co			.054	
Tucker Drilling Co			.049	−89.2
Total	687.143	+44.2	419.287	+86.6

Source: Oil and Gas Journal, October 1979.

RETURN ON EQUITY

We could compare these profit figures with a survey done in 1975 of 75 independent oil and gas producers showing a 1974 average return on equity capital of 23 percent compared to an overall 1974 average for all manufacturing industries of 14 percent. And this estimate takes into account the cost of drilling dry holes. At that time the independents were getting a price of about $8 to $10 on the average. It takes no great mathematical skill to figure if the return on equity was so good at $8 only 4 years ago, it must be astoundingly good at three times that price today.

What will be the income at $30 per barrel for the independents who get this exemption? For 1,000 barrels a day, 365 days per year, the total gross income is $11 million per year. According to the Treasury, less than 10 percent of the 7,500 companies surveyed in the oil and gas business produce 1,000 barrels of oil per day or more.

The "smallest" 98 percent of the companies produce about 5 percent of the total output. More than half of these companies produce 65 barrels of oil or less per day. Thus a more meaningful measure of "small independent" would be an operator who sold less than 100 barrels per day. That might be more appropriate, and today 100 barrels makes you a million-dollar operator yearly. The exemption is obviously too generous.

EQUITY

Are independents more dependent on equity capital than major oil companies? Are smaller independents particularly dependent on equity capital?

There is no evidence that independent producers rely more heavily on equity capital. That is, initial investment by owners and retained earnings to finance the assets they use in their business. The Treasury Department in a survey of 7,500 corporations in the oil business shows that, if anything, the relationship is the reverse, the smaller the company, the smaller is the dependence on equity. This indicates that these companies do not experience unusual difficulty in getting outside financing.

What of the contention that small independent oil producers experience higher current production costs and require assistance if they are not to be driven out of business?

The proponents of this exemption argue that the exemption fosters competition. Again, a compilation of tax returns by the Treasury Department documents no evidence to support this contention. Analyzing this data, which compares the cost of goods sold and sales of those goods, indicates that there is no direct relationship between cost per unit of output and size of the company.

A similar analysis done by Treasury of the tax returns of 14,670 partnerships and 52,855 proprietorships reported gross margins, that is, the difference between business receipts and costs of goods sold, were ample and above comparative margins of similar entities in other lines of business.

In fact, the gross margins constituted about 85 percent of their receipts, which is way above the 65 percent reported by other lines of business.

CASH FLOW AND STRIPPER PRODUCTION

CBO has concluded that the stripper exemption, and by implication, any expansion of the exemption to all independent production is no longer justified under current world prices: In a letter from Mrs. Alice Rivlin to myself of November 14, she maintains that because of the rapid increase in world prices, exemption for the windfall tax is no longer appropriate.

Cash flow is particularly interesting when we look at stripper production. Stripper production of course is part of this exemption. Stripper oil comes from wells which during any 12 month period produced 10 barrels or less of oil. This category of oil was decontrolled in 1976 and has recently experienced sharp price rises. In most cases these are lower tier wells which were under production when oil was selling at $4 to $5 per barrel. Today they are getting close to $30 per barrel.

Recent price increases are providing all the incentive and cash flow necessary to produce oil from these wells. The average price, according to the Joint Tax Committee, received for stripper oil in 1978 was $13.95 per barrel. During the first 5 months of 1979, the price averaged $17.55. If we left these old strippers under the special lenient tier II treatment in the committee bill, the proceeds per barrel would be $23.40 in 1980. This is $23.40 after the windfall tax of 60 percent was collected. This is a price increase per barrel of $9.65, or 69 percent in less than 2 years. CBO says the production effect of the stripper portion of this exemption may be 40,000 barrels a day.

What would this extra 40,000 barrels a day cost the Treasury? Since the net revenue loss from the windfall tax is over $16 billion, each barrel produced from these extremely expensive marginal strippers would be more than $90 per barrel. This is probably the most expensive oil the world has ever seen. I suppose the $90 could be reinvested in nearly any other energy source and get us more substantial long-run production of units of energy.

The administration maintains there is no production effect whatsoever. In any case, because the Senate Finance Committee exempted newly discovered oil, the total volume of stripper production will drop dramatically under either the House or Senate bill, because the incentive to produce at lower rates and thereby qualify as strippers is no longer present.

Last, by 1980 CBO analysis shows that we will get even less production under the Senate exemption than under the House tax because of the relationship among the various oil categories. In any case, CBO concludes:

> Because world prices have risen to dramatically, the new tax would not provide less cash flow per barrel than operators received in 1789.

LAST, LET US TALK ABOUT TAX RATES

The proponents of these exemptions make an argument that we are taxing the producers to death. CBO in its analysis of the Finance Committee bill concludes that all taxes—Federal, State, local—will take 54 percent. So out of about $800 billion of new industry revenues over the next 10 years, all levels of Government will take $427 billion, 54 percent. The Senator from Louisiana has put a different set of figures in the record. He says that there will be a trillion dollars of new revenues but that all levels of Government will take a larger percentage, in fact he says 83 percent.

But the Treasury Department, Mr. Emil Sunley, Deputy Assistant Secretary of the Terasury for Tax Policy, before the Subcommittee on Energy and Foundations of the Senate Finance Committee has stated that he figures that the oil industry as an industry has paid a tax rate on domestic income of about 20 percent on the average, using tax years 1972–74. Remember that in the period just after the oil embargo in 1973, oil company domestic profits increased by over 50 percent from 1973 to 1974. but the industry's effective tax rate increased by less than 2 percent in 1973 and actually dropped half a point in the boom year of 1974, according to Mr. Sunley.

Now the effective rates for independents are generally lower than for the majors. Part of the reason for this is that we have given other special breaks to the independents. The independent producer already receives a number of substantial special tax breaks. Two of the more important ones are in the areas of percentage depletion and intangible drilling costs:

First. The independent still is allowed to use the percentage depletion allowance to reduce his taxable income. The tax benefit of percentage depletion on oil for 1980 is $1.2 billion, of which $700 million is attributable to the independent producers.

Second. He is allowed to write off his intangible drilling costs in 1 year rather than capitalizing them over the life of the investment, a benefit estimated to reduce tax liabilities by somewhat over $2 billion in 1980.

Testimony presented to the Senate Finance Committee in June by the Public Citizens' Tax Reform Research Group and verified by the Treasury Department, showed that some independent producers not only pay generally lower effective tax rates than the majors, but in fact some pay rates as low as 1 or 2 percent. Based on data from the Securities and Exchange Commission, 9 of 16 randomly chosen independent producers have net operating loss carryforwards from 1978. Seven of the nine also have investment credit and/or depletion carry forwards. All 12 of these companies showed profits for shareholders reporting purposes, but 11 paid no Federal income taxes other than the minimum tax.

CONCLUSION

In voting for or against this amendment we should each ask ourselves:

What is the production effect? Are we producing more energy as a result of the additional loss? My conclusion is only negligible additional energy.

Will the industry produce from the oil fields under the tax treatment currently in the bill? By any standard of economic measurement, equity, cash flow, and the rapid rise of recent prices, the answer is yes.

Will the industry have enough cash to go after the new oil we desperately need? Again the answer is yes, because the future rate of return is so high and cash flow even under fairly stiff tax treatment for old oil has generated such high profits.

Is the tax rate too high? Not only is the finance bill substantially below the administration and House proposals, independents have paid on the average of an effective 20-percent tax rate in the past, partly because of special breaks we have given them.

Who is getting the exemption? Some of the entities we are giving complete exemption from the tax here are not oilmen at all and just collecting royalty checks. Are they pulling their share for America?

Lastly, what can we buy with the revenues we receive, if this exemption, and its stripper component are rejected by the Senate? It would pay for the entire mass transit program and the first several years of the low-income fuel relief program. Or, if you like, the entire first phase of the synthetic fuels program, and part of the second phase.

The amendment should be rejected. This amendment has never been considered in the House, and this and similar amendments have been rejected by the Finance Committee. I hope the Senate will reject the Bentsen amendment.

Mr. MOYNIHAN. Mr. President, I hope the Senate heard the words of the senior Senator from Connecticut. We have now had a coherent and comprehensive statement of this proposition.

Mr. President, the matter has been put forward to us that this $9 billion should be transferred to some 1,000 companies because it will produce more energy. Mr. President, that is not so, and the senior Senator from Connecticut has made clear why it is not so.

If I may add one reaffirming point for what interest it may have, I see that the Senator from California (Mr. HAYAKAWA) is on the floor. What we are dealing with is what is economically known as the fallacy of composition. It suggests, with respect to an aggregate market effect, the characteristics of a small part of the aggregate will be those of the aggregate itself. But that is not so.

We are actually told, so it may be clear, that there are companies otherwise profitable that, because of cash flow characteristics, will not have available to them the large amounts of investment they might need. There is not a line in economic literature to indicate that that investment will not otherwise be made. It is only that it will be made by other persons or other firms. The only way to argue that it will be made by such firms is to say those firms are not rational, and would make irrational decisions that otherwise rational investors would not make. No one disputes the understandable desire of a thousand companies to be more wealthy than they are now.

Mr. President, I will make you a proposition. If the Senate will somehow enact legislation that, in some magic way, adds a million dollars a year to my revenues, I guarantee to invest in oil and gas exploration up to a certain amount of my increased revenue. That will not increase overall investment, because the opportunities I would use others would use in my place, but it will increase my income very considerably, and I can be very much in the debt of this body if it were to do that. But that is scarcely a reason for this legislation.

This is legislation for a privileged thousand firms that in no way can produce any additional energy for this country. They would only produce additional profits for themselves. Is that what the U.S. Senate has come to? I cannot imagine we would adopt this amendment—or I can imagine we will, but I would wish that we would not.

Mr. HAYAKAWA. Mr. President, will the distinguished Senator from Texas yield me 3 minutes?

Mr. BENTSEN. I am glad to yield 3 minutes to the distinguished Senator from California.

Will the Chair advise the Senator from Texas how many minutes I have left?

The PRESIDING OFFICER (Mr. Baucus). The Senator has 17½ minutes remaining.

Mr. BENTSEN. And the opposition?

The PRESIDING OFFICER. Fifteen minutes remaining.

The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I rise in support of Senator Bentsen's amendment to provide a 1,000-barrel-per-day exemption for independent oil production. It is tempting to see ourselves as white knights leading the charge against the big oil companies. But to give in to this temptation is to deceive ourselves. The major oil companies are not the victims of this tax legislation. The victims are the independent producers, the people who discover 85 percent of the oil and natural gas we need to keep this country running.

The independent producer is the man who finds the oil and natural gas. He is not responsible for the increases in refiner profit margins or profits.

Now, the independent producer is the man who finds the oil and natural gas. He is not the refiner. He is not responsible for the increases in refiner profits. He is not the importer. He is not the one who brings in oil from Arab countries, Latin America, or elsewhere, and presumably makes a fine profit on all these things—relatively a profit with very little risk.

The independents' only source of income is the target of this tax; namely, the wellhead sale of oil. The independent generates additional capital by persuading outside private investors to take a chance, because finding oil is a very risky business and, obviously, returns on these investments must be higher than returns on investments which involve no risk.

The distinguished Senator from Connecticut (Mr. Ribicoff) pointed out the very fine profits made by a number of independent oil companies. Well, there are 600 oil companies extant right now in California. But for every successful independent explorer and producer of oil, for every one that succeeds over the course of 10 years, a dozen have died out. They are usually the ones I have invested in.

Furthermore, we know that if an independent producer can find money to invest, he surely will, and he will invest it in this rather than some business. And this is not always true of oil companies on other levels of the industry.

Typically, independent producers have invested more than 100 percent of their wellhead revenues to find and produce domestic oil and natural gas. And this is what we are shooting for, to reduce our dependence on Middle Eastern oil and imported oil in order to find and use domestic oil and natural gas.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HAYAKAWA. Will the Senator from Texas (Mr. Bentsen) yield me another minute?

Mr. BENTSEN. I yield the Senator another minute.

Mr. HAYAKAWA. From 1973 to 1977, independent producers received $33.3 billion in gross wellhead receipts and spent $34.9 billion on exploration and development.

I have heard many of my colleagues say this tax will not greatly affect the level of domestic oil production. I find this difficult to believe when I look at the effects of past Government policies on production of oil and gas. Between 1956 and 1973, a time when demand for petroleum fuels nearly doubled, exploratory drilling dropped almost 54 percent. Since 1973, we have witnessed a steady decline in domestic drilling due to debilitating Government controls on the real price of oil.

President Carter wisely decontrolled the price of domestic crude oil in order to encourage domestic production. If our goal is to encourage domestic production, it is axiomatic that we encourage those who produce.

I thank the Senator from Texas.

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes and 16 seconds remaining.

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from Oklahoma (Mr. Boren).

Mr. BOREN. I thank the Senator from Texas.

Mr. President, I am proud to join with the Senator from Texas in sponsoring the amendment that is now before us. I commend him for the lead he is taking in helping to produce more energy for this country at a time when we vitally need it.

I could not believe my ears a few moments ago when I heard my distinguished colleague from New York (Mr. Moynihan) saying that all we were doing was increasing profits, that we were doing nothing to produce more energy, and that this would have no positive impact upon the country. Because I am sure that he is aware of the figure which indicates that the independent producers of this country have historically spent in excess of 100 percent—in fact, over the last 5 years it has been 105 percent—of their wellhead earnings on additional exploration and production of oil.

I am sure that he is aware of the fact that the independent producers are drilling 90 percent of the wildcat wells and exploring and finding 75 percent of the new fields in this country. It stands to reason that if they are investing in this kind of activity 105 percent of what they have earned at the wellhead, that there is bound to be not only additional oil produced in the short run, but a great increase in reserve for future production resulting from the opportunity that we have before us to give proper incentives to independent producers.

I have been listening for several days on the floor of the Senate to the discussions about this so-called windfall profit tax bill which, in essence, of course, is an excise tax bill on oil. It has nothing to do with profits. It is a tax on every barrel of oil produced inside the United States. I have heard many people say, "We are tired of the big oil companies making profits on their overseas production." And that is where 80 percent of the increase in profit has come from.

And yet, when questioned, I have said:

> Well, if you are tired of that, how are you going to solve the problem of profits being made on oil produced overseas by putting an excise tax on every barrel produced in this country that is produced by companies that do not own pipelines, that do not own refineries, that do not own marketing outlets, and that do not own overseas oil production?

And I have heard them say:

> Well, if given the opportunity we would like to have the chance to show that we are not trying to be punitive towards those small independent producers within this country.

Well, Mr. President, this is their opportunity. This is their chance to end the double standard that they want to impose by penalizing the big international companies in theory for profits overseas by taxing oil produced by independent producers here in the United States. This is their opportunity. I hope they will come forward and seize this opportunity to encourage additional production.

I have heard them say, "We wish there were more competition within the oil industry." They viewed with alarm the concentration, the fact that the top 5 percent of the companies, the largest 5 percent, produce over 90 percent of the oil, and they wanted to see more competition. This is their opportunity, Mr. President.

This would provide an exemption from the tax for the independent producers. Twenty years ago there were over 20,000 independent oil producers in the country, the smaller companies that produce only 10 percent of the oil in total but make up 95 percent of the number of the producers. Twenty thousand of these producers 20 years ago. Today, only a little over 10,000 independent producers in this country.

Why? It is because they have not had the opportunity, with increased costs, to compete. Here is the opportunity for those who want to see more competition. Here is the opportunity to adopt an amendment which will give the independent producers an opportunity to have the incentives they need to continue to find oil for this country, oil which will be produced in this country, produced by Americans, with American jobs, with American payrolls, by small independent American companies.

This is our opportunity to do what those who have been on the other side have said all along they want to do: Encourage domestic production, encourage more competition, encourage a healthy diversity within the oil industry and not penalize our smaller domestic producers for the overseas profits of the larger companies. This is their opportunity. This is their opportunity to stand up and be counted.

I can only hope, Mr. President, that instead of putting the collection of additional taxes as the first order of priority, that all the Members of the Senate will see the wisdom of putting additional domestic oil production by the independent operators as something that needs to be done, not for the sake of any region of this country, but for the sake of this entire Nation and its security as well.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. BENTSEN. And the opposition has?

The PRESIDING OFFICER. Fourteen minutes and forty seconds.

Mr. BENTSEN. I would be delighted to hear the argument from the Senator from New York (Mr. MOYNIHAN).

Mr. MOYNIHAN. The Senator from Kansas is on his feet.

Mr. BENTSEN. How much time does the Senator from Kansas want?

Mr. DOLE. I do not think what I say will make that much difference. But you take all the time you can get around here. Three or four minutes?

Mr. BENTSEN. Since I have 7½ minutes left, how about settling for 3 minutes?

Mr. DOLE. Fine. I have 26 votes.

Mr. BENTSEN. Four minutes. [Laughter.]

Mr. DOLE. Mr. President, I think everyone in this Chamber has indicated how difficult it is to make a judgment on this issue or any other issue. Certainly the statements made by the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from New York (Mr. MOYNIHAN) are purely motivated. We are all looking for the same thing, as we did in the Senate Finance Committee.

I think we have to accept that there is probably a little bit of greed involved. But no one is certain just what the answer is.

If we look at the industry side, I think, whether a secret ballot or open ballot, they would vote against any tax on the theory that they have been discriminated against with a special tax. On the other hand, there were some who would go even further than we have gone in the committee in raising the tax on the industry.

I go back to where I came down yesterday on the basis that we did a good job in the Senate Finance Committee. I see this amendment as a logical extension of the amendment contained in the Finance Committee bill.

I frankly had some questions myself about royalty owners for the very reason stated by the Senator from Connecticut. If we are talking about risk takers, we ought to talk about risk takers. On the other hand, if we are talking about the production of oil, the royalty owners are part of that operation. Senator BENTSEN has said it very well, and I agree with the Senator from Connecticut—there is no one in the Senate who understands the industry better than the Senator from Texas (Mr. BENTSEN). He knows what happens in the State of Texas and other producing States so far as independents are concerned.

If we could look down the road 10 years, we could probably make a better judgment on this amendment or any other amendment. We might decide there should not be any tax, that there should not be any exemptions. We might decide there should be higher taxes. But it does seem to me when we look at the record of independents and what they do and how much money they plow back into the system, I certainly feel strongly that this amendment ought to be adopted.

I do not know how many people will vote for or against the amendment. Concerning my earlier remark, of course I cannot deliver any vote but my own.

My colleague (Mrs. KASSEBAUM) is a cosponsor of this amendment, as is this Senator. I applaud Senator KASSEBAUM and her efforts in advocating the independent exemption because I think it will make a contribution. If it does not make a contribution in 2, 3, or 4 years from now, those of us who stand here today asking for the exemption ought to be standing here asking for a tax or asking for a narrower exemption. I hope that all of us who vote for the exemption will keep that in mind.

If, in fact, it turns out, as the distinguished Senator from Connecticut has indicated it could, or the Senator from New York, that we are really passing some windfall here for about 1,000 companies, then I think we have to be responsible down the road and take another look at it.

Mr. President, as the author of the independent stripper exemption contained in the Finance Committee bill, the Senator from Kansas is pleased to support this logical extension introduced by the Senator from Texas.

Mr. President, given the current world oil supply situation, Congress needs to do everything possible to produce domestic sources of oil and gas. The independent producers exemption from the tax will reduce the disincentive created by the so-called windfall profit tax. The role of the independents has been debated at length. Their participation in helping solve our energy supply situation is critical.

Historically, independent oil producers have accounted for roughly 90 percent of wildcat drilling and 80 percent of all domestic drilling. Independents find slightly more than 50 percent of new reserves.

Mr. President, I would also like to recognize the role of Senator KASSEBAUM as an original cosponsor of this amendment; her work is deeply appreciated. She understands the need to produce energy, not raise punitive and counter-productive taxes. NANCY KASSEBAUM has been diligent and persistent in advocating the independent exemption. If the amendment is passed, she will have made an important contribution in helping reduce our dependence on foreign oil.

Mr. President, it is also important to recognize that a good majority of Members on this side of the aisle are supporting the independent exemption. Yesterday, 26 out of the 36 Republicans present voted not to table the amendment. The strong showing of support indicates that Republicans want energy production. Republicans want energy supplies to heat homes, for transportation and for business.

Mr. President, the Finance Committee substitute contains an amendment which I sponsored to exempt up to 1,000 barrels a day of stripper oil produced by an independent operator. The Dole amendment was a compromise position. It recognized the marginal economics of stripper wells and the role of the independent producers. I would note, however, my long support of the independent exemption. Earlier this summer—on July 13—I introduced a proposal—the Energy Development Surtax—which contained a 3,000-barrel-a-day exemption for independents. I am pleased to see my original idea being discussed by the Senate.

Mr. President, the independent exemption is good policy. It will have positive effects. Congress should be addressing the fundamental issue of production.

Mr. President, Senator BILL ARMSTRONG asked me to announce that he has been summoned away from the Capitol to attend the funeral of a family member who has passed away. He has asked to announce that he strongly favors this amendment proposed by the Senator from Texas, and would have voted for it had he been here. If this or a similar question arises after he returns, it is his intention to vote "aye."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Will the Senator yield 1 minute?

Mr. BENTSEN. I yield.

Mr. DOMENICI. Mr. President, if there is anything that is certain it is when you turn loose the energy enterprise in America it produces something. I hope everyone today will vote to turn 12,000 independent producers loose and let them produce energy for America.

I truly believe all of the statistics are irrelevant. The energy that is going to come from 12,000 independent oil producers is something we are not going to be able to measure. While we fumble around with billion dollar programs, with conservation programs, with solar energy, with all the other monstrous programs, I am going to opt today to turn loose 12,000 independents.

We can do what Senator DOLE said:

> If they do not produce and if they are getting a windfall they are not entitled to, we can change it later.

But with America in a troubled area, I am going to take a chance on them and not a chance on Government. I am not going to take the statistics that people give us as having anything to do with what 12,000 independents turned loose will actually produce for this country. I commend the Senator from Texas for his excellent amendment, and I hope the Senate will adopt it.

Mr. President, yesterday we heard a great deal about what an independent oil producer exemption would do for this country's oil production. Some said that there would be no increased production. Others cited U.S. Bureau of Census figures saying independents have plowed back over 105 percent of their revenues into oil production. This would mean that an independent's exemption would result in—

An investment of $10.4 billion over the

next 10 years; 15,200 new wells; 1.7 billion barrels of reserves; and an increased production of over 300,000 barrel/day by 1987. As I say, there was a great deal of discussion about these estimates, Mr. President, but everyone agreed that there was uncertainty in the estimates representing both sides of the argument. I agree, there is no certainty in these numbers. They are estimates based on a set of assumptions.

Mr. President, the entire energy situation is permeated with uncertainty. Uncertainty is the key word. The only thing that is certain is that our foreign sources of oil are uncertain. So today we are really asking the question, Who are we to trust? Who are we going to rely on? As I said yesterday, the uncertainty of the energy situation means we must take risks.

My point yesterday, and I will state it again, was: Are we going to take risks with the ayatollahs of this world, or are we to risk our futures with independents?

Are we to trust the people who have demonstrated an ability to discover, produce, and deliver oil, or are we to trust those who have demonstrated they can turn the valves off?

The independents of this Nation are businessmen who do not hesitate in the risky situation. Our own hesitation in this situation, the hesitation of this Federal Government, demonstrates that we should not be the risk takers for America.

I said yesterday that as one who has worked hard on some long-term solutions to the energy situation I am perfectly aware of our need for answers in the short term. Yes, we must conserve; but yes, we must also produce. And why not produce what we know best how to produce. And why do we not use the people who know best how to deliver that oil—the independents?

Mr. President, I will say it once again, we all agree there is uncertainty in our energy future. There will be disaster in our energy future unless we are willing to allow American risk takers to do what they can do best—produce oil.

Mr. MOYNIHAN. Mr. President, I yield myself 2 minutes.

I wish every Senator within the sound of my voice could have heard the remarks by the distinguished Senator from New Mexico in support of this measure. He says, "The statistics are irrelevant," which is another way of saying the facts are all against this measure. When the statistics become irrelevant, it is because they cannot support the case; they do not.

This is a measure for 1,000 privileged companies to increase their profits. It will not add a dollar to the investment in energy. It will not add a barrel of oil to the production of the United States.

On irrelevant statistics, I might introduce this point. In 1973, 27,600 wells were drilled in the United States. Under this presumedly oppressive regime, 5 years later, the number had almost doubled, to 48,500. When you hear it said that statistics are irrelevant, you have been told the facts are against the proposal.

I thank the Chair.

I am happy to yield 4 minutes to my good friend, the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator.

Mr. President, I commend the Senator from New York and the Senator from Connecticut for bringing to the attention of the Members of the Senate the lack of merit in this particular proposal before us today. Certainly, no more stronger case can be made against this amendment than the fact that, as Senator DOLE has already indicated, it will not cause any additional production. That is the heart and thrust of what we are talking about on the floor of the Senate. It will cost $10 billion, but it will not produce one single drop more oil.

I think that is the only thing we have to understand.

They talk about new oil, they talked about tertiary, they talked about stripper. The fact is that all of those are already exempted under the proposal that we are now amending. The Finance Committee bill so provides.

Mr. DOLE. Will the Senator yield?

Mr. METZENBAUM. On your time.

Mr. DOLE. I just wanted to say I did not say what you said I said.

Mr. METZENBAUM. I think the thrust of what you said is certainly what I indicated. That is that you agree there will not be any new oil produced by reason of this amendment.

This amendment is a giveaway. This amendment is a way of our saying in the Senate, "You Saudi Arabians cannot tell us what is good for the American consumer, what is good for the American economy. We are going to show you our independence." The only problem is that in this instance the Saudis are more concerned about the economy of our country, more concerned about consumer prices, more concerned about conservation than are some of the Members of the Senate who see fit to support this particular proposal.

They talk solely about the independents and their need for additional cash. They talk about the need for cash as being the means of giving them additional profits, cash flows, so that they can be able to develop new oil.

Well, as a matter of fact, as the Oil & Gas Journal has already pointed out, the independents do not need more cash. Their profits and their cash flow are up 84 percent in the 3-month period.

This proposal is nothing more than our way of saying that the oil lobby in the U.S. Congress and with the President is the strongest force in the whole Nation, stronger than the President, stronger than the Congress, and that they can have their pie the way they want to have it, that it will be sliced to their liking.

We cannot forget that the bill that came over from the House which we refused to accept was the creature of the oil people themselves. It was not proposed by consumer lobbyists. It was proposed by those Congress persons who come from Louisiana and Texas. Now we are just decimating that bill. We had decimated it by the Finance Committee, and now it is decimated a little bit more. Before we get done, I think we ought to recognize that we have given away in its entirety an effective windfall profit tax.

I again repeat, the President is the only one who has it within his power to do something about it, and that is by withdrawing his order for decontrolling the price of oil until such time as there is placed on his desk an effective windfall profit tax bill. That and only that, in my opinion, is the way we are going to resolve this issue. Absent that, the oil company lobbies will prevail, as they apparently will in this particular instance.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. MOYNIHAN. Mr. President, I congratulate the Senator from Ohio on his remarks. Repeating once again: This is a measure for a thousand privileged corporations who will, no doubt, find uses for the extra money it will provide them. There is no grounds whatever in this legislation for doing so. The statement that the statistics are irrelevant is the most revealing statement yet made. The facts are against this measure and so should the Senate be.

Mr. President, I am happy to yield to the Senator from Michigan if he wishes the floor at this time. I yield him 3 minutes.

Mr. LEVIN. I thank my friend from New York.

Mr. President, as we consider our votes on particular amendments to this windfall tax bill, I believe that we must consider the overall complexion of the tax and the balance which it strikes between the amount of windfall revenue which will remain in the hands of the oil industry, which we hope will lead to increased domestic oil production, and the amount of revenue recaptured by the Federal Government, which I hope we use principally for energy related uses such as incentives to stimulate an aggressive conservation effort, investments in increased energy efficiency, assistance to elderly and low-income people, and improved mass transportation. I regret that the Senate chose yesterday not to use the House-passed bill as a starting point in working its will on this tax, because I believe that that bill strikes a much more equitable revenue balance than does the Finance Committee's bill. Using the House bill as the starting point also would have put us in a position with regard to the aggregate revenues raised by the bill where I would have felt that we ought to consider additional exemptions or incentives to the domestic oil producers which might stimulate significant increases in production. Under either bill, the oil industry will receive a massive infusion of capital to increase its exploration and production, but I believe that the increased tax revenues captured by the House bill could be more productively spent for the purposes I have enumerated than if the additional increment were to be left in the hands of the oil industry on top of the hundreds of billions of dollars in new revenues which the industry will receive in either case.

However, we chose not to take that route, and thus we are left with the Finance Committee's bill, which, in my view, leaves the Government with much too little money to undertake efforts to help alleviate our dependence upon imported oil.

We are now faced with an amendment that would further reduce the revenue flow to the Government. Mr. President, there is some merit to the Bentsen amendment. Independent producers do have the best record in the oil industry of reinvesting their revenues in new exploration activities. They are responsible for the lion's share of new well drillings and new oil and gas finds. It is probable that added incentives for independent producers would lead to more new production than incentives or exemptions for any other purpose in this tax.

Mr. President, if we had a more balanced overall tax bill before us, I might well be inclined to support the Bentsen amendment. In fact, if this amendment had come at the end of our deliberations, and if the Senate had chosen to tighten up the tax and increase the Federal share by removing other loop holes in the bill, I would be more favorably disposed toward this amendment. But at this point, all we have to go on is the committee proposal before us and the actions taken by the Senate thus far, which do not indicate an inclination to strengthen the tax significantly. Under those circumstances, I cannot support an amendment which would further reduce the revenues available for conservation, solar, synthetics and other energy alternatives to oil.

Mr. BUMPERS. Will the Senator from New York yield for a couple of questions?

Mr. MOYNIHAN. Is the Senator supporting the measure?

Mr. BUMPERS. No, I am not.

Mr. MOYNIHAN. The Senator is not supporting this measure?

Mr. BUMPERS. No.

Yes, I am; I apologize. I am going to support the Bentsen amendment.

Does the Senator from Texas have no more time?

The PRESIDING OFFICER. The Senator from Texas has 1 minute and 52 seconds remaining.

Mr. MOYNIHAN. Mr. President, I am happy to yield a minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the Senator from New York. The point I wanted to make does not hurt the Senator's cause. I have a table here put out by the U.S. Treasury Department. I want to verify it because it does not really make a lot of sense.

The indication here is that, on the basis of $30 oil, which may be incorrect because this is based on revenues to independents, in 1976, there were 7,494 corporations engaged principally in the extraction of oil and gas, and that if we exempted 91.3 barrels of oil a day, we would be exempting about 83.8 percent of those 7,494 independent dealers.

Mr. MOYNIHAN. Yes. Would the Senator from Arkansas consider voting against this amendment and then proposing a 100-barrel-a-day exemption? As I have said, this is a bill for 1,000 privileged corporations and Senators who vote for this amendment are going to be asked to explain in the years ahead why they did it.

Mr. BUMPERS. Is that statistic correct so far as the Senator knows?

Mr. MOYNIHAN. As far as we know, that statistic is correct, yes, sir.

Mr. BUMPERS. It jumps precipitously after that. I notice that, in order to get from 83 percent of the independents to 97 percent, you have to go to 913 barrels per day.

Mr. MOYNIHAN. That is the essential point.

Mr. BUMPERS. I must say that that is troublesome to me. Everybody has heard all of my debate in the last few days on this subject. It is my understanding that independents put 50 to 80 percent of their revenue back into exploration, to their eternal credit. That is a far cry from the approximately 1 percent the majors put back in. I do not think the House will ever sit still for a 1,000-barrel exemption when they had none.

Mr. MOYNIHAN. Let us vote against it while we have the opportunity and not embarrass the Senate of the United States.

How much time remains to me, Mr. President?

The PRESIDING OFFICER. Two minutes remain to the Senator from New York.

Mr. MOYNIHAN. I am happy to yield my remaining time to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I must confess to a great deal of puzzlement at the last statement by my distinguished colleague from Arkansas. Yesterday, he proposed to substitute the House bill for the Senate bill. He discussed the matter with me. I was ambivalent as to whether I would do so, which would be voting against the position of our Finance Committee. I did support him on that vote to table. The House bill was really not the Ways and Means bill but a substitute offered by the Members from Oklahoma and Louisiana. Yet the House bill contains no special exemption for independents or strippers. I would like to know, if there was no exception in the House bill for independents and strippers, how the Senator from Arkansas justifies the vote now for the Bentsen proposal.

Mr. BUMPERS. I do not have any time.

Mr. RIBICOFF. The Senator has whatever I have left.

Mr. BUMPERS. My position on this is very simple. First, if there is oil to be found, obviously, the independents are going to find it. They are at least making the effort and, I understand, committing not 50 to 80 percent as I said a moment ago, but 105 percent of their revenues for the production of new oil. So why should we give roughly a trillion dollars to the major oil companies, who are going to reinvest about 1 percent of that, and say to the independents, who are investing 105 percent of their revenues, we are going to treat you the same way we do the majors? It seems to me there is an inequity.

Mr. RIBICOFF. If I have any time left, newly discovered oil, which we are interested in, is not involved here at all, because they are exempted. If we are worrying about the independents, from the Oil and Gas Journal, let me give some figures about independents. Net profits to Apache Corp. in 1979 were up 1,435 percent over 1978; Louisiana Land and Exploration up 373 percent, Buttes and Oil up 848 percent; Pauley Petroleum up 3,820 percent. I do not understand all the extra tears for the independents.

The PRESIDING OFFICER. The Senator from Texas has 1 minute, 39 seconds.

Mr. BENTSEN. Mr. President, I am not shedding any tears for those fellows either, but we are not talking about them. My friend should know that. We are not talking about a thousand corporations; we are talking about 12,000 independent producers, most of them unincorporated. That ought to be understood.

Mr. President, in all the debate on the windfall profit tax and national energy policy, there are certain facts that are beyond dispute. We can all agree, for example, that it is clearly in our national interest to increase domestic energy production. Every additional barrel of oil we can produce in America displaces one barrel we would otherwise be forced to purchase from OPEC. Additional domestic production means decreased dependence on foreign sources of supply; it means important savings in our balance of payments account and reduced inflationary pressures in our economy.

The Bentsen amendment will increase our domestic energy production by about 300,000 barrels a day. It will produce, over the next 10 years, an additional 1 billion barrels of American oil. And it will yield this energy bonanza at precisely the time we most urgently need it.

Some may contend, Mr. President, that in the context of our total energy picture, 300,000 barrels a day of new domestic production is not much. Just let me remind my colleagues that, earlier this year, we had 2 and 3 hour gas lines from coast to coast. We were made acutely aware of our energy problems, the extent of our dependence, and the precarious balance between international supply and demand. Why did we have those gas lines? Because we were denied 300,000 to 400,000 barrels per day of Iranian oil. It now seems certain that we will do without Iranian oil for the foreseeable future. One important way to make up for that shortfall is to pass this amendment, because it will yield additional American production roughly equivalent to our traditional imports from Iran.

We can all agree, Mr. President, that even with conservation, even with the development of alternative energy sources, we are going to need that 300,000 barrels per day. We are going to consume it. So the choice becomes very simple: Either we produce it here in this country, or we buy it from OPEC at the cost of $10 million per day.

I say let us produce it here in America. Sure, we will still have to pay for it, but the cost of that energy will remain in this country. It will be recycled through the system, producing jobs, wages, savings and investment capital. It will mean tens of billions of dollars not sent abroad to the coffers of OPEC. If you are looking for a sound investment in America's energy future, there it is.

In considering this amendment, it is important to understand that its basic purpose is to provide incentives for production to the 12,000 independent operators in this country—people whose only activity, whose only source of income is to search out and develop America's energy assets.

Who drills 90 percent of the wildcat wells in this country? The independent producer. Who finds 75 percent of the new oil and gas fields in this country? The independent producers. Who accounts for 54 percent of our new oil and gas fields? The independent producers. Who takes the chances considered too risky by the majors? The independent producers.

Year in and year out, America's independent producers have demonstrated a remarkable ability to take $100 in revenue and convert it into $105 of activity directed at finding new energy resources in this country. If we are serious about increasing our domestic energy production, Mr. President, then let us place additional resources at the disposal of the independents. There is no more efficient or effective way to go about it. We have seen over the years that the greater part of our domestic energy production will come not from the efforts of the majors, but from the activities of our 12,000 independent operators.

As we look at our energy future, and particularly our short-term problems, we must understand that we have found all the easy oil in America. There is still plenty of oil out there, but it is increasingly expensive to find, increasingly risky to drill. We will be going after deposits smaller and deeper than ever before. The costs and risks involved are increasing geometrically.

One does not have to be an energy expert or an economist to appreciate that you are not going to find new oil in America on a shoe-string. If you are going to drill a 10,000-foot well that could cost $1 million and turns out to be a total loss, you had better have some assets.

When we talk about independent operators, we are not talking about the corner candy store. Mom and Pop operations are not going to find new oil and gas in America. But even at 1,000 barrels a day, even at $10 million a year in gross revenue—not profit, mind you, but gross revenue—we are still talking about small businesses. We are talking about independent producers who provide the only real competition for the majors in this country—and the majors measure their revenues in the billions of dollars.

Mr. President, the proposition is really very simple. It is in our best interest to increase domestic energy production. We have 12,000 independent operators whose only activity is to find new oil and gas in America. The independents invest 105 percent of gross wellhead revenue in new exploration and drilling. If we really want greater energy independence, this is a trend to be encouraged. My amendment would place additional resources in the hands of those totally committed to developing Americas' energy assets. Any comprehensive energy plan that neglects such incentives would be a farce.

Mr. President, without this amendment, we can write off 1 billion barrels of American oil over the next 10 years because the independents will not have the resources to go out and find it. We shall purchase that billion barrels instead from OPEC at a cost of $40 or $50 billion—assuming it is available. Without this amendment, the heavy hand of Government regulation comes down on the necks of our independent producers, draining resources that would otherwise go to exploration and drilling. The majors can cope with the burdens of regulation, they can afford to put on the accountants and lawyers. Many independents would simply be driven out of business and our domestic energy production would decline.

The point has been made, time and again, that this amendment will result in an estimated revenue loss of $9.9 billion over the next decade.

Less frequently noted is the fact that this so-called revenue loss will be converted into $10.4 billion worth of new exploration and drilling, activities that will yield a billion barrels of American oil—1.7 billion barrels in increased reserves. The revenue loss will produce in a savings of tens of billions of dollars in our imported fuel bill. It will decrease our energy dependency; it will create jobs, wages, and investment in our economy.

It will enable 12,000 independent operators to compete more effectively with the majors and enable them to do what they do best: Find oil and gas in America at a time we need every drop of domestic energy we can find and produce.

If you want gaslines back in Washington, D.C., and if you want them again back across the country, turn off the independents; turn off the guys drilling 90 percent of the oil wells, finding 54 percent of the oil. If you want to send jobs overseas, if you want to send money overseas to the Middle East, vote against this amendment. If you want to see jobs here and are concerned about this country and the national interest, as I think the supporters of this amendment are, then you will vote for the Bentsen amendment and you will see us bring the jobs home.

Mr. President, in the interest of greater energy self-sufficiency for America, I urge the adoption of this amendment.

Mr. HEINZ. Mr. President, I commend my colleague from Texas for offering this amendment and for his efforts, both in the Finance Committee and on the floor, to fashion a windfall profit tax that is in the best interest of the Nation. I believe that this amendment, which I fully support, is in keeping with that goal.

Yesterday, on the other hand, I voted to table the amendment offered by the Senator from Oklahoma because I am opposed to extending the exemption in the Finance Committee bill for 1,000 barrels per day of independent stripper production to all stripper production. I opposed such a change because the additional supply that would result from the exemption would not justify the $33 billion revenue loss.

The Bentsen amendment, however, is consistent with the efforts of the Senate Finance Committee, which I supported, to draft windfall profit tax legislation which insures the maximum production of domestic oil without placing an unacceptable burden on the consuming public.

First, the exemption proposed by the Senator from Texas will protect thousands of small independent producers, such as those from my State of Pennsylvania, from the burden of filing the reports, certifications and other regulatory paper that will be required to administer this tax. This alone will permit these producers to spend more time and money looking for and developing oil wells as opposed to inkwells.

Second, the Bentsen amendment will insure that independent producers, who are the leaders in our efforts to locate new domestic oil reserves, are not discouraged from maintaining their traditional exploration and development activities. Independent producers have drilled 90 percent of the wildcat wells, found 75 percent of the new fields, and discovered 54 percent of the new oil and gas reserves in this country in recent years. During the past 10 years, independent producers have committed 105 percent of their gross revenues from oil and gas production to drilling, exploration and production activities. They are not the people who go around buying department store chains. Clearly, they are committed to using additional revenues to make more domestic oil available to the country.

Senator BENTSEN has estimated that his amendment will result in the production of an additional 1 billion barrels of oil during the next decade. Based on the estimated revenue loss of the amendment of $9.9 billion during that period, the cost of each additional barrel would be $9.90. Even if Senator BENTSEN is off the mark in his estimate of production response by 50 percent the cost per additional barrel produced would be $19.80. This is less than most OPEC countries are charging for their oil today. It will be far less than OPEC will be charging in a year or two.

I believe that it is imperative that we keep the relationship between this tax and our national energy goals in mind as we consider each amendment. Clearly, without appropriate incentives for increased domestic energy production—such as those provided for solar, geothermal, wind and biomass in the Finance Committee bill—our efforts to achieve energy independence will fail. The independent oil producers of this country have demonstrated their commitment to using revenues from the sale of the oil they produce to find more oil. Providing the 1,000 barrels per day exemption offered by Senator BENTSEN will contribute to our drive toward energy self-sufficiency by encouraging even a greater investment in oil exploration and development by independent producers.

Every barrel of oil produced or conserved domestically is a barrel that we will not have to import. I commend the Senator for his efforts to insure that more oil will be produced by domestic producers, and I urge all of my colleagues to support the Senator's amendment.

● Mr. HUMPHREY. Mr. President, I support the amendment offered by my distinguished colleague from Texas, and I am pleased to be a cosponsor. The large number of Senators who have joined this effort indicates the need to free the independent producer from some of the burden of this tax.

It was independent explorers and developers who started this Nation's petroleum business more than 100 years ago. If those drillers faced a tax the size of this windfall profit tax, you can be assured that we could never have built the great Nation we are so proud to be citizens of today.

Many of the 12,000 independent producers drilling and exploring in the United States do not have the capital resources to survive this tax. An exemption for the first 1,000 barrels of daily production by independents from the windfall profit tax is the minimum we can do to insure increased production and development of petroleum.

My colleagues who support this amendment have already pointed out the great role independent producers play in supplying this country with energy. The independent producer is the backbone of America's petroleum business. He is the epitome of the free enterprise system. If we shackle him to a tax that confiscates the revenues he would use for exploration and development, we are going to get less oil and gas, and he is going to be driven out of work.

I hope this effort is successful, and I commend my distinguished colleague from Texas for taking the lead on this amendment which is so vital for increased energy production.●

● Mr. BAUCUS. I support the 1,000 barrel independent exemption.

This exemption goes to the heart of what I hope we are trying to accomplish in this bill. One of the major objectives of this legislation, should be to enhance our ability to develop and produce American oil with American dollars.

Earlier this month Congress committed $20 billion to the development of a synthetic fuels industry. But reliable commercial production will not begin for at least 10 years. Synfuels are not going to replace the loss of oil from Iran. They would not have solved this summer's gasoline and diesel shortages. Our only hope is to produce more oil here in the United States. And, to do that, to produce every possible barrel, we are going to have to provide some added incentive for independents and the producers of the hard-to-reach oil.

This exemption will reward companies that find domestic oil now. It does not reward companies that do not.

Independents today perform over 90 percent of the domestic exploratory drilling. They produce nearly 75 percent of the oil from newly developed fields.

This exemption, in effect, puts $9.9 billion into the hands of independent producers to encourage them to drill for extra crude oil.

This should translate into at least 303,000 barrels a day over the 16-year average life of a new well. This exemption is one of the best revenue-for-energy-gain tradeoffs in this bill.

In other words, this exemption represents a $9.9 billion investment, yielding immediately the most critically needed category of energy supply—oil.

Earlier this year, this Nation survived one of the worst gasoline and middle distillate shortages ever to strike.

Every American suffered painful shortages because of the way fuel was allocated.

Major oil companies, fearing the worst, reportedly withheld crude oil production, while the world market tightened during the first Iranian curtailment.

We were all victims of an extremely fragile, complex world market largely beyond effective control by the United States.

Montana and the upper Midwest were especially hard hit.

Diesel fuel is not controlled by price and supply allocation in the United States. Gasoline is. But companies tend to link their own allocations of diesel to prescribed requirements of gasoline distribution.

Also, since the end uses of diesel in an agricultural State like mine are so different from the general pattern of gasoline use, Montanans were locked into an allocation system that simply could not cope with the crisis. As someone in Montana said—"100 percent of zero is zero." If there is no oil, it does not make any difference how much someone is allocated.

We have to depend more on the ability of our own producers, most of them independent, to produce oil regionally, and locally, and to depend less on the larger oil distribution system that is so vulnerable to world supply disruptions.

Independents traditionally serve the specific needs of smaller, localized markets.

Over much of this year, Montana had been dependent upon Canada for up to 50 percent of its light crude supply. This month, the Canadian Government eliminated exports entirely.

We are scrambling to other markets, making new exchange agreements with Canada and getting other crude supply from Wyoming.

Meanwhile, Montana's own oil production has declined by about 2.2 million barrels a year from the 32 million barrels produced in 1977. The rate of decline in production from old oil fields—60 percent of our production—is greater than the national average.

We need to provide the necessary incentives to Montana's 300 independent oil producers to expand old fields and find new ones—consistent, of course, with management of the State's magnificent resources.

Montana producers are telling me that the 1,000 barrel independent exemption we are considering today will achieve a number of things.

Let me briefly elaborate.

First, because the committee substitute allows for only a State excise or severance tax deduction in taxing three tiers of oil, Montana independents lose. Montana imposes a 2.65 percent severance tax on oil extracted. But producers also pay county net proceeds taxes, a conservation tax and an indemnity trust account tax.

Depending on the county in which a producer operates, he can pay up to 20 percent of his net proceeds in combined State and county taxes, or far more than the average non-Federal taxes producers pay in other States.

A 1,000 barrel independent exemption would help offset State and county tax losses not addressed in the bill.

Second, major integrated oil companies own or operate nearly 75 percent of Montana's stripper properties.

These properties are not eligible for the present 1,000 barrel independent stripper exemption. A straight exemption would take much better care of Montana independents.

Third, producers tell me that because they represent only one phase of the industry, to explore, develop and produce oil and gas, they have no other way to offset such losses as dry-hole expenditures. As one independent producer put it, "We are out on the one limb of looking for oil and gas."

On the other hand, integrated companies can go to marketing or get cash flow from non-oil investments to cover production losses.

Independent producers are a vanishing breed. Montana cannot afford to lose many of its independent producers.

Although Montana's problems differ in type and duration from other States, they offer evidence of what we will all suffer if we do not make every reasonable attempt to help independent producers maintain adequate, domestic production levels.

I urge my colleagues to adopt the 1,000 barrel independent exemption.●

Mr. BAKER. Mr. President, on numerous occasions I have stated my position on the issue before us. There is little in the past 6 years of regulation to suggest that the Department of Energy better understands the production and distribution of oil and gas than do the men who make oil and gas their business and their profession, the oil producers should be allowed to work and compete within a free market. The measure before us is a necessary step in the return toward that free market, where alternative energy sources will be given the opportunity to compete on an equal basis with increasingly expensive oil and gas.

The windfall profit tax is necessary; it is not and should not be construed as a punitive measure aimed at the industry that will be called on to produce new energy supplies for tomorrow. It is a tax, and taxation is never a task which should give us pleasure. As with all taxes, it is the American people who ultimately pay the bill. So let us be very clear on what we seek to achieve with this new tax, for it taxes the capital of a vital element of our domestic energy industry.

There is an urgent and immediate requirement for some of the tax revenues to lighten the crushing burden of ever-increasing energy costs, so that the less fortunate members of our society can keep warm this winter. It seems entirely appropriate that such humanitarian assistance be funded by the windfall profit tax. But it is essential as well that we act now, to insure that spiraling fuel costs do not become a permanent fixture in our energy future. The goal is simply put. We must end forever American dependence on foreign oil. Indeed, we will be required to end that dependence within our lifetime. Events in Iran have again shocked us with a reminder of the critical priority which that goal assumes.

And how shall we achieve domestic energy independence? First and foremost, by unleashing the productive might of a competitive American energy industry. But in addition, by a vigorous, and unquestionably expensive, program of research and development of new energy sources; by the expeditious and fiscally responsible development of a domestic synthetic fuels capability to insure our national security; by a broad program of incentives to encourage conservation; by increased utilization of solar energy to heat our homes and alcohol fuels to run our automobiles; by environmentally safe and responsible use of coal and nuclear energy to replace the precious oil and gas still used to generate over 30 percent of our electricity. We need all of this and more. And the windfall profit tax will help us achieve these goals. It will provide revenue for a number of urgently needed programs which the oil companies by inability, disinclination, or corporate and market constraints cannot pursue.

But, Mr. President, we shall not reduce our dependence on OPEC oil and gas unless we produce more oil and gas at home. That is a simple fact of life for the remainder of this century. So it is a delicate balance we must strike in framing a responsible windfall profit tax measure. I can think of no better way to kill the goose that laid the golden egg than by failing to provide sufficient incentive and financial resources to the almost 12,000 independent producers who do about 90 percent of the drilling and exploration for oil and gas in this country, who in recent years have discovered over half of the new oil and gas reserves.

Mr. President, we are not talking here of the major international oil companies, who recently reported huge profits, 90 percent from foreign operations. We are talking of 12,000 businesses that invest in America, provide jobs for Americans, and work within our borders for a secure and independent energy future for America. Of all the oil companies, only about 200 produce more than 1,000 barrels of oil per day. Most of the remainder are small businesses; 99 percent of them operate only in the United States. For the vast majority of them, their sole business is oil and gas production. They are the "wild-catters" who will risk much in a risky business, provided they have the prospect of a return on their investment that is commensurate with the risk.

Mr. President, it is for these reasons that I urge the adoption of the amendment offered by my distinguished colleagues, to exempt from taxation the first 1,000 barrels per day of oil produced by the independent producers. The revenue loss from this exemption will be 7 percent of the $140 billion in taxes that will be collected by this measure, a total of $10 billion over the next 10 years. The most pressing of all energy problems during these 10 years will be the uncertain supply of oil for the liquid fuels that run our country. And the question then is simple, Mr. President. Where is that $10 billion best invested? How are we to obtain liquid fuels between now and 1990 if we are not to purchase them from OPEC?

Mr. President, there are just three possibilities: First, new production; second, conservation; and finally, expensive synthetic fuels to be produced primarily from technologies we have yet to demonstrate. Now economists and their computer models argue and differ over just what the supply response will be if we invest this additional $10 billion in new production. My support of the 1,000 barrel per day exemption for independent producers is based on a belief that the oil producers know their business better than anyone else.

That they can do what they say they can do. That we can expect, indeed we have the right to expect, an additional 250,000 barrels a day of crude oil production by 1987. That we can expect to save $40 billion that would otherwise be spent for oil imports over the next 10 years. That we can expect to add to our domestic proven reserves at least 1 billion barrels by 1990.

Mr. President, with world oil prices at $25 a barrel and rising fast, that sounds like a first-rate, triple-A investment of $10 billion. I submit to my colleagues that we cannot afford to have a domestic oil and gas industry that is operating at anything less than maximum potential. And I would say here as well that I would be among the first to reconsider and amend my position in this matter if my confident expectations are not translated into new production.

But Mr. President, the economic benefits of this measure extend beyond the prospects of new oil and gas supplies. For more than 99 percent of domestic oil and gas producers, this amendment means relief from the complex requirements of paying taxes at 6 different levels on 13 categories of crude oil production as defined in this exceedingly complicated bill, a bill that is likely to become even more complicated in conference with the House of Representatives. If we believe that Government regulation has been a major factor in discouraging and bankrupting small businesses in this country, then it is commonsense to support the amendment before us. A little arithmetic suggests that the savings in compliance administration to the Treasury and the 12,000 businesses involved would very likely exceed the revenue loss over the next 10 years.

Mr. President, between now and 1990, the domestic oil industry will be called upon to spend nearly a trillion dollars on exploration, drilling, and production. A trillion dollars—an astronomical number. But it is necessary, if we have any hope of meeting the President's announced goal of holding the line on imports to 1978 levels. Estimates tell us that there is still more unrecovered oil and gas in our country than all that we produced through 1975—at least 250 billion barrels equivalent, worth more than $5 trillion at today's OPEC prices.

Mr. President, such numbers defy comprehension. But it helps to remember that in the next year we will pay $70 billion for imported oil, $320 for every man, woman, and child in the country. Many experts say we lose an equal amount as indirect costs of imported oil. By the most conservative estimates, the current loss, direct and indirect, to the American economy of oil imports weighs in at $100 billion per year. I hesitate to speculate what that number might be 5 years, or 10 years from now. This, above all, is the tax we simply can no longer afford.

Mr. President, the message is urgent and clear. We must release the productive might of the American energy industry to deal with the crisis that is upon us. This amendment is an important step in the long march back toward American energy independence. I urge my colleagues to support it.

Mr. MOYNIHAN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The Senator is correct.

Under the previous order, the hour of 12:30 having arrived, the Senate will now proceed to vote on amendment No. 699 of the Senator from Texas. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. COHEN (after having voted in the negative). On this vote, I have a live pair with the distinguished junior Senator from Mississippi (Mr. COCHRAN). If he were present and voting, he would vote "yea." I have already voted "nay," and I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from California (Mr. HAYAKAWA), and the Senator from Iowa (Mr. JEPSEN) are necessarily absent.

I further announce that the Senator from Colorado (Mr. ARMSTRONG) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Colorado (Mr. ARMSTRONG) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 427 Leg.]

YEAS—53

Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick

Church
Cranston
DeConcini
Dole
Domenici
Exon
Ford
Garn
Goldwater
Gravel
Hart
Hatch
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
McGovern
Melcher
Pressler
Pryor
Randolph
Riegle
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—41

Biden
Bradley
Byrd, Robert C.
Cannon
Chafee
Chiles
Culver
Danforth
Durenberger
Durkin
Eagleton
Glenn
Hatfield
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Ribicoff
Sarbanes
Sasser
Stafford
Stevenson
Talmadge
Tsongas
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cohen, against.

NOT VOTING—5

Armstrong
Byrd, Harry F., Jr.
Cochran
Hayakawa
Jepsen

So the amendment (No. 699) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 698

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Oklahoma as amended by the amendment of the Senator from Texas.

Mr. MOYNIHAN. Mr. President, I call for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma as amended by the amendment of the Senator from Texas.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN) and the Senator from Iowa (Mr. JEPSEN) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that the Senator from Colorado (Mr. ARMSTRONG) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Colorado (Mr. ARMSTRONG) would vote "yea."

Mr. MOYNIHAN. Mr. President, regular order.

The PRESIDING OFFICER (Mr. STEWART). Are there any Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 53, nays 42, as follows:

[Rollcall Vote No. 428 Leg.]

YEAS—53

Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Church
Cranston
DeConcini
Dole
Domenici
Exon
Ford
Garn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
McGovern
Melcher
Pressler
Pryor
Randolph
Riegle
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—42

Biden
Bradley
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Culver
Danforth
Durenberger
Durkin
Eagleton
Glenn
Hatfield
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Ribicoff
Sarbanes
Sasser
Stafford
Stevenson
Talmadge
Tsongas
Weicker
Williams

NOT VOTING—5

Armstrong
Byrd, Harry F., Jr.
Cochran
Goldwater
Jepsen

So Mr. BOREN's amendment (No. 698), as amended, was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 669

(Purpose: To reserve funds for improvements in the Nation's freight and passenger railroad system)

Mr. McGOVERN. Mr. President, I have an amendment at the desk No. 669 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself and others, proposes an amendment numbered 669.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 91, insert the following between lines 16 and 17:

RESERVATION OF WINDFALL PROFIT TAX FOR CERTAIN USES

SEC. 102A. (a) The Secretary of the Treasury shall reserve $10,000,000,000 of the receipts of the tax imposed by section 4986 of the Internal Revenue Code of 1954, until September 30, 1980, or until Congress authorizes and appropriates such funds for improvements in the Nation's freight and passenger railroad systems, whichever is later, as follows

(1) not less than $6,000,000,000 shall be allocated to and administered by the Secretary of Transportation for freight railroad rehabilitation, improvements and acquisition financing. The Secretary's determination of project eligibility shall be based upon the public interest as well as projects which may contribute to more energy efficient freight transportation and improved transportation of domestic energy resources;

(2) not less than $600,000,000 shall be allocated and administered under the provisions of section 5 of the Department of Transportation Act with regard to State rail freight assistance programs; and

(3) not less than $3,400,000,000 shall be allocated to and administered by the Railroad Passenger Corporation for passenger rail rehabilitation, operating assistance and improvements financing.

(b) The Rail Passenger Corporation shall provide financing for projects which are in the public interest and projects which contribute to more energy efficient passenger transportation, other than the Northeast Corridor Improvements Program for which separate authorizations have been enacted under law.

The PRESIDING OFFICER. Will the Senator suspend until we have order in the Chamber?

The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I am offering this amendment on behalf of Senator CULVER, Senator DURKIN, Senator MELCHER, Senator MAGNUSON, Senator BAYH, Senator BAUCUS, Senator HEINZ, Senator DURENBERGER, Senator WEICKER, and myself.

The amendment we are now considering is vital to the future of the Nation's——

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. McGOVERN. Yes, I yield.

Mr. MAGNUSON. I am sorry to tell the Senator that I have to ask that my name be taken off the cosponsorship because I have a further amendment which abolishes all trust funds, and to be consistent I must ask that my name be taken off as a cosponsor.

Mr. McGOVERN. Mr. President, the Senator from Washington explained that he has a subsequent amendment that would abolish all trust funds and, under those circumstances, he asks that his name be taken off as a cosponsor of this amendment.

I ask unanimous consent that his name be removed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. I yield to the Senator from Washington (Mr. JACKSON).

ANTITRUST EXEMPTION FOR OIL COMPANIES

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1871.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the amendment of the House to the text of the bill (S. 1871) entitled "An Act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. Mr. President, I move that the Senate insist on its amendment to S. 1871, agree to the conference asked by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. JOHNSTON, Mr. METZENBAUM, Mr. HATFIELD, and Mr. MCCLURE conferees on the part of the Senate.

CRUDE OIL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

RAILWAY REVITALIZATION

Mr. McGOVERN. Mr. President, with further reference to the brief exchange that I just had with the senior Senator from Washington (Mr. MAGNUSON), who has just left the floor, I wish to underscore the fact that there is no trust fund under the amendment now under consideration. I have made such a proposal in the Senate, that a trust fund be considered. In testimony before the Subcommittee on Transportation chaired by the distinguished Senator from Louisiana (Mr. LONG) I proposed such a trust fund concept, but it is not a part of the amendment that I am offering with the other Senators just mentioned here today.

The amendment we are now considering is vital to the state of the Nation's potentially most energy efficient mode of transportation, which is the railroad system.

The Finance Committee, in its consideration of the windfall profits tax, has, I think very wisely, recognized the important role that transportation must play in the Nation's energy future. Transportation presently accounts for more than 20 percent of all of the energy consumption in the United States, and it is also the fastest growing energy consumption sector of our economy. So there is no way, Mr. President, to address the growing energy needs of this country, particularly with an eye on conservation, except by realistically addressing the Nation's transportation system to see what can be done to make that system more energy efficient.

Presently, the proposed windfall profit tax reserves some 25 percent of the revenue generated by the tax, up to a limit of some $15 billion, for the development of public or mass transit. The committee has clearly recognized that our ability to conserve motor fuel will be largely dependent upon our ability to divert passenger traffic away from individual automobiles to mass transit.

Unfortunately, an important aspect of energy efficient transportation has not yet been addressed under the present language of the bill. The railroad system in this country is potentially the most energy efficient means of both freight and intercity passenger transportation. Freight rail transport is already more than three times as energy efficient as trucks. Passenger rail transport is oftentimes the only energy efficient alternative for the movement of people between cities and across country.

So, Mr. President, just as the Finance Committee has determined that the investment of public moneys in mass transit will, over time, result in sizeable energy benefits, a similar investment in our Nation's rail system will return equal if not greater benefits.

In point of fact, the freight rail industry is now facing what I believe to be an unparalleled crisis, which has already crippled the economies of many communities in the Midwest. The bankruptcy, for example, of the Rock Island Railway, the bankruptcy of the Milwaukee—a tremendously important rail artery in the upper Midwest—and the bankruptcy of the Boston and Maine Railroad are only the most visible signs of a crisis that threatens to undermine rail transportation nationwide.

I think Senators understand that when a significant portion of our rail system collapses, it directly or indirectly decreases the efficiency of all the rest of the system, and directly impacts on the economy of the entire Nation, as well as on the consumption of fuel that might otherwise be conserved.

The industry's problems are deeply imbedded in our Nation's economic history. Congress has been compelled to adjust the legislative environment for railroads more than a dozen times over the past century. Although each of these acts was a direct response to a real or perceived crisis in the industry, each effort turned out to be little more than a band-aid, and may well have exacerbated the industry's weaknesses.

Today, the problems confronting the revitalization of the Nation's rail system remain complicated and difficult. A declining physical plant, inequitable Federal subsidization of competing transport modes, over regulation, and labor management relations have all contributed to the present crisis.

In my own State, the steady deterioration of the rail lines themselves has made it necessary for us to abandon entirely the operation of some lines, in other cases to slow freight trains down to 7 or 8 miles an hour to keep them from bouncing off the tracks; and, as I have noted on previous occasions, in the last 3 years we have had three different trains in our State which have fallen off the tracks while they were standing still. This is some measure of the condition of our rail beds.

Legislation is presently pending in the Congress to overhaul one of the industry's greatest problems—Federal regulation. I would like to take this opportunity to commend the distinguished chairman of the Senate Commerce Subcommittee on Transportation (Mr. LONG) for sponsoring the Railroad Policy Act of 1979, which I think contains many excellent provisions that are in the interest of the Nation's rail system. This comprehensive proposal will go a long way toward improving rail service across the country, as well as improving the financial health of the industry.

It is a fact, however, that this legislation alone will not allow our railroads to meet their capital needs requirements. The industry faces a capital shortfall that may well exceed $16 billion for the 10-year period ending in 1985.

Although the Railroad Policy Act is essential for the railroads to meet many of their capital requirements in the future, it will be too little too late for the carriers presently in bankruptcy, or the increasing number of marginal railroads that may face bankruptcy, absent any immediate change.

Mr. President, the amendment I am proposing today on behalf of myself, Senator CULVER, Senator DURKIN, and the others whom I have mentioned, will not alone solve the rail crisis we are facing. But when combined with the initiatives being considered in the Senate Commerce Committee under the chairmanship of Senator CANNON, it will provide the desperately needed assistance to get this sector of our economy back on its feet.

Of most immediate importance, this amendment can provide the means for an equitable restructuring of our Midwestern rail system. The bankruptcy of the Milwaukee and Rock Island railroads has dealt a serious economic blow to South Dakota, to Iowa, and other upper Plains States. The rails are the backbone of our agricultual economy. I have no hesitation in saying that the collapse of these rail systems now represent the most serious single economic barrier confronting the agricultural States in my part of the Nation. They are the sole cost-efficient means of moving farm products for the long haul to vital domestic centers and export markets.

The railroads are the sole cost-efficient means of moving farm products for the long haul, moving products that are essential to feed our people in the urban centers and for exporting markets that earn tens of billions of dollars to help our balance of payments position.

Hundreds of communities whose growth were the result of rail development, now celebrate their centennials and watch their local rail service vanish. Their economic development potential also shrinks as the tracks are pulled up.

Mr. President, it is sad to note while our Nation has pioneered and constructed several complex transportation networks, our railroads are in serious decline and disrepair.

We like to talk about our country as No. 1, and in many respects it is, certainly in the field of military power. But in the areas of railroads—which, incidentally, are directly related to our national defense, national security, and the health of our economy—we are a long, long way from being No. 1, as every Senator knows who has traveled on trains in Europe and Japan and other parts of the globe.

We have developed major air and water thoroughfares. We put men on the Moon. We have demonstrated a technical capability that is the envy of the world.

But while we have been first in the world in so many of these initiatives, it is a conservative statement to say that we have got a third-rate rail system.

I urge my colleagues to support this initiative, and I hope very much the committee will accept the amendment.

I think Senators are generally familiar with it. The amendment would earmark some $10 billion of the revenues to be derived from the windfall profit tax. It proposes that out of that $10 billion—and this is a figure, of course, that would have to be acted on by the authorization and appropriations committees—some $6 billion would be earmarked for the revitalization of our freightlines, about $600 million for the revitalization of the branch lines in the State rail rehabilitation programs, and the balance of $3.4 billion would be earmarked to strengthen the Amtrak passenger system in the country.

Mr. President, I very much hope that this amendment will be adopted.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. CULVER. Mr. President, I wish to commend the Senators from South Dakota (Mr. McGovern) and New Hampshire (Mr. Durkin) with whom I join in cosponsorng this amendment which would reserve some $10 billion from the windfall profit tax revenues to be used for the revitalization of our passenger and freight railroad systems.

These additional funds, Mr. President, are needed to reverse the critical financial situation and decline which has overtaken the railroad industry, which has been alluded to by the distinguished Senator from South Dakota.

This year's harvest in my own State of Iowa will be a record one. We anticipate a harvest of an estimated 1.5 billion bushels of corn and another 309 million bushels of soybeans.

This amounts to about 8 million tons of grain—with an estimated value of about $2.2 billion—that must be moved by rail, not only within our State but throughout the country and, indeed, throughout the world.

However, Mr. President, we lack, to the economic peril of both our State as well as the Nation, a sound and efficient rail network over which to get these record crops to market.

The midwestern rail system is in chaos. Forty-three percent of Iowa's rail system is bankrupt. The Rock Island Railroad—my State's second-largest carrier—is operating under a directed service order from the Interstate Commerce Commission, and the Milwaukee Railroad—Iowa's third-largest line—continues in service only because of the enactment of "last second" emergency legislation by Congress earlier this month. The meat-axe attempts to dismantle both systems have made it virtually impossible for farmers to plan for the orderly and reliable movement of their crops to market. Manufacturing and retail segments of our economy have also been seriously disadvantaged by the decline of these railroads.

The unchecked downward spiral of the midwestern railroad industry during the last decade has produced boxcar and locomotive shortages, deteriorating track, abandonments, embargoes and steadily worsening service. The basic cause of this condition is the lack of needed investment capital to maintain track as well as equipment. The Department of Transportation estimates the American railroads will face a potential capital shortfall of $16 billion by 1985. It does not require a crystal ball to predict what effect this shortfall will have on the industry; it will produce even more "deferred maintenance," track abandonments, bankruptcies and suspensions of service. The prognosis for an already seriously ill patient is not encouraging.

The decline of American railroads is disastrous for Iowa, the Midwest and the Nation. It is even more ironic—and regrettable—that it comes at a time when we are trying to develop an energy policy emphasizing conservation and increased fuel efficiency. Railroads are potentially the most energy-efficient mode of transportation, if track and equipment can be maintained in sound condition. It is more fuel-efficient to move grain by railroad than truck over long hauls. With an energy future of even higher prices and reductions in imported oil, there will be a tremendous increase in the demand for grain-hauling trains. In short, a sound rail system is one of our major potential assets in achieving energy independence.

Unfortunately, we are currently nowhere near the point of having such a vital, reliable and efficient rail network. Earlier this month, during Senate consideration of the Department of Transportation Appropriations bill, I called for a comprehensive effort to revitalize our total national rail freight system which is so vital to the economy of the entire country. We can take the first step in that effort today by passing this amendment, which provides $10 billion of windfall profit tax revenues to help the railroads meet their capital investment needs. Congress must demonstrate the same commitment to the railroads as it did for highways when it authorized the interstate highway system.

Just as that commitment made possible today's vital trucking industry, so too should Congress provide the means to revitalize the rail beds, purchase new boxcars, hopper cars, and locomotives, and improve efficiency at switching yards. This is the most effective action Congress can take to promote energy savings and assure a healthy rail industry that is in the best interests of the Midwest and the Nation; one with no service disruptions, fewer abandonments, and more reliable transportation for our critically important agricultural and industrial goods.

It will be an admittedly costly undertaking, but the alternative of doing nothing would be infinitely more costly. It is critically important that we begin the essential task of building the kind of railroad system America needs for the future. Our amendment is a $10 billion investment which will pay enormous dividends in the long run. I urge my colleagues to support it.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. DURKIN. Mr. President, I support wholeheartedly the establishment of the rail reserve. For generations the railroads of America have played a critical role in the development of this Nation. They have continued their prominence into the 1970s—hauling 1½ billion tons of freight, directly employing more than a half a million people, and investing over $2.25 billion in plant and equipment each year.

Unfortunately, the railroads have also been mired in a prolonged decline since the late 1920's and the situation is becoming more desperate each day. There are many reasons for the railroads plight; and there are a number of potential solutions. Some of these are now being considered or already have been adopted by the Congress.

Notwithstanding, our past efforts, the railroad tragedy continues. It is one of the astonishing ironies of this decade that we lack both affordable energy and a sound, energy-efficient rail transportation system. Today, we are faced with the grim prospect that our most energy-efficient form of freight transportation could simply unravel in the 1980's. That outcome is a virtual certainty unless we take firm and decisive steps to insure that the rail industry will have sufficient capital to rebuild its undermaintained plant and equipment. We must:

Upgrade our rail facilities in order to haul more coal and grain,

Electrify some of the principal rail lines to further increase energy efficiency, and

Undertake the badly needed research and development essential to modernization of this crucial industry.

A recent study by the Federal Railroad Administration makes it clear that the railroad industry could face enormous capital shortages—on the order of $13 to $16 billion by 1985—if present trends continue. These disquieting projections do not consider the prospects of a prolonged recession—an economic reality that would hit the railroads harder than most segments of the economy.

The adoption of the rail reserve amendment would establish the promise of a more balanced system of Federal transportation assistance and would commit the nation to a realistic program of long overdue rail rehabilitation.

The amendment is surprisingly simple in its provisions. The rail reserve amendment specifies that $10 billion will be reserved for a variety of rail rehabilitation programs—redeemable preference shares, local rail service assistance, aid to Amtrak for capital and operating expenses, and other appropriations. All reserved funds would remain subject to the authorization and appropriations process and would also require scrutiny and approval by the Secretary of Transportation before release.

In sum, the rail reserve amendment would enable us to respond to the virtually certain rail capital shortage of the early 1980's. It would place our energy efficient railroads on a more nearly equal footing with other modes of transportation. And it would be a clear signal to the private capital markets that the United States will take the necessary steps to assure the viability of our rail system.

Mr. President, we simply cannot afford to let the railroads of this Nation deteriorate any further. If the railroads are to contribute to the resolution of our nationwide transportation and energy crisis, we must act now to provide the balanced program of assistance we know they will need. I urge my Senate colleagues to join me in support of this vital amendment.

I yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, when I first discussed the concept of utilizing receipts from the windfall profit tax on crude oil with Senator DURKIN, Senator CULVER, and other Members who have cosponsored this amendment, we considered earmarking the funds for administration through section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976. Upon further reflection we determined that the financing provisions of the 4-R Act have become so cumbersome that it became important to keep these funds free of that mechanism for the time being.

The 505 program has begun slowly. Public Law 94-210 established the $600 million section 505 redeemable preference share program as a stop-gap measure to fund urgent rehabilitation needs prior to the receipt of the 504/901 capital needs and comprehensive rail system report required by Congress. The report itself was very late, but was finally submitted a year ago. That analysis identified a $16 billion capital needs shortfall in the rail industry for the 10-year period ending in 1985.

With that enormous shortfall, and in the face of the complete collapse of the Rock Island and Milwaukee since the report, the Department of Transportation still has not managed to expend the original $600 million authorized in February, 1976. Last year an additional $100 million was authorized for energy transportation projects through an amendment offered by Senator DURKIN to the Powerplant and Industrial Fuel Use Act of 1978. To our knowledge no regulations have even been promulgated to implement the Durkin amendment despite its passage. This is not encouraging to us.

There are countless other reasons for the sluggish start of the 505 program. A major problem lies in the fact that the payback or redemption requirements have been so conservatively administered that marginal carriers, with the greatest need for track rehabilitation, simply cannot qualify for the assistance. The Rock Island with a desperate need for rehabilitation financing, and no access to private funding for such a purpose, was never able to qualify for this funding, because it could not meet the Federal Railroad Administration's security test.

Today, a consortium of railroads, through the Kansas City Terminal Co., are attempting to manage the Rock Island under an emergency-directed service order from the Interstate Commerce Commission.

The track and rights of way are in such disrepair that the cost of directed service operations to the taxpayer is enormous. The KTC companies are not hurt since they are compensated for the loss plus a profit by the ICC. One can only wonder if those millions being poured into the operating loss would not have provided greater benefits if they had been allocated for rehabilitation a couple of years ago when the railroad had the potential to become viable.

In specifically avoiding the reservation of funds in this amendment for the 505 program, we are simply expressing our desire that these desperately needed funds not be bogged down as is the case in the existing program.

We do not want to prevent funds from flowing for needed track work to a railroad in section 77 reorganization because it cannot meet an artificial liquidation test. We do not want a carrier and the Federal Railroad Administration to waste months of taxpayer time and money splitting hairs over the issue of whether or not 505 equity interest converts to debt in the event of bankruptcy.

We are interested in track that needs repair and projects that need implementation and not in whether a marginal railroad has the "prospective earning power" as defined by the Department of Transportation.

I would like to ask my distinguished colleague from New Hampshire and cosponsor of this amendment if he concurs in the intent of this amendment.

Mr. DURKIN. Mr. President, I would just like to say that I am in complete agreement with the Senator from South Dakota. To my way of thinking this amendment would fulfill a critical need not addressed under existing rail rehabilitation programs and particularly under the section 505 program—redeemable preference shares. As I envision the administration of this amendment, projects would receive funding if they serve the public interest—instead of relying on the railroad's ability to pay. In many instances public benefits of rail rehabilitation may be high when return on investment is minimal. That is the condition of much of the rail industry in America. In such cases it may be appropriate to waive repayment by the operating railroad and require by contract, in lieu of repayment, a specified level of service for a number of years. Other approaches may be possible as well.

It is certainly true that many railroads—such as ConRail, the Delaware and Hudson, and the Boston and Maine, among others—may simply not be in a position to take on additional debt but will have important projects that must be pursued in the interest of a sound national transportation system. Further, there may be thousands of miles of important lines abandoned by marginal and bankrupt railroads that will urgently require rehabilitation financing if they are to have any chance of being successfully reorganized, incorporated into mainline railroads, or operated as shortlines. The manner in which section 505 is presently operated would preclude these possibilities.

We do not, however, intend that this program be a giveaway for wealthier railroads that can either raise money privately or can repay on a more or less commercial basis. We would expect the Secretary of Transportation to insure that funding be directed to those carriers with a legitimate need and no reasonably available source of alternate funds. If a carrier has the corporate earning power to raise private capital it should do so. If it does not, the Secretary should have latitude so that the program can be used to insure the viability of our railroads.

We do not wish to preclude the Congress from melding the windfall profit rail rehabilitation program into 505 in the near future. That option should remain open. However, we feel a serious look should first be taken at the orientation of that program and its alternatives before tying these funds down to a program that may not be working as well as it should.

Mr. President, I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, the chairman of the Finance Committee and the ranking minority member have done a commendable job in addressing both in the Finance Committee, of which I am proud to be a member, and on the Senate floor, the numerous complex issues which have been raised by the pending legislation, the so-called windfall profit bill. I congratulate them for their diligence and commitment to resolving this complex issue. The windfall profit legislation, as presently written, will result in our increased energy independence by encouraging both the production and conservation of energy, a goal which, I am certain, is shared by all of us.

However, it is with the strong conviction that we can and must conserve more energy through the establishment of a strong, national freight and passenger rail transportation system that Senator McGOVERN and my other distinguished colleagues have proposed the amendment pending before the Senate, of which I am also a cosponsor.

The amendment is directed at the widely recognized capital shortfall that the rail industry in our country faces, estimated to be over $16 billion through 1985. One vehicle to remedy this capital shortfall, and the consequent lack of investment, which is slowly eroding the effectiveness of our national rail system, both freight and passenger, is to expand the Federal assistance available to our railroads, and this amendment would do so by earmarking $6 billion for rail rehabilitation and improvements. It provides that the Secretary of the Treasury shall reserve the funds until the Congress authorizes and appropriates them.

It is the intent of Senator McGOVERN and I, and I am certain that he will want to address this issue, in introducing this amendment to provide a source of funding for the railroad rehabilitation legislation which we will shortly introduce. The legislation will establish a $750 million program providing assistance to our railroads to put the unemployed back to work rehabilitating our railroad beds. We have introduced the legislation in two previous sessions of Congress, the 94th, in which it passed overwhelmingly in the Senate and the House, and the 95th, in which the cosponsors included Senators McGovern, Bayh, Griffin, Javits, Metzenbaum, Pearson, Randolph, Riegle, Williams, Humphrey, Case, Ribicoff, and Hatfield.

The need for this legislation, both in terms of our deteriorating railroads and our rate of unemployment, is more pressing today than it ever was, and Senator McGovern and I are hopeful that many of our colleagues will join us on this legislation. The funding provided by this amendment is more than adequate for our rail jobs legislation, and we intend to work with the appropriate committees to bring about its enactment.

The legislation which we will introduce will provide for the rehabilitation and repair of our rail roadbeds through grants to private railroads and State and local transportation authorities. The grants would cover the labor costs of roadbed and track rehabilitation programs. Grant recipients would be obligated to hire furloughed employees and the unemployed to perform the repair work.

Both energy and safety considerations establish the necessity of rehabilitating and repairing the Nation's deteriorated, neglected rail roadbeds. The performance of this important task by the Nation's unemployed would be an important step in the resolution of another national problem, the inability of some American workers to find a job.

The jobs that would be created under the rail rehabilitation program are vitally needed in light of the persistent and intolerably high rates of unemployment that have plagued our Nation. There are still more than 6 million men and women looking for jobs in this country and unable to find them. The program will provide an important supplement to the public service jobs created by the Comprehensive Employment and Training Act, and would constitute the first attempt since the Great Depression to put unemployed workers directly to work on a problem of national scope in a basic industry.

The commitment of substantial Federal revenues to the rehabilitation of our railroads under the program which Senator McGovern and I, and hopefully many of our colleagues, will introduce is justified not only by energy conservation and jobs creation considerations, but also by safety considerations. National railroad accident statistics prove that we are facing a safety crisis in our national rail system.

The Federal Railroad Administration estimates that of the 11,277 rail accidents in 1978, 7,858 were caused by derailments. The main cause of these derailments, according to the FRA, was bad roadbeds and tracks. The FRA 1978 Accident Bulletin reports that accidents in that year resulted in $304.9 million in property damages. The costs in human terms are unquestionably more significant and clearly establish the unacceptability of the present situation. In 1978, 72,545 people were injured in rail accidents and 1,646 were killed. Although these statistics reflect accidents caused by many factors, it is unacceptable that we have allowed bad roadbeds and tracks, which can be repaired, to be the cause of any accidents.

In addition to the compelling argument that such legislation is needed in order to protect public health and safety is the fact that a sound rail system is vital to the national economy. Slow orders on over 44,000 miles of track undermine the ability of the railroads to assume their needed role in the Nation's transportation system. A Department of Transportation report, entitled "Transporting the Nation's Coal—A Preliminary Assessment," stressed the significant role that railroads must play in transporting the increased amounts of coal which must be produced if we are to be energy independent.

A final consideration which justifies a substantial Federal involvement in a rail jobs program, and which is specifically within the purpose and thrust of the pending legislation is the need to strengthen energy efficient modes of transportation. Our Nation's railroads, even in their present state of advanced decay, are the most efficient transporters of general freight over the long haul. According to statistics provided by the American Rail Association, if unit shipping were to be done exclusively by soft-wheel transportation, the amount of fuel used would increase dramatically. For instance, for every 10,000 gallons of fuel used by the railroads, 44,000 gallons would be needed to transport the same amount of freight over our Nation's highways. Additionally, because only 7.9 percent of a railroad's costs are fuel costs, railroads represent one of the best fuel-inflation fighting methods of transportation.

Energy, transportation, safety and employment considerations justify the enactment of the rail jobs legislation which we intend to introduce shortly. It is these same considerations which have led us to propose the amendment pending before the Senate and, in fact, it is with the intent of providing the funding for the rail jobs legislation that we have proposed this amendment.

Mr. President, the pending amendment would be a strong step forward toward energy independence and a strong national rail transportation system, and I urge my colleagues to support it.

Mr. President, I commend Senator McGovern for offering this amendment. I think we all recognize that the transportation system in our country is in very poor condition, and that probably the poorest element of the total system is rail transportation.

The Senator from South Dakota and I have had many occasions to collaborate on trying to improve the quality and safety of rail service, and he and I will soon reintroduce our rail jobs bill, which has as its objective the simple proposition that when you have a lot of people out of work and you have a lot of unsafe rail lines which are under slow orders, as slow as 3 miles an hour, it makes sense to put people to work rehabilitating these lines, thus providing them with useful, meaningful jobs, rather than, as some of our employment programs seem to do, to give them meaningless, make-work jobs.

Clearly, the amendment of the Senator from South Dakota earmarks the revenues from the windfall profit tax bill which is before us for important programs which simultaneously achieve several national goals. It will make possible not only a rail jobs program but numerous other initiatives that I am firmly convinced this country needs.

Mr. McGOVERN. Will the Senator yield momentarily?

Mr. HEINZ. I am pleased to yield.

Mr. McGOVERN. I commend the Senator from Pennsylvania, Mr. President, not only for his cosponorship of the pending amendment but for taking the lead on the railroad jobs legislation, which is a separate piece of legislation, which looks beyond the measure now being considered, but which reinforces this. It is aimed at carrying out the rehabilitation of our rail lines in such a way as to provide badly needed jobs.

I have thought for years, looking at the unemployment situation in many parts of the country, there is no better way, or no more useful and constructive way, to put these people back to work than in the rehabilitation of our rail lines.

I commend the Senator from Pennsylvania for his leadership in that area, and also his assistance in this related measure today. I look forward to the railroad jobs measure to which he referred.

Mr. HEINZ. I thank the Senator for his remarks. He is recognized in the Senate for his efforts to enhance the quality of our rail transportation system. It is one which truly needs a great deal of additional attention.

Of course, there is a saying, which unfortunately has come into use, which refers to areas as the wrong side of the tracks. When it comes to railroad tracks, there is no good side to them. They are in such bad shape that any side of the railroad tracks in this country is the wrong side. I think what the Senator from South Dakota is doing is making sure that everybody is on the right side of the track and on the right track as well.

Mr. McGOVERN. Mr. President, the Senator from Indiana (Mr. Bayh) spoke to me earlier in connection with the amendment that is now pending. He wanted to underscore the fact that the funds we are allocating should be used above and beyond existing appropriations for rail programs and not in lieu of existing funds. I think it is important to make that clear in terms of the legislative history. This is not an effort to utilize revenues from the windfall profit tax as a substitute for what we are now doing in strengthening the rail system in this country; it is an add-on based on the assumption that what we are now doing in terms of revitalization of the railroads is not enough.

At a time when the country is faced not only with a collapsing rail system but with an energy problem, we have to relate those two problems. We have to realize that if we ever hope to get on top of the need to conserve energy in this country, there is no way to do that that leaves out an effort to rehabilitate the most energy-efficient method of transportation that we have.

I want to underscore not only to the satisfaction of the Senator from Indiana but other Senators that if the Senate, in its wisdom, approves this $10 million earmarking of revenues under the windfall profit tax to the revitalization of our rails, that is above and beyond what we are now doing in other programs authorized by Congress to strengthen our rail lines.

Mr. BAYH. Mr. President, I compliment the author of this amendment (Mr. McGOVERN) for his diligence in attempting to find answers to the problems facing our Nation's rail system. I understand the Commerce Committee is presently in the process of marking up the administration's rail deregulation proposal. I am hopeful that many of the unnecessary constraints that have been placed on our rail industry will be eliminated or modified by that legislation. What we presently have is a rail system, which was developed at a time when railroads faced little competition from other modes, that is unable to retain its market share in today's regulatory environment while much of its competition is unregulated.

The railroads are the backbone of our industrial and agricultural production. In 1978, they hauled 1.4 billion tons of freight, 36 percent of the Nation's total, employed 500,000 people, and earned $22 billion in revenues. Yet, their rate of return for 1978 was only 1.62 percent.

Recent DOT studies indicate that the projected capital requirements for railroads from 1976–1975 total $42.5 billion. DOT says only $26.5 billion of this amount can be generated from revenues and private financing. The shortfall, DOT is hopeful, can be met through changes in regulatory policy. I feel it is important that we have programs such as can be established under this amendment in order to be certain that the improvements to our railbed and trackage can go forward in as expeditious a manner as possible.

If a rail deregulation bill is enacted soon—which I am hopeful will occur—and that measure provides the necessary ratemaking and plant rationalization flexibility to enable the railroads to carry out strong rehabilitation programs without Federal funds or with less Federal funds than would otherwise be necessary, that is to be desired. This amendment insures that such work will go forward in the most cost-effective and expeditious manner.

The type of rehabilitation that will be carried out with these funds is very important, not only from an energy point of view, but also from a rail safety point of view. As chairman of the Appropriations Subcommittee on Transportation for the past 5 years, I have been greatly concerned with improving the safety record of our railroads. Yet, we do not seem to be making very much progress. In this year's hearings, NTSB Chairman Jim King pointed out that the number of derailments attributable to track conditions has increased in recent years as a proportion of train accidents as well as in absolute numbers. Between 1975 and 1977, the number of train accidents increased 27 percent, from 8,041 to 10,362; derailments increased 28 percent, from 6,328 to 8,073; and track-caused derailments increased 37 percent, from 3,095 to 4,239. So, we can see that without better tracks and railbeds, this trend will continue in future years. Also, Deputy FRA Administrator Bob Gallamore testified that accidents involving hazardous materials in 1978 were up 35 percent from the previous year.

So, I am happy to cosponsor this amendment.

I ask the Senator from South Dakota if it is his intention that these funds be authorized and appropriated in addition to the normal programs which we already have in place for rail rehabilitation, Amtrak, and ConRail.

Also, I should like to have the Department prepare an analysis of what a national system of interstate rail trackage would look like; what level of funding would be necessary to bring that system up to its most efficient level of maintenance from a freight and rail passenger point of view, and how long it would take to complete such a program if we set it as a national priority. I shall not ask the Senator to include that kind of analysis in his amendment, but may well ask DOT to give us that kind of data for use in the Appropriations Committee.

Mr. McGOVERN. Mr. President, if I understand the distinguished senior Senator from Indiana correctly, the question is whether or not the funds reserved through this amendment would be used in lieu of normal appropriations for existing freight and passenger rail programs.

This amendment creates an energy priority by specifically citing that project eligibility must be predicated on not only the public interest that would be served, but must also relate to energy efficient transportation and improvements in the transportation of domestic energy resources.

The Railroad Revitalization and Regulatory Reform Act of 1976 can be utilized for energy transportation projects. This amendment is not intended to replace title V rail financing but rather to provide added new funding to complement these existing programs and to assist the industry in meeting their tremendous capital needs requirements. In particular these funds could be used to enhance our country's ability to transport coal in order to lessen our dependence on foreign oil.

Federal studies have shown that availability and cost of rail transportation of coal will be a major factor in determining whether we can break the OPEC's stranglehold on our economy and energy future. A recent Department of Energy study indicates that the rail transportation issue is only second to the price of oil itself in determining the extent of future coal usage in electrical generation.

In addition, these funds can be used to supplement programs designed to preserve essential agricultural rail service. The railroads are, without a doubt, the most energy- and cost-efficient means of transporting bulk agricultural commodities, yet the agricultural rail system, particularly in the Midwest, is on the brink of collapse. It is clear that existing programs provide nowhere near the needed levels of financing to preserve agricultural service.

Mr. President, I think most observers agree that the present funding levels and eligibility criteria in existing freight and passenger rail assistance programs are in some ways inadequate. It is my intent, through this amendment, to provide the necessary funding, above and beyond present authorizations and appropriations that will allow for the establishment of an energy efficient and viable rail transportation network in this country. It would defeat the purpose of this amendment if the proposed funds were used to replace present appropriations levels.

However, due to the overall importance of efficient transportation of domestic energy resources, we want to make it clear that this amendment should not interrupt either the implementation of the section 505 mandate to provide financing for involving the transportation of coal or the speedy processing of section 511 loan guarantee applications to improve rail coal transport.

Because the Department of Transportation has not implemented the 505 redeemable preference share program for coal transportation, Congress has now appropriated $50 million to implement the intent of Senator DURKIN's amendment. We would expect the Department to move now with some vigor on this provision, regardless of the amendment presently pending.

Mr. President, I take this opportunity to note that there has been one application for an energy transportation project under the section 511 loan guarantee program. This application, from the Chicago and Northwestern Transportation Co., requested a $231 million loan guarantee to finance a competitive rail transportation system out of the low sulfur coal Powder River Basin formation.

I was distressed to learn of the Secretary's denial of this application, not only due to our energy transportation needs, but also due to the fact that action must be taken to allow marginal midwestern carriers to expand into vital markets. If these carriers are denied such expansion, we are, in effect, mandating their bankruptcies and exacerbating the already disastrous rail situation in the Midwest.

The CNW application consists of three parts: First, financing their portion of a 106-mile joint line which is a new railroad facility currently being operated solely by the BN; second, rehabilitation and improvement of a 45-mile-long segment of the CNW's present line; and third, and limited new construction that will result in a 56-mile "connector line" to the Union Pacific at Joyce, Nebr. I say limited, because in the overall context of this substantial coal transportation improvement project, the "connector" substitutes for the necessity of rehabilitating the entire CNW line across the top of Nebraska which would require a

Federal loan guarantee of $532 million. The connector limits the project and cuts the Federal exposure by about one-half.

Projects such as these should be acted upon swiftly by the Department of Transportation regardless of the outcome of this amendment in the interests of a secure energy future. Future delays on such applications will only serve to further the decline of parts of the rail industry and increase our dependence on foreign fuels.

Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I fully appreciate the concern of the Senator from South Dakota and the Senator from Iowa and the other cosponsors with regard to railroads. As a matter of fact, it is my privilege to serve as chairman of the Subcommittee on Surface Transportation of the Committee on Commerce. But, Mr. President, this is a matter that ought to go through the authorizing and the appropriations process.

It may very well be that the best way to rehabilitate the railroads would be with a loan guarantee program, rather than with a program where we seek to earmark money for appropriations.

Let us look at the situation in this bill. This proposed bill, as it stands right now, would cause a windfall profit tax to raise $129 billion. That is the way the committee amendment stands.

Then we have added to it a low-income energy assistance proposal that would reduce that by $65 billion in an effort to help poor people protect themselves from the cold. To help urban transportation programs, the bill would reduce the revenue for that purpose by $15 billion. In addition to that, the bill carries tax reductions of $33 billion.

Subtract all the solar, geothermal, insulation, and other tax credits, subtract the trust funds, and that leaves $16 billion out of that $129 billion that would be available over an 11-year period for the ordinary appropriation process to consider the various other needs of the Nation.

But that is not the end of it, Mr. President. We have a recommendation on which we are going to vote, I assume that someone will offer the amendment, to try to provide incentives to develop the so-called tight sands. An enormous amount of energy is involved in the so-called tight sands. If agreed to, that would cost $15 billion, and that would leave net revenues of $1 billion in the bill.

But that is not the end of it. The Senator from Texas offered an amendment, which the committee will discuss and vote on, to provide a tax advantage on the first $100 of interest income for people who have savings deposits.

The amendment would gradually work up to a tax credit of $500 for a single person and $1,000 for a couple. Various other variations on the same theme have been proposed, and the Finance Committee will review them all.

The only reason the amendment was not agreed to, in my opinion, was that we were able to persuade the Senator to hold off long enough for the committee to talk about it. If we vote on it, and it is agreed to, add that, and we would be behind by another $45 billion.

This is supposed to be the biggest tax ever imposed on one industry. By the time we put aside funds for low income, transportation, and tax reductions, we wind up with something that started out to raise $129 billion, or more—the House bill talks about raising twice that—and we wind up with a bill being in the red by more than $45 billion. I know how those things happen.

Then we would be held up to opprobrium and storm by the people, the force of all the media—the press and television and radio—and they will hold us up to ridicule. They will say, "Look what the Senate has done. It started out expecting to raise $250 billion, and by the time they got through they have the country in the red by $45 billion or $50 billion."

This proposal, of course, does not spend the money. It just seeks to set aside or earmark it and allocate the amounts that will be earmarked in the various funds.

Out of $10 billion, there would be $6 billion that would go for freight transportation rehabilitation. Then there would be $600 million to be allocated according to provisions of section 5 of the Department of Transportation Act. Then there would be $3.4 billion to be administered by the Railroad Passenger Corporation for a passenger rail rehabilitation.

By the time we are through with this allocation, there goes another $10 billion.

Mr. President, it may very well be that we ought to spend the $10 billion for precisely the purposes these Senators recommend. It is all worthy in terms of the purposes the Senators would suggest. It may be we ought to do that. But if we are, then the authorizing committees, the Commerce Committee having jurisdiction over the subject matter, ought to look at it too, and they ought to give us the benefit of their judgment.

Then the Appropriations Committee ought to have an opportunity to pass on it and recommend how much we could spend each year.

Mr. President, I have to notice here that one of the sponsors of the amendment (Mr. MAGNUSON) is chairman of the Appropriations Committee. Mr. MAGNUSON has another amendment with a great number of cosponsors. He is joined by about 35 cosponsors, to seek to knock out the so-called trust funds already in the bill, which are the trust fund for transportation, the trust fund for social security, the trust fund for energy assistance to low-income people, because three of the committees, headed by their chairmen, all are unhappy about the fact that the Finance Committee voted to set up some trust funds in the bill to indicate how some of this money might be spent.

Mr. President, the chairman of the committee did not sponsor any of those amendments. As far as the Senator from Louisiana is concerned, he did not recommend a trust fund, did not sponsor a trust fund, did not ask for one.

He finds himself here defending a bill with three trust funds in it, and he has the chairman of the Appropriations Committee joining two other committee chairmen seeking to knock out the trust funds. They take the view that money ought to be spent according to the authorizing and appropriations process.

But right now, we have before us another amendment that takes off in the other direction, which says, "Let's earmark more of this money."

By the time we get through that and voting for tax cuts, there will be nothing to earmark. There will be less money, less than zero, to work with.

Mr. McGOVERN. Will the Senator yield?

Mr. LONG. Yes.

Mr. McGOVERN. Mr. President, I appreciate the point the Senator is making that we cannot, obviously, earmark more money than we have revenue to earmark.

But, as the Senator himself has said, the chairman of the Appropriations Committee has signed up as cosponsors a major part of the Senate; apparently, enough to almost carry his amendment on the basis of the cosponsors.

If that were to carry and those trust funds were to be eliminated, that frees up some $80 billion.

But Senators CULVER, DURKIN, HEINZ, and I, and others, are asking here to earmark some $10 billion for the entire national railway system, freight, branch lines, passenger traffic.

I know the Senator from Louisiana is vitally interested in the revitalization of the rail line because I testified before his committee on numerous occasions. I know how deeply he feels about it.

So it seems to me it might make sense if the chairman would consider this, to at least accept part of what we are asking for here today, if not all of it, and then see what happens.

The Senate may very well act favorably on the motion by Senator MAGNUSON to knock out these trust funds. I am not begging the merit of that question, other than to say we will not know for the time being where we are on this. We may have to make some adjustments as the legislation process goes along.

But I hope the Senator will keep an open mind on the possibility of accepting this amendment and then, as it turns out, if the bill works its way through and we have earmarked too much, we can reconsider.

Mr. LONG. Mr. President, unless I miss my guess, we have already earmarked more money than the Senate will let us earmark.

In other words, when the chairmen of these three committees, the chairman of the Appropriations Committee, the chairman of the Budget Committee, the chairman of the Banking Committee, joined by a host of other Senators, bring up their amendment to knock out these trust funds and attack the earmarking that already has been done, we will have to come to terms with them, and we will. We will seek to adjust our differences. But, we are being told that we have earmarked too much already.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CULVER. I wonder whether the distinguished chairman will indicate whether or not their objection goes to the actual creation of trust funds in these specific areas of public policy or the reservation of certain dollar amounts, as in the instance of this amendment, for a particular general purpose. It is important to note that in the one case of a trust fund it does, in effect, remove their appropriate jurisdictional authority and control in many respects; but in this particular case, we are not in any way encroaching upon the traditional authority, jurisdiction, or responsibility of either an authorizing or an appropriating committee but, rather, are trying to set aside the necessary moneys so that, in their wisdom, they can determine appropriate beneficiaries, formulas and allocations of those funds, and the most effective way to deal with the general public policy problem.

Mr. LONG. Mr. President, the trust funds leave it to the authorizing and appropriating committees to act within the areas of their jurisdiction and to recommend how much should be authorized and how much should be appropriated. That is in the bill already. Even so, we see this objection.

I hope the Senator was here the other night, when the Senator from New Mexico made an impassioned speech holding the committee up to criticism because, he said, the Finance Committee was seeking to earmark and spend every dollar the Finance Committee raised by way of taxes.

Mr. CULVER. Was that the Senator from Alaska?

Mr. LONG. No. It was the Senator from New Mexico (Mr. Domenici) who made such a speech.

Mr. President, in my opinion, if anyone is not guilty of the charge, it is the Senator from Louisiana, because it was not my idea to establish any of these trust funds for a specific purpose. The administration wanted the low-income energy assistance trust fund. The administration suggested that we have certain parts of this money spent for transportation. Then Senators made their suggestions that some of this money should be used to avoid having an increase in social security. Other Senators came in with other proposals.

For example, I do not see how anyone, in good conscience, can vote for the Bentsen amendment, which is one that was offered for the exclusion of interest from savings deposits from being included in income, which is estimated to cost $46 billion. By the time the Senators got through with that amendment, there would not be any money to earmark. There would be just a minus.

Mr. President, I recognize what the problem is, and I feel it is my duty to move that the amendment be laid on the table.

Mr. CULVER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Bradley). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment offered by the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. Cochran) and the Senator from Iowa (Mr. Jepsen) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

I further announce that the Senator from Colorado (Mr. Armstrong) is absent due to a death in the family.

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 429 Leg.]

YEAS—54

Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Cannon
Chiles
Cranston
Danforth
DeConcini
Domenici
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hatfield
Heflin
Helms
Hollings
Huddleston
Inouye
Johnston
Kassebaum
Laxalt
Long
Lugar
Magnuson
Matsunaga
McClure
Metzenbaum
Moynihan
Muskie
Nunn
Packwood
Proxmire
Pryor
Ribicoff
Roth
Sasser
Schmitt
Simpson
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Williams

NAYS—41

Baker
Baucus
Bayh
Bumpers
Burdick
Byrd, Robert C.
Chafee
Church
Cohen
Culver
Dole
Durenberger
Durkin
Hart
Hatch
Hayakawa
Heinz
Humphrey
Jackson
Javits
Kennedy
Leahy
Levin
Mathias
McGovern
Melcher
Morgan
Nelson
Pell
Percy
Pressler
Randolph
Riegle
Sarbanes
Schweiker
Stafford
Stone
Tsongas
Weicker
Young
Zorinsky

NOT VOTING—5

Armstrong
Byrd, Harry F., Jr.
Cochran
Goldwater
Jepsen

So the motion to lay on the table Mr. McGovern's amendment (No. 669) was agreed to.

UP AMENDMENT NO. 843

(Purpose: To delete provisions providing for the refund of credits in excess of tax liability and to delete provisions relating to trust funds other than the Taxpayer Trust Fund)

Mr. MAGNUSON. Mr. President, I send to the desk an amendment in which there are included 39 cosponsors.

The PRESIDING OFFICER. Can we have order in the Senate? The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. Magnuson), for himself and Messrs. Young, Muskie, Proxmire, Garn, Stennis, Stevens, Cannon, Hatfield, Chiles, Schweiker, Hollings, McClure, Inouye, Weicker, Sasser, Laxalt, Burdick, Schmitt, Leahy, Domenici, DeConcini, Armstrong, Durkin, Mrs. Kassebaum, Messrs. Exon, Boschwitz, Hart, Cochran, Pryor, Bayh, Hayakawa, Eagleton, Bumpers, Humphrey, Morgan, McGovern, Kennedy, and Biden proposes an unprinted amendment numbered 843.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 91, beginning with line 16, strike out through line 16 on page 96 and insert in lieu thereof the following:

SEC. 103. ESTABLISHMENT OF TAXPAYER TRUST FUND.

(a) CREATION OF TAXPAYER TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the Taxpayer Trust Fund, consisting of such amounts as may be appropriated or credited to such trust fund as provided in this section. For purposes of this section, the term "Trust Fund" shall mean the Taxpayer Trust Fund established by this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There is hereby appropriated to the Taxpayer Trust Fund in each of fiscal years 1980, 1981, and 1982 amounts determined by the Secretary to be equivalent to the increase in income tax revenues under chapter 1 of the Internal Revenue Code of 1954 during such fiscal year as a result of the decontrol of crude oil prices, except that the aggregate amount appropriated for all fiscal years shall not exceed the excess of—

(A) the amount of social security taxes which would be imposed with respect to calendar year 1981 if the rates of taxes imposed by sections 3101, 3111, and 1401 of such Code and the contribution and benefit base determined under section 230 of the Social Security Act were the rates and base prescribed by law for 1981, over

(B) the amount which would be imposed under subparagraph (A) with respect to calendar year 1981 if the rates and base in effect during such calendar year were the rates and base in effect during calendar year 1980.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the increase in income tax revenues as a result of the decontrol of crude oil prices. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each fiscal year ending on or after September 30, 1980, on the financial conditions and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENT.—

(A) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstandng obligations at the market price.

(B) Sale of obligations.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) Interest on certain proceeds.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) Expenditures From Trust Fund.—Amounts in the Trust Fund shall be available to provide (in such manner as may hereafter be provided by law) relief from increased social security taxes which are scheduled to become effective in 1981.

On page 117, between lines 18 and 19, insert the following:

(d) Repeal of Refundable Credit for Solar and Wind Property.—

(1) In general.—Paragraph (10) of section 46(a) (relating to special rules in case of energy property) is amended—

(A) in subparagraph (A)—

(i) by inserting "and" at the end of clause (i),

(ii) by striking out "(other than solar or wind energy property), and" and inserting in lieu thereof a period in clause (ii), and

(iii) by striking out clause (iii);

(B) by striking out "other than solar or wind energy property" in the heading of subparagraph (B); and

(C) by striking out subparagraph (C).

(2) Conforming amendments.—Section 6401 (relating to amounts treated as overpayments) is amended by striking out subsection (d).

(3) Effective date.—The amendments made by this subsection shall be effective for taxable years beginning after December 31, 1979.

On page 151, beginning with line 13, strike out all through page 152, line 4, and insert in lieu thereof the following:

"(4) Application with other credits.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(d) Accounting Rules; Regulations.—The determinations required under this section shall be made in accordance with such accounting rules as the Secretary may by regulation prescribe. The Secretary shall prescribe such regulations, and such other regulations as may be necessary to carry out the provisions of this section.".

On page 152, line 5, strike out "(c)" and insert in lieu thereof "(b)".

On page 152, line 9, strike out "(d)" and insert in lieu thereof "(c)".

In sections 324(b) and 326(a)(4) of the amendment of the Finance Committee as modified, strike out "from the Low Income Energy Assistance Trust Fund established under section 103 of the Crude Oil Windfall Profit Tax Act of 1979,".

On page 120, beginning with line 10, strike out all through page 126, line 22, and insert in lieu thereof the following:

(a) Credit for Alcohol Fuels.—

(1) In general.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds), as amended by section 101(i)(1), is amended by adding at the end thereof the following new section:

"Sec. 6430. Alcohol Used in Fuels.

"(a) General Rule.—Except as provided in subsection (f), after September 30, 1980, the Secretary is authorized, to the extent provided in appropriation Acts, to pay (without interest) to any producer of alcohol an amount equal to the product of—

"(1) 40 cents, multiplied by

"(2) the sum of—

"(A) the number of gallons of alcohol used by the producer in the production of a mixture of alcohol and gasoline or a special fuel for sale or use in a trade or business,

"(B) the number of gallons of alcohol sold by such producer during the taxable year for use by the purchaser, or for resale by the purchaser to a second purchaser for use, in the production of a mixture of alcohol and gasoline or a special fuel but only if such mixture is to be held for sale or use in a trade or business, and

"(C) the number of gallons of alcohol with respect to which the producer has been notified that—

"(i) such alcohol has been used in the production of a mixture of alcohol and gasoline or a special fuel for sale or use in a trade or business; and

"(ii) no payment under this section or credit under section 44G has been allowed with respect to such alcohol.

"(b) Definitions and Special Rules.—For purposes of this section—

"(1) Alcohol defined.—The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum or natural gas.

"(2) Special fuel defined.—The term 'special fuel' includes any liquid fuel of a type referred to in section 4041.

"(3) Section applies only to domestically produced and used alcohol.—No payment shall be made under subsection (a) with respect to any alcohol which—

"(A) is not produced in the United States from a substance produced in the United States, or

"(B) is mixed with gasoline or a special fuel for sale or use outside of the United States.

"(4) Alcohol made from coal.—In the case of alcohol produced from coal, subsection (a) shall be applied by substituting '10 cents' for '40 cents' in paragraph (1).

"(c) Time for Filing Claims; Period Covered.—

"(1) General rule.—Except as provided in paragraph (2), not more than one claim may be filed under this section by any person with respect to alcohol produced and sold or used during the taxable year; and no claim shall be allowed under this paragraph with respect to such alcohol during any taxable year unless filed by the taxpayer not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) Exceptions.—

"(A) In general.—If $1,000 or more is payable under subsection (a) to any person with respect to alcohol produced and sold or used during any of the first three quarters of the taxable year, a claim may be filed under this section by the producer with respect to such alcohol during such quarter.

"(B) Time for filing claim.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

"(d) Diversions of Alcohol to Other Uses.—In any case in which—

"(1) any person has certified to, or notified, the producer of alcohol that such alcohol is to be sold or used in the production of a mixture of alcohol and gasoline or a special fuel for sale or use in a trade or business, and

"(2) such alcohol is sold or used for a purpose not described in paragraph (1),

then there is hereby imposed on the person who sold or used such alcohol for such other purpose a tax in an amount equal to 40 cents (10 cents in the case of alcohol produced from coal) multiplied by the number of gallons so sold or used.

"(e) Applicable Laws.—

"(1) In General.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of—

"(A) the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of a tax imposed under this title; and

"(B) any tax imposed on any person as provided in subsection (d).

"(2) Examinations of books and witnesses.—For purposes of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were a person liable for tax.

"(f) Payment in Lieu of Income Tax Credit.—

"(1) Persons not subject to income tax.—Payment shall be made under this section only to—

"(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(2) Exception.—Paragraph (1) shall not apply to a payment of a claim filed under subsection (c)(2).

"(3) Allowance of credit against income tax.—For allowance of credit against the income tax imposed by subtitle A for alcohol produced and used or sold for use in an alcohol fuel, see section 44G.".

(2) Conforming amendment.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6430. Alcohol used in fuels.".

(b) Credit Against Income Tax.—

(1) In general.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed), as amended by section 301(a), is amended by adding at the end thereof the following new section:

"Sec. 44G. Alcohol Used in Fuels.

"(a) General Rule.—In the case of a producer of alcohol, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount payable to the taxpayer under section 6430 (determined without regard to section 6430(f)).

"(b) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.".

(2) Conforming amendments.—

(A) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 44E the following new item:

"Sec. 44G. Alcohol used in fuels.".

(B) Section 6096 (b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 301, is amended by striking out "and 44F" and inserting "44F, and 44G".

On page 127, strike out lines 8 through 11 and insert in lieu thereof the following:

"(1) the amount of the credit allowable to the taxpayer under section 44G, and".

On page 131, line 1, strike out "section 39 (a)(5)" and insert in lieu thereof "section 44G".

On page 131, line 20, strike out "section 39(a)(5)" and insert in lieu thereof "section 44G".

On page 133, line 4, after "pay" insert "after September 30, 1980, to the extent provided in appropriation Acts,".

On page 133, line 24, strike out "39," and insert in lieu thereof "44G,".

Mr. MAGNUSON. Mr. President, I understand that the proponents of the last so-called railroad amendment have another amendment that would not take long, and I yield for that purpose, and I ask unanimous consent that my amendment be temporarily laid aside until we hear from them.

Mr. LONG. Mr. President, I object.

Mr. CULVER. Mr. President, I wish to express appreciation——

Mr. LONG. I object.

Mr. CULVER (continuing). To those who have been in support of it.

The PRESIDING OFFICER. Will the Senator withhold? Does the Senator from Louisiana object?

Mr. LONG. I object. Mr. President, I think we ought to go ahead and dispose of the Magnuson amendment.

Mr. CULVER. Mr. President, who has the floor?

Mr. MAGNUSON. I have the floor.

The PRESIDING OFFICER. The Senator from Louisiana objected to the request of the Senator from Washington. The Senator from Louisiana.

Mr. LONG. The Senator can withdraw his amendment. If he wants to he can, Mr. President, but I think we ought to do business.

Now, rather than when someone comes up with an amendment which is marked $10 billion, and the Senate says "no," then the Senator wants to offer an amendment saying, "Let us make it $1 billion," Mr. President, the Senate was right the first time, and we ought to get on with the business rather than someone who has an amendment which, if his amendment fails, he wants to come back with a second and third and fourth backup, in which case we can be here forever on that.

If the Senator has an amendment it ought to be voted on, whether you are for or against it, and we ought to proceed with other amendments. We know it was going to be offered, and we ought to proceed on it.

QUORUM CALL

Mr. CULVER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. Let there be order in the Chamber.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard, and the clerk will continue the call.

The second assistant legislative clerk continued with the call of the roll.

Mr. DURKIN. Mr. President, point of order.

The PRESIDING OFFICER. The quorum call is in progress.

Mr. DURKIN. We can have that game played all day.

Mr. LONG. I object.

Mr. CULVER. Parliamentary inquiry. What is the Senator objecting to?

The PRESIDING OFFICER. The quorum call is in progress.

Mr. CULVER. There is nothing to object to.

The PRESIDING OFFICER. The call will continue.

Mr. CULVER. There is considerable interest in this amendment. All we seek is a vote up or down on this quickly.

The call of the roll was resumed.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LONG. I object.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The call of the roll was resumed.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call——

Mr. LONG. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. CULVER. I have not finished the request. Perhaps the Chair ought to entertain the request before the ruling goes forward from the Chair on the Senator's objection.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. CULVER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator may ask unanimous consent to call off the quorum call.

Mr. CULVER. Mr. President, that is what I was about to do. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

Mr. LONG. I object.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[1st Call No. 10 Leg.]

Bayh
Bellmon
Bentsen
Bradley
Bumpers
Burdick
Byrd,
  Robert C.
Chafee
Culver
Dole
Durenberger
Durkin
Exon
Glenn
Javits
Laxalt
Levin
Long
Magnuson
McClure
McGovern
Melcher
Morgan
Moynihan
Muskie
Nelson
Pressler
Randolph
Roth
Sarbanes
Sasser
Stone
Thurmond
Wallop

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to direct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. JEPSEN) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that the Senator from Colorado (Mr. ARMSTRONG) is absent due to a death in the family.

Mr. MAGNUSON. Regular order, Mr. President.

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote, who have not done so?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 430 Leg.]

YEAS—94

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—1

Weicker

NOT VOTING—5

Armstrong
Byrd,
Harry F., Jr.
Goldwater
Jepsen
Stevenson

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. MAGNUSON. Mr. President, I withdraw my amendment temporarily in order that the Senator from South Dakota may present another amendment, and then we will go back to my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

Mr. McGOVERN. Mr. President, I thank the Senator from Washington for giving me the opportunity to call up another amendment.

UP AMENDMENT NO. 844

(Purpose: To reserve funds for improvements in the Nation's freight and passenger railroad systems)

Mr. McGOVERN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) for himself and Mr. CULVER, Mr. DURKIN, Mr. MELCHER, Mr. MAGNUSON, Mr. BAYH, Mr. BAUCUS, and Mr. HEINZ proposes an unprinted amendment numbered 844.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. LONG. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read the amendment.

The legislative clerk resumed the reading of the amendment as follows:

On page 91, insert the following between lines 16 and 17:

RESERVATION OF WINDFALL PROFIT TAX FOR CERTAIN USES

SEC. 102A. (a) The Secretary of the Treasury shall reserve $1,000,000,000 of the receipts of the tax imposed by section 4986 of the Internal Revenue Code of 1954,

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. LONG. Mr. President, I object. I do not have a copy of the amendment. I want to hear it read.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.

The legislative clerk resumed reading the amendment as follows:

until September 30, 1980, or until Congress authorizes and appropriates such funds for improvements in the Nation's freight and passenger railroad systems, whichever is later, as follows:

(1) not less than $600,000,000 shall be allocated to and administered by the Secretary of Transportation for freight railroad rehabilitation, improvements and acquisition financing. The Secretary's determination of project eligibility shall be based upon the public interest as well as projects which may contribute to more energy efficient freight transportation and improved transportation of domestic energy resources;

(2) not less than $60,000,000 shall be allocated and administered under the provisions of section 5 of the Department of Transportation Act with regard to State rail freight assistance programs and;

(3) not less than $340,000,000 shall be allocated to and administered by the Railroad Passenger Corporation for passenger rail rehabilitation, operating assistance and improvements financing.

(b) The Rail Passenger Corporation shall provide financing for projects which are in the public interest and projects which contribute to more energy efficient passenger transportation, other than the Northeast Corridor Improvements Program for which separate authorizations have been enacted under law.

Mr. McGOVERN. Mr. President, I believe I can state very clearly in just a couple of minutes the issues involved here. The Senate has just voted by a vote of 54 to 41 against the approval of some $10 billion to be earmarked for the rehabilitation of railroads. In order to arrive at a formula that I think the Senate can and will approve, it has been suggested by a number of the sponsors of this amendment, and other Senators, that the $10 billion figure be reduced to $1 billion. The allocation formula remains the same as it did in the original amendment, except we are talking about only 10 percent as much money.

In addition to the Senators who were previously listed as sponsors of the earlier amendment, I ask unanimous consent that the following Senators be added as cosponsors of the revised amendment: Senator RANDOLPH, Senator DOLE, Senator KENNEDY, Senator BAKER, and Senator NELSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I do not see where any further discussion is necessary. We have gone into the merits of this proposal. I believe Senators understand the issue. I hope the Senate will adopt the revised amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. LONG. Mr. President, I favor a much larger railroad rehabilitation program than even the initial amendment called for. I think that we ought to have a very big program to rehabilitate the rails. It is my judgment that a great deal of it could be done by loan guarantees rather than by appropriation of funds. The best way to do it would be by way of the legislative committees. The Committee on Commerce, it seems to me, would have appropriate jurisdiction in this area. It is my privilege to serve on that committee, and I am chairman of the Surface Transportation Subcommittee. I would like to support the proposal to rehabilitate the railroads.

Now, the best way of doing this type of thing and how the money can be scheduled is something that should be the subject of hearings. It ought to be the subject of suggestions by the administration and all Senators in hearings, and, in due course, it ought to be a matter that the Appropriations Committee should pass on in the event that it requires appropriations.

As I have explained, before we are through with this bill, we are going to be accused of being fiscally irresponsible, unless I miss my guess, because the money that could be raised by the tax is being rapidly eaten up by suggestions of ways the money should be spent.

If some of the amendments that are recommended to us are agreed to, the expenditures will exceed the income. But in view of the fact that this has been modified from the initial suggestion of $10 billion to $1 billion, as far as I am concerned, I leave it up to the Senate to decide what they would like to do with the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BELLMON and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, along with other Members of the Senate, I fully appreciate the need to revitalize the American rail freight system, but I question whether or not a floor amendment brought up as part of the so-called windfall profits tax bill is the way to do this. It seems to me that this is a matter of sufficient consequence that it needs the full legislative treatment and should not be dealt with here in this more or less expedient manner.

Also, Mr. President, I strongly oppose the backdoor spending that seems to be a growing tendency in Congress because we, in that way, do not have the opportunity for proper oversight. On that basis, I strongly oppose this amendment and hope that we can, in the normal course of events, have a bill before us that will provide whatever help the Nation's railroads need.

Mr. MUSKIE. Mr. President, I gather that the basic purpose of this amendment was debated on the earlier McGovern amendment that would, in fact, have reserved $10 billion for the same purposes for which the present amendment would reserve $1 billion.

Mr. President, one of the problems that I have had and that, apparently, at least 39 other Senators have had with the bill as it came from the Finance Committee was the fact that the bill, in effect, created trust funds and uncontrollable spending. This trend has afflicted budget habits in Congress for the 20 years that I have been here, to the point that our ability to serve changing future priorities is limited by the extent to which we have committed funds, committed revenues, in advance. This amendment, in my perspective, is another of the same kind of thing.

We are involved here with probably the largest tax bill we have considered in Congress in years or that we are likely to consider in the next decade or more. Before the revenues to be generated by this bill are subjected to the budget process in the full range of priorities which Congress has to consider in putting together its appropriations bills, we are already setting aside these revenues for particular projects to the disadvantage of others. I do not know how one sets priorities affecting $550 billion across the board if, one by one, as we bring up revenue measures, individual Senators are tempted to protect a single priority. What is the limit? If we set $1 billion aside for railroads with this amendment, what is to prevent Senators from running through the 17 functions of the budget and identifying particular pets to be set aside?

When I use the word, "pet," I am not denigrating the purpose or the objective of Senator McGovern's amendment. The need to deal effectively with our railroad problems in this country is indeed a high priority. I do not challenge that at all. Given our habits in the past, I do not question his use of this means to advance that objective. We have all done it. The whole Senate has done it. The whole Congress has done it in the past.

Mr. President, for reasons that I shall outline in greater detail later this afternoon, I think we have to call a halt to this tendency if we are to use the resources which we can project wisely, prudently and in accordance with the most sensitive response to the priority needs of this country.

I shall not belabor the point further. I understand that the issue has been debated earlier today. But I do oppose this amendment for these reasons—not because I challenge the objective or the motivations, but because I think this is the wrong way to serve that priority if we are to serve the other priorities which we are called upon to serve in the course of our budget deliberations.

Mr. ZORINSKY. Mr. President, I am wholly in support of the amendment of my colleague from South Dakota, to increase the funding for the Transportation Trust Fund in order to provide much-needed moneys for rail improvements and revitalization. There are thousands of miles of track throughout the country which have been allowed to fall into disrepair in past years, and are now inadequate to handle either the present or future needs of the railroad transportation system.

However, I think it should be pointed out that in upgrading our Nation's rail transportation system, the related safety costs for thousands of small communities could be enormous. Already small towns in my State of Nebraska are plagued by the problems caused by increased rail traffic and the incumbent hazards of insufficient grade crossings.

Scores of rural communities are disected by major rail lines. In many cases ambulances are prevented from reaching victims or hospitals, or police are delayed in reaching the scene of a crime because a train of a 100 cars is running, or even stopped along the rail line, virtually slicing the town in two.

Greater use of those rail lines is both desirable and inevitable in future years, as higher energy costs encourage greater use of the more efficient modes of transportation, and as the demand for coal boosts rail traffic. I agree with Senator McGovern that funds should be devoted to aiding that process of rehabilitation and upgrading of rail lines, but we should not ignore the additional costs involved in aiding the affected communities to establish adequate grade crossings or other safety measures.

This is, Mr. President, a legitimate cost of improving our Nation's rail transit system, and a cost which should not be wholly borne by the communities involved.

It is my understanding that the funds Senator McGovern has proposed for rail revitalization could be used for this purpose. Before committing myself on this amendment, I would seek his reassurance that this is so.

Mr. McGOVERN. Mr. President, I am pleased to advise the distinguished Senator from Nebraska that there is nothing in the language of my amendment that would prohibit the use of these funds for improvements in rail grade crossings. We must be mindful however, that this will eventually be subject to action of both the authorizing and appropriations committees. However it was my intent in offering this amendment to include funding for grade crossing improvements.

Mr. CULVER. Mr. President, I move the adoption of the amendment.

Mr. DOLE. Mr. President, I was going to suggest that it be accepted on this side, but I understand there is some difference of opinion.

I appreciate the expression of both Senators Bellmon and Muskie and I think there is another point to be made. I think that point has been made by Senator McGovern and Senator Culver. I am prepared to accept the amendment, but I understand there will be a motion to table.

Is that correct?

Mr. BELLMON. Mr. President, unless some others desire to debate, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Levin). Is there a sufficient second?

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator withhold his quorum request?

Mr. BELLMON. Mr. President, I withhold the request.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. Jepsen) and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

I further announce that the Senator from Colorado (Mr. Armstrong) is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 28, nays 67, as follows:

[Rollcall Vote No. 431 Leg.]

YEAS—28

Bellmon
Biden
Boren
Boschwitz
Cranston
Danforth
Domenici
Ford
Glenn
Hatfield
Heflin
Helms
Hollings
Kassebaum
Long
McClure
Muskie
Packwood
Proxmire
Pryor
Roth
Sasser
Schmitt
Simpson
Stennis
Stevenson
Tower
Wallop

NAYS—67

Baker
Baucus
Bayh
Bentsen
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Culver
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Garn
Gravel
Hart
Hatch
Hayakawa
Heinz
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Randolph
Ribicoff
Riegle
Sarbanes
Schweiker
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—5

Armstrong
Byrd,
Harry F., Jr.
Goldwater
Jepsen
Mathias

So the motion to lay on the table UP amendment No. 844 was rejected.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, in view of the lopsided vote on the motion to table, I do not think it is necessary to go to a rollcall vote on this amendment. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 843

Mr. MAGNUSON. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Magnuson), for himself and others, proposes an unprinted amendment numbered 843.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, may we have order, so we can hear the Senator?

The PRESIDING OFFICER. The Senate will be in order, so we can hear the Senator from Washington.

Mr. MAGNUSON. Mr. President, the amendment I have offered, along with 38 cosponsors, will accomplish three very important objectives that will strengthen the ability of the Congress to control Federal spending.

First, the amendment converts new entitlements to authorizations for appropriations. This removes the provisions in the bill that would establish new uncontrollable expenditures. It does not eliminate any of those programs, but makes them subject to authorizations for appropriations.

Second, the amendment eliminates the refundable portions of the new and expanded tax credits. Refundable tax credits are entitlement spending that once in place remains outside the control of Congress. Many of those refundable programs in this bill are duplicative of authorizations in S. 932, the recently passed synthetic fuels bill.

Third, the amendment eliminates the creation of two new trust funds.

The two trust funds created in this bill and funded from the windfall profits tax set aside significant amounts of Federal money for very specific purposes.

The "low-income energy assistance fund" would get at least half of the net receipts from the windfall profit tax, as much as $40 billion for the next 5 years.

The "transportation trust fund," which is a different trust item, would get up to $15 billion in windfall profits tax revenue. That is the reasonable estimate.

If these two trust funds were to be established, decisions about the use of the funds would be outside the control of the congressional authorizing and appropriating committees and process, creating another uncontrollable spending device.

As a compromise with the Finance Committee, this amendment would retain the smaller "taxpayers trust fund."

We are making a distinction because:

Revenue for this fund will come from increased corporate taxes as a result of the decontrol of crude oil;

The funds are set aside for only 3 years;

And, most importantly, the fund is subject to the control anyway of the authorizing and appropriations committees. Congress will be able to control how much money will go to social security tax relief and how much should go to other purposes. That remains a decision and an option that will be up to the Appropriations Committee and the authorizing committee, also.

There has been a great deal of talk around this body and the House of Representatives concerning the ability of Congress to establish priorities for Federal spending.

There is equal concern—very deep concern—among Members of Congress who want to bring the Federal budget into balance.

Right now, over 74 percent of the entire Federal budget is uncontrollable through the regular annual budget and appropriations process.

Over 74 percent is uncontrollable—not just by the appropriations or budget committees, but it is uncontrollable by the entire Congress. The entire Congress could not act to control these entitlements.

This bill, without our amendment, would add to that uncontrollable part of the budget.

Over the next 5 years, this bill would add over $80 billion in uncontrollable spending. There are various estimates, but the best estimate we have is about $80 billion in uncontrollable items.

This bill contains the worst kind of spending, spending that mortgages the future, spending that prevents any future Congress having any leeway and it is the type of spending that must be stopped if Congress is ever to achieve some kind of balance in the Federal budget.

What we are proposing in our amendment is;

First, to convert new entitlements to authorizations that are subject to appropriations;

Second, to eliminate refundable portions of new and expanded tax credits, which would include the windfall profit tax; and

Third, to eliminate the new windfall profit trust funds. This will insure that the Congress does have the leeway to control the expenditure of significant amounts of Federal taxes.

And Congress will be able—this is important—to exercise that power every year.

If the Senate accepts this amendment then Congress can review things as they are each year and in the light of current events and circumstances.

If necessary, Congress could set new priorities—or reorder priorities—if that be the will of Congress to keep pace with rapidly changing events in any area.

Our amendment does not tie the hands of this Congress—during the next session—when we will have a much better idea of just what this bill does bring in revenues.

Our amendment does not tie the hands of any future Congress.

Our amendment does not eliminate those programs from future funding or remove any support for any programs or foreclose any options the Congress might want to exercise in the future.

The major thrust of our amendment is that it retains in the hands of the entire Congress the responsibility to control Federal spending.

I yield to the Senator from Maine.

Mr. MUSKIE. I thank the distinguished chairman of the Appropriations Committee, Senator MAGNUSON, for yielding.

Mr. President, the distinguished Senator from Washington has already made the case for this amendment. What I have to say about it will really reemphasize what he has already said.

I cannot resist commenting upon the action which the Senate just took on the McGovern amendment in the context of the pending Magnuson amendment, the purpose of which is to eliminate trust funds created in the reported bill.

The ingenuity of the Senate has devised a new way of creating uncontrollable spending in the name of reservations now. We set aside revenues which cannot be tapped for any other purpose except the purpose for which the reservation is made.

The interesting thing is that the McGovern amendment which mandates the Secretary of the Treasury to set aside $1 billion for railroads finds itself in this position.

The bill, as it came out of the Finance Committee, left only $600 million untapped by trust funds, entitlements, or tax credits. If the bill passed as reported by the Finance Committee, there would be no $1 billion available for the McGovern amendment. In other words, the committee bill created uncontrollable spending to such an extent that a new form of uncontrollable spending in the form of the McGovern amendment cannot be honored unless the Senate adopts the Magnuson amendment, the purpose of which is to eliminate uncontrollable spending from the committee bill.

So the Senate finds itself in the position of having done an inconsistent act. It created a new form of uncontrollable spending—which the Finance Committee did not—in the form of a reservation; the next step will be to eliminate the uncontrollable spending created by the committee bill in order to make room for the new form of uncontrollable spending created by the McGovern amendment. If ever there was a useless act, that is it.

The other observation I would like to make is this: If the Magnuson amendment is approved—and I take it those prospects are very bright, we will have made room not only for reservations like the McGovern amendment but others. What is to prevent other Senators from moving into the vacuum which will be created by the Magnuson amendment and create other reservations of funds for other worthwhile purposes?

Mr. President, although I am enthusiastically a supporter and cosponsor of the Magnuson amendment, I am becoming cynical enough to believe that the Senate, with its monumental capacity for ingenuity, will find other ways to get around the strictures of the Magnuson amendment if it is adopted. In any case, I would like to help make the case for the Magnuson amendment.

The Magnuson amendment would convert the bill's entitlements to authorizations for appropriations, eliminate the so-called "trust funds" established from windfall profit revenues, and eliminate the refundable portion of several tax credits in the bill, which are duplicative of spending programs authorized in the omnibus synfuels bill.

This amendment is necessary in order to restore fiscal control to the many uncontrollable spending provisions in this bill. Otherwise, billions of tax dollars will be earmarked for special uses—some of which are not even determined by this bill—and will be spent, without ever being authorized or appropriated. Congress will literally lose its power over a huge portion of the purse if H.R. 3919 is enacted as reported.

Mr. President, as Senator MAGNUSON pointed out, three-fourths of the Federal budget is already uncontrollable. The reported bill includes over $70 billion of new spending in the next decade that would not be subject to budget and appropriations control.

The Magnuson amendment will prevent further erosion of congressional control over spending in several important ways:

First, it would eliminate two new so-called "trust funds" established in H.R. 3919 which are intended to be the financing mechanism for special spending programs.

Mr. President, these are not trust funds in any sense of the word.

Under basic principles of Federal budgeting, revenues are raised from various sources and distributed among programs based on a congressional determination of national need. The trust funds concept is an exception to the basic rule. In the past, real trust funds have been established when Congress determined that if it was appropriate to give special benefits for programs, such as highways, airports, and social security, it was also appropriate to tax the users to pay for the special benefits. No such purpose is served by these so-called trust funds that collect the windfall tax from the oil companies and make payments from those receipts to unrelated but worthy beneficiaries. Indeed, there is nothing to distinguish the proposed scheme from the normal budget principle and, therefore, no reason to divorce the revenue and payments scheme from the normal congressional procedures.

Moreover, in any real trust fund the amount collected bears a relationship to the amount spent. Here the amount collected from the windfall profit bears no relationship to the amount that should be spent on energy initiatives.

For example, the congressional budget for fiscal year 1980 provides $19.5 billion for transportation programs. This is the amount Congress believes will be necessary to meet the national transportation needs; $2.3 billion of the total transportation allocation is expected to be spent for mass transit programs.

What relationship does the existing transportation spending endorsed by Congress bear to the so-called transportation trust fund?

Mr. President, I respectfully suggest that there is no rationality to this figure or to any of the amounts allocated from the windfall profit tax into these so-called trust funds.

The establishment of the so-called trust funds raises some very fundamental questions about our contract with the American people as elected officials.

When the tax expires at the end of the coming decade and the country is hooked on massive spending for energy programs that has been determined without a rational priorities debate, what Senator at that time will stand up to say "this assistance should be reduced or eliminated?" I doubt seriously if anyone will. The real difficulty will be that Congress will have no ability to taper down spending as the trust fund runs out. The result will be that excessive energy spending will continue to be funded out of general revenues, undermining congressional efforts to balance the Federal budget and squeezing out other priority programs.

Let no one doubt, Mr. President, that this squeeze will be real and not imagined. The demands of the eighties on Federal revenues will be enormous. Efforts to improve our energy security, as well as military security and new initiatives like catastrophic health insurance and welfare reform to enhance the quality of life, will be expensive propositions. Revenues will be needed to meet these demands.

The earmarking of revenues, and the establishment of spending levels independent of any rational priorities debate through budget and appropriations action, undermines congressional control of spending and the ability to reorder priorities to meet emerging needs. Earmarking funds for a few special programs requires other worthwhile programs which may have an equal claim on our resources to compete for funding out of remaining general revenues.

Mr. President, some have argued that the language in the Finance Committee bill providing for subsequent appropriations actions or authorization for expenditures in some cases brings the bill into compliance with the budget and appropriations process.

There is no truth to that argument. Money appropriated into the trust fund is isolated from general revenues. Worthwhile spending programs for purposes other than those identified in the bill would not be eligible to compete for over $70 billion that are involved. If the transit and low-income programs are worthwhile, the Congress will authorize and appropriate funds to meet that national need.

We have already seen an example of congressional recognition of such a need in the development of a substantial synthetic fuels program which has been authorized and appropriated by the Congress in the last 6 months. No trust fund was provided. Congress acted through the regular congressional budget process and the normal authorization and appropriations processes to address a clear national need.

This is the proper approach. This is the approach sanctioned by the Magnuson amendment.

Mr. President, let me mention briefly my concerns about the taxpayer's fund, which is not affected by this amendment. I am keenly aware of the taxpayer's cry for relief from mounting tax burdens. I favor tax cuts at the right time. The Budget Committee favors tax cuts. Indeed, the fiscal year 1980 congressional budget provides for major tax cuts beginning in fiscal year 1982.

Mr. President, in developing the second budget resolution for fiscal year 1980, the Budget Committee carefully weighed the arguments for an immediate tax relief and concluded the need for fiscal restraint outweighed the need for advancing the tax cut at this time.

Mr. President, the reservations of about $16 billion in the Finance Committee's taxpayer's fund reflects that committee's judgment that the tax relief action may be necessary earlier than anticipated in the congressional budget and that funds should be available to assure prompt action at the appropriate time for a maximum of 3 years.

Mr. President, the Congress will have an opportunity to reconsider this issue in the coming months. I urge my colleagues to carefully evaluate the loud public demand for fiscal restraint and a balanced Federal budget as we proceed with the tax relief debate.

Second, the Magnuson amendment would eliminate the refundable portion of the business tax credits for the use and production of alternative energy sources and for utilities impacted by conservation.

With a refundable tax credit, the taxpayer is entitled to receive a direct cash payment from the Treasury for the amount by which the credit exceeds his tax liability. Under the Senate precedents, these refundable credits provide spending authority as defined in the Budget Act.

Thus the refundable part of a tax credit is an entitlement spending program, not a tax credit.

The Magnuson amendment would eliminate this entitlement spending which is duplicative of spending programs authorized in energy legislation (S. 932) already passed by the Senate. Although there is some duplication between the tax credits and the authorizations, the Magnuson amendment does not prejudge the merits of the credit approach, but only eliminates the refundable portions which would require a second check from the Treasury.

Mr. President, let me briefly describe the refundable portions of the credits and the reasons for their elimination.

The first is the wind and solar refundable credit. H.R. 3919 increases the rate of the refundable energy credit for commercial solar or wind property from 10 percent to 20 percent.

There is currently a debate as to whether federally subsidized low-interest loans or tax credits are a better financial incentive to stimulate commercial utilization of solar and wind systems. S. 932, the omnibus energy bill, authorizes $575 million for the loan approach which has a broad range of eligibility and allows the cost of the project to be spread out over time.

Irrespective of the relative merits of the loan versus the tax credit approach, there is no need for two spending programs for the same purpose. The Magnuson amendment therefore eliminates the spending portion of the tax credit which overlaps the spending program authorized by S. 932.

Second is the refundable tax credit for public utilities to defray the impact of residential conservation. H.R. 3919 is duplicative of the public utilities compensation grant program found in the Senate-passed version of S. 932.

In light of Senate action on S. 932 the refundable portion of the public utilities credit represents an unnecessary, and duplicative expenditure.

Third is the refundable tax credit for alcohol fuel production. H.R. 3919 would, in effect, provide a Federal subsidy for domestically produced and used alcohol of 40 cents per gallon to make gasohol competitive in price with gasoline. This subsidy on the output of alcohol fuel projects would overlap directly with the price and purchase guarantees for gasohol in title II of S. 932.

The grants, direct loans, and loan guarantees for the construction of biomass and alcohol fuel projects in S. 932 also provide a type of subsidy on alcohol fuel by lowering its cost of production and hence increasing its price competitiveness with gasoline. Financial assistance in S. 932 totaling $5.4 billion is available to all biomass or alcohol producers including State and local governments and other tax-exempt organizations.

The Magnuson amendment would eliminate the spending portion of the credit which overlaps with the spending programs authorized in S. 932.

Finally, Mr. President, the Magnuson amendment would further strengthen Congressional control over spending by converting entitlement programs in H.R. 3919 to authorizations for appropriations.

Under the reported bill, tax-exempt governmental and other institutions would be entitled to payments of 40 cents per gallon of alcohol produced. The Magnuson amendment would convert this entitlement program to an authorization for appropriations.

In addition, the Magnuson amendment would assure that funding for the low-income fuel assistance grant program in title III is authorized to be appropriated, so that the amounts provided each year can be determined through the normal priorities debate.

Mr. President, I urge my colleagues to support this amendment which is cosponsored as I understand by 40 Members of the Senate. This strong bi-partisan coalition believes that budgetary and appropriations control over the new massive revenues raised by this bill are vital.

Later in the day, Mr. President, I hope to address the windfall profit tax bill that is spending before us from the perspective of the budget demands for the eighties. But for the time being I yield the floor.

Mr. NELSON. Mr. President, will the Senator yield for a couple of questions?

Mr. MUSKIE. Yes, I am happy to yield to the Senator from Wisconsin.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Mr. MUSKIE. I said I would yield the floor, and at that moment the Senator from Wisconsin asked if he might address a question or two to me. If I have already yielded the floor, I will still be happy to entertain the questions.

The PRESIDING OFFICER. The Senator from Maine has the floor, and yields for a question to the Senator from Wisconsin.

Mr. NELSON. The Senator in his remarks referred to two trust funds.

Mr. MUSKIE. There are three in all in the bill. I did not refer to the taxpayer trust fund as a trust fund which would be affected by the amendment. I have laid aside for further discussion the taxpayer trust fund.

Mr. NELSON. Is the third trust fund the one which is in the Finance Committee bill in the form of an amendment by Senator ROTH?

Mr. MUSKIE. The Senator is correct.

Mr. NELSON. And the other two the Senator referred to in his remarks were the mass transportation——

Mr. MUSKIE. Mass transit and low income assistance.

Mr. NELSON. And low income assistance. And in each of those cases, did I correctly understand the Senator to say that the amendment by the Senator from Washington would simply convert those into authorizations?

Mr. MUSKIE. The amendment would eliminate both trust funds and convert the low income assistance program to an authorization. Any new transportation programs would also be subject to the normal authorization and appropriations process.

Mr. NELSON. So that they are subject each year, then, to the appropriations process?

Mr. MUSKIE. The Senator is correct.

Mr. NELSON. Does the amendment deal with the various tax credits that were included in the bill?

Mr. MUSKIE. Only to the extent that they involved refundable payments to taxpayers whose credit exceeds their tax liability. With respect to the credit itself, the Magnuson amendment, as I understand it, does not attempt to judge the merits of that portion.

Mr. NELSON. So if the credit is not refundable, and it is simply one of the number of tax credits we adopted, the amendment does not touch that?

Mr. MUSKIE. The Senator is correct.

Mr. MAGNUSON. That is correct.

Mr. HAYAKAWA and Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mr. MAGNUSON. Will the Senator from California yield to me for half a minute?

Mr. HAYAKAWA. I am glad to yield to the distinguished Senator from Washington.

MODIFICATION OF UP AMENDMENT NO. 843

Mr. MAGNUSON. Mr. President, there has been a slight mixup here. The amendment just agreed to on railroad rehabilitation would be eliminated by my amendment unless we make a technical correction. So I modify my amendment as follows:

On page 1, line 1, strike the number 16 and insert 17.

That will leave the railroad rehabilitation amendment a separate amendment, and it would not be deleted.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

Mr. MAGNUSON. I thank the Senator from California for yielding.

Mr. HAYAKAWA. I thank the Senator from Washington.

Mr. President, I rise to urge my fellow Senators to join me in support of the unprinted amendment introduced by our distinguished colleague from the State of Washington.

I also wish to thank the distinguished chairman of the Budget Committee, the Senator from Maine (Mr. MUSKIE) for his enlightening remarks on the subject of the same amendment.

The amendment would restore to Congress the power to control Federal spending and to direct aid where it is most needed. Congress must have control of expenditures because Government spending is a primary cause of inflation. If we give up control of the budget in trying to solve our energy problems, we could only be making our inflation problem worse. We must not withdraw from one battle in order to enter another one.

The trust funds, entitlements, and refundable tax credits that are established in the reported bill cannot be controlled through the regular budget process.

I am most concerned about the trust funds because I am not convinced the programs described by the Finance Committee need the long-term security that a trust fund provides. A trust fund guarantees a program will receive funding by freeing it from the annual discussion of priorities that occurs during the authorization and appropriations process. However, this discussion of priorities helps us eliminate wasteful spending by forcing us to decide where money is really needed. It also helps the Congress prevent overlap between similar programs.

A trust fund causes the programs it finances to become dependent on a single source of money. For this reason, any attempt by the Congress to make changes in a tax that finances a trust fund is met by strong opposition from those who rely on the revenues of that tax. The effects of the windfall profit tax on domestic production, employment, and economic growth are not accurately predictable.

Let me repeat, not predictable. Here we are entering blindfolded into the realms of the unknown with no seeing eye dog to help us. The committee has recognized our inability to see into the future by directing the President to submit a report in 1983 on the effects of decontrol and a windfall profit tax. This report is to include legislative recommendations that the President determines to be advisable at this time. Yet, how flexible will the Congress be in altering the provisions written in this bill at the present time? It is my hope that we will retain the flexibility we need to take account of the inadequacies of a program, if they do exist, and to redirect the taxpayers' money to more efficient programs, if they indeed exist.

I want to emphasize that I am not opposed to mass transportation, low income assistance programs, and tax relief. I am confident that the committee has acted wisely in recommending that we direct portions of the revenues from the windfall profit tax to these programs. Yet, because I am confident that these are worthy programs, I believe they can survive the regular authorization and appropriations process. Defining the purpose of an action does not mean the desired result will follow. It is not enough for the Congress to decide to help the poor meet rising fuel costs. That is only the first step. We must also decide between programs that reach those who truly need help and programs that can be abused by people who do not need it. We must also recognize the possibility that our first choice may not be the best choice.

Therefore, in conclusion, I urge my colleagues to retain that flexibility that the distinguished Senator from Washington (Mr. MAGNUSON) has included as a central idea of his amendment, the flexibility that the regular budget process provides.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I support the Magnuson amendment as strongly as I can. Each time we discuss the balanced budget and fiscal responsibility we point out that three-fourths of the Federal budget is now uncontrollable through the appropriations process. H.R. 3919, as reported, would create over $80 billion in new uncontrollable spending over the next 5 years. This amendment makes almost all that spending subject to control through the appropriations process. The Magnuson amendment gives Congress the opportunity to do more than moan and groan about the uncontrollability of Federal spending.

This amendment does not deal with the question of whether or not there should be a windfall profits tax. Nor does it change any of the exclusions in the reported bill. There are a variety of opinions on these issues among the cosponsors of the amendment. The amendment deals with one question of critical importance, however, on which Senators with a wide variety of positions on other issues are agreed. We should not now be placing outside the regular budget and appropriations processes a new, very large, slice of Federal spending.

H.R. 3919, as reported, includes two new entitlement programs. This amendment converts those entitlements to authorizations for appropriations.

The reported bill includes new and expanded refundable tax credits. The refundable portions of tax credits are, in reality, entitlement spending. The recipients of these refunds have no tax liability—or tax liability less than the amount of their credits—so that they receive a payment in lieu of a tax credit. With respect to tax credits targeted on individuals, it is sometimes argued that making them refundable is the only way to insure that our poorest citizens share in the benefits. In the case of the credits included in this bill, however, sponsors do not have that argument in their favor. These credits are targeted on businesses, not individuals. They are also, in every instance, duplicated by authorizations for appropriations which just passed the Senate as part of S. 932. This amendment eliminates the refundable parts of these credits.

The so-called trust funds, in the reported bill, bear no resemblance to any trust funds now in place. These so-called trust funds are nothing more than an earmarking of future revenues, for very specific purposes. The result of such earmarking is to make those future revenues unavailable for any other purpose. I just do not think we are smart enough to sit here, in 1979, and decide the appropriate distribution of funds among competing priorities 5 years into the future. Nor do I think that individual committees of Congress should be able to reserve future Federal revenues for legislation not yet even drafted. This would deny other committees—and indeed the entire Congress the opportunity to propose other priorities for the use of those revenues.

Even though the administration proposed a trust fund concept, when it sent up its version of the windfall profit tax bill, the administration does not support the so-called trust funds in the Finance Committee bill. This amendment strikes two of the three so-called trust funds in the reported bill. The effect would be to hold off until later the decision about spending revenues generated by the new tax provided for in this bill. Future Congresses can decide on the appropriate levels of funding for various programs through the annual budget and appropriations processes.

Let me discuss for a moment, Mr. President, the so-called taxpayer trust fund—the only one of the funds which would not be eliminated by the Magnuson amendment. This trust fund would not receive revenues from the windfall profit tax. Rather it would receive "general revenues resulting from the decontrol of oil prices," to quote the Finance Committee report. And for what would the trust fund resources be used? Again let me quote from page 4 of the Finance Committee report:

> * * * to assure that adequate resources are available to Congress for action it may wish to take next year to provide relief to taxpayers who face the combined impact of higher prices as well as a result of oil decontrol and a substantial increase in social security taxes.

Mr. President, the Congress will have considerably more flexibility to deal with future needs if it does not handcuff itself to a trust fund, the size and use of which is highly conjectural at this point.

I regret that this amendment does not strike this trust fund as well as the others and thus completely fulfill its objective of removing all new uncontrollable spending from the committee bill.

But the amendment does eliminate $75 billion in new uncontrollable spending over the next 5 years—and this is an admirable move in the right direction.

Let me say again, Mr. President, this amendment does nothing more than require that any revenues raised by the enactment of this legislation be treated equally with other Federal resources—that is that we enact authorizing and appropriations legislation before we spend them. It makes no judgments about the advisability of a windfall profit tax, nor does it change any programs in the bill. The whole point is to give Congress better control over the Federal budget.

This is a result I strongly support.

UP AMENDMENT NO. 845

(Purpose: To strike the so-called "Taxpayers Trust Fund" and to ensure that no new uncontrollable spending is created by this bill)

Mr. BELLMON. Mr. President, I have an amendment which I send to the desk which will help strengthen this concept. I ask that the amendment be reported.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 845:
>
> Strike all from page 1, line 1, through page 3, line 15, and insert:
>
> "On page 91, beginning with line 16, strike out all through line 16 on page 96."

Mr. BELLMON. Mr. President, the effect of this amendment is to strike the so-called "taxpayers trust fund," which is the last piece of new uncontrollable spending included in the reported bill, except for the McGovern amendment, and which is left untouched by the Magnuson amendment.

As I said before, I wholeheartedly support the purpose of the Magnuson amendment, which is to reserve for future years and future Congresses decisions about the relative importance of competing proposals for Federal spending and tax cuts. That is why I offer this amendment at this time.

The so-called "taxpayers trust fund" should better be called the "Taxpayers Mortgage," for that is what it really is. It is an attempt to mortgage future revenues for a very specific purpose, namely, a reduction in social security taxes.

The PRESIDING OFFICER. The Chair would have to rule, in this instance, that the amendment would not be in order at this time, because it is a motion to strike and we have pending a motion to strike an insert, which takes precedence, under the rules. A motion to strike could not be acted upon as long as there is a motion to strike an insert pending.

TAXPAYER TRUST FUND

Mr. BELLMON. Mr. President, I take it I still have the floor?

The PRESIDING OFFICER. The Senator has the floor.

Mr. BELLMON. Mr. President, I would like to enter into a colloquy with the distinguished Senator from Delaware about the terms of the so-called taxpayer trust fund. I would like to make a couple of comments and then ask him a question.

This is not a trust fund, Mr. President. It is, purely and simply, a set-aside. Its purpose is to set aside a pot of money, even before it is collected, for a very specific tax cut. I shall say more in a minute about the wisdom—or lack of it—of deciding the issue of that tax cut now; but first let me point out; the so-called windfall profit tax—which would more accurately be called the domestic crude oil excise tax—is not even the source of revenues for this so-called trust fund. These revenues would come from the increases in corporate taxes generated by the decontrol of domestic oil. That is right, Mr. President, general revenues not raised by this proposed new tax at all, would be funneled into the so-called taxpayers trust fund.

I understand that creation of this reserve will not represent a final decision about a cut in social security taxes—that all this bill does is set money aside for that purpose. But let us be honest with ourselves, Mr. President. If we set money aside for this purpose, and we do not set money aside for other competing purposes such as general tax deductions to stimulate capital formation and investment, or to boost consumer purchasing power—or for that matter for spending proposals, such as welfare reform or health care—or even decisions to forego both tax cuts and increased spending in favor of a balanced budget, what do you think will happen in the future?

I predict, Mr. President, that setting this money aside will guarantee its use for the purpose for which it was placed in the so-called trust fund in the first place. Let me then comment briefly on the merits of approaching the question of reductions in the social security tax in this manner.

Mr. President, the large social security tax increase which is scheduled to take effect in January of 1981 is of major concern to all of us. I recall the debate in 1977 when we approved a major part of that tax increase. At that time, I argued that Congress was taking precipitous action to raise payroll taxes without having made the kind of review of the benefits side of social security that was essential. Frankly, I am dismayed that we seem to be heading down the same road again. The bill before us creates a reserve to alleviate the pressure on social security financing without any assurance that we are going to first examine social security benefits, and achieve economies wherever we can.

H.R. 3236, dealing with the disability insurance part of social security, has been passed by the House and a different version has been reported by the Senate Finance Committee. Both versions of that bill would achieve significant savings. But those savings are still relatively modest given the rapid growth of disability benefits and the repeated reports of poor administration and overgenerous benefits for some recipients. The Finance Committee's version would save only about half the money that the House version would save. I hope we can tighten up that bill before final Senate action on it. At least Congress is looking at the benefit side of the disability insurance part of social security. As far as I know we have absolutely nothing moving relative to the much larger retirement part of social security and other costly and questionable features such as student benefits.

Mr. President, I am very fearful that Congress will stampede again next year into a "quick fix" on the financing of social security without having discharged its responsibility to look closely at ways to achieve economies in the program. This so-called taxpayers trust fund is the first step in that direction.

Both President Ford and President Carter have recommended major adjustments in social security benefits to save money by changing features which are not central to the basic retirement and disability protections of the program. Those proposals, except for the recent work on disability insurance, have not received the attention they deserve. Other ideas which would save substantial sums of money have surfaced. For instance, we need to look closely at possible changes in cost-of-living indexing of the program. The current approach will cause the cost of the program to go up by at least $12 billion in 1980. This increase will be compounded in the years ahead.

Mr. President, the creation of the taxpayers trust fund is also troubling because it would represent an explicit decision to introduce general revenue financing into the social security system. The Finance Committee 2 years ago rejected that idea even though it had been recommended by President Carter. Now the Finance Committee is asking the Senate to endorse the use of general revenues, which it expects to be generated from decontrol, to finance part of the social security system.

But those are general revenues, the same as all other money that comes into the Treasury and they are going to use it to finance part of the social security system. Congress may wish to make the changes but it seems to me we ought not do it in this precipitous manner.

Congress may wish to decouple medical benefits costs from the payroll tax. Creation of a taxpayer trust fund would reduce the likelihood of a carefree review of the social security system.

Senators do not need to be reminded that one of the major arguments against using general revenues in social security is that it would take away the discipline Congress faces when it considers increases in social security benefits. As things now stand, Congress must not only deal with the benefit question but also must face the problem of raising payroll taxes to pay for those benefits. If we did not have the discipline of the payroll tax, I am concerned that it would become far too politically attractive to raise benefits again and again. I believe the chairman of the Finance Committee himself has made that argument a number of times in the past.

In short, Mr. President, this proposal to set aside general revenues to help pay for social security benefits is being presented prematurely and it raises critically important problems. We need to look hard at possible benefit reductions that would permit some reduction of the payroll tax increases now scheduled. We also need to give the most careful attention to various alternatives for dealing with social security financing problems, without introducing general revenue financing into the picture.

One more point, which needs to be made, Mr. President, is that nothing now proposed will alter the basic dilemma this Congress will face next year: Whether to cut taxes or to balance the fiscal year 1981 budget. Setting revenues aside in a so-called trust fund will not reduce the budgetary impact of a social security tax cut.

When we adopted the first and second budget resolutions this year, we promised the American taxpayer a balanced 1981 budget. I believe that promise is at least as important as any proposal to cut taxes; and I believe our constituents agree with me on this point. Economic circumstances may force us to reconsider our decisions next year; but I am not ready to abandon the promise of a balanced budget and I hope the Senate will not abandon this important goal at this time.

Let me take a moment now, Mr. President, to commend my esteemed colleague from Washington, the chairman of the Appropriations Committee, Mr. Magnuson. He understands as well as any of us the problems we create when we tie our own hands, when we pass legislation making spending decisions which bind us for many years into the future. Each year, when he sits down with the Appropriations Committee, he confronts the reality that at least 70 percent of the Federal budget is already mortgaged by spending decisions made in prior years, and is unreachable through the regular appropriations process; 70 percent equals almost $350 billion.

I congratulate Senator Magnuson, on having convinced Senator Long that the original Magnuson amendment was three-quarters right—that we should eliminate at least three-quarters of the new uncontrollable spending which would have resulted under the committee reported bill. I hope I can convince both Senator Magnuson and Senator Long that Senator Magnuson was 100 percent right in the first place. The issue is not the worthiness of the purpose for which we set out to create new uncontrollable spending—but whether we should be creating new uncontrollable spending at this time at all.

I do not believe we should, and I urge the adoption of the amendment to insure that we do not.

Mr. President, the question I would like to ask the Senator from Delaware is whether or not this is intended to permanently relieve Congress of the necessity of reviewing the social security system and making whatever changes are indicated.

Mr. ROTH. No, that is not the intent of the taxpayer trust fund. The purpose of the taxpayer trust fund is to provide the funds for a 1-year freeze, to give the Finance Committee and Congress itself time to consider what long-range steps should be taken. What we are basically doing under this proposal is paving the way for a rollback of the scheduled payroll tax increase for this 1 year. That means in 1981 or in 1982 Congress can then work its will as to what needs to be done.

We had a long discussion, I would point out to the distinguished Senator from Oklahoma, on this matter. It is the intent of the chairman of the Subcommittee on Social Security to hold hearings so that we can decide what steps need to be taken, long-range, to make the social security program viable.

What my proposal does is to provide the funds for 1 year in order to pave the way for a freeze on the social security increase that would otherwise go into effect.

Mr. BELLMON. If the Senator will yield for another question, this means, then, that this issue will be back before the Senate sometime during the calendar year 1980?

Mr. ROTH. Yes, that is correct. The distinguished Senator from Wisconsin plans to hold hearings no later than, as I recall, early January as to what steps should be taken. I would expect sometime early next year the matter will be before the Senate again.

I yield to the distinguished Senator from Wisconsin on this question.

Mr. NELSON. May I say to the Senator from Oklahoma when this issue was raised in the Finance Committee, I stated to the Senator from Delaware that we planned to have hearings early next year on the status of the social security fund, and, in fact, if I can arrange it, we may be able to hold them yet in December, although I think that is doubtful. In any event, they will come some time in January.

The problem we face is that at the time we passed the new base rates and the new tax rates in 1977, we passed those based upon actuarial assumptions which were far too conservative.

The actuarial assumption upon which we passed the new base and rate increases as to inflation was an inflation rate of 5.75 percent. Now we are up to 14 percent, or thereabouts, as an inflation rate.

Since the retirement benefits for those who are drawing benefits who retire is tied directly to the inflation rate, and their benefits are increased in proportion to the inflation rate, obviously the assumptions we made were far too conservative in order to meet the outgo of the retirement fund.

Mr. Pickle, on the House side, has been conducting hearings for some time now. We will conduct them on the Senate side in the Finance Committee and get all the basic facts to determine whether or not additional funds have to be put into the social security fund on top of the rate base increased already legislated for 1981, with further increases occurring in 1985.

So the argument that we made in the Finance Committee was not to earmark the money to social security as the Senator from Delaware proposed, but to set it aside, to give us a chance to have hearings, and then let us come back to the Congress. At that time the Congress can make its decision by the appropriate action following the legislative process to decide whether or not we need to put any of this money or some other moneys into the social security fund.

I was opposed, in the Finance Committee, to making that decision at that time, to put the money in the social security fund. The compromise was that it would be put in limbo, so to speak, as a taxpayers' trust fund and then Congress could dispose of that money by returning it to the general fund or placing some in the social security fund if the facts justified it at that time, which I personally think is going to be the case.

Mr. BELLMON. Mr. President, the effect of this action is that these funds are not necessarily earmarked for social security.

They are to be disposed of as the Congress decides at some future date, is that correct?

Mr. ROTH. That is right. The trust fund is set up to pave the way to give some relief to the social security system, if it is necessary, but Congress has to make that decision.

Mr. BELLMON. But before the Congress makes the decision, we will be hearing further about the social security system, with regard to the question of reforming the system or providing additional funds, or not.

Mr. ROTH. The Senator is correct. That is the purpose of the trust fund. Hearings will be held next year.

Mr. BELLMON. Mr. President, I am willing to withdraw the amendment.

Mr. NELSON. May I make one additional comment? I did not read the language, but the history in the committee was that the proposal by the Senator from Delaware was to earmark the money for the social security fund. We finally agreed that that would not be done. The staff was instructed to draft legislation that did not earmark it for anything, that set it aside as a taxpayers' trust fund, for the decision to be made subsequently, after the hearings, as to whether or not Congress itself wanted to or needed to allocate this money to the trust fund or let it go on into the general fund.

Mr. BELLMON. I thank the distinguished Senator from Delaware and the Senator from Wisconsin.

Mr. MUSKIE. Will the Senator yield?

Mr. BELLMON. I yield.

Mr. MUSKIE. Mr. President, I want to express my appreciation to Senator Bellmon and Senator Roth and my good friend from Wisconsin for stating the situation as I understood it to be when I was asked whether or not I would agree to excepting the taxpayers' fund from the Magnuson amendment. The presentation made this afternoon, I think, has clarified the Record for all concerned. I think it is a very useful addition to the Record and I compliment my friend for bringing it forth.

Mr. ROTH. Mr. President, I ask unanimous consent to have printed in the Record a series of questions and answers relating to the taxpayer trust fund.

There being no objection, the material was ordered to be printed in the Record, as follows:

Taxpayer Trust Fund

Q. What is the Taxpayer Trust Fund?

A. The Senate Finance Committee has approved an amendment to the Windfall Profits Tax bill (H.R. 3919) earmarking a portion of the increased Federal revenues which will result from oil decontrol for a Taxpayer Trust Fund. The revenues in this trust fund will be available for the Congress to offset the substantial payroll tax increases scheduled for 1981.

Q. What are the payroll tax increases scheduled for 1981?

A. Under present law, the already high payroll taxes are scheduled to increase substantially in 1981. The tax rate is scheduled to increase from 6.13 percent to 6.65 percent and the wage base will increase to $29,700. The minimum payroll tax will increase from $1588 in 1980 to $1975 in 1981, a tax increase of $387.

Q. Does the Taxpayer Trust Fund amendment actually roll back the pending payroll tax increases?

A. While separate legislation will be necessary, the establishment of the Taxpayer Trust Fund paves the way for a rollback of the scheduled payroll tax increases. As the Finance Committee report notes, the committee intends to hold hearings and make recommendations regarding a payroll tax rollback early next year. The establishment of a Taxpayer Trust Fund now assures that the budgetary resources needed to avoid the payroll tax increases will be available next year. The Taxpayer Trust Fund is, in effect, a savings account to insure that an adequate amount of revenues is available for Congress to provide tax relief to the American people.

Q. How much money is being set aside in the Taxpayer Trust Fund?

A. The amendment specifies that the amount of money needed to offset the scheduled 1981 payroll tax increases be set aside in the Taxpayer Trust Fund. Under the amendment this amount is estimated to be $18.7 billion.

Q. Where does the revenue for the Taxpayer Trust Fund come from?

A. The Taxpayer Trust Fund is to be funded out of the increased Federal tax revenues resulting from decontrol. Oil decontrol will produce two windfalls—one for oil producers and one for the Federal Government. Because of the higher prices and profits resulting from decontrol, an enormous amount of additional tax revenues will flow into the Federal Government, over and above whatever windfall profits tax is enacted by Congress. According to both the Treasury Department and the Joint Committee on Taxation, nearly $400 billion in additional tax revenues will be collected by Federal Government over the next ten years solely as a result of decontrol. A portion of these additional revenues—$2.7 billion in fiscal 1980, $10.4 billion in fiscal 1981, and $5.6 billion in fiscal 1982—are to be placed in the Taxpayer Trust Fund.

Q. What are the economic benefits of a payroll tax freeze?

A. Unless action is taken, the higher oil prices from decontrol and the increased payroll taxes will deliver a one-two punch to all Americans. The higher taxes and energy prices will increase inflation and impose a tremendous drag on the economy, aggravating the recession and increasing unemployment.

According to a Congressional Budget Office analysis, a rollback of the 1981 payroll tax increases will have a positive impact on the economy, resulting in less inflation and more jobs. According to CBO, this amendment will reduce the inflation rate by 0.3 percent, lower the unemployment rate by 0.2 percent, and prevent the loss of 250,000 jobs.

Q. Will this proposal change the method of financing Social Security?

A. I am strongly opposed to using any other form of revenues to fund the basic Social Security pension benefits and the disability insurance program. These two programs—the OASI and the DI trust funds—are based on employee contributions, and should be continued to be funded through

> the payroll tax. I believe a majority of the Finance Committee shares this viewpoint.
>
> However, a growing number of Social Security experts have endorsed the approach of financing all or a portion of the medicare trust fund from general revenues. The 1979 Social Security Advisory Council has endorsed this approach, as has Robert M. Ball, former Social Security Administrator. J. W. Van Gorkom, in a study for the American Enterprise Institute, says medicare should be funded out of general revenues because it "is not an income maintenance program nor are its benefits in any way related to earnings."
>
> The Taxpayer Trust Fund will enable Congress to consider using a massive Government windfall—the increased revenues from decontrol—as a new method of funding the hospital insurance program and providing tax relief to the American people.
>
> Q. Do any economists favor this approach of financing a payroll tax cut?
>
> A. There is increasing support for this proposal to use a portion of the additional tax revenues from decontrol to offset the pending tax increases.

Mr. ROTH. According to a New York Times article by Tom Wicker (July 31, 1979):

> Part of the (Windfall) tax revenues are already earmarked for rebating high oil costs to the poor. Why not use an additional share of the proceeds to finance a rollback of the revenues Social Security payroll tax now scheduled to rise again next year? That would provide immediate tax relief to millions of wage earners, fight recession by increasing their purchasing power, and ease the inflation effect of price increases that otherwise would be forced by the employers' share of this most onerous of taxes.

And the Washington Post (June 5, 1979) has editorialized that,

> If Congress uses the (oil tax) money to cut payroll taxes, as it ought to do, it will both hold down inflation and soften the impact on consumers. The burdens of decontrol can be mitigated by careful public policy.

Mr. President, I appreciate the action taken by the Senator from Oklahoma. I wish to comment generally why I felt strongly that some such action as the compromise I proposed in the Committee on Finance should be part of this legislation.

I point out, Mr. President, that in this windfall profit legislation, we did take a number of steps to help both the industry and individuals meet the problem of higher energy costs. For example, initially, we had a tax trust fund to help the elderly and the poor. We had proposals to promote or give incentives for the discovery of new oil. The one group that was left out, which, in many ways, faces the most serious problems, is the middle class. I was concerned that it is the middle class or working class which is paying the higher cost of energy. It is the middle class or working class that is paying the higher taxes that are resulting from inflation, and they are sizable. They are roughly $926 for 1980 and 1981. I was concerned that there is no relief being given to people who are working, paying the taxes, paying the cost of inflation, paying the higher cost of energy.

It is interesting to me that a number of economists, both liberal and conservative, urge that this kind of action be taken. I point out that in recent hearings of the Joint Economic Committee, Walter Heller, who was chairman of President Kennedy's Council of Economic Advisers, has urged Congress to reduce social security taxes to reduce inflation and offset the recession. According to Dr. Heller, payroll tax cuts are tailor-made to fit the needs of an economy badgered by both inflation and recession.

He believes a payroll tax cut would increase take-home pay, reduce business costs, and help offset the OPEC "oil price drag."

It is also interesting that Dr. Greenspan, who was the economist for President Ford, has come out with similar suggestions.

A Congressional Budget Office study on the impact of decontrol (The Decontrol of Domestic Oil Prices: An Overview, May 1979) states that, "The working population hurt by oil price decontrol could be helped by a reduction in payroll taxes."

According to the CBO study:

> Since the inflationary effects and the increased burden on low-income households are two of the most critical costs of decontrol, it is important to consider alternatives that might offset them. One such option would be to use the additional tax revenues from decontrol to reduce other taxes . . .
>
> A reduction in Social Security taxes would be relatively easy to implement, would lead to a lower rate of price increases, . . . and would reduce the adverse impact of higher energy prices almost immediately. In addition, the timing of the reduction could be closely phased with the increases in federal tax revenues resulting from decontrol (and) most of the population affected by higher energy prices would receive additional funds.

It is because of this growing consensus and in the interests of equity and fairness to the working people of America that I initially proposed the 1-year freeze.

Senator NELSON has suggested that he would like to hold hearings for the reasons he just stated and, as a result of that, the compromise that has just been discussed was proposed by me in the Finance Committee and, I think, is the most important part of this legislation in doing justice to the people who are, in many ways, the hardest hit.

Mr. CHILES. Mr. President, I am pleased to be an original cosponsor of this budget control amendment to the windfall profit tax bill. I was actively involved in creating the new congressional budget process back in 1974, because it seemed to me that Congress did not have any way to take account of all its individual spending bills and see what they added up to. For the last 5 years, many of us on the Budget Committee have fought time and again to hold down spending. We have won some battles and lost others, but I think it is fair to say that overall we have created a greater awareness in Congress of what programs cost and what we need to do to hold down Federal spending. It is now clear that the American people want to see Federal spending put under control.

One of our biggest frustrations when we consider the budget each year is that 75 percent of the outlays are uncontrollable in a 1-year perspective. That is, they are expenditures which result from prior year contracts or commitments. We have tried to start getting more control by setting 5-year spending limits, which gives Congress time to change old laws to reduce spending.

Unfortunately, the bill reported by the Finance Committee goes in just the opposite direction. It creates more entitlement programs, it makes tax credits refundable, and it sets aside massive amounts of revenue into trust funds earmarked for specific spending. Each of these provisions reduces Congress ability to control the Federal budget, and that is why we are offering this amendment.

The first problem we address is the creation of trust funds. While there is a certain appeal to saying that the windfall profit receipts should only be spent for energy-related programs, the argument does not hold up to careful scrutiny. The windfall revenues that would be taxed are caused by decontrol of domestic oil prices and the actions of OPEC on imported oil. These price increases spin through the entire economy and raise the price of all Government programs—from defense to education to social security—as well as raising consumer prices. The revenues from the windfall profit tax should therefore be available to pay energy induced costs for all programs, as well as to allow income tax relief to restore the purchasing power lost to higher oil prices. Since inflation drives taxpayers into higher tax brackets, tax cuts will be necessary to hold people even. If the windfall profit tax revenues are tied up in trust funds, they will not be able to be used for those purposes. Even worse, if money is available to be spent in a few trust funds, it is a sure bet that Congress will find a way to spend the money, whether those projects funded are needed or not.

I believe that the purposes for which trust funds are designated in this bill are all high priority right now: Fuel assistance to low-income households, reduction of social security taxes, and energy-efficient transportation. But I do not know the exact amount that ought to be spent for these programs 3, 5, or 10 years in advance. Congress ought to look each year and see what the needs and priorities are. As the Congressional Budget Office points out in its analysis of the bill, trust fund financing is not a desirable mechanism where the level of income to the trust fund is uncertain and variable. That is certainly the case when the level of revenues will be determined by the actions of the OPEC cartel in setting oil prices. We could easily find ourselves with two or three times as much money available to spend on low-income fuel assistance as we are currently planning on, with no way to transfer it to other top priority uses.

The other problem for budget control is the creation of new entitlement programs. Making the business tax credits for conservation refundable if they exceed tax liability in a given year effectively uses the tax system to create new grants. Since the payments would be due by right to the taxpayer, rather than subject to an appropriation, there would be no way to control their cost each year.

In a similar way, the Finance Committee bill makes the low income fuel assistance payments entitlements for individuals. We would have no choice but to appropriate whatever the estimated cost was each year, regardless of the condition of the rest of the budget. While I am a strong supporter of low-income fuel assistance, and worked to make funding available for it in this year's budget resolution, I think we ought to have the flexibility to set the appropriate spending level each year, higher or lower, depending on the condition of the economy and fuel prices.

Mr. President, the amendment we are offering will improve congressional control over Federal spending without jeopardizing any of the important programs we need to develop energy supplies, encourage conservation, or mitigate the effect of energy prices on poor people.

I, therefore, urge my colleagues to join in and support the amendment.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I thank the Chair.

I. THE MAGNUSON AMENDMENT

Mr. President, I rise in strong support of the amendment being offered by the Senator from Washington, the Senator from Maine, and others, and I am pleased to be a cosponsor of the amendment. I commend these Senators for their work and diligence in this matter.

Mr. President, I have believed all along that the windfall profit tax bill should only be a tax bill, that the money should all go to the general treasury. The Congress could then dispose of this money through the regular appropriations and budget process, using the money for tax relief or energy programs or whatever seems most appropriate.

In supporting this amendment, I want to make it clear that I am not opposed to increasing expenditures, both through tax credits and appropriations, on energy programs. My record on this is clear. I was the sponsor of the Solar Energy Bank bill which the Senate passed last week. I have cosponsored and supported a number of initiatives to increase the production and use of gasohol. And, I have consistently supported the rather controversial synfuels program.

But the portions of this bill which the Senator from Washington would strike are fiscally irresponsible. Although over 70 percent of the Federal budget is presently classified as uncontrollable, this bill has over $80 billion worth of uncontrollables over the first 5 years of implementation. It does this by establishing new entitlement programs and by adding refundable tax credits, which are tax credits for people who may not be paying any taxes. Some of these refundable tax credits are for the same purposes as some of the new programs which were established in the synthetic fuels bill which we passed last week.

If we are ever going to balance the Federal budget, we have to bring the "uncontrollable" parts of the budget under control, and it is especially important that the Congress not establish new uncontrollables. I would point out that for the present fiscal year the estimated budget deficit is about $30 billion while the interest on the national debt is $50 billion. Thus, this year's deficit is really the fault of past excesses for which the price is still being paid.

The whole problem with having budget deficits is that it forces our children, and their children, to pay for programs and projects that help America today, but for which Americans, through their elected representatives, decided they did not want to pay for. It shifts the burden to future generations, and it is just not right.

The trust funds, two of which the Magnuson amendment would also eliminate, also represent bad fiscal practice. They are unlike any trust funds presently in existence, since they earmark future revenues for specific purposes, thereby circumventing the budget, appropriations, and authorizing committees, and preventing the Congress as a whole from working its will, at some future date, with better and more complete information. So I support the Magnuson amendment, and hope it will be agreed to.

II. THE TAXPAYERS' TRUST FUND

But, I am especially concerned with the so-called Taxpayers' Trust Fund which the Magnuson amendment as now written does not touch. The Taxpayers' Trust Fund earmarks revenue for the relief of social security taxes, subject to authorizing legislation yet to be enacted.

Mr. President, let me say at the outset that in criticizing this trust fund I in no way am criticizing the Senator from Louisiana (Mr. LONG). His views on the need for fiscal responsibility in the handling of the social security system parallel mine, and I realize that this trust fund was forced on him.

The social security system, as originally enacted, was intended to be a self-supporting supplementary retirement program. It has since evolved into something that more closely resembles a social insurance program, but some of us have tried and managed to keep the system more or less self-supporting. And, this is important because it allows the elderly in my State and around the country to feel like they earned and deserve their social security benefits.

But, if we start taking money from other sources and adding it into the social security system, we abandon that important principle and turn social security into another welfare program just like any other. And by doing this we deprive many senior citizens of their dignity.

There is also the question of responsibility at stake. The chairman of the Finance Committee stated the issue very well about 2 years ago. Asked what he thought about using general revenues for social security, he replied "What general revenues?"

To reduce social security taxes without a corresponding reduction in benefits is to take money created by deficit financing and turn a self-supporting system, for all its problems, into a system with its own deficit.

Passing the bill to increase social security taxes, which we did about 2 years ago, was necessary and highly unpopular. But it had one unanticipated, but very educational, result.

As every elected office holder can attest, much of the public approves of more and more services, but disapproves of the taxes necessary to pay for them. Many people draw the connection between benefits and taxes, but most do not. But, after passage of the social security tax increase in 1977, a large number of people in my State began to realize, for the first time, that there was a connection between benefits and taxes.

Thomas Jefferson, who has made some of the most insightful comments on the exercise of power, said that:

> When the people are not exercising power wisely the solution is not to take the power away from the people, but rather, to educate the people.

In my view, deficit spending is the result of power being exercised unwisely. The social security tax increase had to be enacted—there simply was no choice—and it has proven to be quite educational. It would set the cause of fiscal responsibility back, possibly permanently, if this tax increase were to be repealed.

Now, I realize that this so-called taxpayer's trust fund does not actually mandate a social security tax reduction because, fortunately the chairman of the Finance Committee was able to defeat the amendment in committee. But it provides the vehicle for such a reduction, a vehicle that many will find very tempting to use.

For my part, I will actively and unequivocably oppose any attempts to reduce social security taxes next year unless the same bill provides for a corresponding reduction in benefits. I might point out that I have seen no support in this Congress for a benefit reduction, not even from those supporting the tax cut.

I am taking this position not because it will be popular with my constituents—and I am up for reelection next year—but because it is necessary. I take this position because it is the only responsible position, because it is necessary if a sound social security system and if the dignity of our elderly citizens are to be maintained.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, I ask unanimous consent the Senator from Illinois (Mr. PERCY) be added as a cosponsor of this amendment, with the consent of our chairman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, an important rationale for having a windfall profits tax in the first place is so that the Nation can deal decisively with the impacts of phased deregulation of oil prices. The fact that the Senate has chosen to avoid the specific mechanisms initially chosen by the Finance Committee in no way lessens our commitment to this goal.

Two of the most severe impacts will be felt by low-income citizens struggling to pay higher energy bills and by ridership increases in public transportation as automobile use becomes more expensive. There is a strong and direct relationship between the price and supply of gasoline and corresponding demands that will be placed on existing and future transit systems. We must not lose sight of these important programs as we move to completion of effective windfall profit tax legislation.

The Labor and Human Resources Committee has already reported excellent legislation in the field of low-income assistance.

The Appropriations Committee led the way this year by funding a $1.3 billion program to assist low-income families to pay higher energy costs during the coming winter. I assure my colleagues that the Appropriations Committee will give full consideration to the funding needs of this program in the future.

I urge that the Committee on Banking, Housing, and Urban Affairs consider new public transportation initiatives following enactment of this bill as quickly as possible. With new authorizations for these programs, and in cooperation with the Budget and Appropriations Committees, as is the normal process, I am certain that the Congress can very quickly move to also address the public transportation needs created by oil decontrol.

In the field of public transportation, the administration has proposed roughly a $15 billion 10-year program. However, this program was fashioned based on an assumption of $20 per barrel oil. As we march toward $30 per barrel oil and higher, I hope that the authorizing, Appropriations and Budget Committees will give consideration as to the adequacy of the administration's proposed levels for new public transportation initiatives.

● Mr. HUMPHREY. Mr. President, I support the amendment offered by the Senator from Washington, and I am proud to be a cosponsor of it. This amendment is a step toward fiscal responsibility, and it addresses one of the greatest wrongs we have foisted upon the American people: uncontrolled Federal spending.

The only way we are ever going to balance the budget is by cutting profligate expenditures, but we will never be able to do that until we significantly limit uncontrolled Federal spending. Already, almost 75 percent of the Federal budget is beyond our reach. This amendment alone will return $80 billion to the appropriation and authorization process over the next 5 years.

We must decide, here and now, to halt the growth of spending that is outside congressional control. It is time to put an end to these outlays that so insidiously undermine attempts to bring about economic order. Entitlements and trust funds abound and the American taxpayer pays the bill with increased taxes and inflation.

This amendment does not seek to eliminate programs contained in the windfall profit tax. It seeks only to bring these items back under the appropriation and authorization process. Finally, the amendment prevents the duplication of efforts that are contained in another piece of legislation, S. 932.

The many Senators who have joined my distinguished colleague from Washington concur on the need to stop further uncontrolled spending. I hope this amendment is successful; we owe it to the American people. ●

● Mr. BAYH. Mr. President, I wish to associate myself with the remarks of the Senator from Washington. It will be an important national priority in the next several months to enhance our Federal public transportation investment program to contribute in a more effective manner to overall energy conservation efforts. As chairman of the Subcommittee on Transportation of the Appropriations Committee, I look forward to working with Senator MAGNUSON, the chairman of the full Appropriations Committee, as well as members of the authorizing committees which have jurisdiction over the programs included in the President's proposal for transportation energy efficiency.

As we move forward, it will be important for any expansion of transit service to be based on a sound and sensible procurement policy which seeks to get the most transit service for the dollar. The public transportation industry will have to move increasingly toward standardization if we are to have any hope of making a further dent in energy consumption by the transportation sector. The Senate Appropriations Committee report on transportation recommended $500,000 for the establishment of advisory committees to review and reform procurement policy. Although this sum was cut in half by the conference committee, the conference reiterated the language of the Senate report emphasizing standardization and the need to develop a long term bus procurement policy.

The committee also requested that:

> The Department of Transportation submit by December 31, 1979, an estimate of the actual costs by year, allowing for inflation, for fiscal years 1981 to 1990, of replacing overage rail rolling stock; of rehabilitating and modernizing existing rail systems to a level consistent with current standards of safety, reliability, and esthetics for new rail systems; of replacing buses so as to achieve an average national fleet of 7.5 years, with no buses more than 15 years old, and of rehabilitating or constructing appropriate modern support facilities to assure the adequate maintenance of these buses. This report should also compare these figures with existing authorizations, excluding funds to be expended for systems expansions, to determine the level of new authorizations and appropriations required to achieve the goal of a totally modernized and fully functional national urban mass transportation system. ●

Mr. LEVIN. Mr. President, I intend to vote against the amendment offered by the senior Senator from Washington. In doing so, I must acknowledge that, as he argues, there are some dangers in principle in the creation of trust funds for which certain revenues are to be earmarked. It is true that trust funds introduce an element of uncontrollability into Federal expenditures, and do make it difficult to reorient those expenditures in future years as budget needs may change.

But, Mr. President, I believe that we are dealing here with special circumstances which require special remedies. In this case, we not only need a windfall profit tax which generate adequate revenue, but we also need to make sure that revenue is spent in accordance with our most vital national priorities. The distorted energy situation which has created the windfall should be the principal target for the use of the proceeds of the tax on that windfall. There will undoubtedly be intense competition for this tax money, and I believe that we ought to earmark a large portion of it for purposes which will help secure our independence from unstable sources of foreign oil, and which will help protect those in our society who cannot cope with the additional expense that escalating fuel prices have created.

If the trust funds are stricken from the bill, the windfall money will be up for grabs by many committees for almost every conceivable purpose. We need a long-term commitment of Federal resources if we are to deal effectively with our energy problems, and I think it would be a mistake to remove the linkage between the windfall tax and the goal of energy independence. For these reasons, I will oppose the pending amendment.

Mr. LONG. Mr. President, I ask that the amendment be divided as follows: division 1—page 1, line 1, through page 5, line 12; division 2—page 5, line 13, to the end of the amendment.

The PRESIDING OFFICER. The amendment will be so divided.

Mr. MAGNUSON. Mr. President, so that Senators will understand, this separates the gasohol portion of the bill from the bill. I have no objection to that, and I am sure no one else has.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MAGNUSON. May I then ask if the yeas and nays apply to the second portion of the amendment?

The PRESIDING OFFICER. The yeas and nays would automatically apply to both divisions.

Mr. MAGNUSON. Let us vote on the motion of the Senator from Louisiana, and then I will make a unanimous consent request.

The PRESIDING OFFICER. The amendment has been so divided.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that consideration of division 2, which is referred to, relating to gasohol, be postponed until later in the debate on H.R. 3919, so that the rollcall vote will affect only the other portions of the bill.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, has a rollcall vote been ordered on division 1 of this question?

The PRESIDING OFFICER. A rollcall vote has been ordered on both. The rollcall vote on division 2 will be put off until a later time.

Mr. MAGNUSON. This rollcall vote will be on the major portion, division 1. Division 2 has been separated and deals only with gasohol.

Mr. STEVENS. It is my understanding that this applies to the trust fund concept portion only.

Mr. MAGNUSON. Yes. This is the main part of the bill.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on agreeing to division 1 of the amendment offered by the Senator from Washington. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE) and the Senator from Iowa (Mr. JEPSEN) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that the Senator from Colorado (Mr. ARMSTRONG) is absent due to a death in the family.

The PRESIDING OFFICER (Mr. BRADLEY). Are there other Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 82, nays 13, as follows:

[Rollcall Vote No. 432 Leg.]

YEAS—82

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cochran
Cohen
Cranston
Culver
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Long
Lugar
Magnuson
Mathias
McClure
Melcher
Metzenbaum
Morgan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—13

Bradley
Chafee
Danforth
Durkin
Gravel
Levin
Matsunaga
McGovern
Moynihan
Ribicoff
Riegle
Talmadge
Tsongas

NOT VOTING—5

Armstrong
Byrd,
Harry F., Jr.
Dole
Goldwater
Jepsen

So division 1 of Mr. MAGNUSON's amendment (UP No. 843), as modified, was agreed to.

Mr. MAGNUSON. Mr. President, will somebody move to reconsider the vote?

Mr. CHILES. Mr. President, I move to reconsider the vote by which division 1 was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, division 2 of the Magnuson amendment has been temporarily laid aside.

Mr. MUSKIE. Mr. President, the statement I am about to make, plus an explanation of these charts behind me, should not take more than 30 minutes unless in the process I get involved in questions or challenges as to my assumptions that would provoke a longer discussion.

Let me make it clear that although what I have to say will reflect upon the merits of the pending measure, my fundamental purpose is to put the bill as it was reported from the committee in the context of projected budget demands in the 1980's. I hasten to say at the outset that no one can predict what is going to happen over the next 10 years. The charts behind me have validity only to the extent that the assumptions are understood and the assumptions are accepted.

But the fundamental purpose is to put this bill, which is pending before us, in the context of some reasonable expectations, or at least expectations that I hold, to be reasonable with respect to the decade of the 1980's, without presuming to be an economist and without presuming to be a prophet.

I think such a statement is important because, Mr. President, very simply the windfall profit tax is one of the most important measures this body has ever considered. Its power to generate revenues is unprecedented in our history. From 1789 to 1939 the Federal Government total income for that entire period was $116 billion. The Finance Committee bill would raise $118 billion, and the House-passed bill would almost double that.

These are stunning figures, Mr. President. But numbers alone are only part of this debate. The 1970's are coming to a close. Critical choices lie ahead, choices about the direction our Nation will take in the eighties.

In the course of this debate many of those choices will be made. We will make decisions having a major bearing on the level of Federal revenues for a full 10 years to come. These decisions, in turn, will importantly influence how much we can afford to spend for defense, for new domestic programs, and for the continuation of existing ones.

We will be making decisions affecting how much to invest in the discovery of new oil and gas; we will assign relative weight to the importance of exploration versus the importance of conservation; we will determine how much to depend on oil wells and how much to spend on alternatives.

We will decide to promote a balanced Federal budget, or we will push that goal still further from our grasp.

We will condone the concentration of unfathomable wealth in the hands of a few corporations, or we will opt for a more equitable distribution.

None of us were here to debate the establishment of a national bank or the creation of an income tax. Few of us were called upon to pass judgment on social security. Not many had a chance to consider the wisdom of medicare. But this debate is just as important as any of those. It calls upon us to make choices for our society—choices of truly historic proportions.

First of all, we must decide how much of the $830 billion in oil company profits generated solely by the Government's decontrol of oil prices should be recycled for public use through this windfall profit tax.

Except for the social security tax increase of 1978, the windfall profit tax bill is the first major revenue-raising measure since the Vietnam surtax of more than a decade ago. In all likelihood, it will be the last major revenue-raising bill for the next decade or more.

Raising taxes is always difficult. In fact, amendments will be offered to this bill to repeal most of the social security taxes imposed in 1977. Congress has committed itself in this year's congressional budget and in the Nunn-Chiles-Bellmon amendment to the 1978 tax reduction bill to reduce revenues still further in the coming years.

Another basic question to be decided in this debate is how high and broad the windfall tax can be without discouraging needed oil production.

The discovery and extraction of new domestic oil is among our highest priorities. Tax policies supporting that goal are a reasonable public investment—but not beyond the point of diminishing returns—not when so many other needs compete so fiercely for precious resources.

The House set out to raise and recycle a substantial proportion of the $830 billion of extra revenues the oil companies will receive over the next decade. The equity of recycling these revenues took precedence over other considerations. The Finance Committee chose to forgo about half of the proceeds of the House-passed windfall profit tax bill—giving up $127 billion over 11 years. This was done in the name of production incentives. But the additional oil that will be gained by the changes from the House bill will cost the public anywhere from $54 to $86, or more, a barrel—depending on who makes the estimates for what time period. These costs will be paid in smaller future tax cuts or less public services.

Is it a wise investment to pay $86 per barrel in lost tax revenues—to use a CBO long-term estimate—for every extra barrel of oil the Senate bill would buy? Not if we can achieve the same results at lower public expense; and the plain fact is that we can.

Coal liquification and gasification can produce domestic oil at a cost of $45 to

$50 per barrel. Oil shale can do it at $28 per barrel; solar and wind power investments displace foreign oil at a cost of $25 per barrel; biomass programs at $15 to $21 per barrel; cogeneration at $16 per barrel; conservation programs, $15 per barrel; heat pump installations, $14 per barrel; and promotion of existing hydroelectric projects, $6 per barrel.

Mr. President, the balance sheet speaks for itself. Carefully measured production incentives have a vital place in a prudent energy strategy. But there is no place there for a single industry subsidy which cannot pull its weight.

The limits of our resources and the scale of our needs allow no margin for waste.

For fiscal 1980, this bill's revenue fell 75 percent short of what was assumed in the second resolution. That resolution was endorsed by this body 2 to 1.

The Senate committed itself in that vote to raising $2.4 billion which can only be raised by this bill.

The House bill and administration proposal would raise 50 percent more than the Finance Committee bill over the next decade.

Mr. President, this bill simply does not do the job—not in the face of the demands for personal and business tax reduction and for spending increases which Congress will face, and should face, in the 1980's.

For 5 years, since the budget process began, I have stood before the Senate and argued for spending discipline. I do not abandon that posture now.

But even with the most stringent restraints, the years ahead will generate huge demands. Many of those demands have already been mandated by the Congress for energy and defense. Others, like the catastrophic health insurance bill now being marked up by the Finance Committee and the President's welfare reform recently passed by the House appear likely to be enacted in some form next year.

If we enact no new programs beyond those four—if we do nothing to increase existing programs for the next 10 years—if we set the tax machinery to achieve the Nunn-Chiles-Bellmon target and then go home and do not come back till 1989, then the Finance Committee bill will hold the Federal budget at or near the deficit level throughout the next 5 years.

Of course, we may be more generous. If Congress enacts no new spending programs beyond the four already assumed, and merely holds existing ones to the level of inflation, we will lock ourselves into deficit through 1987.

In either case, we will have some surplus in the latter years of the decade. But a comprehensive health insurance program would make short work of that surplus. And no one can predict what further demands our Government will face in the coming decade.

Mr. President, we have mortgaged our future. Without a more productive windfall profit bill, we just cannot make the payments.

Beyond these fiscal issues, the Finance bill raises basic concerns about the very nature of our legislative process. Already, some 75 percent of the Federal Government's budget is "uncontrollable" in any given year. Trust funds and other entitlements which we have already acted upon in the vote on the Magnuson amendment, and for that I wish to thank the overwhelming majority of my colleagues in the Senate who supported that amendment—would have restricted our ability to rank priorities, assign resources, and manage the business of Government.

The power of the purse is the power of discretion—the power to make choices. It is the cornerstone of congressional authority. Entitlements and trust funds are cracks in that foundation, and the Finance Committee bill, instead of eliminating those cracks that would be created, would drive in another wedge.

I have raised some fundamental points about the scope of this legislation and the shortcomings of the recommended bill.

Its emphasis on production incentives buys little additional oil at very high cost to the taxpayers. Cheaper alternatives are neglected.

Its enormous potential for raising revenues is barely approached and it leaves us unprepared for the expenses which lie ahead.

Its consequences for the budget and appropriations processes are unfortunate and ill-considered.

But there is another question before us—a question of justice and equity which cannot be plotted on graphs.

Through 1990, new oil company revenues derived from decontrol will amount to some $830 billion—more than the gross national product of all but a handful of sovereign nations. And more than 90 percent of that stupendous wealth will be under the control of relatively few private interests.

Mr. President, we are talking about nothing less than the character of American society in the decade of the 1980's.

OPEC and decontrol will make those profits possible. But the individual consumer will pay the price.

I do not stand here to advocate raising taxes just for their own sake. The consumers of this country will pay the higher oil prices whether or not we tax the resulting oil company revenues. The issue is the equitable distribution of these revenues.

In the late 19th century, enormous private fortunes were made in the development and exploitation of new technologies and natural resources. Railroads, chemicals, steel, and oil made many a millionaire.

Then as now, Congress confronted a fundamental choice. Should unrestricted riches and power be left to the whim of a few corporate giants, or should such influence be tempered and contained?

Should this vast new wealth be left to private gain, or should a portion be tapped to build a stronger society?

Our predecessors made their choice. The income tax, new labor laws, the breaking of the trusts, and other innovations were revolutionary in their time. The choices we will make are of a similar order.

It has been said that behind every great fortune, there lies a great crime. Well, that is probably an overstatement. Unless we limit the private exploitation of this great fortune—unless we secure the bulk of its benefits for the taxpayers who produce it—no industry will bear the blame, the responsibility for that will be entirely our own.

Mr. President, with respect to the merits of the pending tax bill, what we do about it, what we do to generate more public revenues using it as a vehicle, is for us to decide—individual Senators voting individually.

The question that I ask you to consider is whether or not your votes on that subject properly take into account, in your judgment, the budget demands of the 1980's as we have posed them very conservatively on these charts.

There is nothing magical about them. And I repeat, I would be the first to suggest that 10 years from now, looking back upon these charts, we will find that they had given a very inaccurate picture of the 10 years that had expired. But budget decisions of the magnitude that we are asked to consider, tax measures of the magnitude of the one which we have before us, ought to be placed in some way in the perspective of the demands that we are going to face in the next 10 years.

I will not be here at the end of the 1980's. Many of you may be.

But in any event, what we are talking about is that a revenue-raising measure can impact importantly upon the facts underlying these charts. Those facts are the national needs which the charts reflect. Some needs perhaps are ignored because they are yet unanticipated. So you must look at these charts as to whether or not the decisions we make on this revenue bill are relevant and adequate to the problems that we should try to foresee through somebody's eyes. These are my eyes, given the assistance of staff who have been helpful to the Senate and to the Congress over the 5 years of the budget process in trying to assign numbers to problems, and numbers to the actions that we take. It is the best we can do.

I hesitate to do it because, perhaps as much as anybody in this body, I know how inaccurate this year's charts may look next year. That is the nature of the science of economics, if you can call it a science.

But let us take this chart on my right, if you will. You will see it is divided into outlays, revenues, surplus, or deficit. We made the projections beginning with fiscal year 1980 through 1990, 11 years.

These outlays, described as current law, reflect our projection of outlays if they simply continue present programs adjusted for inflation only when required by existing law. In other words, only indexed programs under current law take inflation into account, even at the present 13-percent level. All other actions to offset inflation are discretionary with the Congress and we assume, for the purposes of that line, that discretionary inflation will not be permitted; that we will deal strictly with current law.

What is current policy? Current policy is the same as the first line, except for one thing. It adjusts for inflation whether or not required by law. That is the difference between the two.

One other comment on current law and current policy. These outlays, for the purposes of projection, have been adjusted to include the congressional commitments to real growth in defense, to 1980 energy legislation—even though it has not finally become law—to the House-passed welfare reform, and catastrophic health insurance.

In other words, we have included only that new spending, which clearly seems to have a likely prospect of being enacted into law and thus becoming current law at the beginning of the decade. We are making this analysis as though it were current law. So we have written that in here. We think that is a realistic thing to do. Current policy also reflects those same assumptions about outlays.

With respect to the economic assumption, inflation is assumed to decline to an average of 6 percent for 1983 through 1990. The present 13 percent annual rate, we assume, will decline to an average of 6 percent. That, I would submit, is a conservative and cautious figure. We would like it to be better than that. It could conceivably be worse, although if it is worse than that for that long a period, God help us.

But, in any case, we have made that assumption and you can change it, if you do not like 6 percent. That is an arbitrary kind of a figure. We are hoping that we will find the policies of restraint on the part of Government and on the part of our citizens in their private economic behavior to get that rate down at least to 6 percent.

The rate of 6 percent inflation is accompanied by a rate of 3 percent of real growth. It would be very nice if we are able to sustain that kind of growth for that whole period. I have not adopted a more pessimistic assumption because we are, of course, trying to work for healthy economic policies that will produce a healthy economy. But I think it is a prudent projection to make for real growth.

Nominal GNP, which includes real growth plus inflation, is projected on a steady growth trend of 9 percent a year beginning in 1983.

Those, then, are the economic assumptions. Anybody else's may be just as good or better. I would like the Members to understand those, and I would be willing to get into a discussion of what a departure from those assumptions might do to the budget figures. Such departures obviously could affect the budget figures.

With respect to revenues, revenues for fiscal years 1980, 1981, and 1982 are those contained in the Senate-passed second budget resolution that we adopted just last week for fiscal 1980, but they are adjusted to include the windfall revenues generated by the Finance Committee bill as it came out of committee.

In addition, in 1982 they reflect the $55 billion tax cut which the second budget resolution assumed for that year.

Finally on the revenue line, Members will remember we adopted the Nunn-Chiles-Bellmon amendment to the tax bill of 1978 which requires that revenues decline as a share of GNP; we have cranked that in here. So revenues are projected to decline in accordance with that policy from 20.5 percent of GNP in fiscal year 1983 and fiscal year 1984 to 20 percent in 1985 and 1986, and 19.5 percent thereafter.

In other words, the revenues line projects the big tax cut of $55 billion in 1982 and periodic cuts to get revenues down 19.5 percent by 1990.

We are trying to assume in these charts, wherever we can, the long-term implications of what Congress has already done or what Congress is about to do so the parameters of the long-term projections can be seen.

With those assumptions, we can see what happens with current law and current policy. The pluses indicate surpluses and the minuses indicate deficits.

Now, Mr. President, let me take you to this other chart, which has a lot more red on it than I like to see. Members will want to ask why.

That chart, in a very real sense, is a pictorial reflection of the numbers I have already tried to outline for you.

First of all the congressional budget, the one we have just adopted in the Senate. That looks pretty strong, but there are some things it does not include. It does not include the total amount of the energy spending that we have approved. Mr. President, you will remember last week we approved the Williams fuel assistance program. We approved $1.6 billion in fiscal year 1980, $3 billion for 1981 and $4 billion the next year; those last two figures are not fully reflected in the congressional budget projections because they were adopted after the conference on the congressional budget. So that is not included.

Also, the other two items that I mentioned on the first chart are not included, catastrophic health insurance and welfare reform. So the line looks pretty hopeful.

Now, let us say we adopt current policy on the basis of the revenues shown on the first chart. In other words, that the budget just keeps up with inflation for all programs, whether indexed by law or not. As can be seen, we would be in deficit until 1988 with no new spending, no new programs other than those already described, and assuming the windfall profit tax as it came out of committee.

To avoid that picture we would either have to increase taxes sometime between now and 1988 from some other sources, or we would have to reduce spending, including those uncontrollables which are 75 percent of the budget. That is the choice we would have if we do not use the present revenue measure as a way of avoiding it.

That picture is bad enough, but I added the third line. The budget process has been in effect since fiscal year 1976 and we have tried to hold spending down, and I think the congressional budget line on this chart shows that the Congress has. It is not easy to prove the case in precise dollars, but I think the sense of restraint has made itself felt, and is felt, in the numbers. But, nevertheless, the budget has grown in real terms during the seventies, above inflation and population growth. So if we project the same trend for the eighties that we established in the seventies, nothing more, the chart shows what would happen—a deficit until 1990 and into the 1990's.

You can give whatever substance to that you wish, Mr. President, depending upon your own awareness of Congressional spending habits, which are triggered often by emotional responses from our constituents who are faced with problems. Whatever the justification, however right, this line reflects congressional habits even as they have been disciplined in the seventies, projected into the eighties.

The middle line reflects what we would do if we simply tried to continue present programs, not adding to them but adjusting for inflation, and having added, of course, catastrophic health insurance, welfare reform, and some additional energy spending.

This is the picture as I see it. Is it too alarming to be real? I do not believe so. Is it an accurate picture of what will actually happen? I would not pretend that. But I think it comes close enough to the risks that we face with respect to budget policy, tax policy, and economic policy so that we ought to look at it, modifying it in such ways as our own individual judgment suggests. If you think the underlying assumptions about inflation and unemployment are off, make your adjustments.

If you think that the Congress can cut current spending, and will, then adjust that figure accordingly. If you think that Congress will not yield to the temptation to respond to surges of emotion and pressure from our constituents for new spending, whatever our good intentions, then discount.

But if you want to look at the experience of the last 6 years, Mr. President, and the analyses that we have available to us now that we did not have available to us 6 years ago—from excellent people, the Congressional Budget Office and the Budget Committees—these analyses are important enough, are significant enough, are relevant enough, so that all of us ought to take them into account. That is all I ask.

The budget process, in the last analysis, is a method for us to inform ourselves, as a Senate and as a Congress, on what is going on, what is happening, so that we can make wiser decisions. I present this only for information from a perspective which reflects some judgments I have already made personally, obviously; I cannot do otherwise. But if you change my assumptions or moderate those judgments and substitute your own, I think the picture is something like this. It cannot be dealt with easily.

We talked about the social security trust fund earlier. How much the picture on that has changed since we legislated the increase in the tax rates and the base—that was in 1977—how much that picture has changed, because inflation proved to be worse, not better, than we projected in 1977. I am projecting inflation at 6 percent, which is not much different from that 5.7 percent we predicted in 1977, and it turned out to be 13 percent.

So I say to my good friends in the Senate, I hope this is useful. I did not put it together to be alarmist. We tried to put it together as realistically as we could, and there are a lot of missing pieces of information that we shall get as the years unfold. But we have to make decisions before the years have unfolded.

Mr. SARBANES. Will the Senator yield for a question?

Mr. MUSKIE. Yes, I do yield.

Mr. SARBANES. Mr. President, first, I want to say I think the Senator from Maine the chairman of the Budget Committee, has done a distinct service to the Senate to place the consideration of this enormously important piece of legislation, with all the implications that it has for the future revenues of the Government, in the context of these projected future budget demands for the next decade. As he has pointed out, one may differ with the assumptions, accept them, or change them, but I cannot see any way of changing them in a realistic direction that gives one a more optimistic view. In fact, I think I would probably argue to the contrary, that changes that would probably be warranted would give an even more pessimistic view in terms of where we are going with the budget demand and, therefore, would draw an even stronger lesson with respect to what we perhaps should be doing with respect to this legislation.

On these assumptions, I want to be very clear: The inflation rate that is assumed throughout, I take it, is 6 percent, is that correct, if we wish to maintain——

Mr. MUSKIE. I wish to modify that, if I may. The projected inflation rate will decline to 6 percent by 1987. Obviously, that will not change overnight, so it sort of phases down. I could suggest several scenarios for the phase-down, simply for illustrative purposes, but it will not, unfortunately, be 6 percent here, 1983. It may not reach 6 percent until here, 1988.

Mr. SARBANES. What is the inflation rate being assumed in the first part of the 1980s?

Mr. MUSKIE. In the first 3 years, the assumptions are those underlying the second congressional budget resolution. The projected inflation rate is 7.9 percent in 1980, 8.5 percent in 1981, and 7.8 percent in 1982. One possible scenario thereafter is for the rate to drop to 7.1 percent in 1983, down to 6.8 percent in 1984, maybe rise to 7 percent in 1985, and down to 5.5 percent in 1986, because these cycles tend to be 3 or 4 years in length. Whereas, after the second concurrent budget resolution, we projected flat rates. In other words, we used a secular trend rather than a cyclical projection, because you cannot pinpoint the cycles and our current expansion is longer than the typical expansion. So, we just projected flat rates across the board.

Mr. SARBANES. The second assumption I wanted to ask about is the real growth in defense. Is that the 3-percent figure?

Mr. MUSKIE. It was 3 percent in 1980, 5 percent in 1981 and 1982, as the Senate voted, and then 3 percent thereafter, a flat rate.

Mr. SARBANES. So that those Senators or any Senator who may seek a higher figure than those figures in real growth terms is, in effect, contributing to an increase in the deficit unless he takes a position on this windfall profit tax bill to bring higher revenues, finds some other tax source for higher revenues, or finds some expenditure program that can be cut. Otherwise, that position would contribute to an enlarged deficit. Would that not be the case?

Mr. MUSKIE. The Senator is correct and that is the corner into which each of us is being painted, whether our priority is defense, or programs for the aged or for the young, or whatever.

Mr. SARBANES. The same thing, of course, would be true in the health insurance field, because the Senator's assumption is limited there to catastrophic only and does not encompass the possibility, which many support, of a comprehensive national health insurance program.

Mr. MUSKIE. Exactly.

Mr. SARBANES. I thank the Senator.

Mr. President, I repeat what I said at the outset, that I think this exercise is enormously important in placing the consideration of this bill in a broader perspective. I think the Senator has brought that to the attention of the Senate so that none of us has the excuse later of looking back and saying, "Oh, if we had only had called to our attention then or pointed out what the implications of the decisions we were making were going to be."

As I understand it, earlier in the presentation, the point was made that the taxes raised by this bill, as reported by the Committee on Finance, as short as that falls of what the House has passed, but even in that limited version, the windfall profit tax produced by this bill are less than the total spending of the National Government from the founding of the Republic until 1939. Is that correct?

Mr. MUSKIE. It is about the same, I believe—roughly the same.

Mr. SARBANES. So that we are making some very fundamental decisions here today in terms of the future course of the whole range of national policy which is encompassed within the budget in terms of the expenditures and the revenues. Unwise decisions here will haunt us for years and years to come.

Again, I thank the Senator for bringing it so pointedly to our attention.

Mr. MUSKIE. I thank my good friend from Maryland.

Mr. President, I have tried to anticipate some questions that Members may ask concerning these charts, or the underlying assumptions. So I have three pages of questions and answers to those questions that Members might find of interest in reading the RECORD, as well as a more complete table which illustrates the results of the assumptions I have made. I ask unanimous consent that those talking points and the table be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPLEMENTARY TALKING POINTS ON ECONOMIC ASSUMPTIONS FOR THE 1980'S

I. Question. How do you justify the assumption of 9 percent average annual growth in nominal GNP from FY 1983 onwards?

Answer. This is a projection of a secular trend; the economy can be expected to cycle irregularly around it. The trend was built up as follows:

1. Labor force can be expected to grow at 1⅓ to 2 percent per year, productivity at 1½ to 2 percent per year and the length of the work week to decline by ⅓ percent per year. This implies growth of real GNP of 3 percent per year, consistent with a constant unemployment rate.

2. Inflation has been an increasingly serious problem for the U.S. economy as the JEC noted in its report last summer. But we have assumed that this situation does not deteriorate further. After the last episode of sharply increasing energy prices in 1973–75, the inflation rate fell back below the double-digit rate but enough inflation was built into expectations to hold the underlying rate of inflation to 6 percent or slightly higher for the 1975–77 period. We have assumed a repetition of that pattern that the current inflation rate (the GNP measure) can be brought down gradually from 9 percent over the past year to an average of 6 percent for most of the coming decade.

3. Three percent real growth and 6 percent inflation implies 9 percent growth of nominal GNP.

4. Unemployment is projected in the Budget Resolution to average 6½ percent in fiscal 1982. Because we are projecting real growth after that time equal to "potential" growth, we are assuming that the unemployment rate will average 6½ percent through the rest of the decade. That is pessimistic. If we can make progress in curing our structural labor market problems we could achieve a lower unemployment rate without worse inflation. A rate of 5 or 5½ percent might be the right number. That could imply reducing the budget deficits shown on the charts by about $25 billion in the latter half of the decade—so the "current policy" ("budget keeps up with inflation") budget would come into balance in 1985 rather than 1987. That is the most significant effect of alternative plausible assumptions on the story about budget deficits.

II. Question. If a 5 percent unemployment rate is a better target for the 1980's, how might it be achieved?

Answer. If the private economy is strong—strength in investment more like the 1960's, continued strong consumer spending, improved exports and only infrequent and mild recessions—the unemployment rate could be reduced and the budget deficits would be about $25 billion lower as noted above. But, if the private economy were weaker, it might require fiscal stimulus to keep the unemployment rate declining to reach and then sustain the 5 percent target. In that case, deficits would be as large or larger than those shown in the "budget keeps up with inflation" line.

III. Question. Suppose inflation remains worse than the average of 6 percent that is projected. How would that affect the budget projections?

Answer. Higher inflation adds both to outlays and to revenues—but the effect on revenues is larger. If inflation were to be 1 percentage point higher than assumed, the budget deficit by 1987 would normally be about $25 billion lower. This implies that the deficits for 1986 and 1987 in the "budget keeps up with inflation" line would tend to disappear. But we must remember that inflation puts extra demands on the budget when we are committed to real growth in defense spending. So we would not have much budget margin in those years even with higher revenues.

IV. Question. Suppose we have a tax cut in 1980 or 1981, in contrast to the assumptions in the Budget Resolution. How would that affect the outlook for the decade?

Answer. Tax cuts in 1980 would be most likely to occur—and only be warranted if—the economy deteriorates. The combination of a weaker economy and a tax cut would almost certainly destroy the prospects for a balanced budget in fiscal 1981. (Even with our current assumptions, we only have room to cut taxes by about $10 billion in FY 1980 without causing a deficit in 1981.) Assuming a reasonable recovery, however, the picture for 1982 and later years would not change perceptably. We are already assuming a $55 billion tax cut in FY 1982 and we would be simply advancing the date of part of that tax cut.

If taxes are cut in FY 1981, to offset the fiscal drag in that year from inflation and social security tax increases, we would have a smaller surplus or a deficit in that year but the budget picture might be slightly better later in the decade because we would get unemployment to a somewhat lower level sooner. The effect on the out-years might be to lower the deficit (or raise the surplus) by about $20 billion.

The basic story is unchanged: only reasonable economic strength, restraint on budget outlays and a reasonable contribution from windfall profit tax revenues will achieve and maintain budget balance in the mid-1980's in view of foreseeable budget demands.

V. Question. If 9 percent nominal GNP growth is a reasonable GNP projection before the windfall profit tax, is it not the case that the tax will reduce GNP growth?

Answer. That would be true for most taxes. But in the case of the windfall profit tax several things need to be noted:

1. We cannot consider the windfall profit tax, oil price decontrol and spending the proceeds of the windfall profit tax separately. They are a package. And, as a package, they are likely to have a small net simulative effect.

2. This effect does depend on structuring the tax so as not to destroy investment incentives. That can be done. Given such a tax—through which we can recycle the higher oil company revenues—and given a gradual increase in domestic oil supplies, as a result of decontrol, real GNP should be higher later in the decade than without the total program.

3. But, note that this does not happen right away. Decontrol and OPEC prices put a drain on the economy now and at least through 1980, with or without the windfall profit tax.

ASSUMPTIONS UNDERLYING "BUDGET DEMANDS FOR THE 1980'S"

[Dollars in billions; fiscal years]

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	Average, 1983–90 (percent)
Nominal GNP	[1] 2,500	[1] 2,806	[1] 3,177	3,463	3,774	4,114	4,484	4,888	5,328	5,807	6,330	
Percent growth	9.1	12.2	13.2	9.0	9.0	9.0	9.0	9.0	9.0	9.0	9.0	
Revenues excluding windfall tax	515	603	658	710	774	823	897	953	1,039	1,132	1,234	
Percent of GNP	20.6	12.5	20.8	20.5	20.5	20.0	20.0	19.5	19.5	19.5	19.5	
Windfall-Finance bill	1	7	12	12	11	10	10	9	8	7	6	
Revenues including windfall tax	[2] 516	[2] 610	[2] 670	722	785	833	907	962	1,047	1,139	1,240	
Outlays, current policy base	551	611	661	715	760	820	863	906	848	1,001	1,057	
Add for defense	(3)	5	11	17	25	33	42	52	65	79	94	
Add for energy	2	5	6	6	6	5	5	6	6	6	6	
Add for welfare reform	(*)	1	3	4	4	4	5	5	5	6	7	
Add for catastrophic	(*)	6	7	7	8	9	10	11	12	13	14	
Outlays, current policy plus adj	553	629	688	749	803	871	925	980	1,036	1,105	1,178	
Outlays, 70's growth [4]	551	627	696	772	842	932	1,009	1,088	1,170	1,271	1,378	
Memorandum:												
Inflation (deflator, year to year), percent [1]	9.1	8.5	7.8	7.1	6.8	7.0	5.5	5.0	4.9	5.4	5.4	6
Unemployment rate, percent [1]	7.2	7.1	6.5	6.8	7.1	7.4	7.2	6.8	6.4	6.2	6.0	6½
Real growth rate, percent [1]	0	3.5	5.0	1.8	2.1	1.9	3.3	3.8	3.9	3.4	3.4	3

Underlies resolution (1980–1982)

One of the possible paths around the trend (1983–1990)

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[1] Base line assumptions in the budget resolution; transition to the trend assumption might entail a period of above trend growth in nominal GNP followed by a period below it, or a gradual decline in inflation accompanied by another transitory phase of slow growth and rising unemployment.

[2] Revenues in budget resolution adjusted to assume Finance Committee windfall profit bill.

[3] Assumed in base.

[4] Growth at an average annual rate 2.6 percent faster than in the current policy base, commensurate with growth of actual outlays in the last decade 2.6 percent faster than the combined rate of inflation and population growth.

Mr. MUSKIE. Mr. President, I thank my colleagues for their attention. I know this is not a pleasant subject, but I take my children aside from time to time and try to lay out similar charts with respect to our household finances. Not that I would be inclined to compare the Senators with my children but my children are just as irresponsible as some of my colleagues are from time to time.

Mr. MATSUNAGA. Will the Senator yield?

Mr. MUSKIE. Yes, I yield to my good friend from Hawaii.

Mr. MATSUNAGA. Mr. President, I join the Senator from Maryland in commending the Senator from Maine for his excellent presentation and for giving fair warning to the Senators as to the budget situation in the 10 years ahead of us. As a member of the Committee on Finance, I must say the forecasts in the Senator's charts overlook the chief objective the Finance Committee had in mind; the Finance Committee in drafting the crude oil windfall profit tax bill sought to meet the current and the projected energy shortage in the next decade. The bill encompasses the incentives which the committee members believe would bring about greater production of alternative sources of energy, and end our dependence on foreign oil.

If this objective is achieved, the budget projections will certainly improve. So, while it appears in the Senator's charts that a calamitous budget situation may occur in 10 years, perhaps as the years go by, as the Senator noted in his excellent statement, things may change for the better.

It is my hope as a member of the Finance Committee that once we cope with the energy crisis, the general economic conditions will improve. Things will look brighter. Then as the situation unfolds in the next several years, we can devise or find other solutions to meet the budget situation.

I once again wish to thank the Senator from Maine for his excellent presentation. His presentation made me feel as though I were back in school.

I do appreciate the great effort he has made in presenting his budget forecasts for the edification of Senators who are not members of the Budget Committee.

Mr. MUSKIE. I thank my good friend from Hawaii.

Speaking of going to school again, for a year when I was taking the bar examination in Massachusetts and Maine, I taught as a substitute teacher in the schools of my hometown as I read the law.

It got so I taught every day without knowing what the subject was until breakfast that morning.

I remember teaching in junior high school a class in American history. After a couple of days, I gave them an examination. Virtually all of them failed.

I confessed my disappointment to them and suggested that perhaps it was due to my inadequacy as a teacher. So I told them that I would give them exactly the same test 2 days later and I would give them the higher of the two marks.

Well, almost 50 percent of them failed the second time.

I hope that what I have had to say is not too much like my teaching experience.

I concede that things can change. But the limits within which we can expect change without making policy designed to create the kind of change that circumstances may require is like wishful thinking.

I do not question the thoroughness and the thoughtfulness and the commitment of the members of the Finance Committee. I do not envy them their job. I watched from the sidelines as they went through the exercise of writing this bill. It was a monumental bill. It required monumental effort to put it together. So I do not challenge that at all.

As a matter of fact, it was not until

we prepared this analysis, once the Finance Committee completed its work, that we were able to see it in this perspective. I did not have this perspective as they were proceeding through their exercise.

I am not saying this is the ideal revenue bill within which to meet the budget demands of the 1980's. But it happens to be the one that is before us.

I cannot foresee another major revenue raising bill coming before the Congress in the next 10 years, once we have completed this one with whatever result. I cannot see the economy escalating its strength to the point where a stronger economy would serve some of these requirements. I just do not see those kinds of changes. I would like to see them come about. I would like to see them happen.

I would like to go to bed at night and hope the good Lord will find a way we have not been able to find to solve these problems.

We have been looking at social security. We expected when we acted on that bill in 1977 that we were taking care of that problem until the turn of the century. Now we are beginning to wonder whether we did. And, if we did not, the options left to us for dealing with that problem—which I do not even reflect in these charts—are pretty limited.

The longer we postpone the day of reckoning, the tougher will the problem become, not the easier.

We have had a bad decade, and my good friend from Hawaii knows the bad news in our political system of one kind or another. We like to think the Sun ought to come up bright, without a cloud in the sky, one of these mornings.

But these are real problems. They may differ in detail as the years come upon us, but I think this is a fair reflection of what we ought to be guarding against to the extent we can.

I am not against being optimistic. I am certainly not going to judge my colleagues in the Senate on any moral grounds with respect to our votes on the pending bill. Each of us will make his own decision. But I do not think we can ignore this analysis.

Mr. President, I yield to my good friend from Wyoming.

Mr. WALLOP. I thank my colleague from Maine.

Mr. President, I would first like to ask a question, regarding the revenue projections provided on the middle line on the right-hand chart. Does the Budget Committee include in those revenue projections the anticipated increases from the corporate and personal income taxes as a result of decontrol?

I ask this because those are very substantial revenues and they are similar to estimates I saw earlier that did not include it.

Mr. MUSKIE. Yes they do. The revenue projections reflect the policy assumptions I have already described and, in addition, the economic assumptions I have described. To the extent inflation drives up revenue, as we assume it will in the early years of that decade, that is reflected here.

At the same time, the policy decision to reduce revenues as a portion of GNP is also implemented.

Mr. WALLOP. I understand that. One of the items the Finance Committee was looking at was a side-by-side comparison of not only windfall profit revenue, but the increase in revenues that were attendant solely to decontrol.

The reason I ask is because those figures look quite similar to those I saw that did not include those rather substantial increases in net income tax revenues to the Treasury resulting from decontrol.

Mr. MUSKIE. These figures do include those increases. I would be glad to take a look at the side-by-side comparisons to which the Senator refers.

Mr. WALLOP. I think it might be interesting for all of us.

I appreciate very much the pattern of information which the Senator has provided. I think he would agree with me that any projections 10 years outward are a bit like looking at Merlin's crystal ball.

The pattern, I understand, particularly the bottom line on the left-hand chart, is perhaps the most predictable line of all of them because it displays a known pattern of congressional spending behavior. Congressional spending is probably less subject to change than is the economy in a variety of circumstances.

Mr. MUSKIE. Having lived through this particular year, I say to my good friend, when the economic picture in September, at the time of the second budget resolution, was so much different than that on May 15, at the time of the first budget resolution, I am not one to underestimate this pattern.

Mr. WALLOP. I was simply suggesting that one of the arguments that keeps coming to the fore is the so-called $938 billion of official revenue.

One of the misassumptions in the joint tax revenue proposals is that there is going to be only $87 billion of cost of production, which is subtracted from the nearly $1 trillion worth of increased production. Anybody who knows anything about the oil business would know that that was an extraordinarily absurd figure. In fact, undoubtedly, it could not be justified.

The problem comes from taking present costs of producing energy and projecting that through the next 10 years, as though decontrol had no effect on the cost of producing energy. It is going to cost more to produce as they pay more for their barrels of diesel to run their drilling rigs and more for electricity and more for transportation in and out of the oil fields; $87 billion out of $1 trillion is a rather modest cost of production figure.

I suggest that the true cost of production was overlooked in those figures.

Mr. MUSKIE. The $87 billion figure, I understand, was a JCT figure and not a CBO figure.

Mr. WALLOP. I did not hear that.

Mr. MUSKIE. I understand that the $87 billion figure on the cost of producing this oil is a JCT figure.

Mr. WALLOP. It is.

Mr. MUSKIE. It is not a CBO figure.

Mr. WALLOP. No, it is not a CBO figure. But the nearly trillion dollars in induced profits that everybody is talking about, which comes as a result of decontrol and which is or is not going to be taxed, depending on the points of view, is nearly a trillion dollars worth of new money. I am sure nobody would have trouble finding investors to invest at those odds.

I am saying that one of the assumptions as to the amount of money that it is going to cost the companies as they produce more oil as a result of decontrol is fallacious—how fallacious, the Senator from Maine and I and the Joint Tax Committee could argue. But certainly nobody would believe that is less than I suggest. The increased cost of production is probably closer to a couple of hundred billion dollars, not $87 billion.

Mr. MUSKIE. Yes. Of course, there are other variables.

Mr. WALLOP. There are. That is why I am saying that the whole business of looking at 10-year projections is a shaky proposition.

Mr. MUSKIE. As the Senator knows, if we were to conclude that because there are many variables, we should make no effort at this kind of projection, we would be doing ourselves a disservice. I think the Senator is raising legitimate questions.

Mr. WALLOP. The point I am making is that the picture may not be as dark and gloomy as it is sometimes painted.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. WALLOP. I yield.

Mr. SARBANES. I want to make sure that I follow this.

Even conceding the point the Senator from Wyoming is making—and it has an air of reasonableness to it—I do not see what effect that has upon the analysis he has just been given.

Mr. WALLOP. It has an effect on what preceded the analysis, in terms of what the Finance Committee bill sought to do.

I quote Senator RIBICOFF yesterday in his eloquent defense against the Bentsent amendment, in which he said that the Finance Committee never viewed this bill as a revenue-raising measure but as an energy measure. I think that was a responsible way to proceed, because both Secretaries of the Treasury who testified said the same thing, as have both Secretaries of Energy and as has the President.

I am pointing out that the trillion dollar figure that is widely trumpeted so evil is not going to be the figure that accrues to the oil companies.

Mr. SARBANES. I have listened to this exchange, and I have not heard the trillion dollar figure used at any point with respect to the presentation we have just heard. That is what I do not understand about the point the Senator is trying to make now.

Mr. WALLOP. Had the Senator been here all during the exchange, he would have heard all that preceded this. The Senator from Maine was describing these profits in terms of unfathomable riches. I believe he used the figure $900 billion.

Mr. MUSKIE. No. The figure I used was $830 billion.

Mr. WALLOP. Bringing out the point that projections to 1990 are too far out——

Mr. SARBANES. The Senator's point, as I understand it, is that he takes the trillion dollar figure and subtracts from it not $87 billion, which the presentation has done, but, as I understood him to say a moment ago, $200 billion

Mr. WALLOP. $938 billion in the joint tax figure.

Mr. SARBANES. The point is that the companies will have $700 billion, rather than $900 billion.

Mr. WALLOP. That is not true. That is the reason why I questioned the middle line there.

It is not as though that money is going to go untaxed into the pockets of the oil companies. There are corporate income taxes, plus whatever amount of windfall profit tax Congress ultimately elects. So it is not all going to go into their pockets.

It is a tax ultimately that the public is going to pay, whether it is the production tax or as a crude oil tax.

If it is used to finance, as one sentence the Senator from Maine suggested we are going to do, a national health bill, the public is going to pay that, through a sacrifice in its ability to find energy. It is the public's money, and the public is entitled to some kind of decision on how it should be raised.

Mr. MUSKIE. If there is no tax bill at all, the public still is going to pay the same price with decontrol.

Mr. WALLOP. That is true.

Mr. MUSKIE. That is an important point.

Mr. WALLOP. It is an important point, and I do not deny it.

Mr. MUSKIE. The fact is that if the tax does not produce as much as we projected here because the cost of producing it is more than somebody has assumed, then the deficit is going to be larger, not smaller.

Mr. WALLOP. Nevertheless, if the surplus is used to fund national health, as the Senator suggested might be an obligation, the public is entitled to know that it is paying for that, not a few oil companies.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. WALLOP. I will yield after I make this point. The point has to do with production response.

Mr. MUSKIE. The Senator is speaking on my time, which is fine.

I did not suggest that health insurance should be an obligation imposed on the windfall profit tax. What I said was that the catastrophic health insurance bill is being marked up in the Finance Committee, and it looks as though it is going to be enacted.

Therefore, in projecting outlays for the decade, I simply included an assumption that catastrophic health insurance would be enacted. I did not say that, therefore, it should be paid out of this bill. As a matter of fact, the whole thrust of this presentation is that it cannot be paid out of this bill.

The Senator from Wyoming has taken what was an analytical statement to assert that I have said that health insurance should be a charge on the windfall profit tax.

Mr. WALLOP. I did not charge that the Senator from Maine said that. I am simply saying that this is a tax; and if it were used to fund something such as the Senator from Maine obliquely suggested was going to be one of the things to be considered, the public is entitled to know that it is paying that, on the back of less energy, because there is a response attendant to it.

I am not suggesting for a moment that there be no windfall profit tax. I make that clear.

Mr. SARBANES. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

Mr. SARBANES. Mr. President, I think this is very important, in light of the point which has just been made by the distinguished Senator from Wyoming.

I ask unanimous consent to have printed in the RECORD an excerpt from an article published in U.S. News & World Report of November 5, 1979, entitled "Branching Out—The Oil Empires; Ten Oil Firms and How They're Diversified." It sets out the investments being made by major oil companies in non-oil-related fields.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BRANCHING OUT—THE OIL EMPIRES

Ten oil firms and how they're diversified—

EXXON CORPORATION

Coal—Carter Mining and Monterey Coal.
Uranium, copper, zinc—Exxon Minerals.
Solar energy—Solar Power, Daystar.
Electric motors—Reliance Electric.
Information systems—Vydec Qwip Systems.
Graphic fibers—Graftex.
Real estate—Friendswood Development.

MOBIL CORPORATION

Coal—Mount Olive & Staunton Coal.
Retailing—Montgomery Ward.
Packaging—Container Corporation of America.
Solar energy—Mobil Tyco.
Real estate—Reston Development.
Printing—W. F. Hall.

TEXACO, INC.

Coal, uranium, real estate—Texaco Ventures.

STANDARD OIL OF CALIFORNIA

Coal, uranium, geothermal—Chevron Resources.
Minerals—American Gilsonite (50 percent interest).
Coal—AMAX (20 percent).
Synthetic fibers—Vectra.

GULF OIL CORPORATION

Coal—Pittsburg & Midway Coal Mining.
Uranium, chemicals—Harshaw Chemical; Millmaster Onyx.
Shipping—American Heavy Lift Shipping (75 percent).
Hardware—Hutchinson-Hayes International.

STANDARD OIL (INDIANA)

Copper—Cyprus Mines.
Solar energy—Solarex (20 percent).
Computer circuits—Analog Devices (15 percent).

ATLANTIC RICHFIELD

Coal, copper, aluminum—Anaconda.
Solar energy—Northrup and ARCO Solar.
Publishing—The Observer (Britain).

SHELL OIL COMPANY

Coal—Seaway Coal.

CONOCO, INC.

Coal—Consolidation Coal.

SUN COMPANY

Coal—Elk River Resources.
Health care—Becton, Dickinson (34 percent).
Shipbuilding—Sun Shipbuilding & Dry Dock.
Real estate—Radnor.
Trucking—St. Johnsbury Trucking; Milne Truck Lines.
Food stores—Stop-N-Go and Mr. Zip.
Electronics—Audio Magnetics.
Data processing—Applied Financial Systems.

Mr. WALLOP. One of the comments made by the Senator was that the Finance Committee chose to forego revenues the House had raised. I again point out that the House, in their assumptions, thought that they had, knew that they had, boasted that they had, and were praised for having raised $105 billion. That is what they assumed and thought they had passed.

It is something of a distortion now to say that they thought they passed a $278 billion bill, because they did not. They did not make the same assumptions as to the price of energy and oil that the Finance Committee made. The Finance Committee assumed that it had a bill of some $35 billion more than did the House.

So to go back and to lay our assumptions on the House of Representatives at the time they passed theirs is probably to distort what was on their minds.

Mr. MUSKIE. I do not think I presume to try to read what was in the mind of the House of Representatives when they passed the tax bill. I find it difficult enough to read their minds when in budget conference with them.

Mr. WALLOP. I understand that. I am simply saying on behalf of the Finance Committee we did not choose to forego revenue that the House thought it had raised. We in fact raised more revenue than they did and knew that we had.

Mr. MUSKIE. If the Senator will yield, I really did not intend nor do I intend to address accusations at the Finance Committee. All I was trying to do was present the revenue implications today of the Finance Committee bill and of the bill the House of Representatives passed, whatever the House of Representatives may have thought it was passing at the time, or whatever the Finance Committee thought it was passing at the time. All I am trying to do is give the Senate the benefit of the best estimates available to us today. The House bill may have some other shortcomings as the tax bill.

Mr. WALLOP. I understand that. All I say is the House did not think it passed a $278 billion bill.

The only other point that I make is that, and I can understand why, viewing the CBO study—Senator PACKWOOD and others have done the same thing—it was to raise the extraordinary amount of dollars per barrel by what has been done today. It overlooks one paragraph in the CBO study which I think is important. After having produced the production response which everyone quotes and divides into the billions of dollars and says it is going to cost us $50 to $80 to $133 a barrel, they say in that study at page 25 and 26:

> Yet it would be incorrect to derive a figure for barrels sacrificed per dollar of tax raised from this cumulative production number. This is because many of the investments that producer revenues from decontrol will finance will be producing considerably beyond the 1980–1990 period.

In other words, what they are talking about in addition to achieving production we also achieve reserves which will benefit the country.

Mr. President, I ask unanimous consent that an analysis of the CBO study on how that oil will probably cost us in the neighborhood of $13.50 or $14.50 a barrel be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

Response to Argument That New Oil Produced from a Lower Windfall Tax Would Cost $133 a Barrel

(1) It has been argued that the difference between the House and Senate windfall taxes between 1980 and 1990 would be $135 billion, but that the resulting difference in 1990 oil production, according to the CBO, would be but 550,000 b/d. By one calculation, this means that it would "cost" $135 billion to achieve this 1990 550,000 b/d, and this would work out to $133 a barrel.

(2) The above argument and analysis involves a comparison of total windfall tax differences to differences in daily rates of production over the 1980–1990 period.

(3) The proponents of this argument have used the production and revenue estimates contained in the CBO report entitled, "The Windfall Profits Tax: A Comparative Analysis of Two Bills."

(4) In borrowing from the CBO study, they have applied the figures improperly and have failed to take into account CBO's comments at page 25–26 of the same report that such a comparison would be "misleading." The Report elaborates:

"Yet it would be incorrect to derive a figure for 'barrels sacrificed per dollar of tax raised' from this cumulative production number. This is because many of the investments that producer revenues from decontrol will finance will be producing considerably beyond the 1980–1990 period."

(5) Thus the same CBO study correctly contends that a more proper comparison would be between total windfall tax differences and differences between total new oil reserves added. However, CBO did not undertake the more valid comparison in its own study.

(6) If the extremely conservative CBO cumulative production estimates are used and reserve additions are taken into account, the "$133/barrel" cost estimates is reduced to about $45/barrel (approaching current world spot market prices and the cost of substitute energy supplies).

(7) When using the CBO study in this manner, however, it must be recognized that CBO's production estimates are the lowest of all predictions of supply response.

Mr. WALLOP. For example—

The petroleum industry estimates that by the mid-late 1980's the difference in supplies between the House and Finance Committee's bills would be 1.1 million barrels per day rather than 550,000 barrels per day under the CBO study. If this supply estimate is used, the "cost" of the Finance Committee bill is further reduced to about $14.50/barrel—well below the cost of alternative supplies, imported or domestic.

Another recent study by Peat Marwick Mitchell & Co. for the Domestic Petroleum Council estimated that the exemption of newly discovered oil alone from a windfall tax would result in the addition of up to 7 billion barrels of oil reserves between 1980 and 1990. Since the Senate version of the tax differs in other respects from the House version as well, the total difference in addition to reserves presumably would be higher than this figure. Were the total net addition to reserves from the Senate version as opposed to the House no higher than 10 billion barrels, however, the tax expenditure per barrel would be only $13.50.

(7) A relevant calculation must take account of gains as well as costs. Even using the CBO's 550,000 b/d difference for 1990 the effect on world oil prices and hence for U.S. consumers could be substantial. Recent experience suggests that reductions in world oil supplies of perhaps 2 million barrels/day can result in price increases of $10/barrel or more. If a 500,000 b/d change in U.S. production reduces world prices by, say, $2.50/bbl below what they otherwise would be, the daily saving to U.S. oil consumers would be $45 million (18 million b/d x $2.50/bbl) and the annual saving about $16½ billion in $1979.

(8) Using differences in production estimates between the Senate and House versions given in the CBO study and using a 7%/yr. inflation factor (to yield numbers comparable to the $135 billion figure), the savings to U.S. consumers between 1980 and 1990 alone from this consideration would be $171 billion. Further savings would accrue from production differences in the 1990's (in the CBO study the production differences grow over time and peak in 1990), and no account is taken in the numbers from savings to consumers in other countries.

Mr. MUSKIE. I say to the Senator on that point, our figures here allowed 40 percent growth in incremental production after 1990 for the very reason the Senator has cited.

Mr. WALLOP. True. The point I am making is that, in addition to production, we also achieve reserves, and that is something that none of these studies have looked at as the other benefit from decontrol and a reasonable tax.

As the price of energy goes up, the conservation incentives will be there economically of and by themselves without assistance from Congress, though I dare say we will maintain those incentives to accelerate the process. As the price of energy goes up, the production incentives of synthetic fuels will exist of and by themselves on an economic basis. In fact they are there now.

I had a visit in my office from a gentleman whose company is going to build a methanol plant in southeastern Wyoming. This company is looking for no price guarantees. They figure the economics are guaranteed by existing conditions. They are looking only for loan assurances.

All I am saying is even though those economics arrive in the picture I daresay we will sustain our incentives to get into synthetic fuels, to increase our conservation and to increase a number of other energy production programs as we should. I have no quarrel with that. But the one area where the pinch is likely to come in the early 1980's is in the production of the one fuel we use now and will be using on into the year 2000, and that is oil and natural gas. If we adopted the House-passed version of the tax in addition to the corporate and personal income taxes we will leave only about 7 percent of all the revenues companies collect to be reinvested. As their expenses increase with the price of energy increasing we will put that squeeze to a point where the Nation will be down 2 or 3 percent. Ultimately we will be driving ourselves out of any chance to sustain an even transition to other kinds of fuel we all know is going to take place.

I compliment the Senator on all those. All our projections are a little bit of wizardry. We hope that the most conservative in cost and most optimistic in revenues will all come out. But I think Congress will have ample time to make adjustments in all those taxes and expenditures to achieve, I hope before 1986–87, the balanced budget we so earnestly desire.

Mr. MUSKIE. Is the Senator suggesting we should now settle for a balanced budget for the first time in 1987?

Mr. WALLOP. No; I am suggesting, as I said, that I hope we achieve that a good deal sooner than that.

Mr. MUSKIE. I wish we could write budgets on hope. Certainly hope is not irrelevant.

In any case, Mr. President, I have described the purpose of this presentation, and at this point I yield the floor.

The PRESIDING OFFICER (Mr. Nunn). The Senator from Oklahoma.

Mr. BELLMON. Mr. President, today, as he has done on so many occasions in the past, Senator Muskie is doing a great service for the Senate by reminding us of the huge fiscal and budget pressures which lie ahead of us if we are to balance the budget as we hope and plan to do.

Normally, I join in support of my distinguished colleague, Senator Muskie, on budget matters, but on the proposition that we must balance our Federal budget by sharply increasing taxes on our domestic energy industry, I rise to take strong exception. The so-called windfall profit tax bill now before the Senate is not primarily a budget issue, and I feel should not be debated on that basis. Rather it cuts to the heart of our national energy policy and the relative roles of Government versus the private sector in providing for our future energy needs.

Mr. President, if we are to become relatively independent of imported crude oil we need to increase domestic production of oil by some 8 million barrels a day based upon current use.

I had the opportunity, along with the Senator from New Mexico, to travel to Fort McMurray in Alberta, Canada, a few weeks ago to look at a syncrude plant there that produces 1,000 barrels of oil a day from tar sands. A plant like that now built in this country could cost some $5 or $6 billion. We need 80 of those plants to produce 8 million barrels a day. So it is going to take an enormous amount of capital. I am sure by the time those plants are built their cost will likely double. So we probably need in the range of a trillion dollars available to the private sector to build the kind of energy-producing facilities it is going to take to make us independent.

I think what we are going to have to decide in this bill is whether or not we truly want the private sector to solve our energy crisis or whether we are going to continue the present heavy reliance on imported crude oil with all the dangers and all the pain that go with it. We are now going to be spending some $70 billion this year for imported crude oil and that figure will rise rapidly in future years until we do succeed in expanding our domestic production.

First, I wish to try to dispel what I believe to be a very misleading notion. This so-called windfall profit tax is not a tax on profits at all. I hope Members of the Senate can understand that. It is a tax on revenues.

A producer of oil could very well pay a heavy tax and actually lose money and have no profits of any kind. This is a tax on increased revenues.

I prefer to label this tax a domestic crude oil excise tax. It does not do anything to profits that are made on production abroad. It is only a tax on revenues generated by domestic crude oil production.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. BELLMON. I am glad to yield.

Mr. LONG. One should keep in mind even though this tax is to a considerable degree an excise tax, it is a tax that falls on the producers because the market price of the energy is held in line by the world prices and by other competitive factors. So this is a tax that is absorbed by the producer. It is not a tax on the consumer. To the extent that we put this tax on the producer, he has just that much less money available to go out and develop more energy.

Mr. BELLMON. Mr. President, I am happy to amend my label to make it read "a producer's domestic crude oil excise tax." I think that gets to the point the Senator from Louisiana was making.

This label I think more accurately describes what Congress is doing by setting up such a tax which is not adjusted for increased operating costs, and we all know those costs are going to rise year after year just as they have done in the recent past.

In effect, this tax represents an additional cost that producers must pay before additional investments can be made to increase domestic energy production.

That is the point I think we have to keep in mind, Mr. President. What we are doing here is taking away investment capital that the industry would otherwise be using to increase our domestic production and make us less dependent on imports.

However, regardless of my personal views on the advisability of such a tax, the issue at hand is first and foremost an energy issue. We are not debating here whether or not there should be a domestic crude oil excise tax. What we are debating is the form that the tax should take and I believe, in that regard, to suggest that the highest tax is the best policy is simply incorrect. Each Senator must examine the relationship of this proposed legislation to our energy problem—which is highly complex—and distinguish "productive" and "nonproductive" actions in terms of the effect of these various taxing measures on our domestic energy production capacity and not in terms of how much revenue is gained or lost. This is not, as I have said before, primarily a revenue bill. It is an energy bill. For instance, Mr. President, a tax on gasoline would have the effect of encouraging conservation and could generate as much revenue as needed to balance the budget. So we do not have to look upon this as the only vehicle available if balancing the budget is our goal.

Under decontrol with no such excise tax, domestic production would probably rise between 1.2 million and 4 million barrels per day by 1990, depending upon which estimates are used.

Mr. President, let me say that again. Without an excise tax and with decontrol we could anticipate domestic oil production to rise somewhere between 1.2 million and 4 million barrels per day by 1990. The effect of the tax imposed by the House bill, which would raise $276 billion in revenues would be to reduce this additional production by 75 percent compared to what would have occurred if the effects of decontrol were unimpeded by the tax. The choice that the Senate must make is not simply whether it wants $276 billion in revenues but more importantly whether it is willing to forego millions of barrels per day of additional domestic oil production.

The Senate Finance Committee bill clearly comes down on the side of additional oil rather than maximum revenue. The pending bill provides exemptions and production incentives which would raise domestic production at least 900,000 barrels per day above the House bill.

The most substantial difference between the House and Senate versions is the Senate exemption for newly discovered oil. This exemption reduces the revenue for the House bill by $71 billion between 1980 and 1990 which is over half of the revenue difference between the two bills.

There are several important reasons why the Senate Finance Committee's decision to exempt new oil is a wise one. First, newly discovered oil was not produced under price controls so there is no so-called windfall. Second, the exemption will encourage more new discoveries, the majority of which are made by 12,000 independent producers. These are the same producers who put 100 percent or more of their profits into more oil production. Third, the exemption will increase the production of newly discovered oil by at least 285,000 barrels per day above the House bill by 1985. This is an important source of supply for the near term.

I understand that several amendments have been introduced to impose a minimum tax on newly discovered oil. I hope that the Senate will base its decision on this issue on the relative benefit to our citizens of this additional oil of such a tax, rather than the revenue gain it promises.

There are innumerable means of increasing revenues without interfering with the Nation's efforts to solve the energy problem.

Senator MUSKIE has raised the issue of the relative "public" cost of incremental production obtained as a result of the Senate Finance Committee bill. This so-called public cost is based on the lost revenue which results from providing additional exemptions.

I find this calculation particularly disturbing because it presumes that oil companies revenues due to decontrol are public revenues and that a Government decision to allow the oil companies to retain these revenues is a public expenditure. Has the appetite of the Federal Government for new revenue sources become so voracious that we now define those resources that we do not tax a "public expenditure"?

I find that to be a very distressing assumption.

But definition aside, let us look at these public costs. Senator MUSKIE asserts that the "public" cost of the additional production obtained in the Finance Committee bill is $54 to $86 per barrel.

The Senator from Wyoming has already discussed that matter. What would have been the Senate's reaction, if it had used that criterion to judge the synfuels legislation which proposed to spend $13,000 per barrel of additional capacity through 1990? That is about what the costs of building synfuel plants are likely to be. Clearly, the long-term benefits in terms of alternative energy supply outweigh the reasonable costs of such a venture.

Mr. President, to keep the record straight, it is not fair to compare the $13,000 per barrel of additional capacity with the $54 to $86 per barrel of crude oil because that capacity will produce a barrel each day for an indefinite period, but it does show we are prepared to spend a very substantial amount of money to increase our domestic energy supply.

Mr. President what we face is the task of planning for our energy needs, not just in 1990 or the year 2000, but today, tomorrow, and next year, and, particularly during the next 10 years while synfuel production is gearing up and beginning to make a significant contribution. It is for that reason why it is so important we do all we can to strengthen the domestic and the traditional oil-producing capacity of the country.

The exemptions provided in the Senate Finance Committee bill accelerate production in the near term, while our economy is making the transition to greater conservation and alternative energy sources and until the other programs that the Senate has approved recently in S. 932 can have their effect. I would be most distressed if the Senate were to consciously limit the potential for additional crude oil supply in order to provide additional revenue for its general spending needs.

I share Senator MUSKIE's concern that the need for future-year tax reductions will place substantial stress on our fiscal resources and make budget balance difficult to attain and maintain. However, increasing the tax burden on the one industry in the economy that has the most substantial investment needs not only for crude oil production, but most importantly, for alternative energy development financing is not an effective means for achieving our budgetary goals. In fact, to the extent that we use the windfall profits tax to finance future personal tax reductions, we are syphoning from our reserve of investment dollars to provide for additional consumption. Too often in the past, we have adopted policies which stimulated "demand" at the expense of "investment" only to see such policies hurt savings, hurt productivity, and add to our inflationary problems.

In my judgment, we could make that same mistake here again. This is a policy to which I believe a majority of the Senate is opposed, and which I hope most of the Senators have found to be wrong.

Mr. President, I am strongly opposed to the Federal Government increasing its already large, and at times counterproductive, role in our economy. The synfuels legislation recently passed by the Senate provided for Government assistance to what was specifically designed to be a private sector effort to achieve energy self-sufficiency. The goal cannot be achieved if at the same time we cripple the ability of the private sector to acquire the capital necessary to undertake such an effort. To sum up, Mr. President, if more revenues are needed they should be generated by taxes on consumption and not by taxing away resources needed to increase domestic energy supply. I hope that my colleagues agree with me on this issue and will oppose efforts to increase the revenue gain from this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. JAVITS. Mr. President, will the Senator yield to me for the purpose of laying down an amendment which I do not intend to discuss now?

Mr. DOMENICI. I would be pleased to yield to the Senator.

AMENDMENT NO. 680 (AS MODIFIED)

(Purpose: To provide incentives to United States oil producers for international exploration)

Mr. JAVITS. Mr. President, I send amendment No. 680 as modified to the desk, and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself, Mr. PERCY, Mr. BRADLEY, Mr. KENNEDY, and Mr. STONE, proposes an amendment numbered 680, as modified.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 97, insert the following between lines 9 and 10:

SEC. 105. INTERNATIONAL OIL SUPPLY DIVERSIFICATION PROGRAM.

(a) INTERNATIONAL OIL SUPPLY DIVERSIFICATION PROGRAM.—The Secretary of the Treasury shall establish an International Oil Supply Diversification Program from the receipts of the tax imposed by section 4986 of the Internal Revenue Code of 1954 for the period beginning October 1, 1981, and ending September 30, 1990, in an amount not to exceed $1,000,000,000 in the aggregate.

(b) PROGRAM DESCRIPTION.—Amounts available to the Secretary of Energy shall be used (after consultation with the Secretary of the Treasury and the Secretary of State) to provide incentives to oil producers in the United States for the exploration and production of new oil outside the United States as defined in section 638 of the Internal Revenue Code of 1954 in areas not controlled by the Organization of Petroleum Exporting Countries member governments, with special priority given to developing countries as designated by the Secretary. The Secretary of State may designate nations in which projects shall not be eligible for funds from this program when he determines such designation to be in the national interest of the United States. Such incentives may only be offered where funds or incentives are otherwise unavailable to permit a project otherwise approved by the Secretary to proceed. Such incentives include, but are not limited to—

(1) the establishment of a supplemental insurance program with regard to losses due to political circumstances to be used in coordination with the insurance programs of the Overseas Private Investment Corporation,

(2) insurance against losses connected with exploration in high risk areas,

(3) loan guarantees for the costs of exploration in high risk areas.

(4) contributions to multilateral funds established by or in cooperation with international agencies of which the United States is a member, or

(5) purchase commitments for oil discovered and produced in high-risk areas.

All information gathered in projects financed with assistance under this section shall be available to the United States Geological Survey provided that proprietary rights with respect to the information can be protected.

(c) ASSESSMENT OF WORLD ENERGY RESOURCES.—Notwithstanding any other law, the United States Geological Survey shall conduct an assessment of world energy resources in areas other than the Soviet Union, countries which are members of the European Economic Community, and countries which are members of the Organization of Petroleum Exporting Countries. Such assessment shall give priority to oil and gas resources in underdeveloped countries. Such assessment shall be coordinated with the Secretary of Energy with regard to the Foreign Energy Source Assessment Program and title V of the Nuclear Non-Proliferation Act of 1978. Of the sums available under subsection (a), not less than the greater of $5,000,000 or 0.05 percent of any sums appropriated shall be designated for the purposes of this subsection. Such funds may be used in cooperative projects with governments of nations where such assessments are being conducted.

Mr. JAVITS. Mr. President, the amendment establishes an international oil supply diversification program in the office of the Secretary of Energy, which is to be financed from windfall profits tax revenues, subject to appropriations. This is an authorization.

Mr. President, existing U.S. and international programs lack resources to cover a wide enough geographic area and lack authority to offer coverage to insure broad enough spectrum of actual exploration and development costs. There now exists no mechanism with the flexibility nor the resources to do the job, and the purpose of my amendment is to fill that vacuum.

Mr. BRADLEY. Mr. President, I am pleased to be joined with the Senator from New York as a cosponsor of the amendment, and I look forward to debating the issue tomorrow.

Mr. JAVITS. Mr. President, I ask that the RECORD show that the cosponsors of this amendment are Senators PERCY, BRADLEY, KENNEDY, and STONE. Senator BRADLEY has just spoken.

I thank the Chair, and I thank the Senator from New Mexico very much for yielding.

Mr. DOMENICI. The Senator from New York is most welcome.

Mr. President, I wish that the Senator from Maine were present on the floor, but I have read most of his prepared text and listened as attentively as I could to his discussion here tonight, and I regret to say that I have been on the Budget Committee with him for 5 years, and I have generally agreed with the thrust that he has taken as chairman of the Budget Committee, but I must say that I am totally and absolutely amazed at the argument that he has made here today.

I really cannot believe that the chairman of the Senate Budget Committee, who has been to this floor time after time telling us we ought to tax less and spend less, is here tonight making the kind of statement and the kind of prediction which I believe is a prediction that spells out failure on the part of the budget process. He is predicting its failure here tonight, and I will read the statement that is absolutely amazing to the Senator from New Mexico. I think it summarizes his thesis. He said:

> Mr. President, we have mortgaged our future. Without a more productive windfall profits bill, we just cannot make the payments.

I really did not believe that the chairman of the Budget Committee, who has been on this floor year after year telling us that we have got to tighten our belts, we have got to spend less, comes here tonight because of an accident in history, the deregulation of crude oil.

I would ask him, if he were here, what would his prediction for the congressional budget process be if we had not deregulated crude oil? We would not have any of this windfall. He would be down here predicting that kind of future with no money to pay for it.

But today he is telling us, "Make the windfall profit tax productive." I have never even heard of a tax being called productive; but the windfall profit tax is not only going to balance the budget, but, I say to my good friend from Louisiana, it is a productive tax, it is going to get the budget, which we have not been able to balance in spite of our efforts, it is going to balance it, says the chairman of the Budget Committee.

He says, "Make sure it is as big as possible, and make sure it is here for the Government to spend."

Did he say "to produce energy"? No. He said because those red and white lines over there, the ones that might happen, might need this money.

I just cannot believe it. When I thought about our bringing a budget kind of thesis to the floor on the windfall profits tax, I might have expected the Budget Committee to recommend that every penny of the windfall profit tax be refunded to the American taxpayers. That would have been a tremendous budget approach. I thought maybe the Budget Committee would come down and recommend that every penny of it be used to defer social security payments.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. DOMENICI. Could I finish one thought? Well, I will be pleased to yield.

Mr. MUSKIE. I have to leave the floor and the Senator is quoting my statement, so I just wanted to make one thing clear, if he will yield just a moment.

Mr. DOMENICI. I yield.

Mr. MUSKIE. I did not speak today as the Budget Committee, or as the chairman of the Budget Committee. The Budget Committee has never held a meeting on these charts or on my interpretation of the charts. I have made no recommendations with respect to the pending bill. I might before I am through, but my only effort was to set what I perceived to be the budget context for the next 10 years, within which this or any other revenue-producing measure has to fall. If I have performed a disservice in undertaking to make that analysis, well, I am afraid I will not apologize for it, but at least I would like the Senator, who is my good friend, to understand what it is.

All the revenues may be turned back to the taxpayers; that is a permissible consequence, I suppose, of our deliberations. But as to these budgetary consequences, the Senator knows as well as I, when you are looking into the future you are dealing with uncertainties, whether you are a member of the Budget Committee or not. When I set out to make these projections, of course, I was reflecting uncertainties. But these projections also reflect some certainties, at least as of now. And that is the only function I seek to play here this afternoon.

I wanted to make that clear, because I do have to leave and I want the Senator to know I am not leaving because he is taking issue with me. He and I have disagreed before.

Mr. DOMENICI. I know you would not do that. I have so much to say to you that I am kind of glad you are going to leave, because I am afraid that when you hear what I have to say tonight, it seems that you and I get too excited; but I will address the matter with the same vigor as if you were here, Mr. Chairman.

Mr. MUSKIE. I do not know how the Senator can make up for the excitement of both of us. I suspect he can only carry his part of that burden.

I will read what the Senator says, with great interest. I hope there will be other occasions for the Senator and I to discuss these issues, along with other Senators, and I will be glad to do that independent of the pending legislation.

Mr. DOMENICI. Let me say once again, if I implied that you were here in an official capacity as chairman of the Budget Committee, that was my error. I have a great deal of difficulty, I say to my good friend from Maine, when you bring this kind of budget analysis to the Senate floor, in disassociating you from the number of years you have spent in that capacity.

Mr. MUSKIE. I am glad you have that difficulty.

Mr. DOMENICI. I know you have other capacities, one being that of the senior Senator from Maine, and that we listen to you in whichever capacity you appear; but I truly believe that the impact of your remarks here tonight on the institution of the Senate and on those who will receive your words beyond these halls cannot be disassociated from your expertise and leadership in budgetary matters.

Before you leave, I would also conclude that you might not have made up your official mind as to where you stand on this bill, but I conclude that you really believe that we have mortgaged our future, and that without a more productive windfall profit bill we just cannot make the payments. I believe that is what you said.

Mr. MUSKIE. That is what I said.

Mr. DOMENICI. It was with reference to that remark that I rose tonight to give my version of what we ought to be doing and where we ought to be standing if we are going to have a windfall profit bill.

Mr. MUSKIE. Will the Senator yield for just a moment?

Mr. DOMENICI. I am glad to.

Mr. MUSKIE. The Senator will perform a service by whatever he says, but in addition to whatever he has planned to say or whatever comes to him in the course of his present enthusiasm, I hope he would put in the RECORD his answer to these problems (indicating charts), and I will read it with interest, and may even be persuaded.

I am confronted with what I believe to be the case and we may well have before us the one major revenue bill that has a potential for meeting these problems without doing a couple of other things as alternatives. Alternatives such as cutting back current programs—which includes the 75 percent of uncontrollables, which includes social security, unemployment compensation, medicare, and all the others. If there is a way of doing this, and of restraining our senatorial instincts toward new and attractive spending proposals like the one we adopted earlier of a billion dollar setaside for railways—and we almost adopted $10 billion—if you can give me some other answer, I will look at it. I have been part of all these answers, trying to hold down spending, controlling new spending, trying to restrain, even allowing for discretionary inflation and all the rest, but if you can give me a better answer, I will look at it.

All I said today was that the only revenue measure I could see in the picture that would accommodate these uncertainties is the windfall profit tax. If there is another one that you foresee, and that will also take care of that social security problem that is coming along, I would like to know what it is. I have not heard it suggested.

I have heard some criticism, not so much of the analysis, but of my implication that this pending bill may be an important part of the answer. That seems to be resented and resisted. I do not object to the resentment or the resistance, but I do and will continue to insist that this problem has to be met somehow. We cannot wait until 1987. We already have a commitment in the name of the distinguished chairman of the Finance Committee to balance this budget in 1981.

What do you think of those prospects now? And the Senator from Wyoming says, "Well, maybe we could get it by 1987." I mean, I looked at those facts and I looked at them independent of the windfall profit tax. What do you do about it? That is all I am saying about those charts to the whole Senate. What do you do about it? What do you want to do about it? If you do not want to do anything about it with respect to the windfall profit tax, what are the options? What options do you want? I am just raising the questions.

Mr. DOMENICI. What time was the Senator's appointment?

Mr. MUSKIE. I am finished.

Mr. DOMENICI. Let me say to the Senator before he leaves, since he has——

Mr. MUSKIE. The Senator might provoke an answer.

Mr. DOMENICI. I will not answer the question the Senator has asked tonight. But I will answer it this way: I think it is an absolute mistake to say to a Federal Government that you and I both know has an insatiable appetite, which is represented by those charts—an insatiable appetite that you and I have been trying to say must be curtailed, that you and I have been saying will be curtailed—it is an absolute mistake to say, "We have a possibility to pay for that vociferous appetite, although we would never have passed a tax increase on the American people to pay for it because they are saying tax less, not more; they are saying less government, not more."

But if I read the message right, we are saying, "Here is the reserve." We are saying to you, Congress, "Curb that appetite. On the other hand, let us take this bill and dangle it up there for you. Because you have such a bad appetite, if you happen to take the bite, we are going to make sure you have the money for it." And I believe that is what you meant when you said——

Mr. MUSKIE. Will the Senator yield?

Mr. DOMENICI. In just a moment.

"Without a more productive windfall profit bill we just cannot make the payments." Now, I cannot read it any differently. Except I am going to say that I would have been much, much more happy about this process if we would not provide the out for that appetite and if we would call this tax a tax. Because a tax is a tax is a tax. And when you add it up, it is a tax on top of a tax.

I am not a constitutional balanced budget man. I am not one who reads too much into Proposition 13. But I thought we had about concluded around here that the time had come to say no to some programs we cannot afford that do not have any cost-benefit ratio, that are the dreams of people that want to throw a program at an American problem.

Having said that, it appears to me that we should not come down here and take the windfall profit tax and say, "Maximize it. That makes it productive. Maximize it." I do not think we should have come down here and said, "Do not use it, because we might need it for the very thing we have been saying we do not want for the future."

I know what the red and white lines are. I know what they are in the technical terms of the budget and I know what they represent in terms of the appetite of Senators and Congressmen and public servants always promising the American people a new expectation will be fulfilled by us.

All I am saying is, I do not think the windfall profits ought to be used as a reserve valve for those who want to provide more of that self-expectation while the American economy is crying for some productivity relief. I do not see anything in a windfall profits tax as a reserve for future appetites of expenditures that addresses that issue.

I will close. Whatever other remarks I had, I will not make them tonight. I close with this——

Mr. MUSKIE. Not before the Senator yields once more.

Mr. DOMENICI. I will be glad to yield. In fact, I will yield the rest of the evening.

Mr. Chairman, I really believe that under your budget leadership we were coming close to saying, "No more spending" and then we were about to say something else: "and less taxes." We were about to cut taxes for the American people.

I truly believe, but for this accident, we deregulated and we found a windfall. You are darn right. And it is properly named in that context. It is a windfall in the context that you are presenting here tonight.

Mr. MUSKIE. Will the Senator yield?

Mr. DOMENICI. I yield the floor.

Mr. MUSKIE. The Senator did not listen to my presentation. He did not understand this chart or he would not have said what he just said.

First, I have said "no spending" around here for the last 5 years, about as much as any Senator, including my good friend from New Mexico.

Second——

Mr. DOMENICI. Will the Senator yield?

Mr. MUSKIE. I listened to some pretty red rhetoric for the last 5 minutes.

Second, these revenue projections—and I said this as plainly as the English language could make it—assume a $55 billion tax cut in 1982. It assumes tax cuts from 1983 to 1990, in accordance with the Nunn-Chiles-Bellmon amendment to the 1978 tax bill, which reduces taxes as a percentage of GNP to 19½ percent. I made that very clear. And from what you just finished saying, you did not listen. You did not listen.

The whole objective of this exercise is to make it possible for that policy to work. If you do not want that policy to work, then that is one way of eliminating the red. That is one way of eliminating the red. Abandon Nunn-Chiles-Bellmon. That will do the job, or a large part of it. And we will be ready to calculate the effect of it. Or give up the $55 billion tax cut in 1982. That would help.

What we have done here, what you apparently resent because of conclusions to which you have no other answers at the moment, what we have done here is assume what the Congress has already done or is about to do: catastrophic health insurance, welfare reform, Nunn-Chiles-Bellmon, a $55 billion tax cut in 1982, budget spending reflecting only inflation and no new spending programs. We have assumed all of that.

And you stand there and have the nerve to tell me that I represent in this presentation the old way of spending with no restraints, no nays, no tax reductions to get the Government size down as a percentage of the GNP. This is the whole purpose of this exercise. I do not think I have to leave this floor with that impression standing in the RECORD.

Mr. DOMENICI. Mr. President, let me repeat once again, I do not believe it is fair to propose a way to get a balanced budget, a way to have tax cuts, and then come along and say, "However, we found a windfall, but it happens to be a tax on oil production and so make it as big as you can, hold it in reserve for expenditures that we hope you will not make but we really think you might," and then to come down here and propose the normal budget approaches with all of the inhibitions built in by the institution but somehow or another say to this institution, "Make sure this new tax is as big as possible and available for all of those things."

I cannot read it any other way. I am sorry if the Senator from Maine thinks I do not understand what he said. I believe I do.

I repeat, with those charts in mind one who worried about the expenditures that are contemplated, which might occur, might come to this floor and say, "Every penny of this tax ought to go to selective tax cuts for the American people because we never expected to have it anyway and but for deregulation it would not be here. If it would be used to push the American economy for oil, we do not believe in doing anything for oil, so we will take it away as planned. We certainly believe selective tax cuts have a chance of making the American economy move. We believe it should be used for that rather than as a safety valve in case we cannot control the appetite. But on the other hand we want to make sure we are telling you we are keeping all of these other things, these cherished new concepts we have built on these charts. We are keeping those intact but for a new $180 billion or $200 billion that we found and want to make sure that is available for future expenditures."

Mr. LONG. Will the Senator yield?

Mr. DOMENICI. I yield.

Mr. LONG. We are talking about gross figures. This is money being paid from taxes paid to the Government. Without any windfall tax there would be receipts of $340 billion paid to the Government under the committee substitute. Mind you, that is the tax, the additional money that the Government will take in because of deregulation over this 10-year period. So it would be $340 billion additional tax paid to the Government on this deregulation income. That is just the tax under present law. Then Federal royalties are increased by $18 billion. That is a total of $358 billion.

In addition to that, we voted that we will not put this money into trust funds. We will reserve judgment on some of it to see whether we want to use some to try to help save the social security fund from insolvency. We will not have these trust funds for low income or for urban transit. Then we pick up another $72 billion to add to the $16 billion we were projecting. So that gives us $88 billion plus $358 billion.

It is a total of $446 billion. It is $446 billion that nobody was counting on when the Congress met in January of this year. When we met in January nobody was counting on any of this. It is $446 billion that nobody was counting on.

Now some would come in and say, "All is lost, we are gone, because the $446 billion that we were not counting on will not be enough." All I can say is that those on the spending end have some very ambitious plans indeed. They had not anticipated the $446 billion and we had not anticipated their imagination in spending it.

All I can say is that it just proves what I have said—it is beyond the capability of those on the Finance Committee to recommend tax increases as fast as somebody on some other committee can think of some way to spend them.

I think the chairman of the Budget Committee has overlooked another possibility, and that is cut spending. Apparently the chairman has completely overlooked that potential.

We on the Finance Committee know something about cutting spending. The Budget Committee said to cut spending in the social and welfare area. I can say there are plenty of ways to cut it, but we just cannot get the votes.

I am looking at the Senator from Wyoming. He has courageously voted to cut down on some of the giveaway programs. I am not talking about welfare, though that can qualify in the generality of the giveaway programs. But there are tremendous potentials for savings.

As an example, when somebody retires it is sort of a standard operating procedure to just go down and register for unemployment insurance. After the fellow has retired, he is drawing a generous retirement and that is why he did retire. But somebody said, "Wait a minute, fellow, you have overlooked a great opportunity. Go down and put in for unemployment insurance money." Then he proceeds to draw unemploment insurance for almost a year, as well as the retirement pay.

At the time the Congress passed the unemployment insurance program, nobody thought of it as being a supplement to the retirement program. That was thought of after what happened to some who retired. I am told by some of our labor friends that they have even put into the laws of some States that when an employee retires voluntarily the employer must inform him that he has the right to go down and draw unemployment insurance money, when he has voluntarily retired after many years. Whoever had that in mind?

Mr. President, there are areas in the disability law where taxes make it more attractive to take the disability payment than to work. Under existing law, one can make a profit by having himself declared disabled.

The insurance people say that if you are going to pay as much as 80 percent of what one would make working if you are disabled, taxes considered, that is not an insurable risk. The temptation is so great for one to claim a disability, to present himself as being disabled, and to claim he has a disability that exceeds what the facts may be, that no insurance company will have anything to do with it.

But, Mr. President, the facts are that it is even more tempting than that under existing circumstances, which were not anticipated. See if you can find the votes to correct that. No, quite the contrary. You find Mr. Wilbur Cohen, former Secretary of HEW, working with people who think as he does about this matter, and those people are conscientious and sincere in their views, who will say, write to the people in Louisiana to put the pressure on Senator LONG, that he runs this, to tell him that, "You must not cut on any of these welfare programs."

I am only talking about cutting down on the ripoffs in these "something-for-nothing" programs.

Mr. President, the greatest potential to balance the budget, in my judgment, is to eliminate the "something-for-nothing" programs and replace them with "something-for-something" programs.

In other words, "something for nothing" programs would be programs where you would pay able-bodied people for doing absolutely nothing. That exists not only in the welfare program, but also some of it exists in the unemployment insurance area, in the disability area, and in other areas. Maybe you do not know it, but we are doing it to a greater degree than we realize. In the "something-for-something" programs, we are saying we will pay able-bodied people for doing "something"; we will not pay them for doing nothing. Create any kind of job; I do not care what it would be. They can plant flowers out in the public square to help beautify the place, or pick up letters or just put on a Sam Brown belt and blow a whistle when they see a crime committed. But do just anything.

We can even have one, if you run out of viable alternatives, where we pay one person to pick a letter up and pay another person to put the letter down, just so there will always be something to do. Pay them for something they are doing, so you are not paying them for absolutely nothing. Mr. President, the savings would be absolutely fantastic.

We saw what happened in New Jersey. This little mayor with his general welfare program decided he was going, purely at the expense of the city, without any help from the Federal or State government, to put an end to his "something-for-nothing" program and put welfare people to doing something. They had about 35 people on the "something-for-nothing" program. When they were offered a job, how many people do you think he had on the "something-for-nothing" program? Only one person. That one person was glad to get the money on the "something-for-something" program.

There is a fantastic potential for saving, if we were to say, "Well, let us consider having a 'something-for-something' program instead of a 'something-for-nothing' program." Mr. President, there is tremendous potential for savings.

I have labored, with very small success, in the Finance Committee, trying to get a majority of the committee to vote for some of these economies that the Budget Committee mandated onto the committee. I do not know what we shall do when we cannot get a majority of the committee to vote for it. Maybe we will just offer it out here on the floor. But the potential is there. There is no doubt that there is a tremendous amount of unnecessary spending.

I am not going to call it waste. You can find areas where there is waste; you can find areas where there is fraud. You could get by with less.

Goodness knows, we could start right here. I do not like to be critical, but the fact is that we could pass a law and say, on Capitol Hill, "You have to get by with only 75 percent of the employees you have." Frankly, after about 6 months of consternation and hand wringing, nobody would know the difference. We could get by with less just like all these other people could get by with less. But people say, no, and what happens? Everybody is empire building and we see more and more people on payrolls throughout Washington and throughout the whole country.

There is no doubt that there is a great potential for saving. To say that the reason we are going to have a deficit is because we did not take it all with this tax is sort of hard to buy, I must admit. I must agree with the Senator from New Mexico; that is hard to buy, that the reason we have a deficit is because we did not take it all.

The House sent us a bill that, in some respects, took quite nearly 100 percent.

Mr. DOMENICI. So they took it all.

Mr. LONG. No. We amended the bill to say, "Producer, you get a great break back at the Senate Finance Committee; all we are going to take is 90 percent of the new revenue. We don't take any more than 90 percent of it, no more than 90 percent." So we came out with a bill that takes about 70 percent of what people can produce and then complain about the fact that they cannot produce more energy.

I hope, Mr. President, that people will keep in mind that this situation will increase revenue. It is not the cause of the deficit. The deficit was here before anybody ever heard of a windfall tax. It will be here, I regret to say—I hope not, but I am afraid it will be—after we get through taxing the oil companies, which will be the biggest tax on any industry in the history of the United States.

I know that will not please some people, but if they were taxing the lawyers' industry in their State, they would be concerned about it.

Mr. DOMENICI. Will the Senator yield?

Mr. LONG. Yes.

Mr. DOMENICI. The Senator speaks of the tax in terms of size and I want to share this for the RECORD. I can hardly express in words how big this tax is in terms of comparing it with something in American history, so let me say what I found out: The Senate version of this tax is more than the entire Federal Government raised for the years 1789 through 1939 cumulatively, and the House bill—listen to this one—is more than the entire Federal Government raised and spent through 1945, the conclusion of the second world war.

Mr. LONG. Mr. President, just to complete the picture, I think it should be stated that, because of the increase in prices, there will be an increase in Government cost and so the $446 billion of increased revenue that I made reference to is not entirely a net gain. Government expenses would go up at least to some extent because of increased energy costs. That would offset some of the potential revenue available for spending, but most of it would still be there.

I point out, Mr. President, that where Congress looks at a 10-year projected income of an industry running approximately a trillion dollars and where, in one bill, the Government takes 70 percent and in the other bill, it takes 84 percent, leaving only 16 percent for the energy industry in one instance and only 30 percent in the other instance—I do not think anyone needs complain too badly that the Government failed to get it all. It did not leave much, so there is no need to shed too many tears about the fact that a few crumbs fell from the table. The Government did not quite get it all.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. HATCH. Mr. President, I regret that I was unable to participate in the discussion with the distinguished chairman of the Budget Committee (Mr. MUSKIE) about the windfall profit tax and the budget demands of the 1980's. I was intrigued by the Senator's "dear colleague" letter and some tables prepared by the staff of the Budget Committee. I would like to address a few of the points that the Senator from Maine raised.

First, the Senator said that the windfall profit tax bill is the first tax increase, other than social security, in over a decade, and may be the last major revenue-raising measure for another decade. I do not consider the social security tax increase insignificant. The social security tax increases will add over $300 billion to the taxpayers' bill over the next decade, assuming an inflation rate of 5 to 6 percent a year. If inflation is higher, the tax bite will also be greater.

In addition, we have had significant tax increases every year for the past several years as inflation has pushed individuals into higher tax brackets and caused businesses to pay taxes on illusory profits because of underreporting of depreciation on plant and equipment. The Joint Committee on Taxation tells us that, for every percentage point of inflation, personal income taxes increase 1.6 percent. Thus, for every percentage point of inflation, the Government receives a windfall of an extra 0.6 percent increase in revenues. In other words, the combination of the progressive tax structure and inflation gives the Government more than enough revenues to keep up with inflation. Assuming an inflation rate of 5 or 6 percent a year over the next decade, the windfall to the Government from this inflation-induced bracket creep will amount to almost $600 billion. If inflation is higher, this tax bite will also be greater. The American people do not need or want any more tax increases.

Yet, in spite of these social security and bracket creep tax increases, the Congress has still been unable to bring the Federal budget into balance. Because Congress seems unwilling to reexamine and eliminate old programs that are ineffective or inefficient or just no longer needed, the scenario that the chairman of the Budget Committee presents shows that we will be unable to balance the budget in future years without massive tax increases in addition to those which will automatically occur.

What the Senator from Maine seems to be saying to each of us is that, because of the grassroots pressure for a balanced budget, if you want your pet spending programs, you had better vote for this new tax. But the grassroots pressure is not just for a balanced budget. The people do not want the budget balanced with higher taxes and higher spending. They want a balanced budget with less spending and lower taxes.

When the Government started adding all these domestic spending programs in the 1960's, people were happy to be helping their fellow citizens and, because the economy was growing, thought they could support these programs without affecting their standards of living. However, the deficit spending to support these programs created inflation, and this inflation pushed people into higher tax brackets. The higher tax rates killed incentives to save, invest, work, and produce, and economic growth has slowed to a pitifully low level.

The taxpayers have seen little improvement in their standard of living for the past several years, and they now know that, with our present economic policies, they cannot support these programs and improve their living standards. They are becoming resentful toward the recipients of these programs and want the spending reduced.

Mr. President, I believe that we can get the economy growing again, reduce the onerous tax rates on our taxpayers, fund the domestic programs necessary to take care of the less fortunate in our society, and still balance the budget. The answer is economic growth. But we will not stimulate economic growth by increasing taxes and killing incentives to produce. I think the Senator from Maine is mistaken in his analysis in this regard. I do not think the windfall profit tax will help us to balance the budget. Rather, it will increase the tax burden on the American people, further discourage saving, investment, production, and work, and slow economic growth even further. The figures in the charts prepared by the Budget Committee are optimistic in that they are based on the assumption that the economy will grow in real terms by an average of 3 percent a year. I do not believe that the economy will perform this well if we add this additional massive tax to the burden already carried by the producers in this society.

Finally, Mr. President, I am concerned with the implication of one of the Senator's statements concerning general tax relief. In his letter he stated, "If we are to meet the budget demands of the 1980s, including significant general tax relief, the windfall bill is the place to start." What this says to me is that we cannot give the people a tax cut until we pass a tax increase. General tax relief for our overburdened taxpayers should be our first budget priority if we are interested in promoting economic growth. The windfall profit tax will not be a tax on some faceless monster called big oil. It will be a tax on the people of this country. The oil companies will merely collect the tax for the Government. We should not raise taxes on the American people to later give them a tax cut. The tax burden is already too high. The average tax burden has increased in the past few years to historically high levels. The individuals bearing the tax burden have moved rapidly into higher tax brackets. In 1965, only 22 percent of the taxpayers were in tax brackets of 20 percent or above. In 1975, over 53 percent of taxpayers were in these tax brackets, and in just 1 year, by 1976, another 4 percent had moved into these tax brackets. By now, with the rates of inflation we have suffered in the past 3 years, the percentage of taxpayers in the 20 percent or above brackets is surely well over 60 percent, almost triple the percentage in 1965, when, by the way, our economy was growing. With a little spending restraint, by cutting out unproductive old programs in order to enact new programs, we can afford to cut taxes without first increasing them.

The windfall profit tax is not the way to balance the budget. The windfall profit tax, because of the negative impact it will have on economic growth, will make a balanced budget harder to achieve. I encourage my colleagues to reject the argument to vote for the windfall profit tax as a way to balance the budget and to concentrate on promoting economic growth through tax rate reductions as the way to balance the budget.

Mr. McCLURE. Will the Senator from Louisiana yield briefly?

Mr. LONG. Yes.

Mr. McCLURE. Mr. President, I thank the Senator for yielding. I commend the Senator from New Mexico for having raised the issue in the manner that he did and the Senator from Oklahoma for the remarks he made. I am sorry the Senator from Maine is not here. I shall make no reference to the remarks he made since he is not here.

I think one thing that was betrayed in the charts that were presented to us and the argument built around those charts is an economic assumption that the economy of this country cannot work free of Government restraints and that, unless we tax more and spend more and create more Government, we are bound to fail economically. I think that is the major distinction that must be drawn here today, that there are some of us who believe that the economic system in this country, that has given us the greatest wealth of any country in the world, the greatest success and the greatest distribution of that wealth to all of its people of any country in the history of mankind, can still work if we let it. Yet those charts indicate to me that all of the assumptions say, no, it will not work that way anymore. We have to tax more and more, create more and more Federal programs, spend more and more Federal money taken away from the taxpayers in order to have any kind of economic future in this country.

Mr. President, the truth of the matter is exactly the opposite. We will never reach a balanced budget in this country until we have some faith in the economic system. We will never reach a balanced budget in this country, let alone energy self-sufficiency, until we get the Government off the backs of the people and out of the way of the businesses in this country that can produce the wealth that will produce taxes to provide the necessary money for necessary Federal programs.

We simply cannot squeeze the goose that lays the golden egg any harder and get more eggs. It is simply impossible to do what the Senator from Maine has suggested in his charts, that the only way to get rid of that deficit is to tax more.

The American people are crying for a reduction in the burden of Government, not an increase in that burden. They are crying for a reduction in the size of Government, not an increase in it.

Certainly, the Senator from New Mexico is right that we were not talking about balancing the budget with this windfall. We were talking about balancing the budget without the windfall.

Now we are saying it is impossible to do it even with the windfall tax, unless it is bigger, and bigger, and bigger, and more productive.

I thank the Senator from New Mexico for raising the point. Again, I want to thank and commend the Senator from Oklahoma for his contribution and, certainly, the Senator from Louisiana for pointing out once again, as he has eloquently many times in the past, that there are places where we can change the spending pattern. There are savings we can make.

We talk about the mayor in New Jersey who found out we can get away from the something for nothing if, as a matter of fact, we substitute something for something.

I have told the story before and I will only take a minute. A county commissioner up in the northern part of Idaho a number of years ago—this is not a partisan story, I might say, Mr. President, because the county commissioners were all Democrats in that particular county—but one of the new county commissioners was given two responsibilities: one was the direct welfare program and the other was the county roads program.

He put the two things together in his mind and said to all the welfare recipients, "Meet me at the court house next Monday morning and wear your work clothes." They said, "What is going on?" He said, "Well, I don't have enough money in the budget to trim all the brush on the county roads and we are going out to trim brush."

They said to him, "You can't make us do that." He said, "Just try me. If you don't show up on Monday morning wearing your work clothes, you get no more direct welfare from the county."

So some of them did show up on Monday morning with their work clothes. They went out and cut brush and filled a few potholes along the streets and did a little road work.

After about 6 weeks of that, one of the fellows one day said, "I might as well get a job." The commissioner said, "Buster, that's the idea."

There are ways in which we can reduce the unnecessary drain upon Federal programs without reducing the benefits that are both justified and necessary to those who cannot do for themselves.

Mr. President, we can change the vitality of our economy by turning the tax system around so it begins to reward those who save and invest and produce, rather than those who consume.

What we have done now is build the most highly consumptive society in the history of the world by taxing policies that reward consumption and penalize production. As long as we do that, we will never get to the balanced budget, with or without a windfall profit tax.

The windfall profit tax just happens to be a suitable diversion from the fundamental economic revisions we must make in this country if we are going to get a balanced budget now or at any time in the future.

I again commend my colleagues for having raised this issue this evening.

Mr. BELLMON. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. BELLMON. Mr. President, I would like to join in commending the Senator from Louisiana for some comments he made about the potential for savings in some of our welfare programs.

I say to the Senator, the chairman of the Finance Committtee, that if he cannot get the Finance Committee to go along with some of these propositions, let us bring out a vehicle on the floor and I will be glad to join it, because I believe the mood of the country and the whole Senate would make it possible to adopt some of those badly-needed reforms in our welfare system.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED FOR A MIDDLE EAST REASSESSMENT

Mr. BAKER. Mr. President, whatever the outcome of the tragic imprisonment of our diplomats in Iran the United States must reassess its prospects and the prospects of its allies and friends in the troubled Middle East. It goes without saying in 1979 that it is imperative that our oil lifeline to that area of the globe be preserved. The stable governments that exercise authority in the region must have reason to believe that the United States can and will do whatever is necessary to assist them in maintaining the stability of their institutions.

For many years the Sinai has been the site of some of the most impressive air bases in the world. American equipment built those bases. The columnist, William Safire, pointed out in the New York Times on Monday that they are capable of handling this country's B-52's. Today, as a result of the impressive success of the peace process between Egypt and Israel those bases have been returned to the Government of Egypt. I believe that Mr. Safire's thoughtful suggestion that we lease these bases for American use from the Government of Egypt must be given serious consideration by the U.S. Government.

President Sadat might well agree that an American presence in this trouble area would be additional proof of the increasing firmness of the Egyptian-American relationship. The economic rewards associated with such an American lease could be of substantial benefit to the Egyptian economy, and the symbol of American-Egyptian friendship would be reinforced by the presence of American military power. If an emergency situation were to develop in the future, the United States would have on hand the capacity to support its friends in keeping the peace.

I cannot help but believe that the oil-producing countries of the area would be well served by such a manifestation of the American will to do what is necessary to sustain both its alliances and its lifeline. President Sadat has demonstrated the breadth of his imagination and the scope of his vision. We can only hope that he may again grasp the opportunity afforded him by the success of the peace process he initiated just 2 years ago.

Mr. President, I wish to submit for inclusion in the RECORD a New York Times column on Monday, November 26, by William Safire, entitled "A Time for Daring."

The material follows:

A TIME FOR DARING

(By William Safire)

WASHINGTON.—"Calculated delay" is the phrase chosen by one editorialist to praise the frustrated finger-wagging of the Carter Administration, which refuses to acknowledge that this nation is being warred upon. In the 19th century, the favorite euphemisms were "masterly inactivity" and "disciplined inaction."

The trouble with such praise of folly is that it focuses only on the immediate incident—the taking of hostages—and considers some bloodless retaliation after the hostages are returned, or a more destrictive reaction if the captives are killed.

Retaliation now or later is not the issue. Assume the Shah returns to Mexico next week, and the United Nations agrees to hear the Ayatollah's complaints against him for such crimes as the land reform that weakened the mullahs. Then, if the hostages come out, the U.S. will warn other Americans in Iran such as newsmen to get out and avoid being taken hostage as we destroy the Abadan refinery. That would punish Iranians without seriously affecting shipment of crude oil to our nervous allies.

The other scenario: if the current power spasm leads to the trial and murder of United States diplomats, we could destroy Iranian air and naval facilities, seize the island of Kharg, blockade the Persian Gulf, and determine how much food goes in and oil comes out.

Some such tactical retaliation would satisfy our national pride and chastise the wicked, but would do nothing to turn today's diplomatic outrage to our geopolitical advantage.

A power vacuum will soon exist: the Khomeini phenomenon, an amalgam of the new fanaticism and the old rent-a-mob, will go as suddenly as it came. One of the two superpowers will then move strongly into that Persian Gulf vacuum.

The Soviets might try the direct route, with a coup by radicals in Teheran, backed by Kurdish and other tribal revolts elsewhere in Iran. Or they may take an indirect way: Iraq, now the most formidable military force in the region, despises its neighbor. The Arab Moslems in Iraq could seek to liberate their Arab breathren in Iran from the non-Arab Moslem Iranians; with Soviet backing, they would probably succeed, and Moscow would then control the oil lifeline to Western Europe.

The Soviets have not been bashful. With advisors and mercenaries, they have taken strong positions in South Yemen and Ethiopia, although Mr. Brzezinski, ostrich-like, has been pooh-poohing reports of build-ups there in recent months. Soviet sponsorship of an Iraqi move into Iran could cripple the West.

The other possibility is for the United States to seize this opportunity to become a welcome military presence at the world's energy jugular.

We have been provoked, our embassy territory invaded and our nationals captured and harassed. The best part of that is that the aggressor is neither Arab nor Soviet. Rather than merely react, as we are expected to do, we could thoughtfully respond—in a way that projects our forces into the area on a long-term basis. We could recoup the losses of a decade and re-establish our strategic pre-eminence.

First, we should lease the two airfields being returned to the Egyptians by the Israelis in the Sinai. These are among the most sophisticated air bases in the world, built with our equipment, capable of handling our B–52's. If, for example, the occasion came to strike at strategic mid-East targets today, B–52's would have to fly from Guam to Diego Garcia, refuel, and carry out the mission; we and our allies would be better served by a Mid-East facility.

Long-term leases of these desert outposts—no population nearby, no security problem—would position us legally as firmly as at Guantanamo. A substantial rental would help ease Egypt's economic woes. To protect the bases, a permanent U.S. ground force would be needed—which could double as an Egypt-Israel peace-keeping force—and could be strengthened by air quickly if Saudi Arabia or the oil emirates were threatened.

At the same time, we should be taking up the quiet offers made to us to sign leases at Bahrain and islands near Oman, stationing permanent naval forces there and ending our bulb-snatching of aircraft carriers.

As part of this strategy to reassure friends of the United States in the Mid-East, we should promptly and decisively increase our military aid to the King of Morocco in his fight against Algerian-sponsored radicals.

Mr. Carter would have to set aside his Vietnam-era guilt in order to embrace such a strategy. He would have to confidently urge the rebuilding of our conventional military and naval forces; the five percent real increase bruited about at Camp David should be seen as more than a payoff for senators' vote for SALT.

The Ayatollah's provocation is heaven-sent. The President's job is neither to turn the other cheek nor to retaliate in fury, but to use this incident with audacity to assert American power in the mid-East and to reverse the strategic decline over which he has presided.

ILLINOIS 2000

Mr. PERCY. Mr. President, on Thursday November 15, I had the privilege of hosting a breakfast on behalf of the Illinois 2000 Foundation for the Illinois congressional delegation. I found the presentation and discussion to be most interesting and wanted to share it with my colleagues.

Illinois 2000 is a private, nonprofit organization, created by the Illinois State Chamber of Commerce. The primary goal of Illinois 2000 is to lay the foundation for a strong economy and expanding job market in Illinois for the coming decades. Business, labor, and Government will play major roles in achieving that goal. The purpose of our recent meeting was to bring the delegation up to date on the work of the Foundation and to review the goals set by the citizens of Illinois.

Three Illinoisans came to Washington to make the presentation: Mr. David E. Connor, president, Commercial National Bank of Peoria, chairman, Illinois 2000 Foundation; Mr. Lester W. Brann, Jr., president, Illinois State Chamber of Commerce, vice-chairman, Illinois 2000 Foundation; and Mr. David E. Baker, executive director, Illinois 2000 Foundation.

One of the most exciting aspects of this whole program is that it had its beginning in the private sector. Here we have citizens in the State concerned not only with the present, but with the future as well. Goals provide rational guidelines for public policy. They also offer policymakers an opportunity to consider the long-range consequences of their action in relation to clearly defined aspirations of society. Right now, decisions are often made in response to crises with no view toward future economic consequences.

Mr. President, I ask unanimous consent that the printed presentation and list of Illinois 2000's goals be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Illinois' Economic Future and Role of Congress

ILLINOIS 2000: GENESIS IN THE PRIVATE SECTOR

Illinois 2000 began in 1977 because of the Illinois business community's increasing concern for the State's economic climate. The loss of 180,000 industrial jobs during the 1974–76 recession, the growing perception of a negative business climate by business leaders, and the emergence of a world energy and resource crisis all suggested the need for a longer-range look at the State's economic fortunes. Thus, the business community encouraged the Illinois State Chamber of Commerce to organize a three-year process to address these major problems and set long-range economic goals for Illinois.

The basic purpose of Illinois 2000 was "to lay the foundation for a strong economy and adequate job opportunities in our State for the coming decades." To be successful, the program had to: 1. involve the State's economic leadership from the start; 2. reach out to all major interest groups and segments of the economy—business, labor, government, education environmentalists, agriculture, and community leaders—and; 3. include, as an integral part of the process, implementation strategies to reach the goals.

In its first two years, Illinois 2000 achieved the first two objectives, involving over 500 individuals directly in identification of issues, major long range trends, economic alternatives, and 51 major goals. We are now beginning the implementation stage by talking with decision-makers in industry, state and local government, and now our Congressional delegation.

One of the main differences between Illinois 2000 and most other state planning groups, besides its private sector origins, is this emphasis on implementation (i.e., the step beyond goal setting and report writing). "Implementation" means getting the understanding of our work product widely spread and laying out procedures for achieving the goals adopted.

FOCUSING ON THE ECONOMIC FUTURE OF ILLINOIS

There are four important principles in the main statement of purpose:

1. We are talking about the economy of Illinois.
2. We are emphasizing job opportunities.
3. We are talking about the State as a whole.
4. We are talking about the coming decades as opposed to next year.

Although the main thrust of our work was developing appropriate economic futures for Illinois, early on we came to the conclusion that on economic well-being hangs "all the law and the profits," so to speak. However we may want to define "quality of life" or whatever non-economic goals we wish to accomplish in Illinois, achievement of them depends on and will be financed by a sound, vigorous, and expanding economy.

MAJOR FINDINGS OF INTEREST TO THE DELEGATION

Below are some of the major Illinois 2000 findings. These may not be new to you, but we are willing to be accused of repeating the obvious in order to avoid omitting the necessary.

1. Good present level of the economy.—For example, high per capita income. But, ominous trends, such as slower growth in both the State's economic output and population, and a steady decline in our industry employment "position" among the states.

2. Sun Belt-itis.—The attractions of the Sun Belt are quite real. The efforts of Sun Belt states to attract industry are intensive. However, business mobility is somewhat less than total, and there is no reason for panic. Illinois 2000 believes that the Sun Belt attraction is a political phenomenon (relating to attitude toward business), rather than a meteorological phenomenon (relating to weather).

3. State's location is good. Diversity. Transportation system is good, but deteriorating rapidly, physically and from a "service" standpoint (two-thirds of the State's rural bridges are unable to accommodate a fully loaded grain truck). Access to energy is good, but there are many important decisions to be made. For example, lead times are long for electric power development.

4. Economic development in Illinois is very uneven. Southern and Western Illinois are classified as economic step-children.

5. Agriculture is strong but dependent on ever larger availability of capital and a good farm-to-market transportation network. Agreement on practices concerning uses of "prime agricultural land" is vital to agriculture, urban development, and coal utilization.

6. One of the issues most consistently mentioned is the effect of regulation and government intervention on the ability of the business community to respond to a changing economic environment. Small business suffers the most. And the diversification provided by these small businesses cushions the shock when a larger economic unit makes the decision to expand elsewhere.

7. In a competitive market for industrial growth, Illinois can hold its own. However, because it has a mature, established economy, Illinois suffers from "innovative" incentives which favor new plants and equipment. The "LDC's" among the states benefit from these approaches while Illinois and other established industrial states are penalized.

AREAS FOR FUTURE COOPERATION BETWEEN CONGRESS AND ILLINOIS

1. Development of incentives rather than penalties to improve the investment climate. The assets allocation process of the market system may be too objective for some, but it works better than any other alternative. To work, this system must have a certainty of risk, as it were. The "in-out/back-forth" nature of some Congressional incentive programs (the investment tax credit for instance, before it was firmly established) discourages rather than supports private investment.

We would encourage legislation like The Small Savers Incentive Act introduced by Senator Percy that will make saving and investment more profitable for Americans and will increase, through its reinvestment requirement, the amount of capital available for investment and economic growth.

2. Establishment of a clear, stable federal policy for synthetic fuels development. Deciding soon will encourage private money to get the job done, and Illinois is a prime center for available fuels development.

3. Reexamination of major national environmental laws as they relate to a mature industrial state such as Illinois. We must constantly monitor the implementation process to make sure we are achieving environmental goals while not constricting economic activity.

4. Continuation of Congressional support for federal dollars to leverage private investment in our older industrial centers. The UDAG program has been very important for Illinois, for instance.

5. Clear federal determination of major domestic energy policy issues. Illinois is an energy "have" state for coal and nuclear power but must have clear federal directions for further development. We face serious economic problems if the nuclear waste disposal problem is not resolved soon.

6. Recognition that deregulation in the transportation industry has wide-ranging effects on Illinois, the nation's transportation hub. Airline deregulation, while economically beneficial to trunk carriers, reduced service to Downstate cities, as expected. Now we must solve this intrastate problem through incentives to commuter airlines.

FUTURE INVOLVEMENT WITH THE DELEGATION

The business community has been traditionally slow to act in the political arena but is now increasingly alert to the consequences of inactivity or non-presence. You can look for more efforts in that quarter. We make no apologies for petitioning our government on our econmic future—a matter quite important to all Illinoisans. Specifically, we will, over the next years:

1. Act as a private sector resource for your offices on major economic issues in Illinois which are influenced by Congress.

2. Actively identify potential impacts in the energy, environment, transportation, and economic development areas which you can do something about and share them with you.

3. Create in Illinois various institutions which can debate the major issues and offer consensus solutions for your consideration.

YOU AND GOALS FOR ILLINOIS' ECONOMIC FUTURE

ECONOMIC DEVELOPMENT AND JOBS

1. Improve Illinois' economic investment climate.

a. Elimination of tax and regulatory deterrents to capital development.

b. Parity with comparative states in services to industry.

c. Increase financial incentives for investment, with emphasis on small business expansion.

d. Education of the public and leadership of the State about the positive effects of economic growth.

e. Increased cooperation between labor and management on economic development issues of mutual concern.

f. Improvement of cultural, recreational, and other quality of life factors through public/private cooperation.

2. Halt the relative decline of the manufacturing sector.

3. Emphasize retention and expansion of existing firms through industrial development programs and use incentives to locate new jobs in areas of high unemployment.

4. Increase productivity in both public and private sectors.

a. More and better productivity information at the state and national levels.

b. Expanded capital investment through tax incentives.

c. Employee education on productivity.

d. A productivity improvement service for new and small firms.

5. Increase the private sector's role in job training.

a. More participation in state and local training, economic education, and career education programs, including a call for more accountability in these areas from the educational institutions.

b. An expanded role in determining and communicating to the education community the skill and competency levels which are in demand.

c. Emphasis on the hard-core unemployed.

d. Assistance to non-profit training organizations.

e. More financial and technical assistance to small employers who otherwise could not afford to be involved.

6. Develop, through both the public and private sectors, programs of affirmative action, education, training, and employment to enhance the hiring and upward mobility of minorities, women, and the handicapped.

a. Locate appropriate economic activities in areas accessible to the unemployed.

b. Improve means of communicating jobs and training opportunities.

c. Encourage development of minority-owned businesses.

7. Improve the economies of our older urban centers.

a. Joint commitment and leadership of the public and private sectors, community, and neighborhood residents.

b. Increased public and private funding of urban economic development programs.

c. Increased economic and racial diversity in neighborhoods through enforcement of existing regulatory procedures for equal opportunity.

8. Aggressively seek more and different kinds of jobs for urban centers, including the development of commercial and service jobs and the use of small industrial parks for manufacturing jobs, where practicable.

a. Taxing policies and financial incentive systems which are competitive with other states to promote urban investment.

b. Effective inner-city training programs.

9. Promote the housing rehabilitation industry in the State through the cooperation of public, private, and community interests.

a. Facilitate rehabilitation through lending and insurance pools, grants and public subsidies, tax and assessment policies, and less obstructive building codes.

b. Provide incentives for neighborhood planning and implementation.

10. Discourage continued urban sprawl, through a joint effort of local governments and the private sector to utilize existing urban areas for future development.

a. Assembly of urban tracts for industrial parks.

b. Use of zoning and tax and financial incentives to focus development.

11. Increase support of neighborhood development corporations through their participation in decisions about use of revenue sharing and community development funds.

THE RESOURCE BASE

Agriculture

12. Reduce by at least 50% erosion of agricultural land.

a. Economic incentives, including tax incentives, loans, and credits, to help finance costly conservation measures.

b. Education of landowners, land users, and the general public on the economic impact of erosion and on measures to combat it.

c. Maximizing involvement of farmer groups and farm equipment manufacturers, both in education and in technological innovation for erosion control.

13. Preserve prime agricultural land through the action of local authorities, supplemented by statewide incentives.

a. Statewide identification of prime agricultural land.

b. A statewide educational program on the economic importance of agricultural land to Illinois, the nation, and the world.

14. Ensure adequate funding for both public and private sector agricultural research.

15. Develop more in-state markets for Illinois agricultural products and expand national and international markets through a joint effort of shippers, transportation systems, farmers' associations, and the state and federal agencies.

Energy

16. Increase the use of Illinois coal and nuclear power consistent with protection of the environment.

a. Increase state funds for development of new and economic coal conversion processes and provide funds for basic research on solutions to problems limiting use of Illinois coal.

17. Increase development and use of alternative energy sources, such as solar, wind, biomass, water, and gasohol.

a. Increase state funds to develop solar, wind, and biomass energy projects and fund basic studies on other renewable energy sources.

18. Expand energy conservation programs within the State.

19. Increase the state role in development of Illinois energy sources.

a. Develop an energy policy which balances and coordinates environmental, energy, and economic concerns and offers incentives for both suppliers and conservers of energy. Hold a public/private forum to aid in development of the policy.

b. Assume a greater role in dealing with federal energy issues, in initiating and opposing laws affecting energy resource development, and in pressing for federal assessment of the costs and benefits of environmental regulations.

20. Meet capital needs for energy development from private sector sources by assuring an adequate return on investment.

21. Promote efficient use of energy resources through cogeneration (utilization of energy otherwise considered as waste).

22. Establish a state procedure to reduce the time needed to gain approval of energy facility siting. Guarantee adequate provision for public input in the process, with particular emphasis on local government.

23. Adopt pricing policies for Illinois' regulated energy utilities which will encourage production, ensure a fair rate of return, and promote conservation.

a. Rates should be variable for electric utilities to offset peaks and valleys in usage.

b. Rates should accurately reflect the cost of producing and distributing energy to encourage conservation and allow the utility a fair rate of return.

c. Include the cost of environmental facilities in the rate base as construction proceeds.

d. Do not use rates to redistribute income.

24. Reduce the regulatory lag in rendering utility rate decisions.

Environment

25. Meet national environmental goals through a state plan which is consistent with the character and needs of Illinois.

a. Design the plan to meet the health and safety needs of the population in the shortest possible time.

b. Address the issue of performance standards rather than specifying technical solutions in order to minimize the economic cost of compliance.

c. Improve policy coordination among pollution control programs.

d. Include a system of environmental regulations which permits accommodation of other priorities, including energy and the economy, emphasizing free market solutions to resource allocation and attainment of the standards.

e. Consider the use of natural modes of pollution control, such as tree planting.

26. Assume responsibility at the state level for implementation of federal environmental standards which are not exclusively administered by the federal government. Seek federal funding for implementation of programs mandated by the federal government.

27. Influence the early development of federal environmental standards to ensure concern for state problems. Make the standards uniformly applicable among states and between the public and private sectors.

28. Establish financial incentives, excluding pollution taxes, to develop technologies

necessary to comply with environmental standards.

a. Recognize the need for financing in planning, installation, operation and maintenance, and monitoring.

b. Recognize that the user should bear costs of meeting environmental standards to the extent practical.

29. Identify trade-offs between environmental standards and economic development to minimize the adverse effect on Illinois' Competitive position.

a. Increase funding and support for analysis of the costs and benefits of federal and state environmental regulations by the State.

b. Assess through joint public/private analysis the cumulative effect on the economy of past, present, and future environmental regulations.

c. Increase public awareness of these costs and benefits.

d. Encourage informed public participation in determining the trade-offs.

30. Identify locations in the State which can accommodate future growth and not conflict with environmental goals.

31. Acquire additional natural areas and public lands for recreation through an active state program.

Transportation

32. Fund the State's share of the maintenance of Illinois' transportation system through user charges without diversion of funds to nontransportation uses.

33. Develop a long-term, comprehensive, intermodel transportation plan for Illinois with input from all regions and the private sector.

a. Ensure a network of highways, railroads, waterways, air links, and pipelines which emphasizes:

i. Economic development.

ii. Balanced subsidies among modes.

iii. Efficient use of energy.

iv. Reduced pollution.

v. Elimination of redundant services.

vi. Minimization of costs.

vii. Safety.

34. Develop, on a sub-state political basis, an improved and more efficient rural transportation system of roads, bridges, and railroads.

a. Upgrade and expand existing routes and facilities.

b. Abandon unneeded parts of the present system.

c. At the same time, meet needs for personal transportation in rural areas.

d. Where possible, consolidate governmental unit responsibility for rural transportation systems.

35. Ensure that air, railroad, and ground systems meet demand for personal transportation between Illinois' population centers. These systems should dovetail with those of adjoining states and operate with minimal public subsidy.

36. Improve and stimulate public mass transit in urban areas through public policy.

a. Expand urban mass transit systems to complement existing urban highway networks.

b. Gear local land use policies to meet this goal.

c. Private employers should adopt policies making mass transit use attractive to employees.

d. Pursue Illinois' fair share of federal funding for mass transit.

HEALTH AND HUMAN RESOURCES

37. Develop more health promotion programs in both the public and private sectors.

a. Create effective health education programs in the public and private sectors to motivate individual responsibility for health through proper nutrition, exercise, and the use of health care services.

b. Expand community-based out patient primary care services, including Health Maintenance Organizations.

c. Include out patient primary health care in health benefit packages of private business.

38. Reduce the rate of increase in health care costs.

a. Expand competition through innovative approaches to health care.

b. Avoid duplication of services and capital through cooperation among health care institutions.

c. Disseminate information regarding availability, appropriate use, and costs of health care services.

d. Monitor the quality of health services provided.

e. Promote community-based alternatives to institutions for citizens needing long-term care.

39. Plan and expand the curriculum for adult and continuing education through citizen participation.

40. Seek reforms in federal/state income maintenance programs.

a. Provide income maintenance programs that contribute to family stability and avoid dehumanizing administration of welfare.

Encourage the development in all programs of incentives which reward independent rather than dependent living.

b. Encourage development of a federal system of welfare payments which balances the fiscal burden among states and minimizes the transfer of welfare costs from one state to another.

c. Integrate publicly-financed welfare programs with private sector needs so that program recipients are able to obtain training and employment.

41. Develop and fund comprehensive human service programs that meet present and projected needs.

a. Eliminate duplicate and obsolete programs.

b. Make human service programs understandable to the public.

c. Recognize the contribution of private sector involvement in state and federal programs.

TAXES AND GOVERNMENT STRUCTURE

42. Ensure a balanced and flexible tax system with fiscally and socially responsible tax incentives so that Illinois can compete with other states.

43. Keep the tax burden in Illinois equitable, stable, and reasonable.

a. Review state taxes and other state revenue sources with the goal of tax equity.

b. Ensure that essential services are not withdrawn from the poor.

44. Work for reduction of federal taxes to permit decentralized collection of revenues and reduction of dependence on the local property tax.

45. Consolidate local government structures in Illinois to reduce inefficiency and costs and increase accountability.

46. Provide for continuity in the professional management of state programs as administrations change.

47. Limit introduction of legislation in the General Assembly.

48. Undertake a study of the costs to business of compliance with existing significant state regulations.

49. Enact state legislation to require economic impact studies—accompanied by social impact statements—on significant proposed legislation and regulations.

50. Upgrade the State's financial control and reporting system.

a. Expand use of program budgets.

b. Insure timely preparation and distribution of reliable statements in easy-to-understand format.

c. Include use of standards of generally accepted accounting principles as in private industry.

51. Improve the State's fiscal accountability in spending programs.

a. Require fiscal justification.

b. Prioritize previous expenditures as new needs are addressed.

c. Require funding of mandated programs by the mandating body.

TRIBUTE TO GEORGE MEANY

Mr. PERCY. Mr. President, last week we witnessed the end of an era in the American labor movement. After a quarter of a century as the first and only President of the AFL–CIO, George Meany has retired.

For most of my life prior to my election to the Senate, I was in business, a fact that in most people's eyes would automatically make enemies of George and me. This certainly was not the case, particularly after I entered public life.

Of course, we did not always agree. The first time I ever met him was at a Treasury Department hearing, soon after I came to the Senate, on the issue of rapid amortization. At that time, we testified on opposite sides of the issue, although he eventually came to agree with my position of support. As time went on, we found ourselves on the same side of many important issues in the areas of housing, civil rights and human needs, and his advice was always welcome and useful.

Knowing him has been a tremendous education for me and an experience I wanted to share with others. Several years ago, I gave a breakfast at the beginning of the new Congress and invited newly elected Republican Senators to attend and meet him. I think I can safely say it was a startling—but enlightening—experience for both sides, that I hope contributed in some small way to mutual understanding.

Mr. President, in his 25 years as president of the AFL–CIO, George Meany never retreated from his responsibility to the millions of union members who looked to him for leadership. Concern for the working men and women of this country was uppermost in his mind at all times and he did not hesitate ever to speak his mind on their behalf. By virtue of the strong support he enjoyed in millions of American households, he transcended his elected position as this country's premier labor leader and became a national figure whose diverse interests and wide-ranging opinions on politics and foreign affairs became well known. In recent years he has focussed on America's energy problems and future. Our common concern in this area gave us the opportunity to work together on the Alliance to Save Energy, a nonprofit organization founded by the late Senator Humphrey and myself and on whose board of directors George Meany agreed to serve as one of the first members.

His energy, enthusiasm, and diligence over the years have provoked both admiration and envy—but no one ever took George Meany lightly and he will never be forgotten. I appreciate our friendship and wish him well in his retirement.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on November 26, 1979, he had approved and signed the following act:

S. 1319. An act to authorize certain construction at military installations for fiscal year 1980, and for other purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:23 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1885. An act to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5753. An act to amend title 10, United States Code, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for the purpose of laws providing benefits for members of the National Guard and their dependents and beneficiaries.

At 3:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bills, without amendment:

S. 132. An act for the relief of Dirk Vierkant;

S. 151. An act for the relief of Jerry W. Manandic and Ceferino W. Manandic;

S. 170. An act for the relief of Janet Abraham, also known as Janet Susan Abraham; and

S. 1686. An act to designate the building known as the Federal Building in Wilmington, Delaware, as the "J. Caleb Boggs Building".

The message also announced that the House insists upon its amendments to the bill (S. 1308) to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. DINGELL, Mr. OTTINGER, Mr. SHARP, Mr. MOFFETT, Mr. SATTERFIELD, Mr. WIRTH, Mr. GRAMM, Mr. UDALL, Mr. CARR, Mr. SEIBERLING, Mr. SANTINI, Mr. BROYHILL, Mr. BROWN of Ohio, Mr. LOEFFLER, Mr. MOORHEAD of California, Mr. CLAUSEN, and Mr. LUJAN were appointed as managers of the conference on the part of the House.

At 5:11 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 216. A concurrent resolution directing the Secretary of the Senate to correct a typographical error in the enrollment of the bill S. 1157.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 5753. An act to amend title 10, United States Code, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for the purpose of laws providing benefits for members of the National Guard and their dependents and beneficiaries; to the Committee on Armed Services.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2516. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, a report on horse protection enforcement for 1978; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2517. A communication from the Under Secretary of the Air Force, transmitting a draft of proposed legislation to create the office of Deputy Judge Advocate General of the Department of the Air Force, and for other purposes; to the Committee on Armed Services.

EC-2518. A secret communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a listing of contract award dates for the period November 15, 1979 to February 15, 1980; to the Committee on Armed Services.

EC-2519. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Centralized Ammunition Management—A Goal Not Yet Achieved," November 26, 1979; to the Committee on Armed Services.

EC-2520. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, the Board's submission to the Office of Management and Budget on increased pay costs for FY 1980; to the Committee on Commerce, Science, and Transportation.

EC-2521. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Interior Lacks Adequate Oversight of Shut-In Or Flaring Natural Gas Wells On The Outer Continental Shelf"; to the Committee on Energy and Natural Resources.

EC-2522. A communication from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to designate the Moores Creek National Military Park as Moores Creek National Battlefield; to the Committee on Energy and Natural Resources.

EC-2523. A communication from the Secretary of the Interior, transmitting, pursuant to law, the audit report of the Highway Safety Program, Department of Public Works, Government of Guam, as of August 31, 1979; to the Committee on Energy and Natural Resources.

EC-2524. A communication from the Chairman of the United States Nuclear Regulatory Commission, transmitting, pursuant to law, the seventeenth report on abnormal occurrences at licensed nuclear facilities for the second calendar quarter of 1979; to the Committee on Environment and Public Works.

EC-2525. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Entering A Nursing Home—Costly Implications For Medicaid And The Elderly"; to the Committee on Finance.

EC-2526. A communication from the Assistant Secretary of State for Legislative Affairs, transmitting, pursuant to law, project performance audit reports of the International Bank for Reconstruction and Development on certain projects undertaken; to the Committee on Foreign Relations.

EC-2527. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of International Agreements other than Treaties entered into by the United States within the previous sixty days; to the Committee on Foreign Relations.

EC-2528. A communication from the Chairman of the Foreign Claims Settlement Commission, transmitting, pursuant to law, the Annual Report of the Commission for the calendar year 1978; to the Committee on Foreign Relations.

EC-2529. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the claim of Campanella Construction Co., with the recommendation for favorable Congressional consideration; to the Committee on Governmental Affairs.

EC-2530. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report listing the reports of the General Accounting Office of the previous month; to the Committee on Governmental Affairs.

EC-2531. A communication from the Deputy Administrator of the Veterans Administration, transmitting, pursuant to law, the Veterans Administration report on disposal of foreign excess property for the period October 1, 1978 through September 30, 1979; to the Committee on Governmental Affairs.

EC-2532. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, a draft of proposed legislation to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon; to the Select Committee on Indian Affairs.

EC-2533. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a report upon the suspension of Speedy Trial Act time limits; to the Committee on the Judiciary.

EC-2534. A communication from the Chairman of the Copyright Royalty Tribunal, transmitting, pursuant to law, the Tribunal's Second Annual Report for the fiscal year ending September 30, 1979; to the Committee on the Judiciary.

EC-2535. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Prison Mental Health Can Be Improved By Better Management And More Effective Federal Aid"; to the Committee on the Judiciary.

EC-2536. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a special report on the primary health care needs of each of the specific tribes of American Indians and Alaska Natives; to the Committee on Labor and Human Resources.

EC-2537. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a copy of the Commission's communication to the Office of Management and Budget protesting any reduction in its original budget request; to the Committee on Rules and Administration.

EC-2538. A communication from the Architect of the Capitol, transmitting, pursuant to law, the report of all expenditures during the period April 1, 1979 through September 30, 1979, from moneys appropriated to the Architect of the Capitol; ordered to lie on the table and be printed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects (Rept. No. 96-427).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 288. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1648. Referred to the Committee on the Budget.

By Mr. BAYH, from the Committee on the Judiciary, without amendment:

S. 1468. A bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act (together with supplemental views) (Rept. No. 96-428).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 2046. A bill to authorize loan guarantees for the benefit of the Chrysler Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TOWER:

S. 2047. A bill to amend the Federal Food, Drug, and Cosmetic Act to restrict the unauthorized purchase of hypodermic needles and syringes; to the Committee on Labor and Human Resources.

By Mr. NELSON:

S. 2048. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

By Mr. NELSON (for himself, Mr. Dole, and Mr. Weicker):

S. 2049. A bill to increase the Small Business Administration loan guarantee limits; to the Select Committee on Small Buisness.

By Mr. HUDDLESTON (for himself and Mr. Ford):

S. 2050. A bill for the relief of the grantors of certain land in Henderson, Union, and Webster Counties, Kentucky, to the United States, and their heirs; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 2051. A bill for the relief of David Terence Webster, his wife, Pamela Ann, and their children, Tracy Leigh, Sharon Ann, Joanne Susan, and Ruth Gillian; to the Committee on the Judiciary.

By Mr. HEFLIN:

S. 2052. A bill for the relief of the Merchants National Bank of Mobile; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 2053. A bill for the relief of Anita Marisa Maitra-D'Cruze; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 2046. A bill to authorize loan guarantees for the benefit of the Chrysler Corp.; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. Lugar when he introduced the bill appear earlier in today's proceedings.)

By Mr. TOWER:

S. 2047. A bill to amend the Federal Food, Drug, and Cosmetic Act to restrict the unauthorized purchase of hypodermic needles and syringes; to the Committee on Labor and Human Resources.

● Mr. TOWER. Mr. President, today I am introducing a bill to require a prescription for the purchase of hypodermic needles and syringes. My purpose is to restrict availability of these items to those who have a medical need for them—and keep them out of the hands of those who would use them for illegal drugs, notably heroin.

Specifically, this legislation would designate hypodermic needles and syringes as restricted devices under the Food, Drug, and Cosmetic Act.

Drugs which are subject to abuse with the aid of hypodermic needles and syringes fall within Schedule I of the Controlled Substances Act (21 U.S.C. section 812). These drugs have a high potential for abuse, and no currently accepted medical use in the United States. Yet the Drug Enforcement Administration estimates that there are approximately 450,000 heroin addicts in the United States, and the National Institute on Drug Abuse reports that 2.3 million Americans admit to having used heroin at some time during their life. In all probability, the latter figure does not reflect the actual incidence of intravenous drug abuse, because of the nature of the survey and the reluctance of some persons to admit unlawful drug usage.

Mr. President, I do not contend that making hypodermic needles and syringes prescription items will stop drug abuse. Hardcore drug addicts and other criminal elements of society will always find a way to continue their illicit deeds.

But the incidental user, the first-time user, and the young person driven by curiosity rather than addiction for the prescnt, at least, will be deterred if they have no means for using the drugs once purchased.

Anything we can do to keep these casual users from becoming addicts will have enormous benefit for those whose lives remain whole and for our society in general.

I might point out that at least 10 States already regulate the use of hypodermic needles and syringes. These are: Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Jersey, New York, Rhode Island, and Virginia. Thus, there already is concern for the abuse potential, and precedent for legislative action.

In drafting this bill, I have carefully considered the impact it might have on those who have a legitimate medical need for hypodermic needles and syringes. Certainly the hundreds of thousands of diabetics and others who must have daily or periodic injections must be assured that they can continue to obtain these implements conveniently and quickly when necessary. However, my bill in no way affects the availability of these items to those with legitimate need.

It would require them to obtain a prescription, but since individuals who take regular medication do so at the direction and under the supervision of a physician, they should have no trouble in obtaining the needed prescriptions.

I would expect most physicians, who are acutely aware of the ravages wrought by drug abuse, would cooperate willingly by providing refillable or continuing prescriptions to insure the items are available to their patients whenever necessary.

Mr. President, the tragedy of drug abuse affects all sectors of our society. It is not limited to any economic, age, or ethnic group. Drug users and their families suffer alike, whether they be rich or poor, black or white, young or old. I believe restricting the availability of drug apparatus will translate into saving hundreds of lives. But if it is only one life, then I still contend there is strong justification for taking this legislative action.

Recently, there has been a great deal of concern over the issue of drug paraphernalia generally, and I congratulate my colleague from Maryland, Senator Mathias, for holding hearings to focus attention on this problem.

While I join my colleague in his desire to halt the sale of drug paraphernalia generally through "head shops" and other outlets, I am aware that previous legislation in this area, particularly at the State level, has been struck down by the courts as being unconstitutionally "vague" and therefore unenforceable.

Thus, the legislation I introduce today is intentionally drawn to be specific in purpose and effect. However, if the Senate Judiciary Committee proceeds to develop broader legislation, I would hope the problem of improper usage of hypodermic needles and syringes will be addressed.

Mr. President, my feeling that some action in this area should be taken expeditiously is so strong that I also am requesting the Commissioner of the Food and Drug Administration to consider issuing restrictions on the sale of hypodermic needles and syringes by virtue of his authority to consider such action under the Food, Drug, and Cosmetic Act.

I hope that my colleagues will consider my proposal favorably.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 520(e) of the Federal Food, Drug, and Cosmetic Act is amended by adding the following new paragraph at the end thereof:

"(3) Hypodermic needles and syringes shall be deemed devices restricted to sale, distribution, or use only upon the written or oral authorization of a practitioner licensed by law to administer or use such devices.".●

By Mr. NELSON (for himself, Mr. DOLE, and Mr. WEICKER):

S. 2049. A bill to increase the Small Business Administration loan guarantee limits; to the Select Committee on Small Business.

SBA FINANCIAL ASSISTANCE LOAN LIMITS

● Mr. NELSON. Mr. President, one of the best sources of support in the Nation for providing financial assistance to small businesses is the Small Business Administration's business loan programs, particularly the 7(a) regular business loan program. SBA is authorized to make loans to small businesses, including small manufacturers, wholesalers, retailers, and service establishments, when financing is not otherwise available on reasonable terms. Financial assistance may be used to finance construction, conversion, or expansion; finance the purchase of equipment, facilities, machinery, supplies, or materials; or to supply working capital.

In fiscal year 1978, the agency made over 31,727 loans for a record total of $3.3 billion, up from $30.5 billion in fiscal year 1977. This is by far the largest guaranteed loan program in the Agency, and among the largest in the Federal Government.

The Small Business Act, however, places statutory ceilings on the Federal Government's share of guaranteed assistance it can make available to qualified small businesses. Since 1976, SBA has been limited to a maximum exposure of $500,000 for the 7(a) regular business loan program and the 7(h) handicapped assistance loan program. The energy generation and conservation loan program, first enacted on July 4, 1974, established a similar $500,000 limit. The 7(i) economic opportunity loan program, transferred to the Small Business Administration in August 1974, originally contained a $50,000 limitation. In 1976, it was doubled to $100,000.

Mr. President, small businesses have been particularly victimized by the inflationary pressures of the past several years. In these times of double-digit inflation, even the basic costs of doing business in this country has increased significantly. Equipment, inventory, and buildings have all increased in price, without necessarily increasing in value. Consequently, and unfortunately, many small businesses which had been struggling to survive in these difficult times have not been able to withstand the upward costs pressures.

It is time for Congress to again review these statutory limitations to determine whether they should be increased. While the committee previously rejected an effort to establish the loan limit on a newly offered proposal at $1 million, this proposal will provide for a uniform treatment of all statutorily controlled programs. I believe there is a general recognition on the part of the Small Business Administration and the Office of Management and Budget of the need to reevaluate these limits.

In addition, many Members of the Senate have sought relief from these ceilings by proposing individual increases in the statutory limits. I am pleased that Senator WEICKER, the ranking minority member of the committee, has joined in introducing this proposal.

I am confident that the Small Business Committee will be carefully reviewing the merits and the need for making this increased assistance available.●

● Mr. WEICKER. Mr. President, I am pleased to join the distinguished chairman of the Small Business Committee, Senator NELSON, in introducing this legislation to increase the maximum limits on SBA's business loan guarantees.

Currently, under the SBA's regular business loan program the Agency cannot guarantee loans made by private lenders to small businesses in excess of $500,000. Since that $500,000 limit was imposed in 1976 inflation has jumped 30 percent.

The Small Business Committee has considered special exemptions from the $500,000 limit for certain industry groups claiming to be particularly hard hit by inflation. However, the effects of inflation are not "industry specific."

All Americans have been hurt by the high costs of inflation. All small businesses which traditionally have small profit margins and difficulty obtaining capital have been particularly hard hit. Their cost of doing business has skyrocketed. Therefore, the legislation we are introducing today applies across the board to all small business.

In many cases raising the loan limit to $1 million will simply provide small business with sufficient working capital to continue operating at current levels. Additionally, this legislation will provide a source of growth capital for those small- and medium-sized firms which are ready to expand.

Mr. President, as the ranking member of the Small Business Committee, I have become increasingly convinced that many of our economic problems could be solved if small businesses were allowed to grow and compete. As the economic power in this country becomes concentrated in fewer hands, Congress must provide smaller firms with the basic tools to effectively compete with the entrenched giants.

I am confident the Small Business Committee will move expeditiously on this proposal.●

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 2050. A bill for the relief of the grantors of certain land in Henderson, Union, and Webster Counties, Ky., to the United States, and their heirs; to the Committee on the Judiciary.

● Mr. HUDDLESTON. Mr. President, today I am introducing a private relief bill which seeks compensation in the amount of $32 million in payment for the oil, gas and mineral rights for which the owners of land condemned in 1942 for Camp Breckinridge were never paid. Along with this bill, I am submitting a resolution (S. Res. 287) to refer the entire matter to the Commissioners of the Court of Claims for factfinding and their report. My distinguished colleague and Senator from Kentucky, Mr. FORD, is joining me in introducing this legislation.

Camp Breckinridge consisted of some 36,000 acres in a rural farming section of Henderson, Union, and Webster Counties, Ky. The land was condemned in 1942 and used for a military training camp during World War II and the Korean conflict. With the declaration of war on the Axis Powers, the United States was involved in a war of new, and at the time, unknown dimensions. The need for immediate action by the United States in Europe and the Pacific was desperate and properly trained troops were needed without delay. Hence, getting the camp in working order in the shortest possible time became the Government's primary objective.

To some extent, this necessity for quick action explains the callous attitude displayed by the Government and the cavalier manner in which the 1,500 families who stood between the Government and an operating training camp were treated. It is an explanation but not an excuse. Some residents were ordered to evacuate in 2 or 3 weeks' time. Some notices of eviction were tacked on porch columns to avoid the problem of facing the owners. The appraisers were equally pressed for time. Farms were appraised, not by walking the metes and bounds, but by viewing the property from a car parked in a driveway. There are other accounts which have grown more bitter with the passage of time.

Similar stories are not uncommon in condemnation situations. In most cases condemnation is simply a very unpleasant experience. No one, regardless of their patriotism, likes to have his property taken. An understanding of the necessity of private sacrifice for the public good rarely makes the situation more palatable. The constitutional guarantee that no property will be taken without just compensation is the only factor in the whole equation designed to relieve the anguish of those forced to leave their homes and farms for the public good.

However, in this situation, there was not just compensation as required by the fifth amendment of the U.S. Constitution. This may seem unlikely when the various court battles fought by the former owners of the camp are considered, but through a combination of factors, the Government managed to acquire this property at an unreasonably low price. The Government's negotiators who handled the purchase of the camp property were instructed to obtain the property at the best price for the Government. This was an admirable instruction. However, in their zeal to carry it out, the negotiators seem to have forgotten the constitutional stricture placed upon their actions, namely, that the compensation must be just.

The land involved was fertile farm land with the necessary accouterments for housing 1,500 families and producing a living for them by farming. Also, there had been coal mining activity in the area for years. Oil wells were in existence at the time on some of the property in question. There were oil leases outstanding on approximately 70 percent of the property. Despite this, the Corps of Engineers publicly stated that the oil and gas leases were "of nuisance value only" and subtracted the meager amounts paid for the leases from the valuation of the properties. This completely ignored the very real possibility of substantial continued income to owners of property on which wells might in the future be located. In the end, many of the property owners received less for their land than they had invested to make it productive and nothing for the future value of their oil leases.

The obvious question in response to this information is, "Why didn't the owners fight the condemnation appraisals in court?" There are several answers to that question, some of which reflect very badly on the good faith of the U.S. Government. The major reason involved the Surplus Property Acts of 1939 and 1944. These laws provided a third priority repurchase right for the owners of property condemned by the United States which later became surplus. This priority followed a first priority for other Federal agencies and a second priority for State and local governments since it is obviously better to fill governmental property needs with Government property than to visit the trauma of condemnation on a new set of property owners. When this repurchase privilege was provided by Congress, it was expressly created on a temporary basis, each of the laws expiring by its own terms at the end of 5 years unless it were extended by an act of Congress. Hence, the repurchase priority which did exist was anything but a guarantee that the property would be returned to the former owners.

This was not the story told the owners by the Government negotiators. The property owners were told they would be able to repurchase their property at the end of the war. There was no mention of only a third priority or that it was effective only if the property were declared surplus and refused by other Government agencies. Furthermore, the owners were strongly encouraged not to contest the Government appraisals of their property because that appraised value would be the price they would pay when they would be allowed to repurchase the property after the war. This can be characterized as intentional misrepresentation or, as some have implied, fraud.

It is generally assumed that our legal system provides remedies for such wrongs. In this situation, the law was all on the Government's side. In all of the documents prepared by the Government, the owners conveyed a fee simple absolute to the United States. Having conveyed everything to the Government, the former owners had no rights left. These written documents could not be disputed by oral evidence and the Government had never made any of its promises in writing.

The case of *Harrison* v. *Phillips*, 282 F.2d 927 (5th Cir. 1960) highlights the legal cul-de-sac faced by the former owners. The plaintiff, Harrison, based his case on statements by Coast Guard officials who condemned his property in Texas, which were identical to those made by the negotiators in Kentucky. Even though such representations were made—

> The Government . . . would not be bound by any representations made by . . . its negotiators since they did not have authority to bind the United States to reconvey the property on a priority basis. . . . Any statements made by the negotiators were clearly beyond the scope of their authority and not binding upon the government. (Harrison, at p. 208.)

There were other more basic reasons why many of the owners did not contest their appraisals. They were told that they would receive their compensation immediately if they did not contest. For those who followed this advice, the payment was often a year away. For those who chose to contest, the last suits were not completed until after the war had been over for 2 years. In retrospect, all of this may seem inconsequential or simply water under the bridge, but think for a moment of the difficulties of moving a farming operation to new land when one quarter of the land in the county in question has just been removed from the market and prices have risen accordingly for remaining land, when no compensation has yet been received, and when the completely disrupted farming operation is the only source of income. The thought is not pleasant. In this situation, many simply could not afford to contest the appraisals.

The hardships and indignities of the move were endured with a mixture of bitterness, patriotism, and faith that the separation from land and home would not be a long one. During the Korean conflict, the camp was used again by the military but it was not until 1962 that it was finally declared surplus Government property. It seemed that the hopes of the owners would at last be fulfilled. However, injustice was to win in the end. In 1949, the third repurchase priority of the Surplus Property Act of 1944 expired. No notice of this event had been given to any of the former owners although they had been in continuous contact with the Government concerning the property. Further offense had been given the owners in 1957 when the Government leased two tracts of the property for productive oil wells.

In 1962, when it was learned that the camp was to be sold, the former owners sought to exercise their promised repurchase priority only to learn that the land was to be sold at public auction and that the supposedly worthless oil, gas, and mineral rights were to be auctioned separately in seven tracts. These proposed actions were fought through the Federal court system concluding with the denial of certiorari by the Supreme Court. Thus, the former landowners lost their legal efforts to repurchase their property in 1968. The last of the Camp Breckinridge property was sold in 1969.

The dollar figures for this whole transaction are astounding. The owners of the property received $3,100,000 for the 36,000 acres of land, housing for 1,500 families, and the fencing and buildings necessary to farm this amount of land. When the Government sold the land, oil, and coal rights in the 1960's, it received approximately $40 million in return. Thus the U.S. Government held property for 10 years after its last public use and made a $37,000,000 profit with the help of broken promises. While I admire the ability to make a profit fairly, the Government of this country should not be in the business of making a profit by breaking its promise, legally authorized or not, and doing so at the expense of the individual citizens of this Nation.

As we have noted, the owners of Camp Breckinridge land fought their case to the highest court in the land. The Sixth Circuit Court of Appeals held against the owners, asserting that their interest in the land began only after its oil resources were discovered. These resources have never been the sole interest of those who owned the land on which the camp was built, but even if they were, these resources were well known long before the condemnation by the Government, contrary to the assertions of the court of appeals. Furthermore, the Government considered these leases of sufficient value to bring separate condemnation proceedings to obtain them, after the war was over.

At the time of the initial condemnation proceedings, the Corps of Engineers estimated that there were oil exploration leases outstanding on 65 to 70 percent of the land. Under these leases, small amounts ranging from $1 to $5 per acre were paid for exploration rights and the owners retained a one-eighth overriding royalty on all oil production. To date, in excess of $60,000,000 worth of oil has been extracted from the Camp Breckinridge land. The wells are still pumping on this land where the Corps of Engineers said that the oil leases were of simply nuisance value. This is the same land to which the Government sold oil and coal rights in 1965 for $32,000,000.

I do not find the continued interest of the former owners at all out of place. Nor do I find it greedy or unpatriotic. In fact, I find it quite admirable that this group has refused to be completely defeated by the numerous setbacks and injustices through which they have suffered and have once again sought relief, this time from the Congress, the arbiter of last resort. To aid their cause, Senator FORD and I are introducing a private relief bill seeking compensation in the amount of $32 million, the amount for which the Government sold the oil, gas, and mineral rights it acquired for free. Along with this bill, we are also introducing a Senate resolution seeking to refer this matter to the Commissioners of the Court of Claims for a thorough and objective review of the situation and a recommendation as to the amount to which the former owners are "equitably due" from the United States.

I firmly believe that the circumstances surrounding the creation of Camp Breckinridge and subsequent Government action should be given a full hearing. This hearing should go to the heart of the injustice done the former owners and consider all evidence presented rather than revolving around the principles of agency and being inhibited by such legalities as the parole evidence rule. These are obviously very important parts of our legal system but they should never be used to insulate from exposure Government conduct that some might describe as fraudulent. It is for situations such as this that private relief and congressional reference procedures have been developed over the years. They are only applicable when there is no other remedy.

Cases such as this one, when sent to the Commissioners of the Court of Claims by congressional reference, are judged by the standard of the Government's "broad moral responsibility," *Sherman Webb, et al.* v. *United States* (192 Ct. Cl. 925 (1970)), and the pleas are addressed to the conscience of the sovereign. We should never be hesitant to subject the actions of the Government to review before such a standard. The amount of money potentially involved should not frighten us away from action but should make us more determined to give the former owners an opportunity to obtain justice. Furthermore, we should neither rely on the absence of precedent for cases of this size nor refrain from acting for fear that we will establish a precedent for the future. Rather, we should be eager to establish a precedent for redress anytime the Government of the United States has perpetrated injustice upon its citizens.

The action of this Chamber on the resolution I am submitting today will be but the first step toward such redress. Upon referral to the Commissioners of the Court of Claims, they will report to us on their findings. Upon receipt of their report, the Senate and House will be called on to make a final decision. I feel very strongly about this issue. I urge my colleagues to support this effort. While I realize that I have set a goal which will be difficult to achieve, I also realize that the former owners have been fighting this battle for over 30 years. My determination and that of my constituents to see justice done in situations of this type has been demonstrated on prior occasions. I am determined to pursue this effort to fruition and ask my colleagues to join me in this first step.●

● Mr. FORD. Mr. President, the bill my colleague, Senator HUDDLESTON, and I are cosponsoring is one that will determine the legal and moral responsibility of the Government to a group of Kentuckians who sold land to our Government in good faith, but now have seen that their faith was misplaced.

I am referring to the purchase by the United States of approximately 36,000 acres of land that became the World War II Army training center Camp Breckinridge. The purchase was made from as many as 1,500 families who had no opportunity to negotiate a selling price and who, taking Government authorities at their word, accepted the United States' promise that they could buy back their land when Federal use of it was terminated.

Contrary to that promise, in 1965 the United States sold the Camp Breckinridge land to the highest bidder, a party other than my constituents.

Mr. President, we in Congress are increasingly called upon to respond to our constituents' waning confidence in our Government. Passage of this bill by the Senate would be a positive step toward changing the tide and bridging the credibility gap. In basic terms, this bill seeks compensation for the land condemned by the United States so that Camp Breckinridge could be established, land for which these families were paid in many cases less than $100 per acre.

I hasten to add that Kentuckians are no less patriotic than their counterparts in our sister 49 States. In time of war, Kentucky's people willingly make those sacrifices required of them by the circumstances. The training center, significantly, bore the name of a distinguished Kentuckian who served in Congress and later became Vice President of the United States.

We pride ourselves for standing tall in the name of justice. What justice is there in a Government that does not keep its promise? These people gave up good agricultural acreage, the potential for oil and mineral rights, homesteads that had been passed from generation to generation. They trusted the Government representatives who told them they would have the chance to buy back their land after the war. Unfortunately, this did not prove to be true.

Now, four decades later my constituents are looking to this body to right this wrong, to give them just compensation for land that, had not World War II intervened, would be a viable part of the economy of Kentucky and the Nation in 1979.

Mr. President, Senator HUDDLESTON and I, in introducing this bill, call on our Senate colleagues to join in passing a piece of legislation that will renew the confidence of a group of patriotic citizens who have felt the sting of injustice.●

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 76, a bill to amend title XVIII of the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 1179

At the request of Mr. BAYH, the Senator from Maryland (Mr. MATHIAS) the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1179, a bill incorporating the Gold Star Wives.

S. 1203

At the request of Mr. BAYH, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1488

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1488, the Individual Savings Act of 1979.

S. 1638

At the request of Mr. ROTH, the Senator from Indiana (Mr. LUGAR) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 1638, a bill to amend the Internal Revenue Code of 1954 to provide for the amortization of startup expenditures paid or incurred in starting a new trade or business.

S. 1688

At the request of Mr. MATHIAS, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 1688, a bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State or political subdivision may tax certain income from sources outside the United States.

S. 1945

At the request of Mr. LEVIN, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 1945, the Agency Accountability Act.

S. 2040

At the request of Mr. NELSON, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2040, the Small Business Export Expansion Act of 1979.

S. 2043

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. STEWART), the Senator from Kansas (Mr. DOLE), the Senator from Oklahoma (Mr. BOREN), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Florida (Mr. STONE), the Senator from Indiana (Mr. LUGAR), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Vermont (Mr. LEAHY), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2043, a bill to provide for research in the diagnosis, prevention, and control of malignant tumors in domestic animals, poultry and wildlife.

AMENDMENT NO. 443

At the request of Mr. JAVITS, the Senator from Maryland (Mr. MATHIAS) and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of amendment No. 443 intended to be proposed to S. 1204, the Child Health Assurance Act.

AMENDMENTS NOS. 582 AND 583

At the request of Mr. MELCHER, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of amendments Nos. 582 and 583 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 699

At the request of Mr. BENTSEN, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of amendment No. 699 proposed to H.R. 3919, an act to impose an excess profit tax on domestic crude oil.

SENATE RESOLUTION 287—SUBMISSION OF A RESOLUTION TO REFER S. 2050 TO THE CHIEF COMMISSIONER, U.S. COURT OF CLAIMS

Mr. HUDDLESTON (for himself and Mr. FORD) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 287

Resolved, That the bill (S. 2050) entitled "A bill for the relief of the grantors of certain land in Henderson, Union, and Webster Counties, Kentucky, to the United States, and their heirs" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform the Congress of the amount, if any, legally or equitably due from the United States to the claimants individually.

SENATE RESOLUTION 288—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. CANNON, from the Committee on Commerce, Science, and Transportation, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 288

Resolved, That pursuant to Section 303(c) of the Congressional Budget Act of 1974, the provisions of Section 303(a) of such Act are waived with respect to the consideration of S. 1648, a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

Such waiver is necessary to permit consideration of new spending authority (as detailed below) to become effective in a fiscal year for which the first concurrent resolution on the budget has not been agreed to. Specifically, the new spending authority for which this waiver is needed arises from the authorization of funds from the Airport and Airway Trust Fund, as contained in S. 1648, for a future fiscal year not yet considered by the Budget Committee. The total amount of the funding for fiscal year 1981, is $1,665,000,000.

Compliance under section 303(a) of the Budget Act was not possible because of the multiyear nature of airport development projects under the Airport and Airway Development Act. These projects are for airport development and construction that may take several years to complete and call for assurance that Federal funding will be committed to that project in order to permit the airport operator to sell municipal bonds to raise the local authority's share of the project cost. This need for future commitment for planning purposes has been recognized by the Congress since the creation of the trust fund in 1970.

The entitlements contained in S. 1648 represent an extension of existing spending programs under the Airport and Airway Development Act.

Because Congress anticipated possible modification and review of the ADAP program, the legal basis for all authority for expenditures of trust fund monies expires on September 1, 1980. Yet the need for continued and increased funding for 1981 through 1985 has clearly been demonstrated and is documented by a backlog of over $1,000,000,000 in accumulated requests for ADAP funds above the currently authorized levels, of which over $600,000,000 have been identified by the Federal Aviation Administration as high-priority programs. Without the renewed and increased spending for fiscal year 1981 through 1985 many airport safety programs will not be funded. The Airport and Airway Trust Fund from which expenditures will be made for the programs contained in S. 1648 is currently running a surplus of over $2,500,000,000 and by fiscal year 1981 will accumulate a surplus of $3,250,000,000.

SENATE RESOLUTION 291—SUBMISSION OF A RESOLUTION TO REFER S. 2052 TO THE CHIEF COMMISSIONER, UNITED STATES COURT OF CLAIMS

Mr. HEFLIN submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 291

Resolved, that the bill (S. 2052) entitled "A bill for the relief of The Merchants National Bank of Mobile", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims, and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2508 of title 28, United States Code, notwithstanding the bar of any statute of limitation, latches, or bar of sovereign immunity, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusion thereon as shall be sufficient to inform the Congress of the nature and character of the demand of the claim, legal or equitable, against the United States, or a gratuity in the amount, if any, legally or equitably due from the United States to the claimant.

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 700

(Ordered to be printed and to lie on the table.)

Mr. LEAHY (for himself, Mr. NELSON, Mr. BRADLEY, Mr. MUSKIE, Mr. EAGLETON, Mr. METZENBAUM, and Mr. MCGOVERN) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

● Mr. LEAHY. Mr. President, I am submitting for printing an amendment I intend to offer to the Crude Oil Windfall Profit Tax Act of 1979.

Under current law, independent oil producers qualify for a 22-percent depletion allowance on up to 1,200 barrels per day of production (1,000 barrels per day beginning in 1980). That is, they receive a 22-cent tax deduction for every dollar of oil revenues.

My amendment would not repeal percentage depletion. Nor would it change the current depletion rates and depletable oil quantities.

What it would do is restore the language in the House passed bill that denies the percentage depletion subsidy for oil revenues subject to the windfall profits tax.

Under the provisions of my amendment, percentage depletion would not be allowed on the difference between the selling price of oil, and its base price under the provisions of the windfall profit tax.

Mr. President, I could not feel more strongly that we must provide every possible incentive to increase domestic oil production at this time. My amendment would not interfere with efforts to expand domestic exploration and production. Even when coupled with a stiff windfall profit tax, my amendment would leave independent producers with substantially greater revenues to invest in oil production than they had before decontrol. In light of the generous exemption, the Senate has seen fit to approve today for independent producers, my amendment will not even put a dent in the huge increases in the after-tax earnings of independent producers.

As important as the need to stimulate increased oil production may be, increased production, by itself, cannot hope to solve our Nation's energy problems. We must act fast and in a big way to encourage conservation and production of alternative energy production.

My amendment does not impose a new tax on independent oil producers. What it does do is prevent the percentage depletion tax subsidy from increasing by $12 billion at the very time when it is needed least.

It is my hope that my amendment will be accepted, thus freeing up some $12 billion in revenues that can be put to far better uses.

We must encourage Americans and American producers to conserve energy. We must encourage alternative energy production. We must provide assistance to low-income American families who simply cannot cope with the recent dramatic increases in energy costs.

Mr. President, these many competing needs will all require revenues, revenues which, as we move toward a balanced budget, will become more and more scarce. We can ill afford to squander $12 billion for an unnecessary tax subsidy in the face of these many competing needs.●

AMENDMENT NO. 701

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

● Mr. WEICKER. Mr. President, I am today submitting an amendment which I will offer to H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1979. This amendment would establish a mandatory conservation program to reduce national consumption of petroleum products by at least 5 percent.

The takeover of the U.S. Embassy in Tehran and the resulting U.S. embargo of Iranian oil have dramatically underscored the vulnerability of the foreign oil on which we depend. Continuing unrest throughout the Mideast region poses a devastating threat to our national welfare.

Never have the American people better understood the need for or been more willing to sacrifice to strengthen national security than now in response to this crisis. Americans can and will conserve. We, their leaders, must show the way. Immediate implementation of a mandatory conservation program will not only unite the Nation but will also give a dramatic signal to the world that America's resolve is firm.

The amendment I offer establishes a conservation goal of not less than 5 percent for all petroleum products. This goal approximates the percentage Iranian oil imports have represented in relation to total U.S. oil consumption. The target is established to alleviate anticipated shortage by conservation, rather than through resort to the spot market to make up the loss, which would defeat the spirit, if not the purpose, of the embargo.

The conservation program itself is adapted from title II of the Emergency Energy Conservation Act of 1979 (Public Law 96–102; enacted November 5, 1979). Title II of the act provides for an emergency energy conservation program whereby the President is authorized to establish conservation targets for each State, and each State is required to implement an approved State conservation plan. If the State plan does not meet the conservation target, then a standby Federal plan could be imposed. This standby Federal conservation plan is not related to the standby motor fuel rationing plan mandated by title I of the Emergency Energy Conservation Act.

My amendment would require the President to establish a conservation target of not less than 5 percent for the reduction of petroleum products consumption. The mandated conservation targets would then be implemented in precisely the manner prescribed by title II of the Emergency Energy Conservation Act. The act itself would not be amended by my measure, but its provisions would be incorporated into a mandatory conservation program.

The reasons for a mandatory conservation program are twofold: First, there is no need to delay for the President to make a finding that a "severe energy supply interruption exists or is imminent," as the implementation of the Iranian embargo establishes this fact, and second, action now under procedures approved by Congress is imperative.

Mr. President, I urge my colleagues to carefully consider this mandatory conservation program which is directly tied to the Iranian oil embargo. Congress resolve on this issue can only be viewed as a reflection of the resolve of the Nation at this criticial time.

Mr. President, I ask unanimous consent that a fact sheet describing the amendment, and the text of the amendment, be printed at this point in the RECORD.

There being no objection, the amendment and fact sheet were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 701

On page 179, after line 21, add the following:

TITLE V—PETROLEUM CONSERVATION

SEC. 501. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) serious disruptions have recently occurred in the petroleum product markets of the United States;

(2) it is likely that such disruptions will continue to exist;

(3) the general welfare of the United States, and interstate commerce in particular, are significantly affected by these market disruptions; and

(4) an urgent need exists to provide for conservation and other measures with respect to petroleum products in order to cope with market disruptions and provide for the general welfare of the United States and protect interstate commerce; and

(b) PURPOSE.—The purposes of this legislation are to—

(1) provide a means for the Federal Government, States, and units of local government to establish conservation measures with respect to petroleum products;

(2) provide for the general welfare of the United States; and

(3) protect interstate commerce.

SEC. 502. DEFINITIONS.

For purposes of this title—

(1) The term "petroleum" includes oil and oil products in all forms, including, but not limited to, crude oil, lease condensate, unfinished oil, natural gas liquids, and gasoline, diesel fuel, home heating oil, kerosene and other refined petroleum products.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government or any agency of the United States or any State or political subdivision thereof.

(3) The term "vehicle" means any vehicle propelled by motor fuel and manufactured primarily for use on public streets, roads, and highways.

(4) The term "Secretary" means the Secretary of Energy.

(5) The term "Governor" means the chief executive officer of a State.

(6) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

SEC. 511. NATIONAL AND STATE PETROLEUM CONSERVATION TARGETS.

(a) TARGETS.—(1) The President shall establish monthly conservation targets of not less than 5 percent for petroleum products for the Nation generally and for each State.

(2)(A) The State conservation target for petroleum products shall be equal to (i) the State base period consumption reduced by (ii) a uniform national percentage of no less than 5 percent.

(B) For the purposes of this subsection, the term "State base period consumption" means, for any month, the product of the following factors, as determined by the President.

(i) the consumption of petroleum products during the corresponding month in the 12-month period prior to November 1, 1979; and

(ii) a growth adjustment factor, which shall be determined on the basis of the trends in the use in that State of petroleum products during the 36-month period prior to November 1, 1979.

(C)(i) The President shall adjust, to the extent he determines necessary, any State base period consumption to insure that achievement of a target established for that State under this subsection will not impair the attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(b)(1)).

(ii) The President may, to the extent he determines appropriate, further adjust any State base period consumption to reflect—

(I) reduction in petroleum consumption already achieved by petroleum conservation programs;

(II) petroleum shortages which may affect petroleum consumption; and

(III) variations in weather from seasonal norms.

(b) NOTIFICATION AND PUBLICATION OF TARGETS.—The President shall notify the Governor of each State of the target established under subsection (a) for that State, and shall publish in the Federal Register, the targets, the base period consumption for each State and the factors considered under subsection (a)(2).

(c) ESTABLISHMENT OF TARGETS FOR FEDERAL AGENCIES.—In connection with the establishment of the target under subsection (a) the President shall make effective a petroleum conservation plan for the Federal Government, which plan shall be designed to achieve a reduction equal to or greater than the 5 percent minimum reduction in use of petroleum products. Such plan shall contain measures which the President will implement, in accordance with other applicable provisions of law, to reduce the use of petroleum by the Federal Government. In developing such plan the President shall consider the potential for reductions in petroleum use—

(1) by buildings, facilities, and equipment owned, leased, of under contract by the Federal Government; and

(2) by Federal employees and officials through increased use of car and van pooling, preferential parking for multipassenger vehicles, and greater use of mass transit.

(d) DETERMINATION AND PUBLICATION OF ACTUAL CONSUMPTION NATIONALLY AND STATE-BY-STATE.—Each month the Secretary shall determine and publish in the Federal Register (1) the level of consumption of petroleum products for the most recent month for which the President determines accurate data is available, nationally and for each State, and (2) whether the target under subsection (a) has been met or is likely to be met.

(e) PRESIDENTIAL AUTHORITY NOT TO BE DELEGATED.—Notwithstanding any other provision of law, the authority vested in the President under this section may not be delegated.

SEC. 512. STATE CONSERVATION PLAN.

(a) STATE CONSERVATION PLANS.—(1)(A) Not later than 45 days after the date of the publication of the petroleum conservation target for a State under section 511(b), the Governor of that State shall submit to the Secretary a State conservation plan designed to meet or exceed the conservation target in effect for that State under section 511(a). Such plan shall contain such information as the Secretary may reasonably require. At any time, the Governor may, with the approval of the Secretary, amend a plan established under this section.

(B) The Secretary may, for good cause

shown, extend to a specific date the period for the submission of any State's plan under subparagraph (A) if the Secretary publishes in the Federal Register notice of that extension together with the reasons therefor.

(2) Each State is encouraged to submit to the Secretary a State conservation plan as soon as possible after the date of the enactment of this Act and in advance of such publication of any such target. The Secretary may tentatively approve such a plan in accordance with the provisions of this section. For the purposes of this part such tentative approval shall not be construed to result in a delegation of Federal authority to administer or enforce any measure contained in a State plan.

(b) Conservation Measures Under State Plans.—(1) Each State conservation plan under this section shall provide for reduction in the public and private use of petroleum products. Such State plan shall contain adequate assurances that measures contained therein will be effectively implemented in that State. Such plan may provide for reduced use of petroleum products through voluntary programs or through the application of one or more of the following measures described in such plan:

(A) measures which are authorized under the laws of that State and which will be administered and enforced by officers and employees of the State (or political subdivisions of the State) pursuant to the laws of such State (or political subdivisions); and

(B) measures—

(i) which the Governor requests, and agrees to assume, the responsibility for administration and enforcement in accordance with subsection (d);

(ii) which the attorney general of that State has found that (I) absent a delegation of authority under Federal law, the Governor lacks the authority under the laws of the State to invoke, (II) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing under a delegation of authority pursuant to Federal law; and (III) if implemented, would not be contrary to State law; and

(iii) which either the Secretary determines are contained in the standby Federal conservation plan established under section 513 or are approved by the Secretary, in his discretion.

(2) In the preparation of such plan (and any amendment to the plan) the Governor shall, to the maximum extent practicable, provide for consultation with representatives of affected businesses and local governments and provide an opportunity for public comment.

(3) Any State plan submitted to the Secretary under this section may permit persons affected by any measure in such plan to use alternative means of conserving at least as much petroleum as would be conserved by such measure. Such plan shall provide an effective procedure, as determined by the Secretary, for the approval and enforcement of such alternative means by such State or by any political subdivision of such State.

(c) Approval of State Plans.—(1) As soon as practicable after the date of the receipt of any State plan, but in no event later than 30 days after such date, the Secretary shall review such plan and shall approve it unless the Secretary finds—

(A) that, taken as a whole, the plan is not likely to achieve the conservation target established for that State under section 511(a),

(B) that, taken as a whole, the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of petroleum use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof,

(C) that the requirements of this part regarding the plan have not been met, or

(D) that a measure described in subsection (b)(1) is—

(i) inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

(ii) an undue burden on interstate commerce, or

(iii) a tax, tariff, or user fee not authorized by State law.

(2) Any measure contained in a State plan shall become effective in that State on the date the Secretary approves the plan under this subsection or such later date as may be prescribed in, or pursuant to, the plan.

(d) State Administration and Enforcement.—(1) The authority to administer and enforce any measure described in subsection (b)(1)(B) which is in a State plan approved under this section is hereby delegated to the Governor of the State and the other State and local officers and employees designated by the Governor. Such authority includes the authority to institute actions on behalf of the United States for the imposition and collection of civil penalties under subsection (e).

(2) All delegation of authority under paragraph (1) with respect to any State shall be considered revoked effective upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

(3) If at any time the conditions of subsection (b)(1)(B)(ii) are no longer satisfied in any State with respect to any measure for which a delegation has been made under paragraph (1), the attorney general of that State shall transmit a written statement to that effect to the Governor of that State and to the President. Such delegation shall be considered revoked effective upon receipt by the President of such written statement and a determination by the President that such conditions are no longer satisfied, but only to the extent of that determination and consistent with such attorney general's statement.

(4) Any revocation under paragraph (2) or (3) shall not affect any action or pending proceedings, administrative or civil, not finally determined on the date of such revocation, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such revocation.

(e) Civil Penalty.—(1) Whoever violates the requirements of any measure described in subsection (b)(1)(B) which is in a State plan in effect under this section shall be subject to a civil penalty of not to exceed $1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of measures the authority for which is delegated under subsection (d).

Sec. 513. Standby Federal Conservation Plan.

(a) Establishment of Standby Conservation Plan.—(1) Within 90 days after the date of the enactment of this legislation the Secretary, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), shall establish a standby Federal conservation plan. The Secretary may amend such plan at any time, and shall make such amendments public upon their adoption.

(2) The plan under this section shall be consistent with the attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(b)(1)), and shall provide for the emergency reduction in the public and private use of petroleum products.

(b) Implementation of Standby Conservation Plan.—(1) If the President finds after a reasonable period of operation, but not less than 90 days, that a State conservation plan approved and implemented under section 512 is not substantially meeting a conservation target established under section 511(a) for such State and it is likely that such target will continue to be unmet, then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) for such period or periods as the President determines appropriate to achieve the target in that State.

(2) If the President finds after a reasonable period of time, that the conservation target established under section 511(a) is not being substantially met and it is likely that such target will continue to be unmet in a State which—

(A) has no conservation plan approved under section 512; or

(B) the President finds has substantially failed to carry out the assurances regarding implementation set forth in the plan approved under section 512,

then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) for such period or periods as the President determines appropriate to achieve the target in that State.

(c) Basis for Findings.—Any finding under subsection (b) shall be accompanied by such information and analysis as is necessary to provide a basis therefor and shall be available to the Congress and the public.

(d) Submission of State Conservation Plan.—(1) The Governor of a State in which all or any portion of the standby Federal conservation plan is or will be in effect may submit at any time a State conservation plan, and if it is approved under section 512(c), all or such portion of the standby Federal conservation plan shall cease to be effective in that State. Nothing in this paragraph shall affect any action or pending proceedings, administrative or civil, not finally determined on such date, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such cessation of effectiveness.

(e) State Substitute Conservation Measures.—(1) After the President makes all or any part of the standby Federal conservation plan effective in any State or political subdivision under subsection (b), the Secretary shall provide procedures whereby such State or political subdivision thereof may submit to the Secretary for approval one or more measures under authority of State or local law to be implemented by such State or political subdivision and to be substituted for any Federal measure in the Federal plan. The measures may include provisions whereby persons affected by such Federal measure are permitted to use alternative means of conserving at least as much petroleum as would be conserved by such Federal measure. Such measures shall provide effective procedures, as determined by the Secretary, for the approval and enforcement of such alternative means by such State or by any political subdivision thereof.

(2) The Secretary may approve the measures under paragraph (1) if he finds—

(A) that such measures when in effect will conserve at least as much petroleum as would be conserved by such Federal measure which would have otherwise been in effect in such State or political subdivision;

(B) such measures otherwise meet the requirements of this paragraph; and

(C) such measures would be approved under section 512(c)(1)(B), (C), and (D).

(3) If the Secretary approves measures under this subsection such Federal measure shall cease to be effective in that State or political subdivision. Nothing in this paragraph shall affect any action or pending proceedings, administrative or civil, not finally determined on the date the Federal measure ceases to be effective in that State or political subdivision, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such cessation of effectiveness.

(4) If the Secretary finds that a reasonable period of time that the requirements of this subsection are not being met under the measures in effect under this subsection he may reimpose the Federal measure referred to in paragraph (1).

(f) State Authority To Administer Plan.—At the request of the Governor of any State, the President may provide that the administration and enforcement of all or a portion of the standby Federal conservation plan made effective in that State under subsection (b) be in accordance with section 512(d)(1), (2), and (4).

(g) Presidential Authority Not To Be Delegated.—Notwithstanding any other provision of law (other than subsection (f)), the authority vested in the President under this section may not be delegated.

(h) Requirements of Plan.—The plan established under subsection (a) shall—

(1) taken as a whole, be designed so that the plan, if implemented, would be likely to achieve the conservation target under section 511 for which it would be implemented,

(2) taken as a whole, be designed so as not to impose an unreasonably disproportionate share of the burden of restrictions on petroleum use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof, and

(3) not contain any measure which the Secretary finds—

(A) is inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

(B) is an undue burden on interstate commerce,

(C) is a tax, tariff, or user fee, or

(D) is a program for the assignment of rights for end-user purchases of gasoline or diesel fuel, as described in section 103 (a)(1) (A) and (B) of the Energy Policy and Conservation Act (42 U.S.C. 6263).

(i) Plan May Not Authorize Weekend Closings of Retail Gasoline Stations.—(1) Except as provided in paragraph (2), the plan established under subsection (a) may not provide for the restriction of hours of sale of motor fuel at retail at any time between Friday noon and Sunday midnight.

(2) Paragraph (1) shall not preclude the restriction on such hours of sale if that restriction occurs in connection with a program for restricting hours of sale of motor fuel each day of the week on a rotating basis.

(j) Civil Penalties.—(1) Whoever violates the requirements of such a plan implemented under subsection (b) shall be subject to a civil penalty not to exceed $1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided under paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of that portion of the standby Federal conservation plan for which authority is delegated to that State under subsection (f).

Sec. 514. Judicial Review.

(a) State Actions.—(1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of—

(A) any finding by the President under sections 513(b)(1)(A), relating to the achievement of the petroleum conservation target of such State, or 513(b)(2), relating to the achievement of the petroleum conservation target of such State or the failure to carry out the assurances regarding implementation contained in an approved plan of such State; or

(B) any determination by the Secretary disapproving a State plan under section 512 (c), including any determination by the Secretary under section 512(c)(1)(B) that the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of petroleum use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof.

Such action shall be barred unless it is instituted within 30 calendar days after the date of publication of the establishment of a target referred to in subparagraph (A), the finding by the President referred to in subparagraph (B), or the determination by the Secretary referred to in subparagraph (C), as the case may be.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such court of appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than twenty days after the decision of the court of appeals.

(b) Court of Appeals Docket.—It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a)(2).

(c) Injunctive Relief.—With respect to judicial review under subsection (a)(1)(A), the court shall not have jurisdiction to grant any injunctive relief except in conjunction with a final judgment entered in the case.

Sec. 515. Reports.

(a) Monitoring.—The Secretary shall monitor the implementation of State conservation plans and of the standby Federal conservation plan and make such recommendations to the Governor of each affected State as he deems appropriate for modification to such plans.

(b) Annual Report.—The President shall report annually to the Congress on activities undertaken pursuant to this part and include in such report his estimate of the petroleum saved in each State and the performance of such State in relation to this part. Such report shall contain such recommendations as the President considers appropriate.

Fact Sheet on the Weicker Amendment

This amendment would incorporate the provisions of Part A of Title II of the Emergency Energy Conservation Act of 1979 (P.L. 96–102) into a mandatory plan for the conservation of not less than five percent of the use of petroleum products.

The President would be required to establish monthly conservation targets for the use of petroleum products for the nation generally and for each state. These targets will be calculated by applying no less than a five percent reduction to a base period consumption of petroleum products.

A petroleum conservation program, designed to achieve a reduction of at least five percent in petroleum use, would be established by the President for the Federal government and for its employees in connection with their employment.

The governor of each state would be required to submit a state petroleum conservation plan no later than 45 days after publication in the Federal Register of the conservation target for that state. Each state plan must provide for a reduction in the public and private use of petroleum products. The plan may permit those affected by it to use alternative means of conserving at least as much petroleum as would be conserved under the state's program, provided the Secretary of Energy approves of the state's procedures for the approval and enforcement of the alternative. The plan must contain adequate assurances that the provisions contained in it will be effectively implemented, either by measures authorized under state law or by measures for which the governor seeks a delegation of federal authority to administer and enforce. The Secretary of Energy must affirmatively approve each state plan, and may withhold approval if the plan "is not likely to achieve the conservation target" or for other specified reasons.

The Secretary of Energy would be required to establish a standby federal conservation plan which would provide for not less than a five percent reduction in the public and private use of petroleum products. The federal plan would serve as a guide to the states for conservation measures deemed to be most effective in achieving the desired reduction in petroleum use. If the President finds that the state plan has been in operation for a reasonable period of time, not to be less than 90 days, and the conservation target is not being met and it is likely it will continue to be unmet, he could impose all or part of the federal plan in the state. These prerequisites to federal intervention are designed to encourage states to come up with their own plans in recognition of the fact that conservation can be most effectively achieved if local officials are responsible for planning, administration and enforcement. In addition, even when the federal plan has become effective in a state, the state is afforded a series of options to enable it to assume responsibility for the mandatory conservation program. These options include the submission of another state plan or a substitute on a measure by measure basis for elements of the federal plan.

The amendment provides that a state may seek judicial review, in the appropriate federal district court, of: the conservation target established for the state; any determination by the President that an approved state plan is not achieving its assigned target; or any determination by the Secretary of Energy disapproving a state conservation plan.

The Secretary of Energy would be required to monitor implementation of state conservation plans and of the standby federal conservation plan, and to make recommendations for modifications to the states. The President would report annually, and make recommendations, to Congress on the petroleum savings achieved under this legislation.●

AMENDMENT NO. 702

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 703

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 704 AND 705

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 706

(Ordered to be printed.)

Mr. MAGNUSON (for himself, Mr. Young, Mr. Muskie, Mr. Proxmire, Mr. Garn, Mr. Stennis, Mr. Stevens, Mr. Cannon, Mr. Hatfield, Mr. Chiles, Mr. Schweiker, Mr. Hollings, Mr. McClure, Mr. Inouye, Mr. Weicker, Mr. Sasser, Mr. Laxalt, Mr. Burdick, Mr. Schmitt, Mr. Leahy, Mr. Domenici, Mr. DeConcini, Mr. Armstrong, Mr. Durkin, Mrs. Kassebaum, Mr. Exon, Mr. Boschwitz, Mr. Hart, Mr. Cochran, Mr. Pryor, Mr. Bayh, Mr. Hayakawa, Mr. Eagleton, Mr. Bumpers, Mr. Humphrey, Mr. Morgan, Mr. McGovern, Mr. Kennedy, Mr. Biden, and Mr. Percy) proposed an amendment to H.R. 3919, supra.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. LEVIN. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold a hearing on December 6, 1979, on S. 1945, the Agency Accountability Act. The hearing will begin at 9:30 a.m. in room 3302 Dirksen.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a hearing on the Air Force F-15's and F-16's aircraft engine problems.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE OF LABOR AND HUMAN RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate today to hold a hearing on the nomination of Judge Shirley Hufstedler as Secretary for the Department of Education.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, November 28, 1979, to hold a markup session on the criminal code.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNWARRANTED INCREASE IN MEXICAN IMMIGRATION LEVELS

● Mr. HUDDLESTON. Mr. President, on October 17, 1979, hearings were held on a bill, S. 1763, which would undo the tremendous progress we have made in fashioning an equitable immigration system. This bill would set a precedent for returning the United States to the archaic and unfair nation of origin system which is based on favoritism for one group of nations above all others. S. 1763 would accomplish this by increasing the per country quota, which is now in effect for all countries, from 20,000 to 35,000 per year for Mexico and Canada. Since Canada has not used more than 8,000 quota slots yearly, this would give Mexico the right to send about 62,000 quota immigrants to the United States yearly. However, under existing law Mexico sends over twice its 20,000 per year quota to the United States due to existing "exceptions." In addition to this high legal immigration Mexico also permits hundreds of thousands of illegal aliens to slip into the United States each year.

The Federation for American Immigration Reform (FAIR) is concerned, as I am, about this massive private relief bill for Mexican immigrants. This public interest organization has taken a responsible position on the issue of immigration reform and testified at the hearings on S. 1763. In essence, FAIR found that the Mexican provision is unwarranted and discriminatory. I ask that the full statement of Roger Conner, executive director of FAIR, be printed in the Record.

The statement follows:

Statement of Roger Conner

I. INTRODUCTION

Thank you, Mr. Chairman, for this opportunity to present a statement to the Committee on the Judiciary during its considerations of S. 1763, the Immigration and Nationality Efficiency Act of 1979. I am Roger Conner, Executive Director of the Federation for American Immigration Reform (FAIR). FAIR is a national membership organization that advocates comprehensive reform of the present immigration laws and policies, and an end to illegal immigration. FAIR was founded in 1978 by John Tanton, M.D., a former president of Zero Population Growth, and has recently opened a Washington office.

FAIR supports needed remedial reform of our immigration laws, which need not await the report of the Select Commission on Immigration and Refugee policy. We support those portions of this bill which make technical changes to prevent abuse of student visas, which simplify verification of qualifications for citizenship, and which save tax dollars by amplificaton of the mechanical operations of the Immigration and Naturalization Service.

FAIR cannot support, and hopes that this Committee will eliminate, Sections 3 and 4 of S. 1763. These sections are neither minor nor remedial changes in the Immigration and Nationality Act. Rather, they make two substantial changes in immigration policy: Section 3 increases total immigration, and Section 4 takes a step backwards, toward the "national origin" system abolished in 1965, by allocating that entire increase to Canada and Mexico.

II. THE INCREASE IS UNNECESSARY

The proposed increase in immigration levels is unwarranted. Legal immigration is now at the highest level since the imposition of numerical limitations in 1924. Illegal immigration is so far out of control that official estimates of its size vary by orders of magnitude. We realize that there is substantial debate in this country over the magnitude and consequences of this flow. Some claim that few migrants come to stay, or that we can absorb a million or more migrants—some temporary, some permanent—each year, without strain.

FAIR believes that the number of migrants is substantial, worsening energy shortages, inflation, unemployment, and underemployment among disadvantaged Americans. Legal immigration reaches over 400,000 a year, and the Administration intends to add almost 200,000 refugees to that total next year. There is no accurate estimate of illegal immigration, but there were more than a million apprehensions of aliens illegally within the country in each of the past two years. The number of apprehensions has been growing at an alarming pace, and yet the Judiciary Committee has yet to hold a single hearing on bills designed to control illegal immigration or to strengthen the enforcement powers of the Immigration and Naturalization Service.

On these issues there is much debate. The Congress has established a Select Commission on Immigration and Refugee Policy to resolve them.

Congress should not increase immigration to the United States until it receives the Select Commission's report.

III. THERE SHOULD BE NO FAVORITISM

Enlargement of the already disproportionately large share of immigration received from Mexico and Canada would discriminate against potential immigrants from other countries.

Section 202 of the Immigration and Nationality Act places numerical limitations on the number of immigrants any country can send to the United States. It replaced the "national origin" system under which a few countries had received most of the immigration quota. This reform measure was based on the laudable principle that no immigrant should be considered more valuable to the United States because of the country from which he came, and that no potential immigrant should gain special advantage by being born in a favored country. Section 202 (a) states that:

"No person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of his race, sex, nationality, place of birth, or place of residence, except as specifically provided in . . . this title; *Provided*, that the total number of immigrant visas . . . made available to natives of any single foreign state . . . shall not exceed 20,000 in any fiscal year."

Section 4 of S. 1763 sets a new, unspecified higher quota for immigrant visas from Mexico and Canada, and also permits a further increase for either country if one does not use its full allotment. We agree that we should have a special and harmonious relationship with Canada and Mexico. But the effect of our immigration laws already is to favor these countries. For example, Canadians who fit one of the seven preference categories face no wait at all, even those in the lowest categories. Between 1971 and 1977.

Canadian immigration has exceeded that of all but six nations in the world, though 28 nations have larger populations.

We also have a special immigration relationship with Mexico, even disregarding our unofficial toleration of illegal immigration in massive numbers. Mexico has sent more immigrants to the United States than any other country in recent years. With 2% of the world's population, Mexico had more than 15% of our legal immigration from 1971 to 1977. By comparison, the twelve largest less developed nations, with 2.463 billion people, received only 16% in the same period. Mexico sent us ten times the number of legal immigrants as the entire continent of Africa. If we take per capita admissions as a rough index of the opportunities for migration from different countries, the odds of a Mexican being able to migrate to the United States are three times that of another Latin American, nineteen times that of an Egyptian, forty-five times that of an Indian.

Together our two contiguous neighbors have far outstripped the twenty largest developing nations in the world in immigration to the United States. These two nations, with ninety million people in 1979, sent 2,081,322 people to the United States from 1951 to 1977. The twenty largest developing nations of the world sent only 1.3 million during the same period.

The effect of our current immigration laws, whether intended or not, has been special, perhaps even preferential, treatment for immigrants from Canada and Mexico. But we also have special relationships with other countries throughout the world. How can we explain to the millions in those countries who have little or no chance of reaching the "golden door" that we cannot admit more from their nations, but can increase allocations for two of the nations already most favored?

It has been argued that, notwithstanding the existing "special relationship," increased admissions from Mexico are necessary to facilitate "reunification of families." It should be noted that spouses and minor children of naturalized citizens enter outside the quota, without a wait. Waiting lines are relatively short or non-existent for unmarried children of U.S. citizens (first preference), professionals and artists (third), married children of citizens (fourth), brothers and sisters of U.S. citizens (fifth), and needed workers (sixth).

The only category with a long waiting line is spouses, children, and parents of permanent resident aliens. Mexico has a nine-year backlog for this preference category. Of course, it takes only five years to qualify for United States citizenship. The families of those who become naturalized citizens enter outside the quota system altogether. Thus, many of those on the nine-year waiting list are the families of those who have elected not to become citizens of the United States rather than Mexico.

Reducing the length of waits for spouses of recent immigrants is, nevertheless, a desirable goal. But S. 1763 will, paradoxically, lengthen the lines for second preference in country other than Mexico while providing only short-term help to those from Mexico.

Section 203 of the Immigration and Nationality Act requires an allocation of all visas worldwide according to the preference system. Only forty percent of all visas worldwide according to the preference system. Only forty percent of the worldwide total of quota immigration is allocated to first and second preference immigrants combined (first preference allocations which are unused are reallocated to second preference immigrants). So any attempt to increase second preference admissions from Mexico will result in an increase in the worldwide second preference waiting time by making prospective second preference admittees from other countries wait longer. In addition, because of the worldwide limit on second preference, many of the increased Mexican admissions will necessary come from third, fourth, fifth, and sixth preference categories. Some will have spouses and children who would then qualify to apply for second preference, which will increase the backlog further.

So Section 4 of S. 1763, which purports to ease waiting time for citizens of one country, would actually increase the time both for those it hopes to aid and for those from other nations as well.

IV. WE CAN SHORTEN SECOND PREFERENCE LINES

Second preference waiting lines from Mexico can be shortened without increasing immigration totals. Section 202(e) of the INS states that, if a country uses all of its available visas in any one year, in the following years its visas will be allocated among the preferences by the same percentages used worldwide in allocation. As a result, for the year in which 202(e) applies to Mexico, only 20 to 40 percent (if there are no first preference applications) of Mexico's 20,000 visas may be allocated to second preference. The reason for this reform was to equalize opportunities among the preferences for those few countries which are regularly oversubscribed. The result, for Mexico, is a substantially longer wait for second preference admission as compared to third through sixth preference.

If the Committee concludes that the waiting lines for second preference from Mexico are unduly long, a remedial approach would be to exempt Mexico from Section 202(e) until a better balance is established. However, we must add that increasing second preference admissions from Mexico, by whatever device, can only mean longer lines for spouses, children, and parents of recent immigrants from other countries, and there are several countries other than Mexico with multi-year waiting lines.

V. CONCLUSION

Sections 3 and 4, increasing total immigration and Mexican and Canadian quotas, should be deleted from S. 1763. The Senate should recognize the great danger in this bill. By granting a special series of privileges to nations just because of their location, S. 1763 begins a return to the old "national origins" system. Under this system, each nation was assigned an individual quota for immigration—Asian countries being allowed the lowest, Northern European countries the highest. The value of an immigrant was in his race and national origin, not in himself.

By decreeing, as we do with this bill, that one immigrant is to be treated differently because he comes from a close neighbor, we would be institutionalizing the same type of partiality that it took a generation to halt. Such a step is neither necessary nor desirable.

A comprehensive response to this problem is in sight, however. The Select Commission on Immigration and Refugee Policy, on which four members of this Committee serve, is already at work on some of the tough problems of immigration policy. The Select Commission has scheduled many hearings around the nation to provide an opportunity for the public and experts to present views on the subject. The Commission will issue its report in early 1981. Plainly needed legislation need not await their report, but the allocation of visas within the overall immigration ceiling and the total level of immigration are basic matters which should not be altered before the Select Commission has an opportunity to speak. Sections 3 and 4 of S. 1763 should be removed from the bill, and the remainder of the bill passed.

Thank you for the opportunity to present the position of the Federation for American Immigration Reform to this committee.●

IS THERE A CARTER ADMINISTRATION POSITION ON SOVIET ANTI-UNITED STATES FORGERIES?

● Mr. HUMPHREY. Mr. President, I believe it is clear that the Soviets are engaged in a purposeful struggle against the United States at every level of activity, across the full spectrum of international relations. Americans should understand the seriousness and relentlessness of the Soviet challenge to everything we hold dear.

On the 13th of November, Mr. President, Senator GARN and I exposed recent Soviet forgeries of the words of President Carter and Vice President MONDALE. I was surprised at the almost total lack of interest of my fellow Americans, especially in the news media, in Soviet forgeries. It is also my understanding that the United States has never protested these recently exposed Soviet forgeries.

On November 19, several other Senators joined me in sending a letter to President Carter asking publicly whether the United States had ever protested the Soviet forgeries. This letter was signed by Senators MCCLURE, WALLOP, HATCH, and HELMS in addition to me. I submit this letter for the RECORD, Mr. President.

The letter follows:

U.S. SENATE,
Washington, D.C., November 19, 1979.

THE PRESIDENT,
The White House,

DEAR MR. PRESIDENT: The American people would be shocked enough if they knew that since World War II, the Soviets have forged between 100 and 200 United States documents including diplomatic cables, military manuals, and letters and speeches by American officials. But unclassified U.S. intelligence documents reveal this Soviet "disinformation" process is widespread and growing.

It has recently come to our attention that the Soviets, for the first time, have begun to forge documents related to the President and Vice President of the United States.

We draw your attention to two forgeries in particular which we have enclosed.

The first is a speech purportedly given by yourself on the subject of NATO's southern flank. The second is purported to be an interview with Vice President Walter Mondale on a variety of issues. We are particularly concerned about Vice President Mondale's alleged remarks concerning Prime Minister Begin and President Sadat.

The first forgery is obviously an attempt by the Soviet Union to sow anti-American feelings in Greece now that we have a new basing agreement between the United States and Greece. The second was intended to insult both Israel and Egypt in the hope of disrupting U.S. peace initiatives in the Middle East.

It is our understanding that our government has strong evidence that these forgeries are products of the Soviet KGB and that they were authorized by the Soviet Politburo. It is also our understanding that the United States has known about Soviet forgeries of statements by high ranking U.S. officials for two years. If this is true, Mr. President, why has this matter not yet been brought to the public's attention?

What protests, if any, have been made to the Soviet Union? Have assurances been received from the Kremlin that they will cease this type of activity?

Clearly, Mr. President, these outrageous Soviet forgeries do not match the soothing words of peace and trust which flow from Moscow. Nor do they bode well for arguments advanced by your Administration that the Soviets can be trusted to abide by the terms of the SALT II agreement or, for that matter, the accepted norms of international behaviour in general.

Because the Senate will soon begin its floor debate on the SALT II Treaty, a prompt and thorough answer to our questions concerning Soviet forgery will be greatly appreciated.

Sincerely yours,
GORDON J. HUMPHREY,
JAMES A. MCCLURE,
MALCOLM WALLOP,
ORRIN G. HATCH,
JESSE HELMS,
U.S. Senators.

Mr. HUMPHREY. As can be seen from this letter, Mr. President, we have several concerns. We wonder, first, why Soviet forgeries have not been publicly exposed and condemned by the Carter administration. Second, we ask what, if any, protests have been made to the Soviet Union, and we wonder if the Soviets have given us any assurances that their anti-U.S. forgeries will cease. We are waiting now for the White House to answer our questions.

The administration's answers could have important bearing on our impending Senate SALT II debate. We believe that Soviet forgeries are evidence of duplicitous Soviet intentions that extend to SALT. The only thing that could be worse is U.S. failure to expose and protest this Soviet deception. On the other hand, if the United States did protest, then Soviet persistence in forgeries is evidence of their bad faith and hostile intentions.

Mr. President, the CIA believes that the Soviet Politburo approves all Soviet forgeries. In an unclassified CIA study of Soviet foreign propaganda released to the Congress on July 3, 1978, the CIA said, on page 4, that:

> The Politburo itself approves the major themes of Soviet propaganda campaigns—and the means which will be used to disseminate them. For example, KGB forgeries and other major covert actions, require Politburo concurrence.

The CIA study of Soviet propaganda identified another noteworthy theme of Soviet propaganda on page 12:

> In the May 1978 "Encounter", Lord Gladwyn, a former British foreign minister, suggests that the Soviets are attempting to persuade the West "that Russia is just an ordinary Great Power with certain legitimate interests," that is, to promote the concept that the USSR is in many ways the mirror image of the USA. A variation on this theme which we have noted in certain channels is that the leadership of the USSR, as in the United States, is composed of "moderates" and "hard-liners," Soviet "hawks" and "doves." Brezhnev emerges as a leading "dove," committed to detent and willing to oppose the Soviet military establishment's demands for an expanded share of the budget. Our belief that this theme may at times be deliberate Soviet propaganda is reinforced by the fact that the Soviets could clearly see themselves as gaining diplomatic advantages by American acceptance of such a line. For example, if we grant that Brezhnev is a "dove," then we must accommodate ourselves to his demands in order to encourage the more moderate elements in the Soviet leadership; moreover, we must expect that the deal Brezhnev offers us is the best we can expect to get from the Soviets.

It is ironic that many U.S. analysts of the Soviet Union, both academic and within the U.S. Government, often interpret this Soviet portrayal of Brezhnev as a dove at face value. For example, many U.S. analysts at CIA and in the Foreign Broadcast Information Service truly believe that Brezhnev the ostensible dove has made important concessions to the United States in SALT II. We would like to see evidence of Brezhney's dovishness, beyond his often propagandistic speeches on "peace." In fact, there is solid, contrary evidence that Brezhnev has a very competitive, militaristic view of the SALT process. His probable personal approval of the forgeries is consistent with this evidence.

The CIA study concludes on page 21 with the following admonition:

> Conclusion.—This paper has not dealt with Soviet propaganda activities conducted within the United States, as they do not fall within the responsibilities of this Agency. We believe that some of the evidence presented in this paper suggests that such a study would be worthwhile. The recent visits to the United States of the leading personalities of both the Soviet central propaganda apparatus and the WPC (World Peace Congress), the major Soviet front group, may well presage, as we have suggested, an intensification of Soviet propaganda intended to influence American public opinion and policymakers. Campaigns initiated abroad against American policies, and particularly new U.S weapons—such as the "neutron bomb" or the cruise missile—presumably had their U.S.-based counterpart. We have mentioned that certain Soviet themes floated overseas have reached the U.S. press; but the Soviets would be unlikely to rely on mere windfalls such as these as the mainstay of a propaganda assault against their principal adversary. If, as must be assumed, the main objective of Soviet propaganda is to weaken the United States and her allies, operations to further this end are undoubtedly taking place on our home soil.

Mr. President, Adm. Stansfield Turner's July 3, 1978, letter of transmittal of the CIA study to the Congress contained a similar admonition:

> The study—as its last paragraph indicates—covers Soviet propaganda directed against American interests from abroad, but does no concern itself with Soviet propaganda operations conducted within the United States, as this is outside CIA's purview. You (i.e. Chairman of House Permanent Select Committee on Intelligence) may wish to consider requesting the appropriate agency to prepare such a study. As our paper suggests, there are indications that Soviet propaganda activities against the United States will increase in the future.

Yet, Mr. President, no Congressman or Senator acted upon Admiral Turner's warning. No request was made for a Federal Bureau of Investigation study of Soviet propaganda activities within the United States, until my request of August 22, 1979. I am seeking an FBI briefing on this subject which I hope will take place this week.●

A PERSPECTIVE ON VIETNAM VETERANS

● Mr. CRANSTON. Mr. President, there has been a great deal of discussion in recent months concerning the veterans of the Vietnam war as a subject separate from the war itself. I think this is a very healthy sign indicating that we, as a Nation, are beginning to recognize that we need not agree about the war itself in order to assure that those who went and fought receive the honor and appreciation due them.

Mr. President, in this regard, the December issue of Esquire magazine contains an article entitled "The Violent Vet" by Tim O'Brien which, in my opinion, is probably the best, most balanced short article that I have read on the subject of Vietnam veterans. Mr. O'Brien, a Vietnam veteran himself and the recipient this year of a national book award for "Going After Cacciato," a novel set in Vietnam, provides a thoughtful and compelling look at Vietnam veterans.

In the course of the article, Mr. President, Mr. O'Brien makes a very critical examination of the stereotypic Vietnam veteran that is presented in the various media—the guilt-ridden, drug-addicted walking time bomb—and suggests why this view is so widely accepted. After analyzing the data available on Vietnam veterans—and I must agree with Mr. O'Brien's statement that to date, most unfortunately, we know very little about the veterans of the hostilities themselves as opposed to all who served in the military during the Vietnam era—Mr. O'Brien ends the article with his views on breaking the sway of the stereotype and the stereotyped responses to Vietnam veterans.

Mr. President, I urge my colleagues to read this article, and I ask that the full text of the article be printed in the RECORD.

The article follows:

[From the Esquire Magazine, December 1979]

THE VIOLENT VET

(By Tim O'Brien)

The typical Vietnam veteran is bonkers. Outright dangerous: a shell-shocked, frazzle-brained, doped-out psycho. In late-night reruns of Barretta or Kojak, you'll recognize the Vietnam vet by his demented eyes and twitching trigger finger, the robber in a whole decade of cops and robbers shows, the kidnapper and hijacker and rapist. No, he's not exactly a villain, not exactly a heavy, he's just . . . well, wacko, deeply disturbed. Haunted by his complicity in an evil war, the combat veteran is given to fits of violence, succeeded by periods of almost catatonic depression, succeeded by more violence. His own children fear him. Neighbors lock their windows. His wife, tired of being mistaken for a VC sympathizer, sleeps on the sofa. And his nation, which failed to support him in time of war, has now deserted him in time of peace—no parades, no ticker tape, no honor. The typical Vietnam vet turns cynical and bitter and angry; he is surely suicidal, probably murderous. He is unemployed. He is unemployable. He is hooked on heroin or booze—perhaps both—and to support his habit, he must finally turn to a life of crime. At night, while Karl Malden works overtime to track him down, the red-eyed vet wanders the streets of San Francisco in his pea coat and bush hat, reliving the war, recycling those years of guilt and anguish. He can't sleep. Who could, what with a pistol under the pillow? With nightmares lighted by napalm? With a tortured conscience? With memories of bloated bellies and booby traps and sucking chest wounds?

No question, the Vietnam vet is a candidate for the mental ward or the graveyard.

Anyhow, that's the TV version. More recently, this sorry stereotype has been updated, though hardly sanitized, in such major films as Apocalypse Now, The Deer Hunter, Coming Home, Who'll Stop the Rain, and Heroes. While aiming for psychological insight and understanding, and while discarding some of the more melodramatic trappings, each of these movies still portrays the Vietnam veteran as something of a flake—baleful, explosive, spiritually exhausted, tormented, with brains like whipped cream. In Apocalypse Now, veteran Martin Sheen is fit for nothing but a second tour. In Coming Home, we watch the slow distintegration of Bruce Dern, a gung ho war hero who comes home so disillusioned and shattered that he ends up trotting into the ocean to drown himself. In the same film, Jon Voight is an embittered and deeply hurting paraplegic who has been radicalized by the war that crippled him. In Heroes, a nutty, happy-go-lucky Henry Winkler tries desperately to ward off his pentup war memories with jokes and zany escapades. In The Deer Hunter, John Savage weeps and trembles in his wheelchair, Robert De Niro quietly seethes, and Christopher Walken blows his brains out in a dingy Saigon gaming hall. And in Who'll Stop the Rain, a film almost numbing in its brutality, Nick Nolte commits murder and mayhem with an automaticity that could only have its roots in the body-count ethic of Vietnam.

These are message movies, more or less, and at least one message comes through loud and clear: Victim or villain, the Vietnam vet is a basket case.

"Talk about an image problem," sighs Robert Muller, a former Marine Corps officer, now a lawyer and a veterans' activist. "If you fought in Nam, you're either a weirdo or a psychopath or a crybaby or a dummy who couldn't find the road to Canada. Take your pick."

Muller speaks from a wheelchair. A decade ago, in Quang Tri province, an enemy bullet passed through both his lungs and severed his spinal cord. He would never walk again. After a long hospitalization, Muller began speaking out on veterans' issues—health care, the GI bill, the war itself—emerging as one of the most visible and effective veterans' advocates.

For a time, by Muller's own admission, he pretty much fit the TV and movie stereotype. "Sure, I was bitter," he says. "I was a real idealist when I went to war. I wanted to stop communism, help the Vietnamese, serve my country—the whole patriotic spiel. A real blood-and-guts Marine. Then I realized it was all rotten, top to bottom. There I was in a wheelchair, couldn't use my legs, and for what? Nothing. Absolutely nothing. I was angry and cynical. I felt my country betrayed me and then abandoned me."

Muller joined the Vietnam Veterans Against the War, made speeches, roused rabble, appeared in the antiwar documentary Hearts and Minds, and gradually channeled his anger into political action. He now serves as executive director of the Vietnam Veterans of America, formerly a small Washington-based lobby called the Council of Vietnam Veterans.

"Veterans paid one hell of a price for Vietnam," Muller says, "but now we've mostly gone beyond it. The wounds are mending. Vietnam was a traumatic experience—for the nation, the soldiers, and me personally—and it takes time for the internal healing process to work. I think most vets have reached that point. The emotion and pain have subsided, and now we're able to deal with our lives intelligently and objectively. We're not zombies. We're not addicts. We're not criminals. I've talked to thousands of vets, and what I see is an unbelievable willingness to teach and share and contribute to society. We aren't antisocial. We aren't a burden, damn it, we're a resource. We have this desire, a thirst, to give of ourselves to put things right in this country. Believe me, the image is all wrong."

If the movie portrait is cartoonish and ill drawn, what would constitute a more accurate likeness? Who is the "typical" Vietnam veteran? What are his problems? How is he adjusting to peacetime? Is he really suicidal? Is he hooked on drugs or booze? In each case, the answer is simple: We don't know. Surprisingly, shockingly, the government does not maintain a separate data base on those men who actually fought in Southeast Asia. Instead, the official statistics lump together everyone who served in the armed forces during the so-called Vietnam era—a period from August 1964 through May 1975. Thus combat veterans are thrown into a statistical bag that includes men who sat out the war in Germany or Korea or the states. The result of all this is obvious: We have no means of identifying problems peculiar to those who actually served in Vietnam, nor can we isolate the readjustment difficulties of those soldiers who saw combat. In the end, all we really know is that about 9 million veterans served during the Vietnam era, of whom at least 2.5 million went to war. Beyond that, Vietnam veterans all but disappear.

Given the absence of reliable data, it seems not only simpleminded but patently unfair to build sterotypes out of wisps of hearsay and scraps of armchair psychology. Ignorance breeds mythology. If we don't understand the facts of evolution, we manufacture Adam and Eve; if we don't know what became of our Vietnam veterans, we make up answers that are at once dramatic and psychologically gratifying. Vietnam was a horrible war, we seem to say, hence Vietnam veterans must be suffering horrible aftershocks. It makes sense. It satisfies our need for clarity and unambiguous understanding. It makes for exciting, tear-jerking movies. It helps us project our own memories and nightmares onto a giant screen peopled by suffering soldiers. Neat, tidy, persuasive. And yet . . . what about the human capacity for renewal and self-repair? What about those—like me—who came home from the war psychologically intact? What about those who slipped back into society smoothly, even gratefully, thinking they'd done well by themselves and their nation? What about those who believed in the damned war and who still believe? What about those who aren't hooked—and never were—on drugs and alcohol?

Some stereotypes, of course, are justified. At least defensible. But in the case of Vietnam veterans, the TV and cinematic stereotypes are based on virtually no systematic data. Indeed, there is considerable evidence—though often sketchy and tenuous—to suggest an entirely different image. A computer, if asked for a printout of the "typical" Vietnam-era veteran, would respond this way: Caucasian, male, thirty-three years old, employed, honorably discharged, a high school graduate with some college, an income of $12,680 a year (versus $9,820 for his nonveteran peers), no prison record, no drug or alcohol dependence.

Granted, this portrait is based on data that includes all 9 million Vietnam-era veterans and it cannot be taken as an accurate reflection of the 2.5 million men who actually served in Southeast Asia. Yet it is the only comprehensive information available. If we are determined to build stereotypes, then it would seem wise to begin with what we know rather than what we don't know.

In some cases, it is possible to refute the movie caricature more concretely. Take, for example, the image of veteran as jailbird. While there is no complete data, the Veterans Administration estimates that about 30,000 Vietnam-era vets are now incarcerated in state and federal penitentiaries. Even in the unlikely event that all 30,000 of these men actually fought in Southeast Asia, it would mean that only about one in a hundred Vietnam vets is behind bars—hardly the stuff of stereotypes. Also, how many of those men would have gone to prison anyway? And even while the VA's estimate does not include men on probation or otherwise engaged in the corrections process, it seems far-fetched to assume that more than a small fraction of the nation's 2.5 million vets have turned to crime. In any case, in the absence of hard data, the burden of proof should surely lie with the scriptwriters and producers promulgating the image.

Or take the matter of drug addiction. While there is no reliable count on those who used hard drugs during and after the war, the President's Commission on Mental Health reported last year that drug use among Vietnam veterans had generally dropped to pre-Vietnam rates—or lower—within three years following Vietnam service. Thus it would seem that the impact of "the Vietnam experience" on the postwar drug habits of veterans was somewhat less than Hollywood would have us believe. Indeed, the commission's conclusion suggests that drug addiction among Vietnam veterans was as much a problem before they went to war as it was three years afterward. But again, the issue boils down to a numbers game, and without reliable numbers, it seems unfair to typify a group of 2.5 million men as junkies.

The same argument holds for suicide and alcoholism. While there is evidence to suggest that both problems have affected a good many Vietnam vets, we simply do not have the comprehensive numbers from which to draw broad-stroked stereotypes. Prudence is especially called for in the case of alcoholism. VA studies indicate that the disease may be even more common among Korean War and World War II veterans, and if we were to engage in name-calling, the soldiers of Inch'on and Okinawa might be the first to be labeled drunks.

Another myth revolves around the issue of so-called less-than-honorable discharges. Because so much has been made of the matter, mostly in the print media, it is easy to believe that the controversial character of the Vietnam War resulted in an inordinately high rate of "bad paper" discharges. The evidence shows otherwise: Only 3 percent of the nation's Vietnam-era veterans received bad paper. For veterans of the Korean War era, the rate was exactly the same. For veterans of the World War II era, the bad-paper rate was considerably higher. Thus, in an era-by-era comparison, the modern soldier's discipline and soldierly comportment would seem to stand up quite well indeed. Again, the evidence simply can't support the Hollywood stereotype.

The image of the Vietnam veteran as chronically unemployed is another of those impossible-to-verify, hard-to-refute generalizations. No data. The best we can do is to examine statistics that include all 9 million Vietnam-era vets, drawing whatever inferences we dare about the hidden subcategory of men who actually served in Vietnam. In general, it is safe to say that joblessness was a nagging and fairly severe problem up until late 1977. Then things turned around. The unemployment rate for Vietnam-era veterans fell from 6.7 percent in the third quarter of 1977 to 4.7 percent in the third quarter of 1978. In the second quarter of 1979, the jobless rate for these vets, ages twenty-five to thirty-nine, ran at 3.7 percent—only slightly higher than the rate for nonveterans in the same age bracket. The government cautions that these recent employment gains are fragile, that veterans are highly vulnerable to fluctuations in the economy, and that underemployment remains a significant problem. Still, the picture appears to be brightening for the veterans as a whole, and it would not seem unreasonable, given the absence of specific data, to believe that the 2.5 million men who came home from Southeast Asia are doing at least comparably well in the job market. This may constitute scant and untidy evidence—a mere indicator—but, on the other hand, the image of the Vietnam-era vet as an unemployed down-and-out drain on society is based on no reliable recent evidence at all.

This is not to deny that some Vietnam veterans continue to suffer the aftershocks of war. Too many are unemployed, too many turn to crime, too many carry lasting psychological scars. In an ongoing study sponsored by the government, for example, preliminary findings suggest that nearly 60 percent of our Vietnam vets returned home with nervous conditions, diseases, physical wounds, nightmares, and alcohol and drug problems.

The same report, however, points out that only 40 percent say they still suffer from such difficulties. More than 60 percent are now free of any of the listed problems. And yet The New York Times greeted the report with this headline; Vietnam Veterans found to have major problems. This seems misleading in two ways: First, it implies—contrary to the actual data—that the majority of Vietnam veterans are still afflicted; second, it lumps such things as "nervous conditions," "physical wounds," and "diseases" into a single category labeled "major problems." Aren't physical wounds to be expected among combat vets? Are nightmares and nervous conditions really major problems?

The nation seems too comfortable with—even dependent on—the image of a suffering and deeply troubled veteran. Rather than face our own culpabilities, we shove them off onto ex-GIs and let them suffer for us. Rather than relive old tragedies, rather than confront our own frustrations and puzzlements about the war, we take comfort in the image of a bleary-eyed veteran carrying all that emotional baggage for us. We point at him, clucking, and say, "Well, somebody still frets about those things." The vet is a stand-in for the collective conscience. Moreover, by focusing sympathy and attention on the men who fought the war, we avoid many of the more difficult issues about the war itself. This phenomenon, for example, was apparent during the latter stages of the conflict, when the whole justification for continued bombing shifted from a concern for the welfare of the Vietnamese to the welfare of American POWs. It all boiled down, in the end, to "saving our boys." That kind of thinking was simplistic then, and it remains so today. By pitying the Vietnam veteran, we feel justified in ignoring the broader issues of right and wrong in foreign policy, by letting the vet shoulder the pain, we reduce our own pain; by acknowledging his guilt trip, our own becomes more manageable. It's a nice arrangement.

The cinematic stereotype of the Vietnam veteran—and the nation's willingness to accept it—seems tied to this same process. A way of atoning. A way of coping. For years, Hollywood simply ignored the war. Vietnam films, with the disastrous exception of The Green Berets, did not begin appearing until the debacle was over or nearly over. Where was Coming Home when the soldiers were? Where was Hollywood's conscience when we most needed it? Back in the late Sixties, even into the Seventies, it was a truism, not only in Hollywood but also in New York's publishing circles, that "Vietnam won't sell." Audiences wanted to forget, they wanted escape, they'd seen enough of Vietnam on the nightly newscasts.

Now Vietnam is suddenly bankrollable. The Deer Hunter and Coming Home swept last year's Oscars and also swept up millions of dollars at the box office. This year, it's Apocalypse Now. Despite bitterly contesting reviews and intense controversy—or perhaps partly because of these—Apocalypse Now will almost surely stand as one of the biggest-drawing movies of the season. Even before its first screening, the film was being greeted as a major cultural event, a cover story phenomenon, an incisive and spectacular glimpse into the psyche that gave us Vietnam.

Apocalypse Now offers a souped-up version of the old stereotype: the weird, numbed-out, berserk GI. Despite its clear metaphorical intentions, the film carries a quite literal message. Not only was the war crazy, but so were the men who fought it. Madman Marlon Brando, assassin Martin Sheen, surfing nut Robert Duvall, Vietnam, the film seems to say, was a loony bin, and American soldiers were its inmates. With outlandish exaggerations and garish cartoon characters, the movie puffs up and extends the more muted stereotypes of its cinematic forerunners. Gone are any remnants of sanity. Gone are any real heroes. Gone are any hints of human decency.

What remains is bedlam. The mutterings of madmen. Power, greed, megalomania—these, so it would seem, were the fuels that fired American behavior in Vietnam. While all this is surely a comment on the forces that led us into war, a rendering of that "heart of darkness" lurking in the national bosom, one can't help wondering how many moviegoers will interpret it so subtlely. How many, instead, will see the film as a reinforcement of an already well-ingrained stereotype? And how many Vietnam vets will take it as a terminal diagnosis of their own mental health?

Like many earlier films about the war, Apocalypse Now has opted for a simple solution to a complex set of questions. By going for the Grand Answer—lunacy, the final heart of darkness—the film avoids and even discredits those more complicated, ultimately more ambiguous but surely more accurate explanations of what went wrong in Vietnam. It's just too damned easy to chalk it all up to insanity. Madness explains everything, right? No need to examine messy motives, because crazies don't have motives. No need to explore history, because lunatics operate outside it. No need to engage issues of principle or politics, because maniacs don't think about such things.

The Grand Answer exculpates all of us: innocent by reason of insanity.

"It's high time we cut through the crap and start addressing the truly fundamental questions," says Arthur Egendorf, a clinical psychologist with a special interest in veterans' affairs. "Sure, Vietnam veterans were marked by their experience. But by 'marked' I don't mean just negative things. Important lessons were learned, insights gained, wisdom won. The war made positive marks too."

Egendorf, a 1966 Harvard College graduate, served in Army intelligence in Vietnam, later earned his doctorate, and now works in the department of psychiatry at the Mount Sinai School of Medicine. Currently he is one of the principal investigators heading up a major VA-commissioned study of the "psychosocial functioning" of Vietnam-era veterans.

"The media seem to love the image of a screwed-up, angry, alienated, freaked-out veteran, but the image simply isn't based on any systematic research," says Egendorf. He talks rapidly, fired up: "I mean, look at all the Vietnam veterans in positions of responsibility and leadership. Government, business, the arts, education—everywhere. Look at me. I hated the war, but it also forced me to confront problems and challenges I might otherwise have skirted. It opened my eyes. Made me realize I had to get engaged with these issues, made me more compassionate, made me take a hard look at my nation and my conscience. Vietnam broke some men, but it made some too.

"The question of mental health is often misdirective," says psychologist Egendorf. "It's a form of name-calling, and it diverts attention from the really critical matters. Don't get me wrong—some vets do suffer from genuine disorders. But if you ask, 'Are you screwed up in the head?' most of them will just blink and say, 'Hey, cool it, I'm okay.' Whether we're talking about veterans in particular or the nation in general, we've got to stop defining the dialog purely in terms of mental health. Rather, we should be asking the big questions: How did we get involved in Vietnam in the first place? What went wrong with the checks and balances? What principles should this country defend in the future? Under what conditions should we go to war again? What did Vietnam do to the old citizen-soldier obligation? The veteran can teach us plenty about those matters, but he can't do it if we keep thinking of him as a basket case."

Five years after Vietnam, Egendorf argues, the nation continues to view the experience through old, scratched-up, age-blurred lenses. "On the one hand," he says, "we still have the hawks, the patriots, who think that we were right to be in Vietnam but we were afraid to go out and really win the war. Then we have the doves, the neomoralists, who say we were wrong to be there in the first place. The two sides are still shouting at each other from opposite ends of a huge canyon. They can barely hear each other; they certainly can't understand each other. But there's one thing they can agree on: The Vietnam vet got screwed. So, you see, that makes the veteran a kind of bridge between the competing mind-sets in this country, a unifying force. Because he's considered neutral ground, he has a unique opportunity to bring them together, to get a real dialogue going, to help generate a common search for the deeper meanings of Vietnam."

Out of more than 2.5 million men who actually served in Southeast Asia, some 57,000 died and another 300,000 were wounded, 150,000 of them seriously enough to require hospitalization. Of those wounded, some 75,000 came home with serious handicaps, while about 25,000 returned totally disabled; 5,283 men came home with one missing limb; 61 came home as triple amputees—Max Cleland was one of them.

The thirty-seven-year-old Georgian lost both legs and an arm to the war; now, more than a decade later, he is the first Vietnam veteran to command the Veterans Administration, which is one of the government's largest bureaucracies.

"You can understand," he says, "why I wanted this job. Vietnam was a special kind of war—just in terms of the booby traps and mines that caused so many traumatic amputations—and, because of my own experience, I thought I had something valuable to contribute. I wanted to act. Wanted to do something positive. A lot of vets feel that way, not just me."

For a year and a half after the explosion that crippled him, Cleland moved through a variety of hospitals in Vietnam and the states. He came close to death on the operating table. Later, he says, he thought about suicide—and he knew others who actually did it. Eventually, though, he recovered, returned to his native Georgia, ran for the state legislature, and came out a winner. In January of 1977, his friend Jimmy Carter brought him in to run the Veterans Administration.

"I think it's great that a Vietnam veteran is in charge here," he says. "It says something about our intelligence and compassion and guts. I mean that humbly, but I still mean it. One reason I like this job is that it gives me a chance to redress some of the unjust things that have been said about and done to the Vietnam veteran."

Cleland fidgets while he speaks, tucking in his shirt, stroking his tie. Though paunchy around the middle, he has obvious strength in his left arm and upper torso.

"After all is said and done," he says, "the worst hurt the Vietnam vet suffered was at the hand of his own countryman. The vet was denied pride. Pride at having served. And that's a tragedy. But, look, we must move on from tragedy, and I think most Vietnam veterans are doing that. I know I have."

Frequently, in conversations with Cleland and Robert Muller and Egendorf and many other Vietnam vets, words like pride and respect and honor pop up. Old-fashioned values. Somehow they don't quite jibe with the freaky-eyed, drug-dealing image being peddled at four bucks a crack in movie theaters across the country.

"Again and again," Cleland says, "guys tell me they want to get a fair shake, they want to be treated with the decency and respect they deserve. They don't want to be branded as derelicts. They don't want to get coddled. They just want to feel like they're part of this country again."

Speaking quietly, almost as if to himself, Cleland says his main priority at the VA is to increase the faith of Vietnam veterans in their own government, to make the agency "more compassionate and caring." He acknowledges the difficulty. The Veterans Administration has its own image problem. Young veterans see it as a bureaucracy hopelessly entanged in its red tape, immobilized by its size, rigid in its routines, inadequate in its innovations, manipulated by its links to old-line organizations like the American Legion and the VFW, paralyzed by an absence of basic data about the effectiveness of its own programs.

Cleland bristles at the suggestion that the VA, despite his personal zeal, continues to balk at providing innovative new services for the nation's Vietnam veterans. "We're under a lean and austere budget," he says. "But, even so, look at what we got this year in the way of new programs. Everybody else, every other agency, is either standing still or getting chopped, but we've managed to come away with a hundred million dollars in programs aimed mostly at younger vets."

Well, the programs aren't entirely new. The GI bill's eligibility extension, which eats up a large portion of those "new" dollars, is exactly what it sounds like—an extension of an older program. Still, Cleland clearly believes his agency is responding better to the needs of Vietnam veterans, and he hopes that, in return, the young vets will respond better to the agency.

"We're trying, we're trying," he says. "The VA, for example, has the capability of becoming the finest rehabilitative facility in the world. We are not. I admit, we are not. But that's a challenge. As a disabled veteran, I saw the flaws in the rehabilitative system, and now I'm out to erase those flaws."

Though no one seems to doubt Cleland's dedication and concern, many of his critics—perhaps because they expected too much too soon—think he tends to knuckle under to budget constraints, to play it safe with the powerful old-line veterans' lobbies, and to be less an advocate of new programs than an administrator of old ones. And yet, for all this, even his harshest critics believe he is serious about revamping and improving medical care and that he has done much to bring fresh air into an organization that was for years unresponsive to changing needs and attitudes.

Though Robert Muller and Max Cleland—both disabled, both trapped in wheelchairs—disagree on the scope of the VA's accomplishments over the past three years (Muller thinks virtually nothing important has been done), the two men sound very much alike when it comes to a discussion of the untapped potential of the Vietnam vet.

"He's got it all," says Muller. "Experience and wisdom and energy and a desire to make good. All he needs is the chance."

"The Vietnam veteran," says Cleland, "is going to make a difference in this country. A constructive difference. I want to do all I can to help him in that."

Perhaps one of the grossest and most misleading myths about the treatment of the Vietnam veteran has to do with the reception he received when returning home from war. In movies and in hundreds of newspaper and magazine articles, it is pointed out, almost as a matter of course, that the Vietnam vet did not get the same parades and ticker tape that greeted the boys returning from World War II.

"What ticker tape?" says a fifty-year-old former Marine, now a newspaper editor. "When I came home from the Pacific, I didn't see any cheering crowds or any confetti or any big parades down Fifth Avenue. I got off the boat and took a long train ride home, and that was that."

The man has a point. Although there surely were some parades when the boys returned from World War II, the vast majority of soldiers did not take part. More important, how many World War II veterans really wanted all that celebrative nonsense? Who needs a silly parade after returning from blood and death and gore, after watching friends die, after witnessing the waste and tragedy of combat? Who needs ticker tape after months of absurd destruction? Who needs speeches and flags after all that? Most combat veterans would prefer simply to head home, resume their lives, taste the new peace.

In the case of Vietnam, of course, there weren't many victory parades because there weren't many victories. Few celebrations because there wasn't much to celebrate. But behind the camouflage of parades and confetti is a considerably more important point: honor. The Vietnam vet, so the folklore goes, was never allowed to feel genuine pride in his service. Instead, he came home to disdain. Or to ambivalence. Or to a kind of hands-off repugnance, as if he were responsible for the tragedy of Vietnam. Doves scorned him for having fought in an evil war. Hawks mocked him as a loser, a candy ass who couldn't do the job quickly and well. Those who were simply tired of the war, tired of watching it on TV every evening, viewed him as a reminder of something they preferred to forget. The result: no sense of honor.

Even in the absence of systematic documentation for this folklore, it seems on the surface simpleminded and full of contradictions. Honor, after all, ought not to depend on the opinions of others but on one's own self-image, one's own sense of rectitude and service. Pride is not a commodity given to soldiers; it is an intangible derived from one's own experience and conscience.

"When I got out of Nam," says Steve Smith, a former helicopter door gunner and now a novelist with one published book to his credit, "I just felt this incredible boggling relief to be back in the states. I guess I never even thought about stuff like parades or what people felt about me. I had my own judgments to make. I went to Vietnam for the experience—I volunteered, I wanted to see what it was like, taste it, touch it, and, by God, I got my fill. It was an immoral and hedonistic act on my part, and I have to weigh it on my own scales, not somebody else's."

Certainly other veterans feel they did the right thing in going to the war, but, again, that's a judgment that ultimately is theirs alone to make. A parade or a speech won't—and shouldn't—change those evaluations.

Still, it's true that a good many ex-GIs feel the nation has not properly appreciated their sacrifices. What is not clear, however, is whether that attitude is held by the majority. It is even less clear whether the attitude is justified. Many veterans of World War II returned home to find their jobs taken by nonveterans, to find an economy raging with inflation, to find housing shortages and general complacency. They, too, must have felt less than fully "honored." Perhaps after any war, even a popular one, there must be an inevitable period during which the veteran feels estranged from his own society, even from peace itself. A war never really ends with the signing of a document or with the docking of a troopship. In memory, in imagination, and in concrete reality, a war goes on and on in its consequences.

Another bit of popular folklore has it that Vietnam was somehow different from other American wars. Fundamentally different. In its unpopularity at home, especially during the latter stages of the conflict, the Vietnam War surely did not match our fondest memories of World War II. Also, unlike the happy days of 1945, Vietnam ended in defeat—some would say unnecessary defeat, but still defeat. It was a war, too, that was limited by numerous internal and external constraints, a war without clear objectives, a war that seemed at times undirected and halfhearted.

Yet many of these statements also, seem to be true of the Korean War, World War I, and even the American Revolution. Was Vietnam the anomaly, or was World War II? Even more important, however, is that for the soldier on the ground, the combat veteran, every war is identical in its most basic elements: fear, death, destruction, pain, anger, despair, loneliness, boredom, guilt, anguish. It does not make it any easier to charge an enemy bunker knowing that the folks back home are behind you; it doesn't make it easier knowing that your war was sanctioned by a vote in Congress. Morale is not so much affected by bright home front fires as by good battlefront food. And a corpse does not look any prettier, any less dead, in a so-called popular war.

It does the Vietnam veteran no good to talk about how different his war was. In some ways, in fact, such comparisons tend to deflect attention from the truly important moral issues: Was the war wrong, not just "different"? Was the veteran's sacrifice, however real, cheapened by a mistaken cause? Did we abuse the Vietnam veteran not by the treatment we gave him upon his return home but rather by sending him to war in the first place?●

IDA NUDEL

● Mr. JAVITS. Mr. President, last Tuesday evening, a concurrent resolution was introduced in this Chamber dealing with Ida Nudel, a Soviet Jewish economist sentenced to a 4-year term of exile in Siberia because of her desire to emigrate to Israel. I am a cosponsor of that resolution and was therefore most interested to read a letter to the editor of the New York Times on behalf of Ida Nudel that appeared in yesterday's paper. This letter was written by eight economists who are among the top echelon of their profession and is their tribute to her in the effort by her economist colleagues to help obtain her freedom.

In the New York area, Robert Lekachman a professor of economics at the City University of New York, has joined with Herbert Bienstock, Regional Commissioner for the Bureau of Labor Statistics of the U.S. Department of Labor, to cochair a committee of New York economists for Ida Nudel. This committee is presently being organized under the auspices of the Greater New York Conference for Soviet Jewry.

I believe that this issue merits the attention of my fellow Senators and I ask that the aforementioned letter to the editor of the New York Times be printed in the Record.

The letter follows:

A Jewish Economist Banished to Siberia

To the Editor:

We are seriously concerned about the fate of our professional colleague Ida Nudel, a Soviet Jewish economist exiled in Siberia as the result of her desire to emigrate to Israel. Since 1970, authorities have repeatedly denied Miss Nudel's application for an exit permit on the specious ground that her work in a food-processing plant put her in possession of "state secrets."

Miss Nudel's courageous campaign has sought to secure a right to emigrate affirmed by both Soviet and international law. Her professional status has been used to deny this right in a fashion which converts every Soviet economist into a potential pawn of official policy. Economists in this country and elsewhere ought not countenance such a threat in silence.

Miss Nudel's case took an ominous turn when, on June 1, 1978, she hung a sign in her window that pleaded for her reunification with her family in Israel. In short order, this protest led to charges of malicious hooliganism and a four-year sentence to Siberia. Her continued confinement, at grave risk to her health, clearly violates the 1975 Helsinki accords.

If the Soviet Union intends to honor its international engagements, it should promptly release Miss Nudel and permit her to emigrate. We urge the State Department to exert strong and immediate pressure upon Moscow to free our unjustly imprisoned colleague.

Robert Lekachman.
Moses Abramovitz.
Kenneth J. Arrow.
Milton Friedman.
Robert M. Solow.
Simon S. Kuznets.
Herbert A. Simon.
Paul A. Samuelson.●

FAIR TRADE OR FREE TRADE

● Mr. HEINZ. Mr. President, I want to bring to the attention of my colleagues a thoughtful article by John Nevin, shortly to take over as president of Firestone, which recently appeared in the New York Times:

Mr. Nevin, who is more familiar than most Americans with dumping and other unfair trade practices of our trading partners, due to his experience with Zenith, makes an eloquent case for action against these unfair trade practices which threaten the international economic system.

In the process he also makes clear that "fair trade" truly means "free trade;" that it is those of us who insist that all nations play by the same rules who in fact are protecting the free market, while it is those who advocate "free trade" who would allow the continuation of dumping and subsidies.

Mr. President, I ask that the article be printed in the Record.

The article follows:

[From the New York Times, Nov. 23, 1979]

You Can't Call It Free Trade

(By John J. Nevin)

Glenview, Ill.—Public support for our international trade policy is evaporating. Americans have not lost confidence in their ability to compete but they no longer trust the Government to protect American jobs and interests against unfair and unlawful foreign trade practices.

A recent Harris survey found that more than 60 percent of the public favored restrictions on imports over continuing this country's traditional policy of encouraging free trade. The respondents agreed, by an even larger margin, with the statement "We have been made suckers by other countries which restrict U.S. goods, but whose goods are free to come into our country." Louis Harris noted that "behind this growth in protectionist sentiment is a rather deep-seated feeling that this country has been taken advantage of in foreign trade. . . ."

In 1974, as the effect of rising oil prices was first being felt, America's trade deficit totaled only $1.7 billion. By 1978, that deficit amounted to a staggering $28.5 billion. Washington has insisted that our trade deficits have been caused by increased imports of foreign oil and shortcomings in labor productivity that have made our products less competitive at home and abroad. But economic facts do not support those explanations.

Our trade deficit with the Organization of Petroleum Exporting Countries and the other oil-exporting nations increased by $4.1 billion between 1974 and 1978. Our trade deficit with Japan increased by $9.9 billion in that period, and our trade balances with the rest of the world worsened by $12.8 billion. Trade with oil-exporting has accounted for only a minor portion of the deterioration in our trade balances.

A 1978 study of international labor costs by West Germany's Dresdner Bank assigned an index of 100 to West Germany's labor cost per unit of output, an index of 92 to Japanese costs, an index of 83 to French and British costs. American costs, at 72, were the lowest of any major trading country. It is incredible labor-productivity shortcomings are listed as a major cause of our trade deficits when respected economic observers abroad demonstrate that American labor is the world's most productive and cost-effective.

In August, Citibank reported that from 1970 to 1978, labor productivity improved less rapidly in the United States than in West Germany and Japan. Wage rates, however, increased by 212 percent in Japan, 137 percent in West Germany and only 90 percent in America. The bank concluded that labor costs per unit of output, excluding the effect of exchange-rate changes, rose 112 percent in Japan, 57 percent in West Germany and only 54 percent in America between 1970 and 1978.

Exchange-rate movements have had a major impact on the cost position of trading nations. As the dollar declined in value relative to the mark and yen, American-made products, for which labor costs had been paid in dollars, because markedly more competitive at home and abroad. West German and Japanese products, for which labor costs had been paid in marks or yen, became far less competitive. Citibank's study found that between 1970 and 1978, labor costs per unit of output rose 264 percent in Japan, 185 percent in West Germany and only 54 percent in America when measured in dollars. America's labor-cost advantage relative to other nations has been increasing, not deteriorating in recent years.

If there were really a free-trade system in the world, America would be struggling to control large trade surpluses, not large trade deficits. Relative to its trading partners, America enjoys a substantial energy-cost advantage, a sizable labor-cost advantage per unit of output, and is able to obtain other raw materials from domestic or world sources at prices at least as low as prices available to others. The world, however, has an administered trade system, not a free-trade system. To pay for more expensive energy imports, other nations have undertaken to earn more dollars by increasing exports to America even when such efforts required Government export subsidies or dumping. They have sought to conserve dollars by limiting imports of American products even when such efforts involved protectionist actions inconsistent with international trade agreements. Unless we develop the will and the capacity to curb dumping, foreign import barriers and other unfair practices in international trade, we will face further declines in the value of the dollar and further increases in domestic unemployment. The public's growing distrust of the world trade system could ultimately produce a protectionist reaction that would severely damage that system.●

THE NAME OF THE GAME IS POKER

● Mr. LAXALT. Mr. President, coming from a State where poker is played in earnest, I would like to commend Mr. Fred Reed for a column entitled "The Name of the Game Is Poker," which appeared recently in the Washington Post.

I truly believe that a good deal of what is wrong with our foreign policy today is that it is run by moral, rational men forced to operate in an immoral irrational world. If the present crisis in Iran teaches us anything, it is that when times get rough in foreign policy as in poker there is a premium on toughness, on dogged persistence, and on close attention to one's own interests.

Mr. President, I think it is high time we started playing a little poker in the world, and I ask that Mr. Reed's column be printed in the Record.

The article follows:

The Name of the Game Is Poker

The monastic innocence of the foreign-policy establishment approaches the eerie incomprehension that one associates with Moonies. There is the same earnest inanity, the same self-delusion and odd unfamiliarity with the workings of the world. The spaciness is mystifying considering that officials at the State Department are not stupid. The explanation perhaps is their academic mode of thought. We have too many professors when we ought to have poker players.

The professor is preoccupied with formulating abstractions, which he manipulates in the belief that they correspond to the world. His world teems with theories, principles and impersonal historical forces, of which he belives reality to be the vector sum. He speaks of the decline of colonialism, the rise of the Third World, millenarianism, interrelatedness. Without quite realizing it, he sometimes comes to think that abstractions are the world. A decade ago he believed that the domino theory was discredited when enough professors in New York had attacked it in political journals. The opponents who concern him are not the hostile countries with which the United States must deal, but the people with whom he argues.

In contrast, the poker player looks around him and sees not abstractions but men. His approach is intuitive instead of theoretical. He views Hitler as an unwashed psychotic, not as the result of Weimar decadence, Teutonic authoritarianism and lingering resentment at the war-guilt clause. He watches mankind with less than dewy-eyed optimism, believing that rationality and benevolence in human affairs are subordinate to greed, self-interest, fear and combativeness. He knows how men should act, but also how they do act, a distinction the professor doesn't make.

The professor thinks that a Soviet invasion of Europe is impossible because it would risk a holocaust. The poker player knows that many men like to gamble. He immediately asks the crucial question: would the United States immolate itself to prevent a conquest of Europe? Or would it sit back and appoint study commissions? The poker player knows a sporting proposition when he sees it.

The professor tends to be a decent man from civil surroundings and believes, perhaps unconsciously, that other men are like him. A high proportion of policy-makers go to exclusive private schools and then to Harvard. The rest come largely from sheltered suburbs. To them an internecine struggle means an exchange of savage book reviews. Even lawyers play by legal rules that preclude any real damage to an opponent. A lost case means an unfavorable property settlement, not a hurried call for an ambulance.

These nice people apparently believe that the world's leaders play by the same rules. The terrible weakness of Jimmy Carter, a moral man, is that he behaves as if he lived in a moral world.

The poker player tends to have had rude experience of a more brutal life. He has spent time in barracks, waterfront bars, truck stops, a bad section of Brooklyn or a small Tennessee town. Maybe he has seen sadistic toughs beat a stranger into an intensive care unit for the sheer fun of it. He knows that a mean drunk in a pool hall is utterly irrational and very dangerous. He sits near the door. The poker player, having no illusions about the gentility of humanity, expects men to behave like the men he has seen. He knows that many of the world's leaders would be considered peculiar in the men's room of a New York bus station.

The professor dislikes conflict and consequently persuades himself that others also dislike it. His means of kidding himself are varied. One is to accept an obvious aggressor's protestations of injured virtue. Today he believes that SALT and détente are genuine indicators of Russia's desperate search for good will. In another time he believed that Austria, the Rhineland and the Sudetenland were each Hitler's final territorial demand.

Yet another means of self-delusion is to rely on the inevitability of historical trends. By viewing the rise of the last Reich as the historically ordained resurgence of a vigorous country, he persuades himself that it is inevitable. Why fight history?

The professor will also engage in logical acrobatics to avoid confrontation. He accuses the American military of being warmongers but never makes the leap to ask: what if other countries have warmongers?

The poker player knows that some men like to fight.

Because the lower social and economic classes have seen the rougher side of life, they tend to be hard-liners. The genteel professor attributes his differing view to his superior education. It is merely a different education. The question is whose understanding corresponds more closely to the real world.●

THE PRESIDENT'S TRADE REORGANIZATION PROPOSAL

● Mr. HOLLINGS. Mr. President, President Carter's Reorganization Plan No. 3, which becomes effective this week, reorganizes the Federal agencies responsible for international trade matters, including the administration of the antidumping and countervailing duty laws. These laws were recently amended by the Trade Agreements Act of 1979 which implemented the Multilateral Trade Agreements that were negotiated by the United States and other market economy countries. Timely and effective enforcement of the Trade Agreements Act and the MTN codes is extremely important to all domestic industries because they provide improved remedies against the sale in our markets of imported products that have been either subsidized by the producing country or which are sold at less than fair value.

During the Senate's consideration of the Trade Agreements Act, it was frequently emphasized that the administration of the countervailing duty and antidumping laws has, in the past, been ineffective and undermanned frequently to the detriment of domestic industries with legitimate claims of unfair import competition. In response to congressional concern that the objectives of the Trade Agreements Act be effectively implemented, the reorganization plan transfers the administration of the countervailing duty and antidumping laws to the Commerce Department where a much larger and more senior staff is planned. If properly implemented, the reorganization plan should usher in a new period of effective administration of those laws which will provide American industry meaningful recourse to the remedies Congress has devised to insure fair competition in the domestic markets.

After the reorganization plan was presented to Congress, Korf Industries, a steelmaker located in South Carolina, expressed concern to me about two ambiguities in the plan that could make the Commerce Department's administration of the antidumping and countervailing duty laws less effective. Specifically Korf was concerned that the Commerce Department would not have the final legal authority in such cases and also that the plan did not require the Customs Service to maintain or develop records essential to the successful implementation of programs pursuant to the trade laws such as the trigger price mechanism. I shared those concerns and requested OMB Director McIntyre to clarify the intention of the administration in submitting Reorganization Plan No. 3.

In response to my request, Mr. McIntyre, by letter, which is attached to these remarks, replied that the administration agrees with the concerns raised by Korf. I request that this letter be printed in the RECORD.

Mr. McIntyre's letter details the OMB interpretation of the relative roles of the Commerce Department and the U.S. Trade Representative under the reorganization plan and comments on the anticipated agreement between Commerce and Treasury that will require the Customs Service to provide timely data to Commerce in furtherance of its duties under the Trade Agreements Act.

Based on Mr. McIntyre's letter, I am confident that an effective arrangement can be made with Treasury to insure that after the reorganization plan goes into effect the Customs Service will diligently develop the data needed by Commerce to implement innovative programs for the enforcement of the antidumping and countervailing duty laws such as the trigger price mechanism.

I also anticipate that the Commerce Department will utilize the legal authority, as interpreted in Budget Director McIntyre's letter, to the fullest extent to insure the fair, efficient, and orderly administration of the antidumping and countervailing duty laws. Each case must be decided on its merits and without regard to perceived political or diplomatic considerations. In my judgment, such evenhanded administration of the trade laws is the only way to avoid industry pressure for protectionist measures and to prevent injury to our domestic industries.

The letter follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 15, 1979.
Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: Thank you for your letter of October 17, 1979, regarding the President's trade reorganization proposal.

You express particular concern about the relative roles of the U.S. Trade Representative and the Department of Commerce in the administration of the antidumping and countervailing duty laws, and about the Commerce Department's access to Customs information necessary to its administration of those laws. I want to assure you that your concerns are met fully by the President's proposal.

Specifically with regard to the USTR-Commerce relationship, Commerce will be the "administering authority" for all purposes under section 303 and title VII of the Tariff Act of 1930. USTR will be responsible for negotiating assurances, but the final decision on whether to accept such assurances will rest solely with the Secretary of Commerce. Decisions of the Commerce Department in individual antidumping and countervailing duty cases will not be subject to reversal by either the Trade Representative or the Trade Policy Committee.

Section 1(b)(3)(D) of Reorganization Plan No. 3 is not intended to give the Trade Representative authority to intervene in the consideration or disposition of individual complaints of unfair trade practices. The authority of the Trade Representative under this provision is limited to "the extent necessary to assure the coordination of international trade policy," and will focus upon general matters of interpretation, applying across-the-board, rather than upon the resolution of individual cases. (The only exception will be instances in which negotiations seeking assurances are conducted; even here, the Commerce Department will have the final say on whether to accept assurances.)

As for the relationship between the Department of Commerce and the Customs Service, all case initiation, investigations, verifications and analyses will take place in Commerce. This will include the responsibility to provide such data as are necessary to enable the Customs Service to liquidate entries subject to Commerce findings or orders. The relationship between Commerce's antidumping and countervailing duty personnel and the import specialists in the Customs Service will differ little from the interagency arrangements that already exist concerning trade statistics, quantitative restraints, collection of internal revenues, etc. All discretionary functions relating to antidumping and countervailing duties will be transferred from Treasury to Commerce.

We expect no difficulty in having Commerce obtain any necessary information from Customs. Section 5(a)(1)(C) of the reorganization plan requires the Secretary of the Treasury to furnish relevant records requested by the Secretary of Commerce. In addition, we expect that an agreement will be reached shortly between Treasury and Commerce spelling out the specifics of Commerce access to all documents and data received or generated by the Customs Service that may be necessary or useful in administering the antidumping and countervailing duty laws.

In summary, the Administration agrees with the concerns expressed by Korf Industries and passed on to us by you. We believe that the trade reorganization proposal satisfies those concerns and hope that you will support it.

Please let me know if you have any additional questions on this mater.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.●

SERVICE ON SELECT COMMITTEE ON ETHICS

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution on behalf of myself and Mr. BAKER and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 290

Resolved, That effective October 31, 1979, service of a Senator as the chairman or ranking minority member of the Select Committee on Ethics shall not be taken into account for purposes of applying section 111(b) of the legislative Branch Appropriation Act, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, this resolution will amend section 111 of the Legislative Branch Appropriations Act, 1978 (Public Law 95–94) to provide that a Member serving as chairman or ranking minority member of the Senate Ethics Committee will not have his "legislative assistance" clerk hire allowance reduced.

Section 111(a) of the Legislative Branch Appropriation Act, 1978, provides an additional amount of gross compensation (presently, $168,468) which may be paid each fiscal year to employees in a Senator's office (commonly referred to as the "clerk-hire allowance"). This section is the successor to a similar provision of law which authorized an amount which could be used only for salaries of individuals employed to assist a Senator with his committee duties.

Section 111 (b)(1) requires this additional amount to be reduced by $56,156 in the case of a Senator who is the chairman or ranking minority member of a committee. A similar reduction was required under the prior law on the theory that the chairman and ranking minority member of a committee can appoint committee staff to assist them with their duties on that committee. The reduction was continued in section 111(b)(1) even though the additional amount provided is no longer limited to employees who assist a Senator in his committee duties.

Mr. President, while the basic premise of section 111 of the Legislative Branch Appropriations Act may be sound, it works unfairly upon a chairman or a ranking member of the Ethics Committee. It is difficult to find Members who will accept this thankless and time-consuming job which, at times, requires an inordinate amount of a Member's time. Therefore, to penalize them with this reduction in their staff allowance is hardly an inducement to accept the position. Senator BAKER and I are introducing this resolution to correct this inequity, and I urge the immediate passage of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 290) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION HONORING DAVID WATSON—SENATE RESOLUTION 289

Mr. HEFLIN. Mr. President, Senator STEWART has a resolution, for himself and me, which I submit at this time, on behalf of Senator STEWART and myself, honoring David Watson. I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 289

To honor David Watson and to express the sorrow of the Senate with respect to his death.

Whereas David Watson had been a dedicated employee of the United States Senate since 1975;

Whereas David Watson was a respected and exemplary government employee and public servant;

Whereas the character and contributions of David Watson reflect honor on both the Senate and the Nation;

Whereas David Watson has enriched the lives of all who have known him; and

Whereas David Watson's life was cut short by an airplane accident on November 25, 1979: Now, therefore, be it

Resolved, That the United States Senate expresses its profound sorrow at the death of David Watson, and expresses deep sympathy to his family and friends.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the parents of David Watson.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The resolution (Senate Resolution 289), with its preamble, was agreed to.

Mr. BAKER. Mr. President, I wish to associate myself with the eloquent and heartfelt remarks of several of my colleagues yesterday on the tragic death of David Watson.

While David devoted much of his time to serving the majority side of the Senate aisle, he was unfailingly courteous and accommodating to Republican Members of the Senate, as well, and we share the burden and the pain of his loss.

David's parents have good reason to be proud of their son, and we in the Senate should count ourselves fortunate to have had a young man of his calibre in our service.

Our deepest sympathies go to David's family and friends in this time of sorrow.

Mr. HEFLIN. Mr. President, the members of the Alabama Congressional Delegation are grieving the tragic deaths of four young Alabamians who were killed Sunday night in a light plane crash. All were returning to Washington from spending the Thanksgiving Day holiday with their families in Alabama.

I have spoken of our good friend and Democratic Cloakroom staff member David Watson and was pleased that several other Senators joined in praising this fine young man.

But three other young Alabamians died with David in this tragic accident and each one had made a significant mark upon each member of the Alabama delegation.

For the sake of the families of these fine young people, I wish to say a few words about each:

WALTER HINES (JACK) FARISH

Jack Farish and David Watson were both from Monroeville, Ala., and lived together as roommates here in Washington.

Jack was 23 years old and a staff assistant for Representative JACK EDWARDS of the first district of Alabama.

He was a 1979 graduate of Auburn University in Alabama where he was an exceptionally popular and active student. He distinguished himself in service to the Phi Delta Theta fraternity and served as the chapter secretary.

Jack joined Representative EDWARDS' staff in July of this year and quickly earned the respect and admiration of Congressman EDWARDS and every member of his staff.

He was bright, energetic, and friendly. Certainly a great future was abruptly interrupted by this tragic accident.

Jack was the son of Mr. and Mrs. Dick Farish of Monroeville, Ala., where both his parents are involved in the real estate business. Jack's grandfather, Dr. Walter (Jack) Hines, is a well-known and respected veterinarian.

I wish to extend my prayers to Jack's family and friends.

CATHY STEWART

Cathy Stewart came from the small town of Newton, Ala., and worked for Representative BILL DICKINSON of the second district of Alabama.

She was a graduate of Wicksburg High School in Newton and earned her bachelor's degree in criminal justice and political science from Troy State University.

She was 22 years old.

Cathy was much more than just an employee of Congressman DICKINSON but was a longtime family friend. Cathy and her family have worked closely with Representative Dickinson, and she was a most dedicated worker. She worked as an intern in Representative Dickinson's office last summer and joined the staff permanently in September.

Cathy was an exceptionally warm and friendly young lady who routinely went the extra mile to be helpful and accommodating to Alabamians who were visiting Washington.

Cathy was the daughter of Mr. and Mrs. Herman Stewart of Newton, Ala. I wish to extend my prayers to Cathy's family and many friends.

LOUISE TATE

Friends, employers, and coworkers of Louise Tate's all use the same words in describing her: full of vitality, a dedicated worker and brilliant—exceptionally brilliant.

A summa cum laude graduate and Phi Beta Kappa from the University of Alabama, Louise delayed her plans to attend the University of Alabama Law School to come to Washington.

In 1976, she worked for the late Alabama Senator Jim Allen in his office and the following year under his patronage. She then went to work for the National Association of Manufacturers.

There Louise's natural brilliance shone brightly as she climbed quickly through the ranks of the company from the bottom to the top. Less than a week before her tragic death, Louise was told of her upcoming promotion to the position of assistant director of NAM's energy research division.

Louise loved people and her work. She was civic oriented and was deeply involved with Washington's junior league.

Friends testify of her earnest desire to succeed, of her pushing herself relentlessly toward excellence and of her total involvement in her every endeavor.

This horrible tragedy which ended so abruptly the lives of these four outstanding young people, surely robbed Louise Tate of a brilliant future in law, politics or in any field of her choosing.

I join with my colleagues from Alabama in both Houses in prayers for Louise's parents, Mr. and Mrs. Ralph Tate of Birmingham, and for the parents and relatives of each of the crash victims.

A memorial service will be held for the four young Alabamians on Friday, November 30 at 12:15 p.m. at Christ Episcopal Church at Sixth and G Streets SE. I wish to invite everyone who knew these fine young people to come.

UNANIMOUS-CONSENT AGREEMENT—S. 493, DEEP SEABED MINERAL RESOURCES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 493, the Deep Seabed Mineral Resources Act, is called up and made the pending business before the Senate, there be a time limitation thereon as follows: 2½ hours on the bill, to be equally divided between Mr. Matsunaga and Mr. Hatfield or their designees; 30 minutes on an amendment by Mr. Matsunaga, the amendment being No. 540, provided that this amendment be the only amendment in order to the bill; provided, further, that there be a time limit of 20 minutes on any debatable motion or appeal and the same on any point of order, if such is submitted to the Senate for debate; and that the agreement be in the usual order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in respect to the time agreement on S. 493, the time on the bill, 2½ hours, should be equally divided as follows: Managers on the part of the majority—Mr. Matsunaga, Mr. Church, Mr. Cannon, Mr. Randolph, and Mr. Long; managers on the part of the minority—Mr. Hatfield, Mr. Javits, Mr. Packwood, Mr. Stafford, and Mr. Dole.

It is my understanding that the bill was referred to five committees.

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 493 (Order No. 373), a bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes, amendment No. 540 by the Senator from Hawaii (Mr. Matsunaga) shall be the only amendment in order, with debate thereon to be limited to 30 minutes, to be equally divided and controlled by the mover of such and the managers of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the managers of the bill: *Provided*, That in the event the managers of the bill are in favor of any such motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2½ hours, to be equally divided and controlled, respectively, by the Senator from Hawaii (Mr. Matsunaga), the Senator from Idaho (Mr. Church), the Senator from Nevada (Mr. Cannon), the Senator from West Virginia (Mr. Randolph), the Senator from Louisiana (Mr. Long), the Senator from Oregon (Mr. Hatfield), the Senator from New York (Mr. Javits), the Senator from Oregon (Mr. Packwood), the Senator from Vermont (Mr. Stafford), and the Senator from Kansas (Mr. Dole): Provided, That the said Senators, or any of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR CONSIDERATION SATURDAY OF S. 1918, DEFENSE OFFICER PERSONNEL MANAGEMENT ACT, IN LIEU OF H.R. 3236, SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order providing for the consideration of H.R. 3236 on this coming Saturday be amended so as to provide that in lieu of H.R. 3236 on this Saturday, there be substituted for consideration on this Saturday Calendar No. 394, S. 1918, a bill to revise and make uniform the provisions of law relating to appointment, promotion, separation, and retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF TREATIES TOMORROW AT 1:40 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the Senate on tomorrow morning to go into executive session immediately following the recognition of the two leaders, or the recognition of Senators if such orders have been entered previously—the Senate was to go into executive session to consider Calendar orders numbered 9, 10, and 11, certain treaties on the Executive Calendar—be amended so as to permit the Senate to go into executive session at 20 minutes of 2 p.m. tomorrow, and with the carryover from the previous order providing for 20 minutes for debate, to be equally divided between Mr. Church and Mr. Javits, on those three Calendar orders; furthermore, that the vote en bloc occur at 2 p.m. tomorrow; and that upon the disposition of those three treaties, the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF TREATIES ON SATURDAY FOLLOWING DISPOSITION OF S. 1648

Mr. ROBERT C. BYRD. Mr. President, the order has been previously entered wherein on Saturday, December 1, following the recognition of the two leaders and any special orders for recognition of Senators, the Senate go into executive session to consider treaty Calendar Nos. 17 and 18 with the period for debate not to exceed 20 minutes, to be followed by a vote en bloc on the resolution of ratification to the two treaties.

I ask unanimous consent that that order on Saturday occur immediately upon the disposition of S. 1648, Calendar Order No. 445, the bill to provide for the improvement of the Nation's airport and airway system and that the bill S. 1648 be taken up immediately upon the completion of the orders for the recognition of the two leaders or the recognition of Senators if any such orders be entered theretofore.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO CALL FOR REGULAR ORDER ON SATURDAY MAY BRING DOWN S. 1648 OR S. 1918

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no call for regular order on Saturday may bring down S. 1648 or S. 1918.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GENOCIDE CONVENTION: A POSITIVE STEP IN OUR NATIONAL INTEREST

Mr. PROXMIRE. Mr. President, for over 30 years, passage of the Genocide

Convention has been blocked by arguments that just do not stand up. Opponents of the treaty maintain that ratification would compromise our Nation's sovereignty.

A careful analysis of the global situation reveals that America's freedoms are closely related to the freedoms of other countries. Protection of the rights of American citizens would be heightened by a pledge to defend the most fundamental right of all—the right to live.

This view is supported by two of the most staunch defenders of American sovereignty—the American Bar Association and the Department of Defense.

As early as 1971, the Standing Committee on World Order Through Law of the ABA proclaimed that:

> It is in the national interest of the United States to encourage and promote universal respect for and observance of human rights and fundamental freedoms.

By 1976, the bar unanimously supported the Genocide Convention.

One year later, the Defense Department, as well as the Judge Advocate General for the Army, Navy, and Air Force, joined the list of those who endorse the treaty. These experts on American security concluded that ratification would be a positive step in the national interest of our country.

Mr. President, I point out also that the treaty has provided for a reservation, a reservation that any American citizen involved in a charge of genocide would be tried by American courts.

The duty of the Senate is clear. I urge my colleagues to swiftly ratify the Genocide Convention.

I thank the majority leader and yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I apologize to the distinguished Senator. I did not realize he was waiting for recognition. I could have delayed my work. I assure him that I shall be more watchful in the future.

Mr. LEVIN. Mr. President, first of all, I commend my friend from Wisconsin for his steadfastness in the Genocide Treaty effort. I am sure at times it seems like a lonely vigil but I am confident that some day, perhaps some year, his efforts will be rewarded. He has a lot of support which is not always visible but it is there. We are very grateful for what he is doing.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I thank my good friend from Michigan who is a very staunch advocate of the Genocide Convention and with his support I am sure we can make some real progress.

I thank the Chair and the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. KENNEDY, I submit a report of the committee of conference on S. 1157 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 16, 1979.)

● Mr. KENNEDY. Mr. President, today the Senate considers the conference report on the Department of Justice Appropriation Authorization Act for fiscal year 1980. The report authorizes $1,956,561,770 for the Department of Justice and related programs, approximately $25 million more than was authorized in the Senate bill. This difference is due primarily to a series of administration budget amendments that had not been received by the Senate prior to floor action.

The report incorporates each of the Senate's priorities and services to give the Department of Justice needed policy guidance and direction. I move the adoption of the conference report.●

Mr. THURMOND. Mr. President, I join the distinguished Senator from Massachusetts in expressing my support for the conference report now before the Senate regarding the fiscal year 1980 authorization for the U.S. Department of Justice.

This legislation, and the accompanying report, reflects the considerable efforts of the distinguished chairman of the Judiciary Committee as well as other members of the committee on both sides of the aisle. The members of the committee have worked long and hard on this legislation in the Senate and in conference. In my opinion, the Senate should be well satisfied with the work of the committee on this important legislation. I urge its immediate adoption.

● Mr. DOLE. Mr. President, as the Senate proceeds to the consideration of the conference report on S. 1157, the Justice Department authorization bill for fiscal year 1980, there are two items which the Senator from Kansas rises to comment on in detail.

The first item involves section 18 of the act which authorizes the Attorney General to submit to the Congress by September 1, 1980, among other things, "a plan to alter the function of the U.S. Penitentiary at Leavenworth, Kans., to that of a modern correctional institution by September 1, 1985."

The conference report on section 18 with respect to this item reads as follows:

> The House amendment requires the Attorney General to submit to the Congress a plan to assure the closure of the United States Penitentiary at Atlanta, Georgia by September 1, 1984, and a plan to alter the function of the United States Penitentiary at Leavenworth, Kansas, to that of a modern correctional institution capable of housing not more than 500 prisoners by September 1, 1985. The House amendment also provides that the plan prohibit the use of the U.S. Penitentiary in Atlanta by State or local governments as a correctional institution after its closure by the Federal government.
>
> The Senate bill provides that the Attorney General shall submit to the Congress a plan to alter the function of the United States Penitentiary at Leavenworth, Kansas to that of a modern correctional institution.
>
> The Conferees adopted the House version as modified.
>
> It is the intent of the Conferees that no modern correctional facility have more than 500 inmates. The plan which the Attorney General prepares pursuant to this section should respect this intention. If the Attorney General wishes to prepare additional plans for the consideration of the Committees of the Judiciary of the House of Representatives and the Senate, with proposals for housing more than 500 inmates at Leavenworth, he may do so.
>
> It is also the intent of the Conferees that the plan prepared pursuant to this section take into account the possibility of displacement of Bureau personnel and that the Attorney General prepare the plan with the clear intent of minimizing any possible unemployment resulting from the closure of the Atlanta Penitentiary.

Mr. President, the future of the Leavenworth Federal Corrections Institution is, of course, of vital interest to this Senator and to the people of my State. The penitentiary there has been a part of the community and a provider of employment for generations of Kansans. It is only appropriate that this institution which has served a vital function through the years be modernized. It is necessary to upgrade facilities and to streamline programs to conform with the latest correctional theory and practice. I feel confident that the Bureau of Prisons, under the leadership of its able director, Mr. Norman A. Carlson, will come up with a sensible and workable program to achieve this end.

The Senator from Kansas states for the record now his understanding of the compromise reached on the differences between the House and Senate on this important item because there was one significant difference between the House and Senate versions of section 18, which was the subject of a compromise. The House version contained a limitation that the modernized version of Leavenworth would have an inmate population not to exceed 500. The Senate version contained no such restriction. The conferees, after a discussion on this point, in which this Senator took part, agreed to drop the House limitation in the language of S. 1157 but did agree to language in the report which has been cited above.

My understanding of this compromise is that the Bureau of Prisons should design a plan for an institution of 500 population but if its study and evaluation of the problem leads it to the conclusion that the optimum, most cost-effective design for modernization might call for an institution for a greater capacity, then the Bureau would be free to submit to Congress additional plans to that end. From my knowledge of the capital investment that the Bureau of Prisons has made already in recent years in modernizing the physical plant of the facility it could well be that a plan which would accommodate an additional inmate population might well prove to be the most feasible. A figure of approximately 900 has been mentioned.

Mr. President, it is not my intention that the Bureau of Prisons be hide bound to develop a plan with any magic number superimposed on the deliberate and careful planning process that must be followed to develop a meaningful plan. It is my understanding that the conferees have now authorized the Bureau of Prisons to develop such a plan with the flexibility to do so.

Second, Mr. President, the Senator from Kansas would like to comment briefly on section 20. This is a provision of the House-passed bill which authorizes the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration to use funds and to authorize States to use funds for programs, projects or events devoted to the international aspects of crime prevention and criminal justice.

Specifically, the State of California is also authorized to use block grant funds, which were unspent from prior fiscal years, to support the forthcoming United Nations Congress on the prevention of crime and treatment of offenders which will be held next year.

Mr. President, it is my understanding that this authority authorizes these agencies to utilize a reasonable amount of funds to support an international exchange of information, statistics, and technology on crime control strategies and to support important events where leading criminal justice authorities meet to consider the development of strategies of crime prevention and control. These issues are central to the development of a modern world society under the law. There is precious little opportunity to share the successes and failures in these vital crime control activities.

This authority, I am sure, will be utilized wisely by the agencies and, in particular, will provide the needed authority for the United States to support the cause of its participation in the forthcoming sixth United Nations Congress on prevention of crime. This conference now will be held in Caracas, Venezuela in August 1980. It could well be the State of California and the city of San Francisco will be interested in hosting a forthcoming gathering of this group in years to come. Therefore, it is appropriate that the LEAA "reversionary funds" be used to support planning and organizational functions related to the hosting of this congress. This would certainly be in keeping with congressional intent as authorized by section 20.

In conclusion, Mr. President, I want to pay tribute to all concerned for the hard work and long hours spent in processing this complex and detailed legislation. I am confident that the work which the Congress completes today will provide for a more effective and efficient operation of the Justice Department in the coming year.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION OF ERROR IN ENROLLED BILL

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 216.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 216) directing the Secretary of the Senate to correct a typographical error in the enrollment of the bill S. 1157.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, this resolution corrects an error of a technical nature with respect to the figure authorized for the Drug Enforcement Administration.

I do this on behalf of Mr. KENNEDY.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 216) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER REDUCING THE TIME OF THE TWO LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow be reduced from 10 minutes to 5 minutes each under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will come in at 10 a.m.

ORDER FOR RECOGNITION OF SENATOR LEVIN

After the two leaders or their designees have been recognized under the standing order, Mr. LEVIN will be recognized for not to exceed 10 minutes, by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. After Mr. LEVIN is recognized on tomorrow the Senate will resume consideration of Calendar Order 421, H.R. 3919, an act to impose a windfall profit tax on domestic crude oil. The question at that time will be on adoption of the amendment by Mr. JAVITS. There will be rollcall votes throughout the day tomorrow.

At 1:40 p.m. tomorrow the Senate will go into executive session and after 20 minutes of debate the Senate will vote at 2 p.m. en bloc on calendar orders numbered 9, 10, and 11 on the executive calendar, respectively: Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, Convention Abolishing the Requirement of Legislation for Foreign Public Documents, and the Treaty with the Republic of Turkey on Extradition and Mutual Assistance in Criminal Matters.

There will be a rollcall vote. The rollcall has not yet been ordered, but it will be ordered, and the one rollcall vote will count for three votes inasmuch as the three treaties are being voted on en bloc.

Following the disposition of the three treaties, the Senate will resume consideration of H.R. 3919, the windfall profit tax bill, and business will go into the evening with rollcall votes in relation thereto.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:40 p.m., the Senate recessed until Wednesday, November 28, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 27, 1979:

OFFICE OF GOVERNMENT ETHICS

J. Jackson Walter, of Florida, to be Director of the Office of Government Ethics (new position).

DEPARTMENT OF ENERGY

George W. Cunningham, of Tennessee, to be an Assistant Secretary of Energy (nuclear energy), vice Phillip Samuel Hughes, resigned.

AMBASSADOR

Sol M. Linowitz, of the District of Columbia, for the rank of Ambassador during the tenure of his service as Personal Representative of the President of the United States of America.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be lieutenant colonel

Tindall, John P., 266-40-1873.

To be captain

Marsh, Royden W., 523-54-3669.
Wicks, Roland E., 527-70-7483.

To be first lieutenant

Baskaran, Thanesseri S., 070-42-7272.

DENTAL CORPS

To be first lieutenant

Blosser, Fred M., 419-62-7839.
Flaggert, James J., III, 464-94-6744.
Shannon Michael D., 503-56-5709.
Shannon Rayanne F., 485-74-7349.
Shoff, Carl C., 220-66-4453.

The following persons for appointment as Reserve of the Air Force, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Blanco, Jose M., 117-30-9265.
Cooper, E. Leon, 255-52-7406.
Cronin, Herbert F., 142-18-6941.
Cruz, Benjamin G., 301-32-1879.
Dillon, William L., 515-44-2274.
Diorio, David A., 266-58-5593.
Fender, Thomas H., Jr., 453-22-0840.
Finn, Thomas C., Jr., 441-20-6339.
Kideys, Fazil, 068-32-9087.
Lambright, Robert L., Jr., 428-28-3193.
Mathews, Roy C., 455-54-9784.
Norton, Wayne L., 543-20-8731.
Risser, Christian F., 526-56-7557.
Shull, Thomas E., 539-36-1617.
Smith, Darryl D., 572-42-2849.
Tan, Johnson Y., 082-34-1340.
Tiangco, Ernest P., 452-62-8820.
Torrance, Jonathan B., 539-14-0814.
Warren, Donald J., 078-14-8691.
Weibel, Jorge, 453-64-0056.
Welch, George E., 435-18-5847.
Wiklund, David A., 016-22-1521.
Yubero, Gerardo L., 234-60-8170.

The following persons for appointment as Reserves of the Air Force (ANGUS) in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Robertson, Roland B., Jr., 452-54-6896.
Schmitt, James N., 122-18-0489.
Seidl, Larry T., 302-28-3676.

The following Air Force officer for promotion in the Regular Air Force, under the provisions of chapter 835, title 10, United States Code, as amended. Officer is subject to physical examination required by law:

LINE OF THE AIR FORCE

Captain to major

Mahlen, Lester J., 089-26-0290.

The following officers for promotion in the Air Force Reserve, under the provisions of section 593 and 8376, title 10, United States Code:

Lieutenant colonel to colonel

England, Robert L., 564-44-8533.
Gretchen, Edward A., 235-42-3916.
Lowery, Guy A., 365-28-9296.
Shipp, Robert H., 406-22-0445.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Anderson, Kenneth R., 344-34-3437.
Armstrong, Gordon S., 156-30-4818.
Barrett, Owen M., 287-34-4503.
Blocker, Phil, 262-56-7387.
Bovenkerk, Paul E., 107-32-5568.
Brady, Livingston, 424-42-3648.
Bright, Burton K., 577-50-1480.
Carucci, Michael J., 044-30-2570.
Conners, Donald J., 534-28-2231.
Davis, Robert S., 466-56-8309.
Dellinger, Joseph P., 467-52-6805.
Downer, David R., 263-58-5781.
Drane, Melvin E., III, 264-58-1314.
Dunlap, Ralph N., 553-52-3740.
English, William H., 212-38-0526.
Fuller, Richard L., 293-36-4125.
Green, Leroy W., 126-32-3374.
Guetig, Donald A., 433-62-3359.
Gunn, Earnest L., 418-48-8159.
Kauffman, William D., 177-32-9252.
Keough, James P., Jr., 477-44-5460.
Liggins, Arthur T., 230-50-3234.
Malmoe, Thomas B., 532-38-3029.
Maryanow, Maurice, 451-60-8215.
McKechney, William J., 093-32-0846.
Nolan, Harold E., 466-56-7797.
Pahoresky, Herbert J., 300-34-0615.
Paquette, James R., 225-50-8704.
Parnell, Charles R., 525-90-9767.
Pearce, William M., Jr., 333-34-1441.
Powers, Franklin E., 003-26-2643.
Rice, Johnny R., 428-68-1364.
Robinson, Ronald J., 483-46-5761.
Roeder, Charles R., 466-62-2770.
Schleicher, Donald W., 452-58-5847.
Shea, William J., 207-32-4306.
Simon, William E., Jr., 055-34-5169.
Slater, Robert E., 052-32-2204.
Vandersiik, Richard J., 377-38-5337.
Wilson, Larry D., 429-72-7053.
Wing, Gary R., 360-34-1177.

DENTAL CORPS

Millar, Leslie C., 574-14-0146.

MEDICAL CORPS

Clark, Kenneth H., 321-36-5930.
Coudon, Wilson L., 225-66-6718.
Kee, Jimmy W., 526-66-2075.
Miller, Charles H., 226-44-1032.
Moreland, John L., Jr., 465-54-1957.
Ryan, Michael E., 452-68-0872.
Sivapragasam, Subramaniam, 410-76-4629.
Sue, Samuel S., 204-38-0183.
Taubkin, Steven P., 116-34-1314.
Wilson, John S., 431-74-0204.
Wilson, Ralph S., 306-46-9447.
Wong, William K., 573-48-8233.

The following-named Air Force officers for reappointment to the active list of the Regular Air Force, in the grade of lieutenant colonel, Regular Air Force. under the provisions of sections 1210 and 1211, title 10, United States Code, with active duty grade of temporary lieutenant colonel, in accordance with sections 8442 and 8447, title 10, United States Code.

LINE OF THE AIR FORCE

Looms, Richard T., 094-10-9689.
Wehe, John H., 140-18-5072.

The following-named Air Force officer for reappointment to the active list of the Regular Air Force, in the grade of lieutenant colonel, Regular Air Force, under the provisions of sections 1210 and 1211, title 10, United States Code, with active duty grade of temporary colonel, in accordance with sections 8442 and 8447, title 10, United States Code.

LINE OF THE AIR FORCE

Sherrier, Richard J., 126-26-1115.

IN THE MARINE CORPS

The following-named male officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel under the provisions of title 10, United States Code, section 5780:

William L. Buck III
Allen D. Crosier
Arnold H. Dow
Harvey D. Houck, Jr.
Jacques L. Miller
Alfred J. Reyer, Jr.
James H. Rosenthel
Darrell M. Smith
Harry J. Tobin
Morton Vaserberg

The following-named women officers of the Marine Corps for permanent appointment to the grade of major under the provisions of title 10, United States Code, section 5771:

Margaret E. Bird
Holly A. Crocker
Carol S. Crooker
Mary F. Edmonds
Linda E. Edwards
Cheryl A. Garbett
Nancy J. Hackert
Shelley B. Mayer
Sharon L. Scherer

The following-named male officers of the Marine Corps for temporary appointment to the grade of major under the provisions of title 10, United States Code, section 5769:

Donald L. Abblitt
Charles W. Adams
Gayle E. Adcock
Jesse W. Addison
Alexander J. Aitken
Anthony C. Akstin
Thomas E. Allen
James L. Allingham
Kenneth C. Allison, Jr.
William T. Anderson
Jeffrey T. Andrews
Monrovie J. Angell III
Jeffrey A. Applen
William V. Arbacas, Jr.
Anthony P. Armbrister
Charles L. Armstrong
Ronald J. Armstrong
Billy T. Babin
Robert L. Bailey
Edward J. Baker
Steven T. Bakke
Edward J. Ball III
Robert E. Ball
William F. Ball III
Michael F. Barone
Thomas L. Barrows
Stanley N. Barton
Douglas I. Bash
Richard W. Bates
Philip B. Baysden
Russell F. Beagent, Jr.
Stephen A. Beaulieu III
John C. Beitz, Jr.
Jimmy E. Belcher
Joseph F. Bellegarde, Jr.
Robert G. Bender, Jr.
Edward A. Benes
Dan T. Bergstrom
Martin R. Berndt
William D. Berry
David F. Bice
Albert H. Bickmore
Jerome F. Bierly
Douglas M. Black
Larry J. Bockman
Harold C. Boehm, Jr.
William J. Boese
Alan R. Bonham
Steven A. Bosshard
David F. Boulden
John C. Boulware, Jr.
R. D. Bourque
Rowney L. Bowers
Robert J. Boyd, Jr.
James G. Boyett
Charles J. Boyle
Floyd D. Braaten
Daniel M. Brannon
Slade A. Brewer
Eugene D. Brindle
Lawrence C. Brinkman
Andrew J. Broadstone III
George B. Brown III
William C. Brown, Jr.
Thomas A. Browne
Stephen E. Bruch
Thomas F. Brunk
Jeffrey D. Buchanan
Leonard J. Bucko
David G. Buell
Laurence K. Burgess
Robert R. Burke
Francis J. Busam
William D. Bushnell
James Q. Butler, Jr.
William S. Buttrill
Albert R. Calderon
Kenneth D. Cameron
Richard W. Campbell
Robert M. Cannis
Thomas M. Carlin
Martin D. Carpenter
Craig L. Carver
James G. Casler
Richard P. Cassidy
Thomas E. Chaffin, Jr.
Walter C. Chambers
Norman A. Chander II
William M. Charles II
Connie S. Chavez
Ronald R. Christopher, Jr.
Jimmy H. Church
Robert M. Churchill
Joseph F. Ciampa
Warren J. Cicerrella
James L. Cieslak
Anthony J. Ciotti, Jr.
Richard H. Clampitt
William B. Clark
Robert D. Clarke
Kenton P. Cleary, Jr.
Jay M. Cluelow
James K. Cobb
Larry D. Cohen
John H. Cole, Jr.
James E. Collette
Clarence M. Collins III
Stephen W. Comiskey
Louis C. Concagra
James T. Conway
Leroy J. Cook
Joel L. Cooley
Richard A. Cote, Jr.
Marion L. Cotten
Patrick C. Coulter
Lawrence G. Cowell
Jerry L. Creed
Joseph R. Crockett, Jr.
Michael J. Cross
Ronald J. Cruz
Ronald K. Culp
Larry J. Cushman
Richard J. Dallaire
John B. Danuser
Charles E. Davis, Jr.
Anthony A. Decandia
Michael A. Decker
Marshall B. Deforrest, Jr.
John R. Defreytas
Jack E. Deichman
Bernard M. Demahy, Jr.
Glenn C. Demunck
Acie N. Derossett
William F. Deubler
Edward A. Devite
Kurt M. Dieterle
Alphonso B. Diggs, Jr.
Charles L. Dismore
Ronald B. Dobie
Roger H. Dougherty
F. G. Dowden, Jr.
Steven J. Draper
Will L. Dryer, Jr.
Christian F. Dubia, Jr.
Cyril P. Dubrachek
Larry W. Dudley
Russell V. Dudley
Charles O. Duff, Jr.
Keith M. Duhe
George R. Dunham
Clifford D. Dunn, Jr.
Perry R. Dunn
Robert W. Dyar, Jr.
James B. Egan
David R. Eisenbrey

Milton V. Elliott
Arthur F. Elzy
Roger L. Emch
Joe R. English
John D. Engstrom
William J. Esmann
Robert G. Essink
Kenneth W. Estes
Harold W. Evans III
Michael G. Evinrude
Kenneth R. Falasco
Phillip F. Fargotstein
William A. Favor, Jr.
Robert J. Fawcett
Arnold Filds
Paul R. Fields
Ord J. Fink, Jr.
Vincent L. Fischer, Jr.
Kenneth A. Fish
Charles S. Fisher
Jerry W. Fitzgerald
Jan P. Fladeboe
John J. Flaherty
Thomas A. Flaherty
Peter J. Flatley
Thomas H. Flowers
James C. Flynn
Thomas J. Fong G
Marshall B. Foore
Zachary T. Forester III
James R. Forney
Robert A. Forrester
Leonard S. Foster
Mark S. Fowler
Carey E. Foy
Michael J. Franks
Kenneth D. Frantz
Eugene Frazier
Richard B. French
Kenneth R. Fugate
Charles O. Fulcher
Frank A. Gagliardi, Jr.
Timothy M. Gahan
John M. Gaieski
Gary L. Galiger
Joseph C. Garbrous
Robert D. Garner
Donald R. Garrett
John C. Garrett
Robert W. Geary
Lewis J. Gebhard
Vito F. Gentile
William J. Gibbons
Bruce A. Gombar
George G. Goodwin III
Frank I. Goral
Paul S. Graham
Daniel G. Greathouse
William H. Green
Michael R. Greene
John R. Gregory
Thomas J. Greska
Ronald J. Gross
William C. Grubb, Jr.
Thomas C. Guerinot
Thomas B. Guiney
Donald E. Guldin, Jr.
Rembert S. Gunter, Jr.
Johann Haferkamp
Lawrence B. Hagel
Donald C. Haines
William M. Hale
Stephen D. Haley
John B. Hall
Thomas H. Hall, Jr.
Robert J. Halliday
Thomas J. Halpin
James D. Hammond
Thomas E. Hampton
George W. Hance, Jr.
Jerry G. Hanks
Bruce R. Harder
Martin D. Hargas
Richard L. Harmon
Roger F. Harris
Michael B. Harrison
Ki L. Harvey
Ralph E. Harvey
James E. Hatch
David J. Hawkins
James M. Hawkins
James L. Hayes
Roger L. Hayes
Allen T. Head, Jr.
Richard A. Hedin
Werner Hellmer, Jr.
David H. Henderson, Jr.
Michael B. Henderson
Leon F. Henley, Jr.
Roger D. Herring
John P. Hertel
Theodore G. Hess
Melvin J. Hewitt
John P. Hickman
Frank W. Hicks
Ross J. Hieb
Richard V. Hildebrandt
Kenneth W. Hillman, Jr.
Kennon D. Hines, Jr.
Michael D. Hoke
Richard F. Holihan
William D. Hollister
Timothy L. Holt
Stephen D. Hopkins
David S. Horton
Michael A. Hough
Carl K. Houghton
Robert E. Houser
Dan P. Houston
Richard A. Houston, Jr.
John E. Howard
Randle H. Howell
Richard D. Hoyle
John W. Hudson, Jr.
Daniel L. Hughes
Philip E. Hughes
Gary H. Hughey
Jan C. Huly
Jerry D. Humble
Stephen F. Hurst
William R. Hyatt III
Jonathan E. Ingersoll
David H. Jacobs
Joseph D. Jeffares
Dennis J. Jenkins
Sigurd L. Jensen III
Donald R. Jillisky
Edward J. Jobin
David C. Johnson
Zachary T. Johnson
Rodger L. Jones
Thomas S. Jones
William K. Jones, Jr.
William R. Jones
Kevin P. Judkins
Larry J. Jurica
Martin O. Juve
Gregg C. Kubu
Jerry W. Kahler
Gordon E. Kampen
Terry R. Kane
Johnny R. Keckler
Eugene V. Kelley, Jr.
Kevin P. Kelley
Terrell T. Kelley
Joseph E. Kelly
Paul V. Kelly
Kevin M. Kennedy
Michael J. Kennedy
Michael M. Kephart
Dennis W. Kerrigan
Robert L. Ketelhut
Joe Killebrew
Robert J. Kimble, Jr.
Pierce R. King
Michael A. Kirkpatrick
Ray E. Kittilstved
Herbert W. Klein, Jr.
Samuel H. Kline III
Joseph Kochuba
Mac D. Kolar
Bernard F. Kolb
Daniel P. Kollay
Clifford J. Kolson II
John L. Kosinski
Bazil Kostin
Jeffrey C. Kotora
Dennis T. Krupp
George V. Kuck, Jr.
William P. Kyle
Terry D. Labar
Charles E. Landry, Jr.
Albert Lane, Jr.
Edward R. Langston, Jr.
Ronald L. Lard
Arlen L. Larose
Jack D. Larson
John R. Lasher, Jr.
Donald J. Lavoy
Michael W. Leach
Paul M. Lee, Jr.
Joseph R. Lehman
Gregory G. Lemmer
Valentino L. Lendaro
Edward M. Leonard
John E. Leonard
James F. Leonard
Robert I. Leonard
Kenneth B. Levan
Timothy B. Levan
Babre Lewis
Terry N. Lewis
Dennis C. Lindeman
Douglas E. Lindeman
David C. Litchfield
Alastair J. Livingston
John K. Lizzo
Charles V. Long III
Leonard A. Long
Curtis L. Lowe
Michael E. Lowe
William J. Lucas
Edmund A. Lucke
Leon S. Lusczynski
David A. Lutz
Charles H. Lyman
James W. MacMurray, Jr.
Don B. MacNamee
Robert A. Maddocks, Jr.
Robert Magnus
Michael V. Maloney
Gregory K. Manary
Thomas H. Marino
Frank J. Martello, Jr.
Terry L. Martin
Harold Mashburn, Jr.
Stephen T. Mason
Aove E. Mattox
Roger J. Mauer
William L. Maxey
Keith L. Maxfield
Thomas R. Maxfield
Jerry C. McAbee
Robert P. McAleer
Willard J. McAtee
Martin J. McCaffrey
John I. McClurkin III
William W. McCombs
Dennis A. McConaghy
Frederick McConnell II
Boyd S. McCord
Ray M. McCormick
John J. McDermott
Thomas O. McDonald
Robert C. McDonough, Jr.
James T. McDowell
Roger C. McElraft
Dwight R. McGinnis, Jr.
Lauren M. McKenzie
Stephen E. McMahon
Billy D. McMillin
Vernon L. McMinn
Ronald M. McNeil
Jerry W. McWhorter
Vernon G. Medinger
Robert Mell
Robert S. Melton
John J. Melville
Joseph A. Menart
Jerry A. Merritt
Lonnie L. Messick
Richard D. Metcalf
Peter T. Metzger
Peter T. Meyer
John B. Middleton, Jr.
Ted M. Miklasz
Benjamen P. Miller III
Daniel R. Miller
George A. Miller
Larry D. Miller
Paul W. Miller
Wallace B. Miller
Thomas P. Milne
Ludwig B. Miosid
Donald M. Mitchell
David M. Mize
Patrick J. Mongoven
Michael F. Monigan
David B. Moore
Thomas B. Moore
Samuel Moore, Jr.
James E. Moorehead
Thomas W. Morris
Wayne V. Morris
Daniel J. Moseler
Robert S. Motley
Patrick A. Moxley
Michael J. Moylan
Louis R. Moyzn
John B. Munkres
James M. Murray, Jr.
Ronald V. Murray
Robert S. Mutchler
John W. Muth III
Richard H. Myers
William N. Myers
Freddie Napier
James H. Napier
Rollin G. Napier
James M. Naylor
Frank A. Neubauer
Gregory S. Newbold
Michael A. Newlin
Paul S. Nickolaus
Miken J. Nielsen
Ignatias J. Niemczyk
John J. Miemyer
Siebrand H. Niewenhous
Gary O. Norris
William R. Norton III
Raymond L. Nymeyer
Willard D. Oates
Jerry R. Oberg
Michael J. O'Hara
John D. Olkowski
Martin E. O'Malley
Hugh J. Oneill
Hugh J. O'Neill
Robert M. Orazi
Michael C. Osajda
Henry P. Osman
John F. Otis, Jr.
Paul R. Ottinger
Donald M. Ouellette
John R. Page
Michael D. Pannek
Garry L. Parks
Michael L. Parks
Charles A. Parlier II
Daniel T. Pattee
Clarence F. Patten III
James H. Patterson
William W. Pattison II
Terry L. Paul
Ralph E. Pearcy II
Wiley H. Pearson
Frederick C. Peck
William Penry, Jr.
Henry C. Perry
William G. Peters
Jackson C. Pharris II
John F. Phelps
Terry R. Phelps
Russell D. Pilcher
James G. Plantz
Carl O. Plath, Jr.
Bruce E. Poley
Sherman A. Poling
Geoffrey W. Pomroy
Charles R. Porter
James J. Porter, Jr.
Stephen E. Potter
Michael L. Powell
Andrew N. Pratt
Richard H. Priest
Kenneth L. Priestly
David A. Proffitt
Michael F. Prosser
Randall B. Pyles
Henry A. Pyzdrowski, Jr.
John R. Quattlebaum
Bernard F. Ramey, Jr.
William T. Ramsey IV
Garrett V. Randel, Jr.
Kerry O. Randel
Cecil R. Rasor
James P. Rathbun, Jr.
Robert W. Rathbun
James A. Rawls
Ross Rayburn
Brett D. Rayman
Michael J. Reardon, Jr.
James L. Reeve
Louis A. Rehberger III
James L. Reid
John H. Reynolds
Larry E. Rhoads
Harold P. Rhodes
Coy W. Richardson
Larry J. Richardson
Robert W. Rivers
Alan J. Roach
Robert D. Roach
John M. Roake
Billy J. Roberts
Edward J. Robeson IV
Robert S. Robichaud
Gilford G. Robinson
Steven G. Rogers
Thomas H. Rouse
Daniel M. Rowland
Michael C. Rowse
Robert M. Rudolf
Charles A. Sakowicz
David W. Sanasack
James R. Sandberg
Jon A. Schara
Jeffrey E. Scheferman
Jerauld D. Schroeder
James R. Schwenk
Joseph W. Seabrooke, Jr.
Ronald R. Seaman
William R. Sears
James E. Seay, L
Donald R. Selvage
Michael D. Selzer
Walter W. Sevon, Jr.
Walter W. Shallcross, III
James P. Sheehy
Anthony P. Shepard
Charles F. Shepard
Steven A. Shepherd
Robert H. Sherwell
Richard V. Sherwood
James G. Shockley
Roy M. Shoemaker
Howard P. Shores II
Philip G. Short
John M. Shotwell
Edward N. Sibley
Robert I. Sickler, Jr.
Victor A. Simpson
Ronnie E. Sirmans
Ronald D. Skow
John D. Slattum
Charles R. Slavens
William S. Sloan
Kenneth R. Sluis
James L. Smee
Danuel L. Smith
Edward D. Smith, Jr.
James E. Smith
Terry A. Smith
Jon W. Smythe
John D. Snakenberg
George Solhan
Myles P. Somers
Michael J. Soniak
Robert E. Sonnenberg, Jr.
Craig E. Sooy
Asher W. Spitter II
Charles F. Sprietsma
Frederic M. Stankovich
Clifford L. Stanley
Wayne A. Stanley
Richard D. Stearns
David L. Steele
Jon O. Steiner
John T. Stelma
Thorys J. Stensrud
Thomas G. Stephen
William R. Stephens
Joe R. Stewart
David A. Stockwell
Thomas L. Stratton
Russel M. Stromberg
Thomas L. Stuckey, Jr.
Robert G. Stump
Garth K. Sturdevan
Alan P. Sullivan
Patrick Sullivan
Jerry W. Summerlin
James P. Sureau
Robert M. Suter
David T. Swan
John R. Switzer
Aloysius Sypniewski
Theodore Z. Szymanski, Jr.
Rodney E. Taverna
Ronald L. Taylor
Michael J. Teller
Jack C. Templeton
Donald W. Theune
James B. Thomas
Coulter D. Tillett
Aaron C. Toepfer
Thomas G. Tomkowiak
Craig J. Turner
Donald G. Turner
Thomas W. Tyler
John R. Vallaster
Bruce W. Vance
David Vanesselstyn
Larry F. Wahlers
Roger C. Wahls
Ronald E. Walker
John E. Walsh
Lawrence C. Walt
Buddy A. Ward
James G. Ware
Merrill C. Waters
Michael P. Wayne
Joseph A. Wellington
David A. Wellman
David M. Wells
Edward F. Wells
William J. Wesley
William C. Westfall, Jr.
Robert G. White
Paul A. Whitham
Richard T. Willard
James H. Williamson, H
Larry L. Williams
Michael E. Williams
Norris E. Williams
Clarence E. Willie, Sr.
John M. Wills
Marvin L.Wilson, Jr.
Thomas E. Wilson
Stephen K.Wind
Larry L. Wine
Frederick H. Wolfrom
Michael D. Woods
Robert C. Wooten
Gary J. Wright
John P. Wright
Douglas D. Wyatt
Kenneth H. Yazel
Frank Yohannan
Charles F. Young
Randall H. Young
Brian M. Youngs
Lawrence Zalewski
Paul A. Zeigler

The following-named women officers of the Marine Corps for permanent appointment to the grade of captain under the provisions of title 10, United States Code, section 5771:

Shauna E. Ahlers
Carol E. Anderson, M
Karen Arseneau
Constance A. Barber
Barbara L. Bechtol
Betty A. Berling, P
Elizabeth S. Blee
Pamela A. Brills
Lee A. Chrostowski
Barbara J. Cole
Shirley M. Corley
Marsha L. Culver
Mariellen Dorman
Candace G. Eastman
Susan J. Flores
Janet E. Furtick, T
Rose A. Getty
Katherine S. Gunther
Janice E. Hainsworth
Gloria J. Harmon
Jana S. Hayes
Ellen B. Healey
Mary L. Hicks
Doris J. Hooker
Ann D. Hough
Carolyn A. Hudson
Laurel A. Hull
Gilda A. Jackson
Mary V. Jacocks
Erica F. King
Mary A. Krusadossin
Linda S. Lakin
Frances C. Matejov
Mary P. Mauck
Alexis T. Meek
Laura L. Miles
Gloria J. Moyher
Melinda S. Muerdler
Susan C. Nelson
Anne E. Parker
Jessica L. Powers
Miriam K. Robbs
Kathleen Ryan
Karen H. Schultz
Margaret A. Surratt
Lisa A. Talmage
Victoria A. Theeuwen
Joan L. Vanallen
Linda I. Warzynski
Frances S. Watkins
Penelope R. Williamson
Teresa J. Wright

The following-named male officers of the Marine Corps for temporary appointment to the grade of captain under the provisions of title 10, United States Code, section 5769:

Raymond Adamiec
Dirk R. Ahle
Joseph A. Alexander, Jr.
Frederick C. Alke
Daniel R. Allegro
Christopher D. Allemand
David W. Andersen
Thomas W. Anderson
William J. Anderson, L.
Frederick E. Anderson, Jr.
Robert M. Andrews
Stephen W. Andriko
Clarence T. Anthony, Jr.
Steven J. Antosh
Johnny E. Arline, Jr.
Brian J. Bach
Allen T. Bailey
Cozy E. Bailey
Don M. Bailey
Stephen W. Baird
Paul Balash III
Ralph A. Baldwin
Mark J. Ballas
Philip M. Bambrick
Albert Barnes
James R. Barnes
John P. Barrett, Jr.
Robin H. Barrows
Williams G. Barthold
John Bartusevics
William R. Basham, Jr.
Timothy M. Bashor
John A. Bass
John R. Bates
Edward H. Batten
Dan O. Bausch
Jeffery W. Bearor
James C. Beck
Christopher L. Becker
James E. Beckle
George R. Bedar
Bennie H. Bell III
Wayne C. Bell
Guy M. Belleman
Paul L. Benedict
Johnie W. Benefield
Richard D. Benjamin
John D. Bennett
James F. Benson, Jr.
Glenn R. Bernard
Larry W. Berquist
William F. Best
Robert J. Biggs
Timothy P. Biggs
Bruce E. Bissett
Edward W. Blankenship
Michael R. Blehm
Thomas J. Block
Raymond H. Blumel, Jr.
Gerald A. Boeke
Edward J. Boekenkamp
David W. Bohon
Acie Bone
David F. Bonwit
Timothy B. Born
Robert B. Bowling, Jr.
Charles E. Boyd
Christopher Boyd
Thomas E. Boylan
Bruce F. Brady
Jan D. Brameyer, Jr.
Richard C. Branch
William J. Brechtel, Jr.
Ronald J. Breedlove
Thomas P. Brehm
Terry L. Breithaupt
Allan C. Breller
Dennis J. Brennan
Francis P. Brennan
Daniel R. Bretheim
Emmitt D. Brewington
Randolph R. Bridgeman
Gary R. Brisbois
Jackie L. Brittain
Germain B. Broeckert, Jr.
Bruce E. Bronars
Donald D. Brown, Jr.
Eugene M. Brown
John D. Brown
Roy E. Brush
Gary L. Bryan
John R. Buchanan
Philip E. Buchinger
Alvin T. Buckhaults
Bruce A. Buckiewicz
Jeffrey L. Budimier
Richard K. Burchnall
Joe C. Burgin III
James B. Burke
Robert A. Burkes
Paul C. Burnett
Whit D. Burnett
Baxter D. Burton
Ben W. Caesar
Mark A. Cagiano
Paul J. Cahill
Stewart D. Cameron
Carlton C. Camp
Andrew H. Campbell II
William A. Card
James Carlsen
Steven C. Carpenter
John K. Carroll, Jr.
Robert M. Carroll
Jack P. Carter, Jr.
Richard G. Carter
Mitchel Carthon
David A. Carver
David T. Case
Benjamin L. Cassidy
Roy T. Centner
Robert W. Cerney
Dennis A. Cerveny
Jesse W. Chambers, Jr.
Frankie D. Chappell
Frederick T. Chasney
Theodore C. Childers, Jr.
Courtney D. Chinn
Michael G. Chlebik
Larry G. Christie
Richard D. Christopher
Louis J. Cipriani, Jr.
James R. Clark, Jr.
Robert A. Clarke
George N. Class
Stephen W. Clayton
William D. Claytor
Charles F. Clements
Paul L. Cline
Henry J. Coble
George M. Coggins, Jr.
Eugene J. Cole
Harry L. Cole, Jr.
John C. Coleman
Michael L. Collier
Raymond S. Collins, Jr.
Larry D. Collinsworth
Willie L. Combs
William R. Conaway
David G. Conley
Patrick D. Connally
James E. Connick
Richard C. Cope
Timothy J. Cornell
Rodney M. Cotten
Donald B. Cotton
Richard D. Coulter
Robert L. Countryman
Leonard A. Courson
James H. Court
John W. Cowan, Jr.
Robert J. Craig
Joseph F. Cramer
James A. Crawford, Jr.
Joseph H. Creech
William M. Cryan
James J. Cuff, Jr.
Larry T. Cumberland
Frederick H. Curlin, Jr.
Robert F. Curtis
Theodore E. Dailey, Jr.
Douglas A. Darling
Jennings M. Davenport, Jr.
Carl I. Davis, Jr.
Louis E. Davison
Jeremiah C. Day
Gordon R. Dayton
Frederick H. Dear
Jeffery L. Dearing
Mickey L. Deberry
Richard A. Dechaineau
Frank S. Deen, Jr.
Joseph J. Defranco
Thomas L. Dempsey
Kenneth W. Dennett
Gordon B. Denny
James E. Derdeyn
Richard L. Deutsch
Joseph E. Deyoung, Jr.
Ralph J. Diaz
Wayne E. Dillingham
Darrel W. Dillon
Frank P. Dimarco
Dale S. Dimitroff
Kenneth W. Dixon
William H. Dixon, Jr.
Hebert W. Donahue, Jr.
William J. Donahue
Kevin G. Donaleski
Robert E. Donelan, Jr.
Martin A. Donovan
Douglas C. Doran
Albert G. Dorsch, Jr.
David L. Doster
Doyle G. Douglas
Richard M. Draina, Jr.
William B. Drennan
David G. Driegert
Charles P. Dublin
Charles D. Duke
Donald G. Duke
Scott G. Duke
Douglas C. Duncan
William K. Duncan
Richard H. Dunnivan
Donald L. Durden
Jerry L. Durrant
John P. Dwyer
Arnoldo R. Easterly
James D. Eastman
George A. Eberhart, Jr.
Gary M. Eberling
Gregory J. Eddy
Randy L. Edwards
Alfred W. Ellis III
Daniel P. Ellis
Robert W. Ellis, Jr.
John P. Elwell
Ralph H. Emerson III
James A. Erwin
Jeffrey P. Estep
Rex A. Estilow
Jacob Evans, Jr.
Joseph Evans
Russell A. Eve
Willie M. Everett
Joseph Fabrizio
Edward F. Fall
Robert D. Farmer
John D. Favors
Allie C. Felder III
Michael R. Ferlet
Timothy K. Ferral
Barry R. Fetzer
Paul T. Filla
Robert M. Finer
Steve J. Finsterle
Donald K. Fisher
Jerrold R. Fisher
Patrick J. Fitzsimmons
Wayne T. Fleming
William R. Fletcher
James F. Flock
Gerold J. Flotte
George J. Flynn, Jr.
Stephen P. Folan
Barry M. Ford
James R. Forgy
William M. Forman
James R. Forr
David S. Foster
Michael J. Frasher
William E. Freisthler
Maurice H. Freund
Andrew P. Frick
David J. Fry
Steven J. Gaffney
William H. Gaffney
Dennis P. Gallaher
Gregory W. Gambucci
William M. Garrabrants
Donald M. Garrett
James R. Garrett
Bradley M. Gates
Keith E. Gay
Michael J. Gearin
Philip N. Georgariou
Joseph J. Gerende
Robert E. Gerlaugh
Dennis D. German
Michael Gibson
John R. Gilbert
Joseph B. Gilbert
Mark D. Gilliland
Robert C. Gimm
Robert J. Giuda
Michael J. Glagola
Michael J. Goin
William E. Goldmon
Timothy R. Golike
Christ G. Gologanoff
Daniel B. Gonda
Richard W. Goodale, Jr.
Joe D. Goodall
Gregory L. Goodman
David L. Goolden
Kevin L. Gordon
Terrence M. Gordon
Arthur V. Gorman, Jr.
Richard J. Gough
Gary C. Grady
John L. Graham
Richard A. Graham
Terry L. Grant
Alfred Green, Jr.
Otis Griffin, Jr.
Roy W. Grimes
Edwin W. Groff
Leo J. Grogan
Kenneth R. Groover
Charles R. Gross
William K. Grover
John J. Guevremont
Paul R. Gustin, Jr.
Elias Gutierrez
Stephen M. Haggett
Mark K. Hall
Willard D. Hall, Jr.
Edward J. Hamilton
John A. Hamilton
Larry K. Hamilton
Thomas X. Hammes
Myron L. Hampton
Michael J. Hanaway
Gregory L. Hand
Verlin E. Hardin, Jr.
Terry R. Harding
Charles H. Hardt
Jack R. Harkins, Jr.
William W. Harney
John S. Harrel
Peter L. Harris
William M. Harris
Stephen G. Harrison
Kevin P. Hart
George S. Hartley
Charles W. Harvey III
Robert L. Haugland
Samuel J. Head
Stanley M. Hebert
Duane V. Hegna
Michael J. Heisinger
Dennis J. Hejlik
Mark S. Helgeson
James R. Henderson, Jr.
Lewis B. Hendricks
John T. Hennessey
Frank L. Henry
Michael N. Henry
Frank L. Henson
Horacio M. Hernández, Jr.
Matthew D. Heron
Steve H. Herrington
Michael S. Hicklin
Morris B. Hickman, Jr.
James E. Hiett
Dale A. Hilbert
James R. Hildreth
Paul R. Hill
Max S. Hipsher
Jonathan J. Hirtle
Norman E. Hitchcock
Donald L. Hladik
Calvin M. Hoar
Charles A. Hodges
Herbert T. Holden
Charles G. Holland
Otis L. Hollar II
Jerry W. Honea
James F. Honeycutt, Jr.
Kim L. Hoover
Edward Hopkins
Francis G. Horne, Jr.
James C. Hosmer, Jr.
William J. Howey
Robert J. Hubert
Craig S. Huddleston
Daniel R. Hudson
Michael P. Hudson
David C. Hug
Carl L. Hughes, Jr.
Michael K. Hughes
Robert L. Humphrey, Jr.
Clifford G. Hurst
Douglas M. Hurst
Paul M. Hurt
Richard M. Hutchinson
Christopher J. Iaquinto
Richard H. Iber
Michael D. Ince
Jonathan D. Inghram
Richard A. Intellini
Ronald Y. Isa
David T. Israel
Neal L. Jackman
Michael D. Jacobs
John M. Jagielski
Richard E. James
David L. Jankowski
Richard C. Janssen
Danny A. Jenkins
David W. Jennings
James E. Jwell
Michael J. Jinnett
Floyd J. Johnson III
Frank H. Johnson
James I. Johnson
James R. Johnson
Robert G. Johnson
Thomas V. Johnson
William C. Johnson
Ross A. Johnson, Jr.
James L. Johnston
David L. Jones, Jr.
Dwight W. Jones
Peter L. Jones
William I. Jones
William M. Jones
Kevin B. Jordan
Christopher K. Joyce
David J. Kaessner
Thomas M. Kait
William A. Kane
Stephen R. Kappes
Peter J. Karonis III
Allen A. Katzberg
Christopher C. Kauffmann
Thor L. Kaumeyer
Brendan P. Kearney
Elton J. Keeley
Bruce R. Kelly

Charles E. Kelly, M.
John F. Kelly
Mark W. Kennedy
Daniel J. Kernan
Charles E. Kerr
John J. Kiefer
Jerry L. King
Timothy J. Kirk
Joseph R. Kirkman
Frederick J. Klauser
Scott E. Klippert
Chester E. Knight
Marvin A. Knorr, Jr.
Raymond M. Knox, Jr.
Louis Kobus, Jr.
Karl E. Koehler
Mark R. Koenig
David L. Kooker
Paul J. Koper
Norman F. Kouri
Stephen Kozick III
John E. Kramer
Kenneth L. Kreklau
Frank F. Krider
James J. Krimm
David E. Krugler
Michael J. Krynak
Theodore A. Kuhlmeier
Robert F. Kuhlow
Sam S. Kuhns
John J. Kurek
Joseph P. Kusinor, Jr.
Robert A. Lackner
Michael H. Lafleur
Roger D. Lamb
Victor D. Lance
Edward L. Lane
William R. Langford
David G. Langness
Kenneth M. Lapean
Efren G. Lapuz
Richard L. Larson
Roger D. Larson
Granville D. Lasseter II
Grant E. Lattin
George S. Lauer
Robert L. Laughlin
Gary M. Lauver
Dennis L. Lawrence
Jerome F. Lawson
Henderson Lawson, Jr.
Galo I. Leguillou
Scott M. Lehman
John D. Lehockey
Roderick W. Leitch
James E. Lenderman, Jr.
Marcus L. Lenderman
Frank J. Lengel
Timothy L. Leuer
Richard W. Levan
David S. Libbey
Richard J. Lies
Ritchie M. Lilly
Joel G. Lindemann
Frederick H. Lindner
Scott A. Lindsey
David G. Linnebur
William R. Linville, Jr.
Jerome E. Livingston
Robert W. Livingston
James R. Lloyd
Frank M. Lochocki
Morgan J. Lofton
Patrick E. Loftus
Bert Londo, Jr.
Kenneth A. Long
Homero R. Lopez
Joseph N. Lott
Douglas L. Lovejoy
Michael T. Lovejoy
James M. Lovely
Edward J. Lubbers
Richard W. Lueking
Robert D. Luginbill
Gary A. Lundeen
Andy M. Lundgren
Kevin B. Lydon
Constantine W. Lynard
Steven J. Lynn
Robert F. Lynn
Adam F. Macadam II
Kenneth A. MacGowan III
Arron R. Maddox
David W. Maffet
Edward J. Maguire
Ronald S. Makuta
Robert R. Maldonado
William H. Malone
George P. Mandis
David B. Marceau
Joseph J. Marrow, Jr.
Curtis W. Marsh
Alton L. Martin
Bobbie J. Martin, Jr.
Alan J. Mascsak
Samuel Mauch, Jr.
David W. Mauldin
Walter Maximuck, Jr.
Kenneth T. McCabe
Bernard V. McCarthy, Jr.
Robert T. McCarty
James V. McClain
Ronald L. McClair
Gary L. McClure
Jerry C. McClure
Francis M. McComb, M
A. V. McCoy, Jr.
Joseph M. McDonnell
Richard F. McDonough
Charles H. McGohey
Thomas W. McGowan
Gary L. McGrath
Allan P. McGuinness
Bruce R. McHenry
James P. McIntyre
Donald R. McKay
Douglas M. McKay
Charles A. McLaurine
Bernard M. McMann
Paul P. McNamara
Thomas O. McQuerry
Mose A. McWhorter
Herbert J. Medeiros
Michael D. Meier
William A. Meier
Rickie A. Mellenkamp
Paul G. Merchant, Jr.
David B. Mercier
William Merrell
Dennis I. Merritt
Terry D. Metler
John M. Metterle
Edward R. Meyer
Louis R. Miccio
David B. Miller
Gary L. Miller
James Miller, Jr.
Jeffrey W. Miller
Lowell E. Miller
Richard C. Miller
Stanley E. Miller
Steven C. Miller
Thomas A. Miller
William W. Miller
Richard P. Mills
Robert E. Milstead, Jr
Anthony A. Minichini
Michael B. Minnehan
David R. Mirra
Bruce E. Mitchell
Charles R. Mize, Jr.
Vincent D. Mize
Richard R. Moehrke
Paul T. Moffett
Kenneth C. Mogray, Jr.
Richard Monreal
Marvin Montez
Rodney E. Montgomery III
William J. Montgomery
William C. Moog
Jackie D. Moon
Jacques J. Moore, Jr.
John S. Moore
Roger K. Moore
Gerald H. Moors
John C. Mordue
Arthur G. Morrell
Joe W. Morris
Wilford Morris
Matt R. Morrison
Mark G. Mossman
Michael J. Motes
William T. Motley
Warren F. Muldrow
William J. Mullens, Jr.
Darrel L. Mumford
Curtis A. Munson
Robert J. Murawski, Jr.
John D. Murray
William R. Murray
Douglas J. Musselman
Daniel J. Muthler
Clarence E. Myers
Philip R. Nash
Christopher W. Nay
Richard G. Nealis
Charles F. Needels, Jr.
Robert B. Neller
James D. Nelson
Melvin P. Neu
David H. Neundorfer
Mark A. Newbold
Johnnie L. Newton
Richard D. Newton
Eric P. Nielsen
Thomas A. Nielsen
Thomas J. Nielsen
Joseph E. Nilan, Jr.
George D. Nilson
Richard M. Nixon
Melvin P. Noack
Joseph E. Noble
Frederick C. Nolte III
Joseph C. Noone, Jr.
Edward A. Norman
John H. Nunn
James Oates III
Daniel P. O'Brien
Daniel J. O'Connell
Mark H. O'Connor
Emmett A. O'Donnell, P.
John G. O'Donnell
Courtenay L. Olney
Ivor T. Olsen
Darrell P. Olson
Michael C. O'Neal
Pierre J. Ortiz, Jr.
James N. Osburn
Richard J. Packard
Douglas P. Page
Harry A. Page
John M. Pagel
Robert H. Paine
Lawrence F. Palazzolo
Steven M. Palmer
Frank A. Panter, Jr.
Rodney P. Panter
John H. Parker
Raymond D. Parker
Charles P. Parks, H.
Mark T. Parmenter
Craig T. Patranc
Gregory A. Patterson
Joseph H. Peagler
Robert M. Pearson
Martin D. Peatross
Ferdinand E. Peche II
James C. Peery
Darus G. Pelfrey
Eugene D. Pellecchia
Frank D. Pelli
David N. Penman
Melvin L. Peoples
Andrew J. Peters, Jr.
Robert H. Petersen
David L. Peterson
Ronald J. Peterson
Nicholas C. Petronzio
James J. Pettengill
David A. Phillips
Gary V. Phillips
James A. Phillips
Maxie W. Phillips
Ronald L. Phillips
Timothy L. Phillips
Steven R. Pietrzak
Greg P. Pistochini
Alexander Plechash
Frank B. Plumlee
Geronimo Polanco, Jr.
Harold E. Poole
William T. Pope
Tony L. Porter
Wendell A. Porth, Jr.
William J. Powell
Stephen W. Prendergast
William J. Preston
Doyel Price, Jr.
Gary M. Price
Robert E. Priseler
Harold T. Pruessner, Jr.
Thomas J. Pugh
Donald E. Quail, Jr.
Francis A. Quindlen, Jr.
Dale K. Rankin
David P. Rann
Daniel E. Rapp
Gregory G. Raths
Robert S. Rea
John D. Reardon
Lawrence J. Reccoppa
William E. Reckert II
Dennis W. Reilly
David J. Reintjes
Harry Relf, Jr.
James M. Reuter
Robert S. Richardson
James S. Richter
Jeffrey C. Richter
Ralph J. Ricker
Paul J. Riding
Stephen C. Robb
Jeffrey A. Robertson
Thomas A. Roberts
Mastin M. Robeson
James W. Robinson, Jr.
James L. Rodak
Richard L. Rodecker
Daniel W. Roepke
John S. Rogers III
Max Rogozinski
Lewis W. Rollins
Glenn C. Roundy
Bob A. Rowinsky
John R. Ruckriegel
Philip C. Rudder
Charles T. Rushworth III
James F. Ryan
Thomas P. Ryan
Richard A. Rybolt
Dan R. Sadberry
David W. Sadler
John B. Samples
Rolf W. Sandbakken
Samuel E. Sanders
Kevin M. Sandkuhler
Guilermo F. Sandoval
Richard F. Sands
John C. Savre
Thomas O. Schaefer
Howard P. Schick
Richard J. Schmitt
Robert B. Schnepp
Alan K. Schuler
Daniel C. Schultz
Benjamin L. Scofield
Richard M. Scott
Terry G. Scott
James E. Scroggs
John F. Seal
Harvey F. Seegers, Jr.
William E. Seibel
Scott G. Seney
James J. Seward
Donald R. Shaw
Raymond S. Shelton
William H. Shepard
Mark W. Shinn
John R. Shultz, Jr.
Ernest E. Sides III
Thomas A. Sieg
Richard L. Simmons, Jr.
David Simon
Jeffrey R. Simons
Edwin P. Simpson III
Thomas L. Simpson
Arthur Singletary
Bernard A. Siwicki
John T. Skelding
Thomas L. Slaughter
Frank P. Slavich, Jr.
Marvin E. Sleppy
Dennis J. Smith
Ellett M. Smith
Guy B. Smith
Paul A. Smith
Robert F. Smith
Robert W. Smith
Stephen K. Smith
Stephen M. Smyser
James E. Snell
Daniel G. Somers
John W. Sondermann
Robert L. Songer
Leland F. Sorrels, Jr.
Nicholas A. Sottler
George T. Sparkman, Jr.
Jake L. Sparks II
James L. Spears
Thomas W. Spencer
Harrell D. Spoons, Jr.
Conley W. Starling
Michael J. Stclair
Michael J. Steckley
Robert E. Steffensen
William L. Steigner
Mark A. Steinmann
Charles R. Stephenson
Michael H. Stevens
Robert A. Stevens
Robinson Stevens, Jr.
Grant R. Stewart
Michael E. Stewart
Kenneth N. Stidham
Niles E. Stokes
Ronald J. Stopka
Louis G. Stough
Ronald D. Stout
Dempsey Stowers
Robert W. Strahan
George E. Stratmann, Jr.
Jerrell N. Strawn
David W. Streagle
Douglas G. Streeter
Frederick T. Strock
Robert M. Stubbs
Clyde N. Sturgeon
Vincent G. Suetos
James D. Sullivan, Jr.
Steven E. Sunn
John L. Sweeney, Jr.
Cecil E. Swift
Palmer D. Swift
Terry M. Symens
Michael D. Symons
Bradford L. Tammaro
Doyle W. Tampleton
John R. Taxeras
John M. Taylor
Stephen P. Taylor
Stephen J. Teetor
Robert C. Tekampe
Charles J. Temple
John D. Theeuwen, Jr.
John E. Thomas
Wesley L. Thomas
Michael W. Thumm
Theodore R. Timmerman
Hubert E. Tobey
Harry J. Todd, Jr.
Arthur W. Tollkuhn
Randolph E. Tom, Sr.
Douglas M. Tonn
Felipe Torres
Rowan M. Torrey
Joseph F. Tracey
Charles F. Triplett
William K. Tritchler
Gerald L. Troupe
Frederick H. Trout
Michael J. Trout
Richard T. Tryon
Frederick L. Tuggle
Paul A. Tully
Andrew C. Turner
Bradley E. Turner
John H. Turner
Stephen A. Turner
Bert B. Tussing
Charles M. Tye
Edward G. Usher III
Allen L. Vaillancourt
John Valentin
James L. Vanfossan
Richard E. Vanmeter
James I. Vanzummeren
Lawrence W. Venner
Noe Vera
Jeffrey D. Vick
Jonathan N. Vizina
James D. Vorderstrasse
Michael J. Vrabel
Robert N. Waage
Michael W. Wagner
John W. Wald
David G. Walick
Andrew D. Walker
Craig R. Wallwork
Stephen C. Wampler
John E. Wangsgard
Dayton F. Warfle
Edward J. Wargo
William A. Warner
James H. Warren
Bruce R. Warshawsky
Paul H. Watson
Dennis E. Watts
Daniel A. Wehrle
Robert M. Weidert
John Y. Weins
Richard E. Weiss
Ronald C. Weston
Marty J. Weygandt
Lawrence J. White, Jr.
Steven B. White
Daniel E. Whiteside
Stephen P. Whitlock
William E. Whittaker, Jr.
William J. Whittaker
Michael W. Whitted
Dale W. Whitten
Walter J. Wierzbicki
Francis M. Wifler
Robert G. Wilcox
George K. Wilcutt
Christopher A. Wilk
Charles D. Wilkins
Allen W. Williams III
Eddie N. Williams
James L. Williams
Jeffrey B. Williams
Major Williams, Jr.
Michael E. Williams
Timothy L. Williams
Wilbur L. Williams
Gary D. Wimsett
David E. Wirsig
Michael Wisloski, Jr.
Duane L. Witmer
Larry J. Wolf
Stanley C. Wolfe
David B. Wood
Russell C. Woody
Douglas T. Wray
Charles S. Wuest
Philip N. Yff
John R. York
Jerry A. Youmans
John K. Young
Philip A. Young
Randolph F. Young
Raymond H. Young
Robert G. Zakula
Michael A. Zarate
Anthony Zezzo II
Mark D. Ziobro

HOUSE OF REPRESENTATIVES—*Tuesday, November 27, 1979*

The House met at 12 o'clock noon.

The Reverend Mr. Charles Mallon, Holy Family Church, Mitchellville, Md., offered the following prayer:

By the sweat of your face shall you get bread to eat until you return to the ground, from which you were taken; for you are dirt, and to dirt you shall return.—Genesis 4: 19–20.

Father, Your words clear our perspective. Through man's rebellion we lost both integrity and everlasting life. We now know death and prejudicial judgments.

We praise You Father, for in Your mercy You gave us a new law of love which restores this lost gift of integrity. Mercifully allow us to enact just and reasonable laws, which reflect this God-given wisdom. And allow our baser human interest to be subject to this restored integrity.

Father, we give You glory, for again in Your mercy You gave us Your Son. And through Him You restored this lost gift of eternal life. Again mercifully allow us to enact laws which will stand forever and allow these laws to unify us as a people of God forever and ever.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1885. An act to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2031. An act to designate certain National Forest System lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes.

MAKING IN ORDER ON WEDNESDAY, NOVEMBER 28, 1979, OR ANY DAY THEREAFTER, SENATE CONCURRENT RESOLUTION 53, SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1980, 1981, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it shall be in order on Wednesday, November 28, 1979, or on any day thereafter, to consider in the House the Senate concurrent resolution (S. Con. Res. 53) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, with 1 hour of debate to be divided equally between the gentleman from Connecticut (Mr. GIAIMO) and the gentleman from Ohio (Mr. LATTA). At the end of the debate the previous question shall be considered as ordered to the final adoption, without intervening motion, except one motion to commit with or without instructions.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, am I correct in my understanding that this resolution, under the law, should have been passed by September 15?

Mr. WRIGHT. If the gentleman will yield, the gentleman is correct.

Mr. BAUMAN. I just wanted to ask the majority leader whether it is necessary now, do we really need this budget process if we can go until Thanksgiving and Christmas and do so without a budget resolution?

Mr. WRIGHT. In the judgment of the majority leader, we do need the budget process, with all of its flaws and mortal imperfections. I think it is the best we have and the best hope this House and this Congress has for containing spending in an orderly and systematic manner.

The occasion for this particular day, as I am sure the gentleman from Maryland is aware, arises from an insistence on the part of the other body for the adoption of a new and heretofore untested system which would require reconciliation, requiring each of the committees to go back and undo some of the things they already have done. The other body now has accepted in principle the House position and has retreated from the totality of its insistence, and comes forward with a compromise proposal which our conferees believe to be wholly acceptable, and which I think if the House will allow this unanimous-consent request, a majority of our Members will find quite acceptable.

Mr. BAUMAN. Further reserving the right to object, I had no reason to expect such an elaborate and eloquent explanation. Perhaps the majority leader will join with me in withdrawing from our official allotment calendars and sending them to each Member and staff member of the Budget Committee.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONSENT CALENDAR

The SPEAKER. Pursuant to the order of the House of November 16, this is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

J. CALEB BOGGS BUILDING

The Clerk called the bill (H.R. 5228) to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building."

There being no objection, the Clerk read the bill as follows:

H.R. 5228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 844 King Street, Wilmington, Delaware (commonly known as the Federal Building) shall hereafter be known and designated as the "J. Caleb Boggs Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the J. Caleb Boggs Building.

Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 5228, a bill to designate the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building."

J. Caleb Boggs has served the people of Delaware in a variety of positions, including judge, U.S. Congressman, Governor, and U.S. Senator. He brought to government a rare combination of commonsense, compassion, and effectiveness which Delawareans came to appreciate over Senator Boggs' three decades of service to the First State.

While serving as a judge of Family Court of New Castle County, Caleb Boggs enlisted as a private in the Delaware National Guard, and later earned a commission with which he entered World War II. Serving in Europe, Senator Boggs was awarded the Legion of Merit, the Bronze Star with Cluster, and the Croix de Guerre with Palm.

Following his discharge, he was elected as Delaware's Representative to the 80th Congress in 1946, and reelected in 1948 and 1950.

In 1952, Caleb Boggs became Governor

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

of Delaware. He brought the kind of fiscal responsibility to government of which his State can be proud. At the close of his second term as Governor, Caleb Boggs was offered the Republican nomination for the U.S. Senate. He accepted and was elected to the Senate on November 8, 1960, and reelected to a second term November 8, 1966. While serving in the Senate, he received high recognition for his work on the Appropriations, Public Works, and Post Office and Civil Service Committees.

J. Caleb Boggs is a great American and a great Delawarean. He continues to serve his country well.

Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 5228, a bill to name the Federal Building in Wilmington, Del., the "J. Caleb Boggs Building." Senator Boggs has had a distinguished career in public life. "Cale" Boggs began public life early as a judge in New Castle County. After serving with distinction in Europe during World War II, he was elected to the 80th Congress as the Representative at large. In 1952, he became Governor of Delaware, where he served for two 4-year terms. In 1960, "Cale" became Senator and served in the U.S. Senate until 1972.

Senator Boggs served on the Committee on Appropriations, Public Works and Post Office and Civil Service. It was during his service on the Public Works Committee that I became acquainted with Senator Boggs. He was a strong advocate of water pollution control and held a strong interest in the interstate highway system. "Cale" is a very personable gentleman of the highest integrity and forthrightness. His word is his bond. He made many significant contributions to the deliberations of the Congress, but more importantly to the welfare of the people of Delaware and this Nation. It was a distinct pleasure to work and serve with "Cale" Boggs. I am priviledged to count Senator Boggs a friend. He returned to Wilmington following his service in the Senate to join a law firm, and is active in local and charitable organizations.

Senator Boggs served for 26 years in statewide office, 18 of which were in Federal service. It is fitting and proper that the Federal Building in Wilmington, Del., be named the "J. Caleb Boggs Building." I urge enactment of H.R. 5228.

Mr. EVANS of Delaware. Mr. Speaker, I rise in support of my legislation to rename the Federal building in Wilmington, Del., the "J. Caleb Boggs Building."

J. Caleb Boggs is one of Delaware's greatest public servants. He has served the people of my State in a variety of positions, including judge, U.S. Congressman, Governor, and U.S. Senator. He brought to government a rare combination of commonsense, compassion, and effectiveness which Delawareans came to appreciate over Senator Boggs' three decades of service to the First State.

While serving as the judge of Family Court of New Castle County, Cale Boggs enlisted as a private, rising in rank to colonel in the U.S. Army. Serving in Europe, Senator Boggs was awarded the Legion of Merit, the Bronze Star With Cluster, and the Croix de Guerre With Palm.

Following his discharge, he was elected as Delaware's Representative to the 80th Congress in 1946, and was reelected in 1948 and 1950.

In 1952, Cale Boggs became Governor of Delaware. He brought the kind of fiscal responsibility to government which we in Congress ought to be emulating today, while at the same time meeting the needs of our citizens. The voters returned him to the Governor's office in 1956 with a sizable majority.

At the close of his second term as Governor, Cale Boggs was offered the Republican nomination for the U.S. Senate. He accepted and was elected for two full terms, receiving high recognition for his work on the Appropriations, Public Works, and Post Office and Civil Service Committees.

Mr. Speaker, the people of Delaware know they have a close friend in Cale Boggs, and they have repeatedly honored him with the highest positions they could give.

J. Caleb Boggs is a great American and a great Delawarean. He continues to play an active and highly respected role in the Delaware community. It is, thus, particularly appropriate that we name the Federal building in Wilmington, Del., as the "J. Caleb Boggs Building" as a permanent tribute to the service of this outstanding man.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 5228, a bill to designate the Federal Building at 844 King Street in Wilmington, Del., as the "J. Caleb Boggs Building."

Prior to his service in the Congress, J. Caleb Boggs served with distinction in various official positions in his native State of Delaware. He won Delaware's at-large seat in the House of Representatives in November 1946, initiating a career of 26 years holding statewide office. He was reelected to the House in 1948 and 1950. In 1952, Representative Boggs was elected Governor of Delaware and reelected in 1956. During his administration, particular emphasis was placed on matters involving health, education, and parks and recreation.

In 1960, Governor Boggs won election to the U.S. Senate, and was reelected in 1966. During Senator Boggs' tenure in the Senate, he served on the Committee on Public Works as ranking Republican on the Air and Water Pollution Subcommittee, working as a strong advocate for the control of air, water, and solid waste pollution. He also served on the Post Office and Civil Service Committee and the Committee on Agriculture, which he later dropped in order to become a member of the Appropriations Committee. The record established by this outstanding Delawarean was one of outstanding performance, worthy of praise.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 1686) to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 844 King Street, Wilmington, Delaware (commonly known as the Federal Building) shall hereafter be known and designated as the "J. Caleb Boggs Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "J. Caleb Boggs Building".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5228) was laid on the table.

JOSEPH E. MONTOYA FEDERAL BUILDING—U.S. COURTHOUSE

The Clerk called the bill (H.R. 5259) to name a certain Federal building in Santa Fe, N. Mex., the "Joseph E. Montoya Federal Building—U.S. Courthouse".

There being no objection, the Clerk read the bill as follows:

H.R. 5259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located on Federal Place, in Santa Fe, New Mexico, shall hereinafter be known as, and is hereby designated as, the Joseph E. Montoya Federal Building U.S. Courthouse". Any reference in any law, regulations, document, record, map, or other paper of the United States to such a building shall be considered to be a reference to the Joseph E. Montoya Federal Building—U.S. Courthouse.

With the following committee amendment:

Committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following: That the Federal building located on Federal Place, in Santa Fe, New Mexico, shall hereafter be known as, and is hereby designated as, the "Joseph M. Montoya Federal Building and U.S. Courthouse." Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Joseph M. Montoya Federal Building and U.S. Courthouse.

The committee amendment was agreed to.

Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 5259, a bill to designate the Federal building located on Federal

Place in Santa Fe, N. Mex., as the "Joseph M. Montoya Federal Building and U.S. Courthouse."

Senator Montoya, a lawyer by profession, was actively engaged in various business enterprises at the time he was elected to the New Mexico House of Representatives in 1936 at the age of 21 while still in college. He was reelected in 1938 and named majority floor leader. In 1940, he was elected as the youngest member of the State senate and named majority whip. In 1944, he was reelected to the State senate and named chairman of the senate judiciary committee. Two years later the people of New Mexico elected him their Lieutenant Governor, reelecting him in 1948. In 1952, he was again elected to the State senate, but in 1954 the voters returned him to the office of Lieutenant Governor and reelected him to that post in 1956.

In the special election on April 9, 1957, that followed the death of Congressman Antonio Fernandes in 1957, Joe Montoya was elected to the 85th Congress and was reelected to the 86th, 87th, and 88th Congresses.

Joe Montoya was elected to the U.S. Senate November 3, 1964, to fill the unexpired term of Senator Dennis Chaves following his death. He was also elected to the full term ending January 3, 1971, and reelected November 3, 1970, for the term ending January 3, 1977. During his 16 years in the Senate, he was a member of the Senate Committees on Appropriations, Public Works, the Joint Committee on Atomic Energy, and the Joint Committee on Commemoration of the bicentennial of the U.S.A.

Because of Joe Montoya's untimely death on June 5, 1978, the State of New Mexico lost a distinguished leader. There was not an area in New Mexico that has not felt the impact of his efforts and accomplishments as a public servant. Senator Montoya was dedicated to bettering the lot of Spanish-Americans and others whose lives were burdened by poverty and whose spirits and hopes were smothered by lack of opportunity.

In recognition of his unparalleled service to his State and country, and his undiminished vigor in working in the people's behalf, we memorialize Joe Montoya by naming the Federal building in New Mexico the Joseph M. Montoya Federal Building and U.S. Courthouse.

● Mr. JOHNSON of California. Mr. Speaker, I would like to lend my strong endorsement to this legislation to designate the Federal Building and U.S. Courthouse in Santa Fe, N. Mex., as the "Joseph M. Montova Federal Building and U.S. Courthouse."

It was my great privilege to serve side by side during the 86th, 87th, and 88th Congresses with a great servant of the State of New Mexico and a great American, Joe Montoya. Throughout his 7 years of service in the House of Representatives and his 16 years in the Senate Joe Montoya fought for his people, his district, his state, and his country.

In his many years in public life in general, Joe Montoya revealed himself as one man in a million, a true and earnest friend of the people. Throughout his career, he was dedicated to bettering the lives of others who were burdened by poverty. Joe Montoya's public career is a model for all of us. This bill is a true tribute to a fine American.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to name a certain Federal building in Santa Fe, New Mexico, the 'Joseph M. Montoya Federal Building and U.S. Courthouse'.".

A motion to reconsider was laid on the table.

CONSENTING TO THE AMENDED BEAR RIVER COMPACT BETWEEN THE STATES OF UTAH, IDAHO, AND WYOMING

The Clerk called the bill (H.R. 4320) to consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

There being no objection, the Clerk read the bill, as follows:

H.R. 4320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amended Bear River Compact between the States of Idaho, Utah, and Wyoming. Such compact reads as follows:

"AMENDED BEAR RIVER COMPACT

"The State of Idaho, the State of Utah and the State of Wyoming, acting through their respective Commissioners after negotiations participated in by a representative of the United States of America appointed by the President, have agreed to an Amended Bear River Compact as follows:

"ARTICLE I

"A. The major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of the Bear River among the compacting States.

"B. The physical and all other conditions peculiar to the Bear River constitute the basis for this Compact. No general principle or precedent with respect to any other interstate stream is intended to be established.

"ARTICLE II

"As used in this Compact the term

"1. 'Bear River' means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;

"2. 'Bear Lake' means Bear Lake and Mud Lake;

"3. 'Upper Division' means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a diversion dam in the Southeast Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;

"4. 'Central Division' means the portion of Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;

"5. 'Lower Division' means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;

"6. 'Upper Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming; excluding the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"7. 'Upper Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"8. 'Lower Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;

"9. 'Lower Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley Dam;

"10. 'Commission' means the Bear River Commission, organized pursuant to Article III of this Compact;

"11. 'Water user' means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;

"12. 'Second-foot' means a flow of one cubic foot of water per second of time passing a given point;

"13. 'Acre-foot' means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;

"14. 'Biennium' means the 2-year period commencing on October 1 of the first odd-numbered year after the effective date of this Compact and each 2-year period thereafter;

"15. 'Water year' means the period beginning October 1 and ending September 30 of the following year;

"16. 'Direct flow' means all water flowing in a natural watercourse except water released from storage or imported from a source other than the Bear River watershed;

"17. 'Border Gaging Station' means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meredian, Idaho;

"18. 'Smiths Fork' means a Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;

"19. 'Grade Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a westerly direction and in its natural channel is tributary to Smiths Forks in Section 17, Township 25 North, Range 118 West, Sixth Principal Meredian, Wyoming;

"20. 'Pine Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming, and in its natural channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"21. 'Bruner Creek' and 'Pine Creek Springs' means Smith Fork tributaries which rise in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North, Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"22. 'Spring Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Sections 1 and 2, Township 24, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"23. 'Sublette Creek' means the Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"24. 'Hobble Creek' means the Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"25. 'Hilliard East Fork Canal' means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"26. 'Lannon Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"27. 'Lone Mountain Ditch' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"28. 'Hilliard West Side Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East, 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming.

"29. 'Francis Lee Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter corner of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the Wyoming-Utah State line into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;

"30. 'Chapman Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divided into the Saleratus drainage basin near the Southeast corner of Section 36, Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

"31. 'Neponset Reservoir' means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

"ARTICLE III

"A. There is hereby created an interstate administrative agency to be known as the 'Bear River Commission' which is hereby constituted a legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America who shall serve as chairman, without vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

"B. The compensation and expenses of each Commissioner and each adviser shall be paid by the government which he represents. All expenses incurred by the Commission in the administration of this Compact except those paid by the United States of America, shall be paid by the signatory States on an equal basis.

"C. The Commission shall have power to:

"1. Adopt bylaws, rules, and regulations not inconsistent with this Compact;

"2. Acquire, hold, convey or otherwise dispose of property;

"3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;

"4. Sue and be sued as a legal entity in any court of record as a signatory State, and in any court of the United States having jurisdiction of such action;

"5. Co-operate with State and Federal agencies in matters relating to water pollution of interstate significance;

"6. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with others, including State and Federal agencies.

"D. The Commission shall:

"1. Enforce this Compact and its order made hereunder by suit or other appropriate action;

"2. Compile a report covering the work of the Commission and expenditures during the current biennium, and an estimate of expenditures for the following biennium and transmit it to the President of the United States and to the Governors of the signatory States on or before July 1 following each biennium.

"ARTICLE IV

"Rights to direct flow water shall be administered in each signatory State under State law, with the following limitations:

"A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.

"1. Upper Division

"a. When the divertible flow as defined below for the upper division is less than 1,250 second-feet, a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

"Upper Utah Section Diversions—0.6 percent,

"Upper Wyoming Section Diversions—49.3 percent,

"Lower Wyoming Section Diversions—9.6 percent,

"Lower Wyoming Section Diversions—9.6 percent.

"Such divertible flow shall be the total of the following five items:

"(1) Upper Utah Section Diversions in second-feet,

"(2) Upper Wyoming Section Diversions in second-feet,

"(3) Lower Utah Section Diversions in second-feet,

"(4) Lower Wyoming Section Diversions in second-feet,

"(5) The flow in second-feet passing Pixley Dam.

"b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.

"e. If for any reason the aggregate of all diversions in a river section of the Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order: (1) In the other river section of the same State in which the unused allocation occurs; and (2) in the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e.

"f. Water allocated to the several sections shall be distributed in each section in accordance with State law.

"2. Central Division

"a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceeding forty-three (43) percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

"The divertible flow for the Central Division shall be the total of the following three items:

"(1) Diversions in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

"(2) Diversions in second-feet in Idaho from the Bear River main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

"(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

"b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

"c. Water allocated to each State shall be distributed in accordance with State law.

"3. Lower Division

"a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, covering water applied to beneficial use prior to January 1, 1976, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

"B. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

"C. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary in a lower State, any water user may file a petition with the Commission alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, it shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated fom such tributary.

"D. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority, and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

"E. Water emergencies provided for herein shall terminate on September 30 of each year unless terminated sooner or extended by the Commission.

"ARTICLE V

"A. Water rights in the Lower Division acquired under the laws of Idaho and Utah covering water applied to beneficial use prior to January 1, 1976, are hereby recognized and shall be administered in accordance with State law based on priority of rights as provided in Article IV, paragraph A3. Rights to water first applied to beneficial use on or after January 1, 1976, shall be satisfied from the respective allocations made to Idaho and Utah in this paragraph and the water allocated to each State shall be administered in accordance with State law. Subject to the foregoing provisions, the remaining water in the Lower Division, including ground water tributary to the Bear River, is hereby apportioned for use in Idaho and Utah as follows:

"(1) Idaho shall have the first right to the use of such remaining water resulting in an annual depletion of not more than 125,000 acre-feet.

"(2) Utah shall have the second right to the use of such remaining water resulting in an annual depletion of not more than 275,000 acre-feet.

"(3) Idaho and Utah shall each have an additional right to deplete annually on an equal basis, 75,000 acre-feet of the remaining water after the rights provided by subparagraphs (1) and (2) above have been satisfied.

"(4) Any remaining water in the Lower Division after the allocations provided for in subparagraphs (1), (2), and (3) above have been satisfied shall be divided; thirty (30) percent to Idaho and seventy (70) percent to Utah.

"(B) Water allocated under the above subparagraphs shall be charged against the State in which it is used regardless of the location of the point of diversion.

"C. Water depletions permitted under provisions of subparagraphs (1), (2), (3), and (4) above, shall be calculated and administered by a Commission-approved procedure.

"ARTICLE VI

"A. Existing storage rights in reservoirs constructed above Stewart Dam prior to February 4, 1955, are as follows:

"Idaho	324 acre-feet
"Utah	11,850 acre-feet
"Wyoming	2,150 acre-feet

"Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more under this paragraph for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming.

"B. In addition to the rights defined in Paragraph A of this Article, further storage entitlements above Stewart Dam are hereby granted. Wyoming and Utah are granted an additional right to store in any year 70,000 acre-feet of Bear River water for use in Utah and Wyoming to be divided equally; and Idaho is granted an additional right to store 4,500 acre-feet of Bear River water in Wyoming or Idaho for use in Idaho. Water rights granted under this paragraph and water appropriated, including ground water tributary to Bear River, which is applied to beneficial use on or after January 1, 1976, shall not result in an annual increase in depletion of the flow of the Bear River and its tributaries above Stewart Dam of more than 28,000 acre-feet in excess of the depletion as of January 1, 1976. Thirteen thousand (13,000) acre-feet of the additional depletion above Stewart Dam is allocated to each of Utah and Wyoming, and two thousand (2,000) acre-feet is allocated to Idaho.

"The additional storage rights provided for in this Paragraph shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam; provided, however, there shall be no diversion of water to storage above Stewart Dam under this Paragraph B when the water surface elevation of Bear Lake is below 5,911.00 feet, Utah Power & Light Company datum (the equivalent of elevation 5,913.75 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947). Water depletions permitted under this Paragraph B shall be calculated and administered by a Commission-approved procedure.

"C. In addition to the rights defined in Article VI Paragraphs A and B, Idaho, Utah and Wyoming are granted the right to store and use water above Stewart Dam that otherwise would be bypassed or released from Bear Lake at times when all other direct flow and storage rights are satisfied. The availability of such water and the operation of reservoir space to store water above Bear Lake under this paragraph shall be determined by a Commission-approved procedure. The storage provided for in this Paragraph shall be subordinate to all other storage and direct flow rights in the Bear River. Storage rights under this Paragraph shall be exercised with equal priority on the following basis: six (6) percent thereof to Idaho; forty-seven (47) percent thereof to Utah; and forty-seven (47) percent thereof to Wyoming

"D. The waters of Bear Lake below elevation 5,912.91 feet, Utah Power and Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use of irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used for the generation of power or for other beneficial uses. As new reservoir capacity above the Stewart Dam is constructed to provide additional storage pursuant to Paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

"Additional Storage (Acre-feet)	Lake surface elevation, Utah Power and Light Company, Bear Lake datum
5,000	5, 913. 24
10,000	5, 913. 56
15,000	5, 913. 87
20,000	5, 914. 15
25,000	5, 914. 41
30,000	5, 914. 61
35,500	5, 914. 69
36,500	5, 914. 70

"E. Subject to existing rights, each State shall have the use of water, including groundwater, for ordinary domestic, and stock watering purposes, as determined by State law and shall have the right to impound water for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraphs A, B, and C of this Article.

"F. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

"ARTICLE VII

"It is the policy of the signatory States to encourage additional projects for the development of the water resources of the Bear River to obtain the maximum beneficial use of water with a minimum of waste, and in furtherance of such policy, authority is granted within the limitations provided by this Compact, to investigate, plan, construct, and operate such projects without regard to State boundaries, provided that water rights for each such project shall, except as provided in Article VI, paragraphs A and B, thereof, be subject to rights theretofore initiated and in good standing.

"ARTICLE VIII

"A. No State shall deny the right of the United States of America, and subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person or entity of another signatory State, to acquire rights to the use of water or to construct or to participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals, and conduits in one State for use of water in another State, either directly or by exchange. Water rights acquired for out-of-state use shall be appropriated in the State where the point of diversion is located in the manner provided by law for appropriation of water for use within such State.

"B. Any signatory State, any person or any entity of any signatory State, shall have the right to acquire in any other signatory State such property rights as are necessary to the use of water in conformity with this Compact by donation, purchase, or, as hereinafter provided through the exercise of the power of eminent domain in accordance with the law of the State in which such property is located. Any signatory State, upon the written request of the Governor of any other signatory State for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price acceptable to the requesting Governor, or if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or to the person, or entity designated by its Governor provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining such property shall be paid by the requesting State or the person or entity designated by its Governor.

"C. Should any facility be constructed in a signatory State by and for the benefit of another signatory State or persons or entities therein, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located.

"D. In the event lands or other taxable facilities are acquired by a signatory State in another signatory State for the use and benefit of the former, the users of the water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such facilities are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average of the amount of taxes annually levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivision of the State.

"E. Rights to the use of water acquired under this Article shall in all respects be subject to this Compact.

"ARTICLE IX

"Stored water, or water from another watershed may be turned into the channel of the Bear River in one State and a like quantity, with allowance for loss by evaporation, transpiration, and seepage, may be taken out of the Bear River in another State either above or below the point where the water is turned into the channel, but in making such exchange the replacement water shall not be inferior in quality for the purpose used or diminished in quantity. Exchanges shall not be permitted if the effect thereof is to impair vested rights or to cause damage for which no compensation is paid. Water from another watershed or source which enters the Bear River by actions within a State may be claimed exclusively by that State and use thereof by that State shall not be subject to the depletion limitations of Articles IV, V and VI. Proof of any claimed increase in flow shall be the burden of the State making such claim, and it shall be approved only by the unanimous vote of the Commission.

"ARTICLE X

"A. The following rights to the use of Bear River water carried in interstate canals are recognized and confirmed.

"Name of Canal	Date of priority	Primary right second-feet	Lands irrigated	
			Acres	State
Hilliard East Fork	1914	28.00	2,644	Wyoming.
Chapman	8-13-86	16.46	1,155	Wyoming.
	8-13-86	98.46	6,892	Utah.
	4-12-12	.57	40	Wyoming.
	5- 3-12	4.07	285	Utah.
	5-21-12	10.17	712	Utah.
	2- 6-13	.79	55	Wyoming.
	8-28-05	[1] 134.00		
Francis Lee	1879	2.20	154	Wyoming.
	1879	7.41	519	Utah.

"[1] Under the right as herein confirmed not to exceed 134 second-feet may be carried across the Wyoming-Utah State line in the Chapman Canal at any time for filling the Neponset Reservoir, for irrigation of land in Utah and for other purposes. The storage right in Neponset Reservoir is for 6,900 acre-feet, which is a component part of the irrigation right for the Utah lands listed above.

"All other rights to the use of water carried in interstate canals and ditches, as adjudicated in the State in which the point of diversion is located, are recognized and confirmed.

"B. All interstate rights shall be administered by the State in which the point of diversion is located and during times of water emergency, such rights shall be filled from the allocations specified in Article IV hereof for the Section in which the point of diversion is located, with the exception that the diversion of water into the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal shall be under the administration of Wyoming. During times of water emergency these canals and the Lone Mountain Ditch shall be supplied from the allocation specified in Article IV for the Upper Wyoming Section Diversions.

"ARTICLE XI

"Applications for appropriation, for change of point of diversion, place and nature of use, and for exchange of Bear River water shall be considered and acted upon in accordance with the law of the State in which the point of diversion is located, but no such application shall be approved if the effect thereof will be to deprive any water user in another State of water to which he is entitled, nor shall any such application be approved if the effect thereof will be an increase in the depletion of the flow of the Bear River and its tributaries beyond the limits authorized in each State in Articles IV, V and VI of this Compact. The official of each State in charge of water administration shall, at intervals and in the format established by the Commission, report on the status of use of the respective allocations.

"ARTICLE XII

"Nothing in this Compact shall be construed to prevent the United States, a signatory State or political subdivision thereof, person, corporation, or association, from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under State or Federal law or under this Compact.

"ARTICLE XIII

"Nothing contained in this Compact shall be deemed:

"1. To affect the obligations of the United States of America to the Indian tribes;

"2. To impair, extend or otherwise affect any right or power of the United States, its agencies or instrumentalities involved herein; nor the capacity of the United States to hold or acquire additional rights to the use of the water of the Bear River;

"3. To subject any property or rights of the United States to the laws of the States which were not subject thereto prior to the date of this Compact;

"4. To subject any property of the United States to taxation by the States or any subdivision thereof, nor to obligate the United States to pay any State or subdivision thereof for loss of taxes.

"ARTICLE XIV

"At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provision, provided, however, that the provisions contained herein shall remain in full force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress.

"ARTICLE XV

"This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

"ARTICLE XVI

"Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or to the Constitution of the United States, all other severable provisions of this Compact shall continue in full force and effect.

"ARTICLE XVII

"This Compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by the Congress of the United States of America.

Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

"IN WITNESS WHEREOF, the Commissioners and their advisers have executed this Compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

"Done at Salt Lake City, Utah, this 22nd day of December, 1978.

"For the State of Idaho:
"(s) Clifford J. Skinner
"(s) J. Daniel Roberts
"(s) Don W. Gilbert
"For the State of Utah:
"(s) S. Paul Holmgren
"(s) Simeon Weston
"(s) Daniel F. Lawrence
"For the State of Wyoming:
"(s) George L. Christopulos
"(s) J. W. Myers
"(s) John A. Teichert
"Approved:
"Wallace N. Jibson
"Representative of the United States of America
"Attest:
"Daniel F. Lawrence
"Secretary of the Bear River Commission."

● Mr. McKAY. Mr. Speaker, the Bear River is a lifeline which pumps sustenance into dozens of farm and mountain communities in the intermountain West. It is the largest stream in North America which does not ultimately reach an ocean, in an area of the country in which no property right is held more valuable than water.

When you match these facts up with another—that the river meanders 500 miles from beginning to end, crossing State boundaries five times—you have got potential chaos and a script for interstate conflicts on a grand order.

Therefore, it has been a great pleasure for me to have participated in the settlement of a new compact between the three States of Utah, Idaho, and Wyoming for the use of water from the Bear River.

This compact has been a model of cooperation among the three States and the Federal Government.

I speak for all of the people of our intermountain region when I express appreciation to Chairmen UDALL and KAZEN and the committee for their prompt and sensitive attention to H.R. 4320, the bill I have introduced to provide Federal recognition of this landmark Bear River compact.

This agreement is the product of 10 years of earnest and painstaking tripartite negotiation, local hearings, and the assent of the respective State legislatures.

This compact, which supersedes the Bear River compact of 1958, is more complete in every way than that document and will serve as a blueprint for future planning and growth of the valleys of the Bear River.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMITTING NATIONAL PARK SERVICE TO ACCEPT PRIVATE DONATED FUNDS AND TO EXPEND SUCH FUNDS ON PROPERTY ON NATIONAL REGISTER OF HISTORIC PLACES

The Clerk called the bill (H.R. 126) to permit the National Park Service to accept privately donated funds and to expend such funds on property on the National Register of Historic Places.

There being no objection, the Clerk read the bill, as follows:

H.R. 126

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That (a) the Secretary of the Interior in his administration of the National Park Service may accept money which may be donated for the purpose of acquiring, restoring, or preserving any building, structure, or site which is maintained on the National Register established under section 101 of the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (80 Stat. 915; 16 U.S.C. 470a)); and owned by a local government or a corporation not organized or operated for profit and no part of the net earning of which inures to the benefit of any private shareholder or individual.

(b) Any money accepted by the Secretary as a donation under subsection (a), and which is specified by the donor of such money for a purpose which meets the requirements of subsection (a), and which is available to be obligated for such purpose when so specified shall be expended in accordance with the purpose specified for such money which meets the requirements of subsection (a).

With the following committee amendment:

Committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

That the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (80 Stat. 915; as amended, 16 U.S.C. 470a), is further amended by adding a new section 109 as follows:

"SEC. 109. (a) In furtherance of the purposes of this Act, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 101 of this Act, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.

"(b) In expending said funds, the Secretary shall give due consideration to the national significance of such project, its historical value to the community, the imminence of its destruction or loss, and the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 102 of this Act.

"(c) The Secretary is hereby authorized to transfer unobligated funds previously donated to the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this Act.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHESAPEAKE AND OHIO CANAL DEVELOPMENT ACT AMENDMENTS

The Clerk called the bill (H.R. 5182) to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historic Park Commission from the date 10 years after the effective date of such act to the date 20 years after such effective date.

There being no objection, the Clerk read the bill, as follows:

H.R. 5182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(g) of the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y-4(g)) is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

● Mr. BARNES. Mr. Speaker, as the author of this legislation, I strongly support passage of H.R. 5182, which will extend the life of the C. & O. Canal Advisory Commission. This Commission was created with a 10-year life when the C. & O. Canal National Historical Park was established in 1971. It is comprised of citizens who represent the counties and States that surround the 185-mile canal, and its role is to advise the National Park Service in the job of managing the park. H.R. 5182 would extend the life of the Commission for another 10 years; without such an extension, the Commission would go out of existence in January 1981.

The original rationale for establishing the advisory commission stemmed from the unique nature of the canal. Unlike most parks managed by the Park Service, the C. & O. Canal runs along a 185-mile stretch of river shoreline, and is flanked by a major city (Washington, D.C.), suburban communities, and numerous small towns. I believe that these circumstances clearly warrant continuation of this mechanism which enables those who live along or near the canal to share a voice in its management. This is a view that is shared by the bill's cosponsors, Representatives BEVERLY BYRON, JOSEPH FISHER, and WALTER FAUNTROY.

The Commission, technically called the "Chesapeake and Ohio National Historical Commission," is composed of 19 members: 2 each from the Maryland counties of Montgomery, Frederick, Washington, and Allegany; 2 each from the States of Maryland, Virginia, West Virginia, and the District of Columbia; and 3 who are appointed by the Secretary of the Interior, 2 of whom must be members of conservation organizations. The members of the Commission serve without compensation.

The Congressional Budget Office has reported that the total costs of the Advisory Commission, including stenographic and secretarial support, travel, and occasional lodging of commission members on official business, and other related expenses are minimal. Considering the value of the C. & O. Canal Park as a natural resource and the fine track record of the Advisory Commission, the American taxpayers are clearly getting their money's worth.

The C. & O. Canal is a very special part of Maryland's Eighth Congressional District, which I represent. It occupies the entire western border of Montgomery County, serves as a buffer between a busy suburban area and the quiet, unspoiled shoreline of the Potomac River, and is a familiar haven for the thousands who hike or bike along the towpath, or canoe in the canal itself. Those who visit or reside nearby the canal today, along with future generations—for whom a place of quiet refuge and recreation will become increasingly important—share a stake in the proper management of this natural resource.

There is no doubt in my mind that the C. & O. Canal Advisory Commission has done its job well, and I expect that it will continue to perform its responsibilities in the same fashion over the coming years.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR ALLEVIATION OF HIGH GROUND WATER CONDITIONS, MOSES LAKE, WASH.

The Clerk called the bill (H.R. 552) to provide for the allevation of high ground water conditions in and adjacent to the town of Moses Lake, Wash., and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to undertake further engineering studies to determine the cause and the extent of the high ground water levels which developed in and adjacent to the town of Moses Lake, Washington, following the initiation of irrigation of the lands in and adjacent to the town, and to design and construct the drainage works necessary, as determined by the studies authorized herein, to resolve the problems caused by the high water levels in the area.

SEC. 2. Funds are hereby authorized to be appropriated for engineering studies to determine the cause and the extent of the high ground water levels in and adjacent to the town of Moses Lake, Washington, and for the design and construction of the drainage works determined to be necessary by the studies authorized herein.

SEC. 3. All funds to be appropriated pursuant to this Act shall be nonreimbursable and nonreturnable.

With the following committee amendment:

Committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Interior is hereby authorized to undertake feasibility studies to determine the cause and extent of the high ground water levels which developed in and adjacent to the town of Moses Lake, Washington, following the initiation of irrigation of the lands in and adjacent to the town and determine by the studies authorized herein measures to resolve the problems caused by the high water levels in the area.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENDING SERVICE AREA FOR SACRAMENTO VALLEY CANALS, CENTRAL VALLEY PROJECT, CALIFORNIA

The Clerk called the bill (H.R. 2111) to extend the service area for the Sacramento Valley Canals, Central Vallejo project, California, and other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 2111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of September 25, 1950 (64 Stat. 1036), as amended, is further amended by striking the phrase "Tehama, Glenn, and Colusa Counties" and inserting in lieu thereof the phrase "Tehama, Glenn, and Colusa Counties, and the Yolo-Zamora Water District".

With the following committee amendment:

Committee amendment: Page 2, line 1, delete "Counties' and" and insert in lieu thereof 'Counties or' and".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes.".

AUTHORIZING SECRETARY OF THE INTERIOR TO ENGAGE IN FEASIBILITY STUDY

The Clerk called the bill (H.R. 2757) to authorize the Secretary of the Interior to engage in a feasibility study.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SCHULZE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ACCOUNTABILITY AND RESPONSIBILITY FOR PROPERTY OF UNITED STATES ISSUED TO NATIONAL GUARD

The Clerk called the bill (H.R. 5748) to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

There being no objection, the Clerk read the bill as follows:

H.R. 5748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsections (b) and (c) of section 710 of title 32, United States Code, are amended to read as follows:

"(b) The Secretary of the Army shall prescribe regulations for accounting for property issued by the United States to the Army's National Guard and for the fixing of responsibility for that property. The Secretary of the Air Force shall prescribe regulations for accounting for property issued by the United States to the Air National Guard and for the fixing of responsibility for that property. So far as practicable, regulations prescribed under this section shall be uniform among the components of each service.

"(c) Under regulations prescribed by the Secretary concerned under subsection (b), liability for the value of property issued by the United States to the National Guard that is lost, damaged, or destroyed may be charged (1) to a member of the Army National Guard or the Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be so charged, or (2) to a State or territory, Puerto Rico, the Canal Zone, or the District of Columbia when the property is lost, damaged, or destroyed incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction. Liability charged to a member of the Army National Guard or the Air National Guard shall be paid out of pay due to the member for duties performed as a member of the National Guard, unless the Secretary concerned shall for good cause remit or cancel that liability. Liability charged to a State or territory, Puerto Rico, the Canal Zone, or the District of Columbia shall be paid from its funds or from any other non-Federal funds.".

(b)(1) The section heading for such section is amended to read as follows:

"§ 710. Accountability for property issued to the National Guard.".

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of title 32, United States Code, is amended to read as follows:

"710. Accountability for property issued to the National Guard.".

SEC. 2. The amendment made by subsection (a) of the first section of this Act shall apply to liability for property issued by the United States to the National Guard that is lost, damaged, or destroyed on or after October 1, 1980. Liability for such property that is lost, damaged, or destroyed before such date shall be governed by the provisions of section 710 of title 32, United States Code, as in effect on the day before the date of the enactment of this Act.

Mr. WHITE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, H.R. 5748 is a clean bill which amends section 710 of title 32, United States Code, that applies to accountability and responsibility for U.S. property issued to the National Guard. The effect of H.R. 5748 is to make property accountability standards for the National Guard consistent with those of other Reserve components and the Active Forces, and permit the State to be relieved of liability when the loss occurs during performance of a Federal mission.

Currently, if U.S. property assigned to the National Guard is lost, damaged, or destroyed through negligence, the Secretary of the service concerned has the option of either charging the State for the amount of the loss, or charging the individual National Guardsman. In the case of active and reserve personnel, however, liability can be canceled in whole or in part as the Secretary deems appropriate. This is a more reasonable approach in light of the expense of current equipment. For example, the Army limits the liability of its active duty personnel to 1 month's pay.

Further, many of the missions of National Guard units to today's total force are Federal in character and are performed outside of State control, and often outside its boundaries. It is not appropriate to hold the States liable for equipment lost or damaged while the National Guard is performing a Federal mission. H.R. 5748 will only require a State to reimburse the Federal Government for lost or damaged property when the loss occurs while the National Guard is performing a State mission, such as during a natural disaster.

Mr. Speaker, the Department of Defense supports this legislation and the costs associated with it are insignificant according to the Congressional Budget Office.

Mr. Speaker, I urge the passage of H.R. 5748.

● Mrs. HOLT. Mr. Speaker, I also rise in support of H.R. 5748.

The statutes are currently not consistent in their treatment of National Guard personnel and other Reserve and Active personnel with respect to responsibility for lost or destroyed U.S. Government property. With the total force concept a reality today, there is simply no reason not to apply the same property accountability standards to the National Guard as is the case for Active and Reserve personnel. H.R. 5748 will equalize the property accountability standards for all military personnel.

This legislation will also recognize that in many of its functions the National Guard is performing a Federal role not a State mission and the States should not be held liable for losses occurring during the performance of Federal duties.

H.R. 5748, the principal sponsor of which is my distinguished colleague from Maine (Mr. EMERY), is sensible legislation that should be favorably considered in the House.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMITTING SALES OF REAL PROPERTY BY EMPLOYEES OF THE UNITED STATES TO INDIANS

The Clerk called the bill (H.R. 3979) to permit sales of real property by employees of the United States to Indians and to permit certain sales of real property by Indians to such employees.

There being no objection, the Clerk read the bill as follows:

H.R. 3979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to modify the provisions of section 14 of the Act of June 30, 1834, and section 10 of the Act of June 22, 1874, relating to the Indians", approved June 19, 1939 (53 Stat. 840), is amended—

(1) by inserting "(1)" before "to purchase from any Indian"; and

(2) by inserting after "furnished by any Indian or Indian organization" the following: ", (2) to purchase from any Indian or Indian organization any real property if such employee intends at the time of such purchase to use such real property as his principal residence, and (3) to sell to any Indian or Indian organization any real property owned by such employee".

With the following committee amendment:

Committee amendment: Strike out all after the enacting clause and insert on page 2, line 13:

That section 437 of title 18, United States Code, is amended to read as follows:

"§ 437. Federal employees contracting or trading with Indians

"(a) Except as provided in subsection (b), whoever, being an officer, employee, or agent of the Bureau of Indian Affairs or the Indian Health Service has (other than as a lawful representative of the United States) any interest, direct or indirect—

"(1) in any contract made or under negotiation with any Indian, for the purchase or transportation or delivery of goods or supplies for any Indian, or

"(2) in any purchase or sale of any service of real or personal property (or any interest therein) from or to any Indian, or colludes with any person attempting to obtain any such contract, purchase, or sale, shall be fined not more than $5,000 or imprisoned not more than six months or both, and shall be removed from office, notwithstanding any other provision of law concerning termination from Federal employment.

"(b)(1) Notwithstanding the provisions of subsection (a) and in accordance with paragraph (2) of this subsection, the President or his designee may prescribe rules and regulations under which any employee of the Bureau of Indian Affairs or of the Indian Health Service may purchase from or sell to any Indian any service or any real or personal property or any interest therein.

"(2) No rule or regulation prescribed pursuant to paragraph (1) of this subsection shall permit any employee referred to in that paragraph—

"(A) to make any purchase from or sale to an Indian for the purpose of engaging directly or indirectly in commercial selling, reselling, trading, or bartering activities; or

"(B) to have any interest in any purchase or sale involving property or funds which are either held in trust by the United States for Indians or which are purchased, sold, utilized, or received in connection with a contract or grant to an Indian from the Bureau of Indian Affairs or the Indian Health Service, if such employee is employed in the office or installation of such Bureau or Service which recommends, approves, executes, or administers such transaction, grant, or contract on behalf of the United States: Provided, that such employee may engage in such a purchase or sale if such purchase or sale is approved by the Secretary of the Interior in the case of a Bureau of Indian Affairs employee, or by the Secretary of Health, Education, and Welfare in the case of an Indian Health Service employee, or a designee of such Secretary who is not employed at such office or installation; or

"(C) to acquire any interest in property held in trust, or subject to restriction against alienation imposed, by the United States unless the conveyance or granting of such interest in such property is otherwise authorized by law.

"(c) Except as provided in subsection (b)(2), nothing contained in this section shall be construed as preventing any employee of the Bureau of Indian Affairs or the Indian Health Service who is an Indian, of whatever degree of Indian blood, from obtaining or receiving any benefit or benefits made available to Indians generally or to any member of his or her particular tribe, under any Act of Congress, nor to prevent any such employee who is an Indian from being a member of or receiving benefits by reason of his or her membership in any Indian tribe, corporation, or cooperative association organized by Indians, when authorized under such rules and regulations as the Secretary of the Interior or the Secretary of Health, Education, and Welfare, or their designee shall prescribe.

"(d) For purposes of this section, the term 'Indian' means any member of an Indian tribe recognized as eligible for the services provided by the Bureau of Indian Affairs who is residing on a Federal Indian Reservation, on land held in trust by the United States for Indians, or on land subject to a restriction against alienation imposed by the United States. The term shall also include any such tribe and any Indian owned or controlled organization located on such a reservation or land.".

SEC. 2. Section 2078 of the Revised Statutes (25 U.S.C. 68) and the Act of June 19, 1939 (53 Stat. 840; 25 U.S.C. 68a and 441), are hereby repealed.

SEC. 3. The Secretary of the Interior may review any transaction occurring prior to the effective date of this Act and, if the Secretary finds that such transaction would have been valid had the provisions of this Act been in effect at the time of such transaction, the Secretary may declare such transaction to be valid. The Secretary may issue or execute such documents as may be necessary or desirable to evidence the validity of such a transaction. A declaration of validity of a transaction pursuant to this section shall be conclusive evidence of such validity notwithstanding the provisions of section 437 of title 18, United States Code; section 2078 of the Revised Statutes; section 14 of the Act of June 30, 1834 (4 Stat. 738); and section 10 of the Act of June 22, 1874 (18 Stat. 177), which may have been in effect at the time of such transaction.

SEC. 4. The provisions of this Act shall take effect sixty days after the date of enactment of this Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to repeal and amend certain laws regulating trade between Indians and certain Federal employees.".

A motion to reconsider was laid on the table.

□ 1210

PRIVATE CALENDAR

The SPEAKER. Pursuant to the order of the House of November 16, this is a Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MARIA CORAZON SAMTOY

The Clerk called the bill (H.R. 948) for the relief of Maria Corazon Samtoy.

There being no objection, the Clerk read the bill as follows:

H.R. 948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Corazon Samtoy may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Doctor and Mrs. Henry Samtoy, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN A. TOWNSLEY

The Clerk called the bill (H.R. 901) for the relief of John A. Townsley.

There being no objection, the Clerk read the bill as follows:

H.R. 901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John A. Townsley is relieved of liability to the United States in the amount of $581.28, representing overpayments of compensation paid due to administrative error to John A. Townsley prior to July 1, 1960, while employed in the National Park Service of the Department of the Interior. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John A. Townsley, an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, with respect to the indebtedness to the United States specified in the first section of this Act.

(b) No part of the amount appropriated in subsection (a) of this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CLARENCE S. LYONS

The Clerk called the bill (H.R. 3818) for the relief of Clarence S. Lyons.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RELIEF OF OHIO WESLEYAN UNIVERSITY, DELAWARE, OHIO

The Clerk called the bill (H.R. 3317) for the relief of Ohio Wesleyan University, Delaware, Ohio.

There being no objection, the Clerk read the bill as follows:

H.R. 3317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall admit free of duty one organ (including all accompanying parts and accessories) for the use of Ohio Wesleyan University, Delaware, Ohio, such organ being provided by Johannes Klais Orgelbau K.G., Bonn, Federal Republic of Germany.

SEC. 2. If the liquidation of the entry for consumption of the article subject to the provisions of the first section of this Act has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made.

With the following committee amendments:

On page 2, line 4, strike out "the" the first time it appears, and insert in lieu thereof "any".

On page 2, line 6, strike out "made." and insert in lieu thereof "made, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).".

The committee amendments were agreed to.

● Mr. CONABLE. Mr. Speaker, H.R. 3317 is similar to several bills we have approved in the past providing duty-free treatment for the importation of musical instruments to be used by churches, educational institutions, or other nonprofit organizations. This particular bill would allow duty-free entry of one pipe organ, including all accompanying parts and accessories, for use by Ohio Wesleyan University in Delaware, Ohio.

H.R. 3317 was approved by the Ways and Means Committee by voice vote. Furthermore, the committee in the near future will be reviewing the possibility of a permanent elimination of the duty on this type of item so that private relief bills will not have to be approved on a case by case basis. The one-time loss in customs revenue associated with the bill is $19,500.

I urge that H.R. 3317 be approved.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RELIEF OF ST. PAUL'S EPISCOPAL CHURCH, RIVERSIDE, CONN.

The Clerk called the bill (H.R. 3755) for the relief of St. Paul's Episcopal Church, Riverside, Conn.

There being no objection, the Clerk read the bill as follows:

H.R. 3755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall admit free of duty the components of the tracker pipe organ which were built (pursuant to contract with Gerhard Hradetzky of Austria) for St. Paul's Episcopal Church, Riverside, Connecticut, and which entered at New York, New York, on January 19, 1979 (entry number 266710).

SEC. 2. If the liquidation of the entry for consumption of any article subject to the provisions of the first section of this Act has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made.

With the following committee amendments:

Page 2, line 7, strike out "made." and insert in lieu thereof "made, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).".

The committee amendment was agreed to.

● Mr. CONABLE. Mr. Speaker, H.R. 3755 is another of the several bills we have considered regarding duty-free treatment for the importation of particular musical instruments for individual churches, colleges, and universities and other nonprofit organizations. It is usually the case that there is little, if any, objection raised against this type of bill.

H.R. 3755 would permit duty-free entry of the components of a tracker pipe organ which was built by a company in Austria for St. Paul's Episcopal Church in Riverside, Conn. The bill was approved by the Ways and Means Committee by voice vote. Approval of the bill would result in a very negligible loss in customs revenue of about $5,250.

I urge my colleagues to approve the bill.●

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

COL. (DR.) PAUL A. KELLY

The Clerk called the bill (H.R. 2148) for the relief of Col. (Dr.) Paul A. Kelly.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 3872) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 4285) for the relief of Morris and Lenke Gelb.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CERTAIN EMPLOYEES OF THE NAVAL ORDNANCE SYSTEMS COMMAND

The Clerk called the bill (H.R. 5156) for the relief of certain employees of the Naval Ordnance Systems Command.

There being no objection, the Clerk read the bill as follows:

H.R. 5156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated—

(1) to Donald L. Francke of Bloomington, Indiana, the sum of $442.98;

(2) to J. Keith Crane of Bloomfield, Indiana, the sum of $677.84;

(3) to Alvin E. Gilmore of Bloomington, Indiana, the sum of $1,755.02;

(4) to Charles H. Horrell of Bedford, Indiana, the sum of $1,755.02; and

(5) to Allan Hamilton of Spencer, Indiana, the sum of $560.98,

in full settlement of their claims against the United States for premium pay due them for services rendered, during an emergency situation, upon orders given by the Naval Ordnance Systems Command. Such pay has been denied them pursuant to section 5547 of title 5 which currently limits aggregate biweekly pay without regard for emergency situations requiring extended services by specialized personnel.

No part of the amount appropriated in this Act for the payment of any one claim in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 2, line 8: Strike "$1,755.02" and insert "$852.67".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JERRY W. MANANDIC AND CEFERINO W. MANANDIC

The Clerk called the Senate bill (S. 151) for the relief of Jerry W. Manandic and Ceferino W. Manandic.

There being no objection, the Clerk read the Senate bill as follows:

S. 151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jerry W. Manandic and Ceferino W. Manandic may be classified as children within the meaning of section 101 (B)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Jose Manandic, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JANET ABRAHAM, ALSO KNOWN AS JANET SUSAN ABRAHAM

The Clerk called the Senate bill (S. 170) for the relief of Janet Abraham, also known as Janet Susan Abraham.

There being no objection, the Clerk read the Senate bill as follows:

S. 170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Janet Abraham, also known as Janet Susan Abraham, shall be classified as a child within the meaning of section 101 (b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Vicente T. Abraham, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GINA MARIE S. HERNANDEZ

The Clerk called the bill (H.R. 894) for the relief of Gina Marie S. Hernandez.

There being no objection, the Clerk read the bill as follows:

H.R. 894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Gina Marie S. Hernandez may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Baltazar P. Hernandez, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GRACE MARIA SALAZAR SANTOS

The Clerk called the bill (H.R. 900) for the relief of Grace Maria Salazar Santos.

There being no objection, the Clerk read the bill as follows:

H.R. 900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Grace Maria Salazar Santos may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Dora Salazar, a citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act: *Provided further,* That any fee received by any agent or attorney on account of services rendered relating to the introduction of this bill shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PANG CHONG AE

The Clerk called the bill (H.R. 1283) for the relief of Pang Chong Ae.

There being no objection, the Clerk read the bill as follows:

H.R. 1283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Pang Chong Ae shall be held and considered to be the natural-born alien daughter of Daniel and Roslyn Schwartz, citizens of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIANA DE JESUS ROCA AND FRANCISCO RUBIRA ROCA

The Clerk called the bill (H.R. 2593) for the relief of Mariana de Jesus Roca and Francisco Rubira Roca.

There being no objection, the Clerk read the bill as follows:

H.R. 2593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mariana de Jesus Roca and Francisco Rubira Roca may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Raul Roca, citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 2, line 2, after the name "Raul Roca" insert ", a".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RODOLFO JOSE KOZUL

The Clerk called the bill (H.R. 3234) for the relief of Rodolfo Jose Kozul.

There being no objection, the Clerk read the bill as follows:

H.R. 3234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Rodolfo Jose Kozul may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed on his behalf by Robert Berrellez citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 6, after the name "Robert Berrellez" insert ", a".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EILEEN FERRAREN FAIR

The Clerk called the bill (H.R. 3320) for the relief of Eileen Ferraren Fair.

There being no objection, the Clerk read the bill as follows:

H.R. 3320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Eileen Ferraren Fair may be classified as a child within the meaning of section 101(b)(1)(F) of the Act (8 U.S.C. 1101(b)(1)(F)), upon approval of a petition filed in her behalf by Ilia Fair and Clarence E. Fair, citizens of the United States, pursuant to section 204 of the Act (8 U.S.C. 1154): *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JUNG-SOOK MUN

The Clerk called the bill (H.R. 4483) for the relief of Jung-Sook Mun.

There being no objection, the Clerk read the bill as follows:

H.R. 4483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Jung-Sook Mun shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Robert White and Patricia White, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, and sisters of Jung-Sook Mun shall not, by virtue of their relationship to her, be accorded any right, privilege, or status under such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARYROSE AND ROSEMARY EVANGELISTA

The Clerk called the bill (H.R. 918) for the relief of Maryrose and Rosemary Evangelista.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ROLANDO R. GAZA, TERESITA C. GAZA, AND ROLYNNE THERESE GAZA

The Clerk called the bill (H.R. 1619) for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza.

There being no objection, the Clerk read the bill as follows:

H.R. 1619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Rolando R. Gaza, Teresita C. Garza, and Rolynne Therese Gaza shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct the required numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of each alien's birth under section 203(a) of the Immigration and Nationality Act and, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JESUS REVELES Y RIVERA

The Clerk called the bill (H.R. 2477) for the relief of Jesus Reveles Y Rivera.

There being no objection, the Clerk read the bill as follows:

H.R. 2477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jesus Reveles y Rivera may be classified as a child within the meaning of section 101(b)(1(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Cliff Rodrigues, citizens of the United States, pursuant to section 204 of the Act.

With the following committee amendment:

On page 2, line 3, strike out the word "Act." and insert in lieu thereof the following: "Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LUNETTE JOYCE CLARKE

The Clerk called the bill (H.R. 2594) for the relief of Lunette Joyce Clarke.

There being no objection, the Clerk read the bill as follows:

H.R. 2594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the Administration of the Immigration and Nationality Act, Lunette Joyce Clarke may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Maud Lyn Clarke, a citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KENNETH AND JACQUELINE TRAYLAR

The Clerk called the bill (H.R. 1888) for the relief of Kenneth and Jacqueline Traylar.

There being no objection, the Clerk read the bill as follows:

H.R. 1888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Kenneth Traylar and Jacqueline Traylar may each be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Louise Traylar of the United States, pursuant to section 204 of the Act.

With the following committee amendment:

On page 1, after the word "may" on line 4, strike out the remainder of the bill and insert in lieu thereof the following: "be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Jerome and Louise Traylar, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NAOMI CHEN

The Clerk called the bill (H.R. 1889) for the relief of Naomi Chen.

There being no objection, the Clerk read the bill as follows:

H.R. 1889

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Naomi Chen may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Jacob and Yolanda Chen, citizens of the United States, pursuant to section 204 of the act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments:

On page 1, line 5, strike out "section 101(b)(1)(F)" and insert in lieu thereof "section 101(b)(1)(E)".

On page 2, line 2, strike out the word "citizens" and substitute in lieu thereof the words "lawful permanent residents".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN H. R. BERG

The Clerk called the bill (H.R. 2782) for the relief of John H. R. Berg.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

JAN KUTINA

The Clerk called the bill (H.R. 3873) for the relief of Jan Kutina.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

JOZEF SWIDERSKI

The Clerk called the bill (H.R. 4013) for the relief of Jozef Swiderski.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

IN SUN PINEIRO

The Clerk called the bill (H.R. 1489) for the relief of In Sun Pineiro.

There being no objection, the Clerk read the bill as follows:

H.R. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, In Sun Pineiro shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, In Sun Pineiro, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SOLOMON MANI

The Clerk called the bill (H.R. 1887) for the relief of Solomon Mani.

There being no objection, the Clerk read the bill as follows:

H.R. 1887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(3) of the Immigration and Nationality Act, Solomon Mani may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act: *Provided further*, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DIRK VIERKANT

The Clerk called the Senate bill (S. 132) for the relief of Dirk Vierkant.

There being no objection, the Clerk read the Senate bill as follows:

S. 132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Dirk Vierkant shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1220

ROCIO EDMONDSON

The Clerk called the Senate bill (S. 214) for the relief of Rocio Edmondson.

There being no objection, the Clerk read the Senate bill as follows:

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Rocio Edmondson shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Rocio Edmondson shall be held and considered to be a returning resident alien as defined in section 101(a)(27)(A) of that Act, as of the date of the enactment of this Act.

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EMIKO OKUMA COLONA

The Clerk called the bill (H.R. 1827) for the relief of Emiko Okuma Colona.

There being no objection, the Clerk read the bill, as follows:

H.R. 1827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Emiko Okuma Colona may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. George S. Colona, Junior, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 2, line 3, strike out "citizens of the United States," and substitute "a citizen and a lawful permanent resident of the United States, respectively,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO FILE REPORTS ON H.R. 4532, DESIGNATING THE "HENRY D. PARKINSON FEDERAL BUILDING"; H.R. 4845, DESIGNATING THE "KENNETH B. KEATING FEDERAL BUILDING"; H.R. 5781, DESIGNATING THE "FRANCES PERKINS DEPARTMENT OF LABOR BUILDING"; AND H.R. 5794, DESIGNATING THE "WINFIELD K. DENTON BUILDING"

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight, November 27, 1979, to file reports on the following bills:

H.R. 4532, to designate the U.S. Post Office and Federal Building in Scott City, Kans., as the "Henry D. Parkinson Federal Building";

H.R. 4845, to designate the Federal Building in Rochester, N.Y., the "Kenneth B. Keating Federal Building";

H.R. 5781, to designate the building known as the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building"; and

H.R. 5794, to designate the building known as the Federal Building in Evansville, Ind., as the "Winfield K. Denton Building."

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ISRAEL CRITICALLY IMPORTANT TO AMERICA'S MIDEAST SECURITY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, in considering our options in Iran, it is clear that the United States would be severely restricted without the presence of our ally, Israel. As the most stable, independent, and democratic nation in the Middle East, and as an unfailing ally for over 30 years, the existence of a strong and independent Israel clearly buttresses and strengthens America in that area of the world where we seem to be becoming more and more alone and isolated. While I recognize that Egypt and Saudi Arabia, among others, have been supportive of our position in this tense time, our options in dealing with the release of the hostages for instance, and our future dealings with Iran, clearly and unequivocally depend on the existence of at least one stable ally in the region. Israel is that ally, and we should never forget that its strength and security is paramount to America's strength and security in the Middle East and is tremendously significant to the rest of the world.

STAND UP FOR AMERICA ON ALL ESSENTIAL PRODUCTS

(Mr. ATKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINSON. Mr. Speaker, like many Americans, I am encouraged by the willingness of citizens from all walks of life to "stand up for America" during the present crisis in Iran. But just as that crisis once again points up our dependence on foreign oil, we should be aware of conditions that could make our Nation dependent on foreign sources for other essential products. And we should be every bit as willing to "stand up for America" when it comes to insuring continued domestic production of essential items.

A case in point is our domestic primary metals industry. I recently received word that United States Steel is considering closing its fabricating plant in Ambridge, Pa., possibly resulting in the loss of 1,200 jobs. And St. Joe Minerals Corp. is weighing the shutdown of its Monaca, Pa., plant, also in the 25th District, employing more than 1,500 workers. Aside from the blow these potential closures would deal to the economy of western Pennsylvania, they outline all too clearly more fundamental problems facing our domestic metal industries in general.

Job loss figures like these should act as a warning to us—a warning that we need to act in areas like capital formation, environmental regulations, and fair trade. I plan to bring more such warning signals to the attention of the House in the coming days.

OUR HUMANITARIAN OBLIGATION TO CAMBODIA CONTINUES

(Mr. CARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARR. Mr. Speaker, no one here is oblivious to the sufferings of the Cambodian people. We are all aware of the frightful magnitude of this suffering, aware that 3 million, 3 million, Cambodians now face death through starvation and disease. We have heard the reports that as many as 200,000 men, women, and children are dying monthly.

In the last several months we have been warned that unless the response to the plight of the Cambodian people is massive and immediate, the world will witness a catastrophe as large and as terrible as the holocaust of Nazi Germany. And we have acted accordingly; we have responded to the appeals of UNICEF, the International Committee of the Red Cross, and other nonpolitical humanitarian relief organizations by authorizing $99 million in Federal aid, of which $69 million has been appropriated. It is estimated that approximately $110 million is needed to meet the basic needs of the Khmer people in the next 6 months, so surely we have contributed more than our fair share to this initial relief effort. We should now be able to sit back in peace, proud that we have helped save a nation, a race of people, from total annihilation.

At this time, however, I for one feel none of this smug complacency. The figures I quoted may be reassuring, but this fact remains: The Cambodian people are still starving, still suffering, still dying.

For the month of November, only 20,000 tons of relief supplies will actually reach Cambodia, 30 percent less than estimates say is needed just to meet the most basic needs of the people. Each day of delay translates into thousands of deaths and immeasurable suffering.

Furthermore, not only are the necessary supplies not reaching Cambodia, the necessary money is not, according to UNICEF officials, yet reaching the various relief organizations. As of last Friday, only 4.5 million U.S. Government dollars had actually reached the UNICEF, and only $2.5 million in Federal aid had reached the International Committee of the Red Cross. Both of these organizations maintain that they are experiencing serious cash flow problems, and fear that the relief effort will be plagued by a $45 million deficit by the end of December.

Congress is often accused of just throwing money at problems. We must be sure that the money we have appropriated for the Cambodian relief effort is directed at its target quickly and efficiently.

Our humanitarian obligation to the Cambodian people did not end when the emergency aid legislation was signed into law by the President. It will end only when this aid has served its purpose by alleviating their horrible suffering.

WE SHOULD TERMINATE IMMEDIATELY ALL PARTICIPATION BY IRANIAN PERSONNEL IN U.S. PROGRAM OF MILITARY TRAINING

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, in recent days, particularly last night and this morning, Iran's Ayatollah Khomeini has sounded increasingly threatening. He has been quoted as saying that a state of war exists between the United States and Iran and he has called upon his country to get military training and to take up arms.

In light of this situation, it seems clear we should terminate immediately all participation by Iranian personnel in the U.S. programs of military training. To date only flight training has been suspended. Frankly, it concerns me very much that we are giving our excellent military training to members of the Iranian Armed Services who may some day be employed to use that training against the interests of the United States.

In addition, Mr. Speaker, it has come to my attention that there is a large number of Iranian students enrolled in ROTC programs in various colleges throughout this country. This is particularly true of the Naval ROTC. I ask Mr. Speaker, this question: Are we training these students to be future possible adversaries, and where does their loyalty lie? I think it is a serious question.

I am addressing a letter to the President raising these issues today. I think it is of utmost importance that we take this into consideration and terminate this participation if it is in the best interests of this country.

I supply for the RECORD a copy of my letter to President Carter:

WASHINGTON, D.C.,
November 27, 1979.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The takeover of the U.S. Embassy in Iran is a violation of international law, an infringement upon United States sovereignty, and a threat to our nation's security. In recent days, the Ayatollah Khomeini has sounded an increasingly martial note. He has been quoted as saying that a "state of war" exists between the United States and Iran, and he has called upon his country to get military training and take up arms.

In light of this situation, it seems clear that we should terminate immediately all participation by Iranian personnel in United States programs of military training. Frankly, it concerns me very much that we are giving our excellent military training to members of the Iranian Armed Services, who may some day employ that training against the interests of the United States.

In addition, it has come to my attention that there are a large number of Iranian students enrolled in ROTC programs at various U.S. colleges and universities. This is a matter of some urgency, and I urge you, through the Department of Defense, to review the participation of Iranian students in ROTC programs. If this participation is not in the best interests of the United States, it too should be terminated immediately. I ask you to consider the possibility of whether we are training possible future adversaries. I also ask you to take into consideration the issue: where does the loyalty of these students lie?

Please let me assure you of my support for your efforts to bring about the safe release of all American hostages held in Iran, and a peaceful resolution of this crisis.

Yours truly,

IKE SKELTON,
Member of Congress.

DEWEY JACKSON SHORT

Mr. ICHORD. Mr. Speaker, all of us who knew him are joined today in mourning at the recent death of one of the most distinguished former Members of this body, the redoubtable Dewey Jackson Short, born in Galena, Mo., on April 7, 1898.

This great statesman and educator, known as the "silver-tongued orator of the Ozarks," served in the U.S. Congress from 1929–31 and from 1935–57 and was Assistant Secretary of the U.S. Army from 1957–61.

Dewey Jackson Short was a brilliant and learned man, a student of the classics who could recite Shakespearean dramas from memory, a professor of ethics, psychology, and political philosophy who attended Harvard, Heidelberg, and Oxford Universities, and a pastor who served the Grace Methodist Episcopal Church in Springfield, Mo. in 1927.

No one was more devoted or indefatigable in his service to his country. Dewey Jackson Short served as a delegate to the Inter-parliamentary Union at Oslo, Norway in 1939 and at Cairo, Egypt, in 1947; congressional delegate to inspect atrocity camps in Germany in 1945; alternate delegate to the signing of the United States-Japanese Security Pact in 1951; president emeritus, National Rivers and Harbors Congress; delegate to the Republican National Convention in 1932; recipient of 108 votes for the Vice Presidential nomination at the Republican National Convention in 1940.

During the First World War, former Congressman Short served in the infantry and then graduated from Baker University in 1919 and from Boston University in 1922. He taught at Southwestern College in Winfield, Kans., from 1923 through 1924 and from 1926 through 1928.

All Missourians are deeply grateful for Dewey Jackson Short's superb contributions to our State and national lives and I am deeply grateful for his friendship and the counsel he gave me over the years. His works and memory are a cornerstone of America's 20th-century heritage.

PRESIDENT SIGNS LOW-INCOME ENERGY ASSISTANCE ACT

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I just returned from a most important event—the President's signing of the $1.35 billion Low-Income Energy Assistance Act of 1979.

The signing of this crucial measure into public law culminated an extraordinary legislative effort involving the full cooperation of the House, Senate, Secretary of HEW, and of course, the President.

With this legislation, we have protected older Americans, and the poor from the dreaded dilemma of choosing between heating and eating this winter.

President Carter had preferred, as I did, that the windfall profit tax pay for the low-income energy assistance program. However, in an act of statesmanship, the President recognized the urgency of the situation and chose to sign this bill without final resolution of the windfall profit tax issue.

By enacting this measure, we have averted a short-term crisis. However, at the same time, this situation has focused our attention on the real problem—this Nation's dangerous reliance on foreign energy sources.

We must be as aggressive in seeking energy independence for the future as we were in providing emergency assistance this winter.

The elderly and poor of this Nation should be grateful to the President for his exemplary leadership in addressing their needs.

☐ 1230

ASSISTANCE TO CAMBODIA

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, future generations will judge us not only by our actions in times of great prosperity but by our response to adversity and to the suffering of our fellow human beings.

The savagery of events in Cambodia has troubled the hearts of all Americans. Our colleagues in the Congresswoman's Caucus have undertaken a mission of mercy to that troubled country and have begun the process of opening the Cambodian borders to the offered assistance of a concerned world.

Hundreds of private citizens, such as Sister Joan Gared from my hometown of Chisholm, Minn., have volunteered their services in personal missions of mercy to relieve the suffering of the Cambodian people.

As Americans, we are troubled and angered by the events in Iran. The America which rejects the brutality of the violation of an embassy and government sanction of kidnaping is the America which must continue to lead world relief efforts for the starving people of Cambodia.

Let us persevere and renew our determination to aid this stricken nation.

SUPPORTING THE PRESIDENT ON THE SUBJECT OF IRAN

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, I take this minute merely to assure the hoodlums, anarchists, or whatever you may want to call them, students, perhaps who are holding the American hostages in Iran, that there is only one elected official who speaks for the American people on international affairs. There is but one elected American official who is elected by Americans all across this country. The rest of us are elected by a few in a small area. I would not want those students to think that anyone else is speaking for the American people. The President is speaking for the American people. He is doing the negotiating and he is making those determinations with the support of 99 percent of all Americans.

THE COMING WINDFALL PROFIT TAX CONFERENCE

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I am concerned about the situation which appears to be developing with respect to the so-called windfall profit tax. Either by leadership planning or by failure of planning, we are likely to find ourselves in a position where we will be going to conference with the other body on this measure, with the joyous pressures of Christmas distracting us, and without a House position on many of the provisions which will be included in the Senate version of the bill.

Months ago we passed a bare excise tax on the various types of oil. We expected later to come back with a separate measure which would establish the division of the proceeds of this tax, possibly including appropriate tax credits to encourage energy conservation. The Senate is sweeping all such provisions into one bill.

A deliberate conference might give the House adequate time in which to work its will with respect to such important proposals, even though no advance work were done on them beforehand; but the role of the House in initiating tax legislation has been substantially subverted if we allow ourselves to take up a much wider bill than we sent the Senate during the last few days of the preholiday season. Do we allow this sort of thing to happen because we have no competence ourselves, or because our leaders lack confidence in us, or because we want to give a larger role to the administration in negotiating the final result?

The last time this happened, during the 1978 Tax Reform Act, the pressure of time was so great and so many issues were unresolved that the conferees had to be kept apart, with separate rooms for each set of conferees, for fear someone would make a speech and delay the decision; and there was no true negotiation between the Houses. I do not want to see us get into such a frustrating condition again, because I want a prepared and instructed House membership to have its full impact on the ultimate legislation.

PROMPT ACTION BY THE UNITED NATIONS ON THE IRANIAN SITUATION

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I was pleased that the United Nations has agreed to consider the Iranian situation. I would hope that they would do so promptly.

As much as we are all appalled at the tragedy that occurred in the relationship between our country and Iran, it is much more than a bilateral problem.

What has occurred in Tehran goes to the very heart of the principles of diplomacy.

Today it is our Embassy that is occupied and Americans who are held prisoners. Tomorrow, it could be someone else's problem.

This is the sort of worldwide calamity that the United Nations was created to resolve. If it is to serve any useful purpose on the world scene, if the U.N. is to be anything more than a debating society, it has an obligation to act, and act promptly and forcefully, to resolve this crisis and in doing so set clear guidelines for future diplomatic conduct between nations.

HOLDING DOWN FEDERAL SPENDING

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I would like to commend the leadership on its efforts to bring up for a vote legislation that will hold down the amount of Federal spending.

Federal spending has been increasing enormously in the past decade and it is the responsibility of Congress to do something about it. More and more people across the country are becoming concerned about governmental spending and the rising amount of the Federal debt. We are all aware of the remedy, called proposition 13, which the voters of California so enthusiastically passed to halt the State's governmental spending.

I am pleased to be a cosponsor of this current legislation, which would limit Federal spending to a fixed percentage of gross national product, 21 percent for the next fiscal year and 20 percent thereafter. In addition, I am pleased by the provisions which have as congressional goals to cut taxes by fiscal year 1982 and to balance the Federal budget.

They are all excellent ideas and I support them. The Congress has a responsibility to the American people to live within its means and any proposal to bring about that result deserves our utmost attention.

MEXICO CAN HELP REPLACE IRANIAN OIL

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the Director of Mexico's National Oil Company, PEMEX, has publicly announced and made known to U.S. officials that Mexican oil production will reach its 1982 goal of 2.25 million barrels a day 2 years early—by next month.

PEMEX Director Jorge Diaz Serrano has also stated that Mexico's current oil production is sufficient to help the United States replace the Iranian supply of 700,000 barrels per day, if our Government and Mexico can reach a suitable agreement.

Mexico is already exporting 650,000 barrels a day to the United States, Israel, and Spain.

PEMEX officials are certain that they will soon find another giant oil deposit with more than 10 billion barrels of proven reserves in the Gulf of Mexico.

Mexico could become a more stable and reliable international supplier of oil very soon, if given proper encouragement by our Government.

The current situation in Iran demands that the President do everything possible to arrange oil export agreements with Mexico.

I hope all my colleagues in the Congress will join me in urging the President to do so without delay.

HON. CHARLES E. POTTER

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, a former colleague and friend of many here in this House, Charles E. Potter, passed away the day after Thanksgiving, Friday, November 23. Charles was a Member of the House from 1947, when he won a special election in the 11th District of Michigan, until 1953, when he took his seat in the Senate of the United States, having won the seat formerly held by Senator Arthur Vandenberg.

During Charley's first year in the House, the Chowder and Marching Society was formed, and he was a founding member. Jerry Ford was taken into the group the following year after the 1948 election when he first came to Washington to represent the Fifth District of Michigan.

In those early days, the House Un-American Activities Committee presented a remarkable opportunity for public notice, and Charley was appointed to that committee. From this activity, his name and reputation became statewide and contributed considerably to his chances to capture the Senate seat in 1952.

Charley was also well known for his campaign against the lamprey, that predator which divested the Great Lakes of its fine sport and commercial fish. There was always one of the ugly little creatures pickled and in a glass jar in evidence in his office to remind all visitors of the war he was waging against the critter. One day the jar toppled from the shelf and sprawled the thing on the floor to the consternation of all present.

Everyone knew Charley Potter, the gutsy veteran who walked with two canes. He was like the bumblebee which aerodynamically cannot fly, but since no one has told the bumblebee, he goes ahead and flies anyhow. Charley was not supposed to walk either, but he went ahead and did it. In later years, Charley had to give up his canes for a three-wheeled, electrically powered cart called an Amigo. He could be a menace if you did not see him coming. At one local restaurant to which he repaired often for lunch, he was referred to as "Ironsides."

It was not Charley's accomplishments as a legislator, and later as a legislative consultant, for which he will be remembered by those of us in Congress who knew him. He was a towering monument to determination. His affability was never quenched by additional physical or personal problems. He did not complain of his lot, and when things were bad, he made light of them. And over the years, he had more afflictions than most of us would find the strength to endure.

Living on the Eastern Shore of Maryland during the last few years in a beautiful spot called Wyemoor, Charley became the country gentleman and genial host. No one would turn down an invitation to visit Charley and Betty Potter.

One could go on for hours reciting anecdotes about the man and the long and useful life he led on borrowed time, starting from a January night in 1944 when a German landmine ripped his legs to shreds. He knew for the rest of his life that he was enjoying a reprieve from resting in one of our overseas cemeteries which, as vice chairman of the American Battle Monuments Commission, he helped oversee for many, many years.

He once said that he would never let his personal security be a factor in important decisions. And he did not. The likes of Charley Potter will not be seen hereabouts again, and the place and the world will be the poorer for it. Those of us who knew Charles E. Potter, hero, Congressman, Senator, and Washington personality, will miss him, and we extend our deepest sympathy to his widow Betty, his daughter Wendy, and his sister Frances.

HIGH INTEREST RATES AFFECTING SMALL BUSINESS

(Mrs. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SNOWE. Mr. Speaker, I would like to take this time to call my colleagues' attention to the serious problems being faced by many small businesses as a result of extraordinarily high interest rates.

During the Thanksgiving recess, I had an opportunity to talk with an automobile dealer in my district who has been in business for 50 years. He related to me that he and other small business people are faced with the prospect of closing their doors in the near future unless some form of relief is in sight.

This is not a problem which the Congress can put aside until next year. Many of these small businesses may not be around to see next year. With the prime interest rate now in the range of 15½ to 15¾ percent, businesses with large inventories or those who rely on credit to pay costs until accounts are received will not be able to sustain themselves because they cannot raise prices enough to pay for the increased cost of credit.

We all realize that something must be done to curb inflation and certainly we all must contribute to the fight. But some mechanism must be found to protect small businesses from bearing a disproportionate share of the burden. Therefore, as a member of the Small Business Committee I urge the leadership of that committee to hold hearings on this problem before the adjournment of the 1st session of the 96th Congress.

PROPOSED INCREASES IN DEFENSE SPENDING

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, apparently the administration, in response to Senator NUNN and his allies, has schizophrenic plans to raise the defense budget a real 5 percent a year for the next half decade, while working hard to get the SALT treaty passed. In 1980 alone, with 1979's inflation rate, that is at least $25 billion more. Combined with SALT, this means less defense and more spending, when it could be just the opposite.

We ignore defensive weapons, negotiate away our technological advantages, and give more billions to the bureaucrats to finance the Irans, the Nicaraguas, and the South Vietnams of this world.

More than 50 percent of the defense budget is spent on the defense of other countries, including ones like West Germany and Japan that have more money and stronger economies than we do.

The Carter-Nunn plan would give us less defense and more inflation and taxes. Let us cut overall Pentagon spending, develop missile and laser ABM's on a crash basis, stop pouring billions down foreign ratholes, end subsidies to ungrateful "allies," defeat SALT, and devote a leaner DOD budget to defending America and Americans. That is one way we can have a much stronger defense, and less spending, which are exactly what we need for the 1980's.

☐ 1240

HEW HAS DEFEATED ITS OWN GOALS

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, in its zeal to integrate the Nation's public schools through mandatory busing, HEW has ironically defeated its own goals. Moreover, it has done so at great expense, not only in dollars but in violence and tragedy.

Six years after court-ordered busing began in Prince Georges County to eliminate predominantly black schools, more schools than ever—almost half—are more than 50 percent black.

In 1974, Boston was ordered to implement a desegregation plan involving the busing of almost half the city's students. Today, black students make up 45 percent of Boston's public school enrollment, violence is a daily occurrence, and a 15-year-old boy lies paralyzed from the neck down as the result of a sniper's bullet.

Not content with these bitter "victories," HEW has now urged the Justice Department to file suit against the city of Chicago for its failure to develop a busing plan. Since the public school population is already only 20 percent white, this is clearly expecting the impossible.

An obsession with facts, figures, and racial quotas is counterproductive to the goals of integration, education, and harmony. There is now more segregation between inner cities and suburbs than ever before, and certainly there is far more bitterness. It is my hope that the Justice Department will realize that equal rights and sound education are goals which deserve more than an inflexible commitment to numbers, and will thus deny HEW's appeal for a suit.

DEATH OF THE HONORABLE DEWEY SHORT, AMERICA LOSES A DISTINGUISHED SON

(Mr. TAYLOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAYLOR. Mr. Speaker, it is with deep regret that I inform my colleagues of the death of the Honorable Dewey Jackson Short, a former Member of this body, who passed away at his Washington, D.C., home on November 19, 1979. He was buried in the family plot on a hill overlooking his beloved hometown of Galena, Mo., on Saturday, November 24.

Dewey, who was my close personal friend and political mentor, gave 24 years of distinguished service to his district, State, and Nation as a Member of the House of Representatives, culminating his career as the chairman of the Committee on Armed Services during the 1953–54 session. He was later named by President Eisenhower to be an Assistant Secretary of the Army, a post he held from 1957 until his retirement in 1961.

Dewey was known far and wide as the silver-tongued orator of the Ozarks. As a young man growing up in southwest Missouri my father used to take me to hear him speak on many occasions. He was a spellbinder. When the word went out that Dewey planned to address the House, the gallery was always filled. He never disappointed his listeners.

Springing from humble surroundings in Stone County, Mo., Dewey was extensively educated at Baker University, Boston University, Harvard, the University of Berlin, Heidelberg University, and Oxford. However, he never lost his love for the Ozark hills and the people of rural Missouri who loved him in return.

In a recent interview, Dewey stated that he always kept two books on his desk, the Bible and a dictionary, adding that he read both every day.

He leaves his wife Helen and two sisters, Fan Vineyard of the home in Galena, Mo., and Helen Pauley, a former administrative assistant to former Congressman O. C. Fisher of Texas. His nephew, Bill Short, recently retired as a staff member of the Armed Service Committee.

I am sure that those of you who knew Dewey well will miss his sharp wit, his gifted oratory, and his great intellect.

America has indeed lost one of her most brilliant and dedicated sons.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I would be happy to yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Missouri. In the passing of Dewey Short, the country has lost a truly great citizen. We have lost a truly great former colleague. As the gentleman from Missouri has said, he was not only one of the most capable, but one of the most popular Members of the House. We will all miss him.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I would be happy to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, let me commend the gentleman for bringing this matter up at this time. I would like to say that while in the last 15 years I have been a member of the Armed Services Committee, it was not my pleasure to serve it under Dewey, because he retired shortly before; but he has come back many times and made many speeches, including the dedication of the portrait I believe of the last two chairmen of the Committee on Armed Services. I got to know him and I can say that he is one of the most interesting and colorful people I have ever known. Certainly his passing is a loss to the country.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I wish to associate myself with the gentleman's most appropriate remarks regarding the late Congressman Dewey Short. He was truly a fine and outstanding Missourian and a fine and outstanding American. We in Missouri are proud that he was one of us. I compliment the gentleman on his statement.

Mr. TAYLOR. Mr. Speaker, I thank my colleague, the gentleman from Missouri.

"KARMA"

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, a word about the Shah. Rudyard Kipling gave us the timeworn observation that "East is east and west is west and never the twain shall meet," but I find that statement misleading if not totally untrue. The eternal verities hold true for every culture and every citizen throughout this world. Although we should not negotiate while a gun is held at the head of any American citizen anywhere in the world, I think we should recognize the grievous flaws of the deposed royalist, the Shah, and recall that the eastern word, the expression "Karma" is also understood in our Nation by the folksy saying, "The chickens shall come home to roost." The Shah's disregard for human life came back to haunt him.

I would like to remind all my colleagues why I have spent my 3 years here in Congress criticizing the Shah in or out of power. We all remember the fabulous intelligence breakthrough when a young Soviet lieutenant named Victor Blenko flew a Mig-25 to Japan, and asked for and got asylum in the United States. The date was September 6, 1976. Only 3 weeks later, actually 19 days later, on September 25, 1976, another young Soviet officer, also, a Mig pilot, also a young lieutenant named Valenin Zasimov, flew a mail plane, alone, to the free world. Unfortunately, he chose the wrong country in the so-called free world. He flew to Iran. It cost him his life and his family has been imprisoned in Soviet Gulag concentration camps ever since. The Shah rebuffed all pleas from the United Nations, from Lt. Victor Blenko, from the Pope, and from dozens of other religious leaders and from the President of the United States and our State Department and from Sakharov and other Helsinki Watchdog Committee members, literally from thousands of people around the world who had been fortunate enough to have sought asylum from understanding governments and leaders on every continent. They all begged the Imperial Shah for mercy. The Shah's answer to the free world's pleas to save the life of young Lieutenant Zasimov, "Mind your own business." The emperor of the now defunct Peacock throne on October 25, 1976, had the Soviet officer, after a degrading month of keeping him in chains in an Iranian prison cell, dragged across the Soviet border to certain death and probable torture. I have confirmed on several occasions from our intelligence forces both here and behind the Iron Curtain that young Valenin Zasimov was swiftly executed, with threats to eventually "get" Lt. Blenko expressed on the day of Valenin's murder. And the Shah? He got his farm tractors from Russia. Oh, yes, he got his "Karma" 2 years later, also.

□ 1250

WORMING ON RESPONSIBILITY

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FINDLEY. Mr. Speaker, there are obviously valid questions about why the Carter administration did not take special precautions to assure the security of U.S. Embassy personnel in Tehran prior to the Shah's arrival in New York for medical treatment.

I hope that the administration does not try to avoid answering these questions by blaming former Secretary of State Henry Kissinger for the current tense situation and the plight of the American hostages. Dr. Kissinger and, indeed, others may well have recommended that the United States admit the Shah temporarily for humanitarian reasons. In fact, the administration probably heard recommendations which were both for and against admitting the Shah. But ultimately, it was the Carter administration's responsibility to make a decision on the Shah. That decision and responsibility remain President Carter's. It is unseemly and unwarranted for his administration to attempt to worm out of it now. To do so is no favor to the President. When the administration tries to blame Dr. Kissinger for the decision to admit the Shah the administration makes the President himself look like a nullity—a weak, wishy-washy figure easily pushed around by outsiders. Such statements and attitudes provide one more example of why world perception of U.S. will and determination has sunk so low in the past few years.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER. The Chair recognizes the gentleman from California (Mr. DELLUMS), chairman of the Committee on the District of Columbia.

EXTEND BORROWING AUTHORITY FOR THE DISTRICT OF COLUMBIA

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 5537) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and ask unanimous consent that it be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 723(a) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–241 note) is amended by striking out "October 1, 1979" in the first sentence and inserting in lieu thereof "October 1, 1980, or upon enactment of the fiscal year 1981 appropriation Act for the District of Columbia government, whichever is later".

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks in explanation of the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of H.R. 5537 is to extend for 1 additional year the authorization for the District of Columbia to borrow from the U.S. Treasury such sums as are required to complete capital projects for which construction and construction services funds have been authorized or appropriated by Congress prior to October 1, 1979.

Ever since 1950, the government of the District of Columbia has borrowed from the U.S. Treasury to construct buildings and buy capital assets. This bill allows that practice to continue for 1 more year.

In the Home Rule Act, Congress gave the city authority to go into the private credit markets and float its municipal bonds for capital projects. That authority has not been used by the city, largely because Congress has urged the city to adopt a new financial management system and have its books audited before trying to sell its bonds on the market. The Commission, which Congress created to help set the city's finances in order, reports that the first part of the city's new management system went into effect on the first of this month, and, that a complete audit of the city's books will be completed by next year at this time.

In the meantime, the city will need the authority of this bill to finance its current capital projects. Congress has approved these projects in the fiscal year 1980 Appropriations Act for the District of Columbia which cleared Congress on October 22, 1979 and has been signed into law by the President. These projects, which will be financed under this bill, H.R. 5537, include the District's share of metrorail construction; air quality control equipment; D.C. Fire Department pumping engines; street, sewer, and water improvements; and other capital improvements set out in the Appropriations Committee report and conference report which were passed by the House in recent weeks. The total amount of the capital improvements, stated in the Appropriations conference report, is $157,531,300 and these can only proceed if the bill before the House is passed.

Similarly, the city will need this authority to finance projects which are now in the budgeting process and will be approved by Congress in the fiscal year 1981 appropriation bill for the District of Columbia. After that, it is expected that future borrowing for capital improvements will be on the bond market just as in other cities.

The city has an excellent record for repaying its loans from the Treasury Department. And I would suggest that interested Members would take note that on page 5 of the committee report, accompanying the bill before the House, there is a record of the experience of the city in borrowing from the Treasury and a schedule of the payments that will have to be made during the coming years.

Mr. McKINNEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, H.R. 5537 is a very simple bill. The issue before us concerns a simple extension of the borrowing authority of the District of Columbia allowing it to continue to borrow funds from the U.S. Treasury in order to finance capital improvement projects. This issue is noncontroversial, it will cost the Federal Government nothing, and hopefully, we will not have to bring further extension legislation before the Congress next year.

The legislation before us today might actually be referred to as "son of home rule." When the 93d Congress passed the original D.C. Self-Government and Governmental Reorganization Act (home rule), we terminated the District's permanent authority to borrow funds from the U.S. Treasury to finance capital improvement projects and authorized the District to issue tax-exempt general obligation bonds to finance future capital projects. To cover the period between the time the District entered the bond market, Congress provided interim authority by which the District could continue to borrow from the U.S. Treasury.

The time for the District to enter the bond market happened to coincide with New York City's financial plight in 1974–75 and to assure that the District did not face similar problems in future years, Congress quite properly established the Temporary Commission on Financial Oversight of the District of Columbia. This Commission is overseeing a complete revamping of the District's financial management system, and its work is continuing on schedule. Unfortunately, the Commission's final report is not due until at least next year and that brings us back to the problem we face today, we need an extension of that original authority to borrow from the Treasury to get the moneys most cities acquire through selling bonds.

Mr. Speaker, this is one of those bills where the solution sounds simpler than the problem. Actually that is the case and will probably often be the case until the Congress lifts many of the restrictions it imposed on the District government. Once the District of Columbia government finally gets out from under the "catch 22" umbrella it must live under, it should be able to operate in a manner customarily enjoyed by all of the other large cities in the United States. Until then, I hope that my colleagues will recognize the unique problems of the District and actively support H.R. 5537.

Mr. KAZEN. Mr. Speaker, will the gentleman yield for a question?

Mr. McKINNEY. I am delighted to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, let me ask the gentleman, what interest does the District pay when it borrows from the Federal Treasury?

Mr. McKINNEY. It is the prevailing rate.

Mr. KAZEN. And what is that?

Mr. McKINNEY. I would have to talk to counsel to be certain. It is 14 or 15 percent, I believe.

Mr. KAZEN. That is the interest that they pay the Treasury for the money borrowed under this bill?

Mr. McKINNEY. That would be the interest the city would pay to the Treasury. Bonds would be cheaper, however.

Mr. KAZEN. In other words, it would be comparable to what other cities pay for their borrowed money?

Mr. McKINNEY. Absolutely.

Mr. KAZEN. There is no difference?

Mr. McKINNEY. It is really the same vehicle, except it is through the Treasury.

Mr. BAUMAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I am opposed to this legislation because I think it is an easy out for the District of Columbia. It is one that Congress has given them now for several years.

The gentleman from Connecticut (Mr. McKinney) referred to the need for complete home rule, and the gentleman indicates that the need for this legislation is in part due to the Congress of the United States because of the action of the other body in disapproving a proposed District of Columbia bond issue several years ago.

The truth of the matter is that the reason the District of Columbia does not issue bonds on the public market is because nobody wants to buy its bonds. The fiscal house of the District is in constant chaos. It has in fact one of the highest per capita debts in the United States, and home rule for the Federal City has proven to be disastrous fiscally for the taxpayers of the District and the United States. This bill perpetuates the fiscal disaster for the citizens of the United States who are required to bail out the District for these capital improvements.

Mr. Speaker, I urge defeat of this legislation so the District will have to live with the economic realities that exist for other cities and so that they will not be given a special status that this borrowing authority grants them for 1 more year.

My experience in 6 years here is that the District avails itself of the Federal Treasury for almost every project it thinks it needs, including such white elephants as the Convention Center that will undoubtedly go broke before it is even built.

Mr. Speaker, I suspect that our perpetuation of this easy money policy for the District is nowhere better embodied than in this legislation.

1300

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to my friend and champion of the District of Columbia, the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, it grieves me to disagree with my fellow sponsor of many District bills, but I would suggest to the gentleman that we are not doing the District any favor.

Let us just look at a couple of things. The District cannot go into the bond market until it has got a set of books. When we set up the Audit Commission we set it up for two reasons: One was that we did not want the District to end up like New York City did, with no books. I would suggest to the gentleman that the reason that there were not any books for the District of Columbia was because this body, the other one down the hall, and the White House ran the District of Columbia. And everyone knows how well we keep books here. I think the gentleman commented earlier on our budget expertise this year.

Mr. BAUMAN. Mr. Speaker, if I may reclaim my time at this point, at least Congress has a budget process and we know what our deficit and what our revenues are. The District apparently does not even have that information nor a process to obtain it.

The gentleman refers to this commission. We have had to extend that for several years now. It is way behind in its report and they do not even seem able to carry out the simple task of getting their house in order fiscally and putting their books together.

Mr. McKINNEY. If the gentleman will yield further, this is an outside group that is doing this. They are highly respected. They will be finished next year. I would suggest the District of Columbia probably will be one of the only large cities with a good bookkeeping system.

Mr. BAUMAN. It may also be one of the only large cities with its own State Department. I read in the press now that Mayor Barry is planning an International Relations Office so that he can apparently pursue his activities around the world, as we have heard in recent days other elected officials sometimes do.

Mr. McKINNEY. We seem to have our own State Department in the House and the Senate.

Mr. BAUMAN. I do not know which is worse or better.

Mr. McKINNEY. But I do want to make one very clear point. We are not doing any favor by letting the city go to the Treasury. They are paying far more for the money they borrow from the Treasury than they would if they were to issue bonds on the market. It has never been proven that their bonds would not sell. In fact, this Member has been told many times by bond counselors that they would sell, and that if the city of Washington would come into the market with a clearly defined budgetary process, that would be the case. And that will be the case. I, for one, will take a great deal of pride in the fact that I think that the chairman and myself have forced the issue of preaccounting, preauditing, and an economically viable system as well as I did when I was helped, I am sure, by the gentleman from Maryland, in passing New York City's legislation in this body.

Mr. BAUMAN. The gentleman is consistent in his support of losing causes fiscally.

I am not sure that anybody who has money in his mattress ought to take it out and invest it in any D.C. municipal bonds. I do not know what Standard & Poor's rating is for D.C. bonds, or if there even is one, but it has got to be far more poor than standard.

At this point I include an article from the Baltimore Sun of November 20, 1979, which places the District of Columbia's affairs in an interesting perspective.

[From the Baltimore Sun, Nov. 20, 1979]

THE OTHER WASHINGTON

The largest single item in the budget is a $453 million outlay for the Department of Human Resources and its 200,000 clients. The payroll for DHR's staff of 6,330 accounts for 47 cents of every dollar spent by the department; the rest is dispersed to DHR clients in direct payments. Such high administrative costs defy the best congressional efforts to curb them. In 1972 the welfare fraud rate for D.C. had reached 40 percent, the highest in the nation. The chairman of the Senate D.C. Appropriations Committee, Patrick Leahy of Vermont, authorized a special allocation for an additional 45 permanent investigators to stem the flow of fraudulent payments. Today, 27 such positions have been filled; each year the city simply shifts funds for the remaining positions to other projects, despite a $457,000 monthly recovery rate from the limited investigations. The latest six-month Department of Health, Education, and Welfare review of D.C.'s welfare payments revealed overpayment errors totaling $8 million.

Health care in the city fares no better. The tuberculosis rate for the District is second only to Newark's; infant mortality is the highest in the nation. In 1978, live births totaled 9,372. Of these, 5,186 were out of wedlock. Abortions, which sparked brief congressional interest, totaled 12,718; of these, 5,692 were city-financed. These statistics obtain despite an outflow of hundreds of millions of dollars on what DHR describes as health care, family programs and social services. On the other hand, the agency admits that 35 elementary and six secondary public schools have no nursing services whatsoever. The agency is under multiple court orders because of its inability to meet statutory obligations.

The District's public school system represents the second largest single budget item. In 1979, it spent $297 million on an enrollment of 104,200 students, or $2,356 per pupil. Baltimore spent $1,865 per pupil in 1978. None of the fewer than 5,000 seniors who will graduate next spring will be required to pass any standard city or national test in any given subject to receive a diploma. Most will be lucky if they can read a cereal box label.

Yet salaries of the city's 6,114 teachers and 580 administrators rank third among the nation's 14 largest cities. (Baltimore's salaries rank 11th.) Criticism of the system's high expenditures and low quality is labeled racism in this city where the school population is 95 percent black and the school administrators, teachers and school board members are black. D.C.'s population is 502,000 blacks; 174,000 whites.

The excesses of the school system and DHR reflect a fair picture of the entire city government. The House District Committee estimates the District employs 146 persons for every 100 persons employed by the average state, county or city. In March, 1979, D.C. had 48,653 persons on the payroll. The federal government paid the salaries of 8,000 of these. Baltimore, with a population of some 850,000, employs 39,000 municipal workers.

Mayor Marion Barry acknowledges the bloated city payroll reflects the policy of the city as employer of last resort. D.C.'s labor department, for instance, has 14 separate and individual youth programs. "People are hired without skills or training. People are doing the same job, with duplicate programs," he admitted at congressional hearings. The city's Comprehensive Employment and Training Act (CETA) program—a federal program designed for the poor—ranks No. 2 nationally among the states and other jurisdictions in number of staff members per capita and 50th in its success in placing job applicants.

As for the unemployed, D.C. has established one of the most generous compensation benefit programs in the nation. Beneficiaries can voluntarily quit their jobs and receive fully two-thirds of their pay up to a maximum of $172 a week for as long as 34 weeks, unlike 26 weeks in most states; and an "extended benefits" program can stretch payments to 39 weeks. (Among people filing claims for unemployment in 1978 were 1,104 people who were employed by the city government at the time their claims were filed.)

The city's new director of Housing and Community Development was hired away from Houston, (population two and a half times the District's) where he had a staff of 650. Here he has 1,550 people on his staff and an additional half million dollars was put in the 1980 budget to hire 262 more HCD employees.

What are the chances for change? Mayor Barry was elected a year ago after a decade of Walter Washington's administration. Mr. Barry spent most of the 1970s either as school board president or as a City Council member. Neither the quality of the schools nor the services for which the council is responsible improved noticeably during that time.

As things as basic as the District's tuberculosis control program come under repeated criticism for shortcomings and the Congress annually recommends that the city government pare its bloated payroll and establish competency standards for hiring, what can Mr. Barry be expected to do?

So far this year, Mayor Barry has made known his intention to establish an International African Affairs office and his desire to bring the Orioles to Washington.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

The SPEAKER. Without objection, the gentleman from California (Mr. DELLUMS) is recognized for 5 minutes.

There was no objection.

Mr. DELLUMS. Mr. Speaker, I would like to respond, very briefly, to my colleague, the distinguished gentleman from Maryland. I appreciate the diligence with which he pursues his point of view, but I would simply point out that, No. 1, there is no cost to the Federal Government with respect to this legislation. No. 2, the District of Columbia does indeed have to pay back these loans, so it is not a gift. And their record of repayment is exemplary.

Finally, Mr. Speaker, as I indicated in my opening remarks, the first part of the city's new budget management system went into effect the first part of this month. It is our belief that by this time next year the entire auditing process and the fiscal management system will indeed be in place.

While I appreciate the comment of my colleague, the gentleman from Maryland, with respect to whether or not bonds can be floated in the District of Columbia, I think my colleague will agree with me, that to some extent, that this is a rather subjective point of view. We passed a very important piece of legislation in recent weeks. Legislation that is now signed into law by the President. A law that would indeed remove an important cloud that hung over the District of Columbia. One that dealt with the over $2 billion unfunded liability in the pension fund that hung as a very heavy cloud over the District's financial system situation. We passed a $1.3-billion piece of legislation to facilitate that situation. I would think that when people, looking at the District of Columbia as a potential bond market, look at the action of the Congress, action that my distinguished colleague, the gentleman from Maryland, joined, along with other Members, in passing, those people would indeed look favorably upon it.

So I would suggest to my colleague that this is not a gift to the District of Columbia; that over the next 12 months we are simply providing them with the necessary mechanism to get on with the necessary business of the everyday business of doing the job of trying to run a city. As we all know, the District of Columbia only in recent years has had the opportunity to engage in the process of home rule. They are now trying to deal with years and years and decades of the U.S. Congress, as well as the President of the United States, dabbling in their business.

It would seem to me that we ought to not now be a thorn in their side nor a rock in the road, and I would think that this particular piece of legislation ought to be passed.

Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 99, not voting 51, as follows:

[Roll No. 679]

YEAS—283

Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
Bailey
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Dicks
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fuqua
Garcia
Gaydos
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Holt
Holtzman
Howard
Hubbard
Hughes
Hutto
Hyde
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lee
Lehman
Leland
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McDade
McHugh
McKay
McKinney
Maguire
Marks
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Zablocki

NAYS—99

Abdnor
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Broomfield
Broyhill
Butler
Campbell
Carney
Cheney
Clausen
Collins, Tex.
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Derwinski
Devine
Dingell
Dornan
English
Evans, Ga.
Evans, Ind.
Fountain
Gibbons
Gilman
Grassley
Grisham
Hall, Tex.
Hammerschmidt
Hance
Harsha
Hollenbeck
Hopkins
Huckaby
Ichord
Jacobs
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Lagomarsino
Latta
Leath, Tex.
Lent
Lewis
Loeffler
Lott
Lujan
Lungren
McEwen
Madigan
Markey
Marriott
Mathis
Miller, Ohio
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Paul
Petri
Quayle
Quillen
Ritter
Roberts
Robinson
Roth
Rousselot
Rudd
Runnels
Satterfield
Sebelius
Shumway
Shuster
Snyder
Solomon
Spence
Steed
Stenholm
Stump
Symms
Taylor
Thomas
Trible
Walker
Watkins
White
Whittaker
Wilson, Bob
Young, Alaska
Young, Fla.

NOT VOTING—51

Akaka
Alexander
Anderson, Ill.
Anthony
Applegate
AuCoin
Baldus
Bethune
Bolling
Bonker
Cotter
Crane, Philip
Dickinson
Diggs
Dodd
Edwards, Okla.
Flood
Frenzel
Frost
Gephardt
Giaimo
Gramm
Hall, Ohio
Hansen
Heftel
Horton
Ireland
Jeffords
Jenrette
Johnson, Colo.
Kramer
Leach, Iowa
McCormack
McDonald
Montgomery
Mottl
Nolan
O'Brien
Patterson
Pepper
Railsback
Rosenthal
Simon
Smith, Nebr.
Stangeland
Treen
Ullman
Winn
Wydler
Young, Mo.
Zeferetti

☐ 1320

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Anderson of Illinois.

Mr. Akaka with Mr. Frenzel.

Mr. Cotter with Mr. O'Brien.

Mr. Dodd with Mr. Wydler.

Mr. Giaimo with Mr. Kramer.

Mr. Jenrette with Mr. Dickinson.

Mr. McCormack with Mr. Horton.

Mr. Montgomery with Mrs. Smith of Nebraska.

Mr. Rosenthal with Mr. Winn.

Mr. Ullman with Mr. Anthony.

Mr. Young of Missouri with Mr. Bethune.

Mr. Pepper with Mr. Philip M. Crane.

Mr. Mottl with Mr. Edwards of Oklahoma.

Mr. Applegate with Mr. Jeffords.

Mr. Baldus with Mr. Johnson of Colorado.

Mr. Alexander with Mr. Leach of Louisiana.

Mr. AuCoin with Mr. Stangeland.

Mr. Diggs with Mr. Bonker.

Mr. Frost with Mr. Gephardt.

Mr. Heftel with Mr. Gramm.

Mr. Nolan with Mr. Hall of Ohio.

Mr. Patterson with Mr. Hansen.

Mr. Ireland with Mr. McDonald.

Mr. Simon with Mr. Railsback.

Mr. BEARD of Rhode Island changed his vote from "nay" to "yea."

Mr. MARRIOTT changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. Kazen). Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1308, PRIORITY ENERGY PROJECT ACT OF 1979

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1308) to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and, without objection, appoints the following conferees: Messrs. Staggers, Dingell, Ottinger, Sharp, Moffett, Satterfield, Wirth, Gramm, Broyhill, Brown of Ohio, Loeffler, Moorhead of California, Udall, Carr, Seiberling, Santini, Clausen, and Lujan.

There was no objection.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. Dellums), chairman of the Committee on the District of Columbia.

CIVIL SUITS FOR VIOLATIONS OF CIVIL RIGHTS

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 3343) to permit civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) is amended—

(1) by inserting "or the District of Columbia" after "any State or Territory"; and

(2) by adding at the end thereof the following new sentence: "For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.".

SEC. 2. Section 1343 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district courts"; and

(2) by adding at the end thereof the following new subsection:

"(b) For purposes of this section—

"(1) the District of Columbia shall be considered to be a State; and

"(2) any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.".

SEC. 3. The amendments made by this Act shall apply with respect to any deprivation of rights, privileges, or immunities secured by the Constitution and laws occurring after the date of the enactment of this Act.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. EDWARDS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Alabama.

(By unanimous consent Mr. EDWARDS of Alabama was allowed to speak out of order.)

EXPRESSION OF SYMPATHY FOR FAMILIES OF CONGRESSIONAL STAFF KILLED IN PLANE CRASH

Mr. EDWARDS of Alabama. Mr. Speaker, on returning to Washington after the Thanksgiving holidays I received the unwelcomed news that a member of my staff had been killed in a plane crash in Alabama.

Jack Hines Farish was one of the brightest young men I have known. No job was too big or too small for him because he truly loved and was enthusiastic about what he was doing here in Washington. He was an asset to our office and was loved by all of us. We have lost a good young friend and a loyal and dedicated public servant. We shall miss him greatly.

My wife, Jolane, and the entire office staff join me in extending our deepest sympathy to his mother and father, Mr. and Mrs. Dick Farish of Monroeville, Ala., and his entire family. We pray that the Lord will comfort them with the certain knowledge that they are in the thoughts and prayers of their many friends.

We likewise extend our heartfelt sympathy to the parents and loved ones of David Watson, Louise Tate, and Cathy Stewart. All of these young people exemplify what is good about our country. What a tragedy to lose these who were already involved in making our Nation a better place in which to live.

Mr. DELLUMS. Mr. Speaker, H.R. 3343 as reported by the full Committee on the District of Columbia is being offered as legislation which is necessary in order to give citizens of the District of Columbia rights equal to those of citizens in the States and territories of the United States. It would allow civil suits under the primary Federal civil rights statute against any person who, acting under the authority of the laws of the District of Columbia, deprives another person of his or her statutory or constitutional rights.

Mr. Speaker, H.R. 3343 also assures that Federal courts shall have jurisdiction of section 1983 actions against local officials acting under color of local laws or customs.

Mr. HARRIS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this matter, which is nothing more than perfecting the law with regard to section 1893, was subjected to extensive hearings by our colleague from Kentucky (Mr. MAZZOLI).

This bill, as I say, has been worked on very hard. I would like initially to thank my colleague from Connecticut (Mr. McKINNEY) for the excellent work that he did with regard to this legislation.

In simple terms, Mr. Speaker, we have a law which gives recourse to those whose constitutional rights are invaded by color of law by a local or State government. It applies to everyone. It applies to every State, every locality, every territory, Puerto Rico and Guam included.

□ 1330

The only thing it does not apply to is the District of Columbia. This bill does a very simple and direct thing. It applies this law with regard to protection of constitutional rights to the District of Columbia.

Mr. Speaker, since I have explained the bill, and since we have been interrupted, I would like to yield to the gentleman from Connecticut (Mr. McKINNEY) for any observations he may have with regard to the legislation.

Mr. McKINNEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am sure that we are all aware that the residents of the District of Columbia are presumed to be full citizens of the United States, and that they do indeed share with the residents of the States and territories the duties and obligations of all U.S. citizens, pay Federal income taxes, serve in our Nation's Armed Forces, and are subject to the same Federal laws as all citizens of the United States.

On the other hand, I think all of us must be aware by now that those citizens who do reside within the borders of the District of Columbia are still denied fundamental democratic rights. The basic right to voting representation in Congress and a direct and full say in all of the operations of their own local government are classic examples. However, the deprivations and injustices suffered by the District of Columbia, the Nation's Capital, do not end there.

Another shameful example of the second class citizenship suffered by District of Columbia citizens is before us today. Unlike the problem of full voting rights, however, this particular deprivation and injustice can be easily and speedily corrected. It is for this purpose that I introduced the bill which we are now considering.

H.R. 3343 would amend the applicable section of the United States Code to permit the citizens of the District of Columbia, or any of the constituents of my colleagues who might be so aggrieved upon a visit to the Nation's Capital, to sue in the District's Federal courts for violations of their civil rights. By enacting this bill we thereby accord to all citizens in the District of Columbia this same right and privilege which is presently enjoyed by all of the other citizens of the United States.

Mr. Speaker, this legislation is supported by the parties who would be most affected by it, including the District of Columbia government. It would indeed seem that quick and favorable action on this important and straight-forward legislation would be a foregone conclusion.

● Mr. MAZZOLI. Mr. Speaker, let me first thank my colleague, Representative McKINNEY of Connecticut, the District Committee's ranking minority member, for introducing this important legislation.

Under current law, section 1983 of title 42, United States Code provides the basic remedy for civil suits against persons, States, or territories who abridge the constitutional freedoms of others while acting under color of local law.

In a decision handed down in 1973, the U.S. Supreme Court, in District of Columbia against Carter, held that the District of Columbia was not a State or territory for the purposes of section 1983.

Thus, in this landmark case, a citizen of the District of Columbia, whose rights had been infringed upon by persons acting under the color of local law, was found to have no legal right to redress a grievance under section 1983 of the United States Code. This fundamental right is secured for every citizen of the States and territories, including, I would note, Puerto Rico, but not for citizens of the Nation's Capital.

So the final result is that anyone, whether a District of Columbia resident or visitor to the Capital, who feels that his or her constitutional rights have been denied by the government of the District of Columbia, is without effective remedy.

Section 1983 was designed to allow citizens a neutral Federal forum to hear their complaints against local officials back in the 19th century. It is understandable that Federal lawmakers could not have anticipated the advent of Home Rule in the District of Columbia, and, therefore, had no reason to include the

District of Columbia under the provisions of section 1983. H.R. 3343 is designed to correct this oversight.

Today's bill also amends section 1323 of title 28, United States Code, which gives the Federal district courts exclusive jurisdiction of section 1983 cases, to include cases brought against the District of Columbia government.

At the subcommittee hearing on this bill in July we heard testimony in favor of this legislation from judges, civil rights organizations, and the Justice Department. Even the District of Columbia government favors giving up its exemption from section 1983 liability in order to give local citizens the same rights as Americans everywhere.●

Mr. HARRIS. Mr. Speaker, I do not believe any amendments will be offered to this legislation. It is a perfection of existing law.

Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LAND TITLE RIGHTS FOR LITTLE SISTERS OF THE POOR

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 5645) to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in and to the land comprising the alleys abutting the property described as lot 800, square 751, in the District of Columbia (together with all buildings and improvements on such land) which was conveyed by the Act of December 21, 1893 (28 Stat. 21), is hereby granted to the Little Sisters of the Poor, a nonprofit corporation of the District of Columbia.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, H.R. 5645, as reported by the full Committee on the District of Columbia, is necessary in order that the Federal Government can relinquish a "possible" reversionary interest and thereby clear title to certain alleys conveyed to the Little Sisters of the Poor in 1893.

H.R. 5645 is a technical amendment of an 1893 statute that granted the public alleys on a Northeast Washington lot owned by the Little Sisters of the Poor, to the Sisters, provided that the land remained in charitable use.

The 53d Congress, recognizing the dedicated works of the Sisters at St. Joseph's Home for the Aged and aware of their need to expand, closed the alleys so that the Sisters could increase their nursing facilities for Washington's destitute elderly citizens.

Unfortunately, the Sisters were forced out of their property in 1976 when construction on H Street made the site unsuitable for a nursing home. The Sisters moved before they could find a buyer so that St. Joseph's sat vacant until the new tenant, the Capital Children's Museum, moved in during 1978.

The museum has contracted to purchase the property with a $1.7-million grant from HUD, but because of the cloud on the title created by the 1893 reverter provision, title insurance cannot be obtained and the sale has been delayed.

The actual Federal interest expressed by the 53d Congress was to maintain a charitable use for the property. By releasing the Sisters from that provision we do not allow noncharitable uses because the new purchaser is a charitable institution, prevented by its own charter from selling the property to a noncharitable organization.

Also, the contract between HUD and the museum provides that if the museum were to dissolve, the entire property reverts to the actual recipient of the HUD grant—the District of Columbia.

I urge your favorable consideration of this worthwhile bill.

Mr. McKINNEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, it is a rare occasion, indeed, when Congress has an opportunity to come to the rescue and assist not only one, but two, worthy charitable organizations, and at no monetary cost to the Government.

The congregation of the Little Sisters of the Poor is an international congregation of women religiously dedicated to the apostolate of caring for the aged poor throughout the world. From its humble beginnings in France in 1893, its congregation has grown to more than 4,000 Little Sisters caring for approximately 45,000 elderly men and women on 6 continents.

The Capital Children's Museum, which is also located here in the District, was founded in 1974 by volunteers who believed that the Nation's Capital should have at least one museum with children as the exclusive focus. On the theory that learning is a result of direct activity, the museum creates participatory exhibits and programs integrating arts, sciences, technology, and humanities as a supplement to school curriculums, and trains parents, teachers, and others who work with children and youth in participatory learning methods. In addition to the obvious benefits to the children it serves, the museum has drawn visitors from around the world. The facilities which the Little Sisters occupied, and which is the subject of this legislation, will enable the museum to greatly expand its activities and serve a much larger population of schoolchildren, as well as adults from the community, the Nation, and the world.

I urge my colleagues to join me in supporting this worthwhile legislation.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

☐ 1340

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISTRICT OF COLUMBIA REDEVELOPMENT ACT AMENDMENTS

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 4546) to amend the District of Columbia Redevelopment Act of 1945, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROBERT W. DANIEL, JR. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Mr. DELLUMS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4546) to amend the District of Columbia Redevelopment Act of 1945, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Connecticut (Mr. McKinney) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Dellums).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4546, with Mr. Pickle in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from California (Mr. DELLUMS) will be recognized for 30 minutes, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4546, as reported by the full Committee on the District of Columbia is being offered as an amendment to the District of Columbia Redevelopment Act of 1945.

H.R. 4546 is necessary in order to clarify ambiguous language in section 5–711 of the act, concerning the class of persons whose consent is required to modify an approved urban renewal project. The language is unclear as to whether consent is required from all purchasers and lessees of property in the area who may consider themselves affected by the modification, or whether consent is required only from the particular purchaser or lessee of the property whose planned use is being modified. Both the district court and the U.S. Court of Appeals for the District of Columbia have stated that the statute is "ambiguous on its face."

H.R. 4546 would make it clear that it is the intent of Congress that only the purchaser or lessee of the particular parcel of land whose use is being modified is required to give consent, in writing, under the statute.

Mr. Chairman, the bill before us, H.R. 4546, is also needed to approve two modifications to the urban renewal plan for Southwest urban renewal area project "(C)" by authorizing a much needed housing development for low to moderate income individuals and families and the construction of a waterfront inn expansion project.

Mr. Chairman, I would now yield the remainder of my time to the gentleman from the District of Columbia (Mr. FAUNTROY), the chairman of the Subcommittee on Government Affairs and Budget, which held hearings on this bill, and who will now handle the bill for the remainder of the time.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 4546, a bill amending the District of Columbia Redevelopment Act of 1945. I would also like to thank my colleagues of the subcommittee and the chairman of the full committee for their diligent work on this bill. This is a simple bill which seeks to do two things:

First. Clarify an ambiguity in the District of Columbia Code which presently may have as its effect the grant of a veto to every owner or lessee in a designated urban renewal area over any plan amendment "in the urban renewal area." This reading, which has been put upon the statute, creates an unworkable urban renewal process and is presently, with respect to the Southwest Urban Renewal project area C, preventing two projects, which have all of the other approvals necessary, from going forward and being implemented. If allowed to continue, this statutory ambiguity will have an adverse impact upon every other urban renewal district in this city. This bill aims to remove that ambiguity.

Second. The Congress is asked, through the exercise of a right which is reserved exclusively and absolutely to the Congress itself, to approve the two plan amendments which authorize the construction of housing on parcel 76 and an extension to a waterfront in on parcel D–2–B. This is a right which the Congress may exercise with or without the consent being given by the other lessees or owners in such urban renewal areas. In this case, it will terminate the need for further litigation that has arisen over this ambiguity and permit the construction of housing which has been approved by all involved agencies and which was, in fact, a part of the original urban renewal plan. It will also permit a waterfront inn to construct an additional 50 rooms to which there is no expressed opposition from any of the parties in litigation as evidenced by the correspondence between them.

This leads me, Mr. Chairman, to my final point. We have, in this instance, an opportunity to assure that our goal of intermixing low, moderate, and upper income housing can be fulfilled. Housing for persons of low and moderate income is an important component of successful urban renewal programs. The Southwest Urban Renewal project is one of the oldest—both locally—and in the Nation. What this Congress does to implement the urban renewal project will largely determine whether or not other urban renewal undertakings purportedly aiding those with low and moderate incomes will have a chance to succeed.

This bill is important to me not only because it ends the ambiguity of the law, thus, permitting the completion of these important projects, but also because it reaffirms our decision that those with low and moderate incomes are an integral part of successful urban renewal projects in this Nation.

Mr. Chairman, a brief summary of the history of parcel 76 best illustrates the need for this bill. The original redevelopment plan designated parcel 76 for rowhouses, flats, and/or two- or three-story apartments. On July 25, 1963, the plan was amended to designate parcel 76 for semipublic or church use. A local Southwest church, St. Dominic's, originally planned to construct facilities for parochial and school purposes. On June 4, 1970, however, St. Dominic's withdrew from consideration as a proposed redeveloper. On March 7, 1974, the National Capital Planning Commission proposed a modified version of the original proposal, calling for low- and moderate-income housing.

Litigation aimed at preventing the completion of that planned housing has since followed. The plaintiffs, citing ambiguities in the Redevelopment Act of 1945, have claimed that they are "affected" by the plan modifications and therefore have the right to veto any such changes. I think it is fair to say, however, that Congress would not intentionally create an urban renewal plan so unworkable as to require the consent, potentially, of every property owner in an urban renewal area for every plan amendment. I also know that Congress would not intentionally delegate to an undefined class of private parties the standardless power to veto urban renewal amendments on other people's property through the withholding of consent to changes by which they might deem themselves "affected." Surely, the intent of Congress was to require only the consent of the particular owner or lessee of the property whose planned use was being modified. The U.S. Court of Appeals for the District of Columbia, recognizing the need to change the language of the present law, has specifically called on the Congress to amend the ambiguous section. This bill seeks to do just that.

The bill will eliminate the need for further litigation by specifically giving congressional approval to the two plan amendments authorizing the construction of housing on parcel 76 and an extension to a waterfront inn on parcel D–2–B. Congress would not be interfering with ongoing litigation, but rather would be eliminating the need for any litigation whatsoever, pursuant to its expressly and exclusively reserved right to amend projects initiated under the District of Columbia Redevelopment Act of 1945.

This bill, then, is needed for two reasons. Without its passage, the ambiguities in the present law will continue, making unworkable urban renewal programs in this city; at the same time, the plans for parcel 76 will be tied up in the courts for years. We need to exercise our congressional rights and mandate completion of those plans for parcel 76, and resolve the ambiguities in our present law. This bill would do both, and I consequently urge its swift passage. I yield back the balance of my time.

Mr. MATTOX. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I will be happy to yield to the gentleman from Texas.

Mr. MATTOX. I thank the gentleman for yielding. Is my understanding of the bill correct in that it would allow the government, which is the District of Columbia, and the individual who owns the land—those two entities—to agree to any kind of modification of the Land Redevelopment Agency contract that they want; is that right?

☐ 1350

Mr. FAUNTROY. Consistent with all the other procedures which are required, hearings by the Redevelopment Land Agency, the National Capital Planning Commission, the City Council, yes.

Mr. MATTOX. What you are saying is, if the agency and the individual were to decide they wanted to put a junk yard on that piece of property that pursuant to their agreement they could put that on the property without anybody in the neighborhood having any say on it whatsoever?

Mr. FAUNTROY. That is not true.

Mr. MATTOX. Well, it is true. Is it not true under the amendment?

Mr. FAUNTROY. It would take more than their agreement.

Mr. MATTOX. It takes more than their agreement?

Mr. FAUNTROY. That is right.

Mr. MATTOX. If they agree, then the people in the neighborhood have absolutely no say whatsoever about what is to be done on that particular piece of property?

Mr. FAUNTROY. As the gentleman may know, there are hearing procedures which must be followed and the judgments of the National Capital Planning Commission, the judgments of the City Council must concur in any such proposal.

Mr. MATTOX. If the gentleman would yield further, would it be possible for the gentleman to cite any other particular act, zoning act or any other provision of law that is dealt with in this exact same manner in any city in the United States?

Mr. FAUNTROY. I cannot comment on any other city but I am competent to comment on such a change in our neighborhood.

Mr. MATTOX. Is it true that in nearly every city a contractual-type, zoning provision within an agency agreement that when a modification is going to be made in that agreement that they will allow the citizens within a certain area—perhaps 500 feet or 400 feet—to object to the change?

Mr. FAUNTROY. I am sure that would be the case if the planning agencies and the duly elected officials of the city agreed with the objection which a neighbor may raise to the use to which the people of the city through their government and the owner of the land wish to put the land.

Mr. MATTOX. Is it a fact that under the existing law of this country that in most circumstances when an individual has an objection to a piece of property being spot zoned that we have a whole body of law that controls that abuse. Spot zoning has been repeatedly stricken by the courts because of the abuse by the Government.

Mr. FAUNTROY. I cannot speak on that but I am competent to correct the gentleman if he wants to apply that to this situation, by suggesting to him that the original plan was for low- and moderate-income housing of the kind which now the Government and the people on the site and those who testified in overwhelming numbers before the relevant authorities wish to have placed there.

Mr. Chairman, if the gentleman will allow me to proceed.

Mr. MATTOX. Mr. Chairman, will the gentleman yield for one more moment?

Mr. FAUNTROY. I will yield for one more moment.

Mr. MATTOX. Was it designed for a low-income housing project or was it designed for a school on that piece of property in the original plan?

Mr. FAUNTROY. I am glad the gentleman asked me that question because I am happy to inform him. I had just stated for the record that originally it was designed for row houses, flats, and two- and three-story apartment units.

Mr. MATTOX. In the original contract that was executed?

Mr. FAUNTROY. That is true.

Mr. MATTOX. What changed that, could the gentleman tell me that?

Mr. FAUNTROY. As I just said, on July 25, 1963, the plan was amended pursuant to the usual procedures and designated for semipublic or church use by St. Dominick's Church and their plan, as I indicated just a moment ago, was to provide a parochial school on the site and some years later they came in and declared that they were withdrawing their consideration as proposed redeveloper, whereupon the National Capital Planning Commission proposed a modification which took it back to the original purpose.

Mr. MATTOX. If the gentleman would yield further, when they were proposing the modification, did they go through the normal procedures that were set up in the Redevelopment Act, the 1945 Redevelopment Act?

Mr. FAUNTROY. Yes, they did.

Mr. MATTOX. Now, the gentleman does not want to continue to go through those just because litigation has been filed?

Mr. FAUNTROY. Yes. Well, we do not want to go through it primarily because both courts, both the district court and the appeals court have indicated there is some ambiguity with respect to the law, which ambiguity we are going to correct in a few minutes if the gentleman will allow me to finish my statement.

Mr. MATTOX. Would it be better to allow the courts to finish their action and once they are finished then if they still rule there is an ambiguity there, allow the Congress to come in to make the modifications?

Mr. FAUNTROY. Both have already done that and have recommended that we do this.

I think it is fair to say that the Congress would not intentionally create an urban renewal plan so unworkable as to require the consent, potentially, of every property owner in the urban renewal area for every plan amendment.

I also know that Congress would not intentionally delegate to an undefined class of private parties, the standardless power to veto urban renewal amendments on other people's property through the withholding of consent to changes which they might deem, themselves, to be affected.

Surely the intent of Congress was to require only the consent of the particular owner or lessee of the property whose planned use was being modified.

The U.S. Court of Appeals for the District of Columbia recognized the need to change the language of the present law and has specifically called on Congress to amend the ambiguous section, and this bill seeks to do just that. This bill will eliminate the need for further litigation by specifically giving Congressional approval to two plan amendments: Authorizing the construction of housing on parcel 76 and an extension to a waterfront inn on parcel D–2–B. Congress would not be interfering with ongoing litigation but rather would be eliminating the need for any litigation whatsoever pursuant to its expressly and exclusively reserve right to amend projects initiated under the District of Columbia Redevelopment Act of 1945.

Mr. Chairman, this bill then is needed for 2 reasons. Without its passage, the ambiguities in the present bill will continue making unworkable urban renewal programs in the city. At the same time the plans for parcel 76 will be tied up in the courts for years. We need to exercise our Constitutional rights and mandate completion of those plans for parcel 76 and resolve the ambiguities in our present law. This bill would do both and I consequently urge swift passage.

I yield now to the distinguished gentleman from Connecticut, the ranking minority member of the committee (Mr. McKinney).

Mr. McKINNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4546. There is probably no more pressing issue in the District than the lack of adequate and reasonably priced housing for low- and moderate-income people. H.R. 4546 would aid the District government's efforts to effectively address this critical issue.

Several years have passed since the tentative decision on the use of parcel 76 was made. That decision represented an effort by the local government to meet a small part of the city's urgent need for decent low- and moderate-income housing. Unless Congress acts now, several more years may pass before the city can act to erect low- and moderate-income housing in the southwest urban renewal area.

In view of the housing situation in the District, I believe that H.R. 4546 is important for the city, and I urge my colleagues to support this measure so that construction of this desperately needed housing can get underway.

Mr. Chairman, at this point I would yield the balance of my time in the management of this bill to the subcommittee ranking minority member, the gentleman from Virginia (Mr. Robert W. Daniel, Jr.).

□1400

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I thank my friend, the gentleman from Connecticut, for yielding me the time.

Mr. Chairman, as the ranking minority member of the Subcommittee on Government Affairs and Budget, which conducted the hearings on H.R. 4546, I must state in all candor that I am deeply troubled by this legislation. After considering the testimony presented at the hearings on the issue of the use of parcel 76, which is at the heart of the matter, I believe that H.R. 4546, if enacted, would be most unfair and a terrible precedent.

There is in the background here a lawsuit currently pending in the Federal courts in the District of Columbia circuit concerning who must consent to a modification in a D.C. redevelopment plan. Simply stated, the basis for that lawsuit is that the D.C. Redevelopment Land Agency (RLA), the agency charged with the responsibility for planning and overseeing redevelopment plans, changed the rules for modifying redevelopment plans by switching its interpretation of who must grant consent to a plan modification. The ambiguity of the consent provision contained in the act facilitated this switching of positions by RLA. H.R. 4546, if enacted, without question would clear this ambiguity from the text of the act, but as a result of the way the bill is drafted, it would also surely moot this pending lawsuit. By enacting this legislation in its present form we, as a body, would be depriving both the plaintiffs and the defendants in the lawsuit of their right to their "day in court."

Furthermore, there is another issue here, and that is the contractual nature of the relationship between RLA and the owners and lessees of property within the redevelopment tract area. Although not a lawyer, it seems to me that it is clear that a contractual relationship exists between the owners and lessees of property within the redevelopment tract area and the Redevelopment Land Agency. One of the provisions of that contract would appear to relate to the procedure for making amendments to the redevelopment plan. We heard testimony stating that for some years RLA followed one procedure in seeking consents from owners and lessees within the area when attempting to modify the plan, but then, in midstream, RLA unilaterally changed the procedures.

Changing provisions of a contract under which parties involved took their interest, whether done unilaterally by one of the parties to the contract or by this body under the powerful hand of congressional authority, does a grave injustice to our highly successful system of contract relations in this country and would be a disasterous precedent to establish.

Mr. Chairman, the issue before us today is not whether additional housing should or should not be built in the District of Columbia for low and moderate income citizens, but rather, the validity of widely recognized tenets of contract rights and fundamental principles of fairness. I, for one, do not wish to tie the hands of the District of Columbia in seeking to improve its incredibly tight housing market, but I cannot go along with the injustice inherent in H.R. 4546.

Consequently, to avoid the unfairness of depriving the parties to the underlying lawsuit of their day in court and changing unilaterally provisions of a contract in midstream to the detriment of those who have acted in reliance upon the terms thereof, I will offer an amendment in the nature of a substitute at the appropriate place.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I speak in opposition to this bill on a matter of principle. It seems to me incredible that we are even proposing that a matter in litigation before the courts should be handled in this way.

What are we really doing here? We are taking a case which is before the court and changing the laws that govern this particular piece of property while the issue is still being decided by the court.

Now, I would like to draw the attention of those who care about the law, and I see the chairman of our Committee on the Judiciary is here, who does care. More than any other, perhaps, he has taught us a lesson in respect for the law.

This is what the court of appeals has said, in an extract from their order which is a part of this litigation. The court ruled that the urban renewal plan was a contract. In other words, that those who bought in lot 76 bought under a contract which has certain terms which are now in litigation before the court. The court drew attention to the constitutional provision prohibiting government—Federal, State or city—from taking action abrogating existing contracts.

That is the point on which I think we have to rest. It is deplorable that we have not more housing for low- and moderate-income people in Washington, but you cannot do this at the expense of the law. You cannot try to do good by going behind the back of the law and changing the law before the court has decided on the merits of the case. It is to me an extraordinary thing that this Congress even suggests that we should consider this bill under these circumstances.

We must be a law-abiding nation. In the long run, we cannot benefit anybody otherwise.

I have been on the council in my hometown. You cannot permit an owner, who may have a very desirable sale in mind, to sell contrary to an agreement or a contract or a zoning ordinance, without the permission of the contiguous owners or lessees. You cannot do it. This is the common practice in every State as far as I know. Otherwise the rights of the contiguous parties are at risk to the desire for gain on the part of the owner of that particular lot who is presumably going to move away and leave something that is of damage to the people whose properties are immediately surrounding; but apart from that, even if there is no such problem here, we have a case in litigation. We should not, in my opinion, act on this law today, when the matter is before the courts, when the courts have warned us that the agreement is a contract, and when the court of appeals has told us that it is unconstitutional for government to abrogate a lawful contract.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I thank the gentlewoman for her very useful comments and her emphasis on the rule of law, which is, indeed, at the heart of the question here.

Mr. Chairman, I reserve the balance of my time.

Mr. FAUNTROY. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank my colleague for yielding.

I wish to address myself to the comments made by my distinguished colleagues on the other side of the aisle.

First of all, it is terribly important to understand that the U.S. District Court, as well as the U.S. Court of Appeals for the District of Columbia, both agree that the language on its face is ambiguous and what we are attempting to do here is simply to remove the ambiguity.

The statement made by the appellate court is that they agree with the district court that the statute is ambiguous on its face and could be read to provide either a narrow or a broad right to consent to proposed plan changes.

The court further says that the legislative history of section 5-711 does not resolve the issue of its interpretation.

All that we are trying to do here is to respond to a statement by the courts that the organic legislation is ambiguous.

It would seem to me, Mr. Chairman, that it is our responsibility as a legislative body to enact legislation that is, indeed, workable.

Now, to go further, there have been a number of comments with respect to the fact that this matter is being litigated.

I would like to speak to the question of the pendency of litigation and point out, clearly, that it does not render retroactive legislation unlawful. Congressional legislation is sometimes employed to correct faults or defects which are not perceived clearly at the time of the enactment, but which become apparent with the passage of years. During this time period, however, claims or rights of parties may have intervened or become involved in legislation. The remedial legislation is often attacked, as it is at this point, as being either unconstitutional or retroactive. The pendence of litigation or even its final determination does not make the new legislation unlawful.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I would first like to finish my argument.

Despite the question of this matter being litigated, I further assert that the District of Columbia Urban Renewal statute, D.C. Code, section 5-701, is uniquely subject to the control of Congress both because of Congress constitutional role as the ultimate legislative body for the District of Columbia and because of the express reservation of power, by the Congress in D.C. Code, section 5-718, to adopt any amendment to an existing urban redevelopment plan it deems necessary at any point in time.

□ 1410

I would emphasize that this legislation does not deprive anyone of monetary benefits nor does it take property, nor does it do anything except clarify—and I repeat—clarify an ambiguity that both the U.S. District Court and the U.S. Court of Appeals have acknowledged in referring to the existing statute relating to the procedure for adopting amendments to the Urban Renewal Plan.

District of Columbia Code, section 5-701, states that:

> No department, instrumentality, agency, or official of the Federal Government or of the District of Columbia shall have any power to release or modify or depart from any feature or detail of an approved redevelopment plan unless the modification or departure is approved by act of Congress.

All we are saying here, in summary, Mr. Chairman, is that two courts have stated that the language of the organic legislation is ambiguous on its face. It would seem to me that, as a responsible legislative body, it is our duty and responsibility to enact legislation that is indeed workable.

With the passage of time, if we find the legislation is not workable or is ambiguous, it would seem to this Member that it is our profound responsibility to correct the situation.

I have already stated that the pendency of litigation does not, in any way, make what we are trying to accomplish here unlawful. I would challenge any assertion on this floor that what we are doing is either unconstitutional or unlawful. We have a profound responsibility.

Mr. Chairman, I will conclude by saying that the system works when the legislative body is enacting legislation, when the courts are interpreting legislation, and when the President or the administrative branch of Government is carrying out the law, however, when we begin to do each other's job, then the whole system incurs difficulty. We do all right when we are engaging in our own business.

It is not the business of the court to write legislation. The court has interpreted legislation. The court has looked into this matter. Two courts on two separate occasions have said, "Your words are ambiguous. The legislation on its face is ambiguous."

Mr. Chairman, it seems to me that we are derelict in our duty and not carrying out our responsibility if we do not correct the legislation at a time when the courts are crying out that we correct it.

The CHAIRMAN. The time of the gentleman from California (Mr. Dellums) has expired.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. Mr. Chairman, first let me state that I will yield such time as he may consume to the distinguished gentleman from New York (Mr. Peyser).

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am taking the floor at this time to express a concern that I have for the people in the District of Columbia that relates in part to the Redevelopment Act. That concern deals with the onslaught of condominium conversions that we have seen within the District and the impact that is having on elderly and middle-income people who reside in the District of Columbia.

I feel that the District government itself has acted slowly and without the greatest skill in responding to this problem and doing something about it. It is impossible, of course, to go back to the private developers who have developed land under this federally subsidized program and who in many instances have been active in building apartments and have now converted them into condominiums, which in many respects tends to defeat the purpose of this original program.

But something has come to my attention, and I would like to ask the chairman of the subcommittee if I can raise this point for a moment. It has come to my attention that 15 percent of the land is still available under the Redevelopment Land Agency that has been created by this act, and it would seem to me that this might make good sense, and I would ask the gentleman this question: I wonder if the committee could give consideration—and I say this rather than offering an amendment to this bill at this time—to making sure that that remaining land that is available for development cannot ultimately be used by private developers to be converted into condominiums and to making sure that if housing units are built they must be rental units and units for low- and middle-income people, thus preventing ultimate conversion to condominiums. If they do not want to build on that basis, so be it.

Mr. Chairman, right now we see so many people who are being hurt, and I wonder what the gentleman's response to that might be at this time.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, as the gentleman knows, both I and other duly elected officials of the city have been gravely concerned about not only the rate of condominium conversions in the city but the rate at which they are proceeding. We are particularly concerned about the extent to which low- and moderate-income people and elderly people on limited income in particular are being displaced from living opportunities in the city by virtue of the condominium conversions. For that reason, I am pleased that the gentleman has called to our attention the fact that in the oldest urban renewal area in the country there remains 15 percent of the land that has not been developed and which might well be considered for use for the benefit of low- and moderate-income people in a fashion that their rights to live may be protected from the ravages of condo conversion.

So, Mr. Chairman, I am certainly favorably disposed toward that view, and as chairman of the subcommittee I would be very pleased to hold hearings on a measure which the gentleman might introduce before the Congress for its favorable consideration.

Mr. PEYSER. Mr. Chairman, I appreciate the gentleman's statement on that matter.

I do think this has a real impact on the very groups the gentleman mentioned, the elderly, the middle-income, and the poor.

I would be pleased to follow up on this matter in the hope that the committee would look into it and see if this makes good sense for the remaining 15 percent of the land that is available.

The CHAIRMAN. The Chair will advise the gentleman from the District of Columbia (Mr. Fauntroy) that the gentleman has 4 minutes remaining.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just briefly like to observe that I share the goal of the gentleman from California (Mr. Dellums) in erasing the ambiguity that does exist in the law as it is. My amendment would do just that, and I think it does it in a very clear way.

I might just briefly mention also something about this business of the court of appeals observing that its job could be made easier if the ambiguity were eliminated. I happen to have a copy of the decision here, and I note that it did so in a footnote.

I am not a lawyer, but I do not believe that would be the way the court would express itself if that were considered to be the central concern of its decision.

So, Mr. Chairman, at the proper time I am going to offer my amendment which would eliminate the ambiguity—and that seems to be something we are in agreement on, on both sides of the aisle—but would not do so to the detriment of people who entered into a contract in good faith and who are presently litigants in a court of law on that matter.

The CHAIRMAN. The Chair will inquire, does the gentleman from the District of Columbia (Mr. Fauntroy) wish to yield additional time?

Mr. FAUNTROY. Mr. Chairman, if the gentleman from Virginia (Mr. Robert W. Daniel, Jr.) does not intend to yield time to the distinguished gentlewoman from New Jersey (Mrs. Fenwick), I would be pleased to do that myself.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I do not believe the gentlewoman has requested time.

Mr. FAUNTROY. Mr. Chairman, I yield yield back the balance of my time.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN: There being no further request for time, the Clerk will read.

The Clerk read as follows:

H.R. 4546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first proviso of section 12 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5–711) is amended to read as follows: "*Provided*, That any such modification which affects the use or development of an area or part thereof which has been sold or leased (as such use or development is governed by the project area redevelopment plan as approved before the date of the sale or lease) shall not become effective as to such area or part without the consent in writing of the purchaser or lessee thereof;".

(b) The amendment made by this section shall be effective with respect to any approved project area redevelopment plan, regardless of the effective date or date of approval of such plan.

Sec. 2. The Congress hereby approves the following modifications to the urban renewal plan for Southwest urban renewal area project "(C)":

(1) Amendment numbered 22 (pertaining to parcel 76), as adopted by the National Capital Planning Commission on March 7, 1974, and approved by the Council of the District of Columbia on May 7, 1974.

(2) Amendment numbered 23 (pertaining to parcel D–2–B), as adopted by the National Capital Planning Commission on May 30, 1974, and approved by the Council of the District of Columbia on August 30, 1974.

Mr. FAUNTROY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The **CHAIRMAN**. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROBERT W. DANIEL, JR.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ROBERT W. DANIEL, JR.: Strike out all after the enacting clause and insert the following:

That the first proviso of section 12 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5–711) is amended to read as follows: "*Provided*, That any such modification which affects the use or development of an area or part thereof which has been sold or leased (as such use or development is governed by the project area redevelopment plan as approved before the date of the sale or lease) shall not become effective as to such area or part without the consent in writing of the purchaser or lessee thereof and of the owner or lessee of each tract of land contiguous to such area or part:".

SEC. 2. The amendment made by the first section of this Act shall not apply to any modification under section 12 of the District of Columbia Redevelopment Act of 1945 to any approved project area redevelopment plan under such Act if such modification was adopted by the National Capital Planning Commission before the date of the enactment of this Act.

☐ 1420

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, my amendment would clarify the ambiguity contained in title 5, section 711 of the D.C. Code (D.C. Redevelopment Land Act of 1945) relating to the modification process for a D.C. urban renewal plan. Being mindful of the rights and interests of owners and lessees of property within a redevelopment tract area, I have tried to balance the problem of mischief which might occur with a very broad interpretation of the act with the problem of restrictiveness which the bill, H.R. 4546, would present. Under the amendment in the nature of a substitute, it would be made clear that the owner or lessee of the particular parcel of land whose use is being modified and the owners or lessees of contiguous parcels of land only would be required to give consent as "affected parties." This amendment to title 5, section 711 of the D.C. Code would be prospective in its application only and, as such, would not affect plan modifications made prior to the effective date of the legislation.

Mr. DELLUMS. Mr. Chairman, I rise in opposition to the amendment.

First of all, Mr. Chairman, I would like to point out that in section 2 of the act, D.C. Code, § 5–701, Congress found redevelopment of the "blighted" areas of the District of Columbia, in order to provide safe and sanitary low-cost housing, to be necessary in the public interest.

I would argue, at this moment, Mr. Chairman, that if we adopt the amendment offered by my distinguished colleague, the gentleman from Virginia, we would not be addressing ourselves to our responsibilities with respect to the public interest, but we would be responding to private interests.

My distinguished colleague, the gentleman from Virginia, indicates that he agrees with me that the courts have cried out for us to clarify ambiguous language contained in the organic legislation. However, I would further assert that by accepting the gentleman's amendment would gut the purpose of this legislation. It would halt the ability of planned projects to go forward as approved. While the Daniel amendment would clarify the language, it would have effect in the future. But the matter has come to us as a result of a specific real-life situation that did indeed result in litigation. During the course of litigation, as I said earlier, two courts stated that the statutory language was ambiguous.

What we are trying to do here is to clarify that language and go forward in the public interest, not the private interest, with respect to the establishment of low- and moderate-income housing in the Southwest section of the city.

To say that you are prepared to accept the need to clarify the language and then offer an amendment that would preclude the law from applying in a situation that has indeed given rise to litigation, and has indeed given rise to the statement that the language is "ambiguous on its face" nullifies and destroys the potential effect of the legislation before us.

I would argue diligently and as persuasively as I can that this amendment does not help this legislation. It kills the legislation.

If you believe, as I believe, that: First, we have a responsibility here to enact fair and workable legislation; second, we have a responsibility to clarify any ambiguity; and third, we have a responsibility to go forward in the public interest, carrying out our constitutional responsibilities to approve, finally, these renewal plans, we have the responsibility not to act in a way that would prevent the District of Cloumbia from providing low- and moderate-income housing to human beings who desperately need it in this city.

For these three reasons, Mr. Chairman, I urge my colleagues to defeat the amendment before us. It does a disservice to the legislation.

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise to oppose the amendment because it fails to accomplish what the committee intended by this legislation; namely, to quiet the controversy which has arisen over who constitutes an affected party whose consent must be obtained prior to the implementation of any plan modification.

The amendment would propose, in the first section, to permit those persons other than the holder of the interest of the land which would be affected by a plan modification, to grant or withhold consent. It is an unprecedented power to give to an adjacent landholder in the District of Columbia or in any city. While such power may be given to an adjacent owner in a condominium or cooperative or even in a townhouse association, it is inappropriate in any other development situation. It is inappropriate because there lacks a commonality right, title, and interest in the land or the improvements thereon.

Furthermore, it would be, in this case, a transfer of the right of an individual to control the use of his own land to another person who has absolutely no right, title, or interest in the land which a plan would modify. It would be as though I were to give my next door neighbor—who did not have this right before—the ability to veto any lawful use to which I may want to put my house and land. I would not propose to do any such thing and neither would anyone else. As long as the use of the property is generally consistent with the neighborhood and does not create a nuisance, an owner has, in this country, the right to do as he wants with his land. The overall zoning schemes, the planning mechanisms, the public hearing process, the nuisance remedies which can be enforced in our courts make this kind of proposal unnecessary and mischievous. What, for instance, is contiguous land? Would it be land that is across the street? Would it be only land which is physically adjacent that it not otherwise divided by any use or easement? Would this change if the land were subsequently divided and parceled?

These are questions over which lawsuits are made, and I do not think that when we wrote this bill originally to end the litigation which has erupted that we would contemplate a substitute which would only create more litigation. This section is undesirable and, alone, would be enough to cause the substitute's defeat.

The second section is even more litigious. It would leave in limbo the very two amendments the committee has proposed to validate, pursuant to the expressly reserved powers of the Congress in this act. While the first section mildly limits who might be an affected party to something more reasonable than the present law, the second section does nothing but leave the pending litigation in its present course. At a time when the court itself invited the Congress to resolve this matter, and where the Congress has the expressly reserved right to validate these plan changes, all of which have been approved by every responsible body in the Federal and local level, a decision to leave it pending for more time is absolutely irresponsible.

I think we need to face the facts of what the opponents to the legislation are seeking to prevent. They are seeking to prevent the construction of any low- and moderate-income housing in this community. That has been the point of the suit; that has been the point of the reason for including the Channel Inn even after there is a communication from L'Enfant Plaza that there was no objection to their expansion plans since to oppose only the plan change on parcel 76 would have been so obviously discriminatory.

This amendment would leave these matters exactly where they have been—

in litigation and limbo. The time has come to end it and I would urge the House to vote down this substitute.

Mr. DAN DANIEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment as a matter of simple equity.

Mr. Chairman, before coming to the Congress it was my notion that Government mischief generally was caused by the courts. Since coming here, I have had some change of mind.

In this particular matter, I believe this should be left in the hands of the courts.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, the gentleman says that this matter should be left to the courts. I am extremely troubled by the brief nature of the gentleman's explanation.

First of all, as we indicated earlier, both the district court and the U.S. Court of Appeals for the District of Columbia stated clearly and unequivocally that Section 5–711 of the organic legislation, the District of Columbia Redevelopment Act of 1945, was "ambiguous on its face."

It would seem to me that as a legislative body, we do indeed have a responsibility to: First, clarify that ambiguity; and second, see to it that we enact fair and workable laws.

☐ 1430

Sometimes in our diligence in passing laws, we are not aware of certain defects or the lack of equity or an ambiguity in the legislation except as they are revealed during the passage of time. Time has now passed. The courts have now made a clear and unequivocal statement that the language of the legislation is ambiguous.

It would seem to me if we are going to be responsible human beings, we have a responsibility as Members of Congress to go back and rewrite that legislation so that it is not ambiguous, and to insure the intent of Congress is indeed clear and unequivocal. This is all that we are attempting to accomplish in this legislation. It is not unconstitutional. It is not unlawful. What we are doing here is carrying out a simple responsibility that we have. We can decide to accept that responsibility or refuse it. However, it would seem to me that to say that this matter should be left to the courts when, in fact, the courts have responded by pointing out that the language is ambiguous, and, for this body to say that we have no responsibility to act at this moment is something this particular gentleman finds incredibly difficult to understand.

I would like my colleague to clarify that.

Mr. DAN DANIEL. Mr. Chairman, it was not the purpose of the gentleman from Virginia to explain the bill. I am not capable of explaining the proposal. But to negate I rose to support the amendment as a matter of simple equity.

I believe that the people who live in the area where this proposed zoning change is contemplated should have a voice in whether or not this is done.

Mr. DELLUMS. If the gentleman will continue to yield, I appreciate that the gentleman asserts that his concern is one of equity. I question his definition of equity. Are we talking about the public interest versus private interest? Are we talking about the private entrepreneurial interest as against the interest of low- and moderate-income human beings who desperately need a place to live? What do we mean?

Mr. DAN DANIEL. By equity, I mean the Government has a responsibility to live up to its promise, and it is the judgment of this Member that the people in this area were promised an opportunity to be heard before and change occurred.

Mr. DELLUMS. I thank my colleague.

Mr. MATTOX. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment because the amendment is fair, and it is reasonable; and it is equitable.

I am sorry that I have got to oppose my good friend from California and my good friend from the District of Columbia, but I heard my most eloquent friend from California say two things I think that are most important.

He said that what we were doing was not unconstitutional. It was not unlawful. Those two things are absolutely correct, but what we are doing is not right.

What we are doing is wrong. What we are doing is something that is different from that which exists in every major jurisdiction in this country.

We are talking about a contractual relationship for the people who bought their properties, bought with an expectation that the property across the street, around the corner, or at least the property which was contiguous with them, would be developed in the way and in the fashion that they agreed to in the contract. This will now change the law.

They have a right not to have in their particular area what they agreed would not be there when they bought their property. In this partciular case, the goals that the gentleman from the District of Columbia and the gentleman from California are trying to reach are good goals. They are laudable goals, but in reaching laudable goals we should not abuse someone else's rights. Just because it is not unconstitutional, nor unlawful, the mischievous Congress should not do exactly what we please.

This amendment does a good thing. What it says is that the land that you own that is contiguous to a neighbors piece of property cannot be abused by the changed use of the neighbors property without your consent, when both of you have agreed to something else in the beginning.

Let me assure my colleagues it is a twisted interpretation of what the original congressional intent was to say that the only two entities that can object is the individual that owns the land that its use is being changed, and the agency that is going to change it.

Sure, we have the right to go back and modify the law, and I do not object to modifying the law; but in the modification of it we should not twist the original congressional intent to meet our present plans and do something that is not right. For that reason, I support this amendment.

Mr. DELLUMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first of all, I would like to go back and try to point out that the language, in the original legislation, is unclear as to whether consent is required from all purchasers and lessees of property in the area who may consider themselves affected by the modification or whether consent is required from the particular purchaser or lessee of the property whose planned use is being modified.

I would reiterate that both the District Court and the U.S. Court of Appeals for the District of Columbia have stated that the statute is "ambiguous on its face."

H.R. 4546, the bill before us, is an attempt to make clear that it is the intent of Congress that only the purchaser or lessee of the particular parcel of land whose use is being modified is required to give consent, in writing, under the statute.

The point here is that when my colleagues raised the question of a contract, my response is, contract with whom? With the individual purchaser or lessee or the broader group of people? What we are attempting to do is clarify the language as to the intended class of persons to be affected by the organic legislation. That intended class of persons encompasses only the purchaser or lessee of the particular parcel of land whose use is being modified.

Now, there have been a number of assertions with respect to the public nature of this matter. I would like to point out, Mr. Chairman, that this amendment addresses the public interest in a public forum. The proposed urban renewal modification has gone through the rigors of public scrutiny, and if I may, I would like to give my colleagues the chronology.

First of all, the original urban development plan for Southwest Washington, D.C., parcel 76 was to be a residential development with rowhouses, flats and/or two- and three-story apartments.

In 1963, modification was made permitting parcel 76 to be used as a site for a parochial school.

In 1970, the proposed redeveloper of the parochial school withdrew from consideration.

In 1972, the Redevelopment Land Agency (RLA) held a public hearing in the Southwest urban renewal area to obtain views and recommendations of the Southwest community concerning the development of parcel 76. Statements were presented by 45 individuals. The agency recommended that the plan be modified to permit parcel 76 to be used for low- and moderate-income housing.

☐ 1440

RLA, in the same year, 1972, again solicited views from the public on the tentative plan. Statements were then presented by 36 organizations.

RLA's recommendations were transmitted to the National Capital Planning Commission (NAPC).

The National Capital Planning Commission (NCPC) is a Federal agency which has the responsibility to improve Federal planning and programing activities in the Federal Capital region and has approval authority in lieu of zoning as related to certain non-Federal projects.

The Commission membership is appointed by the President of the United States (3), the Mayor of the District of Columbia (2), and as ex-officio members, the Secretary of the Interior, the Secretary of Defense, the Administrator of GSA, a Member of the House, a Member of the Senate, and the Mayor and Chairman of the City Council of the District of Columbia.

The Commission is federally funded and is the Nation's watchdog on development of the National Capital region.

The National Capital Planning Commission requested additional information, and the public was subsequently solicited for additional views.

In 1973, the National Capital Planning Commission, with significant revisions, recommended that the site be used for low and moderate income housing. In that same year, 1973, the District of Columbia City Council held public hearings on the proposal at which 17 organizations and individuals testified.

The District of Columbia City Council then referred the proposed amendment back to NCPC as a result of questions raised.

The National Capital Planning Commission solicited additional statements from prior witnesses.

In March of 1974, the National Capital Planning Commission adopted a revised proposal. In April of 1974, the D.C. City Council held another public hearing.

In May of 1974, the amendment was approved by the District of Columbia City Council, and in June of 1974, RLA designated the parcel 76 limited partnership comprised of the National Partnership, the Southwest Community Organization, and Tom Harkins, a local builder, as sponsor for the project.

Mr. Chairman, this whole situation has come under incredible public scrutiny. So anyone who would take the floor of this House and assert that in some way this matter was not as public as public can be is either misinformed or misleading the Members of this distinguished body. I am sure that they choose not to do so.

Mr. Chairman, this amendment would undermine the legislation before us. This is a simple matter of clarifying statutory language and removing the ambiguity created by the nuclear language and its application should not be restricted. They need to be able to find moderate priced housing in the District of Columbia.

I urge a no vote on the amendment before this body.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I urge the defeat of H.R. 4546. I do not want to tie the District of Columbia's hands in the matter of providing low- and moderate-income housing. However, without my amendment, this legislation violates the basic spirit of fairness. It allows the city to abrogate a contractual agreement between itself and its residents.

As I have endeavored to explain, the city has made certain guarantees to residents in the area of the District known as parcel 76. It now proposes to cast aside its previous arrangements and, simultaneously, the rights of the individuals involved.

Furthermore, the city is attempting to abrogate its contract in a particularly backhanded way: through congressional intervention. As stated previously, a law suit is now pending in the Federal courts in the District of Columbia circuit pertaining to this matter. Congress should not interfere. Therefore, I respectfully request my colleagues to vote against this legislation. Without my amendment, H.R. 4546 would deprive residents of the parcel 76 area in the District of Columbia of their rightful voice in approving modifications in redevelopment plans.

Mr. REUSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I shall be brief. I fully support the excellent bill brought here by Mr. Dellums, Mr. Fauntroy, Mr. McKinney, and others. I oppose the amendment before us because I agree with Chairman Dellums that it would, indeed, render senseless the bill.

In a nutshell, here is what it involves. If we were all out on the veranda we could see it before us, but essentially Southwest Washington is one-fourth of the city constructed according to a 1954 plan ordained by the Congress.

In 1974 two changes were brought about in that plan. There had been many before and there will be many henceforth. Those changes, brought about after full hearings to all parties were:

Change No. 1, the proprietor of the Waterfront Inn, an inn on the waterfront, wanted to add 50 rooms in some vacant space that he had.

Change No. 2, the National Housing Partnership wanted to build middle-income townhouses so that the bad sociology of Southwest—that is, affluent people living in high rises and expensive townhouses, and poor people living in public housing—could have its lump leavened by a few middle-income people. It is an excellent idea, and the District of Columbia Council and its Mayor, after full hearings, ordered these changes in the renewal plan.

Thereupon, over the freeway and far away is a very solvent institution, L'Enfant Plaza Hotel, in which the controlling interest is owned by some extremely solvent people, the Rockefeller family. And they, whether fearful of the competition of 50 extra rooms at the inn, or fearful of the introduction of middle-income folk into what had been a high-income and low-income polarized community, brought this lawsuit.

In due time, the Court of Appeals for the District of Columbia found what I regret to say is true. Our forefathers and foremothers here in 1954—thank heaven none of us were around then—did commit an ambiguity. So the D.C. Court of Appeals found, and then—in a footnote which has been, I am glad to say, abundantly mentioned on the other side—commended to Congress the rectification of this ambiguity. That is all that the bill here is about.

So I hope Members will vote down the amendment, however well meaning its sponsorship, and let us get on with the task of letting the D.C. Council govern the District of Columbia.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I am glad to yield to the chairman of the committee.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for yielding.

Let me just read briefly from the district court's ruling in this matter. The court points out that unless the ambiguity is addressed and clarified: it would "necessarily decide each case based upon criteria that are nebulous at best."

The court further indicates that "Congress has provided, in section 5–711, for citizen input in the modification process so that all views are heard and considered by the various agencies. Such a procedure is a workable and fair one, whereas plaintiff's procedure would virtually halt a process of modification that Congress deemed to be necessary and designed to be flexible. For this reason, as well as for reasons of constitutional stature outlined before, this court is compelled to reject plaintiff's interpretation of D.C. Code section 5–711."

Now, what that means is that the district court rejected the plaintiff's view, which was the broader interpretation. The point is that the court was in agreement with what we were attempting to do here. If the court had not been in agreement, it would not have rejected the broader view. The court has pointed out that if it had accepted the broader view of the plaintiff, at that time, it would have rendered section 5–711 null and void. It is a section that provides for citizen input and a section that the court deemed fair and workable.

I am sure that my colleagues do not wish to destroy the original intent of section 5–711. It would seem to me that it ought to be clear to my colleagues that what we are attempting to do here is totally consistent with what the district court attempted to do when it rejected the broader view.

□ 1450

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this is not a perfect amendment. To bring this matter to the floor of the House when we have a case in litigation, may be constitutional, may be lawful, but as has been observed on this floor, it is not ethical or right. We know perfectly well what we are doing here. We are not just clarifying something. We are trying to decide a case before it has been decided in court. We are trying to make moot a whole argument that people may choose to bring.

We have been told about the anguished plea of the court for some clarification.

There is some ambiguity, but in that same footnote there was also a stern warning of the U.S. appeals court—and in the body of the order there was a decision, that the terms under which people bought those houses constituted a contract.

A contract has certain standing in a court of law. We cannot just wipe it out. We have just passed on the floor this afternoon a statute concerning the civil rights of the people of Washington, and it was unanimous. We are talking about civil rights here too, about people having the right to appeal, and those rights will be honored. The Congress of the United States should not intervene today. The warning of the court in that same footnote, with the cry of anguish which has been described, was very clear. It drew attention to a constitutional provision prohibiting Government from taking action abrogating existing contracts.

What could be clearer? The court says in the body of its opinion that this is a contract, and in the footnote, that we cannot take action abrogating existing contracts. This, as we all know, is precisely what we would be doing.

If there is a contract and that contract is before the court, it is not ethical to take action. In fact, according to the U.S. court of appeals it is unconstitutional to take action abrogating an existing contract.

Now, gentlemen, I do not think it is funny; I think it is serious. I have not talked to the eminent people referred to by the chairman of the Banking Committee and I do not know who objects to this and I do not care. I am not interested in privilege and power. I am interested in seeing that the law is obeyed and that we somehow proceed in an orderly fashion in this House. I am not influenced in any way. I do not know any of the parties involved here. It is no concern of mine who is going to be hurt or helped. We are trying to see that the law is obeyed. I do profoundly believe that in the last analysis we cannot seek justice if we are prepared to do injustice. We cannot care about people if we do not care about every individual. There is no plea here for any special group.

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the Chair recognizes the gentleman from the District of Columbia.

There was no objection.

Mr. FAUNTROY. Mr. Chairman, I would just like to point out that it must be clear to the gentlewoman and to the authors of the amendment that the court itself has said that the terms of the contracts which they must consider, are not clear. We must correct the ambiguity. The only persons who can correct it are the Members of Congress.

Let me say finally that I am grateful to the distinguished chairman of the Banking Committee, who is quite aware of problems we are having in our cities across this Nation with regard to urban renewal generally and the provision of moderate-income housing in particular in our inner-city areas.

What is at stake here is whether or not, after 5 years during which the people of the city through their elected government have made a judgment that we have got to provide some housing for elderly citizens, for moderate-income people, in our city—after 5 years, the history of which has just been recounted by our chairman, we want to work on that. This is not land owned by private development to be exploited for private purposes. This is owned by the people, and the people through an exhaustive history of consideration of whether or not there will be townhouses and apartment units for moderate-income people and low-income people in this area, have made a decision.

Mr. Chairman, I would hope that once we have made our way through the discussion of the contracts and whether or not any individual who owns property in an urban renewal area can veto any change anywhere in the urban renewal area, we will vote down this amendment and favorably consider the bill.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I have listened with varying degrees of intensity or interest for the last hour or two, sitting as a putative member of the District of Columbia City Council. I intend, without having the foggiest idea of what the fundamental issue is, to support the committee.

But, I would urge my distinguished colleague from the District of Columbia (Mr. FAUNTROY) to use his enormous talents to shed us all in the House of this great and enduring responsibility where, parenthetically, we sit around second-guessing processes that should better be determined locally. I would urge my colleagues on the District of Columbia Committee to come out with a one-line bill saying, "Notwithstanding any other provision of law, the people of the District of Columbia—not the Congress of the United States—shall run their affairs," and fold up our tent in this area.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

The question was taken, and on a division (demanded by Mr. ROBERT W. DANIEL, JR.), there were—ayes 14; noes 10.

Mr. DELLUMS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 680]

Abdnor
Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder

Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki

☐ 1510

The CHAIRMAN. Three hundred and seventy-two Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. DELLUMS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 158, answered "present" 2, not voting 49, as follows:

[Roll No. 681]

AYES—224

Abdnor
Albosta
Ambro
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bevill
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Fenwick
Findley
Fish
Flippo
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jeffries
Jenkins
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McDade
McEwen
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mavroules
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Pa.
Myers, Ind.
Neal
Nichols
Pashayan
Paul
Petri
Preyer
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Snowe
Snyder
Solomon
Spence
St Germain
Staggers
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Bob
Wolff
Wright
Wyatt
Wylie
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NOES—158

Addabbo
Annunzio
Ashley
AuCoin
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Chappell
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Dellums
Derrick
Dicks
Diggs
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Garcia
Gonzalez
Gray
Green
Guarini
Hamilton
Hanley
Harkin
Harris
Hawkins
Holtzman
Horton
Howard
Jacobs
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Leland
Lloyd
Long, La.
Lowry
Lundine
McHugh
McKay
McKinney
Maguire
Markey
Matsui
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Murphy, N.Y.
Myers, Pa.
Natcher
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rostenkowski
Roybal
Sabo
Schroeder
Seiberling
Shannon
Sharp
Slack
Smith, Iowa
Solarz
Spellman
Stack
Stark
Stewart
Stokes
Studds
Swift
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weiss
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Yates
Yatron

ANSWERED "PRESENT"—2

Mattox
Scheuer

NOT VOTING—49

Akaka
Alexander
Anderson, Calif.
Anderson, Ill.
Anthony
Applegate
Aspin
Baldus
Bethune
Bolling
Crane, Philip
Dodd
Edwards, Calif.
Edwards, Okla.
Flood
Frost
Gephardt
Giaimo
Gramm
Hall, Ohio
Hansen
Heftel
Ireland
Jeffords
Jenrette
Johnson, Colo.
Leach, Iowa
McCloskey
McCormack
McDonald
Montgomery
Mottl
Murphy, Ill.
Murtha
O'Brien
Patterson
Pepper
Rosenthal
Simon
Smith, Nebr.
Stangeland
Steed
Treen
Ullman
Weaver
Wilson, C. H.
Winn
Wydler
Young, Mo.

☐ 1520

The Clerk announced the following pairs:

On this vote:

Mr. Gramm for, with Mr. Anthony against.

Mr. CHARLES WILSON of Texas changed his vote from "aye" to "no."

Mr. DECKARD changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

Mr. DELLUMS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NEDZI) having assumed the chair, Mr. PICKLE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4546) to amend the District of Columbia Redevelopment Act of 1945, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. 1157, JUSTICE DEPARTMENT AUTHORIZATIONS, 1980

Mr. RODINO. Mr. Speaker, I call up the conference report on the Senate bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 16, 1979.)

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. RODINO) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes.

The chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. RODINO. Mr. Speaker, earlier this year the House passed a bill authorizing moneys for the Department's fiscal year 1980 activities. Those moneys did not include funds for LEAA. The conference report relates sensibly and rationally to the already enacted appropriation legislation. The conferees did not have before them disputes on moneys relating to the U.S. Parole Commission, the support of U.S. prisoners, the fees and expenses of witnesses, the Community Relations Service, the Federal Bureau of Investigation, and the Federal Prison System. There were differences between the two Houses on moneys to be authorized for general legal activities, general administration, the Antitrust Division, U.S. Attorneys and Marshals, the Immigration and Naturalization Service, and the Drug Enforcement Administration.

With regard to general administration, the conferees adopted a figure which basically reflects the House figure but specifically breaks out from that figure a $5 million designation for joint State and joint State and local law enforcement activities with regard to regulated offenses under the Control Substances Act. The conferees also adopted the Senate language providing for the management analysis of the Immigration and Naturalization Service.

With regard to general legal activities, the conferees agreed to the Senate figure of $111,748,000 with a specific designation of moneys to be made available for the investigation and prosecution of denaturalization and deportation of cases involving alleged Nazi war criminals.

For the Antitrust Division, the conferees adopted the overall Senate figure of $48,592,000, including not to exceed $4 million for antitrust enforcement grants to the States.

With regard to the U.S. Attorneys and Marshals Service, the conferees agreed to the House figure of $242,573,000. This is significant insofar as the Senate bill had a lower figure but did not include the authorization for private service of process by the U.S. marshals. The House conferees insisted upon continuation of this service since no hearings had been held on this matter in the other body.

The conference committee reached agreement on other more technical aspects of the Department's policy responsibilities, including language requiring communication between the Department of Justice and the Congress on any reprograming of funds, on certain undercover investigative activities of the FBI and on departmental intentions to engage in message switching activities.

With regard to the Immigration and Naturalization Services, the conferees agreed upon the House authorization dollar amount of $319,386,000 and a detailed plan for a management study of the Service.

It has become obvious over the past few years that the Service has been finding it increasingly difficult to meet its responsibilities. This regrettable trend is not only due to a continued lack of sufficient financial and manpower resources, but also due to its reliance on antiquated procedures and recordkeeping systems.

The conferees seek to address a portion of the manpower problem by authorizing sufficient funds to reinforce the Border Patrol, especially on the Southwest border where there is evidence of unabated illegal border crossings.

More importantly, the conferees seek to move the agency into 20th century methods and operations by authorizing funds to update the present nonimmigrant control procedures and design a more efficient and effective system compatible with computer capabilities.

The report also authorizes $5 million to automate district offices and file control centers to upgrade processing and recordkeeping functions which really form the basic foundation for all Immigration and Naturalization Service operations.

The conference report also makes provision for an independent comprehensive management analysis of the Service. Testimony at oversight hearings indicated that some management practices which had developed over the years were no longer viable to respond to present day Immigration and Naturalization Service responsibilities. The purpose of this survey is to correct these deficiencies.

This legislation also establishes the position of Social Investigator of the Immigration and Naturalization Service to be appointed by the Attorney General for a period of 3 years or until the establishment of an Inspector General in the Department of Justice. Specifically for this purpose, there is authorized to be appropriated $376,000 for fiscal year 1980. Further authorization for this Special Investigator will have to await future action by the Congress. It will be the duty of the Special Investigator to look into all charges of corruption, discrimination, and other alleged illegal actions.

It is our hope that these measures will set the Immigration and Naturalization Service on the right path for future development and progress, permitting its capabilities to respond to its responsibilities under the Immigration and Nationality Act.

For the Drug Enforcement Administration, the conferees agreed to a compromise between the figures that the two Houses had authorized. Due to a typographical error in the conference report dealing with the Drug Enforcement Administration, there is an inadvertent inconsistency in the figures. Immediately following the vote on the conference report, I intend to call up a concurrent resolution which will rectify this discrepancy. The joint statement also contains an erroneous figure. The correct figure is $198,336,000.

The conferees adopted a $2.6 million authorization for planning and site acquisition for a Federal detention facility in Los Angeles County, Calif. They adopted language basically consistent with the House position concerning plans for the closing of U.S. penitentiaries at Leavenworth, Kans., and Atlanta, Ga.

The conferees also adopted the House position on requirements that the Attorney General report to the Congress when he decides not to enforce any provision of Federal law because he deems it unconstitutional and the House language dealing with the 1980 Congress on prevention and treatment of offenders.

Mr. Speaker, all in all this conference report is a reasonable compromise between the positions of the two Houses. It is my hope that in the 97th Congress the process of authorization can be made even stronger and that we may play a more significant role in this process.

I want to thank and commend all the members of the Judiciary Committee for their cooperation and, in many cases, leadership.

Our House conferees brought their expertise to bear on this bill and on the conference report. I am grateful to them for their help and to our ranking minority member, Mr. McClory, who was, as always, of tremendous assistance in our efforts.

Mr. Speaker, we have a good bill as embodied in the conference report. It is imperative that we pass this conference report expeditiously so that the other body may act. The continuing resolution for the Department of Justice authorization expires tomorrow.

☐ 1530

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the chairman of the committee, the gentleman from New Jersey (Mr. Rodino), and all the conferees on this conference report. In general, I would say that the House position was maintained.

This is a good conference report. The committee chairman has adequately explained it, and I rise in support of the conference report.

Mr. Speaker, the bill before us represents a compromise designed to insure that the Department of Justice continues to administer effective law enforcement at the Federal level. While my views did not prevail in every instance, I believe that the compromise is a good one.

On some matters, there was no disagreement. Both Houses agreed to the same authorization levels for the U.S. Parole Commission, the Support of U.S. Prisoners, the fees and expenses of witnesses, the Community Relations Service, the FBI, and the Federal Prison System. However, there were several areas of controversy I wish to highlight:

First. The House amendment provided $106,267,000 for general legal activities of the Department while the Senate's authorization figure was $111,748,000. The House provision required that $3 million be made available for the prosecution of denaturalization and deportation cases involving alleged Nazi war criminals still residing in this country. The compromise adopted the higher Senate authorization and reduced the mandatory funding for Nazi war criminal investigations to $2.3 million while authorizing an additional $0.7 million for that purpose.

Second. The Senate bill contained language prohibiting the expenditure of funds for equipment with message-switching capability. This was a controversial issue and one which I have often expressed considerable concern; virtually all computer equipment which the FBI, for example, would desire to purchase, has a message-switching capability. The House amendment was silent on the question, preferring instead to rely on assurances given by every Attorney General since Edward Levi that the Department would not engage in message switching. The conference substitute embodies these assurances without prohibiting the purchase of equipment as provided in the Senate version. Such prohibitions could have crippled law enforcement activities. They have unfortunately done so in the past. I am pleased that that mistake was not repeated.

Third. The House amendment contained provisions which establish an Inspector General for the Immigration and Naturalization Service. The Senate had no language whatsoever on the subject and a lengthy debate ensued over the gravity of the precedent of the House provisions. Both Houses agreed that review of the activities of INS is necessary;

we disagreed simply over whether an Inspector General would be the appropriate mechanism by which to accomplish that review. Ultimately, the conferees recommended the establishment of a special investigator for a period of 3 years, during which time the Attorney General should study and make recommendations with respect to creating an Inspector General for the entire Department. I opposed the creation of an Inspector General for INS since it would duplicate the efforts of the Attorney General in investigating criminal wrongdoing as well as the efforts of a management study which both Houses provided for in this legislation so that the Service's efficiency might be improved. Moreover, while the 3-year sunset provision is portrayed as a major feature, it should be noted that the provisions relate only to fiscal year 1980. As we all well know, every authorization for a fiscal year contains, in effect, a 1-year sunset provision. The authorization of $376,000 is limited to fiscal year 1980. So any extension beyond 1980 must await further action of the Congress. It should also be noted that the sum of $376,000 is authorized but not appropriated, and until it is appropriated, the Special Investigator provisions would not go into effect.

Fourth. Another immigration-related provision concerned the Select Commission on Immigration and Refugee Policies, established by Public Law 95–412. Since the House did not deal with this subject, it accepted the Senate provision. The Commission was originally scheduled to expire September 30, 1980. The conference substitute would extend the life of the Commission to March 1, 1981, and raise the level of funds authorized from $700,000 to $2.45 million. It would also expand the authority of the Commission to hire experts and consultants.

This Commission, on which I am pleased to serve, is mandated to review the immigration policies of the United States and make specific recommendations to implement recommended changes. It consists of members of the Cabinet, Members of the Senate and of this body, as well as public members appointed by the President. The Commission has held two hearings to date, one in Baltimore and one in Boston, to hear from persons in various locations throughout this country as to their recommendations for changes in our present immigration policy. This is an effort which is long overdue and the importance of the Commission's work cannot be understated. I feel the modest increase in the life of the Commission and funding authorized will be money and time well invested. I mention these changes not because they were controversial but because of their significance. The changes were unanimously agreed to.

Fifth. The Senate bill contained a provision prohibiting U.S. marshals, with certain exceptions, from continuing to serve civil process in Federal courts. Many Members of this body were quite concerned with this provision because there is no one other than U.S. marshals capable of serving process in many parts of the country. The Senate yielded on this provision when given assurances that our Committee on the Judiciary would hold hearings on the question. The conference substitute authorizes the necessary funding for marshals to continue this service in fiscal year 1980.

While there were other items in disagreement, they did not produce substantial controversy. It should be noted that many of our decisions had already been made for us by the enactment of the appropriations legislation. This is regrettable, as I have indicated before. I hope that next year the leadership will be able to schedule Justice Department legislation in the regular order.

The House did very well in conference, and I trust that we can all support the conference report.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I rise in strong support of the conference report, and I wish to commend the gentleman from New Jersey (Mr. RODINO), the distinguished chairman of the committee, for his leadership in bringing this measure to the floor and steering it through the conference.

With respect to the authorizations provided for the Immigration and Naturalization Service and the investigation and prosecution of alleged Nazi war criminals residing in the United States, the conference agreement is fully consistent with the recommendations made by the Subcommittee on Immigration, Refugees, and International Law and the full House Judiciary Committee.

All of the Members of this body, I am sure, are aware of the inability of the INS to execute its responsibilities adequately under our immigration laws.

Apart from the clear need for a careful reassessment of our entire immigration policy, which is currently underway, there are a number of initiatives which can be taken now. This bill calls for these initiatives which are intended to enable INS to address its monumental administrative problems.

For example, the Iranian student situation has clearly demonstrated that INS simply does not possess the capability to identify at any given time, let alone control or provide prompt service to, the millions of students and visitors who have entered the United States. To correct this problem, the conference report provides $2 million to improve INS nonimmigrant control system as well as $5 million to automate INS district offices.

That authority, together with the independent management analysis of INS provided for in the bill, should enable INS to make significant progress in "getting a handle" on its basic responsibilities.

The bill agreed to in the conference would also establish an office of a Special Investigator for the INS patterned after Inspectors General established by the Inspector General Act of 1978. This new office will have agencywide jurisdiction equivalent to that of an Inspector General to audit and to conduct internal investigations of INS. The Special Investigator is required to report regularly to the Commissioner of INS and to the Congress. It is important to note that improving effectiveness and eliminating corruption will come within the Special Investigator's jurisdiction. By creating an internal, objective and vigorous mechanism for reviewing present performance and recommending improvements, the new office may finally help bring INS up to an acceptable standard in its service and enforcement activities.

It is anticipated that currently existing offices within INS, performing functions which are to be performed by the Office of Special Investigator, will merge their efforts with, and operate under, the newly created office.

Mr. Speaker, the bill authorizes $3 million for the investigation and prosecution of alleged Nazi war criminals and requires that at least $2.3 million be specifically set aside for this purpose. This represents an increase over last year's level, reflecting urgently needed increases in staffing—from 13 to 50—agreed to by the Justice Department. As a result of problems encountered within INS, and at my urging, the unit handling these cases has been transferred out of INS and into the Criminal Division of the Department of Justice. I am glad to say that as a result of these staff and administrative changes, recent progress has been made. Just last week, three new denaturalization cases involving alleged Nazi war criminals were filed in Federal court, the first since 1977. I cannot overemphasize to my colleagues the need for this country to continue vigorously to investigate the nearly 200 cases where credible allegations have been received and to prosecute professionally and expeditiously all of those cases where the evidence warrants it. I am confident that the funding level established by this bill will provide adequate resources for this purpose.

Mr. Speaker, the conference agreement, in my view, would facilitate important improvements within the INS at a time when congressional support of that agency is vitally needed and for this reason, I urge adoption of the conference report.

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I merely wish to add that immediately following the vote on this conference report I intend to call up a concurrent resolution which will rectify a discrepancy in figures that appear incorrectly in the conference report.

Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF THE SENATE TO CORRECT ERROR IN ENROLLMENT OF S. 1157

Mr. RODINO. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 216) directing the Secretary of the Senate to correct a typographical error in the enrollment of the bill S. 1157, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 216

Resolved by the House of Representatives (*the Senate concurring*), That the Secretary of the Senate shall, in the enrollment of the bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for the fiscal year 1980, and for other purposes, make the following correction:

Strike out "$198,836,000" in section 15(2) of the bill and insert "$19,336,000" in lieu thereof.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. **McCLORY**. Mr. Speaker, reserving the right to object, I do so in order to make an inquiry of the chairman of the committee.

Do the changes in the figures merely conform them to those we had, in fact, agreed to in conference?

Mr. **RODINO**. Mr. Speaker, will the gentleman yield?

Mr. **McCLORY**. I yield to the chairman of the committee.

Mr. **RODINO**. Mr. Speaker, the gentleman is correct. This is merely to correct an erroneous figure.

Mr. **McCLORY**. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1540

FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1979

Mr. **SCHEUER**. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Scheuer).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2313, with Mr. LaFalce in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. When the Committee rose on Wednesday, November 14, 1979, the substitute committee amendment printed in the reported bill was considered as an original bill for the purpose of amendment and was considered as having been read.

No amendments are in order except, first, an amendment printed in the Congressional Record of October 16, 1979, by, and if offered by, Representative Andrews of North Dakota; and, second, an amendment printed in the Congressional Record of October 18, 1979, by, and if offered by, Representative Kemp, of New York, and said amendments shall not be subject to amendment except pro forma amendments for the purpose of debate.

AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. **ANDREWS** of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Andrews of North Dakota: Page 26, after line 2, add the following new section:

RESTRICTION OF COMMISSION STUDIES AND INVESTIGATIONS RELATING TO AGRICULTURAL COOPERATIVES

Sec. 305. The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, for the purpose of—

(1) conducting any study, investigation, or prosecution of any agricultural cooperative which meets the requirements of the Act entitled "An Act to authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291–292), commonly known as the Capper-Volstead Act; or

(2) conducting any study or investigation of any agricultural marketing orders.

The **CHAIRMAN**. Has this amendment been printed in the Record according to the rule?

Mr. **ANDREWS** of North Dakota. This is an amendment that was printed in the Record, Mr. Chairman.

The **CHAIRMAN**. The gentleman from North Dakota (Mr. Andrews) is recognized for 5 minutes.

Mr. **GLICKMAN**. Mr. Chairman, will the gentleman yield?

Mr. **ANDREWS** of North Dakota. I yield to the gentleman from Kansas.

Mr. **GLICKMAN**. Mr. Chairman, there is a possible defect in the amendment dealing with the ability of the FTC to investigate false and misleading advertising by, let us say, some of these large cooperatives, such as Sunkist, and others, and I wonder if the gentleman would object if I asked unanimous consent to add language to the gentleman's amendment which would at the end of the amendment insert after "Capper-Volstead Act" the following language: ", except that the Commission shall have authority to undertake any such action with respect to false and misleading advertising;".

Mr. **ANDREWS** of North Dakota. I would have no objection to the addition of that language.

Mr. **GLICKMAN**. Mr. Chairman, I ask unanimous consent that after the words "Capper-Volstead Act" in the amendment offered by the gentleman from North Dakota (Mr. Andrews) that the following language be added: ", except that the Commission shall have authority to undertake any such action with respect to false and misleading advertising;".

The **CHAIRMAN**. The Clerk will report the modification.

The Clerk read as follows:

In the matter proposed to be added by the amendment, insert after "Capper-Volstead Act" the following: ", except that the Commission shall have authority to undertake any such action with respect to false and misleading advertising;".

The **CHAIRMAN**. Is there objection to the unanimous-consent request of the gentleman from Kansas (Mr. Glickman)?

There was no objection.

Mr. **ANDREWS** of North Dakota. Mr. Chairman, I appreciate the gentleman's making that contribution.

Actually, we felt that the way the amendment was originally structured would include the thrust of those words, but for clarification, for the purpose of making legislative history, certainly we have no objection to the inclusion of that language.

Mr. Chairman, I appreciate the opportunity to speak on behalf of my amendment to the FTC authorization bill, which I believe speaks to the best interests of our dwindling population of small family farmers and to all consumers.

My amendment directs that no funds authorized under H.R. 2313 shall be used for the study, investigation, or prosecution of any agricultural cooperative meeting the requirements of the Capper-Volstead Act or for the study or investigation of agricultural marketing orders.

As a member of the funding committee for the FTC, I have, over the years, become increasingly concerned over the intrusive and expansionist activities of this agency. I have watched this agency get into everybody's business stretching from one end of society to another. One of the most recent examples of the FTC's intrusion in an area where it has no business involves farmer-owned cooperatives and agricultural marketing orders.

In recent years the Federal Trade Commission has spent a significant portion of its appropriations and staff time investigating market orders and farmer cooperatives. In fact, the FTC has instituted an administrative action against a farmer cooperative for activities that clearly fall within the Capper-Volstead Act and against the cooperative's use of agricultural market orders. An action was also brought against a farmer cooperative which the FTC later dismissed after a Federal court ruled that the challenged activities were within the permitted scope of the Capper-Volstead Act.

At present, the administration and use of marketing orders is within the jurisdiction of the Secretary of Agriculture under the Agricultural Market Agreement Act. Jurisdiction over farmer coops is also vested in the Secretary of Agriculture by virtue of the Capper-Volstead Act, which was enacted way back in 1922.

Going back even further than 1922, when the Clayton Act was under consideration, Congress was mindful of the minimal bargaining power of the individual farmer in the market in which he buys and sells. In order to encourage the farmer to form agricultural organizations for mutual help, Congress exempted such organizations from the application of the antitrust laws under Section 6 of that act.

Enacting section 6 distinctly expressed the congressional policy of treating farmers differently from industrialists and middlemen. At that time, Congress saw farmers at the mercy of sharp dealers in the sale of their produce and, therefore, recognized the need for the formation of cooperatives in order to help themselves. The structural requirements for section 6 were simply that an agricultural organization without capital stock, instituted for mutual self-help and not conducted for profit, qualifies for the exemption.

In 1922, Congress saw fit to extend the section 6 exemption from antitrust attack to farmer organizations with capital stock under section 1 of the Capper-Volstead Act. Section 2 of that same act provides that if a cooperative abuses its monopoly power to unduly enhance the price of a product, the Secretary of Agriculture shall bring a suit asking the cooperative to cease and desist.

It is interesting to note that as long as nearly six decades ago, Congress recognized that farmer-owned cooperatives should fall under the jurisdiction of the Department of Agriculture and not the Federal Trade Commission. Recognizing the fact that the FTC lacks the expertise in the area of agricultural cooperatives, this was a wise decision.

The same situation holds true today. I do not believe a single agricultural economist is employed by the Federal Trade Commission. The cooperative form of enterprise and its basic differences from the ordinary form of business must be recognized and understood. What Department or Federal agency could be more capable or appropriate for overseeing the system of farmer cooperatives than the Department of Agriculture?

If the Department is not doing the job it should be doing with respect to overseeing farm cooperatives, that should be corrected. But, certainly, we do not need two Government agencies doing the job, and Congress has not delegated responsibility in the areas of farmer-owned cooperatives or ag marketing orders to the Federal Trade Commission. The Commission's usurpation of authority in these two areas not only results in harassment of farmers and their co-ops—it is also a waste of public funds because it duplicates another agency's responsibility.

Historically, FTC's congressional mandate is to seek out abuses of market power and enhance the role of competition in the marketplace. There is no question that the interests of consumers need to be protected this way, especially at a time when this Nation is experiencing double-digit inflation.

One of the FTC's most important jobs is to investigate the cost-price spread between the farm and the supermarket, which in itself is a monumental task. Instead, they ignore that and insist on getting into everybody's backyard whether they have the authority or the expertise to do so. And, in the process, they add to the inflation that affects us all.

Back in 1975, the FTC's Bureau of Competition undertook a study of the role of agricultural cooperatives in certain sectors of the economy. As part of their study, they requested information from 50 selected cooperatives. The request was so broad that scores of pages of index were required just to record all the material that one farmer cooperative supplied in compliance with this request.

The compliance was nuisance enough, but a sadder fact is that when the FTC released a staff report which was highly critical of farmer cooperatives later that year, it was obvious that the FTC staff had not even looked at the material supplied by the cooperatives.

A multipaged subpena requesting detailed business records over a long period of time presents a staggering blow to any farmer-owned cooperative. The amount of money these cooperatives spend on man-hours collecting the requested data, not to mention legal fees, can be astronomical.

Farmer cooperatives, unlike other major corporations that can hire any number of attorneys to represent them, simply do not have the resources to finance such fights. Following the principle of operations at cost, all the returns to the cooperative besides those necessary to operate, are returned to farmers. So additional expenses, like attorneys fees, come directly out of the farmers' pockets.

The majority of the cooperative members are family farmers with relatively modest operations, who are engaged in marketing practically every type of agricultural commodity imaginable. Nearly five out of every six farmers belong to a cooperative. They are not investors in the cooperative as a stockholder is in a corporation—they actually participate in the business. The products marketed through the cooperative are their products. Because of the nature of an agricultural cooperative, an action by the Government against a cooperative is in reality an action against the individual grower members.

The Federal Trade Commission has investigated various aspects of agricultural cooperatives over the past several years. The actions FTC has taken against the co-ops poses a direct threat to their very survival.

According to a 2-year study carried out by the National Commission of Food Marketing in the 1960's, of all the centers of market power in the entire food complex, farm production and farm cooperative marketing activities represented the weakest and most competitive sector. Yet the FTC insists on continuing its concentration on the farm marketing sector. It appears, then, that the Commission is operating under a preconceived assumption that farmers and their cooperatives are contributing to rising food prices through excessive market power. There is, however, no evidence to substantiate the charge.

These actions lead me to believe that the FTC is seeking to strip farmers of the specific rights promised them by Congress through section 2 of the Capper-Volstead Act of 1922 and section 6 of the Clayton Act. Those statutes carved out a specific exemption for agricultural cooperatives from portions of the antitrust laws and gave the Secretary of Agriculture—not the FTC—jurisdiction to determine if a cooperative's activities amounted to monopolization or a restraint of trade. By virtue of the exemption from the antitrust laws contained in those statutes, it was in fact assumed that agricultural cooperatives might lawfully acquire significant market power, possibly including as members 100 percent of the growers of a particular commodity.

The FTC's involvement in this area constitutes a major assault on the congressional intent behind these acts, which was to encourage the growth of agricultural cooperatives. This congressional policy is as valid today as it was when these statutes were passed.

Both agricultural cooperatives and the American consumer will be the losers if the FTC is allowed to continue with its plans to usurp the authority presently given to the Secretary of Agriculture.

It has long been recognized that the strength of American agriculture emanates from a viable family farm system. The system of agricultural cooperatives allows the family farmer to keep his independence and at the same time enjoy the economies of scale offered by agricultural cooperatives for marketing his products and securing his supplies.

Erosion of the system of agricultural cooperatives would certainly be great great news for the giant corporate enterprises, but it is beyond me how such a turn of events would be in the best interests of the consumer.

I have stood on the floor of this House many times before to express my concern over the trend toward fewer and larger farms pushing out the smaller family farmer. I do not want to see a handful of giant operators own, manage, and control the entire food production system in this country. The importance of the family farmer was also stressed in an address by President Carter to the Missouri Farmers Association last year in August when he voiced support for the Capper-Volstead Act—the legislation that provided agricultural cooperatives with limited antitrust exemption.

In order to save the family farm and preserve the diversity of American agriculture, we must commit ourselves to an agricultural structure in America that is in the interest of the family farm operator. We cannot afford to forget that our farmers offer the American consumer the best buy in food of any country in the world.

The potential burdens that could be placed on farmer cooperatives by Federal regulatory agencies like the Federal Trade Commission can only serve to hinder the success of the small family farmer. It is deplorable for me to think that farmer money must be used to defend against Government intervention. I want to do everything I can to guard against this continuing high cost to farmers and their cooperatives. They have a much more important task than to spend their time and money fighting the FTC. They have a nation and much of the world to feed.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank my colleague for yielding, and I rise in support of the amendment offered by the gentleman from North Dakota.

The purpose of this amendment is to reaffirm the responsibility of the U.S. Department of Agriculture in overseeing the activities of agricultural cooperatives subject to the Capper-Volstead Act. It would do this by prohibiting the Federal Trade Commission (FTC) from conducting any study, investigation, or prosecution of agricultural cooperatives subject to the act and from conducting any study or investigation of agricultural marketing orders. It would not, however, prevent the FTC from carrying out its statutory responsibilities relating to unfair or deceptive advertising, unlawful promotional programs, and the like.

This amendment is necessary to prevent the Federal Trade Commission from overstepping its bounds with respect to the activities of agricultural cooperatives and intruding into a regulatory area that was assigned by the Capper-Volstead Act to the Secretary of Agriculture.

Section 1 of the Capper-Volstead Act grants agricultural cooperatives a limited exemption from the antitrust laws and specifies particular collective activities which may be lawfully carried on by members of such cooperatives. Section 2 of the act gives the Secretary of Agriculture authority to take administrative action when monopolization or restraint of trade by an agricultural cooperative results in undue price enhancement.

There is no question as to the willingness or the ability of the Department of Agriculture to carry out these antitrust responsibilities. The lack of allegations of undue price enhancement lodged with the Department by anyone in the past 3 years is evidence of the lack of need for any other Federal agency, such as the FTC, to attempt to assume jurisdiction in this area.

In order to display to all that USDA is forcefully enforcing the law, however, the Secretary has proposed new regulations for the administration of the Capper-Volstead Act which would involve complete separation of USDA's cooperative promotional functions from its enforcement and monitoring system. This tends to follow recommendations of the National Commission for the Review of Antitrust Laws and Procedures, and the General Accounting Office. USDA may, in fact, have gone too far in separating its enforcement from monitoring functions in order to placate critics such as those who favor expanded FTC jurisdiction.

Mr. Chairman, clearly the U.S. Department of Agriculture is the best qualified and most capable agency of the Federal Government to oversee the activities of agricultural cooperatives subject to the Capper-Volstead Act. The USDA has both the necessary expertise and the mandate of the law to do so. To allow the FTC to exercise its claimed jurisdiction in this area would be duplicative and wasteful, and would only further extend the complex and burdensome web of unnecessary regulatory activities which the public and, more recently, the Congress have seen a need to restrict.

I strongly urge my colleagues to support this amendment.

The CHAIRMAN. The time of the gentleman from North Dakota (Mr. ANDREWS) has expired.

(By unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 3 additional minutes.)

Mr. ANDREWS of North Dakota. Mr. Chairman, I appreciate the efforts of my good friend and colleague, the gentleman from Virginia, the ranking minority member on the Committee on Agriculture.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to my colleague, the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, as it has been stated, the purpose of this amendment is to end the duplication and confusion which has resulted from forcing agricultural cooperatives to comply with both the regulations mandated by the Capper-Volstead Act and those concocted by the Federal Trade Commission.

It has been presented quite clearly that statutory authority for the regulation of agricultural cooperatives rests with the Secretary of Agriculture, pursuant to the provisions of the Capper-Volstead Act. Unfortunately, the Federal Trade Commission has seen fit to preempt this authority and initiate its own investigation into agricultural cooperatives' activities.

Mr. Chairman, if we as a body are truly sincere in making the 96th Congress the "Oversight Congress" as many proclaim, it behooves us to adopt this amendment and prevent this kind of duplication. Congress has stated its intent that agricultural cooperatives grow and prosper. Therefore, it is imperative that we correct a serious situation which has resulted in cooperatives incurring significant expenses in dealing with the investigative whims of the FTC.

Again, I commend the gentleman for his sponsorship of this amendment and urge my colleagues to support our efforts to prohibit the Federal Trade Commission from continuing its investigations into agricultural cooperatives.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Chairman, I share the sentiments expressed by the gentleman from South Dakota and the gentleman from Virginia, and I commend the gentleman from North Dakota for this very fine amendment. I hope that this body will accept the amendment.

Mr. ANDREWS of North Dakota. I thank the gentleman for his contribution.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I, too, want to associate myself with the gentleman's remarks.

Mr. Chairman, earlier this year we celebrated National Co-op Month. In doing so, we rallied around the common theme of "Co-ops—Good for All Americans." Certainly, the cooperative movement has been good for agriculture. In 1976, co-ops increased farm income by $1.1 billion. This money increased farm income by 7 percent. For the consumers, co-ops have taken the lead in furnishing quality products; in developing better packaging; in using more efficient distribution methods, all of which have helped to hold down prices of food and fiber products.

Government has also recognized the importance of this movement. The Secretary of Agriculture, the General Accounting Office's consultants, the Federal Trade Commission, and Department of Justice officials all say that cooperatives are needed today and in the future if family farmers are to survive in the highly organized agricultural economy.

Yet, today and in the recent past we have witnessed this same Federal Government causing harassment and additional problems for the very movement they feel is essential to family farms. In particular we have witnessed the aggressive actions of the Federal Trade Commission. The FTC has used its traditional role in antitrust enforcement as a basis for similar action against some cooperatives. And that is the basis for the amendment now before us.

Why should this Congress prohibit the FTC from taking such action against co-ops? First, and perhaps most important is the fact that present law gives the Department of Agriculture the authority to prevent co-ops from using their advantages to "unduly enhance" prices.

Let us analyze that record. Between 1969 and 1976, the Department received five complaints for restraint of trade pricing. Four of the five cases were investigated. The other was already being handled by the Justice Department. In each of the four cases investigated, Agriculture concluded that the cooperatives had not unduly enhanced commodity prices. So, the people have only filed five complaints against cooperatives. And none of them have shown abuse by the co-ops.

Why then should the FTC become involved? Well, they are concerned that the Department of Agriculture has relied solely on complaints from citizens. Rather than imposing Government harassment on the many co-ops in this country, the Department of Agriculture's first mistake was waiting for the people to ask the Government for assistance. Can you imagine such a crime?

The second error in the eyes of the FTC is the simple fact that cooperatives are "in a position" to gain undesirable market power. The General Accounting Office report of co-ops recognized this situation by saying they have "the potential" for unfair trade practices. Yet again, I ask you to return to that same General Accounting Office report which states, "There has never been a documented case of a cooperative doing so."

If the Department of Agriculture needs a better system for assuring the public that cooperatives have not unduly enhanced the prices of their products, then they should do so. If the Department of Agriculture needs a better criteria for determining price gouging, then they should do so. But the evidence is clear—we do not need another agency involving itself in governmental oversight not desired by the public nor justified by experience.

Therefore, this amendment should be adopted to maintain the present integrity of cooperative oversight within the Department of Agriculture.

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Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Chairman, I rise in support of the amendment and would like to point out to the Members who are here who represent the urban areas that the American farmer is the only professional business that I know of which does not set the price of its produce, but rather, says, "What will you give me?"

Therefore, it is necessary for these small co-ops to band together.

I feel like the amendment is very worthwhile. I urge its support.

Mr. ANDREWS of North Dakota. I appreciate the support of my colleague.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Iowa.

Mr. GRASSLEY. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment as well. I think it is about time we set the record straight as to just who is going to have control over this Capper-Volstead Act, that it is the Secretary of Agriculture. He is the most logical one to do it, and we should keep other agencies, who do not know anything about cooperatives, from interfering.

Mr. ANDREWS of North Dakota. As my colleague pointed out, there is no expertise in the Federal Trade Commission on farm matters. In fact, they do not have a single agricultural economist on their staff. They did not the last time I inquired. To have them try to second-guess the Department of Agriculture, which does have the people who know intimately the needs of the farm family and marketing does not make sense in this day of overregulation and high-cost Government interference.

Mr. GRASSLEY. The gentleman expresses my thoughts.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Dakota.

The agricultural cooperative community has become increasingly concerned over the investigations, inquiries, and complaints initiated by the Federal Trade Commission into alleged antitrust or restraint of trade activities of such cooperatives. The Capper-Volstead Act gives the Secretary of Agriculture authority to take administrative action when monopolization or restraint of trade by an agricultural cooperative results in undue price enhancement. Both the language and the legislative history of this law indicate the broad authority the Secretary has over the anticompetitive and antitrust complaints against agricultural cooperatives.

This amendment is designed to eliminate any controversy over which agency has the antitrust responsibility for agricultural cooperatives. The Department of Agriculture is the agency best suited to do this. New rules have been proposed by the Secretary of Agriculture to separate the enforcement and monitoring functions of USDA in this respect. This amendment would not restrict the ability of anyone to obtain remedies for antitrust violations of agricultural cooperatives. It would make it clear that such remedies should be sought through the USDA. The Federal Trade Commission would retain its jurisdiction over practices involving unfair or deceptive advertising, unlawful promotional programs, and other activities falling outside the Capper-Volstead limited antitrust exemption.

Mr. Chairman, this is an important and necessary amendment. I strongly recommend its support by my colleagues.

Mr. COELHO. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from California.

Mr. COELHO. Mr. Chairman, I would like to applaud the gentleman for his efforts in regard to this amendment.

Mr. Chairman, it is the historical view of many legal scholars, economists, and cooperative leaders that the Capper-Volstead Act of 1929 conferred primary jurisdiction upon the Secretary of Agriculture to oversee the activities of agricultural cooperatives.

Since that time agricultural cooperatives have prospered, supplying the public with high quality products at affordable prices. Many of the California fruit, nut, and specialty crops and dairy products, which are enjoyed in this country and the world over, are grown by cooperatives for the most part composed of small family farmers. These cooperatives permit individual farmers to retain their identity while giving them the advantage of the marketing and promotional techniques offered to them by their membership in cooperatives. In a recent brief, the Department of Justice summarized it well by saying that—

> The basic purpose of Capper-Volstead was to enable farmers to make use of modern forms of corporate organization so that they could bargain effectively with the large corporate buyers of farm goods.

I have heard on innumerable occasions many of my colleagues argue most convincingly that the future of the small family farmer is in jeopardy. I cannot think of a better way to preserve this group within our economy than by supporting the cooperative movement. It is many of these same agricultural cooperatives which are responsible for bringing into the United States hundreds of millions of export dollars which have played a substantial role in reducing an otherwise enormous imbalance-of-payments situation.

In the same brief, which was filed with the joint approval of USDA and FTC, Justice argues that "the Secretary of Agriculture * * * has special expertise regarding such cooperatives and to whom enforcement of section 2 of Capper-Volstead has been entrusted." It is this particular section which gives the Secretary of Agriculture the responsibility to monitor against undue price enhancement by cooperatives.

Against this background, the Federal Trade Commission is challenging cooperative practices which have been around for over 45 years, since the enactment of the Capper-Volstead Act, and which have been consistent with Congress intent. FTC investigations of cooperatives have created needless confusion and anxiety for both cooperative leaders and farmers. In one case, the FTC has actually filed a complaint against an agricultural cooperative. Legal fees and direct expenses are running into literally millions of dollars. When the FTC brings in its big guns to bear down on such business operations, cooperatives cannot endure the fight for very long. Farmer cooperatives, unlike corporate giants which can hire an untold number of attorneys to represent them, do not have the resources to finance such fights. Because they operate on a cost basis, all revenues exceeding operating expenses of the cooperative are returned to farmers. Likewise, extra expenditures to fight the FTC come directly out of the pockets of America's family farmers.

The FTC's involvement in regulating cooperatives is expensive for the taxpayers, disruptive for the agricultural community at large, and duplicative. The public wants less regulation, not more.

We cannot adjudicate in the Congress but we can call a halt to FTC activities which appear to conflict with the congressional intent, in this case, the Capper-Volstead Act. I want to strongly urge my colleagues to support the Andrews' amendment to the FTC authorization bill, which would prohibit the FTC from using any appropriations to conduct any study, investigation, or prosecution against any agricultural cooperative and/or against any agricultural marketing orders.

If the FTC is permitted to continue its wanton, irresponsible vendetta against agricultural cooperatives, the whole foundation of agriculture—the backbone of our economy—will be rocked with incalculable costs to both farmers and consumers.

The CHAIRMAN. The time of the gentleman from North Dakota (Mr. ANDREWS) has expired.

(By unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 3 additional minutes.)

Mr. COELHO. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from California.

Mr. COELHO. Mr. Chairman, I would like to ask some questions.

There has been some question as to whether or not the amendment would restrict the Federal Trade Commission from investigating practices, agricultural cooperatives involving advertising and trade promotional plans. Would the gentleman confirm whether or not this is true.

Mr. ANDREWS of North Dakota. The gentleman's understanding, I would assure my colleague from California, is correct.

FTC activity regarding the dissemination of false and misleading advertising and other promotional practices should not be affected. What we intend to eliminate by this amendment is confusion and duplication caused by general FTC scrutiny of agricultural cooperatives. It is important that this body reaffirm the intent of Congress in enacting the Capper-Volstead Act. This act provided agricultural cooperatives with certain antitrust exemptions and gave the Secretary of Agriculture basic antitrust jurisdiction over agricultural cooperatives which met certain standards. Advertising and promotional activities are not covered by the Capper-Volstead antitrust exemption.

Therefore, the FTC should retain its jurisdiction in these areas, and the amendment to the amendment that was proposed earlier under unanimous consent would clarify that even further.

Mr. COELHO. Would it not be true then that there is no vacuum created as a result of the gentleman's amendment in regard to antitrust enforcement?

Mr. ANDREWS of North Dakota. That is right. Quite to the contrary, when we affirm the Secretary of Agriculture's authority and responsibility over these co-ops when allegations of monopolization or restraint of trade are made.

It is also important to note the Department of Justice would retain wide-ranging antitrust jurisdiction over cooperatives.

Mr. COELHO. I appreciate the gentleman's comments.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Kansas.

Mr. GLICKMAN. In response to the gentleman from California, I did offer an amendment which was accepted under unanimous consent, which would, by definition, continue FTC's jurisdiction over false and misleading advertising or unfair or deceptive advertising, which is my intention, because I was bothered by the same particular factor, and the gentleman from North Dakota had no objection.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Does the gentleman's amendment remove from Federal Trade Commission authority a situation in which a non-agricultural co-op engages in activity with a co-op?

Mr. ANDREWS of North Dakota. Would the gentleman repeat the statement?

Mr. ECKHARDT. Suppose, for instance, we have a conglomerate with a lettuce business as to its nonlettuce business, if the conglomerate itself is a co-op member, may it make agreements which would otherwise be in violation of antitrust laws with a non-co-op company?

The CHAIRMAN. The time of the gentleman from North Dakota (Mr. ANDREWS) has again expired.

(By unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 1 additional minute.)

Mr. ANDREWS of North Dakota. As my colleague should understand, cooperatives are usually restrained from doing business with nonmembers. In fact, almost every agricultural co-op has strict limits on doing business with people outside of the members of the co-op, so I would assume that this would be covered.

Mr. ECKHARDT. Then the gentleman is saying that the Federal Trade Commission would have the authority to step in in a situation which a farm co-op engages in an activity with a non-co-op which would be in violation of the antitrust laws, as could be done now, and the gentleman's amendment would not change that situation?

Mr. ANDREWS of North Dakota. Only insofar as the original Capper-Volstead Act exempts farm co-ops from antitrust jurisdiction of the FTC, either dealing with its members or nonmembers cooperatives should be exempt from most antitrust jurisdiction.

The CHAIRMAN. The time of the gentleman from North Dakota (Mr. ANDREWS) has again expired.

(At the request of Mr. ECKHARDT and by unanimous consent, Mr. ANDREWS of North Dakota was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. I think I understand the gentleman's answer, that is, that Capper-Volstead would not be changed in that respect with respect to the Federal Trade Commission's authority.

Mr. ANDREWS of North Dakota. This amendment merely says that the Federal Trade Commission should not move in on agricultural cooperatives in the field of antitrust, because they are specifically exempted from most antitrust regulations by the Capper-Volstead Act.

Mr. ECKHARDT. What about a merger of a co-op with a non-co-op, particularly a case against a non-co-op partner?

Mr. ANDREWS of North Dakota. I would assume the FTC would not have the jurisdiction. The jurisdiction would lie with the Department of Agriculture.

Mr. ECKHARDT. The gentleman does not intend to change the law if the FTC does have the jurisdiction to attack such merger as a creation of monopolization? This amendment does not change it?

Mr. ANDREWS of North Dakota. If the FTC action would be to limit the ability of a co-op to grow, the thrust of my amendment would be to limit that FTC ability to clamp down on the agricultural cooperative. Congress intended agricultural cooperatives to have the ability to band together and become in a sense types of monopolies in their field so they could get better prices for their small producers.

Mr. ECKHARDT. What about predatory prices by co-ops calculated to drive another co-op out of business?

Mr. ANDREWS of North Dakota. That comes under the specific responsibility, I would say, of the Department of Agriculture. The Secretary of Agriculture is directed to see that predatory pricing does not take place.

Mr. ECKHARDT. And price discrimination by a co-op, which is not exempt under Capper-Volstead now, would now be exempted under the gentleman's amendment?

Mr. ANDREWS of North Dakota. Price discrimination comes under the scrutiny of the Secretary of Agriculture.

Mr. SCHEUER. Mr. Chairman, I rise in opposition to the amendment. I oppose it on grounds of process and procedure.

This amendment has been brought to the floor in disregard of the orderly processes of the House. Despite the fact that the case against Sunkist has been pending for years, it was not until the virtual eve of the Rules Committee consideration, that this proposal arose.

During the course of our oversight hearings at the subcommittee level, nobody ever raised a question about the FTC's role in helping to keep down the costs of food and fiber in these inflationary times. Not a word was said on the question during full committee hearings on the FTC authorization bill.

This is the kind of issue that begs to be remanded to the committee, which can develop a comprehensive record and report its findings and recommendations to the House.

Moreover, this amendment will cut off funding for specific antitrust litigation being conducted by the FTC.

Surely no one maintains that the Capper-Volstead Act was designed to permit agricultural co-ops to use their monopoly power, assuming they had it in restraint of trade; and the question is, Have they, and are they doing that?

I think that is a matter of sufficient public import to deserve congressional scrutiny.

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I think all of us have a feeling of sympathetic identification with the idea of farm co-ops, and most of us think of a half a dozen farmers getting together to market their goods.

But I think the power and scope of agricultural cooperatives have gone far beyond what anybody dreamed of 57 years ago when the Capper-Volstead Act was passed in 1922.

Today agricultural co-ops handle $165 billion of transactions annually. Now, that is a lot of lettuce in anybody's language. The membership of these cooperatives include large multinational agri business corporations not just the small family farmers to whom this legislation was intended. Indeed, a few of these large corporate co-ops have come to dominate the production and marketing of certain agricultural products.

There are none of these corporations in the Fortune 500. Let me read from the advertisement that my colleague from North Dakota was calling to our attention.

Agricultural co-ops

	1978 sales [billions]	1978 Fortune 500 standing
Farmland Industries	$3.215	91
Associated Milk Producers, Inc. (AMPI)	1.772	163
Agway, Inc	1.700	173
Land O'Lakes, Inc	1.490	194
Gold Kist, Inc	1.290	217
Dairyman, Inc	1.100	258
CF Industries	.671	342
Sunkist Growers, Inc	.500	
Midland Cooperatives, Inc	.404	483

Source: Fortune 500.

These are not little penny-ante operations. These are not the small family farmer we are being urged to protect.

The Federal Trade Commission in its complaint alleges that the Sunkist Agricultural Co-op, that does over $500 million a year, and is on the Fortune 500 list, has achieved monopoly power on the citrus fruits in the West and is consciously using, as a matter of management policy, its monopoly power to engage in restraint of trade. I do not know whether that is true or not. But I do not think it is our function to stop a regulatory agency right smack in the middle of an adjudicatory process and tell them that they have to cut that process short or that they cannot proceed with it for 3 years. I do not think that my colleague from North Dakota believes it is reasonable, or logical, or perhaps even legal for them to put this case on the back burner for 3 years, and then all of a sudden put it on the front burner and start going again. In effect, it means this case will be quashed. Nothing will have been changed. Whether it is illegal or not will not be changed. The law will not be changed. It is just we will not know whether Sunkist is engaged in an illegal pattern of conduct and I feel that the American public has a right to have that question answered.

This is no way to legislate.

This amendment should be defeated.

Indeed, the Secretary of Agriculture agrees with this position. In a letter to me, Mr. Bergland stated that it is appropriate for the Federal Trade Commission to Investigate Cooperative Activities that fall outside of the Capper-Volstead Act. He concludes by noting that Mr. ANDREWS' amendment is unnecessary and states that he does not support it.

If this amendment is adopted, we will see every industry—especially those with pending cases—try to get exempted from the effective enforcement of the laws.

Mr. ANDREWS of North Dakota. Mr. Chairman, will my colleague yield?

Mr. SCHEUER. I yield to the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, I think actually what we get to with my good friend from New York is the fact that people just do not understand agricultural cooperatives. One of the ones that the gentleman lists, true, comes up in the category of one of the Fortune 500 companies, Land O'Lakes. Land O'Lakes' chairman of the board happens to be a dairy farmer in La Moure County, N. Dak., by the name of Claire Sandness who does, indeed, wear bib overalls and does, indeed, milk his cows every day.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. ANDREWS of North Dakota. If co-ops had not been allowed to grow and prosper, they would not have provided a market for those farmers' milk.

Mr. RICHMOND. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment that would prohibit the Federal Trade Commission from enforcing antitrust laws with respect to agricultural cooperative and marketing orders.

Proponents of this amendment say that the FTC does not have the expertise in the area of agricultural cooperatives and, therefore, should not be allowed to enforce the antitrust laws in cases of violations by any co-op.

I am not so much concerned about how much the FTC knows about farming or market orders or co-ops as I am about the fact that the FTC has a lot more expertise in enforcing the antitrust laws than the Department of Agriculture. The Capper-Volstead Act has been on the books for 57 years, and I will tell you how many investigations the Department of Agriculture has conducted in those 57 years—none.

When we are talking about the enforcement of the antitrust laws, the expertise that we want and the public has a right to expect, is the expertise of an agency whose basic purpose and day-to-day responsibility is enforcing antitrust laws. That agency is the FTC.

No one would seriously propose that the Department of Energy be empowered to enforce the antitrust laws against the oil companies and other companies in the energy field. No one would suggest that the Department of Transportation be granted the sole authority to enforce the antitrust laws against the auto companies.

Congress has given the FTC one clear and overriding mission: to prevent "unfair methods of competition" and "unfair or deceptive acts or practices" in commerce. It seems to me that this legislative mandate applies to all types of commerce, including oil, and automobiles and agricultural cooperatives.

The Department of Agriculture has always considered its overriding mission with respect to co-ops to be promoting them. When the FTC enforces the antitrust laws as they apply to co-ops, the FTC is not burdened by this conflict of missions which could inhibit the fair application and enforcement of the antitrust laws.

I urge a "no" vote on the amendment.

I respect and admire the author of the amendment, my good friend, Mr. ANDREWS of North Dakota. But I believe the FTC must retain its authority to enforce antitrust laws on all agricultural co-ops.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, the gentleman makes a good point except for one thing. The Capper-Volstead Act clearly and unequivocally retains exclusive jurisdiction within the Department of Agriculture. Therefore, the Federal Trade Commission does not have the jurisdiction to do what the gentleman is talking about.

If the USDA has not been doing anything, it will either, one, take note of what we are talking about today and get on the stick and get investigating some of these cases, or Congress should remove some of the jurisdiction that we have given the agricultural department under Capper-Volstead.

I think all the gentleman from North Dakota is saying is that jurisdiction, at least in my judgment, is given pretty exclusively under existing statutes.

Mr. RICHMOND. It is my understanding that in the Sunkist case the FTC does have jurisdiction.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from New York.

Mr. SCHEUER. I might say that the Secretary of Agriculture, Bob Bergland, a former colleague of ours, has written me stating:

> We believe it is appropriate under existing law for the Federal Trade Commission to investigate cooperative activities that fall outside the Capper-Volstead exemption and, therefore, we believe that the proposed amendment is unnecessary and we do not support it.

So the Department of Agriculture itself does not support this amendment.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I will yield to the gentleman.

Mr. PASHAYAN. Mr. Chairman, I read that as kind of a standard line that the Secretary of Agriculture is reluctantly taking to be consistent with the other members of the Cabinet and with the President's policy decision. I can see no reason at all to make redundant the authority already possessed by the Department of Agriculture under the Capper-Volstead Act by repeating it in the FTC.

Mr. RICHMOND. As the gentleman knows, the Department of Agriculture has never used the Capper-Volstead Act in 57 years.

Mr. PASHAYAN. Then I would like to suggest that the appropriate committee in this body, namely, the Agricultural Committee, and this body encourage the Department of Agriculture to exercise the authority it already has.

Mr. RICHMOND. As I mentioned in my remarks, the Department of Transportation does not police the automobile industry, the Department of Energy does not police the oil industry. Why should the Department of Agriculture police gigantic agricultural companies that have grown into monopolies and call themselves cooperatives?

Mr. PASHAYAN. I think that is an excellent question.

Mr. RICHMOND. I had to learn what a cooperative was when I became a member of the Agriculture Committee. I was amazed at their size. Many huge co-ops not only sell feed and machines, but insurance and banking, and are actually very, very large monopolies.

Mr. PASHAYAN. I think the gentleman asked an excellent question which I should like to answer.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. PASHAYAN and by unanimous consent, Mr. RICHMOND was allowed to proceed for 2 additional minutes.)

Mr. PASHAYAN. Will the gentleman yield further?

Mr. RICHMOND. I yield to the gentleman.

Mr. PASHAYAN. I would like to answer the gentleman's question. First of all, cooperatives are made up of very small farmers. They are the participating members of a cooperative.

Second, I think the gentleman will find, as he is probably more aware than I, that the economics of the agricultural world are entirely different from the economics of the commercial world or the industrial world. The FTC's tradition and training is in the commercial and industrial world, not in the agricultural world.

Mr. RICHMOND. Except the gentleman knows that co-ops do not pay taxes and other commercial companies do. That is a great difference.

Mr. PASHAYAN. But as I mentioned before, this is not the proper way to correct this problem, by putting one agency on top of another. We did that with the Energy Mobilization Board. That was enough.

Mr. RICHMOND. The fact remains that in 57 years the Department of Agriculture has not used Capper-Volstead.

Mr. PASHAYAN. Then you should encourage the Department of Agriculture to do what it is already authorized to do now.

Mr. RICHMOND. We should encourage the FTC to do what it is authorized by law to do.

Mr. PASHAYAN. But I repeat: Why should we pile similar kinds of powers on different agencies? As I say, we have done it with the Energy Mobilization Board, and I think that is quite enough.

□ 1610

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak against the amendment.

Mr. Chairman, I would like to clarify one point here. It is true that the Capper-Volsted Act protects co-ops when they are engaged in their typical cooperative business concerning farming activities. It does not protect co-ops from the Federal Trade Commission's enforcement of antitrust law when they are engaged in non-food-marketing activities of co-ops, or when they are engaged in price discrimination, or when they are engaged in predatory pricing by co-ops.

What this amendment would do is go far beyond Capper-Volsted. Capper-Volsted was designed for the purpose of permitting farmers to get together with respect to production and marketing of their crops without being subject to any action taken against them because of agreements between them. It was the same kind of protection for agreements between farmers that, for instance, the National Labor Relations Act applies to agreements between workers. But, it never envisaged the exemption of co-ops engaged in nonfarming activities.

That is what this amendment would do. It would expand the prohibition of the Federal Trade Commission in enforcing antitrust law beyond the farm activities of co-ops and to their other activities. Now, let me look here a moment at Farmland Industries, Inc., which is a corporation with consolidated sales of over $3 billion per year.

These are the kind of direct subsidiaries that exist in this farming structure, and they are not farming activities.

It has CRA, Inc., petroleum refining, crude oil purchasing; CRA Oil Exploration Co.—oil, gas exploration, production. It has Terra Resources, Inc.—oil, gas extraction; Northern Terra Resources, Inc.—Canadian oil; Farmland International Energy Co.—oil, gas exploration; Cooperative Farm Chemicals Association, which manufactures nitrogen fertilizer; Farmers Chemical Co.—ammonium phosphate is produced by that company, and I want to go into that a little later.

We have Farmland Insurance Agency, an insurance agency; Techne Corp.—nitrogen fertilizer; Ceres Development Corp.—real estate; Missouri Chemical Co.—formulator and distributor of agricultural chemicals.

That is the kind of thing that is intended to be protected here. Capper-Volsted is sufficient to protect a real co-op, and real farming activities, but Capper-Volsted is extended by this provision to include a denial of FTC's authority to control areas beyond farming.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield.

Mr. PASHAYAN. Does not the FTC bill also enable the FTC to regulate the purely agricultural economic activities of cooperatives?

Mr. ECKHARDT. If the co-op were engaged in an activity in which it made an agreement with non-co-ops, the Federal Trade Commission could strike down such an agreement. It can also enter into price discrimination by a co-op, or in predatory pricing.

Mr. PASHAYAN. That is the whole point, the purpose and sole point of the Capper-Volsted Act. It is that act that would be the proper place to keep the policy and to establish a pricing mechanism for small farmers. I would like to advise that it is under Capper-Volsted by which most of the farmers have remained small family farmers. Certainly in my district they are, and in many others as well, because of this special pricing mechanism accorded by Capper-Volsted. That is the policy of Capper-Volsted. If we are going to cover it, let us cover it under the Capper-Volsted Act.

Mr. ECKHARDT. I would like to retain some of my time. I agree that Capper-Volsted could be improved, but it should not be improved by amendment to this bill on this floor.

Let me go further and give the Members an example of what this bill would permit.

The CHAIRMAN pro tempore. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. This amendment might end up not saving farmers money, but instead causing a price increase in the materials farmers have to buy. Let me give the Members an example. Farmland Industries, Inc. is a very large co-op.

I have described some of its subsidiaries. It has a very large phosphate-producing subsidiary. I mentioned it in the previous discussion.

Phosphates are an essential component of agricultural fertilizer. Suppose Farmland makes an agreement with other major phosphate producers in Morocco—that is where most phosphate reserves are located. However, most phosphates are now produced in Florida, and that is where Farmland is now operating or preparing to operate on a big scale.

Suppose these phosphates are made outside the United States, and there is an agreement between Farmland that the American company and the foreign company will jointly set phosphate prices worldwide. The passage of this amendment would insulate that agreement from an attack by the FTC. This keeps the price of phosphates high to farmers because the remaining producers of phosphates in the world would agree not to compete in price.

If this sort of agreement is outside the reach of U.S. antitrust laws, then there is no stopping it, and farmers and consumers will be hurt. The scenario I have described almost did occur, but did not precisely, because antitrust laws do apply to what was produced.

In January 1974, a loose association of phosphate producers tried to raise, and indeed raised, the price of phosphates. In a period of 7 months the price rose a whopping 400 percent, from $14 a ton to $68 a ton.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. In the case of Farmland Industries which the gentleman brought up, mind you, these products of fertilizer and oil are products that are sold to farmers, purchased by the farmers. They give these farmers the ability to buy their oil from somebody other than the multinational oil companies, which I did not think my colleague from Texas was necessarily in favor of.

If Farmland Industries is not able to go into the market for Moroccan phosphate, then who could the farmers in North Dakota or the gentleman's farmers buy it from? They buy it from Gardenniere, a French corporation, or Shell, or Hercules. He gets it from this farm co-op because he gets the best service from them, the lowest net price. These cooperatives have to be beneficial to American agriculture. That is why we passed the Capper-Volstead Act.

The CHAIRMAN pro tempore. The time of the gentleman from Texas has again expired.

(At the request of Mr. ANDREWS of North Dakota and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Let me say this, that there is nothing in the Capper-Volstead Act nor in this amendment that requires that Farmland sell its oil only to farmers. This company is a big producer of chemicals, it is a big producer of oil, and it would be exempted from FTC antitrust control by this provision.

Now, let me return to my example. These companies that were attempting to set price provisions on phosphates were unable to maintain that price and had to drop it by a third, in large part because of the large supply response from the United States.

□ 1620

If Farmland were a phosphate producer here, they would be exempt under this amendment—then foreign phosphate concerns operating overseas would be exempt where they are operating. They simply could divide their markets and continue such a cartel to the disadvantage of farmers.

The Andrews amendment is not designed to protect farmers; it is not designed to protect the ordinary co-op like, for instance, REA co-ops or co-ops which only engage in sale to its own members, or distribution of the products of its own members to the marketplace and does not engage in price discrimination of predatory pricing, and does not engage in agreements or consolidations with non-co-op enterprises. It is not necessary for that purpose because those types of co-ops are adequately protected by Capper-Volstead. This amendment is a big industry amendment, which is not for co-ops but for major operating companies operating under only the structure of a farm co-op, not the substance of wholly farm co-op operations.

Mr. SEBELIUS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the gentleman from North Dakota. The activities of the Nation's farmer cooperatives are closely monitored by the Department of Agriculture. To have the Federal Trade Commission conducting the same oversight would seem to me to be needless and expensive duplication.

In July, the Agriculture Department proposed a series of rules for administering Federal regulations against undue price enhancement by agricultural cooperatives. Under the proposal, USDA would monitor cooperative activities to identify possible violations, would assure that this monitoring function would be separate from Department educational and research work with cooperatives, and would conduct hearings on possible price enhancement under terms of the Administrative Procedures Act. The Department's judicial officer would make final decisions in any case.

Comments received by the Department are now under review.

Mr. Chairman, the expertise needed to judge price relationships in agricultural commodities clearly lies within the Department of Agriculture. The Department has taken appropriate steps to strengthen its role in this area. I think that having two agencies performing the same oversight functions is a waste of the taxpayers money. I urge my colleagues to vote for this amendment.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding. I appreciate the gentleman's support in view of the comments that have been made that these are just big co-ops that are being supported by my amendment. Every Member of this House got an urgent legislative message from Reuben Johnson of the National Farmers Union. The National Farmers Union is not a supporter of big monopolistic corporations or anything like that. They have a pretty good reputation here in Washington. They point out:

"We urge your support" of the Andrews amendment.

> Investigations of marketing practices of farmer cooperatives was delegated to the Secretary of Agriculture by the Capper-Volstead Act of 1922. Section 2 of this act provides that if a cooperative engages in practices considered to give it a monopoly position in the market, the Secretary of Agriculture shall bring a suit against the cooperative to cease and desist.
>
> We, therefore, believe that a vote for the Andrews amendment is necessary to protect the many family farmers and their cooperatives from, what we consider to be, current unwarranted actions by the Federal Trade Commission.

They go on to say this, and this is the guts of the whole amendment:

> Farmers and their cooperatives traditionally and historically have lacked market power and, even with the protection afforded them under the Capper-Volstead Act, they have not been able to maintain an equitable posture with those corporations and businesses with which they compete.

In this ad attaching my amendment, right on the list with Farmland Industries is CF Industries which produces fertilizer for CENEX, a Farmers Union co-op. It is listed in this ad, but they sell totally to the farmers through local co-ops as distributors. My colleague, the gentleman from Texas (Mr. ECKHARDT) would have a hard time finding Farmland or CENEX oil or fertilizer, say, in New York, Washington, or San Francisco because it is sold through co-op bulk dealers in the heartland of America to its farmers. This assault on the Nation's co-ops in the long run is going to hurt not only farmers, but the consumers, too, and the country as a whole.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from California.

Mr. FAZIO. I thank the gentleman for yielding. I would like to associate myself with the remarks of the gentleman from North Dakota (Mr. ANDREWS). Certainly the small farmers in my district have found co-ops to be the lifeblood of their existence, and anything we do to undermine their position in the marketplace I think is detrimental to the future of family farms, which we know are on the ropes all over this country.

Before the Congress lends its de facto approval to what constitutes a major expansion of the FTC's domain, it should bear in mind the long-term implications of its act. With these implications in mind, I believe we should support the amendment offered by my colleague, Mr. ANDREWS of North Dakota.

It was early recognized by this Government that cooperatives are a special sort of entity that should not be subject to the traditional antitrust laws. Cooperatives are essential, in fact, to the survival of family farmers. By the nature of their position, farmers, particularly small growers, are not able to coordinate their production and marketing activities to enable them to compete with major concentrations of economic power. I come from a district where this is certainly the case. It is generally accepted that this inability to compete would lead someday to fewer producers of food, higher prices, and a marketplace vulnerable to manipulation by the few in a position to exercise their supremacy.

Therefore, cooperatives are essential to the well-being of all. While I cannot say flatly that cooperatives do not on occasion exercise too much power contrary to the public interest, I do think that if such excesses occur they would best be handled by agencies who are understanding of special nature of cooperatives.

The Department of Agriculture currently exercises jurisdiction over cooperatives marketing practices. If there are shortfalls in the Department's jurisdiction, or if the Department is not adequately exercising its jurisdiction, I believe Congress should try to expand or rectify the Department's activities. USDA has already proposed the creation of a new office to review and investigate any allegations of possible undue price enhancement by any cooperatives. In addition, the Andrews amendment has been clarified to insure continued FTC jurisdiction relating to the advertising, sales, and general promotional activities of co-ops.

Similarly, the Department of Justice exercises some form of antitrust jurisdiction over cooperatives. If there are gaps in the Justice Department's jurisdiction, or if Justice is not performing adequately, then Congress should focus on the Department of Justice.

In neither case do I feel it necessary or wise, in the short or long term, for Congress to encourage the FTC to enter this field. We would then have two agencies (USDA and FTC) broadly regulating cooperatives, which is not only obviously conducive to bureaucratic confusion, but also contrary to the clear message we are getting these days from the public.

If the House approves this FTC authorization today without also approving Mr. ANDREWS' amendment, I believe we are sending a message to the FTC that it should continue its explorations into this thicket. It is conceivable that the FTC would consider its mandate to include complete regulation of cooperatives and set forth to conscientiously carry it out in the years to come. If opponents of Mr. ANDREWS' amendment argue that there is no overlap between what the FTC is doing and what Justice and Agriculture should do, I doubt very much whether they will be able to contend in the future that the FTC has not naturally expanded into areas of obvious overlap. It is almost inevitable that the FTC would seek to do so, and would in fact consider it its job to do so. Under those conditions we will get into a situation where the battle will rage back and forth between two or three agencies with cooperatives and the consumers looking on in dismay. I do not think that situation will prove to be in the public interest.

We have a structure to deal with any problems which may exist with cooperatives. Let us not confuse the picture further. Let us allow the Secretary of Agriculture to regulate farmer cooperatives and marketing orders under the Capper-Volstead Act and the Agricultural Market Agreements Act. I urge the opponents of this amendment to turn their attention to aiding the Secretary of Agriculture in this area.

Mr. SLACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to have the attention of the gentleman from Texas (Mr. ECKHARDT) if I may. Mr. Chairman, when this bill was last before the House on Wednesday, November 14, the gentleman from Texas (Mr. ECKHARDT) made reference to meetings of the Appropriations Committee in which he implied that various industry lobbyists played a substantial role. The gentleman from Texas (Mr. ECKHARDT) made the same reference in remarks in the CONGRESSIONAL RECORD on November 8, and then in a leaflet that was sent to Members of the House shortly before the authorizing bill was initially considered. The title of this leaflet was "Who Is Running Congress?" This is a very familiar phrase used by one of our longtime lobbyists, Esther Petersen. Nevertheless, none of the three statements are entirely factual.

If my memory is correct, my friend, the gentleman from Texas (Mr. ECKHARDT) was an advocate of open committee meetings and, indeed, this committee meeting was open. The public was entitled to sit in as observers but not to participate in any deliberations as alleged in this statement. As a matter of fact, a representative of the Federal Trade Commission was present as well as others who represented both sides of this issue.

I ask the gentleman if he would care to respond to this question: Am I to assume from these remarks that I have read that the gentleman wishes the Federal Trade Commission to operate with a free rein, without any authorization, or, on the other hand, am I to assume that he wishes to kill this agency through the lack of authorization? Would the gentleman care to respond?

Mr. ECKHARDT. If the gentleman will yield, I desire to do neither.

But what has happened, unfortunately—and, of course, our electorates will give the ultimate verdict on it—is that every time we had an authorization up, he have had the experience that has occurred this time. First, the special interests concerning the funeral people strike an exemption for themselves. Then the big ag co-ops which engage in businesses far beyond farming come in and get themselves exempted. In addition to that, we have the Levitas amendment which will invite this same kind of thing from an aggregate of persons, all of whom are affected. We are going to have to stand up sometime and decide whether we are for the people or we are for a bunch of special interests that come in here separately and whittle away the authority to control the businesses that they are engaged in. I do not believe in weakening the Antitrust Act any further, and I hope that the gentleman in the well does not either.

Mr. SLACK. I would remind the gentleman that the Appropriations Subcommittee funded this program, appropriated money for the Federal Trade Commission for 2 years awaiting action by the gentleman's committee for lack of authorization. Is that not the fact?

Mr. ECKHARDT. That is correct, and I appreciate the activity of that subcommittee. The thing that troubled me and the reason I mentioned it here is that the subcommittee began to be willing to cut out from coverage of the only consumer agency that we have today a list of some half dozen or more areas of consumer concern. So in effect consumers were put between a rock and a hard place. Either they would have whittled away the authority of the Federal Trade Commission in an authorization bill or they would have it whittled away in an appropriations bill. Either I think is, if not reprehensible, certainly undesirable.

Mr. SLACK. Does not the gentleman think that appropriating funds for the Federal Trade Commission for 2 years is about all the obligation that the Appropriations Committee should have? Does the gentleman not think we should have had an authorization within that 2-year period?

Mr. ECKHARDT. I do, but is it not correct that the gentleman in the well voted against the conference report, or at least one of the conference reports?

Mr. SLACK. No; I am chairman of the Subcommittee on Appropriations. I voted for the conference report, naturally.

Mr. ECKHARDT. The second conference report?

Mr. SLACK. I beg the gentleman's pardon?

Mr. ECKHARDT. The second conference report?

Mr. SLACK. No; the gentleman is incorrect.

Mr. ECKHARDT. On the authorization?

Mr. SLACK. I may have.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SCHEUER, and by unanimous consent, Mr. SLACK was allowed to proceed for 3 additional minutes.)

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from New York.

☐ 1630

Mr. SCHEUER. If my perception is correct, the reason why the gentleman's subcommittee has had to carry the burden of appropriating for the FTC without the benefit of an authorization is that none of the bills, none of the conference reports that came to this House, had a form of legislative veto and it became transparently clear that this House was not about to fund or rather authorize the activities of the Federal Trade Commission without some kind of a handle to get the creature of the House under control and have it on a little tighter rein. That was our very clear perception.

We think we have solved the problem. I want to pay tribute to our colleague, the gentleman from Georgia (Mr. LEVITAS) for the extraordinary efforts he went through to devise a legislative veto that would be acceptable to the Committee on Rules and to the many Members who were interested.

Mr. Chairman, it seems to me that having met the frequently stated demand of the House for a legislative veto that we have come to the House with a bill that makes sense, a bill that is sensitive and respective of the wishes of the Members of this House. It seems to me we could have met the problem of the funeral industry had we looked at a final rule. We have now an institutional mechanism to look at any final ruling.

It seems to me that as far as agricultural marketing orders are concerned that data is for the benefit of this House. It seems to me that because of the fact of an acceptable legislative veto in this bill, that it makes both the amendment we considered some weeks ago, sponsored by our colleague from Illinois (Mr. RUSSO) and the amendment of our distinguished and beloved colleague from

North Dakota (Mr. ANDREWS) really unnecessary, because the Congress now has institutional capability for having a look at virtually everything that is done over in the regulatory agencies.

Mr. SLACK. I have no disagreement at all with what the gentleman says.

Mr. Chairman, let me go on record at this point. We will appropriate in accordance with an authorization but we want an authorization.

Mr. SCHEUER. I think the gentleman will get an authorization. I want to give the gentleman my tribute and my thanks for the work he has done in the last several years for at least providing some kind of a temporary bridge while we cross those muddy torrents and produce a legislative veto which, in effect, permits us to authorize.

Mr. SLACK. The gentleman is very kind.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I rise in opposition to the Andrews amendment. If accepted by the House, this amendment will prohibit the Federal Trade Commission from enforcing the antitrust laws with respect to agricultural cooperatives and marketing orders. I object to this amendment because it calls for a drastic but selective change of substantive antitrust law and because it asks the House to act without the benefit of a reasoned hearing in the Commerce Committee.

Proponents of the amendment argue that the Federal Trade Commission is overstepping its legislative mandate. Yes, it is true that the Clayton Act, section 17 of title 15, does permit the existence and operation of agricultural organizations. These associations may have marketing agencies in common. These associations are authorized to process, prepare for market, and to market their products, collectively. But if the supporters of this amendment will look further, they will note that this is not a blanket exemption.

The U.S. Court of Appeals sitting in the District of Columbia found that agricultural cooperatives are not wholly exempt. The court found that the Clayton Act and the Capper-Volstead Act title 7, United States Court, section 291, did not leave agricultural cooperatives free to engage in practices against other persons in order to monopolize trade, or to restrain competition.

Now, that is the key point. In all of these debates I think we must retain our ability to make distinctions. In the haste to make sure there is not overregulation, we frequently err by not making distinctions between cases.

Mr. Chairman, here we have a situation where it is perfectly sensible to have the Capper-Volstead Act provisions with respect to the agricultural cooperative operations in and of themselves, but not to extend for agricultural co-ops alone an exemption from the standards with respect to restraintive competition and monopolization of trade which apply to everyone else.

The gentleman from Texas (Mr. ECKHARDT) has made some excellent points in this regard.

The court found further that the privilege that this section grants producers to conduct their affairs collectively did not include a privilege to combine with producers to suppress the competitive efforts of independent producers and processors.

Mr. Chairman, these practices which restrain trade are illegal, and properly so. The law now clearly empowers the FTC to declare these practices which conflict with effective competition in fair marketing illegal. For the Congress to change that in this selective case would be outrageous.

Mr. Chairman, in considering this amendment I would ask my colleague, do we want to send the public the message that restraintive trade is OK? Do we want the public which counts on the Congress to promote policies which reduce inflation to permit anticompetitive behavior in the food sector of the economy which is experiencing a 17.7 rate of inflation? I think not.

We are not dealing just with theories. The other appalling aspect to this discussion here today is that if this amendment were to pass we would be interrupting cases that are currently being prosecuted involving serious antitrust violations. As I understand it, it would be the first time—I have been here but 4½ years—but I understand this is the first time that the Congress has ever interfered in such a way with an antitrust case.

In the Sunkist case the Commission has found that Sunkist controls 75 percent of the production and marketing of western oranges and lemons and that it has engaged in various anticompetitive practices to restrain trade and inhibit competition. Sunkist is a cooperative.

The Ocean Spray case. Ocean Spray is a vertically integrated agricultural cooperative which controls 80 to 90 percent of all cranberry production in the United States and controls 85 percent of the sales of processed cranberry products. For 7 years, Ocean Spray reportedly destroyed up to 18 percent of the total cranberry industry crop each year between 1970 and 1977, preventing competitors from processing berries and also allegedly resulting in restriction of supply and an increase in prices. Do we in Congress want to stop this perfectly legal investigation and prevent the Commission from determining if antitrust violations took place? I would hope that we would not.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, by taking such an action, Congress would be rejecting the Clayton Act and the Sherman Antitrust Act. We would be undercutting all precedent and consistency with respect to congressional and administrative action in this antitrust area, and we would be ushering in a new era where industries would feel confident that Congress would immunize them from the law and consumers from enjoying the fruits of a competitive economy.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California.

Mr. PASHAYAN. Did not the gentleman begin his statement by saying that it is true that the FTC is acting beyond its bounds now? Did the gentleman not say that?

Mr. MAGUIRE. The gentleman misunderstood me. I did not say that.

Mr. PASHAYAN. What did the gentleman say on that?

Mr. MAGUIRE. I said that the distinction had to be made between those areas where there was a proper finding under the Capper-Volstead Act with respect to what kind of activities agricultural co-ops could engage in and, on the other hand, the world of competition and monopoly practices in the marketplace which under no circumstances should co-ops or anybody else be immune with respect to.

Mr. PASHAYAN. Does the gentleman understand that the kinds of activities now engaged in by the co-ops are permitted under the Capper-Volstead Act? Does the gentleman not understand that if we are going to question that activity as a proper policy, the proper place to question it is by questioning the Capper-Volstead Act, not by giving a countervailing power to another agency?

Mr. MAGUIRE. Mr. Chairman, I am sure the gentleman has reviewed the law and the court cases as I have. I am simply saying the law is clear, the court cases are clear in their interpretation of the limits as well as the proper purview of the Capper-Volstead Act.

Mr. Chairman, I think this Congress intervenes now in the middle of antitrust cases that are actually going forward at tremendous hazard to the integrity not only of the law and the court cases but of this institution itself.

□ 1640

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I think it is important to clarify just what this issue is and what the Capper-Volstead Act does and does not do, because there seems to be some confusion in the minds of some of our colleagues as to what the existing law is.

First of all, let me say that ever since 1914 the Federal Trade Commission has had concurrent jurisdiction with the Justice Department over enforcement of the antitrust laws and a great deal of the antitrust landmark decisions have resulted from actions by the Federal Trade Commission. Subsequent amendments of the antitrust laws, the Celler-Kefauver Act, for example, which was passed in 1950, have reaffirmed that jurisdiction and granted additional jurisdiction to both the Justice Department and the Federal Trade Commission; so if you deprive the Federal Trade Commission of its ability to enforce the antitrust laws in a certain sector, you are to that extent curtailing the scope of the antitrust laws.

Now, it just happens that the Subcommittee on Monopolies of the Committee on the Judiciary which deals with antitrust laws has held hearings in two successive Congresses, the latest being the last Congress, on the scope and the future of the Capper-Volstead Act exemption for agricultural cooperatives.

Let us understand one thing: This is not an amendment to implement the Capper-Volstead Act or the Capper-Volstead exemption. It is an amendment to expand that exemption far beyond the Capper-Volstead Act, by depriving the Federal Trade Commission of its authority to enforce the antitrust laws against agricultural cooperatives, even if they are not within the Capper-Volstead Act exemption. In fact, the case which gave rise to this is such a case, as I will describe in a minute.

Furthermore, the amendment would disrupt the administrative process and interfere with an ongoing antitrust case. Congress has never before taken such action prior to exhaustion of administrative remedies and the pursuit of the Federal Appeals Court process.

If the amendment is approved, it would take an act of Congress to enable the FTC to even do a report in this area for a congressional committee.

More importantly, if the amendment is approved, the Commission will not be able to act against agricultural cooperatives that are violating the antitrust laws and causing harm to consumers, competing cooperatives, and small businesses.

Even more recently than the investigation of the Committee on the Judiciary was a study by the President's National Commission for the Review of the Antitrust Laws and Procedures which consisted of a panel of legislators, including this legislator, regulators, antitrust jurists, lawyers, and law professors. Among other things, they reviewed the relationship of agricultural cooperatives to the antitrust laws and made various recommendations. They also outlined the scope of the Capper-Volstead Act exemption as interpreted by the Supreme Court of the United States.

In Maryland and Virginia Milk Producers Association against United States, and now I am reading from the Antitrust Review Commission's report, dated January 22 of this year, the court held that cooperatives are not exempt from section 2 of the Sherman Act when they commit predatory acts, and that is what FTC has charged Sunkist with—nor from section 7 of the Clayton Act when they buy proprietory competitors—and Sunkist is also charged with that violation by the FTC.

In the Maryland and Virginia Milk Producers case, the Court explained its overall approach to the Capper-Volstead Act as follows:

> We believe it is reasonably clear from the very language of the Capper-Volstead Act, . . . that the general philosophy of [the Act] was simply that individual farmers shall be given, through agricultural cooperatives acting as entities, the same unified competitive advantage—*and responsibility*—

And the court underlined those words—

> available to businessmen acting through corporations as entities.

That is the essential scope of the exemption.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, the report goes on and outlines the very kinds of activities by such cooperatives that have been found by the courts to violate the antitrust laws and therefore to fall outside the exemption. For example, and I am again reading from the report:

> Among the practices that courts have condemned as outside the Capper-Volstead exemption—and subject to Sherman Act prosecution—are a conspiracy to prevent competitors from underselling by threatening their handlers and carriers—

That is charged by FTC in the Sunkist case—

> the boycott of a processor serving competitors, a predatory acquisition, and interference with the shipments of competitors; picketing retail stores that purchased from a processor who dealt with a competing supplier; and manipulating a government marketing order to "load" a milk pool and drive rivals out.

Now, does anyone seriously contend that those kinds of practices do not violate the antitrust laws or that they are covered by the exemption in Capper-Volstead? Certainly not. The Supreme Court itself has said they do not. That is a sufficient interpretation for me.

Mr. ANDREWS of North Dakota. Mr. Chairman, would my colleague yield?

Mr. SEIBERLING. I would be happy to yield to my colleague, the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I would like to point out just one thing before we get too far off the track. Coming from North Dakota, nobody can accuse me of being the Congressman from Sunkist, because somehow or another 40 below zero does not produce oranges.

Mr. SEIBERLING. Nobody has accused the gentleman of that; certainly I have not.

Mr. ANDREWS of North Dakota. I prefaced my remarks with that, because I am about to try to make a point for Sunkist. They have been labeled the big bad ones in the past few minutes. I think Sunkist has a lot of competition in the marketplace; Coca-Cola, which is certainly no small operation owns Minute Maid oranges sold across the country; Beatrice Foods, another conglomerate, just bought a frozen orange juice concentrate that is purchased in any grocery store across this country; so competition is there in the marketplace when you speak of predatory pricing practices.

Let me go one step further, too, and speak to the gentleman's concern over jurisdiction in the Sherman Act and the Clayton Act. The Justice Department jurisdiction is not affected in any way by my amendment. All I am doing is saying that we do not need this other guy on the block, FTC, to duplicate what has been done and has been the responsibility of the Justice Department and of the Department of Agriculture to the cost not only of the Federal taxpayer, but also to the cost to the producers.

Mr. SEIBERLING. But the gentleman does concede, I take it, that his amendment deprives the Federal Trade Commission of the ability to enforce the antitrust laws against cooperatives that go beyond the Capper-Volstead Act.

Mr. ANDREWS of North Dakota. Not if they go beyond the Capper-Volstead Act, no; the authority of the Secretary of Agriculture to prevent undue price enhancement will not be affected by my amendment.

Mr. SEIBERLING. But that of the FTC will.

Mr. ANDREWS of North Dakota. And the FTC will retain jurisdiction, we feel, over agricultural cooperatives in areas not covered by Capper-Volstead. All we are doing is protecting the Capper-Volstead protection.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has again expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. But, Mr. Chairman, the gentleman must concede, and I believe has conceded, that the gentleman does in his amendment prevent the Federal Trade Commission from enforcing the antitrust laws against cooperatives; is that correct?

Mr. ANDREWS of North Dakota. All we want to do is slow down their unwarranted interference in cooperatives. I do not think that we can make the case that the Secretaries of Agriculture have not fulfilled their responsibility. I think the fact that the Department of Justice has filed several actions against cooperatives for alleged illegal activities in the antitrust areas would indicate to the Congress and to the country in general that protection over antitrust still resides in the Department of Justice and that will not be affected by this amendment.

Mr. SEIBERLING. Mr. Chairman, it happens as a matter of law that it also resides in the Federal Trade Commission. The trouble is that under Capper-Volstead the Secretary of Agriculture has only very limited power.

Let me read what it is:

> The Secretary of Agriculture's antitrust powers are no substitute for the FTC's authority to prevent unfair methods of competition by coops, because the Secretary can only act when a cooperative's anti-competitive practices have "unduly enhanced" prices.

So that may be the reason why the Secretary has never in all the period he has held this power used his enforcement powers under Capper-Volstead.

Mr. ANDREWS of North Dakota. Might I say to my colleague, that is the reason that we wrote that into the Capper-Volstead to protect the cooperatives.

Mr. SEIBERLING. Yes, but the point is that his power is limited, while antitrust violations go way beyond the limited exemptions for cooperatives. For example, other antitrust violations, like attempts to monopolize, boycotts, anticompetitive mergers, may harm competition even though they do not affect prices directly and therefore the Secretary of Agriculture would have no jurisdiction.

☐ 1650

So that is why, if there is an excuse, the Secretary has never acted against antitrust violations by cooperatives.

As to the Justice Department, we all know that they have limited funds. In fact, we just approved the Justice Department authorization conference report which I am sure provides less than the Department would like to have for antitrust enforcement. In any event, the Justice Department has limited funds and personnel. In order to avoid duplication and to maximize antitrust law enforcement, Justice and FTC have for many years had an agreement on how to divide their concurrent jurisdiction.

This is sensible, because FTC's approach is different from the Justice Department's approach. FTC's primary approach is toward the consumer, toward protecting competition in the marketplace where it most closely affects the consumer. This amendment would take away that jurisdiction where agricultural cooperatives are involved.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. PASHAYAN. I thank the gentleman for yielding.

Mr. Chairman, to answer the gentleman's question, the antitrust laws, as they stand now, accommodate, they have in them carved out an exception in the form of the Capper-Volstead Act. So to answer the gentleman's question, no, there is no violation, in a sense; but the point of the matter is that if there is, it is up to the Department of Agriculture.

The point the gentleman raised I take it are very important to him. If we are going to raise those points, the proper place to raise them is by examining the Capper-Volstead Act, and that is not what we are doing here. It makes no sense whatsoever to amend the policy of the Capper-Volstead Act indirectly by giving the FTC a countervailing and competing power. That is a form of redundancy that I hope this Congress will indulge itself in trying to do less of as time goes on.

If the gentleman wishes to attack and revise the policy of exempting agricultural cooperatives from the ordinary rules of antitrust, as the Capper-Volstead Act in fact does, then the proper place, I say again, is by amending the Capper-Volstead Act.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 4 additional minutes.)

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I rise in opposition to the amendment. The amendment would prohibit the FTC from enforcing the antitrust laws with respect to agricultural cooperatives and marketing orders.

When we speak of cooperatives, we are not talking about a bunch of small farmers. We are talking about a major segment of the agribusiness industry. Cooperatives are firmly entrenched in many areas of agribusiness. They alone account for over 31 percent of dairy processing and nearly 41 percent of frozen, canned, and dried fruit production.

Cooperatives are now entering joint ventures with large corporations to enter new markets and expand old ones. Among the corporations which have joint ventures with cooperatives are Ralston Purina, Coca-Cola, Green Giant, and Kraftco.

Through these joint ventures cooperatives are gaining a larger degree of control over our food system. Cooperatives alone or through joint ventures control 60 percent of dairy processing, 80 percent of the market for citrus concentrates, 70 percent of the market for canned peaches, 85 percent of the market for dried prunes.

The Capper-Volstead Act was passed in 1922. This act exempted farm cooperatives from violation of the antitrust statutes. When this act was passed, Congress was concerned about protecting the rights of farmers to make agreements among themselves. Congress did not contemplate that cooperatives would begin integrating vertically. Now cooperatives are involved heavily in all phases of food production, processing, transportation, and retailing. This growth is a relatively new phenomenon. It started in 1956 when the National Grape Cooperative bought Welch Grape Juice Co. The expansion of cooperatives outside of the traditional area of production raises important and novel antitrust questions. These questions did not even exist when the Congress passed the Capper-Voltead Act over 55 years ago.

Mr. Chairman, this amendment is a bad piece of special interest legislation. It provides special protection to cooperatives where none is warranted. The amendment is directly aimed at the pocketbooks of consumers. It is a special interest piece of legislation and it should be defeated.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman from Ohio. Now I would like to respond to what the gentleman from California (Mr. PASHAYAN) said. Apparently the gentleman was not listening when I read the statement of the Supreme Court of the United States, to the effect that the Capper-Volstead Act exemption does not give the sole jurisdiction to the Department of Agriculture. It gives them jurisdiction over the enforcement of rules for competition when prices are unduly enhanced. But the courts have repeatedly said that they have authority under the Capper-Volstead Act to enforce the antitrust laws when the cooperatives go beyond the scope of exemption, and they have spelled out some of the practices that go beyond the scope of exemption. In the case that this amendment would affect that is now pending in the FTC, the Sunkist cooperative is charged with exclusive dealing contracts with noncooperatives which themselves go beyond the exemption. It is charged with combining with competing noncooperatives, in ways that comprise combinations in restraint of trade, and it is charged with effecting a merger with a noncooperative, which also goes beyond the scope of the exemption.

So let us understand what this amendment does. It is an effort to suspend the antitrust laws that goes way beyond the Capper-Volstead exemption and deprives the consumers of the most effective advocate that they have in the Federal Government, namely, the Federal Trade Commission.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, the point is that when originally passed, the policy was to keep agricultural economics within the Department of Agriculture.

Mr. SEIBERLING. No, it was not. I just pointed out that that is not the policy.

Mr. PASHAYAN. That was the interpretation of the Court, This Congress has the duty to establish a policy.

Mr. SEIBERLING. The Supreme Court says otherwise.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan.

Mr. CARR. I thank the gentleman for yielding.

Mr. Chairman, I want to rise to commend the gentleman. I know the amount of scholarship and the amount of work that he has put into this. This is not some offhanded comment to come into the well of the House with. Whether we agree with him or not, he has done a lot of homework in this area, and I want to commend him for it. I want to associate myself with the gentleman's remarks.

Mr. SEIBERLING. I thank the gentleman for his remarks.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of Mr. ANDREWS' amendment to restrict the Federal Trade Commission's authority to study, investigate and prosecute activities of agriculture cooperatives. The language is clear and the need for its adoption is clear.

It states that for the next 3 years the FTC shall be denied the use of any of its funds to intrude itself into the operations of any agriculture cooperative which meets the requirements of the Capper/Volstead Act (7 U.S.C. 292) and which operates under the Agriculture Market Agreement Act (7 U.S.C. 601, 602, 608, 608c). My support rests on two foundations.

The first is economic. No facts have been presented even to suggest that agriculture cooperatives are, or have been systematically, profiteering at the expense of the general public. No responsible consumer voice has offered any evidence. Where then is there need for a third unit of government, in addition to and in competition with the Department of Agriculture and the Department of Justice, to attempt to seek possible wrongdoing? I suggest there is no need, and for good reason.

The Government's own General Accounting Office states the farm income case in simple and clear terms. On page 26 of its September 8, 1978, report (CED–78–170) on the causes of high food prices, the report declares that in the 8-year period 1970–77, "87 percent of the increase in consumer food expenditures for United States for food has been caused by higher food marketing charges."

Further, the GAO reports that in the 10 years ending in 1977, and with the exception of 1973, the farmers' share of the Nation's food dollar has ranged between 39 and 42 percent. At the same time, total net farm income between 1970 and 1977, in 1967 dollars, declined by 7 percent.

Who can interpret those facts to mean that farmers belonging to agriculture cooperatives are or have been profiteering at the expense of the nation as a whole? Yet, despite these facts and despite the fact that the Congress specifically mandated USDA and Justice to enforce undue price enhancement and antitrust and restraint of trade statutes, the FTC embarked several years ago on a broad crusade of investigation of cooperatives. For what possible cost benefit to the consumer? I suggest no cost benefit is possible.

The second reason is legal. I submit that the Congress clearly vested in the Department of Agriculture exclusive jurisdiction over all activities of farmer cooperatives operating under the Capper/Volstead Act and the Agriculture Market Agreement Act. The Justice Department clearly has jurisdiction in antitrust matters through the Clayton and Sherman Acts.

It is misleading for anyone to suggest that this amendment will in any way restrict the Government's ability to investigate and prosecute alleged wrongdoing on the part of any individual cooperative.

It is further misleading for anyone to state that the Government's ability to collect data on cooperatives' operations will be seriously or permanently impaired or restricted if the FTC is denied such a function. The Members of this House should know that the USDA is required by law to collect such data, and has in fact performed that function since enactment of the Agriculture Market Agreement Act, beginning in 1933.

Actions of the FTC are, however, not without impact. The first is to waste countless hours of Commission and staff time aggressively seeking out potential wrongdoers, but without effect and without purposeful prospects. The second impact is to require several cooperatives to spend vast, cruel and punishing legal fees simply to satisfy what appears to many as an attempt by the Commission and staff to assert jurisdiction in an area Congress reserved to others.

Agriculture marketing cooperatives in California are noted worldwide for their high productivity, outstanding quality and progressive use of man's most efficient processes, technology and marketing techniques. If evidence is available that certain cooperatives may be guilty of illegal behavior, congressionally mandated procedures are and have been available.

For now, this House must call a halt to FTC "fishing expeditions" into the affairs of cooperatives whose only achievement is to saddle several with unconscionable legal fees.

I urge my colleagues to approve this amendment.

Thank you, Mr. Chairman.

Mr. GOLDWATER. Mr. Chairman, I rise in support of the Andrews amendment.

Mr. Chairman, we are not debating here a question of consumer interest. We are debating the role of a Federal agency in acting outside its appropriate jurisdiction.

In 1922, 57 years ago, the Congress of the United States passed the Capper-Volsted Act. Congress said then that co-ops were to be granted a partial antitrust immunity, and that enforcement of the act was to be placed in the hands of the U.S. Department of Agriculture. The law is very specific about the enforcement provision. Take a look at section 2 of the act. The language says that the Secretary is to initiate proceedings whenever there is, and I am quoting now:

> Reason to believe that an (agricultural cooperative) monopolizes or restrains trade . . . to such an extent that the price of any agricultural product is unduly enhanced by reason thereof.

The rationale behind the act was that the Secretary of Agriculture was equipped with the familiarity and expertise to oversee this imaginative form of business.

I have no qualms with the FTC enforcing statutes which deal with unfair or deceptive advertising. I have no qualms with the FTC exercising its authority within its own jurisdiction. If the Government feels that Sunkist prevents other growers from doing business with certain marketing companies, that Sunkist withholds products from the market, that Sunkist illegally stabilizes prices in restraint of trade—then I hope the Government proceeds expeditiously and brings the growers to account for it. But the authorization that this bill makes, the staff time which has already been invested by the Federal Trade Commission is, "a waste of public funds."

What do we have a Department of Justice for? It is their job to prosecute under the Agricultural Market Agreement Act. If Bob Bergland does not like the way Sunkist is marketing its crops, I am sure Ben Civiletti will be glad to take the appropriate legal action. If I am not mistaken, there is probably a Solicitor's Office in Agriculture itself. But this business of one Government agency, in this case the FTC, taking it upon itself to just turn to a section of the United States Code and start an expensive legal process where it sees fit, is not the intention of this legislation.

The Andrews amendment, if adopted, will not be the result of the "powerful farm co-ops" as the press would like you to believe. It will be adopted because this House, in its wisdom, respects the principle of law; the precept that a Government agency does not just take it upon itself to do as it pleases.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota (Mr. ANDREWS), as modified.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ANDREWS of North Dakota. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 139, answered "present" 1, not voting 48, as follows:

[Roll No. 682]

AYES—245

Abdnor
Albosta
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Bedell
Benjamin
Bereuter
Bevill
Boggs
Boner
Bouquard
Bowen
Breaux
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fazio
Findley
Fish
Fithian
Flippo
Foley
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hefner
Hightower
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McHugh

McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mazzoli
Michel
Miller, Ohio
Mineta
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Nolan
Oberstar
Panetta
Pashayan
Paul
Petri
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Sabo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solomon
Spence
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Swift
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wright
Wyatt
Wylie
Yatron
Young, Fla.
Zeferetti

NOES—139

Addabbo
Ambro
Annunzio
Ashley
AuCoin
Barnes
Beard, R.I.
Beilenson
Bennett
Biaggi
Bingham
Blanchard
Boland
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Buchanan
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Dellums
Dicks
Dingell
Dixon
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Fary
Fascell
Fenwick
Ferraro
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Garcia
Gibbons
Gilman
Gonzalez
Gray
Green
Heckler
Hollenbeck
Holtzman
Horton
Hughes
Jacobs
Jones, Okla.
Kastenmeier
Kildee
Kostmayer
Lehman
Leland
Lent
Long, Md.
Lowry
Luken
Maguire
Markey
Mavroules
Mica
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nowak
Oakar
Obey
Ottinger
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Russo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Synar
Thompson
Udall
Van Deerlin
Vanik
Walgren
Waxman
Weaver
Weiss
Wolff
Wolpe
Yates
Zablocki

ANSWERED "PRESENT"—1

LaFalce

NOT VOTING—48

Akaka
Alexander
Anderson, Ill.
Anthony
Applegate
Baldus
Beard, Tenn.
Bethune
Bolling
Crane, Philip
Diggs
Dodd
Edwards, Okla.
Flood
Frost
Gephardt
Giaimo
Gramm
Hall, Ohio
Hansen
Hawkins
Heftel
Hillis
Howard
Ireland
Jeffords
Jenrette
Johnson, Colo.
Leach, Iowa
McCloskey
McCormack
Montgomery
Mottl
Myers, Pa.
O'Brien
Patterson
Rosenthal
Runnels
Smith, Nebr.
Solarz
Stangeland
Treen
Ullman
Wilson, C. H.
Winn
Wydler
Young, Alaska
Young, Mo.

□ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette for, with Mr. Solarz against.

Mr. Jeffords for, with Mr. Wydler against.

Mr. McCormack for, with Mr. Hawkins against.

Mr. Ireland for, with Mr. Diggs against.

Messrs. LOEFFLER, BONER of Tennessee, and VENTO changed their votes from "no" to "aye."

Messrs. STAGGERS, HOLLENBECK, PEPPER, and MAVROULES changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we approach a vote on the final passage of this important legislation, I think we as Members of this body should give a special word of thanks and commendation to the outstanding leadership that has been provided by the chairman of the subcommittee, Mr. SCHEUER, and the ranking member, Mr. BROYHILL, in fashioning an extremely delicate, important, and effective piece of legislation in the midst of great controversy.

This bill which we are about to vote on in a few minutes is the first major piece of regulatory reform legislation to pass this House during this session of Congress. It is legislation which the American people need. It is truly landmark legislation. It contains a strong legislative veto provision which will give the Congress, elected by the people of the United States, the right to make decisions on laws and rules that affect the lives and livelihood of all Americans.

It is a first major effort passed by this House this year to recapture control over their government by the American people, to whom that government belongs.

□ 1730

I think that today will be recorded as the first of many such occasions when the force of the American people, acting through their elected legislators, will have the opportunity of determining the laws that affect them. I think this day should be noted for that reason, Mr. Chairman. We are seeing an end to Government by bureaucratic fiat. The outrage of the American public against unacceptable government has been heard and heeded.

In conclusion, Mr. Chairman, I would like to urge that this House, when the vote comes on final passage, vote overwhelmingly in favor of this legislation to send a signal both to the bureaucracy and to the American people that the trend for more government and less control by the people is ended, and we are going back to those fundamental principles of government by the elected representatives who are placed in office for purposes of representing the people. For that reason, I urge an overwhelming vote in favor of this bill. A "yes" vote on final passage is truly a vote for liberty.

Mr. Chairman, I will insert in the RECORD at this point an article that recently appeared in the New Republic, indicating that this legislative veto issue is neither a conservative issue nor a liberal issue; it is not Democrat; it is not Republican, it is not North or South or East or West. It is an issue that the people are trying to say, "Give our Government back to us."

Mr. Chairman, the article follows:

[From the New Republic, Nov. 10, 1979]

UNDEMOCRATIC NANNY

The Federal Trade Commission is an easy agency to love—or to hate. Once weak and obscure, it has recently become one of the most aggressive agencies in Washington. With the new aggressiveness has come controversy. Among consumer organizations, the FTC stands as a shining example of how bold regulation can force the marketplace to serve the needs of the average American. To businessmen, however, the agency is a haven of overzealous bureaucrats harassing the honest entrepreneur and protecting the consumer from himself.

Both caricatures have some truth in them. In the agency's favor, consider the acrimonious fight over eyeglass advertising. An FTC investigation had found that in states where advertising of prices is allowed, prices are generally lower. Reasoning that consumers had a lot to gain from better information, the FTC struck down the state laws restricting ads. The agency drew heavy fire from the American Medical Association and the American Optometric Association, but consumers clearly benefited from this stimulus to competition. Another FTC proposal would require mobile home manufacturers to live up to the terms of their warranties—hardly a radical proposal, but a bitterly unpopular one in the industry.

But the FTC's critics have no shortage of ammunition. Last year, for example, the agency's staff recommended that television advertising aimed at children be much more closely regulated or even banned completely (the commissioners, who have the final say, haven't decided yet what to do). The proposal took a rather cavalier view of both the First Amendment and the responsibility of parents for their children, and made the FTC a deserved object of popular scorn across the country (the *Washington Post* derided it as our "national nanny"). Sometimes the agency does things that look more silly than dangerous—like questioning the United States' Golf Association's ban on a new adjustable golf club in tournament play as part of its investigation into how to regulate the voluntary standards industry.

These days the agency's bad image appears to overshadow its good one, and Congress is considering a variety of measures to bring the FTC to heel. Several amendments have been introduced to kill specific rules (for such industries as funeral homes, hearing aids, and used cars). Another would cut off funds for the FTC's "intervenor" program, which provides money to groups which otherwises couldn't afford to participate in FTC hearings on proposed rules, but which critics say has been used almost exclusively to sponsor people who agree with the agency. The biggest threat to the agency, however, is a proposal to give Congress the power to veto any FTC rule within 90 days after it is issued. The House has approved such a restriction on the FTC before, and it is almost certain to do so again this year. The real fight will come in the Senate, where Republican Harrison Schmitt has already found 35 cosponsors for his congressional veto amendment. He hasn't been able to get it approved by the Senate Commerce Committee, however, so Schmitt's proposal most likely will be offered as a floor amendment to the FTC authorization bill this week or next. Both sides say the vote will be very close.

As often happens in Washington, the trees in this controversy have served mainly to obscure the forest. Instead of giving careful consideration to the fundamental issue raised by the legislative veto, Washington's assorted lobby groups have lined up in their usual places—Chamber of Commerce and National Association of Manufacturers over here, Consumer Federation of America and Ralph Nader over there. What both sides are worrying about is the issue on which there is, understandably, much disagreement: is the FTC doing a good job? What they are ignoring is the question on which everyone should agree: should the FTC—and the bureaucracy in general—be more accountable to the public?

Of course it should. Most Americans don't realize how broad the FTC's power is. The agency used to carry out its mandate to stop unfair or deceptive practices by suing individual companies for their transgressions, but since the passage of the Magnuson-Moss Act in 1975 it has had the power to issue rules regulating entire industries. The rules issued by the FTC have all the force of law—and violation of some of them can bring heavy fines and even jail terms. Sometimes the FTC has used this new authority prudently, sometimes not—but authority delegated is authority that can be abused. Right now Congress has only the crudest means to prevent the agency from getting into matters it shouldn't get into—namely the ability to cut off funds for those projects.

The FTC's defenders say this club is enough to keep the agency in line. But why should Congress be forced to use a clumsy means of directing the FTC if a defter one can be devised? A congressional veto would serve two useful purposes. First it would force the FTC to pay greater attention to sentiment in Congress. It is hard to believe, for instance, that the agency's staff would have suggested banning all children's advertising if it had had the sword of a legislative veto hanging over its head. Second, of course, it would give Congress a quick, neat way of overruling bad decisions by the FTC. Probably Congress wouldn't have to exercise this power very often: it certainly doesn't have the time and resources to investigate every minor rule issued by the agency. The threat of a veto alone should be enough to restrain excessive zealotry at the FTC.

Giving Congress more direct responsibility for what the bureaucracy does has its dangers, of course. The principal one is that special interests may be able to manipulate Congress to kill FTC rules they don't like. No doubt they may, but that risk goes with democracy. Everyone has a voice, even funeral directors and mobile home manufacturers, and they're free to raise it when their interests are threatened. But so are consumer organizations and ordinary citizens, providing what is admittedly an imperfect balance. The insistence by consumer groups that Congress shouldn't be trusted with this authority—which, after all, it delegated in the first place—rests on an ultimate distrust of democracy and faith unsupported by the record of most regulatory agencies) that unelected lawyers are more likely than elected representatives to make good policy. The premise on which the legislative veto rests, by contrast, is merely that the government should depend on the consent of the governed. Congress may not always exercise a veto wisely, but the verdict on that will fall to the voters—which is just as it should be.—Stephen Chapman.

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Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I just wanted to thank the gentleman for his statement. I agree with him totally.

Mr. Chairman, as we end the debate on this bill and the role of the Federal Trade Commission in regulating American business, recently the Washington Star featured a story on the front page of its business section which left the impression that "businesses are undermining the FTC." The article dealt with so-called lobbying efforts being made to amend the bill before us today.

Mr. Chairman, it is hardly businesses that are out to undermine the FTC. Rather, it is the other way around. Harassment of business is rampant in the Agency. One of the major provisions in the FTC Improvements Act would halt an FTC attack on the Formica trademark which has become generic, or popular because people have come to depend on it for reliable performance. But what is next on the FTC's antipatent agenda? Kleenex? Coca-Cola? Xerox? The need for corrective legislation is particularly ironic in light of President Carter's proposal for a new Federal program to encourage and strengthen the patent rights of inventors. On one hand, the FTC attacks patent rights and on the other hand the President pays lip service to patents.

Mr. Chairman, I had intended to offer one of the three amendments made in order by the rule to the FTC authorization bill, and I feel compelled to inform this body of the politics that the FTC played all along the way to prevent the legitimate efforts of union members to protect their jobs from coming to light. We are not dealing here with a white knight Federal agency whose only aim and purpose is to protect the consumer. We are dealing with a Federal bureaucracy that has gotten so out of hand that the only game it knows is power politics, pressure politics, and "damn the consequences full speed ahead" politics. Working with the FTC has been an eye-opening experience.

The amendment that I had intended to offer was requested not by business, but by a number of unions led by the American Federation of Grain Millers, and dealt with a 7-year-old administrative law proceeding against three cereal companies—Kellogg's, General Mills, and General Foods. The FTC has contended that these three companies have engaged in anticompetitive practices, and if the companies are found guilty according to the FTC they will be forced to give away the Rice Krispies and Special K trademarks and create five new cereal companies out of their present holdings. The unions discovered, however, that this divestiture could entail the termination of the bargaining agreements and job contracts of from 2,500 to 3,000 workers all across the country, and would violate the contracts negotiated in good faith under the National Labor Relations Act.

These were serious findings, and the AFGM petitioned the FTC to allow the union intervention rights so that evidence of possible job displacement, job loss, and economic hardship could be entered into the record of the law proceeding so that the judge could take them into account in his final ruling.

The FTC, in its so-called wisdom, ruled that the economic and job effects of its ruling were not germane to the case, and refused the union its petition. It was at this point that the union leadership came to the Congress to seek legislative relief.

Mr. Chairman, the case the Grain Millers Union brought to me told an incredible story of the way the Federal Trade Commission is being run today. The FTC's charter requires this agency to keep competition both free and fair. But what is the purpose of free and fair competition? It is to provide jobs and opportunities for American workers. The FTC's cavalier attitude is a rejection not only of its responsibility as a Government agency to be a servant of the people, but also of its responsibility as an arbiter of U.S. business practices to take all evidence of the impact of its actions into consideration.

The story gets more shocking. It was only after I considered amending the FTC appropriations bill, and drafted an amendment to the FTC authorization bill to halt the administrative proceeding against the three cereal companies until the FTC completed a comprehensive labor impact study on the results of any divestiture of the cereal industry, that the FTC expressed any interest at all in the Grain Millers' position. And when my amendment was made in order by the Rules Committee, things really began to happen. So worried was the FTC that my amendment would come before the Congress for debate and for a vote, I have been informed, that the FTC's Bureau of Competition was suddenly extremely interested in what the Grain Millers had to say. Where previously the FTC had opposed the union's intervention rights, now suddenly they were agreed to. Where formerly evidence of job displacement and union contract violations were ruled "nongermane," now suddenly the FTC's Bureau of Competition was eager to request a comprehensive study of the impact of divestiture on the union workers' jobs and economic conditions.

And most revealing, the FTC refused to sign the documents authorizing these agreements until it had in hand a signed letter from me stating that I would not offer my amendment on the House floor. As the Grain Millers called me last Friday to say that the FTC had granted both of their requests, and to ask me not to offer my amendment as this agreement would satisfy their concerns, I agreed to withdraw my amendment from consideration on the House floor during discussion of the FTC authorization bill.

Mr. Chairman, I bring up these facts as evidence that we are not dealing with a rational, apolitical Federal agency whose only intent is protecting the consumer. In my dealings with the FTC, the agency has never cared two hoots about the "little guy." Those 3,000 union workers whose very jobs were threatened were inconvenient numbers on a page which interfered with that agency's singular efforts to create a business policy of its own choosing. In our discussions on the merits of this authorization, this body and the American people must realize that if the Congress does not act now to curb the activities of the Federal Trade Commission which stand for political power, not jobs, we will have created a monster which will turn on the very people it was originally created to protect.

I hope in the future that a jobs impact statement and economic impact statement is attached to all these proceedings so that we can be assured that Federal agencies consider the jobs and economic lives of the American people.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I would just say that this is a dark day for consumers, taxpayers, senior citizens, and working people in this country. The legislative veto is subject to misuse and if misused amounts to the greatest single victory that the special interests could achieve. This legislation is all too typical of what has been happening in the Congress as we adopt more and more special interest exemptions.

This will only whet the appetite of the special interest for more exemptions from laws intended to preserve the public interest.

I recognize the need to reform the bureaucracy, but we must be swept up in an antigovernment fever that will do more harm than good.

I oppose the bill in its current state.

Mr. ECKHARDT. Mr. Chairman, I agree with my distinguished colleague from Georgia on two points. No. 1, that the gentleman from New York has done a splendid job in fashioning the bill that is now before us, and has fought a valiant fight in attempting to stop it from being taken apart by two very serious, crippling amendments.

The other point is that I agree that this is landmark legislation. What it marks is the day when the powers of the Federal Trade Commission are taken apart one power by one. That is what has happened in this landmark piece of legislation.

Let me describe feather by feather how this power has been plucked. No. 1, we passed an amendment here removing one special interest, the funeral directors. No. 2, we passed an amendment here removing the giant ag co-ops, which are presently exempt from antitrust laws when they are actually acting as farm co-ops, but we removed them altogether from FTC control, even in cases of merger with non-ag co-ops. No. 3, we protected the Formica Co. to use the Formica label even without a court contest on the grounds that Formica has now become a common name. Maybe Formica is right, but we should not take the matter away from the Federal Trade Commission to try in the courts.

No. 4, we have passed the Levitas amendment, and I tell the Members that we have only seen the beginning of the plucking of the Federal Trade Commission's power. Wait until Members see each one of the special interests come in every time their ox is gored and get a new provision passed in this House to exempt them from control. That is what we will see.

Now, in addition to all of this, when this bill goes to the Senate we already have the message that the children's advertising rule is likely to be attacked. That is eliminated in the Senate bill that came out of the Senate committee. Add that to all that has been taken away from the Federal Trade Commission. In addition to that, the standard certification rule authority is negated in the Senate bill that came out of the committee. All jurisdiction that may affect unfair or noncompetitive practices of insurance companies is eliminated from FTC authority in the bill from the committee in the Senate.

In addition to that, the subpena power and authority of the Federal Trade Commission is limited in the Senate bill. There is also serious question as to whether OTC—over-the-counter drug control—may be impaired by the bill that came out of the committee in the Senate. We know not what will happen on the floor with respect to that issue. The eyeglasses prescriptions limitations are also in question, although I cannot say finally what the Senate committee bill does on it.

What we are doing in this legislation today, is commencing a plucking of the powers of the only agency that we can call a consumer agency in the entire U.S. Government. The very persons who fought the creation of a new and separate consumer agency are the ones who are now attempting to destroy the consumer protection powers of the Federal Trade Commission.

● Mr. WEISS. Mr. Chairman, I rise in opposition to the Federal Trade Commission Improvements Act of 1979 and to the two amendments to the bill which were adopted.

While it is essential that the FTC be given a regular authorization, this legislation is not, in my view, an acceptable means of accomplishing this aim. The bill contains several objectionable provisions, all of which would undercut the FTC's role and greatly diminish its effectiveness.

Two examples of the pro special interest, anticonsumer bias permeating the legislation are the proposed reduction in funding for the Commission's public participation program and the so-called Formica provision which prohibits the FTC from petitioning for the cancellation of trademarks that have become generic product names.

Even more damaging to the Commission's basic purpose is the feature in the authorizing legislation establishing a legislative veto procedure of any and all FTC regulations. The architects of the veto provision are themselves aware of its dubious constitutionality. The bill seeks to expedite court challenges to the veto, but why should the House put itself in the position of approving legislation that would significantly rearrange the powers and duties of the various branches of Government?

Applying a congressional veto to the decisions of regulatory agencies contradicts the clear intent of Congress in making the FTC independent and in giving it broad authority to enforce fair trade practices. Congress passed the Magnuson-Moss legislation which many now find so objectionable. If the FTC has overstepped its bounds or misinterpreted its mandate, then let us debate a repeal of Magnuson-Moss. Let us not add to the already large legislative burden by setting ourselves up in the rulemaking business.

The FTC has a perfectly good appeals process and hearing procedure for any proposed regulation it promulgates. In addition, parties who find a regulation unacceptable regularly exercise their to challenge it in court. Why then is the House discussing a way of sidestepping this carefully designed process and why is it debating an infringement on the separation of powers?

The reason, I submit, is that the FTC has become a scapegoat for all the special interests who complain so bitterly about "bureaucratic arrogance" and "overregulation."

I do not deny that the Federal bureaucracies, the FTC included, have been guilty of some excesses and are sometimes too removed from the democratic process. But there are ways of checking these abuses without taking the teeth out of regulatory authority.

Frustrated by an agency that is seriously addressing many questionable or deceptive industry practices, the big business lobby is trying to bypass the judicial and agency review procedure and flex its considerable muscle here in Congress. We will, Mr. Chairman, be sending out a carte blanche invitation to every special interest group and trade association in the country to use this body to achieve their ends if we approve the legislative veto provision.

And what exactly is it that has so incensed the special interests about the FTC's behavior? What is so terrible, for example, about requiring used car dealers to tell consumers which defects are present in automobiles? What is so awful about a regulation that demands truth-in-advertising standards? And, in another example represented by an amendment passed 2 weeks ago by this body, what is so burdensome, so unfair about requiring funeral directors to itemize their billings?

The vast majority of FTC regulations simply seek to protect unorganized and vulnerable consumers from the unbridled power of monopolies and the deceptive trade practices of certain companies. That is what the FTC has been doing and doing well.

I urge my colleagues to stand up for the interests of their constituents in the marketplace by voting down this version of the FTC authorization. The legislative veto would render the Commission incapable of performing its duties in a vigorous, independent manner. That would surely be good news for monopolies and special interests, but it would be very bad news for every American who is cheated or price gouged in business transactions.●

● Mr. UDALL. Mr. Chairman, think back 57 years, to 1922. Since that time we have been through a major depression, World War II, the conflicts in Korea and Vietnam. We have seen the poverty and misery of the thirties, the global violence of the forties, the cold war rhetoric of the fifties, and the pain and mistrust of the sixties. We have had 10 Presidents, 28 Congresses, added two whole new States.

And in that time the Department of Agriculture has not once so much as begun an investigation into an agricultural cooperative.

That is a pretty poor record, and a pretty good reason for allowing the Federal Trade Commission to retain the authority some of my colleagues want to strip from it today. Proponents of this amendment will tell you that the Department of Agriculture has a great deal of expertise in this area, that we must allow one agency to have jurisdiction over co-ops, that we are fighting against bureaucratic overlap and excessive regulation.

But the record shows otherwise, the record shows that the Agriculture Department is more interested in promoting co-ops than in making sure they do not act in restraint of trade. I am not against co-ops and I think they are good and necessary institutions. But they should operate fairly and not in an anticompetitive fashion.

When the Congress passed the Capper-Volstead those 57 years ago, it gave co-ops a limited immunity from antitrust laws. We said that farmers, large and small, could join together to market their goods in an orderly manner, and could set certain standards for size and quality of produce. Since then co-ops have grown into an accepted institution in rural America, and I think they have done much to insure that American agriculture remains a strong and productive segment of the economy.

We did not give co-ops a complete immunity, however. Co-ops, according to the courts, today basically have the status of corporations. They can do almost everything a corporation can do. But in the same light they are restricted in much the same way as are corporations. Companies cannot buy out all of their competitors and create a monopoly; neither can co-ops. Companies cannot engage in anticompetitive or predatory pricing or marketing practices; neither can co-ops. Companies cannot conspire with other firms to restrict free trade; and neither can co-ops. These are all practices which go beyond mere promotion of a cooperative's products.

Proponents of this amendment will claim that the Congress never bestowed authority upon the Federal Trade Commission in this area of agricultural cooperatives. But in fact when the Congress passed the Capper-Volstead Act it left in place the dual-agency jurisdiction over antitrust, allowing both the FTC and the Justice Department to have some responsibility. And the FTC is the very agency which was created in order to develop and apply expertise in antitrust and anticompetitive matters. The Secretary of Agriculture was given only a very little authority to act against restraint of trade.

In the very important area of consumer fraud, neither the Justice Department or the Department of Agriculture have any authority to prevent unfair or deceptive advertising or other practices. That is the FTC's responsibility and should remain so. I do not think this Congress should take an entire industry out from under the consumer fraud statutes.

If we adopt this amendment we will be saying that co-ops will not be subject to antitrust laws or to consumer fraud laws. We will be saying that cooperatives are such good and fine institutions that we will not take even the normal precautions against possible restraint of trade, that the laws which apply to other bodies such as corporations simply are not needed here.

I do not think that should be the position of this Congress, and I urge a no vote on this amendment.●

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and Mr. MURTHA, Speaker pro tempore, having assumed the chair, Mr. LAFALCE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, pursuant to House Resolution 456, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. BROYHILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 321, nays 63, answered "present" 1, not voting 48, as follows:

[Roll No. 683]

YEAS—321

Abdnor
Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bevill
Bingham
Blanchard
Boggs
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dingell
Dixon
Donnelly
Dornan
Dougherty
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harsha
Heckler
Hefner
Hightower
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Panetta
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton

Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yatron
Young, Fla.
Zablocki
Zeferetti

NAYS—63

Annunzio
Ashley
Aspin
AuCoin
Barnes
Beilenson
Biaggi
Bonior
Brodhead
Burton, John
Burton, Phillip
Carr
Clay
Collins, Ill.
Conyers
Danielson
Dannemeyer
Dellums
Dickinson
Dicks
Downey
Eckhardt
Edgar
Edwards, Calif.
Ferraro
Florio
Garcia
Gonzalez
Gray
Harris
Holtzman
Kastenmeier
Kildee
Kostmayer
LaFalce
Leland
Lowry
Maguire
Markey
Mathis
Miller, Calif.
Minish
Mitchell, Md.
Moffett
Obey
Ottinger
Ratchford
Reuss
Rodino
Roybal
Seiberling
St Germain
Staggers
Stark
Stokes
Thompson
Udall
Van Deerlin
Vanik
Walgren
Weaver
Weiss
Yates

ANSWERED "PRESENT"—1

Ford, Tenn.

NOT VOTING—48

Akaka
Alexander
Anderson, Ill.
Anthony
Applegate
Baldus
Beard, Tenn.
Bethune
Boland
Bolling
Crane, Philip
Diggs
Dodd
Edwards, Okla.
Flood
Frost
Gephardt
Giaimo
Gramm
Hall, Ohio
Hansen
Hawkins
Heftel
Hillis
Howard
Ireland
Jeffords
Jenrette
Johnson, Colo.
Kemp
Leach, Iowa
McCloskey
McCormack
Montgomery
Mottl
Myers, Pa.
O'Brien
Patterson
Rosenthal
Smith, Nebr.
Solarz
Stangeland
Treen
Ullman
Winn
Wydler
Young, Alaska
Young, Mo.

☐ 1740

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Gramm against.

Until further notice:

Mr. Ireland with Mr. Young of Alaska.

Mr. McCormack with Mr. Wydler.

Mr. Applegate with Mr. Anderson of Illinois.

Mr. Mottl with Mr. Winn.

Mr. Myers of Pennsylvania with Mr. McCloskey.

Mr. Young of Missouri with Mr. Stangeland.

Mr. Ullman with Mr. Hillis.

Mr. Alexander with Mr. Edwards of Oklahoma.

Mr. Anthony with Mr. Kemp.

Mr. Boland with Mr. Philip M. Crane.

Mr. Solarz with Mr. Bethune.

Mr. Baldus with Mr. Hansen.

Mr. Patterson with Mr. Beard of Tennessee.

Mr. Gephardt with Mr. O'Brien.

Mr. Frost with Mrs. Smith of Nebraska.

Mr. Giaimo with Mr. Rosenthal.

Mr. Dodd with Mr. Montgomery.

Mr. Howard with Mr. Hawkins.

Mr. Heftel with Mr. Leach of Iowa.

Mr. Jenrette with Mr. Jeffords.

Mr. Hall of Ohio with Mr. Diggs.

Mr. BONIOR of Michigan changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. BOLAND. Mr. Speaker, on rollcall No. 682, H.R. 2313, final passage of the Federal Trade Commission authorization bill, I was unavoidably detained by a staff conference on the Subcommittee on Appropriations for the Department of Housing and Urban Development and Sundry Independent Agencies. Had I been present and recorded, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 2608, NRC AUTHORIZATION ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 472 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 472

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2608) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and amendments made in order by this resolution and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce now printed in the bill, it shall be in order to consider the text of the bill H.R. 5297 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. It shall be in order to consider as amendments to said substitute the amendment printed in the Congressional Record of September 13, 1979, by Representative Weaver of Oregon and the amendment printed in the Congressional Record of October 29, 1979, by Representative Markey of Massachusetts. No amendment to the substitute shall be in order in the House or in the Committee of the Whole to amend or affect the Atomic Energy Act of 1954, except (1) germane amendments to sections 301 and 302 of said substitute relating to civil penalties and safeguards information and (2) an amendment printed in the Congressional Record of October 31, 1979, by, and if offered by, Representative Harris of Virginia and said amendment shall not be subject to amendment except pro forma amendments for the purpose of debate. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 2608, it shall be in order in the House to take from the Speaker's table the bill S. 562 and to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2608 as passed by the House.

☐ 1750

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes for purposes of debate only to the gentleman from Tennessee (Mr. QUILLEN); pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 472 is a rule providing for the consideration of the bill H.R. 2608, the Nuclear Regulatory Commission authorization for fiscal year 1980. This is a modified open rule which provides 1 hour of debate to be equally divided between the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce.

As you may know, differing versions of the bill were reported by the two committees. In an effort to seek an orderly procedure to allow the House to work its will on this measure, a substitute bill, H.R. 5297 was subsequently introduced by the chairmen and ranking minority members of the subcommittees that reported H.R. 2608. Both committees have indicated that this substitute bill is a mutually acceptable vehicle for floor consideration of the NRC authorization. Therefore, in lieu of the amendments recommended by the committees and now printed in the bill, H.R. 2608, this rule allows consideration of the substitute bill as an original bill for the purpose of amendment under the 5-minute rule.

The substitute is to be read by titles instead of by sections and all points of order are waived against the substitute for failure to comply with clause 7, rule XVI, the germaneness rule.

Mr. Speaker, this rule prohibits amendments to the substitute to amend or affect the Atomic Energy Act of 1954, except: First, germane amendments to sections 301 and 302 of the substitute relating to civil penalties and safeguards information, and second, the Harris amendment relating to sabotage of nuclear facilities. The Harris amendment will not be subject to amendment except pro forma amendments for the purpose of debate. However, amendments to sections 301 and 302 of the substitute would be amendable.

The rule additionally provides for the consideration of two germane amendments recommended by the Committee on Interior and Insular Affairs and which do not amend the Atomic Energy Act. First, is the Weaver amendment which bars the issuance of an operating license for a plant in a State that has not received approval of a State or multistate emergency evacuation plan. Second is the Markey amendment which would impose a 6-month moratorium on the issuance of construction permits for the first 6 months of fiscal year 1980. Any other germane amendments which do not amend or affect the Atomic Energy Act would be in order under this rule.

House Resolution 472 also provides for one motion to recommit with or without instructions. After passage of H.R. 2608, it will be in order to strike all after the enacting clause of S. 562, the Senate companion bill and insert the House-passed language.

Mr. Speaker, several recent events in the nuclear industry, particularly the incident at Three Mile Island, have raised questions concerning the adequacy of existing law with regard to the organization, procedures, and practices of the NRC and of the nuclear industry. Two congressional committees are currently engaged in investigations to determine the causes of the Three Mile Island accident and are reassessing the role of nuclear power in the United States.

The seriousness of recent violations of NRC regulations underscores the need for immediate action to insure the protection of public health, safety, and our national security. Two of the amendments made in order by this rule were recommended at the request of the NRC. One provision would amend the Atomic Energy Act to increase the maximum civil penalty which the NRC can impose for a single license violation from the current maximum of $5,000 to $100,000, and removes the $25,000 ceiling on the total civil penalty which may be imposed for violations occurring within any period of 30 consecutive days.

Another provision would create a new section 147 of the Atomic Energy Act to establish authority for the withholding from public disclosure information relating to safeguards, security plans for special nuclear material, and nuclear installations.

Mr. Speaker, this bill addresses important issues of national concern that deserve immediate attention. I strongly support this rule and urge its adoption so that the House may proceed to the consideration of this urgent matter.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from California for yielding.

Mr. Speaker, the accident at Three Mile Island should serve as a warning signal—a flashing caution light—to our national policy on nuclear power.

The Kemeny Commission report is now in, and the appropriate committees are already preparing to address the recommendations of this investigation.

I agree with many of the conclusions of the Kemeny Commission regarding the deficiencies of the Nuclear Regulatory Commission.

I am especially aware of some of these defects because of the NRC's handling of the uranium inventory loss at a processing plant in Erwin, Tenn., in my district.

I intend to offer an amendment designed to improve the regulation of material control and accounting safeguards, and spent fuel transportation safeguards.

Let us face it—1979 has not been a good year for nuclear power or for the Nuclear Regulatory Commission.

But, let us also bear in mind that America depends on nuclear power for about 13 percent of its power. That is a 13 percent share that otherwise largely would have to come from foreign oil—and that is a totally unacceptable alternative.

To shut down America's nuclear power plants makes no sense—to proceed with tough safeguards and with caution does.

This bill makes some necessary changes in the regulation of the nuclear industry, and it provides for only a 1-year authorization.

During the coming year, the appropriate committees will address the issues raised and the recommendations made by the Kemeny Commission and other studies.

Since we need this time to investigate responsibly and study in depth this nuclear issue, I suggest we adopt the rule and proceed with the consideration of this 1-year authorization bill.

We must proceed, but proceed with caution—conscious of the errors of the past, but not blind to the needs of the future.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I appreciate the courtesy of the gentleman yielding time to me.

Mr. Speaker, I oppose the rule, House Resolution 472, which if adopted will overly limit the amendments that can be offered to the Nuclear Regulatory Commission authorization (H.R. 2068).

House Resolution 472 precludes any amendments to the key operating legal statute (the Atomic Energy Act), which governs the NRC and sets forth major nuclear policies in this country.

On October 30 I testified on this rule during a hearing of the House Rules Committee and I would like to insert into the RECORD a copy of that testimony at the conclusion of these remarks.

I had intended to offer an amendment to the Price-Anderson Act—a key title of the Atomic Energy Act. Under the Price-Anderson Act, approved in 1957, the liability of the nuclear industry is limited to a maximum payment of $560 million. By limiting this amount artifically beyond the obviously much greater dollar risks involved in nuclear facilities the Federal Government is encouraging a false sense of security about the safety of nuclear reactors.

The sad fact is that this dollar limitation on liability has not even been revised to account for inflation. According to the Library of Congress the figure adjusted for inflation would be $1.6 billion.

The NRC authorization is probably the only opportunity this Congress will have to reconsider this unfair cap on liability. This is a serious oversight in the wake of the Three Mile Island crisis. I am therefore constrained to oppose this rule.

TESTIMONY BEFORE COMMITTEE

Mr. Chairman, I appreciate the opportunity to appear before the committee today regarding my request to make in order under the rule an amendment to H.R. 5297, the Nuclear Regulatory Commission authorization for fiscal 1980.

The amendment which I seek to bring to the floor would amend that section of the Atomic Energy Act which limits the liability of nuclear plant owners and operators in the event of a radiation accident. Commonly known as the Price-Anderson Act, this provision establishes an industry contribution pool, in combination with Federal subsidies, to meet the current maximum payment of $560 million. This amount has remained unchanged since enactment of Price-Anderson 22 years ago. According to the Library of Congress, the $560 million sum—if adjusted merely for inflation—would now total $1.3 billion.

Specifically, my proposed amendment would legislate the following changes in the Price-Anderson Act:

Eliminate the $560 million liability ceiling;

Require nuclear powerplant owners to obtain the maximum available insurance coverage from private insurers;

Establish normal tort liability for the facility experiencing a nuclear accident, making that plant liable to the limit of its assets just like any other business;

Require all other nuclear plant owners to cover the balance of damages by means of an industrywide pool which currently consists of contributions of up to $5 million from each pool participant in the event of a nuclear accident; and

Make available long-term interest-bearing loans from the Federal Government to those pool participants who are unable to meet their share of damages under the pool plan

In addition, the amendment would:

Change the test of liability to be used in court proceedings from the outdated standard of "negligence" to one of "strict liability in tort." This means, in essence, that anyone injured by a nuclear accident would be required to prove that the injuries were the result of the accident, but not that the accident was caused by malfeasance. Such a change would conform with the standard of liability for manufacturers in a majority of States, and

Allow claims to be brought within 3 years after the claimant first knew of the injury and eliminate the 20-year limitation period on filing a claim.

The Price-Anderson Act was written to encourage private industry to develop nuclear power by sharply limiting the potential risk to the industry. The act was passed at a time when nuclear power was in its infancy. Today, however, there can be no justification for Federal underwriting subsidies and wildly unrealistic and grossly unfair liability limitations for a multibillion dollar industry.

No other method of energy generation enjoys a similar liability limitation and, to my knowledge, none is now being considered even in this age of "fast-tracking." If nuclear energy is indeed as safe as its proponents maintain, then the nuclear industry should be willing to back up its claims with responsibility for accidents that are purported to be "almost impossible."

Mr. Chairman, the Nuclear Regulatory Commission authorization for fiscal 1980 offers what will probably be the only opportunity in this Congress for the House to consider the wisdom of the Price-Anderson Act in view of the incident at Three Mile Island. I had indeed hoped that the committees with original jurisdiction for the act would by now have recommended specific modifications in the statute. But as of last week it was apparent that these committees were deadlocked on the question and would not produce any proposed amendments.

And while it is quite true that my proposal would make substantive changes in the Atomic Energy Act, there is sufficient precedent for such an amendment under both the previous authorizing procedures and within H.R. 5297 itself. The legislation, as the committee knows, would permit a number of other substantive amendments to the Atomic Energy Act.

I believe that my proposed amendment is a responsible and very timely measure. Regardless of one's personal views on the proposal, I would hope that the committee will see the merit of allowing the Price-Anderson Act to be reconsidered by the full House this session.

I most respectfully urge the members of the committee to request consideration of the authorizing legislation under an open rule or, alternatively, to establish a rule permitting the House to work its will on the amendment I have described today.

Thank you.

☐ 1800

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to agree with the gentleman from New York that this is a bad rule. As I predicted, we are now seeing rules coming out of the Committee on Rules that are operating against my liberal colleagues. For the past few weeks some closed rules have been against my conservative colleagues. This dictatorial control by a few Members of this House will eventually hurt all of the Members of the House, and the gentleman is absolutely right in opposing this closed rule. I appeal to him to oppose all such closed rules.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I will be offering to the NRC authorization bill an amendment dealing with emergency evacuation plans. This amendment is germane to the bill. Nevertheless, it is mentioned in the rule because it was approved by the Interior Committee but dropped in the conference between the Commerce Committee and the Interior Committee.

The language in the present bill on emergency evacuation plans is inadequate, and the NRC has shown no concern for emergency evacuation plans whatsoever.

The Kemeny Commission did vote unanimously to require an emergency evacuation plan to be approved before a new license was issued. The Kemeny Commission suggested that the Federal Emergency Management Administration handle these emergency plans. I agree. I agree very much that the NRC must issue the license; so, therefore, it is incumbent upon us to require the NRC to not issue the license until an emergency plan is adopted.

In a "Dear Colleague" letter sent to the Members today, the gentleman from Washington (Mr. MCCORMACK) said that Dr. Kemeny, Chairman of the President's Commission, opposed the Weaver amendment. This is absolutely and totally incorrect and inaccurate. I spoke with Dr. Kemeny just a half-hour ago, and he supports the Weaver amendment. I hope the Members will support it.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 296, nays 77, not voting 60, as follows:

[Roll No. 684]

YEAS—296

Abdnor
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Bafalis
Bailey
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
D'Amours
Daniel, Dan
Danielson
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gore
Gradison
Gray
Grisham
Guarini
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hefner
Hightower
Hinson
Hollenbeck
Horton
Hubbard
Hughes
Hutto
Ichord
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Pease
Perkins
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Snowe
Solomon
Spellman
St Germain
Stack
Staggers
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Zablocki
Zeferetti

NAYS—77

Archer
Ashbrook
Atkinson
Badham
Bauman
Burgener
Burton, John
Campbell
Cavanaugh
Coleman
Collins, Tex.
Conable
Coughlin
Courter
Crane, Daniel
Daniel, R. W.
Dannemeyer
Dellums
Dornan
Emery
Erdahl
Erlenborn
Frenzel
Gingrich
Goldwater
Gonzalez
Goodling
Grassley
Green
Guyer
Hammerschmidt
Heckler
Holt
Holtzman
Hopkins
Hyde
Jacobs
Jeffries
Kelly
Kindness
Kramer

Lagomarsino
Latta
Leath, Tex.
Levitas
Livingston
Lott
Lungren
McDade
McDonald
McEwen
Martin
Miller, Ohio
Moore
Paul
Petri
Roth
Rousselot
Rudd
Runnels
Satterfield
Sensenbrenner
Shumway
Shuster
Snyder
Spence
Stark
Stump
Symms
Tauke
Taylor
Thomas
Volkmer
Walker
Weiss
Wilson, Bob
Young, Fla.

NOT VOTING—60

Addabbo
Akaka
Alexander
Anderson, Ill.
Anthony
Applegate
Baldus
Beard, Tenn.
Bethune
Bolling
Brown, Calif.
Broyhill
Crane, Philip
Daschle
Devine
Diggs
Dingell
Dodd
Edwards, Okla.
Evans, Del.
Flood
Frost
Gephardt
Giaimo
Gramm
Hall, Ohio
Hansen
Hawkins
Heftel
Hillis
Holland
Howard
Huckaby
Ireland
Jeffords
Jenrette
Johnson, Colo.
Leach, Iowa
McCloskey
McCormack
McHugh
Montgomery
Moorhead, Pa.
Mottl
Myers, Pa.
O'Brien
Patterson
Pepper
Price
Rosenthal
Smith, Nebr.
Solarz
Stangeland
Treen
Ullman
Waxman
Winn
Wydler
Young, Alaska
Young, Mo.

☐ 1810

The Clerk announced the following pairs:

Mr. Myers of Pennsylvania with Mr. Stangeland.
Mr. Pepper with Mr. Wydler.
Mr. Solarz with Mrs. Smith of Nebraska.
Mr. Ullman with Mr. Anderson of Illinois.
Mr. Giaimo with Mr. Young of Alaska.
Mr. Gramm with Mr. Leach of Iowa.
Mr. Howard with Mr. Beard of Tennessee.
Mr. Montgomery with Mr. Winn.
Mr. Jenrette with Mr. O'Brien.
Mr. Mottl with Mr. McCloskey.
Mr. Addabbo with Mr. Jeffords.
Mr. Brown of California with Mr. Hansen.
Mr. Daschle with Mr. Devine.
Mr. Gephardt with Mr. Philip M. Crane.
Mr. Dodd with Mr. Broyhill.
Mr. Baldus with Mr. Edwards of Oklahoma.
Mr. Frost with Mr. Bethune.
Mr. Applegate with Mr. Evans of Delaware.
Mr. Akaka with Mr. Hillis.
Mr. Dingell with Mr. Anthony.
Mr. Hawkins with Mr. Hall of Ohio.
Mr. Holland with Mr. Alexander.
Mr. Huckaby with Mr. Heftel.
Mr. Ireland with Mr. McCormack.
Mr. McHugh with Mr. Moorhead of Pennsylvania.
Mr. Patterson with Mr. Price.
Mr. Waxman with Mr. Young of Missouri.

Mr. **LEDERER** changed his vote from "nay" to "yea."

Mr. **GONZALEZ** changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1820

PARLIAMENTARY INQUIRY

Mr. **CLAUSEN**. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore (Mr. MURTHA). The gentleman will state it.

Mr. **CLAUSEN**. Mr. Speaker, I just would like to get some indication as to whether or not the Nuclear Regulatory Commission authorization bill is going to be debated tonight or not.

The **SPEAKER** pro tempore. Negative.

Mr. **CLAUSEN**. We are only going to be considering the rule and not debate? I had been advised that debate was going to go forward, and apparently that has been changed.

The **SPEAKER** pro tempore. That has been changed.

GEORGE MEANY

(Mr. **BRADEMAS** asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. **BRADEMAS**. Mr. Speaker, there are few men or women in any era without whose presence it could be said that a portion of history would have been significantly different. There are fewer persons still who are able to sustain that level of influence from one era to another, for decades on end. And even fewer there are who maintain through all that time a consistent commitment to principle.

Mr. Speaker, George Meany has been such a man.

Mr. Speaker, George Meany's retirement last week as president of the AFL-CIO was an event of both sadness and joy—sadness because, as inevitable a foe as age is to most people, Mr. Meany had seemed somehow impervious: One suspected that the normal rules would simply not apply; joy because Mr. Meany was retiring of his own volition, sensing that the time was right and appreciating the praises from so many quarters for all he has accomplished.

As President Carter said of George Meany last week:

> No American has believed more deeply in human dignity, not only for workers but for all the helpless and the dispossessed.

Mr. Meany worked hard, Mr. Speaker, to make this belief a reality for those both inside and outside the labor movement. The list of achievement is substantial: Improved social security pensions and unemployment benefits, disability benefits, medicare protection, increased Federal support for education, the major civil rights legislation of the 1960s—Mr. Meany had a hand in all of these landmark accomplishments.

Now, Mr. Speaker, everyone knows that George Meany could at times be a difficult man to deal with. He refused to let the niceties of political etiquette deter him when he had an argument to advance or a battle to wage. Still, no one could question the candor and conviction with which Mr. Meany spoke and acted for the processes of democracy, for human rights and for a better life for working men and women. Nor could anyone challenge George Meany's deep devotion to his country.

Mr. Speaker, an "Appreciation" of Mr. Meany, entitled "An Ailing Lion of Labor Bids a Tearless Farewell," appeared in the New York Times on November 16. The writer, William Serin, summarized Mr. Meany's career this way:

> He was cantankerous. He feuded with presidents. He made more money than working men make ....
>
> But he fought for working people. And he helped win their many gains. And people will not forget that.

Certainly, Mr. Speaker, those who fought alongside Mr. Meany for so many years will not forget the experience. And it takes nothing away from the leadership of Lane Kirkland—the new president of the AFL-CIO—and a talented and creative person in his own right—to recognize that George Meany has been a unique figure on the American scene.

Mr. Speaker, I insert at this point in the RECORD the New York Times article to which I earlier referred as well as an article from the Washington Post on November 20, 1979—entitled "George Meany in Private: A Labor of Love"—which discusses Mr. Meany's little known yet highly regarded skills as a self-taught painter:

[From the New York Times, Nov. 16, 1979]

AN AILING LION OF LABOR BIDS A TEARLESS FAREWELL

(By William Serrin)

WASHINGTON, November 15.—His face was white, the white of sickness and old age. His black glasses seemed large for him and he seemed smaller than he had been when he was younger and well.

He was in a wheelchair, and the men and women, delegates to the AFL-CIO convention, applauded him vigorously. Then he delivered an address that lasted about half an hour, talking about the establishment of the trade union movement, almost a century ago, and the winning of important labor battles—Social Security, unemployment insurance, health care for the elderly; about current problems confronting the nation—inflation, unemployment, high interest rates.

Then he thanked the delegates, and the men and women applauded again. A man wheeled him away, down a long and almost empty hall, through a kitchen area where the steam and smells of food being cooked and the clanging of pots filled the air. Then the man pushed him through a side door, and he was gone.

That was the end of the career of George Meany.

A SONG IN HIS HONOR

Some people cried, although most did not. Mr. Meany certainly did not. The applause rose and fell and rose again, the delegates thanking him for the years he had given to the movement.

A longtime balladeer and union man, Joe Glazer, wrote a song about the day. He called it "Big Union Daddy's Stepping Down." A verse went like this:

He never was a diplomat—that everybody knows;
He said just what he had to say—he stepped on a lot of toes;
But he was respected by his friends, as well as by his foes.
Big Union Daddy's stepping down.

Mr. Meany, 85 years old and ailing, was a lion of his time. But even lions become old and must, some day, sit down.

He irked liberals with his often conservative way. He often was authoritarian, brooking little discussion once his mind was made up. His presence often intimidated other union presidents. But he was one of the strong men in labor's long history, and he will be remembered for that.

JOURNEYMAN PLUMBER AT 15

Born in Harlem, Aug. 16, 1894, son of a local union president, Mr. Meany never graduated from high school. He became a journeyman plumber at age 15.

He worked his way up in labor leadership, like many union men do, and in December 1955 he was named president of the new American Federation of Labor and Congress of Industrial Organizations. He has held that job since.

He was cantankerous. He feuded with Presidents. He made more money than working men make. His salary this year is $110,000.

But he fought for working people. And he helped win them many gains. And people will not forget that.

His farewell here today was in a number of ways typical of him.

When the applause ended after he had been wheeled onto the stage, he said nothing at all. He merely began his speech. It was not that he was impolite; it was his manner.

CLEAR AND VIGOROUS VOICE

And, even at 85, with his health problems, his voice was clear and vigorous.

And, of course, he did not cry. There was a catch in his throat and he blinked several times, but he did not cry.

One thing was not typical of him. When he was at the end of his address and the delegates applauded him, he rapped his gavel for silence.

In his career, he may often have been authoritarian. But, now, the rapping was ignored. The applause did not stop.

Mr. Meany came back for a time later in the day, going to the platform for an address by President Carter. Mr. Carter said, "No American has believed more deeply in human dignity, not only for workers but for all the helpless and the dispossessed people."

A bit later, Mr. Meany introduced the Secretary of Labor, Ray Marshall.

But the address in the morning was, for all practical purposes, Mr. Meany's last act.

The delegates to this convention thanked him with applause and some tears. He thanked them with words. He said he had been paid the "highest honor that could be paid any human being," being a working man's leader.

Then the lion was wheeled away.

[From the Washington Post, Nov. 20, 1979]

GEORGE MEANY IN PRIVATE: A LABOR OF LOVE

(By Rozann Weissman)

William George Meany has been one of the most private of public figures. The just-retired 85-year-old man has made his public reputation one dimensional: a cigar chomping, finger-stabbing, table-pounding, tough-talking champion of labor.

Yet Meany revealed a lot about himself on canvas. His diverse oil and acrylic paintings—landscapes, seascapes, still lifes, and abstracts—portray a side of him that is sensitive, solitary, whimsical, gentle.

A self-taught painter who experiments in many modes, Meany employs proportion techniques from his line drawing lessons in apprentice plumbing school. The thick hands which once wielded a Stillson wrench now make delicate strokes with tiny sable brushes, creating a colorful pastoral world: A favorite vase of roses created for his late wife. A whimsical portrait for his grandson, Jeffery. A Christmas clown. An abstract doodled at a "boring" government meeting. Scenes of summer, winter, water and of his adored Ireland and other travel spots.

"I was expecting primitive work because he's self-taught, but his paintings are charming—much better than Eisenhower's and Churchill's," said art historian Joan Walsh Goldman, who organized a one-man show of Meany's paintings at the George Meany Center for Labor Studies. "Now they'll know," Meany told Goldman, "that I do things other than bark at employers and politicians."

Serious health problems forced him to forego a 13th term as the only president of the merged AFL–CIO, a federation of 104 unions representing 13.6 million workers. Meany suffered a serious psychological blow: His razor-sharp mind and tongue are imprisoned inside an aging body. "And I want to retire," he told associates, "while I still have all my marbles."

An uncharacteristic months-long depression stemmed from Meany's physical problems and the death in March of Eugenie (Gena), his wife of nearly 60 years, following a lingering illness. The chair where she waited for his daily return to their Bethesda home—which he's consequently leaving for a condominium—is vacant. There is no longer anyone to say in her equally caustic wise-cracking way. "I'm sure if we weren't married, he's take that cigar to bed with him."

Gena Meany was primarily responsible for erecting an impenetrable barrier around their private life. When calls and visitors interrupted the Meany's home life during his early New York union days, she laid down the law. "My home is my castle," she decreed, "and I am the queen here. If you want to work, do it at the office because I can't raise a family this way." She banned reporters from coming to the home after the late Edward R. Murrow and his Person to Person TV crew in 1954 trampled her flowers and tracked mud into the house.

Home was for leisure and family—a prime Meany interest: the office for work. Virginia Tehas, Meany's personal secretary for 39 years, partially credited Meany's durability to his "working normal hours and leaving the office behind when he goes home. He always said, 'What's the sense of worrying about it? It'll be here in the morning.'"

Since his wife's death, the octogenarian, who is allergic to antibiotics, has been plagued with bouts of bronchitis, a knee injury and related reaction to a cortisone injection which complicated long-standing hip and ankle problems. When he discovered that his hip surgery of 13 years ago gave out, he decided to retire since he could no longer do the work. Severe pain from multiple physical problems over the years made Meany "seem like a public grump," retreating further into his privacy, noted Joe Goulden, author of the unauthorized 1972 biography, "Meany." Frequently, pain would drive Meany from his bed to learn the chords of a new Irish tune on the organ—which he'd later sing in a booming bariton—or paint in isolation, eyes weakened with cataracts, into the wee hours of morning.

Meany began painting 22 years ago when the eldest of his three daughters bought him a paint-by-numbers kit for Christmas. As with everything else, the labor leader determined, "If I'm going to paint, I'm going to do it right." He stretches his own canvas, sketches with charcoal pencil—often from a favorite photo he has taken on global visits—applies fixative and "dabies away with paint."

"At first," recalled Tehas, "he didn't feel as if his painting from photographs was original. He was encouraged when I told him that Maurice Utrillo, his favorite artist, often copied post cards." Meany has produced some 60 paintings for family and friends. They're modestly initialed "G.M." "A collector was impressed that Mr. Meany had a Grandma Moses painting that he never saw before," reminisced Tehas. Actually, it was Meany's first effort, "Summertime," a delightful vision of flowers and trees. The tales differ as to Meany's proud response, with the best being "Grandma Moses, hell. Grandpa Meany."

Ten Meany originals hung in his sunny, eighth-floor office overlooking the White House where the $100,000-a-year labor boss "kept an eye on the president."

Only the Meany family and selected intimates have seen the range of Meany's other faces. The difference between the public and private Meany is best illustrated when Meany's official AFL-CIO painting was being done, Tehas thought it looked too jolly; a Meany daughter too grim. The artist got so tired of turning the corners of the mouth up and down to accommodate the different perspectives that he painted two, a smiling one for the home and a solemn one for the building.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject to which I have just spoken, George Meany.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

WELFARE

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, one of the many flaws in our system of welfare payments is that it tends to encourage an increase in births of dependent children. It was certainly not the intent of Congress that such payments should become an incentive to create more dependence on public assistance.

To illustrate the problem I invite attention to the scale of benefits paid in the city of Washington, D.C., to a mother with no income. When she becomes pregnant with her first child she is entitled to AFDC payments totaling $1,302 per year plus $61 in food stamps. When her child is born she is paid at the rate of $2,706 per year plus $112 in food stamps. A second child brings her benefits to $3,428 plus $161 in stamps. If she has four children her payments will increase to $4,829 plus $242 in food stamps.

If she lived in New York City the scale of benefits would be over 50 percent greater. They would be $6,528 plus $1,200 in stamps when she had borne four dependent children.

Although these payments are more than the mother could earn at a full-time job at minimum wage, I am not emphasizing that. No, what I am emphasizing is that the present welfare system encourages having more children. Many parents expect that public subsidies will insure food, clothes, housing, education, transportation, and other assistance for their growing families. Consequently they do not have to reckon with true economic cost in their family planning.

A pragmatic example of political courage in facing this fact is the positive and successful policy of Singapore.

Singapore is a small nation of 2.3 million people on an island 14 miles wide and 28 miles long. Its domestic food production is minute. It heavily depends on commerce and investment of funds from overseas. It has prospered and its population has tripled in the past 30 years.

In lush times the government had a liberal social policy which favored large families. In those same times the very high birthrate was falling as people's life-style became Westernized. Between 1957 and 1969 the birthrate fell in half, from 42.7 births per thousand of population to 21.8 per thousand. But in the next 3 years it turned upward to 23.1 per thousand.

That is where the Singapore Government changed its policy. In effect it said to all families, "from August 1973 on, you may have all the children you want but after two, you will pay the full economic cost yourself."

First came a limitation on maternity benefits. They had formerly included 8 weeks paid maternity leave for each confinement. The new policy eliminated maternity leave entirely after the second child. Fees for children delivered at government hospitals were increased by 3 to 10 times on a graded scale.

Income tax exemptions were formerly granted for as many as 5 children. Now they stop after three.

Permission to lease apartments in the much coveted new government housing used to be given to large families as first priority. Now small families have equal priority. Families with more than three children may no longer sublet rooms in these apartments; smaller families may be authorized to sublet.

High demand for primary school places has resulted in sending children of a large family to different schools, some far from home. Under current laws, priority on schools near home is given to the first three children and to all children of a now-sterilized parent.

It will not surprise you to learn that the birthrate turned downward again in 1974 and by 1976 had fallen to 17.6 per thousand population—which is about the same rate as in Texas that year.

What I am arguing for is to take the big-family incentive out of our welfare system. Excessive welfare will lower our standards of education, housing, and public morals at a time when we desperately need improvement in the quality of children's lives.

THE IRANIAN SITUATION I; A WORLD GONE MAD

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

• Mr. **ASHBROOK**. Mr. Speaker, the Thanksgiving holiday of 1979 will go down in history as the most foreboding week in recent American and world history. After what seemed like an eternity in waiting for some words of hope about the American hostages in Tehran we received an avalanche of incredible news about takeovers in Mecca and another Embassy under seige, this time in Pakistan. Throughout the Middle East the American flag is now the doormat for terrorism. Two Americans are now dead and hundreds have had their lives forever changed by the new wave of violence. Americans around the world dread to open their morning papers for fear that some new horror will be reported.

The events of this last week are just too unbelievable to comprehend. First we had to witness the ongoing posturing and escalating rhetoric of the armed thugs in Iran. Then the Ayatollah Khomeini, the Iranian answer to Jim Jones, the man President Carter's spokesman Andrew Young said would be a saint some day, began to give his blessing to the terrorism in Tehran by openly siding with the so-called students holding the American Embassy. The ayatollah went further by stating the hostages would be killed if America tried to intervene militarily. In reference to President Carter's inability to handle the Iranian situation Khomeini stated:

> He himself knows that he is beating an empty drum. Carter does not have the guts to engage in a military operation and they do not listen to him.

Amidst this taunting and harassment a radical Moslem sect, the Mahdists, took control of the Great Mosque in Mecca, Saudi Arabia. With a precision that raises questions about the spontaneity of events, the Iranian radio was broadcasting reports into Pakistan that the mosque had really been taken over by Israeli and American agents in order to counter the events in Iran. In another act to defy coincidence a frenzied mob materialized in the streets of Islamabad, Pakistan, and stormed the American Embassy. One hundred Americans went through 5 hours of hell as they held out in the vault of the burning Embassy until Pakistani Government forces could mount a rescue mission. Mobs also attacked the American consulate or Karachi, destroyed the American library in Lahore, and burned the American Center and the British library in Rawalpindi. Other American buildings were also set upon by the mobs.

Why is all of this happening? Bewildered Americans are asking this and other tough questions of themselves and their Government. A year ago Iran was a close friend of the United States. Its students were educated in this country and its citizens had close economic ties to this Nation. Iran was a nation emerging from centuries of backwardness into becoming a leading regional and world power. The Shah, for all of his actions to suppress internal dissent, was dedicated to improving Iran's economy and to bring his nation into the 20th century.

In the last year everything has changed. The firing squads of winter have silenced pro-Western Iranians or driven them into hiding. Mobs rule the streets and a religious madman holds onto a precarious seat of overall power. Whoever really is in charge is a mystery. All that is certain is that the traditionally volatile Shiite sect that dominates Iranian Moslems have been successfully unleashed in an orgy of anti-Western violence. Like the Mahdist revolt in the Sudan in the 1880's this new wave of Moslem violence has enveloped the world in its suddeness and its extremism. The modern methods of communication have enhanced the mobs ability to spread its message and its violence.

The Iranian and Pakistani tragedies must be understood if America is to prevent further incidents of violence and terrorism. The first step in comprehending these past few weeks is to realize that the Embassy takeovers are only the first and rather graphic manifestations of a larger problem in the world today. This larger issue is that of the increasing inability of the United States to lead or to even react to world events. The long years of Presidential timidity in the face of Soviet and Cuban threats coupled with the Congress insistence in crippling both our Nation's intelligence apparatus and our defenses has left America unable to foresee crisis situations or to respond to them in either a timely or effective manner. Those of us have warned that each stage of deterioration in the U.S. capability to protect itself or its allies overseas would serve only to hasten the West's day of reckoning are watching our words dramatically borne out in Iran today.

Iran, therefore, is the first major break in the dike. Its political ferment and its religious fervor served only to make Iran the first nation to open a new type of warfare against the United States. Our handling of the current crisis will signal to the world whether America can turn the corner and rebuild or whether this is the beginning of the end. Looking over the globe you can find many powderkegs ready to be set off by internal forces or by outside agitation. No one should kid themselves into believing that the Soviets are above capitalizing on Iran. There are confirmed reports that radio broadcasts from the U.S.S.R. aided Iranian radicals in whipping up the frenzy against Americans in Iran and possibly in Pakistan. While it might be giving the Soviets too much credit to say that Iran has gone as the Kremlin planned, there is no doubt that the Soviets have been able to exploit the situation.

The long list of American retreats in recent years have undermined U.S. strategic position in the world. Every country we pull back from means one less country the U.S.S.R. has to expend its forces of subversion. The noose is tightening around the West. More nations behind the Communist banner means less nations to band together for that final stand for freedom. America has sent signals since the post World War II era that it is willing to erase whatever lines it draws in the face of Communist aggression. Whether it is failure to respond to the pleas of Hungarian rebels or the toleration of the Berlin Wall the United States has long ago established itself as the proverbial "paper tiger."

In recent years the evidence of America's lost will to counter Communist aggression has been piling up. Mr. Carter and his State Department have insisted on giving up more ground than is asked for. The rhetoric of appeasement as so eloquently spoken by Andrew Young and Cyrus Vance has been underscored by the abandonment of Taiwan, the undermining of Nicaragua, and the ignoring of Rhodesia. SALT II and the Panama Canal Treaties are also pillars in the house of cards being built by the Carter administration.

The administration's continued frustration of energy development in the United States has further weakened

America's freedom to act in its own best interests. Is it no wonder, then, that the sight of helicopters evacuating Americans from the rooftops of U.S. embassies has been commonplace? Is it not more telling that in the last incident it was the copters of a foreign nation that were doing the rescuing? Nations, who are not close American allies, are beginning to see the weaknesses in the United States and are realizing that we are not going to aid ourselves, let alone them, in fighting communism. Is it no wonder that they find it more appealing to turn on the United States? In a world that is increasingly playing for keeps in international relations are we to expect that diplomatic laws and precedents are going to defend America and its diplomats?

These are very disturbing questions. In a strong America such issues would never have to be broached, but that vision has vanished with the recent events in Iran. We must now come to realize that our leadership, in the White House, in the State Department, in the Congress, and at the United Nations, have, through design or blundering, painted America into a corner it may not get out of. Our failure to help our friends and allies in the past is coming home to roost as we saw last week at the U.N. when 13 of 14 members of the Security Council refused to go on record against spy trials for the American hostages.

Our posture of appeasement that placated the Khomeini dictatorship through fuel oil shipments in August and continued military training of his followers today down in Texas, has created the impression in the world that we really do not care of what is done to us as we will always forgive, forget, and send more aid.

Slowly at first, but now with an increasing momentum of its own, terrorists and other anti-West forces are beginning to see how far America can be pushed. Like vultures taking exploratory swoops at an ailing animal the forces of violence and oppression in the world are doing their best to hasten the end of the United States as an effective force in world politics. In some cases it may be not so much as to assist the Soviets as it is that their piece of the international action may increase at the expense of Uncle Sam. For whatever reason, the old system of diplomacy has been shattered, if it were ever there in the first place.

In a new world order where America is perceived as helpless or unwilling to act the future prospects of U.S. influence remaining viable are in serious doubt. The crisis in Iran has brought this matter to a head. Whatever is done in the next few days and weeks to resolve the crisis will provide a clearer signal of U.S. posture in the world than any other single event. Americans who are frustrated at what is happening should direct their emotions and their thoughts to the administration. Only by a show of the internal strength that built America can the grassroots of this Nation call for the reestablishing of a backbone in international relations so future Irans can be avoided. One show of force will not turn the tide, America has declined too far for such a quick or permanent turnabout. However, if America can finally take a stand and stick to it the respect we once had in the world may return. The Carter administration has never known what it is to take a stand for America or for its allies, but for the sake of this Nation, I hope they learn fast.●

DEATH AND OUTRAGE THE EVENTS IN IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CARNEY) is recognized for 30 minutes.

Mr. CARNEY. Mr. Speaker, our Nation, in these past few weeks, has been shouldering an anxious burden in awaiting the outcome of the events in the Middle East.

We are all deeply concerned and pray with one voice for the safe return of the remaining 49 Americans who are still held hostage in Iran. Tragedy, however, has already struck in the related violence in Pakistan.

The entire First Congressional District of New York was shocked, as was every American, when we learned of the heroic death of Marine Cpl. Steven J. Crowley, and of Army Warrant Officer Bryan Ellis.

Corporal Crowley, of Montclair Drive in Selden, Long Island, died a hero's death in service of our Nation. He died bravely, under fire, struck down by a sniper in the turmoil of the attack on our Embassy in Islamabad, Pakistan.

One of five brothers and three sisters, Corporal Crowley grew up in the Port Jefferson area. His family moved to Selden only 3 months ago shortly after another tragedy struck the Crowley family—the death of his father.

A graduate of Comsewogue High School in 1977, Steven Crowley is remembered fondly and proudly by all who knew him. I have been informed that Corporal Crowley has been awarded the Bronze Star with "V" device for valor, as well as the Purple Heart.

I would like to read the accompanying citation to the Bronze Star for I feel it well describes to my colleagues and to America the enormity of Corporal Crowley's heroism:

> For heroic achievement while serving as a Marine security guard at the American Embassy, Islamabad, Pakistan on 21 November 1979.
>
> When the American Embassy was surrounded and subsequently attacked by hostile demonstrators, Corporal Crowley went to his assigned post on the roof of the Embassy compound. Immediately, he came under attack by a barrage of rocks, other missiles, and by small arms fire. Despite being in a relatively exposed location, Corporal Crowley remained at this post and continued to provide surveillance and information to Embassy officials. As the Embassy personnel withdrew to the security vault, Corporal Crowley provided defensive cover until he was struck down and fatally wounded.
>
> By his courage, bold initiative, inspiring coolness, and selfless devotion to duty, Corporal Crowley reflected great credit upon himself and upheld the highest traditions of the Marine Corps and the United States Naval service.

That citation details Corporal Crowley's actions in defense of his country. As the citation indicated, Corporal Crowley exhibited courage and devotion to duty in line with the highest standards of the American soldier.

Speaking at West Point almost 17 years ago, the late General of the Army, Douglas MacArthur, spoke of the American soldier, General MacArthur said that:

> His name and fame are the birthright of every American citizen. In his youth and strength, his love and loyalty he gave—all that mortality can give. He needs no eulogy from me or any other man. . . .
>
> He belongs to history as furnishing one of the greatest examples of successful patriotism; he belongs to posterity as the instructor of future generations in the principles of liberty and freedom; he belongs to the present, to us, by his virtues and by his achievements.

Cpl. Steven Crowley served his country bravely, honestly, courageously. His service record shows that he fully met the highest standards of the U.S. Marine Corps.

When I visited Mrs. Crowley to extend our condolences to her, I was impressed by her own bravery. While immeasurably grieved by the loss of her son, she called upon the American people to rally behind the President, to show restraint in their justified anger and to give full support to the President's efforts to bring the hostages remaining in Iran, home without further bloodshed. Mrs. Crowley remarked:

> I know it's very hard. Please stand by the President. He's going through a crisis like I'm going through a crisis. I wouldn't want to be in his shoes . . . he's trying.

I was deeply moved by Mrs. Crowley's unbounded concern for all of our endangered citizens in these troubled foreign lands.

She recognized our efforts must be reasoned and tempered, for the safety of those whose lives are threatened cannot be assured by rhetoric and sabre-rattling. Mrs. Crowley recognizes that it is wisdom not weakness which dictates our restraint.

Mrs. Crowley will receive no Bronze Star for her valor, and no Purple Heart for the scars she will bear. I regret that this Nation does not present decorations for the type of bravery exhibited by Mrs. Crowley; she certainly deserves the highest accolades we can offer.

Cpl. Steven Crowley will be buried in Arlington Cemetery, alongside other American heroes, on Friday, November 30. At the request of the family I will be with them in Long Island for the memorial service on Thursday, as well as at Arlington on Friday.

I urge all my colleagues to attend the ceremony at Arlington. Please join with the Crowley family to show solidarity and support for the President in this crisis. Above all, please join me in honoring two American heroes, Cpl. Steven Crowley, U.S. Marine Corps., and Mrs. Georgine Crowley.

☐ 1830

Mr. Speaker, at this time I would like to yield to my colleague from Idaho, a former marine, Mr. SYMMS.

Mr. SYMMS. Mr. Speaker, I thank the gentleman very much. I think the gentleman most certainly speaks for many of us here today in bringing this important issue before the House. I think we appreciate, and I know I appreciate, the sentiments he has expressed here on behalf of many of us in the House and his expression of sympathy to the Crowley family.

My personal regret is that somehow we have become such a helpless giant as a nation that we deny our marines the privilege of defending the embassies with live ammunition, but I think that that is a thorn in the side that maybe in due course of time will be corrected, because I think the young man certainly was a courageous young American. He was a patriot.

Again, I thank the gentleman in the well for bringing this to our attention. I would also like to compliment the gentleman in the well for his leadership on many issues here in the House as a freshman Member, and his excellence in the patriotic endeavors he has taken in this House. He is a real credit to this Chamber, and I thank the gentleman very much.

Mr. CARNEY. I thank the gentleman. I might add that I have been informed by a member of the Armed Services Committee, and my colleague from New York, Congressman STRATTON, that indeed there will be congressional hearings as to the application of force and in what manner the embassy guards can best protect the Embassies. Those hearings are scheduled to start in the near future.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. CARNEY. I will be glad to yield to my colleague from the State of New York, also a former marine, Mr. SOLOMON.

Mr. SOLOMON. Mr. Speaker, I would like to commend the gentleman from New York for honoring the sacrifice of Cpl. Steven Crowley before the Congress and the American people in this special order. As a former marine, I felt a deep sense of loss when I learned that Corporal Crowley and CWO Bryan Ellis died while protecting the lives of our Embassy personnel from a violent mob in Pakistan.

I am sure that all Americans feel this loss along with us here today, and share the grief of the families who lost their loved ones. But let the world be put on notice right here and now—especially the terrorists of the world who, in recent weeks, have found the Embassies of the United States easy targets for furthering their own violent causes: We may be mourning the loss of our soldiers with the quiet dignity they deserve, but we are mad as hell that they had to die.

Over the Thanksgiving recess, I talked with dozens of my constituents about the recent tragic events in Iran and Pakistan. The frustrations they expressed to me were remarkably similar. On the broadest level, Americans are asking themselves and their elected officials, "Why is the United States so unpopular?" How is it possible, they wonder, for a country which has sacrificed so much to help other nations—that comes to the rescue after every natural disaster; that opens its doors as a sanctuary for millions of oppressed people—how is it possible that we must bear the brunt of the forces of hatred and violence throughout the world?

On another level, Americans want to know why our Embassies, especially those which are located in unstable countries, are so vulnerable to terrorist attacks. They were simply flabbergasted to learn that within days of the Embassy takeover in Iran, we were again caught completely unprepared to defend our Embassy in Pakistan. The inability to defend ourselves cost us two lives in Pakistan. And in Iran, 49 American lives still hang in the balance.

We learned the hard way once in Iran. Why did we have to learn the hard way a second time in Pakistan? Mr. Speaker, I have joined those of my colleagues who have called for a congressional investigation into the State Department's policies for protecting American lives and American Embassies overseas. We owe this—and a lot more—to two brave Americans, Steven Crowley and Bryan Ellis.

Mr. Speaker, on behalf of many others in Congress and myself, I ask that the gentleman from New York please extend our deepest condolences and sympathies to the parents and friends and relatives of Steven Crowley.

Mr. CARNEY. Mr Speaker, I certainly appreciate the words of wisdom of the gentleman from New York, and I will pass that message on to Mrs. Crowley and the family when I meet with them on Thursday.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. CARNEY. I will be glad to yield to the gentleman from Georgia (Mr. McDONALD).

Mr. McDONALD. Mr. Speaker, I thank the gentleman from New York for yielding. I certainly would like to associate myself with the very moving remarks he made on behalf of the heroism of Corporal Crowley and the symbol that he has given, and the lesson he has given to this Nation.

Unfortunately, Corporal Crowley is just another one of the long list of Americans who have been the victims, the tragedy of America's steadfast policy of retreat from greatness that has been a policy that has earmarked our foreign policy and military designs for the last 35 years. Probably Corporal Crowley would be alive today if the policy of appeasement had not been adopted during the period of the Berlin blockade, and then in the Korean war once again it was ultimately the policy of appeasement that our planners adopted, and we sacked the general that the Congressman from New York mentioned, Douglas MacArthur, because he stated that in matters of war there is no substitute for victory.

Korea became our first "no-win war." Following that, we saw where the unarmed Navy fliers were shot down over the Baltic by Soviet jets, and the Soviet Union declared that all those fliers perished in the crash. Yet, defectors and those who have been able to get out of the Gulag and the Soviet Union stated that some of the fliers did indeed survive the crash into the Baltic at the hands of Soviet pilots.

Appeasement was again our policy in the case of the *Pueblo*, when the President of the United States was allowed to sleep and not be disturbed while the *Pueblo* was driven into port. There was appeasement once again in the case of removing the air cover from the events during the Bay of Pigs incident.

There was appeasement in the case of Vietnam when it was our national stated policy that our objective was not victory. Not only was it our second "no-win war," but indeed it turned out not to be peace with honor but an ignominious defeat, with Saigon being changed to the name of Ho Chi Minh City.

Had our policy planners and those who have traveled out our destiny for the last 35 years not followed the policy of appeasement, probably Corporal Crowley would be alive. In the case of Vietnam it was not only a matter of a "no-win effort," but it was a matter of aid and trade, with the Soviet Union supplying 85 percent of the hard material of war to North Vietnam, a nation that was busy sending Americans back home in boxes.

☐ 1840

We have seen the most recent examples of appeasement with the two separate takeovers of the Embassy in Tehran and most recently the Embassy in Pakistan where Corporal Crowley lost his life, but, hopefully, that sacrifice will not be in vain and, hopefully, it will be a warning at this late date to the policy planners who have dominated our foreign policy designs and long-range objectives for clearly the last 35 years, who have opted on the road of appeasement, that the American people have awakened and learned as a result of the sacrifice of the Corporal Crowleys of this Nation that the road of appeasement ultimately only leads to war, and the longer postponed, the longer prolonged, which could ultimately lead possibly to a disastrous, even a losing, war.

I would once again like to commend the gentleman from New York (Mr. CARNEY) for his very fine and moving statement. I am sure that he will convey to the members of the Crowley family that the Members of this House were deeply moved by this sacrifice and pray that that sacrifice will not be in vain.

Mr. CARNEY. I thank my colleague, the gentleman from Georgia. Indeed, I will convey those sentiments to the Crowley family.

I now yield to my colleague, the gentleman from Long Island, N.Y. (Mr. AMBRO), a distinguished Member of Congress.

Mr. AMBRO. I thank my friend from the adjoining Long Island district. I do not think that this is a time for engaging in a historical perspective about what happened to Steven Crowley and why. It seems as if Mrs. Crowley has as great an amount of wisdom as anyone could imply by asking us at this time to permit the President to speak with one voice. There will be time for recriminations later on.

It seems to me that something should be said about the kind of mettle and dedication and patriotism that is the American people in general and our Long Islanders in particular. I, too, have someone who is involved and embroiled in this controversy that comes from far-away places that is brought home so dramatically. I have a constituent who is a hostage in the Embassy of Tehran. Bill Keough was a superintendent of the Huntington School District. He had been in Iran and in the Embassy that fateful day inadvertently, and he is still there. Certainly the Ayatollah could never consider Bill Keough a spy. So it would seem to me, again, this is no time for polemics; this is a time for expressing our sympathy to Georgine Crowley and her family. No words could provide any solace for this kind of tragedy, but there is a line in a poem written by Ford Madox Ford, caled "One Day's List' which was written as the result of bringing in the list of those who died in action in World War I. The poem says:

But we who remain shall grow old,
We shall know the cold
Of cheerless
Winter and the rain of Autumn and the sting
Of poverty, of love despised and of disgraces,
And mirrors showing stained and aging faces,
And the long ranges of comfortless years
And the long gamut of human fears—
But for you—it shall be forever Spring.

We pray that for Corporal Crowley it shall be forever spring, and that for the family of Corporal Crowley we will give our deepest sympathy. I hope the gentleman from New York (Mr. CARNEY) carries that message back.

Mr. CARNEY. I thank my colleague, the gentleman from New York (Mr. AMBRO) very much. I think it has been amply stated tonight that the important thing here is that we recognize the bravery of Corporal and Mrs. Crowley. We recognize the fact that we must not only pray but we also speak with a unified voice. We must back the President in his endeavor to secure the safe release of not only Mr. Keough but of the other 48 Americans who are being held hostage in Iran. That is the message that Mrs. Crowley had, and that is the message that she gave me the day that she was notified of the untimely death of her son. That is the type of bravery which I think is associated with many Americans.

We do have a willingness to defend our country, which could not have been shown more than with the words of Mrs. Crowley and with the actions of Corporal Crowley.

If I might, I would like to read a statement from the Honorable JOHN WYDLER, Congressman from Long Island, who was unable to be here today because of official business:

STATEMENT OF THE HONORABLE JOHN W. WYDLER ON THE DEATH OF CPL. STEVEN J. CROWLEY

The thoughts that I express today come from the heart—a heart filled with anguish and sorrow at the tragic yet heroic death of a splendid and illustrious American Marine, Corporal Steven J. Crowley.

Corporal Crowley proudly represented a courageous and patriotic tradition. He wore his uniform with honor. He was proud to be an American, an American Marine—proud and brave and generous.

In stark contrast to those who have defiled our Nation by their trips and tributes to our enemies abroad—as in Vietnam—Corporal Crowley lived to serve America and he served America with honor to the moment of his death.

Although Corporal Crowley did not share in the materialistic power and glory of this world, I know that he has found a safe refuge in the bosom of his God and that his worthy life and lamentable death will forever serve as a reminder to friend and foe alike that there are still brave and unselfish Americans among us willing to serve and die for the country we love.

I pray that God will receive this great American Marine into His Heavenly Kingdom. May God have mercy on his noble soul.

I think that statement from the gentleman from New York (Mr. WYDLER) certainly reflects the many statements of the Members. I know there were many Members who, due to our calendar, were unable to be here tonight, but I know share our concern.

Mr. Speaker, I now yield to my colleague, the gentleman from California (Mr. DORNAN), an aviator in our armed services, who would like to say a few words.

Mr. DORNAN. Mr. Speaker, our distinguished friend and colleague, the gentleman from New York (Mr. CARNEY) is certainly to be commended for this eloquent moment that he has brought to the House. I do not think the grieving parents and the brothers and sisters of Steve Crowley could have asked for a better Representative in this Congress. I know how swiftly he was at their side and how he has tried to bring them all of the assistance he could in what will probably be the toughest moment that this family will ever have to face in their lives. However, they do have an older brother to inspire the 7 younger brothers and sisters, who truly is deserving of the word "hero."

In my adult life I have found that word to be probably the least used word in our language, and yet when I was a young man growing up during the Second World War, that word was used regularly as much as any word in the language every day. I also found it not applied nearly as much as it could have been during the Korean and Vietnam wars, and all of those moments of terror in between, when literally hundreds of Americans died in what was called the Cold War, and they continued dying in this period of détente time with the same regularity. I have asked and I hope to bring to this Congress soon a report from all our armed services of just how many Americans have died since the end of the Second World War at the hands of outraged mobs or at the hands of Communists.

I think that Steve Crowley is an inspiration to the country and that he has exemplified what all Americans have been saying quietly to themselves. That is that the country does not have any shortage of heroes; we just have a problem of lack of identification of the heroes in our society. I think Steve is the tip of a massive iceberg of young people all across this country who would willingly still give that full measure of sacrifice, the ultimate act of patriotism, their lives for their country, or as it says in John in the Scriptures in 15: 13:

> Greater love hath no man than this, that a man lay down his life for his friends.

I think it is very poignant and fitting that the gentleman should ask all of our colleagues to show up at Arlington Cemetery on Friday at 1300 hours, 1 o'clock in the afternoon, for his funeral. It probably would not have occurred to me to go to the funeral of the gentleman had not taken this special order. I can promise him that it will be my honor to be there. The Congress of the United States in both Houses asks itself over and over, as do most of us, to try to give as much support to the President as we can. We ask ourselves and our constituents ask us what we can do, and I think most of us come up with the first initial response, which is to pray. I can think of no more fitting place to pray this week than at that hallowed ground in Arlington Cemetery where this young marine hero will be laid to rest.

I would hope that maybe someone in the ensuing 2 days in spite of our busy schedule, may ask that the House take a recess period from maybe noon to 2 o'clock so that all of the Members just by the very fact of the recess itself, because they might have missed the gentleman's superb special order here, could jump on the Metro or carpool over there. I cannot think of a more fitting tribute to the slain warrant officer and to Corp. Steve Crowley than to have a massive showing of Representatives of the American people from this great House standing there in that beautiful cemetery seeing this heroic marine to his eternal reward and rest.

I thank the gentleman again for taking this special order.

□ 1850

Mr. CARNEY. I would like to thank my colleague from California. I will certainly look into the feasibility of asking for a recess on Friday from 12 until 2 o'clock so that perhaps more Members could take the time to attend. I look forward to seeing the gentleman from California there as well. I am sure Mrs. Crowley is very grateful that you will find time in your busy schedule to attend the internment of her beloved son.

Lest we forget, another young man served our country in Pakistan and lost his life, WO Bryan Ellis, a 29-year-old, highly decorated Vietnam veteran. Except for the tragic event that happened yesterday to the gentleman from Alabama (Mr. EDWARDS), in the loss of some of his staff in an airplane crash in Alabama, the gentleman from Alabama (Mr. EDWARDS) would be here.

I might add the gentleman from New Jersey (Mr. RINALDO) has introduced a joint resolution in the House designating December 7, 1979, as National Unity Day. I do not think there would be a better time than right now to call attention to that matter. I think it is a resolution that deserves the support of all Members of Congress, one wherein we will unify as one America. This incident in Pakistan and the ongoing incident in Iran has, I think, solidified our Nation in a way we have not seen since World War II.

In closing, I would just like to reflect on the great courage that Mrs. Crowley has. I would like to say personally as a Representative from the First Congressional District that this is not a time for rhetoric, it is not a time for saber rattling. It is a time for unity, unity in prayer and unity behind the leaders of our great Nation. We should become one and back the President in his endeavors to secure the freedom of the remaining hostages and to back him in his endeavors to assure the American people that these incidents will not continue to happen.

Mr. Speaker, I say without hesitation that I have put myself in the President's position hypothetically. The President of the United States is doing a brave and courageous job in attempting to secure the release of the hostages and to assure the safety of all Americans who serve in foreign service abroad and all Americans who serve in our military abroad. This is the crucial time. It is not a time to ask for bloodshed, it is a time to ask for unity and peace. That is the message of a brave woman from Long Island, Mrs. Crowley, which I share with you tonight.

● Mr. EDWARDS of Alabama. Mr. Speaker, the body of Army CWO Bryan Ellis, 29, a highly decorated Vietnam veteran and the son of Mr. and Mrs. Erwin B. Ellis, of Mobile, Ala., in my congressional district, was found among the ruins of the U.S. Embassy in Islamabad, Pakistan, Thanksgiving Day.

Bryan Ellis was a dedicated serviceman with an outstanding military record. He survived four helicopter hits while serving as a pilot in Vietnam. For his bravery in action, he received the Bronze Star and other medals.

He is survived by his wife, Brenda, and son, Chris.

Bryan joined the Army upon graduation from high school in North Carolina. Bryan's mother and father moved to Mobile about 11 years ago. Bryan did not live in Mobile but visited often. He had been on duty in Pakistan since last April.

To Bryan's family and friends, I extend my deepest sympathy. May it comfort them to know that their loss is shared by all of us who benefited from his proud service to the country he loved so well.●

● Mr. WOLFF. Mr. Speaker, I rise today with great sadness at the tragic death of Marine Cpl. Steven Crowley of Long Island, N.Y. Corporal Crowley met his death in Islamabad last week as he was defending the U.S. Embassy in Pakistan. I would like to commend the U.S. Marine Corps for posthumously awarding Corporal Crowley the Bronze Star for his brave actions.

Corporal Crowley had only been in Pakistan for 3 months when his life was cut short. Unfortunately, he became the victim of tragic violence which was caused by rumors perpetrated by the Ayatollah Khomeini in Iran. I believe that we should hold the Ayatollah personally responsible for the tragic death of Corporal Crowley, just as we should hold the ayatollah responsible for the crises which continues to take place in Tehran.

My deepest sympathies go out to Corporal Crowley's family—his mother, Georgine Crowley, and her remaining children. I am saddened that this brave young man had to die so tragically—so needlessly, and I am certain that the people of Long Island as well as the people of the Nation will long remember him.●

● Mr. LENT. Mr. Speaker, it is with deepest sorrow that I join my colleagues today in extending heartfelt sympathy to the family and friends of Marine Cpl. Steven Crowley of Selden, Long Island, N.Y. Corporal Crowley gave his life in defense of the U.S. Embassy in Islamabad, Pakistan, while standing guard on the Embassy rooftop as the building was set afire. Shot by the terrorist Pakistani mob which attacked and destroyed our Embassy, Corporal Crowley died a hero in defense of his Nation and compatriots.

Anxious to serve his country, Corporal Crowley's lifelong ambition had been to serve in the U.S. Marine Corps. He volunteered for his first overseas assignment to Pakistan and he had served there only 3 months before he made the ultimate sacrifice so that his 100 fellow citizens inside might survive.

"No more bloodshed." Let that emotion-filled appeal of Corporal Crowley's mother be heard and heeded the world over. During this time of international crisis, let these words uttered by this proud young man's mother bring an end to the international terrorism and lawlessness which led to Corporal Crowley's death. Let his death, and that of his colleague, Army CWO Bryan Ellis, be the last, and peace and order restored.

On behalf of all who knew him, and on behalf of those who did not, I again express my deepest sympathy to the Crowley family. Let us never forget the sacrifice of this brave marine as he stood in defense of our Nation so that others might survive.●

● Mr. RINALDO. Mr. Speaker, today, I am introducing a House joint resolution designating December 7, 1979, as "National Unity Day," and authorizing the President of the United States to issue a proclamation calling upon all U.S. citizens and organizations to observe that day by prominently displaying American flags.

At this very moment, as we attend to the legislative business of the day, American citizens are being held hostage in our Embassy in Tehran. An Iranian mob under the sway of a religious fanatic has violated international law by illegally seizing the American Embassy.

No single event since the attack on Pearl Harbor has so outraged and unified the American people. The sight of millions of flags flown throughout the country will send a message to Tehran, and other world capitals, that the American people condemn the actions of the Ayatollah Khomeini and the Iranian Revolutionary Council in the illegal seizure of the American Embassy. Prominently displayed American flags will symbolize our unity and opposition to international terrorism and blackmail.

A nationwide demonstration of public support for the hostages is the only way to counter the student mob scenes that are being orchestrated in Tehran for television audiences around the world. The American people have shown tremendous restraint in dealing with this situation. This is a nonprovocative way for them to show their determination that the remaining hostages be safely released as soon as possible.

I urge your support for this House joint resolution.●

GENERAL LEAVE

Mr. CARNEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FOR THE RELIEF OF ST. PAUL'S CHURCH OF RIVERSIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, as the sponsor of H.R. 3755, I urge support of this bill for the relief of St. Paul's Church of Riverside, Conn. With the passage of H.R. 3755, St. Paul's Church would be granted a waiver of the customs duty associated with the purchase of its new tracker action pipe organ from an Austrian firm. I would like to outline the special circumstances that lead to its introduction.

As you know, the general purpose of customs duty is to encourage the purchase of domestically manufactured products. The committee responsible for replacing the church's old pipe organ was aware of the customs duty and concurred in its intent. Accordingly, the committee attempted to contract a domestic organ builder. However, St. Paul's Church had only 3 years to replace its old organ, and reputable U.S. manufacturers of tracker action pipe organs have waiting lists of between 5 and 10 years. Consequently, the church was forced to contract a European organ builder who could make delivery within 3 years. With a 5- to 10-year backlog, it is obvious that the domestic industry is vigorous and healthy. In this instance the customs duty serves no purpose but to further burden St. Paul's Church.

Mr. Speaker, the financial burden individual churches face continues to grow. Large, long-term outlays, such as the purchase of a new organ, make this burden even harder to bear. Passage of H.R. 3755 and the resulting waiver of the customs duty will serve to greatly lessen the burden to St. Paul's Church.●

AND WE WONDER WHY THERE IS AN OIL SHORTAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I have thought all along that the Washington bureaucracy might have something to do with the fact that there is a shortage of oil in the United States. An experience I had in my congressional district last week certainly confirmed my suspicion.

In meeting with constituents, I had the opportunity to learn of the problem experienced by a small company engaged in the exploration of oil and gas. Over the summer they filed applications with the Federal Government to drill wells on a 20-acre tract believed to contain useful energy resources. After several weeks of no response from the office where the applications were submitted, the company called to inquire as to when action might be expected.

"Oh, we have no definite timetable," they were told. "We'll be back in touch." The same scenario was repeated over a period of several months, until I heard of this experience first hand.

When I placed a call to the office handling the applications, I was told that they were "backlogged," and it would be at least 2 months before they could even "take a look at the application."

Mr. Speaker, multiply this example several times over. It certainly explains to me the reason for a shortage of oil when it is needed so badly.●

COTTON, INC. SCANDAL LOOMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, the scandal in the cotton checkoff program continues to mushroom, much like the cotton boll that has become Cotton, Inc.'s trademark. Cotton, Inc. is a quasi-public corporation set up pursuant to the Cotton Research and Promotion Act of 1976. All cotton farmers are required by law to contribute about $2 per bale to Cotton, Inc. which is supposed to spend the money on research and promotion to benefit all producers. However, through secret arrangements just brought to light, a few big, well-connected cotton farmers have benefited from Cotton' Inc.'s activities at the expense of the vast majority of cotton producers who were paying Cotton, Inc.'s bills.

I have just learned that the J. G. Boswell Co.—the Nation's largest cotton grower—was one of the prime beneficiaries of special favors from Cotton, Inc. Boswell's executive vice president, James Fisher, sits on the executive committee of Cotton, Inc. and was in a position to parlay his dual responsibility into major financial profits for his company.

The other beneficiaries of favors from Cotton, Inc. were the Texas Cotton Marketing Association, whose chief officer is L. Don Anderson, chairman of the Cotton Board; and Farmers Investment Co., whose president was Keith Walden, a former member of the board of directors of Cotton, Inc.

According to the Inspector General of the U.S. Department of Agriculture:

> Cotton Incorporated representatives prepared itineraries for and escorted European textile officials on trips through the U.S. cotton belt which generally included visits to at least one of three producer/suppliers. These were often cotton buying trips and subsequent reports or correspondence indicate that orders usually resulted.

According to information just provided to me by the Inspector General:

> When visits to producer/suppliers were scheduled, the foreign buyers were generally taken to Texas Cotton Marketing Association, Farmers Investment Company, or J. G. Boswell Co.

The Inspector General also informed me that:

> Background papers were prepared [for foreign buyers] on Farmers Investment Company and J. G. Boswell—

And these background papers

> could be interpreted as Cotton, Inc.'s endorsement.

Despite denials of Cotton, Inc. officials that they were involved in cotton purchases, the Inspector General uncovered a communication suggesting the contrary from Thomas O'Mara of the Cotton, Inc. staff to Texas Cotton Marketing Corp., which is owned by L. Don Anderson, the chairman of the Cotton Board. O'Mara wrote Calvin Brints of Anderson's firm:

> We are hoping that we can join you for lunch and for a visit to your facility . . . to arrange for some good old-fashioned horse trading on some of your cotton.

And horse trading there was aplenty—and there were even a few shenanigans.

For example, in one memo to Dukes Wooters, a member of the Cotton, Inc. staff stated that he had requested Farmers Investment Co. and J. G. Boswell to quote on 510 bales of cotton. He told Wooters:

> The only concern with these two (2) people is that their prices may be too high for Legnano and possibly a merchant could ship at a less expensive price.

Obviously Wooters was using check-off funds contributed by all cotton farmers to sell the cotton of the favored few at prices which were higher than those which would have been charged by most cotton farmers if only they could have gotten the business.

Wooters never hesitated to help his friends, although the Inspector General found that he often hesitated to help the average cotton farmer who was paying his salary. For example, the Inspector General reports that Cotton, Inc. discouraged most cotton farmers from using the Raleigh testing facility which was paid for with cheok-off funds, but that "a considerable number of such tests were conducted for one producer." In fact, that producer submitted 4,803 of the 7,106 samples tested by Cotton, Inc. According to the Inspector General, "Farmers Investment Co. submitted the bulk of the samples"—more than 4,800. Its president—Keith Walden, the former board member of Cotton, Inc. Obviously Walden was getting his investment in Cotton, Inc. back in spades.

These are just a few of the abuses of Dukes Wooters and those who manage the cotton check-off program that have come to light in recent days. There are other misuses of check-off funds, and I will have more to report in the days to come.

Hearings are fully justified, and the House Agriculture Committee should report amendments to the Cotton Research and Promotion Act to correct the abuses which have been found by the Inspector General of USDA and assure all cotton farmers that they are getting their money's worth out of the research and promotion program.●

LEGISLATION TO ESTABLISH PACKERS AND STOCKYARDS ADMINISTRATION AS AGENCY WITHIN DEPARTMENT OF AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, today I am introducing legislation to establish the Packers and Stockyards Administration as an agency within the Department of Agriculture. According to the language of the bill, the Packers and Stockyards Administration will, as an agency within the Department, be responsible for enforcing the Packers and Stockyards Act of 1921, as amended, and be supervised directly by the Secretary of Agriculture.

Mr. Speaker, to those of my colleagues who are aware that already a unit of USDA's Agricultural Marketing Service exists as "Packers and Stockyard," my bill may appear unnecessary—in fact, even undesirable given our general concern that the number of Government agencies be reduced. However, believe that the establishment, by legislative mandate, of the Packers and Stockyards

Administration, is essential to assuring that the provisions of the Packers and Stockyards Act of 1921, amended, are effectively enforced.

From enactment of the Packers and Stockyards Act of 1921 until 1958, responsibility for carrying out the provisions of the act was delegated to an enforcement unit USDA which assumed different names and different positions within the Department of Agriculture's hierarchy. With passage of the Packers and Stockyards Act Amendments of 1958, however, the Secretary of Agriculture was instructed to "maintain within the Department of Agriculture a separate enforcement unit to administer title II of this act." Unfortunately, this language proved insufficient to assure that the act would be properly enforced by an agency with a measure of independent status, yet supervised by the Secretary, rather than one relegated to the depth of the Department's layered bureaucracy.

After nearly a decade of prodding by the Congress and our distinguished chairman of the Appropriations Subcommittee on Agriculture, the Department of Agriculture, in 1967, recognized the importance of maintaining an effective enforcement body and established the Packers and Stockyards Administration. The Packers and Stockyards Administration, as a separate enforcement unit, effectively and responsibly carried out the provisions of the act during a period when significant changes in the livestock industry tested that agency's authority and resources.

However, to the dismay of many of us concerned with the well-being of the livestock industry, the Department of Agriculture in 1977 took action to strip the Packers and Stockyards Administration of its title and stature and instead ordered it to its present position as a subsidiary of the Agricultural Marketing Service.

I can understand, Mr. Speaker, that in his zeal to streamline the organizational chart for the Department during a period of renewed emphasis on responsible Government management, a USDA bureaucrat probably felt the shifting of this small but important agency was wise and prudent. Unfortunately, I do not feel that this move proved to be in the best interests of the livestock industry. At a time when challenges facing the industry demanded more effective enforcement of the 1921 act than ever before, Packers and Stockyards was, without reason, made part of a larger agency with which it shares no common purpose.

As I have indicated, Mr. Speaker, the purpose of my legislation is simple and direct—to create a separate Packers and Stockyards Administration that is closely supervised by the Secretary of Agriculture. I am confident that my colleagues will recognize the need for this legislation, and I urge that they lend it their full support.

The text of the bill is as follows:

H.R. 5956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 407(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 228(b)), is amended to read as follows:

"(b) The Secretary shall establish and maintain as an agency within the Department of Agriculture the Packers and Stockyards Administration which shall be headed by an Administrator who shall be appointed and supervised by the Secretary. The Secretary shall enforce and administer this Act through the Packers and Stockyards Administration.".●

A TRIBUTE TO HAROLD LEVENTHAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 5 minutes.

● Mr. MOAKLEY. Mr. Speaker, I was saddened to learn of the death of U.S. Circuit Judge Harold Leventhal last week. Judge Leventhal had recently testified before the Subcommittee on Rules of the House regarding the legislative veto and regulatory reform matters in general. All of the members of the subcommittee were deeply impressed by his articulate and scholarly presentation.

A native of New York, Judge Leventhal attended Columbia College and Columbia Law School. Graduating first in his class and as editor-in-chief of the Law Review, he served as law clerk to both Supreme Court Justices Harlan Fiske Stone and Stanley Reed. During the early years of World War II, Judge Leventhal served as Assistant General Counsel for the Office of Price Administration and later became a lieutenant commander in the U.S. Coast Guard. After the war, he was assigned to the legal staff at the Nuremberg war crimes trials.

Judge Leventhal's career as an attorney touched both private practice and Government service. He served as Chief Counsel to the Office of Price Stabilization and executive officer of the Hoover Commission task force on independent regulatory commissions. Whether as lecturer at Yale University Law School or as consumer advocate successfully opposing a Metro Transit fare increase, Judge Leventhal's brilliance as a legal scholar and tactician shone through.

Before being appointed to the appellate bench by President Johnson in 1965, Judge Leventhal served as general counsel to the Democratic National Committee and was instrumental in seating the Mississippi Freedom Party. His advocacy of human and civil rights continued on the bench where his finely crafted decisions became the hallmarks of his scholarly reputation.

Judge Leventhal's life can be summed up in a description of him which appeared in a Washington Post editorial when he was nominated to the circuit court—"statesmanly as well as politic"—a man who served both his country and his party well. As predicted then, Judge Leventhal brought learning, sensitivity, and a richly reflective mind to the bench.

Mr. Speaker, I am sure all my colleagues join me in extending to his wife, Kathryn, and to his children, Philip and Anne, our heartfelt sympathy.●

FOREIGN BANK TAKEOVERS STUDY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes.

● Mr. ROSENTHAL. Mr. Speaker, U.S. banks have become very tempting takeover targets for foreign investors in the past few years, and the tide of foreign takeovers is still growing.

In the past decade, 51 U.S. banks have been purchased or taken over by foreign banks or foreign individual investors, or are in the takeover process. Foreign purchases of U.S. banks have been concentrated so far in New York, California, and Florida, but banks—in some cases large banks—have been or are in the process of being bought in Atlanta, Chicago, Detroit, Houston, Newark, and Washington, D.C., as well as in Virginia, Maryland, Massachusetts, New Hampshire, and Tennessee. It is a widespread movement that raises fundamental questions about the economic health and independence of the United States.

Consequently, on Friday, November 16, I introduced legislation to suspend most foreign takeovers of U.S. banks pending completion and congressional review of a study of the foreign takeover movement. This legislation, the Foreign Bank Takeovers Study Act (H.R. 5937), will exempt only emergency and "toehold" acquisitions.

While some of the banks being taken over are small local banks, some are very large. An application is currently pending for the biggest foreign takeover of all, the proposed acquisition of the $11 billion Marine Midland Bank of New York, 12th largest in the United States, by Hongkong and Shanghai Banking Corp. If this takeover receives the green light, the door will be wide open for even our largest banks in New York and other major cities to be taken over by foreign purchasers. As things now stand, the Federal bank regulatory agencies have no legal authority to limit or prohibit foreign ownership of individual large banks in any city, if the foreign purchasers are found to be responsible and qualified to own a bank.

If it takes over the Marine Midland Bank, for example, the Hongkong and Shanghai Bank will then control over 60 percent of the commercial bank business in Buffalo, which is New York's second largest city, as well as 20 to 30 percent of the commercial bank business in Rochester, Syracuse, and several other cities in New York State. Our present policy endorses this concentration in foreign hands.

Because it represents so clearly the type of takeover situation about which fundamental questions must be raised, the Hongkong and Shanghai plan to obtain control of Marine Midland will not be exempted under the terms of H.R. 5937. The broader implications of that particular plan need serious further study before it is completed.

One major reason for further study is that other nations do not allow U.S. banks or corporations to take over their banks in this way. The Treasury has just completed this past September a comprehensive "Report to Congress on Foreign Government Treatment of U.S. Commercial Banking Organizations." This study concludes, in part:

> A large number of countries, including many with otherwise liberal entry policies, such as permitting foreign branches and de novo bank subsidiaries, take a more restrictive approach to foreign acquisition of domestic banks. In some of these countries, acquisition of equity interest in indigenous banks is prohibited or strictly limited to less than a controlling interest by law, many others by unwritten policy. Such policies have not often been clearly enunciated or tested, at least within the realm of public knowledge, particularly with regard to acquisitions of large banks. Although evidence of impediments to foreign (including U.S.) acquisition of very large indigenous banks is largely impressionistic, decisions regarding any given acquisition would be heavily influenced by the particular circumstances surrounding the proposed acquisition. Informed judgments suggest that, as a general matter, such acquisitions would be discouraged by most governments (page 135).

Not only are our Federal regulators compelled by law to give open door treatment to foreign purchase attempts, but at present they have no effective way to monitor who are the true owners of banks controlled by foreign persons. If Iran, or Libya, or some unscrupulous organized crime figure surreptitiously buys control of a foreign holding company that owns a major U.S. bank, the U.S. authorities have no way to find out. Then even if the U.S. authorities do find out, they would be powerless to eliminate any ownership connection they found undesirable. They cannot control who may own a foreign bank holding company, and they cannot force the holding company in that situation to sell or otherwise dispose of its U.S. bank.

Finally, and perhaps most importantly, the Federal Reserve now permits U.S. banks to be bought by foreign holding companies with big multinational conglomerate involvement in manufacturing, mining, trade, shipping, et cetera—like Hongkong and Shanghai—when our domestic bank holding companies are not permitted the same involvement in other industries.

The Bank Holding Company Act of 1956 and the 1970 amendments to this act firmly established the principle of a separation between banking and other unrelated lines of commerce. Bank holding companies in the United States are not permitted to engage in any business other than banking and a few other financial activities that are closely related to banking. The purpose of this separation has been to insure that banks would remain independent and not become captives of big industrial or commercial complexes, which might siphon off their funds or otherwise interfere with free banking competition.

The law does provide, as an exception, that foreign holding companies primarily engaged in banking outside the United States can own U.S. banks while also owning some nonbanking firms that operate outside the United States. The Federal Reserve is apparently interpreting this provision, however, as authorizing the takeover of U.S. banks by broadly diversified foreign industrial complexes so long as there is a bank at the top of the conglomerate pyramid, even though this is clearly inconsistent with the principle of separation previously enunciated by Congress and still applied to U.S. holding companies.

Hongkong and Shanghai Bank, which has received Federal Reserve permission to be a holding company under U.S. law when it takes over Marine Midland, is clearly such an industrial complex. It currently owns or controls a vast array of nonbanking companies operating in such diverse fields as airlines, carpet trading, commodities trading, film production, food packing and trading, insurance, pharmaceuticals, publishing and printing, property development, limestone quarrying, shipping, telecommunications, timber and lumber production, and tourism. The Federal Reserve did not even take note of these many nonbanking activities in its order approving Hongkong and Shanghai as a holding company.

This Hongkong-Marine situation, and especially the nonbanking diversity of Hongkong, points up most sharply the importance of going slow and reconsidering our laws. If what was once a minor legal exception for foreign firms from the general principle of keeping banking and commerce separate is going to be used to condone a combination between our 12th largest bank, Marine Midland, and a powerful international conglomerate, Hongkong and Shanghai, then the separation between banking and commerce is no longer enforceable in the international sphere.

This is an untenable position, for it makes a mockery of the principle of national treatment, which underlies the entire International Banking Act of 1978. U.S. bank holding companies certainly cannot engage in a broad array of nonbanking commercial activities abroad as Hongkong and Shanghai does, and hence foreign bank holding companies are receiving fundamentally more favorable treatment under present law than domestic holding companies.

Furthermore, the Federal Reserve ruling in this case sets a far-reaching precedent that seriously erodes the viability of our separation of banking from other business within the United States. If foreign businesses that compete with American firms are granted special favored access to U.S. banks through foreign conglomerate holding companies, then U.S. businesses will seek the same or equivalent treatment under the holding company laws.

In summary, then, if the foreign takeover movement continues unchecked, not only will some of our biggest banks, and perhaps the major portion of the banking resources in some of our leading cities, fall under foreign control, but the traditional separation between banking and commerce may break down, with some of our important banks being absorbed into foreign industrial and trading complexes. Finally, this movement will place some of our important banks in unknown—and possibly unfriendly—hands, where we will have no way of knowing who or what interests ultimately control or guide them.

Perhaps the advantages of foreign investment in our banks will ultimately be found to outweigh the disadvantages. Possibly the takeover trend we are observing will strengthen our economy. But at present we do not know this. At present, we simply do not know where this movement will lead.

Banking, after all, is not like farmland or manufacturing or hotels. The fact that other nations do not provide the same opportunity for outside interests to buy their major banks should tell us something about the sensitive nature of banking in any nation's economy. If we are going to experiment with this untried territory of foreign involvement in our major banks, it is essential that we do it slowly and cautiously, until the consequences become more clear.

I am not opposed to foreign participation in our banking system. Vigorous competition from responsible foreign businessmen can stimulate improved banking service for everyone.

But takeovers of our leading banks are clearly different, with different effects, from the formation of small new banks to compete for a share of the banking business. Furthermore, sale of a major U.S. bank to foreign interests is not a reversible process; once done it cannot easily be undone. This is why we need to move slowly and to study all the ramifications while there is still time to establish limits or guidelines.

For this reason it is imperative that Congress call a temporary halt in order to give itself more time to think through and resolve the many issues involved in these foreign takeovers. My bill, the Foreign Bank Takeovers Study Act, which is reprinted below, would accomplish this by: First, requiring a comprehensive study by a number of agencies, independent experts, and consumer and small business representatives of the possible consequences of these foreign takeovers, and second, calling a halt to foreign acquisitions of U.S. banks until 1 year after completion of the study. The bill would exempt only small "toehold" acquisitions and emergency acquisitions needed to prevent the bankruptcy or insolvency of the American bank being acquired.

The study required by this legislation would be conducted by the Federal banking regulatory agencies, the Justice Department Antitrust Division, the Federal Trade Commission, two representatives of consumer and small business customers of banks, an outside expert in banking competition, and an outside expert in multinational corporations. This diversity of backgrounds will insure that different points of view receive consideration and that the study is not dominated by the banking regulators themselves.

The study will be required to consider the possible consequences of a number of possible situations. Included among these are: First, foreign takeover of a bank leads to a reduction of local lending by that bank; second, the supposedly independent foreign owners of competing U.S. banks are actually but secretly acting in collusion to suppress competition; third, the foreign owners of U.S. banks are required to serve certain foreign policy objectives of their governments; fourth, the foreign owners are industrial conglomerates with numerous nonbanking interests of the sort that U.S. bank holding companies are not permitted to own; fifth, more than 50 percent of all commercial bank assets in a certain city or banking market area become foreign owned or controlled; sixth, a bank takeover by foreigners is hostile, in the sense that it is opposed by the bank's management and directors; and seventh, U.S. regulatory authorities are unable to exercise over the foreign owners of certain U.S. banks the investigatory and supervisory powers that they have over domestic owners of similar institutions.

The suspension of foreign takeovers provided by this legislation would remain in effect from the date of enactment until 1 year after completion of the study. I believe that this will provide Congress and the public enough background analysis and time to permit a thorough review of the issues and to formulate a coherent public policy on the proper direction of the foreign takeover movement.

H.R. 5937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress finds that the takeover in whole or in part of United States depository institutions by foreign interests raises fundamental unanswered questions about the potential impact of these acquisitions upon the economic health and independence of the United States.

SEC. 2. As used in this title—

(1) "United States depository institution" means any bank, mutual savings bank, or savings and loan association, or any bank or savings and loan holding company, organized under the laws of any State or of the United States;

(2) "foreign person" means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual;

(3) "United States person" means any organization existing under the laws of the United States or of any State or any United States citizen;

(4) "takeover" means any acquisition of the stock or of assets of any depository institution if, after such acquisition, the amount of stock or assets held is sufficient to enable the acquiring person or persons to exercise control of the institution;

(5) "control" means the power, directly or indirectly, to direct the management or policies of a depository institution or to vote 25 per centum or more of any class of voting securities of a depository institution; and

(6) "toehold position" means a small position generally less than 20 per centum and not including any of the leading institutions in any market, as determined by the applicable Federal depository institution regulatory authority.

SEC. 3. (a) The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Antitrust Division of the Justice Department, the Federal Trade Commission, and at least four independent experts chosen by the Federal Reserve after consultation with the other agencies, shall prepare a report, including full reflection of minority and dissenting views, which shall—

(1) analyze in detail the potential impact on the United States economy and United States banking system of the takeover of United States depository institutions by foreign persons, including the effects on monetary policy implementation, the effects on banking competition, and the economic benefits and costs to the local communities served by the institutions being acquired, and giving consideration to the possible consequences if—

(A) the takeover of certain United States institutions by foreign persons leads to a reduction in local lending by those institutions;

(B) the foreign persons acquiring certain United States institutions, although nominally independent, act in concert or collusion with other foreign persons who own or control competing United States depository institutions;

(C) the foreign persons acquiring certain United States institutions are constrained or influenced by the foreign policy or other national interests of other nations;

(D) the foreign persons acquiring certain United States institutions are corporate organizations that own or control businesses not related to banking that a United States bank holding company would not be permitted to own;

(E) certain takeovers of United States depository institutions by foreign persons are hostile and are opposed by the incumbent management and directors of the institution being acquired;

(F) more than 50 per centum of all commercial bank assets in any single SMSA or other local market area become owned or controlled, either directly or indirectly, by foreign persons; or

(G) Federal bank or savings institution regulatory authorities cannot exercise such supervisory and investigatory powers over the foreign owner or owners of certain United States depository institutions as are equivalent to the powers that these authorities have over United States persons which own or control United States depository institutions; and

(2) identify any other factual or policy matters that may need further study in order for the Congress to develop a comprehensive policy toward foreign takeovers of United States depository institutions.

(b) The report required by this section shall be submitted to the Congress not later than one year after the date of enactment of this Act.

(c) The four independent experts referred to in this section shall include—

(1) two individuals who are qualified to represent the consumer and small business customers of banks,

(2) one individual who, by reason of professional training and experience, is qualified as an expert in banking competition, and

(3) one individual who, by reason of professional training and experience, is qualified as an expert in the structure and behavior of multinational corporations.

SEC. 4. In order to permit the Congress to receive, consider, and act upon the report required by section 3, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board may not, until one year after the report required under section 3 has been submitted to Congress, approve any application approval of which is necessary to or would remove a material impediment to the proposed takeover of any United States depository institution by a foreign person, and must during the same period of time reject any proposed takeover subject to the Change in Bank Control and Change in Savings and Loan Control Acts of 1978, unless (1) such takeover is necessary to prevent the imminent bankruptcy or insolvency of the United States depository institution, or (2) such takeover provides the foreign owners only a toehold position in the local markets served by the institution being acquired.

SEC. 5. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I call to the attention of the House a notification from the U.S. Export-Import Bank on proposed financing that would make possible the purchase of almost $404 million of U.S.-made aircraft and equipment by Middle East Airlines of Lebanon. In addition, the Bank has a preliminary commitment involving future sales of $718 million to this airline.

This notification has been referred to me as chairman of the Banking Subcommittee on International Trade, Investment and Monetary Policy. Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, requires the Bank to notify the Congress of proposed loans or financial guarantees or combinations thereof of $100 million or more. Unless Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress following notification.

In this notification, the Eximbank announces its intention to extend a credit of $343,327,750 to Middle East Airlines to help finance the purchase of eight new medium-range, wide-bodied commercial jet aircraft, along with spare parts, related equipment and services. The total export value of this transaction would be $403,915,000.

The U.S. aircraft in competition for this proposed purchase are the 767–100 jet aircraft made by the Boeing Co., the L–1011–500 made by the Lockheed Corp., and the DC–10–10 made by McDonnell Douglas Corp.

According to the Eximbank, these U.S. companies are receiving intense competition for this sale from Airbus Industries of Europe, which manufactures planes well-suited to Middle East Airline's routes.

In addition to the eight aircraft to be financed by this proposed Eximbank direct credit, the Bank is prepared to issue a preliminary commitment to Middle East Airlines on the terms of a future credit of $610,642,550, to assist in the purchase of an additional 11 aircraft. This future purchase would have a total export value of $718,403,000.

I am inserting in the RECORD at this point a letter from the Eximbank explaining the details of and the justification for this proposed credit. I would welcome any comments or questions my colleagues might have on this proposed financing arrangement.

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., November 8, 1979.

Hon. HENRY S. REUSS,
Chairman, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3(1) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

H. K. ALLEN.

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., November 8, 1979.

The SPEAKER OF THE HOUSE
OF REPRESENTATIVES,
The Speaker's Room,
U.S. Capitol,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Lebanon:

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to make a credit of $343,327,750 available to Middle East Airlines (MEA) to facilitate the purchase in the United States by MEA of eight new medium-range, wide-bodied commercial jet aircraft, spare parts and related equipment and services. The total U.S. export value for this transaction is estimated to be $403,915,000. The U.S. aircraft in competition are the 767-100 jet aircraft manufactured by The Boeing Company of Seattle, Washington; the L-1011-500 manufactured by the Lockheed Corporation of Burbank, California; and the DC-10-10 manufactured by McDonnnell Douglas Corporation of Long Beach, California.

There is also intense competition for this sale from Airbus Industries; both the A-300 and A-310 manufactured by Airbus are well suited for MEA's route structure. The Airbus offer is supported by subsidized export credits from government sources. As of this date, MEA has not made a decision which aircraft it will purchase, but has informed us of its intention to replace its current fleet of aging Boeing 707's and 720's over the next ten years.

In addition to the eight aircraft to be financed by the proposed direct credit, Eximbank is prepared to issue a preliminary commitment to MEA indicating the terms and conditions under which it will be prepared to extend a direct credit of $610,642,550 to assist MEA in the purchase of an additional eleven new medium-range wide-bodied aircraft.

The total U.S. export value for the additional purchase is estimated to be $718,403,000. We are advising you at this time of the financing contemplated by the preliminary commitment because, if MEA determines to purchase the additional aircraft in the U.S., the financing terms we propose to offer for the additional aircraft will be substantially on the same terms as we propose offering for the eight aircraft and because we view the entire transaction as one package.

2. Identity of the borrower

MEA, the flag carrier of Lebanon, is a privately owned airline with equity participation by Intra Investment Company of Beirut (63 percent), Air France (28 percent), MEA's employees (5 percent) and various private Lebanese interests (4 percent). Its route structure comprises the major cities of Western Europe, the Middle East and, to a lesser extent, North and West Africa. MEA has no present plans for a new route structure. The location of its operational and maintenance centers are in Amman, Jordan and Frankfurt, West Germany, respectively. Eximbank has made two loans previously to MEA and repayments have been made on a timely basis.

MEA's principal offices are in Beirut, Lebanon, but because of the political turmoil in that country certain steps are taken by MEA's management to reduce the airline's involvement in Lebanon. Eximbank has been informed by MEA's management that almost all of the company's bank balances are kept outside Lebanon, and that its operating rules provide that no more than one scheduled aircraft can be in Beirut at one time and never at night.

3. Nature and use of goods and services

The principal goods expected to be exported from the United States at this time are eight new medium-range, wide-bodied commercial jet aircraft to be delivered during the period 1983-1985. The additional eleven jet aircraft contemplated by the preliminary commitment, if purchased in the United States, will be exported during the period 1986 through 1990 to complete the replacement process.

In the event the Boeing 767-100 is selected, most of the airframe components will be manufactured in the Seattle-Renton-Everett area by The Boeing Company of Seattle, Washington. If the McDonnell Douglas DC-10-10 is selected, most of the airframe components will be manufactured in California and Ohio by the McDonnell Douglas Corporation and its sub-suppliers. If the Lockheed L-1011-500 is selected, most of the airframe components will be manufactured in California by the Lockheed Corporation.

Potential engine manufacturers are the Pratt and Whitney Aircraft Division of United Technologies Corporation of Hartford, Connecticut and the General Electric Company's jet aircraft engine division in Cincinnati, Ohio. In addition, it is expected that other U.S. firms will furnish spare parts.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80 percent of the world market for commercial jet aircraft. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40 percent of total U.S. aircraft sales. Over the next two to three years several large foreign airlines will be undertaking major procurement programs, and most airlines choosing a particular aircraft type will continue with future purchases of the same models to maintain fleet continuity. During these next few years there will be intense competition from foreign aircraft and engine manufacturers who will be supported by subsidized export credit from government sources. Eximbank believes it must be sensitive to purchasers' needs during this period of new product selection to insure that U.S. aircraft and engine manufacturers are able to offer attractive financing, thereby helping the aircraft industry to sustain its position as a leading U.S. export sector.

Eximbank is prepared to extend financing to MEA for 85 percent of the U.S. costs of the aircraft in order to meet government-supported subsidized financing offered in support of the competing European Airbus proposal.

The estimates by each airframe manufacturer of the U.S. employment impact are as follows:

(a) Boeing 767-100—870,000 man/hours per aircraft.

(b) McDonnell Douglas DC-10-10—585,000 man/hours per aircraft for McDonnell Douglas' operations, and 660,000 man/hours per aircraft for its subsuppliers.

(c) Lockheed L-1011-500—600,000 man/hours per aircraft for Lockheed's operations, and another 600,000 man/hours per aircraft for its subsuppliers.

Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

2. The financing plan

The financing plan for the U.S. procurement proposed to be supported by Eximbank is as follows:

(a) Financing for Eight Aircraft, which are the subject of the direct credit:

	Percent of U.S. costs	Amount
Cash payment	15	$60, 587, 250
Eximbank credit	85	343, 327, 750
Total	100	403, 915, 000

(i) Eximbank Charges: The Eximbank credit will bear interest at the rate of 8¾ percent per annum. A commitment fee of ½ of 1 percent per annum will also be charged on the undisbursed portion.

(ii) Repayment Terms: Aggregate disbursements under the Eximbank credit will be repaid by MEA in two repayment schedules of 20 equal semiannual installments each, beginning July 15, 1984, with respect to aircraft to be delivered in 1983 and 1984, and beginning March 15, 1986 with respect to aircraft to be delivered in 1985.

(b) Financing for Eleven Aircraft, which are the subject of the preliminary commitments:

	Percent of U.S. costs	Amount
Cash payment	15	$107, 760, 450
Eximbank credit	85	610, 642, 550
Total	100	718, 403, 000

(i) Eximbank Charges: The interest rate will be the appropriate Eximbank rate in effect at the time the preliminary commitment is converted to a loan application. A commitment fee of ½ of 1 percent per annum will also be charged on the undisbursed portion of the Eximbank credit.

(ii) Repayment Terms: Aggregate disbursements under the Eximbank credit would be repaid by MEA in three repayment schedules of 20 equal semiannual installments each, beginning July 15, 1987 with respect to aircraft to be delivered in 1986 and 1987; beginning July 15, 1989 with respect to aircraft to be delivered in 1988 and 1989; and beginning July 15, 1990 with respect to aircraft to be delivered in 1990.

Sincerely,

H. K. ALLEN.●

A TRIBUTE TO STEVEN CROWLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 5 minutes.

● Mr. DOWNEY. Mr. Speaker, I have asked for this opportunity to speak because I know my colleagues will want to join with me in offering sincere and heartfelt condolences to Mrs. Georgine Crowley, the mother of Marine Cpl. Steven J. Crowley, who was tragically killed while defending the U.S. Embassy in Islamabad, Pakistan, from a rioting mob.

Steven Crowley was born and grew up on Long Island, and he went on to become an enthusiastic and dedicated marine, who volunteered for service overseas. It is a profound tragedy that this young Long Islander, who graduated from high school only 2 years ago, was caught up in the senseless violence and misguided anger presently sweeping many areas of the Middle East. I will refrain from digressing into a discussion of the insanity and criminality of the events which led to Corporal Crowley's death. We have all followed events in that area of the world with acute attention in recent weeks and we are all painfully aware of other American lives which continue to be threatened by the mindless violence that continues to unfold in Iran. Mrs. Crowley and her family must know that we are aware, and that the American people are aware, that Steven Crowley and Army CWO Bryan Ellis of Mobile, Ala., who died with him, did their part to make a stand against that mindlessness and that violence.

It must be remembered that 100 other persons were rescued from the roof of the burning U.S. Embassy building which Steven Crowley died defending. Steven died a hero. He will be given a hero's burial in Arlington National Cemetery, and his mother and family should know that our thoughts and prayers will be with them at that time.●

H.R. 3994, THE RESOURCE CONSERVATION AND RECOVERY ACT AMENDMENTS OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, we have all heard the saying that goes something to the effect of "being too smart too late." It is usually spoken in epitaph for ideas which lay, unimplemented, as those problems which they were intended to solve are allowed to grow to a point were there simply are no solutions left. It is my sincere hope that in future Congresses we are not left to mutter this phrase.

Within the next few days we will be asked to consider H.R. 3994, the Resources Conservation and Recovery Act Amendments of 1979. I would like to take this opportunity to urge that this bill receive the support of this Congress—especially from those Members for whom a clean and safe environment has been and continues to be a priority.

One major issue contained in this legislation relates to hazardous waste and the difficulties surrounding its disposal. As I am certain most of you are aware, this is a problem with a number of very serious long-range effects and an impact which we are now just beginning to fully understand. For years, and especially prior to the passage of several measures by the Congress, harmful materials were cast haphazardly into the environment with little regard given to the possible impact. With an emerging awareness of the possible dangers and the introduction of sophisticated equipment we are not at a point where the compelling reasons for quick and decisive action are becoming clear. Primary among these is that the effects of the improper disposal of hazardous waste can easily throw an entire community into chaos and upheaval—a fact that, in Rhode Island, we have come to understand in the past several weeks.

A bit more than a month ago, the community of North Smithfield, R.I., was informed that tests from several wells in a portion of the town showed levels of a possible cancer-causing chemical in amounts not just 2 or 3 times the recommended safe levels but an astounding 280 times higher than acceptable levels. The concentration in certain tests was found to be so high that the water could not be rendered usable by boiling—a method which removes 99 percent of the inpurities.

Several days after the condition in North Smithfield became known, another community, this time Lincoln, R.I., a city of nearly 20,000, found levels of the same chemical—the popular industrial solvent tricloroethylene—in three of the town's seven municipal wells. These wells were immediately shut down and the safety and future well-being of residents is, at this moment, far from secure. Both of these community's water supplies were contaminated by hazardous waste which was improperly handled. We must ask ourselves which community—for there will undoubtedly be others—will be the next to receive word that their drinking water is unsafe?

There are, however, steps which can be taken to begin the process of overcoming the problems we are facing now and will face in the future. We must take steps to provide the Federal authority to effectively deal with hazardous waste disposal; we must provide funds that will allow us to solve the problems and prevent future hazardous waste mismanagement; and most importantly, we must support local, State, and regional efforts which address this problem.

H.R. 3994 does just these things. It provides the authority, the funds and the support and I urge you to consider it favorably.

This legislation offers us the choice of either becoming wise enough soon enough or too smart too late. I sincerely urge that we not choose the latter.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, on the floor this afternoon I thought that I had voted "yea" on final passage of H.R. 2313, the Federal Trade Commission Improvements Act.

However, upon checking the record, I find that my vote was not recorded. Therefore, I would like to enter into the official record that I would have voted "yea" on final passage of H.R. 2313.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AKAKA (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. KEMP, at the request of Mr. DORNAN, for 5 minutes, today.

(The following Members (at the request of Mr. WHITTAKER) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS of Texas, for 20 minutes, today.

Mr. MCKINNEY, for 5 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

Mr. FINDLEY, for 5 minutes, today.

(The following Members (at the request of Mr. STENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BEDELL, for 5 minutes, today.

Mr. MOAKLEY, for 5 minutes, today.

Mr. VAN DEERLIN, for 15 minutes, today.

Mr. ROSENTHAL, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. DOWNEY, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. MAGUIRE, for 60 minutes, December 10, 1979.

Mr. EDGAR, for 60 minutes, December 10, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MCKAY, prior to passage of H.R. 4320 on Consent Calendar today.

Mr. BARNES, prior to passage of H.R. 5182 on Consent Calendar today.

Mr. CONABLE, to extend his remarks prior to passage of H.R. 3317 and H.R. 3755 on the Private Calendar today.

Mr. EVANS of Delaware, to revise and extend his remarks and include extraneous material prior to the passage of the bill, H.R. 5228.

Mr. WEISS, prior to the vote on H.R. 2313.

Mr. GOLDWATER, to revise and extend prior to Andrews of North Dakota amendment today in the Committee of the Whole.

Mr. LEVITAS, and to include extraneous material, on H.R. 2313 in the Committee of the Whole today.

Mr. ICHORD to revise and extend on his remarks during Mr. TAYLOR of Missouri's 1 minute speech today.

(The following Members (at the request of Mr. WHITTAKER) and to include extraneous matter:)

Mr. CONTE.

Mr. CLINGER.

Mr. SHUMWAY in two instances.

Mr. HARSHA.

Mr. KEMP in three instances.

Mr. DORNAN in two instances.
Mr. COLLINS of Texas in three instances.
Mr. MICHEL.
Mr. ASHBROOK in three instances.
Mr. LAGOMARSINO in two instances.
Mr. CORCORAN in two instances.
Mr. MCCLOSKEY.
Mr. DERWINSKI in three instances.
Mr. BROOMFIELD in two instances.
Mr. RITTER.
Mr. YOUNG of Alaska.
Mr. CONABLE.
Mr. SCHULZE.
Mr. REGULA.
Mr. FRENZEL in three instances.
Mr. COUGHLIN.
Mr. YOUNG of Florida.
Mr. SOLOMON in four instances.
Mrs. HOLT.
Mr. CARNEY.

(The following Members (at the request of Mr. STENHOLM) and to include extraneous material:)

Mr. BAILEY.
Mr. CHARLES WILSON of Texas.
Mr. NOLAN in two instances.
Mr. ASPIN.
Ms. MIKULSKI in three instances.
Mr. BENJAMIN in two instances.
Mrs. SPELLMAN.
Mr. FOUNTAIN.
Mr. MAGUIRE.
Mr. MINETA.
Mr. LAFALCE.
Mr. SOLARZ.
Mr. MAZZOLI.
Mr. EDGAR.
Mr. HAMILTON.
Mr. SKELTON.
Mr. ALBOSTA.
Mr. OTTINGER.
Mr. SIMON.
Mr. HALL of Texas.
Mr. FITHIAN.
Mr. MCDONALD in five instances.
Mr. MARKEY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2031. An act to designate certain National Forest System lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes; referred to the Committees on Interior and Insular Affairs and Agriculture.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1885. An act to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian Employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies.

ADJOURNMENT

Mr. WYATT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 28, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2887. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescission and deferrals of budget authority contained in the message from the President dated October 1, 1979 (H. Doc. No. 96–198), pursuant to section 1014(b) of Public Law 93–344 (H. Doc. No. 96–223); to the Committee on Appropriations and ordered to be printed.

2888. A letter from the Administrator of Veterans Affairs, transmitting a report on a violation of the Anti-deficiency Act, pursuant to section 3679(1)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

2889. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

2890. A letter from the Secretary of State, transmitting a report on efforts by the State Department to encourage nations which are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons to become parties to that treaty, pursuant to section 507(b) of Public Law 96–53; to the Committee on Foreign Affairs.

2891. A letter from the Secretary of the Interior, transmitting the audit report on the highway safety program, Department of Public Works, Government of Guam, covering fiscal year 1978, pursuant to section 9-A (h) of the Organic Act of Guam, as amended; to the Committee on Interior and Insular Affairs.

2892. A letter from the Secretary of the Interior, transmitting the annual report of the U.S. Government Comptroller for the Virgin Islands on the financial condition of the Government of the Virgin Islands for fiscal year 1978, pursuant to section 17(h) of the Revised Organic Act of the Virgin Islands, as amended; to the Committee on Interior and Insular Affairs.

2893. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2894. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on State compliance with medicaid utilization control requirements, pursuant to section 1903(g)(6) of the Social Security Act, as amended; to the Committee on Interstate and Foreign Commerce.

2895. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend and revise various provisions of law concerned with health; to the Committee on Interstate and Foreign Commerce.

2896. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission if unable to render a final decision in Docket No. 37166, Detention Charges on Coal from Oklahoma to Missouri via SLSF, within the specified 7-month time limit, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

2897. A letter from the Comptroller General of the United States, transmitting a report on the progress being made toward centralizing the management of conventional ammunition within the Department of Defense (LCD–80–1, November 26, 1979); jointly, to the Committees on Government Operations, and Armed Services.

2898. A letter from the Comptroller General of the United States, transmitting needed improvements to the Department of Interior's methodology used to allow Outer Continental Shelf wells to be shut-in or to flare natural gas (EMD–80–3, November 21, 1979); jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

2899. A letter from the Comptroller General of the United States, transmitting a report on avoidable or premature institutional care for chronically impaired elderly individuals and its impact on those individuals and the costs of medicaid (PAD–80–12, November 26, 1979); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

2900. A letter from the Comptroller General of the United States, transmitting a report on inadequacies in inmate mental health care delivery systems in Federal and State prisons (GGD–80–11, November 23, 1979); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and the Judiciary.

2901. A letter from the Chairman, Federal Election Commission, transmitting a copy of the commission's fiscal year 1980 pay cost supplemental appropriation request, pursuant to section 310(d)(1) of the Federal Election Campaign Act of 1971, as amended; jointly, to the Committees on House Administration, and Appropriations.

2902. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's submission to the Office of Management and Budget in increased pay costs for fiscal year 1980, pursuant to section 304(b)(7) of Public Law 93–633; jointly, to the Committees on Interstate and Foreign Commerce, Public Works and Transportation, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 5673. A bill to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes (Rept. No. 96–659). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 4889. A bill to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge (Rept. No. 96–660). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 4685. A bill to provide for the control of the importing into, and the exporting from, the United States of elephants and elephant products; with amendments (Rept. No. 96–661, pt I). Referred to the Committee on Foreign Affairs and to the Committee on Ways and Means for a period ending not later than December 12, 1979, for consideration of such provisions of the bill and amendments as fall within the jurisdiction of those committees under clause 1(h) and clause 1(v) of Rule X, respectively, and ordered to be printed.

Mr. FUQUA: Committee on Science and Technology. H.R. 5892. A bill to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies; with amendments (Rept. No. 96–662). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4532. A bill to designate the United States Post Office and Federal building in Scott City, Kansas, as the "Henry D. Parkinson Federal Building" (Rept. No. 96–663). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4845. A bill to designate the Federal Building in Rochester, New York, the "Kenneth B. Keating Federal Building" (Rept. No. 96–664). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 5781. A bill to designate the building known as the Department of Labor Building in Washington, District of Columbia as the "Frances Perkins Department of Labor Building" (Rept. No. 96–665). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 5794. A bill to designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building" (Rept. No. 96–666). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ASPIN:

H.R. 5955. A bill to provide for continuing appropriations for salaries of officials and employees of the United States and former officials and employees of the United States when funds are not available for such salaries; to the Committee on Post Office and Civil Service.

By Mr. BEDELL:

H.R. 5956. A bill to amend the Packers and Stockyards Act, 1921, to establish the Packers and Stockyards Administration; to the Committee on Agriculture.

By Mr. COELHO:

H.R. 5957. A bill to provide for the establishment of a national cemetery within the boundaries of the San Luis unit of the Central Valley project (California); jointly, to the Committees on Veterans' Affairs and Interior and Insular Affairs.

By Mr. COTTER:

H.R. 5958. A bill to amend title XVIII of the Social Security Act with respect to determining the amount of payment for certain drugs under the medicare program; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. FINDLEY:

H.R. 5959. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to plan and construct recreation improvements on Quinsippi Island, Mississippi River, at Quincy, Ill.; to the Committee on Public Works and Transportation.

By Mr. LaFALCE (for himself, Mr. St Germain, Mr. Barnard, Mr. Bedell, Mr. Butler, Mr. Carter, Mr. Cleveland, Mr. Corrada, Mr. Dougherty, Mr. Downey, Mr. English, Mr. Ertel, Mr. Gilman, Mr. Green, Mr. Gudger, Mr. Hubbard, Mr. Jacobs, Mr. Lagomarsino, Mr. McHugh, Mr. Mazzoli, Mr. Murphy of Illinois, Mr. Nowak, Mr. Patten, Mr. Russo, Mr. Simon, Mr. Steed, Mr. Vento, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wylie, and Mr. Zeferetti):

H.R. 5960. A bill to amend the Currency and Foreign Transactions Reporting Act to allow for the payment of compensation to informers; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LaFALCE (for himself, Mr. St Germain, Mr. Wolff, Mr. Akaka, Mr. Barnard, Mr. Bedell, Mr. Butler, Mr. Carter, Mr. Cleveland, Mr. Corrada, Mr. Dougherty, Mr. Downey, Mr. English, Mr. Ertel, Mr. Gilman, Mr. Green, Mr. Hubbard, Mr. Jacobs, Mr. Lagomarsino, Mr. McHugh, Mr. Mazzoli, Mr. Murphy of Illinois, Mr. Nowak, Mr. Patten, Mr. Russo, Mr. Simon, Mr. Steed, Mr. Vento, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wylie, and Mr. Zeferetti):

H.R. 5961. A bill to amend the Currency and Foreign Transactions Reporting Act to (1) provide for more efficient enforcement of its provisions by making it illegal to attempt to export or import large amounts of currency without filling the required reports; (2) allow U.S. Customs officials to search for currency in the course of their presently authorized search for contraband articles; and (3) allow for the payment of compensation to informers; jointly, to the Committees on Banking, Finance and Urban Affairs, and Ways and Means.

By Mr. LUJAN:

H.R. 5962. A bill to establish the Salinas National Monument in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LUJAN (for himself and Mr. Runnels):

H.R. 5963. A bill to establish the San Joaquin del Canon del Rio de Chama Grant Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. QUILLEN:

H.R. 5964. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for contributions for the construction or maintenance of buildings housing fraternal organizations; to the Committee on Ways and Means.

By Mr. SHUMWAY:

H.R. 5965. A bill to amend the Internal Revenue Code of 1954 to provide for equipment which conserves irrigation water an additional 10 percent investment tax credit and an election to depreciate such equipment based on a 3-year useful life; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas:

H.R. 5966. A bill to amend title 28 of the United States Code to establish a Lufkin Division in the Eastern District of Texas, and for other purposes; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska (for himself, Mr. Lagomarsino, Mr. Frenzel, Mr. Lott, and Mr. Badham):

H.R. 5967. A bill to amend the Internal Revenue Code of 1954 to exclude certain service performed on fishing boats from coverage for purposes of unemployment compensation; to the Committee on Ways and Means.

By Mr. DUNCAN of Tennessee:

H.R. 5968. A bill to amend section 501(c)(9) of the Internal Revenue Code of 1954 to allow voluntary employees' beneficiaries associations to provide life benefits to their members through the use of whole or ordinary life insurance policies; to the Committee on Ways and Means.

By Mrs. FENWICK:

H.R. 5969. A bill to amend title XII of the National Housing Act to establish national standards in order to reduce incendiarism and maintain community vitality, and to encourage States to adopt minimum standards for arson investigation and insurance underwriting; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NEAL (by request) (for himself and Mr. Reuss):

H.R. 5970. A bill to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RINALDO (for himself, Mr. Duncan of Tennessee, Mr. Carney, Mr. Evans of Delaware, Mr. Horton, Mr. Skelton, Mr. Flood, and Mr. Florio):

H.J. Res. 449. Joint resolution to authorize and request the President to issue a proclamation designating December 7, 1979, "National Unity Day"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FOUNTAIN:

H.R. 5971. A bill for the relief of Ann Jenkins Anderson; to the Committee on the Judiciary.

By Mr. TAYLOR:

H.R. 5972. A bill for the relief of La Lim; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3227: Mr. Mineta.

H.R. 3427: Mr. Dougherty, Mr. Gudger, Mr. Florio, and Mr. Whitehurst.

H.R. 4179: Ms. Mikulski.

H.R. 4435: Mr. Brooks, Mr. Edwards of California, Mr. Conyers, Mr. Danielson, Mr. Drinan, Ms. Holtzman, Mr. Mazzoli, Mr. Hughes, Mr. Gudger, Mr. Volkmer, Mr. Harris, Mr. Synar, and Mr. Barnes.

H.R. 4659: Mr. Edwards of Oklahoma, Mr. Downey, Mr. McKinney, Mr. Jeffords, and Mr. Royer.

H.R. 4685: Mr. Fazio.

H.R. 4796: Mr. Collins of Texas.

H.R. 4833: Mrs. Fenwick.

H.R. 5225: Mr. Mitchell of New York and Mr. Lagomarsino.

H.R. 5477: Mr. Brodhead.

H.R. 5616: Mr. McCloskey, Mr. Grisham, Mr. Dixon, Mr. Anderson of California, Mr. Miller of California, Mr. Charles H. Wilson of California, Mr. Badham, and Mr. Lungren.

H.R. 5648: Mr. Downey.

H.R. 5715: Mr. Murphy of Pennsylvania, Mr. Whitehurst, Mr. Hughes, Mr. Hollenbeck, Mr. Watkins, and Mr. Lowry.

H.R. 5721: Mr. Badham, Mr. Burgener, Mr. Guyer, Mr. Hyde, Mr. Lott, Mr. Roe, Mr. Whitehurst, and Mr. Yatron.

H.R. 5722: Mr. Burgener, Mr. Guyer, Mr. Hyde, Mr. Lott, Mr. Roe, and Mr. Whitehurst.

H.R. 5726: Mr. Moorhead of Pennsylvania, Mr. St Germain, Mr. Hanley, Mr. Fauntroy, Mr. Rinaldo, Mr. AuCoin, Mr. Blanchard, Mr. Florio, Mr. Sharp, Mr. Weaver, Mr. Wirth, Mr. Evans of Indiana, Mr. Lundine, Ms. Oakar, Mr. Vento, Mr. Garcia, Mr. Gore, Mr. Lowry, Mr. Swift, Mr. Wylie, Mr. Gephardt, Mr. Evans of Delaware, Mr. Ritter, Mr. Matsui, and Mr. Green.

H.R. 5776: Mr. Weaver, Mr. Bedell, Mr. Rahall, Mr. Benjamin, Mr. Minish, Mr. Mitchell of Maryland, Mr. Downey, Mr. Emery, Mr. Moakley, Mr. Oberstar, Mr. Kildee, Mr. Daschle, Mr. Vento, and Mr. Roth.

H.R. 5795: Mr. Clausen and Mr. Rhodes.

H.R. 5810: Mr. HYDE, Mr. MITCHELL of Maryland, Mr. ROBINSON, Mr. STOKES, Mr. STUDDS, and Mr. WAMPLER.

H.R. 5813: Mr. BURGENER, Mr. LUNGREN, Mr. SCHULZE, and Mr. EDWARDS of Oklahoma.

H.R. 5855: Mr. LIVINGSTON and Mr. RINALDO.

H.J. Res. 295: Mr. YOUNG of Florida.

H.J. Res. 338: Mr. AKAKA, Mr. BRADEMAS, Mr. BOWEN, Mr. HYDE, Mr. MARKEY, Ms. MIKULSKI, Mr. MURPHY of Illinois, Mr. ROE, Mr. SEBELIUS, Mr. SOLARZ, Mr. ST GERMAIN, and Mr. ZEFERETTI.

H.J. Res. 426: Mr. BENNETT, Mr. CORMAN, Mr. DICKS, Mr. DODD, Mr. FAZIO, Mr. GUARINI, Mr. HANSEN, Mr. LAGOMARSINO, Mr. LLOYD, Mr. QUAYLE, Mr. SCHEUER, Mr. SIMON, Mr. VAN DEERLIN, and Mr. BOB WILSON.

H. Con. Res. 83: Mr. WOLFF.

H. Res. 451: Mr. DERWINSKI, Mr. OBERSTAR, Mr. DODD, Mr. BEILENSON, Mr. STARK, Mr. WHITEHURST, Mr. BEDELL, Mr. McDONALD, Mr. BARNES, Mr. BONIOR of Michigan, Mr. McCLOSKEY, Mr. SCHEUER, Mr. HUGHES, Mr. DOUGHERTY, Mr. LAGOMARSINO, Mr. AUCOIN, Mr. GILMAN, Mr. NEAL, Mr. WHITTAKER, Mr. EDWARDS of Oklahoma, Mr. PEASE, Mrs. FENWICK, Mr. McHUGH, Mr. MITCHELL of Maryland, Mr. GREEN, Mr. DICKS, Mr. PANETTA, Mr. TAUKE, Mr. KRAMER, Mr. THOMPSON, Mr. DASCHLE, Mr. FRENZEL, and Mr. ALBOSTA.

PETITIONS, ETC.

Under clause 1 of rule XXII, the following petitions and papers were presented and referred as follows:

226. By the SPEAKER: Petition of the Puerto Rico Manufacturers Association, Hato Rey, Puerto Rico, relative to including Puerto Rico in the minimum wage study ordered by Public Law 95–151; to the Committee on Education and Labor.

227. By the SPEAKER: Petition of Peter M. Woodbury and others, Laramie, Wyo., relative to American hostages in Iran; to the Committee on Foreign Affairs.

228. By the SPEAKER: Petition of the International Association of Chiefs of Police, Gaithersburg, Md., relative to reimbursement of costs associated with law enforcement assistance to the Secret Service, deterring the use of marihuana, and the addition of detection and identification taggants to commercial explosives; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5297

By Mr. BROWN of Ohio:

—Page 5, after line 20, insert:

(e) Of the amounts authorized to be appropriated under subsection (a)(1), such sums as may be necessary shall be used for the prompt issuance of operating licenses under applicable law, consistent with reasonable safety considerations, in the case of the following nuclear powerplants:

North Anna 2
Salem 2
Diablo Canyon 1
Sequoyah 1
McGuire 1
Zimmer
Diablo Canyon 2
La Salle County 1
Summer 1
Farley 2
Shoreham
San Onofre 2
Watts Bar

By Mr. EMERY:

—Page 3, line 14, after "and" insert the following: "the purchase of appropriate radiation monitoring equipment".

H.R. 5461

By Mr. TAYLOR:

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the day of January 15 of each year is designated as "Martin Luther King, Junior, Day" and the President is authorized and requested to issue annually a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD, September 12, 1979, p. 24259.

H.R. 4376. June 7, 1979. Ways and Means. Amends the Internal Revenue Code to qualify a replacement oil boiler whose energy savings cost can reasonably be expected to exceed its cost over a ten year period for the investment tax credit.

H.R. 4377. June 7, 1979. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish standards for qualified health insurance plans and procedures for the review and certification of such plans. Requires certain employers to make available to employees a plan of health coverage.

Amends the Social Security Act to require a State Medicaid plan to provide for the establishment and operation of a comprehensive health association in the State and a comprehensive insurance plan.

Provides new assistance programs to States for: (1) assisting low-income individuals in the purchase of comprehensive health insurance; and (2) furnishing medical coverage for catastrophic illness.

H.R. 4378. June 7, 1979. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1965 to stipulate that any person who presents a Medicare card when boarding or paying mass transit fares shall receive the reduced rates for the elderly or handicapped as provided in such Act.

H.R. 4379. June 7, 1979. Ways and Means. Amends title XVI (Supplemental Security Income) of the Social Security Act to permit States to make payments to vendors of social services such as institutions, foster homes, or group living arrangements on behalf of residents of such facilities as an alternative to State supplementary payments which are currently provided.

H.R. 4380. June 7, 1979. Ways and Means. Amends the Internal Revenue Code to qualify energy property which is at least ten percent more energy efficient than property which it replaces for the investment tax credit.

Qualifies certain small boilers fueled by oil or gas for the investment tax credit.

H.R. 4381. June 7, 1979. Ways and Means. Amends the Internal Revenue Code to qualify certain small boilers fueled by oil or gas for the investment tax credit.

H.R. 4382. June 7, 1979. Interstate and Foreign Commerce; Science and Technology. Amends the Energy Policy and Conservation Act to establish a State Basic Energy Program and to provide financial assistance for special energy projects to be conducted by units of local government and Indian tribes.

H.R. 4383. June 7, 1979. Interior and Insular Affairs. Designates the Red Buttes Wilderness Area.

H.R. 4384. June 7, 1979. Judiciary. Authorizes the granting of a visa to and admission of a named individual to the United States for permanent residence.

H.R. 4385. June 7, 1979. Ways and Means. Directs the Secretary of the Treasury to admit free of duty (or refund duty already paid on) a specified item for the use of a named university.

H.R. 4386. June 7, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to two named individuals in satisfaction of a claim against the United States.

H.R. 4387. June 7, 1979. Makes appropriation for fiscal year 1980 for specified agricultural, rural development, domestic food, and international programs of the Department of Agriculture and certain related agencies.

H.R. 4388. June 7, 1979. Makes appropriations to the Department of Energy, the Department of Defense—Civil, the Department of the Interior, the Appalachian Regional Commission, the Delaware River Basin Commission, the Interstate Commission on the Potomac River Basin, the Nuclear Regulatory Commission, the Susquehanna River Basin Commission, the Tennessee Valley Authority, and the Water Resources Council for energy and water development for fiscal year 1980.

H.R. 4389. June 7, 1979. Makes appropriations to the Department of Labor, the Department of Health, Education, and Welfare, and related agencies for fiscal year 1980.

H.R. 4390. June 7, 1979. Appropriates funds for the legislative branch for fiscal year 1980.

H.R. 4391. June 7, 1979. Makes appropriations for fiscal year 1980 for military construction operations and for military family housing including appropriations to eliminate losses caused by fluctuations in foreign currency exchange rates.

H.R. 4392. June 7, 1979. Makes appropriations for fiscal year 1980 to the Department of State, the Department of Justice, the Department of Commerce, the Judiciary, and related agencies.

H.R. 4393. June 7, 1979. Makes appropriations for fiscal year 1980 to the Department of the Treasury, the United States Postal Service, the Executive Office of the President, and specified independent agencies.

H.R. 4394. June 7, 1979. Makes appropriations for fiscal year 1980 to the Department of Housing and Urban Development and specified independent agencies and Government corporations.

H.R. 4395. June 8, 1979. Judiciary. Requires specified lobbying organizations to register and make quarterly expense reports with the Comptroller General. Makes such reports available to the public. Establishes a civil penalty to enforce this Act.

Authorizes the Attorney General to issue a civil investigative demand to procure material from organizations suspected of violating this Act.

H.R. 4396. June 8, 1979. Science and Technology; Banking, Finance and Urban Affairs. Directs the Secretary of Energy to establish a research program for the development and demonstration of energy-conserving industrial technologies.

H.R. 4397. June 8, 1979. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to exclude certain employers from coverage.

Revises certain procedures dealing with: (1) standards and their promulgation; (2) inspections and investigations; (3) citations and notices; and (4) enforcement.

Provides for: (1) certain affirmative defenses by employers; (2) consultative visits by the Secretary upon employer request; and (3) voluntary compliance agreements between the Secretary and an employer.

States that any proposed rule will not take effect if Congress disapproves it by concurrent resolution.

H.R. 4398. June 8, 1979. Judiciary. Amends the Immigration and Nationality Act to provide that certain restrictions on the issuance of nonimmigrant visas to alien doctors will not apply to doctors coming to practice at public hospitals or clinics in the Virgin Islands.

H.R. 4399. June 8, 1979. Science and Technology. Amends the Technology Assessment Act of 1972 to make changes in the operation and administration of the Technology Assessment Office and to establish an Executive Committee to perform routine duties and functions of the Technology Assessment Board, including the approval or disapproval of specific assessment proposals and the preparation of an annual budget.

H.R. 4400. June 8, 1979. Post Office and Civil Service; House Administration. Requires a reduction in the civilian work forces of the executive and legislative branches of Government. Directs the Director of the Federal Judicial Center to submit to Congress recommendations for a similar reduction in the judicial branch.

H.R. 4401. June 8, 1979. Interstate and Foreign Commerce. Establishes a program to promote the development and use of replacement fuels in the United States for the purpose of replacing gasoline used as a motor fuel with alcohol or other liquid produced from coal, oil, shale, and other substances.

Directs the Secretary of Energy to set production goals for such fuels.

H.R. 4402. June 11, 1979. Armed Services. Authorizes the Secretary of the Army to accept original enlistments in the Army for an enlistment period of 18 months in active duty service and four and one-half years in Ready Reserve service.

Provides educational assistance for a period of 36 months for individuals who complete such active duty service.

H.R. 4403. June 8, 1979. Banking, Finance and Urban Affairs. Revises the definition of "income" for purposes of determining eligibility for low-income housing under the United States Housing Act of 1937.

H.R. 4404. June 11, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act to permit prime sponsors, pursuant to regulations of the Secretary of Labor, to provide financial assistance: (1) to employees who will be laid off due to productivity improvement programs initiated by private employers; or (2) to such employers for the cost of training and retraining employees.

Directs the Secretary to survey all federally assisted labor training programs and to report to Congress with recommended revisions.

H.R. 4405. June 11, 1979. Ways and Means. Amends the Internal Revenue Code to allow investment tax credits for research and experimental property.

Allows the amortization of research and experimental property, based on a period of not less than 60 months.

H.R. 4406. June 11, 1979. Ways and Means. Amends the Internal Revenue Code to allow a nonrefundable income tax credit for certain research and experimental expenditures by businesses.

H.R. 4407. June 11, 1979. Ways and Means. Amends the Internal Revenue Code to provide that research and experimental expenditures in connection with a patent may be amortized for any period of not less than 60 months.

H.R. 4408. June 11, 1979. Ways and Means. Amends the Internal Revenue Code to provide that no operating losses incurred by a corporation during its first three taxable years may be carried over to the next ten taxable years, for purposes of the income tax deduction.

H.R. 4409. June 11, 1979. Education and Labor; Post Office and Civil Service. Directs the Secretary of Labor to: (1) conduct studies concerning the productivity of employees in the public and private sectors; and (2) report annually to Congress on the results of such studies together with recommendations for improving Government functions.

H.R. 4410. June 11, 1979. Post Office and Civil Service. Requires a reduction in the civilian work forces of the executive and legislative branches of Government. Directs the Director of the Federal Judicial Center to submit to Congress recommendations for a similar reduction in the judicial branch.

H.R. 4411. June 11, 1979. Authorizes the immediate supervisor of any Federal employee who has applied for continuation pay during a period of disability caused by a work injury to require such employee to submit to an examination by a physician designated by the supervisor for the purpose of obtaining a second opinion concerning the employee's claim. Prohibits the payment of continuation pay for a specified period.

H.R. 4412. June 11, 1979. House Administration. Authorizes the distribution of sample ballot cards and ballot card information through the United States Postal Service at no cost to the several States and all political subdivisions. Establishes procedures and methods for the distribution of such ballot information.

H.R. 4413. June 11, 1979. Merchant Marine and Fisheries. Authorizes the Secretary of Commerce, through the National Marine Fisheries Service, to make grants to certain States enumerated in the Fishery Conservation and Management Act of 1976 to develop, maintain, and monitor marine artificial reefs in the territorial waters of such States and to develop such habitats in the fishery conservation zone off the coasts of such States.

H.R. 4414. June 11, 1979. Education and Labor. Amends the Federal Mine Safety and Health Act of 1977 to provide that provisions of such Act shall not apply to stone mining, sand and gravel mining operations, or certain surface construction operations.

H.R. 4415. June 11, 1979. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer to elect an income tax deduction with respect to the amortization, based on a 60 month period, of any qualified facility producing alcohol from coal, wood, waste, or agricultural products for primary use as a motor fuel.

H.R. 4416. June 11, 1979. Merchant Marine and Fisheries. Stipulates that the steamship United States may operate in the domestic and foreign commerce of the United States and between foreign ports.

H.R. 4417. June 11, 1979. Merchant Marine and Fisheries; Science and Technology. Establishes in the Department of Commerce an independent establishment known as the Office for Chesapeake Bay Research, Planning, and Coordination to coordinate research efforts regarding the Chesapeake Bay. Establishes the Chesapeake Bay Research Board to: (1) advise the Director of the Office; (2) develop a Chesapeake Bay Research Plan; and (3) review, evaluate, and comment upon the annual report submitted by the Office.

H.R. 4418. June 11, 1979. Interior and Insular Affairs. Adds specified lands to the Moapa Indian Reservation, Moapa, Nevada, to be held in trust by the United States for the benefit and use of the Moapa Band of Paiutes.

Allows restricted lands (whether tribally or individually owned) of such Band to be leased, with the approval of the Secretary of the Interior, by the Indian owners for a term of 99 years or less.

H.R. 4419. June 11, 1979. Judiciary. Prohibits the imposition of the death sentence upon any person convicted of a criminal offense under Federal or State law or the execution of any such sentence imposed prior to the date of enactment.

H.R. 4420. June 11, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4421. June 11, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4422. June 12, 1979. Interstate and Foreign Commerce. Repeals the Connally Hot Oil Act which prohibits the movement in interstate commerce of petroleum produced, transported, or withdrawn from storage in excess of the amounts permitted under the laws or regulations of a State.

Directs the Secretary of Energy, under the Energy Policy and Conservation Act, to determine specified rates of production, for each crude oil field, whether on Federal or non-Federal lands. Authorizes the Secretary to require crude oil production from such fields.

Transfers to the Secretary from the Secretary of the Interior the duty of making such determinations on natural gas fields on Federal lands.

H.R. 4423. June 12, 1979. Ways and Means. Amends the Internal Revenue Code to eliminate the age requirement for the one time exclusion of gain from the sale or exchange of a principal residence.

H.R. 4424. June 12, 1979. Judiciary. Directs the Secretary of the Treasury to settle claims in amounts determined and certified by the Secretary of the Army due to any person, State, or political subdivision for damages sustained as a result of the Great Lakes and Saint Lawrence Seaway season extension program.

H.R. 4425. June 12, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act (CETA) to provide financial assistance to States for the conduct of: (1) job search assistance programs run by the States and Native American entities; and (2) federally assisted work and training opportunities, beyond such eight-week programs, run by State and local CETA prime sponsors and Native American entities.

Directs the Secretary of Labor to apportion funds for such programs according to criteria which include the relative numbers of recipients of aid to families with dependent children in a given area.

H.R. 4426. June 12, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act to establish subsidized employment and training programs for principal earners in households eligible for aid to families with dependent children or for food stamps referred from social security work incentive (WIN) job search programs. Directs the Secretary of Labor to assign such individuals to prime sponsor of environmental programs in their areas of residence.

Amends the Social Security Act and the Wagner-Peyser Act to require referral of certain individuals to WIN job search programs. Directs the Secretary of Health, Education, and Welfare to determine which area agencies can best conduct WIN programs.

H.R. 4427. June 12, 1979. Ways and Means. Amends the Internal Revenue Code to confer tax-exempt status on nonprofit insurance organizations which are chartered to provide professional liability insurance to members of learned professions who are unable to attain such coverage through the commercial market.

H.R. 4428. June 12, 1979. Ways and Means. Amends the Internal Revenue Code and title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to permit an individual who has attained age 65 and is entitled to old-age insurance benefits to treat his or her employment or self-employment as excluded from the term "employment" for the purposes of the OASDI program and to exclude any income so derived from the applicable social security taxes.

H.R. 4429. June 12, 1979. Agriculture; Ways and Means. Amends the Food Stamp Act of 1977 to create a liability to the United States in any individual receiving food coupons during any year whose adjusted gross income for such year exceeds the exempt amount. Directs the Secretary to establish within the Internal Revenue Service an organizational unit to collect such liability payments.

H.R. 4430. June 12, 1979. Education and Labor; Judiciary. Amends the Walsh-Healey

Act to permit government contractors to have their employees work ten-hour workdays for a weekly total of not more than 40 hours when the majority of an employer's employees have voted to work such hours.

H.R. 4431. June 12, 1979. Ways and Means. Amends the Internal Revenue Code to provide that State unemployment compensation laws need not require the reduction of weekly unemployment compensation for individuals who receive income from military retirement pay.

H.R. 4432. June 12, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the tax treatment of cooperative electric and telephone companies.

H.R. 4433. June 12, 1979. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any pension already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 4434. June 12, 1979. Interstate and Foreign Commerce; Interior and Insular Affairs; Science and Technology. Establishes the Energy Development and Management Authority to administer a program to increase on an expedited basis the energy supplies of the United States by the expanded use of coal conversion technologies.

H.R. 4435. June 12, 1979. Judiciary. Revises the number of divisions and the assignment of judges in the Northern District of Ohio.

H.R. 4436. June 12, 1979. Armed Services; Government Operations; Ways and Means; Banking, Finance and Urban Affairs; Education and Labor. Establishes in the Executive Office of the President the Defense Economic Adjustment Council to facilitate the economic adjustment of communities, industries, and workers who may be affected by reductions in defense contracts and facilities.

Requires contractors at defense facilities to establish Alternative Use Committees to undertake economic conversion planning and preparation for the employment of personnel and utilization of facilities should such displacements occur.

Establishes within the Treasury a Workers Economic Adjustment Reserve Fund to fund displaced workers benefit programs established under this Act.

Authorizes Federal financial assistance to communities and industries adversely affected in such a manner.

H.R. 4437. June 12, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in satisfaction of a claim against the United States.

H.R. 4438. June 12, 1979. Judiciary. Permits two named individuals to file within 365 days a specified action against the United States in a certain district court. Declares that a specified law shall not apply to any action instituted under this Act.

H.R. 4439. June 13, 1979. Foreign Affairs. Finds it in the interest of the United States to encourage the development of a multiracial democracy in Zimbabwe-Rhodesia. Directs the President to terminate sanctions against Zimbabwe-Rhodesia when the Government of Zimbabwe-Rhodesia demonstrates the exercise of genuine majority rule. Requires the President to report to Congress regarding a decision not to lift sanctions against Zimbabwe-Rhodesia by December 31, 1979.

H.R. 4440. June 13, 1979. Makes appropriations for fiscal year 1980 for expenses of the Department of Transportation, the National Transportation Safety Board, the Civil Aeronautics Board, the Interstate Commerce Commission, the Panama Canal Commission, and the United States Railway Association.

H.R. 4441. June 13, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require any beverage offered for sale and consisting of more than 24 percent of alcohol by volume to bear conspicuously on its label and advertising the following statement: "Caution: Consumption of Alcoholic Beverages May Be Hazardous to Your Health."

H.R. 4442. June 13, 1979. Judiciary. Amends present Federal law to prohibit the taxation by a State with respect to the generation or transmission of electricity within that State which is transmitted to, and consumed in, another State.

H.R. 4443. June 13, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) repeal the percentage depletion allowance for independent oil and gas producers and royalty owners; (2) require the capitalization and amortization of intangible drilling and development costs in the case of oil and gas wells and geothermal wells; (3) exclude from gross income foreign oil and gas income; (4) prohibit the deferral of U.S. taxes for foreign oil-related income of domestic corporations.

H.R. 4444. June 13, 1979. Ways and Means. Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to revise provisions relating to payments to and contractual arrangements with health maintenance organization (HMO) on behalf of individuals eligible for Medicare. Provides that an HMO shall receive payment for services at a rate of 95 percent of the cost of such services if furnished by other than an HMO.

Provides that every individual entitled to benefits under part A (Hospital Insurance) and B (Supplementary Medical Insurance) of title XVIII or part B only shall be eligible to enroll with an approved HMO.

H.R. 4445. June 13, 1979. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to authorize appropriations for certain grants for energy conservation projects and administrative costs and to make changes in the international voluntary agreement provisions.

H.R. 4446. June 13, 1979. Ways and Means. Amends the Internal Revenue Code to permit common carriers by railroad (including a railroad switching company or a terminal company) to use the retirement-replacement-betterment method of accounting for determining depreciation allowances for income tax deduction purposes.

H.R. 4447. June 13, 1979. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such title to make payments and reports on a calendar-quarter basis.

H.R. 4448. June 13, 1979. Education and Labor. Amends the Fair Labor Standards Act of 1938 to exclude from its coverage any full-time student employed as a resident assistant by a private nonprofit institution of higher education.

H.R. 4449. June 13, 1979. Public Works and Transportation. Amends the Federal Water Pollution Control Act to provide an additional allotment of funds to certain States for the construction of publicly-owned waste treatment works.

H.R. 4450. June 13, 1979. Education and Labor. Establishes an Afro-American History and Culture Board which shall be responsible for the establishment of the National Museum of Afro-American History and Culture.

H.R. 4451. June 13, 1979. Education and Labor. Directs the Secretary of the Interior to establish and operate the National Museum of Afro-American History and Culture in the vicinity of Wilberforce, Ohio, for the preservation, collection, and display of objects pertaining to the history and culture of Afro-Americans.

H.R. 4452. June 13, 1979. Education and Labor. Directs the Secretary of the Interior to establish and operate the National Museum of Afro-American History and Culture in the vicinity of Wilberforce, Ohio, for the preservation, collection, and display of objects pertaining to the history and culture of Afro-Americans.

Establishes a National Afro-American History and Culture Advisory Board to advise and assist the Secretary regarding all aspects of the establishment and operation of the museum.

H.R. 4453. June 13, 1979. Interstate and Foreign Commerce. Amends the Saccharin Study and Labeling Act to extend the period during which the Secretary of Health, Education, and Welfare may not take specified actions to restrict the continued use of saccharin or of any food, drug, or cosmetic containing saccharin.

H.R. 4454. June 13, 1979. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to grant States concurrent authority together with the Secretary of Transportation to enforce the provisions of such Act or the Federal regulations promulgated pursuant to such Act.

H.R. 4455. June 13, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Directs the Nuclear Regulatory Commission to promulgate regulations requiring notification to the Governor of any State prior to the transportation of nuclear waste to, through, or across such State.

H.R. 4456. June 13, 1979. Judiciary. Relieves a named individual of liability for the payment to the United States of a specified sum. Directs the Secretary of the Treasury to pay to such individual any part of such sum which may have been received or withheld from such individual in connection with such liability.

H.R. 4457. June 13, 1979. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4458. June 13, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4459. June 14, 1979. Post Office and Civil Service. Directs the Postmaster General to issue a special postage stamp in honor of Filippo Mazzei, and in tribute to the millions of Americans of Italian descent who have played an important role in American history.

H.R. 4460. June 14, 1979. Ways and Means. Amends part A (Aid to Families with Dependent Children) of title IV of the Social Security Act to set forth a new formula for determining payments to a State under such part.

Directs the Secretary of the Treasury to pay to each State a supplemental grant if its "excess unemployment percentage" is greater than zero.

Permits a State to require employment of individuals whose needs are taken into account in determining AFDC eligibility.

H.R. 4461. June 14, 1979. Interior and Insular Affairs. Establishes the Mojave Park in the State of California.

H.R. 4462. June 14, 1979. Interior and Insular Affairs. Establishes, out of the Devil's Hole portion of Death Valley National Monument, the Desert Pupfish National Monument in the States of California and Nevada for the preservation, protection, and study of several species of desert pupfish.

H.R. 4463. June 14, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to define terms and establish personnel qualifications pertaining to home health agencies, and to set forth specified conditions of participation for a home health agency in the Medicare program.

H.R. 4464. June 14, 1979. Ways and Means. Amends the Internal Revenue Code to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week to an eligible individual by the amount of certain retirement benefits received by such individual.

H.R. 4465. June 14, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act to end the program of youth employment and training demonstration projects and to establish a program of youth employment and training guarantees.

Requires prime sponsors to assist youths in employment programs to establish personalized employability plans.

Provides for nonresidential Job Corps skill centers and private employer community service demonstration projects.

Authorizes the Secretary to enter into youth employment agreements with Federal agencies.

Establishes an Interagency Coordinating Committee for Youth Employment.

Directs the Secretary of Labor to promote apprenticeship programs by certain occupations, Federal contractors, and agencies.

H.R. 4466. June 14, 1979. Judiciary. Grants a Federal charter to the National Mining Hall of Fame and Museum.

H.R. 4467. June 14, 1979. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married person filing a separate return to the amount actually earned by that individual.

H.R. 4468. June 14, 1979. Government Operations. Extends through fiscal year 1984 the entitlement periods for the authorization of appropriations under the State and Local Fiscal Assistance Act of 1972.

H.R. 4469. June 14, 1979. Interior and Insular Affairs. Establishes the Boston Harbor National Recreation Area. Directs the Secretary of the Interior to establish a Commission to prepare a plan for the development of such Area. Establishes a special account in the Treasury of the United States to hold moneys for grants to State or local governmental units implementing such plan.

H.R. 4470. June 14, 1979. Interstate and Foreign Commerce; Ways and Means. Authorizes the Secretary of Health, Education, and Welfare to enter into agreements with 12 States for the purpose of conducting demonstration projects for the training and employment as homemakers or home health aides of individuals who have been certified by the appropriate State or local government agency as being eligible for financial assistance under a State plan of Aid to Families with Dependent Children approved under title IV of the Social Security Act.

H.R. 4471. June 14, 1979. Interior and Insular Affairs; Science and Technology; Ways and Means; Interstate and Foreign Commerce; Public Works and Transportation. Provides for an expedited process of promoting research, exploration, development, and commercialization of geothermal energy resources.

Establishes the Interagency Geothermal Leasing Committee to review Federal activities under the geothermal leasing program established under this Act.

Establishes the Interagency Geothermal Coordinating Council and Advisory Committee on Geothermal Energy.

Requires reviews of: (1) the impact of accelerated development of geopressured methane and the energy potential of hot dry rock systems in the United States; and (2) the need for environmental control technology to support the accelerated development of geothermal energy.

Amends the Energy Tax Act with respect to the tax treatment of geothermal equipment.

H.R. 4472. June 14, 1979. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to permit persons to bring certain suits under such Act in Federal district courts without regard to whether any proceedings have been commenced by or on behalf of such persons under State law.

Prohibits persons commencing such State proceedings from bringing such a suit for 60 days after such commencement, unless such proceedings have been terminated earlier.

Amends the Energy Tax Act with respect to the tax treatment of geothermal equipment.

H.R. 4473. June 14, 1979. Makes appropriations for the U.S. contribution to various international development institutions and other international organizations. Makes appropriations to carry out specified provisions of the Foreign Assistance Act of 1961. Appropriates funds for specified U.S. development institutions. Makes appropriations for military assistance. Authorizes the Export-Import Bank to make expenditures without regard to specified limitations. Sets forth limitations on the use of such appropriated funds.

H.R. 4474. June 14, 1979. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to establish a national goal for the production of synthetic fuels and synthetic chemical feedstocks.

Directs the President to enter into contracts to purchase or commit to purchase such fuels and feedstocks to attain such goal.

H.R. 4475. June 14, 1979. Ways and Means; Interstate and Foreign Commerce. Amends titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the administration, benefits, eligibility standards, and funding of the Medicare and Medicaid programs.

Amends part B (Professional Standards Review) of title XI of the Social Security Act to revise the membership requirements of PSRO's. Abolishes statewide professional standards review councils.

Authorizes the Secretary of Health, Education, and Welfare to waive compliance with certain requirements of the Social Security Act to the extent necessary to conduct specified experiments or demonstration projects.

H.R. 4476. June 14, 1979. Education and Labor; Appropriations. Extends authorizations of appropriations for specified programs under the Higher Education Act of 1965 and the General Education Provision Act.

Amends the Higher Education Act of 1965 to: (1) authorize the Commissioner of Education to collect defaulting direct student loans; and (2) include vocational schools within the coverage of such Act.

H.R. 4477. June 14, 1979. Post Office and Civil Service; Armed Services. Revises the compensation system for Federal employees. Directs the President to adjust the total compensation, basic pay and benefits, of Federal employees to be comparable to the total compensation of employees performing similar work in the non-Federal sector.

Authorizes the establishment of: (1) Special Occupational Services; and (2) staffing differentials for positions which cannot be placed under the General Schedule without handicapping the recruitment and retention of qualified employees.

Creates an additional public holiday. Repeals provisions limiting a regular workday of Federal employees to eight hours.

Changes the procedure for adjusting the compensation of members of the uniformed services.

H.R. 4478. June 14, 1979. Small Business. Amends the Small Business Act to reduce interest rates on Small Business Administration disaster loans obtained after April 20, 1973, and prior to July 1, 1976.

H.R. 4479. June 14, 1979. Science and Technology. Establishes the Commission for the Protection of Animals in Research to study and recommend alternatives to current procedures in which live animals are used experimentally in laboratory research and testing and to evaluate the effectiveness of laboratory research and testing using such alternatives.

H.R. 4480. June 14, 1979. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to authorize rural hospitals of fewer than 100 beds which have been granted a certificate of need for the provision of long-term care services to enter into agreements with the Secretary of Health, Education, and Welfare under the Medicare and Medicaid programs (titles XVIII and XIX of the Social Security Act) providing that their inpatient hospital facilities may be used to furnish services which if furnished by a skilled nursing facility would constitute post hospital extended care services. Authorizes payment to be made for skilled nursing intermediate care services furnished by a hospital.

H.R. 4481. June 14, 1979. Judiciary. Declares three individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4482. June 14, 1979. Judiciary. Directs the Secretary of the Treasury to pay 16 named individuals in satisfaction of certain claims against the United States.

H.R. 4483. June 14, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4484. June 15, 1979. Ways and Means; Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Imposes on imported crude oil an additional duty equal to the amount by which the average synthetic fossil fuel price is greater than the imported crude oil price.

Establishes the Synthetic Fossil Fuel Fund in the U.S. Treasury to include the equivalent of amounts received from such duty.

Establishes the Synthetic Fossil Fuel Board to make loans from such fund for the construction of synthetic fossil fuel production facilities.

H.R. 4485. June 15, 1979. Ways and Means. Amends part A (Aid to Families with Dependent Children) of title IV of the Social Security Act to increase Federal payments to a State which: (1) provides coverage for certain dependent children; (2) raises the maximum amount of AFC payments payable by specified amounts; and (3) reduces, as specified, the payment error rate for cash payments.

H.R. 4486. June 15, 1979. Ways and Means. Amends the Internal Revenue Code to repeal provisions permitting advance payment of the earned income credit.

H.R. 4487. June 15, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 4488. June 15, 1979. Interstate and Foreign Commerce. Amends the Public Utility Regulatory Policies Act of 1978 to repeal provisions which require that small hydroelectric power projects utilize existing dams in order to be eligible for Federal assistance. Authorizes additional appropriations for such assistance.

H.R. 4489. June 15, 1979. Agriculture; Foreign Affairs. Directs the President to establish a reserve stock of wheat for release on a donation or sale basis to provide emergency food assistance to developing countries.

H.R. 4490. June 15, 1979. Science and Technology. Amends the Presidential Science and Technology Advisory Organization Act of 1976 and the National Science Foundation Act of 1950 to require the Office of Science and Technology Policy and the National Science Foundation to provide Congress with additional information concerning research and development estimates and authorizations.

H.R. 4491. June 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for costs incurred for enrollment in or attendance at classes designated primarily to help individuals stop smoking cigarettes.

H.R. 4492. June 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction with respect to the amortization of any certified water quality facility based on a period of 60 months.

H.R. 4493. June 15, 1979. Armed Services. Entitles enlisted members of an armed force who have five or more years, but less than 20 years, of creditable service and who are involuntarily discharged or denied reenlistment to severance pay. Sets forth the method for computing such pay.

H.R. 4494. June 15, 1979. Banking, Finance and Urban Affairs. Authorizes national banking associations to underwrite and deal in non-general obligations of States and cities.

Sets limitations and restrictions on dealings in such obligations by national banking associations.

H.R. 4495. June 15, 1979. Education and Labor; Post Office and Civil Service. Amends the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age.

H.R. 4496. June 15, 1979. Ways and Means. Amends the Internal Revenue Code to repeal the estate tax carryover provisions enacted by the Tax Reform Act of 1976. Restores prior law relating to the basis of property passed by a decedent.

H.R. 4497. June 15, 1979. Merchant Marine and Fisheries. Exempts States from the requirement of filing environmental impact statements with respect to certain actions taken under fish and wildlife restoration programs.

H.R. 4498. June 15, 1979. Agriculture; Ways and Means.

Authorizes the Secretary of Agriculture to require a purchaser of national forest timber to perform reforestation work on the national forest land he has cut over, in lieu of depositing money to cover the costs of such work to be done by others.

Amends the Internal Revenue Code to impose the regular corporate income tax rates on any corporate income attributable to sales of softwood logs which are consequently exported.

Establishes a Forest Service Nurseries Fund in the United States Treasury.

Establishes an income tax credit for qualified forestry business expenditures.

H.R. 4499. June 15, 1979. Interstate and Foreign Commerce; Interior and Insular Affairs.

Amends the Energy Policy and Conservation Act to set forth a national program for the full development of domestic energy supplies through: (1) commercial synthetic fuel production; (2) expedited approval of nonnuclear facilities; (3) transfers of electric power to displace oilfired power; and (4) commercial development of gasohol.

Establishes an Office for Priority Energy Projects within the Department of Energy.

H.R. 4500. June 15, 1979. Armed Services; Ways and Means; Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works and Transportation; Science and Technology; Banking, Finance and Urban Affairs; Government Operations.

Establishes incentives to advance the commercialization and use of solar energy, wind energy, urban waste, and other renewable energy sources.

Authorizes appropriations for fiscal year 1980 and subsequent years for energy projects involving solvent refined coal, coal gasification, geothermal energy, oil shale, fuel cells, fluidized bed combustion, and other energy sources.

Establishes a five year program for leasing onshore Federal lands for oil and gas exploration and development.

Establishes a Social and Environmental Impact Advisory Panel, an Oil Shale Commercialization Test Special Fund, a solar energy commercialization loan program, and a wind energy advisory committee.

H.R. 4501. June 15, 1979. Judiciary. Confers jurisdiction on a specified district court over specified claims of a named corporation against the United States. Requires that such claims be filed during a specified period.

Directs the Secretary of the Interior to determine amounts due qualified claimants for damages arising from a specified action of the United States. Directs the Secretary of the Treasury to pay such amounts to such claimants in satisfaction of such claims.

H.R. 4502. June 18, 1979. Interior and Insular Affairs. Modifies the Belle Fourche irrigation project, South Dakota, to include construction, betterment of works, land rehabilitation, water conservation, recreation, fish and wildlife conservation and development, and silt control. Redesignates such project as the "Belle Fourche Unit" of the Pick-Sloan Missouri Basin program.

H.R. 4503. June 18, 1979. Ways and Means. Provides that indebtedness incurred by a tax-exempt organization with respect to certain real property shall not be treated as acquisition indebtedness for purposes of the tax on unrelated business income of such organization, if the property was acquired and sold by such organization within specified time periods.

H.R. 4504. June 18, 1979. Government Operations; Rules. Directs the President to: (1) designate a single Federal agency to establish standard rules and regulations governing specified requirements of Federal assistance programs when such requirements are common to programs of the designated agency and one or more other Federal agencies; and (2) submit to Congress a plan for consolidating functionally related programs when necessary.

Requires Federal agencies to provide for joint funding of such programs when the programs have common objectives. Provides for multiyear funding of such programs. Requires Federal agencies administering such programs to inform State or local officials receiving assistance thereunder of the amount and purpose of such assistance.

H.R. 4505. June 18, 1979. Public Works and Transportation. Makes it unlawful for any vehicle with an overall gross weight of more than 80,000 pounds or an overall length of more than 60 feet to use the Interstate and Defense Highway System until the Secretary of Energy has certified to Congress that there are adequate amounts of middle distillate fuel in reserve and in commerce to meet national requirements for home heating, agricultural production, transportation, and industrial uses.

H.R. 4506. June 18, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to prohibit Federal officers or employees from refusing to issue or renew airman certificates or from requiring air carriers to terminate the employment of, or refuse to employ, pilots solely by reason of the age of such person, if such pilot is less than 65 years of age.

Stipulates that a pilot over the age of 60 shall be required to pass physical examinations at least every three months in order to maintain an airman certificate.

H.R. 4507. June 18, 1979. Education and Labor. Amends the Higher Education Act of 1965 to provide for the disclosure, and exchange, of information concerning defaulting borrowers of federally-insured student loans between the Commissioner of Education and credit bureau organizations.

Requires the notification of such disclosure procedures to defaulting and potential borrowers.

H.R. 5408. June 18, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President relating to the salaries of Members of Congress purely advisory.

Amends the Legislative Reorganization Act of 1946 to require that the annual rate of pay for Members of Congress and the House and Senate leadership be the rate payable for such positions on the date of enactment of this Act unless otherwise established by law.

H.R. 4509. June 18, 1979. Interstate and Foreign Commerce.

Amends the Safe Drinking Water Act to revise requirements relating to State authority over underground injection control, and State primary enforcement responsibility generally.

Establishes an administrative procedure and requirements for judicial review for actions relating to drinking water regulations and underground injection control.

Makes technical and conforming amendments to such Act and extends specified compliance dates.

H.R. 4510. June 18, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals to designate $10 or less of their income tax liability to be used for purposes of reducing the public debt of the United States.

H.R. 4511. June 18, 1979. Ways and Means. Amends the Internal Revenue Code to impose upon homeowners associations the same income tax rates as are presently applicable to corporations.

H.R. 4512. June 18, 1979. Interstate and Foreign Commerce. Directs the President to exercise the authority granted under the Emergency Petroleum Allocation Act of 1973: (1) to reduce crude oil inventories; and (2) to distribute the crude oil thus made available to refiners which will process such oil into gasoline, diesel fuel, and Number 2 fuel oil.

H.R. 4513. June 18, 1979. Judiciary. Amends the Lanham Trademark Act to preempt State and local regulations governing the display of registered marks.

H.R. 4514. June 18, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act to direct the Secretary of Labor, in cooperation with the Secretaries of Energy and the Interior, to assess and report to Congress on the current and projected adequacy of the supply of manpower for the development and expansion of energy technologies and industries to meet domestic needs.

H.R. 4515. June 18, 1979. Armed Services. Grants the Secretary of the Navy express statutory authority to prescribe regulations to carry out his or her functions, powers, and duties.

Authorizes the Secretary to issue United States Navy Regulations without the approval of the President.

H.R. 4516. June 18, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from a decedent's gross estate for purposes of the estate tax the value of certain real property used in farming.

H.R. 4517. June 18, 1979. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect a nonrefundable income tax credit for non-group health insurance premiums paid under an individual policy, in lieu of the income tax deduction for such premiums.

H.R. 4518. June 18, 1979. Ways and Means. Amends the Internal Revenue Code to permit a tax exclusion for interest earned on industrial development bonds which are issued to finance refillable beverage container facilities.

H.R. 4519. June 18, 1979. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees employed by the Department of Agriculture.

H.R. 4520. June 18, 1979. Government Operations. Entitles certain Federal employees whose places of residence are outside the continental United States to travel expenses between their posts of duty and their residences when taking leave between assignments.

H.R. 4521. June 18, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4522. June 18, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4523. June 18, 1979. Armed Services. Directs the President to award in the name of the Congress a medal of honor to Jordan M. Robinson for his service during World War II.

H.R. 4524. June 19, 1979. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act to direct the Secretary of Commerce, in consultation with the Nuclear Regulatory Commission, to promulgate regulations which require foreign vessels carrying nuclear waste material to notify the Commission prior to entry into a port in the United States. Directs the Commission to promptly transmit such notice to the Governor of the State in which such port is located.

H.R. 4525. June 19, 1979. Public Works and Transportation. Authorizes the Secretary of Transportation to establish uniform standards for the weight and length of vehicles using the Interstate and Defense Highway System during a fuel emergency.

H.R. 4526. June 19, 1979. Education and Labor. Establishes the Federal Export Education Foundation to join with educational agencies and institutions to provide assistance in: (1) increasing awareness of international commerce in the United States; or (2) enhancing the ability of U.S. industry to engage in international commerce. Establishes an Export Education Trust Fund.

H.R. 4527. June 19, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals who have never owned a home an income tax credit for amounts contributed to an individual housing account.

H.R. 4528. June 19, 1979. Interior and Insular Affairs. Designates the Cougar Lakes Wilderness.

H.R. 4529. June 19, 1979. Interstate and Foreign Commerce. Amends the Clean Air Act to postpone for one year the application of certain restrictions to areas which have failed to attain national ambient air quality standards and to delay for one year the date required for adoption and submission of State implementation plans applicable to these areas.

H.R. 4530. June 19, 1979. Judiciary. Amends the Copyright Act to provide for the protection of original ornamental designs of useful articles.

H.R. 4531. June 19, 1979. Education and Labor. Amends title I of the Higher Education Act of 1965 to repeal provisions concerning community services and continuing education programs, including the National Advisory Council on Extension and Continuing Education, and to establish a new title I "Lifelong Learning."

Authorizes appropriations for lifelong education purposes, including: (1) comprehensive State planning; (2) grants to institutions of higher learning; (3) special purpose grants; and (4) Federal planning, research, and coordination.

Transfers responsibility for such programs from the Assistant Secretary to the Secretary of Health, Education, and Welfare.

Directs the President to appoint a National Advisory Council on Lifelong Learning.

H.R. 4532. June 19, 1979. Public Works and Transportation. Designates the United States Post Office and Federal Building in Scott City, Kansas, as the Henry D. Parkinson Federal Building.

H.R. 4533. June 19, 1979. Agriculture; Science and Technology; Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Rural Development Act of 1972 to direct the Secretary of Agriculture to carry out a program for the production and marketing of industrial hydrocarbons and motor fuels derived from agricultural commodities, forest products, coal, coal tars, and solid waste. Authorizes the Secretary to guarantee loans for each of 20 plants to be constructed for such purposes.

Amends the Food and Agriculture Act of 1977 to expand the range of activities for which alcohol and industrial hydrocarbon production and marketing research grants may be made.

H.R. 4534. June 19, 1979. Education and Labor. Directs the Secretary of Labor to establish a program to: (1) fund training and employment programs for youths in jobs on public service and private employment projects; and (2) provide special employment assistance to unemployed youths, the goal of such program to be the elimination of youth unemployment. Establishes within the Department of Labor a National Youth Full Employment Board and a Youth Job Guarantee Office to assist in the administration of the program.

Amends the Comprehensive Employment and Training Act of 1973 to require prime sponsor planning councils to select, plan, and evaluate projects assisted under this Act.

H.R. 4535. June 19, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to remove the prohibitions against: (1) using the United States' contributions to the United Nations Development Program for economic or technical assistance projects for Cuba; and (2) furnishing assistance under such Act to Cuba.

Repeals the law expressing the determination of the United States to contain the aggressive or subversive activities of the Cuban Government and to support the aspirations of the Cuban people for self-determination.

Nullifies the Presidential Proclamation which imposed a trade embargo against Cuba.

H.R. 4536. June. 19, 1979. Education and Labor; Ways and Means. Amends the Internal Revenue Code and the Comprehensive Employment and Training Act to require the certification by prime sponsors or designated local agencies of individuals participating in the targeted jobs tax credit program as economically disadvantaged youths. Requires certification that such individuals meet specified age requirements and are members of an economically disadvantaged family. Permits in-school youth between the ages of 16 and 19 to qualify for the program.

H.R. 4537. June 19, 1979. Ways and Means. Approves specified trade agreements and the statements of administrative action proposed to implement such agreements.

Revises the: (1) countervailing and antidumping duty procedures; (2) methods for appraising imported merchandise for tariff purposes; (3) rates of duty on specified articles; (4) government procurement regulations for eligible imports; (5) standards-related activities; (6) import restrictions on specified products; and (7) tariff preferences.

Sets forth provisions for: (1) the enforcement of U.S. rights under trade agreements; and (2) judicial review of countervailing and antidumping duty proceedings.

H.R. 4538. June 19, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to convey a specified trade and manufacturing site located in Alaska to a qualified entryman without regard to existing law which prohibits entry on lands which abut navigable water for more than 80 rods.

H.R. 4539. June 19, 1978. Judiciary. Authorized classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4540. June 19, 1979. Judiciary. Declares three individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4541. June 19, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4542. June 19, 1979. Judiciary. Directs the presiding judge in specified actions of the United States against certain defendants to determine and certify to the Secretary of the Treasury the amount that each defendant incurs for reasonable attorney's fee and costs. Directs the Secretary to pay such amount to each person in settlement of claims against the United States for such costs.

H.R. 4543. June 19, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in satisfaction of a claim against the United States.

H.R. 4544. June 20, 1979. Ways and Means. Amends the Internal Revenue Code to provide that the election to use the alternate valuation date may be made on an estate tax return that is filed late.

H.R. 4545. June 20, 1979. Public Works and Transportation; Interstate and Foreign Commerce. Establishes uniform national weight and length limitations on the Interstate Highway System until the Secretary of Energy has certified to Congress that there are adequate amounts of middle distillate fuel to meet national requirements for home heating, agricultural production, transportation, and industrial uses.

H.R. 4546. June 20, 1979. District of Columbia. Amends the District of Columbia Redevelopment Act of 1945 to revise the standards requiring written consent for the purchaser or lessee with regard to a modification of an approved redevelopment plan. Approves two amendments to the urban renewal plan for Southwest, Washington, D.C.

H.R. 4547. June 20, 1979. Ways and Means. Amends the Internal Revenue Code to permit married individuals to compute the amount of the income tax deduction for payments into retirement savings on the basis of one-half of their combined income.

H.R. 4548. June 20, 1979. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to impose fees on generators of hazardous waste to finance removal of any substantial endangerment to life presented by such waste at inactive facilities. Requires notification to be filed with the Administrator of the Environmental Protection Agency by owners and former owners of hazardous waste facilities as to the location of and the nature of the waste handled at such facilities.

Establishes the Hazardous Waste Response Board in the executive branch to prepare plans for the removal of endangerments to life posed by hazardous waste at such facilities.

Establishes a revolving fund to finance such plans.

H.R. 4549. June 20, 1979. Public Works and Transportation. Revises the Interstate Commerce Commission's jurisdiction and powers with respect to motor carriers of property. Revises motor carrier entry requirements. Allows motor carriers to raise or lower their rates by seven percent on an annual basis without the Commission's approval. Establishes time limitations for actions of the Commission regarding motor carrier proceedings.

H.R. 4550. June 20, 1979. Public Works and Transportation; Interstate and Foreign Commerce. Authorizes the Interstate Commerce Commission to prescribe through lines and joint rates for motor carriers of property. Sets forth restrictions on the Commission's power to mandate such routes.

H.R. 4551. June 20, 1979. Ways and Means. Amends the Internal Revenue Code to exempt small manufacturers and producers from the excise tax on firearms.

H.R. 4552. June 20, 1979. Veterans' Affairs. Requires that home and mobile home loans may not be guaranteed by the Administrator of Veterans' Affairs unless an approved smoke detector has been installed.

H.R. 4553. June 20, 1979. Armed Services. Authorizes the establishment of a National Guard for Guam.

H.R. 4554. June 20, 1979. Armed Services. Directs the Secretary of the Navy to convey certain real property in the State of Hawaii to the present lessees of such real property.

H.R. 4555. June 20, 1979. Judiciary. Directs classification of certain individuals as stepchildren for purposes of Immigration and Nationality Act.

H.R. 4556. June 21, 1979. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to extend the conditional designation of a State health planning and development agency.

H.R. 4557. June 21, 1979. Interstate and Foreign Commerce. Amends the Clean Air Act, with regard to State implementation plans for national primary ambient air quality standards, to authorize the President, as well as the Governor of a State, to issue a temporary emergency suspension of any part of such plan applicable to a fuel burning stationary source. Requires either the President or the Governor to issue such an emergency suspension if either finds that foreign imports of fuels used by such source have reached an excessive level and that such imports can be reduced by the emergency suspension.

H.R. 4558. June 21, 1979. Agriculture; Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Rural Development Act of 1972 to authorize the Secretary of Agriculture to guarantee loans for the construction and maintenance of plants for the production of alcohol from corn and other agricultural commodities.

Amends the Agricultural Act of 1949 to set the loan level and establish the price of the 1982 crop of corn.

Changes the deadline date for proclamation of a national feed grain program acreage.

Amends the Food and Agriculture Act of 1977 to set a ceiling on the amount of price support payments a person can receive for each crop of wheat and feed grains.

H.R. 4559. June 21, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that disability insurance benefits for an individual having a terminal illness shall begin with the first month during all of which such individual has such illness.

H.R. 4560. June 21, 1979. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Federal Salary Act of 1967 to: (1) prohibit any increase in the annual rates of pay of Senators, Members of the House of Representatives, and certain executive branch officials if the Consumer Price Index (CIP) increases by a specified amount; and (2) reduce such pay rates in relation to increases in the CPI.

H.R. 4561. June 21, 1979. Public Works and Transportation. Prohibits Federal-aid highway funding for any State which prohibits vehicles with an overall gross weight of less than 80,000 pounds from using highways on the Interstate System within such State.

H.R. 4562. June 21, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to restrict the use of the terms "buffalo" and "water buffalo."

H.R. 4563. June 21, 1979. Public Works and Transportation. Prohibits Federal-aid highway funding for any State which prohibits vehicles with an overall gross weight of less than 80,000 pounds or an overall length of less than 65 feet from using the Interstate Highway System within such State.

Directs the Secretary of Transportation to promote uniform standards and procedures with regard to State motor fuel taxes and licensing or registration of interstate freight motor carriers.

H.R. 4564. June 21, 1979. Ways and Means. Repeals the tax-exempt status of farmers' cooperatives and the special tax treatment of corporate cooperatives and their patrons.

Disallows an income tax deduction for patronage dividends paid by cooperative corporations.

H.R. 4565. June 21, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited nonrefundable income tax credit for the production of shale oil.

H.R. 4566. June 21, 1979. Interstate and Foreign Commerce; Merchant Marine and Fisheries; Public Works and Transportation. Amends the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act, as amended, to provide a system of response, liability, and compensation for releases of oil, hazardous substances, and hazardous wastes. Establishes an Oil and Hazardous Substances Liability Fund.

H.R. 4567. June 21, 1979. Government Operations. Redesignates the Department of Commerce as the Department of Commerce and International Trade. Transfers certain functions of various Federal agencies to the Secretary of such Department. Transfers specified independent executive agencies under the jurisdiction of such Department.

H.R. 4568. June 21, 1979. Banking, Finance and Urban Affairs. Amends the Defense Production Act of 1950 to allow the Department of Energy and the Tennessee Valley Authority to guarantee loans to expedite national defense contracts under such Act.

Authorizes the President to provide loans to private business enterprises for the production of energy.

Directs the President to attempt to achieve a specified national production goal for synthetic fuels and synthetic chemical feedstocks within five years.

H.R. 4569. June 21, 1979. Ways and Means. Repeals the estate tax, the gift tax, and the tax on generation-skipping transfers under the Internal Revenue Code.

H.R. 4570. June 21, 1979. Interstate and Foreign Commerce. Revises the economic regulation of the railroad industry. Directs the Interstate Commerce Commission to place maximum reliance on competitive market forces in carrying out its duties with respect to railroads. Removes the Commission's authority to disapprove rail carrier rates after a five year period.

Amends the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize the Secretary of Transportation to provide financial assistance to any class I railroad (except ConRail) to pay any share of the costs of restructuring its facilities.

H.R. 4571. June 21, 1979. Interstate and Foreign Commerce; Merchant Marine and Fisheries; Public Works and Transportation. Provides a program for the response, liability, and compensation for releases of oil, hazardous substances, and hazardous wastes. Establishes in the United States Treasury an Oil and Hazardous Substances Liability Fund.

H.R. 4572. June 21, 1979. House Administration. Reestablishes the Government Printing Office (GPO) as an independent establishment of the Government. Abolishes the Joint Committee on Printing. Creates a Board of Directors to establish the policy and direct the operations of the GPO.

Provides for the appointment of the Public Printer and the Superintendent of Documents by the Board.

Sets forth provisions regarding the designation of depository libraries.

Authorizes specified congressional committees to regulate the public printing services and public document distribution for Congress. Directs each Government entity to appoint an information resources manager to perform those duties for such entity.

H.R. 4573. June 21, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Establishes a process for Federal approval of nonnuclear energy facilities which are determined to be in the national interest.

H.R. 4574. June 21, 1979. Foreign Affairs. Expresses the congressional intention that the President initiate negotiations to establish a Council of Oil Importing Nations to negotiate for reasonable oil prices with the Organization of Petroleum Exporting Countries. Directs the President to develop sanctions to be used by such Council to encourage compliance with negotiated oil prices.

H.R. 4575. June 21, 1979. Public Works and Transportation. Amends the Water Resources Development Act of 1974 to direct the Secretary of the Army, through the Chief of Engineers, to remove and dispose of debris and obsolete buildings in the vicinity of Fort Glenn on Umnak Island, Alaska.

H.R. 4576. June 21, 1979. Interstate and Foreign Commerce. Amends the Powerplant and Industrial Fuel Use Act of 1978 to permit local distribution companies to provide natural gas service to residential customers for use in outdoor lighting fixtures installed before the enactment of such Act.

H.R. 4577. June 21, 1979. Judiciary. Declares that certain disabilities of a named individual shall be considered to be service-connected disabilities for specified compensation purposes. Requires that such compensation commence the first month beginning after the enactment of this Act and be in full satisfaction of any claims against the United States for such disabilities. Directs the Administrator of Veterans' Affairs to rate such disabilities.

H.R. 4578. June 21, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4579. June 21, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4580. June 21, 1979. Makes appropriations for the District of Columbia for fiscal year 1980.

H.R. 4581. June 22, 1979. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 4582. June 22, 1979. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish a program of grants for assisting public and private nonprofit organizations in producing talking books through the use of volunteer readers and to establish and implement procedures for distributing talking books so produced to talking book centers.

H.R. 4583. June 22, 1979. Post Office and Civil Service.

Replaces the Board of Governors of the United States Postal Service with a presidentially-appointed Postmaster General.

Authorizes the Postal Rate Commission to make final decisions on rates, fees, mail classification, and other specified matters.

H.R. 4584. June 22, 1979. Ways and Means. Amends the Internal Revenue Code to authorize a court, in any civil action in which tax liability to the United States is asserted, to award reasonable attorney's fees and costs to a prevailing party.

H.R. 4585. June 22, 1979. Interstate and Foreign Commerce. Establishes a Commodity exchange, under the supervision of the Commodity Futures Trading Commission, upon which all sales of domestically produced crude oil, all sales of crude oil for use or resale within the United States, and all first sales of refined petroleum products within the United States shall be conducted by auction pursuant to regulations promulgated by the President.

H.R. 4586. June 22, 1979. Public Works and Transportation. Revises the economic regulation of motor carriers of property. Directs the Secretary of Transportation to establish rules, regulations, and standards for the operation of commercial motor vehicles. Provides for the enforcement of such standards.

H.R. 4587. June 22, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior to study the feasibility of establishing the Juan Bautista de Anza National Historic Trail.

H.R. 4588. June 22, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Establishes a Synthetic Fuels and Alternate Fuels Production Authority to provide financing and economic assistance for the development of a synthetic fuels and alternate fuels production plan.

Provides for an expedited process of promoting such plan.

Sets production goals for replacing 1.5 million barrels of oil with the equivalent of fuels derived from oil shale, coal gasification, and coal liquefaction by the year 1990.

Establishes an Office for Priority Energy Projects within the Department of Energy.

H.R. 4589. June 22, 1979. Interstate and Foreign Commerce. Establishes criteria and procedures for expedited Federal approval of nonnuclear energy facilities.

H.R. 4590. June 22, 1979. Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to delete the requirement that a Medicare recipient must pay a coinsurance amount for inpatient hospital services after receiving such services for more than 60 days during a spell of illness.

H.R. 4591. June 22, 1979. Education and Labor. Amends the Education Amendments of 1978 concerning: (1) local advisory council membership's access to information; (2) educational leadership funding; (3) emergency school aid; (4) community education programs; and (5) school financing reporting dates.

Amends the General Education Provisions Act concerning: (1) rollover of funds for libraries; and (2) officials' access to student records.

Extends disaster coverage for federally-impacted educational agencies.

Amends the Vocational Educational Act of 1963 concerning: (1) reporting requirements; and (2) the use of Federal funds.

Amends the Career Education Incentive Act to repeal certain authorization-related provisions.

H.R. 4592. June 22, 1979. Ways and Means. Amends the Internal Revenue Code to relieve an employer of his obligation to furnish certain of his employees with a written statement of their wages and withholding, unless such employees request a statement.

Reduces penalties imposed upon tax-exempt organizations, trusts, and private foundations for their failure to file required tax information.

Relieves income tax preparers from liability for an underpayment of estimated tax by an individual or corporation. Limits income tax preparer liability for negligence in the preparation of tax returns.

H.R. 4593. June 22, 1979. Interior and Insular Affairs. Directs the Navajo and Hopi Indian Relocation Commission to grant life estates to certain lands to Navajo and Hopi applicants to avoid their relocation.

Authorizes the Secretary of the Interior to compensate the Navajo and Hopi tribes for such lands.

Directs the Secretary to compensate applicants' estates for their habitation and improvements.

Requires that such applicants be under the jurisdiction of the tribe on whose reservation they reside, except for tribal land laws.

Authorizes the Commission to purchase lands to relocate Navajos. Directs the Secretary to pay local real property taxes on certain such lands.

H.R. 4594. June 22, 1979. Interstate and Foreign Commerce; Ways and Means. Amends the Emergency Petroleum Allocation Act of 1973 to direct the Secretary of Energy to require oil refineries to use or sell a specified minimum amount of liquid synthetic fuel during the calendar year.

Directs the Secretary to modify any provision of specified laws, or any provision of similar State or local laws, which affect or may affect the amount of synthetic fuel produced in the United States.

Amends the Internal Revenue Code to: (1) allow a tax deduction for the amortization of any qualified fuel-producing facilities using or producing synthetic fuels: (2) set the investment tax credit at 20 percent for energy property.

H.R. 4595. June 22, 1979. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4596. June 22, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4597. June 25, 1979. Ways and Means; Interstate and Foreign Commerce. Revises title V (Maternal and Child Health and Crippled Children's Services) of the Social Security Act.

Authorizes appropriations for specified programs under such title.

Sets forth new State plan requirements.

Establishes under such title: (1) a State advisory council to advise the State agency administering the State's title V plan; (2) the National Office of Maternal and Child Health Services; and (3) an Advisory Committee on Maternal and Child Health.

H.R. 4598. June 25, 1979. Banking, Finance and Urban Affairs. Amends the Home Owner's Loan Act of 1933 to permit Federal savings and loan associations to offer reverse annuity mortgages on the security of first liens upon residential real property in accordance with regulations promulgated by the Federal Home Loan Board.

H.R. 4599. June 25, 1979. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to repeal the provision which disqualifies employed spouses of railroad employees from an annuity under such Act.

H.R. 4600. June 25, 1979. Ways and Means. Amends title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act to permit the payment of mother's insurance benefits to a mother who has in her care a child between the ages of 18 and 22, who is a fulltime student, and is entitled to child's insurance benefits.

H.R. 4601. June 25, 1979. Merchant Marine and Fisheries. Amends the Dingell-Johnson Fish Restoration Act, the Anadromous Fish Conservation Act, and the Fishery Conservation and Management Act of 1976 to prohibit the Secretary of the Interior from granting any Federal fish restoration and management assistance to any State which has charged a fee for the privilege of recreational fishing in waters of the territorial sea of the United States during any portion of such fiscal year.

H.R. 4602. June 25, 1979. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish for displaced homemakers Multipurpose Service Centers in order to provide such persons job, health, financial, and legal services.

Directs the Secretary to prepare and furnish to the Congress a study to detemine the feasibility of and appropriate procedures for allowing displaced homemakers to participate in: (1) programs established under the Comprehensive Employment and Training Act of 1973; (2) work incentive programs under the Employment and Training Act of 1973; (3) related Federal employment, education, and health assistance programs; and (4) programs established or benefits provided under Federal and State unemployment compensation laws.

H.R. 4603. June 25, 1979. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 4604. June 25, 1979. Judiciary. Amends the Gun Control Act of 1968 to revise the prison sentences for anyone using or carrying a firearm during the commission of a felony which may be prosecuted in Federal court.

H.R. 4605. June 25, 1979. Judiciary. Establishes mandatory minimum sentences for certain Federal crimes.

H.R. 4606. June 25, 1979. Public Works and Transportation; Interstate and Foreign Commerce. Establishes uniform national weight and length limitations on the Interstate Highway System until the Secretary of Energy has certified to Congress that there are adequate amounts of middle distillate fuel to meet national requirements for home heating, agricultural production, transportation, and industrial uses.

H.R. 4607. June 25, 1979. Interstate and Foreign Commerce; Armed Services; Science and Technology; House Administration. Amends specified energy related Acts to: (1) assist in the administration of energy information; (2) extend international voluntary energy agreements; (3) authorize appropriations for energy conservation project grants; (4) provide for meritorious contributions in energy awards; (5) provide for the continued operation of naval petroleum reserves; (6) specify the treatment of interest paid on geothermal guaranteed loans; (7) assess a guarantee fee on electric and hybrid vehicle guaranteed loans; and (8) revise the frequency and scope of specified energy reports.

H.R. 4608. June 25, 1979. Agriculture; Interior and Insular Affairs; Public Works and Transportation. Amends the Water Resources Planning Act to broaden the coverage of such act over water and related land resources development programs.

Revises the composition of the Water Resources Council. Directs the Council to: (1) advise the President on water and related land resources investments; and (2) periodically compile and compare regional funding levels for such programs.

Authorizes the Council to establish an advisory committee composed of State and local representatives. Provides for direct appropriations to the Council.

H.R. 4609. June 25, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4610. June 26, 1979. Rules. Amends the Congressional Budget Act of 1974 to limit the level of total budget outlays contained in any concurrent resolution on the budget to specified percentages of the gross national product. Waives such limitations if the President and the Congress acknowledge the existence of an emergency affecting the Nation's economy or security.

H.R. 4611. June 26, 1979. Ways and Means. Amends the Internal Revenue Code with respect to charitable contributions of partial interests in real property to allow an income tax deduction for any interest in real property if: (1) the only interests retained by the taxpayer are oil, gas, or other mineral interests; and (2) such retained oil, gas, or other minerals may not be extracted by surface mining methods.

H.R. 4612. June 26, 1979. Ways and Means. Amends title XVI (Supplemental Security Income) of the Social Security Act to extend until October 1, 1982, the program of Federal payments to States for costs incurred in carrying out a State plan of services for disabled children who receive SSI benefits.

H.R. 4613. June 26, 1979. Education and Labor. Authorizes the Commissioner of Education to make grants to qualifying local educational agencies to promote the establishment of local offices of educational research and planning. Provides that each participating agency shall have a director of research and planning to administer and coordinate activities.

H.R. 4614. June 26, 1979. Foreign Affairs. Expresses the congressional intention that the President initiate negotiations to establish a Council of Oil Importing Nations to negotiate for reasonable oil prices with the Organization of Petroleum Exporting Countries. Directs the President to develop sanctions to be used by such Council to encourage compliance with negotiated oil prices.

H.R. 4615. June 26, 1979. Interstate and Foreign Commerce; Judiciary. Establishes an independent Office of Special Prosecution with jurisdiction to investigate and prosecute violations of any provision of, or regulation promulgated under, the Emergency Petroleum Allocation Act of 1973.

H.R. 4616. June 26, 1979. Post Office and Civil Service. Makes technical and clerical changes to provisions of title 5 of the United States Code to reflect changes in the structure of various Government organizations.

Requires an agency which: (1) receives a function transferred from another agency; or (2) replaces another agency, to hire all competing persons who were employed in such function or replaced agency before hiring any other person.

H.R. 4617. June 26, 1979. Government Operations; Rules. Terminates the Department of Energy.

H.R. 4618. June 26, 1979. Interstate and Foreign Commerce; Interior and Insular Affairs; Science and Technology. Directs the President to prepare and submit to the Congress a National Energy Policy Plan setting forth objectives, strategies, and contingency plans for the system of energy production, conservation, distribution, consumption, and waste disposal. Requires the President to consult with various public and private groups and individuals in the formulation of such plan and to recommend legislation and administrative actions necessary to achieve the purposes of such plan.

Directs each House of Congress to approve, disapprove, or amend such plan and allows the President to resubmit it with modifications in the event of congressional disapproval.

H.R. 4619. June 26, 1979. Public Works and Transportation. Designates the Federal Building in San Antonio, Texas, as the John H. Wood, Jr., Building.

H.R. 4620. June 26, 1979. Banking, Finance, and Urban Affairs. Amends the Federal Reserve Act to direct the Federal Open Market Commission to conduct its open-market operations to reduce the rate of annual growth in the money supply by specified increments.

H.R. 4621. June 26, 1979. Interstate and Foreign Commerce; Judiciary. Declares that exclusive territorial arrangements made as a part of a licensing agreement for the manufacture, distribution, or sale of a trademarked soft drink product are lawful under the antitrust laws provided such product is in substantial and effective competition with other products of the same general class.

H.R. 4622. June 26, 1979. Armed Services; Ways and Means; Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works and Transportation; Science and Technology; Banking, Finance and Urban Affairs; Government Operations. Provides for an expedited decision making process by establishing a strategy for identifying and advancing nonnuclear energy projects. Establishes a five-year program for leasing onshore Federal lands for oil and gas exploration and development. Sets mandatory production levels for alcohol-blended fuels.

Requires short-term conversion from oil to natural gas or coal and wheeling of non-oil fired electricity to systems dependent on oil.

Establishes incentives to advance the commercialization and use of solar energy, wind, urban waste, and other renewable energy sources.

H.R. 4623. June 26, 1979. Armed Services; Foreign Affairs. Authorizes the acquisition or transfer of equipment and services by or from U.S. Armed Forces deployed in Europe from or to other North Atlantic Treaty Organization (NATO) countries, pursuant to agreements under this Act, in lieu of statutory provisions relating to such acquisitions or transfers. Sets forth limitations and conditions to such acquisitions and transfers. Requires the Secretary of Defense to report to Congress concerning: (1) agreements entered into pursuant to this Act; and (2) the dollar value of transactions.

H.R. 4624. June 26, 1979. Government Operations. Establishes the Office of Federal Audio-Visual Policy in the Office of Management and Budget to provide overall direction of audiovisual policies and procedures for Federal agencies.

Directs the Administrator of such Office to require that Government audiovisual materials, with specified exceptions, be produced and distributed by private sector organizations.

H.R. 4625. June 26, 1979. Interior and Insular Affairs. Amends the Navajo and Hopi Settlement Act to eliminate all provisions relating to the appointment of a Federal Mediator and tribal negotiating teams, and agreements reached by such negotiation.

Changes certain guidelines for the District Court for the District of Arizona in its final adjudication of the Navajo-Hopi land settlement case, Healing V. Jones.

Allows individuals or families relocated under such Act to return to the land they formerly occupied. Directs the Secretary of the Interior to provide all necessary assistance for such return.

H.R. 4626. June 26, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to increase from $100 to $500 the payment limitation for outpatient physical therapy services under the Medicare program.

Permits a physical therapist, under Medicare, to perform outpatient physical therapy services without maintaining an office under certain conditions and to operate free from the control of an employer.

Provides an alternative to the salary plus expenses method of determining the cost of physical therapy services.

H.R. 4627. June 26, 1979. Armed Services. Allows an individual who is a citizen of the Northern Mariana Islands and who is entitled to all the privileges and immunities of citizens of the United States pursuant to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America to enlist in the Armed Forces of the United States.

H.R. 4628. June 26, 1979. Armed Services. Authorizes the establishment of Senior Reserve Officers' Training Corps programs in Guam and the Virgin Islands.

H.R. 4629. June 26, 1979. Judiciary. Directs the Administrator of the Law Enforcement Assistance Administration to pay specified sums to four named individuals in compliance with the Public Safety Officers' Benefits Act of 1976.

H.R. 4630. June 26, 1979. Judiciary. Directs the classification of a named individual as an immediate relative for purposes of the Immigration and Nationality Act.

H.R. 4631. June 27, 1979. Agriculture. Amends the Animal Welfare Act to prohibit coursing (the use of live animals as visual lures in dog racing and training).

H.R. 4632. June 27, 1979. Interior and Insular Affairs; Public Works and Transportation. Amends the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to issue certificates of public convenience and necessity to aid in construction of certain pipelines. Allows certified pipeline carriers to exercise the power of eminent domain to acquire rights-of-way for coal pipelines.

H.R. 4633. June 27, 1979. Judiciary. Directs the Secretary of State and the Secretary of the Interior to study the feasibility of settling Indochinese refugees in territories and possessions in the Pacific which the United States administers or over which the United States claims sovereignty.

H.R. 4634. June 27, 1979. Ways and Means. Amends the Internal Revenue Code to treat income from certain spacecraft as income from sources within the United States, for purposes of the income tax.

H.R. 4635. June 27, 1979. Appropriations. Appropriates a specified sum for fiscal year 1980 for the Department of Health, Education, and Welfare, for the purpose of providing a grant pursuant to the special demonstration program for improving rehabilitation services for handicapped individuals under the Rehabilitation Act of 1973, to the Eastern Carolina Vocational Center, Greenville, North Carolina, to construct a recreational-residential facility.

H.R. 4636. June 27, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) allow an additional ten percent investment tax credit and a double depreciation deduction for investment by businesses in labor surplus areas; (2) increase the exclusion from the accumulated earnings tax for employers with earnings in labor surplus areas; (3) allow an income tax credit for the employment of new employees in labor surplus areas; (4) defer amounts of domestic international sales corporation income attributable to operations in labor surplus areas; and (5) permit the deferral of payment of income taxes, unemployment taxes, and social security taxes with respect to operations in labor surplus areas.

H.R. 4637. June 27, 1979. Interstate and Foreign Commerce; Ways and Means. Establishes title XXI (National Catastrophic Health Insurance Program) of the Social Security Act to provide catastrophic illness insurance benefits. Creates a trust fund to finance payment of benefits under such title.

Amends the Internal Revenue Code to impose a tax on the removal of natural resources from Federal lands. Provides that revenues for such tax be deposited into the trust fund established by this Act.

H.R. 4638. June 27, 1979. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to create the California Pacific Fishery Management Council which shall consist of the State of California and have authority over the fisheries in the Pacific Ocean seaward of such State.

H.R. 4639. June 27, 1979. Ways and Means; Interstate and Foreign Commerce; Interior and Insular Affairs. Prohibits any Federal rule, regulation, order, decree, or tax from applying to the production of any fuel.

Requires the Secretary of the Interior to subdivide and sell the mining and mineral rights to all real property owned by the

United States which is not necessary for the common defense or the maintenance of the United States Government.

Prohibits any person engaged in the trade or business of producing, mining, or distributing any fuel from being eligible to receive any Federal subsidy, loan, loan guarantee, or any other financial benefit.

H.R. 4640. June 27, 1979. Ways and Means. Amends the Internal Revenue Code to exempt private foundations which hold interests in independent local newspapers from the tax on excess business interests with respect to such holdings.

H.R. 4641. June 27, 1979. Judiciary. Establishes in the judicial branch a Commission on Judicial Disabilities and Tenure to: (1) investigate any Federal judge or the physical or mental condition of any judge (except a Justice of the Supreme Court); and (2) determine whether (A) the conduct of such judge is consistent with the good behavior required by article III of the Constitution, or (B) such condition renders such judge unable to discharge the duties of judicial office.

H.R. 4642. June 27, 1979. Judiciary. Specifies additional penalties for anyone using or carrying a firearm during the commission of a felony which is prosecutable in a United States court.

H.R. 4643. June 27, 1979. Veterans' Affairs. Provides that certain persons who served in Allied forces during World War I or World War II must be permanent United States residents in order to receive specified veterans' health and medical benefits (presently such persons must have been U.S. citizens for at least ten years).

Enlarges the category of such allied forces to include the armed forces of Russia, the Union of Soviet Socialist Republics, Estonia, Latvia, and Lithuania.

H.R. 4644. June 27, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President relating to the salaries of Members of Congress purely advisory.

Amends the Legislative Reorganization Act of 1946 to require that the annual rate of pay for Members of Congress and the House and Senate leadership be the rate payable for such positions on the date of enactment of this Act unless otherwise established by law.

H.R. 4645. June 27, 1979. Public Works and Transportation. Renames Clayton Lake, Oklahoma, being constructed as part of the project for the Clayton and Tuskahoma Reservoirs, as Sardis Lake.

H.R. 4646. June 27, 1979. Ways and Means. Amends the Internal Revenue Code to provide a system of accelerated capital cost recovery for investment in business facilities and equipment.

H.R. 4647. June 27, 1979. Armed Services. Entitles any individual who enlists or reenlists for the first time in the armed forces for a period of two or more years and who possesses a critical military skill to specified educational benefits.

H.R. 4648. June 27, 1979. Interstate and Foreign Commerce. Requires State regulatory authorities and nonregulated utilities to establish uniform minimum amounts of electric energy and natural gas necessary to supply the essential needs of residential consumers, schools, and hospitals during any billing period. Imposes limitations on the rates charged to such consumers for such amounts.

H.R. 4649. June 27, 1979. Interstate and Foreign Commerce; Ways and Means; Interior and Insular Affairs; Science and Technology. Amends the Department of Energy Organization Act to establish a government corporation to be known as the Energy Company of America.

H.R. 4650. June 27, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4651. June 27, 1979. Judiciary. Authorizes the granting of a visa to and admission of a named individual to the United States for permanent residence.

H.R. 4652. June 28, 1979. Interstate and Foreign Commerce. Directs the Secretary of Energy, under the Public Utility Regulatory Policies Act of 1978, to study the need for increased cooperation among State agencies involved in retail electric ratemaking. Requires the Secretary to report to Congress on such study.

H.R. 4653. June 28, 1979. Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to direct the Secretary of Health, Education, and Welfare to provide for demonstration projects for the provision of preventive health services to the elderly through traveling health care practitioners.

H.R. 4654. June 28, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction of business expenses allocable to the use of a residence in providing music lessons.

H.R. 4655. June 28, 1979. Judiciary. Directs the Judicial Conference of the United States to: (1) determine the need for filling a vacancy in the office of a district judge; and (2) submit to Congress any recommendation that no need exists for filling such vacancy. Provides that such recommendation shall take effect absent a congressional resolution of disapproval within a specified period.

H.R. 4656. June 28, 1979. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to eliminate all provisions authorizing union security agreements.

H.R. 4657. June 28, 1979. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to provide that no employer shall justify discrimination against any employee for nonmembership in or failure to support a labor organization if the employee is a student enrolled in a full-time program of secondary, vocational, or higher education.

H.R. 4658. June 28, 1979. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to study and report on the adverse effects, if any, on human health and the environment of the disposal and utilization of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste, and other byproducts of the combustion of coal or other fossil fuels.

H.R. 4659. June 28, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $1,000 of the interest earned on a savings account in a bank, mutual saving bank, or credit union.

H.R. 4660. June 28, 1979. Small Business. Amends the Small Business Act to require each Federal agency to: (1) publish an agenda of proposed rules affecting small business concerns, unincorporated businesses, sheltered workshops, certain nonprofit enterprises, and other mall organizations; (2) prepare an analysis of the impact of proposed and existing rules on such small businesses and organization; and (3) promulgate regulatory exemptions or lesser compliance standards for such small businesses and organizations if such action is legal, desirable, and feasible.

H.R. 4661. June 28, 1979. Interstate and Foreign Commerce; Judiciary. Amends the Federal Trade Commission Act to require any U.S. person, partnership, or corporation to notify the Federal Trade Commission and the Attorney General, if it is requested to engage, is engaged, or otherwise involved with any foreign concern, in: (1) establishing prices; (2) allocating markets or customers; or (3) restricting the availability of any product or service.

Establishes penalties for violation of such notification requirements. Establishes guidelines to be used by courts in determining whether to exercise jurisdiction under this Act or the antitrust Acts.

H.R. 4662. June 28, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) remove all limitations on the estate and gift tax marital deductions; (2) repeal the carryover basis provisions of the Tax Reform Act of 1976; (3) provide special valuation rules for farm property transferred as a gift; (4) disapprove certain proposed Internal Revenue Service regulations pertaining to valuation of farm property; and (5) subject foreign investors to the same taxes on the sale or exchange of United States farmlands as are imposed upon United States citizens.

H.R. 4663. June 28, 1979. Veterans' Affairs. Increases the rates of specified educational benefits for eligible veterans and their survivors and dependents.

H.R. 4664. June 28, 1979. Judiciary. Amends the Clayton Act to provide review procedures to enforce, modify, or vacate an antitrust judgment. Provides remedies for the enforcement of antitrust judgments.

H.R. 4665. June 28, 1979. Appropriations. Makes appropriations to the Administrator of General Services for the purchase of silver for stockpiling under the Strategic and Critical Materials Stock Piling Act.

H.R. 4666. June 28, 1979. Armed Services. Authorizes the Secretary of the Army to establish an Army Reserve career interest program for persons between the ages of 14 and 18.

H.R. 4667. June 28, 1979. Ways and Means. Amends the Internal Revenue Code to provide that the income tax deduction for medical expenses shall apply with respect to payments for the medical care of certain relatives of the taxpayer whether or not they are dependents of the taxpayer.

H.R. 4668. June 28, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to enter into a cooperative agreement with the Western Reserve Historical Society pursuant to which the Secretary may assist in the preservation of properties in Mentor, Ohio, associated with the life of James A. Garfield. Authorizes the Secretary to establish such properties as the James A. Garfield National Hitsoric Site.

H.R. 4669. June 28, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals who have attained age 62 an income tax credit for the amount by which their property taxes and utility bills for their principal residences have increased since such individuals reached age 62 or purchased their home, whichever occurred later.

H.R. 4670. June 28, 1979. Interior and Insular Affairs. Eliminates the condition that certain lands, including filled lands, submerged lands, and tidelands conveyed to Guam by the United States shall revert to the United States if Guam: (1) sells or otherwise disposes of any part thereof; or (2) does not use them solely for civic, park, and recreational purposes (both the Paseo de Susana portion and the Agana Boat Basin) and as a boat basin (the Agana Boat Basin).

H.R. 4671. June 28, 1979. Judiciary; Interstate and Foreign Commerce. Directs the President to acquire by purchase, exchange, or other means all of the rights, title, and interest of such oil companies to such oil properties as the President deems necessary to carry out the purpose of this Act.

Directs the President, acting through the Department of Energy, after acquisition of any oil property, to administer such property, including operation of any plants and facilities on such property.

H.R. 4672. June 28, 1979. Science and Technology. Directs the Secretary of Commerce to establish and maintain an Office of Industrial Technology to enhance technological innovation with respect to the economic, environmental, and social well-being of the United States.

Establishes an independent committee to be known as the Industrial Technology Review Panel which shall review annually the activities of the Office and advise the Secretary and the Director with respect to such activities.

H.R. 4673. June 28, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior to establish the Pacific Northwest Center for the Performing Arts in King County, Washington, and construct, operate, maintain, and improve facilities for the Center.

Establishes a Pacific Northwest Center for the Performing Arts Advisory Committee to advise and make recommendations to the Secretary concerning the Center.

H.R. 4674. June 28, 1979. Foreign Affairs; Post Office and Civil Service. Consolidates Foreign Service administration. Provides for a Director General, an Inspector General, and a Board of the Foreign Service to aid the Secretary of State in administering the Foreign Service.

Establishes a Senior Foreign Service, members of whom are eligible for performance pay. Establishes a Foreign Service Schedule to include all personnel available for worldwide assignment. Converts individuals not so available to the Civil Service. Sets forth various personnel provisions concerning such things as selection boards, retirement, labor-management relations, and grievances.

Amends specified Acts to make conforming changes or repeal provisions superseded by this Act.

H.R. 4675. June 28, 1979. Public Works and Transportation. Reduces the Federal-aid highway apportionment for any State which establishes a maximum gross weight of less than 80,000 pounds or a maximum overall length of less than 60 feet for vehicles using the Interstate Highway System within such State.

H.R. 4676. June 28, 1979. Interstate and Foreign Commerce; Judiciary. Prohibits specified unfair labor practices in or affecting interstate or foreign commerce.

Permits consumers to void contracts resulting from such practices and to bring civil actions for treble damages.

Authorizes State attorneys general to bring parens patriae civil actions on behalf of consumers in their States for damages due to unfair consumer practices.

Authorizes the Attorney General of the United States, the appropriate United States attorney, or the appropriate State attorney general to bring an action in the appropriate Federal or State court to enjoin such act or practice and to enforce criminal code provisions established by this Act.

H.R. 4677. June 28, 1979. Education and Labor. Amends the provisions of Federal law regarding educational assistance for federally-impacted areas to set forth a formula for establishing the number of children in a school district for purposes of computing certain local educational agencies' contribution rate.

H.R. 4678. June 28, 1979. Science and Technology. Amends the National Aeronautics and Space Act of 1958 to establish within the National Aeronautics and Space Administration (NASA) a program to advance the state or automotive research and technology. Charges NASA with overall responsibility for the planning and management of such program. Transfers to the Administrator of NASA specified duties and programs which currently reside with other Federal agencies.

Establishes a Motor Vehicle and Fuels Coordination Committee to advise the Administrator and the Secretary of Energy on matters pertaining to automotive research and alternative fuels development.

H.R. 4679. June 28, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require the Secretary of Transportation to appoint Type Certification Boards comprised of individuals knowledgeable in the fields of aeronautics and aviation safety to participate in the aircraft type certification process.

H.R. 4680. June 28, 1979. Ways and Means. Amends the Tariff Schedules of the United States to revise the definition of rubber.

H.R. 4681. June 28, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior to sell specified lands in Mesa County, Colorado, to the Ute Water Conservancy District for fair market value less any enhancement brought to the land by the District.

H.R. 4682. June 28, 1979. Judiciary. Prohibits any refiner, producer, or marketer of motor fuel from owning, operating, acquiring, or controlling, either directly or indirectly, any service station.

H.R. 4683. June 28, 1979. Interior and Insular Affairs. Establishes the Boston Harbor National Recreation Area. Directs the Secretary of the Interior to establish a Commission to prepare a plan for the development of such Area. Establishes a special account in the Treasury of the United States to hold moneys for grants to State or local governmental units implementing such plan.

H.R. 4684. June 28, 1979. Judiciary. Amends title 11 of the United States Code (Bankruptcy) to declare that the bankruptcy courts do not have power to affect any rights of the United States as a creditor under a preferred ship mortgage as defined in the Ship Mortgage Act, 1920.

H.R. 4685. June 28, 1979. Merchant Marine and Fisheries. Prohibits the importation, exportation, possession, transportation, or sale in interstate commerce of elephants or elephant products except for specified purposes. Sets forth civil and criminal penalties for violations of this Act.

Supersedes the Endangered Species Act, the Tariff Act, and State laws regarding elephant and elephant products.

H.R. 4686. June 28, 1979. Judiciary; Interstate and Foreign Commerce; Public Works and Transportation. Amends the Bankruptcy Act to remove the requirement, for a specified period of time, that the Interstate Commerce Commission must approve the abandonment or sale of the properties of a railroad in reorganization.

Authorizes the Commission to direct a carrier by truck or water to transport the traffic of such an abandoned line.

Establishes employee protection arrangements for individuals displaced by such an abandonment.

H.R. 4687. June 28, 1979. Judiciary. Authorizes the granting of a visa to and admission of a named individual to the United States for permanent residence.

H.R. 4688. June 28, 1979. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to cause the vessel Independence, presently owned by the American Hawaiian Cruising Line, Inc., to be documented as a vessel of the United States with the privileges of engaging in the coastwise trade.

H.R. 4689. June 28, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in satisfaction of a claim against the United States.

H.R. 4690. June 28, 1979. Judiciary. Declares a named individual to have satisfied specified requirements under the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States. Authorizes such individual to be naturalized.

H.R. 4691. June 29, 1979. Ways and Means; Government Operations. Amends various Trade Acts to reorganize the international trade functions of the executive branch. Makes the Special Representative for Trade Negotiations responsible for negotiating and implementing commercial and trade agreements. Makes the Secretary of Commerce responsible for specified international trade functions presently performed by various executive departments. Transfers the International Trade Commission, the Export-Import Bank, and the Overseas Private Investment Corporation to the Department of Commerce.

H.R. 4692. June 29, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the exclusion and deportation from the United States of aliens affiliated with terrorist organizations. Removes certain diplomatic and semidiplomatic immunities from such aliens. Imposes criminal penalties on anyone who knowingly aids such aliens t enter the United States.

Amends the Foreign Agents Registration Act of 1938 to require an investigation of th activities of anyone registered under such Act as an agent of a terrorist organization. Imposes criminal penalties on an agent who knowingly receives or collects funds for such organization.

H.R. 4693. June 29, 1979. Interstate and Foreign Commerce. Amends the Emergency Petroleum Allocation Act of 1973 and the Natural Gas Policy Act of 1978 to eliminate Federal price control and allocation authority over natural gas, crude oil, and petroleum products.

H.R. 4694. June 29, 1979. Ways and Means. Amends the Internal Revenue Code to revise rules for determining the basis of carryover basis property acquired from a decedent for purposes of the estate tax. Revises basis adjustment rules for certain gifts and generation-skipping transfers. Restores capital gain treatment to the sale of inherited artwork. Revises rules for the extension of time for payment of estate tax where an estate consists largely of interests in a closely held business.

H.R. 4695. June 29, 1979. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married person filing a separate return to the amount actually earned by that individual.

H.R. 4696. June 29, 1979. Ways and Means. Amends the Internal Revenue Code to tax income of married individuals filing tax returns separate from their spouses at the same rates applicable to unmarried individuals.

H.R. 4697. June 29, 1979. Public Works and Transportation; Interstate and Foreign Commerce. Prohibits Federal-aid highway funding for States which make it unlawful for a vehicle with an overall gross weight of less than 80,000 pounds or an overall length of less than 60 feet to use the Interstate System or any highway which the Secretary of Transportation determines provides immediate access to any portion of the Interstate System.

Directs the Secretary of Energy to conduct a study of fuel savings resulting from such uniform standards and to report the results of such study to Congress within 1 year.

H.R. 4698. July 9, 1979. Public Works and Transportation. Modifies the North Bend levee and Morse Bluff levee flood control projects, Nebraska, to direct the Secretary of the Army, through the Chief of Engineers, to reconstruct, operate, and maintain such levees.

H.R. 4699. July 9, 1979. Interstate and Foreign Commerce. Directs the Administrator of the Environmental Protection Agency to conduct an epidemiological study of the occurrence of fluorosis in areas served by public water systems subject to the Safe Drinking Water Act in which fluoride from natural sources occurs in concentrations greater than the maximum contaminant level specified in regulations issued pursuant to such Act. Exempts from such regulations, until the date of submission of the required report, any drinking water system which serves an area described in this act.

H.R. 4700. July 9, 1979. Interstate and Foreign Commerce. Requires the President to submit to the Congress a report on the feasibility of nationalizing the oil industry. Establishes the Commission on the Nationalization of the Oil Industry to prepare and submit to the President the report required pursuant to this act.

H.R. 4701. July 9, 1979. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 4702. July 9, 1979. Interstate and Foreign Commerce. Requires packaged foreign dairy products to be labeled in such a manner as to be readily identifiable as being imported.

Permits the Federal Trade Commission to establish labeling requirements for foreign dairy products and to grant exemptions from such requirements.

Prohibits any person from importing, offering to import, distributing, or causing to be distributed any improperly labeled imported dairy product.

H.R. 4703. July 9, 1979. Public Works and Transportation. Directs the Secretary of Transportation to designate a specified section of highway in Stockton, California, as part of the Interstate Highway System.

H.R. 4704. July 9, 1979. Public Works and Transportation. Modifies the Kawkawlin River flood control project, Michigan, to make the operation and maintenance of such project the responsibility of the Secretary of the Army, through the Chief of Engineers.

H.R. 4705. July 9, 1979. Interstate and Foreign Commerce; Ways and Means. Establishes the American Oil Import Corporation to act as the importing agent for crude oil and petroleum products imported into the United States.

Establishes a Public Energy Fund to finance the activities of such corporation.

Amends the Emergency Petroleum Allocation Act of 1973 to repeal the standby purchase authority of the President to import and purchase crude oil and petroleum products.

H.R. 4706. July 9, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4707. July 10, 1979. Interstate and Foreign Commerce; Ways and Means; Science and Technology; Government Operations. Establishes the National Automotive Research Corporation which shall be administered by a National Automotive Innovation and Productivity Board.

Establishes a National Center for Automotive Research, administered by the Corporation, to conduct research, development, and demonstration programs in the automotive field.

Establishes in the Executive Office the position of Special Assistant for Automotive Affairs to coordinate all Federal automotive activity.

Amends the Internal Revenue Code to impose a tax on the sale by manufacturers of each automobile.

H.R. 4708. July 10, 1979. Interstate and Foreign Commerce. Amends title III of the Public Health Service Act (General Powers and Duties of Public Health Service) to allow a medical facility which provides emergency medical treatment to any alien who is unlawfully in the United States and who is not eligible for any other public assistance, to receive reimbursement for the value of such treatment upon the approval of the Secretary of Health, Education, and Welfare.

H.R. 4709. July 10, 1979. Ways and Means. Amends the Internal Revenue Code to permit an income tax deduction for agency fees, court costs, attorneys' fees, and other necessary expenses incurred in the adoption of a child.

H.R. 4710. July 10, 1979. Agriculture. Amends the Agricultural Adjustment Act of 1937 to authorize the Secretary of Agriculture to issue marketing orders respecting olive development projects which provide: (1) for any form of marketing promotion including paid advertising; and (2) for crediting certain direct expenditures of a handler for such promotion.

H.R. 4711. July 10, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $5,000 of the interest earned on a savings account at a bank, savings and loan association, credit union, or similar thrift institution.

H.R. 4712. July 10, 1979. Judiciary. Stipulates that certain amendments proposed by the United States Supreme Court to the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Federal Rules of Appellate Procedure shall not take effect until specified dates and to the extent approved by Congress. Revises the proposed amendment to Rule 40 of the Rules of Criminal Procedure.

H.R. 4713. July 10, 1979. Ways and Means; Interstate and Foreign Commerce. Establishes a Task Force on Consumer and Physician Incentives Toward Hospital Cost Containment to study specified aspects of hospital costs and utilization.

H.R. 4714. July 10, 1979. Merchant Marine and Fisheries. Authorizes the Secretary of Commerce, through the National Marine Fisheries Service, to make grants to certain States enumerated in the Fishery Conservation and Management Act of 1976 to develop marine artificial reefs in the territorial waters of such States and to develop such habitats in the fishery conservation zone off the coasts of such States.

H.R. 4715. July 10, 1979. Foreign Affairs; Science and Technology; Interstate and Foreign Commerce. Authorizes the President to invite foreign governments to join in the establishment of an international research and development program for synthetic fuels. Provides for an international meeting to create such program and a permanent international organization to administer such program. Sets forth criteria for research and development centers.

Directs the Secretary of Energy to assess U.S. synthetic fuel needs and the capabilities of other countries for participation in such program.

H.R. 4716. July 10, 1979. Ways and Means. Amends the Internal Revenue Code to permit the Secretary of the Treasury to waive all or any part of a tax penalty imposed upon a taxpayer who underpays an estimated tax or makes an excess contribution to a tax qualified pension plan or individual retirement account, if such taxpayer shows to the satisfaction of the Secretary that such underpayment or excess contribution was due to reasonable cause.

H.R. 4717. July 10, 1979. Post Office and Civil Service. Provides for the adjustment of personnel ceilings for Executive agencies when its determined to be more cost-effective to hire additional agency personnel than to enter an outside contract for the performance of a function.

Directs an agency to consider performance in administering personnel ceilings and following contracting procedures when evaluating the performance of senior executives and managers.

Prohibits an agency from obligating more than 20 percent of its appropriations for a fiscal year during the last two months of that year.

H.R. 4718. July 10, 1979. Agriculture. Directs the Secretary of Agriculture to conduct a five-year pilot program of financial assistance to owners of nonindustrial private forest land which shall include, but not be limited to: (1) the insuring and guaranteeing of loans providing periodic loan disbursements; (2) the consolidation for resale in private capital markets of the loan obligations of individual landowners; and (3) the loaning of funds to lending institutions in order to make such guaranteed loans.

H.R. 4719. July 10, 1979. Agriculture; Interior and Insular Affairs. Authorizes any State which has law enforcement districts empowered under State law to levy and collect ad valorem taxes to make available to such districts sums from funds distributed to such State from national forest revenues.

H.R. 4720. July 10, 1979. Public Works and Transportation. Amends the Disaster Relief Act of 1974 to authorize the President to make grants to help restore, repair, or replace railroad facilities or equipment which are necessary for adequate rail service and which were blocked, damaged, or destroyed by a major disaster.

H.R. 4721. July 10, 1979. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any pension already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 4722. July 10, 1979. Ways and Means. Amends the Energy Tax Act of 1978 to make permanent the exemption of gasohol from the excise tax on motor fuels.

H.R. 4723. July 10, 1979. Ways and Means; Judiciary. Amends title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to require that aged, blind, or disabled aliens must have resided in the United States for three years preceding their application for benefits under such title. Exempts those aliens: (1) who are political refugees or parolees into this country; (2) whom a support agreement, under the Immigration and Nationality Act, excuses; or (3) who have specified disabilities.

Amends the Immigration and Nationality Act to stipulate that no immigrant shall be admitted to the United States except pursuant to a support agreement. Defines such agreement.

H.R. 4724. July 10, 1979. Ways and Means. Amends the Internal Revenue Code to revise the tax treatment of certain items of income and expenses of nonprofit tax-exempt organizations.

H.R. 4725. July 10, 1979. Ways and Means. Amends the Internal Revenue Code to require that commercial airline tickets show the total amount paid for air transportation and the amount of excise tax imposed on such transportation.

H.R. 4726. July 10, 1979. Ways and Means. Amends the Internal Revenue Code to provide for an excise tax credit or refund in the case of certain uses of tread rubber.

H.R. 4727. July 10, 1979. Agriculture; Foreign Affairs. Authorizes the Secretary of Agriculture, acting through the Commodity Credit Corporation, to purchase wheat from American producers or in the open market, in order to provide urgent humanitarian relief to foreign nations and to fulfill lawful international obligations.

H.R. 4728. July 10, 1979. Interior and Insular Affairs. Amends the Surface Mining Control and Reclamation Act of 1977 to extend certain time periods for the submission and approval of surface coal mining permits and State programs, and for the implementation of a Federal program.

H.R. 4729. July 10, 1979. Small Business; Judiciary; Ways and Means; Government Operations. Establishes procedures for the review and reduction of Federal regulations affecting small business.

Amends the Internal Revenue Code of 1954 to: (1) limit the recognition of gain on the sale or exchange of sole proprietorships; (2) increase the first year depreciation allowance for small business; (3) permit extended amortization of business expenses required by Federal regulations; (4) defer taxation on dividends from small domestic international sales corporations; (5) permit cash accounting by sole proprietorships; and (6) provide tax advantages to trusts created to settle product liability claims.

Amends the Small Business Act to increase small business opportunities in Federal contracts and the export market.

H.R. 4730. July 10, 1979. Merchant Marine and Fisheries. Prohibits the Coast Guard from converting loran stations off the Pacific coast to the electronic pulsed hyperbolic radio aid to navigation known as Loran-C until January 1, 1981, or until the Coast Guard's loran stations off the Atlantic coast are converted to such system, whichever occurs later.

H.R. 4731. July 10, 1979. Interstate and Foreign Commerce; Foreign Affairs. Amends the Clean Air Act to direct the President to enter into treaties or other agreements with countries contiguous to the United States for the purpose of air pollution control in border areas.

Directs the Secretary of State to take appropriate diplomatic actions to reduce or eliminate air pollution adversely affecting any area of the United States and originating in another country.

Directs the Administrator of the Environmental Protection Agency to determine the percentage of air pollutants in border areas resulting from foreign sources and to eliminate such percentage in determining compliance with ambient air quality standards by such region.

H.R. 4732. July 10, 1979. Post Office and Civil Service. Prescribes the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol.

H.R. 4733. July 10, 1979. Interstate and Foreign Commerce; Judiciary. Makes it unlawful for any major petroleum producer, petroleum transporter, major refiner, or major marketer to own or control any interest or asset which is not in the petroleum industry or not directly related thereto.

Requires such entities to submit divestiture plans to the Federal Trade Commission for divestment of such prohibited interests or assets.

Authorizes the Federal Trade Commission to enforce this Act pursuant to all powers conferred upon it in other law and under this Act.

H.R. 4734. July 10, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4735. July 10, 1979. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4736. July 11, 1979. Judiciary; Intelligence. Sets forth pretrial, trial, and appellate procedures for criminal cases involving classified information.

H.R. 4737. July 11, 1979. Ways and Means. Amends the Internal Revenue Code to permit the exclusion from gross income of interest earned on industrial development bonds which are used to refund any obligation for which such bonds may be issued under the Internal Revenue Code.

H.R. 4738. July 11, 1979. Ways and Means. Amends the Tariff Schedules of the United States to temporarily reduce the rates of duty on rolled titanium products.

H.R. 4739. July 11, 1979. Ways and Means. Amends the Tariff Schedules of the United States to temporarily permit the duty-free entry of pillow buns of latex foam.

H.R. 4740. July 11, 1979. Education and Labor. Amends the Fair Labor Standards Act of 1938 to exempt residential administrators or supervisors of facilities for the physically or mentally handicapped or correctional facilities from the minimum wage and overtime requirements of such Act.

H.R. 4741. July 11, 1979. Judiciary. Makes it a Federal crime to kill an employee of the Tennessee Valley Authority who is performing investigative, inspection, or law enforcement functions in an official capacity.

H.R. 4742. July 11, 1979. Ways and Means. Interstate and Foreign Commerce. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide coverage under title XVIII (Medicare) of the Act to an OASDI beneficiary who is medically determined to require enteral or parenteral alimentation or hyperalimentation consisting of amino acid products.

H.R. 4743. July 11, 1979. Armed Services. Requires the Secretary of the military department concerned to count time spent by a National Guard unit on call or order to duty towards the number of required training days for such a unit.

H.R. 4744. July 11, 1979. Ways and Means. Amends the Internal Revenue Code to allow individuals who have attained age 60 a nonrefundable income tax credit for expenses paid or incurred with respect to the maintenance of their principal residences.

H.R. 4745. July 11, 1979. Judiciary; Intelligence. Sets forth pretrial, trial, and appellate procedures for criminal cases involving classified information.

H.R. 4746. July 11, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) revise reporting requirements for tax-exempt private foundations; (2) permit reimbursement to Government officials for traveling expenses from private foundations without adverse tax consequences; (3) specify the minimum tax treatment of corporate charitable contributions; (4) permit the voluntary withholding of tax from sick pay under employer wage continuation plans; (5) exclude from gross income certain repayments of unemployment benefits; (6) permit disclosure of tax information to State auditing agencies; and (7) qualify space satellites for the investment tax credit.

Amends the Second Liberty Bond Act to adjust interest rates on certain retirement bonds.

H.R. 4747. July 11, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the income tax deduction for the living expenses of a State legislator while away from his home district.

H.R. 4748. July 11, 1979. Judiciary. Amends the Clayton Act to restrict mergers and acquisitions by the major petroleum producers.

H.R. 4749. July 11, 1979. Ways and Means. Amends the Internal Revenue Code to impose an additional excise tax upon large domestic oil producers to the extent that they make investments to acquire significant ownership interest in businesses unrelated to energy.

H.R. 4750. July 11, 1979. Public Works and Transportation. Removes specified restrictions regarding the East-West Toll Road in northern Indiana (Interstate Route 80/90) upon the repayment of specified Federal-aid highway funds by the State of Indiana.

H.R. 4751. July 11, 1979. Foreign Affairs. Amends the Export Administration Act of 1969 to prohibit grain exports to countries designated as having exportable petroleum, except pursuant to a contract providing for the exchange of grain for petroleum to be exported to the United States.

H.R. 4752. July 11, 1979. Government Operations; Banking, Finance and Urban Affairs; Rules. Amends the Employment Act of 1946 to require the President to include in the annual economic report to Congress, for the purpose of reducing the rate of inflation: (1) a set of price and wage guidelines applicable to businesses and labor organizations of specified size; and (2) a coordinated set of fiscal, monetary, regulatory, antitrust, investment, productivity, international, and other economic policies. Establishes procedures for Congressional approval of the guidelines as an effective national standard. Prescribes compliance provisions, including reports by businesses and labor organizations to the Council of Wage and Price Stability, and mediation initiated by the President.

H.R. 4753. July 11, 1979. Ways and Means. Amends the Internal Revenue Code to eliminate adjusted income as a standard for determining the amount which a private foundation is required to distribute in a taxable year.

H.R. 4754. July 11, 1979. Interstate and Foreign Commerce; Ways and Means. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to establish a system for the licensure of all clinical laboratories subject to national standards provided for under this Act. Requires the Secretary to a uniform regulatory policy with respect to laboratory provisions under this Act, the Food, Drug, and Cosmetic Act, and Medicare and Medicaid.

Amends title XVIII (Medicare) of the Social Security Act to revise the scope of services covered and hospital reimbursement provisions.

H.R. 4755. July 11, 1979. Education and Labor. Directs the Secretary of Labor to establish and maintain in up to 20 counties with populations under 20,000 a pilot program designed to provide a guaranteed job opportunity to eligible county residents from low-income households by partially reimbursing public and private employers for wages paid to certain such individuals, and fully reimbursing such employers for wages paid to certain other such individuals.

H.R. 4756. July 11, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4757. July 11, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4758. July 11, 1979. District of Columbia. Authorizes the Mayor of the District of Columbia to convey to a named nonprofit corporation all right, title, and interest of the United States in and to specified land with all buildings and improvements thereon.

H.R. 4759. July 12, 1979. Post Office and Civil Service. Permit any individual casting an absentee ballot in any election, with specified exceptions, to return such ballot postage-free to the election agency.

H.R. 4760. July 12, 1979. Interstate and Foreign Commerce; Science and Technology; Ways and Means. Directs the Secretary of Energy to establish a comprehensive program for the development of gas turbine engines for commercial production, including development of gasoline engine conversion systems.

Requires that federally-purchased vehicles be equipped with gas turbine engines or gasoline engine conversion systems.

Amends the Internal Revenue Code to provide various tax incentives for gas turbine engine development and production and for purchases of gasoline conservation products.

H.R. 4761. July 12, 1979. Post Office and Civil Service. Requires the United States Postal Service to use the railroad services operated by the National Railroad Passenger Corporation to transport the mail unless such services downgrade postal services or increase postal costs

H.R. 4762. July 12, 1979. Interior and Insular Affairs. Changes the map which depicts the area of the Valley Forge National Historical Park in the Commonwealth of Pennsylvania and increases the authorization ceiling to carry out the purposes of the act.

H.R. 4763. July 12, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $100 ($200 for married couples filing jointly) of the interest earned on a savings account in a bank, savings and loan association, credit union, or similar savings institution.

H.R. 4764. July 12, 1979. Veterans' Affairs. Permits disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes.

H.R. 4765. July 12, 1979. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to require the Environmental Protection Agency to base its automobile fuel economy tests upon actual road testing.

Sets forth criminal penalties for officers or employees of the Agency who violate such requirement.

H.R. 4766. July 12, 1979. Judiciary. Makes the United States liable for damages, arising from certain nuclear tests conducted at the Nevada Test Site, to certain residents, participants, and qualified sheep herds.

H.R. 4767. July 12, 1979. Ways and Means. Amends the Internal Revenue Code to allow a refundable income tax credit for amounts paid or incurred for television subtitle equipment for use by hearing-impaired individuals.

H.R. 4768. July 12, 1979. House Administration. Amends the Federal Election Campaign Act of 1971 to reduce multicandidate political committee contribution limits to any candidate and his authorized political committees with respect to any election for Federal office.

H.R. 4769. July 12, 1979. Merchant Marine and Fisheries; Judiciary; Ways and Means; Government Operations. Revises the economic regulation of international ocean shipping. Exempts specified ocean shipper and carrier agreements from the antitrust laws.

Amends the Merchant Marine Act, 1936, to revise the construction-differential and operating-differential subsidies. Directs the Secretary of Commerce to establish shipbuilding efficiency standards.

Amends the Internal Revenue Code to revise the tax treatment of income derived from shipping.

Directs the President to submit a reorganization plan which shall establish a Deputy Special Representative for Maritime Affairs within the Office of the Special Representative for Trade Negotiations.

H.R. 4770. July 12, 1979. Judiciary. Declares that exclusive territorial arrangements made as a part of a licensing agreement for the manufacture, distribution, or sale of a trademarked soft drink product are lawful under the antitrust laws provided such product is in substantial and effective competition with other products of the same general class.

H.R. 4771. July 12, 1979. Interior and Insular Affairs; Armed Services; Interstate and Foreign Commerce; Post Office and Civil Service; Science and Technology. Requires an immediate comprehensive review by Congress of the operations, funding, and personnel management practices of the Department of Energy.

H.R. 4772. July 12, 1979. Ways and Means. Amends the Social Security Amendments of 1972, which lowered the age computation point for Old-Age, Survivors and Disability Insurance (OASDI) benefits for men from age 65 to 62, the age which had previously applied only to women, in order to apply such revision to men who were entitled to OASDI benefits for January, 1979, or months thereafter, and who attained age 62 after December, 1972, such revision having applied previously only to individuals who became 62 after 1974.

H.R. 4773. July 12, 1969. Post Office and Civil Service. Authorizes State and local government election agencies to send absentee voting materials free of postage. Permits any person casting an absentee ballot to return it postage-free.

Stipulates that this Act shall not apply to mail transmitted under the Federal Voting Assistance Act of 1955 or the Overseas Citizens Voting Rights Act of 1975.

H.R. 4774. July 12, 1979. Education and Labor. Amends the National Labor Relations Act to provide that any employee who is a member of and adheres to a bona fide religion, body, or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

H.R. 4775. July 12, 1979. Judiciary. Allows a person to be sentenced to death for a violation of Federal law only if a separate sentencing hearing is conducted in accordance with the procedures of this Act.

Revises the penalties for certain Federal crimes.

H.R. 4776. July 12, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Energy Conservation in Existing Buildings Act of 1976 to increase the labor cost limitations for weatherization materials for which financial assistance may be provided under such Act and to authorize waivers of specified assistance requirements in areas where the Secretary of Energy determines that there is an insufficient number of volunteers, training participants, and public service workers available to work on weatherization projects.

Makes inapplicable the limitation on the amount of weatherization assistance allowed to be used for repair to a dwelling if the State advisory council requests the Secretary of Energy to increase such amount.

H.R. 4777. July 12, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4778. July 12, 1979. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4779. July 12, 1979. Judiciary. Declares that, for purposes of determining whether certain individuals are U.S. citizens and nationals under the Immigration and Nationality Act, their mother shall be deemed to have been present in the United States or its outlying possessions for specified periods.

H.R. 4780. July 13, 1979. Ways and Means. Amends the Tariff Schedules of the United States to extend the duty-free treatment of synthetic tantalum/columbium concentrate.

H.R. 4781. July 13, 1979. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer to elect an income tax deduction with respect to the amortization, based on a 60-month period, of any qualified facility producing alcohol from coal, biomass, or agricultural products.

H.R. 4782. July 13, 1979. Agriculture. Amends the Farm Credit Act of 1971 to authorize the Farm Credit System institutions to: (1) buy and sell among themselves interests in loans, other financial assistance, and nonvoting stock; (2) participate with each other in making loans; (3) agree to share losses; and (4) form corporations to perform authorized non-lending functions. Makes producers and harvesters of aquatic products eligible for increased Farm Credit System services. Authorizes the farmer's cooperatives to perform specified services to assist foreign trade activities.

Exempts the Farm Credit System institutions from State interest rate ceilings and truth in lending legislation.

Increases the administrative authority of the Farm Credit Administration.

H.R. 4783. July 13, 1979. Banking, Finance and Urban Affairs. Amends the Coinage Act of 1965 to change the size and weight of the Susan B. Anthony dollar coin.

H.R. 4784. July 13, 1979. Banking, Finance and Urban Affairs; Ways and Means. Establishes a national goal for the increased use of solar energy and renewable energy resources.

Establishes the Solar Energy Development Bank to provide subsidies of long-term low-interest loans made for the purchase and installation of solar energy systems in residential and commercial structures.

Amends the Internal Revenue Code to authorize tax incentives for expenditures for woodburning stoves, process heat solar property, and for builders of solar heated buildings.

Amends the National Housing Act and the Federal Home Loan Mortgage Corporation Act to increase the maximum principal obligation amounts for residences fitted with solar energy systems.

H.R. 4785. July 13, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for State and local taxes with respect to municipal services.

H.R. 4786. July 13, 1979. Ways and Means. Amends the Internal Revenue Code to allow taxpayers an income tax deduction equal to the sum of their commuting and meal expenses.

H.R. 4787. July 13, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income any amounts received by a taxpayer as interest.

H.R. 4788. July 13, 1979. Public Works and Transportation. Authorizes the Secretary of the Army, through the Chief of Engineers, to proceed with various flood control, navigation, water supply, and other water resources development projects. Directs the Secretary to submit feasibility reports on various water resource development projects. Modifies various existing water resource development projects.

Revises the financing of specified projects. Provides for congressional veto of water resource development rules and regulations. Terminates specified projects.

H.R. 4789. July 13, 1979. Science and Technology. Directs the Secretary of Energy to construct and operate national demonstration facilities for the conversion of garbage and other solid waste materials into fuels.

H.R. 4790. July 13, 1979. House Administration. Authorizes the Camp Fire Girls of Cundys Harbor, Maine, to erect a monument on Maine Avenue in the District of Columbia entitled "The Maine Lobsterman."

H.R. 4791. July 13, 1979. Banking, Finance and Urban Affairs; Interior and Insular Affairs; Interstate and Foreign Commerce. Amends the Department of Energy Organization Act to provide for the domestic development and production of synthetic fuels and synthetic chemical feedstocks.

Establishes in the United States Treasury a synthetic fuel fund for the purpose of carrying out such a development and production program.

Provides for an expedited decisionmaking process for obtaining Federal, State, and local approval of synthetic fuel and synthetic chemical feedstock facilities.

H.R. 4792. July 13, 1979. Public Works and Transportation. Designates the Federal building in Houston, Texas, as the Bob Casey Federal Building—U.S. Courthouse.

H.R. 4793. July 13, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4794. July 13, 1979. Judiciary. Declares an individual lawfully admitted to the

United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4795. July 13, 1979. Judiciary. Declares a named individual to have satisfied specified requirements under the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States. Authorizes such individual to be naturalized.

H.R. 4796. July 16, 1979. Ways and Means. Amends the Internal Revenue Code to provide a tax exclusion from personal income earned abroad by an individual performing qualified charitable services for a tax-exempt employer created or organized in the United States. Sets a formula for the maximum amount of exclusion for an individual who performs such charitable services and also performs other services while residing in a camp located in a hardship area.

H.R. 4797. July 16, 1979. Interstate and Foreign Commerce. Amends the Emergency Petroleum Allocation Act of 1973 to exempt motor gasoline from mandatory price and allocation regulation.

H.R. 4798. July 16, 1979. Banking, Finance and Urban Affairs; Small Business. Amends the Small Business Act to authorize the Small Business Administration to extend direct loans to individuals and small business concerns for the purchase and installation of wood and coal burning stoves. Requires that such stoves be used to heat a building currently heated by oil in a State where a shortage of heating oil has been declared by the Governor.

H.R. 4799. July 16, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a community outreach and information program to assist and encourage the low-income elderly and others eligible for assistance under this Act in obtaining Federal, State, and local energy-related assistance.

Establishes a program to provide assistance to such persons for meeting primary residential fuel costs.

Directs the Director of CSA to establish a crisis intervention program to supplement the basic fuel assistance program.

H.R. 4800. July 16, 1979. Ways and Means. Amends the Tariff Schedules of the United States to make permanent the existing duty-free treatment of synthetic tantalum/columbian concentrate.

H.R. 4801. July 16, 1979. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 to authorize additional appropriations for use through fiscal year 1989 for the urban mass transit discretionary grant program under such Act..

H.R. 4802. July 16, 1979. Science and Technology; Ways and Means. Provides for the financing of an accelerated program of energy-related research, development, and demonstration by establishing an energy research and development savings bond program.

Establishes the Energy Research and Development Trust Fund as the source of funds for such research and development program and provides that the proceeds from the sales of such savings bonds shall be deposited in such fund. States that the face amount of such issuance shall not exceed in the aggregate $50,000,000,000 outstanding at any one time.

H.R. 4803. July 16, 1979. Interstate and Foreign Commerce. Prohibits the Secretary of Health, Education, and Welfare from promulgating a proposed rule applicable to vitamin and mineral products for over-the-counter human use published on March 16, 1979, or from taking any other action which would have the same effect as such proposed rule.

H.R. 4804. July 16, 1979. Banking, Finance and Urban Affairs. Directs the Secretary of Housing and Urban Development to insure any mortgage which would otherwise be uninsurable under the National Housing Act because of Indian claims of ownership to the property securing the mortgage if such property is located in a community where adverse economic conditions exist as a direct and primary result of such Indian claims of ownership.

H.R. 4805. July 16, 1979. Interstate and Foreign Commerce; Science and Technology. Establishes in the Department of Health, Education, and Welfare a National Center for Alternative Research to: (1) develop and coordinate alternative methods of research and testing which do not involve the use of live animals; (2) develop training programs in the use of such methods; and (3) to disseminate information on such methods.

H.R. 4806. July 16, 1979. Interior and Insular Affairs. Authorizes establishment of the William Jennings Bryan Birthplace National Historic Site in Salem, Illinois, to be administered by the Secretary of the Interior.

H.R. 4807. July 16, 1979. Foreign Affairs; Science and Technology; Interior and Insular Affairs; Interstate and Foreign Commerce. Authorizes appropriations to the Department of Energy for civilian programs for fiscal year 1980.

Directs the Secretary of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York.

Directs the Secretary to arrange for the removal of spent nuclear fuel of domestic origin from countries pursuant to provisions of the Atomic Energy Act of 1954.

Directs the Secretary to develop a civilian nuclear reactor operator training program.

H.R. 4808. July 16, 1979. Interstate and Foreign Commerce. Directs the Secretary of Energy to establish and maintain a data collection program for monitoring the supply and demand levels of middle distillates on a monthly basis in each State.

H.R. 4809. July 16, 1979. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to prohibit the Secretary of Commerce from approving the application for permits for foreign fishing vessels of any nation if it has been determined by the Secretary that the nationals of such nation are conducting fishing operations in a manner that undermines the effectiveness of international fishing conservation programs.

H.R. 4810. July 16, 1979. Ways and Means. Amends title XVI (Supplemental Security Income) of the Social Security Act to make any individual ineligible for SSI benefits if within 12 months of applying for such benefits he or she: (1) disposed of property which, if retained, would have prevented such individual from being eligible for SSI benefits; and (2) received no compensation for the property or received compensation in an amount more than 10 percent below the fair market value.

H.R. 4811. July 16, 1979. Interior and Insular Affairs. Conveys specified municipal reserves, streets, and alleys to the City of Nenana, Alaska. Grants additional time for the conveyance of specified lands to the Cook Inlet Region, Incorporated.

H.R. 4812. July 16, 1979. Judiciary. Directs the granting of a visa to and admission of a named individual to the United States for permanent residence.

H.R. 4813. July 16, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4814. July 16, 1979. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to cause a named vessel to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

H.R. 4815. July 17, 1979. Ways and Means. Amends the Internal Revenue Code to permit the establishment of distilled spirits plants for the purpose of producing, processing, storing, using, and distributing distilled spirits for fuel use.

H.R. 4816. July 17, 1979. Agriculture. Amends the Agricultural Act of 1949 to establish the crop production loan level for the 1980 and 1981 crops of upland cotton.

Specifies formulas for the determination of prevented planting payments for rice, cotton, feed grains, and wheat in certain circumstances.

Makes eligible for 1978 crop disaster payments certain cotton producers who were otherwise eligible for such payments, but who were deemed ineligible for failure to comply with the set-aside requirement of the 1978 crop feed grain program.

Directs the Secretary of Agriculture to make available a voluntary diversion program for the 1979 crop of upland cotton.

H.R. 4817. July 17, 1979. Agriculture. Amends the Food and Agriculture Act of 1977 to direct the Secretary of Agriculture to increase the established prices for the 1979 crops of wheat and corn.

H.R. 4818. July 17, 1979. Science and Technology. Directs the Secretary of Energy to select a site for and authorize the design, geologic survey, and construction of a Federal Technology Demonstration Repository for the disposal of nuclear waste.

H.R. 4819. July 17, 1979. Interstate and Foreign Commerce. Requires the Secretary of Energy to establish a program to promote the development and use of alcohol-blended fuels in the United States.

H.R. 4820. July 7, 1979. Science and Technology. Establishes a program for research, development and demonstration of wind energy. Authorizes the Secretary of Energy to enter into contracts and to make grants for the development of wind energy systems.

H.R. 4821. July 17, 1979. Ways Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses to traveling to and from work by means of public mass transportation.

H.R. 4822 July 17, 1979. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small businesses for the purchase of solar, renewable source, or other energy conserving measures and equipment.

H.R. 4823. July 17, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require the Director of the National Institute of Health to conduct a study of the effectiveness and appropriateness of the age restrictions applicable to aircraft pilots.

H.R. 4824. July 17, 1979. Agriculture. Amends the Food Stamp Act of 1977 to disqualify, for the appropriate period of ineligibility, the entire household of any individual found guilty of specified acts of food stamp fraud.

Directs the Secretary of Agriculture to establish a Food Stamp Fraud Clearinghouse.

H.R. 4825. July 17, 1979. Judiciary. Establishes criminal penalties for the sabotage of nuclear facilities.

H.R. 4826. July 17, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to stipulate that no individual may serve as a commercial airline pilot, flight engineer, or flight navigator if such individual is 60 years of age or older.

Requires the Director of the National Institutes of Health to conduct a study to determine whether such age restriction is warranted and whether the rules governing first- and second-class medical examinations for such individuals are adequate.

H.R. 4827. July 17, 1979. Rules; Government Operations. Prohibits either House of Congress from considering any legislation providing new budget authority for the compensation of participants in a regulatory proceeding of a Federal agency, unless enactment of such budget authority is authorized by law.

Prohibits the authorization or payment of such compensation for which no budget authority is provided.

H.R. 4828. July 17, 1979. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to require the Environmental Protection Agency to base its automobile fuel economy tests upon actual road testing.

Sets forth criminal penalties for any employee of the Agency to knowingly falsify the results of such tests.

H.R. 4829. July 17, 1979. Judiciary. Makes it a Federal crime to kill any United States probation officer or pretrial service officer.

H.R. 4830. July 17, 1979. Interstate and Foreign Commerce. Directs the President to promulgate a regulation under the Emergency Petroleum Allocation Act of 1973 providing price and allocation controls for middle distillate fuels.

H.R. 4831. July 17, 1979. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to exempt forms or nonhazardous businesses with 25 or less employees from coverage under such Act.

H.R. 4832. July 17, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $250 ($500 for married individuals filing jointly) of the interest earned on a savings account in a bank, savings association, or credit union.

H.R. 4833. July 17, 1979. Ways and Means. Amends the Internal Revenue Code to allow domestic corporations and income tax deduction for dividends paid by such corporations during the taxable year, in lieu of the deduction for dividends received from other corporations.

Places limits on the amount of the allowable deduction for dividends received from certain foreign corporations.

Repeals provisions allowing deductions for dividends received on certain preferred stock.

H.R. 4834. July 17, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that the label and advertising for contraceptive drugs and devices state the effectiveness of such drugs and devices in preventing conception in humans.

H.R. 4835. July 17, 1979. Foreign Affairs. Amends the Export Administration Act of 1969 to require validated licenses for the export of wheat and wheat flour. Provides for export license fees.

Expresses the sense of Congress that export controls should be imposed with respect to countries engaging in inequitable trade practices towards the United States.

H.R. 4836. July 17, 1979. Judiciary. Directs the Secretary of the Treasury to pay a claim against the United States.

H.R. 4837. July 17, 1979. Judiciary. Authorizes the Comptroller General to settle and adjust a claim of a named individual for an amount representing expenses incurred as an employee of the Federal Aviation Administration for the convenience of the Government.

H.R. 4838. July 17, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4839. July 18, 1979. Foreign Affairs; Science and Technology; Interior and Insular Affairs; Interstate and Foreign Commerce. Authorizes appropriations to the Department of Energy for civilian programs for fiscal year 1980.

Directs the Secretary of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York.

Directs the Secretary to arrange for the removal of spent nuclear fuel of domestic origin from countries pursuant to provisions of the Atomic Energy Act of 1954.

Directs the Secretary to develop a civilian nuclear reactor operator training program.

H.R. 4840. July 18, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to direct the Secretary of Health, Education, and Welfare to provide for inspections of skilled nursing facilities and intermediate care facilities in order to determine whether such facilities are in compliance with the requirements of the Act. Directs the Secretary to issue a citation which shall provide for a civil penalty to the operator of a facility which does not correct identified deficiencies.

H.R. 4841. July 18, 1979. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to set forth specified administrative procedures concerning any Federal agency action which is likely to jeopardize the existence or adversely modify the habitat of any listed or proposed endangered or threatened species.

H.R. 4842. July 18, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to eliminate gender-based distinctions in awarding benefits under such title. Equalizes treatment of fathers, husbands, divorced husbands, surviving divorced husbands, and widowers with the treatment of their female counterparts under the OASDI Program.

Eliminates the marriage or remarriage of certain benefit recipients as a factor in terminating their benefits.

H.R. 4843. July 18, 1979. Post Office and Civil Service. Authorizes State and local authorities conducting a Federal election to send absentee voting materials free of postage. Permits absentee ballots to be returned postage-free.

Stipulates that this Act shall not apply to mail transmitted under the Federal Voting Assistance Act of 1955 or the Overseas Citizens Voting Rights Act of 1975.

H.R. 4844. July 18, 1979. Agriculture. Amends the Plant Quarantine Act of August 20, 1912, to eliminate the notice and hearing requirements with respect to the promulgation of determinations relating to: (1) importation restrictions on certain plants and plant products other than nursery stock; and (2) interstate quarantines necessary to prevent the spread of dangerous plant diseases or infestations.

H.R. 4845. July 18, 1979. Public Works and Transportation. Designates the Federal Building in Rochester, New York, as the Kenneth B. Keating Federal Building.

H.R. 4846. July 18, 1979. Banking, Finance and Urban Affairs. Amends the Federal Fire Prevention and Control Act of 1974 to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to volunteer fire departments which are unable to purchase necessary firefighting equipment because of the increased cost of such equipment as a result of inflation.

H.R. 4847. July 18, 1979. Ways and Means. Amends the Internal Revenue Code to allow volunteer fire fighters an income tax deduction for the purchase of clothing used for fire fighting.

H.R. 4848. July 18, 1979. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 4849. July 18, 1979. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1947 and the Federal Salary Act of 1967 to fix the annual rate of pay for Members of Congress at the rates payable for such positions on a specified date and to discontinue the annual adjustments in the rate of pay for Members of Congress. Prohibits any Congressional employee from receiving pay at a rate in excess of the pay rate payable for Members of Congress.

H.R. 4850. July 18, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the retirement income credit.

H.R. 4851. July 18, 1979. Ways and Means. Amends the Internal Revenue Code to specify standards for determining whether certain individuals qualify as independent contractors for purposes of social security taxation.

Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide coverage for independent contractor services.

H.R. 4852. July 18, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce; Ways and Means. Establishes an Energy Security Corporation for the production of synthetic fuels and solar energy. Authorizes such Corporation to issue interest-bearing energy bonds to the general public and to operate facilities for the production of synthetic fuels and solar energy. Terminates such Corporation after 12 years.

H.R. 4853. July 18, 1979. Agriculture. Prohibits the production, sale, shipment, or delivery for shipment in the United States of any animal biological product which is (1) misrepresented or unsatisfactory; or (2) not produced at a licensed establishment under a valid product license issued by the Secretary of Agriculture and in compliance with this Act or any regulations promulgated pursuant to it.

H.R. 4854. July 18, 1979. Judiciary. Amends the procedure for interception of wire or oral communications to require a separate judicial order for the entry of premises for such purpose, if a search warrant would be required for such an entry for a purpose other than an interception.

H.R. 4855. July 18, 1979. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to eliminate the reduction of railroad retirement annuities by amounts payable as social security benefits in the case of certain individuals.

H.R. 4856. July 18, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4857. July 18, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4858. July 18, 1979. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to cause a named vessel to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

H.R. 4859. July 19, 1979. Interstate and Foreign Commerce; Interior and Insular Affairs. Establishes criteria and procedures for expedited Federal approval of nonnuclear energy facilities.

H.R. 4860. July 19, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the installation of a wood, peat, or coal burning stove.

H.R. 4861. July 19, 1979. Ways and Means. Amends the Internal Revenue Code to treat property which is placed in service after December 31, 1982, as energy property, for purposes of the investment tax credit, if such property qualifies as energy property and if the taxpayer is affirmatively committed on that date to its construction, reconstruction, erection, or acquisition.

H.R. 4862. July 19, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to add a new part relating to synthetic fuel production, declaring that it is a national goal to have a domestic commercial production of synthetic fuels and synthetic chemical feedstocks at a daily rate equivalent to 500,000 barrels of crude oil, beginning five years after enactment of this Act.

Provides for a coordinated, simplified, and expeditious process for Federal approval of non-nuclear energy facilities that are determined to be in the national interest.

Establishes an Office for Priority Energy Projects within the Department of Energy.

H.R. 4863. July 19, 1979. Agriculture. Amends the Farm Credit Act of 1971 to include the Virgin Islands within the farm credit districts of the United States.

H.R. 4864. July 19, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction with respect to the amortization, based on a 60 month period, of facilities producing unleaded gasoline, heating oil, diesel fuel, solar or wind energy equipment, or synthetic fuels.

H.R. 4865. July 19, 1979. Government Operations. Prohibits the purchase or operation by the Federal Government of any motor vehicle for transporting a Government official between such official's home and place of employment. Prohibits the issuance of any motor vehicle for the exclusive use of any Government official or employee not designated in this Act.

H.R. 4866. July 19, 1979. Post Office and Civil Service. Prohibits the total personnel costs of any executive agency from exceeding the agency's personnel cost ceiling.

Directs the President to adjust such ceiling for each agency four times a year and to establish the ceilings for new agencies. Provides for a congressional veto of such adjustments or new ceilings.

H.R. 4867. July 19, 1979. Ways and Means. Amends the Internal Revenue Code to disallow the option to deduct as expenses in the current taxable year intangible drilling and development costs with respect to an oil well drilled on proven properties.

H.R. 4868. July 19, 1979. Ways and Means. Amends the Internal Revenue Code to deny the percentage depletion allowance for uranium.

H.R. 4869. July 19, 1979. Ways and Means. Amends the Internal Revenue Code to allow renters of their principal residence a limited income tax credit for their proportionate share of real property taxes.

H.R. 4870. July 19, 1979. Ways and Means. Amend title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to remove the limitation on the amount of outside income which an individual may earn while receiving benefits.

H.R. 4871. July 19, 1979. Agriculture. Amends the United States Grain Standards Act to prohibit the knowing addition to any grain shipment, after its purchase from the original producer or after acceptance of such grain for storage and handling, of any foreign material or dust which would change the character or test weight of that grain from the test weight or character prevailing at the time of first purchase.

H.R. 4872. July 19, 1979. Judiciary. Establishes a Competition Review Commission to study the effect of Federal laws and practices on competition in the American economy. Grants the Commission broad subpoena and investigatory powers. Directs the Commission to submit specified reports to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

H.R. 4873. July 19, 1979. Interior and Insular Affairs. Amends the Act establishing the Indiana Dunes National Lakeshore to: (1) expand the boundaries of the Lakeshore; (2) change the composition of the Indiana Dunes National Lakeshore Advisory Commission; and (3) direct the Secretary of the Interior to construct a marina with harbor facilities within such lakeshore.

H.R. 4874. July 19, 1979. Ways and Means. Amends the Internal Revenue Code to allow employers, employees, and self-employed individuals an income tax credit equal to 20 percent of the amount of social security taxes paid by such individuals in 1980 and 1981.

H.R. 4875. July 19, 1979. Education and Labor. Establishes within the National Endowment for the Arts, an Art Bank to be headed by a Director.

Authorizes the Director to purchase visual works of art for the Art Bank, to make such works available on loan to certain private and governmental entities for public display, to sponsor exhibitions, and to assist State and local governments and nonprofit institutions in establishing art banks.

H.R. 4876. July 19, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4877. July 20, 1979. Public Works and Transportation. Directs the Secretary of Commerce to propose a program to compensate persons, States, or political subdivisions for shoreline erosion damage caused by actions of the International Joint Commission with respect to the water level of the Great Lakes.

H.R. 4878. July 20, 1979. Government Operations. Prohibits the purchase or operation by the Federal Government of any motor vehicle not of a type generally available in Government motor pools. Prohibits the use of Government motor vehicles by Government officials between such official's home and place of employment. Prohibits the issuance of any motor vehicle for the exclusive use of any Government official or employee not designated in this Act.

H.R. 4879. July 20, 1979. Judiciary. Revises the procedure for a person in custody under a State court order to obtain habeas corpus relief in Federal court.

H.R. 4880. July 20, 1979. Government Operations. Establishes the Government Executive Analysis and Reform (GEAR) Commission and a Task Force on American Federalism.

Directs the Commission to study the structure of Federal Agencies and programs and to recommend methods to improve the efficiency of the Federal Government.

Directs the Task Force to study the appropriate levels of responsibility shared among Federal, State, and local governments and to recommend constitutional, legislative, and administrative changes necessary to achieve a proper balance and division of Federal, State, and local roles.

H.R. 4881. July 20, 1979. Judiciary. Grants a Federal charter to the National Ski Patrol System.

H.R. 4882. July 20, 1979. Judiciary; Rules. Requires each Federal agency upon promulgating a rule to publish and submit to Congress: (1) a statement of the need for the rule; and (2) a preliminary analysis of its economic impact. Requires, with respect to major rules: (1) an economic impact statement; (2) estimates of related paperwork requirements; (3) estimates of its effects on the operation of Federal courts; and (4) an index of all other rules pertaining to the same subject matter.

Permits a rule to become effective only if it is not disapproved by either House of Congress within 60 days.

Directs the Comptroller General to review the economic posture of agency rules.

H.R. 4883. July 20, 1979. Government Operations. Amends the Freedom of Information Act to give courts jurisdiction to enjoin Federal agencies from withholding agency records and to revise certain procedures with respect to such Act.

H.R. 4884. July 20, 1979. Ways and Means. Amends the Internal Revenue Code to tax income of married individuals filing tax returns separate from their spouses at the same rates applicable to unmarried individuals.

H.R. 4885. July 20, 1979. Education and Labor; Judiciary. Amends the Walsh-Healey Act to permit government contractors to have their employees work a workweek consisting of four ten-hour days.

Amends the Contract Work Hours and Safety Standards Act to revise wage and overtime guidelines to accommodate such a work week.

H.R. 4886. July 20, 1979. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to permit inactive U.S. passenger vessels, upon the approval of the Secretary of Commerce, to operate under the American flag in the domestic and foreign commerce of the United States and between foreign ports.

H.R. 4887. July 20, 1979. Merchant Marine and Fisheries. Authorizes appropriations for the San Francisco Bay National Wildlife Refuge.

H.R. 4888. July 20, 1979. Merchant Marine and Fisheries. Amends the Federal Aid Wildlife Restoration Act to change the basis for determining the national population for apportionments to the States.

H.R. 4889. July 20, 1979. Merchant Marine and Fisheries. Extends the authorization period for the Great Dismal Swamp National Wildlife Refuge.

H.R. 4890. July 20, 1979. Merchant Marine and Fisheries. Amends the Commercial Fisheries Research and Development Act of 1964 to extend the authorization of appropriations through fiscal year 1983 to carry out the purposes of the Act.

H.R. 4891. July 20, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Establishes the National Geothermal Energy Commission for the Purpose of granting licenses for the exploration and commercial development of geothermal energy.

H.R. 4892. July 20, 1979. Interstate and Foreign Commerce. Repeals the prohibition against certain coercive practices affecting broadcasting in the Communications Act of 1934.

H.R. 4893. July 20, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act (CETA) to establish a Prime Sponsor Initiative Program for out-of-school unemployed, poor, 16- to 21-year-olds.

Limits the CETA Youth Employment and Training Program to in-school youth.

Allocates out-of-school program funds for statewide, Native American, and migrant projects. Raises the percentages for out-of-school program prime sponsor projects.

Allocates out-of-school program funds for the first two years according to the current in-school program formula. Thereafter allocates out-of-school program funds according to performance criteria for sponsors.

H.R. 4894. July 20, 1979. Ways and Means; Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to establish a system for the licensure of all clinical laboratories subject to national standards provided for under this Act. Requires the Secretary to establish a uniform regulatory policy with respect to laboratory provisions under this Act, the Food, Drug, and Cosmetic Act, and Medicare and Medicaid.

Amends the Social Security Act to set forth requirements with respect to payment for laboratory tests under the Maternal and

Child Health Programs, Medicare, and Medicaid.

H.R. 4895. July 20, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4896. July 20, 1979. Judiciary. Declares individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4897. July 20, 1979. Ways and Means. Amends the Internal Revenue Code to permit a taxpayer who is conscientiously opposed to war in any form to elect to have his income, estate, or gift tax payments spent for nonmilitary purposes.

Establishes the World Peace Tax Fund to receive tax payments designated for nonmilitary purposes. Establishes the World Peace Tax Fund Board of Trustees to direct research activities on behalf of world peace efforts.

H.R. 4898. July 20, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4899. July 20, 1979. Judiciary. Authorizes the granting of a visa to and admission of two named individuals to the United States for permanent residence.

H.R. 4900. July 20, 1979. Judiciary. Renews and extends a specified plant patent for six years.

H.R. 4901. July 23, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $1,000 of the interest income received by an individual during the taxable year.

H.R. 4902. July 23, 1979. Ways and Means. Amends the Revenue Act of 1978 and the Internal Revenue Code to revise the tax credit provisions with respect to employee stock ownership plans (ESOPs).

H.R. 4903. July 23, 1979. Ways and Means. Amends the Internal Revenue Code to provide a system of accelerated capital cost recovery for investment in business facilities and equipment.

H.R. 4904. July 23, 1979. Ways and Means. Amends titles IV (Aid to Families with Dependent Children and Aid for Child Welfare Services) and XVI (Supplemental Security Income) of the Social Security Act to revise the benefits, eligibility standards, Federal financial participation, and administration of the programs established under such titles.

Makes further amendments to the Act relating to the availability of certain Federal records.

Amends the Internal Revenue Code to increase the tax credit allowed on earned income.

H.R. 4905. July 23, 1979. Government Operations; Ways and Means. Establishes an Office of Real Property Tax Reform within the Department of the Treasury to assist State and local governments in coordinating, reforming, and improving the administration of real property taxes and to provide funds for education to States which adopt certain reforms with respect to such taxes.

H.R. 4906. July 23, 1979. Interstate and Foreign Commerce. Amends the Controlled Substances Act to decriminalize certain activities with respect to marihuana, including the possession of not more than one ounce of marihuana for private use.

H.R. 4907. July 23, 1979. Veterans' Affairs. Repeals certain veterans' education provisions requiring such benefits to be used within ten years of eligibility.

H.R. 4908. July 23, 1979. Veterans' Affairs. Provides that any disability of a veteran of World War I shall be treated as a service-connected disability for medical care purposes, including hospital and outpatient care services.

H.R. 4909. July 23, 1979. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to provide scholarships to medical students who agree to practice for a specified length of time at a Veteran's Administration facility upon completion of their professional training.

H.R. 4910. July 23, 1979. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any pension already paid) a monthly pension to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 4911. July 23, 1979. Veterans' Affairs. Sets forth the amount of reimbursement which the Administrator of Veterans' Affairs shall pay to the States for furnishing domiciliary, hospital, or nursing home care to eligible veterans who receive such care in States facilities.

H.R. 4912. July 23, 1979. Veterans' Affairs. Increases the specially adapted housing assistance grant for certain disabled veterans.

H.R. 4913. July 23, 1979. Veterans' Affairs. Amends the Veterans' and Survivors' Pension Improvement Act of 1978 and certain other provisions to provide that monthly annuity payments under the Railroad Retirement Act of 1974 shall not be included as income for the purpose of determining eligibility for certain veterans' pensions and dependency and indemnity compensation paid by the Veterans' Administration.

H.R. 4914. July 23, 1979. Veterans' Affairs. Provides that recipients of veterans' dependency and indemnity compensation to parents and non-service connected death, disability, or certain other service pensions will not have the amount of such pensions reduced or discontinued because of increases in monthly social security benefits.

H.R. 4915. July 23, 1979. Veterans' Affairs. Permits certain veterans with service-connected disabilities who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from either.

H.R. 4916. July 23, 1979. Veterans' Affairs. Authorizes eligible Vietnam veterans to use up to 12 months of educational benefits for employment assistance payments to nonfederal employers hiring such veterans.

Establishes programs for veterans with problems of: (1) psychological readjustment; or (2) drug or alcohol abuse.

Extends the delimiting period for veterans' educational assistance eligibility. Revises the veterans' educational assistance allowances schedule.

Authorizes grants to States for expenses for the startup costs of veterans' home loan programs.

Establishes a Commission on Veterans' Benefits.

H.R. 4917. July 23, 1979. Veterans' Affairs. Provides for the payment of supplemental tuition allowances to certain eligible veterans.

Extends the delimiting period for veterans' educational assistance for eligible veterans in school during their last year of eligibility.

H.R. 4918. July 23, 1979. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to permit patients and members in Veterans' Administration health care facilities to participate in therapeutic and rehabilitative activities sponsored by veterans' organizations at such facilities. Stipulates that such patients and members shall be paid for their participation by such sponsoring organizations.

H.R. 4919. July 23, 1979. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to provide outpatient dental services to any veteran who while on active duty was a prisoner of war for more than 180 days.

H.R. 4920. July 23, 1979. Veterans' Affairs. Provides that for purposes of veterans', dependents', and survivors' educational assistance eligibility, the agricultural work relevancy criteria shall not consider: (1) whether such work is full-time or not; or (2) whether it is the principal source of income.

H.R. 4921. July 23, 1979. Veterans' Affairs. Reduces the required veterans' disability rating from total to not less than 80 percent for purposes of eligibility for certain survivors' and dependents' medical care benefits.

H.R. 4922. July 23, 1979. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to provide mortgage protection life insurance to certain veterans unable to obtain commercial life insurance at a standard rate because of service-connected disabilities.

H.R. 4923. July 23, 1979. Veterans' Affairs. Revises the presumptions relating to certain mental diseases and disabilities of certain prisoners of war for purposes of veterans' wartime disability compensation eligibility.

H.R. 4924. July 23, 1979. Veterans' Affairs. Includes the Polish Legion of American Veterans of the United States of America as one of the organizations whose representatives may be recognized by the Administrator of Veterans' Affairs to prepare, present, and prosecute claims under laws administered by the Veterans' Administration.

H.R. 4925. July 23, 1979. Veterans' Affairs. Provides that members of the Armed Forces Reserves shall not be denied employment because of membership in a Reserve unit.

Excludes employers of less than ten employees from such prohibition.

H.R. 4926. July 23, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to provide criminal penalties for placing, or attempting to place, a loaded firearm aboard an aircraft.

H.R. 4927. July 23, 1979. Veterans' Affairs. Establishes a Court of Veterans' Appeals, appointed by the President, with exclusive jurisdiction to review on appeal all questions involved in decisions of the Board of Veterans' Appeals.

H.R. 4928. July 23, 1979. Education and Labor. Amends the National Labor Relations Act to include within the definition of "employee," for the purposes of the collective bargaining rights and procedures established by such Act, any individual employed as a supervisor.

H.R. 4929. July 23, 1979. Agriculture; Interior and Insular Affairs. Authorizes the Secretary of Agriculture to extend Department of Agriculture programs to Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and American Samoa in cooperation with the respective territorial governments.

H.R. 4930. July 23, 1979. Makes appropriations for fiscal year 1980 for the Department of the Interior, the Forest Service within the Department of Agriculture, specified programs within the Department of Energy, Indian programs within the Department of Health, Education, and Welfare, and related Federal agencies.

H.R. 4931. July 24, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax exclusion for interest earned on savings accounts.

H.R. 4932. July 24, 1979. Government Operations. Requires the Administrator of General Services to prescribe regulations for the installation in each Government motor vehicle of a device which warns the operator when such vehicle is consuming energy nonproductively.

H.R. 4933. July 24, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for expenditures made to develop, build, or purchase equipment which indicates to operators of motor vehicles that such vehicles are consuming energy inefficiently.

H.R. 4934. July 24, 1979. Judiciary. Adds to the general provisions of the Federal Criminal Code a new section relating to the amount and imposition of fines for the commission of a Federal offense. Redefines petty offenses for purposes of such code.

H.R. 4935. July 24, 1979. Ways and Means. Amends the Tariff Schedules of the United States to establish a duty on models of household furnishings and kits for miniature houses.

H.R. 4936. July 24, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Provides for a coordinated, simplified, and prompt process for Federal approval of nonnuclear energy facilities which are determined to be in the national interest.

Establishes an Energy Mobilization Board to be appointed by the President to designate priority energy projects, based on specified criteria, and to publish a project decision schedule containing deadlines for all Federal actions relating to such projects.

H.R. 4937. July 24, 1979. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that otherwise qualified individuals who lost railroad related employment through no fault of their own shall be deemed to have "current connections with the railroad industry" for purposes of determining eligibility for survivors benefits under such act.

H.R. 4938. July 24, 1979. Interior and Insular Affairs. Grants to the City of Los Angeles easements and rights-of-way together with the right to continue the City's water and power operations within specified public lands situated in Mono County, California.

H.R. 4939. July 24, 1979. Science and Technology. Directs the Office of Science and Technology Policy, in consultation with appropriate Federal agencies and offices, to establish a Federal mechanism within such Office to apply and promote the understanding and appreciation of comparative risks in scientific, technological, and related matters and to assist Federal, State, and local governments, private industry, and the public in making intelligent comparisons and evaluations of those risks.

H.R. 4940. July 24, 1979. Government Operations. Prohibits the Government from: (1) purchasing or operating a motor vehicle which does not meet a specified gasoline mileage requirement; (2) employing chauffeurs; (3) providing a motor vehicle to transport any Government employee or official between home and work; or (4) issuing a motor vehicle for the exclusive use of an employee or official. Exempts transportation services for the President from the provisions of this act.

H.R. 4941. July 24, 1979. Public Works and Transportation. Designates the North San Gabriel Dam and Lake Georgetown on the San Gabriel River, Texas.

H.R. 4942. July 24, 1979. Ways and Means. Amends the Internal Revenue Code to permit tax-exempt cemetery corporations to issue preferred stock and to pay dividends on such stock.

H.R. 4943. July 24, 1979. Judiciary. Grants the consent of Congress to the compact between the States of New York and New Jersey which provides for the promotion and preservation of commerce in and through the Port of New York District by financing industrial development projects.

H.R. 4944. July 24, 1979. Interstate and Foreign Commerce. Prohibits manufacturers of cigarettes or little cigars for sale or distribution in commerce from adding substances which continue the burning of such cigarettes or little cigars if left unattended.

H.R. 4945. July 24, 1979. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to: (1) shorten the minimum United States documentation period for dry bulk cargo vessels; (2) allow such vessels which are receiving an operating-differential subsidy to perform repairs outside of the United States or Puerto Rico; and (3) remove the provision of law which prohibits individuals who are receiving an operating-differential subsidy or who are chartering vessels owned by the Department of Commerce from operating or acting as an agent for any foreign-flag dry bulk cargo vessel which competes with American carriers.

H.R. 4946. July 24, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses paid for the higher education of the taxpayer or a dependent.

H.R. 4947. July 24, 1979. Interior and Insular Affairs. Transfers title in certain lands in the District of Columbia comprising the Potomac River shoreline to the United States, for the purpose of preserving such shoreline.

Authorizes legal action against the United States to recover just compensation for the lands taken pursuant to this Act.

H.R. 4948. July 24, 1979. Education and Labor. Amends the Higher Education Act of 1965 to: (1) extend eligibility for undergraduate basic and supplemental educational opportunity grants; (2) repeal the provision prohibiting supplemental grants of less than $200 from being awarded; and (3) remove the provision that students receiving such grants be at least half-time students.

H.R. 4949. July 24, 1979. Education and Labor. Prohibits standardized postsecondary admissions and admissions-preparation tests affecting interstate commerce to be administered unless certain requirements are met concerning: (1) notice of subject matter and test scores; (2) fee-determination information; (3) privacy of information; and (4) data collection and freedom of information.

H.R. 4950. July 24, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4951. July 24, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4952. July 25, 1979. Education and Labor. Amends the Age Discrimination Act of 1975 to exempt specified programs from the prohibition against age discrimination only if such actions are specifically directed or permitted by Federal statutes.

H.R. 4953. July 25, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income certain amounts of interest earned on savings accounts in financial institutions.

H.R. 4954. July 25, 1979. Ways and Means. Amends the Tariff Schedules of the United States to extend the duty-free entry of manganese ore. Provides for duty-free entry prior to enactment of this Act.

H.R. 4955. July 25, 1979. Foreign Affairs. Authorizes the appropriation of additional funds for migration and refugee assistance.

H.R. 4956. July 25, 1979. Banking, Finance and Urban Affairs. Prohibits any instrumentality of the United States from withholding Government contracts or applying any other sanction to enforce voluntary wage-price guidelines.

H.R. 4957. July 25, 1979. Banking, Finance and Urban Affairs. Amends the Federal banking laws to authorize negotiable order of withdrawal accounts at depository institutions. Permits Federal savings and loan associations to establish remote service units. Authorizes federally insured credit unions to receive share draft deposits.

H.R. 4958. July 25, 1979. Agriculture. Amends the Commodity Exchange Act to prohibit trading in potato (Solanum tuberosum) futures on commodity exchanges.

H.R. 4959. July 25, 1979. Post Office and Civil Service. Authorizes the Office of Personnel Management to enter into contracts to provide dental benefit plans for Federal employees. Specifies benefits which are required to be provided under such plans. Sets forth provisions governing: (1) the enrollment of employees; and (2) the contributions of the Government and enrolled individuals toward the subscription charge of such a plan.

Requires that an eligible individual be provided specified information concerning such plans. Creates the Employees Dental Benefits Fund.

H.R. 4960. July 25, 1979. Banking, Finance and Urban Affairs. Authorizes the President to present, on behalf of the Congress, a gold medal of appropriate design to Gerald F. Spiess in recognition of his distinguished feat as a transatlantic sailor.

H.R. 4961. July 25, 1979. Judiciary. Provides that the Court for the Eastern District of Pennsylvania shall be held at Lancaster, Pennsylvania.

H.R. 4962. July 25, 1979. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to provide medical assistance to eligible individuals under the age of 21 and to eligible women during and after pregnancy. Establishes a national child health assurance program (CHAP) income standard and a national maternal income standard.

Requires a State Medicaid plan to develop a plan for the implementation of a CHAP which meets specified levels of acceptable performance.

H.R. 4963. July 25, 1979. Judiciary. Declares an individual admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4964. July 25, 1979. Judiciary. Declares two individuals admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4965. July 25, 1979. Judiciary. Authorizes classification of a named individual as a natural-born alien daughter of a named citizen of the United States.

H.R. 4966. July 25, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to the estate of a named individual in satisfaction of a claim against the United States.

H.R. 4967. July 26, 1979. Education and Labor. Authorizes the Commissioner of Education to make grants to Fisk University, in Nashville, Tennessee, for the development of the William Levi Dawson Institute of Public Affairs of Fisk University.

H.R. 4968. July 26, 1979. Ways and Means. Amends the Internal Revenue Code to provide that the net operating loss carryover period for a taxpaying entity which ceases to be a real estate investment trust shall be the same as the net operating loss carryover period for an entity which continues to qualify as a real estate investment trust.

H.R. 4969. July 26, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that disability insurance benefits for an individual having a terminal illness shall begin the first month during all of which such individual has such illness.

H.R. 4970. July 26, 1979. House Administration. Amends the Federal Election Campaign Act of 1971 to limit campaign contributions by multicandidate political committees (other than a multicandidate committee of a political party) for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.

H.R. 4971. July 26, 1979. Public Works and Transportation. Directs the Secretary of Transportation to establish rules and regulations relating to commercial motor vehicle safety.

H.R. 4972. July 26, 1979. Small Business. Authorizes the establishment of, and directs the Small Business Administration to approve, examine, and supervise, risk retention groups formed to assume or spend the liability of two or more persons arising from product liability or defective construction claims. Preempts State laws contrary to the effective implementation of this Act.

H.R. 4973. July 26, 1979. Judiciary. Makes it a Federal crime for a business manager to knowingly fail to inform the appropriate Federal agency, and to warn affected employees, after discovering in the course of business that a serious danger is associated with a product or business practice.

H.R. 4974. July 26, 1979. Banking, Finance and Urban Affairs. Establishes, within the Department of Housing and Urban Development, the Solar Energy Development Bank to make below-market interest rate loans for the purchase and installation of solar energy equipment in commercial and residential buildings.

H.R. 4975. July 26, 1979. Interior and Insular Affairs. Establishes the Orange Coast National Urban Park in the Irvine Coast-Laguna area of California.

H.R. 4976. July 26, 1979. District of Columbia. Amends the Act of April 8, 1935, to increase the number of members of the board of trustees of Trinity College of Washington, D.C.

H.R. 4977. July 26, 1979. Veterans' Affairs. Provides that any disability of a veteran of World War I shall be treated as a service-connected disability for medical care purposes, including hospital and outpatient care services.

H.R. 4978. July 26, 1979. Merchant Marine and Fisheries. Establishes, under the Fish and Wildlife Coordination Act, a time limit for the completion of consultations between applicants for a Federal permit or license required for drilling for oil or gas, the United States Fish and Wildlife Service, and any agency which administers the wildlife resources of the affected area.

H.R. 4979. July 26, 1979. Public Works and Transportation. Amends the Federal Water Pollution Control Act to establish minimum periods of time for the issuance of permits relating to drilling for natural oil or gas and for the discharge of dredged or fill material at specified sites.

H.R. 4980. July 26, 1979. Ways and Means. Amends the Internal Revenue Code to revise requirements for the exemption of certain coin-operated gaming devices from the occupational tax on such devices.

H.R. 4981. July 26, 1979. Post Office and Civil Service. Establishes the Citizens' Commission for the Commemoration of the Federal Government Bicentenary Era to commemorate events of the period of 1776 through 1800 relating to the development of the Federal Government.

H.R. 4982. July 26, 1979. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; Judiciary. Authorizes the creation of independent, for-profit regional energy corporations to promote energy conservation and production efforts among the States. Empowers such corporations to participate in projects to alleviate regional energy shortages. Provides for the financing of such corporations.

H.R. 4983. July 26, 1979. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4984. July 26, 1979. Armed Services. Authorizes the President to present, in the name of Congress, a Medal of Honor to a named individual.

H.R. 4985. July 27, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Provides for a coordinated, simplified, and prompt process for Federal approval of nonnuclear energy facilities which are determined to be in the national interest.

Establishes an Energy Mobilization Board to be appointed by the President to designate priority energy projects, based on specified criteria, and to publish a Project Decision Schedule containing deadlines for all Federal actions relating to such projects.

H.R. 4986. July 27, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act and the Federal Deposit Insurance Act to authorize the automatic transfer of funds from savings deposits to checking accounts by member banks in the Federal Reserve System and federally insured nonmember banks. Authorizes negotiable order of withdrawal accounts at depository institutions. Permits Federal savings and loan associations to establish remote service units. Authorizes federally insured credit unions to receive share draft accounts.

H.R. 4987. July 27, 1979. Banking, Finance and Urban Affairs. Establishes within the Department of Housing and Urban Development a Solar Energy Development Bank to subsidize loans for the purchase and installation of solar energy systems in commercial and residential structures.

H.R. 4988. July 27, 1979. Ways and Means. Amends the Internal Revenue Code to include within the definition of "solid waste disposal facility", for purposes of the tax exemption for industrial development bond interest, any facility which has the function of: (1) recovering material from solid wastes; and (2) producing gas, heat, or energy directly or indirectly from the solid waste disposal process and which is operated by or on behalf of a governmental agency.

Allows tax-exempt industrial development bonds to be used to fund solid waste disposal facilities where steam or electric energy produced at such facilities is sold to and used by the Federal Government.

H.R. 4989. July 27, 1979. Education and Labor. Amends specified definitions under the Federal Mine Safety and Health Act of 1977.

H.R. 4990. July 27, 1979. Ways and Means. Amends the Internal Revenue Code to allow employers, employees, and self-employed individuals an income tax credit equal to 20 percent of the amount of social security taxes paid by such individuals in 1980 and 1981.

H.R. 4991. July 27, 1979. District of Columbia. Directs the recomputation of any annuities received under the Policemen and Firemen's Retirement and Disability Act of the District of Columbia which were based on the retirement of an individual under such Act for a disability during the period beginning on October 12, 1975, and ending on June 19, 1976.

H.R. 4992. July 27, 1979. Agriculture. Amends the Agricultural Act of 1970 to require all exporters of certain wheat, feed grains, and cotton products to make daily reports to the Secretary of Agriculture of specified kinds of information regarding any export sale of any such product.

H.R. 4993. July 27, 1979. Interior and Insular Affairs. Amends the Public Rangelands Improvement Act of 1978 to restrict the Secretary of the Interior in reducing livestock grazing on the public rangelands.

H.R. 4994. July 27, 1979. Interstate and Foreign Commerce. Amends the Safe Drinking Water Act to direct the Administrator of the Environmental Protection Agency to make grants to certain public water systems to enable such systems to meet the requirements of the national interim primary drinking water regulations with respect to fluoride.

Sets forth the conditions for the receipt of such grants.

H.R. 4995. July 27, 1979. Government Operations. Establishes a Special Trade Agency to be directed by the Special Trade Representative for Negotiations, Enforcement, and Policy.

Establishes a Trade Coordination Council to advise the President concerning the integration of the trade functions of various departments and agencies.

Transfers to the Special Trade Representative specified trade-related functions of the Secretaries of State, Treasury, and Commerce.

H.R. 4996. July 27, 1979. Interior and Insular Affairs. Restores Federal recognition and services and benefits as a tribe to specified bands of the Paiute Indians of Utah.

Reopens the final membership list of such tribe.

Provides for the establishment, by elections under the supervision of the Secretary of the Interior, of a tribal government.

H.R. 4997. July 27, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to revise the terms of office of the chairman and vice chairman of the Board of Governors of the Federal Reserve System. Enunciates the duties of the vice chairman.

H.R. 4998. July 27, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to require public release of detailed minutes of Federal Open Market Committee Meetings. Authorizes release of information concerning foreign countries and central banks of foreign countries on a deferred basis.

H.R. 4999. July 27, 1979. Ways and Means. Amends the Internal Revenue Code to qualify malthouses for investment tax credit treatment.

H.R. 5000. July 27, 1979. Post Office and Civil Service. Entitles nonprofit service clubs to the reduced postage rates for third-class mail currently in effect for the mail matter of qualified nonprofit organizations.

H.R. 5001. July 27, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) provide for the establishment of tax-exempt independent local newspaper advance estate tax trusts to facilitate payment of the estate tax imposed upon the estate of a decedent who owned an interest in an independent local newspaper; (2) excluded from the decedent's gross estate his interest in an independent local newspaper and any estate tax payments made by the estate tax trust; and (3) permit the executor of an estate which includes an interest in an independent local newspaper to pay the estate tax in installments.

H.R. 5002. July 27, 1979. Foreign Affairs; Ways and Means. Establishes a Commission on a North American Economic Alliance to study the development and utilization of the resources of the United States, Mexico, and Canada. Sets forth provisions concerning membership, staffing, and the powers of such Commission.

H.R. 5003. July 27, 1979. Interior and Insular Affairs. Declares that title to specified lands in the State of New Mexico is held in trust by the United States for the Ramah Band of the Navajo Tribe.

H.R. 5004. July 27, 1979. Education and Labor. Directs the Commissioner of Education to make a grant to Tuskegee Institute in Alabama for the construction of a building in memory of General Daniel James, to be known as the "Daniel James Memorial Center for Preventive Health Education".

H.R. 5005. July 27, 1979. Judiciary. Relieves a named individual of liability for the payment to the United States of a specified sum. Directs the Secretary of the Treasury to pay to such individual any part of such sum which may have been received or withheld from such individual in connection with such liability.

H.R. 5006. July 30, 1979. Agriculture; Interstate and Foreign Commerce. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make grants to current and proposed public or similar systems to enable such systems to comply with national primary drinking water regulations, and to assist such systems to serve their users at a reasonable user rate.

Amends the Public Health Service Act to deem in compliance with such water regulations certain noncomplying rural water systems while they apply for grants and act to achieve compliance.

H.R. 5007. July 30, 1979. Judiciary. Makes it a violation of Federal criminal law for a person who is authorized to intercept a wire or oral communication to knowingly trespass in connection with such interception without authorization. Sets forth procedural requirements for a judicial order permitting such a trespass.

H.R. 5008. July 30, 1979. Veterans' Affairs; Judiciary. Repeals provisions permitting the Administrator of Veterans' Affairs to determine and pay fees to agents or attorneys representing veterans' claims under laws administered by the Veterans' Administration (VA).

Provides for judicial review of certain administrative decisions made by the Administrator.

Applies the provisions of the Administrative Procedure Act to all VA rules, regulations, and determinations.

H.R. 5009. July 30, 1979. Ways and Means; Judiciary. Awards reasonable court costs, including attorneys' fees, to a prevailing party in any civil action for the determination, collection, or refund of any tax, interest, penalty, or other matter arising under the Internal Revenue Code.

H.R. 5010. July 30, 1979. House Administration. Amends the Federal Election Campaign Act of 1971 to revise specified reporting and disclosure requirements by political committees in Federal elections.

Requires any individual who at the time of appointment to the Federal Election Commission is engaged in any other business, vocation, or employment to terminate such activity within a specified time limit.

Limits the amount of honorariums a person may accept while such person is an elected or appointed officer or employee of the Federal Government.

H.R. 5011. July 30, 1979. Merchant Marine and Fisheries. Limits the size of the Conboy Lake National Wildlife Refuge in the State of Washington.

H.R. 5012. July 30, 1979. Ways and Means. Amends the Internal Revenue Code to permit married individuals filing separate income tax returns to use the tax tables applicable to unmarried individuals.

H.R. 5013. July 30, 1979. Judiciary. Provides that certain immigrants eligible for preference priority admission based on family relationships with United States citizens or permanent residents shall be admitted without regard to certain numerical limitations on immigration.

H.R. 5014. July 30, 1979. Judiciary. Makes it a Federal crime to transport stolen or counterfeit airline tickets or to sell or receive such tickets in interstate or foreign commerce.

H.R. 5015. July 30, 1979. Post Office and Civil Service. Amends the Federal Physicians Comparability Allowance Act of 1978 to extend the provisions of such act for 2 years.

Amends the definitions of "Government physician" and "agency" for purposes of such act. Limits the Federal pay for a Government physician for any fiscal year.

H.R. 5016. July 30, 1979. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5017. July 30, 1979. Judiciary. Authorizes the naturalization of a named individual who lost U.S. citizenship if such individual takes certain oaths prescribed under the Immigration and Nationality Act.

H.R. 5018. July 31, 1979. Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to repeal title III, with respect to the designation of marine sanctuaries, and renames such act the Marine Protection and Research Act of 1972.

H.R. 5019. July 31, 1979. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to direct the Comptroller General to establish a program to determine and reconcile differences in data collected on petroleum product imports by specified Government agencies.

H.R. 5020. July 31, 1979. Interstate and Foreign Commerce. Directs the Administrator of the Environmental Protection Agency to arrange for a comprehensive study of the fluoride levels of specified public water systems.

H.R. 5021. July 31, 1979. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to extend flood insurance coverage to breakwalls and other flood-prevention structures. Sets limits on such coverage based on premium rates.

H.R. 5022. July 31, 1979. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit the manufacture, importation, installation, offer to sell, rent, lease, or other distribution of telephone receivers or similar equipment manufactured after the date of enactment of this Act for use in connection with any interstate or foreign communication, unless such receiver or equipment is designed and manufactured to permit telephone reception by means of hearing aids with inductive receptors.

H.R. 5023. July 31, 1979. House Administration. Amends the National Museum Act of 1966 to authorize additional appropriations to the Smithsonian Institution to carry out the purpose of the Act.

H.R. 5024. July 31, 1979. Post Office and Civil Service. Increases the salaries of the Chairman and members of the Board of Governors of the Federal Reserve System.

H.R. 5025. July 31, 1979. Armed Services. Stipulates that no veteran shall be denied medical care under CHAMPUS (Civilian Health and Medical Plan of the Uniformed Services) for any service-connected disability solely because care for such disability is available at Veterans' Administration medical facilities.

H.R. 5026. July 31, 1979. Ways and Means. Amends the Internal Revenue Code to allow pensioners under a public retirement system and other retirees aged 65 or over a $5,000 exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 5027. July 31, 1979. Public Works and Transportation. Establishes within the Federal Aviation Administration the Federal Aviation Regulatory Review Commission. Stipulates that the Commission shall review and comment on any final rule, regulation, or order relating to aviation issued by the Secretary of Transportation, the Administrator of the Federal Aviation Administration, or the Chairman of the Civil Aeronautics Board.

H.R. 5028. July 31, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from issuing any rule, regulation, or order relating to specified aspects of the control of navigable airspace.

H.R. 5029. July 31, 1979. Judiciary. Establishes criminal penalties for whoever willfully or maliciously: (1) destroys any of the property of a nuclear utilization or production facility which is operated, controlled, or licensed by the United States; (2) interferes with the working of any such facility; or (3) obstructs the production, utilization, or transmission of energy from such facility.

H.R. 5030. July 31, 1979. Judiciary. Establishes a comprehensive Federal Bureau of Investigation Charter which sets forth the duties and responsibilities of the FBI with respect to criminal and civil investigations undercover operations, and law enforcement support functions.

H.R. 5031. July 31, 1979. Ways and Means. Amends the Internal Revenue Code to exempt radial tires and the recapping and retreading of such tires from the excise tax on tires and tubes.

H.R. 5032. July 31, 1979. Interior and Insular Affairs. Authorizes the establishment of the Long Island Sound Heritage in the States of Connecticut and New York.

H.R. 5033. July 31, 1979. Foreign Affairs. Merchant Marine and Fisheries; Interior and Insular Affairs. Expresses the sense of Congress that the Interim Convention on the Conservation of North Pacific Fur Seals should be terminated and negotiations entered into for an international argreement banning the killing of all such seals.

Provides for the establishment of a wildlife refuge and a marine sanctuary in the Pribilof Islands, Alaska. Prohibits the taking of seals within such areas.

Provides for the establishment of an advisory committee to study and recommend to Congress alternative livelihoods for Pribilof Islands natives. Provides for income maintenance assistance for such natives after the prohibition on the taking of seals takes effect.

H.R. 5034. July 31, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that the label on any packaged articles of food indicate its pull date, expiration date, and any storage instructions prescribed by the Secretary of Health, Education, and Welfare.

Requires every retail food distributor to display a sign which explains in easily understood terms the meanings of the dates and other information printed on such labels.

H.R. 5035. July 31, 1979. Merchant Marine and Fisheries. Requires the Secretary of Commerce to conduct a study of the fish harvesting and processing techniques and technologies which are utilized in foreign nations and in the United States which can be used or adapted for use in harvesting or processing fish or fish products within the United States fisheries.

H.R. 5036. July 31, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior to convey a specified parcel of land in Colorado to the Ute Mountain Ute Tribe. Stipulates that such land shall not be considered Indian country for any purpose and shall be subject to State and local governmental jurisdiction and taxation.

Directs the Secretary to pay such tribe, for economic development of their lands, a specified sum authorized to be appropriated for such purpose.

Declares that the enactment of this Act shall fully satisfy all claims against the United States by such tribe relating to land ownership.

H.R. 5037. July 31, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to revise the terms of office of the chairman and vice chairman of the Board of Governors of the Federal Reserve System. Enunciates the duties of the vice chairman.

H.R. 5038. July 31, 1979. Education and Labor. Amends the Black Lung Benefits Act to stipulate that certain benefits paid to miners who filed claims under title IV of such Act shall not be considered workers' compensation benefits for the purposes of title II of the Social Security Act (Old Age, Survivors and Disability Insurance).

H.R. 5039. July 31, 1979. Agriculture; Interstate and Foreign Commerce. Establishes a fuel stamp program to assist participants in the food stamp program to pay the cost of fuel consumed for residential heating during the period of December through March.

H.R. 5040. July 31, 1979. Education and Labor; Banking, Finance and Urban Affairs.

Requires business concerns which undertake changes of operations to: (1) notify the Secretary of Labor, affected labor organizations, employees, and local governments; (2) assist employees who lose employment due to such changes; and (3) reimburse Federal and local governments for lost revenue.

Directs the Secretary of Labor to assist affected employees, business concerns, local governments, and certain employers and cooperative employee organizations.

Sets forth criminal and civil violations and penalties.

Establishes the National Employment

Priorities Administration and the National Employment Priorities Advisory Council.

H.R. 5041. July 31, 1979. Judiciary. Declares an individual admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5042. July 31, 1979. Judiciary. Authorizes the granting of a visa to and admission of a named individual to the United States for permanent residence.

H.R. 5043. August 1, 1979. Ways and Means. Amends the Internal Revenue Code to allow a tax exclusion for income attributable to a discharge of indebtedness due to the bankruptcy, insolvency, or business indebtedness of a taxpayer.

Provides for the treatment of insolvency reorganizations on the same basis as other types of corporate reorganization for purposes of determining the taxability of the gain arising from such transactions.

H.R. 5044. August 1, 1979. Ways and Means. Amends the Internal Revenue Code to provide for the refund or credit of excise taxes paid on the production of gasohol.

H.R. 5045. August 1, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce.

Amends the Energy Policy and Conservation Act to establish a nonprofit corporation to be known as the National Energy Security Corporation, to provide for the undertaking of commercial-scale ventures assuring the availability of the maximum amount of energy for domestic use and furthering the national goal of a domestic synthetic fuel and feedstock production capacity of 2,500,000,000 barrels of crude oil equivalent.

Authorizes the Board of Directors of such Corporation to provide financial assistance to such designated energy projects.

Establishes a revolving fund in the United States Treasury into which shall be deposited receipts of the Corporation.

H.R. 5046. August 1, 1979. Education and Labor; Interstate and Foreign Commerce. Amends the Labor Management Relations Act, 1947, to set forth new procedures for settling emergency labor disputes in the following transportation industries: (1) railroad; (2) airline; (3) maritime; (4) longshore; and (5) trucking.

H.R. 5047. August 1, 1979. Ways and Means. Amends the Tariff Schedules of the United States to permit temporarily the duty-free entry of color couplers and intermediates used in the manufacture of photographic sensitized material.

H.R. 5048. August 1, 1979. Interior and Insular Affairs. Sets forth new boundaries for the Manassas National Battlefield Park, Virginia. Authorizes the Secretary of the Interior to acquire lands within such boundaries.

H.R. 5049. August 1, 1979. Judiciary. Directs the Judicial Conference of the United States to compile data on the sentences imposed by Federal courts in criminal cases and to develop advisory guidelines for Federal judges to use in imposing sentences.

Specifies factors which a court must consider in determining a sentence and sets forth procedures for the review of a sentence imposed.

H.R. 5050. August 1, 1979. Ways and Means. Amends the Internal Revenue Code to reduce individual and estate and trust income taxes and to provide for cost-of-living adjustments to the personal exemption and individual income tax brackets. Provides for a system of accelerated capital cost recovery for investment in business facilities and equipment.

Amends the Social Security Act and the Internal Revenue Code to reduce social security taxes and to provide for the partial funding from general revenues of the Hospital Insurance Program for the Aged and Disabled.

H.R. 5051. August 1, 1979. Education and Labor. Amends the Higher Education Act of 1965 to revise the provisions concerning: (1) agreements between the Federal government and the States; and (2) State planning and financing of postsecondary education.

Authorizes the Secretary of Health, Education, and Welfare to enter into supplemental agreements with the States to aid in the administration of Federal higher education programs.

H.R. 5052. August 1, 1979. Judiciary. Directs the Bureau of Prisons to make available to all persons incarcerated in Federal correctional institutions basic health services.

Makes the remedy against the United States under the Federal Tort Claims Act for personal injury caused by the negligence of medical personnel of the Bureau of Prisons exclusive of any other civil action by reason of the same subject matter against such personnel.

Sets forth procedures regarding autopsies performed on deceased prisoners of Federal institutions.

H.R. 5053. August 1, 1979. Interstate and Foreign Commerce; Judiciary; Ways and Means. Prohibits the disclosure of individually identifiable medical information. Permits the disclosure of medical information with the patient's consent or in specified circumstances. Requires warnings against unauthorized disclosures.

Directs medical service providers to allow patients full access to their records.

H.R. 5054. August 1, 1979. Education and Labor. Amends the Federal Mine Safety and Health Act of 1977 to exempt specified surface mine operators from the provisions of such Act.

H.R. 5055. August 1, 1979. Public Works and Transportation. Authorizes the Secretary of Transportation to fund projects for the repair of highways which have incurred a substantial increase in use as a result of transportation activities to meet national energy requirements and which will continue to incur such use.

H.R. 5056. August 1, 1979. Ways and Means. Confers tax-exempt status upon the Trans-Alaska Pipeline Liability Fund.

H.R. 5057. August 1, 1979. Agriculture. Amends the Food Stamp Act of 1977, as amended by the Food Stamp Act Amendments of 1979, with respect to the excess medical expense deduction for certain households and to lower the threshold amount for computing such excess expenses.

H.R. 5058. August 1, 1979. Education and Labor; Judiciary. Amends the Walsh-Healey Act to permit government contractors to have their employees work a workweek consisting of four ten-hour days.

Amends the Contract Work Hours and Safety Standards Act to revise overtime guidelines to accomodate such a workweek.

H.R. 5059. August 1, 1979. Public Works and Transportation.

Amends the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority.

Limits the authority of the Federal Government to require or permit the Corporation to make specified sales of power.

H.R. 5060. August 1, 1979. Ways and Means. Amends the Internal Revenue Code to remove restrictions on the use of restricted stock options and to eliminate the exercise of such stock options as an item of tax preference for purposes of the minimum tax.

H.R. 5061. August 1, 1979. Judiciary; Foreign Affairs. Directs the Secretary of Commerce to establish within the Department of Commerce an office to promote export trade associations.

Exempts certified export trade associations from the antitrust laws. Sets forth the procedures for obtaining certification. Authorizes enforcement of such provisions solely by Federal agencies. Limits the prohibition against unfair methods of competition to domestic competitors engaged in export trade.

Directs the President to appoint a task force to examine the effect of this Act and to make recommendations.

Repeals the Webb-Pomerene Act.

H.R. 5062. August 1, 1979. Government Operations. Declares as a national goal eventual population stabilization.

Establishes in the Executive Office of the President an Office of Population Policy.

Directs all Federal agencies to consider population change and stabilization in decisionmaking.

Requires the President to transmit to Congress annually a National Population Change and Planning Report.

H.R. 5063. August 1, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in satisfaction of a claim against the United States.

H.R. 5064. August 1, 1979. Judiciary. Grants a named company a ten-year period within which to make full payment to the United States of a judgment in a specified amount entered against such company by the Court of Claims.

H.R. 5065. August 1, 1979. Ways and Means. Directs the Secretary of the Treasury to admit free of duty (or refund duty already paid on) a certain item purchased by a named Cultural Center.

H.R. 5066. August 1, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named corporation in satisfaction of a claim against the United States.

H.R. 5067. August 1, 1979. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5068. August 1, 1979. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5069. August 2, 1979. Agriculture. Amends the Egg Research and Consumer Information Act to increase the rate of the assessment which egg producers must pay handlers.

H.R. 5070. August 2, 1979. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that a "current connection" with the railroad industry for purposes of such Act shall not be deemed lost by reason of certain employment with the Department of Energy.

H.R. 5071. August 2, 1979. Banking, Finance, and Urban Affairs. Amends the Federal Reserve Act, the Federal Deposit Insurance Act, the Home Owners' Loan Act of 1933, and the Federal Credit Union Act to permit financial institutions to offer interest-bearing accounts upon which funds may be withdrawn by negotiable instruments.

Provides for increases in the interest rate ceilings and eventual termination of interest rate controls and differentials.

H.R. 5072. August 2, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to stipulate that specific amounts of the maximum contingent liability otherwise assumable by the Overseas Private Investment Corporation shall be available for insurance and guaranties offered pursuant to agreements providing for the development and extraction of oil, gas, and other minerals. Makes the Inter-American Development Bank responsible for administering such program. Sets forth limitations to the U.S. assumption of liability pursuant to such agreement.

H.R. 5073. August 2, 1979. Public Works and Transportation. Directs Federal department and agency heads to insure that new Federal buildings and new federally leased building space use solar energy to provide all or part of the energy needed for hot water, heating, and cooling.

H.R. 5074. August 2, 1979. Interstate and Foreign Commerce; Ways and Means. Establishes a system for the compensation of victims of toxic substance pollution to be administered by the Administrative Board for Compensation of Victims of Toxic Substance Pollution, and the Office of the Ombudsman for Compensation of Victims of Toxic Substance Pollution.

H.R. 5075. August 2, 1979. Judiciary. Directs the Commissioner of Patents and Trademarks to establish regulations for the reexamination of patents to determine whether prior patents cited to the Patent and Trademark Office affect the patentability of any patent claim. Authorizes any individual to request such a reexamination.

Allows the patent owner to amend any claim of the patent under such reexamination and to appeal any adverse decision of the reexamination.

Provides for a stay of the proceedings of any civil action involving the validity of a patent to enable either party of such action to request such a reexamination by the Patent and Trademark Office.

H.R. 5076. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to prohibit any State, or political subdivision thereof, which imposes an income tax on a corporation from taking into account any amount of income belonging to, or attributable to, any foreign corporation which is also a member of an affiliated group to which the domestic corporation belongs, unless such amount is subject to Federal income tax.

Prohibits any State, or political subdivision thereof, from taxing or otherwise taking into account a certain percentage of any dividend received by a corporation from a foreign corporation.

H.R. 5077. August 2, 1979. Merchant Marine and Fisheries. Allows any citizen of the United States to apply to Secretary of the Department in which the National Marine Fisheries Service is located for approval of an underutilized specie development plan. Authorizes the Secretary to approve such plan if it is determined that it will facilitate the development of an underutilized specie or species.

H.R. 5078. August 2, 1979. Judiciary. Prohibits any Federal agency from issuing any order or promulgating any rule or regulation which has the same legal effect as any provision of any legislation disapproved by Congress for three years after such disapproval.

H.R. 5079. August 2, 1979. Foreign Affairs. Authorizes the President and the Secretary of Commerce to provide for U.S. participation in Energy-Expo 82 which is to be held in Knoxville, Tennessee.

H.R. 5080. August 2, 1979. Education and Labor. Permits a lower minimum wage: (1) for youths under age 19, for limited periods; and (2) for full-time students, for part-time or vacation period work.

Directs the Secretary of Labor to consider specified factors relating to employment in retail or service establishments in issuing orders declaring such employment hazardous or unhealthy for 16 to 18 year old children.

Amends the Fair Labor Standards Act of 1938 to postpone certain increases in the minimum wage.

Changes the tip credit in determining whether minimum wages are paid to tipped employees from 45 percent to 50 percent of tips received.

H.R. 5081. August 2, 1979. House Administration. Amends the Federal Elections Campaign Act of 1971 to prohibit specified political committees from making contributions to any candidate and the candidate's authorized political committees with respect to any election for Federal office.

H.R. 5082. August 2, 1979. Judiciary. Sets forth the procedure for the notification of and the review by Congress of any ratification or rescission of ratification of any amendment to the Constitution. Gives Congress the sole authority to determine the validity of the adoption of an amendment or the rescission of ratification.

H.R. 5082. August 2, 1979. Judiciary. Amends the Immigration and Nationality Act to permit the waiver of certain passport and visa requirements for nonimmigrants seeking temporary admission to the United States for business or pleasure purposes, and who are nationals of foreign countries which: (1) have a refusal rate for such admissions of less than two and one-half percent; and (2) extend reciprocal privileges to American nationals.

H.R. 5084. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) set the amount of the investment tax credit for solar energy property at 30 percent and to extend the expiration date for such credit and for the credit for other types of energy property; (2) permit noncorporate lessors of solar energy property to qualify for the investment tax credit; (3) allow a residential energy credit with respect to solar energy property to the extent such property performs a solar function; and (4) allow accelerated amortization of solar energy property.

H.R. 5085. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from the gross income of a nonresident alien amounts received as an annuity under a qualified annuity plan, or from a tax-exempt pension trust, if such amounts were payable by reason of personal services which were performed by such nonresident alien outside the United States, or within the United States for a foreign employer.

H.R. 5086. August 2, 1979. Ways and Means; Interstate and Foreign Commerce. Establishes a National Commission on Hospital Cost Containment to study specified aspects of hospital costs and utilization. Authorizes the Secretary of Health, Education, and Welfare to provide grants for State mandatory hospital cost containment programs.

H.R. 5087. August 2, 1979. Judiciary. Amends the Immigration and Nationality Act regarding: (1) entry for non-academic study; (2) the status of children; (3) deportation; (4) foreign medical personnel; (5) re-entry permits; (6) re-classification and status adjustment; (7) resident alien reporting requirements; (8) naturalization procedures; (9) automatic citizenship of adopted children; and (10) naturalization court fees.

Removes the authority of the Central Intelligence Agency to have aliens admitted without regard to their admissibility under immigration laws and regulations.

H.R. 5088. August 2, 1979. Public Works and Transportation. Establishes national uniform gross weight and length limits for vehicles using the Interstate Highway system during fuel emergencies. Authorizes the President to declare such a condition when he finds that a shortage of fuel is seriously disrupting the interstate trucking industry.

H.R. 5089. August 2, 1979. Judiciary. Constitutional Amendment—Limits the increase of total budget outlays of the United States Government in any fiscal year to a percentage equal to the percentage increase in the gross national product during the previous calendar year. Stipulates that if the inflation rate exceeds three percent annually the increase in total outlays shall be reduced by a specified percentage.

Continues Federal aid programs to States and local governments for a period of six years. Prohibits Congress from requiring by law that a State or local government engage in additional or expanded activities without compensation equal to the additional costs.

H.R. 5090. August 2, 1979. Ways and Means; Armed Services; Banking, Finance and Urban Affairs; Foreign Affairs; Government Operations; Science and Technology; Interstate and Foreign Commerce; Interior and Insular Affairs.

Amends the Internal Revenue Code to allow income tax credits for the production of certain alternate forms of energy and for the purchase of certain energy saving devices.

Terminates the Department of Energy after January 1, 1984, and terminates certain Federal laws administered by such Department.

H.R. 5091. August 2, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem any food additive safe if the Secretary of Health, Education, and Welfare complies with certain procedural requirements.

Amends the Saccharin Study and Labeling Act to extend the ban on restrictions on the sale or distribution of saccharin.

H.R. 5092. August 2, 1979. Ways and Means. Repeals the requirement, under title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act, that the amount of monthly OASDI benefits payable to a spouse or surviving spouse be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 5093. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for individuals who perform voluntary services for certain public service organizations.

H.R. 5094. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow a refundable income tax credit for the use of a passenger automobile for charitable purposes.

H.R. 5095. August 2, 1979. Education and Labor. Directs the Secretary of Labor to: (1) enter into a contract with Opportunities Industrialization Centers, Incorporated, for the creation of jobs and the provision of skills training for hard-core unemployed welfare recipients in depressed areas, and unemployed persons in depressed areas whose unemployment insurance has expired; and (2) enter into contracts with other national community-based organizations for the provision of comprehensive employment services to such persons.

Directs each agency administering authority under any of specified Acts or programs to assure that consideration will be given to national community-based organizations for the provision of comprehensive employment services and job opportunities to welfare recipients.

H.R. 5096. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer election with respect to the accelerated depreciation of office and pollution control equipment, motor vehicles, and investment tax credit property.

H.R. 5097. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow the nonrecognition of gain from the sale or exchange of stock in any small business corporation.

H.R. 5098. August 2, 1979. Merchant Marine and Fisheries. Authorizes the Secretary of Commerce to transfer, without reimbursement, the title and ownership of the ocean tug Scotch Cap to the Superior-Douglas County Museum in Superior, Wisconsin.

H.R. 5099. August 2, 1979. Interstate and Foreign Commerce. Requires principals to furnish specified information to a sales representative concerning orders placed through the representative's account.

Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to indemnify the sales representatives, unless they have entered into a contract which conforms to such information requirements.

H.R. 5100. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to provide for the partial exclusion of interest income from the gross income of an individual taxpayer.

H.R. 5101. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to increase the amount of the exclusion from gross income of dividends received by individuals.

H.R. 5102. August 2, 1979. Agriculture. Amends the Food and Agriculture Act of 1977 to direct the Secretary of Agriculture to increase the established price for the 1980 crops of wheat and corn.

H.R. 5103. August 2, 1979. Judiciary; Small Business. Repeals Federal Rule of Civil Procedure 23(b)(3) and creates two new types of civil action against persons whose conduct gives rise to private actions for damages under statutes of the United States: (1) a public action for redress of small monetary injuries to numerous members of the public; and (2) a class compensatory action for redress of substantial monetary injuries to numerous members of the public.

Establishes expedited appellate procedures for small civil penalties levied against small businesses by Federal agencies.

Directs the Office of Advocacy within the Small Business Administration to assist class actions on behalf of small businesses.

H.R. 5104. August 2, 1979. Education and Labor. Amends the National Labor Relations Act to stipulate that it is not an unfair labor practice for a labor organization to refuse to provide representation for any employee in any grievance procedure if such employee is not a member of such labor organization, unless the employee is required by contract to pay dues and initiation fees.

H.R. 5105. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $100 ($200 for joint returns) of the interest income earned by individuals under the age of 65 and to exclude all interest income of individuals who have attained age 65.

H.R. 5106. August 2, 1979. Education and Labor. Amends the Higher Education Act of 1965 to authorize institutions of higher education to set aside specified percentages of work-study funds for educational and vocational-related work-study employment.

H.R. 5107. August 2, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire land in California, by donation, to establish a John J. Montgomery National Monument.

H.R. 5108. August 2, 1979. Interior and Insular Affairs. Requires that Natives be disenrolled from the Alaska Native Roll established by the Alaska Native Claims Settlement Act if they: (1) are enrolled now or hereafter by the Metlakatla Indian Community; and (2) request such disenrollment.

Requires that certain stock issued to such Natives by Village or Regional Corporations be canceled without liability.

Requires that such disenrollment not increase or decrease regional enrollments for certain purposes.

Directs the Secretary of the Interior to assist such Community in preparing and maintaining a current community roll.

H.R. 5109. August 2, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior to construct, operate, and maintain the Grass Rope unit, South Dakota, for irrigation, wildlife mitigation, and other purposes. Sets forth provisions applicable to such unit for the repayment of capital costs, transfer of operation, and the amount of land eligible to receive water.

H.R. 5110. August 2, 1979. Agriculture. Amends the United States Grain Standard Act, with respect to grain transferred out of and grain transferred into an export elevator at an export port location, to limit the official weighing requirement.

H.R. 5111. August 2, 1979. Banking, Finance and Urban Affairs. Establishes a National Mutual Housing Corporation Act to assist in the development of mutual housing associations to develop and manage multifamily housing projects for low and moderate income people.

H.R. 5112. August 2, 1979. Ways and Means; Judiciary. Amends title XVI (Supplemental Security Income) of the Social Security Act to direct the Secretary of Health, Education, and Welfare and the Attorney General to establish and maintain procedures for the exchange of information with respect to aliens who are applicants for or recipients of SSI.

Amends the Immigration and Nationality Act to exclude aliens from the United States who are likely to receive SSI within six months after entering the United States.

H.R. 5113. August 2, 1979. Merchant Marine and Fisheries; Rules. Directs the Secretary of State, in consultation with the Secretary of Commerce and the Special Representative for Trade Negotiations, to negotiate Governing International Maritime Agreements with United States' trading partners to regulate the reciprocal bulk trade between the United States and such countries. Stipulates that such an agreement shall provide that 40 percent of such trade shall be reserved for each country's merchant marine.

H.R. 5114. August 2, 1979. Judiciary; Education and Labor; Ways and Means. Amends the Immigration and Nationality Act, the Comprehensive Employment and Training Act of 1973, the Internal Revenue Code of 1954, and the Social Security Act: (1) to restrict the illegal entry and prohibit the employment of aliens in the United States; (2) to facilitate the admission of aliens for temporary employment; and (3) to regulate the issuance and use of social security account cards.

H.R. 5115. August 2, 1979. Judiciary. Requires any person who makes copies of a Government publication and offers those copies for sale to include on each copy specified information about the availability of such publication from the Government.

H.R. 5116. August 2, 1979. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to make specified metropolitan counties with authority over housing and community development in unincorporated areas eligible for Federal assistance.

H.R. 5117. August 2, 1979. Banking, Finance and Urban Affairs; Science and Technology; Interior and Insular Affairs; Interstate and Foreign Commerce; Government Operations. Establishes a loan guarantee program for the purpose of financing the construction of demonstration facilities for the conversion of domestic coal, oil shale, tar sands, biomass, peat, and other domestic resources into synthetic fuels, and for other energy sources such as ocean thermal energy conversion.

Provides for an expedited decisionmaking process for obtaining Federal and State approval of non-nuclear energy facilities determined to be of national interest.

Establishes an Office of Priority Projects in the Department of Energy.

H.R. 5118. August 2, 1979. Interior and Insular Affairs. Authorizes appropriations for the Interstate Commission on the Potomac River for the purpose of developing a plan for the cooperative management by Federal, State, District of Columbia, and local authorities of certain areas along the Potomac River.

H.R. 5119. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the hiring of unemployed individuals in a redevelopment area (designated as such under the Public Works and Economic Development Act of 1965).

H.R. 5120. August 2, 1979, Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to increase to $750 the amount of the lump-sum death payment allowed thereunder, in the case of an individual whose estate is valued at $5,000 or less.

H.R. 5121. August 2, 1979. Education and Labor. Amends the Older Americans Act of 1965 to require States receiving certain grants under such Act to establish home maintenance assistance programs.

H.R. 5122. August 2, 1979. Government Operations. Authorizes the Administrator of General Services to assign to the Secretary of the Army for disposal such surplus real property or personal property which is necessary for the development and operation of a public harbor.

Sets forth provisions governing the deed of conveyance of such property.

H.R. 5123. August 2, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the excess business holdings of private foundations.

H.R. 5124. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to set forth rules for the allocation of amounts of oil and natural gas between shareholders and controlled corporations for purposes of computing the percentage depletion allowance.

H.R. 5125. August 2, 1979. Agriculture. Amends the Agricultural Adjustment Act to subject imported grapes to the same regulation as to grade, size, quality, or maturity as table grapes from the Coachella Valley, California, whenever such table grapes are made subject to a marketing order regulating such items.

H.R. 5126. August 2, 1979. Small Business. Amends the Small Business Act to require that Federal agencies which conduct research and development programs of specified budget size establish and administer a Small Business Innovation Research (SBIR) program. Directs the Small Business Administration to develop an information program to assure that each qualified and interested small business concern has the opportunity to participate in the SBIR programs.

H.R. 5127. August 2, 1979. Ways and Means. Limits the aggregate quantity of lamb meat that may be imported into the United States. Sets forth a formula for determining such quotas and for adjusting such quotas. Directs the Secretary of Agriculture to allocate such quotas among supplying countries on the basis of their share of the U.S. market.

H.R. 5128. August 2, 1979. Judiciary. Amends the Immigration and Nationality Act to establish a program for the nonimmigrant admission of Mexican nationals as temporary workers in the United States.

Authorizes the Secretary of State to establish and expand United States Consulates in Mexico in order to implement such program.

Expresses the sense of Congress that the President should establish with Mexico an advisory commission on the temporary worker program.

H.R. 5129. August 2, 1979. Intelligence; Government Operations. Amends the Central Intelligence Agency Act of 1949 to exempt information in files maintained by the CIA or the National Security Agency from the provisions of any law requiring publication or disclosure if such files have been designated by the Director of Central Intelligence to be concerned with specified activities.

Amends the Freedom of Information Act to revise the procedures with respect to law enforcement or intelligence agency records and with respect to the determination by an agency of compliance with a request for records.

H.R. 5130. August 2, 1979. Judiciary. Amends the venue provisions of Federal law with respect to environmental litigation and appeals from agency actions relating to the environment.

H.R. 5131. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers a refundable income tax credit for public utility surcharges imposed upon such taxpayer under fuel adjustment clauses with respect to the purchase of electricity or natural gas for nonbusiness uses in the taxpayer's principal residence.

H.R. 5132. August 2, 1979. Ways and Means. Amends the Tariff Act of 1930 to exempt certified non-self-propelled barges from the class of vessels which are subject to the duty on vessels equipped or repaired in a foreign country.

H.R. 5133. August 2, 1979. Ways and Means. Provides full benefits under title II (Old Age, Survivors and Disability Insurance) of the Social Security Act for disabled wives, husbands, widows, and widowers without respect to age. Authorizes benefits for essential spouses of disability beneficiaries without regard to age or children in care. Provides benefits for divorced husbands, surviving divorced husbands, and surviving fathers. Eliminates the requirement that the 20 quarters of coverage necessary for disability insurance must have occurred within a 40 quarter period.

H.R. 5134. August 2, 1979. Armed Services. Repeals the Military Selective Service Act of 1967.

H.R. 5135. August 2, 1979. Public Works and Transportation. Directs the Architect of the Capitol to grant title to certain real property to the District of Columbia subject to a reversion to the United States if such property is not used as a site for housing for the elderly within three years.

H.R. 5136. August 2, 1979. Veterans' Affairs. Repeals the provision requiring the preservation of total disability ratings for compensation purposes. Reduces from 20 to five years the period after which a rating cannot be reduced for pension and insurance purposes.

H.R. 5137. August 2, 1979. Agriculture. Directs the Secretary of Agriculture, after consultation with the Secretary of Health, Education, and Welfare, to develop and implement a nutrition labeling and information system for meat, meat food products, poultry, and poultry products, capable of use as human food.

H.R. 5138. August 2, 1979. Post Office and Civil Service. Authorizes appropriations to the Office of Personnel Management, the Merit Systems Protection Board (MSPB), the Special Counsel of the MSPB, and the Federal Labor Relations Authority for fiscal years 1981 and 1982.

H.R. 5139. August 2, 1979. Interior and Insular Affairs. Amends the National Historic Preservation Act of 1966 to establish and maintain a National Register of Historic Places.

Establishes a Historic Preservation Agency under the direction of an Administrator for Historic Preservation, and an Advisory Council on Historic Preservation.

Provides a program of financial assistance to States and local governments and sets forth guidelines for all Federal agencies for the furtherance of the preservation of historic properties.

H.R. 5140. August 2, 1979. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to provide a limited exemption for automobile manufacturers who fail to meet average fuel economy standards.

H.R. 5141. August 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow a tax credit for 50 percent of the State and local individual income tax paid by an individual taxpayer.

Disallows tax deductions for State and local individual income taxes, State and local general sales taxes, and State and local gasoline taxes.

H.R. 5142. August 2, 1979. Government Operations. Requires the Administrator of General Services to conduct an annual survey to determine the per diem allowances to which Federal employees shall be entitled for official travel to various areas of the United States. Provides for a congressional veto of such allowances. Eliminates current maximum amounts to which an employee is entitled for certain travel expenses.

H.R. 5143. August 2, 1979. Education and Labor. Amends the Rehabilitation Act of 1973 to authorize the Secretary of Health, Education, and Welfare to waive certain State agency organization requirements with respect to a State agency which demonstrates that such waiver would be consistent with the objectives of title I (Vocational Rehabilitation Services) of such Act.

H.R. 5144. August 2, 1979. Interstate and Foreign Commerce; Ways and Means. Amends the Railroad Retirement Act of 1974 to revise the benefits payable under such Act and the funding of the Railroad Retirement Account.

Amends the Internal Revenue Code of 1954 to revise the taxes imposed under the Railroad Retirement Tax Act.

H.R. 5145. August 2, 1979. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to establish a financial assistance program for the construction and operation of vessels to be used in essential bulk cargo carrying services. Entitles such vessels to engage in all domestic trades without restriction and allows such vessels to enter or leave the domestic trade upon appropriate notice.

Reduces the minimum United States' documentation period for vessels which have received a construction-differential subsidy.

H.R. 5146. August 2, 1979. Interstate and Foreign Commerce; Interior and Insular Affairs. Establishes the Pacific Northwest Electric Power Planning Council to direct the preparation of a regional electric power plan, including the use of renewable resources and the implementation of conservation measures.

Authorizes the Administrator of the Bonneville Power Administration to sell electric power to public bodies, cooperatives, investor-owned utilities, Federal agencies, and direct service industrial customers, and to set rates for the sale or disposition of electric power.

Authorizes the Administrator to acquire electric power resources for experimental or demonstration projects.

H.R. 5147. August 2, 1979. Ways and Means. Amends the Tariff Schedules of the United States to reduce the duty on parts for pistols and revolvers used for sporting purposes.

H.R. 5148. August 2, 1979. Ways and Means; Interstate and Foreign Commerce. Amends the Public Health Service Act to apply the certificate-of-need program administered by the State health planning and development agencies to increase in health care facility capital stock and changes in health care facility bed function. Sets a national limit for major increases in hospital capital stock.

Amends the Social Security Act to revise the capital expenditure limitation provision with respect to hospitals. Prohibits the making of Federal payments under the Maternal and Child Health, Medicare, and Medicaid programs for unnecessary services or capital expenditures.

H.R. 5149. August 2, 1979. Banking, Finance and Urban Affairs. Establishes the Reconstruction Finance Corporation to make loans and loan guarantees to business concerns which would otherwise be unable to obtain needed financing.

Authorizes the Corporation to issue notes, debentures, bonds, and other such obligations which will be fully guaranteed by the United States.

H.R. 5150. August 2, 1979. Agriculture. Establishes the National Forest Systems Investment Fund in the Treasury of the United States, to hold all moneys received from the National Forest System and make them available for capital improvements in the System.

Declares that it is the duty of the Secretary of the Treasury to invest a portion of such moneys in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

H.R. 5151. August 2, 1979. Post Office and Civil Service. Authorizes the Office of Personnel Management to enter into contracts to provide dental benefit plans for Federal employees. Specifies benefits which are required to be provided under such plans. Sets forth provisions governing: (1) the enrollment of employees; and (2) the contributions of the Government and enrolled individuals toward the subscription charge of such a plan.

Requires that an eligible individual be provided specified information concerning such plans. Creates the Employees Dental Benefits Fund.

H.R. 5152. August 2, 1979. House Administration. Terminates the Franklin Delano Roosevelt Memorial Commission.

H.R. 5153. August 2, 1979. Judiciary. Amends the Immigration and Nationality Act to include within the definition of "special immigrant" an immigrant entering the United States to pursue a course of religious study in order to carry out the vocation of minister.

H.R. 5154. August 2, 1979. Education and Labor. Amends the Higher Education Act of 1965 to: (1) replace certain existing student loan progress with a new program providing direct loans to students through institutions of higher education, and supplementary family-contribution loans, (2) eliminate the District of Columbia student loan insurance program; and (3) revise the functions and authority of the Student Loan Marketing Association.

H.R. 5155. August 2, 1979. Judiciary. Authorizes the granting of a visa to and admission of a named individual to the United States for permanent residence.

H.R. 5156. August 2, 1979. Judiciary. Directs the Secretary of the Treasury to pay specified sums to named individuals in satisfaction of claims against the United States.

H.R. 5157. August 2, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5158. August 2, 1979. Judiciary. Confers jurisdiction upon the Court of Claims upon any claim instituted within 1 year by a named individual arising out of a specified claim of such individual against the United States.

H.R. 5159. August 2, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5160. August 2, 1979. Judiciary. Amends a specified act for the relief of named individuals to restore certain benefits.

H.R. 5161. August 2, 1979. Judiciary. Declares a named individual to have satisfied specified requirements under the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States. Authorizes such individual to be naturalized.

H.R. 5162. August 2, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior, through the Director of the Bureau of Land Management, to amend the description of the land granted by the United States in a specified land patent issued to a named individual.

H.R. 5163. September 5, 1979. Armed Services. Authorizes the sales of 14 naval vessels to the Governments of Brazil, Colombia, Ecuador, Greece, Indonesia, the Republic of Korea, Mexico, Peru, the Philippines, and Spain.

H.R. 5164. September 5, 1979. Merchant

Marine and Fisheries. Revises the inspection and manning requirements for vessels below a specified size carrying passengers or freight for hire.

H.R. 5165. September 5, 1979. Ways and Means. Prohibits the issuance of any regulations by the Internal Revenue Service on employer fringe benefits after April 30, 1979.

H.R. 5166. September 5, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to direct a State to pay to the Secretary of the Treasury, within 30 days following the end of each month, OASDI contributions related to the employment of State employees.

H.R. 5167. September 5, 1979. Education and Labor; Ways and Means. Amends the Employee Retirement Income Security Act and the Internal Revenue Code to revise the requirements which must be met for a pension plan providing benefit payments in the form of an annuity to have the effect of a qualified joint and survivor annuity.

H.R. 5168. September 5, 1979. Armed Services. Authorizes an increase in the number of Air Force colonels and lieutenant colonels through fiscal year 1980.

Extends to fiscal year 1980: (1) the suspension of certain duty and eligibility requirements for Navy and Marine officer promotions; (2) spot promotions for certain Navy lieutenants; (3) below-zone promotions for Navy limited duty officers; and (4) temporary Marine Corps major generals on major general selection boards.

Authorizes the retirement and/or separation and payment of retired pay and/or severance pay to disabled members of the armed forces whose disability was incurred in the line of duty from September 15, 1978, through September 30, 1980.

H.R. 5169. September 5, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce; Science and Technology. Amends the Department of Energy Organization Act to establish in the Department of Energy the position of Assistant Secretary for Renewable Energy Resources in order to consolidate all renewable energy research, development, demonstration, and commercialization activities under the jurisdiction of different Assistant Secretaries of Energy.

H.R. 5170. September 5, 1979. Interstate and Foreign Commerce. Extends until October 1, 1982, the funding of State Medicaid (title XIX of the Social Security Act) fraud control units.

H.R. 5171. September 5, 1979. Ways and Means. Amends the Internal Revenue Code to make permanent the special tax treatment of church agency pension plans as qualified church plans. Allows any plan which is determined to have failed to meet church plan requirements a grace period to bring itself into compliance without becoming disqualified.

H.R. 5172. September 5, 1979. Ways and Means. Amends the Internal Revenue Code to provide that, for purposes of computing the allowable retirement plan exclusion and employer contributions allowance for church employees, all years of service for a church, church association, or an agency for such churches shall be considered employment for one employer.

Extends to church employees the same option presently enjoyed by employees of tax-exempt health and education organizations to elect alternative exclusion allowances for contributions to annuity contracts.

H.R. 5173. September 5, 1979. Education and Labor; Ways and Means. Amends the Employee Retirement Income Security Act to make permanent the special tax treatment of church agency pension plans as qualified church plans. Allows any plan which is determined to have failed to meet church plan requirements a grace period to bring itself into compliance without becoming disqualified.

H.R. 5174. September 5, 1979. Judiciary. Amends the Federal criminal code to stipulate that the prohibition against Government employees receiving outside income does not include the payment of actual relocation expenses incident to participation in certain executive exchange or fellowship programs.

H.R. 5175. September 5, 1979. Banking, Finance and Urban Affairs; Ways and Means. Prohibits, for three years, the use of federally related mortgage loans, grants, insurance, or other assistance for condominium or cooperative conversions.

Establishes a Presidential Commission on Problems Relating to Condominium-Cooperative Conversion.

Provides relocation assistance to displaced person occupying rental units converted to condominium or cooperative units. Amends the Housing and Community Development Act of 1974 to place restrictions on community development block grants.

Amends the Internal Revenue Code of 1954 to treat gain from condominium-cooperative conversions as ordinary income.

H.R. 5176. September 9, 1979. Post Office and Civil Service. Directs the Comptroller General to establish a personnel management system for the GAO which is consistent with specified provisions of Federal law governing Federal personnel management.

Establishes the General Accounting Office Appeals Board to consider and act on employee appeals on administrative actions.

Authorizes the Comptroller General to establish a GAO Senior Executive Service and a merit pay system for GAO employees.

H.R. 5177 September 5, 1979. Interstate and Foreign Commerce. Amends the Emergency Petroleum Allocation Act of 1973 to direct the President to establish a national set-aside program to provide middle distillates to meet shortages in agricultural production and agricultural transportation requirements. Stipulates that such program shall be made effective only if such shortage has impaired or is likely to impair agricultural production and no State programs have been or are likely to be established to alleviate such shortages.

H.R. 5178. September 5, 1979. Ways and Means. Amends title XVI (Supplemental Security Income) of the Social Security Act to exclude interest on savings accounts, if less than $60 in a calendar quarter, from an individual's income for purposes of determining such individual's benefits or eligibility for benefits under such title.

H.R. 5179. September 5, 1979. Merchant Marine and Fisheries. Prohibits certain payments for damages to fishing gear caused by oil and gas development activities when the party to whom such damage is attributable admits responsibility for such damage.

H.R. 5180. September 5, 1979. Ways and Means. Amends the Internal Revenue Code to exempt conventions held in Mexico and Canada from the restrictions applicable to the income tax deduction for business expenses for attendance at a foreign convention.

H.R. 5181. September 5, 1979. Banking, Finance and Urban Affairs. Stipulates that savings banks shall not be considered State banks in determining whether a national bank may establish and operate a branch.

H.R. 5182. September 5, 1979. Interior and Insular Affairs. Amends the Chesapeake and Ohio Canal Development Act to extend the termination date of the Chesapeake and Ohio Canal National Historical Park Commission.

H.R. 5183. September 5, 1979. Judiciary. Exempts classroom performances or displays of a work by instructors or pupils of any educational institution (presently a nonprofit educational institution) from copyright royalty requirements.

H.R. 5184. September 5, 1979. Ways and Means. Amends the Internal Revenue Code to provide a tax exclusion from personal income earned abroad by an individual performing qualified charitable services for a tax-exempt employer created or organized in the United States.

H.R. 5185. September 5, 1979. Ways and Means. Amends the Internal Revenue Code to increase the amount of employees' death benefits that may be excluded from gross income.

H.R. 5186. September 5, 1979. Banking, Finance and Urban Affairs; Science and Technology; Interior and Insular Affairs; Interstate and Foreign Commerce. Establishes the Energy Development and Demonstration Corporation to develop domestic energy projects.

Permits the Corporation, with the approval of the Secretary of the Treasury, to issue bonds, notes, debentures, and other similar obligations.

Sets forth terms and conditions of such obligations.

Makes the United States the guarantor of such obligations.

H.R. 5187. September 5, 1979. Interior and Insular Affairs; Science and Technology. Establishes a loan program for geothermal reservoir confirmation and revises geothermal leasing and permitting procedures under the Geothermal Steam Act of 1970 and the Geothermal Energy Research, Development, and Demonstration Act of 1974 to promote the development of geothermal resources.

H.R. 5188. September 5, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5189. September 5, 1979. Judiciary. Permits a certain individual, who lost United States citizenship, to be naturalized under the Immigration and Nationality Act.

H.R. 5190. September 5, 1979. Judiciary. Declares an individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 5191. September 6, 1979. Interstate and Foreign Commerce; Ways and Means. Establishes a comprehensive national health care system, to be administered by an independent National Health Board and State health boards. Creates the Commission on the Health of Americans to make recommendations with respect to the health status of the U.S. population.

Amends title XVIII (Medicare) of the Social Security Act to conform such Act with the national health program.

Amends the Internal Revenue Code to revise the medical care deduction and establish a health insurance credit for certain impacted employers.

H.R. 5192. September 6, 1979. Education and Labor, Amends the Higher Education Act of 1965 to establish: (1) Education Outreach Programs; (2) the Urban Grant University Program; (3) a National Periodical Center; (4) a National Commission on Student Loans, and a National Board of the Fund for the Improvement of Postsecondary Education.

Directs the Secretary of Health, Education, and Welfare to assume duties assigned the Commissioner of Education under such Act, including granting funds for college and research library assistance, library training research, and the improvement of developing institutions and postsecondary education.

Revises and extends specified student financial assistance programs, Teacher Corps, teacher training, construction, cooperative education, and graduate programs.

H.R. 5193. September 6, 1979. Ways and Means. Amends the Internal Revenue Code to grant a limited tax exclusion of interest earned on savings accounts.

H.R. 5194. September 6, 1979. Ways and Means. Amends the Internal Revenue Code to permit landlords to claim a residential energy credit for energy conservation expenditures with respect to rental properties if energy savings attributable to such expenditures are passed through to the tenants.

H.R. 5195. September 6, 1979. Armed Services. Revises the special pay for medical officers, dental officers, and optometry officers in the uniformed services on active duty.

H.R. 5196. September 6, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to engage in feasibility studies of obtaining water supplies for domestic, recreational, and municipal users along the Colorado River, California.

H.R. 5197. September 6, 1979. Ways and Means; Judiciary. Amends title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to require that aged, blind, or disabled aliens must have resided in the United States for three years preceding their application for benefits under such title. Exempts those aliens: (1) who are political refugees or parolees into this country; (2) whom a support agreement excuses, under the Immigration and Nationality Act; or (3) who have specified disabilities.

Amends the Immigration and Nationality Act to stipulate that no immigrant shall be admitted to the United States except pursuant to a support agreement. Defines such agreement.

H.R. 5198. September 6, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $500 of the interest earned on a savings account.

H.R. 5199. September 6, 1979. Interior and Insular Affairs. Amends the Colorado River Basin Salinity Control Act to authorize fish and wildlife mitigation measures. Limits the construction of the Grand Valley unit, Colorado, to stage one development. Authorizes an increase in the appropriations for the Paradox Valley unit, Colorado.

H.R. 5200. September 6, 1979. Judiciary. Amends Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) to revise the exemptions to such Act. Includes the handicapped within the antidiscrimination provisions of such Act. Prohibits discrimination in housing insurance or debts secured by real property.

Expands the authority of the Secretary of Housing and Urban Development over certain Federal agencies. Revises the procedures for enforcing the antidiscrimination provisions of such Act.

H.R. 5201. September 6, 1979. Ways and Means. Amends the Internal Revenue Code to extend the date until which a State legislator may qualify for the income tax deduction for living expenses while engaged in legislative business away from his home district.

H.R. 5202. September 6, 1979. Public Works and Transportation. Directs Federal department and agency heads to insure that new Federal buildings and new federally leased building space use solar energy to provide all or part of the energy needed for hot water, heating, and cooling.

H.R. 5203. September 6, 1979. Interstate and Foreign Commerce. Requires principals to furnish specified information to a sales representative concerning orders placed through the representative's account.

Provides protection for certain sales representatives terminated from their accounts without justification by requiring the principals to indemnify the sales representatives, unless they have entered into a contract which conforms to such information requirements.

H.R. 5204. September 6, 1979. Ways and Means. Amends the Internal Revenue Code to provide a system of accelerated capital cost recovery for investment in business facilities and equipment.

H.R. 5205. September 6, 1979. Ways and Means. Amends the Internal Revenue Code to set forth rules with respect to the allowable number of shareholders in a Subchapter S corporation.

H.R. 5206. September 7, 1979. Interstate and Foreign Commerce. Amends the Clean Air Act to stipulate that no motor vehicle emission standard promulgated under such Act shall apply to any motor vehicle which will be used predominantly in an area in which the reduction of motor vehicle emissions is not necessary to meet national ambient air quality standards.

Prohibits the control of the sale of any fuel, class of fuels, or fuel additives which will be primarily used in such areas if the use of such a product will not significantly impair the performance of any emission control device in the motor vehicle.

H.R. 5207. September 7, 1979. Post Office and Civil Service. Entitles a child who is placed in the permanent custody of a Federal employee, a Member of Congress, or the spouse of such employee or Member to civil service survivor benefits.

H.R. 5208. September 7, 1979. Agriculture. Cancels the liability of any qualified recipient for excess payments made for the self-hauling of hay and other roughages under the Hay Transportation Assistance Program (HTAP).

H.R. 5209. September 7, 1979. Ways and Means. Amends the Internal Revenue Code to qualify passive solar energy property for the residential energy tax credit.

H.R. 5210. September 7, 1979. Education and Labor. Amends the Higher Education Act of 1965 to revise and extend specified programs.

Transfers specified program responsibilities to the Secretary of Health, Education, and Welfare from the Commissioner of Education.

Establishes a Government Student Loan Association within the Department of Health, Education, and Welfare. Transfers specified student loan programs responsibilities to the Association from the Commissioner.

Establishes a Basic Student Loan Program to assist needy students. Establishes a Basic Student Loan Fund within the Treasury.

Establishes an Advisory Council on Developing Institutions.

Amends the General Education Provisions Act to extend the Fund for the Improvement of Postsecondary Education.

H.R. 5211. September 7, 1979. Ways and Means. Amends the Internal Revenue Code to eliminate certain restrictions with respect to the tax exclusion of income earned by U.S. citizens while residing abroad. Repeals provisions permitting income tax deductions for certain expenses incurred in living abroad.

H.R. 5212. September 7, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for contributions to a tax-exempt trust fund established for the support of a handicapped dependent of a taxpayer.

H.R. 5213. September 7, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to: (1) entitle every beneficiary to apply the monthly earnings test in at least one year after 1977; (2) disregard certain royalties and other deferred income in determining OASDI eligibility; (3) make the monthly retirement test available to certain beneficiaries in limited circumstances; and (4) extend Medicare hospital insurance benefits to eligible individuals who have not applied for such benefits.

H.R. 5214. September 7, 1979. Merchant Marine and Fisheries; Science and Technology. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for fiscal year 1980 to carry out the provisions of such Act.

Directs the Secretary of Commerce to: (1) issue regulations to implement the terms of the designation to marine sanctuaries; (2) conduct enforcement activities to carry out such designation; and (3) transmit such a designation to Congress for review.

Authorizes the issuance of permits for research involving the dumping of industrial waste into ocean waters.

H.R. 5215. September 7, 1979. Public Works and Transportation. Prohibits the Secretary of Transportation from approving, at the end of a two year period, any Federal aid highway program in a State unless the State has: (1) established a form of identification to designate parking spaces reserved for physically handicapped individuals and which distinguishes motor vehicles used by such individuals; and (2) enacted legislation setting forth penalties for the use of such spaces by non-handicapped persons.

H.R. 5216. September 7, 1979. Agriculture. Amends the Agricultural Marketing Act of 1946 to provide that the United States shall bear the cost, except overtime, of inspection, certification, and identification of domesticated rabbits, carcasses, parts, or products thereof slaughtered or processed for human consumption, when such items are shipped or received in interstate commerce.

H.R. 5217. September 7, 1979. Interstate and Foreign Commerce. Amends the Public Health Service Act to require a specified amount of the sums appropriated for the National Institute of Neurological and Communicative Disorders and Stroke (designated by this Act) to be obligated for research in the area of regeneration of the spinal cord.

H.R. 5218. September 7, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to authorize disaster relief and reconstruction assistance for the Caribbean, with priority given to furnishing agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954.

H.R. 5219. September 7, 1979. Judiciary. Relieves a named individual of liability for the payment to the United States a specified sum. Directs the payment to such individual of the aggregate of any amount which has been received or withheld from such individual in connection with such liability.

H.R. 5220. September 10, 1979. Agriculture. Directs the Secretary of Agriculture to establish a wood utilization program.

Directs the Secretary to: (1) make, insure, and guarantee loans to eligible recipients for demonstration and pilot projects in the utilization and manufacture of forest products; (2) require removal of specified materials by timber purchasers or contactors to enhance long-term forest resources productivity; and (3) sell, consolidate for sale, or otherwise dispose of slash and other underutilized material, and dead and dying timber for energy production.

H.J. Res. 389. September 5, 1979. Post Office and Civil Service. Authorizes and directs the President to designate the month of September 1980, as "National Rehabilitation Month."

H.J. Res. 390. September 5, 1979. Post Office and Civil Service. Authorizes and requests the President to designate September 30, 1979, as "National Good Neighbor Day."

H.J. Res. 391. September 6, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week of December 3 through December 9, 1979, as the "Boy Scouts Calendar Distribution Week."

H.J. Res. 392. September 6, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week of January 21 through January 27, 1979, as "Junior Achievement Week."

H.J. Res. 393. September 10, 1979. Post Office and Civil Service. Authorizes and requests the President to designate Friday, October 19, 1979, as "American Enterprise Day."

H.J. Res. 394. September 10, 1979. Foreign Affairs. Expresses the determination of the United States to: (1) prevent Soviet and Cuban expansionism in this hemisphere; and (2) work to implement collective security agreements and support aspirations for freedom and self-determination in this hemisphere.

H.J. Res. 395. September 11, 1979. Judiciary. Constitutional Amendment—Limits the increase of total budget outlays of the United States Government in any fiscal year to a percentage equal to the percentage increase in the gross national product during the previous calendar year.

H.J. Res. 396. September 12, 1979. Judiciary. Constitutional Amendment—Provides that appropriations made by the Congress shall not exceed the revenues of the United States, except in time of war or national emergency. Provides for the systematic repayment of the public debt of the United States.

H.J. Res. 397. September 12, 1979. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating April 18, 1980, as "American Enterprise Day."

H.J. Res. 398. September 13, 1979. Appropriations. Appropriates funds for the Community Services Administration for the energy crisis intervention program for fiscal year 1980.

H.J. Res. 399. September 14, 1979. Appropriations. Appropriates such amounts as may be necessary in fiscal year 1980 to continue specified Federal projects and activities which have not yet received funding beyond fiscal year 1979.

H.J. Res. 400. September 14, 1979. Judiciary. Constitutional Amendment—Provides that, except in time of war or national emergency, outlays made by the United States shall not exceed receipts, excluding outlays to State and local governments.

H.J. Res. 401. September 14, 1979. Judiciary. Constitutional Amendment—Limits the term of office of the President to one six-year term.

H.J. Res. 402. September 17, 1979. Appropriations. Makes appropriations to the Federal Trade Commission for a specified period of fiscal year 1980 for continuing activities conducted by the Commission in fiscal year 1979.

H.J. Res. 403. September 19, 1979. Post Office and Civil Service. Designates November 21, 1983, as "Bicentennial Manned Flight Day."

H.J. Res. 404. September 20, 1979. Appropriations. Appropriates such amounts as may be necessary in fiscal year 1980 to continue Federal activities for which specified appropriations Acts will not have been enacted prior to September 30, 1979. Funds such activities in the same manner and amounts provided for in such Acts.

H.J. Res. 405. September 21, 1979. Foreign Affairs; Judiciary. Directs the President to: (1) aid those Indochinese refugees in refugee camps and admitted to the United States; and (2) call upon the U.N. General Assembly to discuss sanctions against Vietnam for human rights violations.

H.J. Res. 406. September 21, 1979. Banking, Finance and Urban Affairs. Amends the Defense Production Act of 1950 to extend the authority granted by such Act.

Amends the Defense Production Act of 1950 to extend the termination date of provisions of such Act relating to contract priorities and allocations for strategic materials and expansion of the national productive capacity and supply regarding such materials.

H.J. Res. 407. September 25, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week of January 21 through January 27, 1979, as "Junior Achievement Week."

H.J. Res. 408. September 25, 1979. Judiciary. Constitutional Amendment—Prohibits the total amount of money expended by the United States in any fiscal year to exceed the total amount of revenue received during such fiscal year, except in time of war as declared by the Congress. Allows the suspension of the amendment by a joint resolution approved by each House of the Congress and signed by the President, or by a vote of two-thirds of the Members of each House of the Congress.

Requires tax rates to be reduced to offset the effects of inflation. Establishes a procedure for the approval of bills or joint resolutions affecting taxes.

H.J. Res. 409. September 25, 1979. Judiciary. Constitutional Amendment—Requires congressional review of each rule and regulation issued to carry out any law. Permits congressional approval, modification, or disapproval of such rule of regulation.

H.J. Res. 410. September 27, 1979. Foreign Affairs. Welcomes Pope John Paul II to the United States.

H.J. Res. 411. September 28, 1979. Judiciary. Confers United States citizenship posthumously upon Rosinella Verdi.

H.J. Res. 412. October 9, 1979. Appropriations. Appropriates such amounts as may be necessary in fiscal year 1980 to continue the activities and programs in certain specified Acts.

H.J. Res. 413. October 9, 1979. Appropriations. Appropriates such amounts as may be necessary in fiscal year 1980 to continue the activities provided for in the Department of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389).

H.J. Res. 414. October 9, 1979. Post Office and Civil Service. Authorizes and requests the President to designate May 1, 1980, as "National Bicycling Day."

H.J. Res. 415. October 10, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week of January 21 through January 27, 1979, as "Junior Achievement Week."

H.J. Res. 416. October 11, 1979. Post Office and Civil Service Authorizes and requests the President to designate March 11, 1980, as "National Postal Workers' Recognition Day."

H.J. Res. 417. October 11, 1979. Post Office and Civil Service. Designates the month of July, 1980, as "National Porcelain Art Month."

H.J. Res. 418. October 12, 1979. Judiciary. Constitutional Amendment—Limits the term of office of a Justice of the United States Supreme Court to ten years during good behavior and limits the total service of such person to 20 years.

H.J. Res. 419. October 12, 1979. Judiciary. Constitutional Amendment—Establishes a single six-year term of office for the President, the Vice President, and Members of Congress.

H.J. Res. 420. October 12, 1979. Post Office and Civil Service. Designates March 29 of each year as "Vietnam Era Veterans Day."

H.J. Res. 421. October 16, 1979. Post Office and Civil Service. Designates the week beginning June 22, 1980, as "National Deaf Awareness Week."

H.J. Res. 422. October 16, 1979. Judiciary. Amends the Immigration and Nationality Act to prohibit the exclusion or deportation of persons from the United States on the basis of information gotten from the 1980 decennial census.

H.J. Res. 423. October 16, 1979. Rules. Provides for the commemoration by the Congress of the centennial of the birth of Franklin Delano Roosevelt, thirty-second President of the United States. Establishes a Special Joint Committee on the Centennial of the Birth of Franklin D. Roosevelt which shall arrange for a joint session of the Congress to be held on Saturday, January 30, 1982, in commemoration of such centennial.

H.J. Res. 424. October 17, 1979. Banking, Finance and Urban Affairs. Disapproves and invalidates the final rule of the Department of Housing and Urban Development entitled "Section 8 Housing Assistance Payments Program for New Construction."

H.J. Res. 425. October 19, 1979. Post Office and Civil Service. Expresses the sense of the Congress that the State of Illinois and the city of Chicago should host the 1992 official celebration of the 500th anniversary of the discovery of America.

H.J. Res. 426. October 19, 1979. Post Office and Civil Service. Authorizes and directs the President to designate the week of December 3 through 9, 1979, as "National Submarine Week."

H.J. Res. 427. October 23, 1979. Appropriations. Makes supplemental appropriations to the Community Services Administration for the community services program, part of which is to be transferred to the Secretary of Health, Education, and Welfare for payment to eligible individuals of energy grants and allowances to assist in meeting fuel costs and related administrative costs. Excludes such allowances from being considered as income or resources for purposes of any other public assistance program.

H.J. Res. 428. October 23, 1979. Post Office and Civil Service. Designates December, 1979, as "National Child Abuse Prevention Month."

H.J. Res. 429. October 23, 1979. Rules. Prohibits the offering of floor amendments to continuing resolutions.

H. Con. Res. 182. September 6, 1979. Public Works and Transportation. Directs the Secretary of Transportation to apportion the funds authorized to be appropriated for fiscal years 1981 and 1982 for the National System of Interstate and Defense Highways according to specified apportionment factors.

H. Con. Res. 183. September 11, 1979. Foreign Affairs. Expresses the sense of Congress that the President should communicate U.S. insistence that the Soviet Union should remove its combat troops from Cuba.

H. Con. Res. 184. September 11, 1979. House Administration. Directs the printing of additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws."

H. Con. Res. 185. September 13, 1979. Foreign Affairs. Expresses the sense of Congress that the SALT II Treaty not be considered until Soviet troops are withdrawn from Cuba.

H. Con. Res. 186. September 14, 1979. Sets forth the congressional budget for the United States Government for fiscal year 1980.

Reaffirms the commitment of the Congress to find a way to reflect the outlays of off-budget Federal entities in the budget totals.

Directs each standing committee of the House of Representatives to recommend funding mechanisms which would enable the Congress to exercise more fiscal control over entitlement programs.

H. Con. Res. 187. September 18, 1979. Budget. Revises the congressional budget for the U.S. Government for fiscal year 1979.

H. Con. Res. 188 September 19, 1979. Foreign Affairs; Merchant Marine and Fisheries; Public Works and Transportation. Expresses the sense of Congress that the President should establish a temporary commission to evaluate the damages caused by the oilspill in the Bay of Campeche, Mexico. Declares that the President should negotiate an international agreement regarding liability and compensation for oilspill damages.

H. Con. Res. 189. September 20, 1979. Makes corrections in the enrollment of S. 544.

H. Con. Res. 190. September 20, 1979. Foreign Affairs. Welcomes Pope John Paul II on his visit to the United States.

H. Con. Res. 191. September 26, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to encourage the Appalachian Trail Conference, in cooperation with the State of Maryland, to design and erect at a location along the Maryland segment of the Appalachian Trail an appropriate marker in commemoration of the contributions of Goodloe Byron toward the protection of the Trail.

H. Con. Res. 192. September 27, 1979. Makes corrections in the enrollment of H.R. 3996.

H. Con. Res. 193. September 27, 1979. Foreign Affairs. Recognizes the contribution of Islam to mankind. Wishes success to the Fourteenth Centennial commemoration of Islam. Pledges congressional efforts to achieve improved relations with all nations of the world.

H. Con. Res. 194. October 11, 1979. Foreign Affairs. Recognizes the contribution of Islam to mankind. Wishes success to the Fourteenth Centennial commemoration of Islam.

H. Con. Res. 195. October 15, 1979. Approves the proposed Agreement Between the United States and Australia Concerning Peaceful Uses of Nuclear Energy.

H. Con. Res. 196. October 16, 1979. Makes corrections in the enrollment of H.R. 3173.

H. Con. Res. 197. October 16, 1979. Interstate and Foreign Commerce. Expresses the sense of Congress that: (1) the American Federation of Grain Millers should be permitted to intervene in the administrative proceeding brought by the Federal Trade Commission (FTC) against the Kellogg Company, General Mills, Incorporated, and General Foods Corporation; and (2) the proceeding should be suspended until such intervention is permitted, the FTC discloses certain information concerning its negotiations with and retention of the initial administrative law judge in such proceeding, and the FTC provides for an economic impact analysis of any remedy proposed by the FTC in such proceeding.

H. Con. Res. 198. October 17, 1979. House Administration. Provides that parking fees charged to Federal employees shall remain at current levels.

H. Con. Res. 199. October 18, 1979. Foreign Affairs. Expresses the sense of Congress that no U.S. company doing business in South Africa should engage in unfair employment practices.

Expresses the sense of Congress that U.S. companies doing business in South Africa should permit collective bargaining and improve job opportunities, housing, and health facilities for its nonwhite employees.

H. Con. Res. 200. October 19, 1979. Foreign Affairs. Expresses the sense of Congress that the President should: (1) seek free elections in the Baltic States supervised by the United Nations; (2) inform and gain the support of other nations in achieving independence for the Baltic States; and (3) warn the Soviet Union against making citizenship claims on U.S. citizens.

H. Con. Res. 201. October 19, 1979. Foreign Affairs. Calls upon the President to publicly condemn the Government of the Socialist Republic of Vietnam.

Calls upon the United Nations to consider the imposition of sanctions against such Government for violating the fundamental human rights of the people of Vietnam, Cambodia, and Laos.

H. Con. Res. 202. October 19, 1979. Foreign Affairs. Urges the Soviet Union to allow Ida Nudel to emigrate to Israel.

H. Con. Res. 203. October 23, 1979. Banking, Finance and Urban Affairs. Expresses the sense of Congress that no action should be taken to withdraw the one-dollar bill from circulation without congressional authorization or to artificially stimulate demand for the one-dollar coin. Expresses the sense of Congress that quantities sufficient to meet public demand of various coins be produced by the United States mint.

H. Con. Res. 204. October 23, 1979. Ways and Means. Approves the extension of nondiscriminatory treatment to Chinese products.

H. Con. Res. 205. October 30, 1979. Foreign Affairs. Disapproves the proposed sale of management and contracting services for the construction of an infantry center and school at Khamis Mushayt, Saudi Arabia.

H. Con. Res. 206. November 7, 1979. Foreign Affairs. Expresses the sense of Congress that the President should exercise the authorities under the International Emergency Economic Powers Act with respect to Iran.

H. Con. Res. 207. November 7, 1979. Foreign Affairs. Calls upon the President to publicly condemn the Government of the Socialist Republic of Vietnam.

Calls upon the United Nations to consider the imposition of sanctions against such Government for violating the fundamental human rights of the people of Vietnam, Cambodia, and Laos.

H. Res. 400. September 5, 1979. Foreign Affairs. Expresses the sense of the House of Representatives that the President should communicate U.S. insistence that the Soviet Union should remove its troops from Cuba. Stipulates that ratification of the SALT II Treaty be suspended until such troops are removed.

H. Res. 401. September 6, 1979. Allows the United States Capitol Historical Society to take official pictures of the House of Representatives while in actual session.

H. Res. 402. September 11, 1979. House Administration. Directs the printing of additional copies of the publication entitled, "A Guidelines Handbook on Federal Loan Guarantee Programs".

H. Res. 403. September 11, 1979. Foreign Affairs. Urges the Senate to not ratify the SALT II Treaty while Soviet troops remain in Cuba.

H. Res. 404. September 12, 1979. Rules. Amends the Rules of the House of Representatives to prohibit specified House committees from holding regular or additional meetings on days when the House is in session, other than for the purpose of taking testimony or receiving evidence, on certain days.

Provides for a scheduling service which shall be used by all the committees and subcommittees of the House to eliminate any meeting and scheduling conflicts.

H. Res. 405. September 12, 1979. Rules. Amends the Rules of the House of Representatives to prohibit specified House committees from holding regular or additional meetings on days when the House is in session, other than for the purpose of taking testimony or receiving evidence, on certain days.

Provides for a scheduling service which shall be used by all the committees and subcommittees of the House to eliminate any meeting and scheduling conflicts.

H. Res. 406. September 12, 1979. Foreign Affairs. Expresses the sense of the House of Representatives that the Soviet Union should remove its troops from Cuba as expeditiously as possible.

H. Res. 407. September 14, 1979. House Administration. Authorizes the withholding of city income taxes from Members and employees of the House of Representatives.

H. Res. 408. September 18, 1979. Sets forth the rule for consideration of H.J. 399.

H. Res. 409. September 18, 1979. Sets forth the rule for the consideration of H.J. 402.

H. Res. 410. September 19, 1979. Authorizes the gross yearly compensation of five named minority party employees of the House of Representatives pursuant to the Legislative Pay Act of 1929.

Authorizes the appointment of the sixth minority party employee of the House of Representatives pursuant to the Legislative Pay Act of 1929.

H. Res. 411. September 19, 1979. Sets forth the rule for consideration of H.R. 5229.

H. Res. 412. September 20, 1979. Foreign Affairs. Welcomes Pope John Paul II on his visit to the United States.

H. Res. 413. September 20, 1979. Judiciary. Refers H.R. 5358 to the Chief Commissioner of the United States Court of Claims for further proceedings.

H. Res. 414. September 20, 1979. Sets forth the rule for the consideration of S. 832.

H. Res. 415. September 20, 1979. Sets forth the rule for the consideration of H.R. 5269.

H. Res. 416. September 20, 1979. Sets forth the rule for the consideration of H.R. 3546.

H. Res. 417. September 20, 1979. Sets forth the rule for the consideration of H.R. 2218.

H. Res. 418. September 20, 1979. Sets forth the rule for the consideration of H.R. 4955.

H. Res. 419. September 20, 1979. Sets forth the rule for the consideration of H.J. Res. 404.

H. Res. 420. September 21, 1979. Rules. Amends the Rules of the House of Representatives to require the recording of the names of Members requesting recorded votes.

H. Res. 421. September 25, 1979. Interstate and Foreign Commerce. Declares that it is the sense of the House of Representatives that the United States should establish a national energy plan that emphasizes the use of domestic coal as a means of displacing current foreign energy imports, while not violating national ambient air quality standards.

H. Res. 422. September 25, 1979. Foreign Affairs. Welcomes Pope John Paul II to the United States.

H. Res. 423. September 25, 1979. Education and Labor. Expresses the sense of the House of Representatives that the Secretary of Health, Education, and Welfare should delay issuing final regulations under Title I of the Elementary and Secondary Education Act of 1965 (financial assistance to local educational agencies for education of children from low-income families) until the Secretary has undertaken a thorough review and completed a comprehensive revision of the regulations under such title in consultation with representatives of groups whose membership includes parents, teachers, and administrators involved with implementing such title.

H. Res. 424. September 25, 1979. Sets forth the rule for the consideration of H. Res. 404.

H. Res. 425. September 25, 1979. Sets forth the rule for the consideration of H.R. 5369.

H. Res. 426. September 25, 1979. Waives certain points of order in the consideration of H.R. 5359.

H. Res. 427. September 25, 1979. Provides for the consideration of S. Con. Res. 36.

H. Res. 428. September 26, 1979. Government Operations. Disapproves the Reorganization Plan No. 3 transmitted to Congress by the President.

H. Res. 429. September 26, 1979. Foreign Affairs. Welcomes Pope John Paul II to the United States.

H. Res. 430. September 26, 1979. House Administration. Authorizes additional expenditures for the investigations and studies to be conducted by the House Committee on Merchant Marine and Fisheries.

H. Res. 431. September 27, 1979. Foreign Affairs. Expresses the sense of the House of Representatives that the President should direct our United Nations Ambassador to seek an emergency agenda item concerning an emergency food and medical relief program for the people of Cambodia.

H. Res. 432. September 27, 1979. Veterans' Affairs. Expresses the sense of the House that the Secretary of Defense shall inter an Unknown Soldier of the Vietnam era in the Arlington Memorial Amphitheater.

H. Res. 433. September 27, 1979. Agriculture. Encourages the effective marketing of agricultural commodities by farmers.

H. Res. 434. September 27, 1979. Rules. Amends the Rules of the House of Representatives to postpone for one day the final vote on any bill or resolution which was amended in the Committee of the Whole.

H. Res. 435. September 27, 1979. Rules. Amends the Rules of the House of Representatives to require that a portion of the time provided for general debate on any bill or resolution when the House is meeting in the Committee of the Whole shall be reserved and made available exclusively for a final period of general debate on the bill or resolution in its final form.

H. Res. 436. September 27, 1979. Rules. Amends the Rules of the House of Representatives to require that at least 500 copies of any proposed floor amendment be made available in the Hall of the House of Representatives for the use of other Members prior to the offering of such amendment.

H. Res. 437. September 27, 1979. Sets forth the rule for the consideration of H.R. 1885.

H. Res. 438. September 27, 1979. Sets forth the rule for the consideration of H.R. 3580.

H. Res. 439. September 27, 1979. Sets forth the rule for the consideration of H.J. Res. 341.

H. Res. 440. September 27, 1979. Waives certain points of order in the consideration of the conference report on H.J. Res. 404.

H. Res. 441. October 9, 1979. Sets forth the rule for the consideration of H.J. 412.

H. Res. 442. October 9, 1979. Sets forth the rule for the consideration of H.J. 413.

H. Res. 443. October 9, 1979. Post Office and Civil Service. Proclaims the week of October 14 through October 20, 1979, as "National Mobile Home/Manufactured Housing Week."

H. Res. 444. October 11, 1979. Waives certain points of order against the consideration of the conference report on H.J. 412.

H. Res. 445. October 12, 1979. Rules. Establishes in the House of Representatives an Ad Hoc Committee on Water Resources.

H. Res. 446. October 16, 1979. Rules. Amends the Rules of the House of Representatives to restrict provisions of and amendments to appropriation bills.

H. Res. 447. October 16, 1979. House Administration. Limits the use of the section of the Congressional Record entitled "Extensions of Remarks" by Members of the House of Representatives.

H. Res. 448. October 16, 1979. Merchant Marine and Fisheries. Directs the Department of the Interior to rename the Big Stone National Wildlife Refuge, Minnesota, to be known as the Lem Kaercher National Wildlife Refuge.

H. Res. 449. October 16, 1979. Foreign Affairs. Expresses the sense of the House of Representatives with respect to the failure of Chile to extradite certain individuals to the United States.

Urges the President to take certain actions with respect to Chile.

H. Res. 450. October 17, 1979. House Administration. Authorizes the printing as a House document of an anthology of Captive Nations Week proclamations, addresses, and other relevant material.

H. Res. 451. October 17, 1979. Foreign Affairs. Condemns the use of poison gas in Laos.

H. Res. 452. October 18, 1979. House Administration. Authorizes expenditures for the further expenses of investigations and studies conducted by the House Permanent Select Committee on Intelligence.

H. Res. 453. October 18, 1979. Appropriations. Disapproves the deferral of budget authority for fiscal year 1980 for prompting and developing fishery products (Deferral Numbered D 80–7).

H. Res. 454. October 18, 1979. Sets forth the rule for the consideration of H.R. 2727.

H. Res. 455. October 18, 1979. Sets forth the rule for the consideration of H.R. 3948.

H. Res. 456. October 18, 1979. Sets forth the rule for the consideration of H.R. 2313.

H. Res. 457. October 18, 1979. Waives certain points of order in the consideration of the conference report on S. 1030.

H. Res. 458. October 18, 1979. Sets forth the rule for the consideration of H.R. 2335.

H. Res. 459. October 18, 1979. House Administration. Prohibits the use of official funds for expenses of foreign travel by a specified Member of the House of Representatives.

H. Res. 460. October 18, 1979. House Administration. Authorizes funds for the further expenses of the investigations and studies to be conducted by the House Committee on Small Business.

H. Res. 461. October 19, 1979. Standards of Official Conduct. Amends the Rules of the House of Representatives to prohibit foreign travel by Members convicted of a felony.

H. Res. 462. October 22, 1979. Authorizes the printing as a House of Representatives document of the transcript of the proceedings of the Workshop on Congressional Oversight.

H. Res. 463. October 23, 1979. Elects a named Member to the House of Representatives Committee on Ways and Means.

EXTENSIONS OF REMARKS

H-BUMS BY HARRY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. SKELTON. Mr. Speaker, Harry Dumford, who writes for the Lexington Advertiser-News, of Lexington, Mo., recently wrote an article about Americans' attitudes regarding the Iranian crisis. I wish to show it to the other Members of the body, as it reflects the thinking of many in western Missouri.

The article follows:

H-BUMS BY HARRY

It seems to me that not since December 7, 1941 have the American people been so united as they have been in the past week. The dastardly attempt to blackmail our country through the actions of a mob in Tehran, Iran has been the moral equivalent of another Pearl Harbor. It is my opinion that the United States should enunciate a clear set of principles to meet the situation.

While it is obvious that at the present moment there is little we can do to free the 60 Americans held in the embassy except play a waiting game in the hopes that they will soon be freed, nevertheless, we should be prepared eventually to announce to the world a course of action which will serve notice that we no longer will be patsys to the whims of the rest of the world.

A principle to which we already appear to be committed is that we will not bow to blackmail. The kidnapping of our embassy personnel—and that is what it amounts to—is a threat to the future safety of all diplomatic personnel. If it succeeds we can expect to be faced with the same situation again and again. We simply cannot afford to allow a foreign mob to dictate United States policy in any respect.

We may be forced to bide our time until our people are safely released and returned home, but it seems to me that we are dealing with fanatical, irrational people and we may have to bite our tongues for a period of weeks or months until the situation is resolved. In my opinion, we should then announce certain principles in our further dealings with Iran or any other country which acts in like manner.

We will not continue to feed the faces that curse America. We will not send our grain to those who vilify our country and shout for the death of our president. We will embargo every shipment of foodstuffs to them and will continue such embargo until they respond in friendly ways to our past generosity.

Further, we will not furnish technology of any kind to such a country; we will not allow oil drilling or refining equipment to be sent from Houston; we will not allow airplane parts to be airlifted to them when their planes sit on the tarmac and cannot take off without spare parts; we will furnish no computers, no telephone equipment, no training, nothing to aid them in any manner until they have made amends to our country in word and deed. We should make this clear and stick with it.

We should not only break off all diplomatic contacts, but we should act as if their country does not even exist. They will, of course, cut off our oil supply, but we should make it clear that somehow or other we'll get by without it.

There has been nothing that has riled Americans more in the past week than the sight of foreigners, here in the U.S. by the grace of our generosity, acting like they own this country and can dictate our course of action. We should certainly establish the principle that this is our country and anyone who is visiting here is doing so because we have allowed them to come, not because of any inherent right for them to be here. Ninety days should be sufficient to deport those Iranians now here and if it takes new legislation from the Congress to get this accomplished, so be it.

Pearl Harbor pulled the United States together in a bond of unity which lasted until after the victory was won. Current events have again united us against the enemies of our country in Iran. We should establish principles for dealing with such situations, and then we should follow the advice of Thomas Jefferson to stand like a rock.●

AFGHAN APPEAL TO UNITED NATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. DERWINSKI. Mr. Speaker, many Members have become experts in recent weeks on Islam as a result of the tragic developments in Iran, Pakistan, and Saudi Arabia.

However, a positive development involving Islamic leaders must be noted in Afghanistan where inspiration for resistance against the Soviet-imposed gov-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ernment has been provided by religious leaders in that country.

I submit for the RECORD a memorandum from the Afghan National Liberation Front to the United Nations. This organization is a member of the United Islamic Forces for the Liberation of Afghanistan.

The memo follows:

THE APPEAL OF THE AFGHAN PEOPLE TO THE UNITED NATIONS

The Soviet Union's struggle for world domination is contrary to the present international order and the right of other nations to national sovereignty. This allegation, which has been upheld also by Mr. Dung, Prime Minister of China, is not groundless. The invasion of several Asiatic and European countries by the Soviet Union during the last sixty years is still fresh in our memories. The recent Soviet aggression in Afghanistan is more evidence of the Soviet Union's imperialistic efforts.

The Soviet Union is, indeed, an aggressor in Afghanistan in the eyes of international law. President Leonid I. Brezhnev himself arranged the bloody coup of April 27th, 1978, through intrigue and the cooperation of Soviet agents in the Afghan army. A few months before the coup, he requested President Daoud, during their meeting in the Kremlin, to assign key positions in the government to communist party (Khalq) members.

This distressed Daoud very much. He pounded on Brezhnev's desk and said, "I will not allow any foreign power to interfere in the internal affairs of my country." Brezhnev considered this an insult and looked for revenge. Through the coup, he tried to reach both his objectives: to annihilate Daoud for his "recklessness" and to establish Soviet domination in Afghanistan. According to Brezhnev's instructions, Soviet advisors and pilots in the service of Afghanistan's government participated openly in the coup against the Afghan Army. Besides, hundreds of people in Afghanistan are convinced that Soviet planes coming from the bases near the Afghan border have bombarded the barracks of the Presidential Guard and several military centers outside of the capital. Consequently, President Daoud, a non-communist friend of the Soviet Union, seventeen members of his family and 12,000 men from the Afghan Army were massacred mercilessly. Taraki's Marxist government was brought to power against the will of 16 million Muslim Afghans.

President Brezhnev continued to violate boldly the spirit and the letter of international law by further actions. He precipitately recognized the government of Taraki, while of 28 provinces of Afghanistan, 27 had not been under its effective control. He also pledged in the treaty, which he signed in December 1978 with Taraki, to assist the illegal communist government in Kabul against the people of Afghanistan. The Soviet President publicly denied the participation of the Soviet advisors and air force in the coup. He stated repeatedly that this country does not interfere in the internal affairs of Afghanistan. He also tried to convince world opinion that the coup was in reality a revolutionary move of the Afghan people, who favor "Socialistic Reform." Soon after the coup, events revealed the falsity of President Brezhnev's statements.

The Afghan nation, which has never yielded to foreign domination, revolted against the Soviet puppet government of Taraki. Consequently, President Brezhnev has been forced to increase the number of so-called Soviet advisors and pilots from 1,500 to 4,000 and later to 8,000, and has instructed them to suppress the Afghan nation's uprisings with drastic action as quickly as possible. In fact, Soviet forces tried to enforce his instructions with no discernment or feeling of pity, as usual.

Adolph Dubs, the U.S. Ambassador, was killed together with his kidnappers. Over 3,000 political prisoners have been executed without any trial. 60,000 to 80,000 people have been imprisoned and tortured mercilessly.[1] The Soviet Air Force, covered with the red flag of Taraki's government, has dropped napalm bombs on the cities and villages and has burned to death many thousands of innocent children, women and men. According to some sources, 250,000 people have been massacred by the Soviets. In excess of 200,000 people have lost their homes to napalm bombs and have taken refuge in Pakistan and Iran. They live presently on the border areas of these two neighboring countries without adequate food and shelter. Any international inquiry board would most likely find higher figures and more cruelties than those mentioned.

In addition, President Brezhnev has requested the Prime Minister of India, during his visit to Moscow, to compel Pakistan's government to take radical action against the Afghan guerrilla fighters and refugees.

To President Brezhnev's great surprise, the Soviets have failed to break down the resistance of the Afghans by these unparallelled massacres and atrocities. On the contrary, the more the Soviets kill the Afghans, the stronger becomes their will to defend their freedom and independence. To date, they have delivered 24 provinces from the communist yoke and have established an effective national control in 75 percent of Afghanistan's territory. The cities in the hands of the communists are encircled by national revolutionary forces. Even inside the capital, the increasing hostility and disorder among the people has forced the leaders of the so-called Khalq (People's) party to take refuge in the barracks of the Soviet forces outside of Kabul and to send their families to Moscow.

Under these conditions, no one can deny that recognition of the communist government in Kabul by the Member States and its admission to the United Nations is a flagrant insult to justice, to the spirit and the letter of the Charter, and to the principles of international law.

The member states cannot pass over this manifest violation of the Afghans' rights to national sovereignty without jeopardizing international order and their own freedom and independence. They may hide the present situation in Afghanistan by using any imaginable excuse, and shun their moral and legal obligations. But they cannot prevent the Soviet Union from seeing the reality. The Soviet Union knows that the other member states are perfectly aware of its aggression in Afghanistan, and that their silence is essentially due to their weakness and fear. This will naturally encourage the Soviet Union to take more important steps toward world domination.

Undoubtedly, Afghanistan is not a final objective in the Soviet scheme. In subjugating Afghanistan, the Soviet Union is trying to pave its way to the domination of South Asia, the Indian Ocean, the Middle East, and subsequently Africa and Europe. Many eminent statesmen and scholars have expressed their worry in this respect. Today, the general public shares their views.

Therefore, it is vital for member states, especially small nations, to bring the United Nations back to life by honoring their obligations. They should use the power granted to them by the Charter and stand collectively, with courage, against the Soviet Union's continual acts of sabotage and aggression in any form and in any part of the world. This is the only way to protect the small nations' independence, human rights, peace and order. Otherwise, the free world will soon collapse under the increasing pressure of the Soviet Union's uncontested power.

As for us, we will never give in to the Communist doctrine which denies God, preaches hatred, creates divisions inside the nations and considers religion, justice, international law and order as creations of crafty men designed to exploit the lower classes. We will defend our religion, dignity, freedom and independence at the cost of any amount of blood and tears.

However, we believe in your wisdom and sense of justice, and still place our hope in your organization. Therefore, we urge you to take immediate action in order to make possible the exercise of our right to self-determination. The exercise of this right through popular consultation (referendum) must take place under the auspices of the United Nations, without the interference and pressure of the Soviet Union. We pray that God may give the United Nations the courage to prevent the Soviet dictators from gradually exterminating the non-communist population on earth.●

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[1] See the report of Amnesty International published in September, 1979 in London.

CHRYSLER

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. COLLINS of Texas. Mr. Speaker, the Chrysler issue is pressing, but Congress must weigh it objectively. England's experience was that financial aid led to a governmental socialistic industry.

You will appreciate the statement of the editorial from the Dallas Morning News.

Here is the Dallas Morning News editorial:

COUNTING THE COST

The headline in the Friday paper said, "Trouble clouds air for Chrysler in Senate panel." It is just possible that the reason can be found in the senators' reading of stories like the one appearing in the previous day's news.

The Associated Press reported, in Thursday's issue of The News:

"Britain lurched toward a new industrial crisis Wednesday when militant union workers at the state-run British Leyland auto company called for a 1-day general strike . . .

"The Leyland militants, angry about the firing of a communist union official for urging workers to take over the ailing company's plants, called on Britain's 12 million unionized workers to join Leyland workers in a 'day of action and demonstration' Monday."

There is usually strong political pressure on politicians, even conservatives, to throw public money with both hands at any program that claims to save jobs. This is particularly the case when a recession looms and weaker companies begin to wobble.

It is very easy to put numbers on the damage that will be done if government stands by and lets an "ailing company" fail. Never mind that the free enterprise system is supposed to weed out those competitors who fail to win the consumers' approval and purchases. When governments hear about the number of jobs in danger, they weigh that cost of inaction against the much-less quantifiable cost of bailing out the company. And so, in they go.

The British government has been doing this for years, British Leyland being one of the rescued. The record there provides a most startling picture of the cost of the rush to bail out uncompetitive firms with government money and direction.

Has government intervention made British industry more productive, more efficient in producing what customers want?

Well, let's see. The AP story reports that the Leyland director incurred the wrath of the union militants because he fired the entire night shift at one plant for sleeping on the job. And his survival plan for the company, which has the unions in turmoil, calls for laying off 25,000 employees, for closing or cutting back a third of the firm's plants. So the protection of jobs, including those slept on, would seem to be temporary at best.

Government intervention may seem to save jobs in the short run. But when such rescues become standard operating procedure, they create in the long run an unholy mess.●

ILLINOIS ENERGY TOUR PROVES USEFUL

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. CORCORAN. Mr. Speaker, during the period October 2–4, I toured energy-related facilities in and around the 15th District. In view of the importance of energy today, and particularly because of my membership on the Commerce Committee's Energy and Power Subcommittee, I felt it important to obtain firsthand knowledge of energy from the Illinois perspective.

During my tour, I found much to be optimistic about. People are apprehensive about U.S. energy policy but they are doing the best they can under the circumstances. I am grateful to the Illinoisans who took the time and made the effort to help me gain a better insight into the energy situation as it exists in Illinois. I would like to share with my colleagues the below listing of energy facilities I visited during my October Illinois energy tour.

The listing follows:

LISTING OF ENERGY FACILITIES IN ILLINOIS

AMOCO RESEARCH CENTER, NAPERVILLE

On our tour of this major facility, we learned of the extensive research Amoco is undertaking to best utilize crude oil and other fossil fuels. Keith McHenry, Bob Arganbright, and Chuck Mason hosted our tour of this facility.

FERMI NATIONAL ACCELERATOR LAB, BATAVIA

During this tour, we learned about Fermilab's energy conservation programs in terms of solar development, conservation measures in buildings, and the Lab's transportation planning and use of gasohol for its vehicles. We also toured the central helium liquifier building and the cancer therapy facility. This tour was hosted by Leon Lederman, John McCook, Hank Hinterberger, John Colson, Bill Fowler, and Miguel Awschalom.

ARGONNE NATIONAL LAB, LEMONT

Our tour of this major facility included a briefing and a first-hand look at the National Battery Test Laboratory. NBTL is the major Federal facility which tests and evaluates electric storage batteries developed under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. I was particularly interested in this facility as I have introduced legislation, H.R. 3718, that would encourage the production and sale of electric vehicles. Argonne is working closely with a major battery manufacturer, Gould, of Rolling Meadows. Argonne also has a nuclear waste management project which I hope to be able to visit in the future. Mike Yao, Duane Barney, and Dick Adams assisted with the Argonne tour.

MOBIL REFINERY, JOLIET

The briefing given at this refinery was most useful in describing refinery operations and the efforts petroleum companies are exerting to conserve energy in their production of petroleum products. This facility is the second newest refinery in the United States. Ray Kruep, Bill Abbey, and Russ Snowe gave the briefing at the refinery and John Philbin assisted through Mobil's Washington office.

LA SALLE NUCLEAR POWER STATION, MARSEILLES

This station is under construction by Commonwealth Edison. I was able to have a complete tour of these facilities, and was impressed with the emphasis on the safety standards being incorporated into this plant. Leo Burke hosted this tour.

ADM GASOHOL PLANT, DECATUR

This plant is the largest of its kind in the United States engaged in the production of alcohol used for gasohol. I was pleased to note that DOE Secretary Duncan toured the ADM plant earlier this month. Briefings on ADM's operations were provided by Dick Burket, James Randall, and Duane Andreas.

ELM MINE, MIDLAND COAL CO., DIVISION OF ASARCO, TRIVOLI

Illinois is the nation's third-largest producer of coal, and so I thought it important to tour a mine. The Elm Mine is a surface mine typical of Illinois. Bob Kropp and Bob Izerd hosted this tour.

SOLAR HOME, LACON

The Dave Wier family home is an A-frame which has eight roof panels and three 400-gallon water storage tanks. Solar heat provided the primary heating source during last year's severe winter.

SOLAR GRAIN DRYER, STREATOR

Under the guidance of an agricultural professor at the University of Illinois, the Dale Sass family has constructed a building with fiberglas on the south wall and a roof with fiberglas panels to absorb solar heat. The heat is circulated throughout the structure with fans and dries the grain.

CENTRAL ILLINOIS ENERGY CONFERENCE, PEORIA

I addressed the Central Illinois Energy Conference which included as participants representatives of industry, commercial interests, educational institutions, and government.

CATERPILLAR TRACTOR CO., AURORA

I concluded my energy tour by touring the Caterpillar plant in Aurora. I gained firsthand knowledge of the various efforts Cat is using to conserve energy as well as Cat's antipollution efforts. Bob Dryden and Dan McAvoy hosted this tour.●

STATEMENT AS TO VOTE

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. DANIELSON. Mr. Speaker, on Friday, November 16, 1979, I was unable to be present on the floor of the House of Representatives for rollcall vote No. 672 and No. 673. On No. 672, in which the House agreed to the conference report on H.R. 4391, making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, I would have voted "yea."

On No. 673, in which the House passed H.R. 2335, to provide for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes, I would have voted "nay."●

IRANIAN SITUATION III; THE NEED FOR INTERNAL SECURITY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. ASHBROOK. Mr. Speaker, the current crisis in Iran has impacted on about every aspect of American life. Our energy resources have been partially crippled, our diplomatic respect has been shattered, our military capability has been questioned, and our Nation as a whole stands awestruck by the ongoing shockwaves that are emanating from the Middle East. Unfortunately I must report that the Iranian situation has also called into question the adequacy of America's ability to remain internally secure. While the tension in the Moslem world has been building, there has been a parallel evolution of Iranian-led violence within the United States. This trend has already shown the gapping holes in our security. Thankfully, no one has been injured or killed by this new wave of terrorism, but enough is going on to underscore the need for quick action by this Nation before tragedy strikes.

Some of the incidents of the new Iranian terrorism range to the bizarre, like the arrest of four Iranians who planned to kidnap Minnesota Governor Al Quie. However, other situations have more serious and deadly overtones. In one case, an airliner flying out of Chicago has a bomb explode in its cargo hold. The plane landed safely but, had the bomb been larger, many deaths would have occurred. Last week eight Iranians were arrested at Baltimore-Washington Airport in Maryland. Under surveillance for over a week the group was intercepted as one of them was about to board a TWA flight to New York. The police found three disassembled Winchester 30.06 rifles, matching scopes, 15 boxes of ammunition, and a map of Washington, D.C., with certain embassies marked, according to court documents.

There are currently 40,000 legal Iranians studying in the United States, another 25,000 to 250,000 are estimated to be in the United States illegally or on expired visas. Many of these students are organized, according to a recent Newsweek article. The article went on to say:

> There is no doubt that Iranian student protests in the U.S. are well orchestrated, and perhaps centrally directed. Two major groups, the Iranian Students Association and the Organization of Iranian Muslim Students, have dozens of U.S. chapters. Both organized frequent marches and demonstra-

tions in New York, Washington, and other cities. If this were the extent of Iranian activity in America there would be no need for concern. However, Newsweek adds an ominous note, "some European counterintelligence specialists believe that as many as 5,000 of the 60,000 Iranian students abroad belong to Marxist or Trotskyite groups and that 500 or so are active members of terrorist cells."

Given that there are no solid numbers of how many Iranian students are really residing outside of Iran, all of these numbers are only estimates. Numbers problems are not the only thing hampering adequate monitoring of Iranian activities. The Immigration and Naturalization Service (INS) had not checked on the status of student visas until April 1979. On that date the agency announced it was planning monthly, random checks on 1 percent of all foreign students in the United States. This effort quickly bogged down, and as of September no deportation proceedings had even been begun as a result of the spot checks.

Monitoring visas does not root out the possible terrorists nor does it provide information on arms caches or terrorist projects in the works. Unfortunately any monitoring of foreign students to prevent terrorism is hampered by provisions in the Foreign Intelligence Surveillance Act, which defines aliens admitted for permanent residence as "United States persons" and confers privileges and immunities pertaining to American citizens. In addition, U.S. authorities, until recently, have treated Iranian students in this country with special leniency because of the unsettled conditions in their homeland.

The result of these actions, or nonactions, is that very little can be done under persent law to counter violent acts before they happen. Up until now, U.S. officials have been lucky enough to stop any violence or, in the case of the plane bombing, have the terrorists botch the planting of the bomb. This may not always be the case. As the United States prepares to host the 1980 Olympics, and as tensions increase between the United States and Iran, we should think twice about our internal security capabilities. When the Congress considers the FBI charter and possible Intelligence Agency legislation, it should keep in mind that hindering the intelligence community in the name of reform may lead to the taking of innocent lives in the name of the Ayatollah.●

THE 61ST ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF LATVIA

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. YOUNG of Florida. Mr. Speaker, on November 18, Latvians throughout the world commemorated the 61st anniversary of the declaration of independence of Latvia. It is important that Americans take time to memorialize the plight of the Baltic people who have been overcome by the ruthless tyranny of the Soviet Union.

Latvia, Lithuania, and Estonia exemplify the true meaning of human rights. In fact, no part of the world represents a more serious denial of human rights, including the right of self-determination, than the imprisoning of the Baltic people.

Soviet repression has been consistent and harsh. Human rights have been violated in numerous ways and these violations are continuing. This ongoing repression makes it incumbent upon us to uphold our heritage of a free and open society and we must champion the cause of self-determination for the Baltic people. The United States must continue to support the aspirations for freedom, independence, and national self-determination of all peoples. We cannot accept foreign domination by any nation over another nation. To this end we remain committed and we must not waiver from our responsibility.●

USE WINDFALL FUNDS FOR ALTERNATE FUELS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. DERWINSKI. Mr. Speaker, I wish to insert in the Record a very interesting and timely editorial which appeared in the November 18 edition of the Pointer-Economist Publications, serving southwest Cook County, on the subject of the vote in the House and Senate on the question of winter heating oil costs. While many Members have already made up their minds on the issue, I commend this editorial to the few that are rethinking their position.

The editorial follows:

USE WINDFALL FUNDS FOR ALTERNATE FUELS

While it may be good politics, and it sounds fair to suggest that excess oil profits be used to help the poor meet the rising costs of heating oil this winter, it is not a proper use of these funds and it will not do a thing to help solve our energy problem.

We think the House and Senate acted with undue haste and let sentiment rather than reason rule their heads in passing similar bills appropriating up to $1.35 billion for this purpose.

It is not that we want any family to have to choose between eating and heating, or that we have a lack of concern for poverty stricken families. No, we simply believe that welfare programs are adequate to take care of anyone and everyone in need, and if their appropriations prove inadequate then let Congress boost them.

Such need can best be determined and be met by welfare agencies at the local level.

Bear in mind that the poor are largely renters who already receive rent subsidies and share public housing—that fuel bills are, for the most part, the landlord's problem. Also, there is the possibility that a bonus fuel check may wind up in the hands of aggressive bill collectors or be squandered for purposes other than fuel.

And, can there be any doubt that this stopgap fuel aid will become a permanent, open-ended extension of the federal welfare program that now numbers 182 programs accounting for transfer payments of some $250 billion annually?

In other words, this is a good way to send another government check to some 25 million persons—the total of those enrolled on welfare, food stamps or supplementary social security—and cement their voting loyalty to the administration.●

THE INVENTION THAT REMADE THE WORLD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. MICHEL. Mr. Speaker, it has often been said the four major inventions that changed the world during our century are the radio, the automobile, the telephone, and the airplane. To this list I would add one more: the traction machine. It can be said, quite literally, that the bulldozer and the tractor, and the other machines that belong to the traction family, have helped to remake the world. Wherever human beings seek to use the Earth for the purpose of mankind, the traction machine is essential.

The world capital of this important business is Peoria, Ill., home of the Caterpillar Tractor Co. For many years Peoria has come to symbolize middle America. Will it play in Peoria? is a question that suggests we all look to this city as the essential embodiment of our national outlook. This is true because Peoria reflects the primary American virtues including the can-do quality best symbolized by our national talent for building and harnessing nature to serve the needs of all. Small wonder that the Caterpillar Co., which is at the forefront of construction and agriculture all over the world, should be located in this truly American city.

At this point I wish to insert in the Record "A Moment of Machinery Revolution: The Invention of the Bulldozer in 1904" from the Washington Post, November 26, 1979:

A MOMENT OF MACHINERY REVOLUTION: THE INVENTION OF THE BULLDOZER IN 1904

(By Larry Kramer)

On Thanksgiving Day, 1904, grain harvester manufacturer Benjamin Holt tested a new earth moving machine on a farm near Stockton, Calif.

By the time he finished his experiment, more than just earth moved.

The invention of the diesel-powered traction machines that could move over land too soft to support horse-drawn or wheeled tractors caused a revolution not only in the farming business but in the construction and military businesses as well: Holt's track-drive principle was applied later to everything from bulldozers to the World War I military tank.

In celebration of the 75th anniversary of that tractor, the Smithsonian Institution's Museum of History and Technology put on display last week a 1929 Caterpillar tractor called the "Cat 10."

It was a merger of the Holt Manufacturing Co. and the Best Tractor Co. in 1925 that created the Caterpillar Tractor Co., which is today the largest crawler-tractor manufacturing firm in the country.

The "Cat 10" on display is a gift from George E. Logue of Trout Run, Pa., a businessman who has collected over 50 antique pieces of Caterpillar equipment since he first developed a passion for them living on a farm at age five.

"It's a totally American invention," Logue says of the Caterpillar tractor. "What would transportation be without the bulldozer? What would our roads, shipyards, airports, anything be like? It all has to start with the bulldozer."

The "Model A" of the tractor business, the "Cat 10" was the smallest ever built by Caterpillar. Nearly 5,000 were produced between 1928 and 1931, selling for about $1,100.

But that tractor represents only one of the many manifestations of Holt's dream machine.

There are millions of tractors on farms across the nation today. The track-type tractor has more than doubled farm output per man-hour since they were first put into mass use 50 years ago.

Militarily, they were first used by the Allies in 1916. In fact, the word "tank" originated because of the way in which the new weapons were shipped overseas during that first World War.

The armor-plated machines with tractor treads were considered a secret weapon. So when they were shipped they were identified only as water tanks for British troops in Egypt.

Today, tractor customers expect their vehicle to live a functioning life of about 20,000 hours: roughly the equivalent of one million miles of automobile travel, the Smithsonian claims.

Not to mention what the tractor has done for George Logue. In an interview with the local newspaper in Williamsport, Pa., he said it has "had a profound effect. My life has never been the same."

Which, by the way, is easy to believe. His fascination for the Caterpillar tractor led Logue to quit what he called a "respectable, good engineering job" in 1957 to work with bulldozers full time. Despite the objections of his father, Logue began digging wells and basements with his own Caterpillar.

Today, Logue heads a $5.25 million construction business with 125 employes. "It's kind of fun to be able to make a living at what you like to do," he says.●

RUBEN ORGANISTA, GOOD CITIZEN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. LAGOMARSINO. Mr. Speaker, General Telephone Co. of California's Good Government Club has chosen Mr. Ruben Organista as its Good Citizen of the Year. The Good Government Club does not take the award lightly nor do its recipients earn it easily. Out of the company's 25,000 employees, only 16 were considered this year.

Ruben Organista, a 14-year employee of General Telephone, believes in good government and believes in being part of it. He has been recognized for entering the city of Carpinteria's political arena in 1978, without any organized financial support and running on his own merits to improve local government; he was elected to city council. Prior to this election, Mr. Organista spent 2 years on the Carpinteria Planning Commission. He will be honored at several events, because of the Good Citizen award.

Ruben's demonstrated leadership qualities deserve to be recognized, and I ask the Members of the House to join with me, his wife Sharon, and their two children, in extending congratulations to Ruben Organista.●

POPULATION STABILIZATION

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. McCLOSKEY. Mr. Speaker, earlier this month, Congressman OTTINGER addressed the New York Chapter of Zero Population Growth, pointing out the need for a national policy of population stabilization. His remarks are worthy of our perusal and concern.

The address follows:

H.R. 5062: A CHALLENGE TO LEADERSHIP ON POPULATION STABILIZATION

The 1980 national elections are exactly a year from today. But the Presidential campaigns are already well underway. In both parties, men are vying for the nomination.

For all the candidates' talk of SALT II, energy, and inflation, they give one main reason for their quests. It's the need for "leadership." More accurately, it is the absence of leadership in the federal government which preoccupies both the candidates and the makers of the candidates.

Americans seem to be searching for the meaning of leadership as much as a good leader. But we're better at knowing what it isn't than what it is. It's not fist pounding. It's not a louder voice; nor a sterner expression.

A Washington Post editor recently offered a positive definition which I like. Leadership, said William Greider, is "the ability to see the future and to make it convincing."

I would put it in terms of the work to be done. Leadership is the ability to:

Grasp a problem fundamental to the nation's well-being,

Put forward clear goals for its solution, and

Take visible, consistent steps to realize those goals.

That kind of government leadership in the face of problems aggravated by great changes in our country's population does not exist and that is why H.R. 5062, the population stabilization bill, is so needed. Ignored and overlooked for decades, changes in the growth, the distribution, and the age-structure of the population have wrought havoc with the United States' environmental, economic, and social well-being.

Between the 1930's and the 1950's, we doubled our average family size and produced an enormous Baby Boom. And then we proceeded to ignore the tremendous impact of their numbers.

The Baby Boom added to a rate of population growth which often has outstripped our ability to protect the environment from its collective impact. For example, had there been no population growth between 1946 and 1968, poisonous lead emissions from cars would have been 50 percent less.

The need to house and educate the Baby Boom—plus the desire to give them a better life—propelled a nationwide drive to the suburbs. With this movement came the loss of agricultural lands, a dependence on gasoline-fueled transportation, and pollution—all of which the Council on Environmental Quality has tagged the "costs of sprawl."

The Baby Boom created a generational bulge which we ignored even as it crowded schools and later flooded the job market. In only ten years, between 1950 and 1960, school enrollments leaped almost 50 percent, from 22 million to 33 million. Two decades later when those students graduated to job hunting, it was possible for President Gerald Ford to report that employment had never been higher and for candidate Jimmy Carter to respond, neither had unemployment.

Last year, the House Select Committee on Population looked back on what has happened in federal policy since those years when we ignored the impact of the Baby Boom's numbers. You know what they found? We continue to ignore demographic change. Population changes still affect our lives and the government's work. But we have no policy to respond to those changes, and we don't even have the capacity to make decisions about what we should do.

In other words, we lack the needed leadership, as I have defined it, to:

Give political definition to population changes and the problems they create,

Set goals for federal response to them, and

Take concerted, visible action on them.

Yet, the need for leadership in the decades ahead will be greater than ever. People are having small families today, but the population still grows by about two million more each year. In the 1980s, reports U.S. News and World Report, "Growth in the number of Americans will speed up. Population will expand by about 21 million * * * or 3 million more than in the 1970s."

Adding to it will be mounting pressures for international migration. Global population growth and global poverty already are driving millions of people to leave their homelands, seeking entry into industrialized countries like the United States—both legally and illegally. There are 300 million unemployed and underemployed in the world today. During the next 20 years, 800 million more adults will seek jobs.

Meanwhile, people in the United States are on the move, too * * * motoring beyond the metropolitan suburban rings to the next stretch of the countryside. Rural communities which lost population for years are now growing again. Between 1970 and 1976, more people moved into rural counties than metropolitan ones—2.3 million more. And it's all built, says USDA demographer Calvin Beale, on the gas-powered automobile in its last years of economic viability.

The Baby Boom hasn't gone away. It is simply growing older. Our older population already is growing faster than the populations of Korea, India, and other less developed countries. Today, about one out of every 11 Americans is 65 or older. Early in the next century, when the Baby Boom generation reaches retirement age, one out of five may be. Straining schools, housing markets, and job markets will give way to new strains on our health care and social security systems.

H.R. 5062 establishes a mechanism to watch for and deal with these changes in the nation's population growth, distribution, and age structure:

H.R. 5062 recognizes the tremendous impact these population changes will have on health, education, the economy, and the environment as well as the federal programs in these areas.

H.R. 5062 recognizes the need for the federal government to plan continually for these changes with stabilization—an end to growth and a balance between generations—as our national goal.

H.R. 5062 recognizes that visibility is needed at the top of federal decision-making with a White House Office of Population Policy pointing to population changes and the goal of stabilization when federal decisions about health care, education, the economy, and the environment are weighted.

I believe enactment of H.R. 5062 could make a big difference in federal policy-making if it were enacted. I'll give you some examples.

European countries already have experienced slower population growth, for which they did not prepare themselves. Their response: to encourage families, through tax-breaks and other incentives, to have more children. In the United States, with a White House office focusing policy-makers on our goal of stabilization, the issue would be how to allow people to have the smaller families they want while benefitting from the economic advantages of slower growth, which Business Week magazine highlighted in its 50th anniversary issue this fall.

Today, we are making major decisions about the future of health care, education, and employment programs supported by the government. In an increasingly older population, will we continue to subsidize institutionalized health care, schooling only for the young, and job-retraining primarily for teenagers? With a commitment to planning for stabilization and a balance between generations, a White House office would focus policy-makers' attention on the need for programs which maximize the health and productive occupation of all generations; older as well as younger.

This year, at the initiative of Congress, a high level Select Commission is re-examining our nation's immigration policies. For two hundred years, the federal government has written and rewritten the laws limiting the numbers of immigrants the United States admits without considering the total population it serves. With a stabilization policy, a White House office would call attention to the need for this Commission and Congress to determine future limits on immigration with goals for population size as well as the economic and social well-being of the country.

Reacting to the gaslines of the summer, federal officials have pushed energy development strategies which would commit the Southwest to population growth its resources—particularly waters supplies—cannot withstand. With a White House office, the growth issue would have to be raised and addressed in terms of the future of the region and the implications for the nation's goal of stabilization.

The United States has experienced leadership, William Greider wrote, at times of greatest national controversy, not the least. H.R. 5062 could generate its own share of controversy in Congress. Broad, national goals such as stabilization are not popular in the halls of Congress today, but without them, government and governing are nothing more than politics. New White House offices are not popular either in a time of disenchantment with bureaucracy. But without a top level focus on the impact of population changes across the board of federal policy, we'll continue to watch federal programs be upset by twists in demographic trends.

Leadership in the Executive Branch is what H.R. 5062 is all about. But neither leadership nor its absence are the preserve of that branch of government. For the House of Representatives, which dismissed the needed work of the Select Committee on Population in favor of returning those responsibilities to overburdened standing committees, it will take real leadership to act on H.R. 5062.

Leadership is also not the preserve of the government. It must come from the private sector, too. Activists such as ZPG supporters have shown it in their advocacy for H.R. 5062. But just as H.R. 5062 looks to government institutions, not just individuals, for leadership, so the population and environmental movement must look to the adequacy of its institutions to lead in the development of a national effort to plan for population stabilization.

There is more you can do. Last summer, in an article on population policy, Sierra Club activist Les Corsa called for new leadership. He proposed a private consortium of environmental groups which would invest in a professional staff capable of analyzing both the impact of federal policies on population growth and the ways the government in its on-going programs can plan for changes in the population.

I am challenging the Congress and the Executive Branch to demonstrate leadership by acting on H.R. 5062. I also challenge concerned citizens—like each of you—to support the creation of institutions which would add to the leadership for population planning in the private sector.●

THE DECLINE OF AMERICAN FOREIGN POLICY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. LAGOMARSINO. Mr. Speaker, following are two articles which appeared in the November 11, 1979, Washington Post, by George F. Will and Joseph Kraft.

I recommend them to my colleagues' attention as representative of the views of the citizens of this Nation who are getting tired of an administration that makes excuses for itself instead of demands on itself, especially in view of the immense demands it makes on its people. Americans are forced to stand by helplessly and swallow the abuse and insults which are hurled at them. It is no wonder the frustration is beginning to show. We have asked this country to swallow too many Government mistakes.

The articles follow:

TIME FOR A SHOW OF POWER

(By Joseph Kraft)

Events in Tehran decree the opening of a full-scale inquest into American policy toward Iran. Not only because American citizens have to be protected. More important, the whole Mideast—and in the matter of oil, the whole world—needs to be insulated against the fanaticism of the Ayatollah Khomeini.

The starting point of the inquest is acceptance of a hard fact that does not go down well with moralists in the country at large and the administration in particular—namely, that the downfall of the shah was a calamity for American national interests.

Like him or not, the shah made available to the world a regular flow of oil in large amounts and without political conditions. His imperial pretensions, and the forces he maintained, imposed order on the Iranian plateau and the submerged nationalities that populate its borderlands.

The ayatollah, in contrast, instituted what amounts to a cultural revolution. He is preparing an Islamic constitution that vests absolute authority in the Moslem clergy, or mullahs. He pushes Iran's brand of Islam—the Shi'ite version—into neighboring countries where the more orthodox, Sunni brand of the creed holds sway. He ties the sale and production of oil to narrow political considerations.

Since theocracy doesn't work, practical power gravitates elsewhere. In Tehran, militant students and revolutionary guards rule the streets. The minorities of the provinces—including the oil fields in the south—are restive or in revolt. Every country adjoining Iran sees in the ayotollah a threat to stability, which is not high in the region anyway.

Washington has tried appeasement of the ayatollah with disastrous results. Not only has American sovereignty been trampled in the embassy, but this country has been increasingly regarded by Iran's neighbors as a poor credit risk, a pitiful helpless giant.

In trying to right the balance, Washington first needs to reduce its vulnerability to the blackmail tactics of the Iranian militants. That means closing down the embassy in Tehran and shutting down the embassy here—at least until a firm understanding on ground rules can be reached.

In the bargain, as an indication that it means business, the United States ought to enforce seriously the laws governing Iranian students in this country. If the laws are inadequate, then new statutes can be written.

A next necessary step is to blunt the Iranian oil weapon. The United States can easily push the few American companies that do business with Iran to other sources. Whatever is lost on that account, and it will not be more than 500,000 barrels daily, can be offset from allied countries—notably the Japanese, French and Germans—that buy Iranian oil. In that way this country would show Iran and the world something they both need to know—that Tehran cannot organize an oil embargo against the United States.

The next step is the truly important step. It involves finding occasion for an unmistakable, and preferably suprising, assertion of American power on behalf of the regimes that feel menaced by the ayatollah. That might take the form of supporting Iraq in its efforts to stir up provincial resistance inside Iran. It might mean giving military assistance to Turkey.

But the most likely candidates for American help are the oil-rich monarchies of the Persian Gulf. The regimes in Kuwait, Saudi Arabia, Bahrain, the Arab Emirates and Oman feel their security in danger. They would like to develop a joint policy for the Persian Gulf, and they met to consider measures to that effect in Saudi Arabia on Oct. 16.

The United States could support them *en bloc*. More dramatically and more effectively, it could give assistance to a particular country in a particular place—say, Oman, at the choke point of the Gulf, the Straits of Hormuz.

To find and exploit such opportunities, there is required a crucial internal change in Washington. The United States needs a capacity to do something besides sending Marines and bombing. It has to rebuild a capacity self-destructed only a few years ago—a capacity for covert intervention.

As that requirement suggests, the rebuilding of American policy toward Iran is going to be a long, slow, uphill task. It will probably be years before this country is ready to play a political role in Iran.

But in the meantime there is one thing ordinary Americans can do. There is nothing in the Constitution that obliges this country to be run by a president whose instinctive reaction to a challenge is a declaration of national impotence.

A NATION AFRAID

(By George F. Will)

It is difficult, and not at all desirable, to be cooly clinical about photographs of American citizens bound and blindfolded and spat upon by rabble, but the freezing truth is that Americans had better get used to such photographs, if they are not already. Enduring the contempt of the contemptible is just one severity that life has in store for a declining nation.

A nation that, in gestures aimed at the Middle East, sends an aircraft carrier steaming in circles in the South China Sea, and sends ostentatiously unarmed airplanes to Saudi Arabia (where many are then grounded for days because of bungled planning and support)—such a nation had better get used to enemies who think it is impotent. Well, not altogether impotent: it can unleash Ramsey Clark.

A nation that loses a war it could have won by confidently employing its conventional military assets had better get used to humiliation. A nation that has no serious response when three ambassadors are murdered (in Cyprus, Sudan and Afghanistan) had better get used to spittle on its cheeks.

A nation that, in February, orders the Marines guarding its embassy in Iran to surrender without a fight to a mob should not be surprised when, in November, another mob arrives to play with the embassy as with a toy.

A nation that uses an ally such as Taiwan as a pawn for utterly unnecessary appeasement had better get used to having fewer and fewer allies of any size, and to the worldwide conviction that it is a nation with no serious convictions. A nation that collaborates in throwing to the wolves an ally like the shah should not expect respect from the wolves.

Respect? For a nation too feckless even to confine Irans' diplomats to their Washington compound when they are collaborating with the rabble of Tehran? Respect? For a nation so inanely tolerant it does not promptly ship home to Khomeini the thousands of Iranian "students" who are here illegally, and who adore Khomeini—from a safe distance, of course—from the comfort of what Khomeini calls "Satan America"?

You know Khomeini: he's the fellow Andrew Young said might be a saint. You remember Young: he's the fellow who symbolized the Carter administration's plan to get America loved in the Third World by appeasing terrorists in Rhodesia and subverting the shah.

You remember the shah, an ally for 37 years. During the 1973 war he was the only ruler in the region who banned Soviet overflights. He urged an end to the oil embargo and rushed fuel to U.S. ships. He rushed arms to South Vietnam (you remember South Vietnam: an ally deceased) before the ban on such aid went into effect under the Paris accords. (You remember the Paris accords: they brought peace to Indochina.) The shah helped the United States in many ways, but such is our trembling fear of Khomeini, that the shah had to become a cancer patient before we would let him past the Statue of Liberty.

A nation afraid of Khomeini should not bluster at the Soviet Union. A nation that blusters about Soviet activities in Cuba being "unacceptable," and then says, well, er, come to think about it, we just remembered that these activities are, well, for want of a better word, acceptable—and, no don't worry, we won't reject SALT II; we were very decent, you must admit, canceling the B1 and neutron weapons, no reciprocity asked; and, oh, yes; are you quite sure 25 million metric tons of grain will be sufficient?—a nation that behaves this way had better get used to the cackle of derisive laughter.

Speaking of grain, and of photographs that take some getting used to, and of the price of losing wars, consider Cambodia. If the people who used to rant about "American genocide" are really interested (and they really aren't) they should note this: real genocide looks like what is happening in Cambodia now. The starving of millions, the obstruction of relief: this is Hanoi's work and could be stopped by Moscow. But we flood the Soviet Union with grain while the Soviet Union collaborates in keeping to a trickle the relief for the people it is helping to exterminate.

Will we make continued grain shipments to the Soviet Union contingent on Soviet cooperation about Cambodia? No.

President Carter says Cambodia is "a moral issue." Yes. But I, for one, am past trying to understand what he means by that, and past hoping he will understand that, between nations, such issues also are problems of power.●

LADIES AUXILIARY OF ANCIENT ORDER OF HIBERNIANS IN CLINTON, MASS., LAUNCHES GRASSROOTS EFFORT ON BEHALF OF PEACE AND JUSTICE FOR IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BIAGGI. Mr. Speaker, as chairman of the 130-member ad hoc congressional Committee for Irish Affairs I am pleased to inform my colleagues of a major grassroots effort being undertaken by the Clinton, Mass., division, Ladies Auxiliary, Ancient Order of Hibernians—America's oldest and largest Irish American organization.

Beginning in July, the auxiliary under the inspired and tireless leadership of Mary J. Richards began a national petition drive to bring attention to human rights violations in Northern Ireland. As of early October, more than 4,200 Irish Americans from the States of Massachusetts, New York, and Illinois had signed their name to the following petition which I insert in the RECORD at this point:

A PETITION

We, the undersigned, citizens of the State of Massachusetts and members and friends of the Ancient Order of Hibernians and Auxiliary, are deeply concerned by the ongoing violations of human rights by the British Government in Ireland and by the lack of action on the part of our President, our Senators and our Representatives in Washington.

We urge you to make a concerted effort to inform yourself of the true situation in Ireland. We respectfully demand that the issue of human rights in Ireland be made a priority in all statements and decisions on foreign policy matters.

There are more than 46 million Americans of Irish descent in the United States and we are ready to utilize our voices and our votes by petitioning you to secure human rights and peace in Ireland.

We urge all Congressmen to join the Ad Hoc Committee on Irish Affairs and work toward this goal.

In September of 1977 largely due to the efforts of the Ancient Order of Hibernians and the Irish National Caucus, the ad hoc Congressional Committee for Irish Affairs was formed. In that time, we have raised the Irish issue from obscurity to one of national and international visibility. The support we have received from the Irish American Community has been invaluable to our work.

The petition focuses on the largely overlooked problem of human rights violations in Ireland. The fact is—Amnesty International in 1978 cited Great Britain for human rights violations practiced by their security forces in the North of Ireland. Later when the British Government appointed a special commission to verify the Amnesty findings—this same commission did just that—confirm the findings that prisoners and suspects were customarily mistreated. Earlier in 1976 and 1977 the British Government was tried, found guilty and pleaded guilty to human rights violations charges filed against them by the Irish Government before the European Commission and Court of Human Rights. The human rights record in Northern and Southern Ireland is not good. The United States now considers respect for human rights to be the very soul of our foreign policy. It is therefore imperative for us to speak out against these violations and urge their cessation.

We are in fact making progress in terms of recognizing the human rights problems. The annual human rights report to be filed by the State Department early next year will have references to the human rights problems in Ireland. More directly, thanks to the efforts of the ad hoc committee as well as the chairman of the Foreign Affairs Committee, the State Department has instituted an indefinite ban on the sale, export, or licensure of any U.S. weapons to the Royal Ulster Constabulary because of its conflict with our law and its provisions barring sale of U.S. weapons to nations or organizations with proven record of human rights violation.

I hope that my colleagues will pay close attention to the message contained in the petition. It is a message which seeks a consistent application of U.S. foreign policy. Above all it is a message which all should respond to—it seeks peace and justice for the beleaguered people of the six counties of Northern Ireland.

At this point in the RECORD I also insert two newspaper articles discussing the work of the auxiliary and Mary Richards:

HIBERNIANS INITIATE HUMAN RIGHTS DRIVE FOR NORTHERN IRELAND

CLINTON.—Mary J. Richards of 189 Prescott St., with help from other Irish-Americans, has initiated a national drive to bring attention to human rights violations in Northern Ireland.

The drive is being coordinated through the state divisions of the Ancient Order of Hibernians and the auxiliaries. Mrs. Richards and Miss Hester are local auxiliary members.

"What we need is an Irish lobby too big to be ignored," Mrs. Richards said. She said persons wanting to help should contact her or Joseph M. Duffy and James P. Morrison of the men's division.

PRISON CONDITIONS

Dr. Desmond Fitzgerald of Sterling, a native of Ireland, spoke at the "Leprechuan Convention" here last St. Patrick's Day and noted one Irish archbishop toured the infamous Long Kesh prison in Northern Ireland and said it was similar to the concentration camps operated by the Nazis during World War II.

Eva B. Hester, local auxiliary member, told the irate Hibernians the Clinton people should initiate this drive because it was here President Jimmy Carter said he would seek peace between Egypt and Israel.

Miss Hester added when the peace talks become a reality the national media referred to President Carter's remarks in Clinton as "another shot heard around the world."

VOCAL ROLE

Miss Hester said "Here is our opportunity for us, as members of an ancient and honorable Irish organization to play a vocal role in this great expectation. Surely all Hibernians and their friends will win in this quest for human right and peace."

Mrs. Richards said, "There are 46 million Americans of Irish descent in this country and it is time to raise our voices and our votes in support of a lasting peace in Ireland," Mrs. Richards said.

She made her appeal for state help at the Hibernian State Convention in June at the Raddison Berncroft Hotel and Country Club in Danvers. Other Clinton Hibernians there were Virginia Sesia O'Toole, local auxiliary president and recently elected county vice president, Kathleen Chiavaras, local auxiliary vice president and newly named county historian, and Esther Kilcoyne, local auxiliary treasurer.

PETITIONS

Mrs. Richards, program chairman, for the local auxiliary said yesterday petitions seeking an end to human rights violations and peace in that country will be distributed in town. They are now available at Ryan's General Store, the Old Timer Restaurant and Sesia Motors. More locations are expected shortly.

Mrs. Richards introduced a petition on the convention floor that she discussed at the local division meeting in May. "The petition will be a national effort to bring attention to the violations of human rights in Northern Ireland which are happening on a daily basis," she said.

She distributed 1,000 petitions to be signed by all convention delegates and auxiliary members.

NORTH IRELAND VIOLATIONS HIT IN LOCAL DRIVE

A group of Clinton women have initiated a drive which would bring national attention to violations of human rights in Northern Ireland.

Mary J. Richards of 189 Prescott St. introduced a petition on the floor of the Hibernians State Convention in Danvers recently. The petition had been initiated by her at the Clinton meeting this spring.

Mrs. Richards was accompanied at the convention by Virginia Sesia O'Toole, Clinton auxiliary president and recently-elected county vice president; Kathleen Chiavaras, vice president of the Clinton auxiliary and newly-named county historian Esther Kilcoyne, auxiliary treasurer.

The petition will be a National effort to bring attention to the violations of human rights in Northern Ireland which are happening on a daily basis.

Richards told the convention delegates: "There are 46 million Americans of Irish descent in this conutry and it is time to raise our voices and our votes in support of a lasting peace in Ireland." She distributed more than 1000 petitions to be signed by all the delegates and their member Auxiliaries.

Richards said the signed petitions will be forwarded to the U.S. Congressional Committee on Irish Affairs which is to begin talks in Washington in September to investigate the charges of violations of human rights in Ireland. Copies will also be mailed to Senators of each state and to President Carter who made statements prior to his election in support of a peace effort in Ireland.

Eva Hester, local member of the A.O.H. Auxiliary and a past county president, introduced the petition at the gala banquet which was attended by the entire state delegation and their guests. Officers from the national headquarters were in attendance including Thomas McNabb, national president and Sarah Murphy, national vice-president of the Auxiliary. Also Representatives of the Irish National Caucus, Speaker of the House of Representatives, Hon. Thomas W. McGee, Congressman Nicholas Mavroules and James M. Shannon.

Hester in her presentation stated, "It is most appropriate that the Clinton delegation should introduce the petition for peace, since two years ago when President Carter visited Clinton, one of the questions asked of him was regarding the possibility of Peace talks between Israel and Egypt. Hester said when the peace talks became a reality the national media referred to President Carter's remarks in Clinton as "another shot heard round the world".

"Ladies and gentlemen", Hester continued, "here is our opportunity, for us, as members of an ancient and honorable Irish organization to play a vocal role in this great expectation. Surely all Hibernians and their friends will join in this quest for human rights and peace." Concluding her remarks, Hester said, "We would like to introduce this petition in memory of a great Hibernian, known to many of you here, John P. McGrail of Clinton and Berlin who passed away in Clinton this morning. He was a great Irish scholar, teacher and a friend of Ireland, an inspiration to many of us in Clinton, we present this petition in his name."

Richards said the petition signing is well under way in Clinton and will be circulated nationally for added effectiveness. Richards said, "What we need is an Irish lobby too big to be ignored."

Anyone wishing to help may contact Mary Richards or other members of the Hibernian Divisions. Joseph M. Duffy and James P. Morrison are representing the local men's Division. Petition may be signed at: The Old Timer Restaurant, Ryan's General Store, the Senior Citizens Center and Sesia Motor Sales and the Clinton Daily ITEM.●

TRIBUTE TO JANAE HAMBY AND OAKDALE HIGH SCHOOL

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SHUMWAY. Mr. Speaker, I would like to bring to the attention of my colleagues an admirable and commendable effort originated by Miss Janae Hamby, president of the student body at Oakdale High School (Calif.), and carried to successful completion by Janae's fellow students. Miss Hamby is to be commended for her leadership just as the students are to be congratulated for their responsibility, cooperation, and determination.

Following the President's announcement of a ban on the importation of Iranian oil, and recognizing that cooperation among Americans would be necessary to offset the resulting shortfall, Janae circulated a petition among her fellow students. Those who signed pledged to refrain from unnecessarily burning gasoline by curtailing pleasure driving during free time before and after school classes, and to exercise planning in the use of their automobiles. Some 400 students signed the resolution, indicating their commitment to the goal of citizen response.

Mr. Speaker, I am convinced that America can face and resolve most any eventuality if we stand united, and particularly if we gain the understanding and cooperation of our youth. The students at Oakdale High School have proven clearly what can be achieved if we take the time to communicate the Nation's needs to our younger citizens. I support Janae Hamby and her schoolmates completely, and I strongly urge all Americans to emulate their outstanding example. Not only will we be conserving a vital and scarce resource—we will also be making it known that we will not capitulate to fanatical unstable regimes in the name of oil.

At this time I ask that my colleagues join with me in paying tribute to Janae Hamby and the students of Oakdale High School, and in working fervently to stimulate other citizens to follow that lead.●

ABUSE IN THE HEW OFFICE IN KANSAS CITY

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BENJAMIN. Mr. Speaker, I would like to share with my colleagues an article from the Chicago Tribune regarding reported abuse in the management of the Health, Education, and Welfare office in Kansas City.

Once again, the growing lack of confidence in our Government by our constituents has been nurtured by another exposure of irresponsible management. If we are to restore confidence in our Federal Government, we must respond to these alerts of abuse by bringing them to the attention of the appropriate congressional committees and agencies for review and necessary action.

I have forwarded copies of the article and have requested Health, Education, and Welfare, the General Accounting Office, the House Subcommittee for Intergovernmental Relations and Human Resources and the Senate Subcommittee on Civil Service and General Services to investigate the extent of abuse in the Kansas City regional office as well as the existence or prevalency of mismanagement in other Health, Education, and Welfare offices.

I urge my colleagues to join with me to pursue a course of action that demonstrates our commitment to seek out and eliminate abuse. I believe a concerted effort to arrest these wastes will lend credibility to our reputation as a Congress that is aggressive in monitoring sound management of Government and its services to its citizenry.

Although I realize that news media reports can be questioned on points of accuracy, I will continue to communicate any reports of fiscal irresponsibility in our Government to the appropriate investigative committees and agencies for review and confirmation or denial of charges of mismanagement.

In conclusion, let us respond to the citizens of our country with authoritative action that profiles our determination to put the tax dollar to use, not abuse.

The article follows:

[From the Chicago Tribune, Nov. 22, 1979]

REPORTER LOGS WASTE OF TIME AT HEW OFFICE

KANSAS CITY, MO. [AP].—A reporter who spent three months working in the Department of Health, Education, and Welfare's regional office says she often read books or newspapers because employes had nothing to do.

Esther Bauer, in a copyrighted series in the Kansas City Times, reports she and other secretaries spent hours reading books and newspapers for lack of anything to do. At other times, they were swamped not only with a sea of bureaucratic paperwork, but also personal and business correspondence for their superiors.

There were training sessions lasting from three hours to entire days on how to fill out government forms. They included an eight-hour training session on how to fill out forms for training sessions.

The director for the four-state HEW office, Thomas J. Higgins, has refused comment on the articles, which were published Monday and Tuesday. The final article was planned for Wednesday.

Steve Glorioso, an HEW spokesman, said Higgins would comment on the series at a press conference Monday. Glorioso said the articles were filled with "distortions and innuendos," and accused the Times of "unethical conduct" in placing Bauer in the job.

In a typical work day, Bauer said, she typed an envelope, photocopied a report, mailed some letters, typed a travel voucher, and spent a few minutes typing a revised job description. Nearly half the work day was spent reading newspapers or books to kill time.

The Kansas City office has 6,000 employes. Nationally HEW has a $200 billion annual budget—a tab of nearly $1,000 for every American.

At no time was the politics of the bureaucratic system more evident, Bauer said, than with the July 19 firing of HEW Secretary Joseph A. Califano Jr.

"I was able to observe firsthand how political upheaval in Washington sends aftershocks out to the provinces," Bauer wrote.

Middle-level bureaucrats were fearful that their heads would also roll and July 19 ended with practically no work done in the Kansas City office, she said.

Only half of the 25 employes in the regional administrator's office showed up for work, some arriving just in time for an early lunch, she said. The paper flood was reduced temporarily to a trickle.

Bauer took a series of Civil Service tests to get her job in the HEW office. She said, in the months that followed, her role included:

Typing letters and running photocopies, on a government machine, for the private business of an HEW executive.

Typing a reply from an HEW career bureaucrat to a Terre Haute, Ind., mail order record club that had sent a dun for an overdue payment.

Typing a letter from Glorioso to a bank president, plugging for a job for Glorioso's brother.

Typing a two-sentence memo four times—using fresh sets of carbon each time—because a public affairs assistant was not quite satisfied with the "esthetic" merits of the memo.

She outlined a typical work day:

8 a.m., Aug. 7—Came to work in the Federal Building, read newspaper and book for two hours.

10 a.m.—Typed envelope address.

10:12 a.m.—Photocopied report.

10:26 a.m.—Mailed two letters.

10:48 a.m.—Placed phone call to Vermont for boss.

11:22 a.m.—Typed revised job description.

11:30 a.m.—Went to lunch.

Noon—Returned from lunch. Transferred phone call, then read because of nothing to do.

2:15 p.m.—Typed travel voucher.

2:25 p.m.—Passed out mail to four bureaucrats.

2:50 p.m. Passed out more mail to four bureaucrats, then read because had nothing to do.

4:30 p.m.—Went home.

Her job paid $32.16 a day.●

CONGRESSMAN RUDD ADDRESSES WORLD ANTI-COMMUNIST LEAGUE MEETING

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. DERWINSKI. Mr. Speaker, a belief that is held by many Americans is that a major foreign policy goal of the United States should be to unite in freedom with all other non-Communist nations in order to improve the quality of life for all people of the world and to overcome Communist aggression.

One of the most dedicated advocates of this freedom philosophy in the Congress is our distinguished colleague from Arizona, ELDON RUDD, who spent many years on diplomatic assignment for our country in Latin America prior to his election to the House of Representatives.

I have had the privilege of reading the remarks which Congressman RUDD delivered on invitation as the keynote speaker before the executive committee of the World Anti-Communist League, which met in Asunción, Paraguay, on November 16.

It is a most thoughtful speech, which touches on many important points that I believe the leadership of our Nation would benefit from heeding.

I would like to insert the remarks of Congressman RUDD at this point in the RECORD.

REMARKS OF CONGRESSMAN ELDON RUDD AT THE ANNUAL MEETING OF THE WORLD ANTI-COMMUNIST LEAGUE EXECUTIVE COMMITTEE—ASUNCIÓN, PARAGUAY, NOVEMBER, 1979

[By special invitation to deliver the keynote address]

We are gathered here to bear witness to the eternal truth that man's thirst for freedom is unquenchable.

It was Thomas Jefferson, American, patriot, writer of the United States' Constitution, shaper of the new republic and third President of the United States who said, "Let us swear upon the altar of God eternal hostility against every form of tyranny over the mind of man."

Ten months ago we gathered on Taiwan in Free China to mark the 25th anniversary of a remarkable demonstration of the power of freedom.

It was our hope that we might attract the world's attention—bring the mind and memory of man to focus on a great victory for freedom.

The occasion was the 25th anniversary of that moment when more than 14,000 Communist soldiers of the North Korean and Communist Chinese armies who had been taken prisoner in that war with the South—prisoners who when released by their South Korean captors refused to go home.

In every war there are some stragglers who defect to the enemy, but I cannot recall another time in all history when so great a number chose not to go home—turned their backs and their minds and their hearts away from their native land, from their families, their friends, their sweethearts, to remain in the land of their captors.

Perhaps it might be said that since this was almost a civil war between two branches of the same family, the decision of these 14,000 North Korean troops to remain in South Korea was significant.

My friends, in a reach of history where the victories for freedom have been scant, that decision by the North Korean prisoners was and is of transcendental world importance.

At a time in history when the Communist tyranny was being extended all across the face of the earth these 14,000 North Koreans who had known Communism—who had lived under Communism—who had fought in defense of Communism—freely and spontaneously rejected Communism.

These men were soldiers drawn from every strata of North Korea's society. They were not philosophers or political scientists. They were men whose thirst for freedom forced them to turn away from their homeland, and the death dealing tyranny of Communism. There can be no compromise with Communism. To do so means slavery and death—they chose freedom.

They may never have heard of Thomas Jefferson. But by that action they identified in motive and belief with him who said, "Let us swear upon the altar of God eternal hostility against every form of tyranny over the mind of man."

When we met in Taiwan we were suffering in the aftermath of President Carter's announcement of his decision to unilaterally abrogate the mutual defense treaty between Taiwan and the United States.

I told you then I believed the Presidents' action was the result of a tragic error in judgment. I said that I had joined with Republican Senator Barry Goldwater in a lawsuit to challenge the American President's authority to unilaterally abrogate that defense treaty.

We have cause for great encouragement in the fact that the judge of the trial court in stern and uncompromising language declared President Carter exceeded his authority in that action.

This action has earned the gratitude of every disciple of freedom throughout the world.

It has been reported to me that up to this moment our brothers in freedom in Taiwan have continued to prosper. Mainland China has made no concentrated effort to destroy them or to absorb them.

The significance of the ruling of the court lies in its support of the U.S. Constitution—its denial of unlimited arbitrary power to any transient occupant of the White House.

It is conceded that in the present climate the U.S. Senate may give its consent to the abrogation of that treaty. But, unless the court's decision is reversed, we have accomplished our primary objective. The rule of law has triumphed once more over the rule of men.

The memory of the Korean war brings tears of shame to many Americans and particularly, to your servant who served as a Marine Corps fighter pilot in World War II.

Korea was the first no-win war America ever fought.

It was the first example of politicians overpowering the wisdom and judgment of our military leaders.

It was the first step—the beginning step of a possible retreat.

Timid men, perhaps traitors, persuaded the President of the United States to fire General Douglas MacArthur because he refused to wage a no-win war.

Fearful of the threat of total Communist Russia involvement, fearful of the presence of the hoards of Communist Chinese soldiers, we denied our military leaders the victory they might easily have won.

My friends, at the end of World War II almost fifty percent of the people then living on planet earth enjoyed some aspects of political and individual freedom.

Today that percentage has dwindled to about seventeen percent.

It is not necessary for me to itemize freedom's losses for you because you understand the enormity of the peril which threatens you and me, and the free men everywhere today.

But for those who might be listening—for those who are unaware, I am compelled to make that count.

Moving from the triumph of that accommodating ceasefire in Korea—and I would remind you we are still living under that unreliable ceasefire—there has been no permanent settlement of the Korean question. International Communism has spread into most of Southeast Asia, all of Vietnam.

In the troubled country of Cambodia the slaughter continues. There, the contest is not between freedom and slavery, but rather between two different brands of Communism.

In Sub-Saharan Africa the Communists hold dominion in Angola and Mozambique and threaten Rhodesia. They dominate the entrance of the Red Sea in Ethiopia and South Yemen. There disciples control Afghanistan. They threaten the entrance to the Persian Gulf.

And in the Western Hemisphere, operating from their forward base in Cuba, they have produced and supplied the revolt in Nicaragua. They are the source and inspiration for the troubles in El Salvador and in Costa Rica.

The Dictator of Panama is Castro's friend and ally.

In the troubled Middle East recent events in Iran threaten to destroy our efforts to establish peace.

The attacks by the Iranian mob on the American Embassy, the attempts to blackmail the U.S. government, have a significance beyond the present moment.

This incident clearly demonstrates the weakness of the West. Pinned down by our dependency on the Middle East for oil, it appears we were forced to temporize.

The murdering terrorists of the PLO have persuaded some Americans to overlook their cruelties and their inhumanities and to regard them as the legitimate spokesmen for the Palestinian people.

When terror, directed against innocent civilians, can successfully bring its perpetrators to the international bargaining table, morality and decency disappear from the arena of international relations.

Have we failed? Of course not!

Can it be that the doctrine of Communist slavery holds more appeal for mankind and more hope for tomorrow than does the promise of individual, physical, political and economic freedom?

Of course not.

Stalin preached the nothingness of the individual.

We recognize that every human being is precious, intended by his Creator to be free.

What then has happened to erode the purpose and the will and the commitment of the Western World to freedom's cause?

Some will say it is our comfortable affluence which has turned us soft. Others will say that in the changing world with the emergence of the have-not nations freedom and capitalism can no longer satisfy the aspirations of these populations.

Where has Communism done better?

Mother Russia cannot feed her own people without drawing on the productive capacity of the American farmers.

Russia's Communist leaders squander their substance on the weapons of war, secure in the knowledge that humanitarian Uncle Sam will not permit their people to starve.

My friends, there has in this century developed a new and dangerous dominant philosophy. It is secular humanism.

All of man's noble impulses rest on religious foundations. We care about the poor and the sick and the prisoners because our Lord taught us to accept responsibility for the welfare of our brothers.

Secular humanism, separated from its religious foundation, is like a bouquet of cut flowers—beautiful and appealing, sweet smelling—but doomed to wither and die and putrify.

This philosophy is the handmaiden of appeasement.

The secular humanists argue that concern and charity are an essential part of our public policy in order to quiet and contain the restless.

You and I know that concern and charity and compassion are the essentials of the teachings of our Lord.

Secular humanism rests on expediency.

The free man's proper concern for his neighbor rests on the commandments of God.

There is a character in a great American novel who, when confronted with vexing problems, put off facing reality saying, "I will think about that tomorrow."

My friends, for the past twenty-five years leaders of the free world, for the most part, have refused to face reality. We have closed our eyes hoping the evil would go away. Shrinking from the brutal, wasteful, miserable bloodshed of war, we have compromised with the beauty of truth.

Let us then, on this occasion, put aside wishful thinking and self deception.

Let us look at the world around us and face reality.

The struggle which threatens to engulf our world is a battle for the minds of men. It is not commercial or territorial. It does not center on a disagreement over political theory. It rests squarely on two contending constructions of the nature of man himself.

Is man to be regimented, exploited, doctored, fed, and worked then discarded?

Is our transient existence on this earth all there is to life?

You and I say no; but our voices have been faint and some leaders, hoping to postpone the final showdown, have retreated.

This contest may someday degenerate into an armed conflict with the missiles of the West destroying the East and the missiles of the East destroying the West. But it need not be.

For we know the appeal of freedom will overpower those who would resort to slavery.

We know that in every human heart there lives an insatiable thirst for the blessing of freedom.

We anti-Communists know that over the long reach of history, through wars and famine and pestilence men in every nation and in every land have raised their hands to grasp the torch of freedom.

We also know that weakness breeds aggression. We know that superior strength—military strength, economic strength and, above all, spiritual strength is the only certain way to contain the ambitious adventurer, aggressor nations who would destroy freedom.

Their hope is that because we long for peace, because we are peaceful by nature, because we understand the horror and futility of war, they can by threatening war impose their will on the other nations of the world.

Their economic system based on compulsion is bankrupt. The great reversal of Red China is ample evidence of this.

They rule by fear and force. And, tragically, some prominent voices in the free world echo the Communist propaganda line.

Some leaders in areas of American foreign affairs would have us believe the Russians, fearful of American superior might, were driven to increase their armaments—to build their ICBMs—to enlarge their armies—driven by fear of what the West might do to them.

The disciples of parity are now having a very difficult time explaining why the Russians have gone from deficiency to parity to superiority.

Then there are those who believe in convergence theory, who insist that all the competition between the masters of the Kremlin and the free world will gradually disappear and modify if we provide the resources to bring the Communist world into a position of economic parity with the free world.

This argument might be more believable if the tyrant masters of Russia were not devoting such a disproportionate share of their social resources to achieving military superiority.

It is not given to us to know the future. But to look at the future without reading the past is childish nonsense. And the lessons to be learned from the events of the 1950's and the 1960's and the 1970's are clear.

The Communists do not share our commitment to peace. They will lie, cheat, steal and murder to gain their objective.

They can be restrained only if the free world remains strong and committed and willing to use the same measure of force our enemies have employed against us.

We must build the defenses of the free world. We must modernize the Western arsenal of defensive weapons. We must use our economic power to discourage Communist Russian expansion.

But above all we must recapture that courage—that spirit—that will which is the property of all free men.

For if we do not unite in freedom, we will be divided by slavery.

Let us then put aside timidity and uncertainty and fear.

Let us proclaim to all men everywhere that only by uniting in freedom can we improve the quality of life for all sorts and conditions of men, and overcome Communist aggression.

Let us now, with one mind and one voice and one purpose, in concert with those who have gone before and those who will come after, swear upon the altar of God eternal hostility against every form of tyranny over the mind of man. There can be no compromise with international Communism. You see, freedom is not negotiable.●

INDEPENDENT SCHOOL DISTRICT 877 PASSES RESOLUTION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. NOLAN. Mr. Speaker, I would like to bring to the attention of my colleagues a resolution recently passed by Independent School District 877, Buffalo, Minn., in opposition to proposed cuts in school lunch reimbursement for paid lunches. I believe the board has done an excellent job of expressing these very legitimate concerns.

The resolution follows:

RESOLUTION

Whereas, the President has recommended that Congress reduce the federal reimbursement level for lunches served to paying children under Section 4 of the National School Lunch Act and;

Whereas, such a cut would make it necessary for most local school districts to make an additional charge of 10¢ per pupil (above inflationary cost of 5–10¢ already budgeted for the 1979–80 school year) and;

Whereas, surveys show that any increase will result in significant decreases in the number of children participating in the school lunch program and;

Whereas, all children are required to attend school and need a nutritionally adequate school lunch to function effectively and;

Whereas, a decrease in participation would also adversely affect long-term health; the fact that per unit cost will increase because of less volume; lessening of some community programs; the loss of employment in the community and;

Whereas, the General Accounting Office has no conclusive evidence to support the proposed cuts in the school lunch program: and be it

Resolved, that the School Board of Buffalo, Minnesota, hereby oppose all proposals to reduce the federal school lunch reimbursement for the middle-income paying child; and be it further

Resolved, that the Congress of the United States ensures the continuation of all funding under the National School Lunch Act of 1946 by resisting any future cuts.●

THE EFFECT OF THE RECENT VISIT OF POPE JOHN PAUL II ON THE UNITED STATES

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. CARNEY. Mr. Speaker, the recent visit of His Holiness, Pope John Paul II, was an experience to be pondered by our entire Nation. Too often, events pass us by in their spectacle and splendor without our recalling the true meaning of the actions and words of the moment. I would like to call the attention of my colleagues to an address given by Mr. Harry B. Farrell of Hampton Bays, N.Y.

Mr. Farrell, now in his midseventies, spoke before the Holy Name Society of St. Rosalie's Church, of which he is a member. He has captured the stirring nature of the Pope's visit, and provides a moving reflection on the meaning of the visit and its effect on our entire Country.

A retired member of the faculty of St. Mary's College in California, Mr. Farrell spoke eloquently and with deep conviction. I commend to my colleagues his words about the Pope and about the important choices to be made in America—choices for a proud and moral citizenry.

The address follows:

REFLECTIONS ON POPE JOHN PAUL II AND HIS VISIT TO AMERICA

Reverend Fathers Gill, Giuntini, and Fox, Brother Edward, Mr. President, and fellow members of the Holy Name Society of St. Rosalie's:

I am honored by your request to recall some of the highlights of the visit of Pope John Paul II.

We all witnessed a spectacle the like of which has never been seen in our country and one which may never be duplicated in our life-time.

Of all the characteristics that stood out, perhaps it was the Pope's luminous face, so gentle, so expressive, so much a compendium of a life of trouble, hard work, scholarship, and inner sanctity. His face alone was a benediction to behold. Its mobility reflected the universality of his reflexes to each occasion. As he held up infants to cuddle and caress, one was forced to remark on the double innocence we beheld. When he fell over our skyscrăpers, he stood the skyscrăpers straight up again and almost impishly looked out at the audience and seemed to be saying: "You think I don't know about your long and short vowels; I'll show you," and he repeated skyscrăpers, to the wild cheering and applause of the audience. That same face reflected moments of deep prayer as he leaned against his crucifixion staff. His radiant and happy face recalls Dante's definition of pleasant laughter: "It is a sudden light which flashes from the delight of the soul."

In today's plastic and phoney world, we have the thing called "images". You can go to school and pick a veneer of the kind you want. You can run the whole gamut up to the assumed urbanity of pagan humanism. No charm school could ever do anything for this complete man. He is a truly charismatic character—the one giant bestriding the earth and renovating its spirit. I am sure he will circumnavigate this planet many times before his heavenly flight and spread the good news of the Gospel.

What he had to say was a continuation of the eternal verities which because of their nature cannot change. No economic betterment will ever ensue by the denial of morality. The topics, often stated in sledge-hammer blows of seeming redundancy, are the absolutes of decent human living. The man who once said "there are no absolutes" forgets that he just stated an absolute. The "seeming redundancy" was intentional on the part of the Pope, because he knows that the stubborn will of man is hard to move, and that repetition is the soul of learning.

His homilies are the latest editions of papal pronouncements that in all ages have given light to the world as, for instance, the stirring encyclical of Pope Leo XIII, called "Rerum Novarum," issued at a time when the industrial revolution was peaking and the Pope reminded the world industrialists flatly that no man should be a chattel of any other man. Now our present Pope reminds us of the dignity of every human being, born and unborn. Dignity is in the soul of man, not in the outward show of furs, diamonds, image dressing, and hair-dos, nor in that way of talking which has been characterized as "the constipated nasal tone which some people pick up by too long a residence in Newport."

Whether mankind realizes it or not, we are by nature adoring creatures. The object of our adoration may be some sleazy filth-monger, some worn-out beauty in the penthouse, some great American, who, after he dies, was found never to have paid an income tax, or some politician full of charisma but degenerate beyond recall. Salvian, a priest of Marseilles, in the 4th century, speaking of the downfall of nations, wrote: "Long before the nation was beaten physically, it had lost itself morally and though some wished to survive, the WILL to do so was no longer there."

John Paul II, in speaking of God and Jesus, focused our adoration where it belongs and made it clear that Jesus is not a distant myth, but is living right next to each of us every day of our lives—that the Incarnation is the central fact of all human history. The French writer, Montaigne, in an apostrophe to human stupidity, wrote: "O senseless man who cannot possibly make a worm, and yet makes gods by the dozens!" Our yearning for God is as St. Augustine wrote: "Our hearts are ill at ease until they rest in Thee." And Lamartine's gentle reminder "that man is a fallen god who remembers heaven."

So there we were in the blinding rainstorm at Shea Stadium, when along came his Holiness and at the very moment of his entrance, the heavens opened and the most brilliant sun ever beamed over the stadium to the thunderous roar of the crowd. On another day, if you were driving by the stadium, and heard such cheers, you would believe it if someone told you that, with 12 men on each base, Joe Met had hit a 37-run super grand slammer. A man near me, astounded by the spectacle, hit himself on the head and yelled: "My God, it's been raining like Niagara all morning and he comes and justs turns it off. Look at that blazing sun!"

As I sat watching the Pope, I realized I was looking at the 264th successor to St. Peter, the present link in an unbroken line of the dynasty that has never ceased to uphold the rights of man. Here was the man now running the worldwide mission, the stupendous operation of the Vatican in its never-ending crusade for the peoples of the Earth.

In Rome they have a saying, Festina Lente, meaning "make haste slowly." Now we have seen the Pope doing just that on his visit. Others were concerned with the timetable. He didn't bother with it. If there was a child to hug, a hand to clasp or a broken body to touch, this astounding man took all the time needed, not in an elitist condescension, but rather in the profound humility of the servant of the servants of Christ. And in other matters he will take his time, for Rome deals in centuries while we may be preoccupied with days and weeks. And he will continue to see things in the stretches of eternity. He reinforced the sanctity and special honor of the priesthood, bringing back to me the memory of having read the panegyric of the priesthood by the famous French Dominican Pere Lacordaire in the cathedral of Notre Dame. Here is a portion of it:

> "To live in the midst of the world without wishing its pleasures; to be a member of each family, yet belonging to none; to share all sufferings, to penetrate all secrets; to heal all wounds; to go from men to God and offer Him their prayers; to return from God to men to bring pardon and hope; to have a heart of fire for charity and a heart of steel for chastity; to teach and to pardon, console and bless always! Oh, the sublimity of such a life! And it is yours, O Priest of God."—Pere Lacordaire.

The pall that is hanging over the Church by reason of a present day malaise was temporarily lifted by Pope John Paul II's visit. If he had the time, I am sure he would have analyzed and soothed the minds that are forever questioning, the souls that are hungering for the truth. Chesterton spoke of "the ill-tempered Christian turning into the ill-tempered agnostic, tired of a story which he has never really heard." And sadly we have a lot of such people today, who have neither the time nor the mentality to fathom these matters that needlessly torment them. That is why Louis Pasteur in such a moment cried out: "O God, give me the simple faith of a Brittany fisherwoman." Let us not get caught up in what Erasmus called the "rabies theologorum", theological hate. Let us not torture ourselves by going beyond the tangents of the human mind. Even if some doubts persist, remember the consoling words of the great Cardinal Newman: "A thousands doubts never made one denial."

A Protestant English novelist wrote after World War I: "Nobody knows where the next Pope is coming from, but he always comes." Well, we know this Pope came from Poland, that stalwart land which gave so much through all the centuries to the enrichment of our glorious faith. What radiance came to the face of his Holiness as he beheld the native costumes, heard the songs and saw the shining faces of the Polish-American children.

It was a pagan Roman mother who once said: "My children are my jewels." Today life has become a burden and the planners, the birth controllers, in their hatred of children or of themselves, and in their stupid theses on lack of land and food, have taken upon themselves the decision that belongs to God alone, and yet do you know it is a federal felony to disrupt the nest of the bald eagle? Daily we hear of police and firemen who risk their lives to save a kitten caught between walls, or a dog on an ice floe in a stormy lake, or saving valuable race horses from a burning stable. But we forget that nightly in our cities, trucks filled with disposal cans containing little heads and hearts and limbs swimming in their own blood, are racing to the disposal dump. To such depths has the human race fallen that one wonders how long God will allow this rotating earth to continue its course. Why should it be so hard to know that life begins at conception? In that fusion of the cells is contained every element of life in the new baby who will become a handsome boy of twelve, a sweet girl of sixteen, or a 295 lb. line-backer who thrills us every autumn weekend. In that one speck of conception is contained the body's thousands of miles of arteries, veins and ducts, the billions of nerve endings, the bones and sinews, and the heart that may pulse four to five billion times before we die. Such is the unfathomable mystery of creation!

The article "abortion" in the 1950 edition of the Columbia Encyclopedia ends with the sentence: "However, (except in previously mentioned cases) to produce or to attempt to produce abortion in a pregnant woman is a legal offense in all states of the United States."

Up to January 22, 1973, forty-six of the 50 states still had their original abortion laws on the Statutes. Four had already "liberalized" their abortion laws. On the above-mentioned date, in one fell swoop, the so-called Supreme Court cancelled the law in the remaining 46 states, by a vote of seven to two.

Moreover, in an astounding statement the majority opinion read in part: "The unborn have never been recognized in the law as persons in the whole sense." At this juncture, we can only cry out with Shakespeare: "Oh judgment, thou hast fled to brutish hearts and men have lost their reason!" So this new massacre of the Holy Innocents continues. If they could talk they might answer in the words of a World War I memento in the beautiful Cathedral of Amiens, France. The two pathetic lines run: "How went the day, well or ill? I died, I never knew."

The Pope in his blazing enthusiasm for life made it clear that life is encompassed from conception to the grave. His theme of love and justice was reiterated so that all could understand that without love there is no living.

And so, Your Holiness, we bid another fond farewell, benumbed as we are with your leaving. Somehow we thought you would stay longer and like little children we were sorrowed at your parting. But there are other sheep in the fold who are waiting to see you and we are sure your itineraries are in the making. In one short year, you have renewed great portions of this planet earth in the knowledge of God's love. You have already taken your place among the giants of Christendom who have been sent by God in troubled times to keep the warp and woof of the Church fabric intact and all the lustrous glow of Western civilization. But the supreme lesson you have taught us is that, in all the strainings of human knowledge, through all the vicissitudes of centuries, the human heart is the common denominator of the human race. And so with our hearts still welling with love speaking to your heart over continents and oceans we once more bid you: Arrivederci Papa! ●

VIEWS OF THE OHIO PUBLIC UTILITIES COMMISSION ON TRUCKING DEREGULATION

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. HARSHA. Mr. Speaker, over the past few months a number of newspaper editorials and other materials have been placed in the Record by some Members of the House and Senate on the issue of trucking deregulation. These materials, by and large, extol the virtues of deregulation.

As is true of most of the controversies which come before the House, there are two sides to the issue. It is in this light that I submit these remarks.

At a time when Members of Congress are being lobbied extensively on both sides of the issue, it is important that we are fully aware of the arguments for and against deregulation of the motor carrier industry. And, while it is no doubt important that we keep abreast of the editorials being published in newspapers throughout the country, I think it is even more important that we listen to the professionals, the people who really understand how the trucking industry works.

Therefore, today I am submitting for printing in the Record an exchange of correspondence between the State of Ohio and the U.S. Department of Transportation on the administration's deregulation proposal, H.R. 4586. The letter from the Ohio Public Utilities Commission, the agency charged with the responsibility of regulating the motor carrier industry in the State of Ohio, tells a different story than most of the newspaper editorials which have been printed in the Record. This is a report from the people who are knowledgeable in this particular field. This is a report from the agency that has widespread experience with the trucking industry—an agency that is confronted with the day-to-day problems in regulating the trucking industry—an agency that speaks from experience and knowledge—an agency that understands the pitfalls and ramifications of total deregulation.

The commission indicates that it is opposed to the administration's bill as currently structured, and advocates a much more cautious approach in altering the regulatory system for motor carriers.

I commend these letters to my colleagues' attention, since it is so important that Congress not take any drastic actions which could result in irreparable harm to our transportation system—a system which works well and in our Nation's best interest.

Mr. Speaker I submit herewith a copy of this correspondence.

Office of the
Secretary of Transportation,
Washington, D.C., July 18, 1979.

Hon. James A. Rhodes,
Governor of Ohio,
State House, Columbus, Ohio

Dear Governor Rhodes: On June 20, it was a pleasure for me to send you a copy of the Administration's Truck Competition and Safety Act of 1979 together with material analyzing this proposed legislation.

As a follow-up to this correspondence, I would like to bring to your attention a copy of the testimony presented to the Senate Commerce Committee by Mr. Charles Schultze, Chairman of the Council of Economic Advisers. This testimony focuses on the four major concerns that have been expressed by opponents of regulatory reform of the trucking industry.

I hope that you will study the Schultze testimony and carefully review our position regarding service to small communities.

I would appreciate receiving your comments on this bill. Please contact David Joyner of my staff (202) 426-1524 if you have any questions about this proposal.

Sincerely,

Terrence L. Bracy,
Assistant Secretary for Governmental and Public Affairs.

Enclosure.

State of Ohio,
Public Utilities Commission,
Columbus, Ohio, October 11, 1979.

The Hon. Terrence L. Bracy,
Assistant Secretary for Governmental and Public Affairs, Office of the Secretary of Transportation, Washington, D.C.

Dear Mr. Bracy: We have your letter of July 18 relative to the Administration's Truck Competition and Safety Act, addressed to Governor Rhodes. The Governor's office has asked this agency to respond. Following are an analysis and comments from this department.

This Commission has attempted to keep abreast of the federal de-regulation battle that has been waged in the past several years. We are basing the following comments on Ohio's 56 year experience with regulated intrastate transportation and Ohio's long-standing cooperative effort with the ICC on both economic and safety matters, and most recently with the Bureau of Motor Carrier Safety of the Department of Transportation on safety matters.

Mr. Schultze's testimony makes reference to propaganda by the proponents of the status quo, particularly in four areas: (1) service to the small community; (2) chaos because of change; (3) trend to monopoly; and (4) regulatory reform will not enlarge amount of traffic. We agree that these issues have been simplified and distorted. The very phrasing of the issues is designed to initiate an emotional response.

Our observations of the studies, statistics, and statements in support of freer entry and reduced rate regulation indicate that this material is equally simplified and prejudicial to a logical analysis of the issues. Statements claiming billions of dollars in savings, to the shipping public and an opening of the industry to small operators and minorities, have no basis in fact.

First of all, we would like to address the four points discussed in the testimony.

We would agree that the small community issue has been overplayed. American ingenuity will develop a system to service the small community with or without regulation.

But the "whys" behind the various conclusions are more important than the conclusions.

Page 2 of the attachment refers to a conclusion that small carriers serve small communities profiably because of efficiency of controllable costs. What is not mentioned is that the R. L. Banks study only considered direct service. All carriers, large or small can show more cost efficient operations on single line traffic. Joint or interline traffic is cost expensive.

If a point in southeast Ohio (an area off the major traffic routes) needs intermittent service to points west of the Mississippi, no small carrier can provide reliable service with or without regulation, by itself. Conversely, if large interstate carriers lose revenues from on-line profitable traffic, both interline business and direct service will dry up completely. Then if the long-haul carrier serves a rural community because of a quasi monopoly for on-line freight, and the free entry provisions reduce the tonnage, the long-haul carrier will discontinue service completely leaving large gaps in service. Not only will there be a reduction in service—but very likely no service at all, on long-haul, intermittent, less-truck-load traffic.

It may be true that some traffic will move cheaper and more efficiently if anyone has a chance to compete for it. But the bulk of the traffic will not be the subject of cheaper, more efficient operations.

Page 4 points up Friendlander's conclusion of "no consistent finding" of subsidized rates for rural areas. Which means there are some, and there are not some, areas where which are subsidized. The pricing and costing processes in the motor carrier industry are not sophisticated enough to draw any precise conclusions. Few people in the motor carrier industry could isolate pick up, platform (if any), line haul, and delivery costs for a move or a small geographic area's moves. Computations are done on system-wide, or company-wide, or industry-wide formulas. There are average pick up, dock, line haul and delivery costs—not Cleveland or Circleville, Ohio costs, or cookie and ping pong ball costs.

On page 5, the trading value of operating rights is a poor measuring stick for profitability. Most often trading value of operating rights is an off the wall process. Where any science at all is involved, the prior or existing rights of the acquiring carrier is of utmost importance. Thus, where an interstate carrier has rights between the east coast metro area and Nebraska, it is obvious that acquiring Ohio, Indiana, or Illinois authority could be profitable. It is equally obvious that such a carrier wouldn't pay a dime for to and from Alabama rights.

Carriers who acquire other carriers, or portions of other carrier's rights, usually do so because: (1) the geographical pattern of traffic fits their own; and/or (2) the commodity traffic is compatible with their present operations.

Again, the sophistication to isolate traffic patterns of the small community and their profitability is not present. All of the great disasters in motor carrier acquisition over the past 20 years occurred because of failure to observe the above simply stated maxims: (1) end to end or hole filling geographical acquisition; or (2) same commodity traffic acquisition.

Page 6, The applications for small communities before the ICC, are all part of the first proposition suggested above. A carrier was seeking to fill in holes in his existing geographical authority. I am familiar with two of the examples used, and those applications were for that express purpose.

Pages 6 through 12. Active case law enforcement is not necessary to impose an obligation to serve upon a carrier or groups of carriers. A complaint that a carrier or group of carriers is not serving a community, or a shipper, can have startling effects upon those carriers. There is no need for a "failure to serve" citation where the threat of formal procedures brings compliance. The force behind the law has been adequate since the beginning of motor carrier regulation.

Every driver, dock foreman, dispatcher, vice president of sales or marketing, traffic employee, and motor carrier executive can recite for you chapter and verse the consequences of complaints for failure to serve. It is true there are abuses. The stock industry reply to the shippers of "no trailers available," does make it difficult for some shippers on particular instances. But by and large the traffic will seek its own level, i.e., it will gravitate to a carrier who can supply the service.

Secondly, a carrier risks financial loss in failure to maintain service on his existing rights. In a transfer proceedings the application must meet the ICC dormancy test. A carrier can't (sell) transfer dormant rights. And in the event new industry comes into an area, a carrier is going to be hard pressed to oppose new applicants when he cannot show activity of existing rights to that area.

THE TRENDS TO OR AWAY FROM PRIVATE CARRIAGE

There are far more factors which put a shipper into private carriage than the failure of or overpricing of common carrier service. Any number of studies indicate that control is the most often cited reason, and costs (often miscalculated) the second most prevalent reason for using private carriage as opposed to common or contract carriage. As long as the majority of the common and contract carrier industry is subject to uniform labor contracts, much of the cost element in motor transport is constant nationwide. The problems of control or non-control are also constant for the common or contract carrier since the labor contracts follow a general pattern.

It then makes little difference if the industry has freer entry and less or no rate control, as to whether a shipper chooses private or common and contract carriage.

We would agree that after a shake out period, small community service will continue, but we hesitate to predict it will improve. Areas which do not generate sufficient less-truck-load traffic, will see the redevelopment of small feeder lines. But there is no guarantee that either the service will improve or the price will be as competitive as routes between major metropolitan areas.

The history of the general commodity less-truck-load carriers since the 1950's has been to expand routes into a large network of service by application, or most often by acquisition or merger. Acquisition was most often of the small feeder lines, thus eliminating interline traffic in favor of single line longhaul service. Anyone at all familiar with the trucking industry *knows* that was progress. Interline costs and delays in service time were eliminated. To revert to and create a new fragmented, interline pattern would set the industry back 20 years. No new long haul less-truck-load giants are going to appear to challenge today's leaders, with or without regulation. Capital investment, creating a market need for the service, and the complexity of creating an immediate system are far too great a risk for private capital.

It seems to us that along with the myths listed in this testimony should be added myths number 5 and number 6. The cost of entry—either purchasing or applying for a certificate—is the least of restrictions on entry. If there is a market for the service the cost of entry is nearly inconsequential. What will create the chaos referred to in myth number 2, is for existing small entrepreneurs to believe that they can jump into large long haul operations, just by buying a fleet of trucks, when deregulation arrives. Diluting the traffic of carriers supplying needed transportation service, will cause rates to rise. The second step is that the dilution will not be argument. Minor adjustments in the common the block and that operation will fail. The small operator relying upon the representation that deregulation is going to benefit him, will go broke based on that representation.

Myth number 6, is the absolute certainty of the authors of this legislation that deregulation will work. What happens if it does not? How long will it take government to gear up to reestablish controls necessary to protect and preserve the vital industry which has functioned reasonably well under regulation?

It seems to us, that this is the crux of the argument. Mnior adjustments in the common law created at the Commission are always necessary. That approach is much safer than a massive overhaul of the statutory framework within which the Commission functions.

In all discussions we have seen on the small community problem, we have seen a statement similar to that on page 9 of the testimony; "Far from reducing service to small communities, I expect that our proposed bill will improve service to such communities." Someone should ask the small communities if they want to gamble with that expectation. The fact is that the small town is now receiving adequate service within the regulatory framework. It will not be Washington, D.C. or the Department of Transportation that will suffer if those expectations do not materialize.

Emphatically, this department opposes the "de-regulation" bill as structured.

Freer entry is not only not a panacea for whatever problems the industry may have, it will create immense hardship for the stability of the industry. Entry needs to be difficult and restrictive so that the quasi-monopoly of the present structure can continue to protect the network of transportation necessary to insure transportation service to all segments in the nation's economy.

Rate structure and regulation needs to be simplified, but the structure needs to be retained to guarantee reasonable and non-discriminatory rates to all shippers regardless of size or geographical location.

Very truly yours,
The Public Utilities
Commission of Ohio,
Transportation Department,
M. E. Rothhaar, *Director.* ●

JIM FABERT RECEIVES COMMISSIONER'S CITATION

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BAILEY. Mr. Speaker, it is a pleasure to bring to your attention a resident of the 21st district, Jim Fabert, a 1979 recipient of the Commissioner's Citation for his outstanding service to the Social Security Administration in the public information field.

Commissioner Stanford Ross hand selects the citation recipients from a host of recommended candidates from across the country. I wholeheartedly agree with the Commissioner's choice in Mr. Fabert.

The Commissioner's Citation is the highest internal award within the Social Security Administration recognizing service aimed to improve and make it's operation more efficient. Mr. Fabert has given 15 years of dedicated service to the Administration and has been a part of the Altoona, Sharon, and Greensburg offices. His outstanding perseverence in implementing direct deposit procedures and initiating superior service, procedures, and liaison with all service banks is commendable. His inherent and distinctive professional abilities have been responsible for much of the progress reported in the respective offices.

I admire his leadership qualities and managerial skills and am very proud to bring him to your attention. The Social Security Administration is very fortunate to have a man of his character within its ranks.●

IRANIAN STUDENT SITUATION ANALYZED

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SOLOMON. Mr. Speaker, among the many issues that have arisen during the Iranian crisis are questions regarding Iranian students in the United States. Following is an analysis compiled by Cheryl Fish and Walter Olson of the ACU Education and Research Institute which offers insight into the various aspects of the alien student situation. I commend this study to the attention of my colleagues:

IRANIAN STUDENTS: WHO ARE THEY?

The seizure of the American embassy in Iran—supported by demonstrating Iranians in various American cities—has focused public attention on the status of Iranian students in this country. From recent investigation of these students, a number of little-known facts have emerged to view. Among them:

According to official estimates, there are more Iranian students in the United States than in Iran—at least half again as many, and possibly a good deal more. Though the exact number in the U.S. is not known, it is estimated that there are at least 50,000 to 60,000 Iranian students in this country, and the actual number could be much higher.

A large percentage of these students are not in school, and are therefore in violation of the terms of their visas, while others are known to have violated their visa status in other ways. Depending on which set of official figures is consulted, the number of Iranian students illegally in the United States could range from 10,000 to 50,000. Some unofficial estimates go much higher.

Until recently U.S. immigration had exerted little or no control over the conduct of these students in America. Although many of the Iranian students have been engaged in highly organized political demonstrations, and some in overt violence, the Carter Administration for several months imposed a "freeze" on the deportation of Iranians from this country. Only when the recent controversy erupted was this policy reversed.

HOW MANY?

No one, including the Federal Immigration and Naturalization Service (INS), has an exact idea of how many Iranians are in this country on student visas. The range of estimates extends from 50,000 (*Washington Post*)[1] to 290,000 (*Time*)[2]. Whatever figure is accepted, there are far more Iranians here on student visas than there are students in Iran. According to C. F. Gernie of the Iranian Embassy in Washington, there are only 30,000 to 35,000 students in Iranian post-secondary institutions.

One estimate has it that Iranians constitute 23 percent, or almost one-fourth, of all foreign students in the United States at present. That total is estimated at approximately 236,000, which is double the number ten years ago. In addition, the U.S. Immigration and Naturalization Service (INS) says that at least 42,300 foreign students admitted to this country on visas (no breakdown as to nationality) are no longer at the institution where they were supposed to be registered and taking full credit loads of courses.[3] As the *Post* observes, "no one knows how many former students continue to live here, illegally."[4]

Guesses as to the number of Iranian illegals in the United States vary widely, from 25,000 (*U.S. News and World Report*) to 250,000 (*Time*). The INS estimate suggests about one-sixth of the foreign students in the United States have violated or overstayed their visas, and the proportion of illegal Iranians could well be higher. *U.S. News*, for instance, suggests that roughly half the Iranians here are illegals. But even if the Iranian percentage is the same as that for other nationalities in general, this would mean at least 10,000 Iranian students here who are not in fact students.[5]

The largest category of illegals consists of those who stay on after graduation. Others drop out of their American college, and some never bother to enroll at all.

There is also confusion as to the number of "legals." INS said in April that there were 50,000 Iranians studying here on valid visas.[6] In January, *U.S. News* put the number at 23,000 and *Newsweek* at 40,000.[7]

Many students returned to Iran after the fall of the Shah. The Iranian Embassy here estimates that about 11,000 returned; the leftist Confederation of Iranian Students put the number below 10,000.[8] Some later returned to this country from Iran when they became disillusioned with the strict Islamic rule prevailing there.

Considerable numbers of the students in the United States are organized, and many are committed to Marxist revolutionary doctrine. As Newsweek puts it, 'there is no doubt that Iranian student protests in the U.S. are well orchestrated—and perhaps centrally directed. Two major groups, the Iranian Students Association and the Organization of Iranian Muslim Students, have dozens of U.S. chapters. Both organize frequent marches and demonstrations in New York, Washington, and other cities . . ."

Newsweek adds that "some European counterintelligence specialists believe that as many as 5,000 of the 60,000 Iranian students abroad belong to Marxist or Trotskyite groups, and that 500 or so are active members of terrorist cells. But both FBI and Justice Department officials say they have no evidence of any connection between Iranian radicals in the U.S. and terrorist organizations abroad."[9]

NO U.S. SURVEILLANCE

That the U.S. authorities have "no evidence" linking Iranian students here to Marxist elements overseas is less reassuring than it sounds, since until recently there was absolutely no official monitoring of these students. The INS made no effort at all to check on the status of the students until April 1 of this year. On that date the agency announced that it was planning monthly random checks on one percent of all foreign students in the U.S., to determine if they were really in school. The effort quickly became bogged down, however, and at least as of September no deportation proceedings had even been begun as a result of the spot checks.

This lack of monitoring of foreign students stems in large measure from provisions of the Foreign Intelligence Surveillance Act, which defines aliens admitted for permanent residence as "United States persons," and confers on them privileges and immunities pertaining to American citizens.

This means, in essence, that such immigrants are not subject to surveillance by the authorities unless and until they are suspected of committing a major crime. The practical effect is to permit them to move about the United States more or less at will, without official cognizance of their actions. A typical example is a case reported by the Washington Post, concerning an Iranian student who (a) is a Marxist, (b) is in violation of the terms of his visa, and (c) has travelled freely all over the country participating in demonstrations.[10]

In addition, U.S. authorities, until the recent reversal, have treated Iranian students in this country with special leniency because of unsettled conditions in their homeland. Under this policy, deportation of Iranians—except those convicted of serious crimes, but including many involved in violent demonstrations—had been postponed. The policy, known as "extended voluntary deportation," allowed illegal Iranians to put off their departure until June 1, 1980.[11]

The department gave Iranian political instability as its reason for the action. It feared, it said, that those sent back to Iran would face reprisals from the Khomeini government, even though most of the potential deportees had supported the Shah's overthrow.

The policy was especially ironic in the light of the tough Administration language in January, when Iranians rioted at the Beverly Hills home of Princess Chams, sister of the Shah, protesting a visit by the Shah's 90-year-old mother. An estimated 500 took part in the protest, throwing rocks and bottles as well as overturning cars and setting brush fires in the area. The demonstration was finally broken up by tear gas, and 45 persons were admitted to nearby hospitals with injuries.[12]

The Beverly Hills fracas provoked widespread outrage among California residents, and in fact throughout the nation. Phillip Smith, assistant director of INS in Los Angeles, observed that "everyone seems shocked that foreigners can come over here and be allowed to demonstrate in that manner."[13]

"We're not going to put up with this conduct," Attorney General Griffin Bell said after the incident. He added that he was speaking for President Carter as well. "All participants in such violence," he vowed, "will be deported from this country to the extent the law permits or requires."[14]

That vow was not kept. No one was deported. Nor have any Iranians been deported on account of violent demonstrations in downtown Chicago, where three policemen were injured by rioters;[15] Houston, where 95 rioters were arrested; or San Francisco, where 2,000 protesters blockaded traffic and smashed the windshield of a passing taxicab.[16]

THE DEPORTATION GLACIER

Even without the freeze U.S. immigration law makes it extremely difficult to deport any alien. Backed by government-paid or "public interest" lawyers, the alien can drag out the appeals process for months or years, whether or not he has a valid visa.

After the Chicago melee in May of this year, Immigration and Naturalization spokesman Vern Jervic said that "Chances are they're not going to be deported, at least as far as that demonstration goes. If people choose to fight, they can tie the government up for a long time."[17] These Houston arrestees have appealed their case to the Supreme Court.

Any alien with a valid visa can be deported only if he commits a felony or violates the terms of the visa. Both provisions are virtually meaningless. There is no effective way to compel attendance at college classes, the major requirement for student visas; the federal government is not about to call a roll of foreign students every time a class meets at an American college.

Footnotes at end of article.

As for felonies, American courts virtually refuse to hand down felony convictions for violent demonstrations—the major form of Iranian lawlessness in this country so far. One hundred eighty-two Iranians arrested after the Chicago riot, in which three policemen were injured, were set free without bail after they gave their names—and no other information—to the authorities.[18]

The difficulty of obtaining convictions is so great that many authorities do not go to the trouble of making arrests in the first place. Of the hundreds of students and others who rioted in Beverly Hills, injuring 25 police officers and causing hundreds of thousands of dollars of property damage, only seven were arrested. Of the seven, five were immediately released on bail.

One effective roadblock to deportations is the request for political asylum. When four of the students in the Beverly Hills riot were charged with arson, for example, they promptly asked the U.S. government for political asylum. Such a request entitles them automatically to a formal hearing, stalling deportation for months, and appeals and legal red tape can drag out the process for years.

Potential deportees are free to use this technique regardless of whether or not their political views differ from those of the Iranian regime to which they would be returning. The government decides whether or not each claim is justified, but since it is forbidden to gather data on the political sympathies of the students, the applicant himself may be the only source of evidence.

WHY AN AMERICAN EDUCATION?

Education is one of this country's most exportable products, and a sizable amount of OPEC oil money is recycled to this country in the form of tuition. Daryoosh Tirnia, second secretary of the Iranian Embassy, says that more than a third of the Iranian students are enrolled in engineering and other technical programs.[19] Economics and business are also popular.

Iranian scholarships pay for one-quarter of the students here, Tirnia says. "The rest," he says, "are wealthy." With domestic enrollments dropping, the tuition paid by Iranians and other foreign students often comes as a boon to American colleges.

During the Shah's reign such institutions as Princeton and Georgetown University obtained funds from Iran to expand Middle Eastern study programs. Professor John Marks, chairman of Princeton's department of Near Eastern Studies, says his department is one of the best of its kind, with over 600 students.[20]

Some smaller schools, badly in need of funds, employ recruiters who offer slide shows and brochures to foreign students to get them over to the faltering schools. One such recruiting firm, International Education Services, Inc., takes in 15% of the tuition paid by each recruit.[21]

The trouble is that it is not difficult for recruiters to obtain I-20 (student immigration) forms pre-signed by college admissions officers. Once a student has his hands on such a form the State Department will routinely grant him a visa.

"Everybody in the field knows there are people who take presigned I-20's in their pockets and sprinkle them abroad," says Mary Chance of the National Association For Foreign Student Affairs.[22] An informed high Justice Department official confirms that I-20 forms are often sold and otherwise abused.

Once the alien reaches the country, there is no way to ensure that he will actually enroll in the college, and no way for the INS to keep track of him if he does not. INS does not have centralized or computerized files, and what files it does have, according to informed sources, are not in order. The Los Angeles INS center keeps student files stacked in boxes. The agency is apparently unable to keep track even of those legal aliens who register voluntarily with it each January, sources say. When it comes to illegals, INS has virtually no information base, no enforcement power, and no prospect of getting more. If the United States ever seriously attempts to deport illegal Iranian students here, it will have to pay the price of years of neglect.

FOOTNOTES

[1] *Washington Post*, Nov. 11, 1979.
[2] *Time*, Nov. 19, 1979.
[3] *Los Angeles Times*, April 12, 1979.
[4] *Washington Post*, April 24, 1979.
[5] *U.S. News and World Report*, Jan. 29, 1979.
[6] *Los Angeles Times*, April 12, 1979.
[7] *Newsweek*, Jan. 15, 1979.
[8] *Los Angeles Times*, May 20, 1979.
[9] *Newsweek*, Jan. 15, 1979.
[10] *Washington Post*, Nov. 15, 1979.
[11] *Washington Post*, Nov. 11, 1979.
[12] *Los Angeles Times*, Jan. 3, 1979.
[13] *Ibid.*
[14] *Los Angeles Times*, Jan. 5, 1979.
[15] *New York Times*, May 19, 1978.
[16] *New York Times*, Dec. 29, 1978.
[17] *New York Times*, May 19, 1978.
[18] *Ibid.*
[19] *Los Angeles Times*, Jan. 6, 1979.
[20] *Los Angeles Times*, April 15, 1979.
[21] *Newsweek*, Jan. 29, 1979.
[22] *Ibid.*●

NIKONOV FAMILY ALLOWED TO EMIGRATE FROM MOSCOW

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. CORCORAN. Mr. Speaker, I was overjoyed to learn recently that the Boris Nikonov family has been allowed to emigrate from Moscow. The Nikonovs have friends who, until recently, lived in Aurora, a city in my district. Several Aurora-area residents wrote to me expressing their concern that the Nikonov family had not been allowed to emigrate from the Soviet Union. I expressed my concern in this case in an April 5 letter to Soviet Secretary Brezhnev. Shortly after I sent the letter, the Nikonovs were asked to reapply for visas. They reapplied and were finally granted permission to emigrate.

Mr. Speaker, the apparent successful conclusion of the Nikonov case has been most gratifying to me. For the benefit of my colleagues, I would like to insert in the RECORD at this point the text of the letter expressing my appreciation to Secretary Brezhnev.

The letter follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., November 26, 1979.

His Excellency LEONID I. BREZHNEV,
First Secretary of the Central Committee of the CPSU, Chairman of the Presidium of the Supreme Soviet, Moscow, U.S.S.R.

DEAR SECRETARY BREZHNEV: I have recently learned that the Boris Nikonov family has emigrated from Moscow. There are indications that my April 5 letter to you on behalf of the Nikonovs may have been useful with respect to the Nikonovs' request for visas. As I mentioned in my April 5 letter to you, the Nikonovs have close friends who lived in Aurora, a city in my district, until recently.

I was most happy to learn of the Nikonovs' emigration, and I very much appreciate your assistance in this matter.

Sincerely,

TOM CORCORAN,
Representative in Congress.●

LEGISLATION TO FIGHT DRUG TRAFFICKING

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. LAFALCE. Mr. Speaker, drug abuse in our Nation has reached epidemic proportions. It has been estimated that there are: 1.7 million persons who have used heroin, with 453,000 daily users; 13 million persons who have used stimulants such as amphetamines; 6.9 million persons who have used PCP at least once; 10 million who have used cocaine; and, 43 million who have tried marihuana at least once.

Illegal drug trafficking—which feeds this national cancer—involves the use of billions of dollars in cash transactions. Therefore, law enforcement authorities must have an effective means which would insure that they have the authority to police the movement of drug-related currency into and out of this country.

On a recent factfinding mission to major drug trafficking regions, I learned of several gaps in the law which hinder our law enforcement officials in their efforts to curtail the ever-burgeoning multibillion-dollar drug trafficking industry. After my return from this mission and a series of intensive meetings with administration officials, I introduced three bills, all of which would amend the Currency and Foreign Transactions Reporting Act (popularly called the Bank Secrecy Act), which would fill those gaps.

H.R. 4071 would give informants a portion of the recovered currency, thereby giving a further incentive to those who know of cash smuggling to report this to U.S. Government officials. These rewards could be extremely helpful for obtaining information from informants who could easily be subjected to physical retribution because of the extraordinarily violent nature of the drug trade.

H.R. 4072 would make it illegal to "attempt" to leave the United States with large amounts of currency without filing those reports which are already required under the Bank Secrecy Act. While present law makes it illegal to leave the country with more than $5,000 without having filed the report, the courts have held that a person cannot be arrested for violating this law until he has actually left the country. At that time, the violator is outside the jurisdiction of the United States and cannot be successfully prosecuted, which is an obvious "Catch-22" situation.

My third bill, H R. 4073, would allow customs officials to search for unreported amounts of cash—in their presently authorized search for contraband—where reasonable cause exists to believe that this currency is leaving the country as a result of illegal activities.

I have worked closely with the administration on the above three bills, and have recently received the written support and endorsement of the Departments of Justice and Treasury, the Customs Service, the Drug Enforcement Administration, and the Office of Management and Budget. Treasury has written me that they "strongly urge enactment" of my bills. The Drug Enforcement Administration wrote me on November 5, 1979, detailing the tremendous need for this legislation and specifying how the bills would "greatly improve" the efforts of law enforcement officials in curtailing drug trafficking. I want to share the contents of that letter with all of my coleagues, and insert the text in the RECORD at this point:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C.

Hon. JOHN J. LAFALCE,
House of Representatives,
Washington, D.C.

DEAR MR. LAFALCE: I have been monitoring closely the three legislative initiatives you introduced upon your return from Colombia this past May. I refer to H.R. 4071, 4072, and 4073 which still remain pending in the House of Representative.

As you know, the enactment of these three laws would greatly improve the effectiveness of our law enforcement efforts to curtail the illegal movement of U.S. currency out of the U.S.A. Most of this illegally obtained money is realized as a result of narcotics trafficking. With the enactment of H.R. 4071 there no doubt would be the added incentive for law-abiding citizens to come forward with information relating to currency violations. The impact would greatly improve the effectiveness of the U.S. Customs Service in its enforcement responsibilities.

Present law makes it illegal to leave the country with more than $5,000 without filing a declaration. However, the courts have held that a person cannot be arrested for this violation unless he has actually left the country, thus escaping U.S. jurisdiction. The enactment of H.R. 4072 would remove this loophole by providing that attempting to leave the country is also a violation.

This will improve our effectiveness in stemming the flow of illegally obtained currency from leaving the country. H.R. 4073 would give to our brother law enforcement officers of the Customs Service the authority to search for undeclared monetary instruments where reasonable cause exists to believe that these monetary instruments are leaving the country as a result of illegal activities. With today's sophisticated drug trafficking organizations, much of the profits leave the United States for source countries to purchase additional drugs and other smuggling resources.

I understand that the above three legislative initiatives are before the Subcommittee on Financial Institutions and there is a possibility of hearings regarding these measures. As Administrator of the Drug Enforcement Administration, I would welcome the opportunity to participate in these hearings and discuss further with the Subcommittee the importance of this corrective legislation as it relates to effective drug law enforcement.

On behalf of the Drug Enforcement Administration's Special Agents, I thank you for your efforts.

Sincerely,

PETER B. BENSINGER,
Administrator.

Additionally, Mr. Speaker, I want to thank the Treasury Department for its recommendations for certain technical changes in H.R. 4071.

Because the administration has announced its support for all three of my bills, with certain technical changes in one of them, I have today introduced one omnibus bill to amend the Bank Secrecy Act, which includes all the provisions of the three bills referred to above and introduced last May, with the technical changes suggested by Treasury. I hope all my colleagues will join me in cosponsoring that very important bill.

Attached is a copy of the omnibus bill:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 231(a) of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1101(a)) is amended to read as follows:

"(a) PERSONS REQUIRED TO FILE.—Except as provided in subsection (c) of this section, whoever, whether as principal, agent, or bailee, or by an agent or bailee, knowingly—

"(1) transports or causes to be transported, or attempts to transport or have transported. monetary instruments—

"(A) from any place in the United States to or through any place outside the United States, or

"(B) to any place within the United States from or through any place outside the United States, or

"(2) receives monetary instruments at the termination of their transportation to the United States from or through any place outside the United States.

in an amount exceeding $5,000 on any one occasion shall file a report or reports in accordance with subsection (b) of this section.".

Section 235 of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1105) is amended by redesignating subsection (b) as subsection (c) and by adding a new subsection (b) as follows:

"(b) any customs officer may stop, search and examine without a search warrant, any vehicle, vessel, aircraft or other conveyance, envelope or other container, or person entering or departing from the United States on which or whom he shall have reasonable cause to suspect there are monetary instruments in the process of being transported for which a report is required under section 231 of this Act.".

That the Currency and Foreign Transactions Reporting Act is amended by adding a new section 236 to read:

"SEC. 236. AWARD OF COMPENSATION TO INFORMANTS.—

"(a) The Secretary is authorized to pay a reward to any individual who provides original information which leads to a recovery of a criminal fine civil penalty, or forfeiture, which exceeds $50,000, for any violation of this Act or any regulation issued hereunder.

"(b) The amount of the reward, if any, is to be designated by the Secretary, but shall not exceed 25 percent of the net amount of the fine, penalty, or forfeiture collected or $250,000, whichever is lesser, in a case in which the person was an informant.

"(c) Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of official duties is not eligible for payment under this section.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.'.●

VOTE ON SOLAR POWER SATELLITE R. & D.

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. EDGAR. Mr. Speaker, on Friday, November 16, I was unable to be present in the House for the final vote on H.R. 2335, the solar satellite research and development bill. I was speaking at a meeting of the U.S. Conference of Mayors in Baltimore on the subject of transportation.

Had I been present for the vote on H.R. 2335, I would have voted against the bill. At best, the bill is unnecessary since solar power satellite research is already underway. More likely, it will push our country into developing a highly technical system which has not yet been found safe, economical, or wise. Since the Department of Energy and NASA will soon complete a 3-year study on the solar power satellite, I believe it was premature for the House to authorize an additional $25 million in fiscal year 1980 to establish a research, development, and evaluation program in the Energy Department.

I will oppose the conference report to H.R. 2335 when it is presented for House approval and I will continue to oppose efforts to speed up development of a solar power satellite until I am satisfied that such a satellite would be environmentally and economically sound.●

A VETERANS LEADER

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. MICA. Mr. Speaker, I would like to take this opportunity to pay tribute to my colleague, RAY ROBERTS of Texas, the chairman of the House Committee on Veterans' Affairs. The Congress and the veterans of this country will miss his leadership when he retires at the end of the 96th Congress.

A wise man once said that the true cost of war does not start until the last shot is fired. Since first coming to Congress and joining the House Committee on Veterans' Affairs in 1962, the gentleman from Texas has seen the budget for veterans' benefits and services rise from $5 billion to over $21 billion. A vast portion of that startling increase has been forced upon us by inflation, which is a challenge we all must face, not only in the area of veterans affairs, but throughout Government. But while RAY ROBERTS is the first on our committee to scrutinize the cost of veterans programs and services, especially in these days of high Government spending and escalating inflation, he is unyielding in his determination to maintain our commitment to our Nation's veterans in full.

The number of veterans in the United States today has grown to a record level. The Congress and the House Committee on Veterans' Affairs, especially in recent years, have been challenged to meet the needs and fulfill the expectations of almost five generations of veterans, from the Spanish American War to the Vietnam conflict—now over 30 million strong.

As committee chairman for the past 5 years, ROBERTS has led the fight to maintain an equitable distribution of benefits and services among all those who have served in defense of our country. Accordingly, he has safeguarded the traditional rights of older veterans while, at the same time, encouraging legislation to meet the needs of those just returning to civilian life from military service. He has gone before the House innumerable times to defend the rights of veterans whenever programs and services administered by the Veterans Administration have been threatened. For example, with reports coming in from around the country of deteriorating conditions in the VA hospital system resulting from medical staff cuts imposed by the administration, Roberts has gone to the floor of the House 2 years in a row to request the additional funds to get those people back on the job. It is a tribute to his position and leadership in this body that on both occasions the Members of the House unanimously approved the Roberts amendments of 1978 and 1979.

Maintaining the integrity of VA programs, and achieving an equitable balance of benefits and services for all veterans, has not been an easy job. Neither has it been inexpensive. However, Ray Roberts, an avowed fiscal conservative, has taken a stand on principle. He has said that in meeting this obligation, those of us in Government not only provide comfort, support and readjustment assistance to those who have already served, but we offer a solid commitment to all those who may have to serve, and even fight, for our country in the future. In other words, by maintaining our traditions and meeting our present commitments now, we safeguard the strength of America for our children and their children. This principle holds true for what we do here for veterans; and it holds true for everything we do in Congress.

Today, in part because of Ray Roberts' leadership and dedication, our country has the most generous, and the most beneficial assistance program for those who have served in its defense of any nation on Earth. That is the way it should be. And I would like to thank Ray Roberts for helping to make it, and helping to keep it so.●

TAXES AND THE BLUE COLLAR INDEPENDENT CONTRACTOR

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SCHULZE. Mr. Speaker, the Ways and Means Subcommittee on Select Revenue Measures, of which I am a member, met on Friday, October 19, to begin markup of H.R. 5460, the Independent Contractor Tax Act.

Since the subcommittee is expected to resume consideration of this proposal later today, I believe it is important to note one of the developments that occurred during that initial markup session. At that time, the distinguished ranking minority Member, Congressman John Duncan of Tennessee, offered an amendment to give statutory recognition (safe harbor) to those independent contractors who are frequently identified as blue-collar workers. This amendment was based on a concept developed within the bill, H.R. 5266.

Although the Duncan amendment was defeated on a 5-to-4 vote, it would seem that the logic of this proposal must prevail in the full Ways and Means Committee. All the confusion and conflict over place of business and control of hours could be eliminated with this simple amendment based on common law.

In addition, I must report that the National Construction Industry Council has adopted a resolution in support of H.R. 5266 at their November 20 meeting here in Washington. The NCIC is composed of 26 trade associations.

Mr. Speaker, at this point, I include in the Record a copy of this resolution and a list of those associations:

National Construction Industry Council Membership

American Concrete Paving Association.
American Concrete Pipe Association.
American Consulting Engineers Council.
American Institute of Steel Construction.
American Rental Association.
American Road & Transportation Builders Association.
American Society of Civil Engineers.
American Subcontractors Association.
Associated Builders and Contractors.
Associated Equipment Distributors.
Associated General Contractors of America.
Associated Landscape Contractors of America.
Concrete Reinforcing Steel Institute.
Mechanical Contractors Association of America.
Metal Building Dealers Association.
National Asphalt Pavement Association.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Surety Bond Producers.
National Constructors Association.
National Crushed Stone Association.
National Electrical Contractors Association.
National Society of Professional Engineers.
National Utility Contractors Association.
Portland Cement Association.
Prestressed Concrete Institute.
Sheet Metal & Air Conditioning Contractors National Association.

Policy Statement for National Construction Industry Council

Whereas, Congressman Dan Rostenkowski has introduced H.R. 5460, and

Whereas, this bill contains a provision to apply a 10 percent withholding tax on all independent contractors, and

Whereas, this tax would result in withholding 10 percent tax of the operating revenues of independent contractors, ultimately driving many out of business unless prices are increased, resulting in a marked effect on the cost of construction, and

Whereas, a withholding tax on the independent contractors would destroy a basic institution of our society in that entrepreneurs must organize, manage and assume the risks of a business or enterprise, and

Whereas, the NCIC in principle does not believe that the industry should serve as tax collectors for an independent unit of our nation's workforce, and

Whereas, the Construction Industry is composed of transitory units, the new payroll and personnel expenses associated with the administration of a withholding tax would be enormous for the payor, further increasing the costs of construction, and

Whereas, H.R. 5460 does not give specific statutory recognition (safe harbor) to the common law test as it affects blue collar independent contractors, and

Whereas, a four year study to improve the tax compliance of independent contractors in lieu of a burdensome 10 percent withholding tax involving both payors and payees is in keeping with NCIC policy, and

Whereas, H.R. 5460 surely leads to adverse economic impact on consumers, independent contractors, and the Construction Industry further exacerbating the inflationary cycle contrary to the top priority of our Government, and predictably, leads to serious and complicated problems concerned with labor relations, THEREFORE

Be it resolved, that the National Construction Industry Council is appreciative of the efforts of Representative Richard A. Gephardt and Senator Robert Dole in resolving this vital issue and calls upon them to continue working on our behalf, and endorses the concept that any measure that becomes law must protect the needs of the construction industry that are addressed in H.R. 5266, introduced by Representative Philip Crane. ●

HENRY ARNOLD DENNIS

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. FOUNTAIN. Mr. Speaker, I rise to memorialize and pay tribute to the late Henry Arnold Dennis of Henderson, N.C., who passed away on November 17. Henry Dennis was editor of the Henderson Daily Dispatch for more than 50 years. He was also a very close and valued friend of mine. More than that, he was a dedicated servant of God and his fellow man.

In calling the passing of Henry Dennis to the attention of my colleagues, and his friends and all others who may read the Record, I want to make available several obituaries and editorials from North Carolina newspapers. These articles reflect great credit upon him and his full life of service to his family, his church, his community and State, in a variety of ways.

Seldom do I make such insertions in the Congressional Record, but Henry Dennis was such an unusual and outstanding man for so long a period of time, that I think mention of him in this way is most deserved. I regret that I do not have access to all the fine statements and editorials written about him but the enclosed will suffice to give his life the credit it deserves.

Simply stated, he fought a good fight. He kept the faith and "he finished his course" at the age of 88 with flying colors.

Late in August of this year, I visited him in his newspaper office where he was still typing away—on an editorial, I suspect, because he wrote them until just before his death. I had a very limited time with him because of a heavy schedule. I spent about 15 minutes with him. His last remarks to me as I left were: "Congressman, we just don't have enough time for me to get off my chest all the things I want to say—especially about what's going on in Washington and throughout the world. Next time you come, try to stay longer." I responded by saying, "I sure will." However, I had conversed with Mr. Dennis many times. I knew what he wanted to say. I always got his message. He was always clear and unambiguous as to where he stood, whether or not one always agreed with him. Usually I did, but once he said to me: "I'm doing a lot of talking, but you have to do the voting."

In Henry Dennis' passing, I have lost a good friend and valuable critic. The city of Henderson, Vance County, and North Carolina have lost a valuable citizen, but the memory of him and his life will have a long and lasting effect upon all who lived within the range of his voice, his vision, and his influence. That memory will be cherished and held near and dear to the hearts of many of our people.

The articles follow:

[From the Henderson (N.C.) Daily Dispatch, Nov. 19, 1979]

Editor Henry A. Dennis Dies; Rites Set Tuesday

The editor of the Henderson Daily Dispatch for more than half a century, Henry Arnold Dennis, 87, died at his residence at midnight Saturday night following an illness of some ten days. He had been a patient at Maria Parham hospital in Henderson for more than a week.

He had been active in operation of the newspaper until the time of his illness.

Funeral services will be conducted at three o'clock Tuesday afternoon at the First United Methodist Church in Henderson and burial will be in Elmwood cemetery here. Officiating will be the First Methodist minister, the Rev. Sam D. McMillian, Jr.; Dr. Marion D. Lark, pastor of the First Baptist Church; and the Rev. Robert E. Bergland, minister at City Road United Methodist Church.

The deceased is survived by two daughters, Mrs. Doris D. Tharrington, of Henderson, and Mrs. Ruth D. Cassell, of Greenville, S.C.; one son, William B. Dennis, of Henderson; and one brother, Robert K. Dennis, of Rocky Mount. Also surviving are eight grandchildren and two great grandchildren. His wife was the late Mrs. Essie Daniel Dennis, who died on November 15, 1972.

A native of Concord, Mr. Dennis was born on December 7, 1891, and was the son of the late Haywood and Ida Dennis. He was a graduate of Trinity College, now Duke University, in Durham, receiving the A.B. degree there in 1913 and was a member and past president of the Duke Alumni Half-Century club.

Before coming to Henderson, he served on the news staffs of the Greenville Daily Reflector, the Raleigh News and Observer and the Rocky Mount Evening Telegram.

Mr. Dennis joined the Henderson Daily Dispatch on January 5, 1915, as news editor and had been active in operation of the paper for nearly 65 years. He became president and editor in 1922.

He served as president of the North Carolina Press Association in 1957–58 and also was on the board of directors of the association for several years. He had been a member of the American Society of Newspaper Editors for more than twenty years and had been a member of several committees of the Associated Press news organization.

The deceased was a member of the First United Methodist Church in Henderson, served on the board of stewards and was a life member of the church administrative board. Since 1915, he had been teacher of the Men's Bible Class at City Road, except for an interim of eleven years as superintendent of the Sunday School at the First Methodist.

He was a life member of the Salvation Army Advisory Board in Henderson and had been active on that board since the 1920s. He was a director on the board of Home Savings and Loan Association and had been a director of Peoples Bank and Trust Company in Henderson until reaching the age of retirement.

A trustee of H. Lislie Perry Memorial Library for many years, he also had been a trustee of Maria Parham Hospital for some ten years and formerly served on the Henderson City School Board and Vance County Board of Education, with two years as chairman of the latter. For several years he was secretary of the Vance County Democratic Executive Committee.

Mr. Dennis served as a director of the State-owned North Carolina Railroad Company under successive appointments by Governors Hoey, Broughton and Cherry and was president of the railroad company in 1945–46.

Named to serve as active pallbearers are George W. Harrison, Junius W. Rogers, George Rooker, Jimmy Adams, M. L. Finch, Jr., J. W. Jenkins, Jr., James H. Hight and Paul Nowell.

Honorary pallbearers will be members of the Henderson Daily Dispatch staff, the North Carolina Press Association, Men's Bible Class of City Road church and board of stewards of the First Methodist church.

The family will be at the home of Mrs. Tharrington on Young avenue, and the body will remain at Flowers Funeral Home. Memorial gifts may be made to the Salvation Army in Henderson.

[From the Henderson (N.C.) Daily Dispatch, Nov. 19, 1979]

A Day of Sadness and Thanksgiving

Today is a day of sadness but also a day of Thanksgiving.

We are saddened by the death of our editor, Henry Arnold Dennis, 87, who had been editor and president of the Henderson Daily Dispatch for more than half a century.

He joined the news staff of the Henderson Daily Dispatch in 1915 and had been president and editor since 1922, remaining active in operation of the paper daily until his sudden illness less than two weeks ago.

We give thanks that we had him with us for such a long and fruitful period. We give thanks that he remained active and in generally good health until the end.

We are thankful for his love, devotion and generosity to his family. We appreciate his strength and his concern for his newspaper. And we are thankful for his Christian outlook and proud of his steadfast loyalty to his church, his community and his country.

Now that the time has come, we rejoice that he can be reunited with his beloved wife and companion of more than 50 years, Essie Daniel Dennis, who preceded him in death in 1972.

For nearly six decades, Henry Arnold Dennis and Melvin Lewis Finch were the Henderson Daily Dispatch. Their association and friendship, until the death of Mr. Finch in 1973, made this newspaper what it is.

Editor Dennis was a native of Concord and an alumnus of Trinity College, now Duke University, in Durham. He was a newsman with the Greenville Daily Reflector, Raleigh News and Observer and Rocky Mount Evening Telegram before coming to Henderson in 1915.

He had been a president of the North Carolina Press Association and one of the association's strongest supporters through the years. For more than twenty years he was a member of the American Society of Newspaper Editors.

His devotion to his church was unwavering. He was a member of the First United Methodist Church in Henderson and a life member of that church's administrative board. He had been teacher of the Men's Bible Class at City Road United Methodist Church for more than sixty years, since 1915.

The editor was a life member of the Salvation Army Advisory Board in Henderson, a trustee for many years of H. Leslie Perry Memorial Library and a Maria Parham Hospital trustee. In years past, he had served on the Henderson City School Board and also the Vance County Board of Education, with two years as chairman of the latter. He had been active in the Vance County Democratic party and was a savings and loan association board member and a former bank director. In 1945–46 he was president of the State-owned North Carolina Railroad Company and was a director on that board for three terms.

Henry Dennis was sensitive to needs of his community, warmly interested in people and always alert to events as they occurred.

We shall miss him. His death leaves a void which cannot be filled on this newspaper. But we shall endeavor to live up to his expectations. We shall seek to build on the foundation which he fashioned.

[From the Raleigh News and Observer, Nov. 19, 1979]

Henry A. Dennis, Editor, Dies

HENDERSON.—Henry Arnold Dennis, editor of the Henderson Daily Dispatch for more than a half-century, died at his home at midnight Saturday after a 10-day illness.

A funeral service will be held at 3 p.m. Tuesday at the First United Methodist Church in Henderson, with burial at Elmwood Cemetery.

Dennis, 87, joined the Dispatch in 1915 and had been president and editor since 1922.

He also worked on the staffs of several other North Carolina newspapers, including The News and Observer.

Dennis was president of the North Carolina Press Association in 1957–58 and was on its board of directors for several years.

In 1968, the Vance County commissioners voted to name a county office building in his honor, saying "he has at all times accurately and fairly reported the news and has been a healthy influence with his timely editorials on important issues."

Dennis was president of the state-owned North Carolina Railroad Co. in 1945–46, and was on its board of directors under three governors.

He was a life member of the Salvation Army Advisory Board, former president of the Henderson Chamber of Commerce, former chairman of the Vance County school board and, in 1936, an unsuccessful candidate for the state Senate.

A graduate of Trinity College, now Duke University, Dennis was a member and past president of the Duke Half-Century Club.

He is survived by two daughters, Mrs. Doris Tharrington of Henderson and Mrs. Ruth Cassell of Greenville, S.C.; a son, William B. Dennis of Henderson; and a brother, Robert K. Dennis of Rocky Mount.

[From the Raleigh News and Observer, Nov. 20, 1979]

Henry Arnold Dennis, Editor

Henry Arnold Dennis was not merely the president and editor of the Henderson Daily

Dispatch for 57 years. Long before he died Saturday—less than a month prior to his 88th birthday anniversary—Dennis had become an institution in Henderson and Vance County.

The Henderson editor was known in his town and among his newspaper colleagues in North Carolina as conservative and fair. In addition to writing editorials and performing other duties at the paper, he filled responsible civil, church, state and professional positions. He served as president of the North Carolina Press Association in 1957-58.

His was a long, productive and conscientious life.

[From the Durham Morning Herald, Nov. 21, 1979]

HENRY DENNIS—HENDERSON EDITOR BELIEVED IN SERVICE

"You ever know anyone who wrote editorials that didn't make some folks mad?" Henry Dennis once asked. "If you don't find that someone disagrees with you you're not writing much."

Some folks probably disagreed with Mr. Dennis' editorials, but it is doubtful that many got mad with him. Not people who knew him, at least.

For more than 60 years, until his death last weekend, Mr. Dennis wrote for the Henderson Daily Dispatch, of which he was president and editor since 1922. He preached what one of his colleagues once called a type of progressive conservatism. His editorials were based on morality and his morality was based in the Bible. He kept a copy of the New Testament on his desk.

As a young man Henry Dennis thought he might want to be a preacher He had been raised in an orphanage in Goldsboro and attended a private school in Concord, where he was born, and he got a scholarship to Trinity College in Durham.

Back in Goldsboro he had helped put out a twice-weekly newspaper at the orphanage. He supplemented his college scholarship by working part-time at the Durham Morning Herald, and he changed his mind about his career.

"When I was walking on campus after graduation," he said, "I ran into Bishop John C. Kilgo, the president of Trinity College. He said, 'I hear you're going into the newspaper business.' I said, 'Well, yes, I guess I am.' He said, 'If the Lord wants you to do it, I guess you'd better do it.' "

Mr. Dennis started at the Greenville Daily Reflector and later worked at the Rocky Mount Evening Telegram and the Raleigh News and Observer before going to Henderson in 1917. Five years later he and some other employees bought the Henderson paper and lived sparsely, putting most of their money back into the company, until they had the Dispatch on independent footing. There were times when they sold subscriptions for a bag of sweet potatoes or some other farm produce. Mr. Dennis did just about all of the newsroom work.

Even in his later years Mr. Dennis the publisher would put other business aside to write local news. Not long ago a young editor on a paper in eastern North Carolina called the Dispatch to share a news story of mutual interest. The editor had arranged to have his secretary dictate it by telephone. But Mr. Dennis himself answered the phone in the Dispatch newsroom. He thanked the editor for the call and said he'd take the story. The editor dictated it himself. "I felt that if he was willing to take the dictation, the least I could do was deal with him myself," he said later.

For all his humility, Mr. Dennis was a man of accomplishment, and not just in journalism. He had been a bank director, a lifetime member of the Salvation Army advisory board, a director of the North Carolina Railroad Co., chairman of the Vance County Board of Education, a member of the Henderson City Board of Education, for decades the teacher of a men's Bible class at City Road Methodist Church, for 11 years superintendent of the First Methodist Sunday School and a life member of the First Methodist Administrative Board. He held several offices in newspaper organizations, including president of the North Carolina Press Association.

His philosophy as he once explained it was simple. "Try to treat everybody fairly and give as much needed service as you can."●

HYATTSVILLE PRESBYTERIAN CHURCH

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mrs. SPELLMAN. Mr. Speaker, American novelist William Faulkner, in his 1950 speech accepting the Nobel Prize, expressed his belief that mankind would not merely endure but prevail. I rise today, Mr. Speaker, to draw my colleagues attention to an institution in my district that has both endured and prevailed for close to three centuries now.

I refer to the Hyattsville Presbyterian Church, which recently marked its 275th anniversary with a ceremony I was most honored to attend. I would like to take a few minutes to enlighten my colleagues on this venerable religious institution, which has been serving the spiritual needs of residents of my area for so long.

Although its roots can be traced back even further, the Hyattsville Presbyterian Church officially recognizes as its moment of birth a day in 1704 when Col. Ninian Beall donated a half acre of land near the Patuxent River for the erection of "a House for the service of Almighty God."

Over the years, the church at times prospered and at other times suffered. It survived shifting times and attitudes and realinements in denominational affiliations. Membership dwindled at one point to only four individuals, but then rebounded. The church eventually moved from its original location in Upper Marlboro, Md., to Bladensburg and from there to Hyattsville, where for the last two decades it has been located at 3120 Nicholson Street.

Pastor Rev. John V. Carlson attributes the church's longevity to a variety of factors, including the dedication, love and sacrifice of its members and, most of all, to the grace of God.

Mr. Speaker, I most certainly would agree with Reverend Carlson's comments. But I think for any religious institution to have survived so long, to have endured and prevailed as Hyattsville Presbyterian has endured and prevailed, it must also have been doing an exceptional job of serving the community around it.

I am reminded of a remark attributed to Franklin Roosevelt in the dark days of the Depression. Our 32d President pointed out that the objectives of the church and State in our society are basically the same, to provide "a more abundant life" for each and every American.

Mr. Speaker, few churches in this country have done a better job of providing "a more abundant life" for their members than has Hyattsville Presbyterian. Its presence in my district has truly been a blessing for which all the area's residents can be grateful.

I know my colleagues will want to join me in congratulating this remarkable institution on the occasion of its 275th anniversary. I know, too, they will want to wish the church and its members well in the future. For 275 years, the Hyattsville Presbyterian Church has set an example that many may try—but few can hope—to match.●

DI BUON SERVIZIO

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. OTTINGER. Mr. Speaker, this Friday evening, November 30, it will be my great pleasure to attend the Enrico Fermi Scholarship Fund's Di Buon Servizio Committee Annual Dinner in New Rochelle, N.Y.

Three illustrious members of the Yonkers community will be feted at that time: Judge Anthony Cerrato, Angelo Grippo, and Fanny Piemontese.

I am pleased to share with my colleagues at this time a bit of background information on the three honorees.

If there is an award that Fanny Piemontese has not received, it is only a matter of time before it will be bestowed upon her. This phenomenal woman's achievements have been recognized by such organizations as the American Committee on Italian Migration, the Soroptimists, and the American Cancer Society. Her dedication to such causes is tireless and she has brought her talents to such places as the Italian language and culture classes, the Scarsdale Women's Club and St. John's Riverside Hospital. She spearheaded an effort which I joined to have issued an Enrico Fermi stamp, and while we failed in this country, she succeeded in Italy.

One can always count on Fanny for assistance—her boundless energy is available for countless worthy causes. I am delighted to call her my friend and know that her work will continue for many years to come.

One of the most extraordinary residents of the city of Yonkers is the next honoree—Angelo Grippo, also a good friend of more than 15 years. Known throughout Westchester County as the Yonkers Democratic City Leader, Angelo has worked long and hard on behalf of all of "his" candidates. He is constantly seeking out fresh, new talent and does an incredible job of talking qualified people into running for office. His No. 1 asset is his terrific sense of humor which manages to transcend all political boundaries and partisan causes. He delights in "roasting" those in the public eye and has that rare ability to be able to laugh at himself.

Aside from his visible work on behalf of the Democratic Party, Angelo works diligently with a number of humanitarian organizations ranging from the Park Hill Boys' Club to "Operation Santa Claus" to ways to help the handicapped—especially the visually impaired. No matter how busy he is, Angelo is there to give of his time and resources. I don't think many realize the number of times Angelo digs deep to help those in need—both known and unknown to him—never asking or willing to receive anything in return. Those who are able to call Angelo their friend have something very special, indeed.

The third honoree is Judge Anthony Cerrato, founder of the law firm of Cerrato & Nayor and also a good friend. Judge Cerrato was first elected to Westchester County family court judge in 1969 and became a county court judge 2 years later. Since 1972, he has served as a New York State Supreme Court justice.

Judge Cerrato has devoted a lifetime of service to the community of which he should be most proud. He is an exemplary public servant who gives so much of himself to humanitarian causes and is one of the best loved and respected of Westchester's residents. We are, indeed, fortunate to have him as a leader in our judicial system.

In addition to the warm thanks of their colleagues and friends, these three honorees will receive scrolls issued by Pope John Paul II, a Presidential citation, and gifts from the committee.●

RAY ROBERTS

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. CLINGER. Mr. Speaker, it is my privilege to pay tribute to a fine gentleman, a brilliant and indefatigable advocate of veterans' rights, and a Congressman who has done an extraordinary job of representing his constituency for 20 years—the Honorable Ray Roberts of Texas.

It was with regret last week that I learned of Representative Roberts' intention to retire at the conclusion of the 96th Congress. The people of the Fourth Congressional District of Texas will not find it easy to replace a man of Ray Roberts' consummate legislative skills.

Mr. Speaker, I have had the pleasure of working with and observing Ray Roberts' ability in two different capacities. On several occasions as Chief Counsel of the Commerce Department's Economic Development Administration, I had the opportunity to testify before his Subcommittee on Water Resources. Invariably, I found Ray Roberts to be well prepared and cooperative.

And as a colleague of his on the Public Works and Transportation Committee, I am personally indebted to Mr. Roberts for his work on behalf of a flood control project for the people of Lock Haven, Pa. Representative Roberts deserves much credit for assiduously guiding the Lock Haven flood control legislation through the Water Resources Subcommittee and later the full Public Works Committee.

Mr. Speaker, I am disappointed that I will only have the privilege of working side by side with Representative Ray Roberts for one congressional term. Ray Roberts is a legislator in the finest sense of the term. His presence will be sorely missed in the 97th Congress.●

HON. BILLIE S. FARNUM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BROOMFIELD. Mr. Speaker, the people of Michigan have recently lost a good friend and a devoted public servant in the death of former Congressman Billie S. Farnum. Throughout his life in government, he made great contributions in a quiet, competent way to the well-being of the people.

When I was informed of his passing by our mutual friend, Oakland County Circuit Court Judge William Beer, I was deeply shocked for while Billie and I belonged to different political parties, I always considered him to be a good and respected friend.

Billie started his 40-year career through his work with the United Auto Workers leading organization drives at General Motors plants. From the union halls of Michigan, his energy and activities took him into a variety of State and Federal positions, where, during the 82d Congress, we served together in the House of Representatives.

Other positions that Billie held during his long public service were as the assistant, then deputy secretary of State; Michigan's last elected auditor general; and the deputy chairman of the Democratic National Committee.

In 1975 Billie was elected to the position of secretary of the Michigan State Senate, a position he held until his death.

As the senate secretary, he instituted a major reform of the senate's accounting system and kept close watch of its spending. Through these efforts, it is estimated that the taxpayers were saved more than $1 million.

He also made changes in the senate's recordkeeping system which made it easier for the press and the public to tell how each individual State senator spent the taxpayers' money.

Billie's career is highlighted with many impressive accomplishments, but these do not describe the man himself. To all who knew him, Billie was recognized as a patient, hard-working friend. He was truly a public servant in the finest tradition of the term, and he will be sorely missed.

Mr. Speaker, in this time of sorrow, I wish to join all the friends of the late Honorable Billie S. Farnum in extending heartfelt condolences to his wife, Mildred, and their three sons, Norman, Roland, and Eugene.●

ENERGY QUESTIONNAIRE

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. ALBOSTA. Mr. Speaker, last August I sent to each of my constituents in the 10th Congressional District of Michigan a newsletter which contained an energy questionnaire. This newsletter contained pro and con arguments on four major and several minor questions dealing with this Nation's approach to our energy problems.

I am pleased to advise my colleagues that many of my constituents took a few minutes to read the arguments and then registered their opinions. My staff has completed the tabulation of these questionnaire responses, and I would like to share the results with you.

I am grateful to all of those people who have participated in this survey. I appreciate their active participation in public policy formulation through this questionnaire. Below I have listed the questions and the responses by percentages of the total number of responses made to the question. The answers do not add to 100 percent in each case, since not everyone answered every question.

The questionnaire follows:

Albosta's Energy Questionnaire

1. Should the use of coal be greatly increased?
Yes, 92 percent.
No, 7 percent.
Undecided, 1 percent.

2. Should clean air standards be relaxed to permit the burning of coal?
Yes, 67 percent.
No, 28 percent.
Undecided, 5 percent.

3. Should coal be liquefied?
Yes, 65 percent.
No, 18 percent.
Undecided, 17 percent.

4. Should oil prices be decontrolled?
Yes, 39 percent.
No, 51 percent.
Undecided, 10 percent.

5. Should oil companies be made to pay an excess profits tax?
Yes, 79 percent.
No, 16 percent.
Undecided, 4 percent.

6. Do you believe the oil companies are withholding oil?
Yes, 74 percent.
No, 22 percent.
Undecided, 4 percent.

7. Should we use more nuclear power?
Yes, 49 percent.
No, 42 percent.
Undecided, 9 percent.

8. Do you believe nuclear power can be generated safely?

Yes, 59 percent.

No, 36 percent.

Undecided, 5 percent.

9. Should we shift from development of nuclear power to other alternative energy sources?

Yes, 59 percent.

No, 32 percent.

Undecided, 9 percent.

10. Should gasohol be developed?

Yes, 84 percent.

No, 7 percent.

Undecided, 9 percent.

11. Do you believe American agriculture can produce enough additional foodstuffs to produce gasohol?

Yes, 84 percent.

No, 10 percent.

Undecided, 12 percent.

12. What types of Energy Sources would you like to see the Federal Government develop?

(Rate in order of priority, 1 highest).

Coal, 27 percent.

Gasohol, 8 percent.

Nuclear, 10 percent.

Solar, 29 percent.

Other, 4 percent.

Undecided, 22 percent.●

A PROCLAMATION AGAINST IRANIAN MILITANTS

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. CHARLES WILSON of Texas. Mr. Speaker, with the November 4 invasion of the U.S. Embassy in Tehran by Iranian militants, public opinion in this country was immediately galvanized, and it is no exaggeration to say the current crisis in Iran and all that it portends are being felt wholeheartedly by the American people.

Because we are not accustomed to wanton acts of terrorism directed against innocent American citizens abroad, we were shocked when diplomats assigned to the Embassy in Iran were taken hostage. And many of us still have trouble accepting the fact that the Iranian Government has condoned that action, breaking all diplomatic conventions that govern international relations between countries.

But in spite of our fears and concerns and frustrations, we have withheld violent reaction and tried to maintain calm in the middle of an unprecedented crisis. Americans are responding to the Iranian situation responsibly, and I would like to commend the country as a whole for that.

One of the cities in my district in Texas, the city of Nacogdoches, has appealed to its citizens to protest Iranian action against the United States by flying the American flag until the hostages are set free. Since the American flag is symbolic of all that we as a nation hold sacred, I can think of no better way to mark our vigil for the 49 Americans still held captive.

I respectfully submit for my colleagues' attention the text of the proclamation signed by Mr. A. L. Mangham, Jr., mayor of the city of Nacogdoches.

PROCLAMATION

Whereas, on November 4, 1979 irresponsible and fanatic citizens of Iran perpetrated upon American citizens in the diplomatic service of the United States, the take over of the American Embassy in Iran, and the holding of such American citizens as hostages against their will since that date in violation of international laws; and,

Whereas, the Government of Iran has condoned such illegal and dastardly acts and has by its failure to take steps to correct such action become an active participant in this cowardly and hideous crime against American citizens.

Now, therefore, I, A. L. Mangham, Jr., Mayor of the City of Nacogdoches, by this proclamation, encourage all the citizens of Nacogdoches and Nacogdoches County to fly the American Flag as a visible means of protesting this unlawful act of the Iranian citizens and their government in holding the American citizens in the diplomatic corp of the United States in violation of international law, and further that such flags be flown until all such American citizens are set free without harm.●

WHY IS THE U.S.A. SO UNPOPULAR?

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SOLOMON. Mr. Speaker, the American people are frustrated and angry over the events in Iran and in other Moslem countries. The new violent outbreak of anti-Americanism has hurt and confused Americans. "Why is the U.S.A. so unpopular?" they ask.

Mr. Speaker, the best expression of these feelings I have seen is contained in an editorial in the Washington County (N.Y.) Post, America's oldest weekly newspaper, on November 8, 1979. The Washington County Post, first published in 1788, is edited and published by Mr. Nicholas J. Mahoney. I offer the following editorial for the consideration of my colleagues:

WHY IS THE U.S.A. SO UNPOPULAR?

A United States citizen is entitled to wonder why this country is so unpopular throughout the world. After the billions of dollars taxpayers have spent to bolster the rest of the world starting with the Marshall Plan in the Truman Administration, one wonders why some of the same countries which have been saved from financial ruin, where famines have been prevented, signs appear which demand "Yankee Go Home."

American citizens give liberally to charitable institutions ranging from the likes of Red Cross to CARE and Catholic Relief Services which feed and clothe people of distressed countries. Ever since the presidency of John F. Kennedy, members of the Peace Corps have been serving throughout the world to aid in education, agriculture, health, and in a variety of other ways to bring the so-called Third World into the 20th Century.

We know that Mexicans by the hundreds of thousands are constantly poised on the border, ready to sneak their way into the United States. We know that dissident Russians are eager to live here. Immigrants from Jamaica, the Philippines, Cambodia, Vietnam, Thailand, East Germany, Cubans, want to spend the rest of their lives in the United States of America.

The world generally knows that America maintains border guards to keep illegal aliens out of the country. It also knows that the communists build walls to keep their subjects from leaving. Those who attempt to escape are shot.

Newspapers recently reported that in the Soviet, the decision has been made to remove all the children from Moscow during the 1980 Olympics. The Soviets are fearful that their children will become contaminated by western democracy.

A great many South American countries are suspicous of us despite the generosity of citizens of the United States in going to their aid during disasters. We are looked upon as imperialists although no effort has been made to annex any South American territory and we are in the process of giving to Panama the canal which the United States created and has maintained since the days of Teddy Roosevelt.

Our country defrays the bulk of the costs of the United Nations, maintains an army and pays most of the expenses of the North Atlantic Treaty Organization for the protection of Europe against the threat of the Soviets. America maintains an army in South Korea for the protection of that country. We fought a bitter war there to prevent it from being swallowed by communism. We stand as protectors of Japan and Southeast Asia generally.

The latest country to vent its spleen on us is Iran where about 70 Americans were taken hostage in our own embassy to be held until the former Shah of Iran, undergoing medical treatment in New York City after having escaped from the country he once ruled, is returned for trial. Iranian students captured the Statue of Liberty in New York Harbor and dangled propaganda from the crown. Their action prevented thousands of Americans from visiting their own historic landmark. What happens to such students? Do they get deported?

Other Arab countries are hostile to the United States.

The United States guarantees the protection of the Panama Canal and maintains a base at Guantamano, Cuba, to thwart any invasion of South America.

Even western European countries who do not spend as much money to protect themselves as we do to protect them, are critical of us. Among other things, they consider us to be wastrels.

It is obvious that throughout the world, we will win no popularity contests.

The average American wonders why.

Is it because those who represent us in foreign countries are arrogant? Is it because our propaganda is second rate?

How is it possible for a people who have done so much good for so many, whose country has sacrificed so many lives for the protection of others, who have risen in affirmative response to almost every disaster in the world, who seek no additional territory, who maintain the flaming torch of liberty, who grant sanctuary to thousands of persecuted people, to be so unpopular?●

RUSSELL SAVILLE

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. REGULA. Mr. Speaker, last weekend, with the death of Russell Saville, the House of Representatives gallery lost one of its more familiar faces and one of the House's most ardent supporters. Russell had served on various staffs since 1945, when he came to the Capitol as an administrative assistant to Congressman Thomas Morgan. He has served the people of the 16th Ohio District since 1966 as a member of my staff and that of the late Frank T. Bow.

A unique characteristic of Russell was his unfailing devotion to the House of Representatives and particularly to the Capitol building. Most people will remember Russell Saville as the man who almost daily walked the halls of the Capitol with numerous constituents of all ages in tow. Oftentimes he would begin one of his famous tours with six or eight people but, by the time he finished, the group would have doubled in size. Visitors in the Capitol would overhear some of his commentary and tag along for the rest of the tour. Attracting people to him was one of his more charming assets.

Russell managed to breathe life into the marble walls, the bronze statues and the paintings on the walls. He knew all there was to know about this building and the men and women who served here in Congress. The names and faces, the stories and tales of all who have made their mark here were an important part of each of his tours.

Russell loved the Capitol. He could think of nothing better than to spend the day sharing his enthusiasm for it with others. Once when asked if he ever tired of giving the same tour over and over, he responded that tours fed his appetite for the Capitol just as food satisfied his hunger.

"No matter how much I eat in one day," he said, "I'm ready to eat again the next day. I never grow tired of eating, and I never grow tired of the Capitol."

He considered each tour a unique opportunity to impart some of his knowledge and interest in Government on others and help them to appreciate more fully what this country really was.

One measure of Russell's life can be taken from the thousands of Ohio's 16th Congressional District residents who walked with him through the chambers and corridors of the Capitol. Their eyes provided the measurement of the man.

In bidding him farewell, their shining eyes clearly reflected the respect, the admiration, the appreciation and the affection they had for this man who had given them a greater understanding and love of their country and his.

In losing Russell Saville, we have lost a good friend; one with a big heart and a love for this Nation and its people so great that it could fill a room. Fortunately, his love and enthusiasm were contagious. And all of us who worked with him, who knew him or who merely saw him each day as he passed by have been affected.

I can't think of a better legacy to leave behind than devotion to one's Government and a love of its people.●

THE IRRIGATION WATER CONSERVATION ACT OF 1979

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SHUMWAY. Mr. Speaker, today I am introducing the Irrigation Water Conservation Act of 1979.

It is estimated that, in the United States today, approximately 40 million acres are under irrigation. Without water delivery capability, our great agriculture regions could not realize the significant production of food and fiber for our citizens and export sales to other nations. Irrigation is a crucial part of the production of many crops such as corn, cotton, fruits, vegetables, and nuts.

However, it is becoming increasingly evident that our once-plentiful supply of irrigation water is becoming rapidly more scarce. Increased demand for available supplies by residential users is diverting water away from farmers. During the last two decades, water withdrawals have been increasing at a rate of 3.5 percent a year, thus indicating a need for all users to assure that water is consumed in the most beneficial manner.

Recent estimates show agriculture uses about 80 to 85 percent of the water consumed in the United States. Unfortunately, irrigation methods are not always the most efficient means of distributing agricultural water. Simple surface irrigation has an application efficiency of anywhere from 30 to 70 percent, and a great deal of water is lost through seepage in unlined canals and leaky pipes. In some parts of the country, the cost of water is the only irrigation expenditure, so the farmer has no incentive to increase the efficiency of his system.

For these reasons, I am introducing legislation which will provide incentives for farmers to change their methods of irrigating and thereby reduce water consumption. The Irrigation Water Conservation Act of 1979 would provide an additional 10-percent tax credit to the current investment tax credit for the purchase of certain irrigation works. The grower who purchases this equipment would also have the opportunity to depreciate it over 3 years, and thus have the additional incentive of rapid amortization. The bill defines the following water conservation property as eligible for the credit and 3-year depreciation: (a) drip irrigation equipment; (b) recovery systems; (c) sprinkler irrigation equipment; (d) canal or ditch lining material; and (e) pipeline equipment.

These incentives are necessary because farming costs are high and as a result farmers have been reluctant to purchase new and improved systems. The amount of capital to convert to a drip system is significant, running as high ase $500 per acre. Various components of the system which include emitters are $3.15 each; plastic pipe at $7.65 per 100 feet; pumps, filters, and pressure equalizers all substantially increase the cost. If an average U.S. farm, which is 412 acres, was to convert entirely to a drip system, it would cost the farmer over $200,000.

Today's family farmer simply cannot afford to borrow that much money, nor has the available capital to invest. This predicament will not improve because equipment prices will only continue to escalate. The drip irrigation equipment is made primarily from plastic. With the unsettled nature of the world petroleum production there is no question that the price for oil will continually increase and consequently plastic products will continue to be more expensive. According to the Department of Energy, imported crude oil has increased $4 per barrel over the first 7 months of this year and it is expected to escalate even further in the future. Thus, farmers who might otherwise plan on installing a new system are persuaded to repair existing equipment, rather than upgrade for next season, in view of projected costs.

Inflation continues to eat away at the buying power of the farm dollar. Just as equipment costs soar, growers are looking elsewhere to finance their operations and, as a result, farm debt in 1980 is expected to reach $159 billion—an all-time high. In view of this, most farmers must contend with more immediate and pressing commitments.

A farmer can realize other positive results when a more modern irrigation method is online. Weed growth is often substantially reduced since the uncultured portions of a field's surface never become wet. In the case of drip irrigation, wet and dry soil fluctuations are minimal since the soil stays well aerated. thus increasing the possibility of enhanced yields. Additionally, a grower has the opportunity to apply fertilizers directly to his plants by means of the plastic delivery system. This type of fertilization is more direct, lessens the chance of overapplication, and reduces energy costs. Besides saving a great quantity of water, other agricultural-related benefits occur when a more modern irrigation system is implemented.

These innovative systems would be an asset during drought conditions. For example, during the 1976–77 California drought, groundwater tables were substantially reduced to augment depleted surface water supplies. In the San Joaquin Valley, the number of wells nearly doubled as a result of the drought. If advanced irrigation equipment were online, it is reasonable to conclude that groundwater overdraft would not have been so significant.

Two crops which illustrate the amount of water that can be saved by utilizing refined irrigation systems are tomatoes and grapes. According to Dr. Elias Fereres at the University of California at Davis, a grower who utilizes a drip system on his tomato crops will save over 50,000 gallons of water per acre per year. This means that on an average American tomato farm of 25 acres, 1.25 million gallons of water (3.8 acre feet) will be saved. On one average grape farm of 50 acres, 5 million gallons of water (15.3 acre feet) are conserved.

If we are to make water conservation a national priority—as the administration suggests—emphasis must be placed on rural America to conserve its irrigation water. American agriculture uses approximately 80 percent of our Nation's consumed water. Clearly, the time has come to bring about real and lasting conservation. President Carter, in May of 1977, labeled water conservation as the "cornerstone" of his revised Federal Water Policy. In order to achieve conservation on the farm, members of the agricultural community must be given appropriate incentives.

Although the bill specifically provides benefits for the American farmer, others will realize positive results. Since the installation of irrigation conservation devices would save a tremendous amount of water, it is reasonable to assume the quantities not used could be beneficial for groundwater recharge, municipal and industrial use, and many other uses.

The Irrigation Water Conservation Act provides incentives for farmers to save water by updating their existing systems. It will encourage the use of modern equipment and methods, and will allow substantial saving of water on the farm. The tax credit and depreciation incentive give the grower the opportunity to make the extensive capital investments when he otherwise would not.

Not only would water be conserved, water would be applied directly to the plants, thereby enhancing aeration and reducing weed growth. In addition, farmers would have the potential for lowering energy bills. According to the Government Accounting Office, irrigation accounts for 20 percent of a farmer's energy bill. Since irrigation pumps in many cases would be pumping less water and at a lower pressure, a strong possibility exists for energy savings.

Water is the lifeblood of American agriculture. All too often of late, this most vital resource has been overdrawn, misused, and taken for granted. The Irrigation Water Conservation Act demonstrates an effort by the Congress to focus attention on this problem and provides means to overcome it.●

COMPARING RISKS IN THE 1980'S

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. RITTER. Mr. Speaker, many of my colleagues are aware that, since coming to Congress early this year, one of my primary concerns has been to encourage in Congress an understanding of how important it is that we as a society begin bringing comparisons of risks in areas like energy, environment and technology out into the open. If we do that, we will enable the American people to better understand that almost every major political choice we make in Congress involves a sensible balancing of risks—the true risks of alternative energy sources, for example.

I believe that much of the impetus for public understanding of comparative risks can and should come from Congress and, toward that end, I have tried to formulate legislative approaches. I have recently introduced a bill, H.R. 4939, which would assist the American people in analyzing technological activities. Essentially, the bill would direct the President's Office of Science and Technology Policy to lead Government agencies in exploring the ways that comparative risk can become an active field of investigation and public education.

H.R. 4939 is an updated version of a bill I introduced shortly after the start of the 96th Congress. The updated bill was introduced on July 24. It is presently pending in the Subcommittee on Science, Research and Technology.

I think the time has never been riper for bringing comparative risk into public view in Congress and elsewhere. In fact, I was delighted to see that the Washington Post devoted its lead editorial yesterday to this very subject. Entitled, "Everyday Risks," the editorial put its finger on the heart of what comparative risk is all about.

I believe it would be of interest to my colleagues to read this excellent editorial.

The editorial follows:

EVERYDAY RISKS

A quarter of a million Canadians were evacuated from their homes two weeks ago because of a train derailment that released deadly chlorine and phosgene gases. The story made front-page news for one day and was quickly forgotten—which illustrates the strange and often perplexing ways in which society responds to the myriad risks of industrialized living. One can only imagine how bleak the future of nuclear power would be if 250,000 people had had to be evacuated from the vicinity of a nuclear reactor.

What accounts for the phenomenon that produces yawns over chemical accidents and instant headlines about even the hint of a nuclear danger? It is not just a reaction to the ghostly qualities of radioactivity, though that is a part of it. Radioactivity can kill you without your ever having seen, smelled, heard or felt it. But there are also many chemicals—carbon monoxide, for example—that are colorless, odorless, tasteless and deadly. Nor is the difference simply that nuclear energy is relatively new and unfamiliar. Commercial nuclear power has been around for two decades now, and that is substantially longer than, for instance, people have recognized the relationship between chemicals and cancer.

Society, in other words, reacts differently to risks that a mathematician would say were equally grave. Coal, for example, is almost certainly more dangerous than nuclear power if the combined risks of mining accidents, black lung, air pollution, acid rain and carbon-dioxide buildup are considered. But Jane Fonda, et al., have yet to hold an anti-coal rally. We live happily with one technology, the automobile, that causes 50,000 deaths a year—an astronomical figure. And of course there is smoking. The death rate of smokers is double that of non-smokers, regardless of age. And smoking also increases the danger from a variety of other sources: asbestos workers who smoke, for example, get lung cancer at nearly 100 times the rate of their non-smoking coworkers.

People are naturally more willing to accept the risks of a voluntary activity—especially one from which they receive a direct and obvious benefit—than the risks of an involuntary one. But a larger part of the explanation lies in a general public confusion. Recently it has begun to seem as though just about everything is dangerous to your health—nuclear power, chemical wastes, pesticides (which DuPont now advertises as "crop protection chemicals"), occupational hazards, antibiotics in animal feed, air pollution and on and on. Just about everything seems to cause cancer—what you do, what you eat (or don't eat), where you live. In the face of such a systems overload, it is difficult to be very rational.

Are the risks of ordinary living really increasing, or are they merely being advertised better? The answers aren't clear. We are running out of empty space where wastes can be dumped and forgotten. We are also able to measure tiny amounts of chemicals and traces of pollution that would have been undetectable only a few years ago. We have a slightly better understanding of which substances are likely to be carcinogenic, and a much improved appreciation of how closely various parts of the environment interact. In short, we are much more aware of risks that have been around for some time. But it may also be true that, because of more people, more industrial activity and declining natural resources, new dangers are now being generated faster than ever before.

A central theme of the 1980s will be coping with the discrepancy between the technical capacity to generate, detect and measure risks, and our much more rudimentary social abilities to control, accommodate and manage them.●

THE NURSE SHORTAGE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mrs. HOLT. Mr. Speaker, congressional moves to cut back Federal funds for nurses' education are usually accompanied by arguments about a surplus of nurses.

Well, there is no surplus of nurses, as many of us can attest. I have personal knowledge of the shortage of nurses in my area, and the Baltimore Sun said on November 18 that "the quality of patient care is seriously threatened" in Maryland by the shortage.

For the attention of the House, I respectfully submit the editorial:

THE NURSE SHORTAGE

Maryland and other states face shortages of hospital nurses so severe that the quality of patient care is seriously threatened. City Hospitals has 80 vacancies, University Hospital has 75 vacancies and Sinai Hospital has 43. The situation, unfortunately, may get worse before it gets better.

Hospital nurses traditionally have been overworked and they often have been underpaid and undervalued as well. That situation was tolerable in a time when patient care was simpler and less demanding and when nurses themselves viewed their work as intrinsically subordinate or even menial. But as nursing becomes a highly sophisticated profession often requiring advanced degrees and medical skills of a high order, its practitioners are much less willing to accept low pay, poor working conditions and menial status.

As a result, many nurses are leaving hospitals for non-institutional nursing or even for different occupations. That, in turn, throws a heavier work-load on the nurses who remain, and a vicious circle is created. Another problem is the difficulty many aspiring nurses have in financing their initial training and later their advanced training—a problem exacerbated by declining federal support.

In the sellers' market nurses now enjoy, pressure is growing on the hospitals for major changes in the way they treat their nursing staffs. Perhaps the most important demand by nurses, and one that may often be justified, is for higher status, including a role in hospital policy-making. Also needed is an expansion of hospital programs for providing advanced training at low cost to their nurses.

Help is needed from government, as well. For instance, the Maryland Health Services Cost Review Commission needs to give more consideration than it has to the sometimes legitimate demands by nurses for higher salaries, and the president and Congress need to re-examine the thinking that led them in recent years to cut back funds for nurses' training. While all of the demands nurses are making nowadays obviously are not going to be met, many of them at least deserve to be taken far more seriously than they have in the past—especially when the alternative could be a serious breakdown in patient care in the nation's hospitals.●

AGRICULTURE: IT'S AMERICA'S HEARTBEAT

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. JONES of Tennessee. Mr. Speaker, our Nation's No. 1 industry. Our Nation's No. 1 employer. Our Nation's most productive sector of the economy.

Each of these statements describes the bedrock of the U.S. economy—agriculture. And each is being presented nationwide in an exciting new communications program coordinated by the Agriculture Council of America (ACA).

The theme of the program is: "Agriculture: It's Your Heartbeat, America."

I would like to draw my colleagues' attention especially to an outstanding article featured in October editions of the Farm Press Publications (Southeast Farm Press, Southwest Farm Press, Delta Farm Press and California/Arizona Farm Press). It explores through several personal interviews how people in communities all across America are joining together to tell the story of agriculture to the urban public in a unified program being nationally coordinated by ACA.

I think it is important to point out that the basic approach is coordination—not competition—among the many diverse interests in agriculture. This effort includes individual farmers, ranchers, agribusiness employees, and local farm businessmen, the farm and commodity organizations, and national agribusiness firms. They are taking a positive step together and are achieving tangible results.

The publisher, William S. McNamee of the Farm Press Publications is to be commended for this excellent job in examing grassroots interest and participation in the program. And, certainly the participants in this program are to be praised for their effective efforts in expressing the message—"Agriculture: It's Your Heartbeat, America."

ACA: CAN IT BECOME VOICE FOR AMERICAN AGRICULTURE?

Jack Baldwin is an International Harvester dealer in Greensboro, N.C.

Don Snider is a John Deere dealer in Phoenix, Ariz.

Will Stokes is a Massey-Ferguson dealer in Murray, Ky.

Aside from being farm implement dealers, they all have something else in common. Each is a member of the Agriculture Council of America and they think other dealers as well as all of agribusiness should get behind the ACA to help create a single voice for agriculture.

AGRICULTURE'S VOICE

"I think it's one of the few farm organizations really trying to get the message across to the American public about the true facts of agriculture," Baldwin said.

"ACA is letting them know that the farmer just doesn't put seed into the ground and sit back waiting for dollar bills to sprout."

The ACA message is: "Agriculture—It's Your Heartbeat, America!" And Baldwin thinks it's time this story is told.

FOOD PRICES

"Everytime prices go up in the supermarket, urban people blame the farmer," said the North Carolina dealer. "ACA is telling the true farm story and I think all of agribusiness ought to support the ACA and get this story told."

The ACA is a non-partisan organization of farmers and farm-related businesses created to advance the economic and social interests of the U.S. by increasing the awareness of agriculture's contribution at the community, state, national and international levels through programs of research, education and communication.

That's the way ACA states its purpose.

John Barringer, immediate past chairman of the ACA board, is a Memphis cotton merchant who helped pioneer the organization.

HOW IT STARTED

"Seven or eight years ago, a group of people who understood that agriculture didn't have a real voice came up with the idea of one organization which didn't have anything else to sell but agriculture," he said. "We found out that just about everybody in agriculture had a communication problem."

Barringer said ACA does not involve itself with politics or lobbying.

The current "Heartbeat" campaign is the center of the ACA communications program. It is especially designed for implementation by businesses at the community level.

BASIC APPROACH

The basic approach is to provide members with a comprehensive communications program that can be put to practical and effective use. Packaged in an attractive kit are a wide range of useful materials such as fact cards, posters, bumper stickers, speeches and much more.

The centerpiece of the effort is a special survey called the "Economic EKG for Agriculture USA." Farmers and people involved in farm-related businesses nationwide are being encouraged to express their personal views on the major issues facing agriculture in the 1980s.

MEMBERS VARIED

Members include not only farmers and implement dealers but local cooperatives, production credit associations, federal land bank associations, commercial banks, farm supply dealers, agricultural media and others.

How does USDA view the ACA?

"They love us," said Barringer. "We give them the exposure they can't get any other way. We have what we call Farm Lines where people are encouraged to call in and ask questions of USDA officials and others. For instance, Secretary Bergland can sit in his office in Washington and take calls and questions from a meeting of 400 farmers anywhere in the country."

And many of these programs are aired over radio which can increase that audience to millions.

DEALER REACTION

Don Snider, the Deere dealer at Arizona Machinery Company in Phoenix, looks at it this way:

"ACA's activity is one of education and one of the best things they have going is the farmer hot line. They have a positive approach where some organizations do not," he said.

"They don't talk boycotts and tractorcades and that sort of thing which can leave a bad taste in the public's mouth.

"They have a good information program such as films and slide programs. Their whole approach is putting agriculture's viewpoint in front of the public. We support it one hundred percent."

WORK TO DO

Massey-Ferguson's dealer in Murray, Ky., feels that ACA still has a long way to go. "I think they're doing a good job but I'd like to see them put it all together and see more farmers, themselves, get involved," Will Stokes said.

"I'm a fairly new member but I don't see the interest in the organization that there should be. It's going to take more publicity and education. But at least they're making a good effort and I think ACA deserves full support from everybody."

OTHERS INVOLVED

Not all of the agribusiness members are equipment dealers. Harry Dendy is president of the Federal Land Bank Association that serves six counties in central Mississippi.

"The pocket-size fact card included in the Heartbeat Campaign informational folder has sparked a lot of interest for us," he said.

In addition to making them available at the association office, Dendy has been passing out the cards to real estate groups he speaks to.

PRICES COMPARED

"The price comparisons showing what would have happened to certain food prices if they had increased as fast as other necessities over the past 20 years hit the inflation issue right on the nail," he said. "Although people generally recognize food is a good buy, they've never seen the facts spelled out in black and white."

Dendy said that the whole program shows his borrowers that the association has taken responsibility to promote the industry it serves.

"This is very important. Everyone we do business with wants to see the urban public better informed about agriculture. And our association is proud to say we participate in a nationwide program committed to that goal."

GROUP COORDINATION

Jerry Paul Combs, International Harvester dealer in Kennett, Mo., feels that ACA is the only organization working toward trying to coordinate all other groups into one common purpose—to tell the story of agriculture.

"The National Cotton Council, American Agriculture Movement, American Soybean Association, American Farm Bureau and other organizations are all very fine groups," he said, "but they are working their own programs. ACA can give some correlation to these separate programs."

Combs said that the farm story has got to be told in Washington and to the general public.

SPECIAL PROJECT

That's one thing a project called "Washington On The Line" is trying to do. This ACA program can be conducted with audiences of any size meeting anywhere in the country.

Recently, the annual meeting of the Federal Land Bank of New Orleans participated in the program and asked questions via a special telephone conference call hookup by Sen. Thad Cochran (R., Miss.); Rep. David Bowen (D., Miss.) and Sandy Belden, deputy governor of the Farm Credit Administration.

LIVE SESSION

For nearly an hour, some 500 people conducted a live question and answer dialog on such questions as "What direction is Congress taking regarding the credit needs of farmers?"

"What steps can Congress take to limit the foreign ownership of American farmland?"

And "What's being done to solve the problem by young people getting into farming?"

Not all agribusiness people are one hundred percent sold on ACA. Harold Young is a Ford Tractor dealer in Virginia and he thinks they are doing a fair job "as long as they don't let the chemical companies take it over like they do so many other groups."

But Young still feels that all farmers and all agribusiness should be involved. "I don't want to capitalize on it or benefit from it in a personal way," he said. "We need support from everybody."

ANOTHER REACTION

But his Allis-Chalmers counterpart in Harrisonburg, Va., Harry Rawley, feels ASA is doing a pretty good job of promoting agriculture's position with the consumer.

"It's a matter of education and someone needs to do the job," said the A-C dealer. "We need ACA which encompasses all facets of agriculture speaking with one voice rather than so many groups going their different ways."

BRIDGING THE GAP

Fred Jones, Ford Tractor dealer in Spartanburg, S.C., says he thinks ACA is bridging this gap between the farmer and the consumer.

"From all appearances, it is a good vocal group for agriculture—speaking in one voice. The main purpose is to get the word of agriculture across to urban people and they are doing that."

The John Deere Company heavily supports ACA and encourages its dealers to do likewise. One such dealer-member is Bud Harrington of South Kern Machinery Company in Bakersfield, Calif.

"ACA is primarily a sounding board for agriculture and it's certainly needed," he said.

Harrington agrees that Deere heavily supports ACA from its headquarters and "dealers in turn support it and help get the word out," he said.

FARMERS CONSUMERS

At least one Massey-Ferguson dealer thinks the word should be put out that farmers are the biggest consumers of all and he believes ACA can help do this job.

He's Robert Taylor, manager of Fontenot Motors in Welsh, La. "When farmers start buying $70,000 and $80,000 tractors and combines, this makes them pretty big consumers," he said. "But when urban people go to the supermarket, they think that high grocery bill is the farmer's fault.

"Not at all," said Taylor. "When my wife and I went to the store the other night and came out with $60 worth of groceries, I'll guarantee you no more than $30 worth was edible. So farmers, as consumers themselves, are not trying to gouge the public. They're just trying to make a living like everyone else."

ASSOCIATION MEMBERS

Taylor said that he belongs to the Jeff Davis Implement Association in Jeff Davis Parish and that this organization is a member of ACA as an association. "I think all dealers are behind it one hundred percent," he said. "We believe in the fundamentals for which it stands."

Taylor said that he passes out ACA literature to customers and others and feels ACA can get the job done if everybody gets behind it.

BIG JOB AHEAD

Don Hargrave was recently elected president of the National Farm and Power Equipment Dealers Association and he feels ACA has really got a big job cut out for them.

He's a White Farm Equipment dealer and his dealership has been an ACA member for quite a while. "It's a real big job to try and update the American housewife's thinking about farmers and agricultural businesses," he said. "But I don't know of any other way to do it."

Hargrave said that in order to keep it free from personal gain, he feels such a coalition of agribusiness and farmers is a must to help get the word across to consumers.

"I think we've all got to support ACA in a big way to get this important job done," he said.

HARD TO PINPOINT

A J. I. Case dealer in Fredericksburg, Va., says it's hard to pinpoint just how good a job ACA is doing but he admits he hasn't done all he can to support the organization's goal.

"It's a very important message that needs to be put across to people," said W. F. McCarty of White Oak Equipment Company. "I haven't done all that I can personally to promote the ACA but I am encouraged by the enthusiasm shown by those people behind it."

McCarty said that people still don't realize what a good buy that food is today, even at the higher prices. "But they shouldn't blame the farmer," he said, "and that's the message we've got to get across to the public."

And, he said, it's a real tough job. But he doesn't know any other way to do it.

Why should others join ACA? Kent Johnson is an Allis-Chalmers dealer in Edinburg, Texas, and he signed up only a week ago.

"If we don't get some sort of unified effort on the part of agriculture, we're in trouble," he said. "In many organizations, the farm-related business is left out in the cold and although I can't say yet if ACA is the way to go, I do believe it could be the best organization farmers and agribusiness may have in getting our story across."

Johnson said that agriculture has to develop a positive attitude and work together for its goals.

CURRENT THRUST

The big feature in ACA's thrust right now is its so-called "EKG Survey," designed to get fresh, grassroots thinking on the major issues facing agriculture. Nationwide results will be tabulated by ACA from it's current survey of individual farmers and farm-related businesses and presented to top leaders in Washington early next year.

It should be interesting what these grassroots people have to say and how much attention Washington pays to their comments when formulating farm programs in 1980 and beyond.●

SEND IRANIAN STUDENTS HOME

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SKELTON. Mr. Speaker, the following article, written by Dave Farnham of the Lamar Democrat of Lamar, Mo., is a well-thought-out editorial relating to Iranian students—in our country. I take this means to share it with the other Members of this body.

The article follows:

SEND IRAN STUDENTS "HOME"

It's not the Democrat's policy to comment editorially on state, national or international issues unless they directly affect this community.

Just as the goal of this newspaper is to have 100 percent local news content in every edition, the aim remains the same when it comes to editorials. A small daily newspaper's editorials should be as-nearly 100 percent local as possible.

There are occasions, however, when issues with international complications arise which the editors of this space feel so strongly about that they forgo the prementioned editorial objectives and comment strongly upon that issue.

This is one of those occasions.

The issue is Iran. More particularly, the issue is Iran and the policies and attitudes towards the United States which have developed since the overthrow of the Shah's government and the ascension to the throne of the wild, religiously fanatical Ayatollah Khomeini.

The latest evidence that the "government of Iran" has done a complete about-face and lent its support to anti-American fervor in that country is the hostage incident which recently entered its second week.

More than 60 Americans are being held against their will in the U.S. Embassy in Tehran. Why? Because the new leaders of Iran were not satisfied by the killings of those supporters of the Shah who were not able to escape before the Ayatollah claimed guidance of the country.

They want the blood of the Shah himself and because the United States, long an ally of the deposed leader, have accepted him in this country for medical treatment, suddenly the mindless zealots who act with the Ayatollah's support have found a fulcrum for blackmail—the lives of innocent Americans.

This scandalous episode has also resurfaced the question of President Carter's leadership abilities. What has been done to safeguard the lives of the U.S. citizens involved. Not much.

He finally took a step forward Monday by announcing that we would no longer accept oil imported from Iran. But, it was just a little baby step. The Iranians had already threatened to deny the U.S. the 700,000 barrels it receives daily from that country. He simply got the jump on them.

What we have here is a stalemate—only the Iranians hold the trump card—oil.

It's damaging to the confidence of the people of this country to think that a band of bloodthirsty hoodlums backed by the leader of a country which was once a strong supporter can bend us over their knee and give us a good, publically-embarrassing and deflating spanking—a spanking that's taking place with weapons we probably supplied in the first place. What is the answer? The first one is to the students' demands for the return of the Shah: "Absolutely not."

It would be another signal of weakness on the part of the United States—a signal that would strengthen the Communist nations' hold on the countries they already control and indicate to countries which have formally stood with us that we can't be counted on in a crisis or to stand behind those who have befriended us.

Advocation of force under the present circumstances would be foolhardy. It would almost certainly result in deaths and could possibly lead to another skirmish tainted with the ramifications of another Vietnam.

Economic and educational sanctions may be the best solution. We don't pretend to know all of what Iran depends on us for, but certainly we still export materials and equipment there.

That may be a good place to start but the education arsenal may be an even more startling and painful blow to strike against this still largely-underdeveloped country.

What is it exactly we are suggesting? It's simple.

There are thousands of Iranian students in American colleges and universities today. Many are keeping native Americans off the enrollment lists in medical and other professional schools.

We suggest they be tossed out of the schools they are in now—no questions asked or answered—and sent back where they came from.

The educational cooperation between the United States and Iran was a direct outgrowth of the cooperation fostered between our government leaders and the Shah. The Shah is no longer the leader of Iran and that country has turned against us.

Let the United States end its role as the world's "fairy-godmother." People are taking advantage of our good nature. It's every man or country for himself these days and the sooner our leaders recognize this the better off we'll be.

By the way, it might also be a good idea if every other Iranian-born person without U.S. citizenship is sent back on the same boat with the students. Let 'em know we mean business.

Then Iran and the rest of these formerly pip-squeak nations will get the message and start treating us with the respect we deserve.●

OCTOBER PAY JITTERS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. ASPIN. Mr. Speaker, I am introducing today legislation designed to banish forever the October pay jitters.

This is the problem that has cropped up periodically in the past—and looks like it might recur regularly in the future—as continuing resolutions designed to keep the Government functioning in a new fiscal year get snagged on a dispute between the House and Senate.

This last October 12 more than a half million civilian employees of the Federal Government received only half their expected paychecks. If we had not resolved the problem by October 15, more than 2 million men and women in the military would have received nothing.

Our military and civilian people who staff the Federal Government have a right to complain if they do not get paid on time. They should not be expected to go through the October jitters every year.

Missed paydays are not unknown in our world, of course. Ebenezer Scrooge did not consider his payroll to be a top priority. In Iran, even before the revolution, it was quite common for companies to hand out the monthly pay envelopes a day, few days, or even a week or more late. Nineteenth century sweatshops would often miss paydays. And failing businesses may run out of money, go belly-up and be unable to meet the payroll. But the Federal Government does not—or should not—fall into any of those categories.

The bill I am introducing today is short and to the point. It simply states that if an appropriations bill or continuing resolution has not been passed, then funds will automatically be made available to pay the wages of Government employees. It does not apply to Government programs or nonpayroll expenditures.

Section 1 states that funds are made available to pay salaries at the same level as the last day of the expiring fiscal year. This would not provide pay for promotions or the annual comparability pay increase. However, any such pay raises would be made retroactively once congressional action on a regular appropriations bill or continuing resolution is completed.

Subsection (b) of section 1 says the authority granted in the bill continues until an appropriations bill or continuing resolution is passed that denies funds for such salaries.

Section 2 is language standard to continuing resolutions. It exempts the administration from having to comply with the law on submitting apportionments. The law states that such apportionments must be submitted 40 days before the start of the fiscal year. In the case of legislation of this type, the provisions only take effect on the first day of a fiscal year. It would, therefore, be physically impossible to comply with the 40-day rule.

Section 3 states that the authority of this act can be applied to fulfill obligations made before the start of the new fiscal year to pay a salary in the new fiscal year.

Section 4 states that payments made under this act will be charged against whatever appropriation, fund or authorization is finally enacted into law. In other words, this act does not make any funds available on top of the regular appropriations or continuing resolution process.

Section 5 defines the term "salary" that is used in the other sections. It includes civilian salaries and military pay and allowances. It includes pensions and retired and retainer pay. And it includes such fringe benefits as the Federal Government's contributions toward pensions and medical, dental, and life insurance.

I want to emphasize that the bill applies only to these payroll expenditures. It would not replace the continuing resolution process because it would not apply to Government procurement or other Federal programs. The legislation is designed solely to address the problem of the October pay jitters.

Members may logically be concerned about social security. These payments are made from a fund and are not, therefore, affected by either the passage or defeat of my proposed legislation.

This year the continuing resolution was held up over a dispute involving congressional pay and abortion. Some may look at this legislation as somehow a statement on congressional pay or abortion. On the contrary, this bill is designed simply to protect Federal employees from facing a payless pay period. No one knows what issue may be attached to a continuing resolution next year or a decade from now. It may be something we have not even thought of today.

Mr. Speaker, this bill is relatively simple and straightforward. I hope it can be acted on speedily in the new year so that the October jitters can be laid to rest before next October.

The bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for any day during a fiscal year on which funds are not available to pay the salary of any official or employee of the United States (or any former official or employee of the United States) for which funds were available on the last day of the fiscal year preceding such fiscal year, there are appropriated such sums as may be necessary to maintain such salary at the level of such salary on the last day of the fiscal year preceding the fiscal year during which funds are not available for such purpose.

(b) Funds appropriated by this Act shall not be available for any day during a fiscal year which occurs after the date of the enactment during such fiscal year of an Act or joint resolution which includes appropriations generally for the department or agency which has the responsibility for paying such salary and which makes no appropriation for such salary.

SEC. 2. Appropriations and funds made available under this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 3679(d)(2) of the Revised Statutes of the United States (31 U.S.C. 665 (d)(2)), but nothing in this Act shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 3. Appropriations and funds made available under this Act shall cover all obligations or expenditures incurred to pay the salary of any official or employee of the United States, or any former official or employee of the United States, during the period for which funds for such salary are made available under this Act.

SEC. 4. Any expenditure made under the appropriation contained in this Act shall be charged to the appropriation, fund, or authorization which includes funds for such expenditure whenever a bill or joint resolution in which such appropriation, fund, or authorization is provided for is enacted into law.

SEC. 5. For purposes of this Act, the term "salary" includes any benefits paid to or for an official or employee of the United States, or a former official or employee of the United States, because of such employment of the official or employee (including medical and dental benefits, life and health insurance premiums, and pension contributions), any pay and allowances of members of the armed forces, any retired and retainer pay, and any pensions.●

MORE EQUITY FINANCING NEEDED

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. PICKLE. Mr. Speaker, the Washington Post recently ran a story pointing out that no longer do corporations raise needed money by selling a piece of the action. Instead, business corporations are mainly selling long-term bonds, or borrowing from banks. This heavy debt loading, as opposed to equity financing, is a serious, and troublesome, development.

The article states that many, cash-rich firms are not hurting at this time. But many firms are having to reduce dividends greatly to service long-term debt payment. Some firms, on the margin of profitability or losing money, like Chrysler, find the long-term debt to be the straw to break the camel's back.

A final point is the new firm, or the moderate-sized firm, cannot borrow adequate funds at a reasonable cost, and cannot issue bonds. They need equity capital desperately.

I have introduced legislation that will correct this problem. It would give an incentive to those who own stock in a corporation that raises money by the equity route. My bill would defer taxation on $1,500 of dividends reinvested in new-issue stock of the corporation. The bill contains several provisions to prevent abuse, and the first-year calendar loss is estimated to be around $240 million by the Joint Committee on Taxation staff.

Right now, over 60 House Members cosponsor my bill. Chairman AL ULLMAN's tax restructuring bill contains a section embodying my bill.

I would like to insert in the RECORD the full article on corporation financing problems:

FIRMS HUNT FUNDS OFF WALL STREET

(By James L. Rowe, Jr.)

NEW YORK.—Ten or 15 years ago, Suzanne and Gerald Ives—a prosperous, professional Washington couple—used to invest in stocks. But no more. Today nearly all their investment money is tied up in real estate.

Chuck Rich just made his first investment. The 27-year-old film critic and writer for WTOP-Radio bought government securities.

They are not alone.

Millions of Americans who 10 or 20 years ago would have purchased common stocks as their primary investments today instead are buying houses, condominiums, government securities, certificates of deposit, gold, or commodity futures.

Eight years of high inflation and high interest rates have driven stock prices down from their overvalued highs of the late 1960s and kept them relatively low. As a result, many individual Americans have found stocks an unattractive way of holding their wealth. Only Americans over 65 years of age are increasing their stock purchases.

Similarly pension funds, which were big buyers of stock in the late 1960s and early 1970s, are devoting ever-smaller portions of their incomes to equity purchases.

Just as individuals and institutions are finding stock purchases less desirable, companies have discovered that selling new stocks is a costly, unpalatable way to raise new funds. "We'd sure like to sell more stock. But as long as our stock is selling at 60 percent of book value (the worth of the company assets), we can't justify it," said William Lowe, vice president for finance at Inland Steel Co. in Chicago.

Instead Inland raises the long-term funds it needs by going into debt or keeping profits rather than paying them out as dividends to shareholders.

Other big companies are doing what Inland is doing. Rather than selling new shares of their stock—which represent a part ownership in the company—they are selling bonds, paying out a smaller percentage of their profits to shareowners or hitting the banks for long-term loans.

Unlike a common stock, where dividend payouts are dependent upon the performance of the company, bonds are long-term debt securities that guarantee the owner a fixed payment every year.

Since 1970, the amount of corporate bonds outstanding has increased by more than $230 billion, while new stock issues have totalled less than $80 billion.

Over the same period, companies have reduced their dividend payout rates from about 60 percent of after-tax earnings to 40 percent, according to Johann Gouws, a general partner of the investment banking firm Salomon Brothers.

Banks used to make mostly short-term loans to businesses to finance inventories and the like until revenues were realized. Today a significant portion of our loan portfolio is in long-term loans with seven-year or eight-year time horizons, according to George R. Baker, who heads general banking services for Continental Illinois National Bank.

In 1971, when stock prices were high, companies raised more than 20 percent of their long-term funds by selling new stock to the public. Last year new stock sales accounted for about 4 percent of the net new funds raised by American corporations. A new Conference Board study reports that many major corporations are planning to increase their use of bonds in the next 12 months to come up with outside funds they need for investment purposes.

If it wasn't for utilities, the amount of new stock sold by American companies would be even smaller, according to Jeffrey Schaefer, director of research for the Securities Industry Association.

Much of the new stock sold by utilities is sold by the giant American Telephone and Telegraph Corp., which will raise about $1 billion this year through a dividend reinvestment plan. About a quarter of AT&T's 3 million shareholders automatically buy new company stock with their dividend payments.

In 1969 the outstanding value of corporate stock was equivalent to 110 percent of the total gross national product, according to Charles Boothe of the Bank of New York. Last year it was down to 45 percent.

New stock sales never have been the primary means by which big companies have generated new capital. But in recent years those sales almost have become an unimportant source of funds to most large companies.

Small companies that might be the International Business Machines of the future, however, often have no alternative but to sell stock if they are to expand. Their profits aren't big enough to provide much in the way of retaining earnings, banks aren't willing to take the risk and they can't sell bonds. So these companies have to sell a part of themselves to the public. But in this depressed market they cannot, according to one major investment banker.

In 1969, there were 698 companies with a net worth of less than $5 million each able to sell shares to the public, raising $1.4 billion in the process. Last year only 21 such companies were able to sell stock, and they generated but $129 million in capital.

The stock markets—be they formal trading floors such as the New York Stock Exchange or the loosely knit group of dealers called the over-the-counter market—exist in part to facilitate the raising of new capital.

"As a capital-raising mechanism, it just hasn't been working all that well the last few years," said Leslie J. Silverstone, head of Dean Witter Reynolds' Washington office.

The increasing reliance of American companies on debt capital rather than equity capital could become a cause for concern if it continues. "You need an equity base to support debt," said Robert Salomon Jr., general partner of Salomon Brothers. When a company hits a slow period, it can reduce or eliminate its dividends (one of the reasons stocks are more risky), but it must continue to pay interest on bonds or bank debt.

"At some point, the system buckles under the debt," Salomon maintained.

For example, Chrysler Corp. has eliminated the dividends it pays, but still must shell out a hefty amount of income to pay its bankers and its bondholders.

Unless stock prices rise, however, the stock market is unlikely to become a vehicle for new sales of equity by companies. Instead the stock market will remain a financial horse race where individuals or institutions can place bets on the relative performance of an individual stock, but their activity will do little to entice companies to raise new capital.

Indeed stock investors seem to be running faster to nowhere.

Although nearly 6 million fewer individuals own stock today than in 1970 and institutions are pushing less and less of their income into stocks, trading volume is rising.

In 1970 an average of 11.6 million shares of stock changed hands each day on the New York exchange. Last year trading volume averaged 28.6 million shares a day. In the same period, the Dow Jones industrial average has sunk about 20 percent—at a time when inflation has pushed up prices more than 60 percent.

Is it any wonder that households keep only 12.3 percent of their assets in stocks today compared with 22.7 percent in 1970 and 28.3 percent in 1968?

"You've just got to write off the stock market," argues the manager of a small investment fund.

Not everyone agrees.

Donald Regan, chairman of Merrill Lynch and Co., the nation's largest financial services company, said the nation's equity markets are poised for a substantial recovery. When that happens, companies will find it economical again to sell stocks to raise capital.

"I see in American corporations the greatest undervalued set of assets in existence in the world," Regan said. "Everything else relative to the asset value of American corporations is overvalued: paintings, gold, diamonds, land, timber, etc."

That fact has not gone unnoticed by the companies themselves.

"Companies are finding it cheaper to buy one another than to invest in new facilities themselves," said Boothe of the Bank of New York. If a company is selling for only 60 percent of book value, another company can purchase its stocks at a substantial premium over current trading price and still come away with a bargain.

"Why buy a new 747 for $25 million if you can buy an airline and get its fleet for the equivalent of $20 million a plane?" asked one banker.

Similarly some companies are buying back their own shares. "Not only does it boost our price and earnings per share by reducing the number of shares outstanding, it also reduces the amount of dividends we have to pay out," said the chief financial officer of a company that is buying its own shares.

Some companies even have liquidated themselves: sold off their assets and distributed the proceeds to shareholders.

What has happened? Ten years ago, common stocks were the darling of both individual investors and institutional investors. In 1952 only one American in 16 owned stock. In 1970 it was one in four.

Analysts cite a combination of stocks being overpriced in the late 1960s, the heavy round of inflation and high interest rates that have shadowed the economy since 1970, and tax laws that discourage investors from buying stocks and companies from trying to sell them.

"When you add everything up, it's no mystery why the stock market is performing so poorly," said James Balog, senior vice president of Drexel Burnham Lambert Inc.

Analysts list a host of factors that have hurt the equity markets, among them:

Tax laws that encourage investment in houses—where mortgage interest is deductible—and in tangible assets such as stamps, coins, paintings and the like. "Mortgages are now the largest component of the capital markets," noted Robert Salomon.

The same tax laws that allow companies to deduct interest payments as a cost of doing business but permit them to pay dividends only out of after-tax profits. Furthermore the dividends are taxed again when received by shareholders.

The discouraging impact on investors of the increasing retention of profits by corporations. Unable to sell new stock, companies devote a smaller share of profits to dividends. Because investors have not realized much increase in the price of their stocks, they cannot be comforted by rising dividend payouts. In the last 10 years, dividends have about doubled, while retained earnings nearly have tripled. "It's a self fulfilling prophecy of discouraging people from buying stocks," says Salomon.

High interest rates, which make investing in nearly riskless assets such as Treasury bills and very safe assets such as corporate bonds or high-yielding bank certificates nearly as profitable—and in some periods more profitable—than buying stocks.

Inflation that eats away at the value of corporate earnings and makes the replacement cost of current corporate assets (which the tax laws value at original cost) rise sharply every year.

The growth of pension funds and Social Security which discourages individuals from saving at all.

But probably the most important reason investors—first individuals, then institutions—became wary of stocks was the sharp decline in stock prices that began to occur around 1970.

Investors were lured to the market by the sharp growth in stock prices that began in the 1950s and 1960s and was accompanied by strong economic growth and low inflation.

Common stocks began to seem riskless. And most American investors, be they individuals or institutions, are adverse to risk.

"It's the simple rule of supply and demand," said Drexel Burnham's Balog. "There was a tremendous influx of cash into the equities markets in the late 1960s. The whole pricing mechanism got out of whack. Stocks were severely overpriced."

As happens with most overpriced items, the stock bubble burst.

"Lo and behold, just when inflation became rampant, stock prices were killing you," Balog said.

Individuals began to get out of stocks. Institutions were slower to do so—today nearly one-third of the stock outstanding on the New York exchange is owned by institutions and 30 percent of the trades are with institutions—but they slowly are moving into other investments as well.

Real estate became the next game. Americans always have preferred to live in their own homes. And just about the time the stock market began to sag the early members of the postwar baby boom began to search for houses.

Housing prices began to climb, and homeowners, aided by government agencies, found that for small down payments they could buy houses, save on their taxes and watch the value of their real estate climb.

According to Federal Reserve Board figures, households had 17.7 percent of their assets in houses worth $569.7 billion in 1970. Their stock holdings were larger: $729 billion.

Today households own residential real estate worth $1.5 trillion—22.8 percent of total assets—while their stocks are worth only $790 billion.

They also are showing interest in other things such as gold, and in newly formed investment devices such as stock options and financial futures that permit investors to put up small amounts of cash with, the hope of large financial gains.

But the nation's love affair with tangible assets will come to an end just as its love affair with the stock market did a decade ago, many analysts believe.

"It's fine to own a home that keeps increasing in value," said Washington broker Julia Walsh. "But what good is that if you cannot sell it. And we're beginning to see signs of that in Washington right now.

"The young people who have never invested in stocks will begin to realize that they might not be able to sell a stock for quite what they want, but they will always be able to sell it. That's the great virtue of the stock market. It brings together thousands of buyers and sellers," Walsh said.

Indeed liquidity is one of the primary functions of the stock market, according to New York Stock Exchange chief economist William Freund. It is a forum where investors always can exchange their financial assets for cash.

"All we need to change attitudes toward stocks is for enough people to realize that owning things is not always what it is cracked up to be," Gouws of Salomon Brothers said. "For example, antique car sales in a West Coast auction last spring fetched prices far beyond what was anticipated. A 1935 Mercedes which was expected to sell for $200,000 went for $400,000. When a similar auction was held here last month, people had high expectations. But only about eight of the 40 cars were sold."

"In our business, people are highly skilled at looking in the rear-view mirror. They haven't noticed that somehow the Standard & Poor's index (of 500 stocks) has sneaked in with a 16 percent return recently," Gouws said.

Drexel Burnham's Balog is not so sure that stocks will rebound. "Unless there is a cut in interest rates or an increase in the reward for investment, Americans are not likely to return to the equities markets," he said. "When inflation is as high as it is, are stocks really a bargain?"

Merrill Lynch's Regan noted that there will be a big tax debate in Washington in the coming years that will determine whether the laws will continue to penalize savings and investment.

"Half the interest in buying things like paintings and stamp collections is a desire to save in a way that the government won't get you," said Salomon Brothers' Salomon. "If you buy a stock, or put your money in a savings account, they want your Social Security number."

Analysts point out that prices have soared in France, where last year investors were given a tax break for buying French stocks.

Analysts here point out that the reduction in the capital gains tax passed by Congress last year seems to have had some impact on stocks here.

Schaefer, of the Securities Industry Association, pointed out that there was a surge in public stock offerings by small companies in late 1978 and early 1979. During the first half of 1978, only one small company sold stock to the public. In the last half of that year, 20 did. During the first half of 1979, another 16 companies made public offerings.●

FIRST WORLD AEROSPACE EDUCATION CONGRESS

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. WRIGHT. Mr. Speaker, the First World Aerospace Education Congress was held in Cairo, Egypt, on October 21, 1979.

We were ably represented by our distinguished colleague from California, Congressman Don Clausen. This was indeed a major historic event and is deserving of recognition by the people of the United States and other countries of the world. Representatives of 14 nations attended this important conference and discussed means of promoting aerospace-aviation education.

I can think of no better spokesman for our body than Don Clausen. His longtime national leadership in the field of aviation and aerospace education is well known to us all—culminating in his having been the recipient of the Nation's highest award in aerospace education—the Frank Brewer Trophy.

The most significant aspect of the Congress was that it provided a forum for nations, which have sometimes been at odds with each other politically, to work together in harmony toward the achievement of a common goal. In this way, the Congress and future Aerospace Education Congresses contribute to international understanding and world peace.

The Congress was opened on October 21 by the World Aerospace Education Organization's President, Kamal Naguib. Dr. Mahmoud Amin Abd El-Hafez, Egypt's Minister of Tourism and Civil Aviation, then read a message from the Congress sponsor, President Anwar Sadat. Don Clausen, as senior American Representative, responded with a personal message to the Congress from President Carter. Our colleague from California presented the keynote address—"Aviation Education, a Global Challenge."

Mr. Speaker, I would like to insert President Sadat's message and President Carter's response in the Record at this point:

Message of Dr. Mahmoud Amin Abdel Hafez, Minister of Tourism and Civil Aviation, Addressed on Behalf of President Anwar El Sadat, to the First World Congress on Aerospace Education

The President of the World Aerospace Education Organization, Ladies and Gentlemen, members of the Congress.

It is my privilege to be honoured by President Anwar El Sadat, to inaugurate on his behalf this First World Congress on Aerospace Education, and to convey to you his personal greetings, and best wishes for your Congress to achieve the noble objectives for which it is convened.

Most of you have came from far away to exchange views and experiences, needed to realize the goals of the World Aerospace Education Organization, to promote the methods and practices used in this domain and to help create international standards related to aerospace education.

You have come from far away to foster the interest of the World Youth in the aerospace age, to increase the masses' understanding of aerospace importance for life today and tomorrow, and to help developing countries by conveying to them the experience of developed countries on how to promote aerospace education.

Our generation has lived with the technological advancements in aerospace sciences achieved during the sixties and seventies of this Century. The younger generations will be really affected by those advancements. They will actually live the Aerospace Age. It is the duty of leaders and educators to prepare their minds to cope with the changes which will accompany this new Age.

We know that developed countries have given the subject the attention it deserves. It is now the time of our countries to join the game.

* * * * *

We cannot forget that our country had carried the flambeau of civilization, seven thousand years ago, and we cannot also forget that Egypt was the first to enlighten the way for wisdom and knowledge for the rest of the World, and that its scientists have imagined flying and soaring in the air, thousands of years ago.

Today, our President with his faith in God, and his unparalleled courage, has overcome the obstacles which were draining our resources. He gave his directives to modernize civil aviation services, and he is assigning the human and material resources needed for the education of our youth in aerospace aspects.

We are extending our hands to the World, we are strengthening our ties with international organizations and we believe deeply in World Cooperation.

Our mind is open to exchange knowledge with you in a civilized framework. Our heart is open to welcome you, the leaders of aerospace industry and aerospace education.

I wish you again success in building a new beacon for science, culture and civilization.

I hope, that when you go back to your homes, you will feel satisfied with what you have achieved in the Congress, and that you will keep the best memories about this Country which was privileged to be your host, and which was proud when you selected Cairo to be the site of the World Aerospace Education Organization.

Best regards to all of you, from my heart, and from the hearts of all Egyptians. May God be with you in your sincere efforts to pave a better future for the human race.

Statement on Behalf of President Jimmy Carter, Presented by Rep. Don H. Clausen at the First World Congress on Aerospace Education in Cairo, Egypt, on October 21, 1979

On behalf of the American people I extend warmest greetings to those attending this first Congress of the World Aerospace Education Organization. We in the United States have long been interested in the concepts of aeronautic and aerospace technology and in their application to the field of education. The transfer of knowledge gained in space and aviation to other fields and the spreading of this knowledge as widely as possible continue to be among our primary objectives.

The National Congress of Aerospace Educators has long been involved with these issues. It has always welcomed observers from other nations at its annual sessions. This first Congress of the World Organization represents a formalization and broadening of that international interest in the field of aeronautics and aerospace education.

Within the U.S. Government we have a specific mandate from the Congress to insure the widest possible dissemination of information gained in the fields of aeronautics and space technology. We also share a keen interest in increasing the participation of young people everywhere in addressing the problems and challenges of space and aeronautics. The world organization promises to make a major contribution toward achieving both of these goals.

Given Egypt's historic and modern leadership role in education, your meeting in Cairo seems especially appropriate. You have my best wishes for a most successful Congress.

I would like to briefly mention a few of the 120 distinguished participants representing 14 nations at the Congress:

Dr. Assad Koteit, president of the International Civil Aviation Organization.

Gen. Jacques Mitterrand, president director general, Aerospatiale.

Mohamad Fathy Taha, president of the World Meterological Organization.

Knut Hammerskjold, director of the International Air Transport Association.

Dr. Farouk El-Baz, research director, Center for Earth and Planetary Studies, Smithsonian Institution.

John Steiner, vice president-corporate product development, the Boeing Co.

Secor Brown, professor MIT and past president of the CAB.

Dr. Mervin K. Strickler Jr., vice president of WAEO and former Chief, Aviation Education Programs Division, FAA.

Mr. Speaker, I would like to focus the attention of my colleagues on the historic and genuinely constructive purposes of this great World Aerospace Congress. This, the first Congress of its kind, can provide both the developing and the developed nations with a new forum for the exchange of ideas and information.

To give my colleagues a better idea as to the importance of the World Aerospace Education Organization, let me briefly state its objectives. These are:

First. To group at the international level, organizations, firms and individuals interested in aerospace education to provide an international forum for exchange of experience;

Second. To promote the methods and practices used in aerospace education and to contribute to the creating of international standards related to aerospace education;

Third. To identify the main trends in aerospace education in the developing countries making use of the experience of developed countries; and

Fourth. To increase the understanding of people everywhere of aerospace importance for life today and tomorrow.

By bringing the representatives of many nations together to work toward the achievement of these objectives, something even more important can be accomplished: A major step can be taken toward the achievement of world peace with freedom.

The achievement of these vital objectives could make the World Aerospace Education Organization a major force for the improvement of international relations throughout the world.

Mr. Speaker, I would like to insert into the Record at this point the full text of Don Clausen's keynote address wherein he outlines his innovative concept of an "Airborne Freedom Offensive."

Address of Congressman Don H. Clausen to the First World Aerospace Education Congress, Cairo, Egypt, October 21, 1979

I firmly believe it is providential that we come together for this First World Aerospace Education Congress in Cairo, Egypt.

I further believe it is most fitting and proper to launch this great Aerospace-Aviation Education initiative in the land of one of the greatest peacemakers of our time—the brilliant and courageous President of Egypt—Anwar Sadat.

In my view history will record President Sadat as the "Statesman of the Century"—recognizing him for his bold and courageous peace initiative here in the Middle East.

To our Egyptian friends we, respectfully, say Shukran Gazlin (thank you) for the steadfast support you have given this outstanding "Citizen of the World." All Americans stand steadfast in support of his timely and productive effort that led to the negotiated Camp David agreement signing ceremony, which I attended on the White House lawn, between President Sadat, our own President Carter and Prime Minister Begin of Israel.

My colleagues in the U.S. Congress share a common conviction—this mutual commitment to stability and peace in the Middle East could prove to be the turning point in world history. A "momentum for peace" was set in motion that day.

Today, as I stand before you, I see another historic event taking place—the launching of the First World Aerospace Education Congress that has the potential of accelerating that "momentum for peace."

As I look around me, it is a pleasure to recognize both old friends and see new faces:

WAEO's President, Kamal Naguib, who has done so much to make this great Congress possible.

Semret Medhane, Secretary General of the African Airlines Association who has contributed so much to building commercial aviation on this continent.

My old friend, Dr. Mervin Strickler, Former Chief, Aviation Education Programs Division, Federal Aviation Administration.

Mary Jo Oliver, Acting Chief, Aviation Education Programs, Federal Aviation Administration.

Curtis Graves, Chief, Community Services and Educational Programs, National Aeronautics and Space Administration.

Jack Sorenson, Deputy Chief of Staff for Aerospace Education, Civil Air Patrol.

Dr. Shannon W. Lucid, recent graduate of NASA's Astronaut Training Program.

The signs of our times, as we view the world situation, strongly suggest the time has come for increased cooperation among the Free Nations of the world—a movement where the developed and developing countries start coordinating and integrating transportation systems in order to accelerate the building of better public, private and volunteer sector institutions in these countries.

We need to share and convey the full potential of benefits and blessings that can accrue to the people of the developing countries if they associate with this free institution building effort.

In particular, I want to transmit this message to the young people of the world.

Open your minds, open your hearts and open your eyes to the unlimited potential available to all of you that choose to participate in this "Airborne Freedom Offensive."

We can forgive the child for being afraid of the dark but the great tragedy of our lifetime is when grown men and women refuse to see the light.

Our challenge is to broaden the perspective of the people in the developing countries of Africa, Latin America and Asia by acquainting them with the great value of building public, private and volunteer sector organizations and institutions designed to maximize the participation of people in the process.

Functioning democracy is a continuing experiment in the governmental process which places the strongest emphasis on Government Of, By and For the People. A properly structured public sector makes this possible.

The Free Enterprise System is the "engine of productivity" from which fund sources are derived to support the public and volunteer sector institution building effort.

The dreams and aspirations of millions of Americans, and other people in the developed countries have been realized through the evolutionary free institution building effort.

There are advocates in the world of a closed-controlled society.

We want to be associated with the free and open society concept where basic human needs are addressed and the dignity of the individual is recognized and meaningful.

The airplane is one of the greatest tools for meeting human needs. When used as the basis of a rapidly developing communications and transportation network, the aircraft can significantly contribute to the meeting of basic human needs such as food, shelter, and clothing. Clearly by helping nations meet their basic needs, the airplane can help provide the political, social and economic stability so vital to achieving peace in the world.

The most successful efforts are those which involve the people themselves. The aircraft is an invaluable tool to accelerate the community and institution building concept to help the people help themselves.

As we review the great technological and engineering achievements in the aviation and space programs over the past decades, we must applaud the great talents among the people responsible for these accomplishments. Also, we must recognize the tremendous contributions made to our communications and transportation systems throughout the world. The potential to benefit mankind is seemingly unlimited. Conversely, the potential to destroy mankind still remains as the most frightening thought of our time. It is to this end that I should like to address a few remarks.

Many of us in America with extensive aviation backgrounds have seen the general aviation fleet grow from a few small 40-horsepower Piper Cubs to our present-day equipment where business now recogizes the company aircraft as an indispensable tool in the promotion and expansion of its enterprises. The flexibility and general utility of scheduled and nonscheduled aircraft have increased trade areas to be served and permit highly competent executives to expand their talents and opportunities to regions heretofore considered to be inaccessible.

In our recent past, there has been a predominance of concentration on programs to increase the speed of aircraft and space vehicles. In the 60's, I stressed my concern to the American aeronautical community that we were concentrating on programs to increase the speed of aircraft and space vehicles but were making an inadequate commitment to STOL/slow flight aircraft. I am firmly convinced that not enough attention has been given to how slow we can fly an aircraft, even though great progress has been made.

Rapid transportation in rural areas and locations with limited access have caused spectacular growth in general aviation in almost every country in the world. Most nations have remote areas that cannot be efficiently reached by any other means than through small, slow-flight aircraft. As I am sure Monsieur Miterand knows, there are alpine areas in France which rely heavily on general aviation for transportation. And this is particularly true of my area of the United States.

As a matter of fact, the use of aviation by emerging nations is of particular interest to me because the geography of the part of the United States I represent in Congress has many similarities to that of emerging nations. The people of my Congressional District are widely dispersed through large rural areas. Quick transportation of goods, services, and people from one end of my Congressional District to the other takes place by air. We are using aviation extensively just as the emerging nations are using aviation extensively. It appears that industrial and rural nations alike need general aviation.

I would also like to see the revival of an Arab Aerospace Education Seminar similar to the one held 6 years ago initiated by Kamal Naguib and adopted by the President of the Civil Aviation Council for the Arab States. At that time, Mr. Mohammed El Hakin, the most knowledgeable man in the Arab world in the aviation field, was President of the Council. It is clearly conceivable that a similar educational effort can have application to all of the countries of the continent of Africa. In addition, I have participated in events to similarly advance this concept in the Americas.

We all need aircraft that will permit access to remote sections of the world. Developed nations can share knowledge and know-how with the developing nations through the expanded use of aircraft.

Developing nations can profit greatly from the use of the Economic Growth Center concept. By geographically concentrating business activities, more land will be preserved for agriculture. The key to success of these centers in sparsely populated areas is transportation, particularly through the use of aircraft. I'm convinced that many developing nations will advance their social and economic well being through the early establishment of a coordinated and integrated air transportation system.

With the overwhelming needs of the world and the staggering costs involved, it demands our consideration of the most effective and efficient means available, with primary emphasis on promoting self-sufficiency in the environment people live. The lack of adequate roads and tax sources or funds to build them, points to the need for expanded use of aircraft. But, financial restrictions also limit the size and quality of airports—pointing again clearly to the dramatic need for slow-flight aircraft.

The importance of aviation to our area of the United States has made us see the importance of fostering aviation education. Just as aviation is vital to our area, so is aerospace education vital to the future of aviation, The growth of aviation demands a continuing supply of qualified men and women to work in its ranks.

There are, however, additional benefits to be realized from a dynamic aerospace education program beyond having capable aircrews and ground support staffs.

Aerospace education has proven its ability to provide previously disinterested and unsuccessful students with that vital spark we call motivation which makes them productive members of our society. I have seen, at first hand, this fantastic transformation change a backward and indifferent youth into a dedicated and enthusiastic graduate and member of the aviation family.

Why? Because aviation gave that student the added spark of excitement, motivation, and interest that was so badly lacking in his life. Suddenly, otherwise dull subjects such as mathematics and science, physics and geography took on a new and exciting meaning.

Based on many years of personal experience with aerospace education, I am firmly convinced that it is not only an effective and viable "anti-drop-out-tool," but also a highly motivating force that will provide the kind of a challenge that many young people so desperately need early in life.

I predict that aerospace education is going to be ever more widely taught in the world's school systems. Where yesterday's schools taught Latin or Greek, today, driver education is prevalent in many areas. Tomorrow, aeronautical training will come to the fore and may even become essential in some areas. There is little doubt about the need for aviation and aerospace education in today's schools, if only to instill in the student an understanding of the problems and potentials of aviation in this expanding new aerospace age.

Now how do we go about introducing today's student to aerospace education?

One way is by placing a flight simulator in each elementary and secondary school in our respective countries. This is a fine way to introduce young people to the techniques of flight.

Much more can be done to foster areospace education. The way to do this is through extensive and innovative use of "available resources."

Look around you. There are numerous sources of aerospace information in every nation. You can find them in the private sector and in the public sector. They exist in commercial airlines, in aircraft manufacturing firms and in small general aviation companies. You will find them in government agencies, both military and civilian. The sources and opportunities are virtually limitless.

As an example, I am proud to be the author of legislation enacted by our Congress which establishes a program to encourage the use of available resources in my own country. This plan requires the Administrator of the Federal Aviation Administration to establish, "within available resources" a civil aviation information distribution program. The legislation requires the program to be designed to provide state and local school administrators, college and university officials, and officers of civil and other interested organizations, upon request, with informational materials and expertise on various aspects of civil aviation.

Note that in drafting this program, we did not just provide for the establishment of a repository of information but rather an information distribution system. Information has no value unless it is placed in the hands of the people who can and will make good use of it.

Now what is the best method of establishing an effective aerospace information distribution system?

In my home state of California, we found that the task force approach was highly successful. Our task force, which I was honored to chair, assembled many of the finest minds in the state in every phase of aerospace education. And we did it without the expenditure of public funds.

Let me suggest the establishment of these aerospace education task forces by neighboring countries which are geographically contiguous to each other. By gathering the best people in the aerospace field from the nations of a common geographical area, which face common aerospace problems, much can be achieved in advancing aviation education.

The procedure used in California and the United States was successful because of years of free institutions building. While this approach was possible in our country, similar efforts in other nations will clearly have to be structured to fit your own situations.

We will share with you the information we have developed, and I hope this Congress can serve as a forum for a continuing dialogue in the years ahead.

In the United States, we have enjoyed the benefits of a positive and evolutionary process throughout the past 200 years.

We started with an Agriculture Revolution then came the Industrial Revolution. In more recent years, the Technology Revolution. And, now we're entering the Knowledge Revolution.

We're disseminating knowledge and information about our agricultural and industrial technologies through the expanded use of our communications and transportation technology. We are prepared to share this knowledge and know-how with the people of the developing countries.

All that is required is for those people to prepare themselves, educationally and institutionally, to take advantage of it.

There are three documents which amplify these concepts that I'd like to make available to you:

The Report of Governor Reagan's Task Force on Aerospace-Aviation Education which includes my speech given in New York City on the merits of aviation education in schools.

My speech "Slow Flight in a Peace Offensive."

My remarks on the "Growing Crisis of the Lack of Airports" which details the need for a national plan of integrated airport systems.

As we look to the future, "the Cooperative and the Corporation" concept of enterprise development can and will play a dynamic role in the free institution building process.

They provide the organizational structure for the human and financial resources needed to responsibly develop our natural resources for the benefit of mankind in our quest for economic and social progress and the improved standard of living we all seek.

This is in keeping with the Creator's master plan. As his children we have a special responsibility to utilize our advancing technology in communications and transportation to carry forward his work. This World Aerospace Education Congress can become the instrument through which we carry out his plan. Our guiding principle for this effort must be the Golden Rule, "Do unto others as you would have others do unto you."

Clearly, we, the United States of America, do not have all the answers. We, too, have our share of problems to resolve. But, we have gained valuable experience from our continuing experiment with functioning democracy for the past 200 years.

By launching an "Airborne Freedom Offensive" through the implementation of Aerospace-Aviation Education programs in our respective countries, we can all become "soldiers of peace and stability" throughout the world.

This is not to suggest that we will ever let down our "Security Guard" for the protection and preservation of Free Systems but rather to indicate our desire to mobilize the non-military capabilities—economic trade, knowledge and information distribution, institution building and technology advancement—into a "Freedom Offensive."

What noble task could we undertake?

Today, we have the awesome potential of destroying the world with our advanced weapons systems.

But, today, we also have the communications and transportation technology potential to build a better world.

It is my fervent hope and prayer that we capture this moment and all its meaning.

By dedicating ourselves to the cause of peace, with freedom and justice for all;

By dedicating our Aerospace Education efforts toward the countries of the world desirous of building freedom and free institutions for the progress of mankind; and

By proving conclusively that the airplane can be used more constructively as a "tool of peace" than destructively as a "tool of war."

My experiences and efforts have been shared and coordinated with many of America's outstanding aviation leaders and pioneers, many of whom are here today. I am but a "small cog in the wheel" of the extensive Aviation-Aerospace Enterprise.

We believe the lessons we've learned have potential application to the newly developing countries—much of which is already underway.

But this is just the beginning. We have only scratched the surface. The highest ideals and greatest aspirations of people will never be realized or supported unless they fully comprehend how aerospace-aviation equipment and technology can provide solutions to our most pressing domestic and international problems.

The threats and dangers of our nuclear age have brought us to a point in history where those people and nations who believe in retaining and advancing the cause of freedom and free institutions can no longer afford to "remain in ignorance" of the great problem-solving capabilities our aviation and aerospace technology can provide for us in the social, economic, political and security fields of endeavor.

The key to our survival and quality of the life we all seek requires a commitment to this effort.

Together, we can accelerate the Free Institution development process.

This is the challenge to the young people of the world.

This to me is what this First World Aerospace Congress is all about.

Don H. Clausen

Congressman Don H. Clausen (R-Calif.) was awarded the Frank G. Brewer Trophy for his efforts in furthering aviation and space education. The Brewer Trophy, sponsored by the American Society for Aerospace Education and administered by the National Aeronautic Association, is awarded annually for the most outstanding contribution to the development of aerospace education.

The Brewer Selection Committee met in Washington, D.C. on March 3 to review the nominations for the award. Congressman Clausen was cited for his "Outstanding leadership and performance in a number of activities in furthering aviation and space education, including Chairmanship of the California Task Force on Aerospace-Aviation Education. He also authored federal legislation establishing a civil aviation information distribution program designed to provide state and local school administrators and college university officials with informational materials and expertise on various aspects of civil aviation."

Congressman Clausen is the first elected public official ever to receive the Brewer Trophy. The Selection Committee members, distinguished aviation and aerospace education and government officials appointed by the President of the National Aeronautic Association, commended Clausen for his several decades of leadership in aviation education as a public official and aviation businessman. His efforts in making aviation education a part of the curriculum of local schools in California and his leadership in assuring nationwide adaptation of such programs was an important part of Clausen's selection. The Committee also cited his innovative Congressional leadership role in helping to create and assure passage of Public Law 94–353 and authorship of Section 21, Appendix B of the Aviation Development Act which stimulated a nation-wide aviation education and information distribution program.

Clausen was a U.S. Navy pilot during World War II. He is an instrument rated commercial pilot, has a flight instructor's rating, and was a CAA pilot examiner. Among the highlights of his leadership role in aviation education he was an early advocate of placing flight simulators in school classrooms, he has been a strong supporter of women's aviation organizations, established aviation education programs at several colleges and high schools, cosponsor of legislation recognizing the contribution of Women's Air Service Pilots (WASPs) in World War II, member of the Advisory Board of Embry Riddle Aeronautical University, served as President of the Congressional Flying Club, and coordinated aviation education programs through established educational facilities.●

THE IRANIAN SITUATION II; THE SOVIET STAKE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. ASHBROOK. Mr. Speaker, the tragedy in Tehran has touched the hearts of all people in our Nation. There is a growing awareness that our policies around the world have led to the present crisis and that our past lack of resolve has put innocent lives in jeopardy. We all know that the issues involved in the embassy takeover and the hostage situation have little or nothing to do with the fate of the Shah. The ayatollah is using the Shah as a vehicle to consolidate his precarious hold over the mobs in the streets and to divert attention from his own inability to govern a complex oil-based economy.

These facts, however, do not bring the hostages home safely nor do they solve the deep rift between this Nation and Iran. If the domestic violence in Iran or even the turbulence of the Shiite sect were the only issues involved even the blundering Carter White House might be able to meet the challenge thrown on our doorstep. However, other forces are at work in the Middle East.

The Soviet Union has been desperately trying to regain its ability to act in the region since Egypt wisely threw the Communists out. Recent activity by the Kremlin in the region points to a pattern far more ominous and far-reaching than Moslem violence. If the United States is going to assure its future use of Arab oil and prevent the Red Sea or the Indian Ocean from becoming a new holding tank for Soviet naval might, it must realize that other events are happening in the Middle East that may prove America's undoing in light of Iran.

The entire southern border of the U.S.S.R. has been a focal point of turbulence for some time. The first wave of diplomatic violence directed against the United States happened in Afghanistan, not Iran, in 1979. Ambassador Adolph Dubs was kidnapped—and then killed by terrorists. At that time, there were already growing signs of Soviet support for the Marxist dictatorship that had taken control of the nation. Throughout the year, the United States refused to aid the growing rebellion against the government or against the Soviet presence. The State Department, so quick to applaud the downfall of Somoza, was silent on any questions dealing with the future of freedom in Afghanistan. Today, with Iran and Pakistan, both neighbors of Afghanistan, seeing anti-American violence, the new events inside this pivotal country take an important meaning to the future of the United States in the region.

The Soviets have recently established military bases at Farah and at Shindand towns very close to the border with Iran. In addition to this military presence, the Soviets have spent $6.7 million on supplying the new internal security police force for the Amin's government. Another $500 million is being used by the Soviets to stimulate the Afghanistan economy. In other words, this strategically important country is taking on all the looks of a fledgling Soviet satellite complete with over 2,000 Soviet personnel advising, and, in some cases, actually holding office in Afghanistan's economic ministries.

Not content with only a northern presence near the Persian Gulf, the Soviets have been quietly airlifting two complete brigades, about 10,000 men, along with armored vehicles and artillery, to South Yemen. These forces bolster an already commanding presence in both South Yemen and Ethiopia.

If one were to look at a map of the Middle East one would see the Soviet presence in Afghanistan, in Ethiopia, and in South Yemen, circles the Persian Gulf area. It also effectively closes the Gulf of Aden. At any time, the Soviets could move against any of the crucial oil lanes in the Middle East with overwhelming force. Although the Soviets may decide not to force such a confrontation at this time, the mere fact that they have the capacity provides important diplomatic leverage for them in this vital region. In light of American reversals in the area and the new wave of Moslem violence, the United States should keep these developments in mind as the stakes start rising.

I would like to call my colleagues' attention to an excellent article by Robert Moss, of the Daily Telegraph in London, that provides additional evidence regarding Soviet intentions in the region. Mr. Moss' article makes it very clear why the democracy of Bakhtiar and the moderate Moslem state of Bazargan have both failed in Iran and why no stable, pro-West government will rise there as long as America avoids facing up to all the realities of the situation:.

Who's Meddling in Iran?

(By Robert Moss)

Throughout the upheavals in Iran the taboo subject has been the extent of covert Soviet involvement. Leonid Brezhnev, the Soviet party leader, showed his hand the weekend before Thanksgiving by issuing a public warning to the West—published as an interview on the front page of Pravda—not to intervene on the side of the shah. That was the closest the Russians had come in many years to openly declaring their interest in the destabilization of Iran.

Moscow's strategic interest is obvious. Iran is the only state around the Persian Gulf equipped to serve as a policeman of the region. Seventy percent of West Europe's oil passes through the Gulf, along with 90 percent of Japan's, almost all of South Africa's and most of Israel's. If Iran fell under the control of a pro-Soviet or fundamentalist, Quddafi-style Muslim regime, the consequences for the West would be terrifying.

It is not just that Iranian oil production no longer would be automatically available to the West. The fragile regimes of the Arabian peninsula would be up for grabs.

South Yemen continues to be used as a Soviet base for destabilizing the entire Gulf region, as well as the Horn of Africa. The KGB rezidentura for the area is located at a Russian military complex in South Yemen. In the South Yemeni-owned island of Socotra, the Russians are believed to have positioned the ballistic missiles removed from Somalia after President Barre turned toward the West.

Imagine how the geopolitical scene would be altered if Iran were to swing toward the Soviet bloc. Squeezed as they are between Iran and South Yemen, the feudally governed, thinly populated states of the Arabian peninsula would fall like a row of ninepins.

The Soviets don't deserve all the credit for turmoil in Iran, or even to share it with the local Communist (Tudeh) party. The shah's own experiment in liberalization has helped to release many pent-up forces. The wave of riots and demonstrations since "Black Friday" and the declaration of martial law in Tehran last September have embraced forces as diverse as conservative shopkeepers, recreationary mullahs who want to compel women to wear the veil and marry before puberty and trendy university students revolting against middle-class parents.

The shah confronted the classic dilemma of the reformer in a backyard society accustomed to absolutism. How is it possible to make concessions without giving encouragement and impetus to a revolutionary movement that would sweep away the reforming regime itself?

But even though the shah's problems are mostly self-generated, they certainly have been aggravated by covert warfare waged against him by the Soviet Union and proxy regimes like Libya. The main reason why the evidence of Soviet involvement in Iran has not become generally known is that the shah himself has striven to keep it secret, fearing that the Russians would take even more aggressive measures if provoked. The shah told me when I met him a month ago that he is very conscious of sharing a 1,600-mile border with the Soviet Union. The Russians recently have reinforced their border military presence, which includes a division of Farsi-speaking troops recruited in the southern republics of the U.S.S.R.

I have been able to assemble, from both Iranian and non-Iranian sources, some striking new evidence of surreptitious Soviet involvement in this year's troubles. The Soviet intelligence services—the KGB and GRU—have long been engaged in an ambitious program of espionage and covert action in Iran. The success of the Soviet intelligence services in filling Iran with both professional officers and "illegals" (agents operating under deep cover, often posing as Iranian citizens) is impressive. About 100 Soviet citizens are accredited as diplomats with the Russian Embassy in Tehran and the Soviet consulates in Mashad, Ispahan and Tabriz. In addition, about 4,000 Soviet "technicians" are employed in the country, including about 1,000—some of them identified KGB and GRU officers—at the Aryamehr steel mill in Ispahan alone. There are also about 600 technicians from other East European countries.

The KGB also can make use of many "cover" organizations in Iran, including the Irano-Soviet Cultural Society; the Russian hospital in Tehran (providing cheap medical treatment for Iranian patients); the Soviet news agency, Novosti; the bureau of the state-controlled Soviet publications; the state-owned Soviet transport company, registered locally under the name of Iran Sutrans; the state-owned Soviet insurance company; and the official Soviet trade mission in Tehran.

The KGB and the GRU can draw on a large supply of Farsi speakers in the southern states of the U.S.S.R. There are many thousands of peasant families along the Iranian-Soviet border with relatives on both sides, and it is simple to infiltrate "illegal" agents. The Soviet border guards along this frontier, as along all the borders of the U.S.S.R., are responsible to the KGB.

But the biggest manpower reserve for KGB "illegals" in Iran has been provided by the Soviet success in establishing total control over Afghanistan, Iran's eastern neighbor, following the Soviet-supported coup against the regime of Mohammed Daoud on April 27 of this year. There are now about 500,000 Afghans living illegally in Iran, most of them employed as menial laborers, content to work for half the wages of Iranians employed on similar jobs. Their dialects and appearance are in most cases indistinguishable from those of Iranians from the eastern provinces of the country. Afghans were arrested in some of the major demonstrations in Tehran and Tabriz last September and October. This could be interpreted as circumstantial evidence of the involvement of the KGB-controlled Afghan secret service, the Esthabarat.

The KGB also works through members of the Armenian minority in Iran, applying blackmail pressures in the case of those who have relations inside the Soviet Union.

One of the questions often raised about this year's upheaval in Iran is the possible connection between the traditionalist Islamic revolt and the Marxist elements active in the country. An interesting clue is provided by an underground Tudeh party publication called Navid, which has been appearing weekly in the streets of Tehran. Unlike the bulletins of other left-wing groups—which are crudely printed and usually only semilegible—this Communist organ is beautifully typed and printed by offset. Western analysts are convinced that it is printed on an offset press inside the Soviet Embassy in Tehran. The theory that Navid is the covert voice of the KGB rezidentura is made more plausible by the fact that it faithfully echoes every twist and turn of Moscow's policy line.

The phrase "Islamic Marxism" was not, as is commonly believed, an invention of the shah or some conservative publicist abroad. It was first used by a leftist terrorist organization, the People's Mujahedeen, which has links with Colonel Qaddafi's regime in Libya. The Russians make use of Libya and South Yemen as middlemen between themselves and extremist religious or terrorist groups inside Iran. Both the People's Mujahedeen and the more effective People's Fedayeen (founded in 1967 and responsible for the murder of the police chief in Mashad in October) have been the beneficiaries of Libyan finance, weapons and trading facilities. They maintain close links with the extremist Palestinian organizations. Other countries where Iranian terrorists, receive training include Algeria, South Yemen, Lebanon (in the Palestinian camps before the civil war), Afghanistan and Cuba. Until the purge of Communists in Baghdad last summer, Iraq was the primary base for subversion and terrorism directed at Iran. The new line adopted by Iraq's President Bakr this year, however, has led to cooperation between the Iraqi secret service and the shah's secret police, SAVAK. The Iraqis banished Ayatollah Khomeini, the Shiite Muslim leader, for refusing to give up his campaign against the shah's regime and handed over captured Iranian terrorists—including one of the men responsible for the arson in the Abadan cinema last August—to SAVAK.

Afghanistan, under Soviet tutelage, has now become the primary center for anti-Iranian activities. The Afghan foreign minister, Hafizollah Amin, visited Cuba earlier this year where he talked to Iranian guerrillas receiving training there and promised substantial material aid from his country. There have been Western intelligence reports that Afghan agents infiltrated Iran through India and Pakistan, and later were active in sabotage in major Iranian cities. Two new Soviet-supervised training camps have recently been opened in Mazar Sharif in northern Afghanistan, one of them providing Marxist indoctrination courses, the other supplying guerrilla warfare training for recruits from Iran, the Arab countries and the northwest provinces of Pakistan.

It does not take much strategic imagination to appreciate implications for the West of a radical Muslim or pro-Soviet regime replacing the present setup in Iran. The militant hostility of the demonstrators in the streets of Tehran—both religious fanatics and leftists—toward Britain and the United States was symbolized by the partial gutting of the British Embassy and the assault on the American Embassy that was thwarted only by the intervention of hundreds of Iranian troops. The "Islamic republic" that Ayatollah Khomeini is demanding—and whose program for government remains largely a mystery, even to those who have discussed the matter with him in person—might prove to be only a transitional phase before the imposition of a pro-Soviet regime on either the Qaddafi or the South Yemeni model.

Radical change in Iran probably would be followed before long by similar upheavals along the Arab side of the Gulf. In the absence of the shah's regime, what power could be relied on to intervene in the event of attempts at Marxist revolution in the smaller emirates or in Kuwait? How long would it be before the Saudis themselves would be threatened by a Marxist-inspired subversive campaign that could conceivably be supported—if the Russians were willing to accept the risk of confronting the United States in a direct way—by the intervention of Soviet proxy forces that are now based in South Yemen? These questions have urgency because of the rapid build-up of Soviet-bloc forces in South Yemen, where the control of the unconditionally pro-Moscow faction headed by Ab Fatah Ismail has been consolidated, despite continuing armed resistance inside this country since the overthrow and murder of President Robaya Ali last June. According to sources both Oman and North Yemen, there are now 6,000 to 7,000 Cuban troops in South Yemen a result of recent transfers from Ethiopia. Will the Cubans train and supervise the people's militia in South Yemen, the 2,000 East Germans stationed there, including officers of the East German state security police, train and command the local police and intelligence services. Several hundred Soviet Red Army officers supervise and train the armed forces. Behaving in classical fashion of an imperial power in stationing soldiers from one province in another far away, where they are less likely to be inhibited by local loyalties, the Russians have even arranged the transfer of an Ethiopian battalion to strengthen the defenses of Beihan province in South Yemen, where the coup last June resulted in the defection of the local army commander and other key military personnel by the border into North Yemen. Ironically, with Ethiopian troops with Arabia-speaking officers have taken up their new posts along South Yemen's border, South Yemeni forces are so committed to supporting the Ethiopian regime against the Eritrean rebels—in contradiction to the polices of most of the rest of the Arab world.

It seems to me that the survival of a strong Iran under a government that is willing to adopt a "forward strategy" in the Gulf region is required, must be the linchpin in any realization Western strategy for the containment of Soviet expansion in this crucial area. An oil tanker passes the straits of Hormuz every 10 to 15 minutes. The presence of the Iranian navy in the area and the greatly expanded role that Iranians adopted at the start of the year in controlling air and sea communications throughout the entire Persian Gulf appear to be almost irreplaceable guarantees of Western access to energy supplies.

The Russians have made little secret of their designs on Iran. They occupied parts of the country in the course of two world wars, they were most reluctant to be evicted from northern provinces in 1946, when they organized Communist takeovers in cities like Tabriz. Molotov declared in 1942 that all the territory to the south of Baku fell into Russia's nautical sphere of influence. The quest for warm-water ports to the south has been a traditional goal of Russian imperialism, unaltered under the czar or the Bolsheviks. If Russia ever were to be permitted to achieve control or Iran, the position of Western Europe and other countries, including Israel, would arguably become strategically untenable.

Iran without the Pahlavi regime probably would start out as a fanatical, Qaddafi-style Muslim regime that would give way after civil war to Marxist elements. This is not a prospect that liberals in the West should welcome. Whatever the failings of the shah's regime, which has undoubtedly been oppressive and corrupt, the alternatives that Iran offers at present are horrendous to contemplate.●

FAMILY FARM TASK FORCE ORGANIZED

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. NOLAN. Mr. Speaker, today I am pleased to announce the formation of the Family Farm Task Force, numbering over 75 of my colleagues in the House and Senate. The Family Farm Task Force was created because of the alarming trends in American agriculture. Farm numbers have decreased from 5.9 million in 1945 to 2.7 million in 1978. During the same period, the number of farm laborers has decreased from 11 million to 4 million. Average farm size has risen from 197 acres in 1940 to 440 acres in 1974. Farm households now receive 60 percent of their income from off-farm sources because farm income alone is inadequate. Concurrent with this trend toward fewer and larger farms is the concentration of farm sales in the large-farm sector: The top 2 percent of the farms received almost 37 percent of total farm sales receipts in 1974, and the top 20 percent of U.S. farms accounted for almost 80 percent of farm sales in the same year.

These trends need to be reversed. American democracy must not become beholden to a few producers of food. A democracy in which there is a handful of dominant producers (whether they produce food, oil, or manufactured goods) degenerates into an oligopoly or monopoly disguised as a democracy, which makes a sham out of representing the interests of all the people. A system of small- and moderate-sized farms gathered around a rural town bolsters the rural economy and provides the tax base for proper health care, education, and general services in our rural areas. An agriculture such as the United States presently has is geared toward more and more production due to a brutal cost-price squeeze; this leads, all too often, to farming practices which mine the land rather than conserve and nurture it. Farmers need better prices for their products to combat this cost-price squeeze; the alternative is greater concentration of farm production and the loss of our soil, which is as important to us as the much more publicized drain on energy sources.

Our survival as a democratic society and as an agriculturally rich Nation depends upon the strengthening of the small- and moderate-sized family farm in America today. The Family Farm Task Force being formed today is a group committed to helping the family farm, and therefore is committed to the sustenance of a strong America.●

TAX INCENTIVES FOR SMALL SAVERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BIAGGI. Mr. Speaker, like most of my colleagues, I am receiving a great deal of correspondence from my constituents in support of a tax incentive for small savers. I would like to take this time to make some brief comments on the issue.

I believe the message is clear. Our Nation's decreasing rate of disposable income savings is having a serious and adverse effect on our economy.

The American willingness to save has substantially decreased over the last 10 years. By the end of 1978, the rate of disposable income savings in the United States reached a 30-year low of less than 5 percent. This compares to a 18-percent savings rate in Germany, and a 25-percent rate in Japan. These high rates of savings in other countries are a direct result of special tax concessions or government bonuses paid to savers, which are not offered in the United States.

Without adequate savings, there cannot be sufficient investments in U.S. industry, small business, and home construction. The result is higher consumer prices and increased unemployment.

Unfortunately, our Nation's policies make it very difficult to attract consumer savings back into the banks. After taxes and adjustment for inflation, the consumer is actually getting a negative return on his or her savings account.

At a time when the inflation rate stands around 13 percent, Federal regulations limit the interest a saver can receive on his or her savings account to not more than 5½ percent.

In addition to losing about $25 a year in purchasing power on a $500 savings deposit, the money placed in the savings account is taxed twice during the process—once when you earn it, and again when it earns interest. What incentive is there to save?

Recognizing these facts, I have introduced two bills aimed at providing incentives for small savers. The first bill, H.R. 5071, would increase the amount of interest consumers can earn on their savings account.

The second bill, H.R. 4931, would exclude from taxes the first $1,000 of interest earned on a passbook savings account.

The ultimate effect of both measures would be to reduce inflation. Since increased savings means increased capital investment, there would be a boost in productivity, and an overall economic growth.

Mr. Speaker, the American people have spoken on this important issue. I am confident that the Congress will respond in a prompt and responsible manner.

At this time, I would like to insert a recent Sylvia Porter column discussing this issue in more detail. The article appeared in the October 29, 1979, edition of the New York Daily News:

EXPECT A BIG PUSH TO MAKE SAVINGS TAX-EXEMPT

For the first time, you who have had no first-hand experience with the Great Depression of the 1930s, are a majority of our nation's voting population.

More than five out of 10 of you (56 percent) 18 years or older were born after 1935. For you, the economic catastrophies which directly affected us, your parents—the stock market crash, bank failures, skyrocketing joblessness—are tales out of a distant past.

You never will fully apparéciate why we fought so hard for laws to protect our nation from ever again undergoing this traumatic event, why we so deeply approved of the so-called work ethic and why we tried so hard to build at last an emergency savings nest-egg.

Instead, your daily lives and habits have been shaped in an era of sharply rising taxes and prices—forces pushing you to spend rather than save. And as an average U.S. worker, you do pay 25 percent to 35 percent of your income in taxes to government. Social Security taxes rather than income taxes take the biggest bite out of your incomes, if yours is a family earning less than $11,000 a year—or even if your family earns above this level.

With so large a percentage of your earnings going out in taxes and to pay for ever more expensive goods and services, your incentive to save is steadily shrinking. At latest report, you were saving only slightly more than 4 percent of your after-tax income, the lowest rate in decades, against a Japanese savings rate of 25 percent and a German rate of about 18 percent.

If the U.S. economy is to return to a healthy rate of growth and "real" wages and incomes are to resume rising, these trends toward undersaving and overspending must be reversed.

"If we don't increase our growth rate to the point where taxpayers see their standards of living improve, they'll start to turn on the less fortunate in our economy," predicts Michael Boskin, Stanford economics professor. Boskin, 33, is one of the young economists who believe the answers to our sluggish growth and persistent inflation lie in stimulating savings and investment, while reducing taxes and government spending.

The chronic inflations of recent decades can't be curbed by the old, depression-born remedies aimed at influencing people's demand for goods and services, the young economists insist.

These techniques are simply not geared to today's problems, even though many economists over 40—including some who hold influential government posts—still advocate them. The younger group argues that the key to higher productivity, improved "real" wages and long-term economic prosperity rests with the supply, not the demand, side of the economy.

The single, most important move the U.S. government could make now to spur savings and investment, spokesmen for the group told my associate, Brooke Shearer, would be to eliminate the taxes individuals must now pay on their savings accounts.

This alone would remove an enormous barrier to saving. The combination of interest rate ceilings, inflation and taxes means that most Americans who save actually lose money by saving, says Boskin. This is particularly pertinent to the elderly who have more savings in relation to the rest of the American population.

Eliminating taxes on savings accounts of all sorts would hike the average saver's return by 40 percent and result in a $30-$40 billion rise in personal savings a year.

The larger supply of savings would drive down interest rates over a period and make long-term capital investment more appealing. A larger stock of capital—more tractors, say, per farmer—would in turn make workers more productive and help increase wages. After 10 years or so, tax revenues would rise along with higher wages.

The arguments of this younger school of "incentive" economists are getting an ever more serious and sympathetic hearing in Washington. The Joint Economic Committee of Congress issued a report recently supporting the general view that the economy faces major supply problems. More and more Senators and Representatives in Congress are backing measures to encourage savings and investments—including tax-free savings.

It may be a sleeper now. But it's increasingly realistic to expect a big drive for tax exemption on at least part of your savings—and it's not unrealistic to expect the drive to succeed.●

THE WORST IS YET TO COME

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SOLOMON. Mr. Speaker, from the time of Lenin, Soviet leaders have been great admirers of the German strategist Karl von Clausewitz who reminded us that power is more than the capacity to destroy. It is also the capacity to influence. His maxim that "war is the continuation of politics by other means" underscores the fact that the exercise of political influence in peacetime is always one of the primary purposes governing force deployments.

Recently Soviet leaders have announced their belief that the world's "correlation of forces" has shifted strongly—and perhaps irreversibly—in favor of the "socialist camp." They point to the U.S. defeat in Vietnam, the lack of U.S. support for Angola, the U.S. acceptance of Soviet numerical superiority in SALT I, as well as the rapidly growing kaleidoscope of recent events: Soviet troops in Cuba; Soviet and Cuban support of Ethiopia against Somalia; the Communist coup in Afghanistan and South Yemen, Vietnam's invasion of Cambodia; the massive buildup of Soviet conventional and strategic arms given international acceptance through U.S. behavior and codified in SALT II; the Shah's overthrow in Iran; the dramatic seizure of the American Embassy and the holding of hostages in Iran; the burning of the U.S. Embassy in Pakistan; the increasing uncertainty of events in Saudi Arabia; the increasing destabilization of Rhodesia and South Africa; and the guerilla drive from the Western Sahara against the King's troops in Morocco aimed at dominating the narrow waters opposite Gibraltar. Geopolitically speaking, the land areas crucial to the control of the "chokepoints" of the world's waterways are moving outside Western influence. To an impartial observer, it is increasingly apparent that the tide has begun to shift against the United States.

Mr. Speaker, there is no question that we are witnessing a dramatic decline in influence of Western nations worldwide. Fundamental changes are in the making, changes which if go unheeded could well bring about our demise.

Mr. Speaker, the collapse of Europe in 1945 as the power center of the world radically transformed America's position worldwide. Forced to fill the vacuum, the United States became the reluctant inheritor and leader of a world order dating back to the beginning of the modern state system. Overnight, the international system became the American system and our economy and institutional life became inextricably connected with events around the globe. For over 30 years, this system prospered and the only threat to its survival—Soviet military and political power exercised in peacetime—was successfully contained.

Today, with the increasing destabilization of Third World countries and the growing "Finlandization" of our NATO Allies and Japan, some observers have declared that "the American era is passed."

Whether this judgment is correct or not can be debated. What cannot be debated is the fact that all the aforementioned events are linked—either by design or otherwise—to the central core of Soviet grand strategy and the increasing vulnerability of the United States to its design. The present international system is based on an order and stability conducive to both American, and ultimately Western, values, and interests. To survive, the United States must preserve international stability by having a decisive influence on the general course of events worldwide.

The Soviet objective, however, is different. Not unlike Soviet naval strategy which aims at sea denial—as opposed to U.S. naval strategy which seeks control of the seas—Soviet grand strategy aims at destabilizing the present world order so as to deny U.S. access to strategic areas around the Eurasian-African Rimland. With such a strategy, the Soviet Union does not have to control vast territories with the often insurmountable problems that entails. Nor does it have to commit its own troops and equipment. Rather, through the use of proxy troops in conjunction with carefully planned covert activities, it needs only foment minority discontent and undermine the legitimacy of existing regimes. In short, it is through the exercise of power in peacetime that Soviet grand strategy seeks the destruction of the American system of international order as a prelude to the final emergence of a new world-order, Marxist inspired, and Soviet controlled.

Viewed in this light, the recent events in Iran—and elsewhere—can be viewed as a Soviet victory. Access denial can only have consequences of catastrophic proportions to America and her allies. For without access to the vast areas of the globe, the entire world we now know and depend upon could well become hostile and force the eventual destabilization of the United States itself.

Against this background, I would like to direct the attention of my colleagues in the U.S. House of Representatives to an article appearing in the Wall Street Journal November 26, 1979, entitled "The Worst Is Yet To Come" by Irving Kristol, professor of Social Thought at the New York University Graduate School of Business and a senior fellow of the American Enterprise Institute. Mr. Kristol analyzes the basic relationship foreign and military policies will have to the problems of our domestic economic policies during the coming decade and beyond. Quite rightly, he points out that our very ability to survive—not only in an economic sense, but more fundamentally, in a political and institutional sense—is contingent upon the success with which we confront the growing destabilization that is occurring around the globe. As he says, "the truly important problems of the American economy will result from things that happen elsewhere in the world, things that will profoundly affect us and to which we shall have to respond."

I enthusiastically commend the article to my colleagues as follows:

THE WORST IS YET TO COME

(By Irving Kristol)

The 1980s have already begun. They began with the takeover of the American embassy in Tehran earlier this month and with the subsequent confrontation between the United States and a virulently anti-Western Iranian regime. This episode is, as it were, the shocking prologue to an equally tense drama that stands poised to unfold in the decade ahead. It promises to be an absolutely ghastly period.

These past years have been dominated by problems of domestic economic policy—of maintaining economic growth in the face of inflation, stagflation, high rates of taxation, governmental overregulation of business, etc. Even OPEC has been regarded as primarily a phenomenon within the economists' universe of discourse, and the arguments have centered around the kind of economic policy that would be most appropriately responsive to the new level of energy costs.

On the whole, and from this same economic perspective, we have managed these problems rather badly. The cast of mind shaped in the 1960s—one which perceived the United States as an "affluent society" whose major challenges were achieving a better "quality of life" and a "fairer" (i.e., more equal) distribution of entitlements to wealth, income, and opportunity—was quite unfit to cope with the bleaker realities of the 1970s, and we were very slow getting on a new learning curve.

THE ROLE OF FOREIGN POLICY

More recently, however, there have been hopeful signs of progressive adaptation to these realities, an increasing recognition of the need for economic policy to spur economic growth instead of being indifferent or hostile to it. But one senses it no longer matters quite so much. For it seems clear that in the 1980s it will be foreign policy, not domestic economic policy, that will be decisive for economic growth, and for our destiny in general.

If the 1970s were dominated by considerations of domestic economic policy, the 1980s are going to be dominated by considerations of foreign and military policy. The two are not unrelated, of course—and, indeed, in the case of oil they are most intimately related. But a whole new set of priorities will have to be established, as we come to grips with the fact that the American economy does not exist in isolation from world politics.

Take, for instance, the issue of inflation which President Carter now says is the most important economic problem facing the nation, a proposition that is heartily assented to by conservative economists and Republican politicians. They are almost surely wrong. Two years ago they would have been right, but not now. Today it is military rearmament that is the first priority, economic as well as political. And if there are going to have to be massive increases in military spending, then we shall have to put up with more inflation, for a longer time than any of us would like. Should the rate of inflation in the 1980s stabilize at, say 8 percent, that would represent a not inconsiderable achievement.

The truly important problems of the American economy in the years to come will result from what economists so chastely call "exogenous shocks"—i.e., things that happen elsewhere in the world, things that will profoundly affect us and to which we shall have to respond. None of these things is likely to be pleasant, for the world order—such as it is, which isn't saying much to begin with—is in the process of going through a whole series of convulsions.

The Middle East is the most obvious source of trouble. Even if the Arab-Israeli conflict were not a constant irritant, the chances for stability in that area seem slight. Intra-Moslem religious tensions are on the rise and anti-Western paranoia is endemic. Egypt under Sadat is indeed a remarkable exception, but one can properly doubt whether Egypt after Sadat will remain so. Iran will surely be hostile to American interests, whatever kind of regime is eventually established there. The days—at best, the years—of Saudi Arabia's anachronistic feudal oligarchy are numbered, to be succeeded by Lord only knows what. Iraq is likely to go to war against Iran, or against Syria, or against itself. Syria could easily go the way of Afghanistan and end up as a Russian puppet. Oil at $50–$75 a barrel is not too far down the road, and chaos in that region might well result in no oil being available at any price.

All this would seem to suggest the likelihood of some American military involvement in the Middle East to protect our interests, both economic and strategic. Unfortunately, we shall there encounter another presence: the Soviet Union.

The U.S.S.R. is today our superior in effective military power of a kind that is relevant to a situation such as the Middle East's—i.e., conventional military power. Even if we were now to undertake a serious and sustained effort to improve our military capabilities in this respect, it would probably take a good part of the decade to accomplish it. Moreover, a new Soviet leadership is on the verge of coming to office, and all the evidence points to its being very self-confident, highly nationalistic, and likely to be more boldly assertive than its predecessors. And, perhaps most important, the Soviets are going to be needing foreign sources of oil by 1981, and the Middle East is not only the logical place for them to turn to, it is the only place. So an era of confrontation with the Soviet Union seems to be in the cards.

And as the post-World War II international order falls apart—not only in the Middle East but probably in Latin America as well—all thinking about American foreign policy derived from that era assumes an air of irrelevance. SALT becomes irrelevant. The United Nations becomes irrelevant. Foreign aid becomes irrelevant. Sermons on human rights become irrelevant. NATO itself may soon become irrelevant, as our European allies decide that, in the face of American weakness, sauve qui peut is the sensible flag to fly. What will be relevant is an American foreign policy in which power, and the readiness to use it boldly, will play a far more central role than has ever before been the case in our history.

Nor will the United States really have any alternative but to use such power to recreate a world order it can live with—a world in which there is relatively free trade and relatively free access to the world's resources. Though there is much we can, should, and in the end probably will do to set our own economic house in order—including the more abundant use of coal and nuclear power, despite any hazards they might create—it is an inescapable fact that the American economy is a vital organ of a larger world economy. The one cannot survive, and certainly cannot prosper, without the other. The wealth of nations today is indivisible. Our economic growth will henceforth be as dependent on our foreign policy as on our economic policy. And if we fail to establish the conditions for such growth, our democracy will itself unravel, as economic pressures give rise to political polarization, at home and abroad.

There is far too much easy and glib talk these days about the need for Americans to tighten their belts, accept a reduction in their living standards, even resign themselves to an economic philosophy of no-growth. It is dangerous and irresponsible talk. Yes, of course, the American democracy can cope with a *temporary* cessation of economic growth, as it has done in wartime. But only if it is perceived to be temporary. What few seem to realize is that a prospect of economic growth is a crucial precondition for the survival of any modern democracy, the American included.

For over two thousand years, the consensus among political philosophers was that democracy—the rule of the majority—was an inherently unstable and therefore undesirable form of government. The reason they came to this conclusion was not because they were snobs or disliked the common people, or because ordinary people then were inferior to the people of today. It was because they believed, on the basis of experience (in the ancient Greek city-states especially), that in a democracy the majority, being poor, would always use its power to expropriate the wealth of the more affluent minority, and that this would lead (as it always had) to economic chaos, followed by political chaos, followed by the restoration of order by a dictator.

What changed the attitude of political philosophers was the emergence of modern capitalism, with its promise of economic growth—of an economic system in which everyone could improve his condition without having to do so at someone else's expense. It is because this promise of economic growth has been kept that democratic politics has survived in the United States, in Western Europe, more recently in Japan. And it is only so long as economic growth remains a credible reality that democracy will remain an actuality. It is the expectation of tomorrow's bigger pie, from which everyone will receive a larger slice, that prevents people from fighting to the bitter end over the division of today's pie.

WHAT THE U.S. SHOULD DO

The 1980s will see a disintegrating international order in which economic growth is going to be extraordinarily difficult to achieve, and in which even economic stability will be hard to maintain. It will therefore have to be an overriding goal of American foreign policy to help shape this world so that the growth of the world economy can continue. This will require many sacrifices, but so long as the goal is visibly there, the sacrifices are tolerable. If the goal is not there, our situation will gradually deteriorate until we end up divided among ourselves and destroying our institutions in a frenzy of recriminations.

For the very survival of this nation, our foreign policy is going to have to be oriented quite explicitly toward such a goal. Where will such a foreign policy come from? Who will articulate it? Who will be able to sustain it? Those are the questions that ought to be dominating the 1980 elections. But no one, so far as I can see, is asking them.●

NRC AUTHORIZATION: LESSONS MUST BE LEARNED FROM THE PAST

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. MAZZOLI. Mr. Speaker, this past year, we have learned some painful lessons about nuclear power. Today, the House will consider legislation to reauthorize the Nuclear Power Commission, the agency which is entrusted with the ultimate responsibility of protecting the public health, safety, and environment by regulating and supervising the nuclear power industry.

I consider nuclear power to be an important element of our Nation's energy supply in the future. However, as the incident earlier this year at the Three Mile Island nuclear plant has affirmed, extreme caution must be exercised in the building and operation of nuclear powerplants.

I was deeply concerned by problems in the construction of Marble Hill nuclear powerplant, 31 miles upstream from my home of Louisville, Ky. Deficient construction and poor management and supervision have caused tremendous anxiety, increased costs, and caused massive layoffs of workers.

We must learn from these mistakes. As the House considers this important authorizing legislation today, decisions must be made in light of our past experiences at Marble Hill and Three Mile Island—keeping in mind the suggestions offered in the Kemeny Commission report.

Further thoughts on this matter were inserted in the RECORD on page 33049. For more detailed information, I would like to bring to the attention of my colleagues, a letter I wrote to Chairman Hendrie, of the NRC, regarding events at Marble Hill.

The letter follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., September 28, 1979.

Mr. JOSEPH M. HENDRIE,
Chairman, Nuclear Regulatory Commission, Washington, D.C.

DEAR MR. HENDRIE: I would like to express my concern and deep disappointment regarding the management and NRC supervision of the construction of Marble Hill Nuclear Power Plant near Madisonville, Indiana, 31 miles upstream from my home of Louisville, Kentucky.

I have always stated that nuclear power will be an important element of our nation's energy supply in the future. However, as the incident earlier this year at the Three Mile Island Nuclear Plant has affirmed, extreme care must be used in building and maintaining nuclear power plants. Our primary consideration must be the safety and welfare of the citizens of our nation.

In light of this, I find recent developments at the Marble Hill plant utterly indefensible and reprehensible. Not only is this going to further chip away support for this vital element of our energy mix, but the potential for disaster is beyond comprehension.

Public Service Indiana's (PSI) mismanagement of plant construction is appalling. PSI President, Mr. Hugh Barker, has admitted that contractors and supervisory staff are inexperienced and that a higher priority was placed on cutting costs and construction short-cuts than on following strict safety standards on the construction site. But, yet, the NRC which is entrusted with the ultimate responsibility of protecting the public health, safety and environment by regulating and supervising nuclear plant construction and management, failed to detect any problems until workers at the plant went to the press with stories of poor construction.

This lack of NRC supervision is an indefensible as PSI inexperience and mismanagement. And, I demand that before construction resumes at Marble Hill, the NRC take steps:

Insuring that only the best qualified contractors and construction workers be allowed on the site;

Requiring that qualified PSI and NRC supervisors be on site—not in Plainfield or Washington, D.C.;

Requiring monthly inspections by NRC technicians and top management; and

Insuring that the costs of these delays and foul-ups not be dumped on the consumer.

I will certainly be monitoring closely any future actions by the NRC at the Marble Hill plant.

Sincerely,

ROMANO L. MAZZOLI,
Member of Congress.●

EASE THE UNNECESSARY TAX BURDEN PLACED UPON EMPLOYERS OF "SELF-EMPLOYED" CREWMEN

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a bill that will greatly benefit fishing crews employers throughout the country. My bill will alleviate these employers' problem of paying unemployment benefits for what has been defined as "self-employed" workers.

These "self-employed" crewmen have been independently taking care of their financial problems and have the option of paying for their own unemployment benefits. The State of Alaska has passed legislation to provide these employers the option of paying unemployment compensation for their crews on a statewide basis. Thus, there is a need for some sort of Federal resolution of this imbalance.

My bill has the support of the major fishermen's groups in the State of Alaska such as the United Fishermen of Alaska and the Cordova District Fisheries Union.

It is my hope that this piece of legislation will help ease the unnecessary tax burden currently being placed upon these vessel owners and employers of "self-employed" crewmen. This matter has demanded serious consideration by this Congress and my bill will need its support. The situation of the employers of these crews should be one serious enough to warrant specific attention to my bill introduced on this day.●

GOLDSCHMIDT THREATS REQUIRE NONPARTISAN INVESTIGATION OF THEIR LEGALITY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. COUGHLIN. Mr. Speaker, I call to the attention of my colleagues newspaper articles in which the U.S. Transportation Secretary, Neil E. Goldschmidt, is quoted as conditioning Philadelphia's chances of obtaining needed mass transit funds on the support of the city's mayor-elect for President Carter over Senator KENNEDY for the Democratic Presidential nomination.

The threat of awarding or withholding taxpayers' moneys for necessary transportation projects based on political considerations within the Democratic Party is a reprehensible and questionable tactic. Moreover, I believe there are serious questions, not just of the propriety of a Cabinet Secretary stooping to such political blackmail, but of the legality of the threats themselves.

The mayor-elect of Philadelphia is William J. Green, a former Congressman, who confirms the substance of the Goldschmidt threats in a followup article. That the threats were issued appears not to be in doubt. Vice President Mondale rode to Goldschmidt's rescue and the Transportation Secretary denies the threats.

This type of conduct comes from an administration that has continually chided the Congress—Democrats and Republicans alike—for their provincialism, for not putting the interests of the Nation first over the interests of their own constituents.

I find this monumental hypocrisy even more appalling coming from an administration that has ranted and prattled about the necessity of conserving oil and emphasizing mass transit. Never mind that the administration's Office of Management and Budget has objected to needed moneys for mass transit. Never mind that the administration has refused to set an example for the Nation by its own conduct in reducing unnecessary travel and depending on mass transit facilities. Now, the administration, through the new Transportation Secretary, wants to award mass transit funding on the basis of Democratic Party political considerations.

These funds, I hasten to remind Mr. Goldschmidt, are paid by the people of the United States to be used prudently and wisely. By treating mass transit moneys as his own private kitty to be dispensed at his whim, the Secretary has exhibited an enormous contempt for the taxpayers and an exaggerated opinion of his power.

I submit that this is an issue that far transcends Mr. Goldschmidt's heavy-handed venture into Presidential politics. It is a cause for grave concern to Democratic and Republican Congressmen alike. Getting the most out of every taxpayers' dollar should be our first concern in any circumstances. It seems to me it is even more important in awarding moneys for mass transit.

Therefore, I insert in the CONGRESSIONAL RECORD two articles and an editorial from the Bulletin, Philadelphia, and an editorial from the Philadelphia Inquirer.

The articles follow:

[From the Philadelphia Bulletin, Nov. 22, 1979]

U.S. MOVE ON GREEN IS DENIED

(By Ashley Halsey 3d)

Vice President Walter F. Mondale has denied that the flow of federal transit funds to Philadelphia will be jeopardized if Mayor-elect William J. Green endorses Sen. Edward M. Kennedy in next year's presidential race.

U.S. Transportation Secretary Neil E. Goldschmidt reportedly has warned that the Carter Administration is watching Green to see which candidate he supports.

Green said both Mondale and Goldschmidt called him yesterday to deny the report.

"I told them that, frankly, I did not feel this was the way to conduct business and they agreed," Green said in a meeting with reporters late yesterday.

"It is my understanding that this does not represent the President's policy vis-a-vis Philadelphia," he said.

Green said he has been invited to meet with Carter and Mondale in Washington next Thursday.

Goldschmidt made the remarks in Washington with a group of reporters on Monday.

Before mentioning Philadelphia, he said Chicago could not expect friendly treatment from the Transportation Department because Mayor Jane Byrne had endorsed Kennedy.

Asked how politics might influence funds for other cities, Goldschmidt noted Philadelphia had submitted an application for money to improve its "light rail" system.

He said the request for $120 million to buy new trolleys could get preferred treatment over applications from cities seeking funds for heavy rail systems.

But Goldschmidt made it clear that the Green Administration, which begins with Green's inaugration on Jan. 7, must pass two tests.

It must show "it has the ability to program the money."

And, he made it clear, special consideration depends upon whether Green supports Carter or Kennedy.

Green yesterday said he is not ready to disclose his choice for president. He laughed when a reporter suggested the day he would have to make that endorsement is nearing.

"All I can tell you is, today is not the day and, when the day comes, I will be open, candid and frank," Green said. "Right now I'm not focusing on it. That's for another day."

Asked if he expected the President to press for his support at their meeting next week, Green said no agenda had been discussed.

"My goal is to establish a working relationship with Washington to help the people of Philadelphia," he said.

Green met for about 30 minutes with reporters in the City Hall press room yesterday. He was accompanied by several aides who were members of his campaign staff and who are now working on his transition team.

"I want to be open about the transition process and meet with you frequently," he said.

Though he had no appointments to announce, Green said one of his top priorities is to find a suitable finance director.

It has been forecast he will face a $72-million gap between revenues and expenses when it comes time to prepare a budget for the fiscal year that begins July 1.

Green said he will attempt to eliminate waste and study the possibility of furloughing city workers before considering a tax increase. But he did not rule out the possibility taxes will be increased.

He said his transition staff will be contacting "a host of people" who will be considered for jobs or asked for advice.

Green met briefly with Managing Director Hillel S. Levinson yesterday and said he also hoped to meet with Mayor Rizzo.

[From the Philadelphia Bulletin, Nov. 21, 1979]

HEAT PUT ON MAYOR-ELECT

CABINET AIDE PRESSES GREEN TO BACK CARTER

(By Lawrence M. O'Rourke)

WASHINGTON.—Mayor-elect William J. Green was alerted yesterday that the Carter Administration is watching carefully to see if he supports the President for renomination or endorses Sen. Edward M. Kennedy (D-Mass.).

Philadelphia is in line for considerable help from Washington for the modernization of its "light rail" system, U.S. Transportation Secretary Neil E. Goldschmidt said.

The city's $120-million application for new trolleys could get preferred treatment over bids by other cities to start heavy-rail systems, he said.

Goldschmidt, meeting with a group of reporters, made clear that the Green Administration must meet two tests.

It "must show it has the ability to program the money," Goldschmidt said.

And special consideration depends upon whether Green supports Carter or Kennedy, Goldschmidt made clear. Green was not immediately available for comment.

In town on Oct. 22 to boost Green's mayoral chances, Kennedy told 1,400 persons at a reception and dinner, "I'm here because I love my friend Billy Green."

Green in turn called the Massachusetts senator "the man who has picked up the (presidential) banner and rekindles it with hope," but Green has refused to say whom he will support for president in 1980.

Philadelphia has asked the Urban Mass Transit Administration for millions of dollars to improve the SEPTA system, including about $120 million for new trolleys. Eighty-percent of the $700 million needed for all the improvements will come from the Federal Government.

In Washington yesterday, Goldschmidt cited the example of Mayor Jane Byrne of Chicago as a big-city executive who cannot expect very many good things from Washington during his tenure at the Transportation Department.

Goldschmidt said he is a member of "the political arm" of Carter's cabinet and he elaborated on how that will affect his official decisions.

He said he learned from the late Chicago Mayor Richard J. Daley that "your word is your bond."

"A lot of people in Chicago are willing to say that style is gone now," Goldschmidt said. Ms. Byrne declared for Kennedy after she made public statements indicating support for Carter. The Carter campaign people have been attacking her ever since.

"Daley would say, 'If you do this, I'll do that,' " Goldschmidt said.

"But I wouldn't operate on that lady's word," Goldschmidt said of Ms. Byrne. "I don't know anybody in Federal Government who would. The people in Chicago will have to get used to that."

Goldschmidt said that Ms. Byrne has "used up a lot of capital for the community" by her political decision. Asked if he was referring directly to Ms. Byrne's support for Kennedy over Carter, Goldschmidt said, "Yes."

Goldschmidt, former mayor of Portland, Ore., who took office in September, was asked for an example of how he might deal with the Chicago mayor over a government decision.

"If a lot of pink slips were stacked up on my desk for phone calls," he said, "her's would not be the first I'd answer."

Goldschmidt said that his statements about Chicago and other cities that might look for friendly treatment from Washington were "not an effort to manipulate the resources of government to further President Carter's campaign."

"But my personal view is that as secretary, I must make judgments on the quality of the people I deal with," he said.

Goldschmidt said that he had discussed his viewpoint with White House staff members and other cabinet officers and found them receptive. He insisted that he had not been instructed by the White House to reward political friends and punish enemies.

He said he doesn't intend to "see the people of Chicago hurt" by his decisions. Asked if he could abide by that desire, yet still give Ms. Byrne less than expedient treatment, Goldschmidt said, "We'll see."

His mention of Philadelphia as a beneficiary of federal funds came as he ticked off several cities that could get substantial grants from the Carter Administration for their mass transit systems. He also named New York, Buffalo, Atlanta and San Francisco.

He said that only last week he pledged federal support to Los Angeles, where Mayor Tom Bradley has announced support for Carter.

Goldschmidt said, "Chicago politicians play by a unique set of rules and I'm capable of playing by them."

He said Chicagoans must recognize that Ms. Byrne is neither "a creature of national stature or great credibility."

Goldschmidt said his statements about politics and grants covered funds for highway construction, mass transit, aviation and railroads. He said that most of the money must be distributed by formulas set by Congress and that key members of Congress have a lot to say about where grants go. He said his control was greatest over "discretionary funds."

Goldschmidt said that Kennedy "has a long road ahead of him before he can take the nomination from the President. I'm astounded by how poorly prepared he is on the issues considering his long time in the Senate."

[From the Philadelphia Inquirer, Nov. 22, 1979]

GOLDSCHMIDT OFF BASE

Crude, brazen politics. That's what the new Secretary of Transportation, Neil Goldschmidt, is practicing when he suggests that he will withhold funds from a city because its mayor is supporting Sen. Edward Kennedy for the Democratic nomination rather than President Carter. Mr. Goldschmidt, the former mayor of Portland, Ore., indicated he would look for ways to withhold money from Chicago because Mayor Jane Byrne, after implying she would back President Carter, days later switched her support to Sen. Kennedy. The unmistakable implication is that other mayors had better board the Carter renomination bandwagon if they want their cities to enjoy full benefit of the federal largesse.

This side of the political game is not new. Federal "discretionary" funds—those not awarded automatically on the basis of population and need formulas—have always been subject to political uses. It is known that local officials on good terms with an administration get more friendly treatment than those who are at odds. But seldom has a high government official threatened so openly that he might punish a president's political opponents by withholding federal money.

The practice itself—doling out funds on the basis of raw politics—is objectionable. Individual citizens of communities end up being cheated because their leaders' politics don't suit Washington. In a curious display of convoluted thinking, Mr. Goldschmidt said he did not intend to hurt the people of Chicago, only Mayor Byrne's administration. (A spokesman for Mr. Goldschmidt said later that there are other officials in a city through whom transit funds can be channeled.) However, if money actually is withheld from a community, the people inevitably are hurt.

This practice becomes even more objectionable when an official like Secretary Goldschmidt presents it publicly in a manner that would suggest it is merely business as usual, and ought to be. Saying he was from the "political arm" of the cabinet, Mr. Goldschmidt justified his heavy-handed pronouncement on grounds that he "wouldn't operate on that lady's word." What that indicates about the Carter Administration and its priorities will dismay and anger many citizens—and could work to the President's political disadvantage.

Secretary Goldschmidt's (or President Carter's) personal pique with Mayor Byrne is understandable, even acceptable in the world of real politics. His intention, if that's what it is, to translate his anger into a policy punishing Chicago and other cities, including Philadelphia, that need federal mass transit funds urgently, is not.

[From the Philadelphia Bulletin, Nov. 23, 1979]

IT'S NOT GOLDSCHMIDT'S MONEY!

What was behind President Carter's cabinet shuffle last summer is beginning to come into focus: some of the new secretaries have been brought into the game to pitch political hardball.

A case in point is Secretary of Transportation Neil Goldschmidt. His pitch to mayors in no uncertain terms the other day was: if you're not for Jimmy Carter's reelection, you're going to have trouble getting highway and public transit money out of his department.

This kind of maneuver seems to recur in the Carter Administration. Last month we commented on reports of federal largess being spread around to "friendly" mayors and governors. We asked whose money they thought this was. We repeat the question.

We know there has always been some of this greasing of the political machine in an election campaign. But it appears to us that the Carter people are especially open and brazen about it. And as a practice it's deplorable anyway.

Mr. Goldschmidt's bald remark that the incoming administration of William J. Green in Philadelphia must meet the test of supporting Mr. Carter to get preferential treatment for federal transit money hits us on a raw nerve.

Mass transportation in the Philadelphia area—in case Mr. Goldschmidt has been so busy with politics that he hasn't heard about it—is in bad shape.

Some of SEPTA's buses are so weak that passengers have to get off and walk up steep hills. Express service has been knocked off the Broad Street Subway because so few cars are in running condition. Fires break out in ancient equipment, shutting down service, sometimes for days.

And now comes Mr. Goldschmidt, from the self-styled "political arm" of the cabinet, to tell us that if Mayor-elect Bill Green doesn't throw his support to Mr. Carter we'll end up whistling for money to fix our region's decaying transit system.

We have two suggestions: first, Congress should immediately tighten controls on transportation funds so that the likes of Mr. Goldschmidt will have an absolute minimum of discretion on how they are spent. This is taxpayers' money, not Mr. Goldschmidt's.

Second, Mr. Goldschmidt observed that, "I have been given an opportunity to get a great education." He and Mr. Carter should be educated to the notion that voters, too, can play hardball. ●

HOW THE RICH FAMILY BROUGHT JOBS AND RICHES TO OUR COMMUNITY AND COUNTRY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. KEMP. Mr. Speaker, the familiar words of Victor Hugo that "greater than the tread of mighty armies is an idea whose time has come" has many manifestations in the realms of political ideas, science, the arts and other fields.

And the power of ideas has been the genesis in making America's free enterprise system the greatest productive engine for social and economic change in the world. Epitomizing this phenomenon which has marked jobs-intensified industries, spurred by the likes of a Henry Ford, a Thomas Edison and the Wright Brothers, is the amazing growth of the frozen food business.

The largest, privately owned frozen food corporation in the world is headquartered in Buffalo. Its name is Rich Products, guided by the genius and founder and now chairman of the board, Robert E. Rich, Sr., and his son, Robert E. Rich, Jr., president, both of whom I am proud to call friends.

When the corporation was launched in 1944, it had a total work force of four people. The firm's first year's sales totaled $28,000. At this time, as Rich Products observes its 35th anniversary, it has a work force of over 3,500 employees in 15 plants. In 1979, the corporation and its various subsidiaries in the United States and overseas will sell a record $250 million in products.

Chronicling this extraordinary experience of an idea put into motion with hard work, talent and daring is a story entitled "The Riches of Rich Products" which appeared in the Buffalo Courier-Express' Sunday magazine.

Mr. Speaker, I would like to share this inspiring story of "Enterprise" with my colleagues:

THE RICHES OF RICH PRODUCTS

(By Mike Billoni)

Robert Edward Rich, Sr. takes a long, slow draw on his cigar and lets the smoke ease out of his mouth in no particular direction.

"We have what I believe is the greatest innovation in the frozen foods industry," announces the founder, chief executive officer and chairman of the board of Buffalo's Rich Products Corp. and all its divisions worldwide. "It is freezing without freezing, and I think it is absolutely terrific."

"Freeze Flo"—Rich Products' newest and most stunning effort to date—is no small feat. Its development comes at a pivotal time in the company's history.

Rich Products is celebrating its 35th anniversary this week, and in a fitting gesture, the dynamic founder of the nation's largest privately owned frozen-food-packaging firm is bringing more than 200 of its executives, production managers and sales personnel from Europe, Australia and all over the U.S. and Canada to its Niagara St. headquarters for a week-long series of meetings beginning today.

"All of our people will shuffle off to Buffalo" for what will probably be the most important series of meetings in the history of the entire company, says Rich.

And what a company Rich Products is.

It is noted throughout the entire food industry as the originator of frozen non-dairy coffee creamer—Coffee Rich. It also has a work force of more than 3,500 in 15 production plants, with 400 employed in its non-dairy-product plant at 1145 Niagara St. at W. Ferry, on Buffalo's West Side.

This year, Rich Products and its various subsidiaries will sell a record $250 million in goods. The figure ranks Rich's frozen-food sales as the fifth largest in the nation, fifth out of 1,530 frozen-food packers, surpassed only by Campbell Soup Co., which owns Swanson and Pepperidge Farms; Banquet Frozen Foods, owned by RCA; Morton Frozen Foods, owned by IT&T; and the Ore-Ida Co., owned by H. J. Heinz.

Rich Products was founded in 1944 with a total work force of four—Rich, Herbert R. Kusche, Joseph C. Robida and Jerrold W. Hannon. They became a corporation the following November when Rich's Whip Topping, the first of five major breakthroughs for the company, was invented.

Remembering those early days vividly, Rich smiles and lowers his voice: "During that first year, the company recorded sales of $28,000. And the four of us used to do all of the work. But we loved it."

"It was a dream when we started," adds Kusche, who has remained an integral part of the corporation and is now executive vice president. "We all had a lot of big ideas and we were always talking about reaching a million dollars in sales.

"I learned a lot from Bob. I never saw a guy who fought so hard and wanted to succeed so much. He got guys like Joe (Robida) and I to join the team and we all became fighters. We fought pretty damn hard for what we got," adds the 58-year-old Syracuse University alumnus.

"I've said it before that I would give my right arm for Bob Rich," declares Robida, the vice president of non-dairy operations, who remembers the 16-hour days in those early years when everyone would help fill and package the Whip Topping.

Although he stepped down as president of the company last year, Bob Rich Sr., 66, still has an active role in its growth, which has been slow and well-planned over the years. He will join his son, Robert Edward Rich Jr., the energetic, 38-year-old president of the firm, to head this week's conclave.

Rich Sr. has made it a point to keep the company run as tightly and efficiently as a family. His son appears to be following in his footsteps.

The company's executive offices in Buffalo attest to that. They are next to the plant, in the former John H. Wells home, which was the western terminus of the famed old Wells Fargo freight line. When the old home was acquired by Rich Products, it housed seven families. It is now restored, with a plaque in the entrance foyer recalling its historical significance.

On the third floor is what is called "The Greenhouse." There, at 12:15 each working day, Trudy the hostess rings the lunch bell, and like clockwork, the heads of the various departments walk upstairs for a leisurely, home-cooked meal.

When business is discussed—between golf scores and other table talk—it resembles what David Fernow, director of public relations, calls the company's trademark—"a roll up your sleeves and let's get it done" attitude.

To say that Bob Rich Sr. and his son are "bullish on Buffalo" would not be using strong enough words. They have had numerous opportunities to sell or move their main headquarters elsewhere, but their response is always, "Absolutely not."

"Buffalo is my home," Rich Sr. emphasizes. "How could you walk down Main Street in, say, Dallas and know anyone if you had moved there with National Gypsum? Or if you were in Ft. Lauderdale, where Houdaille went? We'd be nothing in any of those cities. Everyone agrees Buffalo is on a comeback. There is a whole different feeling in the community now."

It was for those reasons that Rich Products broke ground a year ago for a $3-million, four-story office building and research and development laboratory adjacent to the company's present office building and across the street from its plant and executive offices.

And it was Bob Rich Jr. who seven years ago paid $1 million for the right to name the new football stadium in Orchard Park, although legal hassles with the Buffalo Bills have prevented the "Rich Stadium" name from achieving total acceptance.

Over the years, Bob Rich Sr. has mastered the art of mixing business with pleasure, and has become a pretty good story teller.

"I was educated on Main Street," he says with a sly grin and a puff on his cigar. "I was graduated from School 17 at Main and Delavan; Bennett High at Main and Mercer, and U.B. at Main and Bailey."

Sports has always been a big part of the Riches' lives. During his days at U.B., in the early 1930s, Bob Sr. played center on the football team and founded the Bulls' wrestling program—something he is very fond of mentioning. Later, he became one of the city's top squash and racquets players. Today, his game is golf.

"My dad brought us up in a world of athletics," says Bob Jr. "From the time we woke up in the morning, we would start pushup contests to see who could do the most. On of the legacies he passed along was a very competitive attitude, and that is very important in business."

Bob Jr. quarterbacked the football team and was a goalie on the hockey team at the Nicholas School. He went on to play hockey at Williams College, serve as back-up goalie for the Buffalo Bisons of the American Hockey League, and just missed making the 1964 U.S. Olympic hockey team.

Today, he is a director of the Buffalo Sabres, an active squash and tennis player and player-coach of Western New York's Region VI medal-winning team handball team in this year's Empire State Games.

"I always think of a line Seymour Knox Sr. once said: 'A day without working up a sweat is a day wasted'," relates the younger Rich.

Robert Rich Sr.'s story is hardly a rags-to-riches tale. His father, the late Paul J. Rich Sr., ran the largest milk business in Buffalo between 1901 and 1913 before selling out to get into the ice cream business with his elder son, Paul Jr.

"Since my brother was in the ice cream business I wanted to start a business of my own, so I looked into purchasing the Wilbur Farms Dairy," Bob Sr. explains.

With $5,000 from his father to get started, Bob Sr. assumed a $6,500 mortgage and paid the remaining $20,000 off on notes for the dairy. His original business in 1935 included four routes (three run by horses), a city distribution center and a country bottling plant.

Rich ran the dairy himself until World War II, when he was called to Washington to serve as a consultant to the dairy section of the War Food Administration.

From there he was sent to Detroit to become Michigan's milk-order administrator. It was a fateful move.

During his stay in the Motor City, Rich chanced upon some research into dairy substitutes being done at the George Washington Carver Laboratories, and he began thinking about a whipping-cream replacement made from soybean oil.

Returning to Buffalo and his dairy business, he pursued his idea for a substitute whipping cream, working with Buffalo's Spencer Kellogg & Sons' research and development team for a suitable soybean product.

"After many weeks of trial and error we came up with a concoction called Rich's Whip Topping and began selling this product, from our Wilbur Farms Dairy milk routes," Rich recalls. "We soon found out this method of distribution was very limited, so we made a stab at the New York City market. I got an appointment to demonstrate whip topping to the salesmen of New York's largest butter and cheese distributor, the Fred Pape Co."

He took a train to New York the day before the meeting.

"I packed my bowl and whipper and insulated my samples with dry ice, surrounded by newspaper. If done properly, the samples would not freeze. But when the meeting started, I found they were frozen solid.

"There I was with a frozen sample facing a hard-nosed sales manager and 50 impatient salesmen. I had never tried to freeze whip topping because I knew dairy cream would never whip if it had been frozen. I stalled a little, but in the end, I had no other choice but to try and whip the defrosting product—and it whipped to perfection. Three months later, we were freezing all of our product."

That was in 1945, and through the years that followed, Rich's dairy business grew tremendously. It acquired several other small Buffalo dairies and ultimately became Jones-Rich Dairy, one of the largest wholly-owned dairies in the nation.

When the company's major breakthrough—Coffee Rich—arrived in the 1960's, Rich Sr. sold the dairy business to the Dairylea cooperative.

"With Coffee Rich coming along and Rich's Whip Topping going so good, we were really competing against ourselves in the milk business," he explains. "So, in 1969, we decided to get out of the milk business and just concentrate on non-dairy, where we believe the future is.

"The future wasn't with a cow, but with an all-vegetable product."

Today, one-half million units of Coffee Rich are produced daily in one-half ounce cuplets and pint and quart containers in the company's Buffalo plant.

The company's first development outside of non-dairy products came in baked goods. Realizing that frozen dough and baked goods were rising stars on the horizon, Rich purchased Palmer Frozen Foods of Easton, Pa. in 1971. Its president, John E. Schaible III, is now Rich's vice president of bakery operations.

Schaible introduced a new marketing concept to supermarkets, mass-feeding institutions and retail bakeries in which Rich supplies the frozen dough, and its clients bake the products and package and sell them on their own. This "bake-off" idea has led to Rich Products' becoming the nation's leading supplier of frozen in-store dough products. More than 4,000 U.S. supermarkets now "bake off" Rich's dough.

Two additional bakery-products plants were purchased in 1974 in Winchester, Va., and Fresno, Calif. The three centers now produce a variety of pre-formed cookies, breads, rolls, doughnuts and specialty pastry doughs, in addition to "thaw 'n' serve" items.

In 1971, Rich had also purchased the L. K. Baker Co. of Columbus, O., which produces non-dairy powdered coffee creamers and dessert toppings, soup bases and gravy mixes.

Then; in 1976, Rich entered the frozen seafood business with the acquisition of the SeaPak Corp., headquartered in St. Simons Island, Ga.

"One of our main strategies in the frozen-food business has been to attack the dinner plate," explains Bob Jr. "We have the non-dairy business, portions of the dessert business, are now into the entrees with our seafood, and we've gotten into vegetables specialties. Where else can we attack to control more of the plate?"

Bob Jr. joined the company upon his graduation from Williams College in 1963.

"My father said he would give me a $1-million budget to build a business in Ft. Erie, Ont. He told me I could run it, make all the decisions and he wouldn't bother me," he recalls.

"So, we built a Canadian plant in Ft. Erie and I started building a sales force. I ran into many problems, but realized I had the leading authority in the field right here. I was able to call on my father for help and as a result, we drew very close and have become very close friends."

With a little help from his dad, Bob Jr. made the Canadian business into a success.

"Along about 1967, I felt that if I was going to move back into this operation and play in what I considered the 'big ball game', I had to increase a lot of my skills. So I went to business school and earned a master's from the University of Rochester while I was continuing to work.

"From that point, I set up a marketing department and started putting together the best of our people and raiding the major companies for good, young people."

"When I became president last year, I said we would do one billion dollars in sales in 1986. The company is looking at a compound growth rate of 17 percent, and I feel we have the destiny to become one of the major factors in the food industry in the United States and in the world.

"There are no pressing reasons now to go public or sell out. We are profitable, well financed, but most of all we all enjoy it," Rich Jr. says.

"I've been talking a billion-dollar goal for the last five years and every one used to laugh about it. But nobody is laughing any more." ●

HON. CHARLES E. POTTER

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BROOMFIELD. Mr. Speaker, this past Friday, the people of Michigan and the Nation lost one of our distinguished citizens and heroes with the death of former Senator Charles E. Potter.

Senator Potter's service to the country spanned more than a decade and a half as a war hero, a Government official, a Member of the House of Representatives, and a Member of the Senate.

During his service in the Congress, it was my privilege to meet and become good friends with this great man as we represented the people of Michigan together.

By the time Senator Potter came to the Congress, he was already recognized as a World War II hero. He enlisted as a private, later receiving a commission, and fought with the 28th Infantry Division in Europe. During his service in the army, Senator Potter was wounded 3 times and lost both legs from stepping on a German land mine. He received the Silver Star, the Bronze Star, the French Croix de Guerre, and three Purple Hearts.

After the war, Senator Potter briefly worked within the Federal Government, and then was elected to the House of Representatives to fill an unexpired term as a Representative from Michigan. In 1952, he was elected to fill the unexpired term of the late Senator Arthur H. Vandenberg of Michigan. He continued in the Senate until 1958.

During his service in the Senate, he demonstrated the courage that distinguished him on the battlefield by often arguing with the late Senator Joseph McCarthy over the latter's tactics and over McCarthy's staff aides during the Army-McCarthy hearings.

Mr. Speaker, Senator Potter leaves behind a distinguished record of public service, and I am proud to have known him. I wish to extend my deepest sympathies to his wife, Betty, and their daughter, Mrs. Wendy Cundy, in this time of sorrow.●

IN HONOR OF ED REA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. DORNAN. Mr. Speaker, I would like to bring to the attention of my colleagues a retirement dinner that was put on last night by the Palos Verdes, Calif., PTA, in honor of one of my constituents, Mr. Ed Rea of Palos Verdes Estates.

Ed epitomizes a wonderful American success story. Born in Spokane, Wash., he was fortunate enough to move to California at the tender age of 3. After graduation from Glendale High School, Ed attended Stanford University, where he earned a degree in economics "With Great Distinction." His superior academic performance earned him a membership in the academic fraternity, Phi Beta Kappa.

Ed's first job, with Firestone Tire and Rubber, lasted a year and a half. Longing to be his own boss, Ed moved to El Segundo, Calif., and opened his first hardware store in 1941. The business thrived, and he expanded to six stores. Ed's hard work in the hardware business gained him a reputation as an industry expert. For 11 years, he has served on the board of directors of Cotter & Co., America's largest hardware distributing business. A former president of the Pacific Hardware Association, Ed served for 9 years as a "member of the board of governors" of the National Retail Hardware Association, representing hardware dealers in California, Arizona, and Nevada. His responsibilities to that organization will grow heavier when he assumes the presidency of the NRHA, in July 1980.

One might believe that running a chain of six hardware stores and serving in three trade association groups would be enough to occupy any active person's time. But not Ed. Despite all these responsibilities, he has found time to participate actively in his community's civic and educational affairs. His achievements include serving as president of the El Segundo Kiwanis Club, president of the Hermosa Beach Chamber of Commerce, and of the Palos Verdes Peninsula Chamber of Commerce. He was a chairman of the South Bay Intercity Highway Committee, and the first president of the Peninsula Center Association. He was voted last year the Palos Verdes Peninsula Chamber of Commerce and Rotary Club "Citizen of the Year."

Ed has also done his part to insure that his community's schools served the taxpayers by providing our children the best possible education. In his 10 years on the Palos Verdes School Board, he served as its president three times, and was a recipient of the PTA Council Honorary Service Award in May 1971.

In addition to these notable accomplishments, and even more important, Ed and his beloved Helen have raised two outstanding children, Ed, Jr. and Nancy. They have both joined in the hardware business—a formidable family team effort.

However, Ed has decided to slow down his ferocious pace just a bit with his school board retirement. I proudly join with the Palos Verdes PTA, in honoring Ed. Yes; an invaluable asset to his community and State—and because of contributions to America's youth, Ed Rea is certainly an asset to our Nation.

Thank you, Mr. Speaker.●

STATEMENT OF CONGRESSMAN ANDREW MAGUIRE ON PROPOSED ADMINISTRATIVE PRICE INCREASES

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. MAGUIRE. Mr. Speaker, On November 14, I was pleased to join with 30 of our colleagues, the Consumers for World Trade, the United Cane Sugar Refiners' Association, Common Cause, and EF Hutton sugar analyst Thomas Oxnard, Jr., in protesting the President's determination to administratively increase the level of price supports for sugar to 15.8 cents. This was a pricing scheme that was clearly rejected on October 23 when the House voted down the International Sugar Stabilization Act of 1979.

I would like to insert into the Record the letters we sent to President Carter, together with a letter to the President from Consumers for World Trade:

Congress of the United States,
House of Representatives,
Washington, D.C., November 14, 1979.

President Jimmy Carter,
The White House,
Washington, D.C.

Dear Mr. President: On October 23, 1979, the House voted 249–158 to reject the International Sugar Stabilization Act of 1979. This overwhelming vote by a bipartisan majority of the House clearly indicated that Congress was unwilling to see the current 17.7 percent food inflation rate pushed any higher. Congress was unwilling to add $380 million to the $2.6 billion already paid to our nation's 14,000 growers. Congress was unwilling to increase government's involvement in an industry which demonstrated classical free market model characteristics. These reasons, perhaps more than any others, motivated this decisive vote.

And there was agreement with this position from your own Administration. According to Alfred Kahn, "every one cent difference in the market price of sugar means $250–300 million out of consumers' pockets directly, and approximately 0.30 percent * * * in the Consumer Price Index, and as much as $150–250 million more indirectly." Mr. Kahn was painfully aware that implementation of these subsidies would make his job as Chief Inflation Fighter that much harder.

Given his advice and the substantial vote by the House against implementation, we were astonished to learn that you had agreed to use your administrative powers to establish the support price of 15.8 cents which Congress clearly rejected in voting down H.R. 2172. Administration moves to lift the price supports at this time are not only economically unsound but they are contemptuous of the American consumer and their Congressmen or Congresswomen who have reflected their will on a roll call vote in the House.

We urge you to reconsider your decision to raise the support price of sugar in keeping with the decision that we made in rejecting H.R. 2172.

Sincerely,

Herbert E. Harris, Glenn M. Anderson, Philip M. Crane, Davjd Stockman, James Scheuer, Don Edwards, Thomas J. Downey, Pete Stark, Richard L. Ottinger, Les Aspin, Marc L. Marks, Ben A. Gilman, Frank Guarini, Robert Roe, James J. Howard, Lester L. Wolff. Andrew Maguire, William H. Gray, Jim Lloyd, Daniel Crane, Robert Edgar, Charles F. Dougherty, Edward Derwinski, Gladys Spellman, S. William Green, Raymond Lederer, Jim Santini, Ted Weiss, Larry McDonald, Stan Lundine, Jack Kemp.

Consumers for World Trade,
Washington D.C., November 13, 1979.

Re increasing the minimum price for sugar.

Hon. Jimmy Carter,
The White House,
Washington, D.C.

Dear Mr. President: We have read with dismay recent press reports stating that your Administration is preparing to take actions which would, in effect, raise the floor price for sugar to 15.8 cents per pound—despite the overwhelming vote by the Congress October 23 to reject such an inflationary price increase in this essential food product.

Consumers for World Trade actively opposed H.R. 2172 when it was before the House (as indeed we opposed similar legislation to mandate sugar price increases in 1978). We were pleased to note that Members from both parties joined in the massive 249–158 vote to reject that bill, which provided for a 15.8 cent minimum price and built-in future price increases which would cost American consumers billions of dollars in higher sugar prices.

As you know, your own Council on Wage and Price Stability estimates that every additional penny in the market price of sugar takes some $250 to $300 million directly out of consumers' pockets, plus an equivalent amount in added indirect costs. As usual, this extra burden hits hardest at those who can least afford it: low-income families, the elderly and others living on fixed incomes.

Consumers for World Trade was founded in 1978 by concerned consumers, economists, trade experts and others who were alarmed at increasing demands for protection from import competition. CWT speaks for the broad general interest of American consumers in lowering trade barriers to counter inflationary pressures.

CWT supports the proposed International Sugar Agreement as a means to assure adequate sugar supplies at stable prices. As for domestic price supports: we learned from the 1974–1975 experience that our domestic sugar support system does not protect the American consumer against world shortages and high prices. We found then that when world prices rise, the consumer pays the higher world price and domestic producers reap a windfall profit. When the world price drops, the American consumer is called upon to support domestic producers in the style to which they have become accustomed.

We see no reason why 220 million American consumers should be asked to subsidize indefinitely a relatively small number of uncompetitive sugar growers among our 17,000 domestic producers. In virtually all cases, marginal sugar growers could switch to more competitive products. The Department of Agriculture has the necessary lending authority to provide financial assistance to facilitate this adjustment.

At a time when inflation is a prime concern to every American, and when rising food prices have been leading the spiral, we find it hard to believe that your Administration would impose by administrative measures an inflationary step specifically rejected by the Congress.

We hope the press reports will prove to be mistaken, and that you will act to limit price increases in sugar and other essential foods.

Sincerely yours,

Doreen L. Brown,
President.●

BIOMASS RESEARCH AND DEVELOPMENT AUTHORIZATION ACT

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. FITHIAN. Mr. Speaker, I would like to insert, for the benefit of my colleagues, testimony I presented earlier this month before the House Science and Technology Committee on H.R. 5428, the Biomass Research and Development Authorization Act.

The testimony points to the need for an accelerated research and development effort, coupled with administrative changes within the Department of Energy if the vast potential of biomass energy is to be realized.

I hope that my colleagues will find my statement helpful in their own deliberations on the Federal Government's biomass programs.

The testimony follows:

Testimony of the Honorable Floyd J. Fithian

Mr. Chairman, I would like to thank you and the Members of the Subcommittee for the opportunity to testify before you here today on H.R. 5428, the Biomass Research and Development Authorization Act.

As the authors of the Harvard Business School's report, Energy Future, observed, an ideal solar collector has already been designed. Requiring virtually no maintenance it is economical and nonpolluting: it uses an established technology and it stores energy. It is called a plant.

When we talk of biomass conversion technology, we are really talking about ways of tapping the stored energy of plants. We can burn them directly for energy, we can let them decompose under controlled conditions to produce methane. We can heat them under pressure to produce oil and natural gas substitutes. Or we can ferment their sugars to produce a premium liquid fuel, alcohol.

While they have never been fully inventoried, biomass resources around the world are huge. One expert recently estimated that ten times as much energy as the world consumes every year is collected and stored by plants. But the real question is not of course, how much plant matter there is, but rather how much of it is economically available for energy without threatening its other important end uses, such as food, clothing and building material production, or damaging the long-term productivity of the soil.

Three important major categories of resources which meet these criteria are wood wastes, crop wastes, and municipal solid wastes.

The Department of Agriculture estimates that approximately 485 million dry tons of unused wood is left to rot in U.S. Forests every year. Based upon the assumption that half of this could be recovered and economically converted to energy in an environmentally sound way it could produce up to 4.1 quads of energy per year, about 5.2 percent of our annual energy consumption. I am providing the subcommittee with a copy of the USDA estimate for the record.

Purdue University, which has done a great deal of work in this area under the auspices of its Renewable Resources Laboratory, estimates the total annual U.S. crop residue production at about 400 million tons. These are residues, mind you, not food. Useable residues, i.e., those not required for soil enrichment and which can be economically collected, are estimated to range between 70 and 86 million tons per year. If three fourths of these useable residues were burned directly as a boiler fuel, they could produce between .6 and .9 quads per year. If the same residues were converted to alcohol, the contribution would be less, on the order of .19 quads per year. I am including with my written testimony a copy of the Purdue crop residue resource assessment I have cited.

Finally, municipal solid waste (MSW) could provide about 1.5 quads of energy per year, according to the Office of Technology Assessment's report, Materials and Energy from Municipal Waste. The report, which focused on a broad range of issues associated with resource recovery and recycling of MSW, estimated that another .3 quads of energy could be saved in the process as a result of recycling metals and glass contained in MSW.

OTA's report, like the others I have cited, makes realistic assumptions about the economic and environmental constraints on energy applications of biomass resources. I am aware that other more optimistic assessments are available. but I would like to keep our discussion of the topic as realistic as possible.

Even using these conservative figures, the total energy contribution biomass resources could make is staggering. The combined contribution of the three resources I have mentioned here today is between 6.2 and 6.8 quads of energy every year. To put this into perspective for those among us who are not used to thinking in terms of quadrillion british thermal units, this amounts to roughly:

Eight percent of our total energy consumption last year;

One-third of our imported oil;

Half again as much energy as the President's original synfuels program;

More than twice as much energy as all the nuclear plants in the U.S. produced last year; or,

Nearly three times as much energy as was produced on Alaska's North Slope in 1978.

So, as you can see, biomass is not a minor source of energy, but rather a major energy resource which we can no longer afford to ignore.

OUR GOALS

In July, 1978, Agriculture Secretary Bergland outlined the first of the Administration's bioenergy goals in testimony before the Senate Agriculture Committee. Those goals included net energy self-sufficiency by 1990 in forestry production and processing under conditions that sustain productivity. A more ambitious goal—that of achieving 20% of the country's energy needs from solar and renewable resources (including biomass) by 2000—was declared by President Carter in his June 20, 1979 message on Solar energy.

These are ambitious, but achievable, goals, goals which have broad support among our people. The question we must ask ourselves as legislators is whether present policies and institutional arrangements in the agencies over which we have jurisdiction will allow us to achieve these goals.

My own evaluation is that we will miss the mark by a wide margin unless we organize and energise these agencies to meet the challenge.

Despite the President's decision to establish ambitious goals for renewable energy resources, including biomass, the federal biomass program receives relatively low priority in both the Department of Energy and the Department of Agriculture. Only $57.8 million—7.6 percent—of the $4.4 billion the federal government will spend this fiscal year on energy supply is devoted to biomass programs jointly administered by USDA and DOE. Of that relatively small amount, far too much is being spent on exotic 21st Century concepts—such as kelp farming and energy plantations—rather than on short term technologies with more immediate applications. And neither agency has used existing legal authority fully to develop the great potential of biomass energy. There is, fortunately, a legislative solution to these problems. H.R. 5428 is a step in the right direction.

Within DOE, the Fuels from Biomass Program has been plagued by managerial and staffing problems since its inception, problems which are still adversely affecting the ability of program managers to perform their duties. The problems include:

(1) Rapid personnel turnover in key managerial positions. During one nine month period (May 1978, through January, 1979) the program had four permanent or acting branch administrators.

(2) Lack of a comprehensive plan. As a result, few meaningful evaluations of the program have been performed. The first Mission Analysis of the program was completed in FY 1979, a full four years after the program's inception.

(3) Serious and systematic staffing problems. While the Fuels From Biomass budget has more than doubled each year for the past five years—actually increasing nine-fold in four fiscal years—actual program staff levels oscillated between two and three full-time professional staff positions until the recent internal reorganization of solar programs within DOE. Although Congress recommended a total of 25 full-time professional program staff for FY 1979, only three positions were actually filled last year.

(4) Excessive administrative demands on FFB staff.

(5) Abdication of monitoring responsibilities. The Fuels From Biomass Program has played almost no role in coordinating or monitoring 10 related programs within the Department (such as the Urban Waste Technology Program, and the Alcohol Fuels Utilization Program) nor the biomass activities of at least 10 other federal agencies.

While H.R. 5428 offers no solution to these administrative problems, this subcommittee can influence DOE's administrative procedures through congressional oversight procedures.

Because biomass energy development is intricately tied to agriculture and forestry policies, and because the food and fiber sectors of the economy affect the economics and availability of bioenergy, the Department of Energy and the Department of Agriculture have common areas of interest and responsibility. But despite overlapping jurisdictions and similar programs, virtually no substantive coordination or program planning has taken place between the Department of Energy and the Department of Agriculture.

There are indications that DOE/USDA coordination and cooperation may improve in the future, however, and recent interagency agreements set forth a more explicit biomass development role for both. USDA, for example, is expected to receive a portion of the DOE biomass budget (Fuels from Biomass Program via pass-through funding), for the purpose of administering some biomass development projects. H.R. 54428, my Biomass Research and Development Act, makes more extensive use of this action-forcing mechanism for USDA/DOE cooperation and coordination. Nevertheless the dissimilarities between the functions of these agencies can make effective coordination exceedingly difficult, a factor we must constantly bear in mind when we legislate in this area.

The need for cooperation between USDA in developing the potential of biomass energy is, in part, a reflection of the need for a systemic approach to biomass research and development. Most biomass conversion technologies are highly source-specific, in other words, the local conditions such as long-term availability of biomass and raw material transportation and storage costs, are just as important as the hardware involved. At some point in the development of biomass technologies, the emphasis must shift from solving strictly hardware problems to solving the practical problems facing people—mainly people in rural areas—who will run the hardware. Integrating proposed bioenergy systems is not an easy task when the two federal agencies with responsibility for biomass split precisely along these lines. Integrating bioenergy systems—putting all the pieces together—is so crucial to the success of biomass that Congress should specifically require it in authorizing legislation.

H.R. 5428 does just that.

In closing, I'd like to raise several questions I did not specifically touch on in my testimony for the consideration of the subcommittee.

First, the Department of Energy's solar programs including biomass are currently undergoing reorganization. As you know, the goal of the reorganization is to consolidate—and hopefully speed the development of—solar and other renewable technologies. It seems to me that the subcommittee has an opportunity to exercise effective oversight during the reorganization. When last I checked, there were eleven separate programs having some jurisdiction over bioenergy programs in the Department. It might be appropriate for the subcommittee to request consolidation—or at least better coordination mechanisms—between these programs.

Second, the Subcommittee may wish to explore with appropriate DOE officials the reasons why the Fuels From Biomass Program has been unable to obtain the level of staffing recommended by the Congress in past fiscal years and why excessive administrative demands continue to be placed on staff assigned to the program.

Third, the subcommittee may wish to look into several state and regional initiatives on biomass which seem to be progressing smoothly. Some of them actually appear to be achieving more on their meager resources than the DOE/USDA program. The TVA effort on wood pyrolysis, the work of the Purdue Renewable Resources Laboratory, and the efforts of the Iowa Development Commission are efforts you may wish to explore. I suspect that you will find a close link between the success of these groups and their ability to cut through institutional barriers to integrate all aspects of biomass energy systems.●

NICARAGUA—PART I

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. HAMILTON. Mr. Speaker, between the 16th and 18th of this month I and four other colleagues, Robert Lagomarsino, Matthew McHugh, David Obey, and Gus Yatron, under the able chairmanship of Dante Fascell, visited the capital city of Managua in Nicaragua, our deeply troubled Central American neighbor whose recent history of natural disaster and civil strife is well known to you.

The purposes of our mission were essentially two. To begin, we were to assess firsthand the trying economic, social, and political conditions in which the Nicaraguan people find themselves. Second, we were to reach an informed judgment as to what posture and action would best serve the interests of the United States in Nicaragua. I know that I speak for all members of the mission when I congratulate Chairman Fascell for an exercise of leadership that helped us to accomplish our purpose.

Our schedule of discussions in Nicaragua can only be described as comprehensive. We were able to meet and talk frankly with many Nicaraguan political leaders and a broad spectrum of Nicaraguan citizens. In the course of 2 days we saw members of the collegial executive of the Government of National Reconstruction, the Minister of Education, the Minister of the Interior, the Minister of the Exterior, the new Government's team of economic planners, representatives of several political parties, members of the Sandinista National Liberation Front, the Archbishop of Managua, the owners and editorial staff of the independent newspaper La Presna, the editorial staff of the Government-owned media, and numerous businessmen from the private sector.

In addition to making these contacts, colleagues visited AID projects, attended a mass celebrated by the Archbishop, and benefited from a reception hosted by our Ambassador, Lawrence Pezzullo. The latter was attended by an impressive cross section of the public and private leadership of the country. There was, of course, ample opportunity for continuous exchange with both the Ambassador himself and members of the Embassy staff. A final press conference was held just prior to our departure. A schedule of such range and depth cannot but contribute to the success of a congressional mission.

My personal impression is that we Members of Congress were treated with respect and candor by all the Nicaraguans whom we met. Questions asked by us were answered fully with few exceptions, and information not solicited by us was volunteered freely. Areas of disagreement or difference in emphasis were not glossed over, and areas of agreement, or similarity in emphasis, were placed in proper perspective.

The Nicaraguans in government, church, and private sector made their hopes and misgivings very clear to us, as we did ours to them. There was a notable and pleasing absence of rancor and verbal sparring. I think it no exaggeration to say that each group came away with a better understanding of the other's point of view.

As you know, President Carter has recently submitted to Congress a supplemental request for assistance to Central America and the Caribbean. New authorizations totaling $80 million in economic support funding, $75 million of which are intended for Nicaragua, form a major part of the President's overall plan. Of the $75 million, $70 million would comprise a loan on concessional terms to provide foreign exchange resources needed by Nicaragua for the maintenance of supplies of imports vital to reconstruction and development. Sixty percent of the imports, agricultural, industrial, medical, and transportation items, would be for the private sector. The remaining $5 million would comprise grants to finance technical assistance to agriculture, activities of private and voluntary agencies, technical assistance in municipal development, a technical assistance fund for American experts, assistance for business education, and scholarships for poor children.

My experience in Nicaragua has convinced me that additional assistance of the kind requested by the President, assistance designed to help the Nicaraguan people and to stimulate the Nicaraguan private sector, would well serve the interests of the United States. Consequently, it is in the context of the supplemental request, especially the portion intended for Nicaragua, that I wish to address a series of statements to you.

I hope to lay out a detailed case to demonstrate that, all things considered, support for the President's plan would be preferable to opposition to it.●

OH CHRISTMAS TREE

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. CONABLE. Mr. Speaker, it is with an early sense of the holiday spirit which I rise to commend to the attention of the Members of this body a recent position adopted by the Maryland Christmas Tree Association regarding the repeal of carryover basis. That association now urges the repeal of carryover basis. I urge my colleagues, particularly those from the State of Maryland, to bear in mind this new aspect of the issue.

As you know, the Senate has voted 81-4 to repeal the carryover basis provisions of the Tax Reform Act of 1976. This has been done in the context of the Senate's consideration of the proposed Windfall Profit Tax Act. This was done in spite of the risk of being chided for making that bill a Christmas tree, and I commend the Senate for its fine efforts.

I urge all my colleagues to look to those days not far down the road when the holiday season will be upon us, and to bear in mind the position of the Maryland Christmas Tree Association. Growers will face new burdens if carryover basis is not repealed. Do we really want to make it more difficult for persons in our society to celebrate these holidays as they see fit, or will we act responsibly to repeat carryover basis?

The MCTA position follows:

CARRYOVER BASIS RULE

Recently a number of laws have been passed by Congress which will benefit people in the tree growing and selling business. But, according to Forest Industries Committee offer Valuation and Taxation, the American Forest Institute and the National Christmas Tree Growers Association there is a bill now pending which looms as a major disincentive to growing trees. This law is scheduled to go into effect January 1, 1980 and will, in most cases, greatly increase the capital gains tax by an heir who sells inherited property. For a tree farmer this concerns either land or trees. According to the "Tree Farm News", published by the American Forest Institute, payment of a capital gains tax on inherited property is based on its increased value over the cost to the original owner, rather than on the increase in its market value from the time it passes to the heir. Given the long periods of time needed to plant, grow and harvest trees, this rule has major implications for the Christmas Tree Farmer who hopes to see his activities continued by succeeding generations in the family. Other implications and reasons for concern are: it will be extremely difficult to use this law—especially if you have timber—as conceivably you would have to reconstruct the cost of trees planted by one's great-grandfather! Obviously the rule will markedly reduce the return on a timber or tree investment.●

"JESS" CARLOS—COMMUNITY LEADER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BROWN of California. Mr. Speaker, we all know, or have known, genuine community leaders who have spent decades in service to their neighbors through good times and bad. Every time one of these rare individuals passes away, a very real sense of loss is felt by all whose lives were touched. Such is the case in the recent death of Jesus M. "Jess" Carlos of Riverside, Calif.

Mr. Speaker, in tribute to the life of this selfless man, I wish to insert in the RECORD, at this time, an article from the Riverside paper which briefly describes the life of "Jess" Carlos.

The article follows:

"JESS" CARLOS, EASTSIDE COMMUNITY LEADER, DIES

Jesus M. "Jess" Carlos, longtime Eastside community leader and merchant, died yesterday morning of an apparent heart attack. He was 68.

A Riverside resident since 1948, Carlos was known both for his work in civic organizations and for his role as a spokesman and leader of the Eastside chicano community.

In ill health in recent years, he had attempted to pass on the unofficial leadership role to younger men, but was still regarded by city officials and others as a spokesman and elder statesman of the Eastside.

Riverside Mayor Ab Brown said, "I have known Jess for about 30 years, from when we were on the Community Settlement Association board. He was a good man to work with. He was a leader of the Eastside community, but he was really known and respected all over town."

A city-proclaimed "Jess Carlos Day" in 1973 brought him tributes and awards at a bilingual Mass and a dinner attended by 350 persons.

George Williams, then president of the Riverside NAACP, said of him, "We have a good community because he came to town."

Jesse Ybarra, director of the Community Settlement Association, said, "We needed a better park for our children and it was through Mr. Carlos that we were able to get a park, Bordwell Park."

"He had the political power behind him," Ybarra said in a later interview. "The Anglos looked toward him because he had the ability to rally the community."

During the Jess Carlos Day observance, Carlos said he became involved in community affairs because "there were so many needs in the community and in the church, recreation, housing and education. I was part of the Park and Recreation Commission, and, naturally, since I was from the Eastside area I knew the needs and I expressed them."

In education, he said he was able to convince school administrators to explain disciplinary procedures to parents.

"Whenever the kids got into trouble, the school would suspend them for two or three days, and the kids might be wandering around," he said. "I talked to the school officials and got them to let the parents know about the kids."

Although he was a leader in working for social change for minorities, he was not a militant.

"I think there's a right way and a wrong way," he said. "I don't say I wouldn't do it, marching in front of a building, but I think there's always a way to accomplish things without that."

His activities included membership on and presidency of the Community Settlement Association board of directors, a seven-year term on the Riverside Park and Recreation Commission, the board of directors of Opportunities Industrialization Center, the Mexican-American Political Association, the GI Forum, the University Area Kiwanis Club and Knights of Columbus.

He was named a Knight of St. Gregory by the pope in recognition of his service to the community and to Our Lady of Guadalupe Shrine Church. He was one of only two men in the Riverside area so honored.

Born in 1911 in the Mexican state of Zacatecas, Carlos was brought by his parents to the United States just after World War I.

He worked in an Azusa grocery store from

1928 until the Depression forced the store to close in 1933, and then worked as a laborer for the Colton Cement Co.

In 1948 he bought the old Farias Market at 14th and Howard streets and in 1961 opened the present Carlos Market across Howard Street from the former one. For a time he also operated a liquor store at 14th and Howard.

He is survived by his wife, the former Eladia Pimentel; sons Jess Jr. of Santa Clara and Louis of Riverside; daughters Mary Jo Carlos of Santa Clara and Lucia Sanchez, Anna Maria Orega and Martha Medura of Riverside; a sister, Alta G. Carlos of Riverside; brother, Leopoldo Carlos of Riverside and 14 grandchildren.

Rosary will be recited today at 7 p.m. at Our Lady of Guadalupe Shrine Church and requiem Mass will be tomorrow at 10 a.m. at the Church. Burial will be in Crestlawn Cemetery. Preston-Simons Mortuary is in charge of arrangements.●

THANKS, KHOMEINI

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SOLOMON. Mr. Speaker, it is hard to find a "silver lining" in the current, tragic and frustrating, events in Iran and in other countries of the Middle East. Nevertheless, one byproduct of this anti-American violence is a resurgence of patriotism throughout our Nation. For the first time in about 20 years, Americans of all walks of life are joining together in support of their country.

Mr. Speaker, this new spirit is best expressed in an editorial in the Glens Falls (New York) Post-Star on November 14, 1979. I offer this fine editorial below for the consideration of my colleagues:

Thanks, Khomeini, We Needed That!

The college kids are marching in the streets again.

Picket signs are part of the picture on campuses across the nation. Dock workers are refusing to unload ships, airport workers are causing planes to be diverted by refusing to help them land and warning if they do land they will not take off again.

Flags are being burned, songs chanted, marches organized, the protestors have staged a comeback.

But this time the young, the old and those in-between are united, and they're mad.

Americans had sat around getting soft, picking away at each other, letting traditions slip away. Patriotism became a dirty word, the flag made into clothing and the armed forces and the intelligence community neglected.

Then a group of "students" in Iran invaded the United States Embassy in Tehran, took the staff hostage, tied them up, blindfolded them and marched a few around for the cameras.

Suddenly Americans got mad. Liberals, conservatives, the haves, the have-nots, came together against this common enemy.

It is not as dramatic as Pearl Harbor, and we pray it does not lead to anything like that mistake in judgment by the Japanese did, but the so-called "take-over" in Iran certainly woke Americans up.

It woke them up to the fact much of the world thought America had lost its will. The Americans will "view with alarm," or "take a dim view" but they won't do anything.

Maybe the leadership won't do anything, maybe Washington views with alarm and won't send any more spare parts for airplanes for a while, but the people of this nation showed they are ready to stand up for their country.

Thanks, Ayatollah Ruhollah Khomeini, we needed that!●

RAY ROBERTS

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. HALL of Texas. Mr. Speaker, after more than 40 years of devoted public service to the Nation and the State of Texas, our great friend and colleague, Ray Roberts, recently announced his intention to retire from the House of Representatives at the close of the 96th Congress.

We are going to miss Ray Roberts. I am especially saddened because his congressional district—the fourth—is adjacent to the first, which I have the honor of representing, and as such, Ray has given me good advice, cooperation, and help on problems of significant interest to the citizens of east Texas.

In addition, I serve under his chairmanship of the House Committee on Veterans Affairs, and no one has done more to promote the legitimate interests of our veterans than Ray Roberts.

Ray Roberts is of the old school. His political mentor was none other than Sam Rayburn, and Mr. Sam taught Ray well. Ray fights for what is right and good about America. He was a genuine hero in World World II, and his wartime experiences further strengthened his resolve to help veterans and their survivors.

It was Ray Roberts who went to the floor again this year to maintain the integrity of the VA hospital system in the face of a determined effort which would have eliminated 5,000 medical care beds and 6,800 full-time medical staff. It was the distinguished gentleman from Texas who, in 1978, took the heat and joined the battle in Congress to fight those who would limit veterans preference in Federal employment. It was Ray Roberts who stopped the move to extend full veterans benefits to deserters and others who either refused to serve, or who served so poorly that they received dishonorable discharges. With these achievements, and many other noble works, he has maintained the veteran's right for an extensive program of benefits so justly earned in service to our Nation.

As fine as his record is in the continuing fight to sustain equitable benefits for veterans, Ray Roberts has a distiniguished career as chairman of the House Public Works Subcommittee on Water Resources. In many parts of our country, water is as valuable as oil. Most of the water-poor areas of the Nation have benefited from his insight and leadership on this great committee of the Congress.

Even though we all will feel the loss of this outstanding man, we are fortunate that he will be just as active as ever in his legislative pursuits for the remainder of his term. I salute Ray Roberts, a great Texan, a great man, and a great friend.●

WHY INVEST ABROAD—ONE MULTINATIONAL'S RESPONSE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. FRENZEL. Mr. Speaker, a prominent Minnesota-based company, the 3M Co., has just published a special report on global economic development.

More than half of 3M's current sales now come from outside of the United States. The company has been an aggressive exporter and a strong supporter of our country's free-trade policy.

A portion of the 3M report follows. It explains in relatively simple terms why investment abroad is necessary to do business in world markets and how investment abroad builds American jobs and American prosperity.

I commend this portion of the 3M report to my colleagues and respectfully suggest that those who have not seen the report may wish to order it from 3M's Washington office.

Why Invest Abroad?

In 1950, 3M management made a decision that would affect greatly its future role as a provider of goods and services, and a generator of profits and employer of people.

The decision was that 3M, until then primarily attuned to U.S. markets, would invest in manufacturing operations in other countries. No longer would the Company regard its participation in world trade as an extension of domestic operations; the Company would regard the world as a large, and growing opportunity for its operations.

With the benefit of today's hindsight, it seems that the decision to "go global" was an easy one to make.

A federal judge in Boston had ruled against joint ventures abroad by U.S. companies that were competitors in the United States. The result was the dismantling of the Durex Corporation, in which 3M was a participant. As a consequence of this court decision, the Company was compelled to reassess its prospects for growth outside the United States.

At the time, post-World War II recovery was well under way and there were unmistakable signs that the booming early '50s were only a prelude to even greater economic growth.

Economists, business managers and others, who were estimating the potential for long-term growth looked at two criteria on which such forecasts traditionally have been based: 1) technological change; 2) population growth. In the early '50s, there was no lack of faith in continued technological change, and, in terms of long-term economic growth, the future population projections could not be ignored.

GROWTH OF NON-U.S. MARKETS

In 1950, 94 percent of the world's population lived outside of the United States versus six percent inside the United States. Clearly, as the world economy developed and its population increased, the prospect for the greatest long-term growth in markets was in countries other than the United States.

Following the court decision in Boston, 3M's management had been sending increasing numbers of sales representatives abroad to sell 3M products as personal income soared in the industrialized countries. However, many business executives both inside and outside 3M had reservations about investing substantial amounts of capital in operations outside the U.S.

With the Korean War being waged, senior business executives remembered all too well the losses in foreign investment which U.S. companies suffered as a result of the two World Wars. They recalled the explosive and destructive inflation of the '20s and the protectionist policies of the '30s—both of which resulted in heavy losses by U.S. business abroad and deterred new foreign trade and investment.

U.S. businessmen also had reservations about transferring their technology to foreign soil. Wouldn't that make their technology more accessible to foreign competitors who then would compete more effectively in U.S. markets?

3M's management—and probably those of many other companies—would have preferred to serve those growing postwar markets outside the United States with exports from their U.S. plants. They realized that setting up shop abroad was a difficult chore because of the cultural, linguistic and legal settings which were alien to U.S. business managers.

They were aware that foreign affiliates of U.S. companies, far from being masters of their own fate, operate under the laws, regulations and political whims of host governments. The assets of a U.S. manufacturing affiliate consist mainly of fixed plant and equipment and trained people who are citizens of the host country. Those assets usually are not portable.

OWNING VS. CONTROLLING

So, once an investment is made in another country, it is for the long haul, and under the control of the host government. The role of the U.S. parent is that of a major shareholder who "owns" the assets but does not "control" them.

The fact that companies do own assets and governments do control them contradicts a basic assumption made by economic nationalists who equate ownership with control.

For example, economic nationalists in Canada argue that ownership of most (perhaps 70 percent) of Canadian manufacturing companies by U.S. citizens means that Canada does not control its economic destiny.

The affiliates of U.S. companies, however, are subject to the laws and regulations of the federal and provincial governments of Canada, which control these companies' operations as well as their continued existence.

There are disciplines imposed upon these U.S. affiliates by customers in the marketplace, employees (almost completely Canadian), Canadian labor unions and other institutions, such as banks, which are largely Canadian owned.

Thus, taking into account the constraints on operations, his unfamiliarity with foreign markets, and potential risks, the U.S. businessman, given his druthers in the early '50s, would have preferred to export to foreign markets rather than establish manufacturing plants abroad.

But the U.S. businessman had to react to facts and push aside his misgivings about plunging into unfamiliar surroundings as he examined all of those growing markets in other countries. He came to realize—as 3M executives did—that the only way to participate in those markets was to get established on the inside.

BARRIERS TO WORLD TRADE

Tariff and non-tariff barriers effectively barred many exports from the U.S. For example, French tariffs on 3M pressure sensitive tape, for which 3M built a manufacturing plant in France in 1952, were 20 percent. In addition, France, similar to other European countries, imposed an "uplift" (percentage surcharge on the duty) of 11.8 percent.

In 1953, when 3M built facilities to manufacture rubber-based adhesives in West Germany, the duty on such products was 25 percent, making exports from the U.S. uncompetitive with non-U.S. companies.

In Brazil and other Latin American countries, duties ranged—and still range—far above 50 percent.

Tariffs, however, are only one type of trade barrier which encourages U.S. foreign investment by manufacturing companies. Testifying to the House Ways and Means Committee on April 3, 1973, 3M made an extensive report on trade barriers and why it made decisions to invest abroad. Among the criteria leading to foreign investment decisions:

Service Requirements

Competitive marketing requires quick reaction to customer needs, which is difficult when the distances between supplier and customer are great. Customers of industrial products require strong technical support. This is most easily provided by local managers who also are able to modify products so they can be used in a particular environment.

Standards and Product Requirements

Examples

A. Customary electrical current in Europe is 220V-50 cycle compared to 110V-60 cycle in the U.S. 3M decided to make transformers for copiers for the European market at the West German plant because it would have been too costly to incorporate them in U.S. production.

B. Except for Latin America, most other foreign countries have a coated abrasives grading system which differs from the U.S. It is necessary to make these abrasives abroad for cost reasons.

Patents and Licensing

Example

If a company exports a patented product to France over a period of two years, it must register and produce that patented product there or else license someone to produce it. If this is not done, French law permits local companies to produce that product.

Freight

Example

In exporting "Scotch-Brite" brand scouring pads from the U.S. to France, 3M paid a freight rate based on cubage rather than weight. As a result, 94 percent of what 3M paid to transport this product was the cost of exporting air.

Differing Definitions for Applying Duties

Example

U.S. companies exporting to France are charged duty based upon C.I.F. (Cost/Insurance/Freight) rather than F.O.B. costs as in the U.S.

The result is that U.S. companies shipping goods into France pay duty on freight while French companies shipping goods into the U.S. do not pay such duty.

Altogether, according to the U.S. Dept of Commerce, more than 800 non-tariff barriers to trade have been identified.

Because of tariff and non-tariff barriers, the main reason why companies invest abroad is to gain access to markets.

MINIMAL IMPACT OF WAGES

Lower wages are a minor reason for U.S. direct foreign investment, as demonstrated by the following facts:

(1) In 1976, 81.5 percent of U.S. direct foreign investment is in industrialized countries where the wages are relatively high.

(2) Wages are only one ingredient in calculating business costs. What really matters to a business is per-unit costs—productivity. Thus, in some cases, wages may be relatively high in the United States, but this is offset by higher productivity. For this reason, 3M finds U.S. labor competitive with foreign labor, as do U.S. manufacturing companies generally, although there are some exceptions in a few labor-intensive operations, such as hand-wiring of circuits.

(3) If lower wages abroad were a significant attraction for U.S. foreign investors, one would expect that the foreign affiliates of U.S. companies would account for substantial amounts of imports into the U.S. This is not true. Only about eight percent of the products made by U.S. affiliates abroad find their way into the U.S. market. Of this amount, three-quarters (six percent of the overall) are accounted for by a U.S.-Canada production sharing agreement involving motor vehicles. Thus, the bulk of U.S. imports originate with non-U.S. companies. Of those imports that are derived from the foreign affiliates of U.S. companies, a substantial amount are accomplished under U.S. Treasury regulations which permit U.S. companies to manufacture a portion of a product in the U.S., ship it abroad for further manfacture and then bring it back for domestic sale without duty being imposed on the value added abroad. The foreign entities involved in this activity mainly are Mexico, Taiwan, Hong Kong and South Korea and the products often are electronic. 3M does not participate in this kind of activity. In 1978, less than three percent of 3M products manufactured outside the U.S., including Canada, were imported into the U.S.

PUTTING UP A GOOD DEFENSE

In addition to all the above reasons for U.S. companies investing abroad, there also are "defensive" motivations for foreign investment.

Any successful business must compete in as many markets as possible. The alternative is that non-U.S. competitors will become so strong in unchallenged markets that they will be better able to capture an enlarged share of markets in the U.S. and elsewhere.

In addition, a part of each increment in foreign investment is intended not to develop innovations, products and markets, but to protect the value of existing invested capital. Without adequate continuing investment flows, the entire investment is jeopardized.

DYNAMICS OF GROWTH

It is true that business enterprises, if they are to survive and grow, must undergo a constant process of renewal, developing new products and producing older profitable products more efficiently than competitors who will be attracted to compete with a company's products which enjoy good profit margins.

U.S. businessmen also realize that, if they confine their operations to the U.S., their foreign competitors may have greater access to raw materials and, most important, to the technology which is developed outside the United States.

Additionally, businessmen realize the importance of a "growth" psychology within a business organization, if people are to be motivated to develop, make and sell products and if companies are to remain strong competitors. Companies which confine their horizons are doomed to eventual stagnation.

THE EFFECT OF 3M'S INVESTMENT ABROAD

In virtually every country where 3M does business, there has been a typical growth pattern. First, a sales representative appears on the scene with little more than a briefcase containing information and order blanks for a limited number of products. A sales office is set up and the country is served wholly by exports, primarily from the United States.

When the volume of business grows significantly, competitors are attracted to the scene if they are not already resident there. Particularly in larger countries, it may then become neccessary to manufacture in that market, not just because tariff and non-tariff barriers give resident competitors a comparative advantage over companies who export to that market, but because the requirements of customers in that particular marketplace cannot be serviced quickly or completely enough from afar.

As markets grow in the various countries, 3M investment increases for offices and warehouses and such functions as sales, marketing, research and product development. And growing right along with this investment are exports from the United States of finished and semi-finished goods to fill out the various product lines. This results in increased employment for 3M in the United States, providing many job opportunities at various skill levels in both plant and office. In none of the 3M companies outside the U.S. is a complete line of products manufactured.●

CONFERENCE REPORT ON THE DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. MOFFETT. Mr. Speaker, I would like to draw attention to the conference report on the Domestic Volunteer Service Act Amendments of 1979 which will be voted on by the House of Representatives this week. At little cost to the Government, the volunteers within these programs provide legal assistance, companionship, and social services for the elderly; the volunteers help bring factories into small rural communities which provide jobs for the unemployed; and, volunteers provide technical assistance to farmers to increase their agricultural yield. ACTION volunteers are weatherizing public housing units which will save the Government up to 50 percent of the cost of heating these units this winter. These are just a few of the projects performed by ACTION volunteers. I strongly urge my colleagues to vote in favor of the conference report on the Domestic Volunteer Service Act Amendments of 1979. I am pleased to submit to the RECORD the November 25, 1979 Washington Post article by Larry Kramer on the citywide conservation program in Fitchburg, Mass. which is being conducted with the assistance of ACTION volunteers:

[From the Washington Post, Nov. 25, 1979]

FITCHBURG, MASS., IS ON OFFENSIVE IN ENERGY WAR

(By Larry Kramer)

FITCHBURG, MASS.—New England always has been a hotbed of patriotism, and earlier this month this sleepy, blue-collar town of 38,000 people fired the first volley in the battle of the people vs. the Ayatollah.

With the help of the federal Action program and the tireless efforts of an army of local volunteers, Fitchburg has launched the nation's first citywide energy conservation program and is well on its way to the goal of "weatherizing" every house in town.

All over this town, everyone from school children to little old ladies are replacing air filters, sealing vents, cleaning refrigerator coils, and taking dozens of basic energy-saving steps.

By the end of next month, an estimated half of Fitchburg's 14,000 dwelling units will likely be weatherized, saving about 2 million gallons of home heating oil a year, according to a spokesman for Fitchburg Action to Conserve Energy (FACE), the umbrella group supervising this effort.

At that rate, Fitchburg residents' annual savings will reach $1.9 million at an average weatherizing cost of only $25 to $50 a home.

Although the project of weatherizing an entire city originally was undertaken to hold down fuel oil bills, recent events have given it added urgency.

"The problem of energy conservation has taken a more serious tone than we expected," said Mayor David Gilmartin at a press conference on Nov. 13, the day President Carter ordered a halt to U.S. purchases of Iranian oil.

"We've seen our national government tell Iran to keep its oil," the mayor went on. "Now it's up to us in Fitchburg to do something about that, and back up our federal government."

So that day Fitchburg decided to do something. Action Agency Director Sam Brown led a delegation of Washington bureaucrats to Fitchburg to receive a progress report.

Action had greased the skids for the Fitchburg project last month by cutting reams of red tape and getting Energy Department and Department of Housing and Urban Development regulations waived in order to free federal funding for FACE.

It took only five days, for example, for Fitchburg to receive an innovative grant from HUD to help pay for the materials needed to weatherize homes occupied by low-income or moderate-income families. "That has to be a new world's record," said one Action aide.

The federal funding generally covers the cost of materials for weatherizing, while local volunteers frequently donate the necessary labor.

"The young people in town have been wonderful," said Ellen DiGeronimo, executive secretary of FACE and vice president of Worcester North Savings Bank in Fitchburg. She told of scores of school children doing the weatherizing for elderly and handicapped persons.

In addition, more than 300 volunteers from Fitchburg State College have joined with skilled retired citizens to offer a formidable work force for FACE.

The army is run out of several neighborhood storefront centers, where homeowners also learn to do their own weatherizing. Special storefront centers serve the Spanish-speaking community.

Action officials say Fitchburg seemed a likely target for this program because of its heavy reliance on oil, and electric rates that are the highest in New England and third highest in the nation mainly because the local power company does not generate any of its own power but purchases it wholesale from other power companies.

Fitchburg's involvement in the program has transcended the actual weatherizing efforts and influenced almost every civic activity in the city. "It's akin to an old-fashioned barn-raising," said city Planning Director Tom Cunningham, who also serves as FACE's project director. "Everybody helps out."

Two 14-year-old girls staged a 10-minute skit called "Facing the Energy Crisis" at B. F. Brown Jr. High School last week, encouraging children to explain to their parents the need to weatherize.

The skit included a teacher who walked across the auditorium stage throwing dollar bills away at a window left open and at a parent who put off caulking a windy door.

In another demonstration of community involvement, residents at the Sundial Apartments, a senior citizens' housing project in Fitchburg, gathered that same day for a weatherization training session, then returned to their apartments to get to work.

"For six years we've been telling people about the energy crisis in Washington. Finally someone has listened," Brown said to an assembly at the junior high school after viewing those two events while on a tour of the city.

"We can talk all we want about consumption, but it takes you and your parents and your grandparents to do it," he continued. "We must start at home, and go one house at a time."

It takes this kind of extraordinary effort to make true conservation a reality, said local FACE staff coordinator Larry Casassa.

"Look, 75 percent of Fitchburg's housing stock was built before World War II, and they haven"t been improved since that time," he said. "The steps toward saving energy are simple; the savings are great."

"In the long run, we know that the only way we can conserve energy will be to do it ourselves," said FACE's DiGeronimo. "We can't count on the government to do that for us."●

REASONS FOR A NUCLEAR CONSTRUCTION MORATORIUM

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. MARKEY. Mr. Speaker, I would like to share with our colleagues certain considerations concerning the vote on my amendment for a short-term moratorium on the issuance of permits for new nuclear construction.

First, I think we should be clear on the views of a majority of the members of the President's Commission on Three Mile Island. Eight of the 12 members of that commission, chaired by the president of Dartmouth College, Dr. John Kemeny, favored an across-the-board halt to the startup of nuclear construction. Dr. Kemeny himself joined five other commissioners in supporting the following proposal:

> No new construction permits should be issued until the reports of this Commission, the NRC self-evaluation, and the congressional investigations are completed, and until the President and Congress have had an adequate opportunity to consider such recommendations, including restructuring the NRC.

The purpose of my own amendment is precisely to make these inquiries possible. On November 14, our colleague from Michigan (Mr. WOLPE) questioned Dr. Kemeny on this point during a hearing held by the Energy Research and Production Subcommittee of the House Science and Technology Committee. Mr. WOLPE asked:

> In other words, you would be more in support of a congressionally based moratorium?

Dr. Kemeny replied:

> Yes. That is what I said over and over again in the debate that I thought the action should be by the President or the Congress, and I voted for those (proposals for a moratorium) that were tied to the President and Congress and not to the one where it would be up to the NRC to decide when it was time to start licensing again.

Yet, when the Kemeny Commission issued its report, an absolute majority—seven commissioners—was unable to agree on the mechanism that would lift an across-the-board construction moratorium. Nevertheless, the Commission did recommend unanimously that, on a case-by-case basis, no new operating licenses or construction permits should be granted until three things occur. First, the NRC or its successor should assess the need to introduce new safety improvements in reactors. Second, the NRC or its successor should review the competency of the prospective utility to manage the plant. Third, the NRC or its successor agency should approve State and local emergency evacuation plans. Commissioner Theodore Taylor, a nuclear physicist from Princeton University, testified before a congressional hearing on November 5:

> I view this as a very strong moratorium which receive a unanimous and enthusiastic vote in the Commission.

Second, I believe it is important for every Member of this House to understand that the majority of the American people favor a moratorium on additional construction, according to a recent AP-NBC poll. This poll, conducted on October 15 and 16, was based on a sample of 1,600 adults nationwide. They were asked the following question—

> Do you agree or disagree with the following statement: No more nuclear power plants should be built in this country until questions about safety are resolved, even though some say this will mean energy shortages within 10 years.

Fifty-seven percent of those polled replied yes; 36 percent replied no; 7 percent were not sure. We should remember that this question was asked before the publication of the finding of the Kemeny Commission on October 31, a report that issued a blistering, scalding indictment of the nuclear industry in America today.

Third, I think we should recognize that one consequence of failing to halt new nuclear construction is that we may allow plants to be built which will not be safe enough. One of the new plants may go haywire sometime in the future also. Remember that Three Mile Island 2 was the newest of the 72 plants already built and licensed to operate. In the event of another accident somewhere else, ratepayers will be forced to assume an enormous burden. If the plant is knocked out of commission for a long period, or is never able to reopen—which many experts believe may be the case at Three Mile Island—the ratepayers will have to pay for replacement power. The Kemeny Commission estimate that the cost of the Three Mile Island accident probably will be $1 to $2 billion. Most of the expense will be for buying replacement power—imported oil, for the most part—over the next few years. The moral to this story is clear: if more nuclear plants must be built, let us make very sure they are built right the first time. Taxpayers, as well as ratepayers, may have to pay for the costs of nuclear accidents like Three Mile Island. The owner of the damaged Three Mile Island reactor is, of course, the Metropolitan Edison utility, which is a subsidiary of General Public Utilities Corp. On November 8, GPU President Herman Dieckamp told the Senate nuclear regulation subcommittee that it is seeking Federal help in paying the cost of cleaning up the damaged reactor.

Cleanup is expected to cost a minimum of $400 million and GPU is insured for $300 million in damage to its property. "Every little bit helps," Dieckamp said. Senator GARY HART, chairman of the subcommittee, tried again and again to get GPU to promise to run Three Mile Island if Metropolitan Edison should declare bankruptcy. The GPU response was conditional. In the words of the GPU treasurer John Graham, "it would be difficult to know all the ramifications of where Met Ed (bankruptcy) would go." If GPU fails to pick up the tab, however, the buck will pass to the NRC, observed Senator HART. NRC Chairman Joseph Hendrie admitted, "if there's an urgent need, why, we do what we have to." In this light, the National Taxpayers Union has endorsed my amendment. In a letter to me yesterday, the National Taxpayers Union declared:

> We believe it is a step in the right direction toward Congressional reassessment of the economic and safety aspects of the nuclear power option.

I would like to note that in so doing, the National Taxpayers Union joins the other following groups in supporting my amendment: The League of Women Voters, the Union of Concerned Scientists, Congresswatch, Critical Mass, Sierra Club, Environmenal Policy Center, the United Auto Workers, the United Mine Workers, and the International Association of Machinists.

The letter from the National Taxpayers Union follows:

WASHINGTON, D.C.,
November 26, 1979.

Hon. EDWARD J. MARKEY,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MARKEY: The National Taxpayers Union would like to commend you on your amendment to the Nuclear Regulatory Commission Authorization Bill which would impose a six month moratorium on construction permits for nuclear power plants. We believe it is a step in the right direction toward Congressional reassessment of the economic and safety aspects of the nuclear power option. In light of the Three Mile Island accident it is imperative to end the "business as usual" attitude and take time to review the information that will be forthcoming from the various investigations that are currently underway.

Although the NRC has imposed a de facto moratorium it is our point of view that Congress, itself, must re-examine its policies in regard to nuclear power.

In particular, it is our belief that the Price-Anderson Act should be re-examined. Presently, it appears the taxpayer will shoulder the burden in case of an accident. For example, the owners of the Three Mile Island nuclear plant (General Public Utilities Corp.) have already stated their intention that they want federal funds to assist in the clean-up of their damaged reactor.

In a November 9 article in the Washington Post, GPU President Herman Dieckamp stated "Every little bit helps" regarding the anticipated $400 million clean-up. GPU is insured for $300 million.

In recent hearings, the Senate's nuclear regulation subcommittee has been unsuccessful in determining the limit of the federal role should GPU's subsidiary, Metropolitan Edison Corporation declare bankruptcy.

In closing, we support our initiative in taking this first step towards the reassessment of the federal government's role in the nuclear power industry.

Sincerely,

JILL GREENBAUM.

There are major policy—and philosophical—questions about nuclear power that Congress has not addressed in years. And without some signal from the legislators, the nuclear regulators will go only so far in forcing expensive safety improvements. Congress has never expanded on the few words in the 1954 Atomic Energy Act that said there should be "adequate assurance of no undue risk" from nuclear power. I believe that with my amendment Congress has the opportunity to take an important first step in making certain that safety is the top priority in our Nation's program for the regulation of nuclear power.●

MAIN CATHOLIC PARTY IN ULSTER CRITICIZES BRITISH

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BINGHAM. Mr. Speaker, the Social Democratic Labor Party (SDLP) of Northern Ireland has always impressed me with its opposition to senseless violence, and its vigorous struggle for the rights of the Catholic minority in Ulster, and for the ultimate goal of a free and united Ireland. Its candidates for public office have regularly been successful in Catholic areas in the north; most recently, Mr. John Hume, the SDLP's deputy leader, was elected to serve in the European Parliament at Strasbourg, and Mr. Gerry Fitt to Westminster.

The following account of the SDLP's 9th annual conference held early this month appeared in the Irish Advocate for November 10:

SDLP WANTS BRITISH PLEDGE TO UNIONISTS ENDED

Calls for the British Government to remove its guarantee to the Unionist population that Northern Ireland would remain a part of the United Kingdom for so long as a majority there wished it, dominated the part of the United Kingdom for so long as a ninth annual conference of the SDLP held in Newcastle, Co Down, at the weekend.

Delegates overwhelmingly accepted a new policy paper based on this demand, together with calls on the British and Irish Governments to involve themselves in a process which would lead to an "agreed Ireland." The party rejected a suggestion that it should open contacts with the Provisional IRA, while leading figures made it clear that the party would participate in the constitional conference planned by the Secretary of State, Mr. Atkins, for the end of this month.

The conference heard stronger than usual criticism of the Republic for what was described as a lack of political leadership and a lack of interest in the North. The Government should "shut up or put up," said one speaker.

The conference's basic theme was set by the deputy leader, Mr. John Hume, in proposing the acceptance of the new policy document which is entitled "Towards a New Ireland." He said the British guarantee to Unionists was an obstacle and a road block; there had never been genuine dialogue in the North, only verbal warfare. He appealed to Unionists to "stand on your own feet and use the strength of your own numbers." There was no instant solution, but they should begin a process that could lead to one.

Some speakers in this debate found fault with alleged lack of definition in the document, the strongest attack coming from party founder-member Mr. Paddy O'Hanlon, of South Armagh, a frequent conference critic. He described the document as "an early letter to Santa Claus."

The liveliest session came with the debate on a lengthy emergency motion submitted by the party's Mid-Ulster branches, advocating, among other things, contacts with the leadership of all paramilitary organisations belonging to the Irish tradition.

Mr. Hume argued that the motion was ill-conceived and could do serious damage.

Leading party figures, speaking both publicly and in private at the conference, said the party would participate in the initiative announced recently by the Secretary of State, though they made it clear that they foresaw little chance of success for the move.

Since the SDLP conference was held, the party decided not to participate in the all-party conference called by the British because the reunification of Ireland had been specifically ruled off the agenda. Mr. Fitt disagreed and resigned from the party. These developments are described in the following article from the New York Times of November 23:

CATHOLIC PARTY IN ULSTER REBUFFS LONDON ON TALKS

(By William Borders)

LONDON, November 22.—The British Government's latest political initiative for Northern Ireland suffered a severe setback today as the principal Roman Catholic party in the province rejected it.

The Social Democratic and Labor Party, which has the backing of most of the Catholic minority in the province, said there was no point in its attending an all-party conference that the Government wants to hold next month, since the matter of reunification, or any other change in the constitutional status of the province, has been specifically ruled off the agenda.

The head of the main Protestant party in the province, the Ulster Unionists, has also declined the invitation. Thus there are now serious doubts about the whole idea of the conference, which had been intended to find a way of granting the province a greater measure of home rule.

"If it transpires that nobody comes to the conference, then clearly we shall have to seek other ways forward," Humphrey Atkins, the Secretary of State for Northern Ireland, said in Parliament.

But he reiterated the Government's determination to bring some kind of changes to Northern Ireland, even if its political leaders continue to resist.

Protesting the decision by the Social Democratic and Labor Party, its lone member in Parliament, Gerry Fitt, resigned in what he called "intense sadness" from the party.

"It is obvious that there is no meeting of minds between me and my colleagues," said Mr. Fitt.

The move by the party, which was formed 10 years ago as a voice for moderation and against violence, was the latest sign of a gradual drift it has taken in recent years toward the nationalist position, contributing to the deepening of the division of Northern Ireland between the one million Protestants and the 500,000 Catholics.

The reason that the party gave for not attending the conference is that London has insisted that the meeting will be concerned only with "a transfer of power within the United Kingdom," not even contemplating any change in the basic constitutional status of the province, such as independence or reunification with the Republic of Ireland.

"This is an absolutely inadequate basis" for talks on the future of the province, the party said.

Without Mr. Fitt, the party, which received 20 percent of the total popular vote in the province during the election last May, will have no voice in Parliament. There is one other Catholic, Frank Maguire, among the 12 Ulster members of Parliament, but he is an independent.

The two parties that have accepted the invitation from London are the Democratic Unionist Party, a militant Protestant group led by the Rev. Ian Paisley, which received 10 percent of the vote in May, and the Alliance Party, a moderate group of both Catholics and Protestants, which got 12 percent of the vote, but elected no members of Parliament.●

MCPL UPDATE ON RELIEF EFFORTS FOR CAMBODIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. SOLARZ. Mr. Speaker, the November edition of the food and population newsletter of the Members of Congress for Peace through Law contains an excellent article and map on the status of the international relief effort to alleviate the suffering of the Cambodian people. Since some Members may not have an opportunity to see this report, I ask that it be reprinted here. I would also like to pay tribute to MCPL, and its excellent chairman, Representative PAUL SIMON, of Illinois, for his outstanding efforts to make this organization a most useful and effective means of keeping its members abreast of international issues.

Mr. Speaker, I ask that this update on Cambodian relief efforts be reprinted here:

UPDATE ON RELIEF EFFORTS FOR KAMPUCHEA

U.S. Government efforts to alleviate Kampuchea's (Cambodia's) monumental food crisis are slowly cranking into gear.

The food crisis, resulting from years of war, from the brutal policies of the Pol Pot government. from the devastation imposed by the invasion of the country by Vietnamese troops, and from the ongoing struggle for control of the countryside by the Pol Pot and the Heng Samrin forces, remains massive. Under Pol Pot more than one third of the 7 to 8 million population died or disappeared. With most of the crops destroyed and less than 10 percent of the fields under cultivation, 75 percent of those who survived now face starvation. Observers in Phnom Penh and on the Thai-Kampuchean border all agree that relief efforts will be needed on a large scale over at least the next year to avert widespread starvation Even with these efforts, an entire generation of Khmer may perish.

Current estimates of the price tag for relief operations are now in the range of $310 million. Of this sum, $250 million would be spent within the country and the remaining $60 million would be used to feed and clothe Kampucheans along the Thai-Kampuchean border. 34 countries and the European Economic Community have now pledge about $210 million to the UN High Commissioner for Refugees, UNICEF and other international agencies which will administer the relief operations.

For its part, the United States aid package now totals about $105 million in newly authorized and reprogrammed money approved by Congress. Included in this aid package is $25 million under the Food for Peace Program, $20 million in assistance to Kampuchean refugees in Thailand, $30 million in special disaster assistance and an additional $30 million from previously authorized disaster assistance. Additional funds—already authorized by refugee legislation (HR 4955—P.L. 96-110) and contained in the Refugee and Migration Account in the continuing appropriations resolution (HJ Res. 440)—could probably be used to meet the critical situation in Kampuchea.

In recent months there have been numerous, and often conflicting reports, that the Heng Samrin government in Phnom Penh and its Vietnamese and Soviet allies have frustrated the efforts of UNICEF/ICRC and the voluntary agencies in providing emergency food and medical supplies to Kampuchea. At present, the Heng Samrin government seems to be encouraging sea and air relief efforts: the UNICEF/ICRC airlift from Bangkok, Thailand was originally limited to one plane per week, then was increased to a plane every day and, as of November 19, five plane loads of food and emergency supplies were being flown daily from Bangkok to Phnom Penh. Most of the food, however, is transported by sea to the port of Kompong Som in the southern part of the country (see the map). From this port city UNICEF/ICRC has recently been able to implement a new inland transportation system, organizing two convoys of twenty trucks each to move shipments of food and medicines to distribution points in the northeast and the northwest parts of the country. The recently announced opening of the Mekong river for additional shipments of emergency supplies directly to the capital city will soon provide a much-needed alternative to the overcrowded and congested docks at Kompong Som.

10,000 metric tons of food aid have been delivered to Kampuchea as of mid-November and an additional 12,600 metric tons are now enroute to Kampuchea. The World Food Program (WFP) of the United Nations is presently coordinating all the food aid efforts from international agencies and voluntary agencies, including Oxfam, Church World Services, Catholic Relief Service and many others. WFP observers expect that the combined air and sea shipments of UNICEF/ICRC will exceed 20,000 tons per month by the end of this month and that by January this level will rise to 34,500 tons per month, which will be just enough food to stabilize the starving population. Experts in nutrition and famine relief point out, however, that diet adequate to strengthen and rehabilitate the people of Kampuchea will eventually require as much as 60,000 to 75,000 tons of food per month.

Many Members of Congress, concerned that food aid has not been arriving fast enough in Kampuchea, have called for alternative methods of providing food aid to that country. On a recent trip to Kampuchea, Senators John C. Danforth (D–Mo), Max Baucus (D–Mon) and Jim Sasser (D–Tn) suggested a "land bridge" whereby columns of trucks would carry aid into Kampuchea from Thailand. This suggestion has, however, met with strong opposition from the Heng Samrin government which evidently regards this idea as a security threat and a backhanded way of aiding the Pol Pot forces.

On October 30, 68 Members of the House led by MCPL Chairman Rep. Paul Simon (D–Ill) and Rep. David Bonior (D–Mich) called on President Carter to undertake immediate consultations with the Soviet Union with the aim of starting a joint U.S.-Soviet airlift of emergency supplies into Kampuchea. Reps. Simon and Bonior, emphasizing joint cooperation whereby perhaps the Soviets would supply the planes and personnel with the U.S. supplying the food, medicine and trucks, continued their joint efforts by testifying before the Senate Foreign Relations Committee on November 14 about the need to enlist the support of the Soviet Union.

In addition, Members of Congress have met with high officials in the State Department and the White House to encourage creative and speedy initiatives to solve the food shortage.●

DON KAVANAGH

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today to congratulate Mr. Don Kavanagh of San Jose for achieving a significant professional milestone: this year marks Don's 50th year as a builder-developer in California. On December 8, the Consulting Civil Engineers of San Jose are hosting a reception for Don, his friends, and associates in honor of his many contributions to housing development in our State.

Don, who will be 73 years old in March, began his career as a builder in 1929. He was a builder before the Federal Housing Administration existed, and after FHA was created, he built under almost every program that was insured by the Federal Government.

From 1929 through the depression years, Don was a homebuilder in San Francisco, and during World War II, he was authorized by the Government to build housing needed for wartime production workers.

Don developed subdivisions and built homes in the bay area and northern California and in the San Joaquin Valley throughout the 1940's, 1950's and into the early 1960's. In the mid-1960's, Don went to Brazil for a few years to work on government housing, and then came to Santa Clara County where he has been actively engaged in developing assisted housing.

During the past 10 years, Don's specialty has been Government assisted housing, and he is as active today as ever before. He currently has a half dozen assisted housing projects under construction, and a half dozen more in the works for future years.

Mr. Speaker, I ask you and my colleagues in the House of Representatives to join me in congratulating Don Kavanagh for completing 50 successful and productive years as a builder and developer, and in sending him best wishes as he embarks upon his second half century in the building business.●

IRENE KETCHUM

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BENJAMIN. Mr. Speaker, I rise today to honor one of the finest and most outstanding women with whom I have ever had the pleasure of working.

Irene Ketchum, of Highland, Ind., is retiring from her position as clerk-treasurer for the town of Highland, after 24 years of faithful service. Irene's years of elected public service reflect the esteem and respect held for her by the northwest Indiana community. More than that, it also attests to the strong belief of everyone in her abilities, dedication, and total commitment to the welfare of her fellow citizens.

It has been my honor and privilege to have worked with Irene since being a member of the Gary City government in 1964. For 15 years I have admired the professionalism, thoughtfulness, and compassion that Irene has infused into her responsibility as the unofficial mayor of Highland.

It is seldom that one finds a town "Father" as gentle, humane, and talented as Irene. Her overwhelming command of her duties, her reputation as one of the great town officials of the United States, and her extremely judicious nature led many to believe that her job was lifetime, and that she was only subject to removal, should she not behave well. The truth of the matter is that Irene did have to stand for election every 4 years, and campaigned in a delightful and devoted manner.

Irene is formally retiring from her public service office, but I cannot believe that Irene will ever stop working to make Highland and northwest Indiana a better place in which to live.

I am hopeful that other Members of Congress have had the opportunity and good fortune to work with local officials as sincere as Irene Ketchum. Fellow public officials like Irene Ketchum make all of our jobs much easier by allowing us to truly share in the representation and advocacy of the needs and interests of our people.●

SENATE—*Wednesday, November 28, 1979*

(Legislative day of Thursday, November 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers, known of old: In this moment dedicated to the unseen and the eternal may we see above the turbulence, the cruelty, the inhumanity of man to man, the coming kingdom which destroys all evil, establishes the reign of righteousness, and sets men free. Grant us Thy light in dark places and Thy strength for our weakness. Make plain that it is only when the soul is redeemed, the heart cleansed, the mind made new, the will captive to Christ, that Thy kingdom comes. Send us into this new day armed with the power of Thy spirit, to right the wrong, to overcome evil, to endure hardship and in all things to serve Thee bravely, faithfully, joyfully until in the peace of evening we are sheltered in Thy fold.

In His name who went about doing good we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 28, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is now recognized for not to exceed 5 minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield back my time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business of not to exceed 10 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

USE OF THE WINDFALL PROFIT TAX TO BUY ENERGY INDEPENDENCE

Mr. LEVIN. Mr. President, my own thinking about the windfall profit tax has been shaped by the interplay between that legislation and the events in Iran. I think they are related in important ways and I want to explain my perception of that relationship and its implications.

The crisis in Iran is unique because it involves a direct threat to specific American lives. But the resolution of that crisis will not bring a resolution of our national problems. Surely we all understand that the forces which make a nation like Iran believe they can hold American citizens and mold American policy are not unique. Surely we know that the only way to stop international threats is to reduce our dependency on international supplies of energy.

This Nation has mortgaged its future—and the note is held by nations who are willing to foreclose, if our policies conflict with their interests. Iran is the latest—but I fear not the last—nation to threaten our independence, insult our integrity, and injure our economy.

The response to Iran has created, for the first time in a generation, a sense of national outrage. The American people are once again a people—a cohesive whole, a united force, an outraged and disciplined nation. If we can harness that outrage, channel that anger, and retain that discipline, we can secure the promise of an independent future.

There is a juxtaposition of such historic magnitude taking place now that this Nation simply cannot afford to turn its back on the opportunity it affords us. At the same time that Americans are held hostage in Iran, legislation which can produce the dollars to help free this Nation from imported energy dependence is on the floor of the Senate in the form of the windfall profit tax bill. If we are to secure our freedom from dependence on foreign resources—we must put our own domestic resources into that effort. And the windfall profit tax gives us a mechanism to do just that. Under the lash of the ayatollah, we may be moved to do just that.

Many of us in the Senate are dissatisfied with the approach taken by the Finance Committee and urge that the windfall profit tax reported by the committee be increased and the proceeds devoted primarily to energy independence. We must not put the proceeds of the windfall profit tax in our pockets—as stockholders in oil companies, or as taxpayers hoping for a break, or as citizens seeking relief from inflation. We must put that investment into energy independence. The distorted energy situation which has created the windfall should be the principal target for the use of the proceeds of the tax on that windfall.

I support strengthening and earmarking efforts not because I think we should punish the oil companies and make them the official scapegoats for our energy problems. I support those efforts not because I think profits are hateful. I support those efforts not because I doubt that the oil companies will use the new revenue for production.

Rather, I support them because I believe that the additional funds returned to the Federal Government will be used in more energy productive ways.

A higher tax rate will allow the Federal Government to make more productive energy investments. Instead of hoping oil companies will invest the $100-plus billion that are in issue between a strong and a weak tax, in expensive and only marginally productive exploration and development, the Federal Government can take the additional funds and invest them in conservation and alternative energy resources—investments which pay a large energy dividend and often in a more immediate time frame. It costs us an average of $30 a barrel to import oil—it costs us less than $20 to conserve a barrel of oil. And that conservation does not require a radical change in our life styles, to freeze in the winter or boil in the summer. It merely requires us to use the technology we have available to us now—for instance, insulating our homes, using heat pumps, and installing flue dampers on furnaces.

In the future, as investments in alternative energy sources lead to lower unit costs and as the price of conventional fuels makes other alternatives more competitive, we can conserve through new technologies—through expanded reliance on solar energy for space heating and cooling, through wind and hydro energy, through alcohol fuels, through synthetics and through other mechanisms now on the drawing boards. But to accomplish that conservation we need money; money to spur private investment in commercialization programs and money to encourage people to invest in conservation. The Senate Finance version of the windfall profits tax does not generate enough money to allow us to do what we need to do. For example, the Finance Committee recognized a need to use tax breaks as a way to encourage people to install conservation devices. In their deliberations they decided, at one point, that a 50-percent tax break would get people to use existing residential conservation techniques like insulation. But, as they came to the end of their discussion they recognized that with the revenues they were producing, they could not afford to move the tax break up to 50 percent. As a result, they retained the current 15 percent rate and simply expanded the list of items that would qualify for preferential tax treatment. That decision reduces the value of the program—and it can be corrected if we raise more money and use it to encourage people to take active steps to conserve.

The President recognizes the importance of this bill. His initial proposal was adopted, virtually intact, by the House. But now the Senate is whittling away at the President's bill in terms of both its revenues and its expenditures.

I fear that, if a sustained amendment-by-amendment effort is not forthcoming from the White House, then the President will have lost an opportunity to use the leadership potential of his office and the Nation will have lost an opportunity to preserve its independent future. The President and the President alone can dramatically and effectively link the struggle in Iran with the struggle on the Senate floor to provide the funds for energy independence. Those funds, to free us from the ongoing threat of the foreign oil weapon, can only come from a strong windfall profit tax.

In different times, I might not be urging us to approve a strong windfall tax. In different times, I might give more weight to the arguments being advanced by those who oppose a strong tax. In different times, I might urge restraint in the face of proposals designed to remove billions of dollars from the private sector and filter them through the public sector. But these are not different times. They are times in which Americans are held hostage in Iran and America's future is held hostage to the political and economic interests of other nations. In these times, there is no alternative but to adopt policies which set us on a path toward energy independence and economic self-sufficiency.

What happens in Iran over the next few weeks will test our will as a great nation—and what happens in the Senate in the days ahead may help determine if we will be able to survive as a great nation. No one knows what the events in Iran will bring. But the votes in the Senate on windfall profit will either bring us to the beginning of a solution or they will leave this Nation hostage to the oil-producing nations of the world—nations which can, at any time they choose, endanger our citizens, threaten the independence of our foreign policy, and turn the screw one more time on our economy and our way of life.

I thank the Chair. And again, I thank my friend from Wisconsin for yielding me the additional time.

Mr. PROXMIRE. Mr. President, I commend the Senator from Michigan (Mr. LEVIN) for a very thoughtful speech. I hope other Senators have an opportunity to read it. The Senator does not ask to punish the oil companies and he does not say the profits are bad. What the Senator does say is that this is the most constructive and effective way that we can secure greater energy for our country over the long run. It is an excellent and thoughtful speech and I hope it is read by other Senators.

SPENDING SPREE AT CLARK AIR FORCE BASE

Mr. PROXMIRE. Mr. President, I am presenting my "Golden Fleece Award" for November to the Air Force for a last minute $715,000 spending spree at Clark Air Force Base, the Philippines, which was designed to use up all available funds before they expired with the new fiscal year. Among the items obligated during a several day period at the end of September, 1979, were $20,000 for new television sets and fans, $9,000 to resurface four tennis courts, $45,000 for supplies and for cleaning of the base swimming pools.

Consider the dilemma Air Force budget officers at Clark Air Force Base faced late in September 1979—only days before the fiscal year expired and thousands in defense funds remained unobligated and unspent. If these funds were not obligated, then they would lapse back to the Government. Future budgets for Clark Air Force Base undoubtedly would be reduced. The solution? Spend the money as fast as possible. And that is just what happened.

According to the local base newspaper which carried the story in glowing headlines, Air Force budget officers were told to spend tens of thousands on any program that would help people. The civil engineering, morale, welfare and recreation, base services, security police and maintenance people were contacted and told to make up lists of items for expenditures.

They worked late on September 28 and throughout the weekend in a patriotic attempt to find a way to spend these embarrassing funds on hand. The "can do" attitude prevailed. All the funds were obligated. Here is how they did it:

New dormitory furniture was ordered for $333,200; $20,000 was set aside for 30 new color television sets and 40 fans. The fans were back ups for the air-conditioning units. Of course, they also bought 184 new window air-conditioners to replace older models throughout the base at a cost of $78,700. The civil engineers did their part by obligating $25,900 for new wall and floor coverings for the dining hall and $9,000 to resurface four tennis courts.

The morale section found a use for $115,000 to purchase new furniture for the John Hay Air Base recreational cottage while $45,000 was allocated for supplies and cleaning up of the base swimming pools and for pool furniture.

The security police chipped in by accepting $30,000 to improve living conditions by purchasing new refrigators, televisions, stereos, jungle fatigues, boots and berets.

The maintenance department did not let down on its obligation. They needed $35,400 for boots, tools and microwave ovens.

According to the base newspaper, Col. Thomas McInnerney, 3d TFW commander, stated that this was the finest team effort on the part of base personnel that he had ever seen to use year end money to directly support people. He is quoted as giving a hats off to the base supply, procurement, civil engineering, maintenance and comptroller divisions for the extra effort they put forth.

The Air Force was exercising that old bureaucratic imperative—use it or lose it. There is nothing worse than not being able to spend the Federal funds that have been allotted to a department or agency base. It is unthinkable that anything be given back or spent on more pressing national security items.

The Pentagon tells us that just one more penny cut from their budget would result in a drastic reduction of the muscle of our military forces. Certain Members of Congress demand that more defense spending occur and deny that savings can be made. They bemoan the state of U.S. defenses.

Well, here is just one more example of money being spent for the sake of spending. Did we improve our readiness? Did we add any fighting capability? Hardly! Perhaps there was a positive effect on morale. Who would not like new televisions, refinished tennis courts, new furniture and all the other trimmings. But who would argue that this spending was essential.

In fairness to the Air Force, I would like to point out some of the arguments they use in justifying these last minute expenditures. They say that they spent most of their money on mission essential items earlier in the year and waited until the last minute to buy many other things. They also argue that a congressional supplemental came late in the year and they had to rush to obligate all of it. And lastly, it should be noted that the Air Force stresses spending on personnel-oriented objectives and that most of this spending at Clark Air Force Base was designed to help Air Force personnel. Last year the Air Force had $1.3 billion in unfunded operation and maintenance requirements.

FAILURE TO RATIFY THE GENOCIDE CONVENTION: A NATIONAL DISGRACE, A POLITICAL LIABILITY

Mr. PROXMIRE. Mr. President, on November 15, 1979, Bruno V. Bitker testified before the Human Rights Subcommittee of the Senate Foreign Relations Committee. Mr. Bitker, a Milwaukee attorney, has long been active in the crusade to protect human rights. He has previously testified before the Foreign Relations Committee in 1970 and 1977, both times concerning the Genocide Convention.

What is the dominating theme of Mr. Bitker's testimonies? What is the reason he has so ardently fought for the ratification of the Genocide Treaty?

There is a simple theme—the Senate has a duty to ratify the Convention. There is a simple reason—the United States has jeopardized its role as a beacon in the field of human rights.

Without doubt, our failure to ratify the Genocide Convention has resulted in many questions about America's credibility as a moral world leader; 83 nations have ratified the Convention and now frown on our unwillingness to do the same.

In the following passage from his latest testimony, Bruno Bitker summarized the ill effects of America's inconsistent stand on human rights:

> In our foreign relations, in every international organization in which we are a party, our inexcusable failure to ratify the Genocide Treaty has been and continues to be the basis upon which we are accused of hypocrisy on our claimed leadership in the world community respecting human rights.

Why do we allow such a political liability? Why do we tie our own hands by failing to ratify the Convention?

American diplomats have been greatly frustrated by the Senate's stand on this issue. As former U.S. Representative to the United Nations, Charles W. Yost, explained to the Senate Foreign Relations Committee:

> No question has ever been asked me about the policy of my country which has been more difficult to answer than questions about American inaction on this convention.

Morally and practically, it is of utmost importance that America strongly declare its support of the most basic of all human rights—the right to live. I ask my distinguished colleagues to ratify the Genocide Convention.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

VITIATION OF ORDER FOR RECOGNITION OF SENATOR LEVIN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. LEVIN be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 3919, which the clerk will state.

The legislative clerk read as follows:

> A bill (H.R. 3919) to impose the windfall profit tax on domestic crude oil.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 680 (AS MODIFIED)

(Purpose: To provide incentives to United States oil producers for international exploration)

Mr. JAVITS. Mr. President, I should like to proceed to discuss amendment No. 680, which I introduced last night and which is sponsored also by a number of other Senators—Senator BRADLEY, Senator STONE, Senator KENNEDY, and Senator PERCY—not necessarily in the order set forth in this statement, but these are the five sponsors.

Amendment 680 would provide an authorization—I emphasize that—an authorization, subject to appropriation, of $1 billion out of the proceeds of a tax provided by this bill. The $1 billion would be used under terms and conditions specified in the amendment, to the extent that there may be qualified projects, for the purpose of aiding in the development of new sources of oil through drilling and exploration in developing countries other than the OPEC countries.

Let me repeat that: The amendment would provide an authorization, not an appropriation, subject to appropriation at a future date, of $1 billion out of the proceeds of this particular tax package for the purpose of assisting, under conditions specified in the amendment, the exploration and drilling for oil in less developed countries of the world other than the OPEC countries.

The reason, Mr. President, that I put this amendment forward with my colleagues is two-fold. One, we need new ideas. I hope we are not going to just try an energy package which is devoid of new ideas. This is one of them. It is a fact that the World Bank carries on a comparable program but, as I shall develop shortly, that program is inadequate to the situation and, as we have the most burning interest in this matter of increasing the aggregate supply of oil in the world, we think—that is, my sponsors and I—that it is proper for us to take a hand in this situation.

Second, we are not alone in this. Other countries are doing it, notably Japan, which is in it big, as are France and other countries. It is a new idea in this bill, but it is not a new idea in the world.

Third, the amount of new oil which will be produced under the most optimistic circumstances for conservation, which we are pursuing, albeit not adequately by far, the encouragement of new drilling, tertiary, now we have exempted the 1,000 barrel-a-day independent producers, and so on, the rosiest estimates, run up to a million barrels a day new. That will still leave us very much on the import line and it does not look like we can get out of that until synthetics and the effective use of coal come, on which the estimate generally is 5 to 10 years. So we are going to be importing for a considerable time to come.

Right now, we are paying through the nose, with great danger to the world economy. We have now learned that the best way to reduce the price of oil is to increase the supply, because the prices stabilized when there was a glut of oil and there were no price rises. But the minute the shortage came again, emphasized and further deepened by the Iranian situation—that is, when Iran was off the market for a time entirely—prices immediately escalated and they remain escalated.

Last, and very importantly, these very less developed countries where we should help exploration are also consumers of oil and they are buyers in the market. This year, the estimate is that they will spend $30 billion excess for oil. That is compared to our $70 billion, but 30 is not an unappreciable figure. So, even if all we did was to enable many countries to supply themselves or to supply some neighbors, it would still be extremely helpful to us. That is the rationale for this amendment, which is based upon the fact that the findings—not mine but of the experts and I am going to develop that—are that about half of the world's oil remains to be discovered in terms of reserves and that these reserves are in these very countries which this amendment seeks to reach.

The reason I emphasize all these things, Mr. President, is, one, that this amendment is not designed to make us more dependent upon foreign oil. We are dependent already and we are going to continue to be. This amendment is designed not to adventure in a blind area but to pursue an initiative which has already been undertaken by the World Bank and by other countries. If we find that it does not have great potentiality, there is nothing in this amendment that says we have to spend the money. But if we find it does, we may decide that $1 billion is completely inadequate and that we really ought to go at this thing in a big way. At least, we shall try it out. Considering where we stand, with a $70 billion payout that we are going to have this year, which we simply cannot maintain, we cannot allow any area to remain untried, especially one which already has a track record like this one.

I said, Mr. President, that it is not just I who have invented the fact that there is pay dirt in this particular line. The General Accounting Office, in a report made in 1978, states:

> We question whether United States policy has adequately recognized or addressed the opportunities for oil development in non-OPEC countries to increase general world supplies in which the United States could share.

Then it goes on to say:

> We believe there are opportunities to encourage development in non-OPEC countries and, at the same time, tie such new sources to the United States.

That latter statement is a very important one, because that is exactly what is being done by Japan. We all know the tie between Japan and Indonesian oil, where it has exclusivity. Other countries are going to do the same thing.

I ask unanimous consent to have excerpts from this report printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See ehxibit 1.)

Mr. JAVITS. Mr. President, we are not in this game at all. We are not only prejudiced by an endemic problem, which bears a lot of discussion here—the problem that the largest U.S. oil companies are still the channel through which OPEC oil is distributed, because of their relations to the OPEC oil producers over such a long period of time—are still representing the producers, not the consumers. That is the reason for all of the agitation about a national oil company or a national agency to buy all the oil that we buy from abroad. It is simply because we do not feel and I do not feel that the orientation of our oil companies as yet—is still with the producers, as it has been for decades, rather than with the consumers, to wit, ourselves. This is a way in which that problem also can begin to be dealt with.

That is the General Accounting Office. Also, we have a report from the Congressional Budget Office, dated January 29, 1978, entitled "A Strategy for Oil Proliferation, Expediting Petroleum Exploration and Production in Non-OPEC Developing Countries."

Mr. President, I believe that very few Members know these reports exist. I hope very much that Members are listening and that when they come to the floor to vote they will have this basic information, whatever their vote may be. I have been here long enough to know that whatever it is, it is. But at least they ought to know the basis upon which the group associated with me is putting this matter forward.

Here is what they say:

> For five reasons, the Strategy for Oil Proliferation clearly deserves serious consideration. First, a good chance exists for moderately increased petroleum production in the non-OPEC developing countries. Second, there will be restraints to adequate investment by private companies, private banks, and host governments. Third, the U.S. can, through an intelligently administered program, benefit from increased production in developing countries. Those benefits include the diversification of and, therefore, increased security for oil imports plus the possibility that competition might slow OPEC's price increases and, thereby, lower U.S. oil import payments. Fourth, it would make economic sense to exhaust opportunities to profitably produce oil at $15 to $20 per barrel in developing countries before investing in inevitably more expensive synthetic fuels within the U.S. And finally, because Japan and Western European governments appear to have the capacity for active worldwide involvement, the U.S. must determine whether it will be "squeezed out" of a future international oil market where all oil production is marketed on government to government contracts complete with barter deals.

That is the Congressional Budget Office, January 29, 1979.

Mr. President, I ask unanimous consent that the entire report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PERCY. Will the Senator yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield to Senator Percy without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I am very pleased to speak on behalf of the pending amendment.

I suggest that it be very seriously considered by the distinguished managers of the bill.

As I have looked at it, this amendment fits in, with the overall objectives of consumers and producers, whether those producers are oil companies in this country, or whether they are OPEC oil producers. Everyone will benefit by this possibility, provided it is prudently carried out. Certainly, I assume the Secretary will carry out a prudent policy.

What we are after is, part of the 50 percent of the world's reserve that have not yet been discovered. It is probable that, at least 10 percent of the as yet undiscovered oil exists outside of OPEC countries, North America and the Soviet Union. Some geologists are even more optimistic and estimate higher worldwide reserves and a higher percentage of these reserves in non-OPEC, less developed countries.

Some of this oil will be economically attractive to private investors, to explore and develop at world prices over the next 5 years. But for other areas, there are serious impediments to exploration, and additional incentives must be offered. The impediments include:

First, lack of geologic information;

Second, political uncertainty including government instability, the threat of complete or partial expropriation, currency problems;

Third, lack of physical and social infrastructure (roads, ports, pipelines, worker availability).

For all these needs, the amendment by Senator JAVITS is of invaluable assistance.

Even from the standpoint of the OPEC countries, this amendment would accomplish something that cannot be accomplished in other ways. These nations are asking us to restrain our consumption. They have indicated clearly to Secretary Miller on his present Middle East trip, that they wish to cut down the amount of oil they deliver to us. It is in their interest to leave the oil in the ground to the maximum extent they can. So of course, any oil discovered elsewhere will help these countries meet their objectives.

This is not a confrontation with OPEC. They want us to cut consumption of their oil and find other sources of supply. This amendment would help us do exactly that. The OPEC countries, particularly the Arab OPEC countries are in a peculiar position. They have been asked by all of the producing countries, including Pakistan, Bangladesh, and India, just to name a few, to take into account the fact that oil prices are killing them, that all of the aid being offered by developed countries to developing countries is being wiped out by the increase in the price of oil. They cannot develop their economy with the present cost of oil.

The developing world is asking OPEC to give them credit, two tier pricing, anything that can help them.

But how much more direct it would be to encourage these developing countries to discover oil and gas in their own territory, so they can supply their own needs, and, hopefully, even become exporting countries themselves one day.

This would help OPEC. This would help the world supply of many resources. This would help lessen the price pressure that stems from the existing scarcity in supplies.

We can be sure that American oil companies will benefit from this amendment because it will open to them new potential markets, markets that may now have political and economic risks too great for the private sector today to absorb.

We must recognize that it is often better to trade than it is to aid. We have often been willing to help countries with programs that have become increasingly unpopular. We have been willing to help them with aid. We would prefer, and they would prefer, to have trade. They would prefer to have a product they can sell, rather than mere aid, which does not build a permanent, lasting relationship.

I see on the floor the distinguished chairman of the Near Eastern and South Asian Affairs Subcommittee of the Foreign Relations Committee (Mr. STONE). He knows those parts of the world that so desperately need assistance—Bangladesh, Pakistan, India. Those countries really would welcome with open arms the opportunity to be backed up and supported by this country with windfall profit proceeds if they would enable these nations to have their own sources of energy, not dependent on OPEC.

This amendment opens up a new opportunity for trade with developing countries. Having helped them discover their oil resources, we can help bind our relationships with these countries, which seem to be drifting further away from us.

From every standpoint—the American consumer, the American oil producing companies, the OPEC producing countries, and the developing world, the pending amendment authored by Senator JAVITS, of which I am proud to be a cosponsor, seems to make great sense.

I hope the entire Senate, and the managers of this bill, will see fit to think through whether this is a valuable amendment, consistent with the very best patterns of foreign policy and domestic policy that we have had for better than 30 years. This is really a way to look ahead imaginatively to the kind of world we want to shape in the future. I think it is one of the best expenditures of money that can possibly be made.

I thank my distinguished colleague for yielding to me on this very important amendment.

Mr. JAVITS. I thank my colleague very much for his intercession, which is extremely helpful, particularly on the new point he emphasized, and which I would like to underline—that is, that this represents trade, not aid. We are learning now, the hard way, how the developing world wants to be helped, rather than the way we imagine they want to be helped—to wit, to build up their own resources.

Here is an ideal opportunity, as the Senator has wisely noted, where they can be given the opportunity for self-help, the best kind of aid there is.

I thank my colleague very much.

Mr. President, I ask unanimous consent that, under the same conditions, I may yield to the Senator from Florida (Mr. STONE).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STONE. I thank the distinguished Senator from New York, who has submitted the amendment of which I am a cosponsor.

Mr. President, some months ago, an ambassador of a South American country, a fairly poor country, visited me and asked what I would advise him that would help him get the attention of the U.S. Government to assist his country, which was in great and dire economic stress and need.

Without being facetious, I said:

> How about finding some oil?

The Ambassador said to me:

> We really are trying to find some oil, and we have one of your major companies looking offshore. We are not far from Venezuela, and therefore they think some of the basins that they are tapping may possibly have some ramifications offshore in our area, or even onshore, but we are short of credit. We have no credit.
>
> We can't develop, other than to just put out a franchise and let one of your majors develop. We can't get any of our own or any other companies or countries to help us look for this oil we think we have.
>
> But I can't agree with you more, that if we had a little oil, we would have your attention.

Several months ago, officials from an African country, one of the few that support United States policy in the Middle East, visited me and asked the same question and got the same answer; I said the same thing.

They had one American company in there, looking. There were some good indications. But in order for them to survive, they had to turn to some of the rejectionist countries which were quite willing to use the oil weapon on them, where they were not capable of using it on the developed West or on the United States.

They were in a very shaky position and wanted very much to have some more oil, to develop more oil. Even that country, which has enough oil for its own consumption, has no refinery. It cannot take care of itself and has to turn to overloaded facilities elsewhere in the region and in the world in order to get back some of its own oil in products it can use. Those are two countries.

What about Guatemala, right on the edge of the Mexican fields, right on the edge, where there have been some new indications of major finds? Is the credit of Guatemala equal to the credit of Mexico? No, it is not. Yet, Guatemala has some oil, and it could produce some oil. It is not a member of OPEC, nor are either of the other countries to which I have referred. So there are three.

What about Thailand? Thailand—a very fine ally of the United States, one which deserves commendation for the role it is playing in helping the Cambodians to keep from starving out as a people—just discovered some gas offshore. It is going to be a very major factor to have that gas, not only for its own self-sufficiency but also in terms of the consuming pressure that it will not have to put on the world supply of oil because it found gas. Would it not be nice if we could help them develop their find and their discovery and their piping it ashore, so that we could accentuate that trend of taking buying pressure off these world supplies, so that more would be available and less price pressure would be exerted on the part of the OPEC countries?

Would it not be nice if we could obtain a world supply-and-demand picture similar to that which took place off the coastline of California a little more than a year ago, when, because a little excess Alaskan supply came down the coast, the ships of the world pulled up to the Port of Los Angeles and the Port of San Francisco to buy oil at a low price? A little extra supply in the world market, and that price comes down.

The opposite side of the coin should be looked at, along with the side of the coin that everybody knows. The side of the coin that everybody knows is the demand for oil and gas. Regardless of the price, there is not much extent to which you can change the minimum use of oil and gas. People have to have it; and even if it costs more, they will have to have it.

Yes, we can get some conservation with some higher prices, but there is a minimum. Everybody knows that side of the coin—the inelasticity of demand for oil and gas in the world and in this country.

But what about the elasticity of supply-price relationships? That was shown when there was a little excess supply on the west coast, and the price came tumbling down. That is true, too. therefore, getting more production in this country, and particularly in the countries that are not members of the OPEC oil cartel, is one of the major answers to the next 20 years of economic problems that we face. Conservation, yes; but production, yes. Production where? Production everywhere there is not an enlisted desire to cartelize the source of production and supply of oil and gas.

Therefore, this very modest amendment—but one which is very vital—can help us and help our friends, not only in the developed world but also in the Third World, everyone who is not a member of OPEC.

As Senator PERCY correctly pointed out, it even helps OPEC to a certain extent, because they are always concerned about how long their resource will last. That is why there is a debate as to whether to leave it in the ground or to sell it. But particularly does it help those of us who are insufficient in the production of our own oil, and that goes for the developed and undeveloped world outside of OPEC as well.

What better way to get this production than to help finance it on a business basis? Once we have the ability to extend credits of this type, there is no reason why we should not bargain for our fair share, in kind, of any discoveries, over and above that which the local country may need to take care of its own domestic uses. Why should we not become a preferred customer in a situation in which we helped finance the development of the resources? I think that could well follow.

Our companies are going all over the world to help develop these resources. I have a list here, prepared by the Mobil Corp., of their involvement as well as that of other private companies, in the exploration, production, and development of the resource in Central and Latin America, Europe, Africa, and the Far East, which designates not only the region but also the makeup of it. It has Arab and non-Arab descriptions, so we can know exactly where they are operating and what they are doing. The letter is addressed to the administrative assistant to Senator KASSEBAUM, and I have a copy of it. I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MOBIL OIL CORPORATION,
New York, N.Y., September 7, 1979.

DAVID BUSHONG, Esq.,
Administrative Assistant to Senator Nancy Kassebaum, U.S. Senate, Washington, D.C.

DEAR DAVID: Now that the Senate has reconvened, I want to bring you up to date as to the extent of American company involvement in non-Arab, i.e., non-Persian Gulf Arab, countries and non-Communist countries.

At the present time, American companies are exploring for oil and gas in 68 of these foreign countries. In addition, American companies have production in 22 of these countries.

While these numbers are impressive, additional information on some of the more active areas tells an even more impressive story. These areas include:

North Sea.—A major exploration effort here has raised oil production to 2.1 million barrels per day. Although very little of this crude comes to the U.S., it reduced N. W. Europe's dependence on Middle East crude. American company participation in the North Sea has been most significant with 75 active companies. These include Mobil, Exxon, Texaco, Gulf, Socal, Arco, Conoco, Getty, Phillips, Marathon, Standard of Indiana, Union Oil of California and many others. Of the 2.1 million barrels per day, 45 to 50 percent is owned by U.S. companies.

Indonesia.—During the past few years this area has become an important source of oil and gas, mostly to Japan but partly to the U.S. American companies which operate here total 31. Oil production is 1.6 million barrels per day and gas production is 2.7 BCF per day. Again, although most of the production is exported to Japan, it reduces dependence on Middle East crude.[1]

Nigeria.—Nigeria is the second largest foreign supplier of oil to the U.S., second only to Saudi Arabia. Nigeria produces 2.1 million barrels per day, of which almost 1 million per day is shipped to the U.S. American companies were instrumental in generating this supply. American companies with production include Mobil, Gulf, Socal, Texaco, Ashland, Marathon, Phillips, Sun and Tenneco.

Canada.—American company participation in the Canadian oil and gas industry has practically provided the cornerstone for oil and gas development in Canada. Oil production is 1.8 million barrels per day and gas production is 7 BCF per day. The U.S. imports almost 200,000 barrels per day. Natural gas is imported from Canada in the amount of 2.5 BCF per day and this is expected to increase in the future since Canada has an abundance of natural gas and wishes to export a portion of it.

Latin America.—Oil and gas exploration activity in Latin America is accelerating after several years of minimal activity. Venezuela was very active in the 1950's and now produces 2.1 million barrels of oil per day. About 250,000 barrels per day is exported to the U.S. American companies were very instrumental in generating this production, and a number have Technical Service agreements with Government currently.

Recent exploration is being concentrated in Brazil, Argentina, Colombia and Peru plus reactivation in Venezuela with over 67 American companies being involved.

Clearly, U.S. companies have been instrumental in significant foreign oil and gas exploration in many foreign areas beyond the Arab countries. In addition, this activity has generated substantial production volumes as illustrated above.

I am enclosing the list of the 68 non-Arab and non-Communist countries. I am hopeful that this information will be helpful to you and the Senator in the upcoming discussions regarding U.S. energy policy and involvement of U.S. international oil companies.

If you have any questions, please do not hesitate to call me.

Sincerely yours,

ED HENNELLY,
General Manager.

U.S. COMPANY INVOLVEMENT IN FOREIGN OIL EXPLORATION AND PRODUCTION

CENTRAL AND LATIN AMERICA

Argentina, Bolivia, Brazil, Chile, Colombia, Dominican Republic, Ecuador, Guatemala, British Honduras (or Belize), Honduras, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago.

EUROPE

Austria, Denmark, France, Germany-West, Greece, Greenland, Ireland, Italy/Sicily & Island, Malta, Netherlands, Norway, Portugal, Spain, Turkey, United Kingdom.

AFRICA

Angola/Cabinda, Cameroon, Central African Empire, Chad, Congo, Egypt*, Equatorial Guinea, Gabon, Gambia, Ghana, Kenya, Ivory Coast, Liberia, Mali, Mauritania, Morocco*, Niger, Nigeria, Senegal, Seychelles, South Africa, Sudan, Tanzania, Tunisia, Zaire, Angola**, Libya.**

FAR EAST

Australia, Brunei, Indonesia, Japan, Malaysia, New Zealand, Pakistan, Philippines, South Korea, Taiwan, Thailand.

Mr. STONE. So, briefly, to have many more Mexicos, nonmembers of OPEC who are finding and selling on the world market and to us more and more oil and gas all the time, to have more Guatemalas, to have more Sudans—that is the country I was naming—and other such countries, that can make real contributions not only to themselves and their own survivability, not only to the developing and developed world, but to us and to do it through private enterprise to the maximum, I urge the adoption of this modest, but very effective amendment and more than just in this amendment, I urge that we all turn our attention amendment by amendment, issue by issue, to the question, Can we get more oil and gas developed for the world in the next 20 or 30 years by what we do here because in the end we not only need revenue, we need production?

And the voting that this Senator has done has been in an attempt in support of the Finance Committee's efforts and others to balance the need for revenue and the need for energy production, both goals of which are valuable to this country and the ignoring or overcoming of one at the expense of the other or to the exclusion of the other is not good policy.

This amendment and others like it fit, and I urge that we keep that in mind as we try to adopt this and other amendments like it.

(Mr. DECONCINI assumed the chair.)

Mr. JAVITS. Mr. President, I wish to thank the Senator very much for what I consider to be an extremely valuable contribution. I will be bold enough to say that if this amendment carries, it will be mainly because of the argument just made by Senator STONE for he has touched the source of my interest. I have no interests statewide or personal in any way in an amendment of this kind. But my experience in the foreign policy of our Nation for so many years led me to this conclusion that the Senator has validated with specific reference to specific countries.

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[1] U.S. Government approval is pending for approval of project to import about 600 million cubic feet daily of liquified natural gas from Indonesia.

* Arab but non-OPEC member.

** Arab but non-Persian Gulf.

I might say, also, on the letter which the Senator has read from Mobil Oil, the amendment is very careful to say that if the development in a desirable project can take place in any other way, of course it should, without in any way using this amendment. It also provides that whatever funds are made available under this amendment may be used in association with private funds, with multinational funds, with funds of a host country. The amendment is completely flexible on that score.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. STONE. Is it not true that a lot of times a host country needs to have some of its own contribution to the development of an oil or gas resource, that it cannot totally turn the whole thing over to an outside company, and is it not the case that a lot of times this occurs in third world countries too poor to have the matching money and, therefore, they have to make the kind of deal that gripes them and then over a period of years to look for ways to cancel it or confiscate it or do the kinds of things that gives us problems then for decades?

Mr. JAVITS. The Senator is exactly right. May I point out also to the Senator, which I understand from my staff is a matter of his own interest, the deal just made with Mexico by the national oil company of Japan. I have mentioned Indonesia. They have done the same thing in Mexico.

It is amazing to me, and this is the reason why I joined with Senator LONG and other Senators similarly situated in striving so hard for exports, how we are constantly bested in the world because we have personal hangups or national hangups about what government can do with business. This would be an ideal example. I might say that the path has already been trod by the World Bank. I will get into that and why that is inadequate.

Also, OPIC, the Overseas Private Investment Corporation, can insure against political risks but again not adequately, to the size of the projects which must result. It is very, very expensive to drill wells. They are limited to $50 million in any project and $100 million in any country. According to present costs that amounts to three or four wells. That is hardly a beginning.

Then we have a record of many countries which look promising on the geology but in which there was no pursuit of the proposition because it was marginal. But as far as we are concerned as a U.S. Government there are marginal projects which we would be very interested in having pursued. Hence, this amendment.

So again I thank the Senator from Florida very much. From his experience as chairman of our Committee on the Middle East and Africa, he has produced cases which are very relevant and I hope very much that Senators will be instructed by his excellent remarks.

Mr. President, to continue with my own statement, I mentioned a while ago that we would have to depend upon imports until substitutes or synthetics and various variations of coal use came onstream which is hardly expected for 5 and probably 10 years.

I have before me now the production estimates of the Congressional Budget Office in terms of millions of barrels per day. Now U.S. uses today is something near 19 million barrels a day. The Congressional Budget Office estimates, and by the way this is not contradicted by the Department of Energy, which I understand generally agrees with these findings, that in 1985, 5 years from now, we will have 6½ million barrels per day of production.

We have more than that today. Today we are producing about half of the oil which we consume. This would be less than half, about a third. The reason is that our own supplies are running out. Our own wells are running down—we all know that—because of the very minor production in individual wells. We consider in this country production of 100 barrels a day per well as big.

I saw a well in Saudi Arabia that has been pumping since 1936 or 1937 that was still producing to this day or could produce 3,500 barrels a day. That is the difference, Mr. President. And that is why these figures are so disconcerting.

The same Congressional Budget Office estimates that by 1990 we will be producing less oil than even in 1985, to wit, 6.3 million barrels a day.

Look at those estimates with the estimates of what decontrol with no tax at all would produce, because that is what we are legislating about here, the results of decontrol, the Congressional Budget Office estimates that in 1985, with even estimating maximum production at no tax, as a result of decontrol, we will be producing 7.3 million barrels per day, at the very best conservation and all. That is less than half of what we consume. And CBO estimates that in 1990 that 7.3 million even with maximum possible production under decontrol will have gone down to 6.6 million barrels per day.

So, Mr. President, anything that we can do to enhance the supply in the world becomes critically important.

Mr. President, I made the point when I began that the real way to affect prices in the OPEC cartel, which from all we can see still has us in its grip at least for the next 5 years, is to increase the supply which can be increased either by conservation and/or by an increase in production. We saw, as I said, an example when Iranian production came on stream again having ceased in the 1978–79 winter season entirely because of the difficulties in that country we had a very material destabilization of prices.

Now Mr. President, now that that has gone off stream to some extent we again have this tremendous escalation in spot prices which keep much of the world oil market at a much higher figure than the official OPEC price.

Mr. President, I mentioned before the strain upon the developing countries. The World Bank has estimated that oil importing developing countries will need about $250 billion in 1979 dollars 10 years hence to pay for their basic petroleum needs.

Right now, as I said a minute ago, it is $30 billion.

Now, Mr. President, it is beyond the imagination that these developing countries, without some very significant help of the kind which I am describing in terms of their own production, can muster the needed foreign exchange for this purpose.

It was mentioned here a minute ago as to what we could expect as a new possibility from the developing countries other than the OPEC countries, and I would like to now proceed to discuss that situation.

The already discovered oil reserves of the world to date equal approximately 1 trillion barrels, of which 55 percent are reserves in the Middle East and North Africa; 20 percent are reserves in North America, which would include Mexico, the United States, and Canada; 10 percent are in the Soviet Union and Eastern Europe; and 10 percent are in the non-OPEC less developed countries.

The conventional wisdom among conservative geologists, as cited by the Department of Energy in their 1979 report, which I have already put into the RECORD, is probably on the order of 1 trillion barrels in addition to the 1 trillion barrels already discovered. That is as much oil as we have already discovered in reserves and remains to be discovered.

The same estimate says that from 10 to 40 percent of this undiscovered oil, are expected to be located in less-developed countries outside the Middle East.

A very distinguished geologist, Dr. Bernardo Grossling, in work for the World Bank, indicated the serious possibility that even these estimates are too low by a factor of two or three; in other words, instead of 1 trillion barrels to be discovered there may be 2 or 3 trillion barrels to be discovered and, indeed, with that possibility need to be unearthed in exactly the same kind of program which this amendment calls for.

One other thing which is very important: Where OPEC controls oil they have the argument, and we hear it every day, that it is much more promising for them to keep it in the ground. They have small populations, they realize oil runs out, but the market may be limited to 10, 20, 30 years and, therefore, they have got money in the bank if they keep it in the ground.

However, new reserve additions in other developing countries do not have that inhibition. For one, they would be totally new and, hence, the runout time is considerably extended.

Second, these countries very urgently need the income which will come from oil. As a matter of fact, they are strangling now with what they have to pay for the oil they simply have to buy. They will have the inducement to sell their oil rather than to keep it in the ground and, therefore, the possibility of exploration in these areas becomes a greatly enhanced and much more attractive possibility.

Right now another question to which I would like to address myself is: What are the oil companies doing? We have the letter introduced by Senator STONE, the letter from Mobil, and I would like to develop that subject. The oil companies are now seeking host countries with a stable combination of resource base, that is, the possibility of finding oil, and technical, managerial capability. While financing and access to markets in the industrial countries have traditionally been supplied by the international oil companies, the goal of host governments and of these multinational companies often conflicts.

The companies generally are seeking a long-term source of crude for their own markets at a favorable rate of return on investment, with reasonable company control over the conduct of the operation in the host country, and acceptable levels of political and commercial certainty.

Host governments, on the other hand, are generally seeking revenues, national control over their resources, and an accelerated development of their capability, generally through the vehicle of a national oil company.

Now, these come into conflict, and while arrangements between governments and private companies are possible, and are often made, certain factors can inhibit oil exploration entirely.

The Department of Energy report to which I have referred has summarized the situations, and I would like to do them country-by-country, as follows: Exclusionary host government policies, including the total exclusion of private companies, as is the case in India and Mexico, or, more subtly, favorable treatment of the host government's own national oil company in terms of access to resources.

Second, boundary disputes which have precluded any significant activity in a number of promising areas. Among these are offshore areas from the Yellow Sea to the South China Sea off the People's Republic of China; in the Gulf of Suez, which is now in controversy as between Egypt and Israel and private companies involved there; in the Falkland Islands, the northern Aegean, and on the Libyan-Tunisian border, as well as in other areas.

Then there is the problem of political instability which has prevented significant levels of activity in Lebanon and South Yemen, and limited activity in Angola, Chad, Vietnam, Afghanistan, Bangladesh, Zaire, the Philippines, Ghana, and other countries.

Then there are nationalizations and confiscations and contract abrogations. We had a very signal example of that in the so-called IPC, the International Petroleum Corporation, in Peru, which hung up development there for a long time.

Finally, smaller discoveries in developing countries, particularly those located a distance from ports, rivers, or other good sites for exports may be considered uneconomical by the oil companies, but because they have the potential to supply a significant share of the local oil needs of a host country may be of great importance as far as the United States is concerned, and we would be enabled by this amendment to take a hand in their development because such oil production locally would displace a comparable volume of imported oil and thus have a beneficial effect on the world oil balances and prices.

I ask unanimous consent in this connection that a table prepared by the Department of Energy summarizing some of these problems which would be reached by our amendment be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. JAVITS. Mr. President, it is significant also that one of the aspects of this amendment which is important is that it permits political risk insurance over and above what is offered to companies through the Overseas Private Investment Corporation. The Secretary of Energy might, if this program were enacted, wish to let OPIC manage this part of the program, so that they could handle the total guarantee, one part under their own authority and the other part coming out of the Department of Energy. As it stands now, OPIC coverage is too limited for the purpose of maximum development such as I have described. The point which I made a minute ago was that the limitation of $50 million to one project and $100 million to any one country is too low.

There could be an opportunity to expand the likelihood of exploration in countries which have not been adequately explored, by the OPIC guarantee supplemented by this new program.

Second, Mr. President, the funds under this amendment may be used to contribute to international funds that may be set up for investment in the less-developed countries.

Let me, at this point, make clear the situation with the World Bank. The World Bank is in this business and has set aside $3 billion for the purpose of making this kind of loan. The issue is covered in a book published in January 1979, entitled "A Program to Accelerate Petroleum Production in the Developing Countries." By the way, the World Bank has an excellent reputation for being very hard-headed; and, Mr. President, it seems to me that this is very eloquent confirmation of the soundness of the approach we are trying to take today. I ask unanimous consent that pertinent excerpts from that book be printed in the RECORD as part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. JAVITS. The difficulty, however, with simply riding with the World Bank program and not having one of our own is earmarked contributions cannot be made to the World Bank. All contributions, under the World Bank Charter, must be made generally. So what is done with the World Bank is up to it.

That is fine as far as it goes, but the difficulty is that it does not go far enough; and there is also consideration of setting up special energy development funds in regional banks like the Inter-American Development Bank and the Asian Development Bank. If this amendment were enacted, those banks could receive special purpose U.S. contributions. Also, they could go into partnership with some countries which are interested in bilateral funding for other countries in their own regions.

Finally, the program which we have outlined may very well go along the lines of the action by the majority of the Senate here only yesterday, which sought to provide a base of financing for independent U.S. producers, many of them U.S. wildcatters, and enable them to move into less-developed countries, thereby diversifying the number of oil companies engaged in production all over the world and permit entrants into the field not tied to historic connections with OPEC countries.

Also, Mr. President, the amendment would allow some form of insurance, including price guarantees, in connection with oil production against losses by individual companies which cannot be recovered because of host country policies regarding expenses for dry holes or for comparable losses in other nations, which is another discouragement to many oil producers from engaging in this type of exploration.

By the way, in connection with the OPIC insurance proposition—and then I will come back to my last point, which relates to the U.S. Geological Survey—with respect to the OPIC insurance, I would like to present to the Senate the results of a survey made in November of 1978, about a year ago, by me with Senators PERCY and BELLMON. We sent a questionnaire to 30 U.S. oil companies, soliciting their views on the need for political risk insurance to expand their overseas activities, and on the adequacy of OPIC—that is, Overseas Private Investment Corporation—insurance for this purpose. I ask unanimous consent that the summary and the text of the questionnaire be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. JAVITS. Mr. President, of the 30 companies which we circulated 13 responded. Among the 13 were 4 of the 8 largest integrated oil companies with active past or present oil development programs. Those which responded were the following companies: Getty, Occidental, Gulf, Atlantic Richfield, Sun Oil, Tenneco, Marathon, Phillips Petroleum, Belco, Standard Oil of California, Texaco, and Cities Services.

These responses were solicited on the basis of a guarantee of confidentiality. Hence I can give only a summary of the results, and cannot attribute the answers to any particular company. I would like to express here publicly my appreciation to the oil companies which answered our survey, and assure that their confidentiality will be fully respected.

As to the results of the survey: All but 1 of the 13 companies said that political risks were one of the three major factors when deciding whether or not to proceed with an overseas oil project. Other factors cited were tax policy and the question of whether profits would be adequate. All but one company said political risks were very important. Two companies felt that the expanded availability of U.S. political risk insurance would be of significant value in encouraging them to undertake new overseas projects, and to expand existing efforts.

The companies listed 32 projects not undertaken because of political risks. Among them, the companies listed a long list of non-OPEC countries as areas in which they have identified specific possibilities of oil and gas potential whose development would be more attractive if expanded political risk insurance were available. The list appears in the summary which is to be printed in the Record.

Among the countries which are named are the People's Republic of China, Malaysia, Thailand, which was referred to by Senator Stone, Brazil, Sudan, Guatemala, which was also referred to by Senator Stone, and many other countries.

There was virtually unanimous agreement among those who answered as to the inadequacy of the existing OPIC insurance coverage. Particularly, emphasis was placed upon the size of the investment required for oil development and the vulnerability of the discovered reserves to expropriation, which meant that the OPIC coverage was not adequate as far as they were concerned to justify going ahead with these propositions. In addition, they felt that the OPIC rates were too high.

Our conclusion from the surveys were that while OPIC coverage can play a limited role and a useful role in its present form, it could play a far more significant role if the system were made more adequate to what we need; to wit, expanded oil exploration in the world. The provision of this amendment to which I have referred would permit that to take place.

Now, my last point, Mr. President, relates to the U.S. Geological Survey and its international assessment activities.

Five million dollars, or one-half of 1 percent of the amount authorized in this amendment, are set aside for use by the U.S. Geological Survey for international activities.

I might say, in this connection, that the administration turned down the Geological Survey's request for additional resources in fiscal year 1980 for this very purpose. A move which we believe was quite shortsighted, in view of the desire of both the American people and the LDC, the less developed country governments, to have the world renown expertise of the Geological Survey devoted to an accurate assessment of oil prospects. The information from the U.S. Geological Survey, which could be made available both to potential investors and to host governments, is an obvious prerequisite to substantial private investment in previously unchartered areas.

Mr. President, the U.S. Geological Survey is considered to be one of the most reliable of all agencies which can counsel upon this subject. It seems to me, Mr. President, that one of the big benefits which we can get out of this magnificent organization would be to have them provide, rather than to deny, assistance to countries where there is a possibility of finding oil.

For example, I am informed that the following countries have asked for additional U.S. Geological Survey assistance which cannot be provided because of lack of resources: Pakistan, Thailand, Malaysia, Morocco, Brazil, Bangladesh, and also the 12-nation United Nations Coordinating Committee for Joint Prospecting of Mineral Resources in Asian Offshore Areas. This is also an important point with respect to this amendment.

The program which we have suggested has certain major advantages which make eventual private participation in energy development where oil can be found in the world much more likely. First, it builds a local base of scientific information and expertise. Second, it can develop energy when the quantities available are only suitable for internal use. And, finally, in countries where private oil companies are considering investing, this amendment can offer stability and predictability to the companies.

In addition, Mr. President, there are certain priorities of strategic concern to the United States, which can be accomplished through this program and cannot be accommodated by the World Bank program.

The riskiest part of oil exploration, from an economic point of view, is drilling and exploration. The Bank will make $900 million available over 5 years for such drilling. But this should be viewed in light of the fact that tests in hard-to-reach areas can cost $50 million to $100 million apiece.

Mr. JACKSON. Will the Senator yield for a moment on his important statement?

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield to Senator Jackson without losing my right to the floor.

Mr. JACKSON. Mr. President, I want to compliment the senior Senator from New York on his proposal for an international oil supply diversification program. Certainly, the basic purpose of this program—to expand the supply of world oil—would be in the general interest of the United States and all other oil-consuming nations. It would be particularly useful for lesser developed countries who bear a particular heavy burden from the continual—almost unbelievable—escalation of world oil prices.

The Senate may recall that legislation which I introduced in June contains a provision directing the Secretary of Energy to evaluate alternative policies for increasing exploration and production in non-OPEC countries and assess present U.S. initiatives such as those by the World Bank and OPEC designed to encourage new oil discoveries.

Despite my agreement with the general concept of the pending amendment, I believe that it is not the appropriate way to establish such a program. I believe that the substantial expenditures required must be the subject of careful consideration by the various committees involved including the Committee on Energy and Natural Resources.

I will say to my good friend from New York and give him the assurance that our committee will give prompt attention to such legislation. I hope that, in this context, the distinguished senior Senator from New York will withdraw the amendment. I give him my assurance that we will go into that matter very carefully.

May I just add this one further thought: Not only the lesser developed countries, but the advanced countries, like Canada, can play a very important role in our effort to diversify. I think it is one of the neglected areas. Certainly, the action taken by the Senate, which makes it possible in connection with the synthetic fuels program, which the Senator from New York (Mr. Javits) so ably and strongly supported, makes possible that opportunity to work jointly with Canada.

As we turn south of the border, the situation in Mexico likewise calls for a better understanding between the two countries. I feel very deeply that our approach toward Mexico has been wrong. The fundamental point that we have to keep in mind is that Mexico is not going to deal with oil exports in isolation. The United States can play a very important role in helping to make Mexico the promised land for their people, not the United States.

I believe that we can do a lot to help Mexico develop labor intensive industries so that their people can obtain employment there. But if we go about the approach of purchasing oil on an arms' length basis without regard to any other considerations that deeply affect their country, they are not going to participate fully in the endeavor which I think the Senator seeks, specifically to be able to export more oil.

If they are going to export more and more oil without addressing the problem at home, they are going to have more and more inflation. Their answer is, "Why do we want to export more oil when it is going to give us more inflation?"

We need to provide the jobs.

I commend the Senator and I am completely sympathetic with what he seeks to do. I would hope that he would seriously consider the suggestions I have made.

Mr. JAVITS. Mr. President, I have the greatest regard for Senator Jackson. Normally, anything he would ask me to do I would try to do. I cannot withdraw the amendment, however. I will tell the Senator why.

For one thing, a big pot of money is being created by the tax bill before us, and one of the great worries which we all have about this pot of money is how much of it is going to stick to the sides of the funnel before it can be effectively and intelligently used. This is an effort to intelligently use a very small amount of it, I might point out, $1 billion.

We had the amendment at a higher figure but I reduced it because I felt that it ought to qualify on its merits. And then I had no doubt about how much would be devoted to it if it could make the grade. Therefore, why put a handicap in the way of the $5 billion figure, which might appear to some of our colleagues as being too high?

Second, I think it is important, knowing how this place operates, to act while people's minds are concentrated on a given subject. I had an extremely salutary lesson in that in the fact that notwithstanding subcommittee jurisdictions and all kinds of impediments, the House and the Senate acted to give fuel aid to the poor and the President signed the bill yesterday. The Senator from Washington helped me, the distinguished majority leader Bob Byrd helped me, as did the distinguished Finance Committee Chairman Russell Long. Everyone did. We all felt, "Look it has to be done. Let us do it." I feel we simply need to move on this new idea when the time is right.

Last, it will give the Senator some idea, too, as to what kind of support there is for this kind of nonparochial thinking, because that is really what we are doing. This is one amendment which tries to disenthrall us, as Lincoln said, from the local situation. In view of the fact that this tax will raise such very large sums of money, even on the Senate Finance Committee's basis, it gives us an opportunity and a frame of reference which we may not otherwise have. I will cooperate with the committee no matter what comes of this amendment.

I might point out, too, that the amendment is drawn in such a way that the Energy Committee will have great authority in respect of it. It is really an authorization, not an appropriation. It is an allocation of $1 billion for a purpose. Beyond that, all the details remain to be filled in. In its exercise of legislative oversight the Energy Committee, in which I have very great confidence, can adjudicate the matter. If, on the other hand, we wait and let this opportunity go by, we will be missing, in my judgment, an opportunity.

It is very difficult for me to say this to Senator Jackson because he knows I have always supported him. I have the highest regard for his point of view. But I really think for those reasons, which are persuasive to me, that I simply have to get the amendment voted upon. I thank the Senator so much, however, for his approval of the idea. It is very, very helpful to me to have this confirmation. I can assure the Senator whatever happens to this amendment he will have my complete cooperation in anything that moves along this particular line.

Mr. President, I ask unanimous consent that I may yield to Senator Bradley, also a cosponsor of the amendment, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I rise in support and cosponsorship of the Javits amendment, and I do so because I think we are at an unusual and critical time in our Nation's history. Our dependence on insecure sources of oil has pushed this country to the brink of real disaster. We need a policy explicitly directed at reducing that dependence on insecure oil sources.

By insecure, as I have stated a number of times in this Chamber, I mean Persian Gulf oil, oil that is subject to interruption because of political and social forces beyond our control.

Such a policy should comprise three different efforts. One effort is to build the strategic petroleum reserve, which is woefully deficient at this time, 94 million barrels in storage, a 13-day supply. The original goal was 250 million barrels by the end of 1979 and 1 billion barrels by 1985. Given our vulnerability to oil supply interruptions we must build up the strategic petroleum reserve.

We need massive efforts for conservation in the residential and transportation sectors, efforts that will produce real savings in oil consumption over the next 5 to 7 years.

Mr. President, the third component of this program to reduce our dependence on those insecure sources of oil in the medium term, meaning the next 5 to 7 years, must be diversification of our imported oil sources. This amendment directly addresses that requirement.

We are interested here in the sum of money involved, and we must be realistic about the amount of oil that can be achieved from the $1 billion fund as opposed to the $5 billion that was originally proposed. But I think at this juncture we are conveying a critical message—just as the strategic petroleum amendment on the energy bill was a critical message; namely, that the United States is going to exert its efforts to reduce our dependence on insecure sources of oil, and that one of the methods that we are going to use is by diversifying our sources.

Mr. President, a recent World Bank study concluded that there are 78 non-OPEC countries in the world today with significant hydrocarbon potential. With an investment of $12 billion, these countries could produce 3 to 4 million barrels a day within 5 years. Moreover, one-third of that oil is in Latin America alone.

Mr. President, there have been a number of distinguished geologists, including A. A. Meyerhoff and H. D. Klemme, all of whom have concluded that the potential hydrocarbon resources, both onshore and offshore, in non-OPEC countries are enormous. The benefits from development of these resources would not only accrue to the less-developed countries that would earn substantial revenues and be able to redress their balance-of-payments problems, but would inure to the United States as well.

Benefits to the United States include increasing competition among oil producers. It is unrealistic to expect that some of the larger oil companies with strong vested interests in Persian Gulf oil will be enthusiastic about taking the political and geological risks involved in exploring in new regions of the world that have oil potential but that have not yet been developed. In addition, as these new sources of oil come on line, they will moderate upward pressure on world oil prices.

I recognize the resistance in this body to Government involvement in hydrocarbon development. That resistance stems from one of two assumptions: either that exploration is too risky an investment for the Government to make, or that we must, for some other reason, leave all aspects of the international oil business to the multinational oil companies.

Mr. President, given the importance of our oil supply security, this amendment clearly merits our careful consideration and support for, indeed, it does not replace private sector involvement; rather it complements private sector financing by sharing the risks. In addition, it develops the information that we need to inventory world oil resources and to promote competition for their exploitation.

Mr. President, I suggest that adoption of this amendment, with the relatively modest price tag of $1 billion, will lead to the development that we need in those more secure areas of the world. More importantly, in conjunction with a strategic petroleum reserve and effective conservation efforts, this amendment will convey a message that the world will hear: that we in this country and in this body are intent on breaking our dependence on insecure Persian Gulf oil and that we have a policy we will implement to achieve our goal.

I strongly urge my colleagues to support the amendment, with the full recognition that it is an unusual action to take; that it is an amendment that is, perhaps, properly in the jurisdiction of the Energy Committee upon which I serve. However, given the events in the world today, we must, as the distinguished Senator from New York has stated, strike while we can to get the relief we desperately need from our dependence on insecure oil and from our political and economic vulnerability to supply cutbacks which so gravely threaten our national security.

I thank the Senator for yielding.

Mr. JAVITS. I thank Senator Bradley very much for his cosponsorship and for his intercession in this matter. It is very helpful.

I close, Mr. President, by emphasizing that this is the first thing that has come into this bill which deals with the OPEC cartel as such in terms of erecting competition to it. There has been much discussion in this country of how we deal with the OPEC cartel. We cannot sue them under the antitrust laws. This amendment is one way in which we deal with them, by broadening the base and taking away the exclusivity which they have enjoyed and which gives them their opportunity to hold us literally at ransom economically. We are learning that politically, economically, and socially we cannot stand it. Hence, this would be one additional way to break that grip.

So, Mr. President, I submit our case, and I hope very much that the Senate will vote affirmatively upon this amendment.

ORDER FOR RECOGNITION OF SENATOR JACKSON LATER TODAY

Mr. WALLOP. Mr. President, I yield to the Senator from Washington for the purpose of a unanimous-consent request.

Mr. JACKSON. Mr. President, I ask unanimous consent that I be permitted to address the Senate on the matter of windfall profits for 20 minutes immediately after the vote on the treaties. That vote will commence, as I understand it, at 2 o'clock. Senator Long is not on the floor. I shall revise this if there is a conflict with his program.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 680

Mr. WALLOP. Mr. President, I do not know what the plans of the distinguished chairman of the Committee on Finance are with regard to the amendment. After having made my remarks, I shall ask that we have a quorum call until he returns.

Mr. President, I, as Senator Jackson, rise in reluctant opposition to this amendment. However, I appreciate what the Senator is trying to do. I frankly think that to go into the world, developed or undeveloped, on the backs of the domestic American oil producer to increase, undoubtedly, still more our dependence on foreign sources of oil would not seem to be in the best interest of the country.

If the world price of oil is not sufficient incentive right now for the producers of oil in the world, whether they are domestic American companies or some of the few overseas companies that exist in that magnitude, including those which are national organizations, to develop oil in the non-OPEC third world countries one has to take a look and question why those conditions exist. One must ask whether $100 million subsidy a year is necessary and whether it would, in any way, affect those conditions. I think we have to take a look and recognize that the reason why there is not exploration in many third world countries now is not for reason of geology or economics but political reasons; not an American political condition, but political conditions in the countries in which we would like to explore for oil.

The world price of oil and its prospects ought to be more than enough to entice any country in the world to explore wherever there is a prospect, even given political risk and even given the opportunity that the Senate might wish to indulge itself in with regard to risk insurance through OPIC.

My other concern is that the amount of money that is involved in this amendment, $100 million a year, will probably result in less than 100 exploratory projects. One wonders if that money, as a Government subsidy, would not be better used domestically here, in the United States, either for the production of domestic American oil and gas supplies, coal synthetic fuel, or any other principal domestic relief from the dependence upon which we find ourselves pilloried at this moment.

Indeed, if we are ever going to get to the point where there is a competitive price situation in energy again and where market forces drive energy prices, we shall have to produce not less than 75 percent of our domestic energy needs.

That means, energy produced within this country, not have them free in the world, held hostage to all kinds of decisions of foreign governments, and let us make no mistake about it, we will not drive those decisions.

As to the rate of production, even including substantial discoveries somewhere else, substantial discoveries somewhere else undoubtedly will help those countries in which they are found, and undoubtedly will help the world supply situation, to a degree. But there is no real incentive for anybody in any other country in the world to produce at a maximum rate, even given poverty levels that may be found in Bangladesh, or otherwise, because by producing at a lesser rate they can get the same amount of money. In fact, some say by producing at a lesser rate they can get more money, which is one of the great anomalies that exist under the present world energy economies, and that is the requirement of the industrialized world as well as the Third World.

This authorization process, which the Senator from New York is suggesting that the Senate undertake, is really but one of a number of other kinds of processes which, if this is legitimate, ought to be considered under the same bill.

The Senator from Montana has one dealing with tight sands gas. There are others around. Properly, authorizations ought to go through the authorizing committees first.

But, laying that aside, I think the economics of it are that we will be authorizing $1 billion that essentially will be held out of, or in abeyance to, other domestic energy producing projects, perhaps not relating to the oil industry.

I will not argue whether they ought to be synthetic fuels or other kinds of energy things, but held in abeyance while all those decisions are made, and that money will not be available, $100 million a year, so long as that authorization hangs over the process.

It seems to me what we really need to do is to free our own economy from dependence on any sources of energy that lie outside the friendly, stabilized world, and to, furthermore, find our way as a service to the world, and find our way as a service to OPIC, into an energy independence circumstance to the extent of at least 75 percent.

I again state that given the world price of oil, there is apparently no need to provide U.S. Government incentive to explore anywhere in the world. U.S. Government incentives will do nothing to minimize political risks which are the real inhibiting factors that presently prevent the exploration for and development of oil resources anywhere else in the world.

Mr. President, I see the distinguished chairman of the Finance Committee has returned.

My comments are, in speaking, only for myself and not for the minority on the Finance Committee in general.

I rise in opposition to the amendment, but not, indeed, to the idea that there is a reasonable prospect to develop, find, and explore for oil in a good many Third World countries not related to OPEC.

But I honestly do not believe anybody who finds himself in the oil-producing fraternity will remain long outside the bounds of OPIC because it has proven itself to be a remarkably certain marketing factor.

Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise to compliment the distinguished senior Senator from New York for his initiative with this amendment, and to speak in support of it.

Mr. President, at the time of the Arab oil embargo of 1973–74 the United States was importing about 6.2 million barrels of oil per day, or nearly 40 percent of its daily demand. About 25 percent of these imports came from the Middle East.

Over a period of a few months the Organization of Petroleum Exporting Countries raised the price of oil by a factor of 4. This rise in price was a major contributing factor to the subsequent inflation in the United States and other Western industrialized countries, with associated weakening of the U.S. dollar in international monetary markets.

Not much has changed since OPEC initially flexed its muscles as far as trade is concerned. We continue to sell to Middle Eastern markets all the food, Cadillacs, equipment, and armaments they want, at free market prices, and we continue to buy their oil at whatever price the OPEC cartel demands. Prices continue to rise almost daily, spot market prices approaching $50 per barrel have been reported. The massive transfer of funds to OPEC countries threaten the stability of the world monetary system since there is no way these countries can reinvest the funds. And finally, the continuing debacle in Iran should remind us that the Nation's economy is dependent on often fragile governments in far away places.

There are two ways out of the box we are in: First, we can make better use of available resources and consciously limit our dependence on oil supplies; second, we can seek additional domestic and international oil supplies. There is some evidence that we have begun to move in the first area; the historic link between GNP and energy usage appears to have changed, showing that Americans are taking conservation seriously. The recent passage of a synthetic fuels legislation by the House and Senate shows that we intend to bring new fuel sources on line. President Carter's announced cap on foreign oil imports indicates a willingness to limit our vulnerability.

We are also moving in the second area. Exploration for domestic oil and gas resources continues at a high rate. Unfortunately, most of the United States is already pretty well explored, so the returns from this effort have generally been marginal. Where we are falling down badly is in the exploration for oil in foreign lands.

This past February the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation and Federal Services held hearings to review the price impact of oil shortages and U.S. energy planning. Secretary of Energy Schlesinger and Director of the Congressional Budget Office, Dr. Rivlan, were witnesses at the hearing. Dr. Rivlin presented a CBO staff working paper outlining a strategy for the development of the world's energy resources. In general terms, Dr. Schlesinger endorsed the concept. Yet, beyond support for the World Bank program, virtually nothing has been done to date by the Department of Energy or the Federal Government to support or assist in the search for additional oil supplies in non-OPEC (and particularly non-Middle-Eastern) countries.

Part of the reason for the Government's inaction may be that there is a wide divergence of opinion among geologists as to how much oil remains to be found in the Earth; one school insists that most of the economically recoverable oil has already been found, a second school believes that less than half of the world's oil resources have been tapped. In fact, nobody knows the answer to that question. I only point out that since that hearing in February, Mexico has announced very substantial additions to its reserves, and this week, Venezuela, which is a non-Arab OPEC member, has announced the upgrading of its heavy oil reserves to the point where they are reported to equal all of the proven reserves in the Middle East.

If we support a program to search for oil throughout the world how will it help us? Will oil discovered in Mexico or Venezuela be any cheaper than Saudi marker crude? Probably not. What we buy is security—a source of supply close to the United States that can be protected when necessary.

If oil resources are discovered in less developed countries, we can help provide them with the technology they need to develop those reserves, with resulting mutual trade benefits.

Mr. President, the diversification of our sources of petroleum is a goal that must be reached if we are to remain free from political blackmail. I urge my colleagues to support the Javits amendment.

Mr. JAVITS. Mr. President, I thank the Senator much for his very eloquent and very effective presentation.

Mr. GLENN. I thank the Senator.

Mr. LONG. Mr. President, I hope that Senators who are in their offices are listening to this debate. I hope the chairman of the Foreign Relations Committee, Mr. Church, knows that this matter is being discussed. If not, I hope someone on his staff will notify him. I hope the chairman of the Banking Committee, Mr. Proxmire, knows that the matter is being discussed. If not, I hope someone on his staff will notify him. I hope the chairman of the Appropriations Committee, Mr. Magnuson, knows that this matter is being discussed. If not, I hope someone on his staff will notify him.

I hope the ranking minority members of those committees know this matter is being discussed. If not, I hope the people on their staffs will notify them.

I hope those Senators will come to the floor and defend the jurisdictions of their committees.

If we in the Finance Committee had voted this amendment, we would have had those committees join, as they did yesterday, in seeking to strike from our bill matters that are not within the jurisdiction of the Finance Committee.

We do not have jurisdiction over it. It is not within our area of expertise. There is no reason why we should conduct hearings on it, and there is no reason why we should do anything about it.

Some of us do have a small amount of knowledge about oil and gas. One way or another, we know a little about it.

For example, I happen to hail from Louisiana, and I was in State government before I ran for the U.S. Senate. I know if anyone in our Nation wants to produce energy and they have some land they want to lease, there are American companies that will bid on it.

To cite an example, I have an article that appears in today's Wall Street Journal, on page 6, with the caption "High Bids on Oil Leases Total $1.9 Billion in a Gulf of Mexico Sale, Most Since 1974."

The article goes on to say that they had to move the sale. They were planning to have it in an old hotel, but the hotel closed down, so they had to move the sale to the Super Dome, which is the largest covered building in the world, so that they would have adequate space for all those interested in participating.

In that big, domed stadium they proceeded to have all these bids, and the high bids were $1.9 billion. The total amount of the bids was $4.7 billion. That is just for one lease sale in the Gulf of Mexico.

There is a list here of all the high bids on all those leases, and I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

HIGH BIDS ON OIL LEASES TOTAL $1.9 BILLION IN A GULF OF MEXICO SALE, MOST SINCE 1974

(By Gerald F. Seib)

New Orleans.—Yesterday's sale of federal offshore oil and gas leases was scheduled to be held in one of this city's older hotels. But when the hotel went out of business at the last moment, the sale had to be moved to the mammoth Superdome sports stadium.

The grandiose setting proved appropriate, for the sale turned out to be a huge, expensive affair. Oil companies made high bids of $1.9 billion for the right to drill on federal tracts in the Gulf of Mexico, the second highest amount ever bid in a Gulf lease sale. Only a March 1974 sale, in which companies made high bids of $2.1 billion, drew more money.

Counting unsuccessful bids, oil companies bid a total $4.7 billion yesterday, far surpassing the $3.4 billion and $3.3 billion bid at the prior two Gulf lease sales last August and December. Companies bid on 96, or 77 percent, of the 124 tracts offered, the highest percentage of offered tracts ever to receive bids in a Gulf sale.

"This was a great sale," gushed Harold Sieverding, assistant manager of the Interior Department's New Orleans outercontinental shelf office, which held the sale. "It far exceeded our expectations."

ACTIVE ROLE FOR ARCO

The most active company at yesterday's sale was Atlantic Richfield Co., high bidder on 17 tracts. Total high bids on those tracts were $168.6 million.

"Some of these tracts are near or are somehow associated with (petroleum) discoveries we had made earlier on other tracts," said Stuart Mut, an Atlantic Richfield vice president. "Others were wildcats," or tracts in unexplored areas, he said.

The two most expensive individual tracts both went to groups including Tenneco Inc. The most lucrative tract went for a bid of $143.7 million to a partnership of subsidiaries of Mobil Corp. and Tenneco.

The tract is in shallow water near the mouth of the Mississippi River. "We think that's really in the heart of some of the best oil country offshore," said Philip Oxley, senior vice president of Tenneco Oil Exploration & Production, the Tenneco unit.

TENNECO'S BIDDING

The second most expensive tract drew a $114 million bid from a partnership of Conoco Inc., Gulf Oil Corp. and Tenneco. Tenneco was active throughout the sale, winning alone or with its partners 10 tracts. Tenneco's share of the bids on those tracts was $190 million, Mr. Oxley said.

Another active company was Exxon Corp., which won several high-priced tracts. In all, Exxon won seven tracts for total high bids of $245.2 million.

The Interior Department isn't required to accept bids it considers inadequate. The government will announce later whether any of the bids won't be accepted. In past sales only a few bids have been rejected.

There won't be another Gulf of Mexico lease sale until next September, according to the Interior Department's schedule. However, the department plans two offshore sales next month, one for offshore Alaska tracts and one for tracts in the Atlantic Ocean.

Following are the apparently successful bids by tract numbers in the order in which bids were granted. Tracts that didn't draw any bids aren't listed. (G preceding a company name stands for group led by.)

Tract No.	Company	Bid
3	Atlantic Richfield Co	$12,420,000
4	Atlantic Richfield	10,125,000
5	Atlantic Richfield	3,130,000
6	(G) Allied Chemical Corp	8,270,000
7	Exxon Corp	53,699,000
8	(G) Phillips Petroleum Co.	7,270,000
10	Atlantic Richfield	16,626,000
11	Mobil Oil Corp., Conoco Inc., Tenneco Oil Co	32,175,000
12	Atlantic Richfield	41,114,000
13	Union Oil Co. of California, Texas Eastern Exploration Co., Oxy Petroleum Inc.	7,701,000
15	Shell Oil Co., Florida Exploration Co., Conoco	388,000
16	Tenneco	6,790,000
18	Phillips, Allied Chemical	690,000
20	Gulf Oil Corp	5,960,000
21	Tenneco, Pogo Producing Co.	15,690,000
23	Transco Exploration Co., Freeport Oil Co., Pioneer Producing Corp	23,767,000
24	Tenneco, Gulf	54,399,000
27	Shell, Florida Exploration, Strata Energy Inc., Odogo Inc.	33,437,000
28	Kerr-McGee Corp., Transocean Oil Inc., Samedan Oil Corp	6,133,000
29	Atlantic Richfield	11,160,000
30	Phillips, Pennzoil & Gas Inc.	16,780,000
31	Aminoil USA Inc., Newmont Oil Co	8,585,000
32	Atlantic Richfield	5,605,000
33	Phillips, Pennzoil	6,770,000
34	(G) Chevron USA Inc	13,536,000
35	Mobil Oil Exploration & Producing Southeast Inc.	46,099,000
36	Exxon	2,395,000
37	Exxon	149,000
38	Chevron, Sonat Exploration Co.	1,120,000
39	Phillips, PanCanadian Petroleum Co., Allied Chemical, Texasgulf Inc	41,241,000
40	Atlantic Richfield	9,313,000
41	Atlantic Richfield	313,000
42	Atlantic Richfield	3,817,000
44	Amoco Production Co., Union Oil	70,121,000
45	Texasgulf, Anadarko Producing Co., PanCanadian	2,781,000
46	Conoco, Getty Oil Co., Cities Service Co	13,701,000
49	Ocean Production Co., Ocean Oil & Gas Inc., Murphy Oil Corp., Koch Industries Inc	1,500,000

Tract No.	Company	Bid
50	Mesa Petroleum Co., Pogo	$11,310,000
51	Koch	7,800,000
52	Marathon Oil Co., Amerada Hess Corp., Louisiana Land & Exploration Co.	1,224,000
53	Amoco Production	21,111,000
54	Mesa, Santa Fe Energy Co.	43,010,000
57	Atlantic Richfield	4,160,000
59	Shell, Florida Exploration, Strata Energy, Octogo	8,368,000
60	Mobil Oil Exploration, Tenneco, Pogo	84,696,778
61	Mesa, Oxy	15,300,000
62	Union Oil, Gulf, Texas Eastern, Diamond-Shamrock Corp.	32,321,000
67	Transco, Pioneer	8,246,000
68	Atlantic Richfield	1,727,000
69	Shell	12,443,000
71	Union Oil, Champlin Petroleum Co., Eason Oil Co., Entex Petroleum Inc	24,100,000
72	Kerr-McGee, Transocean, Samedan	9,388,000
73	Atlantic Richfield	14,075,000
74	Aminolt, Newmont	15,150,000
75	Gulf	18,864,000
76	Placid Oil Co	9,765,000
77	Tenneco, Texaco Inc	38,914,000
78	Shell, Florida Exploration, Strata Energy, Octogo	14,200,000
80	CNG Producing Co., Pelto Oil Co	8,090,000
81	Amoco	28,125,000
82	Transco, Pioneer	2,377,000
83	Shell	23,233,000
85	Exxon	54,899,000
86	Shell	22,788,000
88	Shell	812,000
89	Shell	54,877,000
90	Tenneco	1,870,000
92	Getty	4,387,000
93	Marathon, Amerada Hess, Louisiana Land, Aminolt	39,656,000
94	Pennzoil, Pogo	12,705,000
95	Gulf	3,367,000
96	(G) Ocean Production	10,200,000
98	Chevron Sonat	3,535,000
99	Mobil Oil Exploration, Tenneco	143,690,000
101	Exxon	24,199,000
102	Sohio Natural Resource Co	70,005,000
103	Atlantic Richfield	1,125,000
105	Chevron	13,511,000
106	Conoco	12,002,000
107	Conoco, Gulf, Tenneco	114,000,000
108	Exxon	73,357,000
112	Atlantic Richfield	25,125,000
115	Union Oil	875,000
116	Atlantic Richfield	4,440,000
117	Mesa	8,127,000
118	Mesa	2,132,000
119	Exxon	36,481,000
120	Aminolt, Allied Chemical, Louisiana Land	846,000
121	Chevron	3,630,000
122	Conoco, Tenneco	51,011,000
123	(G) Rutherford Partnership	2,100,000
124	Mobil Oil Exploration, Eason, Entex	16,078,000
125	(G) Getty	40,511,000
126	Sun Oil Co., Diamond Shamrock	22,265,000
127	Atlantic Richfield	1,260,000
129	Pelto Oil Co	1,213,000

Mr. LONG. Mr. President, the point is that the U.S. Government is not doing much drilling. The United States lets leases so that private oil companies can bid for them. The companies pay billions of dollars off the top for the privilege of going out to try to find oil and gas; and they are glad to pay, if they think there is some prospect out there. In fact, they will pay somebody to take a seismograph to see whether the geological information indicates that there is a good possibility of finding some oil and gas out there.

The Federal Government does a very modest amount of drilling. I suppose advocates of Federal ownership would be pleased to know that in recent years, the Federal Government has drilled 50 dry holes in Alaska. Those who favor Federal ownership would like to know that a few dry hole dusters were brought in in Alaska. Generally speaking, the drilling and producing is done by private companies, and they are very good at it, extremely good—the best in the world.

Mr. President, these countries would be absolutely amazed to see the kind of bidding they would get, if they would just advertise that they are interested in leasing some land and if they would invite American companies to come in and bid on it.

I have noticed some of that kind of thing with interest. The companies will bid for it and will make proposals to see if they can go in there and operate.

I do not know why this country should use its tax moneys to have someone drill in foreign nations, when companies are always willing to make those nations a good proposition.

As a matter of fact, if a private individual has some land in one of the producing areas—Louisiana, Texas, Wyoming—almost any land where the geological information indicates that there is a possibility of finding some oil and gas, he will not have any difficulty persuading people to pay for the privilege of coming in there and drilling. That does not mean the owner will get a hundred percent of the take. Obviously, if someone is going to pay for all the risk and is going to do the drilling, he would expect to receive about five-sixths, and he would expect to pay about one-sixth of what he receives in royalty income. The companies will make some fine offers and pay a lot of money for the privilege of drilling.

It may be that we should have a Federal aid program to pay money to guarantee the cost of drilling in foreign lands, so that they would get a better deal than American taxpayers get, or even better than the U.S. Government can do.

After all, the imagination with respect to giving things to foreign countries has not been exhausted completely in this country. [Laughter.]

It may be that there are good reasons why we should give more for drilling in foreign lands than we would give for our own people. We have seen that argument supported before in the Senate.

If so, the appropriate committees should hold hearings and bring in people to testify. They should assume the burden of excluding the other possibilities. They should assume the burden of letting people testify.

For example, I assume that most of the people who bid $4.7 billion for the right to drill in the Gulf of Mexico would say, "Before you pay the taxpayers' money to have the drilling done in those countries, give us a chance to bid on it. We would like to make them a proposition. Why should the Federal Government tax us so it can muscle in and deny us an opportunity to see if we can drill?"

Take Mexico as an example. Mexico will not permit the American companies to do the drilling down there. There is a small exception. The Mexicans went out in the Bay of Campeche and got a blowout down there. That was 6 months ago, and it is still going—60,000 barrels a day, out of control, the biggest spill in world history. It is costing them a lot of money because of all the oil they are losing in the Gulf of Mexico, and it is polluting that gulf; and it will pollute the Gulf Stream if the oil is carried out there.

American companies would have done a much more craftsmanlike job, I am certain. For example, I am told that the Mexicans do not know where the bottom of that hole is. They have a steel pipe in the ground in order to get it under control. But somebody has to drill down below, about 2 miles down in the Earth, and try to plug it from underneath. To do that, they need to know where the bottom of the hole is.

The Americans make it a point to know where the bottom of the hole is. The Mexicans, apparently, never have engaged in that kind of precaution. If you do not know where the bottom of the hole is and the thing is spouting out into the gulf 60,000 barrels a day, trying to find where the bottom of the hole is, 2 miles down inside the Earth, is like looking for a needle in a haystack.

It may be that they will never find it. It may be that the oil blowout will go on until that enormous field is depleted. We hope not. We believe eventually they will bring it under control by drilling more wells.

But the Mexicans, bless their hearts, let Mr. Red Adair come down there and bring his expertise and his crew out of Houston, Tex., to see what they can do after the thing is totally out of control. Apparently, an American contractor has also been permitted to come in and help drill offset wells to help find the bottom of that hole, which will be difficult to do, to try to bring that under control.

But the American companies were willing to go drill that well in the first instance. They would have been willing to drill it on any basis, knowing what a lush oil field that is. They would be willing to participate, I think, if they could have but 10 percent of the take knowing what the take would be for a good well drilled in that area. But, even so, the Mexican Government's policy was against that.

Are we going to have a policy that would deny American companies the right to drill on the one hand but pay our tax money so that foreign nations could drill at the expense of the taxpayers here? That is something that should be looked into by a committee. I doubt it makes sense.

Furthermore, we should realize, and this is one of the things that a hearing would explore, that we are never going to solve this OPEC problem. This is the problem of the international control of the world's oil supplies, the international producer cartel, not of companies, but of foreign nations. We are never going to overcome that problem until we have enough production in the United States or in nations that are firmly allied to the United States under treaties and that are the kind of nations that respect treaties and abide by them even when it is not entirely to their advantage to do so.

It is only when we have that type of arrangement and those nations have enough production to provide their requirements for energy that we are going to bring this OPEC cartel under control so we can make the oil sell for what we think it should sell for on a competitive basis.

We find oil in other nations. Even Canada is selling their oil for the world market price. In some cases they are selling it above the OPEC price. When they are selling oil, they act just like other sellers. They are going to get the best price they can get. And the same thing is true of Mexico. Just because they are not a member of OPEC does not mean they do not charge the same prices as OPEC. As a matter of fact, they probably get more than OPEC. They probably place their sales on the spot market where they get the highest possible price. One cannot blame these other nations, but they do proceed to do business just that way. If they find a huge oil resource, they are going to sell it for the highest price they can get.

Mr. President, someday Red China will open its market and say, "All right, we will invite companies to come in and let them bid," and will offer them areas on which they can bid and make proposals to drill in the coastal waters of Red China itself or wherever they decide they want to open a new frontier, with all those areas that are available. China is one of the great Communist powers of the world. It has a Communist government that does not believe in private property. And yet when that great nation proceeds to invite American companies to come in and make them a proposition to bid to drill and bring in and produce oil and gas in Red China, why do we want to spend our taxpayers' money just to make people a better proposition when they are being made a very good proposition already? In other words, the American companies are willing to make them a proposition anywhere.

The Senator said other countries have some programs to help do the kind of thing he has in mind. Fine. More power to them. If some nation wants to make a foreign country even a better proposal than the United States is making them to drill for minerals, fine. That does not prove that we should do more than we are doing.

America is doing a great deal indeed. It has laws that are reasonably favorable, and I hope they will stay that way, so that American companies can go overseas, find oil, bring it back, make a profit, and pay taxes to us.

Mr. President, that is an operation the Government can make money out of rather than lose money. So I hope that this amendment will not be agreed to.

Does the Senator desire to discuss it further? Mr. President, I am willing to yield the floor, but I hope we will agree on a time certain to vote on this matter.

Mr. JAVITS. Senator BOSCHWITZ wishes to speak, I gather, in opposition. I will yield about 10 minutes at the most.

I am perfectly willing to vote at or about 1 p.m. or earlier, whatever the Senator wishes.

Mr. LONG. Can we agree that further debate on this be limited to ½ hour and the time be divided equally between the chairman of the committee and the sponsor of the amendment? I will be glad to yield whatever time Mr. BOSCHWITZ requires.

Mr. JAVITS. Yes.

I ask unanimous consent that further time be limited to 30 minutes equally divided between Senator LONG and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield to the Senator from Minnesota. Will 7½ minutes be adequate for the Senator?

Mr. BOSCHWITZ. Yes; more than adequate.

Mr. LONG. I yield the Senator 7½ minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, I also rise in opposition to this amendment proffered by my good friend from New York.

I agree with the distinguished chairmen of the Energy Committee and of the Finance Committee that we really should not embark upon a program of $5 billion, as high sounding as its intent is and as worthy as its objectives are, without really engaging in a little bit of forethought, study, and without holding some hearings. Five billion dollars, since I have come to the Senate, is often thought not to be a terribly large program. I am still not accustomed to dealing in those kinds of figures.

So I oppose it from the idea, first of all, that we should study this and we should give more consideration to it. Furthermore, I object to it just on the basis that given the world oil prices that now exist we indeed will find adequate resources. The $5 billion is not going to make the difference between finding the resources or not finding them or providing insurance in areas where they can or cannot be found.

As the distinguished chairman of the Finance Committee just pointed out, on oil leases in the Gulf of Mexico today there were bids of nearly that entire $5 billion. I submit, Mr. President, that the world oil price by itself will stimulate production if the resources are to be found.

Mr. President, yesterday in the Washington Post a story was written about Venezuela that Senator GLENN spoke about, that story indicated that 500 billion barrels of heavy oil were recently found in Venezuela. That indeed is as much as all the reserves of the Middle East, and that indeed is 1½ times as much oil as has been used since the first oil well was drilled at Titusville, Pa. Since that time only 330 billion barrels of oil have been used. Indeed, that find down in Venezuela is 1½ times that. In Mexico in recent months, as has been mentioned, there has been large oil finds. And I am sure that it is going to happen in other parts of the world as well.

I read a good deal about exploration going on. Since the rise in the oil prices worldwide there has been a good deal of evidence that speculation, investment, and oil drilling has risen throughout the world and that many new billions of dollars have been invested in the exploration of new energy sources.

I understand this amendment has been modified to $1 billion and not $5 billion, Mr. President.

I feel that incentives, insurance, those kinds of things, loan guarantees, contributions to multilateral oil exploration and development funds just do not play the role that a rise in the oil market has played and will continue to play and that will bring about adequacy of supply. That is what will bring about the balance that occurred in the 1940's and 1950's when the oil price during that entire period remained basically unchanged—indeed went down to some degree because new oil was discovered.

Mr. President, I am firmly of the opinion that there will be much new oil discovered throughout the world.

There is one other aspect of the amendment that is troublesome to me, Mr. President, and that is we are taking money from American taxpayers, basically from the independent producers, and we are going to use it for purposes of insurance or funds or loan guaran- Mr. President, and that is we are taking it basically from independent producers that have been in the halls here of the Senate and the Congress asking for help. Not for loan guarantees, not for incentives, but rather just to be let alone so they can go out and drill, and pay 50 and 52 percent that the normal corporation pays in taxes, and use the rest of their profits for the purpose of finding more oil.

Now, to take part of the rest of that profit and siphon it off, provide it to either other countries or other drillers, I think is improper. Indeed, the people who drill on the international scene are largely the large oil companies. So this will probably be a relief or an advantage we are going to be giving to the large multinational oil companies, and really they do not need that kind of relief.

So, Mr. President, I believe the idea first should be studied, whether it be $1 billion or $5 billion. I also believe that the function of the world oil prices will indeed cause production to rise, and I think we should not come forward now with a program that will provide relief to those who do not need it. If relief is given, it should be given to the independent oil producers of the United States. If relief is given, it should not be given in the form of imposing upon them large and confiscatory type taxes that will have a downward pressure on production. We should not take some of that tax money and go out into the world and give it basically to what will be the large international oil companies. I do not think that is a productive usage of our resources.

So, Mr. President, I rise in opposition to this amendment and urge my colleagues to vote against it.

I yield back to the distinguished chairman of the Finance Committee.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, I have listened with great care to the arguments made against the amendment, and I just think like ships we pass each other in the night.

We have just heard, for example, from Senator BOSCHWITZ that we are going to take $1 billion from the independent producers. I do not know how. This tax bill is going to be whatever it is, and it is going to raise at the minimum $138 billion over a period of 10 years, and the independent producers last night got $9 billion in exemptions added to the $16 billion they had in connection with stripper wells, and so on.

It seems to me that $1 billion in order to help all Americans get out of the vise in which the OPEC cartel has us, even if it is spent. Most of it will probably come back to the program because we are talking about guarantees, et cetera, is certainly not a big investment to deal with this problem in which we are so heavily engaged.

These general statements about the fact that price will produce more oil or that you can have remote comparability between bidding for leases in the Gulf of Mexico and in the United States with what we are talking about in this amendment is simply an irrelevancy, Mr. President. The fact is that 90 percent of the drilling which is being done in the world today is being done in the United States, in North America, as a matter of fact, in the Soviet Union, and in the Middle East, in the OPEC countries essentially. That is where the drilling is being done. Ten percent of the drilling is being done everywhere else.

What we are seeking to do is to enhance that exploration and drilling elsewhere.

The price of oil will not produce a single well in those areas because you do not know whether you are going to find oil, and that is the reason why the companies which are engaged in foreign exploration are not exploring in these countries, and we have given a list of them, Mr. President. If that was a correct argument, the World Bank and the General Accounting Office in the United States, and the Congressional Budget Office would all be out of their minds, because they are recommending this program, this very program. We know that is not true.

What are we to look forward to even in the United States with this high price for leasing? Our Congressional Budget Office, and the Department of Energy seem to agree that 5 years from now we will be having less oil than we have today, and even with the maximum possible increases in production from decontrol, the estimate is in 1985 that we will have 7.3 million per day—that is new oil with no tax at all, and our consumption is 19 million barrels a day—and by 1990 the same estimate says our production will go down to 6.6 million barrels. So we had better look to it, Mr. President. We are slipping back and not going forward, and we have got to use some enterprise if we are going to go forward.

Mr. President, as to countries which can get oil exploration simply because of the high price from those who explore today, I gave the figures of the 13 oil companies, a number of them middle size oil companies, which responded to our survey at the end of 1978 which indicated countries which they would go into if they found it attractive, but they do not, and that is the purpose of this fund which, by the way, is an authorization, I might tell my colleague and my friend, the Senator from Minnesota, not an appropriation, and among these countries are the People's Republic of China, South Korea, certainly a very good friend; Argentina, Egypt, Guatemala, Zaire, Ecuador, Thailand, a very good friend; the Sudan, again a very good friend; the Philippines, Kenya, and so on. I have already introduced that list into the RECORD.

Mr. President, the U.S. Geological Survey is now asked for geological surveys or help to get them by the following good friends of the United States, and it turns them down because it has not got the resources to do it: South Korea, Thailand, Morocco, Malaysia, the Philippines, and Guatemala.

So, Mr. President, I cannot see any pay dirt in that.

As I say, the idea of a big sale in the Gulf of Mexico for which there is big bidding, that is great, and I am delighted it is taking place. But what has that got to do with this particular situation where we are trying to reach out and sow a little enterprise in order to break the grip of the OPEC cartel? I will not accept the fact that the only way we are going to lick the OPEC cartel is to live with it for years to come. We have got to find some way of breaking its grip or we will not live out those years. It will do to us what it is doing now to the economic and monetary system of the whole world by skimming off the top $70 billion from the United States alone, and $30 billion from the less-developed countries, which simply cannot afford it. They cannot keep this up. They have got to break. Let us remember that they owe the banks of the world $200 billion. Let us not forget that and what that can do to the world economic and monetary system.

Finally, Mr. President, there is the traditional committee argument. I appreciate all of the problems of committees, but the time to act is in the Senate. That is what is finally responsible, that is where every committee has to bring its recommendations, and this amendment is simply enough, is based upon an adequate enough record, as I have described, has adequate enough support from responsible agencies, naming them again, the Congressional Budget Office, the World Bank, and our own General Accounting Office, and not in this particular way of formulating it, and the Senators know very well they are formulated in whatever necessary way they feel it can work in conference.

But the idea is that we must explore and encourage exploration—and we are not getting it today—in the less developed areas of the world which are non-OPEC countries.

So, Mr. President, if that is the opposition to this amendment, I most respectfully submit that they have made a very strong case, perhaps even stronger than I made, for the enactment of the amendment by the Senate.

Mr. President, I understand the Senator from Ohio would like me to yield for a question.

Mr. METZENBAUM. Mr. President, I appreciate the courtesy of my friend from New York. I would like to ask him some questions, if possible, about the amendment.

Mr. JAVITS. Please.

Mr. METZENBAUM. First, did not the World Bank consider the matter of providing financial incentives to the lesser developed countries, and was not their effort frustrated by the opposition of Exxon, or is my recollection incorrect?

Mr. JAVITS. The World Bank has gotten its funds, among other sources, from contributions by the U.S. Government. I understand there was opposition, but the answer is that Exxon and OPEC are in partnership.

The difficulty with what the World Bank has to offer is that it is inadequate. They are providing a $3 billion program over a period of 5 years for these very purposes. That $3 billion has to cover refineries, infrastructure, and so forth, as well as drilling. So they are devoting $900 million to drilling, and it is simply inadequate. It needs to be supplemented by our own contributions, for very important areas. The World Bank contributions or investments must be made in a general way, and they decide what countries they are going to help. The fund which I am seeking to get authorized would be at our discretion, with the United States. We are the ones being beaten by this OPEC group, and therefore it will be much more flexible for use as far as we are concerned.

So the two points are, first the world Bank activity is fine but inadequate, and second, that we would have more flexibility in determining where we want to put this kind of support than if we simply relied on the actions of the World Bank, which, like ourselves when we adjudicate matters, have to spread the money around geographically as well as look at individual projects which are likely to be the best as far as we are concerned.

Mr. METZENBAUM. Will the Senator from New York enlighten the Senator from Ohio as to why we need to provide additional incentives for the oil companies with respect to these international operations, since they have been making much of the fact that their overseas operations have been the most profitable? Why do we have to give them additional money now? How does the Senator answer the argument that if we provide additional incentive for overseas operations, is that not tantamount to providing disincentives for domestic investment?

Mr. JAVITS. Senator METZENBAUM, it would be amusing to answer your question by simply saying they are so fat they are no longer enterprising. That is what you have thought about them for a long time. That is a fact, but I will not say it.

The fact is that they simply do not consider it worthwhile to explore in all these other countries, but we may consider it worthwhile in terms of the United States, for two reasons: First, we are anxious to have those countries self-sufficient, and take the strain off their foreign exchange which is bankrupting them today; and second, because it tends to reduce the power of OPEC.

Let us understand that the big oil companies may not be anxious to reduce the power of OPEC, with whom they are working, as they have for decades, largely as their representatives for distributing the petroleum in the world which commands such a big price.

They are partners in that business with the OPEC countries; they are the distribution system.

Mr. METZENBAUM. Would the Senator from New York be amenable to an amendment that would preclude these financial incentives being made available to the majors, so that at least some of the smaller companies might be induced to develop in the lesser developed countries?

Mr. JAVITS. Senator METZENBAUM, I think that would be defeating our own purpose, because I think we would have to rely upon the fact that there has to be an appropriation, that this will be administered by the Department of Energy according to the policy which it sets, to see that this money goes where it is really needed, where it really will stimulate exploration and discovery that might not otherwise take place. It might be making an arbitrary distinction which would be very counterproductive in terms of finding new sources of oil.

Mr. METZENBAUM. I thank the Senator.

Mr. JAVITS. Mr. President, I am prepared to vote.

Mr. LONG. Mr. President, I yield 3 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, one thing that does not seem to settle into the thinking of many Members of the Senate, including the Senator from Ohio and this Senator, is that all the oil industry is not Exxon, the majors, or the so-called seven sisters. There are small companies, including small Wyoming companies, which have exploration tracts they are joint-venturing in many parts of the world: New Zealand, Fiji, and elsewhere.

The disincentive of which the Senator is speaking simply does not exist in the economic world. It exists solely in the political world, and no billion dollars out of the U.S. Federal Treasury will break down that disincentive. It has to be a matter of self-interest before those countries will allow drilling, exploration, and development.

That is my point, and I think it is the point of the Senator from Louisiana, that there is no reason to spend tax dollars of the American people which could well be used in many ways to decrease our domestic dependence and increase our domestic production and relieve domestic problems at the same time. If these countries would simply express a willingness to open their territories for exploration, it would be done without tax dollars. There is no reason to burden the American taxpayer or the American petroleum industry or anyone else with this kind of financial incentive, when the incentive exists in the world market price. The incentive exists everywhere except politically in these countries. Somehow or other, that problem is a matter of those countries operating in their own self-interest. No billion dollars will do it; we would just be throwing it out the door.

As the Senator from Louisiana has said, we have not exhausted the ways to give away money in the world, but there are at least ways in which we can spend it much better; and this does not appear to be one of them.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New York has 2 minutes remaining.

Mr. JAVITS. I yield myself 1 minute to say that the difficulty with the argument we have just heard about "leaving it to natural events" is that natural events cannot contemplate the very real possibility of political uncertainty in the future even with friendly government, which investors naturally wish to make some provision against.

That is why many areas of the world are blocked out. I have already given a list of 30 countries where that is the case.

Mr. MUSKIE. Mr. President, I would ask the distinguished sponsor of the amendment to confirm my understanding of the budgetary implications of his amendment.

Mr. JAVITS. I would be happy to respond to the Senator's questions.

Mr. MUSKIE. Is it not true that your amendment is simply an authorization for appropriations of $1 billion over the next 10 years and will be subject to the normal authorization and appropriations process of the Congress?

Mr. JAVITS. The Senator is correct.

Mr. MUSKIE. Is it not also true that this amendment does not establish a trust fund, a reserve, or any earmarking of funds from the windfall profit tax bill, but simply authorizes the Secretary of the Treasury to establish the program specified in the amendment if funds are appropriated?

Mr. JAVITS. The Senator is correct.

Mr. MUSKIE. I thank the Senator for his clarification of these matters.

EXHIBIT 1

INCENTIVES FOR DEVELOPING NEW FOREIGN SOURCES

We question whether U.S. policy has adequately recognized or addressed the opportunities for oil development in non-OPEC countries to increase general world supplies in which the United States could share. The prevalent assumption is that incremental increases in U.S. imports of foreign oil must come from present OPEC producers, chiefly those of the Middle East. We believe there are opportunities to encourage development in non-OPEC countries and at the same time tie such new sources to the United States.

One constraint to the exploitation of those opportunities has been the attention directed toward easier finds in established areas. We believe that particular attention should be given to developing oil resources in LDCs of the world. Some oil experts believe there is considerable undiscovered oil and gas outside the OPEC countries, especially in the Far East, Africa, and Central and South America. But as yet, little exploration and development has taken place in these countries.

There are a number of beneficial aspects to developing oil reosurces in the non-OPEC LDCs. Most of the countries consume little energy relative to the developed industrialized countries. Because they are greatly in need of revenues for internal development, they will probably seek to export as much oil as possible, thus increasing the world's oil supply and lessening U.S. dependence on OPEC sources. With the oil revenues, the LDCs will gain greater self-reliance and stability, reducing their need for U.S. foreign aid and loans from the developed countries.

However, the LDCs lack the capital and technical expertise to explore for and develop their resources on their own. Much of the financial backing will have to come from the developed countries, particularly the United States. Also, much of the technology needed to find and develop the oil and gas reserves will have to come from U.S. oil companies. Thus, actions by the U.S. Government and oil companies will greatly influence how and when the oil will be developed.

The U.S. Government has given some recognition to the need for developing oil and gas resources in the LDCs. It provides millions of dollars to international organizations, such as the United Nations, the World Bank, and the Overseas Private Investment Corporation (OPIC), which assist the LDCs in their overall development. However, we believe U.S. efforts should be directed more specifically toward encouraging private oil companies to increase their activities in the LDCs. During our discussions some oil company officials said that recent U.S. Government regulations and tax laws had forced them to curtail much of their exploration in foreign countries, and they expressed concern about the enforceability of contracts upon which the security of their investment depends.

As stated earlier, we believe the U.S. Government should issue clear statements of its view on the binding nature of contracts between foreign governments and U.S. companies. Examples of other policy actions that could be considered with respect to stimulating increased exploration and development in non-OPEC LDSs follow.

Increased involvement by OPIC in financing and insuring the political risk inherent in such ventures.

Promotion of increased involvement by the World Bank in financing such activity.

Differential foreign tax creditability of U.S. oil company royalty payments to producer nations which would cease any subsidization of production in OPEC countries while permitting creditability for non-OPEC countries.

Foreign aid to assist certain LDCs to obtain needed data on the oil resource potential of land not explored by industry.

State Department mediation to secure arrangements which would permit and promote exploration and development of heretofore unexplored outer continental shelf areas where ownership is disputed by adjacent nations.

EXHIBIT 2

A STRATEGY FOR OIL PROLIFERATION: EXPEDITING PETROLEUM EXPLORATION AND PRODUCTION IN NON-OPEC DEVELOPING COUNTRIES

SUMMARY

The Strategy for Oil Proliferation is a recent policy proposal calling for U.S. involvement in petroleum exploration and production in non-OPEC developing countries. The motivation for the proposal is twofold. First, proponents believe the prospects are very good for large increases in petroleum production. Second, proponents believe private international oil companies, private international banks, and local host governments will not invest enough for the potential to be realized.

For five reasons, the Strategy for Oil Proliferation clearly deserves serious consideration. First, a good chance exists for moderately increased petroleum production in the non-OPEC developing countries. Second, there will be restraints to adequate investment by private companies, private banks, and host governments. Third, the U.S. can, through an intelligently administered program, benefit from increased production in developing countries. Those benefits include the diversification of and, therefore, increased security for oil imports plus the possibility that competition might slow OPEC's price increases and, thereby, lower U.S. oil import payments. Fourth, it would make economic sense to exhaust opportunities to profitably produce oil at $15 to $20 per barrel in developing countries before investing in inevitably more expensive synthetic fuels within the U.S. And finally, because Japan and Western European governments appear to have the capacity for active worldwide involvement, the U.S. must determine whether it will be "squeezed out" of a future international oil market where all oil production is marketed on government to government contracts complete with barter deals.

As the Strategy is debated, at least two arguments against it must be raised. First, direct government involvement would preempt U.S. based, international oil companies. These firms may provide the most efficient worldwide system for petroleum exploration, production and marketing. If this is so, it would be damaging to subsidize competition. Second, although oil from developing nations might be cheaper than synthetic oil it can't be considered as secure and it can't be imported without worsening the U.S. balance of trade.

INTRODUCTION

The Strategy for Oil Proliferation is a recent policy proposal calling for U.S. involvement in petroleum exploration and production in non-OPEC developing countries (NODC's). The motivation for the proposal is twofold. First, proponents believe the prospects are very good for large increases in petroleum production. Second, proponents believe private international oil companies, private international banks, and local host governments will not invest enough for the potential to be realized.

The Strategy should be judged in terms of its contribution to mitigating the adverse effects or "risks" of high levels of oil imports. Those risks include:

The physical depletion of the world's petroleum resources available to the U.S.

The interruption of supply to the U.S. for political, logistical, or other reasons not related to physical depletion.

The erosion of the dollar in foreign markets because of oil imports.

The imposition of constraints on U.S. foreign policy arising from "the politics of oil."

If the Strategy led to new petroleum production, the world's hydrocarbon supply would be increased and the fear of depletion would be diminished; the competition might also show OPEC price increases and thereby lower future U.S. oil import payments. Furthermore, by purchasing oil from these new areas, the U.S. would diversify its sources and might lessen its susceptibility to supply interruptions such as that from Iran. Finally, if the U.S. could tie these oil imports from new producers to exports of U.S. machinery and technology, the balance of trade deficits due to oil importation would be minimized. This import-export tie can be termed trade bilateralism, countertrade, barter, etc.

In the following pages, five key questions related to the Oil Proliferation strategy will be discussed. First, what are the prospects for increased oil and gas production in non-OPEC developing countries? Second, what are the restraints to adequate exploitation of prospects by the private sector or the host government? Third, what government programs already provide funds for such investments? Fourth, what are the pros and cons of the Strategy in general? And finally, what specific alternative policies could be adopted?

PROSPECTS FOR OIL PRODUCTION: COMPETING VIEWS

All observers agree there is some potential for increased oil production in developing countries. However, differences of opinion arise over how much potential exists and whether current exploration and development activities are adequate for the realization of that potential. Unfortunately, the evidence is scattered and, since it deals with the inherently risky activity of petroleum exploration, a final answer is difficult to achieve. The state of knowledge on this topic is best summarized in the following three analyses.

The geologic analyses of Bernardo Grossling

The geologic analyses of Bernardo Grossling are often the basis for those who claim large, prospective, petroleum producing areas have been neglected. In a series of publications since 1974, Grossling has argued large prospective areas in Latin America and Africa have been inadequately explored. The rectangles represent, to scale, his estimates of prospective petroleum producing areas in various regions. Each full dot corresponds to 50,000 wells drilled for exploration or production. The chart, according to Grossling reveals a "drilling gap" in the sense "only 23 percent of all drilling for petroleum in the world has been done in countries other than the United States." [1] Considering exploratory well only, Grossling concludes ". . . in the developing countries, which account for about one half of the world's prospective area, only about 4.3 percent of the world's exploratory drilling has taken place."

TABLE 1.—RECENT ESTIMATES OF WORLD ULTIMATE CRUDE OIL RECOVERY

Date of estimate	Estimator	Organization	Billion barrels
1962	L. G. Weeks	Consultant	2, 000
1965	T. A. Hendricks	USGS	2, 480
1967	W. P. Ryman	Esso (Exxon)	2, 090
1968		Shell	1, 800
1969	M. King Hubbert	National Academy of Sciences	1, 350–2, 100
1969	L. G. Weeks	Consultant	1, 800
1970	J. D. Moody	Mobil	2, 200
1971	H. R. Warman	BP	1, 200–2, 000
1972	J. D. Moody and H. H. Emmerick	Mobil	1, 800–1, 900
1972	Richard L. Jodry	Sun	1, 952
1975	J. D. Moody and R. W. Esser	Mobil	2, 030
1975	Not available [1]	Exxon	1, 945
1977	M. King Hubbert	Congressional Research Service	[2] 2, 000

[1] As reported by Oil & Gas Journal, May 26, 1975.

[2] Approximate number.

Some perspective on the importance of the alleged drilling gap can be given by comparing Mr. Grossling's estimate of ultimate world oil recovery and similar estimates made by others. Table 1 displays a variety of such estimates, mostly from oil companies, which tend toward 2 trillion barrels. Mr. Grossling's range for ultimate crude recovery is 2.6 to 6.5 trillion barrels. One conceptual, perhaps philosophical, point seems quite important in explaining the difference among estimates. The conventional wisdom holds that the best fields are always found first and subsequent discoveries will always yield less oil per square mile of prospective area. Mr. Grossling says this need not be the case. He implies there is no overseer who, after a thorough world survey, chose the best fields for early exploration; indeed, even within a field the first wells needn't be the most productive since later drilling will be guided by greater geologic data. The obvious implication of the Grossling view is that the opportunity for very great amounts of petroleum production is being missed.

Why is there a drilling gap? Grossling attributes the gap in Latin America to two factors. First, several countries take a "nationalistic stance" toward natural resources so that "most of them have either prevented completely or restricted the access of foreign oil companies . . . ." second, countries may have ignored petroleum because "they have been able to rely on exports of other commodities to finance their economic development." In Africa and Southeast Asia political instability was obviously a deterrent to exploration; also important, says Grossling, was the low world oil price and lack of technology for offshore development.

Exxon's view [2]

Exxon would agree that, perhaps, a third of the world's 600 petroleum "basins" remain unexplored. In most cases the reasons cited for this "neglect," however, differ from Grossling's." These basins are in harsh environments such as deep offshore or remote onshore locations and exploration would be very expensive or, perhaps, technically infeasible.

In addition, Exxon is not as optimistic as Grossling about prospects in moderately explored areas since it adheres to the conventional wisdom of declining productivity. The companies, as the theory dictates, develop the cheapest resources first. A drilling gap

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Footnotes at end of article.

could easily be explained by the fact that cost of exploring for and then developing the capacity to produce a barrel of oil can be ten times greater in parts of Africa and Latin America than in the Middle East.

Exxon also seems to view the role of drilling differently. For them drilling is done *after* oil is found, it is at best a second stage of exploration. For others, however, oil is one of the many items in life that must be seen before it is believed and therefore drilling is essential for exploration. If Exxon is correct, a drilling gap needn't imply an exploration gap.

In July 1978, Exxon presented data on exploration that contradicts the impression of neglect. Several points were made:

50 percent of (what Exxon considered) exploratory wells drilled in the 1967–1976 period were in the developing countries; 24 percent were drilled in industrialized countries and the remaining 26 percent in OPEC countries. (Exxon uses a very narrow definition of industrialized nations since it excludes the U.S. and Canada. Their data shows 3,145 such wells for the 1967–1976 period. The Oil and Gas Journal shows 19,195 exploratory wells for the U.S. in 1976 and 1977 alone).

Of the 113 developing countries 71 saw exploratory wells during the decade 1967–1976. Another 19 had predrilling explorations 20 were not explored because most were small islands.

Of the 71 developing countries: 16 found oil before 1967 and, therefore 5,416 exploratory wells were drilled; 25 had encouraging drilling results from 851 wells; 30 countries had no encouragement from 234 wells.

With this pace of exploration and cooperation from local governments, oil production in non-OPEC developing countries could increase from 4 MMBD in 1976 to 10 MMBD by 1990.

Giant oil fields and world oil resources, a report by Richard Nehring

Pessimism about prospects can also be based on a report by Richard Nehring of Rand Corporation. The report argues that past increases in World oil reserves have depended primarily on the discovery of "Giant Fields"; that is, petroleum fields containing at least 500 million barrels of known recoverable product. Today, such fields account for 75 percent of the world's known reserves and are found in only a few countries. Nehring's pessimism about future giant field discoveries implies pessimism, or at least less optimism than Mr. Grossling, about future production in the unexplored or moderately explored areas in developing countries.

Mr. Nehring agrees there are unexplored regions in the world. Of 400 petroleum "provinces" in the world 275 have been subject to at least moderate exploration. The other 125 have been "neglected," in large part, because they are in the harsh environments of the polar region or deep ocean basins.

What about the future of moderately explored areas? As noted this depends on prospects for discovering giant fields and, as the following quote implies, Mr. Nehring believes one's estimate of future finds depends, in part, on the conceptual or philosophical point raised earlier.

A key question in this debate is whether modern petroleum exploration is an efficient process. If past exploration is assumed by the estimator to have been efficient, whether this assumption is made explicitly or implicitly, the prospects for future discoveries of significant amounts of oil in provinces that have been moderately to extensively explored are generally considered to be slight, and the resulting estimates of ultimate recoverable resources are likely to be pessimistic as well. If exploration is assumed to have been inefficient, significant future discoveries within most of the known producing provinces are still a real posibility and estimates of future discoveries can be optimistic.

Mr. Nehring believes the evidence supports the claim of efficiency. That is, giant fields are found quickly: " . . . a well designed exploratory program is likely to result in the discovery of 90% to 100% of the giant fields in any given province with the drilling of no more than 25 to 200 newfield exploratory wells." An issue worth further study is whether the level of drilling Mr. Grossling finds inadequate, is actually sufficient to determine the presence of important giant fields.

POSSIBLE RESTRAINTS TO INVESTMENT

It is easy to conceive of restraints to petroleum investments in developing countries by private international oil companies, private international banks, and the host governments. A review of these restraints is important since it could explain why there might have been a "drilling gap" in the past. Furthermore, such a study could be the basis for a decision on whether petroleum prospects, whatever their magnitude, will be adequately exploited in the future. A brief discussion follows of possible restraints in the past and in the future.

World price of oil

Prior to 1973, the world price of oil probably did not justify exploration for and production of petroleum in many countries. For this reason, it should not be a surprise to find a concentration of effort in the giant, low production cost fields of the Middle-East and in U.S. fields protected by tariffs. However, the quadrupling of oil prices in 1973 drastically changed petroleum economics. The higher prices should stimulate a commensurate increase in production and exploration and Table 2 and 3 display two rough indicators of the response. Table 2 lists production increases in Non-OPEC developing countries for the period 1972–1978. With a few important exceptions, notably Mexico, a dramatic production response is not revealed. Table 3 displays one measure of exploratory effort in selected developing countries. The measure is the number of exploratory wells and the countries were selected on the basis of Grossling's estimates of prospective petroleum producing areas. Once again, no dramatic increase is seen.

TABLE 2.—OIL PRODUCTION IN NON-OPEC DEVELOPING COUNTRIES, 1972 AND 1978

Country	1972 production	1978 production	Percentage change	Projected 1985 production	Percentage change from 1978
Latin America:					
Argentina	435	450.0	3	500	11
Barbados		.7		0	
Bolivia	32	30.0	−6	100	233
Brazil	167	160.0	−4	400	150
Chile	33	20.0	−38	50	150
Colombia	192	130.0	−32	200	54
Guatemala		.7		50	700
Mexico	440	1,270.0	189	2,800	120
Peru	60	150.0	149	200	33
Trinidad and Tobago	143	240.0	68	250	4
Africa:					
Angola	135	130.0	−4	200	54
Cameroon		10.0		50	400
Congo	8	28.0	273	100	257
Egypt	227	490.0	116	800	63
Morocco	0	.1	−67	0	
Tunisia	80	100.0	25	200	100
Zaire		20.0		50	150
Middle East:					
Bahrain	72	56.0	−22	50	−11
Israel	120	10.0		0	
Jordan				0	
Lebanon				0	
Oman	280	320.0	14	400	25
Syria	120	170.0	42	275	62
Turkey	65	50.0	−23	75	50
Far East:					
Burma	20	25.0	25	75	200
Brunei-Malaysia	278	420.0	51	800	90
India	151	230.0	52	500	117
New Zealand	3	13.0	381	0	
Pakistan	10	9.3	−2	75	700
Thailand	0	0		0	
Total	3,070	4,533	48	8,200	81

Note: 0 means less than 50,000 bbl.

Source: Oil & Gas Journal: Worldwide Report in December of 1973 and 1978. Projections by CBO, prepared for and documented in a separate report written by Dr. Everett Ehrlich.

TABLE 3.—EXPLORATORY WELLS COMPLETED IN SELECTED DEVELOPING COUNTRIES 1968–77

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Latin America:										
Argentina	85	86	113	145	110	139	117	78	83	143
Bolivia	28	15	10	4	8	4	7	7	16	14
Brazil	115	86	100	87	80	78	86	87	105	100
Columbia	21	30	16	17	20	20	24	14		27
Mexico	115	134	130	129	143	NA	NA	NA	79	79
Peru	36	38	28	21	25	31	43	43		37
Africa:										
Congo		1	3	2	7	4	6	NA		
Egypt				22	26	15	12	20	34	30
Zaire				1	6	5		NA	2	1

Source: Bulletin of the American Association of Petroleum Geologists and the Oil & Gas Journal.

Although these two indicators don't reveal much of a response, anecdotal evidence seems to support the view that a substantial effort is slowly getting under way. The evidence includes the following points:

Mexico recently let the world know it had large oil resources; their reserve estimates seem to double every six months. PEMEX, the national oil company, plans to produce 2.3 MMBD by 1982 and most agree this is a very conservative target. In the last year many Western governments have come to court the Mexicans and it appears the country can now get all the investment capital it wants.

Egypt's exploratory program has been successful and its production should continue to increase. The government's production target is 1 MMBD by 1980, but this appears overly optimistic.

Brazil's state oil company, Petrobas, has negotiated a wave of lease agreements with foreign companies for offshore exploration. By opening its doors to foreigners, Brazil has increased its chances for significant production increases.

Argentina recently approved a new system of risk sharing designed to attract both foreign and domestic private investors; the national oil company, Yacimentos Petroles Fiscales, previously had a monopoly. Leases were open for bid in late 1977.

CBO's projections of 1985 production are also shown in Table 2. Foreseen is a period with significant production increases in several nations, even in some that experienced a decline in the years 1972 to 1978. The estimates represent the most likely production levels given current estimates of reserves and announced production goals. It is important to note that the estimates reflect only a production response to the 1974 price increase. Much of the oil that will be produced was found before 1973 in Mexico, Brazil, and India, but production was economic only at the much higher world price. The estimates do not reflect any long term effects of the new discoveries that could result from accelerated exploration in developing countries.

Oil company policies

Transnational companies still play a major role in the international oil market. They are involved in the production, refining, and marketing of a large portion of the world's oil. Some observers argue that for at least two reasons the companies might deliberately ignore prospects in developing countries. First, by restraining supplies prices are kept high. The companies have made expensive investments assuming a continued, high world oil price; an abrupt discovery and supply increase might drive price down and in the short run make these investments unprofitable. Second, the companies see their future as marketers for OPEC and do not want to jeopardize their title by negotiating with potential competitors.

Conditions in developing countries

Conditions in developing countries will affect the timing and level of oil exploration and development. Two points imply the prospects for increased oil production are good since the restraints to investment are severe. First, many of these countries are very poor and therefore generate little savings to finance investment; they may be dependent on external sources for all their capital needs. In capital-short developing nations, good energy investments could easily have gone unfinanced because they have lower priority relative to investments in basic needs such as agriculture. Second, some developing countries, those in Africa especially, have been politically unstable and of course this would preclude exploration as well as the involvement of foreign companies and banks.

Two other points must be raised here because they give some perspective on how much of any new production would be available for export and how much the new oil will cost. First, much of the oil produced in developing countries might be consumed to fuel their development and not exported. Indeed, oil use in developing countries might abide by Say's Law—oil supply begets oil demand, the more they produce the more they will use. The constraint on internal consumption is a country's foreign exchange needs. Second, developing countries often have inadequate physical infrastructure (roads, ports, etc.) to handle significant exports. Oil exploration and development will be more expensive and may result in prices above the current world level.

Despite these conditions, the developing countries seem to have some access to the international financial markets. In the year ending June 1978, $8.6 billion—9.8 percent of all Eurocurrency term credits and bonds—was loaned for petroleum and natural gas projects.[3] Table 4 outlines the distribution of lending by groups of countries and types of borrowers. A review of these loans revealed the following:

About one-half the loans were taken by industrialized and European countries; a significant portion was used to develop the North Sea fields. Private oil companies are the major borrowers here, but the role of state companies is still significant in countries such as Italy, Spain, New Zealand, Finland, and Yugoslavia.

Non-OPEC developing countries borrowed about 30 percent of all such loans. Loans to Mexico account for about 57 percent of the total. Argentina was the only other country with substantial borrowing, but loans or bonds of about $50 million each were arranged with Bolivia, Chile, Congo, India, Bahrain, Tunisia, Brazil, and others. Almost all the loans were to public sector borrowers.

OPEC countries account for the remaining 20 percent.

Footnotes at end of article.

TABLE 4.—DISTRIBUTION OF BORROWING IN INTERNATIONAL CAPITAL MARKETS FOR PETROLEUM AND NATURAL GAS, Q3 1977—Q2 1978

[Dollar amounts in millions]

Groups of countries	Amount borrowed	As a percent of total	Private borrowers	As a percent of total	Public borrowers	As a percent of total
Developed and European	$4,403.6	51.1	$3,087.0	70.0	$1,316.6	30.0
Developing	2,509.2	29.1	61.5	2.5	2,447.7	97.5
OPEC	1,711.1	19.8	375.0	22.0	1,336.1	78.0
Total	8,623.9	100.0	3,523.5	40.9	5,100.4	59.1

Source: World Bank data.

EXISTING GOVERNMENT PROGRAMS

Developing nations may obtain petroleum investment funds from several public institutions. Before proposing new programs, it is important to determine whether these existing, public sources of funds can adequately compensate for any shortfall of investment by the private sector or the host nation. Four general groups of institutions will be discussed here: the international development banks; the national oil companies of Western Europe and Japan; OPEC development funds; and U.S. agencies.

International development banks

With one possible, important exception—the World Bank—the international development banks do not appear prepared to finance oil exploration in non-OPEC developing countries. In general, the opinion is that such activities belong to the private sector. The energy investments of these banks focus on electrical generation and, in recent times, the development of renewable fuel sources such as solar energy.

The banks shy away from petroleum for at least three reasons:

High risk of peroleum exploration.

The view that countries can attract private capital for oil and gas study.

Preference for projects with direct benefit to a large number of people.

The views of the Banks were expressed to CBO through unofficial contracts. Included in our discussions were: Inter-American Development Bank; African Development Bank; Asian Development Bank; and the International Bank for Reconstruction and Development (usually called the World Bank). Only the World Bank program will be discussed in detail. However, now that the World Bank has abruptly gotten involved with oil and gas projects, other banks may follow suit; a likely condidate is the Asian Development bank. The United Nations might also become involved.

The Asian Development Bank, backed largely by Japan, recently began a program to assist developing nations with mineral exploitation. Funding levels could reach $140 million per year by 1981. Planned are three types of projects: technical assistance loans or grants for resource surveys of nonfuel minerals and coal; "seed capital" for production of non-fuel minerals and coal; and loans for rehabilitation or expansion of existing production and marketing of oil and gas. The ADB does not forsee a role in "high-risk, high-cost petroleum exploration."[4]

The United Nations recently received a report from the group of mineral and energy experts it appointed in 1977. The group concluded that exploration in developing countries "can be expected to produce substantial (energy and mineral) resource discoveries." Furthermore, the group asked that "urgent consideration" be given to the creation of a $500 million revolving fund to finance petroleum exploration in oil-importing developing countries.[5]

World Bank: Of all the development banks, the World Bank has expressed the most interest in financing an Oil Proliferation Policy. In mid-January its directors accepted "A Program to Accelerate Petroleum Production in the Developing Countries." Table 5 displays the proposed levels of loans for the five year period. These loans will finance only a portion of the $6.8 billion the Bank expects developing countries to need each year for petroleum exploration and development.

TABLE 5.—OIL AND GAS PROGRAM: PROPOSED WORLD BANK

[In millions of 1978 dollars]

Stage of petroleum development	Fiscal year— 1979	1980	1981	1982	1983	5-yr total
Geological and geophysical surveys	3	10	20	25	25	83
Exploratory drilling		60	100	130	160	450
Appraisal drilling		45	90	135	190	460
Production	138	432	450	500	550	2,070
Annual total	141	547	660	790	925	3,063

This proposal actually represents an expansion of an effort begun in 1977. Under the previously established program, twenty-two projects were to be financed for $930 million over a three year period; all of the projects financed production with over half for the development of known, but previously unexploited reserves of natural gas. Five projects had already been announced in Pakistan, India, Thailand, Turkey, and Zaire. (This includes projects of the International Finance Corporation, an affiliate of the Bank). The new program will fund a greater number of production projects, and in what is considered a controversial move, the World Bank will begin to support the risky business of exploratory drilling.

Implicit in the proposal is the Bank's judgment that petroleum exploration and production in developing countries has been inadequate. Their explanation seems to be that prior to 1973 the price of oil simply didn't justify such actions. Even now it is not in the interest of the oil companies to develop the typically small fields in developing nations. Consistent with their mandate, the Bank's goal is to help poor countries cut the burden of high priced oil imports. The production effects of the program are not projected to be startling by 1985; as a group, the developing countries as a group continue to be net importers although their production increases by almost 5 MMBD over the 1975 level, from 3.6 to 8.4 MMBD.

The World Bank identified countries having the greatest prospects. The group listed here includes those judged to have "high" or "very high" levels of resources although exploration activities were "inadequate or moderate." The sixteen countries are: Afghanistan, Argentina, Bangladesh, Colombia, Congo, Guatemala, India, Lebanon, Peru, Philippines, Sudan, Syria, Turkey, Vietnam, Yemen PDR, and Zaire.

Unilateral action, Western Europe and Japan

A country can finance or encourage petroleum investments in other nations through a number of public institutions. The alternatives include: foreign aid agencies; export-import banks; departments that administer tax breaks for overseas operations of private companies; national oil companies, and others. This section deals only with the state-owned companies.

Both oil-exporting and oil-importing countries have national oil corporations. The rise of such companies in major exporting nations, at the expense of the transnational corporations, is of course a significant event in the international petroleum market. However, the small, but growing role of national companies from the consumer nations is also of interest for at least two reasons. First, such companies might invest in countries where private groups are not allowed or invest under conditions private groups would not accept. Second, such companies might enter contracts which guarantee oil supplies for their home state and initiate deals whereby these oil imports are tied to exports of goods and services. (So called trade bilateralism, countertrade, barter, etc.).

Japan and almost every Western European nation has a national oil company, but each is different. Unfortunately, the evidence on whether they are subsidized or engage in trade bilateralism is either unavailable or so scattered there was not sufficient time for compilation. The following discussion of the Japanese and French companies gives some perspective on the range of policies.

Japan: The Japanese National Oil Company, formerly the Japan Petroleum Development Corporation, has an extensive program for unilateral action. JNOC is wholly owned by the government and is designed to assist Japanese corporations with oil exploration and production at home and abroad. The principal forms of aid are:

Equity investments in exploration ventures overseas or in Japan's continental shelf.

Loans to companies for oil or gas exploration overseas or on the shelf. Interest rates have been around 6 to 7 percent. Debts are typically forgiven if the venture is not successful.

Guarantees of the obligations of companies engaged in exploration and development overseas.

Tax deferals or exemptions for overseas operations.

Equipment leasing for exploration.

Geological and geophysical surveys, both for associated companies and on commission from the Government and industry.

JNOC deals not only with Japanese companies, but with governments or their national oil corporations. Since its start in 1967, JNOC has made equity investments of $744 million and direct loans of $742 million; 92 percent of this was for activity overseas. In 1977, total obligations guaranteed by JNOC were $1,050 million.[6] It appears that the financial assistance is given with two conditions: First, the equipment used in exploration or development will be purchased from Japanese companies; second, if oil is found, a certain portion of production will be guaranteed for Japan.[7] A wide range of countries seem to be involved with JNOC; Saudi Arabia, Indonesia, Iraq, Abu Dhabi, and Zaire.

Two Japanese oil deals were well publicized last year. The first was with China. Japan agreed to import Chinese crude through 1985; the amount increases from 7 million tons in the first year to 40 or 50 million tons in 1985. Japan will finance development and thereby assure sales for its petroleum equipment industry. Involvement of JNOC is especially important here because special refinery equipment is required for the heavy, waxy Chinese crude and no private company would invest if supply was not officially secured.[8]

The second deal was in Mexico. Japan agreed to finance the construction of a crude oil pipeline to and an oil-port on Mexico's Pacific coast. The oil transported through this system would obviously be exported to Japan.

France: Societe Nationale ELF Aquitaine (SNEA) is the French National Oil Company; it is 70 percent held by a government agency. In addition, the French government is part owner of other companies such as Compagnie Francaise des Petroles (CFP). Through an unofficial contract, it was learned that SNEA views the French government only as an important shareholder. That is, the French government does not completely control or subsidize this company.

In support of this view several points were confirmed: the government demands and accepts dividends from the company; no low interest loans are provided; tax regulations for SNEA are the same as for private French corporations; and SNEA is free to buy equipment from and sell its oil to any nation. Although SNEA might play a prescribed role in a bilateral trade deal, such arrangements are negotiated elsewhere in the French government. France is apparently negotiating Goods-for-Oil, barter deals with Mexico and Nigeria.

SNEA is very active around the world. It has exploratory interests in Tunisia, Libya, Cameroon, Gabon, Congo, Columbia, Brazil, Guatemala, and other countries.

Other Nations: As noted above almost all developed nations have a state oil corporation. The British own a large share of British Petroleum, one of the world's major oil companies, and also own the British National Oil Company which focuses on North Sea oil development. Italy's state owned company is Ente Nazionale Idrocarburi. The Italians apparently expect ENI to become a more important supplier and, according to their national energy plans, hope to find countries willing to provide crude oil in exchange for goods and services. Germany owns a large share of VEBA which in turn owns a large share of Deminex, a worldwide exploration group. Norway sponsors STATOIL and several other nations also finance petroleum corporations.

OPEC development funds

Many developing nations have trouble financing trade deficits resulting, in part, from the 1973 oil price increase. As a vehicle for recycling petrodollars to these nations, members of OPEC established several development funds.[9] These funds have not financed many petroleum exploration or development projects, but the loans are for very basic development projects such as road construction, cement plants, water and sewage, and electric power. Interest rates are often one or two percent, substantial grace periods are given, and loans are long term.

It is not known why petroleum investments have not been financed. But a shift in focus toward petroleum projects could make a dramatic difference in developing nations since the amount of money involved is substantial and the terms are concessionary. Some examples follow:

The Abu Dhabi Fund for Economic Development loaned $170 million in 1976 and another $310 million is being negotiated. Interest rates are 3 to 5 percent, grace periods are 3 to 6 years, and the time period is 10 to 20 years.

The Kuwait Fund for Economic Development loaned about $550 million in fiscal year 1976. Interest rates were .5 to 4 percent.

The Saudi Arabian Fund for Development authorized grants and loans totaling $2 billion in 1977–78.

Unilateral action, the United States

The United States can aid developing countries directly through several organizations. Three are discussed here: the Export-Import Bank; the Agency for International Development; and the Overseas Private Investment Corporation.

Export Import Bank: The Eximbank facilitates exports between U.S. sellers and foreign buyers. It does this in several ways.[10]

The Eximbank borrows from the Treasury and/or the private market to provide "direct" loans to foreign purchasers. When the Eximbank extends a direct loan, the money is paid to the U.S. exporter and the foreign buyer signs a note to repay the Bank.

The Bank extends "discount" loans, which are advance commitments to lend against or

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Footnotes at end of article.

acquire export debt obligations held by commercial banks when and if the banks need cash.

The Eximbank guarantees loans to foreign purchasers by commercial banks and extends credit insurance. Financial guarantees assure commercial banks repayment of export loans. Credit insurance protects U.S. exporters against political and commercial risks.

The Eximbank has used all three of its financial tools for energy related commodities. Table 6 displays active projects as of October, 1978 involving oil and gas drilling equipment. The authorized amount represents the portion of the export commodity value covered by the Bank. A very wide range of countries are involved: Argentina is named in 108 of the 364 authorizations; Israel and Algeria each have about 30; Mexico and Norway each have 22; the United Kingdom has 19; 48 other countries each are involved in between one and ten authorizations.

TABLE 6.—OUTSTANDING EXIMBANK AUTHORIZATIONS AS OF OCTOBER 1978 FOR OIL AND GAS DRILLING EQUIPMENT

[In millions of current dollars]

	Export value	Authorized amount
Direct loans	838.6	352.5
CFF and relending loans	20.6	9.5
Discount loans	224.3	165.2
All guarantees and insurance	196.9	135.0
Total	1,280.4	662.2

Source: Eximbank staff.

Eximbank loans and insurance are not free. Interest and premiums are paid. In cases where a competing foreign exporter is being subsidized by its home nation, the Eximbank can lower its rates to meet that competition.

The Eximbank has the potential to engage in what was termed trade bilateralism. The organization could first encourage exploration by financing the necessary equipment purchases in the developing nations. That equipment, of course, would be sold by U.S. manufacturers. If oil is found, the bank could then finance sales of U.S. production equipment and accept as repayment of their funds a portion of the crude oil produced.

The Agency for International Development: Direct U.S. aid to developing countries is channeled through AID. The agency, at Congresses' request, is expanding its energy program. However, AID probably won't get involved with petroleum since the Congress directed that ". . . emphasis be given to renewable and nonconventional energy resources . . ."

Overseas Private Investment Corporation: Secretary Schlesinger in testimony before the Joint Economic Committee in March, 1978, spoke concerning OPIC involvement.

"OPIC has recently initiated a new policy to offer political risk insurance for investment in the exploration, development, and production of oil and gas in non-OPEC developing countries. Two contracts have already been signed covering investment in oil exploration in Jordan and Ghana. OPIC is currently considering applications for investment in several other countries.

The administration supports this new policy and believes that the availability of this insurance may provide a necessary incentive for investment by small U.S. companies in high risk areas. We continue to move cautiously into this sphere gathering experience from which to evaluate the policy's impact on oil discoveries in marginal LDC areas. The comparative energy and economic benefits of this investment compared to alternative domestic investments are not obvious. They will depend greatly on future developments in world oil prices and in the political climate in non-OPEC developing countries. We would therefore not recommend any move to change the present guidelines that OPIC's maximum exposure in this area should be limited to 20 percent of its portfolio."

In addition, Senator Percy, in a letter to the Wall Street Journal (12/28/78), noted that he and Senators Javits and Bellmon will propose legislation to encourage such OPIC efforts. Senator Percy has systematically solicited the views of the companies and will present the results of the survey at a later date.

THE STRATEGY FOR OIL PROLIFERATION: PROS AND CONS

For five reasons, the Strategy for Oil Proliferation clearly deserves serious consideration. First, a good chance exists for moderately increased petroleum production in the non-OPEC developing countries. Second, there will be restraints to adequate investment in at least some countries by private companies, private banks, and host governments. Third, the U.S. can, through an intelligently administered program, benefit from increased production in developing countries. Fourth, it would make economic sense to exhaust opportunities to profitably produce oil at $15 to $20 per barrel in developing countries before investing in inevitably more expensive synthetic fuels within the U.S. And finally, because Japan and Western European governments appear to have the capacity for active worldwide involvement, the U.S. must determine whether it will be "squeezed out" of a future international oil market where all oil production is marketed on government to government contracts complete with barter deals.

As the Strategy is debated, at least two arguments against it must be raised. First, direct government involvement would preempt U.S. based, international oil companies. These firms may provide the most efficient worldwide system for petroleum exploration, production and marketing. If this is so, it would be damaging to subsidize competition. Second, although oil from developing nations might be cheaper than synthetic oil it can't be considered as secure and it can't be imported without worsening the U.S. balance of trade.

These general pros and cons are discussed further in the following pages.

Prospects: Geologists appear to agree that there is a good chance for a moderate increase in oil production perhaps from the current level of 4 MMBD to 10 MMBD in 1990. (Total non-communist, world supply should be 72 MMBD by then.) There is some chance, according to the work of Bernardo Grossling, that potential production is much higher. This range of estimates, with higher probabilities for lower production levels and vice versa, should be expected; it is always true in the risky business of petroleum exploration.

Restraints: The extent to which private investments in developing countries have been or will be restrained is unclear. Companies and/or host governments have explored to some degree in most of the developing nations and private international banks have financed petroleum related investments in at least some of these countries. Other nations—Argentina, Brazil, and Chile for example—have recently opened their doors to foreign companies for the first time. Whether all economic resources have been or will be evaluated is a matter for detailed, country by country geologic and economic analysis. However, the potential restraints, in concept, are so easy to identify that the probability of finding at least some "neglected resources" seems very high. A program through which the U.S. searches for these missed petroleum opportunities is worthwhile if it is superior to alternative domestic energy policies.

Benefits: Policies that expedite a production increase would help mitigate the Four Risks. With new petroleum production, the world's hydrocarbon supply would be increased and the fear of abrupt depletion would be diminished; the competition might also slow OPEC price increases and thereby lower future U.S. oil import payments. Furthermore, by purchasing oil from these new areas, the U.S. would diversify its sources and might lessen its susceptibility to supply interruptions such as that from Iran. Finally, if the U.S. could tie these oil imports from new producers to exports of U.S. machinery and technology, the balance of trade deficits due to oil importation would be minimized. This import-export tie can be termed trade bilateralism, countertrade, or barter.

Knowledge about the prospects for petroleum production in developing countries is also very important in establishing effective domestic energy policy. Recent events in Mexico illustrate that importance: If sufficient knowledge about Mexican oil and gas resources had been available, the Administration might not have presented an NEP so heavily dependent on coal substitution.

Comparison to Other Energy Policy: Assume that an investment fund is established and the managers of that fund intend to finance a series of projects that will result in a fair rate of profit as long as the petroleum is sold for $15 to $20 per barrel ($15 is the current world price). That is to say, the investments as a group are expected, with some high probability, to be repaid with interest over the life of the resulting oil wells. An investment fund run in this fashion can probably be shown to be superior to investments in most synthetic crudes. The investments fund is superior simply because liquid fuels resulting from the other investments are expected to cost much more than $20 per barrel equivalent.

It would make economic sense to exhaust opportunities to profitably produce oil at $15 to $20 per barrel in developing countries before investing in more expensive synthetic fuels within the U.S. However, while such investments in developing nations are more economical, the security of the resulting oil supply relative to the security of the domestic alternatives is a matter for further debate. Furthermore, unless new oil imports can be tied to exports of American goods and services, these investments in developing countries, unlike domestic projects, will aggravate balance of trade deficits and further weaken the dollar.

Squeeze Out: As the U.S. government debates the need for its involvement, it appears that Japan and most Western European governments have already begun their Strategies for Oil Proliferation. Add to these unilateral policies the recently approved World Bank program plus potential investments from the UN, the Asian Development Bank, and the OPEC Funds and the chances for adequate petroleum investment in developing countries seem quite good.

Unfortunately, while this flood of investment funds may mark the end of a problem for the non-OPEC nations it may mark the beginning of a problem for the U.S. If the unilateral policies are actively pursued, the U.S. could find itself in a world where all oil production is marketed on government to government contracts complete with barter deals. Furthermore, "cheap" loans from the World Bank and others can only damage further the competitive position of the international oil companies, the oil suppliers on which the U.S. depends. At present there is no problem, but the topic warrants investigation especially given the recent courting of Mexico by Japan, France, Britain, and Canada. Perhaps the U.S. should realize, as these other nations have, that some level of oil imports is inevitable and the best terms possible should actively be pursued.

SPECIFIC POLICY OPTIONS

There are three alternative responses to the evidence presented above. First, the U.S. government could leave petroleum exploration and production in the developing nations to private petroleum companies, private international banks, and the host governments; this can be termed the Laissez Faire option. Second, direct action by the U.S. government could be taken; this is called unilateral policy. Finally, the U.S. could support efforts of mutilateral organizations such as the World Bank. All three options will be considered here.

Laissez Faire

Before proposing government intervention, it should be judged whether the efforts of private companies, private banks, and host governments have been adequate. The three entities should explore and develop areas that they believe have the potential to produce petroleum that could be sold for a fair profit at the expected world oil price. Government action is warranted if this performance standard will not be met or if another standard requiring a greater effort is more appropriate.

For government action to be warranted, it must also be believed that a government agency can do a more competent job than the entity it will, to some extent, supplant. Specifically, with any unilateral or multilateral policy, a key concern is the extent to which government will compete with the international oil companies. Some observers argue that, although there are problems, the companies would provide the most efficient worldwide system for petroleum exploration, production, and marketing. If this is so, it would be damaging to subsidize competition by host governments or by a government agency.

Unilateral action, options for the U.S.

The U.S. government could become directly involved with petroleum investments in developing nations; this can be termed unilateral action. The alternative is to become involved in cooperation with other developed nations through an institution such as the World Bank; this is termed multilateral action.

Specific unilateral policies should be dictated by the nature of the "restraints" they are designed to overcome. For example, if political risk is the restraint to private investment then a program of political insurance such as that offered by our Overseas Private Investment Corporation is appropriate. The options and reasons for choosing them are listed in Table 7.

TABLE 7.—*Rationales for and descriptions of unilateral policy options.*

RATIONALE FOR POLICY PROPOSAL	DESCRIPTION OF POLICY PROPOSALS
The first three rationales are based on the belief that there are prospects for petroleum production at the current world price, but those prospects won't be realized because of one or all of the following restraints:	Since these reserves can be economically produced at the world oil price, none of the first three proposals require concessionary finance.
I. Political risks: Petroleum companies and private international banks won't invest because they fear political instability in the host country. In addition, one assumes the host country is too poor to generate sufficient investment funds.	I. Political insurance: Expansion of OPIC-type insurance. Mediation: Plan to assist in negotiating, but not insure, deals between the governments of developing countries and private companies or banks.
II. Oil company policy: Petroleum companies won't invest because they are trying to restrain supplies. In addition, one assumes private banks won't loan funds because they want company involvement and the host country is too poor to generate sufficient funds.	II. Finance the host government's national oil company: Equity investment or loans would be made to the National oil companies of the developing nations. All stages of petroleum exploration and production would be financed. Establish U.S. national oil company: A USNOC could finance and perform any or all of the following activities: lease land for exploration; perform predrilling exploration; undertake exploratory drilling; produce petroleum; or market the petroleum.
III. Nationalistic stance: Governments of developing nations refuse to deal with the international companies and banks, but are too poor to generate sufficient investment funds.	III. (Same as II)
The final two motivations are based on the belief that the private sector and developing nations are doing all that, by their standards, is adequate, but it is in the national interest of the U.S. to do more. Concessionary financial aid might be called for in both cases.	
IV. Oil trade war: The U.S. is put in a defensive position because all other industrialized nations have actively pursued unilateral policies. In this case the U.S. could find itself in a world where all oil production is marketed on long term intergovernment contracts.	IV. Cooperation: The U.S. would end the war by establishing a cooperative arrangement within OECD. Work through U.S. oil companies: Arrangements would be made between the U.S. government and U.S. based oil companies to match the unilateral efforts of other nations. If concessionary aid is being given, the U.S. could give tax breaks to the companies. Establish a U.S. national oil company: (Same as above.)
V. Extra benefits: From the perspective of the private sector, it is proper to consider the expected profit of oil sales as the value of increased oil production. But for the U.S. as a large oil importer, the value of increased production from non-OPEC nations can mean more; it can lead to the diminishment of any or all of the four risks. In addition, increased supply could slow the rate of OPEC price hikes and the pay-off would be reduced U.S. oil bills.[a]	V. Finance U.S. oil companies: Induce accelerated exploration and investment through tax policies.

[a] For economists, all of this discussion comes under the title of externalities: benefits that could accrue to a group (all U.S. citizens) are not realizable by an individual decisionmaker (private companies and banks) and therefore not properly considered in private investment decisions. The final external benefits, lower fuel bills, would be termed a "pecuniary externality" and many economists would not consider it a proper motivation for public involvement; it would be similar to subsidizing Ford to compete with GM so prices would be lower.

The possibility of three specific provisions should be considered in any of the unilateral policies described above. The first is the extent to which U.S. involvement (insurance, mediation, finance) will be tied to purchases of equipment manufactured in the U.S. The obvious example is to finance exploration under the condition that any equipment used will be built in America; this is the typical deal of the Exim bank. The second provision concerns the extent to which oil shipments to the U.S. are guaranteed. For example, the repayment of a loan can be in the form of oil imports. The final provision concerns the extent to which oil shipments will be tied to additional purchases of U.S. goods or services. For example, oil would be imported and paid for with a "line of credit" arranged by the Exim bank.

Multilateral vs. unilateral aid

The specific types of multilateral aid are identical in most cases of the proposals for unilateral policy. Instead of the activities being arranged by the U.S. government they would be taken care of by a group such as the World Bank.

From the perspective of the U.S. the difference between unilateral and multilateral aid is the number of "import risks" confronted. Multilateral aid could increase the world's hydrocarbon supply and thereby lessen the risk of an abrupt depletion. But in addition to increasing world supply, unilateral aid could assure new production for the U.S. so that U.S. oil imports would be diversified; the risk of supply interruptions could thereby be diminished. Furthermore, if trade bilateralism is established in conjunction with a unilateral U.S. program, it could help diminish the problem of balance of trade deficits. In sum, unilateral aid seems to have a more direct effect of the U.S. than any multilateral aid.

Multilateral aid, however, does have one important advantage. This approach shows a willingness on the part of the U.S. to cooperate with other oil consuming countries. Cooperation among the western nations has been a central point of debate since the 1973–74 embargo.

FOOTNOTES

[1] See Chapter XX of Congressional Research Service, Project Interdependence: U.S. and World Energy Outlook Through 1990 November, 1977.

[2] This section is based on a briefing paper by Exxon, "Exploration in Developing Countries." June, 1978.

[3] The term Eurocurrency refers to a currency loaned by (or deposited in) a bank outside the country of its origin.

[4] Asian Development Bank, Quarterly Review, October, 1978.

[5] Report of the Secretary-General, Multilateral Development Assistance for the Exploration of Natural Resources, October 16, 1978.

[6] Japan National Oil Company Brochure.

[7] Unofficial contact with JNOC.

[8] "Far Eastern Economic Review," October 6, 1978.

[9] The only central review of these funds available at the time was presented in Hossein Askari and John Thomas Cummings, University of Texas, Oil, OECD, and the Third World: A Vicious Triangle, (1978).

[10] This introduction is taken from U.S. Congressional Budget Office, The Export-Import Bank: Implications for the Federal Budget and the Credit Market. October, 1976.

EXHIBIT 3

COUNTRY-BY-COUNTRY ASSESSMENT OF OBSTACLES TO ACCELERATED OIL PRODUCTION, AND ESSENTIAL INDICATORS[1]

Country	Active rigs, March 1979	Active companies	Investment obstacles	Comments
I. Net oil exporters:				
Mexico	196	None	Exclusionary policies	Despite the ban on foreign investment in oil and gas, Mexican capabilities are good, and exploration and production are proceeding rapidly.
Egypt	20	Amoco, Exxon, Deminex, Shell, Mobil, others.	Boundary dispute	Egypt has consistently offered attractive terms to investors, and with the exception of the Gulf of Suez dispute, production is rising rapidly.
Trinidad	17	Amoco, Texaco, Tesoro	None	Trinidad has consistently offered attractive terms to investors and is one of the most densely drilled countries in the world.
Malaysia/Brunei	21	Exxon, Shell, others	U.S. tax law, contract disagreements, boundary dispute.	Exxon activity in Malaysia was disrupted in 1975 when the Government converted to production-sharing. Agreement was reached in 1976 and the difficult period appears over.
Angola	6	Gulf, Texaco	Political instability	Production declined drastically during the 1975/76 civil war, but oil operations have now resumed.
Tunisia	5	Shell, Elf/Aquitaine, others	Boundary dispute	No significant problems other than the dispute with Libya.
Bolivia	6	Occidental, Tesoro	Political instability, exclusionary policies, contract disagreements, lack of export potential.	Basic government/industry disagreements persist, severely restricting the rate of exploration and development of new structures.
Congo	0	Elf, AGIP, Getty, others		Despite an extreme government, the primary limitation on new production will be geology.
Syria	14	Mobil, Marathon, others	Restrictive policies, political instability.	The Government opened a substantial acreage to foreign investment in 1975, and some activity is underway Geological prospects, however, appear limited.
Zaire	0	Gulf, Shell, Amoco	Political instability, lack of export potential.	Continued political and security problems in Zaire, combined with the substantial uncertainties of future potential have limited investor interest.
II. Oil importers with very high potential:				
Argentina	57	CEP, Deminex	Exclusionary policies, boundary dispute, lack of export potential, political instability.	Although geological prospects are favorable, Argentina has restricted foreign investment to a secondary role, offering only limited acreage and strict terms.
Brazil	59	BP, Shell, Exxon, Elf, others	Exclusionary policies, lack of export potential.	Brazil has also restricted the role of foreign investment, offering limited acreage and strict terms.
Chile	5	Phillips, Arco, Amerada Hess	Exclusionary policies, lack of export potential.	Chile has also restricted the role of foreign investment, offering limited acreage and strict terms.
Colombia	12	Exxon, Occidental, Mobil, Texaco, others.	Contract disagreements, lack of export potential.	Colombia's investment climate has been subject to frequent change based on internal political considerations. Prospects for identifying new structures are limited.
India	40	None	Exclusionary policies	India has elected to forego the higher development rates possible through foreign investment and has chosen instead to rely on indigenous capabilities.
Peru	22	Occidental, others	Political instability U.S. tax law, contract disagreements.	Exploration and development have proceeded slowly as a result of strained industry/government relations.
Chad	1	Conoco	Political instability, lack of export potential.	Discoveries in the interior may not be economical for export, but might be used for domestic needs. The country faces civil strife in the capital and insurrection in the north.
Phillipines	13	Cities Service, Amoco, Shell, others.	Political instability, lack of export potential, boundary dispute, contract disagreements.	Exploration and development are proceeding slowly as a government/industry relationship is developed.
Thailand	2	Shell, Exxon, others		Activity is significant, but exploration in the Gulf of Thailand has yielded primarily gas.
Vietnam	2	AGIP, Deminex, others	Political instability, boundary disputes, U.S. foreign policy.	Exploration in offshore areas has resumed, but is severely hampered by local warfare and U.S. restrictions.
Niger	5	Exxon, Texaco, Elf/Aquitaine, others.		Exploration activity is high, and prospects are good.
III. Net Oil Importers with High Potential				
Afghanistan	0	None	Exclusionary policies, political instability.	The recent advent of a pro-Soviet government and continued civil strife limit the potential for new exploration. At least one U.S. company is holding discussions with the Government, and future activity cannot be ruled out. The Soviets have an active gas operation in the north.
Bangladesh	2	Union, others		Seismic exploration is underway with a recent large gas discovery.
Turkey	13	Mobil, Shell, others	Political instability, boundary disputes.	Significant exploration is underway. Some promising areas in the Aegean are under dispute with Greece.
Cameroon	3	Mobil, Shell, Gulf, CFP, others		Substantial activity is now underway, and prospects are good.
Guatemala	0	Elf/Aquitaine, Texaco, Amoco, Getty, others.		
Ghana	0	Phillips, AGIP, Getty, others	Political instability	
Lebanon	0	None	Political instability	The civil war precludes activity.
Sudan	2	Socal	Lack of export potential	Sudan has consistently offered attractive terms to investors. Resource potential in the interior may not be economical for export.
Yemen, Peoples' Democratic Republic.	0	None	Exclusionary policies, political instability.	No foreign investment has yet been permitted.

[1] From Department of Energy Sept. 6, 1979, report: Accelerated Development of Oil and Gas Production in Non-OPEC Countries.

EXHIBIT 4

A PROGRAM TO ACCELERATE PETROLEUM PRODUCTION IN THE DEVELOPING COUNTRIES

Section I: Introduction: The energy balance:

1. In July 1977 the Executive Directors of the World Bank approved a program calling for an expansion of lending by the Bank Group in the development of the fuel and non-fuel mineral resources of member countries.[1] The Bank had not previously financed petroleum production projects, and the decision to do so recognized the urgent need for developing countries to exploit their indigenous energy resources.[2]

2. Because of the experimental nature of the Bank's expanded program for fuel minerals, it was agreed that a report would be prepared reviewing the first year's experience and the lessons learned. The present paper presents that report. It concentrates on oil and natural gas, since these are the main fuels, but an account is also given of the Bank's work in coal and the contribution coal can make in solving the energy problem of the developing countries. Traditional, non-

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Footnotes at end of article.

commercial fuels, which are important in the rural areas, are also considered briefly, as are the prospects for solar and other renewable sources of energy. In the July 1977 discussions, the need for an integrated program for development of the energy sector was stressed. The changed economics of energy resulting from the increase in the price of oil logically required conservation, exploration of previously high-cost domestic sources of petroleum and expansion of energy from alternative sources to substitute, where possible, for petroleum-based energy supplies. The Bank has been mindful of the need for a balanced program for energy development, and the importance of planning for the sector as a whole has been emphasized in its work.

3. In the last year, the international community has become increasingly aware of the energy needs of the developing countries, and has urged the international agencies to expand their assistance in this sector. In the Declaration from the Bonn Summit of July 17, 1978, the participants requested that "the World Bank explore ways in which its activities in this field can be made increasingly responsive to the needs of the developing countries, and . . . examine whether new approaches, particularly to financing hydrocarbon exploration, would be useful". The Secretary General of the United Nations[3] endorsed the conclusions of a group of experts appointed by him early in 1978, which included the recommendations that:

(a) "Consideration should be given to expansion of the existing activities of the World Bank and the regional Development Banks, and in particular to the provision of loans for basic geological survey and geoscientific data base activities; and

(b) "Urgent consideration should be given to additional financing mechanisms and, in particular, a mechanism for providing further finance for petroleum exploration in the oil importing developing nations—this to be linked to the work currently underway within the World Bank and other forums."

4. To provide the background for an assessment of the Bank's recent activities in energy development, and of what remains to be done, projections are given below of the "energy balance" of the non-OPEC developing countries (NODCs) in 1980 and 1985, which point to the very different situation of the oil exporters and importers in this group of countries. Section II reviews the Bank's lending and technical assistance activities for petroleum, coal and electric power during the past 15 months. Section III examines the exploratory and other predevelopment work that has to be done before investment can be made in fuel production, and shows how far it falls short of desirable levels in the oil importing developing countries (OIDCs). Section IV suggests ways in which the Bank might help these countries to extend their knowledge of petroleum and coal reserves and outlines a program of further work by the Bank in the energy sector.

THE ENERGY OUTLOOK FOR THE NON-OPEC DEVELOPING COUNTRIES

5. Preliminary Bank projections of the energy balance of the NODCs in 1975–1985 are shown separately in Table 1 for oil-importing countries and non-OPEC oil exporters. Energy demand and supply in million barrels per day of oil equivalent (m bdoe) are divided according to the amounts provided by oil and other sources (including coal, gas, hydro and nuclear power). Non-oil sources of energy are largely produced and consumed domestically, and the bulk of trade in energy fuels is in oil. The projections are revisions of figures prepared for the World Development Report (WDR)[4]. Key assumptions are that:

(i) Crude oil prices will remain constant in real terms through 1985;[5]

(ii) NODC economies will grow at a rate of 5.9 percent per annum during the decade.[6]

Footnotes at end of article.

TABLE 1.—PRELIMINARY PROJECTIONS OF NON-OPEC DEVELOPING COUNTRIES' (NODC's) ENERGY BALANCE, 1975–85[1]

[Million barrels per day of oil equivalent]

	1975	1980	1985	Growth rates (percent per annum) 1976–80	1981–85	1976–85
Oil-importing developing countries (OIDC's):						
Consumption:						
Oil	4.33	5.35	7.20	4.3	6.2	5.2
Nonoil	3.73	4.95	7.30	5.8	8.1	6.9
Total	8.06	10.30	14.50	5.0	7.1	6.0
Production:						
Oil	1.21	1.66	2.85	6.5	11.4	8.9
Nonoil	3.62	4.88	7.35	6.2	8.5	7.3
Total	4.83	6.54	10.20	6.2	9.3	7.8
Net energy imports[3]	3.23	3.76	4.30	3.3	2.7	3.0
Oil imports	3.12	3.69	4.35	3.4	3.4	3.4
Oil imports as percent of total imports	14.4	12.6	7.2			
Value of oil imports (current dollars in billions per year)	14.3	24.3	38.3			
Non-OPEC oil-exporting developing countries:[4]						
Consumption:						
Oil	1.14	1.36	1.88	3.6	6.7	5.2
Nonoil	.49	.85	1.37	11.6	10.0	10.8
Total	1.63	2.21	3.25	6.3	8.0	7.1
Production:						
Oil	2.36	4.09	5.55	11.6	6.3	8.9
Nonoil	.61	1.14	1.91	13.3	10.9	12.1
Total	2.97	5.23	7.46	12.0	7.4	9.6
Net energy exports	1.30	3.02	4.21	18.4	6.9	12.5
Oil exports	1.22	2.73	3.67	17.5	6.1	11.6
Oil exports as percent of total exports	22.0	29.6	32.1			
Value of oil exports (current dollars in billions per year)	4.3	13.8	25.0			
Total non-OPEC developing countries:						
Consumption:						
Oil	5.47	6.71	9.08	4.2	6.3	5.2
Nonoil	4.22	5.80	8.67	6.6	8.4	7.5
Total	9.69	12.51	17.75	5.2	7.2	6.2
Production:						
Oil	3.57	5.75	8.40	10.0	7.9	8.9
Nonoil	4.23	6.02	9.27	7.3	9.0	8.2
Total	7.80	11.77	17.67	8.6	8.5	8.5
Net energy imports	1.90	.75	.08	−17.0	−36.1	−27.2
Memo item:[5] Bunkers (all oil)	.46	.57	.67	4.4	3.3	3.8

[1] Refers to commercial energy sources only and assumes that OPEC crude oil prices remain constant in real terms through 1985 ($11.50 per barrel in 1975). OIDC's are projected to grow at 5.3 percent per annum in 1976–80; 6.4 percent in 1981–85; and 5.8 percent per annum for the whole of the decade. Corresponding growth rates for non-OPEC oil exporters are 5.5 percent, 6.6 percent, and 6.1 percent; and for all NODC's the growth rates assumed are 5.4 percent, 6.4 percent and 5.9 percent. Totals may not add due to rounding.

[2] Nonoil includes coal, gas, and hydropower, nuclear and geothermal. The breakdown for energy from these sources for all NODC's is:

	Nonoil energy consumption and production (million BDOE) 1975 Production	1975 Consumption	1985 Production	1985 Consumption
Coal	2.17	2.30	3.74	3.75
Gas	.85	.71	2.53	1.92
Hydro, nuclear, and geothermal	1.20	1.21	2.00	3.00
Total nonoil	4.23	4.22	9.27	8.67

[3] As indicated, the bulk of energy imports is in the form of oil; coal and gas account for almost all of the remainder.

[4] Non-OPEC oil exporters include: Angola, Bahrain, Bolivia, Congo, Egypt, Malaysia, Mexico, Syria, Oman, Trinidad and Tobago, Tunisia, and Zaire.

[5] Deliveries to bunkers (for fueling vessels) are excluded from net imports and net exports.

Source: Bank staff estimates.

6. For all NODCs, consumption of energy is projected to grow by 6.2 percent per annum during the decade to 17.75 m bdoe in 1985 from 9.69 m bdoe in 1975. However, because of an 8.5 percent per annum growth in energy production during the period, the energy imports of the NODCs are expected to decline from 1.9 m bdoe in 1975 to 0.08 m bdoe in 1985. The reduction of the "energy gap" for the NODCs as a group is expected to be accomplished by a balanced expansion of energy supplies from both oil and non oil sources. Within the latter, the share of energy production and consumption provided by gas, hydro and nuclear power,

and other sources, is projected to increase at the expense of coal.

7. The aggregate figures disguise the very different circumstances of the oil exporting and importing developing countries. The energy exports of the non-OPEC oil exporters (Angola, Bahrain, Bolivia, Congo, Egypt, Malaysia, Mexico, Syria, Oman, Trinidad and Tobago, Tunisia, and Zaire) are expected to increase rapidly (by 12.5 percent per annum) during the decade, despite a 7.1 percent per annum increase in energy consumption. By 1985, their exports of energy are projected to rise to 4.21 m bdoe (of which 3.67 m bdoe in oil) with a value in 1985 of $25.0 billion, or 32.1 percent of the estimated total export earnings of this group of countries in that year. Energy production, growing at 9.6 percent per annum, is expected to outpace GNP growth (6.1 percent per annum) significantly during the decade. For this group of countries, energy production will be an important stimulus to economic growth and a major source of foreign exchange earnings. The development programs of these countries will depend heavily on the energy sector for finance.

8. The oil importing developing countries will be in a very different position. The net energy imports of the OIDCs (excluding deliveries to bunkers) are projected to rise from 3.2 m bdoe in 1975 to 4.3 m bdoe in 1985, all in oil. Although the share of oil in total imports will fall sharply, the cost of oil imports will rise from $14.3 billion in 1975 to $38.3 billion in 1985. The progress in substituting other energy sources for oil is reflected in that 55 percent of the projected increase in energy consumption and 70 percent of the projected increase in energy production will be from non-oil sources.

9. These projections differ in important respects from those of July 1977. Consumption of energy by the OIDCs in 1985 is now projected to be 14.5 m bdoe compared with the 12.5 m bdoe projected earlier. The difference is a direct result of the higher growth assumed for the OIDCs in the WDR and the co-efficients used to determine the consumption of energy from major sources. Moreover, of the 2.0 m bdoe of additional energy required to support the higher growth rate of OIDCs (5.8 percent p.a. compared with 4.5 percent p.a.) almost all is projected to come from additional consumption of oil. Daily oil consumption is now projected at 7.2 m barrels compared with the earlier estimate of 5.4 m barrels.

10. On the supply side some progress has been made. Production of oil is now projected to reach 2.85 m barrels per day, a figure 24 percent higher than that projected in July 1977 (2.3 m b/d) on the basis of then existing trends. The new estimate remains well short of the 5.4 m bdoe that might be produced if the maximum practicable effort had been made to locate and develop the oil and gas resources of these countries.

11. As the supply of energy projected from non oil sources is virtually unchanged, the oil deficit projected for the OIDCs (excluding bunkers) in 1985 is 4.35 m b/d compared with 3.1 m b/d foreseen in July 1977. These figures suggest that, for the OIDCs at least, the incentive to develop domestic oil resources has increased during the past year or so.

Section II: Recent bank group activities in the energy sector:

12. Following the Executive Directors' decision in July 1977 that the Bank Group should expand its assistance for fuel and non-fuel mineral resource development, a program of energy sector studies and project lending for oil, natural gas and coal was drawn up. The expanded program of energy sector studies was instituted because a careful review of the needs and potentialities of individual developing countries for primary energy production is a prerequisite of an effective investment program.

13. The mandate given was for an expanded effort leading to Bank financing of fuel mineral production (in contrast to exploration) in the expectation that the willingness of the Bank to finance a modest share of project costs would attract a much larger flow of investment from private sources. It was not felt appropriate for the Bank, in view of the risks involved and its own lack of experience, to consider providing substantial funds for petroleum exploration. It was believed that the presence of the Bank and its readiness to provide loans for production would give confidence to both host countries and oil companies that they could secure a fair contract, and increase the willingness of the latter to invest capital in exploration.

14. However, the proposal was accepted that, in a limited number of cases, the Bank might provide small loans for exploration, to be refinanced by a subsequent production loan, or repaid by the foreign oil company if a commercial field was not found. The Bank would express its willingness to consider financing the production facilities if the exploratory effort was successful.

ENERGY SECTOR WORK

15. It is expected on the basis of recent studies that about 60 countries could benefit from an acccelerated program of oil, gas and coal exploration and development. To provide the basis for Bank involvement in the energy sector in these countries a 5-year program of sector work has been initiated. It is expected that more than 60 studies will be prepared, and will cover about 35 countries, in addition to ten small Caribbean countries. In some countries there will be studies of more than one sub-sector; in others (depending on lending operations) there will be studies which update, elaborate or consolidate those carried out in previous years.

LENDING ACTIVITIES—OIL AND GAS

16. During the past 15 months, the main activity has been to identify and prepare projects for financing in FY 79–81. It is expected that, during the three-year period FY 79 to FY 81, there will be 30 oil and natural gas projects under preparation, of which 22 are expected to be ready to be formally considered for financing. In addition, five loans for coal production are expected to be considered.

17. The focus of the program has been on countries that have good prospects for producing petroleum and coal but do not have the experience to do so without assistance. Within this group priority has been assigned to those that are poor, have large populations, are heavily dependent on imported oil and have the greatest need for technical assistance. Of the 30 oil and gas projects now under preparation, 16 are located in countries with per capita incomes in 1976 below $500.

18. More than half of the petroleum projects in the program are for the development of known but previously unexploited reserves of natural gas. The governments of many developing countries, especially since the oil price increases of the mid-seventies, have been concerned that significant amounts of gas are being flared in oil field operations; that discoveries of dry gas fields are not being developed; and that "gas prone" zones are not being adequately explored. Natural gas is a very valuable resource, providing energy for commercial, industrial and residential electric power, and the raw material for fertilizer and other chemical industries. The large fixed investments required to transport and distribute natural gas, and the public utility characteristics of the industry which make it liable to government regulation, mean that it is not especially attractive to foreign investors. For these reasons, there is a strong case for Bank financing.

19. Of the oil projects under preparation, three are for financing production from reserves that are small but will substantially reduce the dependence on oil imports of the countries concerned. Two other projects are in countries where oil production and reserves have been declining and where difficulties are experienced in attracting foreign investment. Several of the projects are for the secondary recovery of oil. The economic rates of return of the projects now under preparation are likely to be high. A preliminary estimate for 10 petroleum projects indicates a range of over 20 percent to as much as 100 percent, with an average for this group of over 40 percent.

20. The share of project cost to be financed by the Bank in the case of production loans is expected to average about 20 percent, but it varies substantially from project to project.

LENDING FOR COAL

21. The prospects for coal and lignite production in the developing countries are examined in the next chapter. In July 1977, it was estimated that it would be possible to prepare and consider for approval one or two coal/lignite projects a year starting in FY80. Experience during the past 15 months has shown that developing countries with major coal reserves welcome Bank assistance in the expansion of existing coal mines or exploitation of new deposits. A pipeline has been developed for FY79–83 which may allow lending for 2–4 coal/lignite projects a year at an annual lending of $100–200 million. Two of the coal projects under preparation will contribute significantly to export earnings, and the others are expected to satisfy 5 to 20% of domestic energy needs in the countries concerned.

SUBSTITUTION OF COAL FOR OIL AS A POWER SOURCE

22. The coal projects currently being executed or prepared in developing countries are mainly designed for new domestic, coal-fired power stations or for the export of coal to new power stations in Europe, Japan or the U.S.A. The present expansion of coal production in developing countries substitutes coal for oil or gas in new installations and will thus help to slow down the growth in oil/gas demand. There has been very little switching from gas/oil to coal in existing installations in developing countries, because (i) time is needed to build up coal production in line with the increase in demand, and (ii) more importantly, most existing power stations or other potential coal users lack dual-fired boilers, making the switch impossible without major new capital expenditures. Coal use will therefore spread only gradually as existing installations become obsolete and new plants are added. A more rapid switch from oil/gas could only be expected if a further major oil price increases were to offset the disadvantages of using coal in existing installations. These include, in addition to incremental capital costs for burner modifications, coal handling and storage facilities, as well as ecological problems.

LENDING FOR ELECTRIC POWER

23. During the past five years, the Bank has made 86 power loans and credits, for about $4.3 billion, for projects costing about $15 billion. In the next five years it is expected that about 110 loans and credits, for $7.5 billion, will be made (see Table 2 below).

TABLE 2.—LENDING FOR POWER GENERATION AND DISTRIBUTION: ACTUAL FISCAL YEARS 1974–78 AND ESTIMATED FISCAL YEARS 1979–83

	Number of loans	Current amount (millions)
Fiscal year:		
1974	16	$770
1975	11	504
1976	20	949
1977	17	952
1978	19	1,146
Actual, 1974–78	83	4,321
Estimated, 1979–83	110	7,500

24. In the non-OPEC developing countries in 1977, about 50 percent of electricity was produced from hydro sources, 48 percent from thermal sources, and 2 percent nuclear. In the years to 1985 it is expected that total electricity production in these countries will grow by about 10 percent annually, with hydro growing at about the same rate and nuclear gradually increasing its share (see table 3 below).

TABLE 3.—ELECTRIC PRODUCTION BY SOURCE, NON-OPEC DEVELOPING COUNTRIES

	1977		1985		Percent annual increase
	GWH[1]	Percent	GWH[1]	Percent	
Hydro	2.6	50	5.6	49	10
Thermal	2.5	48	5.0	44	9
Nuclear	.1	2	.8	7	35
Total	5.2	100	11.4	100	10

Source: World Bank estimates.

[1] 1,000,000 kWh.

25. Over the next five years it is expected that 25–30 percent of Bank lending for power will be for hydro generation, 15–20 percent for thermal, 15–20 percent for rural electrification and 30–45 percent for other power projects including all transmission and distribution projects. Since a loan to Italy in 1959, the Bank has not financed nuclear plants, partly because of the availability of finance from bilateral sources.

TECHNICAL ASSISTANCE

26. The main purposes of technical assistance in the energy sector are to improve sector planning and to develop coherent programs for energy development; to devise and introduce complementary financial policies, especially in regard to pricing; and to identify and prepare energy projects that are of high priority. The suddenness of the change in the energy situation left most countries, developed and developing alike, unprepared to tackle the new problems. The problems are complex, and although expert technical advice is readily available, essential decisions on a national energy program and its place in the country's general plans for development must be made by the responsible authorities. The Bank's experience in the last 15 months suggests that in many developing countries progress in exploiting indigenous sources of energy is held back by:

(a) The lack of effective energy planning institutions and the continuing shortage of adequate trained administrators;

(b) The poor understanding of energy pricing issues due to an absence of energy price studies and analysis:

(c) The inadequate analysis of data derived from exploration activities.

27. To gain an understanding of the current state of knowledge about energy resource in the developing countries, and what obstacles need to be removed if these resources are to be developed quickly in a coherent way, the Bank commissioned a survey of 70 developing countries by BEICIP,[7] the consulting arm of the French Petroleum Institute which had prepared earlier a study of the developing countries' petroleum needs and potential. The conclusions of the new survey as regards the availability of essential data on petroleum reserves are discussed in Section III. The survey also concluded that in about 50 of the countries surveyed the government or the state oil company urgently need help in a variety of training and institution building activities. Most of these countries need advice in framing or amending legislation relating to the energy sector, or in adapting policies and procedures that would improve the prospects of cooperation with foreign prospecting and production organizations.

28. The Bank's energy sector work is designed to assist member countries to resolve these problems. The Bank's country economic work will also take increasingly into account the broader questions that affect energy development, such as inter-sectoral relationships, price and rate policies, and the role of foreign investment, and offer appropriate advice to the national authorities. Detailed studies of particular issues, and provision for legal and technical training, will be included in Bank loans and credits wherever appropriate. Except for governments that have experienced national oil companies capable of carrying out projects themselves, most governments will need to bring in foreign private or state-owned organizations to assist them in one or more phases of their petroleum development efforts. Petroleum agreements are extremely complex documents that on the oil companies' side are regularly negotiated by highly skilled technical and legal specialists. If a reasonable and balanced agreement is to be achieved, governments will need to hire negotiators with skills matching those of the companies' representatives. It is here that the Bank may be of assistance by helping to find, and possibly by financing, technical and legal advisers to assist governments in drafting and negotiating petroleum development agreements with foreign collaborators or by commenting on drafts of such agreements if invited to do so by the parties. An example of the latter is mentioned in paragraph 77.

29. The main emphasis of the Bank's technical assistance has been on commercial sources of energy, but in countries where the bulk of energy consumption occurs in rural areas, and where a significant share is provided by non-commercial sources of energy such as fuel wood, the Bank has provided assistance in integrating the commercial and non-commercial sources into a balanced program for the sector as a whole. The contribution of the non-commercial sources to increasing the supply of low-cost energy in rural societies is considered in the next Section.

30. There is ample room for other international and bilateral agencies to assist the developing countries in this sector. The United Nations, the regional banks and the national oil companies of several countries are already active or have offered to provide support.

ASSESSMENT OF PROGRESS TO DATE

31. A good start has been made on the Bank's expanded program for oil, gas and coal. So far as lending is concerned, the estimates made in 1977 are likely to be met. The oil and gas projects that are coming forward will have high economic rates of return. It is clear that developing member countries attach considerable importance to the development of indigenous energy supplies and that there is a growing demand for help from the Bank, both financial and technical.

32. It is early to judge how far the Bank's activities are encouraging additional financial support for oil and gas production in the developing countries, but indications are favorable. Discussions that have taken place with potential investors suggest that co-financing of major petroleum projects with the Bank is attractive, even in low income countries, because of their high economic returns. Greater assistance in preparing projects through engineering loans and credits, and other support, will increase the number of opportunities in this section. In addition, more indirect participation by the Bank, as in the case of Pakistan and Gulf Oil, (see para. 77) may increase the flow of investment in petroleum development. There will also be a steady flow of coal/lignite projects, with substantial co-financing, but the number of countries concerned is limited.

33. Despite the progress in the past year, much remains to be done. As indicated in Section 1, the energy balance of the oil-importing developing countries in 1985 appears less favorable in the light of projections made for the World Development Report, 1978, than in the estimates made in July 1977. In addition, the Bank's experience in the past year has demonstrated a larger than expected demand for both technical and financial support.

34. The petroleum projects already identified are largely for the development of proven reserves of gas and oil which had been discovered over a long period of time but which until 1974 were not commercial. The Bank program, and projections of petroleum production, are therefore based largely on knowledge derived from surveys and exploratory work done in the past. Further increases in oil and gas production, and in Bank financing, will depend on new exploration leading to new discoveries. However, the amount of geological and geophysical work, as well as exploratory drilling, since 1973 have not increased in response to the new economics of production but have remained at a very low level in most of the developing countries. This is a matter of serious concern, since such work is a prerequisite to sustained increases in production.

INTERNATIONAL FINANCE CORPORATION (IFC) ACTIVITIES IN THE ENERGY FIELD

35. In its work on energy the International Finance Corporation, an affiliate of the World Bank, has assigned priorities to the development of existing discoveries which maximize increases of output at relatively modest risk and uncertainty. The Corporation is likely to be involved in three types of operation, none of which poses difficult issues of policy or programming.

36. One group of activities involves past discoveries which for a variety of reasons have not yet been developed. Some of these will require appraisal drilling to establish their commercial value. In some cases, discoveries made under agreements negotiated earlier have not been followed up because of the reluctance of the contracting oil companies: they have spent exploration funds to confirm the discovery but are reluctant to commit development expenditures before petroleum contract terms are agreed upon. IFC's involvement will serve to strengthen the relationship between the government and the company.

37. A second type of activity involves a large number of fields in which primary recovery has been completed or is declining but which are now worth additional expenditures for more costly secondary recovery programs. The Corporation will be called upon to provide financing for such programs as well as to lend technical assistance in the formulation of new contracts, either with the original concessionaires or with new companies. In situations where small independent oil companies are involved or where the government has the predominant stake in

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the venture, IFC will seek ways to mobilize the required resources through cofinancing or other devices.

38. IFC will continue its work in refining and distribution projects. These will include instances, as in the recent past, where an oil company in the field is unwilling to build or expand a domestic refinery, because it owns unutilized refinery capacity elsewhere, or for other reasons. If the government nevertheless wishes to increase domestic refinery capacity and prefers a private foreign investor to undertake the task, IFC will assist in its implementation provided it is economically justified.

39. The Corporation expects also to be able to support exploration activities in certain instances where the oil company is willing to undertake the exploration entirely at its own risk in return for an IFC commitment to share in exploration and development costs in the event of a commercial discovery being made. Since there would be no financial loss to IFC should the venture fail or be abandoned, current policies would permit IFC to enter into a transaction of this kind. However, such opportunities will probably occur infrequently because they will be offered only where commercial prospects are very bright and/or where political conditions are extremely uncertain.

IFC'S PRESENT PROGRAM

40. The Zaire oil project approved by the Board in October 1978 is the Corporation's first venture in petroleum extraction. IFC's investment in the project is just over $4 million out of a total of $33 million to be invested in secondary recovery in an offshore oil field. The IFC Loan should enhance the stability of the agreement among the parties to the project by increasing the confidence of the government and the foreign oil company that it will continue to be honored.

41. The Corporation is preparing appraisals for a number of additional fuel sector projects for consideration in the near future.

DIVISION OF LABOR BETWEEN IFC AND THE BANK

42. Private sector involvement in various phases of energy development is frequently necessary if capital and technological know-how are to be made available. IFC will take the lead in those projects which it is able to handle effectively with its own resources; where an equity participation is appropriate; or where the Corporation can play a role in mobilizing and packaging private funds. Projects which require a larger investment than is prudent for IFC to make will be handled by the Bank. Still other situations will call for joint participation, where for example an equity role is indicated in conjunction with Bank lending. Close cooperation between the staffs of the Bank and IFC responsible for energy sector activities is clearly important if their respective resources and experience are to be deployed to the best advantage.

Section III: Prospects and problems for fuels in developing countries:

43. Since the oil price increases of 1973 and 1974 the economics of energy production have changed radically. The price of oil is now high enough:

(a) to cover the cost of exploiting known reserves of oil and gas which previously were uneconomic because of their small size and the high cost of enhanced recovery or of transport;

(b) To justify increased expenditures on petroleum exploration in areas which did not show promise of containing deposits of oil or natural gas exploitable at the old prices.

44. Developing countries thus have additional incentives to explore for and develop petroleum and other forms of primary energy. Some countries have opportunities to produce indigenous fuels more cheaply than importing them, and to achieve rates of return that would justify the investment of scarce capital. As mentioned in Section II, the petroleum projects now being prepared for Bank financing are expected to have average economic rates of return above 40 percent.

45. Before the price increases of the mid-seventies all but a few of the non-OPEC developing countries would have been ill-advised to spend money in this sector. Imported oil was cheap, and expenditures on developing local supplies would have been a particularly uneconomic form of import substitution. This is no longer the case.

EXPLORING FOR PETROLEUM

46. The work that has to be done before production facilities can be constructed may conveniently be divided into three stages, although in practice they often overlap; Geological and Geophysical surveys; Exploratory Drilling; and Appraisal Drilling. A vigorous effort to improve the available data on the location, scale and commercial exploitability of petroleum reserves is a precondition for future increases in production.

(i) Geological and geophysical surveys

47. Geological surveys usually are the first stage of exploring for petroleum. Most of the world's sedimentary basins have already been explored to some extent by surface geology, but many of these surveys need to be updated in the light of more recent geological information or the availability of improved techniques. Geological techniques that are used during surveys include the interpretation of aerial photographs and the sinking of boreholes to a limited depth to test rock characteristics. Geophysical prospecting is typically carried out by specialized contractors, and includes reconnaissance using aeromagnetic and gravimetric techniques and seismic work. Promising locations, which are usually small in relation to the total size of the basin, are subjected to more intensive seismic examination to identify areas for drilling.

48. This phase of pre-development is extremely important in determining the prospects for discovering commercial reserves of oil and gas, and minimizing the amount of drilling that has to be done. The study commissioned by the Bank found that 54 of the 70 countries were in need of assistance for the re-evaluation of existing data, the implementation of new surveys, and/or stratographic test wells. Accurate geological information is particularly valuable in negotiations between governments and private investors seeking to acquire exploration rights. Uncertainty is reduced because both governments and companies have a better appreciation of the probable commercial value of any oil or gas that may be found. If the chances of exploration leading to an exploitable field are improved, the terms under which exploration and subsequent production may take place can be established more realistically and the stability of the agreement is enhanced. A host country then can provide detailed geological information when it opens an area for bids, increases the competition for exploration rights and the eventual exploration agreement should provide for more rapid assessment of the petroleum potential of the area.

49. The cost of the geological and geophysical work required by the developing countries ranges from about $500,000 to as much as $5 million per project. More than one project in a country may be necessary to cover all potential areas. The lower figure refers to countries where an experienced consulting firm is required to re-evaluate existing data; the higher figure to countries where most of the essential survey work has yet to be undertaken. Some assistance for geological and geophysical work is available from the UN and the bilateral agencies, but the funds that can be provided by these agencies are limited. A proposal that the Bank should assist this stage of exploration activities is outlined in Section IV.

(ii) Exploratory drilling

50. Exploratory drilling is a high-risk activity. The costs of a major drilling program can range from $10 to 50 million per 10,000 km ^{2}, and there is no assurance that a commercial deposit will be found. About 600 sedimentary basins with petroleum potential have been identified throughout the world and of these some 400 have been drilled to date. The 200 basins that have not been explored are located mainly in high-cost areas: the difficult environments deep offshore (more than 200 meters of water), the Arctic areas and the lightly inhabited interior of continents (for example, the mid-upper Amazon, and central Africa). Many of the lightly explored or unexplored basins lie in developing countries.

51. The vast bulk of known reserves of oil occurs in "super-giant" fields (accumulations of more than five billion barrels). Few of the basins that have been explored in recent years contain geological structures where such large fields might be found, and none of the unexplored basins possesses geological characteristics that suggest the discovery of another "Middle East" where 24 super-giant fields have been found.[8] The focus of exploration activity has therefore shifted to the smaller fields, and improvements in technology have enhanced the ability of drillers to discover them.

52. In principle, therefore, the prospects for increased exploration in the lightly explored basins, situated mainly in developing countries, would appear to be good. However, in currently producing basins, the largest and most attractive structural prospects were explored first and there is a strong incentive to re-evaluate older prospects; more intensive exploration may discover smaller, but now profitable fields in these basins. As the industry turns to "second tier" geological prospects, in many cases prospective areas in developed countries have the advantage that the essential infrastructure is in place and that they are close to the markets. These circumstances probably explain much of the difference in relative drilling intensity between developed and developing countries. A balance that may appear appropriate from a global point of view, or from that of the oil companies interested in supplying the world market, may be inappropriate from the viewpoint of a developing country which attaches high priority to increasing its oil self-sufficiency and would wish to explore its oil potential as quickly as possible.

53. A serious constraint on exploratory drilling is the shortage of risk capital for investment in developing countries. Some countries with effective national oil companies have been able to overcome the lack of risk capital by offering attractive terms to foreign investors. But in many developing countries the shortage of risk capital is aggravated by the absence of a knowledgeable negotiating agency, which may lead the government to ask for terms that do not offer a reasonable incentive to the investor; or, on the contrary, to accept terms that are too favorable to the latter. Countries in this position require technical assistance to collect and evaluate basic data, to improve the legislative framework in the energy sector, and to negotiate petroleum agreements which, as indicated in paragraph 28, are typically very complex and call for a high degree of sophistication. Simple parameters such as return per barrel, profit split, production sharing arrangements, etc., do not provide reliable guidelines for different types of agreement. Production costs differ widely, and a 25 cents per barrel margin in a low cost area may be a more attractive deal for the investor than a $1.00 per barrel margin under other conditions. Without the techni-

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cal capacity to assess the adequacy and "fairness" of the potential financial rewards offered to prospective foreign investors, developing countries will be handicapped in formulating appropriate exploration strategies.

(iii) *Appraisal drilling*

54. Once a find has been made and there is a high probability of a commercial field being developed, appraisal drilling, usually backed by detailed geophysical surveys and engineering studies, is undertaken. This phase of pre-development activity generally is not very risky. Projects that have reached the stage where appraisal drilling is required are likely to be commercially viable and the Bank would therefore be justified in making an engineering loan or credit, in the expectation that it could later be folded into a loan for production. This suggestion is taken up in Section IV.

SCOPE FOR PETROLEUM EXPLORATION IN DEVELOPING COUNTRIES

55. The survey commissioned by the Bank on the oil and gas situation in 70 developing countries (see paragraph 27) provides the best available information on the size of prospective petroleum areas, onshore and offshore, past seismic and exploratory drilling activities, the existing permit and contract situation, and the outlook for exploration in the near term. Twenty-three countries have prospects of finding "high" or "very high" quantities of petroleum, while a further 15 have prospects of locating "fair" quantities as defined below.

TABLE 4.—PETROLEUM PROSPECTS OF 70 DEVELOPING COUNTRIES

Type of country	Number of countries	Size of potential resources			
		Very high	High	Fair	Low
Oil producer/net importer	12	6	3	2	1
Nonproducer/known reserves	10	4	2	3	1
Nonproducer/no discoveries	45	1	4	10	30
Non-OPEC producer/exporter	3	2	1	0	0
Total	70	13	10	15	32

Potential resources are classified into four main categories on the basis of estimated recoverable quantities: Very high—over 1,500 m. barrels; High—between 750 and 1,500 m.; Fair between 100 and 750 m. Low—less than 100 m. barrels. Measured by the reserves of OPEC countries, even the "Very High" category is modest. But in terms of domestic consumption, the "Low" category may be very significant. Most African countries, for example, consume less than 5 m. barrels a year. The ultimately recoverable reserves (URR) of the developing countries are not known with any certainty, but a recent estimate suggests that the OIDCs, whose proven reserves are now about 2 percent of the world total, could account for about 15 percent of the world's URR.[9]

56. Over the past ten years, exploratory wells have been drilled in 71 non-OPEC developing countries. Another 19 have been explored by seismic surveys without drilling, and three countries by other means. The drilling density—the number of wells drilled per thousand square miles—is far lower than in the OPEC and the industrialized countries, and is lowest of all in the OIDCs. Such exploratory drilling as has taken place in the NODCs has been sporadic; in 1975–76 it amounted to about 5 percent of the world total and was actually lower than in 1972–73 despite a substantial increase of drilling in the industrialized countries where the intensity was already far higher (about 90 percent of the world total).[10] Over the same period there was also a decline in expenditures on geophysical work in Asia (—31 percent) and Africa —(12 percent) and only a slight increase in Latin America (4 percent). In the United States the increase was 60 percent.

57. Exploration statistics must be interpreted with caution, and there is no consensus among governments or in the oil industry on how much activity is adequate. What may appear appropriate from a global point of view may be wholly insufficient from the viewpoint of an oil-importing LDC with reasonable prospects of finding or enlarging reserves of petroleum. Using the criterion that an adequate level of exploration is one that is likely to lead to the early identification of exploitable reserves, the study prepared for the Bank classified the 70 developing countries as shown in Table 5:

TABLE 5.—ADEQUACY OF EXPLORATION IN 70 DEVELOPING COUNTRIES

Type of country	Number of countries	Exploration activities		
		Inadequate	Moderate	Adequate
Oil producer/net importer	12	6	4	2
Nonproducer/known reserves	10	3	3	4
Nonproducer/no discoveries	45	28	13	4
Non-OPEC producer/exporter	3	1	2	0
Total	70	38	22	10

If the above findings are compared to those on petroleum prospects (Table 4) it appears that only seven of the 23 countries with high or very high prospects have been explored adequately; six have been explored moderately and the rest inadequately. Of the 15 countries with fair prospects, only one has been explored adequately, and the rest moderately (3) or inadequately (11). Countries whose prospects warrant an increase in exploration activity include such comparatively large consumers of petroleum as India and Argentina (146 m. barrels a year each) Turkey (66 m.) the Philippines (66 m.) Colombia (44 m.) Peru (44 m.) Pakistan (26 m.) and Vietnam (22 m.).[11]

58. The costs of exploration are high and rising. The cost of drilling may be several times as much in a developing country as in the United States. At present prices the cost (mostly in foreign exchange) of an exploration campaign on-shore is in the range $10–30 million, and off-shore $20–50 million. Some 25–40 percent of the cost is attributable to geological and geophysical surveys and 60–75 percent to drilling. Estimates made by a UN group of experts in 1977 suggest that the additional financing requirements for petroleum exploration in the OIDCs are on the order of $1 billion a year (in 1976 prices) over the period 1978–90, nearly half of them in countries that are presently non-producers.

TABLE 6.—ANNUAL EXPLORATION EXPENDITURE [1]

[Dollar amounts in millions]

Developing countries	1976 actual	Percent	Desirable (mid-1980's)		Percent
			1976	1985	
Oil exporters [2]	$1,150	16	$2,000	$3,333	17
Oil importers:					
Producers	600	8	1,200	2,000	10
Nonproducers	300	4	800	1,333	7
Subtotal	2,050	28	4,000	6,666	33
Industrialized countries	5,250	72	8,000	13,334	67
Total	7,300	100	12,000	20,000	100

[1] Excludes centrally planned economies.

[2] Includes OPEC and non-OPEC exporters.

Source: Derived from U.N. experts' report referred to in par. 55.

The desirable shift of global expenditure on exploration towards the OIDCs is not large, from 12 to 17 percent; nor are the magnitudes themselves very great. But, in the light of recent experience, the shift is unlikely to take place soon if left to market forces.

PROSPECTS FOR COAL

59. According to the present estimates, coal reserves (including coking, bituminous and sub-bituminous coal as well as lignite) in developing countries are less than 6.5 percent of the world total. The present distribution of world coal production directly reflects the reserve situation: centrally planned economies account for 52.5 percent, developed market economies for 42 percent, and developing countries for only 5.5 percent.

60. Available information indicates that about 30 developing countries have known, but only partially explored coal and lignite reserves. These countries include:

(a) oil producing countries such as Algeria, Indonesia, Iran, Nigeria and Venezuela;

(b) countries with important coal and lignite reserves, some of which are important producers, such as Argentina, Colombia, Egypt, Mexico, Brazil, India, Korea, Vietnam, Turkey and Yugoslavia;

(c) countries with medium sized or relatively inaccessible coal and lignite reserves such as Afghanistan, Botswana, Burma, Chile, Madagascar, Malawi, Morocco, Mozambique, Namibia, Pakistan, Peru, Philippines, Somalia, Swaziland, Taiwan, Tanzania, Thailand, Zaire and Zambia.

Thus, the problem in many countries is not so much one of identifying new resources, but rather of determining more reliably the extent and quality of existing resources. Furthermore, there are a number of factors which restrict the supply of coal (mining difficulties, poor quality, transport/handling, ecology) which are dissimilar to petroleum, and which in many countries are more important obstacles to production than the lack of knowledge of reserves.

61. Necessary exploration work for known coal reserves in LDCs can be distinguished by different risk and cost factors into main categories:

(a) in a number of cases, especially in countries with a sizeable existing coal/lignite industry (Colombia, India, Turkey, Vietnam, etc.) exploratory drilling and quality testing are needed to complete feasibility and preliminary engineering work prior to project appraisal. The risk at this stage of exploration is minor. Costs range from US$0.5 to $2.0 million for the exploration/quality testing component. In addition, some projects may require transport engineering.

(b) in the majority of developing countries, although some exploratory drilling has been undertaken, the size, quality and mining characteristics of the coal field have not been sufficiently delineated to allow a meaningful economic evaluation of the reserve. Additional exploration is needed in these cases but the expenditures and risks involved are far smaller than in petroleum exploration or in non-ferrous metals. It is estimated that from US$1.0 to $2.5 million would need to be spent to establish with a 90 percent probability the economic value of a given deposit.

The Bank's existing lending mechanisms (Engineering Loans, Project Preparation Facility) [12] are available to finance final exploration required to complete the feasibility work outlined under (a) above. The more extensive exploration outlined under (b) has not been financed in the past but will be considered in the future. As in the case of petroleum, many developing countries, especially the small ones, have devoted either no or only minimal resources to coal exploration. A few, for example, Indonesia and Colombia, have relied principally on multinational mining companies.

Footnotes at end of article.

TRADITIONAL FUELS

62. Energy planning in most developing countries has not taken sufficient account of the energy needs of rural areas, which depend mostly on non-commercial sources of energy. The examination of the energy requirements of the rural population, for domestic consumption as well as production, is an important part of the task of increasing the productivity and raising the incomes of the world's poorest forty percent.

63. Until recently the pattern of energy use in rural areas was a continuing substitution of locally available fuels such as firewood, charcoal, animal dung and crop wastes by oil products, either directly as in kerosene for domestic use, and diesel oil and gasoline for transport and pumping, or indirectly through the generation of electricity for light, refrigeration and mechanical power. The relative economics of these sources changed dramatically in 1973–74, reducing the advantages of petroleum derivatives.

64. The Bank has re-examined the role of rural electrification both generally and in specific countries with a view to determining (a) the uses for which it is economically and socially justified, and (b) the comparative power costs of decentralized (mostly diesel) and centralized systems.

65. At the same time the Bank, in company with other institutions and groups, has begun to consider the traditional; non-commercial fuels which still supply about half of the total energy in LDCs and more than 85% of that used by the rural sector in these countries. A large potential exists for maintaining or even increasing the contribution of these fuels with considerable economic, social and environmental gains. To realize the potential, actions are required to increase production, improve recovery and processing so as to facilitate transport to nearby towns and villages, and improve the design and efficiency of cookers, furnaces, etc. which burn wood and other combustible material. The techniques are simple and straightforward, and for the most part are well known in the LDCs themselves. Fuel wood components are included in 14 out of 34 forestry projects and 11 out of 22 rural development projects approved or planned for the period 1976–80. Some of these projects include provisions for technical improvements in charcoal production and wood-burning stoves.

SOLAR AND OTHER RENEWABLE SOURCES OF ENERGY

66. There are many other energy devices available today, some new and some conventional, that are potentially economic in some areas under current or near term conditions. They include: solar water heating, solar dryers for crops and fish; windmills for grain grinding, water pumping and household electricity supply; and small hydroplants. In addition there are under development other technologies that might become economic within a decade or longer depending on new advances in design and production. These include solar pumps, solar electric power, biogas plants and solar cookers.

67. There are serious financial, institutional and social constraints that need to be overcome if these energy alternatives are to play a role in the developing world. The Bank is encouraging countries to focus on these problems. It has participated in planning a pilot exercise in rural energy planning in Colombia with the objective of preparing regional projects comprising an optimal mix of conventional, traditional and non-conventional energy sources. These might be complemented with suitable industrial programs to design and produce the required equipment. A rural development project in Bolivia includes funds for the development and adaptation of solar energy devices. In another technology development and demonstration effort, the Bank is acting as executing agency for a UNDP solar pump project for small-scale irrigation in India, Mali, Sudan and the Philippines.

68. On the whole, the technology of solar energy and other devices mentioned above is not sufficiently advanced for these sources to make a quantitatively significant contribution to energy supplies for some time. Nonetheless, continued research in these areas and the adaptation of technology developed elsewhere remain of great importance.

Section IV: Proposals for expanded assistance in energy development.

69. The recent experience of the Bank in energy development, particularly in the new fields of oil and gas production, points to a clear need for more assistance to the developing countries, especially those that are net importers of oil, the main energy fuel.

70. Forty-eight of the 74 developing countries which import oil depend on it for at least 90 percent of their commercial energy requirements; only four (India, Korea, Pakistan and Zambia) are less than 50 percent dependent on oil owing to the extensive use of coal, natural gas or hydroelectric power. The oil deficit of these countries as a group is now thought to be larger than was estimated in 1977. Although oil production has increased, consumption is increasing more rapidly owing to a faster rate of growth than was foreseen at that time. Many developing countries are passing into the energy intensive phase which the developed countries experienced during their rapid industrialization and urban growth. However, unless their energy deficit can be narrowed by exploiting indigenous sources of energy more fully, scarce foreign exchange will have to be diverted to imports, which would reduce the growth rate of which the countries are capable.

71. This concluding Section reviews the areas of activity that can lead to greater energy production, and proposes an expanded program of assistance by the Bank.

NATIONAL ENERGY PLANNING

72. Under the new conditions of the supply and price of energy, developing as well as developed countries need coherent policies to address national energy needs and an appropriate strategy to implement them. The importance of helping the oil importing developing countries at this general level has been stressed throughout the paper. The various elements of an energy program have to be pulled together and fitted into the totality of the government's economic and financial plans. Assistance is needed in many cases to create, or reorganize and strengthen, an energy planning authority and to train the necessary administrative and technical staff. Assistance is also required in some countries to revise petroleum and minerals legislation, as well as official regulations and fiscal measures which affect the energy sector.

73. The elements of an energy policy include a strategy that will maximize the use of the most efficient energy sources, make more effective use of existing resources, promote conservation, increase knowledge of the country's resource potential and its development, and develop or adapt techniques for using traditional fuels more effectively. The Bank would be prepared to expand technical assistance in energy planning and lending for research and development in the more efficient use of traditional fuels. Such support would aim at improving present technology, adapting it to village conditions, reducing unit cost and expanding marketing systems. There is very large scope for disseminating existing or adapted technology more effectively. Usually such activities would be financed as components of other projects but, in larger countries, a small separate project may be warranted. As noted in paragraph 67, the Bank is already supporting the application of solar energy technology. This too can be expanded but the focus of Bank country activities will remain on the adaptation, application and marketing of non-hydrocarbon technologies rather than on the basic research.

74. The Bank's sector and sub-sector work, which will be geared to the expanded program for energy, is intended to help member countries draw up national plans and policies that will ensure as rapid and efficient exploitation of their energy resources as possible. The present program covers only 35 of the 60 countries which stand in need of help. The work will be expanded as rapidly as possible to the others, and additional work will be undertaken in countries where only some of the sub-sectors have been covered. Assistance will be given in resolving particular legal and administrative problems, and in the training of local personnel. Provision for these activities will be made in the technical assistance, engineering and production loan and credits referred to below. Where a loan or credit is not immediately in prospect, every effort will be made to find a suitable expert and a source of finance.

75. Assistance in all the areas mentioned above is available from a variety of agencies. The U.N. system, for example, offers assistance through the UNDP, the regional Economic Commissions, UNIDO, the Centre for Natural Resources, Energy and Transport, The Centre cn Trans-National Corporations, and through such specialized agencies as FAO, IAEA, UNEP and WMO. Bilateral agencies, including the national oil companies of some industrialized countries, are also in a position to help and several have done so. The Bank will work with these agencies in order to draw on their experience and specialized knowledge and to avoid duplication of effort.

PRE-DEVELOPMENT ACTIVITIES

(i) *Survey work*

76. The discussion in Section III emphasized the need of the non-OPEC developing countries, particularly the oil importers, for help in exploring for petroleum. Some 54 developing countries are believed to need assistance for the survey phase (paragraph 48). Not all of them will require financial help from the Bank; some should be able to fit such activities, short of exploratory drilling, into their UNDP programs or obtain funds from other sources. Nor will a large number be ready to commission surveys and evaluations at any one time. This is particularly true of the non-producing countries, many of which do not yet have the experience or institutions to define the work that has to be done. There is nevertheless a large scope for Bank assistance. For geological and geophysical survey work, it is proposed that the Bank be prepared to make technical assistance loans and credits. As indicated in paragraph 49, the funds required are likely to range between $500,000 and $5 million per project. Starting with the countries that have the best prospects, and taking account of the Bank's own staff capacity, some 8 to 10 technical assistance loans a year could be made during the early 1980s. Given the wide range of costs involved, it is not possible to estimate precisely the funds required, but as a rough approximation Bank/IDA Energy Technical Assistance lending might be in the range $20 to $25 million a year from FY81 onwards.

(ii) *Exploratory drilling*

77. The important and difficult phase of exploratory drilling, as explained in paragraphs 50–53, comes between the completion of survey work and the delineation of a petroleum deposit by appraisal drilling to the stage where it is ready for exploitation. It was suggested in July 1977 that the Bank

could help member countries and foreign collaborators to negotiate an acceptable agreement for exploration and production if invited to do so, and confirm its willingness to consider making a loan for the eventual production facilities or related infrastructure. The first example of such an arrangement is the joint venture for potential crude oil and natural gas development established under agreements signed on November 14, 1978 between the Government of Pakistan, the Pakistan Oil and Gas Development Corporation and Gulf Oil Corporation, after extensive negotiations during which the Bank was asked to review and comment on the various draft agreements. The Bank has since written to the Government of Pakistan noting the latter's intention to request Bank assistance in financing the cost of production facilities if and when a commercial discovery is made, and in arranging additional financing from other sources; and expressing our willingness to consider doing so provided the project met the usual Bank criteria. The possibility of Bank participation in other arrangements of this kind is under discussion in a number of countries.

78. The Bank's presence at this critical stage, and its agreement to consider making a loan for production facilities if an exploitable deposit is found, should contribute to a greater willingness of host countries, on the one hand, and foreign collaborators on the other to reach agreement on the terms of a contract for exploratory drilling. However, the possibility of eventual Bank participation is likely to attract foreign organizations to invest risk capital in exploration only in a relatively few countries which are deemed to have particularly good prospects for producing an exportable surplus of petroleum. In the majority of OIDCs it seems necessary for the host country itself to take all or part of the risk of exploration, and it is proposed thereof that the Bank help such countries to do so.

79. While investing in petroleum exploration is inherently riskier than in conventional Bank projects, the enhanced prospects for the economical development of petroleum resources in developing countries, together with measures that can be taken to minimize the technical risks, should make it prudent for OIDCs to borrow from the Bank for exploratory drilling in appropriate cases. Measures to reduce the technical risks would include ensuring that high quality geological and geophysical surveys had been undertaken in all cases, including a probability analysis, in financial and technical terms, of the risks and benefits, and had revealed favorable prospects for the discovery of petroleum in commercial quantities. Exploratory drilling would be carried out in stages and in limited areas, with a careful review of the findings at each stage before proceeding to the next or, if the results are clearly unpromising, terminating the exploration program (and cancelling the balance of the Bank loan or credit). The best available technical expertise would be provided to the borrowers to assess the results of the surveys and exploratory drilling.

80. The relationship between the borrowing country, its national oil company (if any), foreign organizations in particular cases and the Bank could take a variety of forms. Some countries with a well-established national oil company may be able to carry out an exploratory program on their own, under a Bank loan. Countries which lack the experience to do exploratory work themselves would be encouraged to enter into a contract with an interested foreign private or state-owned company and assisted in obtaining fair terms under an appropriate type of petroleum exploration and production agreement. The Bank would make a loan or credit to the government to cover its share of the costs of exploration. In countries that have an experienced national oil company, the Bank would make a loan or credit to the company for exploration which the latter could carry out either by itself or in association with a foreign partner.

81. Such an arrangement, under which the risk would be shared with the host country, assisted by a Bank loan or credit, is likely to attract foreign investors to invest capital for exploration in a wider range of countries. However, there may well be countries in which even this arrangement would be an insufficient inducement to foreign investors because of the small size of the petroleum reserves or for other reasons. In these cases exploratory work would have to be carried out by exploration companies under service contract arrangements which the Bank would finance through a loan or credit to the government.

82. A number of member governments have indicated informally that they would be interested in taking Bank loans for petroleum exploration under the type of arrangements described above. Bank loans and credits for exploration would be made on the same terms as engineering loans and credits, namely 10 years of repayment with a suitable grace period, and like them would be refinanced from a subsequent loan or credit for production facilities. However, although exploration loans and credits would be made only in cases where survey work indicated that there are reasonable chances of success, there would be less assurance than in other sectors that a project loan would follow. To reduce the annual repayment burden, provision would be made in the loan agreement to extend the term of the loan to the normal limit for the country in the event that the exploratory drilling did not lead to a project suitable for Bank financing before the expiry of the grace period. A similar arrangement would be made in IDA credits for exploration.

83. In para 50 it was noted that the costs of a major drilling program are in the range $10 to $50 million; and there may be more than one program in a country. In the case of loans (credits) to national oil companies, or where the loan financed the costs of a service contract, the Bank loan would cover an appropriate share of the entire cost, depending on the circumstances of the country. In countries that entered into an agreement with a foreign collaborator under which the latter shared in the financing, the Bank loan (credit) would cover no more than half the foreign exchange cost. It is very difficult at this stage to forecast the demand for Bank financing of exploratory drilling and therefore to estimate the amount of lending for this purpose. In the early 1980's the program might contain 8 to 10 such loans and credits a year.

PROJECT PREPARATION

84. Full use would be made of engineering loans and credits, and the Project Preparation Facility, to ensure that borrowers are given adequate help in preparing production projects for financing. Engineering loans (credits) would be used to finance appraisal drilling for oil and natural gas and activities required to establish the economic value of coal and lignite deposits. For oil and gas, appraisal drilling can cost up to $25 million per program, and engineering loans (credits) for projects of that size may be needed in some cases. For coal and lignite, the requirement is much lower, about $2–3 million unless transportation engineering is also needed. The terms of engineering loans and credits would be standard, namely 10 years of repayment with an appropriate period of grace, and would be refinanced from the eventual loan (credit) for production facilities. Most such projects are likely to require the financing of appraisal drilling by the Bank, so that the number of engineering loans and credits would be about as large as the number of production projects in the program, which could reach 12 to 15 a year by FY83.

PRODUCTION INVESTMENT

85. Estimates were made in July 1977 of the investment requirements of the OIDCs for exploration, production and downstream activities in oil, gas and coal. Revised calculations for oil and gas have been made which are shown in Table 7. The new estimates are that the annual investment requirements of the non-OPEC developing countries for petroleum and gas are about $6.8 billion (in 1977 dollars) of which a little less than 20 percent is for natural gas and the rest for oil. The annual investment requirements of the OIDCs are nearly $4 billion.

TABLE 7.—INVESTMENT IN OIL AND GAS BY NON-OPEC DEVELOPING COUNTRIES—ESTIMATED ANNUAL REQUIREMENTS 1976–85

[In millions of 1977 U.S. dollars]

	Annual average	
	Oil[1]	Gas[2]
Developing countries with per capita incomes in 1976 of:		
$1,051 and above:		
Net oil exporters	1,000	450
Net oil importers	1,575	225
Total	2,575	675
$626 to $1,050:		
Net oil exporters	200	152
Net oil importers	750	100
Total	950	252
$251 to $625:		
Net oil exporters	930	50
Net oil importers	420	100
Total	1,350	150
Below $250:		
Net oil exporters	100	10
Net oil importers	650	138
Total	750	148
Subtotal, net oil exporters	2,230	662
Subtotal, net oil importers	3,395	563
Grand total	5,625	1,225

[1] Includes investment requirements in oil and gas exploration, development of oil, production of oil and associated gas, and crude oil pipelines in all non-OPEC developing countries. The exploration stage is assumed to account for 25 to 30 percent of total investment requirements in the upstream phase. The relative costs of the various exploration activities are approximately 5 to 10 percent for geological surveys, 15 to 30 percent for geophysical prospecting and 60 to 75 percent for drilling.

[2] Refers only to investment in development of nonassociated gas and gas pipelines: excludes investment in liquefied natural gas (LNG) projects except in Malaysia.

Note: Investment requirements for oil relate to the projected output in the non-OPEC developing countries of 8.40m bdoe (of which 2.85m bdoe in OIDC's) by 1985 (see table 1 and par. 10). They are not comparable with the estimates made in July 1977 because: (a) they are expressed in 1977 rather than 1975 dollars; (b) they cover only upstream investment (including crude oil pipelines); (c) the real costs of petroleum development are now estimated to be significantly higher; and (d) the earlier estimates were related to a level of output that was considered feasible if maximum efforts were made.

Source: World Bank staff working paper 289, April 1978 (per capita income limits are expressed in 1976 dollars).

86. It is proposed to step up the work of preparing oil and gas projects so as to increase the number of loans for petroleum projects to 10 to 12 per year. Work on coal/lignite projects will permit 2 to 4 loans to be considered by the Board annually during the years FY80 to 83. Thus the total program for fuel mineral production by the early 1980s would include 12 to 16 projects. To this must be added the proposed lending for pre-production activities, including survey work, exploratory and appraisal drilling, and preliminary engineering. The lending amounts can be estimated only approximately at this stage, since the size of the projects may vary considerably. Allowing for price increases, the program could reach about $1,500 million (current dollars) by FY83. As a proportion of Bank/IDA lending, lending for fuel mineral development

would increase from about 5–6 percent (present program) to 10–11 percent in FY83.

87. For the period FY79–83, IFC is planning investments of about 130 million in energy. This represents about 5 percent of the total IFC program for the period. The cost of the projects so financed would be in the range $650–750 million, or $130–150 million a year. IFC's program is in addition to the expanded Bank/IDA program described above.

CONTRIBUTION OF BANK FINANCING TO OIL AND GAS DEVELOPMENT

88. The proposed Bank lending program, rising to $1,500 m. (current dollars) five years from now would include $1,230 m. for oil and gas projects. About 60 percent of the lending would be for production facilities and would cover up to 20 percent of the total cost. The balance would be for pre-production activities, contributing a larger share of the costs, perhaps two-thirds on average. The total cost of the projects assisted by the Bank in FY83 would be in excess of $4 billion. Bank financed projects for oil and gas development would thus represent a substantial share of the up-stream investment requirements of the Non-OPEC developing countries in the sector.[13]

SUMMARY OF EXPANDED PROGRAM

89. The Bank Group can help the OIDCs to find and exploit their indigenous energy resources more effectively by expanding its program of operations and technical assistance. The following is a summary of the proposals for increased Bank Group activities in the energy sector:

(i) National energy planning

Some 60 OIDCs need help in devising national plans and policies for the sector, and in creating or strengthening a national energy authority. The Bank's present program of sector and sub-sector work for 35 of these countries will be extended during the next five years to cover the remainder. Help will also be given to resolve particular legal, technical and administrative problems and in training local personnel. Financing of experts will be provided in technical assistance, engineering and production loans and credits and if necessary in the Bank's administrative budget.

(ii) Pre-development

(a) Survey work. Fifty-four countries need assistance in evaluating and updating data from earlier surveys or in commissioning new surveys. Where assistance is not available from another source, the Bank would finance such surveys with technical assistance loans or credits. Costs would range between $0.5 and 5 million per case, and the total is tentatively put at $20 to 25 million a year, from FY81, covering 8 to 10 operations. The terms of energy technical assistance loans/credits would be standard, namely 10 years, including an appropriate period of grace.

(b) Exploratory drilling. The Bank is willing to help and advise member governments and foreign collaborators in concluding agreements for petroleum exploration and production; and to confirm its willingness to finance the eventual production facilities, provided the project meets its usual criteria. One such arrangement has already been concluded and others are under consideration. The Bank would consider making loans (credits) to OIDC member governments to cover the latter's share of exploration costs undertaken in association with a foreign private or state-owned company. In countries where foreign investors are unwilling to invest capital in petroleum exploration, the Bank would make a loan or credit to cover the costs of exploration done by an exploration company under a service contract. Exploration loans would be for 10 years, with a suitable grace period, and would be re-financed from a subsequent loan for production. If a production loan was not made within the grace period, the exploration loan would be extended to the normal limit for the country. A similar arrangement would be made for exploration credits.

(c) Project preparation. Engineering loans and credits would be made to finance pre-appraisal drilling for fuel mineral projects; and the PPF would also be used to finance preparatory work within the normal limits. The terms of engineering loans would be standard and would be subject to re-financing from any eventual loan for production.

(iii) Lending for fuel mineral production

An expanded program of lending is proposed, rising to 12 to 16 operations in FY83, of which 10 to 12 would be for oil and gas, and 2 to 4 for coal and lignite. Depending on the extent to which Bank assistance increases up-stream investment in the oil and gas sector of the NODCs above the level assumed in Table 7. Bank financed activities in FY83 would represent one-third to two-fifths of such investment.

The program outlined above would be revised annually, based on the Bank's evolving experience in the sector.

FOOTNOTES

[1] A synopsis of that program and the rationale behind it may be found on pages 20–22 in the 1978 World Bank *Annual Report*.

[2] The word "petroleum", as used in this report, refers to both oil and natural gas.

[3] *Multilateral Development Assistance for the Exploration of Natural Resources*, Report of the Secretary General, A/33/256, dated October 16, 1978, to which is annexed the report of the group of experts.

[4] *World Development Report*, published by the World Bank, August 1978.

[5] Corresponding to a per barrel price for reference crude of $11.50 in 1975.

[6] GNP growth rates for each group of countries and for five-year periods are given in footnote 1 to Table 1.

[7] The study of the Bureau d'Etudes Industrielles et de Coopération de l'Institut Français du Pétrole (BEICIP) covered all OIDCs believed to have prospects for petroleum development, plus three small oil-exporting countries which could benefit from Bank assistance in this sector.

[8] The four remaining known super-giants are in Venezuela, Texas, Alaska and Mexico. The Mexican field is the only super-giant field discovered in this decade.

[9] *Report of the Group of Experts on Mineral and Energy Exploration in Developing Countries*, annexed to the Report of the UN Secretary General of October 16, 1978 quoted in paragraph 3.

[10] Source: *Oil and Gas Journal* and *International Petroleum Encyclopedia*. Almost all the drilling in the industrialized countries took place in Canada and the United States.

[11] Figures for petroleum consumption are for the year 1976, taken from UN series J. No. 21, *World Energy Supplies, 1972–76*.

[12] This facility makes temporary advances of up to $1 million for studies and other forms of technical support. The borrower repays the advances by refinancing them through a Bank loan or IDA credit for the project concerned as soon as it becomes effective.

[13] See Table 7. The total investment requirement of $6,850 m. a year in 1977 prices would be equal to $9,660 m. in 1983 prices using the Bank's commitment deflator. A tentative estimate of the total cost of Bank financed activities in FY83 is $4,200 million or 43% of the latter figure. However, total investment should rise considerably as a result of the Bank's assistance.

ENERGY

The outlook for commercial energy

Global energy prospects have been extensively researched. Estimates of future demand and supply vary considerably, depending on the assumptions made about resource availabilities, economic growth, pricing policies, the responsiveness of energy demand and supply to changes in prices and incomes, and political and environmental factors. The projections in Table 24 should be viewed not as a forecast but rather as an illustration of the broad orders of magnitude involved. They assume that economies will grow at the rates assumed in the Base scenario and that reasonable conservation efforts will be undertaken. As indicated, after 1985, world demand for energy is likely to outstrip supply, adding to upward pressure on the price.

24. COMMERCIAL PRIMARY ENERGY BALANCES, 1960–90

	Million barrels a day of oil equivalent						Average annual percentage growth rate			
	1976		1985		1990		1960–76		1976–90	
	Production	Consumption	Production	Consumption	Production	Consumption	Production	Consumption	Production	Consumption
Developing countries [1]	26.5	16.8	41.5	27.3	51.3	38.4	6.7	6.7	4.8	6.1
Net oil exporting countries	(20.0)	(4.2)	(28.4)	(6.9)	(32.8)	(9.9)	(7.2)	(6.9)	(3.6)	(6.3)
Net oil importing countries	(6.5)	(12.6)	(13.1)	(20.4)	(18.5)	(28.5)	(5.2)	(6.7)	(7.8)	(6.0)
Industrialized countries	46.5	69.8	61.0	91.5	70.7	109.7	2.6	4.1	3.0	3.3
Capital surplus oil exporters	16.1	0.8	23.5	1.5	25.5	2.3	10.7	13.9	3.3	7.8
Centrally planned economies	37.9	34.4	54.7	52.1	66.7	64.3	4.4	4.3	4.1	4.6
Bunkers and others		5.3		6.5		7.0				
Total	127.0	127.1	180.7	178.9	214.2	221.7	4.5	4.5	3.8	4.1

[1] Here, as throughout this report, the group of "developing countries" excludes only the capital surplus members of the Organization of Petroleum Exporting Countries. Thus, the energy balances of other OPEC members—Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Nigeria and Venezuela—are included in those for developing countries.

Note: Primary energy here refers to coal and lignite, crude petroleum, natural gas and natural gas liquids, hydro and nuclear electricity, expressed in barrels a day of oil equivalent.

However, the increase in the real price of energy during the next decade, above present levels, need not be large, if sustained efforts are made to develop both oil and non-oil energy resources and to restrain demand for energy, and if there are no major production setbacks as a result of political disturbances or oil conservation policies. Several factors support this view. First, there are the possibilities for increased use of oil substitutes, particularly coal and nuclear power, and, in the longer term, there is potential for using resources such as shale oils, tar sands and solar energy. Second, increases in domestic energy prices and other types of energy conservation measures taken in the industrialized countries have slowed the growth of their energy consumption: prior to 1973, energy consumption had increased at about the same rate as aggregate output, whereas between 1973 and 1977 their energy consumption increased by only 3 percent, while their GDP expanded by about 9 percent. Third, increased international energy prices have made the exploration and development of energy resources much more profitable. Dramatic oil finds such as those in Mexico may be unlikely, but the prospects for more modest discoveries and increased exploitation of known resources are good.

The international energy balance is nonetheless likely to continue tight, and substantial concerns remain. Heavy dependence on foreign sources of supply makes the majority of countries concerned to ensure access to energy in the required volumes at reasonable prices and on an uninterrupted basis; short-run instability, marked by disruptions in supply or temporary increases in oil prices, can arise easily, as shown by recent events. As the principal source of petroleum for many importing nations, OPEC production is the critical balancing factor, and hence changes in output in OPEC nations can significantly alter the global energy balance. Second, bringing new energy sources into production requires large investments with long lead times. Partly because of these long gestation periods, the decline in the share of oil in total world energy consumption is likely to be gradual, from 45 percent in 1976 to about 40 percent in 1990. Third, there are uncertainties on the demand side, the future economic growth of the industrialized countries being the most crucial factor. Small changes in their rate of growth can substantially affect world demand for energy. Finally, energy conservation policies in certain key oil importing nations have, so far, been weaker than desirable.

The energy problem over the next two decades should be seen as one of transition, in which countries need to adjust to higher energy prices and ensure that their incremental needs can increasingly be met from sources other than oil. World oil production is expected to peak around the end of this century. Actions are needed now to assure increased production from both oil and non-oil sources in the late 1980s and 1990s. Price and non-price measures are also required to control the growth of demand. All the major groups of countries have their own problems of transition. For the industrialized countries, the main issues lie in the conservation of demand, improvements in the safety of nuclear power and the development of synthetic fuels. For the OPEC countries, and other major oil exporting countries, the principal concerns include the determination of the rate at which to exploit their non-renewable resource, and the design of a development strategy that will ease the transition to a post-oil future. For the oil importing developing countries, the priorities are to explore and develop domestic commercial energy sources, to increase the efficiency of non-commercial and non-conventional sources, and to adjust to higher energy prices.

Though different groups of countries face different sets of transitional problems, virtually all nations share a strong interest in assuring that the transition is a smooth one. Oil importing nations need a stable and predictable supply. To the extent that the preservation of balance in the global energy market requires real price increases over the next two or three decades, gradual and predictable increases in oil prices would be more advantageous than sharp changes at unpredictable intervals. This would facilitate investment planning in alternative energy sources and permit orderly adjustments in the oil importing nations, even though the weaker and worst affected oil importing developing countries would nevertheless need special balance of payments support to permit phased adjustment to the price increases. Conversely, the health of the world economy, especially of the major oil importing industrialized nations, is important for maintaining a strong market for the oil sold by the petroleum exporting countries and for preserving the value of the key currencies in which the latter hold their financial wealth. The oil exporting nations constitute substantial markets for goods, technology and skills exported by industrialized and developing nations—elements that are necessary for the development of these oil nations.

Industrialized countries dominate the energy market, accounting for more than a third of world production and more than half of world consumption. Energy production in these nations is expected to increase by about 3 percent a year between 1976 and 1990. Coal and nuclear power are each expected to account for about 40 percent of the anticipated production increases, with relatively modest overall increases in petroleum and natural gas production. Some of the major issues affecting the development of coal and nuclear power are environmental preservation, safety, and the uncertainties related to oil prices. There factors have resulted in long delays and cost overruns in nuclear power development—problems that are likely to be exacerbated by recent events in the US nuclear power industry which have heightened the sensitivity to safety hazards and increased the costs of insuring against them. Increasing reliance on coal-fired electricity including the conversion of existing oil-fired plants poses additional problems since coal can be costly to transport and inconvenient to handle, and, in Japan and Europe, coal will be progressively more costly to extract from deep underground mines. Non-conventional energy sources are unlikely to be quantitatively important in this century. Energy consumption in the industrialized countries is expected to grow more slowly than in 1960–73, partly as a result of the slower rate of economic growth and partly because of demand conservation. OECD estimates indicate that with proven technology, considered economic at present prices, conservation measures could have 16–20 percent of the total consumption otherwise projected for 1985, with 40 percent of this conservation potential in the transport sector and about 30 percent each in the industrialized and residential-commercial sectors. Industrialized countries need to devote urgent attention to realizing as much as possible of this conservation potential, which is equivalent to half of the present oil production of OPEC countries. Since the US consumes about 25 percent more energy per unit of GDP than Western Europe, the scope for conservation is likely to be greater in the US.

OPEC countries produce about one-fourth of the world's commercial energy. Consequently a 5 percent change in the net energy requirements of the non-OPEC world would imply a 20 percent change in OPEC production to meet the needs. For the capital surplus OPEC countries and major oil exporters such as Mexico, rates of production will be determined partly by non-economic considerations and partly by the expected real rates of return on financial assets. In view of the oil conservation policies being followed by some of the OPEC countries, and the oil reserve situation and technical constraints on increasing production in others, OPEC oil production is likely to rise much more slowly than in the past. These countries are likely to increase their production and domestic use of natural gas. Like other countries, OPEC members need to channel more public resources to the exploration and development of additional energy resources. Private investment in exploration, and the ratios of proven reserves to production, are declining in some of these countries, while their domestic consumption of oil is rising.[2] For the long run, as is argued in Chapter 8 below, all oil exporting countries need to develop the non-oil sectors of their economies, to maintain the growth of income as their oil reserves are depleted.

Energy production in centrally planned economies, which account for about 30 percent of world production, is expected to grow more slowly than in the past, primarily because of the slower growth of oil production expected in the USSR, where a growing proportion of output increases will have to come from smaller oil fields in more difficult terrain. This slowdown is likely to be only partly offset by rapid growth of coal production in the People's Republic of China and of natural gas production in the USSR. As a group, centrally planned economies are expected to remain marginal exporters of energy.

Developing countries account for a relatively small share of the world's production and consumption of commercial energy. The growth of energy consumption in these countries slowed down to an average of about 5 percent a year during 1973–76, though it was typically faster than this in oil exporting developing countries. Electricity consumption continued to increase rapidly, with its share in total energy consumption rising from 16 percent in 1960 to 25 percent in 1976. In the years 1976 to 1990, the developing countries' energy consumption is expected to grow faster than that in industrialized countries, reflecting their higher expected economic growth rates and rising levels of industrialization and urbanization. Moreover, commercial energy is likely to substitute increasingly for non-commercial energy in developing countries. Their share in world energy consumption is expected to rise from under 14 percent in 1976 to about 17 percent in 1990. Although the developing countries as a group will remain net exporters of energy, oil importing countries are projected to require increasing amounts of imported energy.

The Base case projections outlined in Chapter 2 assumed that the real price of traded energy would remain constant at its average level of 1975–78. If the real price of internationally traded energy is 30 percent higher in 1990 than it was in 1975–78, then the additional annual burden on the balance of payments of oil importing developing countries would be an estimated US$30 billion by 1990 (at current prices). While this amount is equivalent to no more than 3 percent of the projected total exports of these countries in that year, it is equivalent to about 20 percent of the projected net disbursements of medium- and long-term capital to these nations in that year. Moreover, the burden of additional payments for energy is likely to be particularly severe for some of the poorest developing countries.

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[2] Oil reserves are considered proven when exploratory drilling has confirmed the existence of measured quantities of oil that are recoverable from known fields at current prices and costs using presently available technology.

Commercial energy development in developing countries

The relative importance of different energy sources in the production and consumption of commercial energy in broad groups of developing countries may be gauged from Table 25, which presents estimates for 1976 and 1990. The appropriate combination of energy policies in particular countries will depend on their specific energy demand and supply conditions. Here the discussion dwells on three areas of general relevance: development of indigenous resources, possibilities for demand conservation measures, and energy pricing.

25. DEVELOPING COUNTRIES: COMMERCIAL PRIMARY ENERGY BALANCES, 1976 AND 1990

[Million barrels a day of oil equivalent]

	All developing countries [1]		Net oil importers		Net oil exporters	
	1976	1990	1976	1990	1976	1990
Production	26.5	51.3	6.5	18.5	20.0	32.8
Petroleum	19.5	27.6	1.2	3.8	18.3	23.8
Gas	1.8	8.6	.4	1.2	1.4	7.4
Coal	3.6	8.4	3.5	8.0	.1	.4
Primary electricity	1.6	6.7	1.4	5.5	.2	1.2
Of which nuclear	(.1)	(2.4)	(.1)	(2.0)		(.4)

	All developing countries [1]		Net oil importers		Net oil exporters	
	1976	1990	1976	1990	1976	1990
Consumption	16.8	38.4	12.6	28.5	4.2	9.9
Petroleum	10.0	20.5	7.2	14.6	2.8	5.9
Gas	1.4	3.5	.4	1.2	1.0	2.3
Coal	3.8	7.7	3.6	7.2	.2	.5
Primary electricity	1.6	6.7	1.4	5.5	.2	1.2
Net imports	−9.7	−12.9	6.1	10.0	−15.8	−22.9
Petroleum	−9.5	−7.1	6.0	10.8	−15.5	−17.9
Gas	−.4	−5.1			−.4	−5.1
Other	.2	−.7	.1	−.8	.1	.1

[1] Here, as throughout this report, the group of "developing countries" excludes only the capital surplus members of the Organization of Petroleum Exporting Countries. Thus the energy balances of other OPEC members—Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Nigeria and Venezuela—are included in those for developing countries.

Note: Primary energy here refers to coal and lignite, crude petroleum, natural gas and natural gas liquids, hydro and nuclear electricity, expressed in barrels a day of oil equivalent.

The rise in international energy prices has increased the incentives for developing known energy resources in developing countries and has also justified increased expenditure on resource exploration and pre-investment activity. However, on the basis of the limited information currently available, it appears that relatively few developing countries have significantly increased the proportion of national investment allocated to energy development. Though this partly reflects the inherently long lead times in energy sector projects, it is also a consequence of impediments to energy resource development in these nations.

Increases in the price of oil and gas have been sufficient to cover the cost of exploiting known oil and gas reserves that were previously uneconomic, because of their small size, the expense of the enhanced recovery methods needed for low-pressure wells, or high transport costs. Exploration for petroleum has also become commercially viable in previously unattractive areas. A study prepared for the World Bank identified 70 developing countries with a potential for oil and gas production, of which only 22 already produce oil and gas or are about to do so. Of the remainder, 38 countries have prospects of finding significant quantities of petroleum to help meet their domestic needs, but in only seven has exploration been adequate, and in another seven moderate.[3] Oil importing developing countries, which have 2 percent of the world's proven oil reserves, may account for 15 percent of the world's ultimately recoverable reserves. Even so, the number of exploratory wells drilled per thousand square miles in these countries has been only a small fraction of that in the industrialized countries. The main impediments to the exploration and development of the petroleum and gas resources in developing countries are the scarcity of risk capital for exploration, inadequate analysis of the data derived from exploration, and a shortage of skilled personnel and institutions to deal effectively wtih international oil companies.

Many developing countries find that though they have potentially economic exploitable resources, they cannot attract international oil companies, either because not enough is known about the characteristics of these resources, or because the petroleum deposits are believed to be too small, or because the contract terms offered are inappropriate. These countries would benefit from external capital to finance exploratory drilling, and from assistance in training and institution building. The total investment requirements during 1976–85 of non-OPEC developing countries for the exploration, development and production of oil and gas—including installation of crude oil pipelines—are estimated at about US$7 billion a year (at 1977 prices). These countries also need help in negotiating agreements with international oil companies and in modifying legislation and procedures to facilitate such cooperation. The World Bank's recent decision to expand lending and technical support for such activities goes some way toward meeting these needs.

Coal production in developing countries increased by 7.6 percent a year between 1973 and 1976, compared with only about 3 percent a year in industrialized countries. Over 90 percent of the increase came from countries with large and established coal industries, such as India, the Republic of Korea, Turkey, Yugoslavia and Viet Nam. In the years to come, the production of coal in developing nations is expected to increase by over 6 percent annually, so that its share in their total commercial energy production would rise from less than 14 percent in 1976 to over 16 percent in 1990. Developing countries are estimated to have nearly 15 percent of the world's proven reserves of coal. India accounts for over half of these reserves, and Brazil and Yugoslavia for another fourth. About 20 developing countries, including Bangladesh, Bolivia, Cameroon, Honduras and Madagascar have coal resources but had not started production as of 1978, notwithstanding the sharp increases in oil prices in 1973–74. Starting new coal production anywhere is apt to be a lengthy and difficult process, but in developing countries the difficulties are often compounded by a lack of adequate transportation, insufficient investment funds and technical know-how, uncertainties regarding export demand and, most immediately, a lack of detailed geological data on which to base coal investment projects.

By contrast with petroleum, the problem is less one of identifying the existence of resources, and more of determining their quality and economic viability. During the coming decade, national and international strategies should be directed mainly toward detailed exploration and pre-investment studies of known coal resources, along with investments in coal mines and associated infrastructure where proven and commercially viable reserves exist.

Hydro-electric power plants already account for 40 percent of the installed capacity for electricity generation in developing countries, but the unexploited hydro potential remains vast. It is estimated that in developing countries of Africa only 2 percent of the technically feasible potential has been exploited, while the corresponding proportions in Latin America and Asia are 6 percent and 12 percent, respectively. These proportions are only indicative as they do not take account of production and distribution costs and market potential. The development of hydro-power has been held back by its high capital costs, a lack of sufficient preparatory work for formulating projects and, in some cases, disagreements between riparian states, which limit the use of water resources and the export of hydro-power.

A few countries, including Argentina, the Republic of China, India and Pakistan already have nuclear power while others, such as Brazil, Iran and Mexico, are expected soon to become producers. Serious problems remain with respect to the disposal of radioactive waste, safety, and environmental considerations. Furthermore, the demanding requirements of technical and managerial expertise, and the need for plants to be large to be commercially viable, tend to limit their use to Middle Income and large countries.

Looking beyond the next decade, note should be taken of the very substantial untapped resources of shale oils and heavy oils in developing countries. Brazil, the People's Republic of China and Zaire, for example, possess substantial shale oil resources, while Ecuador, Peru and Venezuela have large deposits of heavy oils. These resources can be expected to become commercially viable in a world of higher petroleum prices and improved extractive technologies.

There are significant possibilities for conserving energy demand in developing countries, particularly in the industrial and transport sectors, which together account for 70-90 percent of final commercial energy consumption in these nations. Energy use in industry can be limited by adopting the more energy-efficient techniques developed in industrialized countries, as old capital stock is replaced. In the Federal

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[3] An adequate level of exploration is considered as one that is likely to lead to the early identification of exploitable reserves.

Republic of Germany, for example, from 1953-73, the use of energy per unit of industrial output fell by over 40 percent; in practically all industries that fall was greater than 10 percent. Energy can be conserved in the transport sector by encouraging the use of mass transit, rather than private vehicles, and through improvements in fuel efficiency attained by increased use of trucks with diesel engines, phasing out steam locomotives, and upgrading railroad rolling stock. In the power sector, energy can be saved by encouraging larger system sizes—an objective which in some regions, such as West Africa and Central America, would entail the interconnection of national power systems. Higher overall efficiency can be attained in industrial areas by cogeneration schemes, which supply power jointly with process steam for industries. Where the natural gas byproduct of crude oil extraction is flared at present, it can be harnessed for power generation, industrial uses or reinjection for secondary oil recovery; a project of this nature is being prepared in Egypt. The conversion of electricity generating plants from oil to coal, as has been done in Chile, is another possibility to be considered. The potential for saving energy in the residential sector is limited except in some of the richer Middle Income countries.

Despite these possibilities, developing countries have not yet given much emphasis to demand conservation measures, partly because in many of them the absolute level of energy consumption is low, and partly because conservation measures are difficult to implement and require substantial use of scarce capital and technical and managerial skills. Greater attention will need to be given to demand conservation in the future as energy consumption expands with industrialization and urbanization. Conservation efforts that focus on improvements in urban mass transit systems and in energy-intensive industrial activities are likely to yield the quickest rewards.

Energy pricing is a complex issue. Most developing countries subsidize different forms of energy to pursue a variety of objectives Kerosene is frequently subsidized to benefit poor consumers. Energy for industry is priced below cost to encourage industrialization. In oil exporting countries, domestic consumer prices are kept well below international levels, because it is politically difficult to do otherwise, in view of the low costs of production. In a number of countries an inactive energy pricing policy is based on the belief that the importance of the public sector in production, processing and consumption of energy blunts the allocative role of energy prices. The complex energy pricing policies of many developing countries allow certain producers and consumers to reap unintended windfall gains, and also distort production incentives. The subsidization of electricity prices, for example, frequently weakens the capacity to finance power development and sometimes benefits better-off groups in society.

Since the oil price increases of 1973–74, developing countries have made significant progress in increasing energy prices to domestic users, though scope remains for further price rises. Between 1973 and 1977 the prices for the most commonly used petroleum distillates registered increases averaging over 40 percent in real terms in the oil importing developing countries, compared with an average increase of about a third in industrialized nations. Nevertheless, prices for most petroleum products in developing countries remain significantly below the levels prevailing in industrialized nations. Moreover, electricity prices in developing countries rose by only about a third of the average increase in energy prices. Policies for the management of energy resources and uses in developing countries will require attention to elements other than pricing, such as environmental controls, safety standards and strategic requirements. But the potential benefits from further reform of energy pricing should not be underestimated. With the future supply and international prices of energy subject to so much uncertainty, further efforts are desirable to move domestic energy prices toward international levels, reducing excessive and general subsidies, so as to encourage the conservation of demand and the development of indigenous energy reources. To avoid severe political difficulties the reforms could be implemented gradually, and selective tightly targeted subsidies for low income users and infant industries may need to be retained.

Non-commercial and non-conventional energy

The traditional sectors of developing economies rely heavily on energy from firewood, charcoal, plant and animal residues, human and animal effort, solar energy, and, to a lesser extent, wind and water power. Many of these sources are referred to as non-commercial, although they are often bought and sold. Some of them are also referred to as non-conventional energy sources. Such forms of energy only supply about 5 percent of world energy consumption. But they account for about half the total energy production of oil importing developing countries, supplying more than 85 percent of the requirements of rural areas in many developing countries. Some Low Income nations, such as Mali, Nepal and Tanzania, rely on non-commercial sources for 90 percent of their energy needs. The demand for such fuels is dominated by household uses, primarily cooking. About half of the world's population today cooks with non-commercial energy.

Despite the importance of non-commercial energy in developing countries, neither national nor international institutions have yet given sufficient attention to the sources and technologies being used, their economic and environmental consequences, or to the development of alternatives. The acute scarcity of reliable information calls for more attention to data gathering and research. However, some of the emerging problems are so pressing that corrective actions and policies must be initiated on the basis of existing knowledge.

Deforestation and fuelwood shortages have become a critical problem and are appropriately labeled "the other energy crisis." In Nepal, the growing demand for fuelwood, fodder and cultivable land is denuding the hillsides and causing severe erosion, which is reducing the fertility of the soil and its capacity to retain water during the dry season. If the present rate of deforestation continues, Nepal's hillsides will be completely bare in 15 years. Deforestation and soil erosion are also serious problems in other countries, including El Salvador and Haiti; in the Sahel and Sudan they have accelerated the process of desertification. Estimates indicate that at least 12 nations are currently using fuelwood at an annual rate faster than their forests can sustain.

This does not mean that deforestation is not a serious problem in other countries. Most nations suffer from severe fuelwood shortages around densely populated areas. This is true even of nations as rich in timber as Zaire, which uses only a small fraction of its sustainable forest yield. In many other countries, as fuelwood becomes more difficult to obtain, the use of other fuels, such as animal and crop residues, is increasing, with serious implications for soil fertility, crop yields and the availability of livestock feeds. This is of particular significance in the drier areas of Africa, much of South Asia, and some parts of Latin America.

Programs for afforestation and reforestation are urgently required. Current progress in this area falls far short of needs. According to rough estimates, the present rate of afforestation in developing countries may be less than a tenth of that necessary to ensure that these nations are reasonably self-sufficient in fuelwood at the end of this century. However, the traditional solution of merely planting trees will not work. The history of failed reforestation projects provides some cautionary guidance. In particular, it is extremely difficult to prevent trees from being felled prematurely to satisfy urgent basic needs for fuelwood. It is therefore essential to start afforestation programs early, before the situation becomes critical.

It may also be useful to integrate forestry projects in rural development programs, which are perceived by the rural population to address their basic needs, and which take account of the close interconnection between forestry, fodder and food production. Moreover, forestry projects could include the promotion of low-cost stoves, which need only half as much firewood as open fires. Such provision has already been made in a number of projects, supported by the World Bank, in countries such as Burundi, Niger, Nigeria, Pakistan and Tanzania. Afforestation efforts are likely to be more successful if the central government is committed to decentralizing control, so that village and district level administrations can effectively participate in managing local resources. With proper management, and appropriate fast growing species of trees, an area can yield five times as much fuelwood as a natural forest. Some countries, including the Philippines and the Republic of Korea, have launched promising afforestation programs on a large scale.

Though the use of commercial energy tends to increase with development and industrialization, because of its high cost large sections of the world's population will continue to rely on non-commercial sources for the foreseeable future. Hence in most developing countries plans for energy development should seek to improve the availability and efficiency of these sources. For example, roughly 300 million households in developing countries have no electricity. Even if it were technically feasible, to provide connections to them using presently available technology would cost several hundred billion US dollars. It would be more practical to improve the locally available traditional fuels while efforts are made to reduce the costs of rural electrification. Similarly, in many places the immediate introduction of agricultural machinery and chemical fertilizers is impractical, both because of their high monetary costs and because of the effects of mechanization on the demand for labor. Efforts to promote the use of draft animals and traditional fertilizer can help to make agriculture more productive without adding to the demand for commercial energy.

Several non-conventional energy technologies are practical and competitive in developing countries at present prices. The improved wood stoves already mentioned can be constructed largely from local materials for about US$5–10 each; with stronger promotion and the development of extension services and artisan training schemes, the use of these stoves could be greatly extended. Charcoal yields can be doubled by the introduction of better-designed kilns. Biogas plants are in use in various countries, including the People's Republic of China, the Republic of China, India and the Republic of Korea. However, economies of scale make them more viable for relatively wealthy families with four or five head of cattle and enough land to use the sludge produced for fertilizer. An Indian subsidy program for biogas plants was discontinued when it was found to have increased the effective price of dung, causing hardship to the poor. Solar dryers can be used to dry crops and can reduce losses in storage. Solar water heaters are economical, and solar power is being used to distill water in some parts of the world. Windmills of traditional and advanced designs are worth considering in areas with adequate wind and poor rainfall. Micro-hydro schemes can be used to provide electricity in small isolated communities. Ethyl alcohol can be readily produced in most developing countries by fermenting and distilling agricultural products with a high content of starch or sugar. The resulting crude alcohol can be used as a fuel for cooking and, after dehydration, can be used as an additive to automotive gasoline, or even as a substitute for it, if engines are suitably modified. In most cases, however, alcohol from fermented agricultural products remains more costly than gasoline, and production is still small relative to fuel demands, except in Brazil, where an ambitious effort is under way.

The opportunities for further development and improvement of non-conventional energy sources and uses are substantial: existing technologies need to be systematically evaluated, and new ones developed. The priorities for policy in this area depend on the stage of technological development. Where economically competitive technologies exist, but their current use is limited, policies should focus on promoting their use and resolving implementation problems. Where technologies are at an early stage of development, further design efforts and implementation trials are necessary before the new technologies can be propagated in homes and communities. At present, research and development concentrate disproportionately on mechanical power and electricity; more widespread benefits may be gained from shifting the emphasis to cooking needs and the more efficient use of draft animals. Systematic research is necessary to improve the data base on non-conventional and non-commercial energy uses and technologies, and to assess the environmental damage that might result from their application. International cooperation and exchange of information can help to avoid duplication of effort.

To sum up, the energy outlook for all countries in the next two decades is fraught with considerable uncertainty. For energy importing nations, rich and poor, it is desirable to err on the safe side—overdoing demand conservation and undertaking "excessive" investments for increased energy production—because the disruptive effects of shortfalls can be serious. In the long run, such risk-averse behavior by energy importing nations is also in the interests of today's energy exporting nations, which stand to gain from rapid and non-inflationary growth in the world economy.

TABLE 7.—ENERGY

		Average annual energy growth rates (percent)				Per capita energy consumption (kilograms of coal equivalent)		Energy consumption per dollar GDP (kilograms of coal equivalent)		Energy imports as a percentage of merchandise export earnings	
		Production		Consumption							
		1960–74	1974–76	1960–74	1974–76	1960	1976	1960	1976	1960	1976
	Low-income countries	6.8	6.3	5.7	4.6	113	166	0.9	1.1	9	19
1	Bhutan										
2	Cambodia			−.1		31	16			9	
3	Bangladesh		5.4		9.7		33		.3		29
4	Lao PDR		−1.0	13.4		18	61				
5	Ethiopia	14.1	2.0	14.7	−10.3	8	27	.1	.3	11	27
6	Mali		19.7	5.5	5.4	15	27	.2	.3	13	25
7	Nepal	27.2	8.2	12.3	1.3	5	11		.1		
8	Somalia			7.4	10.1	19	47	.2	.4	4	13
9	Burundi		19.6		.3		12		.1		
10	Chad			7.2	10.5	10	23	.1	.2	23	27
11	Rwanda		3.0		11.3		17		.2		11
12	Upper Volta			6.5	5.1	5	18	.1	.2		19
13	Zaire	3.0	54.4	4.3	−6.4	87	62	.9	.7	3	16
14	Burma	4.8	8.2	3.6	.5	55	49	.5	.4	4	12
15	Malawi		17.5		9.8		56		.4		18
16	India	4.4	9.8	4.9	7.0	142	218	1.3	1.6	11	26
17	Mozambique	3.2	32.1	5.7	.8	114	133	.4	.5	11	28
18	Niger			14.3	8.4	5	35		.2		
19	Vietnam						124				
20	Afghanistan	39.7	−6.0	9.4	2.9	15	41	.2	.4	12	12
21	Pakistan	10.0	1.1	5.9	1.0	61	181	1.3	1.2		
22	Sierra Leone			10.3	−3.5	31	112	.3	.5	11	10
23	Tanzania	10.6	29.6	10.4	12.9	41	68	.3	.4		22
24	Benin			8.8	−11.2	39	49	.2	.3		43
25	Sri Lanka	10.4	.7	6.2	−1.9	107	106	.7	.5	8	24
26	Guinea	[1]16.1		3.2	1.6	65	93	.3	.4	7	
27	Haiti		18.6	2.8	4.3	36	28	.2	.1		14
28	Lesotho										
29	Madagascar	6.8	4.3	8.9	4.4	38	66	.2	.3	9	22
30	Central African Empire	14.2	2.0	7.4	7.4	37	41	.1	.2	12	1
31	Kenya	9.3	19.6	4.2	1.2	143	152	.8	.6	18	54
32	Mauritania			16.8	2.9	18	102	.1	.4	39	6
33	Uganda	5.2	−6.3	9.5	−6.0	30	48	.1	.2	5	4
34	Sudan		20.2	13.2	−2.7	52	143	.2	.6	8	26
35	Angola	35.8	−26.6	8.8	−6.6	86	166	.2	.5	6	2
36	Indonesia	8.5	6.1	4.2	22.1	129	218	.8	.9	3	5
37	Togo			12.5	11.9	23	85	.1	.3	10	19
	Middle-income countries	7.6	.8	7.6	5.2	393	916	.7	1.2	10	22
38	Egypt	9.8	45.1	2.7	20.3	298	473	1.7	1.8	12	15
39	Cameroon	1.1	6.4	4.0	7.6	55	98	.2	.3	7	10
40	Yemen, PDR			−13.6	24.4	299	324		1.6		
41	Ghana		1.2	6.6	−4.1	106	157	.2	.3	7	18
42	Honduras	29.5	9.8	8.9	1.4	155	264	.5	.7	10	12
43	Liberia	31.8	2.0	19.3	−5.1	86	418	.2	1.0	3	12
44	Nigeria	37.4	−3.5	10.2	5.8	34	94	.1	.2		
45	Thailand	28.0	21.4	16.9	4.4	64	308	.3	.8	12	28
46	Senegal			4.6	5.5	121	156	.3	.4	8	15
47	Yemen Arab Republic			12.7	38.9	7	41		.3		
48	Philippines	5.6	9.1	9.6	7.7	147	329	.6	.8		
49	Zambia		6.0		10.1		548		1.3		5
50	Congo, People's Republic	15.7	−9.6	5.2	−2.0	119	142	.3	.3	25	8
51	Papua New Guinea					51	289	.2	.6		
52	Rhodesia	1.9	−1.0		−.7		634		1.2		
53	El Salvador	5.1	17.6	7.7	10.1	127	260	.4	.6	6	10
54	Morocco	1.9	−.2	7.7	2.7	148	273	.4	.6	9	23
55	Bolivia	17.2	−1.8	7.0	12.4	147	318	.5	.7	4	1
56	Ivory Coast	9.7	17.1	15.5	3.9	76	380	.2	.4	5	10
57	Jordan			6.5	20.8	197	527	.7	1.0	79	54
58	Colombia	3.4	−2.4	6.3	3.6	491	685	1.3	1.2	3	2
59	Paraguay		21.2	8.5	7.6	87	189	.2	.3		
60	Ecuador	19.0	2.7	8.3	15.6	201	455		.7	2	7
61	Guatemala	9.9	6.3	6.1	7.7	174	257	.4	.4	12	15
62	Korea, Republic of	6.3	3.4	13.2	6.7	258	1,020	1.2	1.7	70	23
63	Nicaragua	26.6	4.8	10.0	5.6	174	478	.4	.6		
64	Dominican Republic	4.4	−3.5	14.6	2.4	157	683	.3	.9		24
65	Peru	3.5	2.0	6.2	5.7	445	642	.8	.7		
66	Tunisia	73.4	−4.8	9.5	5.4	190	456		.6	15	23
67	Syrian Arab Republic	86.2	25.9	9.0	18.2	321	744	.7	1.0	16	16

Footnotes at end of table.

TABLE 7.—ENERGY—Continued

		Average annual energy growth rates (percent)				Per capita energy consumption (kilograms of coal equivalent)		Energy consumption per dollar GDP (kilograms of coal equivalent)		Energy imports as a percentage of merchandise export earnings	
		Production		Consumption							
		1960–74	1974–76	1960–74	1974–76	1960	1976	1960	1976	1960	1976
	Middle-income countries—Con.										
68	Malaysia	37.4	41.3	11.1	.4	242	602	.6	.7	2	9
69	Algeria	11.7	7.4	12.2	21.4	252	729	.3	.8	14	2
70	Turkey	7.6	4.2	9.9	12.8	245	743	.5	.8	16	58
71	Mexico	6.0	11.5	7.7	1.5	770	1,227	.9	1.0	3	10
72	Jamaica	−.7	9.0	11.2	4.2	426	1,937	.2	1.5	11	34
73	Lebanon	12.7	−1.2	6.3	−26.0	548	533			68	4
74	Chile	4.0	−2.9	6.1	−4.7	845	987	1.2	1.2	10	25
75	China, Republic of	2.3	6.0	8.6	12.8	583	1,797	1.4	1.8		
76	Panama	14.8	1.9	10.5	7.1	448	885	.7	.8		
77	Costa Rica	9.5	7.8	10.4	2.1	233	488	.4	.5	7	14
78	South Africa	3.8	8.1		8.1		2,985			9	
79	Brazil	8.1	6.4	8.6	7.2	332	731	.6	.6	21	43
80	Uruguay	3.7	−5.5	3.1	2.5	825	1,000	.7	.8	35	39
81	Iraq	4.9	7.9	5.9	7.5	487	727	.7	.5		
82	Argentina	6.5	.8	5.7	1.5	1,129	1,804	.9	1.0	14	14
83	Portugal	4.4	−20.3	8.3	4.6	382	1,050	.5	.6	17	38
84	Yugoslavia	4.7	3.6	7.1	3.7	872	2,016	1.3	1.3	8	22
85	Iran	14.5	−.9	15.6	9.8	270	1,490	.4	.8		
86	Trinidad and Tobago	2.8	6.0	4.8	16.6	1,775	4,272	1.0	1.7	35	51
87	Hong Kong			6.8	5.6	468	1,313	.7	.7	5	7
88	Venezuela	1.2	−10.8	6.6	3.4	1,694	2,838	1.1	1.2	1	
89	Greece	14.3	20.3	13.2	6.2	460	2,250	.5	.9	26	48
90	Israel	41.9	−86.6	9.6	−1.4	1,270	2,541	.7	.7	17	28
91	Singapore			16.8	3.9	372	2,262	.4	.9	17	38
92	Spain	2.5	−4.6	8.5	4.1	756	2,399	.6	.8	22	59
	Industrialized countries	3.2	.7	4.9	1.3	4,462	7,079	1.2	1.1	11	24
93	Ireland	.1	6.5	4.7	.6	1,838	3,170	1.2	1.2	17	17
94	Italy	2.2	1.6	8.3	1.3	1,086	3,284	.6	1.0	18	30
95	New Zealand	5.2	8.2	5.7	.20	2,277	3,617	.7	.8		
96	United Kingdom	−1.2	10.0	1.7	−1.4	4,861	5,268	1.6	1.3	14	22
97	Japan	−1.7	3.5	10.7	−.7	1,171	3,679	.8	.8	18	42
98	Austria	1.5	−4.6	5.1	1.4	2,129	4,013	.8	.8	12	17
99	Finland	3.3	−10.0	9.1	1.6	1,529	5,177	.5	.9	11	25
100	Netherlands	16.2	6.2	8.7	2.5	2,504	6,224	.7	1.0		
101	France	−1.3	−3.1	5.8	−.5	2,474	4,380	.7	.7	16	26
102	Australia	11.1	7.2	5.6	4.6	3,857	6,657	.8	.9	12	8
103	Belgium	−7.2	16.8	4.9	.2	3,851	6,049	1.1	.9	11	15
104	Denmark	−20.1	45.6	5.5	4.6	2,830	5,320	.6	.7	15	23
105	Germany, Federal Republic	−.7	−.7	4.5	2.0	3,695	5,922	.9	.8	7	16
106	Canada	8.9	−3.1	6.0	2.1	5,750	9,950	1.3	1.3	9	11
107	United States	3.5	−.5	4.1	1.7	8,172	11,554	1.6	1.5	8	30
108	Norway	6.8	28.0	5.9	4.4	2,702	5,263	.7	.7		
109	Sweden	3.6	9.3	4.9	5.4	3,572	6,046	.7	.7	16	18
110	Switzerland	4.2	−1.6	5.9	−2.8	1,873	3,342	.3	.4	10	11
	Capital surplus of exporters										
111	Saudi Arabia	14.1	.6	14.4	31.4	267	1,901		.4		
112	Libya	29.1	13.0	17.9	26.6	251	1,589	.1	.3	83	1
113	Kuwait	4.6	−7.9	6.7	6.1	10,396	9,198	.4	.6		
	Centrally planned economies	4.8	5.3	4.8	5.2	1,378	2,047	2.2	2.0		
114	China, People's Republic	4.5	5.4	3.6	4.8	683	706	3.5	2.0		
115	Albania	10.1	6.9	12.5	17.1	302	867	1.1	1.6		
116	Korea, Democratic Republic	9.1	10.4	9.2	10.6	989	3,072	3.8	4.9		
117	Mongolia	10.4	10.1	7.3	8.6	540	1,166	.8	1.5		
118	Cuba	20.6	−8.0	4.4	5.7	912	1,225	1.0	1.5		39
119	Romania	5.8	4.5	8.0	7.5	1,342	4,036	3.8	3.0		
120	Bulgaria	3.3	7.7	9.8	5.0	1,303	4,710	1.2	2.0	7	
121	Hungary	1.8	2.5	3.9	5.3	2,072	3,553	1.5	1.6	13	14
122	U.S.S.R.	5.6	5.6	5.3	4.4	2,839	5,259	1.9	2.0	4	4
123	Poland	3.9	5.0	4.1	7.7	3,107	5,253	2.1	1.9		
124	Czechoslovakia	1.3	2.7	3.1	4.2	4,741	7,397	1.9	2.1		15
125	German Democratic Republic	.5	.7	2.1	2.5	4,950	6,789	1.8	1.6		

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[1] Refers to 1961–74 rather than 1960–74.

EXHIBIT 5

INSURANCE PROGRAMS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION: SUMMARY PREPARED BY SENATOR JACOB K. JAVITS

BACKGROUND

In November of 1978 Senators Javits, Percy and Bellmon sent a questionnaire to approximately 30 U.S. oil companies soliciting their views on the need for political risk insurance to expand their overseas activities and the adequacy of O.P.I.C. insurance for this purpose.

Thirteen companies responded, among them four of the 8 largest integrated companies with active past or present overseas oil development programs. The respondents were: Getty, Occidental, Gulf, Atlantic Richfield, Sun Oil, Tenneco, Marathon, Phillips Petroleum, Belco, Standard Oil of California, Texaco, and Cities Service. Because the responses were solicited on the basis of a guarantee of confidentiality, this summary of results will not attribute any of the opinions offered.

RESULTS

All but one company said political risks were one of the three major factors in a decision to proceed with an overseas oil project. (Others cited were tax policy and profit economics.) All but two companies felt expanded availability of U.S. political risk insurance would be of significant value in encouraging them to undertake new overseas projects and to expand existing efforts. (Also cited by most companies as necessary policy changes were liberalization of U.S. tax laws covering overseas oil income and expanded use of bilateral treaties to protect U.S. company investments.)

Altogether the companies listed 32 projects not undertaken because of political risk.

Among them the companies listed the following non-OPEC countries as areas in which they have identified specific areas of oil and gas potential whose development would be more attractive if expanded political risk insurance were available:

Peoples Republic of China, Chile, South Korea, Argentina, Mexico, Egypt, Malaysia, Guatemala, Panama.

Angola, Zaire, Turkey, Ecuador, Ethiopia, Thailand, Sri Lanka, Honduras, Afghanistan.

Sudan, Pakistan, Peru, Philippines, Kenya, Brazil, Tanzania, Ghana, Malta.

There was virtually unanimous agreement among the respondents as to the inadequacies of existing O.P.I.C. insurance coverage. In essence—the large investment required for oil development and certain specific characteristics of the projects—such as the vulnerability of discovered reserves to expropriation—make the general format of O.P.I.C. coverage less well-suited to these investments than to other forms of overseas business ventures.

The principal criticisms were:

Total project costs should be covered including equity and guaranteed debt and the "economic value of the contract" with the host government.

The current O.P.I.C. coverage of "net unrecovered costs" does not protect all these investments nor the value of the in-ground reserves.

The current O.P.I.C. limits, $50 million per project and $100 million per country, are too low to be useful for substantial oil projects.

O.P.I.C. rates are too high for the coverage offered.

Certain kinds of coverage in the O.P.I.C. package are unnecessary for oil projects. The insured party should be permitted to purchase specific coverages only.

Several respondents suggested the exclusion of O.P.E.C. country projects, Andean Pact country projects, and of major oil company projects should be removed.

CONCLUSION

While O.P.I.C. coverage can play a limited but useful role in its present form and could, with major changes, play a significant future role, the present system is inadequate. However, changes in the O.P.I.C. system would only be appropriate following thorough consideration of the fundamental scope and terms of both the nature and size per project and per country of the coverage. O.P.I.C.'s role in providing insurance for oil and gas development will be an essential element in the review of O.P.I.C.'s authorizing legislation which I expect will begin next year.

Another approach, either interim or permanent, is to establish a political risk insurance program to take up where O.P.I.C. leaves off—i.e. to provide coverage beyond the O.P.I.C. limitations both as to risks and amounts covered. It would provide a mechanism for seeing that the U.S. interest in accelerated diversification of oil sources is expressed in concrete terms.

1. What are your company's primary considerations in examining oil exploration options outside the United States?

2. What role does political risk play in your company's decisions to invest or forgo investment outside the United States?

3. Have there been areas of potential exploration or development, particularly "marginal" fields, which your company has considered in the past but rejected because the political risk was deemed too great?

4. If so, could you provide some examples of what political risk(s) was (were) involved?

5. Are there areas of the world where you are not now considering exploring and/or investing where you might explore and/or invest should your insurance needs against political risks be met? Can you give examples?

6. Would the availability of political risk insurance be an important factor in encouraging your company to undertake secondary or tertiary recovery projects in existing or future production operations?

7. Do you feel that OPIC's present risk insurance program is too limited financially to be of use by your company? If so, how large a project should an insurance scheme be able to cover?

8. Are the present risks defined in OPIC's program sufficient to cover all the political risks an oil company can encounter in a developing nation? If not, what else should be covered?

9. Are you satisfied with OPIC's present policy of insuring net unrecovered costs? If not, what else should be insured?

10. If a new program were only to insure a percentage of the cost of a total project, what percentage would be a sufficient incentive for your company to avail itself of the program?

11. What would you consider a reasonable rate to charge for a comprehensive risk insurance program?

12. Would the availability of non-recourse bank loans (secured only by a production payment agreement and OPIC insurance) to finance part of the development of a new field increase your company's willingness to undertake such efforts, especially in otherwise "marginal" fields?

13. If OPIC's program were greatly expanded as outlined above, what percentage of your company's rejected proposals for overseas investment would, in your opinion, be approved by your company?

● Mr. KENNEDY. Mr. President, I am pleased to join Senator JAVITS, and Senators BRADLEY, PERCY, and STONE in cosponsoring this key initiative toward diversifying the world's sources of foreign oil supply. Our amendment would establish an international oil supply diversification program in the Department of Energy, and authorize a maximum of $1 billion through 1990. These funds would be made available for a variety of incentives to encourage exploration for and development of oil in non-OPEC countries which present special political and/or economic risks.

Mr. President, the basic assumption of American energy policy since 1973 has been that a serious shortage in the world's supply of oil is imminent. There is no point in confronting the artificial petroleum shortage created by OPEC, goes the corollary to this assumption. OPEC, some say, is doing the consuming nations a favor by preparing us for the real physical shortage that would be on us in a few years. According to the prevailing view, increases in OPEC prices merely hasten the day when high-cost alternative energy sources, especially synthetic fuels, will become commercial.

This "scarcity" assumption has had a paralyzing effect on American energy policy. The prevailing view that high OPEC prices are inevitable has never been challenged. The prospect that considerable untapped oil and gas resources could exist outside the OPEC nations has been almost completely ignored. As has been the stabilizing influence that the major international companies provided for the cartel. An imaginative plan for forcing the OPEC nations to bid for access to the U.S. market was dismissed by the Secretary of Energy with the question, "Do we dare?"

In March 1978 the Energy Subcommittee of the Joint Economic Committee began to explore the question of the world's future oil supply and its policy implications for the United States. Hearings brought together a number of witnesses who challenged the scarcity assumptions of the energy policymakers. For example, the distinguished geologist Dr. Bernado Grossling, of the U.S. Geological Survey, testified that the world's supply of recoverable oil could well be two or three times larger than that of previous estimates.

He also found it likely, contrary to prevailing opinion, that the production costs of the new oil to be found would not only be well below the prices set by OPEC, but also below the marginal cost of U.S. production. The policy implications of this more optimistic view of the world's oil supply were set out in excellent testimony by Dr. Arnold Safer.

In his analysis of the world petroleum market Dr. Safer, persuasively argued that the consuming nations need not remain passive victims of OPEC's pricing tactics. Like a number of petroleum experts (including, it appears Sheik Yamanie whose work he quotes), Dr. Safer believes that OPEC's control over prices would be significantly lessened if the producing nations had to sell their oil in arms-length transactions to the world's refining industry, rather than being able to deal through vertically integrated oil companies.

I share Dr. Safer's concern for the way that the structure of the international oil industry reinforces the OPEC cartel. This was one of the principal reasons I have supported vertical divestiture legislation. But important as I believe it is to stimulate competition from the demand side, I believe that priority must be given to encouraging the development of petroleum sources in non-OPEC countries.

The world may be on the edge of exhausting its oil supply. But we do not know that. In fact we have every reason for being skeptical about such predictions. The recent discoveries in both Canada and Mexico cast serious doubt on the claims of those who purported to know the limits of the world's potential supply. It seems increasingly likely that OPEC's hold on the world's supply is greatly strengthened by institutional constraints on oil and gas development elsewhere in the world. We have done very little to explore and understand the nature of these contraints, much less to devise strategies for overcoming them.

It is essential for the United States to develop a program that will encourage the diversification and expansion of the world's petroleum supply. Such a program is entirely compatible with the goals of other nations. For the most part, it is likely that new oil provinces lie in the poorer nations, which have suffered the most serious economic setbacks as a result of spiraling oil prices. Discovery of even small amounts of oil and gas would represent enormous benefits for such nations.

Nevertheless, we must recognize the limits of what we can do. We cannot dictate the energy policies of other nations. But we assist those who want our help to discover and develop oil and gas potential. And our policy of promoting diversification of oil supplies must be flexible. I doubt we can find any simple solution to the institutional constraints on world oil supply, but we must at least develop a range of policy options. Each nation is different. In some places, private companies may be welcome and a policy of encouraging private action may be sufficient. In others, government-to-government assistance may be required to make such policy work.

It is time to refocus the energy debate. This amendment brings attention back to the most significant and neglected energy problem—the power of OPEC over the price and supply of the world's oil. The importance of recognizing the central role of oil proliferation in any development of national energy policy cannot be overstated.

I urge my colleagues to support this amendment so that we can develop an ambitious and flexible national policy to develop our worldwide oil potential to compete with the OPEC cartel.●

● Mr. DOLE. Mr. President, with all due respect to its proponents, I rise in opposition to this amendment to provide up to $1 billion for incentives for new oil production in non-OPEC developing countries. While I, too, hope that we will see an expansion of the world's petroleum supplies, I have at least three objections to this amendment.

First, and most fundamentally, I am appalled that we would take revenues from a tax that discourages domestic oil production and plough those revenues into encouraging uncertain and insecure foreign sources. Surely we are better off cutting the tax or at least using its revenues to reduce dependence on foreign oil.

Second, by its very terms, this amendment would put these funds into high-risk investments abroad. These investments would be risky because of political instability, uncertainty as to the existence of commercial deposits, or both. I do not see how we promote U.S. energy security by throwing taxpayers' dollars deliberately at areas considered unstable and where the chances of success are so dim that private capital will not invest without Government guarantees.

Third, even if new supplies are found and exploited in non-OPEC developing countries, I think it is foolish to believe that such supplies would be made available to the United States in more secure quantities or at more favorable prices than OPEC and non-OPEC exporters now provide. Experience shows little or no difference between OPEC and non-OPEC oil-exporting countries in their behavior toward the United States in this regard. Further, we must be realistic that OPEC and non-OPEC developing countries alike are equally likely to nationalize any profitable petroleum investment, with dim prospects for adequate compensation.

In short, Mr. President, we are likely to lose either way any money appropriated for this amendment. If the investment fails to find oil, our money is lost. If it succeeds, the foreign country is likely to take over, with inadequate compensation, and no security of price or supply.

Frankly, I think we do better to let private oil companies and banks and the host governments themselves develop more petroleum supplies abroad. U.S. Government guarantees will reduce the incentive for all parties to exploit viable sources abroad and drive the best commercial bargain. And, finally, I am sure there are better uses for the taxpayer's dollars than this proposal.●

Mr. JAVITS. Mr. President, I am ready to yield back the remainder of my time, if the Senator from Louisiana (Mr. LONG) is.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment, as modified, offered by the Senator from New York (Mr. JAVITS). The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), is necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. JEPSEN) is necessarily absent.

The PRESIDING OFFICER (Mr. BOREN). Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 19, nays 79, as follows:

[Rollcall Vote No. 433 Leg.]

YEAS—19

Biden
Bradley
Danforth
Glenn
Hatfield
Javits
Kennedy
Leahy
Levin
Lugar
Mathias
Moynihan
Pell
Percy
Ribicoff
Riegle
Roth
Stone
Williams

NAYS—79

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kassebaum
Laxalt
Long
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Muskie
Nelson
Nunn
Packwood
Pressler
Proxmire
Pryor
Randolph
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—2

Byrd, Harry F., Jr.
Jepsen

So Mr. JAVITS' amendment (No. 680), as modified, was rejected.

ORDER FOR ROLLCALL VOTE ON TREATIES

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask for the yeas and nays on all of the treaties as set forth in the orders appearing on the first page of the Executive Calendar.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. What is the will of the Senate?

UP AMENDMENT NO. 846

(Purpose: Relating to the definition of alternative energy property)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, Mr. HUDDLESTON, and Mr. RANDOLPH, proposes an unprinted amendment numbered 846.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I can explain it, I hope, effectively and quickly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 110, between lines 20 and 21, insert the following:

(2A) Clause (v) of paragraph (3)(A) (relating to alternative energy property), as amended by subsection (b), is amended—

(A) by inserting ", petroleum coke, petroleum pitch, or an alternate substance derived from such coal, coke, or pitch" after "lignite)", and

(B) my striking out "chemicals or other products" and inserting "(I) coke or coke gas, or (II) chemicals or other products which are the same as, or essentially the same in nature and function as, chemicals or other products derived from oil or natural gas".

Mr. DOLE. Mr. President, under present law, the 10-percent energy investment tax credit is provided for equipment using coal as a feedstock for the manufacture of chemicals and other products. The Heinz amendment agreed to yesterday would also permit this credit for equipment using coal-based coke and coke gas as a feedstock.

The amendment offered by the Senator from Kansas would extend this 10-percent credit to equipment using petroleum coke and alternate substances derived from coal and petroleum coke as a chemical feedstock. The amendment also would restrict this expanded credit to instances where the product from an eligible feedstock is the same or essentially the same as a product presently being derived from oil or natural gas. Thus, the proposed amendment would encourage the use of nontraditional feedstocks that will directly or indirectly displace oil and natural gas. Certainly, this country needs to seek out and encourage any technology that will allow us to lessen our dependence on petroleum, and particularly foreign petroleum.

Mr. President, the Finance Committee bill already amends the definition of the term "alternate substance" to include petroleum coke and pitch as alternate substances. Consequently, under the committee bill, equipment for using petroleum coke as a fuel will be eligible for a 10-percent energy investment tax credit. The current amendment of the Senator from Kansas merely conforms the bill's treatment of petroleum coke as a feedstock with the treatment provided in the bill for direct use of petroleum coke as a fuel.

Mr. President, the present amendment will also resolve a technical problem that may hamper the aggressive development of new synthetic feedstocks from coal and petroleum coke to displace oil and gas. Under section 48 of the code, the energy credit is available for equipment using coal as chemical feedstock. The problem is that, in many processes, coal is not used directly to manufacture chemicals. Rather, coal is treated to produce a fuel or synthetic material, which, in turn, is used as a feedstock for the manufacture of chemicals.

For example, coal can be solvent refined, hydrotreated or hydrocracked to produce a variety of solid, liquid, and gaseous fuels and byproducts. These fuels and byproducts may be used as substitutes for oil and natural gas as a chemical feedstock, as a low-sulfur coking material or in the making of carbon anodes. In each case, the synthetic material derived from coal will cause a direct or indirect displacement of oil or natural gas. If these same synthetic fuels or feedstocks are further processed into more highly refined fuels, chemicals, and other products which are substitutes for natural gas and petroleum, the equipment at each stage of the treatment clearly meets the mandate of the national energy policy in encouraging the substitution of synthetics for petroleum and natural gas.

This example just illustrates one area of potential petroleum displacement. There are similar processes for feedstock use of petroleum coke products. Hopefully, American ingenuity will enable us to develop wholly new kinds of synthetic feedstocks to replace oil and gas and this amendment will encourage that development.

Mr. President, the cost of the present amendment is relatively modest. It has been estimated that this amendment will involve a revenue loss of less than $1 million in fiscal year 1980 and approximately $110 million over the period 1980 to 1990. Accordingly, I urge my colleagues to support this improvement to the Finance Committee bill.

Mr. President, there are other Senators who have an interest in this amendment. Senators Huddleston and Randolph both have an interest.

Mr. President, this amendment has been discussed with staff. I do not know of any objection to the amendment.

Mr. LONG. Mr. President, as the Senator stated in his presentation, a similar credit was allowed in parallel situations. This matter was not discussed in the committee. If it had been discussed, I believe the committee would have agreed to it, because the committee did agree, as the Senator said, to allow such a tax credit in parallel situations. The same logic that suggests that a tax credit should exist here. I personally have no objection to the amendment. I expect to vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, if there is no other amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LONG. Mr. President, I must object. I will be glad to discuss it with the Senator.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, the windfall profit tax bill as passed by the House of Representatives would produce $276 billion in Federal revenues between 1980 and 1990. The bill reported by the Senate Finance Committee would produce $138 billion, or exactly one-half the House bill.

Yesterday, the Senate voted to exempt from the tax the first 1,000 barrels of oil produced by an independent producer. This exemption will reduce Senate Finance Committee bill revenues by another $10 billion.

Today, I am sending to the desk an amendment, which I will call up at the appropriate time, which would recover the revenue lost yesterday. This amendment would produce $10.5 billion by deleting the exemption in the Finance Committee bill for royalties received by State and local governments.

At the time I call my amendment up, I am sure there will be thorough debate on its merits. At this time, I will simply outline what those arguments will be:

First. As stated, the amendment will produce $10.5 billion which can be used for the purpose of meeting our national energy needs.

Second. Unlike other exemptions to the windfall tax, the exemption for State and local governments has no relationship whatever to the production or conservation of oil. The exemption presently found in the bill will produce absolutely no addiitonal oil, nor will it produce alternative sources of energy, nor will it be used for purposes of conservation. It is no more than a gratuity provided by the Congress to a small number of States which are fortunate enough to hold oil producing properties.

Third. Those few States favored by this special exemption from the windfall tax will do quite well as a result of the decontrol of oil, even without the favored treatment they receive under the Finance Committee bill. Even without the exemption from the tax, State and local governments receiving royalty income will find that income increased nearly 300 percent as a result of decontrol. If they are subject to the windfall tax on the same basis as other producers, revenues of State and local governments will increase $117.5 billion between 1980 and 1990. If they are granted the special exemption found in the committee bill, their revenue increase would be not $117.5 billion, but $128 billion.

The broader issue, Mr. President, which I will debate when the amendment is called up will concern what we in the Congress are about as we address energy legislation. Is our effort to fashion a truly national energy policy? Or, in the alternative, is our effort simply to create unjustified windfall profits for certain favored regions of the country?

Mr. President, I ask unanimous consent that a "Dear Colleague" letter sent today by Senators Ribicoff, Chafee, Durenberger, and myself be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

United States Senate.
Committee on Finance,
Washington, D.C., November 28, 1979.

Dear Colleague: During the Senate's consideration of H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1979, we intend to offer an amendment to delete the exemption in the bill for royalties received by state and local governments.

BACKGROUND

In 1978, state and local governments received approximately $2 billion in oil related revenues—$650 million from royalties on oil properties and the remainder from severance taxes and income taxes on oil-related earnings of businesses and individuals. If state and local oil royalties were not exempt from the Finance Committee's windfall profit tax, decontrol would still cause state and local government revenues to increase dramatically by an additional $117.5 billion through 1990—$95 billion in higher tax receipts and $22.5 billion in higher royalties. In other words, state and local governments stand to realize revenue increases approaching 300 percent above current levels because of decontrol, even without an exemption from the windfall tax.

During its consideration of the bill, the Finance Committee decided to exempt state and local governments entirely from the windfall tax (expanding a more limited House-passed provision). The effect of this exemption is to increase royalty revenues to $33 billion, an additional "windfall" of $10.5 billion. With this exemption, total additional oil-related revenues to state and local governments would increase from $117.5 billion to $128 billion through 1990.

Ironically, this exemption, one of the largest granted in the Committee's deliberations, was not granted in the name of "production" or "supply" response—the rationale for virtually all the other exemptions. That argument does not exist for this $10.5 billion revenue loss to the Treasury. The exemption would not produce one additional barrel of oil.

The only argument advanced in Committee was that a failure to grant the exemption would be somehow unconstitutional, and would set a dangerous precedent. A thorough review of case law compels the conclusion that these concerns are ill-founded. This conclusion is concurred in by the General Counsel of the Treasury Department and the Congressional Research Service.

CAN WE CREATE A TRULY NATIONAL ENERGY POLICY?

The overriding goal of the decontrol of oil, the windfall profit tax, the synthetic fuels legislation, the creation of conservation incentives, etc., is to create an energy policy which is truly national in scope.

The special exemption for state and local governments does not serve any national purpose. Indeed, it reduces federal revenues which would otherwise be available for energy programs. It is no more than a favor to particular states and communities which, even without the exemption, will do very well in a time of rapidly rising oil prices. In short, the exemption is an example of regional favoritism at a time when all Americans are being asked to make sacrifices for the sake of the country as a whole.

The oil-owning state and local governments stand to profit handsomely from decontrol. They are very fortunate. Americans living in those states will derive many benefits from the higher revenues, and we would not begrudge them those benefits. But we do not believe that an additional $10.5 billion exemption should be granted to those entities which already stand to enjoy a windfall of $117.5 billion. We hope you agree. Our amendment would eliminate the windfall tax exemption for state and local governments. We hope you will support it.

If you have any further questions about the amendment, or want copies of the Treasury or C.R.S. legal opinions, please contact one of us or Dave Kautter (X46154) of Senator Danforth's staff.

Sincerely,

ABRAHAM RIBICOFF,
JOHN H. CHAFEE,
JOHN C. DANFORTH,
DAVID DURENBERGER.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 847

(Purpose: To raise the tax rate on tier 2 oil to 80 percent)

Mr. BRADLEY. Mr. President, a recent CBO study has indicated that the production effects from an 85-percent tax on tier 1 oil would not be significant. After careful analysis of the issue, I feel that an 80-percent tax on tier 2 oil would also not have a significant production effect, and I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 847.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, strike "and" on line 6, strike lines 7 and 8, and insert:

"(2) 80 percent of the windfall profit on such barrel in the case of tier 2 oil, and

"(3) 60 percent of the windfall profit in the case of tier 3 oil."

Mr. BRADLEY. Mr. President, this is an amendment which is of great importance to the Senate and to the country as a whole. Therefore, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 848

(Purpose: To raise the tax rate on tier 2 oil to 75 percent)

Mr. BRADLEY. Mr. President, given what we have accomplished with the windfall-profit tax bill and what we hope to do further, it is important that we focus early on the alternatives. For that reason I send to the the desk an amendment to my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 848:

In lieu of language to be inserted by the pending amendment, insert:

"(2) 75 percent of the windfall profit on such barrel in the case of tier 2 oil, and

"(3) 60 percent of the windfall profit in the case of tier 3 oil."

Mr. BRADLEY. Mr. President, the Senate is considering a windfall profit tax that is the result of decontrol actions taken by the President. The purpose of the windfall profit tax is essentially to assure that the revenues that are derived from that decontrol decision will accrue to the American people as well as to the oil companies.

The windfall profit tax moneys will be used to aid low-income individuals and to enhance this country's energy security by developing our alternate energy sources.

In my view, Mr. President, the windfall profit tax must strike a proper balance between two potentially competing objectives: on the one hand, it must direct a reasonable share of the revenues from decontrol to the public sector for investment in conservation and alternative energy resources; on the other hand, it must preserve adequate incentives for increased production of domestic oil.

Mr. President, this balance can be struck, I believe, by putting a higher tax on low-cost oil from known reserves which is relatively insensitive to price, while at the same time allowing relatively higher prices on new and tertiary oil which are much more sensitive to price.

Tier 2 oil is oil from proven reserves. It represents about 51 percent of current domestic production or about 4.3 million barriers a day, and is allowed a controlled wellhead price of about $13 a barrel.

According to both CBO and DOE, decontrol will simulate little additional production from tier 2 reserves. Similarly, increasing the tax rate from 60 percent to 75 percent will have a negligible impact on supply. The reasons are as follows:

One, the original investment in developing these reserves was made with the expectation of much lower prices than will result from decontrol.

Two, most of the producing equipment is already in place and would be subject to corrosion if production were shut in.

Three, failure to keep up the production schedule will negatively affect the recovery rate and result in a decrease in total recoverable oil.

Four, upper tier wells are wells drilled since 1973. Because they are relatively new, there is minimal corrosion, and maintenance costs are quite low.

Five, since upper tier oil from existing fields is produced mainly through primary recovery techniques, its development costs also are relatively low. This is because development wells do not require significant new capital investment. Producers utilize dismantled production wells from depleted sections of the reservoir to increase well densities in high productivity sections. The expensive techniques are those used in tertiary recovery, which is not affected by this amendment.

Since 1973, oil companies have been producing from these wells at a controlled price which is currently about $13 a barrel. For the reasons just stated, a decontrolled price of $30 cannot stimulate significant supply increments of tier 2 oil.

Even under a 75-percent tax rate, oil producers' revenues in the 1980–90 period will increase by about $360 billion or $36 billion a year. In 1979, producers spent $16 billion on exploration and development wells. A 75-percent tax rate still yields enough revenues to permit the industry to double investment in exploration and development. Expenditures for domestic production above these levels will yield rapidly diminishing marginal returns.

Thus, the effect of a lesser tax rate is likely to encourage a serious misallocation of resources—either to futile drilling efforts or to nonoil and gas investments; either result is intolerable. Especially in light of the range of promising opportunities to stimulate development of new energy sources; to encourage energy efficiency in the Nation's capital stock; to develop mass transit; and to provide some relief to low- and middle-income families from higher energy prices due to decontrol.

The supply response will come from new discoveries and tertiary recovery—not from known reserves. New and tertiary oil is already exempt; so are independent producers.

The Senator from Kansas wants to reduce the windfall profit tax in the name of increased production. Yet neither he, nor anyone else, has yet demonstrated how or why production will decline, or by how much. Because of the other opportunities for stimulating energy production from new sources through the windfall profit tax revenues, the burden of proving that the benefits in terms of material production increases from a lower tier 2 tax rate clearly exceed the benefits we expect from investing in these alternative sources rest squarely on the opponents of the 75-percent rate.

Moreover, the recent world oil price increases guarantee that production will not be inhibited by the higher tax rate I am proposing. When the Finance Committee voted on the tier 2 tax rate, the price was $22 a barrel. With the original 60-percent tax rate, or $5.40, producers would have netted $16.60 a barrel. But the price is now $30 a barrel. With a 75-percent tax rate, the tax per barrel will be $12.75, but producers will net $17.25—a 65 cents per barrel increase over the Finance Committee bill.

EXECUTIVE SESSION

CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

CONVENTION ABOLISHING THE REQUIREMENT OF LEGALIZATION FOR FOREIGN PUBLIC DOCUMENTS

TREATY WITH THE REPUBLIC OF TURKEY ON EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The PRESIDING OFFICER. Under the previous order, the hour of 1:40 p.m. having arrived, the Senate will now go into executive session to consider Executive Calendar Nos. 9, 10, and 11, on which there shall be not to exceed 20 minutes of debate.

The clerk will state the first resolution of ratification.

CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

The resolution of ratification of Executive K was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, signed at Geneva on May 18, 1977 (Executive K, 95th Congress, 2d session).

Mr. CHURCH. Mr. President, over the last decade, scientists, international lawyers and other prominent individuals—notably the senior Senator from Rhode Island, CLAIBORNE PELL—have expressed serious concerns about the growing possibilities for manipulating weather and other environmental components for military purposes. For over 35 years, the Department of Defense has been conducting research and development programs relating to various forms of weather modification. One of the more fruitful programs has been in the field of rain enhancement. Experiments and military operations have clearly demonstrated that when the proper meteorological conditions prevail, it is a relatively simple matter to increase the amount of rainfall by 30 to 50 percent. The military effects of such increases could be devastating if applied to places of heavy rainfall, such as the monsoon areas of Southeast Asia. The fact that the Department of Defense secretly undertook to fly well over 600 weather modification sorties during the conflict in Southeast Asia clearly attests to the effectiveness of such operations.

It is these military weather modification activities and the persistent efforts of Senator PELL which spurred the Senate in 1973 to adopt a resolution calling for the negotiation of a treaty along the lines of the one we are considering today. Senator PELL should be commended for his efforts in this area. During the last 8 years, he has managed to push three administrations away from the gradual development of military environmental modification techniques to a position completely renunciating such operations. He has made the government realize that when man begins to interfere with the global circulation to achieve a military purpose, he takes a chance of adversely affecting the well-recognized characteristics of the atmosphere and subsequently threatens the very survival of all mankind.

Mr. President, it is the purpose of this convention to prohibit the use of environmental modification techniques as weapons of war. It is fully supported by the administration, including the Joint Chiefs of Staff.

It should also be noted that this convention recognizes the vast scientific potential for human betterment through the development of peaceful environmental and geophysical controls, and in no way restricts the experimentation or use of these controls for peaceful purposes.

Therefore, Mr. President, I strongly urge my colleagues to vote in favor of this convention.

I note that Senator PELL is now in the Chamber. I have already extended my compliments to him for the role that he has played in bringing about the convention relating to the modification of weather for military purposes.

I yield to him at this time.

Mr. PELL. I thank the Senator from Idaho very much.

Mr. President, it is a particular pleasure for me to rise in support of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, because it is the direct result of a Senate resolution that I first introduced in 1972, which is not the usual way that treaties come about. This treaty is the first arms control treaty to come into force during the Carter administration, and I hope very much that its approval here today will be a good omen for the next arms control treaty on the Senate calendar, the SALT II treaty.

Mr. President, throughout the ages, men have been amazed and terrified by the enormous force and capricious behavior of their physical environment. Nature's vast and destructive powers have launched modern man on a relentless search for an effective method to harness its overwhelming energy. If achieved, a capability to control and manipulate these natural forces could provide him with a means to wreak untold and indiscriminate damage upon his fellow human beings. Although our present limited understanding and development of deliberate environmental change makes it difficult to imagine a world in which environmental manipulation for military purposes is practical, substantial progress within the environmental sciences is rapidly overcoming the gap between fact and fiction.

My own interest and concern about this subject grew largely out of my experience from 1971 to 1975 in trying, as chairman of the Foreign Relations Committee's Subcommittee on Oceans and International Environment, to confirm reports that American military units were conducting secret rain enhancement operations in Southeast Asia. It took almost 3 years, from September 1971 until March 1974, to obtain information about these activities, even on a classified basis. What I finally learned convinced me that the continued use of these techniques, without proper controls, could have awesome consequences. I became convinced very early on in my investigations that negotiations were necessary on a treaty banning not only weather modification, but all forms of environmental modification, as weapons of war. During the course of my subcommittee hearings, the testimony I heard from eminent scientists and specialists in the study of the world environment aroused my deep concern that the use of rainmaking as a weapon of war could only lead to the development of vastly more dangerous environmental techniques whose consequences may be unknown and may cause irreparable damage to our global environment.

In proposing a ban on environmental warfare, I was motivated by a desire to nip in the bud the potential development of a new arms race in the future involving weapons unheard of today. It occurred to me that if, prior to World War II, there had been a treaty banning the use of nuclear energy for weapons purposes, the world might have been spared the experience of having to live with the prospect of nuclear holocaust.

Consequently, in the summer of 1972, I introduced Senate Resolution 281, calling for negotiation of a treaty banning the use of environmental modification techniques in warfare. It passed the Senate the following year as Senate Resolution 71 by a vote of 82 to 10. The administration in office at that time initially thumbed its nose at my proposal; but, later, in 1975, after the Soviet Union had made a proposal similar to mine, the administration finally dropped its opposition to my idea and joined the Soviet Union in introducing identical draft conventions at the U.N. disarmament conference in Geneva. On December 10, 1976, the U.N. General Assembly approved this convention and it was opened for signature on May 18, 1977.

Under this convention, all parties to the treaty pledge not to engage in military or other hostile uses of environmental modification techniques having "widespread, long lasting or severe effects as the means of destruction, damage or injury to any other State party." The treaty defines "environmental modification techniques" as any technique for "changing—through the deliberate manipulation of natural processes—the dynamics, composition or structure of the Earth, including its biota, lithosphere, or of outer space."

So far, weather modification appears to be the only form of environmental modification that could be utilized for the purposes of warfare now or perfected for use in the near future. There are, however, other possibilities that are currently remote but which theoretically could in the future, be harnessed for hostile purposes. Let us not forget that the harnessing of nuclear energy for weapons purposes was only a remote possibility 40 years ago.

As chairman of the Foreign Relations Committee's Subcommittee on Arms Control, Oceans, International Operations and Environment, I have been dismayed at how difficult it is to negotiate meaningful arms limitations agreements once weapons systems have been developed and deployed. The most effective way to control armaments is before they come into being, and that is what the convention before us does. It is preemptive arms control.

This convention is not all that I would have liked it to be, because its scope is limited to actions having "widespread, long-lasting or severe effects." Nevertheless, the convention is a huge step forward in insuring that environmental modification activities, which are growing, will be dedicated to peaceful purposes for the benefit, and not the destruction, of mankind. I am further convinced that this convention will be improved in the future; and, in this connection, I would like to point out that at my request the administration has agreed to begin a review of the scope of the convention within 6 months after ratification. I wish to commend the administration for its cooperation in this regard and earnestly hope and urge that specific proposals to broaden the scope of the convention's limitations will be developed.

Finally, I would like to draw the attention of my colleagues to the fact that this convention, which the United States helped to develop, is already in force. It came into force on October 5, 1978, when the 20th nation ratified the convention. Ironically, it was little Laos, one of the victims of American rainmaking during the Vietnam war, that brought the convention into force. As both an originator of this convention and the only nation to have engaged in environmental warfare, the United States should become a party to the convention; and I urge my colleagues to give their advice and consent to ratification today.

Mr. CHURCH. Mr. President, I thank the Senator from Rhode Island very much for the statesmanship he has shown and for the persistence with which he has worked through the years to achieve a convention of this kind. I join with him in the hope that in future years we can see the terms of this convention both strengthened and enlarged.

Mr. President, the balance of the time has been allocated to the ranking minority member of the committee, Senator Javits. I am happy to yield to him the remainder of the time remaining.

The PRESIDING OFFICER. The Senator from New York.

EXECUTIVE K, ENVIRONMENTAL MODIFICATION

Mr. JAVITS. Mr. President, the treaties which we consider today are relatively routine in nature, and I wish, first, to commend Senator Pell for his foresight and persistence in bringing the environmental treaty especially into being. He really went into the thing very deeply and should be highly gratified that the treaty has been ratified by the Soviet Union, the United Kingdom, and more than 20 other countries, and has been in force in those countries for over a year.

In addition to the convention itself and annex, the negotiators of the treaty arrived at four understandings which expand upon some of the key provisions and provide for clarifications from the negotiating histories. These understandings are at pages 13 and 14 of the committee report.

Mr. President, the threshold adopted in this convention, that only those techniques which "have a widespread, long-lasting or severe" effect are prohibited, would permit certain low-level military options which the Joint Chiefs were concerned to preserve. The dissipation of fog was one such technique cited by the Chiefs as a measure for the protection of U.S. troops in the field. This threshold was resisted by representatives of some of the environmental groups who preferred a convention prohibiting all modification techniques however mild or short-lived.

During the committee's deliberations, the administration agreed to review the desirability of eliminating this standard in future negotiations, as well as to consider several other aspects of this treaty with a view to possible further revision.

The review by the administration is to take place within 6 months of the Senate's advice and consent. This review was an important feature of ratification of the treaty by the United States for we had come to recognize that any arms control agreement is only as reliable as the ability to monitor it; and, further, that any such agreement may require periodic revision to keep pace with developments and technology and capabilities generally.

Mr. President, again I commend Senator Pell for his initiative.

EXECUTIVE L AND EXECUTIVE AA

As to the remaining two conventions, one abolishing the requirement of legalization of public documents, and the other with Turkey on extradition, I commend both of these agreements to the Senate. They simply modernize and make more efficient what exists today.

In the case of the bilateral treaty with Turkey, it combines a modernized treaty on extradition with an agreement on mutual assistance in criminal matters. These treaties are important to the normal course of business among nations, it being clear, and we are making it clear in Iran today, where no extradition is legally possible in the United States unless it is the subject of a treaty. So these extradition treaties have now, under present circumstances, even an additional aspect of importance to those aspects they have had previously.

Mr. President, for all of these reasons I commend the ratification of the three treaties to the Senate.

Mr. CHURCH. Mr. President, I would like to close by commending our executive clerk, Gerald Hackett, who had to work extraordinarily hard to secure the necessary reports to enable the Senate to take up the consideration and vote on the ratification of the series of treaties that the Senate will be considering this week. I commend him for his diligence and compliment him for the excellent work that he has done.

CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

The PRESIDING OFFICER. The hour of 2 o'clock p.m. having arrived, the question is on agreeing to the resolution of ratification on Executive K, 95th Congress, 2d session, the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. Jepsen) is necessarily absent.

The PRESIDING OFFICER (Mr. Baucus). Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 434 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Byrd,
Harry F., Jr.
Jepsen

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the second resolution of ratification.

CONVENTION ABOLISHING THE REQUIREMENT OF LEGALIZATION FOR FOREIGN PUBLIC DOCUMENTS

The resolution of ratification of Executive L was read as follows:

> *Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of Convention Abolishing the Requirement of Legalization for Foreign Public Documents, the Ninth Session of the Hague Conference on Private International Law on October 26, 1960. (Executive L, 94th Congress, 2d session.)

Mr. CHURCH. Mr. President, the second treaty the Senate will consider today is item No. 10 on the Executive Calendar, the Convention Abolishing the Requirement of Legalization for Foreign Public Documents. This treaty was submitted to the Senate in 1976. The convention was drafted by the Hague Conference on Private International Law. The Hague Conference has been active in unification of private international law since 1893. The Hague Conference began meeting on the abolition of the requirement of legalization for foreign public documents in 1964. The United States had participated with the Hague Conference as an observer in the 1956 and 1960 session and became a member in 1964.

This convention is one of the most widely adopted conventions prepared by the Hague Conference.

The purpose of the convention is to abolish the requirement on diplomatic and consular legalization for foreign public documents. In the field of international litigation, the past practice of requiring diplomatic and consular legalization has been both time consuming and costly. The American Bar Association has reviewed the convention and supports its ratification. The executive branch letter of submittal specifies the cumbersome process presently required for a litigant to obtain the proper legalization of a document. The convention contains short and simple rules which will reduce cost and delay for litigants in the international cases.

The Foreign Relations Committee reported this treaty favorably on November 20, 1979, by a vote of 10 to 0, with Senators PELL, McGOVERN, GLENN, ZORINSKY, JAVITS, PERCY, BAKER, HELMS, HAYAKAWA, LUGAR, and CHURCH voting in the affirmative.

Mr. President, I recommend that the Senate advise and consent to the ratification of this treaty.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive L, 94th Congress, Second Session, the Convention Abolishing the Requirement of Legalization for Foreign Public Documents. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. JEPSEN) is necessarily absent.

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 435 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Byrd, Harry F., Jr.
Jepsen

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the third resolution of ratification.

TREATY WITH THE REPUBLIC OF TURKEY ON EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The resolution of ratification of Executive AA was read as follows:

> *Resolved (two-thirds of the Senators present concurring therein)*, That the Senate Advise and Consent to the ratification of the Treaty with the Republic of Turkey on Extradition and Mutual Assistance in Criminal Matters, signed at Ankara on June 7, 1979. (Executive AA, 96th Congress, 1st session.)

Mr. CHURCH. Mr. President, the third treaty the Senate will consider today is item number 11 on the Executive Calendar, the treaty with the Republic of Turkey on Extradition and Mutual Assistance in Criminal Matters. This treaty was signed in June of this year. The treaty will replace extradition treaties originally signed in 1923 that entered into force in 1934. This extradition treaty is in the same form as several modern extradition treaties that have expanded the list of offenses for which citizens or residents of a country may be extradited. The list includes narcotic offenses, aircraft hijacking, bribery, and obstruction of justice.

This treaty and the other extradition treaties that the Senate will be considering in the next 2 days will greatly facilitate law enforcement efforts. In this jet age we live in, our law enforcement agencies frequently find their efforts at apprehending international criminals thwarted by outdated extradition treaties.

At the request of Turkey, two subjects, extradition and mutual assistance in criminal matters, are addressed in one treaty. Chapter II of the treaty—Mutual Assistance—facilitates criminal investigations being conducted by either government. This is only the second agreement on this subject which the United States has signed, the other being the treaty on Mutual Assistance in Criminal Matters Between the United States and Switzerland.

SCOPE OF ASSISTANCE

The treaty includes assistance in both investigations and criminal proceedings, but only as they relate to offenses within the jurisdiction of judicial authorities of the requesting party. The treaty encompasses requests which may be made and executed government-to-government for example, a request by the Turkish Ministry of Justice for investigative reports of the U.S. Department of Justice, as well as requests the execution of which require the cooperation of third parties, for example, a request by Turkey that the United States obtain the statement of a private party who was a witness to crime for use in a criminal proceeding in Turkey.

The scope of mutual assistance available under the treaty includes such matters as the taking of testimony or statements; producing, preserving and authenticating documents, records or articles; serving judicial documents, writs, summonses, records of judicial verdicts, and court judgments or decisions; effecting the personal appearance of a witness or expert before a court of the requesting party; locating persons; and providing judicial records, evidence and information on a voluntary basis if deemed of interest to the other party.

The treaty is designed to be self-executing and neither chapter will require implementing legislation. Chapter I utilizes existing authority in 18 U.S.C. 3181 et seq., and chapter II utilizes existing authority of the Federal courts, particularly in 28 U.S.C. 1782.

Mr. President, the Senate Foreign Relations Committee voted favorably to report this treaty on November 20, 1979. The vote was 10 in favor, 0 opposed. Senators PELL, McGOVERN, GLENN, ZORINSKY, JAVITS, PERCY, HELMS, HAYAKAWA, LUGAR, and CHURCH voted in favor, no Senators voted against. I recommend that the Senate advise and consent to the ratification of this treaty.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive AA, 96th Congress, First Session, the Treaty with the Republic of Turkey on Extradition and Mutual Assistance in Criminal Matters. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. JEPSEN) is necessarily absent.

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 436 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Byrd, Harry F., Jr.
Jepsen

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent that the President be immediately notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and resume consideration of the pending business, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed the consideration of H.R. 3919.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized.

Will the Senator please suspend until the Senate is in order? The Senate is not in order. Members who wish to converse should retire to the cloakrooms.

The Senator from Washington.

Mr. BUMPERS. Will the Senator yield?

Mr. JACKSON. Yes.

Mr. BUMPERS. Mr. President, the Senator from Washington has what I believe to be a very important statement to make on the pending legislation. I hope that as many Senators as possible would stay to hear what he has to say because I do not think we are going to hear anything any more eloquent or more relevant during this debate.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. KENNEDY. Mr. President, I want to underline what the Senator from Arkansas has said. I have had the opportunity to read the speech of the Senator from Washington. It is an excellent one. It is one that all Senators should pay attention to. I commend the Senator from Washington for this statement which I think is in the interest of the consumers of this country and in our national interest. I commend the Senator in advance for his presentation.

Mr. JACKSON. I thank my colleague from Massachusetts and my colleague from Arkansas.

The PRESIDING OFFICER. The Senator from Washington.

HOW TO WHITEWASH A WINDFALL

Mr. JACKSON. Mr. President, these are agonizing times for all Americans.

Every morning, noon, and night the news of the situation in Iran vividly reminds us that the world has changed. A once-proud superpower has been brought to its knees over the fate of 49 Americans taken hostage by a group of students acting wholly outside the basic tenets of international law. Their action has the complete endorsement of Iran's Government. There is no international law as far as Iran is concerned; a reign of terror has taken its place.

All of us pray that somehow we will find a solution to the hostage taking. Whatever the outcome, we will pay a heavy price. That much is already clear.

As long as our attention is riveted on the Middle East, we should remind ourselves that the world has changed in other ways, as well. The economic well-being of the entire free world is in the hands of Iran and her oil producing neighbors.

The Persian Gulf producing nations—Iran, Iraq, Kuwait, Saudi Arabia, and the United Arab Emirates—produced over 20 million barrels of crude oil per day in June of this year or one-third of the world's production. Scenes of a holy mosque under siege should remind us that Saudi Arabia alone produces one-seventh of the world's crude oil supply.

The Persian Gulf producing nations are holding us hostage, too, even though it is not on the nightly news. We pay ransom every day for black liquid gold. The ransom in this case is based on the price per barrel.

What does all of this have to do with the subject before the Senate today, the Crude Oil Windfall Profit Tax Act of 1979?

The answer is simple, though painful. The legislation before us today is simply a fancy package designed to mask the fact that the United States is hostage to OPEC. We have allowed the oil producing nations to set the price paid for every Btu of energy consumed by Americans. The United States no longer sets its own energy prices.

The President has given in to OPEC. He has adopted a complicated series of formulas which will guarantee that OPEC price increases will increase domestic oil prices, too. Next month when the OPEC Ministers meet they will be setting their prices and our prices, too.

OPEC prices are political prices. They have nothing to do with the resource value of oil produced and sold. Nor do they take into account the cost of exploration, development, or production in the United States. They are based upon the revenue needs of the OPEC countries and pay no attention to the impact those prices will have on other countries.

Once President Carter decided to let OPEC set our prices, he had to do something to make his decision politically palatable to the American people. So with a great deal of fanfare he sent windfall profit tax legislation to the Congress. He could have sent Congress the windfall profit tax legislation and waited until it was enacted before he decontrolled oil prices. But he did not do that. He chose, instead, to let the fox into the chicken coop and then told us to limit the number of chickens we would allow the fox to kill.

In my opinion, this approach is a charade. Allowing domestic crude oil prices to go to the world price level will result in untold billions of dollars of new revenues for the producers. Yesterday's vote on the Bumpers amendment—where the Senate refused to go even as far as the House did in taxing away the windfall—showed conclusively that the Senate is not serious about taxing away the windfall. In reality, this legislation has become a lesson in "How to Whitewash a Windfall."

At the risk of being blunt, let me describe what we are really doing for the various "tiers" of crude oil and what this legislation will allow.

Tier 1 oil is oil from a property that was first in production before 1973. It sold for under $5 per barrel as recently as 1976, and sells for around $6.10 today. With decontrol, tier 1 oil will all sell for the world price after September, 1981. Producers, who were making a profit selling oil at $5 or $6 a barrel, will be able to sell that same oil for $30, $40, or even $50 a barrel—wherever OPEC sets the price. The 75 percent tax in the Finance Committee bill would recoup $18 if the oil were sold for $30. The producer would still realize $10 per barrel—the $6 he was making, plus $4. In other words, he will be making 67 percent more per barrel than he was under price controls.

Let me repeat that. Even with the tax, the producer will make 67 percent more per barrel than he was making in June.

Tier 2 oil is oil from properties which began producing after 1973. It sells for around $13.25 today and will also be decontrolled. The 60 percent tax on this tier would recoup $10.05 if the oil were sold for $30. The producer would realize $19.95 per barrel—the $13.25 he was making, plus $6.70. In other words, he will be making 51 percent more per barrel than he was under price controls.

Tier 3 covers stripper oil and oil produced from the Naval Petroleum Reserve which are decontrolled today. Oil produced from these sources will be subject to a 60 percent tax on the difference between the actual selling price and $15.30 a barrel. The producer would realize $24.12 per barrel, with a tax of $8.82, if he sold this oil for $30.

I could continue this explanation tier by tier, category by category. But doing so would serve no useful purpose because the point would be the same: Even if the Senate Finance Committee bill were adopted as reported, oil producers will reap huge new profits. They could easily make 50, 60, or 70 percent more per barrel with the tax than they were making under price controls.

What do we get for all this? We get huge increases in energy prices, huge increases in the rate of inflation, and no increase at all in crude oil production.

This legislation does nothing about one of the biggest oil price problems. Many U.S. oil companies have long-term contracts to purchase oil from the producing countries at low prices. They purchase oil at $18 per barrel and then sell it on the spot market for $30 or $40 per barrel. The spot market purchaser then brings oil costing an additional $12 or $22 into the United States. The company which purchased the oil in Saudi Arabia shrugs its shoulders when the profit figures come out, as they did last quarter. These mysterious foreign transactions, which have caused astronomical increases in prices and profits, are not so mysterious at all.

According to the Wall Street Journal, this practice is under investigation by the Council on Wage and Price Stability. The article explains "* * * that a 'handful' of major oil companies are pushing up the price of oil in the United States by exercising great leverage over world oil markets." According to the press report,

> . . . the biggest companies, which have access to steady supplies of foreign crude on the low end of the world price range, created higher U.S. prices by cutting off sales to other oil companies that traditionally bought oil from them.
>
> These companies then were forced into the high-priced spot market, where they bought crude oil for the U.S. The products made from this high-priced spot-market crude oil sold at very high prices in the U.S., creating a higher-priced market here.
>
> This rise in average U.S. prices allowed the giant companies to sell their products in the U.S. at the same high prices, even though they weren't refined from crude oil bought at the high spot-market prices. The result was huge profits for the biggest companies and higher prices for consumers, the analysis concludes.
>
> In addition, the report says, U.S. companies took some of their lower-priced foreign crude and sold it directly for a profit on the spot market, instead of importing it to the U.S. All these actions, the study asserts, are cited by oil-producing countries as justification for further raising base prices.

Mr. President, I ask unanimous consent that the article from the Wall Street Journal be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, what does the legislation before the Senate do about this practice? Nothing. It does not even address the problem.

Oil price decontrol, even with a windfall profit tax, will pick the pocket of the American consumer, deposit some additional revenues in the U.S. Treasury, and then deposit the vast majority of the pickpocketed money in the bank accounts of the oil producers.

In the first 9 months of this year, prices paid for crude oil by U.S. refiners have increased 33.3 percent. Gasoline prices have increased 45.7 percent; and heating oil prices 55.6 percent. Let me remind my colleagues that these price increases came before decontrol. They will be much, much worse in the weeks and months to come.

According to the Department of Energy, energy prices alone added about five points to the consumer price index. Virtually everyone's crystal ball shows the inflationary spiral will continue. The prime rate, already at the highest point in history, is bound to go even higher as the all-pervasive effect of decontrol works its way through our economy. Decontrol and the windfall profits tax will not produce a single additional barrel of crude oil; the only thing it will produce is more and more inflation.

Mr. President, it is easy to get depressed these days about the state of our economy and about events in the Middle East. It is a time for sober reflection and planning for the future.

Mr. President, it is a sad day for American consumers when the Senate of the United States gives in to the demands of the oil companies. The industry's lobbying arm, the American Petroleum Institute, has adamantly and greedily opposed the windfall profits tax. The chairman of the Senate Finance Committee warned API members at their annual meeting last week that they must wake up and temper their opposition lest decontrol be lost.

American consumers simply will not stand for OPEC-set prices. They are willing to pay higher prices if they can be convinced they will get something in return; they are not willing to pay higher prices simply for the purpose of throwing money at the oil producers with no benefit in sight.

President Carter responded to the third-quarter oil company profit reports by calling for enactment of his windfall profit tax. Monday's vote on the Bumpers amendment makes it clear the Congress will not enact a strong windfall profits tax bill. The sad truth of the matter is that the companies will continue their record profits, and we will pay record prices, even with the windfall profits tax.

Decontrol, coupled with the windfall profits tax, will not make us any less dependent upon OPEC. It will not increase domestic production over current levels. I will concede that it might encourage some additional conservation, but that conservation will come at a terribly high price when you factor in what will happen to the economy and the cost of living.

The American people will see through this whitewash before long. They, in turn, will cry out for a more sensible system of oil price controls and regulation of oil company activities.

Mr. President, it is time for us to stop this charade. I can see no reason to continue the whitewash. The time has come for the President of the United States to take decisive action. The President has the authority to reimpose price controls. In my opinion, he has no choice but to use his authority to impose oil price controls. I urge him to do so at once. Anything short of price control reimposition will cheat the American people for the benefit of the oil industry.

EXHIBIT 1

MAJOR OIL FIRMS ARE SAID TO USE LEVERAGE ON WORLD MARKETS TO PUSH UP U.S. PRICES

(By Walter S. Mossberg)

WASHINGTON.—A confidential White House analysis of oil price rises contends that a "handful" of major oil companies are pushing up the price of oil in the U.S. by exercising great leverage over world oil markets.

The analysis, prepared by the staff of White House anti-inflation adviser Alfred Kahn, recommends that the government take steps to neutralize the leverage held by the giant companies to ease oil-price inflation.

Three possible actions are suggested in the report: changing the federal oil price and allocation system to penalize these companies, joining with other countries to control the spot-oil market, and establishing the federal government as the direct importer of oil to the U.S.

The report recommends trying to negotiate with the large companies for a voluntary lessening of their market control before taking any of these steps. But it also calls for tightening the current price guidelines on heating oil, gasoline and diesel fuel.

SCRUTINY OF EARNINGS

Mr. Kahn currently is engaged in a well-publicized scrutiny of the oil industry's record third quarter profits to determine whether they violate the administration's anti-inflation guidelines. The staff study, entitled "Inflation in Energy," is part of that effort. It currently is being circulated within the Carter administration. However, it doesn't represent the administration's official policy.

The major thesis of the study, which was authored chiefly by Mr. Kahn's energy adviser, Terrence L. O'Rourke, is that the current federal price guidelines are unable to lower oil prices because the biggest companies have created conditions overseas that raised prices here.

"A large part of the companies' profits derived from U.S. consumers were beyond the reach" of the anti-inflation guidelines, the analysis contends, because they were created by actions taken abroad, where U.S. laws don't apply.

The report charges, "The only consideration the companies gave the guidelines were accounting considerations, which were dictated by the public need to demonstrate compliance" with the guidelines.

ASSERTS SALES CUT OFF

The report asserts that the biggest companies, which have access to steady supplies of foreign crude on the low end of the world price range, created higher U.S. prices by cutting off sales to other oil companies that traditionally bought oil from them.

These companies then were forced into the high-priced spot market, where they bought crude oil for the U.S. The products made from this high-priced spot-market crude oil sold at very high prices in the U.S., creating a higher-priced market here.

This rise in average U.S. prices allowed the giant companies to sell their products in the U.S. at the same high prices, even though they weren't refined from crude oil bought at the high spot-market prices. The result was huge profits for the biggest companies and higher prices for consumers, the analysis concludes.

In addition, the report says, U.S. companies took some of their lower-priced foreign crude and sold it directly for a profit on the spot market, instead of importing it to the U.S. All these actions, the study asserts, are cited by oil-producing countries as justification for further raising base prices.

The study didn't elaborate on its suggestion that the government take over the importing of oil, a controversial idea that hasn't been advocated by the administration.

PRICE-CONTROL REGULATIONS

However, the analysis did elaborate on the suggestion for amending federal price-control regulations. It urged Mr. Kahn to press for a new system that would try to equalize the prices all companies pay for foreign crude by forcing those with access to lower-priced foreign oil to pay subsidies, or entitlements, to those buying oil abroad at higher prices.

If that were done, the study predicted, the smaller companies wouldn't be forced to sell products at such high prices domestically, and the larger companies wouldn't be able to sustain their current markups.

By contrasts, the current federal system for equalizing crude-oil costs doesn't distinguish between higher- and lower-priced foreign oil. All refiners buying foreign oil, or decontrolled domestic oil, are subsidized under the current system through payments made by those buying less expensive domestic oil.

Mr. JACKSON. Mr. President, I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I rise to express not only my complete support for everything the Senator from Washington just said but my personal gratitude to him for having the courage to say it.

I agree that we ought to recontrol the prices of oil. For the past several days, we have been treated to arguments that decontrol and a weak windfall profit tax will provide incentives to find more oil. I have no doubt that such an argument, simply stated as it is, is correct, and it would also justify giving outright subsidies to oil companies for producing oil. Clearly, that argument ignores the fact that we have passed the point of greatly diminished returns for those incentives. It is an argument for continued reliance upon an unreliable and diminishing source of energy at the very time we should be encouraging conservation and the development of alternative sources of energy.

We are being asked to pay a staggering price for this dubious incentive. The CBO study concludes that decontrol will cost $830 billion between 1980 and 1990, and the Treasury Department estimates that it will cost $1 trillion. The same CBO study estimates that by 1990 these revenues will induce additional production capacity of a little over 1 million barrels per day.

That is not 1 million barrels a day more than we are producing right now, but 1 million barrels a day more than we would otherwise produce without this $1 trillion incentive.

No single Government action has ever before cost Americans so much money or promised such a limited return. Never have so many paid so much for so little.

I have mentioned before that we could install alcohol production capacity far more cheaply than the equivalent oil production purchased by decontrol. Moreover alcohol fuels can be produced from renewable resources, investments in synfuels production will produce greater capacity at a cheaper cost, using an abundant resource.

Conservation is the most promising alternative of all. Minimal investments in conservation devices and simple alterations of existing machinery and buildings yield enormous returns.

Those are the places we can buy oil for as little as $2 a barrel, and achieve great gains for $10 a barrel.

We have been discussing the windfall profit tax, which is a response to the President's decision to decontrol oil prices. It is merely the treatment of a symptom; it is not a cure for the problem.

Oil prices ought to be recontrolled.

I am familiar with the arguments supporting decontrol of oil prices, but I am unpersuaded by any of them. Decontrol provides an enormous incentive for production, but, it will induce production which is truly insignificant in comparison to its costs and in comparison to the alternatives.

Some say decontrol will "encourage" conservation. That word "encourage" is a kind of way of saying "compel", and it will compel conservation, but in the cruelest way. Energy costs now match or surpass the mortgage payments for many people.

Even now, families in this country at the medium-income level and below are paying 30 percent of their disposable income for energy.

Using the Finance Committee assumptions, the CBO has projected that decontrol will add another 5 percent to that.

It is as certain as the next OPEC meeting that those assumptions are far too low, so that projection is also far too low.

In 1973, when the embargo hit, the median family income in this country was being taxed at a rate of 18 percent, and we know it will soon be 35 percent for those people, almost twice as much.

We have just passed an omnibus energy bill which provided true "encouragement" for conservation. It is not necessary to resort to heartless economic laws to compel it, especially when those laws serve to enrich a very small minority.

If decontrol meant a return to a free market, I would gladly accept it, because the market would reduce the burdens placed upon the large majority for the benefit of the minority and because those burdens could be eased by Government action at relatively little expense. But the only market mechanism is OPEC, and it is both heartless and hypocritical to cite economic laws when we all know they are being manipulated by a foreign cartel.

Yet we are being asked to allow the oil companies a full partnership in this cartel.

It is equally hypocritical to urge decontrol in the interest of less Government involvement when the social costs of that action will require even more extensive Government involvement and expense to rectify the terrible social impact on those least able to bear that cost.

Oil prices should be recontrolled domestically, rather than abdicating that control to foreign powers to be used against this country and its people.

Absent that, our only salvation is in a fair and equitable windfall profit tax that will be fair and equitable to the American people regardless of what OPEC does.

I yield the floor, Mr. President.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I commend our distinguished friend from Washington for his remarks on the excess profit tax legislation. He has brought the entire problem back into focus.

I say "back into focus," Mr. President, because when we started with this problem, when we were all dealing in the late 1960's and early 1970's, before the embargo, and when many of us could foresee energy problems coming on in the 1970's, we were at that time under controls brought about, I say to my distinguished friend from Oklahoma, we had controls brought about due to the insistence of our good oil and gas friends, from Oklahoma and from Louisiana, and all over this land.

We had in the 1950's that private free enterprise which folks always talk about, competitive free enterprise, only there was a problem, according to the oil companies.

They said there was an overabundance. Oil was coming into the country, just glutting the domestic market at $2 a barrel, and there was not any way in the world for them to really prepare for our national security.

So they said that in order to do that, we had to have an add-on, and control supply with imposed quotas on the imports of oil so that they could have that extra $1.75, to put it at $3.75.

So under President Dwight David Eisenhower, we got controls in the oil industry, when there was no OPEC.

It really was not controlled at the

world market price. We were suffering a glut——

Mr. JACKSON. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. JACKSON. Mr. President, I first wish to commend my senior colleague from Arkansas and my senior colleague from South Carolina for the excellent statements they have made here today and made earlier in the course of this debate.

I am delighted, too, that the issue of controls has been brought out.

The argument has been that reimposing price controls is bad for the oil industry.

The truth is that the oil industry has loved controls, as the Senator from South Carolina is bringing out here today.

It started with the Connelly-Hart Oil Act.

Mr. President, it was a felony for anyone to ship oil from one State to another in violation of the quota system set by that State—a felony.

That is how they controlled the price. When they wanted to put a floor under it, they went to all sorts of lengths to obtain that floor, as the Senator is developing here.

During World War II they got subsidies. After the war, as the Senator just mentioned, they had a quota system on imports. We could not import the cheaper foreign oil at that time, and that was done to keep the domestic price up.

So, Mr. President, when we are talking about controls, it is a two-way street.

I commend the Senator from South Carolina for bringing in that all-important point on the issue of controls.

Mr. HOLLINGS. I thank my distinguished colleague.

I will move along and be very brief, because I know that the Senator from Louisiana wants to get back to the main bill. I doubt that we will have too big an impact, but we at least should have a little time to vent some of our feelings and the feeling of frustration in America today.

They talk about leadership—that we do not have control of our own destiny.

Obviously, in international affairs we are not pretty smart politically, as the Ayatollah can put us into deep trouble. Obviously, the landing of a brigade in Cuba can put us into deep trouble. Obviously, with our defenses down, having withdrawn from every scene and confrontation internationally, the American people are alarmed that we do not have control of our own destiny or freedom.

Economically, how can we have control, without controls? I sit on the Budget Committee, and we knocked each other out, we were frustrated, we cussed, we had spats, we made political talks, and everything else, for literally 1½ months, over $1.5 billion, trying to reconcile.

The budget process almost went down the drain, and it was saved by the Senator from Maine (Mr. MUSKIE) and the Senator from Oklahoma (Mr. BELLMON). We struggled over $1.5 billion on the congressional budget, and along comes the President and says he is decontrolling so much this year—gasoline, distillates, diesel oil, and the rest—and we found that it had a $26 billion impact upon the economy of the United States.

How do you get credibility in Government unless you speak in one tongue and lead in one direction?

Since 1973, we have had a windfall subsidy which we gave when the world price went up, in April of 1973; and in October we had the Yom Kippur war. Then they came in and bought all the TV time. Exxon wanted us to know, and they finally pulled that off the TV screen. Shell brought us the patriotism of the country; 200 years ago, that is the way it was.

Then it got into all the news columns, the oil journals, and they sent 200 speakers into my State, and spoke to every Rotary Club and everything else—decontrol, decontrol, decontrol, deregulate, free market, free market—until, veritably, people believe there is such a thing as a free market with the OPEC cartel. They really believe it.

Do not talk about incentives. I see my friend smiling. I think one of the most meaningful presentations made was by the distinguished Senator from Missouri, when he got the X-10 reports, from the Securities and Exchange Commission, and he gave the 1978 figures.

We learned at that time that the average cost of production for a domestic barrel of oil was $1.89, and the average sale price was $7.98. That was for the year 1978. I do not know what it is for 1979, with all the increases. But they were making a 430 percent profit last year, before some of the decontrols we have.

With respect to the point made by the Senator from Washington, with the windfall profit tax, it is still going up. The prices are going up 67 percent. So it is time we bring it into focus.

The fact is that we do not have control over the OPEC cartel. I went to the President three to five times on this one, to please put an excise tax on imported oil, to get at the imports themselves, to make it more expensive. That was when he first came into office and went to the economic summit in Bonn, Germany. If we could have had the $3 barrel, we would have had the $9 billion going directly to the U.S. Government for oil research and development and everything else of that kind.

I resisted and resented the idea of coming in under the aegis of decontrol, giving the oil companies a profit, and then beating them over the head for being greedy.

I say to the distinguished Senators from Oklahoma and Louisiana that the companies are doing exactly what I would do if I ran an oil company. I would run around with the same ads and the same speakers, hollering "Free enterprise. Competitive free enterprise. No windfall profit tax." I would see how much I could escape with.

So what has been brought into focus today by the distinguished Senator from Washington is that what we are going through is an absolute charade, as he has characterized it. We should go back to the controls, giving a gracious profit.

I worked with the independents when we did away with oil depletion and we allowed the first 1,000 barrels. I will tell some others that I want them to make a good excess profit for the independents who make 83 percent, and that is why I voted for the Bentsen amendment. We are in a crisis. We need to develop our domestic supplies.

No one buys into the stock market hoping to make a 10-percent profit. They hope to double their money, and that is what makes them venture in. The independents are not going to venture into exploration until they are guaranteed much more.

However, that does not change the basic premise of the economy and our sustenance as a nation, particularly with respect to inflation, irrespective of energy policy. The most inflationary move made so far, in the last 3 years, has been by the President, himself decontrol.

I thank the distinguished Senator.

● Mr. KENNEDY. Mr. President, last April President Carter decided to play poker with the oil companies, using $1 trillion of the public's money. He bet the public's hard-earned wages on the gamble that the oil industry would accede to his weak windfall tax bill. This week, on the floor of the Senate, the President's hand is being called. Producing State interests, believing that the President does not have the courage to play his strongest card—veto of a weak bill coupled with recontrol of oil prices—are now ready to rake in more than 70 percent of the windfall profit made possible by the President's decontrol decision last April. And Monday's vote against the Bumpers strengthening amendment, makes it clear that they have the votes. Only the President is in a position to save the American public from this outrage, an outrage of his own making.

Therefore, I am joining Senator JACKSON today to repeat the urgent call I made in Buffalo 3 weeks ago. The President should tell the Senate—immediately and unequivocally—that if the windfall tax sent to him by Congress fails to recover at least 50 percent of the windfall, as he originally requested, then he will veto the bill and reimpose controls on the price of oil.

Three weeks ago, the President rejected this approach, apparently believing that somehow the Senate bill, which he himself has called it "a trillion dollar giveaway," would be strengthened on the floor without his active involvement. This week's votes should have clarified the situation for him. The amendment I cosponsored with Senator BUMPERS and others to restore revenues to the House-passed level of $277 billion, was tabled 50 to 32. Our amendment would have left the oil industry with an estimated $166 billion in increased revenues over the next decade—more than all the tax subsidies this industry has been given in the last 70 years. And yet the industry continued our amendment as not generous enough. It is time to draw the line, and the President must do it.

I urge the President to use his Presidential office to prevent the gutting of this tax and to participate personally in our efforts to restore some semblance of fairness and equity to this legislation. At this late date, only he can convince the oil industry and the American public that he is not so cavalier as to initiate a game of trillion dollar poker, using the wages of the American people, and yet refuse to play his only winning hand.●

Mr. ROBERT C. BYRD. Mr. President, I hope we can get a time agreement on a time to vote in relation to the pending amendment. I am not going to speak to that time agreement at this moment, but I do have a resolution which I wish to call up, and this has been cleared with the distinguished minority leader.

RELEASE OF U.S. DIPLOMATIC PERSONNEL IN IRAN—SENATE RESOLUTION 292

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for the immediate consideration of a resolution; that there be a time limit of 30 minutes on it, and with no amendment in order. This has been cleared with the minority, and I send the resolution to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President——

Mr. ROBERT C. BYRD. This has been cleared with Mr. Baker.

Mr. CHAFEE. I should like to ask a question as to where we stand on the pending amendment. We have a half-hour on this resolution. Is that correct?

Mr. ROBERT C. BYRD. Yes. I would be willing to make it 20 minutes.

Mr. CHAFEE. I do not want to interfere in that. I was just curious as to the schedule.

Mr. ROBERT C. BYRD. As a matter of fact, I would be perfectly agreeable to voting on it immediately.

Mr. CHAFEE. I am not trying to interfere with any arrangements that have been made. I am just curious as to when we will go back on the pending amendment. Is that the next order of business after the resolution is disposed of?

Mr. ROBERT C. BYRD. Yes.

I will have the clerk read the resolution before I ask for any time agreement on it. I just offer it on behalf of Mr. Baker, Mr. Cranston, Mr. Stevens, Mr. Church, Mr. Javits, Mr. Stewart, and others. I will let the clerk state it and then see where we go from there.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 292) proposed by Mr. Robert C. Byrd (for himself, Mr. Baker, Mr. Cranston, Mr. Stevens, Mr. Church, Mr. Javits, Mr. Baucus, Mr. Bayh, Mr. Bellmon, Mr. Biden, Mr. Boschwitz, Mr. Burdick, Mr. Chafee, Mr. Danforth, Mr. DeConcini, Mr. Domenici, Mr. Exon, Mr. Ford, Mr. Glenn, Mr. Hayakawa, Mr. Heflin, Mr. Helms, Mr. Huddleston, Mr. Humphrey, Mr. Inouye, Mr. Jackson, Mr. Levin, Mr. Lugar, Mr. Mathias, Mr. McGovern, Mr. Metzenbaum, Mr. Muskie, Mr. Nunn, Mr. Packwood, Mr. Pell, Mr. Percy, Mr. Pryor, Mr. Randolph, Mr. Roth, Mr. Sarbanes, Mr. Sasser, Mr. Stafford, Mr. Stewart, Mr. Stone, Mr. Thurmond, Mr. Tsongas, Mr. Wallop, Mr. Warner, Mr. Williams, Mr. Young, and Mr. Zorinsky):

S. Res. 292

Whereas, personnel of the United States in Iran have been seized and held hostage in violation of the fundamental principle of international relations regarding immunity of diplomatic personnel; and

Whereas, all members of the community of Nations, including Iran, have a common and vital interest in this historic and essential principle of diplomatic relations between nations; and

Whereas, the Ayatollah Khomeini and other leaders of Iran have declared repeatedly to the world that there is a lack of unity and determination of the American people and the American government concerning the immediate, safe and unconditional release of United States personnel; and

Whereas, the United Nations Security Council is convening to consider the current situation in Iran; now therefore be it

Resolved, that it is the sense of the Senate that there must be an immediate, safe and unconditional release of all United States personnel; and

That the American people and their representatives in government are united in their determination and in their efforts to achieve the immediate, safe and unconditional release of all United States personnel; and

That we call upon the Security Council of the United Nations to take all measures necessary to secure the immediate, safe and unconditional release of all United States personnel held hostage in Iran.

Mr. ROBERT C. BYRD. Mr. President, the resolution speaks for itself. I do not think that it is necessary to have any time debating it. I wish for all Senators to have an opportunity to vote on it by rollcall, and I wish as soon as the distinguished minority leader gets here to see if we can agree to proceed perhaps to an immediate vote. I ask the respective cloakrooms just now to put out the word that there may be a rollcall vote impending shortly.

The distinguished minority leader is here. I wonder if we could get an agreement to vote immediately on the resolution which I have just introduced on behalf of myself and the distinguished minority leader, the distinguished Republican whip, and the majority whip, and other Senators. The resolution speaks for itself. The clerk has read the resolution. I do not think any time is needed to debate it. I do think Senators would want to be recorded on it.

Mr. BAKER. Mr. President, if the majority leader will yield to me, I know of no further requirement for debate. I am perfectly happy to proceed now to its immediate consideration and vote. I see no request for time to speak. So I am prepared to agree to that.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CHAFEE. Mr. President, the junior Senator from Maine was here earlier and had an appointment. Our matter was pending at that time. He asked when it was coming up. I indicated our matter certainly would not be coming up before 3:30 p.m., not knowing this came in between. I do not know whether that has been brought to the minority leader's attention.

Mr. ROBERT C. BYRD. May I say to my friend, and he is my friend, we stand together on a lot of issues and we almost stand alone.

Mr. CHAFEE. Do not bother to say it.

Mr. ROBERT C. BYRD. He thinks we stand for the right.

No Senator can really take on absolute assurance the kind of statement that was made by the distinguished Senator from Rhode Island as a guarantee that the Senate will not vote on some other matter or on a tabling motion for that matter. I am very happy to schedule the vote for 3:30 p.m. I am happy to make it at 3:30 p.m.

Mr. BAKER. Mr. President, I wonder, in that view, if we could just agree by unanimous consent that there would be a vote to occur at 3:30 p.m. without further vote on this issue.

Mr. CHAFEE. Three-forty just in case?

Mr. ROBERT C. BYRD. I have problems on my side after 3:30 p.m.

Mr. President, I ask unanimous consent that the vote occur on the resolution that has just been introduced at 3:30 p.m. without further debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays on adoption of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. May Senators submit statements in support of the resolution without a bullet?

[Laughter.]

Mr. BAKER. He almost slipped that one in.

Mr. ROBERT C. BYRD. I ask unanimous consent that all Senators may be permitted to insert statements in the Record prior to the introduction of the resolution and as though stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I commend the distinguished majority and minority leaders, as well as the other principal cosponsors, for providing the full Senate with the opportunity to go on record as endorsing the Government's efforts to assure the immediate, safe, and unconditional release of U.S. personnel in Iran.

It has been an important exercise in restraint for Senators to permit the President to negotiate for the safety and well-being of our American personnel currently impounded in the U.S. Embassy in Tehran, without our interference as to the handling of the situation.

Throughout this crisis, cool heads have prevailed in seeking out our first and foremost concern—the safety of our American hostages, in a manner consistent with our national honor and pride. However, our marginal silence is not to be construed as lacking interest in the immediate resolution of the situation. We only kept quiet in the greater interest of national security.

This resolution offers us the chance to express the sincerity of our concern, and I believe we speak for all Americans by making our voices heard with respect to this most serious and sensitive diplomatic incident.

I am proud to be a cosponsor and

proud to be an American, especially at this critical moment in history.

THE IRANIAN CRISIS AND U.S. RESPONSE

Mr. DOLE. Mr. President, exactly 3 weeks ago the Senator from Kansas made a statement on this floor concerning the very tense and critical situation in Iran, and later introduced a resolution suggesting steps the United States might take to help resolve that situation. At that time I said that once again the United States finds itself and the lives of some of its citizens held hostage to the fanatical and unreasonable demands made by political extremists of the Third World. It might be useful to review the resolution made at that time, on November 13, and I submit the text of Senate Concurrent Resolution 49 for the RECORD at this point.

S. CON. RES. 49

Whereas the Executive Branch is undertaking efforts to communicate with such authority as exists in Iran to ease the current actions taken by the Revolutionary government of the Islamic Republic of Iran;

Whereas these actions by the Revolutionary government of Iran are in direct violation of established international norms of conduct and are a serious threat to the safety and well-being of Americans in Iran;

Whereas this is a matter which affects the interest of the entire world not only the interests of the United States; and

Whereas the United Nations Security Council has condemned these actions of the Revolutionary Government of the Islamic Republic of Iran: Now, therefore be it resolved by the Senate (the House of Representatives concurring) that—

SEC. 1. (1) The Congress hereby supports the actions of the President in attempting to secure the release of all American citizens and hereby condemns the actions taken by the Revolutionary Government of Iran with respect to American citizens in Iran;

(2) It is the Sense of the Congress that—

(a) the President should take whatever appropriate action deemed necessary to enlist the support of the international community in securing the release of all Americans held hostage in Iran and exhibit world solidarity on this issue by:

(1) closing their embassies and withdrawing their diplomatic personnel from Iran, suspending diplomatic relations until the hostages are released; and by

(2) imposing a unified, voluntary world embargo on the purchase of Iranian crude oil; until the government of Iran guarantees that all diplomats will be given immunity in accordance with the Vienna Convention on Diplomatic Relations of 1961.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this concurrent resolution to the President.

Because of the explosive situation I limited the scope of my remarks, not wishing to exacerbate the delicate balance between life and death faced by our diplomatic personnel in Teheran. When dealing with unstable elements we must tread warily, or risk everything. But we are not dealing with just 49 hostages in our relations with Iran—we are a nation of hostages. There comes a time in a crisis when doing nothing that might be abrasive becomes not doing anything at all and results in accomplishing nothing.

A crisis does not call only for calm, but for cool-headed and decisive action. Besides precipitate action, prolonged delay could lead to failure and the death of our people in Iran. But what does the United States have to bargain with these mob-led "students?" What pressure can we bring to bear to alter the balance in our favor? With whom do we deal in Iran that words of reason and logic can reach?

Every Iranian of seeming willingness to be moderate and just, does not survive, as witness the recent departure of Foreign Minister Bani-Sadr. The United States and its Senate can deliver a message to those attempting to control events in that country. If the Ayatollah Khomeini is able to direct the actions of his followers, then we can send him a message that will make clear, set the record straight for all who participate in the demonstrations tomorrow, what this Senator believes the United States can do, and ought to do, in response to this flagrant and inhumane breech of international law and custom.

Since the Senator from Kansas introduced his resolution 3 weeks ago, the situation in Teheran has deteriorated. Our lines of communication with the Iranians have weakened. Perhaps we have tarried too long. Yet we have not implemented all the pressure the United States and the American people can bring to bear.

Mr. President, today the Senate offers a resolution, a resolution that it is the hope and belief of the Senator from Kansas, will send to Khomeini and Iran a message of American unity and will, and send it with force and impact to those it addresses.

We do not need to stand idly by, letting Khomeini hold all the trump cards. There are some avenues of pressure still open to us. The Senator from Kansas has suggested we urge our allies to join us in this expression of justice and will, by instituting a voluntary, worldwide embargo against Iranian oil. This action can provide a "show of will" on the part of the United States and the people of the civilized world, that we will not bend to the oil weapon and allow our property and citizens to be endangered by the will of one man. Let the President provide a rallying point around which the American people can increase their conservation efforts so that the loss of Iranian oil does not create unnecessary discomfort for us all. Let us appeal to our friends and allies to back us in this policy as far as they are able, for although many of them depend far more heavily on Iranian oil, no one in the world community will any longer be safe if the Teheran terrorists are allowed to succeed with this blackmail.

There comes a time when we must act boldly and risk setting our "house" in order for future stability and order. Turning the other cheek, as we did in Iran after the last takeover of our Embassy and its personnel less than a year ago, obviously did not work.

Despite our lack of a viable national strategic petroleum reserve, let alone a world strategic petroleum reserve, we could and should still mount an effective buyer's oil embargo, because Iran needs our money more than we need their oil.

IS THE MILITARY READY?

Whatever elements that might work to influence the criminals in Teheran ought to be prepared for action. The time is not yet propitious to speak of military contingencies, but being prepared and making plans is a necessity. The Senator from Kansas realizes that hasty action, particularly in the military sphere, may lead to increased danger to the American hostages. For that reason I do not advocate military action except as a last resort. However, it is wrong not to have all plans ready for implementation. It is a dangerous policy not to have our nearby military forces on alert and not to order all elements of our Indian Ocean fleet to steam toward Iran. Now—after almost a month—we have brought our naval air power into the vicinity of the Persian Gulf, and from here on out they will be in a position to influence events. This is something Khomeini must from now on reckon with. With the passage of this resolution today we clearly express the American unity and fortitude the Ayatollah has sometimes questioned, and if the hostages are harmed, he will know, and the Iranian people will know, that we can defend our national honor.

It is my hope, Mr. President, that military action will be unnecessary and that the economic sanctions I have called for will get the attention of these terrorists and their leader, Khomeini. We can always escalate our actions, including a blockade such as the one we mounted against Cuba.

Some of our allies say privately that we must be careful about what we do because of the oil weapon. We should not let ourselves be constrained in our action for fear of the oil weapon. The Senator from Kansas proposes we use their own weapon against them. The Iranian oil is important, but it is not so vital to us that we can give in to blackmail. The American people will sit still in gas lines before they will sit still for American weakness and timidity. The time to act is before our hostages have been murdered. The time to pull out all the stops and apply all the pressure we can is now. The United States can no longer tolerate the demands of barbarians. All the countries of the world should recognize that the present Government in Iran represents a danger to global order.

U.N. MUST ACT ON IRAN'S HOSTILE ACTIONS

Mr. MELCHER. Mr. President, the time of trial for the United Nations is now. The world's judgment of United Nations effectiveness and usefulness hinges on its action now.

If the United Nations cannot function to declare that the forceable Iranian actions against American hostages is a hostile belligerent action against diplomats, the United Nations function will be a failure.

If the United Nations does not recognize that the abuse of American hostages by blindfolding and tying their hands in forced incarceration is not an act of hostility contrary to international treatment of diplomatic corps within the world community, the United Nations has failed.

If the United Nations is hesitant or slow to declare the Iranian abuse of American hostages offends and violates rights of free and peaceful people, the United Nations has failed.

If the United Nations does not quickly and emphatically declare that the Iranian treatment of American hostages threatens peace, the United Nations has failed.

The issues are clear cut. Holding by force and abusing our diplomatic corps as hostages on and within the property of the U.S. Embassy in Tehran is a belligerent act. The United Nations test of effectiveness is the prompt declaration that these actions by Iran are reprehensible, must cease immediately, and that failure to comply will be of grave consequence for Iran.

Mr. CRANSTON. Mr. President, I am privileged to cosponsor the resolution relating to the immediate, safe and unconditional release of U.S. diplomatic personnel introduced this afternoon by the distinguished majority leader, Mr. ROBERT C. BYRD. This resolution has the unanimous bipartisan support of the majority and minority leadership of the Senate and of the leadership of the Foreign Relations Committee. This resolution commands the unanimous support of the full Senate.

This resolution serves notice in unequivocal terms upon the Ayotollah Khomeini and other Iranian authorities that the American people are united in our insistence upon the immediate, safe and unconditional release of all U.S. diplomatic personnel currently held hostage in Iran.

The action by Iran which has made hostages of these Americans is in violation of the fundamental principle of international law regarding the inviolability of diplomatic personnel. This action is a political aberration of the Ayotollah Khomeini and the current Iranian leadership. This action is illigitimate and unacceptable under Islamic Law. And this action is not consistent with the conduct of any Muslim nation.

As stated by Prof. Isma'il R. Al Faruqi in this morning's Wall Street Journal:

> Islamic law recognizes that foreign envoys in the Islamic state enjoy full personal immunity and may not be treated except as envoys. They cannot be incarcerated or executed; they can only be expelled.

We cannot conduct normal relations amongst the community of nations unless all nations reaffirm their commitment to the fundamental principle of diplomatic immunity. This resolution conveys the sense of this Senate that all nations do so now by having the Security Council of the United Nations take all measures necessary to secure the immediate, safe, and unconditional release of all U.S. diplomatic personnel held hostage in Iran.

I strongly support the resolution and urge its adoption without delay.

Mr. President, I ask unanimous consent that the article entitled "Islam and the Tehran Hostages" appearing in the Wall Street Journal for November 28, 1979, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ISLAM AND THE TEHRAN HOSTAGES

(By Isma'il R. al Faruqi)

Certainly no Muslim may question the following principles, since they are Qur'anic and the Qur'an is for Muslims the only ultimate authority. These principles are not unique to Islam; rather, they represent some of the highest ethical standards of other human civilizations.

1. Islam advocates a very personal, individualist ethic. "No soul may be charged with more than it can bear . . . No soul may be charged with the sin of another . . . To every person belongs what he/she has wrought and earned" (Qur'an 2:286; 6:164; 53:39). These precepts have barred from the religious consciousness of Muslims any suggestion of vicarious guilt or vicarious atonement.

2. Islam does not distinguish between humans and advocates a comprehensive universalism. The world community of Islam has integrated almost all the ethnic identities of earth into a single brotherhood governed by one law. "We created you from a single pair and made you tribes and nations that you may cooperate with and complement one another. Nobler among you is only the more righteous." The Prophet admonished his people: "No Arab has priority over a non-Arab, and no white over a black and no black over a white—except in righteousness" (49:13).

3. Islam is neither a religion of revenge nor one that teaches to turn the other cheek. The Biblical law of an eye for an eye and a tooth for a tooth holds good for it, along with the teaching of forgiveness and magnanimity which it recommends. "If you are aggressed upon, attack the aggressor in the same measure with which he aggressed upon you . . . If the aggression stops, remember that God is forgiving and merciful" (2: 194, 192).

4. Property is sacred. Even to enter another's house without permission of its owner is a crime. Gifts made to public officials belong to their offices, not their persons. Theft, in any form, is punished by cutting off of the hand (5:41). This severity reflects Islam's strict commitment to the notion of private property and its indignation at any violation of it.

5. Further, Islam teaches that humans are innocent, not fallen; that they are created in the best of forms, capable of doing good as well as evil. The Qur'an declares that every human is born with a natural predilection to recognize God. His moral law and to incline to its fulfillment (30:30). This purpose, which the Qur'an calls "al amanah," or the divine trust, provides meaning to human life and assigns to the actions of men and women cosmic significance (33:72).

By virtue of this, humans are held in Islam higher than the angels (2:34). "Whoever kills one man," the Qur'an asserts, "has killed the whole of humanity, and whoever has saved one man has saved humanity" (5:32). There can be no better basis than this for human rights and dignity.

6. Islam is a religion of justice. Human worth is measured in works and achievements. "Every atom's weight of good or evil work is registered and on the Day of Judgment will be revealed and reckoned for or against its author" (99:7–8). The very purpose of creation is that humans may prove themselves in their deeds. Life is a race in which those who do the good deeds will be the felicitous both in this world and the next. Blest or unblest, every person gets exactly what he deserves.

7. Islam affirms every person's responsibility for history. God has placed humanity within a malleable creation which He made subservient to them (14:32, 22:65), and equipped them with all the faculties necessary to transform creation as well as themselves into the ideal (90:8–10). Religion has no meaning in Islam other than this transformation, every act of which is an act of worship.

Humans are expected to take history into their hands and knead it into what it ought to be. Realization of the absolute is not an eschatological hope, but the object of an activist engagement in life's real processes. That is why the Muslim regards himself as responsible for justice throughout the world as well as at his own family home.

These principles of ethics constitute the bases of Islamic international law, which Muslim jurists have developed and applied a millennium before Grotius, father of European international law. International trade and diplomacy, war and peace, citizens in states not their own, tariffs and douanes (Arabic terms!), embassies and naturalization, transit and visits, etc.—all these were subjects of very elaborate legislation, and they constitute materials in any Muslim legal training. The dominant objectives here as elsewhere are justice, as well as liberty and dignity for all.

Inspired by Islam, the recent Iranian revolution has made Iran leap toward the restoration of liberty and dignity to the Iranian people whose human rights were openly violated, and whose wealth was plundered by the Shah and his regime. The hope of Iran to become an Islamic state is a hope for an open society where law is supreme and humans are equal; where government is for the commonwealth but under the law; where society is internationalized by commitment to universal ends, to a world order of brotherhood and cooperation.

What does such an Islamic state and, behind it, Islamic law say about the hostages of Tehran? They say unequivocally that the restriction of the physical freedom of any human is forbidden, except where that human is personally involved in crime. The employes of any embassy in a foreign capital do not fall in this category. Hence, in the eye of Islamic law, the seizure of U.S. embassy employes in Tehran is illegitimate and unacceptable. Indeed, Islamic law recognizes that foreign envoys in the Islamic state enjoy full personal immunity and may not be treated except as envoys. They cannot be incarcerated or executed; they can only be expelled. However, if their conduct brings material damage to the Islamic state or its citizens, they will have to compensate for the damage inflicted.

The Islamic law of nations equally condemns the harboring of criminals and of stolen wealth. There can be no doubt that the Shah, despite his longstanding friendship with the U.S., has personally ordered the perpetration of innumerable crimes for which he ought to be brought to justice. And there can be no doubt that he, and his entourage, have illegitimately appropriated billions of dollars from the public national wealth of Iran, which ought to be restored to the Iranian people.

These charges stand at the root of that unfortunate downward spiral of action and reaction into which Iran and the U.S. have been thrown. True, it is the tradition of America to be the haven for the oppressed of the world, a tradition which gives us due pride. But it is a travesty to invoke that tradition to give harbor to criminals, or to share with them their stolen wealth.

If, after all that has been said, seen and heard, the criminality of the Shah is contested and his facing justice is denied, it reflects our inability to distinguish between the sufferers of injustice and its perpetrators. For us Americans, this inability should be a far more serious matter than the whole affair of the Shah and his billions. It joins forces with Watergate to corrode the moral fiber of our society. Imperceptible as the corrosive change may be, its cumulative effect

> will adversely affect our future as surely as it did the fate of the ancient Roman Empire.

Mr. FORD. Mr. President, I ask unanimous consent that I be added as a cosponsor of that resolution.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will be added as a cosponsor.

Mr. FORD. Mr. President, I wholeheartedly support Senate Resolution 292, Senator ROBERT C. BYRD's resolution regarding our diplomatic personnel who are being held captive in Iran. The Ayatollah Khomeini is wrong: There is no lack of unity or national will here, not in my State of Kentucky nor anywhere in this country. Every American wants the hostages back home unharmed and we want them back home now.

Our diplomatic immunity has been violated, our property has been trespassed upon, the American flag has been desecrated. With this resolution we are sending a sign to Iran—and I think the rest of the world joins us in sending it, that such behavior goes against the most fundamental principles of international law and that it is absolutely unacceptable.

We must make it clear beyond all doubt that this country cannot be blackmailed by any country under any circumstances. And we must reaffirm that while this country stands for peace, it stands for peace through strength—a challenge we are willing and able to meet.

Mr. President, I urge the unanimous adoption of Senate Resolution 292.

(The following colloquy later occurred:)

Mr. STEVENS. Mr. President, I had previously made a statement, and I again want to commend our two leaders, and my good friend from California, the majority whip, for the action that was taken with regard to the resolution pertaining to Iran. I think it was very timely and very important for us to act in the manner in which we did.

It is my information that the House has passed that resolution already.

Mr. ROBERT C. BYRD. The same resolution?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. That is good. Well, Mr. President, I thank the distinguished acting Republican leader now. I especially want to thank the distinguished majority whip in this regard for the work he did in drawing up the resolution and getting it cleared for action.

Mr. CRANSTON. I thank the Senator very much for his cooperation and leadership, and the Senator from Alaska, I thank him very much.

(Conclusion of later proceedings.)

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

Mr. LONG. Mr. President, I shall make a brief statement and plan to move to table the amendment. We could see how much support there is for it.

Mr. President, I have asked a staff member to compute for me the amount of revenue that a taxpayer would have left after paying this tax as well as the other taxes and I have this table, which I ask unanimous consent to print in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NET INCOME TO SHAREHOLDERS FROM $100 "WINDFALL PROFIT" TO ACT PRODUCER

	Tax rate	
	75 percent	80 percent
Gross income	$100.00	$100.00
Severance tax (12½ percent)	−12.50	−12.50
Subtotal	87.50	87.50
Windfall profit tax	−65.63	−70.00
Subtotal	21.88	17.50
Federal corporate income tax (46 percent)	−10.06	−8.05
Net to corporation	11.82	9.45
Income tax on dividend (70 percent rate)	−8.27	−6.62
Net to shareholder	3.55	2.84

Mr. LONG. Let me just indicate how this would work out.

If one pays a severance tax of 12½ percent which he would pay in Louisiana and Texas and then pays an 80-percent windfall profit tax, as suggested by the amendment, or 75—I have it figured that way, too—and his Federal corporate income tax that would be charged, and if that income is declared out in dividends to the shareholders, then out of $100 of income the shareholder would have $2.84 left, assuming that the shareholder is in a 70-percent bracket himself, which is not at all unusual for shareholders in major corporations. That would be under the 80-percent rate, $2.84 out of $100. This works out to overall tax of roughly 97 percent.

With the same calculation against the 75-percent rate he would have $3.55 left. So then the overall tax, the cumulative tax, would be in rough figures 96 percent, leaving only $3.55 out of $100 to the shareholder.

Mr. President, in that case there is really very little point in permitting the taxpayer to keep anything at all. It gets very close to providing no additional incentive at all for people to produce additional energy.

That being the case, Mr. President, it just seems to this Senator that the tax would then be confiscatory and leave no incentive at all insofar as the additional income is concerned for a person or corporation to try to produce more oil.

I did not calculate this for independents because, under the bill as it stands with the Bentsen amendment, the independent producer would be exempted.

Mr. President, in order to bring this matter to a vote rather than prolong the debate, I will move that the amendment be laid on the table.

Mr. CHAFEE. I wonder if the Senator will withhold a few minutes and prolong the debate. The debate on this so far has been limited. The Senator from New Jersey has spoken for a few minutes. I wish an opportunity to speak for a few minutes. I appreciate that we are voting at 3:30 p.m., and we wish to have this vote ahead of that, which means we would have to start this at 3:15 p.m.

Could we hold off that motion to table and have it at 3:15 p.m.? Would that be fair?

Mr. LONG. Mr. President, I ask unanimous consent that I might yield to the Senator for 6 minutes reserving my right to the floor. That will take care of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I wish to bring to the attention of the body two statements regarding the effect on production as a result of raising the tax on upper tier oil from 60 to 75 percent. I quote first from the Congressional Budget Office which has examined this. On page 47 of their analysis, entitled, "The Windfall Profit Tax: a Comparative Analysis of Two Bills," dated November of 1979, this very month, the statement is as follows:

> Raising the tax rate on upper tier oil. Upper tier oil will also realize large producer revenue gains per barrel, second to lower tier oil. The upper tier tax might thus be increased to the size of the revenue gain per barrel this oil will receive. Raising the upper tier tax to 75 percent from the 60 percent now found in the House and Senate Finance Committee bills would increase net total liabilities—

In other words, revenue—

> by 7.2 billion above the Senate Finance Committee. The supply response would change only marginally.

In other words, here is the CBO saying the supply response would only change marginally.

The same analysis came from the Department of Energy on November 15. I think it is very important to realize that the amendment we are debating now is the amendment to the amendment submitted by the Senator from New Jersey; in other words, we are now debating the 75-percent tax, not the 80-percent tax.

Mr. President, in the Finance Committee we went to great lengths to exempt totally those methods of production or those new discoveries where there would be a large production response if there was relief from the tax. In other words, what we were seeking was more oil, and thus by a vote of 19 to 1 in the Finance Committee we exempted completely all new oil. Furthermore, we exempted heavy oil on the floor of the Senate. Yesterday we exempted entirely the first 1,000 barrels of production of any independent oil company. Now, in the Finance Committee we had restricted this to stripper well production, but here it is any production.

Furthermore, we exempted tertiary oil which was expensive, and we felt by exempting it from the tax the supply response would be considerable.

Mr. President, after careful analysis, after reports from CBO, the Congressional Budget Office, after reports from the Department of Energy, from the Joint Tax Committee we decided that the production response for lower tier oil was not affected by a 75-percent tax. We then considered the upper tier oil, and the 75-percent tax was defeated by a vote of 11 to 8.

But it was the feeling of a substantial number of Finance Committee members, certainly nine members, in accordance with these reports I have cited, that there is not a substantial adverse production response if the tax is raised to 75 percent.

What do you get for the 75-percent tax? You get the difference between the revenues from the 60-percent and the 75-percent tax, which is $24.6 billion. Yesterday, without much effort and in 15 minutes, we cost the Federal Government under this tax $9.9 billion. That is what happened when we adopted the Bentsen amendment.

Mr. President, we did go ahead and exempt those categories of oil which we believe will have a significant production response. This cut revenues. But at some time we have got to get the revenues needed to meet the expenditures we are making.

Whether the incentives are for conservation, whether they are for solar, whether we provide assistance to the poor and needy, the money has got to come from somewhere. This windfall profit tax, as designed by the Finance Committee with the addition of this amendment, truly taxes what are "windfall profits."

The upper tier oil is presently selling for $13 a barrel. I do not know what people are saying the price is now on the spot market, but oil there is certainly getting close to $40. Certainly by the end of the year it would be fair to say upper tier oil will be selling for $28 a barrel. I do not think anybody will argue with that.

So this tax applies only to the difference between the $13, where producers are making a handsome profit, and the $28. Furthermore, that $13 goes up by an escalator factor equal to inflation in the United States.

Mr. President, we feel very strongly that this is a fair tax, that it will not discourage production. This is an amendment that is cosponsored by a host of Senators who have carefully thought about it, Senators not only from the Finance Committee but from elsewhere within the Senate.

The PRESIDING OFFICER (Mr. STEWART). The Senator's time has expired.

The Senator from Louisiana.

Mr. LONG. Mr. President, I assume that what the sponsors of the amendment are sponsoring is a 75-percent rather than an 80-percent tax, because the sponsor of the amendment offered an 80-percent tax first, and then he asked for the yeas and nays and then, having done so, he offered a 75-percent tax amendment. Had he not asked for the yeas and nays he would have automatically had to modify his own amendment, and that would have made it a 75-percent tax.

So I assume what we have here is a 75-percent tax proposal. I hope it will be voted down because, as it works out, it would be a cumulative tax on the shareholder of $96.45 out of $100, leaving the shareholder only $3.55.

Mr. President, on behalf of the Senator from Kansas (Mr. DOLE) and myself I now move that the amendment be laid on the table.

Mr. BOREN. Mr. President, will the Senator withhold his motion?

Mr. LONG. I withhold my motion.

Mr. BOREN. Mr. President, a proposal has been offered to increase the windfall profit tax rate on tier 2, or upper tier, oil from the 60-percent level in the House-passed bill to 75 percent. The proposal is based on the false assumption that production from existing oilfields is insensitive to increases in the tax burden on oil producers.

The turmoil in Iran and the cutoff in Iranian oil imports are only the latest reminders of the dangers resulting from U.S. overdependence on foreign oil. There is an urgent national need to increase domestic crude oil production in order to reduce this overdependence.

Stepped up development of existing oilfields provides the best opportunity for increased domestic production for the short term. But such development is increasingly costly and substantial investments must be made to keep existing fields in production.

Prof. Edward W. Erickson of North Carolina State University estimates that an increase in the tax on upper tier production from 60 to 75 percent would cause average daily production of upper tier oil to decline on average over the 1980–90 period by 400,000 to 500,000 barrels a day. Over the 1980—90 period, this would result in a loss of about 1.5 to 2 billion barrels of total domestic crude oil production, Erickson estimates.

Because upper tier oil is existing production that is subject to decline, Erickson estimates that in the early 1980's the production loss would exceed the average loss of 400,000 to 500,000 barrels per day he estimates for the whole 1980–90 period. Erickson estimates that an increase in the tax rate from 60 to 75 percent on upper tier oil would mean the loss of approximately 700,000 barrels per day in the early 1980's—or about equal to the amount of oil we were recently importing each day from Iran.

In contrast, Erickson points out that a deacrease in the rate from 60 to 50 percent originally proposed by the administration would increase domestic production by as much as 1 billion barrels over the next decade.

I submit for the RECORD a copy of a letter from Professor Erickson to me setting forth his estimates. Professor Erickson is a noted authority in this field and his remarks are well worth considering.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NORTH CAROLINA STATE UNIVERSITY,
Raleigh, November 23, 1979.

Senator DAVID BOREN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BOREN: The current disturbing events in Iran only underline the paramount necessity to fashion a national policy on the pricing and taxing of domestic crude oil production which is both (1) fair and equitable and (2) which provides substantially improved incentives to find additional reserves of crude oil in the United States and which encourages greater production from existing reserves and known resources.

But the current situation in Iran is only an immediate and particular symptom of a broader and more general problem which President Carter has correctly enunicated: The United States is dangerously dependent upon a long line of oil tankers which stretches halfway around the globe to the most politically unstable area in the world.

Against this stark backdrop, current efforts to improve the long-run balance of domestic energy production and projected U.S. energy requirements have a compelling claim to be in the national interest.

You have asked me to evaluate the effects upon domestic U.S. oil production of imposing a 75% excise tax rate—rather than a 60% rate—upon upper tier crude oil. There are a number of categories of oil which could be affected by making the excise tax rate applicable to upper tier oil more severe. These categories include what is commonly known as upper tier oil as well as Alaskan North Slope production, marginal oil and lower tier oil taxed at tier two rates. The calculations and conclusions which I report here focus only upon upper tier production itself and do not apply to these other administrative categories of oil, although the direction of my quantitative conclusions and the thrust of my qualitative observations could be extended to these categories as well.

As you know, there are various numerical analyses which have been used to discuss the revenue and crude oil production effects of alternative excise tax proposals. These various numerical exercises all have some relationship to a formal "model" of the responsiveness of crude oil production to price and tax treatment, although in some cases the crude oil supply component of the model is less well developed than the tax and revenue estimating component, and in other cases the reverse is true.

As you also know, I have had considerable experience over a long period of time in the modeling of domestic crude oil and natural gas supply. The intellectual lineage of the numbers discussed here traces back to a paper I did for the Brookings Institution entitled "Oil Supply and Tax Incentives." But two caveats are necessary. First, the results reported here reflect my personal judgment alone and in no way involve either the Brookings Institution or my co-authors. Second, the results reported here do reflect and incorporate my modeling experience, but—and more importantly—they do also reflect my personal judgment. As you will recall from the use of numbers and models in our experience which culminated in the Natural Gas Policy Act of 1978, the raw output of models is most useful if it is tempered with the best judgment available. The conclusions reported here, although originating in modeling work, are ultimately by best judgmental estimates.

There are three essential ingredients for evaluating the effects of a difference in economic incentives. The first is a base case which serves as the starting point for the comparison. The second is an estimate of the difference in economic incentives under alternative policy proposals. The third is a measure of the responsiveness of crude oil production to differences in economic incentives. The combination of these three fundamental ingredients are the basics for addressing the question which you pose.

The base case which I shall use for evaluation of the effects on domestic U.S. crude oil production of increasing the excise tax rate on upper tier oil from 60% to 75% is the estimate of upper tier crude oil production for the years 1980–1990 under the House passed bill which has been used by the staff of the Joint Committee on Taxation. It is my understanding that this estimate has been developed in consultation with the Department of Energy. As with any such estimate, these actual numbers are likely to be incorrect for all the usual reasons which plague the projections and forecasts of modelers. But that is basically beside the point for two reasons. First, this particular series of numbers is already imbedded in the policy discussions taking place in Congress. And second, right or wrong, they provide a take-off point for the discussion of the differences in U.S. domestic crude oil production which differences in economic incentives are likely to create. For these reasons, I shall use this series as the base case.

To assess the reduction in domestic U.S. crude oil production which a 75% excise tax rate upon upper tier oil would cause relative to a 60% rate, it is necessary to have a projection of world oil prices. Any projection of world crude oil prices treads a slippery limb indeed. Witness the events of this year and the changes in the underlying world crude oil price assumptions which have recently been made for purposes of the various evaluations of the U.S. crude oil excise tax.

The world crude oil price projection which I shall use here is based upon $30 per barrel for world crude supplies at the beginning of 1980. This $30 price is escalated at a compound rate which reflects 7 percent inflation and a 2 percent real growth rate in price. Any numerical projection such as this is much more precise than our actual knowledge and degree of foresight will support. Nevertheless, some price assumption is required. The result of the particular assumption used here is a 1985 banded cost of foreign oil imported into the U.S. of $40–$50 per barrel.

In a modest way, the range reflects the uncertainty inherent in such an estimate, although it does not bracket all the possibilities. All of the numbers which I discuss here will be reported as ranges and should be regarded as illustrative of orders of magnitude and structural characteristics, rather than precise values. As in all my work, I here also believe that the basic features and trade-offs which characterize a problem are more important than spurious second decimal place accuracy.

The supply responsiveness of U.S. crude oil and natural gas production to improved economic incentives is a subject over which a great deal of heat has been generated, but about which not a great deal of light has been shed. The most general thing which can be said is that at higher economic incentives, more oil and gas will be discovered and produced, but the precise degree of responsiveness and the time lags associated with the response are uncertain. This applies to both new discoveries and established production. Ultimately we are dealing with a situation in which experience is the great teacher.

Upper tier oil is established production. As I have explained elsewhere (see my article, "The Political Economy of Crude Oil Price Controls" in the "Natural Resources Journal"), there tends to be a great deal of confusion concerning the responsiveness of established production to improved economic incentives. It is often assumed that established production has a zero response to improved economic incentives. This is incorrect. It is therefore important to review some of the basic facts with regard to oil production.

The presumption that the volume of established oil production is insensitive to economic incentives is based upon too simplistic a conception of crude oil production. Crude oil production does not simply involve drilling wells, setting casing, installing surface facilities, turning a valve, and allowing the reservoir to produce until it is depleted.

Crude oil does not exist in underground lakes or pools, but is trapped in the tiny pore spaces in what would otherwise be solid rock. Usually only about a third of the oil in place is recovered, but this recovery fraction can be increased by more intensive, and more costly, effort.

Crude oil is often corrosive. The production process involves the production of find sand grains, in addition to the oil, from the underground rock formation in which the oil occurs. Crude oil often has low flow characteristics because of relative high wax on asphalt content. Formations must be fractured or leached with acid to maintain producibility. Reservoir pressure must be maintained by injecting fluids. Pumps must be installed. Wells must be worked over as they become corroded or clogged. The density of well spacing may be increased to improve ultimate recovery or to shift production from the future to the present.

Some of these expenditures are ordinary maintenance included in the lifting costs of oil production. Others are investment expenditures with payouts which stretch over the life of the reservoir. For established production such as upper tier oil, the effect of improving economic incentives will be to encourage additional maintenance and incremental investment expenditures. By making these increased expenditures cost effective, improved economic incentives for upper tier oil will increase effective reserves, increase the rate of production and moderate the decline rate.

The process through which the decline rate of established production is moderated involves the creation of additional proved reserves through more intensive development, exploitation and production of the reservoirs from which established oil production occurs. Not only does this more intensive activity increase the fraction of oil in place which is ultimately recovered from known reservoirs, but it may also result in the discovery and development of new reservoirs in known producing areas or fields.

Moreover, there is apt to be a wide spectrum of opportunity over which more intensive activity can take place. A large portion of this spectrum is apt to lie on this side of the point at which a reservoir or property may qualify, if it can qualify, for incremental tertiary status. All of this more intense activity increases the domestic proved reserve base and increases the U.S. production of crude oil.

In light of the current international situation, I believe that policy actions which will improve U.S. crude oil production ultimately will benefit all Americans.

Because the increased U.S. domestic crude oil production which will result from the operation of improved economic incentives to moderate the decline rate of upper tier oil ultimately involves the creation of additional proved crude oil reserves, the modeling work upon which I rely as an input to my judgmental assessment is that reported in "Oil Supply and Tax Incentives." That work focused upon proved reserves. I do not, however, use the specific elasticity of supply estimated in that work.

In "Oil Supply and Tax Incentives," the empirical perspective was retrospective in the direction of the halcyon days of lower 48 U.S. domestic crude oil production. On a prospective basis, for the 1980–1990 period, we are likely to be facing more difficult geological and reservoir engineering problems. For this reason, on a judgmental basis, I have reduced the elasticity coefficient which describes the responsiveness of domestic crude oil supply to an average value of +0.5. The interpretation of this number is that a 10% increase in economic incentives results in a 5% increase in supply; or a 100% increase in incentives yields a 50% response in supply.

For particular reservoirs or fields, the actual supply elasticity may be either higher or lower than +0.5. It may also vary from year to year for a particular reservoir, field or producing area. My experience, however, leads me to believe a supply elasticity of +0.5 for upper tier oil is a useful summary number to apply to the whole category of upper tier oil for the whole 1980–1990 period.

The imposition of a 75% rather than a 60% excise tax rate upon upper tier oil would create a substantial reduction in the economic incentives which the private sector faces. This reduction in incentives would cause upper tier domestic U.S. crude oil production to be substantially lower than it otherwise would be.

As I discussed above, any quantitative estimate of what the actual difference in production would be for any given year, or even for the total 1980–1990 period, is fraught with imprecision. Nevertheless, the process imposes upon us the necessity to make specific estimates. The specific estimates provided here are offered in good faith and are by best judgment, tempered by years of experience and considerable modeling background, of the consequences to the United States of imposing a 75% excise tax rate upon upper tier oil. For purposes of discussion, I shall initially focus upon 1985 as an illustrative year.

As 75% tax rate would reduce the 1985 per barrel dollar revenue to the private sector for upper tier oil to a figure in the neighborhood of $6 to $7 per barrel. Another way of looking at that $6 to $7 per barrel private sector revenue is that, at a price of $45 to $50 per barrel, various government units would receive approximately $38 to $44 per barrel of the total price—or about 85% of the revenue. The components of this government revenue would include federal income taxes, federal royalties, state royalties, state severance taxes and the federal excise tax.

Yet another way to gain perspective on the impact of $6 to $7 private sector per barrel revenue in 1985 is that, with continued inflation, it could actually represent a lower real revenue per barrel to the private sector than was yielded by a $3.00 per barrel total price in 1970. Whether 1985 economic incentives with a 75% excise tax rate would in fact be lower than 1970 incentives is open to accounting disputes. But three things are certain. First, a 75% excise tax rate would result in a substantial reduction in economic incentives relative to a 60% rate. Second, in historical perspective, a 75% excise tax rate would not result in the substantial increase in economic incentives necessary to arrest the decline rate of upper tier oil, even at a world oil price of $45 to $50 per barrel. And third, a substantial increase in economic incentives for domestic U.S. crude oil supply is what the nation needs.

For purposes of comparison, consider the 1985 per barrel dollar revenues to the private sector at a 60% excise tax rate. These revenues would be in the neighborhood of $10 to $11 per barrel. At a 60% excise tax rate, government revenues from a $45 to $50 oil price would approximate $34 to $40 per barrel—or over 75% of the total price.

Private sector revenues in 1985 of $10 to $11 per barrel are approximately 60% higher than private sector revenues of $6 to $7 per barrel. This relationship holds for the whole 1980–1990 period. Private sector revenues at a 60% excise tax rate would be approximately 60% higher than those private sector revenues which would result from 75% tax rate. We are therefore in a position—using the Joint Committee on Taxation upper tier volume estimates and a supply elasticity of

+0.5—to estimate the negative production effects on domestic upper tier crude oil of making the excise tax more severe by increasing the rate from 60% to 75%.

Over the 1980–1990 period, under the House passed bill, the Joint Taxation Committee estimates that total upper tier domestic U.S. crude oil production will approximate 6 million barrels. This is an average of about 1.5 million barrels per day, but the rate is higher in the earlier years than in the later years. The 1980 rate is slightly in excess of 2.5 million barrels per day and declines to slightly less than 400 thousand barrels per day in 1980.

If a 75% excise tax rate instead of a 60% rate is applied to upper tier oil, my estimate is that average daily production of upper tier oil will decline on average over 1980–1990 by 400–500 thousand barrels per day. Over the 1980–1990 period, this will result in a loss of about 1.5 to 2.0 billion barrels of total domestic crude oil production which otherwise would have been available to meet our national requirements.

I have several additional observations which may interest you and which will help to put in perspective the importance of improving the economic incentives for domestic crude oil production. Because upper tier oil is established production which is subject to decline, the greater portion of the supply response can be expected to occur in the earlier years. In the earlier years of the 1980's, the negative production effects from increasing the severity of the excise tax rate will therefore exceed the average 400–500 thousand barrel per day effect for the whole 1980–1990 period. In the early years of the 1980's, an increase in the excise tax rate from 60% to 75% for upper tier oil would be equivalent to denying ourselves a volume of domestic production which is approximately equal to the 700 thousand barrels of oil we recently were importing on a daily basis from Iran.

Another way to look at this is to compare the effects of 75 percent excise tax rate vs. a 50 percent rate for the whole 1980–1990 period. Were a 50 percent rate to apply for upper tier oil, and if the production experience under that 50 percent rate is compared to what would be likely to occur under a 75 percent rate, the United States could expect, on average for the whole 1980–1990 period, to increase production by an amount equivalent to our recent imports from Iran. Again, the absolute production benefits would be more heavily weighted toward the earlier years, but this is when we presumably will most need the production increments.

A 50 percent excise tax rate on upper tier oil would result in an average 1980–1990 increase in production of 200–300 thousand barrels per day relative to 60 percent tax rate. A 75 percent excise tax rate on upper tier oil would result in an average 1980–1990 decrease in production of 400–500 thousand barrels per day relative to a 60 percent tax rate.

This analysis has focused upon upper tier oil strictly defined and, as you requested, has dealt primarily with the effects of increasing the severity of the excise tax by increasing the rate on upper tier oil from 60 percent to 75 percent. As outlined above, however, there would also be a significant positive production response from upper tier oil if the excise tax rate were reduced, say, to 50 percent. In addition, it is my professional judgment that reducing the excise tax rate on other categories of oil would also have beneficial, positive effects upon domestic U.S. crude oil production over the 1980–1990 period, and in subsequent years as well.

In summary, increasing the severity of the excise tax upon upper tier oil by increasing the tax rate to 75 percent from 60 percent is apt to have the following effects:

Total U.S. oil production over the 1980–1990 period will be reduced by about 1.5 to 2.0 billion barrels,

Average daily U.S. production of domestic oil in the years 1980–1990 will be reduced on average by about 400–500 thousand barrels per day, and

In the early 1980's, we would be denying ourselves an additional volume of domestic crude oil production which is approximately equivalent to the amount of oil we were importing from Iran.

These are disturbing conclusions.

Sincerely yours,

EDWARD W. ERICKSON,
Professor of Economics and Business.

Mr. BRADLEY. Mr. President, will the Senator yield for a statement?

Mr. LONG. How long does the Senator desire? I am trying to get a vote.

Mr. BRADLEY. Fifteen seconds.

Mr. LONG. I yield.

Mr. BRADLEY. I would like to submit for the RECORD excerpts from the Congressional Budget Office study on the windfall profit tax which states that the effect of decontrol on the tier 2 oil with no tax would result in an average daily production increase of only 154,000 barrels over a 10-year period.

Mr. President, I ask unanimous consent that the excerpts be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

UPPER-TIER OIL FROM PROVEN RESERVES

Definition. Upper-tier oil from proven reserves is all oil that is from properties that began producing during or after 1973 and are currently in production. In addition, oil from lower-tier properties in excess of the BPCL assigned to them and oil released from lower-tier properties is considered upper-tier oil.

Tax Issues. The proportion of upper-tier oil remaining under controls will decrease in equal monthly increments; in this manner, all upper-tier oil (including reclassified lower-tier) will sell at the world market price by October 1, 1981. When compared to an indefinite extension of EPCA procedures, upper-tier oil would receive a revenue gain windfall equal to the difference between what the controlled EPCA price would have been and the phased-in world price.

The House bill taxes this difference at a rate of 60 percent until 1985 and then phases out this tax between 1986 and 1990. It does this by raising the upper-tier base price to the level of the base price used to calculate the tax on third-tier oil. Thus, by 1990 upper-tier oil will not be taxed on the revenue gain resulting from its decontrol from the upper-tier to the world price, but only on the added revenues it will receive as a result of real OPEC price increases since April 1979.

Like the House bill, the Senate Finance Committee bill employs a 60 percent tax rate for upper-tier oil and phases out the tax on the revenue gain derived from raising the upper-tier price to the world price. Unlike the House bill, the Senate Finance Committee bill phases out the tier-three tax between 1986 and 1990.

Effects. As summarized in Table 6, the Senate Finance Committee bill results in a slight decrease in the production of upper-tier oil as compared to continued controls because the bill offers more attractive incentives to most other types of oil. While the House bill sets the same tax rate and tax base for upper-tier oil as does the Senate Finance bill, the relative uniformity of its incentives does not induce producers to shift from upper-tier oil.

TABLE 6.—GROSS TAX LIABILITY AND PRODUCTION EFFECTS OF HOUSE AND SENATE FINANCE COMMITTEE TREATMENT OF KNOWN UPPER-TIER OIL, 1980-90 [1]

		Decontrol with		
	Continued controls	House bill	Senate Finance Committee bill	No windfall profits tax
Gross tax liability (billions of current dollars) [2]		64.9	62.0	
1985 production (thousands of barrels per day)	1,095	1,135	1,075	1,315
1990 production (thousands of barrels per day)	475	360	345	500
Cumulative production 1980–90 (millions of barrels)	5,046	5,157	4,917	5,665
Average daily increase, 1980–90, over continued controls (thousands of barrels per day)		28	−32	154

[1] Production figures do not include heavy oil, marginal oil, and some oil in tertiary recovery and stripper production which have shifted out of lower-tier production.

[2] This total represents total gross windfall profits tax liability from 1980-90. This figure does not take into account changes in corporate liability. Were these effects to be included, the House and Senate Finance totals would be lower, and the no-windfall-profits-tax case would indicate some producer liabilities.

The producer revenue gain on upper-tier oil over the 1980–1990 period would total $113.1 billion in current dollars under the House bill, and $112.7 billion under the Senate Finance bill.

The House bill would tax $64.9 billion of this revenue gain. Relative to continued controls, the bill in combination with decontrol would stimulate 40,000 barrels per day of additional supplies in 1985, but would result in a reduction of 115,000 barrels per day in 1990 because of depletion and conversion to tertiary or heavy oil production. When compared to decontrol with no windfall profits tax, the bill would reduce supplies by 180,000 and 140,000 barrels per day in 1985 and 1990, respectively.

The Senate Finance Committee bill would tax $62.0 billion of the total revenue gain. Relative to a continuation of controls, the bill in combination with decontrol would reduce supplies by 20,000 and 130,000 barrels per day in 1985 and 1990, respectively. When compared to decontrol with no windfall profits tax, the bill would reduce supplies by 240,000 and 155,000 barrels per day in these years.

Mr. LONG. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. Which amendment is the Senator asking to be laid on the table, the first or second degree amendment?

Mr. LONG. The first amendment carries the second amendment with it, so I move the amendment in the first degree be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to lay on the table Mr. BRADLEY's amendment UP No. 847.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. JEPSEN) is necessarily absent.

The PRESIDING OFFICER. The Senate will be in order. Senators will clear the well.

Are there any other Senators in the Chamber desiring to vote, who have not done so?

Mr. LEAHY. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator is recorded as having voted in the negative.

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—39

Armstrong
Baker
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Cannon
Cochran
Dole
Domenici
Garn
Glenn
Goldwater
Gravel
Hatch
Hayakawa
Helms
Humphrey
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher
Morgan
Pressler
Pryor
Schmitt
Simpson
Stennis
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Young

NAYS—58

Bayh
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Exon
Ford
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—3

Byrd,
Harry F., Jr.
Jepsen
Matsunaga

So the motion to lay on the table was rejected.

Mr. BRADLEY. Mr. President. I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, before we go to the resolution, I ask unanimous consent that the vote on the pending amendment occur immediately following the vote on the resolution.

Mr. DOLE. Mr. President. I object. We may not vote on this for a few days.

Mr. ROBERT C. BYRD. All right.

RELEASE OF UNITED STATES DIPLOMATIC PERSONNEL IN IRAN—SENATE RESOLUTION 292

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on Senate Resolution 292.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may have the right to cosponsor the resolution before the day is over.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. JEPSEN) is necessarily absent.

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Byrd,
Harry F., Jr.
Jepsen

So the resolution (S. Res. 292) was agreed to.

The preamble was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with consideration of the bill.

UP AMENDMENT NO. 847

Mr. BRADLEY. Mr. President, I wonder if I could ask the intentions of my distinguished colleague from Kansas regarding a vote on the amendment. It seems that the Senate has spoken fairly strongly on the motion to lay on the table. I wonder whether he intends to discuss this for any length of time, or what he might consider a reasonable length of time so that he can air all the issues that he feels are important to discuss before a vote would be taken on the amendment as drafted?

Mr. DOLE. I might respond to the Senator from New Jersey that the Senator from Kansas is not certain. I think the issues should be discussed and there are a number on this side of the aisle—I have not spoken to many on the other side of the aisle—who wish to discuss the impact of the amendment. I hope that it would take some time.

Mr. BRADLEY. Does that mean 5 or 7 this evening or perhaps tomorrow?

Mr. DOLE. The Senator from Kansas has never been one to delay legislation. I do not intend to delay this unduly, whatever that means. I think it should be discussed. The Senator from New Jersey got a big margin of 20 votes and I think it would take a little time to persuade 11 of those that they made a mistake. Maybe during the course of that debate, 11 more might decide they did make a mistake. Some may want to increase the tax. With a margin like that, they could go on to 110 percent and take all the money from the industry and then expect them to go out and find more oil. We are getting about 75 percent. They will still have about $2 out of every hundred dollars.

I should think it would take some time. I have had requests from probably 1 to 12 Senators on this side who have not had a chance to speak at all on this provision.

I do not want to delay it, I just want to defeat it. That might take some time.

Mr. BRADLEY. As usual, the Senator from Kansas speaks with clarity and good humor.

Mr. DOLE. I am prepared to let the Senator talk for a while, if he would like, about the merits of the amendment.

Mr. BRADLEY. The Senator from Kansas is the one who feels that the 58 Members of the Senate who supported the amendment have made an error and the purpose he has stated for engaging in debate is to convince those 58 Members that, indeed, they have made a mistake, so I am pleased to allow him to get on with his efforts.

Mr. DOLE. I thank my colleague. I know we both have the same—has the Senator yielded the floor?

Mr. BRADLEY. Yes, I yield the floor.

Mr. DOLE. I shall be glad to protect the Senator's interest if he wants to leave the Chamber.

Mr. WARNER. Will the Senator from Kansas yield for a minute?

Mr. DOLE. I am happy to yield to the Senator from Virginia.

THE BYRDS OF VIRGINIA AND THE SOUTH POLE

Mr. WARNER. Mr. President, I crossed the aisle to rise at the desk of my distinguished colleague, the senior Senator from Virginia, who is necessarily absent from the Chamber today.

At this moment, he is at the South

Pole, taking part in ceremonies commemorating the 50th anniversary of the discovery of the South Pole by his uncle and noted explorer, the late Adm. Richard Evelyn Byrd.

The Byrds of Virginia have contributed mightily to our Nation and to our fellow citizens.

For many years, Mr. BYRD's father served with great distinction in the Senate and was a strong force in the affairs of our country. As his successor, his son has continued what we Virginians have come to regard as "the Virginia tradition" of service in the Senate, a high standard to be observed and followed by me and by all those who will represent our Commonwealth in this distinguished body for generations to come.

Part of that "Virginia tradition" is to stand and be counted. Before he left for the South Pole, Senator BYRD had established a perfect voting record for this session of the Senate, responding to 407 consecutive rollcalls without missing one since Congress convened in January.

It is understandable that Senator BYRD would feel obligated to break that 100-percent voting record to make the same journey his uncle—the brother of his father—made 50 years ago today.

As Virginians are proud of the Senators BYRD—father and son—so also are we proud of Admiral Byrd. His achievements as a polar explorer are legendary. His example has inspired generations of Americans and is today a remarkable illustration of service to country.

This afternoon, Senator BYRD had been scheduled to fly over the South Pole as his uncle did a half century ago.

Regrettably, an Air New Zealand DC-10 has crashed in the Antarctic, and the National Science Foundation aircraft Senator BYRD was scheduled to have used for his commemorative flight was pressed into service to search for the missing plane.

It is not surprising that we learned through radio news reporters that Senator BYRD was likely aboard one of those search planes.

I ask our colleagues in the Senate to reflect for a few moments this afternoon on what Admiral Byrd accomplished 50 years ago today.

It was historic, surely, but it was also heroic. It was a shining model of what mankind can achieve in exploring new frontiers—of what the mind of man can attain through determination and courage.

That unique spirit that took Admiral Byrd to the South Pole that lifted man to the Moon, will prevail again and again in unlocking other secrets of our Earth and the universe in the name of the United States of America.

(Mr. TSONGAS assumed the chair.)

Mr. GOLDWATER. Will the Senator yield?

Mr. WARNER. Yes.

Mr. GOLDWATER. Mr. President, I associate myself with the remarks of the distinguished Senator from Virginia.

It was my pleasure in my younger days to have known the senior Harry Byrd and to have served with him also in the Senate. I knew him when he was Governor of Virginia. I knew the admiral. It was my privilege and pleasure at one time to have landed where his camp was near the South Pole. Having been there only under modern conditions I can attest to the great bravery that was his in opening up visitations to that important part of the world.

I just wanted to associate myself with the remarks of the junior Senator from Virginia because I have always looked on Virginia as sort of a second home.

Mr. WARNER. Mr. President, we welcome the distinguished Senator from Arizona.

I think history should show that trip he took he was in the company of the former Secretary of the Navy, now the distinguished Senator from Rhode Island.

I yield to the Senator from Rhode Island for a half minute to speak about that trip.

Mr. CHAFEE. Mr. President, I join in the tribute to Admiral Byrd, to the Senator's father, and the Senator from Virginia.

As the distinguished Senator from Arizona mentioned, in 1972 he and I had the pleasure of going to the South Pole together, not only with the Senator from Arizona, but his son and the brothers Buckley.

It was an unusual group in every respect, that could not be matched for enjoyable company, a fascinating group.

We went to the South Pole, as the Senator from Arizona mentioned, just flying up the Beardmore Glacier from McNurdo. Seeing that incredible countryside, incredible mountains, and then arriving at the great plateau that constitutes the South Pole area, we got some small inkling of what it must have been like 50 years before.

So I think it is appropriate we make this tribute to that heroic person, Richard Evelyn Byrd.

Mr. WARNER. I yield to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I associate myself with the remarks of the distinguished junior Senator from Virginia.

I, too, had the pleasure of serving with Senator Harry Byrd.

I will dispute only one thing Senator GOLDWATER said, however. It was not in his youth he served with Senator Byrd because he was older then than I am now.

But I am pleased to join with the Senator from Virginia in this tribute, both to Admiral Byrd and to Harry Byrd, Sr.

They are a great family and have contributed a great deal to this country.

Mr. WARNER. I yield to Senator LONG.

Mr. LONG. Mr. President, I am delighted the Senator has seen fit to join us on this side of the aisle, to inhabit a small spot of conservatism in a sea of liberalism on this side of the aisle.

I join the Senator in sending congratulations to our colleague (Mr. HARRY F. BYRD, JR.) who is certainly a worthy son of a great sire.

When HARRY F. BYRD, JR., made his famous decision to run as an independent, he discussed it with me and I encouraged him to do that. I said at that time that the people of Virginia could know a lot more clearly what the name Harry Byrd stood for than they could what the Democrat or Republican Party stood for at that point.

He has truly been a great Senator in the finest traditions of the Senate, and he has brought a great deal of credit to the glory of the Byrd name, both his uncle and his father.

We miss him here. I hope we do not have any vote that would be decided by a single vote in his absence. But, so far, we have been able to get by without him.

I hope very much he will be back with us soon in the best of health.

I join the Senator in saluting our colleague for his trip and for all he has done to carry on in the tradition of his great father and his uncle.

Mr. WARNER. I thank the distinguished Senator from Louisiana.

Mr. President, I ask unanimous consent that the record remain open through the remainder of the day so that other Senators may associate themselves with the remarks just made by myself and my colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I yield the floor. I thank the Senator from Kansas.

Mr. DOLE. Mr. President, first, I associate myself with the remarks of the distinguished Senator from Virginia and others who have spoken.

I want to indicate my great respect for the distinguished senior Senator from Virginia and his unblemished attendance record up to this point.

I do not know how he feels about this particular amendment, but maybe we could keep talking until he got back and then he could vote on this one.

We might check that.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

Mr. DOLE. Mr. President, I will say just a few words, and then I will be happy to yield to the distinguished Senator from Wyoming who would like to speak on this amendment.

Mr. President, I certainly understand that anybody who asserts that the tax is too high will somehow be classified as being allied with big oil.

I do not question the motives of the Finance Committee members proposing this amendment or the motives of anyone on the floor. I think the distinguished Senators from New Jersey and Rhode Island are making an important contribution to the debate. The Senator from Kansas is not certain that it is the right contribution. They are raising revenues, even though some of us want to raise more oil. Some want more production and some want more taxes. Some of us are not certain whether this tax will deter drilling if there is no tax on newly discovered oil.

I guess we can always make the argument that there is plenty of incentive for anybody that wants to get in the business, and this is oil discovered since 1973. It presumably has a lower cost than oil discovered later. Therefore, there should be some tax.

If that is the narrow view we take, I assume we can justify increasing the tax. But it seems to me if we are looking for more capital to drill and explore for oil and gas, then we ought to be very careful on how we proceed.

There is no doubt about it that the popular side, and I do not ascribe that to anyone in this Chamber, is to vote for a higher tax on the oil companies. They have become public enemy No. 1. When there is a gas line and prices go up, or a heating oil shortage, or when the President of the United States accuses the oil companies of ripping off the American consumer, there is bound to be a negative reaction.

The reaction is against the industry, the Congress, the President, and everyone else who can be conveniently blamed.

This Senator believes that it is very difficult to discuss this issue with total objectivity.

No one knows what will happen. We have said on this floor that without any tax at all, there will be more production than if we have a 75-percent tax or a 60-percent tax or a 50-percent tax.

The Senator from Kansas has indicated both publicly and privately that there should be a windfall tax, and there will be such a tax. But that we must be very careful about how we structure this tax and what the rate of the tax will be, so that we do not take away the incentive to find more energy in this country.

We are talking about tier 2 properties, and I assume that unless one is familiar with tier 1, tier 2, tier 3, heavy oil, tertiary oil, stripper oil, newly discovered oil, and all the other classifications, it may be a bit confusing.

Tier 2 generally consists of oil from properties on which production started between 1972 and 1979. Under the Finance Committee bill, tier 2 also includes Alaskan Sadlerochit oil, high water cut oil, marginal oil and tier 1 oil in excess of the 1½-percent decline curve.

Tier 2 properties are the backbone of America's domestic petroleum reserves. Approximately 60 percent of our current production falls into this category. Tier 2 properties offer the best prospect for a near-term supply response. It may take many years for synfuels, tertiary production and even production from newly discovered fields to contribute significantly to our goal of energy independence. Tier 2 fields, on the other hand, can offer an almost immediate supply response. America may desperately need this immediate supply response from tier 2 in order to weather any sudden shortfall foreign supplies.

Proponents of the 75-percent tax rate on tier 2 apparently assume that no further investment is needed to recover existing tier 2 reserves. This assumption is incorrect. Massive expenditures must continue in order to maximize production from these existing fields.

For example, it is estimated that only about $4 billion has been spent of the $19 billion total needed to develop the known reserves in the Alaskan North Slope. Moreover, a substantial investment is needed in existing tier 2 fields for infill drilling, secondary recovery, and pressure maintenance projects and well workovers. It has been estimated that about 120 billion barrels of additional production could be recovered by expanded use of waterflooding and infill drilling on known properties. Without the necessary investment, these 120 billion barrels will remain unrecoverable. Nevertheless, I fear that a higher tax rate on tier 2 may simply drive capital elsewhere to the detriment of the Nation's overall energy interests.

I assume that almost all those who voted to increase the tier 2 tax do not have any production in their States. I will confess that we produce some oil in Kansas, and I will have to go through the usual little dialog, so that nobody will misunderstand, the Senator from Kansas does not have any oil income, nor does he have any oil property. I tried oil drilling once, and it was a dry hole, as I recall.

In the State of Kansas, the average well produces about 3.4 barrels a day. Kansas produces a total of 56 million barrels a year, only 1 week's supply of imports. Most of the oil in Kansas is classified as stripper oil, which means the well produces 10 barrels or less per day.

So I suppose that from a selfish standpoint, it would not make any difference to me what tax is put on tier 2 oil or any other oil, because Kansas is largely exempt now, with the adoption of the 1,000-barrel exemption. Kansas is basically home free.

The President is holding a press conference tonight to tell us how bad things are around the world and how bad things are in Iran. I question the wisdom of holding a press conference at this particular time, but nevertheless he is holding a press conference. I assume that he wants to calm the fears of the American people, and I want to support the President. In fact, we just voted for a resolution which supports the President.

However, if we can lose 800,000 barrels a day from Iran in 1 week, we might lose a million barrels a day the next week from some other foreign source.

It seems the height of folly to cripple the domestic oil industry so that we can go back home and say that we taxed the oil companies to the hilt; that we were able to wring out every cent we could on the Senate floor because we knew it was popular to do so. That may be good politics, but it is bad policy.

So, where is the limit? The House bill had a provision that in no event shall the tax base exceed 100 percent of net income. If anybody is in business, think about that provision. It has been suggested by some that we might apply a windfall profits tax to beef producers simply because prices are so high. This would ignore the fact that they have lost money in 7 of the last 11 years.

So, once we start, we have to say we are making history or some precedent. Nevertheless, the Senator from Kansas favors a tax. There should be a tax. I do not know of anybody on the Senate Finance Committee, or anybody in this Chamber, or anybody in this city, or anybody in this Nation, or anybody in the world who knows how much the reserves are, where the reserves are, when they are going to be discovered, what alternative sources of fuel might be discovered, when they are going to be on line, and when we can lessen our dependence on foreign oil.

We have gone a long way from the President's original request. The administration was talking about $50 billion over a 10-year period. We are up to $138 billion in the Senate Finance Committee bill, $270 billion in the House bill; and I suppose that after conference somewhere, in the middle may be the final result.

Some believe that you can just keep taxing the wells that already are producing, just tax them to the hilt, because they are going to produce anyway; or take 70 or 75 percent or even 80 percent, as first suggested by the Senator from New Jersey.

Nevertheless, even the CBO concedes that a higher tax rate will have at least some negative effect on production from existing fields. Others, who are perhaps closer to the problem, have estimated that a much more serious drop in production will occur if that windfall tax rate is raised to 75 percent.

Perhaps, Congress should not use conformation from the oil companies. I know that not many people have much confidence in oil companies. However, one company has estimated that an increase in the windfall profits tax from 60 percent to 75 percent on tier 1 and tier 2 oil would cost this country 200,000 barrels per day by 1985; because once higher cost recovery begins, they cannot make a profit. Hence, you are not going to produce the oil. Not many people stay in business when they cannot make a profit.

It also has been estimated by the same company that this change would decrease total recoverable reserves by 700 million barrels.

Unfortunately, many of those who voted did not have an opportunity to read the entire committee report. I am certain that most people have read most of it—but it should be noted that a 75-percent rate on tier 2 oil would undercut the committees' decisions to put high water oil, marginal oil, and front end tertiary oil in tier 2.

It was hoped that putting these high-cost categories of oils in tier 2 would stimulate or at least preserve production from these reserves. I think the distinguished Senator from Oklahoma and others will comment on this issue in detail.

Mr. CHAFEE. Mr. President, will the Senator yield for a question or a comment, at an appropriate time?

Mr. DOLE. I will be happy to yield in 1 minute.

So the Senator from Kansas concludes at this time by suggesting, as I did before, that I am not certain where all the wisdom is. As I have said, I think everyone is purely motivated. I do not suggest that anybody should make a windfall profit, an excess profit, or rip off the American consumer. I think that what bothers most of us, including those who support this tax and those who oppose the tax, is, what is really the right thing for America?

Leave out the industry. But they do produce oil, they do produce gas, and I suggest that despite all the criticisms they are fairly effective. We can also find fault with those who drive automobiles too much.

Energy costs have increased. I understand it cost almost three times as much to buy a cord of wood in New England as it did last year. The price of wood went up. Why did it go up? Because there was more of a demand. However, I do not suggest that the OPEC price is a free price or a market price. It is an arbitrary price. It is a price imposed by countries who have the product and who have us over a barrel. They can charge us any price they want. We are going to have to conserve enough, find enough new production, find some alternate sources of energy, or pay the price.

So far all we have done is pay the price. We have not been willing to conserve. No one wants a 50 percent per gallon gas tax. It will take 8 to 10 years before any of these so-called synfuels are on line.

Two weeks ago this Senate passed, without this Senator's vote, an $88 billion public corporation to take taxpayers' money and get us into the production of energy development, grants, and experiments. That will be another great day when that happens. When we get our first production it will be a great day. If you think the post office has troubles, have you ever thought about buying your gas there as we create another big, big corporation and fund it with billions of tax dollars. We call it progress and then tell the American voter, the American taxpayer that we are making progress? The President will say tonight in his press conference, after he talks about Iran, what we need in this country is a stiff windfall profit tax. We have a windfall profit tax almost three times as stiff as he wanted at the outset.

So there really is not any answer. The Senator from Kansas was totally candid and honest with the Senator from Ohio a couple of days ago. I do not know how much with any certainty oil will be produced if there is no tax or if the tax is 50 percent or if it is 70 percent or if it is 60 percent. I know what we are told by the Congressional Budget Office or by the companies or by the Joint Tax Committee or by the Chase Manhattan Bank, but no one knows for certain. Everything is based on projection.

When we started our discussions in the Finance Committee, we spent several days looking at supply response. If we tax this much, how much will we lose, what will be the supply response? If we give a tax credit for shale oil development, what will be the supply response and how much will it cost per barrel? And if we adopt the tax credits, how much will we pay equivalent per barrel? The committee proposed $30 billion for tax credits.

We understood that one thing we had to address was low income assistance, and so we addressed that in the Finance Committee and we set aside $70 billion over the next 10 years.

It was suggested by some that, if we are going to talk about transportation, conservation, and saving energy, we had to address mass transit. So we set aside billions for that.

So the point the Senator from Kansas makes is the Senator from New Jersey and the Senator from Rhode Island may be totally right. This may be just a perfect tax at 75 percent. It may leave all the money that is needed to the oil companies to go out and find more oil and gas, particularly if we leave the exemption for newly discovered oil, leave the exemption for the 1,000 barrel per day, leave the exemption for heavy oil, and leave the exemption for tertiary oil. Maybe this is not all that important.

But again it seems to me that we have gone a bit too far.

It was my understanding that had the tabling motion carried then there would be another amendment offered by the distinguished majority leader for a 70-percent rate—I assume that that is still a possibility—maybe not this week but maybe next week. Again the Senator from Kansas is not certain whether that is the right tax. Maybe it should be 50 percent. The rate originally proposed by President Carter was 50 percent, but tonight he will probably tell us he is very happy with 75 percent.

So as we get into the discussion of this amendment, I hope the Senate will be totally objective. I hope we can come to some agreement on whether we are either going to vote on this amendment or if we can make an agreement on some other amendment. I know it is not the popular thing to do to stand in this position and indicate you want lower taxes. A lot of my colleagues talk about lower taxes. I might say that there are 41 Republicans; 14 voted for higher taxes, 26 voted for lower taxes, and 1 was not here. So we are generally for lower taxes. On the Democrat side, 12 Senators were for lower taxes and the balance were for higher taxes, except Senator HARRY F. BYRD, JR., who was not here.

If anyone can stand on this floor and demonstrate that this rate, 80-percent rate, 85-percent rate, 90-percent rate, or whatever rate, or 50-percent rate will mean a healthy energy industry and will mean more production and lower prices to American consumers, then we all should vote for it.

As I said yesterday on the 1,000-barrel exemption, if those of us who stood up here yesterday on the Senate floor and supported the 1,000-barrel exemption, if in fact we find out next year, the next year, the next year independents are not spending the money on more exploration, more production and more drilling, then we should look at imposing a tax because there may be a very high profit being made.

So finally, I just suggest that it was the understanding of this Senator when he started to work in the Finance Committee we were primarily concerned with production. We can impose taxes in this body and the other body. Congress can always impose taxes and we can always raise taxes, and the American taxpayer knows we do a good job at raising taxes. What the American taxpayer does not know is that this is the biggest tax bill in the history of the United States—the biggest one ever. Those present today, are seeing, maybe not seeing much, but we are acting on the biggest tax bill in history, over $500 billion, and somehow that is going to get back to the consumer.

One way to get out of this trapping for the American consumer with higher taxes and less product is to go out and find energy.

One way to find more is to not take so much away from the people who are out trying to look for it.

So we say they have already found this oil and they found tier 1 oil and all the prices went up and the prices have been $30, $40, and $50 so we should take away everything and consider the prices have never increased or increased marginally. That is not the case, and I just hope that we can discuss this and then vote on it at an appropriate time. But at least I believe the American people, looking at the record 5 years from now or 10 years from now or 20 years from now, should know that this matter was debated on the Senate floor, that we had dedicated and properly motivated men on each side of the issue and that some were right and some were wrong.

I would be very happy to yield the floor at this time.

Mr. CHAFEE. I think the Senator from Wyoming was ahead of me.

Mr. DOLE. I will yield the floor.

Mr. WALLOP. Mr. President, if the Senator wants to comment on the Senator from Kansas' remarks, I would be happy to yield.

Mr. CHAFEE. How long does the Senator think he will be? I would like to comment briefly on what the Senator said.

Mr. WALLOP. I yield to the Senator.

Mr. CHAFEE. First, I would like to make one thing quite clear, if I might, and I think the Senator from Kansas will agree to this, that a reduction in the so-called windfall profits tax is not going to reduce the price to the consumer one nickel. The price is set by a worldwide cartel; namely, OPEC, and the price of oil produced in the United States is going to rise to make that world price.

So when we talk about the effect on the taxpayer, the effect on the taxpayer in the United States whether this tax is 80 or 50 or 30 or 75 percent is going to be exactly the same. It is not like somebody driving up to his pump and going to find the price is going to vary depending upon the tax here that is enacted in accordance with this bill.

Next, the distinguished Senator from Kansas talked about production response. It is true in the Finance Committee we discussed production response ad infinitum, and what production response is at what point, if you lower your tax, going to give you the greatest production.

Probably the greatest production response we could receive is to have no tax, no income tax, no windfall profits tax, and the oil companies presumably then would have every incentive to go out and produce a lot of oil.

But on the other side we have to have certain revenues coming into the Federal

Government to accomplish certain purposes. One of the objectives of this bill is to provide funds for alternative sources of energy, for solar energy, and for conservation. No one will argue about our need to diversify our energy supplies.

In the Finance Committee, with everybody joining in, we voted all kinds of tax credits for conservation and alternate sources.

In the discussion of the production response, realizing we had to have some revenue, we then looked at the best sources we could find, namely, the Department of Energy, the Joint Tax Committee, and later, the Congressional Budget Office to learn from them what the results would be with these varied taxes on the different tiers of oil.

It was agreed in the Finance Committee nearly unanimously, 19 to 1, which is about as strong a vote as you can get anywhere around here, that we would exempt the new oil: Every possible production response incentive available for new oil.

But then we looked at the other tiers of oil. The one we are discussing here today is the upper tier, so-called tier 2 oil, and the reports we had were that it really was a negligible difference between the House-passed bill at 60 percent and what some of us sought in the Finance Committee, 75 percent. I quote from the Department of Energy:

> A windfall profits tax at 75 percent would not have significant effect on tier 2 production from existing oil fields.

From the Congressional Budget Office:

> Raising the tax rate on upper tier oil from the House-passed 60 percent to the proposed 75 percent, the supply response would change only marginally.

So, based upon those figures, we arrived in that committee, nine of us, and here on the Senate floor, 57 of us—at least in rejection of the motion to table—that 75 percent was a worthwhile tax rate to go to, we agree that the revenue produced of some $24 billion was significant.

So I would like to take issue with the comments made by the distinguished Senator from Kansas in his suggestion that we are crushing all production response. We are not crushing production response. At $13 a barrel, which the upper tier oil has been selling for, it is going along merrily making a profit. Now, we have that, plus inflation; we have that, plus 25 percent of any difference between the $13 and the world price at $28 or whatever it might be.

The revenue yields, as I mentioned, are significant. The ways of spending that money are of great consequence to the Nation. If something goes wrong we can always change it in the future, but I do not think there will be any need to.

In closing, Mr. President, I would like to suggest that the oil companies, the independent producers, and everybody involved in the entire spectrum of oil, whether it is the royalty holders, whether it is the drillers, whether it is the majors, whoever they are, are going to find the years ahead, 1980 and onward, as far as we can see, years of tremendous profitability and great satisfaction to them.

Mr. President, I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it should come as no surprise to my colleague from Rhode Island that I disagree, and I think it is entirely possible for people to be well meaning and still not be enlightened.

I hope I can have his attention and the attention of the Senator from New Jersey (Mr. BRADLEY) while I read to them a column that appeared in this morning's Wall Street Journal, and then I have other comments to make. But I think the Senator from Rhode Island misread the CBO study which indeed said that the supply response in tier oil in the Senate bill would be greater than that under the House bill, so that the CBO even recognized the supply response.

And the other problem with quoting the Department of Energy was that they felt they would achieve the entire supply response by merely having the word "decontrol" mentioned, and any other tax levied would not affect it. I think the Senator will remember those comments in the Finance Committee. They put their entire eggs in the basket of decontrol, without regard to the tax.

This article is called "Political Economy," by a man named Paul Craig Roberts, titled "The Windfall Illusion," and appears in today's Wall Street Journal.

> Congress expects oil industry revenues to increase dramatically when prices are decontrolled and is counting on a hearty share to pay the bills it's running up in energy tax credits and synfuel programs. According to two congressional staffers, Spencer Reibman and Stewart Sweet, Congress is in for a big shock.
>
> The way Congress figures it, domestic oil revenues will greatly expand when $6 tier-1 oil and $13 tier-2 oil move to the world price. But the way Messrs. Reibman and Sweet figure it, U.S. consumers are already paying the world price for refined products such as gasoline and fuel oil. Therefore, decontrol of domestic crude oil prices will not produce a big windfall in new revenues; it'll just shift revenues about within the industry from refiners to producers.
>
> Look at it this way. A refiner importing $23 a barrel OPEC crude oil sells the product he makes out of it at the same price as the refiner using controlled $6 domestic crude oil. If that's all there was to it, the price controls on domestic crude oil would amount to an enormous subsidy to the profits of domestic refiners at the expense of domestic crude oil producers.
>
> That's where the entitlements come in. The refiner using $6 domestic oil has to pay the one using the $23 foreign stuff. So the price of domestic oil to the one refiner is $6 plus the entitlement payment, and the price of OPEC oil to the other becomes $23 minus the entitlement.
>
> Under this system large integrated oil companies that both produce and refine and have both domestic and foreign oil end up paying entitlements to themselves. That way the money stays in house, and the revenues that price controls cost their domestic oil production operations are gained back in the refining division. For non-integrated operations, the system transfers revenues from domestic crude oil producers to domestic refiners of OPEC oil.
>
> When the controls come off, the entitlements go, and all that happens is a shift in revenues from refining back to producing operations.
>
> For total oil industry revenues to go up, U.S. refiners today would have to be selling their product for less than the world price. But the two staffers examined data from the Platts Oilgram Price Service and found that the wholesale price of regular gasoline is the same in New York as in Rotterdam. The reason gasoline costs, say, the German motorist $2.12 a gallon is that he is paying a tax of $1.08 per gallon at the pump. Net of the tax, which goes to the German government and not to the oil companies, the German motorist is paying the same $1 a gallon to the oil companies that the U.S. consumer is paying.
>
> Since the oil industry's revenues and profits are not going to balloon like Congress thinks, what is the "windfall profits" tax going to be paid out of? The only possibility is existing revenues. It looks like the tax is going to capture more or less what the domestic industry currently pays itself in entitlements.
>
> That means the profitability of the domestic oil industry is about to be driven sharply down. Mr. Sweet believes that oil industry rate of return in the short term will be below the Treasury bill rate. Earnings will head back up as OPEC pushes up the world price. But whether and how soon earnings will get back to a normal rate of return are questions that never occurred to the Senate Finance Committee or its staff. Before the "windfall profits" tax busts the government's budget along with the oil companies, the Senate might inquire if those entitlement revenues are large enough to cover all the tax credits and synfuel boondoggles.
>
> The oil industry shied away from the results of Messrs. Reibman and Sweet's investigations. And it's not hard to see why. If the U.S. consumer is paying the world price for refined products, demagogic politicians have "evidence" that the oil companies have evaded the price controls. So the oil industry has fought the tax by trying to get exemptions for various categories of oil.
>
> But Senator Jake Garn (R., Utah) realized the real meaning of the evidence: The U.S. government cannot control the world price of a finished product by controlling the price of part of the raw material used in its manufacture. On October 30 he raised these points with Treasury Secretary Miller and other high administration officials. He has yet to receive a satisfactory answer. The administration seems unaware that higher domestic crude oil prices can't be passed through to consumers who are already paying the world price for refined products—unless the government embargoes the import of refined products.
>
> It seems clear that the "windfall profits" tax is going to reduce the profitability of domestic refiners. And that's going to play into the hands of OPEC, says G.H.M. Schuler of Conant and Associates in Washington, by helping OPEC entice refining operations abroad.
>
> The oil companies are already having their arms twisted to build refineries for OPEC in exchange for the right to buy OPEC crude. OPEC cannot move into downstream operations, says Mr. Schuler, without serious implications for our national security and balance of payments.
>
> The oil companies still have a bargaining position with OPEC because they control the refining and marketing of the finished product. But once OPEC has substantial refining capacity, it can push the companies out of the picture and gain control over refined products too. In today's prices that means instead of paying OPEC $23 a barrel for the raw material and manufacturing it at home into a finished product, we would be paying OPEC $40 a barrel for refined products.

It's ironic that the "windfall profits" tax, heralded as a step toward energy independence, is destined instead to make us more dependent on OPEC.

This article may indeed provide one of the reasons why the Saudis are so interested in lobbying the Senate, through the Secretary of the Treasury, for the passage of a windfall profit tax. However, I doubt that the Saudis ever made such a recommendation to the Secretary. For one thing, the Saudis are intelligent enough to know this tax does not in any way touch their oil that they sell under the world market.

But let me respond to the Senator's questioning of the CBO model, in which he said there was virtually unanimous agreement that there would be no production effect from this tax.

The CBO model uses the cash flow method to estimate incremental supply under different assumptions. The estimates for all categories are 1.2 million more barrels per day incremental production by 1990 with no windfall profit tax, and a decline of 400,000 barrels a day with it. The Finance Committee bill leads to a 25-percent reduction, and the House bill a 66-percent reduction by 1990, compared to decontrol with no tax. The House version yields 500,000 barrels a day less supply by 1990 when compared to the Finance Committee bill, for all categories of crude production, with respect to incentives.

Table 5 of the study reflects that the Finance Committee bill would reduce lower tier production by 700 million barrels per day over the period 1980 to 1990, when compared with the case of decontrol with no tax. On the other hand, the Senate version would produce 500 million barrels less lower tier production than the House bill over the next decade. This is because the tax was increased to 75 percent. Upper tier production shows a similar response, with a combined tier reduction showing cumulative supplies of 5,665,000,000 barrels from 1980 to 1990, 750 million barrels greater than the Finance Committee bill. The Finance Committee bill would produce almost the same supply of upper tier oil as the House bill. If, however, the tax is increased on upper tier oil to, say, 75 percent, there would be a substantial loss of supply. The strongest supply response occurs in the newly discovered category, which has been exempted by this bill.

Now, let me say that there is another argument which is totally missed when everybody is talking about this tax. It is the argument of reserves. The argument of reserves cannot be discounted, and it is not discounted in the CBO study. There is a paragraph in the study which I will quote a little later on.

But it is not only the oil that gets produced every day, but the old oil, that goes into the composite reserve reports. I heard the Senator from Rhode Island, the Senator from Washington, the Senator from South Carolina, and the Senator from Arkansas expounding at great length about the oil companies. If they could find for me some kind of a monolithic position that the oil companies have, if anyone can point that out, I will be eternally grateful. I have been trying since last June to find any kind of consensus even among the majors, let alone between the majors and the independents, as to what we should be doing.

Obviously this proposal is not very popular with Exxon, and certainly not with the lower category of oil producing companies that are not a part of the seven sisters. So it is incorrect for anybody to assume that there is a monolithic, agreed-upon posture among the oil companies. There is more division of opinion among oil companies than in almost any other industry in America today. Even long-haul truckers can come closer to getting some kind of a unified position on decontrol than the oil companies. All of them want to achieve decontrol in some different way. And the one option everybody refuses to look at is the most practical tax of all. That option is not a windfall profit tax, but then again, this tax has not one thing to do with profits.

If indeed the enemy's oil is OPEC oil, if there is to be a windfall profit tax or something that affects everyone universally, the most proper tax of all is to put some tax on every barrel of oil produced in this country, including those from OPEC. I am assuming that the Senators' consumer constituencies from the Northeast would find that offensive.

Still in all it is the only way that you can make a universal, sensible tax which provides money to deal with the interim problems of going from a subsidized fuel economy to a true cost fuel economy. It deals with the transition to the more exotic fuels, the synthetic fuels—synfuels, as they are called—with conservation and with mass transit. All the necessary money would be there and at a lot less cost to the American consumer.

When the Senator says that there is no reproduction response from the imposition of this tax, he presupposes that there is no reason to stop anywhere in the taxing process. When the Senator says that there is no price response for the American consumer by the imposition of the windfall profit tax, it belies the fact that, by discouraging production, it increases our demand on the world market and our dependence on the world market. This provides ever so much more leverage for those very countries who now hold us in such a terrible hostage position, not the least of which is Iran.

To the extent that we are unable to move out of this posture and into a posture of self-sufficiency, the American consumer is going to pay and pay through the nose, as the Senator quite rightly points out, by a world price that is dictated not by OPEC but by our own inability to get into the business of producing ourselves out of this situation. And we are not going to do it, I agree, with oil alone. There is a need for taxes. There will be taxes collected. I have no doubt of that.

The synfuels program is not going to be able, under any set of circumstances, to absorb $88 billion between now and 1990. There just is not that much material and manpower and capital in the country. The capital will be there, but they will be unable to absorb it. The Energy Security Corporation will compete with the rest of the American economy into the distant future. We are going to distort the economy far greater with that program than we will ever by allowing the economic forces of the world to get into play.

The Senator from Washington talks about reimposing controls. He has, in some manner, been able to overlook the fact that the controls themselves are the basic reason that the consumer is paying such a high price for energy in the country right now.

The inherent inefficiency of those controls is the basic reason why there is no competition within the industry. I went through all of those incredible problems which were contrived by the Congress of the United States and passed upon. We have the tilt program. We have small refiners' bias. We have the entitlements. We have this bizarre categorization of oil which continues unabated even under the windfall profit tax. Suddenly we have taken the authority to categorize oil out of the extraordinarily incompetent hands of the Department of Energy and placed that authority into the even less competent, less knowing, and ever more greedy hands of the Internal Revenue Service.

Everybody is talking about huge profits going to the biggest companies in America. Yes, there are huge profits. And, yes, there are huge losses. Nobody ever talks about the windfall losses attendant with any of these developments. The Senator from Arkansas was expounding at length about how we no longer find as many barrels per foot of well drilled as we did a year ago. This year, it is my understanding, he said we found only 16 barrels per foot of well drilled and last year we found 48. So we reduced everything by a third.

Well, Mr. President, if I were to drill an oil well on top of an underground storage tank, I would find a remarkable amount of oil per foot of well drilled. I would be down about 14 feet and I would find, with most of those tanks, about 20,000 barrels, which is a very good ratio. But it it not very much in supply and it is not very much in reserves.

What the Senator from Arkansas did not point out is that with that decline to 16 barrels of oil per foot of well drilled from 48 barrels per foot of well drilled, the country managed to stay even with its reserves, all the while consuming, during the course of that year, some 19 million barrels of oil a day. That is a pretty good record.

What we are beginning to forget is that the easy oil in this country is gone. In Wyoming, in my State, at the beginning of this decade, the average depth of an oil well was around 4,300 feet. Right now, the average depth of an oil well in Wyoming is around 9,000 feet. And it is rapidly going up.

Wells in the overthrust belt are anywhere from 12,000 to 17,000 feet. And they are producing large amounts of oil and gas. Some of the biggest pay zones in the history of the exploration of oil have been discovered in that zone.

But, Lord have mercy, they are deep. And they are not going to get any shallower just because we would like to have a different average of what we discover per foot of well drilled.

The reason there is a low production response is we have had the industry handcuffed, upside down, and over a barrel for such a long time it is a wonder we have any domestic production at all. Many people are being accused by the Department of Energy of overcharging. This is primarily because some companies have not the foggiest notion of what category a barrel of oil they are producing. And, unlike the Almighty who put the oil down there and is unable to distinguish between it except through specific gravity and sulfur content, the Department of Energy can distinguish between when it was discovered and how deep it is and how near it is to other production, and whether it is tertiary or old or stripper or new.

It is most strange that one barrel of oil in this country would cost the consumer $23 and another barrel of oil in this country would cost him $6. It is going to burn the same in the tank of his car or the tank of his home heating supply.

Well, Mr. President, if we continue on and keep this tax, 80 percent or 75 percent, whatever it is now, we will be, indeed, playing into the hands of those countries in the world which would basically like to see us remain hostage to our own greed and our own inability to trust in the very things which made the country great.

All of the programs we have been talking about so far assume only that the Government can make decisions in the national interest, assume only that the Government can wisely spend the money that comes out of these changing circumstances in the world's economic scene.

(Mr. BAUCUS assumed the chair.)

Mr. TSONGAS. Will the Senator yield for a question?

Mr. WALLOP. I am happy to yield to the Senator from Massachusetts.

Mr. TSONGAS. I will give you a break.

Let me ask the Senator a question. Is the Senator in favor of full U.S. production?

Mr. WALLOP. I am in favor of full U.S. energy production at all levels.

Mr. TSONGAS. But let us focus on oil just for a second, if we might.

Is the Senator in favor of producing oil in the United States as rapidly as possible and with as strong a producer-oriented program as possible?

Mr. WALLOP. The Senator is.

Mr. TSONGAS. Does the Senator acknowledge that the oil in the ground is finite?

Mr. WALLOP. The Senator does.

Mr. TSONGAS. Does the Senator acknowledge that the sooner we pump it out, the sooner it is gone?

Mr. WALLOP. I do.

Mr. TSONGAS. Does the Senator acknowledge that God does not intend to put any more in there?

Mr. WALLOP. I do.

Mr. TSONGAS. Why would not the Senator's position be termed the "drain America first" approach?

Mr. WALLOP. For the very simple reason that we have not, in this Senator's opinion, begun to scratch the surface of the available supplies that are within this country. I know that there are some who disagree with that, and the Senator from Arkansas is one. He says we are already on the great downhill slide. I would point out that in five counties in my State in the last 3 years, we have discovered reserves very likely to be the equivalent of Prudhoe Bay. And that is but the very tip of the Overthrust Belt. There are sands, and I am sure the Senator has seen the map, of potential, good potential, high potential, and producing sands that are around the country.

Mr. TSONGAS. Let me say to the Senator that if the Senator from Arkansas is correct, what we have in essence is a longer production period. If the Senator from Wyoming is not correct, then it seems to me that at some junction down the road a generation will be shortchanged. Perhaps we can engage in a colloquy so that when they freeze in the dark they would have something to read about how we intended they would live in reasonable comfort.

Mr. WALLOP. I certainly do not intend to engage in a colloquy on a subject which I find so remarkable. Only 4 percent of the Government-owned lands in this country have been explored. To speculate on something that is obviously not true is not a good use of our time.

Mr. TSONGAS. Does the Senator suggest that anyone will explore for oil in Massachusetts?

Mr. WALLOP. I suggest to the Senator they will be exploring off the coast of Massachusetts if certain people will let the process take place.

Mr. TSONGAS. But would the fact that no one has looked in Massachusetts suggest there is no likelihood of their finding oil?

Mr. WALLOP. On the contrary. There are areas in this country where people for a period of time thought there was no likelihood of finding oil. As a matter of fact, one of the places where people thought there was no likelihood of finding oil, strange to say, was in the Powder River basin in my State. People had drilled there a little bit and had given up on it.

Then there was a period of time when there were peripheral drillings. The basin itself was assumed not to have anything but coal. Quite by accident they found oil in a place where they had lost circulation and drilled through endless times before and had assumed nothing was there.

I make no such assumption of hopelessness regarding any State. Obviously other States have greater potential than does Massachusetts.

Mr. TSONGAS. Let me say I will go home this weekend with the exciting news that the Senator from Wyoming thinks that we should start drilling in Massachusetts. I will only point out that I think what is before us is a fascinating moral dilemma, passing the responsibility from one generation to those who come behind. It seems to me before we make a decision as to our long-term energy policy we better make sure that we have an economy based on fossil fuels. If we do not do that, your children and my children and grandchildren will know nothing but chaos.

Mr. WALLOP. They will know nothing but chaos under the present set of attitudes in this country anyway.

Mr. TSONGAS. If my scenario is correct what we call chaos today will seem like child's play with what they will deal with down the road.

Mr. WALLOP. The likelihood of that chaos is heightened every day by people in this Government and people like you and me who know nothing about the energy business. We are trying to sit here and tell them what is in their best interests and what is possible to produce and what is not. The reason we are in this circumstance is because we have not let the economy of the energy world, work. We have been unwilling to. And now the transition and the chaos that we are suffering is a direct result of 30 years of subsidized consumption. If we insist on controlling, insist on the Federal Government being the one who finances synfuels and the one who makes all of these decisions, we will be creating the chaos. We are in the process of creating the chaos. That synthetic fuels bill has cast this country's energy direction for the rest of this century. Make no mistake about it. You are not going to create an Energy Security Corporation, a Mobilization Board, funded with $88 billion, and have anybody able to stand in the way of it. Whether it is the right way to go or not, whether there are any economics in it or not, will not matter. It will just go, because $88 billion speaks pretty strongly.

Mr. TSONGAS. The Senator will recall that he voted for my substitute so I obviously share his opinion in that respect. I just want the Senator to acknowledge that what we are playing with here are estimates as to what indeed the Lord has put into the ground. If we come out short, you and I, who are more advanced in years perhaps than most, and the people of this country will know comfort, but those who follow-on behind us I think are going to be placed in jeopardy. That, to my mind, is a serious responsibility.

When we talk about $25 million, and we look at the Harvard Business School report on what conservation is doing, why do we not have the same filibuster for conservation? Because there is not $25 million involved. If you divide the amount of money involved by the amount of time speaking here, this is the wealthiest moment in history, literally. I just wish that what we had here was a commitment not for next year or the year after that but the next 50 or 100 years, so that we can go home and look our kids in the eyes and have some confidence that what we are giving to them is a reasonable shot, nothing more and nothing less. It seems to me if we do not do that, then we have indeed fallen in our responsibilities. I thank the Senator for yielding.

Mr. WALLOP. I know whereof the Senator speaks. Reasonable men can differ as to what is a reasonable course into that future. I do not disagree with that. This Senator has been for the development of coal. This Senator is for the responsible development of nuclear power. This Senator has an industrial conservation bill entered into the RECORD as an amendment which will probably be called up at some point in time and discussed. All of these things need to be done. But if they cannot be done you do not have to run to victory on the back of one industry and put it out of use before it is ready to go. That is the whole point of limiting this tax to a responsible level.

There are taxes to be gained. There is a process by which we will get to a secure future. But we will not get there if the only decisionmaking process and the only hand on the capital decisions of this country belong to the Federal Government because the Government is not capable of making those decisions.

(Mr. BURDICK assumed the chair.)

Mr. TSONGAS. Will the Senator yield again?

Mr. WALLOP. I yield.

Mr. TSONGAS. Can the Senator imagine a department of bureaucrats asking companies regarding diversification?

Mr. WALLOP. The Senator knows where that came from; does he not? That came from invested capital; it did not come from operating expenses.

If we were to make the energy business as attractive as we all say it is, there would be no diversification. If we were to allow people to think there was a future in investing their own money in the production of energy, whatever form, there would be no temptation or not the temptation to diversify that there is now. But we carefully, day by day and year by year, draft such a mess of rules and boundless regulations causing an inability to function and insecurity in the future, an inability to make an economic judgment, an economic capital judgment, in your own chosen field, that, of course, they go to those other areas.

And they will continue to go to them as long as we refuse to recognize that this crazy way of going makes it impossible for somebody to sit down with a legitimate capital decision that is going to take him 20 to 25 years.

If you have to look at that and you have stockholders to look at, where do you invest? You invest in something that is legitimate and gives them some reliable return on their invested money; that is something that will go for 10 to 20 years.

I should like to read something which is a statement of the impact of tax rate increases on upper tier oil:

> A proposal has been offered to increase the "windfall profits" tax rate on Tier Two, or upper tier, oil from the 60 percent level in the House-passed bill to 75 percent. The proposal is based on the false assumption that production from existing oil fields is insensitive to increases in the tax burden on oil producers.
>
> The turmoil in Iran and the cut-off in Iranian oil imports are only the latest reminders of the dangers resulting from U.S. overdependence on foreign oil. There is an urgent national need to increase domestic crude oil production in order to reduce this overdependence.

The Senator from Massachusetts is worried about the chaos in the next generation. So is this Senator. But I am even more worried about the payoffs that can result not only in the United States but to the Western economic world in a situation as volatile as the one in which we now find ourselves, where we have to compete not only economically but, ultimately, perhaps, even militarily, for the oil reserves that remain on the face of the Earth.

Prof. Edward Erickson, of North Carolina State University, estimates that an increase in tax on the upper tier production from 60 to 75 percent would cause average daily production of upper tier oil to decline. These are figures for which the Senator from New Jersey has said there is no supply response. There is no condition except a windfall to the Federal Government. Nothing happens bad except the Government gets more money by raising this tax. Professor Erickson believes the tax would cause average daily production of upper tier oil to decline on an average by 400,000 to 500,000 barrels a day. Over the 1980–90 period, this would result in a loss of about 1.5 to 2 billion barrels of total domestic crude oil production.

Because upper tier oil is existing production that is subject to decline, Erickson estimates that in the early 1980's, the production loss would exceed the average loss of 400,000 to 500,000 barrels a day he estimates for the whole 1980–90 period.

Erickson estimates that an increase in tax rates from 60 to 75 percent on upper tier oil would mean the loss of approximately 700,000 barrels per day in the early eighties, or about equal to the amount of oil we were recently importing each day from Iran.

I ask the Senator from New Jersey how he would respond to that.

Obviously, he is dumbfounded by the figure or he did not intend the loss of 700,000 barrels a day in the early 1980's.

Mr. BRADLEY. I apologize to the Senator. I must say I did not hear his question.

Mr. WALLOP. I wonder how the Senator would respond to the fact that somebody not from an oil State, who is an economist, teaches at North Carolina State University, suggests that adopting the Senators amendment of going from 60 to 75 percent on upper tier oil would result in an average loss of production over the decade of 400,000 to 500,000 barrels a day and in the early years—the early years of that decade—by something in the neighborhood of 700,000 to 800,000 barrels per day.

Mr. BRADLEY. I understand the Senators question now.

Mr. WALLOP. Does it not concern the Senator that that is the equivalent of what we are probably going to be giving up from Iran?

Mr. BRADLEY. If I accept the Senator's assumption that Mr. Erickson is indeed correct in his judgment, that might be further argument for the Senator's position. However, would the Senator accept a question posed to him?

Does it concern him at all that the Congressional Budget Office concluded that the average daily production increase that would result from decontrol and no windfall profit tax on tier 2 would be as little as 154,000 barrels of oil over a 10-year period? So what I think we have here is——

Mr. WALLOP. This is all looking into a crystal ball. But admittedly, they approached their crystal ball with an inherent cast of mind to justify what we are doing. Other people, including the early Department of Energy forecast, which has now gone carefully back into the drawer, all indicated a much greater supply response than CBO's.

Erickson's supply response is in the very middle. API has a much larger one, Dean Witter has one in the middle which is not altogether dissimilar from Erickson's.

Take just the middle range of forecasts—not the highest, not the lowest.

Mr. BRADLEY. Would the Senator identify the supply response in tier 2 oil that those particular studies attribute specifically to the difference between the 60 percent and the 75 percent tax rate? I think what the Senator alludes to by way of supply response is a supply response from those categories of oil that are indeed susceptible to higher prices.

Mr. WALLOP. Would the Senator agree that even the CBO says there is a supply response in this upper tier oil?

Mr. BRADLEY. I would agree with the Senator that the CBO did conclude that over 10 years there is about a 154,000-barrel-a-day supply response.

Mr. WALLOP. I believe it was considerably higher than that.

Mr. BRADLEY. I would like to relate this figure to the Senator's earlier comments about supply responses in tier 2 and to his observation that the CBO report finds that a higher tax rate would have a negative impact on some categories of oil. The CBO report basically said that the thrust of the windfall profits tax should be to increase production. The way you increase production is to give incentives to those categories of oil that will respond to higher prices. Indeed, the reason there is a slight decrease in production of tier 2 oil under the Senate windfall profits bill as opposed to the House bill is that known upper tier oil is not as susceptible to price incentives as new oil or tertiary oil. It is from these latter two categories that we shall get the bulk of the supply response. Thus, it makes sense to tax new and tertiary oil at a lower rate.

I know that the Senator's colleague from Oregon will argue at the appropriate time that the supply response in oil must be weighed against the supply response in other forms of energy striking a balance that provides adequate incentives for all promising energy sources should be this body's primary objective.

Mr. WALLOP. On the contrary, it has not been carefully weighed. I refer the Senator to my table, put in the RECORD yesterday, which is the other half of the picture; that is, the reserve response as well. The reserve response is significant in the development of new reserves on all categories of oil. It comes down to $13 to $14 a barrel when viewed that way, and its cost relationship with the conservation package is quite similar.

Mr. BRADLEY. Would the Senator explain what the difference in the reserve response is to his 60 percent tax on tier 2 as opposed to a 75 percent tax on tier 2?

Mr. SCHMITT. Will the Senator yield?

Mr. WALLOP. Yes, I yield.

Mr. SCHMITT. May I join the cast of the theater of the absurd? The CBO does not know anything about economic geology. They do not know anything about response. The basic problem, if you are going to add a tax, is that you are going to decrease the amount of capital available to produce new oil and gas and you are going to decrease the incentive somewhere along the line.

Every bit of this business reacts to price incentive. I do not care which tier we are talking about. It is just unbelievable we stand here today and that we are actually considering an amendment of the kind we are considering, with Iran blowing up in our face and the other problems of immediate energy supply in this country, and we are doing everything we can to prevent production of energy in this country.

Short-term energy is produced by drilling holes in the ground, and by producing oil, and by increasing production where we already have holes.

This tax, and particularly the amendment of the Senator from New Jersey, is going to prevent that from happening. It is as simple as that.

CBO does not know everything about this. Everything from the Department of Energy, ERDA, and on back has been wrong. They are wrong because we cannot make models of this industry, as complex as it is today. We cannot do it.

Mr. BRADLEY. I really do not want to prevent my colleagues from being able to make their case against this amendment. But I think the comment from the Senator from New Mexico is somewhat relevant.

As I understand his comment, it is that trying to affix production figures, or production potential, to any action we might take is foolhardly, and that what we should do is accept the argument that as long as there is an increasing quantity of capital, we will be asured of getting increasing quantities of oil.

Mr. SCHMITT. Yes.

Mr. BRADLEY. And we should not bother to quantify that.

Mr. SCHMITT. We should accept that because the basic assumption this Senate has been dealing with for 3 years, since I have been here, that there is very little oil to be produced in this country, is wrong.

There is a tremendous resource base of oil and gas yet to be produced. I have said that before on this floor and it has been ignored in the votes on a variety of amendments and bills. But that is a fact of life. We are ignoring that.

The Alaska reserves themselves, the resources, very probably exceed anything availble in the Middle East. But we will not go after it because of lack of capital. The Bering Sea, the east coast, and the stratigraphic traps, and other new locations for finding deep oil wells, fields, will not be explored, at least not at the rate we need.

Mr. WALLOP. For example, as the Senator is talking about projections on old reserves, does he recall the extraordinary pronouncements of the Secretary of Energy, Mr. Schlesinger, that once we got to $1.35, there was never going to be another supply response available?

Raising the price of gas was portrayed as absurd, stupid, idiotic, costly to inflation, everything else, because there would be no supply response, according to the Department of Energy.

Does the Senator know where we stand with natural gas today?

Mr. BRADLEY. It is my understanding that natural gas production has significantly increased.

Mr. WALLOP. Yes it has increased to the point where we are in surplus and likely to stay there till the end of the century, unless we go back to the old habits of controls and limited incentives.

Mr. SCHMITT. We should also note with the supply surplus; it has not been apparent there is an increase in price because the price will butt on that ceiling as long as it is there.

But if we have an oversupply, the price will come down. That is what oversupply does. But we refuse to allow this country to prodce an oversupply to drive not only our price down, but the world price down.

Believe me, there is a tremendous resource base in oil available to this country, onshore and off, and in Alaska.

The volume of the resources potentially productive in oil and gas that have yet to be explored is phenomenal. The volume is very large. It is at least as large as we have already explored and produced from.

Add to that the possibility of secondary and tertiary production from fields that we know about and have yet to discover, and add the potential conservation effects, of having a price rise which will eventually, I feel, be driven back down.

We talk about independence very quickly, but we are not when we withdraw capital from the system at the rate the Senator from New Jersey and his supporters of this amendment would withdraw it.

It is just economic lunacy, if I may use the phrase, to think we can pull that amount of capital out of the system and not have an effect on production. It just does not work that way.

Mr. WALLOP. My friend from New Mexico is capable of giving wisdom to this body with regard to geology as noone else can because of his experience and education.

But is it not true that one assumption that is so totally fallacious about the upper tier oil is that because we found it, it can all be produced, it is in a big hole and all we have to do is sink a pump into it and rock it back and forth, and whatever it cost a few years ago will be the same as now, there are no expenses attendant to producing oil already discovered?

Mr. SCHMITT. The Senator is absolutely correct. Those expenses, we cannot ignore having to drill new exploratory holes, are still considerable.

As I understand it, we can have a producing field that has been defined as tier 3 oil and anything else we do to produce more from that field is a rollback; is that correct?

Mr. WALLOP. Yes.

Mr. SCHMITT. That is how we get to some of this oil.

If the Senator would answer a question, he is more familiar than I, the secondary recovery, how does that fit in?

Mr. WALLOP. Secondary recovery is not considered as, in any way, the socalled enhanced recovery. The only benefits are when we get to tertiary recovery.

As the Senator knows, just from a geologic standpoint, there is absolutely no point at all in engaging in secondary recovery if there is no economic return from it. Really, we put off the day when there is any point in engaging in tertiary recovery, and that is even more bizarre because, ideally, we start enhanced recovery the day of recovery, because we will get as much as we can out of a given structure.

Mr. SCHMITT. The Senator is entirely correct.

Every formation from which we produce oil—I guess we ought to pause and say, as the Senator implied in his remarks, oil does not occur in holes, in rivers, or lakes underground. It occurs in formations of sand, in limestone and other rock types. Every one has its own characteristics of optimum productive rate, of deliverability, porosity, permeability. All these factors and many more go into how fast we ought to produce from that reservoir in order to get the optimum recovery, not only under primary techniques, but secondary, and under tertiary recovery.

It is just not a simple process. It is costly. It is estimated that with simple secondary recovery, we will realize up to one-third more production from most fields, maybe as much as half again as much production.

Mr. WALLOP. The Senator knows something about the business. Senators who may have looked into this, and not have their minds closed, may still be interested in what we are debating.

If we delay or postpone the decision to enhance recovery of whatever levels, secondary or tertiary, if we delay or postpone those decisions because of lack of capital, we are, in effect, diminishing the ultimate pool from which we can draw.

No matter what happens, the longer it is put off, the less likely we will be able to draw the optimum amount of energy from our reserves.

Mr. SCHMITT. As I said, there may be options, reservoir to reservoir, in that statement. But that is generally correct.

We realize that once we tap this generally stable reservoir, once we start to create instabilities by pumping, then it begins to change.

Very frequently, it changes toward a condition that if you do not stay with it, it will mean you have reduced recovery, if you stop the process. You may get saltwater flooding from an underground source of saltwater.

Mr. WALLOP. You can get a flow out.

Mr. SCHMITT. As the pressure is released, it can flow in the other direction. There are a number of problems.

Mr. WALLOP. Obviously, everybody thinks recovery costs very little money, because they do not want to leave enough money to begin to undertake those projects.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. DOLE. It appears that there is yet much to discuss. I hope that some Senators from nonproducing States will visit the floor from time to time and listen to the distinguished Senator from New Mexico, who understands this problem, and the distinguished Senator from Wyoming.

It probably is not very difficult, if you are from a State that does not produce any oil, to come here and zap the oil companies. I can understand that that is the best politics. But the question we have is a little larger than that: What is the best policy? That is why it seems to me we should debate this matter at some length.

I do not see that we are going to have a vote tonight. I assume that the Senator from New Mexico wants to be heard, and I know that the senior Senator from New Mexico wants to be heard, as do the Senator from Texas and the Senator from Colorado (Mr. ARMSTRONG).

I hope that some Members on the other side will want to discuss this issue, because I think a record should be made. Somebody is going to read the RECORD next year and the next year and the next year and make a determination as to whether those of us who opposed the amendment were correct or whether the authors of the amendment, Senator CHAFEE and Senator BRADLEY, were correct.

Does the Senator have any disposition to vote this evening?

Mr. WALLOP. I have none.

Mr. SCHMITT. I have none whatsoever.

Mr. WALLOP. I should like to add to what the Senator has said.

The curious thing about the kind of vote we are about to take is that, despite surface appearances, it is an anticonsumer vote. It ultimately raises the price by diminishing supply and increasing dependence.

From a demagogic standpoint or from a popular standpoint, it is terribly easy to hide behind that vote and say, "I took on the oil companies."

One only has to listen to the remarks of some Senators to know that they cannot distinguish between Exxon and someone who produces out of 20 or 30 wells. They cannot distinguish between the major companies, the Seven Sisters, and the other tens of thousands of people engaged in the industry.

So it is easy to say, "I took them on," and then blame the same companies that could have produced us out of this situation. It is the most comfortable political position one could ask for. Nobody is going to know that it was those who support this increase in tax and those who are the troublemakers, who will be responsible for the dependence of this country and for the decline in value of our dollar, and for the decline in value of our standard of living.

All in the name of consumerism, Congress is nailing the industry.

The responsible way out of this is to take one quiet and clear look and see if there is an ounce of courage that can come with doing what is right by way of this tax.

I yield the floor to the Senator from New Mexico.

Mr. SCHMITT. Apparently, in politics, unlike any other profession—ranching, geology, business, medicine, basketball—if you do not face new facts squarely in the face and adjust your behavior accordingly, you are not going to fail. Not in politics. It does not work that way for some reason.

It is very interesting that apparently the most difficult thing a politician has to do is to stare the facts in the face and change his or her mind. I do not know why it is. We talk about ourselves as professionals. In order to get a pay raise, we say we are professional, that we should be paid accordingly.

All the things we normally associate with professionalism, we take upon ourselves as politicians; but as a group, we have one heck of a time changing our mind, and that is not professional.

If the facts are one thing—commonsense facts, not these models that CBO pulls out of the hat and changes every time somebody has a bill for which they need support; if we look at the total history of this oil and gas dependency with which we are now afflicted, with respect to foreign supply, we will see that every time we increase the cost of production through regulation, every time we increase the cost of production through taxes, we become more dependent on foreign sources of oil.

I guarantee that if this windfall profits tax, so-called, this production tax, becomes law, we will see a steady increase in our dependency on foreign supplies of oil—a steady increase for a whole bunch of reasons, and many of them spelled out in the dissenting views of the report.

I cannot believe that this body cannot rise, as the Senator from Wyoming has said, with courage and say, "We have been wrong since the early 1950's. We have not been doing it right. We have ignored the facts of history as well as the facts of nature."

Nature has put the oil there. Nature has established certain constraints that we modify with technology, but certain constraints about what it is going to take, technologically and economically, to recover that valuable resource.

Then the laws of economics come into play. Supply and demand are still very fundamental, and they do control price, unless you bring in the artificial burdens, excessively artificial burdens, of regulation and taxation. That is what we started to do in the 1950's, first with natural gas. That affected the oil industry, because it meant that the only way the oil industry could compete with natural gas as an energy source, economically, was to go abroad, where it was cheaper to produce. That started the ball rolling, and we have been pushing and shoving that ball in the wrong direction, in the name of what the Senator from Wyoming calls consumerism, but it is an absurd consumerism.

It is absolutely absurd that we would be doing this, because the consumer is going to pay and pay and pay. Then they are going to notice in the Northeast, which the distinguished Senator from New Jersey represents, that more and more of their oil is coming from abroad and that we have no control over that and no way to relieve their burden.

We have to reverse this. We have to be willing to mobilize the most advanced and the most efficient energy industry in the world, which every other country would love to have, lock, stock, and barrel. We have to mobilize to produce ourselves out of this particular dilemma.

We could do it. We could see the light at the end of the tunnel—something other than an onrushing train—within a year or 2, if we would just let it start to happen.

As soon as we were a threat to produce our way out of this thing, you would see that world price start to respond, so fast that it would make your head swim.

Mr. WALLOP. As we approach about 75 percent of self-sufficiency, we will begin to see such a response.

Mr. SCHMITT. Merely becoming a threat, so that they are convinced we are doing it.

Mr. WALLOP. I think the Senator from New Jersey has heard this. One of the objectives of those who wanted synthetic fuels legislation was not so much loan guarantees, not so much purchase contracts, and not so much even funding, but protection against a price rollback from OPEC and the competition they would find suddenly, with a high-priced product on their hands and with low-priced energy competition. Of all the incentives and all the reassurances they wanted most, it was protection against the rollback.

Mr. SCHMITT. Because the people in the business know oil and gas is out there, domestically available. If we started, for some unknown reason, to do the right thing instead of the wrong thing, it would come out of the ground so fast it would make our heads swim.

Mr. WALLOP. Ordinarily, practice makes perfect. But, for some reason or other, after 20 years of practice in the rulemaking business, we still seem to have as yet untested ways to protect the productive life of this country.

Perhaps after another decade of regulation through taxes instead of regulation through price controls we will have found the most devilish of all disincentives to production within this country.

But maybe, just maybe here in this year we might see our way through to rid ourselves of this unnecessary burden.

I thank the Senator.

Mr. SCHMITT. It is discouraging for us to have to stand here and talk about another 10 years of this foolishness because I do not think we have another 10 years. I am not sure we have another 2 weeks. Heaven only knows what is going to happen because of the state of affairs that we brought ourselves to, this dependency on foreign oil, and it is a dependency that has been built right here in Washington since the early 1950s. Sure there have been a lot of contributors to it. I am not going to justify the actions of the multinational oil companies. I do not trust them any more than anyone else does. Any oil company that is owned primarily by foreign investors is not necessarily going to look after the interest of this country.

But when we are talking about a domestic oil industry, one that is owned by stockholders, pensioners, and others in this country, who depend not only on the resources of that company and its capabilities but also on the country itself existing, then we are talking about Americans. We are talking about people who are going to do the best they can within the free enterprise system. What that system needs most of all from the Government is a referee, not a manager. What we became in the 1950's was a manager of that system with respect to the production of energy, and we have failed. We here in Washington have failed as managers. We do not know how to do it. It is too complex. There is no one here in Washington even in aggregate who can regulate or manage by regulation and taxation an industry as complex as the energy industry. But we are trying and we are going to continue to try because we are afraid to let that system work and it is a system that every other country in this world would love to have because they know it works and they are scared to death of it because of us. But right now thev see we are not going to let it work. So what do they do? They take over our embassies. Cubans go all over Africa. We have no credibility any more because of many reasons but fundamental and starting back in the 1950's was this theory developed here in Washington that somehow Congress and the bureaucracy could manage an industry better than the industry itself could.

Mr. **WALLOP**. I agree with the Senator.

Will the Senator yield to me for purposes of unanimous consent?

Mr. **SCHMITT**. I yield.

AMENDMENT NO. 709

Mr. **WALLOP**. Mr. President, I send an amendment to the desk and not ask that it be called up in any way but that it be printed and lie on the table.

The **PRESIDING OFFICER**. The amendment will be received, printed, and lie on the table.

Mr. **SCHMITT**. Mr. President, I believe that the Senate, if not in this debate then in the not too distant future, is going to have to face up to the crisis it has created, along with its sister body, along with Presidents who have come and gone, along with an industry that has not acted responsibly when it should have, and along with an American public that has not paid attention when the Government was doing the wrong thing.

But somewhere in the not too distant future I am afraid that all the swallows are going to come home to roost. We are starting to see a few of the early arrivals in the situation we face in Iran and in other situations that we probably will face in the not too distant future.

And it is very disheartening to this Senator, who has grown up in an industry where natural resources have been produced and utilized by our civilization to its betterment, clearly before we understood the extent of damage that mankind can do to its environment or at least before we started to pay attention to that there were abuses.

But now with that understanding and with the modern technologies that were coming so rapidly a few years ago but now have also slowed down because of regulations and taxes, but with those technologies and what we know we can do with them we can find that dynamic balance between the production of our natural resources and the utilization and the conservation of the environment. But we seem somehow or another unable to gather ourselves to find that balance, to gather our intellectual, technological, and personal resources to the point where we begin to move toward the next century and into that century with an independence that benefits our station in the modern world.

Mr. President, that station is an exciting one. To some degree it is a dangerous one, because we are the protectors of a very fragile seed that we sometimes call "individual freedom."

Mr. President, if we fail in the protection of that seed, there is no one else to pick up the spear, to pick up the flag, to carry forward in a very hostile world the ideas and concepts that are embodied in the 200-year history of this country. It has not been a perfect history. No one will claim that it has. But it has been an exciting one. It has been one that has maintained individual freedom as a guiding light for all of the oppressed people of the world and all we have to do is look to where those people that have known oppression come to know that they understand what this country has stood for in the past.

The question is will it continue to stand for that? I am not sure, Mr. President. I do not know anyone in this body who can with certainty say they are sure because of the kind of problems that we are putting upon ourselves with measures such as that facing us today.

Mr. President, we do have within the borders of this country the capability to produce our way in environmentally sound ways, technologically sound ways, and economically sound ways, out of this mess. But I am sorry to say that with very minor exceptions the energy proposals that I have had the privilege to vote on as a representative of the State of New Mexico have done nothing to solve that problem. Unfortunately they have accelerated our difficulties.

Again, Mr. President, there are unbelievable resources of oil and gas, coal, uranium, and geothermal energy yet to be produced. They cannot all be produced at once. In the short term we need to produce more oil and gas and utilize oil and gas. It certainly is for the short term the most environmentally acceptable set of fuels along with the proper, wise, and safe use of nuclear power. There is no better combination for the environmentalist.

Before we can fully utilize the coal resources, we must solve many environmental problems. Most of all, we must solve the regulatory problem. We just cannot get it produced and utilized as fast as it would be nice to do so.

Geothermal and solar are exciting new sources brought forward now by new technologies. They are not going to give us a significant degree of independence for a decade or so, but they have to be pushed in an organized, systematic, step-by-step way.

Of course, with our modern technologies we know a great deal about how to make energy conversion more efficient. But again through a variety of tax disincentives, regulatory problems, we are not building an efficient energy conversion system in any aspect of our society as we should be.

This amendment we are considering would further reduce the availability of an essential natural resource that makes all other natural resource available in our system, and that is capital.

The bill by itself, without the amendment, is bad enough, and this Senator would oppose it just on the basis that it applies a massive new tax on our economy, ultimately borne by the consumer, that we do not need in this period of inflation, of economic stagnation.

But to then raise that tax, as this amendment would, just adds absurdity upon absurdity.

We need to produce energy in this country, Mr. President, and we are going to have to mobilize in the short term, in the intermediate, and in the long term every resource available to us to produce energy, and one of those resources is money, and one of those resources is the free enterprise system. The domestic oil and gas industry is part of that system. They can do it. They know how to do it. They have done it all over the world. Where do you think these fields came from in the rest of the world? They came because we drove our industry abroad. We made it uneconomic for them to produce here.

They can come back. They are here, and they will produce. Yes, they need a referee, that is obvious from the abuses we have seen. But that has always been obvious within the free enterprise system. In this century we finally got wise, and for a while at least started to set up a refereeing capacity within the Government to see that the free enterprise system was a game that was played fairly. We began to work on seeing that a few of the abuses that were put on the many by taking advantage of the system were gradually weeded out. But then we went beyond that and forgot that refereeing function and ceased to do it very well in hopes that managing the system somehow would be better.

It obviously is not because as we started to go in this energy system, as I said earlier, in the 1950's we became more and more and more dependent on foreign resources, and there was less and less search for domestic resources.

Now, Mr. President, there have been many learned papers in my profession, in the profession of economics, and in others concerned with energy on just what our resource base is in this country. I tend to take a very simplistic approach because I think that is the easiest for everybody to understand, and usually the simpler the approach the more likely it is to be right.

There is available for exploration and discovery of new oil resources as large a volume of favorable rocks, sedimentary rocks, on shore in the 48 States and Alaska, 48 contiguous States and Alaska, as much a volume of rock as has produced 300 billion barrels to date. Total production, or the total discovered primary production, of oil in the United States to date has been 300 billion barrels. Fifty billion of that yet remain to be produced, approximately. There is at least that much potential production from places we have never even looked, we have never drilled holes.

Mr. President, you add to that the fact that that 300 billion barrels represents only one-third of the total oil in the reservoirs discovered, and then you have potentially available another massive resource of oil for this country through secondary and tertiary recovery techniques, and it is generally felt that in a given field another one-third of the production can be realized.

Now, many of the fields from which those 300 billion barrels have been produced have been abandoned, and it would be difficult to go in and begin a new secondary or tertiary production technique unless, Mr. President, the capital is there and unless the price incentive is there.

But one can imagine that within the total area of where the volume of rocks from which we know we can produce oil, that another 200 billion to 300 billion barrels of oil can be produced in the right economic environment.

The same story goes for natural gas, with the added interesting possibility that natural gas-bearing brines of the gulf coast region are estimated to contain resources capable of supplying our natural gas needs at present rates of consumption for over 1,000 years.

The technology is not quite here, and the economics are not quite clear for producing that methane from those geopressure brines but, nevertheless, it is a future energy resource we can consider.

I guess the bottom line, Mr. President, is that if we really in this Government want to get out of this mess, this absurd situation we are in, where a country of the size and richness of this one is now held political hostage by another government just because, initiated because, of energy problems, if we want to get out of this we are going to have to mobilize that industry. We are going to have to put it to work and tell it that its task is to help get us out of this. Under the proper situation, Mr. President, I have no doubt that they will.

Mr. President, as so many have indicated, unfortunately not enough have indicated, but a number have indicated, they see a degree of absurdity in our debate that we would, as the principal exponent of a free enterprise in the world, although other countries seem to have found other ways to cultivate it than we have in recent times, but nevertheless, as the principal exponent of the free enterprise, that we would be taking so many steps, as we have over the last several years, to cripple that free enterprise system.

I, of course, cannot speak for the entire country, but I can certainly speak for the people of New Mexico on this particular subject. They are very, very much free enterprise-oriented. Most New Mexicans either own their own business or work within a small or medium-sized business or would like to own their own business or be their own boss, and that includes, of course, our New Mexico oil and gas industry.

The oil and gas industry is probably one of the best examples of how the American spirit works and, particularly, the independents. I have always felt if the independent oil and gas producers were not independent oil and gas producers they would all be gamblers in Las Vegas, either that, or farmers. The Senator from Kansas knows well that there is no greater gambler in this world than a farmer who every year plants a crop with great belief that that crop is going to come in and it is going to bring him a profit or at least pay the costs.

Well, that is free enterprise. It is a lot of people believing that they can do something in a free system that benefits themselves, and I think in most cases they feel it benefits their families and their fellow citizens. We always have to add the caveat that there are some who would abuse that system, but in the punishment of abuse, we should in fact deal with the specific abuser and not with the entire system. Unfortunately, over the last several decades, we have more and more come to try to deal with individual abuses by blanketing the entire system with new regulations or taxes or other disincentives for the system to operate, until we have reached a point where there are no more margins left.

I am sure the Senator from Kansas, as much as anyone else, realizes, as he has traveled over the country for the past few months, that everybody is running on a margin, and there are not billions of dollars a year to pull out of the economy and not expect the economy to react in a negative way. It is reacting in a negative way.

Frankly, I think we no longer understand our economy, with inflation running at 15 plus percent, maybe more in many endeavors, with what used to be classic policy obviously not working to do anything at all with that inflation except maybe accelerate it, with business slowing down because capital costs too much or there is not enough of it—all these things tell me we do not understand the situation in any respect. If we add to that the burden not only of the bill, but the bill aggravated by the amendment offered by the Senator from New Jersey, we may just destroy the margin completely.

It is not just the oil industry that we are talking about. This is a burden on the entire economy. One way or the other, it is felt throughout the system. One way or the other, the consumer is going to end up paying. And the only way we are ever going to change that situation without further aggravating inflation by printing more money is to increase our domestic supply of energy; and there is no way that anyone who has followed this long debate of several decades, and who has understood what has been the core of that debate, can say that an additional tax such as this bill and this amendment would provide is going to increase the domestic supply of energy; it just is not going to happen.

If it is argued that this tax is necessary in order to create synthetic fuels, that is not going to happen—if ever, certainly not for several decades. It just is not going to happen in the time frame in which it is required.

That time frame is yesterday. The only way we are going to produce oil and gas as if we had it yesterday is to produce it ourselves, and to provide the incentives out there so that the greatest energy industry in the world and in the history of mankind can go do it for us.

Let us use those people. Let us put them to work for the country. Let us produce crude oil, as we know we can and as we know it is available to be produced. As soon as we do that, you will see the world begin to respond to us instead of the United States having to respond to the kinds of situations that we face in Iran, that we face in the Middle East, that we face more and more in South America, and that we will face elsewhere in ways unpredicted so far around the world.

We must regain control of our destiny, Mr. President, because right now we have lost it. If we continue to put forward the kind of legislation that we have over the last 3 years, and unfortunately building on top of many other years, that discourages the very strength of this country from exercising itself, the strength of free enterprise, the strength of production, of a positive American attitude that we can do things rather than that we cannot do things—if we continue to do that, then history, if it is written, if anyone is left around to write it, will chastise us like no other nation and no other society and no other civilization has ever been chastised.

Mr. President, we have it in our grasp—I almost said we had it in our grasp, but I do not want to be that pessimistic. If we look at what the total capability of this country is and what the total capability of the innovative spirit of Americans is, and then we look at the range of problems that afflict the human condition on this Earth, we can, for the first time in human history, see a map. We can see that through free enterprise, through the technological and innovative resources of the United States and its allies, we can begin to make inroads into the destruction of the basic problems of the human condition—hunger, poverty, disease, misunderstanding, and, most serious of all, ignorance.

But it will not happen, Mr. President; it will not happen, many believe, unless we are around to make it happen, and we are not going to be around to make it happen unless we begin to exercise some commonsense in our dealing with these very complex problems of energy supply, of world economics, of our national defense, of our national economy, and of the power that other nations have over us. They are all related, Mr. President. We cannot separate one from the other.

I often try to think, as many other writers have done, of a Martian who could understand our language and could collect and synthesize all of our debates and media accounts—all the information that would be available to him—and evaluate it all to his satisfaction.

I assume that he would begin thinking in our own vernacular. I just cannot help think that he would agree with those in this body that would find a great deal of absurdity in our situation, where a country that had begun to move its civilization away from the planet Earth into space itself, suddenly finds itself on the verge of economic collapse, subject to international blackmail because of a dependency on energy and potentially other resources, being thought of as a second-rate defensive power in many aspects, having in a short space of 10 years lost control of its destiny.

Mr. President, I do not think we have fully lost control, but I think we are certainly definitely in what my pilot friends would call a pilot-induced oscillation (PIO). There is nothing more frightening when you are landing an airplane than to find that your response to an airplane is unsynchronized with the response of the airplane. And that is what we call a PIO, pilot-induced oscillation. And if I ever saw a political analogy to a pilot-induced oscillation, it is what we are in with respect to energy.

Our legislative initiatives are completely out of sync with the real problem and with the system that is reacting to those legislative initiatives. The net result in this situation is that we are going unstable. That is the result of a PIO in the airplane if you do not take your hands off the controls. And that is the solution to getting out of a PIO in an airplane. You take your hands off the controls and let the airplane stabilize itself and then you start flying it again. It does not take very long. You just take your hands off of the controls.

What we are doing, we are clamping down on that control stick and we are trying to move it in ways that the system will not react to. And it is getting worse and it is getting worse and it is getting worse.

Now these kinds of analogies, of course, do not always bear out, but those of my colleagues who have some flying experience and may have experienced a PIO would probably understand what I am talking about—that we really must be willing to take our hands off the controls to reduce the tax burden on the free enterprise system, to reduce the regulatory burden on that system, to do those other things that are necessary to stimulate them, to begin to respond to the real world.

If we do not do that, as the Senator from California (Mr. HAYAKAWA), who I see in the Chamber, has so articulately discussed on this floor, we will begin to see the system disappear.

I will never forget the junior Senator from California—though I find that an incongruous statement—discussing the bottom rungs of the ladder when we were debating, I believe it was, the issue of labor law reform, if I remember correctly. At that time, he made it clear that the bottom rungs of the ladder for the small business person, and particularly the minority person, were disappearing. They could not reach the ladder any more and regulations and taxation were chopping it off at the bottom. I could not agree with you more. All you have to do is look at the statistics and you know that is happening.

Now we are working our way up the scale. Not only is the system no longer accessible to the small business person, the minority business person, it is becoming inaccessible to the medium sized and larger companies. There are many reasons for Chrysler's problems. But it is related to the same kind of thing. The Government is overmanaging the system.

If Chrysler could not hack it, then fine. But now we are not quite sure whether it was because Chrysler could not hack it or the Government could not hack it. How we settle that one we will just wait and see. But in this particular case, we are continuing to chop away at the rungs of the ladder of national survival.

DOMESTIC ENERGY FOR THE FUTURE

● Mr. BAYH. Mr. President, it becomes clearer every day that energy is the Achilles heel of our Nation. To the extent that we remain independent on foreign nations for the energy we need to heat our homes, power our factories and run our automobiles, we cede increasing influences to foreign leaders over our economy, foreign policy and national security. Energy dependence is contributing substantially to our troubled economic picture. It is reflected each day in the price of consumer goods, home energy supplies and preventative measures taken to guard against supply interruptions. It is vitally influencing our relations with other nations and ability to respond to events around the globe. These painful realities demand the best efforts of the Senate to devise solutions which will enable us to get a grip on energy costs, and formulate a comprehensive strategy which will help us assure that our energy needs, in both the short- and long-term, are met.

The situation today is increasingly alarming. In 1980, this Nation will likely pay as much as $70 billion to import over 8 million barrels of oil per day. These purchases will have a tremendous impact on our balance of payments, and further weaken the position of the U.S. dollar. Over the past year, we have experienced gasoline lines and warnings about the insufficient supplies of middle distillate fuels. In the wake of our recent termination of imports from Iran, we may again face a supply shortfall come January.

Against this background, the Senate has been considering a series of legislative proposals, the most recent of which was S. 932, an omnibus energy bill dealing with alternative fuels and conservation. In passing this legislation, I believe the Senate has expressed a clear commitment to reduce dependence on foreign oil by stimulating the production of a range of alternative fuels and backing out foreign oil by much greater efforts at conservation.

Several principles guided me in my consideration of this legislation, Mr. President. At the top of my list was the imperative need to find ways to cut our reliance on imported oil. The turbulence in Iran which concerns us all so much today is only the most recent reminder of the extent to which this Nation is hamstrung by our continued dependence on foreign oil. Second, was my strong desire to find a mechanism to exert downward pressure on the OPEC cartel's control of energy prices. Third was the desire to make the Federal Government a stimulus, and not a roadblock, to critically needed energy projects. Finally, I thought it was critical to demonstrate the depth of our national commitment to increasing our energy independence, and reducing our drain on world oil supplies, through conservation and technological innovation.

As adopted by the Senate on November 8, S. 932 provides Federal incentives for private sector development of the vast coal, oil shale, tar sand, and biomass resources of this Nation to produce enough energy to reduce our oil imports by 1.5 million barrels per day in 1995. It is a clear signal to the OPEC nations that we are no longer willing to sit idly by and watch them charge more and more for less and less energy. The development of alternative fuels will assure that down the road there will be a cap on OPEC price increases, which will allow us to regain a measure of control over our economy. I believe that may be one of the most important national security steps we take in the years ahead. S. 932 complements this effort by providing financing for individual investments for solar and conservation devices. Finding a means to induce millions of individual Americans and small businesses to invest in conservation and solar equipment is challenging—but can be enormously effective.

ALTERNATIVE FUELS

Mr. President, in considering the alternative fuels portion of this legislation, the Senate was presented with two options—a limited research and demonstration program recommended by the Banking Committee and an aggressive commercial program recommended by the Energy Committee. I supported the latter which was approved by the Senate by a vote of 57 to 32. The Energy Committee's recommendations provide for establishment of an independent financial institution, the Synthetic Fuels Corporation, which will offer Federal incentives to stimulate large scale alternative fuel production. Such an institution is apparently needed, Mr. President, to reduce the risks to private industry associated with such investments to the point that it is willing to dedicate capital and expertise to developing alternative fuels. Such projects require extraordinarily large investments, in many cases $2 to $3 billion for a project that will take 7 years to complete and uses technology that has yet to be tested on a commercial scale even though it is considered ready for such applications.

The Synthetic Fuels Corporation will function as a risk absorber, Mr. President, extending types of financial incentives to industry, tailored to meet a variety of needs. In descending order of priority, these are purchase and price guarantees, assuring investors they will have a market if they initiate a project; loans and loan guarantees, assuring financing for those who would invest but are turned down by the banks; and joint ventures by the Corporation and private industry for project "modules" of demonstration size, as well as a limited number of Government-owned, contractor-operated facilities (GOCO's). GOCO's would be used as a last resort—to assure the start of production if private companies are initially relucant to try a new but promising technology. The Corporation would also be empowered to reimburse alternative fuel producers for costs resulting from regulatory change or delay—another type of uncertainty that has retarded energy development.

I think it is important to stress, Mr. President, the very narrowly defined role the Senate intends GOCO's and joint ventures in alternative fuel development. S. 932 places a premium on private sector initiatives and limits GOCO's to three. It clearly states that they would be a tool of last resort, permitted only if the technology in question is promising and will not be developed without Government participation. The legislation also restricts GOCO's to the first 5 years of the Corporation's 10 year authorization. None are permitted thereafter. Similarly, joint ventures will be permissible only in the first phase of the 10-year effort, and Federal participation is limited to 75 percent of such an enterprise. If the venture proves successful, the Government's equity interest is to be sold to the private partner. If the venture does not succeed, the Government will take control of the facility with the clear requirement that it find a private buyer.

Mr. President, this is not a program designed to get the Government involved in energy production, as the comments of our colleagues on both sides of the aisle attest. However, it is a program that insists that promising technologies, using domestic resources, will be tested whether or not it is in the particular business interest of our large energy companies or not. I believe that these companies, the huge multinational oil companies, have been calling the shots too long, based on what is in their own interests and not what is in the Nation's interest. They have to be told right now that if they are not willing to move ahead—because alternative fuels might make their gas and oil reserves less valuable, that progress is going to be made anyhow; that we are going to develop new energy sources to displace our domestic oil and gas supplies, and that while we would prefer them to take the lead, we are going to move ahead without them if necessary.

Mr. President, we cannot overlook the pivotal role that the giant, multinational oil companies have played in this regard. They have the dollars and know-how to launch a synfuels industry. But they have not and would rather wait, while they continue to sell oil at outrageous prices, and develop alternative fuel later. While this is unfortunate, we can wait no longer. And I believe when they realize that we are committed to an aggressive program of synfuels development, they will jump on the bandwagon. In the past, the oil companies have been strident opponents of any new initiatives which might cut into their profit margins or provide competition for their products. But corporate managers will soon see the writing on the wall, and the oil companies will doubtless come to recognize that their interests can be advanced along with the public's through synfuels development.

TWO-PHASE APPROACH

Mr. President, the Congress will have an opportunity to assess the effectiveness of the Corporation midway through its existence. As a result of an amendment offered by Senators JOHNSTON and DOMENICI, which I was pleased to cosponser, the 3-year phase I initially provided for in the Energy Committee bill was extended by 2 years. During this time, the Corporation will gain experience with alternative fuels financing and recommend a final strategy to the Congress to meet our production goal of 1.5 million barrels a day by 1995. Twenty billion dollars is provided for incentive programs during the first 5 years, which should induce sufficient private sector investment to provide for 10 to 20 alternative fuel plants utilizing varied technologies. The bulk of the funding for large-scale production will follow these initial steps, and the amount will need to be decided and approved by the Congress.

At this midway point, the Synthetic Fuels Corporation will submit an alternative fuels development strategy to the Congress. Under our amendment, both the House and the Senate will have to approve this strategy prior to its implementation. This is a significant change from the original Energy Committee provisions, which allowed only for a congressional veto of the plan. But calling for affirmative action by both Houses of Congress, we have provided a check on the Corporation, the opportunity for mid-course corrections, and the ability to decide on an appropriate funding level after additional experience and at a point closer in time to the need to authorize such funds.

ALCOHOL FUELS

S. 932 incorporated two separate proposals for Federal assistance for alcohol production, demonstration, research and outreach. One of the gasohol provisions, which I cosponsored along with Senators CHURCH and JOHNSTON, authorizes the establishment of an Office of Alcohol Fuels Production within the Department of Energy. This Office will centralize efforts and focus attention on the potential for alcohol fuels, and will be responsible for overseeing the development of a domestic alcohol fuels industry. Hopefully, the office will encourage a variety of producers to play a role. The Office will have the authority to offer three types of financial assistance—loan guarantees (up to 90 percent of the cost of a facility), price guarantees, and purchase commitments. S. 932 authorizes $400 million in Federal outlays and obligational authority of up to $1.2 billion for the incentive program. One third of this assistance is earmarked for small scale plants. The legislation also sets goals of 920 million gallons of alcohol to be produced by 1982, and the replacement of 10 percent of gasoline with alcohol by 1990.

The legislation also incorporates provisions of S. 1775, a measure introduced by Senator TALMADGE of which I am a cosponsor, the Agricultural, Forestry and Rural Energy Act of 1979. The provisions in this area adopted by the Senate would require the Secretary of Agriculture to implement a comprehensive agricultural, forestry, and rural energy use and conservation program for the development and production of alternative fuels for biomass. Authority is provided in the legislation for the Secretary of Agriculture to assist projects for agricultural and forestry energy production by providing grants, loans or loan guarantees. The annual authorized funding levels for these programs are $100 million for demonstration grants, $250 million for loans for commercial and on-farm biomass energy projects, and up to $500 million for guaranteed loans through the Commodity Credit Corporation for commercial and on-farm projects.

Alcohol fuels—especially ethanol—are one of a very limited number of options for extending our liquid fuel supplies, which is our immediate problem, and cutting down on petroleum consumption. The key objective is the reduction of our dependence on foreign oil. The development of alcohol fuels will mean fewer dollars going overseas, more jobs here in the United States, an expanded market for agricultural products, less vulnerability to a cut-off, and some additional protection against oil price increases—a major factor firing inflation. We have already seen this year what a small shortage can do to our society and economy. Increasing domestic liquid fuels by a relatively small percentage—even 5 to 7—can protect us from such disruptions and exert downward pressure on OPEC prices.

CONSERVATION

S. 932 also addresses the important role that conservation must play in our future energy policy. Reduction of imports through conservation is the quickest and cheapest way to make a dent in our dependence on foreign oil. It is also an essential complement to the production incentives in S. 932, which cannot produce results for 5–7 years because of the long lead times associated with getting alternative fuels plants on line.

Title IV of S. 932, the Energy Conservation Act of 1979, encourages energy conservation through the creation of programs to assist and encourage the residential and commercial use of energy conservation measures and devices. Studies have indicated that as much as 75 percent of home energy costs could be saved through improvements such as additional insulation, weatherization, window improvements, and furnace modifications. The report of the energy project at the Harvard Business School concluded that this country can reduce its overall energy usage by 30 to 40 percent if we exploit energy conservation to the maximum.

While we have provided tax credits to encourage homeowners to make energy improvements such as insulation, we must recognize that many families cannot afford the large downpayments often needed to finance such improvements. Therefore, we must provide affordable financing packages to small businesses and lower and middle income families so they can take advantage of effective conservation techniques—thus lowering their own energy bills while cumulatively reducing our national energy consumption. S. 932 attempts to do this by creating an Energy Conservation Bank to dovetail with private lending institutions and make low interests loans available to owners or renters of commercial and residential buildings for the purchase and installation of energy conservation equipment.

The Conservation Bank will be affiliated with an experienced and on-going operation—HUD's Government National Mortgage Association—and will make payments to banks and other financial institutions which are willing to then make low-interest loans to consumers for energy conservation improvements. The interest rates to borrowers participating in this program can be as much as 6 percentage points below the market rate. Residential loans of up to $2,500 will be available, with an initial limit of $50,000 on loans for commercial buildings. These limits will be increased by 10 percent on January 1, 1981 and again each January 1 until the program expires in 1985.

This omnibus legislation, Mr. President, is a clear indication of the determination in the Senate to reestablish control over our national destiny. It is exhilarating, to this Senator at least, to feel that we have put our decisions pretty much behind us and are developing a consensus to stop talking and start doing. I hope our colleagues on the House side will agree to resolve House-Senate differences as rapidly as possible. Our time is running out.●

Mr. SCHMITT. Mr. President, I believe the majority leader would like to propound a unanimous-consent request, but would leave me with my rights to the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New Mexico.

Mr. President, I ask unanimous consent that Mr. JACKSON may be recognized for not to exceed 10 minutes, to call up a conference report, that a vote then occur, with no further time for debate; and that the 10 minutes also include the discussion on a concurrent resolution making a technical correction, as I understand, in the conference report. So the overall time for both items would be not more than 10 minutes.

Mr. JACKSON. That is agreeable.

Mr. ROBERT C. BYRD. This would be without prejudice to Mr. SCHMITT. He may be recognized again, without constituting a second speech, following the disposition of the conference report and the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, reserving the right to object, I understand that this has been cleared with the minority side.

Mr. ROBERT C. BYRD. May I ask the distinguished manager of the conference report (Mr. JACKSON) if he knows of any reason why the minority would object to the taking up of this conference report?

Mr. JACKSON. Mr. President, the conference report is unanimous. It was participated in by Senator HATFIELD, the ranking minority member of the Energy Committee, and Senator MCCLURE. Everyone signed it. It involves simply the extension of the antitrust waiver provision of the International Energy Agency until March 5, 1981.

Mr. SCHMITT. Mr. President, with the understanding that there are no objections on this side, I will not object.

Mr. JACKSON. I can assure the Senator that there is no problem on your side of the aisle.

Mr. SCHMITT. It has just been brought to my attention that the minority leader also agrees to it.

EXTENSION OF INTERNATIONAL ENERGY PROGRAM—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on S. 1871 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SARBANES). The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1871) to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. JACKSON. Mr. President, under the terms of the International Energy Agency Act, in which the United States is a participant, we have had a provision providing for waiver of antitrust laws as it pertains to the participation of the major oil companies, provided that they meet certain conditions set forth under the act and that there be present a representative of the Federal Trade Commission and the Department of Justice.

Mr. President, we passed an extension of that authority which would expire on June 30, 1980, as passed by the Senate. The House sent the bill back and set the date at October 31, 1981. We reached a compromise in the conference today for March 15, 1981.

Mr. President, this is an urgent matter. The existing law and authority will expire on Friday, the 30th of this month. Hence, the need to act. The conference report was unanimous. There is no controversy on the legislation before us. I would ask and do move the adoption of the conference report.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I yield back whatever time was previously allocated.

Mr. HATFIELD. Mr. President, I yield back our time.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Alabama (Mr. HEFLIN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Iowa (Mr. JEPSEN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware

(Mr. Roth), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber who have not voted and desire to vote?

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—83

Armstrong
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Zorinsky

NAYS—0

NOT VOTING—17

Baker
Bayh
Biden
Byrd,
  Harry, F., Jr.
Heflin
Jepsen
Johnston
Kennedy
Nelson
Packwood
Percy
Pressler
Ribicoff
Roth
Stennis
Weicker
Young

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION IN ENROLLMENT OF S. 1871

Mr. ROBERT C. BYRD. Mr. President, under the order that was entered with respect to a resolution to be introduced by Mr. Jackson, which was covered by the agreement, and on Mr. Jackson's behalf, I send to the desk a resolution making technical corrections in the bill for which the conference report was just adopted. I ask that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

S. Con. Res. 55

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 1871) the Secretary of the Senate shall correct the title of the bill by striking out "for 2 years" where it appears therein.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order entered on a unanimous consent request, the Chair must now recognize the Senator from New Mexico.

Mr. PROXMIRE. Mr. President, will the Senator yield me 1 minute to act on a conference report?

Mr. SCHMITT. I will yield to the Senator in a moment, as soon as I determine what the course of events will be for the remainder of the evening.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield.

Mr. DOLE. I cannot suggest what the course of events will be for the remainder of the evening, but I will say that it is hoped that tomorrow noon, those Senators who have an interest in overturning the results or have an interest in the Bradley-Chafee amendment would have a chance to meet. At that time, we could discuss the impact of the amendment and what should be done about it.

I have notified the majority leader and the acting minority leader that we would do that, and that we would report back to the majority leader and Senator Stevens in 20 or 30 minutes. At that point, we could advise what our strategy was, if we had one.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield to the majority leader, without losing my right to the floor.

Mr. ROBERT C. BYRD. The distinguished Senator from Kansas did say to me that once the Finance Committee has met tomorrow in respect to another matter for which a meeting was scheduled previously, at circa 12 o'clock, he and other Senators would meet and that within, say, 30 minutes, they would have discussed the pending matter and their strategy thereon, and he would so inform me and the distinguished acting Republican leader.

That being the case, I am willing, if all Senators are willing, to go out within the next few minutes, after other Senators have had their say and the distinguished Senator from New Mexico has completed his talk, with no rollcall votes tonight.

Mr. DOLE. The point I make is that I hope nobody considers what little time we have spent to be even extended debate. I do not want to leave the impression that we are about to launch into some filibuster to kill the entire package or any portion of it. But we think we should have the opportunity to meet and discuss it, because this does impact heavily on some States, and some Senators have very strong views on the matter. I just want to make that clear.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield.

Mr. STEVENS. I ask my good friend from New Mexico if he will yield to the Senator from Wisconsin to take up this conference report. I understand that a rollcall vote will not be requested.

Mr. SCHMITT. I will yield, with the understanding that we can continue to discuss this matter tomorrow and that there will be some time for discussion between the Senator from Texas and the leadership in order to determine what next is going to be done.

Mr. ROBERT C. BYRD. Yes. Once the Senate resumes its consideration of the pending business tomorrow, the same question will then be pending as is now pending.

Mr. SCHMITT. With that understanding, I am happy to yield the floor to the Senator from Wisconsin.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

CONSUMER CHECKING ACCOUNT EQUITY AND MONETARY CONTROL ACT OF 1979

Mr. PROXMIRE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4986.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 4986) entitled "An Act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes", with the following amendment:

In lieu of the matter proposed by the amendment of the Senate, insert:

SHORT TITLE

Section 1. This Act may be cited as the "Consumer Checking Account Equity and Monetary Control Act of 1979".

TITLE I—CONSUMER CHECKING ACCOUNT EQUITY ACT OF 1979

Sec. 101. This title may be cited as the "Consumer Checking Account Equity Act of 1979".

Sec. 102. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consist only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

SEC. 103. Section 2(a) of the Act entitled "An Act to extend certain laws relating to the payment of interest on time and savings deposits, to prohibit depository institutions from permitting negotiable orders of withdrawal to be made with respect to any deposit or account on which any interest or dividend is paid, to authorize Federal savings and loan associations and national banks to own stock in and invest in loans to certain State housing corporations, and for other purposes", approved August 16, 1973 (12 U.S.C. 1832(a)), is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), a depository institution may permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

SEC. 104. (a) Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations in accordance with regulations prescribed by the Board."

(b) Section 5(c)(1)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(A)) is amended by striking out the period at the end thereof and inserting in lieu thereof "and loans specifically related to negotiable order-of-withdrawal accounts.".

SEC. 105. (a) Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended by striking out "or share certificats" each place it appears therein and inserting in lieu thereof ", share certificate, or share draft account".

(b) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out "credit unions serving" and all that follows through the end thereof and inserting in lieu thereof "credit unions serving predominately low-income members (as defined by the Board) payments on—

"(A) shares which may be issued at varying dividend rates;

"(B) share certificates which may be issued at varying dividend rates and maturities; and

"(C) share draft accounts authorized under section 205(f);

subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board.".

(c) Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended—

(1) in the first sentence—

(A) by striking out "and" the second place it appears therein and inserting in lieu thereof a comma; and

(B) by inserting ", and at different rates on different types of share draft accounts" before the period at the end thereof; and

(2) in the second sentence, by striking out "and share certificates" and inserting in lieu thereof ", share certificates, and share draft accounts".

(d) Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

"(f)(1) Every insured credit union is authorized to maintain share draft accounts in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft accounts and may permit the owner of such share draft account to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to accounts which consist solely of share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

SEC. 106. The amendments made by this title shall take effect on December 31, 1979, except that the amendment made by section 103 of this title shall take effect on September 30, 1980.

TITLE II—MONETARY CONTROL ACT OF 1979

SEC. 201. This title may be cited as the "Monetary Control Act of 1979".

REPORTING REQUIREMENTS

SEC. 202. Section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)) is amended (1) by inserting "(1)" immediately after "(a)", and (2) by adding at the end thereof the following new paragraph:

"(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions for all liabilities specified in sections 19(b)(1)(A) and 19(b)(1)(B) of this Act, and (B) to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State nonmember banks, (ii) National Credit Union Administration in the case of insured credit unions, (iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation or which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to avoid unnecessary burdens on reporting institutions and the duplication of other reporting requirements, and any data from such reporting requirements shall be made readily available to the Board. The Board may classify depository institutions for the purposes of this paragraph, and may impose different requirements on each such class.".

RESERVE REQUIREMENTS

SEC. 203. (a) Section 19(a) of the Federal Reserve Act (12 U.S.C. 461) is amended (1) by changing "member bank" to read "depository institution" each place it appears therein, and (2) by adding at the end thereof the following: "The Board shall exercise its authority to define the term 'deposit' when applicable to reserve requirements of nonmember depository institutions after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.".

(b) Section 19(b) of the Federal Reserve Act is amended to read as follows:

"(b) RESERVE REQUIREMENTS.—

"(1) DEFINITIONS AND RULES.—The following definitions and rules are applicable for the purposes of this subsection:

"(A) The term 'category A deposits' means, with respect to any depository institution, the total amount of demand deposits, savings deposits subject to automatic transfers, and deposits subject to negotiable or other payment orders of withdrawal (except deposits subject to six or less withdrawals or transfers per month telephonically communicated to the institution by the depositor or the depositor's representative), or to any similar instrument used to make payments or transfers, in that institution.

"(B) The term 'category B deposits' means, with respect to any depository institution, the total amount of time deposits with initial maturities of less than 180 days, exclusive of the total amount of short-term personal time deposits, in that institution. For the purposes of this subparagraph, the term 'short-term personal time deposit' means a nonnegotiable, nontransferable time deposit with an initial maturity of less than 180 days which is held by a depositor who is a natural person, and in which the entire beneficial interest is held by such depositor.

"(C) A reference to net deposits of any given category in any given institution refers to the amount by which the institution's total deposits of that category exceed its exemption for that category.

"(D) Except as provided in paragraphs (7) and (8), no reserve ratio outside the limits specified for any given category may be imposed with respect to any deposits in that category.

"(E) The term 'bank' means any institution which is neither a nonmember savings bank nor a nonmember mutual savings bank as defined in sections 3(f) and 3(g) of the Federal Deposit Insurance Act, and is either an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act or a bank which is eligible under section 5 of that Act to make application to become an insured bank.

"(F) The term 'savings institution' means—

"(i) a nonmember savings bank or a nonmember mutual savings bank which either is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act or is eligible under section 5 of that Act to make application to become an insured bank;

"(ii) an institution which either is an insured institution as defined in section 401(a) of the National Housing Act or is eligible under section 403 of that Act to make application to become an insured institution; or

"(iii) a credit union whose member accounts are insured pursuant to section 201(a) of the Federal Credit Union Act, or which is eligible to make application for such insurance pursuant to section 201(b) of that Act.

"(G) The term 'depository institution' means a bank as defined in subparagraph (E) or a savings institution as defined in subparagraph (F).

"(H) The requirements imposed by paragraphs (5) and (6) of this subsection do not apply to deposits payable only outside the States of the United States and the District of Columbia, but nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act (12 U.S.C. 601–604(a)), or the authority of the Board under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

"(I) This subsection confers authority on the Board to impose or change reserve requirements for the sole purpose of enabling the Board to implement monetary policy.

"(J) Any reference in this Act to member banks with respect to any requirement or authority relating to reserves required by this subsection shall be deemed to refer to all depository institutions which are actually required to maintain reserves under this subsection.

"(K) This section shall not apply with respect to any financial institution which—

"(i) is organized solely to do business with other financial institutions;

"(ii) is owned primarily by the financial institutions with which it does business; and

"(iii) does not do business with the general public.

"(2) Category A Exemption.—Except as provided in paragraph (15), the category A exemption for any depository institution during any calendar year shall be determined by the Board to the nearest $100,000 as follows:

"(A) The category A exemption for 1979 shall be the sum of $35,000,000 plus the product of $35,000,000 times 0.8 times the quotient of the difference between the total of all category A deposits in all depository institutions on June 30, 1978, and the total of all category A deposits in all depository institutions on December 31, 1977, divided by the total of all category A deposits in all depository institutions on December 31, 1977.

"(B) For any given year after 1979, the category A exemption shall be the sum of the category A exemption for the first year preceding the given year plus the product of the category A exemption for the first year preceding the given year times 0.8 times the quotient of the difference between the sum of all category A deposits in all depository institutions on June 30 of the first year preceding the given year and the sum of all category A deposits in all depository institutions on June 30 of the second year preceding the given year, divided by the total of all category A deposits in all depository institutions on June 30 of the second year preceding the given year.

"(3) Category B exemption.—Except as provided in paragraph (15), the category B exemption for any depository institution during any calendar year shall be determined by the Board to the nearest $100,000 as follows:

"(A) The category B exemption for 1979 shall be the sum of $10,000,000 plus the product of $10,000,000 times 0.8 times the quotient of the difference between all category B deposits in all depository institutions on June 30, 1978, and the sum of all category B deposits in all depository institutions on December 31, 1977, divided by the total of all category B deposits in all depository institutions on December 31, 1977.

"(B) For any given year after 1979, the category B exemption shall be the sum of the category B exemption for the first year preceding the given year plus the product of the category B exemption for the first year preceding the given year times 0.8 times the quotient of the difference between the sum of all category B deposits in all depository institutions on June 30 of the first year preceding the given year and the sum of all category B deposits in all depository institutions on June 30 of the second year preceding the given year, divided by the total of all category B deposits in all depository institutions on June 30 of the sceond year preceding the given year.

"(4) Institutional exemptions.—

"(A) Administrative exemption.—Except as provided in paragraph (15), the administrative agency designated in subparagraph (B) shall, on or before the effective date of this paragraph and before the first day of each calendar year thereafter, exempt from the requirements otherwise imposed by paragraph (5) and (6) any depository institution which such agency determines would, even if not exempted pursuant to this paragraph, probably not have net category A deposits or net category B deposits greater than zero between the last date on which such exemption is authorized to be made and the commencement of the succeeding calendar year. During any period for which it has been so exempted, no depository institution shall be required to maintain any reserves under paragraph (5) or (6).

"(B) Agency authority.—Exemptions pursuant to subparagraph (A) shall be made by the Federal Deposit Insurance Corporation in the case of insured nonmember banks, by the Federal Savings and Loan Insurance Corporation in the case of any institution insured by that corporation, by the National Credit Union Administration in the case of any credit union whose member accounts are insured pursuant to section 210 (a) of the Federal Credit Union Act, and by the Board in the case of all other depository institutions.

"(5) Category A reserve requirements.—Except as provided in paragraphs (12) (B) and (13), every depository institution not exempted pursuant to paragraph (4) shall maintain reserves against each class of its net category A deposits as the Board may direct—

"(A) in the ratio of 11 per centum, or

"(B) in such ratio not greater than 12 per centum and not less than 4 per centum as the Board may prescribe, or

"(C) in such ratio as the Board may prescribe pursuant to paragraph (8).

"(6) Category B reserve requirements.—Except as provided in paragraph (12)(B), every depository institution not exempted pursuant to paragraph (4) shall maintain reserves against each class of its net category B deposits as the Board may direct—

"(A) in the ratio of 0 per centum, or

"(B) in such ratio not greater than 8 per centum and not less than 0 per centum as the Board may prescribe, or

"(C) in such ratio as the Board may prescribe pursuant to paragraph (8).

"(7) Reserves related to foreign obligations or assets.—Except as provided in paragraph (19), foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

"(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to nonrelated foreign depository institutions.

"(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States, and

"(C) assets (including participants) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices (other than assets representing credit extended to persons not residents of the United States).

"(8) Authority in extraordinary circumstances.—Except as provided in paragraph (20), upon a finding by at least five members of the Board, after consultation with appropriate committees of Congress, that extraordinary circumstances require such action, the Board may impose, with respect to any liabilities of depository institutions, reserve requirements outside the limits as to ratios and as to types of liabilities otherwise prescribed by this subsection for a period not exceeding thirty days but which may be extended for further periods not exceeding thirty days each such affirmative action by the Board in each instance. The authority contained in this paragraph may not be exercised to reduce the amount of the exemptions provided by paragraphs (2) and (3). The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise.

"(9) Membership privileges.—During any period in which the required reserves of any depository institution under this subsection are greater than zero, and such institution is maintaining such reserves in accordance with subsection (c), it shall be entitled to all the privileges of membership in the Federal Reserve System except that, if it is not otherwise a member, it may not hold stock in, or vote for any director of, a Federal Reserve bank.

"(10) Discount privileges.—Except as provided in paragraphs (16) and (18), any depository institution in which category A or category (B) deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities on terms and conditions consistent with their long-term asset portfolio and sensitivity to national money markets.

"(11) Transitional adjustments.—

"(A) Any depository institution (other than a depository institution to which subparagraph (D) applies) which was engaged in business on August 1, 1978, but was not a member of the Federal Reserve System on that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-tenth of those otherwise required by paragraphs (5) and (6) of this subsection, during the second such twelve-month period in amounts equal to two-tenths of those otherwise required, and so on in each succeeding twelve-month period until the full requirements of paragraphs (5) and (6) have been reached.

"(B) Except as provided in paragraphs (16) and (18), with respect to any bank that was a member of the Federal Reserve System on August 1, 1978, the amount of required reserves imposed pursuant to paragraphs (5) and (6) on the effective date of such paragraphs that exceeds the amount of required reserves maintained by the member institution during the reserve computation period immediately preceding the effective date of such paragraphs may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year that begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year.

"(C) Except as provided in paragraphs (16) and (18), in order to provide for an orderly transition period, the Board shall implement the reduction in reserve requirements resulting from the amendment of this subsection by the Monetary Control Act of 1979 with respect to member banks over a period not greater than 48 months after the effective date of such paragraph. During such transition period, any depository institution which was not a member of the Federal Reserve System on August 1, 1978, which became a member of the Federal Reserve System after such date, and which would not otherwise be required to maintain reserves under this section, shall maintain reserves equal to the reserves imposed on member banks under the previous sentence.

"(D) Except as provided in paragraph (16) and (18), this subparagraph applies to any depository institution which was engaged in business on August 1, 1978, as a depository institution organized under the laws of a State and was not a member of the Federal Reserve System on that date, and whose principal office was outside the continental limits of the United States on that date and has remained outside the continental limits of the United States ever since. Such a depository institution shall not be required to maintain reserves against its deposits pursuant to this section until the first day of the sixth calendar year which begins after the enactment of this subparagraph. Such a depository institution shall maintain reserves against its deposits during the sixth calendar year which begins after enactment of this paragraph in amounts equal to one-tenth of those otherwise required by paragraphs (5) and (6) of this subsection, during the seventh such year in amounts equal to two-tenths of those otherwise required, and so on in each succeeding calendar year until the full requirements of paragraphs (5) and (6) have been reached.

"(12) BOARD DETERMINATION.—

"(A) With respect to each calendar quarter beginning during the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending on the date on which the Board makes the determination specified in subparagraph (B), the Board shall determine the ratio, expressed as a percentage, which the amount of total deposits held by all member banks bears to the amount of total deposits held by all banks. Such quartérly determination shall be based upon information received by the Board under section 11(a)(2). Not less than once during each calendar quarter involved, the Board shall publish in the Federal Register and notify the Congress and each member bank of the most recent determination made by the Board under this subparagraph.

"(B) The reserve requirements established under paragraphs (5) and (6) shall apply only with respect to member banks unless the Board makes a determination under subparagraph (A) that the ratio, expressed as a percentage, described in such subparagraph is less than 67.5 per centum. If the Board makes such determination, the reserve requirements of paragraphs (5) and (6) shall apply to all depository institutions 180 days after such determination is made. During such 180-day period, notice of such determination shall be published in the Federal Register and transmitted to the Congress by the Board. Such determination shall also be transmitted during such 180-day period—

"(i) to all member banks by the Board;

"(ii) to all insured State nonmember banks by the Board of Directors of the Federal Deposit Insurance Corporation;

"(iii) to all insured credit unions by the Board of the National Credit Union Administration;

"(iv) to all Federal savings and loan associations by the Federal Home Loan Bank Board;

"(v) to all savings and loan associations insured under section 403 of the National Housing Act, other than Federal savings and loan associations, by the Federal Savings and Loan Insurance Corporation; and

"(vi) to all other types of banks, savings and loan associations, and credit unions by such State officer or agency as the Board may designate.

"(13) TRANSITIONAL CATEGORY A RESERVE REQUIREMENT.—During the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, every member bank shall maintain reserves against each class of its category A deposits as the Board may direct—

"(A)(i) with respect to category A deposits determined under paragraph (14), in the ratio of 3 per centum, and

"(ii) with respect to category A deposits which exceed the amount determined under paragraph (14), in the ratio of 11 per centum, or

"(B) in such ratio not greater than 12 per centum and not less than 4 per centum as the Board may prescribe, or

"(C) in such ratio as the Board may prescribe pursuant to paragraph (8).

"(14) DEPOSITS SUBJECT TO TRANSITIONAL CATEGORY A RESERVE REQUIREMENTS.—During the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, the portion of the category A deposits subject to paragraph (13)(A)(i) for any member bank during any calendar year shall be determined by the Board as follows:

"(A) The portion of the category A deposits subject to paragraph (13)(A)(i) for 1979 shall be the sum of $35,000,000 plus the product of $35,000,000 times 1.0 times the quotient of the difference between the total of all category A deposits in all depository institutions on June 30, 1978, and the total of all category A deposits in all depository institutions on December 31, 1977, divided by the total of all category A deposits in all depository institutions on December 31, 1977.

"(B) For any given year after 1979, the portion of the category A deposits subject to paragraph (13)(A)(i) shall be the sum of the portion of the category A deposits subject to paragraph (13)(A)(i) for the first year preceding the given year plus the product of the portion of the category A deposits subject to paragraph (13)(A)(i) for the first year preceding the given year times 1.0 times the quotient of the difference between the sum of all category A deposits in all depository institutions on June 30 of the first year preceding the given year and the sum of all category A deposits in all depository institutions on June 30 of the second year preceding the given year, divided by the total of all category A deposits in all depository institutions on June 30 of the second year preceding the given year.

"(15) TRANSITIONAL LIMITATION ON EXEMPTIONS.—The provsions of paragraphs (2), (3), (4)(A), and (4)(B) shall not apply with respect to any depository institution during the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board.

"(16) TRANSITIONAL REDUCTION OF EXCESS RESERVES.—

"(A) Notwithstanding any other provision of this section except subparagraph (B), during the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, the amount of required reserves maintained by a member bank during the reserve computation period immediately preceding the effective date of paragraphs (6) and (13) which exceeds the amount of required reserves imposed pursuant to such paragraphs shall be reduced by the Board by 50 per centum during the first year that begins after such effective date, 75 per centum during the second year after such effective date, and 100 per centum during the third year after such effective date.

"(B) No reduction authorized under subparagraph (A) with respect to excess amounts of required reserves shall be made after the 180th day following the date on which the determination specified in paragraph (12)(B) is made by the Board.

"(17) REFUND OF RESERVES.—

"(A) Notwithstanding any other provision of this Act except subparagraph (B), any bank which ceases to be a member of the Federal Reserve System after the date of the enactment of the Monetary Control Act of 1979 shall receive all required reserves maintained by such bank during the reserve computation period immediately preceding the date on which such bank ceases to be a member of the Federal Reserve System in three equal annual payments.

"(B) No annual payment authorized under subparagraph (A) shall be made after the 180th day following the date on which the determination specified in paragraph (12)(B) is made by the Board.

"(18) LIMITATION ON TRANSITIONAL ADJUSTMENTS.—The provisions of paragraph (11) shall not apply with respect to any bank which was a member of the Federal Reserve System on May 24, 1979, which ceases to be a member of the Federal Reserve System after such date, and which subsequently is required to maintain reserves under paragraph (5) or (6).

"(19) TRANSITIONAL EXEMPTION OF RESERVES RELATED TO FOREIGN OBLIGATIONS OR ASSETS.—During the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, the provisions of paragraph (7) shall not apply with respect to any depository institution or any foreign branch, subsidiary, or international banking facility of any nonmember depository institution, except for those nonmember depository institutions which are branches or subsidiaries of foreign banks.

"(20) TRANSITIONAL AUTHORITY IN EXTRAORDINARY CIRCUMSTANCES.—During the period beginning on the date of the enactment of the Monetary Control Act of 1979 and ending 180 days after the determination specified in paragraph (12)(B) is made by the Board, the provisions of paragraph (8) shall apply only with respect to member banks.

"(21) APPLICATIONS FOR WITHDRAWAL FROM THE FEDERAL RESERVE SYSTEM.—Notwithstanding any other provision of this Act, the Board shall not approve any application by any member bank to withdraw from membership in the Federal Reserve System if such application is filed with the Board during the period beginning on May 24, 1979, and ending on the date of the enactment of the Monetary Control Act of 1979. This paragraph does not prohibit the Board from approving any such application which is filed with the Board by any member bank after the date of the enactment of such Act.".

(c) Section 19(c) of the Federal Reserve Act (12 U.S.C. 461(c)) is amended to read as follows:

"(c) Reserves held by any depository institution to meet the requirements imposed pursuant to subsection (b) of this section shall be in the form of—

"(1) balances maintained for such purposes by such institution in the Federal Reserve bank of which it is a member or at which it maintains an account, and vault cash. The Board may, by regulation or order, limit the proportion of required reserves which may be maintained in the form of vault cash, but such proportion shall be identical for all institutions; and

"(2) balances maintained by a nonmember institution in a member or nonmember institution that maintains reserve balances at a Federal Reserve bank or balances in a Federal home loan bank, but only if such depository institution or Federal home loan bank maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from another depository institution that are used to satisfy the reserve requirements imposed on such depository institution by this section shall not be subject to the reserve requirements of this section imposed on such depository institution and shall not be subject to assessment imposed on such depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) or section 404 of the National Housing Act (12 U.S.C. 1727).".

AUTHORITY OF STATE BANK SUPERVISORS

SEC. 204. Nothing in this Act or in the amendments made by this Act shall be construed in derogation of the authority of any officer or agency of such State over any institution organized or existing under the laws of such State.

ABOLITION OF PENALTY RATE

SEC. 205. Section 10(b) of the Federal Reserve Act (12 U.S.C. 347b) is amended by striking all after the first sentence thereof.

PRICING OF SERVICES

SEC. 206. The Federal Reserve Act is amended by inserting after section 11 the following new section:

"PRICING OF SERVICES

"SEC. 11A. (a) Not later than the first day of the sixth calendar month after the date of enactment of the Monetary Control Act of 1979, the Board shall have prepared and shall publish for public comment a set of pricing principles in accordance with this section and a proposed schedule of fees for Federal Reserve bank services to depository institutions.

"(b) The services which shall be covered by the schedule of fees under subsection (a) are—

"(1) currency and coin services;

"(2) check clearing and collection services;

"(3) wire transfer services;

"(4) automated clearinghouse services;

"(5) settlement services;

"(6) securities safekeeping services;

"(7) any new payment services which the Federal Reserve System provides, including but not limited to payment services to effectuate the electronic transfer of funds; and

"(8) any other services which the Board so decides to offer.

"(c) The schedule of fees prescribed pursuant to this section shall be based on the following principles:

"(1) All Federal Reserve bank services covered by the fee schedule shall be priced explicitly and competitively.

"(2) All Federal Reserve bank services covered by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.

"(3) Over the long run prices shall be established on the basis of all direct and indirect costs actually incurred in providing the services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs that take into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except where the Board determines that the public interest requires a departure from this principle, after giving due regard to competitive factors and the provision of an adequate level of services nationwide.".

EFFECTIVE DATES

SEC. 207. The amendments made by this title shall take effect on the date of enactment of this title.

Mr. PROXMIRE. Mr. President, I move that the Senate disagree to the House amendments and agree to the conference requested by the House on the disagreeing votes of the two houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. PROXMIRE, Mr. WILLIAMS, Mr. CRANSTON, Mr. GARN, and Mr. TOWER conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Alaska, the acting minority leader is recognized.

Mr. STEVENS. I thank the Chair.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

AMENDMENT NO. 712

Mr. STEVENS. Mr. President, the keystone of energy policy today as well as the primary goal for our whole energy policy has to be the increased production of domestic supplies of oil. When considering any major policy initiatives, we must first ask whether the end result of that policy will be more energy. Furthermore, the events of the last year have again and again pointed to the need to beef up domestic supplies of energy. We face a tough road between now and the 1990's when alternative sources of energy can begin to make an appreciable contribution to the Nation's needs. This means that those sources we do have must be carefully husbanded and it very certainly means they must not be wasted.

My State of Alaska contains vast reserves of energy which can be of great help in getting us through this transitional period. Development and production of these reserves, however, is by all accounts expensive and difficult. Short construction seasons and the effects of severe arctic winters take their toll on men and equipment. Special steps must be taken to preserve a fragile arctic environment. The costs of transportation and labor are high.

Final explorative development and production are by no means completed in Alaska. For example, the development of the Sadlerochit Reservoir at Prudhoe is only one-third completed and an additional $15 billion must be spent in order to do so.

Imposition of the windfall profits tax on production from that reservoir could adversely affect production levels and ultimate recovery. And, what is more, if oil revenues are taxed away, they could not be used toward financing the Alaska natural gas pipeline.

Consequently, applying the question as to whether energy policy as envisioned under the windfall profits tax would result in increased supply from Alaska, the answer is clearly no.

Mr. President, I am sending to the desk an amendment to the windfall profits tax which I believe fairly addresses the problem and brings this tax policy squarely back into line with the principle of increased energy. This amendment creates exploration, development, and production incentives by allowing a tax credit for those windfall profits taxes which are spent on qualified oil and gas development costs in Alaska, including costs incurred in the transportation of oil or natural gas produced in Alaska.

The amendment would thus provide encouragement for private financing in the construction of the Alaska gas pipeline. It would furthermore encourage exploration for and development of all possible areas of potential. The end result of the application of this amendment can only mean more energy for the United States in the near future. If the Senate accepts this amendment we are insuring energy policy as espoused by the windfall profits tax will assure and achieve in the end more production of oil and gas from Alaska.

Let me tell you, Mr. President, the reason I am introducing this now is because of the pending amendment. The effect will be an increase in the windfall profit tax from 60 to 75 percent to slow down production from the Prudhoe Bay discovery in Alaska, which is 10 percent of the known reserves of the United States. The schedule for Prudhoe Bay development is well known. It has been laid out for all of the country to understand where the revenues that would be derived from the development of the first portion of that field of Prudhoe Bay would be applied. They would literally be plowed back in, assuring a full recovery of that total discovery and the transportation of that oil into our total domestic commerce.

Furthermore, the gas pipeline awaits construction. We have been trying to assure private financing. Exxon and the other producers of the oil have now assured the Federal Government and the State government that they will participate in the financing of that gas pipeline.

The effect of the pending amendment will be to take away from the producers of Prudhoe Bay oil the ability to finance the gas pipeline as they have agreed to do.

My amendment will be and is I think the first plowback amendment that has been offered to be brought up here. I intend to bring it up. I hope that Members of the Senate will look at it and realize that unless there is a plowback in Alaska of the revenues that are developed from Prudhoe Bay oil into the full development of that reservoir for the production of both oil and the gas, and the transportation of that gas to market; for the development of the Beaufort Sea potential; the potential of Arctic Wildlife Lake, the potential of the national petroleum reserve; the potential of the Chukchi Sea; the potential of the Bristol Bay region; the potential of the Gulf of Alaska; the potential of all the frontier areas of Alaska, we will not see the oil and gas production that my State could provide in the near term. Within the time frame that we will be developing synthetic fuels we could be producing natural production of oil and gas that would meet our needs. The imposition of a 75-percent tax on those revenues will slow down the already announced schedule rather than speed it up as should be done in the interests of our national security.

Without my amendment this legislation will curtail the current schedule for development and production of Alaska's oil and gas resources.

Mr. President, I do send this amendment to the desk and ask that it be printed and placed on the desk of Members. It is my intention to call it up sometime in the near future.

The PRESIDING OFFICER. The amendment will be received and printed.

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment be printed in the RECORD at the close of my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Amendment No. 712

On page 66, between lines 6 and 7, insert a new section as follows:

'"Sec. 4992. Tax Credit for Qualified Expenditures in Alaska.—

"(a) Commencing October 1, 1980, a credit up to the amount of tax imposed by Sec. 4986 shall be allowed as a reduction of the tax imposed by Sec. 4986 to the extent that such monies are expended on qualified development costs in Alaska, including frontier areas, or on the transportation of oil or natural gas produced in Alaska, including frontier areas, to consumers in other 49 states or Alaska. For purposes of this Act, the term 'qualified development costs' includes but is not limited to the construction and transportation of depreciable assets used for the exploration, development, production, or transportation of oil or natural gas, gas conditioning facilities, lease equipment, and other costs for drilling and equipping wells, intangible drilling expenses, and geological and geophysical costs."'

Renumber the existing sections accordingly.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LETTERS TO AYATOLLAH KHOMEINI

Mr. MATHIAS. Mr. President, I do not want this day to end without an opportunity to express my appreciation to those Members of the Senate who have followed my suggestion that they communicate with civic organizations, service clubs, veterans organizations, and other groups in their home State urging the membership of these clubs and associations to write personal letters to Ayatollah Khomeini expressing the unity of the American people on the subject of the release of the hostages now being held in the U.S. Embassy in Tehran.

I was gratified today to learn that the President of the United States has also requested citizens to write to Ayatollah Khomeini to express the complete unity, the support of the American people for the Government of the United States, for our fellow citizens who are being held prisoners in violation of international law.

I think the President's appeal should be widely responded so that a tidal wave of letters will reach Ayatollah Khomeini either in his residence in the city of Qom in Iran or through the Embassy of Iran here in Washington.

Mr. President, I ask unanimous consent that the text of my own letter to the ayatollah may be included in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record as follows:

Sir: I write this letter not in my capacity as a member of the United States Senate, but as a private citizen deeply concerned about the welfare of the 49 Americans held hostage in the United States Embassy in Tehran. The American people are united in their desire that these hostages, who are being held in contravention of international law, be released immediately. We have been hesitant to address you directly because the President of the United States has asked that we do nothing that might impede diplomatic efforts to obtain the release of the hostages.

The situation has persisted for so long now, however, that expressions of private concern seem appropriate. I am especially saddened by this tragic episode because I have long admired and acknowledged my country's great debt to the Iranian nation for many of the most important principles that guide our system of jurisprudence. Herodotus, the great Greek historian, writes with awe and admiration of the system of justice he discovered in your country in the 5th Century B.C.

It is my fervent hope that the sense of justice which has been a hallmark of past Iranian civilizations will move you now to release the American hostages promptly and unharmed.

Mr. MATHIAS. I renew my request of my colleagues in both houses of Congress that they urge their constituents in every one of the States to express the unity of purpose of the American people at a very serious time in American history.

JUNG-SOOK MUN

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate H.R. 4483.

The PRESIDING OFFICER (Mr. Baucus). The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4483) for the relief of Jung-Sook Mun.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice by title and that the Senate proceed to its immediate consideration.

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

AMENDMENT TO THE AGREEMENT FOR COOPERATION ON THE USES OF ATOMIC ENERGY—MESSAGE FROM THE PRESIDENT—PM 138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to Section 123 d of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153), the text of an amendment to the Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes of July 3, 1958, as amended, and my written approval, authorization and determination concerning the agreement. The joint classified and unclassified memoranda submitted to me by the Secretaries of Energy and Defense which provide a summary analysis of the amendment are also enclosed.

The amendment extends for five years (until December 31, 1984) those provisions which permit the transfer of nonnuclear parts, source, by-product special nuclear material and other material for nuclear weapons and special nuclear material for fueling military propulsion reactors.

In my judgment, he proposed amendment meets all statutory requirements. The United Kingdom intends to continue to maintain viable nuclear forces. In light of our previous close cooperation and the fact that the United Kingdom has committed its nuclear forces to NATO, I have concluded that it is in our security interest to continue to assist them in maintaining a credible nuclear force.

I have approved the amendment and authorized its execution and urge the Congress give it favorable consideration.

Jimmy Carter.

The White House, *November 28, 1979.*

REPORTS OF THE UNITED NATIONS JOINT INSPECTION UNIT—MESSAGE FROM THE PRESIDENT—PM 139

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with Section 301(e)(3) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2221), I am transmitting herewith copies of the reports issued by the United Nations Joint Inspection Unit during the first half of 1979.

Jimmy Carter.

The White House, *November 28, 1979.*

MESSAGES FROM THE HOUSE

At 12:26 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 214. An act for the relief of Rocio Edmondson.

The message also announced that the House disagrees to the amendments of the Senate to the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended; requests a conference with the Senate on the disagreeing votes of the two houses thereon; and that Mr. REUSS, Mr. WRIGHT, Mr. MOORHEAD of Pennsylvania, Mr. ASHLEY, Mr. BLANCHARD, Mr. VENTO, Mr. FOLEY, Mr. FUQUA, Mr. STAGGERS, Mr. DINGELL, Mr. SHARP, Mr. GORE, Mr. STANTON, Mr. MCKINNEY, Mr. WYLIE, Mr. BROWN of Ohio, and Mr. BROYHILL were appointed as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 126. An act to permit the National Park Service to accept privately donated funds and to expend such funds on property on the National Register of Historic Places;

H.R. 552. An act to provide for the alleviation of high ground water conditions in and adjacent to the town of Moses Lake, Washington, and for other purposes;

H.R. 894. An act for the relief of Gina Marie S. Hernandez;

H.R. 900. An act for the relief of Grace Maria Salazar Santos;

H.R. 901. An act for the relief of John A. Townsley;

H.R. 948. An act for the relief of Maria Corazon Samtoy;

H.R. 1283. An act for the relief of Pang Chong Ae;

H.R. 1619. An act for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza;

H.R. 1827. An act for the relief of Emiko Okuma Colona;

H.R. 1887. An act for the relief of Solomon Mani;

H.R. 1888. An act for the relief of Kenneth and Jacqueline Traylar;

H.R. 1889. An act for the relief of Naomi Chen;

H.R. 2111. An act to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes;

H.R. 2477. An act for the relief of Jesus Reveles y Rivera;

H.R. 2593. An act for the relief of Mariana de Jesus Roca and Francisco Rubira Roca;

H.R. 2594. An act for the relief of Lunette Joyce Clarke;

H.R. 3234. An act for the relief of Rodolfo Jose Kozul;

H.R. 3317. An act for the relief of Ohio Wesleyan University, Delaware, Ohio;

H.R. 3320. An act for the relief of Eileen Ferraren Fair;

H.R. 3343. An act to permit civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws;

H.R. 3755. An act for the relief of St. Paul's Episcopal Church, Riverside, Connecticut;

H.R. 3979. An act to repeal and amend certain laws regulating trade between Indians and certain Federal employees;

H.R. 4483. An act for the relief of Jung-Sook Mun;

H.R. 5156. An act for the relief of certain employees of the Naval Ordnance Systems Command;

H.R. 5182. An act to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date ten years after the effective date of such Act to the date twenty years after such effective date;

H.R. 5259. An act to name a certain Federal building in Santa Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse";

H.R. 5537. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia;

H.R. 5645. An act to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia;

H.R. 5748. An act to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard; and

H.R. 5766. An act to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 53. A concurrent resolution revising the Congressional Budget for the United States Government for the fiscal years 1980, 1981, and 1982.

At 3:19 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4320. An act to consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

At 6:25 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has appointed Mr. Wydler as an additional manager in the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 1157. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 126. An act to permit the National Park Service to accept privately donated funds and to expend such funds on property on the National Register of Historic Places; to the Committee on Energy and Natural Resources.

H.R. 552. An act to provide for the alleviation of high ground water conditions in and adjacent to the town of Moses Lake, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 894. An act for the relief of Gina Marie S. Hernandez; to the Committee on the Judiciary.

H.R. 900. An act for the relief of Grace Maria Salazar Santos; to the Committee on the Judiciary.

H.R. 901. An act for the relief of John A. Townsley; to the Committee on the Judiciary.

H.R. 948. An act for the relief of Maria Corazon Samtoy; to the Committee on the Judiciary.

H.R. 1283. An act for the relief of Pang Chong Ae; to the Committee on the Judiciary.

H.R. 1619. An act for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza; to the Committee on the Judiciary.

H.R. 1827. An act for the relief of Emiko Okuma Colona; to the Committee on the Judiciary.

H.R. 1887. An act for the relief of Solomon Chen; to the Committee on the Judiciary.

H.R. 1888. An act for the relief of Kenneth and Jacqueline Traylar; to the Committee on the Judiciary.

H.R. 1889. An act for the relief of Naomi Chen; to the Commitee on the Judiciary.

H.R. 2111. An act to extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2477. An act for the relief of Jesus Reveles y Rivera; to the Committee on the Judiciary.

H.R. 2593. An act for the relief of Mariana de Jesus Roca and Francisco Rubira Roca; to the Committee on the Judiciary.

H.R. 2594. An act for the relief of Lunette Joyce Clarke; to the Committee on the Judiciary.

H.R. 3234. An act for the relief of Rodolfo Jose Kozul; to the Committee on the Judiciary.

H.R. 3317. An act for the relief of Ohio Wesleyan University, Delaware, Ohio; to the Committee on Finance.

H.R. 3320. An act for the relief of Eileen Ferraren Fair; to the Committee on the Judiciary.

H.R. 3755. An act for the relief of St. Paul's Episcopal Church, Riverside, Connecticut; to the Committee on Finance.

H.R. 3979. An act to repeal and amend certain laws regulating trade between Indians and certain Federal employees; to the Select Committee on Indian Affairs.

H.R. 4320. An act to consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming; to the Committee on the Judiciary.

H.R. 5156. An act for the relief of certain employees of the Naval Ordnance Systems Command; to the Committee on the Judiciary.

H.R. 5182. An act to amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date ten years after the effective date of such Act to the date twenty years after such effective date; to the Committee on Energy and Natural Resources.

H.R. 5259. An act to name a certain Federal building in Sante Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse"; to the Committee on Environment and Public Works.

H.R. 5537. An act to amend, the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of

Columbia; to the Committee on Governmental Affairs.

H.R. 5748. An act to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard; to the Committee on Armed Services.

H.R. 5766 An act to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes; to the Committee on Armed Services.

HOUSE BILLS HELD AT THE DESK

The following bills were read by title and ordered held at the desk, by unanimous consent:

H R. 3343. An act to permit civil suits under section 1979 of the Revised Statutes (42 U.S.C. 1983) against any person acting under color of any law or custom of the District of Columbia who subjects any person within the jurisdiction of the District of Columbia to the deprivation of any right, privilege, or immunity secured by the Constitution and laws.

H.R. 5645. An act to grant to the Little Sisters of the Poor all right, title, and interest of the United States in the land comprising certain alleys in the District of Columbia.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2539. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on sales of refined petroleum products and on sales of retail gasoline for the month of August 1979; to the Committee on Energy and Natural Resources.

EC–2540. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the U.S. Government Comptroller for the Virgin Islands on the financial condition of the Government of the Virgin Islands of the United States for fiscal year 1978; to the Committee on Energy and Natural Resources.

EC–2541. A communication from the Assistant Secretary of the Treasury for Administration, transmitting, pursuant to law, a report on a new system of records for the Department of the Treasury for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–2542. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a supplemental report concerning the amount that would be needed for fiscal year 1980 to meet the maximum level authorized by title VI of the Comprehensive Employment and Training Act; to the Committee on Labor and Human Resources.

EC–2543. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend and revise various provisions of law concerned with health; to the Committee on Labor and Human Resources.

EC–2544. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Cash Management Can Reduce the Cost of the National Direct Student Loan Program"; to the Committee on Labor and Human Resources.

EC–2545. A communication from the Comptroller General of the United States, transmitting, pursuant to law the report of the General Accounting Office on the President's first special message for fiscal year 1980; pursuant to the order of January 30, 1975, referred jointly to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on the Judiciary, the Committee on Labor and Human Resources, and the Select Committee on Indian Affairs.

EC–2546. A communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund; to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs, jointly, by unanimous consent.

EC–2547. A communication from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, the Council's special report on the proposed increase in quotas in the International Monetary Fund (IMF); to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that two communications transmitted by the Secretary of the Treasury, relative to amending the Bretton Woods Agreements Act to authorize increasing the U.S. quota in the International Monetary Fund and a special report from the National Advisory Council on International Monetary and Financial Policies on such quota increases, be jointly referred to the Committees on Banking, Housing, and Urban Affairs, and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross (Rept. No. 96–429).

AMERICAN RED CROSS GOLD MEDAL

Mr. PROXMIRE. Mr. President, from the Committee on Banking, Housing, and Urban Affairs, I report favorably, without amendment, a bill authorizing the President to present a gold medal to the American Red Cross for its unselfish and humanitarian service to the people of the United States. This fine organization was first granted a Federal charter by act of Congress in 1900 and received a second charter shortly thereafter, reaffirming its responsibility for disaster relief and for assistance to our Armed Forces. It is hoped that early congressional action on this legislative proposal will give the Treasury sufficient time to design and produce a gold medallion in time for the centennial celebration to be held from March until May 1981, culminating on May 21, 1981—the 100th birthday of the American Red Cross.

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 68. A bill for the relief of Doctor Jesus Tan, his wife, Margaret Pearl Liyao Tan, and their son, Jesse William Liyao Tan (Rept. No. 96–430).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1656. A bill to provide for a national program of fisheries research and development, and for other purposes (Rept. No. 96–431).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHILES, from the Committee on Governmental Affairs:

Inez Smith Reid, of New York, to be Inspector General, Environmental Protection Agency.

(The above nomination from the Committee on Governmental Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ORDER FOR STAR PRINT OF REPORTS ON EXECUTIVE I, EXECUTIVE A, EXECUTIVE M, EXECUTIVE P, EXECUTIVE CC, EXECUTIVE BB, AND EXECUTIVE Z

Mr. CHURCH. Mr. President, as in executive session I ask unanimous consent that the Senate Foreign Relations Committee be allowed to have star prints of the committee reports on Ex. I (95th Congress, 1st session), Ex. A (96th Congress, 1st session), Ex. M (96th Congress, 1st session), Ex. P (96th Congress, 1st session), Ex. CC (96th Congress, 1st session), Ex. BB (96th Congress, 1st session), Ex. Z (96th Congress, 1st session).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, may I ask a question, what does this all mean, just out of curiosity, what are these?

Mr. CHURCH. I was hoping the Senator would not ask, and I might——

Mr. SCHMITT. If he had not I would have.

[Laughter.]

Mr. CHAFEE. There is no need to go into detail. Are they the printing of some record of something?

Mr. CHURCH. I would not have had to conjure up an explanation.

The best of my knowledge is the original prints of the committee reports that accompany the treaties that the Senate will be voting upon for the balance of the week contain some printing errors. The form of these reports is not correct. The star prints are for the purpose of making the necessary corrections, and clean copies will be required in order that the Senate may proceed with the reports in an appropriate form for the balance of, and in connection with, its consideration of the treaties that will be up for confirmation for the balance of the week.

Mr. CHAFEE. Fine. I thank the Senator very much. I appreciate the explanation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HART (for himself, Mr. McGovern, Mr. Javits, and Mr. Leahy):

S. 2054. A bill to provide for a program of review of State laws with regard to solar energy; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD:

S. 2055. A bill to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon; to the Select Committee on Indian Affairs.

By Mr. EAGLETON:

S. 2056. A bill for the relief of Ajith Situge DeSilva and Suneetha Situge DeSilva, husband and wife, and their daughter Varsha A. S. DeSilva; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 2057. A bill entitled the "Investment Income Incentive Act of 1979"; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART (for himself, Mr. McGovern, Mr. Javits, and Mr. Leahy):

S. 2054. A bill to provide for a program of review of State laws with regard to solar energy; to the Committee on Energy and Natural Resources.

SOLAR ACCESS ALTERNATIVES ACT

● Mr. HART. Mr. President, during the 95th Congress, an impressive array of solar legislation was introduced, and in many cases enacted, in an effort to encourage and expand the use of solar energy. Such legislative initiatives ranged from proposals to establish Federal programs for the development of photovoltaic solar energy systems to the enactment of tax credits as incentives for the residential use of solar energy. I commend my colleagues for their efforts in this important area. But, the viability of solar energy as an alternative energy resource ultimately depends upon direct access to the Sun's rays.

Today I am introducing the Solar Access Alternatives Act. This bill, similar in concept to legislation I introduced in the 95th Congress, establishes a program to assist States in conducting solar access reviews, by which States would identify legal alternatives to assure access to direct sunlight, to promote and protect the use of solar energy devices. The legislation also recognizes that compliance with State and local solar access laws by the Federal Government, to the extent practicable, with respect to buildings constructed and maintained by it, is essential to eliminate potential barriers to the use of solar energy. A similar bill has been introduced in the House by Representative Moakley.

Although sunlight flows unobstructed through nearly 93 million miles of space, it is often impeded in the final few feet before it touches the Earth. Since most of the Sun's rays that reach a particular piece of land must necessarily strike it at an angle, very little of the sunlight collected by a solar device comes to it from directly above the land on which it rests. In Colorado, for example, the usual angle for a solar collector is roughly 60 degrees above the horizontal. This means that for most installations, the rays reaching the collector will be coming across adjacent properties and may eventually be blocked by buildings, walls, trees, or other construction, not anticipated by the installer of the solar collector.

A homeowner whose solar collector is shaded by a neighboring structure may have no legal redress. A solar energy user's legal right to sunlight varies from State to State and is, for the most part, unclear. Absent a private agreement, or public zoning ordinance, the solar user's right to direct sunlight exists by the grace of his or her surrounding neighbors.

The critical question of how to allocate sunlight is just beginning to be examined. With the emergence of solar energy as an important and increasingly reliable alternative to gas, oil, and coal for heating buildings, questions regarding legal access to the Sun cry out to be resolved. If they are not, the prospect of legal tangles over denied access is likely to frighten both developers and homeowners away from solar heating and cooling.

Direct access to the Sun's rays is so important that many States legislatures have begun to address the issue. In 1975, Colorado was the first State in the Nation to pass a law spelling out procedures for determining property owners' rights to sunlight by providing procedures for recording voluntary solar easements. Since then 11 other States have enacted solar access legislation and many more are considering it.

Legislative initiatives in this area have traditionally been the prerogative of State and local governments and should clearly remain so. The Federal Government can, however, provide the crucial technical assistance needed by States and municipalities that seek to press forward and address these emerging problems. This legislation takes a step toward providing such assistance. More important, it gives us an opportunity to examine and evaluate legal problems before they emerge, before they become overly complex and costly to resolve.

This legislation establishes a program for solar access reviews by directing the Secretary of Energy, acting in conjunction with interested States, to develop a plan to enable States to conduct such reviews. The legislation outlines the minimum standards for such a review, and provides for the Regional Solar Energy Centers, working with the National Solar Energy Research Institute, to act as a clearinghouse for information regarding solar access. The legislation also provides for the Federal Government to construct and maintain Federal buildings in a manner which is consistent, to the extent practicable, with State and local laws governing access to sunlight. I believe this legislation will provide a solid foundation for the growth and expanded use of solar energy throughout our Nation.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Access Alternatives Act."

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress hereby finds and declares that:

(1) solar energy is an abundant, renewable, and nonpolluting source of energy;

(2) it is in the national interest to promote and encourage the use of solar energy systems which would effectively reduce consumption of irreplaceable fossil fuels, and decrease our Nation's dependence on foreign oil;

(3) the viability of solar energy as an alternative energy resource ultimately depends upon direct access to the Sun's rays;

(4) a solar energy user's legal right to sunlight varies from State to State and is, for the most part, unclear and undefined;

(5) a solar energy user whose solar collector or device is shaded by a neighboring structure may have no legal redress;

(6) measures which help clarify legal access to solar energy can play a vital role in stimulating advances in technology and eliminating institutional barriers;

(7) methods can be devised that will serve to protect the solar user from a shadow and avoid litigation between neighbors, while promoting the development and use of solar energy devices; and

(8) compliance with State and local solar access laws by the Federal government, to the extent practicable, with respect to buildings constructed and maintained by it, is essential to eliminate potential barriers to the use of solar energy.

(b) It is the purpose of this Act to assist States to conduct Solar Access Reviews, to identify legal alternatives to assure access to direct sunlight and methods of encouraging adoption of such legal alternatives, and to encourage compliance by Federal buildings with State and local solar access laws.

DEFINITION

Sec. 3. For the purposes of this Act the term—

(1) "solar energy user" means any individual, sole proprietorship, partnership, corporation, association, or other organization, which utilizes any system, method, construction, device or appliance relying on the use of the sun's rays, rather than on conventional energy sources, and which conforms to the standards of such systems established by the Secretary;

(2) "State" means any State of the United States of America and includes any territory or possession of the United States;

(3) "Solar Access Review" means a comprehensive study to identify legal alternatives to assure access to direct sunlight and

methods of encouraging adoption of such legal alternatives;

(4) "Secretary" means the Secretary of Energy; and

(5) "Regional Solar Energy Center" means an organization established for the purpose of accelerated introduction of commercial solar energy technology in support of national policy goals and programs authorized under the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901).

SOLAR ACCESS REVIEWS

SEC. 4. (a) Not later than July 1, 1980, the Secretary of Energy, acting in conjunction with an identifiable administrative unit of the State government of each of any interested State, shall develop a plan to enable States to conduct Solar Access Reviews, to identify legal alternatives to assure access to direct sunlight and methods of encouraging adoption of such legal alternatives. Such plan providing for a Solar Access Review shall, at a minimum—

(1) identify all existing and potential legal and institutional barriers to solar energy within each State;

(2) recommend changes in applicable laws, ordinances, codes and regulations to facilitate commercialization of solar technologies;

(3) contain model provisions for solar access in new subdivisions or developments;

(4) provide for the review of the relationship between barriers to solar access and urban growth;

(5) provide for a review of State and local efforts to consider solar energy in the land use planning process;

(6) compile and review all State and local laws which could interfere with or impact upon direct access to sunlight by a solar energy user;

(7) provide that all solar energy reviews shall be transmitted to regional solar energy centers; and

(8) provide that the development and coordination of workshops and programs for State and local officials with regard to building codes, zoning ordinances, and other State and local laws that affect access to solar energy.

(b) The Regional Solar Energy Centers referred to in subsection (a)(7), in conjunction with the National Solar Energy Research Institute, shall—

(1) act as a clearinghouse for all information with regard to solar access for all public authorities within the region served by each center; and (2) foster the maximum utilization of existing information and technology in the development of solar access alternatives.

(c) The Secretary of Energy in conjunction with participating states regarding any solar access review shall—

(1) make available all existing data, research, model provisions, and other pertinent information relating to solar access to the regional solar energy center serving the participant's region; and

(2) continue to make available in the form of quarterly reports, any and all efforts and progress achieved in conjunction with any solar access review to the regional solar energy center serving the participant's region.

(d) Each regional solar energy center shall compile all information received regarding solar access and legal barriers to solar access and shall make such information available upon request to any State or local unit of government within their region.

SEC. 5. Each department, agency, or instrumentality of the United States engaged in the construction of or maintenance of any building or structure shall construct or maintain, such building or structure in a manner which is consistent, to the extent practicable, with State and local laws governing access to sunlight.●

By Mr. HATFIELD:

S. 2055. A bill to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon; to the Select Committee on Indian Affairs.

● Mr. HATFIELD. Mr. President, I am introducing today, legislation that will provide a 3,666.55-acre reservation for the Confederated Tribes of the Siletz Indians of Oregon.

The Confederated Tribes of the Siletz Indians are the descendants of a large number of tribes and bands of Indians who lived along the Oregon coast for thousands of years. In 1855, by Executive order, a coast reservation was created for this group of Indians, thereafter known as the Confederated Tribes. They were removed from their native coastal lands to the coast reservation which included 1.1 million acres of the State's most valuable timberland. Today, however, the tribe is landless, due to the Federal Government's implementation of various ill-advised Indian policies throughout the years; unratified and broken treaties, taking of Executive order reservation land, removal and allotment. And then, in 1954, the Siletz Tribe was terminated. By this action, all Federal services previously provided to the tribe ceased, and the Siletz Indians as a tribal entity, were no longer recognized by our Government.

In spite of these disastrous setbacks, the members of the Siletz Tribe worked hard to organize and maintain their tribal ties and identity. On November 18, 1977, the President signed into law, legislation that restored Federal recognition to the Siletz Tribe. That law, Public Law 95–195, states that within 2 years after its enactment, the Secretary of the Interior shall submit in the form of proposed legislation, a reservation plan for the Siletz Tribe. The Secretary has submitted the plan and I would like to thank the Department of the Interior and the Bureau of Indian Affairs both here in Washington and in Oregon for working diligently with the tribe and for meeting the deadline imposed by the 95th Congress.

The plan consists of 3,360 acres of public domain land to be taken into trust for the tribe, which is located in Lincoln County, Oreg. and is currently administered by the Bureau of Land Management. Also to be taken into trust is a 36.55 acre tract of land in the City of Siletz, known as Government Hill.

The tribe has made every effort to consult and advise each agency on the Federal and State level that will be affected by the presence of a new reservation, as well as private organizations and citizens with an interest in the plan. I am submitting with the bill, a list of those persons that the tribe included in their consultation.

It is with pride that I introduce this bill; pride in the true spirit of self determination that has been manifested by the members of the tribe and its chairman, Art Bensell. After studying thoroughly every option, the tribe has devised a plan that will provide them with a sound economic base and will employ tribal members in a timber sales operation, a campground and in the various tribal health, education and recreational facilities they plan to build in the future. It is a conservative plan, a small amount of acreage compared to their aboriginal holdings. As you know, a relationship with the land is intrinsic in Indian culture and is extremely important to the Siletz, whose roots to this land go back to time immemorial.

The tribe has been sensitive to the citizens of the city of Siletz, where the Government Hill area is located. From the late 1800's until termination, Government Hill was the headquarters of the coast Reservation. At termination it was donated by the Federal Government to the city of Siletz. The tribe has plans to return that land to its original capacity and on it locate cultural and social service facilities that will be shared with the rest of the community. In a vote taken by the citizens of Siletz, the people agree to turn the land back to the tribe as did the city planning commission and the city council. In addition to local support, The Confederated Tribes of the Siletz Indians have generated a great amount of backing from many other statewide groups including Governor Vic Atiyeh, who created a task force to work with them in developing the plan.

Mr. President, that is the history of the evolution of the Siletz reservation plan. An enormous amount of effort is behind this legislation and it is my sincere hope that my colleagues will join us in support of this bill which is so important to the economic future and the preservation of the heritage of the Confederated Tribes of the Siletz Indians of Oregon.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COORDINATION AND CONSULTATION

The Department of the Interior and the Siletz Tribe, in accordance with § 711e(c) of the Siletz Restoration Act, have undertaken extensive notification and consultation with all appropriate State and local officials as well as other identifiable interest groups during the development of the reservation plan. This consultation will continue and the written comments received by the Secretary from such persons and groups will be submitted to Congress at the time the proposed legislation is formally introduced. Numerous meetings as well as extensive written and telephone communications have taken place between Bureau of Indian Affairs officials, Tribal Council members, and the State and local officials and other interested parties. Every effort has been made to ensure that all parties have been well informed and afforded a continuing opportunity to comment and provide input in the development of the plan.

The following is a list of the officials, agencies and interested parties consulted during the reservation plan development to date. The Siletz Restoration Act Committee was appointed by Governor Victor Atiyeh at the Tribe's request to consult with the Department of the Interior and the Tribe during the development of the plan.

Topics addressed at the meetings listed below included potential and identified size and location of the proposed reservation; effect of establishment of the reservation on State and local tax revenues; civil and criminal jurisdiction issues; hunting, fishing, and trapping rights of the Tribe and its members; provision of State and local services to the reservation, the Tribe, and tribal members; and provision of Federal and tribal services to the reservation, the Tribe, and tribal members. As a result of these meetings, extensive staff to staff communication between the Department, the Tribe, and the State agencies was facilitated, so that the consultation process has been ongoing and not simply limited to these meetings.

The Honorable Victor Atiyeh, Governor, State of Oregon:

Meeting on April 9, 1979 at which the following persons were present: The Hon. Victor Atiyeh; Arthur Bensell, Pauline Ricks, Edmund Ben, Lindsey John, Delores Pigsley. Siletz Tribal Council; Charles Wilkinson, Sharon Gordon, tribal legal counsel; Richard Ivey, CH2M HILL.

Preliminary draft of plan mailed on August 10, 1979.

Siletz Restoration Act Committee (State of Oregon officials:)

James Redden (Chairman), Attorney General.

John R. Donaldson, Director, Department of Fish and Wildlife.

Leo T. Hegstrom, Director, Department of Human Resources.

Verne A. Duncan, State Superintendent of Public Instruction.

William S. Cox, Director, Division of State Lands.

J. B. Bedingfield, Director, Executive Department.

Rudy Clements, Commission on Indian Services.

Robyn L. Godwon, Director, Department of Revenue.

W. J. Kvarsten, Director, Department of Land Conservation and Development.

J. E. Schroeder, State Forester.

Dell Isham, Senator, District No. 2.

Meeting held on May 18, 1979 at which the following persons were present: Doyce L. Waldrip, Assistant Area Director, BIA; James Burris, BIA; James Redden, Attorney General; Clement E. Azure, Department of Human Resources; Bruce Bishop, Commission on Indian Services; Bill Cox, Division of State Lands; J. E. Schroeder, Department of Forestry; Dell Isham, State Senator, District No. 2; Jon Yunker, Executive Department: Rollie Rousseau, Department of Fish & Wildlife; Jim Ross, Department of Land Conservation & Development; Robyn L. Godwin, Department of Revenue; Randy Martin, Plans Coordinator, Lincoln County; Arthur Bensell, Pauline Ricks, Edmund Ben, Lindsey John, George Baker, Delores Pigsley, Stanley Strong, Siletz Tribal Council; Charles Wilkinson, Sharon Gordon, tribal legal counsel; Marcy Schwartz, CH2M HILL.

Meeting held on July 28, 1979 at which the following persons were present: Doyce L. Waldrip, Assistant Area Director, BIA; Bernard Topash, BIA; James Redden, Attorney General; Jan Haley, Division of State Lands; Jon Yunker, Executive Department; John Donaldson, Department of Fish & Wildlife; J. E. Schroeder, Department of Forestry; Robyn L. Godwin, Department of Revenue; Rudy Clements, Commission on Indian Services: Rollie Rousseau, Department of Fish & Wildlife; Bruce Bishop, Commission on Indian Services; Steve Evered, Rick Gray, staff representatives of Congressman Les AuCoin: Arthur Bensell, George Baker. Mary Fisher, Stanley Strong, Lindsey John, Pauline Ricks, Edmund Ben, Siletz Tribal Council; Charles Wilkinson, Sharon Gordon, tribal legal counsel; William Blosser, Marcy Schwartz, CH2M HILL.

Continuous staff contact between consultants and staff of above departments.

Preliminary draft of proposed plan mailed to members on August 10, 1979.

Meeting with Fish & Wildlife Commission is scheduled for September 21, 1979.

Lincoln County Commissioners: Albert Strand, Chairman, W.S. Ouderkirk, and Andrew Zedwick.

Meeting held on May 8, 1979 at which the following persons were present: Doyce L. Waldrip, Assistant Area Director, BIA; James Burris, BIA; Arthur Bensell, Pauline Ricks, Siletz Tribal Council; Sharon Gordon, tribal legal counsel.

Appointment of Randy Martin, Plans Coordinator, Lincoln County, as official liaison with the Department of the Interior and the Tribe to work on the plan made by the Commissioners at the Tribe's request. Mr. Martin has been in continuous contact with staff in development of the plan.

Preliminary draft of proposed plan mailed to commissioners on August 10, 1979.

City of Siletz: Roy Weaver, Mayor, Gladys Faulkner, City Council, Stephen Streeter, City Council, Paul Zook, City Council, Ron Williams, City Council (resigned effective Aug. 1, 1979).

Leroy Yoder, Chairman, Planning Commission, Richard Bennett, Planning Commission, Harvey Haproff, Planning Commission (resigned Sept. 1979), Robert Longyear, Planning Commission, James Strebig, Planning Commission, Grace Castle, Planning Commission, Verlin White, Planning Commission (new member, Sept. 1979), Victor Bucy, Planning Commission (new member, Sept. 1979), Michael Hart, Planning Commission (new member, Sept. 1979).

Paul Osterlund, City Attorney.

Meeting held May 15, 1979 at which the following persons were present: Roy Weaver, Mayor; Gladys Faulkner, City Council; Susan Youngman Long, staff to Senator Mark Hatfield; James Burris, BIA; Arthur Bensell, Pauline Ricks, Siletz Tribal Council; Sharon Gordon, tribal legal counsel.

Meeting held on July 9, 1979 at which the following persons were present: Doyce L. Waldrip, Assistant Area Director, BIA; Roy Weaver, Mayor; Stephen Streeter, Paul Zook, Ron Williams, City Council; Paul Osterlund, City Attorney; Arthur Bensell, Pauline Ricks, Delores Pigsley, Edmund Ben, Lindsey John, Mary Fisher, Elouise Case, Stanley Strong, George Baker, Siletz Tribal Council; Sharon Gordon, tribal legal counsel; General Public.

Meeting held on August 2, 1979 at which the following persons were present: Doyce L. Waldrip, Assistant Area Director, BIA; Bernard Topash, BIA; Roy Weaver, Mayor; Gladys Faulkner, Paul Zook, City Council; Leroy Yoder, Richard Bennett, Harvey Haproff, Robert Longyear, James Strebig, Grace Castle, Planning Commission; Arthur Bensell, Lindsey John, George Baker, Edmund Ben, Mary Fisher, Delores Pigsley, Stanley Strong, Pauline Ricks, Elouise Case, Siletz Tribal Council; Sharon Gordon, tribal legal counsel; Marcy Schwartz, CH2M HILL; General Public.

Meeting with Planning Commission scheduled for September 13, 1979 to further discuss status and proposed uses of Government Hill property.

Preliminary draft of plan mailed to or delivered August 10, 1979.

Continuous staff contact during plan development.

Georgia-Pacific Corporation:

Meeting held June 21, 1979 at which the following persons were present: Doyce L. Waldrip, Assistant Area Director, BIA; Robert E. Flowerree, Chairman and Chief Executive Officer, Georgia-Pacific Corporation; Arthur Bensell, Pauline Ricks, Siletz Tribal Council; Charles Wilkinson, tribal legal counsel.

Northwest Steelheaders Association, Trout Unlimited:

Meeting held August 22, 1979 at which the following persons were present: Doyce L. Waldrip, Assistant Area Director, BIA; Bernard W. Topash, BIA; Dick Taug, Natural Resources Director, Northwest Steelheaders Association; Ken Torkelson, Bill Mason, Walt Younger, Norm Cleman, Bob Askey, Pat Loveland, Jim Reid, Bill Kremers, Richard Hanson, Corvallis Chapter, Northwest Steelheaders Association; R. P. Myers, Jerry W. Iverson, Tom Bayless, Charlie Brown, M. S. Morse, Paul E. Davis, Bill MacHugh, Albany Chapter, Northwest Steelheaders Association; Ken Donaldson, Trout Unlimited; Arthur Bensell, Pauline Ricks, Delores Pigsley, Lindsey John, Edmund Ben, George Baker, Stanley Strong, Siletz Tribal Council; Charles Wilkinson, Sharon Gordon, tribal legal counsel; Marcy Schwartz, CH2M HILL.

United States Forest Service:

Meeting held March 23, 1979 at which the following persons were present: R. E. Worthington, Regional Forester, U.S.F.S.; Merle Hofferber, Director, Lands & Minerals, U.S.F.S.; Larry A. Fellows, Forest Supervisor, Siuslaw National Forest U.S.F.S.; Vince Little, Area Director, BIA; Doyce L. Waldrip, Assistant Area Director, BIA; Bill Rifenbery, BIA; Bernard Topash, BIA; Arthur Bensell, Pauline Ricks, Siletz Tribal Council; Charles Wilkinson, Sharon Gordon, tribal legal counsel.

Continuous staff contact between BIA staff, consultants, and Forest Service personnel during development of plan.

State and Local Social Service Agencies:

Personal, telephone, and written contacts made with the following agencies by staff during development of plan:

State of Oregon Mental Health Division.

State of Oregon Adult and Family Services.

State of Oregon Department of Education.

State of Oregon Children's Services Division.

State of Oregon Corrections Division.

State of Oregon Employment Division.

State of Oregon Community Services Program.

Lincoln County Mental Health Clinic.

Lincoln County Adult and Family Services.

Lincoln County Council on Aging.

Lincoln County Housing Authority.

Lincoln County School District.

Lincoln County Children's Services.

Lincoln County Manpower Consortium.

Lincoln County Corrections Division.

Lincoln County Employment Division.

Lincoln County Volunteer Services.

Lincoln County Vocational Rehabilitation.

Lincoln County Comprehensive Youth Program.

Siletz Vocational School.

Siletz High School.

Siletz Drug and Alcohol Program.

United States Bureau of Land Management:

Meeting held on March 7, 1979 at which the following persons were present: Murl Storms, State Director, BLM; Vince Little, Area Director, BIA; Doyce L. Waldrip, Area Director, BIA; Ralph Gustafson, Forester, BIA; Arthur Bensell, Pauline Ricks, Siletz Tribal Council; Charles Wilkinson, Sharon Gordon, tribal legal counsel; Richard Ivey, CH2M HILL.

Continuous staff contact between BIA, consultants, and BLM forestry staff, as well as continuous written and telephone communication between all of the above parties.

Preliminary draft of proposed plan mailed to State Director.

Church Women United of Oregon:

Annual meeting of this statewide organization on April 18, 1979 included presentation regarding reservation plan by Pauline Ricks, Tribal Vice-Chairperson, and Sharon Gordon, tribal legal counsel.

Abbreviated summary of reservation plan included in newsletters sent to 400 members of this organization on August 31, 1979.

Rotarians International, Newport and Lincoln City Chapters:

Meeting of Newport chapter on April 25,

1979 included presentation regarding reservation plan by Arthur Bensell, Tribal Chairman.

Meetings of Toledo chapter on March 15 and May 2, 1979 included presentation on reservation plan given by Arthur Bensell, Tribal Chairman.

National Tribal Chairmen's Association:

Annual meeting of this organization on July 30, 1979 in Denver, Colorado, included presentation on reservation plan by Arthur Bensell, Tribal Chairman.

National American Indian Women's Association:

Annual meeting of this organization on May 23, 1979 in Yakima, Washington, included presentation on reservation plan by Pauline Ricks, Tribal Vice-Chairperson.

Northwest Affiliated Tribes Association:

Annual meeting of this organization on August 28, 1979 in Warm Springs, Oregon, included presentation on reservation plan given by Arthur Bensell, Tribal Chairman; Pauline Ricks, Tribal Vice-Chairperson; and Sharon Gordon, tribal legal counsel.

Members of the Confederated Tribes of Siletz Indians of Oregon:

General Council meetings were held on April 7, May 5, August 4, and September 15, 1979 at which reservation plan details and development were discussed. General Council meetings are announced to all the members of the Siletz Tribe in advance in the tribal newsletter, and are open to all interested persons. The August 2 and September 15 meetings included special lengthy presentations by Tribal Council members, tribal legal counsel, and consultants regarding the details of the proposed legislation and reservation plan, and opportunity for input of tribal members.

Information, questions and answers, and regular reports regarding development of the reservation plan have been made to all tribal members in the tribal newsletters published and mailed out in May, June, July, and August.

Information sheets and background materials on the Tribe and reservation plan development have been made available in each of the tribal area offices in Siletz, Springfield, and Salem.

Other Interest Groups:

Preliminary draft of proposed plan mailed to the following organizations upon request during August and September, 1979.

Four Corners Rod and Gun Club, Salem, Oregon.

Santiam Flycasters, Salem, Oregon.

Oregon State Rifle and Pistol Association, Oregon City, Oregon.

Isaac Walton League, Corvallis, Oregon.●

By Mr. DURENBERGER:

S. 2057. A bill entitled the "Investment Income Incentive Act of 1979"; to the Committee on Finance.

● Mr. DURENBERGER. Mr. President, the economy has been sending the policy makers in Washington a series of alarming signals lately. Double-digit inflation persists. Interest rates are at record highs. The Federal budget deficit resists shrinkage. Productivity is flat. We may, or may not, be in a recession. The savings rate has reached a 30-year low.

The picture is bleak, but this is hardly the time to be wallowing in self-pity. Rather, we should seek the causes of our economic troubles, and take positive steps to turn the situation around. Today, I am introducing a bill in response to one of these problems. I am referring to the decline in savings and investment.

The current series in the Washington Post details the effect of inflation on the American family. Normally, inflationary periods forced families to curb consumption, and increase savings. Declining demand would slow down the economy and the rate of inflation. The increase in the capital stock through savings would provide the funds for new investment, and economic growth. Consumers have not responded in the classical fashion during the current inflationary phase. Consumption remains strong, and individual savings is dwindling. People have developed an inflationary psychology. They believe that prices will continue to increase, and that it is better to buy today than at a higher price tomorrow. Private debt is at a dangerously high level.

We need to break the psychology of inflation. We need to revive our capital stock through greater saving. The capital resulting from saving would be used to replace American plant and equipment. Capital would fund the necessary research and development which provides the technology to improve the productivity of the American work force.

The bill I am proposing today would provide a tax exclusion for investment income. It is a means to encourage people to save, either through investment in the stock market or investment in a savings account. Dividend and interest income are the rewards of saving. Both provide additional capital resources. We cannot provide tax incentives for either type of investment without providing an incentive for both. To isolate either for favorable tax treatment would result in the phenomenon of switching from the other form of investment. My bill provides an incentive for both types of investment.

I ask unanimous consent that the bill be printed in the RECORD, together with several articles on the savings and investment problem in America.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) Dividend Exclusion

Subsection (a) of section 116 of the Internal Revenue Code of 1954 (relating to partial exclusion of dividends received by individuals) is amended by striking out "$100" and inserting in lieu thereof the following table:

Year	Dividend exclusion	Dividend exclusion for a married couple filing a joint return under section 6013
1981	$100	$200
1982	200	400
1983	300	600
1984	400	800
1985 and after	500	1000

(b) Savings Exclusion

In General—Part III of Subchapter B of Chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as 129, and by inserting after section 127 the following new section:

Sec. 128. Interest

(a) In General—In the case of an individual, gross income does not include any amount received as interest or dividends on a time or demand deposit with—

(1) a commercial or mutual savings bank the deposits and accounts of which are insured by the Federal Deposit Insurance Corporation or which are otherwise insured in accordance with the requirements of the law of the State in which the bank is located.

(2) a savings and loan association, building and loan association, or similar association, the deposits and accounts of which are insured by the Federal Savings and Loan Insurance Corporation or which are otherwise insured in accordance with the requirements of the law of the State in which the association is located, or

(3) a credit union, the deposits and accounts of which are insured by the National Credit Union Administration Share Insurance Fund or which are otherwise insured in accordance with the requirements of the law of the State in which the credit union is located.

(b) Limitation—The amount of interest excluded under subsection (a) for the taxable year shall not exceed $500 ($1,000 in the case of a husband and wife who make a joint return under section 6013).

(c) Transitional Interest Exclusion—The amount of interest excluded under subsection (a) during the transition period shall not exceed the following amounts:

Year	Interest exclusion	Interest exclusion for a husband and wife who make a joint return under section 6013
1981	$100	$200
1982	200	400
1983	300	600
1984	400	800

(c) Cross Reference—The table of Sections for Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by striking out the last item and inserting in lieu thereof the following items:

Sec. 128. Interest.

Sec. 129. Cross references to other Acts.

(d) Effective Date—The amendments made by these sections apply to taxable years beginning after December 31, 1980.

The U.S. Bias Against Saving Leads To High Inflation, Weak Dollar, Slow Growth, Declining Productivity

During the Depression, the ideas of John Maynard Keynes galvanized the world's economists into a war on the problems of chronic underconsumption and unemployment. Because more saving meant less current spending. Keynes argued with rapier-like logic that excessive saving, by households and companies, was what prevented an economy from pulling itself out of an economic slump. Indeed, increasing the amount people save would lead to more unemployment, thereby slowing business activity and reducing national income even further.

Ever since, economists and U.S. policymakers have treated saving as a stepchild—and an ugly one at that. Although the 1930s have become little more than a blurred dream, two generations of economists have scorned saving, maintaining instead that government stimulus of consumer spending and business investment was necessary to bridge the valleys of the business cycle and sustain long-term growth. Reflecting the antisaving bias of economists, policymakers have enacted measure after measure—ranging from the taxation of interest income to the sharp increase in Social Security benefits—to discourage or reduce the public's incentive to save.

But it is now becoming increasingly clear—even to some leading Keynesians—that stacking the economic deck against saving and toward more and more current consumption has turned out to be a mistake of monumental proportions. As Franco Modigliani of the Massachusetts Institute of Technology puts it: "The view that saving is a nuisance that threatens full employment is dead, and as far as I'm concerned, it should have been dead by the mid-1950's." Because policymakers have discouraged saving over the years, the nation now faces the bleak prospects of continuing high inflation, a weak dollar, lackluster long-run growth, and declining productivity brought about by anemic capital investment. And economists are warning that unless economic policy changes to encourage more saving, then there is no way that the U.S. can get onto a stable high-investment, high-growth path.

There are encouraging signs that Washington is getting the message. Top economic officials in the Administration and members of the Federal Reserve Board are at least talking about the need to spur saving by removing government disincentives. A chronic high federal deficit (the biggest drain on private savings) and a high inflation rate (the biggest discouragement to savers) have become the prime targets of President Carter, who wants to cut the deficit from $39 billion this fiscal year to $30 billion or less in fiscal 1980. The depth and durability of the President's commitment to budget restraint, which means controversial cuts in social programs, remain to be tested. But it will augur well for saving and the economy if this policy turn can be executed successfully.

THE $15 BILLION SHORTFALL

At the very heart of the about-face on saving lies the relationship between saving and investment. The old Keynesian view held that cause and effect ran from investment to saving. High investment generated high income growth, which, in turn, automatically created the pool of savings to provide the wherewithal to continue a high level of investment. So a dearth of saving was never a problem to Keynes. Most economists today see cause and effect moving in both directions. "To some extent, high growth produces high saving, but high saving also creates growth," says Modigliani. "In the long run, it is saving that limits investment and not vice versa." Adds Harvard University's Martin S. Feldstein: "Over the long term, the real problem is saving and how to stimulate a high rate of saving."

Robert Solow, president of the American Economic Assn. and a capital theorist, will not go quite as far as Modigliani and Feldstein, but he notes that as the nation gets closer to full employment, more incentives are needed to increase saving than to increase investment. Says Solow: "You need to sacrifice current consumption to create the productive capacity to gain future consumption. And it's not too soon to start the economy moving to higher saving to achieve higher long-run growth."

Saving means that the public does not consume its full income, explains growth theorist Evsey D. Domar of MIT. This gives the nation the opportunity to enlarge its capital stock, generate more productive capacity, and raise the standard of living of its people. "More saving gives you the chance to invest more," says Domar.

Another top expert on U.S. growth, Keynesian economist John Kendrick of George Washington University and former chief economist of the Commerce Dept., says: "We are in a stage of the expansion in which it is desirable to stimulate saving as well as investment. This is in contrast to the early stages of a recovery, when autonomous increases in investment stimulate income and employment, which, in turn, yield the required saving."

But rather than moving to a higher rate, consumer saving continues to fall below its long-run trend of 6 percent to 6½ percent of disposable income. In the third quarter of this year, the rate of personal saving declined to 5.1 percent, continuing the downward trend of the past two years. Although seemingly small, this below-trend shortfall amounts to $15 billion a year. Moreover, as Michael J. Boskin of Stanford University points out, changes in the labor force, such as the sharp rise in two-earner households, should have led to an increase in the rate of saving.

To Boskin and others, the future growth in the nation's income is being sacrificed in favor of a short-run stabilization policy. Every time the economy sputters, he says, the government cuts taxes to encourage consumption. This increases the budget deficit. The government must then borrow to finance the deficit, so the already low level of saving is diverted from corporate investment for plant and equipment.

DISINCENTIVES TO SAVING

Alan Greenspan, president of Townsend-Greenspan & Co. and former chairman of the Council of Economic Advisers, is not convinced that total private saving in the economy is deficient. But he agrees, "We face a tremendous problem of overcoming the increasing preemption by government of large chunks of saving flows from productive private investment both through government deficits and off-budget government spending." In addition, Greenspan notes that government-mandated spending in the private sector for antipollution equipment and other social goods is diverting business saving from productive to unproductive investment.

Increasing the rate of saving means reducing consumption. This could lead to an economic slump unless investment spending rises to take up the slack. So it is vital to create the incentives for business investment. Greenspan and many economists argue that "we must work on the saving and investment levers simultaneously." Federal Reserve Board Governor Henry C. Wallich is also a "two-lever" man. "If you merely stimulate saving, you may not get the higher investment but only lower total income," he says. "On the other hand, if investment goes up without an adequate supply of saving, interest rates will rise until they choke off investment."

But it is the inadequate supply of savings that is worrying more and more economists these days, particularly the decline in personal saving. Otto Eckstein, president of Data Resources Inc., says that "the government could create more tax incentives for business to save by liberalizing depreciation allowances, for example, and thus increasing real retained earnings." But he notes that it is perhaps more crucial to have a large pool of personal savings than corporate savings to ensure that the savings flow goes into those corporate ventures that offer the highest rates of return. Moreover, personal saving over the past 30 years has on the average accounted for 65 percent of the nation's net private saving, and it is the net saving that adds to the country's capital stock.

No one is advocating that government policy move headlong into pushing the private saving rate up sharply overnight; if that were to happen, the economy would surely go spinning into a recession. Rather, what seems to be called for is a reversal of a system of incentives that has pushed the public toward spending and away from saving. The major disincentives to saving include:

Chronic high inflation. As consumers saw high inflation erode the value of their financial assets in the early 1970s, they first increased their rate of saving to replenish the lost value. And they tightened their belts even further as the economy moved into the 1974–75 recession. But with economic recovery and continued high inflation, the public has discovered that financial assets are a poor hedge against inflation. In the past few years real assets—especially diamonds, gold, houses, and even automobiles—seem to offer the best bet against inflation. This may be considered saving by the individual, but from the economy's point of view, saving means refraining from consumption: not buying autos or diamonds.

Increased social security benefits. As Social Security benefits have risen faster than national income over the years, the need for wage earners to save for the proverbial rainy day has been reduced. The fact that Japan has a modest social security and pension system compared with the U.S. explains, in part, why the Japanese rate of personal saving in 1978 is five times the U.S. rate.

The income tax system. Earnings that are saved are taxed twice, once when earned and again when they earn interest. A dollar spent, therefore, is worth more today than a dollar saved in a system that rewards spending and penalizes saving. Furthermore, since interest costs are deductible, borrowing for current consumption is encouraged.

Ceilings on interest rates. While most industrial countries spur private saving, especially by small savers, U.S. bank regulators spurn the small saver. Regulation Q puts a ceiling on the interest rates payable on regular thrift accounts, and that ceiling is now almost 50 percent below the going market interest rate.

"Today the small saver is mistreated—not to say ripped off by the Regulation Q ceiling," says the Fed's Wallich. Not only is the inflation rate running well above the 5¼% ceiling that thrift institutions can pay on regular accounts, but when interest income is taxed, the real aftertax return is even more negative.

The government Series E savings bond may be one of the major swindles of all time on low- and middle-income wage earners, at least according to economist Solow. The government gets free air time he says to push bonds that pay 6% as a solid investment while its own economists are forecasting an 8% inflation rate. With 8% inflation, the real rate of return on E bonds is a negative 2% before taxes and worse after taxes.

Indeed, because interest income is subject to taxes, the real rate of return for both small and big savers has turned negative ever since inflation really got rolling. Since 1972 the aftertax real rate of return on regulated savings and loan association accounts has remained negative. In 1974 the tax- and inflation-adjusted rate was minus 6%, and now that rate is only slightly better. Even for corporate bonds whose yield is determined by market forces and therefore contains an inflation premium, the aftertax real return is still almost minus 2%. As the system taxes the interest that reflects the rate of inflation as well as the real interest rate, the aftertax return can easily be pushed into negative territory when inflation rises. If the market interest rate were 6%, of which 3% was inflation premium, a person in the 50% marginal tax bracket would have a zero real aftertax return, because taxes would be paid on the entire 6% yield. If the rate of inflation were to double to 6% and this premium were incorporated by the market into the yield, then the interest rate would rise to 9%. At the same 50% marginal tax rate, the tax would come to 4½%, which provides a negative real rate of 1½%.

A TURN TO TANGIBLES

The combination of inflation and taxes has also clobbered savers who put their money into the stock market, even when stocks performed well. An analysis by Feldstein and Joel Slemrod, of Harvard, of stocks sold in the very good stock market year of 1973 showed that investors paid taxes on some $4.6 billion in capital gains. But when the costs of these shares were adjusted for the increase in the price level since they were purchased, the $4.6 billion gain turned out to be a $1 billion capital loss. Individuals were paying taxes on nominal capital gains, which were actually losses when adjusted for inflation.

It is little wonder that consumers, expecting a chronically high inflation rate, are putting their dollars into tangible assets rather than financial assets. And this shows up as a decline in savings and an increase in consumption. William Fellner, of the American Enterprise Institute and a former CEA member, is now conducting a study demonstrating that the ratio of tangible assets held by households—houses, cars, and other durables—to their financial assets increased sharply over the past decade. "The public, because of inflation, finds it gets better value on current consumption through tangible assets, which it uses as a proxy for saving," he notes.

"When you have high inflation, people turn from financial to other assets," says Modigliani, "and as the prices of these assets rise, then this further reduces the incentive to save." When wealth rises because such unproductive assets as gold or diamonds are bid up, he explains, saving is reduced because people are wealthier and need to put away less for later in life.

The realization by the public that houses were a good hedge against inflation has perpetuated the boom in housing and led to sharp rises in home prices in the past year. This not only has pushed huge dollar savings flows into housing rather than into more productive corporate investment but also has reduced the incentive of homeowners to save because their homes have appreciated in value. Furthermore, as Greenspan has been warning, the consumer is overextending himself by cashing in on the inflated values of housing. Homeowners are using second mortgages to finance current consumption on everything from paying college tuitions to buying boats. "The upshot of the profound shift toward investing in real assets," says Gary M. Wenglowski of Goldman, Sachs & Co., "is that it exacerbates the already high rate of inflation."

On top of the turn toward tangible assets, consumers are buying in advance with the hope of beating expected price increases. Buy-in-advance psychology is especially evident in big-ticket items, where purchases can be made on credit. F. Thomas Juster, director of the University of Michigam's Survey Research Center, notes that the uncertainty caused by the reacceleration of inflation should have pushed up precautionary saving, but "people keep buying in anticipation of worsening inflation."

Harvard's Feldstein, who is also president of the National Bureau of Economic Research, is the economist who focuses most heavily on Social Security's role in reducing the incentive to save. For the majority of Americans, he argues, the most important form of household wealth is the anticipated Social Security retirement benefits. As these benefits have increased in recent years, employees have reduced their retirement nest eggs almost dollar for dollar with the rise in benefits, his studies show. "Social Security significantly depresses saving, and, in turn, business capital accumulation," he says.

Feldstein's findings are controversial. Says Stanford University's Boskin: "If Feldstein's numbers are right, the Social Security system has resulted in a capital stock that is about one-third smaller than it would be otherwise. I don't believe that. His estimate overstates the Social Security effect." While they may dispute the size of the Feldstein effect, most economists accept his overall conclusion. Says Modigliani: "There is a negative impact of Social Security on saving."

Institutional factors account for much of the spread between the high rate of saving abroad and the low U.S. rate. In addition to the underdeveloped Japanese social security and pension system, the high rate there "has deep roots in Japanese culture and the Buddhist religion," says Teruo Takada, secretary of the Federation of Bankers' Association of Japan. Germans save more than Americans, says Charles Roberts, economist at Munich's IFO Institute, in part because "German workers are simply thriftier. They believe in saving for tomorrow and not using so much credit."

Not only is the U.S. rate of personal saving the lowest of all the major industrial countries, but the U.S. rate has fallen from the level of a decade ago, while the rates in many other industrial nations have risen, and so has the percent of their gross national products that go into capital investment. In Japan, for example, the rate of saving increased from 20 percent in 1970 to 24.3 percent in 1977, and in Canada it has more than doubled in the same period.

No one argues that the U.S. saving rate should be moved up to the rates prevailing overseas, but a reversal of the current downward trend is clearly a must. An increase in personal saving in the U.S. would lead to an increase in the nation's capital stock, thus improving productivity and raising real wages, which have shown only minuscule upward movement in the past decade.

An increased saving could prevent a major confrontation between the nation's workers and retirees. Because of demographic changes, the number of retirees-per-worker at the turn of the century will decline from the current 1 per 3 workers to 1 for every 2 workers. If those future retirees continue to save so little, then those who will be working will have to carry a backbreaking financial burden to pay for their Social Security benefits.

FINDING THE REMEDIES

Now that economists have become acutely aware of the importance of savings, they are turning to the problem of how to induce both households and business to save more. Almost all economists see inflation control as the first step in a program to increase the rate of personal saving. Chipping away at the rate of inflation would induce more saving in the short run. This, in turn, would lessen demand pressures, thus further reducing the rate of price increases. More savings will mean higher productivity and thus lower inflation over the longer run, too.

Just as clearly, the U.S. Tax Code should be changed to correct the biases against saving. "What you want to do," says Feldstein, "is tilt the federal tax system from taxing income, which penalizes savings, toward a tax on expenditures." Feldstein and many other economists favor eliminating the tax on interest income. And he notes that the U. S. already has provisions in the tax code that provide incentives to save and postpone consumption. Deductions for the Individual Retirement Accounts (IRA) and Keogh plans allow taxes to be postponed until the plans are terminated and the contributions become available for spending. Feldstein wants to expand the Keogh-IRA concept to include a lot more individuals and not only those who are self-employed or whose companies do not have pension plans.

Another economist who makes the case for expenditure taxes is David F. Bradford of Princeton University, a Deputy Assistant Treasury Secretary in the Ford Administration. In early 1977 the Treasury issued a study, *Blueprints for Basic Tax Reform,* on which Bradford did the primary work. The study has become a bible for tax reformers. Bradford and his associates in the Treasury's Office of Tax Analysis laid out alternative methods for developing a comprehensive tax system, either through overhaul of the income tax or substitution of an expenditure or cash-flow tax. The expenditure tax would favor saving by excluding savings from taxation—and that includes all capital gains—until they are withdrawn or tapped for consumption of goods and services.

At first blush, the expenditure tax might appear to be a radical and alien concept to a nation accustomed to the income tax. But Bradford notes that the U.S. Tax Code already tries to offset the penalty on saving by allowing special tax rates on capital gains and tax deferrals on certain investments for retirement purposes. Thus, he argues, "a shift to a full consumption tax would really constitute less change in the present system than most people think."

Although Bradford and other proponents of consumption taxation note that it can be made as progressive as the income tax or be shaped in other ways to suit social goals, Joseph A. Pechman, director of economic studies at the Brookings Institution, faults the concept precisely on the point of equity. Pechman fears that it would inherently resemble a straight sales tax and hence hit hardest at low-income taxpayers. It would, therefore, says Pechman, benefit those who already have the wherewithal to achieve higher lifetime saving rates.

Pechman does agree with those who want to protect the small saver through some form of partial indexation, or inflation adjustment, for savings. Ironically, Pechman concedes that a consumption tax could be an even more flexible instrument for fiscal policy than the income tax, as "rates could be raised or lowered to influence consumption more quickly for countercyclical purposes. The consumption tax would work directly on consumer spending, while income tax changes work on both consumption and saving."

The central idea of the consumption tax, like other proposals to increase saving, is to increase the return on thrift, thereby making a dollar saved worth at least as much as a dollar spent. Another way to raise the rate of return on thrift is to allow interest rates to rise, particularly for the average individual. The evidence is not altogether clear on how many savers would respond to relatively small changes in interest rates. Economists, however, generally agree that eliminating the interest rate ceiling on thrift accounts now would induce a significant increase in saving because market rates are so much higher than the regulated rates

Likewise, offering savers bonds that are indexed to the price level would give them a means of preserving their financial capital against the ravages of inflation. "It would have a strong positive effect on saving," says Solow.

Feldstein cautions that the immediate removal of interest rate lids on all types of accounts at the thrift institutions would almost certainly bankrupt them, because most of their assets are tied up in mortgages that yield well below the current market interest rate. "It has to be done gradually," he warns. Indeed, the thrifts already feel the pinch from new six-month savings certificates that carry interest rates slightly above the market T-bill rate, now over 9%.

But Feldstein opposes gradualism in slowing the rate of growth of Social Security benefits. Past and scheduled benefit increases are so large as to require a bold effort at control if the rate of saving is to be prevented from falling further. Indeed, a tightening in benefit formulas is one of the options currently being studied by the Treasury Dept. to remedy the problem of the shortfall in the Social Security fund.

TACKLING THE BUDGET

Economists are almost unanimous in calling for tax measures that raise the business aftertax rate of return to spur business investment. Such measures include some or all of the following: cutting the corporate tax rate further (on Jan. 1 it drops to 46 percent from 48 percent), extending the investment tax credit to new structures (the 1978 Revenue Act extended it to renovation of existing structures more than 20 years old), indexing depreciation allowances for inflation, and increasing the tax exclusion for dividends to reduce double taxation of corporate profits. Increasing the corporate aftertax rate of return will not only provide more incentive to investment but will produce more retained earnings, or business saving, to carry out the investment.

The Revenue Act of 1978, while appalling to some liberal tax reformers, is the best thing that has happened since 1964 in the incentives provided for saving and investment. In addition to business investment incentives, the law reduces the maximum capital gains tax from 49 percent to 28 percent for individuals. "We need further steps in that direction," says Greenspan.

But all such steps will do little to funnel dollars from saving to investment unless Washington takes a giant step to reduce the huge budget deficit. Says Bradford: "You can't answer the question of the impact of increased private saving on the capital stock without looking at the budget. And a balanced budget is more important for investment than almost any incentive for increasing saving." Because government is a prime borrower, large budget deficits suck up savings from consumers and businesses alike. This leaves less savings to increase the nation's capital stock.

To be sure, government does invest some of the dollars it borrows in such projects as roads, schools, dams, and other programs that increase the nation's future output in almost the same way that private capital spending does. But the proportion of federal outlays going into public capital investment is declining. Over the past decade government purchases of goods and services have fallen sharply as a percent of total budget outlays, while transfer payments have increased. Even such die-hard Keynesians as George L. Perry of the Brookings Institution, who does not worry much about a lack of private saving in the economy, calls for a move toward a balanced budget to spur private investment. Lyle E. Gramley of the CEA agrees. Says he: "To increase the share of GNP going into investment, we must reduce the federal deficit. Getting the deficit down to $30 billion in fiscal 1980 and federal spending down to 21% of GNP are only interim goals. A budget balance could be struck at 20% or 19.5% in the early 1980s."

Gary Fromm, an economist for SRI International, is a sharp eye on the Washington economic scene. He remains skeptical about the will of the Carter Administration to cut the deficit. Despite the President's Oct. 24 commitment not to cut taxes further until inflation is curbed, he expects the Administration and Congress to seek another tax reduction in the next year or so. "Is Carter really going to resist using fiscal policy to stimulate the economy in the election year of 1980?" he asks.

If Fromm is right, then it will be some years before the turn in economists' thinking on the critical issue of saving will be matched by a corresponding turn in the actions of U.S. policymakers. This means that if the Administration bends its goal of a balanced budget and opts for the old Keynesian quick fix in the pursuit of a short-term burst of economic activity, it could cost the nation years of slower long-run growth, slumping productivity, and further loss of international competitiveness.

INFLATION AND TAXES: DISINCENTIVES FOR CAPITAL FORMATION

(By John A. Tatom and James E. Turley)

One of the disappointing features of the current expansion has been the sluggish growth of business investment spending. Businesses appear to be more reluctant to make outlays for purchases of new plant and equipment than was the case in previous periods of economic growth. Since the beginning of the current expansion in early 1975, investment expenditures have grown at a 9.4 percent annual rate, compared to an average 11.8 percent rate for comparable periods in the four previous recoveries.[1] When these dollar outlays are measured in terms of their purchasing power, the differential is even greater: real business investment in plant and equipment has grown at only a 3.7 percent rate during the current expansion, compared to a 7.8 percent average rate in previous expansions.

Numerous factors have been suggested as explanations for this relatively sluggish growth in capital outlays, including the uncertainty over proposed changes in tax and energy policy, the higher replacement cost and lower productivity of capital goods due to higher energy costs since 1974, and general uncertainty about the economic consequences of a new Administration. One factor which has not received its rightful share of publicity, however, is the unusually rapid rate of inflation associated with the current expansion. Inflation, in conjunction with the accounting convention of recording transactions at their historical values, reduces the returns generated by investment projects. In addition, the combined effects of inflation and the personal income tax structure tend to drive up the cost of obtaining the funds necessary for a given capital investment program. Each of these adverse effects of inflation provides a disincentive to business investment. Thus, inflation should be high on the list of culprits responsible for the lackluster performance of business investment spending.

INFLATION'S IMPACT ON INVESTMENT RETURN

In order to discuss the effects of inflation on investment return, it is useful to distinguish between nominal and real rates of return. Nominal measures refer to dollar amounts which use currently prevailing dollar prices as a yardstick. Real measures use a yardstick with a constant purchasing power of the dollar—the dollar value of goods and services is measured in terms of prices which prevailed in some previous or "base" period. In essence, real values measure the extent to which increases in nominal values actually reflect changes in the ability to purchase goods and services. An increase in income from $100 to $120 during a period when prices are rising by 5 percent per period involves a $20 or 20 percent gain in nominal income. However, since this income will command only $15 more in goods and services, real income has increased by only 15 percent.[2] Since real measures are free of distortions produced by using a variable yardstick, real rates of return are examined below.

A series of examples illustrates the adverse impact of inflation on an investment project's real rate of return.[3] The project remains the same in the following examples, but the annual rate of inflation over the life of the project is assumed to change from zero, to 5, and then to 10 percent.

Investment return with no inflation

Suppose that a firm is considering the purchase of an asset which costs $300,000 and is expected to yield an annual before-tax net cash income (the excess of cash receipts over cash expenses) of $100,000 over its expected useful life of 5 years.[4] The firm anticipates that the asset will have no value at the end of its useful life. To simplify the calculations, let the corporate income tax rate be 50 percent. Initially, it is assumed that inflation is nonexistent so that all dollar receipts and outlays over the expected life of the capital asset are also measured with constant purchasing power; any increase or decrease in dollar magnitudes implies a corresponding increase or decrease in the ability to purchase goods and services.

Table I indicates the annual cash flows associated with this project over its expected life. The first column depicts the annual before-tax net cash income of $100,000 generated by the project. On this pretax basis, the inflows serve as a measure of the benefits associated with the project itself, but do not represent a measure of the benefit which the firm will actually receive by acquiring this capital asset. To arrive at such a measure, corporate income taxes must be considered.

Corporate tax rates are intended to be levied on that portion of revenue which exceeds the total cost of operations over a particular period. To determine taxable income on this project, depreciation must be subtracted from the net cash receipts of Column I. Depreciation is the expense associated with the consumption, or wearing out, of a portion of a capital asset over any particular period. Under existing tax law, the firm is not allowed to deduct as an expense the cost of replacing the worn-out portion of the asset. Instead, it may only claim some portion of the original cost of the asset each year as an expense. Over time, total depreciation expenses cannot exceed the original cost of the asset.

TABLE I.—RETURN ON A HYPOTHETICAL INVESTMENT WITH ZERO INFLATION

[In dollars]

	Net cash receipts (I)	Cash receipts not taxed due to depreciation charges (II)	Taxes paid (III)	After-tax cash flow (IV)
End of year:				
1	100,000	60,000	20,000	80,000
2	100,000	60,000	20,000	80,000
3	100,000	60,000	20,000	80,000
4	100,000	60,000	20,000	80,000
5	100,000	60,000	20,000	80,000

Note: IRR=10.4 percent.

The firm in the example is presumed to use straight-line depreciation, which means that an equal amount of the original cost is depreciated each year. Since the asset costs $300,000, the annual depreciation charge (Column II) in each of the 5 years is $60,000. By subtracting this amount from cash receipts in each period, taxable income is derived. The corporate tax liability (Column III) is then determined by applying the corporate tax rate to taxable income. Subtracting this outflow of funds from net cash inflows (Column I), the net cash flow generated by the project and available to the firm is derived. These after-tax flows are shown in Column IV of Table I.

Given the initial cost of the asset, the after-tax flows in Column IV represent a rate

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Footnotes at end of article.

of return of 10.4 percent per year. This rate of return may be compared to both the cost of obtaining investment funds (to determine whether or not to invest) and to the returns on alternative asset purchases (to determine how funds should be allocated).[5]

Investment return with selected inflation rates

The project discussed above is now assumed to be generating a return in an environment where the price level is not stable, but rising at selected rates. A rising price level will affect the calculation of investment yield for two reasons. First, a given rate of inflation over the life of an asset will tend to be fully reflected in the pretax net cash receipts. That is, if all prices rise by 5 percent in any particular period, net cash receipts on the same units sold, in general, will also rise by 5 percent. The second reason for recalculating investment return is due to the effect of inflation on the value of the after-tax dollar magnitudes generated each year. In the previous zero-inflation example, after-tax dollar flows (as well as pretax) represented real or constant-price magnitudes. In order to make comparisons with these real flows reported in Table I, the effects of inflation on the after-tax dollar flows have to be removed.

TABLE II.—RETURN ON A HYPOTHETICAL INVESTMENT WITH A 5-PERCENT INFLATION RATE

[In dollars]

	Net cash receipts[1]	Cash receipts not taxed due to depreciation charges	Taxes paid	After-tax cash flow	Purchasing power of aftertax cash flow[2]
	(I)	(II)	(III)	(IV)	(V)
End of year:					
1	105,000	60,000	22,500	82,500	78,571
2	110,250	60,000	25,125	85,125	77,211
3	115,763	60,000	27,882	87,881	75,915
4	121,501	60,000	30,776	90,775	74,681
5	127,628	60,000	33,814	93,814	73,506

[1] Derived by applying the 5-percent inflation rate, compounded annually, to the net cash receipts in table I.

[2] Derived by deflating aftertax cash income by the 5-percent inflation rate, compounded annually.

Note: IRR=8.5 percent.

Five Percent Inflation—As indicated in Column I of Table II, the before-tax cash receipts increase by 5 percent in each year. Given this inflation boost, the incoming receipts in the prior example rise from $105,000 after the first year of inflation to $127,628 after the fifth year. Such inflated receipts, however, command no more goods and services than the receipts generated without inflation.

The dollar amount of net cash receipts which is not taxed because of depreciation charges remains the same as without inflation, since only $60,000 per year is permitted for depreciation expense. Both taxable cash income and taxes paid are greater in each period because of the effects of inflation on the net cash receipts. The net result is that after-tax dollar inflows are greater than in the zero inflation example, but these receipts represent a diminished command over goods and services. This is indicated in Column V of Table II, which shows the after-tax cash inflows on a constant-dollar basis. A comparison of Tables I and II reveals that the *real* after-tax cash inflows are decreased by the inflation. Accordingly, the yield on this project is lowered 1.9 percentage points to an 8.5 percent rate. This after-tax decline in the project's real return occurs even though the before-tax real yield remains unchanged.

Ten Percent Inflation—Table III shows how an inflation rate of 10 percent per year over the asset's depreciable life affects the project's yield. Net cash receipts advance with the 10 percent inflation, rising from $110,000 in year one to $161,051 in year five. Again, in terms of the goods and services which can be purchased, these receipts are the same as those of the no-inflation example.

Footnotes at end of article.

While the depreciation expenses remain the same, nominal taxes and income after taxes are greater than in the 5 percent inflation example. Once again, even though the after-tax income reported in Column IV is increased, this rise in receipts is not sufficient to offset the general increase of prices which prevails over the project's life. Column V shows that on a purchasing-power basis, the cash inflows are considerably lower than those in the previous examples. Accordingly, the yield on this project falls to a 6.9 percent rate—some 3.5 percentage points lower than the return on the project in a no-inflation environment.

The adverse effects on investment behavior

The source of the reduced real yield on investment is increased taxation associated with fixed nominal depreciation expenses. Even though the real value of cash inflows (before taxes) is insulated from the rate of inflation, the real value of the depreciation expense falls over time, and falls more as the inflation rate rises. This results in faster growth of taxable income—and the outflow of funds for taxes—than would be the case if depreciation expenses reflected the rising price level and replacement cost of capital. In effect, taxes are being levied not only on the income generated by the capital, but also on the capital itself. This taxation reduces the incentive of firms to invest.[6]

TABLE III.—RETURN ON A HYPOTHETICAL INVESTMENT WTIH A 10 PERCENT INFLATION RATE

[In dollars]

End of year:	Net cash receipts[1]	Cash receipts not taxed due to depreciation charges	Taxes paid	After-tax cash flow	Purchasing power of after-tax cash flow[2]
	(I)	(II)	(III)	(IV)	(V)
End of year:					
1	110,000	60,000	25,000	85,000	77,273
2	121,000	60,000	30,500	90,500	74,793
3	133,100	60,000	36,550	96,550	72,539
4	146,410	60,000	43,205	103,205	70,490
5	161,051	60,000	50,526	110,525	68,628

[1] Derived by applying the 10 percent inflation rate, compounded annually, to the net cash receipts in table 1.

[2] Derived by deflating after-tax cash income by the 10 percent inflation rate, compounded annually.

Note: IRR=6.9 percent.

In response to such a disincentive, business firms would be expected to alter their behavior, primarily by reducing investment, in order to protect themselves from the adverse effects of inflation. In addition, it is possible to show that the types of investment which firms undertake would be affected. For example, higher inflation rates discourage the adoption of capital intensive technologies, encourage the postponement of replacement investment, and typically discourage the purchase of capital assets with relatively long expected lives in favor of those with relatively short expected lives.[7]

Uncertainty about the future rate of inflation increases the riskiness of an expected income stream. Such riskiness reduces firms' incentives to acquire assets, given their real rate of return and the cost of funds. Recent evidence indicates that inflation uncertainty increases as the rate of inflation rises.[8] Thus, a rise in the rate of inflation expected by firms not only reduces expected rates of return, it also increases risk which further reduces investment incentives and the demand for new capital assets.

INFLATION'S IMPACT ON THE COST OF ACQUIRING INVESTMENT FUNDS

While inflation—operating through the tax system—serves to erode the rate of return on capital goods, it also has an adverse impact on the cost of acquiring investment funds. Again, the tax system plays a crucial role. Given the prevailing tax system, inflation raises the *real* market rate of interest demanded by individuals in order to supply funds through bond or new equity share purchases, or through retained earnings.[9] The primary determinants of the cost of a given supply of investment funds are (1) the real yield required to induce the general public to forego current consumption in order to make new equity or borrowed funds available and (2) the personal tax treatment of the income received from owning stocks and bonds.

The trade-off between current and future consumption

The first factor which influences the cost of investment funds depends upon individuals' decisions as to whether to direct a portion of current income to savings through, for example, the purchase of stocks and bonds, rather than to consumption. The saving decision involves the postponement of some current consumption for what is expected to be greater future consumption. The expected addition to future consumption opportunities is reflected in the yield obtained from holding stocks and bonds, which is most appropriately measured on a real *after-tax* basis.

The taxation of income from bonds and stocks

Two features of the U.S. tax system are of special importance in considering the effects of income taxes on the cost of investment funds for business. First, the taxation of income derived from holdings of stocks and bonds—whether in the form of stock dividends, capital gains, or interest income from bond ownership—is based upon nominal, not real, income.[10] Thus, inflation tends to increase personal taxes by inflating nominal incomes, even if the purchasing power of the income payments remains the same. Such increased taxation is compounded by a second feature of the tax system—progressivity. As inflation raises the dollar incomes from almost all sources, it pushes taxpayers into higher "tax brackets," again regardless of whether the higher incomes represent an increased ability to buy goods and services or to pay taxes.[11] Both features tend to reduce the purchasing power of income received from stocks and bonds. As a result, individuals will have less incentive to supply funds, and an increased incentive to consume now, unless they are compensated for the anticipated losses associated with increases in the inflation rate and inflation-induced taxation.

For example, suppose that in the absence of inflationary expectations and income tax considerations the typical individual is willing to save $1,000 from current income to buy bonds yielding a 4 percent rate of return for one year. Individuals expect to be able to trade $1,000 worth of current consumption goods for $1,040 or 4 percent more of the same goods in a year. The anticipation of inflation does not change the evaluation of present consumption relative to future consumption—at a minimum, a 4 percent increase in the ability to purchase goods one year hence is still demanded. But, if prices are expected to rise over the year, a nominal yield of more than 4 percent is required if the demanded trade-off between current and future consumption is to be achieved.

If, for instance, prices are expected to rise by 5 percent, the dollar prices of future goods will be higher than at the time the bond was purchased. In order to be able to pay the higher prices, lenders will demand a higher nominal interest rate. The nominal yield required to induce individuals to forego $1,000 worth of current consumption would have to rise to 9 percent in order to secure the minimum 4 percent real yield.[12] In essence, individuals will demand the same real rate of return in the face of anticipated inflation; to secure this rate of return, ignoring personal income tax considerations, nominal interest rates must rise by an amount equal to the rise in the expected rate of inflation.

When personal income taxes are included, the effect on the nominal and real interest rates at which funds are supplied is more pronounced. Suppose that the typical individual is in a 20 percent income tax bracket. In the zero-inflation case above, a market (nominal and real) rate of 5 percent on bonds is required in order to yield a 4 percent return after taxes, since 20 percent of the interest income (.2 x 5 percent=1 percent) is taken by the taxing authority. With the 20 percent tax rate and a 5 percent yield on the bond, individuals are able to trade $1,000 worth of current goods and services for $1,040 or 4 percent more of the same goods and services in a year.

When inflation is expected to run at a 5 percent rate, a higher nominal interest rate on the same $1,000 of lending is required in order to cover the higher prices in the future. In addition, individuals will face an enlarged tax burden in the future due to the higher nominal interest income. Thus, the nominal rate must rise by more than the increase in the anticipated inflation in order to assure a 4 percent real yield after personal taxes. Nominal interest income must rise enough to compensate for the effect of the inflation on the purchasing power of both the interest income *and* the initial funds supplied. Since taxes are levied on the nominal interest income, the interest return which is necessary to maintain the purchasing power of individuals' original capital is taxed as well. To compensate for this real tax burden on capital, taxpayers will demand a higher real market interest rate, before taxes, in order to supply the same funds.

In the example, the nominal market rate must rise from 5 percent (with no inflation and a 20 percent tax rate) to about 11.25 percent (with 5 percent inflation and a 20 percent tax rate) in order to provide the after-tax real yield of 4 percent to the individual. Of the interest income which accrues at a rate of about 11.25 percent per year, 20 percent must be paid in taxes (.2 x 11.25=2.25) so that the nominal after-tax yield is 9 percent. This is the rate required to yield a 4 percent real rate of return after taxes and to cover the 5 percent loss of purchasing power of the original $1,000. The nominal market rate of 11.25 percent, together with a 5 percent inflation rate, implies that a pretax real market rate of 6.25 percent (11.25−5 percent) is required to make the bond attractive. Thus, the 5 percentage point rise in inflation raises the real market rate demanded by lenders from 5 percent to 6.25 percent.

Since the personal income tax is progressive, higher nominal incomes associated with inflation can push taxpayers into higher tax brackets. Thus, a particular individual, initially in a 20 percent tax bracket, would require an even higher nominal return in order to compensate for this facet of the increased real tax burden. Since nominal interest rates rise by more than the 5 percent advance in the inflation rate in the example above, the real market rate must rise by more than 1.25 percentage points.

Since nominal dividend earnings as well as nominal capital gains are subject to personal income taxes, the required yield on stocks will be affected by anticipated inflation in the same manner as bonds. To supply the same dollar flow of funds, suppliers require compensation for both the anticipated inflation as well as the increased future tax liability which such a higher inflation rate would entail. Because the required nominal market yields on all supplies of funds rise by more than the increase in anticipated inflation, the real rates of interest which individuals require to supply a given amount of funds will rise.[13]

THE MARKET FOR INVESTMENT FUNDS

Firms tend to make capital investments when the expected real after-tax rate of return from an investment equals or exceeds the cost of acquiring the necessary funds. As has been shown, inflation has an adverse impact on both aspects of this criterion. Due to the implicit tax on capital emanating from historical cost depreciation, higher rates of inflation over the life of a project reduce the real after-tax rate of return on investment projects. Projects which would be marginally profitable, with a given cost of funds, become economically unfeasible due to the emergence of inflation, thereby reducing the level of investment demanded by firms.[14] In addition, the same inflation rate, operating through the personal tax system, drives up the real market yields at which investors are willing to supply funds.

The results are depicted in Figure I which shows business' demand for funds and investors' supply of funds at different real market rates. Initially the supply and demand curves are S and D. Additional factors which affect demand or supply, including the inflation rate, are assumed to be given along the curves. Other things equal, investors will supply more funds, the greater is the real market rate of interest. Similarly, businesses demand fewer funds to invest in assets when the real market rate of interest rises. The amount of funds supplied and demanded are equal, initially, at the real market interest rate, r_o.

For a given real market rate of interest (and cost of funds to business), an increase in the rate of inflation reduces the number of projects which businesses find attractive, thereby reducing their demand for funds. Such a shift in demand is indicated by D′ in Figure I. At the same time, the increase in the inflation rate reduces the after-tax real rate of return on equity or bond purchases, given real market yields, reducing the incentives for individuals to supply funds. Such a shift in supply is indicated by the leftward movement of supply to S′ in Figure I. The ultimate effect on the real market rate depends upon the change in the relative scarcity of funds in the market place. If the reduction in demand for new funds is matched by an equal reduction in the supply of funds, no change would occur in real market rates, as is indicated in the figure. However, if the supply of funds declines relative to demand, the increase in the scarcity of funds will cause a rise in real market rates.

Regardless of the net effect of inflation on real market rates of return, the analysis indicates that, as a consequence of the U.S. tax system, inflation unambiguously reduces incentives to undertake new investment projects, and therefore business investment spending declines. Such a reduction is indicated in Figure I by the change in investment funds from I to I′.

CONCLUSIONS

The U.S. tax system evolved over a period of relatively minor inflation and was not designated to avoid inflation's detrimental effects on economic decisions. As inflation has trended upward and expectations of future inflation have become widely held, the U.S. tax system has had an increasingly detrimental effect on business investment.

Substantial changes in the tax system would be required to insulate investment decisions from the adverse effects of inflation. The requirements include tying the income levels for personal income tax brackets, as well as deductions and exemptions, to the rate of inflation in order to avoid the disincentives associated with progressivity of the personal income tax. In addition, the personal income tax would have to be altered so as to eliminate the taxation of inflation premiums in interest income from bonds and dividend income from stocks as well as the taxation of inflation-generated capital gains.[15] At the company level, a business would have to be allowed replacement cost depreciation rather than historical cost depreciation to avoid taxing capital as well as income.

The history of tax law alterations in the United States indicates that such a large number of major revisions in corporate and personal income tax laws is most unlikely. Nonetheless, the critically important role of business investment in providing for growth in productivity, employment, and our standard of living hangs in the balance.

Of course, there is an alternative to the massive tax reform suggested here. Fiscal and monetary policies could be adopted to reduce substantially, or even eliminate, inflation and the distortions it creates. Only a noninflationary environment is consistent with the principles of taxation and our existing tax laws.

FOOTNOTES

[1] The postwar recovery beginning in the second quarter of 1958 is excluded since it did not last as long as the current expansion.

[2] This calculation of the real rate is found by subtracting the inflation rate over a period from the nominal rate of increase. The exact measure of the real income gain in the example above provides a slightly different result. Since $120 will buy only $114.29 ($120÷1.05) worth of goods and services, measured in the initial period's prices, the real gain could be stated as the simple percentage gain of 14.3 percent.

[3] Considerable work on this problem has been done by George Terborgh, *Essays on Inflation* (Washington, D.C.: Machinery and Allied Products Institute and Council for Technological Advancement, 1971). Also see T. Nicolaus Tideman and Donald P. Tucker, "The Tax Treatment of Business Profits under Inflationary Conditions," in *Inflation and the Income Tax*, ed. Henry J. Aaron (Washington, D.C.: The Brookings Institution, 1976), pp. 33–74.

[4] To avoid problems associated with the measurement of income under the accrual method of accounting, it is assumed that all transactions occur on a cash basis. See Harold Bierman, Jr., and Seymour Smidt, *The Capital Budgeting Decision*, 4th ed. (New York: Macmillian Publishing Co., Inc., 1975), pp. 112–14.

[5] The rate of return on an investment here is the "internal rate of return" (IRR). While the IRR can be used to compare the relative merits of alternative asset purchases, there are situations in which it may lead to an incorrect investment decision. In general, the net present value (NPV) model is preferred for evaluating investment projects. The IRR is used here only because it allows a simpler and more direct presentation of inflation's impact on investment return. For a description and general discussion of the IRR and NPV models, see J. Fred Weston and Eugene F. Brigham, *Managerial Finance*, 5th ed. (Hinsdale, Ill.: The Dryden Press, 1975), pp. 267–75, and Bierman and Smidt, *Capital Budgeting Decision*, pp. 41–57.

[6] Firms may react by attempting to offset part of the lower yield associated with inflation-induced taxation by increasing the use of accelerated forms of depreciation, such as the "double declining balance" or the "sum-of-the-years-digits" method. However,

the presence of an inflation effect is independent of the method of depreciation chosen.

[7] See Charles R. Nelson, "Inflation and Capital Budgeting," *Journal of Finance* (June 1976), pp. 923–31.

[8] See Benjamin Klein, "Our New Monetary Standard: The Measurement and Effects of Price Uncertainty, 1880–1973," *Economic Inquiry* (December 1975), pp. 461–84.

[9] Martin Feldstein, Jerry Green, and Eytan Sheshinski, "Inflation and Taxes in a Growing Economy with Debt and Equity Finance," forthcoming in the *Journal of Political Economy* (April 1978), have formally modeled most of the considerations discussed in this section. They concentrate on the effect of inflation on real *net* rates of return to investors assuming a fixed stock of capital and supply of funds. John Lintner, "Inflation and Security Returns," *Journal of Finance* (May 1975), pp. 259–80, cites statistical evidence uniformly showing that stockholders' net returns, both nominal and real, are negatively related to inflation rates. He also argues that the cost of funds to firms, including debt, may be positively related to inflation rates.

[10] Michael R. Darby, "The Financial and Tax Effects of Monetary Policy on Interest Rates," *Economic Inquiry* (June 1975), pp. 266–76, has explored some of the implications of personal income taxation for the effect of inflation on interest rates.

[11] The erosion of real income due to inflation in the presence of a progressive income tax is discussed by Nancy Jianakoplos, "Paying More Taxes and Affording It Less," this *Review* (July 1975), pp. 9–13, and Leonall C. Andersen, "So What, It's Only a Five Percent Inflation," this *Review* (May 1977), pp. 21–23. While the explanation and examples there are in terms of labor income, the analysis for capital income is essentially the same.

[12] The exact nominal interest rate in this instance would have to be 9.2 percent in order to provide the 4 percent real rate of return. All of the nominal interest rates in this section are calculated by simply adding the rate of inflation to the corresponding real interest rate. See fn. 2.

[13] The real cost of funds to firms is also influenced by the corporate income tax treatment of the firm's payments of income to funds suppliers. A firm's nominal interest payments to bondholders are tax deductible expenses while dividend payments or capital gains which accrue through retained earnings are not tax deductible. When the inflation rate is expected to rise, this differential tax treatment creates an incentive for firms to place greater emphasis on the lower cost of debt financing relative to equity. This point has been emphasized by Tideman and Tucker, "The Tax Treatment of Business Profits under Inflationary Conditions."

Attitudes toward debt and its associated risk, however, limit the incentive to switch to debt. As debt becomes a greater proportion of a firm's desired financial structure, creditors and stockholders must be compensated for the increased riskiness of the firm. Thus, the cost of both sources of funds tends to rise by more than that suggested by inflation and tax considerations alone. A discussion of the effects of increased financial risk on a firm's cost of equity and debt may be found in Weston and Brigham, *Managerial Finance,* pp. 604–12 and 636–57.

[14] Hai Hong, "Inflation and the Market Value of the Firm: Theory and Tests," *Journal of Finance* (September 1977), pp. 1031–48, presents supporting statistical evidence of the reduction in the value of firms in an inflationary environment due to tax effects of historical cost depreciation.

[15] Of course, firms would have to be limited to deducting only real interest expenses and not nominal interest payments to eliminate any tax advantage which inflation-induced higher interest payments produce.

SAVINGS DEPOSITS AND TAXATION

The potential effects on Retail Depository Institutions of an Income Tax Exclusion on Savings Deposit Interest.

SUMMARY

Already passed by the House Banking Committee and awaiting House floor, Senate, and Executive action is a bill that would provide for a partial exclusion from taxation of an individual's income from savings deposits. We estimate that passage of the bill would result in a one-time $7 billion increment in total savings and would provide the funds for 100,000 new mortgages at an annual cost to the Treasury of $15,000 a mortgage. In our stimation, the bill has a 60 percent chance of enactment. We view the bill as a sop to a small saver (and voter) rather than as a real measure to foster the growth of savings deposits. We believe that an exclusion would have to amount to at least $1,000 to be effective, rather than the $200 maximum contained in the bill. In the final analysis, so long as inflation remains high and earnings of retail depository institutions are negatively affected by Government restrictions on returns on certain classes of assets, the need will remain for tax incentives to save.

INTRODUCTION AND BACKGROUND

With savings flows slowing after the change in the regulations governing Money Market Certificates (see our Retail Depository Institutions report dated of March 1979) and with cost of new deposits rising and putting pressure on earnings of some thrift institutions, Congress, has become interested in incentives that would increase savings deposits, but would not increase depository institutions' costs. Most of Congress' attentions have focused on devising an appropriate income tax incentive to increase money on deposit in savings accounts. The purposes of this report are: (1) to review the various tax incentives to save, (2) to examine briefly the role of inflation in discouraging saving, and (3) to estimate the potential effects on savings of a tax incentive.

The concept of a tax incentive to promote savings deposits is not a new development nor is it limited to the United States. In 1975, a bill that would have exempted the first $500 of interest earned from savings accounts was being guided through Congress by Wilbur Mills, who at the time was chairman of the House Ways and Means Committee. The measure probably would have been enacted but for the Congressman's hospitalization. Al Ullman, Mr. Mills' successor, opposed the concept and allowed that bill to die in committee. According to the International Union of Building Societies, at least 19 countries have some form of tax incentive to promote savings.

Currently, there are more than 20 bills pending in Congress to provide some kind of tax incentive to encourage savings. Among the different proposals are those suggesting exclusion from taxation of varying amounts of savings account interest income, a tax credit on amounts added to an existing savings account, and an "Individual Housing Account" that would provide a 20% income tax credit on contributions of up to $2,500 a year, or a maximum credit of $500 a year, and a maximum credit of $2,000 in a 10-year period. The Individual Housing Account would be available only to first time homebuyers. Most of the bills, now pending, however, provide for an exclusion from taxation of interest earned on savings. In our opinion, the bill that has the greatest likelihood of enactment (because it has already been passed by the House Banking Committee), is one providing for an exclusion of up to $100 on an individual tax return and up to $200 on a joint return. (We will refer to that proposal as a $100/$200 exclusion.)

A fourth incentive would be deferral of taxation on interest income from savings. Tax deferral has already been enacted but its application has been limited to Individual Retirement (IRA) and Keogh accounts. Despite its limited application, we believe that tax deferral has provided a powerful incentive to save. For example, savings and loans were first empowered to offer IRA and Keogh accounts on January 1, 1975. By the end of September 1976, the balances in those accounts equaled 0.50 percent of all savings. By the end of March 1979, the balances had increased to 1.59 percent of total savings deposits, a more than three-fold increase.

THE PROBLEMS OF SAVINGS DEPOSITS

In our opinion, two critical problems are associated with the gathering of savings deposits: rapid inflation, which results in negative returns, particularly after taxes; and the level of interest rates on savings deposits. Rapid inflation tends to promote spending over saving while the limited ability and willingness of depository institutions to increase the rates they pay on savings limits their ability to compete with alternative investments. Moreover, the taxation of interest earned on savings deposits exacerbates both problems by lowering the effective returns on investment.

Judged by recent historical standards as well as by the long-term average, the percentage of disposable personal income that is saved has declined significantly. (In this context, we define savings as disposable personal income less personal consumption expenditures. Changes do not directly correlate with additions to savings deposits.) On the basis of estimates of 5.4 percent for 1979 and 5.5 percent for 1980, personal savings should average 5.4 percent for the five years ending 1980. In comparison, the averages for the five years ended 1975 and the 10 years ended 1975 were 7.4 percent and 7.0 percent respectively, while the average for the 1946–75 period was 6.3 percent. In short, the most recent data indicate that persons are becoming less willing to save or are finding it necessary to spend a greater proportion of their income on personal consumption items.

Dennis Jacobe, an economist for the United States League of Savings Associations, noted that, "In contrast to the present, during periods of price stability, such as the 1950s and even the early 1960s, the benefits of saving money were clear. Not only did a savings account provide precautionary and retirement benefits, but it also provided a real dollar return. Those benefits are no longer apparent. In fact, the consumer clearly is at a disadvantage when he saves or postpones spending."[1] The extent to which a potential saver may be disadvantaged can be seen in the tables below that were prepared by Mr. Jacobe.[2]

1. HOW INFLATION DISCOURAGES SAVING

	Zero inflation	10-percent inflation
Savings deposit	$1,000.00	$1,000.00
Time period (years)	1	1
Interest rate (percent)	3	6.75
Purchasing power at deposit	$1,000.00	$1,000.00
Dollars after 1-yr	$1,030.00	$1,067.50
Purchasing power after 1 yr	$1,030.00	$960.75
Purchasing power benefit	+$30.00	−$39.25
(Break-even interest rate=13.3 percent.)		

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[1] Jacobe, Dennis J. "Tax Incentives Making It Pay to Save Again", Savings and Loan News, (March 1979), pp 46–54.

[2] Ibid.

2. HOW TAXES DISCOURAGE SAVING

	Zero inflation	10-percent inflation
Purchasing power	$1,000.00	$1,000.00
Dollars after 1 yr	1,030.00	1,067.50
Interest income	300.0	67.50
Federal taxes (22 percent rate)	6.60	14.85
After-tax dollars after 1 yr	23.40	52.65
After-tax purchasing power after 1 yr	1,023.40	947.38
After-tax purchasing power benefit	+23.40	−52.62
(After-tax break-even interest rate=14.6 percent.)		

3. HOW INFLATION ENCOURAGES SPENDING

Purchase price now	$1,000.00	$1,000.00
Purchase price after 1 yr	1,000.00	1,100.00
Price benefit of buying now	0	100.00
Cost of forgone purchasing power	30.00	+39.25
Benefit of buying now	30.00	+139.25

4. HOW INFLATION ENCOURAGES "BUY NOW" HOME PURCHASING

Purchase price now	$50,000.00	$50,000.00
Purchase price after 1 yr	50,000.00	55,000.00
Price benefit of buying now	0	5,000.00
Cost of foregone real interest on down payment	−300.00	+392.50
Mortgage interest cost	−2,400.00	−4,200.00
Benefit of buying now	−2,700.00	+1,192.50

Rate controls on savings deposits date from 1933 for commercial banks and from 1966 for thrifts. Until the mid 1960's, however, most commercial banks did not aggressively compete with thrifts for savings deposits, while the low yields on mortgage loan portfolios of thrift institutions effectively prevented them from bidding aggressively for funds. The first postwar credit crunch—in 1966—resulted in disintermediation, rate controls on thrifts, and the Regulation Q rate differential. Money market rates also exceeded Regulation Q ceilings in the credit crunches of 1969–70 and 1973–74. Since April 1978, the only savings accounts to attract new funds are the six-month money market certificates. Even before April 1978, most savings accounts were no longer competitive with money market rates.

When introduced, rate controls were intended to prevent ruinous competition and to assure a smooth flow of funds to housing. In general, ceilings on deposit interest rates have tended to increase the volatility of savings deposits, however. Table 2 shows the wide swings in the percentage of household savings that were invested directly, rather than intermediated by a depository, in the credit crunch years of 1966, 1969, and 1974. Averaging 19 percent for the 1960–65 period, direct investment rose to 44 percent in 1966, dropped precipitously to 7 percent in 1967, jumped to 86 percent in 1969, fell to 1 percent in 1970 and was 36 percent in 1974. The percentages have shifted again in 1978–79, but by less than might have been expected, because of the Money Market Certificates (MMC). The MMC has actually resulted in positive savings flows, but the cost to depositories has been lower earnings, particularly those for thrift institutions in the Northeast

In each succeeding high-interest-rate period, the average saver has become more sophisticated and more new kinds of nondeposit or near-deposit alternatives have emerged. A list of possible alternatives includes: money market mutual funds, bond funds, guaranteed investment certificates, small denomination notes issued by municipalities and finance companies' small denomination repos from banks and thrifts, and Sears, Roebuck's proposal to pay interest on the credit balances of their credit cardholders. Although most of those alternatives also produce negative returns when adjusted for inflation and taxes, and none is guaranteed by a Government agency, most have succeeded because they pay more than depository institutions.

ANALYSIS OF A TAX EXCLUSION

From the preceding section, it should be clear that the incentive to invest in a savings account is small. We believe that inflation could remain a problem for several years and, accordingly, that attention should be focused on increasing the competitiveness of the return on savings accounts in relation to alternative investments. One way that could be achieved without increasing a depository's cost of funds and, ultimately, mortgage costs would be to exclude the interest earned on savings accounts from taxation. As shown in Table 3A, the increase in effective yields from excluding savings account interest income is substantial for all the tax brackets listed. Moreover, we believe that the minimum income levels for the lowest tax bracket is below the norm for lower middle income persons (See Table 3B).

TABLE 2.—ALLOCATION OF HOUSEHOLD SAVINGS BETWEEN CREDIT MARKET INSTRUMENTS AND DEPOSITS, 1969–79

[In percent]

Year	Credit market instruments [1]	Total deposits [2]	Deposits at thrifts [3]	Deposit yields at S. & L.'s [4]	3-mo Treasury bill rate [5]
1960–65	18.6	81.4	42.2		3.11
1966	44.4	55.6	18.6	4.48	4.86
1967	6.9	93.1	34.3	4.68	4.29
1968	22.5	77.5	23.9	4.71	5.34
1969	85.5	14.5	18.8	4.81	6.67
1970	.6	99.4	31.5	5.14	6.39
1971	−5.5	105.5	51.7	5.30	4.33
1972	10.7	89.2	45.6	5.37	4.07
1973	31.1	68.9	24.7	5.51	7.03
1974	36.3	63.7	18.7	5.96	7.84
1975	24.5	75.4	49.8	6.21	5.80
1976	12.1	88.0	49.4	6.31	4.98
1977	21.8	78.2	42.0	6.39	5.27
1978	32.9	67.1	32.1	6.56	7.19
1979 [6]	54.2	45.8	39.9		9.44

[1] U.S. Government securities, State and local obligations, corporate and foreign bonds, mortgages, open market paper, and money market fund shares.

[2] Demand deposits, currency, time and savings accounts at commercial banks and savings institutions.

[3] Time and savings accounts at savings institutions.

[4] Effective interest/dividend rates paid by FSLIC-insured savings and loan associations.

[5] Market yield.

[6] Preliminary; unadjusted net flow of funds. Average of monthly average Treasury bill rates through May 1979.

Source: "Deposit Interest Rate Ceilings and Housing Credit." The report of the President's Interagency Task Force on Regulation Q. Department of Treasury. August 1979. For a more complete discussion of the effects of the MMC and disintermediation, see our March 1979 Retail Depository Institutions report.

TABLE 3A.—FULLY TAXABLE EQUIVALENT YIELDS (NO COMPOUNDING)

Savings account rate	Tax brackets (percent)					
	22	36	43	54	64	70
6 percent	7.69	9.38	10.52	13.04	16.67	20.00
7 percent	8.97	10.94	12.28	15.22	19.44	23.33
8 percent	10.26	12.50	14.06	17.39	22.22	26.67
9 percent	11.54	14.06	15.79	19.57	25.00	30.00
10 percent	12.82	15.63	17.54	21.74	27.78	33.33

TABLE 3B.—MINIMUM TAXABLE INCOMES FOR TAX BRACKETS (1979 TAX YEAR RATES)

	Married joint return	Married filing separately	Unmarried		Head of household	
			Amount	Percent	Amount	Percent
21 percent	$11,900	$5,950	$8,500		$8,700	22
37 percent	29,900	14,590	23,500	39	23,500	36
43 percent	35,200	17,600	28,800	44	28,800	42
54 percent	60,000	30,000	41,500	55	44,700	
64 percent	109,400	54,700	55,300	63	81,800	63
70 percent	215,400	107,700	108,300		161,300	

We had previously noted that an exclusion, particularly a $100/$200 exclusion, of some portion of savings deposit income would be the most likely form of tax incentive. The key question, however, is how much new savings would be fostered by such an exclusion? As the following analysis shows, the amount would be small in relation to total savings.

As a starting point, we constructed Table 4A, which shows the amounts of savings deposits that would be tax-free, given different interest rate assumptions and different interest exclusions. Table 4B#, which is based on the size of a savings account, lists the percentage distribution of the number of accounts and the dollars held in S&L savings accounts. We have also chosen to focus our analysis on a $100/$200 exclusion.

TABLE 4A.—TAX FREE SAVINGS DEPOSIT BALANCES

Interest exclusion	$100	$200	$250	$300	$400	$500	$600	$700	$800	$900	$1,000	$1,500	$2,000
Interest rates on deposits:				Line 1			Line 2						
6 percent	$1,667	$3,333	$4,167	$5,000	$6,666	$8,333	$10,000	$11,667	$13,333	$15,000	$16,667	$25,000	$33,333
7 percent	1,428	2,857	3,571	4,286	5,114	7,143	8,571	10,000	11,429	12,857	14,286	21,429	28,571
8 percent	1,250	2,500	3,125	3,750	5,000	6,250	7,500	8,750	10,000	11,250	12,500	18,750	25,000
9 percent	1,111	2,222	2,778	3,333	4,444	5,556	6,667	7,778	8,889	10,000	11,111	16,667	22,222
10 percent	1,000	2,000	2,500	3,000	4,000	5,000	6,000	7,000	8,000	9,000	10,000	15,000	20,000

We find that 59.2 percent of savings accounts have balances of less than $5,000, and those accounts hold 15.0 percent of all savings dollars. Those accounts are shown to the left of line 1 on Table 4A. If we expand the range to include all accounts with balances below $10,000, the number of accounts included rises by 14.6 percentage points to 73.8 percent while the dollars rise to 33.9 percent. Accounts with balances below $10,000 are shown to the left of line 2 on Table 4A. Included in both of the preceding groupings, however, are accounts with balances under $500; those accounts represent 32.1 percent of the total number of accounts and 0.7 percent of the dollars. On the other hand, 16.4 percent of the number of all accounts have balances exceeding $10,000 aggregating 66.0 percent of total S&L savings. Moreover, the average account balance at an S&L was $4,959 at the end of 1978.

TABLE 4B.—DISTRIBUTION OF DEPOSITS BY SIZE OF DEPOSITS, SAMPLE SURVEY RESULTS, MARCH 1979

	Number of accounts (percent)	Number as percent of total accounts	Balances (percent)	Balances as percent of total deposits
Passbook accounts:				
Under $500	50.1	31.0	2.2	0.7
$500 to $1,000	10.3	6.4	2.7	.9
$1,000 to $5,000	24.0	4.9	21.4	6.9
$5,000 to $10,000	8.5	5.3	20.6	6.6
$10,000 and over	7.1	4.4	53.2	17.0
	100.0	52.0	100.0	32.1
Certificate accounts:				
Under $500	2.9	1.1	(1)	(1)
$500 to $1,000	2.6	1.0	(1)	(1)
$1,000 to $5,000	38.7	14.8	9.6	6.5
$5,000 to $10,000	24.3	9.3	18.1	12.3
$10,000 and over	31.5	12.0	72.0	49.0
	100.0	38.2	100.0	67.8

[1] Indicates less than 0.1 percent.

NOTES

Distribution of certificates does not include money market certificates.
Totals may not add due to rounding.

The percentages are based on a Federal Home Loan Bank Board survey that excluded money market certificates from the distributions.

Sources: Federal Home Loan Bank Board Journal, May 1979 and Merrill Lynch computations.

On the basis of the preceding discussion and the data in Tables 4A and 4B, we draw two conclusions. First, for whatever reasons, some persons maintain high balances in savings accounts—and those persons hold the bulk of total savings dollars. We believe that a tax incentive would have to be $1,000 or more to make those savers increase their account balances. Second, the bulk of the number of savers already have sufficient monies on deposit to receive the full benefit of a $100/$200 tax exclusion.

We do not say, however, that no new savings would be generated by a $100/$200 tax exclusion. In addition to a distribution of deposits by size of deposits, the aforementioned Federal Home Loan Bank Board Survey included data on other deposits and investments held by savings and loan savers. From both sets of data, we have constructed the following set of assumptions and an estimate of new S&L savings generated of approximately $3 billion. The new key elements are the proportions of savers that own stocks and bonds: 43 percent of savers having a balance under $1,000 and 60 percent of all savers. Our estimates of investments switched to savings deposits is based, in part on the current tax-law provision for a $100/$200 exclusion for dividend income.

SAVINGS ESTIMATES ASSUMPTIONS

	Average balance		
	Under $1,000	$1,000 to $4,999	All
1. Percent of savers owning stocks and bonds	43	[1] 50	60
2. Percent of total savings dollars	1.6	13.3	100
3. Estimated total savings held (billions, July 1979)	$7.2	$66.7	[2] $447.4
4. Percent of total number of deposits [3]	36.5	29.7	100
5. Estimated aggregate holdings of stocks and bonds (billions)	[4] $7.2	[5] $50.5	(6)
6. Estimated percent of investment holdings switched to savings deposits	10	20	
7. Unadjusted estimates of new savings	[7] $720	[8] $10.1	
8. Total adjustments [9]	[7] $360	[8] $7–$7.5	
9. Adjusted estimates	[7] $360	[8] $3.1–$2.6	

Footnotes and adjustment assumptions

[1] Estimate.

[2] Total excludes $90.2 billion of money market certificates.

[3] Total depositors aggregate 85 million.

[4] (a) Assumed average holdings of $1,000, but also assumed average holdings of 0 for accounts of less than $500. (b) Because 28 percent of depositors have accounts of less than $500, assumed only 8.5 percent, of depositors have $1,000 of stocks and bonds. (c) Hence: 85 million savers times 0.085 times $1,000 equals $7.225 billion.

[5] (a) Assumed a verage holdings of $2,000. (b) Hence: 85 million savers times 0.297 times $2,000 equals $50.490 billion.

[6] No estimate.

[7] Millions.

[8] Billions.

[9] (a) Because of the limited size of the exclusion, the problem arises of not being able to fully exempt the interest on the moneys switched to saving. For example, if a saver had a $1,000 balance, the exclusion was $100, and the yield on savings was 7 percent, only $428 would be switched (see table 4A). Therefore we reduced both unadjusted estimates by 50 percent. (b) Savers that have balances in excess of $3,000 would already have fully utilized a $100 to $200 exclusion. Therefore the potential $10.1 billion increase from $1,000 to $4,999 balance savers becomes not $5.05 billion but $2.5 to $3 billion.

In absolute terms, $3 billion is a substantial amount of investable funds. The amount is less significant in comparison with the total operations of the savings and loan industry, however. Our $3 billion estimate equals 0.6 percent of total savings deposits, 2.8 percent of 1978's total new loans originated, 6.8 percent of 1978's total increase in savings deposits, and, on the basis of a $60,000 average size for conventional home mortgages, equals funds for 50,000 new mortgages. If we assume that an additional $1 billion of savings is generated at mutual savings banks and $3 billion is generated at commercial banks (which at best would invest only half the increase in home mortgages), those deposits would provide funds for 41,667 mortgages. Moreover, we believe that more than one year would elapse before the entire estimated $7 billion inflow would be on deposit and that the inflow would be a one-time increment.

The Department of the Treasury estimates that a $100/200 exclusion would result in the loss of $1.5 billion in revenues a year. We believe that the costs to the Treasury would rise geometrically rather than arithmetically as the amount of the exclusion rises. That rapid increase would result because the distribution of savings deposits is skewed towards large-balance accounts and the gain in the aggregate savings dollars that would be tax free would far exceed the proportionate increase in the amount of the tax exclusion.

CONCLUSIONS

Although we think that a $100/200 exclusion is the savings deposit tax incentive that has the best chance of enactment, in our opinion, that amount of inclusion will not provide significant new funds for housing nor will it indirectly contain the rising costs of home mortgages. When viewed solely as a device to increase funds for housing, we consider the costs to be excessive: a $1.5 billion annual cost for approximately 100,000 new mortgages or an ongoing $15,000 annual cost for a $60,000 mortgage that would have an average life of about eight years.

We consider that a $100/200 exclusion is really a benefit for the small saver, not for housing. Furthermore, we would not expect enactment of a $100/200 exclusion to moderate the pressure—represented by the number of votes cast by small savers—for the increase in or elimination of the ceilings on savings deposit interest rates.

In our opinion, an exclusion of at least $1,000 would be required to augment savings deposits and to enable traditional depository institutions to compete with nondepository alternatives. At $1,000, the exclusion would cover $10,000 or more in savings, depending on the rate, and should encourage substantial switching into savings from other investments. Moreover, the fully taxable equivalent yields, particularly for the more affluent saver with a high savings balance, should ease the upward pressure on the rates paid on savings deposits and, ultimately, on the cost of mortgage loans.

We believe that there is little likelihood of enactment of a large interest exclusion or tax credit for additions to savings accounts in the near-to-intermediate term, because the potential revenue losses for the Treasury could be enormous and because those incentives would widen an already large budget deficit. In our opinion, creation of a tax deferred account—similar to the I.R.A. and Keogh accounts—to be used to accumulate funds for a downpayment on a home as its goal—would be preferable to a tax exclusion. The decline in Treasury revenues, would be temporary, not permanent, housing would be a direct beneficiary, and a new source of substantial regular savings inflows would be created.

In the final analysis, none of those tax incentives would appear necessary if the rate of inflation declined to reasonable levels and if savers once again received a real return on their deposits. In fact, mortgage lending would have expanded less rapidly since 1974 without the structural changes that increased the kinds of liabilities and other sources of funds available to S&Ls. For example, in 1975 net new savings (deposits less withdrawals) amounted to about 53 percent of new loans originated by S&Ls. That ratio has declined steadily since 1975 and was about 22 percent in 1978 and in the first seven months of 1979. In our opinion, some form of encouragement to save is needed. So long as inflation remains high and earnings of retail depository institutions are negatively affected by Government restrictions on returns on certain classes of assets, the need will remain for tax incentives to save.

FINANCING A MORE PRODUCTIVE ECONOMY

A dual approach to improving individual investment incentives.

Current incentives for individuals to save and invest in this country remind one of the half-consumed bottle of wine that the optimist concludes is half full and the pessimist decides is half empty.

Our present tax provisions for investors are much improved as a result of last year's changes in capital gains taxation. Unaltered, the Tax Reform Act of 1976 would have alienated increasing numbers of individuals from the equity investment process and exacerbated problems in the economy and the capital markets.

A different perspective, however, is obtained by examining investment incentives in the light of national needs. And this viewpoint is broadened by comparing U.S. tax provisions for investors with those of other major countries.

This year the Organization for Economic Co-operation and Development (OECD) released a detailed study on "The Taxation of Net Wealth, Capital Transfers, and Capital Gains of Individuals" in member countries. It showed clearly that U.S. taxes on individual capital were among the highest; only those in Great Britain worked out to be higher. Although that study was based on data compiled in 1976 and thus did not incorporate changes due to the 1978 U.S. Tax Act and changes in other countries, that conclusion probably still holds because our taxes were so high to start with, and other countries have also moved to reduce such taxes since 1976.

Comparing U.S. tax provisions for investors with those of Japan and Germany is particularly significant because the recent performance of those countries in the areas of productivity, real growth, inflation and trade has been quite superior to ours.

The economies of Japan and Germany are not ready models for that of the United States. However, we do have to compete with these countries in world trade, and our currency is constantly evaluated in relation to theirs. The personal savings rate in Japan, the highest among the major industrialized nations, is more than five times that in the United States; in Germany the rate is more than three times the U.S. level. These rates help to support much higher levels of capital investment than in the United States.* The ability of countries to invest more in new plant in relation to the size of their economies than we do eventually pays off in better productivity than we can achieve, more favorable real growth, lower inflation and stronger currencies.

In a recent analysis, William Rapp of Morgan Guaranty Trust Company, a leading expert on the Japanese economy, showed that encouraging personal saving has been a critical component of Japan's economic strategy:

"1. (Japan's) postwar policy has emphasized savings and investment, while avoiding excessive transfer payments. Both macro and micro data indicate that higher levels of capital formation and technological improvement are the keys to Japan's higher growth rates, improved productivity, greater price competitiveness, expanding markets, and in turn more investment.

"Personal savings have been encouraged by tax laws (e.g. tax-free interest on savings accounts and no capital gains tax on securities transactions) and the low level of transfer payments like social security." **

Germany has the second highest personal savings rate among the major industrialized countries. In that country, most long-term capital gains on securities are not taxed, and an integration system alleviates the double taxation of dividends. Moreover, there are liberal provisions for eliminating savings bank interest from taxation. It is true that Germany has a net wealth tax that partially offsets some of these provisions, but because of exemptions and other features that tax is not overly burdensome in relation to the major incentives.

It should be noted that U.S. taxes on individual personal service income are not out of line with those in other major industrialized countries; compared to many, they are lower. It is our high taxes on individual investing that are out of line and help to create the U.S. economy's fundamental bias against saving and investment and in favor of consumption.

More importantly, if the United States is to accelerate economic growth and bring down the high rate of inflation, it must boost productivity gains. To do this, capacity must be rebuilt and expanded to produce more of the basic goods and materials we need. We must make the capital investment needed to produce more efficiently and to compete more effectively in world markets.

Very large funds are needed to finance the expansion and modernization of our productive capacity. Where will these funds come from? They must come from either corporate savings—that is, retained earnings and depreciation—or from personal savings. Individual savings and retained earnings of corporations are the sources of funds that fuel the expansion of our productive capacity; depreciation charges largely provide funds for the replacement of old, inefficient plant and equipment. Personal savings historically have accounted for the bulk of capital investment funds. The Economic Research Department of the New York Stock Exchange has demonstrated in Table 1 that individuals have saved almost three dollars for every two dollars in retained earnings of corporations. That is why encouraging personal saving is of critical importance in improving economic performance.

TABLE 1.—SOURCES OF SAVING FOR FUTURE GROWTH [1]

[Dollar amounts in billions]

	Personal saving	Undistributed corporate profits	Saving for future growth	Personal saving as percent of total
1960	$17.1	$13.0	$30.1	56.8
1961	20.2	12.5	32.7	61.8
1962	20.4	15.2	35.6	57.3
1963	18.8	16.0	34.8	54.0
1964	26.1	19.4	45.5	57.4
1965	30.3	25.2	55.5	54.6
1966	33.0	27.6	60.6	54.5
1967	40.9	24.7	65.6	62.3
1968	38.1	24.2	62.3	61.2
1969	35.1	21.2	56.3	62.3
1970	50.6	14.1	64.7	78.2
1971	$57.3	$21.3	$78.6	72.9
1972	49.4	30.3	79.4	62.2
1973	70.3	39.3	109.6	64.1
1974	71.7	43.6	115.3	62.2
1975	83.6	38.7	122.3	68.3
1976	68.0	53.8	121.8	55.8
1977	66.9	58.4	125.3	53.4
1978	76.9	68.8	145.7	52.7
1960–78 total	874.7	567.0	1,441.7	60.7

[1] Depreciation is a source of savings for the replacement of worn-out plant and equipment.

Source: Flow of Funds. Courtesy of the Economic Research Department of the New York Stock Exchange.

Since the 1978 changes in capital gains tax rules, the most serious tax deterrent to individual financial investing has been the treatment of investment income, which includes dividends, interest, and rents.

In his address to the nation on July 16, 1979, President Carter noted that "the willingness of Americans to save for the future has fallen below that of all other people in the Western World." The President ascribed this decline (and some of our other problems) to a "crisis of the American spirit."

The reasons that Americans save so little are much simpler. Under U.S. tax rules, many people just do not find it worthwhile to save and to invest: they cannot realize sufficient *real* returns after taxes and after inflation from most financial investments.

Many countries encourage saving and investment by taxing most investment income at lower rates than income from work (what we call personal service income) or by not taxing some of it at all. Our tax system works the other way: for example, we tax investment income at rates as high as 70%, whereas the top rate on personal service income is 50%. This creates fundamental dis-incentives to save and invest. The critical point is that for most taxpayers the effective income tax rate on investment income, such as dividends and interest, is significantly higher than that on personal service income. (Obviously, that conclusion excludes interest income from municipal bonds.)

Here is an example: a couple filing a joint return report tax table income for Federal purposes of $30,000. The tax on that income is $5,585—for an effective rate of 18.7%.* If they report an additional $3,000 of interest income, their total tax would rise by $1,014, reflecting an effective tax rate on the interest income of 33.8%.

If the additional $3,000 were personal service income instead of investment income, the effective tax on it would still be 33.8%. But incremental personal service income is much different from additional investment income in that most individuals have much less control over the income from work than from surplus funds. Few individuals will turn down additional income from their jobs even if that income is taxed at a higher rate. On the other hand, they have a wide range of options regarding the use of surplus income and capital, and taxes figure importantly in the option selected.

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*In 1966–76, real nonresidential fixed investment as a percent of real gross domestic product averaged 26.4 percent in Japan, 17.4 percent in West Germany, and 13.5 percent in the United States, according to the Economic Report of the President, 1979, and the OECD.

** Mr. Rapp's original speech was reproduced in the *American Banker*, September 28, 1979.

* Based on 1979 rates

People do not have to save and invest. Most taxpayers with significant surplus income and capital can figure out by themselves, or with the help of an accountant, what portion of incremental investment income they will keep and what portion will be consumed in taxes.

Extending the illustration of the couple, let us assure that in the following year their personal service income rises by 10% because of inflation and that they again have $3,000 of interest income. The effective tax rate on their interest income would rise from 33.8% to 37.0%.

This example points to another serious problem: as incomes are pushed up by inflation, the effective tax rate on investment income climbs correspondingly, diminishing the incentive to save and increasing the incentive to spend.

The distinction established in the 1969 tax code between earned and unearned income created a special investment dis-incentive for upper-income taxpayers. The top rate on personal service income was lowered to 50% from 70%. On the other hand, investment income, including interest, dividends, rents and certain pension-fund distributions, was left subject to tax rates of up to 70%.

Single taxpayers with taxable income of $41,500, and taxpayers filing joint returns with taxable incomes of $60,000, are now subject to marginal tax rates in excess of 50% on any incremental investment income. There can also be state and local taxes on such investment income. As a result, it is very difficult for such taxpayers to obtain a meaningful return on a wide range of financial investments after taxes and inflation.

It is in these ways that our tax system deters individual saving and investment and aggravates inflationary pressures.

Our purpose in this discussion is to suggest a dual approach to alleviating these problems. This approach is not original; it builds on and combines proposals currently before the Congress. And it borrows a little from abroad.

First, an amount of investment income that is meaningful to the average American family should be exempt from Federal income taxes. Second, the top rate on investment income, now 70 percent, should be reduced as rapidly as possible to the 50 percent maximum rate on personal service income. In this way, the small investor, and even many investors with average incomes, would pay no Federal taxes on their investment income; larger investors would be subject to a more reasonable top rate of 50 percent. This plan relates to some interesting congressional developments.

On October 16, 1979, Congressman Bill Frenzel of Minnesota, a leading member of the House Ways and Means Committee, introduced H.R. 5599. This is a bill to amend the Internal Revenue Code of 1954 to provide a maximum individual income tax rate of 50 percent. Under the provisions of H.R. 5599, the maximum rate would be reduced to 65 percent in 1980, 60 percent in 1981, 55 percent in 1982, and 50 percent in 1983 and thereafter.

On October 22, 1979, the Chairman of the House Ways and Means Committee, Congressman Al Ullman, introduced his bill to restructure the tax code. His bill would institute Value Added Tax (VAT), but would lower individual, corporate, and Social Security tax rates. The bill would also reduce the maximum individual rate from 70 percent to 50 percent.

A large number of bills that have been introduced recently are designed to exempt varying amounts of investment income from taxes.

PART ONE: EXCLUDE SOME INVESTMENT INCOME FROM TAXATION

It is difficult to interest taxpayers with average incomes in financial investments for several reasons. One is the general inflationary squeeze. Another is the present tax treatment of investment income. Also, home ownership is such a good investment for so many people that they are not interested in other kinds of investment.

We certainly do not suggest lessening the tax benefits for homeowners. Our contention is that financial investing should be taxed on a basis that encourages saving and leads to a more productive economy. How can this be done?

Long-term capital gains tax rates for taxpayers with average incomes are quite low. For a family of average income, effective tax rates of 10% or lower are usual on moderate long-term capital gains of $3,000 to $5,000 annually. It appears questionable whether taxpayers in these income groups could be encouraged to make additional investments by exempting more than the currently allowed 60% of long-term capital gains from Federal income taxes. However, exempting a meaningful amount of investment income, together with the present capital gains tax rules, could have an important effect. The taxpayer should be able to decide on the mix of investment income—dividends or interest or a combination of the two—to qualify for exclusion.

After talking with executives of major savings institutions, we believe that the amounts exempted would have to be at least $500 for a single return and $1,000 for a joint return to have any significant impact. Since exempting that much investment income from Federal income taxes could entail a large revenue loss (based on static estimating techniques employed by the Treasury), such a change might have to be phased in over several years. If such a tax approach were combined with a progressive liberalization of Regulation Q, which is long overdue, the impact on savings rates might be quite dramatic.

PART TWO: REDUCE THE TOP TAX RATE ON INVESTMENT INCOME

The distinction in the tax code between personal service income and unearned income and the rates of over 50 to 70 percent on investment income that result have been aptly characterized by John C. Whitehead, senior partner of Goldman, Sachs & Co. as a special tax penalty on savings and investment.

Whether such a tax penalty was ever in the national interest is questionable. Moreover, the damage being done by this aspect of the tax code escalates each year. And the problems involved in correcting it may become insurmountable unless steps are taken to do so at once.

Charlotte Meriwether of Hughes Hubbard & Reed prepared for us a history of the earned-unearned income distinction which shows the rationale for introducing it in 1969. Prior to 1969, the maximum tax on all ordinary income was 70 percent; on the other hand, the maximum rate on long-term capital gains was 25 percent. This sharp differential fostered various schemes for converting ordinary income into capital gains—schemes that were effectively criticized by tax reformers. The remedy in 1969 was to raise the capital gains tax rate and to lower the maximum rate on earned income. This move was supposed to give people a greater incentive to do productive work and to reduce the advantages of tax-avoidance activities.

Reducing the maximum rate on earned income or personal service income was an effective way of increasing the rewards for productive work. But increasing the capital gains tax and retaining tax rates of over 50 percent to 70 percent on investment income greatly reduced incentives to save and invest, and these changes did not curtail tax-avoidance efforts. Actually, individual interest in municipal bonds has mounted dramatically since 1969.

It is imperative, in our opinion, to reduce these confiscatory rates now, in order to stimulate productive financial investing in the following ways:

Ending discrimination against investment income

Rates of over 50 percent to 70 percent on investment income put the Federal Government's tax code in a position of openly discriminating against taxpayers who derive a significant portion of their income from dividends, interest, and rents. How can people be expected to invest more if the Government terms much of the return from such investment "unearned" and treats it as such?

Bringing the top rate of 70 percent down to 50 percent would help to give investors a higher and fairer return after taxes and after inflation on a wide range of investments, including U.S. Government bonds and bills, corporate bonds, savings accounts and certificates, and common stocks.

Recent research by Professor Michael J. Foskin of Stanford University* has demonstrated that private saving is strongly affected by changes in the *real* after-tax rate of return. If the after-tax return from savings is increased, a higher rate of saving should follow.

A reduction in the top tax rate, combined with exempting a meaningful amount of investment income from taxes, would be an important step toward reducing the inequity created by the double taxation of dividends.

Discouraging tax-avoidance efforts

We believe that as a matter of simple fairness, the Government should never take more of a dollar of income than the producer of that income retains—whether the income is derived from personal service or investment. When individuals face the prospect of marginal rates in excess of 50 percent, their efforts to find ways of avoiding such rates intensify. In November, 1978, Senator Russell B. Long, Chairman of the Senate Finance Committee, said that the rates of over 50 percent on investment income lead to all sorts of complicated tax planning and legal tax-avoidance schemes.

Setting the maximum rate at 50 percent would reduce the time, effort, and income now devoted to tax avoidance. In the process, the tax base would be enlarged, offsetting at least part of the revenue loss from the reduction of rates.

Simplifying the tax code

Eliminating the distinction between personal service income and investment income and setting a maximum rate of 50 percent on all forms of income would help to simplify the Federal tax code. The distinction is difficult to define and has resulted in much litigation. Just how complex the provisions of the code are is indicated by the fact that the final regulations implementing the maximum tax were not issued until December, 1976, seven years after the law was enacted.

Indirect lowering of the maximum tax rate on long-term capital gains

Bringing the 70 percent rate down to 50 percent would also lower the maximum tax rate on long-term capital gains because the 40 percent of such gains included in taxable income would be taxed at at a maximum rate of 50 percent rather than 70 percent. Thus, the maximum rate of tax on long-term capital gains would fall from 28 percent to 20 percent.

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* "Taxation. Savings. and the Rate of Interest", *Journal of Political Economy* (1978), Vol. 86.

Is a further reduction in capital gains taxes justified after the big cut in 1978?

Although the 1978 Act lowered the tax on capital gains, present capital gains tax provisions still do not offer a great incentive to investment. Investors are still much worse off than they were in 1969. Then, the maximum rate on long-term capital gains was 25 percent and the holding period needed to qualify for long-term treatment was six months. Now, the maximum rate is 28 percent and the holding period is a year. Certainly, inflationary conditions and overriding national needs justify greater incentives to invest and lower rates than in 1969.

In our opinion, an important consideration is the treatment of capital losses. The deductibility of capital losses from ordinary income under present provisions may be worth something to very small investors, but it is meaningless to large investors. This creates an inherently unfair situation: a large investor assumes virtually all the investment risk, but the Federal Government takes a big share of any gains. Heads, the Government wins; tails, the investor loses.

Germany and Japan have a much fairer approach for individual investors: no deductibility of securities losses from taxable income; no tax on long-term capital gains from securities. (Germany requires a six-month holding period to qualify for long-term capital gain treatment; Japan does not differentiate between short- and long-term capital gains on most transactions.)

In a recent interview with The New York Times* Dr. Paul E. Gray, the new President of Massachusetts Institute of Technology, said clearly and decisively that our high capital gains taxes were one of the principal reasons for our faltering leadership in technological innovation.

The object of the changes we are proposing is to increase investment incentives, not to give tax relief to wealthy taxpayers. They can obtain that now. In our system, wealthy individuals have a high degree of freedom in investing surplus income and capital; they have a wide range of options, including the purchase of municipal bonds, the use of tax shelters, and greater investment in home ownership—on which there is no Federal income tax liability or only a limited liability. They can also invest in tangible assets, such as jewelery, art, and antiques, which are much harder to tax.

The purposes of these proposed changes is to increase incentives for savings, investment and risk-taking in all income groups, but also in those from which the most savings can be derived. The upper income groups must provide most of the individual risk capital—the funds used for stock ownership, new business ventures, and real estate development.

Offsetting the impact of inflation

Inflation has vastly expanded the number of taxpayers affected by the earned-unearned income distinction. Originally, this distinction affected only a few taxpayers at the top of the income pyramid; now it affects millions of individuals.

How many people are influenced in their investment behavior by tax rates of over 50 to 70 percent on investment income?

In 1972, there were 295,000 tax returns paying marginal rates of over 50 percent as calculated by the Internal Revenue Service. Based on a methodology suggested by the Treasury Department's Office of Tax Analysis, we project that there will be over 1.0 million such returns in 1980. (In view of recent inflation rates, that projection may be conservative.) A high proportion of these returns are filed jointly.

Another category of taxpayers facing the likely prospect of paying marginal rates of over 50 percent in one to two years is the group whose incomes are rising sharply and who find it advantageous to use income averaging rather than the maximum-tax calculation. Since income averaging is unlikely to be advantageous for long, this group, which may well be substantial, must consider marginal tax rates on unearned income in investment planning.

The total number of returns in the latter category is projected to reach 1.07 million in 1980. The number of taxpayers in both categories is projected to increase at about 16 percent compounded annually, as outlined in Table 2. That figure may be a clue to the annual *increase* in the number of taxpayers affected by marginal rates of over 50 percent on investment income, but the increase may well be greater due to higher inflation.

A third category of taxpayers affected by these rates includes those who invest specifically to avoid rates of over 50 percent (by placing funds in municipal bonds or tax shelters, for example), or who use various strategies, such as borrowing large sums, to offset unearned income with deductions. There is no way of knowing how many taxpayers are in this category. Municipal bond interest is not even reported for Federal income tax purposes.

TABLE 2

NUMBER OF RETURNS ON WHICH A MARGINAL TAX RATE OF OVER 50 PERCENT WAS COMPUTED

	1972	1973	1974	1975	1976	1977 [1]	1978 [1]	1979 [2]	1980
Number (thousands)	295	363	431	474	570	661	767	890	1,032
Percent increase from prior year	11.8	23.1	18.7	10	20.3	16	16	16	16

RETURNS USING INCOME AVERAGING WITH ADJUSTED GROSS INCOMES OF $50,000 AND OVER

	1973	1974	1975	1976	1977 [1]	1978 [1]	1979 [2]	1980 [2]
Number (thousands)	284	324	366	440	691	799	924	1,069
Percent increase from prior year	38.5	14.1	13	20.2	15.7	15.7	15.7	15.7

[1] Estimates.

[2] Projections; estimates and projections by Ingalls & Snyder.

Source: Statistics of Income—Individual, Internal Revenue Service.

Note: Estimates and projections have been made in line with a suggestion of the Treasury Department's Office of Tax Analysis: an average of the growth rates for 1974, 1975, and 1976 is used to derive the figures for 1977–80.

Today, the starting salary at a major New York law firm is about $30,000. At a large bank, it is about $25,000. There is a large and increasing number of two-income families. When two young professional people marry, they may have to pay marginal tax rates of over 50 percent on investment income. Skilled workers—electricians, carpenters, etc.—can earn over $40,000 annually, including overtime. If their wives are employed, these workers also may pay marginal rates of over 50% on investment income.

Thus, these rates already are reaching into the upper-middle-income range. At projected growth rates, in five years they will be reaching into the middle-income groups. What will the country's savings rate look like then?

A closely related problem is that the cost of eliminating these rates, based on the Treasury Department's static revenue loss estimates, is also escalating sharply. The cost of bringing the top rate down to 50% was estimated to be $3.5 billion, based on a 1978 model of the Treasury. It may exceed $4 billion in 1980, and substantially more in five years. If we wait five years to deal with this problem, a very large part of any tax cut would have to be devoted to it and that could pose serious political difficulties.

CONCLUSION

The dual approach described above is very flexible; it would be phased in over several years, and it could be expanded in the future. It offers a plan for dealing with a basic problem.

The experience of recent years has made it clear that leadership in global economic competition requires: saving, investment, productivity, and production. The countries that have learned this lesson the best are Japan and Germany. Other countries, including England, Canada, and France, are moving decisively to catch up. Here is what the President of France, Valery Giscard d'Estaing, said on June 15, 1978:

> "Our country must make a big effort to remain competitive. It must regain its lead vis-a-vis others, a lead in productive capacity, technology and techniques. This is what it has to do. Otherwise, perhaps without being aware of it, we will be doomed to a decline that, as history teaches us, in the case of many countries has meant a decline in the condition of their existence and in their resources." *

And the French Government has backed up these words with strong measures to encourage individual investment.

The investment sector of the United States continues to lag. The tax changes that we need—particularly those on the side of individuals—are harder to effect here. One obstacle is that much intellectual capital has been invested in tax policies and theories that promise to bring greater "equity" among taxpayers; that has really involved trying to redistribute income from the most successful producers to those who produce the least. In a country as wealthy as the United States, that effort is inevitable. But our system depends on private capital. When the tax policies of income redistribution erode individual incentives to invest and to take risks, there is a grave backlash. We are feeling it now. Even income redistribution is easier when there is more real income. At present, all we are doing is redistributing inflation. Future tax changes should be designed to build a better economy for everyone.

ADDITIONAL COSPONSORS

S. 1629

At the request of Mr. JACKSON, the Senator from New York (Mr. MOYNIHAN), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1629, the Civil Air Patrol Supply bill.

S. 1693

At the request of Mr. MELCHER, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 1693, a bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

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* The New York Times, October 8, 1979.

*Source: *Financial Analysts Journal*, July-August, 1979.

S. 1830

At the request of Mr. MATSUNAGA, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1830, a bill to provide for a research, development, and demonstration program to achieve the early commercialization of ocean thermal energy conversion systems, and for other purposes.

S. 1874

At the request of Mr. BAYH, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1874, a bill to amend the act incorporating the American Legion so as to redefine eligibility for membership.

AMENDMENT NO. 390

At the request of Mr. CRANSTON, the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senators from Rhode Island (Mr. PELL and Mr. CHAFEE), the Senator from Iowa (Mr. CULVER), the Senator from South Carolina (Mr. HOLLINGS), the Senators from Hawaii (Mr. INOUYE and Mr. MATSUNAGA), the Senators from Vermont (Mr. STAFFORD and Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maryland (Mr. SARBANES), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of amendments No. 390 intended to be proposed to S. 1204, a bill to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

SENATE CONCURRENT RESOLUTION 54—SUBMISSION OF A CONCURRENT RESOLUTION WITH RESPECT TO THE BALTIC STATES AND SOVIET CLAIMS OF CITIZENSHIP OVER CERTAIN UNITED STATES CITIZENS

Mr. BAKER submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 54

Whereas the United States since its inception has been committed to the principle of self-determination; and

Whereas the United States as a member of the United Nations has pledged to uphold the provisions of the United Nations Charter and to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of people of those countries in Asia and Africa that are, or have been, under foreign political rule;

Whereas the United States, as a signatory to the Final Act of the Conference on Security and Cooperation in Europe, endorsed Principle VIII concerning equal rights and self-determination of peoples; and

Whereas in 1940 the Soviet Union unilaterally and forcibly annexed the Baltic States (Lithuania, Latvia, and Estonia), which were sovereign members of the League of Nations; and

Whereas in 1954 the House of Representatives Select Committee to Investigate Communist Aggression concluded that the Baltic States "were forcibly occupied and illegally annexed by the Union of Soviet Socialist Republics" and that "the continued military and political occupations of Lithuania, Latvia, and Estonia by the Union of Soviet Socialist Republics is a cause of the dangerous world tensions which now beset mankind and therefore constitute a serious threat to the peace"; and

Whereas the desire of the citizens of the Baltic States for national independence remains strong despite efforts by the Soviet Union to destroy the Baltic peoples as distinct cultural, geographical, ethnic, and political entities through dispersions and deportations to Siberia, replacing them with ethnic Russians; and

Whereas the peoples of the Baltic States are entitled to equal rights and self determination as set forth in Principle VIII of the Helsinki Final Act and should be allowed to hold free elections conducted under the auspices of the United Nations after the withdrawal of all Soviet military forces and political, administrative, and police personnel from the Baltic States; and

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States, and continues to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas in past years this policy has received strong support in the Congress; and

Whereas, in addition, the United States since its inception has been committed to the protection of its citizens, whether naturalized or native born; and

Whereas the Soviet Union recently promulgated a law designating as a Soviet citizen any person who was born in the Soviet Union, was naturalized as a Soviet citizen, or is the child of parents who were Soviet citizens at the time of the child's birth, irrespective of whether the child was born on Soviet territory; and

Whereas this law which went into effect on July 1, 1979, states that a person who is a Soviet citizen is not recognized as having the citizenship of a foreign state, and thus specifically does not recognize United States citizenship in such cases; and

Whereas this law applies to millions of Americans, including those who, under United States law, are native-born citizens of the United States; and

Whereas this Soviet law intimidates many United States citizens who might otherwise travel to the Soviet Union or come under Soviet authority or control: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that the President, in order to assure true and genuine peace in the Baltic region and in Europe in general, should instruct the United States delegation to the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek full implementation of Principle VIII of the Helsinki Final Act concerning equal rights and self-determination of peoples.

(b) It is further the sense of the Congress that the President should, through such channels as the International Communication Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications.

(c) It is further the sense of the Congress that the President should use his good offices to make every effort to gain the support and cooperation of other nations for the realization of the independence of the Baltic States.

SEC. 2. (a) The Congress views with deep concern the action on the part of the Soviet Union making citizenship claims on millions of Americans who were born in the United States or naturalized.

(b) It is the sense of the Congress that the President should warn the Soviet Union against taking any action under this new Soviet citizenship law which would be detrimental to the interests of the United States and its individual citizens, and that the Secretary of State should inform United States citizens planning to visit the Soviet Union of the implications of this law.

Mr. BAKER. Mr. President, the House on the 13th of November passed without a dissenting vote House Concurrent Resolution 200 expressing the sense of Congress with the respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens. Although by its passage in the House the resolution is automatically referred to the Senate Foreign Relations Committee, I believe the matter is of sufficient importance to merit formal introduction in the Senate. By introducing it in this manner, Mr. President, I hope to bring the matter more fully to the attention of my colleagues and obtain expedited committee consideration of the resolution.

Mr. President, as the Soviet Union moves in a determined and systematic pattern of expanding its spheres of influence from Southeast Asia through the Middle East to Africa and well into this hemisphere, we sometimes forget that we had full and ample warning of the imperialistic character of the Soviet state.

That warning came in 1940 when the Soviet Union as part of its bargain with Adolf Hitler annexed the independent nations of Lithuania, Latvia, and Estonia. The occupation and subjugation of these nations remains a living symbol of Russian imperialism and, as well, an ironic result of a war fought to prevent the annihilation of freedom in Europe.

The United States has never recognized Soviet sovereignty over the peoples of Lithuania, Latvia, and Estonia, maintaining at least the symbol of diplomatic relations with them. This resolution calls on the President to instruct the U.S. delegation at the 1980 Conference on Security and Cooperation in Europe to seek full implementation of principle VIII of the Helsinki Final Act concerning equal rights and self-determination of peoples. Moreover, it calls upon the President to keep the subjugation of the Baltic States a live issue among the world community and to make every effort to obtain international support for the restoration of the independence of these nations.

Mr. President, there is a second section of the resolution concerning the recently enacted Soviet citizenship law, which came into force in July of this year. This law presumes to dictate Soviet citizenship for any individual born in the Soviet Union, naturalized as a Soviet citizen, or a child of parents who were Soviet citizens at the time of the child's birth. This law would allow the Soviet Union to claim as Soviet citizens millions of Americans who are citizens of the United States by right of birth or naturalization. The resolution calls on the President to warn the Soviet Union against taking any action under this law which would be detrimental to the interests of the United States or its people.

I believe this resolution an important symbol of this Nation's fundamental commitment to the right of self-determination of peoples. I commend our colleagues in the House and particularly Mr. Derwinski, who have so faithfully pursued this endeavor. I invite my colleagues to join me in cosponsorship of the resolution, and I will urge at the appropriate time its consideration by the entire Senate.

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 707

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. Ribicoff, Mr. Chafee, and Mr. Durenberger) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 708

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 709

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 710

(Ordered to be printed and to lie in the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 711

(Ordered to be printed and to lie on the table.)

Mr. HART (for himself, Mr. Percy, Mr. Tsongas, Mr. Durkin, Mr. Baucus, Mr. Domenici, Mr. Heinz, Mr. Bradley, Mr. Leahy, Mr. Cranston, Mr. Levin, Mr. Metzenbaum, Mr. Hatfield, Mr. Sarbanes, Mr. Stewart, and Mr. DeConcini) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 712

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him, jointly, to H.R. 3919, supra.

(The remarks of Mr. Stevens when he submitted the amendment appear elsewhere in today's proceedings.)

AMENDMENT NO. 713

(Ordered to be printed.)

Mr. BRADLEY proposed an amendment to H.R. 3919, supra.

AMENDMENT NO. 714

(Ordered to be printed.)

Mr. BRADLEY (for himself, Mr. Chafee, Mr. Nelson, Mr. Ribicoff, Mr. Roth, Mr. Moynihan, Mr. Packwood, Mr. Durenberger, Mr. Weicker, Mr. McGovern, Mr. Tsongas, Mr. Ford, Mr. Biden, Mr. Hart, and Mr. Leahy) proposed an amendment to H.R. 3919, supra.

RESIDENTIAL FURNACE IMPROVEMENT AND COST SAVINGS ACT OF 1979—S. 1335

AMENDMENT NO. 715

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. JAVITS (for himself, Mr. DeConcini, Mr. Muskie, and Mr. Randolph) submitted an amendment intended to be proposed by them, jointly, to S. 1335, a bill to require efficiency improvements in residential heating units.

TRUTH IN MILEAGE INFORMATION ACT OF 1979

Mr. JAVITS. Mr. President, I am today introducing in the form of an amendment the Truth in Mileage Information Act of 1979, which is designed to insure that purchasers of new cars are provided with accurate estimates of actual in-use fuel economy for myself and Senators DeConcini, Muskie, and Randolph.

Under the Energy Policy and Conservation Act of 1975, the Environmental Protection Administration is required to test for fuel economy and estimate the miles per gallon consumers can expect to receive. This law highlighted our country's commitment to energy conservation and its cornerstone is the automobile fuel economy program, which requires automobile manufacturers to produce cars that achieve certain standards of fuel economy.

However, substantial discrepancies have been reported between the EPA estimates and actual in-use fuel economy. Consumers trade in older cars and purchase new vehicles on the expectation of obtaining better fuel economy, only to discover that the new car falls far short of achieving the fuel economy represented by the EPA mileage estimate.

For the more fuel efficient cars, the discrepancy can be as high as 40 percent. Moreover, the Department of Energy has concluded that this discrepancy will continue to widen as automobile manufacturers produce even more fuel efficient cars. Consumer groups, automobile manufacturers, and interested Federal agencies have identified this discrepancy as a fundamental problem.

Even though the discrepancy has reduced the automotive fuel savings that were expected from this program, the savings will still be substantial. The Department of Energy has estimated that automobile fuel consumption will be over 500,000 barrels a day less than it would have been without the program.

However, every effort must be made to insure that this discrepancy does not widen. If we allow it to widen, as the DOE report indicates, it will be impossible to achieve the gasoline conservation goals we have established for the country. In addition, as the country's most visible energy conservation program, the fuel economy program is the standard by which all Federal Government's conservation programs will be judged. Therefore, it is imperative that we insure this program is not only successful but fosters consumer confidence in our energy conservation effort.

To help achieve more accurate fuel economy information for consumers, the "Truth in Mileage Information Act" would:

First. Transfer the consumer information program from EPA to DOE;

Second. Grant EPA the authority to add new tests which factor in previous in-use fuel economy experiences;

Third. Require an annual reassessment of the accuracy and representativeness of the consumer information program;

And, commencing with the 1986 model year, the bill would focus specifically on the testing procedure and would:

First. Require EPA, in consultation with DOE, to provide an improved testing procedure which accurately reflects actual average in-use fuel economy.

Second. EPA would be required to factor into its testing procedure common driving habits, geographical variances and various ambient conditions.

Third. Vehicles used for such tests would be representative of actual production vehicles.

Fourth. EPA would be required to announce the new testing procedures by the 1984 model year.

The cost of implementing this legislation will be de minimus.

I hope new car buyers will be able to rely upon the EPA mileage estimate on the stickers of new cars and thus be able to make more informed consumer decisions. At least we will avoid the problem we have today of consumers purchasing cars on the basis of assumed fuel economy, only to discover later that EPA's estimates were off by as much as 40 percent.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENT NO. 716

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to H.R. 39, an act to designate certain lands in the State of Alaska as units of National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, National Wilderness Preservation Systems, and for other purposes.

● Mr. McGOVERN. Mr. President, the Alaska national interest lands legislation will certainly be among the most important issues to come before the Senate during the 96th Congress. It has far-reaching consequences, not only for Alaskans, but for the Nation as well.

The Committee on Energy and Natural Resources has reported its version of the bill. While recognizing that the committee attempted to accommodate widely divergent interests and difficulties they encountered in doing so, I unfortunately am unable to support the committee's bill. As many of my colleagues know, I have joined with Senators TSONGAS, ROTH and others in cosponsorship of amendment No. 626, legislation intended as a substitute to the committee's bill.

There are many differences between the committee's bill and amendment 626. I wish to highlight one of them: the future of Admiralty Island.

Admiralty Island is one of the few remaining pristine areas in southeast Alaska. It is widely recognized for its abundant bear, deer, and bald eagle populations and its teeming salmon streams. In order to protect these qualities, President Carter last December designated the area as a national monument.

The sole human inhabitants of Admiralty Island are a band of Tlingit Indians whose ancestors have occupied the island continuously for 10,000 years. The Tlingits, who live in the village of Angoon still rely upon the island's natural abundance for their subsistence way of life, just as their forefathers did. Angoon is the only settlement on Admiralty Island.

With the passage of the Alaska Native Claims Settlement Act in 1971, efforts were begun by a number of urban Alaskan groups to encroach upon the culture, traditions, and homeland of the Admiralty Island Tlingit Indians. Two urban corporations—Goldbelt, Inc., representing the residents of Juneau, and the Shee Atika, Inc., representing the city of Sitka—attempted to make their land selections on Admiralty Island. A number of lawsuits were filed challenging the authority of the Secretary of Interior to approve such selections by these urban groups. These suits have been consolidated in the U.S. district court in Anchorage.

Recently, Goldbelt, Inc. entered into a negotiated settlement in which it agreed to exchange its land selections for lands of greater value off Admiralty Island. Shee Atika, Inc. has been offered a similar exchange opportunity but has been unwilling to negotiate such an agreement. Because of the intransigence of this situation, the litigation in Federal court in Alaska is continuing.

Last year's Alaska "d2" bill prepared for the Senate, but never debated, held the position that Congress should not interject itself into this dispute and instead contended that the Senate would abide by any negotiated settlement agreed to by the parties or would accept a judicial decision on the matter. The House of Representatives has voted twice, both on last year's version of H.R. 39 and on this year's version of it, to adopt this same "hands off" position relative to the Admiralty Island dispute.

During this year's deliberations, however, the Senate Energy and Natural Resources Committee has reversed itself. The bill reported by the committee would legislatively grant the Shee Atika Corp. its proposed land selections on Admiralty Island. In other words, by this action the committee would have Congress effectively decide the pending lawsuits. I do not believe circumstances have changed so dramatically that this action is either warranted or wise.

The committee bill unilaterally decides the land selection question in favor of the Shee Atika Urban Corp. and against the actual residents of Admiralty Island, the Tlingits. Without a hearing into the merits of this decision and without allowing the parties to testify the committee has taken this bold step. This is the only instance of a land selection dispute where the committee decided without the agreement of all parties concerned in this essentially "Alaskan matter."

I believe the committee has acted in error. Their attempt to unilaterally resolve this dispute is a denial of elemental fairness and simple equity. A decision which potentially threatens the ages-old Tlingit culture and tradition on Admiralty Island should not be made on the basis of inadequate information or under "time constraints" in the rush to report such complex legislation out of committee.

The "Tsongas-Roth substitute," amendment No. 626, treats this matter in the manner decided upon by the Senate last session and by the House in both sessions. It would provide a means whereby a negotiated settlement of this issue could be reached. It is an approach favored by both the Secretary of the Interior and the Secretary of Agriculture. If a negotiated settlement couldn't be reached, it would allow the matter to be resolved judicially after all sides are given a full opportunity to present their case.

I believe the approach used in amendment No. 626, in last year's Senate bill, and the House's version of H.R. 39 both this year and last, is the wiser and more fair course to pursue in regard to this matter. For this reason and in order to highlight this issue for my colleagues' consideration, I am today submitting as a separate amendment to the Senate's version of H.R. 39, the language of amendment No. 626 regarding the Admiralty Island land selections.

Mr. President, the future of Admiralty Island is a crucial matter not only for our disposition of the Alaska national interest lands issue, but also in how we treat Alaskan Natives. The National Tribal Chairmans' Association which represents the leadership of over 170 Indian tribes and Native groups throughout the United States thought this issue important enough to support the preservation of Admiralty Island. A broad array of wildlife protection, conservation and environmental groups also endorse this effort. The Washington Post recently provided thoughtful editorial comment on this question.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD, together with the resolution of the National Tribal Chairmans' Association and the Washington Post editorial referred to above.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 716

On page 436, strike lines 8 through 14 and insert in lieu thereof the following:

SEC. 508. (a) As provided under section 22(f) of the Alaska Native Claims Settlement Act, the Secretary is specifically authorized to acquire the timber cutting rights to those lands selected for the village of Angoon under section 16 of the Alaska Native Claims Settlement Act by purchase or by exchange for timber cutting rights elsewhere within the Tongass National Forest in areas not designated as wilderness or wilderness study areas under this Act or other provisions of law. Notwithstanding the provisions of section 21(c) of the Alaska Native Claims Settlement Act, for the purposes of these timber rights exchanges, the basis of valuation of the timber rights granted Kootznoowoo, Incorporated, shall be the highest market value of the timber during the twenty years preceding the conveyance.

On page 437, strike everything from line 12 through page 443, line 8, and insert in lieu thereof the following:

(c) In satisfaction of the rights of the Natives of Sitka as provided by section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture shall designate alternative lands of equal or greater timber value located in southeast Alaska other than Admiralty Island for the benefit of Shee Atika, Incorporated. For the purposes of this section, corporations formed pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act shall be considered as Village Corporations formed pursuant to section 16 of that Act. Upon notice that any such land is acceptable to Shee Atika, Incorporated, the Secretary shall immediately convey the surface estate in such land to such corporation and shall immediately convey the subsurface estate to the SEAlaska Corporation. As a condition to such conveyance, Shee Atika, Incorporated, shall release any claim to land selections on Admiralty Island and SEAlaska Corporation shall release any claim to subsurface right on Admiralty Island which corresponds to the land selections so released by Shee Atika, Incorporated. In studying lands for designation as alternative selection lands under this subparagraph, the Secretary shall also attempt to locate national forest lands not on Admiralty Island suitable for an exchange of timber interests with Kootznoowoo, Incorporated, under paragraph (1). Nothing in this section shall be construed to affect any valid rights which Shee Atika, Incorporated, may have on Admiralty Island pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act nor shall it in any way be deemed to compel Shee Atika, Incorporated, to surrender any rights they may have on Admiralty Island prior to their voluntary acceptance of other land.

RESOLUTION No. 5/77-4

Whereas, the Tlingit Indian community of Angoon, Alaska, has submitted and there has been introduced in the Congress of the United States legislation, designated H.R. 5605 and S. 1546, to establish the Admiralty Island National Preserve; and

Whereas, one of the stated purposes of this legislation is to protect and preserve the Tlingit culture and heritage on Admiralty Island; and

Whereas, it is in the interests of American Indians and Alaska Natives throughout the United States to support the preservation of our culture and heritage;

Now, therefore be it resolved, that the National Tribal Chairmen's Association supports the passage of such legislation on behalf of the Tlingit Indians of Angoon, Alaska; and

Be it further resolved, that this resolution be submitted for the record at hearings concerning this matter.

ALASKAN BATTLE CONTINUES

Given the vote by which the Senate Public Works Committee reported out an Alaskan lands bill the other day (17 to 1), it might seem as though the long battle were about to end. Well, it isn't. The conservation groups that have been struggling for years to preserve untouched as much as possible of Alaska's vast space regard many provisions in the committee's bill as disastrous. They are determined to mount the kind of lobbying effort in the Senate that persuaded the House last spring to pass a bill that tilts far more sharply toward preservation than the bill now moving toward the Senate floor.

The people who want to encourage mining, oil exploration and timbering in the Alaskan wilderness won most of the rounds fought in that Senate committee. The committee bill would provide federal protection for 95 million acres—an area about the size of Virginia, West Virginia and North and South Carolina combined. But that is a reduction of 25 percent from the area placed in federal preserves by the House bill. In addition, the level of federal protection the Senate bill would give to many of these acres is considerably less than that provided by the House.

While the committee bill is awaiting action in the Senate—and it may wait a long time, since there is a threat of filibuster—careful attention should be paid to what is being proposed for at least four parts of Alaska. These are: Admiralty Island, where the local population wants to preserve a great forest and the timber industry wants to cut part of it; the Arctic Wildlife Range, where oil and gas may lie under the breeding grounds of Alaska's largest herd of caribou; Misty Fjords, where a borax mine is competing with magnificent wilderness; and Gates of the Arctic, where the fight is over permitting roads and towns and mining in an area designated by the House as a national park.

The standard that ought to guide the Senate in resolving these conflicts, and the many others that undoubtedly will be brought before it, is simple. The areas of Alaska protected now will always be available for development in the future; those that are developed now cannot be protected in the future. Putting land into parks, wilderness areas and other heavily protected categories is not, as the developmental interests sometimes claim, locking up the land forever. It is letting future generations decide what to do when and as they wish. The Senate should seize the chance to join the House in giving those future generations a great gift.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

● Mr. GLENN. Mr. President. I wish to announce that the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs has scheduled a hearing on S. 1938, the Federal Radiation Protection Management Act of 1979. The hearing will be held on Tuesday, December 4, 1979, at 10 a.m., in room 1114 of the Dirksen Senate Office Building.

If you have any questions regarding the hearing please contact Lenore Magida of the subcommittee staff at 224–2627.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, the hearing previously scheduled on Tuesday, December 11, 1979, by the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources has been changed to Monday, December 17, 1979. The purpose of this hearing is to receive updated information on the current price and supply situation for petroleum fuels from the Energy Information Administration and International Affairs Division of the Department of Energy.

The hearing will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Questions about this hearing should be directed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224–9894.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING AND STABILIZATION OF PRICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Production, Marketing and Stabilization of Prices Subcommittee and the Foreign Agricultural Policy Subcommittee of the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the sessions of the Senate today and Thursday, November 29, 1979 to hold joint hearings on the impact of anticipated Soviet grain sales on the U.S. transportation system.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RURAL DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Rural Development Subcommittee of the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the sessions of the Senate on Thursday, November 29. 1979 and Friday, November 30, 1979 to hold oversight hearings on rural housing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE RELATIONSHIP BETWEEN GUNS AND BUTTER

● Mr. TOWER. Mr. President, we meet at a time of crisis in U.N. foreign policy. For weeks, our attention has been captured by the unfolding of events in Iran—events which hold incalculable consequences not only for the immediate security of the 49 Americans held hostage in Tehran, but as well for the long-term security of our entire country.

This gross violation of international law and of any moral standard of human rights has focused our attention on very serious national vulnerabilities and has raised fundamental questions concerning our ability to deter future recurrences of this kind as well as more serious challenges to our security as a nation.

The dimensions of the problem before us are nowhere better analyzed than in an extremely penetrating article by Dr. Irving Kristol of New York University in last Monday's Wall Street Journal.

In his article, Professor Kristol destroys the myth of centuries that the solution to our economic woes and inflation can be found here at home by some domestic jiggering of economic mirrors. For those who cling to the isolationist view that the United States can ride out its current problems and become an island of self-sufficiency, this article will be very sobering. For in simplest terms, Dr. Kristol makes clear that henceforth our economic health and, indeed, our very survival are much more dependent on our foreign policy than on any combination of domestic policies.

The future growth of our economy and any hope of prosperity are inextricably tied to our secure access to the resources so essential to fueling this engine of democracy.

Notwithstanding our ultimate ability to develop alternative energy sources, it is clear that, for decades to come, the United States must rely upon foreign—and very uncertain—sources of petroleum.

And we are not alone in this plight. All nations, to include, according to Dr. Kristol, the Soviet Union, are entering a period of heightened competition as each grasps for the liquid lifeline of Middle East oil.

The outcome of this competition is by no means clear. It is clouded not only by the uncertainty that we possess the requisite military means to secure the necessary transport routes after a decade of decline, but as well by new turmoil within supplier countries as we are seeing in Iran.

The central unavoidable conclusion emerging from these facts is that today our most vital national interests are overseas, and in the years ahead, we must be far better prepared to protect those interests with raw military power than we are today. We can no longer afford the luxury of a choice between guns and butter, for today it is clear that the former is the fundamental precondition to the latter.

The relevance of this relationship to our future was summed up as follows in Dr. Kristol's article:

> What will be relevant is an American foreign policy in which power, and the readiness to use it boldly, will play a far more central role than has ever before been the case in our history.

And further:

> Today it is military rearmament that is the first priority, economic as well as political.

Mr. President, the ability of the United States to recognize this fundamental truth will determine our ability to survive and prosper in the years ahead. We are at a threshold of dramatic proportion for ourselves and the community of nations. The international economy depends upon us just as surely as we are dependent upon it.

In the months ahead, it is essential that the United States fashion a new foreign policy, built upon a restored military foundation. Making the necessary commitments will require great leadership and sacrifice. But I am firmly convinced that the American people, presented with a firm program of restoring our strength and being willing to use it, will meet the challenge.

Dr. Kristol's views are both timely and perceptive. I commend them to all of my colleagues and request that his article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Nov. 6, 1979]

THE WORST IS YET TO COME

(By Irving Kristol)

The 1980s have already begun. They began with the takeover of the American embassy in Tehran earlier this month and with the subsequent confrontation between the United States and a virulently anti-Western Iranian regime. This episode is, as it were, the shocking prologue to an equally tense drama that stands poised to unfold in the decade ahead. It promises to be an absolutely ghastly period.

These past years have been dominated by problems of domestic economic policy—of maintaining economic growth in the face of inflation, stagflation, high rates of taxation, governmental overregulation of business, etc. Even OPEC has been regarded as primarily a phenomenon within the economists' universe of disclosure, and the arguments have centered around the kind of economic policy that would be most appropriately responsive to the new level of energy costs.

On the whole, and from this same economic perspective, we have managed these problems rather badly. The cast of mind shaped in the 1960s—one which perceived the United States as an "affluent society" whose major challenges were achieving a better "quality of life" and a "fairer" (i.e., more equal) distribution of entitlements to wealth, income, and opportunity—was quite unfit to cope with the bleaker realities of the 1970s, and we were very slow getting on a new learning curve.

THE ROLE OF FOREIGN POLICY

More recently, however, there have been hopeful signs of progressive adaptation to these realities, an increasing recognition of the need for an economic policy to spur economic growth instead of being indifferent or hostile to it. But one senses it no longer matters quite so much. For it seems clear that in the 1980s it will be foreign policy, not domestic economic policy, that will be decisive for economic growth, and for our destiny in general.

If the 1970s were dominated by considerations of domestic economic policy, the 1980s are going to be dominated by considerations of foreign and military policy. The two are not unrelated, of course—and, indeed, in the case of oil they are most intimately related. But a whole new set of priorities will have to be established, as we come to grips with the fact that the American economy does not exist in isolation from world politics.

Take, for instance, the issue of inflation which President Carter now says is the most important economic problem facing the nation, a proposition that is heartily assented to by conservative economists and Republican politicans. They are almost surely wrong. Two years ago they would have been right, but not now. Today it is military rearmament that is the first priority, economic as well as political. And if there are going to have to be massive increases in military spending, then we shall have to put up with more inflation, for a longer time, than any of us would like. Should the rate of inflation in the 1980s stabilize at, say, 8%, that would represent a not inconsiderable achievement.

The truly important problems of the American economy in the years to come will result from what economists so chastely call "exogenous shocks"—i.e., things that happen elsewhere in the world, things that will profoundly affect us and to which we shall have to respond. None of these things is likely to be pleasant, for the world order—such as it is, which isn't saying much to begin with—is in the process of going through a whole series of convulsions.

The Middle East is the most obvious source of trouble. Even if the Arab-Israeli conflict were not a constant irritant, the chances for stability in that area seem slight. Intra-Moslem religious tensions are on the rise and anti-Western paranoia is endemic. Egypt under Sadat is indeed a remarkable exception, but one can properly doubt whether Egypt after Sadat will remain so. Iran will surely be hostile to American interests, whatever kind of regime is eventually established there. The days—at best, the years—of Saudi Arabia's anachronistic feudal oligarchy are numbered, to be succeeded by Lord only knows what Iraq is likely to go to war against Iran, or against Syria, or against itself. Syria could easily go the way of Afghanistan and end up as a Russian puppet. Oil at $50–$75 a barrel is not too far down the road, and chaos in that region might well result in no oil being available at any price.

All this would seem to suggest the likelihood of some American military involvement in the Middle East to protect our interests, both economic and strategic. Unfortunately, we shall there encounter another presence: the Soviet Union.

The U.S.S.R. is today our superior in effective military power of a kind that is relevant to a situation such as the Middle East's—i.e., conventional military power. Even if we were now to undertake a serious and sustained effort to improve our military capabilities in this respect, it would probably take a good part of the decade to accomplish it. Moreover, a new Soviet leadership is on the verge of coming to office, and all the evidence points to its being very self-confident, highly nationalistic, and likely to be more boldly assertive than its predecessors. And, perhaps most important, the Soviets are going to be needing foreign sources of oil by 1981, and the Middle East is not only the logical place for them to turn to, it is the only place. So an era of confrontation with the Soviet Union seems to be in the cards.

And as the post-World War II international order falls apart—not only in the Middle East but probably in Latin America as well—all thinking about American foreign policy derived from that era assumes an air of irrelevance. SALT becomes irrelevant. The United Nations becomes irrelevant. Foreign aid becomes irrelevant. Sermons on human rights become irrelevant. NATO itself may soon become irrelevant, as our European allies decide that, in the face of American weakness, *sauve qui peut* is the sensible flag to fly. What will be relevant is an American foreign policy in which power, and the readiness to use it boldly, will play a far more central role than has ever before been the case in our history.

Nor will the United States really have any alternative but to use such power to recreate a world order it can live with—a world in which there is relatively free trade and relatively free access to the world's resources. Though there is much we can, should, and in the end probably will do to set our own economic house in order—including the more abundant use of coal and nuclear power, despite any hazards they might create—it is an inescapable fact that the American economy is a vital organ of a larger world economy. The one cannot survive, and certainly cannot prosper, without the other. The wealth of nations today is indivisible. Our economic growth will henceforth be as dependent on our foreign policy as on our economic policy. And if we fail to establish the conditions for such growth, our democracy will itself unravel, as economic pressures give rise to political polarization, at home and abroad.

There is far too much easy and glib talk these days about the need for Americans to tighten their belts, accept a reduction in their living standards, even resign themselves to an economic philosophy of no-growth. It is dangerous and irresponsible talk. Yes, of course, the American democracy can cope with a temporary cessation of economic growth, as it has done in wartime. But only if it is perceived to be temporary. What few seem to realize is that a prospect of economic growth is a crucial precondition for the survival of any modern democracy, the American included.

For over two thousand years, the consensus among political philosophers was that democracy—the rule of the majority—was an inherently unstable and therefore undesirable form of government. The reason they came to this conclusion was not because they were snobs or disliked the common people, or because ordinary people then were inferior to the people of today. It was because they believed, on the basis of experience (in the ancient Greek city-states especially), that in a democracy the majority, being poor, would always use its power to expropriate the wealth of the more effluent minority, and that this would lead (as it always had) to economic chaos, followed by political chaos, followed by the restoration of order by a dictator.

What changed the attitude of political philosophers was the emergence of modern capitalism, with its promise of economic growth—of an economic system in which everyone could improve his condition without having to do so at someone else's expense. It is because this promise of economic growth has been kept that democratic politics has survived in the United States, in Western Europe, more recently in Japan. And it is only so long as economic growth remains a credible reality that democracy will remain an actuality. It is the expectation of tomorrow's bigger pie, from which everyone will receive a larger slice, that prevents people from fighting to the bitter end over the division of today's pie.

WHAT THE U.S. SHOULD DO

The 1980's will see a disintegrating international order in which economic growth is going to be extraordinarily difficult to achieve, and in which even economic stability will be hard to maintain. It will therefore have to be an overriding goal of American foreign policy to help shape this world so that the growth of the world economy can continue. This will require many sacrifices, but so long as the goal is visibly there, the sacrifices are tolerable. If the goal is not there, our situation will gradually deteriorate until we end up divided among ourselves and destroying our institutions in a frenzy of recriminations.

For the very survival of this nation, our foreign policy is going to have to be oriented quite explicitly toward such a goal. Where will such a foreign policy come from? Who will articulate it? Who will be able to sustain it? Those are the questions that ought to be dominating the 1980 elections. But no one, so far as I can see, is asking them.●

GASOHOL IN INDIANA AND THE NATION

● Mr. BAYH. Mr. President, many commentators are predicting that we may face gasoline lines again, due to possible cutbacks in oil production in the Mideast. None of us has forgotten the inconvenience of last spring's gas lines, and our pocketbooks have not recovered from the pinch of gasoline prices averaging $1 and more per gallon. In my judgment, we need no repeated shortages or additional price increases to underscore how imperative it is for our Nation to turn toward alternative energy sources.

I have long worked toward the goal of aggressive development of alcohol fuels as part of a full-fledged national effort to increase domestic energy production. The public has enthusiastically endorsed this effort, and I am indeed proud to note that many in my State of Indiana have been in the vanguard of the alcohol fuels movement. Eighty-four percent of those responding to a survey conducted by Indiana University-South Bend indicated that greater use of gasohol should be part of our national energy policy. To capitalize on the widespread interest in gasohol throughout Indiana, Texaco, Citgo, and Arco have begun test marketing programs there, supplementing existing statewide distribution by the Indiana Farm Bureau Co-op.

Current alcohol production does not approach the potential liquid fuel supplies that could be generated by widespread conversion of farm and forest products and wastes to alcohol. The Senate has recognized the need for a national commitment to increase alcohol production by setting goals of 920 million gallons of alcohol production annually by 1982, and 10 percent displacement gasoline with alcohol by 1990 and providing production incentives in S. 932, the synthetic fuels legislation. I am confident that we will be able to rely on American ingenuity and technological know-how to make the potential of alcohol fuels a reality.

I have felt strongly that this Congress needs to give a clear signal that we expect alcohol fuels to play a key role in meeting our energy needs in the future. We have made a start to this end through the synfuels bill. We have before us, Mr. President, an example of how a comprehensive national effort can be developed which recognizes the importance of alcohol fuels. Many of us are aware of the great strides that Brazil has made in this area through the implementation of an aggressive alcohol fuels development program.

I know that this Nation can do as well. I ask that a series of articles describing recent achievements in alcohol fuels be printed in the RECORD for the benefit of my colleagues.

The articles follow:

[From the South Bend Tribune]

ALTERNATE FUELS BACKED

South Bend-Mishawaka area residents, largely convinced of the reality of the American energy shortage, appear to be anxious to see development of almost any fuel sources that offer alternatives to petroleum products.

First choice on the list of those who might pay for developing alternative fuels are the utility companies.

These attitudes emerged in a citizens attitude survey conducted in July by the School of Public and Environmental Affairs at Indiana University at South Bend. Directed by Dr. Richard Metzcus, the scientifically selected, random sample was drawn from South Bend, Mishawaka and adjacent portions of St. Joseph County.

The power potential of the sun seems to have captured local imaginations. Solar power was favored by 86 percent of those surveyed as a prime alternative fuel source ripe for development.

Gasohol, a mixture of gasoline and alcohol, ranked second on the list of favored alternative fuels. Coal and wind power tied for third place in the interest of survey respondents, followed by thermal heating by ground water, wood, ocean thermal plants and wave power.

Eighty-one per cent of respondents said utility companies should bear the cost of developing alternatives to petroleum fuels. Sixty-nine per cent were willing to see the government bear that cost, but only 41 per cent think consumers ought to carry the burden.

These attitudes fit against a backdrop, reported earlier, of substantial belief in the reality of the nation's energy shortage and a nearly universal belief in the urgency of developing alternative fuel sources.

The results of this survey could differ from the results of interviews with all persons living in the area because of chance variations in the sample. For a survey the size of this one, the percentage should vary no more than 7 points either way if the sampling were repeated to accommodate sampling error.

Results from other surveys on the same topic, however, could vary due to differences in the wording of questions, in the interviewers, or in timing and methodology of the survey.

Statistical summary

[In percent]

An alternative fuel source that should be developed is:	
Solar power	86
Gasohol	84
Coal	80
Wind power	80
Thermal heating by ground-water	76
Wood power (timber)	73
Wave power	64
The cost of developing alternative fuels should be paid by:	
The utility companies	81
The government	69
The consumer	41
Agree:	
We are experiencing an energy shortage in this country	64
The American standard of living encourages high energy usage	91
Enough energy to maintain our present way of living is a basic right	43
It is important that alternative fuel sources be developed	95
It is possible to have a clean environment and have energy efficiency	83

[From the Wall Street Journal]

TEXACO INC. PLANS TO TEST GASOHOL IN 3 U.S. MARKETS—MEANWHILE, 17 CONNECTICUT DEALERS HAVE ALREADY BEGUN TO SELL THE PRODUCT

NEW YORK.—Gasohol is getting a crack at the motor fuel market.

Texaco Inc. announced that it will test market gasohol in three U.S. areas, starting with about 20 stations in the Indianapolis area in October. The other two areas are Boston and New York.

The new product, to be known as "Texaco lead-free gasohol," will be a blend of 90 percent Texaco lead-free gasoline and 10 percent ethanol, the company said.

"The marketing of gasohol will assist Texaco in stretching its supply of high quality motor fuels to customers," the company said. "There has been sufficient experience with the use of similar fuels in the Midwest and elsewhere to assure us that this product will provide satisfactory operation in motorists' cars. In addition ethanol itself is a type of alcohol that can be manufactured from renewable American agricultural products, such as corn and sugar cane, and can thus be of some assistance in reducing petroleum imports."

The sale of gasohol will be contingent on the federal government granting an exception to current pricing regulations to permit the cost of alcohol to be included in the sales price, the company said. Texaco noted that gasohol is currently exempt from the four-cents-a-gallon federal excise tax on gasoline.

Several other major oil companies have already begun test marketing gasohol. Among them are Standard Oil of Indiana. Exxon Corp. doesn't market any gasohol but is studying the feasibility.

Derby Refining Co., a unit of Coastal States Gas Corp., currently markets gasohol at 10 of its 600 stations in the Midwest. Connecticut's Elmco gasoline stations also began limited sales of gasohol during July. Elmco is supplied by Amerada Hess Corp. There have also been limited gasohol sales elsewhere.

Meanwhile 17 dealers in Connecticut have begun to sell gasohol. Wayne Konitshek, president of the Connecticut Gasoline Retailers' Association, announced that a group of dealers leasing stations from major oil companies have decided to turn away some supplies from their major suppliers and buy gasohol on the spot market.

Mr. Konitshek, who leases an Exxon station, has turned away Exxon high test and replaced it with gasohol. He said he's selling "a little more than double" the high test he sold before. The gasohol's octane is between 90.5 and 92.8, he said, higher than Exxon unleaded's rating of 87. He added that he sells the gasohol at one or two cents more than premium gasoline and gets a smaller margin. "I'm taking a cut in margin to get gasohol off the ground," he said.

An Exxon spokesman confirmed that dealers are free to sell other products as long as the product isn't sold as an Exxon product. The spokesman added that "Exxon is continuing to study the use of ethanol in motor gasoline. There are, however, economic and technical questions that should be answered before gasohol is promoted for widespread use." Among the uncertainties, critics say, are how much gasohol actually improves mileage and what storage problems might arise from alcohol's affinity for water.

[From the Indianapolis Star, Aug. 11, 1979]

TEXACO STATIONS TO SELL GASOHOL IN THIS AREA STARTING IN OCTOBER

(By Eric B. Schoch)

Texaco service stations will begin selling gasohol in the Indianapolis area in October, marking the first entry by a major oil firm into the gasohol market here.

About 23 Texaco dealers in Marion, Johnson and Hancock counties will begin selling the mixture of 90 percent lead-free gasoline and 10 percent ethanol alcohol about Oct. 1, area manager Ronald C. Grundstein said Friday.

Grundstein said the price of gasohol to Texaco retailers will be only "slightly higher" than the price of unleaded gasoline, thanks to the lack of federal and Indiana taxes on gasohol. Alcohol is priced substantially higher per gallon than gasoline.

The test marketing in Indianapolis, which will be followed by similar moves in the New York City and Boston areas will dramatically increase the local availability of gasohol here.

At present only the Farm Bureau Coop service station at 2435 Kentucky Avenue, the Crystal Flash Petroleum Corp. station at 7601 Pendleton Pike and a few independent stations are selling gasohol in Marion County.

The City of Indianapolis and the Marion County Sheriff's Department now are testing gasohol in some of their vehicles.

The "Texaco Lead-Free Gasohol" will have an octane rating of "no less than 90" compared to 88 for Texaco's lead-free regular, Grundstein said.

He said that "all the studies that our people have done in our research and technical department indicates that the modern engine will run fine on gasohol."

When gasohol is introduced, Texaco will stop selling its leaded premium gasoline in this area.

"We had intended to discontinue premium in this market anyway," Grundstein said. He said sales of premium "have been eroding" because of the requirements of newer cars and engines and due to its high price.

Indianapolis was chosen for the test marketing because its dealers are closely concentrated around the company's local terminal, making delivery easier, and because of the city's "proximity to the manufacturer" which will be supplying the alcohol, Archer-Daniels Midlands of Decatur, Ill.

In a statement released at the firm's corporate offices in White Plains, N.Y., Texaco said that the marketing of gasohol will help it stretch its motor fuels to customers. How much it will help "will depend on the quantity and price of ethanol manufactured within the United States," the statement said.

Grundstein said he was not sure how much gasohol would be supplied to local dealers, or for how long, but noted that dealers now selling the fuel in this area report that it amounts to roughly 20 percent of their total sales.

Grundstein said that local dealers, most of whom have been approached about the move and have "been very favorable," will continue to receive their full allocations of gasoline as required by federal regulations. The gasoline used in the gasohol will be included in the allocation.

Gasohol supporters have pointed out that ethanol, which is produced by distillation processes from such products as corn and sugar cane, is a renewable fuel resource which could help reduce the nation's dependence on foreign oil.

[From the Indianapolis Star, Oct. 1, 1979]

TEXACO STARTS GASOHOL SALES IN INDY AREA

Texaco began pumping gasohol at 21 area stations today in a national test program to see if people will pay more for a mixture that increases motor fuel supplies.

Texaco spokesman Charles Rentz said his company, rated fourth in gasoline sales nationwide, is contemplating similar gasohol tests in Boston and New York City.

"Texaco's motive is to stretch our limited supply of gasoline so there will be more fuel available to the consuming public," he said.

Rentz said limited supplies of ethyl alcohol mean there cannot be a large scale gasohol marketing program now. He said some companies are building new ethanol factories to meet the growing demand.

"One thing we're not trying to do is generate gasoline sales because conservation is what we need in this nation now. We're too dependent on foreign sources for our petroleum needs. The more we consume the more we end up importing," Rentz said.

Rentz said he could not quote gasohol prices, because they will be set by individual dealers.

"It's obviously going to be higher priced than lead-free gasoline because alcohol costs more than gasoline. It will be a higher octane product. If a car performs with a chatter, a noise, on lead-free gasoline, then this higher octane gasohol should contribute to eliminating that chatter," Rentz said.

He said industry tests show no adjustment to the motor is needed to burn a mixture containing 10 percent alcohol.

Texaco is the first of the major oil companies to sell gasohol in Indiana, but the product has been available across the state since last November through the Farm Bureau.

In the first eight months of 1979, the Farm Bureau sold 8.55 million gallons of gasohol through 84 outlets, and sold 56 million gallons of gasoline.

"People are liking it very much," a Farm Bureau spokesman said.

[From the Atlanta Journal, Oct. 1979]

CITGO FILLS 'ER UP WITH GASOHOL

(By John Reetz)

Cities Service oil company kicked off a test of gasohol sales in Atlanta Monday morning converting pumps at 13 stations to sell the gasoline-alcohol blend.

With the switch to gasohol, Citgo became the first gasoline dealer to offer the 90 percent gasoline-10 percent alcohol blend in the city.

The Atlanta experiment is the largest test of gasohol conducted by Citgo. Gasohol sales also started at six stations Monday in South Bend, Ind., and will begin Tuesday at five stations in Philadelphia, Pa.

The three cities were picked because Citgo is trying to determine the problems in supplying alcohol to different sections of the country, said Stanley Dean, Citgo manager of planning and project development.

"The reason we picked Atlanta is we feel like we're got to do something all over our marketing area," he said. "For gasohol to be important for the United States, it has to be something more than what's just done in the Corn Belt."

Although other major companies are experimenting with gasohol in the Midwest, Dean said the Citgo test will be the best indicator of the problems in transporting alcohol to areas well outside of the Midwest.

The alcohol used in the Atlanta test is made from corn by Archer Daniels Midland, a Midwest food production company that operates a distillery in Decatur, Ill. It is transported to Atlanta in a railroad tank car, then mixed with unleaded gasoline at the Citgo terminal.

Dean said company officials look at gasohol as a "fuel extender that performs well in any car."

It is currently priced at $1.03.9 per gallon, compared to unleaded at 99.9 and regular at 96.9. The cost of transportation, plus the cost of alcohol, makes the price slightly higher than unleaded, Dean said.

Although this is its first introduction to Atlanta, gasohol has been on sale for several months by small distributors in Griffin and Bainbridge.

Griffin gas distributor Wallace Pryor is planning to build a local distillery to make alcohol for gasohol production.

Nationwide, about 1,000 service stations in 18 states are selling gasohol. Most gasohol sales are centered in the Midwest.

Gasohol supporters contend it is an excellent alternative to high-priced foreign oil, and maintain that it also would serve as a ready market for surplus American agricultural products.

[From the Oil Daily, Oct. 2, 1979]

HAWAIIAN MARKETERS PLAN GASOHOL SALES

HONOLULU.—Pacific Resources has announced plans to wholesale gasohol on Oahu. With approval by the U.S. Department of Energy, sales of up to 1.1 million gallons of the gasoline and alcohol mixture over a 12 month period are expected to start within the next several weeks.

According to James F. Gary, president, Pacific Resources plans a one year "test program" which will combine alcohol from U.S. Pacific Northwest lumber industry byproducts and gasoline from Hawaiian Independent Refinery. Pacific Resources owns the latter enterprise.

"Gasohol gives us an opportunity to increase and diversify PRI's ability to meet the state's need for unleaded gasoline supplies," Gary said. "We are starting on a limited basis to determine the public's acceptance of this new higher-priced product as well as the state's willingness to provide the same incentives developed by other state governments. We hope this commitment will help generate momentum for what could be an important contribution to Hawaii's alternate energy program."

RENEWABLE RESOURCE

Gary pointed out that because the alcohol component in gasohol can be produced from almost any biomass material, such as wood, corn or molasses, it is "an infinitely renewable resource."

The Pacific Resources executive termed it a relatively more secure supply of energy "which is not subject to international embargo."

As a premium product, gasohol marketed on the U.S. Mainland typically sells for 3 to 7 cents more per gallon than unleaded gasoline, it was noted. Consumer incentive to purchase this higher-priced product are based on reportedly better overall engine performance with the higher octane rating of the fuel and on motorists' support of alternate energy forms.

Since President Carter has explicitly encouraged the nation to explore use of alcohol and other alternate energy resources, Gary expressed optimism that state and county officials will give the gasohol test marketing program their full support.

[From the Richmond Palladium—Item]

ILLINOIS FIRM DESTROYING MYTHS ABOUT GASOHOL

(By Mark Rohner)

DECATUR, ILL.—A major corn refiner and soybean processor here is confounding those skeptics who think making motor fuel from corn is just the impractical dream of a bunch of priarie populists.

Archer Daniels Midland Co. is operating one of the nation's few large-scale fuel-alcohol plants, producing 70,000 gallons of 200-proof grain alcohol a day. ADM wasn't even in the fuel business until May 1978, but it already has become a major supplier of the ethanol that is added to gasoline to make the product known as gasohol—90 percent gasoline and 10 percent ethanol—that is sold in Midwest service stations.

"We had always had gasohol in the back of our minds," said ADM Vice President Richard Burket. The company decided to get into the business last year when it decided the era of cheap fuel in the United States was coming to an end, making gasohol more competitive—and profitable.

How profitable Burket wouldn't disclose, except to say that "naturally we expect it to be at least as profitable" as the other products ADM makes from corn. But ADM's expectations can be judged from its investment: The firm is spending an estimated $100 million to double its ethanol-distilling capacity.

When the expanded plant is running at full capacity, it will use 60,000 bushels of corn a day, all purchased from Decatur area farmers, Burket said. This means these farmers will realize 2 to 3 cents more per bushel for their corn, because they won't have to pay for shipping it out of the area.

ADM is demolishing two of the major arguments advanced against large-scale use of grain alcohol for fuel: One, that converting corn into fuel deprives a hungry world of food, and two, that the energy produced by alcohol made from grain can never equal the energy consumed in growing the grain, fermenting it and distilling it into alcohol.

As to the first, ADM's business is to produce food and feed products, extracting oil and high protein meal from the corn germ, and leaving corn starch as a by-product that can be converted into sugar for corn syrups—or for alcohol.

Making alcohol is simply an adjunct to the firm's primary business, Burket said. "We've been refiners of corn, peanut, soybean and cotton oil for years. This is just another use of the same by-products."

Concerning the second objection, Burket said, ADM figures the energy balance of its process at about 2 to 1, that is, the process yields twice as much energy in the form of alcohol as it consumes in producing it.

Those who say alcohol production wastes energy are looking at the methods used in producing beverage alcohol, Burket said. "If you tried to make that quality for fuel, you'd never achieve an energy balance."

Making beverage alcohol, which ADM used to do, requires using special yeasts and removing bad-tasting oils. "These (oils) give you a headache when they're in the alcohol you drink," Burke said. "But they burn good."

"Beverage alcohol requires 72 hours of fermentation," he said. "With fuel alcohol, you're down to 50 hours, because you can use different yeasts, instead of going for flavor. The minute you take the wraps off and go strictly for quantity, it's a different ballgame."

Whereas the beverage-alcohol process involves fermenting a corn mash, ADM's fuel-alcohol process starts with liquid corn sugar, which is easier to ferment than corn mash, Burket said.

To the liquid corn sugar is added water and yeast, and the mixture goes into 19 fermentation tanks, each holding 100,000 gallons. After two days, it comes out as 130-proof alcohol. Two other processes turn it into 200-proof alcohol.

At this stage, it is still drinkable, so it has to be stored behind barbed-wire fences under the supervision of federal "revenooers." After denaturing chemicals are added to make it undrinkable, the alcohol is pumped into tank trucks and delivered to wholesalers to be mixed with gasoline.

[From the ADM Gasohol News, Oct. 23, 1979]

ARCHER DANIELS MIDLAND, GASOHOL PIONEER

Mention the word gasohol at just about any oil and gasoline distributor's meeting these days, and the letters ADM are bound to follow next. ADM means Archer Daniels Midland Company of Decatur, Illinois, and it means the chief supply line for farmers' alcohol going into trade channels. To have achieved national byword status in a short period of time is all the more remarkable because the end result wasn't really part of the original plan.

ADM started its alcohol operation with a 50,000 gallon per day plant in 1977. This production unit was used chiefly to make 192 proof vodka for the spirits trade. But the year 1977 was already half a decade into the OPEC era, and the gasohol concept was moving out of the think and experiment stage into the do it era.

A perfectly superb market was developing for ethyl alcohol, and ADM decided to tiptoe into that market. On May 12, 1978 the ADM Corn Sweeteners Grain Neutral Spirits Plant was dedicated at Decatur, Illinois. It had the per day capacity to process 20,000 bushels of corn into 100,000 proof gallons of alcohol. The original units of the plant had been operating for some time shipping alcohol into beverage and industrial markets. The drinking end of the business meant vodka, gin and blended whiskies. On the industrial end, alcohol entered such markets and uses as pharmaceuticals, cough syrups, mouth washes, rubbing alcohols, aerosol solvents—and as a base material for production of distilled vinegar.

When the plant kicked up its proof to 200 and labeled the end product anhydrous alcohol, the term gasohol surfaced front and center. The opener came on with the usual public relations fanfare. A shipment was sent to Washington, D.C. for use by congressional supporters of gasohol. Members of Congress, members of the president's cabinet and upper echelon officials of DOE, DOT, EPA and USDA became some of the first people in the nation to fill their gas tanks with gasohol.

The backup for this venture into the fuel business was impressive enough. ADM is one of the world's leading processors of corn, wheat, soybeans and other agricultural grains. The firm operates some 135 plants and grain elevators both domestically and abroad.

As of March 1979, the plant could produce 50,000 proof gallons of anhydrous alcohol per day and was looking for possible expansion by 1980. At present alcohol is shipped to sales points in some 26 states, with traffic growing week by week, month by month. The bulk of sales are made in Indiana, Illinois, Iowa, and Missouri, however.

"It has all been a case of grass-roots movement from the farmers themselves," ADM spokesman vice president and assistant to the president Dick Burket told Gasohol U.S.A. "It started with the co-ops. Then the independent distributors became interested. Now majors such as Amoco, Texaco and City Service are testing gasohol."

The growing character of the business has put plans for 150,000 gallons of anhydrous a day on the drawing board, but so far ADM seems to be awaiting developments.

In the meantime, history is clear. In the 1977 Annual Report, ADM noted that "The grain neutral spirits distillery portion of the new Decatur plant began operations late in the fiscal year. As the price of industrial alcohol continues to rise toward that of potable alcohol, the market opportunities for grain alcohol expand. If gasoline is freed from price regulation, gasohol could become a reality."

In the meantime, OPEC meetings have come and gone. The downward drift of the American dollar and the upward climb of gold has meant higher fuel prices in international trade—and higher alcohol prices. Moreover, independent refiners have had difficulty capitalizing the transition from leaded gasoline to unleaded gasoline to be in compliance with government regulations. Alcohol as a fuel stretcher and an octane booster has proved to be a natural. "About one more OPEC meeting," gasohol insiders say, "and gasohol will really be on the way."

From the start ADM has sought to keep itself positioned for the great leap forward. Still fabricators in Kentucky report a work overload as orders pile up. ADM's 1979 financial report notes that the fiscal year will see completion of the Decatur plant with capacity "raised to approximately 150,000 gallons of 200 proof alcohol per day."

[From the Detroit News, Aug. 29, 1979]

WASTE HEAT TO DISTILL GASOHOL?

(By Howard Warren)

An imaginative proposal to produce alcohol fuel using waste heat from a new power plant for the distillation process has been made by a group of St. Clair County businessmen.

They have incorporated as the Alphaeus Corp., and propose building the plant on a 60-acre site just north of Avoca in St. Clair County. The plant initially would produce 1.8 million gallons of alcohol a year. However, the firm's president, Robert Hamlin, says it could easily be expanded as the market for alcohol-based fuel increases.

Hamlin's plan is one of many made in Michigan and other parts of the nation as the rising cost of petroleum turns consumers' attention to alternative fuels.

When gasoline was selling for 35 cents a gallon, there was little interest in using alcohol for fuel because conventional technology resulted in alcohol costs of $1.50 a gallon or more.

However, new technologies developed in Europe promise to bring down alcohol costs below $1 a gallon, making it competitive with gasoline.

Farmers particularly are backing the use of grains as the base for alcohol, since the food value is unaffected by the alcohol production process.

Only the starch is converted during the process. This leaves the grain's protein content intact, and it can be further processed into nutritious protein meal for human and animal consumption.

Hamlin proposes building his plant adjacent to a new Detroit Edison Co. plant near Avoca. The Edison facility is an 800,000 kilowatt-hour plant powered by residual oil.

The oil is burned to turn water into steam which then powers the generators. The steam must then be cooled and condensed back into water before it is reused in the closed system.

At present, the heat not used in powering the generators is dissipated into the air. Hamlin proposes pumping the hot water at 90 to 100 degrees into his plant, using heat pumps to move the heat into his system, then returning the water to the Edison plant.

Using "heat-cascade" pumps, he can build the temperatures up to 220 degrees and use the heat to power his distillation plant.

"This system gives us 155 million BTU's (British Thermal Units) an hour for our plant, Hamlin says.

"To make alcohol, you've got to have grain, water and power. We're in the middle of good corn country, we're right next to the Edison plant and we're right on the Detroit water system line from Port Huron."

A spokeswoman for Detroit Edison said the utility's engineers have met with Hamlin and are interested, "very much so. However, we haven't gotten into specifics yet because they're still in the engineering phase."

Hamlin is no stranger to powerplant operation. A native of Marine City and a graduate of the University of Detroit, he worked for United Engineers and Contractors of Philadelphia and helped build boilers at Edison's St. Clair and River Rouge plants and was also a consulting engineer on the Fermi I atomic plant near Monroe. For the past several years he ran his own consulting firm.

Hamlin's plant would be built using technology developed by Chemapec Inc. of Woodbury, N.Y., a subsidiary of a Swiss firm which has built alcohol-distillation plants in several countries in Europe and Latin America.

Chemapec officials say that in addition to making 2.4 gallons of alcohol from a bushel of corn they can produce 3.95 pounds of 62-percent protein meal for human consumption, 10.2 pounds of 22-percent animal feed, 1.1 pounds of fodder dry yeast, 1.75 pounds of corn oil, .08 pounds of fusel oil, 13 pounds of carbon dioxide which can be bottled for commercial use and methane gas containing 37,000 BTU's which can be used to heat the plant.

One of the criticisms often made of the alcohol-for-fuel concept is that the distillation process uses more energy than the alcohol will produce. However, Chemapec engineers say their process is "energy-positive"—that it will produce more BTU than are used to make the process function.

Chemapec has also contracted with a group of farmers to build a 20-million-gallon-a-year plant near Addison, Mich. That group, operating under the corporate name Agri-

Power Alcohol Inc., hopes to break ground in the spring if they can find $56 million in financing.

The Alphaeus plant near Avoca is expected to cost $9.5 million. Hamlin said his corporation expects either to seek a conventional loan with a federal loan guarantee, form a state sponsored Economic Development Corp. and issue tax-exempt bonds, or finance through a combination of both.

Hamlin says he hopes to arrange financing within a month, break ground this fall and have the plant operational within eight months, which would allow the corporation to contract with farmers for their grain next year.

The plant would have the capacity to dry and store 700,000 bushels of corn, enough to supply the plant for a year.

[From the Los Angeles Times, Oct. 12, 1979]

TIMES TO TEST GASOHOL IN COMPANY AUTOS

Starting today, The Times will begin a four-month test of gasohol fuel in about 125 company-owned automobiles, in what is described as one of the largest gasohol evaluation programs yet undertaken by a private U.S. company.

A number of states and local governments, including California and Los Angeles city and county, have begun experimental use of the mixture of 90 percent gasoline and 10 percent alcohol for auto fuel this year.

However, testing by corporations reportedly has been much less common.

"We are trying it as an extender of our gasoline allocation and as an act of conservation, since it is replaceable energy," purchasing manager Paul Heichman said.

He said the newspaper will use gasohol made with ethanol, which is denatured 200-proof ethyl alcohol. It will be produced from corn in the Midwest by Archer-Daniels-Midland Co.

"We are going to test it for fuel economy, performance and for service," Heichman said, who added that he is skeptical about some claims of added mileage from gasohol.

He said the gasohol will cost about 5 cents a gallon more than regular gasoline prices, including a 4-cent-per-gallon reduction in the federal excise tax on gasoline which is permitted for gasohol sales.

The Times, a division of Los Angeles-based Times Mirror Co., is expected to use more than 100,000 gallons of gasohol during the experiment, Heichman said. He said it will be mixed before tanker delivery to the newspaper's storage tanks and pumps.

Robert Heard, vice president of ADM Corn Sweetener division of Arche-Daniels-Midland, said his firm is the major manufacturer and supplier of ethanol and is expecting to produce 150,000 gallons a day by the end of the year.

He said 90 percent of its distribution has been through independent jobbers, who mix it with gasoline in their tank trucks. This is more efficient than mixing it at locations where it is stored, he said.

[From the Chicago Tribune, Oct. 10, 1979]

LITTLE GUYS BRING IN GASOHOL

(By Jack Mabley)

Gasohol finally is available in Chicago. Not from one of the big oil companies, of course, but from two independent stations. The Kean Brothers, Inc., station at 6040 Northwest Hwy. has been selling the 10 per cent alcohol-90 per cent gasoline mixture for a week.

Their station at 9959 S. Western Av. has carried it since Aug. 20. I'll buy at Northwest Highway, only a slight detour from my route home.

The Chicago stations charge $1.11 a gallon for gasohol, $1.08 for straight unleaded. The $1.11 price is comparable to unleaded premium.

The Kean brothers own 20 gasoline stations in the area. Raleigh Kean told us gasohol sales are so good the company hopes to put it in all 20 stations.

A station is Frankfort also has sold gasohol since Aug. 20.

"Gasohol is accounting for 20 per cent of our sales," Kean said. "It's far greater than we expected. It's increased our business. We thought people might try it once as a novelty, but they're coming back regularly. Most say they get better mileage with gasohol.

Kean said the company started selling gasohol to stretch its gasoline allocation, to provide higher-octane unleaded for customers, and "because it keeps money in the United States rather than sending it overseas."

Tuesday, by coincidence, I received a paper from the Brazilian embassy in Washington about that nation's conversion to alcohol to run its vehicles.

In 1978 Brazilians mixed 8.5 per cent alcohol with the gasoline consumed in the country. Increased production will push that ratio to almost 15 per cent this year.

One thousand government vehicles already are running on 100 per cent alcohol, and the goal is to make the nation free of dependence on foreign oil.

The people who are fighting gasohol scoff at Brazil's example because its population is smaller than the United States. That's a dumb response. We have greater needs, more cars, and more people, but also we have more money, more agricultural facilities, and more technical know-how.

But what we're getting in this nation is foot-dragging by Washington on alcohol and new warnings of severe gasoline shortages in a month or two.

We're also getting word that Mexico is boosting its oil price to $25 a barrel. The OPEC nations will follow.

The U.S. oil giants still are going tippy-toe around gasohol, allowing carefully controlled test marketing at a few stations while warning us of new shortages and higher prices and urging us to drive less.

A crash program of alcohol production could provide us with 10 per cent of our motor fuel in a year or two, and as much as 50 per cent in a decade.

178TH NATIONAL MEETING ZEROES IN ON ENVIRONMENTAL AND ENERGY DEVELOPMENTS

ENERGY WARNING

While the growing dependence of the U.S. economy on oil imported from the Middle East has long been viewed with alarm, the precariousness of the whole Middle Eastern oil-supply situation has been vastly underestimated, claimed Johns Hopkins University economist Charles F. Doran. "We're in the midst of a latent crisis" in global energy supplies, he warned. Uninterrupted deliveries of oil from the Middle East, he said, depend largely on the good will of the present Saudi Arabian government. Yet the policies of that government, described by Doran as "very fragile and delicate," are being challenged by "a very vigorous generation of technically informed young people" in Saudi Arabia, who are pressing their government to drastically cut back oil production and deliveries to the West in the interest of economic self defense. Therefore, he feels it is vital for the U.S. to provide "an unflinching commitment to the integrity of the Saudi regime."

Brazil is trying to solve its import problem by blending gasoline with ethanol. Brazilian chemist Luis S. Pimental described his country's gasohol program. He said Brazil has a goal of blending its 17-billion-liter 1980 gasoline output with 20 percent (by volume) of ethanol derived from fermentation of agricultural wastes. This will save the country about $1 billion in oil imports next year, Pimental added. And much of Brazil's unused agricultural land will be cultivated in order to produce 10.7–20 billion liters of ethanol by 1987.

SEPARATING ISOTOPES

An unusually simple way to separate isotopes by weight was the subject of a paper by Columbia University chemist Nicholas J. Turro. The process, which has been used only on a laboratory scale, involves beaming ultraviolet light on certain molecules to generate unstable intermediate molecules called free radicals (so-called because they contain unpaired electrons). If these light exposed molecules are dissolved in the soap phase of a dispersion of soap in water, and an external magnetic field applied, the free radicals with magnetic nuclei (usually containing rare isotopes, such as carbon-13 or oxygen-17) recombine relatively easily and stay in the soap phase, while the free redicals with nonmagnetic nuclei (usually the more common isotopes, such as carbon-12 or oxygen-16) fly apart and leave the soap phase. In this way, Turro said, the soap phase is gradually enriched in the rarer isotopes. Turro reported on his work in separating carbon-12 from carbon-13, but said he has also achieved success in separating oxygen-16 from oxygen-17.

These results, the chemist noted, open the door to a commercial system for producing rare isotopes for biomedical and other purposes relatively cheaply. As for separating fissionable uranium-235 from nonfissionable uranium-238, he said that the same process should work.

The vexing problem of how to recover hazardous wastes that have percolated into the ground (from buried storage drums that have corroded and released their contents, for example) was discussed by Robert Graziano of O. H. Materials, Inc. (Findlay, O.). Graziano said that his company has developed a system whereby water (or water mixed with a surfactant) is forced into the ground under high pressure, thereby flushing out the wastes, which dissolve in the water. The waste-laden water is recovered from nearby wells and is treated with activated carbon to remove the hazardous wastes. The activated carbon is regenerated by heating, and the wastes given off are incinerated.

Graziano noted that the O. H. system was used successfully two years ago to clean up a 140,000-gallon acrylonitrile spill in Grayson, Ky.

The big advantage to the system, he added, is that the necessary machinery comes in mobile modular units that can be moved rapidly to the site of a chemical spill.

CONTINUOUS CELLULOSE-TO-GLUCOSE PROCESS

A 1-ton-per-day demonstration plant to hydrolyze cellulosic waste continuously to glucose syrup has been built by New York University engineering professor Walter Brenner at the university's Westbury, L.I., N.Y., laboratories. This technology may improve production economics of fermentation ethanol from wood, pulp and paper, agricultural, and municipal wastes as a gasoline additive.

Continuous hydrolysis of cellulose is part of an Environmental Protection Agency project for conversion of solid waste to fuels. A second part of this project is continuous anaerobic fermentation of some of the glucose syrup to methane, which might serve as fuel to distill ethanol produced from the rest of the glucose. Methane fermentation is under development by microbiology professor V. R. Srinivasan of Louisiana State University, Baton Rouge.

The next step at NYU will be scaling up of continuous hydrolysis of cellulosic wastes to a 20 to 50 ton-per-day plant and development of mobile units bearing plants of this size. Solid waste research project officer Charles Rogers at EPA facilities in Cincinnati envisions eventual processing of wastes into glucose syrup by mobile plants in the field and shipment of syrup over short distances to local fermentation plants. Rogers estimates ethanol might be produced by this means for 85 cents to $1.00 per gal—60 cents per gal for cellulose hydrolysis and 30 to 40 cents per gal for fermentation and distillation.

Brenner borrowed a leaf from plastics processing technology and developed his continuous plant around a twin-screw extruder. He has been running the plant on sawdust or pulped newspaper. Sawdust or a slurry of newspapers pulped in a Hydropulper is cram-fed into a ZDSK 53 twin-screw extruder from Werner & Pfleiderer Corp., Waldwick, N.J. The screws shear sawdust into a slurry without added water, he says.

Superheated steam heats the slurry to 450° F in the extruder barrel. The configuration of the screws in the feed section removes water from the slurry and compresses the cellulose into a dense plug. The cellulose plug prevents 500-psi pressures in the extruder barrel from expelling slurry back through the cram feeder. This "expressed" water is vented at the bottom rear of the barrel. Cellulose concentration in the slurry thus increases to 50 percent in the barrel from 30 percent in the cram feeder.

Near the outlet of the barrel, 0.5 percent sulfuric acid is injected into the slurry. Reaction time is only about 20 seconds before the mixture is quenched by sudden cooling on leaving the extruder. This combination of temperature and residence time results in maximum 60 percent yield of glucose while avoiding acid-catalyzed degradation.

Brenner chose the ZDSK 53 because of its modular construction. Modular barrel construction allowed complete instrumentation of the machine while the process was under development. Modular screw construction let Brenner design screw configurations by sections to get compressive action in the feed section, high shear rates on the center, and best transport of glucose syrup to the outlet. He also could select stainless steel screw and barrel modules in the reaction section, limiting use of that costly material to the area in contact with hot acid.

Twin-screw extruders are favored for plastics compounding and polyvinyl chloride extrusion because their high shear makes plastic melts easier to process at relatively low temperatures. This same high shear grinds cellulose fibers further, making the cellulose more accessible to chemical reaction. It also overcomes non-Newtonian flow characteristics of cellulose slurries.

The ZDSK 53 is a corotating machine—the screws turn in the same direction. The resulting open channel allows densified slurry to transfer from one screw to another, facilitating transport down the barrel. Werner & Pfleiderer engineers say that closed channels of counterrotating machines, which also are used in plastics extrusion, might cause slurry to build up and the screws to jam.

To hold pressures in the barrel while allowing glucose syrup to exit, Brenner installed an intensive-service, 2-inch ball valve at the exit port. This valve, supplied by Kamyr Valve Co., Glens Falls, N.Y., and much used in the pulp and paper industry, opens for only a few microseconds at a time, Brenner says. The valve seat and ball are stainless steel, armored with wear-reducing alloy. The ball and stem are one piece for better control, and the stem is thicker than usual to take the constant torque of opening and closing. Gaskets are made from graphite to take high temperatures.

Current energy consumption is about 1600 Btu per lb of cellulose. Brenner says efficiency might be increased by insulating the extruder barrel and quenching the reaction mixture with a heat exchanger.

Srinivasan is evaluating glucose syrup from Brenner's continuous hydrolysis as a nutrient for fermentation to methane. Work at LSU aims at a continuous fermenter, which would allow spent broth to exit by overflow as fast as new nutrient enters. To accomplish this steady-state operation, Srinivasan is trying to optimize the nutrient to increase the doubling times of fermenting organisms. In this way, multiplications of organisms would replace those carried out with the overflow.

The organisms under study are cultures from cattle rumen. Srinivasan is studying their trace element requirements to gauge what substances must be added to glucose syrup and at what rates to lower doubling times from weeks to hours. He also is determining dilution rates needed for glucose syrup to secure most rapid growth of cultures.●

BIA AND IHS EARLY RETIREMENT, H.R. 1885

● Mr. PRESSLER. Mr. President I am extremely gratified that H.R. 1885, a bill to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs (BIA) and of the Indian Health Service (IHS) who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as applied to those agencies, has finally passed both Houses of Congress. This is a long overdue piece of legislation and I applaud my colleagues for recognizing the importance of this bill to so many persons employed within the BIA and IHS.

As a cosponsor of the Senate companion bill to H.R. 1885, and a sponsor of similar legislation during both of my previous terms in the House of Representatives, I am pleased that this measure of justice will finally come to pass for those who work in the BIA and IHS.

The bill entitles certain employees of Indian tribal organizations, the BIA, or the IHS to an annuity if separated from service after completing 25 years of service or after attaining 50 years of age and completing 20 years of service, if such an employee is not an Indian entitled to an employment preference by law.

With this bill we have moved closer to clarifying the Indian employment preference law because the bill also states that employees entitled to Indian preference and military preference shall be retained in preference to employees entitled to only military preference during reductions in force within the BIA or the IHS. Therefore, I look forward to this action creating more opportunities for qualified Indians within these agencies. This piece of legislation will benefit all employees of the IHS and BIA.

I have received many calls and letters from my constituents regarding this important matter. It is of great concern to employees within these two important Federal agencies. I feel satisfied that our efforts to assist those persons who have so faithfully served many years in the BIA and IHS have been rewarded.●

MUTUALLY ASSURED PROTECTION

● Mr. SCHMITT. Mr. President, our distinguished colleague, the junior Senator from New York (Mr. MOYNIHAN) has just published a frighteningly persuasive dissection of the SALT process and the strategic theory that sustains that process. With devastating historical analysis and perspective, the Senator leads us to the brink of what must become the democracies' strategic policy of the future: Mutually assured protection.

Senator MOYNIHAN's article from the November 19, 1979, New Yorker should be read by all.

As Senator MOYNIHAN points out, this policy can be based on the simplest of concepts: self-defense. By insuring that the free world can protect itself from nuclear attack while at the same time insuring that our conventional strength can defend our interests and the interests of freedom anywhere in the world, we may find our way out of the immoral thicket in which we now find ourselves. That thicket should be named the MAD Thicket after the policy of Mutual Assured Destination that led us there where, to paraphrase Andrei Sakharov, "the purposeless massacre of innocents is allowed, but killing in self-defense is forbidden."

The technical path out of MAD Thicket will not be easy nor will it be cheap; however, the open fields of mutually assured protection must be reached for the sake of humanity, for the sake of freedom.

First, as an interim step, we must take those steps necessary to protect our present strategic systems against the growing Soviet military capability to destroy those systems in a preemptive first strike.

Second, we must at the same time undertake an accelerated development of antinuclear defense systems which can be deployed by the end of the decade.

Third, also at the same time, we must rapidly improve and increase the capabilities of conventional ground, air, and sea defense forces as benefits a modern "maritime" nation and the principal advocate of freedom.

Fourth, we must put into place a civil defense and damage limitation system that both protects our people and limits damage to their civilization in the event of conflict.

And finally, we must create domestic and foreign intelligence services that can accurately determine our adversaries' intentions wihout sacrificing the basic democratic principles we seek to defend.

Mutually assured protection is our path to mutually assured survival both for mankind and the democracies. Senator MOYNIHAN has helped greatly to show us the beginning of our journey and to suggest the direction in which we must now head.●

ARE WE INVOLVED IN A NUMBERS GAME?

● Mr. KENNEDY. Mr. President, the administration will soon reveal its proposed fiscal year 1981 defense budget to the Senate. I believe we must all carefully examine the contents of that proposal. According to press reports of the administration's position, it appears that we are involved in an abstract numerical exercise. I certainly hope this is not the case.

First, comparing the percentages of

growth in one budget with those of another does not solve any security problems or enhance our military strength. It is, as columnist Joseph Kraft calls it, a "numbers game." Our goal should not be simply to outspend the Soviet Union without regard to what we are buying, for we can outspend them merely by wasting money. That would not be in anyone's interest. Although there is some utility in looking at aggregate defense spending and at its growth in percentage terms, this should not be our primary focus.

Our real defense objectives—which have frequently been obscured in the present debate—are first, to deter any attack upon ourselves or our allies and, second, if war should occur, to be able to defeat our adversaries. The defense programs we need to fulfill these goals should be carried out on their own merits and should not be tied down to any particular level of spending.

At the same time, I fully understand why some of my colleagues have raised the issue in terms of percentage growth. Soviet increases in defense capability over the last 5 to 10 years have been real and substantial. If we look at what the Soviets have produced and deployed, rather than what they have been spending, we can see that they have been considerably more active than we have been in several areas: in modernization rates for their armored ground forces, for tactical aircraft, for submarines, and for strategic and tactical nuclear missiles.

Relative aggregate percentage growth figures for spending are a kind of shorthand for these trends and one that some Senators find useful. But, more specifically, a requested pledge for 3 percent or 5 percent, or more, growth in defense has become a kind of earnest money that some have requested from the President to be assured that he is committed to the country's defense.

This procedure should not be necessary. The relationship between the President and the Congress on national security issues should be one of mutual respect. It is an unsatisfactory situation when it becomes necessary to require an advance peek at the budget's percentage growth to be certain that the President is really going to do what is needed for our defense. I believe we must approach these problems far more cooperatively to make sure that such suspicions do not represent the underlying reality.

In my judgment, the proper way to assess defense budgetary issues is to look closely at what threat the Soviet Union and its allies pose in various areas, to assess the relative trends in capability—are they favorable or unfavorable to us—and then to make our own investment decisions that will protect our true interests. In this context, I will support those parts of the administration's request that I believe are wise and will oppose those that I believe are unwise, regardless of the percentage growth that is produced.

The best investment may be, for example, a comparatively inexpensive weapons system such as the cruise missile, which provides us with a military advantage at far less than what it costs the Soviet Union to counter it. As Mr. Kraft points out, our interests in the Persian Gulf in particular may require increased ship, aircraft, and manpower readiness. Spending on "mundane" items, as General Jones, Chairman of the Joint Chiefs of Staff, has suggested, rather than on showy new weapons systems, may be the best immediate investment. In short, I will be looking for wisdom in spending, not dollars per se.

Finally, I believe that once we have committed ourselves, as have all NATO governments, to an annual level of 3 percent real growth, our own budgetary growth should not be lower than 3 percent unless extraordinary circumstances dictate otherwise. Our pledges to our NATO allies are important. When we make them we should carry them out. And we should carry them out by using numbers and assumptions that are feasible and forthright so that the world can see.

When the administration submits its recommendations for fiscal year 1981, I will make my assessment based on these considerations and these criteria.

Mr. President, I request that Joseph Kraft's thoughtful article, "Defense Numbers Game," appearing in the November 18 edition of the Washington Post, be printed in the RECORD.

The article follows:

DEFENSE NUMBERS GAME

(By Joseph Kraft)

The most immediate threat to international security comes from the Persian Gulf. But you'd never know it from the defense debate that has built up around the Senate hearings on the arms-control treaty with Russia.

The debate focuses almost entirely on costs and hardly at all on particular forces in particular places. What that skewed emphasis shows is that despite all the talk there is not a national consensus, nor even an emerging national consensus, on defense.

Almost anybody can be cited to demonstrate the character of the defense debate. Here is Secretary of Defense Harold Brown talking to the Foreign Relations Committee the other day on the administration's response to the Russian military buildup:

"In fiscal year '79 we attained the NATO goal of 3 percent annual increase of expenditure. Our FY '80 budget submission provided for a 3 percent increase. . . . Our present five-year defense program will require annual increases of at least 3 percent growth, and could well, after analysis, require more."

That numbers game finds justification in the steady decline of military spending. The military budget has been running down for so long that increases in almost any area do some good. As Gen. David Jones, the chairman of the Joint Chiefs of Staff, said in a recent briefing, there is a pressing need for such "mundane" items as more ammunition, better maintenance of equipment and installations, more hours of pilot training, increased allowances to offset inflation and the depreciation of the dollar.

Such unglamorous items, however, are appetizers for the anti-defense bloc in Congress and the administration, which regularly devours military budgets. While the arms-control debate has weakened the knee-jerk anti-defense group in the Senate, they remain very strong in the House of Representatives and parts of the administration, including the White House and maybe even the Oval Office itself. As a practical matter, accordingly, the only way to get money for many "mundane" matters through the administration and the Congress is to wrap them up in an abstraction like a percentage of the whole budget.

A similar logic applies inside the Pentagon. The uniformed services have allowed their thinking to be dominated by the victory in World War II. They have shaped, and continue to shape, American forces for a big war, and that bent is reinforced by the defense contractors.

Thus the emphasis has been, and continues to be, on the biggest ticket of all—the nuclear deterrent. Next in importance is the European theater. But other areas of confrontation lag far behind. Moreover, within every service, the most sophisticated technology—nuclear carriers, high-performance aircraft, and the most advanced tanks—takes precedence.

But while the stakes are high in the nuclear area and in Europe, the chance of actual fighting is small. Much more immediate threats to the peace arise in other areas—notably the Persian Gulf.

Brown and those around him understand full and well the need to protect American power to the Persian Gulf. But to assert that priority in the budget runs athwart stiff resistance from the generals and admirals—most of them far more serious about procurement than strategy—and their allies in the defense industry and the Congress. Rather than have most of the military-industrial complex gang up against a changed budgetary emphasis, the tendency among high Pentagon officials is to buy them off by maintaining intact the basic structure of forces. Given the state of the defense establishment, in other words, the easiest way to get an increase anywhere is to get an increase everywhere.

Yielding to that all-or-nothing pressure, however, is a formula for a weak military posture, for the big-war emphasis continues even as the danger from more limited encounters grows. The tendency of the military to abandon strategic thought for quartermaster interests is accentuated. The incentive to keep forces abreast of developments in the real world diminishes.

So it is important to impart to the defense debate in the next few weeks a far more detailed character. Pressure has to be put on the service and on the president to come up with a truly good defense program. Our present situation is one in which the incentive is only to cut costs. We are in the position of the man who enters a restaurant and beckons the waiter. The waiter asks: "Would you like to see the menu?" The man replies: "No. Just bring me the check."●

FELIX MORLEY'S AUTOBIOGRAPHY

● Mr. MATHIAS. Mr. President, Felix Morley has been described as someone who "seeks to recover the Roman concept of 'virtue' in an age that glorifies violence, to restore dignity in a time that romanticizes saturation bombing and guerrilla warfare."

The description, by Justus D. Doenecke in his review of Morley's autobiography, "For the Record," is apt. And it commends Felix Morley and his recollections to us in a time when "virtue" and human dignity are in pitifully short supply.

Felix Morely has been an eyewitness to the great movements and events of the 20th century that have reduced continents to rubble and have raised many a dubious phoenix from the ashes. His views on war and peace, ideas and institutions as he has seen them come and go in the course of an active and intellectual life are well-worth considering.

A good indication of the richness of Felix Morley's memoirs may be gained from reading Mr. Doenecke's review in the December 1979 issue of Reason. I ask that the review be printed in the RECORD at the conclusion of my remarks.

I am sure that it will whet many appetites for the heartier fare of the autobiography itself for, as Thomas Carlyle observed:

> A well-written life is almost as rare as a well-spent one.

The review follows:

AMERICAN DISSIDENTS

(By Justus D. Doenecke)

("For the Record," by Felix Morley. South Bend, Ind.: Regnery/Gateway. 1979. 480 pp. $15.)

To read the memoirs of dissenters is always a welcome task for a historian. It is particular so when the dissenters are individuals, who, in one way or another, have gone against the grain of conventional thought, for such writing can often cut through what is pedestrian or banal.

Felix Morley is the undisputed elder statesman of the classic form of American liberalism, or what Morley himself refers to as "libertarianism." A man of rich experience, Morley has been a correspondent for the Baltimore Sun, director of the Geneva office of the League of Nations Association, staff member of the Brookings Institution (which awarded him an earned doctorate), and chief editorial writer of the Washington Post (in which capacity he received a Pulitzer Prize). During World War II he was president of Haverford College, and after the war he helped found Human Events, was broadcaster for Three-Star Extra, and wrote voluminously for Barron's and Nation's Business. His scholarly books, such as Power in the People, are still appreciated by professors and laymen alike, while his personal advice and reflections have long put statesmen, historians, and political commentators in his debt.

The Morley family, stemming from merchant Quaker stock, is a gifted one. Felix's father was a prominent mathematician at Haverford and Johns Hopkins. One of his brothers, Frank, was a noted publisher. The other, Christopher, was a famous dramatist and critic.

Felix was educated in a genteel and learned Quaker tradition, first at Baltimore Friends and then at Haverford. From the Society of Friends he undoubtedly received his distaste for war and his belief in voluntarism. From the distinguished theologian Rufus Jones he discovered that all philosophy must be grounded in ethics. And throughout his book Morley continually calls for the type of traditionalist education he received as a youth; he once told the dean of a new school of journalism that its curriculum should center on math and the classics.

THE PERCEPTIVE REPORTER

Yet Morley's education soon involved more than books, and his service in World War I in particular was something of an initiation. While an ambulance driver on the Western front, he witnessed carnage at the towns of Loos and Ypres, and his descriptions of it are most moving. True, he was soon dissatisfied with "a Quaker pacifism which pallidly ignored all differences between the warring camps and often seemed to view political aspects of the struggle as immaterial." Yet he already doubted whether militarism and brutality were "unique characteristics of the German people," and rumors of a vindictive Allied peace led him to see little positive emerging from the struggle. He was especially appalled by American intolerance, evident in the jailing of Socialist leader Eugene Victor Debs and in George Creel's "prototype of Dr. Goebbels' Ministry of Public Enlightenment."

Morley was sympathetic to the Bolshevik desire "to stop the slaughter on the eastern front"; yet he predicted that all such extension of government power—as well as the continuation of the war itself—would limit human freedom far more than a much-maligned capitalistic system. "The workers," Morley writes, "certainly would not gain by substituting public for private exploitation of labor. The future lay in the general prosperity to be achieved by disarmament, elimination of trade barriers and other obstacles to international cooperation for which a pretentious nationalism, not capitalism, was fundamentally to blame."

Much of Morley's education, of course, came through journalism, and here his experience was unusually rich. As a Rhodes scholar, he edited a Labour Club monthly—the *New Oxford*—supported Anglo-German reconciliation, and investigated conditions in such strife-torn areas as Essen and Dublin. He was a strong critic of the French occupation of the Rhineland, noting how more than 100 German civilians were shot for protesting the billeting of Algerian soldiers. While working for the *Baltimore Sun*, he was able to discuss an impending coal strike with labor leader John L. Lewis, Atlantic federation with journalist Clarence K. Streit, German inflation with foreign minister Gustav Stresemann, geopolitics with German geographer Karl Haushofer, minority problems with Czech president Eduard Benes, and Nazi ambitions with British foreign secretary Anthony Eden.

In the mid-1920s, Morley was a first-hand observer of Soviet penetration of China, Japanese imperial designs on the Asian mainland, and Philippine frustration with U.S. occupation. To hear German foreign minister Walter Rathenau on the dangers of State socialism, Japanese foreign minister Baron Shidehara on Nippon's prerogatives in Manchuria, British foreign secretary Arthur Henderson on European unity, American diplomat Stanley K. Hornbeck on Japanese moves in Asia—all were part of the daily routine of a perceptive reporter whose energy had once impressed Woodrow Wilson. Indeed, there was hardly a Western leader with whom Morley did not have personal contact.

INTERNATIONAL OUTLOOK

When in 1933 Morley became editor of the Washington Post, he hoped to make it an American version of the Manchester Guardian. "That is to say," he writes, "its outlook should be international; its philosophy independent and liberal in the classical sense of the word; its foreign correspondence informative and impartial; its editorials well written and forceful; its adherence to strictly Constitutional government unquestionable." In some of these aims, Morley succeeded. As the historian of the Post, Chalmers M. Roberts, has recently noted, "Felix Morley had firm principles and a deft pen. He gave the editorial page élan and distinction and made it a topic of conversation, its pieces widely quoted."

With his background, Morley became a moderate internationalist—one who adhered to a modified federalism. His Society of Nations, published in 1932, quickly became a classic, so much so that it was used (not always with success in drafting the UN Charter. He had favored Hoover for president in 1928 and 1932 but in 1936 cast his vote for the interventionist Roosevelt. In 1939 FDR himself praised Morley's editorial pledging the U.S. to halt Fascist aggression. (Morley goes so far as to say that Roosevelt acted in part on his editorial when the president sent personal messages to both Hitler and Mussolini.)

Much of Morley's internationalism, however, depended upon the recovery of Germany into an economically integrated Europe. Indeed, collective security and revision of the Versailles Treaty went hand in hand. Western recognition of Germany's illegal rearmament, he declared, "might spill the wind from Hitler's sails." "The Fuehrer's strength depended on the rankling sense of injustice among all elements of the German people. Let them see that they were no longer regarded as pariahs, give their diligence more chance to improve their economic condition, and the menace of the Nazi movement might well fade away."

A distinction was to be drawn, he insisted, between German occupation of its own Rhineland and such deeds as Italy's aggression against Ethiopia and Japan's invasion of China. After the Munich pact was signed, Morley saw a chance for a new European system, one based upon Franco-German accord and backed by the United States. He blamed the Poles for refusing to make concessions over Danzig, then the Germans for secretly dividing Poland with the Russians, and finally Britain for jeopardizing the very existence of her empire "in order to restrain Germany from regaining an almost wholly Germanic city."

THE DANGER OF WAR

Given such views, Morley soon tempered his interventionism. American participation in a European war, he believed, would lead to confiscation of private property, brutalize the populace, centralize power, and thereby alter "the structure of a federal republic constitutionally dedicated to the dispersion, division and localization of power." He saw "more than a chance that such pressures would undermine the basic institutions of the United States, no matter who won or lost on fields of battle."

Less than two months after Hitler invaded Russia, Morley's anti-interventionism was strengthened, for he was visited by Adam Von Trott, a German diplomat active in the Resistance and a man later executed by the Nazis. Von Trott told him how the Kreisau Circle, led by Leipzig mayor Karl Goerdeler, could overthrow Hitler, make a truce, and democratize Germany. Morley put Von Trott in contact with such leading State Department officials as George S. Messersmith and Sumner Welles, "but somewhere along the line channels to the White House were blocked."

Hence the man whose editorials had backed Republican Spain, sought non-recognition of Italy's conquest of Ethiopia, and attacked the neutrality acts, became an anti-interventionist. Although he declined invitations to join the American First Committee, he drafted a petition—signed by prominent Republican leaders—opposing an undeclared war. He writes:

"Whether under Nazi or Communist dominance, there was going to be a new Mittel-Europa, in which neither Britain nor France would any longer be influential and where Wilsonian theories of self-determination would play no part. If there were a split between Berlin and Moscow, then only one brand of dictatorship would eventually come to domination in General Europe. In this case, by throwing its great power to the Russian side, the United States could doubtless tip the balance in favor of Communism. But could anyone with liberal instincts regard such an outcome gladly?"

Morley's opposition to Roosevelt extended to the administration's Pacific policy. A close Japanese friend, diplomat Ken Harada, told him late in 1939 of possibilities for peace in Asia. "Japan," Morely learned, "was getting bogged down in China and there was a good chance that liberal leadership would regain control in Tokyo, if the United States did not now take a provocative attitude." Morley, who had earlier wanted to guarantee China's territorial integrity against Japanese onslaught, passed Harada's plea on to Secretary of State Cordell Hull, who—as Morley notes—was "pardonably skeptical." Late in 1941 he heard that Hull had demanded Japan's withdrawal from all China and Indochina, but "nobody could have expected those then in power in Tokyo to accept those orders from Washington."

By this time Morley had left the *Washington Post* to become president of Haverford. Rufus Jones urged him to return to his alma mater "because further exposure to Quakerism will do the good." Unfortunately for a man of Morley's educational vision, World War II soon drew off much of the student body, and the Quaker institution resorted to housing various army programs in order to remain solvent.

During World War II Morley warned of Communist advances, sought a negotiated peace, and defended the neutrality of Sweden. He advocated a regional form of international organization linked together by a common council and secretariat. Japan, in his scheme, would remain an Asiatic leader, while a Western European federation could, he hoped, offset both Russian and American power. Herbert Hoover endorsed Morley's proposals, claiming that decentralization would lessen the need for military alliances and therefore "greatly relieve American anxiety lest we be constantly involved in secondary problems all over the earth."

CIVILIZED VALUES

Even before he left Haverford in 1945, Morley joined journalist Frank Hanighan in founding the Washington newsletter *Human Events*. In subsequent years, he held a host of other positions, including the foreign editorship of *Pathfinder* and Washington bureau chief of *Barron's*. Through such groups as the Mt. Pelerin Society, the Volker Fund, and the American Enterprise Institute, he was able in the postwar years to meet leading exponents of classical economic thought, among them F. A. ("Fritz") Hayek. Seeing that economic liberty and political freedom are clearly linked, he criticized many Cold War involvements. "National security," he writes, "was defined in terms that meant the loss of individual freedom."

Such views led in 1950 to a split within Human Events, one important in tracing the course of American conservatism. Morley wanted to recognize Communist domination of Eastern Europe as a fait accompli, downplay the Communists-in-government issue, and abandon the Kuomintang regime on Taiwan. Frank Hanighan leaned in the opposite direction and, with the support of publisher Henry Regnery, was able to buy out Morley's share of the journal.

Morley, however, has stuck by his guns. The strains of total war, he argues, would make the survival of capitalism difficult. Preparing for nuclear conflict with Russia "is close to madness," while Vietnam was simply the most recent evidence that Communism thrives on war. In Morley's eyes, the Republicans favor almost unrestrained military expenditures and have swung toward "imperialism." Yet the Democrats "demand that every sort of social need be sponsored, liberally financed and supervised from Washington." Either way, the nation loses its federalist moorings, becoming a centralized and socialized power.

For the historian, it is regrettable that Morley did not discuss in greater detail his relationship to such people as Rufus Jones, H. L. Mencken, Robert A. Taft, Albert J. Nock, and Frank Chodorow. And he leaves unsatisfied curiosity about other elements of his life and thought. Why did he leave the Society of Friends to become an Anglican (the tradition of his mother)? And how does he analyze the transformation of American conservatism into a far more globalist ideology than was generally the case in the '30s?

In summary, however, Morley's book often reveals the man's grace and erudition. He seeks to recover the Roman concept of "virtue" in an age that glorifies violence, to restore dignity in a time that romanticizes saturation bombing and guerrilla warfare. In truth, his near-pacifist values are ones of a more civilized era. Early in life, perhaps as early as World War I, he realized that he could not hope to change broad historical currents. Yet, taking his leaf from Richard Hooker, whom he calls "the persuasive Elizabethan divine," he writes, "Though for no other cause than for this: That posterity may know we have not loosely through silence permitted things to pass away as in a dream." It is a fitting comment.●

GI AMENDMENTS ACT OF 1979

● Mr. PRESSLER. Mr. President, on Monday I introduced an amendment to S. 870, the GI Amendments Act of 1979. My amendment would create a Career Development and Advancement Program aimed at helping the Vietnam veterans. It is my belief that a simple 15 percent across the board cost-of-living raise will not improve the present veterans program, but will leave it, rather, with present inadequacies intact. Such an increase will not effectively reach those Vietnam veterans that need help the most.

Mr. President, for benefit of my colleagues who wish to acquaint themselves further with some of the criticisms of the present system, I recommend a thoughtful article which appeared in its original form in the July 21, 1977 issue of Stars and Stripes newpaper.

Mr. President, I ask that this article, which has been updated by its author, Forrest Lindley, with current figures, be printed in the RECORD.

The article follows:

GI AMENDMENTS ACT OF 1979

The Vietnam era GI Bill has never provided meaningful or effective readjustment assistance to many of the most needy Vietnam era veterans. The current GI Bill was enacted in 1966 as "The Cold War GI Bill". It was not intended to be a veterans readjustment program. The Cold War GI Bill was enacted to offset declining college enrollments by providing $100 a month as an incentive for 4 million Cold War veterans (1955–1964) to attend college. Less than 5 percent of the eligibles at the time of the enactment of the current GI Bill had served in areas of armed conflict.

Soon after enactment of the GI Bill the Vietnam war became sufficient incentive for millions of draft eligible males to attend college in order to receive student deferments from military service. President Johnson unwilling to acknowledge plans for major American troop involvement in Vietnam did not plan or prepare for an effective readjustment program for the millions of veterans the war would eventually produce.

So little concern was shown for the Vietnam veterans readjustment needs that in 1970 the peak year of combat separations from the service the subsistance allowances were less than those paid Korean war veterans 15 years earlier. Only 30 percent of the eligible veterans and only 10 percent of educationally disadvantaged veterans had used their benefits. A White House report stated that "The use of the GI Bill is inverse to need". Still nothing was done to make the GI Bill an effective readjustment program.

During the year 1974 a concerted effort was made by the Congress to make the GI Bill fair and equitable for all Vietnam veterans. In July of 1974, Senator Robert Dole (R–KS), in a statement made on the floor of the United States Senate, said. "There is room for debate over the amount of subsistance increase veterans in school should receive, but clearly there can be no debate that all veterans should have equal opportunities to enter school".

In reaction to that statement, President Richard Nixon, in a letter to the House and Senate Veterans Affairs Committees, established the policy that the government would oppose any changes in the GI Bill that would enable many of the most needy and deserving veterans to effectively use their rightfully earned readjustment entitlement because, "If only 10% of the eligibles [500,000] who had not used their benefits were to do so, the cost would rise by $1.5 billion. This is clearly excessive, inflationary, and unnecessary for veterans to assume productive roles in society." [Richard Nixon, July 1974.]

It has been, since then, the deliberate policy to maintain the structural inadequacies in the GI Bill that deny many of the most needy and deserving Vietnam veterans meaningful access to their rightfully earned readjustment benefits.

The following is a detailed analysis of the inequities of the Vietnam era GI Bill.

THE VIETNAM ERA GI BILL

Discriminates against poor, minority and educationally disadvantaged veterans.

Discriminates against veterans with families to support.

Discriminates against veterans who live in states with high cost public education.

Severely restricts the effective use of a veteran's total benefits.

Discriminates against veterans desiring trade, technical and vocational educations.

Severely limits the number, types and quality of educational and training programs available to veterans.

"Educates and trains" veterans for nonexistent jobs.

Induces veterans to pursue ineffective or worthless education and training programs and correspondence courses.

Discriminates against veterans desiring educations at private institutions of higher learning.

Poses a serious inflationary threat to the National economy when used as supplemental income.

Causes the Government to waste billions of dollars on welfare, public service jobs, and unemployment compensation for veterans who could and should be in education and training programs for productive and self-sufficient careers if there were an effective and equitable GI Bill readjustment program.

Is subject to massive abuse, wasting billions of dollars through overpayments, ineffective correspondence courses, and unscrupulous proprietary schools.

These conclusions are supported and verified by the Congressionally commissioned study conducted by the Educational Testing Service of Princeton, N.J.; the Report of the 20th Century Task Force on Policies Toward Veterans; surveys conducted by Louis Harris, and hearings held by the National League of Cities and U.S. Conference of Mayors, The American Association of Community and Junior Colleges, New York City Mayor's Office of Veterans Action, and the House and Senate Veterans Affairs Communities. The inadequacies of the GI Bill has been reported in articles by Reader's Digest, Parade Magazine, Penthouse, The Washington Post, The New York Times, The Washington Star News, Associated Press, United Press International, Jack Anderson, Mary McCrory, and numerous other newspapers and magazines. The GI Bill's failings are borne out by the personal experiences and testaments of Vietnam era veterans as well as their high rates of unemployment.

HISTORY OF THE GI BILL

"The World War II GI Bill was one of the most important and effective pieces of social legislation ever enacted. It profoundly affected the fortunes of veterans and post-war society and it transformed the Nation's higher education system."

Report of the Educational Testing Service on Educational Assistance Programs for Veterans

The World War II GI Bill extended education and training opportunities to veterans, assisted their readjustment to society, eased the impact of 17 million returning servicemen on the economy and employment, and gave the Nation some of its most productive citizens. The WWII GI Bill produced: 450,000 engineers; 180,000 doctors, dentists, and nurses; 360,000 teachers, 150,000 lawyers; 223,000 accountants; 36,000 ministers; 380,000 metal workers; 138,000 electricians; 83,000 policemen and firemen; 700,000 businessmen; and 17,000 writers and journalists.

More than 65 members of the House of Representatives and Senators trained under the WWII GI Bill. Among the many noted persons who received their education and training from the WWII GI Bill are: Senators George McGovern, Charles Mathias, Daniel Inouye, Robert Dole, Frank Church,

The GI Bill was directly responsible for a 200% increase in the number of undergraduate, graduate and doctoral degrees conferred by institutions of higher learning . . . from 160,000 in 1946 to over half a million in 1950. GI Bill dollars enabled public colleges and universities to expand their facilities, academic resources and develop faculties to the extent that a college education became possible for the average American.

The massive scientific, educational, medical, technological, cultural, political, economic, vocational, industrial and social contributions of WWII veterans and others who owe their education to the WWII GI Bill can not be measured; but the economic contributions of what the VA called the "best investment in American history" can be. The Internal Revenue Service estimates that the $14 billion invested in the WWII GI Bill was returned 3 times over by veterans in increased tax revenues. If the Government's $45 billion GI Bill profit were to include revenues from non-veterans who benefited from the GI Bill's expansion of the Nation's educational system, it would probably exceed $100 billion.

A comparison of the Vietnam-era GI Bill and the WWII GI Bill shows that while the Vietnam era GI Bill is subject to many of the same serious abuses (and possibly more serious than the WWII GI Bill because of the deliberate effort to deny many veterans readjustment under the Vietnam GI Bill) the adequacy of the Vietnam program and the assistance and opportunities it provides are far LESS than the WWII program.

COMPARISON OF THE WORLD WAR II GI BILL AND THE VIETNAM ERA GI BILL

I. Tuition assistance

A. World War II GI Bill

The World War II GI Bill paid a monthly subsistence allowance and the full cost of tuition, books, equipment and fees at almost every public and private college, university, vocational, professional and technical institution in America. By paying tuition, WWII GI Bill accorded all veterans an equal opportunity to enter education and training programs.

In the few schools (primarily law and medical) where tuition, books, fees and supplies exceeded the $500 a school-year ceiling on tuition payments, a veteran could accelerate the consumption of his 48-month entitlement to cover the difference. In current buying power, the WWII direct tuition payment is equivalent to $3500 per nine-month school year. (source: VA figure Jan. 1978).

B. Vietnam Era GI Bill

The Vietnam era GI Bill provides no direct payment for tuition, books, and fees. It pays only a monthly subsistence allowance to veterans enrolled in education and training programs. Vietnam era veterans unable to pay the "educational" costs necessary to enter education and training institutions receive none of the education and training benefits they are entitled to. The financial resources available through the Vietnam GI Bill limits veterans without supplemental resources to education and training programs at low-cost institutions.

II. Monthly subsistence allowance

A. World War II GI Bill

The World War II GI Bill paid a monthly subsistence allowance of $75 for a single veteran, $105 for one dependent, and $120 to veteran with 2 or more dependents. Since WWII GI Bill paid for tuition, books, fees and supplies, all of the veterans subsistence allowance could be devoted to "living expenses".

B. Vietnam Era GI Bill

The Vietnam era GI Bill pays only a monthly subsistence allowance to veterans enrolled in school of $311 for a single veteran, $370 to a veteran with one dependent, $422 to a veteran with two dependents, plus $26 for each additional dependent. Since the Vietnam veteran must pay the cost of tuition, books, fees, and supplies from his monthly subsistence allowance, the portion of his subsistence allowance that can be devoted to "living expenses" depends upon the amount of the subsistence allowance remaining after payment of "educational expenses".

All WWII veterans were assured of paid "educational expenses" and of receiving an equal monthly subsistence allowance for their "living expenses". The amount of a Vietnam veteran's monthly subsistence allowance that can be devoted to "living expenses" after educational expenses are paid varies greatly from veteran to veteran, school to school, and state to state.

III. Cost of "living expenses", food, shelter, transportation, et cetera

A. World War II GI Bill

The World War II GI Bill went a long way toward providing the basic living essentials. Food and transportation were not expensive and often low-cost housing was available. Government housing was provided to many WWII veteran students by converting existing military and federal facilities into student housing; furnishings, beds and equipment were provided at government expense; public war housing projects were converted into low-rent student housing facilities, and government surplus housing (quonset huts, barracks, etc.) were transported to and erected at government expense on college sites.

B. Vietnam Era GI Bill

The Vietnam era veteran must not only cover the cost of "living expenses" but the cost of "educational expenses" [tuition, books, fees and supplies] with his monthly GI Bill subsistence allowance. The cost of living has increased over 260 percent since WWII. Government subsidized housing for veterans is no longer available and housing near schools, especially for married veterans, is limited and expensive. The cost of food has increased by 14 percent in the last year and inflation and the Energy crisis has inordinately increased housing and transportation expenses.

Many married Vietnam veterans have been denied access to readjustment assistance as they cannot afford to sacrifice jobs nor the investments they have in their homes to move to other states or areas where low-cost or "free" education is available.

IV. Part time employment

A. World War II Era

Part time employment was available after WWII, and most veterans required little or no supplementation of their GI Bill benefits.

B. Vietnam Era

The Vietnam era GI Bill requires substantial supplementation for veterans in private institutions, in states with high cost public education, and for veterans with families to support. Both full and part time employment is scarce and Vietnam era veterans must compete with many other needy students for available jobs.

V. Financial aid

A. World War II GI Bill

The World War II GI Bill required little or no supplemental financial aid since it paid the veteran's "educational expenses" at almost every public and private school in America. Veterans received as much as $300 in mustering out pay (worth nearly $750 in 1979 dollars), which could be used to supplement a veteran's financial needs.

B. Vietnam Era GI Bill

The Vietnam era GI Bill requires substantial supplemental assistance for veterans attending private schools (particularly trade, technical and vocational), out-of-state public schools, schools in states with high-cost public education, and for veterans with dependent responsibilities. Despite a great need for financial assistance, Vietnam veterans are often discriminated against by financial officers who refuse veterans scholarships because they are receiving "aid" from the GI Bill. While this is true it must be taken into account that most veterans are older, "on-their-own", and do not receive financial support from or live with their parents as do many younger non-veteran college students. The influx of many minority and economically disadvantaged persons into the educational system has placed a substantial demand on student financial assistance that might otherwise be available to veterans.

Vietnam era veterans do have the Work/Study and Cost-of-Instruction programs which were not available to veterans of WWII. Presently, these programs amount to less than $8 a month per veteran in training. Public Law 93-508 provides for loans up to $500 for veterans in training. The loan program is so encumbered by red tape and high interest rates that few veterans have applied for loans.

VI. Period of entitlement

A. World War II GI Bill

The World War II veteran with 36 months of service was entitled to 48 months of benefits which could be accelerated to cover "educational expenses" in excess of $500 a school year.

B. Vietnam Era GI Bill

The Vietnam era veteran with 18 months of service is entitled to 45 months of benefits.

The Vietnam veteran must now use his benefits over the 45 or 36 month period or longer. He cannot accelerate his benefits as the WWII veteran could.

VII. Special programs

A. World War II GI Bill

Mustering out pay.—World War II veterans received $300 (equivalent to $950 current dollars) if they served at least 60 days including service outside the U.S.

"Mustering out" money could be used however the veteran chose, including supplementing his education and training needs.

52–20 program.—The 52–20 Program, a Federal unemployment insurance payment, provided the unemployed World War II veteran with $20 a week for 52 weeks.

48-Month entitlement.—There were no "special programs" for "educationally disadvantaged" WWII veterans (veterans with less than a high school education), 28.3 percent of WWII veterans had 8 years or less education, and 26.3 percent had 1–3 years of high school, which made 54.6 percent of the World War II veterans "educationally disadvantaged" by today's standards. The 48-month entitlement period, however, did enable WWII veterans to take 12 months of remedial or preparatory work and still have sufficient benefits to pursue a normal 4-year college education. Under the WWII GI Bill, there were thousands of institutions that provided "educationally disadvantaged" veterans with technical, vocational and professional skills and opportunities they would not otherwise have been able to obtain.

B. Vietnam Era GI Bill

There are 3 special programs for "educationally disadvantaged" Vietnam era veterans with remedial or preparatory needs that provide the same opportunities as the 48-months of education and training entitlement that were available to WWII veterans. They are:

Free Entitlement assists veterans with academic deficiencies in attaining a high school diploma, General Educational Development Certificate, or refresher or preparatory courses needed to qualify for enrollment in post-secondary programs, without charge to the veterans' total entitlement.

Predischarge Education Program. This was the "inservice free entitlements" program. It enabled veterans to prepare [without charge to their entitlement] for their future education or training while in service.

Tutorial Assistance. Tutorial assistance programs provide special help to veterans in overcoming difficulties in a subject required for the satisfactory pursuit of an educational objective. In addition to his educational subsistence allowance a veteran may receive an additional $68 per month for a maximum of up to $820.

Other special programs.—Work-Study Program. The work-study program provides an allowance to veterans pursuing full-time programs in exchange for services such as outreach, paper processing, school liaison and telephone staffing. The program provides a maximum of $625 per school year. The number of work-study slots open for veterans is small.

VCIP [Veterans Cost-of-Instruction Payment] Program. The VCIP Program provides funds to schools who offer specific services and incentives to attract and assist Vietnam era veterans. The program is perpetually underfunded and slated for discontinuation.

Veterans Educational Loan Program. The Loan program provides loans up to $3,500. The program is so encumbered by restrictions and high interest rates that very few veterans use it.

INADEQUACIES OF THE VIETNAM ERA VETERAN'S READJUSTMENT ASSISTANCE ACT

The Vietnam era GI Bill has been one of the most fiscally irresponsible and ineffective programs administered by the Federal government. It is subject to massive abuses while the structure of the current GI Bill denies effective readjustment assistance to the most needy veterans. The Vietnam era GI Bill contradicts the Veterans Administration's mission "to care for him who has borne the battle and his widow and his orphan" and fails to effectively assist millions of veterans with the difficult transition from military to civilian life.

The Vietnam era GI Bill violates the intent of Congress for the Veterans Education Assistance Program.

"The Congress of the United States hereby declares that the purpose of the educational program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the armed forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might otherwise be unable to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those servicemen and women whose careers have been interrupted or impeded by military service. . . ."

THE USE OF THE CURRENT GI BILL IS VERY OFTEN INVERSE TO THE NEED FOR EFFECTIVE EDUCATION, TRAINING AND READJUSTMENT ASSISTANCE!

The current GI Bill has been reasonably effective for (and in many instances generous to) the most vocal and visible advocates for increases or amendments to the program, and has been least effective for and most discriminatory against those veterans who have the greatest need for readjustment assistance, but who have neither the understanding of the solutions or an advocate to make their needs known.

The assistance accorded by the Vietnam era GI Bill (in 1977) to single veterans (and many veterans with dependents) attending low-cost readily accessible community and junior colleges exceeds the assistance accorded any other generation of veterans.

The current GI Bill was NOT developed and implemented primarily as a readjustment program for veterans who served in an area of armed conflict. It has been primarily an educational subsidy for peace time or non-combatant special interest groups. The Vietnam veterans requiring and deserving the greatest readjustment assistance never were a political force or had influential advocates.

The Vietnam era GI Bill was not structured on the basis of what the most needy and deserving Vietnam war veterans required for effective readjustment, it was structured on the basis of what special interest groups desired for themselves and their unique constituencies.

Most consideration of the current GI Bill is based on seven invalid assumptions:

1. The veteran is single.

Less than one-third of the veterans currently eligible for readjustment assistance are single. 75% of the Vietnam era veterans in training half-time or more are receiving payments for one or more dependents. According to the VA, the average veteran has a wife and "1.4" children.

2. The Vietnam veteran's readjustment needs are well served by a liberal arts education at a low cost community college.

Many Vietnam era veterans lack college preparatory backgrounds. There are very few jobs available to graduates of liberal arts educations. A liberal arts degree no longer means the opportunities it did 10 years ago. If a veteran is interested in using the GI Bill for supplemental income ($311 to over $400 a month tax-free for twelve classroom hours a week) he is served very well by a liberal arts education at a low cost community college.

3. Most of the veterans needing readjustment assistance are in school.

Many of the most needy and deserving Vietnam veterans are denied effective access to readjustment assistance and have never been in school or have dropped out of training.

4. Veteran's administration participation rates are indicators of the GI Bill's effectiveness.

The Veterans Administration has used participation rates only as an indicator of what entitlement and not as a measure of whether the GI Bill education programs are serving their intended purpose.

The VA's participation rate statistics measure only the number of veterans who have received some benefits and not:

The number of veterans who have completed education and training programs.

The number of veterans who have terminated GI Bill programs and the reasons for their termination.

The number of months veterans have used benefits under the GI Bill.

Lastly, whether the GI Bill is providing the veteran with meaningful and productive readjustment.

5. That veterans are mostly responsible for abuses and problems of the current GI Bill!

The veteran is only partially responsible for the problems and abuses of the current GI Bill. The VA has been little more than a "disbursing agent for a program of adjusted compensation for veterans with access to education". It has made little effort to develop or administer the GI Bill as a readjustment program, or to enforce laws and regulations that would preclude or eliminate abuse. State Approving Agencies and recognized accrediting associations have often done little to insure the quality or effectiveness of training under the GI Bill. Congress has demonstrated little sustained concern about abuses or structural problems in the GI Bill beyond that motivated by publicity or expediency.

6. That the most serious problem affecting the GI Bill is the effects of inflation on the benefits of veterans in school.

Far more serious than the effects of inflation is the denial of readjustment assistance to many of the most needy and deserving veterans.

7. That the current GI Bill is equally effective for all eras of veterans.

The current GI Bill has served or will serve veterans separated over a period of 32 years (1955 to 1987); yet it is least effective for those who served during the period of greatest armed conflict and have most need for readjustment assistance (1966 to 1972).

Those seven invalid assumptions must be discarded if the most needy veterans are to be accorded effective readjustment assistance.

The current GI Bill has been most effective for the following:

Single veterans

Veterans separated prior to 1966 or after 1972

Veterans in states with low-cost public education

Veterans in college programs

Veterans using the GI Bill for supplemental income rather than readjustment assistance

Veterans having the least need for readjustment assistance

The Current GI Bill is LEAST effective for the following:

Veterans with dependents

Veterans separated during the height of the Vietnam War

Educationally disadvantaged veterans

Veterans in states without readily accessible low-cost public education systems

Veterans desiring to attend private schools

Veterans requiring trade, technical, vocational or professional training.

Unemployed or underemployed veterans

Veterans having the greatest need for readjustment assistance

ANALYSIS OF THE INEQUITIES AND INADEQUACIES OF THE CURRENT READJUSTMENT PROGRAM

1. Denial of effective readjustment assistance to veterans with dependents.

The accessibility and effectiveness of the current GI Bill for veterans with dependent responsibilities is seriously constrained (with the possible exception of veterans with access to low-cost night school programs and veterans with working wives) when compared to the accessibility and effectiveness of the GI Bill for single veterans. In order to use their GI Bill benefits, veterans with dependents require substantial supplementary income. Excluding "educational expenses" (tuitions, books, fees and supplies) which are constant regardless of the veteran's dependency status; the current subsistence allowance for a single veteran ($311) is sufficient to meet most single veteran's "living expenses" (room, board, transportation, and other non-educational expenses); whereas the veteran with one dependent requires an average of an additional $200 and a veteran with two or more dependents requires over $300 in supplemental income to meet "living expenses".

Average Monthly "Living Expenses" for Vietnam Era Veterans Attending School.—While most nonveteran students are single, the vast majority of veterans in training half-time or more are receiving payments for dependents (78.7%).

The current high levels of veterans with dependents in school is not only attributable to the fact that most persons of the veteran's age are married but also to the influx of veterans affected by their delimiting date and of other married veterans who have enrolled in community colleges offering night programs. Attending night school twelve hours a week provides veterans with $311 to over $400 a month in tax-free supplemental income.

	Single veteran	Married veteran	Married with children
Housing	$137	$245	$273
Food	104	192	269
Apparel & upkeep	30	49	61
Transportation	80	80	80
Medical	13	40	49
Child care			50
Miscellaneous	36	73	64
Total monthly expenses	400	679	846
Total monthly GI Bill subsistence payment	311	370	422
Supplemental income needed to meet monthly living expenses	89	309	424

Source: Educational Testing Service Report (excluding educational expenses and adjusted to April 1976 Consumer Price Index).

However, if the married veteran does not have access to a community college offering the type of training necessary for his readjustment or does not have sufficient supplemental income to attend a higher cost school and support his family, he is denied access to effective readjustment assistance. The married veteran just does not have the mobility of the young single non-veteran student or that of the single veteran to take advantage of readjustment assistance.

Most tragic is the plight of the married Vietnam veteran. Forty percent of the enlisted men who served in Vietnam were married. Salaries for enlisted servicemen were well below the national poverty level (less than $250 a month for a married private, E-3). These veterans could not afford to enter training programs at the time of their separation. They had to seek immediate employment to pay off the debts incurred while in the service of their country. Readjustment benefits were insufficent to provide meaningful support without substantial income, especially for veterans requiring trade, technical, and vocational training. Many veterans who attempted to enter training programs were forced to terminate prior to completion of their objective.

One in five married Vietnam veterans was divorced or separated within six months of his return from Vietnam. (According to uncompleted studies, the divorce rate is nearing 50 percent for the married Vietnam veterans). The task of restoring emotional bonds severed by war's separation, or easing the psychosocial impact of the war, and of the difficult readjusting of the war, and of the difficult readjusting process was substantial; especially without benefit of the psychological counseling that had been availabe to the Word War II veteran and his dependents. To have to work, hold a family together, and devote time to studies is often too much for a married veteran and his family; it adversely affects work, study, and the family, thereby compounding the problem of readjustment. Many Vietnam veterans are now paying alimony or child support which is an additional drain on their readjustment benefits.

II. Denial of effective readjustment to veterans separated during the height of the Vietnam war.

The principal intent of the GI bill is to serve the readjustment needs of those who served during a period of armed conflict, especially those who saw combat. Vietnam veterans who served between 1966 and 1972 are the veterans least served and most discriminated against by the current GI Bill.

The current GI Bill has served, is serving, or will serve veterans separated over a 32-year period. Those veterans separated during the six years of the Vietnam War's greatest intensity will receive the least assistance of all if the current structure of the GI Bill is not reformed.

The peacetime post-Korean veterans have been separated 10 to 20 years yet they receive (until the May 31, 1976 delimiting date) the same benefits as Vietnam War veterans.

In contrast to the post-Korean veteran, the Vietnam veteran was separated with poor employment prospects and adverse public opinion toward the war and the Vietnam veteran. The GI Bill benefits during the peak years of Vietnam combat and separation totaled less than $180 for a single veteran, $230 for a veteran with a wife and family. Military salaries during the Vietnam War were one-half to one-third what they are today for low-ranking enlisted personnel ($102 for a private in 1968 versus $430 for a private entering the armed forces today).

Participation rates are not realistic indicators of effective utilization of GI Bill benefits by married veterans. Too often married veterans are using the GI Bill for supplemental income because the current structure of the GI Bill denies them access to their principal educational or training objective. Many married veterans who ardently desire and need readjustment assistance through trade, technical, or vocational training, through private institutions, or through graduate programs are forced to attend an institution of marginal effectiveness and pursue a program of minimal utility . . . or not use the GI Bill at all.

Many of the most needy and deserving Vietnam veterans could not afford to enter education and training programs at the time of their separation from the service. Readjustment benefits were insufficient to provide meaningful support without supplemental income, especially for veterans with families and veterans requiring trade, technical, and vocational training. Many veterans who did enter training were forced to terminate their training prior to completion of their objective.

Vietnam veterans separating from the service between 1966 and 1972 were often denied admissions to colleges because they were overcrowded with "students" seeking deferments from military service, while trade, technical, and vocational training was impossible with their limited monthly benefits. Veterans who did enter college were often met with indifference, hostility, and abuse for their role in Vietnam.

As an integral part of his readjustment, a veteran may expect to encounter personal, psychological, or emotional readjustment problems as well as vocational and educational problems. While the GI Bill (now totaling $14,000 to $19,000) was intended to assist veterans in overcoming educational and vocational problems impeding their readjustment. Until October 1979 the Veterans Administration lacked the statutory authority to assist veterans with personal adjustment problems. After WWII, the VA was highly sensitive to the adverse effects personal adjustment problems would have on vocational and educational readjustment.

"Where there are problems of personal adjustment, assistance along vocational and educational lines may become secondary to the soldier's readjustment. Many cases can not be handled as vocational and/or educational problems until the emotional phase of the veteran's problems has been cleared up. Vocational and educational assistance is sterile for individuals with unsolved problems of personal adjustment."

Technical Manual on Separation Classification issued by the War Department, 1944.—"Unless these cases (veterans with personal adjustment problems) are given aid in the readjustment process at the time the problem is acute, many of these veterans will fail to make the transition necessary for accepting the duties and responsibilities of civilian life. Such cases, if unaided, usually flounder about because of these overwhelming emotional difficulties, and failure to make the adaption to industrial and professional life is due not so much to any willful disregard of responsibilities as to the inability to cope with emotional problems too complex and difficult to handle unaided."

Veterans Administration Manual of Advisement and Guidance, 1945.—In a letter to Sen. Alan Cranston (D-CA), member of the Senate Veterans Affairs Committee, former VA Administrator, Donald Johnson, stated:

"After every war the great majority of veterans are young adults who must go through a critical period of transition from military to civilian life. The impact of absence from home, of exposure to different life styles and cultures, and of personal, physical, and phychological trauma is such that readjustment is a highly complex process. The difficulty of this process has been markedly greater for the Vietnam veteran because of the controversial nature of the Vietnam conflict and of the rapid social and economic changes that occurred in his absence. Reliable surveys and studies conducted by the military indicate that serious and prolonged readjustment problems exist in approximately one out of five new veterans but, to a lesser degree, are experienced by all.

"Since current statutory provisions governing DM&S (Dept. of Medicine & Surgery of the VA) health care services are tied to an illness rather than preventive health care model, only a small proportion of veterans have sought or received critically needed mental health psychosocial readjustment services. The consequence includes major economic and social cost to society stemming from the failure of the veterans to make effective readjustments, as well as personal adverse psychological effects on the veterans and their families who served their country during a long and difficult conflict."—Congressional Record, Nov. 20, 1973.

Many of the veterans with personal adjustment problems are unable to pursue or to complete education and training programs. Many veterans with personal adjustment and psychological problems are using the GI Bill at low-cost community colleges to avoid adjustment and the responsibilities of a productive role in society because the GI Bill provides sufficient financial subsidization to maintain maladjusted lifestyles.

A substantial portion of the nearly $2 billion in GI Bill overpayments can be attributed to the VA's failure to assist veterans in overcoming personal adjustment problems forcing them to terminate or fail in GI Bill vocational and educational readjustment programs.

Few post-Vietnam veterans are experiencing significant personal or psychological readjustment problems as a result of their military service. They are thus emotionally unencumbered in their pursuit of education and training under the GI Bill.

Should Vietnam veterans with personal adjustment problems or those generally alienated from society use the GI Bill to subsidize alternative life styles, they often are further encumbered in their ability to readjust or assume productive roles in society.

In contrast to the Vietnam era veteran serving between 1966 and 1972, persons entering the service after 1972 did so voluntarily. They received salaries two or three times those of persons serving between 1963 and 1972. They have ample opportunity to utilize the many educational opportunities accorded servicemen. Most Vietnam era veterans, especially those who served in a combat situation, had little opportunity for anything outside of their principal military mission. A post-Vietnam veterans' GI Bill benefits far exceed those available to the Vietnam veteran at the time of his separation ($311 a month compared to $130 a month for a veteran separated prior to 1970). Post-Vietnam veterans are no longer met with the hostility and indifference on college campuses, and in fact, in many institutions, they are actively recruited to offset the declining enrollment of nonveteran students.

The year 1972 was a highly significant period in the nation's efforts to improve assistance to veterans. It was the year in which veterans' assistance efforts and outreach programs were initiated. Efforts prior to 1972 were largely token public relations, usually irrelevant and ineffective for the most needy Vietnam veterans. The outreach, Veterans Cost-of-Instruction Program, the VetRep on Campus, veterans' self-help groups, media efforts addressing the plight of the veteran did not go into effect until 1972, long after many of the most needy veterans requiring the greatest readjustment assistance had been separated.

Tragically, the Vietnam veteran was being stigmatized extensively as an "unemplovable, drug-addicted, psychologically disturbed, violence prone, poor risk whom employers and educators should beware of. Thus many of the efforts in outreach and veterans services designed to increase Vietnam veterans participation in GI Bill programs were most beneficial to settled post-Korean veterans and the recently released post-1972 veterans.

Since the major effective veterans' outreach program is the Veterans' Cost-of-Instruction Program (VCIP) based out of predominately low-cost public community colleges, veterans living within areas lacking community colleges or accessible public institutions are not accorded the services and assistance provided by the VCIP program.

Recently separated veterans are faced with serious employment problems. However, they are entitled to substantial unemployment compensation for 63 weeks (in many states veterans may receive both veterans benefits and unemployment compenstion simultaneously, totaling $500 to $600 a month). In comparison, post-Vietnam veterans often do not have the family responsibilities, psychological adjustment problems, financial obligations, and Vietnam war stigma which encumbers veterans who served between 1966 and 1972.

Recently separated veterans have sufficient time to pursue educations at less than full time basis without being terminated by their delimiting date. While many of the most needy Vietnam veterans denied effective readjustment assistance have been deprived of any further opportunity for education and training by their delimiting date.

III. Denial of effective readjustment assistance to veterans without access to low cost community and junior colleges.

The World War II GI Bill paid the full cost of "educational expenses" (tuition, books, fees and supplies) at almost every public and private educational, technical, vocational or professional institution in America. Regardless of his lack of financial resources, or place of residence, a World War II veteran needed only to meet the admissions requirements of an educational or training institution and the GI Bill would pay his "educational expenses" up to $500 a school year. According to the VA, the $500 paid to WWII veterans for educational expenses is the equivalent of $3500 (in constant dollars as of January 1979).

In a few institutions where educational expenses exceeded $500 a school year, the veteran could accelerate the consumption of his 48-month entitlement.

The World War II GI Bill provided all veterans an equal opportunity to attend the educational or training program of their choice. Under the current GI Bill's structure, most of the private colleges, universities, trade, technical and vocational institutions that educated WWII veterans are closed to Vietnam era veterans who cannot pay their "educational expenses."

The current GI Bill pays only a monthly subsistence allowance to veterans enrolled in school. If a Vietnam era veteran can not pay the "educational expenses" needed to enter an education or training institution, he will receive none of the readjustment benefits he is entitled to.

"Educational expenses" were not a significant factor in a WWII veteran's choice of education and training programs and institutions because the GI Bill paid the full cost of "educational expenses."

"Educational expenses" are a major factor in a Vietnam era veteran's choice of educational and training programs and institutions because the veteran must pay for "educational expenses."

"Educational expenses" determine not only if a Vietnam era veteran will be able to use his benefits at all, but substantially limit the type of education and training programs and the number and locations of education and training institutions available to Vietnam era veterans without substantial supplemental income.

Under the WWII GI Bill, 50 percent of the veterans in college level programs attended private colleges and universities. The average cost of "educational expenses" at a private institute of higher learning under the WWII GI Bill was $446 for an ordinary school year (9 mos.) $54 under the $500 a school year GI Bill "education expense" tuition payment.

The 1979 cost of "educational expenses" at private college-level institutions is an average of $3,300 a school year. This completely rules out a private education for veterans without substantial supplemental resources. "Educational expenses" at a private institution are greater than a single veterans total yearly GI Bill benefits. Only 14 percent of the veterans in college level training are enrolled in private colleges and universities.

The accessibility and effectiveness of the current GI Bill is directly related to the availability of low-cost readily accessible community and junior colleges. The VA recognizes that:

"There is a marked difference in participation rates between states in the eastern section of the nation and the western section of the nation. This is due in part to low tuition costs, and greater access to public institutions (particularly junior colleges) in the west."

Veterans Administration DVB Information Bulletin, April 1973.—The Congressionally-commissioned Educational Testing, Service Study of the GI Bill confirmed the VA's contention that access to readjustment benefits was a function of ready access to low-cost public institutions:

"The accessibility of post-secondary education for the Vietnam conflict veteran is a function of not only his military service but also of his state of residence. The effectiveness of the benefits is directly related to the availability of low-cost readily accessible public institutions. The current veterans seeking to use their education benefits finds that equal military service does not provide equal readjustment opportunities with respect to attendance at post-secondary schools.

"It appears that the states are subsidizing the cost of education for veterans of the Vietnam conflict as compared with earlier subsidization by the VA. Since higher costs of education appear to reduce participation, this is a significant factor in determining whether the veteran in a particular state will participate in education."

Report of the Educational Testing Service, Sept. 19, 1973.—Analysis of participation rates by states indicates a direct correlation between GI Bill college level participation and the availability of low-cost easily accessible community and junior colleges. The VA's "Veterans Benefits Under Current Educational Programs" Information Bulletin (DVB 1B 20–76–3) accurately analyzes the utilization of community colleges:

"Junior college training: Junior college training has expanded faster than other types of college training so that it now constitutes the majority of the college level Chapter 34 (Veterans Educational Assistance) trainees.

"Of the 753,000 Chapter 34 trainees enrolled at the college level on November 30, 1975, 55 percent were in junior colleges.

"One reason for this (the extensive use of community colleges) is that the benefit for veterans is a fixed amount per month to assist with tuition and subsistence expense and training in low tuition public junior colleges enables veterans to retain more of the benefit for subsistence purposes. The group that chose junior college training most often are the peacetime post-Korean conflict veterans.

"Growth: Over the 3 year period, Nov. 1972 to Nov. 1975, the number training in junior colleges grew from 279,935 to 711,413, an increase of 431,478. The total number training in college (including correspondence training) grew from 759,063 in Nov. 1972 to 1,294,517 in Nov. 1975, an increase of 535,454.

"This means that 80.6 percent of the increase in college training during this period can be attributed to the growth in the number of junior college trainees. There are several possible causes for the upsurge in junior college training when compared with other college training:

Junior colleges have continued to become more readily available in many communities all over the United States.

The substantial increase in monetary benefits in both October 1972 and December 1974 probably enabled many veterans to enter these primarily low-cost institutions who previously had felt unable to make it financially.

Junior college training is an alternative to unemployment, particularly for veterans with less than a high school education who have GI Bill benefits available. Untrained veterans are the most likely to be affected adversely by unemployment and many choose to train when unemployment rises. Junior college is more often the type of training chosen when this occurs, for the following reasons:

1. Junior colleges offer a low-cost way to train and receive needed financial assistance.

2. Junior colleges are usually in urban communities where they are readily accessible for training.

3. Most junior colleges offer practical vocational and technical training (this is particularly true in the South, other states the majority of veterans continue to pursue liberal arts programs) which on completion gives trainees a good chance for employment.

4. Junior colleges generally have lower academic standards and a more open admission policy, thereby attracting veterans who usually may not qualify for 4 year colleges." (NOTE: Many junior colleges also have liberal attendance requirements and lax standards of required programs, factors contributing substantially to the overpayment problem.)

Veterans Administration DVB 1B 20–76–3.—Despite the many advantages offered by low-cost community colleges, there are also numerous disadvantages associated with the extensive reliance by veterans on junior college training:

1. There is the obvious incentive to attend a community college for the supplemental income accorded by the GI Bill.

2. While many junior colleges offer trade technical or vocational training, there is still a heavy reliance on liberal arts college level training (over 90% of the veterans in junior colleges are taking college level training). Job opportunities for liberal arts graduates are extremely scarce (15% employment rate for recent B.A. graduates). Veterans wth dependent responsibilities often can not afford to accept the low entry salaries of job requirements of the younger nonveteran graduates.

3. The substantial attraction community colleges offer to earn supplemental income contributes to not only overpayments, but diminishes the incentive for the veteran to use his benefits for education and training that would facilitate his effective readjustment and enhance his prospects for productive employment.

4. Community and junior colleges often enable veterans to use their benefits as a form of financial subsidy to perpetuate maladjusted or alternative life styles that will preclude their effective readjustment and reintegration into society once their benefits expire.

5. The many financial and other attractions of junior colleges often detour veterans from pursuing programs of education and training that would be more beneficial to their readjustment and future employment needs.

6. Junior colleges being the reference point by which many persons measure the effectiveness of the GI Bill detracts from the attention and assistance required by veterans without access to low-cost community colleges. The principal advocates and organizations "representing the Vietnam veteran" are almost entirely based out of low-cost junior colleges.

7. With the proliferation of students in community colleges and their generally lower academic standards, a degree from a community college may have little value despite the expectations of the veteran and the expenditures by the taxpayer on GI Bill benefits.

8. Taxpayers in states without extensive junior college systems are subsidizing the benefits paid veterans in states with low-cost public education systems while the veterans in their own states are not only denied readjustment assistance but must pay for other veterans' education in low cost states.

9. Taxpayers in states and communities with low-cost public junior colleges in many instances are not subsidizing educational programs but the most expeditious method for many veterans to collect their benefits. Unless educated or trained for productive and available employment, these veterans may become a future drain on community resources because they have failed to successfully readjust.

10. States with low cost or free educational systems tend to attract veterans from out of state to take advantage of the benefits low-cost schools offer. The State of California (with no tuition at its community colleges) accounts for the greatest number of veterans in training with 198,406 trainees. This is about two and one half the number for the next largest states, New York and Texas, with 65,333 and 99,797 respectively.

Veterans needing trade, technical, vocational or professional training (in areas without low-cost, readily accessible public institutions) are the most discriminated against by the current structure of the GI Bill. They must not only pay "educational expenses" at proprietary institutions averaging in excess of their total yearly benefit ($2800), but they are also required 22 or more clock hours classroom attendance a week to qualify for full-time benefits (12 hours attendance is sufficient to qualify a veteran in a college-level program to full-time benefits). Most vocational programs are such that their hours and requirements are not sufficiently flexible to permit effective evening or weekend training.

Many of the most needy and deserving Vietnam era veterans would be far better served by a technical or vocational education. But because educational expenses consume most of their monthly GI Bill payment, they must find supplemental income of employment to meet their living expenses. This is often impossible. One consequence of the GI Bill's denial of effective access to trade, technical, vocational and professional programs is that it forces veterans to rely upon notoriously poor and ineffective correspondence courses. The completion rates for correspondence courses is 43.2%. Veterans Administration statistics show that over one-half a million veterans have failed to complete correspondence training, costing the taxpayer close to a billion dollars.

In the southeastern states where there are extensive and high quality public trade, technical and vocational training programs, veterans have high participation rates in those institutions.

IV. Denial of effective readjustment assistance to educationally disadvantaged veterans.

The participation rates for the over 1,500,000 educationally disadvantaged veterans (veterans with less than a high school education) are only 59.6% compared to 70.5% for all other veterans. Thus the veterans with the greatest need for education and training and readjustment assistance are the least users of the GI Bill. This is attributable to many factors.

1. The structure of the GI Bill is geared to college level programs rather than the trade, technical, vocational, and professional training most educationally disadvantaged veterans require.

2. Many educationally disadvantaged veterans lack the preparatory background or basic skills and the necessary self confidence to pursue GI Bill training.

3. Many educationally disadvantaged veterans have dependent responsibilities necessitating full-time employment and cannot afford either the time or the money to pursue educational training.

4. Many of the veterans' self-help, assistance and outreach (particularly the Vetrans Cost-of-Instruction Program) are based in areas where there is infrequent contact with educationally disadvantaged veterans. This is particularly true of educationally disadvantaged veterans who live in states with high cost public education and lack community and junior colleges with trade and technical training.

5. Many educationally disadvantaged veterans are unaware of their benefits, unsure of their eligibility, or afraid to cope with the VA bureaucracy.

6. Educationally disadvantaged veterans are often the prime victims of unscrupulous proprietary and correspondence programs and thus are easily "ripped off" or are afraid to get involved in training programs.

7. Educationally disadvantaged veterans are more likely to have family or personal adjustment problems (many evolving from their military service, since they served disproportionately in combat situations) that interfere with the pursuit of GI Bill programs or force them to drop out of education and training readjustment programs because of phychological problems. These individuals are often the most reluctant to seek counseling or help for personal adjustment problems or admit serious educational deficiencies.

8. Many educationally disadvantaged veterans require greater assistance in planning realistic career objectives and choosing training compatible with their abilities.

9. Many educationally disadvantaged veterans live in fixed locations and cannot afford to move their families and belongings to a state or location with effective readjustment opportunities. Many of the low-cost community and junior colleges offering the best access to readjustment programs are located in the more affluent suburbs where educationally disadvantaged veterans cannot afford to live.

While there has been a substantial increase in the participation rates for educationally disadvantaged veterans since 1973, the Veterans Administration attributes "much to the increase in training by educationally disadvantaged veterans to the PREP program and other programs such as 'Free Entitlement' and 'Tutorial' ".

These programs have been invaluable in attracting principally the educationally disadvantaged veterans separated after 1972. But the programs have been substantially less successful in reaching or assisting veterans separated during the height of the Vietnam War (1960–1972). Many of the programs designed to assist educationally disadvantaged veterans are dependent upon access to low-cost community, junior or low-cost public institutions and colleges. In states without readily accessible low-cost educational institutions, little assistance is available to the educationally disadvantaged veteran. Many of the most needy and deserving educationally disadvantaged veterans will be precluded from pursuing a four-year program by their delimiting date expiring.

V. Denial of effective readjustment assistance to unemployed and underemployed veterans.

While it is not the intent of the GI Bill to be an unemployment compensation or income supplementation program, it is being used as such by many veterans denied access to effective readjustment assistance. Unemployed veterans without access to low-cost institutions can not afford to pursue educations or training programs, support families and fulfill financial obligations such as mortgages, car payments, etc. Many of the most needy veterans denied readjustment assistance have strong roots in their communities and cannot relocate to areas offering effective readjustment opportunities. The vast majority of unemployed and underemployed veterans do not have the mobility traditionally associated with young, single veterans and non-veteran students.

CHAPTER 34

PARTICIPATION RATES FOR VIETNAM ERA VETERANS BY STATE AND TYPE OF TRAINING, CUMULATIVE THROUGH APRIL 1978

		Trainees					
			Percent of veteran population				
	Veteran population (thousands)	Total trainees (thousands)	Total	College	Other residence schools	On-job training	Correspondence
Grand total	8,926	5,032	56.4	35.2	9.4	5.1	6.6
United States—State total	8,825	5,003	56.7	35.4	9.5	5.1	6.7
North Dakota	19	19	97.9	51.7	20.5	16.1	9.7
Hawaii	34	32	95.5	63.4	14.9	10.5	6.7
South Dakota	20	18	88.5	51.3	16.6	10.6	10.0
New Mexico	41	33	81.3	48.4	18.0	5.6	9.2
Arizona	98	74	75.8	56.9	7.7	5.5	5.8
California	1,005	726	72.3	56.1	8.0	3.8	4.3
Alabama	125	90	71.9	41.0	20.8	6.0	4.2
South Carolina	111	78	70.5	39.6	18.9	7.0	5.0
North Carolina	196	138	70.5	42.2	15.8	7.8	4.7
Colorado	126	87	68.8	45.5	10.9	4.6	7.9
Washington	202	130	64.6	43.2	10.2	4.7	6.5
Nebraska	62	38	61.7	35.0	10.7	9.5	6.6
Montana	31	19	61.1	33.6	10.9	10.0	6.7
Mississippi	64	39	61.1	34.5	13.9	7.0	5.7
Tennessee	166	101	60.8	33.7	14.1	5.5	7.5
Wyoming	15	9	60.7	38.4	5.2	8.8	8.3
Alaska	15	9	60.7	36.2	12.9	5.6	6.0
Louisiana	130	78	59.8	29.3	15.4	8.9	6.2
Florida	340	202	59.4	36.9	12.2	4.5	5.8
Idaho	32	19	59.2	38.2	5.4	5.8	9.8
Oklahoma	127	75	59.0	38.5	12.0	3.8	4.7
Arkansas	76	45	58.8	27.9	19.1	6.8	5.0
Texas	509	299	58.7	40.6	8.8	3.4	5.9
Georgia	215	126	58.7	28.3	20.0	5.6	4.8
Maine	43	25	58.5	31.6	10.5	9.7	6.7
West Virginia	63	37	58.2	30.8	9.5	9.5	8.5
Nevada	29	17	57.9	37.0	10.8	3.6	6.6
Delaware	26	15	57.6	35.1	8.4	4.2	9.9
Kansas	93	53	57.4	35.9	10.5	4.1	7.0
Virginia	211	120	56.8	36.5	7.0	5.7	7.6
Missouri	205	116	56.6	33.0	10.9	5.1	7.6
Kentucky	120	67	55.7	32.2	10.6	4.2	8.7
Rhode Island	44	24	55.3	37.5	7.5	5.9	4.4
Utah	56	30	53.0	38.6	3.4	3.6	7.4
Michigan	371	195	52.6	32.9	6.5	4.4	8.8
Oregon	119	62	52.5	37.3	5.4	5.1	4.6
New York	623	326	52.3	32.8	7.2	5.9	6.3
Minnesota	189	95	50.5	23.8	13.4	7.2	6.1
Wisconsin	185	92	49.8	26.0	7.9	5.7	10.1
Illinois	435	214	49.3	31.3	6.4	4.6	7.0
New Hampshire	39	19	49.1	31.0	4.8	7.2	6.1
Iowa	114	55	48.7	24.3	10.7	4.4	9.3
Maryland	195	91	46.5	29.8	6.7	4.2	5.8
Ohio	454	203	44.7	24.9	6.8	4.3	8.7
Massachusetts	256	112	43.8	30.9	5.9	3.2	3.9
Connecticut	131	57	43.6	24.8	5.6	7.4	5.8
Pennsylvania	492	212	43.2	20.3	7.7	5.4	9.8
Indiana	232	99	42.8	20.7	6.9	5.2	10.0
New Jersey	295	114	38.7	22.5	6.2	3.9	6.1
Vermont	22	8	35.2	17.0	3.5	8.6	6.1
District of Columbia	24	57	NA	NA	NA	NA	NA
Puerto Rico	49	18	36.8	25.0	10.1	.8	.9
All others	52	11	21.8	18.1	2.6	.9	.2

Veterans forced to work at low wages or part-time (underemployed) are often reluctant to let go of their current jobs, fearing loss of any employment in the current labor market beset by high unemployment. The skills and training most unemployed and underemployed veterans require are trade, technical, vocational and professional rather than college level; the GI Bill is most discriminatory against these veterans.

This Veterans Administration chart demonstrates the inequity and inaccessibility of readjustment assistance under the current GI bill by State of residence. Note the high participation rates for veterans in Western States with low-cost readily-accessible community and junior colleges. Note higher participation rates for veterans in other residence schools in the Southeast, where trade, technical, and vocational training is available at low-cost public schools. And note the inordinately high rates of correspondence courses within States lacking low-cost public education and training institutions.

The Veterans Administration chart clearly demonstrates that one's State of residence is a far greater factor in receiving effective readjustment assistance than is one's service to his country in the Armed Forces.

CHAPTER 34

VETERANS IN TRAINING DURING FISCAL YEAR 1978 BY STATE AND TYPE OF TRAINING AND PERCENTAGE TRAINED DURING FISCAL YEAR

	Number of Vietnam era veterans, Sept. 30, 1978 (thousands)	In training, fiscal year 1978	Percentage trainees	College trainees	Percentage college trainees	Other schools trainees	Percentage other schools trainees	On-job trainees	Percentage on-job trainees
Grand total	8,966	1,406,683	15.7	1,069,926	11.9	201,215	2.2	93,579	1.0
United States—State total	8,834	1,392,735	15.8	1,057,625	12.0	199,759	2.3	93,491	1.1
Alabama	126	35,005	27.8	22,177	17.6	10,475	8.3	1,901	1.5
Alaska	16	2,060	12.9	1,233	7.7	397	2.5	291	1.8
Arizona	102	30,949	30.3	26,881	26.4	2,173	2.1	1,467	1.4
Arkansas	79	15,654	19.8	8,397	10.6	5,533	7.0	1,487	1.9
California	1,018	198,406	19.5	174,309	17.1	14,393	1.4	6,668	.7
Colorado	129	26,575	20.6	20,634	16.0	3,933	3.0	1,212	.9
Connecticut	133	14,624	11.0	10,276	7.7	1,616	1.2	2,026	1.5
Delaware	26	3,998	15.4	2,774	10.7	909	3.5	152	.6
District of Columbia	24	9,227	38.4	6,359	26.5	953	4.0	773	3.2
Florida	349	65,514	18.8	47,496	13.6	13,951	4.0	2,590	.7
Georgia	218	37,433	17.2	20,426	9.4	13,277	6.1	3,038	1.4
Hawaii	34	8,610	25.3	7,174	21.1	686	2.0	497	1.5
Idaho	33	5,330	16.2	4,258	12.9	308	.9	552	1.7
Illinois	440	54,383	12.4	45,550	10.4	3,664	.8	3,275	.7
Indiana	234	24,642	10.5	17,411	7.4	3,053	1.3	3,066	1.3
Iowa	115	13,915	12.1	8,390	7.3	3,839	3.3	970	.8
Kansas	94	13,830	14.7	10,595	11.3	2,069	2.2	707	.8
Kentucky	123	19,390	15.8	13,938	11.3	3,636	3.0	1,304	1.1
Louisiana	132	20,984	15.9	11,763	8.9	5,560	4.2	3,179	2.4
Maine	44	8,058	18.3	5,140	11.7	1,287	2.9	1,361	3.1
Maryland	199	24,504	12.3	20,253	10.2	2,466	1.2	960	.5
Massachusetts	260	31,558	12.1	27,434	10.6	2,488	1.0	960	.4
Michigan	376	46,784	12.4	37,238	9.9	4,415	1.2	3,096	.8
Minnesota	193	25,268	13.1	13,654	7.1	8,159	4.2	2,646	1.4
Mississippi	65	12,182	18.7	8,050	12.4	2,817	4.3	1,051	1.6
Missouri	210	31,956	15.2	22,689	10.8	5,905	2.8	2,388	1.1
Montana	31	4,914	15.9	2,833	9.1	882	2.8	978	3.2
Nebraska	63	12,116	19.2	8,299	13.2	1,993	3.2	1,532	2.4
Nevada	29	6,264	21.6	4,940	17.0	885	3.1	269	.9
New Hampshire	39	6,202	15.9	5,099	13.1	365	.9	483	1.2
New Jersey	301	25,369	8.4	20,122	6.7	2,371	.8	1,401	.5
New Mexico	42	10,119	24.1	7,364	17.5	1,989	4.7	503	1.2
New York	629	65,333	10.4	52,502	8.3	5,780	.9	4,037	.6
North Carolina	200	44,728	22.4	31,419	15.7	10,098	5.0	2,536	1.3
North Dakota	19	4,627	24.4	2,548	13.4	995	5.2	888	4.7
Ohio	460	49,700	10.8	37,609	8.2	5,748	1.2	3,787	.8
Oklahoma	128	24,070	18.8	19,479	15.2	3,207	2.5	1,044	.8
Oregon	121	18,985	15.7	15,557	12.9	1,434	1.2	1,604	1.3
Pennsylvania	499	46,922	9.4	30,502	6.1	7,128	1.4	5,387	1.1
Rhode Island	45	7,012	15.6	5,506	12.2	682	1.5	631	1.4
South Carolina	115	29,556	25.7	20,045	17.4	7,062	6.1	2,041	1.8
South Dakota	20	4,736	23.7	2,989	14.9	924	4.6	704	3.5
Tennessee	169	32,547	19.3	21,959	13.0	7,299	4.3	2,767	1.6
Texas	518	99,797	19.3	84,304	16.3	9,822	1.9	3,869	.7
Utah	57	10,167	17.8	8,784	15.4	412	.7	670	1.2
Vermont	22	1,930	8.8	1,170	5.3	111	.5	536	2.4
Virginia	215	33,081	15.4	26,536	12.3	3,132	1.5	2,485	1.2
Washington	205	33,446	16.3	26,219	12.8	4,262	2.1	2,262	1.1
West Virginia	64	12,154	19.0	8,657	13.5	1,188	1.9	1,962	3.1
Wisconsin	188	25,347	13.5	16,872	9.0	3,909	2.1	2,772	1.5
Wyoming	15	2,774	18.5	1,812	12.1	119	.8	726	4.8
Puerto Rico	48	9,138	19.0	7,644	15.9	1,366	2.8	32	.1
All others	84	4,810	5.7	4,657	5.5	90	.1	56	.1

This Veterans Administration chart of veterans in training during fiscal year 78 shows those States which have had the lowest participation rates under the current GI Bill experiencing the greatest reductions in the number of veterans participating in training. This demonstrates that recent subsistence increases and loan programs have not enabled veterans in States without readily accessible training to catch up with veterans in states with low cost or free education. And that the inequities of the GI Bill are increasing as GI Bill opportunities for Vietnam veterans are decreasing.

CHAPTER 34

CHRONOLOGY OF EDUCATIONAL ASSISTANCE RATES

Law and type of course	Single veteran	Veteran and 1 dependent	Veteran and 2 dependents	Additional dependents
Public Law 89–358, June 1, 1966: Full-time institutional	$100	$125	$150	
Public Law [illegible] Oct. 1967 (full time):				
Institutional	130	155	175	$10
Cooperative farm	105	125	145	7
On-job training	80	90	100	
Public Law 91–219, Feb. 1, 1970 (full time):				
Institutional	175	205	230	13
Cooperative farm	141	165	190	10
On-job training	108	120	133	
Public Law 92–540, Oct. 1, 1972 (full time):				
Institutional	220	261	298	18
Cooperative farm	177	208	236	14
On-job training	160	179	196	8
Public Law 93–508, Sept. 1, 1974 (full time):				
Institutional	$270	$321	$366	$22
Cooperative farm	217	255	289	17
On-job training	189	212	232	9
Public Law 93–602, Jan. 1, 1975: Full-time institutional	196	220	240	10
Public Law 94–502, Oct. 1, 1976 (full time):				
Institutional	292	347	396	24
Cooperative farm	235	276	313	18
On-job training	212	238	260	11
Public Law 95–202, Nov. 23, 1977:				
Institutional	311	370	422	26
Cooperative farm	251	294	334	19
On-job training	226	254	277	12

AVERAGE TOTAL ENTITLEMENTS FOR 2-YR MILITARY SERVICE, 1966 TO 1976

[Military pay and allowances of plus GI bill benefits]

Years	No dependents	1 dependent	2 dependents
1966–70:			
Military pay and allowances	$3,304.80	$4,744.80	$4,744.80
Veterans benefits	4,680.00	5,580.00	6,300.00
Total entitlements	7,984.00	10,324.80	11,044.80
1971–72:			
Military pay and allowances	4,341.60	5,781.60	5,781.60
Veterans benefits	6,300.00	7,380.00	8,280.00
Total entitlements	10,641.60	13,161.60	14,061.60
1973–76:			
Military pay and allowances	10,036.80	12,810.80	12,820.80
Veterans benefits	12,150.00	14,445.00	16,470.00
Total entitlements	22,186.80	27,265.80	29,290.80

DIFFERENCE IN AVERAGE FOR 2-YR MILITARY SERVICE AT TIME OF SEPARATION: [1966 TO 1976]

[Following is the difference in military pay and veterans benefits a serviceman received or was entitled to at the time of his separation from the service compared to the entitlements available to a person serving between 1973–1976]

	No dependents	1 dependent	2 dependents
1966–70	$14,202 less or 35.9 percent.	$16,941 less or 37.8 percent.	$19,246 less or 37.8 percent.
1971–72	$11,545 less or 47.9 percent.	$14,104 less or 48.2 percent.	$15,229 less or 48.0 percent.

Note: Based upon the serviceman receiving an average of E–3 pay during his 2-yr tour of duty. Add $780 a year combat pay.

These charts chronolog educational assistance rates and military pay rates for servicemen. Notice (inflation not withstanding) that the military pay and educational assistance available to those who served during the height of the Vietnam war (1966–1970) was far less than the pay and educational opportunities available to veterans who entered or left the service after American involvement in Indochina ended. Thus those veterans who needed and warranted the greatest readjustment assistance at the time of their separation from the service received the least. Also those with families (40%) faced far greater financial burdens than those who served after in the All-volunteer Armed Force.

ESTIMATED GROSS SEPARATIONS FROM ARMED FORCES—VIETNAM ERA VETERANS AND VETERANS WITH SERVICE IN THE VIETNAM THEATER, FISCAL YEARS 1965–78

[Number in thousands]

	Estimated VNE gross separations	Vietnam theater service	
		Number	Percent
Fiscal year:			
1965	496	8	1.7
1966	550	48	8.7
1967	576	144	25.0
1968	788	321	40.7
1969	972	485	49.9
1970	1,043	560	53.6
1971	995	504	50.7
1972	870	300	34.5
1973	614	179	29.1
1974	567	135	23.8
1975	543	86	15.8
1976	432	60	13.8
1977	536	62	11.6
1978	297	55	18.6
1965–78	9,279	2,947	31.7

PROJECTED END OF SEPTEMBER POPULATION OF POST-KOREAN CONFLICT VETERANS ELIGIBLE FOR GI BILL TRAINING THROUGH DEC. 31, 1989

[In thousands]

Fiscal year ending	Number who became eligible in previous year	Number losing eligibility in previous year	Number eligible within 10 yr eligibility period	Eligible for ch. 34 benefits	Service only after Dec. 31, 1976
June 30, 1976	391		6,186	6,186	
Transition quarter	125	126	6,185	6,185	
Sept. 30, 1977	442	508	6,119	6,115	4
Sept. 30, 1978	395	701	5,813	5,779	34
Sept. 30 1979	375	854	5,334	5,140	194
Sept. 30, 1980	376	887	4,823	4,375	448
Sept. 30 1981	363	823	4,363	3,642	721
Sept. 30, 1982	358	674	4,047	3,078	969
Sept. 30, 1983	358	484	3,921	2,704	1,217
Sept. 30, 1984	358	446	3,833	2,368	1,465
Sept. 30, 1985	358	409	3,782	2,069	1,713
Sept. 30, 1986	358	380	3,760	1,799	1,961
Sept. 30, 1987	358	442	3,676	1,467	2,209
Sept. 30, 1988	358	395	3,639	1,182	2,457
Sept. 30, 1989	358	375	3,622	917	2,705
Dec. 31, 1989	90	945	2,767	0	2,767

These Veterans Administration charts chronolog the years in which Vietnam era veterans were separated from the Armed Forces. Note that 1970 (9 years ago) was the peak year of Indochina separations. The 10 year delimiting period has rendered nearly 1 million Vietnam theater of operations veterans ineligible for GI Bill benefits and will render 2 million (70% of all Vietnam veterans) ineligible for GI Bill benefits within two years.

A delimiting date extension for needy Vietnam veterans is necessary if they are to use their readjustment benefits in the future.●

NATIONAL CONVENTION OF THE NATIONAL EASTER SEAL SOCIETY

● **Mr. WEICKER.** Mr. President, it was my pleasure to address the recent National Convention of the National Easter Seal Society at its opening session on November 17 in Philadelphia, Pa.

One of the more exciting developments at the Easter Seal convention which I would like to call to the attention of my colleagues was the announcement of a new national standard that focuses on design criteria for making buildings accessible to persons with physical disabilities. The new standard, which won approval from the American National Standards Institute (ANSI) on November 15, is the result of a 5-year effort involving builders, code officials, manufacturers of building products, regulatory agencies and many organizations representing persons with a wide variety of disabilities.

Mr. President, I believe the announcement of this achievement—made on the occasion of the 60th anniversary of the National Easter Seal Society—marks a significant milestone in the involvement of the private sector which has traditionally assumed major responsibilities for meeting the environmental needs of disabled people. Eighteen years ago, the first national design standard for accessibility was introduced at the National Easter Seal Society's annual convention in Denver, Colo. The original ANSI standard for accessibility in 1961 followed intensive public education efforts undertaken jointly by the President's Committee on Employment of the Handicapped and the National Easter Seal Society. The research needed to meet ANSI requirements for a national standard was financed by a National Easter Seal Research Foundation grant.

In 1974, funding from the U.S. Department of Housing and Urban Development supported new research efforts to expand the scope of the original ANSI Standard for Accessibility and include residential units as well as public buildings. The project, conducted at the School of Architecture, Syracuse University, was expected to take 2 years. Now, 5 years later, the HUD-sponsored project has finally achieved the required consensus of the review committee for an ANSI-approved standard. More importantly, the committee, representing a wide variety of both private and public interests, has developed a better understanding and deeper appreciation for a standards-making process that requires input from all the disciplines affected.

The next step, Mr. President, is to encourage recognition of the importance of this process by those Federal agencies that will be promulgating regulations to make buildings accessible to persons with disabilities. This is also an opportunity to recognize the investment of public funds and uncounted volunteer hours that combined to develop the new national design standard.

The prime aim of the recent standard project was to gain a uniform basis for the regulations, laws and codes that mandate accessibility in buildings across our Nation. A uniform design criterion, Mr. President, is critical for gaining acceptance of accessibility regulations from builders, manufacturers and others concerned with the environmental needs of handicapped persons.

The National Easter Seal Society's convention audience was encouraged to hear Government representatives at the meeting endorse this concept of uniformity. Among those were Robert R. Humphreys, Commissioner, Rehabilitation Services Administration, who, as the opening session luncheon speaker, traced the long-standing record of cooperative efforts between RSA and the Easter Seal Society. He applauded the establishment of an award to honor the late Leon Chatelain, Jr., a Washington architect and one-time president of the National Easter Seal Society, who headed the Federal Commission on Architectural Barriers that led to the enactment of the 1968 Architectural Barriers Law. As Chicago architect Edward H. Matthei said in accepting the first award·

> The past twenty years have shown what dedicated persistence can accomplish in the gradual alteration of our man-made environment and the passage of legislation which recognizes the rights of all members of our society to develop their fullest potential.

Continued persistence, Mr. President, is needed to turn these investments into a truly hospitable environment for our people with disabilities.

Mr. President, I ask that the full text of my speech at the National Convention of the National Easter Seal Society in Philadelphia, Pa., be printed in the RECORD.

The speech follows:

NATIONAL EASTER SEAL SOCIETY

I want to thank you for inviting me to be with you today in Philadelphia.

I assume it is purely by chance that you are meeting in this great Pennsylvania city in the year when the Easter Seal child, Claire Huckel, is a Pennsylvanian. But, Philadelphia is a fortuitous choice for another reason as well.

It was here that our forebears decided that we would be free people, it was here that our freedom was born, and it was around these environs that many of the great battles for our freedom were fought. It is here in this City that the first symbol of our freedom stands: the Liberty Bell. There is a story about that bell, and it has something to do with your work.

When the delegates to the Continental Congress met here and determined that we ought to be a free people because that's how God meant us to be, they did a very dangerous and courageous thing. The British could have moved quickly and forcefully to smash the whole noble adventure. And so there was thought given to making the Declaration in secret and implementing it as long as possible in secret until the revolutionary forces could act from strength.

One man, so the story goes, Sheriff John Nixon, said no, they should not act with timidity. And he decreed that the great bell should ring out in grand defiance, and so it did. And so it should have. For did the bell not bear the prophetic inscription decided upon at its casting so many years before? The inscription is from Leviticus, Chapter 25, verse 10: "Proclaim liberty throughout all the land unto all the inhabitants thereof."

And so it was given out that we were determined upon our freedom, and we never turned back, we never backed down, and we got it and kept it. And we have spent more than two hundred years trying to perfect it; the bell says "all the inhabitants thereof": the poor as well as the rich; the black and brown and red as well as the white; women as well as men. Along the way, there has been resistance, and we have gotten tired—some of us—and we have gotten squeamish about the cost. And always somebody has gotten up to ring the bell or beat the drum or bang the pots and kettles and break some dishes whether it was Lincoln or Anthony or King, to say no, we're not going to let you back down from the promise half-kept, the freedom unfulfilled, we're not going to let you off liberty's hook.

At every step along the way there were those who said well, if we expand freedom, we will diminish it; if we share opportunity, we will reduce the opportunities available to us; if we let others have power, we will have less; and, if we undertake the cost of this, we will dilute our wealth. And each time, we found that where we extended freedom we got more back, when we expanded opportunity, it was multiplied and not reduced, and every financial investment in the future has increased our wealth.

But there are those who will argue against the further perfecting of our liberty, certain that somehow we must have reached a point of diminished return. They want off the hook, they want to be quiet about liberty like some of the members of the Continental Congress; they don't want to take risks. And, of course, nothing is more fatal to freedom than those who won't take risks.

Today we have a broader understanding of freedom, just because we have worked to perfect it and refine it. There is physical freedom, which means not living in bondage—a very simple freedom. There is political freedom, and there is intellectual freedom and spiritual freedom and, oh, yes, we're clean on all counts, we've kept the faith.

Well, I'm sorry, but that isn't true. We haven't. We are doing precious little, really, to keep faith with those who most need our faith and those are our children, who have no voice and who must depend upon adults for the course of the life and the quality of the life they lead until they are adults themselves.

I know we look after the ones who least need looking after. We love them and feed and clothe them and keep them entertained and get them educated—I'm not talking about those children. I've got some of them myself, and I know what they need—I think I do, usually. I also have one of the others—one of those I'm talking about—a little boy with Down's Syndrome. We're still learning what he needs. But I can tell you what I want him to have. I want him to have his birthright as an American. I want him to be free. And I know that right now it's a longshot. It's a longshot that America will have the benefit of our handicapped children, as she has had the benefit of all others to whom she has extended her promised liberty.

There is no physical freedom for a handicapped child where physical impediments prevent them from coming and going. Intellectual freedom doesn't mean anything if the special educational services a handicapped child needs to shape and stimulate his intelligence are unavailable. There is no spiritual freedom for a child who looks out on his world and cannot be a part of it because God reasonably expected the kid to get a little help and he isn't getting it.

There was a time when the handicapped or the mentally exceptional died at birth or at an early age. Medical science preserves those lives today. Medical science can save a life. But human decency must make it worth living.

Sometimes human decency is a pretty hard-nosed proposition. It reaches beyond sentiment, beyond the emotions, beyond simple compassion—we are a compassionate people, after all—but it goes to practical matters, to political considerations sometimes, and to economic calculation. In this arena, children don't carry much weight, they don't make political contributions and they don't vote, so they aren't very heavy, and how much less so are the handicapped and exceptional who are most easily ignored.

I know that many of you here are volunteers. You do a great work, I don't mean to be blasphemous, but I think you must redeem God's faith in humanity. And your work is supported by private contributions, and this, too, is in the spirit of America—of American generosity. But more needs to be done, and government too must play its role. And here is where the hard calculations begin.

The cry today is for fiscal austerity, for reduced government spending. I'm for it. If it means more efficiency in government, I'm for it. If it means reviewing regulations to see what works and what doesn't, what wastes money and what doesn't, I'm for it. If it means getting our house in order, with regard to energy, I've been for it for years. I don't like getting mugged by OPEC. But if it means economy at the expense of freedom, the opportunity and the growth of a part of our people, even so tiny a part as children who need some extra help, then I say that isn't economy, that is egregious waste; that is throwing away something of enormous value.

You know as well as I what the pertinent numbers for FY '80 look like. Title I money for children—this year's request was not increased over last year's, we were able to raise it in conference, but only by $5 million. Title XX money has not increased over FY '79, it has decreased. We call that austerity, we call it economy. I call it pennywise, pound foolish. I am willing to see cuts in government spending. We could forego a Congressional pay raise and put the money behind Title I. We could take a little from Civil Service pay increases, and cut out a guided missile frigate, and dip into Mrs. Carter's fat office budget. It isn't so much a matter of spending, as it is of where the money is spent. And handicapped children are not at the table when the pie is whacked up; that's why they get the crumbs.

There are those in Washington and in our State budget offices who say, well, we can only afford to do just so much. And, my friends, I say we cannot afford to do any less than enough—than what needs to be done to open this nation's liberty up to "all the inhabitants thereof". I want to be told by those who say we can only do just so much where the cut-off should be. Not in the budget. I know that well enough. Numbers aren't people. Maybe we should line up our handicapped children on the mall from freedom's Capital to the monument of the Great Emancipator and let the Office of Management and Budget decide how many we can afford to help. Should we cut them off at the skating rink, or go a little beyond? Should we cut them off at the Washington Monument, or would that be too embarrassing? Should we draw lots to see who gets up to tell the others, we're sorry, but you didn't make the cut. This is the best we can do? Or would we finally see clearly that we can't afford to stop short, that we have to go all the way?

All it takes, really, is not a soft heart at all, but a hard clear vision of what our history dictates and what our own simple self-interest demands.

We have seen the special courage with which special children meet their world.

I don't think any of us is willing for that world to be less rewarding for them than for the child whose body, by the grace of God, is straight or whose mind is sound.

I don't think any of us is willing to concede that a child's handicap should prejudice his or her right to lead a rich and fulfilling life.

I don't think we are willing to say that their lives need be less productive.

None of us are. Certainly my colleagues in the Congress are not. Clearly you are not. The American people are not. But because we don't all see the questions the same way, we don't all answer them the same way. So we need to light some candles to help all of us see better. We need to ring some bells to remind all of us that we promised ourselves freedom and not all of us have got it

yet. It isn't as though you don't do enough already, but you have to do this too.●

A SHOW OF UNITY

● Mr. MORGAN. Mr. President, I feel that if any good thing has come from this crisis in Iran—and it is hard to imagine that it has had any benefits—it is that the American people are more united in their support of the Government and the President than at any time since World War II.

This week I was informed of a situation that has developed in the Charlotte area of North Carolina that demonstrates what I am talking about.

A friend of mine named Dick Pomerantz has an extremely popular and widely listened to talk show on WSOC Radio in Charlotte. On Tuesday, a woman called his show to say that until the hostages in Iran are released, she would wear a white arm band as a silent reminder of her hope that they would be freed unharmed.

The amazing aspect of this was the outpouring of calls to the station by others saying they were, also going to wear white arm bands and who wanted to join the effort. Other radio stations started to call and they relayed the idea to their listeners and now the idea of the white arm bands seems to be spreading over a wide area of the country.

Of course, wearing a white arm band is not going to free the hostages or have any effect on an irrational dictator or fanatical students. But it says a great deal, Mr. President, about the way our country is united in this crisis.

As I say, it is hard to imagine any good coming from this Iranian situation. But the unity of the Nation, if it can be preserved, is one comfort we may draw.●

THE POLICY OF FAMINE

● Mr. KENNEDY. Mr. President, in recent days we have heard some alarming views about using food—and therefore, famine—as a political weapon.

In our frustration over recent international developments, especially in Iran, such emotional responses are perhaps understandable. But they are alarming nonetheless, and we must reaffirm our Nation's tradition—broken only in Vietnam—never to use food as a weapon of war or politics.

Over the years, as chairman of the former Subcommittee on Refugees, I have closely followed what happens when food has been used as a weapon—and the sights have been appalling. From Biafra to Bangladesh, to Cambodia today, the landscape is littered with the bodies of innocent men, women, and children who have starved to death because food was used as a weapon.

In a hearing that I chaired last year on food needs in Indochina, the distinguished nutritionist and Vice Chairman of the President's Commission on World Hunger, Dr. Jean Mayer—who was a member of a high-level delegation I asked to visit Vietnam—stated the case best. Quoting from his testimony before the Judiciary Committee last August 22, Dr. Mayer stated:

> I would like to—if I may—say a very special word about the food and agriculture situation which seems to me that, over the years, has been not only to the moral credit of the United States that we have been the bulwark of the world against starvation since World War II, I think it has turned out to be very good, practical politics for us as well.
>
> I personally believe that it is very much to our advantage, as well as the right thing to do, for us to help the Vietnamese with food aid and with agricultural development. . . .
>
> I think that we, from an ethical viewpoint, it could be said are indulging in food interdiction during the war was one more episode in a long series of tragedies whereby, throughout the centuries, countries have tried to use starvation as a weapon of war, and it is an extraordinary ineffective weapon. It is not only an indiscriminate weapon like bacteriological warfare; it is one that specifically discriminates against children, against women, against the elderly. Adults, male and female, nonpregnant, nonnursing females are much more resistant to deprivation, and, anyway, armed men never starve, and whatever food there is, they always get, which was true in the Confederate Army while Sherman was burning; it was true in the French Army during the Franco-Prussian War and the Prussian siege of Paris; it was true for the Reichwehr during the blockade of the central powers; it was true for the Red Army in Leningrad during the siege; it was true for the Biafran Army during the war in Biafra; and it was true for the Vietcong and the North Vietnamese Army while we were conducting crop destructions and crop interdictions.

More recently, Mr. President, columnist Stephen Rosenfeld of the Washington Post, articulated as well the true horror of using food as a weapon of war or politics. I commend to the attention of every Senator Mr. Rosenfeld's excellent article on "The Policy of Famine," and I ask that it be printed in the RECORD.

His article follows:

[From the Washington Post, Nov. 23, 1979.]

THE POLICY OF FAMINE

(By Stephen S. Rosenfeld)

This Thanksgiving the big news on the international food front is that starvation is back as a pretty well accepted political tactic.

True, denying food and imposing malnutrition, disease and death upon large numbers of civilians, for a political purpose, has never really gone out of style. But after World War II, which did after all produce a certain revulsion against the deliberate infliction of suffering on masses of noncombatants, there perhaps was a time when a carelessly hopeful person might have thought the mold had cracked.

Not so. The situation in Cambodia, where Vietnam and its puppet regime, with Soviet approval, have been forcing a surrender-or-starve choice upon the Cambodian people, is merely the most conspicuous, vicious and "successful" case. The Indonesians, who enjoy American patronage, have been doing it inconspicuously in rebellious East Timor for years. The different parties in the Rhodesia war have been doing it in their various fashions, also for years. The Nigerians in their war against Biafra, Ethiopia in its struggle against secessionists . . .

Note well: I am not talking here about simply using food as a political carrot or stick, which is common both in the export policies of the United States and in the internal-distribution policies of many local governments. I am talking about military operations aimed at driving farmers off the land, destroying crops and seeds, rendering fields uncultivable, denying relief—in brief, operations aimed at causing the sort of human loss that makes societies buckle.

In the American self-image and in much of our practice, we are a generous people eager to feed the hungry everywhere without letting politics intrude. Yet in Vietnam, even as we sent in shiploads of food aid, we spread the herbicides and conducted the bombing that made some part of that aid necessary. Our record is mixed enough to warrant some humility.

As it happens, the practice of deliberately inflicting hunger for political aims has flourished even as the conquest of hunger has been widely accepted, in official pronouncements, as an important international goal.

It suggests a certain failure of imagination that so little attention has been given to the matter of man-made famine. People of good will have labored hard, for instance, to ensure that governments would not loose exotic germs or chemicals upon civilian populations, but the coarser and more common threat of food denial is little noted. The international community has been struggling to organize better to cope with natural disasters, but the man-made disaster of enforced starvation falls outside the pale.

Perhaps it is that the use of food as a political lever has become so ordinary, so legitimized by regular unremarked practice, that people—Americans, in particular—don't focus on the use of food as the ultimate political lever until it's too late, as in Cambodia.

An oft-cited CIA study of 1974 suggested countering "oil or economic strangulation" with "food strangulation" and observed grandly, "As the custodian of the bulk of the world's exportable grain, the U.S. might regain the primacy of world affairs. . . ."

So it is that many Americans speak now of the desirability of cutting off food exports to Iran. A case can be made that a cutoff would merely reduce the quality of the Iranian diet and cause the government problems of control, without starving anyone. But it is a slippery slope.

You might have thought that the spread of powerful modern weapons would help preclude starvation situations—by putting the means for a knockout punch into the hands of societies that otherwise might conduct their political disputes as protracted peasant wars.

But the spread of these weapons has not confined battles to armed combatants on battlefields. The spirit of the age has energized many popular causes, and people tend to struggle on. It is precisely the difficulty of routing out low-level resistance, especially in the countryside, by planes and tanks that has given food-denial tactics their opening.

The civilian victims are customarily removed, by remoteness and the starver's censorship, from the news coverage that might help the humanitarian community mobilize the political community. The starver's troops often limit or deny the victims the benefits of international relief, if it is offered.

It has become a cliché that we should all fight the "war on hunger." It should become the common political rule that we will allow no one to wage war by hunger. That would be cause for thanksgiving.●

RESOLUTION BY THE NATIONAL ASSOCIATION OF REALTORS REGARDING IRAN

● Mr. CHURCH. Mr. President, although it should be clear that the overwhelming majority of Americans support President Carter's refusal to accede to the demands of the Iranian terrorists, I believe it is important to place on record the deeply held feelings of individual Americans that this country must not submit to blackmail. If we do, there never will be an end to it, and no American will be safe anywhere abroad in the future.

As an example of the many hundreds of telephone calls, letters, telegrams and petitions which I have received in response to the takeover of the American Embassy in Tehran, I ask to have printed in the Record a resolution proposed by the Idaho Association of Realtors and passed by the National Association of Realtors at their convention last week.

The resolution follows:

Resolution Proposed by the Idaho Association of Realtors

Whereas, the National Association of Realtors represents 740,000 members, and

Whereas, these members have as a basic premise the right to own property and to protect and defend that right of ownership, and

Whereas, the sovereign rights of the United States and its citizens have been violated by the takeover of the United States Embassy in Iran, and

Whereas, these citizens are being held hostage with their rights and freedoms in jeopardy, and

Whereas, acts of seizure, terrorism and blackmail such as these erode the prestige of our nation throughout the world

Now therefore, be it resolved, that the members of the National Association of Realtors call on the President of the United States of America to take strong and decisive actions to protect the rights and lives of United States citizens and to re-establish the control of American property, and

Further, the members of the Association do support the Presidents action of discontinuing the importation of Iranian oil, and

Further, urge that all other actions necessary be taken to bring swift settlement to this situation by freeing American hostages, returning American property and restoring American prestige throughout the world.●

BORDER PATROLMAN RECEIVES MEXICAN MEDAL

● Mr. HUDDLESTON. Mr. President, it is all too rare that we hear about the courageous and meritorious actions of the officers of the Border Patrol and the Immigration and Naturalization Service. Seldom do we hear about the real services these officers provide for the country, even for the illegal aliens they apprehend. Border patrolmen share their food with hungry illegal migrants; they provide vital ambulance and medical services to citizens on both sides of the border; and they give help to literally millions of Americans who cross our borders each year.

I was quite pleased to see a border patrolman given recognition for a special act of valor. Frank Hopkinson, a Miami-based Border Patrol officer on temporary assignment to the San Diego area, was recently honored by two Mexican civic organizations for saving a Mexican citizen from drowning in the ocean off Tijuana, Mexico, on September 18.

Risking his own life, Hopkinson, 30 years old, swam through strong currents to reach the man, who returned to Mexico without giving his name. The Union D.C. Liberales de Baja California, Mexico, gave Hopkinson its highest award, the Medal of Merit. And the Benito Juarez Cultural Association, a Tijuana civic group, also honored Hopkinson.

I think the Senate should also extend its appreciation to Officer Hopkinson, and his many colleagues in the Border Patrol who are often overlooked for the valuable and humane services they provide.●

ESTHER COOPERSMITH

● Mr. McGOVERN. Mr. President, when I came to Washington as a young Congressman in 1956, one of the first Washington personalities I came to know was Esther Coopersmith. She was, I was told, a superb fundraiser. Beyond that, she was an indomitable woman who radiated joy and enthusiasm for life; never discouragement or apathy.

With the passage of time I came to be a personal beneficiary of her fundraising skill for Democratic candidates. I also came to know her and her remarkable husband, Jack, as valued personal friends. Jack and Esther Coopersmith are two superb American patriots who are devoted to family, community, nation—and to their political party—in a way that has inspired countless people.

The November 1979 issue of the Washington magazine, Dossier, carries a well-conceived and well-written article about Esther by Washington Writer Dorothy Marks. The article traces Esther's rise, first as a fundraising expert and now as a U.S. Representative to the United Nations. Ms. Marks very justifiably identifies Esther's husband, Jack, with his patience, understanding, and good humor as a crucial factor in Esther's life and her effectiveness as a public figure.

I ask that the following article by Ms. Marks be printed in the Record.

Esther Coopersmith

(By Dorothy Marks)

If the hundreds of Democratic politicians for whom Esther Lipsen Coopersmith has held fundraisers in the past 30 years were laid end to end, they would probably fill the vast hall of the United Nations where she now sits as President Carter's appointee as public member of the U.S. delegation to the 34th session of the U.N. Assembly.

Yet, Esther Coopersmith believes it is not those "millions and millions of dollars" she has raised for the politicians, but the $2,000,000 fundraising project she has undertaken with Mrs. Jehan Sadat to update the shabby Cairo Museum which landed her the prestigious three-month appointment. It is an office filled in the past by Eleanor Roosevelt, Adlai Stevenson, Daniel Patrick Moynihan, Coretta Scott King and Shirley Temple Black, among others. "We're getting nothing but good vibes from the Hill on this appointment, you can be sure," observes Evan Dobelle, who heads the President's re-election effort. "I'm delighted she's on the job," says Vice President Walter "Fritz" Mondale, a longtime friend.

Everybody seems happy, even those on Capitol Hill who grumble that the White House is mighty late in getting around to rewarding oldline Democratic regulars and not just those loyalists who went for Carter in the 1976 primaries.

The four Coopersmith children, all of whom are as turned on to politics as mom, delight in her designation as "The Honorable Mrs. Coopersmith." So does her always-supportive husband, Jack. But the subject of all the attention says: "What impresses me is that it is the first paying job I've had in 21 years."

For the three months, she is being paid on a per diem basis at the rate of $50,000 a year. With the job comes use of a one-bedroom apartment at Beekman Towers, a three-block walk from the Assembly. June Hechinger, whose husband, John, served in the position a couple of years ago, describes the apartment as "genteel seedy," but adds that "there's a beautiful view of the East River if you stick your head out the bathroom window."

What is responsible for Esther Coopersmith's phenomenal success as a fundraiser? Lee Kimche, who heads H.E.W.'s Institute of Museum Services, has worked with her on projects in years past. "For one thing," she explains, "there's Jack. Esther enjoyed the fruits of women's liberation long before there was a movement." Kimche recalls traveling "all around the country with her in the 1964 Lyndon Johnson campaign, helping her put on barbecues with Lynda and Luci. We had 13 barbecues for 2,000 people in a four-month period. While Esther was gone, Jack Coopersmith took care of the small children, managed the house and encouraged her in every way." Kimche underlines her point: "When I came home, my husband divorced me."

But Esther Coopersmith's fundraising techniques have also contributed to her successes. "Esther never asks for money directly; she puts together an attractive package and offers it. She plans a dinner in an unusual place or in an important private home, with a gimmick, a theme, unusual decor and, of course, important people from the Hill to add glamor."

Jack Coopersmith lets his wife do the talking. As an expert in real estate involving gasoline stations, he has amassed a small fortune, working at a rolltop desk in the same tiny one-room office he found when he got out of the service in 1945. His one personal indulgence: every day, at 3:30 p.m., he takes off for the new gym at George Washington University to play racquetball. Then he shops for the house and heads home to deal with the housekeeper if his wife is busy.

Every few months, he persuades her to take off for the Golden Door or some other posh spa for rest and reducing. "Cheese and chocolates are my downfall," she confesses.

Several years ago, the Coopersmiths moved from a modest home in Chevy Chase to a large house on Fox Meadow Road in Potomac which had belonged to Rep. Don Edwards of California. It came complete with a pool and tennis court on five acres and, although neither parent swims much or plays tennis at all, their home has provided a wonderful outlet for the children as well as a great place for the kind of large party Esther likes to put on.

In recent years, she has used it to entertain Russians here on an exchange program, a business-oriented group from the People's Republic of China, tennis stars in the Evening Star tournament and Folger Library patrons. Recent guests were Ambassador and Mrs. Evron of Israel, whom she greeted along with her co-hostess Mary Johnston (wife of Sen. Bennett Johnston of Louisiana), who had been with her on that first trip to Egypt, Jordan and Israel.

Esther Coopersmith is proud of the fact she arranged for Mrs. Begin and Mrs. Sadat's first meeting at the Children's Museum here. She has worked closely on the museum with Nan Powell and Nancy Moore. She entertained at a party in her home both the Israeli and Egyptian journalists covering the signing of the peace treaty accords at the White House. Typically, at these parties she takes centerstage and publicly introduces every guest. Jack, meanwhile, has taken care of the arrangements and stocked the bar. Esther, herself, doesn't drink and has been known to forget all about the liquor for the party.

The Sunday she took off for her new job, she held a brunch for 200 to greet Peter Kelly, the new treasurer of the Democratic National Committee. She is on the executive committee of the D.N.C. finance committee and serves as treasurer for the Women's Congressional Caucus. Her ties to the White House have now become close and she has talked to Rosalynn Carter about helping in the re-election campaign.

Austrian-born Ina Ginsburg, the epitome of Georgetown chic and no mean fundraiser herself, has become a great admirer of Coopersmith. "I know we are an unlikely couple, but we've become great friends. We got to know each other when I let my house be used for a dinner for Claiborne Pell and then again for Frank Church. And I persuaded Roger Stevens to let her use his home for a dinner for Alan Cranston. Do you know, the very next night she put on a Chinese buffet for Gaylord Nelson at Bob Strauss' Watergate apartment?"

Having also observed Coopersmith in action in her Egyptian Museum fundraising, Ina Ginsburg notes that "Jehan Sadat has absolute confidence in her. I was one of a group of 18 people she took to Cairo to get interested in the museum. Some of us went on with her to Jordan and Israel and our reception there was great, too."

Ginsburg recalls with amusement the luncheon Coopersmith hosted at the Fairfax Hotel to raise funds for the museum. One unusual result was that Bernard Goldstein of Boucherie Bernard was persuaded to contribute $25,000 worth of Israeli Bonds for the project.

The Wisconsin farm girl, daughter of Jewish immigrant parents, has come a long way, baby, and Esther Coopersmith is the first to admit it. But the transformation has been due, not to luck or fate, but to her own vision and planning. "When I was 17, I decided money and money-raising were where the power is. I've carved out a niche for myself in this role and I'm happy with it."

What lies ahead? In March, she'll be taking another group to Egypt—at a price—to have tea with Mrs. Sadat and see the opening of the temples saved in the flooding of the Aswan Dam at Philea. She is planning fundraisers in the spring for Alan Cranston and young Chris Dodd (son of the late Sen. Tom Dodd), who is running for a House seat from Connecticut. When Mrs. Sadat returns, the two of them will try to arrange "Thank you, King Tut" Balls in the seven U.S. cities which hosted the Tut exhibit.

Early on in the Carter administration, there was talk that she would be offered the ambassadorship to New Zealand, but nothing ever came of it. There could still be such an appointment in her future. Esther Coopersmith is fully aware that Shirley Temple Black went on from her three-month assignment at the U.N. to become ambassador to Ghana and then chief of protocol.●

NOMINATION OF ANGIER BIDDLE DUKE AS AMBASSADOR TO MOROCCO

● Mr. MORGAN. Mr. President. Angier Biddle Duke has been nominated by the President and approved by the Senate for the position of Ambassador to Morocco. Although Mr. Duke was born in New York. his North Carolina roots are deep and enduring. At present, he is president of the National Committee on American Foreign Policy, Inc. This is only the most recent in a long line of positions that has prepared him for the important position as Ambassador to Morocco.

Mr. Duke was educated at Yale University and since then has received several honorary degrees. During World War II, he served in the U.S. Air Corps, as it was then known, and achieved the rank of major.

His experience has been both in the private sector and with the Government. In both areas he has shown a marked interest in the problems of humanity—he was president of the International Rescue Committee, vice president of CARE, and is presently chairman of the New York State Council on Ethnic Affairs.

More germane to this nomination, Mr. Duke has held a succession of diplomatic positions, beginning in 1939 with his appointment as Second Secretary and Consul in Buenos Aires and including Ambassador to El Salvador (1952–53), Ambassador to Spain (1965–68), and Ambassador to Denmark (1968–69). He was Chief of Protocol for the White House with personal rank of Ambassador from 1961 to 1965 and again in 1968. His experience in the diplomatic world has served admirably to prepare him for the post for which he has been nominated.

In addition, Mr. Duke is fluent in Spanish and French, the latter being especially important in handling his position in Morocco, a former French colony.

At a time in our history when our image is threatened in some areas of the world, Mr. Duke brings wide experience and a compassion for humanity to an Ambassadorship in a sensitive part of the world. I think that we are fortunate to have such a well-qualified man to fill this position as Ambassador to Morocco.●

HEARING TRANSCRIPT REPRODUCTIONS BY SERVICE DEPARTMENT

● Mr. PELL. Mr. President, as chairman of the Committee on Rules and Administration, I wish to call attention to a new service now available from the Senate Service Department which will save money for the Senate while assisting committees in the preparation of hearing transcripts.

Last year, the Senate paid over $50,000 to outside sources to prepare the additional copies of transcripts needed for distribution to agencies and outside witnesses for review and correction. About a year ago, our distinguished President pro tempore and chairman of the Appropriations Committee, Senator MAGNUSON, asked if copies needed by his committee could be produced in the Service Department. Responding in his accustomed cooperative manner, the Sergeant at Arms, Mr. Hoffmann, had the Service Department undertake this work on a trial basis for several months. He has now reported that his staff can perform the work for about one-fifth of the cost of outside service. Thus the Senate will be able to realize a saving of approximately $40,000 a year if all committees avail themselves of this service.

I want to thank Senator MAGNUSON for his excellent suggestion and Mr. Hoffmann for his splendid cooperation in making this possible.

An announcement describing this service in greater detail may be obtained from the Service Department.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications were received on November 19, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notification follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., November 19, 1979.

In reply refer to: I–5947/79ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., November 19, 1979.

In reply refer to: I–4916/79ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State. I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.●

ORDER HOLDING H.R. 3343 AND H.R. 5645 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that messages from the House on H.R. 3343 and H.R. 5645, both of which are District of Columbia measures, be held at the desk pending further disposition.

Mr. STEVENS. There is no objection to that procedure.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROCEDURE FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, upon the completion of the recognition of the two leaders or their designees under the standing order, I ask unanimous consent that the Senate then go into executive session to consider the treaties that were ordered for tomorrow; and upon the disposition of those treaties that the Senate go back into legislative session, at which time the Senate then would resume consideration of the windfall profit bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will convene at 12 noon. After the leaders are recognized under the standing order, the Senate will go into executive session for not to exceed 20 minutes for debate on Calendar Orders No. 12 and 13 on the Executive Calendar, the extradition treaty with Finland, and the extradition treaty with the Federal Republic of Germany, respectively.

A rollcall vote has been already ordered, on those two treaties, en bloc. That rollcall vote then would occur at about 12:30 tomorrow.

Upon the disposition of the two treaties, the Senate will return to its consideration of the windfall profit tax bill, at which time the pending question will be on the adoption of the amendment by Mr. BRADLEY in the second degree to the amendment in the first degree offered by Mr. BRADLEY.

Rollcall votes are ordered thereon, and there will be rollcall votes throughout the afternoon.

The leadership anticipates resolving that question on tomorrow, with the hope it would not delay the Senate too long, and that other rollcall votes could then follow on other amendments.

RECESS

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 12 noon tomorrow.

The motion was agreed to; and at 7:18 p.m., the Senate recessed until Thursday, November 29, 1979, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate November 28, 1979:

DEPARTMENT OF DEFENSE

Togo D. West, Jr., of the District of Columbia, to be General Counsel of the Department of Defense, vice Deanne C. Siemer, resigned.

NATIONAL LABOR RELATIONS BOARD

William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board for a term of 4 years, vice John Stiles Irving, Jr., resigned.

U.S. INTERNATIONAL TRADE COMMISSION

The following-named persons to be Members of the United States International Trade Commission for the terms indicated:

For the remainder of the term expiring June 16, 1980:

Robert E. Baldwin, of Wisconsin, vice Italo H. Ablondi, resigned.

For the term expiring December 16, 1988:

Michael J. Calhoun, of the District of Columbia, vice Joseph O. Parker, term expiring.

IN THE COAST GUARD

The following Regular officers of the U.S. Coast Guard for promotion to the grade of commander:

Lawrense M. Schilling
William P. Huber
Sperry C. Storm
Robert R. Dudley
James H. Ferguson
Dennis L. Morrissey
Kipling E. Grassit
Thomas R. Pennington
David S. Smith
John F. Roeber, Jr.
Anthony R. Adams
Richard E. MacDonald
Joseph P. Coleman
Andrew T. Horsey
Joseph M. Rogers
Francis J. Wright, Jr.
Carl H. Pearce
Richard F. Ruhe, Jr.
Robert W. Christiansen
Robert L. Storch, Jr.
Robert W. Scobie
James O. Alexander
Donald J. Green
Richard A. Bundy
Thomas H. Robinson
Keith E. Nichols
Charles J. Robinson
Wallace S. Worthington
Robbin F. Krause
Eugene K. Johnson
William Schorr
Raymond V. Circirelli
Ronald E. Fritz
Anthony J. Pettit
Holmes M. Dillian
Harry D. Hamilton
Walter N. Smith
Michael D. Hendrickson
Ralph F. Lutz
George D. Davis
James E. Kenney
Everett A. Howe
Larry K. Lewark
Patrick A. Wendt
James P. Sutherland
Roland H. Boughton
Billy H. Baldwin
Charles R. Havnen
Norman E. King
Peter E. Prindle
Arthur D. Hoppe
Philibert B. Akau
David A. Carter
Armand L. Chapeau
Frederick K. Patterson
Joseph F. Gall
Billy R. Warren
Stanley E. Burgess
Terry D. Beacham
Harold C. McClelland, Jr.
Robert W. Cathey
Duncan P. Johnson
Joseph J. McClelland, Jr.
Daniel E. Struck
John E. Williams
Frederick N. Gallien
Richard R. Cottinghan
Ronald L. Blake
Jack K. Stice
Robert A. Melvin III
John H. Hanna III
Harold E. Millan, Jr.
John C. Maxham
John F. Milbrand
Dennis J. Shaw, Jr.
Michael C. Grace
Richard E. Peyser
Thomas M. Dunn
Joseph R. Hoosty
Robert S. Duncan, Jr.
John C. Garney, Jr.
Thomas R. Dickey
Kenneth E. Williams
Edward A. Hemstreet
William K. May
Harry H. Dudley
Jose E. Rodrigues
Gary B. Johnson
Nesbit C. Lofton
Jerald H. Heinz
Donnie D. Polk
Jonathon Collom
Harry W. Tiffany
William H. Stockton II
Benjamin M. Chiswell III
Kenneth J. Allington
John G. Busavage
Donald H. Vanliew
Cullis L. Holub
Larry C. Evans
William S. Griswold
Roger G. Love
David I. Scott
Frank M. Readinger, Jr.
William P. Wolfe
Larry J. Balok
Philip Ellis
Colon P. Butler
Stanley J. Spurgeon
Charles G. Hill, Jr.
Anthony C. Alejandro
John E. Shkor
Joseph O. Bernard
Stanley Winslow
Eric J. Staut
Dennis R. Freezer
Douglas W. Crowell
John R. Felton
Douglas F. Gehring
Edward J. Barrett
Earl A. Blanton
Henry D. Jacoby

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

William F. Nettel
John A. Mcgough
Michael L. Kelly
Duane I. Preston
Paul J. McClendon
William E. Pitt, Jr.
Craig F. Eisenbeis
Stanley L. Renneker
Richard C. Barlow
Laurence P. Minott, Jr.
Curtis J. Crumpley
Leo M. Kenney
John G. Kotecki
Elizabeth M. Karr
Thomas W. Pearson, Jr.
Stephen T. Helvig
Douglas C. Phillips
Peter C. Olsen
Andrew Malenki III
Albert J. Sabol
Thomas W. Purtell
Robert J. Vollbrecht
Theophilus Moniz III
Paul T. Pelzer
Lawrence M. Jasmann
John P. Barnstein
Paul K. Bothmann
Michael R. Adams
Timothy G. Balunis
James H. Davis
Jerome W. Thomas
Klaus Adie
Carroll H. Holst, Jr.
Richard E. Schmidt
Alfred P. Howland
James E. Cain
Michael T. Eberhardt
Stanley E. Lehman II
John L. Sprague III
Thomas F. Weber
Richard L. Harvey
Christopher A. Kiefer
Gilbert O. Montoya
Roy C. Lewis, Jr.
William F. Landry
William Dozier
David L. Olsen
Robert S. Maas
Richard W. Harbert
Christopher L. Gregory
Brian W. Hadler
Richard J. Davison
James G. Force III
John A. Unzicker
Stephen J. Wehner
Robert G. Ramsay
Robert D. Arnett
Jeffrey T. Peck
Barry C. Capelli
James M. Harrison
Thomas C. Booth III
William J. Chang
John C. Dusch
John R. McElwain
Paul J. Larson
Henry W. Motekaitis
Harvey J. Langholtz
Thomas L. Laguardia
Philip K. Chase
Bruce Pickard
Thomas H. Walsh
Robert B. Ellard
Anthony Regalbuto
Richard C. Wigger
John H. Johnson III
Charles E. Sibre
Joseph G. Milo
Robert H. Trainor
Kenneth P. Rothhaar
Alan S. Gracewski
James T. Clarke
Charles D. Wurster
Ronald H. Frazier
Thomas M. Gemmell III
Joseph F. Tucker III
Roger W. Coursey
Charles D. Pike
Charles C. Beck
John P. Wiese
John T. Orchard
Peter A. Tebeau
Paul H. Millewich
Donald C. Gerber
Gordon D. Marsh
Stewart I. Marsh, Jr.
Stephen C. Ploszaj
Richard V. Harding

Michael A. Leone, Jr.
Ronald F. Silva
Daniel E. Kalletta
Robert W. Gulick
Jay E. Taylor
Larry M. Wilson
Wayne E. Verry
Stanley J. Norman
Charles H. King
Laurance H. Howell
John G. Hersh
William J. Inmon
Henry P. Libuda
Edward F. Murphy
Gregory S. Cope
Larry H. Gibson
David E. Henrickson
Bruce W. Platz, Jr.
Gerald G. Kokos
James R. Riesz
Samuel R. Hardman, Jr.
Carl A. Swedberg
William E. Willis
Richard E. Cox
Patrick A. Turlo
Ralph D. Lewis
David J. Ramsey, Jr.
Robert C. Foley
Jonathan K. Waldron
Michael A. Conway
Charles S. Harris
Wynn O. Harper
Tony E. Hart
Kenneth R. Mass
Thomas J. Marhevko
Thad W. Allen
Dennis W. Cleaveland
James A. Sylvester
James A. Brokenik
Carl R. Schramm, Jr.
Albert F. Sganga
Paul D. Barlow
Fred S. Fox
Robert J. Camuccio
Gregory D. Mucci
Richard X. Engdahl
Anthony Bordieri, Jr.
David J. Isbell
Steven J. Cornell
Brian T. Kingsbury
Donald T. Wetters
Philip C. Volk
Richard C. Sasse, Jr.
Bradley R. Troth
Henry R. Przelomski
John M. Smith
James B. Willis
John K. Roberts

Philip J. Cappel
Charles E. Bills
Bruce E. Lee
Alan R. Dujenski
Robin A. Wendt
James R. McGuinnes, Jr.
Albert A. Joens
Donald E. Estes
Donald P. Montoro
Marion T. Woodward, Jr.
Richard F. Carlson
Robert V. Diaz
David B. Pascoe
William R. Schleich
Perry W. Campbell
Robert N. Zimmer
Robert E. Carmen
Milton D. Moore, Jr.
Frederick F. Lieder, Jr.
Roger D. Holmes
William T. Horan
Harold B. Morton
Edward J. Park
Joseph H. Thompson, Jr.
Charles T. Winfrey
Clyde R. Keller, Jr.
John G. Witherspoon
Alvin A. Sarra, Jr.
John D. Leslie, III
James R. Nagle, II
Kenneth I. Johnson
Albert C. Muccilli, Jr.
John D. Lindgren
Scott H. Smith
Dennis C. Bosso
William A. Meiman, Jr.
Raymond E. Mattson
Michael A. Wade
Gregory N. Yaroch
Gregg W. Sutton
Paul C. Golden
Michael W. Mastenbrook
Joseph F. Miante
William J. Gamble
Joseph T. Kuchin
Timothy J. Flanagan
Joseph J. Fontana
Norman S. Porter
Ottis B. Jones. Jr.
Leon D. Howell, Jr.
William J. Wilkinson, III

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 3383 and 3370:

ARMY PROMOTION LIST

To be colonel

Chambers, Charles E., 213–32–5912.
Contreras-Peralta, Blas, 581–54–6284.
Cullum, David A., 411–48–5318.
Danner, Alfred J., 080–22–0193.
Darling, Allan L., 314–28–5411.
Delano, Edward B., 573–34–0512.
Devine, James F., 216–30–1874.
Dunbar, Ralph B., 279–30–3209.
Fosler, Richard K., 306–28–6458.
Gallo, Angelo A., 154–24–1112.
Hairston, Walter A., 244–30–7322.
Hale, Ronald E., 429–64–3027.
Herzog, Robert P., 058–22–0641.
Houston, Wendell M., 247–38–7328.
Hudak, George, 468–32–3288.
Hunt, Keith J., 336–28–2968.
Jones, Leroy Jr., 249–54–3525.
Kane, John J., 133–24–5735.
Lohrenz, Leander J., 509–26–3490.
Mann, Fred, 452–48–3509.
Myers, Ronald R., 290–30–1159.
Nearine, Robert J., 020–22–6751.
Partington, Richard, 532–30–0301.
Pfleghardt, Robert J., 123–26–9449.
Reither, Robert, 284–24–0999.
Schofield, Elvin J., 452–52–6599.
Sellers, Ernest C., 425–46–3514.
Smith, Francis C., 249–30–4827.
Stonisch, Jerry A., 367–30–2513.
Strahan, Lyle L., 389–36–8372.
Thorn, Bernard H., 239–40–6806.
White, James M., 240–44–3367.
Wiegand, Francis P., 125–20–9072.
Wong, Robert L., 036–22–7065.
Zimmerman, Robert J., 448–34–2673.

CHAPLAIN

To be colonel

Bonner, William P., 252–44–6662.

ARMY NURSE CORPS

To be colonel

Andrews, Charles E., 084–24–0932.
Antilla, Betty J., 466–44–7980.
Benway, Paula K., 243–44–3389.
Bourne, Olga C., 109–30–6387.
Chin, Lily J., 567–36–3821.
Christ, Linda N., 135–24–2825.
Condiloro, Angela R., 101–28–6431.
Davis, Louis W., 470–20–1809.
Donahue, William W., 205–15–2089.
Duckworth, Margaret, 419–24–2309.
Fee, Dorthea L., 233–42–5622.
Finn, Elizabeth P., 022–22–6328.
Fugowski, Helen T., 095–16–8681.
Gaudes, Flora A., 018–12–1950.
Gretenhart, L. F., 397–16–2835.
Istvan, Dorothy E., 196–22–5763.
Jaeger, Robert J., 318–26–5334.
Konz, Amalia A., 396–18–8429.
Leslie, Martha J., 425–58–7207.
McQuillan, C., 219–40–7282.
Mikulic, Mary A., 543–22–3930.
Scicchitano, C. E., 190–18–4182.
Scoville, Beverly V., 085–24–0559.
Sullivan, Gerald E., 399–22–9760.
Throwe, Gerald J., 040–24–3101.

DENTAL CORPS

To be colonel

Billingsley, Audell, 432–01–5325.
Bruner, Hugh H., Jr., 511–40–4820.
Clark, Donald E., 511–16–7083.
Crockett, Herbert A., 414–50–1576.
Dixon, Richard L., 411–54–4506.
Duke, James T., 430–44–7044.
Harris, William E., 244–36–5561.
Hembree, John H., Jr., 410–56–3874.
Lowry, Van L., 538–20–4663.
Lude, John C., 273–36–4091.
Lynn, Benjamin Z., 141–14–9191.
Marshall, Kenneth, 087–22–8852.
McGinnis, Joseph P., 412–54–9725.
Montgomery, Charles, 408–24–1973.
Rosinski, Donald J., 124–22–9782.
Ruperts, Arnolds, 363–34–1770.
Sgambellone, Frank, 077–28–9553.
Smith, William R., 350–26–5559.
Thompson, Robert E., 499–30–7936.
Vanwart, William H., 453–48–1156.
Wolfson, S. H., 056–20–2262.

MEDICAL CORPS

To be colonel

Adams, John T., 263–56–4950.
Alamoestrada, Pedro, 582–70–0589.
Atkins, Raymond M., 214–20–9175.
Beckman, Donald E., 489–28–6253.
Benepe, James L., Jr., 472–24–8111.
Berman, Irwin, 461–40–7817.
Billingsley, Audell, 432–01–5325.
Binard, Joseph E., 231–60–4590.
Brown, Frank M., 429–68–6594.
Brown, Theodore C., 230–26–9901.
Busch, George J., 113–30–5325.
Campbell, John B., 476–32–9974.
Casey, Ira L., 577–14–0495.
Chisholm, Thomas P., 390–28–6455.
Contreras, Jose J., 580–90–1364.
Denny, Hermin B., 250–18–4842.
Dille, John R., 194–22–0836.
Evetts, George E., 525–62–0423.
Fabrigar, Carmelo S., 151–30–9845.
Franco, Pilar J., 467–50–9001.
Griffin, William T., 486–34–2154.
Groh, Lawrence A., 315–20–7755.
Harkins, Paul D., 192–28–0968.
Hobson, Robert W., 223–50–5838.
Hofeldt, Fred D., 519–40–0433.
Hospers, William D., 323–22–5956.
House, Homer C., 577–50–2743.
Kuglar, Everett C., 255–46–5454.
Lulo, Antonio R., 581–92–5046.
Mara, Francis J., 140–16–6824.
McKewon, Claude, 445–20–9559.
Mikhail, Samir F., 395–56–2751.
Milson, Bertram I., 390–28–0267.
Montgomery, John R., 423–40–1389.
Morrison, Richard D., 001–28–6726.
Pappas, George N., 063–20–9067.
Parkinson, Richard, 519–18–4074.
Rasberry, James N., 427–50–1937.
Ross, Thomas H., 526–42–0795.
Santiago, Juan J., 582–32–3410.
Schlatter, Egon K. E., 100–24–3241.
Shaw, Richard C., 512–30–7234.
Smith, Edwin J., 097–28–8159.
Snider, Clovis J., 527–30–5676.
Strum, Donald H., 535–32–4059.
Vennes, George J., 544–34–8400.
Wadley, John K., 410–50–2388.
Walk, Louis B., 478–32–4449.
Wilcox, Howard G., 316–34–9410.
Wright, Robert H., 570–42–8475.

MEDICAL SERVICE CORPS

To be colonel

Albitz, Richard H., 450–52–2476.
Allison, James L., 191–26–4809.
Babb, Lewis Jr., 403–36–7432.
Boddeker, Cary A., 450–52–1398.
Brandes, Richard E., 559–42–6740.
Burkholder, E. R., 342–24–1146.
Cannarella, Joseph, 045–26–3050.
Chapman, Edwin R., 245–32–6739.
Chesteen, Hilliard, 425–42–9061.
Cochan, Donald G., 478–34–1370.
Crowell, Edwin P., 144–24–3401.
Czarnecki, Ronald F., 144–24–8252.
Dalton, John C., 485–28–3904.
Davenport, Stanley, 008–14–1411.
Dempsey, Donald L., 432–44–1931.
Donnick, Robert M., 389–28–7247.
Dupre, Earl P., 271–28–4553.
Ender, Traugott, 215–38–7805.
Etten, John F., 352–22–2089.
Galloway, James W., 161–22–4209.
Gijon-Robles, Rafael, 061–24–8638.
Goranson, Kurt A., 469–30–3189.
Grebstad, Jenning O., 574–07–9965.
Hall, James L., 577–44–5216.
Hanners, Donald R., 498–26–8276.
Hanrahan, Martin L., 522–38–6777.
Hastings, Harry D., 419–36–8105.
Hayes, George F., 015–26–6940.
Hendershott, Ralph, 163–22–4116.
Holmes, David P., 489–36–5108.
Kornegay, Ervin T., 243–44–2671.
Lawlor, Enid M., 528–42–8964.
Lawson, Lowell F., 184–26–9352.
Linder, Robert D., 483–26–2690.
Mafrige, Donald P., 452–50–3696.
Marhefsky, Louis A., 046–24–2951.
Mazur, Joseph L., 273–28–3633.
Menegat, Arduino A., 016–20–5495.
Parker, John L., 425–46–8055.
Phillips, William G., 429–50–1086.
Prochazka, George J., 273–22–8334.
Reinsch, Herman T., 047–20–2651.
Rosen, Martin J., 116–26–4694.
Ruiz-Guzman, Buenav, 582–70–6394.
Russell, John W., 402–32–8590.
Schwartz, Donald J., 153–28–3443.
Shadomy, Smith, 550–40–8752.
Sica, Joseph V., 022–24–3486.
Southerland, C. D., 441–24–2321.
Stivers, Rupert E., 405–22–6568.
Terrell, Leroy S., 428–50–7310.
Thygeson, Earl S., 531–30–6607.
Tinsley, Bernard H., 367–32–4048.
Vick, James A., 471–22–5116.
Watterson, Burton Q., 573–40–5379.
Williams, Earl M., 519–32–8530.
Wright, Charles D., 425–78–8081.
Yates, William M., 411–56–7416.

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Deering, Elwood J., 142-24-4223.
Hall, Frank T., 480-22-3662.
Herden, Irene L., 034-24-0771.
Pennucci, Jean C., 025-24-7304.
Santos, Espada C., 065-30-6887.
Story, Edmund B., 435-40-2383.

VETERINARY CORPS

To be colonel

Fletcher, William D., 225-44-6651.
Keagy, Richard H., 570-44-7728.
Harting, Robert D., 213-24-1835.

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of 3367 and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Abbott, Robert F., 042-28-8644.
Ackerman, Thomas A., 251-52-6129.
Adams, Isaac B., 402-48-8357.
Adams, Robert M., 443-28-9276.
Addonizio, William, 101-20-3646.
Agee, Damon W., 414-54-7307.
Aguilera, Frederick, 567-54-1160.
Aguirre, Vincent D., 535-30-8015.
Ahl, James E., 515-18-6086.
Aidala, Michael J., 115-28-5984.
Alexander, Frank N., 411-42-1443.
Allen, Gordon K., 447-32-1062.
Allen, Gregory S., 572-46-4208.
Allen, John J., 126-28-6913.
Allen, Larry J., 427-74-2897.
Almonte, Joseph D., 036-24-9747.
Almquist, Tod F., 443-38-1900.
Alvarez, Alfred P., 118-26-3587.
Anderson, Charles L., 184-34-1776.
Anderson, James M., 426-66-4071.
Anderson, Richard J., 184-26-9078.
Anderson, Wayne D., 471-38-6793.
Andrews, Harry W., 258-52-6273.
Angell, Frederick E., 549-40-3662.
Appleby, John III, 439-44-3846.
Argo, Ulon C., 412-52-1041.
Armington, Richard, 307-26-8824.
Arness, Franklin D., 517-34-3850.
Arnold, Jonathan A., 205-26-2973.
Arnwine, Billy C., 491-34-2549.
Ashley, Maynard, 053-28-0217
Ashley, Richard N., 193-28-4771.
Aubrey, John E., 407-50-2411.
Avillar, Frank M., 042-28-8602.
Awbrey, Lawrence R., 430-60-0443.
Aycock, David P., 416-46-4930.
Bachofer, Edward V., 189-30-2140.
Bailey, James A., 231-46-7470.
Bailey, Robert T., 252-58-2958.
Baker, Milton L., 246-46-7953.
Bala, Francis J., 106-28-9867.
Balaban, Edward J., 510-38-5701.
Baldwin, Wesley D., 243-52-5469.
Ballard, Terry O., 261-44-9313.
Ballway, Ralph J., 271-30-8647.
Banister, George H., 220-36-4196.
Barnes, Sidney L., 484-34-0740.
Barnes, Thomas V., 312-34-2673.
Barnhart, David S., 542-38-1476.
Bartlett, General T., 234-58-5041.
Bassham, Allen D., 452-50-8475.
Batchelor, Thomas J., 395-40-5415.
Batson, Wayne F., 459-54-3934.
Batten, Wilson C., 579-46-4691.
Baucum, William N., 426-82-6335.
Bauer, Daniel R., 032-28-6250.
Bawcum, James L., 464-48-9855.
Beaird, Elbert L., 418-40-5651.
Bean, Wyont B., 260-46-9940.
Bearden, Lawrence E., 431-72-1817.
Beasley, William A., 467-52-6582.
Beauchamp, Thomas E., 225-44-6703.
Beckman, William P., 247-64-3283.
Beer, Gerald J., 483-34-8515.
Behie, Edward H., 021-28-9164.
Benson, Robert D., 543-42-1779.
Benson, Robert J., 054-30-4686.
Berlin, Theodore, 052-28-6105.
Berndt, Irwin R., 390-36-0707.
Bester, Douglas B., 531-36-1399.
Bicanovsky, John E., 173-28-5706.
Bingham, Gary D., 539-40-4147.
Black, Edward L., 529-42-1493.
Blake, John E., 511-30-4296.
Blanchard, Alvord A., 015-26-4677.
Blankenship, Robert, 242-52-6342.
Blechl, Henry E., Jr., 450-56-5279.
Blevins, Milton E., 543-34-3820.
Blocklinger, Hans F., 454-54-6571.
Bloom, Lance C., 535-34-1251.
Bockoven, David N., 030-28-6160.
Bodnar, Bertram J., 047-26-0961.
Boitel, Earl C., 371-32-8197.
Bonang, Lloyd V., 036-24-3465.
Bonner, Joseph C., 437-58-9013.
Bono, Winifred T., 458-54-7903.
Booth, Chester E., 458-58-6335.
Boozer, Ted L., 248-42-8686.
Bostic, Fred W., Jr., 249-52-8825.
Bosworth, Charles E., 054-28-3738.
Boucher, Wilfrid G., 002-26-7073.
Bourdon, Alfred Z., 023-22-4144.
Bowden, Alan B., 195-32-6323.
Bowen, Bobby K., 453-58-6038.
Bowen, Crayton M., 416-48-9309.
Boyce, Donald R., 538-34-1049.
Boyette, Stephen E., 428-54-5030.
Boyle, John F., 091-30-2002.
Brace, Palmer E., 168-26-1206.
Braden, Lowell T., 400-42-4232.
Brandt, Ronald H., 435-48-4692.
Brannan, Samuel J., 375-36-4044.
Brewer, Howard A., 187-26-6340.
Briggs, Roger L., 433-50-3902.
Brigham, J. S., Jr., 443-32-4073.
Brill, Joseph P., 104-28-2416.
Britt, Eddie F., 416-36-6019.
Britt, Sydney P., 243-52-7874.
Broach, Vance C., Jr., 441-38-6850.
Brock, Robert F., 525-72-9241.
Brockman, Estes D., 291-34-6077.
Broker, Michael H., 101-28-7571.
Brooks, Charles W., 452-54-4881.
Brooks, Richard L., 434-48-6797.
Brown, Elbert L., Jr., 463-48-4568.
Brown, Joel A., 453-56-1913
Brown, John R., 363-38-9530.
Brown, John R., Jr., 406-38-5489.
Brown, Maynard, Jr., 257-52-3323.
Brown, Richard H., 519-32-3597.
Brown, Thomas A., 243-50-9540.
Brown, Walter W., 135-28-6691.
Brown, William R., 236-56-5613.
Brugh, Robert D., 227-24-0390.
Brune, Francis H., 483-40-1846.
Buchanan, Gale A., 261-62-2288.
Burger, James W., 246-38-3558.
Burner, Melvin T., 279-28-2287.
Burnham, John R., Jr., 425-56-7114.
Burr, Ronald P., 570-46-7997.
Burrill, Lawrence P., 006-32-7999.
Burroughs, Stuart H., 008-28-5066.
Bush, Charles K., 417-42-3142.
Bush, William A., 426-78-1909.
Butler, Bernard D., 459-50-0985.
Butler, Robert E., 368-38-7309.
Butler, Teddy D., 447-38-6565.
Cabaniss, Willard, 419-36-9139.
Cadwell, Albert D., 061-32-4463.
Calagaz, Frank J., Jr., 418-46-1146.
Camarinos, William, 051-28-0563.
Campbell, James D., 161-34-0676.
Campbell, James F., 267-44-2434.
Campbell, William J., 467-46-8354.
Campo, Fernando, 092-30-0792.
Campredon, P. A., 525-68-4573.
Capozzi, Rocco G., 084-30-6240.
Caputo, Brian R., 034-26-3586.
Carila, Earnest A., 231-34-3712.
Carlino, Vincent D., 153-24-4957.
Carpenter, Ansel D., 115-28-9354.
Carpenter, James R., 438-50-5893.
Carr, Samuel M., 421-42-1481.
Carroll, John E., 239-52-2084.
Carson, William H., 238-42-1207.
Carter, Billie C., 422-48-4573.
Carter, Joseph C., 223-46-7896.
Carter, Robert J., 551-52-7142.
Carter, William D., 167-28-5455.
Case, William G., 403-52-6133.
Cashman, John H., 332-30-3187.
Cassidy, Michael L., 199-30-2522.
Cassis, Diamantis J., 439-44-6436.
Castillo, Rosendo J., 562-50-1086.
Cates, Johnny E., 449-48-8846.
Cathey, Larkin C., Jr., 439-52-5462.
Caughman, James K., 251-70-3140.
Cavin, Charles W., 413-52-1951.
Cecelic, John J., 286-30-0703.
Chapin, Dick D., 461-54-3944.
Chase, C. M., Jr., 465-56-0983.
Chase, Neil W., 423-44-2497.
Chester, Harold W., 243-44-2872.
Ching, Denis D., 575-34-6149.
Chrissinger, John E., 260-56-4667.
Christian, Jackie W., 419-32-0287.
Christie, Norman K., 535-40-8385.
Church, Donald J., 084-28-2581.
Ciaramello, Richard, 035-24-4111.
Clark, Alphonso J., 262-62-7426.
Clark, Dale V., 549-52-6070.
Clegg, Thomas E., 019-24-8848.
Clements, William J., 259-44-5221.
Cline, Paul W., 125-28-3615.
Cloe, John H., 227-46-1920.
Close, Thomas M., 252-60-6911.
Cluck, Gary D., 443-38-3943.
Coakley, Arthur M., 144-26-9391.
Coates, David R., 236-56-1259.
Cobb, Moses E., 421-42-4653.
Cobleigh, Peter F., 031-28-9438.
Cochran, Lester D., 462-52-0361.
Cohen, Morton S., 524-42-1715.
Coleman, Herbert G., 454-50-6508.
Coleman, James M., 039-22-9273.
Collie, Jason T., Jr., 244-58-1110.
Collins, Edward D., 425-68-3460.
Collins, Jake M., 003-26-7677.
Compton, John, Jr., 433-46-8300.
Conroy, Richard D., 028-26-8954.
Cook, Alan W., 016-32-4417.
Cook, Joseph W., 504-36-9437.
Cooksey, Ward M., 453-48-8475.
Cooley, Robert H., 231-50-9935.
Cooper, Donald A., 393-30-5200.
Cooper, Douglas H., 526-44-5424.
Cooper, Elbert M., Jr., 410-56-5310.
Costello, John P., 108-26-1543.
Counts, Walter D., 455-56-1794.
Covington, Sidney H., 250-62-8767.
Cowgill, James P., 439-48-6636.
Cox, Harold W., 257-46-0291.
Cox, Kenneth M., 175-26-7184.
Cox, Wallace G., 427-60-6655.
Craig, Frank M., 187-32-3688.
Cramer, Ned A., 312-32-1670.
Craven, Richard B., 484-48-4987.
Crawford, Barry A., 247-32-6608.
Crawford, Carroll E., 525-74-8819.
Creighton, William, 021-28-4465.
Criscoe, James B., 458-38-6147.
Crissey, Charles C., 146-26-0414.
Crockett, James H., 425-56-2061.
Cronin, James F., 036-24-9696.
Crossley, Curtis E., 352-26-8191.
Crossman, David C., 467-38-6974.
Crossmier, David A., 272-30-2136.
Cuellar, Ruben D., 454-44-5347.
Cunha, Herbert J., 014-30-0497.
Cunningham, Darrel, 431-62-5014.
Cupit, Daniel W., 436-56-0852.
Curl, Robert L., 422-42-8358.
Curtis, Thomas P., 004-40-9573.
Dachniwskyj, Myron, 349-26-4825.
Dalton, Glen K., 184-26-2193.
Daly, Hugh P., 090-26-7282.
Daly, John P., 064-26-7839.
Dandar, Edward F., Jr., 169-32-4034.
Daniels, Robert M., 435-52-4625.
Danziger, Samuel R., 279-32-3974.
Darden, Norman D., Jr., 416-48-2759.
Dasher, Marcus, Jr., 252-60-7492.
Daugherty, Kenneth, 196-30-0729.
Davenport, William, 511-30-2357.
Davidson, John M., 558-50-4350.
Davis, Arthur G., 428-64-7313.
Davis, Jack L., 216-32-6060.
Davis, Jimmy R., 444-40-7144.
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Nauman, Robert R., 448–26–5264.
Neely, Gerald A., 488–38–4522.
Neely, Harry L., Jr., 239–50–2896.
Negri, Fredrick L., 571–44–0949.
Neilan, Harold J., 149–24–1029.
Nelsen, Burnell E., 478–44–1933.
Nelson, Carl W., 105–28–7598.
Nelson, George J., 032–28–4980.
Newcomb, Richard R., 528–46–1459.
Newman, Jonathan M., 099–32–6394.
Newsome, Ronald P., 498–32–8786.
Nichols, Chester E., 001–28–2598.
Nicks, Daniel W., 414–54–7065.
Nolan, Charles V., 043–34–1982.
Norbeck, Frederick, 007–36–6731.
Nordberg, John A., 164–30–4133.
Norman, James G., 256–54–5447.

Norris, Troy P., 407–40–9885.
North, William L., 579–46–2703.
Norwood, Hubert R., 521–34–1508.
Nowlin, Angelo M., 413–52–8564.
Oakeley, William A., 525–82–8732.
Oakley, William E., 266–60–1176.
O'Brien, William E., 138–28–6277.
O'Connell, Robert J., 032–28–6359.
O'Connor, William J., 023–30–3670.
Odle, Richard F., Jr., 411–64–1791.
Ogg, Don M., 454–60–3895.
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Orlando, Maurice J., 035–20–7192.
Orlicki, George A., 102–30–2249.
Ozaniak, Stephen P., 024–24–2227.
Padden, Donald J., 178–28–3749.
Page, John H., 253–54–1885.
Palmer, Arthur D., Jr., 115–30–5119.
Palmer, William D., 417–46–5011.
Palmer, William L., 241–56–8228.
Paquette, Edmond A., 032–30–4005.
Park, Gerald W., 121–24–2747.
Parker, Carroll G., 434–42–0298.
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Parks, James T., 229–46–3179.
Parrish, Daniel D., 230–44–3592.
Pasco, Richard E., 553–44–9706.
Patrick, Thomas M., 248–68–8834.
Patrick, William L., 578–46–4052.
Patterson, James L., 514–32–9788.
Patterson, John S., 255–58–5492.
Pav, Peter A.. 352–30–0549.
Pazlar, John M., 540–38–5860.
Peckham, Delano W., III, 048–26–0391.
Peeples, Rex R., 453–52–8425.
Perez, Edward G., 294–36–0897.
Perez, Roberto D., 463–50–6111.
Perry, John S., 207–28–3635.
Perugini, Donald C., 046–28–2857.
Peterson, David M., 475–30–0057.
Peterson, Harlan R., 477–40–0657.
Peterson, John W., 469–36–4589.
Petter, Philip A., 186–26–4092.
Petters, Clement E., 262–60–6620.
Phillips, John J., II, 268–34–4256.
Phillips, Robert F., 230–44–9004.
Pickett, Billy R., 498–34–4953.
Pierpan, Henry J., 022–28–6414.
Piram, Joseph A., 509–38–1719.
Pittman, Elbert M., 237–36–0473.
Pitts, Joseph L., 251–52–0009.
Platt, George S., 180–26–3155.
Pokorny, Jaroslav A., 115–26–6746.
Polk, Jack D., 354–28–6062.
Ponce-Santiago, I., 582–50–2901.
Pool, David W., 092–30–5521.
Poston, Jerry L., 443–34–8616.
Powell, Leonard E., 508–46–5168.
Powell, R. C., 422–30–1292.
Powers, Lucius L., 422–36–3051.
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Powers, aPtrick L., 488–40–6132.
Pratt, Cleveland F., 131–28–5742.
Prawitt, George F., 529–44–8956.
Pressley, Harry L., 261–46–3413.
Pressley, Harvey L., 245–74–8994.
Pridgen, Henry A., 260–48–4031.
Prince, Carroll O., 443–32–7676.
Prisutti, Mathew J., 145–30–0669.
Pugh, Joel N., 422–52–1637.
Quandt, Gerald P., 224–50–7070.
Queen, Charles E., 430–74–0751.
Quinones, Justo M., 580–80–3950.
Radomski, Richard A., 166–32–7198.
Ragusa, John T., 434–46–1279.
Raiford, Thomas C., 254–58–6044.
Rawlings, James R., 402–54–3444.
Ready, Peggy E., 428–66–0639.
Ream, David W., 561–46–2531.
Reams, James D., 412–52–1941.
Redin, Herman S., 573–38–3996.
Reed, David R., 002–26–4517.
Reed, Harold E., 257–52–1152.
Reeves, Jack R., 289–30–1175.
Rehard, Dale F., 288–28–9506.
Remen, Donald J., 518–44–3310.
Renner, David A., 081–30–6571.
Rentschler, George, 269–34–5630.
Repar, Frank, Jr., 270–28–1924.
Rewerts, David G., 343–28–9043.
Rexroat, Robert D., 328–20–0989.
Reynolds, Clyde J., 543–36–0258.
Richards, Billy G., 462–52–9504.
Richards, Charles W., 456–54–5280.
Richardson, Robert, 265–56–4786.
Richeson, Jay F., 554–40–9786.
Riddel, William J., 227–48–9164.
Rider, Charles R., 446–28–6930.
Rider, John W., 406–42–5801.
Riker, Ralph A., 340–26–2589.
Ring, Richard R., 546–46–6286.
Ritchie, James E., 444–34–3486.
Robbins, Rolland L., 505–34–5709.
Roberts, Donald R., 287–30–2385.
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Robinson, Donald D., 274–34–9657.
Robinson, Gordon W., 142–28–9910.
Rodriguez, Jose A., 580–62–8555.
Roe, Farrell P., 414–42–0877.
Rollins, Theodore E., 023–30–4194.
Romiti, Jay G., 564–52–6819.
Ronan, William J., 015–24–0080.
Roosma, Garret G., 062–30–0027.
Rose, Patrick J., 196–32–4712.
Rosenthal, Dennis E., 526–56–3855.
Rosenthal, Herbert, 572–44–3042.
Roth, Michael J., 092–30–8828.
Rothbart, Sheldon L., 157–28–0542.
Rotty, John J., 476–40–0943.
Rougeau, Edward W., 023–20–1275.
Rowland, Donald J., 125–28–1848.
Roy, Joseph A., 022–26–8513.
Rubin, Donald V., 084–30–2114.
Ruby, Robert P., 570–42–0125.
Rummel, John T., 553–42–2074.
Rushing, Paul D., 452–54–0600.
Russell, Carl P., Jr., 220–36–4720.
Russell, James L., 410–60–8549.
Rutledge, Leslie E., 453–50–1458.
Ryan, Glenn F., 428–68–8996.
Sabatini, John J., 005–34–4088.
Sakmar, Andrew, 187–20–3422.
Salazar, Ramiro E., 460–48–2076.
Salerno, Raymond F., 209–26–8433.
Salerno, Robert A., 017–28–5752.
Salter, Edward A., 161–32–4054.
Sample, Herbert C., 566–48–3369.
Sanders, Louis F., 212–40–6318.
Sands, Albert B., 269–32–7653.
Santos, Earl P., 437–52–6985.
Sargis, Robert S., 044–28–4428.
Saul, David W., 204–28–6658.
Sauve, John M., 348–30–2272.
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Scabia, John R., 017-28–1503.
Scargall, Donald L., 525–64–6144.
Schifrin, Joseph A., 055–20–7239.
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Schrader, Johnie R., 431–54–2977.
Schreiber, William, 137–28–2418.
Schumpert, G. H., Jr., 441–40–0586.
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Scipione, Frank J., 207–24–2353.
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Searcy, Douglas P., 404–50–8973.
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Seiber, Elvert H., 455–58–2431.
Seitz, William E., 477–38–0296.
Sergeson, James H., 382–34–3357.
Shade, Ellsworth A., 178–28–7372.
Shaffer, Miles J., 188–22–0915.
Shaw, Donald L., 245–52–1966.
Shaw, Walter B., 420–40–1213.
Sheffer, William B., 551–38–1263.
Shepherd, Jimmy H., 432–72–7022.
Shepherd, Willie E., 463–46–6964.
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Shorey, Raymond E., 006–26–5046.
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Shumski, Anthony J., 008–20–3114.
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Siegel, Martin, 051–30–9295.
Sievers, Donald R., 488–42–1949.
Silcox, James R., 411–50–0409.
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Skaggs, David C., Jr., 511–32–9004.
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Spence, John H., 557–48–5814.
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Spurway, David T., 376–44–4042.
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Stokes, Richard L., 478–28–3948.
Stone, Tim F., 397–38–4152.
Stout, Bobby J., 525–56–3945.
St Peter, Paul W., 008–18–3543.
Stradling, Joseph W., 215–38–1447.
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Stringer, Joseph A., 407–52–9032.
Stump, Roger K., 236–58–4169.
Sturek, Walter B., 447–36–0838.
Stuteville, C. E., 445–34–7689.
Subkow, Jerome J., 211–34–5489.
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Sullivan, James J., 562–48–4868.
Sullivan, Peter M., 020–30–9777.
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Sutton, Richard A., 307–38–4544.
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Swanson, Malcolm J., 531–34–6868.
Sweetland, William, 416–38–6677.
Swinton, Raymond M., 477–36–9180.
Talley, Henry M., 448–30–9884.
Tanner, Dennis S., 528–44–4630.
Tauber, Ernest J., 135–24–6793.
Taylor, Arnold H., 003–20–4090.

Taylor, Donald G., 410–58–2686.
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Taylor, James S., 515–28–6695.
Taylor, James T., 295–32–9977.
Taylor, Washington, 422–28–7374.
Tays, Tommy D., 525–62–1179.
Teague, Gene A., 462–44–7272.
Tellier, Gary J., 377–42–3784.
Theisen, Robert C., 099–28–5822.
Thieman, Michael R., 311–42–3836.
Thigpen, Edward L., 246–42–5814.
Thomas, Jack H., 185–24–7243.
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Thompson, Charles H., 415–64–4441.
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Thompson, James K., 200–30–4574.
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Thompson, William R., 418–54–7259.
Thornton, Herman B., 255–54–7436.
Thurston, John C., 141–30–0580.
Tigges, Kenneth D., 483–38–9379.
Tkaczyk, Bernard R., 325–22–8514.
Todd, Ernest V., 255–54–9247.
Tompkin, Arthur C., 291–32–2329.
Topougis, N. J., 268–30–9110.
Towns, Robert F., 260–54–6299.
Tracy, Gerald M., 113–24–6952.
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Trambley, John T., 188–24–3374.
Treadwell, Elwood F., 107–26–6195.
Trefrey, James T. Jr., 023–26–7019.
Trenkelbach, Gary K., 466–54–3231.
Treutle, Jack R., 236–54–8819.
Trickler, Roger D., 276–32–8506.
Trigg, Thomas R., 230–40–8826.
Tronoski, Donald B., 176–28–8965.
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Tuck, Bobby L., 229–44–5239.
Tudor, Donald M., 431–56–1175.
Tuel, Charles J., 234–48–3024.
Turner, Raymond L., 258–68–6637.
Tyler, Paul W., 436–58–7531.
Uhl, Chell B., 473–34–4862.
Ukishima, Ralph Y., 576–36–6973.
Umbarger, Earl L., 570–52–5976.
Underwood, Billy R., 259–42–0065.
Uttley, Harold A., Jr., 026–26–0377.
Vachon, Reginald I., 229–44–1891.
Valente, Richard J., 039–24–7918.
Valentine, Ottis P., 405–36–7128.
Vanbibber, Carl V., 421–46–9726.
Vanbrunt, Harry D., 112–30–5788.
Vandemark, Luke D., 173–32–3182.
Vanore, Andrew A., 142–32–4279.
Vansant, Keith F., 146–28–6913.
Vanvalkenburg, Robe, 443–32–8303.
Varnell, Charles R., 439–44–7336.
Vasquez, Leopoldo M., 525–54–0643.
Vaul, George D., 294–28–7106.
Velez-Rodriguez, Ani, 580–56–3115.
Vennes, Dale D., 472–38–5291.
Venti, George W., 033–24–0802.
Ventura, Vincent J., 056–30–2992.
Verry, Horace D., 001–22–4957.
Villeret, L. W., 426–62–3642.
Visovatti, Frank J., 472–44–0406.
Voll, Albert C., 554–46–6965.
Waddell, Edwin E., 429–52–5512.
Wakahiro, William F., 576–34–6296.
Waldburger, Robert, 131–24–4945.
Waldman, Richard J., 120–24–1412.
Waldner, Donald J., 406–42–0365.
Walker, James D., 514–24–9985.
Wallace, James J., Jr., 267–56–3197.
Wallace, Williamson, 246–54–9988.
Wallis, John D., 415–54–1731.
Walters, Bobby R., 459–60–1272.
Walters, Gilbert C., 045–22–3363.
Waltman, Larry F., 286–30–5773.
Warner, Thomas E., 502–40–2935.
Warren, Robert G., 438–54–0272.
Washington, Bobbie, 556–44–2607.
Wasko, William E., 087–26–2536.
Waterland, Alfred F., 202–18–2378.
Waters, Vaughan K., 431–76–1320.
Watson, George B., 231–36–6369.
Watson, John H., 488–40–4004.
Watson, Roger L., 464–42–9665.
Weber, Raymond P., 401–50–2667.
Weber, Stanley F., 286–32–2564.
Wecas, Ronald N., 210–26–3358.
Weed, Ross O., 248–52–4064.
Weeks, Cager B., 428–52–5001.
Weeks, Charles E., 003–24–3444.
Weir, John M., 046–28–2289.
Weiser, Charles A., 316–30–9851.
Wendler, Dale L., 348–30–1481.
Wentzel, Ronald E., 184–28–6818.
Werner, Kenneth R., 492–40–0114.
Wessner, William E., 256–62–9181.
Wheat, Doyle F., 437–48–6103.
White, Charles B., 410–56–6051.
White, Christopher, 007–36–8101.
White, Marion J., 411–54–5712.
White, Norman J., 034–22–5665.
White, William R. C., Jr., 060–34–7789.
Whitfield, George R., 411–62–1826.
Wickard, Ronald E., 177–24–5924.
Wiethop, Russell H., 507–42–5529.
Wikle, John J., 291–28–8866.
Wiley, John D., 253–58–6861.
Wilhoite, Arthur L., 408–54–9610.
Wilkinson, Thomas C., 183–28–3556.
Williamon, Charles, 253–64–8502.
Williams, Cody D., 525–66–2383.
Williams, Earl, 262–56–4919.
Williams, Herbert, 253–52–1062.
Williams, James R., 417–48–4190.
Williams, Jere H., 225–46–4662.
Williams, Richard J., 417–42–7249.
Wilson, Carl A., Jr., 218–40–6268.
Wilson, Ernest K., 576–34–8689.
Wims, Paul W., 249–54–5158.
Wingate, Lucius R., 250–60–6317.
Wise, Bobby W., 419–44–2588.
Wiseman, Edgar E., 460–62–1721.
Withrow, James J., 350–26–3468.
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Wojdyla, John T., 098–28–8472.
Wolfe, Frank A., 186–32–7011.
Wolfe, George D., 210–26–3765.
Wolfman, Myles M., 111–30–8784.
Wood, Guy E., 291–32–1917.
Woods, Howard J., 179–24–3137.
Word, Nelson E., 410–36–2361.
Worley, Henry W., 417–46–7449.
Worsham, Harrison E., 453–54–4463.
Wright, Merlyn G., 542–46–2351.
Yaeger, William J., 516–44–9195.
Yates, Max L., 423–42–1115.
Yost, Vaughn H., 507–40–4291.
Young, Robert, 158–26–9985.
Yurchuck, Alan R., 152–30–8087.
Zarybnicky, Gary L., 511–40–9124.
Zawol, Charles A., 193–30–4848.
Zeller, Nathan, 061–24–0706.
Ziegler, Walter C., 410–64–8889.
Zimmerman, Joseph A., 538–32–3534.

CHAPLAIN

To be lieutenant colonel

Aiken, Charles D., Jr., 227–46–1413.
Andrist, Richard L., 524–42–8828.
Arvay, Alfred S., 146–28–7580.
Banks, John S., 245–38–3547.
Barber, Charles D., 461–48–6123.
Barker, Robert E., 563–40–0635.
Belton, Robert T., 254–40–5870.
Bishop, James E., 461–34–2827.
Boegl, Sigmund W., 307–32–9498.
Borch, William L., 135–26–9412.
Brinkmann, Herman J., 205–20–6644.
Britcher, John C., 186–26–6856.
Brosmer, Donald L., 309–34–3846.
Brown, Donald R., 326–26–6605.
Brummitt, Malcolm J., 024–26–4629.
Bruton, James D., 319–30–7488.
Burge, Charles D., 221–18–9561.
Bynum, Ronald H., 412–50–3901.
Carlson, Bryn A., 392–34–8655.
Carpenter, Jack S., 317–30–0541.
Cavin, David S., 264–44–7790.
Christensen, Aldrid, 528–42–5375.
Christensen, Donald, 506–26–7312.
Cleveland, H. B., 470–30–2940.
Cone, Donald L., 466–48–5515.
Curcio, Ralph V., 108–24–8840.
Dornquast, Norman E., 474–34–8775.
Drake, Philip A., 549–44–4324.
Dulany, Joseph P., 445–32–4242.
Easley, Henry N., 426–54–0458.
Egan, Eugene E., 472–34–6113.
Elgin, George O., 207–26–7708.
Estes, Robert B., 563–46–7549.
Forrester, Jester S., 263–42–4407.
Gasquet, Mark C., 439–40–5506.
Giles, David A., 474–30–0790.
Gilly, Kenneth J., 427–52–7159.
Gooden, Defarris, 450–56–8249.
Hallsten, Edwin A., Jr., 544–28–1101.
Hanashiro, Stephen, 575–32–4796.
Harding, Charles F., 492–34–6811.
Harris, William C., 256–50–3989.
Hawley, Wendell C., 531–26–1854.
Hill, Rollin C., 161–26–6499.
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Hunt, Ramon E., 316–28–1716.
Hutchins, George B., 242–44–2369.
Ingram, Billy D., 467–40–9569.
Jenquin, Kirby G., 390–28–2106.
Jeremiah, Roy L., 531–36–1255.
Jones, Dean H., 249–48–0958.
Kennedy, David C., 261–54–5184.
King, Carl S., 266–44–6632.
Kresken, Albert S., 395–30–8693.
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Lair, Robert E., Jr., 451–60–2083.
Lamere, Joseph A., 313–30–5717.
Laney, Andrew M., 232–58–7918.
Leisle, Charles E., 392–28–3099.
Leonard, Paul E., 178–26–6029.
Lesko, Edward A., 382–22–7556.
Levell, Dorsey E., 498–32–0407.
Lewis, Cecil D., 293–22–5569.
Lombardi, Felix J., 539–54–2518.
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Massey, Malcolm R., 425–50–7098.
McConnell, Donald R., 412–48–5327.
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Miller, Charles R., 278–34–7070.
Mitchell, Philip H., 015–22–5504.
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Moyer, Jack D., 178–26–9747.
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Ortiz, Michael G., 309–24–8196.
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Price, John W., 459–60–5268.
Rawlings, Lewis T., 491–36–3129.
Reinbacher, Otto A., 340–30–6577.
Riches, Jon M., 299–30–2231.
Riley, Robert W., 256–40–5542.
Rimmele, Leo R., 556–32–3456.
Roberts, James W., 241–48–4376.
Schlater, Richard A., 398–24–8242.
Seaborn, Duane R., 012–26–3977.
Sitler, John E., 226–40–8359.
Smith, Douglas T., 460–90–0145.
Smith, Otis A., 428–62–4149.
Spry, Randolph G., 223–44–5634.
Stamps, Connie S., 497–24–8902.
Tierney, Warren L., 565–22–7431.
Turner, Herbert M., 141–24–4378.
Turney, Franklin D., 419–46–6200.
Vanmeter, William D., 234–48–6792.
Vickery, Robert L., 238–42–5837.
Voelker, Charles E., 539–22-6282.
Walker, Barry M., 211–30–9522.
Walker, Jack W., 432–54–2446.
Wallace, Joel K., 546–42–3737
Watson, Lloyd T., 457–36–2414.
White, David A., 430–52–7909.
White, John B., 465–36–4725.
Wietfeldt, Fred E., 060–28–0131.
Wilson, Gale E., 525–62–8658.
Wolfe, Charles E., 387–26–4939.
Worley, Joe D., 450–62–6745.
Yunk, Michael J., 123–26–1622.
Zagar, John T., 440–30–5225.
Zimbelman, Marvin L., 514–32–7177.

ARMY NURSE CORPS

To be lieuentant colonel

Albaugh, Beverly A., 159–30–5079.
Balmforth, Patricia, 567–32–9149.

Baszynski, Alice J., 065-20-7791.
Blidberg, Madeline, 003-28-2481.
Bowers, June F., 246-58-8589.
Brown, Gussie M., 266-46-9225.
Capper, Wallen J., 396-24-2173.
Cashman, Mildred J., 113-24-6609.
Czarnecki, Agnes F., 190-22-1701.
Datema, Alice, 491-42-6195.
Davis, Billie C., 433-46-3827.
Eckels, Ann D., 400-40-1420.
Evans. Mary L., 447-22-6507.
Fattal, Suzette, 561-64-8529.
Ferreira, Naomi J., 533-38-1033.
Forrester, James A., 417-38-0614.
Fortson, Shirley E., 021-26-8606.
Galey, Joan L., 194-32-2256.
Garland, Rose M., 415-56-8161.
Gonzalez, Jose M., 085-24-3142.
Hammond, Cecile E., 484-46-4690.
Hinson, Norwood, 238-58-6019.
Kashefski, Joseph M., 196-22-4834.
Labrie, Donald T., 504-44-1823.
Lebeau, Charles J., 094-20-9835.
Mary, Margarete E., 070-36-2660.
Maybrier, Bobbie A., 287-30-1902.
Metcalfe, Martha E., 527-50-1426.
Motyka, Joseph F., 022-28-8640.
Nowaczyk, Barbara E., 112-30-3217.
Paparella, Julia B., 011-22-5974.
Pecukonis, Edward R., 202-28-6196.
Robb, James L., 171-26-1656.
Robbins, Dolly M., 259-44-8566.
Rosario-Gibson, C., 125-26-6893.
Rowser, Essie L., 416-54-4737.
Salehyar, Terese, 345-28-2573.
Schneider, Eileen M., 506-42-3880.
Shields, Pinkie L., 256-54-2229.
Spears, Lola G., 397-24-4448.
Sterley, Marguerite, 515-26-6610.
Thesing, William H., 514-32-5073.
Wagus, Fay E., 101-28-2166.
Ward, Shirley L., 569-40-5744.
Welton, Nellie L., 237-48-3347.
Yaryan, Barbara, 307-32-4955.
Zolezzi, Rose M., 308-36-1985.

DENTAL CORPS

To be lieutenant colonel

Allen, Theodore B., 258-54-2830.
Alton, Arthur E., Jr., 450-44-5491.
Ashley, Charles M., 394-44-5784.
Boriskin, Henry L.. 017-30-2694.
Branden, James F., 509-36-1323.
Burns, Robert C., 500-42-6664.
Burton, Stephen M., 528-42-3469.
Butler, Bruce B., 121-26-7158.
Cruise, Sidney E., 403-48-9644.
Dedeaux, Paul J., 427-72-8639.
Gaston, Gerald W., 290-24-8955.
Hardy, John B., 244-50-3136.
Herren, Wallace B., 513-24-7704.
Jensen, Lon J., 479-34-5361.
Johnston, David G., 509-26-3061.
Jordan, Charles H., 424-38-1549.
Katz, Robert A., 027-28-4571.
Laracuent, Jose M., 581-66-7283.
Lyons, John F., 015-28-3968.
Malcharek, Gerhard, 349-28-4340.
Mastrocola, Ralph, 103-24-8473.
Matthews, Thomas G., 434-40-0342.
McGregor, Arthur J., 468-34-5741.
McNutt, George W., Jr., 515-32-0442.
Mills, Rudolph W., 252-44-3832.
Morford, Herbert T., 411-48-7978.
Mowrey, Stevan S., 482-34-3775.
Myers, Dewey F., 425-78-0699.
Nardini, Michael J., 056-34-9518.
Navarro, Richard A., 524-44-3088.
Nawotka, Edward E., 369-40-0375.
Neal, Weldon T., 260-44-7886.
Negus, Charles F., 057-28-5220.
Ohlsen, Kermit H., 504-32-6210.
Shubert, Burl C., 317-38-5492.
Silva, John, 032-24-7188.
Smith, Joseph A., Jr., 333-30-4522.
Sniffen, Richard A., 097-28-7861.
Testo, Ernest J., 203-36-0196.
Voge, William W., 484-40-8887.
Walker, Donald H., 009-18-1475.
Wiley, Wayne R., 284-34-3929.

MEDICAL CORPS

To be lieutenant colonel

Breland, Albert E., 428-84-0671.
Burroughs, Franklin, 244-40-7035.
Calvert, William E., 428-76-5359.
Chaffee, Barbar, 102-22-6932.
Cubano, Miguel A., 582-94-7228.
Currie, John M., 446-32-2545.
Fielding, Leonard T., 468-36-6200.
Hunter, Samuel B., 266-64-4833.
Lambeth, James T., 535-32-0858.
Lohier, Raymond, 051-52-7553.
McMullen, Paul E., 301-30-5995.
Mongaya, Romed B., 278-44-9830.
Mullins, Gordon M., 215-60-6092.
Munoz. Agustin, 580-70-4940.
Nerette, Jean C., 583-52-2065.
Nosce, Luis V., 059-42-3078.
Nottebart, Harry C., 226-50-0996.
Pagan, Richard, 582-44-8884.
Person, Donald A., 502-34-5292.
Reynolds, Freddie A., 440-38-5198.
Santa, Ulpiano, 581-52-7562.
Sethi, Gulshan K., 045-42-3795.
Sever, Joseph G., 301-32-7386.
Spector, Sheldon L., 381-36-0761.
Stansell, William, 377-30-9050.
Templer, Jerry W., 455-56-1659.
Thomas, Harry R., 321-50-6191.
Tipton, Ancel C., Jr., 428-56-4953.
Urizar, Rodrigo 1
Villalbaroman, J., 581-84-5606.
Wicks, John C., 411-54-4597.
Yordan, Raul A., 580-80-5748.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Allison, Howard E., 481-40-1807.
Anderson, Robert E., 391-28-2498.
Arakaki, Stanley S., 575-32-3020.
Atkins, Allen R., 239-56-8048.
Banks, Robert, 428-52-5994.
Becker, Gerald H., 468-32-6411.
Bell, Sterling W., 196-28-2572.
Bennett, James W., 455-52-1577.
Bertinetti, Joseph F., 525-98-6775.
Biffer, Dean R., 548-40-1809.
Bradican, Paul F., 205-30-1557.
Brettschneider, M., 488-42-9079.
Brown, Edgar H., 422-44-3953.
Conerly, James M., 439-66-3006.
Conroy, Joseph P., 004-30-8407.
Dalton, John R., 316-42-4958.
Daniel, Noah D., 415-62-0240.
Davis, George R., 171-24-6514.
Day, David B., 564-46-5885.
Deleo, Robert D., 522-44-0170.
Duggins, Samuel G., 406-34-0308.
Dutton, Clyde W., 424-46-1552.
Dyckson, Andrew F., 076-24-7269.
Felice, S. R., 275-30-0428.
Ferazani, Lawrence, 030-26-5576.
Figge, Robert F., 390-30-1794.
Freeman, Verlon D., 465-40-6818.
Galofaro, Lawrence, 386-32-6234.
Gambee, Robert L., 528-24-8874.
Garvin, David W., 246-58-8022.
Georgalan, C. P., 394-34-2432.
Gmelin, Robert T., 109-26-3217.
Hampton, Ronald D., 529-40-2386.
Hawkins, James J., 432-72-1077.
Hill, Jesse L., 406-24-6268.
Hosley, Morrison J., 070-30-4805.
Hougland, Arthur E., 484-32-4165.
Huber, Don M., 519-38-7787.
Hurtado, Percy G., 522-50-5037.
Kolbe, Karl O., 090-26-2076.
Komornik, Francis J., 059-30-1255.
Kowalski, Larry M., 249-62-2911.
Kutscha, Norman P., 152-28-8843.
Lamb, Robert F., 235-44-1252.
Langhus, Mons A., 393-32-0863.
Letsinger, Joe E., 522-46-9756.
Lipscomb, Dolores, 210-30-3059.
Marrella, Leonard E., 176-26-2576.
Martin, John A., 390-32-0519.
Martin, Leo J., 396-30-1893.
McGhee, Flin C., 452-50-3026.
McGill, Ralph S., 511-30-6103.
McNew, Walter H., 455-48-8398.
Merritt, William H., 427-54-8357.
Montagno, Walter J., 265-56-6236.
Moore, Joseph A., 414-42-3797.
Mortensen, Eugene P., 140-32-1106.
Nelson, Gary E., 534-36-2566.
Neu, Robert P., 064-28-6522.
Oakley, William E., 241-32-2602.
O'Brien, Donald E., 017-30-6508.
Oettinger, J. A., 391-36-2635.
Olson, Alfred E., 393-32-7774.
Owen, Donald E., 369-28-0538.
Penso, David, 065-24-7932.
Pickett, James E., 451-54-2084.
Pitts, Gerald Y., 248-64-0713.
Platt, Ariel E., 045-30-6911.
Pynenberg, D. H., 393-36-0741.
Rhodaback, George, 543-38-8296.
Roberts, Grady H., Jr., 166-32—5727.
Robinson, Joseph W., 170-30-7045.
Rosenkranz, T. F., 391-40-8987.
Rubino, David R., 022-26-0402.
Selman, Steven E., 031-28-4370.
Skidmore, Joe T., 429-54-8367.
Smith, Robert G., 464-66-7865.
Snyder, Harvey W. II, 220-32-4038.
Stenger, James J., 520-38-3308.
Stewart, Willie C., 452-50-9727.
Thill, Fred A., 562-34-9082.
Thompson, Edward A., 431-62-1177.
Tollison, George K., 430-54-4941.
Trousdale, John D., 571-44-3909.
Vanaken, John C., 175-32-3350.
Vanormer, David G., 191-26-1750.
Walker, Elvoid, Jr., 449-54-9297.
Washburn, Paul L., 555-50-8975.
Wheeler, Gerald E., 517-32-5031.
White, J. F., Jr., 439-48-3917.
Whitehead, P. A., 226-30-2902.
Williams, Robert L., 413-54-6299.
Zullo, Peter F., 119-32-0641.

ARMY MEDICAL SERVICE CORPS

To be lieutenant colonel

Ashley, Robert L., 505-38-0598.
Bridges, William E., 484-22-9579.
Elliott, Nancy A., 366-44-6394.
Estep, Barbara V., 261-52-6862.
Hanses, Judith R., 500-38-4819.
Santos, Cecilia V., 346-34-3292.
Seely, Barney I., 462-46-5064.
Zimmer, David H., 483-34-4429.

VETERINARY CORPS

To be lieutenant colonel

Kohlmeier, Ronald H., 505-48-2534.
Manus, Allan G., 296-30-5392.
Maul, Lawrance P., 526-48-3513.
Wronke, Kenneth L., 323-26-5643.
Zemo, Edwin L., 198-30-0229.

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10. U.S.C., sections 591, 593 and 594:

MEDICAL CORPS

To be colonel

Chamlian, Dikran L., 158-32-6380.
Hosford, Henry, 525-28-8020.
Murphy, Paul J., 019-26-8266.

DENTAL CORPS

To be lieutenant colonel

Baden, Ernest, 553-40-2984.
Balsiger, Verlin W., Jr., 504-30-4507.
Battle, Joseph J., 080-24-7248.
Divita, Carl L., 098-34-1894.
Funaro, Vincent M., 089-30-0258.
Hollis, John M., 128-22-9908.
Massaro, Joseph J., 102-26-1126.
Newton, Arthur L., 134-28-7283.
Stringer, John L., 439-62-0602.

MEDICAL CORPS

To be lieutenant colonel

Ayerdi, Evalt, 302-50-5320.
Barofsky. Gerald, 379-14-3172.
Brooks, Clifton R.. Sr., 235-48-0864.
Bursian, Tirso C., 081-34-5706.
Davis, Geoffrey V., 265-68-8932.
Dillard, Charles O., 281-30-0297.
Farr, James E., 249-62-5376.

Feinman, Lawrence, 077-30-2723.
Gilbert, Ortiz, 107-22-4278.
Glass, Richard S., 219-36-9388.
Gropper, Arthur L., 098-12-6503.
Gross, Martin E., 553-54-3293.
Hartman, John B., 235-52-0411.
Jain, Kewal K., 538-72-2115.
Kade, Harold, 329-18-2447.
Katz, Norman, 071-30-2663.
Kelly, Francis J., 203-26-2175.
Kelly, James L., 542-44-6060.
Kleck, Henry, 467-40-3424.
Kroll, George V., 150-18-6806.
McCarthy, Thomas M., 284-28-0338.
McManus, John T., 398-28-0678.
Merrill, Richard H., 013-30-5537.
Mohamed, James A., 549-66-2472.
Noth, Robert H., 575-44-6679.
O'Byrne, Stuart, 360-34-5906.
Peluso, Joseph A., 072-22-9903.
Pfeffer, Robert I., 062-12-6208.
Pierce, Irving H., 542-38-5807.
Ralph, James W., 441-34-6050.
Rapicavoli, Emanuele, 485-50-9423.
Russo, Charles P., 366-26-2334.
Schmidt, Ruth B., 563-48-1217.
Seaman, Richard W., 534-36-8456.
Seglie, Floyd R., 510-44-2598.
Sison, Ramon C., 579-52-0519.
Strickland, Alva L., 250-56-7529.
Tieszen, Ralph L., 330-26-2311.
Wiener, Stanley L., 184-24-8389.
Young, Anthony J., 218-28-5583.
Zusman, Jack, 113-26-4655.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Guinn, Joe L., 467-48-8928.

VETERINARY CORPS

To be lieutenant colonel

Nelson, Willard G., 516-38-4392.

The following-named officers for appointment in the Army of the United States, under the provisions of title 10, U.S.C., section 3494:

MEDICAL CORPS

To be lieutenant colonel

Joslyn, Irwin E., 542-30-0323.
Ruiz, Carlos M., 275-36-6565.

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Best, Louis E., 524-32-4519.
Birkeness, Wayne A., 394-24-6993.
Blevins, Robert L., 472-24-2493.
Brown, Lytle III, 411-38-4911.
Burnett, Jack A., 410-44-6933.
Cieslik, Charles R., 199-22-6249.
Coleman, James M., 425-34-2809.
Dines, Gerald A., 534-32-4473.
Eagerton, Charles W., 423-26-7712.
Fleming, David R., 407-40-3291.
Hardy, Donald C., 405-32-3268.
Hartline, James G., 416-20-6073.
Henderson, Garland L., 405-38-3745.
Henderson, Leo M., 407-36-9885.
Knowles, Charles A., 419-36-5363.
Lett, Thomas E., Jr., 404-26-2450.
Loy, Harold O., 401-38-5066.
Matthews, Bobby L., 250-40-0143.
Maverick, Joseph L., 449-54-2681.
Miller, Levy C., 253-24-7702.
Pickett, Tolly P., 422-28-6218.
Stevens, David L., 336-22-6699.
Summers, Donald L., 541-24-7844.
Thomas, David J., 445-34-7256.
Thompson, Millard J., Jr., 542-20-6506.
Turner, Hammond C., 421-34-2843.
Warnock, Luther, Jr., 426-32-1788.
Young, Rex T., 529-52-4683.

CHAPLAIN

To be colonel

Holtan, Laverne H., 395-28-7550.

MEDICAL CORPS

To be colonel

Carlson, Rodney R., 479-40-5861.
Cline, David W., 389-34-3792.
Dunn, James R., Jr., 250-18-5379.
Nault, Burton A., 001-20-3381.
Reem, Richard C., 469-42-9917.

MEDICAL SERVICE CORPS

To be colonel

Faught, Jesse E., 515-32-9995.
Gore, Thomas P., 427-52-4329.

ARMY PROMOTION LIST

To be lieutenant colonel

Adams, James P., 221-26-9865.
Alexander, Frank N., Jr., 411-42-1443.
Beck, Richard J., 111-28-3915.
Beedle, Donald R., 345-24-5161.
Bielot, Richard J., 046-32-3122.
Blackburn, Wyler J., 528-44-3758.
Burgess, Howard J., 008-26-4818.
Casperson, Bruce R., 574-10-3359.
Chaisson, Joseph F., 459-54-7263.
Cloe, John H., 227-46-1920.
Downey, Michael L., 389-38-2396.
Empey, Joseph C., 528-54-3785.
Fopiano, Richard F., 021-24-5773.
Freeman, David F., 008-28-3756.
Hapner, Jon C., 274-32-1666.
Harbert, Jerrell D., 441-28-0761.
Haws, John K., 528-42-9857.
Higgins, Ross C., 529-54-6597.
Holden, James D., 231-54-2952.
Howard, John C., 445-40-6564.
Jackson, John, 527-44-5584.
Jenkins, John L., 499-30-7117.
Johns, Kent E., 383-26-8868.
Jones, Willie F., 251-50-1889.
Kennel, Ray, Jr., 190-30-6325.
Kerr, John H., 446-40-2907.
King, Floyd, 255-50-8436.
Lataille, Ralph H., 036-26-3981.
Lethco, Fred O., Jr., 498-42-6702.
Lowe, Max S., 529-40-2307.
Mayfield, Harry L., Jr., 532-36-6826.
Miller, Gerald H., 517-32-3781.
Mongolo, William T., 557-52-9519.
Perkins, David L., 468-36-9902.
Peters, Charles H., 492-40-2348.
Peters, Darryl D., 511-28-2811.
Pittman, Edwin L., 426-58-9762.
Preston, James O., 487-40-5324.
Rehard, Dale F., 288-28-9506.
Reynolds, Curwood F., 550-44-2376.
Robinson, David L., 515-32-9463.
Ruddell, Thomas A. III, 184-28-6639.
Sakmar, Andrew, 187-20-3422.
Sava, Charles C., 439-44-3274.
Shaw, William L., 539-32-4117.
Smout, Billy L., 518-40-5349.
Stewart, Glenn R., 204-26-7934.
Stodart, James B., Jr., 160-30-7775.
Suedekum, Clarence W., Jr., 499-38-7961.
Thompson, Walter L., 460-60-4206.
Walsh, John P., 106-26-2933.
Weintraub, Alvin, 199-28-9916.
Whipple, Gary J., 433-54-7116.
Willey, Keith E., 561-44-8724.
Wright, Allen D., 492-38-4458.
Wynne, Marion K., 413-52-7349.

DENTAL CORPS

To be lieutenant colonel

Haiser, Carl F., 348-24-9183.
Koppes, Paul A., 473-44-5780.

MEDICAL CORPS

To be lieutenant colonel

Balunek, Andrew D., 284-30-7583.
Celentano, John T., 568-24-7032.
Chollet, Hillary A., 436-26-1487.
Daneault, Fernand J., 026-20-1331.
Eisma, Jose A., 128-40-9122.
Garcia, Jose G., 458-68-1708.
Gillespie, Malcolm E., 471-30-8678.
Halliday, David J., 531-20-4787.
Motamed, Michael M., 084-24-8743.
Quinn, Thomas A., 162-32-9421.
Rivas, Manuel A., 143-44-0993.
Savage, William L., 446-24-6303.
Schroeder, Vernon R., 554-24-8165.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Dion, Jean L., 004-32-8196.
Dwarica, Leonard A., 128-32-3501.
Edelman, Ira S., 074-34-7196.
Hubbard, John W., 445-38-6293.
Kuhn, Herman J., Jr., 069-24-6284.
Melvin, Bruce R., 570-42-4536.
Stenger, James J., 520-38-3308.

HOUSE OF REPRESENTATIVES—*Wednesday, November 28, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
November 27, 1979.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Wednesday, November 28, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, we are reminded by the ringing of the bells of our churches, that some of our citizens are held hostage and do not know the freedom they deserve. We pray for them and their families that they will be comforted with the knowledge of Your presence and Your abiding care. May they also sense our unity and our concern that we express in our prayers, though we are separated by many miles. May we never underestimate the power of prayer or the blessings that radiate from our petitions, but may we, each day, earnestly seek Your favor for all who stand in need of Your special grace. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 216. Concurrent resolution directing the Secretary of the Senate to correct a typographical error in the enrollment of the bill S. 1157.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1157) entitled "An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes."

The message also announced that the Senate insists upon its amendment to the amendments of the House to the bill (S. 1871) entitled "An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. JOHNSTON, Mr. METZENBAUM, Mr. HATFIELD, and Mr. MCCLURE to be the conferees on the part of the Senate.

ENCOMIUM TO GEORGE E. BARNES ON HIS 50TH ANNIVERSARY IN THE SECURITIES INDUSTRY

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, on December 1, 1929, George Elton Barnes entered the securities business in Chicago, Ill., as a partner of a Chicago Stock Exchange firm. In the 50 years that have ensued, Mr. Barnes has been recognized for his tireless efforts to modernize the securities industry. He has also established a record which reflects his forward-thinking in Federal income tax laws and regulations.

A native of Garner, Iowa, where he was born on March 17, 1900, Mr. Barnes was educated in Iowa and joined the La Salle National Bank in La Salle, Ill., in 1918, rising to the position of vice president and trust officer.

He was one of the earliest students of Federal income taxation and began assisting individuals and corporations in the preparation of their income tax returns as long ago as 1917, or only 5 years after the Federal income tax was instituted. As a result of his excellent experience, he has become a leading authority on taxes and has been consulted by various administrations and Congresses as an expert witness.

Mr. Barnes is also widely known in the brokerage industry as an authority on stock commissions. He is a member of the New York Stock Exchange and a past chairman of the board of the Midwest Stock Exchange, and a past director of the Association of Stock Exchange Firms. Mr. Barnes is also a past chairman of the budget finance committee of the Oak Park and River Forest Community Chest and a chairman of the Large Gifts Division of the Chicago Community Fund, and a director of the Infant Welfare Society in Chicago. In addition, Mr. Barnes is a past chairman of the U.S. Lawn Tennis Association and president of the National Tennis Education Foundation.

On his golden anniversary in the securities industry, George E. Barnes, senior partner of Wayne Hummer & Co., Chicago, has earned the thanks of investors, the financial community, and many other citizens for his efforts on their behalf.

DEMOCRATIC CAUCUS TURNS ITS BACK ON CONTROLLING INFLATION

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, today the newspapers of the United States carry front page stories indicating that prices have risen another 1 percent for the month of October and that inflation is raging at an annual rate in excess of 13 percent. At the same time, the Caucus of the Democrats in the House of Representatives this morning for about the 10th time in some 7 months has again turned its back on the issue, failing to muster a quorum to consider a resolution which would go on record in favor of giving the President standby authority to implement mandatory wage and price controls.

Mr. Speaker, the people of this Nation will not long stand by while we who claim to be their leaders ignore the terrible plight of the poor, the elderly, and the middle class as they increasingly see their earnings and their standard of living devastated.

Inflation is running at a higher rate today than at any time since 1946. Poll after poll shows that an overwhelming majority of the American people support the immediate imposition of mandatory controls. They probably do not expect much help from our colleagues on the other side of the aisle but the people of this Nation do have the right to expect that the Democratic Party which historically has claimed to be the party of compassion and of concern would be of support at this time of economic crisis.

Mr. Speaker, it is high time that both the caucus and this House act with a sense of urgency and give to the President the standby authority to impose mandatory wage and price controls.

CONGRESSMAN KILDEE EXPRESSES CONCERN OVER CAMBODIAN SITUATION

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, there is no question that the current famine in Cambodia has the potential of becoming the greatest tragedy of our time. While we cannot calculate how many millions of people have already died, we do know that approximately 2.5 million Cambodians are presently facing starvation

According to the U.S. State Department, an entire generation of Cambodian children faces death. Unless effective action is taken immediately, we are faced with the very real possibility of the near genocide of the Cambodians as a people.

Our country has a long tradition of providing assistance to those less fortunate than ourselves, and the Congress, the administration, and the American people are all to be commended for their initial efforts to provide relief to those starving in Cambodia. However, we must continue to explore all means including the unorthodox to help these people. Although international assistance is arriving daily in Cambodia, the amount is small compared to the tremendous need which exists.

The actions of the Cambodian Government in prohibiting the delivery of relief supplies to all those in need are indefensible, and all the pressure possible should be brought on that Government to bring an end to this practice. The world will be guilty of a great sin of omission if we sit back and allow Cambodians to starve because of legalistic complexities.

Concern over this situation is shared by people throughout the world. This concern is evidenced by the heart-warming response to requests for donations from private sources. In my own district, concerned individuals have also organized a prayer group to pray for immediate and effective relief for the Cambodian people.

Each of us is aware of the situation in Cambodia. The media is filled with pictures that will not allow us to forget the tragedy which is occurring. What many of us fail to realize, however, is that by the time these pictures appear in the United States, the individuals in them are usually already dead.

I urge all national and international leaders to continue to seek a solution to this grave problem. In this situation, we are truly our brother's and sister's keeper.

DON'T BITE THE HAND THAT'S FEEDING YOU

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, most of the citizens of the United States deeply resent the recent demonstrations by some of the Iranians in this country on or without student visas.

They are guests in our country receiving the best treatment our country can afford. They seem to think that because our country is civilized that it will permit such things as the burning of our flag by foreign nationals.

While I recognize that not all the Iranian students have participated in demonstrations in this country, I would remind those who have been involved of these words from an old American song:

If you don't like your Uncle Sammy,
Then go back to your home o'er the sea,
To the land from where you came, whatever be its name,
But don't be ungrateful to me!
If you don't like the Stars in Old Glory,
If you don't like the Red, White and Blue,
Then don't act like the cur in the story,
Don't bite the hand that's feeding you!

EXECUTION OF MICHAEL DEEDS BY POL POT REGIME

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, it has come to my attention that Michael Deeds, the son of a constituent and friend, is believed to have been executed by the former Pol Pot regime in Cambodia.

Michael Deeds and three friends went on a sailing expedition to Australia and the South Pacific in 1978. Between April and November of that year they disappeared in the Gulf of Thailand. We now learn that their yacht was boarded by Khmer Rouge patrols, and that they were apparently imprisoned, tortured, forced to sign confessions of spying and were executed.

These sketchy details were recently discovered when relief workers were allowed into the Phnom Penh prison to look at files kept by the Pol Pot regime. Apparently, the Nazis were not the only perpetrators of genocide to keep records.

This grisly and totally unwarranted murder is one of a long series of atrocities that is becoming the hallmark of the Communists in Indochina. Michael Deeds and his companions join the 2 million or more Cambodians who have been murdered and starved to death since the Communist takeover there.

I join the family of Michael Deeds in their shock and sadness over this tragedy. I ask my colleagues to join me in condemning this act of barberism and in pointing the finger of moral responsibility for this and worse crimes at the brutal regimes of Pol Pot and Ho Chi Minh and his successors.

HENRY KISSINGER NOT AT FAULT

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, some liberal columnists and cartoonists are having a field day attacking Henry Kissinger for the Shah's present hospitalization in this country, notwithstanding that Dr. Kissinger and the White House have denied that he has anything to do with the Shah's present hospitalization.

Mr. Speaker, during the Joe McCarthy era many of the liberal press literally salivated with rage at the fact that unsubstantiated charges were made all across the political landscape; but I guess now that Nixon is no longer available, Mr. Kissinger is the target of opportunity. The rule of thumb for the liberal press is, "Don't let the facts get in the way of a good accusation."

☐ 1010

APPOINTMENT OF CONFEREES ON S. 932, ENERGY SECURITY ACT

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 932) to extend the Defense Production Act of 1950, as amended, with Senate amendments to the House amendments thereto, and request a conference with the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none and, without objection, appoints the following conferees: Messrs. REUSS, WRIGHT, MOORHEAD of Pennsylvania, ASHLEY, BLANCHARD, VENTO, FOLEY, FUQUA, STAGGERS, DINGELL, SHARP, GORE, STANTON, McKINNEY, WYLIE, BROWN of Ohio, and BROYHILL.

There was no objection.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 685]

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bevill
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1020

The SPEAKER pro tempore. On this rollcall 357 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

☐ 1030

SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1980, 1981, 1982

Mr. GIAIMO. Mr. Speaker, pursuant to the order of the House of Tuesday, November 27, 1979, I call up for immediate consideration the Senate concurrent resolution (S. Con. Res. 53) revising the Congressional Budget for the U.S. Government for the fiscal years 1980, 1981, and 1982.

The Clerk read the title of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 53

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $517,800,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $2,400,000,000;

(2) the appropriate level of total new budget authority is $638,000,000,000;

(3) the appropriate level of total budget outlays is $547,600,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $29,800,000,000; and

(5) the appropriate level of the public debt is $886,400,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $7,400,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979 the appropriate level of new budget authority and the estimated budget outlays for each functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $141,200,000,000;
(B) Outlays, $129,900,000,000.
(2) International Affairs (150):
(A) New budget authority, $13,100,000,000;
(B) Outlays, $8,400,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,850,000,000;
(B) Outlays, $5,700,000,000.
(4) Energy (270):
(A) New budget authority, $39,500,000,000;
(B) Outlays, $7,250,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,600,000,000;
(B) Outlays, $11,900,000,000.
(6) Agriculture (350):
(A) New budget authority, $5,000,000,000;
(B) Outlays, $2,550,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $6,800,000,000;
(B) Outlays, $2,850,000,000.
(8) Transportation (400):
(A) New budget authority, $19,500,000,000;
(B) Outlays, $18,600,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $8,900,000,000;
(B) Outlays, $8,350,000,000.
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $30,900,000,000;
(B) Outlays, $31,000,000,000.
(11) Health (550):
(A) New budget authority, $58,800,000,000;
(B) Outlays, $54,450,000,000.
(12) Income Security (600):
(A) New budget authority, $218,500,000,000;
(B) Outlays, $190,000,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,450,000,000;
(B) Outlays, $20 800,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,200,000,000;
(B) Outlays, $4,400,000,000.
(15) General Government (800):
(A) New budget authority, $4,450,000,000;
(B) Outlays, $4,200,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,050,000,000;
(B) Outlays, $9,050,000,000.
(17) Interest (900):
(A) New budget authority, $58,100,000,000;
(B) Outlays, $58,100,000,000.
(18) Allowances (920):
(A) New budget authority, —$200,000,000;
(B) Outlays, —$200,000,000.
(19) Undistibuted Offsetting Receipts (950):
(A) New budget authority, —$19,700,000,000;
(B) Outlays, —$19,700,000,000.

SENSE OF THE CONGRESS ON RECONCILIATION SAVINGS

Sec. 3. It is the sense of the Congress that there shall be no Third Budget Resolution or any other revision of the budget figures contained in this Resolution unless justified by significantly changed national or international developments beyond the power of Congress to control and not foreseen in the development of the Second Budget Resolution for fiscal year 1980.

Failure to achieve in a timely fashion the savings assumed in the Second Budget Resolution will crowd out funding for other priorities in the budget and may require rescission of already enacted appropriations to stay within the budget ceilings.

Therefore, Congress calls upon the Committees named in the Senate-passed instructions to make the savings assumed within the totals of this Resolution and calls upon all other Committees of the Congress to exercise the maximum restraint in spending and maximum effort toward savings in order that important national priorities will not be crowded out by the failure to make those savings.

BUDGET TOTALS FOR FISCAL YEARS 1981 AND 1982

Sec. 4. (a). In order to achieve a balanced budget recommended by the Senate in fiscal years 1981 and 1982, the following budgetary levels are appropriate for fiscal years 1981 and 1982:

(1) the recommended level of Federal revenues is as follows:
Fiscal year 1981: $610,200,000,000;
Fiscal year 1982: $671,800,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:
Fiscal year 1981: +$10,200,000,000;
Fiscal year 1982: —$34,800,000,000;

(2) the appropriate level of total new budget authority is as follows:
Fiscal year 1981: $664,900,000,000;
Fiscal year 1982: $747,600,000,000;

(3) the appropriate level of total budget outlays is as follows:
Fiscal year 1981: $600,500,000,000;
Fiscal year 1982: $653,000,000,000;

(4) the amount of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors is as follows:
Fiscal year 1981: $9,700,000,000;
Fiscal year 1982: $18,800,000,000;

(5) the appropriate level of the public debt is as follows:
Fiscal year 1981: $911,200,000,000;
Fiscal year 1982: $939,100,000,000;

and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:
Fiscal year 1981: $32,200,000,000;
Fiscal year 1982: $60,100,000,000.

(b) Based on allocations of the appropriate level of total new budget authority and of total budget outlays for fiscal years 1981 and 1982 as set forth above, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):
Fiscal year 1981:
(A) New budget authority, $159,800,000,000;
(B) Outlays, $146,400,000,000.
Fiscal year 1982:
(A) New budget authority, $180,500,000,000;
(B) Outlays, $163,300,000,000.
(2) International Affairs (150):
Fiscal year 1981:
(A) New budget authority, $14,100,000,000;
(B) Outlays, $8,700,000,000.
Fiscal year 1982:
(A) New budget authority, $14,900,000,000;
(B) Outlays, $8,800,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1981:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $5,800,000,000.
Fiscal year 1982:
(A) New budget authority, $5,600,000,000;
(B) Outlays, $5,700,000,000.
(4) Energy (270):
Fiscal year 1981:
(A) New budget authority, $4,700,000,000;
(B) Outlays, $7,800,000,000.
Fiscal year 1982:
(A) New budget authority, $24,200,000,000;
(B) Outlays, $9,700,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 1981:
(A) New budget authority, $13,400,000,000;
(B) Outlays, $12,700,000,000.
Fiscal year 1982:
(A) New budget authority, $14,100,000,000;
(B) Outlays, $13,500,000,000.
(6) Agriculture (350):
Fiscal year 1981:
(A) New budget authority, $4,800,000,000;
(B) Outlays, $3,200,000,000.
Fiscal year 1982:
(A) New budget authority, $3,900,000,000;
(B) Outlays, $3,600,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1981:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $3,500,000,000.
Fiscal year 1982:
(A) New budget authority, $6,200,000,000;
(B) Outlays, $3,200,000,000.
(8) Transportation (400):
Fiscal year 1981:
(A) New budget authority, $21,600,000,000;
(B) Outlays, $19,700,000,000.
Fiscal year 1982:
(A) New budget authority, $20,400,000,000;
(B) Outlays, $20,700,000,000.
(9) Community and Regional Development (450):
Fiscal year 1981:
(A) New budget authority, $9,900,000,000;
(B) Outlays, $9,200,000,000.
Fiscal year 1982:
(A) New budget authority, $9,500,000,000;
(B) Outlays, $9,600,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1981:
(A) New budget authority, $31,100,000,000;
(B) Outlays, $30,500,000,000.
Fiscal year 1982:
(A) New budget authority, $31,100,000,000;
(B) Outlays, $30,800,000,000.
(11) Health (550):
Fiscal year 1981:
(A) New budget authority, $70,500,000,000;
(B) Outlays, $62,000,000,000.
Fiscal year 1982:
(A) New budget authority, $82,200,000,000;
(B) Outlays, $69,400,000,000.
(12) Income Security (600):
Fiscal year 1981:

(A) New budget authority, $244,300,000,000;

(B) Outlays, $212,400,000,000.

Fiscal year 1982:

(A) New budget authority, $275,600,000,000;

(B) Outlays, $235,800,000,000.

(13) Veterans Benefits and Services (700):

Fiscal year 1981:

(A) New budget authority, $22,100,000,000.

(B) Outlays, $21,700,000,000.

Fiscal year 1982:

(A) New budget authority, $23,200,000,000;

(B) Outlays, $23,200,000,000.

(14) Administration of Justice (750):

Fiscal year 1981:

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1982:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,500,000,000.

(15) General Government (800):

Fiscal year 1981:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $4,400,000,000.

Fiscal year 1982:

(A) New budget authority, $4,900,000,000;

(B) Outlays, $4,600,000,000.

(16) General Purpose Fiscal Assistance (850):

Fiscal year 1981:

(A) New budget authority, $8,200,000,000;

(B) Outlays, $8,600,000,000.

Fiscal year 1982:

(A) New budget authority, $8,200,000,000;

(B) Outlays, $8,200,000,000.

(17) Interest (900):

Fiscal year 1981:

(A) New budget authority, $60,900,000,000;

(B) Outlays, $60,900,000,000.

Fiscal year 1982:

(A) New budget authority, $62,300,000,000,000;

(B) Outlays, $62,300,000,000.

(18) Allowances (920):

Fiscal year 1981:

(A) New budget authority, $0;

(B) Outlays, $0.

Fiscal year 1982:

(A) New budget authority, $100,000,000;

(B) Outlays, $100,000,000.

(19) Undistributed Offsetting Receipts (950):

Fiscal year 1981:

(A) New budget authority, —$21,500,000,000;

(B) Outlays, —$21,500,000,000.

Fiscal year 1982:

(A) New budget authority, —$23,900,000,000;

(B) Outlays, —$23,900,000,000.

SEC. 5. The House projects the following budget aggregates for fiscal years 1981 and 1982, based on the policies assumed in sections (1) and (2) above:

(1) The level of Federal revenues is as follows:

Fiscal year 1981: $603,200,000,000;

Fiscal year 1982: $703,400,000,000.

(2) The level of new budget authority is as follows:

Fiscal year 1981: $668,137,000,000;

Fiscal year 1982: $730,318,000,000.

(3) The level of total budget outlays is as follows:

Fiscal year 1981: $602,699,000,000;

Fiscal year 1982: $655,869,000,000.

(4) The amount of surplus in the budget is as follows:

Fiscal year 1981: $501,000,000;

Fiscal year 1982: $47,531,000,000.

(5) The level of the public debt is as follows:

Fiscal year 1981: $921,900,000,000;

Fiscal year 1982: $920,400,000,000.

GENERAL PROVISIONS

SEC. 6. (a) In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

(b) The Congress reaffirms its commitment to find a way within the congressional budget process to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not refietced in the budget totals, and that in fiscal year 1980, off-budget outlays (and, hence, the off-budget deficit) are estimated to be $16,000,000,000.

The SPEAKER pro tempore. Pursuant to the order of the House of November 27, the gentleman from Connecticut (Mr. GIAIMO) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. LATTA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 53, under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I yield myself such time as I may consume.

I rise to support adoption of Senate concurrent resolution 53. This is the new name for an old piece of business—the second budget resolution for fiscal year 1980. Only one more step is needed to put it in place.

Senate Concurrent Resolution 53 is identical with the second budget resolution adopted by the House, following a lengthy conference with the other body, with one small exception. Let me explain briefly what has happened.

The Senate insisted on reconciliation instructions to six committees in each house, directing these committees to achieve certain savings through legislative action and to report this reconciliation in 30 days.

The House rejected this reconciliation language.

Both Houses adopted the same figures—aggregate and by function, spending and revenues, budget authority and outlays. Both houses have, in short, agreed on the numbers, including a deficit of $29.8 billion.

When the House dropped the reconciliation language, the resolution was sent back to the Senate. That body has now agreed to drop reconciliation. Instead, there is a "sense of Congress" statement expressing the hope that legislative savings will be achieved and declaring that there will not be a third budget reolution merely to compensate for failure to enact such savings.

The numbers in the resolution before you are those which already have been adopted by the House and the other body.

The time is late. This second budget resolution is long past due for adoption. It is imperative that we put our house in order now by adopting this resolution and getting on with our business.

I would like to have the attention of my colleagues on a very serious matter that has just come to my attention concerning this resolution, which I think it is essential that we all understand. I am informed this morning by the minority that they intend to offer a motion to commit this Senate concurrent resolution to the Budget Committee with instructions to the Budget Committee to cut 2 percent across the board in all programs excepting defense and in veterans' programs.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. GIAIMO. I will yield on the gentleman's time.

Mr. LATTA. I will be happy to let the gentleman yield on my time.

Mr. Speaker, I know the gentleman did not want to stop at this point. But there is some further information I think the House should have. The Budget Committee would have the discretion of the 2 percent, to allot perhaps 1 percent in one function and 3 percent in some other function rather than 2 percent across the board.

Mr. GIAIMO. Obviously I cannot speak with any certitude because I only received this proposal this morning. I have been informed by the gentleman's staff that they are already changing this and amending it. So I am not certain as to what the gentleman's motion to commit will have.

But I understand that the major thrust of it will be to reduce spending by 2 percent in nondefense and nonveteran areas.

This may sound attractive to my colleagues, but at this late stage what we would be doing would be imposing reconciliation in another manner. We are kidding ourselves if we think we can cut this budget at this late date by 2 percent unless we instruct the Appropriations Committee to go back and open up every one of their appropriation bills that have passed and come forth with another 2 percent reduction. We are kidding ourselves if we think we can reduce expenditures by 2 percent or 3 percent without looking at the entitlement programs, without looking at social security programs, unemployment compensation programs, educational programs, agricultural programs, and on, and on, and on.

I submit that at this late stage to come in here with the parliamentary maneuver of a motion to commit is to render a disservice to the budget process that we are desperately trying to attain in this Congress.

At this late stage if this motion to commit were to carry we would have to go back to committee and start all over with a new budget. I would submit that Congress would be indicating its inability to adopt a budget.

Let me tell my colleagues, inflation has not gone away. The assumptions which are built into this resolution are on the low side, if anything. They are not on the high side. The way inflation is still ravaging this economy, it is likely we would need additional moneys, let alone reductions of 2 percent in very essential programs, starting out with education, social security, and on, and on, and on.

I urge you and plead with you, do not be taken in by this attempt of the minority to destroy this process and to return this bill to committee.

I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, let me say that I am always delighted to listen to my chairman. I do not know anyone I would sooner work with in the House than Chairman GIAIMO. We get along fairly well until it comes to the budget figures. We never seem to agree on the figures.

But let me just say that I listened with interest to his remarks, as did other Members of the House. He still does not understand what the cause of inflation is. And I hope sometime that he and the majority of this House will come to grips with the problem, the real problem causing inflation.

I listened in amazement to the gentleman from New York a little earlier bemoaning the fact that on his side, the leaders are not doing anything about inflation, and that this is ravaging incomes. I agree with that.

□ 1040

But, at the same time they vote for all of the high cost programs that come along so they can go back home and say, "I voted for this, this, and this," without ever realizing that these spending increases are the real cause of inflation.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York.

Mr. WEISS. Is the gentleman suggesting that he and his side of the aisle are in favor of giving the President standby authority to impose mandatory wage and price controls?

Mr. LATTA. I did not say a word about that.

Mr. WEISS. That is what my criticism about my party was.

Mr. LATTA. I did not say a word about that, and I could not agree less with the gentleman's position on that.

Mr. WEISS. I thank the gentleman for yielding.

Mr. LATTA. Let me say this: It has been now exactly 2 months since the Government's fiscal year began, and still this Congress has not adopted a budget for 1980. I have almost lost track of how many times we have dealt with the second budget resolution on this floor. I believe this is the fourth time, but I do know that each version of the second resolution is worse than the one before. I really wonder how, with this sort of fiscal irresponsibility on the part of the Congress, we have the nerve to criticize Chrysler for mismanagement. If any private company were run remotely as poorly as we run the Government, it would have gone bankrupt 20 years ago.

The latest version of the second budget resolution for 1980 is but a watered down cousin of the version we had before us just 3 weeks ago. The numbers have not gotten one bit better. The deficit is still $29.8 billion, way above the $23 billion target we set in the first budget resolution, and even $2.2 billion over the deficit for the year just ended.

Were it not for the fact that the Budget Committee decided to raise taxes $9 billion over the estimate in the first resolution, the deficit would be closer to $38 billion. And remember, to the official on-budget deficit of $29.8 billion, we have to add the $16 billion in off-budget deficit to get the true picture of how far in the red the Government will run in 1980.

The spending side of this resolution now before us calls for an increase of $54 billion over 1979, a jump of approximately 11 percent. Let me repeat that. This is an increase of $54 billion over 1979, a jump of approximately 11 percent. By no stretch of the imagination can this be called restraint, but our chairman has said, "Nothing can be done about it. Nothing can be done about it. You cannot cut out anything. This is a tight budget."

Hogwash. If we really want to do something about spending and do something about inflation, we can do it, and the American people are demanding that we do it. But, this Congress is not listening. They will listen next November.

I was amazed to read a little article that appeared in the local newspaper—and I will not mention which one—the other day, which referred to a limitation on spending of a percentage of GNP as a means of solving our spending problem. I noticed that a Member of the House was quoted as saying that Congressmen ought to do something so that they could go back home and talk about it before the next election. He suggested that we do something; even if it meant attempting to hoodwink the American people into believing we are doing something when we are really not.

But, if this were not bad enough, Senate Concurrent Resolution 53 no longer contains the one ingredient which would have resulted in a small amount of restraint; namely, reconciliation. Recall the last time the budget was before us, the Senate and all Members on our side of the aisle wanted to force spending reductions totaling only $3.6 billion, an amount equal to less than 1 percent of the total budget. This token effort in budget cutting was rejected. In other words, the majority was telling the American people that a budget of almost $550 billion was so tight that not even $3.6 billion of fat or low priority spending could be eliminated.

I know every Member of this Congress hears from back home about wasteful spending, spending that could be eliminated without even hurting anyone. This morning's mail brought a little item from a newspaper in my district, the Advertiser Tribune, wherein it points out where we might eliminate a little spending in seven offices of the Department's Secretaries. Namely, it indicates that seven Secretaries have private chefs preparing not only their lunches, but their breakfasts, and I will name the Departments: Departments of Treasury, Defense, Justice, Commerce, Labor, Transportation, Health, Education, and Welfare.

Now, it seems to me that if we want to start cutting we might cut out the chefs for the Cabinet Secretaries.

Now, instead of reconciliation we get some meaningless language—meaningless language—unenforceable "sense of Congress" language in the second budget resolution.

Mr. YATES. Mr. Speaker, will the gentleman yield for a question?

Mr. LATTA. I will be happy to yield to the gentleman from Illinois.

Mr. YATES. Will the gentleman explain the full import of his reduction? As I understand the gentleman's presentation, it is this: It is predicated on noncuts in the defense budget and other items which take over 50 percent of the annual budget. Is that correct?

Mr. LATTA. I do not know where the gentleman gets 60 percent.

Mr. YATES. I said 50 percent.

Mr. LATTA. No, defense does not comprise 50 percent of the budget. I do not know where the gentleman gets that figure.

The SPEAKER pro tempore (Mr. GLICKMAN). The time of the gentleman from Ohio has expired.

Mr. LATTA. Mr. Speaker, I yield myself 5 additional minutes.

Mr. YATES. Will the gentleman advise the House on what the non-reducible expenses of the budget would total so that the House can be aware of what the effect of the gentleman's cut will be?

Mr. LATTA. I will be happy to do that when I get to it. The gentleman is ahead of me.

We all know that a "sense of Congress" resolution is unforceable. It requires substantive legislation to back it up, and that legislation in the form of reconciliation has already been rejected.

Second, for all the tough sounding talk in this "sense of Congress" statement about not having a third budget resolution merely because the legislative savings do not take place, note the wide, gaping loophole. It says, and I quote:

> It is the sense of the Congress that there shall be no third budget resolution or any other revision of the budget figures contained in this resolution unless justified by significantly changed national or international developments beyond the power of Congress to control and not foreseen in the development of the second budget resolution for fiscal year 1980.

Now, if you cannot drive anything through that loophole, "not foreseen", I am not talking to you at this very moment.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding. I would like to comment briefly on the thesis that 2-percent cuts selectively applied by the Budget Committee would not work.

□ 1050

We had those same arguments in California prior to proposition 13, and it has been proven absolutely false that in the fat budgets that we have in many of our governments, including the Federal Government, which everybody knows, somehow there is not 2 percent that could be saved in different places. The gentleman knows as well as I do, having served on the Committee on the Budget, that there are more than enough places to save the 2 percent. The big cry that will now be made is, "Oh, we will be endangering programs," as the gentleman has said. That is pure bunk. There is at least 2 percent fat in almost all of these functional categories. The gentleman knows it; I know it; the Members of this House know it; the American people know it. To now claim that we have got a perfect budget and it is tight or frugal, the American people know better, and whatever sacrifices supposedly have to be made, we know the fat can be cut. Further we are only really talking about restraints on increase from the 1979 expenditure level.

I appreciate the motion to recommit that the gentleman is making. I think it is a realistic one, and I hope that the House supports it.

Mr. LATTA. I thank the gentleman for his comments. I submit that these "unforeseen events" have already taken place, and that the budget committees are intentionally refusing to acknowledge their existence. For example, in this resolution look at the interest figure, still $57 billion. Anyone faintly cognizant of what has been taking place in the money market, in the last 6 months, knows that the cost of borrowing to the Federal Treasury will rise well above $57 billion. The economic assumptions in this resolution were developed back in July and are grossly out of date. Inflation has and will continue to be far higher, forcing up payments for entitlement programs and interest, among others.

In short, the economy has already dictated that we will need a third budget resolution. The result, of course, will be that when we have a third budget resolution next spring, we will include in it all the unrealized legislative savings but blame the need for the revision on "unforeseen events."

I do not believe the economy can continue to be abused by the Congress reckless, expansive fiscal policies. When productivity is actually declining, when inflation seems stuck at 13-plus percent, when the savings rate is at an all-time low, there is simply no reason that the Treasury should be out in the capital markets borrowing $30 billion to cover the on-budget deficit and an additional $16 billion to cover the off-budget deficit. There actions can and will make the economic downturn far more severe; it will cause millions more Americans to lose their jobs; it will cause higher inflation for all Americans. We are attempting in this resolution to put the entire burden of fighting inflation on the Federal Reserve. This, as we have seen far too many times, does not work and only leads to worse economic disasters.

Therefore, at the completion of this 1 hour of debate I will move that Senate Concurrent Resolution 53 be committed to the Committee on the Budget with instructions that, with the exception of veterans and national defense, budget authority and outlays be reduced by 2 percent. This would amount to an outlay of approximately $7.9 billion. This is less than 1.4 percent of the total outlay level of $547.6 billion.

Let me point out that although these intructions specifically exclude defense and veterans, they are not intended to force precise 2 percent reductions in every other function. For example, one function may be reduced by 4 percent, another by 1 percent. In the end, however, we would demand total reductions of $7.9 billion in outlays and $9.5 billion in budget authority. I will make this motion because I am convinced that the Federal Government can exist perfectly well on a spending increase of 9.3 percent over fiscal year 1979 instead of 11 percent. This would also reduce the deficit from $29.8 billion down to $21.9 billion—still far too high, but at least it is lower than the figure for 1979 and represents positive movement in the right direction.

I know that my good friend, the chairman of the committee, will claim that it is impossible to find just over $10 billion worth of activities which can be curtailed. He will argue that to do so would cause great harm and require reconciliation. He may even claim that it would require the House to stay in session longer. Let him make those claims. I claim that the American people can no longer afford $30 billion deficits, 13 percent inflation, and rising unemployment.

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I think it is important for the House to understand procedurally where we are in terms of the budget process in the bill that is before the House. What we are dealing with is really in effect a budget conference. We have gone through the debate on the budget resolution itself. We have faced amendments that provided for 2-percent reductions and they were rejected by the House. We have been in conference for well over 2 weeks with the Senate on the budget resolution. In fact, the resolution was brought back to the floor. The House agreed to the numbers and left the issue of reconciliation and reconciliation alone as the sole area of disagreement to go back to the Senate.

The Senate in fact adopted language that concurred in essence with the House's position, and now that proposal is brought back to the House for final concurrence. We are in effect dealing with the conference report on the budget resolution. What is being attempted here is to resurrect all of the arguments over the budget resolution all over again. If the motion to recommit is adopted by the House, it will require that the Budget Committee go back into session to deal again with the budget resolution, report it to the House as a new bill, go back to the Senate into conference, come back to the floor of the House with another conference report, and in that process literally destroy the budget process itself. That is really what is the issue here today.

It is whether the budget process is going to survive. If it is, it is absolutely essential that the House adopt the proposal as it is submitted, that we proceed to enact a budget that is in place, and that we begin to deal with the problems that we will have to face in implementing this budget in the months ahead. If we continue to postpone this issue, if we continue to play games with the budget resolution—and this is the second budget resolution—then I am afraid that the budget process itself is being jeopardized by the political and partisan maneuvers taking place today.

Let us recognize that the sole issue that should be before the House is the issue of reconciliation. It went back to the Senate. The Senate in effect confirmed the House's position that we should not have reconciliation across the board but that it is a tool to be used selectively with regard to committees that fail to report legislative savings.

Let us also understand that contained in this budget resolution as it is now presented to the House is a clear warning—a clear warning—that if significant savings are not adopted by the committees, in effect the third budget resolution will not proceed and the prospect of selective reconciliation is real.

The **SPEAKER** pro tempore. The time of the gentleman has expired.

Mr. GIAIMO. I yield 1 additional minute to the gentleman from California.

Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Connecticut.

Mr. GIAIMO. I thank the gentleman for yielding. I think it should be noted here that the minority, who was arguing so strongly to cut expenditures by 2 percent, were falling all over themselves to vote against hospital cost containment several weeks ago which would have made significant savings in the outlays of this Government. They would like to have it both ways, but it is obvious that they cannot. They cannot vote against curtailing expenditures when the bills are up on the floor, and then try to be in favor of curtailing expenditures on the budget resolution when they do not cut the underlying legislation.

Mr. LATTA. If the gentleman will yield just to make the record clear, there were also 99 Democrats who voted the same way.

Mr. PANETTA. The point is this, that Members, Republican and Democrat alike, will talk about savings, but when it comes to the point of voting on those savings, that is another point. Everyone is for reconciliation until in fact a bill of reconciliation comes to the floor. It becomes another question when those savings come to the floor for a vote. Hospital cost containment, whether one likes it or not, involved $600 million of legislative savings contained in the resolution. People may disagree with just exactly how much was contained in it, but in fact there were significant legislative savings contained in it both for this year and for years to come. That proposal would be included in a bill of reconciliation if it came to the floor, today as would veterans' issues and issues relating to nutrition funding. All of these are legislative savings recommended in this budget resolution. The fact is, and it should be made clear, that unless we enact these legislative savings, a bill of reconciliation will, indeed, come to the floor of this House. Then we will determine whether our Members are willing to face those votes up or down.

□ 1100

The main point today is that we should not resurrect all the issues that have been debated here on the second budget resolution. We have completed that debate. This is, in effect a conference report. Let us end this so we can put the budget process in place and try to proceed in an orderly manner with the issues relating to the budget next session.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

Mr. Speaker, the gentleman has been on the Committee on the Budget now for about a year. Does the gentleman mean to say there is no fat in the budget we have passed? I mean, honestly?

Mr. PANETTA. Let me ask the gentleman this: I agree. I think there is 2 percent fat and waste in the entire Federal budget. However, in this recommittal, somehow we have isolated the defense area and the veterans' area and said, "Oh, my goodness, there is no waste or fat in those areas."

Mr. Speaker, I think if we are going to be honest about this we ought to have 2 percent across the board and not isolate the areas of defense, veterans, or anything else.

Mr. ROUSSELOT. So the gentleman would support 2 percent across the board cut?

Mr. PANETTA. I would support 2 percent across the board including defense and veterans.

Mr. ROUSSELOT. So when the Committee on the Budget got this back, as my colleague is recommitting the resolution, the gentleman could support 2 percent across the board cut and the gentleman thinks there is at least that much fat in this budget?

Mr. PANETTA. The gentleman has made the point that there is 2 percent waste and fat in the budget. I agree with what the gentleman says.

Mr. ROUSSELOT. The gentleman will support 2 percent across the board?

Mr. PANETTA. I have in the past and would in the future.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to point out to my colleague that this second budget resolution assumes legislative savings of $2.695 billion. In effect, this absolutely requires implementing the reconciliation process as provided in section 310, subsection (c) of the Budget Act and yet the majority ignores the language of the act which provides as follows:

> (c) RECONCILIATION PROCESS.—If a concurrent resolution is agreed to in accordance with subsection (a) containing directions to one or more committees to determine and recommend changes in laws, bills, or resolutions, and—
>
> (1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House a reconciliation bill or reconciliation resolution, or both, containing such recommendations; or
>
> (2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations, whether such changes are to be contained in a reconciliation bill or reconciliation resolution, and submit such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations, shall report to its House a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revision.
>
> For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.
>
> (d) COMPLETION OF RECONCILIATION PROCESS.—Congress shall complete action on any reconciliation bill or reconciliation resolution reported under subsection (c) not later than September 25 of each year.
>
> (e) PROCEDURE IN THE SENATE.—
>
> (1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills and reconciliation resolutions reported under subsection (c) and conference reports thereon.
>
> (2) Debate in the Senate on any reconciliation bill or resolution reported under subsection (c), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.
>
> (f) CONGRESS MAY NOT ADJOURN UNTIL ACTION IS COMPLETED.—It shall not be in order in either the House of Representatives or the Senate to consider any resolution providing for the adjournment sine die of either House unless action has been completed on the concurrent resolution on the budget required to be reported under subsection (a) for the fiscal year beginning on October 1 of such year, and, if a reconciliation bill or resolution, or both, is required to be reported under subsection (c) for such fiscal year, unless the Congress has completed action on that bill or resolution, or both.

Mr. Speaker, during this session of Congress we have had numerous opportunities to make tough economic choices. We have come face to face with difficult spending decisions in both the first and second budget resolutions. Each time this body has backed down. We have made the easy choices. These added together, have significantly contributed to the precarious economic conditions in which we now find ourselves. Given the choice between spending or saving, we have chosen spending. Given the choice between spending less and spending more, we have chosen spending more.

Many Members of this body have made strong antispending pledges. Yet this House continually has made concessions which have moved us farther from our goal of fiscal responsibility.

Mr. Speaker, the language we are voting on today is another concession to the spendthrift ways for which this body is famous. In reality the language here is nothing more than "appeasement language" which attempts to make us look tough in our war on Government spending and inflation, yet it is meaningless. The language does nothing to force reductions in spending and nothing to prevent a third budget resolution, which we all know will be required, given the current spending pattern of the House.

To fully appreciate the weakness of this "get tough" language, let us review our efforts this year at fighting the budget battle.

Mr. Speaker, during House consideration of the first budget resolution, the House rejected several opportunities to reduce Federal spending. Most notably the Republican substitute and the Holt-Regula substitute, which provided a moderate effort at a reduced level of spending, were defeated by the majority. The first budget resolution finally approved contained a deficit of $23 billion which was achieved only through phony economic assumptions and higher revenue figures resulting from inflation.

Mr. Speaker, during consideration on the second resolution the Republican alternative which would have provided lower spending, a lower deficit and a reduction in taxes, was also rejected. However, there was a glimmer of hope in the second resolution in that the Senate included reconciliation language as required by law. Such language, if approved, would set the budget process on a strong footing heading toward true fiscal responsibility and true financial management. Unfortunately, the House refused to accept reconciliation, choosing instead to push for legislative savings. However, legislative savings are proving to be elusive and the case that they will reduce spending sufficiently to avoid a third budget resolution is not all that convincing.

Mr. Speaker, we like to delude ourselves that we are on our way to legislative savings totaling about $2.7 billion. However, between $1.3 billion and $1.7 billion of this has only been acted on by either the House or the Senate. Not one item included in this total has been approved by both bodies. More importantly, various committee chairmen have adamantly refused to even consider the legislative savings recommended by the Committee on the Budget, which fall under their jurisdiction. Although I respect the efforts and intentions of my colleagues who have worked on the legislative savings issue, it is time to face the fact that little if any savings will actually be realized from these efforts during the current fiscal year.

Mr. Speaker, reconciliation offers the only chance we have to make the budget process a meaningful one. I therefore urge my colleagues to recognize the language in Senate Concurrent Resolution 53 for what it is, "appeasement language," by voting down the budget resolution and pushing for reconciliation.

Mrs. HOLT. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Speaker, I would like to associate myself with the remarks of the gentleman. I think the gentleman is absolutely right.

Mr. Speaker, as the gentleman from California (Mr. Panetta) said, we all have our pet programs for which we want to vote. Nobody denies that. We cannot say this side of the aisle is any more responsible about that than is the other side of the aisle. However, we need the budget as a discipline to force us to bring down this wild growth in Federal spending.

Mr. Speaker, it is, I suppose, a matter of small consequence whether this budget resolution passes. It merely ratifies spending decisions already made by the authorizing and appropriating committees and by this House.

In the current fiscal year, total deficit spending will exceed $40 billion if we include off-budget operations in our calculations. The deficit may actually be substantially higher by year's end if economic conditions run along a predictable course.

This budget continues the annual growth rate of 10 to 11 percent that we have experienced in recent years. The budget process established by the Congressional Budget Act of 1974 has had no effect whatever on slowing the growth rate of Federal spending. In fact, the growth has accelerated since that date.

I would remind the House that 15 years ago, Federal spending took only 18 percent of the gross national product. The spending envisioned by this budget resolution will take approximately 22 percent of GNP.

Earlier this year, as in previous years, the minority side of the aisle offered substitute budget resolutions to slow the growth rate of Federal spending and cut taxes. We offered the budget of hope and opportunity for the American worker and his family. We lost our spirited fight for this responsible alternative.

The other body of the Congress attempted to force some discipline on spending with a reconciliation process that would have required legislative savings. The House majority rejected that approach; so today we have this limp "sense of Congress" language saying that we do not like the idea of a third budget resolution.

So here we are with this balloon of a budget with a large deficit that will strain the tight credit markets.

If the Federal Government were not borrowing more than $40 in this fiscal year, those funds would be available for housing and the other capital needs of the private sector, interest rates would be lower, and the Federal Reserve Board would not be under intense political pressure to increase the money supply at inflationary rates.

Under these circumstances, it is imperative that Congress balance the budget to cut Federal borrowing, but we do not see any signs of such discipline in this resolution. I urge the Members to commit this resolution to the committee for the reduction.

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Speaker, within the last 10 days I read an article in the St. Louis Post-Dispatch which quoted our colleague from Missouri (Mr. Ichord) as saying that he is considering retiring from the House. One of the reasons he gave is that we have reformed ourselves into irresponsibility, that we are not letting the committees function as we should, we make decisions and then almost on whim these decisions are cast to the winds.

Mr. Speaker, I think the criticism of the gentleman from Missouri is valid. We have gone from one extreme to the other in House procedures. Here we must ask ourselves the questions: Are we going to make the budget process work? Can we make the legislative process function as it should?

Mr. Speaker, I am sure if the gentleman from Ohio is successful in his motion there will be people on the Senate side who are going to ask: "Does the House know what it is doing? One day they make a decision doing one thing and a couple of weeks later they do precisely the opposite."

Now, this is not a perfect document.

I think the gentleman from California (Mr. Rousselot) for his applause on that point.

My colleague from New Jersey (Mrs. Fenwick) can correct me if I am wrong but I believe it was Shakespeare who said something like: "The best is sometimes the enemy of the good."

Mr. Speaker, that is where we are at this point. We can have pie-in-the-sky solutions that look great on paper but we have to apply those in practical situations.

Mr. Speaker, we met for 13 mornings and afternoons hammering out a compromise.

□ 1110

We finally have something worked out. Our friend, the gentleman from Ohio, says, "Let's throw it to the winds, even though the House has gone on record in favor of the figures." That just does not make sense.

The law says that by September 15 the two Houses were to have acted. We are now here in the latter part of November, we still do not have a budget resolution. And now we are being asked for more delay. We are weakening the budgetary process, which is a healthy economic constraint for the Nation.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. Simon) has expired.

Mr. GIAIMO. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I would plead with those of both political parties to vote for a successful budgetary process, to vote for keeping the legislative process a responsible one, so that we do not just by whim go off in 10 different directions. That is what we are being asked to do, and make no mistake about it, that is the case.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I yield to my colleague, the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, how would the gentleman achieve the $2.7 billion in legislative savings without the language of the reconciliation process as provided in the Budget Act?

Mr. SIMON. As the gentleman knows, in every budget resolution we have had up to this point, there has been a shortfall. In other words, there is a highway we have projected that is going to be built, that does not get built. We have not achieved these legislative savings that I hoped for and voted for. But there is considerable room in this budget because of shortfall and it is not unrealistic.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. Shuster).

Mr. SHUSTER. Mr. Speaker, this concurrent resolution is one more fraud foisted on the American people. The numbers are the same. We are told admittedly there is going to be a $30 billion deficit, but we also hear from many sources around town that that $30 billion deficit really is going to be $40 billion within these numbers; but that is not the worst part of it. The worst part of it, Mr. Speaker, is this new section 3, this "sense of the Congress" on reconciliation savings, "It is the sense of Congress that there shall be no third budget resolution, unless justified by significantly changing developments."

It is the sense of the Congress that there shall be no third budget resolution. Now, how many Members in this Chamber really believe that there is not going to be a third budget resolution?

Mr. Speaker, next spring when the cherry blossoms bloom around the Tidal Basin, a third budget resolution is going to be blooming on this hill. We all know it and it is a fraud on the American people to suggest that the probability of a third budget resolution is not extremely high; but we are told further that there can be a third budget resolution if there are developments that are not foreseen.

Now, what does that mean, developments not foreseen? We already know that inflation is up and in double digits and is continuing; so high inflation is foreseen.

We also know that a recession is upon us and it is going to get worse; so that is not something that is unforeseen. That is foreseen.

We also know, our best economists and our best minds on both sides of the aisle tell us that unemployment is going to go up; so that is not something that is not foreseen. That is foreseen.

So what are the circumstances under which we could have a third budget resolution? Now, I would be quick to concede that war is certainly one of those considerations and should we find ourselves plunged into a war, and that is something that is legitimately not foreseen, that to suggest that these other economic problems are not foreseen is pure poppycock.

We are perpetrating on the American people one more fraud through this toothless "sense of the Congress" resolution. Indeed, if truth in legislating were the law of the land, the perpetrators of this hoax would spend Christmas in the pokey.

Now, Mr. Speaker, I am informed by the distinguished ranking member of the committee that he will call for a rollcall vote. I applaud him for that on this substitute which is going to be offered, because every Member of this body should have the opportunity to put himself on record.

Indeed, I would ask my friends from the other side of the aisle to tell us, what are the events which today are not foreseen which could cause a third budget resolution?

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I would be delighted to yield to my friend, a partner in the firm of Simon and Shuster.

Mr. SIMON. Mr. Speaker, I like the name of that firm, Simon and Shuster.

I am interested in the insight of my distinguished colleague, the gentleman from Pennsylvania, because obviously the gentleman has more perception about what is going to happen in the field of economics than I.

Mr. SHUSTER. Not at all; I am simply quoting the Office of Management and Budget. I am simply quoting the Congressional Budget Office. I am simply quoting both liberal and conservative economists.

Is the gentleman from Illinois saying that the gentleman does not acknowledge that we are probably moving into a recession and it is going to get worse before it gets better?

Mr. SIMON. Mr. Speaker, if my colleague will yield.

Mr. SHUSTER. I am happy to yield.

Mr. SIMON. We have, for example, in this budget resolution anticipated 7.2 percent unemployment for fiscal year 1980.

Will my colleague tell me what the gentleman thinks the unemployment rate will be in April of 1980?

Mr. SHUSTER. Oh, I think it will probably be between 7 and 8 percent.

Mr. SIMON. Between 7 and 8 percent? That is a $20 billion difference in the budget.

Mr. SHUSTER. As a result of the policies of the majority party in this Congress, we will be lucky if the unemployment rate does not top 8 percent.

Mr. Speaker, I reclaim my time.

The gentleman must therefore implicitly be making a point.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania (Mr. SHUSTER) has expired.

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I wish to compliment the gentleman from Connecticut and his colleagues for the very excellent job they have done in working out the resolution that is before us.

Listening to the debate here, it reminds me of a witness who appeared before the Appropriations Committee, a representative of a big national organization. He came before the subcommittee where I was serving as chairman advocating a flat, unspecific reduction of $4 billion.

I took the budget item by item that was before us for that Department and item by item he was opposed to the cut in each item. He was in favor of no specific cut, just a big round figure.

Now, let me tell you a little something about the work of the Appropriations Committee this year. Let me say, with your help we are considerably below the amount of money recommended by the Office of Budget and Management in the appropriation bills. In the 13 regular appropriations for 1980, we are presently some $9.7 billion under the President's budget. That is on the basis of budget authority and counts the enacted version of nine bills, the conference amount for two bills, and the House-passed version of the remaining two bills which are in conference. We have shown further restraint in dealing with other appropriations business by reducing the 1979 supplemental by some $3.2 billion and by rescinding some $700 plus, million of budget authority in a separate measure.

The reductions the committee made, however, came only after weeks and months of hearings. These matters must be handled carefully and require a great deal of time and detailed study. We began this process last winter. The recommendations were the product of months of deliberation by the 13 subcommittees. The bills were approved by the full committee; then the House; then the Senate. Except for two bills, the regular fiscal 1980 appropriations are law and programs have been implemented. To make changes now would require the repeal of existing law. It would be chaotic.

Now, let me call attention to another matter. In a study that I had made when I saw the former chairman, the gentleman from Texas (Mr. MAHON) was retiring, it developed that 58 percent of the laws on the statute books have built-in escalator clauses which call for more spending to offset inflation—inflation to feed inflation. You can see where that leads. The study also showed that the dollar has gone down 50 percent in purchasing power since 1967.

There are many things that we need to do in reviewing and repealing laws and other things, but I am saying that mechanically there is no way in the world that I can see for any committee this late in the year to start all over again.

Now, when you say a 2-percent cutback, are we going to ignore interest on the debt? Are we going to pay our debts or are we not? Are we going to leave it to the executive branch to run the Government, to perhaps cut out everything that is worthwhile?

You must be careful when you make blind, arbitrary percentage cuts. You may be squeezing out the essentials while you keep the things that you do not need. That is why I say these matters require careful deliberation. I am saying these blind percentage cuts sound good as long as you do not win. When you win, you just see that you have torn up the Government.

This resolution does require restraint. If we take hasty, poorly considered actions here and kill this resolution at this point in time, we would be taking control off of Federal spending. If this resolution is defeated, it will not be an economy move. It will be a move against controls and restraint.

Mr. Speaker, the Appropriations Committee has been monitoring this resolution carefully. We have been studying the aggregate outlay and budget authority figures in the resolution as well as some of the economic assumptions. Certain features of this resolution will impact heavily on the Congress, when we undertake to deal with further budget requirements during the balance of this fiscal year ending next September 30. They dictate restraint and caution and are worthy of brief review at this time. Here are some of the factors confronting us:

Interest rates assumed in this resolution for certain key Treasury issues is 8.2 percent. Treasury offerings for such issues in recent weeks have been in the range of 12 percent or more. If such an interest rate prevails for most of this fiscal year, I am advised the interest figure in the budget resolution may be understated by some $5.3 billion. There may be some signs that interest rates are moderating. But even if interest rates were to decline steadily and rapidly and return to the 8-percent bracket by next September, interest costs in the resolution will still be understated by some $4 billion.

Further, the resolution does not fully reflect the impact of the current inflation rate on the budget because of escalator clauses contained in basic legislation. Such programs represent 58 percent of the spending budget. The largest program, of course, is social security where increases in benefit payments are triggered by inflation as measured by the Consumer Price Index.

I have been advised that the inflation rate increase assumed in the budget resolution was 10.3 percent, but more recent calculations indicate that a figure of 13.5 percent might be more realistic at this time. If this is near the mark, the allowance for programs directly indexed to inflation and those responding to inflation may be understated to the extent of some $3.2 billion. This figure would be even larger except that various increased benefit payments tend to occur late in the fiscal year and thus the full impact of the current inflation rates will not be felt in the Federal budget until next fiscal year.

On the other hand, unemployment appears to be running less than what was assumed in the budget resolution by about half of 1 percent. If this situation should continue, currently anticipated spending to the extent of $4 billion may not be required. This would be an offset to the increases I have cited. There are other volatile factors and uncertainties in the budget which will cause fluctuations in the aggregates in the budget resolution. This is inevitable. The Budget Committee did the best they could within the time frame in which they necessarily had to operate. Their efforts are commendable. But a number of months have now elapsed since the resolution was drafted and the situation has changed.

The principal point I wish to make, Mr. Speaker, is that this budget resolution, not even taking into consideration the factors I have just mentioned, is very tight. From the standpoint of budget outlays, it is extremely tight. The Congress will have to exercise restraint in approving any additional spending this year. This is the intention of the resolution before us.

Our figures show that in outlays, and measured from where we stand this week in terms of appropriation bills and counting other spending devices, this resolution would leave room for only about $5.7 billion for anticipated mandatory programs and about $2.5 billion for other program supplementals for the entire fiscal year 1980 which ends next September 30. But this is more than taken up by matters now pending.

The appropriation bills which are not enacted but which have passed the House and Senate and are pending in conference are $1.1 billion net over the House in terms of outlays.

Further, there is presently pending before the Committee on Appropriations supplemental budget requests and deferred budget requests submitted by the President which total some $2.1 billion in outlays and there are indications that other budget requests are working their way through the executive branch for submission to the Congress this session.

Additionally, the President's January budget traditionally includes numerous supplemental requests based on unforeseen developments and new legislation. Last year the budget included $10.1 billion in budget authority. The year before the figure was $3.6 billion. The year before that, $10.8 billion.

Added to this obvious problem associated with handling any fiscal 1980 supplementals—both those pending and those anticipated—is the very distinct possibility that this budget resolution understates outlays in the range of several billion dollars net, because of the economic assumptions I outlined earlier.

In view of this entire situation, Mr. Speaker, I feel that the Appropriations Committee and the Congress should proceed with great caution in considering any further additions to the budget for the current fiscal year. I feel that there must be an indication as to what plans need to be made for a third concurrent resolution on the budget—whether we have one and how much and when. We must also know what further proposals the President may transmit in his January budget before we begin to consider additional spending proposals beyond those presently in the legislative pipeline. All additional proposals must be given an equal opportunity to compete for the amounts available within the total congressional ceilings.

Mr. Speaker, from the standpoint of the Committee on Appropriations, the content and timing of a third budget resolution appears critical. In this context, I should also call attention to the new section 3 in this budget resolution which reads as follows:

> SEC. 3. It is the sense of the Congress that there shall be no Third Budget Resolution or any other revision of the budget figures contained in this Resolution unless justified by significantly changed national or international developments beyond the power of Congress to control and not foreseen in the development of the Second Budget Resolution for fiscal year 1980.
>
> Failure to achieve in a timely fashion the savings assumed in the Second Budget Resolution will crowd out funding for other priorities in the budget and may require rescission of already enacted appropriations to stay within the budget ceilings.
>
> Therefore, Congress calls upon the Committees named in the Senate-passed instructions to make the savings assumed within the totals of this Resolution and calls upon all other Committees of the Congress to exercise the maximum restraint in spending and maximum effort toward savings in order that important national priorities will not be crowded out by the failure to make those savings.

Considering all these uncertainties I have referred to, we just must have a better picture of the constraints we will be operating under as we view additional budget requests. Prudence dictates that we proceed with caution. That is built into this resolution, as careful study will show.

Mr. Speaker, as I have said, in the appropriation bills we have already made reductions in the President's budget of billions of dollars. We have exercised a great deal of care and we have done the best we could. The great majority of these bills are signed into law and programs are operating. It would be chaotic, inefficient, and expensive to take action at this date to repeal existing law. We have exercised restraint and we will have ample opportunity to exercise further restraint as I have pointed out.

The gentleman from Connecticut (Mr. GIAIMO) has done an outstanding job. He and his committee have brought before the House the best product possible at this time under the circumstances.

☐ 1120

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I am afraid that my very good friend, the gentleman from Ohio, has offered us a sweet but poisoned piece of legislative fruit. Posing as a champion of fiscal integrity, he is asking us to vote for a motion to commit which, if adopted, will have the effect of subverting the budget process.

Let us be realistic. If this motion to recommit is adopted, and if the Budget Committee takes the instructions contained in the motion seriously and reports back to the full House a new budget resolution providing for a 2-percent across-the-board cut in every function except defense and veterans, what will happen is that most of the Republicans will vote against the budget resolution on the grounds we have not cut enough, and a substantial number of Democrats will vote against the budget resolution on the grounds that we have cut too much. The consequence will be that we will be unable to put together a majority on behalf of a budget resolution.

We have been at work on this budget resolution in committee and on the floor for 4 months now. We have been in conference committee for 5 weeks. We have worked hard to stitch together a very fragile majority on behalf of the resolution which we have in front of us today.

It seems to me that if we adopt this motion, and if we have to go back to the committee, the net effect will be that we will be unable to adopt a budget resolution for the 1980 fiscal year. All I can say is that at a time when we have double-digit inflation in this country, the institutional and political implications of this Congress being unable to act with the discipline necessary to even adopt a budget for the current fiscal year would have devastating consequences, not only for the budget process itself, but for the faith of the American people in the integrity of this institution.

Finally, let me just say that if you are not concerned about the consequences of a failure to adopt the budget resolution for the economy, if you are not concerned about the consequences of the failure to adopt a budget resolution for the Congress, think of the poor members of the Budget Committee. We are sick and tired of being locked in conference with the Senate. If I hear the distinguished Senator from Maine and our great and glorious leader, the gentleman from Connecticut, do battle any longer on the terms of this resolution, I and my colleagues on the conference committee are going to go stir crazy.

We are at the end of the road. We have worked hard to produce a budget resolution. We have rejected in the past, amendments to cut on an across-the-board basis one-half percent and 1 percent, and now, just at the point when we are ready to wrap the process up, we have a new motion to cut 2 percent across the board. It sounds good. It is great politics. But the programmatic and legislative implications of this motion are that if we adopt it today, we can probably kiss goodby to the prospects of adopting a budget resolution for 1980.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, I would like to call the attention of the Members to a very important change in this budget resolution which I think will give many Members on both sides of the aisle a very good reason to vote against the final passage of this budget resolution. I refer to the fact that the majority leadership in both Houses, the Senate and the House of Representatives, have once again buckled under to the big oil companies.

When the first budget resolution came before this House, I introduced an amendment which increased revenues by $1.2 billion by repealing the foreign oil tax credits that have allowed the big, multinational oil companies to rip off the American public to the tune of billions of dollars by using their royalty payments to OPEC countries as a credit against their U.S. income tax obligations.

During the first debate on the second concurrent resolution, I engaged my good friend, the gentleman from Connecticut (Mr. GIAIMO), in a conversation in which he told me that my amendment had been carried forward and that the increased revenues for the foreign oil tax credit repeal were in the second budget resolution. Then on the conference report on November 2, there was specific language which refers to the fact that the increase in revenues from the foreign oil tax credit repeal was still in that budget resolution.

The next conference report that came before us, the last one before today, dropped all mention of the foreign oil tax credit entirely which probably means that nothing will be done this year to tax the foreign profits of the major multinational oil companies. Until this is done, these big oil companies will continue to use this tax dodge which makes the purchase of foreign oil more profitable than producing domestic oil in this country. Consequently, the United States will continue to be held hostage to ever-rising OPEC oil prices, the American people will continue to pay through the nose and we will never solve the energy problems in this country.

● Mr. FRENZEL. Mr. Speaker, nearly 2 months behind the schedule mandated by law, the Congress is finally getting around to passing a budget resolution. But, late as it is, the country would be better served if it later still, or never passed.

I have described this $550 billion budget before as overstuffed. It represents a spending increase of nearly 11 percent, much of which is avoidable if only Congress had the will to make the cuts. It will give us a phoney deficit of $30 billion which is more likely to become a deficit of $40 billion.

Congress has again proved it has no self-control, that it has no intention of responding to public demands for reduced spending, that it does care to fight inflation directly, and that it is content to allow monetary policy to carry the whole load in the inflation fight. The party line vote against reductions and for the budget reaffirms the fact that the Democrat majority here is incapable of managing our country's affairs.

Without regret, except that my vote does not make a majority, I will vote "no" on this irresponsible budget.●

Mr. GIAIMO. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I do not intend to yield time and get into colloquy with the gentleman who just spoke; but he does not know what he is talking about, because the budget resolution at all times has kept in there a recommended amount by which revenues should be increased by $2.4 billion which could accommodate the item about which he is talking.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield on that specific question?

Mr. GIAIMO. No, I do not have sufficient time to yield.

Mr. Speaker, let me urge the Members of the minority party to pay close heed to what I say because, as the Members know, we cannot depend upon the minority in this House to pass a budget resolution. They do not vote for a budget resolution. Not one of them, if I am correct, voted for this budget resolution when it came up in this House several weeks ago, whereas in the other body, with the same budget resolution, the same numbers, the same figures, the same language, the minority party supported the budget to the tune of a good 50 percent of the minority party. I am really tempted to ask: Do we have two Republican Parties in this country, one in the House and one in the Senate, and do they not talk to each other?

We are not adopting a budget resolution here. We are not discussing a resolution on the budget. We already have adopted it in this House and in the Senate. We have worked out our differences these past months. This is the final compromise version. If the Members support the Republican motion to commit, what you are doing is turning down the resolution that you have already voted on in the House, and sending it back to committee, with December 1 at the end of this week.

I submit to the Members that there is one issue in this resolution and in this motion which the gentleman from Ohio will offer. Do we in Congress want or do we not want to adopt a budget this year? I say to the Members, as chairman of the committee, I very much doubt that we are going to be able to adopt a budget in Congress this year if we turn this budget down today, and Congress can then go before the American people and say, "We are incapable of adopting a budget." I will tell you why. We have Republicans and Democrats in the other body, who have been able to resolve their differences. They have been able to look realistically at what the appropriations and entitlement committees have done and fashion a workable budget for the coming year. But here in this body we have to do it with only Democrats. We can expect no help from Republicans. They are good at voting more money, as they did 2 weeks ago when we had hospital cost containment up. Almost all of them voted in favor of continuing the wasteful expenditures in the hospital programs. They voted against one of the keystones of legislative savings or of reconciliation purposes. But today they are up here bleating—bleating, b-l-e-a-t-i-n-g—in favor of reducing expenditures. They speak with forked tongue. You cannot have it both ways. Do you want to tell me how to cut this budget? I can cut this budget better than any of you in this House, but in order to do that you have to get the appropriating committees to go back into committee and reduce expenditures by $8 billion. I will ask the gentleman from Mississippi, at this late stage when all of your bills are passed, can you find $8 billion to cut in your appropriations?

Mr. WHITTEN. Mr. Speaker, if I were to answer fully, I would say that you would have to stop the entire government, because after entitlements and other so-called noncontrollable items such as interest on the public debt are eliminated, there would have to be such drastic, mammoth percentage cuts made in the rest of the budget that these items would essentially be decimated.

And I would point out that these items would include such programs as public works, food stamps, agriculture, environmental and water programs, and most importantly at this particular time, energy programs.

And Mr. Speaker, even though the motion before us would exempt defense programs from any percentage cuts as far as the budget resolution is concerned, this would have no real effect in preventing cuts from being made in defense when the real money decisions had to be made to achieve this reduction.

Mr. Speaker, the Appropriations Committee has reduced the budget requests of the administration—considerably—over $5 billion thus far. Thus we have been as economical as possible already.

While it is easy to say go back and make cuts, I can guarantee that it would be essentially impossible to make the kind of cuts that are being envisioned—largely because we have already made these cuts in the first place.

If this motion to commit were agreed to, it would have the practical effect of defeating the budget resolution. Let there be no mistake about it. This would not be a move for economy but rather an action that took all controls off of Federal spending.

□ 1130

Mr. GIAIMO. Exactly. The budget we are talking about today started on October 1. It is now almost December 1.

Commitments have been made. Expenditures will have to be made. This great grandstand play of the Republican motion would have the American people think that one can save money by voting for it. Nonsense, nonsense, nonsense. They do not support the budget resolution. They do not believe in it. They are opposed to it. They have not helped us to find legislative savings, as witness the vote several weeks ago on hospital cost containment. Why, they do not even agree with the Republicans in the Senate.

Vote down the Republican substitute.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Latta) has 2 minutes remaining.

Mr. LATTA. Mr. Speaker, I yield myself the balance of my time.

I wonder if the majority Members of the House have talked to the majority Members of the Senate on reconciliation. The Members of the Senate majority worked for reconciliation, and the House majority took a position opposed to it.

Let me say to the Members of the House, they are going to have an opportunity here today to tell the people back home whether they are for a 2-percent cut mandated by this House in toto, not any particular program. We are going to leave it up to the members of the Committee on the Budget to reduce spending by 2 percent, exempting Defense and Veteran's Affairs. We need to do something.

Members cannot come back and say next November, "We were for cutting expenditures" if they do not vote for this. We are going to show line items which can be cut.

We are going to show that for vote after vote the other side of the aisle voted for more expenditures.

It is being said here today that we cannot cut an 11-percent spending increase over 1979. Humbug.

The American people want cuts. They are fed up with our not cutting the budget, with higher unemployment, with higher inflation. The American people want Government spending reduced. Are we going to give it to them? You have got the votes on your side of the aisle to do something about it now.

We can go back home and talk about the budget process. The people in this country do not care whether they have got a budget process. They want lower spending. They are sick and tired of all this deficit financing. They do not like the fact that the third highest item on the budget is interest to pay for this deficit financing.

During the course of this Congress, we have more than doubled the red ink on the charts for the American people, more than doubled the debt.

Now is that a proud record? Look at the budget process. You want to preserve something that has not worked? Look at the record. We cannot beat ourselves on the chest and say, "It has worked," because every session of the Congress we have seen the debt go up, up, up and up. Is that what we want to preserve?

We want to preserve something for the American taxpayers. We are as tired as they are of inflation, of unemployment, of increased interest rates.

The public knows what goes on. Perhaps the majority of the Committee on the Budget does not know what is going on in this country.

Then this majority says, "We want to save the budget process." Sure, we want to save it, but we want to produce something and achieve results for a change.

Mr. GIAIMO. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Connecticut is recognized for 3 minutes.

Mr. GIAIMO. I say to my friend from Ohio, and to my friends on the minority side, please do not ask me to yield because I only have 3 minutes. The Members can debate on their own time.

I am addressing myself to the Members of the majority party in this House. Do not be taken in by the propaganda of the minority. I have been listening to it for days. I only wish that once in awhile they would sit and listen to their colleagues in the Senate, on the minority side in the Senate.

The interesting thing is that the Republicans in the Senate are committed to a budget process. It is very clear that the Republicans in the House are not.

At such time as they become committed to the budget process and participate in it, they may make some meaningful contributions to the process; but when we do not get one vote from them, I do not call that participating in the budget process which their colleagues in the Senate will support.

Again, let me address myself to the Members of the majority.

The budget process is definitely at stake here today. The issue today is not whether we commit this bill to committee or whether we make any changes in it. We have already been through that. We have worked out the compromises and the differences with the Senate, which we voted on here in the House. We have come up with an agreement, and this is the agreement. The only question today is whether we are going to let the minority dictate whether or not we adopt a budget in the United States today.

Vote against them, because if we do not defeat this motion we will be letting them dictate the budget policies of this Nation—the very people who will not support a budget because they do not believe in it, the very people who will never support this process.

I urge and plead with the Members to vote down the Republican motion.

Without objection, the previous question is ordered.

The SPEAKER pro tempore. Pursuant to the order of the House of November 27, the previous question is considered as having been ordered.

MOTION TO COMMIT OFFERED BY MR. LATTA

Mr. LATTA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. Is the gentleman opposed to the concurrent resolution?

Mr. LATTA. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to commit.

The Clerk read as follows:

> Mr. Latta moves to commit Senate Concurrent Resolution 53 to the Committee on the Budget with the following instructions: For fiscal year 1980, after excluding the National Defense and Veterans Affairs functions, reduce the remaining total amount of new budget authority and total amount of outlays by two percent, and make resulting adjustments in the levels the deficit, public debt and the amount by which the public debt should be increased. The budget authority and outlay levels for the functional categories, except National Defense and Veterans Affairs, shall be adjusted so that they are mathematically consistent with the revised total amounts of budget authority and outlays. The Committee shall use its judgment and discretion in making the necessary reductions and should in no event consider these instructions as requiring that every functional category other than National Defense and Veterans Affairs be reduced or that every category need be reduced by an equal percentage amount. The Committee shall make no reductions in the National Defense and Veterans affairs functions. Any reconciliation instructions which may be needed to carry out these reductions shall be included in the resolution. The Committee on the Budget is further instructed to report S. Con. Res. 53 back to the House promptly with these changes.

The question is on the motion to commit.

The question was taken; and the Speaker pro tempore announced that the nays appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 207, not voting 39, as follows:

[Roll No. 686]

YEAS—187

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Bennett
Bereuter
Bouquard
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Forsythe
Fountain
Frenzel
Gibbons
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Levitas

Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Nichols
Pashayan
Paul
Petri
Pickle
Pritchard
Pursell
Quayle
Quillen
Railsback
Reglua
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walgren
Walker
Wampler
Weaver
White
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wyatt
Wylie
Young, Fla.

NAYS—207

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cotter
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Giaimo
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Hefner
Hightower
Holland
Holtzman
Hutto
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McHugh
McKay
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Roberts
Rodino
Roe
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Watkins
Waxman
Weiss
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—39

Anderson, Ill.
Anthony
AuCoin
Beard, Tenn.
Bethune
Biaggi
Burlison
Coelho
Crane, Philip
Danielson
Davis, S.C.
Diggs
Edwards, Ala.
Flood
Gephardt
Hansen
Heftel
Howard
Ireland
Jeffords
Jenrette
Kogovsek
Leach, Iowa
Leland
McCloskey
McCormack
Mineta
Montgomery
O'Brien
Richmond
Rose
Rosenthal
Rostenkowski
Runnels
Stangeland
Treen
Winn
Wydler
Young, Alaska

☐ 1150

The Clerk announced the following pairs.

On this vote:

Mr. Hansen for, with Mr. Biaggi against.

Mr. Leach of Iowa for, with Mr. Jenrette against.

Mr. Edwards of Alabama for, with Mr. Mineta against.

Mr. Bethune for, with Mr. Burlison against.

Mr. Beard of Tennessee for, with Mr. Anthony against.

Mr. O'Brien for, with Mr. Danielson against.

Mr. McCloskey for, with Mr. Howard against.

Mr. Stangeland for, with Mr. Rostenkowski against.

Mr. Winn for, with Mr. Richmond against.

Mr. Wydler for, with Mr. Diggs against.

Mr. Anderson of Illinois for, with Mr. Rosenthal against.

Mr. Young of Alaska for, with Mr. McCormack against.

Mr. Philip M. Crane for, with Mr. Leland against.

Mr. Jeffords for, with Mr. Coelho against.

Until further notice:

Mr. AuCoin with Mr. Kogovsek.

Mr. Rose with Mr. Heftel.

Mr. Runnels with Mr. Ireland.

Mr. Flood with Mr. Gephardt.

Mr. Montgomery with Mr. Davis of South Carolina.

Mrs. **BOUQUARD** and Mr. **WHITE** changed their votes from "nay" to "yea."

Mrs. **SCHROEDER** and Mr. **VENTO** changed their votes from "yea" to "nay."

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

The **SPEAKER** pro tempore (Mr. BRADEMAS). The question is on the Senate concurrent resolution.

Mr. **LATTA**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 206, nays 186, not voting 41, as follows:

[Roll No. 687]

YEAS—206

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burton, Phillip
Byron
Chisholm
Clay
Collins, Ill.
Conte
Corman
Cotter
D'Amours
Danielson
Daschle
de la Garza
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Ginn
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hanley
Harkin
Harris
Hawkins
Hefner
Hightower
Holland
Hutto
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
LaFalce
Leach, La.
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McHugh
McKay
McKinney
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Minish
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Roberts
Rodino
Roe
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
White
Whitley
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—186

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conyers
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Dellums
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fish
Fisher
Fithian
Forsythe
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hance
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lundine
Lungren
McClory
McDade
McDonald
McEwen
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Moffett
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Neal
Pashayan
Paul
Petri
Pritchard
Pursell
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stark
Stenholm

Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Weaver
Weiss
Whitehurst
Whittaker
Williams, Ohio
Wylie
Young, Fla.

NOT VOTING—41

Anderson, Ill.
Anthony
AuCoin
Bethune
Biaggi
Burlison
Coelho
Coughlin
Crane, Philip.
Davis, Mich.
Davis, S.C.
Diggs
Edwards, Ala.
Flood
Gephardt
Hansen
Heftel
Howard
Ichord
Ireland
Jenrette
Kogovsek
Leach, Iowa
McCloskey
McCormack
Mineta
Montgomery
Myers, Pa.
O'Brien
Railsback
Richmond
Rose
Rosenthal
Rostenkowski
Runnels
Santini
Treen
Wilson, Bob
Winn
Wydler
Young, Alaska

☐ 1210

The Clerk announced the following pairs:

On this vote:

Mr. Biaggi for, with Mr. Edwards of Alabama against.

Mr. Rostenkowski for, with Mr. O'Brien against.

Mr. Rosenthal for, with Mr. Railsback against.

Mr. Richmond for, with Mr. Bob Wilson against.

Mr. Mineta for, with Mr. Bethune against.

Mr. McCormack for, with Mr. Coughlin against.

Mr. Howard for, with Mr. Davis of Michigan against.

Mr. Jenrette for, with Mr. Hansen against.

Mr. Burlison for, with Mr. Leach of Iowa against.

Mr. Diggs for, with Mr. McCloskey against.

Mr. Myers of Pennsylvania for, with Mr. Winn against.

Mr. Anthony for, with Mr. Wydler against.

Mr. Flood for, with Mr. Philip M. Crane against.

Until further notice:

Mr. AuCoin with Mr. Coelho.

Mr. Davis of South Carolina with Mr. Runnels.

Mr. Santini with Mr. Heftel.

Mr. Gephardt with Mr. Ichord.

Mr. Ireland with Mr. Kogovsek.

Mr. Montgomery with Mr. Rose.

So the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Speaker, on rollcall 686, the immediately preceding rollcall, I was not able to be on the floor due to my attending to the business of the Committee on the Judiciary. Had I been present I would have voted "nay."

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On November 16, 1979:

H.R. 998. An act to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties;

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award program designed to encourage initiative and achievement among youths;

H.R. 3319. An act for the relief of Jose Quintana Dominguez Sendejas.

H.R. 5279. An act to provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany";

H.J. Res. 68. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week";

H.J. Res. 199. Joint resolution to amend the Act of October 21, 1978 (92 Stat. 1675; Public Law 95–498); and

H.J. Res. 428. Joint resolution designating December 1979 as "National Child Abuse Prevention Month."

On November 20, 1979:

H.J. Res. 440. Joint resolution making further continuing appropriations for the fiscal year 1980, and for other purposes; and

H.R. 5811. An act to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately.

On November 27, 1979:

H.R. 4930. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

EXTENSION OF FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3546) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 1 year.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3546, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, November 26, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 3546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136y), is amended by inserting at the end thereof the following: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1979, and ending September 30, 1980, such sums as may be necessary but not in excess of $62,250,000."

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 5, strike out "$62,250,000" and insert in lieu thereof:

$60,250,000, and an additional amount not in excess of $6,000,000 for the Administrator to provide the States for the conduct of applicator training and certification programs.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the second committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 9, add a new section 2, as follows:

SEC. 2. Any use, including aerial applications, of the pesticide Mirex on fire ants or imported fire ants shall not be prohibited under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) during the calendar years 1979 and 1980. Any such use shall be subject to any restriction, applicable to such pesticide, which was in effect on October 1, 1977, other than any restriction limiting the period during which such pesticide may be used, and the Administrator of the Environmental Protection Agency may not alter or otherwise change the terms of any such restriction applicable to such pesticide.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find myself in the unusual position today of being the chairman of the committee that has reported this legislation to the floor with the certain committee amendments. This is the second amendment. Contrary to the usual practice of urging my colleagues to adopt this committee amendment, I am here today to ask the members of the committee to reject the pending amendment presented by the Committee on Agriculture dealing with the pesticide Mirex.

☐ 1220

I am not unmindful of the fact that the fire ant is one of the most pernicious and troublesome pests that has ever infected croplands and other lands in the United States. It was brought here by accident some years ago. It now has ranged over something in the area of 190 to 200 million acres in nine Southern States. It has been a persistent and serious problem for the health not only of livestock, but of human beings as well, because its bite is troublesome and painful at best and dangerous in some cases, particularly multiple bites to small children.

The pesticide Mirex has been used for a number of years to combat this fire ant pest. It has been, to a degree, an effective pesticide, and it is for that reason that my colleague from Georgia (Mr. MATHIS) and others are urging that it be allowed to be used in 1979 and 1980 by aerial and other methods of application, notwithstanding cancellation by the Environmental Protection Agency for this purpose.

Our colleagues seek to require that the EPA permit the use of Mirex subject to regulations in effect on October 1, 1977. This in effect permits its aerial application.

Mirex was phased out by agreement between the EPA and its only producer, an agency of the State of Mississippi, because of health hazards posed by the chemical. This concern dates back over a decade to a time when a special panel of medical experts assembled by the Department of HEW urged curtailment of the use of Mirex because of its possible carcinogenic character. This was based on positive cancer tests conducted by the National Cancer Institute.

A second National Cancer Institute Study reported in 1978 confirmed the carcinogenic character of Mirex. Mirex persists in the environment for dozens of years, tends to be found in even higher quantities through the food chain and is present in the tissue of approximately one out of every five persons residing in States where Mirex has been used heavily.

Studies have also shown that Mirex will cross the placental barrier to expose the unborn, and that the chemical has been found in human milk from nursing mothers living in southern States.

Now, we can debate on this floor today whether those studies which I have cited and the evidence which has been brought forth against the pesticide is conclusive or not. There will be colleagues who will come forward and support this amendment and say that other studies and other experts raise some question about whether Mirex is or is not carcinogenic, whether it is or is not that dangerous, whether its benefits do not outweigh its dangers.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 4 additional minutes.)

Mr. FOLEY. Mr. Chairman, what we are asking the committee and the House to do this afternoon is to make a judgment, a judgment of 435 Members of the House only perhaps a half a dozen of whom have sufficient experience in their technical and professional backgrounds to make an independent scientific judgment that would be relevant in a group of seriously trained experts in this field.

We have not had a hearing in the Agriculture Committee, and none has been requested, to my knowledge, since this amendment was tacked on to the authorization bill some 6 months ago. As chairman of the committee, I am willing to see that a hearing is held in response to specific legislation that has or might be introduced to accomplish the same purpose as this amendment so that we could bring to the Committee on Agriculture or to an appropriate subcommittee technical experts from the involved fields to address the serious questions raised by this problem. The testimony of entomologists, microbiologists, chemists, and other health professionals before the committee relative to the character of Mirex would give the committee and the House some basis to make a sound judgment.

Instead, what has happened is that this committee amendment was added to the authorization bill without any hearings, and without any testimony. The House is now asked to make a judgment without a single bit of substantive information in a congressional hearing record that could satisfy the legitimate questions of the Members on how they should vote. If Mirex is a safe pesticide, or if its dangers are so remote and its values so immediate that the House should take the unusual action of overriding the Environmental Protection Agency, then at least let us have a record; at least let the committee have an opportunity to call technical witnesses on both sides and lay those issues out, not only for the benefit of the subcommittee and the committee, but for the benefit of this Committee of the Whole House and the House itself.

But we are being asked to make a snap judgment that if made in the affirmative today, will be the basis of other efforts to free other kinds of pesticides and chemicals for use. I am not saying that that is always wrong. There are cases where I think the Congress, perhaps, ought to override the regulatory committee or commission or agency. I myself have supported such legislation when it dealt with questions such as the continued use of saccharin, or several years ago when it involved the use of DDT on national forests; but those bills were the result of hearings where testimony was taken. The DDT bill which I sponsored in the Committee on Agriculture some years ago only mandated the use of DDT when authorized by the Department of Agriculture to protect national forests. It did not directly mandate its use.

This committee amendment mandates the use of Mirex, regardless of what the agency may think about it, and it forces back into permanence those regulations that existed in 1977. It is a dangerous precedent. It is bad legislative practice, and whatever anyone's final judgment might be on this issue, they should insist on two things: that this type of action be based on committee hearings, and on expert testimony, and that we do not abruptly make a decision, without adequate evidence presented in the record. Any such decision might be the wrong one in that it might not protect what I know the House wants to protect—that is, the health and welfare of those people who are being subjected to the infestation of fire ants. It also might adversely affect the health and safety and welfare of those people who may be exposed against their will to pesticides used in this country.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, as a member of the Committee on Agriculture, I would like to commend the gentleman for his statement. I certainly agree completely with what the gentleman has had to say. The gentleman has furnished great leadership to the committee.

I would hope that at least this Committee of the Whole would say that we should have hearings and the committee should have a chance to at least look at the evidence before we act on such an important matter.

☐ 1230

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the committee amendment.

Mr. Chairman, I want to associate myself with the remarks of the distinguished chairman of the Committee on Agriculture in recommending that the amendment that his committee adopted be defeated, primarily because that committee has not even held hearings on a very technical and important subject.

We have an issue that involves, as often we find to be the case in the legislative process, a conflict which has to be resolved by balancing competing interests, a competing interest of a chemical that has been effective in dealing with fire ants versus the very clear necessity to protect the health of the American people.

We should be aware that Mirex was in extensive use from 1962 to 1976 against fire ants. Concern over its toxicity led to a 3-year formal hearing process, after which EPA concluded that Mirex was potentially more dangerous than beneficial and banned it.

So the status now is that Mirex has been banned by EPA, and the proposal is to reverse that decision of EPA without holding hearings to show in the record why that decision ought to be reversed.

Let me review, from a health perspective, what EPA found, because I think it is of serious concern. Mirex poses a risk to human health. The National Cancer Institute opposed its reintroduction into commerce because several studies have shown Mirex to be an animal carcinogen and thus a possible human carcinogen. Other studies have shown that Mirex passes through the human placenta to the unborn and that it has been found in human breast milk. Further, 22 percent of those tested in the nine Southern States where Mirex was used most prevalently had Mirex residue in their fat tissue; 45 percent of those tested in Mississippi showed Mirex residue in their fat tissue.

The chemical composition of Mirex is such that it is resistant to human metabolism and it is slow to degrade once applied to the land. This degradation process may take a decade or more, and it degrades into components that are even more potent than Mirex. One product of decomposition is Kepone. It was only a few years ago that human exposure to Kepone caused serious health problems in Virginia.

Finally, there is evidence that Mirex accumulates in terrestrial and aquatic systems and that the level of Mirex in tissue increases in each organism as it progresses up the food chain.

This is the record that we now have on the health consequences of Mirex. We have not had a hearing in the House of Representatives to refute this record. We must deal with an issue of balancing a need for a pesticide to deal with fire ants, a very dangerous pest which inflicts a painful sting; but on the other hand, EPA found the consequences in that balance to be heavily in favor of banning Mirex.

I think it would be inappropriate for us at this point, without hearings before the appropriate committee, to adopt a reversal of the EPA decision unless a record has been set out to convince us that the health of the American people will not be jeopardized.

So I support the chairman of the full committee and, I understand, also, the distinguished chairman of the Subcommittee on Department Investigations, Oversight, and Research, the gentleman from Texas (Mr. DE LA GARZA), in urging my colleagues to vote to disapprove section 2.

Mr. MATHIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time today to attempt, in my humble way, to defend the amendment that was adopted by the Committee on Agriculture, and to attempt to explain to the Members of the Committee the reason why that I and others felt that this was the only recourse available to combat this insect that the distinguished chairman of the committee admits is a real problem in our part of the country.

Of course, one of the problems with attempting to find a control program for the fire ant is the fact that it is only present in nine Southern States. The area of infestation is now about 230 million acres in scope, but it is confined to nine States. If the problem were nationwide, if the gentleman from Washington and the gentleman from California, who have spoken so eloquently against the use of Mirex, had the problem of infestation, I submit to the Members that they might very well be on the other side of this question. But it is with no great deal of enthusiasm that I offered the amendment in committee to specifically authorize the use of a specific compound for a specific test in a specific part of the country. I agree with the distinguished chairman of the committee that this is bad legislative policy. Unfortunately, it is the only remedy that is available in terms of fighting this insect.

I also want to set one other thing straight that has been mentioned here this afternoon, and that is about the cancellation of Mirex by the Environmental Protection Agency. There was no cancellation. There was a negotiated agreement that was reached between the Environmental Protection Agency, the State of Mississippi, and the Environmental Defense Fund.

How did the State of Mississippi come to be involved in this process in the first place? Because Allied Chemical Co., which had the label, which had been manufacturing Mirex, after these 3 years of hearings, after an extended period of costly litigation and constant threats of lawsuits, decided that they could no longer afford profitably to manufacture or to be in this process; so they, in essence, gave it to the State of Mississippi. The State of Mississippi then—and the gentleman from Mississippi (Mr. MONTGOMERY) I am sure will address himself to this question—attempted to enter into an agreement with the Environmental Protection Agency to continue the manufacturing of the product Mirex because it is, very simply, the only chemical compound that exists that does in fact control—and I did not say eradicate, I said control—the area that might be infested or has been infested by the fire ant.

There have been allegations made and some of my great friends in this body who are so expert on all of these questions of consumer health and safety—who do not have fire ants in their district, I might add—say that Mirex is not effective because it has been in use since 1962.

I also think the record needs to be made that there never once since 1962 has been a period of coordinated, cohesive effort involving a program aimed at eradication. It has been hit and miss. If you have treatment in one county and you do not have it in the next, or if you have treatment in one State and you do not have it in the next, you just simply cannot control the spread of this insect. It is unfortunate—I guess it is because they are imported—but they are unable to read county lines. When they cross one county into the other, they do not realize that they are passing into new territory. The truth is that they have spread and they have spread rapidly. The only thing we have available to us that will in fact do the job that must be done, not to eradicate, but to control, is Mirex.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Chairman, I understand that the fire ant has spread since 1962 from some 32 million acres to, as the gentleman said, some 230 million acres covering over nine States in the United States. The gentleman then said that we have never had a coordinated policy, that it was hit and miss. Does the gentleman now wish to use Mirex, to blanket nine States in the South with Mirex, so that we cover that entire region, to control the ant? Is that what the gentleman really is after then?

Mr. MATHIS. The gentleman is eminently correct.

Mr. HARKIN. In other words, the gentleman wants to spread Mirex all over the nine States through aerial application; is that correct?

The CHAIRMAN. The time of the gentleman from Georgia (Mr. MATHIS) has expired.

(By unanimous consent, Mr. MATHIS was allowed to proceed for 5 additional minutes.)

Mr. MATHIS. Mr. Chairman, I would say to my friend, the gentleman from Iowa, that is exactly what the gentleman from Georgia is proposing for 1980, calendar year 1980. As the gentleman well knows, 1979 is gone. We have missed the opportunity for aerial application, which was available to us at the time that the committee passed this bill. Unfortunately, for whatever reason, we have not had an opportunity to get this bill before the floor until now. But, yes, for 1980 I would like to have a concentrated effort at spraying aerial application those 230 million acres that are infested in the nine Southeastern States. The gentleman is eminently correct.

Mr. HARKIN. If the gentleman will yield further, I understand, though, that if you spray one infected acre, the ants can just move over to another part, another couple acres away someplace. So do you not have to spray this stuff, blanket it over the entire area, rather than just spraying the acres where the infestation occurred?

Did not the gentleman just say that?

Mr. MATHIS. The gentleman from Iowa, I think, understood me when I said I wanted to spray every single infested area that exists. The gentleman, if he had any knowledge at all about Mirex, would know that it is a compound that is ingested into the system of the fire ant.

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It has to be delivered into the mound, where the queen is, for it to be effective. No other compound that is available today does that job. Others kill ants on contact, such as chlordane and others. The only one that effectively destroys the queen inside the colony is Mirex.

Yes, I say to the gentleman we want to spray all of the infested areas.

Mr. HARKIN. If the gentleman would yield further, does the gentleman have any data to tell us how many gallons of Mirex this might take, and can the one plant that is producing Mirex, that is owned by the State of Mississippi, produce that much Mirex and what the effects of this massive amount of spraying might be throughout this nine-State region?

Mr. MATHIS. If I could reclaim my time, I would say to the gentleman again if he knew anything at all about the question of Mirex, he would know there is no one in the country manufacturing it today. There has not been any manufactured since 1978, when this negotiated agreement was reached. There is, however, as a result of what EPA approved, for aerial applications in 1978, there are some 11,000 pounds available today that is being stored in Mississippi that EPA already approved because of the time limitation of the negotiated agreement, not the ban by EPA, the negotiated agreement, and 11,000 pounds were let. That 11,000 pounds is available for aerial application today. There is no plant that is manufacturing Mirex in this country today, period.

Mr. HARKIN. I am well aware of that. Is that 11,000 pounds enough to cover the entire nine States?

Mr. MATHIS. Yes.

Mr. HARKIN. So no more will have to be manufactured?

Mr. MATHIS. I hope not, I would say to the gentleman.

Mr. HARKIN. That 11,000 pounds will destroy the fire ants once and for all?

Mr. MATHIS. It certainly will not, if I could reclaim my time. We are not talking about an eradication program. The gentleman has no familiarity at all with the issue, or obviously he would know that. We are talking about stopping the spread of the fire ant. Hopefully, we could kill some of them, but certainly we do not want Iowa to be infested with the fire ant.

Mr. HARKIN. Just a second. We have been using Mirex since 1962. We have never controlled the spread of it?

Mr. MATHIS. We have controlled the spread of it when it was used in those few instances in a concentrated, cohesive way. The problem is we had several States, I would say to the gentleman from Iowa, that were attempting with their limited resources to fight the spread of fire ants over a long period of years.

When the Federal Government got involved in it, that is a period of time in which EPA also got involved in it, and we have never once had over any period of time a concentrated effort that was coordinated from one location to attempt to control the spread, let alone the eradication of this pest.

Mr. HARKIN. The gentleman might think that going from 30 million acres to 230 million acres is some kind of control, but in this Member's way of thinking, that indicates to me a total lack of control of the spread of fire ants.

Mr. MATHIS. I would say to the gentleman again if he had any knowledge about the history of the program, he would know there has been no coordinated effort. I have told the gentleman that five times. I am not sure what it takes to get through to the gentleman.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I would like to commend the gentleman in the well for his statement. Obviously, most of the people who are opposed to the program are not familiar with the facts.

Coming from the Second District of Alabama, which is basically rural and agricultural, we are very much concerned about it.

Mr. Chairman, I support H.R. 3546. Particularly in support of the amendment that will be offered by my distinguished colleague and friend from Georgia (Mr. MATHIS). In my part of the country, fire ants are a major problem to the farmer—they endanger not only his cattle and crops, but also his children. And this is not simply a nuisance to be put up with. There have been countless cases of children being stung by fire ants, and it is not a rare case for a young child at play to fall into a bed of fire ants—which proves to be not only painful, but dangerous. Although many of you may not be faced with such a problem, I urge you to vote for the Mathis amendment to protect the people and children of Alabama and surrounding States. This is a vote where people must come first—people are being victimized by these menacing insects, and desperately need to use Mirex, the only chemical presently available that is known to be effective in combating the fire ants.

Let me provide you with some relevant facts:

Since the termination of the control program in 1977, fire ants populations have begun to explode, concentrating populations in already infested areas and spreading into areas previously not populated by the ants.

Registration provided by this legislation would be limited to a defined period and would provide our citizens protection from these creatures pending the registration of any equally effective pesticide.

Fire ant stings are known to have killed humans, caused dermal cancers, and untold injury and suffering to people who are not hyperallergic to venom.

I have received literally hundreds of letters in support of this legislation. They come from farmers, mothers, concerned citizens and my latest receipts include letters from a football team in Goshen, Ala., that spends more time in practice trying to avoid the antbeds instead of catching the football. I would like to read one of these letters which I believe expressed the urgent need for passage of this critical legislation:

> This problem calls for immediate attention and action. This is an opportunity to vote for the people. In this time of double digit inflation, the small farmer has enough trouble just farming his land without losing money, let's not continue to burden him with an additional critical problem. I urge you not to turn your backs on these people, please vote in favor of the Mathis amendment.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. MATHIS) has again expired.

(At the request of Mr. DICKINSON and by unanimous consent, Mr. MATHIS was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Alabama.

Mr. DICKINSON. Just let me say that doing half a job is probably worse than doing no job at all. I think the history has shown, as the gentleman evidently was having trouble convincing some people with the facts, but if we do half a job, if we do not control the entire area that is affected and infected, and control the contiguous area, then that is true, they can move over to some other area; so there has to be a concerted effort put forth. It has got to be adequate.

I might say it is sort of like bailing out Chrysler. If you give them half enough money and say, "Well, go do the job," it will not bail them out. They cannot come out of it.

I support the gentleman.

Mr. MATHIS. I thank the gentleman for his contribution.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I certainly commend the gentleman for taking the stand he has in the committee. I hope this House will support the gentleman's stand and support his amendment.

I come from a congressional district that is affected by the fire ant that is probably the worst problem we have in our congressional district.

I might say, and I am sure the gentleman has pointed it out, there have been 17 deaths from the fire ant. This especially hits the lower income people in Mississippi, who live in rural areas, that the fire ant beds come near their houses. It creates a situation that we just about cannot handle.

I have several letters that state where a lady wrote me about her child who had had the fire ants sting and that the child had been in the hospital for a number of days and that we had to do something about it.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. MATHIS) has again expired.

(At the request of Mr. MONTGOMERY and by unanimous consent, Mr. MATHIS was allowed to proceed for 3 additional minutes.)

Mr. MONTGOMERY. Mirex is the only chemical we have come up with at this time that will control the fire ant.

Now the gentleman mentioned, and I will state, that Mississippi has done work and has produced Mirex.

As the gentleman knows, we have also spent State funds working trying to find another chemical that would evaporate quicker than Mirex and that would do the same job that Mirex or even do a better job than Mirex. It is such a serious situation that our State government has gotten totally involved, but we need some additional time.

I certainly hope that this body will support the gentleman's amendment. It is a very matter of life and death. I am talking from experience now, and we are asking the gentleman to help us where we have a very, very serious situation, and we have got to have some temporary relief.

Mr. Chairman, I represent a State in the southern part of this country that suffers immensely from the effects of fire ant infestations. I have first hand knowledge of the devastation these insects can cause both in human suffering and economic damage, and I want to take this opportunity to strongly urge my colleagues to support Mr. MATHIS' amendment allowing the temporary use of Mirex to ease these problems.

The EPA banned the use of Mirex last year, basing their decision on tests in which rats fed large amounts of Mirex developed tumors. The tests were conducted by the National Cancer Institute and a scientist from that agency later stated that the studies were inadequate and needed to be run again. That was in 1976, and I have seen no evidence of repetition of the tests. Nevertheless, Mirex was banned in 1978, and since that time the fire ant has spread to 50 million more acres. They are now evident in 190 million acres in 9 States, and they threaten the entire temperate climate zone in this country.

Mirex had been used for more than 15 years, and during that time there was not a single death or illness resulting from its use. On the other hand, there have been severe problems caused by the fire ant in my part of the world. Seventeen deaths have been reported along with 30,000 hospitalizations and 24 limb amputations from the sting of this tiny pest. Additionally, there are large numbers of persons who are not in any statistics but who have had mild to severe reactions to fire ant stings. These people live in constant fear of coming in contact with the ant.

The agricultural economy is also suffering with millions of dollars lost because of the infestations. Crops have been harmed and fields have been taken over by fire ant mounds. Machinery has been damaged and properties devalued because of these dirt hills.

All of this is needless suffering, for Mirex is capable of controlling the fire ant. Unfortunately, it is the only chemical available that is effective on a large enough scale, and it is now banned from use. The nine States suffering from infestations are in a state of emergency. The only solution to this emergency is to lift the ban on Mirex and control the pests while scientists are seeking substitutes that will be acceptable and equally effective.

Mr. Chairman, I would like to share an excerpt from a letter that I have received from a mother of a 14-month-old child in my district. In this letter, the mother describes a yard that is so badly infested that she cannot allow her daughter to play there. She says, and I quote:

> I am greatly distressed because I cannot even put her down in the yard. If I do put her down she can only go 2 or 3 feet away. I am very much afraid that she'll be harmed seriously or even killed. Please help.

Mr. Chairman, I am submitting the entire text of the letter for inclusion in the RECORD, but I wanted to particularly share these words of distress. We cannot continue to allow the EPA to deny these people the relief that is available to them and that they desperately need. I urge each Member of this body to take responsibility for these problems and support Mr. MATHIS' amendment to lift the ban on Mirex for 1979–80.

Thank you.

DEAR SIR: I would like to bring to your attention a problem which is growing out of hand in our area. The problem is fire ants.

I understand in part why the Environmental Protection Agency banned Mirex, but since that time fire ants have spread actually like fire. The last time the land was treated I felt very much let down. For a while we had no fire ants in our yard, but now we have about 10 hills, and they are large hills.

I have a 14 month old daughter who goes everywhere, and I am greatly distressed because I can not even put her down in the yard. If I do put her down she can only go 2 or 3 feet away. I am very much afraid that she'll be harmed seriously or even killed. Please help.

If something is not done soon, and I don't mean treating a hill here and there or a yard here and there, fire ants will be destroying the cattle and other animals the EPA was trying to protect not to mention precious human lives.

I would like information about treatment of fire ants in my yard that will be effective until something can be done on a major scale.

I have heard several people in our community discuss this problem, and I know they will greatly appreciate your help and concern.

Sincerely,

Mrs. DOROTHY C. WIMAN.

MIZE, MISS.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Would the gentleman explain if the Mirex does not kill the fire ants, and I think that is what the gentleman said——

Mr. MATHIS. No. The gentleman misunderstood me. The Mirex does in fact kill the fire ants, and is the only compound that is available that does kill fire ants.

Mr. MAGUIRE. So it does kill them. Then it ought to be the objective to eliminate them. Right?

Mr. MATHIS. We would like very much, I would say to my friend from New Jersey, to have a program of eradication. We never have. We are talking about control.

Mr. MAGUIRE. The gentleman said they could not be eradicated, did he not?

Mr. MATHIS. No. I said we have not been able to eradicate them because of the piecework and patchwork approach used over the past several years. I fully believe if we had an ample opportunity for a coordinated, cohesive program aimed at eradication, we might be able to accomplish that. We have never been allowed this privilege.

Mr. MAGUIRE. What about this Imidan where registration is about to be received?

Mr. MATHIS. I have no knowledge of Imidan or any other chemical where registration is about to be received. The people in the EPA apparently did not keep me informed as they do the gentleman from New Jersey.

Mr. MAGUIRE. Apparently Stauffer Chemical and American Cyanamid both have new chemicals for aerial application, which may be used experimentally in the future.

Mr. MATHIS. Experimental use permit has been granted to American Cyanamid for spraying on, I believe, 10,000 acres this fall and 100,000 acres next spring. The fall spraying is now complete, and in fact, some 7,000 acres were sprayed. Those tests are still out, I would say to the gentleman, as they properly should be. The 100,000 acres scheduled to be sprayed next spring, we will then have test results from that.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. MATHIS) has again expired.

(By unanimous consent, Mr. MATHIS was allowed to proceed for 3 additional minutes.)

Mr. MATHIS. I would say to my friend from New Jersey (Mr. MAGUIRE), I am very hopeful this compound which is called AC 217,300, I believe, will be the answer. I hope it is what we are looking for.

I would say to the gentleman that American Cyanamid, who is producing this chemical, says it will be 1983 before it is available, at the very earliest.

What we are talking about is a 1-year authorization for attempting to control this.

I have a couple of points I want to make.

Mr. MAGUIRE. If the gentleman will continue to yield, surely the gentleman would prefer something that was not carcinogenic.

Mr. MATHIS. Well, I would certainly—I think that somehow those Members of Congress who come in and say automatically that this is a carcinogenic compound are not looking at that 3-year record that has been established.

The EPA did not ban Mirex. The EPA stopped the usage of Mirex on a negotiated settlement because the jury is still out. There is a broad body of scientific evidence from both sides of this question. But it somehow is insulting to the intelligence of the gentleman from Georgia, and I would assume the gentleman from Mississippi and the gentleman from Alabama, and other States having infestations, that we, as elected Representatives of the people, want to spray our children with something we thought caused cancer. That is just absolutely insulting.

Look at the record. Three years of hearings have been held. The obvious truth is that there is no solid, concrete evidence that Mirex is carcinogenic in human beings.

Mr. MAGUIRE. I think the gentleman's statement is absolutely wrong, and I will address myself to that on my own time.

Mr. MATHIS. I thank the gentleman for his very positive contribution.

The gentleman from Washington made one statement, though, that I want to agree with totally, and that is this issue is not going to be decided on the basis of fact; it is going to be decided on the basis of emotionalism, because there has been more misinformation, and more—I would not say falsehoods, but misleading statements that have been put out in the form of "Dear Colleague" letters relative to this issue than anything I have seen since I have been a Member of this body.

I would urge all of the Members of the House to take a look at this issue based on just what it is, a 1-year authorization, a 1-year attempt to control a pest for which there is no other method of control. I urge acceptance of the Mathis amendment.

Mr. de la GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I take this time first to say that I very much sympathize with the intent of the gentleman from Georgia and those who support him. I join them in this intent of trying to arrive at some solution for control and possible eradication of the fire ant. I would like to say, though, that the disagreement lies in how we do it.

First let me say that they are now down into my congressional area so I would not accept the fact that because this is a regional area that is affected or only nine States that it is not a national issue or that there is no interest by those that are outside of this area. I am within that area, but nonetheless I do not agree on the proposed thrust of how to do this.

One very factual reason is that the amendment provides for a return to the regulations that were in effect on October 1, 1977. That provides that "for the aerial application of 0.454 grams of Mirex per acre per year only over open areas and prohibits its application over streams, lakes, ponds, ocean areas, forests, or other environmentally sensitive areas."

When the gentleman from Georgia says he wants to spray all of the 200-million-plus acres under this regulation, if this amendment is adopted, it cannot be done. It cannot be done physically for two major reasons. One, if we take those grams per acre and the 11,000 pounds of Mirex, that will only cover mathematically 10.9 million acres. So no matter what you say here, what you adopt, if you adopt this amendment, with the Mirex that you have, it just cannot be done, my friends. It cannot be done. This is simple mathematics.

Second, the problem is that we must have some semblance of control. I know that some, like my dear friend and colleague from Mississippi who says he received a letter from a lady in Mississippi about her child that had been bitten by fire ants, again, it has been stated here that only Mirex can be used and that is the only avenue available. It is not. There are now registered pesticides for control of fire ants called Dursban, Baygon, Diazinon, and Chlordane until 1980. There is imminent registration of Imidan, which would be limited only to Texas for some technical reasons. Also carbaryl and orthene are under study, so the homeowner has available to him items that can be used for control.

I will agree with one thing that the gentleman from Georgia, has said, and that is that there was never a program for eradication. I agree. We fought that battle. I was on the gentleman's side trying to get a program of eradication. Unfortunately, we were not able to convince the agency involved that that was the way to attack the problem. But for many other reasons they allowed only that amount which would control.

If we go back to the amendment as offered, back to that regulation, we are back to the same fight that we had of only control in immediate areas and not complete eradication.

Also I would think it should be mentioned, we now have, and I say this very sincerely, we now have for the first time, at least I personally feel that way, the ear and the interest of the Environmental Protection Agency. I think they are trying to work with us in trying to control or eradicate this very nasty pest.

The CHAIRMAN. Time of the gentleman from Texas has expired.

(By unanimous consent Mr. de la Garza was allowed to proceed for 3 additional minutes.)

Mr. de la GARZA. But they are trying to do it within the confines of what they have as factual information on what would be safe on an experimental, controlled basis. To just go and spray Mirex or any other pesticide indiscriminately over 200-plus million acres I think would be unwise, even if it were the safest pesticide that we had. Again, I repeat, and I hate to repeat so many times, the interests and desire of the gentleman from Georgia (Mr. Mathis) cannot be met under the regulations which he seeks to impose. One, because of the limitation of Mirex under the limitation of grams per acre, and, two, because it never has been done. It could not be done physically in one season in the spring.

So I would think we must continue to work together. The disagreement which we have as to the thrust of how we go about it should not be an obstacle, I would tell the members of the committee, in trying to arrive at ultimate eradication of this pest, that we take different roads and different approaches should not be the obstacle.

We should continue working together. As I assured my colleagues in the general debate, regardless of the outcome I, as chairman of the Subcommittee on Departmental Investigations, Oversight and Research, with the assurance and support of the chairman of the full committee, and I am sure the ranking minority member, we will have oversight hearings into this matter because we must continue oversight regardless of the outcome.

But the ultimate thing is that there is a possible long-lasting danger of using this item. We do not know. Some say it is completely safe; some say it is completely unsafe. I am in the awkward position of not knowing, but having the responsibility, one, to my constituency, of trying to do something to control and eradicate; two, of my constitutional oath here of trying to do what is best and safe for the general welfare of the Nation and all of the people involved in this process.

I would opt to take the road of caution and not cause irreparable damage to the environment and to human beings in the process, as we would do if we spray 200 million acres with Mirex.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(By unanimous consent Mr. de la Garza was allowed to proceed for 2 additional minutes.)

Mr. de la GARZA. I do not want to take that responsibility when, by legislating what conceivably could not be put into effect anyway, because if this amendment were to go through the whole process and be signed by the President, if it were taken to court, the possibility is it would not be available for the spring application.

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That is the first item. Secondly, there is a possibility that conceivably there would be a veto. Third—and I think this is the approach that I recommend to my colleagues—we continue with the experimental use of 217 300 and with use of other pesticides as mound application. There never has been any limitation on mound application. It is awkward, it costs more, but there never has been any limitation.

Actually, what we are debating here is aerial application. I do not know yet which is more effective, aerial and/or mound. I would think, from my south Texas logic, that mound application closer to the ant and right on the ant would be more effective than spraying it all over. That would be my south Texas reasoning. That is not contrary to the regulation. That can be done now. The lady who had ants in her backyard has available pesticides. Those that want the mound application have availability of that, so what we are debating really is, do we have aerial application?

It would be on 10.9 million acres, regardless of what the desires of the gentleman from Georgia are, if that is the only Mirex available.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to my colleague from Texas.

Mr. ECKHARDT. Mr. Chairman, I would like to say that my colleague from Texas, I think, expresses a view that I would express.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. Eckhardt and by unanimous consent, Mr. de la Garza was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. I would like to say that I know that his able committee and subcommittee have looked into this question. They have somewhat comparable jurisdiction in the area of FIFRA that we have on the Toxic Substances Act. This matter has not been brought before the gentleman's committee, as I understand it, and it has not come before ours. This came in, as I understand, as an amendment without consideration and hearings. Is that not correct?

Mr. de la GARZA. The gentleman is correct that this amendment was offered in full committee on markup of the legislation and it did not come from hearings involved directly with that. That is correct.

Mr. ECKHARDT. It would be a pity if we ran into another situation like the kepone, PCB, vinyl chloride situation without understanding full the consequences. I compliment the gentleman.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, let me ask the gentleman this: How successful are these other chemicals that the gentleman is talking about? Are they comparable to Mirex in their effectiveness against the fire ant?

Mr. de la GARZA. To my knowledge they are. Everyone has different information.

Mr. KAZEN. This is the reason that I come to the gentleman for an answer to this question, because he apparently has the expertise, being chairman of the Oversight Committee. But, my understanding is that AC 217 300, according to the agricultural commissioner of our State, is only going to be tested on a very limited basis. It will have the 10,000 acres this fall and the possible 100,000 next spring, while under the amendment in the bill Mirex will only be authorized for that 1 year. Now, would it not be better—my district is affected, and I am sure the gentleman's district is affected also——

Mr. DE LA GARZA. Let me tell the gentleman again, the risk is not worth it if we are going to spray a few million acres only.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. KAZEN and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. That is the thrust of my concern, that the risk, the possible risk is not worth it if we are going to spray only a few million acres. It will not control, it will not eradicate. The regulations in place at the time the gentleman from Georgia would put them back would only allow us, with the available Mirex, to spray a few million acres.

Mr. KAZEN. Let me ask the gentleman this: Would he rather have that than nothing at all, because apparently the rest of the chamicals do not work.

Mr. DE LA GARZA. Well, that is the question. They do work. The most effective one, everyone seems to agree, is Mirex. But, the others do work. There are a lot of items that can kill an ant. I just mentioned some. Somehow, we have gone into the complex that Mirex is the only thing that will do it.

Let me tell the gentleman something further. There are no funds mentioned here. There are no provisions for application, and under the funds available and under the technology available the Department of Agriculture would spray, if they could aerially, only 10 percent of the affected acres anyway. So, we are dealing in abstract matters.

All of us agree with the gentleman from Georgia that we want to eradicate; we agree with the gentleman from Texas that we want to eradicate. What I am trying to say is that this does not do it. The funds are not there. The technical capacity is not there. The Mirex is not there.

So, why risk possible permanent danger to the environment for a few million acres? I do not want that on my conscience. If in 5 or 10 years we are going to have problems, I do not want that on my conscience at this time if the industry, the EPA and all of us continue to try to find some possible solution to this very nasty problem. We all agree something should be done. I say it is being done in a cautious responsible manner.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am here to do something which we do not do often, and that is to admit that I made a mistake. I listened in the committee to the eloquent arguments of the gentleman from Georgia, and I voted with his amendment. But, subsequent to that time several things have been brought to my attention, and I do not need to go into them because they have just been very eloquently expressed by the gentleman from Texas.

It just seems to me that for us to go ahead with the Mathis amendment, to do that would be to create an unreasonable risk, one which is not necessary and one which we should not subject people to. The responsiveness we have seen of EPA and also of the other people involved demonstrates to me clearly that we must not do that, and we should take the advice of the gentleman from Texas and do what he has suggested.

I think that there are other alternatives which will keep the ants in check until such time as a better remedy can be found.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I will be happy to yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding. I want to say that I was most impressed, trying objectively to listen to this argument, to the argument made by the gentleman from Texas and the gentleman from Washington. I recall this discussion on the Agriculture Committee several years ago. We have a new problem in front of us now in this country, dealing with Agent Orange, which is a far cry from eliminating fire ants. Nevertheless, at the time Agent Orange was used it was presumed to be safe. Now, it has embroiled Vietnam veterans in a situation of most harmful injury, and of legal actions against the Government that have been supported by the courts.

Here, we are suggesting that this chemical Mirex on which the issue is clearly in doubt—I am not saying whether it does or does not cause cancer—but the issue is clearly in doubt, for us to talk of spraying even the 4 million acres that can be sprayed, which would not solve the problem, seems to me to be a consideration that we should drastically and firmly vote down at this time.

Those of us who are concerned about pregnant women and their unborn children should certainly vote no on this most harmful amendment.

I thank the gentleman for yielding.

Mr. JEFFORDS. I agree with the gentleman. We may not have learned all we would like to about the specific chemical which we are talking about, but my God, we have learned about the serious effects of others where we went forward without the kind of care that we should have used. If we have not learned about this specific one, we have known what has happened to others, and to go ahead as this Mathis amendment would suggest, to me is very irresponsible. I would just hope that we will rectify the action which we have previously taken. I urge you to defeat the committee amendment; the Mathis amendment.

□ 1310

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with some trepidation that I rise to speak on this matter because I am aware that the gentleman from Georgia (Mr. MATHIS) is far more knowledgeable than I about the particular merits and needs for Mirex, as he is in so many other areas. I confess that my only knowledge basically comes from the material that is in the report and my occasional participation in some of the hearings and committee discussions that relate to this matter.

I want also to stress the point made by the distinguished chairman of the full committee, as well as the chairman of the subcommittee, that there is no disagreement amongst any of us on the Committee on Agriculture or in the House, as far as I know, as to the seriousness of the problem of the fire ant and our desire to control it. I do not think that the fact that it is at this time confined to the South is going to prevent us in the North from being concerned. We are all "do-gooders" in that respect, and we want to help the southern States as well as any other States that are in urgent need. This is an urgent problem.

The point is, what is the most effective way to go about dealing with this problem? What are the risks and the benefits involved in the various courses that are available to us? The gentleman from Georgia (Mr. MATHIS) has pointed out, and he has done so on the basis of extensive knowledge, that while Mirex does kill the fire ant and is probably the most effective means for killing the fire ant, it is not a means of eradicating the fire ant. While he has suggested that an intensive program of spraying all of the affected areas would have some potential for eradicating it, the fact of the matter is, and this has been pointed out by several Members, this is not a possibility. We are not going to eradicate the fire ant. There is one very good reason contained in the report language itself on page 18 where it states, and I quote: "When persistent chlorinated hydrocarbon insecticides"—of which Mirex is an example—"were available to farmers for private control programs, a survey taken by USDA revealed that more than half declined to treat" their infested acres.

Unless the gentleman from Georgia (Mr. MATHIS) is proposing that we force all of the farmers of the South to accept treatment by Mirex, we are going to have over half the infested acres not treated because the farmers themselves refuse to accept the risks of the costs involved in treatment with Mirex.

Mr. MATHIS. Mr. Chairman, will the gentleman yield on that point?

Mr. BROWN of California. I yield to the gentleman from Georgia.

Mr. MATHIS. I thank the distinguished gentleman for yielding. I think the gentleman should know that a large number of the infested areas are in woodlands, and that in fact there is no way or no economical method by which mound-to-mound application can occur on hundreds of thousands of acres of woodland. The farmers, I think the gentleman would find if he did a survey or asked people in the Department of Agriculture to, are in fact treating as best they can those mound-to-mound problems they have in their agricultural farmland around their homes and those areas, but I think he needs to know that we are talking about timberland in that report that he quotes from.

Mr. BROWN of California. The gentleman is not questioning my basic point, though. We are not going to eradicate the fire ant. The gentleman made that point himself, if I am not mistaken.

Mr. MATHIS. If the gentleman would yield further, I said to the gentleman we have never had a program of eradication because of the fragmentation of the approaches by the various political subdivisions of government. I am not saying the fire ant cannot be eradicated. It certainly is not going to be eradicated by one spraying next or two sprayings next year. I will concede that to the gentleman.

Mr. BROWN of California. I think the gentleman would have to concede that as long as many farmers are not going to adopt a control program, there will be vast areas in which the fire ant will continue to exist, and since it spreads very rapidly, it will continue to spread.

Mr. MATHIS. If the gentleman will yield further, I do not want the gentleman laboring under a false illusion. The farmers want their farmland treated. They want their woodland treated. But when we talk about the cost, Mr. Chairman, of $20 an acre, when we talk about imposing upon the farmer a cost of $15 to $20 per acre for him to go in and do his individual mount-to-mound treatment in woodland and forest land, it simply is not a viable economic alternative.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding. I would like again, because we seem to stray from the facts, to bring out the fact that under the amendment offered by the gentleman from Georgia (Mr MATHIS) imposing the regulations of October 1, 1977, forest lands are excluded. Mirex could not be applied over forest lands under the amendment offered by the gentleman from Georgia.

Mr. BROWN of California. The gentleman is quite correct, and that exclusion, of course, also applies to watershed lands and certain other areas. So our chances of eradication are slim or zero by any program, and that is not what the goal is.

The gentleman from Georgia (Mr. MATHIS) also made the point, and I think it was merely a matter of emphasis, comparative emphasis, that Mirex had not been canceled, that a negotiated agreement had been reached between the EPA and the State of Mississippi. Again referring to the report, I wish to point out on page 14 where it states that Mirex was "cancelled as of June 30, 1978," and that this cancellation was the result of an agreement between the State of Mississippi and EPA which provided a phaseout ending in cancellation as of the date that is stipulated here.

The point to emphasize, I guess, is the fact that it was not an automatic and arbitrary cancellation by EPA over the objections of a recalcitrant State. The State cooperated and agreed to this cancellation because it was their concern also that some more suitable substitute for Mirex be developed, but, nevertheless, the insecticide has been canceled as of that date.

Again, I want to refer to the report just to make a brief comment about the history of Mirex. It was introduced in the early 1960's. It was studied extensively during that period, and it was in 1969 that the first cancer study was made and the first scientific study recommending elimination of Mirex because of its carcinogenic potential was made. This was the so-called Mrak report. Professor Mrak at that time was chairman of the Science Advisory Committee to the EPA, and that was the first such study and report. That was followed by 3 years of intensive hearings by the EPA from the period 1973 to 1976, which filled 12,000 pages of hearing record. On the basis of 12,000 pages and 3 years of expert testimony, again the recommendation was made for the cancellation of Mirex, and it was this study which led to the negotiated termination by agreement with the State of Mississippi, as the gentleman from Georgia so clearly pointed out.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. BROWN of California. So these are the facts behind the situation. I sometimes wonder at the capacity of the Members of the House in their wisdom to disregard these years of study and repeated recommendations from science advisory committees, and the thousands of pages of testimony, and on the basis of an emotional reaction against Government regulations, to reverse this cancellation in our haste to assist those people who would like to eradicate the fire ant.

With regard to the issue of carcinogenicity, all of the studies have been ambiguous only in that they have not been able to say how many human deaths are due to the ingestion of this particular chemical, Mirex.

☐ 1320

The point is, and all of the studies have made this clear, the latency period for cancer due to chemical carcinogens is of the order of 10 to 20 to as long as 40 years.

In the nature of the circumstances, it is impossible to determine now how many people will die from the ingestion of Mirex. We know that it is widespread. We know from all of the evidence that the potential is there for a major catastrophe.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I will be happy to yield to my good friend.

Mr. MONTGOMERY. Mr. Chairman, can the gentleman give us any documentation of any person who has died of cancer where it can be traced back to Mirex? Does the gentleman have a specific case that he could cite?

Mr. BROWN of California. Had the gentleman asked me that question in 1960 with regard to exposure to nuclear tests, or in 1970 with regard to exposure to agent orange, I would have given the same answer. I would have said no. I cannot point to a single person.

The latency period for cancer is almost always in the order of decades, not years. Those cancers will come back to haunt you.

Mr. MONTGOMERY. The problem we are having now is that people are losing their lives from fire ants. Yet the gentleman cannot give me a specific case that can be traced back to Mirex.

Mr. BROWN of California. I tell the gentleman there are ways of eliminating that loss of life with the limited application of acceptable insecticides that would eliminate those mounds, eliminate those ants in the yard and in the immediate vicinity of houses without the danger of cancer.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this debate has gone on a longtime and I know we have a lot to do but I think it points up to one thing and that is that we should have an opportunity to have hearings and discuss these matters in the committee. I was at the committee at the time the amendment was passed. I am here on the floor and I am learning what the amendment is all about here on the floor for the first time.

Mr. Chairman, do I understand correctly that this amendment does not simply authorize the use of Mirex but rather it says we can expect the Government and the taxpayers to pay the money to spray the Mirex on this area? Is that correct according to the author of the amendment?

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Georgia.

Mr. MATHIS. The gentleman is eminently correct. The Government has done this for a limited number of years as a part of a program aimed at control of the fire ant.

Mr. Chairman, if the gentleman would yield further, the gentleman displays limited knowledge because he is not aware of that at this point, which is the point the gentleman is making.

Mr. BEDELL. I am the first one to admit I have limited knowledge but the reason I have limited knowledge is that we had no hearings on the committee. The amendment came up, the amendment was voted on and now I come to the floor to try to find out what it is all about. If that is what is going to happen with members of the committee, God have pity on those people who were not at the committee meetings or are not here on the floor.

Mr. Chairman, it seems to me the legislative process should work.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I will be glad to yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding. I frankly share his concern. What we are talking about here is the question of weighing the benefits versus the risks of the use of Mirex. I have no doubt about the problems with the fire ants and the hazards that are involved with these pests. On the other hand, there seems to be at least some degree of evidence that there are health risks involved with Mirex.

The question is how do we balance these risks and whose life do we put on the line here.

It seems to me we have to, in that context, weigh in favor of safety. In the very least, we need to improve the documentation, improve the evidence that we have both with regard to the risks involved with Mirex as well as to the impact of Mirex on the health of individuals. I think the gentleman is correct. There is no need here to justify action to reinstate the use of Mirex. We need to have additional hearings before we proceed with what I think is a very significant amendment impacting on the welfare of all of the people.

Mr. BEDELL. Mr. Chairman, I thank the gentleman. I think the gentleman would agree with me, we should have sympathy and concern for those people who face a serious problem in this case. I do not think that means we should automatically run something through without knowing what we are doing.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I would like to echo the position expressed by the gentleman from California and the gentleman from Iowa. In this area of antiregulatory spirit which pervades this House—I admit I get wrapped up in it sometimes—I think we have to target our concerns like a surgeon, a bit more skillfully. It just looks to me like, by taking the action the Committee on Agriculture has taken, is an irresponsible method at this point in time when there are acceptable substitutes for Mirex. I would urge my colleagues to vote no on the committee amendment.

Mr. MONTGOMERY. Mr. Chairman, would the gentleman yield?

Mr. BEDELL. I would be glad to yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I would just like to add to what the gentleman from Georgia said. The funding of this project in the past and in the future I assume will be done not only with Federal funds but with matching county and State funds. I know in our State that the county and also the State have put up matching funds with Federal funds and it is dependent upon what the Committee on Appropriations votes out or how much money will be available. I would also point out that the gentleman from Mississippi Mr. WHITTEN, has always helped to see that funds are provided to fight the fire ant.

Mr. BEDELL. Mr. Chairman, would the gentleman tell me what the formula will probably be as to how much will be Federal funds, how much State and how much local funds?

Mr. MONTGOMERY. I think in the past it has been more State than county funds. Two-thirds and one-third. If I am wrong I will come back and correct the record.

Mr. BEDELL. Does not the gentleman agree we should know before we vote on something how it is going to be funded and who is going to pay the funding? It seems to me that is just good legislative process. Would the gentleman disagree with that?

Mr. MONTGOMERY. I agree with the gentleman.

Mr. BEDELL. I thank the gentleman.

Mr. Chairman the next problem we have is, if our figures are correct, the amount of Mirex which we have on hand—and the gentleman indicated we could not produce any more this year—as the gentleman from Texas has so clearly pointed out, is only enough to spray about 5-percent of the area. If the Government is going to spray it, who is going to decide what 5-percent is going to be sprayed? Could the gentleman from Georgia tell me how we would make that determination?

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, there is, in addition to the 11,000 pounds of Mirex that was left from the negotiated agreement between the State of Mississippi and the Environmental Protection Agency, in addition to that there is Mirex available for purchase, I am told, in Brazil where it is still being manufactured and still being used.

Mr. BEDELL. Does the gentleman know how much is available?

Mr. MATHIS. I do not know at this point in time how much is available. I am told here are ample amounts available.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BEDELL was allowed to proceed for 1 additional minute.)

Mr. BEDELL. The only point I would like to make in the few seconds I have left is, first of all I admire the gentleman from Vermont for admitting he made a mistake but that is so easy, I think, for any of us to do when we do not have adequate information and my plea to this body would be that we not make a mistake here by doing something with inadequate information and we would stick to the legislative process which says we will have hearings, try to learn what things are about and if we do it, I think we should have compassion and concern for those people who have a problem but I do not believe that means we should try to pass something without looking at all of the issues involved and knowing as much as we can about the problem.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. The Committee on Appropriations has already appropriated for fiscal year 1980 $2.5 million to support Mirex.

Mr. BEDELL. However, I do not think that answers the question as to where it would come from and if there is not enough who would get what is available.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to join with my distinguished colleagues, the chairman of the committee, and the chairman of the subcommittee in opposition to this amendment.

Mr. Chairman, I respect the gentleman from Georgia and I respect the gentleman from Mississippi. They have a serious problem. I know we should all seek out things we might do to alleviate that problem. Mirex is not one of those things.

Mr. Chairman, I rise because I want to contribute to this debate with the idea that when we tamper with nature we should be extremely careful. Oftentimes we actually end with a result the exact opposite of what we intended.

□ 1330

Now, it is possible and there has been testimony to this effect that we will actually by spraying Mirex on fire ants, we eliminate other ants as well. The fire ants recover faster than the other ants, so actually the application of Mirex could—this is not proven—but could actually increase the number of fire ants, because whenever we tamper with nature, whenever we tamper with the ecology, such things as this may well occur. This is again another reason for holding hearings and getting better scientific expert testimony.

But I also want to point out, because I have a major warfare with chemicals in my part of the country, in Oregon and in our national forests, with herbicides, that whenever we use the killer chemicals, and that is what they are, they are designed to kill, whether it is in my area in the killing of plants, of brush with herbicides or here with insects, these are chemicals designed to kill. When we start using chemicals that actually in some way or another attack the central system of a cell, possibly even the deoxyribo nucleic acid that comprises the genetic material of a cell, whether that DNA is the cell of an ant or an alder tree or a human being, it is the same thing. DNA is the gene for all living things. It is susceptible in us as well as in ants or brush to these chemicals.

Now, in my area we are getting an unusual number of very serious birth defects. You know, we use words like teratagin, mutagin, and carcinogin. These words mean birth defects, the alteration of our genetic species in effect through mutagin or the exorbitant growth of cells which we call cancer. These things can actually affect our evolution, the genetic chain of mankind.

The chemicals we are spreading over the Earth now frankly represent a potential threat to the very existence of the human and other species.

We do not know, I say to my friends from Georgia and Mississippi, we do not know who they are killing or what they are doing to us.

Today in the Washington Post we find that a soldier who was in Hiroshima 30 or more years ago has now come down at the age of 55 with a strange cancer, a bone-marrow cancer. We are not even sure today whether it was caused by the radioactivity he suffered at that time, although it certainly is suspicious.

We do not know what we are doing and we may be posing one of the gravest dangers and one of the gravest threats to mankind and our other forms of life by the use of these chemicals.

I thank the chairman.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a little disturbed in the presentation of the gentleman from Georgia, that this was somehow portrayed as some kind of a regional battle, that it is those of us perhaps from the Midwest and the North or perhaps even south Texas against the Southeastern part of the United States.

I would like to read from a couple of editorials to indicate that this is not a regional type of a battle. There is an editorial in the Georgia Gazette and Journal Record of May 7, 1979. It is titled, "Breathing Fire." It says:

> U.S. Representative DAWSON MATHIS of Albany, has introduced a bill to allow widespread use of Mirex once again to combat fire ant infestations. This bill is a retreat from reason, good judgment, and sound public policy.

Now, this is not an Iowa newspaper. This is down in Savannah, Ga.

Here is another editorial from the Atlanta Journal titled: "Let the Ban Stand."

They said that they are opposed to the efforts of Representative DAWSON MATHIS to overturn the ban against the use of Mirex against the fire ant.

They go on to say in the editorial:

> The argument for and against Mirex has been waged fully, and in the end its supporters lost. Three years of hearings and study established pretty conclusively that the chemical degrades into a cancer-causing substance, Kepone, which then spreads throughout the environment where it has been used. As bothersome as the fire ants are, then, we believe that in the long run Mirex would be worse.

Those are two editorials from two Georgia newspapers. Clearly, this is not a regional type of battle.

Second, the gentleman from Georgia agreed right here in the well, that this was bad legislation, but the gentleman said it is the only remedy. That is not true.

The gentleman from Georgia then said this, and I can quote the gentleman's words:

> Mirex is the only chemical that will control the fire ant.

That is absolutely not so.

Here is a list of at least nine chemicals approved by the EPA that will, in fact, either kill or control fire ants. One is not listed here. That is the American Cyanimid 217,300.

So there are other chemicals, approved by the EPA; so if, in fact, there are other remedies and this is bad legislation, then we ought to kill this bad legislation.

Now, since 1962, for nearly 15 years there was a coordinated program between the USDA and the States that were involved in fire ant infestation to eradicate the fire ant. It was sold to the Congress and sold to the Appropriations Committee as a coordinated eradication program, not a control program. We spent upward of $15 million a year for those years to eradicate the fire ant. This is all documented in the hearings held before the Agriculture Committee in 1975.

Now the gentleman from Georgia says that we will take 11,000 pounds or existing Mirex for completely blanketing the area next year. I figured out that it would cover 8.4 million acres, rather than the 230 million acres that Mr. MATHIS says has to be covered.

Now, I also understand that the gentleman from Georgia wants to go down to Brazil to buy some. Well, I doubt that the people really want to ship more money out of this country to import Mirex to be spread around, and even if we did have enough Mirex to spread over the 230 million acres, it cannot be done physically. We simply do not have enough airplanes to do it in 1 year; so even if we had the Mirex, we could not do it. But I do want to compliment the gentleman from Georgia on his honesty. The gentleman is an honest man. As we stood here in our colloquy, the gentleman pointed out quite clearly that really what the gentleman wants to do is to manufacture more Mirex. The gentleman wants to blanket nine States, not the forests which are exempt, not certain wetlands which are also exempt, but to blanket nine States with hundreds of thousands of pounds of Mirex, if it were possible, and we just pointed out that it is physically impossible.

So the amendment of the gentleman, when all is said and done, will not control the fire ant. It will not eradicate the fire ants, but what it will do, as the gentleman indicated right here in this well, it will get the wheels turning once more for more production of Mirex in this country.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 4 additional minutes.)

Mr. HARKIN. Mr. Chairman, in closing, the gentleman from Georgia says the jury is out. That is not so at all. The National Academy of Sciences, the Environmental Protection Agency, the National Cancer Institute, all oppose the reintroduction of Mirex into our environment.

Is the jury out? Ask the people down in Hopewell, Va., who suffered from the effects of Kepone if the jury is out. Ask the people around the Love Canal region in upstate New York and around Lake Ontario if the jury is still out on the effects of Kepone.

Mirex breaks down into Kepone. It degrades into Kepone and there is no getting around it. Whether or not it is carcinogenic, we do not know, but we do know that Kepone does, in fact, affect the central nervous system. It can lead to sterility and can lead to birth defects and can be passed from the mother through the placenta to the fetus. So the jury is not out.

In fact, my office had a conversation just yesterday with a person who I think is the foreman of that jury, Dr. William Buren of the University of Florida. He called the fire ant a manmade problem resulting from massive uses of pesticides, primarily Mirex, against fire ants in the sixties and seventies.

☐ 1340

Now, who is Dr. Buren? Dr. Buren is the country's most respected authority on fire ants. He is the one who gave the fire ant its name. He named the fire ant. He has spent almost his entire life studying the entymology of the fire ant. He told me that he does not know a respected entomologist anywhere who supports reinstating Mirex. His reasons are that he has got evidence that Mirex has actually contributed to the spread of the fire ants because of the fire ants' ability to regenerate faster relative to other species after Mirex has been applied. In other words, Mirex is more damaging to the fire ants' competitors than to the fire ants and, therefore, when the fire ant regenerates, it can do so faster than its competitors.

He also stated to me that recent evidence indicates that the fire ant population has started to decrease, has actually started to decrease since Mirex has been banned.

Mr. Chairman, this is the man who named the fire ant, Dr. William Buren, at the University of Florida. You can call up and talk to him; he is very accessible. He will tell you the same thing, that evidence indicates that fire ants are actually going downhill since they banned Mirex, not the other way around.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I would just like to underscore what the gentleman has just said. In a letter to the committee, Douglas M. Costle, the Administrator of the EPA, states as follows:

> In contrast to the persistence of Mirex, its ability to suppress the ants is transitory (generally less than a year) and the attractiveness of the bait upon which efficacy depends, is fleeting (a few days to less than a month).

Then he says:

> Researchers have noted that the degree of infestation in treated areas worsens when populations rebound from initial suppression.

That is just the point the gentleman is making.

Mr. HARKIN. I thank the gentleman for his contribution.

You know, the gentleman from Georgia continually says, we do not know what we are talking about, we have a lack of knowledge. I guess we all have a lack of knowledge. I do not know that any of us here are entomologists or pathologists. I do not even know if the proponent of this amendment is. But I have here a picture of a fire ant. I would like to have each Member take a look at this fire ant. Now, that is a reproduction of a fire ant. Obviously, it is a little bit larger than real life. But what has happend to the fire ant in this country since 1962, when we have been spraying Mirex all over, is that the fire ant has become stronger, more powerful, more insidious, and larger.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 1 additional minute.)

Mr. HARKIN. Mr. Chairman, I think that this bill ought to be called the Fire Ant Protection and Development Act if this amendment stays in, because if we continue to spray Mirex, we are going to have fire ants about that big in a few years. I do not think that is what the people in those nine States really want.

Mr. KELLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment to allow American farmers and ranchers to resume the use of Mirex in fighting fire ants.

Fire ants are not native to the United States. Since being imported from South America some 50 years ago, this pest has spread from a very limited area of Alabama across the Southeastern United States, including Florida, to the point that fire ants now infest over 230 million acres of valuable pasture land and farmland.

The danger posed by fire ant infestation is a danger to people. Ranchers plowing infested fields are confronted by huge mounds of fire ants which, when disturbed, attack tractor drivers and field hands, resulting in severe stingings. In several instances, fire ant stingings have caused the deaths of human infants.

Mirex's opponents argue that the chemical breaks down into a potent carcinogen, and therefore must be banned. But the body of scientific research on Mirex is inconclusive as to whether the pesticide causes cancer, and the fact is that after decades of use both in the United States and in other countries like Brazil, there is no evidence, not even one single case, of any person contracting cancer from Mirex.

EPA's action in banning the use of Mirex is based on inconclusive evidence, and as usual, was taken with no regard for the resulting hardship that would befall America's farmers.

This amendment would simply authorize the emergency use of Mirex during calendar years 1979 and 1980 in fighting fire ants. Mirex is the most effective means we have of controlling the fire ant. In the interest of the health and productivity of American farmers and ranchers, and in the interest of curbing unjustified and unjustifiable Government intrusion in the economy, I urge my colleagues to join with me in voting to approve this amendment.

Mr. AKAKA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the first committee amendment would provide that "any use, including aerial applications, of the pesticide Mirex on fire ants or imported fire ants shall not be prohibited * * *" subject to restrictions that existed on October 1, 1977.

In Hawaii, we have a serious problem with ants in pineapples, including Pheidole ants, Argentine ants, and fire ants, as the Hawaii State Department of Agriculture has verified to me. The application of Mirex against fire ants in Hawaiian pineapples would also be effective against Pheidole and Argentine ants.

I would like to ask the sponsor of the amendment, the gentleman from Georgia (Mr. MATHIS), if I understand the amendment correctly. As I understand, the amendment, if enacted, would allow the use of Mirex against fire ants in Hawaiian pineapples, which would also be effective against Pheidole and Argentine ants. Is that correct?

Mr. MATHIS. The gentleman is correct.

The EPA registrations for Mirex used on October 1, 1977, included the use of Mirex against fire ants, Pheidole ants, and Argentine ants in pineapples.

Mr. AKAKA. Mr. Chairman, I would also like to clarify with the gentleman from Georgia (Mr. MATHIS) the intent behind the term "use" in the amendment.

My concern is that in some cases in the EPA cancellation order on Mirex, the agency allowed the continued distribution, sale, and use of existing stocks, but barred further production. It is essential that if the authorization to use Mirex is to be meaningful, there must also be the production, distribution, and sale of the product. This could include the importation, distribution, and sale of Mirex produced abroad.

It is my understanding that the intent behind the term "use" is to include not only the use of Mirex, but also the production, distribution, and sale of Mirex. I would ask the gentleman from Georgia (Mr. MATHIS), is this correct?

Mr. MATHIS. The gentleman is correct.

Under the provision, the Environmental Protection Agency must allow the appropriate parties to obtain Mirex so that they can use it. Our intent is that the term "use" should include authority for the production, distribution, and sale of Mirex.

Mr. AKAKA. Mr. Chairman, this amendment is important to the economy of the entire State of Hawaii and I would like to explain in some detail why it is.

This amendment would allow the use of Mirex on fire ants or imported fire ants subject to the restrictions that existed on October 1, 1977. The uses authorized at that time were for application against fire ants or imported fire ants in the southeastern United States, and against Pheidole ants, Argentine ants, and fire ants on pineapples in Hawaii. The use of Mirex against ants in pineapples is essential for effective control of the mealybug wilt disease, which can devastate an entire pineapple crop.

This application is extremely important to Hawaii because the mealybug wilt disease is the most serious and destructive pest problem for the pineapple industry. The use of Mirex on pineapples is very limited and carefully controlled, so the pineapple application is very minor in the overall picture.

SAFETY OF USE ON PINEAPPLES

The basic concern about Mirex is safety. After a careful review, I can say that the facts show no significant hazard to humans from the application of Mirex on pineapples.

In the EPA hearings, evidence was submitted showing the absence of environmental contamination from the use of Mirex on pineapples. No evidence was submitted during the EPA hearings that shows any hazard to human health from the use of Mirex on pineapples. The hearing record does not reveal any specific evidence of Mirex residues in human fat tissues among residents of Hawaii. Further, Mirex residues are not retained in the pineapple, so there is no danger to human health when pineapple is consumed after Mirex has been applied.

NO EPA FINDINGS OF HAZARD

Because of the voluntary agreement between the State of Mississippi and the EPA, we are in a somewhat curious situation with regard to Mirex. There were never any findings of fact by the EPA with respect to the purported human health hazard from Mirex applications, which could be subject to public comment and court review.

Indeed, the cancellation order for Mirex Harvester Ant Bait 300, which was applied on pineapples, provided that it could be "distributed, sold, and used (other than aerially) for this use indefinitely." In other words, EPA did not see any health hazard to preclude the continued use of Mirex in Hawaii.

ABSENCE OF ALTERNATIVES

The need for authority to use Mirex on pineapples is substantially increased due to the absence of a readily available and fully effective alternative. Numerous approaches have been tried to combat mealybug wilt without success. The only effective means of dealing with the disease is to eliminate the ants that protect and promote the existence of mealybugs.

Currently, the only pesticide available to deal with that is heptachlor. Unfortunately, the production of heptachlor is restricted under the terms of a 1977 cancellation order. Much larger volumes of heptachlor than Mirex are required to control ants on pineapples, insufficient quantities of heptachlor are available under the 1977 order to protect all pineapple fields from mealybug wilt destruction and heptachlor cannot be used after 1981. In the absence of some other effective ant pesticide, the authority to use Mirex on pineapples is greatly needed.

IMPORTANCE OF PINEAPPLES TO HAWAII

In order to demonstrate how important this matter is to the State of Hawaii and to the Nation as well, I would like to relate a few facts.

In 1973, 291,500 tons of canned pineapple, 197,950 tons of pineapple juice, 17,435 tons of concentrated pineapple juice, and 60,000 tons of fresh pineapple were shipped from Hawaii—65 percent of the canned pineapple, 100 percent of canned pineapple juice, and 55 percent of fresh pineapple consumed in the United States in 1973 was produced in Hawaii.

POSSIBILITY OF PRODUCTION SHIFT

If pineapple growers continue to be barred from using Mirex or some other effective pesticide to control ants in Hawaii, there is the very real possibility that production will shift to other countries. As I mentioned earlier, Mirex residues do not exist in the ripe pineapple. This creates the situation where pineapples could be grown with the use of Mirex in other countries where Mirex is not prohibited, such as the Philippines, and then imported to the United States.

The results of a shift in production would be bad for Hawaii, as indicated by the economic facts I have stated. The United States would also become dependent upon imported pineapples, which would be harmful to our trade balance, and perhaps would have detrimental price and supply effects.

This amendment is well justified in terms of need and safety. I urge its adoption.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

Mr. Chairman, expert information and knowledge is so important in a case like this. I wonder if the gentleman knows what the position of Jane Fonda is with regard to Mirex.

Mr. AKAKA. I am not aware what her position would be.

Mr. KELLY. I think, if the gentleman will yield further, if we could find out, we could probably easily resolve this question for a great many people.

Mr. FOLEY. Mr. Chairman, I ask unanimous consent to proceed for 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FOLEY. Mr. Chairman, I would not like to have the colloquy between the gentleman from Hawaii (Mr. Akaka) and the gentleman from Georgia (Mr. Mathis) interpreted as legislative history on this legislation.

The gentleman's amendment is quite specific, and it proposes that certain regulations of the Environmental Protection Agency on October 1, 1977, be reinstated.

The amendment covers only the use of Mirex on fire ants or imported fire ants and makes no reference to the use of Mirex on harvester ants, which are the ants that the gentleman from Hawaii is concerned about.

The EPA has advised the Hawaiian Pineapple Association that under subpart (d) of FIFRA it is possible for them to reconsider the introduction of Mirex if it is established by the Pineapple Association to be the only effective agent and due evidence is presented to that effect.

I am informed by the EPA that, so far, the Hawaiian Pineapple Association has not—I am willing to stand corrected if this is not correct—made such a request or offered to make such an undertaking to the EPA. I want to state that, in my opinion, the amendment, whether it is adopted or not, does not extend to the use of Mirex for harvester ants, the statements of the gentleman from Georgia notwithstanding.

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, recognizing that this is a balancing-the-risk proposition, I think you just have to have a caveat about accepting the carcinogen theory without question whether it be right or wrong.

I spent 2 months listening to about every expert in the United States during a Federal trial, the last cigarette cancer trial tried in the United States, and you can find studies that validate one position or another on the question of carcinogens.

The creation of tumors in animals by massive injections is not conclusive evidence of anything, and all of the experts will agree to that.

The studies of epidemiologists show that you can come up with almost any answer you want. Relating to the cigarette cancer study, the Swedish Registry identical-twin study, where one identical twin smoked and the other did not over a history, shows no relation between smoking and lung cancer. On the other hand, broad-gage studies do. Harvard University for many, many years has kept a profile of all entering freshmen and have checked those who smoked and those who did not. Experts have concluded from studying those profiles that there is an A-type person and a B-type person.

□ 1350

The A-type person is more susceptible by nature to drink and smoke but is also more susceptible to getting lung cancer with or without smoking.

There was a time when epidemiologists thought pellagra was caused by eating corn, because the statistics showed it; but then they discovered it was not the corn, that among the afflicted population there was an imbalance of other elements in the diet due to too heavy reliance on corn that caused pellagra.

They used to think malaria and yellow fever were caused by the night air because they afflicted people leaving windows open at night. Eventually they found there was no relation. It was a mosquito that had a relation to the open window and to the disease.

You can find statistics such as the people in England smoke half the per capita number of cigarettes than per capita in the United States, but have double the lung cancer rate.

You can then say that indicates air pollution, but you find Denmark has virtually no air pollution and has a rate even higher than England.

I say without making any pronouncement that when you are speculating on what is or is not carcinogen, you have to go down to the root. That is, all experts admit they do not know what causes cancer.

Until they can answer that question, all you can have are extrapolations from many different conjectures and statistics which may be persuasive to some but are certainly not decisive.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

I wonder if the gentleman would agree in cases of the A-type person and B-type person, when alcoholic beverages or smoking is involved, there is the opportunity for the A- or B-type person, when he or she knows the consequences of using the product, either to use it or abstain from using it—to make a personal choice. But in the case of the use of pesticides which are sprayed aerially, one does not know if an A- or B-type person is being affected. In any case, generally speaking, individuals are not able to make a choice about being affected by aerial drift. Would the gentleman admit to that?

Mr. SAWYER. The gentleman misunderstood what I said.

Mr. FOLEY. I think I understood.

Mr. SAWYER. This study or theory goes on the basis that there is an A-type person and a B-type person, that the A-type person is more susceptible because of his nervous makeup or otherwise to being a heavy cigarette smoker, but whether he smoked or not, he also has a high susceptibility to lung cancer. The B-type person does not have the high susceptibility either.

I do not advocate any point of view. I merely underline the bottom line. That is that until the scientists determine what causes cancer, it is only speculation to varying degrees based on epidemiologists' studies and statistics.

Mr. FOLEY. I do not disagree with the gentleman that absolute certainty is difficult to obtain. It is a matter of balancing risks, but would the gentleman agree with me that in certain types of risks that are like, say, the personal consumption of cigarettes or alcohol, the individual has an opportunity to make those decisions and that it is a more difficult problem in considering legislation and societal controls that involves people who are affected, whether they choose to be or not, by the spraying of herbicides or chemicals? In those conditions we might have to exert some greater concern about the impact on individuals because they have no personal choice in the matter.

Mr. SAWYER. I agree with the gentleman.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the very excellent statements of the three chairmen, Mr. Foley, Mr. de la Garza, and Mr. Waxman, and many other Members, particularly the gentlemen from Iowa (Mr. Bedell and Mr. Harkin), make it virtually unnecessary to add very much to the debate at this point, except that I would like to emphasize two points.

First of all, it is very clear, based on the full scientific record that has been developed, that Mirex causes cancer.

This is not to say that the mechanisms of cancer causation are fully understood; they are not, and in that respect, the gentleman from Michigan is correct. But while we do not fully understand mechanisms, we can still identify certain substances which cause cancer and others which do not, and Mirex, the preponderance of scientific evidence clearly shows, is one which does. I believe we must accept the fact that when the best scientific evidence that we have points clearly in a direction, as it does in this case, and in the relationship between smoking and lung cancer, then certain policy judgments ought to be made on the basis of those facts.

Mirex has been found by the National Cancer Institute and independently by Litton Bionetics to cause cancer. These findings were confirmed and reconfirmed by the National Cancer Institute as recently as 1978.

Of course, we are talking about animal tests. Objection is often raised by laymen to the use of such tests for purposes of regulations, but let me cite the recent publication of the White House Regulatory Council, which is the group established to make the regulatory process more rational, that there is a quite explicit statement that can be made on the issue of extrapolation of test results from animal tests.

They say, "From a biological standpoint, the development of cancer is similar in humans and animals. * * * Because we cannot test substances in humans or wait for demonstration of carcinogenosis from epidemiological studies, Federal agencies must continue to use animal tests to identify chemical substances that may cause human cancer."

The National Academy of Sciences, the most distinguished kind of panel that you can put together of the Nation's best scientific minds, studied Mirex and said that it is a carcinogen, and not only that: It has a half-life of from 5 to 12 years and breaks down, as the gentleman from Iowa (Mr. HARKIN) pointed out, into hazardous biproducts, such as kepone, which is 100 times more toxic than Mirex itself, and also into photo-Mirex, which is more toxic than Mirex.

When Mirex enters the human body—the gentleman from Georgia talks about how Mirex is ingested by the ants, and that is why he wants to use it—the fact is that it also gets into the bodies of human beings and accumulates. It stays there in our tissues, and it has been found that in Mississippi, where Mirex was used heavily, 45 percent of the people have Mirex in their fatty tissues, and 22 percent do in the nine-State area that we are talking about. It is able to cross the placenta into the body of the unborn child and is communicated through mother's milk to children of people who have been exposed to Mirex.

Clearly, we are talking about a very nasty chemical here, a very bad actor. We would be doing our citizens the gravest kind of disservice to allow its continued use.

The second point, of course, is that never before has the Congress of the United States specifically legislatively mandated either the approval or the disapproval of a pesticide. This would surely seem to be about the last place one would want to start to make an exception to our past behavior.

I cannot for the life of me see the justification for continuing to subject the population to the increased risk of cancer from a chemical that is so relatively ineffective in controlling its target population, especially when we have alternatives.

As indicated in our debate here today, Mirex has been in use for a decade and yet the fire ants it is intended to curb have extended their domain from 30 million to over 200 million acres.

And as also indicated in our debate, there are alternatives to using this carcinogen such as Dursban, Baygon, and Diazion and further advances are anticipated from American Cyanamid and Stauffer Chemical.

I concur with my distinguished colleague, BERKLEY BEDELL who, in his dissent in the Agriculture Committee's report said:

> If we chose to ignore the advice given us by the EPA in this case, we will not only willfully authorize the use of a highly suspect chemical agent, but we will establish a precedent under which a host of currently regulated or banned chemicals may obtain a reprieve from EPA sanction.

Although fire ants are a nuisance, they do not have a serious impact on agricultural production. More importantly, we must weigh the nuisance that the fire ants pose against the possibility that further use of Mirex may result in many tragic deaths.

Therefore, to override EPA's judgment in this case makes no sense at all. To do so would be reckless and irresponsible.

Mr. ECKHARDT. Mr. Chairman, I shall not repeat what the last gentleman said, but he really lays the groundwork for what I have to say here.

When we are dealing with a chemical which we have found to raise evidence of injury to animals and have found to fail to pass tests, indicating its safety, we are not in the same situation as we are in when we are trying to change the habits of persons who make a conscious determination whether to run a risk. We are dealing with a very, very different kind of thing here.

□ 1400

We are dealing with a situation in which a new chemical, which at least has the earmarks of danger, and is about to be introduced into the environment in large quantities.

Our Committee on Interstate and Foreign Commerce, particularly the Committee on Oversight and Investigations, has been looking deeply into the question of chemical substances which dangerously alter the environment. I feel the burden of proof should rest upon the one who would change the environment, change it with respect to persons who do not willingly subject themselves to that change.

I do not come from a part of the country that is not infested by fire ants. They are on the property I live on on Cyprus Creek. But nevertheless, I do not believe that the question of control of fire ants should be measured as a serious consideration as the question of possible carcinogenic effect upon human beings. I think that is the important thing to look at.

It is possible that we may change our minds at some later time. But should we make a determination in the face of the determination of the Federal agencies, in the face of the recommendation of the Agriculture Committee, in the face of the recommendations of all of us who have been studying these questions of introducing new and untested chemicals into the market by an action here on the floor? Do we really believe that a discussion here on the floor as to the merits or demerits of Mirex at this time should be the basis for determination that we will introduce in large quantities, during the next year, this substance which is clearly suspect, and we are advised that it is suspect?

If we are to take action ameliorating the limitation on Mirex or permitting it to be used in some controlled way, let us decide that issue through a determination of the committee that has dealt with it. Everyone on the Agriculture Committee who has the position of chairmanship or subcommittee chairmanship has told us "Do not act on this at this time." We take the same position on the Interstate and Foreign Commerce Committee. We have been studying these questions for a long period of time.

Mr. MAGUIRE has come before you, Mr. WAXMAN, myself. We have all been concerned with the question of the great dangers of introducing new and exotic chemicals into the environment that affect everyone who comes in contact with them, not by their election to be subjected to the effects of those chemicals, but because somebody else, for some reason, thinks that chemical is going to be beneficial for a purpose to which it is applied.

So I urge this body, do not enact legislation specifically exempting a chemical which has been pointed out as a dangerous one by an action merely after discussion on this floor and in opposition to the determination of those who have been concerned with the general subject for a long time and, in their studied opinion, have advised against the use of Mirex in the manner that would be permitted by this amendment.

Mr. ASHBROOK. Mr. Chairman, I rise to support the lifting of the ban on the use of Mirex. Once again this Congress is attempting to rein in a monster it created. Yesterday we passed the Federal Trade Commission authorization bill with certain restrictions on that agency's overzealous efforts to disrupt a free economy. Today we can once again signal congressional disgust at a regulatory entity. The once good idea of environmental control that many of us, includ-

ing myself, voted for in 1971 has become just another burden on American consumers and the American farmer. By supporting a waiver on Mirex so, that the nine Southern States that face massive infestations can deal with the problem, we can draw the line on Federal bureaucrats who cannot see past their doctoral thesis and intervenor group briefs.

The record of EPA has been a sorry one. From tying up valuable energy resources to aggravating the problems of Chrysler, this Agency has helped drive up consumer prices and hurt businesses large and small. The transfer of pesticide registration to the EPA opened a new era of Government control over agriculture. It is ironic that the regulatory fervor of FIFRA under EPA auspices was to frustrate and hamper the very projects that environmentalists had advocated for so many years. FIFRA was born out of the concern over abuses of DDT in the 1960's. Those who say laboratory chemicals are destroying wildlife felt the need to learn the environmental effects of these artifically produced chemicals at the same time these environmentalists wanted to see a shift to a new generation of pesticides that were organic. Rachel Carson in her book, "Silent Spring," stated that many chemicals occur naturally and should be isolated and used to fight insect pests.

Many chemical companies did just that and ran into EPA regulations under FIFRA. A famous case was that of the Nutrilite Co. of California. This small business was using only organic substances to assist crop production when it discovered a type of bacteria that killed caterpillars. The bacteria, bacillus thuringiensis, had been known to science since it was isolated in 1911. The Nutrilite Co. spent 5 years and $300,000 to register the chemical as an insecticide with the USDA. However, once FIFRA came along, 2 more years of tests and another $200,000 was needed to reregister the chemical plus another $500,000 would have to be spent by Nutrilite for each crop the company wanted to use its chemical on. In 1975 the company withdrew its chemical from the market and suspended further tests. Therefore, an environmentally sound product, which was a naturally occuring chemical, was driven off the market by FIFRA regulation.

The staggering cost of registration and testing coupled with the absurdity of testing chemicals that appear in nature anyway are only two of the issues that plague FIFRA. Another one is the tradeoff of environmental damages that is underscored by this Mirex waiver in the bill. Fire ants are a major environmental blight on the deep south. They affect livestock, food crops, and people. The EPA, under FIFRA, stopped the use of the only effective chemical that combats the fire ant. They did this under their standards of "zero risk." By "zero risk" EPA means that no adverse environmental effects will occur from the use of the substance. Even the National Academy of Science dismisses "zero risk" as a policy and recommends a three-tiered risk assessment policy. In the face of major environmental damage brought on by fire ants or other insect pests the Federal Government should look at the trade-off of environmental damage whether or not a given substance is used. In the case of the fire ant, the nonuse of Mirex is causing more environmental damage than if it were used. When Mirex was first banned the EPA stated that alternate chemicals would be developed. This has not occurred. We therefore have a responsibility to our citizens in the south to allow them to meet the threat to their crops and themselves with the best means available. The waiver should be retained.

The time is long past due for a major overhaul of regulation in this Nation. The law of diminishing returns has crashed down on the regulation mentality in the Federal Government. Every time a new rule comes out of some cubicle consumer prices go up and the market system is just a little more crippled. We can pass waivers in this bill, we can insert congressional vetoes to limit future damage. But at some point we need to look at what the Congress has done to the Nation's businesses and consumers. When that day comes the people of this Nation will be able to rejoice in the knowledge that the Federal Government will have begun to take responsibility for its own actions and begun the road back to market freedom in America.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word and rise in support of the Mathis amendment.

Mr. MATHIS. Mr. Chairman, will the gentleman from Mississippi yield?

Mr. MONTGOMERY. I am glad to yield to the gentleman.

Mr. MATHIS. Mr. Chairman, I want to thank the gentleman for yielding and for his support of the Mathis amendment.

Just to correct the record, I think I would point out the problem with this entire debate on the floor today—and it has gone much too long, Mr. Chairman, and I have no desire to prolong it—but the gentleman from Texas, who is a distinguished Member of this body, who is informed and well intentioned, and generally is extremely well informed, I think epitomizes the problem with the debate. We are not talking about facts, we are talking about suppositions, or we are talking about figments of imagination. The truth is this is not a new compound, as he alleges. The truth is the full Agriculture Committee adopted this amendment. We are not trying to undo something that the Agriculture Committee has done.

The truth is there have been numbers of members of the Agriculture Committee who are privileged to hold chairmanships and subcommittee chairmanships who have spoken out for it, because the gentleman from Georgia has. I do not say this as a criticism of the gentleman from Texas specifically, but this simply is said to point out this debate is not being brought out on what the facts are in the case.

I would hope that we could come to an end on this discussion and I thank the gentleman from Mississippi for yielding.

Mr. MONTGOMERY. Mr. Chairman, I would like to make a few comments.

I would like to point out that I come from a section that certainly has the fire ant problem. In fact, in my community, in my yard at my home in Mississippi I have fire ants, and we have had a terrible time with these deadly pests. Mirex seems to be the only answer at this time, the use of that chemical.

Our commissioner of agriculture from Mississippi, Mr. Jim Buck Ross, who has been our commissioner in Mississippi for 12 years, and has been reelected in November without opposition, and is one of the experts in the field of trying to eliminate or control fire ants, has endorsed the use of Mirex and has supported and endorsed the Mathis amendment.

If the commissioner of agriculture in Mississippi felt there would be some danger from Mirex to the people of our State, certainly he would not be recommending the continued us of Mirex. I would point out again this person is an expert, our commissioner of agriculture in Mississippi. We have confidence in him and he feels to have some control on fire ants we have to continue to use Mirex.

Our State has spent a lot of money trying to find other chemicals.

Mr. MATHIS. Mr. Chairman, will the gentleman yield further?

Mr. MONTGOMERY. I will be glad to yield.

Mr. MATHIS. I thank the gentleman for yielding.

The position of the commissioner of agriculture for the State of Mississippi I think is something that should be considered and certainly should be placed in the RECORD. When we go back into the full House, I will say to the gentleman, I will ask unanimous consent to put that letter in the RECORD.

But let me, if the gentleman will yield, let me quote a couple of things from the letter that might be of potential interest to the Members of the House. One sentence says:

> Dr. Paul Newberne, a world-renowned pathologist, in regard to FIFRA Number 293, was asked the question, "In your opinion, should the use of Mirex as a pesticide be prohibited on the basis of the presently available evidence concerning whether or not it is a carcinogen?" His response was "No. On the basis of my examination of slides from the First and Second Bionetics Experiments, neither of these experiments establishes that Mirex is a carcinogen in my opinion."

I would also point out, if the gentleman will continue to yield further, that one of the things we have heard mentioned here today that is an acceptable alternative to Mirex is Chlordane, and in the letter from Commissioner Ross he says:

> The normal four pounds of Technical Chlordane per acre for nursery stock would put 18,000 times as much toxic material in the environment as 1 pound of Ferriamicide bait.

Which, as the gentleman well knows, is a derivative of Mirex.

Mr. MONTGOMERY. That is correct.

The fact is that Mirex at three times the strength levels allowed in this bill has been used over a 15-year period without a single case of cancer being documented as being caused by Mirex.

Now, we can document that fire ants have caused serious illnesses and deaths in the nine-State area. Seventeen people have been killed from fire ant bites.

I would like to quote from a lady that wrote me and she and her husband and daughter live in my district. She said:

> DEAR SIR: I would like to bring to your attention a problem which is growing out of hand in our area. The problem is fire ants.
>
> I have a 14-month-old daughter who goes everywhere and I am greatly distressed because I cannot even put her down in the yard. If I do put her down she can only go 2 or 3 feet away. I am very much afraid that she'll be harmed seriously or even killed. Please help.

☐ 1410

So, I think the Members see our problem, and I would certainly hope that the Mathis amendment would be supported.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I want to assure the gentleman that all of us, regardless of our position on this amendment, are trying to help persons such as the lady whose letter the gentleman just read. All of us are trying to help regardless of the difference of our approach.

Mr. MATHIS. Mr. Chairman, will the gentleman yield further?

Mr. MONTGOMERY. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, one final statement. We give lip service to help and we have an opportunity to help. The choice is ours.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not rise as an expert on Mirex or fire ants. So far as I am aware, there are no fire ants present in the congressional district that I represent here in the House of Representatives. However, I do not think one has to be an expert to recognize the very serious problem of fire ant infestation. In the Southeastern section or region of the United States, and more especially in that portion which is referred to as the Deep South, fire ant infestation and expansion has become an increasingly difficult and serious problem.

During the time that this bill was before the Committee on Agriculture, I considered the amendment proposed by the gentleman from Georgia (Mr. MATHIS). I listened carefully to the arguments for and against the amendment, and I concluded that his amendment makes sense because, indeed, this is an opportunity for our committee and for the Congress to speak out on this very important issue.

After listening to debate today, realizing that every Member is sincere in his position whether he is for or against the amendment, I have heard nothing to cause me to change my mind. Therefore, I intend to vote for the Mathis amendment, and I hope all members of the committee will do likewise.

The commissioner of agriculture in my own State of Virginia has written me asking me to support this amendment. Apparently the eastern coast of Virginia is potentially threatened by the fire ant. I gather the commissioner views the Mathis amendment as one giving the State the option to use the chemical if the State so decides.

Finally, I believe there is concern that the Environmental Protection Agency is not committing research funds or its efforts to find a substitute to this chemical to contain or eradicate fire ants. The experimental-use permits granted by EPA are very limited in their application (10,000 acres this fall and 100,000 acres in the spring) to a problem that afflicts over 200 million acres.

The EPA is perhaps most liable to criticism on this whole subject. It has not, in my opinion, acted responsibly in addressing the infestation of fire ants on millions of acres of land. It has neglected research in attempting itself to come up with a chemical to control or eradicate the fire ant.

EPA does not enter the debate on this amendment with "clean hands," but rather a record of neglect and negativism. State agricultural commissioners are critical of EPA's record and, based on complaints from those within their States, are asking Congress to give them the right to decide whether or not to use this chemical. This is a sad record that this agency—EPA—has established.

Effective cooperation between EPA and industry could have avoided this entire problem.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I would like to concur in what the gentleman from Virginia has said. We do not have any fire ants in my district, and this is not a new problem.

If the Members will remember, when our former chairman, Bob Poage, was here in 1973 when I first came to Congress, the fire ant was a big problem then also. Over the years, as I have sat on the Agriculture Committee and tried to weigh these conflicting concerns, it has been my conclusion that the Dawson-Mathis amendment is probably one which is an approach we should follow.

Mr. Chairman, I concur with what the gentleman has said, and endorse his advice.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I want to express my continued concern, with all due respect to the gentleman's statement, about the procedure that we are about to undertake today in voting on this amendment. There is a serious and vexing problem in the South. It has been one for many years, and no one who is remotely familiar with this devilish pest could be anything but deeply concerned about its impact on the lives of millions of people in those States where infestation has been endemic.

We are moving, hopefully, to find an effective substitute, a safe substitute, for Mirex. Next year, in the spring, 100,000 acres will be treated under an experimental use permit with AC 217,300, which is a product of American Cyanamid. The results of that will be known in late spring. This bill requires that FIFRA has to be brought back before this House by next fall. If that spring evidence does not show any conclusive hope that this or another possible substitute is effective, this amendment can be offered again—hopefully after we have had some hearings in the Committee on Agriculture to give an opportunity for proponents and opponents to present their views.

But, this amendment would constitute a dangerous precedent if the House mandates use of this chemical in violation of all the procedures we normally go through. We will be refusing to follow our normal hearing procedures. Members are being asked to vote up or down on a chemical the use of which they have no extensive knowledge, and we will be doing this without scientific testimony. We will have a very dangerous and obnoxious, I believe, precedent in legislation, and we will be called on again and again to authorize or to act to overturn the cancellation of any other pesticide of major significance. The Members of this House should not be put in the position of trying to be entomologists or chemists, or trying to make legislative decisions on the use of chemicals without even the semblance of a congressional hearing.

Mr. WAMPLER. Mr. Chairman, I have been distressed and discouraged by the lack of effort on the part of the Environmental Protection Agency and other agencies of the Government to adequately address the need for research on trying to find an adequate pesticide to combat fire ants and other pests. I think one only has to examine the record of EPA in this regard, and one will find that there has been a rather dismal record, and one of low effort of priority.

The CHAIRMAN. The question is on the committee amendment.

The question was taken; and on a division (demanded by Mr. MATHIS) there were—ayes 16; noes 17.

RECORDED VOTE

Mr. MATHIS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. MATHIS. Mr. Chairman, I withdraw the point of order that a quorum is not present.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 224, not voting 42, as follows:

[Roll No. 688]

AYES—167

Abdnor
Addabbo
Akaka
Alexander
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bevill
Boggs
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Butler
Byron
Campbell
Chappell

Cheney
Clausen
Cleveland
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derrick
Dornan
Dougherty
Duncan, Tenn.
English
Erdahl
Erlenborn
Evans, Ga.
Flippo
Fountain
Fowler
Frenzel
Fuqua
Giaimo
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Harsha
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto

Ichord
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McDonald
McEwen
Madigan
Marlenee
Marriott
Martin
Mathis
Mazzoli
Mica
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Murtha
Myers, Ind.
Natcher
Nelson
Nichols
Oakar
Pashayan
Patten

Paul
Pursell
Quayle
Quillen
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snyder
Spence
Stangeland
Steed
Stenholm
Stockman
Stump
Symms
Taylor
Thomas
Trible
Ullman
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Wyatt
Young, Fla.
Young, Mo.
Zeferetti

NOES—224

Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Brademas
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carney
Carr
Carter
Chisholm
Clay
Clinger
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard

Dellums
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frost
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Glickman
Gore
Gray
Green
Guarini
Guyer
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Holland
Hollenbeck
Holtzman

Horton
Hughes
Hyde
Jacobs
Jeffords
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kildee
Kostmayer
LaFalce
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lowry
Lundine
McCloskey
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins

Petri
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder

Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Slack
Smith, Iowa
Snowe
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar

Tauke
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Zablocki

NOT VOTING—42

Anderson, Ill.
Anthony
Bethune
Biaggi
Bonker
Burgener
Burlison
Cavanaugh
Coelho
Coleman
Davis, S.C.
Devine
Dickinson
Diggs

Edwards, Ala.
Evans, Del.
Flood
Gephardt
Hansen
Heftel
Howard
Ireland
Jenrette
Leach, Iowa
McCormack
Michel
Mineta
Murphy, Ill.

Myers, Pa.
O'Brien
Railsback
Rhodes
Rose
Rosenthal
Rostenkowski
Runnels
Treen
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Young, Alaska

□ 1430

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette for, with Mr. Myers of Pennsylvania against.

Mr. Anthony for, with Mr. Murphy of Illinois against.

Messrs. FINDLEY, D'AMOURS, DECKARD, and DAVIS of Michigan changed their votes from "aye" to "no."

So the committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will report the next committee amendment:

The Clerk read as follows:

Committee amendment: On page 2, line 20, insert a new section 3:

SEC. 3. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding the following new paragraph at the end thereof:

"(4) Rule and regulation review.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of , which rule or regulation was transmitted to Congress on , the blank spaces therein being appropriately filled; or

(ii) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such.a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) Effect of Congressional inaction.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I again find myself in the unusual situation of appearing as the chairman of the Committee on Agriculture, asking the Members of the Committee of the Whole House to defeat a committee amendment.

□ 1440

Mr. Chairman, this at first blush might seem to be a standard one-House veto or one-and-a-half-House veto, as one might describe it, authorizing the House or the Senate to veto a regulation promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act by the Environmental Protection Agency; but I suggest to the members of the Committee that this is a different amendment in the context of this bill. The amendment says that for a period of 90 days the House or the Senate jointly can disapprove a regulation. If one House acts within 60 days, the other House has 30 days to reject the resolution. If neither House has acted in 60 days on a disapproval resolution reported from committee, the regulation can go forward.

This amendment differs from the variety of other one-House vetoes that have been sponsored by the gentleman from Georgia (Mr. LEVITAS) and in this case sponsored in the Agriculture Committee by the gentleman's colleague from Georgia (Mr. MATHIS).

Let me briefly examine the differences. The Federal Insecticide, Fungicide, and Rodenticide Act contains statutory provisions establishing procedures for review by the Congress of proposed and final regulations. It is the only statute, to my knowledge, in the entire United States

Code that provides this degree of legislative review of regulations prior to their issuance.

I want to explain to the members of the Committee how this works. Under the FIFRA statute, the EPA cannot publish in the Federal Register a proposed regulation without a 60-day period of review by both the Committee on Agriculture, Nutrition, and Forestry of the U.S. Senate and the Committee on Agriculture of the House of Representatives.

In addition, EPA must simultaneously advise and provide copies of the proposed regulations to the Secretary of Agriculture for his review and comment.

In addition to that, EPA must at the same time advise a panel of scientists selected from nominations by the National Institutes of Health and the National Science Foundation of their intent to publish these regulations. All of these bodies have an opportunity to review the proposed regulation before it can be published. That consumes 60 days.

The shortest time thereafter in almost every case for public comment is 30 days. That involves a total of 90 days.

Then, if EPA decides to go forward with this regulation, before it can give notice of the final approval of the regulation, it has to give another 30 days' notice. To whom? To the Secretary of Agriculture, to the independent scientific advisory panel, and to both the Committees on Agriculture of the House and of the Senate.

Now, by this time we have taken 60 days before publication of proposed regulations, 30 days for public comment on the proposed regulations, and then another 30 days' notice is mandated before the final regulations can be promulgated. Thus, there is usually at least 4 months' time for the committees of Congress to act if they feel that this proposed regulation is bad. Because some comment periods are quite lengthy with time for review and analysis of public input, the period can easily extend to 8 months before EPA can put a regulation into effect after it has notified both committees of the Congress, the Secretary of Agriculture, and an independent scientific advisory panel.

Now, what kind of legislative review could be more extensive or adequate than that? My friend from Georgia says, "No. We must have 60 days after the final decision is made to veto any of these regulations."

The Federal Insecticide, Fungicide, and Rodenticide Act is the only statute that I know of that carries this extensive legislative review prior to regulations being finalized.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 3 additional minutes.)

Mr. FOLEY. Mr. Chairman, FIFRA is the only statute that I know of that provides this front end legislative review of proposed regulations. I say to the Members of the Committee if you have voted in the past, as many of you have, for one-House vetoes of regulations under statutes, or if you have voted against such provisions, in either case you can confidently vote against the one-House veto applied to this statute. We have already done what this amendment proposes to do and done it more elaborately than the usual one-House veto ever accomplishes.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, the length of time involved here under the gentleman's description may well be regrettable; however, I do have a couple questions. Does the Secretary of Agriculture have the power to veto the proposed EPA regulations?

Mr. FOLEY. No, he does not. He may comment on them, however, and his comments must appear in the Federal Register along with the proposed and final regulations.

Mr. PASHAYAN. Does the Special Science Panel have the power to veto?

Mr. FOLEY. No, they do not.

Mr. PASHAYAN. Does the Congress have the power to veto?

Mr. FOLEY. Yes.

Mr. PASHAYAN. Under the rule as it now stands, or under the amendment?

Mr. FOLEY. The committee always has the authority to report out legislation disapproving any regulation.

Mr. PASHAYAN. But it does not have power to veto the regulations directly without passing a contrary statute?

Mr. FOLEY. That is right, without a statute.

Mr. PASHAYAN. That is the point I want to raise, that it is regrettable that the bill contains these lengthy provisions, but is impotent when it comes to these bodies being able to veto EPA regulations.

Mr. FOLEY. There is no case as far as I can imagine where the Congress could not by simple legislative procedures veto any regulations.

I will just yield to the gentleman a moment further. The fact of the matter is that for all these legislative vetoes that we have added on all these bills, how many regulations have we actually vetoed; does the gentleman know how many?

Mr. PASHAYAN. It may be that we have vetoed none; that is not the point.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, since I have been in Congress, to my own personal knowledge, we have vetoed three regulations on those commissions where the veto provision lies.

The Library of Congress has provided a study, and I think over the last few years there have been something in the neighborhood of 71 or so vetoes.

Mr. FOLEY. Has this been done by the procedure that the gentleman proposes, or by statute?

Mr. LEVITAS. By various procedures: these procedures did not come in until the gentleman from Georgia began to offer these legislative vetoes.

Mr. FOLEY. The fact of the matter is that I think there is less than half a dozen, maybe only three that have been accomplished by this procedure.

Now, I just want to suggest to the Members of the Committee that if there are as many bad regulations as we all believe there are out there, this is not a very effective procedure in getting them vetoed. But beyond that, we have in this statute an opportunity for the Committees on Agriculture that have jurisdiction over this matter to consider, for 4, 5, or 6, and in some cases up to 8 months, a proposed regulation before it can take effect.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has again expired.

(At the request of Mr. PASHAYAN, and by unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. PASHAYAN. The point still remains that even though the Secretary of Agriculture or the Congress has all these months to review the regulations, they are impotent to do anything about them, short of enacting legislation.

Mr. FOLEY. I thought that was what the Congress was all about.

Mr. PASHAYAN. So it seems to me if we are going to improve this legislation, maybe what we ought to do is get rid of these lengthy review procedures and simply install the legislative veto provisions of the gentleman from Georgia.

Mr. FOLEY. We have followed the practice in the Agriculture Committee of reporting out the Federal Insecticide, Fungicide, and Rodenticide Act reauthorization on an annual basis. There has been an opportunity every year for the House to decide whether it wants to act, as we just decided on the Mirex question a few minutes ago, and on any number of regulations published under FIFRA.

We are going to have to reauthorize this act early in the next session for fiscal 1981.

Because the committee has been scrupulous in doing oversight, in bringing back annual reauthorizations, and because we have this unusual front-end procedure, I think adding on even more review at the end is both unnecessary and undesirable.

□ 1450

One of the reasons I think it is undesirable is that there are certain emergency functions of the EPA which are designed to help farmers. If you want to see a problem develop, have regulations lay over for 60 or 90 days under the congressional veto provision while a situation is out there desperately needing the immediate relief proposed by pending regulations.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, if the gentleman will ask any farmer, or certainly at least any farmer in my district, I think the answer would be that the EPA has done nothing but tie the hands and hamstring the activities of farmers.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. FOLEY. Mr. Chairman, I think what the gentleman is not recognizing is that the Committee on Agriculture has revised the Federal Insecticide Act on several occasions in recent years to provide not only authority but direction to the EPA to give faster consideration to emergency and special-use pesticides. They have been authorized in many States, including the gentleman's State of California, for specific uses which otherwise would be barred. But if we have this legislative veto provision, somebody who does not want that special use may be successful in stopping emergency use regulation from being issued in time to save the crop, and I think that would be most unfortunate.

Mr. PASHAYAN. I appreciate what the gentleman has said. I would like to suggest that that is the way it is supposed to work in theory, but in reality it creates nothing but a mountain of paperwork over which a poor farmer has got to climb simply to put a simple spray on his crops. It has done nothing but tie the hands of farmers.

Mr. MATHIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with much of what has been said by the distinguished gentleman from Washington, the very able chairman of the committee, who has opposed consistently—very effectively, I might add—the use of legislative veto in any instance period. I do not know of a single instance that the gentleman has ever supported a specific amendment that dealt with legislative veto. And, of course, from time to time the argument that he might use against the adoption of that kind of language will vary, depending on which specific piece of legislation we are talking about; but he is absolutely consistent in his opposition.

The gentleman mentioned the fact that we do have now a front-end procedure that requires the Environmental Protection Agency to submit their proposed rules and regulations. That is absolutely correct. That came about as a compromise on an earlier Mathis amendment that attempted to put the legislative veto language in. I would submit that the gentleman from California is absolutely correct when he talked about a toothless tiger. They do have to, over at EPA, submit these regulations to the Secretary, to the panel, and to the committee. And what can we do? We can read them. That is exactly what we can do. We can read them.

Mr. PASHAYAN. And that is all we can do, is it not?

Mr. MATHIS. The gentleman is absolutely correct.

Mr. PASHAYAN. So it becomes an exercise in futility, from the standpoint of everybody at EPA, or, at best, an exercise in how to read.

Mr. MATHIS. Nothing more than that. We are hunting bears with unloaded slingshots, I would say to the gentleman.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr MATHIS. I yield to the gentleman from Washington.

Mr. FOLEY. I think, if my recollection is correct—and it may not be—the procedure for front-end review by USDA, the Scientific Advisory Panel, and the congressional committees came about as a compromise in consideration of the so-called "Poage-Wampler bill" named after the distinguished former chairman of the committee and its present distinguished minority leader. At that time, they proposed to require that EPA's regulatory actions affecting the use of pesticides have the concurrence of the Secretary of Agriculture.

Mr. MATHIS. I appreciate the gentleman correcting the record.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I was out of the room for a moment, so this point may have already been made. But my recollection is that in the last 5 years that I have been here, the item of the legislative veto has been on this floor probably 15 times. I think every single time it has been adopted by the House. It would seem to me that when we are dealing with one of the regulatory agencies that epitomizes regulation and bureaucratic interference, that that certainly is a very appropriate place as any have ever been to have such a procedure in effect.

I would also point out that what the distinguished chairman of the committee has said, that Congress does have the remedy already, is true only on paper. Certainly we can pass a bill, and if we can get the other body to go along with that, a bill has been passed. But I think it is highly suspect that any such bill will be signed by the President if one of his own agencies has proposed the bill in the first place.

I think that if we are going to have a remedy that means anything, we should vote to keep this legislative veto provision in the bill.

Mr. MATHIS. The gentleman is correct. What we are talking about doing is making EPA accountable to this Congress. It is just that simple. It is a classic case. If you want to exempt EPA from the same provisions that you put on the FTC only yesterday, then you vote to take this amendment out that the Committee on Agriculture very wisely adopted.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I would like to endorse what the gentleman has said and tell the Members that during my time here in the Congress it has become painfully apparent to me that the EPA is not a scientific organization as much as it is a political organization, and their decisions are based more and more on political questions and political issues than they are on scientific, valid evidence.

It becomes very disturbing for those of us who are the victims of the EPA to go in with scientific evidence and say, "Look, you have made a mistake, and here is the scientific evidence," as I have done with several of their regulations, and have them say, "Yes, but we cannot change that because the policy is such that the public would not accept the reversal of one of our regulations."

I know that those of you who do not deal with the EPA regularly do not believe this. But it is true. And those of us who have had to deal with them know that they are not a scientific agency. They are a political agency and they reflect the political bias of those people who are currently in the administration.

Mr. MATHIS. I thank the gentleman for his contribution. The gentleman is exactly right. There are many of these issues that are made relative to regulations being promulgated by the EPA that are made on the basis of emotionalism.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. MATHIS) has expired.

(By unanimous consent, Mr. MATHIS was allowed to proceed for 1 additional minute.)

Mr. MATHIS. Decisions are being made based on politics and based on emotionalism and, in many instances, scientific fact is being ignored.

I want to make one other point, Mr. Chairman, and that is that the Environmental Protection Agency has in the past 2 to 3 years been more responsive. I concede the gentleman from Washington that point. They have been more responsive to Members of Congress and to the Committee on Agriculture than they have in the past. I would submit that the reason for that is because we have kept them on a proverbial short leash. We have a chance today to make that leash even shorter and to make them even more accountable to the elected representatives of the people.

I urge the support of and the adoption of the Mathis amendment.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the vote we are about to take is a vote on an issue which this House has taken on other occasions. It is purely and simply the question of whether or not the Members of this House want to reserve to the elected Congress rather than to the unelected bureaucrats the final decision on whether rules which have the force and effect of law will go into effect. Accountability: That is what it is all about.

I might point out to the Members that FIFRA, this particular piece of legislation, not only carries with it civil penalties, it is a criminal law to violate regulations issued by the Environmental

Protection Agency. It ought to be fundamental to our system of government that people should not be put in jeopardy of losing liberty or property without somebody elected by someone having the opportunity to pass on those regulations which have the force of law and which could place them in such jeopardy.

The distinguished and eloquent chairman of the Committee on Agriculture outlined for the Members the series of procedures that have to be gone through before these FIFRA regulations can be proposed. But as has been pointed out, those are just merely empty procedures. They have no effect. Nobody in that entire procedural chain can say no to the Environmental Protection Agency if they disagree with those regulations. That is just exactly the same thing as standing guard at a chickenhouse with an unloaded shotgun. It does not do you any good. The only way that you can have an effective check upon the regulatory process is with a legislative veto.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, is the gentleman saying that Congress may not during this period of some 8 months enact a statute accomplishing the objective of stopping the agency?

Mr. LEVITAS. Congress can pass legislation at any time. But the obvious point is that that legislation is subject to Presidential signature and it has got to be presumed, I think, by anybody who would think about it just for a moment, that the President would side with his appointee who is the Administrator of the Environmental Protection Agency, so we are just going through the motions.

□ 1500

Mr. ECKHARDT. Then the purpose of this amendment is to avoid the presentation provision of the Constitution? In other words, the difference is that both the House and the Senate must either concur or acquiesce in the same thing, and they thereby avoid presentation to the President as provided under existing law, article I, section 7. That is the real difference, is it not?

Mr. LEVITAS. If I may reclaim my time, that is not the purpose of this. The legislative veto provision is very carefully designed not to avoid a presentation, because it is not a measure requiring concurrence of both Houses.

The fact of the matter is that the regulations which are issued by EPA or any other agency are issued under delegated legislative authority.

Article I of the Constitution vests the legislative power in the elected Congress. To the extent that it is delegated for a limited purpose by this Congress to an agency, we have got every right in the world, indeed the responsibility, to exercise this power of legislative veto.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. FOLEY. Under the amendment of the gentleman from Georgia (Mr. MATHIS), one similar to the one the gentleman has sponsored before, is it necessary for the committee of jurisdiction to report to the floor a disapproval resolution?

Mr. LEVITAS. Under the provision that is in this particular bill, there is no automatic discharge provision. It would have to be reported out of the committee through the normal processes.

Mr. FOLEY. I want to make this comment, if the gentleman would permit me, in response to the gentleman from California (Mr. MATSUI) who said all these notices are just words and procedures. In either case, the committee must act. The Committee on Agriculture of the House or the Committee on Agriculture, Nutrition, and Forestry of the Senate must act to either disapprove or pass a statute disapproving.

The only difference is under the gentleman's procedure, as the gentleman from Texas says, it does not have to be presented to the President for his signature.

Mr. LEVITAS. That is precisely why we have the legislative veto, because it is a delegated legislative action that is being exercised, and this Congress has the power and the responsibility to exercise a veto over that power, to say no to regulations issued by unelected bureaucrats. We are accountable to the American people; the bureaucrats are not.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(At the request of Mr. VOLKMER and by unanimous consent Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

There is a vast difference, as I understand, in the legislative veto provision that is in the amendment now before us and the procedure that follows in the enactment of a law; is that correct?

Mr. LEVITAS. That is correct.

Mr. VOLKMER. There is a basic fundamental difference between the two. As the gentleman, I know, has been very anxious, since I have been here, to enact legislation or at least to bring it before this body, legislation that would be uniform to apply over all these types of agency regulations to a legislative veto; is that not correct?

Mr. LEVITAS. That is correct.

Mr. VOLKMER. The gentleman from Texas recently asked, "Do you not think within 8 months you can get a law through?"

I would like to ask the gentleman how long has it been since he introduced the provision for legislative veto on all rules on regulations to be uniform? How long has it been? Eight months or more?

Mr. LEVITAS. 1975.

Mr. VOLKMER. We have not had it before this body yet, have we?

Mr. LEVITAS. We had one vote under suspension in 1976, but it seemed to have difficulty sometimes in getting out of the committees. However, I have been advised as recently as this morning that we can expect a bill reported out by the committee sometime next year.

Mr. VOLKMER. Let us take the example of FTC, the gentleman's action in regard to the FTC. How long has that been?

Mr. LEVITAS. We have been dealing with that for over 3 years now. It was only yesterday that we took final action in the House on passing that legislation.

Mr. VOLKMER. That is what I would like to bring out to the Members, if we rely solely on a provision on enacting a law to change the rules and regulations, there are so many pitfalls in between. Just one or two people can stop it altogether, that is why we need this amendment in the legislative veto provision to bring it up before the floor of the House to require a vote of the floor of the House.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. FOLEY. I would not want the gentleman from Missouri to operate under a misconception about what the amendment proposes. The amendment does not propose an automatic method of bringing a discharged disapproval resolution before the House or the Senate. If neither the House nor the Senate committee acts under this amendment, there can be no veto. No regulation can be stopped, and no regulation can be vetoed unless one or the other of the House or Senate Committees on Agriculture reported a disapproval resolution to the floor; and there is no method to go around them in the amendment except the regular discharge petition.

Mr. LEVITAS. May I respond to the distinguished chairman in this regard.

The description of the legislation that is before us does precisely what the gentleman says. The comprehensive legislation, H.R. 1776 does have automatic discharge provisions.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. But I would like to point this out, that the difference between dealing with the legislative veto and the passage of legislation is the difference between lightning and a lightning bug. One is effective and the other is not. If we do not have a legislative veto provision of the sort that is now in the committee bill, we are not going to have effective control over the regulatory process.

Every legislative veto that is introduced is not going to be passed. Indeed, the action just taken by this body on Mirex indicates that.

The amendment just voted on was in effect a legislative veto which was reported out by the gentleman's committee. The House—and I voted in support of the chairman's position on that—rejected that decision.

The fact of the matter is we are talking about process, due process. It is very simple. If the Members of this body want to go back home to their constituents and say, "I am perfectly willing and I am perfectly prepared to let unelected officials pass laws that can put people in jail," that is your privilege.

The Members are going to have an opportunity to be recorded on that issue very shortly, because the issue is a simple one. Who makes the laws in this country, elected officials or unelected bureaucrats? Each of us will have an opportunity to be recorded on that issue in the next few moments.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. PASHAYAN. Regarding the comments of the gentleman from Texas and his claim that article I, section 7, applies, is it the opinion of the gentleman from Georgia (Mr. LEVITAS) that since we are dealing with rules and regulations made under laws of the United States rather than the laws themselves, that article I, section 7, does not apply to the legislative veto scheme?

Mr. LEVITAS. I do not believe it is unconstitutional, although I must say it is with a great deal of trepidation that I would traverse the gentleman from Texas on any constitutional point, but the courts never have held the legislative veto unconstitutional; therefore, I have got to keep operating under the assumption it is in addition to my own personal beliefs on that subject.

Mr. PASHAYAN. May I say that the legislative veto is a very old device. The early Congresses passed laws containing legislative veto provisions. Before that, the Parliament in England had a legislative veto scheme. They did not call it that.

As a matter of fact, our early Congresses in passing their legislative veto provisions used the exact, identical language that the English Parliament used, and was obviously borrowed from the English system, as was in fact so much of our Government's structure.

Mr. LEVITAS. I personally believe the legislative veto provision is constitutional. We are going to let the courts ultimately decide that.

The question before us today is a different question. It is simply whether we, by our vote, are going to say to our constituents, "We are not responsible for imposing criminal laws upon you." That is being done by unelected bureaucrats. Your opportunity to express yourself on the legislative veto is your decision to make, but I personally believe most Americans would rather have the elected Congress make those decisions.

□ 1510

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, in the first place I would urge my colleague from Georgia to limit his arguments for legislative veto to the kind of bill that he was dealing with concerning the Federal Trade Commission regulations. This is not that kind of legislation. The Federal Trade Commission is operating under a very broad mandate that it may enact rules respecting anything that affects unfair or deceptive practices.

Essentially he has argued, and though I do not agree with him I still think his argument is a telling one, that when the mandate of Congress is extremely broad, that such a rule made subject to that mandate is one that is almost as broad as legislation. This is not true with respect to an EPA rule respecting a toxic substance, whether it be a pesticide or a chemical like vinyl chloride or PCB's.

What we are talking about here is a rule that determines that a certain type of product is unsafe to go on the market, a highly technical question. If we had had such a provision as the one sought to be put into this bill in an act at the time that PCB's were banned, at the time when we were beginning to find that vinyl chlorides were dangerous and should not be used, we would have had people who want to manufacture PCB's for various purposes coming to this Congress and saying "Reverse this technical rule."

Now, that is a quite different thing than a very broad rule addressing a question of legislative policy. This question is an entirely different one.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Surely I will yield to the gentleman.

Mr. LEVITAS. Will the gentleman concede that the action just taken by the House in defeat of the last amendment indicates that just because somebody comes before the Congress with a proposal to veto a regulation, they are not necessarily going to be successful?

Mr. ECKHARDT. No, I would not concede that because yesterday we had one vote in which a limitation on the Federal Trade Commission, supported by special interest groups, was passed. Two weeks before we had another vote of that nature. We might very well have had a little difference in the count here, and we might have completely reversed the situation.

Let me proceed a moment because I have another point I would like to make before I yield, and I am sure the gentleman would want me to yield on this point I am about to make because it goes to the question of constitutionality.

What was so clear in the discussion by the gentleman from California and others is that what is really attempted to be done by this amendment is to avoid the constitutional provision requiring presentation of an action requiring the concurrence of both Houses to the President. Of course, if, during that 8 months that the gentleman from Washington described, Congress passes a bill which reverses the action of the EPA, such bill has to be presented to the President or else it may be vetoed. The gentleman from Georgia is saying that he would like to avoid that.

So what he has devised here is a device which he calls a "concurrent resolution." It provides that if instead of presenting a bill during that 8 months one presents an instrument called a concurrent resolution, the presentation clause of the Constitution may be avoided.

But if the gentleman will carefully read article I, section 7, it first addresses in clause 2 the question of a bill and it says any bill, after enactment by both Houses, must be submitted to the President, and shall not become law until he has had an opportunity to veto it.

Now, that is not the specific provision that I am relying on because the framers of the Constitution went further. They recognized that some device like the concurrent language employed here could be used to circumvent this limitation, and to avoid Presidential veto.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. LEVITAS and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. There is a further provision, clause 3, that says anything requiring the concurrence of both bodies must be presented to the President before it shall become law.

Now, that is precisely what is attempted to be avoided by this amendment.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman.

As the gentleman well knows, having been engaged in this discussion with me over a number of years now, this bill and the legislative veto mechanism has a provision that lets one-House veto, and if the other House does nothing then the veto stands. That is not a concurrence; that is an acquiescence. The word "acquiescence" and the word "concurrence" are two different words.

But the gentleman himself understands the necessity of using this mechanism rather than going by legislation because of the right and power of the President to veto legislation.

Mr. ECKHARDT. And that is precisely what the gentleman from Georgia is attempting to do, to avoid the presentation provision of the Constitution.

Mr. LEVITAS. And the gentleman himself, in various energy bills, has written in or proposed legislative vetoes of Executive action so as to avoid the President having that power to veto a legislative reversal.

Mr. ECKHARDT. I would say to the gentleman, never by the concurrence of both bodies has this gentleman ever so proposed a veto, and this gentleman has always taken the position that the Constitution absolutely requires any action requiring the concurrence of both bodies to be presented to the President before it shall become law. I have never changed my position on that, and I think the gentleman from Georgia knows that. I would appreciate it if the gentleman would confirm that point if he can.

Mr. LEVITAS. If the gentleman will yield further, the gentleman has consistently said that any resolution requiring the concurrence of both Houses has to be submitted to the President. He has consistently said that.

I have said that that is not what is provided for in this amendment.

But for the moment let me just ask one more simple question. If the gentleman will just answer this one question: Does the gentleman believe that a one-House veto is unconstitutional?

Mr. ECKHARDT. I do not believe so. But this is not a one-House veto. This is a provision, and I read on page 3, lines 7 through 17 that calls for "within 90 calendar days," submission to Congress during which time both Houses of Congress may adopt a concurrent resolution and thereby veto EPA action.

Now, that clearly requires concurrence.

Mr. LEVITAS. But if the gentleman will just keep reading——

Mr. ECKHARDT. Let me read the other section. The next section is from lines 18 through 25 of page 3.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent that the gentleman from Texas have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. MADIGAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The time of the gentleman has expired.

Mr. PASHAYAN. Mr. Chairman, I move to strike the last word.

In connection with the remarks of the gentleman from Texas on the effect of article I, section 7, I should like to remind this body that article I, section 7, pertains to and only to the making of a law under the Constitution, the making of a statute. That is what article I, section 7 is all about.

It is within that context that article I, section 7 requires that a bill or any other measure which requires the concurrence of both Houses, be presented to the President.

If the gentleman from Texas is, in effect, saying that a law of the United States made under the Constitution, article I, section 7, is the same thing as the regulation issued by an agency, I do not recall that any agency must submit its proposed regulations to the President, and I do not recall that an agency must get the majority vote of both Houses.

□ 1520

The plain fact is that a regulation made by an agency is not a law of the United States, and it is not made under the provisions of article I, section 7, which I again say addresses the making of a law, not a regulation. A regulation is a subordinate form of law made when Congress delegates some of its article I power to an agent to make a regulation.

I would like to submit that this body has a positive constitutional duty to oversee that activity, especially in the case of an independent agency, which we all know is quasi-legislative in nature. This body has a positive duty to oversee the legislative activity of the agencies in making rules and regulatons even though they are not making laws under article I, section 7. So, I do not see how the claim of unconstitutionality of the gentleman from Texas stands.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. PASHAYAN. I will be glad to yield.

Mr. ECKHARDT. The Constitution specifically provides, first, that a bill must be submitted, and then in a separate sentence, without referring to bill, any matter which requires the concurrence of both bodies.

We are not talking about the submission of the rule to the President. We are talking about the submission of the concurrent action of the House and the Senate to the President, not the rule.

Mr. PASHAYAN. The purpose of article I, section 7, is to describe the process by which the Congress of the United States makes laws; that is, statutes, under the Constitution. It does not describe extraneous matters to that purpose. The purpose of the section that the gentleman is claiming as it was introduced by Mr. Madison at the Constitutional Convention of 1787, was very simple. Madison feared that by calling a bill by another name, the Congress could avoid the necessity of submitting a bill by another name to the President, and in order to protect the President's veto in the making of a law they put in the clause that the gentleman is referring to, which says that a bill by any other name is still a bill and must be submitted to the President. That is the only purpose of this section.

Mr. ECKHARDT. Will the gentleman yield further?

Mr. PASHAYAN. I will be glad to yield.

Mr. ECKHARDT. Clause 2 says, "Every bill" shall be submitted to the President Clause 3 says:

> Every Order, Resolution or Vote to which the Concurrence of the Senate or House of Representatives may be necessary must be presented. . . .

This section here calls for a vote and concurrence of both Houses on page 3, line 7, through line 17. It is as clear as English language can be drawn.

Mr. PASHAYAN. But words alone—the gentleman from Texas, I would hope, would agree—words alone do not define their meaning. They must be taken in the context in which they are given. When one reads the records of the Federal Convention of 1787, edited by Max Farrand, on why they installed that provision, it is abundantly clear to even the most casual reader that the purpose simply was to protect the Presidential veto in the making of a law under article I, section 7. That is all. It did not pertain to other matters. In fact, I think there are several kinds of procedures whereby both Houses may vote "sense of Congress" resolutions that are not submitted to the President.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want the members of the committee that are here to bear with me just a moment. I do not want us to get so engrossed and so involved in the constitutional aspects of a one-House veto or a two-House veto. I want the Members to know that I know that this is campaign rhetoric. I know that it goes over well in the service clubs when you pound on the dais and say, "I will not let unelected bureaucrats propose the laws and the regulations," and they applaud.

The fact is, they did with some reason. They did with some reason because we had independent agencies and members of the executive branch who were promulgating rules and regulations which were absurd. Some, I would say without reservation, were stupid, and that is where the applause came from.

What I would like to tell the Members is that this committee, under the guidance of our previous chairmen, the present chairman, and the gentleman speaking, has addressed that issue in relating to this agency. Number one, we provided in the 1975 act that all regulations would, because of the situation where some of the pesticides regulations would affect agriculture, we provided in deference and in answer to that frustration of the people that they would be sent to the Secretary of Agriculture for 60 days—given 30 days, and final regulations given 30 days. That is step No. 1.

Step No. 2, we provided for a scientific advisory panel to evaluate the scientific side, and the implementation of those regulations, with the same time frame. It goes to the scientific advisory panel. We provided further that the House Committee on Agriculture and the Senate Committee on Agriculture, the regulations should come in 60 days, and the final regulations must lay over 15 days in the committee before they can be approved.

So, this committee has acted. I support the gentleman from Georgia at times, and have supported the concept that the Congress must share some of the responsibility for the implementation and for the institution of regulations. This committee and this law has provided for that. I am not getting into the constitutionality of can we or can we not.

So, I would dare say, and I am embarrassed to say it, but I have said it in the committee, I have said it everywhere else, and I would say it on the floor of this House—when the regulations come nobody reads them. They sit there in the committee and most of the Members who pound the dais at home and who pound the dais in the committee do not go and read the regulations because there are pages and pages of regulations. The Secretary of Agriculture, who was a former member of this committee, told us and publicly stated that now he reads every regulation that is proposed by the Department of Agriculture.

So, we are not dealing here with inactivity on behalf of this committee or in activity on behalf of the Congress with respect to regulations proposed by this agency. They have to send them to the Secretary of Agriculture. They have to send them to the Advisory Council. They have to send them to the Committees of Agriculture of the House and the Senate. They have to lay over 15 days. So, if a regulation is finally enacted without comment, it is because we were derelict. The desk pounders were derelict, and the regulations sat there, they lay over in the committee.

So, I wanted the Members to know that, and I do not say this in any detrimental way to any Member. I know the call on their time. I know the little time that they have, but we have here enough safeguards, my dear colleagues. We have the Secretary of Agriculture, the Advisory Council, the committees of the House and Senate. To get involved with the abstract constitutional question I think would be improper at this time.

I think that it would be a situation that could lead to a veto or court interpretation, the necessity of court interpretation when this House, this Congress, and the people I think are amply protected under the law as enacted and proposed by this committee in the past.

□ 1530

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the last word. I do not want to prolong this unduly, and I know that the Members are getting tired of this particular debate, but I think an answer should be made to the argument that the EPA is an agency that is involved in scientific technological dealings and workings that the Congress is unable to deal with and that, therefore, we must leave them alone.

As I said earlier when the gentleman from Georgia had the floor, this is a political agency, and I want to explain to the Members why I have come to that conclusion and why I think that this kind of amendment is so important. One of the main reasons for this kind of amendment, which would provide for a veto power in the Congress of any regulation, is that I think that it would preserve the Congress and save the Congress from the arbitrary discretion of the EPA or the agency that might be affected, and their willingness to ignore Members of Congress.

The gentleman from Texas has just stated that there are plenty of protections in the bill. The protections are that we as Members of Congress are able to comment. I have never found that the administration has been willing to listen to any of my comments, and they go ahead with what they choose to do. When we all come down here on the floor to debate there is give and take, when the administration invites comments, we send in our comments and they are promptly ignored.

Let me give you an example of why this kind of an amendment is so important. Years ago there were a few people—this was during a Republican administration—who felt that the coyote was an endangered species. The coyote was not an endangered species. There has never been any attempt to make the coyote an endangered species. As a matter of fact, we have coyotes all over the country now in places where we did not have them at the time the Pilgrims landed. But a few people invloved in the EPA and the Department of the Interior were coyote lovers, and they loved to hear the sound of the coyote howling at the moon. The poison 10–80 was the only effective means of controlling the coyote, and an arbitrary commission was set up. They made a very hastily drawn report that said that this position 10–80 was killing off eagles and other kinds of wildlife and as a result, on the basis of that very poorly drawn report, the EPA issued a regulation banning the use of 10–80. The EPA would not have issued that kind of regulation had there been any scientific basis required or if the Congress had had the authority to say, "This is not enough." But they had the arbitrary power to make that kind of regulation.

Since that time members of that commission have made other and further studies, and they have found out that the initial commission report on which the regulations were based was totally faulty.

In my early days as a Member of Congress I thought that reason prevailed around here, and I thought that all one had to do was to be able to take scientific evidence down to the administration—and once again this was a Republican administration—to take this evidence down there and say, "Look, this regulation is based on a faulty premise, and here is the evidence to prove it." The people who were involved in making the decision said, "Yes, you are correct. The evidence is there to overrule this decision and overrule this regulation, but we are not going to change the regulation." When you say, "Why?" they shrug their shoulders. They do not have to be responsive. They are not responsive. They act in an arbitrary, capricious manner. This kind of amendment will prevent that kind of action, and I think we ought to pass it and pass it overwhelmingly.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I will yield first to the gentleman from Georgia (Mr. LEVITAS) and then I will yield to the gentleman from North Carolina (Mr. BROYHILL).

Mr. LEVITAS. I thank the gentleman for yielding. I would like to make two comments. The first is with respect to those procedures our colleague, the gentleman from Texas, outlined that have been made into law, the fact of the matter is that they do not have any clout behind them.

Mr. JOHNSON of Colorado. That is right.

Mr. LEVITAS. If they do not have the clout, they are not going to pay attention. That is what it is all about. That is like going into battle with a wet spaghetti as a club. You have to have something that has legislative authority.

Mr. JOHNSON of Colorado. I agree with the gentleman wholeheartedly.

Mr. LEVITAS. I just want to make one further point. To further the discussion I was having with the gentleman from Texas (Mr. ECKHARDT), he ran out of time before he could read that portion of the legislation which says that one House adopting a resolution which is not acted upon by the other House within the period of time results in a veto, so we do not have a concurrent resolution as the only way of doing it. We have this other procedure, and the gentleman from Texas (Mr. ECKHARDT), himself admitted in the House, in the well of the House, that a one-House veto is constitutional.

Mr. JOHNSON of Colorado. I thank the gentleman from Georgia for his comments.

I now yield to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I would like to point out—and I appreciate the statement of the gentleman from Colorado (Mr. JOHNSON)—that in this particular law the administration is given very, very broad authority to write regulations. In other words, the Congress has not put limits around the powers of the administrator to write regulations.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 3 additional minutes.)

Mr. JOHNSON of Colorado. I yield further to the gentleman from North Carolina.

Mr. BROYHILL. In section 25 it states:

> The Administrator is authorized in accordance with the procedure described in paragraph 2 to prescribe regulations to carry out the provisions of this act.

This is very, very broad authority, and it seems to me that if the Congress is delegating law-making authority to this agency, we should have some responsibility to review it and the work product.

Mr. JOHNSON of Colorado. I agree with the gentleman.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding, and I would appreciate it if the gentleman would yield to the chairman of the committee, the gentleman from Washington (Mr. FOLEY).

Mr. JOHNSON of Colorado. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding. I would like to respond that, indeed, the Congress has put many restrictions on the ability of the Administrator to issue regulations under this act. The statement the gentleman read is not at all the complete text on that subject. As I said earlier, we have required under the FIFRA that the Administrator cannot issue reguations—he cannot even propose them—until he has notified an independent panel of scientists, the Secretary of the Department of Agriculture, and both committees 60 days prior to the publication of proposed regulations. Then, there has to be a period for comment. Then, before he can propose final regulations, the Administrator has to notify the Secretary, the independent scientific panel, and both committees of Congress 30 days before he can finalize the regulations. There is not another administrative officer of the entire Federal Government, there is not another regulatory statute administered by the executive branch that requires that kind of advance notice to the committees of responsibility. This House cannot do anything under the congressional veto procedure any different from what we can do under a statute if the committees do not act to report a resolution of disapproval. The sponsor of most of this legislation, the gentleman from Georgia

(Mr. LEVITAS) has admitted there is no automatic discharge procedure here.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. So, to suggest that the Administrator of EPA who has complete latitude to issue regulations under FIFRA without any restrictions is wrong. The Committees on Agriculture of the House and the Senate have 5 months at the least and probably 8 or 9 months at the most to consider the regulations from the time they are first proposed to the time they become effective. If they do not act under that procedure, to say that the procedure is simply verbiage, also indicts the procedure advanced by this amendment. If the committees do not act under the procedure set forth in the amendment, nothing happens. The House does not get to veto regulations unless one of the committees acts, and if the committee is not going to act within the 5 to 8 months advance notice, why do you expect it to act with 60 or 90 days notice?

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding. The reason the committees will act if they have a veto power is because they can do something about it. They are eunuchs acting under the present procedure, and if you want to get them to do something, give them something to do it with.

Mr. FOLEY. With due respect, I do not know a committee of Congress that considers itself a eunuch when it comes to vetoing a bill, statute, a regulation, that they feel a majority of the House and Senate will support. And if a majority of the House and the Senate will not support his procedure, it will not work either. So, we are just talking about two different procedures, either one of which requires committee action and either one of which requires a majority willing to acquiesce.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. PASHAYAN. I thank the gentleman for yielding. Will the gentleman agree that under the procedure he is advocating the President will most likely veto a bill to nullify the regulations? Is that not the case?

Mr. FOLEY. I have no notion of whether the President would veto such an action.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. FOLEY. The President of the United States has signed legislation that vetoes regulatory action. I can give the gentleman a recent example—the Tellico Dam. It was part of a public works bill which was heavily opposed by various regulatory agencies, passed by the Congress, and the President signed it.

□ 1540

Mr. PASHAYAN. Is the gentleman aware that the possibility of a Presidential blockade is greater?

Mr. FOLEY. The possibility of Presidential veto exists. If that is a problem, we authorize this legislation annually and, indeed, there is another opportunity to change the basic legislation.

Mr. PASHAYAN. Or, pass it over the President's veto by two-thirds vote. What the gentleman is requiring, the difference in effect is——

Mr. FOLEY. The gentleman is suggesting it is a lot easier to consider the passage of legislation or to act legislatively if one does not have to consider the President. Unfortunately, the Constitution of the United States presumes either in spirit or letter that the President is part of the legislative process.

Mr. PASHAYAN. Yes, when we are talking about making laws, not when we are talking about regulations.

The CHAIRMAN. The time is that of the gentleman from Washington, and the time of the gentleman from Washington has expired.

Mr. PASHAYAN. I ask unanimous consent for 2 additional minutes.

The CHAIRMAN. The gentleman has been recognized once.

Is there objection to the gentleman's request for 2 additional minutes?

There is none. The gentleman from California is recognized for 2 minutes.

Mr. PASHAYAN. Under the gentleman's proposal there is a very definite chance for a Presidential veto because after all, as has been pointed out earlier, it is his appointee who is making the proposed regulations and the effect therefore is, most likely, that in order to nullify an agency's regulation the Congress is going to have to vote a two-thirds majority in order to override a Presidential veto on a bill that nullifies the regulation.

Mr. Chairman, the practical effect of what we are talking about here, under the proposal of the gentleman from Georgia is, a majority of the Congress, once the committee has acted, being able to nullify the regulations of EPA, as opposed to a two-thirds vote.

Mr. FOLEY. I do not agree with the gentleman. There is always the means available to us to effect a legislative veto of a regulatory action, including limitations on appropriations.

Mr. PASHAYAN. What is the point the gentleman makes?

Mr. FOLEY. Mr. Chairman, if the gentleman will yield for 10 seconds more, if this procedure were so all-fired wonderful, there has to be very few bad regulations in the Congress or we would have dozens and dozens if not hundreds and hundreds of effective legislative vetoes. I am amazed by the enthusiasm that this Congress has for this procedure even though it has not proved to be an effective tool.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to say to my friend from California, in listening to this entire debate, my good friend from Washington who is normally on point I think is a bit off on this one. One of the arguments he gave is that the committee will take action where regulations are imposed. The point he gave in buttressing his argument, however, was on appropriation bills and I would ask the question of my colleague from Washington: All of those came on the floor of the House. They were not an action of the committee, they were an action of the House upset because the committees did not respond.

I can cite the IRS regulations, getting into private schools, on and on and on. My only point is it undermines the very argument the gentleman gave. The committees have not acted. The Members on the floor have acted. That is why we have all of these amendments on appropriations bills.

Mr. FOLEY. The gentleman from Ohio and I are exactly in agreement. If the gentleman will yield to me for 30 seconds, Mr. Chairman.

Mr. ASHBROOK. I am happy to yield to the gentleman from Washington.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. FOLEY and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. Will the gentleman yield, Mr. Chairman?

Mr. ASHBROOK. I yield to the gentleman from Washington.

Mr. FOLEY. It is now suggested that by this process we will suddenly grapple with the bureaucracy in a final wrestling match and we will finally pin them to our will. However, the fact of the matter is that under the procedure established by this amendment, we are totally dependent upon the will of the committees involved, just as you are in general legislation. There is no way, absent the 218-signature discharge petition, that under the procedure in this bill, any Member of the House can force a vote to veto any regulation except as the House Committee on Agriculture wills it. The Senate similarly is dependent upon the Senate Committee on Agriculture, Nutrition, and Forestry to report a resolution of disapproval.

Mr. Chairman, the gentleman is right. The problem is that the committees sometime prevent the Members of the House from acting, but this procedure in the pending amendment ties the House with the same rope.

Mr. ASHBROOK. If my colleague will allow me to reclaim the last 30 seconds of my time, that is why many Members, such as myself, believe the legislative veto is fine but there must be some automatic way that it comes before the Members so it cannot be pigeonholed, so it cannot be closeted.

It is like a right without any ability to exercise.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

The provision that is in the general bill, comprehensive bill on legislative veto, does indeed provide for that procedure, but the fact that we cannot, under the rules of the House, get that into this amendment does not mean we should not take three-quarters of a loaf at the time, now, and pass this amendment as it was written by the Committee on Agriculture.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague and I yield back the balance of my time.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am wondering if the Members of the House in their apparent eagerness on the floor to pass this amendment, which I hope does not reflect the opinion of the majority, recognizes we may be giving up a great whipping boy. You know right now when EPA and particularly with the segment of the regulations we are talking about dealing with the pesticides in this bill, that when EPA passes a regulation, now, the members of the Committee on Agriculture and the entire House can all raise whatever they want to raise about it and go back to their people at home and say, "It is terrible what they have done to you, it is a terrible agency."

Right now, if you pass this legislation perhaps we are going to lose or you are going to lose what whipping boy on the Committee on Agriculture and the Members of the House because now it is going to be what you call your responsibility. I do not know, having served on the Committee on Agriculture and obviously on other committees in this House, when these committees have all the time to study all of these regulations that are being put out, that you are then going to take this kind of action on. The answer is that we are going to see regulations go just the way they go today and it is going to be the committee's fault if a few years down the line something happens. Let us take Mirex. The committee in its wisdom voted out Mirex as something that we should do. We should spray 4 million acres of land with Mirex.

Now supposing EPA had put that regulation in and the EPA has said, "Yes, we are going to have Mirex used as a pesticide for the fire ant, and that is what we are going to do," and the Committee on Agriculture did nothing, the House did nothing. Well, the House has just indicated they thought it was a bad idea because it came up under an amendment on the floor. But we, 10 years from now, when that presumably and possibly cancer-causing drug started to strike, someone could come back and say to these members of the committee and the Congress, "You did not do anything. You had the responsibility and you did nothing."

I think we should leave the responsibility where it is because we have, uniquely, in this particular segment of the EPA as it pertains to the pesticides under this bill, we uniquely have all the opportunity that we need to bring about a change if we really seriously want to do it.

☐ 1550

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

I want to state again publicly the great respect and affection which I hold for the gentleman from New York; but I have got to say that the gentleman's statement on this amendment is not only surprising, it is incredible.

I commend the gentleman for his candor, but what the gentleman has said is that Congress should not assume the responsibility for the laws inflicted on the American people. We have that responsibility and we would be a lot more careful in delegating it if we knew it was coming back to us.

Mr. PEYSER. Mr. Chairman, let me say to the gentleman, that is not what I said. This section of law that is being affected by the EPA is uniquely handled now by the amount of time and opportunity given to the committees to respond.

I supported the gentleman in his legislation yesterday because that same opportunity given to the Agriculture Committee is not given under the regulations that we changed yesterday; so this is uniquely an opportunity, and if the Agriculture Committee does not accept it today and has not accepted it, having the opportunity, I see no rhyme or reason that they are going to accept it under this regulation and I think we ought to leave it the way it is.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I want to commend the gentleman for his statement and assure the gentleman that this Member appreciates the fact that we have accepted our responsibility.

The gentleman from New York was a member of the Agriculture Committee when we accepted the responsibility.

The gentleman from Georgia speaks like we are at point zero. We are not. We have amended the law to provide for a scientific advisory council, the Secretary of Agriculture and committees of the House and the Senate to oversee the proposed regulations. The gentleman was a part of that activity when the gentleman was a member of the Agriculture Committee. I think he should be commended for the position he has taken.

Mr. PEYSER. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the committee amendment which is designated as section 3 of the bill.

The question was taken; and on a division (demanded by Mr. LEVITAS) there were—ayes 40, noes 21.

RECORDED VOTE

Mr. WEAVER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 278, noes 121, not voting 34, as follows:

[Roll No. 689]

AYES—278

Abdnor
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bevill
Blanchard
Boner
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fazio
Ferraro
Fish
Fithian
Flippo
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mazzoli
Michel
Mikulski
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Perkins
Petri
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wolpe
Wright
Wyatt
Wylie
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—121

Addabbo
Akaka
Annunzio
Ashley
Baldus
Barnes
Bedell
Beilenson
Bingham
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burton, John
Burton, Phillip
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Danielson
de la Garza
Dellums
Derrick
Dingell
Dixon
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Fary
Fascell
Fenwick
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Garcia
Giaimo
Gibbons
Gonzalez
Gray
Green
Hall, Ohio
Harkin
Harris
Hawkins
Holtzman
Jeffords
Kastenmeier
Kostmayer
LaFalce
Lehman
Leland
Lloyd
Long, La.
Lowry
Lundine
McCloskey
McHugh
Maguire
Markey
Mavroules
Mica
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Nedzi
Nolan
Oakar
Obey
Ottinger
Pease
Peyser
Price
Rangel
Ratchford
Reuss
Richmond
Rodino
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Smith, Iowa
Spellman
St Germain
Stark
Stewart
Stokes
Stratton
Studds
Swift
Udall
Van Deerlin
Vanik
Walgren
Waxman
Weaver
Weiss
Wilson, C. H.
Wirth
Wolff
Yates

NOT VOTING—34

Anderson, Ill.
Anthony
Aspin
Bethune
Biaggi
Burlison
Coelho
Conable
Davis, S.C.
Diggs
Findley
Flood
Gephardt
Hansen
Heftel
Howard
Ireland
Jenrette
Leach, Iowa
McCormack
Mineta
Murphy, Ill.
Myers, Pa.
O'Brien
Rose
Rosenthal
Rostenkowski
Rummels
Solarz
Treen
Winn
Wydler
Yatron
Young, Alaska

☐ 1610

Messrs. BONKER, MICA, and BRADEMAS, and Mrs. COLLINS of Illinois changed their votes from "aye" to "no."

So the committee amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would ask the committee to indulge me a moment while I yield to the distinguished gentleman from New York (Mr. WOLFF).

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I was prepared to offer an amendment to this bill; however, I shall not offer the amendment. However I should like to engage in a colloquy with the gentleman from Texas regarding the substance paraquat.

Recently, the Department of Health, Education, and Welfare came down with a ruling that marihuana tainted with paraquat could possibly be of harm to some people in the United States who were abusing this substance.

Now, if we are going to protect those people who abuse a controlled substance, then I do believe that there should be some consideration given to the people who are using this substance in the United States, because the only place where the substance marihuana is being sprayed, is overseas.

Therefore, if it is harmful to those people who smoke marihuana, then certainly there should be some consideration given to those people who use paraquat for agricultural control purposes in this country.

Tomorrow the Select Committee on Narcotics Abuse and Control will hold a hearing to make a determination as to how the Center for Disease Control came about making the assumption that tainted marihuana was harmful to those who abuse it here in the United States.

There are some very serious quesions as to the procedures of the Center for Disease Control and why there has been no finding regarding possible health hazards from the application of paraquat in agriculture. I do believe that if there are serious questions as to those people who are smoking this substance, which I say is a controlled substance, then there certainly should be some questions as to the efficacy of using this substance for agricultural purposes.

Mr. DE LA GARZA. I appreciate the concern of the gentleman, and as I understand the thrust of his amendment, it would have been to allow EPA to have jurisdiction over this matter with which I concur.

I expect that possibly the hearing which will be held by the gentleman from New York and the Select Committee on Narcotics Abuse and Control will provide us with information in relation to the use as relates to marihuana.

I want to assure the gentleman of our interest and if necessary to propose hearings as it relates to use in other agricultural products.

I want to assure the gentleman that our subcommittee, which has oversight jurisdiction over this matter, would be happy to coordinate and to work with the gentleman as to the possible harmful effects of paraquat use on other agricultural products.

I think it is important that the Environmental Protection Agency, under the FIFRA law, be appraised of the fact that this pesticide or herbicide can and conceivably is used in other agricultural products.

Mr. WOLFF. If the gentleman would yield further, the important element here is that there is great confusion as to the properties and the dangers attendant with the use of paraquat as a herbicide.

As I understand it, it is used in the preparation of fields for tobacco growing. It is used as well in this country for the preparation of fields for other cultivation, and, therefore, I do have a concern, a very similar concern, in the agricultural area as was expressed by some of those who had expressed concern over tainted marihuana.

Mr. DE LA GARZA. I assure the gentleman of our full cooperation in this endeavor.

Mr. WOLFF. I thank the gentleman.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

> Committee amendment: Page 5, Line 5, insert:
>
> SEC. 4. The Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following new section:
>
> "SEC. 32. SUNSET PROVISION.
>
> "All authorities granted under this Act shall be effective only through September 30, 1985.".

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would only like to state to the House that we authorized annually for this agency, which is in effect sunset. We authorized it at one time for 30 days or 60 days, and now we do for 1 year.

This amendment is in effect redundant. If we can authorize the whole legislation every year, why have a sunset here in 1985?

We have committed ourselves to oversight hearings annually on this matter, so, in effect, it is not necessary, but we have no great objection if it will satisfy the needs of other members of this committee.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

☐ 1620

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3546) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 1 year, pursuant to House Resolution 416, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 1 year; and for other purposes.".

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 717) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, for 1 year, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136y), is amended by adding at the end thereof the following: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1979, and ending September 30, 1980, such sums as may be necessary, but not in excess of $62,250,000.".

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike all after the enacting clause of the Senate bill, S. 717, and to insert in lieu thereof the provisions of the bill, H.R. 3546, as passed by the House, as follows:

That section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136y), is amended by inserting at the end thereof the following: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1979, and ending September 30, 1980, such sums as may be necessary but not in excess of $60,250,000, and an additional amount not in excess of $6,000,000 for the Administrator to provide the States for the conduct of applicator training and certification programs.".

SEC. 2. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding the following new paragraph at the end thereof:

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of   , which rule or regulation was transmitted to Congress on   , the blank spaces therein being appropriately filled; or

"(ii) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) EFFECT OF CONGRESSIONAL INACTION.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.".

SEC. 3. The Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following new section:

"SEC. 32. SUNSET PROVISION.

"All authorities granted under this Act shall be effective only through September 30, 1985.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for one year; and for other purposes.".

A similar House bill (H.R. 3546) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREE ON S. 932, DEFENSE PRODUCTION ACT EXTENSION AMENDMENTS OF 1979

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint one additional conferee on the Senate bill (S. 932) Defense Production Act Extension Amendments of 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none and, without objection, appoints the gentleman from New York (Mr. WYDLER) as an additional conferee.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 1871, EXTENSION OF INTERNATIONAL ENERGY PROGRAM

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 1871) to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 96–669)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 1871) an Act to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

EXTENSION

SECTION 1. Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "November 30, 1979" and inserting in lieu thereof "March 15, 1981".

TRANSCRIPTS

SEC. 2. Subsection (c)(4) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(4)) is amended by adding at the end thereof the following: "Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.".

REPORT

SEC. 3. The Secretary of Energy, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Trade Commission, shall prepare and submit to the appropriate committees of Congress a report concerning the actions taken by them to carry out the provisions of section 252 of the Energy Policy and Conservation Act. Such report shall examine and discuss—

(1) the extent to which all, or part, of any meeting held in accordance with section 252(c) of such Act to carry out a voluntary agreement or to develop or carry out a plan of action should be open to interested persons in furtherance of the provisions of section 252(c)(1)(A) of such Act;

(2) the policies and procedures followed by the appropriate Federal agencies in reviewing and making public or withholding from the public all, or part, of any transcript of any meeting held to develop or carry out a voluntary agreement or plan of action under section 252 and in permitting persons, other than citizens of the United States, to review such transcripts prior to any public disclosure thereof;

(3) the extent to which the classification of all, or part, of such transcripts should be carried out by one agency;

(4) the adequacy of actions by the responsible Federal agencies in insuring that the standards and procedures required by section 252 are fully implemented and enforced, including the monitoring of the program concerning any anticompetitive effects, and the number of personnel, and the amount of funds, assigned by each such agency to carry out such standards and procedures;

(5) the actions taken, or to be taken, to improve the reporting of energy supply data under the international energy program and to reconcile such reporting with similar reporting that is conducted by the Department of Energy;

(6) the actions taken, or planned, to improve the reporting required by section 252 (i); and

(7) other actions under such section.

The Secretary of Energy shall transmit such report to such Committees within 120 days after the date of the enactment of this Act and shall make such report available to the public.

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
RICHARD OTTINGER,
PHILIP R. SHARP,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
Managers on the Part of the House.

HENRY M. JACKSON,
J. BENNETT JOHNSTON,
HOWARD M. METZENBAUM,
MARK O. HATFIELD,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 1871) an Act to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The legislation, S. 1871, extends provisions of the Energy Policy and Conservation Act (EPCA) which provide a limited antitrust defense for oil companies with respect to their participation in the international energy program. The legislation also amends EPCA to require timely access to transcripts of meetings of oil companies under the program. The legislation requires the Secretary of Energy to report to Congress on activities under the program. The provisions are discussed in detail in the Senate legislative history accompanying S. 1871, and the House report accompanying the companion bill, H.R. 4445.

The House and Senate amendments were nearly identical on all matters except for the expiration date for the EPCA authorities and the deadline for the report. The House amendment extends the provisions until October 31, 1981. The Senate amendment extends the provisions until June 30, 1980. The conference substitute extends the provisions until March 15, 1981.

The House amendment requires the report to be submitted within 180 days of enactment. The Senate amendment requires the report to be submitted within 90 days of enactment. The conference substitute requires the report to be submitted within 120 days of enactment.

HARLEY O. STAGGERS,
JOHN D. DINGELL,
RICHARD OTTINGER,
PHILIP R. SHARP,
JAMES T. BROYHILL,
CLARENCE J. BROWN,
Managers on the Part of the House.

HENRY M. JACKSON,
J. BENNETT JOHNSTON,
HOWARD M. METZENBAUM,
MARK O. HATFIELD,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

MAKING IN ORDER ON THURSDAY, NOVEMBER 29, 1979, OR ANY DAY THEREAFTER, CONSIDERATION OF THE CONFERENCE REPORT ON S. 1871, EXTENSION OF INTERNATIONAL ENERGY PROGRAM

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that it be in order on Thursday, November 29, 1979, or any day thereafter, to consider the conference report on the Senate bill (S. 1871) to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2222, COVERAGE OF MEDICAL HOUSE STAFF UNDER THE NATIONAL LABOR RELATIONS ACT

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 479, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 479

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2222) to amend the National Labor Relations Act to clarify the scope of its coverage, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 479 provides for the consideration of H.R. 2222 which amends the National Labor Relations Act to clarify the scope of its coverage.

This is an open rule granting 1 hour of general debate with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. The bill is to be read for amendment under the 5-minute rule. The rule also makes in order a committee amendment in the nature of a substitute as an original bill for purposes of amendment. A motion to recommit with or without instructions is in order upon completion of consideration of the bill.

Mr. Speaker, H.R. 2222 assures coverage under the National Labor Relations Act for interns, residents, fellows and other trainees, generally referred to as "house staff," who are engaged in nonprofit hospital medical training and receive a stipend or compensation for work activities related to training programs. Under the bill, medical interns and residents are explicitly included within the definition of employee. The legislation also makes clear that so-called house staff be considered within the meaning of the National Labor Relations Act.

Mr. Speaker, the clarifications contained in H.R. 2222 are made necessary due to the National Labor Relations Board's decisions in the Cedars-Sinai line of cases. I urge my colleagues to adopt House Resolution 479 so that we may proceed to the consideration of H.R. 2222 and resolve the confusion concerning the legislative intent of coverage provided to certain hospital employees under the National Labor Relations Act.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlelady from New York has done an excellent job of describing the rule we have before us. I urge my colleagues to take note of this rule because it is only on very rare occasions that the Rules Committee reports an open rule that is free of waivers. I am sure it is apparent to all the Members of this body who desire the freedom to legislate that an open rule is rapidly becoming an endangered species.

Unfortunately the rare breed we have before us makes in order for consideration by the House a bill which overrides a decision by the National Labor Relations Board. In a 1976 ruling the Board declared that medical interns, residents, and fellows were primarily "students" and not "employees" within the meaning of the National Labor Relations Act. If H.R. 2222 were to become law and thereby overrule that decision, graduate medical students would become "employees" under the Taft-Hartley Act, contrary to the facts underlying their relationship with teaching hospitals, and all the basic tenets of labor relations in organized workplaces, including strikes, lockouts, secondary boycotts, and picketing would become an integral part of the framework of graduate medical education.

Mr. Speaker, I find it absurd that the leadership of this body can make so-called hospital cost containment legislation a priority item while in the next breath bring this bill before us for consideration. Student collective bargaining will surely result in increased medical costs. We all know who will ultimately pay for the new benefits, wages, and equipment obtained by students. I urge defeat of the rule and, failing that, defeat of the bill.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMENDMENT TO AGREEMENT BETWEEN GOVERNMENT OF UNITED STATES AND GOVERNMENT OF UNITED KINGDOM AND NORTHERN IRELAND FOR COOPERATION ON USES OF ATOMIC ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on Foreign Affairs:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to Section 123 d of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153), the text of an amendment to the Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes of July 3, 1958, as amended, and my written approval, authorization and determination concerning the agreement. The joint classified and unclassified memoranda submitted to me by the Secretaries of Energy and Defense which provide a summary analysis of the amendment are also enclosed.

The amendment extends for five years (until December 31, 1984) those provisions which permit the transfer of nonnuclear parts, source, by-product special nuclear material and other material for nuclear weapons and special nuclear material for fueling military propulsion reactors.

In my judgement, the proposed amendment meets all statutory requirements. The United Kingdom intends to continue to maintain viable nuclear forces. In light of our previous close cooperation and the fact that the United Kingdom has committed its nuclear forces to NATO, I have concluded that it is in our security interest to continue to assist them in maintaining a credible nuclear force.

I have approved the amendment and authorized its execution and urge the Congress give it favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *November 28, 1979.*

□ 1630

REPORTS ISSUED BY UNITED NATIONS JOINT INSPECTION UNIT DURING FIRST HALF OF 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

To the Congress of the United States:

In accordance with Section 301(e)(3) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2221), I am transmitting herewith copies of the reports issued by the United Nations Joint Inspection Unit during the first half of 1979.

JIMMY CARTER.

THE WHITE HOUSE, *November 28, 1979.*

COVERAGE OF MEDICAL HOUSE STAFF UNDER THE NATIONAL LABOR RELATIONS ACT

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2222) to amend the National Labor Relations Act to clarify the scope of its coverage.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2222, with Mr. HALL of Texas, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill will be dispensed with.

Under the rule, the gentleman from New Jersey (Mr. THOMPSON) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, H.R. 2222 is a bill that we should not have to be considering today because almost 6 years ago we passed legislation that accomplished what H.R. 2222 mandates, or so we thought. When we passed the Hospital amendments in 1974, which extended coverage of the National Labor Relations Act to the health care industry, we all thought, proponent and opponent alike, that medical house staff were included. We are here today considering H.R. 2222 because the National Labor Relations Board, in one of its most ill-considered decisions ever, determined that medical house staff were students—not employees—and therefore precluded from protection under the NLRA. H.R. 2222 is needed both to restore our original intentions and also to provide medical house staff with the fundamental protections of the Federal labor laws which they need and deserve.

The true irony of the Cedars-Sinai decision is that house staff are now also precluded from protection under State law. When the Board decided medical house staff were students they also held that the States were preempted from providing coverage under State law thereby wiping several existing State statutes off the books.

The Board's decision in Cedars-Sinai so badly misconstrued congressional intent that the D.C. Circuit Court of Appeals, for one of the few times in history, overturned the Board on the basis that it had disregarded clear congressional intent. The circuit court's decision, when implemented would mean that the provisions of H.R. 2222 would be law, however, implementation has been delayed due to still further appeal. It could be years before there is a final resolution of the matter in the courts.

These legal entanglements make it imperative that Congress pass legislation to straighten out the situation and restore the basic rights of collective bargaining to house staff.

Aside from resolving the wholly unnecessary legal entanglements, there are several strong affirmative reasons for providing medical house staff coverage under the NLRA. It would eliminate a major source of disruption in this area, the problem of recognition, and would provide a stable mechanism for the resolution of disputes and grievances.

H.R. 2222 is also relevant in the search for a solution to one of the most serious issues facing our country today. The delivery of health care. One of the many young doctors who testified on behalf of this bill stated:

> The role of patient advocate is one of the most significant and demanding responsibilities of the house officer. As the person who may be spending 100 hours a week with patients, the house officer is most intimately involved with the patient's medical and personal needs. The right to organize collectively would help house staff . . . to become patient advocates in the fullest sense of the term.

Dr. John Holloman, who was president of the New York City Health and Hospital Corp., which operates the municipal hospitals in New York City, testified in favor of H.R. 2222. Holloman, who sat on the management side of the table, stated that collective bargaining with house staff employees resulted in "important advantages to improved health care." He continued by asserting:

> Among those advantages are effective leadership and articulation of the concerns of Housestaff * * * the participation of an organized housestaff involved in day-to-day patient care in the advocacy of health care needs and resources.

I remind you that this is the statement of a hospital administrator who has had direct experience with house staff collective bargaining.

We have been considering H.R. 2222 for close to 4 years now, during which time the subcommittee has conducted 5 days of hearings. In addition subcommittee members have toured several hospitals talking with dozens of interns and residents as well as hospital administrators. The support for the bill has been substantial.

Professional associations representing nearly every variety of health care profession, have come out in strong and enthusiastic support of collective bargaining for medical house staff. The bill is also supported by the major teaching unions, and the AFL-CIO.

Of particular significance is the strong support voiced by the American Medical Association for this bill. Dr. William J. Mangold of the AMA's Legislative Council testified:

> The conclusion seems inescapable that interns and residents are at the same time students and employees. The two categories are not mutually exclusive. The fact that they are in a learning process of acquiring new skills does not detract from their legal right to organize and engage in collective bargaining.

Finally the principal cosponsor of H.R. 2222 is my good friend and colleague, Mr. ASHBROOK. At first Mr. ASHBROOK opposed the bill, but to his credit as our examination of the issues progressed he manifested his open mindedness and now is a strong supporter and sponsor of the bill. I greatly appreciate Mr. ASHBROOK's support and believe that it clearly demonstrates that when the issues are carefully examined the inevitable conclusion is that H.R. 2222 should be enacted.

I strongly urge your support of H.R. 2222.

□ 1640

Mr. ASHBROOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2222.

I am pleased that this year I have sponsored this legislation with my good friend and colleague from New Jersey, Chairman THOMPSON.

For the last two Congresses and now in this Congress, we have studied the problem of house staff unionization since the National Labor Relations Board's ruling in the Cedar's-Sinai case that house staff are not employees, but students. In the past, I had been opposed to the bill, but I have listened to the testimony, both pro and con, have personally visited hospitals, observed the work of interns and residents, and have had personal contact with many of them and am now convinced that this bill is of the utmost importance to establish what I consider equity for house staff.

There are approximately 60,000 interns and residents, collectively called house staff, within the 400 major teaching hospitals in the United States. Most States require 1 year of internship before an M.D. can be licensed to practice medicine. Residents are, in effect, fully licensed physicians and are continuing their graduate medical education to become certified in a specialized field of medicine. However, the distinction between interns and residents is disappearing except for the licensing requirement, and I will refer to them as house staff.

House staff are employed in both private and public hospitals. Private nonprofit hospitals were brought under the NLRA in 1974 with passage of the Health Care Institution amendments, Public Law 93-360, legislation I then supported. H.R. 2222 will only apply to private hospitals, not to public, State or local hospitals, where Federal, State or local law will continue to govern. The legislation is compatible with present law, since an "employee" is defined under section 2 (3) of the NLRA as "any employee"—with certain exclusions, none of which include house staff. The bill would make clear that "employee" includes house staff and that as employees, and not students, house staff are professional employees within the meaning of the act. The bill is also compatible with many State laws and State court interpretations in which house staff were held to be public employees under State law.

The legislation is also compatible with the facts. Everyone concedes that house staff work an enormous number of hours, often up to 110 to 120 hours per week sometimes at 20 to 30 hours at a stretch without sleep. During these extremely long periods of work it cannot be denied that house staff receive an educational benefit, but that benefit cannot overcome the fact that patient care functions are the services for which they are compensated and for which the hospitals bill. The issue is whether house staff as students are also employees. I believe they have the ingredients of both but those ingredients are not mutually exclusive.

The facts presented to the committee, and from my own observation, also show that house staff perform duties of an extremely important nature—sometimes critical operations—sometimes involving life or death—often first line and total responsibility for the diagnosis and treatment of the patient—without any immediate supervision of any kind. As M.D.'s they work while learning and provide quality patient care for the benefit of hospital users. They are accountable and responsible for their actions and decisions.

Furthermore, State and Federal taxes are withheld from their stipends by the hospital, and hospitals contribute to social security and provide for health insurance as they do for their other employees. In relation to other legal precedent, courts and administrative agencies have held that house staff are employees for purpose of voting residence, worker's compensation, veterans reemployment rights, and that their income is taxable income. All these factors lead to the conclusion that house staff are engaged in rendering professional medical services to patients for the benefit of the hospital. I believe they are entitled to collective bargaining rights.

The bill, H.R. 2222, does not mandate organization or unionization by house staff. The bill only allows them to have the right to organize as the 1974 health care amendments allowed other hospital employees to organize if they so choose. Many may choose not to join a union. Others will want to organize. Those that choose to do so should be allowed to do so.

Objections to the bill, such as the bill would insert the NLRB into the academic sphere, just do not hold weight. Although I would support an amendment to exclude educational matters from the sphere of bargaining, I have confidence that the NLRB has the expertise to distinguish between educational matters and "wages, hours and other terms and conditions of employment," the latter of which are the only mandatory bargainable matters. The witness for the Physicians National House Staff Association before the committee this year indicated that educational subjects are usually beyond the control of the hospital and that house staff would seek bargaining only on the working aspect of their relationship with the hospitals. Besides, as I have indicated, house staff has enjoyed bargaining rights under certain State laws, and I have seen no evidence that these State laws created havoc in the hospitals or that they have interfered with the educational aspects of a resident's employment.

I urge passage of this bill.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. ASHBROOK. I will be very happy to yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. Do I understand my friend, the gentleman from Ohio, originally having opposed this prounion legislation, is now advancing and supporting legislation that has the full support of the unions? Is that correct? Are they in favor of this?

Mr. ASHBROOK. Does the gentleman mean the American Medical Association? I did not know they were a union.

Mr. BAUMAN. No, I meant a more formal union group such as the AFL-CIO.

Mr. ASHBROOK. It has been my general impression that AFL-CIO has not been that adamant. I think they are dealing basically with doctors, and I am not so sure they really care that much when it comes to them, but I would guess, yes, they support the legislation. Wonders never cease; the gentleman is right.

Mr. BAUMAN. Does the gentleman expect that these unions who in the past have been so friendly to him will increase and expand their support for his efforts on their behalf?

Mr. ASHBROOK. Maybe from about

one-tenth of 1 percent up to about three-tenths of 1 percent on a scale of 1 to 10.

Mr. BAUMAN. I want to congratulate the gentleman for the new found following that this position will produce for him.

Mr. ASHBROOK. I think my colleagues know that the only union that ever supported me was the WCTU, and they are not now as active as they used to be.

Mr. BAUMAN. I am afraid few Members of the House can make the claim that the WCTU endorses them.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will yield to my Chairman.

Mr. THOMPSON. I thank the gentleman for yielding. I am proud to say that the WCTU has also supported me, out of ignorance, I am sure, as they have my friend. I would hope that they would support the gentleman from Maryland (Mr. BAUMAN), especially in light of the amount of driving he has to do every day.

Mr. ASHBROOK. I thank my colleague.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I am delighted to yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding. I want to say that the WCTU has never endorsed me. But what I wanted to try to find out is, is the gentleman supporting the right to organize and strike by interns and residents of hospitals?

Mr. ASHBROOK. In answer to my colleague, the gentleman from California, I am supporting the right to organize which includes with that, obviously, all the features of the collective bargaining process. But one of the reasons I support this bill is that in my judgment we are far better off and we are less apt to have strikes and confrontations if the parties to a dispute feels they have a position and a basis for airing their grievances in collective bargaining. As it is now, I think we all know where one side can say to the other, "We do not listen to you, period." We are more apt to have a confrontation. In the situations in New York and other places where there were some strikes by house staffs, it was basically over the position that they could not get any redress of their grievance. So if you can get a redress of your grievance through the collective bargaining process, in my humble opinion, you are less apt to have the strikes which all of us would hope we could avoid. Hospitals, in my opinion, in the past have been somewhat high-handed on occasion, and I think they have treated interns in may ways like they were in an indentured servitude situation. In that type of situation I do not think you can have anything except an explosive situation.

Mr. CHARLES H. WILSON of California. Will the gentleman continue to yield?

Mr. ASHBROOK. I will be very glad to yield to the gentleman.

Mr. CHARLES H. WILSON of California. My oldest son just finished his internship and residency and is now in the Air Force. They were trying to organize the hospital where he was, and he asked my advice. I told him to stay as far away from it as he could. I am as good a friend of labor as there is, but I just did not think it was wise for doctors to do that, and I wanted him to get through his residency without being prejudiced. I am just so pleased to hear the gentleman take this position that I think we should vote on this immediately and have a unanimous vote on it.

Mr. ASHBROOK. I go back to the point I said earlier. I do not think it is a question of whether labor is for it, the American Medical Association is for it, or the hospitals are against it. In my judgment, the only basis I have is through the studies I have done. The equity of the situation speaks out in favor of the bill. I talked to many house staffs in many places who were satisfied with the conditions they had. I doubt that they would want to organize. I doubt that if they organized there would be serious confrontation or a strike.

In those areas where there is a sharp difference of opinion, I think we would defuse it and we would be less apt to have strikes if both sides at least have a mechanism. When all the cards are on one side. I think that is the type of situation that induces confrontations like we saw in New York. So I actually look upon this—and I do not say it with any degree of trying to evade an issue—as possibly defusing a situation and which would be more apt to lessen hostility in an atmosphere that brings strikes than would, as someone would say, a labor organizing bill. But we can look at it however we want. That is the way I look at it, and that is the only way I can give my opinion.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. I am not sure I have heard all of this straight, but does the gentleman want to apply these same arguments—basically these are the same arguments we have had for years—to the AFL–CIO in many areas? Why is this different than all the others that many of us have felt have been misused?

□ 1650

Mr. ASHBROOK. I fear I do not understand the purport of the gentleman's remarks.

Mr. ROUSSELOT. Yes, you do. Many of these powers we are granting here, basically we have felt should not be applied to teachers and others. Why is this different?

Mr. ASHBROOK. I think very clearly house staff are in a position of being quasi-employees and they are there in a basis of employment and they ought to have some degree of participation in the conditions of employment. I see nothing startling about that or nothing running against the grain of what my colleague from California would advocate or I would advocate. The fact the collective bargaining process has not worked in some areas does not mean we should scuttle it.

Mr. Chairman, from my standpoint most of the time I get mad at the employers for quite often giving in in areas where perhaps they should fight. We cannot second-guess everything and to say the process should not be available to 60,000 people that they should be in a position where they can be told, "This is the way it is, like it or leave it," I think runs a little bit against the grain of what all of us would like, no matter upon which side we find ourselves.

Mr. ROUSSELOT. If your arguments are correct it should then be applied to all the private sector?

Mr. ASHBROOK. I think basically——

Mr. ROUSSELOT. Firemen and policemen, too?

Mr. ASHBROOK. I take a little different point of view on public service people. These are not public servants.

Mr. ROUSSELOT. What about firemen and policemen?

Mr. ASHBROOK. I look upon firemen and policemen as being public servants.

Mr. ROUSSELOT. So the gentleman does favor that then?

Mr. ASHBROOK. I favor the municipality having the right to deal with them, but not through the collective-bargaining procedure.

Mr. ROUSSELOT. Not through collective bargaining?

Mr. THOMPSON. Mr. Chairman, would the gentleman yield?

Mr. ASHBROOK. I would be glad to yield to the gentleman from New Jersey.

Mr. THOMPSON. I might say to my friend from California that this bill applies exclusively to the private sector, not to the public sector. It has nothing at all to do with firemen, policemen, teachers, or other public employees.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. The gentleman from Ohio has the floor. He yielded to me.

Mr. ASHBROOK. Mr. Chairman, I recall in our Public Law 93–360, we only talk about private hospitals, not public, State or local.

Mr. THOMPSON. The gentleman is correct. All public hospitals, including all Federal hospitals are not covered by this act.

Mr. ASHBROOK. That is the precise point you were raising. That particular philosophy, that particular point of view is continued in this legislation.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. Yes, I would be glad to yield.

Mr. ROUSSELOT. If the gentleman's points are correct in applying to these people in private hospital work why should it not apply to firemen and policemen? They are quasi-public. I want to make it clear I do not agree with that.

Mr. ASHBROOK. We can disagree on that. We have generally taken a position in the past that the State is sovereign. We have generally taken the position that public and private are separate. We separate many areas of public employees and private employees. In this case in

H.R. 2222 we do exactly the same thing. We are referring only to private hospitals, not to public, State, local, Federal. I think that is the principle of the policemen and firemen the gentleman was talking about. It is continued rather than abused. I guess that is the answer I would give my colleague from California.

Mr. ROUSSELOT. Well, I do not understand what the gentleman said but I thank the gentleman for yielding.

Mr. ASHBROOK. I thank the gentleman.

I reserve the balance of my time.

Mr. THOMPSON. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, before I proceed I would like to respond in part to the gentleman from California (Mr. ROUSSELOT). I think the gentleman does raise an important concern. It is obvious that even he, as one of the most astute Members of this body and certainly one of the fastest people on his feet that we have on this floor, is confused about the purpose of the act and what we are doing. This is an amendment to the National Labor Relations Act. The National Labor Relations Act specifically excludes coverage for any kind of public employee. Further than that it has been reinforced by the League of Cities against Ussery decision a few years ago that seems to indicate that we do not have the authority—at least some of us believe at this time—to legislate with respect to the collective bargaining rights or the right to organize into collective-bargaining units for any level of public employment. We would be very happy to continue on the efforts that were started many years ago in our committee to rectify what many of us believe to be an injustice and, frankly, shortsightedness on the part of the original drafters of the National Labor Relations Act in leaving out public employees.

We do not know what the ultimate result is going to be but we have chaos out there.

Now, in 1974 the Congress by an overwhelming majority moved to cover the employees of nonpublic hospitals, under the National Labor Relations Act.

At the time we were persuaded by the fact that we had a lot of hospitals having a lot of trouble over recognition strikes where nurses and other personnel in the hospital formed a union or joined a union and then asked to bargain and the management of the hospital would refuse.

In my own area we had one hospital operated by a religious-based group that had about a 1½-year strike. Promptly after this bill was signed into law, I believe by President Ford, that strike came to an end and we have not lost a day since.

We can look back at the experience of 1974 and see that we have practically no strikes in the private-hospital sector except in one area.

These young doctors are told that all the other employees—the janitor has the dignity of belonging to a collective-bargaining unit if he wants to, but not a doctor. I think it is an interesting change that young doctors are getting uppity, if you will, enough to say that they have at least the same rights as the untrained personnel in the hospital to be represented collectively in dealing with wages, hours, and working conditions.

Now, if we look at the 1974 act we will find we are trying, as the gentleman from Ohio said, to correct what we, I think, now agree was a mistake by the National Labor Relations Board in the way in which they interpreted the relationship of interns and house staff physicians to the parent hospital and came up with a rather strange kind of an exception to the act called a student. You cannot find anywhere in the act a provision that says that students are exempt but, nevertheless, they constructed one out of whole cloth. This was clearly and simply a case of unelected bureaucrats, such as we were hearing about this afternoon, legislating contrary to the wishes of the Congress within a matter of a year after the Congress took this action. All we are trying to do now is reinforce the action taken by the Congress in 1974 and by the administration at that time to bring about equity.

As the gentleman from Ohio said, we do not believe in any way this encourages the tension and antagonism between hospitals and their employees. We think, as a matter of fact, it will lessen those tensions and a lot of young doctors who are now very upset by what they consider to be a captive employment situation will be able to get a remedy within the law rather than engaging in what are now illegal strikes. We think that, as a matter of fact, it will stop the altogether limited but, nevertheless, true phenomena of strikes by doctors against hospitals in this country.

We should also note that in the 1974 act we included a number of protections that limit the circumstances under which hospital employees can withhold their labor, or strike if you choose to use that word, in a way that no other employee in the private sector is limited, in order to protect the continued operation of the hospitals.

The notion that hospital house staff are students simply does not recognize the critical function performed by these employees. However, the reasons for passing H.R. 2222 extend beyond the correction of this inaccurate characterization. Extending the protection and regulation of the Federal labor laws to house staff employees will have several positive effects which I should like to briefly discuss.

The most serious problem in the area of house staff labor-management relations concerns the question of recognition. It is precisely this problem that H.R. 2222 would eliminate. The bill would provide a stable statutory mechanism for dealing with questions of recognition that is fair to management and employee alike. The recognitional strike which has plauged labor-management relations in this area would virtually disappear.

Placing house staff within the coverage of the National Labor Relations Act would grant house staff employees the right to cast a vote in a secret ballot election concerning the question of union representation. Should a majority vote for such representation, collective bargaining would proceed along the carefully prescribed guidelines developed by the NLRB during their years of experience. Just as the passage of the original Wagner Act in the 1930's provided stability and coherence in the private sector, there is every reason to believe that coverage of house staff would have a comparable effect. I might add that the 1974 hospital amendments recognized the unique nature of the health-care industry and accordingly, where appropriate, established special procedures for collective bargaining. These procedures, which include special provisions for notice of contract expiration, mediation of contract impasses and emergency disputes, would apply to house staff as well.

Examining the health care industry since the 1974 amendments reveals that strikes have dropped. It is only among house staff who have not been covered and who continue to lack a mechanism for peaceful recognition and impasse resolution that there has been an increase in work stoppages and job related actions. To help avoid these disruptive strikes, Congress must provide house staff a peaceful mechanism to negotiate contracts, to settle grievances, and generally to express their views and perceptions.

As has been stated, before Cedars-Sinai, States were permitted to legislate in this area and several States had laws which allowed collective bargaining for house staff. Thus, we have very concrete data to assess the consequence of house staff collective bargaining. Prior to 1976, it has been reported that 15 percent of all house staff employees were under the jurisdiction of the New York statute. The history of collective bargaining under the New York statute has not created the problems that the critics of H.R. 2222 predict.

The New York State Labor Relations Board dealt without serious difficulty with issues concerning house staff collective bargaining, including questions of rotations, prospective benefits, bargainability, and the tailoring of negotiations and benefits to the unique needs of house staff in their employment relations and training programs. In New York and in other States as well, house staff collective bargaining has not interfered with the educational process and has led to the reasoned and coherent treatment of issues pertaining to house staff's basic terms and conditions of employment.

Thus, we have concrete evidence that collective bargaining in this area is a stabilizing and rationalizing influence that functions to the benefit of hospitals and employees alike.

Others have mentioned another important positive benefit from the passage of H.R. 2222; the delivery of health care. As many of those who have spoken on behalf of this legislation have asserted, house staff employees have the most direct contact with the patients. They are most familiar with the day-to-day strengths and weaknesses of how patients are treated. Providing house staff a meaningful opportunity to meet and discuss the conditions under which they work will result in a new source of much needed input concerning how health care is delivered. They can provide an important link between the patients and the hospital management.

In conclusion H.R. 2222 goes well beyond correcting the inaccurate characterization of house staff employees as students. It will positively effect the stability and coherence of labor-relations in this area as well as providing new insight into the troublesome problem of the delivery of health care. I urge you to support this important legislation. Thank you.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. THOMPSON. Mr. Chairman, I will yield 2 additional minutes to the gentleman from Michigan (Mr. FORD.)

Mr. Chairman, will the gentleman yield?

Mr. FORD. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Does the gentleman agree with me that by the adoption of this legislation we would not in any sense be forcing or automatically making house staff physicians and residents members of collective-bargaining units or labor unions? Rather we would be giving them the rights we intended to give them in 1974. We would give them the right to bargain collectively, assuming that a majority in an appropriate unit chose democratically to do so.

Mr. FORD. The gentleman is correct.

□ 1700

Mr. ASHBROOK. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. ERLENBORN.)

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to this legislation. We do not have a great deal of time to debate this. There is a lot I would like to say.

Let me give you a portion of the contents of a letter written by the governing board of the Cook County Hospital to give you a firsthand view of the experience of a hospital that is engaged in collective bargaining. This is a letter that was sent to all Members of Congress from Cook County, Ill. I will only read excerpts from it.

It says here:

> Interns and residents do not limit their collective bargaining to economic security. They assume that everything that happens in the hospital affects their "working conditions" and, therefore, is subject to bargaining. The result is that the least able and most medically immature doctors in the hospital attempt to dictate the size of the teaching faculty, the number of nurses to be hired, the amount and kinds of equipment to be purchased and everything else even remotely related to the care of patients. All these demands are made without regard for the public purse.
>
> When their impossible demands are opposed, they have no compunctions about abandoning their patients and walking out of the hospital to strike, as the interns and residents did for 18 days at Cook County Hospital in 1975.
>
> If cost containment in hospitals is the goal of the Congress, the passage of H.R. 2222 is the best way to guarantee that such a goal will never be achieved. No teaching hospital in this country could ever reduce costs while acceding to the recurrent unrealistic demands of housestaff organizations.

Then along with that letter, they offered to give us a copy of the proposed contract that was submitted by the interns and residents at Cook County Hospital. I will just read a few of the things that they had in their proposed contract:

> An agency shop provision, payment of a service charge or additional compensation to the interns and residents equal to their union dues with a mandated check-off without written authorization.
>
> Hours not to exceed 10 hours a day. Overtime after 10 hours.
>
> No work on holidays except on emergency call.
>
> Paid leave, 28 days of vacation, three days bereavement, one month sick leave, additional sick leave up to three months upon request.
>
> Professional conventions for one full week and meetings of the union.
>
> Housing, free for interns and those on call.
>
> Free meals and midnight snacks.
>
> Three guests per month at the cafeteria free.
>
> Recreation hall with all accessories free.
>
> Union room free.
>
> Uniforms, free and replaced regularly.
>
> Escort service for those working at night.
>
> Voting representation on the executive-medical staff.
>
> Equal representation with the medical staff to review standards of medical care, and if recommendations are rejected, then to become the subject of negotiations.
>
> Discipline of more than 30 days will include hearings with time limits, right to be represented and right to subpoena.
>
> Delete the no-strike clause, but retain the no-lockout clause and reservation of rights in addition to arbitration.
>
> Supplies, equipment, types of diagnostic tools and hospital equipment, rooms, drugs, lighting, temperature, water, ventilation, privacy, patient records, staffing of nursing personnel.

Well, no wonder with this experience Cook County Hospital says that there is no way that you can contain hospital costs if this bill passes.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. Yes. I would be happy to yield, only briefly.

Mr. CHARLES H. WILSON of California. All right, this is for a question. The gentleman reads the demands that were made. Now, what happened to those demands? Were they accepted or rejected?

Mr. ERLENBORN. I think that they never did conclude their negotiations. There was no obligation to bargain. They agreed to bargain.

I cannot tell the gentleman for certain. I have not followed up on this.

My point is that if there is no limitation on what is bargainable, these are the things from actual experience that they will make demands for bargaining on.

I am afraid I cannot yield any further, because I do have some additional material and a limit on time.

Mr. THOMPSON. Mr. Chairman, if the gentleman would yield to me briefly, then I would yield the gentleman additional time.

Mr. ERLENBORN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, the gentleman is reciting a prospectus from a municipally covered hospital, which I am sure the gentleman understands would not be covered by this legislation.

Mr. ERLENBORN. Oh, I understand that. What I want to also point out, however, is that the same union would represent them, whether they were in a municipal hospital or a private hospital.

Actually, the basic question is: Are these students or are they employees? The fact is that under the current law there is no prohibition against the NLRB recognizing a union to bargain for interns and residents if they are primarily employees.

This really is not a question of law. It is a question of fact. In the Cedars-Sinai Hospital decision, which is cited as being an error on the part of the Board, is not an error in the interpretation of the law. It is a question of what they found after extensive hearings to be the fact.

H.R. 2222 would amend the National Labor Relations Act to provide that interns and residents are professional employees within the meaning of that act, regardless of the facts, you see. We are just going to say they may be apples, but we are going to call them oranges.

The intended effect of this bill is to overrule the NLRB decision in the Cedars-Sinai Medical Center case, in which the Board held that interns and residents, collectively called house staff, were not "employees" within the meaning of the act, but were "primarily students" and consequently excluded from coverage as employees.

In this case, the Cedars-Sinai Housestaff Association, the union, filed a petition for an election before the NLRB. Cedars-Sinai, the hospital, contended that the petitioner was not a labor organization because it did not represent employees, but was an organization composed of students. The Board considered voluminous briefs in the case, after an extensive hearing where each party presented its facts, and subsequently heard oral argument in the case. From this mass of evidence, the Board found this, and these are the findings of the Board:

First. Interns and residents participate in the Cedars-Sinai programs, including the activity of providing patient care, not to earn a living, but to pursue the graduate medical education required for the practice of medicine.

Second. The great percentage of time which house staff spends in direct patient care is simply a means by which the learning process is carried out.

Third. The stipends rendered house staff are in the nature of a living allowance or a scholarship for graduate study, rather than in the nature of compensation for services rendered.

Fourth. Applicants for the program attach no significance to the amount of the stipend to be received, but, instead, base their choice for such programs on the quality of the educational program and the opportunity of getting extensive training experience.

Fifth. Placement of graduating medical students is governed by the national intern and resident matching program under which both student and hospital agree to be bound by the ranking program, and without regard to the usual hiring procedure. In other words, the hospital does not even decide which ones are going to attend or receive the stipend, but rather the matching program does this for them.

Sixth. The hospital has no need for house staff to meet its hospital staffing requirements, but the center's programs are designed to allow the students to develop in a hospital setting the clinical skills, judgment, and proficiency necessary to the practice of medicine in the area of the student's choice.

Seventh. The "Essentials of Approved Residencies" which describe standards for approved residencies and internships prove that the primary function of the intern and resident program is educational.

Eighth. Few if any interns or residents remain at the center at the end of their training program to establish an employment relationship and few can expect to establish any employment relationship.

Ninth. House staff tenure is closely related to the length of the student's training program.

To assist in the training program of the 34 interns, 86 residents, and 24 fellows at Cedars-Sinai, there were 41 full-time and 25 part-time staff physicians who hold UCLA medical school appointments in addition to certain of the 1,000 voluntary attending staff physicians who participate in the teaching program and also hold UCLA appointments.

I could go on. There is a good deal more to this, but this is what the Board found after examining the facts.

What the sponsors of this legislation want you to do is to ignore the facts as found by the Board, to call an apple an orange, to say that these students are really employees, to say that the work that they perform, the hours that they put in, the money they receive is an employer-employee relationship and is not a student-teacher relationship.

It would be a mistake to enact this legislation.

□ 1710

Mr. THOMPSON. Mr. Chairman, for another purpose, I yield 1 minute to my distinguished friend, the gentleman from Alabama (Mr. DICKINSON), the ranking minority member on the Committee on House Administration, following which I intend to yield to the gentleman from North Carolina (Mr. PREYER).

TRIBUTE TO CATHY LYNN STEWART

Mr. DICKINSON. I thank my distinguished chairman for yielding to me for this purpose, the purpose being a little out of the ordinary, but I want to call the attention of the Members to the fact that, as most of the Members know from reading the paper on Sunday last, a private charter plane carrying four staff people crashed. One of those persons worked for me and one worked for the gentleman from Alabama, Mr. JACK EDWARDS. Two of them were from the Senate side. They were all killed. Tomorrow is the funeral for Cathy Stewart, who worked for me. She was 22 years old. She had just finished college. She had a bright future ahead of her. She wanted to study law. She worked for a period on the Committee on House Administration before she worked for me on the full committee. It was a tragic loss.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I thank the gentleman for taking this time.

Miss Stewart, who was one of those people who unfortunately was killed, served last summer as an intern for the Committee on House Administration assigned to the minority. She was a lovely, bright, charming young lady with a great future. All of us who worked with her and who knew her deeply regret her passing.

I do thank the gentleman for calling this to our attention.

Mr. DICKINSON. I thank the gentleman very much for his remarks.

Mr. Chairman, Sunday evening last (November 25, 1979), at approximately 10:45 p.m., a tragic airplane crash occurred near Anniston, Ala., in which four young Alabamians lost their lives. Three of the young people were employees of the U.S. Congress and the fourth was a former employee.

Jack Farish of Monroeville was a staff aide to my colleague from Mobile, Congressman JACK EDWARDS. David Watson, also of Monroeville, was a member of the Senate Democratic Cloakroom staff. Louise Tate of Birmingham was a former member of the staff of the late Senator Jim Allen. I did not personally know these three fine young Alabamians, but I did know them through their outstanding reputations as members of the Alabama family serving Alabama and our country at the Nation's Capitol. They were all great servants of our Nation and were a great credit to their families.

The fourth victim, Cathy Lynn Stewart, age 22, of Newton, Ala., was a member of my Washington staff. I had known Cathy since 1978, when she served as my summer intern with the House Administration Committee. At that time, Cathy was completing her senior year at Troy State University in political science with plans of going to law school and practicing law.

It did not take me long to determine that Cathy was one of those rare individuals whom I would want to keep as a co-worker and friend. She was not only gifted with great intelligence, healthy ambition and bountiful talents—she was a super human being and a loyal friend who always maintained a marvelously positive, can-do attitude.

Cathy felt strongly about contributing to our system of Democratic political freedom. She was active in political matters and in the 1978 congressional campaign became one of my most trusted and effective volunteers. She worked closely with and provided invaluable assistance to my wife Barbara during her campaign efforts in the Wiregrass area. Barbara and I will always remember her confident smile and positive words to us during the late days of that heated campaign—it was always "thumbs up."

Cathy was a selfless and generous person who wanted to serve our Nation in Washington—not for vain personal ego and selfish glory—but for statesmanlike public service. She wanted our Government to reclaim and operate by those constitutional principles that made us the greatest nation on Earth. Because of her professionalism and high personal qualities, I recruited her for full-time employment as a staff assistant during the summer. She was very popular in our office and a joy to all who knew her.

I view Cathy's service to the Nation as that of a faithful soldier. Though her life was cut short at a tender age, she contributed more to her fellow man than many do in 3 score and 10. She did her duty and we are all the better because she lived and served with us.

I realize that nothing I say can relieve the grief and anguish of her family and parents—Mr. and Mrs. Herman D. Stewart. But I emphatically do say that Cathy's short life—filled with a great contribution of service to State and Nation—provides an everlasting memorial in which her friends, relatives and parents can take comfort.

I have lost a valued coworker and my wife Barbara and I have lost an incredibly sweet and loyal friend whose memory we will warmly remember for the rest of our lives.

Mr. THOMPSON. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, the issue we have here is certainly a thorny one because there is no doubt that interns and residents are both health care practitioners and students at the same time. They may not be students in the formal classroom sense, but they are students in the sense of on-the-job training and learning. They rely on experienced physicians for advice, and I believe that most interns would readily admit that they are just beginning to gain confidence as they enter into their internships. Residents entering residency still have a lot to learn. In the 3 years of internship and residency, all young doctors are supposed to be supervised in the process of caring for patients. Notwithstanding, the sort of abuses and exploitations which prompted this legislation should be addressed. Hospitals are not intended to be sweatshops, and a patient's welfare should not hinge on the exhaustion state of an intern or resident.

As a member of the Health Subcommittee, I have been searching for a solution to this question, one which recognizes the dual role of the medical intern and resident. To unionize interns and residents is to ignore their functions as students. To ignore the fact that interns and residents are responsible for patient care is shortsighted.

Instead of passing a law which will pit teaching doctors against student doctors, I would like to see the Liaison Committee on Graduate Medical Education, which is the accreditation body of medical schools and so has plenty of clout, look into this problem and draw up the standards. I have been in touch with this committee, and I have been told that a document is almost ready to be worked out which would guarantee due process for interns and residents.

The LCGME will need to consult further with interns and residents in order to work out the problem with them. I have sought assurances that every effort is being made by the medical profession to curb the sort of problems which give rise to the need for collective bargaining, and I anticipate that progress will be made on this. However, at this point, I suggest that we preserve the values of medical education by asking the teaching hospitals to monitor themselves. This is a better alternative, it seems to me, than the creation of a collective bargaining mechanism under the auspices of the NLRB. I would urge the passage of H.R. 2222 be considered as a last resort, contingent on the medical profession's success in following through on its promise of due process to residents and interns. I would urge that it is premature to enact it at this time.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank the gentleman for yielding.

Mr. Chairman, I am grateful for the gentleman's statement. From his point of view, I would agree that it is unfortunate that the hospital industry has not until this point chosen to adequately regulate itself.

The fact of the matter is that the average resident in a hospital has gone through college, 4 years of medical school, and possesses a medical doctor degree. Immediately, from the beginning of their internship, they deliver medical care up to 100 hours a week. The attending physician is present relatively few hours compared to the resident.

What we are dealing with now is this present reality. I would think that in the future, if the accommodation which the gentleman has described is realized it could be a very constructive part of the collective bargaining process between the residents and the hospital management.

Mr. PREYER. I thank the gentleman for his remarks.

Mr. Chairman, I will give the gentleman credit for getting their attention in a very forceful way, and I would just hope that they would be able to work out an agreement without the necessity of passing the bill.

Mr. THOMPSON. We started with a 12-by-12, and now we are down to a 2-by-4.

Mr. ASHBROOK. Mr. Chairman, I yield 4 minutes to my colleague, the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in opposition to H.R. 2222. This bill would amend the National Labor Relations Act to provide that interns, residents, and fellows within the medical profession are employees and effectively overrule cases in which the National Labor Relations Board has held that interns and residents are primarily students outside the reach of the NLRA and not employees.

I believe the NLRB was correct in not extending collective bargaining rights to individuals who are in a learning capacity. But an even more important consideration for opposing this bill, in my view, is the potential inflationary impact on hospital costs.

As every Member of the House is aware, the present administration has attempted for some time to obtain the passage of a Hospital Cost Containment Act. As a matter of fact, the Hospital Cost Containment Act was being considered by the Committee on Rules the same day that H.R. 2222 was granted a rule.

Today the cost of residents' and interns' stipends and benefits add nearly $11 a day to the patient's hospital costs. This bill would increase those costs.

I know it may not seem like a lot of money, but it seems strange to me that this House would pass legislation that will increase hospital costs while we are complaining about hospital costs.

Since the academic year 1968–69, the Council of Teaching Hospitals has collected some data which shows that interns and residents are no longer working for coolie wages, despite the comment of the gentleman from Ohio. In that initial year, 1968–69, first-year post-M.D. residents earned a national average stipend of $6,200. Last year, these first-year post-M.D. students earned a national average stipend of about $15,000. This increase admittedly is not uniform, but the rate of increase of first-year stipends was about 7.8 percent compounded annually. If that percent rate of increase persists as it has, stipends are going to increase by about $1,200 a year, or an amount equal to about $70 million a year increase in the cost of training for interns and residents, the cost borne by the hospitals and ultimately by the patients.

☐ 1720

The inflationary effect of adopting H.R. 2222 is all the more significant given the present voluntary effort to reduce the rate of increase in hospital expenditures. Hospitals which are not now wholly committed to graduate medical education may find the inflationary impact of this bill so substantial some of them may choose to drop the graduate medical education program rather than continue it.

In this circumstance, passage of this bill would have contributed to a reduction in the number of training opportunities available to graduating U.S. students. That would be most undesirable.

A number of graduating U.S. students and the number of first-year positions available for them are very similar.

A reduction in the number of first-year positions would either reduce the limited number of career choices offered graduating medical students or delay professional practice. Given this undesirable adverse impact and the inflationary impact of the bill, the additional increase in hospital costs at a time when the administration is trying to pass hospital cost containment legislation, I cannot support H.R. 2222.

I urge its defeat.

I yield back the balance of my time.

Mr. THOMPSON. Mr. Chairman, I yield 5 minutes to a member of the subcommittee, the distinguished gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 2222, which would amend the National Labor Relations Act to include interns, residents, and other house staff physicians as professional "employees" for purposes of organizing and collective bargaining under the act.

The idea of house staff organization and bargaining rights has been frequently discussed in the past several years. The debate most recently has focused on the issue of whether house staff are "employees" and covered under the National Labor Relations Act, or solely "students" and not subject to the act's provisions. It is obvious in the case of house staff physicians that these two categories are not mutually exclusive. The fact that interns and residents are in the process of learning and developing new skills does not preclude their status as professional employees.

There are no criteria by which house staff physicians are not employees, and should not be treated as such. Residents, and interns are subject to supervision and receive compensation for the services they perform. Unlike "students" who receive nontaxable stipends, house staff physicians are required to pay Federal and State income taxes on the wages and salaries they earn. Therefore, it is discriminatory not to allow these individuals to exercise the legal right to organize and engage in collective bargaining with their employers over working conditions, wages, and benefits.

Opponents of H.R. 2222 argue that the collegial relationship between the faculty and the house staff will be adversely affected with the passage of this legislation. However, experience has proven this not to be the case. It has been demonstrated in those public hospitals where house staff physicians have the right to bargain collectively, that negotiations are held with the administration, and not the faculty. H.R. 2222 does not mandate that any change will necessarily occur in regard to the position of house staff employees. It only provides the opportunity for residents and interns to organize and bargain legally, if they desire to do so.

The collective bargaining process, responsibility conducted, is an extremely beneficial and effective means of determining conditions of employment for interns and residents. It is unjust to deny the house staff physicians in private hospitals throughout the country this basic right, and I urge my colleagues to lend their strong support to H.R. 2222.

Mr. ASHBROOK. Mr. Chairman, I yield 2 minutes to my colleague from Minnesota (Mr. ERDAHL).

Mr. ERDAHL. Mr. Chairman, I thank the gentleman from Ohio (Mr. ASHBROOK) for yielding me this time, because I do rise in opposition to his bill. I want to associate my remarks with those preceding me who have taken a similar position. I am not going to repeat some of the things that have been already advanced, but just highlight two points that I think are relevant.

One of them is that I think that we are in a sense overreacting to a local situation in proposing national legislation. We have already heard about the Cedars of Sinai Hospital in New York, and the situation there. I think we are all aware that in many situations in hospitals that these residents, these students, these interns, put in very long hours, doing very hard, sometimes unpleasant work. We do not deny that. And yet, I think by overreacting to the decision of the NLRB in that case, in passing this legislation, we are doing something that is excessive and unnecessary. Putting interns and residents under the NLRB will likely raise the cost of hospital care; and possibly create administrative headaches for hospitals.

The second point is a fundamental question that has already been raised: Are these house staff resident interns primarily students, or are they employees?

I think the answer is obvious. These people are involved in a hospital situation, not as workers, not as employees, but primarily as students in a type of internship learning experience. I think that we should remember and treat them as such.

Another question arises: Who benefits from this proposed action to put them under the NLRB? I contend really no one benefits. I see no benefit to the medical profession. I certainly see no benefit to the public that requires hospital care and sophisticated treatment, so I urge my colleagues to vote "no" on H.R. 2222. When I need to go to a hospital, I want to find an intern in residence—not a hospital on strike.

Thank you.

I yield back the balance of my time.

Mr. ASHBROOK. Mr. Chairman, I would ask my colleague from New Jersey (Mr. THOMPSON) if he would join with me in an ecumenical approach so that I could yield 2 minutes to our colleague from Illinois (Mr. DERWINSKI).

Mr. THOMPSON. I would be glad to yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

I would like to hear of his recent hospitalization.

I might say those who vote against this legislation in emergency rooms can expect rather slow care, and then if they are hospitalized, absolutely freezing cold bed pans.

Mr. ASHBROOK. I thank my colleague.

Mr. Chairman, I yield my final 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman. I join the Members opposing this bill on the basis that it wrongly changes the relationship between teaching hospitals and interns and residents, who are selected by a national intern and resident matching program rather than the hospitals and whose status is educational rather than economic. They have not yet begun their careers as doctors but are still preparing in a student-teacher format.

The National Labor Relations Board has decided that they are not "employees" and Congress should not undermine the NLRB's delegated authority to interpret the act.

I do not believe that labor disputes should interfere with the education of graduate medical students. The NLRB would become, if this bill were enacted, arbiter on the nature of graduate medical education.

This bill would not protect patient care and would surely result in increased patient costs.

Having just debated the issue of hospital cost containment, I do not understand the logic of passing a bill which, everyone who is objective would have to agree, would add to hospital costs and increase the administrative difficulties of hospital management.

Mr. Chairman, I am opposed to this bill. As a recent patient in a hospital, I was pleased when I went in requiring attention, I was not caught in the middle of a labor dispute.

I would like to point out that the passage of this bill would fly directly in the face of the cost containment position all of us took last week; whether we were for the committee position, the so-called Gephardt substitute, we were for cost containment in some way.

Now we deny that point. I would suggest that this legislation is ill timed, unnecessary and interferes with the relationship between medical doctors and interns and residents and interferes in their relationship with the medical administrators.

I think it is the kind of bill that should be rejected out of hand. I hope there are not any efforts to water it down by amendment. I think we would rue the day when we put the NLRB in charge of our Nation's hospitals.

□ 1730

Mr. THOMPSON. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, one of the most significant points about the question of the cost implications of this bill is that not even the primary opponents of H.R. 2222 have claimed that the bill would lead to an increase in hospital costs. Just this week, the Congressional Quarterly said the American Association of Medical Colleges, a primary opponent of this bill, "essentially agrees with Thompson on the cost issue." Of course they agree because an increase in hospital costs is simply not an issue here.

House staff salaries account for a very small percentage of any teaching hospital's total budget. In light of the moderate size of the salary increases that house staff have negotiated, such increases have contributed precious little to the upward spiral of hospital costs. Increasing hospital costs are generated by what the physician orders, not by what the salaried house officer is paid.

Experience has shown that when medical house staff have engaged in collective bargaining it has not led to cost increases. Approximately 12,000 to 15,000 house staff in the public sector currently have the right to engage in some form of collective bargaining. In these situations, the primary issue has been working conditions that affect the delivery of health care. Patient care improvements are cost-effective measures, and although they may require an initial outlay of money, the solid cost effectiveness of these measures will save money in the long run.

We have been impressed on this issue by those representing house staff who have appeared before the subcommittee. But we have been even more impressed by actual experiences we have observed where house staff have used collective bargaining to enact cost effective changes in treatment policy.

For example, in Los Angeles, house staff negotiated to place a portion of their salary increase into a patient care fund. This money could be used only to purchase equipment that would benefit patient care. Over the past 4 years over $4 million has been spent on equipment that has not only improved patient care, but by reducing the length of hospitalization and improving the cost effectiveness of health care delivery, has had an overall beneficial cost impact.

Finally, some minimum cost increases are justified if they significantly upgrade health care. A resident working for 100 hours a week for less than minimum wage is not good medicine. Patients who depend on resident doctors deserve an alert physician to care for them. Reforms of these types of exploitative situations are well worth the minimal cost increase of adding residents or other staff for patient care responsibilities.

Mr. GOLDWATER. Mr. Chairman, I rise to urge the defeat of H.R. 2222 which would reverse the National Labor Relations Board's decision which affirmed that interns, residents, fellows, and other trainees in teaching hospitals are students under labor law rather than employees.

I have reviewed the facts in this case very carefully and fully recognize the merit of argument on each side. I have reviewed the applicable case and statutory law; the precedent in terms of traditional employee/employer relationships; and the pragmatic, but essential, consideration of the feasibility of administration by a nonmedical adversary court. I believe that the weight of evidence lies squarely behind the NLRB decision.

The minority views included in the

committee's report gives a scholarly evaluation of the problems involved, and I would hope my colleagues would study these objections carefully before voting on this bill.

I would like to add that I fully understand that deplorable conditions do exist in some teaching hospitals. It also seems apparent that most of these problems exist because of lack of funds and facilities and that the great majority of the hospitals we are talking about are in fact municipal and public facilities. Ironically, the house staff in these hospitals will not be covered under this bill or any other bill that may be introduced in this area. The Supreme Court has stated categorically that the 10th amendment to the Constitution precludes the Federal Government from covering local or State employees under Federal labor laws.

There are problems in some hospitals, but they can and should be solved at a better and more flexible level than the bargaining table in a labor dispute. I do not have any deep-seated fear that house staffs as a whole will go off the deep end in their demands. However, we are dealing with law, and while good intentions should be respected, the possibility of irresponsibility will not be eliminated by the good intentions of the vast majority. Irresponsible labor demands and the possibility of their endorsement by the National Labor Relations Board could open a Pandora's box in our health care delivery system.

I understand there will be an amendment offered which will try and separate the educational aspects and the employment aspects of internships and residencies. I will support the amendment, but in all candor, I have little faith that it will keep the lid of the box closed. I agree with the Supreme Court's conclusion in the Board of Curators, University of Missouri against Horowitz, and I quote:

> The educational process is not by nature adversarial; instead it centers around a continuing relationship between faculty and students, one in which the teacher must occupy many roles . . . Courts are particularly ill-equipped to evaluate academic performance . . . (the) procedural due process speak a fortiori here and warn against any such judicial intrusion into academic decision-making.

In short, I do not believe the NLRB is qualified to even decide which issues are purely academic in nature.

Again, Mr. Chairman, I urge the defeat of this bill. It is not in the best interest of medical education.

The CHAIRMAN. All time has expired for debate.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(3) of the National Labor Relations Act is amended by adding at the end thereof the following new sentence: "Such term also includes, in the medical profession, any intern, resident, fellow, or other such trainee in a professional medical training program who is receiving a stipend or compensation for work performed in connection with such program.".

(b) Section 2(12)(b) of the National Labor Relations Act is amended to read as follows:

"(b) any employee, including, in the medical profession, any intern, resident, fellow, or other such trainee in a professional medical training program who is receiving a stipend or compensation for work performed in connection with such program or for performing related work described in clause (ii) of this paragraph, who (i) has completed the course of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional person or a professional employee as defined in paragraph (a).".

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there amendments to the committee amendment in the nature of a substitute or debate on the committee amendment in the nature of a substitute? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the committee rose; and the Speaker pro tempore (Mr. Murtha), having assumed the chair, Mr. Flippo, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 2222) to amend the National Labor Relations Act to clarify the scope of its coverage, pursuant to House Resolution 479; he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 167, nays 227, not voting 39, as follows:

[Roll No. 690]

YEAS—167

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Ashbrook
Atkinson
Bailey
Baldus
Barnes
Beard, R.I.
Benjamin
Bingham
Blanchard
Bolling
Boner
Bonior
Brademas
Brodhead
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carr
Carter
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Dougherty
Downey
Drinan
Eckhardt
Edwards, Calif.
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fazio
Ferraro
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Frost
Garcia
Gaydos
Giaimo
Gilman
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Harris
Hawkins
Heckler
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Johnson, Calif.
Jones, Okla.
Kildee
Kogovsek
LaFalce
Lederer
Leland
Lowry
Luken
Lundine
McDade
McHugh
McKinney
Maguire
Markey
Marlenee
Matsui
Mavroules
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Nedzi
Nolan
Nowak
Oakar
Oberstar
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Simon
Slack
Smith, Iowa
St Germain
Stack
Stark
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Van Deerlin
Vanik
Vento
Waxman
Weiss
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wolff
Wolpe
Young, Mo.
Zablocki
Zeferetti

NAYS—227

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bedell
Beilenson
Bennett
Bereuter
Bevill
Boggs
Boland
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Fish
Fisher
Flippo
Fountain
Fowler
Fuqua
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harsha
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Huckaby
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.

Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McKay
Madigan
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Panetta
Pashayan
Paul
Pickle
Preyer
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Thomas
Trible
Udall
Ullman
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wyatt
Wylie
Yates
Young, Alaska
Young, Fla.

NOT VOTING—39

Anderson, Ill.
Anthony
Aspin
Bethune
Biaggi
Burlison
Clausen
Coelho
Conable
Davis, S.C.
Fascell
Findley
Flood
Gephardt
Hansen
Heftel
Ireland
Jenrette
Kindness
Leach, Iowa
Mineta
Moakley
Murphy, Ill.
Myers, Pa.
O'Brien
Obey
Rose
Rosenthal
Rostenkowski
Runnels
Shannon
Solarz
Symms
Treen
Weaver
Winn
Wright
Wydler
Yatron

□ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Mineta for, with Mr. Anthony against.

Mr. Murphy of Illinois for, with Mr. Leach of Iowa against.

Mr. Solarz for, with Mr. O'Brien against.

Until further notice:

Mr. Weaver with Mr. Anderson of Illinois.

Mr. Wright with Mr. Findley.

Mr. Yatron with Mr. Symms.

Mr. Rostenkowski with Mr. Clausen.

Mr. Shannon with Mr. Winn.

Mr. Jenrette with Mr. Kindness.

Mr. Davis of South Carolina with Mr. Wydler.

Mr. Aspin with Mr. Hansen.

Mr. Gephardt with Mr. Bethune.

Mr. Ireland with Mr. Conable.

Mr. Obey with Mr. Rose.

Mr. Moakley with Mr. Rosenthal.

Mr. Heftel with Mr. Fascell.

Mr. Biaggi with Mr. Coelho.

Mr. Burlison with Mr. Myers of Pennsylvania.

Mr. Runnels with Mr. Flood.

Messrs. SHUSTER, MITCHELL of New York, BROOKS, HARKIN, BEDELL, NELSON, and YATES changed their votes from "yea" to "nay."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

IMMEDIATE, SAFE, AND UNCONDITIONAL RELEASE OF UNITED STATES PERSONNEL IN IRAN

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the resolution (H. Res. 493) relating to the immediate, safe and unconditional release of U.S. personnel in Iran.

The clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Wisconsin would inform the House of the contents of this resolution.

Mr. ZABLOCKI. Will the gentleman from Michigan yield?

Mr. BROOMFIELD. I will be delighted to yield to the gentleman.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Speaker, this is a sense-of-Congress resolution that there must be an immediate, safe, and unconditional release of the United States personnel, and that the American people and their Representatives in Government are united in their determination and their efforts to achieve the immediate, safe, and unconditional release of all U.S. personnel, and that we call upon the Security Council of the United Nations to take all measures necessary to bring about the unconditional release of all U.S. personnel held in Iran.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 493

Whereas personnel of the United States in Iran have been seized and held hostage in violation of the fundamental principle of international relations regarding immunity of diplomatic personnel, and

Whereas all members of the community of nations including Iran have a common and vital interest in this historic and essential principle of diplomatic relations between nations, and

Whereas the Ayatollah Khomeini and other leaders of Iran have declared repeatedly to the world that there is a lack of unity and determination of the American people and the American Government concerning the immediate safe and unconditional release of United States personnel, and

Whereas the United Nations Security Council is convening to consider the current situation in Iran: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that there must be an immediate safe and unconditional release of United States personnel, and be it further

Resolved, That the American people and their representatives in government are united in their determination and in their efforts to achieve the immediate safe and unconditional release of all United States personnel, and be it further

Resolved, That we call upon the Security Council of the United Nations to take all measures necessary to secure the immediate, safe and unconditional release of all United States personnel held hostage in Iran.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI) for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, I rise to seek prompt and overwhelming passage of this resolution.

It is a resolution made necessary because we must do everything we can to help achieve the immediate and unconditional release of the Americans held hostage in Iran.

It is necessary, in part, because the Ayatollah Khomeini and other Iranian leaders have professed to believe that there is a lack of unity among the American people and Government about our determination to secure freedom for the hostages.

Passage of the resolution by the House—which I am sure will be unanimous—should leave no doubt in the minds of Iranian leaders or of the world about where we stand on this matter.

As the resolution states:

> The American people and their representatives in government are united in their determination and in their efforts to achieve the immediate safe and unconditional release of all United States personnel.

Additionally, the resolution takes note of the United Nations Security Council meeting which is being convened for this coming Saturday to take up this matter.

We call upon the Security Council to take all necessary measures to secure the immediate, safe, and unconditional release of all of our diplomatic personnel.

Mr. Speaker, this resolution deals first and foremost with the concerns of Americans in this crisis. It is our people who are victims of this particular outrage against international law.

But other nations should take heed also. It is in the interest of all nations, that international law be respected and not wantonly violated as has been done in Tehran.

The United Nations Secretary General, Kurt Waldheim, deserves our support for his urgent efforts in behalf of the Security Council meeting.

I urge unanimous support for this resolution.

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. BROOMFIELD) for debate only.

Mr. BROOMFIELD. Mr. Speaker, I support this resolution, which demonstrates our strong bipartisan support for efforts to secure the immediate safe and unconditional release of U.S. diplomatic personnel being held hostage in Iran in violation of international law and normal, civilized behavior.

Mr. Speaker, today I sent a letter to Secretary General Kurt Waldheim of the United Nations, thanking him for his personal initiatives, including the use of his emergency power, to resolve the crisis in Iran. More importantly, I urged the Secretary General to continue his efforts within the worldwide community in order that the United Nations can promptly and responsibly act in regard to the deplorable situation in Iran.

Several days ago, we all witnessed a historic request by Mr. Waldheim—a request urging a meeting of the Security Council under article 99 of the United Nations Charter which states that the Secretary General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. It was only the second time in 19 years that a Secretary General had requested such a meeting. As a result of the Secretary General's efforts, it now appears as if the Security Council will formally meet on Saturday, December 1, after meeting for only 15 minutes in a pro forma session yesterday where Mr. Waldheim and Sergio Palacios de Vizzio of Bolivia, the current president of the Security Council, expressed their concern over the Iranian position and, in particular, the detention of diplomatic personnel.

I would especially like to commend both the Secretary General and the presidents of the Security Council and the General Assembly for their recent statements of support for the sanctity of diplomatic premises and personnel. Their statements have helped to highlight the Iranian issue as much more than a bilateral problem. As I stated in my letter to the Secretary General, the crisis in Iran has direct repercussions on the ability of any nation—large or small—to conduct diplomacy when there are threats to the personnel or property of diplomatic missions.

I believe that the kind of crisis we have in Iran can be addressed by the machinery of the United Nations. The Iranian crisis not only seriously threatens international peace and security, but also affects the way in which diplomacy can be conducted by the community of nations. For these reasons, it is of utmost importance that the United Nations act quickly, through its Security Council, in seeking a peaceful resolution of the crisis in Tehran.

In conclusion, I urge my colleagues to support this resolution, calling upon the Security Council to move promptly to secure the release of the hostages, and at the same time demonstrate that all Americans are united in their concern and their support for efforts to secure the immediate release of our people who are being held in violation of fundamental principles governing international relations.

☐ 1800

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I will be happy to yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this resolution (H. Res. 493) pertaining to the immediate, safe and unconditional release of U.S. diplomatic personnel in Iran and commend the distinguished chairman of the House Foreign Affairs Committee, the gentleman from Wisconsin (Mr. Zablocki) and the ranking minority member, the gentleman from Michigan (Mr. Broomfield) for their efforts in briefing this resolution to the floor in such a timely manner.

I commend the gentleman from Michigan for his letter to the U.N.'s Secretary General, urging prompt and responsible U.N. Security Council Action on the Iranian issue.

I hope that more of our colleagues will do the same and that all nations of the world community will speak out on the illegality and brazen disregard by the Iranian Government of all international law governing diplomatic immunity.

For only the second time in 19 years, the Secretary-General of the U.N. has taken the bold step of utilizing the powers of his office to call an urgent meeting of the Security Council. This important step to bring the prestige of the U.N. to bear on the Iranian crisis represents a major test for that international body and its ability to act as peacemaker and to support the sanctity and inviolability of diplomatic premises and personnel. As today's (November 28, 1979) New York Times editorial points out "this may be the week in which the United Nations finally demonstrates whether it has become merely a place or still functions as an institution."

Secretary Waldheim has undertaken a personal appeal to all nations of the world to promptly and responsibly act in averting what he correctly perceives to be "the most dangerous threat to world peace since the Cuban missile crisis." It may well be our last chance to peaceably resolve this crisis and to restore our faith in the U.N. As the New York Times editorial concludes:

> The United States—and its restraint—will survive this rebuff. The last pretensions of the U.N. may not.

The resolution now before the House, House Resolution 493, fully supports this important U.N. initiative and puts the Congress of the United States on record in full support of the immediate, safe and unconditional release of U.S. diplomatic personnel.

Accordingly, I urge my colleagues to join in strong support of House Resolution 493 and in support of Secretary-General Waldheim's action.

For the information of my colleagues, I would like to insert the entire text of today's New York Times editorial entitled "What The UN Will Expose" at this point in the Record:

What the U.N. Will Expose

This may be the week in which the United Nations finally demonstrates whether it has become merely a place or still functions as an institution. Secretary General Waldheim has summoned the Security Council to consider a grave threat to the peace. In fact, there is no threat so long as the United States cares more for its hostages than for retribution. The greater danger is that the United Nations will be exposed as utterly helpless, unable to speak even for the most elementary ingredient of diplomacy: the safety of diplomats.

There is no doubt that the world organization is a convenient, neutral meeting ground for diplomats seeking to resolve bilateral problems. That may yet be possible for the United States and Iran, assuming Iran has a government after this week of fervent holy days and agitation for a new Islamic constitution.

There has long been doubt, however, that the United Nations is anything more than a meeting ground. The major powers never gave it authority over conflicts affecting their most vital interests. Weaker nations have followed this example, using the United Nations only as a forum of complaint and, more recently, as an assembly of vague petition for economic and social justice.

What hope remains that the United Nations can still make an independent contribution to peace depends almost entirely on the occasional moral force of its opinions. Opinions can have moral force only if they are offered with disinterest and with concern for principle. If the sanctity of an embassy fails to arouse such concern, and the defense of diplomacy itself fails to rouse the member nations to alarm, the United Nations will have descended to the impotence of its predecessor, the League of Nations.

The irony in this episode of the Teheran hostages deserves some emphasis. The governments of the world, aware that their own emissaries are in jeopardy, expect the United States to defend the common, vital international code. They also count upon the restraint and decency of the American people to do so peacefully. And yet, most of those governments cannot bring themselves to cast a vote that might put some pressure on the Iranians—because it would momentarily align them with an unpopular superpower.

Thus, in the first week of this episode, the U.N. Security Council met only informally to authorize its president to express concern over the "prolonged" detention of American diplomats in Iran. For the next two weeks, the member nations hid behind the backstage efforts of Mr. Waldheim to negotiate a face-saving formula: release of the hostages in exchange for an Iranian propaganda barrage against the Shah and the United States at the world organization.

That elusive deal still looks like the best available way out. But Mr. Waldheim summoned the Council this week to give him some moral support. He sought a resolution calling for release of the hostages and negotiation between Iran and the United States about their grievances, including the Shah. When Iranian authorities decided, however, that they still needed their prisoners in this week of agitation and referendum, the Council swiftly adjourned to Saturday. Apparently a month of detention is not yet "prolonged" enough.

The United States—and its restraint—will survive this rebuff. The last pretensions of the United Nations may not.

Mr. BAUMAN. I thank the distinguished chairman for yielding.

Can the gentleman tell us what the genesis of this resolution was? Was this recommended by the administration?

Mr. ZABLOCKI. The genesis of this resolution is, very frankly, in response to some of the concerns in this country and throughout the world that our Nation is not unified in supporting our Government. The other body a few moments ago unanimously passed an identical resolution and I submit, Mr. Speaker, the House of Representatives can do no less.

Mr. BAUMAN. Mr. Speaker, would the gentleman yield further?

Mr. ZABLOCKI. I yield further.

Mr. BAUMAN. I thank the gentleman. I agree with the gentleman we should express the unanimous will of this body to make it perfectly plain to the people in Iran what our position is; so there is no confusion that the Members of Congress all speak together as one on this issue. However, I also hope that the gentleman's committee and the other committees of jurisdiction will be as quick to act with a full investigation when that becomes appropriate after these hostages are released. I believe the American people demand a full investigation of how we got into this horrendous situation and who is responsible for permitting these lives to be jeopardized, especially if our Government had prior warning of the possibility of the Embassy takeover.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I have been asked by some of our colleagues, what is the hurry. I believe I have explained why we should act now. This Saturday the United Nations Security Council will take up this issue. The House must express its position before then so that there will be no doubt in anybody's mind of our resolve. Therefore, I call for a unanimous vote at this time.

I yield back the balance of my time.

● Mr. BIAGGI. Mr. Speaker, I rise in absolute support of House Resolution 493 which expresses the sense—if not the outright demand—of this Congress that the Government of Iran release immediately, and without harm—all of the remaining U.S. citizens they hold as hostages in our Embassy in Tehran.

For the past 3½ weeks this Nation has suffered through a national crisis practically without parallel in this decade. The Government of Iran has flaunted international law and basic morality by first illegally seizing our Embassy and then taking some 60 Americans as hostages. There was an initial release of 13 hostages but many remain—the fact is in terms of our Nation's feelings even holding just one hostage is too many.

President Carter has exhibited the highest standards of leadership throughout this ordeal. He has demonstrated calmness but never weakness. He has shown the highest level of compassion and concern for the hostages.

The need for this resolution is clear. It is vital that in advance of Saturday's expected debate of the U.N. Security Council we must give our delegates the confidence that comes from a nation united in support of our Government's handling of this crisis. We must show to the other nations of the world that this Nation speaks with one voice in Iran the voice of President Carter.

This resolution is necessary for the families and loved ones of the hostages who can take some solace in the concern of this body. Finally this resolution is necessary to convince the diabolical mind of the ayatollah that we will not settle for anything less than the unconditional and safe release of our fellow Americans.

We as a nation are angry, frustrated, and anxious over the Iranian situation. We await the words of our President later tonight—He must have our support and passage of this resolution will be a clear vote of confidence.●

The SPEAKER pro tempore. The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HUGHES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 0, not voting 47, as follows:

[Roll No. 691]

YEAS—386

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wyatt
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—47

Anderson, Ill.
Anthony
Aspin
Bethune
Boner
Brinkley
Burlison
Coelho
Conable
Davis, S.C.
Diggs
Eckhardt
Fascell
Findley
Flood
Gephardt
Green
Hansen
Heckler
Heftel
Ireland
Jenrette
Kindness
Leach, Iowa
Lee
Mineta
Moakley
Murphy, Ill.
Myers, Pa.
O'Brien
Rose
Rosenthal
Rostenkowski
Runnels
Santini
Shannon
Smith, Iowa
Solarz
Symms
Treen
Weaver
Wilson, C. H.
Winn
Wolpe
Wright
Wydler
Yatron

□ 1820

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House until Thursday, November 29, 1979, the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. (Mr. BRADEMAS). Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 3354, NAVAL PETROLEUM AND OIL SHALE RESERVES AUTHORIZATION ACT, 1980

Mr. STRATTON. Mr. Speaker, I call up the conference report on the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 8, 1979.)

The SPEAKER pro tempore. The gentleman from New York (Mr. STRATTON) will be recognized for 30 minutes, and the gentleman from Tennessee (Mr. BEARD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on April 25 the House passed H.R. 3354, the Naval Petroleum Reserve Authorization Act for fiscal year 1980, which provided $85.2 million for conservation, exploration, development, and use of the naval petroleum and oil shale reserves. The bill also requires that during fiscal year 1980 not less than 16 commissioned officers of the Navy shall be detailed to the Department of Energy for service in the Office of Naval Petroleum and Oil Shale Reserves.

On September 27 the Senate considered the legislation, and amended it by striking out the requirement for naval officers to be detailed to the Department of Energy and by adding several "housekeeping" provisions. These "housekeeping" provisions eliminated from existing law the requirements for: First, construction, or acquisition, of a 350,000-barrel pipeline at the Elk Hills reserve; and second, the establishment on the books of the Treasury Department of a special account for receipt of the proceeds from the sale of production at the naval petroleum reserves to be available for expenditures, as specified in annual appropriation acts, for the exploration, development, use, and operation of the reserves. The Senate bill also contained a provision for standing permanent authorization of appropriations for the naval petroleum reserves.

As a result of the conference actions, the Secretary of the Navy will be required to continue to assign an unspecified number of commissioned officers on active duty to key management positions within the Office of Naval Petroleum and Oil Shale Reserves. The position of Director of that office shall continue to be filled by a qualified Navy captain on active duty.

The conferees agreed to adopt the "housekeeping" changes concerning the elimination of the requirement for the pipeline at Elk Hills and abolishing the special account on the books of the Treasury Department. During the 3 years of production at Elk Hills the estimate of its maximum efficient rate of production has been reduced to approximately 250,000 barrels daily. Existing pipelines in the vicinity of the reserves are adequate to transport that production to refineries. Thus, there appears no reason to build or acquire unnecessary pipelines. While the proceeds from sales of the production at the reserve have been deposited in the special account, that account has never been used as the source of appropriations in the intervening years. Thus, continuation of the account appears useless.

Finally, the conferees agreed to require specific authorization of appropriations rather than the permanent standing authorization provided in the Senate bill. The authorization process gives the Committees on Armed Services an opportunity for periodic oversight of the operations, exploration, and development of the reserves.

Mr. Speaker, this briefly summarizes the actions of the conferees. The conferees believe that this bill authorizes adequate funding for operation of the reserves during fiscal year 1980 and insures continued Navy management of the reserves. Therefore, Mr. Speaker, I urge adoption of the conference report on H.R. 3354.

Mr. BEARD of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join my subcommittee chairman in urging adoption of this conference report.

The conferees sought to insure continued Navy management of the Office of Naval Petroleum and Oil Shale Reserves. We accomplished that purpose. Not only will the Navy be required to continue to detail experienced officers to key management positions in that office, but the conference report also requires the Navy to continue the education and training of engineers and lawyers to take a managerial role in the reserves. These training programs for younger officers will insure that there will always be a corps of trained and experienced officers to continue management of the reserves.

Mr. Speaker, I believe the conferees have produced a satisfactory settlement of the disputed issues. Thus, I join in urging adoption of this conference report on H.R. 3354.

Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I just want to take this time to commend the chairman of the subcommittee especially for fulfilling his commitment to hold hearings relative to the utilization of the oil at Elk Hills, and I would just want again to urge the House to seriously consider dedicating the oil that comes from Elk Hills either for military for both purposes. It seems to me the only thing and proper thing to do is to take this oil at a time when we are being denied the sale of oil for strategic purposes and to dedicate this oil for that purpose. It could do the job, and it could do it well.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's generous remarks. I will say to the gentleman that, as he is well aware, the committee, concerned about the need and the ability of the armed services to secure fuel in a time of emergency, conducted a number of hearings, and on the basis of those hearings the committee intends to make some legislative recommandations. I feel sure that the suggestion of the gentleman that the capacity at Elk Hills be reserved for the armed services is very likely to be one of those recommendations. I want to congratulate the gentleman for having made that suggestion.

Mr. JEFFORDS. I thank the gentleman for his remarks.

I wish to more fully explain my position.

Congress has focused much of its attention this session on the need to provide long-term solutions to the energy problem. All estimates project that any meaningful reduction of our dependence on foreign oil will take years, if not decades, to accomplish. It is imperative that we begin addressing ourselves to the more urgent question of what we can do in the short run to prevent this country from being brought to its knees, either economically or militarily, through an interruption in energy supplies.

In 1975, the Congress attempted to address this problem by mandating a strategic petroleum reserve. This reserve was intended to insulate the United States from a supply disruption and, to some extent, from OPEC's power in the world oil market. Without such a balance wheel, the United States will remain subject to every change in the international oil scheme. Members will recall the dislocations caused by the small supply reduction during the Iranian revolution. We can only imagine the magnitude of the disruptions that would take place in the course of a more serious Mideastern crisis.

As the Members well know, for a variety of reasons we are very far from reaching the goals of this legislation. The Department of Energy stopped buying oil for the reserve nearly a year ago. That reserve now stands at 91.7 million barrels—a rather sizable distance from the original goal of 500 million to 1 billion barrels.

Recently, the OPEC nations, especially through Saudi Arabia, let it be known that they cannot accept U.S. oil purchases on the world market for the purpose of building a strategic reserve. It is my understanding that the Saudis, who have the most flexible production mechanism, have threatened to reduce production by the amount that we dedicate to strategic storage.

Furthermore, the Department of Energy has stated that to buy oil on the world market at this time would have an adverse impact on supply availability and crude oil prices. The Department is also reluctant to reenter the world market because of international agreements reached at the Tokyo economic summit in June.

For these reasons, the United States faces a stalemate in the acquisition of crude oil for the strategic petroleum reserve. Congress must find some way to resolve the contradiction represented in our failure to fill the reserve. If we continue to base our acquisition decisions on the world oil market situation, we only increase the vulnerability that the reserve was designed to counter. If the United States responds to OPEC's muscle-flexing, whether it be in the form of price increases or threats to reduce production, by stopping deliveries to its strategic storage system, it will never develop the capability to withstand an interruption in the flow of oil supplies. The fact is that OPEC prices will continue to increase, and we can only expect world oil supplies to remain tight. Therefore, if the United States is to have a strategic petroleum reserve, we cannot continue to base our delivery decisions on price or supply conditions in the world oil market. At the same time, we have to take seriously the OPEC threat to reduce production if we import oil to fill our reserves.

The United States must identify alternatives that will allow us to meet our storage goal without unduly aggravating the OPEC cartel. On April 25, I introduced H.R. 3743 for the purpose of examining our strategic storage policy. The bill specifically requires research into the option of using the Elk Hills Naval Petroleum Reserves to fill our strategic storage goals. I believe that H.R. 3743 becomes especially attractive in light of the recent Saudi threats, and the Iranian situation.

This bill would establish a national policy of dedicating these reserves for the strategic storage system, and increasing their output potential for the purpose of supplying the reserve. This would be accomplished either by transferring the oil from underground at Elk Hills to more readily accessible storage areas, or through a swap system whereby a barrel of Elk Hills crude could be exchanged for a barrel of more readily accessible domestic or imported oil.

I understand that the Department of Energy's current budget forecast assumes an average fill rate of 220,000 barrels per day in 1980 and 1981, although they are assessing the possibility of a 200 to 300 barrel per day fill rate. The maximum feasible fill rate is currently 500,000 barrels per day. Presently, Elk Hills produces 159,000 barrels per day, which is sold for commercial use. Elk Hills could produce at a rate of 250,000 to 300,000 barrels per day; this rate would meet the Department of Energy's goals.

In addition to providing the necessary product to fill the strategic reserve system, this policy would remove Elk Hills oil from normal commercial supplies. This would have the advantage of making that oil available to increase domestic sources in the event that either an OPEC embargo or military action causes a petroleum supply interruption. In other words, since the United States would not normally be dependent on this source for commercial purposes, it could be diverted either to the commercial or the military supply. It should be noted that since there is presently a west coast oil glut, removal of Elk Hills product would not create any regional shortage.

Of course, in the short run the point will be raised that this change would worsen our balance-of-payments situation. However, I believe that the counterargument is more compelling.

That is, if we are going to build up our strategic reserve, we have to get the oil somewhere. If we do not draw it from domestic sources, we will have to purchase it on the world market. Ultimately, therefore, there is no adverse impact on the balance-of-payments situation.

Although my first suggestion would be to dedicate the production at Elk Hills to strategic storage, even for economic purposes, I have another suggestion.

If the Defense Department's needs are approximately 500,000 barrels a day, and Elk Hills can only provide half of that, it would seem sensible to pump into a military strategic storage sufficient oil to provide us with a military strategic storage of 6 months or more. This oil should be placed in a manner that it could provide refineries with oil at the rate of approximately 250,000 barrels a day. Thus, with the output which would come up from Elk Hills, plus the oil dedicated to military strategic storage, all of our defense needs could be met on a daily basis.

I would also suggest that once the strategic storage capacity is met, and this will take a substantial amount of time, Elk Hills production ought to be reduced to the level necessary to keep the wells in operating condition. The oil remaining in the ground will constitute a further reserve source that we can draw on in the event of an emergency.

I know of no more important issue facing this country than how we can, on the quickest possible schedule, fill the strategic reserve needed to provide emergency energy supplies. It seems to me that, with control over the Elk Hills reserve, we have an excellent opportunity to seize the initiative and to provide the country with a solution to its most critical problem.

I again want to thank the gentleman from New York. I am most pleased that the committee intends to take action along the lines suggested here.

Mr. BEARD of Tennessee. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I believe most people who voted for this legislation believe that it is in the best interest of national defense, and that is why there was an overwhelming vote in support of it. I happen to have some question and some objection to what we are doing here with the strategic oil reserve. For one, it is no longer under the DOD. It is under the DOE. That matter alone makes me very suspicious.

I think there is also ample evidence to show that the U.S. Government is now in the oil business. Last year it was reported that there were more than 46 million barrels of oil pumped out of the naval reserve. What brought this to my attention was the fact that I observed that the strategic reserve in the salt mines in my district at Bryan Mound in Freeport, Tex., has no longer been able to store oil into the ground. Up until a year ago they were purchasing oil from Saudi Arabia, but the word was out that they would no longer sell us oil if we would take it and store it. Recently the DOE proposed that we take the oil out of the ground from the strategic reserves, the naval reserves in California, and send it to Texas and put it in a hole there. Now, if there is anything more absurd than pumping oil out of California and hauling it to Texas through the canal, at an outrageous expense, since we do not have a pipeline, and pumping it down into a salt dome for which there is no proven recovery technology, I think there is room for serious question about it. Since I read this in the Christian Science Monitor and I was not certain of its origin, I wrote the DOE and they answered me. This letter is an answer from the Under Secretary, John Deutch. He says:

> We are currently evaluating available alternatives which would allow the resumption of SPR crude oil purchases. Options under study include the use of Alaskan crude, the Naval Petroleum Reserves royalty oil and other domestic sources. The possibility of reentering the world market is the subject of continuing analysis and review. A decision regarding the resumption of crude oil purchases for SPR is anticipated in the near future.

☐ 1830

So he does concede here the DOE are actually contemplating pumping the oil out of our reserves and hauling it to Texas. I believe we should have naval reserves, but pumping out 46 million barrels of oil, selling it on the open market at the free-market price, where the oilmen in Texas have had old prices to sell, which is much lower than the market, makes no sense at all.

I think the concept is right, but the vehicle that we have here today and the direction in which we are going, needs reevaluation. We have also lost the House provision that 16 of these Members would be naval officers. They will no longer be naval officers managing the strategic reserves.

I also understand we will no longer train anybody in the military to understand the management of strategic reserves.

For this reason, I think there is good evidence to show that we are allowing this to get into the hands of the DOE and out of the hands and control of the DOD.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

I think the gentleman is making an excellent point. I would simply point out that the legislation to transfer the operation of these reserves from the Department of Defense to the Department of Energy was not one that was supported by the Committee on Armed Services.

However, fortunately, the Committee on Armed Services still has oversight jurisdiction of the operation of these reserves, and we certainly intend, as I indicated to the gentleman from Vermont, to see that they are utilized exclusively for the needs of the armed services.

Now with respect to the gentleman's comments about whether it makes sense to pump out the gas, the oil, from Elk Hills and pump it over to a salt dome in Texas, let me just say this.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. PAUL) has expired.

Mr. STRATTON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. PAUL).

If the gentleman will continue to yield, at the present time, oil is being sold to private companies, and all we are getting back are dollar bills, and dollar bills are not going to run either the ships or the tanks of the armed services in time of emergency. It is our intention that this oil should be reserved and should not be sold for dollar bills. It is a valuable commodity in itself.

The reason that was explained to us in the hearings as to why it would be better to transfer it to a salt dome is that at the present rate you can only extract oil from Elk Hills at the rate of 200,000 barrels a day, but if you get it into a salt dome which has the proper recovery pumps, you can pump it out at the rate of 400,000 barrels a day, which is the rate at which it is required by the armed services. Only if they do that, only if they have that capability, would our committee approve that kind of an operation.

Mr. PAUL. Well, I think the point should be very clear: There has never been any oil pumped out of a salt dome. The technology is totally unproven and is purely theoretical. For us to suggest that it be put down in a hole in the ground is silly.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. THOMAS. One of my concerns is that it is true the Naval reserves at Elk Hills is pumping oil. Part of that oil is being used to blend with the heavy crude in the area so that we can continue to have a domestic petroleum production in the area.

One of the problems is that the administration's energy policy is so poor that we are not able to utilize the heavy oil in the fashion we would like, given the refineries that we like. My understanding of the chairman's position on having a strategic reserve makes sense to me, but it has to be done in a way that we do not jeopardize our domestic oil industry.

Mr. PAUL. I think if the domestic oil companies need some oil to blend with their heavy crude and they need this reserve, it should not be with the Federal Government in the oil business. It should be done by selling off that portion. But if this is a reserve, I think it should be kept as a reserve, and we should not be selling 46 million barrels of oil a year.

Mr. Speaker, I yield back the balance of my time.

Mr. STRATTON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. WOLPE. Mr. Speaker, on rollcall number 691, I was inadvertently away from my office. Had I been present, I wholeheartedly would have voted "aye" on rollcall 691.

I ask unanimous consent that this statement appear in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SCHOOL PRAYER

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, the Massachusetts State Assembly and its Governor, Edward King, are to be commended for their recent enactment of school prayer legislation. The bill, signed into law on November 7, requires public school teachers to seek a student volunteer to say a prayer at the beginning of each day.

The State of Massachusetts should be applauded for courageously acting upon their constitutionally-protected right to exercise freedom of religious expression. And, they are to be especially congratulated for acting decisively on a matter the U.S. Congress has failed to accomplish time and again.

During repeated efforts by Congress to reenact school prayer, which the U.S. Supreme Court ruled against in 1962, opponents have flailed the concept of voluntary school prayer, arguing that it is not necessary to nor fitting in the educational setting, that it cannot be exercised neutrally and is, therefore, divisive, and that it is unconstitutional. Not one of these accusations can be supported.

Voluntary school prayer is very fitting in the classroom context. In recent years, public schools have adopted a "wholistic" approach to education. That is, school curriculums have been designed to meet the needs of "the whole child." In addition to academic necessities—the three R's— and vocational training, all aspects of the child's life are being addressed, including entertainment, recreation, family life, and sexuality, matters which can hardly be considered value-free. "Values clarification" courses are offered, enabling the child to evaluate and assimilate values on personal basis. Yet, we are expected to accept the fact that the matter of prayer has no place in this "wholistic" milieu, not even 1 minute of a 300-minute school day.

Were voluntary prayer reestablished in schools, the prayers recited would be sure to be neutral. As Michael Novak, resident scholar at the American Enterprise Institute, clearly stated:

> Shall a serious people say that sex can be treated neutrally, but prayer cannot? It is difficult to see how a moment of prayer in the schools could damage the pluralism of the Republic. In a population as varied as ours, there are surely Walt Whitman's who think that the divine is their self. They too could focus for a moment.

A moment of silence or the brief expression of a prayer may afford a moment for Jews, Christians, Buddhists, and humanists of all persuasions to reflect upon those ideals they hold to be meaningful. Contrary to being divisive, a moment of prayer may provide the best sort of unity, unity amidst diversity.

It can be argued that neutrality has been lost with the absence of school prayer. In an effort to avoid the teaching of moral and spiritual values, schools are offering only the option of secularism. We cannot and should not teach morality or spirituality in public education. However, it is much less dangerous to encourage prayer and meditation and recognize the strength of our pluralistic nation than it is to pretend that our society is thoroughly secular.

Finally, the most astute students of the Constitution have defended the constitutionality of school prayer. The frequently sighted establishment or free-exercise clause of the first amendment—"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof"—protects the public from religious coercion, or the establishment of an official religion, but also defends the public's right to religious expression. A major purpose of the amendment, as James Madison assured Congress, was to provide that the National Government would have no power to disturb this right. Moreover, it clearly forbade Federal interference either for or against local decisions.

The State of Massachusetts acted upon their constitutional protection from Federal interference and are to be commmended. Should the Federal Government act similarly, Federal Justices would be out of the business of refereeing local arrangements for voluntary classroom prayer, which is precisely what the Founding Fathers intended.

U.S. OFFICIALS SOLD OUT NICARAGUA TO CUBA-STYLE MARXISM

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Arizona (Mr. RUDD) is recognized for 60 minutes.

Mr. RUDD. Mr. Speaker, in a recent personal meeting this month with former President Anastasio Somozo of Nicaragua, I was provided direct evidence that the new Sandinista junta which ousted the elected Nicaraguan Government by force of arms with help from our own Government is taking all possible actions to impose a permanent Cuba-style Marxist regime in the important Central American country.

My meeting with President Somoza took place in Asuncion, Paraguay, where he is now living.

I was there at the invitation of the World Anti-Communist League, as the keynote speaker before a meeting of that organization's executive committee.

President Somoza informed me of many gravely disturbing facts concerning political prisoners in Nicaragua, a purge by the new junta of Nicaragua's schools and communities to replace teachers and local officials unfavorable to the new regime, and the influx of thousands of Cuban personnel into Nicaragua since the overthrow of the former elected government.

Since my return to the United States, I have found that most of the former President's information about what is happening in Nicaragua is well documented in intelligence reports and foreign press accounts which have already been provided to President Carter and our own State Department.

Unfortunately, this information has not been made readily available within the United States, or reported to our own people.

The facts are these—

POLITICAL PRISONERS

Since the Nicaraguan Government was overthrown and replaced by the Sandinista junta, with support and assistance from the U.S. Government, the new regime has arrested and imprisoned 7,500 political prisoners who served in the former government and in Nicaragua's National Guard.

These 7,500 political prisoners, along with the new regime's current 17,500-man standing army—a total of 25,000 mouths—are being fed each day with food from the United States.

The new junta has announced formation of nine three-man "emergency tribunals" to conduct trials of the 7,500 political prisoners, and has decreed that sentences must be handed down within 10 days of the start of the trials.

CUBAN "TEACHERS"

I am informed that the new junta has conducted a purge of Nicaraguan public schools and universities, and has fired 5,000 teachers who do not support the regime.

According to press accounts in Sandinista-controlled newspapers, teachers are being dismissed for "systematic opposition to change" under the new unelected government.

This is clearly political repression of the worst kind.

Officials of the Sandinista junta, including the new education minister, Carlos Tunnerman Bernheim, along with representatives of the National Association of Nicaraguan Teachers, have traveled to Cuba to arrange for replacement "teachers" who have already started arriving in Nicaragua.

U.S. intelligence reports document that Fidel Castro personally selected and sent the 1,200 Cuban teachers in behalf of what the Cuban dictator called their "cultural, revolutionary mission" during emotional sendoff speeches as they left Havana.

The Castro government is paying the cost of sending the 1,200 Cuban "teachers" to Nicaragua for 2 years of indoctrinating Nicaraguan children in the same revolutionary Communist doctrine which Castro has successfully imposed in Cuba.

In his speeches to the departing teachers, quoted in the U.S. intelligence reports, Castro told them that they are a "select group" of 29,000 Cuban teachers who want to join in the Nicaragua mission, and "have the duty to be doubly good, brave, and efficient in fulfilling this mission. * * * The seed you sow in the fertile land of the revolution will be extraordinarily fruitful."

Castro said he is sending the Cuban "teachers" to Nicaragua "representing the homeland, the revolution, and socialism."

U.S. RESPONSIBILITY

Mr. Speaker, it is clear from all the evidence that the current Sandinista junta in Nicaragua is preparing to establish a permanent Cuba-style Communist state in that country.

The outrage of this reprehensible situation is that it has taken place with the continued blessing and support of key officials in our own State Department, and the President himself.

President Somoza informed me that our own U.S. Ambassadors to Nicaragua and top State Department officials took a personal lead in supporting the revolution against him, in blocking foreign assistance and munitions to conduct the defense of his government, and in demanding him to resign once it was apparent that his government would be defeated militarily with U.S. help.

I understand—although he did not say this—that President Somoza has tape recordings of conversations with U.S. officials concerned, as well as other documentation, to substantiate their role in his government's overthrow.

This is a scandal of major proportions, which has not received the attention by Congress which it should.

President Somoza was a long-time friend of the United States. He spent much of his life since age 10 in our country, was educated at West Point, and spent 30 years training Nicaragua's military to help maintain freedom and support the United States in Central America.

The current Sandinista junta, on the other hand, is thoroughly committed to Cuba-style revolutionary communism and allied with Fidel Castro, whose objective is to carry out the Soviet Union's design of Communist control in our own hemisphere.

MARXIST COMMITMENT OF THE NEW REGIME

Tomas Borge, Nicaragua's new Interior Minister, is an outspoken Marxist and close friend of Fidel Castro. He and many other officials of the new regime in Nicaragua are actively espousing Marxist principles and objectives.

Borge has made many trips to Havana, before and since the overthrow of Nicaragua's elected government. He has personally arranged much Cuban financial and technical assistance in order to establish a new Communist state and reestablish Nicaragua's military with loyalty to imposing Marxism.

Nicaragua's new Foreign Minister, Miguel d'Escoto, is likewise another strong anti-U.S. supporter of Castro. He has urged ouster of the United States from the Organization of American States, and has condemned "the great crime committed" by the OAS in boycotting "the sister Republic of Cuba."

Members of the new junta and the Sandinista National Liberation Front which overthrew President Somoza's government have openly embraced an alliance with Nicaragua's Communist Party (PCN), Socialist Party (PSN), Workers Revolutionary Movement (MORE), and other radical leftist organizations supporting pro-Soviet and anti-United States causes.

The Socialist Party Chairman, Alvaro Ramirez Gonzalez, has been named the new regime's Deputy Foreign Minister. He represented the new government during celebrations in Managua this month of the 62d anniversary of the Russian Bolshevik Revolution.

In a speech on November 12, Ramirez "supported the solidification of socialism in Nicaragua based on the principles of Marx and Engels." The speech was quoted in a daily Foreign Broadcast Information Service report prepared by the Central Intelligence Agency.

According to the same report, the Sandinista National Liberation Front, which controls the new Nicaraguan Government, was represented at the Bolshevik anniversary celebration by Daniel Melendez, who "greeted the Cuban and Soviet peoples and expressed his solidarity with the proletarian classes in El Salvador, Bolivia, Guatemala, Chile, and Argentina."

To demonstrate the new Nicaraguan regime's friendship and support of the Soviet Union, Henry Ruiz, a member of the Sandinista National Liberation Front National Directorate, recently returned from a visit to the Soviet Union where he concluded several technical aid agreements for Nicaragua.

UNITED STATES AID SHOULD STOP

During my visit with former President Somoza, we discussed his hopes for Nicaragua's future. He repeated that he had offered his resignation to the United States while he was still President, if the United States would suggest any other non-Communist as its choice to succeed his government and would support new free elections.

President Somoza still hopes for immediate, free supervised elections in Nicaragua. I share his view that this is the answer to Nicaragua's future.

I further believe that all U.S. aid and support for Nicaragua should be suspended, and that no further assistance should be considered or approved, until such free supervised elections have taken place.

The new junta has told the United States that it does not expect to hold elections for perhaps 3 years. This is totally unacceptable.

It is clear from the political purge that is currently taking place in Nicaragua against those unfavorable to the new regime, and the close ties and commitment that have been established by the new government to Cuba-style Marxism, that Nicaragua will be a fortified Communist stronghold like Cuba within 3 years, unless action is taken now to restore true freedom and democracy to that country.

A delegation from this body traveled to Nicaragua this month to review the situation there. The congressional delegation was assured by members of the new ruling Nicaraguan junta that Nicaragua would not become another Cuba, but that the country would have to turn to Cuba and the Soviet Union for aid if the United States does not approve $75 million in additional aid.

Mr. Speaker, the evidence is clear, both in word and deed, that the ruling Nicaraguan junta is already practicing severe political repression against nonsupporters, and that it is firmly aligned with Cuban and Soviet objectives in our hemisphere.

The junta has set up approximately 4,000 block committees throughout Managua, following the Cuban plan of Fidel Castro, in order to identify and systematically purge nonsupporters among local officials and the citizenry at large.

There can be little question why the populace of Nicaragua is living in abject fear, and needs the support of the United States to restore their human and civil rights.

The people of Nicaragua are strongly anti-Communist. They would not choose a Communist or pro-Communist government in a free supervised election. The United States should therefore demand such free elections, to take place immediately, in order to protect true freedom and democracy under a non-Communist government in Nicaragua.

It is vital to our own national security, as well as to the Nicaraguan people, that Congress take steps to require firm U.S. action to restore true constitutional and representative government in Nicaragua.

This will not happen if the United States pours additional millions of dollars in aid to a regime already supported by Cuba and the Soviet Union, and working to cement a permanent Communist dictatorship in Nicaragua.

☐ 1840

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I am glad to yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I appreciate the gentleman bringing this special order to the attention of the House because the worst can be happening to those 7,500 prisoners. Nobody has to make a case that the prior Nicaraguan regime was the most perfect on the face of the Earth, and maybe there were violations of human rights. There is hardly a perfect country on the face of the Earth, certainly our own included, given some of our recent political scandals.

But when I came to this Congress I never dreamed that there would come a day that I would shake the hand of a man in the Rayburn Building—this happened just a few months ago—I was introduced to this man by my distinguished chairman of the Merchant Marine and Fisheries Committee, Congressman MURPHY of New York. His code name during the Nicaraguan struggle was Comandante Bravo. I know nothing about his qualities as a human being. But when I read in the press, and I had it confirmed to me by my distinguished chairman of the Democratic majority, that this man died a death a few weeks ago, after I met him, so horrendous that it is like something out of a dungeon in the Middle Ages. His body was so badly tortured, and disfigured, his eyes gouged out, his nose and ears and tongue cut off, his sexual parts amputated, it looked like he had been tortured for days, that I thought we had reached a new low in our torture of human beings. For the first time, even though I had many of my friends tortured in Vietnam, I had never met one, obviously, who was tortured to death. But here was a man that within weeks after my shaking his hand died this awful death in Nicaragua.

What was he doing in the adjoining country where he was taken prisoner in Honduras and brought back to Nicaragua? He was bringing food down to all of the refugees from Nicaragua in Costa Rica and in Honduras. His wife and family reside at this moment in Florida.

I just hope that the 7,500 prisoners that the gentleman is calling attention to tonight will have some recourse, since some of them considered themselves allies of the United States, many of them went through West Point and were enlisted in training schools in this country, that we are not going to watch some sort of Dark Age torture of human beings that are our friends in a country on the continent of North America.

Again I thank the gentleman for bringing this to our attention.

Mr. RUDD. I thank the gentleman for his statement.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I want to commend the gentleman for taking this special order. As the gentleman in the well knows, I am sure, the administration has made a request of the Congress to provide some $75 million in aid for the new revolutionary government in Nicaragua.

I and five of my colleagues went to Nicaragua during the Thanksgiving recess to look at what was going on. It was a very short trip. I am sure we heard and saw a lot of things, but we did not get to see others.

We did talk to all of the members, practically all of the members of the government there. It is very plain to me, they make very little pretense about it, that many of them are, if not all, dedicated Marxists.

The Minister of the Interior, who is in charge of security in the country, and in charge of prisons, is a Marxist, a very close friend of Fidel Castro. He spent a lot of time in Cuba.

In addition, we learned that 1,000 Cuban teachers are either in or will shortly be in Nicaragua. We learned also that 600 Nicaraguan students are already at the Isle of Pines in Cuba to receive their education.

We heard the Nicaraguan Government is openly advocating political education for all between the ages of 6 and 14.

We did hear, as we might expect, that the new government has nationalized or expropriated all lands that belonged to Anastasio Somoza. That might be understandable under the circumstances. However, they also have taken lands that belonged to many people who were alleged to have been in league with Mr. Somoza. One thing that really disturbed me a great deal was I heard a report, and I do not know if it is accurate or not, but several people told me about it, of a cattle rancher, rather large ranch that was taken from him, even though he had been an opponent, an outspoken opponent of President Somoza for many years.

We did meet with members of the private sector. They did feel, just to tell the other side of this a little bit, they feel that there is a chance that there can be a pluralistic society there. They think that Nicaragua will not necessarily go the way of Cuba, that the role model they select will not be that of Cuba.

We met with members of the revolutionary Sandinista National Directorate who are the people who ran the army that engaged in the revolution. When we asked them about this they say "Judge us by what we do, not by what we say." I must say that with regard to that it would be very easy for them to say we are following a model of socialism. There is no little doubt that it is going to be a Socialist country. My response to that is if it looks like a Cuba, and walks like a Cuba, and quacks like a Cuba, like a duck, it is probably a Cuba.

So, although I can understand, and there is perhaps some merit in trying to help the private sector, and if there can be a way found to do that directly without Government interference or Government involvement—I doubt if that is possible, but might be worth at least looking into—but from all of the things I have seen and heard and read, and in my conversations down there, I must say I come away with very much the opinion I had when I went down there in the first place. That is, this is going to be a socialist government. It is in all likelihood going to be a totalitarian government.

We heard reports that violations of human rights are, some say, as bad as they were under Somoza, and these are by people who had been opposed by Somoza, not friends of his, saying that. Then the Minister of the Interior, Tomas Borge, who is one of the leaders of the revolution, has admitted publicly, and he admitted to us there have been violations of human rights. He told us of the 7,000—he told us 6,000—we heard 7,000—the 7,000 people who are locked up in the prisons, and many of them should not be there. He hopes they can be released. He has also said there had been slayings and torture which we found not to be very good, but that it is going on.

Mr. RUDD. I appreciate the gentleman's remarks, and they are well founded because he has been there and he knows what he is talking about.

But let me just say a couple of things to dovetail with what the gentleman is talking about.

□ 1850

We are expected to provide food for these 25,000 mouths everyday, and, of course they need that and they are telling us that if we do not do this—they will go to the Soviet Union and to Cuba for it. This is extortion. But, the information I have indicates to me, and is documented, that they will do this as long as they can, and they are going to go Communist under any circumstances. These are things that should be brought out so that we will not make the same mistakes over again.

While I was in Paraguay, and I know that has been a target of human rights discussion by our own administration, they took great pains to tell me that they had two political prisoners—and they called them that—incarcerated. I did not question that. I was not there for that purpose, but when we are talking about an admitted 7,500 political prisoners, because that is what they are, and they are going to be brought out and tried for political crimes, our country and this administration should take note of that.

With regard to the teachers that have been sent over there, the 1,000 teachers, the actual figure is 1,200 teachers so-called, but we know the teachers are there for the sole purpose of dominating, infiltrating, and controlling the government. Let me quote what the Castro government is saying. They are paying for those teachers' salaries to go there for 2 years. In his speeches to the departing teachers Fidel Castro, and I am quoting U.S. intelligence reports which are printed and sent out as the Voice of America reports used to be sent out, said:

> A select group of 29,000 Cuban teachers who want to join in the Nicaraguan nation have a duty to be doubly good, brave, and efficient in fulfilling this mission . . . The seed you sow in the fertile land of the revolution will be extraordinarily fruitful.

Then he said that he is sending the Cuban teachers to Nicaragua, "representing the homeland,"—Cuba—"revolution and socialism."

These are the things that we here in Congress must take into consideration.

Mr. LAGOMARSINO. If the gentleman will yield further, we met with Education Minister Tourman and brought these facts up. He told us the Cuban teachers were not going to be teaching anything other than the usual academic subjects. I find it extremely difficult to believe. In fact, I do not believe it at all. There would be no point to that. They tried to say that the only reason they are bringing the Cuban teachers in is because there are no other teachers to be had.

They also, in somewhat contradictory terms, say they were bringing some teachers in from Spain, Venezuela, and from Mexico, but certainly the great bulk of the teachers are from Cuba. I do not think Fidel Castro would send the teachers there unless they were going to further his goals and ambitions.

Mr. RUDD. May I ask this question, Mr. Speaker: What would you think if Fidel Castro was in a position to send 29,000 teachers into our country? We do not need those teachers, and the 5,000 teachers that were in Nicaragua can handle the educational system for that small country. But, would it not indicate to us that a foreign nation was attempting not only to infiltrate our own country or that country or any country, but to control and dominate it?

Mr. LAGOMARSINO. There is no doubt about that in my mind. I think one thing that people are unaware of is the size of Nicaragua. The total population is about 2.5 million. When we talk about the numbers of 1,000 or, as the gentleman pointed out, perhaps 29,000 teachers, that is a very extensive percentage.

I will say that I think that if the Sandinistas attempt to move rapidly toward the Cuban role or Cuban model, that they will have some problems, because the Archbishop of Nicaragua, who was an outspoken foe of Mr. Somoza and has therefore good credentials in the "revolution," is not going to lay down and let them impose that kind of thing. But, on the other hand, the Sandinistas are the ones who are armed.

I think they are in a position, unfortunately, to impose their will if it comes to that. I think that all signs are dire and dark. I hope I am wrong.

Mr. RUDD. Let me hasten to assure the gentleman that the information available to me indicates that there is no intention of any rapid pursuit of a change in style or effort which would completely let the Government of Nicaragua become another Cuba. They need the help of our country—the United States of America—in order to make this change, and I underscore the fact that they have 25,000 mouths to feed today and no way to feed them unless the United States sends the foodstuffs to them.

At the same time, General Somoza indicated to me that the rest of the country is living in abject fear and scrounging the countryside in order to provide for themselves because they do not know where they are going either. So, the government is not responsive enough to assure the populace to engage in an effort to supply themselves with the necessities of life.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I will be glad to yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, I would like to congratulate the gentleman in the well, the gentleman from Arizona, for taking this special order for this time to report what is happening in Central America. To me, the tragedy of Nicaragua is like sitting through a movie for the second, third, fourth time. Very clearly, this seems to me to have the Cuban scenario all over again, except that in this case, while Fidel Castro was said to be good for the people through the New York Times and Herb Matthews, in this case I know that the media played a tremendous role in destabilizing an ally in Central America, a legitimately elected government of President Somoza. The news media in this country portrayed this country as being a dictatorship in spite of the fact that they had nationally inspected elections in 1974 and it was certified by somewhat hostile international groups as being an open and free election.

While it has been said that the Government of Nicaragua took rather strong measures in an effort of keeping the lid on many of the areas of subversion in that country, our own past experience in this country such as during our war for independence where those who were loyalists to the British Crown suffered very severe fates such as deprivation sometimes of their lives, and most clearly their property. During the American Civil War, Abraham Lincoln was certainly no champion of human rights according to the contemporary definitions, and very harsh measures were enacted. We found that during World War II the President moved against the advice of J. Edgar Hoover and locked up over 100,000 Japanese-Americans, which would certainly seem to me a clear violation of their human rights.

Yet, we charged upon an ally, probably our staunchest ally in the Western Hemisphere. We made the charge time after time of human rights violations when they had had, when I first visited Nicaragua in 1977, roughly 1,000 deaths in the country due to terrorism. There were heads of the police department, heads of school districts, a magistrate, a mayor—roughly 1,000 people had already fallen in the war against terrorism. By comparison, on the basis of racial comparison to its population, what would our national response have been? What would our national response have been had we had 100,000 Americans, of Governors, of elected officials, State legislators, mayors, police chiefs, had they been killed by terrorists in this country?

Nicaragua had also suffered the situation whereby their Congress had been held captive, had been kidnapped and held in ransom. What would our response have been had this Congress been held kidnapped and had the equivalent of over 30 Members of this Congress murdered by that same terrorist-type activity?

No; we place a standard upon President Somoza, upon the Government of Nicaragua, we placed a standard upon them that we ourselves could not and have not measured up to in the past. That, unfortunately, is past history.

Nicaragua has now been destabilized, and I am afraid very deeply that what we see taking place is exactly what took place in Cuba, except that in this case the country of Nicaragua is not surrounded by water, is not isolated somewhat by water, but instead I think we will see the destablization process taking place in El Salvador, Guatemala, Honduras. Soon after the 1980 elections we will be staring at an ironic situation many times over, but in this case on our doorstep to the South.

□ 1900

I would like to compliment the gentleman from Arizona (Mr. Rudd) for his firsthand report just after returning from a very long and arduous trip to Paraguay. I would like to compliment him in making this report to the House and to the American people and, hopefully, from this report and similar reports the American people will start to wake up to see the scenario of appeasement and betrayal that is clearly another milestone in our national retreat from greatness. I would also like to say that the Nicaragua experience to me stands as a monument to the disaster of the Carter policy of so-called human rights, which translated means slapping our friends and rewarding our enemies—a society that can welcome a mass murderer by the millions, Deng Xiaoping, and yet turn its back on a staunch and loyal ally, President Somoza, a nondictator, a man who was elected in free and open elections, a man who was opposed by the Communist Party, who was allied in a church-state relationship with the Catholic Church. Those who have quoted various Catholic bishops should note in doing so that the Catholic Church in Nicaragua was a neutral bystander but had had a historic church-state financial relationship and had certainly a vested interest. But I would like to compliment once again the gentleman in the well, the gentleman from Arizona (Mr. Rudd) for this excellent firsthand report. I only hope that my colleagues and people throughout the opinion-moving sector of the American public take heed to the warnings that the gentleman brings today.

Mr. RUDD. I thank the gentleman from Georgia for his well placed words and for his statement and support of what I know that he believes to be right and what people throughout the country believe to be right.

Let me just make one statement, Mr. Speaker, I did not go to Paraguay for the purpose of talking to or interviewing General Somoza. That meeting was incidental to my trip. I was there by a very special invitation to give a keynote speech to the board of directors which was meeting there of the World Anti-Communist League.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Maryland, with pleasure.

Mr. BAUMAN. I thank the gentleman for yielding.

I also want to compliment the gentleman from Arizona (Mr. Rudd) for bringing this issue to the attention of the House. Regardless of the merits of the previous Government of Nicaragua, this House will be shortly faced with the issue of whether or not to provide $75 million in foreign aid to the new government in that nation. We have already by admission of the public AID officials given more than $100 million in foreign aid to this new government, a fact not known to our colleagues generally but boasted about by the AID officials in Nicaragua only within the last week. I think that it is incumbent upon every Member of this House to study carefully not just the bland statements of assurances given to us by our Ambassador to Nicaragua and State Department officials, but the record of the statements of the members of the Junta, the history of each of these people, and the direction in which this country has moved since these people took over by force and violence in July of this year.

I have studied that record on almost a daily basis. I am convinced that many of the members of the junta, the most influential members, are Communists, have been Communists, and are closely alined with Cuba. They have systematically set up trade and diplomatic relations with almost every Communist country in Europe, including the Soviet Union, which only in the last week or so were being formalized. They have, for instance, turned over one of the major buildings, formerly belonging to a prominent Somoza figure, to the Communist Party in Nicaragua. They have systematically and repeatedly denounced the Government of the United States and this Congress, and even the President of the United States, in the United Nations, at the Havana conference, repeatedly throughout Latin America and almost daily in the public press and other utterances. We can only conclude from this record that they are hardly to be the recipients of foreign aid from our taxpayers. The people who represent American taxpayers in this House face not only the issue of the correctness of their vote, but the responsibility to explain to the people they represent why they would be voting to give aid to a government that is very much like the government of Fidel Castro that came to power so many years ago in Cuba. Do we as Members of Congress want to lend by our affirmative vote our approval and support and our financial backing to the establishment of a Communist government in Central America, sitting as it does astride our trade lanes, our oil lanes to the west coast, so close to the Panama Canal? If that is what they want to approve, they will be on record as doing so, and I suspect it will play an important part in future elections of this country.

The gentleman is correct in bringing this issue to this House.

Mr. RUDD. I thank the gentleman for his statement. I would like to respond to the wisdom of what he is saying with the suggestion of what I think we should do here in the House. But let me preface it with this statement. The real tragedy of this whole charade, if you will, is that the spotlight of publicity was pinpointed and directed primarily on the situation there on the alleged wrongdoing of the duly elected government, not the atrocities of the Communist rebels until the Sandinistas and the Communist government took over. Then the curtain fell and the people of this country no longer have or had access to what is really going on in Nicaragua because nobody has made an effort to gain access, and that is the tragedy.

So let me say, Mr. Speaker, that it is clear from all of the evidence that has been presented and that we know that the current Sandinista Junta in Nicaragua is preparing to establish a permanent Cuban-style Communist state in that country, on our back door, if you will. The outrage of this reprehensible situation is that it is taking place with the continued blessing and support of key officials in our own State Department and even in the administration itself.

President Somoza informed me that our own U.S. Ambassador to Nicaragua and top State Department officials took a personal lead in supporting the revolution against him, in blocking the foreign assistance and munitions to conduct the defense of his government that he had asked for, and once it became apparent that his government would be defeated militarily without U.S. help, this was accomplished.

I would just like to make this one final statement. I feel sincerely that in view of what we know about the situation in Nicaragua, that all aid to that country and to that government should be terminated. I know that General Somoza indicated to me that he knew that our own State Department and foreign policy was directed toward blunting the leftward trend, so to speak, of the Sandinista Junta, but he indicated and I tend to agree with him, that this is simply feigned in order to get the amount of help that they can get until such time as they will be well enough to go on their own and to openly declare themselves Communists, as Fidel Castro did, if you recall, within short order after he was able to stabilize iron control over the people of Cuba. So I think in view of that, and taking that into consideration, I repeat that we should withdraw all aid from Nicaragua until there is a free election process whereby a government can be chosen by the people themselves.

Please note that this government has declared there will be no election for 3 years. I am convinced, as is General Somoza, that such a process now would not elect a Communist government; it would elect a free democratic republican-type government which would be controlled more under the processes which we espouse and which we presumably support wherever we may in the world.

I thank the gentlemen for their support in this special order.

LEGISLATION TO REVISE PORTIONS OF TITLE 8, UNITED STATES CODE, IMMIGRATION LAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. COURTER) is recognized for 10 minutes.

● Mr. COURTER. Mr. Speaker, today I am introducing legislation, which I believe, will tighten existing law in regard to aliens convicted of deportable crimes and their permitted length of stay in this country once a final deportation notice has been ordered.

Current law (title 8, United States Code, section 1251(A)(4)) deals only with crimes committed within the first 5 years of entry. Furthermore, it states that an alien can only be deported at any time after entry if he or she has been convicted of two crimes of moral turpitude where there is a minimal 1-year prison term. My revision of this law would read:

> Any alien in the United States, upon order of the Attorney General, be deported who at any time after entry is convicted of a crime of moral turpitude, regardless of whether confined therefor;

In addition, I wish to amend section 1252 (c), (d), and (e) of title 8 by reducing the length of time an alien may remain in this country once a final deportation notice has been ordered.

Currently, the law gives the Attorney General up to 6 months to deport an alien after a deportation notice was sent out. I would like to amend the period of time to 1 month.

Neither proposed revision will deprive an alien of his/her rights to due process under the law as guaranteed by the Constitution.

I hope my colleagues will join me in this initiative.●

THE "DEPLETION ALLOWANCE" SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

● Mr. ADDABBO. Mr. Speaker, we need to review the "depletion allowance" situation because we may expect lightly subsidized new alternatives to compete with products we are subsidizing with very substantial tax breaks. For example, we say, "Use more coal, and less petroleum." But we have only a 5-percent depletion allowance for coal, and a 22½ percent depletion allowance for petroleum. And that is besides the depletion allowances in State income tax laws. We expect synthetics to compete against subsidized petroleum. We expect byproducts and recycled products to compete against newly mined production that has depletion allowances.

A review of "depletion allowances" is not a matter of looking for tax revenues. That is an entirely different question. A review of "depletion allowances" would be a reallocation of incentives so that national purposes that are now urgent are realistically implemented.

A depletion allowance is a unique form of tax treatment, whereby a part of the sales revenues are entirely exempt, before profits are determined for tax purposes. In the case of petroleum and natural gas, the intangible drilling costs of new wells are charged against the revenues from older wells. The intangible drilling costs are essentially the labor costs involved in drilling new wells, which otherwise might be deeemed new capital costs rather than expenses on older wells. It is entirely possible that more industries should be allowed to do these things where "feast or famine" conditions exist. On the other hand, with well-head prices going sky high, does the oil industry need the "depletion allowance" from both Federal taxes and the State taxes, and if so should it be more or less. Comparisons are made of U.S. gasoline prices and the gasoline prices in other countries, but we also have to consider the taxes and subsidies in the United States compared to those in the other countries.

But the major consideration at this time is that we make domestic oil so much more profitable through skyrocketing prices as well as tax breaks, that the less-tax-breaked alternatives such as coal gasification and coal liquefaction, as well as solar and gasohol, seem relatively noncompetitive. Coal liquefaction and coal gasification might never be as profitable as natural gas and as fuels from petroleum, even if they were equally tax breaked. But the subsidy need for the synthetic fuels is heavily increased by the extent to which natural gas and petroleum are tax breaked.

The conditions are not the same now as when petroleum was $3 a barrel for many, many years. World prices are being determined by OPEC at levels that nobody had the slightest expectation of only a few years ago. New oil wells get decontrolled prices plus the depletion allowances and intangible drilling costs. And decontrol of older wells would be getting the same decontrolled prices. Paying higher prices in the United States does not necessarily mean material increase in domestic oil supply.

In fact, the added dollars paid by the consumers of petroleum products may be invested in nonfuel directions. They may even go abroad to add to the already considerable accumulation of "sloshing dollars" abroad. I would venture that if the importers of oil were paying part of the military costs of protecting their sealanes, they might be induced to import oil from places closer to this hemisphere. The Wall Street Journal had an item, not long ago, that the oil companies hinted that if they do not get higher prices in the United States they might send the oil abroad to countries where the petroloum prices are higher; so we see that despite the "depletion allowance" and intangible drilling cost subsidies that the U.S. public provides, we can easily be threatened with a withholding from the U.S. market in favor of higher prices abroad.

The days when the United States limited oil imports to protect the domestic oil producers is gone, because we now consume a lot more oil than we produce. Similarly, with oil prices skyrocketing there is need to see whether the depletion allowances are still needed in the face of need to develop alternatives which are expected to compete. It may be that the petroleum and natural gas are so heavily tax-breaked that equal tax breaks per barrel of oil or per Mcf of gas will have to be provided to all competing sources. Or it may be that some of the tax breaks on petroleum and natural gas should be significantly reduced, so as to place subsidies where they are most needed, and to make competition less onerous for an alternative we desperately need to expand. Does the energy consumer have to provide the capital for new investments in energy, or should the added capital be obtained by selling common stock as is customary? At the same time, selling common stocks or even borrowing money requires prospective profitability. These questions are matters of policies as well as economics, but in any event obstacles of whatever sort need to be overcome, and very soon.

It is also worthwhile to consider whether byproduct minerals from coal conversion processes should have the same depletion allowances as the mined products with which they compete or will compete. There is hope that those byproducts can provide byproduct revenues to make the processes more economic. For example, when a public utility installs scrubbers to clean the stack gas, there is possible byproduct sulfur and gypsum which should be paying part of the costs of the scrubbing, and such byproduct revenue would help reduce the power rates. We have a similar problem wherever recycling or conversion of solid wastes are involved.

In the study of "Federal Tax Policy and Recycling of Solid Waste Materials" issued by the Office of Tax Analysis of the U.S. Treasury in February 1979, there is an "examination of the impact of Federal tax policies that may impede or discourage recycling of solid waste materials, and evaluation of potential tax policy changes to encourage recycling."

While this study is not directed to energy production processes in particular, some aspects of it are relevant. But the study has made a conclusion based on recycling scrap steel, scrap copper, and waste paper. The situation might be quite different for byproduct sulfur and byproduct gypsum, produced by scrubbers in powerplant stacks gas cleaning. And the situation might be quite different for byproducts from any of the coal conversion processes. In the energy situations the byproduct might be produced in any event and it may become mostly a matter of the extent to which it contributes byproduct revenues. The marketing of such byproducts might be done most effectively through the primary producers who are already set up to market the primary product, thereby avoiding duplication of marketing efforts, and facilitating equal tax treatments and avoiding needless disruption of existing industries.

Some byproducts of power generation, such as fly-ash from coal combustion can be used for making bricks and other construction materials. The pilot plant work was done by the Office of Coal Research when that function was in the Department of Interior. This leads to a question about ratemaking.

Byproduct revenues by electric utilities are normally used to reduce the electric rates, in the ordinary public utility accounting. Since there is national need to add to the investments to meet environmental standards, some argue that if there are any byproduct revenues resulting therefrom it should go to the stockholders. It is urgent to speed up these added investments, and to reduce the resistances. When tax incentives are created to induce added investments in industries in general, the cost-plus pricing of utilities makes for an issue as to whether the tax saving should go to the ratepayers, or whether the tax saving should go to the stockholders. This tends to create litigation in State after State, and to delay achieving what the legislation intended or even to defeat legislative intent entirely. If investment money tends to flow toward industries where stockholders get the benefit of tax incentives, it should not be surprising. The result is less capital available to the utilities with consequent added money costs on its outstanding issues. Thus, it gets to be shortsighted not to clearly indicate that the tax saving for encouraging investment belongs to the stockholders, with the ratepayers having improved service, or the community having cleaner air.

The installation of scrubbers should not depend too much on punitive threats to force uneconomic actions. The yields on common stocks of utilities are exceptionally high in comparison with the yields for industries in general, indicating that the utilities are less attractive to investments. This might warrant increased attention since there are services that utilities might be providing the communities for which there is great need. The cities are developing "mountains of garbage" involving costly removal problems.

The possibility of making public utility investment more normal seems to warrant attention—perhaps to induce electric utilities into treatment plants for garbage with byproduct and energy opportunities such treatment plants might be able to create. The financial inducements are poor, but the electric utilities seem to be in an ideal position to provide that service to their communities, with substantial energy savings possible. Under prevailing conditions the investment is not being attracted. Some equitable basis needs to be adopted for dividing byproduct revenues between ratepayers and stockholders in proportion to their contribution to the byproduct revenues. Under the prevailing ratemaking accounting the byproduct revenues go to the ratepayers, which has self-defeating aspects. Whereas the opening of public utilities to nonjurisdictional incomes for stockholders could indirectly benefit the ratepayers and the communities. The ratepayers benefit indirectly when utility stocks are more attractive to investments.

As a generality in the energy situation, an investment flow into domestic energy alternatives is vital at the present time and well into the future. By involving each locality in providing for itself—by whatever local resources exist there, to provide more secure supplies of energy in forms in which it is needed in that locality. Liquid forms of energy are particularly critical—and many localities have wastes which can be processed, if investments can be attracted toward the processing of wastes. It seems worthwhile to allow the electric utilities to have nonjurisdictional income to induce the investments for the processing of wastes.

The regulation of utilities is more a matter of State law and modifications could be tried in a few States. The importation situation might be substantially improved thereby, so that is a matter of Federal interest as well. By promoting valid State and local effort, the Federal burden for energy might be reduced to a size that can be more readily handled at Federal level.

Tenneco example?●

CONGRESS DOESN'T CARE ABOUT HIGH FOOD COSTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I am most concerned about the action taken by the House yesterday in regard to the Federal Trade Commission authorization. I voted against the authorization not as a vote against the Commission, but as a statement of my disappointment in what this Chamber succeeded in doing, namely gutting the FTC of its authority to investigate those industries which threaten consumers.

It must be comforting to special interests to know that some Members of Congress do not care what consumers pay for goods and services. This was clearly illustrated by our vote to stop an FTC investigation of anticompetitive practices of certain agricultural cooperatives.

It is particularly ironic that when food prices are one of the biggest consumer complaints, Congress felt that food cooperatives, particularly one which controls about 75 percent of western fruit production, were being unfairly put upon by being forced to undergo an antitrust investigation. Consumers are rightfully concerned about skyrocketing food prices, but Congress is not. As shoppers go through food stores, having to limit their purchases because prices are out of sight, they will undoubtedly remember that Congress does not care. If it did care, it would not have voted to stop this FTC investigation.

Our action is a red flag to all special interests that Congress is able, and obviously willing, to stop any FTC action designed to protect consumers. All they have to do is ask, and I assure you that they will ask.

I trust that Congress realizes that by the action taken on the FTC, we have turned this legislative body into a babysitter for the Commission, tying up Members' time and effort for any special interest that does not like a particular rule imposed upon their industry.

We have become increasingly content to sit back and watch all that we have worked for in the area of consumer protection be thrown away, vote after vote. I believe it is important that we periodically reflect on just who it is we were sent here to serve in the first place. It is the little guy who now will continue to pay more and more for food because Congress does not care.●

WORLD ADMINISTRATIVE RADIO CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fascell) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, I would like to submit for the Record the following update submitted by the U.S. Delegation to the World Administrative Radio Conference. The conference now taking place in Geneva, is meeting to structure international use of the radio spectrum.

World Administrative Radio Conference—Summary Report No. 6

The following are highlights of the seventh week of the World Administrative Radio Conference (WARC) (November 5–10).

The second plenary session of the WARC was held. The session was essentially uneventful, but discussions were drawn out beyond what was necessary by constant minor interventions. The bulk of the items covered were from Committees 4, 6, and 8, with some material from Committee 7 and two resolutions from Committee 5. The items were basically non-controversial (Committee 4—Articles N3, N4, N9, N16, N25; Committee 6—Articles 13A (new), N18–N20; Committee 7—Articles N21, N22, N30–N33; Committee 8—Rearrangement of the Radio Regulations; along with a number of resolutions and recommendations.)

Committee 4 (Technical). A great variety of technical matters were considered by the Committee and its working groups e.g., matters ranging from emission designators to spurious emissions to coordination between space networks to out-of-beam emission constraints to operations on the back side of the moon, etc. Decisions were generally within the scope of the U.S. positions. The U.S. proposal to increase PFD limits by 10dB in the 2.5–2.655 GHz band has not been well received by developing and developed countries alike, and the U.S. delegation continues to pursue the matter.

Committee 5 (Allocations). Activities reached a new high. Working groups have been sub-structured and a wide range of spectrum matters are being treated. Some highlights of a general interest are:

5A. A number of definitions in regard to various satellite services were adopted. All questions pertaining to tropical broadcasting were referred to Committee 5 for discussion of principles involved. A draft new article on radio astronomy has U.S. support, but is opposed by several countries including Canada, the U.K., and Australia.

5B. 1605–1625 kHz exclusive broadcasting (effective in Region 2 in 1987).

1625–1665 kHz—broadcasting primary with fixed and mobile permitted; radiolocation secondary. Effective for Region 2 in 1987.

1665–1705 kHz—same as above but effective date for Region 2 would be 1990.

1800–1860 kHz—exclusive amateur.

1860–2000 kHz—primary amateur shared with other services.

3500–4000 kHz—tentative agreement to no change in Region 2, but upper 50 kHz is unresolved with respect to broadcasting.

7000–7100 kHz—amateur no change.

7100–7300 kHz—no change.

10100–10150 kHz—fixed primary, amateur secondary.

There continues to be resistance to significant increases in allocations for the broadcasting and maritime services. A major element of the problem is that procedures for reaccommodation of displaced operations have not yet been drafted.

A draft recommendation was developed concerning a broadcasting conference to be convened in 1985 to deal with 1605–1705 kHz. This would be a separate conference to the now scheduled Region 2 MF Conference in 1980/81.

5C. 420–470 MHz—U.S. requirements, including at least 10 MHz for radiolocation on a primary basis, were met. A number of footnote exceptions would apply to various services in the sub-bands.

470–890 MHz—the U.S. proposal for fixed, mobile and broadcasting on a co-equal basis was accepted only in band 806–890 MHz. Below 806 MHz, the fixed and mobile services were introduced in the bands 470–512 and 614–806 MHz on a secondary basis, with 512–608 MHz remaining exclusively broadcasting. The U.S. proposal for radioastronomy on a primary basis in band 608–614 MHz was accepted.

890–942 MHz—the U.S. objective to retain radiolocation on a primary basis was not accepted. Radiolocation was reduced to a secondary basis. A footnote will make radiolocation primary in the United States.

5D. 3400–3600 MHz—the compromise proposed by the United States was approved along the lines reported in Summary Report No. 5, despite strong opposition by India. If compromise holds, U.S. objectives will be met. Continued opposition is expected.

At 12 GHz, after many long and difficult negotiations among Region 2 countries, a compromise has been reached which is fully acceptable to the U.S. delegation. The essence is: frequency separation in 11.7–12.1 GHz (FSS) and 12.3–12.7 GHz (BSS), with the 12.1 and 12.3 GHz band to be divided between FSS and BSS in 1983; special footnote provisions give limited options to administrations wishing to establish hybrid systems to operate BSS in the lower band within prescribed restrictions, and FSS in the upper band with similar restrictions. The U.S. delegation is optimistic that a fully acceptable solution is in hand.

14.5–15.35 GHz—the inclusion of feeder links for the broadcasting-satellite service is strongly counter to United States requirements in this band. The delegation will continue to press the matter in Committee 5.

Committee 6 (Regulatory). Provisions in regard to replacement satellites are still being debated.

Texts have been introduced concerning the applicability of the Radio Regulations to stations situated in a territory over which there is a dispute of sovereignty. The delegation will closely monitor this discussion.

A draft resolution calls for a future conference for planning of space services. Particular services to be planned are not mentioned, but the impetus behind the resolution is FSS planning. There has been a vigorous debate. The United States delegation has argued strongly to keep the agenda open-ended to permit flexibility; so that, for example, alternatives to planning could be considered. Currently the odds are against the delegation being fully successful in its arguments.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, due to speaking commitments in Arkansas on Friday, November 16 before the North Central Arkansas Mental Health and Human Services group in Batesville and on Tuesday, November 27 before the Joint Interim Committee on Energy of the Arkansas General Assembly, I was not recorded on rollcall votes on those days. The following is a listing of how I would have voted had I been present on those roll calls:

Rollcall No. 673, final passage of H.R. 2335, solar power satellite, "yea."

Rollcall No. 674, conference report on S. 1319, Military Construction Authorization, "yea."

Rollcall No. 675, House Resolution 675, rule for H.R. 3994, Resource Conservation and Recovery Act, "yea."

Rollcall No. 676, House Resolution 416, rule on H.R. 3546, FIFRA extension, "yea."

Rollcall No. 677, House Resolution 438, rule on H.R. 3580, Rural Development Policy Act, "yea."

Rollcall No. 678, present.

Rollcall No. 679, final passage on H.R. 5537, D.C. Borrowing Authority, "yea."

Rollcall No. 680, present.

Rollcall No. 681, amendment to H.R. 4546, D.C. Redevelopment Act, "aye."

Rollcall No. 682, Andrews amendment to H.R. 2313, FTC authorization, "aye."

Rollcall No. 683, final passage on H.R. 2313, FTC authorization, "yea."

Rollcall No. 684, House Resolution 472, rule for H.R. 2608, NRC authorization, "yea."●

NOTICE OF INTENTION TO SEEK A MODIFIED CLOSED RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GARCIA) is recognized for 5 minutes.

● Mr. GARCIA. Mr. Speaker, in accordance with section M IX of the rules of the Democratic Caucus, I hereby give notice of my intention to request the Committee on Rules to grant a modified closed rule for the consideration of H.R. 5461, a bill to designate the birthday of Martin Luther King, Jr., a legal public holiday. The rule I intend to request would make in order only one amendment which, in effect, would provide that the birthday of Martin Luther King, Jr., shall be a day of commemoration, rather than a legal public holiday.●

HOUSE ARMED SERVICES COMMITTEE DELEGATION VISIT TO AFRICA

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, during the period of November 17 through 25 seven members of the House Armed Services Committee visited Africa on a fact-finding mission. The committee announcement with information on participants, itinerary and objectives is included below.

Our visit had to be short because of the House schedule. In this short period we did everything we could to get the best understanding possible of this important region. Fully accepting that an all-inclusive understanding cannot be obtained in such a limited period, we did reach specific opinions on certain important areas. Accordingly, I believe, through the opportunity of making first-hand contacts and observations, we accomplished our basic objectives.

NATURAL RESOURCES

First, the critical importance of Africa on a global basis is obvious. Its natural resources are vital to much of the industrial world. The cobalt, chrome, vanadium, for example, from South Africa are a vital necessity to the production of high performance aircraft and other armament in addition to their many other uses in our industrial society. The uranium ores available from these same areas will be a vital necessity to meet energy needs as our petroleum fuels continue to be depleted.

The intense competition for the supply of these resources has had and will continue to have a great effect on our international relations. The national security implications associated with access to these resources will undoubtedly be significant.

The control of these materials is directly related to the advancement of the causes of freedom and democracy in the world. This matter must receive a greater amount of attention in our Government.

AGRICULTURE—FOOD SUPPLIES

Probably as important a resource as minerals are the agricultural resources of the area. The announcement in the past few days by the United Nations of the increasing deficiency in food supplies for the world's population accents the importance of utilizing the agricultural potential of Africa. We saw large areas, particularly in Nigeria, Tanzania, and the Sudan, that had great food-growing potential. There is no question that the resources of management, irrigation, and fertilizer and pest control technologies must be provided to tap this valuable contribution to the world's food supplies.

STRATEGIC VALUES

I probably should have mentioned the strategic importance of Africa first. The oil tanker traffic we observed off the coasts of Africa brought this point home dramatically.

In our flight, for example, up the coast to Dar es Salaam from South Africa we continually observed tanker traffic. At times we had six tankers under observation at the same time. This line of tankers, in the truest sense, is the jugular vein of the free world.

The magnitude of the Western World's—and Japan's—dependence on this supply line is now so great that our activities in a peacetime economy are feeling a great strain.

A minor perturbation causes economic chaos. Of course, under any condition requiring military operations for the defense of the West, interference with the flow would be calamitous. And the control of this jugular emphasizes the importance of the littorial states of east Africa.

The Soviet Union is fully cognizant of our vulnerability because of our dependence on this long and fragile lifeline. I believe this factor is a prime one in Soviet efforts to extend their influence in Africa. And whether or not we want to concede or accept this fact, we must give greater attention to the security of this lifeline.

ENERGY FUELS

The demand and supply of petroleum fuels was an important matter of concern everywhere we visited.

In Nigeria the petroleum supply problem was just the opposite of what we found everywhere else we visited. Nigeria exports more than 2 million barrels a day. Of specific interest to the United States is the fact that our portion of this amount is equal to 10 percent of our total imports—second only to what we get from Saudi Arabia. With the fourfold increases in prices starting in 1974, the petroleum exports from Nigeria bring in about $10 billion a year—nearly 95 percent of the total value of all exports.

An adverse effect of this new source of wealth—and one must realize it involves a depleting resource—is that agriculture is being neglected. Nigeria is an importer of foods. These imports, along with greatly increased imports of industrial goods, even with the great increase in petroleum exports, has made Nigeria a net importer.

Both Tanzania and the Sudan are deficient in petroleum fuels. Stocks in Tanzania, which were expected to meet demands into the next year have been depleted to the point that rationing is already being instituted on the wholesale supply level.

The Sudan, whose economic status has been depressed, is looking forward to possible oil finds to solve its problems. Oil explorations are now underway in southwest Nigeria and additional exploration efforts are planned.

SASSOL

South Africa has an acute problem concerning the shortage of liquid petroleum fuels. As a consequence, major efforts are underway to convert abundant coal resources to liquid fuels. South Africa leads the world in this effort. The governmental organization carrying out this effort is referred to as SASSOL.

We visited the sites involved in this effort. The first, SASSOL 1, is in operation and has been in operation since 1955. Based on the technology and experience gained from this project two major additional facilities are under construction at another site located over an area having major coal deposits.

These plants are known as SASSOL 2 and 3. Over 26,000 workers are engaged in the construction of SASSOL 2 and 3.

The seriousness of the shortage of oil and gasoline—fuels for aircraft, diesel and gasoline engines—was brought about by the sudden termination of oil supplies from Iran. This brought about the need for immediate action. Accordingly, construction of major production facilities is proceeding on the basis of present technology, without delays to complete the development of advanced technologies offering the promise of lower costs. The goal of the present program—SASSOL units 1, 2, and 3—is to attain a production of 50 percent of needs by the early 1980's. South Africa is also constructing two large nuclear generating stations in the south. The country also has added a large new network of electrical transmission lines to tie the coal-fired electrical generating north to the south.

THE NEED FOR MORE COOPERATION

Our visits provided us with information which, in my view, calls for closer cooperation with some of the nations in Africa.

The points I have previously mentioned make it abundantly clear that Africa is very important to the free world. We found in countries, such as the Sudan, a great interest in cooperation toward promoting common objectives. These are also the interests of the free world. The report of our delegation will comment on these matters in depth although I would like to mention some points at this time.

The South Africans, for example, were very pointed in bringing some of their views to our attention. The Foreign Minister, Pik Botha, going to the point of being brutally frank, told us of the importance of helping, for our own good, to stop Soviet influence in Africa.

He also charged us with inconsistencies in our policy in that we provide substantial assistance to the Soviet Union in various technical and industrial areas, and on the other hand we refuse to assist South Africa.

Further, our visits to the south and the naval base at Simonstown impressed on us the great potential of that base. The base commander stated that the U.S. embargo on such items as long-range patrol craft has no impact on internal matters in South Africa but, if lifted, would directly contribute to the support of security efforts throughout the world. South Africans did not have to point out to us the strategic location of the southern cape astride the important oil supply routes to the West.

THE SUDAN

We were most impressed with the dedication of the Sudanese to stemming Communist incursions. The location of Ethiopia and Libya on its borders, both heavily supported by the Soviets, requires the maintenance of a continual vigil.

The Sudanese pleaded for our cooperation in furnishing needed armament to make it possible to protect their interests and to promote stability in the area. They referred to their request for specific help over 3 years ago. But, its leaders ask why they cannot receive favorable long-term loan rates with deferred payment provisions such as other U.S. friends have received.

Sudan military needs are immediate. We have to pay more attention to that important country. There has to be a balance between help on security requirements and help on social and economic development.

In my view, we must recognize to a greater degree the importance of Africa to our future security. We must consider further assistance, not always necessarily of a military nature, for those who are working toward our common interests.

It is my intention to give specific items related to these interests attention in the coming months.

ZIMBABWE-RHODESIA

Some of our party visited Zimbabwe-Rhodesia under the leadership of Representative BEVERLY BYRON, of Maryland, who did an outstanding job. Mrs. BYRON made clear to the Zimbabwe-Rhodesian host that U.S. policy of supporting the British initiative for a negotiated settlement was based on the desire to see the issue resolved and the war ended. Mrs. BYRON made it clear that while individual Congressmen differed on the question of sanctions, the majority of the Congress supported the administration in backing the British-sponsored negotiations.

Members of the group talked to representatives of all sides, including the Patriotic Front, and I am sure their report will be very informative for the other members of the committee.

Members of the delegation were: Mr. PRICE, of Illinois; CHARLES H. WILSON, of California; ROBERT H. MOLLOHAN, of West Virginia; BEVERLY B. BYRON, of Maryland; BOB WILSON, of California; ROBERT E. BADHAM, of California; MELVIN H. EVANS, of the Virgin Islands; CHARLES VANIK, of Ohio; and NORMAN LENT, of New York.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. EDWARDS of Alabama (at the request of Mr. RHODES), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WHITTAKER) to revise and extend their remarks and include extraneous material:)

Mr. RUDD, for 1 hour, today.

Mr. COURTER, for 10 minutes, today.

(The following Members (at the request of Mr. BAILEY) to revise and extend their remarks and include extraneous material:)

Mr. ADDABBO, for 30 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mrs. SCHROEDER, for 5 minutes, today.
Mr. ALEXANDER, for 5 minutes, today.
Mr. GARCIA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Ashbrook, to revise and extend immediately following Mr. Eckhardt during debate on fire ant amendment.

(The following Members (at the request of Mr. Whittaker) and to include extraneous matter:)

Mr. Rousselot.
Mr. Lagomarsino in two instances.
Mr. Derwinski in two instances.
Mr. Michel in two instances.
Mr. Bereuter in two instances.
Mr. Dannemeyer.
Mr. Hammerschmidt.
Mr. Carter.
Mr. Stanton.
Mr. Broomfield.
Mr. Kemp.
Mr. Ashbrook.
Mr. Paul in three instances.
Mr. Dornan.
Mr. Daniel B. Crane.
Mr. Duncan of Tennessee.

(The following Members (at the request of Mr. Bailey) and to include extraneous matter:)

Mr. Gudger in two instances.
Mrs. Schroeder in two instances.
Mr. Lowry.
Mr. Bennett.
Mr. Stark.
Mr. LaFalce.
Mr. Hamilton in two instances.
Mr. Baldus.
Mr. Bolling.
Mr. Boland.
Mr. Mazzoli in two instances.
Mr. Conyers.
Mr. Stokes.
Mr. Rosenthal.
Mr. Rangel.
Mr. Hawkins.
Mr. Weiss.
Mr. Long of Maryland.

ADJOURNMENT

Mr. McDONALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Thursday, November 29, 1979, at 10 am.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2903. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a supplemental report on the amount of appropriations that would be needed for fiscal year 1980 to meet the maximum level authorized for title VI of the Comprehensive Employment and Training Act, pursuant to section 602 of the act, as amended (92 Stat. 2006); to the Committee on Education and Labor.

2904. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report on the costs and financing of health care, the distribution of health care resources, the utilization of health resources, and the health of the Nation's people, pursuant to section 308(a)(2) of the Public Health Service Act, as amended (88 Stat. 368, 90 Stat. 378); to the Committee on Interstate and Foreign Commerce.

2905. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting reports for the month of August 1979, on changes in market shares of refined petroleum products and of retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2906. A letter from the Comptroller General of the United States, transmitting a report on the cash management of the National Direct Student Loan program (FGMSD-80-5, November 27, 1979); jointly, to the Committee on Government Operations, and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 5580. A bill to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization; with amendments (Rept. No. 96-612, pt. II). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LUNGREN: Committee on the Judiciary. H.R. 1559. A bill for the relief of Nelia Ruiz Hedlund (Rept. No. 96-667). Referred to the Committee of the Whole House.

Mr. HALL of Texas: Committee on the Judiciary. H.R. 3139. A bill for the relief of Pedro G. Feraro; with amendments (Rept. No. 96-668). Referred to the Committee of the Whole House.

Mr. STAGGERS: Committee of Conference. Conference report on S. 1871 (Rept. No. 96-669). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ROSTENKOWSKI (for himself, Mr. Archer, Mr. AuCoin, and Mr. Dicks):

H.R. 5973. A bill to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes; to the Committee on Ways and Means.

H.R. 5974. A bill to amend section 2040 of the Internal Revenue Code of 1954 to provide that a spouse's services shall be taken into account in determining whether that spouse furnished adequate consideration for jointly held property for purposes of qualifying for an exclusion from the Federal estate tax; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 5975. A bill to amend certain provisions of the Controlled Substances Act relating to marihuana; to the Committee on Interstate and Foreign Commerce.

By Mr. LaFALCE:

H.R. 5976. A bill to provide a Uniform Product Liability Act; to the Committee on Interstate and Foreign Commerce.

By Mr. LOWRY:

H.R. 5977. A bill to provide for payments to certain individuals of Japanese ancestry who were interned, detained, or forcibly relocated by the United States during World War II; to the Committee on the Judiciary.

By Mr. SATTERFIELD:

H.R. 5978. A bill to provide for an epidemiological study of fluorosis in certain areas where fluoride occurs naturally in drinking water systems and to suspend the application of the fluoride standard in such areas under the Safe Drinking Water Act pending the completion of such study, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 5979. A bill to amend the Internal Revenue Code of 1954 to provide that services performed for camps by certain students who generally are not eligible to receive unemployment compensation will not be subject to the Federal unemployment tax; to the Committee on Ways and Means.

By Mr. BROOKS (for himself, Mr. Fountain, and Mr. Horton):

H.R. 5980. A bill tc authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes; to the Committee on Government Operations.

By Mr. PHILLIP BURTON (for himself, Mr. Udall, Mr. Kastenmeier, Mr. Bingham, Mr. Won Pat, Mr. Eckhardt, Mr. Weaver, Mr. Carr, Mr. Miller of California, Mr. Markey, Mr. Kostmayer, Mr. Corrada, Mr. Murphy of Pennsylvania, Mr. Vento, Mr. Kogovsek, Mr. Williams of Montana, Mr. Howard, Mr. Florio, Mr. Moakley, Mr. Stark, Mr. Beilenson, Mr. Fascell, Mr. Edwards of California, and Mr. Studds):

H.R. 5981. A bill to establish Barrier Islands National Parks, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COURTER (for himself, Mr. Hyde, and Mr. Lagomarsino):

H.R. 5982. A bill to amend the provisions of the Immigration and Nationality Act relating to certain deportable aliens; to the Committee on the Judiciary.

By Mr. JONES of Tennessee:

H.R. 5983. A bill to provide for conservation loans for the purposes of maintaining and improving the productivity of farmland; to the Committee on Agriculture.

By Mr. RODINO (by request):

H.R. 5984. A bill to amend the jurisdiction and venue requirements and damage provisions in all suits involving the False Claims Act, and for other purposes; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 5985. A bill to grant State and local law enforcement officers, designated by the Attorney General, the authority to enforce the Controlled Substances Act of 1970; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

By Mr. BOWEN:

H.J. Res. 450. Joint resolution designating January 15 of each year as "Martin Luther King, Junior, Day"; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY:

H. Con. Res. 217. Concurrent resolution disapproving sanctions against Rhodesia; to the Committee on Foreign Affairs.

By Mr. THOMPSON:

H. Res. 492. Resolution authorizing funds for the standing and select committees of the House of Representatives; to the Committee on House Administration.

By Mr. ZABLOCKI (for himself, Mr. O'Neill, Mr. Rhodes, Mr. Wright, Mr. Michel, Mr. Brademas, Mr. Devine, Mr. Foley, Mr. Broomfield, and Mr. Rostenkowski):

H. Res. 493. Resolution relating to the immediate, safe and unconditional release of United States personnel in Iran; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII,

Mr. MAVROULES introduced a bill (H.R. 5986) for the relief of James Mabiho Rwabuhinga; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows.

H.R. 109: Mr. MURPHY of Illinois.

H.R. 882: Mr. CHAPPELL.

H.R. 1297: Mr. ROYER.

H.R. 1429: Mrs. SMITH of Nebraska and Ms. OAKAR.

H.R. 3408: Mr. COLLINS of Texas.

H.R. 4093: Mr. NEDZI, Mr. YATES, Mr. DONNELLY, Mrs. SPELLMAN, Mr. SCHEUER, Mr. FOWLER, Mr. CONTE, Mr. RANGEL, Mr. GARCIA, Mr. BEILENSON, Mr. PANETTA, Mr. DORNAN, and Mr. WEAVER.

H.R. 4509: Mr. WHITEHURST, Mr. STOCKMAN, Mr. WINN, Mr. COLLINS of Texas, Mr. LEACH of Louisiana, Mr. WATKINS, Mr. SHELBY, Mr. EVANS of Georgia, Mr. HALL of Texas, Mr. McDONALD, Mr. STENHOLM, Mr. LENT, Mr. GRASSLEY, Mr. CHARLES WILSON of Texas, Mr. MONTGOMERY, Mr. LOTT, Mr. ROYER, Mr. MARTIN, Mr. JENRETTE, Mr. GUDGER, Mr. HANCE, Mr. MADIGAN, Mr. TRAXLER, Mr. LEE, Mr. BEDELL, Mr. DANNEMEYER, Mr. RUNNELS, Mr. SATTERFIELD, Mr. SEBELIUS, Mr. HILLIS, Mr. JEFFRIES, Mr. PICKLE, Mr. PHILIP M. CRANE, Mr. LOEFFLER, Mr. DAVIS of South Carolina, Mr. ALBOSTA, Mr. CLINGER, Mr. HINSON, Mr. WHITTAKER, Mr. BENJAMIN, Mr. WYATT, Mr. BROWN of Ohio, Mr. GUYER, Mr. FORSYTHE, Mr. EDGAR, Mr. PAUL, Mr. LEWIS, Mrs. BOUQUARD, Mr. SYMMS, and Mr. KRAMER.

H.R. 4782: Mr. JENRETTE and Mr. QUILLEN.

H.R. 4940: Mr. GRASSLEY.

H.R. 5038: Mr. CARR, Mr. BONKER, and Mr. WALGREN.

H.R. 5040: Mr. BENJAMIN.

H.R. 5062: Mr. McCLOSKEY and Mr. McKINNEY.

H.R. 5377: Mr. EMERY.

H.R. 5394: Mr. MARKS, Mr. FORD of Michigan, and Mr. KOGOVSEK.

H.R. 5577: Mr. FAZIO and Mr. STENHOLM.

H.R. 5649: Mr. BINGHAM, Mr. LEDERER, Mr. GUARINI, Mr. MOTTL, Mr. EVANS of the Virgin Islands, Mr. MOAKLEY, Mr. BONER of Tennessee, Mr. CHARLES H. WILSON of California, Mr. ROE, Mr. SABO, Mr. KILDEE, Mr. DOUGHERTY, and Mr. RICHMOND.

H.R. 5700: Mr. BLANCHARD, Mr. CAMPBELL, Mr. FAUNTROY, Mr. EVANS of Indiana, Mr. D'AMOURS, Mr. CAVANAUGH, Mr. MATTOX, Mr. VENTO, Mr. LUNDINE, Mr. PAUL, Mr. HYDE, Mr. HUBBARD, Mr. LOWRY, Mr. KELLY, and Ms. OAKAR.

H.R. 5772: Mr. BONKER.

H.J. Res. 409: Mr. PAUL.

H.J. Res. 426: Mrs. BOUQUARD, Mr. COTTER, Mr. EVANS of Indiana, Mr. McDONALD, and Mr. QUILLEN.

H.J. Res. 435: Mr. MOTTL and Mr. PATTEN.

H. Con. Res. 208: Mrs. CHISHOLM and Mr. ALBOSTA.

H. Res. 449: Mr. EDWARDS of Oklahoma, Mr. MINETA, Mr. DIXON, Mr. CLAY, Mr. GORE, Mr. McCLOSKEY, Mr. SEIBERLING, Mr. FROST, Mr. LOWRY, and Mr. ALBOSTA.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were presented and referred as follows:

229. By the SPEAKER: Petition of the Association of the United States Army, Arlington, Va., relative to the Armed Forces of the United States; to the Committee on Armed Services.

230. By the SPEAKER: Petition of the 45th annual meeting of the Southern Governors' Association, New Orleans, La., relative to Federal aid reform; to the Committee on Government Operations.

231. By the SPEAKER: Petition of the Southern Governors' Association, relative to energy, freight rates, clean air plans, and interim primary drinking water standards; to the Committee on Interstate and Foreign Commerce.

232. By the SPEAKER: Petition of the Southern Governors' Association, relative to development of effective coastal protection systems against natural disasters; to the Committee on Merchant Marine and Fisheries.

233. By the SPEAKER: Petition of the Southern Governors' Association, relative to truck regulation; to the Committee on Public Works and Transportation.

234. By the SPEAKER: Petition of the Southern Governors' Association, relative to repeal of the carryover basis rule; to the Committee on Ways and Means.

235. By the SPEAKER: Petition of the Southern Governors' Association, relative to plant closings; jointly, to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

236. By the SPEAKER: Petition of the Southern Governors' Association, relative to foreign trade expansion; jointly, to the Committees on Banking, Finance and Urban Affairs, Foreign Affairs, and Ways and Means.

237. By the SPEAKER: Petition of the Southern Governors' Association, relative to allocation formulas and eligibility criteria in Federal community and economic development programs; jointly, to the Committees on Banking, Finance and Urban Affairs, Government Operations, and Public Works and Transportation.

238. By the SPEAKER: Petition of the Southern Governors' Association, relative to Federal assistance to curtail drug smuggling; jointly, to the Committees on Foreign Affairs, the Judiciary, and Ways and Means.

239. By the SPEAKER: Petition of the Southern Governors' Association, relative to national coal policy; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3948

By Mr. YOUNG of Alaska:

—To be considered en bloc.

Page 4, strike out line 7 and all that follows down through line 11 and insert in lieu thereof the following:

SEC. 2. (a) Notwithstanding any other provision of law or any rule, regulation, or order issued pursuant thereto—

Page 5, line 6, strike out "sixty-one years and six months" and insert in lieu thereof "sixty-five years".

Page 5, strike out line 7 and all that follows down through line 11 and insert in lieu thereof the following:

(b) No certificate holder may use the services of any individual as a pilot if such individual is sixty-five years of age or older.

H.R. 5297

By Mr. BROWN of Ohio:

—Page 11, after line 15, insert:

TITLE IV

SEC. 401. Of the amounts authorized to be appropriated under this Act, such sums as may be necessary shall be used for the prompt issuance of operating licenses under applicable law, consistent with reasonable safety considerations, in the case of the following nuclear powerplants:

North Anna 2
Salem 2
Diablo Canyon 1
Sequoyah 1
McGuire 1
Zimmer
Diablo Canyon 2
La Salle County 1
Summer 1
Farley 2
Shoreham
San Onofre 2
Watts Bar

By Mr. EMERY:

—Page 3, line 11, after "Programs" insert "(A)".

Page 3, line 14, before the comma insert "and (B) for providing financial assistance to the States to be used for the purchase of radiation monitoring equipment".

EXTENSIONS OF REMARKS

PROPONENTS OF SALT II TREATY DON'T CONSIDER UNSTABILITY

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BEREUTER. Mr. Speaker, a recent editorial from the Hebron, Nebr., Journal-Register provides a thoughtful commentary on the importance of strong leadership and a sound national defense effort in achieving a SALT II treaty which could be in our best interests. I would like to share the editorial with my colleagues and request that it be reprinted in full in the CONGRESSIONAL RECORD.

The editorial follows:

PROPONENTS OF SALT II TREATY DON'T CONSIDER UNSTABILITY

Proponents of SALT II are becoming increasingly active as are opponents of the Strategic Arms Limitation Treaty number 2, as evidenced by the mail this newspaper receives daily.

To quickly review what the arms limitation treaties are all about, we must go back to the late 1960s when President Nixon and Secretary of State Kissinger engineered the first weapons treaty, SALT I, with bipartisan support.

Former President Gerald Ford and President Carter have gone even further in SALT II negotiations with the Russians.

Educational Television in recent months

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

showed the United States Joint Chiefs of Staff representing the Army, Navy, Air Force and Marine Corps purportedly supporting the treaty.

But the Journal-Register feels that any ratification of the treaty should be preceded by two things:

1. A rapid arms buildup so that we are not number two in this increasingly unstable world militarily or in any sense.

2. A president and congress who will put America first in our dealings with foreign countries, particularly the hostile groups such as Iran, Russia and Vietnam.

One of the communications we received this week outlines how a Nebraska church council supports the SALT II treaty. But it is better to be prepared to meet adversity rather than needlessly be enslaved, humiliated or a third rate power.

We should act from power in our dealings with our adversaries.●

OUR STRATEGIC FORCES: ARE THEY RELIABLE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. MICHEL. Mr. Speaker, a free nation's security ultimately depends not on the number or the quality of its weapons but on the wisdom and foresight of its people and their elected representatives.

Consider, if you will, three articles that recently appeared in the Chicago Sun Times. One tells of the danger posed by the U.S. Titan II missile. Danger to the Soviet Union? No, danger to the Air Force crews that have to fuel this aged monster with liquid fuel. Yet we have to rely on the Titan II as part of our strategic forces.

Another article tells of the environmental battle that is going to come when the Air Force seeks to deploy the MX missile. It is conceivable that the MX program could be delayed almost indefinitely by shrewd manipulation of the environmental laws.

And then there is a column by James Jackson Kilpatrick, questioning the system devised by the Pentagon to house the MX missile. This column raises serious questions about the very concept underlying MX deployment.

There is a single thread that runs through these articles, even if it is unstated, and that is the absolute importance of thinking clearly about our defense needs. We seem all too often to be trapped in a ritual of action and reaction when it comes to defense. From the late 1960's to the middle 1970's congressional, media and antidefense group pressure to cut our defense forces resulted in a drastically reduced defense capability. Now we are trying to quickly undo the damage done over many years by the critics of national defense. This hurried reaction, of course, results in ideas and systems not thoroughly understood.

What we need is a clear, energetic and creative attitude among those responsible for national defense, including the Congress and the administration. We have to stop this action-reaction syndrome. We have to think of ourselves and for ourselves, of our national security needs and not of some idealistic concept of what the world should be like.

I know that "America first" is a discredited slogan because of its historic links to isolationism. But if the idea is combined with our acknowledged duty as world leader, I say we get back to that idea as soon as possible.

At this point I wish to insert in the RECORD three articles from the Chicago Sun Times, November 23, 1979: "It's a Goofy Idea—Let's Put a Leash on It"; "Environmental Rules Slow MX Installation Goal"; and "Aging Titan Missile Found a Threat to Its U.S. Crews":

IT'S A GOOFY IDEA—LET'S PUT A LEASH ON IT

(By James J. Kilpatrick)

WASHINGTON.—Sen. Ted Stevens (R-Alaska) struck a blow for sanity the other day in the matter of strategic warfare. We haven't seen much sanity in that particular sector lately. He won adoption of an amendment telling the Carter administration, in effect, to reconsider the wisdom of Goofy.

Goofy is the system devised by the Pentagon's sons of Rube Goldberg for concealing the MX missile. It is known as Goofy for the Walt Disney dog of the same name. And it is the nuttiest scheme to come along in the name of national security since the CIA proposed to depilate the beard of Dr. Castro.

Attend. The idea is as follows: An enormous chunk of federally owned land out West would be set aside for construction of the strangest railway known to man. It would consist of perhaps 200 closed loops, or racetracks. Each loop would have 23 shelters located a mile and a half apart. There would thus be 4,600 shelters. Right?

Right. Then we would provide 200 freight cars. Each freight car would carry a 20-ton MX missile. Each missile would carry 10 individually targeted warheads. There would thus be 2,000 warheads on 200 missiles aboard 200 freight cars on 200 loops shuttling about the 4,600 shelters. Right?

Right. All day and all night, week in and week out, 200 engines would chug around the Goofy track, playing the biggest shell game ever played. The Soviets would go crazy trying to figure out which shelters held the missiles.

What would Goofy cost? No one knows. The Pentagon has drawn up some estimates based upon present and probable costs of construction. The latest guess is $33 billion over a 10-year-period. The stentorian voice of experience cries out: Double that estimate! Annual costs of operation are placed at $400 million. None of this bears much relation to reality.

The Stevens amendment was tacked on to the bill appropriating 670 million in the current fiscal year for planning and developing this pie-eyed proposition. The amendment tells the President to continue developing the MX, but to make no specific commitments to the racetrack scheme. Better and cheaper alternatives may be discovered.

One suggested alternative is to load the missiles aboard STOL (short takeoff and landing) aircraft that could leap into action like doodlebugs at the first hint of a Soviet strike. Another proposal is to put the missiles aboard submarines in the Great Lakes. These vessels would be relatively inexpensive, or so it is said, and the crews could take shore leave in Chicago, Duluth and Cheboygan, thus supporting the local tradesmen.

There are better alternatives still. We could begin by rejecting the pending treaty on strategic arms limitation. The treaty has a thousand flaws, but the worst of its flaws is this: It would effectively compel our government to build and to deploy all the launchers permitted under the treaty's terms. No President unilaterally could settle for anything less.

Suppose there was no treaty. Common sense might inform a President that enough is enough, that we already have amassed sufficient nuclear power to devastate the whole world, and that funds for national defense could be expended more sensibly elsewhere. The Soviets, for their part, might well come to the same rational conclusion. No longer impelled to arm up to the "limitations" of a treaty, both powers might substitute prudent judgment for supposed necessity.

The Stevens amendment, seeking reconsideration, is altogether wise. Do we learn from history, or do we repeat its hard lessons? By 1990, when Goofy could be fully deployed, its loops and tracks and shelters will be obsolete. More deadly devices yet will have been invented, and we will see the racetracks, covered by drifting sand, as so many pillboxes, so many Maginot lines.

ENVIRONMENTAL RULES SLOW MX INSTALLATION GOAL

WASHINGTON.—Air Force officials doubt that the United States can meet its 1986 goal of deploying the new MX mobile missile unless they can cut through a jungle of environmental and land-use regulations.

"We are concerned that, without legislation in this area, we cannot meet an initial operating capability for the MX in 1986," one official said.

Pentagon authorities emphasized that they do not intend to waive environmental safeguards in constructing bases for 200 MX missiles, probably in about 50 thinly populated valleys in Utah and Nevada.

A "commonsense" way must be found to simplify state and federal regulations, the Pentagon officials said.

The officials, who asked not to be named, noted that the federal government, in effect, had yielded to the states some of the power to control water, air and noise pollution. They acknowledge that the states might resist any federal legislation that could take back some of those powers.

Officials said some of the regulations require the issuance of permits in complicated procedures that could take up to 10 years and "we just don't have that time."

One possible approach, they said, would be for President Carter to authorize waivers from current environmental and land-use regulations if he finds such a move would be in the "paramount national interest." They indicated that they would rather get congressional approval for simplifying legislation.

According to these authorities, interested federal agencies are showing support for such legislation—with the possible exception of the Interior Department, which still objects to some aspects of the simplifying approach.

Proposed legislation is being drafted by Air Force lawyers and may be introduced fairly soon, officials said.

Among other things, defense officials would like to dispense with a requirement that costly environmental studies must be conducted of all possible sites for the MX bases. In addition to the time involved, the officials said, a single environmental study sometimes can cost millions of dollars.

What they would like to do is limit environmental studies to the valleys that are logical possibilities as bases for the new mobile missiles.

AGING TITAN MISSILE FOUND A THREAT TO ITS U.S. CREWS

(By Walter Pincus)

WASHINGTON.—The biggest missile in the U.S. arsenal has grown so old and so tricky to handle that it may be more of a threat to its Air Force crews than to the Soviets. Congress quietly has asked the Pentagon to look into its safety problems.

At the same time, the 17-year-old Titan II is so big that despite the fact that only 54 of them remain, they constitute a third of the land-based nuclear destructive power the United States could launch against an enemy.

Thus, at a time when critics accuse the Carter administration of permitting the nation to fall behind the Soviet Union in deliverable destruction, decommissioning the Titan poses a political problem.

Interviews with White House officials, the Pentagon and on Capitol Hill indicate that the giant liquid-fueled intercontinental ballastic missile is today less a dangerous symbol in the often irrational strategic arms race.

When the Titan II became operational in 1962, these monster rockets—each with a nine-megaton warhead, 750 times more powerful than the Hiroshima bomb—had a role to play in threatening destruction to large Soviet and Chinese cities.

Today, accidents involving the missile's toxic liquid fuel occur regularly in a weapon system whose military mission seems all but to have faded away.

Last year, for example, 2 people were killed and 27 hospitalized in Kansas and Arkansas in two accidents associated with the highly toxic liquid propellants used in the Titan IIs.

Twenty more were sent to hospitals in smaller incidents at Titan silos that happened as far back as 1974, according to an Air Force report recently sent to Congress.

Why are these aging missiles kept operational some seven years after they originally were scheduled for retirement?

Interviews with key White House and Pentagon officials indicate the primary reasons are political, rather than military.

Phasing out of the Titan II was announced publicly in early 1967, and at that time the Air Force said it would halt the purchase of new missiles for test purposes.

"They became obsolete in 1971," a former officer in the Air Force missile program said recently. "They never were considered reliable," and "never in a meaningful way fit into our force planning," he said.

The United States had hoped the Titan II missile could be traded for the Soviet Union's heavy missiles in arms-control negotiations, a White House aide recently said. To date, however, the Soviets have not agreed.

Nonetheless the Titan IIs were given new life, this time as a bargaining chip. They also gained symbolic meaning more recently in the domestic arena.

"They are a psychological blanket," one Capitol Hill staff aide said. "They are the only big missile we have around to compare with what the Soviets have."

The primary U.S. land-based missiles are the 1,000 Minuteman IIs and IIIs. These missiles, much smaller than the liquid-fueled Titans, are considered safer because they use solid-fuel propellants.

Militarily they are more effective because of more accurate guidance systems and because, in the case of the 550 Minuteman IIIs, they carry three warheads instead of one.

All 1,000 Minuteman missiles, however, represent 820 megatons of nuclear destructive power. The 54 Titans accounts for 486 megatons.

Thus, should the Titans be dismantled, over-all megatonnage in the U.S. arsenal would drop by one-third.

At a time when critics of the administration and the strategic arms limitation treaty (SALT II) are pointing out the large advantage the Soviets have in megatonnage, dropping the aging Titans could be politically disastrous.

Thus the Air Force has been told to keep the missiles operational and "on alert indefinitely," according to an Air Force spokesman.

That is turning out to be quite a challenge.●

TRIBUTE TO VALLEY FORGE

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. GUDGER. Mr. Speaker I rise to call to the attention of my colleagues that the House Committee on Interior and Insular Affairs recently reported favorably H.R. 4308 which would authorize funds for the protection, rehabilitation, or preservation of property in the vicinity of Valley Forge National Park in Pennsylvania.

So often we do not appreciate the privileges we enjoy as Americans under our democratic system of government. I think it is important that we take a moment to reflect upon the sufferings of the Continental Army during that winter at Valley Forge. Perhaps by doing this and remembering how our forefathers endured and triumphed in times of trouble, we can, as an American people, draw inspiration from this to help us triumph in these very troubled times.

As you recall, General Washington made camp at Valley Forge after being forced out of Philadelphia by the British forces under the command of Sir William Howe. So while the British soldiers enjoyed the comforts of accommodations in the city, the patriots made camp on the lonely plain at Valley Forge.

That winter of 1777 was a time of extreme suffering and deprivation. The men suffered terribly from lack of adequate medical care, shelter, clothing, and food. Infectious diseases such as cholera and pneumonia swept throughout the camp. The patriots were housed in wooden huts with mud chinking to keep out the fearful winter winds. Clothing was scarce and threadbare. Sentries were seen standing on their hats to shield their feet from the cold of the winter ground. The sick were robbed of their clothing because they were too weak to defend themselves. The dead were stripped naked before burial. Food was hard to obtain. On many days, the men drew no rations at all. On other days, they had flour rations which they mixed with water and cooked over the hot embers of their fire. The loss of human life was tremendous because of these overwhelming circumstances.

The mere fact that the Army survived the winter was a testament to the leadership of General Washington and the men themselves. However, not only did the Army survive, but it matured and grew in a qualitative sense. As a result of enduring the daily hardship and misery as well as the rigorous, seemingly constant drills and maneuvers, the Continental Army emerged from the winter at Valley Forge as an organized, cohesive, and disciplined unit of soldiers. This cadre of experienced officers and men was to form the nucleus of the Army that went on to play a crucial role in the ultimate outcome of the Revolutionary War.●

IT IS TIME FOR LOCAL ENERGY INITIATIVES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BROWN of California. Mr. Speaker, as the Congress continues to deal with the energy problems of this country, it is important for us to remember all aspects of the energy situation, from the international to the local level. What is often forgotten as the headlines dwell on international and national developments is the end uses of energy, and the initiatives local governments and groups can take to dramatically reduce the use of energy.

A recent article by Neil Peirce, who is noted for his analysis of local governments, was devoted to this topic. I believe every Member of this body would find this article of interest. I can only hope and urge that other local governments will take initiatives similar to those identified in this article, and that the Congress will continue to support such local initiatives.

At this time I wish to insert this article in the RECORD.

The article follows:

[From the Los Angeles Times, Nov. 25, 1979]

ENERGY WAR WILL BE WON ON HOME FRONT

(By Neal Peirce)

The nation's ability to conserve energy and thus weather the severe energy shortages that loom in the 1980s will be a key test of American federalism.

From President Carter on down, there's growing consensus that the cumulative benefits from conservation—in weatherization, better building design, in mass transit, carpools, vanpools, in more compact land use—could be enormous.

But while Americans wait for some grand presidential gesture or congressional enactment to set a course, it's actually in the nation's states, counties and cities, in individual homes, workplaces and neighborhoods, that the conservation battle must be won.

Washington may be able to help some, with bigger tax breaks for weatherization, for instance. But states and localities have the real power: to regulate utilities' rates and practices, to control zoning and land use, to regulate highway patterns, to build and control transit systems, to enact building codes, to dispose of waste, to decide on siting of parks and schools and community centers. All these decisions have profound effect on the patterns of daily life, work and movement, and thus on the amount of energy Americans actually use.

A stronger clarion call for conservation from the nation's capital may help. But it is the states and localities that must mount the requisite massive education job (attuned to each area's particular climate). It is these jurisdictions which must pass mandatory conservation laws and mount a grassroots mobilization effort comparable to the localities' role in the World War II mobilization effort.

Washington's familiar 1960s and 1970s response to national domestic problems—major funding programs, replete with an infinite array of rules and conditions—simply won't work on the conservation front. Imagine the federal energy department, given its already stellar record of bureaucratic incompetence, attempting to fund and regulate energy conservation programs in tens of thousands of localities. One shudders at the very prospect.

Given the dominance of the federal income tax as a revenue raiser, some forms of national assistance may be necessary to help local conservation plans along. But the help should be light, the conditions virtually nonexistent. Overregulation can kill local initiative and imagination.

There are ample reasons for states and localities to develop thorough conservation plans whether they get any outside help or not. Every dollar a city or its citizens and businesses "exports" to utilities or oil companies for energy reduces the money available for economic activity and job creation within.

For example, Portland, Ore., which this summer adopted what is probably the nation's most comprehensive local energy plan, estimates that by 1995 it can be saving $162 million annually by cutting back citywide energy use by 30%.

The Portland plan illustrates both the marketing and "teeth" required in a truly significant local plan. After 1983, any Portland homeowner who hasn't weatherized his or her house to energy "cost efficiency"—all improvements, from storm windows to insulation, that will pay themselves back in reduced heating and cooling costs within 10 years—simply wont' be allowed to resell the house. Apartment-house owners and businesses will face similarly stiff requirements. To sweeten the pill, Portland plans a door-to-door marketing campaign to explain the new rules, plus "one-stop" weatherization centers to help homeowners arrange for energy audits, get financing, arrange for contractors and explain tax credits. Poorer families may receive subsidized loans, financed through either federal grants or a local bond issue to create a revolving loan pool. The city's promise: For combined monthly energy bills and weatherization loan payments, no one will have to pay more (in constant dollars) than his or her energy bill alone cost before.

Portland's plan goes beyond weatherization. There is a major land-use component, encouraging more dense housing (multi-family and attached units) and concentrated developments of housing, retailing and offices, all accessible by mass transit. The goal is to save energy by reducing the number and length of trips.

New Portland did receive a federal grant to conduct a detailed city energy audit. But the crucial process was all local. A broadly representative energy steering committee—people from business, labor, utilities, neighborhoods, environmentalists, bankers, worked on the plan for eight months, weeded out politically impractical elements, and created a master plan with impressive community credibility.

Portland-style plans could provide a transition to a new energy age with efficiency and grace, without severe social discord. The alternative: general procrastination until dire energy shortages occur and Washington seeks emergency power to impose draconian measures.

Several big national bills to aid local energy efforts are now pending. One written by the cities' lobby and introduced by Sen. Paul Tsongas (D-Mass.) would hand out $5 billion in direct federal grants to localities for everything from local energy planning to actual capital for district heating plants.

There are dangers to that approach. First, with so much money pending, localities might put off their own initiatives. Federal paternalism could undercut the strong local consensus needed for energy conservation.

The second danger is in bypassing the states. The states are constitutionally responsible for their localities. They have vast regulatory powers and they expend vast amounts for local capital and operating expenses. If federal energy aid flowed through the states—perhaps with a requirement that almost all of it be passed through to localities—state governments could devise incentives for cities and counties to act. The states could involve suburbs, where some of the greatest energy-saving potential lies. And by coordinating their own actions with those of their localities, they could multiply the benefit several times over for each dollar invested.

Some say federalism is a quaint, outmoded doctrine, irrelevant for times of stress. But in this vast nation, quite the opposite may be true. Federalism respects real power, it can tailor policies for a thousand and one special local circumstances. By being locally democratic, it can evince responsiveness and creativity and effectiveness. It would be hard to conceive a more appropriate system to attack the energy conservation challenge of the '80s.●

WHO'S AN IMPERIALIST?

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. LAGOMARSINO. Mr. Speaker, following is an editorial by William Randolph Hearst, Jr. regarding the fallacious epithet "imperialist" which is often used to describe the United States. As Mr. Hearst states, the very nations which use the term most regularly are those to whom it best applies.

The article follows:

WHO'S AN IMPERIALIST?

(By William Randolph Hearst, Jr.)

NEW YORK.—One of the most used, and most abused, words in the language of international controversy these days is "imperialism."

It crops up in almost every debate between leaders of the enslaved Eastern World and the free Western World. The latest use and conspicuous abuse of the word happened on the floor of that great debating society on the banks of New York's East River, the so-called "United Nations."

Cuba, a self-styled "non-aligned nation," used "imperialist" as an epithet in an attempt to slander the United States. Castro's country has been wrangling with Colombia over rights to a pew in the Security Council of the United Nations, and not for exactly altruistic reasons. Cuba wants to represent the Third World at the U.N., and its mouthpieces are not hesitant to give the reason why.

They want to put an end to what they call the domination of the United Nations by the United States. And the United States, according to them is "the most imperialist country in the world."

Let's just take a look at the source and substance of the slander.

Webster's Seventh New Collegiate Dictionary defines imperialism as follows. It is "the policy, practice or advocacy of extending the power and dominion of a nation, especially by direct territorial acquisitions or by gaining indirect control over the political or economic life of other areas."

Does that description apply to the United States of America or Cuba? Ask Nicaraguans who know of the presence of Cuban-trained soldiers among those who have taken over their country. Or ask Africans who know there are thousands of Cuban guns and gunmen in their midst, and whose presence there our former ambassador to the United Nations, Andrew Young, incredibly and irresponsibly called a "stabilizing influence."

Castro's minions are not acting on their own. Cuba is a craven puppet of Russia, so if her efforts are successful, it would mean giving the Russians what amounts to two representatives on the Security Council. You don't have to be a foreign policy expert to figure that one out.

Actually, the only imperialistic nation on the face of the globe today is Russia. None of the big European countries which used to be colonial powers before World War 2 dominate others. Only Russia fits the definition of exerting "indirect control over the political or economic life of other areas."

Russia's, and now Cuba's, use of the shopworn reference to the United States as an imperialistic nation is a glaring example of the Big Lie technique developed by the Nazis.

After the Spanish-American War we promptly gave Cuba its independence.

The Philippine Islands were under American control in a sort of commonwealth status, with their own government, but we soon turned them loose.

Not interested in direct or indirect acquisitions, we liberated or offered to liberate all the islands we used in the Pacific during World War 2.

The Carter administration succeeded in ending America's ownership of the Panama Canal.

On any given day this month or next, the United States would be willing to grant Puerto Rico its independence. The reason this will not happen is that 94 per cent of the Puerto Ricans want to remain where they are in an American protectorate with the advantage of American citizenship.

Only in a communist jargon dictionary can our record be defined as that of an imperialistic nation. Ours is a consistent record of a country that for 200 years has cherished freedom, not only for ourselves but for others as well. It is the American tradition we are proud to teach to our children.

By contrast, the Soviet Union is a colonial nation of the most imperialistic sort.

The communist cancer has been spreading. It has been felt in Afghanistan and Somalia, Ethiopia and Angola. By way of Cuba it has found its way to Nicaragua, where the Sandinistas never could have taken over the country without the help of a Cuban-trained cadre, and probably to El Salvador where rebels are starting another revolution.

Imperialist is a dirty word all right, but it hardly fits a nation like the United States which, with all our faults, is ready to give millions of dollars to help starving and dying Cambodians, and would do so if the Soviet Union were not standing in the way.

To talk of an imperialist nation is to suggest a warlike nation, which the United States certainly is not. The Camp David accords are a classic and truly historic example of the peaceful instincts of our land.

In my opinion the noblest achievement of the Carter administration's foreign policy were those accords, and the president's ability to get Israel's Menachem Begin and Egypt's Anwar Sadat to sup and sign together.

The Soviet Union, whose Cuban puppets call the United States imperialist, has opposed those accords and the beginning of a Middle East peace all along.

Russia's word has never been its bond, as President Kennedy found out when told there were no Russian missiles on Cuba. This is something for our Congress to ponder as it debates the SALT II treaty.

You can't trust them when they say "nyet," because they could mean "da."

And "da" could mean "nyet," yet.●

FORT SMITH, ARK.: AN INDUSTRIAL SUCCESS STORY

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, over the last 24 years, the city of Fort Smith, Ark., has amassed quite an economic development success story. New industrial installations and expansions since 1957 have created approximately 112,000 new jobs, which have helped cushion the area from the effects of economic downturns felt more keenly in other parts of the Nation.

Perhaps my colleagues will recall an article in the CONGRESSIONAL RECORD of July 27, in which it was noted that the Bureau of the Census has listed the Fort Smith Standard Metropolitan Statistical Area—two Arkansas counties and two Oklahoma counties—as the ninth fastest growing SMSA during the 1970–75 period.

Many factors contribute to Fort Smith's health and growing economy: Natural resources such as gas, transportation facilities, reliable labor force, the intangibles that make up a good quality of life, and active recruitment of industry led by Chamber of Commerce Executive Paul Latture.

Arkansas' right to work law was also mentioned as a major factor in that growth, and is again cited in a more recent new story, which is included for my colleagues attention this afternoon.

"Fort Smith: An Industrial Success Story," written by Randy Tardy, business editor for the Arkansas Democrat newspaper in Little Rock, follows:

FORT SMITH: AN INDUSTRIAL SUCCESS STORY

(By Randy Tardy)

FORT SMITH.—Leadership, labor, land, livability—and Paul Latture, are some of the basic ingredients which have gone into a successful industrial development story called Fort Smith.

Add a plentiful, repeat—plentiful—supply of natural gas, stir the ingredients together for 25 years, and the results aren't hard to find in this western Arkansas city on the Oklahoma border.

Latture, a Beebe native now a 24-year Chamber of Commerce veteran at Fort Smith, remembers taking a "$2,000 cut in pay" when he left a staff position with the Tulsa Chamber of Commerce in 1955 and took on a manager's job because he thought Fort Smith was "a sleeping giant."

Now, after nearly a quarter-century on the job, his industrial development efforts are reflected in many shiny ground-breaking shovels hanging from his office walls.

The more than 40 shovels bear company names and ground-breaking dates—big names like Whirlpool, Rheem, Baldor, Gerber, Inland Container, Hoerner Waldorf, Arkansas Best Corp., Mead Papers, Ball Corp., General Electric, Riverside Furniture, Planters Peanuts and about three dozen others.

"We're getting ready to hang up Hiram Walker & Sons, Inc., shovel pretty soon," Latture said, noting that the well known distillery is starting to build a $37 million plant on a 43-acre site in South Fort Smith and will close its Peoria, Ill., headquarters distillery.

In all, 170 companies at Fort Smith have invested more than $100 million in new plants between 1967 and 1978 and created an estimated 95,000 new jobs in the process, according to Chamber of Commerce surveys annually of local industries.

During the same years 681 industrial expansions have required about $236 million in capital investments, creating more than 17,000 new jobs, the same source indicated.

Yet, the Fort Smith Standard Metropolitan Statistical Area—which includes Sebastian and Crawford counties plus two adjoining Oklahoma counties—still had a 7.7 percent unemployment rate in September. National economic conditions are reflected at Fort Smith.

"We're tied pretty much to housing," said Latture about the city with 27 furniture plants in addition to large air conditioning, heating and home appliance manufacturers.

"We're interested in companies paying good wages and which are not too seasonal. . . . We don't want to stink up our air, foul up our water, or use all our (natural) gas. We need a lot more small payrolls."

"Small?" Some of Fort Smith's industries aren't—Whirlpool Corp. employs about 4,000 workers at its plant which covers 42 acres under one roof. Rheem has another 2,000 workers; Baldor Electric works 1,500 and Riverside Furniture employs 1,200.

Gerber Products Co., which employs 500 people who turn out baby foods, influences farming over a wide area, Latture noted, saying the company buys vegetables from farmers in East Arkansas, Oklahoma, Texas and other states.

At a time when industrial natural gas contracts aren't what many industrial developers wish they were, the industrial seekers at Fort Smith haven't suffered.

"Five years ago, we had a 17-year reserve of natural gas and now we have a 25-year reserve," said Richard B. Sugg, assistant manager of the Fort Smith Chamber of Commerce, who works closely with Latture on industrial development matters.

"We can supply any one customer up to 10 million cubic feet (of gas) a day, and right now there are 30 to 40 active drilling rigs operating in this area." Arkansas Oklahoma Gas Corp. supplies natural gas to the area. Electricity is provided by Oklahoma Gas and Electric Co.

Sugg illustrated the area's natural gas situation with a recent example saying, "When Planters Peanuts wanted to pour concrete for their plant's parking lot they had to cap two producing gas wells to do so." He said the wells weren't sizable producers, but were producers, nevertheless.

"We've got everything in the world you've got in Chicago or wherever, except we're not as big," Latture said he tells visiting industrial prospects from the Midwest, East and other parts of the country. Livability, he added, is evidenced in the local arts and cultural endeavors, nearby mountains and streams, educational facilities, beautiful residential areas and a regional hospital and medical center complex which has attracted outstanding specialists in many different fields of medicine.

"Every bit of available (industrial and commercial) land is in my files," Latture said of the chamber's industrial site availabilities, adding that "(Realtors) still get their fee" if and when a prospect wants the particular site.

Latture and Sugg both pointed out that industrial development, much in evidence on the Arkansas side, does not extend across into Oklahoma, at least at Fort Smith. He said land in Oklahoma brings about $3,000 to $4,000 an acre compared to about $20,000 an acre on the Arkansas side at Fort Smith.

Arkansas has a Right-to-Work law. Oklahoma doesn't. Sugg recently described the state line as "the Right-to-Work line" to a group of visiting Oklahoma City Chamber of Commerce members visiting the area. And about 43 percent of the 77,000 people working in Fort Smith daily live in Oklahoma and work in Fort Smith, Sugg figured. He figured about 33,110 Oklahomans are earning their living in Arkansas there.

Fort Smith, not noted primarily as a tourist city, managed to attract about 100,000 tourists last year, Sugg and Latture pointed out. The prime attraction is the Fort Smith National Historic Site and its museum, gallows and courtroom used by the legendary Judge Isaac C. Parker a century ago. The park is being enlarged from the present 17 acres to 75 acres and about $6.5 million in federal funds are going into the redevelopment of the surrounding area, Sugg said.

Belle Grove Historical District contains numerous restorations of 19th century homes and some light commercial developments inside historic surroundings. Wide Garrison Avenue is seeing sizable downtown redevelopment investments from both the public and private sector. Huge Central City Mall is one of the largest in the Southwest and the smaller and older Phoenix Village Shopping Center continues to expand.

Fort Smith earlier this year lost airline service by Braniff International. Skyways is curtailing flights in mid-November and plans to eliminate service in January. Frontier continues its air service to the city.

Missouri Pacific Lines, Frisco and Kansas City Southern railroads serve the city and its industrial areas. KCS has a 2,000-acre industrial park.

Arkansas River navigation at Fort Smith is rounding out its first decade. Port Manager N. M. "Buck" Shell said recently the facility handles cargo for customers as near as Whirlpool and Rheem and as distant as Oklahoma City, Dallas-Fort Worth and New Mexico. About 30 percent of the cargo inbound eventually goes out of state overland from Fort Smith after making its way upstream by barge, Shell said.

Actually located on the Poteau River a short distance from the Arkansas River channel, the port recently completed a $437,000 turning basin which required removal of about 192,000 cubic yards of dirt.

Latture's industrial development record is well known. He praises the former Arkansas Industrial Development Commission and its successor agency, the Arkansas Economic Development Department, for industrial prospect help over the years. He speaks openly about community leadership and involvement, cooperation of local bankers and other financial people.

The economy is now built on a firm foundation where once it suffered from military decisions reflected in the closing and opening of nearby Fort Chaffee with little or no advance notice. The huge military complex, now deactivated, last served a few years ago as the first haven in the U.S. for Vietnamese refugees. Many have remained at Fort Smith and settled into the community mainstream, including industrial jobs.

"You've got to get down on a first-hand basis with your prospects where they've got confidence in you," Latture said of his industrial philosophy, "you've got to be honest. If you've got labor problems, tell 'em, if the property site floods, tell 'em.

"Be prepared—soil borings, contour maps of sites, cost figures—the whole works. Three bankers, comprise my industrial committee. Prospects know we're not gonna lie in front of a banker. Prospects also want to visit key people at existing industries. I'll take them, let them talk to who they want to, I'll sit out in the lobby. Word gets around about you.

"In the 1974 recession, we never knew anything went on."

On a single day in 1974, Ball Plastics and Transkrit Corp. each broke ground on plants, and ribbon-cutting ceremonies took place at Planters Peanuts and Gould Battery. Total Investment—$40 million at Fort Smith, Ark.●

THE UNIFORM PRODUCT LIABILITY ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. LAFALCE. Mr. Speaker, I am pleased to introduce today the Uniform Product Liability Act, crafted by Prof. Victor Schwartz of the Commerce Department's Task Force on Product Liability.

The act is prompted by the exorbitant product liability premiums being charged the business community, especially small businesses. Both my small business subcommittee and the Interagency Task Force identified uncertainty in the product liability tort litigation system as one of the major causes of product liability difficulties. The act introduced today addresses that uncertainty; if adopted, it would provide uniformity in the major areas of product liability tort law that may affect the product liability rate-making processes.

Unlike many other tort proposals being considered by Congress or by State legislators, this act attempts to strike the much needed balance between the needs of injured persons, and the needs of the business community. While I am not convinced of the wisdom of each and every provision of this most extensive bill, the bill's total approach is predicated on a desire to provide a just and equitable process to all concerned.

However, there is a significant disagreement between the findings of my subcommittee and the administration as to who should enact a uniform product liability law. The act, as drafted by the Department of Commerce pursuant to its direction from the administration, is proposed for voluntary adoption by each of the States. However, this approach runs counter to the findings made by my small business subcommittee last Congress.

Product liability rates, to the extent that they are actuarially established (which at present is reported to involve merely 20 percent of all premium dollars, up from 10 percent 2 years ago), are determined on a national basis. Thus, any change to the tort law of a particular State will not represent a significant variance from the norm so as to impact product liability rates nationally. Moreover, a manufacturer in State X will still be subject to the laws of State Y if his product causes injury in that State. Hence, the standard of care owed by both product manufacturers and product users is presently uncertain at best, due to the substantial differences in the tort laws of the various States.

If we are truly to eliminate the uncertainty surrounding the tort litigation system, this might be achieved only through a uniform tort law applicable to all jurisdictions. Two ways that this might be achieved are through action by the National Conference on Uniform States Laws or through Federal legislation. The National Conference has indicated to the task force that it was "not interested" in undertaking such a project. Hence, it would appear that the desired uniformity might, as a practical matter, be achieved only through Congressional action. (If each State would attempt to adopt the uniform liability law, undoubtedly 50 different laws would result. For example, Connecticut has adopted three-fourths of the draft Uniform Product Liability Act.)

Accordingly, I am introducing this bill for congressional consideration as a vehicle to preempt existing State laws concerning product liability. However, this bill for all practical purposes incorporates verbatim the text of the Uniform Product Liability Act as drafted by the Department of Commerce. While a brief description of the act follows my remarks, an extended discussion of the various provisions of this act might be found at 44 Federal Register 62714 (October 31, 1979).

At this time I would also take this opportunity to commend the drafter of this law, Prof. Victor Schwartz, for an exemplary performance in his service with the Federal Government. His diligence and perseverance in getting this product out provides a model par excellence for all employees of our Government.

In all events, I would urge each of my colleagues to join me in supporting this most important measure. It offers the opportunity to make the tort laws of our Nation's States function in a manner most equitable to both product users and to manufacturers and others in the chain of distribution.

Description of the act follows:

THE HIGHLIGHTS OF THE ACT

A. SCOPE OF THE ACT

The Act preempts all existing law governing matters within its coverage. It replaces, rather than supplements, existing product liability law based on strict liability, negligence, and warranty in regard to claims based on personal injury and damage to property. On the other hand, it explicitly leaves actions for recovery of pure economic losses to the Uniform Commercial Code (*Section 103).

B. BASIC STANDARDS OF RESPONSIBILITY FOR MANUFACTURERS

The approach taken defines "defect" solely in terms of four specific categories of unreasonably unsafe products. A product may be unreasonably unsafe in construction, in design, because adequate warnings or instructions were not provided, or because it did not conform to an express warranty (*Section 104).

1. *Construction Defects.*—The Act holds manufacturers strictly liable for defects in construction, *i.e.*, mismanufactured products. A product is deemed unreasonably unsafe in construction if at the time it left the control of the manufacturer, it differed in some material way from the manufacturer's design specifications or performance standards, or from otherwise identical units of the same product line.

2. *Design Defects.*—With products that are allegedly defective in design, the Act adopts a fault standard. The fault standard is to be implemented through a process of balancing various factors which are set out in a formula which can be utilized as a jury instruction. The claimant must prove that at the time of manufacture, the likelihood that the product would cause claimant's harm or similar harms and the seriousness of those harms outweighed both the manufacturer's burden of producing a product with an alternative design that would have prevented those harms, and the adverse effect of that alternative design on the usefulness of the product. The Act also outlines some highly relevant evidence that the court and the trier of fact can use in making this evaluation.

3. *Duty to Warn.*—With respect to products that are allegedly defective because the product seller failed to provide an adequate warning or instruction with its product, the Act also adopts a fault standard. Again, a formula is utilized. The claimant must prove that at the time of manufacture, the likelihood that the product would cause the claimants harm or similar harms and the seriousness of those harms rendered the manufacturer's instructions or warnings inadequate, and that the manufacturer should and could have provided the instructions or warnings that claimant alleges would have been adequate. The Act then outlines some highly probative evidence that the court and the trier of fact can use in making this determination.

The Act indicates that the manufacturer does not have to warn about obvious dangers; an obligation to do so would diminish the impact of warnings that are necessary to assure safe handling of products.

The claimant must also prove that the warnings it alleges would have been adequate would also have been effective either because a reasonably prudent product user would have declined to use the product or because he would have used it in a manner so as to have avoided the harm.

The Act indicates that the manufacturer must act as a reasonably prudent product seller with respect to warning product users about dangers discovered after the product is sold.

Generally, the manufacturer must warn the actual product user. On the other hand, a warning to a person who may be expected to assure that action is taken to avoid the harm or explain the risk to the product user is sufficient. Thus, physicians may be warned about hazards connected with prescription pharmaceuticals, and employers may be warned about hazards connected with products when there is no feasible and practical way to warn employees, *i.e.*, products sold only in bulk.

4. *Express Warranty.*—With respect to products that do not conform to an express warranty, the Act adopts a strict liability basis. The trier of fact must find that the claimant or one acting on his behalf relied on the express warranty, that it proved to be untrue, and that this caused the injury. The express warranty must relate to specific characteristics or qualities of the product. The term does not include general opinions about, or praise of, the product.

C. BASIC STANDARDS OF RESPONSIBILITY OF PRODUCT SELLERS OTHER THAN MANUFACTURERS

1. The Act addresses the problem of excessive product liability costs for parties in the distribution chain other than manufacturers, *e.g.*, wholesalers, retailers, and distributors. These parties are frequently brought into product liability suits even though there is no intent to impose the ultimate damage award on them. This process is expensive and adds an unnecessary cost to products.

The Act defines "manufacturers" as product sellers who design, fabricate, construct, produce, make, or remanufacture a product or component part of a product prior to sale. A product seller that is primarily a wholesaler, distributor, or retailer of a product may be a manufacturer but only to the extent that it designs, fabricates, constructs, produces, makes, or remanufactures the product prior to its sale.

2. The Act requires product sellers other than manufacturers to exercise reasonable

care in their handling of products. The focus of judicial inquiry will be on the product seller's own conduct and whether it failed to use reasonable care with respect to that product. It will not be liable for construction or design defects that an ordinary prudent product seller would not discover. It will be responsible for conveying the manufacturer's warnings or instructions that are intended for the product user and will be liable for breach of its own express warranties. If the manufacturer of a defective product is out of business or not subject to judicial process, then the product seller will be liable based on standards of care applicable to a manufacturer (*Section 105).

D. UNAVOIDABLY DANGEROUS ASPECTS OF PRODUCTS

The Act shields product sellers from liability for defective design with respect to aspects of products that are incapable of being made safe at the time of manufacture. The manufacturer does have an obligation to warn or to instruct about dangers connected with its products that would be discoverable by a reasonably prudent manufacturer. Also, it may be subject to liability if it acted unreasonably in selling the product at all or if it expressly warranted that the product was free from risk (*Section 106).

E. RELEVANCE OF INDUSTRY CUSTOM, SAFETY OR PERFORMANCE STANDARDS, AND PRACTICAL TECHNOLOGICAL FEASIBILITY

In general, evidence of changes in a product's design, warnings, or instructions concerning the product, technological feasibility, "state of the art," or the custom of a product seller's industry or business occurring after the product was manufactured is not admissible to show that a product was defective. Such evidence may be admitted for other highly relevant purposes if alternative sources of proof are unavailable.

Evidence of custom in a product seller's industry existing at the time of or prior to manufacture, or of the product seller's compliance or non-compliance with a then existing non-governmental safety or performance standard, is admissible but is given no special evidentiary weight.

If a product seller proves that it was not within practical technological feasibility for him to make the product safer with respect to design and warnings or instructions at the time of manufacture so as to have prevented claimant's harm, it will, in general, not be liable for defect in design or failure to warn or instruct. "Practical technological feasibility" means the technical, mechanical, and scientific knowledge relating to product safety that was reasonably feasible for use, in light of economic practicality, at the time of manufacture.

There are important exceptions to this rule. The product seller may be liable if it acted unreasonably in selling the product at all; violated an express warranty; or failed to meet a post-manufacture duty to warn about the product (*Section 107).

F. RELEVANCE OF LEGISLATIVE OR ADMINISTRATIVE REGULATORY STANDARDS AND MANDATORY GOVERNMENT CONTRACT SPECIFICATION

If the injury-causing aspect of a product was in compliance with a legislative enactment or administrative regulation relating to design or performance, it shall not be deemed defective unless the claimant proves that a reasonably prudent product seller would and could have taken additional precautions. Conversely, if the injury-causing aspect of the product was not in compliance with such a standard, the product shall be deemed defective unless the product seller proves that its failure to comply was a reasonably prudent course of conduct under the circumstances.

Compliance with mandatory government contract specifications is a defense; on the other hand, when failure to comply caused the harm, liability will be imposed (*Section 108).

G. NOTICE OF POSSIBLE CLAIM REQUIRED

The Act requires attorneys who anticipate filing product liability claims to give notice to known product sellers against whom the claim is likely to be made. Similarly, product sellers must furnish claimants' attorneys with the names of the major parties in the chain of distribution. Failure to comply with this section results in the imposition of appropriate litigation costs (*Section 109).

H. LENGTH OF TIME PRODUCT SELLERS ARE SUBJECT TO LIABILITY

1. *Useful Safe Life.*—Product sellers are not subject to liability for harms that arise after the product's "useful safe life" has expired. "Useful safe life" begins at the time of delivery to a purchaser who was not engaged in the business of selling such products and extends through the time in which the product would "normally be likely to perform or be stored in a safe manner."

2. *Statute of Repose.*—In claims that involve harm caused more than ten years after the time of delivery to a purchaser who was not engaged in the business of selling such products, a presumption arises that a product has been used beyond its useful safe life. The presumption may be rebutted by clear and convincing evidence. The presumption will not apply if:

(a) the product seller expressly warrants that its product can be used for a longer period;

(b) the product seller intentionally misrepresents or conceals information about a product;

(c) the harm was caused by prolonged exposure to a defective product; or

(d) the injury-causing aspect of the product that existed at the time of delivery was not discoverable by an ordinary reasonably prudent person until ten years after the time of delivery, or if the harm caused within the ten-year period did not manifest itself until after that time.

3. *Statute of Limitations.*—The statute of limitations under the Act is two years from the time the claimant discovered or in the exercise of due diligence should have discovered the harm and its cause (*Section 110).

I. COMPARATIVE RESPONSIBILITY AND APPORTIONMENT OF DAMAGES

All claims under the Act are governed by the principle of comparative responsibility In determining the percentages of responsibility, both the nature of the conduct of the person or entity responsible and the extent of the proximate causal relation between the conduct and the damages are to be considered by the trier of fact.

Damages are to be apportioned severally and not jointly when a party is responsible for a distinct harm or when there is some other reasonable basis for apportioning that party's responsibility for the harm. Otherwise, a judgment is entered against each party liable on the basis of the common law rules of joint and several liability (*Section 111).

J. CONDUCT AFFECTING COMPARATIVE RESPONSIBILITY

1. *Failure to Discover a Defective Condition.*—A claimant is not required to have inspected the product for a defective condition. However, if he is injured by a product with a defective condition that would be apparent without inspection, his damages are subject to reduction.

2. *Use of Product With a Known Defective Condition.*—When a claimant knew about a product's defective condition and voluntarily used it, his damages shall be subject to reduction to the extent that the trier of fact determines that the claimant acted unreasonably under the circumstances.

3. *Misuse of a Product.*—When a product seller proves that product misuse caused claimant's harm, the claimant's damages are subject to reduction or apportionment to the extent that that misuse was a cause of the harm. "Misuse" occurs when a product is used in a manner that would not have been expected of an ordinary reasonably prudent person who was likely to use the product in the same or similar circumstances.

4. *Alteration or Modification of a Product.*—When a product seller proves that an alteration or modification of the product caused claimant's harm, damages shall be subject to reduction to the extent that the alteration or modification was a cause of the harm. An alteration or modification occurs when a party other than the product seller changes the design, construction, or formula of the product, or changes or removes warnings or instructions that accompanied or were displayed on the product. The defense does not apply if the product seller authorized or consented to the alterations or modifications or if the product seller would have expected an ordinary or modifications in the same or similar circumstances (*Section 112).

K. MULTIPLE DEFENDENTS—CONTRIBUTION AND IMPLIED INDEMNITY

A right of contribution exists under the Act between or among two or more persons who are jointly and severally liable whether or not judgment has been recovered against all or any of them (*Section 113).

L. RELATIONSHIP BETWEEN PRODUCT LIABILITY AND WORKER COMPENSATION

Neither the employer nor its Worker Compensation carrier shall have a right of subrogation against the product seller. A judgment rendered against a product seller shall be reduced by the amount paid as Worker Compensation benefits for the same injury, plus the present value of all future Worker Compensation benefits payable under the Worker Compensation statute.

On the other hand, the Act preserves the employer's Worker Compensation shield and does not permit a product seller to bring a contribution claim against him. The approach substantially reduces current litigation costs without diminishing an employee's right to recover in a product liability claim (*Section 114).

M. SANCTIONS AGAINST THE BRINGING OF FRIVOLOUS CLAIMS AND DEFENSES

Any party to a product liability claim may seek reimbursement for reasonable attorneys' fees and other costs that would not have been incurred but for the fact that the opposing party pursued a claim or defense that was frivolous. Under the Act, a claim or defense is considered frivolous if the court determines that it was without any reasonable legal or factual basis (*Section 115).

N. ARBITRATION

In general, when the amount in dispute is less than $50,000, any party may by motion institute a pre-trial arbitration proceeding. The Act provides that a party dissatisfied with the arbitration results may demand a full trial. However, the results of the arbitration will be admitted in evidence, and if the party who demanded the trial fails to obtain a judgment that is more favorable than one rendered in the arbitration proceeding, it will have to pay the cost of the arbitration (*Section 116).

O. EXPERT TESTIMONY

The Act gives the court power to make use of court-appointed experts. It also provides, in appropriate cases, for a "pre-trial" expert screening procedure. The purpose of the procedure is to prevent unqualified experts from testifying at trial (Section 117).

P. NON-PECUNIARY DAMAGES

The Act reminds the court of its inherent power to review pain and suffering and other non-pecuniary damage awards for excessiveness. In an optional provision, non-pecuniary damages are limited to $25,000 or twice the amount of pecuniary damages (whichever is less), unless the claimant has suffered serious, permanent, or prolonged harm (*Section 118).

Q. THE COLLATERAL SOURCE RULE

The Act provides that product liability awards shall be reduced by any compensation received from a "public source." The term "public source" denotes a fund more than half of which is derived from general tax revenues (*Section 119).

R. PUNITIVE DAMAGES

The Act provides that punitive damages may only be awarded if the claimant shows by clear and convincing evidence that the harm resulted from the product seller's reckless disregard for the safety of product users. The Act also provides that while the jury may determine whether punitive damages should be awarded, the court must make the determination as to the amount of those damages. In making this determination, the court is instructed to consider the total effect of other punishment imposed or likely to be imposed on the product seller as well as other relevant factors (*Section 120).●

DISSENTING VIEWS ON THE CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979, H.R. 5860

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. STANTON. Mr. Speaker, soon the Congress will consider legislation that would grant Federal loan guarantees to aid the Chrysler Corp. Before this issue is debated on the floor of the House of Representatives, I urge my colleagues to view this excerpt from the dissenting views which are part of the committee report on H.R. 5860.

The excerpt follows:

Disssenting Views

Introduction

No one likes to see a company go out of business, even when there may be legitimate, if unfortunate, reasons for its demise. A business failure greatly impacts the lives of people directly and indirectly associated with the enterprise. There is no question that the failure of a corporation the size of Chrysler will affect the livelihood of thousands of people. Nonetheless, we have considered the personal and social costs of a Chrysler collapse and have concluded that this loan guarantee program is not in the best interests of the nation as a whole.

The factors that weigh against Federal loan guarantees to aid Chrysler are many. Consideration should be given to the precedent that is being established as well as the criteria which either are or are not being used to judge the financial conditions of failing corporations. The economic risk associated with this particular bill is too great, particularly when many of the economic assumptions that underpin the proposal are under serious challenge today. Many of Chrysler's constituents who have an economic stake in the survival of the corporation have been unwilling as of this moment to extend any further credit or assistance. Much of the basic information that Congress should have before passing judgment either is not available at this time and will not be available for several months or is extremely vague. In connection with the current problem, the Committee has failed to study the long-term impact on Federal loan guarantees upon credit allocation and inflation. The impact of government regulations of the automobile industry, together with a study of the costs and benefits of those regulations, have gone unnoticed in the present situation. The alternative of a Chapter 11 reorganization of Chrysler under the new bankruptcy code is one that has not received adequate study. For these reasons the Chrysler Corporation Loan Guarantee Act of 1979 should not be approved.

Finally, we would like to emphasize that our opposition to granting any Federal assistance to the Chrysler Corporation is not a partisan issue. Indeed, a review of the Committee vote to report the legislation shows that five majority members voted against the bill, while three minority members voted in favor of the Administration's proposal. Many prominent republicans, such as former President Gerald Ford and William Brock, Chairman of the Republican National Committee, have been in touch with many minority members in support of Chrysler's position. So the record should be clear that while Chrysler may have political problems in selling its proposal, these problems are by no means partisan ones.

A DANGEROUS PRECEDENT

Whatever action the House of Representatives takes regarding Chrysler Corporation, there should be no mistake about the precedent that the House will be creating. Clearly, we are establishing precedents of both a procedural and substantive nature.

Procedurally, if Federal assistance to Chrysler is granted by the Congress it will be the first time that specific loan guarantees are awarded prior to the presentation of a complete and financially sound economic plan for the borrower's survival. In the case of both the Lockheed Corporation and New York City, such plans were presented in a completed form before Federal assistance was forthcoming. In the case of the Chrysler Corporation, however, under Sec. 3 of H.R. 5860, only "satisfactory" operating and financing plans are required to be submitted to the Secretary of the Treasury prior to his guaranteeing any loans, and even these plans will not be available until some time next year. Congress should have something more than just a "satisfactory" financing plan before it reaches a decision on this proposal.

Substantively, there is another precedent which should be acknowledged. Proponents of this legislation point to the examples of Lockheed and New York City as precedents for deviating from the free enterprise system in certain extreme cases. Yet, legitimate national defense issues were at stake in the Lockheed guarantee while financing to New York City consisted of loan guarantees to another governmental entity. More importantly, in the case of New York City, general tax revenues provide some guarantee of funds for loan repayment. With Chrysler, there is no guarantee of income to be available for debt service. The precedent that is being established with the Chrysler Corporation is the bailout of a company that has failed in the consumer market. With consumers having made their choice, is it our role to reverse their decisions by an allocation of credit to a firm which may yet fail to compete in the marketplace?

Where do we draw the line? What criteria do we use to determine who gets what, when, how much and why, for what reasons? These questions have not been answered in either a specific or broader context. If we start today with the Chrysler Corporation, who will we see tomorrow? Recent press reports indicate that Conrail, the government-subsidized private railroad which arose from the remnants of the bankrupt Penn Central and six other ailing railroads, is on the verge of bankruptcy after more than $1 billion of accumulated losses over the past three years. Ford Motor Company, which steadily has been losing its market share in the last few years, privately has forecast a loss of more than $1 billion in 1979 and about as much next year in its North American automotive operations. Before we legislate blindly, we must be aware that these and other companies may be supplicants for the Federal dollar in the future.

THE FEDERAL ASSISTANCE TO CHRYSLER—THE RISK IS TOO HIGH

One of our great objections to the issuance of Federal loan guarantees to Chrysler is the risk associated with this plan. There is a high probability that Chrysler will not survive even after it receives Federal assistance. In fact when pressed on this point in his appearance before the Committee, Secretary of the Treasury G. William Miller saw a reasonable probability for the success of this plan but admitted that ". . . I don't think that anyone can give a guarantee [that the plan will work] because none of us can predict what will happen."

The uncertainty associated with the bailout of Chrysler rests on the several assumptions which are incorporated into the rescue plan. If any of these assumptions prove to be even slightly off, then the chances of the corporation remaining solvent even with Federal assistance are seriously jeopardized.

One of the key assumptions in the Chrysler plan is that Chrysler will increase its share of the auto market by two per cent by 1984. Unfortunately, the prospects for this increase are not bright. During his appearance before the Committee, Alan Greenspan, a former Chairman of the Council of Economic Advisors called such an increase in market share "rare." Moreover, just last week when he appeared before the Senate Banking Committee, Lee Iacocca, Chairman of Chrysler, admitted that company has already reduced its forecast of the total U.S. car market in 1980 to about 9.3 million units, down from the 10.5 million units it had relied on earlier. If this trend continues into 1981 he stated that Chrysler's cash flow projection and profit-improvement plans probably would collapse and the company would be forced out of business. Thus, a basic assumption on which this rescue plan is predicated already has been questioned by Mr. Iacocca himself.

The shaky nature of the market projections or Chrysler's market penetration assumption and its implications for the Chrysler legislation were revealed through repeated questioning by Congressman Green. Mr. Green asked the Treasury Department to project the future of the Chrysler Corporation based on all the Corporation's assumptions except the penetration assumption. Instead of assuming a two percent increase, he asked the Treasury Department to assume that the market penetration would remain stable at approximately 10.2 percent. Treasury's computation then indicated that the company would fall short of its cash needs by approximately $750,000 even with the proposed Federal assistance of $1.5 billion.

A second key assumption in the plan as adopted by the Committee is that the nation's economy will not suffer any unexpected shocks during the next few years. Since automobiles are a consumer good, sales are naturally tied to the health of the economy. A drop in consumer confidence, a deeper recession or another oil embargo obviously would result in a lowering of car sales. If car sales for the last month are any indication, we already are beginning to see this occur. Yet, how can our Committee or the Congress insure that we will not experience any unexpected economic shocks during the next few years? In fact we are presently embroiled in a situation with Iran which may have dire consequences on our economy. Thus, if the nation were to experience some unexpected economic setback, the $1.5 billion in Federal guarantees would be totally worthless.

These are just two of the underlying assumptions in the plan as passed by the Committee. Others existed and many are subject to similar challenge. Unfortunately, time did not permit any objective analysis of these assumptions. Each member needs to ask himself, therefore, if the risk associated with this plan is one he wishes to impose on the nation. Needless to say, it is a risk which we have decided not to accept.

THE ROLE OF CHRYSLER'S CONSTITUENTS: CONCESSIONS FROM WHOM?

The proposed bill correctly requires that "persons with an existing economic stake in the health of the Corporation" make specific financial commitments or concessions to aid Chrysler. Such persons are defined in the legislation as "banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, state, local and other governments, and others directly deriving benefit from production, distribution and sale of products of the Corporation."

To date, however, none of these persons with an economic stake in the future of Chrysler—with the exception of an unspecified amount from the State of Michigan and $200 million in deferred payments to the UAW that are to be recaptured at the end of the three year contract—has ocntributed any specific aid. "We don't know how much is required or will be required from each party," Deputy Secretary of the Treasury Robert Carswell testified at the full Committee hearings, "because . . . there is just no way to tell who's coming forward with what at the moment." Private conversations with bankers reveal that any unguaranteed lending to Chrysler would not be considered as a "prudent" banking risk. Suppliers, many of whom have been waiting over 120 days for payment by Chrysler on 30-day contracts, increasingly are reluctant to extend any further credit to the stricken company.

During the course of the full Committee hearings on H.R. 5860, the true costs of the newly ratified Chrysler-United Auto Workers labor contract were first revealed. Although the UAW contract with Chrysler is $200 million less than wage pacts with Ford Motor Company and General Motors, Mr. Gerald Greenwald, Chrysler's Executive Vice President and Senior Financial Officer, responded to a question posed by Mr. Stanton that the new contract was "in excess of $1 billion" above and beyond the old contract. Two days later when testifying before the Senate Banking Committee, Alfred Kahn, Chairman of the Council of Wage and Price Stability, stated that the new contract will cost $1.3 billion more than the old contract over the next three years. Previous press reports quoted Chairman Kahn who labeled the Chrysler-UAW wage agreement as "inflationary" and "outrageous." Further, Kahn was reported to have declared: "The UAW-Chrysler contract does not remotely approach the kind of sacrifice the affected parties have got to demonstrate as a condition of being bailed out."

Later, in a letter to our colleague, Jim Blanchard of Michigan, Chairman Kahn clarified his earlier remarks by stating that his condemnation of the wage pact in no way lessened the Administration's support for its proposal to aid the Chrysler Corporation. "The point I tried to make on Saturday was quite simple: the financial concession made by the UAW in the contract it signed with Chrysler are not, in my view, adequate to meet the requirements of the legislation the Administration supports," stated Kahn in his letter of November 12, 1979; "I firmly believe the union must be more forthcoming in its financial commitment to assist the Corporation in achieving financial solvency."

Two questions must be raised. First, are Chrysler's constituents willing or able to make the sacrifice that is required to save the corporation? An examination of commitments made to date leads the observer to a negative conclusion. Banks, suppliers and Chrysler's own workers—collectively the major part of Chrysler's constituency—at this point appear to be unwilling to go the distance to put together the $1.5 billion financing package that Chrysler must have in place before any Federal loan guarantee is forthcoming. If this is so, then no Federal assistance will flow to the Chrysler Corporation and this exercise then becomes moot.

The second, and more important, question is: is the Congress being asked to approve a $1.5 billion Federal assistance program—which ultimately must be underwritten by the U.S. taxpayer—to a private corporation so that that corporation can afford to pay an additional $1.3 billion to its workers? The figures are surprisingly similar. One must wonder what Chrysler's financial situation would be today if the union had agreed to a wage freeze in the next few years, a precedent which Eastern Air Lines and The Washington Star successfully implemented in the recent past. It seems incredulous that a labor contract calling for this substantial wage increase would be concluded by the management and the union when the company is on the verge of bankruptcy. Certainly, Congress cannot approve such a program in good conscience when the economic realities of the situation are so apparent. . . .

GROWING CONCERNS OVER FEDERAL LOAN GUARANTEES

Throughout the course of debate on the Chrysler debate, little attention has been paid to the long-term impact of federal loan guarantees. Historically, government loan guarantees have played an important role in stimulating economic activity and allocating economic resources, particularly to the housing and agricultural sector. Recently, however, the nature of loan guarantee programs and proposals has changed dramatically. As the risk associated with these guarantees increases, questions are raised concerning how the guarantees should be used and how they should be controlled . . .

The rapid growth in loan guarantees also causes concern. The value of guarantees last year was double what it was in 1970 and will approach $350 billion by September, 1980 . . .

At the Subcommittee's hearings, Dr. Alan Greenspan, former Chairman of the Council on Economic Advisers, pointed out that there are long-term impacts and indirect costs—such as higher inflation due to an excessive amount of credit preemption on the part of the government—associated with federal loan guarantee programs. Everyone should be aware that the true costs of Federal credit programs are their adverse effect on prosperity and future economic growth caused by the allocation of capital away from its potentially most productive uses . . . This scenario is what Congress should consider each time that it is asked to extend further the full faith and credit of the United States. Given this consideration the inflationary impact statement in the Committee Report of this bill should be scrutinized carefully . . .

CONCLUSION

We think it should be obvious in conclusion that this legislation is flawed in numerous ways.

First, there are really valid questions of whether the Federal government should move in to "rescue" a private corporation from failure regardless of the human and social costs we know will occur. There has been widespread discussion on the "worst case" situation arising from a failure but your Committee has not considered the ameliorating effects of unemployment benefits and the possibilities of continuing operations under bankruptcy or any of the less severe consequences.

Second, we are disturbed by the failure to adequately consider alternatives to this plan. The conventional wisdom is that we have our choice of this plan or bankruptcy. We are not so sure that is correct. For example, would not guarantees of 75 to 80% of the loan amount, leaving the lender with some risk and therefore a continuing interest in Chrysler's performance, be preferable to the 100% guarantee proposed here? We know lenders have specialists with expertise that far exceeds anything Treasury supervisors can expect to develop on short notice. Harnessing this existing expertise to monitor Chrysler's performance seems like a good idea which would enable us to minimize government intervention in the corporation's activities but to our knowledge no thought has been given to this approach. . .

Third, the assumptions underlying the presumption that $3 billion of assistance will revitalize the Chrysler Corporation are seriously flawed. Current developments with respect to Iran, the international oil markets, the national economy and the automobile market in particular all mitigate against the achievement of goals assumed to be achieveable in the underlying rationale for this bill. . .

Finally, one cannot help but wonder how Congress can be expected to approve this legislation at this time. As it stands now the proposal is open-ended with no assurances to protect the taxpayer. Until such time as all those persons with an economic stake in Chrysler's future are willing to make more of a sacrifice than has been made to date, Congress should be hesitant to proceed on this specific request. There can be no denying that a problem exists, but is Congress willing to commit itself and the nation's resources to a program of long-term Federal assistance? Perhaps the legislation should be sent back to Committee until such time as the complete picture of Chrysler's financing needs is known and the local financing is in place.●

EPPS AGAINST THE WALL—EL MONTE, CALIF. FAMILY SPEAKS OUT

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. ROUSSELOT. Mr. Speaker, each of us in the Congress is faced with the constant challenge of maintaining our sensitivity to the needs and feelings of the people at home we represent. Therefore, the letters we receive from our constituents working outside the Washington "ivory tower" to earn a living for themselves and their families are invaluable in helping us to keep in tune with the times. In recent days, I have heard the same message from the small businessmen in my district, again and again. This message is coming from the people who run the businesses and meet the payrolls. It is coming from the people who fully recognize the dangers inherent in a philosophy that runs rampant in this city—a philosophy based upon the belief that the Federal Government can solve all of our problems and take care of all of our people all of the time.

Recently I received a letter from a family in my district—the Epp family of El Monte, Calif. The Epps own and operate a small business, Snow Foam Products, Inc. I believe that their sentiments are widely held by the hard-working American taxpayer and are, therefore, well worth sharing with my colleagues.

DEAR MR. ROUSSELOT: We are a small, family owned business, interested in profit for ourselves and our employees. We could afford to, and would pay our employees more salary if we didn't have to pay so much tax to carry able-bodied people on unemployment and welfare, as well as direct funded government programs such as CETA with which we compete.

As a direct result of our government sponsored welfare and unemployment programs, we have been unable to fill vacancies in our factory. Too many people have become dependent on these programs, and we are raising a generation unwilling to work. Surely these programs were meant to tide people over a bad time, not to make permanent guests of the government out of them.

F. RICHARD EPP
CLAUDE H. EPP
LOIS L. EPP
CAROL L. EPP
CHRIS EPP

As I am certain the Epps will testify, the tax burden on small business is enormous and often crippling. The unemployment compensation tax is an increasingly heavy burden, especially when combined with the escalating social security tax and general taxes to support so many Government programs to help the needy. Recently the Institute for Socio-Economic Studies, working with Pace University, studied the profusion of overlapping and sometimes contradictory benefit programs. The study turned up 182 individual programs which last year cost a staggering $248.1 billion—that's a billion dollars more than the entire Federal budget in 1973. No wonder taxes must keep rising and no wonder the Federal budget will have a deficit of at least $30 billion this fiscal year.

Furthermore, these programs have not proven to be successful. A recent report issued by the General Accounting Office discusses the unemployment compensation system and discloses that the present system encourages people to: (1) be unemployed longer, (2) exhaust compensation, and (3) quit their most recent jobs. Clearly, the unemployment compensation system needs to be studied, evaluated, and reformed to correct these inequities.

In an attempt to improve our country's welfare system and to eventually reduce the cost of the aid to families with dependent children program (AFDC), I joined with 17 of my colleagues in introducing the Family Welfare Improvement Act (H.R. 4460). This bill, and a similar Senate bill introduced by Senators LONG and DOLE, was intended as a positive alternative to traditional welfare "reform" proposals which seek total federalization of the welfare system and which call for larger and larger expenditures. Unfortunately, our efforts have not yet met with success, and the administration's more traditional welfare "reform" proposal was adopted by the House. In my opinion, the administration bill does not contain the requisite keys for a sensible assistance program: Cost controls, help only for the needy, jobs for the able-bodied, and the elimination of fraud. In fact, if enacted, the administration bill will actually result in increased expenditures, waste, and fraud, and will not deliver adequate help to the truly needy.

I would, once again, like to call the attention of my colleagues to the sentiments and frustrations expressed in the Epp family letter. Remember that for every costly program that we institute or enlarge here in the Congress, there is a family like the Epps who will have to bear the burden of cost.●

SOCIAL SECURITY OPTIONS FOR THE FUTURE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, November 28, 1979, into the CONGRESSIONAL RECORD:

SOCIAL SECURITY: OPTIONS FOR THE FUTURE

The social security programs—old age, disability, and hospital insurance—are among the largest administered by the federal government. In 1979 about 35 million aged and disabled persons will receive approximately $104 billion in benefits. Another 27 million people will get more than $20 billion in hospital benefits. It is apparent that the financial health of these programs is something in which every American, whether young or old, has a stake.

Social security experts and actuaries believe that the important old age and disability insurance programs—what most people call "social security"—are basically secure and solvent for the next half-century. A 1977 law increasing revenues and trimming long-range benefits is the primary reason for the optimistic projection. Because of higher benefits induced by inflation and higher unemployment caused by a slowdown in the economy, however, the old age trust fund may be facing a temporary cash shortfall in the early 1980s. The recent allocation of too much money to the disability trust fund may also be undoing some of the repairs that Congress completed with its 1977 law. An unknown political factor clouds the immediate future of social security, too. There is some sentiment in this Congress for a rollback of the payroll tax increases which have so improved the financial footing of social security.

Congressional committees are aware of the problem and have studied several options for the future of social security. One alternative is to leave overall payroll tax schedules in effect but reallocate monies among the trust funds. A second plan is to find sources of revenue other than a payroll tax on workers and employers in the private sector. A third idea is to make selected reductions in benefits provided by social security. Finally, some legislators seem to favor income tax cuts to offset payroll tax increases. Each of these options has advantages and drawbacks, and each has supporters and critics.

Reallocation of monies: Congress might choose to make no change in the overall payroll schedule since even a modest rollback would result in a huge loss of social security revenue. Congress might also resist a rollback because income tax reductions enacted in 1978 will cushion the impact of payroll tax increases in 1979. A reallocation of monies to the old age trust fund from the disability and hospital trust funds, however, would mean substantially greater revenues for the old age program without any harmful effects on the other programs. Another way to reach the same end would be to allow the old age trust fund to borrow reserves on a short-term basis from the other trust funds. Although many Congressmen are reluctant to allow such borrowing for fear that it would become widespread, it might be allowed only when necessary and only if the borrowed reserves could be returned when needed.

Other sources of revenue: Congress could very well seek out sources of revenue other than a payroll tax on workers and employers in the private sector. There is considerable feeling that the level of the payroll tax is too high. One source, recommended by President Franklin Roosevelt in 1935, would be general government revenues. Congress has rejected such use of general revenues several times in the past, but the idea has never been completely forgotten. A major objection is that the use of general revenues might make social security look like a government "handout" instead of an earned right. Another suggestion is to use general revenues to cover hospital insurance, thus easing the burden on the payroll tax. Still another source of revenue would be workers and employers in the public and non-profit sectors who are not currently covered by social security. Legislation to extend coverage is pending in Congress, but it will have to be examined carefully to ensure that earned pension benefits are not lost.

Reductions in benefits: Congress could decide to trim social security costs by making selected reductions in benefits. For example, marginal benefits that have crept into the system over the years, such as the burial benefit and the dependent or survivor benefit for children over 18, could be cut or eliminated. As more women enter the labor force, spouse benefits might be phased down. Then, too, more far-reaching reductions have been discussed. A bill could be passed to raise the retirement age over a period of many years, or the annual cost-of-living increase—a critical factor behind higher costs—might be placed under certain limits. A reduction in benefits, however, is very unpopular as a way to economize in any government program.

Income tax offset: Congress could tackle the social security problem by cutting the income tax to offset increases in the payroll tax. There are at least two alternatives to be weighed. More simply—and as it did last year—Congress could enact an income tax cut sufficient to soften the impact of the payroll tax hike. A more complex move would be enactment of new legislation to permit a full or partial credit against income tax for payroll tax owed. Such a credit for employers would be provided by a bill now pending in Congress.

As it looks at the future of social security, Congress does not find easy choices. But in the past Congress has shown that it will take tough steps to preserve and enhance the financial integrity of social security. My belief is that Congress will choose one, or some combination, of these four options to maintain the soundness of the system. Social security is too important to too many people for Congress to do otherwise.●

THE WORLD WAR II JAPANESE-AMERICAN HUMAN RIGHTS VIOLATION REDRESS ACT

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. LOWRY. Mr. Speaker, on February 19, 1942, soon after the United States entered World War II, President Franklin D. Roosevelt issued Executive Order 9066. By doing so, the U.S. Government violated the constitutionally guaranteed rights of 110,000 Americans. This Executive order and other related administrative, congressional, and judicial orders forced Americans of Japanese ancestry residing on the Pacific coast to submit to relocation and confinement in detention camps. No concern was shown for the basic rights to due process. Individuals were torn from jobs and had educations interrupted. Homes, farms, and businesses were abandoned in compliance with relocation directives. In the camps, internees were crammed into barrack-like living quarters, their time and activities severely regimented and restricted. Freedom of movement was dictated by the barbed-wire fences that surrounded the compounds. For those Japanese-Americans who were interned, normal business, family and community life ceased to exist.

This total disregard for due process was supported by a belief at the time that the U.S. security was threatened from within. Fundamental legal procedures and principles were swept aside by all levels and branches of government. The voice of reason was not heard. Racial prejudice fueled by wartime hysteria allowed Japanese-Americans to be singled out and persecuted. Their loyalty to the United States was held suspect and questioned before the world. Over two-thirds of those interned were American citizens, and the vast majority of the others were resident aliens—legal guests in our country. There were never any direct accusations against individuals, no formal arrests, no trials. Not a single person was ever convicted of any crime in connection with his or her internment. The average internment period was about 3 years. This was truly an inglorious chapter in the history of our country.

Over the years, a general acknowledgment has emerged from the American Government and the American people that a grevious injustice had been perpetuated against Japanese-American citizens and others of Japanese ancestry during World War II. Numerous Government officials, private organizations, and individuals have come forth to acknowledge this gross violation of civil rights, and to resolve that such an act must never be allowed to reoccur. While those admissions and acknowledgments of wrongdoing do serve to bring visibility to the injustice of internment, I believe that stronger measures are necessary to provide fair redress and to insure the continued integrity of constitutional rights and procedures. Significant compensation to those interned for material and personal losses must be made.

To this end, I am introducing the World War II Japanese-American Human Rights Violations Redress Act. Its purpose is to first, assure that this Nation will never again allow the mass violation of civil liberties of citizens and legal residents of the United States; and second, make a direct financial reimbursement to the people who were interned as a minimal repayment for their losses incurred.

The serious abuse of governmental power that caused the unfair imprisonment of 110,000 Americans must be condemned in the strongest possible manner. We must clearly admit our mistake and make redress to the people who were harmed. America cannot afford to do less.●

A TIME CAPSULE ITEM

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. MICHEL. Mr. Speaker, occasionally we read of the burial of a time capsule containing artifacts and documents reflecting the life of our times. It is hoped that these capsules—the most famous of which was buried at the site of the New York World's fair in 1940—will be unearthed centuries hence and give future generations some idea of the way we were.

I recently came across an item that should be included in the next time capsule. It is the familiar "Labor Letter" column that appears weekly on the front page of the Wall Street Journal. In small, informative paragraphs, the Labor Letter offers interesting items from the world of labor and industry.

This specific Labor Letter tells us that teacher strikes will grow and hit a peak this year, that courses in economics are replacing courses in religion and sociology among undergraduate students at Princeton and that corporations are relying more and more on "planning staff" to try to find out what the future will be like.

What will those living in the next century make of the item telling of a Labor Department plan for job-training funds for "native Americans"? Will those living in, say, the year 2079, understand why the Wall Street Journal had an item dealing with "sexual harassment on the job" in its labor column?

Who knows? In any event, I want to include in the Record this little piece of our time, "Labor Letter" from the Wall Street Journal, November 27, 1979:

LABOR LETTER: A SPECIAL NEWS REPORT ON PEOPLE AND THEIR JOBS IN OFFICES, FIELDS AND FACTORIES

Sexual harassment by supervisors and fellow employees worries employers.

Most employers still dismiss it as a non-issue; "You'll always have some boy propositioning a girl one way or another," says the president of Standard-Coosa-Thatcher Inc. Still, a small but growing number express concern about harassment and the legal and psychological problems it generates. "It's obvious that some people use their position to demand such things, and to think it doesn't happen is naive," says an Eastern Airlines spokesman.

Some concerns—among them, PepsiCo and General Foods—ponder adopting formal policies to deal with sexual harassment. Revlon Inc. two years ago warned that harassers would be fired; Dayton Power & Light Co. says it once dismissed an employee who made off-color remarks to female employees.

One problem is defining harassment. "Calling someone a 'girl'—that's considered sexual harassment by some," says a CPC International executive.

Employee benefits will expand in the 1980s despite concerns about costs.

That's the view of William M. Mercer Inc., the large consulting firm, which surveyed chief executives of 2,500 companies. About 70% said rising costs are the biggest benefits problem they face, but 59% expect to expand their benefit programs. Most of the expansion will come in pensions, pre-retirement counseling and specialized care such as dental and legal plans, the survey indicates.

About 46% of those surveyed expect the greatest internal pressure for expanded benefits to come from middle managers, while 43% listed blue-collar workers. Amcng "external pressures," the most often cited were labor unions and the federal government. But only 0.1% want to see greater government regulation of pensions.

Teacher strikes seem sure to hit a record this school year.

There have been 199 teacher strikes in 18 states since the current school year began, according to the latest unpublished tally of the National Education Association, the largest teacher union. The record for an entire school year—set in 1975–1976—is 203 strikes. "Its inconceivable that this year's total won't exceed 203," declares an NEA source.

Of the 199 strikes, 168 were by NEA affiliates, 25 by the American Federation of Teachers and six by the American Association of University Professors. Money was the key issue in most of the strikes. Student discipline, class size, preparation time and protection from student violence also played roles.

The longest strike this year began Sept. 17 in Ringgold, Pa., and is still under way; it has idled 242 teachers and kept 5,000 students out of class.

Boon-docs: Arkansas, grappling with the shortage of doctors in small communities, passes two new laws. Under one, doctors in communities of 6,000 or fewer people could get loans up to $150,000 to build clinics. The other provides for annual income-supplementing grants to such doctors of $6,000 for six years.

Incentive pay to motivate executives is becoming more and more prevalent in the banking industry, says a survey by Towers, Perrin, Forster & Crosby, New York. About 94% of respondents in a recent survey reported use of such incentive compensation, compared with only 78% in a 1977 study.

Money matters: Among the 11 Princeton University courses with the heaviest enrollment are three dealing with economics, the university reports. A decade ago, at the height of student uprisings, economics was a low priority, while religion and sociology held places on the popularity charts they no longer enjoy.

As goes Meany, so goes his longtime spokesman, Albert Zack. Now that Meany has stepped down as AFL–CIO president, Zack, 62, the federations PR director since 1957, plans to retire, too—on Jan. 10. A successor hasn't been picked, although Zack's son and assistant, Allen, is considered a leading candidate.

Corporate planners increase in number and importance at many firms.

According to a study sponsored by Johnson, Smith & Knisely, a New York-based recruiting firm, more companies are expanding planning staffs, which try to determine the shape of the future and how companies should respond to it. Of 300 large companies surveyed by Stuart Matlins Associates, New York, 54% increased their planning staffs; the number of planners at all respondent companies jumped by 30%.

The survey also showed that planning staffs responsibilities had changed at 70% of the companies, with 90% of those bolstering the planning function. The researchers attribute the change to the greater complexity of doing business, especially for the growing number of conglomerates.

The study indicates that 53% of companies will increase their planning staffs during the next two years, with total staffers increasing by 16%.

The checkoff: Officials of much-maligned Hoboken, N.J., threaten to refuse to recognize the AFL–CIO unions in retaliation for AFL–CIO chief Kirkland's remark comparing being outside the AFL–CIO to being in Hoboken. . . . The Labor Department earmarks $168 million in fiscal 1980 job-training funds for Indians and other "native American" groups. . . . Catholic University of America center for national policy review launches a new publication to monitor the federal governments "job-related programs."

ROBERT W. MERRY. ●

CHICANA WOMEN HAVE MULTIPLE OBSTACLE TO HURDLE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mrs. SCHROEDER. Mr. Speaker, as women continue to emerge to take their rightful place in the worlds of business, economics, and politics, we must remember that some women, due to cultural and ethnic definitions of a woman's role, have had even a tougher road to travel. In that light, I would like to submit an article from La Voz, a Hispanic newspaper in Colorado, that depicts clearly the obstacles faced by a Chicana and the progress she has made in overcoming those obstacles:

Torn between the vestiges of home-bound feminism where life is dictated by men and the Church and the economic pressures that force even Spanish women out into the job market, the Spanish-surnamed woman is still the minority of minorities. Studying Spanish-surnamed women in the United States today, one finds that as a group they are the lowest paid and most poorly educated, (See "Women of Spanish Origin in the U.S." D.O.L.).

La Chicana faces not only the hardships every minority person faces when trying to enter colleges or job markets of our Anglo-dominated society, but also the negative influences from her Chicano "brothers" and her Anglo "sisters" who feel her as a threat in an already tight employment situation.

For most Chicanas, the economic pressure to work does not lead to the glamorous ideal of self fulfillment through a "career," which is planned and developed, but instead leads to the the additional burden of a 40-hour job on top of domestic duties, like cleaning, cooking, mending, and ironing which the woman still is expected to do at home. Many Spanish men, themselves victims of the macho image, encourage their women to work, and they support the concept of upward mobility for Chicanas in professions but they fail to follow through when it comes to equality at home. They feel it is beneath them, or it is not their responsibility to wash dishes, for example.

One problem is that education is not stressed as a value in the Spanish home, especially higher education for women, which is considered unnecessary.

Another brake on the progress of upward mobility for Spanish women has been the Catholic Church which traditionally views the woman as mother and wife, not as an individual with needs of her own.

A third and major problem facing "La Chicana" is a general lack of visibility. Even though statistics show that Hispanics will be the largest single minority by the 1980's, presently Black models, beautiful, well-dressed, well-paid Black women, are used as "tokens" to depict all "ethnic" persons in product advertising.

Mujeres we have come a long ways from the days of nothing to look forward to but poverty and pregnancy. We have come an even longer way from ancestral days of grinding masa de maiz with stone mortars. However, we still have a long way to go towards goals of high paying jobs, professional careers, modeling careers and equality amongst all women. ●

TRIBUTE TO THE AMERICAN FARMER

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BEREUTER. Mr. Speaker, with only 4 percent of the population now farming, the concerns and problems of farmers are too often overlooked. The contributions and achievements of the American farmer must not be taken for granted, for agriculture forms the backbone of our economy. I would like to take this opportunity to call for bipartisan support of H.J. Res. 382, a measure I am cosponsoring to make March 20, 1980, National Agricultural Day. The primary purpose of National Agriculture Day would be to make nonfarmers more aware of American agriculture, its achievements, and the challenges it faces in continuing to feed the Nation and the world.

I would also like to share with my colleagues a thoughtful editorial which appeared recently in the Milford (NE) Times. The editorial is titled "Farmers Are an Asset," and I request that it be reprinted in full in the CONGRESSIONAL RECORD.

The editorial follows:

FARMERS ARE AN ASSET

National Farm-City week falls Nov. 16–22. Perhaps this should be a time that we take a look at the future of our country's largest asset—the future of the American farmer.

Cultivated farms that vanish in the wake of urban sprawl are not likely to be seen again. When pastures become parking lots and houses crowd the land where corn once grew, the loss to agriculture is irreversible.

Secretary of Agriculture Bob Bergland states: "The U.S. is losing one million acres of the world's best and flattest aggricultural land each year to urban sprawl. Before this century is out, we will pave over an area the size of Indiana."

The immediate consequence of farm land conversion is lowered food production at a time when demand for food is increasing at home and abroad.—It is predicted by the U.S. Department of Agriculture that the impact of farmland conversion will be felt in the form of reduced food supplies and higher prices as early as the turn of the century.

They predict that all food produced in the United States will be consumed here, that there will be a "real" price increase in food, not just an "inflationary" increase, food exports no longer will be available to help offset massive trade deficits, such as payments for foreign oil, and the hungry people of other nations will be on their own for food supplies.

So how does all of this affect us right now, in Milford, Nebraska, population 2,000. What it means is that we must not only appreciate our local farmers, we must also think toward the future and take precautions that we keep our local farmers.

Times are changing, and the American farmer may prove to be the most important asset we will ever have, more than the gold veins in South Africa, more than the iron-ore deposits in the Urals, and more than all the oil in Iran! ●

FOOD GETTING INTO CAMBODIA IS STILL FAR BELOW NEED

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. MAGUIRE. Mr. Speaker, the most recent reports from Cambodia indicate that while international efforts to feed the famine-stricken Khmer people continue, the amount of food being delivered is only a small fraction of the amount needed to avoid a continuation of a disaster of genocidal proportions. In the New York Times of November 26, 1979, Henry Kamm reports that in the first 3 months of relief efforts, the amount of food delivered is sufficient only to prevent starvation for 10 days. Such reports underline the urgency of the need in Cambodia and should spur our efforts to take whatever measures are necessary to save the 3 million people who now face death by starvation.

I insert Mr. Kamm's fine article:

[From the New York Times, Nov. 26, 1979]

FOOD GETTING INTO CAMBODIA IS STILL FAR BELOW NEED

(By Henry Kamm)

BANGKOK, THAILAND.—The international campaign to feed famine-stricken Cambodia through the Vietnamese-supported Government in Phnom Penh has delivered in the first three months of operation an amount of food sufficient to prevent starvation for 10 days.

The two organizations that are conducting the program on behalf of the Western world, the United Nations Children's Fund and the International Committee of the Red Cross, have delivered to the airport and river port of Phnom Penh and the seaport of Kompong Som about 10,000 tons. They estimate that 1,000 tons a day are the minimum requirement.

Negotiations, in which the two organizations have insisted on their eagerness and capacity to fill the need and the Government has impressed them with its lack of enthusiasm, began last spring and are continuing.

Meanwhile, visitors to areas of Cambodia controlled by the Phnom Penh regime and refugees reaching the Thai border testify to disastrous famine.

PHNOM PENH REGIME ADAMANT

Officials of the organizations are reluctant to discuss publicly the reasons for the inadequate performance, for fear of heightening their difficulties with the Phnom Penh authorities. But it is an open secret that the regime of President Heng Samrin and its backers, angered by the organizations' role in relief operations for Cambodians outside the area of the Government's control, refuse to allow their operations to reach the required scope.

Mr. Heng Samrin's attitude toward the two nonpolitical organizations was made graphic recently to a visiting American relief official. The American, hoping to make a good impression with the President and thus to obtain his consent to provide food for his people, said his group intended to coordinate its efforts with those of the Children's Fund, which is generally known as Unicef, and with the Red Cross.

The President's reaction was the opposite of what the American had intended. He delivered a long, angry tirade against the two organizations because they are feeding and providing medical care along the Thai-Cambodian border for about 600,000 Cambodians. They include, among destitute masses of noncombatants, several tens of thousands of soldiers of the deposed regime of Prime Minister Pol Pot and civilians living under the old regime's strict discipline.

In addition to offering the required amounts of food, the two international bodies have proposed a variety of equipment and services to reduce the problem of distribution in the devastated country, which is considered to be as vital to feeding the population as the food itself.

VEHICLES AND REPAIRS OFFERED

The offers include about 300 trucks, port and airport unloading equipment, repairs to the track and rolling stock of the rail line that links Kompong Som, the sole seaport, with Phnom Penh, and road repairs.

"The response is slow in coming," an official commented drily.

The Red Cross and Unicef have also offered the services of a variety of experts and technicians but have been limited to 11 staff members now working in Cambodia. They attempt to coordinate, as much as possible, the arrival of supplies and to monitor food distribution. The object of monitoring is to prevent the food from going to Vietnamese or Cambodian soldiers. No such monitoring takes place in the Thai border area.

In view of the distribution problem, officials have urged the Government to allow airlifts to the major provincial airports, in particular Kompong Chhnang, Siem Reap and Battambang.

They have accepted the Government's reluctance to allow Western planes to fly there, presumably to honor the secrecy that attaches to military operations conducted by the Vietnamese air force and possible Soviet supply flights for the 200,000 Vietnamese occupation troops. Thus they have suggested that a Communist country—East Germany has been approached—fly Western food there. A response is still awaited.

COMMUNISTS SAID TO BE AIDING

The Phnom Penh authorities suggest that adequate supplies are being received from Vietnam and other Communist countries. In particular, they assert that the Soviet Union has given Cambodia 200,000 tons of foods. All logistical experts agree that this figure is totally beyond what Cambodia could have absorbed.

Two weeks ago in Phnom Penh, a visitor heard constant comments from people who said that they were hungry and that the situation was much worse outside the capital. And the capital's airport and river port appeared to lack any of the activity or equipment that would indicate sizable freight handling.

Red Cross and Unicef officials have been unable to obtain from the Cambodian authorities an accounting of aid received from other sources. It is customary in major international relief efforts for donors to be informed of all concurrent aid programs.

As a result of the Government's inability to feed its people, the flow of Cambodians to the Thai border is thought to be greater now than ever before. Informal estimates put the number arriving every day in the two principal border camps at 7,000.●

THE FINANCIAL SITUATION OF PUBLIC LIBRARIES

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. WEISS. Mr. Speaker, the recent White House Conference on Library and Information Services represents an opportunity for thorough study and supportive action concerning the financial situation of public libraries across the country.

Senators KENNEDY and JAVITS last May introduced the National Library Act (S. 1124) which serves as a study bill enabling all interested individuals and groups to offer comments and suggestions on legislative initiatives to assist public libraries. The conclusions and recommendations of the White House Conference will serve as an important basis for future modification of the Senate bill.

The major aim of the Kennedy-Javits measure is to shift primary responsibility for funding public libraries from local governments to the Federal Government. The bill would also insure minimum per capita expenditure for library services to guarantee equal access to citizens in all communities throughout the country.

These seem to me to be essential steps toward strengthening our information resources. Our national welfare requires an educated and well-informed citizenry. This is, indeed, the very foundation for true democracy. Public libraries are singularly equipped to assist the Nation in reaching this goal by providing free communicative materials and services pertaining to every cultural, intellectual, and social aspect of our lives.

In the past few years, however, many libraries in various parts of the country have been forced by inflation and municipal budget reductions to cut staffs, eliminate some services, shorten hours, close branches completely, delay essential repair work, and cancel expansion● projects—all this at a time when library usage has been increasing.

The cost of buying, processing, and distributing information materials has risen faster than the overall inflation rate in recent years. Libraries have thus been caught in an especially tight economic squeeze as budgets have, at best, only kept pace with general rises in the cost of living.

According to the Urban Libraries Council which represents 95 libraries in the Nation's largest cities, public libraries purchased 31.9 million books in fiscal 1974; 29.7 million books in fiscal 1976 and only an estimated 28.4 million in fiscal 1977. This marks an 11-percent decline over a 3-year period. Simultaneously, acquisition of essential government publications—Federal, State, and local—has dropped 18 percent from 1.52 million to 1.25 million.

Distressing statistics such as these do not apply only to urban libraries. Rural facilities often cannot meet the standards set by the library profession because of inherent problems of inadequate resources, scattered population and, in some instances, difficult access. Libraries are often the only public agency for miles around in rural areas where people can receive assistance and information and participate in recreational programs.

Public libraries are meanwhile forced to compete with other municipal services for a shrinking budget dollar. Without increased Federal aid, it seems certain that many libraries will have to make additional reductions in coming years.

The recommendations resulting from the White House Conference offer some creative and effective solutions to this worsening dilemma. I urge my colleagues to consider these proposals carefully and to lend their strong support to the urgent effort to save a vital national resource: our public library system.●

H.R. 5753 STRENGTHENS NATIONAL GUARD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BIAGGI. Mr. Speaker, I want to express my strong support for the recent House passage of H.R. 5753, a bill to provide a new and growing segment of the National Guard with the benefits they rightfully deserve.

As part of a test program designed to improve our Nation's military training and readiness, the Department of Defense is increasing the number of full-time National Guard training support personnel. Unfortunately, due to an oversight in the law, National Guardsmen serving in this new capacity are not entitled to various Federal benefits, including medical care for dependents, and time credited toward retirement.

Clearly, this is not the intent of Congress, since all other National Guardsmen, when called to active duty for any other reason, are entitled to these benefits. The situation merely reflects a statutory oversight.

H.R. 5753 would correct this injustice by insuring that all National Guardsmen are treated in a fair and consistent manner.

Earlier this year, I joined a majority of my colleagues in voting against a proposal requiring 18-year-old males to register with their local draft boards. I opposed such a measure because I am not convinced that either resumption of the peacetime draft or registration would improve our overall defense capability.

Instead, I have long favored incentives that would help to strengthen our All-Volunteer Army, military Reserves, and National Guard, so they can be called immediately into service in time of national emergency. Adequately manned and efficiently trained Reserves are a necessity in order to protect the security of our Nation. It is for mankind that we seek security, because in security, there is peace.

Certainly, H.R. 5753 will provide such an incentive. The 2-year National Guard test program will end in July, and if the results are as expected, the Department of Defense will be attempting to significantly increase the number of full-time training support personnel. However, without adequate benefits, the job position will be unable to attract the necessary personnel.

Mr. Speaker, while H.R. 5753 provides for only a minor revision in current law, it will have a significant and positive impact on the capability of our National Guard. The House, by dealing with this issue in a prompt and responsible manner, has displayed real concern for the military preparedness of our Nation.●

REVENUE SHARING CONTINUES TO CONTRIBUTE TO INFLATION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. PAUL. Mr. Speaker, earlier this month the city council of Lake Jackson, Tex., my hometown, passed a resolution calling for the elimination of the Federal revenue sharing program. Pointing out that revenue sharing contributes to the problem of inflation, the city council noted that inflation is currently costing the city of Lake Jackson over $500,000 per year as compared to approximately $100,000 per year received in revenue sharing. I ask that the city council's resolution be printed in toto, and I congratulate them on the position they have taken.

The resolution follows:

RESOLUTION No. 79–R–148

Whereas, the City of Lake Jackson has always operated on a balanced budget; and

Whereas, unbalanced budgets are highly inflationary; and

Whereas, inflation is eating at the very fabric of our society; and

Whereas, inflation is currently costing the City of Lake Jackson over $500,000 per year as compared to approximately $100,000 per year received in revenue sharing;

Now therefore, be it resolved by the Council of the City of Lake Jackson, Texas:

That the City Council of the City of Lake Jackson, Texas, encourages the Federal Government to balance the federal budget in the belief that a balanced budget can restore confidence in the currency, and reduce the inflationary pressure which the federal government has put on the economy.

One of the ways that the cities and the Federal Government can work together to balance the budget is to discontinue revenue sharing. Revenue sharing presently costs us more in tax dollars, administrative overhead, and inflation than we are getting in return.

In recognition that immediate discontinuance of revenue sharing would injure those cities and local governments that are already dependent on the funds, we advocate that the program be phased out over a three year period with one-third of the funds being withdrawn each year over the next three years in equal measure from all State, City and other levels of local government. Furthermore, the reduction of these funds should be visibly reflected in a reduction of the Federal deficit.

Passed, approved, and adopted, this 5th day of November, 1979.

J. R. BIRDWELL,
Mayor,
City of Lake Jackson.●

THE BUDGET PROCESS AND INFLATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. DORNAN. Mr. Speaker, today's vote on the second budget resolution was a litmus test of congressional will on the issue of Government spending. Would the majority have had the conviction to at least keep expenditures at a level equal to the first budget resolution of May? But the utter failure to do so, given the state of the Nation's economy, leads me to conclude that the leadership of this body simply does not want to control spending.

The budget increased, in part, due to the 30 percent of the budget outlays which are tied to the Consumer Price Index. "Windfall" revenues increased at a more rapid rate, though, due to a 13-percent inflation rate. The fact of the matter is that $9 billion was added to the second resolution for new and expensive spending programs. Is this an example of "the restraint" of which this body's leadership speaks?

The annual budget process is a numbers game. Much of what we discuss is based on estimates, projections, and conjecture. But there is also an unquantifiable element: responsibility. Congress must retain the Nation's trust. With today's second budget resolution, the majority has demonstrated a determination to ignore the problems that plague our stagnant economy. While the country cries for economic restraint we see, instead, a repetition of the old deficit doctrine: Spend, spend, spend.

The American public is expected to marvel that Congress "held" the deficit to $29 billion for a second consecutive year. How arrogant to believe that the American people will somehow accept this as "austere."

My home State of California recently passed an initiative limiting the amount the Government may spend. The initiative passed three to one, a greater margin than that enjoyed by the landmark, tax-cutting Proposition 13.

The American electorate is speaking loudly and clearly. Our economy must be turned around immediately. At the very least, any additional revenues should be applied to reducing the Federal debt—not used as an opportunity to finance yet more projects. To deal with inflation, the budget should be balanced. To approach fiscal responsibility, the budget should be cut.

With the advent of the Budget and Impoundment Control Act of 1979, Congress was supposed to avoid unnecessary deficits. The rationale for prior deficits was that there was no general overview for budget planning. Money was appropriated for each department, or spending category, separately. There was no controlled plan, no means of determining the amounts that could be spent. Deficits that were incurred were, in effect, fiscal "accidents."

But today, Congress is told how much money it has to spend each year and yet our deficits are greater than ever. In the 5 years before budgetary planning, the Federal deficits were $3, $23, $23, $15, and $5 billion. In the 5 years since the budget process was initiated, the knowledge that more Government spending is creating greater Federal indebtedness does not appear to inhibit the actions of those who control the Nation's purse strings. That deepening Federal indebtedness is bankrupting the country is a fact blatantly ignored.

An alternative "Budget of Hope" was offered by the minority calling for a $20 billion cut in taxes and a $9.2 billion reduction in the deficit. The majority united to defeat this modest relief effort, refusing an opportunity to demonstrate a commitment to economic responsibility.

Congress must exert fiscal restraint to truly represent the will of the people. To put it bluntly, increasing Federal spending is increasing bureaucratic political control. Government must relinquish its grip over our people before the Nation and its economy sink in a mire of unproductive, inflationary spending programs.●

FEDERAL ENERGY WASTE

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. GUDGER. Mr. Speaker, as all of us know by now, the Government Operations Committee of this House has charged that the Federal Government, far and away this country's biggest consumer of energy, lags behind much of the Nation in energy conservation. Moreover, in its report issued on November 2, 1979, the committee contends that the Department of Energy itself has had "an abysmal record in energy saving." As the committee stated it, the Department of Energy has failed "to lead and inspire the American people to conserve energy by setting an appropriate example in terms of the Federal Government's own use of energy." Finally, the committee says that as far as the Department of Energy is concerned, the problem is one of "attitude and leadership."

We do not have to review all the statistical details of the committee's report to support a conclusion that its findings are alarming. News that the Federal Government itself cannot restrain its consumption of energy will only encourage many Americans to disregard President Carter's repeated calls for energy conservation. They will continue to burn gasoline and heating oil in the honest, if unfounded belief that the energy crisis is a myth. In the committee's words:

> The Federal Government's failure to conserve energy can only invite public cynicism and apathy toward administration exhortations on behalf of conservation.

The findings of our esteemed colleagues on the Government Operations Committee led me to send a letter to the President just before the Thanksgiving recess urging him to take the lead in insisting that all Federal Government departments and agencies, including the Department of Energy, respond to his own requests for energy conservation. The implications for energy of the appalling events in Tehran intensify the need for the President to exert his influence. Certainly, Americans will pay the costs of energy conservation more willingly and more cheerfully if they know that their Government is curbing its own consumption. I hope that some of my colleagues will join me in urging the President to take a strong hand.●

ZITA DONEGAN REMLEY—THE RENAISSANCE WOMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. ANDERSON of California. Mr. Speaker, on December 5, 1979, the many friends of Zita Donegan Remley will gather together to express their deep affection and admiration for this lady at a dinner to be held in her honor in Long Beach, Calif.

For over 50 years, Zita has dedicated her life to serving others, whether it be her family, her community, or her Democratic Party.

A native of Nebraska, Zita's first involvement in civic affairs came at the age of 14 when she became a charter member of the American Legion Auxiliary of that State.

Married in 1925, Zita spent the next years of her life raising a family. Sons Edgar, Noel, and Joseph have given Zita 14 grandchildren and five great-grandchildren.

As an active member of her community, Zita spends much of her time in civic affairs. She works tirelessly on behalf of Long Beach's senior citizens. She has also worked for the Home Services Division of the Red Cross. Zita also finds the time to give to numerous charitable organizations including the Ebell Club, a women's club in Los Angeles which raises funds for college scholarships, and the Catholic Daughters of America.

But it is perhaps in the political arena that Zita has found her greatest recognition. It must be remembered that in order for our two-party system to thrive, it is necessary for individuals to take key roles in maintaining its vitality. Zita Remley is such a person.

Zita has walked precincts, stuffed envelopes, made telephone calls, given voters rides to the polls, and has served as a babysitter while mothers would go out to vote.

Only those who have worked in political campaigns can truly know how tedious and taxing these things can be on an individual's energies. Zita has always been the one to cheer and encourage those who might otherwise give up. Her friendly attitude and her willingness to help have made Zita a valued friend.

In addition to her grassroots efforts, Zita has also served in many leadership capacities within the Democratic Party.

Over the years, she has been a member of the executive committee of the Democratic State Committee in San Francisco, Alhambra, and Long Beach. She is also a former president of the Democratic Women's Club of Alhambra and a two-term president of the Democratic Women's Club of Long Beach.

Aside from the innumerable local candidates she has assisted, Zita has also worked on behalf of such figures as Alfred E. Smith, Franklin D. Roosevelt, Adlai Stevenson, John F. Kennedy, Lyndon B. Johnson, Hubert H. Humphrey, ALAN CRANSTON, Richard Richards, John V. Tunney, Edmund G. Brown, Sr., Edmund G. Brown, Jr. and most recently, President Jimmy Carter.

My wife Lee joins with me in saluting this lady of widespread accomplishment for her contributions to the betterment of her community. We extend our sincere wishes to Zita for many more years of meaningful involvement in shaping her future by her participation in the electoral process.●

A TRIBUTE TO CHARLES BEAZLEY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. STARK. Mr. Speaker, it is a pleasure to bring to your attention a resident of California's Ninth District, Mr. Charles Beazley, now retiring as a trustee of the Amador Valley Joint Union High School District.

Charles Beazley brought his many talents to the Amador Valley School Board in 1967 after a long and productive career as a high school teacher, physical education coach, computer operator, and college registrar. At a conservative estimate, he has spent 453 hours sitting behind the board table working to improve the quality of education in Amador Valley.

Mr. Beazley's deep personal commitment to quality education is an inspiration to future school board members. I would like to share some of his thoughtful comments on school board service.

Keep asking yourself, "Why am I here?" The answer—despite collective bargaining and diminishing finances—is still "We're here for the students and for the staff." I think we need to keep reminding ourselves that as board members our task is to answer, "What can be done to give our students the best possible education?" For me, the answer is to keep the staff happy and to make sure they are doing their job.

Mr. Beazley's experience as both teacher and school board member has obviously given him invaluable insight into our educational system.

As a token of their high respect and appreciation for Mr. Beazley's valuable contributions to public education, the Amador Valley Joint Union High School District will honor Mr. Beazley with a banquet at the Willow Tree Restaurant, Dublin, on Wednesday, November 28, 1979. The students, parents, and teachers of Amador Valley could not have picked a finer person to honor.●

HUMAN RIGHTS—THE PHENOMENON OF DISAPPEARANCES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. DERWINSKI. Mr. Speaker, the Subcommittee on International Organizations, of which I am ranking minority member, recently concluded a series of hearings on "Human Rights—The Phenomenon of Disappearances." I regret that Mr. Huber Matos, recently released from 20 years in prison in Cuba for protesting the Communist takeover of the Cuban Revolution, was not available to testify on the disappearances in Cuba touched upon in the Washington Star, in its editorial of November 22, 1979.

The Star makes a second interesting point in its editorial in citing Matos' "warnings to the United States against giving the Castro government the benefit of American technology, investment and commerce, as it periodically suggested after American lawmakers and media stars have had get-togethers with El Hombre."

I think the Washington Star made some good points in the editorial worth being reprinted below:

THE HUBER MATOS MESSAGE

> Until recently, news of dissidents in communist countries all but skipped Cuba. China, yes; Czechoslovakia, yes; the Soviet Union, yes indeed. But, while there has been an active Cuban exile community in Florida and elsewhere in the United States ever since Fidel Castro took over, there has been almost no visible opposition to the regime inside Cuba.
>
> Among Cuba's political prisoners, though, there has been one human rights cause celebre: Huber Matos. This man, who left his job as a teacher to serve in the army fighting the Batista dictatorship, went to prison in 1959, charged with "implying that the revolution was communist."
>
> Huber Matos was, as Mr. Castro put it when he testified against him for six hours at his trial, "worse than a traitor: an ingrate." With the help of Amnesty International and worldwide agitation by other human rights groups for his release, the ingrate got off with 20 years of beatings and solitary confinement, often naked, in small concrete cells.
>
> He never broke under the pressures. Freed a month ago, he is in this country, beginning to recover his health and tell his story.
>
> And there it is again—the basic dissident story. In spite of what some analysts tell us about how cultural diversity individualizes

communist states, it is not much different from what has happened to Huber Matos' counterparts in China, the Soviet Union, Yugoslavia, Bulgaria, Poland, Romania or Vietnam.

The Castro explanation for the Cuban refugee colonies of the Southeastern United States is that they are all rich people trying to hold on to their privileges and stay on the CIA payroll. Mr. Matos insists that he doesn't belong in any such category; that he broke with the Castro movement when it could have set up democratic institutions in Cuba but chose instead to go communist and guarantee Mr. Castro's dictatorial powers.

The conditions Mr. Matos endured in his two decades of prison are, he says, still the fate of countless Cubans—countless because uncounted. For many people working on prison farms and in traveling forced-labor gangs like the one that built the imposing Soviet embassy in Havana, there are no records. These people simply disappear from history after arrest. The best-intentioned human rights groups cannot find out about them.

How many times have we been through that script with different ethnic trimmings? Mr. Matos' account of Cuba's economic squalor and subservience to the Soviet Union is equally familiar. So are his warnings to the United States against giving the Castro government the benefit of American technology, investment and commerce, as is periodically suggested after American lawmakers and media stars have had get-togethers with *El Hombre*.

At the same time, it's always news when the brave and honest potentialities of human nature stand up to the human penchant for cruelty and degradation. That message—the essential Huber Matos message—is one we can never hear too often.●

TERRORISM IN NORTH CAROLINA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. RANGEL. Mr. Speaker, I rise to express my outrage at the events that took place in Greensboro, N.C., on November 4, 1979. On that dark day, members of the two most despicable, hate mongering groups in the Nation, the American Nazi Party and the Ku Klux Klan, indiscriminately fired upon a group of unarmed people. Five of those people were killed, and many were wounded; some seriously.

The whole Nation shuddered at this tragic news, which evoked haunting memories of past struggles for human rights and dignity that were marked with similar acts of senseless violence.

A constituent of mine, Ms. Anne Schutzberger, was so moved by this tragedy that she wrote a resolution condemning those organizations. I would like to share this resolution with my colleagues.

The resolution follows:

Whereas, on November 4, 1979 in Greensboro, North Carolina, members of the Ku Klux Klan, using shotguns and a semiautomatic rifle, fired an intense fusillade into a crowd at a black housing project, killing five people and injuring many others, and

Whereas, these fatal shootings add another heinous crime to the Klan's century-old legacy of genocide, and

Whereas, two days before the attack, the Greensboro Police Department informed the Klan that an anti-Klan rally was to take place on November 4 at the aforesaid housing project, by giving a copy of the parade permit to a man who identified himself as a member of the Ku Klux Klan, and

Whereas, the Greensboro police, who were at the scene, left the immediate area when the Klan arrived, thereby allowing the inevitable violence to take place, and

Whereas, these events could only occur because the Klan is a legally-sanctioned organization, and such crimes will continue as long as the Klan is a legally-sanctioned organization,

Now, therefore be it resolved, that the New York County Executive Committee of the Democratic Party

Condemns the genocidal acts of the Klan in Greensboro, and calls for the full and speedy prosecution of the murderers;

Condemns the failure of the Greensboro Police Department to protect the citizens attacked by the Klan; and

Calls for an end to the legal sanctioning of the terrorist organization of the Ku Klux Klan, by federal legislation outlawing such organization.●

ANDERSON DISCUSSES RELEASE OF HOSTAGES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. ANDERSON of California. Mr. Speaker, none of us can be displeased with the release of even a few of the U.S. citizens being illegally held hostage at our Embassy in Iran. I think it is worth mentioning, though, that it reflects a basic misunderstanding on the part of the captors regarding our political system and the people of the United States.

The Iranians, at the urging of the Ayatollah Khomeini, released some of those Americans who happened to be female or black. They did so, it is said, because of their respect for women and out of "recognition" that blacks in this country are not involved in our Government's decisionmaking process. The Iranians have also said that they have nothing against the American people, but only against our Government.

Mr. Speaker, the U.S. Government is the people of this country. An action aimed at one is an action that attacks both. We are inseparable.

The Iranians simply do not understand us if they release black hostages thinking they are not part of our Government. They are. You cannot single out for attack black Americans or white Americans. We are all Americans, and I think we all refuse to be distinguished as anything else by foreign nations. And it is perhaps ironic to note that in 1976, an overwhelming majority of black voters supported the election of President Carter, who Khomeini has continuously disparaged. The Iranian leader has said that the President has no following in the United States. Khomeini is wrong. The American people are ready to follow the President in his efforts to remedy the situation in Iran.

In his selective release of hostages, Khomeini is trying to breed dissent here in our country. He has read of disagreements that may arise from time to time between some blacks and some whites in the United States, and he is trying to drive a wedge between us. It cannot work. The American people are like family. We may have our domestic differences, but we all band together when attacked from an outside force. This is a second fact of American life that Khomeini does not understand.

And the ayatollah apparently does not sufficiently realize that the respect he claims to have for all females, is extended in this Nation to all people. Men and women; young and old; Christian, Jew, Moslem—all deserve our respect. And this respect, which at its most basic is really a respect for humanity, makes us realize that all people have a right to be free. So it is more than a sign of disrespect, it is a sign of inhumanity, when this freedom is denied. Khomeini misunderstands our belief on this, by thinking the American people will only be outraged if physical harm comes to the hostages. It is our consideration that their humanity is already being violated.

Finally, Khomeini is mistaken if he believes that the United States will not react firmly to the crisis his government has created. We will not be blackmailed by our desire for Iranian oil. We will not kow-tow to their illegal actions against the hostages and our Government of whom all our citizens are a part. The Iranian Government and its citizens must realize this. They must act to alleviate the situation which they created. It is a situation which our unified Nation will not long tolerate.●

A NEW LOW FOR MR. NADER

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. MAZZOLI. Mr. Speaker, I have to agree with the recent editorial in the Washington Star of November 23, 1979.

I think Ralph Nader—despite his arguably good intentions—hit the very bottom of the barrel in his discussions with Senator GARN over vehicle safety.

At this point I wish to extend the editorial which appeared in the Star on November 23:

A NEW LOW FOR MR. NADER

It would take a dramatist of formidable powers to create a display of sanctimoniousness more chilling than the one Ralph Nader put on the other day at a hearing of the Senate Banking Committee. With astonishing gall, he hectored Senator Jake Garn of Utah about an auto accident three years ago in which the senator's wife was killed—and when Senator Garn made strenuous objection to this assault, he accused him of "melodramatic pillorying."

The melodrama, it should be pointed out, was Mr. Nader's own. The circumstances of Mrs. Garn's death had absolutely nothing to do with the subject of the hearing: the Chrysler loan bill. But Mr. Nader lost no time in twisting the Garn family's calamity to fit his argument. The exchange between the two men, which became increasingly heated and bitter, began as follows:

Senator Garn: "If the American consumers knew what you've cost us in the name of consumerism, they'd run you out of the country."

Mr. Nader: "I suspect, Senator Garn, that some senator's personal tragedy might not have occurred if the auto industry had listened to us in the early years . . ."

Once he had jumped into the trough, Mr. Nader wallowed with all his might. Displaying only marginal knowledge of the facts of the case, he proceeded to assert that Mrs. Garn "could have been saved" had the auto industry only heeded his own wise counsel about safety. Small matter that Mrs. Garn was wearing a seat belt at the time of the crash. Small matter that three of the Garn's children, who were *not* wearing seat belts, survived the crash without serious injury. Mr. Nader interpreted the facts to suit his own convenience, and when Senator Garn had the effrontery to question this exploitation of his family's misery, Mr. Nader thundered down from his mountain:

"Don't try to over-emote. I'm saying that safer cars could save many Americans, including people in crashes of that kind. And for you to try to pillory me because I'm trying to say your wife could have been saved from a casualty of that kind is irresponsible."

Mr. Nader is a public scold and from time to time a useful one. In his effort to capitalize on the Garn family's loss, however, he was irresponsible if not worse. He owes the senator and his family a forthright and public apology.●

PRIVATE INSURANCE HAIL POLICIES CAN COMPETE WITH THE SUBSIDIZED FEDERAL ALL-RISK POLICIES

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. JONES of Tennessee. Mr. Speaker, today I want to insert into the RECORD and explain an amendment which Congressman ED MADIGAN and I will offer to H.R. 4119, the Federal Crop Insurance Act, when it comes to the floor of the House. This amendment is designed to alleviate the concerns of the private insurance industry which feels its hail policies cannot compete with the subsidized Federal all-risk policy.

This amendment has the support of the National Crop Insurance Association—the primary private crop insurance industry trade organization composed of 106 companies. Additionally, NCIA has expressed its support of H.R. 4119 if this amendment is included.

The amendment has three basic provisions:

First. To assure that private insurance agents and companies are utilized in making the program available to all farmers nationwide and that the contracts between the Federal Crop Insurance Corporation and the industry provide terms and conditions consistent with prevailing industry standards for comparable services;

Second. To provide that the FCIC enter into a test reinsurance contract with one or more private companies by the 1982 crop year and to assure all the benefits extended to holders of the Federal policy be also extended to the policyholders of private companies reinsured by FCIC; and

Third. To provide producers an option to substitute private hail and fire insurance coverage for such risk coverage in the FCIC all-risk policy with a flat credit of 25 percent deducted from the all-risk premium upon presentation of proof of purchase of private hail and fire coverage.

I want to point out that items (1) and (2) are merely clarifications of the intentions of the sponsors of H.R. 4119 but that item (3) is a substantial change which should end the debate on whether or not H.R. 4119 will have a negative impact on the private sector and at the same time provide farmers better coverage for their premium dollars.

A number of positive impacts will be forthcoming from the adoption of this amendment. It will reduce the apprehensions of the industry that the expanded Federal crop insurance program could supplant the private hail insurance business and at the same time encourage an enthusiastic effort within the private sector to assist in marketing and servicing the policies. This, in turn, will increase farmer participation thereby making the program more successful.

Under the bill, with this amendment, the private sector could be involved in four different ways:

First. Independent agents could sell and service the Federal all-risk policy with compensation and proprietary rights negotiated.

Second. Private companies could contract with FCIC to administer the program in a given geographical area, without any risk assumption.

Third. Reinsurance or risk-sharing arrangements could be entered into between FCIC and private companies.

Fourth. FCIC could provide catastrophic coverage or reinsurance to a private sector reinsuror which is covering the company actually delivering the program.

Mr. Speaker, I believe the adoption of H.R. 4119 with these changes will accomplish our goal of providing American farmers the opportunity to sufficiently protect themselves, with significant Federal participation, from crippling natural disasters. They would no longer have to wait hat-in-hand for Congress to come to their aid after a disaster strikes. Additionally, these new crop insurance programs would gradually reduce the need for the disaster loan and payment programs of USDA which have been frequently abused.

I ask each of my colleagues to support this amendment when it is offered. The language of the amendment follows:

AMENDMENT BY MR. JONES AND MR. MADIGAN TO H.R. 4119

Page 18, strike out lines 5 through 11, and insert in lieu thereof the following:

"(c) In the administration of this title, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, of cooperating in carrying out this title, (2) contract with private insurance companies and reimburse such companies for the administrative and program expenses incurred by them, under terms and provisions consistent with those generally prevailing in the industry respecting rates of compensation, and (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew said insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated for said sales and renewals recognizing his function to provide continuing services while the insurance is in effect. The Board shall provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the Federal Crop Insurance Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission.".

Page 19, on line 8, strike out "(A)" and beginning on line 10, immediately after "species," strike out all through the end of line 2, page 20, and insert a semicolon in lieu thereof.

Page 21, immediately after the end of the sentence on line 13, insert the following:

"The producer may elect to have deleted from the Corporation's policy of insurance the coverage against losses caused by both hail and fire and to obtain coverage therefor from a private insurer. Upon notice of such election in writing to the Corporation and submission of evidence of such substitute coverage on the commodities insured by the Corporation in an amount not less than that provided by the Corporation's policy, the producer's premium as calculated by the Corporation shall be reduced by 25 per centum, but not to exceed the premium for the substitute coverage.".

Page 21, on line 16, immediately after "coverage" insert "on the Corporation's policy of insurance".

Page 22, on line 17, immediately after "such companies," insert "and reinsurers of such companies, or" and on line 21, immediately after "the Corporation" insert ", including a test program made available, to the maximum extent possible, not later than the 1982 crop year".

Page 22, at the end of line 21, insert the following:

"In order to provide equity among producers purchasing crop insurance, whenever the Corporation provides reinsurance under this subsection to any such insurers, the Corporation shall pay a portion of each producer's premium for such insurance so reinsured. Each such payment shall cover the same per centum of the premium, and be subject to the same restrictions regarding payments of premiums for crop insurance on commodities, as provided in subsection (b) of this section for Federal partial payments of Federal crop insurance premiums. The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by appropriated funds on the Corporation's policies of insurance. Insurers of policies on which reinsurance is provided shall make use of licensed private insurance agents and brokers on the same basis as provided for policies of the Corporation under section 507(c)(3).●

A "CAPPING CEREMONY" FOR DISTINGUISHED STUDENTS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. LONG of Maryland. Mr. Speaker, I commend 16 seniors from the Eastern Vocation-Technical High School in Essex, Md., who will be recognized in a

"Capping Ceremony" for distinguished students.

The students are training to become licensed practical nurses. They will, after graduation, provide much needed health services in hospitals, doctors' offices, and community health facilities.

The program offered at Eastern Vocational-Technical High School is unique because the professional health training is offered to high school students. Usually, LPN training is offered only by junior colleges.

I hope my colleagues will join me in honoring these fine young people.

The school principal is Raymond Pluemer. The coordinator is Dorothy McAdams, R.N. The teachers are Gertrud Birkholz, R.N., and Susan Kruchko, R.N.

The names of the students are:

Carolee Adams, Kay Biemer, Loretta Brown, Kimberly Diem, Deborah Greene, Susan Heim, Shirley Johnston, Theresa McMonagle.

Kaye Smith, Denise Sommers, Maryanne Sprezian, Christine Sprole, Teresa Steafen, Linda Tallagsen, Caroline Wilson, Mary Young.●

THE SHORTER WORKWEEK AND FULL EMPLOYMENT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. CONYERS. Mr. Speaker, a century and a half ago, American workers were on the job from sunup to sundown. The demand for shorter working hours was at the center of all major labor events in the 19th century—the first industrial strike, the building of labor organizations, the participation of women in the labor movement. By 1860 industrial workers won the 10-hour day, and the movement to reduce worktime continued in full force as soldiers returned from the Civil War unable to find jobs.

Swings in the business cycle, in particular the economic depression of the 1870's and another in the 1890's, rekindled the demand for shorter hours as the way to combat unemployment. Near the turn of the century the American labor movement embraced as a central operating principle the idea of spreading work among the greatest number of workers so as not to divide those fortunate to find jobs from others, who through no fault of their own, went jobless for extended periods. Samuel Gompers, the founder of the American Federation of Labor, captured the essence of the shorter workweek movement when he declared: "So long as there is one man who seeks employment and cannot find it, the hours of labor are too long."

During the Great Depression one of the principal methods for curbing massive unemployment was passage of the Fair Labor Standards Act of 1938, which established the 40-hour week, created a premium rate for overtime work, and effectively reduced the standard workweek from 48 to 40 hours. Since that time, however, the workweek has remained virtually the same, despite the huge increases in productivity in manufacturing and the continuous displacement of workers by machines. What has changed significantly in this period of time is, however, the substantial increase in unemployment levels both during normal times as well as recessions.

A month ago, the House Subcommittee on Labor Standards, chaired by Representative EDWARD BEARD, held the first major congressional hearing on overtime and worktime issues in more than a decade. The focus of the hearings was the Fair Labor Standards Amendments of 1979, which I have introduced along with 13 Members, to raise the overtime rate to double time, require the consent of employees in the scheduling of overtime, and over a 4-year period to reduce the workweek to 35 hours.

The legislation to shorten the workweek and curb excessive overtime has to be viewed in the context of chronic unemployment and of efforts to move toward a full employment economy. In this regard, I recommend that my colleagues read the following commentary, "Full Employment for All," that appeared on the op-ed page of the New York Times, November 13. The author, William McCaughey, Jr., an industrial accountant and a leading advocate of a shorter workweek, examines the recent history of working time and its relation to creating full employment.

The article follows:

FULL EMPLOYMENT FOR ALL

(By William McCaughey, Jr.)

WHITE BEAR LAKE, MINN.—The advancing edge of productivity and the fixed structure of working hours, like the blades of a pair of scissors, are cutting people from their jobs.

Between 1950 and 1978, productivity in the private sector doubled, but the average work week in the labor force dropped by only 2.7 hours—from 41.7 hours in 1950 to 39. This drop, small as it is, reflects mainly the increased proportion of part-time workers in the work force.

By "productivity" I mean workers' average output in one hour today compared with such output at a specific time in the past. A doubling of productivity would mean doubled annual output if the level of employment and average number of hours worked stayed the same. But, if the demand for a particular industry's output were not sufficient, then the increased productivity would cause loss of jobs or displacement of workers into other industries.

In 1926, Henry Ford introduced the five-day, 40-hour week. In 1940, the Fair Labor Standards Act set a 40-hour week in many of our basic industries. Since then, working hours have been frozen. The time-and-a-half premium, originally meant to deter overtime work so that others could find employment, has failed in that purpose, as the cost of fringe benefits has increased relative to straight-time wages and paying the premium has become cheaper than hiring and training new employees. For a time, the ill effects of that failure went unnoticed. "Silent firing" took care of necessary reduction in employment. As much as possible, employers tried to avoid laying off superfluous employees. Instead, they thinned the ranks by abolishing positions that were vacated through employee turnover, retirement and promotions. That was thought to be a relatively humane way to handle the situation.

Unfortunately, a price had to be paid, and it was paid by the people who were starting a career. With the freeze on hiring, they faced a lack of job opportunities. Unemployment therefore became concentrated among groups of people entering the work force or breaking out of occupational "ghettos" that had consigned them to low-level jobs: women, racial minorities, the young.

Politically, such disparities could not be tolerated. Economists argued though that the problem was mainly one of "structural unemployment." Many of these women, blacks and teenage job-seekers lacked the required skills and experience to handle the available jobs. So job-training programs were established. Programs to aid or retrain displaced workers and homemakers were created. After they had completed the training or retraining programs, many of the "structurally unemployed" still could not find jobs. Therefore, the Government had to enlarge its role as employer of last resort, with programs funded by the Comprehensive Employment and Training Act of 1974 and accelerated expenditures for public works. In 1977, a Labor Department official estimated that the Government was spending $13 billion to $15 billion annually on jobs.

In the early 1960's, Federal manpower policy stressed economic expansion. Later, emphasis shifted from this theme and toward the idea of "targeting" jobs to economically disadvantaged groups. Employers were given tax incentives to hire the chronically unemployed and other hard-to-place applicants. Affirmative-action programs were intended to help women and blacks assume their share of the jobs that became available at various levels of rank and pay. This approach generated a backlash among white males, who complained of "reverse discrimination." Moreover, it has failed to lower the proportion of black to white unemployment and to narrow the gap between men's and women's average earnings.

To target jobs to people because they belong to a socio-economic or demographic group suggests that such persons cannot compete successfully for jobs on their own; it suggests that they are personally incapable of handling the work or need various kinds of remedial help.

That is not the problem.

Rather, it is that job opportunities became limited just when women, blacks and young people planned to enter the work force or increase their level of expectations.

Representative John Conyers, Michigan Democrat, has introduced a bill that would reduce the standard work week to 35 hours over four years, require double-time wages for overtime and prohibit employers from requiring overtime work.

Hearings on the bill were held in the House Education and Labor Committee late last month. This bill is a step toward honoring our national commitment to full employment, enacted one year ago in the Humphrey-Hawkins legislation.●

"AL" TREMBLY, SANTA BARBARA CHIEF OF POLICE, RETIRES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. LAGOMARSINO. Mr. Speaker, service to one's profession is a mark of dedication. If a person also shows excellence in the performance of his profession he finds he has left a record which will stand as his testimonial. Such a man is Alfred William Trembly who retired as chief of police of Santa Barbara, Calif., on November 1, 1979, after 32 years of service in the field of law enforcement.

A native Californian, born in Huntington Park, Al Trembly spent his entire professional career in California, and received his education, including a masters degree in business administration, in his home State.

Chief Trembly not only served his profession with distinction, he also found time for civic affairs, including Boy Scouts of America, Easter Seals, and Shriners. The many awards received by Chief Trembly attest to his contributions to law enforcement and his concern for his fellow man.

Because of this long career of dedication to his job, his family, and community, I ask the Members of the House to join with me, his many friends, his wife Beth, and their three children, in extending congratulations to Chief Alfred William Trembly, and to wish him a long and happy retirement.●

OIL: PANIC VS. PERSPECTIVE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. ROSENTHAL. Mr. Speaker, I wish to bring to my colleagues attention the editorial entitled "Oil: Panic vs. Perspective" which appeared in the Friday, November 9, New York Post. The editorial is cogent and pertinent to 'the basic energy problem—the psychology of shortage—which is presently besetting us.

OIL: PANIC VS. PERSPECTIVE

The excesses in Iran are raising anxieties about an early return to gas lines and official quotas and the inevitability of still higher gasoline prices.

This is misleadingly alarmist. It can only create the psychology of shortage in which the speculative spot market for oil becomes the highly irresponsible yardstick that promotes still higher OPEC prices.

The Rotterdam spot market was reported yesterday to be in a state of continuing "chaos" with oil prices surging to $40 a barrel, and in New York harbor home-heating fuel rose four cents to a record 98 cents a gallon.

Before another Iranian shortfall develops, let us set the record straight on what happened during the last one earlier this year.

Throughout this past summer's gas crunch, then-Energy Secretary James Schlesinger insisted our oil imports were down 2 million barrels a day because of the Iranian revolution. But a CIA analysis has since shown the Iranian shortfall was more than made up by other oil-producing nations and that U.S. imports, in fact, rose above those in 1978.

A U.S. Treasury study prepared last May—and still suppressed—concluded that the Iranian crisis "has not led to any real crude shortage in the U.S."

Finally, the highly respected Congressional Research Service predicted last May that, despite the Iranian crisis, oil production over the first nine months of this year would be the same as in 1978.

The Iranian shortfall did not cause an oil shortage. What it did do, however, was create the artificial climate of shortage which is self-fulfilling in causing gas lines, public panic and an atmosphere in which the price of a gallon of gas becomes less important in the market place than the availability of a gallon of gas.

There is no reason to believe that the present Iranian crisis will cause any shortage, either. Current OPEC production is 32 million barrels a day.

The present international consensus is that, compared with consumption, there has been an oversupply of 1 million barrels a day for most of this year.

This is on top of stocks held around the world in the enlarged storage capacity built by oil companies and governments since the 1973 Arab boycott and in mothballed fleets of tankers—hired cheaply by oil companies for storage use but, in the case of the Dept. of Energy, not counted in figuring the accuracy of oil company statistics on the amount of oil held any given day.

Given today's prices, it is the most expensive exercise in stockpiling in history.

Washington's latest figures show we have been taking less than 500,000 barrels a day of Iranian oil for some time. This is about 2 per cent of current U.S. petroleum consumption and should be easy to replace elsewhere without resort to the highly expensive spot market.

Clearly, it is essential for the Energy Dept. to prepare its fuel allocation plan for any emergency—and this time, let us hope, it at least puts the fuel where it is needed.

Clearly, we should switch back to the odd-even sales days permanently. At the same time, however, let us guard against creating the psychology of shortage which leads straight to higher OPEC demands and higher consumer prices.●

WHY AMERICAN FOREIGN POLICY LACKS CREDIBILITY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. KEMP. Mr. Speaker, one of the most serious foreign policy defeats for the United States in the past decade has been the unopposed deployment of more than 30,000 Cuban troops in a dozen countries in Africa. The Cuban intervention in Africa as the Soviet Foreign Legion, has received no more than mild censure from the administration. The largest Cuban military deployment, Angola, is also where the Cuban intervention began, and the point where America's retreat in Africa started.

The bold increase in the tempo of Cuba's military intervention in Africa since its entry into Angola has resulted in significant gains for Soviet military power. Cuban intervention in Ethiopia—supported by a massive Soviet military airlift—has permitted the firm establishment of a Communist regime in that country. Belatedly, the administration has come to recognize the cumulative costs to American security posed by the advance of Soviet military power in the developing world. Recognition of the problem is not equivalent to action however. In the state of determined indecision that has become a hallmark of the Carter administration, it has bungled an opportunity to take the rhetorical offensive against Soviet military power in Africa.

Mr. Jonas Savimbi, leader of the National Union for the Total Independence of Angola, has been trying to free his nation from Soviet domination for more than 4 years. To this end, he has led a vigorous and highly successful guerrilla conflict against Cuba's forces stationed in Angola. Mr. Savimbi was recently in the United States seeking support for his war against Soviet imperialism in Africa, but his pleas fell upon the deaf ears of the administration. Not only has the administration refused to supply resources to assist Mr. Savimbi in his fight, but so far as is known, he has been snubbed by both the State Department and the National Security Council.

The inexplicable character of the Carter administration's foreign policy continues to cause grave damage to our long-term security interests, and compromise the task of any future President to act in support of American interests. I urge the President to take a decisive stand in support of the anti-Soviet forces in Africa, reinforced by material assistance so that some of the losses of the past decade in Africa can be regained.●

ANOTHER VIEW OF HENRY KISSINGER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BROWN of California. Mr. Speaker, the current dispute over former Secretary of State Henry Kissinger's role with the deposed Shah of Iran obscures the more substantial role Kissinger played in the Vietnam war. Since this chapter of U.S. history is undoubtedly going to be an important one, it is essential that we place the Vietnam war role of Henry Kissinger in an accurate historical perspective.

While numerous reviews have been written about Kissinger's memoirs, none has done as fine a job of putting the Vietnam war in context as does the article which follows these remarks. I commend this article to my colleagues:

[From the Los Angeles Times, Nov. 20, 1979]

KISSINGER: A CASE OF STYLE OVER SUBSTANCE

HIS CHARM WON HIM FRIENDS, BUT HIS POLICIES WERE FAILURES

(By William Pfaff)

In the controversy that has followed publication of former Secretary of State Henry Kissinger's memoirs, no one has said what one might think obvious, that Henry Kissinger was, ultimately, a failure as secretary of state. He left Washington with the United States weakened, its prestige and authority diminished, from what it had been when he took office. The war in Vietnam was lost under his stewardship, as the outcome of policies he conceived or carried out. There were no balancing successes. There were, in fact, curiously few successes at all. Yet Henry Kissinger is thought by many to be a success.

He is an intelligent man who knows history and has ideas. He is ambitious. Clearly, he wanted to be a great secretary of state. In many respects he was a good one. He has wit and personal charm. These qualities made him a great favorite of the press. They won him the respect of foreign leaders who found him free of that moralism and parochialism that too often characterizes American policy-makers. The problem is simply that his policies did not work.

The case for Kissinger rests primarily upon the settlement he negotiated for the Vietnam war (for which he was offered, and accepted, the Nobel peace prize), his attempt to negotiate a Middle Eastern settlement after the 1973 war, the normalization of U.S. relations with China, and relations with the Soviet Union. The last of these unquestionably improved during Kissinger's years in office. Arms and detente negotiations (the Strategic Arms Limitation Talks and Helsinki Treaty talks) were successful. They began under another administration, and no doubt would have gone forward under another secretary of state; in fact they did so under Kissinger. He was also right in warning that Soviet and Cuban interventions in Africa were a dangerous new development.

But in Europe, Kissinger grossly overestimated the importance of Eurocommunism and dangerously misjudged post-revolutionary developments in Portugal. He supported the Greek colonels to no useful purpose—and to America's and NATO's ultimate disadvantage. American involvement in the overthrow of democratically elected President Salvador Allende in Chile worsened relations with the Third World and laid the ground for current U.S. difficulties in Central America. Binding U.S. interest and prestige to the shah of Iran, a policy Kissinger did not invent but continued, was a grave error for which the United States now pays the cost.

In the Middle East, his dramatic shuttle diplomacy produced no settlement. That awaited the court of Egypt's President Anwar Sadat and the persistence of Jimmy Carter. The changed American policy towards China was overdue and constructive. The real credit, however, must go to Zhou Enlai and Mao Zedong. It was in fact China that "recognized" the United States as a means to offset the threat from the Soviet Union, so that one foreign "barbarian" could be induced to confront another.

The biggest issue during Kissinger's time in Washington was, of course, the war in Vietnam. There is currently a justified controversy over the Nixon-Kissinger policy towards Cambodia, prompted by the William Shawcross book, "Sideshow: Kissinger, Nixon and the Destruction of Cambodia." But even if that is put aside, and Vietnam alone is considered, it is necessary to conclude that the policy failed.

When Henry Kissinger became national security adviser in 1969, the war had been going on for four years and more than 30,000 Americans had died. American public opinion, troubled from the start about the wisdom of a land war in Asia, had shifted against the war. Richard Nixon had campaigned for the Presidency with the promise to end America's role in the war. Hubert Humphrey also said that he would end the war, but he was blocked from disavowing the past policy of the Johnson Administration which, as vice president, had been his own as well. Nixon, *faute de mieux*, was the peace candidate, and he was elected.

What Nixon and Kissinger actually did during the next four years was to enlarge the war geographically and hand it over to the Vietnamese (and Cambodians, after 1970) to win or lose. Since the South Vietnamese inability to deal with the Viet Cong and the North Vietnamese had caused the United States to enter the war in the first place, this could only end as it did, in defeat.

The United States withdrew its forces. The South Vietnamese weakened and eventually collapsed under renewed Communist attacks. The remaining Americans scrambled for their lives to rooftop helicopters. It was a fiasco. It was also the inevitable, predictable, outcome of the Nixon Administration's policy on Vietnam.

Kissinger argues that it all would have been different had the liberals not attacked him and rallied American opinion to block reprisals against the North Vietnamese—the threat of reintervention or of renewed bombing. But the fact that American public opinion was bitterly split over the war was the condition upon which Nixon and Kissinger had to base their policy from the start. It was a fundamental part of the problem. For the United States itself, it was the most important part. Policy that ignored this was irresponsible policy. The task was not to lose the war in a way that would allow the domestic enemies of the Nixon Administration to be blamed; it rather was to rally American opinion behind a policy able to salvage something from the affair better than a squalid defeat for the United States and its allies.

The actual Kissinger policy, to abandon South Vietnam to its enemies, could have been carried out four years earlier, with Cambodia still intact, and with something like a million people alive, including 20,000 Americans who were dead when Kissinger and Nixon finally left office. The result for Vietnam, Cambodia and Laos, could not possibly have been worse than what actually happened.

Henry Kissinger does not offer his memoirs these days with diffidence. He presents himself as a success. He projects success. He is taken as a success. He is talked about for high office once again. It is a striking case of style over substance. It is an American success story.●

SOCIAL SECURITY: A GOOD INVESTMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report from Wednesday, November 21, 1979, into the CONGRESSIONAL RECORD:

SOCIAL SECURITY: A GOOD INVESTMENT

I am often approached by young people who display a growing doubt that social security is a good investment. A man in his early twenties recently told me that, in his opinion, social security was a "rotten investment" which ought to be scrapped. Such doubts about social security deserve careful consideraton and response. When responding, proponents of the system should make it understood that social security is not without its faults. Most people agree that it can be improved. My own response to critics is that social security is a good buy for American workers, but that continuing efforts must be made to improve it.

Many of us tend to forget—or if we are younger, never knew—what life for the elderly was like in this country before social security was enacted. Prior to 1935, old age held out for millions of Americans the frightening prospect of destitution or dependence on charity. The "poor farm" was a real place where the elderly suffered degradation and loss of respect. Social security changed that bleak reality with a trust fund which generally pays people in retirement far more than they contribute to the fund during their working years. For example, a 22-year-old man, earning an average wage, will pay about $19,550 into the system. He can eventually expect to receive benefits totalling more than $27,500. A married worker would pay the same amount into the system but would get back more than $62,000.

Those who have doubts about social security sometimes ignore the fact that the system provides far more than income protection for the elderly. Its range of coverage includes survivors' benefits for families whose wage earner has died, disability insurance for injured workers and their families, and medical care for the aged. Each of these coverages is an integral part of the concept of comprehensive "social insurance" behind the system:

Survivors' benefits: Through social security about 95% of all young children and their parents have substantial protection in the event of the wage earner's death. Under private plans, workers who die at an early age leave their families with a lump sum payment and the money accumulated in savings accounts and insurance premiums. Unfortunately, the total amount available to the families is seldom sufficient in cases of early death. Social security, on the other hand, provides long-term benefits for families in such situations. The benefits may be worth hundreds of thousands of dollars, much more than would be available under most private plans.

Disability insurance: A young worker who begins employment at age 22 and becomes disabled at age 30 would have full disability protection under social security. Monthly checks would go to support both worker and family for as long as they were needed. Without social security, however, the same worker would be forced to rely on resources accumulated during eight years of investment, an amount unlikely to provide support for much time. A private disability plan would typically pay benefits for a limited period of time only. About 80% of all people between the ages of 21 and 64 are insured by social security against income loss due to disability.

Medical care: Since 1965, social security taxes have also financed the hospital insurance element of medicare. Medicare, of course, is the program that pays up to 80% of the reasonable hospital costs of the elderly. This facet of social security removes some of the serious worries that many Americans have about their health care expenses in retirement years. The protection of medicare is more reliable than trying to save enough for hospital bills in old age. Such bills can easily run into the tens of thousands of dollars.

Depth and variety of coverage are not the only advantages of social security. Portability should be counted as well. Under the system, workers do not leave their rights behind when they move from job to job. Continuity of individual and family protection is generally provided throughout a working career. Another major advantage of social security—one often overlooked—is that benefits are not taxed as income. This exemption from tax has the effect of multiplying benefits that are already ample by most standards. Yet another major advantage of social security—perhaps the most important—is that benefits are indexed to inflation. Inflation is the most troublesome problem Americans face today, and no people have more to fear from inflation than those living on fixed incomes at a time when age or disability has diminished the ability to earn. As a direct result of indexing provisions now in place in the system, beneficiaries know that they will not be forced to live with ever-eroding monthly payments.

It is possible to find some people whom social security does not help. If we take a hypothetical worker who enters the labor force at age 22, never marries or becomes disabled, and does nothing but add to investments while moving ahead to higher levels of income, we may have a person who might be better off with something other than social security. Not too many persons fit into this category, however, and no one can be certain of always fitting into it.

All of these facts make it clear that, for most people at least, whether they have gotten into the labor force in 1939 or 1979, social security is a bargain that is hard to beat.

(This newsletter, the first of two on social security, is based on a recent speech given by Patricia R. Harris, the Secretary of Health, Education, and Welfare.) ●

ADM. R. M. BURGOYNE, BRITISH NAVAL ATTACHE, DISCUSSES CHALLENGES OF NAVAL REALITIES, IN SPEECH AT JACKSONVILLE'S ANNUAL KING'S DAY REGATTA

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BENNETT. Mr. Speaker, on Saturday evening, November 18, I had the pleasure of hearing Britain's Naval Attaché, Adm. R. M. Burgoyne, make an important and challenging speech at a banquet hosted by the Daughters of the British Empire at the Florida Yacht Club in Jacksonville, Fla. The occasion was in connection with the festivities of the annual weekend celebration in Jacksonville of the King's Day Regatta. The first such regatta was held at the same location in the St. Johns River in 1776, before the Declaration of Independence, and when the area was a British colony. The admiral's thought-provoking comments were:

Of the veritable host of real pleasures and great privileges that happily come the way of the Commander of the British Navy Staff and Naval Attache in your great nation's capital, none gives me greater pleasure than the opportunities it affords me to sail forth occasionally from that 'island' into the realities of your fabulous land—for it has been my great good fortune to visit from Maine to California and from Hawaii to Florida and to everywhere find living proof of the strong and binding ties that unite our two great countries in a common cause.

I am delighted by the great honour you do me by inviting me to be your guest for this fine King's Day Regatta and also the great honour you do my Country by the naming of your Regatta.

Ladies and gentlemen, you will not need me to remind you tonight that the very close ties between Great Britain and Florida go back to the earliest days of the development of this great State. Sir John Hawkins was here in 1565. In these present days of great verbosity and voluminous bureaucracy I was delighted to find that Sir John's standing orders were contained in one sentence "serve God daily, love one another, preserve your victuals, beware of fire and keep good company". He would, I am sure, have approved of the way in which we are honouring at least two of his precepts tonight. Which two I will leave you to judge.

I am equally sure that this great English seaman would be highly pleased by the close and warm association and friendship that exists today between the United States and the United Kingdom. To say that we live in an increasingly hostile world and the West appears myopically hell bent on burying its head in the warm and comforting sand of a latter day Munich syndrome is bland and certainly not brilliant or original. They are however, facts of current life and it is equally a fact that there are those who, whilst they recognise the dangers, seek solutions by turning inwards towards tight regional accommodations.

I am not suggesting that these are not useful or necessary but it is my firm conviction that the essential basis for the survival of the Western way of life is the closest cooperation between the U.K. and the U.S. The countries which gave us Magna Carta and The Declaration of Independence. I like to think that today it is the navies of our two Countries that set the right example. I am proud to tell you that when our First Sea Lord was in Washington last month he said that he believed that the links between the USN and the RN had never been closer or more effective. I am sure that had our Ambassador been able to be here tonight he would have said the same of the relationship between our two governments.

But it is of the sea and navies that I would like to say a little more tonight. It was Sir Walter Raleigh, another great sailor with the closest ties to early days of your great Country, who said, "He who commands the sea commands the trade of the world. He who commands the trade of the world commands the riches of the world, and consequently the world itself."

Indeed, it was no accident that some thirty years ago our Western Defensive Organisation was called after an ocean—the Atlantic Alliance—for in the words of the present Chairman of the NATO Military Committee, "the sea lines of communication from the Americas to Europe are the arteries through which our life-giving supplies and reinforcements will flow: cut them and we shall be starved."

Let us not forget, however, that our life giving supplies in peacetime come from all over the world: they come from far beyond the sea areas encompassed by NATO boundaries. They can be threatened, they can be harassed, they can be squeezed, they can be cut by anyone who has the capability to utilise the total flexibility inherent in sea power and who is not constrained by lines drawn on a map.

And it is about that freedom of the seas that I wish to talk tonight.

I know that over the past few years the attention of government and public has been drawn to the steady and relentless build-up in Soviet offensive military power. And although this concern has been echoed by numerous civilian authorities, we in uniform are still regarded in some circles as being alarmists—hawks—call us what you will—but people who exaggerate and always ask for more.

But I believe that there is very real cause for concern and this evening I shall be attempting to focus your attention of the West's dependence on the free use of the trade routes of the world and the Soviet maritime threat as we enter into the 80s.

For I and many of you will vividly remember the 30s and the lone voices crying in the wilderness as they vainly warned the sleeping world that Hitler's Germany was on the march. We never seem to learn from history, and despite Henry Ford—history is not bunk.

But there is none so deaf as he that will not hear.

I believe that if the Soviet Union continues to spend as much as she has done on armaments—and the West continues to show the same reluctance as now to make significant increases—then the military consequences must be certain. The only uncertainty would be for how long our current strategy of deterrence would remain credible—not just to the other side but to ourselves.

If present military trends continue, a day of reckoning must surely arrive. To me its outlines are coming into sharper focus and military men would be failing in their duty were they not to express the deepest concern.

For years now, writers have dwelt on the 1980s as being cataclysmic for one reason or another. From H. G. Wells, to George Orwell, to Sir John Hackett's current best-seller, the forecast has been gloomy. Henry Kissinger believes that "if present trends continue, the 80s will be a period of massive crisis for all of us." And, ladies and gentlemen, the 1980s are now just six weeks away.

I believe that the next decade is going to be the most difficult and dangerous that we have ever faced. I am increasingly apprehensive about the severity of the challenges being posed by the Soviets and the direction, pace and resolve of the West to meet such a threat.

Defending the Helsinki Treaty to Warsaw Pact Leaders Leonid Brezhnev is reported to have said in 1974 in Moscow:

"By 1985 we will have reached, as a result of detente, most of our objectives in West Europe. And the decisive shift in the correlation of forces will be such that come 1985 we will be able to exert our will wherever we need to."

This is quite a boast, and I want to examine it from a maritime point of view. We seafaring nations have enjoyed supremacy of the sea for decades: We have been so sure of our control of the ocean and the airspace above it that we have taken it for granted. The alternative was unthinkable. Our strategies assume it, our economic policies depend on it. The time has come to think the unthinkable.

Look first, if you will, at the Soviet maritime strategy. We are witnessing the inexorable spread of bases, logistic facilities and influence around the periphery of the trade routes of the world. From the Kurils to Conakry to Cuba the picture is the same.

Their strategic nuclear submarine force is becoming more modern and more experienced. Their Delta IIIs with missiles of some 5000 NM range are replacing the shorter range Yankees, and a larger class, the Typhoon, is expected at sea next year.

Their nuclear attack submarines have long posed a major threat to us and now we see the introduction of the highly automated Alpha Class. This boat represents a technological achievement not yet matched by the West—we have nothing that goes as fast or so deep.

The Soviets are currently building nuclear submarines at the rate of one every seven weeks, and the number of these will double within ten years.

Moreover the Soviet surface fleet is giving us much cause for concern also.

They are building a new generation of surface ships, with much greater displacement, much greater endurance and weapons systems which are so potent as to be of grave concern to the West.

One of them now under construction, is nuclear powered, and is very large indeed—over 30,000 tons. She carries new missile systems, heavy guns and helicopters. The first is expected to be at sea in 1980—and we believe a second will follow in two or three years.

The Kresta II is as formidable as any ship of its class in the NATO navies—but its successor is already on the stocks: it is the same story with the Kara Class, the first replacement being operational in 1982.

As a result of this relentless shipbuilding programme by the latter half of the 80s the Soviets could deploy four powerful task groups each containing a Kiev type Aircraft Carrier and accompanied by a combination of these new and sophisticated cruisers.

So we see emerging from Soviet shipyards, a deep water Navy, designed for sea control rather than sea denial. It has sophisticated underway logistic support and increasing access to overseas bases. It poses a substantial and credible open-ocean surface threat to the trade routes not only in the North Atlantic but also in the other oceans of the world.

Just imagine what one or two of these battlegroups could do or threaten to do to our oil supplies if they were at large off the Cape of Good Hope. Imagine what they could do to the supply of other vital raw materials—bauxite, manganese, sugar, if they were free to roam the Caribbean. Imagine what they could do to the supply of raw rubber, of tin—or other strategic minerals if they were in the Pacific.

The materials I have mentioned, ladies and gentlemen, are essential for many of our countries. But they are particularly important to the United States, which is the power house of our alliance.

The U.S. imports more than 75% of her twelve most needed minerals. More than half of the eighteen most needed and a third of the twenty-seven most needed.

It is perfectly true that Admiral Alfred Mahan considered the prime purpose of navies to be the protection of commerce but today I believe a further dimension has been added.

The realisation that the sea bed is a source of scarce food, energy and raw materials has given a renewed impetus to the importance of sea power. This has not been lost on Admiral Gorshkov who has been at the helm of the Soviet Navy for twenty-five years.

Gorshkov said, "the constantly growing maritime might of our Country ensures our ability to enlarge our exploitation of the colossal natural resources of the world's ocean," and we may yet see international crises over the vast reserves in oceans which belong to everyone, this common heritage of mankind, but a heritage which only a few have the technique to exploit.

In addition to the direct military threat, there is the rapidly growing Soviet Merchant Fleet. In two decades, the Soviet Union has moved from relative obscurity to the front ranks of maritime commerce. She has, next to Greece, the largest fleet of general cargo vessels in the world and her construction plans for the next five years particularly in the fields of container and roll on/roll off ships are impressive to say the least.

The growing fleet together with the world's largest fishing and oceanographic fleets form a valuable instrument of national policy and being under military control they pose an ever present threat.

Now, I believe there exists in certain circles a tendency to underrate the ability of the expanding Soviet Navy in terms of sea and airmanship; they are catching up fast and the fact remains that it is the Soviet Navy, and not the Western navies that exercise mainly in a realistic electronic warfare environment and frequently operate under simulated nuclear, biological and chemical warfare conditions.

In sum the Soviets with an avowed policy of world domination are creating a maritime capability which will assist this achievement. They have gone to sea—they have become seaminded—they are challenging us for world wide sea control. NATO, on the other hand, remains in a straitjacket, focusing only on a small geographical area.

The Russians will be able to project their foreign policies—supported by considerable muscle—to all four corners of the world and history teaches that those countries which have strong navies become rich and powerful. Those which neglect their navies can never be great.

Against the backcloth that it is the West who are dependent on the sea routes of the world and not the Soviet Union, I find our alliance entering the dangerous 80s encumbered by maritime shackles while trying to combat a threat which has not only immeasurably increased but has become global.

At the same time I see the navies of the alliance beset with manpower and maintenance problems, I hear talk of cuts in national shipbuilding plans and I foresee a reducing number of maritime forces available to the major NATO Commanders.

The growing imbalance of maritime power must surely—in time—offer the other side—by default—the option of bringing the West to heel without a direct act of war—simply by applying pressures upon the weak links of our lifelines.

But what if Russia accelerates her imperialistic and aggressive policies: what if we enter a period of rising tension without the sea control we have enjoyed since the end of World War II?

What then are our options?

In June 1977, the NATO Council recognizing this increased threat and the importance of our maritime lifelines, agreed that "there was an urgent need for the Alliance to improve its capability rapidly to reinforce and augment allied forces in the forward areas in the early stages of a crisis." This is the foundation of our conventional deterrent strategy. NATO must possess the capability to reinforce before hostilities.

It is this capability—which NATO is now actively acquiring—which contributes to the deterrent. The Council sees rapid reinforcement in whole or in part as a demonstration of firmness, and in no way excalatory.

Our leaders have first to recognize the signs of increasing tension: then they must take the decision to reinforce. This may well have to be taken outside the timescale of what is generally taken as military warning time, that is a minimum of forty-eight hours stretching to perhaps a week or two.

The decision may have to be made before there are any clear military indications that the enemy is preparing to attack, and our political leaders may have to rely only on their interpretation of political, economic and social indicators.

I submit then that when the NATO Council accepted the concept of rapid reinforcement they also introduced a new dimension into NATO decision making.

In so doing they embarked on a policy designed to ensure that the Soviet hierarchy would perceive that the leaders of the Alliance have the political resolve to reinforce Europe in a timely fashion thus adding immeasurably to deterrence, but I need hardly stress the danger to the West if Moscow perceives a weakness in leadership, a public indifference, a paralysis of will.

But I must warn that a rapid reinforcement capability is only credible and hence deterring, if one has sufficient maritime assets for the protection of the air and sea-lift. It is the other side that has the luxury of planning and deciding the commencement of hostilities.

Before I close may I briefly summarize what I have been trying to say:

The sea has been our lifeblood in the past: we will have to depend on it more in the future, not less.

Since World War II our control of the sea has never been threatened or challenged. It is being so now.

And so, ladies and gentlemen, in all your future deliberations and wherever you can bring your influence to bear I ask but one thing—

Keep looking to the sea around you.

I would like to end with quotations from a great Englishman and from a great American. They reflect the closeness of our common cause and our common dependence on the sea. Words as true today as they were when first spoken some two hundred years ago—not long before and not long after the first King's Day Regatta:

The Marquess of Halifax said, "to the question: what shall we do to be saved in this world, there is no answer but this—look to your moat."

And in the words of George Washington: "without a decisive naval force we can do nothing definitive and with it everything honorable and glorious." ●

WALDORF, MD., JAYCEES NAMED "BEST IN WORLD"

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BAUMAN. Mr. Speaker, as a former member of the Jaycees myself, I had the honor of announcing a signal achievement of the Waldorf, Md., Jaycees several weeks ago, when I informed this Congress of their election to "best in Nation" status. That achievement, I am pleased to tell you, has been eclipsed by one even higher. Two weeks ago, the Greater Waldorf Jaycees, Inc., of Charles County, Md., were named the No. 1 Jaycees chapter in the world by the international Jaycees organization meeting in Europe.

The work that this chapter has done, including their extensive work with cardiopulmonary resuscitation and numerous local community and government projects, is eloquent testimony to their latest honor. Once again, I must express my pride and admiration for this all-too-rare example of local peoples' concern for their community. I applaud the Waldorf Jaycees for their excellence, and I offer for inclusion in the RECORD two accounts, from the Times-Crescent and the Maryland Independent, which describe the reaction of Charles Countians to this impressive news.

The articles follow:

[From the Times-Crescent, Nov. 14, 1979]

WALDORF JAYCEES VOTED TOP CHAPTER IN THE WORLD

The Greater Waldorf Jaycees Inc. were named the number one Jaycee chapter in the world this week.

Not in the state, not in the country, but in the world.

"I still don't know what has happened," said Jaycee president Andy Andrews. "I'm calling all over the country trying to see if its really true."

Brad Trafton, national awards chairman for the U.S. Jaycees in Tulsa, Okla., said that, yes, the Waldorf Jaycees had been chosen top chapter in the world at the international convention in Sweden, but that little other information was available.

Trafton explained that the convention culminates with the naming of the top chapter and that most attendees left immediately for a one-week tour of Europe.

There are approximately 15,000 Jaycee chapters from 86 different countries according to Trafton. He said he was not sure how often the U.S. entry has won.

"Let's put it this way, the second place winner in the international competition is considered a supreme honor," Trafton said. "This is indescribable."

Jaycee Dick Gregory said the Waldorf chapter had never entered international competition but said that winning top chapter in the nation spurred them to give it a try.

Gregory said that their "book" of achievements for the year consisted of nine six-inch thick volumes but that they were limited to 40 pages for the international competition.

No Waldorf member was in Stockholm for the judging.

Official presentation of the trophy is set for January in Tulsa.

The only negative point brought out is that now they will have to amend the banner at their headquarters and the bumper stickers, crossing out "nation" and inserting "world."

[From the Maryland Independent, Nov. 14, 1979]

WALDORF JAYCEES: BEST IN THE WORLD

(By Marian Myles)

At an International Jaycee Conference held last week in Sweden, the Greater Waldorf Jaycees were voted the World's Outstanding Jaycee Chapter, topping 14,000 local units.

News of the event, called the highest honor a chapter may attain in the world-wide Jaycee movement, reached Waldorf Jaycees President Andy Andrews at his home Friday night, when one of the U.S. vice-presidents telephoned from Stockholm.

"I was so excited I never did get his name," Andrews said.

With the clarity of hindsight, the chapter president said he wished that a representative of the local group had been present at the International Conference to receive the honor.

"When we entered the competition we talked about sending someone but when we looked at the economics we decided against it," Andrews said.

The Greater Waldorf Jaycees, voted this year as the United State's outstanding chapter, competed against units from 86 countries for the international award.

The chapter president said a 40-page scrapbook outlining their major activities was prepared in accordance with rules of the competition. Contained in the summary are accounts of their numerous projects involving senior citizens, such as home repair, food drives, holiday parties, food baskets and hearing aids and their volunteerism at the Charles County nursing home.

They've participated in a five-year building program at Melwood Farm, a training facility for the handicapped, regularly sponsor the Health and Safety Fair, CPR training sessions, the Junior Miss and Special Olympics programs. During the recent Muscular Dystrophy telethon, the local chapter raised almost a third of the total $33,000 pledged in Maryland.

There are unpublicized activities such as allocation of funds to help children and youth which are passed out as individual grants.

Brad Trafton of the U.S. Jaycees headquarters in Tulsa, Okla. told The Maryland Independent that the local chapter will receive the award, called the Minneapolis Trophy, in January when a conference to name the U.S. Outstanding Young Men of the United States will be held.●

AN EVEN MORE BLOATED MILITARY BUDGET

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mrs. SCHROEDER. Mr. Speaker, once again we have succumbed to the anti-Communist hysteria that has prevailed throughout the SALT debate. By accepting an even more bloated military budget, we have fooled ourselves into believing that we are doing something for the defense of this Nation and have cheated the American people out of what they now need most—economic and political security.

Once again we have made a decision that seems politically easy and popular without asking ourselves the hard question of whether the price that we are paying equals the return on our investment. My conscience tells me that we have duped the American people into playing the "more for the military is better game" without telling them what some of the rules are. We have created a Soviet monster that we are going to overpower by spending more money for new weapons and more sophisticated technology. What we have not dealt with is the U.S. monster that is going to overpower us with runaway inflation and increased unemployment. What is worse is that we have not admitted that the more we pump into the military, the bigger the inflation and unemployment problems become.

I recently came across some startling new facts about the priorities that we have established in this world. For example: In pounds per person, the world has more explosive power than food. Also, in the Year of the Child, 8 million children in the world will die as a result of hunger and illnesses related to malnutrition. Right now, developing nations, with 660 million people who cannot afford the basic necessities of life, spend over $90 billion a year on military power.

The United States has led this proliferation of misguided priorities by exporting $50,265 million worth of arms to underdeveloped countries since 1955. That is more than twice what the Soviet Union has exported. Yet the rationale given for more and more money for the military has historically been that the Soviet military monster is getting bigger and exerting its strong-arm influence in the Third World and is trying to undermine the values of freedom and democracy. I would say that, when you look at the facts, they reveal exactly the opposite—that we have been exporting so many arms to Third World countries to undermine the values of communism, that we are way ahead of the Soviets on the "who's undermining whom" scale. But this side of the argument has never been heard over the screams of Soviets in Cuba and Communist troops in Angola and other parts of Africa. What about our support of the repressive regimes of Somoza? And what about our active support for the human rights violators of South Korea? What about our confessed overthrow of Chile's Allende government by the CIA? In spite of all this, we still hand over 46 percent of the taxpayer's hard-earned money to the military—and more next year because of the "growing Communist threat." What kind of a con game are we running on the American people?

Economists all over this country are trying hard to figure out how we have gotten ourselves into the economic mess we now find ourselves in. Many have made the stunning connection between our bigger and bigger economic commitment to the military and rising inflation and unemployment. These economists have asked themselves if the premise upon which we have always based military expenditures—that they create jobs and are good for the economy—is really true. If it were, how could we now be caught in the stagflation trap? Stagflation is the exact opposite of what we are supposed to have, now that the true figures have come out showing that real military spending has increased over the past 30 years. But we still say "more, more, more for the military," while taking pot-shots at the social programs.

If the "military means jobs" folks were correct, how could we now find ourselves in this mess? The answer is twofold. First, one billion dollars spent for defense creates fewer jobs than one billion dollars spent in some other sector of the society. Plug one billion dollars into the military and you get 58,000 jobs. Plug one billion dollars into education and you get 76,000 jobs; into health and you get 85,000 jobs; and into the Job Corps and you get 145,000 jobs. So the more money you spend on defense, the more jobs you are foregoing in some other sector of society. The real increase in military spending that we have voted for has meant more unemployment than if we had invested those moneys into another sector of the economy.

Secondly, inflation is also linked to the bloated military budget. Military spending is one of the most inflationary forms of Federal spending. The goods and services that come off the military production line sit on the shelf and collect dust—they do not add to the collective wealth of society. On the other hand, money allocated to nonmilitary projects produce spinoffs which ripple throughout the economy. For example, agricultural assistance helps a farmer to grow his crops, provides jobs for agricultural middlemen and keeps the grocery stores in business. It is when an industry, such as the military—whose end products go nowhere in society—overshadows other segments of the economy, that the Government has to spend more to get more and the Federal deficit becomes larger and larger.

We have created our own productivity-inflation-unemployment crisis by the amount of money we continually appropriate to the military. Now we are willing to subject Americans to more of the same by pulling in the reins on social programs and loosening the belts of the military. I am not willing to let Americans pay for our mistakes. I voted against the second budget resolution. It is based on all the wrong premises and it heralds all the wrong causes. I hope my colleagues will soon join me in bringing clarity and direction to the mush we call our economy and our values.●

IRANIAN SITUATION PART IV; AMERICA'S YOUTH SPEAK OUT

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. ASHBROOK. Mr. Speaker, November 21, the day before Thanksgiving, saw a dedicated group of young people put holiday preparations aside in order to take a firm stand on the growing crisis in Iran. This group was significant as it represented conservatives, liberals, socialists, Democrats, and Republicans. The young people, led by Robert Heckman of Young Americans for Freedom, met with Ali A. Agah, the chargé d'affaires for Iran, and Sasan Ardalan, the information officer. Their message was a simple one, the youth of America refute the use of terrorism in Iran and call for the unconditional release of the hostages in the name of international law. At a time when the Carter administration seems dead in the water and when the ayatollah is thumping his chest in defiance of America, it is reassuring to know that a group of young people representing many thousands of other young people are willing to go on record for America. I submit their statement into the RECORD as one sign that may yet be hope for the future generations of U.S. citizens:

THE IRANIAN SITUATION PART IV, AMERICA'S YOUTH SPEAK OUT

(Joint statement of: Robert C. Heckman, executive director, Young Americans for Freedom; Bernie Friedman, president, College Democrats of America; Rosann Garber, executive director, Young Republican National Federation; Chris Mueller, national chairman, Young Social Democrats; Ken Simon, president, United States Youth Council;* Ted McConnell, executive director, College Republicans; Jessica Smith, executive director, Frontlash)

Those of us gathered before the Iranian Embassy today represent a broad spectrum of America's youth. While the organization on whose behalf we are speaking often differ on matters of politics, we are united in our moral revulsion at the events taking place today in Iran.

The organizations here assembled represent the real voice of the youth of America. All Americans—but especially young people who will very soon be inheriting the mantle of leadership in the United States—will no longer stand for the burning of the American flag overseas. We will no longer stand for international blackmail against the greatest nation on Earth by less civilized countries. Never again must U.S. respect in the world be so low as to permit a foreign dictator to hold Americans and American property as hostage. It is time that once again all Americans and their belongings are protected by our government everywhere in the world.

Those leaders in Iran who think that their illegal activities against the United States will be supported by America's college students are wrong. This is not the 1960's. Young people want to inherit a strong and respected America, not a weak and helpless giant.

The organizations represented here today pray for the safe return of all Americans held hostage in Iran. We urge all young men and women to remain calm and not to do anything provocative which could further complicate the difficult decisions in this crisis which our government must make. However, we call upon all Americans to continue to express their vocal outrage at the unprecedented actions taken against American citizens by the dictator in Iran.

We would like to make clear publicly that American college students strongly support any actions aimed at deporting Iranian students now studying in this country who protest in support of the barbarous activities now taking place in Iran against American citizens. Let it be clear that the National Student Association and the United States Student Association, which have recently entered into a lawsuit against the government's attempts to deport illegal Iranian aliens; are an anachronism of the 1960's. The real voice of Americas' college students and other young people cries out for a strong American response to the Iranian crisis—a response which includes the deportation of those who have waived their right to enjoy the benefits of freedom which they find in this country, but which are absent now more than ever in their native homeland.

There has been an outpouring of patriotism by American college students over the last few weeks. No longer are young people protesting our nation's strengths; we are deploring its weaknesses. There is a new wave of responsible patriotism on the campuses today—heightened by the Iranian crisis, but which will continue long after our present situation is resolved.

Some of the organizations represented here organized or participated in many of the recent demonstrations against the government of Iran. We will continue to mobilize young people in any constructive manner.

Thousands of young people are represented directly by the organizations present today. Many thousands more share our convictions Let there be no mistake about one point: American young people are just as committed to their country as those radical Iranians who have engaged in violence against the United States are committed to theirs. America's young people will respond to attacks upon our country in any acceptable manner. If Iran's youth desire to spearhead activities against the United States, America's young people will respond. We have no more patience with outlaws.

For further information, please contact:

Rick LaMountain, Young Americans for Freedom, Woodland Road, Sterling, Va. 22170—703/450-5162.●

A MODEST BLESSING

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. CARTER. Mr. Speaker, in April 1977, a constituent came to me with a problem he had obtaining service-connected compensation.

That veteran was Donald Coe, of Turkey Neck Bend, in my home county who was present at the detonation of several atomic blasts in Nevada in 1957 and who developed hairy-cell leukemia as a result 20 years later. The struggle to obtain the benefits to which Donald Coe was entitled resulted ultimately in hearings by our Health and Environment Subcommittee, which in turn prompted a continuing national effort to find out what has happened to veterans such as Donald and to secure for them the compensation to which they are entitled.

The Board of Veterans Appeals, in August last year, granted Donald service connection. It was extremely gratifying that Donald was able to obtain the benefits to which he was entitled, and I believe that other veterans who also were exposed to radiation at the nuclear tests, and who develop leukemias, lymphomas, and other cancers, also should be granted service connection for their disabilities.

I had known Donald, his deceased father and his mother for many years. When his case was brought to my attention, he had been given 6 months to live. Today, after successful treatment through Vanderbilt University Hospital, he remains with his family in Monroe County.

I include for the RECORD an article from the November 23 Courier-Journal detailing Coe's happiness at this Thanksgiving with his family; I trust that he will have many more.

The article follows:

A MODEST BLESSING

VETERAN GIVES THANKS FOR A WALK ON HIS FARM

(By Bill Osinski)

TURKEY NECK BEND, KY.—Donald Coe had a lot to be thankful for yesterday: He could walk through the soybean fields below his own home.

If a stroll through a piece of Cumberland River bottomland seems a modest blessing, consider what Coe went through to earn it.

He had to ride in an open helicopter through an atomic-bomb cloud and battle the U.S. Army and an incurable disease at the same time.

He enjoys his walk.

"That means everything to me, walking around this farm," Coe said of his Monroe County acreage. "I love to see things grow, be out with my boys."

On this Thanksgiving Day, Coe, 47, was able to savor victories in battles that no one but him expected he would live to finish.

In 1957, Coe was part of a group of soldiers who were stretched out on the sands of Yucca Flats, Nev., when the Army detonated a bomb named Big Smokey.

The atomic device was twice as powerful as the one dropped on Hiroshima. While the deadly mushroom still hung in the air, Coe's squadron was flown in a helicopter to the blast area for drills.

Coe experienced health problems from the blast, one of eight his group witnessed while it was stationed on the desert. By 1976, he was diagnosed as having "hairy cell" leukemia.

For the next two years, Coe had to battle the Army bureaucracy while he also fought for his life. He had to prove that he had been at Yucca Flats and then dissuade Veterans Administration physicians who testified that his condition was not caused by radiation exposure.

Last year, after much publicity and the intervention of U.S. Rep. Tim Lee Carter, R-5th District, the Army reversed its position and granted Coe's appeal for medical disability benefits.

Besides the continuing payments, Coe was awarded about $13,000 in back disability pay from the time his illness was diagnosed.

For this holiday season, Coe has also been granted—from a Higher Authority—enough health to enjoy his winnings.

His family of eight children has moved into a new brick home on the 123-acre farm that Coe worked during much of his life. Until the extra money came in, the Coes had lived mostly in rented homes nearby.

There is a combine in the fields, some new furniture in the house, and a pool table in the basement. There is also a new addition to the family, four-month-old Jesse Coe.

When 15 or so people started in on the two turkeys that Joan Coe prepared for Thanksgiving, Coe must have reflected that the setting represented the attainment of the goals he fought hardest for.

"All I was living for was to see my new home and have my disability approved," Coe said.

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*For identification purposes only.

The view from his table is so pleasant, he said, that he might just stay around for as many more seasons as he can.

"I'm wanting to live as long as I can to be with my family," he said. "I said I was going to, and now I'm not going to give it up. If I'd given up, I wouldn't be here now."

Good health, though, is a relative term for Donald Coe.

"I have my good days and my bad days," he said. On a good day, walking and playing pool are the most strenuous activities he can handle, he said.

On bad days, which come randomly, he can get paralyzing leg cramps that sometimes end in seizure and collapse.

But always, there is a danger that a minor infection or a small bruise could escalate into a life-threatening problem, he said. Since leukemia is a disease of the immunity system, Coe's biggest danger is his decreased ability to fight off injury or infection.

Lately, though, the good days have outnumbered the bad.

The drug lithium has apparently helped stimulate the formation of white corpuscles, the body's disease-fighting entities, he said.

As a result, he can do a little more, and he has gained some weight. His biweekly visits to a hospital in Nashville, Tenn., were recently reduced to monthly or bimonthly.

"I feel better now than I did all summer," he said. "But I don't know whether that's a good sign or not."

Coe's ordeal began, he said, when Army superiors said he was selected to join a group that would pitch tents on the Yucca Flats desert near the atomic-bomb blasts. He was chosen, the superiors said, because he was among the few who had received top-secret clearance.

Coe said he came to doubt the need for such clearance when he arrived at the desert blast area and saw dozens of reporters.

In all, Coe's unit hit the sands while eight A-bombs were detonated. He can still recall them.

When the bombs went off, the men were stretched out face-down on the sand, with their arms covering their faces, he said. That position made it difficult for the radiation counters they wore on their chest to do their job, Coe said.

"The blast was like a big bright light flashing in your eyes," he said, "and when the heat wave hit, it felt like something real hot sticking to your shirt."

For the biggest of the detonations, Coe said, his group was among those that went closest to the bomb crater.

"We flew through the mushroom cloud right after the blast. We threw hand grenades into the old buildings they had set up and kicked the dummies they had lying around," he said.

On their return from the bomb site, some of the men had to be isolated because their clothes had been heavily contaminated with radiation, he said. The rest were passed through after being quickly checked by a technician with a geiger counter, he said.

His worst symptom at that time was a minor radiation infection, he said. Years later, he was diagnosed as having a deteriorating backbone, but Army officials maintained that the condition must have come from an injury he suffered. Coe said he can't remember injuring his spine.

Coe was discharged in the mid-1960s. He returned to his Monroe County farm.

But his physical capacity continued to diminish, and by the time he launched his fight for service-connected disability benefits, he said, about all he could do was lie on his front porch.

At the height of his battle with the Army, Coe's physical condition was at its worst. In March 1978 surgeons removed his spleen after it had enlarged to 11 pounds and 15 ounces, he said.

Mrs. Coe said that was the time she thought she was about to lose her husband.

"He was so gray in the hospital," she said. Coe said he prepared himself for the prospect of not surviving the ordeal, but with the aid of a transfusion of blood platelets from his son, he made it.

Now he can walk with that son and his others, through his own fields below his own home. And he can feel secure in the knowledge that his children will be provided for when he is no longer there.

Even if the ability to walk through a soybean field may not seem a grand blessing, it is all that Coe wanted on this Thanksgiving.

"I'd be a fool to ask for more," he said.●

BRIDGE NAMED IN HONOR OF POLISH-AMERICANS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BOLAND. Mr. Speaker, on Veterans Day, 1979, a bridge in my district was named in honor of the Polish-American Veterans of Massachusetts. The bridge serves as a monument to the contributions and sacrifices made by Polish-Americans since the birth of our Nation. I am pleased to bring to my colleagues' attention the dedicatory remarks of Representative Richard T. Moore of the Massachusetts Legislature:

Reverend Clergy, Polish-American Veterans, Ladies and Gentlemen: On this Veterans' Day, 1979, we pause to honor the courage and the great sacrifice of so many Americans throughout our more than two hundred year existence as a nation as they fought to preserve our national liberty and democratic tradition and to defend the liberty of other nations around the world. More than this, however, we gather at this bridge not only to honor, but to celebrate the special contribution to the cause of liberty made by Americans of Polish descent.

Polish-Americans have made significant contributions to the social, cultural, and historic traditions of America. Countless examples can be cited of Polish-Americans who have achieved prominence in the fields of music, science, government, engineering, theater, sports, and every other field of endeavor. They have truly made a substantial impact on the institutions and the social fabric of America—"America the Beautiful" as Pope John Paul II put it during his recent visit here.

Today, we dedicate this bridge to stand as a memorial to the Polish-American veterans of Massachusetts. And just as this bridge serves as a firm foundation supporting the many Americans who safely travel over its span, so too have the Polish-American veterans of Massachusetts provided a firm foundation for the support of America throughout its history. It is a fitting memorial, and as the principal legislative sponsor of House Bill 5973, now Chapter 246 of the Acts of 1979 which authorized the naming of this structure "The Polish-American Veterans Bridge," I am honored to join with you to officially dedicate your bridge. May it be as strong and enduring as the loyalty, patriotic pride, and self sacrifice of the men and women whose name it proudly bears—the Polish-American Veterans of Massachusetts."

The following article appeared in the Worcester Telegram of November 12, 1979, recounting the events at this dedication ceremony:

BRIDGE-NAMING HONORS POLISH-AMERICAN SOLDIERS

WEBSTER.—The Route 52 bridge over Thompson Road was dedicated as the Polish-American Veterans Bridge yesterday. More than 200 persons attended the program, despite constant, sometime heavy, rains.

Several speakers participated in the exercises, including state Rep. Richard T. Moore, D-Uxbridge.

Moore said exercises not only honored but celebrated the "special contribution to the cause of liberty made by Americans of Polish descent. Polish-Americans have made significant contributions to the social, cultural and historic traditions of America."

Moore said: "Today we take cognizance of the fact that not only have Polish-Americans contributed greatly to national development, they have also been among the first Americans to rally to the defense of America when this nation faced difficult moments in its history."

Kosciuszko and Pulaski joined in the American War of Independence, Moore said. "They are, in fact, the first Polish-American veterans who we honor today through the dedication of this bridge."

Continuing, he added: "We also honor many Polish-American veterans by our dedicatory ceremonies." Moore said 40,000 of the first 100,000 volunteers at the outbreak of World War I were Polish although the Polish population of the United States did not exceed four percent at that time."

Moore presented copies of House Bill 5973, now Chapter 246 of the acts of 1979, which authorized the naming of "The Polish-Amerrican Veterans Bridge."

Representatives of most of the Polish-American Veterans posts in the state attended the ceremonies.●

A CASE FOR DECONTROL

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. DANNEMEYER. Mr. Speaker, I rise to address my fellow members on the subject of decontrol of crude oil prices. There are a great number of myths surrounding this subject, and I have come upon an article by Arthur B. Laffer and Charles W. Kadlec, in Energy Management, fall 1979, that clears up many misconceptions held by some. These men make a strong case that the immediate decontrol of crude oil prices will not result in the sharp rise in petroleum product prices predicted by many, but will have no appreciable effect on prices. They go on to make the point that immediate decontrol will result in significant increases in domestic production of crude oil that could help alleviate present shortages. I think that we all must reconsider this matter in light of the renewed problems with foreign oil supplies exemplified by the Iranian crisis.

I commend the following article, reprinted here in its entirety, to your thoughtful attention:

A CASE FOR IMMEDIATE DECONTROL

(By Arthur B. Laffer and Charles W. Kadlec)

The widely anticipated inflationary effects of the announced program to decontrol crude oil prices is unfounded. The lifting of price controls from crude oil produced in the U.S. will lead to lower, not higher, real prices for refined petroleum products—if the "windfall profits" tax is not imposed.

The proposed windfall profits tax is actually a windfall revenue tax and would substantially reduce incentives to increase U.S. crude oil production. Passing this tax would enhance the Organization of Petroleum Exporting Countries' (OPEC) power over world oil production and would increase crude and refined oil product prices worldwide.

Prices of other fuels, including coal and uranium, would also rise. And even worse, the proposed tax is progressive. The greater the real increase in oil prices, the higher the effective tax rate, thus giving the U.S. government an incentive to add to government revenues by driving up oil prices relative to the general price index.

THE IMPACT OF DECONTROL

In economics, the market price of any product under perfect competition is determined by cost of supplying the final unit of output to the market: price equals marginal cost. Thus, given the competitive nature of domestic energy markets, crude oil price controls must lower the marginal cost of supplying petroleum products to the domestic market if they are to lower retail gasoline, fuel oil, or other refined product prices within the U.S. economy. A program that affects only the average cost of crude oil could have a large effect on the distribution of profits within the oil industry, but it would have no direct effect on the price of gasoline at the pump.

The present system of price controls and entitlements does not lower the marginal cost of crude oil or petroleum products in the U.S.

The U.S. market is integrated with world petroleum markets. Some 45% of American crude oil supplies is imported. The government's attempt to lower the price of imported oil to U.S. refiners—the entitlements program—does influence the average cost of imported crude oil. Under this program, refiners who are using above average amounts of old (price-controlled) domestic oil must purchase entitlements from those refiners using above average amounts of imported oil. But, since the quantity of entitlements is fixed, they can have no marginal effect. For the industry as a whole, the marginal cost of the last barrel of crude oil is the world price.

The U.S. also participates directly in world refined product markets. U.S. distributors compete on a global basis for supplies of heating oil, gasoline and other refined products, assuring U.S. wholesale prices (before taxes) are equilibrated with world prices. Other petroleum products, such as petrochemicals, are also set in world markets.

Thus, if U.S. price controls held wholesale prices below the world price, U.S. buyers would be unable to compete successfully for supplies—their bid would be held below the market bid by law. Domestic shortages would be the immediate and unavoidable result.

There is very little the U.S. can do to hold refined product prices below their world level without creating an "energy shortage" in the U.S. During 1978, approximately $7 billion of refined products were purchased from foreign sources. If U.S. wholesalers, and ultimately consumers, were not permitted or were unwilling to pay the world price, these imports would all but disappear.

This reasoning applies to gasoline and all other refined products which are traded in world markets. Until the recent shortages, price controls on gasoline were largely ineffective in the U.S. By and large, the gasoline pump price was below its ceiling price, suggesting that market forces, not government controls, had been dictating the retail price.

Thus, regardless of the average price of crude oil in the U.S., if U.S. refiners could not sell gasoline at the world price, they would have shifted their production mix towards such products as heating oil and away from gasoline with the result that less gasoline would be produced domestically and more gasoline would be imported from offshore refineries.

Today, virtually all major refined petroleum product categories, other than gasoline, are not subject to price controls; their prices are set by market forces.

The appearance this spring of gasoline shortages suggests that price and allocation controls on gasoline became effective, leading to such non-price rationing methods as long lines and weekend gasoline station closings.

The Administration's decision to apply the 7 percent "voluntary" price standards to gasoline—even though the involuntary price controls were being obeyed—tended to suppress domestic gasoline prices below the world level. Such a policy discourages importation of higher-priced gasoline and crude oil, thereby aggravating the domestic gasoline supply situation.

De facto distribution of fuel oil also has come under the control of the Department of Energy through the application of the Administration's "voluntary" price controls to diesel fuel and heating oil. As we would expect, reports of shortages of fuel oil have grown in the aftermath of this attempt to hold retail prices below the world level.

Immediate decontrol would quickly end shortages of fuel oil and gasoline. These shortages appeared first in those parts of the country where fast economic growth, above average increases in gasoline demand and changing driving patterns collided with a distribution system frozen in place by government controls. For example, until special allocations were given to California by DOE, energy regulations denied drivers in California the opportunity to bid gasoline away from the rest of the world economy, including other slower-growing parts of the U.S. This and similar approaches are probably more costly than allowing prices to rise enough to clear the market.

Also, the Administration's decision to phase in decontrol of crude oil over 16 months rather than decontrolling all prices immediately is counter productive. By delaying decontrol while making total decontrol more certain in October 1981, the Administration has increased further the present value of keeping oil in the ground between now and the lifting of price controls.

Thus, the step-by-step price increase program will tend to reduce supplies of crude oil during the duration of price controls, aggravating further the turmoil in today's international petroleum markets.

Experiences with changes in the government's oil control program also support our view that domestic refined petroleum product prices are determined in world markets. The lifting of heating oil price controls on July 1, 1976 had little impact on retail fuel oil prices.

Similarly, the introduction of entitlements in late 1974 and the lifting of a $2 per barrel import fee on crude oil in January 1976 (effective December 22, 1975) had no apparent effect on domestic wholesale and retail heating oil prices.

These and other observations are all consistent with the hypothesis that U.S. refined product markets are integrated with world markets, thereby forcing domestic wholesale prices to equilibrate with world prices and neutralizing attempts to reduce domestic refined product prices through domestic crude oil price controls.

DO IT NOW!

Total and immediate decontrol would be the most important step toward achieving the Administration's stated goal of making the U.S. less dependent on foreign oil and reducing the power of OPEC to raise artificially the world price of oil.

An immediate benefit of decontrol would be the elimination of the need for refined product allocation programs. This alone would tend to lower distribution costs, which, to the extent they operate on the margin, would lower retail prices.

More important, the substantial increase in incentives for crude oil producers would lead to a significant increase in domestic supplies of oil. Such a supply-side response can lead only to increased economic discipline in the oil cartel's pricing policies and improved prospects for a decline in the relative or real price of petroleum products worldwide.

Ironically all of this means that immediate decontrol of crude oil and refined petroleum product prices in the U.S. would do little to increase conservation of energy. Instead decontrol would tend to increase supplies and thus lower the prices of refined products below where they would be with controls. This would increase consumption.

THE WINDFALL PROFITS (REVENUES) TAX

As proposed, the President's windfall profits tax would be a levy on revenues, not profits, that result on a formula basis from either decontrol of crude oil prices or an increase in the price of crude oil relative to the general price level in the U.S. after the fourth quarter of 1979.

Originally, the Administration projected that by 1982 its tax collections would total nearly $3 billion per year with no real price increase in oil, and $4.5 billion per year with the assumed 3 percent per year real increase in oil prices.

The proposed tax is destructive in several respects. First it aligns the interests of the Department of Energy and Congress with those of OPEC: the higher the world price of oil, the greater the revenues raised per barrel of oil via the windfall tax. DOE would administer the bulk of these funds. Therefore, any diminution in OPEC's power to levy monopoly profits would tend to reduce funding for Energy Department programs.

Second, since the tax program continues to distinguish between different kinds of oil (lower tier or old oil, upper tier or new oil and oil discovered subsequent to decontrol) much of the regulatory apparatus would have to remain in place to measure the output of each kind of oil. Thus, the windfall tax promises to extend regulations of the oil industry into the indefinite future, raising the spectre of reimposition of price controls based on current oil classifications.

Finally, to the extent the burden of the tax is borne by producers of oil, the tax would decrease incentives to discover oil in the U.S., shifting the emphasis to non-U.S. locations where the future tax climate is more favorable.

Moreover, the greater the expected future power of OPEC to levy monopoly prices, the greater the expected future tax, and the larger the decrease in current incentives to discover domestic oil.

Hence, the windfall tax would tend to significantly extend the life expectancy of the oil cartel and its power to set monopoly oil prices. The greater the burden of the tax borne by domestic oil production, the more OPEC's power would be enhanced.

The impact of the proposed tax would be to increase U.S. dependence on foreign oil in the short and long term and push up the price of oil and refined products worldwide. The economic cost of the windfall tax, therefore, would be a lower standard of living throughout the non OPEC world, a cost that would far exceed the revenue collections projected by the U.S. government.

And, since refined product prices have not been reduced by the oil controls program, all windfall profits projected by the administration already are within the oil industry. Any windfall profits identified after decontrol would be illusory for the industry as a whole, nothing more than accounting conventions or government reporting requirements recording the predictable shift in profits away from refiners, brokers and others in the distribution chain toward producers of previously price-controlled oil. Thus, any windfall tax receipts, in general, would reduce the industry's after-tax profits below where they would have been without decontrol.

EFFECTS ON THE U.S. ECONOMY

The Administration proposes that virtually all of the revenues from the oil tax go to fund new or expanded federal programs. None of these revenues is ear-marked for tax rate reduction or reduction of the national debt.

Thus, for the economy as a whole, the proposed oil tax represents an increase in the overall tax wedge. Tax increases in one area resulting in tax reductions elsewhere may lead to expanded growth and output, but when tax increases are coupled with transfer spending increases, as they are in the Administration's plan, or coupled with displacement of the private sector by a less efficient public effort, output and output growth are reduced.

If DOE would be more successful in developing alternate energy sources than the private sector, then output and output growth would be enhanced. But unlike a private sector effort, if DOE is successful, it would suffer a significant reduction in revenues and tend to go out of business. Thus it is reasonable to assume that the probabilities of the government being more effective in developing alternate energy sources are less than the private sector's.

The proposed tax package would most likely reduce output and output growth in the U.S.

Revenue collections from the oil tax are likely to be below the Administration's expectations, not only because additional types of oil will probably be excluded from the tax by Congress, but also because domestic oil output will decline.

OIL PRICES AND MONETARY POLICY

To a significant extent, the rapid rise of the dollar price of crude oil is the result of U.S. monetary policy during the last decade. It is no accident that the fourfold increase in the price of crude oil in 1973 and the recent run-up in the dollar price of oil were preceded by and then coincident with extraordinary increases in the world dollar money supply.

For example, the monetary reserves of the industrial countries measured in dollars at market prices more than tripled between the end of 1969 and the end of 1973 before jumping another 38 percent in 1974. And in the 12 months ending February 1979, the world dollar monetary base expanded 33 percent—one of the largest year over year jumps since the middle 1970's. Since 1970, the dollar value of these monetary reserves has more than quintupled.

Between 1970 and the end of 1978, approximately half of the increase in the price of oil can be attributed to the general loss of the value of the dollar. In fact, until the recent spate of price increases, the price of crude oil had been falling in real terms since 1973.

In the four years ending December 1978, the world price of oil in constant dollars fell more than 20 percent. Dollar inflation, therefore, enabled OPEC to avoid the difficult task of negotiating a nominal price cut in oil, allowing its members to acquiesce to the decline in the real price while maintaining the illusion that the cartel alone determined the price of oil without regard to world demand.

The stability of refined product prices in constant dollars is also striking. Although the price of gasoline in March 1979 in real terms was 25 percent higher than it was 7 years ago, in first quarter 1979 dollars it was about 1 cent per gallon below its price in 1958.

If crude oil were $17 per barrel today, it would be about the same price as at the end of 1973. An official OPEC world price ranging from $18 for Saudi Arabian benchmark crude to $23.50 charged by some North African countries represents a constant dollar increase over the previous peak of 5 to 37 percent.

A portion of this year's and 1973's real price increase also can be attributed to errant U.S. monetary policy. During periods of monetary uncertainty and high inflation, investors tend to switch out of financial assets into real assets. Private investors buy antiques or gold instead of bonds leading to relative price shift between real and financial assets. Similarly, oil exporting countries may choose to lower production and substitute the oil in the ground for financial assets (monetary reserves), raising the real price of oil in the process.

OIL STOCKS

The behavior of three oil indexes published by Standard and Poor's—crude oil, integrated domestic, and integrated international—is consistent with the analysis in Figure 3. The index of crude oil producers, for example, declined sharply between 1972 and 1975 with the imposition of crude oil price controls, thereby suggesting these controls did reduce the anticipated returns to crude oil producers. By contrast, the index for integrated domestic oil companies increased, both relative to the crude oil index and the S&P industrials.

This is consistent with our position that crude oil price controls merely transferred profits from producers of domestic oil to refiners of domestic crude oil. For the integrated domestic companies, this would tend to leave total profits unchanged, or, to the extent the integrated companies were net purchasers of price controlled crude, tend to increase total profits.

In fact, crude oil price controls in 1975 transferred an estimated $12 billion from producers of domestic crude oil to refiners. Of that, an estimated $3–4 billion was transferred to non-affiliated refiners, with the remainder transferred within integrated companies. With the recent increase in the real price of oil and the end of price controls apparently at hand, however, the crude oil index has risen slightly more than the integrated domestic index.

Over the last decade, the integrated domestic index has also performed better than the integrated international index. The biggest difference in price movements between these two indexes also occurred in 1973 and 1974. One plausible explanation is that it was during this period that the oil-producing countries moved to obtain, in one manner or another, the property rights to the crude oil being produced within their borders.

Hence, the integrated international oil companies were not able to participate as much as the integrated domestic companies—who retained ownership of their crude oil—in the gain associated with the real increase in oil prices. Between December and the end of May, this experience was repeated with the integrated international index rising only about half as much as the integrated domestic index.●

REASONS TO OPPOSE THE CHILD HEALTH ASSURANCE PROGRAM

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, the House will soon consider H.R. 4962, the child health assurance program (CHAP). The bill is yet another threat to the rights of the States and the family.

Presently, the States have the right to set income eligibility standards for receipt of medicaid by pregnant women and children. The CHAP bill, however, would change this by federalizing these standards. As a consequence, the Federal Government would assume a much greater share of State medicaid costs, but with that the States will lose much of their authority over the medicaid program.

What all this would lead to is more and more reliance on the Federal Government, a diminishing role for State governments, and a reduction of parental prerogatives regarding their children's health care.

The December 1, 1979, issue of Human Events contains an excellent article on the CHAP bill entitled, "'Chap': Big Brother Health Care for Children." In it, my distinguished colleague, the Honorable WILLIAM E. DANNEMEYER, points out that the CHAP bill is also a tremendous threat to the institution of the family. For with enactment of the bill, it will become an acceptable fact that the Federal Government, rather than the parents, will be determining what kinds of medical testing and treatment their children should have.

Since the Human Events article speaks so well on the inherent problems of the CHAP bill, I am inserting it here for the thoughtful attention of my colleagues:

"CHAP": BIG BROTHER HEALTH CARE FOR CHILDREN

With hardly anyone paying attention, liberals on the House Interstate and Foreign Commerce Committee have quietly set the stage for passage of a multi-billion-dollar measure to federalize Medicaid eligibility standards for children and pregnant women—a decision now left with the states—and to vastly expand the program's coverage.

Known as the Child Health Assurance Program (CHAP), the measure—which would come to a House vote as early as this week—is sponsored by Representatives Henry Waxman (D.-Calif.) and Andrew Maguire (D.-N.J.). The senate Finance Committee has approved a more limited CHAP bill.

The purpose of CHAP is a broaden substantially the number of children and pregnant women covered by Medicaid, with the federal government assuming a much greater share of state Medicaid costs. According to the Congressional Budget Office, the tab for the House version would come to about $5.5 billion through fiscal 1984. In point of fact, however, the CBO estimate is probably grossly understated.

To begin with, CHAP is an "entitlement" program—i.e., one of the so-called "uncontrollable" expenditure programs under which everyone who meets the eligibility formula can get coverage no matter how high the aggregate cost. What's more, everything about this bill is designed to inflate the program. Not only is the eligibility threshhold made more lax, but, since Uncle Sam will be shouldering nearly all of the expense, the states, which will administer the program, will have little incentive to hold down costs.

On the contrary, the measure actually gives "bonus" funding to states operating heavily used programs while penalizing those states that try to minimize expenditures, thereby assuring that the money spigot will remain wide open. The truth, therefore, is that no one can accurately predict the billions such an open-ended program will consume.

Specifically, the CHAP measure would for the first time establish a nationwide federal floor on Medicaid coverage of children and pregnant women. Under present law, for example, a state Medicaid program is only required to cover children from broken homes. And pregnant women have to be covered only if they are also receiving welfare payments under the Aid to Families with Dependent Children (AFDC) program, which in many states means that they already have at least one child and no husband living at home.

But under the new eligibility standards imposed by the House measure, all individuals up to at least age 18 would have to be included if their families' incomes amounted to less than two-thirds of the federal poverty level, or about $5,000 for a family of four in 1980. This would be true whether or not both parents were living at home. Similarly, a pregnant woman would have to be covered if her income was less than 80 per cent of the poverty level, even if she were single and not eligible for AFDC payments.

The legislation not only broadens the number of people included in the program, but it also mandates much more extensive services. As the House committee report explains: "In addition to services currently required under Medicaid, all states must provide coverage of child health assessments, immunizations, routine dental care, diagnosis and treatment of vision and hearing problems (including hearing aids and eyeglasses), prescribed drugs and insulin, prosthetic devices, home health services, physical therapy, rehabilitative services, ambulatory mental health services, and emergency crisis intervention inpatient mental health services for children."

Moreover, it is generally acknowledged that the explosion in medical costs since the advent of Medicare and Medicaid in the mid-'60s has resulted from the fact that a "third party," usually the taxpayer, often foots the entire bill for medical costs, leaving little incentive for either patients or health-care providers to limit services to those which can be reasonably justified. Nevertheless, under CHAP, according to the committee report, "States could not set limits on the amount, duration or scope of these services for children, or require copayments."

But the flaws in CHAP are not confined to economics alone. Perhaps more disquieting is the clear threat it poses to the institution of the family. Warns Rep. William E. Dannemeyer (R-Calif.) in his dissenting views on the measure:

"Once it becomes an accepted fact of life that the government, rather than poor parents, should determine what kinds of medical testing and treatment their children should have, then it could later be argued that the government should have the right to put poor children in foster homes or government-run youth camps supposedly for their physical or material benefit.

"And if it becomes accepted policy, as it is already becoming, for HEW to issue rules and regulations governing the types of screening and testing that should be done on children, and how it should be done, what does that do to the physician's exercise of judgment on what's best for his or her patient? If the family is to continue to be the basic organizational unit of society," says Dannemeyer, "then the heads of the family rather than some faceless bureaucrat must have ultimate responsibility and authority. And the physician, working with the heads of the family, must be able to rely on his judgment, as a professional, to assist in the fulfillment of that responsibility."

Dannemeyer's fears about the danger to the family are by no means exaggerated. As is clearly manifest from the bill's provisions, what CHAP's supporters have in mind goes far beyond simply having the government pay for the medical services poor people request for their children. Instead, they want the government to "manage the medical care for the child on a continuing basis.

An idea of where such thinking leads can be seen in a 75-page report recently completed by the North Carolina Department of Human Resources in response to a 1977 request from HEW that it "develop an initiative to 'regionalize child health care' in response to the emerging national priority toward developing a child health strategy." That report—entitled A Child Health Plan for Raising a New Generation, and bearing the symbol of the International Year of the Child on its cover—is nothing short of a blueprint for Big Brother health care for children.

According to this astonishing document, it is not enough for a child to have a "family home." In addition, "*every* child" (emphasis added) must also have a "health care home." "Like a family home," says the report, "a health care home will have a geographic location. It will also require continuing relationships with an individual or group of care providers."

In short, "health care" as envisioned by the North Carolina report is to be provided to "every child," not just the poor. Moreover, the concept of "health care" is a very broad one indeed, encompassing not just therapeutic medical services but also such items as child "advocacy," "family and economic counseling," "day care" of children, "special residential arrangements on a temporary or permanent basis" for teen-agers who do not want to live at home, "family planning" services, "abortion" as an "alternative solution," "genetic consultation," "nutritional supplementation," and on and on.

Clearly, for the authors of the North Carolina "blue book," government-supported "health care" for children means, just as the title suggests, virtually everything involved in "raising a new generation." As might be expected, hundreds of parents throughout the state, who are still benighted enough to think that raising children is their role, have greeted this "plan" with outrage. But that has not stopped Democratic Gov. James B. Hunt Jr. from endorsing the report as "North Carolina's action plan for providing health services to children in this state," nor has it stopped the state legislature from enacting a measure to begin its implementation.

That even one state, fully five years ahead of 1984, has embraced such an Orwellian plan is bad enough. Much worse is the prospect that, under the CHAP program now moving through Congress, the federal taxpayer would be forced to foot a much larger part of the bill than under current Medicaid law. Indeed, the matching funds for the Tar Heel State would jump from 68 percent to 95 percent.

And with all of this extra money from Washington suddenly available, the pressures would only increase for more states to follow in North Carolina's footsteps. This probably wouldn't bother the House bill's liberal supporters, however. Indeed, the House committee report displays some of the same kind of anti-family thinking that pervades the astounding Tar Heel plan, as witness the House report's reference (page 68) to the importance of "guaranteeing a 'medical home' for Medicaid children. . . ."

Viewed in this light, the Child Health Assurance Act (HR4962) should be numbered among the more significant—and controversial—pieces of legislation to come up for consideration in the 96th Congress. But unless conservatives act quickly, CHAP could become law before most Americans even know what's at stake.●

LIBERTARIANS FOR LIFE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. PAUL. Mr. Speaker, as a medical student, I had not really thought about abortion until I saw a 2-pound infant taken from the mother's womb after a hysterotomy and left on a table to die. That experience taught me all I needed to know.

The right to life is seamless, extending from the moment of conception, when a new life begins through the grace of God, until old age.

Abortion, like infanticide and euthanasia, is murder.

Recently my good friend Doris Gordon, founder and head of Libertarians for Life, addressed the Maryland Right to Life Convention.

What Mrs. Gordon has to say is important for all of us, as is her eloquent dedication to human life and individual rights.

Her address follows:

HOW I BECAME PRO-LIFE

(By Doris Gordon)

In 1959 I read a book that changed my life and thoughts profoundly. Its name was Atlas Shrugged; its author, Ayn Rand. It was her ideas together with those of Nathaniel Branden, a famous psychologist who was once closely associated with her, that made me eventually pro-life. Ironically, both strongly support abortion.

Rand and Branden taught me aggression is wrong; that human relationships should be based upon persuasion and voluntarism instead of coercion or fraud; that the moral and the practical are one and the same, in the long run at least; that first of all we must do no harm; and that each of us is personally responsible for our own actions, but not the actions of others.

I also learned that the chief source of coercion and fraud is the state; that instead of being helped and protected by the state, we are harmed in countless ways; that in order to create a more humane and healthy society, we should turn away from the state and strengthen those voluntary institutions in society which do in fact promote the good—such as the family, private charities, the free enterprise system, and even the churches. I say "even", for, as some of you may know, I am an atheist. I point this out just to make it clear my pro-life position is derived entirely from philosophical and scientific ideas and is not influenced by religious beliefs.

I don't know when I first thought about abortion, but I had always accepted the idea in some vague sort of way. But twelve years ago, I attended a lecture given by some disciples of Rand. Someone in the audience challenged their pro-abortion position and then a debate ensued about when the human being comes into existence. This struck me as odd, for Ayn Rand's philosophy, which she calls Objectivism, starts from the premise that existence exists, "existence" meaning something physical exists. Why were they disagreeing about when something as physical and as easily observable as the human body comes into existence?

This shocked me into thought. It was easy to figure out that the human being begins to exist at conception. It took just one more step to decide that the human being at conception is capable of having rights; for if *all* human beings have rights, so do the unborn.

But I couldn't go further, for there seemed to be a conflict of rights between the mother and her child in the womb. In 1973 the Washington Post printed my letter about this. It said in part, "The abortion issue will remain insoluble. The reason is that there are two basic rights in conflict . . . the right to life in the child and the right to liberty in the mother . . . The implementation of one right requires the violation of the other . . . Some may argue that life is a higher value than liberty. But then there was Patrick Henry who said, 'Give me liberty or give me death.' Life without liberty can be meaningless and of no value." It seemed to me that if someone was enslaving me, I would have the right to kill that person if that was the only way I could free myself.

The belief that there is a conflict of rights between mother and child still persists, not only among pro-abortionists, but among pro-lifers. I no longer believe such a conflict exists, but it took me three more years to figure out why. I am going to give you some of the reasoning I went through. It may sound complicated and confusing in part, especially if you are hearing it for the first time, but the bottom line is very simple and everyone knows it: There is no conflict of rights between mother (or father) and child because parents have an obligation to care for their children and, therefore, children have a right to that care. Most of us, even pro-abortionists accept this idea about children after they're born. Even the state acknowledges this is true, for the state compels parents to support their children. If children are children before as well as after birth, then parents have the obligation to care for them, also.

This means women have no right to choose to kill their unborn or to evict them from their bodies. Mothers have the obligation, instead, to house and feed them and protect them in the womb. Perhaps when the pro-abortionists wear their buttons saying "Choice", we should wear one saying "Responsibility".

Now I will go more into the ideas that changed my mind about abortion. To do this I have to talk about my views on the military draft. The draft and having an unwanted pregnancy have something in common: they are both involuntary servitude in the sense of having to do something against one's will rather than by choice. I may say some things that some of you will strongly disagree with, but right or wrong, it was my work on the draft and amnesty issues that gave me the idea and courage to form Libertarians for Life. Libertarians agree that the draft is immoral and I hope to use this common understanding to help explain why abortion is immoral, too. Perhaps my comments will be useful in talking to non-libertarians, too.

In the case of the draft, I believe involuntary servitude is aggression. In the case of the usual pregnancy, it is not. The distinction hinges on whether or not we owe something to someone else. Involuntary servitude is justified only in order to compel someone to give what he or she owes to another. None of us can point to another person and say you owe me X number of years service in the military. But children can point to their parents and say you owe me care.

Now I can point my finger at each one of you and say you owe me something and that is to never initiate aggression against me. I, of course, owe you the same respect. Otherwise, when we speak of "owing", it means that a particular person owes a particular debt to a particular person or persons. We have to be able to identify the parties involved and show exactly what that debt is and how it arose. We can't owe to an abstraction such as "society" or "the country", only to individuals.

Libertarians believe strongly in defense, but the freedom of even one of us must not be violated in the name of defense. Defending freedom by infringing freedom is a contradiction in terms. We should and can be both pro-defense and pro-individual liberty at the same time.

The general principle here and the one that should guide all our chosen actions is that the ends do not justify the means; that is, the initiation of coercion or force is impermissible, whether committed by the individual, the group, or the state. This means that peaceful people have the right to be left alone and go their own way. We may use force only in self-defense; that is, to gain or to keep that which is ours. We may stop murder or theft because people owe us non-aggression. We may compel payment on contracts or compensation in the case of accidents. Something is owed in these cases and the debtors and creditors can be identified. We are entitled to gain or to keep our own life, liberty and property for ourselves and free from harm.

Having been harmed in some fashion does not entitle us to make a claim against just anyone. Being in need, even when the need is real, does not justify taking from someone who does not owe us, who is not directly responsible for that owing. If you or I take when nothing is owed, unless that person gives willingly, we are guilty of stealing. And we know the Biblical injunction, "Thou shalt not steal".

Many of us agree that you and I have no right to use coercion against people who don't owe us anything. The same prohibition applies to groups of people who constitute the government. The reason is simple: unjust acts do not become just when legalized. Legalizing abortion did not make that right. Majority rule does not justify aggression. Might does not make right. Defending our liberty is important, but if the United States of America deprives us of our liberty, where can we be safe?

Let's consider the argument that my son and daughter or yours have an obligation to submit to the coercion of a draft. If our children have such an obligation, to whom do they owe it? If it cannot be shown that they owe it to me or to you or to any other individual, then there is no such obligation and you or I have no right to threaten or punish them with imprisonment if they won't go. And therefore, neither do we have the right to use the arm of the law to do so. No law can justify aggression.

It has been argued that they, or perhaps we, too, owe some service to our country because of the benefits the country gives to us. Perhaps we do get some things from the state, but don't we pay for them with our taxes and inflation? Furthermore, the individual has no real choice, for the most part, about what he is given. And then he is compelled to pay for it, sometimes by spilling his blood. If someone were to send you unordered merchandise in the mail, no one would have the right to compel you to pay for it and the state recognizes this fact. The only thing it could be said that each of us owes to the country is to respect the freedom of everyone else. That is the only way to pay for the benefit of freedom or to protect it. The protection of the rights of the individual is the only justification for the existence of government, and this is recognized by the Declaration of Independence.

Now pregnancy and abortion are different matters in regard to the justice of involuntary servitude. This is so because we can show very clearly how one individual owes another. We are responsible for the foreseeable consequences of our own actions as they affect others; that is, when we impose ourselves upon others without their permission. We are especially responsible when the person affected has absolutely no choice about being stuck in the situation, as is the child in the case of pregnancy.

Sometimes I hear the argument that the child was not affected by being conceived because no child existed before conception. But how else can we explain the child's situation except by referring to the actions of the parents? Parents can't blame their unborn children for their mother's pregnancies. Conceiving children may be unintentional on our part, but having sex is usually a voluntary act and most people know getting pregnant is a possible side effect. We have some choice in the matter of creating children. It is the children who have no choice about being affected when we experience the pleasures of sex.

Not only are children not responsible for the consequences of a mother's pregnancy upon herself, neither are they to blame for their need to remain in the womb. This need is something we impose upon them when we create them. The child's life and needs are a package deal.

Once having brought children into a state of dependency, we have the obligation to bring them safely out. This means we must wait until they are able to come "out" safely. This also means parental obligation continues after childbirth.

As one libertarian said about abortion, Creating a child is like inviting someone into your home and rendering him incapable of living on the outside for nine months. We have no right to toss him out. Another libertarian, a psychiatrist, made an even stronger analogy. He said when we create children, it could be said we create "captives". We are not entitled to kill captives nor to endanger them. In fact, we have the obligation to care for them while they are captive and to see that they gain release from their "captivity". This means in the case of children, we have the duty to bring them to a state where they can take care of themselves.

Sometimes I hear the argument that yes, it is true that the unborn child needs care and thus is in harm's way. However, they say, we've given the gift of life, something so valuable, that we bear no net obligation. The answer is that we do not have the right to force a gift upon anyone, and that we did not get the child's permission. This is not a case where the child freely accepts the good with the bad. So we are still responsible for protecting the child from harm. The net gain to the child is irrelevant. Our obligation comes from the fact that we impose the situation upon children without their assent.

Where parents choose not to fulfill their duty to children, such as when they choose to have an abortion, others are entitled to defend the child's rights, for such defense is no aggression upon anyone. We must exercise caution here in that the question of what other things does or does not constitute proper care is a separate question apart from abortion and which perhaps remains unsettled at this time.

Another point I must mention is that libertarians hold that human needs, even when they are real needs, are no obligation in themselves. While parents owe care to their own children, we don't owe care to anyone else's. The libertarian makes a distinction between purely moral obligations and legal obligations, legal in the sense that someone is entitled to use force against us, not merely because the law says so, but because we have a morally enforceable debt. Anyone who claims there is such a debt and wishes to compel payment has the burden of proving such a debt exists and the responsibility for his own actions if he is in error.

Libertarianism does not require us to give to charity, but charity is not charity unless it is given voluntarily. If taken by force, it is not charity but theft. The one who forces us to give owes us a debt. Libertarianism is silent about the religious or moral belief that we have a general duty to others or to God to help feed the hungry. Libertarianism is only about owing, as I have explained before. In order to avoid being guilty of committing aggression ourselves, we must leave it to each one of us to decide if, and when, and how much one wishes to willingly help others they don't owe. If we learn to solve human problems by non-aggressive means, the need for charity will be far less than it is today.

One final point about parental obligation. If there is no such obligation, we would have to say that at least non-lethal abortions are permissible. This is because parents would have a right to evict and to abandon their children, as in the hysterotomy abortion. I would be interested in hearing other arguments in support of parental obligation, including those based upon the Bible.

I seldom see any mention of parental obligation in pro-life literature. I wonder why it is not emphasized more. Sometimes I read there that there is a conflict of rights between mother and child. There may be a conflict of needs, but not of rights. I also hear pro-lifers say in response to the "woman's right to control her own body" argument that life is a higher value than liberty and, therefore, the child's rights come before the mother's. But again, it is not a matter of the child's rights vs. the mother's. It is a matter of the child's rights and the mother's obligations. The child has two rights against the mother: the right to life, that is, the right not to be killed, and the right to parental care. And the mother has two obligations: her obligation not to kill the child and the obligation to care for her child. Libertarians for Life thinks this is an important argument and would like others to try it out. I hope you will tell me your thoughts on this.

As I said at the beginning, it was the ideas of Rand and Branden that made me eventually pro-life. It was an article by Branden in one of Rand's publications that had to do with parental obligation in the case of born children. When I made the connection with what he said there to the abortion issue, the lights went on and the bells rung. I had solved what I had thought was the insoluble issue.●

A SALUTE TO REV. DR. JOHNNIE COLEMON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. STOKES. Mr. Speaker, at this time, I would like to acquaint my colleagues with a lady who has contributed an immeasurable amount of time, energy, and love to people around the world, in this Nation, and specifically in the city of Chicago—Rev. Dr. Johnnie Colemon.

She is one of the integral components of the religious community in Chicago. In fact, Reverend Colemon has been called by many people "The First Lady of Chicago's Religious Community."

Reverend Colemon is the founder and pastor of the progressive Christ Universal Temple for Better Learning in Chicago. She is a primary advocate in this country of the new-thought religious philosophy.

All of us know that there are not enough women ministers in this country. Women ministers with the extraordinary leadership qualities and ambition of Dr. Colemon are even more of a rarity.

Because of her unfaltering commitment to her religious philosophy, she has attracted a membership of over 4,000 persons to her church in Chicago. What is even more of a credit to her work is the weekly classes and activities she has established for the young and old alike through the church. These activities will undoubtedly contribute to the development of the Chicago community.

Utilizing her leadership qualities outside of the Chicago area, she has recently founded the Universal Foundation for Better Living. This organization is composed of seven churches located in Chicago, Detroit, Brooklyn, Denver, Trinidad, Guayana, and South Africa. Study groups are also held in Benton Harbor, Mich., and Milwaukee. The organization is designed to serve as headquarters for those seeking truth principles without discrimination.

In addition to the achievements I have mentioned, Reverend Colemon has received numerous awards and citations. However, she has refused to rest on her laurels.

Currently, she is in the process of planning for the erection of the Christ Universal City which will be located in the South Side of Chicago. The complex will include a 10,000-seat auditorium, residential housing, the Johnnie Colemon Institute, a private school, senior-citizen housing, and a business section. This may seem to be an ambitious project, but people who know Reverend Colemon say that no task is too difficult for her.

Therefore, Mr. Speaker, at this time I would like my colleagues to join me in saluting Reverend Colemon for her work and encourage her to continue her worthwhile efforts in the future. I am also entering her awards and citations into the RECORD:

REV. DR. JOHNNIE COLEMON AWARDS

Johnnie Colemon special awards within the last ten years include:

Award name, date, and presented by:

Brotherhood Award, June 3, 1979, Chicago Conference for Brotherhood, Inc.

National Sojourner Truth Award, April 21, 1979, Chicago Area Club National Association of Negro and Professional Women's Clubs, Inc.

Who's Who Among Black Americans, 1978, 1978 Publication.

Proclamation—Johnnie Colemon Day, February 23, 1978, City of Chicago.

Resolution—(House Bill), January 1978, State of Michigan.

Key to the City—Detroit, Michigan, January 1978, Mayor Colemon Young.

Testimonial Resolution, January 17, 1978, Detroit City Council.

Excellence In Religion, May 7, 1977, Push Foundation, "A Family Affair."

Blackbook's Humanitarian, January 22, 1976, Blackbook Business and Reference Guide.

Certificate of Appreciation, November 4, 1975, Chicago Area Council, Boy Scouts of America.

Presented for Outstanding and Dedicated Service as Chairperson of the 60th Anniversary, July 6–11, 1975, International New Thought Alliance Congress.

Salutes Rev. Johnnie Colemon, "The Year of the Woman," April 12, 1975, Push Foundation, "A Family Affair."

Certificate of Appreciation, February 15, 1975, Community Civic and Cultural Affairs.

For Outstanding Achievement in the Gospel Ministry, 1974, Pastor T. L. Bartlett and the Youth for Christ.

Recognition of Outstanding Christian Service, May 25, 1974, Civic Liberty League of Ill., Inc., A. R. Leak, PRE.

Women's Day Annual Black Excellence, March 9, 1974, Operation Push.

Love With Sincere Appreciation, February 15, 1974, Hillside Chapel and Truth Center, Atlanta, Ga., Barbara King, Minister.

For Service To Youth, 1973, YMCA.

Golden Anniversary Award, November 5, 1972, Alpha Kappa Alpha Sorority.

Recognition Award, Service to Humanity, October 27, 1972, First C. P. Church.

Major Contributions, 1970, Association of Unity Churches.

Deep Appreciation of Unity, Johnnie Colemon, President, 1969–70, Association of Unity Churches.

Recognition of the Tremendous "Ten Years," October 26, 1966, Unity Chicagoland Association.●

RESPONSIBILITIES OF PUBLIC SERVICE

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. BOLLING. Mr. Speaker, the David Broder column which appeared in the Washington Post of Wednesday, November 28, is "must reading" for all those who wish to preserve representative Government in our country.

The column follows:

THE LEADING QUESTION

(By David S. Broder)

At breakfast the other morning, two of the wise men of American political journalism, Roscoe Drummond and Theodore H. White, were enlightening a group of lesser intellects about the practice of their trade. White quoted an aphorism of Drummond's, which he suggested ought to be stenciled on our brains as the 1980 campaign begins: "You can't get the right answers unless you know the questions to ask."

What are the questions that need to be asked of the men and women running for office in the coming campaign? Dozens of possibilities suggest themselves: "What will you do about inflation? About our energy vulnerability? About the growing doubts about America's capacity and will to protect our vital interests in the world?"

There are scores of personal questions, ranging from Chappaquiddick to the source of campaign contributions. And there are the hundreds of questions reflecting an individual's or group's particular concern, be it abortions or busing, chiropractic or consumer protection, nuclear power or nutrition programs.

But in the time that has elapsed since I sat at the feet of Drummond and White, the question that has come back to the top of my own list for the 1980 candidates is of a different character.

What is critical to know of people running for office at every level from president down to state legislature, I think, is this: "What are you prepared and equipped to do to contribute to the reconstitution of effective government in this country?"

That is, in my judgment, the operative translation of that "search for leadership" that has become the cliche theme of 1980 politics.

It suggests an understanding that what has been most conspicuously lacking at the federal level, and in most of the states as well, during the past decade has not been conscientious and capable performance by individual officeholders, but a government capable of delivering on its threats and promises.

Putting the question in that particular form cuts off candidates from their most convenient and least convincing answer—the pledge that, by their personal skills, they will mobilize public opinion to prod the government to do what is needed.

That is a favorite answer of charismatic presidential candidates, who would have us believe that because of their personal integrity, sincerity or artistry with words, they would charm the birds from the trees and will good policies into existence. History—expensive history—says otherwise.

To go on electing people on the promise that each of them will create his or her own majority for his or her own program by his or her own communion with the people is to guarantee a continuation of the babel and confusion that have served unsatisfactorily as a substitute for government these past 10 years.

What we need instead are people in the presidency and Congress, in state and local government as well, who understand the need for coalition-building. We need people who have demonstrated the skills of negotiation and compromise, the insights, the articulateness and the boldness to overcome the centrifugal forces tugging at government in this hyper-pluralistic age.

Because these are rare skills, the best proof of their existence in any individual obviously lies in his or her demonstration of those skills in previous public office. Amateurs and outsiders, however well motivated, are not likely to possess these qualities or to have honed them to any degree.

Because the political parties are weak reeds on which to rest one's hopes for building a coalition capable of governing, posing this question does not automatically favor the election of Republicans or Democrats. But it does imply for Republicans that they be people with a capacity for reaching beyond the confines of their own party and its constituent groups and for working with and mobilizing other elements in the society.

For Democrats, it implies that they must be people who are at ease with all elements of their party's historic constituencies—who serve to unite those constituencies rather than align them against each other.

Most of all, it implies that the candidates who deserve support are men and women who are political in the fullest sense of that word—who are fully engaged, with all of the resources at their command, in resolving great questions that concern their communities, their states and the nation.

They need to be people who draw enjoyment, moral sustenance and energy from the political process itself, and who see their essential contribution as forwarding that process rather than achieving a particular place in history for themselves or enacting every paragraph of their own program without amendment.

If we can find enough such people in this coming election, we can have much greater hope of solving the substantive problems that confront this country. For we might then have a government—something we have lacked for far too long.●

THE RELATIONSHIP BETWEEN INFLATION AND UNEMPLOYMENT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. PAUL. Mr. Speaker, Dr. Gary North, one of our country's most eloquent exponents of free-market economics, delivered a very important speech in 1975 at Culver-Stockton College in Canton, Mo.

What Dr. North has to say is even more relevant today than it was 5 years ago, and I would like to call his speech to my colleagues' attention. It explains, clearly and simply, the relationship between inflation and unemployment.

The speech follows:

INFLATION AND UNEMPLOYMENT

(An address by Dr. Gary North)

Back in the 1950s, an English economist, A. W. Phillips, investigated the relationship between wage rates and unemployment during several periods of British history. He found that as wage rates rose, unemployment dropped; conversely, when wage rates subsequently stabilized, unemployment increased. Businessmen bid up the price of labor during times of price inflation, competing against one another for the services of working men and women. But when price inflation was reduced, these same businessmen preferred to reduce the number of employees. This empirical relationship between wage rates and unemployment was broadened by enthusiastic Keynesian economists to describe the relationship between "inflation" (meaning price inflation) and unemployment. The graph which describes this relationship has generally become known as the Phillips Curve. When price increases are at a high level, unemployment is low. As the rate of price increases is reduced, unemployment increases steadily. This trade-off between price increases and unemployment has become one of the most popular concepts among professional economists, both inside the Federal government and "outside" it, so to speak, in the universities.

It should not be too difficult to understand why this little graph should have become a touchstone for contemporary economists. The Employment Act of 1946—probably the classic piece of Keynesian legislation—requires the Federal government to maintain high levels of employment. This is to be accomplished by the proper fiscal measures. The Federal government is supposed to intervene in the marketplace when ever "effective demand" drops as a result of the individual preferences of those who would trade (or refrain from trading) voluntarily. The state is to increase "effective demand" by buying up strategic items, such as airplanes that do not fly, or even worse, that fly for a little while and then come down very, very fast. Apparently there is not enough "effective demand" for these items on the free market and those who produce them often find themselves unemployed when they continue to manufacture them.

The Federal government gets the funds to make these purchases by taxation (direct and indirect) and borrowing. But doesn't this pull money out of the economy that would have been spent anyway, you ask. No sir; it pulls money out of the economy that might have been saved, but saved money is not always invested, and uninvested money isn't being spent, and this reduces "effective demand," so the government spends the money (neither saves nor invests), thus putting people back to work. (You don't understand this because, frankly, you're a bit of a dummy and have never received a Ph.D. in economics from Harvard.) There would appear to be two important laws associated with Keynesian policies of full employment: 1) the government which taxes invisibly, taxes best; 2) try to stay off of Air Force jets.

The policy makers believe that when unemployment increases they can simply crank up Federal spending and unemployment figures will inevitably tumble. This is an act of faith. Thus, when they confront certain unpleasant facts, such as today's unemployment rate of 9 percent and price inflation at 8 percent, they prefer to avoid the implications. They say, for example,

"All things considered, I think the calendar year 1975 needs a deficit larger than we have ever had in peacetime. A deficit of 6 percent of GNP would be about $84 billion—frightening to the layman but still 6 percent. The price level in 1980 will be a bit higher with such a deficit than otherwise. But singlemindedly seeking to minimize that price level would logically lead to your favoring continuation of the recession, and even a wish to let it slide into a depression."

These words come from Paul Samuelson, the World's Most Distinguished Economist (Newsweek, May 5). "All things considered," the guy ought to be locked up.

What we are witnessing is a series of escalations between price inflation and unemployment. The government intervenes each time with baskets full of new money—the invisible tax—in order to increase "effective demand." What it accomplishes, of course, is the redistribution of wealth from those who have late access to the newly created money to those who have early access. Those who enter the markets with the new money, buy at yesterday's prices. They leave fewer goods and services for those who have not yet been the beneficiaries of the "trickle-down" credit. Prices go up in response to reduced supplies and more money in circulation. But each time government intervenes, those on the tail end of the Federal milk cow start scrambling for the remaining treat. Prices get bid up faster in response to injections of new money since the public gets smarter about the way to hedge against price increases. The better the public's knowledge, the more rapidly prices respond and the less effective the "effective demand." Instead of "effective demand," the planners get price increases. This is not what they want.

When the economy is depressed, the planners want to increase spending but lower taxes. This means a larger deficit. But then they face a new problem: rising short-term interest rates. They compete for the public's savings-which-are-not-actually-invested (to coin—or print—a phrase). One thing is for certain: when the Federal government gets access to these "uninvested savings," they stay uninvested. But this debt competition results in higher short-term interest rates, which reduces private spending and/or saving-investment. This is not a good way to beat a depression. So the deficit is partially funded by the Fed.

The new money races through the fractional reserve banking system, multiplying happily. Up goes "effective demand," up go the airplanes, and then up go prices. Business "booms," wages go up, everyone is kicked into a higher tax bracket, revenues exceed the forecasts by the planners, and next year's budget deficit is reduced. At this point, the Fed generally reduces its purchases of Federal debt. The money supply stabilizes but the public still continues to bid up prices for a while. Businesses compete to build more plants and build up inventories. Short-term interest rates continue to soar, thus reducing some private entrepreneurial plans to ruins. Finally, investment ceases, laborers are fired, orders are cancelled, and the boom turns into a bust. Down go profits, down go wages, down goes GNP, down go expected Federal revenues, and down go the political incumbents. (What about the airplanes, you ask. Actually, they were grounded—one way or another—six months earlier!) We are back where we started. Only we aren't. We are at a higher plateau.

William Simon, our Secretary of the Treasury (or, if you prefer, Secretary of the Deficit), has put it very well:

"This is the third time in ten years that we have been presented with bills for past Government failures due to irresponsible economic policies. Each time we refused to accept them, and the next time the bills were higher. Just go back and use this simple comparison: In 1966, we had an inflation rate of four percent, interest rates peaked at six percent; in 1969 to 1970, inflation was over five percent, interest rates at nine and a quarter; last year, interest rates and inflation peaked at about 12 percent. I suggest that if we refuse to pay the bill this time, it will become unacceptably high in the future. I must admit that on occasion, I really question the ability of democracy to beat inflation." (Playboy interview, May, p. 68.)

Each time, the ratchet goes higher. Each time, the recession is greater and the monetary expansion necessary temporarily to correct it is greater.

When Samuelson blandly dismisses higher prices in 1980, he apparently assumes that all we need is one more dose of the Keynesian magic. Just one more staggering increase of the money supply and then we may be able to get back on an even keel. He makes no guarantees, however. What we—we?—need to do is to target for annual real GNP growth at 6 percent. This should be the target "for some time." Admittedly, there are risks. Nevertheless, "The rewards justify the risks." When I think of Samuelson and his ideological colleagues "targeting" a real growth rate of 6 percent, compounded annually, I visualize an eight year old holding a Ruger .44 magnum in both hands, shouting: "Watch this, Dad!" Yes, indeed, Dad; just watch. From behind that wall.

The greatest living economist is F. A. Hayek, Mises' former pupil. He has devoted his life to a study of the components that make possible a free society. Last year, in the words of a noted Indianapolis leprechaun, John Ryan, Professor Hayek honored the Nobel Prize Committee by accepting its award; as a result, he has received far more attention by the press, both in this country and in Europe. As the scholar who first introduced Professor Mises' monetary theory of the trade cycle to the English-speaking world, Hayek has not deviated significantly from the basic outlines of that theory in the last 40 years. He wrote a pair of splendid articles for the London Daily Telegraph last fall, and his opening statements lay it on the line: "The responsibility for current worldwide inflation, I am sorry to say, rests wholly and squarely with the economists, or at least with the great majority who have embraced the teachings of Lord Keynes. What we are experiencing are simply economic consequences of Lord Keynes." (Oct. 15, 1974).

What aspect of Keynes' theory does Hayek have in mind? His defense of deficits financed by fiat money. Every reputable economist prior to Keynes would have predicted that these policies would lead inevitably to price inflation, Hayek argues. Naturally, the politicians readily adopted a supposed theoretical justification for reducing unemployment by increased government expenditures. But the theory was supposed to apply only when there was unemployment of a very special kind: unemployment without rising prices. "And now, when the steadily accelerating rise of prices has rather discredited this view, the general excuse is still that a moderate inflation is a small price to pay for full employment: 'rather five per cent inflation than five percent unemployment,' as it has recently been put by the German Chancellor."

The chief harm, argues Hayek (following Mises) that the inflation of the money supply brings is the disruption of relative prices. Monetary inflation "gives the whole structure of the economy a distorted, lopsided character which sooner or later makes a more extensive unemployment inevitable than that which the policy was intended to prevent. It does so by drawing more and more workers into kinds of jobs which depend on continuing or even accelerating inflation. The result is a situation of rising instability in which an ever-increasing part of current employment is dependent on continuing and perhaps accelerating inflation and in which every attempt to slow down inflation will at once lead to so much unemployment that the authorities will rapidly abandon it and restore inflation." He might also have added that what is true for labor—a nonspecific resource—is even more true about highly specialized capital goods. Unemployed machines, when financed with 6 percent or 8 percent or 12 percent loans, can produce bankruptcy quite rapidly if they are no longer profitable to operate because of a slowing down or outright abolition of monetary growth. Take a look at a capital intensive industry like the auto industry; consider the electrical utilities, while you're at it. A disrupted capital market will misallocate capital on a massive scale—a fact revealed when the expansion of the money supply does not keep pace with the public's expectations of further price increases and a recession appears.

Thus, writes Hayek,

"We have been led into a frightful position. All politicians promise that they will stop inflation and preserve full employment. But they cannot do this. And the longer they succeed in keeping up employment by continuing inflation, the greater will be the unemployment when the inflation finally comes to an end. There is no magic trick by which we can extricate ourselves from this position which we have created." In short, unemployment can no longer be avoided. "The only alternative we have, and which, unfortunately, is not an unlikely outcome, is a command economy in which everyone is assigned his job; and though such an economy might avoid outright worklessness, the position of the great majority of workers in it would certainly be much worse than it would be even during a period of unemployment."

The key, as stated before, is relative prices. The attention focused on aggregate prices and wages by statistical indicators has unfortunately blinded the public, the politicians and the economists to the crucial nature of relative prices and wages. As he writes in the October 16 issue: "This sort of unemployment which we temporarily 'cure' by inflation, but in the long run are making worse by it, is due to the misdirection of resources which inflation causes. It can be prevented only by a movement of workers from the jobs where there is an excess supply to those where there is a shortage. In other words, a continuous adjustment of the various kinds of labour to the changing demand requires a real labour market in which the wages of the different kinds of labour are determined by demand and supply." Again, his logic would apply equally well to all factors of production. "Without a functioning labour market there can be no meaningful cost calculation and no efficient use of resources." Yet it is the attempt of the state to control the movement of aggregate prices by means of fiscal and monetary policies which disrupt the very mechanism of adjustment: the flexible price system.

He thinks that people will learn that inflation-generated increased wages always lead to increased prices. There is little in economic history to support his confidence at this point. Even in the final months of the 1923 German inflation, everyone was calling for more money to catch up to runaway prices. Hayek is far more fearful of the politicians, however. "What is likely to drive us further on the perilous road will be the panicky reactions of politicians every time a slowing down of inflation leads to a substantial rise of unemployment. They are likely to react to it by resuming inflation and will find that every time it needs a larger dose of inflation to restore employment until in the end this medicine will altogether fail to work. It is this process which we must avoid at any price."

Hayek's final sentence indicates the crux of the conflict between Keynesian and Austrian economists. Paul Samuelson wishes to avoid unemployment at any price—and the price keeps going up, compounded annually. Hayek wishes to avoid price inflation because he grasps a fundamental truth: it first destroys the capital and labor markets by disrupting prices; it then destroys people on fixed incomes when the public races to outbid each other with the newly created money; and finally it destroys almost everyone else when the inevitable contraction and readjustment follow. Depressions are the product of government-induced monetary inflations. In the immortal words of Professor Mises, when asked by a student what the government should have done in 1933, he replied: "The government should have done nothing . . . earlier."

Hayek calls the shots without hesitation—without adding, as Leonard Cassidy has put it, a string of "unless we's." We have run out of "unless we's" on this side of the catastrophe. An interview with Hayek in Reason magazine (Feb., 1975) reveals his present thinking: "What I expect is that inflation will drive all the Western countries into a planned economy via price controls. Nobody will dare to stop inflation in an ordinary manner because as things are at present, to discontinue inflation will inevitably cause extensive unemployment. So assuming inflation stops it will quickly be resumed. People will find they can't live with constantly rising prices and will try to control it (inflation) by price controls, and that of course is the end of the market system and the end of the free political order. So I think it will be via the attempt to regress (repress?) the effects of a continued inflation that the free market and free institutions will disappear. It may still take ten years, but it doesn't matter much for me because in ten years I hope I shall be dead." In the long run, even the Austrians are all dead. But if Hayek lives as long as Mises did, he will not escape. Nevertheless, Hayek seems to believe that as far as an individual is concerned, Professor Mises' remark is correct: "There is only one absolutely successful hedge against inflation: age."

Like Hayek, I seldom add "unless we's." Hayek's vision of the future is too compelling. It is too consistent with the goals of the messianic state. Thus, I save my "unless we's" for the far side of the disaster, whether it is a mases inflation-depression disaster, or a repressed inflation (controls) disaster. The key to the future is not held by autonomous man. The messianic state is self-defeating. It cannot calculate rationally. It is totally parasitic. Without free men acting responsibly in their particular callings, the modern world would grind to a halt.

The international and even domestic division of labor cannot survive under full international socialism. In all of history the socialists have only been able to nationalize successfully one item: socialism. The competing waves of tariffs, quotas, exchange controls on money, capital controls, and all the rest of the tools of the modern socialism can lead only to the fragmentation of international trade and productivity.

We will be visited by the ghost of the Smoot-Hawley tariff, and the result will be the same: the destruction of wealth. But when the messianic states finally exhaust their resources in an orgy of planning, there will be pockets of resistance, direct controls—the means of enforcement in a command economy—can be imposed only at the centers of population, and then only imperfectly. The larger the geographical area, and the more dispersed the population, the more costly and inefficient is the control mechanism. It is too easy to buy off the enforcers. Socialist controls do not apply equally well in every region of a large planning region. With the feudalization of the economy, local pockets of free trade can exist.●

STATEMENT BY ED JONES UPON INTRODUCTION OF CONSERVATION LOAN BILL

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. JONES of Tennessee. Mr. Speaker, the Conservation and Credit Subcommittee of the Agriculture Committee, which I chair, has held hearings across the Nation on soil conservation problems and programs. We have found strong local support for the agricultural conservation program and the Great Plains conservation program, our two basic cost-sharing efforts. As expected, higher funding levels were urged on us and each year I make a personal effort to get those levels raised, but it has been largely unrewarding.

Another shortcoming of the Federal conservation effort, however, is the lack of financial credit available to farmers to perform a broad range of conservation practices.

To alleviate that problem I am introducing a bill "to provide for conservation loans for the purposes of maintaining and improving the productivity of farmland." This bill provides that the Commodity Credit Corporation shall make both secured and unsecured loans to agricultural producers for installing pollution control and conservation measures on their land. The loans would be for periods of up to 10 years at a rate of interest commensurate to the cost of money to the U.S. Treasury.

We are falling dangerously behind in the protection of our most basic resource, our soil. Years of benign neglect are taking their toll on our ability to produce. This year our Nation's farmers will provide over $32 billion of farm commodities to our friends overseas. Our agricultural resource base has become vital to the very survival of many millions of people around the world. This demand for food will not diminish. At the same time, we are doing woefully little to insure that future generations, both here and abroad, will enjoy the benefits of a productive American agriculture.

I believe that most farmers and ranchers are good stewards of their land, but costs are rising rapidly. Using 1967 as a base year of 100, the farm cost-of-production index reached 250 in July of this year. Even though commodity prices are relatively good, farm expenses continue to squeeze profits. These profits must provide a living for the farmer and his family, must educate the children, and must replace the high-priced machinery necessary for production. Often, there is little disposable income left for investment in costly pollution control or soil- and water-conservation practices.

In 1967, the Congress appropriated $220 million for the agriculture conservation program. Using the farm cost-of-production index we would have needed to appropriate $550 million for ACP in 1980, to achieve the same level of conservation activity that was performed in 1967. The fiscal year 1980 appropriation for ACP is only $190 million.

While the appropriations for cost-share assistance continue to go down in real terms, farmers and ranchers are facing new, and often expensive, requirements for nonpoint pollution control mandated by the Clean Water Act. These are practices needed to clean up our Nation's waters and often provide little or no on-farm benefits to the producer.

My bill provides for a simple loan mechanism patterned after the farm storage facility loan program which has been successfully administered by the Agriculture Stabilization Conservation Service since 1950. Over the long run it will not cost the Federal Treasury a great deal of money. It will provide a needed source of credit to agricultural producers to install practices to conserve water, save soil and clean up our Nation's waters.

This Nation must be willing to invest in the future productivity of our agricultural plant. We have been blessed with abundance in the past. Whether future generations, here and abroad, enjoy this abundance of food and fiber, depends on what actions we take today. If our agricultural resource base continues to deteriorate, we face serious problems in the future.

I urge my colleagues to join me in supporting the passage of this modest commitment to the protection of our most basic needs, our future supply of food and fiber.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 4(h) of the Commodity Credit Corporation Charter Act (62 Stat. 1070, as amended; 15 U.S.C. 714b(h)) is further amended by inserting immediately before the period at the end of the second sentence the following: ": *And provided further*, That to encourage the alleviation of conservation and environmental problems which reduce the productive capacity of the Nation's land water resources or causes degradation of environmental quality, the Corporation shall make annually (1) unsecured conservation loans to agricultural producers for which the total aggregate amount of any such loans to any one producer does not exceed $10,000 and (2) secured conservation loans to agricultural producers for which the total aggregate of any such loans to any one producer exceeds $10,000 but is less than $25,000, the total of such unsecured and secured loans not to exceed $200,000,000 in any one fiscal year; such loans shall be for those conservation and environmental enhancement measures which are recommended by county and State ASC Committees and approved by the Secretary which are needed to maintain or improve the productivity of farmland; and such loans shall be for a period not to exceed ten years at a rate of interest based upon the rate of interest charged the corporation by the United States Treasury." ●

FIGHTING INFLATION BY INCREASING PRODUCTION AND REDUCING UNEMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 28, 1979

● Mr. HAWKINS. Mr. Speaker, the American people and their Government are challenged as never before by the disease of inflation. One of the urgent and major tasks of domestic national policy is to bring all public weapons to bear upon reduction of inflation and restoration of price stability as rapidly as possible.

This does not mean that there are not other equally serious national problems such as excessive unemployment. But, rampant inflation makes it harder to gain support for national policies to solve that problem until it is clear that inflation is being reduced. However, the problem of inflation cannot be treated in isolation because the reduction of unemployment is inseparably connected with the reduction of inflation.

The rate of consumer price inflation, despite some slackening during some years, has been chronically on the increase for more than a quarter century. During 1952–55, the rate averaged annually only 0.3 percent; during 1955–58, the annual average increase was 2.6 percent; during 1958–66, it was lower at 1.5 percent; during 1966–69, it was 4.1 percent; during 1969–79, it was 6.9 percent; from fourth quarter 1978 to fourth quarter 1979 (fourth quarter 1979 estimated), it was 10.9 percent; and this estimate may well be too low because during recent months the annual rate of increase has been 13 percent or higher. At least since 1969 to date, the upward movement of producer prices have been even more extreme, with an estimated increase of 13 percent from fourth quarter 1978 to fourth quarter 1979, and an annual rate of about 14.5 percent now. Current forecasts are that we will continue to experience double digit inflation in 1980.

Inflation in these ranges has its cruelest effects upon the underprivileged, the senior citizens, the poor, and the unemployed; penalizes those living on fixed incomes; and creates distortions throughout the whole economic structure which make it harder to do business and to plan ahead. It decreases the value of whatever public expenditures are made for national purposes and to help those first who need help most. It increases the burden of national defense. It creates inflationary expectations which feed on themselves. Internationally, our raging domestic inflation weakens the dollar everywhere, pushes up the price of gold and makes it easier for overseas competitors to make serious inroads upon our home markets.

We still have not applied effective weapons against inflation. One obstacle has been a Babel of conflicting advice from supposedly knowledgeable experts as to the proper remedy. Thus, conflicting policies have been applied. It is clear the policies applied have been wrong from the start to finish, tested by the results.

These still-prevalent policies, both monetary and fiscal, have applied the "trade-off" theory: that is, the way to fight inflation is to slow down the economy, bring on repeated recessions, and chronically increase the idleness of workers and other production facilities. This classical theory has no practical validity in the modern economy, and has failed because it has no justification in the experience of the past quarter century to date.

An emerging but not yet applied recognition of how the American economy actually works under modern conditions is to be found in the 4-year history of consideration and adoption of the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1978. Recognizing after intensive study and thorough congressional discussion that the attempted "trade-off" between inflation and unemployment was a ghastly failure, section 4 of the Humphrey-Hawkins Act prohibits the attempted "trade-off" in this unequivocal language:

> . . . policies and programs for reducing the rate of inflation shall be designed so as not to impede achievement of the goals and timetable . . . for the reduction of unemployment.

Based upon almost an additional year of experience since enactment of Humphrey-Hawkins, the Midyear Review of the Economy, issued on August 9, 1979, by the Congressional Joint Economic Committee, contains in the introduction by the chairman (p. 1) the following statement of supreme importance today and for the foreseeable future:

> The enormous benefits to be gained by the whole nation from rapid economic growth have united the Joint Economic Committee Majority and Minority. . . . This Committee believes that we must and can produce our way out of our economic problems.
>
> First, policies which produce slow growth will not also produce price stability. A slow-growth scenario for the 1980's implies a concomitant rapid rise in the cost of living. The fight against inflation can be won only by policies which increase production. . . . A stagnating economy means more double digit inflation. . . . It means protracted and rising unemployment. . . . It means a reduced standard of living. . . . Policies which lead to slow growth will lead to many and unnecessary cruel hardships for disadvantaged Americans.

The provisions of the Humphrey-Hawkins Act and findings by the Joint Economic Committee were not pulled out of thin air, nor did they result from casting about for something "different" because of dissatisfaction with existing policies and their intolerable results. Instead, they were based upon empirical observation, in the laboratory of the American economy.

This empirical observation demonstrated, about as clearly as anything can be demonstrated in the field of practical economics, that slow economic growth, stagnation, recession, and high idleness of workers and other production facilities increase inflation, and that strong movements toward and close proximity to full use of our production capabilities decrease inflation and even brings reasonable price stability.

The factual evidence in support of this conclusion has been made available to the Congress, the executive branch, economic experts and other analysts many times. A few additional facts may be helpful. From first quarter 1974 to first quarter 1975, in the midst of the most severe economic downturn since the Great Depression, the increase was 11 percent for consumer prices, 14.1 percent for producer prices of all finished goods, and 16.7 percent for producer prices of consumer finished goods excluding food. In contrast, from fourth quarter 1975 to first quarter 1976, a period marked by an extremely strong economic recovery, the annual rates of inflation were only 3.9 percent, 0.4 percent, and 4.4 percent for these three categories, respectively.

But from fourth quarter 1978 to fourth quarter 1979 (estimated), with the average economic performance marked by a slight recession and a much bigger recession in prospect, the rates of inflation were 10.9 percent, 10.0 percent, and 13.0 percent for the three categories, respectively. During the first half of 1979, when the fact of recession became clearer than it had been earlier, the annual rate of inflation rose to 13 percent or more for consumer prices and to 14–15 percent for producer prices.

The reasons for all of this are very clear. A low or negative rate of real economic growth causes the productivity growth rate to fall from a very rewarding rate to a very low or negative rate. This increases per unit cost, and the effort to recover these costs leads to higher prices. In the "administered" price areas, a reduction in the volume of business leads to the attempt to compensate for this by higher returns per unit, and this means rising prices. The prevalent monetary policy, an emblem of the "trade-off" notion, is inflationary per se, as will be shown in more detail. In many key sectors of the economy, acute inflationary pressures result form scarcities contrived in the name of fighting inflation, such as the restrictive Federal Budget and monetary policies.

The roller-coaster economic performance, with its repeated ups and downs, is disconcerting both to industry and labor, and in attempting to "protect" against it or to "guess" where it is going next, the tendency toward price increases is intensified, and in some degree there may be evidence of the same protectionism on the wage side. This may be called the "anticipatory" aspect of inflation. And when the economy is in a sharp advance from a recession, expansion of investment and in some other sectors is at a more rapid rate than under conditions of sustained reasonably full use of capabilities. This in itself puts inflationary pressures upon some shortages emerging in consequence of the previous recession.

Policies used in the attempted "trade-off" also redistribute incomes in ways which are extremely regressive. This enables many of the more fortunately situated to benefit by the inflation, while those who are less fortunate or distinctly unfortunate are hurt most by the inflation. This very process of income maldistribution aggravates the imbalances in the economy, prolongs the poor economic performance, makes satisfactory recovery more difficult, and in the longer run increases the prospects of one downturn after another.

Prompt and decisive action against inflation must commence with reversal of the policy of contrived stagnations and recession which has been the primary—although not the only—cause of unbridled inflation. Consequently, prompt and decisive action is needed to promote growth in production and employment at rates sufficient to achieve the 1983 unemployment reduction and other goals of the Humphrey-Hawkins act.

The policies of the Federal Reserve Board and System are the outstanding example of the wrong policies by all tests. The spokesmen for the Fed are crystal clear about their intent. It is to perpetuate or even worsen a recession for however long it may take, in their view, to slow down inflation. But what have been, and still are, the actual consequences of these policies?

First, the Fed policies have been a powerful factor in bringing on recessions and prolonging their duration. We need a real growth rate in the nonfederally held money supply roughly comparable to the needed rate of real economic growth—about 4.5 percent annually when the economy is at reasonably full use of its production capabilities, and 5–6 percent now and for a few years ahead to lift the economy to where it ought to be. But measured in real terms to comport with the needed real economic growth rate, the real growth rate in nonfederally held money supply averaged only 0.2 percent during 1955–79 (estimated).

There was a negative real growth rate for a year or two preceding each of the five recessions from 1955 to date, and a negative real growth rate of 5.7 percent and then 4.4 percent from 1973 to 1975, when we were in the biggest economic downturn since the Great Depression. There was a negative real growth rate of 0.9 percent from 1977 to 1978, and 5.6 percent from 1978 to 1979. The recession-producing results of Fed policies are there for all to see. And, for reasons already stated, each contrived recession has helped to accelerate inflation.

Second, the staggering increases in interest costs from 1952 to date, stemming from the famous "accord" between the Federal Reserve Board and the Treasury, and the additional interest burdens imposed by these interest-increase extravaganzas, has been grossly inflationary per se. From 1952 to 1978, computed average interest rates rose 161.7 percent on the Federal public debt, 95.8 percent on State and local debts, 123.5 percent on the total private debt, and 160 percent upon the total public and private debt. For the period as a whole, the additional interest costs thus imposed came to $151.7 billion upon the Federal public debt, $40.8 billion upon State and local debts, $1,350.3 billion upon the total private debt, and $1,542.8 billion upon total public and private debt.

The most recent Fed policies, and above all during recent months, have greatly accelerated the additional interest burden imposed. These soaring interest costs, rising recently to undreamed-of heights, are inflationary per se because the rising cost of money, pyramided and passed on throughout the entire economic structure, are just as inflationary as the rising costs of medical care or food or housing and, as to the last two of these at least, the rising interest costs contribute immensely to the rate of inflation. Further, the tight and inequitable apportionment of credit and the rising interest rates hit hardest the farmer, small businessman, homeowners, and energy-producers; and, above all, the general consumer, hit by the dangerously soaring costs on consumer borrowings and consumer credit.

Third, the additional interest costs in the Federal budget coming to about $24 billion in 1979 alone, comprise a major portion of the Federal deficit—said to be inflationary. They also come to about twice budget outlays for education or housing and community development or manpower programs, and, by impeding adequate outlays for these purposes, add greatly to scarcity-induced inflation.

By Executive and congressional pressures upon the Fed, we must fight inflation by attuning the money supply to the needs of a fully recovery economy, and by reducing interest rates very substantially. The Humphrey-Hawkins Act sets forth the mandate that Fed policies be supportive of its purposes—but this has not happened yet.

The second powerful weapon for fighting inflation by reactivating the economy and by remedying inflationary shortages in some sectors is the Federal budget. The President's budget projections from fiscal 1979 through fiscal 1982, not changed much by the Congress thus far, contemplate an average annual real growth in budget outlays of only about 1.4 percent, and there is yet no firm proposal for tax reduction.

These budget projections, combined with the President's projections for consumer incomes and spending and for business investment would, if actualized, result—according to competent and commonly accepted estimates—during 1979–83 in an average annual growth rate of only 3 percent for real economic growth and only 1.8 percent for productivity growth, an average inflation rate of 7.5 percent, and an unemployment rate of 6.8–8 percent in 1980 and 6.5 percent in 1983.

The two ways by which the Federal budget can be used to reactivate the economy, vital for its own sake and imperative to reduce inflation, are increased public outlays and/or lower taxes.

Looking at taxes first, there is undoubtedly some need for limited and highly selective tax reductions. The total nationwide tax burden is now extremely regressive. Taking into account all types of taxes, direct and indirect, in 1968—later comprehensive data not available—those with incomes under $2,000 paid 50 percent of their incomes in taxes, while those at $50,000 and over paid 45 percent. Those between $2,000 and $4,000 paid 34.6 percent, while those between $25,000 and $50,000 paid 32.8 percent. While changes in the Federal personal tax structure were progressive until 1945, they have veered in a regressive direction since.

For example, during 1963–73, Federal personal tax cuts added only 5.1 percent to the disposable income (the meaningful test) of those with incomes under $3,000, and only 4.5 percent to those with incomes between $5,000 and $10,000, and added 6.1 percent for those with incomes over $50,000. This has not only been inequitable; it has also worked against economic balance and growth.

Even more important, the tax cuts and concessions, at least since 1974, have allocated far too much relatively to the investment function, and far too little relatively to the consumption function.

These misdirections in the tax cuts have aggravated, rather than reduced, the imbalances in the economy conducive to stagnation, recession, and chronically rising idleness of workers and other production facilities. During the periods of each good economic advance from 1969 to date, the real average annual growth rate in investment in the plant and equipment which adds to production capabilities has been very much faster than the real average annual growth rate in ultimate demand which include total private consumption expenditures plus total public outlays for goods and services at all levels.

As the economy has moved into recessions, the investment growth rate has been cut back very sharply, not because of inadequate profits per unit of sales, but rather because of restricted markets for products due to much larger deficiencies in ultimate demand. The relative trends in profits supporting investment on the one hand and wages and salaries as the main factor in consumer expenditures on the other hand has been highly conducive to these imbalances.

It is especially noteworthy that, from fourth quarter 1978 to fourth quarter 1979 (estimated), the real growth rate in investment was 6.1 percent despite a downturn of 3 percent in profits from extremely high and even record-breaking levels, while there was a downturn of 0.7 percent in ultimate demand and, conducive to this, a downturn of 0.3 percent in wages and salaries although the trend in this area had been far too low during the immediate previous years.

These considerations are especially pertinent for policy now. During the past year, or even the past decade, consumer incomes and spending have hardly increased, and during the past 12 months have probably declined, while investment and profits have moved much more favorably.

Under these circumstances, although a sharp and even relatively greater increase in investment growth than in the other sectors is vital to economic restoration, the sound road to this is to increase ultimate demand through policies designed to increase consumer spending and public outlays, not through policies designed to increase after-tax profits per unit.

The needed profit growth must come through larger markets for business products. Thus, most of the tax reductions should concentrate progressively on the personal income side, and tax benefits to investors should be granted very cautiously, selectively where scarcities exist as in the case of energy, and with a definite quid pro quo in the form of more investment demonstrably due to the tax benefits.

These conclusions are supported widely. The 1979 Midyear Review of the Economy by the Joint Economic Committee found that "Personal consumption expenditures were the * * * major factor responsible for the economic weaknesses we have observed for the first half of 1979" (p. 7), and that "an erosion of consumer spending was the prime culprit of the 1973–75 recession * * *" (staff analyses, p. 89). It was also found that "if the consumer sector remains weak into the next year, this would soon have an adverse effect upon business investment" (p. 14).

The January 1979 Congressional Budget Office report to the Senate and House Committees on the Budget, entitled, "The Fiscal Policy Response to Inflation," indicates excellently the picayune stimulative effect which reductions in business taxes have had upon the overall economic performance. A report of the AFL–CIO Research Department on October 30, 1978, estimated that the corporate share of the total income tax burden declined steadily from 34.3 percent in fiscal 1965 to 23.3 percent in 1979 (estimated).

This leads inescapably to the conclusion that increased Federal outlays are preferable to and should be used much more extensively than tax reduction, toward activating the economy and thus reducing inflation. The Congressional Budget Office has developed impressive evidence that, dollar for dollar, increased Federal outlays increase private jobs (quite apart from public jobs) far more than tax reduction.

This means that public outlays cost the Federal budget far less, and do far better for the deficit or surplus position of the budget itself, related to any given size of favorable impact upon the economic performance. Noteworthy also in this connection is the recommendation of the Task Force on Inflation of the House Committee on the Budget:

> If unemployment rises, the economy will be better served by targeted, specific employment assistance than more costly and less efficient tax cuts (p. 4).

Tax reductions and concessions, unless very limited and highly selective, and especially because they tend to be regressive rather than progressive, have other strong disadvantages. A substantial portion of them result in savings not immediately translated into more investment in the absence of adequate ultimate demand. And even when they result in immediate investment, a large portion of this investment may be in areas of very low priority from the viewpoint of national needs, and this imports also inflationary pressures in such areas.

In contrast, more public outlays or investment, even when not used directly for assistance where needed, but used instead to increase private spending and highly needed private investment, can and should be pointed directly to areas of high need, both toward being more efficient in stimulating the economy and toward increasing high priority goods and services. This course is highly anti-inflationary.

The currently restrictive Federal Budget, in the name of fighting inflation, is dangerously neglectful of these priorities of need. Excluding national defense, the fiscal 1980 budget on the domestic side provides no expansion or moves downward. The President's Budget projections would reduce Federal outlays for all domestic programs from 16.01 percent of GNP in fiscal 1979 to 14.94 percent in fiscal 1982. The impact of the reductions in this ratio would be especially severe with respect to manpower, including public service programs, education, health, income security, and housing and community development.

This is not at all responsive to the Government's responsibility in these areas, and it is highly inflationary because it is in some of these areas that inflationary shortages and/or scarcities are most acute. Moreover, there has been a very long-term trend toward reduced employment or reduced employment per unit of output in many of the conventional mass production industries, due primarily to technological trends which are continuing and augmenting.

Consequently, a restrictive rather than an expansionary approach to the priority areas, listed just above, is fatal to adequate overall economic growth and adequate reduction of unemployment, imposes cruel hardship upon the disadvantaged, and is highly inflationary to boot.

No part of this discussion is weakened in the slightest by the energy problem. We are not faced with a recently developed series of problems but rather by events which, through very low-average real economic growth, chronically rising inflation, chronically rising idleness of workers and other production facilities, and six periods of stagnation and recession—all from 1953 to date—have caused us to forfeit more than 7 trillion 1978 dollars worth of GNP and more than 80 million years of civilian employment with much more of the same to come.

Four of these recessions occurred before the OPEC price increases of the mid-1970's, and the 1979 recession was forecast by most economists before the OPEC price hikes of early 1979.

Independent of the inflationary impact of the energy situation, the underlying rate of inflation during recent years and now has been and remains three times as high as it was during periods where the economy was close to full performance, with very little idle capabilities.

Some of the areas of highest inflation—food, medical care, and housing—are relatively little affected by the energy problem. The energy problem should not be made an easy alibi for all that has gone wrong. We must act now to remedy much of what is going wrong and, after long years of symptomatic delay and indecision in coping with the energy problem, it will take several years at least to make a real dent upon the energy problem even if at long last we begin to deal with it properly.

Moreover, by addressing rather than short-changing many of the other problems dealt with in this discussion, we would greatly reduce the inflationary impact of the energy problem by reducing other causes of inflation, and by promoting shifts in economic activities from higher to lower energy-consumer areas, for example, mass transportation, housing, and priority services.

Finally, none of the difficulties depicted throughout this discussion, including raging inflation, can be dealt with effectively through ad hoc improvised, and disconnected national policies and programs. We immediately need the comprehensive and consistent effort, long-range as well as short-range, mandated by the Humphrey-Hawkins Act but systematically violated to date. Without proper and consistent long-range goals, we cannot have proper and consistent policies and programs.

Even until now, the statements of Federal Reserve Board Chairman Volcker, Treasury Secretary Miller, and Council of Economic Advisers Chairman Schultze, reveal an adamant determination to persist in the policies which have failed, and not to move 1 inch toward revision on the basis of compelling evidence on all fronts. All of this is in absolute violation of the Humphrey-Hawkins Act.

In a still larger sense, to observe what is now going on fills me with concern about the future of our country and its place in the world. "Sacrifices" are being urged and imposed upon the wrong people, while others continue to batten on the inflationary process. We are advised what not to do and to do without, but not being summoned to progress and achievement in accord with our true potentials. We are warned what we "cannot afford," but not told what we need to do.

This is not the road to realizing the full promise of America, and must alter our course before the hour is even later than now.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, November 29, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 30

8:00 a.m.

Agriculture, Nutrition, and Forestry
Rural Development Subcommittee
To continue oversight hearings on the implementation of rural housing programs, relative to home weatherization serving rural areas.
324 Russell Building

9:30 a.m.

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the Federal Trade Commission's authority to order divestiture in certain antitrust proceedings.
235 Russell Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings on professional motor vehicle theft and the potential in it by organized crime.
3302 Dirksen Building

Judiciary
To hold hearings on S. 1679, to reduce delays and legal expenses in the issuance of patents.
2228 Dirksen Building

10:00 a.m

Armed Services
Procurement Policy and Reprograming Subcommittee
To receive testimony on optional financial spending programs for the civil reserve airfleet of the Department of Defense.
224 Russell Building

Environment and Public Works
Water Resources Subcommittee
To resume consideration of S. 703, to provide for the study, advanced engineering and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.
4200 Dirksen Building

DECEMBER 4

9:30 a.m.

Governmental Affairs
Permanent Investigations Subcommittee
To resume hearings on professional motor vehicle theft and the potential in it by organized crime.
3302 Dirksen Building

Judiciary
To resume consideration of S. 1722 and 1723, bills to reform the Federal criminal laws and streamline the administration of criminal justice.
2228 Dirksen Building

10:00 a.m.
Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 1938, to increase government efficiency and to provide a mechanism for raising the level of protection for the public against unnecessary radiation exposure.
1114 Dirksen Building

*Select on Indian Affairs
To hold hearings on S. 341, 1795, and 1796, bills authorizing certain Indian tribes to file claims for damages for delay in payment for lands claimed to be taken in violation of U.S. laws.
5110 Dirksen Building

2:00 p.m.
Conferees
Closed, on H.R. 5359, making appropriations for fiscal year 1980 for the defense establishment.
Room S-126, Capitol

Conferees
On H.R. 2440, to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and to provide assistance to aircraft operators to aid them in complying with noise standards.
Room to be announced

2:30 p.m.
Finance
Private Pension Plans and Employee Fringe Benefits Subcommittee
To hold hearings on S. 1089, 209, 511, 989, 1090, 1091, 1092, 1240, and 1958, bills to provide certain tax deductions and credits for employee pension contributions.
2221 Dirksen Building

DECEMBER 5

9:00 a.m.
Commerce, Science, and Transportation
To hold joint oversight hearings with the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources to review implications for future Outer Continental Shelf leasing, relative to the oil spill at Campeche, Mexico.
3106 Dirksen Building

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation to review implications for future Outer Continental Shelf leasing, relative to the oil spill at Campeche, Mexico.
3106 Dirksen Building

10:00 a.m.
Rules and Administration
Business meeting, to resume markup of S. 2018 and S. Res. 281, measures to simplify and clarify the system by which Senate committees are provided funds for their operating expenses, including staff salaries; and to consider other legislative and administrative business.
301 Russell Building

Select on Indian Affairs
Business meeting, to mark up S.J. Res. 108, to validate the effectiveness of certain plans for the use or distribution of funds to pay judgments awarded to Indian tribes; S. 1730, declaring that title to certain lands in New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe; S. 1832, authorizing the Secretary of the Interior to declare certain land to be Indian reservation land; and S. 1273, to restore Federal recognition to certain bands of Paiute Indians in the State of Utah.
6228 Dirksen Building

10:30 a.m.
Conferees
Closed on H.R. 5359, making appropriations for fiscal year 1980 for the defense establishment.
S-128, Capitol

2:30 p.m.
Finance
Private Pension Plans and Employee Fringe Benefits Subcommittee
To continue hearings on S. 1089, 209, 511, 989, 1090, 1091, 1092, 1240, and 1958, bills to provide certain tax deductions and credits for employee pension contributions.
2221 Dirksen Building

DECEMBER 6

9:30 a.m.
Governmental Affairs
To hold hearings on S. 1945, to establish a procedure for congressional review of Federal agencies' rules and regulations.
3302 Dirksen Building

DECEMBER 7

10:00 a.m.
Joint Economic
To resume hearings on the employment-unemployment situation and price data information for November.
Room to be announced

DECEMBER 10

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1464, to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.
5110 Dirksen Building

DECEMBER 11

9:30 a.m.
Select on Small Business
To hold hearings on the structure of the solar energy industry.
424 Russell Building

10:00 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To receive testimony on the current price and supply situation for petroleum fuels.
3110 Dirksen Building

DECEMBER 12

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.
235 Russell Building

9:30 a.m.
Select on Small Business
To continue hearings on the structure of the solar energy industry.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

DECEMBER 13

8:30 a.m.
Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold closed hearings to review the current status of the strategic petroleum reserve program.
S-407, Capitol

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

DECEMBER 14

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

DECEMBER 17

10:00 a.m.
Select on Indian Affairs
To hold hearings to determine whether the April 1, 1980, statute of limitations deadline should be extended for commencing actions on behalf of an Indian tribe, band, or group by the Federal Government.
1202 Dirksen Building

JANUARY 15, 1980

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings to examine U.S. trade and technological competitiveness with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.
5302 Dirksen Building

CANCELLATIONS

NOVEMBER 30

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold oversight hearings on emergency loan programs of the Farmers Home Administration.
1318 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

DECEMBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to insure equitable mortgage lending practices.
5302 Dirksen Building

DECEMBER 7

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to insure equitable mortgage lending practices.
5302 Dirksen Building

SENATE—*Thursday, November 29, 1979*

(Legislative day of Thursday, November 15, 1979)

The Senate met at 12 meridian, on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, ever near to those who call upon Thee in spirit and in truth, as Thou didst lead our fathers through dark valleys, across rough plains, and over mountains of difficulty so wilt Thou be our guide and strength in this perilous hour of history. Endue with wisdom those to whom has been committed the authority of government. Hold this Nation steady, firm, and resolute in the ways of justice and truth. To our countrymen now captive to hostile powers, send Thy comforting and strengthening grace. Hasten their freedom and the renewal of concord and cooperation among the nations. Enlighten those who are in darkness, correct the erring and lead Thy people in the way everlasting. As we offer our noon-day prayer wilt Thou hear also the deeper unspoken prayers of our hearts. And to Thee shall be our thanksgiving and praise. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 29, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER (Mr. CHURCH). The Senator from Alaska is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered. The Senator from West Virginia.

PRESIDENT CARTER ON IRAN

Mr. ROBERT C. BYRD. Mr. President, in his press conference last night, President Carter gave a strong and effective presentation of the U.S. position on the Americans being held hostage in Iran.

President Carter, in a calm and forthright manner, emphasized the determined and unified approach which this Nation is taking in the face of this continuing crisis.

The President is correct in stating that the American people stand together, united in our determination to protect the lives of Americans and the honor of this country.

Yesterday the Senate unanimously approved a resolution (S. Res. 292) citing this determination and this unity in our efforts to achieve the immediate, safe, and unconditional—unconditional—release of the U.S. personnel being held hostage in Iran. This was a resolution which I introduced jointly with the distinguished minority leader, the distinguished majority whip, the distinguished minority whip, the distinguished chairman, and the distinguished ranking minority member of the Committee on Foreign Relations, and 45 other Senators.

In his remarks to the press and the Nation last night, the President was firm but he was not threatening. He warned of grave consequences to Iran if the hostages are harmed, and he repeated that this Nation will not submit to blackmail. He emphasized our desire to resolve this matter by peaceful means.

Wisely, I believe, the President said he was not setting specific deadlines as to when certain action might be taken. Instead, as the President stated, we are proceeding in every possible way to obtain the release of the hostages, while at the same time protecting the honor, integrity, and basic principles of this Nation. In stating that he was not setting any specific deadlines, however, the President indicated that he was keeping his options open.

During the press conference the President also took the opportunity to underscore the point that this is not a confrontation between our Nation and the Islamic world. We have and want to maintain strong relations with Moslem nations. As the President stated, what is occurring in Iran is not typical of the Moslem faith in any way; rather it is the misguided action of some in Iran who are acting contrary to the fundamental principles of international law, diplomacy, and religion.

The President also cited the growing evidence of international support for the U.S. position and for the release of the hostages. We hope for a further demonstration of this at the forthcoming meeting of the United Nations Security Council.

There should be no doubt about the unity of support in this Nation—and internationally—for the immediate end to this grave situation in Iran.

Mr. CHURCH. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes; I am glad to yield.

Mr. CHURCH. First of all, I wish to associate myself with the remarks of the distinguished majority leader concerning the statement of the President last evening and the unity that exists between Congress and the Presidency in this crisis. That was fully expressed by the adoption yesterday by both Houses of the resolution to which the Senator has referred; and, as a further indication of the common purpose supported by both Congress and the Presidency, the Secretary of State has invited me and the ranking Republican member of the Senate Foreign Relations Committee, together with the chairman and ranking Republican member of the House Foreign Affairs Committee, to attend the session of the Security Council of the United Nations that we anticipate will take place on Saturday.

I thought the record should show that this is a further indication of the single position taken by this country and supported fully by the Congress of the United States. The hostages must be released. They must be returned safely to the United States, and that must be done promptly and unconditionally.

Once that has been accomplished, avenues will be open; but until that is accomplished, the United States does not intend to submit to any form of blackmail. I commend the majority leader for the position he has taken from the outset of this crisis, and for the opportunity that he has extended to all Members of the Senate to be fully briefed from time to time by the Secretary of State on developments. That, I think, has contributed to the degree of support that the Senate has shown for the President during these very dark and sobering days.

I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee. I also thank him for the leadership that he has demonstrated in this critical situation. He has been unstinting in his support of the President, and so has the ranking Republican member of the Foreign Relations Committee (Mr. JAVITS).

The fact that one is restrained and calm, as the President demonstrated last evening, does not indicate a lack of strength or lack of determination. I think it does indicate the kind of leadership that is needed in this hour and under these circumstances.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the acting minority leader is recognized.

ALASKA LANDS ISSUE

Mr. STEVENS. Mr. President, I would like to commence discussion, with the time that is available to me from time to time, on a serious issue that is before the Senate that affects only my State, the Alaska lands issue.

This issue is the most important subject to come before the Senate affecting Alaska since the admission of Alaska into the Union two decades ago.

I intend to discuss the various subissues involved in the legislation that was reported from the Senate Energy Committee and to discuss how the Senate Energy Committee has dealt with each of these.

It is my hope that Senators will take time to study these statements. I will try to make them short, to the point, and attempt to explain how the Senate Energy Committee solved the various problems that came before it during the consideration of the Alaska lands legislation.

The first issue I would like to deal with is the problem of State selections. This is central to the Alaska lands issue, because it was the passage of the Alaska Statehood Act and the passage of the Alaska Native Land Claims Settlement Act which provided the additional rationale for identifying certain Federal lands which should be set aside as permanent units of various national systems in order that those lands would not be available to the State of Alaska for selection or to the Alaska Native community for selection to satisfy the lands that were provided in the Alaska Native Land Claims Settlement Act.

STATE SELECTIONS

In 1958, Congress passed the Alaska Statehood Act which was the action on the part of the Federal Government providing for the admission of Alaska into our Union. That act provided for a land grant of some 103.5 million acres to Alaska for an economic base. More than 20 years later, Alaska has received title to approximately 35 million acres, or about one-third of its entitlement.

The process of conveyance is long, and it has been tedious. Much paperwork is involved, and Alaska can expect the full conveyance of title under existing law to take years.

Noting this problem, the Senate Energy Committee has provided an innovative process of legislative conveyance. The Senate committee bill provides for the vesting of title in the State of Alaska virtually all outstanding State selections which have not been conveyed for approximately 30 million acres of State selections which were recently filed by the State of Alaska and approved by the Senate Energy Committee.

Upon passage of the Senate committee bill, Alaska would automatically receive title to nearly 95 percent of its entitlement, thus completing the promise made by Congress over 20 years ago to our State in the passage of the Alaska Statehood Act.

The legislative conveyance provision of the Senate committee bill represents a major improvement of the current process of conveyance which has proved dreadfully slow. I believe that the Senate Energy Committee has fairly included this provision to insure that our State receives its birthright at the same time as these questions concerning land tenure and the setting aside of some lands to meet national interest are settled by the Congress.

I yield back the balance of our time.

EXECUTIVE SESSION

EXTRADITION TREATY WITH FINLAND

EXTRADITION TREATY WITH THE FEDERAL REPUBLIC OF GERMANY

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of Executive Calendar Nos. 12 and 13, on which there shall be not to exceed 20 minutes' debate, to be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS).

The clerk will state the first resolution of ratification.

EXTRADITION TREATY WITH FINLAND

The resolution of ratification of Executive I was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty with Finland, signed at Helsinki on June 11, 1976. (Executive I, 95th Congress, 1st session.)

The PRESIDING OFFICER. The clerk will state the second resolution of ratification.

EXTRADITION TREATY WITH THE FEDERAL REPUBLIC OF GERMANY

The resolution of ratification of Executive A was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty with the Federal Republic of Germany, signed at Bonn on June 20, 1978. (Executive A, 96th Congress, 1st session.)

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, the two treaties the Senate will consider today, items 12 and 13 on the Executive Calendar, deal with the subject of extradition. One treaty, updating the old extradition treaty, is with the Federal Republic of Germany, and the other is with Finland.

The treaty with Finland was signed in 1976. It replaces the existing extradition treaty with Finland. The new treaty lists 30 offenses for which persons may be extradited. The list includes the offenses of aircraft hijacking, narcotics, and conspiracy to commit a list of 30 offenses.

As I stated yesterday, in regard to the extradition treaty with Turkey, this extradition treaty will facilitate the American as well as the Finnish law enforcement efforts.

The extradition treaty with the Federal Republic of Germany lists 33 offenses. The treaty has the innovation of requiring the country refusing to extradite to have its own judiciary review the alleged offense of the individual whose extradition is being sought and prosecute under that country's statutes. This provision is regarded by the United States and the Federal Republic of Germany as an important new element in their respective efforts to combat acts of terrorism.

The Senate Foreign Relations Committee approved the treaties by a vote of 10 to 0. Those Senators voting included Senators PELL, McGOVERN, GLENN, ZORINSKY, JAVITS, PERCY, HELMS, HAYAKAWA, LUGAR, and CHURCH; there were no negative votes.

Mr. President, I recommend that the Senate advise and consent to the ratification of these treaties.

Mr. President, inasmuch as the Senator from New York (Mr. JAVITS) is not yet in the Chamber, and because he may want to make some remarks concerning the treaty, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we have before us two treaties today: The extradition treaty with Germany and the extradition treaty with Finland.

The only treaty that has a special feature is the extradition treaty with Germany, which requires a review by our own judiciary branch if, for any reason, we refuse to extradite. It is a very innovative provision. I commend it and both treaties to the Senate, and hope that both treaties will be ratified in the vote today.

Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I yield back whatever time may remain in order that the Senate may proceed to a vote on the two pending treaties.

The PRESIDING OFFICER. Does the

Senator from Alaska yield back the time allotted to the Senator from New York?

Mr. STEVENS. I yield back that time.

The PRESIDING OFFICER. The Senate will vote on the two treaties en bloc.

EXTRADITION TREATY WITH FINLAND

The question is on agreeing to the resolution of ratification on Executive I—95th Congress, 1st session, the extradition treaty with Finland, signed at Helsinki on June 1, 1976.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Arizona (Mr. DeConcini), the Senator from Massachusetts (Mr. Kennedy), the Senator from Montana (Mr. Melcher), the Senator from Wisconsin (Mr. Nelson), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. DeConcini) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 440 Ex.]

YEAS—93

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
McClure
McGovern
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—7

Baker
Byrd,
Harry F., Jr.
DeConcini
Kennedy
Melcher
Nelson
Stennis

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTRADITION TREATY WITH THE FEDERAL REPUBLIC OF GERMANY

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive A—96th Congress, first session, the extradition treaty with the Federal Republic of Germany, signed at Bonn on June 20, 1978. Under the previous order, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Arizona (Mr. DeConcini), the Senator from Massachusetts (Mr. Kennedy), the Senator from Montana (Mr. Melcher), the Senator from Wisconsin (Mr. Nelson), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. DeConcini) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

The PRESIDING OFFICER (Mr. Zorinsky). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 441 Ex.]

YEAS—93

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
McClure
McGovern
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—7

Baker
Byrd,
Harry F., Jr.
DeConcini
Kennedy
Melcher
Nelson
Stennis

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask that the President be immediately notified of the Senate's action in ratifying the two treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROLLCALL VOTES ON TREATIES CHANGED FROM SATURDAY TO FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the votes that were scheduled on the treaties for Saturday be moved up to Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and will resume consideration of the pending business, H.R. 3919, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed the consideration of the bill.

Mr. BRADLEY. Mr. President, the Senate is awaiting a decision on the part of the opponents of the amendment that I and several colleagues sponsored yesterday. While we are awaiting their return, I thought I would take this opportunity to make a few points about the amendment and state why I think it is in the best interests of the Senate and the Nation to approve that amendment.

The amendment deals with the increase in the tax rate on tier 2 oil. Tier 2 oil is oil discovered between 1972 and 1979. It is about 4.3 million barrels in this country, or 51 percent of our domestic production.

The argument surrounds whether an additional $22 billion to $24 billion in tax could best be used by developing alternate sources of energy or could best be used by the oil industry in increasing production in tier 2.

Mr. President, I suggest that we reach a point of diminishing marginal returns that borders on the misallocation of resources if we think that that $24 billion is best spent trying to increase the production capacity of tier 2 oil, because clearly there is a much stronger production response in other forms of energy. Even within the context of the debate on the windfall profit tax, I think that one of the points the Finance Committee focused on—as I know a number of other independent studies focused on, such as the Congressional Budget Office—was this: Where can you give incentives, where incentives will produce additional oil?

We felt—and the Congressional Budget Office and any number of people who testified before our committee felt—that the biggest response would come in new discoveries and tertiary oil.

Yet, the opposition to this amendment is made in the name of increased production. I do not think that the opponents of the amendment or any others have demonstrated how or why production will decline if we increase to 75 percent or by how much that decline will take place.

Mr. MOYNIHAN. Will the Senator yield?

Mr. BRADLEY. I yield.

Mr. MOYNIHAN. Is it not the case that these oil wells are producing oil now?

Mr. BRADLEY. It is indeed the case.

Mr. MOYNIHAN. And presumably at a profit; and that the price at which this oil now being produced will more than double to these producers in the next 3 years. Is that approximately the case?

Mr. BRADLEY. It is true that over the next few years, depending on the world's price of oil, their revenues will increase greatly.

Mr. MOYNIHAN. So would they have any inclination to decrease production if they are going to get even more money than they are now getting, when they are already producing?

Mr. BRADLEY. The Senator is correct to point out that under the windfall profits tax that is before the Senate, an additional $300 billion in revenues would accrue to the oil industry. Last year, the total of exploration and development was about $15 billion. So, annualized over a year, there would be sufficiently larger quantities of revenues for increased development and exploration.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BRADLEY. I yield.

Mr. STEVENS. I wonder whether the Senator is familiar with the impact of his amendment on the construction of the Alaskan gas pipeline. Those are resources already discovered, not transported. They have been discovered, ready for transportation since at least 1975. They were discovered in 1968—10 percent of the Nation's gas reserves.

The Government, this administration, asked the industry that has developed the Alaskan North Slope to participate in the equity and debt financing of the construction of the Alaskan natural gas pipeline. The industry just committed itself to $4 billion.

This amendment goes from 60 percent to 75 percent. We are checking this now with the Congressional Budget Office. It is my understanding that the impact of going from 60 percent to 75 percent is in the range of $10 billion to $15 billion.

Strangely enough, that is the cost of the gas pipeline at the current estimates—about $15 billion.

Why should the Senator's amendment take from the revenues from Prudhoe Bay—we are talking about existing production of tier 2 oil—that cash flow, after normal corporate taxes? These are after-tax dollars which normally would be invested in facilities necessary for the transportation, production, and development of oil or gas. That is the first portion of Prudhoe Bay, incidentally. I am not even dealing with the question of how much it will cost to fully develop Prudhoe Bay.

Why should the Senator take the money away from the companies which have agreed to put their after-tax dollars into a gas pipeline and put the money into the Treasury, and why should we debate next year whether we will put it into the natural gas pipeline?

Why does the Senator want to take that money and put it into the Treasury with all the handling cost coming through Washington? Why should they not be permitted to leave that money flowing through the industrial base of the country in developing the transportation facilities for our gas?

The Senator must be aware of the impact of this on Prudhoe Bay.

Mr. BRADLEY. I think the Senator is correct to point out that his State of Alaska does have a number of oil wells that do fall into the two tier category and that these oil wells will indeed be taxed. Of the total revenues of about $22 billion to $24 billion that will be raised by this, about $5 billion of that will be Alaska oil.

I am not at all certain that there are not a great number of projects in this country that merit consideration for financing by private sector companies. That might indeed result in greater energy production. It is in context of that thought that we want to increase the tax on tier 2 oil so as to obtain the revenues that can be used to stimulate the growth of energy production in this country as a whole in sources of energy much more than simply oil and gas.

If we take the narrow approach on the particular amendment, we have to deal with what is the production decrease as a result of increasing the tax from 60 to 75 percent. I really wish to see someone come up with that figure. It is quite reasonable, I suppose, to argue that if you had more money to spend, be you an oil company or a citizen, you would spend it on a number of activities.

Mr. STEVENS. That is not really the question. The question is, What is the role of the producers of Alaskan oil from the North Slope? The Federal Government, for the first time in history, asked those oil producers to participate in after-tax dollars to help finance the construction of a gas pipeline and the commitments were made to $4 billion.

This amendment will take away from those producers at least $4 billion. I think it is in excess of $10 billion, but at least $4 billion. Why, after having responded to this need, having made a unique commitment—the first time in history it has been done—should this Senate approve an amendment which will take away from them the ability to do what the Government asked them to do? Incidentally, I supported the synthetic fuels program. That will not do my State any good.

We can produce more oil between now and the time the first synthetic fuel program will come on line than the synthetic fuel program will produce between now and the end of the century. We literally can produce more oil in the immediate near future than the total program that $20 billion will produce. Yet, this amendment will not leave in Alaska the revenues from Prudhoe Bay to further develop that potential that is already discovered. We are not talking about speculative resources. The existence of 9 to 10 billion barrels of oil at Prudhoe Bay is not disputed by anyone. The existence of 26 trillion cubic feet of gas is not disputed by anyone.

The question is, Should it be made available to this Nation as we are losing Iran, as the foreign sources of our oil become less dependent? Why not build the facilities? Why should we face a tax increase? Sixty percent is confiscatory; 75 percent is suicide for this Nation. I, for one, hope that meeting goes on. We are not talking about filibusters yet, but some people better get some reasoning here about the level of this taxation or there is going to be a filibuster, because I am not going to stay in the Senate and witness the demise of the oil industry in my State because of a confiscatory policy because someone wants to turn to another form of energy. We have the energy there. We have proven it is there. And there is no reason for this tax.

There are no independents doing business in Alaska. There are no independents in Alaska. Those are all majors. As a result of the Bentsen amendment, independents were eliminated. So this becomes an anti-Alaska tax. The bulk of this is going to fall on production of Alaska Prudhoe Bay oil, the tier 2 oil that is currently under production at the rate of about 1.2 million barrels a day.

Who in his right mind is going to further invest in development of Alaska oil resources? And we can also prove that the potential is there. Thirteen of the fifteen sedimentary basins never have been explored. Sixty percent of all gasoline the Senator uses between now and the end of his life will come from Alaska.

Yet this tax is going to wipe out the possibility of a cash flow back from the revenues from Prudhoe Bay into the full development of our potential. I think it is high time the Senate realizes we are not going to take this lightly. I personally am not going to take it lightly. Sixty percent still leaves in terms of projection at least enough gas flow to keep commitments made for the development schedules. It is going to take some time to get those schedules in here and to get the runs of the computers to tell us what the impact of 70 percent is.

As I said, our guesstimate is in excess of $10 billion in terms of gas flow. The difference between 60 and 75 percent in terms of the history of this bill is what its impact will be on Alaska's North Slope production. We are talking only about

Prudhoe Bay production, existing production, the tier 2 level, that flow to the Treasury as opposed to the flow back into the ground to develop that reservoir and all the transportation facilities necessary.

I think that is a bad national policy. I do not think the country wants to see it. I think the country should become alarmed, particularly in view of Iran and particularly in view of the instability of our supplies abroad and the announced curtailment now of production in other countries.

I tell my friend I hope that he will think seriously about what he is doing. If he wants to talk about plow backs I am willing to talk about plow backs. I put that in that amendment yesterday. Some way to get a credit for those people who actually put money back in these facilities is necessary. And then the 75 percent level would not be exorbitant in my opinion, if the Senator takes into account a reasonable level of plow backs but the Senator is not. He has no credit against this. This is a tax, an excise tax. It has nothing to do with costs. It has nothing at all to do with the cash flow needs to develop their reservoir up there.

I do not know of any nation in the world which would do this. I do not know of any business in the world, in this country even, that we would deny the first dollars that it earns to help expand the business to make it a more profitable economical production effort.

I really hope that the sponsors of this amendment take a good look at this. I realize we are not going to vote on this until we get the computer runs and until we know what it means in terms of the reduction of gas flow and the required dollars to develop that vast area that we now know as Prudhoe Bay.

It is an interesting thing to me that the Carter administration has just announced, the leasing of the Beaufort Sea, much farther out than we want to see it leased, incidentally. The cash flow demands on that are $10 billion. Where are they going to come from?

Mr. BRADLEY. The $10 billion the Senator estimates might come from the oil companies with a 60-percent tax instead of a 75-percent tax. How much of that does he think would be reinvested in increased exploration and development?

Mr. STEVENS. At the present levels, all of it. They are borrowing money to keep up their schedule now.

Mr. BRADLEY. How much have they invested year by year since 1973?

Mr. STEVENS. We are looking for that and I am glad to get that schedule. That is one of the things we need. Those are some of the things the Senator and other people are demanding of us, and it is going to take some time to get it. We explored it. I flew out to Los Angeles and discussed it with the producers of Alaska oil last week, and they said they could live with the Senate bill at 60 percent so we decided not to do anything about it at that level. But now that it is apparent we are going to go to 75 percent it is going to have a tremendous impact. Incidentally, they could live with it in this sense: their borrowing capacity plus their cash flow and after tax dollars would enable them to meet the current schedule for the development and production of the North Slope resources.

Mr. BRADLEY. Can the Senator further clarify for the RECORD what is the ownership of the gas pipeline companies in Alaska?

Mr. STEVENS. We authorized that by an act of Congress, the Alaskan Gas Transportation Pipeline. It is a pipeline which will go through Alaska, split into two legs, as a separate company that is privately owned, goes through Canada, and it is seeking financing. As I said, the Department of Energy and the President have demanded that the producers of the oil participate in the financing of the gas pipeline with after-tax dollars.

When I first came to the Senate in Oklahoma, Texas, and Louisiana they were before-tax dollars due to the depletion allowance. Alaska is the first oil province in the United States that has ever been developed with after-tax dollars, and you want to tax 75 percent of the after-tax dollars away from the producers of the first major oil field in Alaska. Just think of that in terms of the history of this country. There never would have been a Louisiana, a Texas, or Oklahoma production at the level we know it at the price we know it with an after-tax dollar production concept, and yet that is what we are facing.

People say "Why are your costs so high?" They are so high because we are not using before-tax dollars, before depreciable assets. We cannot do it because there is no longer a depletion allowance. This is confiscatory to go to 75 percent.

Mr. CHAFEE. Mr. President, I wonder if the Senator will answer a couple of questions.

Mr. BRADLEY. I would be pleased to yield to my colleague.

Mr. CHAFEE. I would like to ask the Senator from Alaska if I am correct in saying that in January 1979 the world price of oil was $13 a barrel. I know it was. It is a rhetorical question.

Mr. STEVENS. If the Senator wants to state some facts and ask some questions—I will tell you what the price of oil was in my State when I came down here. It was $3 a barrel in 1968, and we had an oil import program, and we were trying to keep out foreign oil that was coming in at $1.75 a barrel.

Congress, in its wisdom, decided to destroy the whole concept of the oil industry and did away with the depletion allowance, did away with the oil import program, did away with a whole concept that led to the production of oil and gas and energy at the lowest cost per unit in the history of man. Now we face this problem of what to do about the future.

I will be glad to tell you whatever you want to know about Alaskan oil. Ask me that. Do not ask me about the world price because I do not deal with the world as much as I do with Alaska.

Mr. CHAFEE. In January Alaskan oil was selling in the United States for $6.50 a barrel in the lower 48.

Mr. STEVENS. No, no, it was not. Make sure of your facts. Alaskan oil was selling at the wellhead for $6 and some odd cents.

Mr. CHAFEE. That is right.

Mr. STEVENS. You add to that the transportation to the Alaska pipeline and then its storage in Valdez, and then its transfer to the supertankers to take it down right off Panama where it was then transferred into vessels that could go through the Panama Canal, and after it went through the Panama Canal was then transferred back to a tanker, was taken over to the Virgin Islands and refined, and was brought into the East Coast and sold at a price in excess of what we are buying foreign oil because of the cost of transportation, handling of that oil after it left Alaska. It was not selling in the United States, the South 48, for $6; it was selling at that price at Prudhoe Bay at $6 and some odd cents. If you cost this down it is equivalent to Saudi oil. Incidentally, our oil is equivalent to Saudi oil. You can run it through the same refineries and transfer it back and forth, as is done, by the way, with Iranian oil and Saudi oil down at the Virgin Islands. But it was never sold in the United States for less than the market price, the world market price.

Mr. CHAFEE. That is right. What I should have said was the producers were receiving $13 a barrel, which was then the world price, and from that they had to deduct as an expense of $7.50 for transportation. In other words, their net was $6.50 a barrel.

Mr. STEVENS. No, the wellhead price. Their net was not because we own that oil, the State of Alaska owns that oil. We take one-eighth of it as a royalty, and then we take a portion of it, if my memory is correct, which is about, it amounts to where the State takes some 20 percent of the value of that before it is through in terms of severance taxes in order to support the infrastructure that is necessary to maintain the oil industry.

So the net to the industry was somewhere around, assuming your price is correct, somewhere around $5 a barrel.

Mr. CHAFEE. If I could continue, Mr. President. I said that the world price was $13, the transportation costs were $7.50, leaving a net of—I said $6.50, it should be $5.50.

Under this bill that we have here, what Alaska gets at the well head, what the producers get at the well head in Alaska, is the world price now of $23.

Mr. STEVENS. They have never gotten the world price at the wellhead, and they never will.

Mr. CHAFEE. Just a minute, less the $7.50, the transportation cost, and so the net to the producers is $15.50 a barrel.

Mr. STEVENS. That is if you assume the refiners in the Virgin Island and California are going to pay more for

Alaskan oil than they will for any oil that is available. That is not so. That is the trouble about these projections you are making. You are assuming someone is going to pay at the wellhead at Alaska the same price they pay for Long Beach, production at Long Beach.

Incidentally, I see the managers of the bill are back. I would be happy to yield the floor. I hope the Senator from Rhode Island will allow me to continue this at a later time. I have an appointment in my roll as the acting minority leader that I cannot but go to.

Mr. CHAFEE. I am ready to move to a vote.

Mr. MOYNIHAN. Vote? Did anyone say vote?

Mr. STEVENS. In a few days.

[Laughter].

Mr. MOYNIHAN. Did I hear vote? Did the Senator from Alaska——

Mr. DOLE. Mr. President, what is the pending business or is there any business?

Mr. MOYNIHAN. The pending business is that we have a vote coming up on the amendment of Senator BRADLEY.

The PRESIDING OFFICER (Mr. HEFLIN). The pending business is an amendment of the Senator from New Jersey to an amendment of the Senator from New Jersey.

Mr. DOLE. The same business as yesterday.

The PRESIDING OFFICER. It is amendment 714 to amendment 713.

Mr. MOYNIHAN. If the Senator from Kansas will yield, I would like to say that I am prepared to vote at this time.

Mr. DOLE. But you are prepared to vote wrong, so we are not prepared to vote. [Laughter.] For the interest of those who would like to go to lunch or dinner, we have had a meeting of about 10 or 12 Senators who have an interest in more production and lower taxes, and we have concluded phase 1 of that meeting. We hope to be having discussions in the next few minutes with a distinguished Senator from New Jersey, the distinguished Senator from New York, and the distinguished Senator from Rhode Island in hopes that we can resolve any problem that exists.

I do not know precisely when that will happen. I think the distinguished Senator from Colorado is on his way to the floor. He wanted to make a statement on the amendment that is pending, and perhaps during that period of time we could discuss a number of things with the Senators who have an interest.

I noticed this morning in the Wall Street Journal that there was a filibuster in progress. I did not know that a $20 billion amendment became a filibuster after only 2 hours of discussion. But since it has already been labeled a filibuster by the press, it seems to me we do not lose a great deal in making it a filibuster. We would not want to disappoint anyone.

Mr. MOYNIHAN. Mr. President, will the Senator yield? Does the Senator seriously think his long-term interests are served by adding credibility to the press, I mean not his own but that of his party, that side of the aisle?

Mr. DOLE. Yes. I am not certain what our long-term interests are on this side of the aisle, but——

Mr. MOYNIHAN. Surely rashness in these decisions is not in order from an acting minority leader.

Mr. DOLE. I do not know where our leader is. I think he is in some other place where I ought to be, come to think of it. But in any event I will say to my friend——

Mr. MOYNIHAN. If the Senator wishes to go away, we could have this vote and he could go out and explain it to his great advantage.

Mr. DOLE. I was thinking about leaving this afternoon and then coming back tomorrow and then picking up where we left off. But if we are back to the same question of who is right, whether the Senator from Rhode Island, the Senator from New Jersey and others may be correct, some of us believe we may be overtaxing the industry.

I would guess that most of the American people would like nothing better than to just tax the oil industry, maybe not out of existence but to make certain that they did not make any profit at all. I suspect that the majority of Americans are not convinced that we have an oil problem, or a gas problem, but they do believe we have a problem with the oil industry. The industry itself is not known for its effective public relations, and somehow with the large profits appearing, there is this desire to impose a rather substantial tax.

We understand that there will be a lot of revenue raised. When this bill goes to conference, I would assume the final result will be somewhere between what the House would like to have and what the Senate would finally like to have. So maybe in the final analysis we are not talking about much of a difference.

But there is some indication that the same Senators who want to increase the tax to 75 percent on tier 2 also want a minimum tax of 20 percent on all that we exempted in the committee. I think that is a matter we want to discuss with those who prevailed, at least on a temporary basis, on the 75-percent tax. If we back away and say "All right, let us let the 75-percent tax on tier 2 be adopted," then will the next amendment be to put a 20- or 30-percent tax on newly discovered oil, the so-called independent exemption, or heavy oil or other oil that is difficult to find?

We are just looking for information. I understand that the amendment was offered because of the independent exemption. Well, then, we will recoup all the money we have lost on the independent exemption plus $12 billion more. If there were some assurance from those Senators who advocate the 75-percent tax on tier 2 that they do not intend, today, tomorrow, the next day, or any time before final passage to offer another tax of 20 percent on everything else, that would certainly make our decision much easier. I do not know whether the Senator from New York has any inside information on that point.

Mr. MOYNIHAN. Mr. President, may I say to the Senator from Kansas that that seems to me to be an altogether reasonable and fair-minded request, and I think we should counsel with one another on this matter.

Mr. BRADLEY. Mr. President, will the Senator yield?

Mr. DOLE. I am happy to yield to the Senator from New Jersey.

Mr. BRADLEY. As the Senator from Kansas knows, it is evry difficult to speak for all Senators, whatever the legislation, on any particular amendment. It is a little bit—I hesitate to bring in an allusion to the SALT treaty, but it is a little bit like opening up one can of worms leading to the opening up of other cans.

If we give you assurances on particular measures, perhaps you might consider equal assurances on your side. I mean when the independent exemption passed, we did not come back to the Senate and say, "Well, we are going to filibuster this until you reduce it from 1,000 to 500 or 300." That is, I think, the direction that the Senator from Kansas is heading in, and I personally would be a little leery of stating anything on the record about what any Member of this body would do. I am sure the Senator from Kansas is quite aware that one cannot control all Senators in this body, and one does not know what other Senators will do.

Mr. DOLE. I agree with the Senator's last statement. I would just suggest in the meantime that we discuss this more fully. We have a number of Senators who would like to discuss it extensively.

I am not suggesting that any Senator make any statement about what he proposes to do, because certainly we all want to keep our options open. We all have, I think, the same ultimate interest, and that is to try to solve the energy problems America has, and at the same time figure out some tax that does not take away the incentive and still leaves us money for low-income assistance, mass transit, and conservation credits.

I cannot speak for the 39 Senators who voted to table the amendment of the Senator from New Jersey and the Senator from Rhode Island, but I do believe that many of those Senators would probably be willing to accept the amendment if there were some indication of what else to expect. I am told that the Senators who want to raise the tax to 75 percent on tier 2 are the same Senators who want to impose a minimum tax on all the oil that has been exempted either in committee or on the Senate floor. All these categories of oil were exempted because we thought it was necessary to give the industry some incentive.

It is a very important matter we are dealing with. Until we can have some, I do not say assurance, but some loose understanding, then I think it is important for us who want to solve the problems of production to continue to discuss these matters.

I am prepared to yield to the Senator from Colorado——

Mr. BRADLEY. Mr. President, before the Senator yields to the Senator from Colorado, will he yield to me for a response?

Mr. DOLE. Yes.

Mr. BRADLEY. If the Senator desires to continue the debate, that is certainly open to him to do. I think one does have to consider that the longer this debate is, the more the question will be raised over what is at issue against what is to be gained by proceeding.

The information, if the Senator is correct, that it might be significantly less likely than it appears, I think merits some consideration before the decision is taken, if you are going to proceed with a full out, extended debate, in which we could be here for a long time.

Mr. DOLE. I agree with that. I do not know anything about a filibuster. I have never really been involved in one. We had a little discussion for 7 weeks a few years ago that I was involved in, but it really never got into a filibuster. That is why I do not understand why, after just 2 hours, somebody labels this a talkathon. This is a $20 billion amendment; $10 billion an hour does not seem to be unreasonable. A few weeks ago we spent days talking about millions of dollars.

We are talking about not only the dollars, but the consumers in this country having enough oil and gas to fill their needs, whether for their automobiles, their furnaces, or whatever.

So it is certainly an important matter we are discussing. I do not want any Senators to feel that they are involved in an extended debate, because we are not. We are involved in a discussion right now that could end any minute, or maybe will not end any minute.

Does the Senator from Rhode Island ask me to yield?

Mr. CHAFEE. Mr. President, unfortunately my attention was diverted for a moment, but do I understand the Senator to say that if there were no costly amendments or add-ons, he would not be be opposed to the so-called 75 percent? Am I correct in that, or am I incorrect?

Mr. DOLE. I think I am speaking for a number of the Senators who had a meeting in S. 206. We are only concerned that if we back away and say, "Let us take the 75 percent"—we do not want to stand on the floor for 4 or 5 days or longer. If in fact you have a substantial margin you are going to prevail in the final analysis, and we might be willing to make some alterations. We might lower it to 70 percent, or there are other things that could be done. We discussed a whole range of possibilities. But some are concerned about trying to eliminate the so-called phaseout, trying to bring about a minimum tax on newly discovered oil, or the independent exemption, or heavy oil, or all the other oil that has been exempted. I do not know whether the Senator from Rhode Island has a position on that or not.

Mr. CHAFEE. The difficulty is that I do not know who can speak for the others on the floor, or the rest of the Senate. I personally would not support a substantial minimum tax on new oil.

I know that there are some other amendments particularly dealing with the State-owned oil and there is one, as you mentioned, on the phaseout. I do not quite know where that stands.

Who can guarantee the way those are going to come out? I do not know who is around that can strike the deal.

Mr. DOLE. I understand that. I only raise it because I think there will be an effort to at least contact the principal sponsors of the so-called minimum tax. We are certainly aware of the Danforth proposal that was raised in the committee as far as States are concerned. So that would not come as any surprise. That should be dealt with in the normal course of debate. I understand that next Monday the Senator from Missouri would like to bring up his amendment.

So I am prepared to yield the floor.

Mr. ARMSTRONG. Mr. President, the Senator from Colorado has arrived late on the scene because, along with a number of the other Members, I have been trying to reorganize the Chrysler Corp. I think some who have been here on the floor discussing this for some time may not appreciate the extent to which other Members of the Senate, having been preoccupied with activities all over Capitol Hill—and important activities, at that—are genuinely out of tune and out of touch with the direction of the debate.

I have a few thoughts that I would like to explore. Before I do, I want to be sure that I have properly in focus the amendment that we are considering.

As I understand it, the pending Bradley-Chafee amendment increases the tax on tier 2 oil from 60 to 75 percent.

I wonder if I could have the attention of the Senator from New Jersey (Mr. BRADLEY) to see if he can help me get this into perspective.

I see the Senator from Rhode Island (Mr. CHAFEE) is prepared to respond.

Mr. CHAFEE. Yes, the Senator is correct. There was an amendment presented that put it at 80 percent and then, followed on top of that, an amendment that put it to 75 percent. So the amendment we are considering and, indeed, the serious amendment before us is the 75 percent of upper tier oil. The Senator is correct.

Mr. ARMSTRONG. It is my understanding that this is in the nature of an excise tax. In other words, this is simply a tax that is applied to the revenue which is realized on tier 2 oil above the base price and is unrelated to the profits of the producers and, in fact, is imposed whether there are profits or not?

Mr. CHAFEE. The Senator is correct. There is a net income limitation, which I do not think we need to go into now. But, in essence, what the Senator is saying is correct.

Mr. ARMSTRONG. I am not familiar with the net income limitation. I am sure the members of the Finance Committee who are primarily responsible for the development of this bill are familiar with that.

But I will ask the Senator: Is that a provision which says that the tax would not be imposed on a corporation that was losing money?

Mr. CHAFEE. That gets very complicated. Basically what the Senator is saying is you cannot tax 100 percent of what they are making. It cannot work out that way.

Mr. ARMSTRONG. I see. I think the only other question I need to ask to be sure that I understand the impact of this is: Does this limitation apply on a corporation-by-corporation basis, or does it apply to a particular tier of oil within a corporation, or does it apply to a particular oil field within that tier within the corporation?

Really, what I am asking is: Is it conceivable, in a worst case example, that they might be actually paying 75 percent of the incremental above the base price even though they were losing money on the production of oil from a certain field? Or is that simply an impossibility?

Mr. CHAFEE. Is the Senator talking now about the tax or the net income limitation that we previously discussed?

Mr. ARMSTRONG. I am really talking about the tax. I would like to get that out in the simplest way, rather than in a technical way. I would defer to the Senator on what the best way to proceed is.

Let me step back a moment and relate it to an example that is more within the everyday experience of the Senator from Colorado. What we have here is, basically, a sales tax. In the ordinary parlance, a sales tax is paid even if the corporation or the individual who is paying it is losing money. What I was trying to explore with the Senator is whether or not, in this case, the so-called windfall profit tax—which is truly an excise tax, as I understand it—would be applied even in a circumstance where the producer was losing money. Or has that been precluded by other provisions of the bill?

Mr. CHAFEE. When the Senator says, "the producer," does he mean a producer from a whole variety of fields, newly discovered oil, upper tier, lower tier, his total corporate profit picture?

Mr. ARMSTRONG. That was precisely my question: Whether or not the earned income limitation applied companywide or to all the tier 2 oil produced within a company, or to tier 2 oil produced within a particular field. What I was trying to determine was whether or not there might ever arise an instance where a producer would actually be producing oil and paying this 75 percent tax in a field where he was, in fact, losing money.

Mr. CHAFEE. It is on a property-by-property basis. So you apply it only to the profitable section of his production. You could have the example in which an oil corporation is involved in a whole host of activities, upper tier, lower tier, new oil. Under that example—let us say all the oil from this field is tier 2 oil—he would be paying a windfall profit tax on that tier 2 section if it was profitable.

It could turn out that the corporation could own oil that was tier 1 or other areas where he might be losing money. But the tax would only apply, in this particular area, in this profitable tier 2 situation.

Mr. ARMSTRONG. Well, perhaps I have not clearly stated my question. Let us take precisely the example that the Senator has outlined. My question is: Are there circumstances in which a producer would pay a windfall profit tax on this tier 2 oil in question, even though, within the particular field in question, he was losing money?

Mr. CHAFEE. No.

Mr. ARMSTRONG. In no event can this tax contribute to a loss in a particular field?

Mr. CHAFEE. That is correct.

Mr. ARMSTRONG. In other words, there is a provision in the bill that mitigates the tax if there is a loss on the field; if the drilling expenses, let us say, in the field exceed the production?

Mr. CHAFEE. The Senator is correct. That is what we call the 90-percent net income limitation.

Mr. ARMSTRONG. And that is applied on a field-by-field basis, rather than companywide?

Mr. CHAFEE. That is correct.

Mr. ARMSTRONG. I appreciate that explanation.

I would like to now be sure I understand exactly how the windfall profit tax relates to the corporate income taxes. Again, starting with the understanding that it is merely an excise tax, do I understand that from the standpoint of a producer, individual producer or corporation, that that simply is a cost of doing business and is deductible in the same way from the competition of corporate income tax that any other business expense would be deductible?

Mr. CHAFEE. That is correct.

Mr. ARMSTRONG. How does that also interface with the severance tax of an individual State? In my State, for example—I guess all producer States impose a severance tax. Is a severance tax on top of or in addition to this windfall excise tax?

Mr. CHAFEE. That is correct. There would be a deduction for the severance tax.

Mr. ARMSTRONG. There would be a deduction for the severance tax?

Mr. CHAFEE. That is correct.

Mr. ARMSTRONG. With reference to the incremental dollar value of production for this tier 2 oil, the tax would be applied under the pending amendment at the rate of 75 percent above the base price?

Mr. CHAFEE. That is right.

Mr. ARMSTRONG. There would be a deduction first for the severance tax. I am trying to think through how that would work. Let us suppose the severance tax was 12.5 percent.

Mr. CHAFEE. I wonder if we could take an illustration. Would that be helpful?

Mr. ARMSTRONG. I think it would be helpful.

Mr. CHAFEE. Let us say the base price is $13, and the selling price is $30. Is the Senator with me?

Mr. ARMSTRONG. Yes.

Mr. CHAFEE. You take the selling price and deduct the base price. So we are now down to $17; $13 from $30 is $17. You then deduct from that the severance taxes, State taxes, whatever they are. Say they amount to $3. That gets you down to $14. Then your windfall tax applies to that.

Mr. ARMSTRONG. In other words, the tax is applied to the remaining $14 in the example the Senator has suggested. That would be a tax of 75 percent under the pending amendment.

Mr. CHAFEE. That is right.

Mr. ARMSTRONG. That would be something like $10 or $11.

Mr. CHAFEE. That is correct.

Mr. ARMSTRONG. That would leave something like $3 or $3.50 out of the original windfall amount.

Mr. CHAFEE. That is correct.

Mr. ARMSTRONG. Suppose that there were no other expenses associated with that. That $3 or $3.50 would then be subject to Federal and State corporate income tax, assuming there were no other expenses and that that was totally profit. I understand there might be other intervening expenses that would reduce the profit. It might well be that half or two-thirds of that would be wiped out by other expenses. But assuming that all of that remaining $3 or $3.50 were profit, then would the ordinary personal income tax rate apply to it?

Mr. CHAFEE. The individual or corporate rate, yes.

Mr. ARMSTRONG. In the case of corporations, those that make above the surtaxable amount, which is, I guess, true for most corporations of any size, the Federal corporate income tax rate is 48 percent, more or less.

Mr. CHAFEE. Forty-six percent.

Mr. ARMSTRONG. I had forgotten for a moment that we did reduce that from 48 percent to 46 percent. Then on what was left the State could also levy an income tax, or I guess it is really the other way around, that the State levies first and the Federal Government permits that as a deduction. If that were 5 or 6 percent, the net effect of that would be 3 percent.

Mr. CHAFEE. Let us not be counting things several times. Why not stick just with the corporate rate, the Federal rate.

Mr. ARMSTRONG. But it would be subject to a State tax on income in a State where such an income tax was levied.

Mr. CHAFEE. That is correct.

Mr. ARMSTRONG. In our State, for example, that would be 8 percent for the individual.

Mr. CHAFEE. That is correct.

Mr. ARMSTRONG. So if I have followed this correctly, out of the original $30 a barrel selling price, after we deduct the royalty payments that might apply, after we deduct the tax on the windfall increase between $13 and $30, the actual amount that might come down to the net profit, and I say might come down to the net profit, of a producer, individual or corporation, would be perhaps as low as $1 or $1.50 of that increase between $13 and $30.

Mr. CHAFEE. That might be, but you can deduct your intangible drilling expenses. Those are factors that must be taken into consideration.

Mr. ARMSTRONG. This, I believe, leads me to the concern with the amendment and, indeed, with an underlying concern in the bill, but since we are looking carefully at the Senator's amendment, perhaps it would be well to focus on that. It is not clear to me that that is an attractive business opportunity. I am disposed to believe that since that $1 or $1.50 profit that might remain is, after all, a speculative profit and would be subject to normal business risks in any case, if that is the maximum that could be obtained from tier 2 oil, it does not foster a great deal of increase or it does not offer a great incentive for increasing the production of oil from this source.

Am I mistaken about that?

Mr. CHAFEE. I think it is very important to bear in mind that unlike the House bill, the bill that has come from the Senate Finance Committee, which was supported by a vote of 19 to 1, provides that newly discovered oil is not subject to the windfall profit tax at all.

One of the Senator's theses was that there was not much incentive. There is every kind of incentive for the discovery of new oil under this legislation.

Mr. ARMSTRONG. Of course, in this particular case we are not talking about new oil. We are talking about tier 2 oil.

Mr. CHAFEE. That is right. But I believe the point the Senator was making was that there were not many incentives. I think the Senator has to remember we are talking about old oil. Tier 2 is old oil. That is oil that has already been discovered, which is flowing profitably at $13 a barrel.

It is also important to bear in mind that the $13 base price is not static forever. The $13 base price is increased by inflation, so the $13 rolls up to $14 or $15, or whatever it might be, based on whatever the inflation rate is. So it is oil that is being produced at a profit at the current time. If you wish to drill for new oil within a field then you get the intangible drilling expenses, and so forth. If you go out and discover brand new oil then, of course, you are not subject to the windfall profit tax whatsoever.

Mr. ARMSTRONG. I think the Senator has underscored the point which I was about to make, that there are substantial incentives as the bill presently stands for the discovery and production of new oil; that relative to increasing the production from tier 2 oil, there is the incentive for the investment of capital, scientific know-how, management ability, proportionate to the risks and potential return. Really, what we are saying is let us put our emphasis on discovering new oil rather than increasing production from these existing fields.

Mr. CHAFEE. I do not think that is quite fair to say because we have also provided in this legislation what we call incremental tertiary. In other words, the heavy expenses one undergoes to get the most out of an existing well that seems to have exhausted itself, yet if you make added efforts you will get more. Anything you get from those fields, from that effort, is not subject at all to windfall profit tax.

Mr. ARMSTRONG. Let us not get into tertiary for a moment. I am very much interested in tertiary production. As a matter of fact, I happen to think that tertiary production methods offer an enormously interesting opportunity for the future. I want to go back to increasing tier 2 production from conventional methods, not the exotic methods under tertiary recovery.

It appears to me that if a producer, whether a large oil company or an independent, has a choice between making increased investments in an existing field regulated under tier 2 pricing and with the amendment as suggested by the Senator from Rhode Island, if he has a choice between investing in more tier 2 production or going into an entirely new field, that the incentive is clearly greater, or at least there is a presumption in favor of new oil rather than old oil, just as the Senator himself said a moment ago.

In fact, the Senator will remember when I raised the concern about incentives, the Senator's response was that there are plenty of incentives in this bill; after all, new oil is completely free of this windfall tax. That is exactly my point. We are building in, with this very heavy tax on tier 2, a bias in favor of new oil.

I am sure this would not apply to the Senator from Rhode Island, but I think there are many people who may be unaware of the fact that it costs a lot of money to increase production of tier 2 oil in many fields, that it is not just a question of opening another valve or turning up the rheostat. In many cases, we are talking about massive expenditures. That is my understanding.

Would the Senator not agree that we are really creating a situation in which we are skewing the investment incentive more toward new oil than toward increased production from tier 2 reserves?

Mr. CHAFEE. I would not necessarily agree with that, because the projections we have, the forecasts, to the best of the ability of those who do them, show that raising the tax from 60 to 75 percent—I think we have to accept as a basis that the tax is going to be at least 60 percent, that having passed the House and that having come out of the committee in the Senate. The difference between the tax going from 60 to 70 percent, as far as reflection on production, is minimal. It is in the neighborhood of a 1-percent decrease in the expected production. These figures come from the Congressional Budget Office analysis of the tax that has been proposed here, both the 60 and the 75 percent.

Mr. ARMSTRONG. Does the CBO also provide us an estimate of the impact of the imposition of the first 60 percent of the windfall tax?

Mr. CHAFEE. They do provide that, but, frankly, that is not at issue here. I do not think anybody has raised the point or suggestion that we are not going to have the 60 percent.

Mr. ARMSTRONG. Now is as good a time to raise it as any and, since the Senator has the data in front of him, would he share it with us? I was not in on that discussion in committee and I would be interested to know what the projected cost in production of this windfall tax is going to be.

The Senator pointed out that we would not lose very much by raising it from 60 to 75 percent and that may well be true. I cannot help observing that probably, if we raised it to 90 or 95 or 100 percent, it might not change things much, because it appears to me that we have so seriously discouraged this production that we have curtailed it very drastically to start with.

Mr. CHAFEE. Suppose I refer the Senator to the material and, since I am not here in defense of zero to 60, I am here for the 60 to 75.

Mr. ARMSTRONG. I see the Senator from Kansas has arrived. Perhaps he would be willing to inform us as to the extent of the effect on production of the 60-percent tax on tier 2 oil. Is that going to seriously inhibit the production of oil from tier 2 reserves, in the Senator's opinion?

Mr. DOLE. In this Senator's opinion, it will. I had some figures yesterday. I think I cited a couple of hundred thousand barrels a day or more.

Mr. ARMSTRONG. I believe, as I saw the Senator's statement from yesterday, that he was citing figures that indicated that merely increasing the percentage from 60 to 75 percent would cost 200,000 barrels of production daily.

Mr. DOLE. Right. That is correct.

Mr. ARMSTRONG. The Senator from Rhode Island was making the point that this is a minimal amount, which piqued my curiosity as to how much the 60 percent was depressing production. It occurs to me, and I may have said it off the record in jest to someone, that it really does not matter if we increase it to 150 percent; if they do not have any incentive left, they will not produce any oil.

The question the Senator from Rhode Island and I were exploring was this: If we seriously undermine the incentive for production of tier 2 oil, do we not, in effect, create a bias for the production of new oil? If that is so, if we depress it down to where only as much as $1 or $1.50 would go to a producer from an incremental dollar of gain of production from tier 2 oil, are we not really saying to them, "Look, we are giving up on tier 2 increases; go out and find new fields, new production"?

Mr. DOLE. I agree with the Senator from Colorado. In fact, it has been suggested that what will happen—I do not say they are going to abandon all this tier 2 oil, but they are not going to drill the offsets. They are going to go out and do some wildcatting and try to find that new oil that is, so far, exempt from tax. In the oil business, you have to keep the cash flow going. You have to have some money to drill with.

It seems to me, and I do not know whether the Senator from Colorado has taken the position against any tax at all or on what rate, but the Senator from Kansas will vote for a tax. I just think we are going too high at 75 percent.

Mr. ARMSTRONG. Let me ask the Senator from Kansas this question: It seems to me that a lot of people are under the impression that increasing tier 2 production is a routine thing for a producer or a company, that it is relatively easy. I have the contrary impression, that it requires the investment of massive amounts of capital and really, those investments of capital, equipment and technology are an alternative toward some other use of capital and energy and management ability and so on. So we are really saying to producers, "If you have a choice to make, you had better weigh the consequences pretty seriously." Most of them, or many of them, are going to go toward new production, as the Senator pointed out.

The reason that concerns me is this: I am advised by geologists and economists and others that the best near-term potential for increasing domestic production of petroleum is precisely in these existing fields. I am all for increasing production from new fields, for production of energy from synfuels, gasohol, and so on. But if we are talking about a near-term increase, it really has to come from our existing fields. Would the Senator agree with that?

Mr. DOLE. I agree with that. I believe there is this feeling that the oil wells are going to produce in any event, but it is going to cost money. Some of these projects are quite costly.

In a recent investigation by the Department of Energy, it was found that the figures the oil industry has been supplying are accurate. But if the industry increases production, they say 150,000 barrels per day in 1990, or 200,000 over that period from 1979 to 1990, we would lose about a billion barrels of domestic production. If we are going to import this oil, even at, an average price over that period, we are going to spend about $42 billion overseas. So it seems to me that we are going in the wrong direction.

The President asked for a 50 percent tax, the House raised it to 60. In the Senate Finance Committee on tier 2, we left it on 60. We raised the tax on tier 1 to 75. We made other changes in the finance bill.

Now, on the Senate floor, it appears there may be the votes to increase the tier 2 tax to 75 percent.

The Senator from Kansas is trying to point out that this may be just the beginning. If we lose this battle, then there is going to be another battle to knock out the phase out, or to do away with the depletion allowance, or to impose a minimum tax. We might as well make our fight on this issue.

Why stop talking now, if we are going to say, "All right, we will give in on this," and somebody else will bring up another tax. There are some in this body who just want to tax. There are some who want to produce, and there are some who want to find a balance. I hope we can find a majority in that balance category.

Mr. ARMSTRONG. I very much appreciate the explanation by the Senator from Kansas.

Mr. President, I want to make a couple of observations. Then I am going to yield the floor.

First of all, I thank my friend from Rhode Island for joining me in colloquy and educating me as to the background and details on this. I compliment him for the leadership he has shown on this issue. This is a very complex question. This whole area of tax policy as it relates to oil is byzantine in its complexity.

For one who is not a member of the Finance Committee, it is terribly hard to follow. I particularly appreciate his courtesy and his patience in explaining some of the in's and out's of this to me on the floor.

Mr. CHAFEE. I wish to say to the Senator from Colorado that I think the questions he raised are excellent ones. It is very thoughtful and careful questioning. I think it greatly contributed to the debate here on the floor.

So I congratulate him for the points he has raised and for the light he has shed on this very difficult topic.

Mr. ARMSTRONG. I very much appreciate that.

Particularly, in the light of the Senator's response, I am pained to find myself in the position of opposing the amendment which the Senator has offered. Instinctively, when I learned of the Senator's sponsorship of an amendment on the floor, I was inclined to support it, because of that sponsorship. I am sorry I am constrained to do otherwise.

I would also like to comment briefly on the remarks of the Senator from Kansas (Mr. DOLE) and to compliment him for his leadership, not only on the floor, but the way in which he has led the minority on the Senate Finance Committee, and the contribution he has made to the debate.

I think he has really put his finger on the issue that concerns most Americans, which deeply concerns me, and which I trust, in the ultimate analysis, after we have talked this through to conclusion, will be the overriding concern of the Members of the Senate, and that is energy production.

It is fine to think about levying a tax against a very unpopular group of companies, the energy companies. I suggest that if we are not careful, we will be very much in the position of the man who comes home from the office after a hard and frustrating day in which his customers, employer, employees, and all the people with whom he has come in contact have been disagreeable. In his frustration, he comes home and takes it out on his wife, family, children, kicks the dog on the way in, and insults the neighbors.

We are all frustrated. It is perfectly true, the Nation's energy picture has turned very bad. We are frustrated by what is going on in Iran. But I think we are on the brink of making the Nation's energy companies a scapegoat for the problems.

I think this tax bill, in its very essence, and in the mood I see so clearly expressed in some quarters, not by the Senator from Rhode Island, but by some Members of this body and many people throughout the country, is an attitude and a mood of, "Let's punish the oil companies."

I do not think that is a responsible way to legislate. I think it will lead to the kind of tax measure we will regret.

I suggest to my colleagues in the Senate that the proper focus of tax policymaking ought to be to create a tax structure which will maximize rather than minimize production of domestic energy.

Mr. WALLOP. Will the Senator yield?

Mr. ARMSTRONG. I am very pleased to yield to the Senator.

Mr. WALLOP. This is just for comment, because the Senator is dead right.

Earlier, when the Senator said the problems that the country is frustrated by and suffering from are not of the oil companies' making, indeed, they are of our own making, of the making of Congress, the Department of Energy's making, Republican and Democratic administration making, going back 15, 20, 25 years.

I said yesterday, the most bizarre thing of all is when God made no attempt to distinguish between the type of dinosaurs he laid down, and we cannot tell the difference when it burns in our furnace or our car. But we have somehow or other been able to determine there are 28 varieties of natural gas and 15 or 20 varieties of oil, though it all comes out to the same thing.

People are genuinely unwilling to face what really is at the root of our trouble, that we have lived on a subsidized energy economy for 20 years, and it hurts to go to a true cost energy economy, and we can no longer subsidize it because there is not enough around and we do not have control over it any longer.

In the long run, if this country gets to the position where it can produce 70 to 75 percent of its own energy needs, and it has demonstrated the potential to crawl up from less than 50 percent to that figure, we will see oil prices and energy prices competitive with various forms.

I said to the Senator from New Mexico yesterday, the one thing, when we were really dealing with the energy security corporation, that all companies agreed they wanted protection from, was not the risk of investing capital, not the risk of failing technology, they wanted to be protected from a decline in the price of oil by the OPEC countries, if they got involved in the heavy synthetic fuel thing, which would cost $30 a barrel and was competitive then. But as soon as we began to get independent, the opportunity to go in the world, just manifests itself, people will be worried about their own national self-interest, their own national economy, and they will see to it they can prolong as long as they can the deliveries they have to support their own people.

It makes sense. We cannot blame them for it. But we do not have to assist them in the process by continuing to hold ourselves hostage to the very policies that create the circumstances under which we now exist.

Mr. President, I compliment the Senator.

Mr. ARMSTRONG. I think the Senator summed it up very well.

I ask the Senator if he would not agree that, in its very essence, the effect of this bill will be to increase the delivered price of petroleum.

Mr. WALLOP. In effect, it will.

The most pernicious part has been pointed out by those who like to say they will not increase the price, because only the producers pay, that is because absolutely, as everybody mentioned, it has nothing to do with profits.

Indeed, the wonderful statement in the House summary of the bill they passed was that in order to prevent it from becoming too burdensome, the tax is limited to 100 percent net profit from the property. That is, indeed, generous, I have to say.

Almost anybody could get excited by that kind of benign treatment from their uncle in Washington. But it is basically absurd.

The reason it will raise the price is that it will cut down our ability to produce any and, therefore, leave with OPEC the leverage they now have to raise prices at will.

Obviously, ours will be a reflection of that price. It is now.

I see, once again, the Secretary of the Treasury, who apparently has no knowledge of how that part of our economy works, complaining about how all OPEC countries were wondering why the American companies were continuing to raise prices.

If he looked at the price list, he would find they have not raised it; that the prices of oil have not been raised.

I do not know where he gets these things, except in a desperate attempt to put another campaign ribbon on his chest, called the windfall profit tax.

They are willing to resort to almost any subterfuge to fool the public into believing that not only does the administration want it, but so do the Saudis, the OPEC countries, and everybody else.

That, on the face of it, is preposterous. They want the windfall profit tax because it extends deliveries.

Mr. ARMSTRONG. The Senator is correct.

Mr. President, I will yield in a moment. I see the Senator from Idaho and others are here to discuss the issues. I am eager to yield to them.

Mr. President, I will sum up in this way. Clearly, the effect of the bill, particularly as modified by the pending amendment, in the unfortunate case that may be adopted, is to increase the cost of doing business and to decrease the domestic production of energy.

There is some dispute as to the extent to which the tax and the amendment will decrease domestic production.

One of the Senators sponsoring it says it will only be a minimal decrease. Others, including the CBO, estimate the incremental decrease caused by this amendment will be 200,000 barrels per day on top of the millions of barrels a day decrease caused by the first 60 percent of the tax on the windfall increase. But there is no dispute, so far as I am aware, that the result will be less production.

I think we are focusing on the wrong kind of tax policy. I think we should write an energy bill that will increase, not decrease, production of domestic natural gas and petroleum. It seems to me that we will do a disservice to the Nation and that we will bring disgrace upon this Chamber if we act in frustration or anger.

I know how unpopular these oil producers are. I know that it will be well received, as the Senator from Wyoming has said, to say on the campaign trail. "We really socked it to them." But we should bear in mind that all of us will pay the consequences of it if we act unwisely.

I suggest that we enact a windfall profits tax that generates plowback provisions, with the kinds of incentives which will encourage production and reinvest the profits from production, so that the money will not be dissipated in various kinds of popular programs; that, instead, the increased profits will be directly plowed back into the most urgent economic need facing this country, and that is the production of more energy.

When I came to the floor, I had in mind that this bill, as it was reported by the committee, was roughly analogous to shooting yourself in the foot. I think that is about right, because it is a bill which, if enacted, will injure us. To extend the analogy, I suppose the effect of this amendment is like shooting yourself in the kneecap after shooting yourself in the foot.

I think I will get off the floor before I find out where we are going to shoot ourselves next.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I yield.

Mr. McCLURE. I thank the Senator for yielding.

The analogy just made by the Senator from Colorado reminds me of the manner in which the Senator from Wyoming (Mr. WALLOP) made a similar statement somewhat earlier in this debate.

Ordinarily, we think of a person who shoots himself in the foot as the quick-draw artist who got the gun stuck in his holster as he was trying to get it out, and shot himself in the foot. However, Senator WALLOP pointed out that we are not so much shooting ourselves in the foot by accident but are taking dead aim and shooting ourselves in the foot.

I think the Senator's statement is accurate, because we are not simply accidentally doing something unknowingly. It is something that has been discussed frequently enough and openly enough and with sufficient facts to indicate that it is no accident. What the people taking this action should know is that when they pull the trigger, the gun is going to discharge, and they will shoot themselves in the foot. They are willing to impose that punishment on the American consumer, on American society—the punishment they want to level upon the oil companies.

UP AMENDMENT NO. 849

(Purpose: To impose a windfall profit tax on domestic crude oil by an amendment perfecting title I of H.R. 3919)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself, Mr. COCHRAN, Mr. JEPSEN, and Mr. GARN, proposes an unprinted amendment numbered 849.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 4, strike all through and including page 73, line 12 and insert in lieu thereof the following:

SECTION 2. Part II of subchapter A of chapter 1 of the Internal Revenue Code of 1954, as amended (relating to corporation income taxes), is amended by adding after section 12 a new section as follows:

"SEC. 13. EXCESS PETROLEUM PROFITS TAX.

"(a) IN GENERAL.—Notwithstanding other taxes imposed by this subtitle, an excess profits surtax is hereby imposed on the taxable income of all petroleum industry corporations for each taxable year beginning after December 31, 1978. The surtax shall be equal to the surcharge as computed under subsection (b).

"(b) SURCHARGE.—The surcharge is equal to 90 percent of the amount by which the taxable income exceeds the surcharge exemption for the taxable year. Section 11 shall only apply to that amount of taxable income which does not exceed the surcharge exemption for the taxable year.

"(c) SURCHARGE EXEMPTION.—For the purposes of this section, the surcharge exemption for any taxable year shall be the percentage rate of a return, on the capital investment of a petroleum industry corporation, equal to the average rate of return on capital investment for all manufacturing corporations for that taxable year. Determination of the average rate of return on capital investment, by industry and for all manufacturing corporations, shall be made by the Federal Trade Commission and submitted in its quarterly financial reports for manufacturing corporations, beeginning with the quarter following enactment of this bill. The Commissioner is further directed to compile and publish the rate of return on capital investment, by industry and for all manufacturing corporations, starting with the first quarter of 1979 and extending through the quarter in which this bill is enacted.

"(d) EXEMPTIONS.—

"(1) SMALL CORPORATIONS.—This section shall apply to all petroleum industry corporations having an invested capital structure exceeding $2,500,000.

"(2) SET-ASIDE FUND.—The corporation may establish a special fund to be used according to subsection (f) in which yearly income, subject to the surcharge, may be set aside without surcharge consequence. However, such set-aside funds which are not properly invested within 5 years of the taxable year in which they were earned shall be subject to the surcharge with no further exceptions.

"(e) DEFINITIONS.—

"(1) PETROLEUM INDUSTRY CORPORATION.—For purposes of this section the term 'petroleum industry corporation' means any corporation engaged in the exploration, extraction, refining, transportation, distribution, manufacture, production, and/or sale of any petroleum product as its principal business.

"(2) TAXABLE INCOME.—For purposes of computation of the surcharge imposed by this section, taxable income shall be computed without regard to any deductions allowed by reason of the carryback or carryover of any loss.

"(f) SPECIAL DEDUCTION.—In computing the surcharge imposed by this section, there shall be excluded from income, subject to the surcharge, an amount equal to the investment made in the same taxable year or as authorized under subsection (d)(2), for the following purposes:

"(1) exploration or development of new domestic fuel;

"(2) increased domestic productive capacity;

"(3) research and development of new domestic energy sources, fuels, or uses;

"(4) research and development of energy technology affecting:

"(A) location,
"(B) production,
"(C) transportation,
"(D) conversion,
"(E) processing,
"(F) utilization,
"(G) pollution abatement, or
"(H) conservation; or

"(5) other investment reasonably calculated to increase the domestic energy supply or the more efficient use of such energy supply.".

SEC. 3. (a) Section 48(a) of the Internal Revenue Code of 1954, as amended (relating to investment tax credits), is amended by inserting at the end of clause (1)(B)(iii) the following:

"(iv) constitutes a domestic research and development facility for new or expanded energy sources, or

"(iv) constitutes tangible property specifically invested in to increase the domestic energy supply or its more efficient use, or".

(b) Section 48 of such Code is amended by redesignating subsection (k) as (l), and by inserting after subsection (j) the following:

"(k) NEW OR EXPANDED ENERGY SOURCES.—

"(1) NEW ENERGY SOURCES.—This term shall include (but not be restricted to) oil shale, tar sand, coal liquefaction, coal gasification, geothermal, solar, hydrogen, and magnetohydrodynamics energy.

"(2) EXPANDED ENERGY SOURCES.—This term shall include (but not be restricted to) the energy sources in (1), plus petroleum, coal, hydroelectric, and atomic energy sources.".

SEC. 4. (a) The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this Act, except as provided for in section 3(b).

(b) The Commissioner of the Federal Trade Commission shall prescribe such regulations and procedures as are necessary to carry out the compilation and publication of rate of return data as directed in section 1(c) of this Act.

SEC. 4. The amendments made by this Act shall become effective with respect to taxable years beginning after December 31, 1978.

Mr. McCLURE. Mr. President, I point out that this is an amendment offered to the House bill, not an amendment to the Senate bill.

Mr. BRADLEY. Mr. President, I object, if there is a request for immediate consideration.

The PRESIDING OFFICER. The Senator from Idaho has the right to have the amendment considered, since it is directed to the underlying House bill and does, therefore, take precedence over the amendments pending.

Mr. McCLURE. Mr. President, the amendment I have offered is amendment No. 588, which I had submitted earlier, which has been printed, but which was, as submitted and printed, an amendment to the Senate bill. In view of the parliamentary situation at the present time, it is not possible for me to offer such an amendment to the Senate measure, but it has been redrafted to be an amendment to the underlying House bill. I mention amendment No. 588 so that people might be aware of the substance of the amendment I have offered.

Mr. President, we keep talking about windfall profit tax. We talk about windfall, somehow related to an excess profit. We are always talking about profit, when, in truth and in fact, the pending measure is unrelated to profit, except in a most obtuse and indirect way. It relates, instead, to a production tax or an excise tax on the production of oil, irrespective of the amount of profit. My amendment is drafted to be truly an excess profit tax.

Did the oil companies make too much money? Have they made too little money? My amendment will not try to define how much they have made, nor will it make a judgment as to whether they have made too much or too little, with one exception, and that is to say that oil companies, like any other corporate enterprise in the United States, are entitled to profits.

"Profit" is not a dirty word. It is not even a four-letter word. Our business operates on the fundamental, basic premise that profits are necessary in any business enterprise. This amendment says that, as a matter of definition, an oil company profit cannot be excessive unless it is at least the average rate of return on invested capital of all industrials. I do not know of anyone who would say, in good faith, that oil companies should make less on invested capital than other industrial enterprises in our society. Whether or not they are above or below the average rate of return on invested capital of all industrials is a matter of fact. It is a matter of computation. It is a matter that can be discerned easily from an examination of the investment and profit picture of all industries in the United States, including the oil companies. If they fall below the average rate of return, then certainly they should not be subjected to a windfall or excess profit tax.

If, as a matter of fact, they lie above the average rate of return, then we might have a legitimate reason to look at what they are doing and a legitimate reason to wonder about the size of that profit and the way in which it is generated and what is done with that profit after it is generated, after it has been paid by the American consumers to oil companies for the use of the products they produce and sell. Then, the American consumer would have a legitimate right to look at that profit and say, "We are concerned that our payment of a very high price for energy has generated a very high rate of return, and we want to know how you are going to spend that."

My amendment would go beyond that and say that any rate of return in excess of the average rate of return on invested capital of all industrials would be subject to an excess profits tax—by definition, saying that anything that is above the average rate of return is excessive for oil companies. Not for newspapers, not for soft drink companies, not for broadcast media, but only for oil companies is it defined as excessive to make more than the average rate of return.

However, as a matter of law, we say for oil companies, "In view of the special and unique circumstances we find ourselves in today, we will tax you if you make more than the average rate of return, and we will tax you very heavily." My amendment provides for a 90-percent tax on all in excess of the average rate of return.

The American public, if they indeed are being ripped off by an OPEC cartel that has inordinately raised prices, which results in a better average rate of return for the oil companies, has a right to be concerned about that, and we are going to tax that amount at the rate of 90 percent. There may be those who say it should be 100 percent or those who think it should be 50 percent. But at least we should be able to agree in principle that what we are going to deal with in the taxation of oil company profits is that which is excessive, not that which is average or below.

My amendment goes one step further in that it provides that those profits be directed toward the solution of the problem. We do not take the money and create Federal enterprises. We redirect the profits that are made that are above the average rate of return to solving the problems that cause the profits to be generated.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. McCLURE. I am happy to yield to the Senator from Louisiana without losing my right to the floor.

Mr. LONG. Mr. President, do I understand that the Senator is contending that we should not regard a company as making an excess profit in the event that the company is not making more than the average profit being made by corporations generally across the country?

Mr. McCLURE. The Senator is correct.

Mr. LONG. In other words, assume for the sake of argument that we think of profit as a return on investment and assume that the average corporate return after tax is about 10 percent. If a company is not making 10 percent after taxes, then one should not be regarded as making an excess profit simply because he is making the same amount that everyone else is making.

Mr. McCLURE. The Senator is correct. That is exactly what I am attempting to do in this legislation.

Mr. LONG. Of course, there are situations, are there not, where tax laws apply differently to different companies and companies keep their books on different bases? For example, some use a first-in first-out inventory method and others use a last-in last-out inventory method. Some companies get the benefit of a percentage depletion—well, no, they do not get a benefit of percentage depletion, except a few small ones.

Mr. McCLURE. And some in the minerals industry.

Mr. LONG. Some do, but others do not. Is it not true that in the banking fraternity, where they are in the business of lending money to people, they have ways to adjust for those differences to analyze how much profit one should be making if he is in a particular line of endeavor?

Mr. McCLURE. Certainly they do, not only in the banking community but in the financial community generally because that is the way our economy works to allocate capital. If I want capital to go into one venture as compared to another venture there has to be a comparison between risk and return that will make a comparison between what are my opportunities for a profit in this venture if I invest my capital there as compared to my opportunity for profit in another venture.

Mr. LONG. Will the Senator yield further?

Mr. McCLURE. Of course.

Mr. LONG. Is it consistent with the Senator's argument to say that to merely compare the profit a company made in one year with the same quarter in the succeeding year and to suggest that because a company made more money in 1979 than it did in 1978 it has an excess profit? That is a very shortsighted way to try to arrive at what an excess profit is.

Mr. McCLURE. I agree with the Senator that comparisons for one period of time against another are difficult to make and sometimes misleading because the selection of the period will sometimes alter the results dramatically. In my amendment I have suggested that we do it on an annual basis simply because we have to settle on some period, one year against another. This may not yield the kind of results we want but at least it will be a comparison of this industry against another industry in the same time frame.

Mr. LONG. I thank the Senator.

Mr. McCLURE. I thank the Senator for his question.

Mr. President, I think it is also useful to note in building upon the comments the distinguished Senator from Louisiana has made that some companies make more than others do. Some entities in the petroleum business make more than others do. Why should we be passing a tax that is equal for all of them without regard to whether or not they have made a profit? If we have a small company that is contributing to the Nation's energy supply but has had no profit or has had below average profits, why should we tax away its ability to provide energy to this country simply on the basis that somehow we have the picture that all oil worldwide is making too much money? That is irrational. It runs against what is right for a national energy policy and certainly runs contrary to every bit of philosophy that we have with respect to our tax laws.

Mr. LONG. Mr. President, will the Senator yield for a question at that point?

Mr. McCLURE. Of course, I am happy to.

Mr. LONG. To carry the situation to the ridiculous extreme is it not unreasonable to take the attitude that because Exxon made a lot of money in buying some cheap oil from Saudi Arabia and selling it in Europe that some other company, let us say Union Oil Co., not making anything like that kind of profit, not even able to buy any oil from Saudi Arabia, should be subjected to an excess profit tax in view of the fact that Exxon made a profit somewhere else?

Mr. McCLURE. I agree with the Senator totally. That is one of the differences we have as we look at the entire picture, as the Senator from Colorado (Mr. ARMSTRONG) a few moments ago talked about the Byzantine labyrinth of trying to trace through all of the financial dealings of all the oil companies. One of the problems we have, of course, is that some oil companies make a great deal of their money based on foreign operations.

I point out, as the Senator well knows, a few years ago we were talking about the evils of multinational oil companies that were operating in foreign countries, and the result, of course, was that most of their operations in foreign countries have now been nationalized. What effect did that have on the oil companies or the American consumer? What we did before was: those oil companies operating, say, in Kuwait or Saudi Arabia would drill for the oil. They would write off their expenses in that country. They would transport the oil to this country. They would pay their royalties and whatever fees they paid to the host country and sell the oil on the east coast of this coun- at about $1.90 a barrel, having made a net profit to themselves on that transaction of about 45 cents a barrel typically.

Today, they do not own that oil. They do not transport that oil. They simply operate as an agent for the host country and they still make their 45 cents a barrel in profit as a lifting fee, as a management fee for having done that, and the result then must be that all of the increase in cost has flowed into the treasury of the foreign countries without affecting the profits of the domestic multinational oil company at all.

They still make the same amount per barrel as they made before. They make it in a different manner. But there we do run into the problem of a company that has that foreign operation and makes that profit overseas. A very large percentage of their profit may be in those management fees overseas, as compared to a domestic producer who has no foreign operations and has no foreign profit to put into their Treasury.

The Senator is correct. But it is another one of the examples of the difficulty that we have as we try to write a statute that has absolutely a blanket effect and makes no distinction between the circumstances of different producers. I think it should make the distinction as well as doing what is helpful to us in meeting the demands of energy supply in this country.

It is always amazing to me to hear people who want to somehow strike at the OPEC cartel by the very actions that they take strengthen the OPEC cartel.

This legislation we have been considering here on the floor, the so-called excess or windfall profit tax, is by many argued as a punitive measure against the OPEC cartel, somehow to hurt them. It does not hurt them at all. There is not anybody who is more delighted with a large tax than the OPEC cartel because they are immune from the tax.

What it will do is raise the price to the American consumer, and the American consumer takes it in the neck. Who in the world believes you can put that tax on a product at the middle level without affecting the market price of that product flowing to the consumer?

Mr. President, it flies in the face of reality to suggest that by taxation we can strengthen the industry that is taxed in its ability either to resist the OPEC cartel or to provide supplies for the American consumer.

Some people have been arguing, and I understand the argument, the facts are hard to come by, but they have been arguing, about how much different levels of taxation will affect production in this country. Will it be 700,000 barrels a day or 1 million barrels a day or 1.5 million barrels a day?

Mr. President, I want to just remind the Senate that the 700,000-barrels-a-day figure that has been used is almost identical to the amount we were getting from Iran, and we look for an impact upon our market as a result of the loss of the Iranian production.

So now not only are we going to lose that production, we are going to penalize ourselves by imposing another similar reduction on domestic production that is totally unnecessary and, in my view, unjustified.

Mr. President, I see the distinguished Senator from Mississippi (Mr. COCHRAN), a cosponsor of this amendment, is on the floor, and I would be happy to yield to him for some remarks at this time.

Mr. COCHRAN. Mr. President, I thank the Senator for yielding.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Idaho gave up the floor, did he not? He yielded for some remarks.

The PRESIDING OFFICER (Mr. HUDDLESTON). He yielded the floor.

Mr. ROBERT C. BYRD. All right, then I have the floor.

Mr. President, I would be glad to yield to the Senator if he wishes to make a brief statement. By unanimous consent I yield to the Senator for a statement, providing I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I thank the distinguished majority leader for yielding to me.

I was very distressed, Mr. President, when I began reviewing the provisions of this legislation that was coming to the floor of the Senate under the auspicious title of "windfall profit tax" when it became apparent that the tax has no relationship whatsoever to profits.

I want to compliment the Senator from Idaho for devising a proposal to present to the Senate which really gets at the question that is before us, and that the President and the administration suggest needs attention by the Congress, and that is the question of profits.

This amendment, which I am delighted to cosponsor, will approach the problem from the standpoint of providing for a tax on excess profits.

In the legislation from the committee there is no relationship, there is no tax on profits. It is just a tax on oil. The one thing I think we all realize is that oil does not pay tax, people do. People pay the tax. What we are going to get in this bargain is the worst of all possible worlds. We are going to get shorter supplies and higher prices. Nobody is going to be benefited except those who want to see the Federal Government get bigger and have more of the money that is generated in the United States to be spent by those in Government positions of authority.

We have had some very clear and persuasive testimony in hearings before congressional committees that one of the real serious problems we have in the country is a shortfall of capital. I know a few years ago Secretary Simon made the observation that Government was usurping the capital in this country to the tune of about 65 percent a year, leaving 35 percent of the available capital out there for private industry, business people, farmers, consumers to fight over, necessarily putting horrendous pressure on interest rates, and making it difficult for people to buy or acquire a home or an automobile.

This action, if it is taken by the Senate on the bill from the Finance Committee, is going to exacerbate that very problem. We have a proposal that is going to take capital out of the private sector and transfer it to the public sector for disposition by Government officials in Washington. It is not a tax on profits.

On the other hand, Mr. President, we have given the Senate by this amendment an opportunity to vote on an excess profits proposal. A tax will be imposed on the excess that an oil company, a business entity engaged in the oil business, earns over and above that rate of return for manufacturing in the United States generally. A tax of 90 percent on the excess will be required to be paid unless the profits are reinvested into energy-producing activity—not just oil-producing activity, but energy-production efforts.

As a national goal we want to encourage investment in energy production, and that is why we have theses programs that are designed to make loan guarantees, provide Government assistance to those who want to get into the business of producing synthetic fuels.

We also want to make it attractive for investors to put their money into exploration and production of traditional fossil fuels.

I think, Mr. President, that a careful look at the alternative that is before the Senate now will convince most Senators who are interested in restraining excess profits, who are interested in keeping a windfall from occurring that will benefit just a few companies, so that they will vote for the McClure-Cochran substitute. This amendment is, in effect, a substitute. You can have a choice: a broad-based excise tax that will be imposed on profitable operations and nonprofitable operations, big operators, little operators, anybody who is in the oil business is going to have to be subjected to this excise tax.

It will not help us produce a single new barrel of oil or a cubic foot of natural gas. But if we design a plan to force reinvestment, to force investment of the Nation's capital, into energy production, we will get more energy. But if we divert all of that capital to Washington to give to the people downtown to think up new programs, throw around money all over the country on a harebrained scheme somebody might develop that he says is going to save us in the energy area, then I think we are making a big mistake, and I think the adoption of the committee recommendation is going to be a horrible mistake.

We can talk about how we have saved the people from the indignity of sitting back and observing companies make windfall profits, unearned profits, by passing this bill from the committees.

But when the people find out that this bill does not have a thing in the world to do with profits, they are going to come back, look at us, and say, "I thought you took care of the profits picture?" This does not have a thing to do with profits. They will get short supplies, higher prices, and wonder why.

Somebody will suggest, "Well, it is OPEC again," or "It is the oil companies figuring out a way to get around these taxes."

I am suggesting that the more responsible approach, Mr. President, would be to adopt a true excess profits tax forcing reinvestment into energy production and, thereby, living up to the commitment the administration has made and the leadership in Congress has made to do something about the windfall profit scare.

I appreciate very much the majority leader yielding to me.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Mississippi wish to continue to speak?

Mr. COCHRAN. Mr. President, if the majority leader will indulge me just for a moment——

Mr. ROBERT C. BYRD. Surely.

Mr. COCHRAN. I have completed my remarks. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator. Does any other Senator wish to speak at the moment?

Mr. President, I intend to offer an amendment shortly. It is being prepared. I will be glad to yield to any Senator who wishes to address the Senate in the meantime.

RECESS FOR 30 MINUTES

Mr. President, I ask unanimous consent, with the understanding that I be recognized when the Senate goes back into session, that the Senate stand in recess for 30 minutes.

The PRESIDING OFFICER. Is there objection?

There being no objection, at 2:42 p.m. the Senate took a recess for 30 minutes.

The Senate reassembled at 3:12 p.m., when called to order by the Presiding Officer (Mr. ZORINSKY).

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes under the same conditions; to wit, that the majority leader be recognized upon reconvening.

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not, I understand that the Senator is trying or people are drafting an amendment to be offered to the amendment of the Senator from Idaho. I have no objection to that, and it would not do me any good if I did, but I wonder if, at some point, there will be an opportunity to debate the issues of the McClure amendment. I wonder if the distinguished majority leader could give the Senator from Idaho some assurance that that opportunity will not be foreclosed.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator, I could offer my amendment now. I have not had it read, but I do not want to offer it at this point. Some discussions are going on. I should like those discussions to go forward. It is for that reason that I have asked for a recess rather than put my amendment in at this point.

I hope that will suffice.

Mr. McCLURE. Of course, I have no objection, but again, I hope I shall have some opportunity at some point to debate more fully the amendment which I have offered. I am willing to utilize this time now to do that but, at the same time, I understand what the majority leader is attempting to do. I do not want to interfere with that, either.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. McCLURE. I have no objection, Mr. President.

There being no objection, the Senate, at 3:13 p.m. recessed for 30 minutes; whereupon, at 3:43 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that I may be permitted to yield to the distinguished Senator from Idaho (Mr. McCLURE) for 30 minutes for the purpose only of his making a statement, with the understanding that I do not lose my right to the floor, and with the further understanding that the Chair will entertain no motion, no unanimous-consent request from any Member until such time as I have again been recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I thank the Senator from West Virginia.

Mr. President, I am flattered by the consternation in which the Senate has been thrown by the offer of my amendment, and I appreciate the fact that the amendment is thus accorded a seriousness which I think it deserves.

I first introduced this amendment as proposed legislation in this session of Congress on April 5, and it was introduced and given the number of S. 890.

At that time, I made these remarks:

> Mr. President, decreasing the flow of foreign oil into the United States cannot be considered solely as an energy issue. The strength of our dollar—both here and overseas—our national security, and the degree of independence allowed us in making foreign policy decisions is at stake. The congressional response to the Arab oil embargo of 1973 and 1974 has been proven a failure to all but the most biased and irresponsible individuals. That our policy of crude oil price controls would fail was obvious at the time of the debates on this issue. We had only to look at the pathetic history of natural gas controls to foresee what would happen. And, it has occurred. Just as controls always produce both shortages and high prices, legislation intended to reduce oil imports has directly created increased oil imports and driven prices higher. This policy must be changed now. Federal Government controls on domestic crude oil must be removed effective June 1, 1979, if we are to begin to reduce the flood of foreign oil entering this country.
>
> What are the arguments against such a decontrol? There are basically two. One, the consumer would have to pay exorbitant prices for fuel and, two, the oil companies would reap excess profits. Let us examine each of these points.
>
> If all domestic crude oil were to be decontrolled, the price increase for gasoline, fuel oil, and other petroleum products would average about 7 cents a gallon; 7 cents a gallon. Is this too high a price to pay American producers in order to reduce foreign oil imports? I think not. And, we should consider also that this 7-cent estimate is probably too high.
>
> It would be reduced some by the lack of Government control costs, estimated by some to add as much as 5 cents a gallon to present costs. In addition, under the present irrational scheme of subsidies for foreign oil—so-called entitlements program—the consumers in Idaho and other States are paying a share of the costs of fuel sold in New England and the Northeast. Under decontrol, they would no longer pay this subsidy, thereby reducing even more the 7-cents figure.
>
> But, what about the issue of excess profits for the oil companies. The solution here is simple—tax it away. I am today introducing the Excess Petroleum Profits Tax of 1979 and I ask unanimous consent that the text be printed in the RECORD at the conclusion of my remarks.

And that request was then granted and the text was printed in the RECORD at the conclusion of my remarks.

I went on to say:

> Mr. President, I first introduced this proposal in 1975 and reintroduced it in 1977. I believe its time has come.
>
> My bill will levy a 90-percent tax on the income of the petroleum industry which exceeds the average rate of return for all industries. Now, I have provided a way for the companies to avoid paying the tax—they can reinvest the excess profits in domestic energy production. Not circuses or department stores or overseas refineries, but for produced-in-U.S.A. energy. To those critics of the oil industry, I invite them to join me in cosponsorship of this legislation and let us get it passed now.
>
> Nobody knows for certain how much additional oil will be found under total decontrol. Estimates range from 500,000 barrels a day to 2,500,000 barrels a day. But, the experience with natural gas proves that more oil will be found. And, I would rather see U.S. dollars going to Americans, and being used to pay American wages and buy American goods, rather than going overseas. And, as OPEC realizes that we are serious about reducing imports, this will provide a break on future price increases. Under decontrol, Americans will actually pay less for oil than under the present system where our dependence on OPEC oil grows each year and we have to pay whatever price OPEC sets.
>
> For over 10 years, I have warned that our energy crisis is real and will not go away

just because we want it to. It will only go away when we stop listening to those who have been proven wrong at every turn and whose policies have brought us to this sorry state. Our national security, our foreign policy, and our economic well-being are now dependent on foreign oil producers. This is a disgrace and I call on my colleagues to join with me in discarding the irrational, self-defeating policies of the past and in establishing an energy policy which truly protects the people of this Nation.

Mr. President, the sad fact is that while I did introduce that legislation in 1975, in 1977, and again in April of 1979 it has not yet been given the serious consideration which it is now receiving at this late date.

What would have happened had it been pasesd even in 1975? Where would we be today if it had been passed even in 1977? And what different circumstances would we be facing in the debate here today if it had been passed in April of 1979?

Mr. President, we are paying the price of our own inaction. We would not be confronted with OPEC official prices of $23 a barrel, with spot prices ranging much higher than that, if we had not allowed ourselves to be placed in that position.

In the spring of 1973 in a speech in Dallas I told some people in Texas "Don't be surprised if the price of oil went above $5 a barrel." They laughed.

In 1973, in the spring, I also said, in making the same remarks, "Don't be surprised if there are political considerations attached to the availability of oil." And again they did not believe, they would not listen, and yet before that year was out both events had occurred.

How long does it take us to learn? What will it take to make us believe what the facts clearly indicate? Had we taken the action that I suggested in 1975 we would not now be paying $23 a barrel. The price would be somewhat less, and I must speculate because no one can know exactly how much less, but let us face the fact that the price is controlled by the marginal supply of oil. It is not that we have massive shortages or massive surpluses. It is because we have a very small shortage or a very small surplus, with very large swings in price because of a very small swing in supply. We do not have to produce 8 million barrels of oil a day in addition to what we now produce in order to hold the prices down. If we produced 2 million barrels of oil today more than we do the price would be down, and that capability was very clearly within our grasp in 1973, 1975, and in 1977, and is available to us in 1979.

But, no, we will not seize that opportunity of increasing domestic production of energy supplies. We insist instead in the name of protecting the consumer in creating the marginal shortage that drives the price ever higher.

I do not blame my colleagues here or elsewhere for wanting the price to be as low as possible. We all share in that objective, but they choose artificial restraints on production and marketing as a way of keeping the price down, and it must surely, inevitably, drive the price up as it inhibits supply.

As I said earlier today, we hear debate about the marginal effects of increases in tax rates on production. Is it 500,000 barrels a day? Is it 700,000 barrels a day? Is it 1.5 million? Is it 2 million? Is it 2.5 million barrels a day over a period of time? Any one of those figures is almost equal to or greater than the impact of the loss of Iranian oil on the market today in this country.

If the events of 1973 and 1974 did not warn us, and we would not listen, what does it take?

If the events of December 1978 and January, February and March of 1979 did not convince us what will it take? If we will not listen, if we will not learn, if we will not believe, then the price of oil will continue to go up, the consumers will continue to take it on the chin, and politicians will continue to make speeches, while Rome burns.

Mr. President, it is time for us to look at some rather basic facts about the energy industry and where we go in this country. My amendment, which is now pending, which has suddenly brought this Senate to a halt this afternoon, would simply say that oil companies are entitled to at least the same rate of return on investment as other industries are.

If they are to be able to attract and keep the capital that is necessary to produce energy, they must at least be able to compete on an average-rate-of-return basis, and I would not think anybody wants to penalize the industry if, as a matter of fact, the rate of return is no greater than average.

My amendment would provide if the rate of return on invested capital is greater than average last year, this year or next year, whenever it may be, that they would then be taxed on that excessive rate of return, greater than average, at the rate of 90 percent, 90 percent of everything that is above the average rate of return, unless they put that money back into producing more energy, and it is that investment in the production of more energy which alone, among actions taken by Government, can increase supply, thereby holding the price to the consumer down to the lowest possible point.

Mr. President, I add at my request a memorandum which analyzed the earnings of the 25 largest petroleum companies during the 1968–78 period. The second part of that memorandum details the earnings of these 25 companies during the first three-quarters of 1979, and summarizes the reasons given by them for the significant increase in their profits during this period.

Table 1 in that summary provides figures of financial date for the 25 largest domestic petroleum companies for the years 1968 through 1978. From this table it can be seen that during this 11-year period the total revenues of these 25 companies rose from $61.2 billion to $273.6 billion, an increase of 347.2 percent over that 10-year period.

During the same period their net-income-after-tax profit rose from $5.8 billion to $13.3 billion, an increase of 128.5 percent. In real terms, that is, adjusted for inflation, the profits of the 25 petroleum companies rose 24.1 percent over the 1968–78 period.

In 1968 the net income was 9.5 percent of total revenue, and taxes were 14.3 percent of total revenue. By 1978 net income has fallen to 4.8 percent of total revenue and taxes to 13.7 percent of total revenue.

During the 1968–78 period the 25 petroleum companies had a net income totaling $98.4 billion. The taxes paid by these companies totaled $240.7 billion during this period, almost three times the amount of their profits.

In 1968 the taxes paid by these companies were equivalent to 1½ times their net income. By 1978 they paid taxes equivalent to nearly three times their net income.

Table 2 provides comparative data between the profitability of the petroleum industry versus that for all manufacturing firms over the 1968–1978 period.

The first column is the rate of return on stockholders equity for the 25 largest petroleum companies. The second column is the petroleum industry's rate of return calculated by Citibank. The third column is the rate of return calculated by the Chase Manhattan Bank on a sample of 27 major domestic and international petroleum companies.

As can be seen from this table, over the 1968–78 period, the rate of return for the petroleum industry did not differ significantly from that for all manufacturing firms. The 25 petroleum companies had an average rate of return of 12.9 percent; the Citibank petroleum group rate of return averaged 13.7 percent; the Chase group had an 11.7-percent average rate of return. During the same period the rate of return for all nonpetroleum manufacturing firms averaged 13.3 percent. In 7 out of the 11 years the average rate of return of the 25 petroleum companies was less than that for all nonpetroleum manufacturing. For comparisons between the petroleum industry and specific other industries, there are tables at the back of the memorandum that make those comparisons.

Tables 3 and 4 provide data on the profitability of the 25 largest petroleum companies during the first three quarters of 1979.

Table 3 provides comparative data on the 25 companies' net income for the third quarter of 1979, and the first three quarters of 1979 versus their income during the comparable periods in 1978.

From this table it can be seen that the net income of these 25 companies rose from $3.3 billion in the third quarter of 1978 to $6.4 billion in the third quarter of 1979—a 95.1-percent increase.

During the first three quarters, the 25 companies' net income rose from $9.4 billion in 1978 to $16.3 billion in 1979—a 74.2 percent increase.

During the third quarter of 1979, net income was 6.9 percent of total revenues, up from 4.5 percent during the same period in 1978. Similarly, during the first three quarters of 1979, net income as a percent of total revenues was 6.0 percent, up from 4.4 percent during the same period in 1968. However, both of the figures for 1979 were significantly lower than the 1968 figure of 9.5 percent net income as a percent of revenues.

Table 4 provides the three standard rate-of-return figures of the 25 largest petroleum companies and 95 largest nonpetroleum companies for the first 9 months during 1978 and 1979.

From this table it can be seen that for all three rates-of-return, during the first 9 months of 1978 the average petroleum company rate-of-return was significantly below that of the nonpetroleum companies, and during the first 9 months of 1979 it was significantly higher. During 1978 the petroleum company average rates were from 1.8 percent to 2.8 percent below those for the nonpetroleum companies; in 1979 they were from 1.7 percent to 4.5 percent higher.

A review of the 25 companies' third quarter profits press releases indicates that the majority of their increased profitability can be attributed to foreign operations. The API has calculated that 71 percent of the first 9-months profit increases came from foreign operations. Cited by the companies as the reasons for the increase in foreign earnings are: First, increased North Sea production; second, higher profit margins; third, reduced currency translation losses; fourth, beneficial changes in British tax policy; fifth, a general increase in foreign chemical subsidiary profits; sixth, higher refinery utilization rates; and seventh, higher sales volumes. Domestic earnings increases were mainly attributed by the companies to increased Alaskan North Slope production and higher domestic oil and gas prices.

Let me parenthetically and briefly return to the fourth of those reasons—beneficial changes in British tax policy—and note that one of the major reasons for that change in tax policies arises out of a tax treaty which was approved by the Members of this body, that gave oil companies massive increases in profits after taxes in Great Britain as compared to before that tax treaty; and now the very Members of this body who voted to approve that tax treaty cite those increases as some kind of bad faith on the part of the oil companies. The Members of this body helped create those profits.

Table 5 provides data on the capital expenditures of the 10 largest petroleum companies during the first three quarters of 1979 and 1978. In 1979 these 10 companies accounted for 70 percent of the total net income of the top 25 petroleum companies.

From this table it can be seen that during the first three quarters of 1979 these 10 companies spent $15.3 billion on capital expenditures, up 21.2 percent from the amount spent during the same period in 1978.

In the first three quarters of 1979 capital expenditures were equivalent to 126.7 of the companies' total net income, down substantially from the 175.9 percent figures for the same period in 1978.

Of the companies in this group, only Standard Oil of Ohio had a decline in capital expenditures during 1979. Corporate officials of SOHIO explain that this is the natural aftermath of their massive TAPS pipeline expenditures, plus their anticipation of making very substantial expenditures in the December Beaufort Sea lease sale.

Table 6 compares the 1978 capital outlays of 19 petroleum companies with their 1979 capital budget. From this table it can be seen that only two of these companies have a 1979 capital budget which is less than their 1978 capital outlays. The total capital budget of these companies for 1979 is $33.7 billion, up 23.2 percent over their 1978 actual outlays of $27.3 billion.

Mr. President, I ask unanimous consent that the complete memorandum, including the tables to which I have referred, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

The first part of the memorandum provides an overview of the earnings of the twenty-five largest domestic petroleum companies during the 1968–1978 period.

The second part of this memorandum details the earnings of these twenty-five companies during the first three quarters of 1979 and summarizes the reasons given by them for the significant increase in their profits during this period.

1968–1978

Table 1 below provides sumary financial data for the twenty-five largest domestic petroleum companies for the years 1968 through 1978.[1]

From this table it can be seen that during this eleven year period the total revenues of these twenty-five companies rose from $61.2 billion to $273.6 billion—an increase of 347.2 percent. During the same period their net income (after tax profits) rose from $5.8 billion to $13.3 billion—an increase of 128.5 percent. In real terms (i.e., adjusted for inflation) the profits of the twenty-five petroleum companies rose 24.1 percent over the 1968–1978 period.[2]

In 1968 net income was 9.5 percent of total revenue and taxes were 14.3 percent of total revenue. By 1978 net income had fallen to 4.8 percent of total revenue and taxes to 13.7 percent of total revenues.

During the 1968–1978 period these 25 petroleum companies had a net income totaling $98.4 billion; the taxes paid by these companies totalled $240.7 billion during this period. In 1968 the taxes paid by these companies were equivalent to one and one-half times their net income. In 1978 they paid taxes equivelent to nearly three times their net income.[3]

TABLE I—SUMMARY FINANCIAL DATA FOR THE 25 LARGEST U.S. PETROLEUM COMPANIES [1]

[In millions of dollars]

Year	Total revenue	Net income	Net income in constant dollars (1968 base year) [2]	Taxes	Net income as a percent of total revenues	Taxes as a percent of— Total revenue	Taxes as a percent of— Net income
1968	$61,178	$5,805	$5,805	$8,772	9.5	14.3	151.1
1969	67,479	5,636	5,366	9,591	8.4	14.2	170.2
1970	73,499	5,797	5,239	10,957	7.9	14.9	189.0
1971	81,297	5,847	5,028	13,148	7.2	16.2	224.9
1972	88,582	5,784	4,776	14,782	6.5	16.7	255.6
1973	110,348	9,468	7,389	19,326	8.6	17.5	204.1
1974	194,356	13,149	9,358	30,829	6.8	15.9	234.5
1975	202,115	9,901	6,430	31,788	4.9	15.7	321.1
1976	225,540	11,641	7,189	29,846	5.2	13.2	256.4
1977	250,402	12,090	7,045	34,151	4.8	13.6	282.5
1978	273,604	13,266	7,204	37,463	4.8	13.7	282.4

[1] Source for all data except net income in constant dollars: API.

[2] Adjusted by the implicit price deflator for GNP.

Table 2 below provides comparative data between the profitability of the petroleum industry versus that for all manufacturing firms over the 1968–1978 period.[4]

The first column is the rate of return on stockholders equity for the twenty-five largest petroleum companies. The second column is the petroleum industry's rate of return calculated by Citibank.[5] The third column is the rate of return calculated by the Chase Manhattan Bank on a sample of twenty-seven major domestic and international petroleum companies.[6]

As can be seen from this table, over the 1968–1978 period, the rate of return for the petroleum industry did not differ significantly from that for all manufacturing firms. The twenty-five petroleum companies had an average rate of return of 12.9 percent; the Citibank petroleum group rate of return averaged 13.7 percent; the Chase petroleum group had a 11.7 percent average rate of return. During the same period the rate of return for all nonpetroleum manufacturing firms averaged 13.3 percent. In seven out of the eleven years the average rate of return of the 25 petroleum companies was less than that for all non-petroleum manufacturing. For comparisons between the petroleum industry and specific other industries, please see the tables at the back of this memorandum.

Footnotes at end of article.

TABLE II.—NET INCOME AS A PERCENT OF STOCKHOLDERS' EQUITY OIL COMPANIES AND TOTAL MANUFACTURING

Year	25 largest petroleum companies [1] [2]	Citibank petroleum group [3]	Chase petroleum group [1]	Citibank total manufacturing (excluding petroleum)
1968	12.6	13.1	11.7	13.4
1969	11.3	11.9	11.0	12.6
1970	10.9	11.0	10.4	9.8
1971	10.4	11.2	10.7	10.7
1972	9.8	10.8	9.7	12.5
1973	15.0	15.6	15.5	14.7
1974	18.6	19.6	19.2	13.9
1975	12.8	13.9	12.8	12.2
1976	14.0	14.8	13.8	15.0
1977	13.4	14.0	13.8	15.2
1978	13.6	14.3	[4] 13.2	16.5
Average	12.9	13.7	11.7	13.3

[1] Net income as a percent of average stockholder's equity.

[2] Source: API. Note: these rate of return calculations may not correspond exactly to those made by the individual companies. Each company may have a slightly different method for calculating its rate of return. In order to obtain consistency, the API employed a single uniform method for making its rate of return calculations. Therefore, for some companies the API calculated rate-of-return may be slightly different than the company calculated figure.

[3] Net income as a percent of beginning of year stockholder's equity.

[4] Preliminary.

FIRST THREE QUARTERS OF 1979

Tables 3 and 4 below provide data on the profitability of the twenty-five largest petroleum companies during the first three quarters of 1979.

Table 3 below provides comparative data on the 25 companies' net income for the third quarter of 1979, and the first three quarters of 1979 versus their income during the comparable periods in 1978.

From this table it can be seen that the net income of these 25 companies rose from $3.3 billion in the third quarter of 1978 to $6.4 billion in the third quarter of 1979—a 95.1 percent increase.

During the first three quarters, the 25 companies' net income rose from $9.4 billion in 1978 to $16.3 billion in 1979—a 74.2 percent increase.

During the third quarter of 1979, net income was 6.9 percent of total revenues, up from 4.5 percent during the same period in 1978. Similarly, during the first three quarters of 1979, net income as a percent of total revenues was 6.0 percent, up from 4.4 percent during the same period in 1968. However, both of the figures for 1979 were significantly lower than the 1968 figure of 9.5 percent net income as a percent of revenues. (see table 1)

TABLE III.—NET INCOME OF 25 LEADING U.S. PETROLEUM COMPANIES, 3RD QUARTER AND 1ST 9 MO OF 1979

[Dollar amounts in millions]

	Quarter ending Sept. 30			January to September		
	1979	1978	Change (percent)	1979	1978	Change (percent)
Amerada Hess	$119.2	$30.6	289.5	$350.3	$97.3	260.0
American Petrofina	37.9	4.9	673.5	65.5	12.0	445.8
Ashland	52.9	145.8	—63.7	475.5	204.8	132.2
Atlantic Richfield	320.4	220.5	45.3	822.9	581.8	41.4
Cities Service	86.1	52.6	63.7	241.3	148.3	62.7
Conoco	247.1	105.8	133.6	624.7	296.1	111.0
Diamond Shamrock	37.1	29.6	25.3	119.6	93.0	28.6
Exxon	1,145.0	525.0	118.1	2,930.0	1,910.0	53.4
Getty	174.1	96.2	81.0	421.8	228.5	84.6
Gulf	416.0	211.0	97.2	956.0	548.0	74.5
Kerr-McGee	42.6	34.2	24.6	119.6	78.2	77.8
Marathon	79.7	50.5	57.8	269.0	151.3	77.8
Mobil	595.0	258.0	130.6	1,436.0	792.0	81.3
Murphy	28.6	10.9	162.4	65.6	29.2	124.7
Occidental	186.1	19.3	864.2	374.8	—16.6	(1)
Pennzoil	$61.2	$30.7	$99.3	$165.4	$85.1	94.4
Phillips	193.0	118.8	62.5	584.6	438.6	33.3
Shell	293.3	248.9	17.8	794.4	621.3	27.9
Standard Oil of California	576.0	274.0	110.2	1,335.0	773.0	72.7
Standard Oil (Indiana)	433.8	292.0	48.6	1,184.1	859.7	37.7
Standard Oil (Ohio)	366.2	125.7	191.3	735.1	285.7	157.3
Sun	174.3	105.4	65.4	453.1	290.8	55.8
Superior	63.7	24.9	155.8	152.6	70.3	117.1
Texaco	612.2	197.1	210.6	1,284.6	524.2	145.1
Union	106.0	92.6	14.5	384.3	258.5	34.7
Total income	6,447.5	3,305.0	95.1	16,309.8	9,361.1	74.2
Total revenues	99,259.9	73,495.6		272,358.0	214,105.7	
Income as a percent of revenue	6.9	4.5		6.0	4.4	

[1] Does not apply due to loss during 1978.

Source: API.

Table 4 below provides the three standard rate-of-return figures of the 25 largest petroleum companies and 95 largest nonpetroleum companies for the first nine months during 1978 and 1979.

From this table it can be seen that for all three rates-of-return, during the first nine months of 1978 the average petroleum company rate-of-return was significantly below that of the nonpetroleum companies, and during the first nine months of 1979 it was significantly higher. During 1978 the petroleum company average rates were from 1.8 percent to 2.8 percent below those for the nonpetroleum companies; in 1979 they were from 1.7 percent to 4.5 percent higher.

TABLE 4.—PROFITABILITY MEASURES OF 25 LEADING U.S. PETROLEUM COMPANIES FOR THE 1ST 3 QUARTERS OF 1979 [1]

	Net income as a percent of—					
	Stockholders' equity [2]		Total capital employed [2]		Total assets [2]	
	9 mo 1979	9 mo 1978	9 mo 1979	9 mo 1978	9 mo 1979	9 mo 1978
Amerada Hess	33.5	10.0	21.5	6.2	13.6	4.3
American Petrofina	23.6	4.4	12.7	2.4	8.9	1.6
Ashland	55.1	28.4	36.8	16.6	22.0	10.5
Atlantic Richfield	19.9	15.7	11.8	8.5	9.1	6.6
Cities Service	16.3	10.2	10.6	6.9	8.0	5.3
Conoco	26.5	13.9	18.0	9.4	11.2	6.0
Diamond Shamrock	18.2	15.6	10.2	8.9	7.7	6.8
Exxon	19.3	13.3	16.3	11.1	9.4	6.6
Getty	19.0	11.2	18.0	10.5	11.9	7.3
Gulf	16.4	10.0	13.7	8.3	8.5	5.1
Kerr-McGee	14.6	10.4	10.9	7.6	7.9	5.7
Marathon	24.8	15.7	13.7	8.4	9.5	5.9
Mobil	21.5	12.8	15.5	8.7	8.5	5.0
Murphy	19.3	9.4	9.4	5.1	5.8	2.9
Occidental	39.4	(3)	21.4	(3)	10.8	(3)
Pennzoil	33.2	18.5	15.3	7.6	10.6	5.9
Phillips	21.4	18.9	17.6	14.6	11.2	10.0
Shell	17.3	15.4	13.8	11.9	10.2	9.0
Standard Oil of California	22.3	14.1	17.3	10.5	10.9	6.9
Standard Oil (Indiana)	22.1	17.7	16.3	12.6	11.2	8.9
Standard Oil (Ohio)	48.0	22.7	15.2	6.0	11.8	4.9
Sun	20.5	14.9	16.1	10.9	11.0	7.5
Superior	30.0	14.6	19.2	12.9	14.0	8.5
Texaco	18.1	7.7	13.1	5.5	8.5	3.6
Union	17.5	14.1	11.8	9.2	8.4	6.9
Average:						
25 oil companies	21.3	13.3	15.5	9.3	9.9	6.2
95 leading nonoil companies	16.8	15.9	12.8	12.1	8.2	8.0

[1] See footnote 2 to table 2.

[2] Annualized 9 mo net income, as reported, as a percent of stockholders' equity, capital employed and assets.

[3] Does not apply due to loss.

Source: API.

SOURCES OF INCREASED PROFITS

A review of the 25 companies' third quarter profits press releases indicates that the majority of their increased profitability can be attributed to foreign operations. The API has calculated that 71 percent of the first nine-months profit increases came from foreign operations. Cited by the companies as the reasons for the increase in foreign earnings are: 1) increased North Sea production; 2) higher profit margins; 3) reduced currency translation losses; 4) beneficial changes in British tax policy; 5) a general increase in foreign chemical subsidiary profits; 6) higher refinery utilization rates; and 7) higher sales volumes. Domestic earnings increases were mainly attributed by the companies to increased Alaskan North Slope production and higher domestic oil and gas prices.

CAPITAL EXPENDITURES

Table 5 below provides data on the capital expenditures of the ten largest petroleum companies during the first three quarters of 1979 and 1978. In 1979 these ten companies accounted for 75 percent of the total net income of the top twenty-five petroleum companies.

From this table it can be seen that during the first three quarters of 1979 these ten companies spent $15.3 billion on capital expenditures, up 21.2 percent from the amount spent during the same period in 1978.

In the first three quarters of 1979 capital expenditures were equivalent to 126.7 of the companies' total net income, down substantially from the 175.9 percent figures for the same period in 1978.

Of the companies in this group, only Standard Oil of Ohio had a decline in capital expenditures during 1979. Corporate officials of SOHIO explain that this is the natural aftermath of their massive TAPS pipeline expenditures, plus their anticipation of making very substantial expenditures in the December Beaufort Sea lease sale.

CAPITAL EXPENDITURES OF THE 10 LARGEST PETROLEUM COMPANIES

[Figures in millions]

Company	1st 9 mo		Percent change
	1979	1978	
Exxon	$4,333	$3,728	16.2
Mobil	2,000	1,000	100.0
Texaco	1,150	1,104	4.1
Standard Oil of California	1,500	1,100	36.0
Gulf	1,540	1,575	—2.2
Standard Oil of Indiana	1,904	1,586	20.0
ARCO	1,140	922	23.6
Shell	263	243	8.2
Standard Oil of Ohio	400	627	—36.2
Continental	1,100	768	43.2
Total	15,330	12,653	21.2
Capital expenditures as a percent of net income	126.7	175.9	

NET INCOME AS A PERCENT OF NET WORTH: PETROLEUM, OTHER SELECTED INDUSTRY GROUPS, TOTAL MANUFACTURING, AND TOTAL MINING

Industrial groups	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	[1] 1975	1976	[2] 1977	[2] 1978
Autos and trucks	19.4	19.6	19.9	23.4	17.8	12.0	16.6	13.8	5.8	15.0	17.2	17.6	6.1	5.7	18.3	20.8	17.2
Drugs and medicine	17.8	18.7	19.8	22.1	22.5	20.3	19.8	17.7	18.8	19.0	19.8	21.4	21.0	20.4	20.0	19.2	21.5
Soap, cosmetics	17.0	16.9	17.6	16.8	17.9	19.4	18.9	18.6	18.7	19.3	20.2	20.2	17.9	18.0	18.3	19.7	20.8
Office equipment, computers	17.2	18.0	17.9	18.7	18.1	17.8	19.0	17.4	13.9	12.5	13.8	16.7	16.3	15.9	17.4	18.8	22.5
Glass products	11.6	11.6	12.1	13.5	12.7	11.1	11.9	12.2	9.0	11.1	12.5	12.9	10.6	9.8	17.3	11.5	13.6
Electronic equipment and electronics	11.3	10.7	11.3	14.8	16.7	15.4	14.1	13.0	10.1	10.7	13.6	15.3	13.1	12.7	16.2	16.7	18.0
Auto parts	10.2	11.4	12.0	13.4	14.0	11.4	12.6	13.0	8.9	10.4	13.5	14.4	10.4	9.6	15.3	16.4	17.8
Chemical products	12.3	13.2	14.7	15.4	14.6	11.4	11.7	11.4	9.5	9.7	11.3	15.2	18.8	15.8	16.1	14.3	15.0
Household appliances	11.5	12.8	13.9	15.0	15.0	14.7	14.0	13.5	11.9	12.1	15.4	15.6	5.3	6.2	17.4	19.4	15.7
Aerospace	12.9	11.7	12.9	15.4	15.7	13.4	13.9	11.4	6.7	6.3	8.9	11.7	13.8	11.7	13.6	17.4	19.7
Soft drinks	16.6	17.9	20.7	21.1	22.0	23.3	22.7	22.5	22.7	23.1	22.2	22.0	19.0	20.6	22.4	22.3	22.8
Other stone and clay products	9.0	9.1	10.6	9.9	9.2	7.3	8.9	9.3	7.0	8.7	10.8	11.9	9.1	8.2	10.6	12.2	17.5
Lumber and wood products	7.6	8.1	10.9	11.5	11.0	9.4	14.1	15.2	10.2	11.2	12.6	20.8	15.9	10.0	15.5	16.0	19.7
Paper and allied products	9.3	9.2	10.3	10.5	11.8	9.5	10.7	10.3	7.4	5.6	8.8	14.6	18.3	12.7	14.8	14.1	14.0
Paint and allied products	11.6	12.0	14.4	14.1	14.3	11.6	11.5	10.2	6.2	8.1	10.6	10.3	11.7	9.0	10.9	8.1	8.1
Baking	9.9	11.0	11.3	11.9	13.9	15.7	13.4	7.9	11.0	12.8	11.8	9.5	12.0	17.0	16.1	17.8	20.1
Machinery	9.9	9.7	11.9	14.4	16.9	14.7	13.5	12.9	10.5	10.3	10.6	12.7	12.2	11.6	13.6	15.0	17.0
Rubber and allied products	9.4	9.9	11.5	11.8	12.8	10.8	12.7	11.1	7.6	9.8	11.6	11.5	9.7	7.8	7.5	10.0	6.2
Printing and publishing	10.5	12.4	14.0	16.9	17.9	15.4	14.9	14.8	12.5	12.6	13.8	15.4	14.5	12.9	13.9	16.8	18.4
Petroleum production, and refining	10.6	11.5	11.6	11.9	12.6	12.8	13.1	11.9	11.0	11.2	10.8	15.6	19.6	13.9	14.8	14.0	14.3
Building, heating, plumbing equipment	6.3	6.4	8.2	10.6	12.0	11.3	11.3	8.5	7.0	8.4	12.1	11.6	14.2	12.3	21.0	20.4	21.8
Other food products	12.5	12.1	1.7	12.6	13.3	12.3	12.7	12.1	12.8	12.3	14.2	14.8	14.4	14.1	16.1	16.3	16.5
Other metal products	9.0	9.3	10.4	12.9	14.1	13.8	13.3	12.5	10.4	8.9	10.4	12.9	14.0	13.0	15.0	14.8	13.6
Brewing	8.9	9.1	10.1	11.1	13.4	12.2	13.2	13.2	16.0	15.8	14.8	13.1	12.3	10.3	11.5	10.5	11.4
Dairy products	10.5	11.2	12.2	12.5	12.6	11.8	11.7	11.8	12.0	12.6	12.8	13.0	13.2	14.3	14.7	14.9	15.6
Nonferrous metals	7.1	7.1	9.0	11.8	15.7	11.4	11.1	12.5	10.6	5.0	7.1	11.2	15.1	7.4	8.5	8.0	10.2
Furniture and fixtures	7.8	8.1	11.1	13.0	14.3	11.9	11.3	12.4	8.4	11.9	12.5	13.0	8.2	7.0	9.8	8.5	9.6
Iron and steel	5.4	7.3	9.2	9.6	9.4	7.4	8.5	7.4	4.6	4.6	6.1	9.8	17.1	10.0	8.7	4.4	9.9
Total manufacturing	10.9	11.6	12.7	13.9	14.2	12.6	13.3	12.4	10.8	10.8	12.1	14.9	15.2	12.6	15.0	14.9	15.6
Total mining	8.6	9.1	10.4	12.2	13.9	16.2	15.0	12.6	8.5	8.5	10.7	16.6	24.5	16.1	16.5	8.5	3.3
Total trade	10.3	10.4	12.1	13.2	13.7	13.2	14.1	13.5	11.7	11.7	11.8	12.7	13.5	13.0	14.7	15.0	15.2

[1] Revised.

[2] Preliminary.

Source: First National City Bank.

Table six below compares the 1978 capital outlays of nineteen petroleum companies with their 1979 capital budget. From this table it can be seen that only two of these companies have a 1979 capital budget which is less than their 1978 capital outlays. The total capital budget of these companies for 1979 is $33.7 billion, up 23.2 percent over their 1978 actual outlays of $27.3 billion.

TABLE 6.—1979 CAPITAL BUDGET VERSUS 1978 CAPITAL OUTLAYS

[In millions of dollars]

Company	1979 capital budget	1979 capital outlays
Exxon	$6,000	5,300
Standard of Indiana	3,000	2,239
Mobil	2,800	2,042
Shell	2,500	2,300
Standard of California	2,300	1,700
Gulf	2,250	2,129
Atlantic Richfield	1,850	1,360
Continental	1,800	1,200
Texaco	1,581	1,581
Getty	1,400	875
Phillips	1,300	975
Tenneco	1,200	1,008
Sun	1,150	738
Occidental	1,000	821
Union	1,000	732
Marathon	775	590
Cities Service	750	637
Standard of Ohio	700	762
Pennzoil	306	342
Total	33,662	27,331

Source: Oil Daily, Nov. 12, 1979.

FOOTNOTES

[1] The 25 companies are the largest domestic petroleum companies in terms of assets. In alphabetical order they are: Amerada Hess, American Petrofina, Ashland Oil, Atlantic Richfield, Clark Oil (1967–1977), Cities Service, Conoco, Diamond Shamrock, Exxon, Getty, Gulf, Kerr-McGee, Marathon, Mobil, Murphy, Occidental, Pennzoil, Phillips, Shell, Standard Oil of California, Standard Oil of Indiana, Standard Oil of Ohio, Sun, Superior (1978) Texaco, and Union.

[2] Adjusted by the implicit price deflator for GNP.

[3] Source for all data except net income in constant dollars.

[4] The most commonly cited profitability measure is the rate of return on stockholder's equity. Rates of return are also commonly calculated on the basis of total assets and total capital employed (e.g., see table 4)

[5] The Citibank petroleum group consists of approximately 100 of the largest petroleum firms.

[6] The Chase group consists of: Amerada Hess, Ashland, ARCO, British Petroleum, Champlin, Cities Service, Clark Oil, Compagnie Francaise des Petroles, Continental, Exxon, Getty, Gulf, Louisiana Land and Exploration, Marathon, Mobil, Murphy, Petrofina, Societe Anonyme Phillips, Royal Dutch/Shell, Standard of California, Standard of Indiana, Standard of Ohio, Sun, Superior, Texaco, Tosco, and Union.

Mr. McCLURE. Mr. President, the major oil companies have been releasing their third-quarter earnings figures, and oil company earnings are definitely up. However, the size of any industry's earnings by itself provides little information, beyond the fact that the industry is large or small.

A large industry, in general, will have larger earnings in terms of absolute dollars than a small industry.

To put earnings into perspective, they should be compared to other industries and to other time periods.

Mr. President, Texaco Oil Co. has prepared a paper making comparisons of profitability as a return on investment.

Mr. President, I ask unanimous consent that that entire memorandum be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

PETROLEUM INDUSTRY EARNINGS—A COMPARISON

Major oil companies have been releasing their third-quarter earnings figures. Oil company earnings are up. However the size of any industry's earnings, by itself, provides little information beyond the fact that the industry is large or small. A large industry, in general, will have larger earnings in terms of absolute dollars than a small industry.

To put earnings into perspective, they should be compared to other industries and to other time periods. The purpose of this paper is to present these comparisons.

I. Comparison of Profitability (Return on Investment).

Profitability, or rate of return on investment, is most commonly calculated according to three methods: return on total stockholders' equity, on total capital employed and on total assets. All three will be used here.

1. The most frequently used measure of profitability is return on stockholders' equity. The rate of return on stockholders' equity is the net income after taxes divided by the owners'—the stockholders'—investment. (Equivalent terms sometimes used are return on equity, return on net worth and return on net assets.)

The return on stockholders' equity for the 25 oil companies trailed investment returns in other U.S. industries during the first nine months of 1978. The oil companies' ratio was 13.3 percent last year compared with 16.1 percent for the non-oil companies. In the current year's nine-month period, the oil companies' ratio rose above that of the leading non-oil companies. The return on stockholders' equity for the 25 oil companies was 21.3 percent compared with 16.8 percent for the 77 leading non-oil companies.

2. Net income as a percent of total capital employed (stockholders' equity plus long-term debt) is another common measure. This is usually expressed as return on total capital employed. Again, oil companies lagged behind non-oil companies for the 1978 nine months and rose above them for the 1979 period. In 1978, the return on total capital employed was 9.3 percent for the oil companies and 12.3 percent for the non-oil companies. In 1979, the figures were 15.5 percent for the oil companies and 12.8 percent for the non-oil companies.

3. A third yardstick for return on investment is return on total assets—profits as a percent of all of the resources available to a company. The ratios for the first nine months of 1978 were 6.2 percent for oil companies and 8.2 percent for non-oil companies. Again, oil companies trailed leading firms in

other industries. For the first three quarters of 1979, the oil companies' figure was 9.9 percent and the non-oil companies' was 8.3 percent. Again, oil companies surged ahead of other U.S. industry.

4. Comparison of Profitability Over Time.

Whatever yardstick is used, the essential point is how oil companies have been doing compared with non-oil companies over an extended period of time. Have their earnings been out of line, compared with U.S. non-oil companies? Have they been far ahead of the pack, running wild?

The profitability figures cited show that oil companies were behind the pack the first three quarters of 1978 and are ahead of it the first three quarters of 1979. It is also important to look back over the last decade. An important point which does not always surface in earnings discussions is that the overall record of the oil companies is about the same as the record of non-oil companies in the U.S.—not only for the last 10 years, but for any other selected decade.

Over the last decade, the oil industry's return on total stockholders' equity averaged 13.9 percent compared with 13.7 percent for total manufacturing—and this includes the abnormal years 1973 and 1974 when oil companies' rate of return rose sharply. The oil industry's rate of return was below that of total U.S. manufacturing in five of the ten years. And oil companies were below non-oil companies in each of the last three years.

Profitability in terms of return on total assets of the oil companies is also generally comparable with that of other mining and manufacturing industries.

II. Comparison of Profit Margins.

In addition to return on investment, another way to compare profits is to use the profit margin, which is net income (profits) as a percent of total revenue (sales plus other revenue).

Despite the relatively larger increase in the 25 leading oil companies' profits for the first three quarters of 1979, their profit margins were only a little above those of leading non-oil companies. In the January–September 1979 period, the oil companies' net income averaged 6.1 cents of each dollar of revenue and the non-oil companies' was 5.5 cents. In the prior year's nine-month period, the oil companies' net income was 4.4 cents per dollar of revenue as against 5.6 cents for the non-oil companies.

III. Quarter-to-Quarter Dollar Comparison.

Based on third-quarter reports, earnings of the 25 leading U.S. oil companies in the third quarter of 1979 totaled nearly $6.8 billion. This is more than double the earnings of $3.3 billion for these companies in the third quarter of 1978. However, the oil companies experienced slow growth in 1978. (Consider what percentages will show in future years for automobile industry comparisons. The General Motors Corporation plunged 96 percent in the third quarter, the Ford Motor Company 65 percent and the Chrysler Corporation had a $460 million deficit. Should these companies have even reasonable profits in the third quarter of 1980, percentage increases would appear overwhelming.) Compared to the 77 leading non-oil companies, the oil companies did much better than the non-oil companies on a third-quarter-to-third-quarter comparison basis.

IV. First Nine Months Dollar Comparison.

For the first nine months of 1979, the 25 oil companies' earnings were $16.3 billion, 74 percent above the $9.4 billion recorded in the comparable 1978 period. These nine-month earnings rose more steeply than those of leading companies in other industries. Again, most oil companies did not have a good year in 1978. Third-quarter releases from 77 of the leading 100 non-oil industrial companies show earnings rising by 14.1 percent between the first nine months of 1978 and the first nine months of 1979.

V. Costs and Prices Compared.

U.S. oil companies have no control over the world market price of crude oil, which has risen by almost 60 percent between December 31, 1978 and October 1, 1979. Oil companies buy oil at this price and at even higher prices on the open market (published indications are that the price of spot crude is now over $40 a barrel). Companies also have been forced to purchase large volumes of high-priced petroleum products on the open market to assure customers of receiving roughly the same volumes of product as they received last year. The higher prices are passed on to the consumer of petroleum products. This is one of the reasons that home heating oil prices, for example, have increased by so much.

Refiners have other costs, of course, and these costs are escalating with inflation. Refiners are paying more for labor, electricity, pipes, catalysts, chemicals and transportation. Maintenance, inventory storage and marketing costs are up. The cost of borrowing money also is higher.

Refiners are also paying more for the fuel they use in refinery processing. And when there are disruptions in supply and changes in supply sources, as there have been as a result of Iran, they must pay more to change their equipment so that they can refine the different types of crude oil they receive. These less desirable crudes yield less gasoline and heating oil and cost more to produce.

Based on limited information so far available, petroleum profits per gallon of petroleum product sold during the first nine months of 1979 averaged about 3.5 cents in the U.S. and about 4.0 cents worldwide.

VI. Profit Growth Compared by Source.

The principal source of industry earnings growth has been foreign operations. Oil company earnings in the U.S. compared with their earnings abroad show that domestic operations are relatively less profitable this year. The fluctuations, up and down, in earnings from quarter-to-quarter and year-to-year are greater abroad than in the U.S. Overseas earnings dropped more in the past and have grown more sharply recently. Exxon, for example, reported that through the first nine months of 1979 its domestic refining and marketing profits were 17 percent lower than for the comparable 1978 period. Detailed information for 12 firms, representing more than two-thirds of the 25 companies' third quarter earnings, indicated that nearly 80 percent of profit growth in the third quarter of 1979 was derived from foreign operations.

Business results abroad benefited from increased production in the North Sea and elsewhere, higher sales volumes in Europe, price policies abroad that permit faster recovery of increased raw material and other costs, improved utilization of foreign refining and chemical capacity as well as other special factors.

VII. Comparison of Profits and Capital Expenditures.

Where do the profits of oil companies go? Do they go into a sock? Do they go into department stores and other businesses unrelated to energy?

They do not go into a sock. Worldwide expenditures by oil companies for exploration and production of new oil and natural gas and other energy greatly exceed their profits. On the basis of information available to date, capital and exploration expenditures in the first nine months of 1979 substantially exceeded net income for the period. The major portion of these expenditures were in the U.S., principally for exploration and production. Capital and exploration expenditures in the U.S. alone were equal to the worldwide profits of these companies, and 63 percent of worldwide earnings were expended for domestic exploration and production.

They do not go into businesses unrelated to energy. During the 1968–77 period, according to Chase Manhattan Bank data, less than six percent of the total capital expenditures by the 27 leading oil companies were made in non-oil businesses. Some went into other energy resources. (Because of the close relationship to energy, petrochemical capital expenditures have been included in these calculations.)

One hears a great deal about department stores, circuses and hotels. For the 16 leading oil companies, one department store chain has been acquired, no circuses have been purchased and it is stretching a point to say hotels have been bought.

Given the pummeling of the oil industry in the political arena, it is not surprising that some responsible managers have found it desirable to diversify their stockholders' risks. But the non-oil diversification should be kept in perspective: less than 6 percent of the billions of dollars expended annually on petroleum has been for non-oil activity.

CONCLUSION

When oil company earnings are compared, in various different ways, to the earnings of other industries, they are not out of line. Over any extended historical period, the oil industry's profitability has been about the same as for all industry.

Additionally, these earnings are not usually held as idle balances. Taxes are paid out of earnings. Earnings are distributed in the form of dividends to stockholders. And, most importantly for the U.S., earnings are used to expand business. In the case of the oil industry, increased earnings can be used to search for more energy. To expand our production of domestic energy, at least in part from new sources, will require large outlays in the future.

The U.S. economy is not merely a profit system—it is a profit and loss system. Profits are a signal and an incentive and an indispensable source of economic growth.

Finally, one might consider the Citibank analysis of industries which were in the top quartile in 1978 in return on net worth, compared with the oil industry's 14.3 percent; soft drinks (22.8 percent); office equipment, computers (22.5 percent); building, heating, plumbing equipment (21.8 percent); drugs and medicines (21.5 percent); soaps, cosmetics (20.8 percent); baking (20.1 percent); tobacco products (19.8 percent); lumber and wood products (19.7 percent); cement (19.7 percent); aerospace (19.7 percent); and instruments, photographic goods, etc. (19.1 percent). It can be argued that it is as important to the nation to attract capital into the energy business as to these other industries.

BASIC COMPARISON OF 1ST 9 MONTHS' EARNINGS, 1979

	25 leading oil companies	77 leading nonoil companies
Return on stockholders equity:		
9 mo 1979	21.3	16.8
9 mo 1978	13.3	16.1
Return on total capital:		
9 mo 1979	15.5	12.8
9 mo 1978	9.3	12.3
Return on total assets:		
9 mo 1979	9.9	8.3
9 mo 1978	6.2	8.2
Return on revenue:		
9 mo 1979	6.1	5.5
9 mo 1978	4.4	5.6

Mr. McCLURE. Mr. President, a presentation was made by Mr. Ronald M. Freeman and Dr. E. Anthony Copp of

Salomon Brothers before the Senate Subcommittee on Energy and Foundations which clearly shows that the oil industry is not "awash with cash."

The testimony, based on the financial data of 33 oil companies, shows that while the companies' net income increased by $7.5 billion between 1971 and 1978, their capital expenditures increased by $15.5 billion, or two times more than net income. In 1978, the oil industry invested $1.87 for every dollar of net income received.

While capital expenditures of the 33 oil companies rose by $15.5 billion, and earnings rose by $7.5 billion, dividends rose by $2.4 billion. The increase in dividends, which amounted to 72.8 percent over the period, was extremely modest considering that the Consumer Price Index increased by 61.1 percent. In other words, stockholders received only a very small "real" increase in dividends, despite the reinvestment by the companies of about $146 billion of their money in the form of capital expenditures.

With dividends increasing less rapidly than income, the ratio of dividends to income of the 33 oil companies declined from 53.5 percent in 1971 to 41.9 percent in 1978. The ratio for petroleum was close to that for all corporations of 41.7 percent in 1978. The payment ratio for all manufacturing companies was 35.6 percent in 1978. The payout ratio for manufacturing companies tends to fall during a cyclical upswing in profits as dividend increases tend to lag earnings increases.

Despite the relatively modest increase in dividends, retained cash flow—that is, earnings, depreciation, depletion, and amortization less dividend payments—for the 33 companies has also failed to keep pace with sharply rising investment expenditures.

Between 1971 and 1978, retained cash flow increased only $14.8 billion compared to the $15.5 billion rise in capital expenditures. Except for 1973, retained cash flow was less than capital expenditures in each year during this period; in 1978, retained cash flow was $23.9 billion versus capital expenditures totaling $25.7 billion.

In order to finance this deficit of capital expenditures relative to retained cash flow, to pay back maturing long-term debt and to maintain working capital at acceptable levels, the 33 oil companies raised $46.3 billion during the 1971–78 period by the issuance of long-term debt and new equity. This heavy dependence on external funds for normal business purposes is not consistent with the "awash with cash" characterization that has recently been applied to the oil industry.

With borrowing up, long-term debt as a percent of capitalization for the 33 oil companies increased from 24.7 percent in 1971 to 27.7 percent in 1978.

Oil industry earnings are clearly not out of line with those in other industries. Data compiled by Citibank show that rate of return on net worth—shareholders' equity—was 14.3 percent for the petroleum industry in 1978, versus 15.9 percent for all manufacturing industries.

The PRESIDING OFFICER. The 30 minutes of the Senator from Idaho has expired.

Mr. McCLURE. Mr. President, will the Senator from West Virginia (Mr. ROBERT C. BYRD) make similar arrangements so that the Senator from Idaho might have 10 additional minutes?

Mr. ROBERT C. BYRD. Mr. President, I will be glad to, under the precise, same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I thank the Senator from West Virginia.

Petroleum's rate of return has been below the average for all manufacturing in each of the past 3 years.

Mr. President, I ask unanimous consent that the table that accompanies that statement be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CASH FLOW, CAPITAL EXPENDITURES AND DIVIDENDS—33 OIL COMPANIES

[Dollar amounts in millions]

			Change	
	1971	1978	Amounts	Percent
Net income	$6,218	$13,720	$7,502	120.6
Capital expenditures	10,175	25,654	15,479	152.1
Cash dividends	3,325	5,744	2,419	72.8
Retained cash flow[1]	9,093	23,900	24,807	162.8
Dividends/net income	53.5	41.9		
L–T debt/capitalization	24.7	27.7		

[1] Net income plus depreciation, depletion, and amortization, less dividends.

Source: Salomon Bros.

Mr. McCLURE. Mr. President, I would like to call the attention of the Senate to an article that appeared in the Washington Post on October 25, 1979, in a column by Joseph Kraft entitled "Who Profits from Profits?"

I will only quote only the last paragraph of that article because, Mr. Kraft, after detailing some of the arguments, concluded in this fashion:

> This country has already done itself grave damage by bad-mouthing its steel industry, its nuclear power companies and its airplane manufacturers. It cannot afford to act as though all business is bad, big business worse and international big business still worse. Neither can it afford a president whose political stock depends on cultivating these pernicious illusions.

Mr. President, I ask unanimous consent that the entire column of Joseph Kraft that I made reference to be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO PROFITS FROM PROFITS?

(By Joseph Kraft)

"Prices are up, profits are up, and the oil companies want more. But it is not fair to the American people that they should have more."

At first that sounded just great. Sure-fire, right-on stuff. The stuff out of which leadership is made. Jimmy Carter standing up to the big, bad oil giants and their obscene profits.

But think a minute. Are the oil companies truly unfair to the American people? If not, why say so? And what is the impact of the charge on that overriding domestic and foreign priority—the reindustrialization of America?

Exxon, the biggest of the oil companies, provides the best test. Its profits for the third quarter of this year amounted to a record $1.1 billion. That, measured against the third quarter of 1978, represented an increase of about 120 percent.

But third-quarter earnings in 1978 were abnormally low—lower than at any time since the second quarter in 1973. Moreover, special considerations—a change in the British tax laws and currency fluctuations—accounted for over a quarter of the gains.

Only about a third of all the operating profits came from the United States, which has relatively tight price control compared with the rest of the world. Earnings on investment stood with much of American industry—at about 18 percent.

Those numbers, to be sure, do not justify going into mourning for poor little Exxon. But the implication that Exxon works to the disadvantage of this country looks weak indeed. On the contrary, the evidence is that Exxon, like most international companies, gives most of the breaks to its home base. The United States, in other words, tends to benefit from the major oil companies.

Political reasons for knocking the companies abound all the same. There has been a big recent rise in the price of home heating oil and gasoline. More increases are bound to come. The country is mad and apt to get madder. At least a portion of the blame rests on the actions of the Carter administration. So the president needs a scapegoat on which to foist responsibility. In this populist country, at a moment when all authority is suspect, the companies are the best one around.

The more so as Carter now has to prove his leadership capacities. One measure is the fate of a proposed windfall profits tax on the oil companies, which is now before the Senate.

A stiff tax has already been approved in the Finance Committee. It will surely be made stiffer by the full Senate, and in the conference with the House. By hitting out at the oil companies now, the president puts himself in position to claim credit for something bound to happen anyhow. He bets on a sure thing.

Only the innocent or the disingenuous can take offense at such tactics. Seeming to soak the rich is the essence of good politics in this populist country. But we ought to be clear about the cost of populist politics.

The starting point for counting the cost is the plight of what I have called Big America. The major industrial producers—the makers of steel, chemicals, autos, rubber, ships and many other such items—are in trouble.

They are subject to severe regulation by what I have called Little America—those primarily interested in fair employment, the environment and the consumer. They are also being severely challenged by competing firms in Japan, West Germany and other countries.

But this country cannot casually abandon industry for a service economy. Defense, for one thing, is at stake. For another, there is the matter of jobs—especially jobs for minorities in hard-pressed urban centers. So the health of the country is, in the long run, bound up with the revitalization of industry.

The reindustrialization of America, unfortunately, is not going to be established by corner banks, family farms or even medium-sized industry. It will take General Motors to stand up to Volkswagen, an IBM to match Toshiba, an Alcoa to deal with Pechiney.

This country has already done itself grave damage by bad-mouthing its steel industry, its nuclear power companies and its airplane manufacturers. It cannot afford to act as though all business is bad, big business worse and international big business still worse. Neither can it afford a president whose political stock depends on cultivating these pernicious illusions.

Mr. McCLURE. Mr. President, I would also ask unanimous consent that an article in the New York Times on October 26, 1979, entitled "How To Curb OPEC's Power" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW TO CURB OPEC'S POWER

The problem of restraining the power of the Organization of Petroleum Exporting Countries urgently demands a solution. Instead of growing feeble with time and breaking down, as some free-market economists had predicted, the oil cartel appears to have learned how to exploit its monopoly exporting position for all it is worth. Instead of waiting for "accidents," such as the Arab-Israeli war on the Iranian Revolution, to disrupt supply and put intense pressure on the price of oil, nation after nation in OPEC has learned to be careful to restrain supply to keep prices and earnings rising.

Thus, with better communication among its members and better understanding of how to manipulate price by controlling supply, OPEC looks stronger than ever—and the West weaker.

Formerly, Saudi Arabia, as the largest producer, with the greatest reserves and the least need for extra income in the short run, was the cartel master. But now that other countries have learned to increase their take by controlling supply, the Saudis have less power to run the cartel. Other nations are forcing the pace of price increases by putting more oil into the spot market, where the scramble for short supplies drives prices up even faster.

Because the power of OPEC is the power of each member to control production within its borders, there is no way that the United States or other oil-importing countries—without resorting to war or clandestine subversion and violence—can make OPEC members produce more oil than they believe is in their self-interest.

The simplifying axiom of economics that a monopolist will seek to maximize profits over time by restricting supply appears to fit OPEC to a T. All the pleading in the world will not avail, but will only convince the monopolist of the strength of his position.

The United States has tried that approach where it thought it would work. President Carter has had heavy correspondence with Saudi leaders going back to late 1976, before he was sworn in as President, and the contents have been kept confidential. The President sent James Akins, a former American Ambassador to Saudi Arabia who has been highly sympathetic to the Saudis, to Riyadh to talk oil prices with them. The United States has exported vast quantities of military goods and expertise to the Saudis.

In return, the Saudis have portrayed themselves, and been portrayed by the United States Government, as "price moderates," who have tried to hold OPEC oil prices down—while restricting their own output and deciding not to expand their oil capacity, which was the only way they could have held prices down.

Similarly, the United States sought to win modernization from Shah Mohammad Reza Pahlavi of Iran, before he was deposed, by sending him sympathetic ambassadors and even greater quantities of arms, without noticeable restraining effect on the oil price. The Ayatollah Ruhollah Khomeini appears to be beyond the reach of such friendly persuasion.

Short of war, is there any way for the United States to shield itself from excessive dependence on OPEC and to curb that cartel's monopoly power? Threatening to impound the bank accounts or other assets of Arabs in the United States would do no good because, as Prof. Maurice A. Adelman of the Massachusetts Institute of Technology observes, the impounding of huge sums would have serious, possibly disastrous, repercussions as other foreign-exchange holders feared for the safety of their deposits.

The tax on so-called "windfall" oil profits, which is a misnomer for an excise tax on domestic oil production, will have no effect on OPEC, whatever it may do to redistribute income from American oil producers to some American consumers. Indeed, the net effect of the tax may be to reduce American oil investment and development, thereby increasing United States dependence on OPEC and other foreign production.

A more effective approach would be to impose an ad valorem tariff on oil imports, levying a tax on oil from abroad proportional to the price charged for that oil. Since a higher price would result in a higher tax, this would shift the incentive for American companies from producing abroad to producing at home. It would also start to capture the monopoly profits of OPEC for the United States Treasury, to be distributed to Americans.

When the United States oil price reaches the world market level, as it will under Mr. Carter's decontrol plan, further efforts by the OPEC monopoly to increase prices would increase taxes and reduce their sales below the profit-maximizing point. They would finally have an incentive to reduce prices to hold onto the huge American market, especially if, in the longer run, greater price incentives for energy conservation and production changed the oil supply and demand situation adversely for OPEC.

Mr. McCLURE. Mr. President, there appeared in the Oil and Gas Journal on November 12, 1979, an analysis of oil industry investments, both inside and outside of the energy industry. The conclusion was, although the oil and gas industry had, in several years, invested more of their earnings outside their traditional areas than they had customarily done, that the swing was in the opposite direction and that more and more of the money was going back into their traditional areas of investment.

They predicted that that trend would continue. But they made that prediction without reference to the fact that the Congress of the United States might impose a windfall profit tax which would drastically change investment opportunities and rewards for investment and, therefore, counter that trend.

But the significant remark in that article, as far as I was concerned—at least, significant in this context—is their quotation of a statement made by President Carter.

I quote from the Oil & Gas Journal of November 12, page 132, in their quotation from President Carter's statement.

"If the oil companies take the profits and invest them back in the exploration and production of additional oil and gas in our country, then I have no objection to their profits being made," he said last August.

"But what they've done in the past is buy restaurants and motel chains. They tried to buy circuses. They bought department stores. They've taken profits out of oil and not put them back in the ground to develop more energy for you and me."

Mr. President, that is what my amendment is all about, to take what President Carter has said, as quoted in the Oil & Gas Journal, and express in the statute that exact sentiment; that they shall not take out of their industry the higher prices that Americans are paying for oil and gas to invest outside the energy industry. For once, President Carter and I are in exact agreement. And suddenly the majority of his party in this body find him to be wrong, because they have suddenly found great virtue in doing the precise thing which President Carter in August said should not be done, that is to tax the profits that otherwise would go back into producing more oil and gas.

Mr. President, it seems to me to be obvious that what we have in this debate now is no longer simply the question of whether or not oil company profits are too big or too small, whether oil company profits are being invested in the right areas or the wrong areas of our economy, but simply the appetite of the Congress to spend more money. This has become not an energy bill, not an oil company profits bill, not a bill related to the energy industry, but a revenue bill to finance more and more Federal programs.

In the face of all of the taxpayer revolts, in the face of all of the high-sounding rhetoric in this body and elsewhere by Members of this body concerning a constitutional amendment to balance the budget or support for a constitutional amendment to require Federal spending to be limited as a percentage of gross national product or national income, both of which amendments I support, this Congress is about now to enact the largest tax in the history of this country, the largest single revenue measure ever passed in the history of this country, under the guise of being related to oil company profits, whereas, as a matter of fact, they are not at all related to oil company profits.

As was related yesterday on the floor of the Senate, the amount of money to be raised under this proposed legislation is equal to the total amount of revenues of the Federal Government from 1789 to 1939, and if we take the House-passed measure the revenues to be produced under this legislation are equal to the total amount of money raised by the Federal Governmnt from all sources of revenue from 1789 through 1945.

This is the largest revenue measure in the history of this country and we are doing it under the guise of talking about excess profits.

Mr. President, it is my hope that the Congress will step back from what it is we are about to do and look at the opportunity to pass my amendment, which is a profits tax, a tax on profits, a tax on excess profits, a tax that is related to the problem which has created those profits, that is, the shortage of energy in the United States and the resultant high prices.

Mr. President, several U.S. oil companies have reported record profits for the third quarter of this year. Announcement of these profit results has intensified pressures for enacting a stiff windfall-profit tax on the domestic production of crude oil.

At the same time, the capital needs of the petroleum industry have attracted less attention. Yes these, too, are at an all-time high and will become higher still as the 1980's unfold. Domestic production of petroleum has been declining in recent years. Unless the industry is able to step up its spending on exploration and production to unprecedented levels, domestic supplies of oil and natural gas will continue to decline.

Mr. President, the implications of permitting this decline to continue are grave indeed. Even with the added incentives for conservation that oil price decontrol will encourage, the net demand for petroleum will increase during the 1980's. The rate of increase in this demand will be dampened by conservation, and this is vitally important. Still, however, there will be a demand increase. Simple arithmetic assures us, Mr. President, that a further decline in domestic oil production in the face of increased demand means still greater reliance on oil imports. With the current events in Iran, we are reminded yet again that this is simply an unacceptable result. The United States must not be so dependent on foreign oil supplies, which past events have shown to be susceptible to sudden disruption. The consequences of this overdependence, on our economic well-being and upon our national security, are ominous indeed.

Before enacting a windfall profit tax measure, the Congress must remind itself of the vital functions that profit performs in our economic system. Profit is the ultimate source of investment funds. The oil industry must undertake massive investment spending if the decline in domestic production of petroleum is to be arrested. Failure to halt that decline will leave all Americans even more dependent on the OPEC oil cartel for the energy needed to heat their homes and run their factories.

The Congress must not allow the emotions evoked, by disclosure of the industry's third quarter profits, to goad it into enacting a tax that will assure a continued decline in domestic oil supplies. That will be the very result of a tax that makes it impossible for the industry to attract the vast amounts of investment funds it needs for future exploration and production.

The Congress should remember that our economy is highly interdependent. Therefore, punishment meted out to one industry will harm not only members of that particular industry, but—to some extent—all participants in the economy. In its haste to construct a rough equity out of the decision to decontrol domestic oil prices, the Congress must be careful not to instead—however unintentionally—harm the vast majority of Americans.

In the remainder of my remarks, Mr. President, I will touch upon the following points. First, the oil industry has a good record for reinvesting its profits in domestic energy. Second, the capital requirements of the U.S. oil industry are unprecedented. Third, profit is the ultimate source of investment funds. Fourth, and finally, a tax upon an industry's production harms that industry's ability to attract investment funds. Members of the Congress should keep these points fully in mind when deciding upon a tax, upon its form and the amount of revenue it should raise. A tax should be worth the costs it will impose.

Mr. President, the U.S. oil industry has compiled a solid record for reinvesting its profits in future energy production. According to the Chase Manhattan Bank, after-tax profits for 27 leading oil companies totaled $81.3 billion between 1971 and 1977. Capital and exploration expenditures for the same companies totaled $153.6 billion. Therefore, for every dollar of net income realized, the companies invested almost $2.

And indications are that, in 1979, capital and exploration expenditures by oil companies have continued to exceed net income by a substantial margin. Based on 14 leading oil companies for which data are available, capital and exploration expenditures were almost half again as large as net income for the first 9 months of 1979. Some 62 percent of these expenditures were made in the United States. This domestic spending is equivalent to 90 percent of these companies' worldwide net income.

Furthermore, the principal business of the oil industry is energy. During the 1968–77 period, according to Chase Manhattan Bank data, less than 6 percent of the total capital expenditures by the 27 leading oil companies were made in nonoil businesses. Some of the 6 percent went into other energy resources.

Mr. President, all of us undoubtedly agree that the industry should be focusing its efforts on producing more domestic oil and gas. Yet, relatively few appear to recognize the large amounts of investment that will be needed to accomplish that objective. The United States is fortunate in that much oil and gas remain to be found and produced. But developing and bringing petroleum products to market will become increasingly expensive as this Nation moves through the 1980's.

Oil that is relatively accessible and inexpensive to produce is accounting each year for a smaller percentage of total U.S. oil production than in the previous year. More and more expenditures must be made, than in the past, to explore and deliver the same amount of oil. For example, an exploratory well on the Outer Continental Shelf typically costs several millions of dollars to complete. And once found, oil in OCS areas and at greater depths onshore requires more "hardware" to recover.

The Chase Manhattan Bank has estimated that for the year 1990 the industry's annual expenditure on exploriation and production alone must total $56 billion, measured in the purchasing power of 1978 dollars, if domestic petroleum production is to be kept up to the current level. By contrast, actual spending on exploration and production in 1978 was some $20 billion, itself an alltime record figure by historical standards.

Mr. President, once the end of the next decade is upon us, the U.S. oil industry—for exploration and production alone—must be spending at a rate that is nearly three times that for 1978. And this is to keep production at approximately its current level. Even this result, coupled with a net increase in petroleum demand, will mean greater reliance on oil imports than is now the case. But permitting an actual decline in U.S. production means an over-dependence on foreign oil of truly catastrophic proportions.

Mr. President, the industry's third quarter profits are, by any measure, large, even when we take into account the fact that most of the increase is accounted for by the companies' foreign operations. But not only should the Congress take into account the unprecedented levels of investment that the industry must make, it should also remember the industry's past profit history. Over the last decade, the oil industry's rate of return was below that of total U.S. manufacturing in 5 out of the 10 years. It would be a great mistake to enact a windfall profit tax on the assumption that the industry in the future will always enjoy the sort of profit it has made in the third quarter of 1979.

Once enacted, the windfall profit tax will be in place even if the industry's profit in subsequent years is more modest. And since the tax measure before us is actually an excise tax—and not a tax on profits—it will be collected even if the industry's profits were to vanish.

The industry enjoyed a similar, sudden percentage increase in profit levels immediately after the 1973–74 Arab oil embargo. But in 1975, net income as a percent of stockholders equity had fallen to 13.9 percent from 19.6 percent in 1974. And in 1976 the return on stockholders equity was less in the oil industry than for total manufacturing. Furthermore, the industry's stockholders suffered a similar fate in the years 1977 and 1978.

Mr. President, in order to restore some historical perspective, it would be helpful if the Members of Congress were to imagine what our decision would be if the administration had announced its intention to begin phasing out price controls on domestic oil 1 year earlier than it actually did. A windfall profit tax measure would have come before us in the fall of 1978 rather than in 1979. With the industry's profit performance in the years 1975–78 on record, would the Congress be seriously considering the sorts of amendments now being offered to the measure approved by the Finance Committee? Obviously not.

I urge my colleagues, therefore, to maintain a sense of perspective. The petroleum industry's profitability tends, over the long term, to be very nearly equal that for all manufacturing. And the tax measure before us will apply over the long term, over years of both above-average and below-average profits for the industry.

Any industry, if it is to attract investment capital, must make a profit. Retained earnings are, after all, one source of funds that can be invested directly by companies. But the outlook for future profits also determines, to a great extent, how much companies can borrow today to finance their investment programs. Lenders are fully aware that profits are needed if their money is to be repaid. The oil companies have borrowed heavily over the past decade. Had they not been able to do so, then their investment spending over that period would not have been approximately double their net income.

It is not likely that people, deciding whether or not they should lend their money to the industry, will allow themselves to be swayed one iota by mere rhetoric. These decisions will be based on judgments made in light of the harsh realities. Lenders will recognize that an excise tax, of the sort represented by the windfall profit tax measure now before us, raises costs.

Therefore, it will be deduced at once that, even though the windfall profit tax is not a tax on profits, it will make the earning of a profit more difficult. The results must be less and tighter credit for the oil industry. And, since the very purpose of the tax is to divert profits, even if indirectly, to the U.S. Treasury, the industry's ability to finance investment out of retained earnings will be impaired as well.

Mr. President, the inescapable conclusion is that a windfall profit tax will lower industry investment and therefore result in less exploration and production of new petroleum supplies. And the higher the tax, the more it will lower investment and future production. The Congress must keep these realities in mind in enacting a windfall profit tax. It must also act in light of the industry's needs for future investment and the industry's past investment record. And finally, the Congress must enact a windfall profit tax on the basis of the industry's profit prospects for the long term, not just on the results for the third quarter of 1979.

Mr. President, the people of this Nation have already witnessed considerable disruption in their economic, political and social relationships because of higher energy costs. The strains on our political and economic institutions will approach the breaking point if we permit ourselves to become yet more dependent on foreign oil supplies. The windfall profit tax should be enacted with this reality uppermost in our minds.

Mr. President, finally, I ask unanimous consent that a Wall Street Journal October 25 editorial entitled, "The Big Oil Rip-Off," be printed in full at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Big Oil Rip-Off

Motorists fumed over gasoline lines in the summer, fuel prices soared, filling station service deteriorated—and now, Exxon reports its third quarter profits were up 119 percent from a year before. If the oil politicians had written the scenario for piling new taxes on the oil industry they couldn't have planned it better.

Indeed, Herblock had an anti-oil cartoon in the Washington Post the very morning of the Exxon announcement; Jimmy Carter said the big oil profits aren't "fair to the American people" and James G. Archuleta, of the Oil, Chemical and Atomic Workers Union called the Exxon profits "pornographic," which presumably is even worse than obscene. And yesterday the House reversed its previous decision to end gasoline price controls and allocations, apparently in the belief that keeping controls would punish the oil companies for their success.

To start to put this in perspective, you have to ask who gets these profits. Not Exxon's hired managers, as well compensated as they surely are. The profits go instead to shareholders, either directly as dividends or indirectly through share appreciation if profit is reinvested within the business. So who are these shareholders now so widely accused of greed?

Some 65 percent of Exxon's shares are held by institutions. These are pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources. Plus charitable and educational foundations, colleges and universities and the like. Employe pension funds alone own 28 percent of Exxon. Just what does Herblock have against retired people?

The question is even more pertinent if you notice that most of Exxon's profit gains were overseas, while most of the shareholders are Americans. If you insist on seeing profits as an income transfer, they were a transfer from European consumers to America's social welfare institutions for the retired aged. Hardly a cause for yelling or screaming on the New Jersey Turnpike; maybe so on M1 to London.

But anyone who might wish to rise above penny dreadful analysis has to ask about the origin of these profits. Why are the oil companies making so much money? In fact, the companies themselves have little control over most of the variables—prices, exchange rates, taxes, Iranian politics—that govern their profit rates. They really do not even have the option of trying to lower their profits by cutting prices, since in the short run only so much oil is available, and since prices below market-clearing levels would leave them swamped with orders they could not fill. Gas lines and the like would return; this is also likely to be the actual effect of yesterday's House vote.

In any industry, when prices rise faster than the overall rate of inflation, as oil product prices did this last year, it reflects, in simplest terms, diminished competition. The diminished competition in the oil industry this past year resulted not from a lack of competitors—there are 28 sizable oil companies—but the political restraints that have been applied to the energy industry, including all the products that compete with oil.

The Natural Gas Act crimped domestic drilling of natural gas, which was rising healthily before the act was passed. Environmental laws have curtailed coal use and expanded demand for unleaded gasoline, which requires more crude oil to produce than leaded gasoline. Pressures from the "No More Nukes" Yippees have stalled nuclear power development.

All of this is now to be remedied by piling still more burdens on domestic energy production. The windfall profits tax, which has gotten such a marvelous boost from the Exxon numbers, will further discourage U.S. oil production, reducing the total world supply of oil and practically guaranteeing that world prices and the overseas profits of the major oil companies will continue to rise. This will bring more screaming and yelling and more Herblock cartoons from Washington. And with the screaming and yelling will come new regulation, new taxes, new restrictions on domestic energy production.

Oil industry executives, many of whom would probably like nothing better in this poisoned political environment than to report a 1 percent profit decline, will continue to be benumbed by all the political and legal pressures that interfere with their fundamental goal of finding, producing and selling fuel.

The oil politicians, gearing up to run next fall on how forcefully they have championed the interests of the consumers, couldn't have written a better scenario. We wonder, however, if there won't come a point when the consumers and voters will begin to ask if they really need friends like these.

(Mr. MORGAN assumed the chair.)

Mr. McCLURE. Mr. President, I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for yielding.

Mr. President, the tax rate to be applied to tier 2 oil represents one of the critical components of this windfall profit tax legislation. Under the Finance Committee bill, the tier 1 tax rate would be 75 percent, while the tier 2 rate would be only 60 percent. The House-passed version of the bill applies a 60-percent tax to both categories of oil. However, the types of oil subject to tax were more inclusive in the House measure than in the Finance Committee substitute. A higher rate of taxation can be supported for both categories of oil production.

The amendment that has been offered by Senators Bradley, Moynihan, Ribicoff, and others would impose the 75-percent tax on tier 2 oil. This oil is produced from existing reservoirs and the expenses attendant to exploration and development have already been accounted for.

As decontrol is implemented, tier 2 oil will rise to the world price, allowing the producers to reap revenues which are unrelated to the costs of such development. Economic projections indicate that decontrol will add at least $10 per barrel to the price of this oil, without a significant production response. Given other exemptions from the tax provided as production incentives, a higher tax on upper tier oil is appropriate.

The oil in this tier consists of properties where production began between 1972 and 1978. It also includes oil from marginal wells, oil from properties with high water to oil ratios, and oil released from tier 1 to tier 2 by virtue of the 1½-percent decline curve. Most of the oil taxed in the Finance Committee bill is taxed in tier 2.

Over the period 1980 through 1990, this amendment would increase tax revenues by about $22 billion. In fiscal year 1980, it will produce a revenue gain of $245 million. This goes some distance in offsetting the $9 billion revenue loss from the exemption for independent producers which was adopted yesterday.

Some may argue that a higher tax rate on tier 2 oil would dilute incentives created to stimulate production from existing reservoirs. It is said that additional revenues from known reserves will be reinvested to finance new production. However, there is a limit to the funds which can legitimately be expended for exploration and development of new oil resources. The balance between private profits and public needs must be kept in mind.

I have repeatedly stated that the windfall profit tax must be fair and equitable to the oil companies but must also raise meaningful revenues for necessary and urgent public purposes. The eyes of the American public and the eyes of the people of the world are focused on the Senate, and it is expected that we will work our will to achieve the greater public good. The Finance Committee bill represents a good starting place, but I believe that we must do more. The startling transfer of wealth from consumers of energy to producers of oil resulting from decontrol and the skyrocketing world price of oil demand action. I believe that additional revenues to be derived from this amendment that was offered by Mr. Bradley will go a significant way toward achieving the proper balance.

Mr. President, I intend to offer on behalf of Mr. Bradley, Mr. Chafee, Mr. Moynihan, Mr. Ribicoff, myself, and others, the language of the Bradley-Chafee amendment to the McClure amendment, which means that the amendment that I will offer will be an amendment in the second degree.

It is in lieu of the language to be inserted by Mr. McClure, so that the Senate will have before it two amendments in the second degree, both of which will do the same thing. A second degree amendment by Mr. Bradley to the amendment by Mr. Bradley in the first degree, the committee substitute, does the same thing as the amendment which I shall offer by this amendment in the second degree to the amendment by Mr. McClure in the first degree to the House bill. So no other amendments will be in order and the Senate will reach a decision at some point on this particular amendment.

Mr. President, in my 27 years on Capitol Hill, I have never been one to use the oil companies as a whipping boy. I have never been a baiter of the oil companies. That does not say I may not start within the next 30 minutes, but up to this point, I am not in that category of attacker of the oil companies. But to me, the Senate is the greatest spark of genius that the Founders of this Republic were given by the Creator. I believe that this institution has a duty to raise the revenues in this bill. I believe that the American people expect the Senate to do that, and I think the Senate would be entitled to the just criticism of the press and the American people if it does not raise those revenues.

We also have to keep in mind that, in the conference between the two Houses which is down the road, there will be resolving of the areas of difference and, as a usual thing, those conferences result in a balancing off of the differences, a give and take, and consequently, as usual in such things, something of a meeting halfway between the two. I have no particular ax to grind. I want the Senate to do its duty. I want it to be perceived as having done its duty. I have been meeting with Senators on both sides of the aisle and Senators who have varying philosophies with respect to the oil companies and the revenues from the taxes that ought to be involved in the final product. I think it was a good meeting and, as I have said so many times, once we get people together in a room, I have never yet seen it fail to bring forth some kind of moderation of viewpoints on all sides and an approach which, in the final analysis, represents a consensus. I am encouraged to believe that that can be done again.

I intend to offer this amendment. It is Mr. Bradley's amendment, not mine; the amendment of Mr. Bradley and Mr. Chafee and the others. I offer it on their behalf and it will not be the intention of the leadership to press for a vote tonight. That was understood in the private discussions that were held in my office. It is hoped that, overnight, the staffs of Senators can be working and that, on tomorrow, when the Senate meets, at some point during the day, it can make further progress.

I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, as one Senator who is interested in discussing the amendment of the distinguished Senator from New Jersey and the Senator from Rhode Island, it seems to me that we are moving in the right direction. It is the hope of this Senator and, I think, every one of 10 or 11 Senators who were at our meeting—that there are four or five major areas that need to be resolved. We could save days and maybe even weeks on this proposal. I commend the distinguished majority leader for assembling those of us who have different views. I would say we all have the same motive, and that is to try to find the right course to follow.

I am not certain who is correct, but I think we can give some and take some. Perhaps tomorrow there will be some agreement on four or five major areas that will permit us to shave several days off the time frame. So I commend the majority leader. I hope that all those in attendance will pass on to those who were not there what we are about so that they will understand that we are trying to make progress and trying to do the very thing suggested by the majority leader: Help solve the energy problem and still strike a balance on the tax that will satisfy the demands of the administration, the demands of the American people, and still not do violence to the industry itself.

I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Kansas. He was one of those who were present at the meeting. He exemplifies the tone and the mood prevalent in that meeting. It was a tone of cooperation, a tone and a mood and a spirit of trying to find an approach that would improve the bill in a realistic way and, at the same time, as the distinguished Senator has just said, save the time of the Senate in achieving that goal. Mr. Muskie was present, Mr. Bradley was present, Mr. Long, Mr. Wallop, Mr. Bellmon, Mr. Danforth, Mr. Moynihan, Mr. Chafee, Mr. Nelson, Mr. Stevens, and Mr. Ribicoff. So it was a well-balanced group of Senators. I feel encouraged at the result. The staffs will work overnight and the group will meet again tomorrow.

UP AMENDMENT NO. 850

Mr. ROBERT C. BYRD. Mr. President, I send to the desk on behalf of Mr. Bradley and Mr. Chafee, Mr. Moynihan, Mr. Ribicoff, and others, an amendment to the McClure amendment. I have, with the approval of Mr. Chafee, added my name.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for himself and Mr. Bradley, Mr. Chafee, Mr. Ribicoff, Mr. Nelson, Mr. Roth, Mr. Moynihan, Mr. Packwood, Mr. Durenberger, Mr. Weicker, Mr. McGovern, Mr. Tsongas, Mr. Ford, Mr. Biden, Mr. Hart and Mr. Leahy, proposes an unprinted amendment numbered 850.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language to be inserted by amendment UP 849 of the Senator from Idaho (Mr. McClure) insert the following:

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

Sec. 101. Windfall Profit Tax.

(a) In General.—

(1) Amendment of subtitle D.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

"Sec. 4986. Imposition of tax.
"Sec. 4987. Amount of tax.
"Sec. 4988. Taxable crude oil; the 3 tiers for tax purposes.
"Sec. 4989. Windfall profit; removal price.
"Sec. 4990. Adjusted base price.
"Sec. 4991. Definitions and special rules relating to categories of oil.
"Sec. 4992. Other definitions and special rules.
"Sec. 4993. Phaseout of tax.
"Sec. 4994. Records and information; regulations.
"Sec. 4995. Cross references.

"Sec. 4986. Imposition of Tax.

"(a) Imposition of Tax.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

"(b) Tax Paid by Producer.—The tax imposed by this section shall be paid by the producer of the crude oil.

"Sec. 4987. Amount of Tax.

"(a) In General.—The amount of the tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be—

"(1) 75 percent of the windfall profit on such barrel in the case of tier 1 or tier 2 oil, and

"(2) 60 percent of the windfall profit on such barrel in the case of tier 3 oil.

"(b) Fractional Part of Barrel.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"Sec. 4988. Taxable Crude Oil; The 3 Tiers for Tax Purposes.

"(a) Taxable Crude Oil.—For purposes of this chapter, the term 'taxable crude oil' means all domestic crude oil other than—

"(1) newly discovered oil,

"(2) incremental tertiary oil,

"(3) heavy oil, and

"(4) qualified stripper oil.

(b) Tier 1 Oil.—For purposes of this chapter, the term 'tier 1 oil' means domestic crude oil (other than high water-cut oil or front-end tertiary oil) which—

"(1) is lower tier oil, or

"(2) would be lower tier oil if the base production control level for such oil were reduced for January 1980 and each month thereafter by 1½ percent (instead of 3 percent).

"(c) Tier 2 Oil.—For purposes of this chapter, the term 'tier 2 oil' means domestic crude oil which is—

"(1) upper tier oil (other than oil described in subsection (b)(2)), or

"(2) high water-cut oil or front-end tertiary oil.

"(d) Tier 3 Oil.—For purposes of this chapter, the term 'tier 3 oil' means taxable crude oil other than tier 1 oil and tier 2 oil.

"(e) Lower and Upper Tiers.—For purposes of this chapter—

"(1) Lower tier oil.—The term 'lower tier oil' means domestic crude oil which is or would be subject to the lower tier ceiling price rule of the June 1979 energy regulations.

"(2) Upper tier oil.—The term 'upper tier oil' means domestic crude oil which is or would be subject to the upper tier ceiling price rule of the June 1979 energy regulations.

"(3) Disregard of cumulative deficiencies.—For purposes of applying the June 1979 energy regulations to any domestic crude oil under paragraph (1), any cumulative deficiency shall not be taken into account in determining whether such oil is lower or upper tier oil unless such deficiency results from an attempt to avoid the tax imposed by section 4986.

"Sec. 4989. Windfall Profit; Removal Price.

"(a) General Rule.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount of the severance tax adjustment with respect to such barrel provided by section 4992(d).

"(b) Net Income Limitation on Windfall Profit.—

"(1) In general.—The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to such barrel.

"(2) Determination of net income.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"(A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil produced from such property during such taxable year.

"(3) Taxable income from the property.—For purposes of paragraph (2)—

"(A) In general.—Except as otherwise provided in this paragraph, the taxable income from the property shall be determined under section 613(a).

"(B) Certain deductions not allowed.—No deduction shall be allowed for—

"(i) depletion,

"(ii) section 263(c) costs, or

"(iii) the tax imposed by section 4986.

"(C) Taxable income reduced by cost depletion.—Taxable income shall be reduced by the cost depletion which would have been allowable for the taxable year with respect to the property if—

"(i) all section 263(c) costs incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

"(ii) cost depletion had been used by the taxpayer with respect to such property for all periods.

"(D) Section 263(c) costs.—For purposes of this paragraph, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"(4) Special rules for transfers of proven oil or gas properties.—

"(A) In general.—In the case of any proven oil or gas property transfer which, but for this subparagraph, would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only costs incurred during periods after such transfer.

"(B) Proven oil or gas property transfer.—For purposes of subparagraph (A), the term 'proven oil or gas property transfer' means any transfer (including the subleasing of a lease or the creation of a production payment which gives the transferee an economic interest in the property) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property (within the meaing of section 613A (c)(9)(A)).

"(5) Special rule where there is production payment.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from the property in computing the taxable income of the producer.

"(c) Removal Price.—For purposes of this chapter—

"(1) In general.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) Sales between related persons.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) Oil removed from premises before sale.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) Refining begun on premises.—If the manufacture or conversion of crude oil into refined products begin before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(5) Meaning of terms.—As used in this subsection, the terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"Sec. 4990. Adjusted Base Price.

"(a) Adjusted Base Price Defined.—For purposes of this chapter, the term 'adjusted base price' means the base price for the barrel of crude oil plus an amount equal to—

"(1) such base price, multiplied by

"(2) the inflation adjustment for the calendar quarter in which the crude oil is removed (or deemed removed) from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(b) Inflation Adjustment.—

"(1) In general.—For purposes of subsection (a), the inflation adjustment for any calendar quarter is the percentage by which—

"(A) the implicit price deflator for the gross national product for the second preceding calendar quarter, exceeds

"(B) such deflator for the calendar quarter ending December 31, 1978.

"(2) First revision of price deflator used.—For purposes of paragraph (1), the price deflator used shall be the first revision thereof.

"(c) Base Price for Tier 1 Oil.—For purposes of this chapter, the base price for tier 1 oil is the lower tier ceiling price (as of May 1979) for such oil under the March 1979 energy regulations.

"(d) Base Price for Tier 2 Oil.—For purposes of this chapter—

"(1) In general.—Except as provided in paragraph (2), the base price for tier 2 oil is the upper tier ceiling price (as of May 1979) for such oil under the March 1979 energy regulations.

"(2) Monthly increments starting November 1, 1986.—Beginning with November 1986, the base price for tier 2 oil shall be increased by 6 cents per month over the 50 month period ending December 31, 1990.

"(e) Base Price for Tier 3 Oil.—For purposes of this chapter, the base price for tier 3 oil is the price provided pursuant to regulations prescribed by the Secretary for the purpose of estimating (as nearly as may be practicable) the price at which uncontrolled crude oil of the same grade and location would have sold in September 1979 if the average landed price during such month for imported crude oil were $15.30 a barrel.

"Sec. 4991. Definitions and Special Rules Relating to Categories of Oil.

"(a) Newly Discovered Oil Defined.—For purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), the term 'newly discovered oil' has the meaning given to such term by the June 1979 energy regulations.

"(b) Alaskan Oil From Sadlerochit Reservoir.—For purposes of this chapter—

"(1) In general.—In the case of Sadlerochit oil—

"(A) Adjusted base price increased by TAPS adjustment.—The adjusted base price for any calendar quarter (determined without regard to this subsection) shall be increased by the TAPS adjustment (if any) for such quarter provided by paragraph (2).

"(B) Removal price determined on monthly basis.—The removal price of such oil removed (or deemed removed) during any calendar month shall be the average of the producer's removal prices for such month.

"(2) TAPS adjustment.—

"(A) In general.—The TAPS adjustment for any calendar quarter is the excess (if any) of—

"(i) $6.26, over

"(ii) the TAPS tariff for the preceding calendar quarter.

"(B) TAPS tariff.—For purposes of subparagraph (A), the TAPS tariff for the preceding calendar quarter is the average per barrel amount paid for all transportation (ending in such quarter) of crude oil through the TAPS.

"(C) TAPS defined.—For purposes of this paragraph, the term 'TAPS' means the Trans-Alaskan Pipeline System.

"(3) Sadlerochit oil defined.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oil field.

"(c) Incremental Tertiary Oil Defined.—For purposes of this chapter (and the application of the June 1979 energy regulations to this chapter)—

"(1) In general.—The term 'incremental tertiary oil' means the excess of—

"(A) the amount of crude oil which is removed (or deemed removed) from a property during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over

"(B) the base level for such property for such month.

"(2) Determination of amount.—

"(A) Base level.—The base level for any property for any month is the average monthly amount (determined under rules similar to rules used in determining the base production control level under the June 1979 energy regulations) of crude oil removed (or deemed removed) from such property during the 6-month period ending March 31, 1979, reduced by the sum of—

"(i) the greater of—

"(I) 1 percent of such amount for each month which begins after 1978 and before the project beginning date, or

"(II) the average monthly rate of decline for the months described in subclause (I) multiplied by the number of such months, and

"(ii) 2½ percent of such amount for each month which begins after the project beginning date (or after 1978 if the project beginning date is before 1979) and before the month for which the base level is being determined.

"(B) Minimum amount in case of projects certified by DOE.—In the case of a project described in paragraph (4)(A), the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

"(3) Allocation rules.—The determination of which barrels of crude oil removed (or deemed removed) during any months are incremental tertiary oil shall be made—

"(A) first by allocating the amount of incremental tertiary oil between oil which (but for this subsection) would be tier 1 oil, oil which (but for this subsection) would be tier 2 oil, and oil which (but for this subsection) would be tier 3 oil in proportion to the respective amounts of such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices beginning with the highest of such prices.

"(4) Qualified tertiary recovery project.—The term 'qualified tertiary recovery project' means—

"(A) a qualified tertiary enhanced recovery project with respect to which a certification as such has been approved and is in effect under the June 1979 energy regulations, or

"(B) any project for enhancing recovery of crude oil which meets the requirements of paragraph (5).

"(5) Requirements.—A project meets the requirements of this paragraph if—

"(A) the project involves a tertiary recovery process (within the meaning of paragraph (6)(A));

"(B) the project is implemented and operated in accordance with sound engineering principles;

"(C) the project area is delineated in such a manner that the property (for purposes of determining the amount of incremental tertiary oil) consists of that area from which the ultimate recovery of crude oil can reasonably be expected to be enhanced as a result of implementation and operation of the project; and

"(D) the operator submits (at such time and in such manner as the Secretary may by regulations prescribe) to the Secretary—

"(i) a certification from a petroleum engineer that the project meets, and continues to meet, the requirements of subparagraphs (A), (B), and (C); or

"(ii) a certification that a jurisdictional agency (within the meaning of paragraph (6)(C)) has approved the project as meeting, and continuing to meet, the requirements of subparagraphs (A), (B), and (C), and has not revoked such approval (within the meaning of paragraph (6)(D)).

"(6) Definitions and special rules.—For purposes of this subsection—

"(A) Tertiary recovery process defined.—The term 'tertiary recovery process' means an oil field operation which, according to sound engineering principles, reasonably can be expected to enhance the ultimate recovery of crude oil by—

"(i) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations, or

"(ii) any other method approved by the Secretary.

"(B) Project beginning date.—The term 'project beginning date' means the later of the date on which the injection of liquids or gases begins, or the date on which—

"(i) in the case of a project described in paragraph (4)(A), the project is certified as a qualified tertiary enhanced recovery project under the June 1979 energy regulations, or

"(ii) in the case of a project described in paragraph (4)(B), a petroleum engineer or jurisdictional agency certifies or approves the project as meeting the requirements of subparagraphs (A), (B), and (C) of paragraph (5).

"(C) Jurisdictional agency.—The term 'jurisdictional agency' means—

"(i) in the case of an application involving a tertiary recovery project on lands not under Federal jurisdiction—

"(I) the appropriate State agency in the State in which such lands are located which is designated by the Governor of such State in a written notification submitted to the Secretary as the agency which will approve projects under this subsection, or

"(II) if the Governor of such State does not submit such written notification within 180 days after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979, the United States Geological Survey (until such time as the Governor submits such notification), or

"(ii) in the case of an application involving a tertiary recovery project on lands under Federal jurisdiction, the United States Geological Survey.

"(D) Revocation of approval by jurisdictional agency.—For purposes of paragraph (5)(D)(ii), the approval of a project may be revoked by the jurisdictional agency only if—

"(i) there was a misrepresentation of a material fact on the part of the operator in obtaining such approval, or

"(ii) the project is not implemented or operated in a manner reasonably consistent with the plan set forth in the materials submitted to such agency and upon which such approval was based or with an approved modification of such plan.

A revocation under clause (ii) shall not be effective prior to the date on which the operator ceased to implement and operate the project in a manner reasonably consistent with the plan, or approved modification of such plan, as determined by the jurisdictional agency.

"(E) Project continues in effect.—For purposes of paragraph (1)(A), a tertiary recovery project approved under paragraph (5)(D)(ii) shall be considered to continue in effect during any period after termination of injection of liquids or gases if—

"(i) the project was implemented and operated in accordance with sound engineering principles and in accordance with the plan (or with an approved modification of the plan),

"(ii) the approval of the jurisdictional agency has not been revoked, and

"(iii) the terminated injection process was certified by the jurisdictional agency and by a petroleum engineer as being ineffective or counterproductive.

"(F) Implementation by jurisdictional agencies and secretary.—

"(i) Federal.—Not later than 180 days after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979, the Secretary and the United States Geological Survey shall promulgate and make effective such regulations and establish such procedures as are necessary to carry out responsibilities under this subsection.

"(ii) State.—As soon as possible after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979 and following submission of written notice by the Governor of a State under subparagraph (C)(i), the jurisdictional agency of such State shall publish such regulations and establish such procedures as it determines necessary to carry out its responsibilities under this subsection.

"(G) Basis of review of certain qualified tertiary recovery projects.—In the case of any project for which a certification is submitted to the Secretary under paragraph (5)(D)(ii), the project shall be considered a qualified tertiary recovery project unless the Secretary determines that—

"(i) the approval of the jurisdictional agency was not supported by substantial evidence on the record upon which such approval was based, or

"(ii) additional evidence not contained in the record upon which such approval was based demonstrates that such project does not meet the requirements of subparagraph (A), (B), or (C) of paragraph (5).

In the event a project is determined not to be a qualified tertiary recovery project, the burden of proof shall be on the taxpayer to establish that the project meets the requirements of subparagraphs (A), (B), and (C) of paragraph (5).

"(H) Rulings relating to certain qualified tertiary recovery projects.—In the case of any tertiary recovery project for which a certification is submitted to the Secretary under paragraph (5)(D)(ii), a taxpayer may request a ruling from the Secretary with respect to whether such project is a qualified tertiary recovery project. The Secretary shall issue such ruling within 180 days of the date he receives the request.

"(d) Qualified Stripper Oil.—For purposes of this chapter—

"(1) In general.—The term 'qualified stripper oil' means so much of an eligible taxpayer's qualified production during any taxable period beginning after September 30, 1980, as does not exceed the product of—

"(A) 1,000 barrels, multiplied by

"(B) the number of days during the taxable period.

"(2) Definitions and special rules.—For purposes of this subsection—

"(A) Qualified production.—

"(i) In general.—A taxpayer's qualified production during any taxable period is the number of barrels of crude oil—

"(I) which are removed from any property during such taxable period; and

"(II) with respect to which such taxpayer is liable for the tax imposed by section 4986 (determined without regard to this subsection and section 4988(a)(4)).

"(ii) Royalty owners.—In the case of the holder of any royalty or similar interest, the qualified production of such taxpayer from each property shall be equal to an amount which bears the same ratio to the amount of the total barrels of production of such taxpayer from such property (determined without regard to this subsection) as—

"(I) the working interests held by eligible taxpayers, bears to

"(II) the working interests held by all taxpayers.

"(iii) Transferred production.—A taxpayer's qualified production shall not include production from a property to the extent the taxpayer's interest in such property was held by an integrated oil company on October 24, 1979.

"(B) Eligible taxpayer.—The term 'eligible taxpayer' means any taxpayer other than—

"(i) an integrated oil company or a partnership, or

"(ii) any Member of Congress serving during the Ninety-sixth Congress or any member of such Member's family (within the meaning of section 267(c)(4)).

"(C) Integrated oil company.—The term 'integrated oil company' means any taxpayer described in paragraph (2) or (4) of section 613A(d).

"(D) Allocation among related persons.—

"(i) In the case of persons who are members of the same related group during the taxable period, the 1,000-barrel amount contained in paragraph (1) for days during such period shall be reduced for each person by allocating the 1,000 barrels among all such persons in proportion to their respective qualified production during such period.

"(ii) Related group.—For purposes of clause (i), the term 'related group' means—

"(I) a controlled group of corporations (as defined in section 613A(c)(8)(D)(i),

"(II) a group of entities among which an allocation would be made under subparagraph (B) of section 613A(c)(8), and

"(III) members of the same family (as defined in section 613A(c)(8)(D)(iii)).

"(3) Treatment of partnerships.—

"(A) In general.—For purposes of this subsection, the qualified production of a partnership—

"(i) shall be equal to the qualified production of the partnership (determined without regard to this paragraph) reduced, under regulations prescribed by the Secretary, by an amount which bears the same ratio to such amount as the interest of partners in such production who are not eligible partners bears to the interest of all partners in such partnership, and

"(ii) as so reduced, shall be allocated to eligible partners in the manner provided under this paragraph.

"(B) Allocation.—In the case of the qualified production of a partnership from any property, an eligible partner shall—

"(i) for purposes of paragraph (1), be treated as having produced, and

"(ii) for purposes of section 6429, be treated as having paid the tax,

with respect to an amount equal to his eligible partnership interest in so much of the qualified production of the partnership as does not exceed the product determined under paragraph (1) for such taxable period.

"(C) Definitions.—For purposes of this paragraph—

"(i) Eligible partnership interest.—The term 'eligible partnership interest' with respect to any qualified production means that portion of such production which bears the same ratio to the total production as an eligible partner's interest in such production bears to the interest of all eligible partners.

"(ii) Eligible partner.—The term 'eligible partner' means any partner who would be an eligible taxpayer with respect to such production.

"(4) Computation of tax for excess production.—If the qualified production of an eligible taxpayer during a taxable period exceeds the amount which may be treated as qualified stripper oil under paragraph (1), the windfall profit, for purposes of determining the amount of the tax imposed by section 4986 with respect to such excess, shall be equal to an amount which bears the same ratio to the amount of windfall profit on the total barrels of qualified production (determined without regard to this subsection) as—

"(A) the number of barrels of such excess, bears to

"(B) the number of barrels of such qualified production.".

"(e) Heavy Oil.—For purposes of this chapter, the term 'heavy oil' has the meaning given to such term by Executive Order Numbered 12153.

"(f) High Water-Cut Oil.—For purposes of this chapter—

"(1) In general.—The term 'high water-cut oil' means crude oil removed from a high water-cut oil property.

"(2) High water-cut oil property defined.—

"(A) In general.—The term 'high water-cut oil property' means any property which has had a water-oil ratio of 9 or more during any consecutive 12-month period beginning after December 31, 1977.

"(B) Water-oil ratio.—The term 'water-oil ratio' with respect to any property means the amount determined by dividing—

"(i) the aggregate volume of water produced from the property during such consecutive 12-month period, by

"(ii) the aggregate volume of crude oil produced from the property during such period.

"(C) Maximum feasible rate.—A property shall not be treated as having a water-oil ratio of 9 or more during any such period unless production during such period was at its maximum feasible rate consistent with recognized conservation practices (determined in the same manner as under the June 1979 energy regulations).

"(g) Front-end Tertiary Oil.—For purposes of this chapter—

"(1) In general.—Any front-end tertiary oil shall be treated as tier 2 oil.

"(2) Front-end tertiary oil defined.—The term 'front-end tertiary oil' means any crude oil receiving special price treatment for purposes of providing front-end financing for tertiary recovery projects.

"Sec. 4992. Other Definitions and Special Rules.

"(a) Producer and Operator.—

"(1) Producer.—For purposes of this chapter, the term 'producer' means the holder of the economic interest with respect to the crude oil.

"(2) Operator.—The term 'operator' includes any person responsible for the management and operation of crude oil production on a property.

"(b) Other Definitions.—For purposes of this chapter—

"(1) Crude oil.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(2) Barrel.—The term 'barrel' means 42 United States gallons.

"(3) Domestic.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

"(4) United states.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) Possession of the united states.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) Indian tribe.—The term 'Indian tribe' has the meaning given to such term by section 106(b)(2)(C)(ii) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3316(b)(2)(C)(ii)).

"(7) Taxable period.—The term 'taxable period' means each calendar quarter beginning after December 31, 1979.

"(8) Energy regulations.—

"(A) In general.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(B) March 1979 energy regulations.—The March 1979 energy regulations shall be the terms of the energy regulations as such terms existed on March 1, 1979.

"(C) June 1979 energy regulations.—The June 1979 energy regulations—

"(i) shall be the terms of the energy regulations as such terms existed on June 1, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhanced recovery projects.

"(D) Continued application of regulations after decontrol.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) Rules for Collection and Deposit of Tax.—

"(1) Deduction and withholding of tax.—Except as provided in paragraphs (4) and (5), if the removal of any taxable crude oil is determined under section 4989(c)(1)—

"(A) the tax imposed by section 4986 with respect to such crude oil shall be collected by the purchaser of such crude oil by deducting and withholding the amount of such tax from amounts payable for such oil,

"(B) the purchaser of such crude oil shall be liable for the payment of the tax required to be deducted and withheld under subparagraph (A), and shall not be liable to any person for the amount of any such payment,

"(C) the producer shall not be required to file a return of the tax imposed by section 4986 with respect to such oil, and

"(D) the producer shall be treated as having filed the return and paid the amount of the tax collected by the purchaser on the due date prescribed by section 6076 for filing the return for the taxable period in which such oil was removed from the premises.

"(2) Net income limitation not to be applied.—In determining the amount to be collected under paragraph (1)(A), section 4989(b) shall not apply.

"(3) Deposit of tax deducted and withheld.—

"(A) In the case of a purchaser who is not an integrated oil company, deposit of the amounts deducted and withheld under paragraph (1)(A) shall be made not later than—

"(i) 45 days after the end of the month in which such oil was purchased, or

"(ii) in the case of oil purchased under a contract therefor by an independent oil refiner (as defined in subparagraph (C)) under which no payment is required to be made before the forty-sixth day after the date on which the oil is purchased, before the first day of the third month which begins after the end of the month in which such oil was purchased.

"(B) In the case of an integrated oil company (as defined in subparagraph (D)) other than an independent refiner, deposit of the estimated amount of the taxpayer's liability for the tax imposed by section 4986 shall be made semi-monthly.

"(C) For purposes of this paragraph, the term 'independent refiner' has the same meaning as in paragraph (3) of section 3 of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752), except that 'the preceding taxable period' shall be substituted for 'November 27, 1973' in applying such paragraph for purposes of this paragraph.

"(D) For purposes of this paragraph, the term 'integrated oil company' means a taxpayer, other than an independent refiner, described in paragraph (2) or (4) of section 613A(d).

"(4) Election by the purchaser and operator to have operator pay tax and file return.—Under regulations prescribed by the Secretary, if the purchaser of taxable crude oil and the operator of the well from which the crude oil was produced make a joint election under this paragraph, the tax shall be paid and the return shall be filed by the operator.

"(5) Qualified stripper property.—

"(A) In General.—In the case of crude oil removed from a qualified stripper property during any taxable period which is not qualified stripper oil, the tax shall be paid and the return shall be filed by the producer.

"(B) Deposit of tax.—

"(i) In general.—Except as provided in clause (ii), a producer required under subparagraph (A) to pay tax shall make a deposit of the amount of such tax within 45 days of the last day of the taxable period during which such oil was removed from the premises.

"(ii) Integrated oil company. An integrated oil company required under subparagraph (A) to pay tax shall make a deposit of such tax in the same manner as a purchaser which is an integrated oil company makes such deposit under paragraph (3).

"(C) Meaning of terms.—For purposes of this paragraph, the terms 'qualified stripper property', 'qualified stripper oil', 'integrated oil company' and 'eligible taxpayer' have the same meaning as in section 4991(d).

"(d) Severance Tax Adjustment.—For purposes of this chapter—

"(1) In general.—The severance tax adjustment with respect to any barrel of crude oil shall be the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been extracted and sold at its adjusted base price.

"(2) Limitation on amount of severance tax.—The amount of severance tax taken into account under paragraph (1) shall not exceed the amount which would have been imposed under the State law in effect on March 31, 1979, unless such excess is attributable to an increase in the rate of the severance tax which applies equally to all portions of the removal price.

"(3) Severance tax imposed by Indian tribes.—For purposes of this subsection, the term 'severance tax' shall include any severance tax imposed by an Indian tribe, and such severance tax shall be treated in the same manner as a severance tax imposed by a State.

"(e) Special Rules for Post-1978 Transfers of Property.—In the case of a transfer after 1978 of any portion of a property, for purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), after such transfer—

"(1) crude oil produced from any portion of such property shall not constitute stripper oil, newly discovered oil, marginal oil, heavy oil, or high water-cut oil if such oil would not be so classified if the property had not been transferred, and

"(2) the allocation of the base production control level among portions of the property shall be made under regulations prescribed by the Secretary.

"(f) Exemption for Certain Interests Held by State or Local Governments.—

"(1) In general.—If—

"(A) an economic interest in crude oil is held by a State or political subdivision thereof, or by an educational institution or other entity which is an agency or instrumentality of a State or political subdivision thereof, and

"(B) under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to public education or another public purpose,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest. For purposes of this paragraph, the term 'net income' means gross income reduced by production costs, and severance taxes of general application, allocable to such interest.

"(2) Amounts placed in certain permanent funds treated as dedicated to public education or other public purpose.—The requirements of paragraph (1)(B) shall be treated as met with respect to any net income which, under the applicable State or local law, is placed in a permanent fund the earnings on which are dedicated to public education or other public purpose.

"(g) Exemption for Certain Interests Held by Indian Tribes.—If—

"(1) an economic interest in crude oil is held by an Indian tribe, an individual member of an Indian tribe, or a tribal organization and the crude oil is produced from lands or mineral interests which are—

"(A) held in trust by the United States for that tribe, member, or organization, or

"(B) held by that tribe, member, or organization and are subject to a restriction against alienation imposed by the United States, or

"(2) the proceeds from the sale of crude oil are deposited in the Treasury of the United States to the credit of tribal or native trust funds,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest or proceeds.

"(h) Exemption for Certain Interests Held by Certain Charitable Organizations.—If an economic interest in crude oil—

"(1) is held by an organization—

"(A) described in clause (ii), (iii), or (iv) of section 170(b)(1)(A) that is not described in clause (vii) or (viii) of such section, and

"(B) which—

"(i) held that interest on October 24, 1979, and at all times during the period beginning on that date and ending on the last date of the taxable period, or

"(ii) received that interest by bequest after October 24, 1979, or

"(2) is held by an organization described in clause (i) of section 170(b)(1)(A) for the benefit of an organization described in paragraph (1)(A) of this subsection, and if all proceeds from such interest were dedicated to an organization described in paragraph (1)(A) of this subsection, on October 24, 1979, and at all times during the period beginning on that date and ending on the last day of the taxable period.

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest.

"(i) Adjustment of Removal Price.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

"Sec. 4993. Phaseout of Tax.

"(a) Estimates by Secretary.—

"(1) In general.—Each month the Secretary shall make an estimate, on the basis of the best data available as of the time of the estimate, of the target fraction as of the last day of the succeeding month.

"(2) Publication.—Not later than the last day of the month in which the Secretary estimates that the target fraction for the succeeding month will equal 9/10 or more, the Secretary shall publish notice in the Federal Register that—

"(A) such target fraction will equal 9/10 or more for the succeeding month, and

"(B) the provisions of subsection (b) shall apply with respect to crude oil removed from the premises in any month after the target base month.

"(b) Phaseout Exemption.—

"(1) In general.—Notwithstanding any other provision of this chapter, no tax shall be imposed by section 4986 with respect to that portion of taxable crude oil removed from the premises in any month beginning after the target base month as is equal to the product of—

"(A) the total amount of taxable crude oil removed from the premises during such month (determined without regard to this section),

multiplied by

"(B) a percentage (not greater than 100) equal to the product of—

"(i) 3 percent, multiplied by

"(ii) the number of months (including the month for which the computation is being made) beginning after the target base month.

"(2) Allocation rules.—The determination of which barrels of crude oil removed during any month are exempt from tax by reason of this section shall be made—

"(A) first by allocating the amount of the oil determined to be exempt under paragraph (1) between oil which (but for this section) would be tier 1 oil, oil which (but for this section) would be tier 2 oil, and oil which (but for this section) would be tier 3 oil in proportion to the respective amounts of such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices beginning with the highest of such prices.

"(c) Definitions.—For purposes of this section—

"(1) Target fraction.—The term 'target fraction' means a fraction—

"(A) the numerator of which is the net amount of revenue attributable to the tax imposed under section 4986 (other than any revenue attributable to an economic interest in crude oil held by the Federal Government) during the period beginning on January 1, 1980, and ending on the last day of the month for which an estimate is being made under subsection (a)(1), and

"(B) the denominator of which is $141,200,000,000.

"(2) Target base month.—The term 'target base month' means the first month for which the Secretary estimates under subsection (a)(1) that the target fraction during such month, will equal 9/10 or more.

"Sec. 4994. Records and Information; Regulations.

"(a) Records and Information.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information with respect to such oil as the Secretary may by regulations prescribe.

"(b) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this chapter, including such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes.

"Sec. 4995. Cross References.

"(1) For additions to the tax and additional amount for failure to file tax return or to pay, see section 6651.

"(2) For additions to the tax and additional amounts for failure to file certain information returns, registration statements, etc., see section 6652.

"(3) For additions to the tax and additional amounts for fraud, see section 6653 (b).

"(4) For additions to the tax and additional amounts for failure to make deposit of taxes, see section 6656.

"(5) For additions to the tax and additional amounts for failure to collect and pay over tax, or attempt to evade or defeat tax, see section 6672.

"(6) For criminal penalties for attempt to evade or defeat tax, willful failure to collect or pay over tax, willful failure to file return, supply information, or pay tax, and for fraud and false statements, see sections 7201, 7202, 7203, and 7206.

"(7) For criminal penalties for failure to furnish certain information regarding windfall profit tax on domestic crude oil, see section 7241.".

(2) Clerical amendment.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Windfall profit tax on domestic crude oil.".

(b) Deductability of Windfall Profit Tax.—The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

"(5) The windfall profit tax imposed by section 4986.".

(c) Time for Filing Return of Windfall Profit Tax; Depository Requirements.—

(1) Time for filing return of windfall profit tax.—

(A) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

"Sec. 6076. Time for Filing Return of Windfall Profit Tax.

"(a) General Rule.—Each return of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4992(b)(7)) shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) Cross Reference.—

"For depositary requirements applicable to the tax imposed by section 4986, see section 6302(d)).".

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax.".

(2) Depository requirements.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Windfall Profit Tax.—The mode and time for collecting the tax imposed by section 4986 (relating to windfall profit tax) shall be established by the Secretary by regulations.".

(3) Technical amendments.—

(A) Subsection (a) of section 6656 (relating to penalty for failure to make deposit of taxes) is amended by inserting "or 6302(d)" immediately after "section 6302(c)".

(B) Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended—

(i) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(ii) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) Certain Information Required To Be Furnished.—

(1) General rule.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"Sec. 6050C. Information Furnished by Operator Regarding Windfall Profit Tax on Domestic Crude Oil.

"(a) Certifications Furnished by Operator.—Under regulations prescribed by the Secretary, the operator of the well from which crude oil subject to the tax imposed under section 4986 was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser, or, if the producer is required to pay the tax under section 4992(c)(5), to the producer—

"(1) the base price (within the meaning of section 4990) with respect to such crude oil,

"(2) whether any part of the production of such crude oil is exempt from the tax imposed under section 4986 by reason of section 4988(a) (1), (2), or (3), was from a property described in section 4991(d)(2)(C),

"(3) the type of property,

"(4) the base production control level for the property, and

"(5) such other information as the Secretary by regulation may require.

For purposes of section 6652(b) (relating to additions to tax for failure to file other returns), such certification shall be treated as a statement of a payment to another person.

"(b) Cross References.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willful failure to supply information required under this section, see section 7241.".

(2) Technical and conforming amendments.—

(A) Section 6652(b) is amended by striking out "or section 6051(d)" and inserting in lieu thereof the following: "section 6050C (relating to information regarding windfall profit tax on domestic crude oil), or section 6051(d)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information furnished by operator regarding windfall profit tax on domestic crude oil.".

(e) Criminal Penalty for Failure To Furnish Certain Information.—

(1) In general.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

"Sec. 7241. Willful Failure To Furnish Certain Information Regarding Windfall Profit Tax on Domestic Crude Oil.

"Any person who is required under section 6050C (or regulations thereunder) to furnish any information or certification to any other person and who willfully fails to furnish such information or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.".

(2) Clerical amendment.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil.".

(f) Deficiency Procedures.—Subchapter B of chapter 63 (relating to deficiency procedures in the case of income, estate, gift, and certain excise taxes) is amended—

(1) by striking out "and 44," each place it appears and inserting in lieu thereof "44, and 45,",

(2) by striking out "or 44," each place it appears and inserting in lieu thereof "44, or 45,", and

(3) by inserting "or of chapter 45 tax for the same taxable period," immediately before "except in the case of fraud".

(g) Extension of Statute of Limitations Where Property or Oil Is Reclassified.—

(1) Assessment.—Section 6501 (relating to limitations on assessment and collection) is amended by redesignating the second subsection (q) as (r) and by adding at the end of such section the following new subsection:

"(s) Extension for Chapter 45 Liability Attributable to Reclassification.—In the case of a return of the tax imposed under chapter 45 (relating to windfall profit tax on domestic crude oil), if the classification under the June 1979 energy regulations (as defined in section 4992(b)(8)(C)) of a property or of domestic crude oil from a property with respect to which a tax is imposed under chapter 45 is changed, then the tax may be assessed at any time before the date which is 1 year after the date on which such change became effective.".

(2) Refund.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rule for Chapter 45 Taxes.—In the case of any tax imposed by chapter 45 with respect to domestic crude oil, the period for filing a claim for credit or refund of any overpayment attributable to a reclassification of the oil or of the property from which the oil was produced with respect to which the tax was determined shall not expire before the date which is one year after the date on which such reclassification became effective.".

(h) Overpayments of Tax.—

(1) Overpayment of tax may be credited against income tax liability or treated as overpayment thereof.—Subsection (a) of section 6402 (relating to authority to make credits or refunds) is amended by adding at the end thereof the following: "For purposes of the preceding sentence, an overpayment of the tax imposed by chapter 45 may, under regulations prescribed by the Secretary, be credited against any liability in respect of a tax imposed by chapter 1 on the part of the person liable for the payment under section 4986(b), and the balance may be refunded to such person.".

(2) Interest on overpayments.—Section 6611 (relating to interest on overpayment) is amended by redesignating subsection (h) as (i), and by inserting after subsection (g) the following new subsection:

"(h) Windfall Profit Tax Refund Within 45 Days After Return Is Filed.—If any overpayment of tax imposed by chapter 45 is refunded within 45 days after the last date prescribed for filing the return of the tax imposed by chapter 1 for the taxable year with or within which the taxable period, with respect to which the overpayment was made, ends (determined without regard to any extension of time for filing the return) or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.".

(1) Tentative Refund Adjustment for Overpayment Attributable to Net Income Limitation.—

(1) In general.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6429. Overpayments of Windfall Profit Tax

"(a) General Rule.—A producer (as defined in section 4992(a)) who makes, or is treated under chapter 45 as making, an overpayment of the tax imposed by section 4986 for a taxable period, may file an application for a tentative refund of any amount attributable to the application of section 4989(b)(3), 4991(d)(2)(B)(ii), or 4992 (f), (g), or (h) and treated as an overpayment of the tax for the taxable year with or within which that taxable period ends. The application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

"(1) be verified in the same manner as an application under section 6411(a),

"(2) be filed during the period beginning on the earliest date on which the return may be filed for such taxable year and ending on the date 12 months from the last day of such year, and

"(3) shall set forth in such detail and with such supporting data as the Secretary may require—

"(A) the amount of the tax for such taxable period computed without regard to the application of section 4986(b)(3), 4991(d)(2)(B)(ii), or 4992 (f), (g), or (h),

"(B) the amount determined under such section for the taxable period,

"(C) the amount of the overpayment attributable to the application of such section, and

"(D) such other information as the Secretary may require.

"(b) Allowance of Adjustments.—Within a period of 90 days from the later of the date on which an application is filed under subsection (a), or the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year with or within which the taxable period, in which the overpayment occurs, ends, the Secretary shall—

"(1) review the application,

"(2) determine the amount of the overpayment, and

"(3) apply, credit, or refund such overpayment in a manner similar to the manner provided in section 6411(b).

"(c) Consolidated Returns.—Rules similar to the rules under section 6411(c) shall apply to an adjustment under this subsection to the extent and in the manner prescribed by the Secretary by regulation.

"(d) Application Not Treated as Claim for Credit or Refund.—An application under this section shall not be treated as a claim for a credit or refund.".

(2) Conforming amendment.—Subsection (c) of section 6405 (relating to tentative adjustments) is amended—

(A) by inserting "or 6429" immediately after "section 6411", and

(B) by striking out "In any such case," and inserting in lieu thereof "In the case of a credit or refund allowed or made under section 6411,".

(3) Clerical amendment.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6429. Overpayments of windfall profit tax.".

(j) Effective Date.—The amendments made by this section shall take effect on January 1, 1980.

Sec. 102. Provisions Relating to the Tax Court.

(a) Exclusive Jurisdiction Over Windfall Profit Tax Cases.—Section 7442 (relating to jurisdiction) is amended by adding at the end thereof the following new sentence: "Nothwithstanding section 1340 of title 28, United States Code, the Tax Court and its divisions shall have exclusive original jurisdiction of any civil action arising under chapter 45 (relating to windfall profit tax on domestic crude oil). In all proceedings in connection with such actions, the Tax Court shall have the same powers as a United States District Court would have in a civil action brought before it.".

(b) Number of Judges.—Subsection (a) of section 7443 (relating to membership) is amended by striking out "16" and inserting in lieu thereof "19".

Mr. ROBERT C. BYRD. Mr. President, in order to give the various Senators and their staffs ample time in which to work on the various aspects that have been discussed, I should like to see if it might be possible to take up the bill which was to have been taken up on Saturday. I hope it will be possible to take up the bill S. 1918, since we have a window in the day on tomorrow and, hopefully, dispose of that bill. It is under a time agreement. If I do that, it will be with the understanding that the Senate will not stay on that bill any longer than, probably, 1 o'clock. I assure the Senator that that will be done, because, before we go out today, I shall make the pending excess profits tax the unfinished business. That means that a call for the regular order will at any time bring down any other bill.

Mr. BRADLEY. May I ask the majority leader, what is the time agreement on the bill?

Mr. ROBERT C. BYRD. The time agreement on the bill is as follows: There will be debate limited to 3 hours on the bill and debate on any amendment would be limited to 30 minutes, except on an Armstrong amendment of 40 minutes.

The Senator can be assured that the bill I hope to bring up, if the managers on both sides are ready to work on it tomorrow, will not be an obstacle to progress on the excess profits tax bill. Because, as I say, the excess profits tax bill will be brought back up tomorrow at any time that the managers are ready to go and the problems have been worked out. We would have an understanding that whatever action remains on S. 1918 would go over until further time.

Mr. BRADLEY. I have no objection.

Mr. ROBERT C. BYRD. I thank the Senator.

Also, we are having some problems, I understand, in connection with budget waivers. I want to address this question to the distinguished Senator from Maine (Mr. Muskie.)

I understand there is a problem in connection with the budget waiver, a problem in relation to S. 1648, a bill to provide for improving the Nation's airport and airway system.

I had scheduled that bill for the first thing Saturday morning. What is the prospect for a budget waiver in time to take that up on Saturday morning?

Mr. MUSKIE. Let me advise the distinguished majority leader that there are some problems with respect to the budget waiver. I have discussed those with Senator Cannon and we are in the process, as I understand it, of trying to work out, if we can, a resolution of those problems.

In the meantime, two members of the Budget Committee have requested a Budget Committee meeting to discuss those problems and it does not seem likely we could hold that meeting before Monday.

Normally, we hold these whenever we can, as the majority leader knows.

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. Whenever a member requests meetings, we try to hold them.

It may be that the requested meeting may be aborted if we can resolve the problem. So I will know better tomorrow.

But, at the moment, I see no bright prospect that we could resolve the waiver problems before Saturday.

Mr. ROBERT C. BYRD. Very well.

I thank the Senator. It will help the leadership have a better understanding of what the prospects might be and, in turn, help the membership.

Mr. DOLE addressed the Chair.

Mr. ROBERT C. BYRD. I will yield to the Senator briefly. I just want to tie down the other bill, if I can, for action on tomorrow.

Mr. DOLE. Will the Senator yield me 1 minute to introduce an amendment on gasohol, and to indicate that the other cosponsor (Mr. Bayh) will be coming to the floor later to speak on the amendment.

Can I have 1 minute without the Senator losing his right to the floor?

Mr. ROBERT C. BYRD. Certainly. It is for printing and calling up at a later time.

Mr. DOLE. Just for printing.

Mr. ROBERT C. BYRD. Yes. I yield for that purpose.

AMENDMENT NO. 718

Mr. DOLE. Mr. President, I send to the desk for printing an amendment by the Senator from Kansas and Senators Bayh, Packwood, Talmadge, Exon, Percy, Church, McGovern, Stewart, Baucus, and Nelson.

Mr. President, there has been much effort put into finding a new approach to assisting the development of the gasohol industry, primarily by Senators Packwood and Bayh, and others.

Mr. President, in recent weeks, there has been considerable concern expressed about the gasohol provisions of the Finance Committee substitute. This concern has come from farm groups, from both large and small alcohol fuel manufacturers, from alcohol fuel dealers and from gasohol marketers—in short, from every segment of the rapidly growing gasohol industry. Generally, these groups strongly oppose the provisions of the bill that would repeal the current Federal excise tax exemption for gasohol as of January 1, 1980. Some concern was also expressed that the present Finance Committee bill does make it clear that the credit will be available to farmers who produce ethanol for unblended farm use or to those who use 100-percent alcohol for industrial engines or boiler fuel use.

There has also been considerable concern expressed by members of the Budget and Appropriation Committees about the refundable nature of the gasohol credit contained in the Finance Committee bill. On the other hand, it was recognized that there was considerable value in the flexibility provided by the tax credit contained in the Finance Committee substitute.

In a bipartisan effort, a number of Senators and their staffs have diligently attempted to develop a compromise proposal which addresses all of the concerns expressed.

I am pleased to have Senators Bayh, Packwood, Talmadge, Exon, Percy, Church, McGovern, Stewart, Baucus, and Nelson as cosponsors of this compromise proposal. I am hopeful that other Members will wish to join in this amendment. Essentially, the compromise proposal will do the following:

First. It will retain the current Federal excise tax exemption for gasohol and extend it through 2000.

Second. For alcohol fuel uses not eligible for the excise tax exemption, the proposal would provide a nonrefundable tax credit to the blender or user. The amount of this credit would be: 40 cents per gallon for alcohol fuel above 190 proof; 30 cents per gallon for alcohol fuel between 150 and 190 proof; and 10 cents per gallon for alcohol made from coal.

Third. The proposal would also provide that a person purchasing tax-paid gasoline that is used in the production of tax-exempt gasohol may receive a payment equivalent to the amount of excise tax paid.

Fourth. The proposal requires the Secretary of Treasury to make recommendations within 180 days of enactment as to what methods, if any, may be used to limit the importing of alcohol for fuel purposes.

Mr. President, I believe this amendment is a great improvement on the Finance Committee bill and I hope it will be speedily adopted as a part of the windfall bill.

Mr. President, I want to add, as a principal sponsor, Senator McClure also has been in the forefront of this bipartisan effort to develop the alcohol fuels industry.

Mr. President, I ask unanimous consent to have printed in the Record a summary-by-summary explanation of the bill.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Analysis of Amendment No. 718 Concerning Alcohol Fuels

PRESENT LAW

If motor fuel is a blend of gasoline, or other motor fuel, and alcohol and the fuel is at least 10 percent alcohol (other than alcohol derived from petroleum, natural gas, or coal), it is exempted from the Federal excise taxes on motor fuels on or after January 1, 1979, and before October 1, 1984.

FINANCE COMMITTEE ACTION

A refundable income tax credit is provided to the producer of 40 cents a gallon on domestically produced alcohol (other than alcohol produced from petroleum, natural gas, or coal) used or sold for use in motor fuels and 10 cents a gallon on alcohol made from coal and used or sold for use in motor fuels. An advance refund is' available once during each of the first 3 quarters of the taxpayer's taxable year if the amount payable is at least $1,000.

The current Federal excise tax exemption for alcohol fuels is repealed as of January 1, 1980.

PROPOSAL

The proposal would extend the current excise tax exemption for fuels which are at least 10 percent alcohol until January 1, 2000 (and make certain technical amendments). In all other cases where alcohol is used as a fuel (either blended or straight) of a type suitable for use in an internal combustion engine, a credit would be provided to the blender or user. It would be 40 cents per gallon for most alcohol of at least 190 proof, 30 cents per gallon for alcohol between 150 and 190 proof, and 10 cents per gallon for alcohol made from coal. The credit would be nonrefundable and no advance payment would be provided. The credit allowed for the prior taxable year would be includable in income. The credit will became effective on Oct. 1, 1980. (A similar provision is in the committee substitute.)

The credit and the excise tax exemption would be available for fuels containing imported alcohol.

If a person purchases tax-paid gasoline which is used in the production of tax-exempt gasohol, the person may obtain a refundable income tax credit or a payment (if the amount is $200 or more during any of the first 3 quarters of the taxable year) of the taxes paid on such gasoline. (This is identical with the provisions of S. 1746, as introduced by Senator Bayh, except for the expiration date.)

The proposal requires the Secretary of the Treasury to make recommendations within a 180 days of enactment as to what methods, if any, may be used to limit the importation of alcohol for fuel purposes. (The proposal contains the same amendments to the distilled spirits provisions as are contained in the committee substitute.)

REVENUE EFFECT

When compared with existing law, this proposal results in a revenue loss of $2 million in calendar year 1980 and $1,816 million in the period 1980–1990. There would not be any revenue effect for fiscal year 1980.

When compared with the provisions of the committee substitute, the proposal results in a revenue loss of $22 million in calendar year 1980 and a revenue loss of $105 million for the period 1980–1990.

Mr. DOLE. Mr. President, we believe we have now worked out many problems with the Finance Committee bill that were brought to the attention of the National Alcohol Fuels Commission, of which the Senator from Indiana (Mr. Bayh) is chairman, and the Senator from Kansas is a member.

We have had hearings across the country, recently in the State of Kansas. At that hearing, some farmers expressed concern about the tax credit in the Finance Committee bill. I think, we now have found a proposal with more flexibility that should answer the concerns of nearly everyone involved.

● Mr. PERCY. Mr. President, I commend Senator Dole for introducing this important amendment that extends the existing excise tax exemption for gasohol. It also includes a blender or user credit for all other alcohol used in fuels. And I am pleased to speak in support of this amendment.

It has been just over 2 years ago when Senator Dole and I introduced the 4-cent Federal excise tax exemption amendment that is now law. Its purpose was to provide a much-needed catalyst to get the alcohol production industry underway by making the price competitive at the pump to increase consumer demand for gasohol. After a year of implementation, the excise tax exemption has proven to be useful in encouraging more people to produce alcohol, and it has raised the American public's consciousness level to accept gasohol as a motor fuel.

The largest production plant in the country is in my home State. Recently this producer doubled its own production of alcohol from 50,000 gallons a day to 100,000 gallons a day, and they hope to increase it to 150,000 gallons a day by the end of this year. This plant, in particular, has the capacity to produce 400,000 gallons a day, but is increasing production slowly to make sure that the demand is there to justify the investment.

The best and most logical way for the Federal Government to help out is to provide a stable tax policy that they can count on—not one that changes from year to year. This will also keep the price competitive with conventional fuels.

That is why this amendment is so important. Not only must we put it back in, but we must also extend it. With our growing dependence on foreign oil, we must improve upon existing measures which give us a viable alternative. This amendment does just that.●

Mr. BAYH. Mr. President, I am pleased to join with Senator Dole today, along with Senators Exon, Packwood, Talmadge, Church, McGovern, Stewart, Percy, Baucus, Nelson, McClure, and Morgan in introducing this amendment to H.R. 3919, the Crude Oil Windfall Profits Tax Act. Our amendment is a substitute for the language on gasohol originally adopted by the Finance Committee during markup on H.R. 3919. As drafted by the committee, the gasohol provisions in H.R. 3919 would have ended the existing excise tax exemption for gasohol at the end of this year and substituted in its place a 40-cent refundable tax credit to producers. In subsequent discussions with Finance Committee members, as well as those involved in alcohol production and sales, many of us with an interest in gasohol felt that the substitute we are now offering would be an improvement over the language originally incorporated into H.R. 3919. I am very glad we have arrived at this compromise, which I believe will continue to stimulate alcohol production and distribution, and I urge my colleagues to support it when it is brought up for consideration.

EXTENSION OF THE EXCISE TAX EXEMPTION

The first part of this amendment, Mr. President, is an extension to the year 2000 of the excise tax exemption for gasohol that was originally enacted in the

1978 energy tax bill. This exemption was designed to last for 5 years, until the end of 1984. However, since the passage of this legislation, we have become aware of the fact that the limited duration of the exemption created uncertainty among private sector investors who were considering capital investments in alcohol fuel production facilities. Lending institutions were also hesitant to provide long-term financing that would outlive the duration of the Federal tax benefit. The retention of the exemption, and extension through 2000, is responsive to the need for an assured long term Federal tax policy on gasohol and assures that this incentive will be passed along to consumers. As I wrote to Senator Long, on October 22, after the Finance Committee had adopted the production credit, there was widespread concern, which I shared, that the 40-cent producer credit would not necessarily be reflected in retail prices. I am very gratified that we have all been able to reach agreement to retain the excise tax exemption, which has, I believe, been responsible for the momentum we have achieved toward the establishment of a nationwide gasohol sales network. Extension of the exemption to the year 2000 should also remove the uncertainty currently facing investors and lending institutions with respect to financing alcohol facilities and provide an added boost to alcohol production.

ALCOHOL PRODUCTION CREDIT

In addition to extending the excise tax exemption, our amendment would extend a 40-cent production credit to alcohol producers manufacturing alcohol for end uses which cannot benefit from the excise tax exemption. What we have in mind here, Mr. President, is a credit comparable to the 4-cent excise tax exemption for gasohol, a 90–10 motor fuel, for alcohol fuels which are not eligible for the exemption. In particular, we have in mind farmers producing alcohol for on-farm uses, or manufacturers producing methanol from wood, or municipal waste, which will not be used in motor fuels—but may be used for other end uses, such as utility peaking units or boilers, which are not affected by the excise tax exemption. Thus, while the excise tax exemption would still obtain for all those eligible for it, our amendment would make a comparable tax benefit available for alcohol fuels not covered by the excise tax exemption.

I have long felt that alcohol is a versatile fuel, which can substitute for crude oil products in a number of settings. This 40-cent credit should stimulate diverse uses of alcohol, thus increasing its potential for cutting back on petroleum consumption.

In addition, this credit would be available for alcohol that is produced to be blended into gasoline in proportions other than a 90–10 blend, the only product which is now eligible for the excise tax exemption. This would cover the situation, for example, where a refiner wanted to use alcohol primarily as an octane booster. In this situation, it is not necessary to blend in 10 percent alcohol to achieve the desired effect. Using alcohol as an octane booster not only displaces a small amount of gasoline, but also cuts down on refiners use of crude oil to boost the octane level of unleaded gasoline, an increasingly troublesome problem for refiners. By permitting the 40-cent-per-gallon credit for alcohol/gasoline blends of less than 90–10, we will be encouraging the use of alcohol as an octane booster—a procedure which makes absolutely good sense.

In sum, Mr. President, by combining the excise tax exemption with a 40-cent credit for those not eligible for the former credit, we will be stimulating the use of alcohol, instead of petroleum, for nonmotor fuel uses without endangering the progress we have made through the existence of the excise tax exemption, a tax benefit that automatically gets passed along to consumers under our gasoline pricing regulations.

REGULATORY SIMPLIFICATION

The need for regulatory simplification is pressing, Mr. President, and provisions of S. 1200 incorporated by the Finance Committee into H.R. 3919, are also included in this amendment. These provisions directly address barriers to production and distribution of alcohol fuels caused by Federal redtape and paperwork. These provisions respond to a demonstrated need; they are supported by the administration as well as the Finance Committee; and deserve the support of the full Senate and House.

Existing Bureau of Alcohol, Tobacco, and Firearms regulations were designed to apply to alcohol produced for use as a beverage or industrial feedstock, and not as a fuel. They are not designed to meet the needs of farmers interested in on-farm production of alcohol, or joint community or cooperative efforts to build small stills to meet local market demand, and they do not take into consideration the unique characteristics of the infant alcohol fuels industry. Unfortunately, the complexity of existing regulations has too often produced frustrating, irritating and time-consuming delays for those wanting to get started in the field, or placed heavy regulatory burdens on potential producers.

The language included in our amendment embodies the text of S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979, which I introduced along with 20 of my colleagues earlier this year. To make gasohol production and use a widespread reality, the amendment will permit the Secretary of the Treasury to waive some regulations and simplify others, which are unnecessary when alcohol is being produced for use as an energy source.

This legislation was mandated by provisions in the 1978 Energy Tax Act which required the Bureau of Alcohol, Tobacco and Firearms to send legislation to Congress recommending changes in current BATF regulations on alcohol to be used for energy purposes. As drafted by the Treasury Department, the new regulations would divide producers into three categories—small, medium and large producers—with regulations varying according to the size of the facility. Regulatory requirements would be further adjusted depending on the ability of the producers to comply and the risk of revenue loss to the Government. For example, under the regulations drafted by the Department, small producers would no longer be required to post a bond, a requirement which has proven to be an obstacle to many individuals seeking to produce small quantities of alcohol for use as a fuel.

This provision will be particularly valuable for farmers desiring to produce alcohol on their own farms to meet their own energy needs. The Treasury Department is currently issuing permits, under temporary and experimental authority, for such purposes. The number of applications for small scale production has increased dramatically, and presents further evidence of the growing interest in the country for gasohol and alcohol fuels generally. I shall ask unanimous consent that the proposed Treasury Department regulations and related materials pursuant to S. 1200 be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

REFUND MECHANISM FOR EXCISE TAXES PAID

Mr. BAYH. Mr. President, our amendment also includes the tax refund provisions of S. 1746, legislation I introduced earlier this year to permit gasohol distributors who purchase tax paid gasoline to receive excise tax refunds due them by the Treasury Department under the exemption but denied them because of a lack of authority on the part of the Department to make such refunds. Our amendment would permit the marketers to receive a refund for the total amount of the Federal excise tax paid to their supplier for gasoline that is eventually used to make gasohol.

This is clearly the intent of the Congress, and is being stymied by an unanticipated lack of authority on the part of Treasury. In this case, we would merely be returning to the marketer taxes already paid, but meant to be exempt under the excise tax exemption. Without this provision, many small independent businessmen will be unable to market gasohol. Jobbers and service station dealers are essential parts of the gasohol network. Without addressing this obvious and unintended inequity, we will deny them the ability to market gasohol and inevitably cut back on the amount of gasohol sold. I submit for the information of my colleagues a letter I have received from the National Oil Jobbers Council in support of these provisions. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

National Oil Jobbers Council,
Washington, D.C., November 29, 1979.

Hon. Birch Bayh,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Bayh: On behalf of the National Oil Jobbers Council, I wish to offer NOJC's support for the compromise gasohol amendment to be offered to H.R. 3919, the Windfall Profits Tax bill. This amendment combines the best of both the Packwood 40 cent tax credit for alcohol production and your amendment extending the 4 cent federal excise tax exemption for gasohol.

The most critical aspect of this amendment for the independent small business petroleum marketers represented by NOJC, is the refund procedure for those marketers who buy gasoline tax paid from their supplier. The compromise amendment would allow those marketers to receive a refund for the total amount of Federal excise tax paid to their supplier for gasoline that is eventually used to make gasohol. The Treasury would merely be returning to the marketer taxes already paid. Without this provision many small independent businessmen will be unable to market gasohol.

The National Oil Jobbers Council sincerely appreciates your efforts and those of your staff on this issue. We stand ready to assist in final adoption of this compromise amendment in whatever fashion most appropriate.

Respectfully,

PHILLIP R. CHISHOLM,
Director of Legislative Affairs.

ALCOHOL IMPORTS

Mr. BAYH. Mr. President, we have additionally included language in this amendment to clearly state that it is not the intent of the Congress to subsidize imported alcohol—a policy which would be directly opposed to our efforts to stimulate a domestic alcohol fuels industry. The Finance Committee's original language limited the tax incentives to domestic alcohol. Upon further consideration of this issue, it was determined that such a prohibition coexisting with a retail level tax benefit would run afoul of our trade agreements.

Alcohol for use as a fuel is not now being imported into this country. However, several large distillers and marketers have indicated an interest in doing so, and under current law, and our amendment, they would be able to benefit from the tax incentives our amendment provides. In order to deal with this problem, we have included language in this amendment requiring the Treasury Department to monitor this situation closely and send a recommendation to the Hill, within 6 months, as to how we can continue with our tax incentive for alcohol, produced from domestic feedstocks, but deny subsidies to imported alcohol. When we receive that recommendation, I hope the Senate would take speedy action to prohibit subsidies to imported alcohol.

ALCOHOL FROM COAL

Mr. President, this amendment also extends a 10-cent tax credit to alcohol produced from coal, of which we have abundant reserves in this country. Current economics of ethanol and methanol production indicate that while tne 40-cent-per-gallon credit is an appropriate amount for alcohol from renewable resources, a 10-cent credit is sufficient for alcohol from coal. I have long favored development of both types of alcohol, as well as much more aggressive use of our coal resources than we have done to date, and am pleased with our action in this regard.

DENATURANTS

Finally, Mr. President, our amendment clarifies an unfortunate situation which has developed with respect to the use of denaturants for gasohol. The Bureau of Alcohol, Tobacco, and Firearms has proposed regulations that would permit gasoline to be used as a denaturant for alcohol. This is not permitted under current law. By removing this obstacle, BATF will be able to implement their proposed regulations. Estimates are that this small change could reduce the cost of alcohol by about 4 cents per gallon. The Department fully supports our efforts in this area, and alcohol producers have indicated that this minor change will be an enormous boost to the industry because it would reduce alcohol costs by 4 cents a gallon. Again, I am extremely pleased that we were able to deal with this small but important problem in this amendment.

In closing, Mr. President, I want to reiterate my strong satisfaction with the compromise we have worked out on this amendment. It has been a pleasure to work on this with Senator DOLE, Senator EXON, and other cosponsors. I think we have developed a proposal that is exactly on target with respect to our desire for a burgeoning alcohol fuels industry. I urge my other colleagues to support this amendment when its is offered later on in the debate on H.R. 3919 and will fight to retain it in conference with the House.

EXHIBIT 1

The proposed bill would amend the Internal Revenue Code of 1954 to vest in the Secretary the authority to simolify pursuant to regulation the present statutory controls applicable to distilled spirits plants established solely for producing distilled spirits exclusively for fuel use.

Over the past year or so considerable interest has been expressed by persons to produce and use distilled spirits for fuel. The concept of using distilled spirits and blends containing distilled spirits and gasolne as motor fuel has been periodically discussed since World War I. Anticipating that existing production of petroleum and gasoline will not remain static, experts have constantly sought alternate energy sources. Successful experiments have been made with distilled spirits blended with gasoline as a motor fuel. A notable recent example is the Nebraska Gasohol Program, sponsored by the Agricultural Products Industrial Utilization Committee of the State of Nebraska. The "gasohol" tested in the Nebraska program is favorable. Others are also testing the expanded use of gasohol and the Treasury Department has received numerous requests concerning the possible establishment of plants of varying sizes.

The Internal Revenue Code of 1954 (chapter 51) establishes a detailed regulatory scheme for distilled spirits plants and persons involved in production of distilled spirits whether those spirits are intended for beverage or industrial use. The current regulatory scheme requires persons to follow qualification procedures, including registrations of distilled spirits plants, obtaining a permit for operation, and filing an operational bond and documents concerning construction and operation of the distilled spirits plants. In addition, the scheme provides for production of distilled spirits in a closed distilling system which requires on-premises supervision, by a Government officer. Presently, distilled spirits can be withdrawn free of distilled spiriis excise tax ($10.50 per proof gallon) if it is first denatured by adding certain substances to render it unfit for beverage purposes.

The requirement in existing law that denaturing occur before the distilled spirits are removed from the bonded premises is intended to guard against the diversion of non-taxed paid distilled spirits to beverage use. The primary objective of the proposed bill is to simplify pursuant to regulation the present statutory controls applicable to distilled spirits plants establishing solely for producing distilled spirits exclusively for fuel use, while maintaining adequate safeguards to protect the revenue.

New section 5181 will vest authority in the Secretary to prescribe regulations for the establishment of distilled spirits plants solely for producing, processing, storing, using, and distributing distilled spirits exclusively for fuel use. The Secretary will have the authority to waive by regulation any provision of chapter 51 to facilitate the establishment and operation of such distilled spirits plants. For example, subsection (b) would authorize the Secretary to minimize the present qualification requirements for such distilled spirits plants and reduce the amount of bond requirements otherwise applicable to such an operation. However, the Secretary will not have authority to waive the payment of any tax provided for by chapter 51. Attached is the Treasury Department's proposed administrative action plan which sets forth the regulation envisioned over distilled spirits plants established under the provisions of this bill.

Subsection (c) will permit distilled spirits produced exclusively for fuel use to be withdrawn free of tax pursuant to new section 5214(a)(11). Subsection (d) prohibits the withdrawal, use, sale, or disposition of distilled spirits produced under the new section 5181 for other than fuel use. Additionally, for the protection of the revenue, subsection (d) requires that such spirits be rendered unfit for beverage use by addition of substances which will not impair the quality of the spirits for fuel use under such regulations as the Secretary shall prescribe prior to withdrawal from the bonded premises of a distilled spirits plant. Distilled spirits which are improperly withdrawn, used, sold, or disposed of will be subject to all provisions of law relating to taxable distilled spirits including those provisions imposing taxes and criminal penalties.

Subsection (e) defines the term "distilled spirits" for purposes of section 5181 as not to include distilled spirits produced from petroleum, natural gas, or coal. Section 221 of the Energy Tax Act of 1978 establishes an exemption in sections 4041(k) and 4081(c) of the Internal Revenue Code from the Federal motor fuels excise tax for fuels mixed with "alcohol" which is defined as not including alcohol produced from petroleum, natural gas, or coal. Additionally, section 221 of the Energy Tax Act of 1978 requires the Treasury Department to recommend legislation to simplify the regulation of persons producing ethanol for use in producing gasoline or liquid fuel as described in section 4081(c). Thus, the definition of "distilled spirits" in subsection (e) of section 5181 corresponds with the definition of "alcohol" in section 4081(c).

Section 2 of the proposed bill amends section 5601(a) by adding a new paragraph (15) to provide criminal penalties for any person who withdraws, uses, sells, or otherwise disposes of distilled spirits except as authorized under section 5181. Section 3 adds a section 5214(a)(11) to authorize the withdrawal fee of tax of distilled spirits produced under section 5181. Because of the nature of the withdrawal, free of tax, conforming amendments of a technical nature in sections 4 and 5 are required to section 5004(a)(2)(B) relating to termination of statutory liens on spirits withdrawn free of tax and section 5005(d) relating to relief from tax liability when spirits are withdrawn free of tax.

In addition, section 5025, relating to exemption from rectification tax, would be amended by adding a new subsection (m) to make it clear that processing of distilled spirits for fuel use under section 5181 would not constitute rectification and thus be taxable.

Across reference to new section 5025(m) is added to section 5083, which lists exemptions from taxes under sections 5021 and 5081.

The attached package is the proposed administrative action plan setting forth the regulations envisioned for distilled spirits plants established under the provisions of this bill. Following the passage of this legislation this plan will be published in the form of proposed regulations. Comments from the Congress and the public as to possible improvements on this plan will be sought.

Basically, the plan defines the three categories of producers the Department anticipates will produce alcohol for fuel. Then, the general requirements for all producers are broadly outlined. The plan proceeds to delineate the specified requirements for each type of producer concerning the application for a distilled spirits plant permit and the bonding, security, and auditing requirements. The plan also explains the requirement to denature the alcohol and identifies some approved denaturing methods. On addition, the ATF inspection and oversight is described.

It is the Department's intention to have the regulatory package sufficiently developed to initiate the rulemaking process as soon as Congress approves the waiver authority. The Department estimates it will require an additional four to six months to finalize and implement the action plan.

Administrative Action Plan

CONTROL ON ALCOHOL FOR FUEL PLANTS

In the future, we anticipate that a diversity of individuals and organizations will apply to the Bureau of Alcohol, Tobacco and Firearms (ATF) for a permit to establish a plant for the production of alcohol to be used as a fuel. Some producers of this alcohol will use it to produce gasohol—a mixture of alcohol and gasoline—that can be used as a fuel. ATF desires to facilitate the production of fuel alcohol, while at the same time, to minimize resource costs for the individual and the Government and to sustain ATF's statutory responsibilities and obligations.

We envision three potential categories or sizes of gasohol producers. They are:

Small producers (producing less than 5,000 (100 proof) gallons of alcohol per annum),

Medium producers (producing less than 100,000 (100 proof) gallons of alcohol per annum), and

Large producers (producing over 100,000 (100 proof) gallons per annum).

While specific ATF controls will vary at each production level, all gasohol production plants will be expected to:

File an application to obtain a permit to operate an alcohol production plant.

(Except for the small producers) file a surety bond to cover any tax liability on the alcohol produced.

Destroy the beverage character of the alcohol by adding gasoline, kerosene or other approved chemicals.

Maintain security to prevent the diversion of the alcohol for purposes other than fuel and

Maintain auditable records regarding production and disposition of the alcohol.

Outlined below are the specific controls for each level of production that ATF will apply.

APPLICATION FOR PERMIT

Small Producer: This applicant will be required to fill out a form (see Attachment A) identifying the owner(s) and operator(s) of the plant, the location of the plant, the production process used, and the environmental impact of the process.

Medium Producer: This applicant will submit the same application form as a small producer.

"(a) Purposes

* * * * *

"(10 without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distillery operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue [.]; or

"[11] free of tax in the case of distilled spirits produced under section 5181."

* * * * *

"§ 5601. Criminal penalties

"(a) Offenses

* * * * *

"(14) Distilling after notice of suspension After the time fixed in the notice given under section 5221(a) to suspend operations as a distiller, carries on the business of a distiller on the premises covered by the notice of suspension, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises; or

"(15) Unauthorized withdrawal, use, sale, or distribution of distilled spirits for fuel use.

"Withdraws, uses, sells or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;"

Mr. EXON. Mr. President, the Senator from Kansas (Mr. Dole) has submitted an amendment that he intends to add to the measure before the Senate (H.R. 3919), to extend the excise tax exemption for gasohol production.

Mr. President, I am pleased to join in this bipartisan effort to maintain and extend the current Federal excise tax exemption for gasohol to the year 2000. In addition, our amendment provides for a nonrefundable income tax credit for uses of alcohol fuels which cannot benefit from the excise tax exemption, particularly to encourage on-farm use of alcohol fuels. Furthermore, our amendment would mandate a study and strict monitoring of alcohol imports to prevent the development of a dependence on foreign sources for this important alternative energy resource.

One of the components of the National Energy Act passed in 1978, was the Energy Tax Act. This measure contained a major provision for alcohol fuels, the motor fuel excise tax exemption which exempts gasoline containing at least 10 percent ethanol or methanol alcohol from the motor fuel excise tax of 4 cents per gallon. This provision expires on October 1, 1984.

Mr. President, an extension of the gasohol exemption to the year 2000, would significantly increase the incentive for production of this energy source by maintaining gasohol's price competitiveness and providing the continued demand for the product which investors using long-term financing mechanisms need.

The current 4-cent-per-gallon excise tax exemption has proven to be an effective marketplace incentive. Since enactment of the measure just last year, gasohol sales have risen rapidly. According to the DOE, in 1 year, the number of retail outlets marketing gasohol has increased from a few stations to nearly 1,000 in 28 States across the Nation. Under the current incentives, gasohol is sold at a price equal to or less than premium unleaded gasoline with an octane rating between regular and premium unleaded gasoline. A lower selling price of gasohol, due to the Federal and State excise tax exemptions, is a significant factor in contributing to increasing demand for gasohol. Since marketers have only the 4-cent excise tax exemption as an incentive, it is imperative that we insure the maintenance of that incentive in view of the successes we are beginning to realize. This amendment provides a clear and consistent message to the industry and financial institutions regarding future alcohol fuels development.

Mr. President, concerns have rightly been raised about the dangers of developing a reliance on foreign sources of alcohol. If we have learned anything from our energy problems it is that we must concentrate on eliminating foreign dependence on any energy source.

Warnings to the American alcohol fuels industry will hopefully deter this course of action. A check of our trade status indicates that very little ethanol is now being exported to the United States, although there have been reports of possible plans to import alcohol by some American companies. Any possible problems in this area would depend on the development of alcohol trade flows over the next several years.

Our amendment provides for the study and monitoring of future imports of alcohol. Should a serious problem arise, the Congress and the President can then take appropriate action consistent with our trade agreements, particularly under the General Agreement on Tariffs and Trade, which obligates us to avoid domestic tax policies which would adversely affect normal competition between domestic industries and foreign exports.

Finally, Mr. President, I wish to commend Senators Bayh, McGovern, Church, and Stewart who had initially recognized with me, the problems which the proposed elimination of the 4-cent excise tax exemption would bring to bear on the developing alcohol fuels industry. We expressed our concerns to the White House in a letter to Stuart Eizenstat, and I ask unanimous consent that our letter be printed in the Record.

There being objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 16, 1979.

Mr. Stuart Eizenstat,
Assistant to the President for Domestic Affairs and Policy, The White House, Washington, D.C.

Dear Stu: We are writing to clarify the Administration's position on tax provisions included in HR 3919, the Crude Oil Windfall Profits Tax Act of 1979, currently being considered by the Senate. As you probably know, the Senate Finance Committee included provisions in HR 3919 which repeal the existing excise tax exemption for gasohol and substitute, in its place, a 40c per gallon refundable tax credit limited to domestic alcohol. This credit is to be made available to producers on a sliding scale, with the incentive varying in direct proportion to the actual amount of alcohol blended with gasoline. The benefit will apply from January 1, 1980 to January 1, 2000.

All of us are strong proponents of aggressive development of a domestic alcohol fuels industry. Alcohol produced from America's abundant renewable resources is one of our nation's few possibilities for supplementing our domestic liquid fuel supplies in the near-term. We write because of our concern that the provision in HR 3919 may adversely affect the progress we have made over the last year as a result of the market incentive that has been provided by the excise tax exemption.

Last June the Department of Energy, in its Report of the Alcohol Fuels Policy Review, recommended, as its major initiative, permanently extending the excise tax exemption for gasohol. In addition, it recommended limiting federal incentives to domestic alcohol. Subsequently, the President also endorsed the extension, by including it in his energy message to the Congress.

The Finance Committee supports its gasohol tax provisions by reference to several arguments:

1. By applying the credit to the producer level, it is possible to exclude extending the credit to imported gasohol.

2. The producer tax credit would extend the incentive to several gasoline and diesel users who are currently exempt from the 4c federal tax.

3. The sliding scale credit would provide incentives to those who would blend alcohol in amounts greater than or less than 10 percent.

We agree that each of these arguments has merit. On the other hand, we are concerned about the following:

1. The credit would be available only to those firms actually producing alcohol, rather than those buying alcohol for blending in order to make gasohol for retail sales. By giving the credit to producers, there is no assurance that the benefit of this tax incentive will be directly passed along to those at the retail level. If it is not, we are concerned that much of the recent stimulus to gasohol sales, attributable to the incentive provided by the excise tax exemption, may come to a halt.

2. Under the Clean Air Act, only gasohol blended in a 90/10 ratio has been provided with a waiver under section 211(f), which prohibits new additives to gasoline without agency approval.

3. There is considerable confusion, and some apprehension, among alcohol producers and distributors about the changes in the law. Most people we have heard from who will be affected by this tax prefer to stay with the existing system, but extend it permanently to provide certainty to the tax benefit in order to get financing.

4. Gasohol is now standardized as a well known product of 90 percent gasoline and 10 percent alcohol. Introducing the sliding scale would result in various products at the pump, possibly adding confusion to marketing efforts and reversing industry interest in alcohol fuels.

5. The auto makers have warranted their cars for a 90/10 gasohol blend. It is unclear how they would respond to the uncertainty of alcohol/gasoline blends of varying concentrations.

We would like very much to cooperate with the Administration in addressing these concerns. As you know, we are operating under some serious time constraints. H.R. 3919 is currently pending before the Senate. Should cloture be invoked on this bill, we will not be able to introduce any new amendments to H.R. 3919 under the Senate rules. Therefore, we seek your earliest possible response. It could be that extension of the exemption, coupled with extension of a 40¢ refundable tax credit to tax exempt users might be a good compromise. However, this would have to be coupled with some means of assuring that these tax dollars are not used to subsidize imports at the expense of encouraging production of domestic alcohol from domestic feedstocks.

Our understanding is that no imported alcohol is currently benefitting from the existing excise tax exemption. We want to assure that this continues to be the case. Therefore, if in fact it is a violation of our trade agreements to restrict a retail tax benefit to domestic alcohol alone, it might be appropriate to couple the excise tax exemption with strict federal surveillance of alcohol imports and ask the Treasury Department to make recommendations to the Congress about how this conflict might be resolved.

We appreciate your consideration of this matter and look forward to working with you on this.

Best regards,

Sincerely,

BIRCH BAYH,
J. JAMES EXON,
FRANK CHURCH,
GEORGE S. MCGOVERN,
DONALD W. STEWART,
U.S. Senators.

Mr. EXON. I thank Senators TALMADGE, BAUCUS, NELSON, DOLE, PERCY and PACKWOOD, for their efforts to promote the alcohol fuels industry and their cooperation in arriving at this properly balanced proposal which all of us can view with pride.

Mr. President, I urge adoption of this amendment in the interests of maintaining a sure and proven mechanism for insuring the development of alcohol fuels, and also as another step forward by this distinguished body toward reducing our dependence on foreign energy sources.

Mr. DOLE. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Kansas for his courtesy, as always.

ORDER CONCERNING NEXT ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the next adjournment of the Senate, that no resolutions may come over under the rule at the close of morning business and that no actions may occur under rule XIV.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and I do this for the purpose only of making the excess profit tax the unfinished business—that the Senate stand in adjournment for 1 second.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, at 4:48:43 p.m. on Thursday, November 29, 1979, the Senate adjourned until 4:48:44 p.m., the same day.

AFTER ADJOURNMENT

NOVEMBER 29, 1979

The Senate met at 4:48:44 p.m., pursuant to adjournment, and was called to order by Honorable ROBERT MORGAN, a Senator from the State of North Carolina.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 1 minute for routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3354) to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1489. An act for the relief of In Sun Pineiro;

H.R. 2313. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes; and

H.J. Res. 448. Joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week."

ENROLLED BILLS SIGNED

At 4:10 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 132. An act for the relief of Dirk Vierkant;

S. 151. An act for the relief of Jerry W. Manandic and Ceferino W. Manandic;

S. 170. An act for the relief of Janet Abraham, also known as Janet Susan Abraham;

S. 1686. An act to designate the building known as the Federal Building in Wilmington, Delaware, as the "J. Caleb Boggs Building";

S. 1871. An act to amend the Energy Policy and Conservation Act to extend certain authorizations relating to the international energy program, and for other purposes;

H.R. 3354. An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes; and

H.R. 4483. An act for the relief of Jung-Sook Nun.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 5:16 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has agreed to the concurrent resolution (S. Con. Res. 55) directing the Secretary of the Senate to make corrections in the enrollment of S. 1871, without amendment.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 497) to extend the authorizations of appropriations relating to emergency medical services systems under title XII and section 789 of the Public Health Service Act; to increase the authorizations of appropriations for sudden infant death syndrome counseling and information projects and revise and improve authorities under title XI, part B, of such act; and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendments of the House to the bill (S. 1871) to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes.

The message further announced that the House recedes from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, and 7 to the bill (H.R. 2676) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes, and concurs therein; and that the House recedes from its disagreement to the amendment of the Senate numbered 1 to the bill, and concurs therein with an amendment in which it requests the concurrence of the Senate.

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were read twice by their titles and referred as indicated:

H.R. 1489. An act for the relief of In Sun Pineiro; to the Committee on the Judiciary.

H.J. Res. 448. Joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week"; to the Committee on the Judiciary.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read by title and placed on the calendar:

H.R. 2313. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 29, 1979, he presented to the President of the United States the following enrolled bills:

S. 132. An act for the relief of Dirk Vierkant;

S. 151. An act for the relief of Jerry W. Manandic and Ceferino W. Manandic;

S. 170. An act for the relief of Janet Abraham, also known as Janet Susan Abraham;

S. 1157. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes;

S. 1686. An act to designate the building known as the Federal Building in Wilmington, Delaware, as the "J. Caleb Boggs Building"; and

S. 1871. An act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2548. A communication from the Administrator of the Veterans Administration, transmitting, pursuant to law, notice of an obligation in excess of the approved apportionment of an appropriation for the Veterans Administration; to the Committee on Appropriations.

EC-2549. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Amtrak's Inventory And Property Controls Need Strengthening"; to the Committee on Commerce, Science, and Transportation.

EC—2550. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on State Medicaid program compliance with Section 10903(g) of the Social Security Act; to the Committee on Finance.

EC-2551. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improved Grievance-Arbitration System: A Key To Better Labor Relations In The Postal Service"; to the Committee on Governmental Affairs.

EC-2552. A communication from the Director of the United States Office of Personnel Management, transmitting, pursuant to law, a report on the exclusions from the Senior Executive Service of certain employees of the National Security Council under Section 3132(f) of title 5, United States Code; to the Committee on Governmental Affairs.

EC-2553. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal R&D Laboratories—Directors' Perspectives On Management"; to the Committee on Governmental Affairs.

EC-2554. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on an assessment of the National Area Health Education Center Program; to the Committee on Labor and Human Resources.

EC-2555. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual report on costs and financing of health care, distribution of health care resources, utilization of health resources, and the health of the Nation's people for 1979; to the Committee on Labor and Human Resources.

EC-2556. A communication from the Chairman of the National Advisory Council on Extension and Continuing Education, transmitting, pursuant to law, a special report on the continuing emergence of adults, or nontraditional learners, as major consumers of postsecondary resources in the United States; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-494. A resolution adopted by the Board of Freeholders, County of Essex, New Jersey, commending Senator Harrison A. Williams, Jr.; which was ordered to lie on the table.

POM-495. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to the National Energy Assistance Program; to the Committee on Labor and Human Resources.

POM-496. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to foreign trade expansion; to the Committee on Finance.

POM-497. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to discriminatory freight rates; to the Committee on Commerce, Science, and Transportation.

POM-498. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to equitable allocation formulas and eligibility criteria in Federal Community and Economic Development Programs; to the Committee on Governmental Affairs.

POM-499. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to deregulation of oil prices; to the Committee on Energy and Natural Resources.

POM-500. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to clean air plans; to the Committee on Environment and Public Works.

POM-501. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to plant closings; to the Committee on Labor and Human Resources.

POM-502. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to development of effective coastal protection systems against natural disasters; to the Committee on Environment and Public Works.

POM-503. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to Federal aid reform; to the Committee on Governmental Affairs.

POM-504. A resolution adopted by the Southern Governors' Association, in New Orleans. Louisiana, relating to fluoride limits in interim primary drinking water standards; to the Committee on Environment and Public Works.

POM-505. A resolution adopted by the Southern Governors' Association, in New

Orleans, Louisiana, relating to nationwide uniformity in truck regulation; to the Committee on Commerce, Science, and Transportation.

POM–506. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to Federal assistance to curtail drug smuggling; to the Committee on the Judiciary.

POM–507. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to national coal policy; to the Committee on Energy and Natural Resources.

POM–508. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to the Department of Energy mission; to the Committee on Energy and Natural Resources.

POM–509. A resolution adopted by the Southern Governors' Association, in New Orleans, Louisiana, relating to repeal of the carryover basis rule; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 293. An original resolution increasing the limitation on expenditures by the Committee on Finance for the procurement of consultants. Referred to the Committee on Rules and Administration.

Special Report entitled "Finance Committee Allocation of Budget Totals Under the Second Concurrent Budget Resolution for Fiscal Year 1980" (Rept. No. 96–432).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 5224. An act to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes (Rept. No. 96–433).

By Mr. NELSON, from the Committee on Labor and Human Resources, with an amendment:

S. 1725. A bill to amend the Economic Opportunity Act of 1964 to establish a comprehensive energy conservation services program designed to enable low-income and near-poor individuals and families to participate in energy assistance programs (Rept. No. 96–434).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Robert D. Hormats, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

(The above nomination from the Committee on Finance was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Shirley Mount Hufstedler, of California, to be Secretary of Education.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ORDER FOR STAR PRINTS OF AMENDMENTS

Mr. EAGLETON. Mr. President, I ask unanimous consent that my amendments Nos. 630 and 670 to H.R. 3919, the windfall profit tax bill, be star printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN AUG. 23 AND SEPT. 1, 1979

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph R. Biden:									
Belgium	Franc	5,298	180.68						180.68
U.S.S.R	Ruble	128.41	198.45						198.45
U.S.S.R	Dollar		150.00						150.00
Great Britain	Pound	101.76	230.00						230.00
Senator Richard Lugar:									
Belgium	Franc	4,748	161.93						161.93
U.S.S.R	Ruble	145.59	225.00						225.00
U.S.S.R	Dollar		150.00						150.00
Great Britain	Pound	101.76	230.00						230.00
William B. Bader:									
Belgium	Franc	3,544.61	120.89						120.89
U.S.S.R	Ruble	134.59	208.00						208.00
U.S.S.R	Dollar		150.00						150.00
Great Britain	Pound	99.01	223.79						223.79
Albert A. Lakeland:									
Belgium	Franc	4,673	159.26						159.26
U.S.S.R	Ruble	113.59	175.54						175.54
U.S.S.R	Dollar		150.00						150.00
Great Britain	Pound	82.76	187.06						187.06
Jan Novins:									
Belgium	Franc	5,595	190.81						190.81
U.S.S.R	Ruble	130.59	201.83						201.83
U.S.S.R	Dollar		150.00						150.00
Great Britian	Pound	94.9	214.79						214.79
Alfred Friendly:									
Belgium	Franc	3,525	120.00						120.00
U.S.S.R	Ruble	144.79	223.76						223.76
U.S.S.R	Dollar		150.00						150.00
Great Britain	Pound	88.26	199.62						199.62
Joyce Shub:									
Belgium	Franc	5,240	178.71						178.71
U.S.S.R	Ruble	101.23	156.45						156.45
U.S.S.R	Dollar		150.00						150.00
Great Britain	Pound	101.76	230.00						230.00
Lynn Riley:									
Belgium	Franc	3,565	121.58						121.58
U.S.S.R	Ruble	94.05	145.35						145.35
U.S.S.R	Dollar		150.00						150.00
Great Britain	Pound	75.80	171.31						171.31
Delegation expenses:									
Belgium	Franc						2,771.22		2,771.22
U.S.S.R	Ruble						2,115.53		2,115.53
Great Britain	Pound						1,303.33		1,303.33
Total									11,844.89

Note: Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of Public Law 95–384, and Senate Resolution 179, agreed to May 25, 1977.

The following Senators were members of Codel Biden and have filed their reports of expenditure of foreign currencies with the committees which authorized their travel: Senator David Pryor, Committee on Governmental Affairs; Senator David Boren, Committee on Finance, Senator Carl Levin, Committee on Armed Services; Senator Bill Bradley, Committee on Finance.

JOSEPH R. BIDEN, Chairman

FRANK CHURCH,
Chairman, Committee on Foreign Relations.

Oct. 31, 1979.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, ARMED SERVICES COMMITTEE, EXPENDED BETWEEN AUG. 23 AND SEPT. 30, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Carl Levin:									
Belgium	Franc	4,839.72	165.06					4,839.72	165.06
U.S.S.R.	Ruble	97.00	149.91					97.00	149.91
Great Britain	Pound	152.64	345.00					152.64	345.00
Federal Republic of Germany	Mark	125.00	68.18					125.00	68.18
United States	Dollar				377.00				377.00
Total			728.15		377.00				1,105.15

Nov. 27, 1979.

JOHN C. STENNIS,
Chairman, Committee on Armed Services.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS, EXPENDED BETWEEN AUG. 23 AND SEPT. 1, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator David Pryor:									
Belgium	Franc	4,720	160.97						160.97
U.S.S.R.	Ruble	110	170.01						170.01
U.S.S.R.	Dollar		150.00						150.00
Great Britain	Pound	101.76	230.00						230.00
Total			710.98						710.98

Oct. 25, 1979.

DAVID PRYOR.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, TRAVEL AUTHORIZED BY MINORITY LEADER, EXPENDED BETWEEN AUG. 23 TO SEPT. 1, 1979

Name and country	Name of currency	Per diem		Transportation		Other purposes		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William F. Hildenbrand:									
Belgium	Franc	3,500	119.37						119.37
U.S.S.R.	Ruble	124.59	192.55						192.55
U.S.S.R.	Dollar		150.00						150.00
Great Britain	Pound	58.10	131.30						131.30
Total			593.22						593.22

Oct. 25, 1979.

WILLIAM F. HILDENBRAND.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EAGLETON:

S. 2058. A bill to amend title 39, United States Code, to provide that owners of motor vehicles leased by the United States Postal Service shall be exempt from the payment of State taxes and fees on those vehicles; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 2059. A bill entitled the "Congressional Budget Limitation Act of 1980"; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to order of August 4, 1977.

By Mr. BAUCUS:

S. 2060. A bill to amend the Packers and Stockyards Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND:

S. 2061. A bill to reform the method of providing pay increases for all Federal employees; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

By Mr. BAUCUS:

S. 2062. A bill to amend the Internal Revenue Code of 1954 to provide that the executor may elect to disregard, in the valuation for estate tax purposes of certain items created by the decedent during his life, any amount which would not have been capital gain if such item had been sold by the decedent at its fair market value; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. DOMENICI:

S. 2059. A bill entitled the "Congressional Budget Limitation Act of 1980;" to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to order of August 4, 1977.

● Mr. DOMENICI. Mr. President, today I am again introducing legislation which would amend the Congressional Budget and Impoundment Control Act of 1974 to provide a limitation on total budget outlays approved by Congress in any one year.

Under the provisions of my legislation, which is titled, "The Congressional Budget Limitation Act of 1980," total budget outlays in any concurrent resolution passed in accordance with the Congressional Budget Act could not in any calendar year exceed 20 percent of the Nation's gross national product.

My reasons for introducing this legislation are clear cut. Continuing and overpowering Federal budget deficits are bringing the Nation's economy to its knees. The evidence has accumulated for years.

Other Senators have been interested in similar legislation, notably Senator ROTH and Senator MAGNUSON, who recently introduced S. 2039. In the House, Congressman JIM JONES has been actively pursuing such a legislative limitation.

Voters of all persuasions have begun to view their Government as a bloated inefficient beast, which is causing as many problems as it is solving. At the same time, taxpayers across the entire political spectrum are increasing their specific demands on Government for financial intervention in fresh new areas of everyday life.

The traditional political response to these contributing forces has been to adopt the rhetoric of a political conservative talking of "hard choices" and "sunset clauses" on Government programs on the one hand, while adding to the Federal deficit with the other hand to accommodate demands of special interest groups.

The elected representative needs help. He needs help for himself, and he needs help with the impossible bind in which the system has placed his constituents.

The most sensible way out of this dilemma is to put a lid on the resources available to the political process. And to meet this challenge, the American Congress needs to be put on a budget that is real; a budget that limits the amount of resources available for it to spend.

Such a limit would allow the elected representative to make good his commitment to reduce Federal spending, while having the advantage of pitting special interest groups against each other in a scramble for scarce taxpayers' dollars.

A law that would limit the Federal budget to 20 percent of gross national product would solve this dilemma, and for the first time allow political action to match political rhetoric.●

By Mr. BAUCUS:

S. 2060. A bill to amend the Packers and Stockyards Act; to the Committee on Agriculture, Nutrition, and Forestry.

PACKERS AND STOCKYARDS ADMINISTRATION

● Mr. BAUCUS. Mr. President, I am introducing legislation to establish the Packers and Stockyards Administration as an agency within the Department of Agriculture.

The Packers and Stockyards Administration is responsible for maintaining competition in the marketing of livestock, poultry and meat production by prohibiting deceptive and monopolistic marketing practices. I believe that the effectiveness of the Packers and Stockyards Administration has been reduced by a 1977 reorganization shift which placed it under the Agricultural Marketing Service. Because the Packers and Stockyards Administration mainly performs a regulatory role, it does not fit in with the Agricultural Marketing Service's functions of promotion, research, and information.

Mr. President, as a member of the Subcommittee on Antitrust, Monopoly and Business Rights of the Judiciary Committee, I am concerned that in its present status the Packers and Stockyards Administration may not be able to effectively deal with new challenges facing the livestock industry.

The packing segment of the livestock industry is changing rapidly. Some packing firms are growing at phenomenal rates, and vertical integration also threatens to restrain competition in the industry.

Large packers are becoming sophisticated in the employment and use of law firms and public relations organizations to capitalize on their new levels of economic and political power. In order to effectively deal with these new realities, the Packers and Stockyards Administration needs to have the stature as a separate agency directly supervised by the Secretary of Agriculture.

I believe that the legislation I am introducing today is necessary to carry out the statutory mandate of the Packers and Stockyards Administration to protect livestock consumers and producers from deceptive and monopolistic marketing practices.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 407(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 228(b)), is amended to read as follows:

"(b) The Secretary shall establish and maintain as an agency within the Department of Agriculture the Packers and Stockyards Administration which shall be headed by an Administrator who shall be appointed and supervised by the Secretary. The Secretary shall enforce and administer this Act through the Packers and Stockyards Administration.".●

By Mr. THURMOND:

S. 2061. A bill to reform the method of providing pay increases for all Federal employees; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

FEDERAL EMPLOYEE PAY REFORM ACT OF 1979

Mr. THURMOND. Mr. President, I am today introducing legislation which I believe addresses the controversial, recurrent issue of salary increases for Federal Government employees, including Members of Congress, in a reasonable, responsible fashion.

This bill is simple and straightforward. It incorporates three principles which I believe should provide the basic framework for a sound, responsible approach to the pay raise question:

First, an act of Congress should be required to put into effect each pay raise that may be proposed for Federal employees, including, especially, Members of Congress.

Second, Congress should have to account to the voters for any salary increase they may have voted for themselves, before the increase takes effect; thus, congressional salary increases should be postponed until the beginning of the next Congress, allowing the intervention of a general election.

Third, a balanced Federal budget should be a prerequisite to any pay increase for Members of Congress and the top Federal executives.

Mr. President, this bill is designed to make these three basic principles the cornerstone of a responsible approach to the annually recurring issue of cost-of-living increases for Federal Government employees. Just a few weeks ago, the Senate and the House battled back and forth over the issue of whether Congress should allow itself a cost-of-living pay increase. The Senate was opposed to any increase. The House insisted on at least a 5.5-percent raise. In the process of the bickering, both Houses, upper level officials in the executive branch, and Federal judges automatically got a 12.9-percent raise, although this amount was eventually reduced, in the case of Members of Congress and appointed officials in the executive pay schedule, to a 5.5-percent increase.

However, because of the combination of automatic salary adjustments and the constitutional prohibition against reduction of a Federal judge's salary during his term of office, members of the Federal judiciary received the full 12.9-percent raise. This unintended result would not have occurred had the procedures provided for under my bill been in effect at the time. Moreover, had my bill been the law, Congress and the upper echelon officials would not have been entitled to any salary increase because the Federal budget is far from being balanced.

AFFIRMATIVE CONGRESSIONAL APPROVAL OF COMPARABILITY PAY INCREASES

Mr. President, under current law, as established by the Federal Pay Comparability Act of 1970, the burden is on Congress to act if it desires to halt or modify a scheduled pay increase recommended by the President.

Furthermore, because cost-of-living adjustments for Members of Congress, the Federal judiciary, and Federal employees under the executive pay schedule are linked to annual adjustments for other Federal workers, these groups of persons also receive periodic pay boosts without explicit approval by Congress.

My bill requires that Congress specifically authorize any cost-of-living adjustment by passing a joint resolution. Otherwise, my proposal basically leaves intact the structure and operation of the pay comparability system, with its annual study of pay comparability, recommendation to the President for appropriate adjustments, authority for the President to modify the recommended amount of the cost-of-living adjustment if a national emergency or economic conditions affecting the general welfare warrant such modification, and transmittal to Congress of the President's recommended adjustments in rates of pay.

Frankly, Mr. President, I have serious questions about the necessity of the elaborate Federal pay comparability system machinery. I would personally prefer that periodic studies of needed pay adjustments be conducted by the appropriate congressional committees, in conjunction with the President's Office of Management and Budget and the Office of Personnel Management.

However, recognizing that outright repeal of the entire Federal Pay Comparability Act would be considered too drastic by some, I am proposing the more limited objective of simply requiring explicit congressional action as a prerequisite to pay increases for all Federal employees, including Members of Congress. I firmly believe Congress has a responsibility to the taxpayers of this Nation to face squarely the issue of pay raises for itself and other Federal employees, rather than continuing the present back-door method of automatic yearly adjustments.

EFFECTIVE DATE OF CONGRESSIONAL PAY INCREASES

Mr. President, the second part of my bill specifies that the effective date of any congressional salary increase will be no earlier than the first day of the next Congress.

The intent of this provision is to allow the intervention of a general election between the time of any vote to increase congressional salaries and the effective date of the scheduled increase. Thus, all of the House Members and one-third of the Senators would have to account to the voters before they could have their own salaries increased. The need for this provision is all the more important since the decision by Congress in 1975 to tie salary adjustments for Members of Congress to the annual cost-of-living increases for general schedule Federal employees.

Mr. President, I would like to point out that this part of my bill incorporates a proposal which Senator Stone of Florida has introduced as a separate bill, S. 725. I am a cosponsor of this bill with the junior Senator from Florida and also of his accompanying proposal for a constitutional amendment to accomplish the same objective. By including this concept in my comprehensive bill, I am reemphasizing the importance of it as a basic principle of what I view as a more responsible means of legislating congressional salary increases.

BALANCED BUDGET REQUIREMENT

Mr. President, the third and final provision in this bill simply writes into law the principle that the salaries of Members of Congress and the upper salary level employees in the executive branch (those on the Executive level pay schedule) will not be increased unless and until the Federal budget is balanced.

Some may see this as a futile, impractical gesture, but I am one who believes it is absolutely imperative that the Federal Government adopt and abide by a sound fiscal policy of spending no more than it takes in from tax revenues. I further believe that it is utterly ridiculous for those most responsible for the budget deficits which have occurred in 18 of the last 19 years—Congress and the Executives who manage and recommend Government spending—to continue receiving pay increases that further add to the deficit.

Perhaps even more important than the amount of money involved in these pay increases is the poor example that Government leaders set for the rest of the Nation when they further increase their already high salaries. How can we seriously expect those in the private sector to exercise wage, salary, and price restraint in order to slow the pace of inflation if their elected and appointed leaders in the highest echelons of Government are unwilling to set an example of fiscal responsibility in regard to their own compensation? Mr. President, we can and should do better by the taxpayers.

Thus, I believe it is necessary to establish a firm policy of no increases in salary for those in the highest levels of the legislative and executive branches of the Federal Government who are in a position to control Government spending until that level of spending is sufficiently curtailed to bring it in line with tax revenues.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Federal Employee Pay Reform Act of 1979".

AFFIRMATIVE CONGRESSIONAL APPROVAL OF COMPARABILITY PAY INCREASES

Sec. 2. (a) Section 5305 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "and" at the end of paragraph (1),

(B) by striking out paragraphs (2) and (3) and inserting the following:

"(2) after considering the report of his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title, transmit to Congress recommended adjustments in the rates of pay of each pay system in accordance with the principles under section 5301(a) of this title."; and

(C) by striking out the last sentence;

(2) by striking out subsections (c) through (m) and inserting:

"(c) If, because of national emergency or economic conditions affecting the general welfare, the President should, in any year, consider it inappropriate to recommend pay adjustments consistent with the principles under section 5301(a) of this title, the President shall include in the report transmitted under subsection (b)(2) of this section recommendations for adjustments he considers appropriate, together with the reasons therefor.

"(d)(1) The rates of pay of each statutory pay system shall be adjusted under this section only if a joint resolution is enacted providing for such adjustment.

"(2) Any joint resolution enacted under paragraph (1) of this subsection shall specify—

"(A) the amount of the adjustment in the rates of pay of each statutory pay system,

"(B) the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustments in the rates of pay under the other statutory pay systems, and

"(C) the effective date of the adjustment.

"(e) The rates of pay which become effective under this section are the rates of pay applicable to each position concerned, and each class of positions concerned, under a statutory pay system."; and

(3) by redesignating subsections (n) through (r) as subsections (f) through (j).

(b) The amendments made by subsection (a) shall apply to any adjustments under section 5305 on or after the date of the enactment of this Act.

EFFECTIVE DATE OF CONGRESSIONAL PAY INCREASES

Sec. 3. (a) Section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding paragraph (1) of this subsection, section 225 of the Federal Salary Act of 1967, or any other provision of law, an individual referred to in paragraph (1) may not have his rate of pay increased—

"(A) by or under any law passed during a Congress;

"(B) under recommendations taking effect under section 225 of the Federal Salary Act of 1967 which were transmitted by the President during a Congress; or

"(C) under paragraph (2) of this subsection;

unless such increase is to take effect not earlier than the first day of the next Congress.".

(b) The amendment made by subsection (a) shall apply with respect to laws passed by either House of Congress after the date of the enactment of this Act, and recommendations regarding pay transmitted by the President after such date.

BALANCED BUDGET REQUIREMENT

Sec. 4. The annual rate of pay for any office or position described in subparagraphs (A), (B), (D), and (E) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356) shall not be increased under any provision of law to a rate in excess of the rate of pay in effect on the date of the enactment of this Act, unless Congress has approved, as provided in section 310 of the Congressional Budget Act of 1974 (31 U.S.C. 1331), a second concurrent resolution on the budget in which the total budget outlays do not exceed Federal revenues for the fiscal year in which such increase is to take effect.

By Mr. BAUCUS:

S. 2062. A bill to amend the Internal Revenue Code of 1954 to provide that the executor may elect to disregard, in the valuation for estate tax purposes of certain items created by the decedent during his life, any amount which would not have been capital gain if such item had been sold by the decedent at its fair market value; to the Committee on Finance.

VALUATION OF CERTAIN ITEMS CREATED BY A DECEDENT

● Mr. BAUCUS. Mr. President, today I am introducing legislation to correct a major tax inequity now encountered by heirs to artists' estates. Current Federal estate tax laws are unfair not only to America's artists and their families, but also to all Americans who are being deprived of an extraordinary source of our national cultural heritage as a result of these laws. This artist's estate tax bill will help insure the preservation of our country's works of art. It will encourage productivity by creative persons who are presently reluctant to create, and who are even destroying their work in order that, upon their death, their families not be burdened with an enormous and financially devastating estate tax bill because of their unsold art. My bill will ease the burden of inheritance taxes for heirs of artists by postponing the major taxation of art work they inherit until the works are actually sold.

A professor at one of my State's fine universities asked me this question:

> Can a civilized nation have tax laws that result in the destruction of art?

I believe the answer must be a resounding "No." Unfortunately, that is not the answer given by our country's tax laws today.

Under current tax law, the heirs of artists are required to pay estate taxes on the fair market value of inherited works of art. The important point to remember is that, for most artists, the bulk of their estate is comprised of their own unsold art, rather than other assets—like cars, jewelry, furniture, stocks and bonds—which have a readily ascertainable value and are easily marketable.

And, unlike such items, like an expensive, rapidly appreciating piece of jewelry, which are held for investment purposes, art works often remain in the creator's estate for the simple reason that the artist was unable to sell them, or even give them away to a museum or charity. Ironically, when the artist is alive and does donate his or her work, our tax laws only permit a charitable deduction equal to the artist's cost of materials in the work. Yet, when the artist dies, the very artwork which could not be sold or even given away are, at that instant of death, mystically transformed into valuable assets which are subject to estate taxes computed on their full market value—a value which is speculative at best.

The devastating impact that these tax laws have on an artist's family cannot be overstated. Families of artists, who are unable to sell their creative works, have had to live on limited, moderate incomes, and find that, at the moment of the artist's death, they suddenly become "wealthy" because of that same unsold art. But that wealth is illusory for all but tax purposes.

Actually, families faced with an enormous estate tax bill due on unsold works often do not have sufficient money on hand to pay the tax bill. So, the artwork must be sold in order to pay the estate tax due on them. It is at that time, the artist's family is faced not only with a limited market, but also with a "buyer's" market. In these desperation sales, collectors and other buyers can get the art for a bargain. Hence, the very artwork, which when unsold were valued at fair market value for tax purposes, often have to be sold at prices far below market value in order to pay the estate tax.

Many times, even the sale of the artwork will not bring in enough money to pay off the tax bill. Other assets must then be sold to raise the needed additional capital—and sometimes this means selling the family home. This is exactly what happened to the widow of "Pogo" creator, Walt Kelly. In a newspaper article 2 years ago, Selby Kelly said that after her husband's death, the first legal advice given her was to declare bankruptcy, Mrs. Kelly said:

> I didn't take that advice, but, I was forced to sell our home, a beautiful brownstone—and live very simply today.

Mrs. Kelly went on to say that she was able to survive financially during this period because, a cartoonist herself, she was able to continue many "Pogo" projects and thus produce enough income to pay the tax bills.

What happened to Mrs. Kelly is not an isolated occurrence. Regrettably, reports of similar situations—and ones where the families are not even as fortunate as Mrs. Kelly was in being able to generate some income by continuing her husband's projects—are becoming commonplace. No wonder then, that artists, painfully aware that their creative works may, at their death, place their families in severe financial jeopardy, are producing less and are actually destroying the very art they worked so hard to create. A few years ago, Arizona artist, Ted De Grazia burned his paintings worth $1.5 million because his wife simply could not afford to inherit them. Other artists voice like intentions.

What a waste of talent. What an unfair burden upon artists and their families. What a blow to our Nation's cultural heritage. What a loss to all Americans.

The bill I introduce today would end this inequity in a very simple way. The bill would give the executor of an artist's estate an optional method of estate tax evaluation of unsold created works. Thus the executor could elect, for estate tax purposes only, either first to value the works at their fair market value, as under present law, or second to value the artwork at the cost of the materials used to create them.

This cost-of-materials evaluation may be new in the area of estate taxes, but it is certainly not alien to our Federal tax laws. Such evaluation is identical to the method which currently must be used to compute the amount which an artist is permitted to deduct, for income tax purposes, for donating created works to charitable organizations during his or her lifetime.

Under this bill, then, the choice of which estate tax evaluation option to use is left exclusively within the discretion of each executor of an artist's estate. An executor would then make the decision on which option would be more advantageous for the heirs based on comparing the cost in estate taxes with that in income taxes for the particular estate. Naturally, if the heirs sell the artwork, they would still have to pay ordinary income taxes on the sales price less the basis (value) they chose at the time of the inheritance.

Thus, the decision would depend upon whether it would be better financially for the estate to use fair market valuation for estate tax purposes, which would result in lower income taxes if the art is sold in the future, or use the cost-of-materials valuation, which would decrease the immediate estate taxes but result in higher income taxes when the artwork is sold. Factors which would be considered during the estate tax/income tax cost comparison include: the size of the estate—and thus whether it would incur Federal estate tax—the financial stability and ready cash availability of the estate and the heirs, and the artist's intent and desires of the heirs to keep the artwork in the family or sell it.

Essentially, this bill relieves artists of the agonizing pressure to destroy the fruits of their own labor in order to protect their families, and ends the tragedy suffered by artists' families in having to sell the artwork to pay the estate taxes. It would allow each created work to achieve its own true value. It would permit a more responsible distribution of art. And, it would eliminate the artificial and oftentimes inflated valuation of art at "fair market" levels at a time—the artist's death—when, if that art is sold—particularly when sold in blocks—their actual sales prices are really less than the statutory figure upon which the estate tax is based.

And the bill accomplishes all this by in effect postponing the brunt of Federal taxation until the artwork is actually sold. The ultimate price paid for artwork on the date of sale provides a true, certain value upon which Federal taxes could then be fairly and appropriately applied.

My bill is the Senate companion measure to H.R. 1720, the artist's estate tax bill, which was introduced in the House on February 1, 1979, by Congressman Fred Richmond. Mr. Richmond has long been a leader in Congress in attempting to correct the many tax inequities faced by artists and the heirs to their estates. I commend him for his diligent and responsible work in this area, and am honored to join in the fight for passage of artists' estate tax relief.

Artists and artists' organizations have written Mr. Richmond in support of this legislation. Here are a few comments from those so burdened by present law on the need for the artist's estate tax bill:

> This bill is essential to family security and peace of mind of every creative artist in the country. Evaluating artists' work at cost solves the agonizing problems of heirs having to quickly sell the art to pay the estate tax.
>
> Rubin Gorewitz,
> *President, Artists Rights Today.*

> The irony of an artist not to be able to afford being alive or dead can be creatively altered by the passing of your bill. Everyone survives in this change in the law, even the deceased is comforted. Thank you.
>
> Robert Rauschenberg,
> *American Artist.*

> The present estate tax situation is a glaring inequity. It seems to me an appalling contradiction that an artist giving a gift of his or her own work to a public institution may deduct only the cost of producing that work (usually about $75.00). At the artist's death, that same work is then assessed at fair market value and this figure often reaches into the hundreds of thousands of dollars. The real losers in this situation are our public institutions, libraries and museums, and thus the American people. If we are to believe that the arts are a national resource, let us encourage them with this measure.
>
> Jamie Wyeth.
> *American Artist.*

> I want to thank you for writing this bill to enable the artist at his death to leave his work evaluated at cost to his heirs. This would help stop the confusion between aesthetic value and money, so that after death each painting could achieve its own value and be taxed as it is sold. Thomas Hart Benton whose murals adorn the Truman Library burned many of his works so that his family wouldn't inherit an immediate, unusual tax burden. The passing of this bill will help normalize a stricken cultural situation.
>
> James Rosenquist,
> *American Artist.*

> As an artist deeply concerned about the welfare of my family, I heartily endorse this bill. Being an artist is a risky and uncertain occupation. I am disturbed that I can contribute to a museum and only deduct cost of materials. If I give the work as a gift, I must

pay a gift tax. I cheerfully pay all my taxes when I sell my works. When I die, my heirs under present law would be forced to pay large taxes on unsold works. Your bill redresses an unfair situation and I wish you great success in your endeavors.

GEORGE SEGAL,
American Artist.

In conclusion, Mr. President, I urge my colleagues to join with me in eliminating a major tax inequity which now burdens one of America's greatest natural treasures.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter A of chapter 11 of the Internal Revenue Code of 1954 (relating to gross estate) is amended by inserting after section 2032A the following new section:

SEC. 2032B. VALUATION OF CERTAIN ITEMS CREATED BY THE DECEDENT.

"(a) GENERAL RULE.—If—

"(1) the decedent was (at the time of his death) a citizen or resident of the United States, and

"(2) the executor elects the application of this section,

then, for purposes of this chapter, the value of qualified creative property shall be determined under subsection (b).

"(b) VALUE OF QUALIFIED CREATIVE PROPERTY.—For purposes of subsection (a), the value of qualified creative property of the decedent shall not include any amount which would not have been capital gain if such property had been sold by the decedent at its fair market value (determined at the time of the valuation of the gross estate of the decedent).

"(c) QUALIFIED CREATIVE PROPERTY DEFINED.—For purposes of this section, the term 'qualified creative property' means any copyright, any literary, musical, or artistic composition, any letter or memorandum, or any similar property—

"(1) which was held by the decedent at the time of his death, and

"(2) which was created by the personal efforts of the decedent.

"(d) ELECTION.—The election under this section shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.".

(b) The table of sections for such part III is amended by inserting after the item relating to section 2032A the following new item:

"Sec. 2032B. Valuation of certain items created by the decedent.".

(c) Subsection (f) of section 1023 of such Code (relating to special rules and definitions) is amended by adding at the end thereof the following new paragraph:

"(6) PERSONAL OR HOUSEHOLD EFFECT.—For purposes of this section, the term 'personal or household effect' shall not include any qualified creative property (as defined in section 2032B(c) to which an election under section 2032B applies.".

SEC. 2. The amendments made by the first section of this Act shall apply to estates of decedents dying on or after January 1, 1979.●

ADDITIONAL COSPONSORS

S. 1465

At the request of Mr. TALMADGE, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1465, the Farm Credit Act Amendments of 1979.

S. 1874

At the request of Mr. BAYH, the Senator from Missouri (Mr. EAGLETON) and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1874, a bill to amend the act incorporating the American Legion so as to redefine eligibility for membership.

S. 1978

At the request of Mr. TALMADGE, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1978, to establish an improved program for extra long staple cotton.

SENATE RESOLUTION 293—ORIGINAL RESOLUTION REPORTED INCREASING LIMITATION ON EXPENDITURES BY THE COMMITTEE ON FINANCE

Mr. LONG, from the Committee on Finance, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 293

Resolved, That section 2 of Senate Resolution 52, Ninety-sixth Congress, agreed to March 7, 1979, is amended by striking out "$200,000" and inserting in lieu thereof "$265,000".

SENATE CONCURRENT RESOLUTION 56—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE REPRINTING OF A DOCUMENT ENTITLED "SYNTHETIC FUELS"

Mr. MUSKIE submitted the following concurrent resolution, which was referred to the Committee on Rules and Administration:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That there shall be reprinted for the use of the Senate Committee on the Budget three thousand five hundred copies of its committee print of the Ninety-sixth Congress, first session, entitled "Synthetic Fuels", a report to the full committee by the Subcommittee on Synthetic Fuels.

SENATE CONCURRENT RESOLUTION 57—SUBMISSION OF A CONCURRENT RESOLUTION RELATIVE TO THE ISSUANCE OF A COMMEMORATIVE STAMP HONORING PHILIP MAZZEI

Mr. DOMENICI (for himself, Mr. PERCY, Mr. DECONCINI, and Mr. CHAFEE) submitted the followed concurrent resolution, which was referred to the Committee on Governmental Affairs:

S. CON. RES. 57

Whereas Philip Mazzei came to the United States in 1773 at the urging of Benjamin Franklin and Thomas Jefferson, becoming an active supporter of the American Revolution;

Whereas upon arriving in this country he wrote articles for the Virginia Gazette, which he signed "Furioso", strongly defending political and religious freedom and the American cause;

Whereas in 1774 he was elected to the Committee of Correspondence for Albemarle County, thereby helping to promote intercolonial solidarity;

Whereas in 1775 he wrote a series of articles exploring philosophical grounds for Colonial rebellion against England, using the expression, "All men are by nature equally free and independent", which was later formulated in our Declaration of Independence by Jefferson;

Whereas in 1776 Mazzei, as a representative of the Albemarle Freeholders, wrote "Instructions of the Freeholders of Albemarle County to the Delegates in Convention", which greatly influenced Jefferson's draft of the Constitution;

Whereas in 1779 he was appointed agent for Virginia in Europe, with the endorsement of Jefferson and Patrick Henry, to obtain loans for financing the Revolution, and arrived in Europe only after spending three months as a British prisoner;

Whereas in 1784 Mazzei was the chief organizer of the Constitutional Society, whose purpose was to inform, explain, and instruct the public on all political issues;

Whereas the two hundred and fiftieth anniversary of the birth of Philip Mazzei will be celebrated on December 25, 1980; and

Whereas no foreign-born contributor to the revolutionary cause of Italian descent has been so honored though ten other countries of origin have been commemorated: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the Postmaster General and the Citizens Stamp Advisory Committee should give favorable consideration to the issuance of a commemorative postage stamp in honor of Americans of Italian descent and the two hundred and fiftieth anniversary of the birth of Philip Mazzei on December 25, 1980, or as soon as possible thereafter; and

(2) the Postmaster General and the Citizens Stamp Advisory Committee should honor other foreign-born contributors to the revolutionary cause, especially contributors whose country of origin has not yet been so commemorated, prior to the conclusion of our Bicentennial celebration in 1983.

● Mr. DOMENICI. Mr. President, in 1783 Philip Mazzei came to the United States at the urging of Benjamin Franklin and Thomas Jefferson. From the moment of his arrival, Mazzei was an active supporter of the American Revolution. His writings greatly contributed to intercolonial solidarity and influenced Jefferson's phrasing of the Declaration of Independence. Since 1975, efforts made to have a commemorative stamp honoring Philip Mazzei have been unsuccessful. Because of this failure, Mazzei remains one of three foreign-born contributors to the American Revolution that have yet to be honored as part of our Nation's bicentennial celebration.

Earlier this year, Vice President MONDALE made a statement that a Mazzei stamp would be issued for the 250th anniversary of his birth. Instead, a postal card was offered as a compromise. The National Committee for the Mazzei

Stamp and other Americans interested in the American Revolution, particularly those of Italian descent, have made it known that such a compromise is unacceptable. They believe that if Philip Mazzei's contribution is to be made known to the American public at large, there is no better way than through the issuance of a commemorative stamp on the 250th anniversary of his birth.

That belief is central to the purpose of the concurrent resolution I submit today. This measure would declare it the sense of the Senate that the Postmaster General and the Citizens Stamp Advisory Committee should give favorable consideration to the issuance of a commemorative postage stamp in honor of Americans of Italian descent and the 250th anniversary of the birth of Philip Mazzei on December 25, 1980, or as soon as possible thereafter. This is the time to evaluate Mazzei's historical and cultural contribution to the United States. There will be no similar opportunity to give Italian-Americans the prestige they deserve in early American history.

Mr. President, I ask unanimous consent that an excerpt of an "Open Letter to Congress," from Sister Margherita Marchione, professor at Fairleigh Dickinson University's Florham-Madison Campus and project director of "The Papers of Philip Mazzei," be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Among the historical projects funded by the NHPRC (National Historical Publications Records Commission), Philip Mazzei's name has been added to those of Washington, Jefferson, Madison, Adams, Hamilton, Von Steuben, Lafayette and other historical figures who contributed to the founding of our Country. Besides a federal grant for the third consecutive year, the "Papers of Philip Mazzei" are sponsored by Unico National, Columbia, Rosenhaus, Salvatori, and Vincent Visceglia Foundations. This project, under the auspices of Fairleigh Dickinson University, is housed in the Henry A. Salvatori Center for Mazzei Studies. A staff of five researchers have been at work for several years and have processed over 2,500 documents which will be published in microfilm for the 250th anniversary. This will be followed by three volumes of selected documents. The entire project will cost $500,000.00.

Philip Mazzei (1730–1816), a forgotten patriot, is an historical figure in his own right. On arriving in Virginia in 1773, he resided on property adjacent to Monticello and began the agricultural experiments for which he left his native Italy.

An ardent supporter of political and religious freedom, Mazzei returned to Europe in 1779, as Virginia's agent, to solicit funds and army supplies. There he obtained useful information which he forwarded to Jefferson and other Founding Fathers.

Mazzei's pamphlets, letters, and dispatches reflect his enthusiasm for his adopted Country. He was a proud citizen of the United States, knowledgeable about agriculture, climate and soil, as well as details of trade between the colonies and Europe. He also gives social historians, economists, and sociologists insight into many areas of colonial life. His writings, before Thomas Paine's, defended the American Cause, and his four-volume history on the United States, published in French while his friend Jefferson was minister to France, is, according to Dumas Malone (the 1975 Pulitzer Prize Winner for History), "one of the best of its time on its subject."

In 1784 Mazzei was the chief organizer of the Constitutional Society, whose purpose was to inform, explain, and instruct the public on all political issues.

As a representative of the Albemarle Freeholders in 1776, Mazzei sent his "Instructions" (a plan to create a new government) to John Page and Patrick Henry. A seven-page unidentified document, "Instructions of the Freeholders of Albemarle County to the Delegates in Convention," was published by Julian Boyd in 1952 in "The Papers of Thomas Jefferson." We have now located a 1776 draft in Mazzei's hand. Regarding Mazzei's 1776 "Instructions" Boyd acknowledges the fact that "Jefferson must have had [it] before him in drawing up the present text." He is referring to Jefferson's "Draft of the Constitution for Virginia." [May-June 1783]. A lengthy editorial note precedes Mazzei's "Instructions" and Jefferson's "Draft." May I quote from it (see "The Papers of Thomas Jefferson," Vol. 6, p. 282):

"Certainly there are striking similarities between the instructions and his draft of 1783, as for example the insistence in the former that "the fundamental Pillars of the Constitution should be comprised in one Act or Instrument, which should never be subject to alteration but with consent of the people at large." In making no distinction as between the powers of the two houses of the legislature, Jefferson's draft also is closer to the instructions than to his own proposed constitution of 1776."

We now know from the recently found document-draft that Mazzei wrote the text "Instructions of the Freeholders of Albemarle County to the Delegates in Convention." I concur with Professor Julian Boyd of Princeton University who states in the abovementioned editorial note that Jefferson's "own draft-constitution of 1783 was influenced by these views of the Albemarle inhabitants."

In the light of my recent findings and in justice to the memory of Philip Mazzei—whose contributions include the fields of music, art, literature—all Americans will want to honor him on the 250th anniversary of his birth. In particular, Italian-Americans whom you represent will be grateful for your support.●

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 717

(Ordered to be printed and to lie on the table.)

Mr. MATSUNAGA (for himself, Mr. TALMADGE, Mr. MOYNIHAN, Mr. DURKIN, and Mr. PACKWOOD) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 718

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself, Mr. BAYH, Mr. PACKWOOD, Mr. TALMADGE, Mr. EXON, Mr. PERCY, Mr. CHURCH, Mr. MCGOVERN, Mr. STEWART, Mr. BAUCUS, Mr. NELSON, Mr. MCCLURE, and Mr. MORGAN) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

(The remarks of Mr. DOLE when he submitted the amendment appear elsewhere in today's proceedings.)

AMENDMENT NO. 719

(Ordered to be printed and to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to H.R. 3919, supra.

● Mr. LEVIN. Mr. President, this amendment would make available the business energy tax credit already in the bill for other types of energy saving equipment for the purchase of wind deflectors for tractor-trailers. These aerodynamic devices, mounted on the cab or upper front of the trailer, improve the aerodynamic design of the vehicles and cut the power needed to move the truck through the air. Since the aerodynamic drag increases rapidly as speed increases, the horsepower saved in highway operations means less fuel burned. One manufacturer of nose cones, a name given to the aerodynamic device mounted on the front of trailers, has estimated the cost per gallon of diesel fuel for moving a tractor-trailer at 55 miles per hour. Assuming a gallon of diesel fuel costs $1, 65 cents is used to overcome air resistance and 32 cents is needed to move the gross weight of a 45,000-pound tractor-trailer.

Without a tax credit, the use of aerodynamic devices on new vehicles was 11 percent for the first 6 months of 1979, 12 percent in 1978, 11 percent in 1977, 13 percent in 1976, 3 percent in 1975, 1 percent in 1974, and 1 percent in 1973. This trend suggests two things. Market forces, inflation, and higher energy prices have played some role in encouraging investments in fuel saving components. Following the oil embargo of 1973–74, the industry responded 2 years later. But after this initial shock, the rate has actually declined. Given the delayed response and reluctance on the part of truckers to invest in these devices a tax credit will hasten this changeover to fuel efficient devices.

With 12 percent of new trucks equipped with these devices, the industry saved 75 million gallons of fuel in 1978. The savings are a conservative estimate since this figure applies only to new vehicles registered in 1978. It is estimated that 70 percent of tractor-trailers over 33,000 pounds could effectively use wind deflectors. And in a number of cases, fuel savings resulting from the use of these aerodynamic devices will accrue to truckers operating tractor-trailers whose gross weight is below 33,000 pounds. The average fuel saving for this fuel efficient component is 10 percent. Some trucking firms report savings of 20 percent.

The Department of Transportation sponsors a volunteer program called the joint industry-Government voluntary truck and bus economy fuel program. This office publicizes fuel economy studies and informs members of current energy saving devices. The voluntary program has 240 members, including all major truck and bus manufacturers, component suppliers, 145 motor carriers, trade associations, trade press, and Government agencies.

I first anticipated an amendment covering several energy saving components for trucks. But given the success of the voluntary program, and the work of the market place, such additional inducements and cost to the Federal Government seemed unnecessary. For instance, variable fan clutches, whose average fuel saving is 6 percent, represented 4 percent of the market in 1973 while in 1978 they represented 75 percent of the market. Radial tires, whose average fuel savings are also 6 percent, have grown from 3 percent of the market in 1973 to 30 percent in 1978. On the other hand, aerodynamic devices represent only 12 percent of the market with a potential for 70 percent. I believe a tax credit would provide additional incentives for truckers to invest in these areodynamic devices and to realize energy savings they might not otherwise realize in the years ahead.

The cost of this credit is minimal. The Joint Committee on Taxation estimates the cost to be less than $5 million in 1980 with a cumulative cost of $100 million over the 10-year period.●

AMENDMENT NO. 720

(Ordered to be printed and to lie on the table.)

Mr. LEVIN (for himself, Mr. Ribicoff, and Mr. Percy) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

● Mr. LEVIN. Mr. President, I am today filing an amendment to the windfall profit tax bill, to provide a tax credit for public utilities which undertake programs to finance conservation investments for their residential customers. I am very pleased to have as cosponsors of this amendment Senators Ribicoff and Percy, chairman and ranking member of the Governmental Affairs Committee, respectively, both of whom have a long and impressive record of support for energy conservation programs.

The National Energy Conservation Policy Act, passed by the Congress last year, contained a general prohibition on involvement by utilities in financing the supply or installation of residential energy conservation measures, except for installations costing less than $300 or installations made by those few utilities in States where financing programs were in place prior to the adoption of the prohibition.

Since adoption of that measure last year, considerable evidence has emerged as to the efficacy of utility-financing programs. Because of their access to financing capital, their frequent contact with customers, and their ability to weigh the relative costs and benefits of supply-increasing versus demand-reducing capital investments, conservation-financing programs run by utilities offer great potential for energy savings.

As a result, the Senate only a few weeks ago, in S. 932, voted to repeal the prohibition on utility financing. The House is considering legislation which would have the same effect and thus the chances are excellent that all public utilities will soon be able to undertake conservation financing programs.

Setting up such programs will involve a new expense for utilities who decide to participate, and I believe that it is in the national interest to provide an incentive, through the tax code, for utilities to do so. My amendment would provide a 50-percent credit for the administrative expenses attributable to a program of financing residential conservation investments, if that program meets the requirements of the National Energy Conservation and Policy Act, or, in the case of a regulated utility, such requirements as the State regulatory authority may impose. The remainder of the cost of the program would be recovered in whatever manner the State regulatory commission chose to allow, and the amendment insures that no utility can recover more than the cost of the program.

Mr. President, I believe that this amendment will provide a significant incentive for public utilities to become involved in the financing of residential conservation and I hope that my colleagues will adopt it.●

AMENDMENT NO. 721

(Ordered to be printed and to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to H.R. 3919, supra.

● Mr. LEVIN. Mr. President, small savers, during periods of high interest rates and artificially low interest ceilings, are not receiving a fair return on their limited savings. Clearly, the low ceilings of regulation Q discriminates against those who keep savings in passbook accounts. They cannot afford the minimum amounts required by certificates of deposit. The Senate only a few weeks ago passed legislation addressing this problem. However, the benefits of eliminating regulation Q and lowering the minimum amounts of certificates of deposit will not be realized for some time.

My amendment is tailored to these circumstances. It is also direct, equitable, and targets the assistance to the small saver without complications.

I am not satisfied with the small saver proposals to date. The small saver exemptions before us are regressive. A $100 exemption is worth $50 to someone with a 50-percent tax rate while the same exemption for a middle- or lower-income individual is worth only $15, if his effective tax rate is 15 percent for instance.

My amendment would provide a credit of up to $20 for interest earned from a passbook account from a credit union, savings and loan institution, or a commercial bank. The amendment would increase the amount of the credit to $25 in 1982 and to $30 in 1983.

The $20 credit in the first year equals or is greater in value than an exemption of $100 for taxpayers in the $20,000 range or below. The $20 credit is worth almost twice as much as the $100 exemption for an individual earning $10,000 a year. With the $20 credit in 1981, the cost to the Treasury would be $1 billion, in 1982 with a $25 credit, the cost would be $1.3 billion, and in 1983 with a $30 credit, the cost in revenue would be $1.6 billion according to estimates from the Joint Committee on Taxation.

Similar estimates over 3 years for the $100 to $300 exemption are $6.2 billion compared to $3.9 billion over 3 years for my amendment. Further, the effect of my amendment will target the relief to middle and lower income taxpayers proportionately better than a $100 exclusion. According to the Joint Committee on Taxation, 49.8 percent of the revenue cost of my savings credit amendment will be distributed among individuals with adjusted gross incomes of $20,000 or less. The comparable figure for the $100 exclusion is 35.6 percent.

By 1983 other incentives for the small saver such as minimum amounts for certificates of deposit, higher interest rate ceilings, and improved economic conditions might alter the need and effectiveness of the tax credit. My amendment would allow Congress to remove or improve the incentive depending upon the need. The credit would expire (unless renewed and expanded) at the time other incentives for savings were in place.

My amendment does not require regulations defining qualified reinvestment plans or a time sequence for reinvestment of dividends. It is not encumbered by restrictions and regulations as to eligible taxpayers. It is straightforward and equitable. Everyone can take advantage of it as long as they have earned some interest from a passbook account. It does not require individuals to withdraw funds from other interest bearing accounts in order to qualify for an exemption. Most importantly, more small savers will realize the greater value of the tax credit than if a tax exemption was offered.

The following table shows the revenue cost with a $20 credit in 1981, $25 credit in 1982, and a $30 credit in 1983. In the remaining years, it is assumed the $30 credit is extended until 1990.

	Billion
1981	$1.001
1982	1.302
1983	1.648
1984	1.730
1985	1.817
1986	1.906
1987	2.003
1988	2.103
1989	2.208
1990	2.319

●

AMENDMENT NO. 722

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to H.R. 3919, supra.

● Mr. WEICKER. Mr. President, I submit an amendment to H.R 3919 for the purposes of providing necessary funding to enhance this Nation's capabilities to prevent, respond, and clean up oil from our marine environment.

On November 1, 1979 I addressed the floor concerning the Mexican oil spill in the Bay of Campeche. I expressed concern over the impact that spill would have on the marine ecosystem as well as the ability of the Coast Guard and the rest of the Federal Government to deal effectively with future oil spills.

I am still concerned about the ability of members of the national response team to deal with spills attendant to current OCS drilling and production not to mention possible future accidents in the harsh marine environments such as the Beaufort Sea or on Georges Bank, one of the world's richest fishing grounds.

Considering the small quantity of equipment available to contain and clean up the massive volumes of the Campeche spill, the best that the efforts of the Coast Guard, NOAA, and industry can be considered is a useful training experience. Furthermore, some of the equipment used was damaged, and some destroyed. Other Coast Guard equipment was destroyed during containment of the oil spilled from the tanker collision and sinking off of Galveston, Tex.

In view of the recent spills in the Gulf of Mexico, it is imperative that we provide the Coast Guard and other members of the national response team with the support necessary to develop capabilities and knowledge to deal with oil spills.

In 1978, the Coast Guard prepared a plan for supplementing Presidential initiatives concerning oil pollution response. That plan alone requires approximately $70 million to implement. Furthermore, the plan addresses many of the provisions I believe are necessary to increase the Coast Guard's ability to contain and clean up future oil spills.

The National Oceanic and Atmospheric Administration has begun a research program designed to characterize and comprehend immediate and long-term aspects of the Campeche spill. However, current program requirements indicate a fund shortage on the order of $5 million. Additionally they will require approximately $10 million per year to properly study the effects of pollution on the marine environment.

Experience at Campeche proved that Federal agencies worked effectively with private industry and, in the best tradition of Yankee ingenuity, were able to improvise. Nevertheless, the experience indicated continued research and application of present technology on all facets of marine oil spills is necessary.

Windfall profits derive from oil and gas production and in significant measure from foreign operations. It seems to me just and fitting that a portion be allocated to improve the capability to prevent, contain, and mitigate marine oil spills off our shores to permit exploitation of oil and gas from the OCS in an environmentally compatible manner. It is in this spirit that I offer the following amendment.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 722

On page 170, insert the following after line 21:

SEC. 402. MARINE OIL SPILLS ACTIVITIES OF THE COAST GUARD

(a) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Treasury for the United States Coast Guard sums equal to 7/10 of one percent per annum not to exceed $100,000,000 per annum, from the windfall tax established under subtitle D of chapter 45 of the Internal Revenue Code of 1954 for the period beginning October 1, 1981 and ending September 30, 1990.

(b) USE OF FUNDS.—Funds appropriated under subsection (a) shall be used for the purposes of carrying out the marine oil spill responsibilities of the National Response Team pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 1510) and any revisions thereto.●

ADDITIONAL STATEMENTS

IRAN: FIRMNESS WITH RESTRAINT IS STILL APPROPRIATE

● Mr. CHURCH. Mr. President, this is a time of great emotional stress for the families of the Americans still held hostage in Iran. Indeed, it is a moment of great tension in the life of our entire Nation.

For this reason, I wish to express my support for the views expressed by President Carter in his news conference last night.

The President bears an enormous burden of responsibility. He is clearly a humane man who has experienced, to an extraordinary degree, the pain and anguish of this insult to America and to the entire civilized world.

It is no easy thing for the leader of a great nation to exercise restraint in the face of such extreme provocation. We have the power to wreak havoc on Iran. Indeed, the time may come when the United States may be compelled to take stern action against the regime of the Ayatollah Khomeini—if only to make clear to other lawless elements in the world that we will not submit to blackmail or tolerate the abuse of our citizens.

Mr. President, I too share the frustration that is a natural outgrowth of this long ordeal. But we should refrain from issuing any ultimatum at the present time lest we disrupt a process which may yet lead to a peaceful resolution of this crisis.

Pressure against Iran is building in the world community. It must inevitably become apparent to those who now govern Iran that they have nothing to gain—and a great deal to lose—by continuing this outrage which has been condemned by the whole world, including every other Islamic country.●

TAXFLATION MEANS YOU CANNOT PLAN AHEAD

● Mr. DOLE. Mr. President, the Consumer Price Index rose 1 percent in October giving no signs that the rate of inflation will abate in the near future. If a full-fledged recession ensues, as many predict, our citizens will be severely squeezed from both sides.

However rapidly prices rise, you can be sure that taxes will rise even faster. So long as the tax law is blind to modern economic realities, we will continue to extract a tax penalty from people whose incomes rise to match inflation. Because of the progressive structure of the tax system, a 10-percent rise in income means about a 15-percent rise in taxes—even when the income gain is on paper only, the result is inflation. Thus tax revenues, and the real rate of taxation, rise automatically in periods of inflation.

One consequence is the growth of the governmental sector of the economy at the expense of the private sector. Unless we are convinced that, dollar for dollar, the Government can put this money to more productive use—a doubtful proposition—we owe it to ourselves to see what can be done about this automatic shift of revenues to the Government.

Mr. President, there are countless reasons why this issue should be a matter of critical concern to this Congress. Consider the case of the employee who contributes to a retirement fund during his working life. With most such plans, employees are permitted to defer taxes on earnings set aside for retirement. Taxes are due after retirement, when the fund is drawn on. In theory, taxes should be lower then because retirement income would tend to be lower than income earned during one's working life.

But with double-digit inflation, it is likely that retirement income will be higher than it was in many of the on-the-job years. Because of this—a consequence of the distortion of nominal income by inflation—the retiree will also be in a higher-than-expected tax bracket. Not only is the purchasing power of retirement income greatly reduced by inflation, that income may also be taxed more heavily than it would have been in the on-the-job years.

Mr. President, this is just one example of the way inflation distorts the tax system and makes it impossible for people to plan their financial future. The rules of the game keep changing. The way to rectify the problem is to pass the Tax Equalization Act, S. 12. I have introduced this legislation to stabilize tax rates by automatically adjusting tax brackets, the zero bracket amount, and the personal exemption according to the rate of inflation. Tax equalization would bring the income tax in line with changes in the economy, and would clarify everyone's tax liabilities. I urge my colleagues to work for its adoption.●

DEFENSE SPENDING INCREASES TO GAIN SALT VOTES

● Mr. MOYNIHAN. Mr. President, Richard Burt, in this morning's New York Times, reports on "an unusual meeting on Capitol Hill last night." Attended by Secretary Brown, about a dozen Senators from both parties, and former Secretaries Schlesinger and Kissinger, the subject was the increase in defense spending contemplated by the administration in order to gain votes for the SALT treaty. Apparently, the administration has agreed to a very substantial increase in military spending for the next five years.

It is perhaps proper to think of this proceeding as the adoption of a de facto amendment to the Senate's instrument of ratification, saying in effect that this treaty shall not be ratified unless, so to speak, there are "significant and substantial increases" in military spending. I myself have supported, in a Senate vote, a 5-percent real increase in defense spending in the coming years, and I am not inclined to quarrel with the administration if it now perceives the need to do this. It is rather to remind the administration that just as a majority of the Senate supported a real increase of 5 percent in defense spending, so too—in my judgment—does a majority of the Senate favor a SALT arrangement which will bring about "significant and substantial reductions" in strategic weaponry. My sense is that somehow, the administration does not yet take this sentiment as seriously as it takes the sentiment favoring those necessary increases for our conventional forces. This is a profound mistake.

The administration is taking our votes for granted. Worse than cynical, this could be the blunder that defeats the SALT treaty and those of us who want to see a reduction in nuclear weapons fear that SALT will produce just the opposite.●

THE LAPWAI MISSION

● Mr. McCLURE. Mr. President, today is the 143d anniversary of the founding of the Lapwai Mission in what is now Idaho. Indians have been a proud part of Idaho history for at least 10,000 years. Idaho is enriched by the vivid past of our Indian nations.

Today I especially want to honor the Nez Perce Tribe of Idaho, whose headquarters is near the former Lapwai Mission site. Their tribal population is 2,537; their reservation population, 1,600.

In February of 1836, the Reverend Henry F. Spalding and his wife, Eliza Hart Spalding, joined Dr. and Mrs. Marcus Whitman in an effort to establish a Christian mission in the Northwest. The previous year Whitman had traveled through the area with a party of fur trappers. They traveled up the Missouri River just as Lewis and Clark did. They went by boat as far as they could; and then went on foot over what was later known as the Oregon Trail. When the party reached the Green River in Wyoming, they were met by a number of Indians. The Indians were friendly and were very interested in what Whitman told them. They wanted to know more about the white man's God. They wished missionaries and doctors to come help them.

Dr. Whitman was very interested in building a mission among the Indians. He decided to return East and find someone who would come with him to help these Indians as soon as possible. After he reached home, Henry Spalding agreed to come to the Oregon country with him. Both men married before they started the next spring, and they brought their wives to the Western wilderness with them. Mrs. Whitman and Mrs. Spalding were the first white women to come into what is now Idaho.

When Dr. Whitman had left the Nez Perce Indians at the rendezvous on the Green River, he had told them to meet him there the next year. He was not disappointed. They were greeted by a large number of Nez Perce Indians. Men, women, and boys and girls had made the long trip on horseback to meet the new teachers who were bringing what the Indians called the White Man's Book of Heaven.

The party entered Idaho near Fort Hall and followed the Snake River to old Fort Boise. From there they crossed into what is now Oregon. Later, after visiting Fort Vancouver, Dr. Whitman returned and built his mission near the present city of Walla Walla, Wash.

Reverend Spalding picked the site for his mission home near the present city of Lewiston, Idaho on Lapwai Creek, or "place of the butterflies." The Spaldings were a very successful teaching team; besides religious training, Mrs. Spalding taught the Nez Perce women how to card, spin, weave, knit, and sew. She is also credited with opening the first school in Idaho.

Reverend Spalding brought with him a few seeds to the new Idaho territory, enabling him to introduce agriculture to the State. Spalding planted the first Idaho potatoes, and built the first rudimentary irrigation system for the dry but rich Pacific Northwest soil. He constructed the first sawmill and gristmill, and raised the first domestic livestock in small herds.

The Lapwai Mission witnessed the arrival of the first printing press in the Northwest, and the Spaldings were the parents of the first white child to be born in Idaho, a little girl named Eliza after her mother.

The Lapwai Mission was discontinued after the Whitman Mission massacre of 1847, but Reverend Spalding was able to start it up again 24 years later in accordance with President Ulysses S. Grant's peace policy with the American Indians. Spalding's second period of missionary service was brief—he died shortly after it was reopened—but the mark he and the Nez Perce Tribe made in the history of Idaho is undying.●

DR. KISSINGER'S STATEMENT ON THE CONTROVERSY OVER THE SHAH

● Mr. TOWER. Mr. President, the entire American Nation has witnessed with anguish and with mounting anger the spectacle of American diplomatic personnel held hostage to mob rule in Iran. The American people have rallied as one in condemning this gross violation of international decency and law and in rejecting the blackmail threats of the Iranian radicals.

It is therefore particularly shocking to me, and to many of my colleagues on both sides of the aisle, to learn of statements by senior administration officials seeking to lay much of the blame for these shameful events in Iran at the feet of former Secretary of State Henry Kissinger.

The administration's distorted and partisan attacks on Dr. Kissinger are totally unwarranted by the actual facts of the matter. They jeopardize the development of an effective national response to the Iranian situation. They jeopardize the fate of the Americans held hostage in Iran and endanger Americans elsewhere who may be similarly threatened by radical blackmail. They discredit not the target of their attacks, but themselves.

In focusing on, and in distorting, the issue of to what extent Dr. Kissinger may or may not have influenced the administration's decision to let the Shah enter the United States for medical treatment, a decision I believe to have been correct, administration officials miss the point that it has always been an honored American practice to let those who seek assistance and refuge enter our country and that it is not the Shah, but the Iranian radicals, who are violating all norms of international behavior and who are to blame for the current situation in which American diplomats are held as hostages and in which the United States is being blackmailed.

At the same time, of course, these senior administration officials seem to forget that the Shah was an important and loyal friend of the United States and a man who, in comparison with other leaders in his region—and most especially in comparison with his reactionary successors—was a progressive reformer and modernizer, recognized as such by seven American Presidents. Two years ago it was President Carter who rightly praised Iran as "a very stabilizing force in the world at large," and last year it was President Carter who rightly praised the Shah for the "progressive attitude" which was "the source of much of the opposition to him in Iran."

An important statement on these matters has now been issued by Dr. Kissinger himself and was printed this morning in the Washington Post. In his statement, which responds to the Washington Post's request for a response to the administration's charges, Dr. Kissinger describes the campaign undertaken against him by senior officials in the White House and in the Department of State and he details, in terms of his own actions and assessments, what actually occurred.

The former Secretary of State also offers a thoughtful analysis of the broader policy implications of the administration's rather incredible treatment of the issues involved. He urges Americans to join in considering both the moral stature of our Nation and the need to elicit trust and support among other nations, especially moderate regimes. I believe that all of my colleagues can agree with Dr. Kissinger's call for an end to partisan controversy and for a closing of ranks in support of achieving an honorable outcome to the Iranian crisis.

I urge my colleagues to read Dr. Kissinger's statement in full, and I submit the statement for the Record.

The statement follows:

KISSINGER ON THE CONTROVERSY OVER THE SHAH

Only the president of the United States can solve the present crisis, and I believe all Americans, of whatever party or persuasion, owe him our support and our prayers.

I have made no criticism of the president's handling of the crisis. My public comments in New York on Nov. 7, in Dallas on Nov. 10 and in Los Angeles on Nov. 11 all called for national unity behind the president. A senior White House official told me at breakfast on Nov. 21 that, on the basis of fragmentary news ticker reports, remarks I had made in Austin on the foreign policy challenges of the 1980s were subject to misinterpretation. I offered to put out an immediate clarifying statement expressing support for the president in this crisis and calling for unity. (Indeed, I suggested that Jody Powell draft it.) The offer was ignored.

Since then I have read and heard myself described by high White House officials as acting deviously and dishonorably; as advising the shah—strangely enough—to seek the advice of our government about whether to stay or leave this country; and as having exerted pressure to get him here in the first place.

This campaign struck me as all the more remarkable against the background of a call by me on the first day of the crisis to Deputy Undersecretary of State Ben Read in which I told him that I would not criticize the administration for its handling of the crisis either during its course or afterward; it could be sure that I would do my utmost to keep the crisis and its aftermath insulated from partisan controversy. The administration was well aware that from the first I have been calling congressional and other leaders urging restraint in comment. In short, it is not I who has been courting controversy in the middle of a national crisis.

As for my own involvement in recent events, ironically it began at the administration's initiative. In the first week of January 1979, a senior official of the State Department asked my help in finding a residence for the shah in the United States. Our government had concluded, I was informed, that the shah must leave Iran if the Bakhtiar government were to survive the efforts of Ayatollah Khomeini to obtain total power. If I could find a suitable domicile in America, the shah might overcome his hesitation and hasten his departure. I doubted the analysis but acceded to the request. I called David Rockefeller for help. Mr. Rockefeller expressed his personal sympathy for the shah but also his reluctance to become involved in an enterprise that might jeopardize the Chase Manhattan Bank's financial relationships with Iranian governmental or quasi-governmental organs. I then appealed to his brother Nelson; with his help, a suitable residence was located. A week later the shah left Iran. Two weeks afterward Nelson Rockefeller died.

Thus David Rockefeller's later role was hardly spurred by economic considerations as has been alleged; it ran, in fact, contrary to his commercial interests. He was motivated by his desire to carry out the legacy of his later brother and his devotion to the principle that our nation owed loyalty to an ally who had been loyal to us. This was my view as well, and remains so.

Less than two months later—in mid-March—another senior official of the Department of State urged me to dissuade the shah, who had spent the intervening period in Morocco, from asking for a U.S. visa until matters settled down in Tehran. I refused with some indignation; David Rockefeller was then approached. He too refused. When Rockefeller and I inquired whether our government would help the shah find asylum in another country, we were told that no official assistance of any kind was contemplated.

This I considered deeply wrong and still do.

Every American president for nearly four decades had eagerly accepted the shah's assistance and proclaimed him as an important friend of the United States. President Truman in 1947 awarded the shah the Legion of Merit for his support of the Allied cause during World War II and in 1949 praised him for his "courage and farsightedness" and his "earnestness and sincerity in the welfare of his people." President Eisenhower in 1954 paid tribute to the shah for his "enlightened leadership." President Kennedy in 1962 hailed the shah for "identifying himself with the best aspirations of his people." President Johnson in 1964 lauded the shah as a "reformist 20th-century monarch" and in 1965 praised his "wisdom and compassion . . . perception and statesmanship." President Nixon in 1969 declared that the shah had brought about "a revolution in terms of social and economic and political progress." President Ford in 1975 called the shah "one of the world's great statesmen." President Carter in 1977 praised Iran as "a very stabilizing force in the world at large" and in 1978 lauded the shah for his "progressive attitude" which was "the source of much of the opposition to him in Iran." Such quotations could be multiplied endlessly.

And they were correct. In my own experience the shah never failed to stand by us. In the 1973 Mideast war, Iran was the sole American ally adjoining the Soviet Union which did not permit the overflight of Soviet transport planes into the Middle East. In 1973–74, Iran was the only Middle East oil-producing country that did not join the oil embargo against us; it continued to sell oil to the U.S., to Israel and to our other allies. Iran kept its oil production at maximum capacity (thus helping stabilize the price) and never used oil as a political weapon. The shah was a source of assistance and encouragement to the forces of moderation in the Middle East, Africa and Asia; he used his own military power to ensure the security of the Persian Gulf and to discourage adventures by radicals. He firmly supported the peace process that culminated in the Egyptian-Israeli treaty; he was a defender of President Sadat against radical forces in the area. After his initial advocacy of higher prices in 1973, he used his influence to keep the prices steady so that the real price of oil actually declined over the period from 1973 to 1978 (due to inflation).

The crisis we face in 1979—the 65 percent hike in oil prices, the cutback of Middle East oil production, the radical challenges to the peace process and the rise of anti-American fanaticism in the whole area—is the price we are paying for the *absence* of a friendly regime in Iran. The conclusion is inescapable that many of the shah's opponents in Iran hate him not only for what he did wrong, but also for what he did right—his friendship for the United States, his support for Mideast peace, his rapid modernization, his land reform, his support for public education and women's rights; in short, his effort to bring Iran into the 20th century as an ally of the free world.

I do not doubt that wrongs were committed by the shah's government in his long rule; the question is how appropriate it is to raise them, after four decades of close association, in the period of the shah's travail. I have been deeply worried about the foreign policy consequences of spurning him. What will other friends of the United States in the area, in comparably perilous situations and perhaps even more complex domestic circumstances—leaders essential for a moderate evolution of the whole region—conclude if we turn against a man whom seven American presidents had lauded as a loyal ally and a progressive leader?

My conviction that on the human level we owed the shah a place of refuge had nothing to do with a scheme of restoring him to power. I have stated publicly that we should seek the best relations possible with the new authorities in Tehran. I simply assert that it is incompatible with our national honor to turn our back on a leader who cooperated with us for a generation: Never before have we given foreign governments a veto over who can enter our country as a private citizen.

Between early April and early July, I put these considerations before three senior officials in phone conversation. And I called twice on Secretary of State Vance in the same period. The upshot was a refusal to issue a visa explained by the tenseness of the situation in Iran. In April I delivered a public speech stating that I thought it morally wrong to treat the shah as a "flying Dutchman looking for a port of call."

In other words, I made five private approaches on this subject to the government—none after July. Such was the "obnoxious" pressure, as George Ball has called it, to which our government was subjected.

When it became apparent that our government would not help the shah and that he was unable to stay any longer in Morocco, David Rockefeller and I did what we could to find him a place of refuge. David Rockefeller was able to arrange a temporary stay in the Bahamas. In April and May, I appealed to the government of Mexico. To its enormous credit, it had the courage to extend a visa even though—as one official pointed out to me—Mexico was being asked to run risks on behalf of a friend of the United States that we were not willing to assume ourselves.

Once the shah was in Mexico, David Rockefeller, John McCloy and I tried to be helpful with private matters on a personal basis. The education of the shah's children in America was the principal issue. We did our best to find appropriate schooling; this raised the issue of visas. Contacts with our government were handled by Mr. Rockefeller's assistant, Joseph Reed, and John McCloy. Mr. McCloy repeatedly urged the Department of State to designate an official with whom the shah's entourage could communicate on such matters without using our group as intermediaries. Such a contact point was never established.

This was the state of affairs when the shah fell ill early in October. As it happened, I was out of the country from Oct. 9 to Oct. 23 and had no communication with any level of the government about the matter. While in Europe, I kept in touch with the Rockefeller office but did not intercede personally with any official or agency of the government—though I would have had it been necessary. My understanding is that Joseph Reed presented the medical records to Undersecretary Newsom and on the basis of those records the administration admitted the shah for treatment. I am not aware that there was any hesitation. To the administration's credit, no pressure was needed or exercised. I gather that the medical facts spoke for themselves. All of us conceived that the reaction in Tehran would have to be evaluated by the administration which alone had the relevant facts.

As for advice to the shah about whether or not to leave—the subject of other strange stories—the situation was as follows. With conflicting threats emanating from Tehran as to the impact on the safety of the hostages of a movement by the shah, Rockefeller, McCloy and I concluded that it was inappropriate for us to advise the shah. Rockefeller called the president on Nov. 15 to ask once again for the designation of an individual who could accurately convey the government's recommendations to the shah's entourage. McCloy stressed the need for this to the deputy secretary of state on Nov. 20.

I repeated it to a senior White House official on Nov. 21. We were told the administration agreed with our approach. No such point of contact has yet been established. We were given no guidance; therefore we made no recommendations to the shah as to what he should do when and if his medical condition permits him to leave the United States.

I reaffirm my support for the effort to assure a measure of decency toward a fallen friend of this country. The issue of the shah's asylum goes not only to the moral stature of our nation but also to our ability to elicit trust and support among other nations—especially other moderate regimes in the area. I do not condone all the practices of the shah's government, though they must be assessed by the standards of his region and, even more, the practices of those who will sit in judgment. Yes, we must seek the best relations which are possible with the new dispensation in Iran. But we shall impress no one by engaging in retrospective denigration of an ally of a generation in his hour of need. We cannot always assure the future of our friends; we have a better chance of assuring our own future if we remember who our friends are, and acknowledge what human debts we owe those who stood by us in *our* hours of need.

I hope this ends the controversy. I think it is imperative that all Americans close ranks. Nothing will more strengthen the president's hand in pursuit of an honorable outcome than a continuing demonstration of national unity now and in the aftermath of the crisis. I shall do all I can to contribute to this end.●

COOPERATIVE INTERNATIONAL WHEAT PRICING

● Mr. McGOVERN. Mr. President for well over a, year I have, together with other interested colleagues in the Senate, been a strong advocate of international cooperative pricing agreements among the world's pincipal wheat exporters, the United States, Canada, Argentina, and Australia. Together they account for over 85 percent of all the wheat that moves in international commerce.

Senator BELLMON, Senator MELCHER and I have traveled to Winnipeg at the invitation of Canadian legislators led principally by Canadian Senator Hazen Argue, the chairman of the Senate Agriculture Committee in the Canadian Parliament. Senator Argue's group of Canadian legislators share our concern and seek world wheat prices at figures which at least reflect North American costs of production plus a reasonable profit. The Canadian National Wheat Board, the national marketing agent in Canada, met with us and is generally supportive of such a move. Additional meetings have been held here in Washington.

The useful and informative section of the Washington Star entitled "Point of View" which daily carries comment on timely events written by private citizens, carried, on November 29, 1979, an article by Warren C. Robinson, a professor of economics at Penn State University, entitled "The Case for a Wheat Cartel," which discusses the thesis other Senators and I have propounded. Though we come up short of proposing a "cartel" in the classic sense of the OPEC arrangement, Professor Robinson's comments come close to the areas we have discussed with the Canadians. Perhaps, as he points out, grassroots sentiments of Americans are equal in validity to our policy makers' reliance on so-called expert opinion.

Mr. President, I ask unanimous consent that the text of Professor Robinson's article to which I have referred be printed in the RECORD.

The article follows:

THE CASE FOR A WHEAT CARTEL

(By Warren C. Robinson)

We have all gotten used to the idea that "America Feeds the World" and, if this is true, it's puzzling to find the United States on the defensive in international trade and finance. The "cheaper crude or no more food" notion has been received enthusiastically by the grass roots, yet the reception has been cool in Washington.

This is understandable. Government policy-makers pay experts for advice and listen to them. Experts listen only to other experts (if they listen to anyone at all). In any case, one does not expect serious economic policy to originate with a disc jockey.

Yet perhaps it should. The creation of Social Security owed more to an obscure retired physician, Dr. Francis E. Townsend, and the mass movement he launched in 1934 than to farsighted political leadership. Let us rather ask whether there is a valid idea behind the slogan.

What about the formation of a cartel to do approximately the same thing for wheat prices that OPEC has done for oil prices? Could it work?

Objection: There are too many wheat-producing countries to make a wheat cartel workable.

Reply: In fact, there are far fewer wheat-exporting countries of any consequence than oil-exporting ones. Over 80 percent of wheat exports in recent years were supplied by four countries: the United States, Australia, Canada and Argentina. The U.S. alone represents some 40 percent.

Objection: Wheat can be replaced by many other food grains and cereals in human consumption.

Reply: True, and so can petroleum be replaced as a source of energy. But the substitution of rice or potatoes or some other source of carbohydrates in family diets would be difficult for many nations. (The U.S. is also in a strong export position in corn, soy beans and rice.)

Objection: High wheat prices will encourage other nations to increase supply for their own domestic use and also for export.

Reply: Certainly, almost any country can produce wheat, but the dominance of the grain trade by a handful of countries is based on historical-geographical advantage. The price must rise considerably before it is possible for Saudi Arabia, for example, to become an efficient wheat producer.

Objection: An international price-fixing agreement would cause U.S. food prices to rise also.

Reply: Not necessarily. The government could calculate anticipated U.S. domestic needs and undertake to export only the "surplus." A two-price system requires only that the government act as the sole exporter of wheat.

Objection: The OPEC nations import a minor fraction of the world grain trade.

Reply: The OPEC nations as a bloc account for about half the world's wheat exports.

Objection: Such blatant self-interest in foreign economic policy will invite retaliation and open economic warfare.

Reply: Perhaps. But is it not equally possible that OPEC and other nations may come to see the United States as an adversary which has finally learned the new rules and must be taken seriously again?

Perhaps the greatest objection to such a U.S.-led cartel is our inbred distaste for the idea. But it's time to accept the realities of our present situation. The traditional goal of free multilateral trade and the picture of a U.S. so strong it can ignore foreign economic assaults serve us ill in today's world.

We must gain new leverage in world trade. "Cheaper crude or no more food" may be a simple-minded suggestion taken literally, but it may also be a useful idea. Policymakers in Washington should, one might argue, take fresh ideas these days wherever they can find them.

EASTCHESTER HIGH SCHOOL STUDENTS PETITION TO SAVE THE CAMBODIAN PEOPLE

● Mr. JAVITS. Mr. President, last week, I was visited by a group of students from the Eastchester High School in Eastchester, N.Y., who had made a special trip to Washington personally to deliver a petition "for the survival of the Cambodian people." The petition was signed by over 1,000 students from the school and expressed their "total concern and anxiety" over the Cambodian situation and the "unneeded death of the Cambodian people." Several students had also written personal letters to the Cambodian authorities, pleading with them to allow all international relief efforts to proceed without interference.

Mr. President, all the Eastchester students, under their supervisor Mr. Schroeder, who have become so personally involved in the tragic plight of the Khmer people, should be commended for their highly developed sense of civic and international responsibility. Their concerns have been mirrored by thousands of my constituents and demonstrate the American commitment to the responsibilities, as well as the benefits, of being a superpower. I reiterate my deep concern that the other great superpower, the Soviet Union, demonstrate its willingness to take on the duties that come with being a major force in the world by seeing that their Cambodian and Vietnamese allies allow massive relief supplies to enter Cambodia.

Mr. President, I request that the Eastchester High School petition be printed in the RECORD, along with a letter from one of the students.

The material follows:

A PETITION FOR THE SURVIVAL OF THE CAMBODIAN PEOPLE

To: The President of The United States; The U.S. Senators from The State of New York; the U.S. Congressmen from The State of New York; The Secretary General of The United Nations; The Presiding Officer of The Security Council; The Premier of Cambodia; Pope John Paul II; American Ambassador to The United Nations; All To Whom This May Concern.

From The Eastchester High School Administrators, Staff and Students.

We, the school community of Eastchester High School in Eastchester, New York, seeing the suffering beyond the bounds of human endurance of innocent people whose agony is caused by circumstances entirely beyond their control, urgently beg, urge, cajole, adjure, implore and beseech you to immediately put forth a plan of action that will move food and medicine into Cambodia to avoid the unneeded death of the Cambodian people.

We cannot understand politics entering into this issue of humanity. Borders and political ideologies must be secondary to the human right to live and the human need to be nourished.

Besides expressing our total concern and anxiety, we hold ourselves available jointly and severally, to assist you in any manner at our disposal to ensure the survival of a proud and ancient people.

DEAR MR. HENG SAMRIN: I am a student in the United States, and it has been brought to my attention that the people in your country need help. I urge you to allow food to be distributed. I wonder how you feel leading a nation of dying people. There was an article published in a well known magazine in the U.S., about the situation in your country. This article begged the people to help. I have no money to send but I can send my support. Please, sir, find it in your heart to let the people of your beautiful country live! The country's future is in your hands.

Sincerely,

SHARON BOOKER.●

ADDRESS TO U.S. CONFERENCE OF GENERALS

● Mr. McGOVERN. Mr. President, this morning I was privileged to address 75 generals of the United States at a conference here in Washington sponsored by the Chief of Staff of the U.S. Army.

I ask that the text of my remarks be printed in the RECORD.

The remarks follow:

THEATER NUCLEAR FORCES AMERICA CAN NEGOTIATE FROM STRENGTH

(By Senator GEORGE McGOVERN)

I want to thank you for the invitation to appear today. For you are the new generation of military leaders and thinkers. The defense of our country for the rest of this century is your responsibility.

Your generation is knowledgeable and experienced not only in military strategy and weapons capabilities—but in arms control theory and practice as well.

I am sure you have read and thought more about arms control than any other group of military officers in our history.

Military defense and arms limitation are not incompatible alternatives. They are two sides of the same coin—protecting our security and lowering the threat of war.

You know that effective arms control agreements can make your job easier—by reducing Soviet capabilities and by clarifying Soviet intentions.

But today we have to admit that arms control as practiced thus far has largely failed. Despite ten years of SALT negotiations and several agreements, the military threat is rising and Soviet political intentions are still ambiguous.

Soviet officials might conclude roughly the same thing.

Instead of genuine reductions, arms control has meant building up to disarm. Your force planning is more uncertain because weapons systems and the military budget are horse-traded for SALT votes.

The failure of arms control—the building up to reduce—the escalatory impact of ratification—all these are paradoxes of our time.

Let's face it: bending metal for new weapons is more popular than bending an ear with new arms control schemes. In a world of big budgets, big bureaucracies and big stakes, arms control competes as a cripple in a tough arena.

But did bending the metal for MIRVs make us more secure?

Will allowing warhead expansion under SALT II protect Minutemen?

In fact, cosmetic arms control agreements do not help you any more than they satisfy me.

Arms control has failed not because it has had too much impact on force levels but because it has had too little impact.

We need a new type of arms control policy—one which actually reduces the military threat targeted against us, clarifies national intentions and saves precious taxpayer funds.

A new bipartisan consensus in favor of a more effective arms control strategy has emerged from the SALT debate.

Almost every one of the dozens of SALT witnesses before the Senate Foreign Relations Committee—military and civilian, Democrat and Republican, politician and academic, hawk and dove—supported a mutual arms reduction approach to SALT.

A Resolution I offered in Committee calling for genuine mutual reductions in SALT III passed the Committee by a 15–0 vote—drawing the support not only of SALT supporters but Treaty critics as well, including Senators Baker and Helms.

This new consensus gives me hope. But it means that we cannot afford any more business as usual in arms control.

Today, the biggest test for a new type of arms limitation strategy is the theater nuclear force issue in Europe.

The term "theater modernization" is a misnomer. The Administration is considering deploying Pershing II ballistic missiles and Ground-Launched Cruise Missiles capable for the first time in recent years of striking Soviet territory from European soil. This is a new deployment concept and a landmark decision for NATO—not merely the upgrading of some old systems. It is not an evolutionary step. We may or may not need to take this step—but we should approach it with open eyes about its genuine historic significance.

We are on the verge today of a new theater arms race in Europe. The Soviet Union in recent years has begun upgrading its theater forces with SS–20 and Backfire deployment. Concerns have been raised that any Soviet advantage would open Europe to nuclear blackmail because Soviet theater forces could control the ladder of escalation while strategic parity between the U.S. and the Soviet Union inhibits us from trading Chicago for Bonn or Paris.

As a result, pressure is growing for us to deploy comparable systems for the first time.

These Soviet developments do require a response. Continued unrestrained Soviet modernization will produce significant political instabilities which will undermine the security of our NATO allies. There are also legitimate concerns about obsolescent tactical systems which are either useless or make command and control more risky—such as the 1,000 tactical nuclear warheads we are preparing to withdraw from Europe.

But there is an alternative response to new American deployments—the arms limitation response to halt and reduce the Soviet build-up through tough negotiations.

Why do I think an arms control solution is feasible? Let me first explain why it is desirable.

Our allies have nothing to gain militarily from an unrestrained nuclear arms competition in Europe. Soviet weapons have been modernized but their numbers have been relatively constant over the past decade. Western Europe will feel more threatened if the numbers of SS–20's and Backfires expand endlessly or if the Soviets develop their version of the Ground-Launched Cruise Missile and dot their countryside with these lethal and unverifiable weapons. The priority should be to reduce the threat now, not to establish a meaningless parity at ever higher and more destructive levels.

NATO strategy is based on the twin pillars of defense *and* detente. In the United States, we tend to evaluate detente by Soviet behavior in Africa or Cuba.

But as those of you have served in Europe know, detente means something else to Europeans. It means to them a recognition of the geo-political realities of their existence—and it means greater trade with the East, more visits by relatives to families still in Eastern Europe, and a better climate for human rights.

Europeans want us to maintain a strong defense—and the United States has responded with 3 percent real growth in defense outlays, the Long Term Defense Program and other NATO initiatives.

But Europeans also want us to recognize the importance of detente. That is why many of them think differently about SALT or Soviet troops in Cuba or playing the China card than we do. As they say, "Berlin is not near Peking."

An arms control solution to the TNF problem will better serve these political aspects of European security than will new deployments. Having nuclear weapons capable of reaching the Soviet Union from Germany could add a new and troubling development in East-West relations. Just as we reacted in 1962 to medium-range Soviet missiles in Cuba as a strategic threat, the Soviets may react to TNF deployments as changing the strategic balance. A military and political counterreaction may follow. It is my strong impression that nothing would so profoundly increase Soviet fears and tensions as would the institution of new nuclear weapons in Germany and other NATO countries. Deploying without first attempting to negotiate Soviet limitations on their theater forces could bring these adverse consequences. At least this is a development we need to weigh seriously as one of the potential costs of new deployments.

The political aspects of European security are also critical for public support for NATO within the Alliance nations. Already the TNF issue has caused major divisions of opinion. This week, the Danish Prime Minister urged a postponement of the upcoming December deployment decision. The Dutch Government faces serious and perhaps even fatal political opposition on this issue. The Belgians are watching the Dutch. The Germans seem both ready and reluctant to deploy.

An arms control solution—at least a serious effort to achieve one before rushing into deployments—will solidify European opinion in a positive manner.

Finally, the connection between deployments and SALT III negotiations raise serious arms control difficulties.

These arguments in favor of an arms limitation solution are buttressed by the serious shortcomings in the arguments in favor of quick deployment.

First, I question whether a perilous theater imbalance exists in Europe at this time. Our theater systems have formidable nuclear capabilities—from our own Poseidon SLBMs, French ICBMs and SLBMs, American F–111s, F–104s and F–4s, French Mirages, British Vulcans, our carrier-based aircraft and so on. We possess enough theater military force to deter any rational Soviet military leader for the foreseeable future.

As military professionals, you know that force evaluation is not just a bean-counting exercise. You look at utility, reliability, survivability and other qualitative factors. The Warsaw Pact has more systems, but when the authoritative and independent International Institute for Strategic Studies evaluated theater systems by discounting the numbers with qualitative factors, it concluded—"that something very close to parity now exists between the Theater Nuclear Forces of NATO and the Warsaw Pact, although it is moving in favor of the Warsaw Pact."

So I reject the view that there is an imminent military crisis or that Europe is subject to blackmail.

Second, I question the assumption that strategic parity neutralizes the U.S. nuclear umbrella for Europe. The purpose of deterrence, after all, is to create enough uncertainty in the minds of Soviet leaders about an American reaction to forestall any aggressive action. Our central systems already have enough flexibility to create that doubt. It is a myth that we can only retaliate against Soviet cities.

Third, the political doubts among our allies about our credibility as a nuclear guarantor of European security predate the TNF issue and will outlast its resolution. Charles de Gaulle doubted our commitment to trade Chicago for Paris or Bonn at a time of unquestioned U.S. strategic superiority. France withdrew from NATO only a few years after the Cuban Missile Crisis—hardly the era of a leaky umbrella.

Even today, the permanent doubters of American credibility who are also the strongest advocates of TNF deployments are unable to explain why the U.S. would be any more willing in the future to push the button launching Cruise Missiles or Pershings than we are now to launch the hundreds of theater delivery systems and thousands of warheads and bombs already deployed in Europe. There is no political magic in this new technology.

The doubts of our allies are a structural problem of the Alliance caused by the geopolitical differences within NATO. Europe is a forward-defense theater for us but the strategic homeland of Europeans. As long as the ocean separates us, doubts will persist about trading Chicago for Bonn. The doubts are a political problem, not a military one.

We need to provide genuine and meaningful reassurances to our allies.

The Soviet theater nuclear threat is also a familiar problem. It has existed for twenty years, long before the SS–20 was ever heard of. An arms control solution can solve this dilemma with the least costs and the most benefits. It is ironic that many Europeans who favor TNF deployment don't favor too much deployment or even parity lest a new theater capability decouple Europe from our strategic guarantee.

Before turning to our arms control leverage, let me question one final assumption—the belief that we can fight a limited counter-force nuclear war in Europe. As military professionals, do you accept this as a realistic scenario or a thinkable option? I see limited nuclear war as a contradiction in terms—because nuclear weapons, even small ones, are designed for unlimited and total warfare.

In densely-populated Europe, could we or the Soviets really separate counter-value from counter-force targets?

Could you launch a theater weapon against the Soviet Union and rely on Soviet powers of discrimination and rationality not to regard it as a strategic attack because it came from a GLCM in Germany rather than from a silo in South Dakota?

I just cannot believe either we or the Soviets could control escalation or prevent a limited war from mushrooming into the incineration of Europe or a global nuclear holocaust. The military rationale is still unconvincing.

For these reasons, I do not believe our current military or political position in Europe warrants a hasty and unconsidered leap toward new deployments of theater nuclear weapons unless and until an arms control solution has been tried.

The United States is now in strong bargaining posture towards the Soviet Union—perhaps stronger than in any previous arms control encounter in history.

The Soviets perceive TNF as a strategic threat to their homeland. As a result, they appear willing to go to unprecedented lengths to prevent it. They clearly fear these weapons and European deployment more than anything else. They have even been pressured into making the unilateral gesture announced by Brezhnev in October to withdraw 1,000 tanks and 20,000 troops from East Germany and to offer to reduce Soviet theater systems in exchange for no new NATO increases.

Whatever the sincerity of this initiative, I am sure you can appreciate the extraordinary political struggle which must have taken place in the Kremlin over its formulation. This gesture reveals the depth of Soviet apprehension.

A second element strengthening our hand is the fact that the expiration of the Protocol to the SALT II Treaty on December 31, 1981, imposes a tight deadline on the Soviet Union. Any Soviet ploy to keep NATO GLCM deployments on ice will unravel after the Protocol's range deployment limitations run out. The pressure is on the Soviets because they want to preserve these limitations. They are the ones facing the gun.

Third, NATO nuclear force modernization is already coming on line. Decisions affecting theater forces are being made now. French nuclear capabilities will quadruple in the next few years. The British are moving to replace Polaris with more numerous and more lethal Tridents. Our F–111 squadrons in Britain have been beefed-up and plans are underway to increase B–52 facilities in Europe. The Trident I is being backfitted into Poseidon.

These too should stimulate Soviet responses if they are serious about negotiations.

Fourth, the Soviets should have no doubts about the intention of the Alliance to address the TNF issue. The Soviets would not have made their proposal in Berlin unless they perceived the threat as real.

Indeed, it has been remarked that the Soviet Union may be the only country which really believes that TNF deployments will occur.

But there is also the action of the Senate Foreign Relations Committee during the SALT II mark-up to emphasize the success of our SALT Negotiators on the right of the Alliance to transfer technology, to preserve traditional patterns of military cooperation, and to require Senate approval for extension of the Protocol while denying it any precedental value.

These elements give us great bargaining strength. Under these conditions, there is no reason to fear to negotiate. We should recognize our advantages and strengths and translate them into an effective arms control strategy for the TNF problem.

But today I must seriously question whether the Administration plans to pursue a meaningful arms control solution for TNF or instead intends to use arms control as a fig leaf to cover a deployment decision.

There are several grounds for seriously questioning the Administration's NTF arms control approach.

The first is that an irreversible decision at the December NATO Ministers meeting to deploy TNF weapons may jeopardize our bargaining leverage and make effective arms limitation almost impossible.

The United States bargaining posture is like a fighter ready to throw a punch. Our fist is raised and ready to go. The Soviet Union clearly fears the punch and appears to be willing to negotiate seriously, at least by all visible indications.

But once we go ahead and throw the punch by irreversibly commiting ourselves to deployments, the threat loses its capacity to elicit concessions and instead sets off a Soviet military counter-reaction.

Our threat to deploy is credible without necessitating an irreversible deployment commitment in December. We can negotiate without first building up. The Soviets seem to view it as a credible threat. For them, the bargaining chip of U.S. deployments is already on the table—we need to make sure that we don't diminish its value by cashing it in too early.

I am also concerned about the Administration's so-called "two-track" or a "parallel track" policy of seeking deployments *plus* arms control simultaneously. It sometimes appears that the deployment track is a four-lane highway while the arms control track is a dirt road. Our policy statements, our pressure on the NATO alies for deployment commitment, our back of the hand response to the Brezhnev initiative, and the linking of TNF deployments to SALT votes in the Senate all lead me to conclude that the deployments decision is the engine pulling the whole policy forward while arms limitation is the caboose.

But the whole history of the arms race, especially the MIRV experience, indicates that it is extremely difficult to negotiate downward once deployment decisions have been made. These GLCMs and Pershings have already generated a powerful political, military and economic constituency. Failure to deploy will later be opposed as a failure of will. Indeed, cruise missiles were intended originally to be the bargaining chip for SALT II—now they are turning into the headache of SALT III.

The so-called two-track approach strikes me as a cliche. How can the government function with two policies and two bureaucracies each seeking a contradictory outcome? At least the burden of proof must be borne by those who believe the two-track strategy will encourage rather than obstruct arms control.

The fact is we have a potent program ready to come on line, a Soviet offer to negotiate, great bargaining leverage, and a Research and Development program for GLCMs and Pershings which can proceed without an irreversible deployment decision for many months.

The Soviet offer contained in Brezhnev's October 6th speech is intriguing. We should test Soviet intentions by probing with a serious counter-offer to determine whether it is a serious offer or a mere ploy. We don't know what the Soviets are prepared to concede in terms of SS–20 production and deployments to influence our new and existing programs. And we need to move quickly—to find out before reaching the 1983 Initial Operating Capability of the GLCMs by which time the Soviets will have doubled their SS–20 and Backfire deployments.

I also agree with Chancellor Schmidt of West Germany that our responses to the Soviet initiative should include a consideration of making a constructive impact on the Soviet succession struggle.

I urge President Carter to give the highest priority to an arms control solution to European theater weapons. The basic principle should be to attempt to negotiate restrictions of significant military and political value before making any irreversible commitment to a specific pattern of deployment. The issue right now is not whether to deploy or not to deploy. Deployments cannot begin in any event until 1983. The real issue is whether to pursue an arms control strategy and how to make it the most effective strategy possible.

I cannot predict or propose the best format for this strategy and I do not want to shift attention from substance to form. The main substantive point is that arms control should be the centerpiece of our response in the coming months and that any decision to deploy should be clearly contingent on the failure of the arms limitation approach. This can be achieved without disrupting the RDT&E program or the procurement schedule.

A variety of forms would be acceptable. I have strong sympathy for the proposal by Danish Prime Minister Anker Jorgensen to delay any deployment decision by six months until the Soviet offer is investigated.

But the NATO consultations may be too far advanced at this point to delay the deployment decision in December. In that case, the December meeting should not go further than a conditional decision—to make clear that deployment will occur in the future only to the extent that arms control does not succeed.

Our policy bureaucracy and the Soviets will receive a stronger message if we say that we will not deploy unless arms control fails rather than saying we will deploy unless arms control succeeds.

I recommend these approaches to the deployment decision as the best way to maximize our bargaining leverage.

I don't want us to end up ten years from now in as bad shape on TNF as we are today on strategic weapons after ten years of the SALT process. GLCMs in Europe threaten to be as destabilizing to the 1980's as MIRVs have been in the 1970's. I want arms control to do more to lower the threat and reduce force levels or at least to help us learn for a certainty that the Soviets are not willing to compromise.

As a great nation, we have a responsibility to make this effort. It is not a path of unilateral restraint—it is a strategy of bargaining from a position of strength. And I fear if we cannot make it succeed in this case, your task will be all the more difficult in the years to come.●

MAYOR TEDDY KOLLEK OF JERUSALEM

● Mr. McGOVERN. Mr. President, one of the most impressive leaders it has been my privilege to know as a friend over the years is the longtime mayor of Jerusalem, Mr. Teddy Kollek. I have long believed that the spirit which he has manifested as a wise and compassionate mayor points the way for lasting peace and justice in the Middle East. He is a great credit to his city, to his nation, Israel, and to the international family.

I ask that an article about Mayor Kollek by Mary Hadar, printed in the Washington Post of October 21, 1979, be printed in the RECORD.

The article follows:

THE HOLY TERROR OF THE HOLY CITY

(By Mary Hadar)

"I have an ambition," says Teddy Kollek. "I want to be mayor exactly 3,000 years after King David made Jerusalem the capital of Israel."

The anniversary will come in nine years, when Kollek will be 77 years old. He leans forward conspiratorially.

"I don't necessarily mean that in a literal way. But it's a good way to get in how long we've been around."

It's been 14 years since Kollek assumed that post, caretaker of the city held holy by the three monotheistic religions. It required a certain amount of finesse for an unabashed Zionist like Kollek to carry it off.

He is an outspoken politician who, in his drive to assert the Jewish right to Jerusalem, has incurred the wrath of Israel's ruling party as well as countless politicians abroad. He snubbed Vice President Walter Mondale until Mondale, in his private capacity and counter to American policy, agreed to cross into the Arab part of the city. But he was the only major Israeli official who agreed to meet Jesse Jackson on his Middle East mission last month.

He can charm the pants pocket off a prospective donor to one of his cultural causes and the next minute reduce an assistant to tears with a torrent of verbal abuse. Earlier this year, Kollek so enraged an ultra-orthodox rabbi that the rabbi placed a Jewish curse on him.

His bursts of temper have earned him the enmity of many he has to work with. When religious demonstrators attacked police in 1972, he angrily told a religious politician the rioters "should have their bones broken."

When a parent from the wealthy Rehavia neighborhood protested loudly over school conditions, the mayor countered with an equally loud, "Kiss my a - -."

When a telephone operator at the Jerusalem Religious Council refused to put his call through, he ordered the treasurer to cut off all funds to the council.

Once he broke a glass table top by pounding furiously upon it because a new secretary continued to call him "Mr. Kollek" instead of Teddy.

He is the holy terror of the holy city, and in his personal interpretation of the mayoralty it is politics that is predominant: Virtually everything he does has political overtones.

There were 48 dishes on the table, including the leg of lamb in its thick bed of rice and pine nuts, but there were only six people to eat it all.

"My friend, there's enough food here to feed the entire municipality," said the mayor.

"They told us 10 people were coming, so we cooked for 20," said the host.

Neither seemed perturbed.

Teddy Kollek looked around at his guests, none of whom seemed to know where to begin, and with his fingers ripped a chunk of meat off the roast lamb and bit into it.

The occasion was lunch at the home of a minor Arab functionary who had helped avert a terrorist bombing. The reward, of his choosing, was the opportunity to play host to Kollek. In agreeing to allow a journalist to accompany his contingent, Kollek made it clear that details of the terrorist incident, and the Arab's actions, were off limits.

"You would certainly not mention his name," he said sternly, "or describe him so he could be identified. We had a case like that once—the man was shot dead on the street."

All the guests were in short sleeves, but the mayor, sensitive to his mission, wore a lightweight sportcoat.

The host stood by the table, bringing soft drinks and passing the food ("It's forbidden to eat with the guests," he explained for the fourth time). His wife, who had cooked the meal, stayed in the kitchen.

Kollek led the conversation like a symphony, changing the subject and the language to suit his partner. To his host he spoke of roadbuilding: "It'll take 10 years until we get a decent road out here, good schools, sewage. At least you have running water now; you never did before, right?"

To an author he talked publishing: "Naturally my book didn't sell so well—the publisher didn't place a single ad for it." To a journalist it was public relations: "You want to know what's bad luck? Fifteen years ago, to make a gesture, Jack Javits decided to hold his son's bar mitzvah in Israel. And that's the week the New York Times went on strike. Now that's bad luck."

The reason for the lunch was never mentioned.

On the way back to the car, one of the guests ventured that she had never eaten so well in her life. Kollek struck a pose of mock dismay, arms bent upward, jaw dropped: "Would I invite you to a lunch that wasn't nice?"

The mayor sits in his office, wallpapered with maps of Jerusalem. At 68, he looks 15 years younger, and his vigor is that of a man in his prime. Here, where custom and climate dictate a midday nap, he works a 12-hour day, and then receives guests at home.

Only occasionally, when he dozes off during other people's speeches, does the fatigue show. Despite lined face and thick waist, there is still something rakish, flirtatious about him: "Would I invite you to a lunch that wasn't nice?" Wink.

Now, as he ponders the future of Jerusalem, the intricate solutions to a frustrating puzzle, his voice is weary. "Losing Jerusalem," he says, and the bloodshot eyes search the ceiling for an appropriate metaphor, "I would put it on a par with the Holocaust."

As he makes this staggering comparison, there is a perceptible undercurrent of irritation in Kollek's voice. He is tired of explaining the same thing to so many people.

Twelve years of his 14-year reign as mayor have been in the reunified city, and he prides himself on his relations with the Arab population. While he is sensitive to their plight, he also thinks his administration has meant a giant step for their material well-being. "We sometimes rub our victory in too much," he commented once. "The city is going to stay united. We don't have to say it six times a day—and we do."

The sensitive issue of Jerusalem has been pushed aside in the ongoing negotiations among Israel, Egypt and the U.S. The State Department has never recognized Israel's annexation of East Jerusalem and to this day maintains its embassy in Tel Aviv, refusing to recognize Jerusalem as the capital.

Nor are the city's Arabs wholly satisfied with the situation. "Mr. Kollek is very humane," says Ibrahim Dakkak, a Jerusalemite who heads the engineer's union on the West Bank, "but only as far as Israelis are concerned. When it comes to Arabs, I think he is just as bad as Mr. Menachem Begin. His sentiments cannot be hidden under his wonderful smile."

Furthermore, relations are practically nil between Kollek and the Likud government. "I think Mr. Begin is a terrible prime minister," says Kollek, "but he has done the greatest thing in history [by signing the peace agreement with Egypt] and I am praying for his health. He has to take it a few steps further before someone else can take over."

Are you consulted about the negotiations over Jerusalem, he is asked. "No," he says. It is the only one-word answer in an hour-and-a-half-long interview.

"It's a charade, you know," says Kollek. "It starts this way. The Americans say they haven't recognized East Jerusalem. Well, it's ridiculous, they haven't recognized West Jerusalem either. They say East Jerusalem is Arab territory. The moment they say it Sadat must take a slightly stronger position, and the Palestinian Arabs must take a slightly stronger position than even Sadat.

"And Mr. Begin, you know, doesn't help with his very vocal phraseology—'the indivisible capital of Eretz Israel,' 'this city that never will be divided again.'

"All this unnecessary talking brings about a difficult situation. It leads to a war of words. It gives the impression that this is a beleaguered city. The public declarations and the reality are so far apart.

"I believe that 99 percent of the population are satisfied with the way this city is run. The State Departments of this world are causing the trouble—especially the one in Washington."

Jerusalem. The broad stone steps of the Old City descending into darker, murkier alleyways, the fetid smell of too many people living too close together, the sides of beef hanging in the passages, which children brush as they make their way to the shops. The flies. The women, veiled in black, bundles of vegetables steady on their heads. The steamy pungency of Turkish coffee, permeating the dark cafes where men sit endlessly, playing backgammon.

And the western, newer part of the city, where stolid stone buildings squat in procession down the boulevards, where pine trees and bougainvillea fight a ceaseless battle with rubble and concrete dust. The bustle of downtown, the crowded, tiny shops, the sea of baby carriages, the constant shouting match: Hebrew, Arabic, Russian, French, English.

Within a 10-minute walk of each other lie the holy places that have made the city the focal point of three religions:

The Holy Sepulchre, itself the scene of feuds between Christian sects, where the guard leads a visitor through the candle-lit vaults to a dark opening at the crypt and says in a hushed, awe-filled voice: "There."

The "Wailing Wall," the western wall of the Second Temple, where rocking, praying Jews dressed in black coats and furry hats stuff bits of paper into crevices of the ancient stones with the same incantations that have been offered for over 2,000 years.

The Dome of the Rock built just above the wall, where hundreds, sometimes thousands of Moslems heed the muezzin's wail and kneel, barefoot, on the worn Persian carpets.

Above all: Sunset. The city glows hot, the stone buildings turn rose and violet. Who could voluntarily relinquish such a city?

Kollek arrives in his office at about 6:30 each morning and passes his first hours in comparative solitude, waking people up with his phone calls. Slowly, the secretaries and aides arrive, the letters pile up, the schedule gets overbooked. Expletives are heard as the mayor peruses the morning papers.

Rarely does he spend more than a few hours at his desk: the day is filled with meetings—with the city council, neighborhood groups, visiting dignitaries, the constant flow of journalists.

Critics have complained that his efforts at public relations are invariably at the expense of the city: "There's something wrong with his priorities," says Meron Benvenisti, Kollek's former deputy, now at Harvard and no longer on speaking terms with his former boss. "He doesn't care much for the institution of the city, he's impatient with the byzantine bureaucracy. He can't get a single donation for the sewage system, but he can get four parks."

To criticism of this sort, Kollek responds, "The fact is that everyone prefers doing what he does well."

While he strives to bring legitimacy to the city, he has also brought it glamor. His cultural projects—the Israel Museum, the Jerusalem Music Center, a writers' and artists' retreat, an Aspen Institute session, the Jerusalem Book Fair—have attracted big names from the arts, ranging from Arthur Rubinstein and Pablo Casals to Frank Sinatra and Elizabeth Taylor, and even to the leftist writer Simone de Beauvoir, who, after her visit, made a moving speech supporting the unity of Jerusalem.

Kollek has also escorted practically every show business figure, short of Vanessa Redgrave, around the city. One famous photo, which he included in his autobiography, shows him seated on the floor next to Marlene Dietrich, his nose approximately even with her perfect calves. That photo in particular did him no good with his coalition partners, the religious parties.

When he's finshed with the meetings and the tours, Kollek is apt to bring home with him the last person or group on his agenda, and his wife is expected to be ready to entertain them. Tamar Kollek is used to serving as unofficial secretary and coordinator, and soother of the feelings of offended constituents.

The Kolleks' phone is listed in the directory, *Kollek, Teddy and Tamar*. Jerusalemites do not hesitate to call, but they do so at their own risk.

One night at 11:30, when the mayor was in consultation with an aide in his study, an angry caller demanded of Tamar Kollek why a certain concert was given in Tel Aviv rather than Jerusalem. After inquiring pleasantly whether the issue merited a late-night phone call to the mayor at home, Mrs. Kollek took down the complaint and passed it on to her husband. When the aide left at 2 a.m., Kollek called the woman back and, with impeccable Viennese charm, explained why the concert could not be held in Jerusalem.

Of the constant interruptions and the way his job has consumed his personal life, Kollek says simply, "My family took it and understood it. My friends I have lost. But I've also lost patience for them." The Kolleks have a son and a daughter, both grown.

One other woman has stuck by Teddy Kollek through crisis and thunder, and she is Shula Eisner, his English-language secretary. Reached at 1 a.m. by telephone ("Can't talk now," she said repeatedly to daytime calls), she recounted with cheerful obscenity the start of her 14-year career with the mayor, who was, at the time, working at the Israel Museum, one of his pet projects.

"Actually, I just thought it would be nice to work in the museum; I was 19 and looking for any old job. On my way into the building, I passed a girl coming out in tears; I thought nothing of it at the time, but it turns out she had just been fired by Teddy.

"While I was filling out the forms, I heard his Hebrew-language secretary tell him, 'You better get along with this one, I'm getting tired of training new ones.' Of course I was terrified.

"Then he called me in and asked me my name, and when I told him Shulamith, he said, 'Well, I can't yell such a long name down the hall,' and that was the end of my name." If you ask her name today, she will tell you 'Shula.'

"At the beginning," Eisner said, "I found it hard to take his abuse. Once he was giving me hell for a mistake I didn't make and I finally worked up my courage and asked him 'Why are you yelling at me, I didn't type it,' and he answered, 'Because there's nobody else in the room.' "

Teddy Kollek grew up in Vienna in a steadily increasing atmosphere of anti-Semitism. Born in 1911 to a middle-class businessman and the daughter of a merchant, he spent his early years traveling with his mother around Austria and Germany to wherever his father was billeted as an officer during World War I.

The young Teddy (he was named for the father of Zionism, Theodor Herzl) was tall and blond and easily mistaken for a gentile. But his family was observant, and assimilation was out of the question. A Jew in Vienna had to make a choice, and Teddy made his at age 11, when he joined his first Zionist youth movement.

At first it was Hebrew songs and romantic stories about Palestine. Gradually it grew into a preoccupation. The parents of the young Viennese Zionists, who spoke a refined German rather than Yiddish, were aghast to see their children quitting school for agriculture and communal living.

The young Kollek, who yearned to go to Palestine, was put to work by his movement as an emissary and group leader, and spent his late teens and early 20s traveling around Czechoslovakia, Romania and Germany, making recruits. During this time he met his future wife, Tamar, who was 17 and newly won over to the Zionist cause. Romance blossomed, but they shunned the bourgeois institution of marriage.

Not until 1935, when he was 24, did Kollek get his certificate to go to Palestine. By that time, the larger stores in Vienna were refusing to sell to Jews. He went alone, and in a hurry. Tamar came along some time later, and he married her despite his socialist ideals because her tourist visa was about to expire. They were among the founders of the Gallilee kibbutz of Ein Gev, and Kollek became its first *mukhtar*.●

THE 75TH BIRTHDAY OF DR. MARY CALDERONE, AND THE 15TH ANNIVERSARY OF SIECUS

● Mr. JAVITS. Mr. President, later today a double celebration of great significance to Americans—parents, preparents, grandparents, children and young people—will take place in New York City.

At a testimonial dinner to be attended by many of her friends and associates, supporters and admirers, Dr. Mary Steichen Calderone, one of the world's leading authorities on human sexuality, will be honored on the 75th anniversary of her birth. At the same time, the organization Dr. Calderone cofounded and still serves today as president, the Sex Information and Education Council of the United States (SIECUS) will celebrate its 15th anniversary.

Mr. President, ignorance and myths about sexuality have, through the centuries, caused tragic results in human relationships—sexual violence, marital distress, teenage pregnancy, venereal disease and psychological maladjustment. In 1964, a group of health care professionals, aware of the many people troubled by problems related to sexuality, concluded that our society could no longer ignore this vital concern.

They recognized that, in this complex era of increased freedom and individualism with its accompanying changes in social values, adults and young people alike need help in understanding the personal and social responsibilities involved in human sexuality. To create a positive focus on this concern, they formed the Sex Information and Education Council of the United States.

While several hundred people are expected to toast Mary Calderone and SIECUS at the dinner this evening many Americans and others throughout the world will give heartfelt thanks for her courage and determination to speak the truth about human sexuality and for helping people to understand themselves and others as sexual human beings.

Mr. President, Dr. Mary Calderone is a Quaker and a direct descendant of two distinguished Americans—her father was Edward Steichen, one of the world's greatest photographers, and her uncle was Carl Sandburg, the American poet. She has been vilified for her views and her dedication to knowledge and enlightenment, especially in the early days of SIECUS, when she stood like a rock against attack. Today, she has worldwide support from a broad range of professions—medicine, psychology, marriage counseling, social work, nursing, journalism, sociology, and from members of religious and business communities.

At 75, Mr. President, this remarkable lady is a great grandmother. She has known adversity and has struggled with fear, ignorance, intolerance, and unhappiness. Through it all she has remained a dedicated American and brilliant physician thoroughly devoted to her mission.

And so today I pay tribute on her 75th birthday to Dr. Mary Steichen Calderone, and bespeak for her many more such anniversaries in the years ahead.●

PRESIDENTIAL CAMPAIGN COVERAGE

● Mr. GOLDWATER. Mr. President, a story in the November 28 Washington Post by Larry Kramer indicated that Charles Ferris, Chairman of the Federal Communications Commission (FCC) has been politicking his fellow Democratic Commissioners to insure that they vote with him to force the television networks to sell broadcast time to the Carter-Mondale Election Committee. In fairness it should be pointed out that Chairman Ferris and Commissioner Brown took strong exception to the implications of the Kramer article.

However, yesterday, November 28, 1979, the Commission denied reconsideration and affirmed its previous order requiring the television networks to provide broadcast time to the Carter-Mondale Committee. The networks are expected to appeal this decision. Although the Commission has attempted to reconcile the competing interests, I do not believe that this Commission action will end the debate on the general question of reasonable access.

On October 30, 1979, I raised a question about the desirability of amending the language in the Communications Act requiring "reasonable access by legally qualified candidates for Federal office." There is a real question in my mind whether broadcasters should be left with complete discretion to decide when the political season begins and how the candidates are to be given access—particularly Presidential candidates.

I have written the candidates for President and the Republican and Democratic national chairmen asking for their recommendations for a legislative solution. I also asked Chairman Ferris for the FTC's recommendations. Although I have not heard from Chairman Ferris, he was quoted in a recent New York Times article to the effect that legislation was unnecessary.

Mr. President, I am not sure which is worse: To leave the decision on "reasonable access" to the television networks or to seven Presidentially appointed Commissioners, four of whom are usually members of the President's political party.

It seems to me that the Congress should give serious consideration to providing more policy guidance to the FCC so that the public's ability to be informed by television is not subject to the arbitrary discretion of the broadcasters or the potentially political decisions of nonelected FCC Commissioners.

I call on all parties who are interested in the effectiveness of our political process to join me in a search for an appropriate legislative solution. After the conclusion of any court proceeding on the Carter-Mondale Committee complaint, I will recommend to Communications Subcommittee Chairman Hollings that he schedule hearings on this issue.

Mr. President, I ask that Mr. Kramer's article be printed in the Record.

The article follows:

FCC Chief Is Politicking To Pry Time for Carter Out of Networks

(By Larry Kramer)

Tough internal politicking by Federal Communications Commission Chairman Charles Ferris may preserve a Carter-Mondale Election Committee attempt to force reluctant television networks to sell President Carter a half-hour of prime time next month to announce his candidacy.

The FCC has already ruled once for the Carter campaign, finding 4 to 3 last week that the networks acted unreasonably in refusing to sell Carter the time he requested on any of the four nights he requested, Dec. 4 through 7.

The networks argued that the request was for too much time, and too soon, in view of the rough ratings war they are engaged in.

If they sold Carter the time, the networks said, they would have to sell similar blocks of time to several other candidates asking for the same exposure.

Instead, ABC offered a half hour in January, CBS offered five minutes at 10:55 p.m. on Saturday, Dec. 8, and NBC offered nothing.

The Carter staff panicked. Being scheduled to coincide with the announcement were more than 2,300 house parties at which a total of as much as $11 million could be raised.

And the networks wouldn't even return telephone calls from Carter's advertising man, Gerald Rafshoon.

Finally, because the houseparty hosts needed to send out invitations, the committee settled on Tuesday, Dec. 4, as the night of the announcement. Still the networks refused to sell any time, choosing instead to appeal last week's FCC order that they act in a more reasonable manner and find time for Carter's show.

On Monday, rumors began to circulate that one FCC commissioner who had earlier voted in favor of the Carter-Mondale committee, Democrat Tyrone Brown, might switch his vote on the technical reason that two of the networks did offer something, thus showing some reasonable attempt to cooperate.

Brown was in Geneva at the World Administrative Radio Conference when the story of his possible defection made its way around Washington. Chairman Ferris placed a hurried intercontinental phone call, and they talked for an hour. And, as soon as Brown returned to the United States yesterday afternoon, Ferris was back on the phone to him.

Although no one is talking about that phone call, Ferris indicated later that it was his impression that a vote of the commissioners today would be the same as last week's, favoring Carter.

On top of that, Ferris said, if the vote is the same, the commission would likely draft a "tight order" for the networks to offer Carter some air time, and soon.

If the networks still do not comply, Ferris said, the FCC would be left with no alternative but to begin revocation proceedings that could result in withdrawal of broadcast licenses from the five television stations owned by each network.●

SAVING CAMBODIA

● Mr. PELL. Mr. President, the crisis in Cambodia that is claiming the lives of some 1,000 civilians a day has not ended. Although the United Nations, the International Red Cross, and many governments and private groups around the world have organized or contributed to a large relief effort to save the starving and sick in Cambodia, cruel political maneuvering by the contending forces for the control of Cambodia prevents sufficient food and medicine from reaching the Cambodian people.

Frank Valeo, the former Secretary of the Senate, recently wrote a very perceptive article for the Baltimore Sun calling for a political solution as well as relief for Cambodia.

I commend this article to my colleagues and ask that it be printed in full in the Record.

The article follows:

Saving Cambodians, Saving Cambodia

(By Frank Valeo)

Washington.—What is left of international decency has spurred a relief effort to save the lives of thousands of starving Cambodians. Of necessity, this effort is being directed initially to the refugees who have fled Cambodia and are huddled in collective misery in camps just across the Thai border. The Red Cross, the U.N. agencies, church and other organizations are participating in this humanitarian endeavor. Along with others, the U.S. government has pledged millions of dollars for the relief work.

Thanks to this effort, most of the Cambodians who reach the refugee camps in Thailand can now be expected to survive. As a nation, however, Cambodia may not be so fortunate.

While the situation remains obscure, the few foreigners, including three U.S. senators, who have made the trip to Phnom Penh indicate that the human suffering inside the country is appalling. Nevertheless, the Heng Samrin government in Phnom Penh rejects all relief aid which it cannot control. Heng Samrin's Vietnamese backers refuse even to recognize the existence of a problem. Meanwhile, guerrilla groups under Pol Pot show little concern for anything other than the war against the hated Vietnamese; those who cannot contribute either fall by the wayside or straggle into the Thai refugee camps.

Steadily, what remains of the Cambodian nation is being ground into non-existence. Before Cambodia was pushed into the Vietnamese conflict, the population exceeded 7 million. Years of air-bombing, revolution and then the harsh reprisals and mismanagement of Pol Pot's brief sway in Phnom Penh are believed to have halved that figure. Inevitably, each wave of dry-season fighting will shrink the number even further while casting up still another wave of refugees. The end is nowhere in sight.

It is not inconceivable that, in time, the Cambodians could be reduced to a tribal vestige. These descendents of the ancient Khmer civilization whose greatness is suggested in the ruins of Angkor Wat could become a kind of endangered human species seeking survival in remote and inaccessible jungles.

The rice terraces, rubber lands and other lush resources of Cambodia which already have been largely abandoned will be left to exploitation by more powerful neighbors. The pattern is not an unfamiliar one in Southeast Asia. Remnants of other once powerful peoples are to be found throughout the highlands and jungles of the region.

Cambodia, in fact, is already well on the way to dissolution as a political entity. Unless the process is checked, the final collapse will give rise to problems even more serious than that of the refugees.

An independent, viable and neutral Cambodia could be a stabilizing factor in the rivalry between China and Vietnam. Cambodia's disappearance would destroy the regional balance, affecting such states as Thailand. The region could become a breeding ground for war for generations.

What hope remains of forestalling this sequence depends in great part on the prompt unification of the Cambodian factions in an effort to save the nation. Only as a unified force will the Cambodians stand a chance of reasserting their battered national identity.

The essential symbol of that unity is not to be found in the present regime in Phnom Penh. The fact that the regime has an abject dependency on Vietnamese forces denies it acceptability among Cambodians at home or in exile.

Nor does Pol Pot represent the symbol of unity. His claim to national leadership has been severely compromised by the cruelty and the ineptitude of his interregnum in Phnom Penh.

That leaves Prince Norodom Sihanouk. His nationalism remains unquestioned. His claim to the loyalty of the Cambodian people is supported by his past contributions. It was Prince Sihanouk who led the country in winning independence from France, in building a brief "golden age" of well-being in Cambodia. It was his diplomacy which fended off the Indochina War for years and won respect for Cambodia's integrity from most of the governments of the world. Most significantly, Prince Sihanouk has held the confidence of both Peking and wartime Hanoi.

Alone among the Cambodians, Prince Sihanouk could serve as a rallying point for the surviving Khmers of all political persuasions. Indeed, he is working with the meager resources that are available to him to assume that role.

His efforts will be of little avail, however, unless there is a readiness by the interested powers, including the United States, to accept him as a key to the rescue of Cambodia and, hence, a significant element in maintaining stability in Southeast Asia. There is reason to believe China is now prepared to see Prince Sihanouk in that light. What of Vietnam and other nations?

It remains to be seen whether the worldwide humanitarian impulse to save the lives of Cambodian refugees can be matched by the diplomatic wisdom capable of saving the Cambodian nation and peace in Southeast Asia.●

GAO STUDY OF LIBBY REREGULATING DAM

● Mr. BAUCUS. Mr. President, in a statement on this floor several days ago, I used the Tellico Dam issue to highlight the need for an impartial high-level review board which would analyze the benefits and costs of all water projects.

I used the occasion to describe my difficulties in getting the Corps of Engineers to recompute the benefit-cost ratio of a proposed Libby reregulating dam in northwestern Montana. The reregulating dam, which would be located 10 miles downstream from the main Libby Dam, would cost an estimated $300-million but would not significantly increase the output of power from the entire complex. It would simply shift the complex from a baseload to a peaking power facility.

Being unable to get the Corps to recompute the benefit-cost ratio using more recent economic data—Libby Dam was authorized in 1950 and construction did not begin until 1966—I turned to the General Accounting Office for help.

The General Accounting Office has just released the results of its study, and I wish to share them with my colleagues.

The GAO concludes that the reregulating dam will yield 58 cents in benefits for each $1 expended, for a benefit cost ratio of 0.58 to 1. This is contrasted with the long-standing claim by the Corps of Engineers that the benefit-cost ratio is actually 2.3 to 1.

The wide discrepancy between 0.58 and 2.3 is striking and underscores my call for an independent review of all water projects, using a common methodology and a common discount rate. Hydropower has been a marvelous source of energy in this country, and I am confident will continue to be an important mainstay of our energy program. However, the day should be over when we automatically assume that the benefits of any dam outweigh its liabilities.

The GAO effort has stimulated the Corps to undertake its own recomputation. Results of the Corps study are due early in 1980. I look forward to the Corps report. In the meantime, I will oppose any legislative effort to move the reregulating project forward.

Mr. President, I ask that the pertinent sections of the General Accounting Office study be printed in the RECORD.

The study follows:

U.S. SENATE,
Washington, D.C., June 20, 1979.

Mr. ELMER B. STAATS,
Comptroller General,
General Accounting Office,
Washington, D.C.

DEAR ELMER: First, let me thank you for GAO's work to date concerning my February 23, 1979 request and subsequent correspondence about the proposed Libby, Montana, reregulating dam.

As stated in my May 10, 1979 letter to you on this subject, I had in April asked the Army Corps of Engineers to re-examine its economic justification for the proposed dam.

The Corps has declined such a re-examination, and as I emphasized in my recent meeting with J. Dexter Peach, Mark Heatwole and John Brown of your staff, Congress must soon decide whether to proceed or halt this controversial $250 million project.

Nevertheless, controversy and charges continue to grow and surround the economic justification for the Libby project. It is difficult for a layman to make an informed judgment from the storm of charges and counter-charges.

Your previous work in looking at the peaking power in the Pacific Northwest needs has been most helpful, but I continue to believe a clear and informed picture of the Libby economic justification is necessary. I therefore, request the General Accounting Office to:

1. Review and provide observations on the assumptions used in the Corps' benefit-cost study to add four generating units at Libby main dam and construct a reregulating dam with generation facilities;

2. Review the methodology to see if water resource principles and standards were followed in preparing the benefit-cost study;

3. Review and analyze the values assigned as benefits to peaking power;

4. Assess the impact on power benefits if the maximum allowable flow fluctuations downstream are scaled back to a lower level; and

5. Identify options (including non-generating) which could be used in the Pacific Northwest for meeting or decreasing peaking demands, in lieu of the Libby project.

In identifying these options, outline the advantages and disadvantages of each and, if possible, provide available information on the economic aspects of each and what you think it would take to bring about these alternatives.

Because of pending legislation bearing on the Libby situation, it is important that this evaluation be done immediately. I ask your staff to contact my office periodically to provide me with updated information on the status of the review. I further request that your study be finished and provide me a briefing on your findings by October 15, 1979, to be followed by a report on your study and findings by November 15, 1979. My office stands ready to assist you in any way and further contacts should be with Mike Shields of my staff at 224-2651.

As confirmed in discussion between your staff and mine, I will assume that the final report will be a formal "blue cover" report with the customary thirty-day hold for my review.

With best personal wishes, I am

Sincerely,

MAX BAUCUS.

COMPTROLLER GENERAL'S REPORT

MONTANA'S LIBBY DAM PROJECT: MORE STUDY NEEDED BEFORE ADDING GENERATORS AND A REREGULATING DAM

On June 20, 1979, Senator Max Baucus of Montana asked GAO to answer several questions regarding the proposed Libby additional generating units and reregulating dam project in Montana, including an analysis of the economic justification. In response to Senator Baucus' request and concerns expressed by another member of the Montana delegation, GAO addresses three main issues in this report:

Did the Corps of Engineers use valid assumptions and appropriate methods in preparing the benefit-cost study for the proposed project?

Are there alternatives in lieu of the Libby project that could be used in the Pacific Northwest to meet or to better manage future peaking demands?

What would be the impact on power benefits if the maximum river fluctuation limits downstream were reduced to a lower level?

The existing Libby Dam on the Kootenai River in northwestern Montana was completed in 1973, and the Corps recently began to modify the dam to increase its generating capacity. This increased generating capability at the main dam would produce virtually no more electricity than the existing facility, but would help meet high-demand daytime needs.

The proposed modifications, which would cost an estimated $300 million, include installing four more generators and constructing a reregulating dam 10 miles downstream from the main dam. Because a peaking hydroelectric facility releases water in surges, a secondary dam is necessary to reduce water fluctuations downstream and to minimize environmental and safety hazards. The Corps has also proposed to the Congress additional generators for the reregulating dam. These generators would provide additional power at the site, but they have not been authorized for construction.

For several years the project has been the subject of controversy as to its proposed operating features and its need. Based on its studies, the Corps contends that the additional generating capacity at Libby is necessary to help meet the peak power needs in the Pacific Northwest. Others, however—including environmentalists, and State of Montana officials—have questioned whether the Congress has authorized the Corps to modify the dam and/or whether the project is economically and environmentally sound.

The Corps has overstated project benefits

In making its benefit-cost analysis of the proposed Libby project, the Corps used methods which no longer apply to the Pacific Northwest where power sources have moved away from mainly a hydroelectric system to a mix of hydropower and thermal plants.

Corps officials have acknowledged that calculating benefit-costs by past methods overestimates benefits for projects where peak generating capacity is added to existing hydropower plants and used very little. Between 1975 and 1978, the Corps analyzed several alternative calculation methods and, by May 1978, reported that a better method—called the production cost model—had been developed for some types of projects. The Corps tested the method on other proposed additional units projects but not on the proposed Libby project

At GAO's request, the Corps applied the production cost model concepts to the proposed Libby project, recognizing that certain data would not be precise. The result was an estimated benefit-cost ratio of 1.02 to 1, significantly lower than the 2.3 to 1 ratio given to the Congress in February 1979.

GAO examined the 1.02 to 1 ratio and found several questionable values and assumptions which, if revised, reduce the ratio to about 0.6 to 1. GAO's adjustments to the benefit-cost ratio reflect changes in the discount rate, power values, and project costs used by the Corps.

The Corps plans to undertake a new benefit-cost study for the project applying the production cost model and using more precise data. It hopes to complete the analysis and submit the results to the Congress by early 1980.

Reduced river fluctuation limits could impair operating flexibility of the main dam and decrease power benefits at the regulating dam

State of Montana officials and others suggested at one time that fluctuation limits be reduced for safety reasons and to lessen the effects on the river environment, particularly the fish population. The fluctuation limits below the reregulating dam, if it becomes operational, will be the same as the limits for the existing facility—1 foot an hour, but not more than 4 feet a day, during the summer, and 2 feet an hour, but not more than 6 feet a day, during the winter.

The Corps has opposed reducing the river fluctuation limits, contending that major reductions would reduce annual power benefits substantially. A recent Corps study showed that while scaling back the daily fluctuation limits by about one-half would have no measurable impact on power benefits from the main dam, up to $3.5 million in power benefits would be lost from the reregulating dam generators, if they are installed. The study showed that lower fluctuation limits could also reduce the Corps' flexibility to bring Libby Dam online quickly during rapid increases in demand or power emergencies.

GAO found no comprehensive studies or other evidence which show the need to reduce fluctuation limits, particularly since the fishery below Libby Dam is apparently flourishing.

Five potential alternatives to the proposed Libby project are available in the Pacific Northwest

GAO identified five potentially viable alternatives to the proposed Libby project, both to increase generating resources and to better manage future peak demand. Most alternatives were not analyzed thoroughly by the Corps before it started work on the project.

The alternatives are:

Combustion turbines, which are similar to aircraft engines except that they drive electric generators.

Cogeneration, which uses heat from industrial operations to power electrical generators.

Power exchanges using the intertie, which stretches from California to Washington and has an existing capacity of 4,100 MW.

Load management, which can smooth out the peaks in electricity use by means of remote control switches, thermostats and circuit breakers in homes and businesses.

Peak pricing options, which involve increasing power prices during periods of heaviest demand.

Recommendations

The Corps has not shown that the proposed Libby project is economically justified or that this project is the best available option for meeting Pacific Northwest peaking needs. Because of this, GAO believes that the proposed Libby Dam project should proceed no further until the Congress has more information on it. Accordingly, GAO recommends that the Secretary of the Army direct the Chief of Engineers to recompute and to report to the Congress the costs and benefits for the project, using the production cost model approach, and taking care to select the authorized discount rate, valid power values, and all applicable costs.

As part of this study and included as part of the Corps' report, the Secretary of Energy should direct the Administrator of the Bonneville Power Administration to conduct a comprehensive analysis of regional peaking alternatives, including the proposed project. This study should measure the incremental effect of each alternative on the combined hydro-thermal system, and should be the basis for prioritizing alternatives for implementation.

In the longer term, the Bonneville Power Administration should routinely prepare and update the analysis of peaking alternatives. If options such as conservation, load management, and peak pricing prove to be economically feasible, the Bonneville Power Administration should develop and implement equitable methods to encourage utilities and electricity customers to adopt them.

As agreed with Senator Baucus, we did not obtain written agency comments. The matters presented in the report, however, were discussed with appropriate officials who agreed that further studies are warranted.

LIBBY DAM STUDY

CHAPTER 1: INTRODUCTION

In 1950 the Congress authorized the Corps of Engineers to construct the Libby Dam on the Kootenai River in northwestern Montana. Completed in 1973 by the Seattle District, Corps of Engineers, the dam began producing electricity 2 years later to meet the energy demands of the Pacific Northwest. As a second phase of the project, the Corps has now begun major modifications to double the dam's generating capacity and to change its operating mode. This increased generating capacity will cost an estimated $300 million and will involve increasing the number of generators from four to eight and constructing a reregulating dam 10 miles downstream from the main dam. The reregulating dam is necessary because the Corps plans to increase the peaking capability of the project. The Corps has also proposed as a separate project, that generators be installed in the reregulating dam. These generators would provide additional power at the site, but they have not been authorized for construction.

Unlike a baseload facility which is designed to produce a steady continuous flow of electricity by releasing water over a long period, a peaking facility releases more water in surges over a shorter time to produce electricity for high-demand peak periods. In the case of Libby, the installation of four more generators would produce virtually no more electricity than the existing facility but would help meet daytime peak power needs.

Because a peaking plant releases water in surges, a secondary dam a short way downstream becomes necessary to reduce the water fluctuations and to minimize environmental and safety hazards. For example, if eight units are installed in Libby Dam and the plant is used for peaking, flows below the main dam could go from zero to 45,000 cubic feet per second in minutes with water level fluctuations up to 18 feet. Therefore, a reregulating dam would be mandatory to reduce the surges and release water downstream at a steadier rate.

For several years the project has been the subject of controversy as to its proposed operating features and its need. Based on its studies, the Corps contends that the additional generating capacity is necessary to help meet the forecasted peak power needs in the 1980s, 1990s, and beyond. Others, however—including environmentalists, State of Montana officials, and the courts—have questioned whether the Congress has authorized the Corps to modify the dam and/or whether the project is economically and environmentally sound. In early 1979, the U.S. Court of Appeals for the Ninth Circuit ruled that the Congress had not authorized the Corps to build the reregulating dam at Libby and enjoined the Corps from further work on the project. The court allowed work to continue, however, on the four additional generating units. As of October 1, 1979, the Corps had spent about $26 million on the generators which cannot be used effectively unless the reregulating dam is built.

Because of this controversy and pending congressional legislation on the Libby project, Senator Max Baucus of Montana requested that we:

1. Review and provide observations on the assumptions used in the Corps benefit-cost study to add four generating units at the Libby main dam and to construct a reregulating dam with generating facilities.
2. Review the methodology to see if the Corps followed water resource principles and standards in preparing the benefit-cost study.
3. Review and analyze the values assigned as benefits to peaking power.
4. Assess the impact on power benefits if the Corps' maximum allowable flow fluctuations downstream are scaled back to a lower level.
5. Identify options other than the Libby project (including nongenerating options) which could be used in the Pacific Northwest for meeting or decreasing peaking demands. In identifying these options, Senator Baucus asked us to outline the advantages and disadvantages of each and, if possible, to provide available information on the economic aspects of each and how these alternatives could be brought about.

Scope of review

During this study we reviewed records, instructions, guidelines, and other data concerning the economic justification for and the alternatives to the Libby additional units and reregulating dam (LAURD). We worked at the Corps' Seattle District and the North Pacific Division in Portland, Oregon; the Bonneville Power Administration (BPA), Portland, Oregon: and the Federal Energy Regulatory Commission in San Francisco, California.

To better understand the questions raised about the project and their potential impacts, we visited the Libby damsite, toured the area around the proposed reregulating dam, talked with Corps officials operating the dam, and met with representatives of the Libby Rod and Gun Club. Also, we talked with officials from the Montana State Departments of Fish and Game and Natural Resources in Helena about the LAURD project.

Two consultants—George W. Hinman and Walter R. Butcher, highly knowledgeable about energy technologies—assisted us in evaluating alternatives to constructing the LAURD project. In addition, we contacted representatives from Puget Sound Power and Light, Portland General Electric, Seattle City Light, and Southern California Edison companies for data used during our analysis of the LAURD benefit-cost ratio and alternatives.

Although the Corps has proposed adding generators to the reregulating dam, we did not include them in our evaluation of the Corps' benefit-cost study for LAURD because the Congress has not authorized their construction.

CHAPTER 2: BENEFIT-COST ANALYSIS

The Corps has not shown the proposed LAURD project to be economically justified. The Corps calculated a benefit-cost ratio for LAURD of 2.3 to 1, using a method which did not properly evaluate either (1) Libby Dam's present use in meeting high daytime peak power needs and (2) the complexities of today's Pacific Northwest power system. Recent Corps recalculations using a better method show a benefit-cost ratio for LAURD of about 1.02 to 1. However, our adjustments to the discount rate and certain costs reduce this ratio to about 0.6 to 1. The Corps has begun a new LAURD benefit-cost study to submit to the Congress in early 1980.

Benefit-cost analyses for hydropower

The benefit-cost analysis is one of the major tools the Congress uses when making decisions on proposed Federal water projects. This analysis compares a proposed project's expected benefits with its expected costs. The analysis is used to evaluate a project's economic justification after a need for the facility has been established. Projects are seldom authorized unless their average estimated benefits exceed their average estimated costs annually.

Criteria for benefit-cost analyses are developed by the Water Resources Council and implemented in Corps regulations. To achieve uniform analyses, the Water Resources Council establishes policies and methods for water resource project evaluation.

The Federal Energy Regulatory Commission (FERC) also provides values and guidelines for evaluating power benefits, including estimates of the costs of such alternative projects as nuclear and combustion turbine plants.

Corps Evaluation Method for LAURD

Electrical power is the only benefit that the Corps has claimed for LAURD. The Corps determined power benefits for the additional units by computing the value of the proposed eight units (four existing plus four additional) designed to meet peakloads and then by subtracting the value of the four units now in service.

To assign power values, the Corps used the cost of presumed equivalent alternatives projects. Specifically, the Corps compared the planned eight-unit peaking system to a combined-cycle[1] thermal plant and compared the existing four-unit facility to a nuclear plant. Thus, the Corps computed the power benefits for LAURD by subtracting the fixed and variable costs of a baseload nuclear plant from the fixed and variable costs of a combined-cycle thermal plant. The following illustrates this method.

Power benefits attributable to LAURD = Value of planned 8-units (4 existing plus 4 additional) used for peaking − Value of existing 4 units.

And thus:

Power benefits attributable to LAURD = Value of combined-cycle thermal plant operated like the planned 8 peaking units − Value of nuclear plant operated as a baseload plant.

Better method is available

The Corps method evaluated the present Libby Dam as if it were operating as a baseload plant which provides a steady continuous amount of power. This technique overlooked the fact that Libby is now providing considerably more power during the daytime than it is at night. The Corps has developed a better method for calculating benefits for added units projects. The better method still relies on measuring project benefits by selecting the least costly alternative project, but also considers the effects on system energy costs brought about by alternate projects.

The present Libby Dam operates as a baseload plant only part of the time; thus, it is not comparable to a nuclear plant. During the last 3 years, Libby has been used to create an average of 133 more megawatts during days than nights, excluding spring fill periods. The LAURD benefit-cost analysis should reflect Libby's present use in meeting daytime power needs much of the year and should measure benefits as the incremental value LAURD would provide.

In addition, the Corps method of computing power benefits is no longer applicable, as the Pacific Northwest power sources have become diverse. The past method applied when a baseload thermal plant was the alternative to a baseload hydropower plant in an all-hydropower system. The measure of benefit was the cost of building and operating a baseload thermal plant However, a mix of hydropower plants (baseload and peaking), baseload thermal plants, and combustion turbine peaking plants now furnish power to the Pacific Northwest. Past methods of calculating benefits and costs no longer apply, because it is increasingly difficult to evaluate the least costly alternative energy source, particularly for additions to existing hydropower plants which will be used very little.

Corps officials acknowledge that past benefit-cost calculation methods significantly overestimated benefits from additions to existing projects. In fact the Corps recognized these calculation weaknesses as early as 1975, when officials began to evaluate ways of improving benefit-cost calculations for additional units projects. Between 1975 and 1978 the Corps analyzed several alternative calculation methods and, by May 1978, reported that it had developed a better method which was operational, at least for certain kinds of projects.

The Corps can use its newer method—called the "production cost model"—to estimate system energy costs for hydropower and alternative projects as they would actually operate in the Pacific Northwest power system. The model identifies and values the most economical alternatives to a proposed project by calculating power system operating costs under alternative power demand situations. Alternative plants and combinations of plants can be tested under future operating conditions, and the resulting production costs, together with capital costs, can be used to select the most economical combination of resources to meet future loads.

In May 1979, the Water Resources Council proposed that system energy costs be taken into account (such as done by the Corps' production cost model) when computing the value of hydropower energy. According to Corps officials, this approach has been used by the Tennessee Valley Authority and FERC for many years, is now widely used, and is the approach now advocated by the Bureau of Reclamation and the Water Resources Council.

The Corps tested the method on other proposed additional units projects (at McNary and Chief Joseph Dams), but did not apply it to recalculate LAURD benefits and costs.

At our request the Corps estimated the LAURD benefit-cost ratio, using production cost model concepts and applying judgment to the results of past applications. A benefit-cost ratio of 1.02 to 1[2] resulted—significantly lower than the 2.3 to 1 ratio the Corps gave to the Congress in February 1979. Corps officials were uncertain about the validity of the model results, stating that they had developed the model for projects which would be used more than 40 percent of the time. LAURD would be used less than 20 percent of the time. Further refinement of the model by the Corps may result in a different benefit-cost ratio.

GAO adjustments to Corps production cost model calculations

Our examination of the 1.02 to 1 ratio developed by the production cost model disclosed several questionable values and assumptions which, if revised, reduce the ratio to about 0.6 to 1, as shown in the following table:

GAO analysis of Corps benefit-cost ratio calculated by production cost model

	Benefit-cost ratio
Corps calculated benefit-cost ratio from production cost model	1.02 to 1
GAO adjustments:	
Change in discount rate from 3.8 percent used by Corps to 7.125 percent established by Water Resources Council	0.69 to 1
Decrease in combustion turbine construction cost from $21.56 a kilowatt-year national value to $16.67 a kilowatt-year regional average	0.61 to 1
Increase of $757,476 in estimated annual project costs for highway improvements and cultural resources preservation, and additional interest during construction	0.59 to 1
Disbenefits of $333,300 annually due to losses in wildlife lands, due-use recreation and fishing opportunities in the 10-mile stretch between the two dams	0.58 to 1

Explanation of GAO Adjustments

Our adjustments to the benefit-cost ratio for LAURD which the Corps developed from the production cost model reflect changes in the discount rate, combustion turbine plant construction costs, and the inclusion of certain project costs:

Discount rate. The Corps used a 3.8-percent discount rate in determining present value of future energy costs. This rate is significantly lower than that prescribed by the Water Resources Council. Corps officials believed the lower rate would provide an inflation-free analysis, and they used it to avoid reducing the impacts intended from the application of an escalation factor to reflect expected real cost growth in future fuel costs. For the interest rate, however, the Corps used the 7.125-percent rate established by the Water Resources Council.

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[1] A combined-cycle plant produces electricity from turbine engines connected to generators and uses heat recovered from those turbines to run one or two more generators. This design produces additional electricity without using additional fuel.

[2] This ratio was based on fuel costs exceeding average inflation by 2 percent a year for 30 years. The Corps also developed a 1.17 to 1 ratio using a 3-percent fuel cost escalation rate. Our adjustments reduce the 1.17 to 1 ratio to about 0.63 to 1.

Federal regulations clearly specify that both the discount and interest rates will be the current federally prescribed rate. Water Resources Council guidelines do not allow adjusting the discount rate. Economists and officials of other agencies told us that a 2- or 3-percent fuel-cost escalation factor and a 7.125-percent discount rate were reasonable. Using a 7.125-percent discount rate lowers the benefit-cost ratio to about 0.7 to 1.

Combustion turbine construction costs. The Corps production cost model identified combustion turbines as the least costly alternative to LAURD. A $21.56 a kilowatt-year construction cost based on FERC data was used as a measure of the dependable capacity. We obtained the costs that regional utilities had estimated for planned combustion turbine plants, compared them to an inservice plant (combined-cycle without heat recovery), and developed a $16.67 a kilowatt-year average cost.

LAURD construction costs. The Corps excluded two types of costs from the benefit-cost ratio—highway improvements and cultural resources preservation. Corps regulations allow these costs to be excluded because they do not directly benefit the project. But these costs, totaling about $8.8 million, should be recognized and included in the analysis because they are unavoidable and necessary expenses brought about by the project.

Also, the Corps planned for LAURD to be completed and operating by 1984. However, Corps officials told us that the court injunction and project authorization process would delay project completion until at least 1986—possibly until 1990—if the Congress decides to build. The minimum 2-year delay would increase interest during construction on the $26 million already spent as of fiscal year 1979 by about $1,852,500.

Total estimated project costs for highway improvements and cultural resources preservation, and additionl interest during construction are $10.7 million, or $757,476 annually.

Wildlife and recreation losses. The Corps recognized that wildlife lands, day-use recreation, and fishing opportunities would be lost in the 10-mile stretch between the Libby main dam and the proposed reregulating dam. While the Corps calculated annual wildlife and recreation losses of $333,300, they did not include these losses when calculating the LAURD benefit-cost ratio.

Factor Not Evaluated

The 1.02 to 1 benefit-cost ratio did not reflect the full effects of the 1964 United States-Canada Columbia River Treaty, under which Canada may divert water from the Kootenai River in three stages at a point in Canada 50 miles from the border. (See map on p. 11.) The treaty allows the first diversion after 1984, with the second and third allowed after 2024 and 2044, respectively. The Corps benefit-cost ratio included only the projected effects of the first diversion. Additional water diversions would reduce the average streamflow and reduce the average energy potential of Libby Dam.

Corps will develop new benefit-cost ratio

Corps officials said that they plan to recalculate the benefit-cost ratio for LAURD using the production cost model. In so doing, they plan to use better data and eliminate the need for judgment estimates. The officials told us they hope to provide the results of the recalculation to the Congress in early 1980. They attributed the planned LAURD recalculation to congressional interest and our review.

CHAPTER 3: EFFECT OF REDUCED FLUCTUATION CRITERIA ON POWER BENEFITS AND OPERATING FLEXIBILITY OF LIBBY DAM

The Corps designed the LAURD project to permit the main dam, with eight units, and a reregulating dam to operate within the same flow and fluctuation limits as the present facility with four generating units. Water fluctuation limits below the reregulating dam would continue at a maximum of 1 foot an hour, but not more than 4 feet a day, during May through September, and a maximum of 2 feet an hour, but not more than 6 feet a day, during October through April. The minimum allowable water discharge would also be the same, or 2,000 cubic feet a second (c.f.s.).

State of Montana officials and others have suggested lowering these fluctuation levels and/or increasing flows further to reduce effects on the environment and for safety reasons. The Corps has opposed such moves, contending that major reductions would significantly reduce annual power benefits. A Corps study completed during our review showed that there would be a substantial reduction in benefits for peak power at the reregulating dam if the maximum allowable flow fluctuations were scaled back by about one-half the current levels. A reduction in fluctuation limits could also limit somewhat the Corps' flexibility to bring Libby Dam online quickly during rapid increases in demand or power emergencies.

Background and status

History

Since the early 1960s considerable discussion has occurred regarding flow fluctuations and the minimum discharge downstream from Libby Dam. In 1962 the Corps proposed minimum flow criterion of 2,000 c.f.s. and a maximum fluctuation criterion of 2 feet an hour in the winter and 1 foot an hour in the summer. The Corps proposed these levels after consulting with BPA, the U.S. Fish and Wildlife Service (FWS), Montana State Department of Fish and Game (MDF&G), and others. However, these agencies did not endorse the Corps' criteria at that time.

In 1965 the FWS, concurring with MDF&G, recommended discharge rates from the dam of not less than 2,500 c.f.s. and fluctuation rates of no more than 1 foot an hour. According to the FWS, these criteria would minimize detrimental effects on fish and aquatic life and reduce hazards to anglers. The Corps retained its hourly fluctuation limits, but later revised its criteria to limit maximum daily fluctuations to 4 feet during May through September and 6 feet during October through April.

In 1975 FWS and MDF&G concluded that a minimum discharge limit of 2,000 c.f.s. would be adequate, but that a minimum flow of at least 3,000 c.f.s. would be preferable. After further study, the FWS recommended in 1977 that levels of at least 4,000 c.f.s. would be better during April through June and October through November to enhance spawning in the river. Also, FWS told the Corps that to enhance spawning it would be preferable to operate the reregulation dam so that some fluctuation in the river occurred on a daily basis. In response to FWS concerns, the Corps stated that minimum flows from the reregulating dam will be 4,000 c.f.s. whenever possible, and that a 2,000-c.f.s. flow would occur infrequently.

Prompted by former Montana Senator Paul Hatfield's 1978 inquiry to the Corps concerning the flow and fluctuation rates at Libby Dam, the MDF&G again revised its position on the Corps criteria. In September 1978, MDF&G recommended that the Corps (1) reduce fluctuations to a maximum of 3 feet each day and ½ foot an hour year round, (2) maintain a minimum flow of 4,000 c.f.s., and (3) maintain a steady flow from 3 hours before sunset until dark and a steady flow on weekends during May through October. These recommendations were made to accommodate anglers and to increase spawning.

The Corps responded to these recommendations by repeating the reasons for its fluctuation and flow criteria. More restrictive fluctuation criteria, the Corps said, would significantly reduce power benefits. The Corps also said that it must have the flexibility to (1) reduce the flow to 3,000 c.f.s. for reservoir refill capability and (2) reduce the flow to 2,000 c.f.s. during power emergencies. The Corps does not expect these emergencies to occur on the average more than four times a year.

Current Status

In August 1979, the director of MDF&G told us that MDF&G does not oppose the Corps flow and fluctuation criteria for Libby Dam if the Corps abides by the existing criteria. He said that the fishery below Libby Dam is fluorishing and MDF&G has no reason to support reducing these criteria. Representatives from the Libby Rod and Gun Club, who have questioned the need for the LAURD project, also agreed that the fishery below the Libby Dam is good and that no evidence exists to support the need to reduce the fluctuation criteria. The club opposes the project, however, because 10 more miles of the river (behind the reregulating dam) would be "lost" to sports fishing.

On the other hand, a cognizant FWS official from the Billings, Montana, area office told us that FWS favors a minimum flow level of 4,000 c.f.s. He said that further studies should be made to determine suitable flow criteria for the protection of fish and aquatic life in the river.

Effect of reduced criteria on power benefits

The Corps has contended for some time that any major reduction in fluctuation and flow criteria at Libby Dam would significantly affect power benefits for the project. In July 1978 the Corps told former Montana Senator Paul Hatfield that, if the fluctuation limit were reduced to 3 feet a day year round, the benefits from three of the proposed generating units at the main dam would be lost at an estimated annual cost of about $26 million. A Corps October 1978 policy paper also estimated that the capacity of three generating units would be lost. These losses were based on engineering judgment, however, rather than a detailed analysis.

In September 1979 the Corps completed a more thorough analysis on the effect of reduced fluctuation levels on power benefits. In this study the Corps used a minimum flow of 4,000 c.f.s. and a fluctuation limit of 1 foot an hour and 3 feet each 12-hour period (6-foot limit a day) during the winter months. We believe the study results are also valid when the daily limit is about 3 feet, because only 3 feet of fluctuation was actually needed in the study. Corps officials agreed.

While the study focused on the effects of a reduced criteria on the reregulating dam, it concluded that by careful scheduling the full capacity of the main dam can be made available at least 90 percent of the time during the critical winter months. As a result, there would be little change in the measurable power benefits from the main dam, although Corps officials contend that some nonquantifiable benefit would be lost. If generators are installed in the reregulating dam as proposed, however, the power benefits from the reregulating dam—which are not included in the benefit-cost analysis—would be reduced. The study showed that these lower fluctuation levels would reduce average generation about 3 megawatt-years and would reduce dependable capacity about 40 megawatts for the reregulating dam. The estimated loss in measurable benefits would be between $2.6 and $3.5 million annually.

Because of the time required, we did not analyze the effect on benefits of other fluctuation criteria. In our opinion, however, more restrictive criteria would generally cause the benefits to decrease by reducing the dependable capacity of Libby Dam.

Effect of reduced criteria on flexibility

Federal officials have been concerned that more restrictive fluctuation criteria would reduce the flexibility to operate as planned, but recent Corps and BPA simulation studies show that the flexibility loss resulting from a 3-foot daily fluctuation limit would not be a problem most of the time. In their simulations, both the Corps and BPA assumed that the reregulating pond would be almost full on weekday evenings and full on Friday evening to maintain flows of 4,000 c.f.s. at night and over the weekend when water from the main dam was shut off. Using these operating assumptions, the flexibility of Libby Dam to meet sudden power demands could be reduced somewhat if the demand were to occur in the evening, particularly on Friday. Overall, however, the studies showed that the project could operate efficiently to meet scheduled daily peak loads.

Reducing criteria might also affect Libby Dam's ability to provide operating reserves. However, BPA and the Corps thought this type of situation would not pose serious problems, for they could make necessary adjustments in the way they operated the project. Corps officials told us that because of the longer lead-times necessary to increase or reduce power significantly, they would have to schedule Libby Dam's operation well in advance. They did not think that the reduced criteria would keep them from generating power as needed, only make it harder. The official responsible for BPA's simulation study said that the reduced criteria would occasionally limit their flexibility in using the project. He said, however, there is such a critical need for units like Libby, which can change their output rapidly, that BPA was willing to forego some dependable capacity to gain the flexibility that the reregulating dam would provide. (See app. II.)

Conclusions

If fluctuation levels are scaled back by about half the present levels, there will be no measurable decrease in annual power benefits related to the main dam, but there will be some loss in its operational flexibility. Also, if the proposed generators in the reregulating dam are added, lower fluctuation limits would substantially reduce the power benefits related to the reregulating dam. There are no comprehensive studies and other data, however, which point to the need to reduce fluctuation levels, given that the fishery below Libby Dam is apparently flourishing. Hence, we believe that before any decision is made to reduce the fluctuation limits beyond established levels, a determination should be made that any beneficial effects on the river's environment outweigh "costs" in terms of operational flexibility and decreases in power benefits.

CHAPTER 4: ALTERNATIVES TO MEET PACIFIC NORTHWEST PEAKING NEEDS

Adding generators and a reregulating dam at Libby is not the only means of meeting peaking power shortfalls predicted for the Pacific Northwest. Other alternatives exist which involve either reducing peak power demands or adding more peaking capability. While construction programs offer the most immediate and controllable actions for meeting predicted needs, they should not be undertaken until full consideration has been given to other options.

Forecasts show peaking need

Justification for LAURD was predicated on forecasts by the Pacific Northwest Utilities Conference Committee (PNUCC)—an association of northwest utilities. The committee prepares the forecasts annually, by compiling individual forecasts developed and submitted by over 100 utilities. It compares predicted load to resources for a 20-year period, the difference between them being the regional deficit or surplus. It is the only peaking forecast which is made for the region.

Although the forecasted peakloads have been reduced considerably since the project was begun, the 1979 forecast still shows a deficit in resources available to meet the predicted peakloads for most years. (See app. III for the complete forecast.) In light of this projected deficit, the Pacific Northwest region faces many important and difficult decisions in electricity management. But, as we recently reported,[3] no entity is responsible for determining the best options to meet regional energy needs, or for encouraging utilities and customers to adopt measures to better manage power use. BPA, which markets half of the region's electricity and owns and operates 80 percent of the region's high-voltage transmission lines, seems best qualified to assume this leadership role.

We found that several alternatives exist, which could reduce the forecasted peak deficit by lowering the peak demand or by increasing the region's peak generating resources. However, BPA or the Corps did not thoroughly analyze these alternatives before starting work on LAURD.

We believe that BPA and the Corps should make this analysis before LAURD is proposed to the Congress as the best option.

Alternatives which increase peaking resources

The historical approach to meeting demand in the Pacific Northwest has been to increase the region's generating capacity, mostly by adding hydroelectric plants. The LAURD project would continue this approach. However, other generating methods might also help to supply peaking power. We reviewed several conventional and nonconventional electric generating methods to see whether they could be alternatives to LAURD. In our opinion, however, only three options—combustion turbines/combined cycle, cogeneration, and seasonal peak exchanges—could be potential alternatives to LAURD.

Combustion Turbines/Combined-Cycle Generating Plants

Combustion turbines are similar to aircraft engines, except that they drive electric generators. Because they can be started quickly and operated remotely, combustion turbines are well suited for meeting peakloads and for providing reserve power. In addition, they do not need cooling water, can be located relatively close to load centers or existing transmission facilities, can respond rapidly to changing loads, require a low initial captal expenditure to construct, and are quick and easy to install. For example, they require a construction time of 12 to 18 months as opposed to 5 to 12 years for other types of thermal plants.

Combustion turbines require a low initial capital expenditure per kilowatt of generating capacity installed. On the other hand, they are expensive to operate because they are relatively inefficient, and they generally burn expensive fossil fuels. Efficiency can be improved to a level comparable with a modern oil-fired, steam-electric plant, however, by routing the turbine's exhaust heat to a boiler in a steam-electric generating system. This is called a combined cycle. Although a combined-cycle plant offers much the same benefits as a combustion turbine, it cannot be used to serve short daily peaks because it takes longer to heat the boiler and steam turbine. Combined-cycle plants provide a high degree of flexibility, for they can function either as a combustion turbine for intermittent use or as a combined turbine/steam system.

Combustion turbine and combined-cycle plants have several disadvantages. First, both use nonrenewable fossil fuels, a practice that may be contrary to national policy to reduce the Nation's dependence on relatively scarce fossil fuels. Second, both plants add to noise and air pollution.

Costwise, these two generating systems may be alternatives to LAURD under certain operating conditions. For example, while LAURD will cost about $300 million to build, a similarly sized combustion turbine would cost only about $70 million and a combined-cycle plant would cost about $180 million. However, plant operating costs, mainly for fuel, are expensive compared to the operating costs for the LAURD project. Whether combustion turbines or combined-cycle plants are less costly overall than LAURD depends on how frequently they will have to be used.

We believe the additional four units may not generate more than about 12 percent of their maximum potential power output. If so, a 350 MW combustion turbine generating plant might be as economical as LAURD. In making our analysis, we assumed that Libby Dam would be used primarily during the 50 peak hours each week. Further, we assumed that units 1–4 in the existing facility would be used first, and that the additional units (5–8) would be used only when the existing units could not make use of all available water during the peak period. The Corps did not agree with this approach to approximating the incremental use of the additional units, but they had no better information available.

One Pacific Northwest utility has recently proposed building combustion turbines because of delays in building the region's nuclear plants. These and other possible future units represent new resources, which are not shown in the PNUCC forecasts.

Cogeneration

Cogeneration consists of using heat from existing industrial operations to power electrical generators. One type of cogeneration—the steam topping cycle method—offers a possible alternative for supplying peak power in lieu of LAURD. In this concept, an industrial plant generates steam at high pressure and temperature. It first runs the steam through a turbine to generate electricity and then uses the emerging steam for industrial processes or space heating.

Cogeneration can be viewed as a peak power resource in two ways. First, an industrial plant with installed cogeneration capacity could produce electricity for its own use during peak hours, thereby displacing some peak power normally supplied by a utility. Second, a utility, through prior agreement with an industrial plant, could use all or part of the plant's cogeneration capacity to serve other customers during peak hours.

Many Pacific Northwest industries offer potential for cogeneration, namely, the wood products and the food processing industries. The phase I report from a cogeneration study underway by the Rocket Research Corporation for BPA shows that cogeneration potential at industrial sites in the region is 1,430 MW, including about 400 MW which currently exists. About 34 percent of this potential would have to be achieved to equal LAURD's peak power production. The regional forecast includes little of this cogeneration potential as a firm peak resource.

Since cogeneration relies on state-of-the-art hardware, it requires no technological development. In fact, more than 400 MW of cogeneration already exists in the region, and more can be expected as the costs of electricity and fuels rise. New units can be operational within 5 years after arrangements with the affected industries are made.

One principal obstacle to achieving the regional cogeneration potential is the possible reluctance of industries to install cogeneration equipment. Incentives and/or subsidies may be needed to make this alternative economical, but we did not evaluate the framework and the effect of these incentives/subsidies in achieving the cogeneration potential in the Pacific Northwest.

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[3] Region at the Crossroads—The Pacific Northwest Searches for New Sources of Electrical Energy (EMD–78–76, Aug. 10, 1978).

The Rocket Research Corporation is making an economic analysis of cogeneration for the Pacific Northwest for BPA, but results are not available. Pending completion of the Rocket Research study and formulation of BPA policy on cogeneration, we believe that the cogeneration alternative should be considered as a potentiall option to LAURD.

Power Exchanges Using the Intertie

The Pacific Northwest-Pacific Southwest Intertie consists of three transmission lines stretching over 800 miles from the Columbia River to Southern California. They have a present capacity of about 4,100 MW and can be upgraded to about 4,500 MW. They are used mainly to transfer Pacific Northwest hydropower to California utilities.

The major contracts for transfers over the intertie, however, will expire between 1982 and 1989. One potential use for the intertie as transmission capacity becomes available is to take advantage of differences in peak power demands between the Northwest and Southwest. Currently, the Northwest's peak loads occur in the winter, while the Southwest's peak loads occur in the summer. This difference is known as seasonal diversity. Therefore, the two regions could possibly exchange power during each other's peak periods. Any excess Northwest capacity would be available for use in the Southwest during the summer, while the opposite would occur in the winter.

Another possible use of the intertie is for meeting reserve requirements (reserve pooling). In this case, the regions would make no schedule power transfers, but the excess capacity in one region would be available to supply the load in case of a forced outage in the other region. Each region would benefit through this arrangement by reducing the need for new construction to meet their reserve requirement. According to BPA officials, the potential exists for about 800 MW of reserve pooling.

The principal advantage of a diversity capacity exchange is its low cost. While the LAURD project will cost about $300 million, capacity exchange could be realized using the existing intertie. The seasonal energy exchange between regions would come from either the excess capacity of existing peaking plants or baseload thermal plants planned or being constructed to meet energy needs. Realizing only about 12 percent of the present capacity of 4,100 MW for this type of exchange would equal the increase in dependable capacity that LAURD would provide.

While an official from the California Energy Commission was enthusiastic about arranging a diversity exchange, BPA officials were not as optimistic. According to one BPA official, additional research is needed before either the full potential for diversity capacity exchanges or its effect on power operations is known. He pointed out that (1) the intertie is less reliable than the Northwest's transmission system, (2) delays in constructing thermal plants could jeopardize or reduce the Northwest's ability to meet its portion of the agreement, and (3) reduced water levels in storage reservoirs would have an adverse impact on recreational opportunities if substantial amounts of hydropower are used for the exchange. Further, BPA cannot count on reaching agreement with California utilities on capacity exchanges and does not want to jeopardize meeting future peaking needs by delaying construction of the Libby additions hoping that agreements can be reached and implemented by 1985.

Alternatives which reduce the need for peak power

Peak power demands may be reduced in several ways to avoid the need to construct peaking facilities such as LAURD. In our opinion, two of the methods—load management and peak pricing—are potential alternatives to LAURD, and BPA and the Corps should analyze them more thoroughly, Conservation would also reduce peak needs as well as energy use. However, because conservation measures cannot be simply and directly controlled, no accurate way exists to predict energy savings from the conservation efforts or to schedule conservation to come online by 1985 to replace the LAURD project. Hence, while conservation should be pursued to reduce both energy consumption and long-term peaking needs, it should not be compared directly to LAURD.

Load Management

Load management is the reduction of daytime peak power demand through shifts in certain power uses to nighttime periods. Such shifts may be brought about by timed or remote-controlled devices through which utilities regulate energy use to respond precisely to demand. Examples of load management devices are:

Equipment attached to commercial and residential space heaters, appliances, or water heaters which utilities can activate through remote controls to interrupt use;

Clock-controlled switches which turn appliances on or off at certain times during the day;

Interlocks which permit only a few appliances to be used simultaneously; and

Storage systems which absorb heat at night and release it during the day.

Load management has not been widely practiced in the United States but is commonplace in many parts of the world. However, several programs by utilities in the midwest and eastern United States have been successful. About 20 percent of the water heaters in the United States are already on off-peak controlled systems—but not in the Pacific Northwest. For example, Detroit Edison adopted a program in 1968 to control customer's water heaters. The system has reduced peak demand, averted the need for new construction, reduced operating costs (savings in 1977, for example, were about $1.7 million) and conserved energy. Further, a study of 63 load management programs in the United States found excellent customer acceptance regardless of the use of financial incentives.

With escalating fuel and plant construction costs, some experts believe that load management will become a way of life within the next few years. BPA is currently studying the feasibility of load management in the Northwest. If load management devices are determined to be cost effective in the Northwest, they could significantly reduce the requirement for installation of expensive peak generating facilities with their attendant environmental problems. In fact, load management might be one of the few environmentally acceptable ways of meeting peaking problems by the mid-1980s.

Pricing Options for Peak Power Demands

The customary pricing system combines the cost of building generating facilities necessary to meet the highest power demand with all other costs to arrive at an average price per kilowatt used. An alternative to building more generating capacity is to charge more for electricity during peak periods. The higher price during the peak periods should increase the demand during those times, thus reducing the need to build so much peaking capacity. Such a pricing system would be more equitable, especially to customers who do not have a high demand during peak periods. It would also promote efficiency because customers presently use electricity during the peak demand periods as though it cost no more to produce than at other times. As a result, they may overlook or bypass peak-reducing opportunities that are less expensive or involve a sacrifice that costs less than building more peaking capacity.

The results of any peak pricing plans depend on the customer's responsiveness to higher prices during peak periods. Several studies prepared by the Electric Power Research Institute and the Department of Energy have concluded that peakload pricing, either seasonally or by time of day, is likely to even out seasonal and daily load patterns. Space heating and water heating demands are the most sensitive to changes in electricity rates, whereas others, such as lighting, may be less sensitive. Thus, higher prices throughout the winter peak would probably result in vigorous conservation efforts by consumers followed by significant fuel substitution for space heating and water heating after the customer has had sufficient time to change to alternate heating equipment. We reviewed three pricing mechanisms—long-run incremental cost pricing, seasonal pricing, and time-of-day pricing.

Long-Run Incremental Cost Pricing

Long-run incremental cost pricing (LRIC) involves pricing each unit of electricity at the average cost of the last units produced. According to a 1975 analysis prepared during the Northwest Energy Policy Project, the LRIC of electricity in the Pacific Northwest will be approximately 19 mills/kWh in 1990 (in 1975 prices) as compared to 4.7 mills/kWh average costs. Pricing at LRIC would reduce demand in 1990 by about 10,500 MW. The cost attributable to reducing demand by only 350 MW—the dependable capacity of the Libby additions—would be about $30 million compared to the estimated $300 million LAURD investment.

If LRIC increased the price of electricity from 4.7 mills to 19 mills per kilowatt hour, however, utilities would generate surplus revenues. Although LRIC would be more costly for the consumers, we assumed that this surplus would be redistributed in some manner and therefore would not be a net cost to the public. Developing an equitable procedure for distributing the surplus revenue is one of the major disadvantages the surplus revenue is one of the major disadvantages of LRIC pricing. Another problem to overcome is convincing the power supply establishment and the customers of the long-run gains that they could realize from LRIC pricing.

Seasonal Pricing

Another form of peakload pricing is seasonal pricing, wherein electricity rates would be higher during the peak season and relatively lower during nonpeak months. A 1977 study by the National Economic Research Associates as part of the Electric Utility Rate Design Study addressed seasonal pricing for the Northwest and suggested winter rates of 45 percent above summer rates for residential customers, and a 58-percent differential for commercial and light industrial customers. These seasonal differences, combined with cautious estimates of probable demand response throughout the region, could result in a demand decrease of over 4,500 MW in the winter and an increase of 2,000 MW in the summer within about 10 years after implementation of seasonal differentials.

The principal advantage of seasonal pricing is that this method could be implemented without additional metering expenses. Customers who substitute other fuels for electricity would incur some additional costs to convert. In aggregate, these costs would be partially offset by a net reduction in electrical energy demand which would result in fuel savings and avoidance of a capital investment for a thermal plant. All in all, the costs of the seasonal pricing method would be about one-fifth of LAURD's cost.

The most serious objection to seasonal price differentials in rates would undoubtedly come from customers, who would naturally like to continue to have inexpensive power for peak season uses. A more gradual price adjustment could help ease the objections without affecting the demand response. Another disadvantage could be the greater use of natural gas, which is considered a scarce fossil fuel over the long run.

Time-of-Day Pricing

Time-of-day pricing has been suggested as a means of reducing daily demands for peak power. If rates were increased for use during peak daytime periods and lowered during off-peak night periods, customers would probably shift some of their demand to the cheaper period. But implementing time-of-day pricing would require installation and maintenance of meters in each residence or business to monitor power use. Also, the amount of response to this pricing method cannot be accurately predicted. If the response is very low, the metering costs and customer costs of effecting a peak to off-peak shift may be as high or higher than the costs to install more peaking capacity. This will probably be the case for some residential or small commercial customers, where the potential for shifting loads to off-peak hours would be quite small. However, large commercial and industrial customers already have the required metering and good potential for shifting consumption or simply curtailing demand during the peak hours.

New Policies Or Actions Needed

Implementing any of these pricing options depends on developing rate schedules that are accepted as reasonable and are not unfair to any of the diverse types of electricity customers. Regional utilities and regulatory bodies have already taken the first steps to develop these rate schedules. In addition, pricing experiments and studies are being done at the National level. Further implementation will probably proceed gradually without requiring any major legislative change. An important exception requiring major change would be any plan to deal with surplus revenues by some form of taxation and redistribution to the businesses and residents of the region.

CHAPTER 5: CONCLUTIONS AND RECOMMENDATIONS

The Corps has not shown that the proposed LAURD project is economically justified or that this project is the best available alternative for meeting the Pacific Northwest peaking needs. Because of this, we believe that, before proceeding, (1) the Corps should reassess the benefit-cost analysis for the project and (2) BPA should thoroughly evaluate other alternatives to LAURD, particularly peaking options identified in this report.

In analyzing the benefits and costs of LAURD, the Corps used methods which overestimated project benefits. A better method—called the production cost model—has been developed. Using the concepts of the model, the Corps recalculated a benefit-cost ratio of about 1.02 to 1. Our adjustments reduced this ratio below 1 to 1. The Corps now plans to complete another benefit-cost analysis by early 1980.

We identified five potential alternatives to LAURD—combustion turbine, cogeneration, intertie power exchanges, load management, and peak load pricing. However, the Corps had not thoroughly analyzed these and many other generating and nongenerating alternatives to LAURD before starting the project.

GAO recently reported that the Pacific Northwest needed improved leadership in electric power planning and policymaking. In our opinion, the questions surrounding the viability of LAURD represent another example of the leadership void in this region. No entity is responsible for determining the best options to meet regional energy needs or for encouraging utilities and customers to adopt measures to better manage power use. Without such leadership and perspective, independent agencies such as the Corps can construct multimillion dollar projects that may be much more costly than other available options, including load management, conservation, and peak load pricing. As the dominant Northwest power marketing agency, BPA is the agency best qualified to assume this leadership role through analysis of economic, environmental, and social costs of competing alternatives.

Recommendations

GAO believes that the proposed Libby project should proceed no further until the Congress has more information on it. Accordingly, we recommend that the Secretary of the Army direct the Chief of Engineers to recompute and to report to the Congress the costs and benefits for the project, using the production cost model approach and taking care to select the authorized discount rate, valid power values, and all applicable costs. As part of this study and included as part of the Corps' report, the Secretary of Energy should direct the Administrator of the Bonneville Power Administration to conduct a comprehensive analysis of peaking alternatives in the region, including the proposed project. This study should measure the incremental effect of each alternative on the combined hydro-thermal system, and it should be the basis for prioritizing alternatives for implementation.

In the longer term, BPA should routinely prepare and update the analysis of peaking alternatives. If options such as conservation, load management and peak pricing prove to be economically feasible, BPA should develop and implement equitable methods to encourage utilities and electricity customers to adopt them.●

PROPOSED REGULATIONS OF THE FEDERAL ELECTION COMMISSION

● Mr. PELL. Mr. President, on October 29, 1979, the Federal Election Commission transmitted to the Senate proposed regulations concerning the Federal Financing of Presidential Nominating Conventions.

The Commission is permitted, by law, to prescribe the proposals as final regulations provided they have not been disapproved by either the Senate or the House of Representatives no later than 30 "legislative days" after receipt. The term, "legislative day" is, in this instance, any calendar day on which both the Senate and the House are in session. Should it choose to exercise its disapproval power, the Senate has the statutory right to disapprove any provision or series of interrelated provisions stating a single separate law (2 U.S.C. 438(c)(5)).

Through November 27, 1979, 15 legislative days will have passed.

The proposed regulations are intended as a substitute for part 120 of title II, Code of Federal Regulations. The regulations generally interpret existing regulations and sections of the Federal Election Campaign Act. Any new revisions are based on the Commission's experience in the area and on comments the Federal Election Commission has received in response to its notices of proposed rulemaking.

Copies of the proposed regulations and a summary are available from the Senate Committee on Rules and Administration, Elections Section, 310 Russell Senate Office Building (202-224-5647) or from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463 (202-523-4143). Members of the Senate are requested to forward any comments they may have with respect to these proposed regulations to the Committee.●

● Mr. PELL. Mr. President, on October 31, 1979, the Federal Election Commission transmitted to the Senate proposed regulations concerning the administration of the Presidential primary matching payment account. The proposed regulations are generally characterized as revisions of amending regulations at title II, Code of Federal Regulations, chapter I, subchapter C.

The Commission is permitted, by law, to prescribe the proposed revisions as final regulations provided they have not been disapproved by either the Senate or the House of Representatives no later than 30 "legislative days" after receipt. The term, "legislative day" is, in this instance, any calendar day on which both the Senate and the House are in session. Should it choose to exercise its disapproval power, the Senate has the statutory right to disapprove any provision or series of interrelated provisions stating a single separate law (2 U.S.C. 438(c)(5)).

Through November 27, 1979, 13 legislative days will have passed.

The proposed regulations generally affect existing regulations governing the Presidential primary matching payment account. Two of the more substantive proposals are set forth below.

A new subsection was created establishing a procedure for the Commission to make a final determination that a Presidential primary candidate, or his authorized committee, is ineligible for matching funds. Such a final determination may be made if the Commission makes an initial decision that a candidate has knowingly, willfully and substantially violated the expenditure limitations in section 9035 of title II, Code of Federal Regulations, before applying for certification of funds. The affected candidate is then given notice and afforded an opportunity to present materials to the Commission demonstrating compliance prior to a final determination. A final determination of ineligibility by the Commission must be accompanied by a written explanation and the summarized results of any investigation.

Another noteworthy revision requires that candidates or their authorized committee(s) certify not only that they will not, but also that they have not, exceeded expenditure limitations at section 9035 of title II, Code of Federal Regulations, prior to receiving matching funds. The existing regulation is merely prospective, requiring only that candidates and their authorized committees will not exceed the limitations set forth on the above cited section.

Two other amendments and a number of technical revisions involving the renumbering of some existing regulations are also included in the proposal.

Copies of the proposed regulations are available from the Senate Committee on Rules and Administration, Elections Section, 310 Russell Senate Office Building (202-224-5647) or from the Federal Election Commission, 1325 K Street, NW, Washington, D.C. 20463 (202-523-4143). Members of the Senate are requested to forward any comments they may have with respect to these proposed regulations to the committee.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The unfinished business before the Senate will be stated by the clerk.

The legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, what time does the Senate come in tomorrow, under the order previously ordered?

The PRESIDING OFFICER. The Senate comes in at 10 o'clock, under the previous order.

Mr. ROBERT C. BYRD. Are there any orders for the recognition of Senators?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. McCLURE. Mr. President——

Mr. ROBERT C. BYRD. Does the Senator wish me to yield?

Mr. McCLURE. Yes.

Mr. President, I withdraw my amendment.

Mr. ROBERT C. BYRD. Mr. President, I did not yield for that purpose.

Mr. McCLURE. Mr. President, a parliamentary inquiry. The Senator did yield.

Mr. ROBERT C. BYRD. But I did not yield for that purpose.

Mr. McCLURE. I withdraw my amendment.

Mr. ROBERT C. BYRD. Mr. President, I did not yield for that purpose.

The Senator may have an opportunity to do it later, but I did not yield for that purpose.

Mr. McCLURE. Mr. President, I do not need an opportunity later. I exercised that opportunity now.

Mr. ROBERT C. BYRD. I do not yield for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia would have to yield for that specific purpose.

Mr. McCLURE. Mr. President, the Senator did not restrict his yielding. He yielded to the Senator from Idaho, and the Senator from Idaho withdrew his amendment.

Mr. ROBERT C. BYRD. The Senator will have an opportunity to withdraw his amendment.

Let us not play games. If the Senator wanted me to yield for the purpose of his withdrawing his amendment, he should have said so, and I may have yielded for that purpose. But when a Senator asks this Senator to yield, I do not expect that Senator to take advantage of me when I do yield, and I yielded with that understanding. I do not feel that I ought to have to nail down precisely the conditions under which I yield every time I yield to a Senator.

The PRESIDING OFFICER. The Senator would have to have the floor in his own right or be yielded to for that specific purpose in order to withdraw his amendment.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield to the Senator from Idaho, without losing his right to the floor, so that I might make a statement, a very brief statement?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Mr. President, the Senator from Idaho is attempting to exercise his rights under the rule, as the Senator from West Virginia did earlier when he interrupted my attempt to yield to the Senator from Mississippi——

Mr. ROBERT C. BYRD. Mr. President, I do not yield for that purpose.

The Senator, if he understands the rules, ought to know that when he yields to another Senator to make a statement, he loses the floor. No Senator, under the rule, can field out the time to other Senators and when he yields, he can only yield for a question. He yielded for a statement. I sought recognition.

Mr. McCLURE. The Senator from Idaho was simply attempting to withdraw his amendment.

Mr. ROBERT C. BYRD. I do not yield any further. If the Senator wants me to yield——

Mr. McCLURE. I asked the Senator to yield.

Mr. ROBERT C. BYRD. I will yield for a statement.

Mr. McCLURE. I just wanted to indicate that I was exercising my right to withdraw an amendment, or attempting to, and the Senator from West Virginia was exercising his right to demand recognition at the time I yielded earlier today to the Senator from Mississippi.

Mr. ROBERT C. BYRD. Mr. President, I do not yield any further.

Certainly, any Senator who knows the rules around here—and that is the first thing he ought to try to learn—should know that if he gets the floor, he can only yield for a question. He cannot get the floor and yield out his time to other Senators and say, "I recognize this Senator and I recognize that Senator." He cannot do that. When he yields for a statement, he yields the floor; and when he does that, he has no gripes coming if another Senator gets recognition. I merely acted under the rule.

Mr. McCLURE. Mr. President, I——

Mr. ROBERT C. BYRD. When I say I yield to a Senator and then he attempts to withdraw his amendment—which carries with it my amendment—I do not yield for that purpose. I took it, when the Senator asked me to yield, that he wanted to ask me a question, or that he wanted me to yield briefly to him for a comment.

If we are going to have comity in this body, we have to continue in a spirit of understanding, cooperation, and courtesy.

I do not object to the Senator pulling down his amendment. He has a right to do that when he gets the floor.

Mr. McCLURE. Will the Senator yield to the Senator from Idaho for the purpose of withdrawing my amendment?

Mr. ROBERT C. BYRD. No; I will not, at this time.

Mr. McCLURE. Then, there is objection to my——

Mr. ROBERT C. BYRD. If the Senator keeps needling me, he may have difficulty getting his amendment down. At the moment, I have no objection to his taking his amendment down—and, with it, the amendment I offered—but I am not going to be rushed about it. I may yield the floor in the next minute and let him withdraw it.

ORDER FOR ONE VOTE, EN BLOC, ON FIVE TREATIES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I would like to get the program in place for tomorrow.

It is now obvious that the Senate will not be able to proceed on Saturday with the airport bill, because that would require a waiver; and the distinguished Senator from Maine, the chairman of the Budget Committee, has indicated that a waiver will be difficult to secure before Monday.

There is a window now in tomorrow's program which will permit action by the Senate on some measure other than the windfall profit tax bill; and if we can utilize that window and spare the Senate's coming in Saturday, I think we should try to do that.

I understand that it is agreeable with the managers on both sides of the aisle that the Senate proceed tomorrow to the consideration of S. 1918.

Mr. President, under the orders previously entered, I believe there was to be one rollcall vote en bloc on treaties on the Executive Calendar, Nos. 14, 15, and 16; and that there would be one vote en bloc on Calendar Nos. 17 and 18. That is in accordance with the previous order.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be only one vote, en bloc, on all those five treaties.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 20-minute order for debate on the first three treaties, and the 20-minute order for debate on the fourth and fifth be consolidated, so that there be only 20 minutes for the five, and that that time begin running immediately after the two leaders or their designees have been recognized on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders' recognition on tomorrow, Mr. Sasser be recognized for not to exceed 15 minutes after which the Senate go into executive session for not to exceed 20 minutes to debate Calendar Orders numbered 14, 15, 16, 17, and 18 on the Executive Calendar, that upon the completion of that debate the Senate vote en bloc on those five treaties. The rollcall has already been ordered. And I ask unanimous consent that upon the disposition of the treaties the Senate then proceed to the consideration of S. 1918, which is under a time agreement, and that it proceed on that bill until no later than 1 p.m., after which the Senate resume consideration of the then unfinished business.

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding then that we will have somewhere around 2 hours on that bill?

I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with consideration of the bill.

UP AMENDMENT NO. 849

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes tonight.

Mr. President, I ask to be recognized again.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, as soon as I can clear the request of the distinguished Senator from Idaho with Mr. Bradley, I will yield to the Senator from Idaho for the purpose of his withdrawing his amendment. Mr. President, I am going to yield in a moment to the distinguished Senator from Idaho (Mr. McClure) so as to allow him to withdraw his amendment.

I understand all the possibilities that may occur in the event his amendment is withdrawn. Another amendment can then be offered to the House bill.

I yield to the Senator from Idaho for the purpose only of his withdrawing his amendment.

Mr. McCLURE. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn, and with the withdrawal of the amendment of the Senator goes the amendment offered by the Senator from West Virginia (Mr. Robert C. Byrd), and others.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no further action whatsoever in any manner, shape or form on the excess profits tax bill today; that there now be a period for the transaction of routine morning business not to exceed 30 minutes and that Senators may speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Bumpers). Without objection, it is so ordered.

STATEMENT ON WITHDRAWAL OF McCLURE AMENDMENT

Mr. McCLURE. Mr. President, I am not going to respond to the Senator from West Virginia in any kind of an angry way, but the Senator from Idaho was only attempting to exercise the same rights that any other Member of the Senate can exercise, and it never occurred to me that the Senator from West Virginia would regard the attempt of the Senator from Idaho to withdraw his amendment as being otherwise.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. ROBERT C. BYRD. Of course, I understand the Senator can withdraw his amendment. But I think that any Senator who seeks to do that should at least let the Senator who has the floor know the purpose for which he seeks to get the floor. I would certainly accord the Senator that courtesy. After all, my amendment is involved. I had offered an amendment, on behalf of other Senators and myself, to the Senator's amendment. I should think that if the situation were reversed I would owe the Senator the courtesy of asking him to yield to me for that purpose or at least keeping my seat until he sat down after which I would not have to ask him to yield. I could then get recognition and withdraw my amendment. The Senator could have done that. I do not question the Senator's right to withdraw his amendment. He knows that.

Mr. McCLURE. Mr. President, again it is not my purpose to prolong the discussion except to say that I see nothing wrong with a Member of the Senate attempting to exercise a right which is not a controversial right, nor do I understand that any Member of the Senate must necessarily seek a permission to exercise a right.

Mr. ROBERT C. BYRD. Will the Senator yield on that point?

Mr. McCLURE. I yield.

Mr. ROBERT C. BYRD. The Senator saw that he did have a controversy and I should think the best way around that controversy is to extend the kind of comity to other Senators that he expects to have extended to himself.

I do not care to carry on this discussion myself. If the Senator wishes to go on further, he may do so.

Mr. McCLURE. Mr. President, I thank the Senator for his remarks. As I said, I do not intend to do it on the basis of any kind of an angry exchange at all but to assure the Senator from West Virginia that I intended no affront to his dignity but only an attempt to exercise what I understand to be the right of 100 Members of this Senate, not 1.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. McCLURE. Yes, I am happy to yield.

Mr. ROBERT C. BYRD. The Senator did not affront my dignity. It has been a long time since I had any dignity, Mr. President. I do not take myself too seriously. If the good Lord decides to take me away from here tonight, next week the Governor of West Virginia will appoint another Senator in my place, and Democrats on this side of the aisle will elect another majority leader, and I will just be a name out of the past.

So the Senator has not affronted my "dignity."

Mr. McCLURE. I must say that I am glad I have not because it certainly was not my intention to do so.

Again, if I, whatever terminology is the correct one, in any way offended the Senator for having attempted to——

Mr. ROBERT C. BYRD. The Senator has not offended me.

Mr. McCLURE. Exercise my right under the rules to withdraw——

Mr. ROBERT C. BYRD. He just took umbrage that I refused to yield for the purpose that he wanted me to yield when he had not told me what he was going to do. He did not offend me. He just took umbrage because I refused to yield for that purpose. I suggest we both close off this bit of comedy and let the Senate get on with its business.

Mr. McCLURE. Mr. President, I indicate I did not take umbrage. I thought I had been recognized. I thought the Senator had yielded to me and I sought to do what any Senator can do when he has been recognized which was to withdraw an amendment which is pending upon which no action has been taken.

That is all I attempted to do, and I am grateful, of course, that the Senator from West Virginia did not raise any objection later, after having denied me the right to the floor at that time, to again get the floor later for that purpose.

Again it was simply an attempt on my part to exercise a right which I, like 99 other Senators, supposedly enjoy without sufferance under the rules of this Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

THE DEATH OF DAVID WATSON, FRIEND AND SENATE EMPLOYEE

Mr. MORGAN. Mr. President, I wish to call the attention of the Senate again and that of the staff employees to the tragic accident, airplane crash, that occurred last Sunday in the State of Alabama.

Last Sunday a tragic airplane crash in the State of Alabama took the life of David Watson, an employee of the U.S. Senate and a young man whose friendship I have shared during my service here. In a very real sense I, like many of you, watched David grow up for he came to Washington as a Page about the time I came to serve in the Senate and remained after graduation from the Page School to work in the Democratic cloakroom.

David was a familiar face on the floor of the Senate. He knew this institution as well as anyone, and he was dedicated to serving it and its individual Members. I cannot count the times he did favors for me, often personal ones, or went out of his way to make my job easier. David had an enviable way with people, identifying and dealing with others in a way that would put to shame many of us who pride ourselves on this ability.

It is an understatement to say that I am saddened by his death. The loss of this young man to his family, his friends, the Senate and this Nation has been on my mind constantly this week. And it has caused me to contemplate my own mortality.

It has been said that, "All men think all men mortal, but themselves." Sometimes it takes a tragedy such as the one we now mourn to remind us that our days are not certain, that time is in fact precious, and that life itself is a precious gift from God. When we stop to think of what there is to be done—the tasks to which duty calls us all—we must consider how short is even the longest life, how inadequate for our tasks the seconds, the hours, the days, the months, the years allotted to us.

We who serve in this body are lucky in many ways, and if it is important to us to leave behind some lasting work to make our friends proud of our memory, there is the opportunity to do so. But David Watson's life was too short for "lasting works," too filled with living each day and exploring a world which he found exciting and challenging. So it is incumbent upon those who knew him, and shared with him the joys of growing up and becoming a young man with promise, to make sure that though there be no lasting works, no monuments in granite to his being, that his memory be preserved and the pleasure of his friendship remembered.

It is not for me to say why a young man like David Watson would be taken while standing at the threshold of his adulthood. I must leave that to the theologians and philosophers to explain. I do know that we must believe that God is just and "* * * that somehow good will be the final goal of all."

> Behold, we know not anything;
> I can but trust that good shall fall,
> At last—far off—at last, to all,
> And every winter change to spring.
> We have but faith: we cannot know,
> For knowledge is of things we see;
> And yet we trust it comes from thee,
> A beam in darkness: let it grow.

To the family of David Watson, I extend my deepest sympathy and my appreciation for their allowing those of us here in the U.S. Senate to share the joys of their son's life and his friendship. Because David was very special to us, we consider his family very special also and share with them their grief.

Members of my staff who have been friends and professional associates of David Watson during the last 5 years have asked that I express here on the Senate floor their sympathy also. I do so knowing that each of us feels the same deep sense of loss and, for the moment, disbelief.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOSTAGES IN OUR EMBASSY IN TEHRAN

Mr. LEAHY. Mr. President, as I speak, the diplomatic efforts to free the 49 American hostages in our Embassy in Tehran, Iran continue. The situation is volatile and changes by the hour, but I would like to address some general points concerning this outrageous act of international terrorism.

The takeover of our Embassy is far more serious than previous attacks on any of our Embassies. The reason is that this act took place with the tacit approval of the Ayatollah Khomeini, whose support for the action came after the fact. That the leader of a nation has condoned this must be one of the most unpardonable acts of recent history.

Our primary concern is, and must be, the safe release of the hostages and their safe passage out of Iran. The situation is extremely delicate for we are not dealing with a rational government or conventional terrorists.

The Ayatollah Khomeini lacks cohesive authority, and his only contribution to date has been to act as a rallying figure. Despite his statements about restoring calm and order, his actions and statements have only helped to inflame the situation further.

The terrorists who are in control of our Embassy refuse to recognize any authority except that of Khomeini—a tragic position, for he has none. There is no government to negotiate with, and the occupiers have demonstrated their total disregard for basic human rights and international law.

Although I was never a strong supporter of the Shah, and his entry into the United States precipitated this situation, I firmly believe that we must not allow ourselves to be blackmailed.

There are proper legal steps that any legal government can take to seek extradition of persons accused of crime. Unfortunately, Iran lacks both a rational government and a justice system.

I fully support the actions taken to date by President Carter. Our refusal to import oil from Iran will cause some hardship at home, but it is a clear gesture that is long overdue. American foreign policy cannot be dictated by oil producing nations. Further steps freezing Iranian assets in this country are necessitated by the continuing deterioration and lack of any legitimate government in Teheran.

The controversy surrounding the Iranian students is also being addressed properly. If they are here illegally, are breaking U.S. law or are in violation of their entry visas, they should be deported. I am also concerned about demonstrations by Iranian students in this country. Such demonstrations heighten tension and raise the possibility of violence here that could have dire consequences on the safety of the Embassy hostages.

I appeal to all my fellow Americans for calm and patience. The lives of Americans in Iran depend on the actions our citizens take. Our diplomatic efforts continue to secure the release of the hostages. The United Nations has opened the question for discussion.

We must move firmly and with one voice. We will hold Iran accountable for the safety of the American hostages. We will take any steps appropriate to protect their lives and the honor of the United States.

CARMI DUSO, EAST MONTPELIER, VT.

Mr. LEAHY. Mr. President, the following article about one of Vermont's most distinguished citizens Carmi Duso from East Montpelier, Vt., recently appeared in the November issue of Snow Goer.

It has been my distinct pleasure to know Mr. Duso for many, many years. He is extremely well respected in Vermont and he has been one of the people who has done the most to promote the sport of snowmobiling in such a way that it can be enjoyed by people of all financial backgrounds in our State.

Moreover, he has done it in such a way that Vermonter's traditional respect for the environment has not only been preserved but enhanced.

So that the rest of the country can know this distinguished Vermonter, I ask unanimous consent that the article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARMI DUSO: A VERMONT YANKEE IN SNOWMOBILING'S COURT

(By Bill Glitz)

Carmi Duso is a walking and talking paradox. He is a man struck by incurable wanderlust, yet he was employed by the same company and lived in the same small town for 41 years. He's traveled in every state, yet has taken little time to examine their well-known landmarks. His personality leans towards quietude and patience; but his subtle tongue can cut to the quick. At 75, when most people are savoring the memories of life, Duso races around the countryside on his snowmobile grumbling about companions half his age who can't keep up. When most men are enjoying retirement, Duso has accepted a whole new set of challenges.

Duso, who looks 15 years younger and acts 25 years younger than his age, retired in 1968 after 41 years with the telephone company. Just about this time, a series of events drastically altered his life. First, he discovered snowmobiling and bought his first machine. Then, Duso's wife died and he moved from his hometown of Enosberg Falls, Vermont, to the state capital of Montpelier where he married his deceased wife's sister. That same year, Duso and the Vermont Association of Snow Travelers (VAST) found each other. Today, 10 years later, Carmi Duso is considered the personification of VAST.

In 1972, several VAST members nominated Duso for that organization's presidency. He declined to run. After the incumbent president was re-elected, the organization asked Duso to be its first executive director. Duso accepted the nonpaying job.

"I thought I'd stay at the job until the organization could get on its feet," he says.

Today, seven years later, Duso is still on the job, but now he receives a nominal salary. He also supervises two employees in the VAST office, located on the second floor of the Montpelier Elks Lodge building. It's office space that Duso helped negotiate and remodel to suit the needs of the growing state snowmobile users organization.

During his seven year tenure, Duso has done every conceivable association-related task—from the most mundane to the most lofty—in order to help VAST grow and stabilize as a viable organization.

In addition to helping remodel the VAST office, he has painted and hung a sign outside identifying the site as VAST headquarters. He has delivered snowmobile films to groups throughout the state, many times filling last minute requests. He helped design a VAST exhibit and on numerous occasions has set up and manned that exhibit. He serves as the business manager for the VAST newspaper, but, of course, fills other duties for the publication. He has solicited memberships from snowmobilers throughout the state. He has blazed new trails, cleared trails, and maintained trails. He has obtained easements. He has written, designed, and distributed literature. He has organized trail rides.

But most importantly, he has been an extremely successful lobbyist with the Vermont legislature. In fact, Vermont's progressive and model snowmobile legislation is a tribute to the hard work and persistent efforts of Carmi Duso.

In 1973, Vermont passed its first snowmobile legislation; but it wasn't until 1977 that the state had a snowmobile trail development program, known as the State Snowmobile Trails Program or SSTP. That program today is being carried out through contract by VAST . . . in other words, Carmi Duso. The legislation which set up SSTP is Duso's greatest triumph as executive-director of his organization. The triumph did not come easy.

According to Duso, the original state snowmobile legislation, which emphasized safety, law enforcement, and registration, glided smoothly through the legislature because the governor at the time was a snowmobiler who threw his support behind the bill. When it came time, in 1977, for the legislature to consider setting up a snowmobile trails program, Vermont had a new governor who was not a snowmobiler and who, while not opposed to the plan, was cool to the idea.

"If a governor is in favor of some legislation, it's fine; if not, you've got trouble," is how Duso sums up the civics lesson learned from this situation.

Duso explains that one of the reasons sentiment was running against the trails program, both with the new governor and among legislators, was neither wanted to add to the state's bureaucracy at a time when citizens were demanding austerity. The proposed legislation called for a state-run Division of Snowmobilers to coordinate the trails program. Duso quickly went about designing a compromise to save the idea. The new plan called for the state to contract with VAST to coordinate the trails program. Funding for the $200,000 annual contract would come from snowmobile registration fees and a $75,000 appropriation from the Vermont Agency of Transportation, money collected as snowmobile gas taxes.

Since the compromise was not drawn up until the state legislature was about to adjourn in the spring of 1978, it became doubtful whether the bill could clear both houses of the legislature in time. The bill passed the House, but it was still hung up in the Senate on the last day of the session. Only because Duso had won over to his cause the lieutenant governor, who presides over the Senate, did the bill beat the adjournment deadline.

The legislation was signed by the governor in May, and the contract between the state and VAST was signed in September.

"This was awful late in the year to start a trails program," Duso confesses, "but we went right at it. We expect this to be a three- to five-year program to construct about 500 miles of corridor trails."

According to Duso, the plan makes VAST the first snowmobile association to administer its own trails program with state funds. The International Snowmobile Industry Association praised VAST and Duso for the agreement, saying in a widely distributed letter: ". . . a number of provincial and state associations can use the VAST proposal as a blueprint for their own submissions to government, so that similar programs are underway in other jurisdictions before long. The Vermont Association of Snow Travelers has earned the respect of elected state officials, state and federal government administrators, media officials, and the general public through extremely diligent effort and leadership. . . . The most visible symbol yet of that respect and trust occurred when it was authorized by the state to implement and administer the Vermont public snowmobile trail program."

This model piece of legislation, hammered out at the last second, is mainly the craftsmanship of a 75-year-old man who confesses to no special expertise as a professional lobbyist. By his own admission, Carmi Duso is not an extrovert or as he puts it, "I'm no glad-hander."

"I've never been one to party with people or go buy people a drink," is the way he sums up his lobbying shortcomings.

Duso's strengths lie in his honesty, stubbornness, and enterprise. He works hard and he works smart. He refuses to give in. And he believes if he can't be trusted, then he has lost his most valuable asset.

"You have to work at this day after day. You have to get to know the legislators, but more importantly, they have to trust you.

"You've got to tell the truth in this business," he says with great emphasis. "If you don't, you're in trouble. It'll backfire on you."

While not allowing himself the luxury of deceit, Duso did allow himself the luxury of disappointment. "Some days I got so discouraged I'd leave the Capital and think, 'What am I doing this for?' Then, the next day, you have to be ready to go at it again."

This practical perseverance is the essence of his Yankee personality. And make no doubt about it, Carmi Duso is a true Yankee. VAST Office Manager Corrine Lawson describes him: "To people overseas, a Yankee is an American. In the South, a Yankee is someone north of the Mason-Dixon Line. In the North, a Yankee is someone from New England. In New England, a Yankee is someone from Vermont. And in Vermont, a Yankee is someone who has apple pie with cheese for breakfast. Carmi has apple pie and cheese every morning."

One of Lawson's favorite yarns about her boss takes place when he was a young man still living with his parents. One day, young Duso came home and announced that he was going away on a trip and would try and keep in touch. Two years later, he returned from his trip. During those two years, Duso had harvested wheat in western Canada, worked in a Washington logging camp, and explored Alaska. It was the first sign of Duso's incurable curiosity concerning what's around the next corner or over the next hill.

When Duso returned to Enosberg Falls, a small town near the Canadian-Vermont border, he took a job with the local telephone company. For the next 41 years, Duso lived in Enosberg Falls and worked for the phone company.

Earlier, it was mentioned that Duso bought his first snowmobile in 1968. He is quick to point out that this was not his first encounter with a snowmobile. About 1930, Duso recalls using a large tracked vehicle which rode over the snow when he was out checking telephone lines. Duso calls the machine "the forerunner of today's snowmobile." When the independent telephone company serving Enosberg Falls sold out to New England Telephone Company, the tracked vehicle disappeared. Carmi Duso had to wait more than 30 years to rediscover the snowmobile. However, he rediscovered it at probably just the right time of his life.

Duso had led an active, vigorous life until his retirement from the telephone company in 1968. The question of "What was he going to do with his life?" was nicely answered when he found snowmobiling. And VAST helped turn it into something more than recreation. Carmi Duso had a whole new set of challenges.

Duso loves the winter outdoors. He has said that "I would rather be blowing snow than mowing grass." He also knows the longevity statistics of people who retire to nothing.

"Once you get in a rocking chair, you stay there. That's it, you've had it," he says in his clipped New England accent.

When asked if he would enjoy being more active in a warmer climate, Duso responds: "I worked 41 years for the phone company. I had to go to work every day . . . outdoors . . . no matter what the weather was like—snow, sleet, cold, rain, hail. I just got used to being outdoors in all kinds of weather. You learn to accept it. It becomes a part of your life. I like the winter."

Duso also has been an active outdoorsman for most of his life. He was an avid and skilled skier until he hurt his ankle in a mid-life skiing accident. He tried to ski again but he couldn't do it—at least not with the competence that he once possessed. Carmi Duso doesn't like to regress, so he got rid of his skis.

He's also been a skater and snowshoer, as well as an avid deer and bear hunter. Like skiing, he has given up these pursuits.

"That's part of the beauty of snowmobiling, it's something older people can enjoy," Duso explains as he sits among topographical maps in his office. "I know many older couples around here who did nothing but sit in rocking chairs and watch television, especially in the winter. Then they bought a snowmobile. Now, these couples spend most of their time riding. It's been wonderful. So many of these people have been able to see all of their farmland for the first time because of the snowmobile. You can get on that snowmobile and see country and scenery you'd never see otherwise."

Duso staunchly defends snowmobiling against some of its critics by drawing on his own expertise and experience. "I like to snowshoe; I used to do plenty of it. But yesterday I was out with my neighbor and we rode our snowmobiles for 25 miles. Well, if you snowshoed for most of the day, you wouldn't get that far. You can just cover so much more ground and see so much more on a snowmobile."

The only thing that Duso seems to mind is the lack of recreational snowmobiling. He pointed out that often he is so busy blazing, clearing, maintaining, and signing trails that he doesn't get a chance to just ride.

"Why, it was February this winter before my neighbor and I had a chance to really ride," he says. "Every other weekend, we were out towing a sleigh doing some kind of work on the trails."

And then comes an admission which provokes an insight into the real joy of snowmobiling for Duso.

"I enjoy long ride-ins the most. To me, this is the nicest part of snowmobiling. Just last weekend, we went all the way to Pittsburgh, New Hampshire, where we stayed in a lodge overnight and then rode back the next day. To me, this is what snowmobiling is all about, but there seem to be fewer and fewer of these long rides. Most clubs and organizations seem to be dropping them because they can't afford to make the investment to schedule one and then have the weather ruin it. So, the real group ride-ins are disappearing. It's too bad."

This lament for the passing of organized long-distance rides indicates that Duso really views snowmobiling as a form of socialization. This is a key part of his infatuation with the sport and why he cherishes those cross-country excursions. It's an opportunity for a group of people to share an adventure. After it's over, they can get together and relive the experience again and again. It's this group experience which Duso loves, and maybe that's one of the reasons why he recognizes the importance of a statewide trails program. A sense of interlocking statewide snowmobile trails would give snowmobilers many chances for these group adventures, especially older snowmobilers who so much enjoy and appreciate them.

In his desire to participate in cross-country snowmobile rides, Duso is merely trying to duplicate another one of his loves—the long distance automobile trip. Duso is famous for his highway and byway travels. As mentioned earlier, Duso has been in all 50 states and every Canadian province. Duso's trips are unstructured and unencumbered. Corrine Lawson can remember Duso calling the VAST office during one of his trips. Lawson asked her boss where he was. Duso had to stick his head out of the telephone booth to find out the answer to that question from his wife.

Duso drove all the way to Alaska a couple of years ago just to look things over since the last time he was there 40 years ago, and to look up an old friend from his logging days in the West. Although he had no idea if his former companion still lived in the area, Duso searched around Juneau for several days, checking off names in the phone book, until he found him. Each year, Duso visits one of his daughters in Minnesota, and trips to Montreal and Boston are like driving around the block.

Duso believes that the journey is the excitement of traveling. When he gets to his destination, he's ready to move on to the next stop. Duso is not one to tour landmarks or take the Gray Line Tour. He's been known to tell any passengers if they want to see the local sights they better look out the window of his vehicle.

This is a perfect traveling philosophy of a die-hard enthusiast who emphasizes the thrill of the ride rather than where the ride will end. Like his automobile journeys, Duso's snowmobile trips concentrate on what's around the next turn in the trail or over the next rise. Duso often shows little interest in where he and his snowmobile are. And when he reaches his destination, his interest continues to focus on what lies ahead. To Duso, the thrill is the journey—the anticipation of it all. Perhaps, this is how he views life, also. The excitement that keeps him going is the interesting things that may lie ahead. Carmi Duso may think of life as one circuitous journey with the real fun being the surprise of what's around the next corner. This is why he needed the new challenges that VAST brought to his life.

Occasionally, Duso takes one of his long distance automobile jaunts during the winter, but he does so with great fear and trepidation.

For instance, he took his wife to Florida in the spring of 1978. Shortly after he left Vermont, New England was hit with a tremendous spring snowstorm. As Duso heard about the snow piling up back home, he cursed his luck for having to endure the sunny South. When he finally returned home, he grumbled around the VAST office for several days about all the good riding he had missed.

To avoid such occurrences, most of Duso's traveling is confined to the warmer weather months. Not only does he not want to miss any snowmobiling, but his responsibilities as executive director of VAST keep him on the job most of the winter. Because of the job that he has done with the snowmobile group, he has won the admiration and respect of the VAST membership and snowmobile leaders throughout North America. Duso attends most international snowmobile meetings where he and his opinions are often sought out.

"These meetings are extremely important to VAST and to snowmobiling," he says. "We get a chance to talk with people from other states and provinces to see how they're doing things. It's very important, this exchange of ideas."

Mort Doyle, president of the International Snowmobile Industry Association, verifies the respect that is reserved for Duso throughout the snowmobile industry.

"Year after year, Carmi has been quietly getting the job done for snowmobilers and for snowmobiling—in the State of Vermont and at the regional, national, and international levels," Doyle has written. ". . . Carmi Duso is known and respected by the snowmobiling leadership throughout the North American snowbelt."

Carmi's good friend, Norman Hayes, a past president of VAST, offers this view of Duso as a lobbyist: "He has the respect of everyone (at the Statehouse). He never says too much, but when he speaks, they listen. Carmi has never lost a single point with the legislature. Carmi has never made any mistakes that were costly to VAST."

And how does Carmi Duso react to such adulation. "I'm thankful I've been blessed with good health so I can participate in snowmobiling and be of some help."

It was a typical Duso understatement . . . and typically paradoxical coming from such an obviously proud man.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MORGAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the distinguished majority whip for the purpose of his making a statement.

The PRESIDING OFFICER. The Senator from California.

PRESIDENT CARTER'S STATEMENT ON IRAN

Mr. CRANSTON. Mr. President, last night President Carter addressed the American people on the current situation in Iran, where U.S. diplomatic personnel are held hostage in violation of "not only the most fundamental precepts of international law but the common ethical and religious heritage of humanity."

I believe the President spoke for all of us and has the full support of the American people.

Islam is one of the great religions of the world. It advocates a very personal, individualist ethic. It is a religion of justice.

The Islamic respect for human rights and dignity arises from the command of the Qur'an (Koran) "whoever kills one man has killed the whole of humanity, and whoever has saved one man has saved humanity" (5:32). Consistent with this command, Islamic law always has recognized diplomatic immunity—one does not kill or jail the king's messenger. And Islamic international law existed a thousand years before Grotius, the father of Western international law.

Thus the taking of diplomatic hostages by Iran is contrary to all the ethical teachings and principles of Islam, both Shiite, and Sunni, and is illegitimate under every principle of Islamic law. The present actions in Iran are a religious and legal aberration contrary to the very foundation of every Islamic nation, including Iran. They must be viewed as a move of political desperation by the Ayatollah Khomeini and not as an expression of anything Islamic.

It is clear that there is no conflict between the United States and the nations of Islam. And the people of Islam should not be misled by the false and irresponsible charges that the United States was involved in the seizure of the mosque in Mecca or in any other sacrelegious or anti-Islamic act.

Nor is there a lack of unity among Americans regarding the imperative of gaining the immediate, safe, and unconditional release of our diplomatic personnel held in Iran. Any suggestion that we are divided on this matter is both erroneous and dangerous. Americans are united on this question regardless of race, religion, or political persuasion. The only lack of unity which exists in the Iranian situation is within Iran itself—where it is clear to observers throughout the world that the Ayatollah Khomeini is desperately struggling to retain power by making scurrilous charges against the United States and the West while stifling the more moderate voices among the Iranian people.

The principle at issue in Tehran is simple. The Iranian authorities are holding diplomatic personnel hostage in an attempt to blackmail the United States for domestic political purposes. This action is contrary to the historical and essential rule of relations between nations. It is now incumbent upon all the nations of the world, acting through the United Nations, to reaffirm their commitment to the fundamental principle of diplomatic immunity and reject Khomeini's attempt to blackmail the United States. Until the Iranian leadership relents and releases the hostages unharmed, the United States cannot and will not discuss any other issues of mutual concern to the United States and Iran.

Mr. President, I wish to commend the President for his presentation last night. I wish also to congratulate my colleagues in the Senate and our colleagues in the House for their action yesterday in unanimously adopting Senate Resolution 292, expressing the unity of Congress on the imperative of the immediate, safe, and unconditional release of our diplomatic personnel in Iran.

JUSTICE SYSTEM IMPROVEMENT ACT OF 1979—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 241 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of November 16, 1979.)

Mr. ROBERT C. BYRD. Mr. President, I move that the conference report be recommitted to the committee of conference.

The motion was agreed to.

INTERSTATE HIGHWAY SYSTEM APPORTIONMENT AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5871.

Mr. President, for the moment I withhold that request. I will pursue it shortly.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute, to consider the nomination under New Reports and the nominations in the Coast Guard placed on the Secretary's desk.

Mr. STEVENS. No objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

ENVIRONMENTAL PROTECTION AGENCY

Inez Smith Reid, of New York, to be Inspector General.

NOMINATIONS IN THE COAST GUARD PLACED ON THE SECRETARY'S DESK

Coast Guard nominations beginning Alan C. Peck, to be captain, and ending David E. Ciancaglini, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on November 6, 1979.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I move to reconsider, en bloc, the vote by which the nominations were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I move that the Senate resume the consideration of legislative business.

The motion was agreed to.

INTERSTATE HIGHWAY SYSTEM APPORTIONMENT AUTHORIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5871.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> An act (H.R. 5871) to authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes.

Mr. ROBERT C. BYRD. I ask unanimous consent that the bill be considered as having been read twice, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

I withdraw that suggestion.

ORDER FOR RECESS FROM CLOSE OF BUSINESS FRIDAY UNTIL 10 A.M. ON MONDAY, DECEMBER 3, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in recess until the hour of 10 o'clock on Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I do not want to interrupt, but if the majority leader was about to call for a quorum, I would like to relieve him of that task and ask for recognition.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

THE RETIREMENT OF GEORGE MEANY AS PRESIDENT OF THE AFL-CIO AND THE ELECTION OF LANE KIRKLAND AS HIS SUCCESSOR

Mr. THURMOND. Mr. President, the retirement of George Meany as President of the AFL-CIO brings to a close a remarkable career in the American labor movement which had a profound effect on public policy and the general welfare of the country. Since the days shortly after the close of World War I, Mr. Meany was a part of labor leadership—first in New York City; then, in New York State; and finally, for 27 years on the national scale.

Although we often differed on matters of labor law and economic policy, we agreed on the institutions of freedom in America. He stood four-square against the incursions of communism into the labor movement and into the free world. He was an unabashed patriot who knew full well the advantages of our system of government and constitutional liberty.

I am pleased to salute him as a respected leader who always acted in what he believed to be the national interest. After more than 60 years in the ranks of organized labor, the last 23 of which he held the top position, he has earned the esteem of both his colleagues and his adversaries, and I extend to him my best wishes for his retirement.

Mr. President, I should also like to convey my congratulations to Mr. Lane Kirkland who has been elected to succeed Mr. Meany as AFL-CIO President. Mr. Kirkland is a native of my own State of South Carolina, and it is particularly pleasing to me when South Carolinians achieve such success in their chosen fields.

Mr. Kirkland, through his years in the No. 2 position of labor, has established a reputation for effectivness and dependability, and I commend him for these demonstrated qualities which led to his selection as the top man in organized labor.

Mr. President, I ask unanimous consent that an editorial from the Washington Star regarding the change in leadership at the top of the AFL-CIO be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

LANE KIRKLAND AND THE AFL-CIO

> When a job like George Meany's changes hands after so many decades, it's almost as much of an event as a presidential election. Some people would say more of an event—Senator Daniel Patrick Moynihan, for example, has made the point that it often

matters less to the nation which is in the White House than who is running the AFL-CIO. Which puts Lane Kirkland up there with all the would-be presidential nominees as a man to know.

What has been best-known up to now about the soft-spoken secretary-treasurer of the largest American labor organization is that, since the time he became George Meany's executive assistant in 1960, he has never openly disagreed with the boss on any important issue. Yet Lane Kirkland is a very different sort of person from the man he succeeds as head of the AFL-CIO.

While both men have spent almost their entire careers as union bureaucrats, Mr. Meany came to the labor movement as an authentic plumber. Mr. Kirkland came as a middle-class liberal who didn't like what he saw in the Carolina cotton mills. He is the first Southern Protestant to reach the top of a movement identified in the past chiefly with Catholics and Jews from the big cities of the North.

Mr. Kirkland is a formidably articulate intellectual who first made his mark as a speechwriter. He was the primary voice in framing the ethical codes that drove the Teamsters out of the AFL-CIO in the 1950s. He did so well at writing a social insurance plan for the unions back in 1948 that there were insurance companies trying to hire him.

Such a person often turns out to be more interested in words and ideas than in the rough-and-tumble of running a big organization and asserting its claims in the political arena. Although Mr. Kirkland is suspected of being as strong-willed as George Meany himself, nobody knows yet if this will be true of him. However, his temperament may incline him more toward negotiation than showdowns.

The speech he made when he took over showed a conciliatory spirit toward the Teamsters and the United Automobile Workers, the two biggest formerly affiliated unions now outside the AFL-CIO. He had already shown his eagerness to end old estrangements by testifying in court for the Longshoremen's Anthony Scotto. Clearly, Mr. Kirkland considers his first task to be consolidating the labor movement at a time when it has been losing numbers and power.

More than one towering American labor leader has demonstrated that nobody can tell the union rank and file how to vote. There is simply no delivering labor support to any candidate or party chosen from the top.

At the same time, the influence of labor leaders on political issues beyond labor's bread-and-butter interests can be profound. Certainly the AFL-CIO's stand on human rights, defense and anti-communism has had a strong impact on national policy.

Lane Kirkland is, if anything, even more interested in foreign affairs than George Meany. He is also, if anything, even more of a hawk and human rights champion than his predecessor. His name on the letterhead of the Committee on the Present Danger suggests how he feels about communism. Having an Israeli wife has intensified his commitment to the defense of Israel.

What Mr. Kirkland will do about labor's role in the economy is less apparent. His readiness to go along with a "national accord" between labor and the administration on policies affecting wages and living costs suggests some of the new directions union strategy may take. So does the presence of a union representative in the management of the Chrysler corporation. But all we know for sure is that the options and problems are considerably more complicated than they were in the days when Samuel Gompers could sum up what labor wanted in the word "More."

INTERNATIONAL SUGAR AGREEMENT, 1977

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that in addition to the five treaties already ordered to be voted on tomorrow, Executive Calendar Order No. 8, Executive A, 95th Congress, 2d session, the International Sugar Agreement, 1977, be included in that list.

Mr. President, I withdraw that request.

I ask unanimous consent that the 20-minute time limit for debate on the five treaties be expanded to 30 minutes, the time to be equally divided between the Senator from New York (Mr. JAVITS) and the Senator from Idaho (Mr. CHURCH) on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Upon the disposition of the five treaties by a vote en bloc, as previously ordered, I ask unanimous consent that the Senate then proceed to vote on Executive Calendar Order No. 8, Executive A, 95th Congress, 2d session, the International Sugar Agreement, 1977, before returning to legislative session.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has that treaty passed through the various parliamentary stages up to and including the presentation of the resolution of ratification?

The PRESIDING OFFICER. It has not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Executive A, 95th Congress, 2d session, Executive Calendar Order No. 8, the International Sugar Agreement, 1977, be considered as having passed through the various parliamentary stages, up to and including the presentation of the resolution of ratification.

Mr. STEVENS. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, the agreement will be considered as having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification which the clerk will state.

The assistant legislative clerk read as follows:

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the International Sugar Agreement, 1977, signed on behalf of the United States of America at the Headquarters of the United Nations in New York on December 9, 1977 (Ex. A, Ninety-fifth Congress, second session).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no time for debate, no motion be in order, no point of order and no appeal in relation to the International Sugar Agreement, and that the vote on that agreement be had immediately upon the disposition of the five treaties previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the International Sugar Agreement, the Senate return immediately, without debate, to legislative session on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, has a rollcall vote been ordered yet on the sugar agreement?

The PRESIDING OFFICER. It has not.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays, as in executive session, on the sugar agreement.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I will state the program for tomorrow. If I am in error at any point, I wish the Chair would correct me.

The Senate will convene at 10 o'clock tomorrow morning. After the two leaders, or their designees, have been recognized under the standing order, Mr. SASSER will be recognized for not to exceed 15 minutes, after which the Senate will go into executive session. And after 30 minutes of debate, to be equally divided between Mr. JAVITS and Mr. CHURCH, the Senate will proceed to vote en bloc, a rollcall having already been ordered, on Executive Calendar Orders numbered 14, 15, 16, 17, and 18: to the extradition treaty with the United Mexican States, the extradition treaty with Japan, the extradition treaty with Norway, the treaty with the Republic of Turkey on the enforcement of penal judgment, and the treaty with the Republic of Panama on the execution of penal sentences.

Upon the disposition of these five treaties en bloc, the Senate, without further debate, will proceed to vote by rollcall on the International Sugar Agreement, Executive Calendar Order No. 8, Executive A, 95th Congress, 2d Session.

Immediately upon the disposition of that treaty, the Senate will return to legislative session, at which time it will proceed with the consideration of S. 1918, the Office of Personnel Management Act, on which there is a time agreement. I expect rollcall votes in relation to that measure but, under the order previously entered, the Senate will proceed no later than 1 o'clock to resume consideration of the unfinished business, the windfall profit tax bill, H.R. 3919.

If S. 1918 has not been completed by 1 o'clock, S. 1918 will be temporarily laid aside until such time as the majority leader, after consultation with the minority leader or his designee, shall again call up that measure. That has been agreed to by unanimous consent.

Mr. STEVENS. There is no objection. That was my understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The Senate then will proceed, during the remainder of the afternoon, on the excess profit tax bill.

The manager of the bill, Mr. Long, told me several days ago that it would be impossible for him to manage that bill on Saturday because of arrangements which he had previously entered into many months ago, or weeks ago, at least, on the theory that the Senate would have completed action by this time on H.R. 3919. Consequently, the majority leader, working with the distinguished acting Republican leader, and the Republican leader, and other Senators had scheduled for Saturday's consideration S. 1648, a bill to provide for the improvement in the Nation's airport and airway system, to be followed by the votes on the treaties numbered 17 and 18 on the calendar, to be followed by S. 1918.

It having become obvious, based on the statement of the distinguished chairman of the Budget Committee, Mr. Muskie, that a budget waiver could not be ready before Monday of next week on the Nation's airport and airways system, thus making it improvident and probably impossible to proceed with that bill on Saturday and, in the meantime, a window in tomorrow's program having developed, which may be a very fortuitous happening and which may, in the end, expedite action on the excess profit tax bill, it has been decided by the joint leadership to attempt to place into that window tomorrow S. 1918 and, thus, remove it from consideration on Saturday.

That being the case, Mr. President, there will be no Saturday session because of the circumstances that have developed as aforementioned.

RECESS UNTIL 10 A.M. TOMORROW

Mr. LEVIN. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 5:42 p.m. the Senate recessed until Friday, November 30, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 29, 1979:

Environmental Protection Agency

Inez Smith Reid, of New York, to be Inspector General, Environmental Protection Agency.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

In the Coast Guard

Coast Guard nominations beginning Alan C. Peck, to be captain, and ending David E. Ciancaglini, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on November 6, 1979.

HOUSE OF REPRESENTATIVES—*Thursday, November 29, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. Wright).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, D.C.,
November 28, 1979.

I hereby designate the Honorable Jim Wright to act as Speaker pro tempore on Thursday, November 29, 1979.

Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, we raise our voices in praise for your goodness and providence to our Nation through the years. This day we continue our supplications and ask Your blessing upon us and upon those to whom much responsibility is given. We pray specially for the President of the United States that he will be sustained in the duties of his office and know the power and presence of Your Holy Spirit. Grant to all in authority the wisdom to discern truth and justice and mercy, and may each of us, whatever our task, witness to those good deeds that bring aid to people in need and glory to Your name. Amen.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4483. An act for the relief of Jung-Sook Mun.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1871) entitled "An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program."

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 4986) entitled "An act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Proxmire, Mr. Williams, Mr. Cranston, Mr. Garn, and Mr. Tower to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 55. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 1871.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to the authority granted the Speaker on Wednesday, November 28, the Speaker did on that day sign the following enrolled bill:

S. 1157. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

SUPPORT FOR THE PRESIDENT'S POSITION ON IRAN

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I wish to commend our President on his appearance last night before the Washington press corps and the Nation. He exhibited a deep resolve to solve the hostage crisis through a peaceful solution. I compliment him on his strong stand wherein he vowed that this Nation will never yield to blackmail.

His words were loud and clear that there will be grave consequences that will result if harm comes to the hostages. Our country is firmly behind the President and his resolve. We, as a people, will stand together and will be a nation united to see this tragic situation through to the end. We will not be intimidated, we will not be bullied, and we will not shirk in our resolve.

When the President spoke last night, he spoke ably and well for all Americans.

DIRE CONDITIONS FACING DOMESTIC METALS INDUSTRIES

(Mr. ATKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINSON. Mr. Speaker, on Monday I brought to the attention of the House the dire conditions facing our Nation's domestic metals industries and suggested that economic indicators should serve as a warning of the need for action. Yesterday's announcement by United States Steel that it was closing productive facilities employing 13,000 workers comes as all too stark evidence of the seriousness of the situation.

In case any Members believe that yesterday's announcement was a temporary aberration in the primary metals employment picture, let me suggest that it is rather a continuation of a trend spanning the last several decades. In 1960, this Nation had nearly 572,000 workers producing steel; by 1969, the figure had shrunk to 544,000; and this year, an average of only 459,000 workers will produce steel in this Nation—a loss of over 100,000 jobs in 20 years.

The future is no brighter. Commerce Department projections indicate possibly weakened markets for steel as autos become smaller, as investment continues to decline, and as more steel can manufacturers switch to lighter cans and aluminum.

I hope this data will be in the minds of Members as we weigh environmental, trade, and capital formation bills in the coming months.

SUPPORT FOR THE PRESIDENT'S POSITION ON IRAN

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute.)

Mr. DE LA GARZA. Mr. Speaker, regarding the situation in Iran the words of President Carter last night were most reassuring to the American people. I have sent the President a wire assuring him that together we stand with him.

Mr. Speaker, however, I would like to bring out something which I think is important. As the resolve of the American people is unified, I think we should send a message to the United Nations, to the Secretary-General, that this is also a test of the effectiveness and possible usefulness of this institution. The message should be loud and clear that many of us, and I perceive this to be the sentiment in my congressional district, are questioning whether it is worth while to have an institution of this type. Many of us believe the response by the United Nations and its effectiveness in this situation will be the ultimate test.

SITUATION IN SOUTHEAST ASIA REMAINS CRITICAL

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I am privileged to join a number of my colleagues in drawing renewed attention to the tragic famine in Cambodia. This effort is being made to bring home the point that the situation in Southeast Asia remains critical and that completion of relief efforts remain far from completion.

The Cambodian famine is a disgrace shared by all humankind borne in on us daily by the front page newspaper pictures of the frail and emaciated children of Cambodia.

On November 13 the President signed legislation passed by the Congress which will provide nearly $100 million in food and other assistance to these suffering people. However, more than three times that amount will be necessary.

Nutritionists and foreign aid experts estimate that between 60,000 and 75,000 metric tons of food per month will be needed to supply an adequate diet to the millions who are affected by the famine. Thus far only a little more than 22,000 metric tons have actually been sent.

It was only in recent weeks largely through the magnificent efforts of the women of this body that agreement was reached with Phnom Penh to increase the number of airlifts into interior Cambodia from once a week to once a day.

The outstanding assistance provided by voluntary organizations such as the International Red Cross, Oxfam, UNICEF, CARE, Catholic Relief Service, Church World Service and others must be given continued support.

The relief task is not finished. Indeed it has hardly begun.

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ANDERSON ADDRESSES ANTI-SPENDING MOOD OF COUNTRY

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, the Los Angeles Times released a survey recently showing the persistence of the public's antispending mood. By almost a 2-to-1 margin, Times pollsters found Californians still favoring the well-known tax cutting initiative, proposition 13. And, of course, a recent election saw the passage of a new initiative which will further restrict spending within California.

This continued support for less spending and less waste does not surprise me—I have been getting the same message from my constituents for some time. I am convinced, furthermore, that this reflects a national sentiment for restraint, one which carries great significance for the work we have before us in the months ahead.

Progress is being made toward the goal, and it is a worthy goal, of a balanced Federal budget. Steps are being taken in the right direction. There is much that can be done, however, to quicken these steps, and hasten the day when this goal is attained. In recognition of this, I have prepared and introduced a resolution to amend the Constitution which, if adopted, would mandate a balanced budget 4 years after ratification by three-fourths of the States, Federal receipts could not be less than 90 percent of total outlays. For the second year, this would increase to 95 percent; the third, 98 percent; and for the fourth, 100 percent and a balanced budget.

My proposal then goes one step beyond a balanced budget by requiring that, in the 20 years after that milestone is achieved, the national debt is phased out and eliminated.

Mr. Speaker, this Nation has not had a balanced budget since the last Democratic administration, during the final year of President Johnson's term. During this Democratic administration, under President Carter, we should set the wheels in motion so that we may return to a policy of fiscal sensibility. The invisible tax of inflation which is created by the failure to act responsibly demands that this be a goal. The demands of the public make it a priority. And my proposal, embodied in House Joint Resolution 18, makes this a priority that is attainable.

COMMENDATION ON PRESIDENT CARTER'S RESTRAINT

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, last night I listened to the President of the United States address the Nation on the Iranian situation. I believe the President is to be commended for his patient but firm stance during this crisis period. Likewise, I believe that as Members of this House we must be equally responsible and refrain from making ultimatums or demands in the media that could further inflame the situation.

I firmly believe that, based on my firsthand experience in three tragic hostage situations, at Attica prison, the Tombs prison in New York and in Long Island City, where numerous lives were needlessly lost, we must continue the negotiations. We must avoid irresponsible remarks and I urge the Members to exercise great caution and restraint during this difficult and tense time.

THE PRESIDENT'S NEWS CONFERENCE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, in his news conference last night, President Carter said our hostages were being "abused." Earlier this week, press spokesman Jody Powell said they were being subjected to sophisticated techniques amounting to a form of brainwashing. Unfortunately, there have been no followup questions from the media about these grave charges.

I therefore suggest that it might be in the interest of the prisoners for the administration to make some detailed formal comment on what is known about the kind of abuse our prisoners are being subjected to. I think this is necessary because the first impression the American people received was that the prisoners were "unharmed." It would seem from the administration's recent comments that more is now known about the nature of the treatment they are receiving. The American people ought to know this.

The President mentioned that we

have the support of the civilized world. I am glad to know this, but I would be happier if that support were more open and intense. Perhaps, if the world knows that our prisoners are not just being held, but abused, the level of intensity of revulsion will rise.

No one wants to dwell on these terrible aspects of the kidnaping. But when a President publicly declares that American citizens are being "bound and abused," our Nation and the world should know precisely what is meant.

UNPREPARED FOR THE TAX CONFERENCE

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I have spoken before of my concern that we may be facing a conference with the Senate on a windfall tax bill containing scores of tax credits and direct revenue allocations on which the House has taken no position. This is not my view of an appropriate role for the House in the legislative process and there is great uneasiness about such a prospect.

We approved a straight excise tax on the various classes of oil, but the Senate is assigning distribution of those enormous revenues in the same bill. There have been pending before the House Ways and Means Committee almost 40 individual tax-credit proposals relating to energy. Our committee has held no hearings on these proposals in this Congress and made no recommendations. Yet we may be asked to go to conference with the Senate on a bill containing tax-credit proposals totaling $28 billion.

Is the House to have an opportunity to examine and probe these tax-credit proposals or will a half dozen conferees be permitted to set the position of the House on these credits? I believe such significant decisions warrant the deliberation of an informed and involved House and not just the sharply limited examination of uninstructed conferees. Decisions on these and other critical energy proposals require the participation of the entire House.

CHEVRON REINVESTS IN DRILLING

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, the situation in Iran comes forth to every one of us in concrete terms expressing what the oil situation means to America. Iran oil was 4 percent of our oil and we cannot depend on foreign oil imports.

Now, yesterday I saw some interesting figures that are typical of what the American oil industry is doing to meet the challenge. Chevron, the major oil company on the west coast, during the first 9 months of this year made 4.8 cents on every sales dollar. Now, that is not as much as the average profits for American industry. The average profit for American industry was 6.6 cents, but Chevron only made 4.8 cents on the dollar; but what Chevron earned, they reinvested back into oil exploration and drilling.

Chevron in 1979 has increased their expenditures for drilling by 54 percent. Chevron is making less than 3 cents a gallon in profit. Some oil companies make as much as 4 cents a gallon in profit, and most Americans would be glad to see them earn 6 cents a gallon. Oil companies earning profits and reinvesting is the only way America will ever solve the energy shortage. America will not solve it with these poor congressional laws that are nothing but regulations, rhetoric, and redtape.

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SCOUTING RECOGNITION WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 448) proclaiming the week of December 3 through December 9, 1979 as "Scouting Recognition Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 448

Whereas Scouting is a firmly established tradition in the United States; and

Whereas youth involved in Scouting are a credit to their communities, their country, and a way of life that can survive only so long as the youth of this Nation are brought up to believe in and practice its principles; and

Whereas the first week of December is an appropriate time to recognize the achievements and objectives of the Scouting movement since the fifty-fifth annual calendar program, a vehicle designed to familiarize the American public with the Scout movement, is conducted during this week; and

Whereas it is appropriate for the Government to recognize the positive principles of patriotism, enthusiasm, and service that Scouting typifies: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 3 through December 9, 1979 is designated as "Scouting Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week by appropriate activities.

● Mr. CAMPBELL. Mr. Speaker, for almost seven decades the youth of America has been involved in Scouting. Scouting, in its various forms, has become an integral part of the U.S. scene. In order to recognize the achievements and contributions of all Scouts, I propose that the week of December 3–9, 1979, be designated as Scouting Recognition Week.

Scouting has provided a unique educational program for the youth of our Nation. It helps to develop good habits and attitudes and is concerned about spiritual development and national pride, both of which we can never have too much of. It encourages personal achievement and helpfulness. It gives opportunities to learn and practice leadership skills. Scouting's aim is character development, citizenship training and mental and physical fitness for our youth.

Today, Scouting has gone past rope tying and fire building to extensive, nationwide programs to clean up the environment and combat drug abuse. Former Scouts include astronauts, entertainers, and Presidents. The good these hard-working and enthusiastic young people have done for their communities and the Nation as a whole can never be repaid. In this time in our Nation's history when our country's prestige is low on the political horizon, the unabashed patriotism and total commitment to the American way of life that Scouting exemplifies are shining beacons that will lead us to a new awareness of what it means to be an American.

Our Nation is very fortunate to have these people working to maintain the high standards so desperately needed to keep our Nation great. The enthusiasm exhibited by them is an inspiration. I would not trade one service-oriented Scout for all the publicity-seeking dogooders the news media can dig up. So often we hear only about the negative side of youth today without a thought to all the really positive ideas and actions that are so much a part of the majority of young people. It is a tragic fact that good news is not big news. Scouting Recognition Week gives us a chance to bring the Scouting movement to the forefront and present a very positive image for all young people today. I am very proud of all these young people and I hope my colleagues see fit to honor them in this manner.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL MEDIC ALERT WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 434) to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 434

Whereas approximately forty million Americans, nearly one-fifth of our Nation's population, are afflicted with diabetes, heart conditions, epilepsy, allergies, or other medical problems the symptoms of which, in emergency situations, are difficult to detect or are not readily associated with such medical problems; and

Whereas many such Americans suffer avoidable injury or death each year because of the delay which is frequently involved in the proper diagnosis and treatment of such hidden medical problems in emergency situations; and

Whereas special emergency identification and information services are available which are designed with the needs of victims of such hidden medical conditions specifically in mind; and

Whereas these emergency identification and information systems have been credited with saving the lives of more than two thousand people afflicted by hidden medical conditions each year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week", and calling upon the people of the United States and upon interested associations and organizations to observe such week with appropriate ceremonies and activities.

● Mr. MINETA. Mr. Speaker, I rise today to urge my colleagues to support House Joint Resolution 434, a resolution that our distinguished colleague from California, Mr. COELHO and I have introduced to establish the week of April 6 through 12, 1980, as "National Medic Alert Week." We are very pleased that 227 other Members of the House have cosponsored this resolution.

It is estimated that one-fifth of all Americans have some hidden medical condition. In the case of an emergency, knowing that someone is allergic to certain medications, has a heart condition, diabetes, or epilepsy can help in saving their life. Mr. COELHO wears a Medic Alert emblem, knowing that in an emergency, it could save his life because he is an epileptic.

The emblem is either a bracelet or necklace tag engraved with an emergency telephone number, a listing of the hidden medical conditions, and a computerized ID number. In any situation where an individual may be unconscious or unable to speak for himself, anyone attending the victim can obtain immediate medical information about him simply by calling the number listed on the tag.

The emergency medical identification system developed by Medic Alert Foundation International, a private, nonprofit charitable organization located in Turlock, Calif., has been serving people with hidden medical conditions for 23 years and has been credited with saving thousands of lives each year. Dr. Marion C. Collins, of Turlock, founded Medic Alert in 1956 after his daughter, Linda, nearly died from an allergic reaction to a tetanus antitoxin. Since that time, Medic Alert has grown into an international organization, serving nearly 1.4 million members worldwide. About 3,000 new members are added each week.

The lifesaving service provided by Medic Alert can benefit many more individuals. I urge unanimous support to pass this resolution so that Medic Alert's service can receive the special recognition it deserves and so that more people can be made aware that this service is available.

On behalf of my colleague, Mr. COELHO, and the other Members who are cosponsors of this resolution, I would like to commend the distinguished chairperson of the Subcommittee on Census and Population, Mr. GARCIA, for his efforts in getting this measure through his committee for this body's consideration.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the two joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION ACT

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2608) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2608, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 15 minutes; the gentleman from New Mexico (Mr. LUJAN) will be recognized for 15 minutes; the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 15 minutes; and the gentleman from Ohio (Mr. BROWN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am pleased that today the House is giving consideration to this bill authorizing appropriations for the Nuclear Regulatory Commission for fiscal year 1980. Prompt congressional action on this legislation is timely and needed. The bill incorporates important interim steps that should be taken while the Congress and the public continue to reevaluate the Nation's nuclear policies.

Our commitment to commercial nuclear power is at a crossroads as a result of the accident at Three Mile Island and other significant events of the past year. Over the next few months the Congress will face a number of critical policy choices which will determine the role of nuclear in the coming years as well as the conditions under which that role will be fulfilled.

Inasmuch as final recommendations based upon various reviews of Three Mile Island are still being formulated and digested, this is not the time for the House to debate sweeping reform of the nuclear regulatory process and the NRC. Our committee and the other appropriate committees are working on that. And yet, the implications of TMI are so profound that Congress must provide some midcourse guidance to NRC and the nuclear industry which says loud and clear that "business as usual" will not be tolerated. The authorization bill gives us an opportunity to send such a message.

This legislation was originally reported as H.R. 2608 by the Interior Committee on May 15, 1979. Subsequently, a differing version of H.R. 2608 was reported by the Interstate and Foreign Commerce Committee on June 29th following a sequential referral. The substitute bill now under consideration (H.R. 5297) is the product of a cooperative effort by the two committees to resolve their differences and bring to the floor a vehicle which will facilitate final House action.

The substitute authorizes a total of $374,785,000 for NRC during fiscal year 1980, and distributes this amount to the Commission's various offices with specific line-items. In addition, the substitute imposes constraints on the use of authorized funds which will require the Commission to carry out certain high priority tasks identified by the Congress. Among these specified tasks are the development of more stringent regulations for emergency evacuation plans; and, establishment of procedures for notification of a Governor of a State prior to the shipment of nuclear wastes in the State.

Also, the substitute sets forth new procedures which the Commission must follow to help assure agencywide activities are addressed in a coordinated manner. These procedures include a requirement that the Commission formally approve safeguards-research contracts in excess of $20,000; a requirement that NRC obtain congressional approval prior to the allocation of authorized sums in excess of $500,000; and a senior contract review board to coordinate the letting of NRC contracts.

Mr. Chairman, action on the NRC authorization is necessary not only to comply with the authorization-appropriations process but also to enable the House to consider two important amendments to the Atomic Energy Act.

First, the substitute contains a provision which will correct the glaring deficiency in existing law which now limits to an unreasonably low level the maximum civil penalty assessable per violation of an NRC license. The Atomic Energy Act now limits the maximum civil penalty per violation of Commission regulations to $5,000 with an aggregate limit of $25,000 in any 30-day period. These limits provide insufficient deterrent to NRC licensees operating in violation of their licenses when compared to the high cost of unplanned reactor shutdown and purchase of replacement power.

Two recent events clearly reveal the gross shortcomings of the existing civil penalties structure. The first of these was on October 26, 1979, when NRC levied a fine of $155,000 against the Metropolitan Edison Co. for license violations at Three Mile Island. While this fine was the largest the Commission had ever assessed, it was far below the $725,000 penalty that NRC might have imposed had the limits contained in the Atomic Energy Act not been so restrictive. The $155,000 penalty is a mere drop in the bucket compared to the $12 million per month which the owners of Three Mile Island are now spending to purchase replacement power for TMI Unit-2. The $12 million per month cost of replacement power for TMI-2 illustrates the considerable economic disincentive a utility faces in any decision to make unscheduled reactor repairs.

A second event that compels Congress to correct immediately the inadequacies of the existing civil penalty system came to light on November 9, 1979, when NRC proposed that the Consumer Power Co. be fined $450,000 for "a prolonged violation of safety regulations at the Palisades nuclear power facility in Michigan." As was the case with the Three Mile Island civil penalty, what appears to be a large fine is actually far below the amount NRC would have assessed if the statutory limits did not exist. NRC has cited violations at Palisades which would justify a penalty of $2,129,000 but, because of the dollar limits, only $450,000 is collectable.

The substitute bill (H.R. 5297) raises the level of civil penalties to $100,000 per violation and removes the overall ceiling in a 30-day period. This change in existing civil penalties was requested by NRC; has been endorsed by the General Accounting Office; and, approved by the Interior Committee. The need for the amendment is immediate; 6½ months have passed since Three Mile Island and, I hope, we will be able to take this obvious and necessary step to assure the public that safety violations will no longer result in a mere slap of the licensee's wrist.

The second Atomic Energy Act amendment contained in the substitute creates specific and limited authority for the NRC to withhold from general distribution the detailed security plans for nuclear facilities and nuclear material at fixed sites or in transit. The language in the substitute modifies the provision originally reported by the Interior Committee in a way that removes objections raised by Chairman PREYER regarding exemptions to the Freedom of Information Act.

The Interior Committee recognizes that neither the civil penalties provision nor the safeguards information provision is germane to a bill authorizing appropriations; the committee believes, however, that both provisions address important matters that deserve urgent attention from the House.

Mr. Chairman, in the course of today's consideration of the NRC authorization, Mr. MARKEY will offer an amendment, approved previously by the Interior Committee, providing for a 6-month suspension on issuance of nuclear powerplant construction permits.

I think this amendment is important. Since the NRC will probably not, in any event, issue construction permits for new plants in the period covered by the Markey amendment, its significance is essentially symbolic. But it is an exceedingly important symbol. I know of no other way of stressing to both the NRC and industry the depth of our concern at what has been revealed by the Three Mile Island inquiries. I believe if we fail to speak strongly, it will be misinterpreted as an indication of our having unfettered confidence in the ability of the NRC and industry to take account of the lessons of the accident. While I do have great admiration for the skills of many who manage the nuclear technology, my experience with nuclear issues has shown repeatedly that in the absence of unremitting vigilence from the outside, the regulators and industry demonstrate a tendency to allow economic considerations to dominate those of safety. The Markey amendment contains the message that we are watching; that we are unwilling to abrogate our responsibility and obligation to make our own assessment as to the way the nuclear technology is being managed. Enactment of the Markey amendment will not increase oil use by one barrel since it merely reinforces an action which the Commission has already taken. It says to those responsible for initiating change that they have our full support in taking whatever corrective actions they think necessary to assure the safety of nuclear plants. I know the Markey amendment is characterized as a step down the road to eliminating nuclear as an element of our energy supply. That is not my intention. I do not think we should fall into that mode of thinking. It is not the Markey amendment but another Three Mile Island that will really guarantee a halt to nuclear development. The Markey amendment will make such accidents less likely. The Markey amendment is not the vehicle by which the Congress will vote yea or nay on nuclear power; it is but a modest expression of our shared goal that whatever nuclear power we do have is acceptably safe.

That concludes my remarks, Mr. Chairman. I urge my colleagues to approve both the substitute bill and the Markey amendment.

Mr. LUJAN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to join with the chairman of the Committee on Interior and Insular Affairs in urging adoption of this bill. There are three things which I would quickly like to point out. In addition to the authorization and the financial matters in the bill, there is also a provision that amends the Atomic Energy Act by granting the Commission authority to protect certain unclassified but sensitive safeguards information from unauthorized disclosures. Many will remember that people can just go out and read a book on how to do certain things to powerplants and then go and do them. They are written up, to begin with, so as to learn how to protect them. But others can use them for their own purposes.

Second, I would like to call the attention of the committee to two amendments that I will offer. This authorization was passed many months ago, and a lot of things have happened in the meantime, Three Mile Island, and those sorts of things. So I will have two amendments. One is an additional $50 million in authorization which I will explain at the time of the amendment, but it is for additional moneys for plant safety design, radiation monitoring, emergency planning, operator training, and other purposes.

Finally, I will offer another amendment. Many will remember that the Kemeny Commission has criticized the lack of coordination and direction in the Nuclear Regulatory Commission, and there is a reason for that; because section 201 of the Energy Reorganization Act of 1974 says that all Commissioners have equal authority. So there is really no head of the organization. And what I will try to do by offering an amendment is to give the option to the rest of the Commissioners to delegate that authority to one of the Commissioners. According to law, it is my understanding they cannot do it now, and we hope to rectify that situation.

Mr. SWIFT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I simply want to say that the Committee on Interstate and Foreign Commerce wishes to support the substitute. It was very involved in the development of H.R. 5297 and it is going to work actively for passage of the measure.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I rise in support of H.R. 2608, as amended by the substitute offered by the chairman of the Interior and Insular Affairs Committee, Mr. UDALL.

This bill enjoys the support of both the Interior and Insular Affairs and the Interstate and Foreign Commerce Committees, and of the Foreign Affairs Committee in those areas relating to NRC's responsibilities for international nuclear nonproliferation and nuclear health and safety matters. As a member of both the Interior and Foreign Affairs Committees I would refer my colleagues to the letter from Chairman ZABLOCKI which appears in the Interior Committee's report on this bill, and to section 101 in H.R. 2608 which was embraced by all concerned parties to insure that the NRC will have adequate staff and technical resources to implement the United States-IAEA International Safeguards Treaty when it is ratified by the Senate. This treaty is of particular importance to U.S. efforts to persuade other countries that international safeguards against the development of nuclear weapons must be expanded and upgraded. Its ratification by the Senate will, among other things, enable greater U.S. cooperation with the international watchdog agency on proliferation to enhance safeguards techniques.

I would also note that all three committees endorsed the NRC's request for four additional persons over the fiscal year 1979 levels in the Office of International Programs. Even with this increase, the NRC staff will continue to devote only 1 percent of its total resources to nuclear export licensing and other important international regulatory matters. Even under these conditions, I feel that the NRC has contributed substantially to the fulfillment of U.S. nonproliferation objectives and has made good headway toward streamlining the export licensing process consistent with its mandate under the 1978 Nuclear Nonproliferation Act.

I would like to compliment Mr. UDALL and Mr. DINGELL and the members of both subcommittees for their considered attention to these important international responsibilities of the Nuclear Regulatory Commission.

☐ 1030

Mr. LUJAN. Mr. Chairman, I yield 5 minutes to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Chairman, I rise in reluctant support of this bill. My reluctance is based on the fact that authorization bills are not the place to make substantive changes to law. I believe that changes to the law should be dealt with on their own merit, not in authorization bills. I believe this approach circumvents the normal committee process that would normally include hearings and markup. Today there will be offered a number of amendments, many of these I cannot and will not support. I will speak to these as is appropriate.

Since the accident at Three Mile Island late last March, we in the subcommittee have held hearings on basic policy issues relevant to nuclear power. Since last April we have awaited the report of the President's Commission on Three Mile Island. This work is the most exhaustive independent analysis of the accident to date. We will hear this work alternately praised and damned—depending of course on who is making what point. However, I feel it is important that the Members be informed of what the President's Commission did not do. For this reason I quote to you from the report of the President's Commission.

> Our investigation centered on one accident at one nuclear power plant in the United States.
>
> We did not examine the entire nuclear industry.
>
> We have not attempted to evaluate the relative risks involved in alternate sources of energy.
>
> We did not attempt to reach a conclusion as to whether, as a matter of public policy, the development of commercial nuclear power should be continued or should not be continued.

We can see that on the basis of what the President's Commission did not do, it would be preposterous to assume that the report or the consensus actions of the President's Commission would support any shutdown or limitation on the growth of nuclear power.

My colleague from Pennsylvania (Mr. KOSTMAYER) had an interesting colloquy on this point with Dr. Kemeny and Mr. McPherson in a recent joint House-Senate hearing. Mr. KOSTMAYER in quoting from the Kemeny report stated—

> Our findings do not, standing alone, require the conclusion that nuclear power is inherently too dangerous to permit it to be continued and expanded as a form of power generation.

Quoting still—

> Neither do they suggest that the Nation should move forward aggressively to develop additional nuclear power.

Mr. McPherson responded and I quote:

> What we are attempting to say Congressman Kostmayer, only makes sense if you go on to the next sentence that says "If the country wishes for larger reasons, to confront the risks that are inherently associated with nuclear power, fundamental changes are necessary if those risks are to be kept within tolerable limits." I am saying that you folks have to make a decision.

A little further on in that colloquy Dr. Kemeny stated:

> We did not examine the alternatives. It has been said some times today that this risk has risk associated with it, and we all agree with that. But you have to look at the risks of alternatives. I don't believe there is a fail-safe technology to provide energy for the United States. I think it would have been irresponsible of our Commission to take a position on that without taking a look at the alternatives to decide if it is more risky or significantly less risky.

I urge my colleagues to heed Dr. Kemeny's well-taken point on the irresponsibility of action that is taken without the consideration of alternatives.

The General Accounting Office has considered the alternatives in a recent report to Congress entitled, "Questions On the Future of Nuclear Power: Implications and Trade-Offs." They reviewed both the demand for electricity and all possible sources of its supply—including all the "soft" sources; for example, solar, wind, and so forth.

They concluded in part that noncoal electricity generation technologies, for example: Nuclear and hydro must provide additional capacity for three reasons:

First. To displace existing oil and gas-generating capacity;

Second. To provide for some new growth in electricity demand; and

Third. To reduce the electricity demand on coal and free coal for use in other sectors such as synfuel and direct burn.

In testimony on this report before the House Subcommittee on Energy Research and Production, Dexter Peach of GAO stated:

> The major conclusion to be drawn from our analysis is that nuclear energy and coal are complementary to, not substitutable for, each other. If added demands are placed on coal they must be compensated for by additional nuclear, increased conservation, or all-out coal development beyond a 5-percent growth rate.

I urged my colleagues to heed Dr. Kemeny's well-taken point on irresponsible action, lest we fall prey to myopic arguments of those who would urge action that is at best fundamentally contentless. We live in a dangerous and uncertain world made more so by symbolic actions which communicate misleading signals.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Chairman, as we consider this legislation to authorize funds for the Nuclear Regulatory Commission, I would like to bring to the attention of my colleagues an important section of the report by the Committee on Interior and Insular Affairs which accompanies this legislation. On page 12 of that report, in the section entitled "Emergency Procedures," several critical aspects of our ability to deal with an emergency at a nuclear powerplant are discussed. The message of the report is clear:

> * * * concerns [are] raised which the Committee agrees that the NRC should immediately address.

Mr. Chairman, these concerns are drawn from legislation which I introduced following the accident at Three Mile Island. This legislation, H.R. 3476, dealt with some of the clear deficiencies in our ability to deal with an accident at a nuclear powerplant which Three Mile Island illustrated. Among these are the dangerously inadequate emergency communications capacities at nuclear powerplants and shortcomings in the inspections operations of the NRC. The President's Commission on the Accident at Three Mile Island also discussed these problems and underlines the need for change. While I am pleased that some progress is being seen in these two areas, more is required and we must demand that these and other safety problems be resolved.

The Interior Committee report states:

> * * * communications [must] be improved between reactor operators and appropriate Federal and State agencies during emergencies. * * * this question requires a prompt, well-considered solution to avoid communications gaps which occurred.

The President's Commission on the Accident at Three Mile Island found that—

> During the first 2½ days of the accident, communications between the NRC Incident Response Center in Bethesda, Maryland, where senior management was located, and the site were such that senior management officials found it extremely difficult to obtain up-to-date information. Communications were so poor on Friday morning that the senior management could not and did not develop a clear understanding of conditions at the site. Communications did not improve until Harold Denton, designated the sole source of information, arrived on the site and communicated with NRC headquarters, the Governor's office, and the White House by White House communications line.

Another section of the Commission's report states:

> The response to the emergency was dominated by an atmosphere of almost total confusion. There was lack of communication at all levels. Many key recommendations were made by individuals who were not in possession of accurate information, and those who managed the accident were slow to realize the significance and implications of the events that had taken place.

While communications were significantly improved following the installation of the communications facilities provided by the White House, too little consideration was given to the need for State and local civil defense people to be kept informed. The President's Commission found that:

> Throughout the accident, the Pennsylvania Emergency Management Agency (PEMA) received reports concerning conditions at the site from the Bureau of Radiation Protection. During the first two days of the accident, however, the director of PEMA also received background information on the status of the plant from the Governor's office by attending meetings and press conferences and relayed that information to county organizations, which, in turn, informed the local civil defense directors. Starting Saturday, the PEMA director was no longer included in these meetings with the result that PEMA and county and local civil defense organizations had to rely primarily on the news media for information about conditions at the site. They found this an unsatisfactory source of information and believed that this arrangement compromised their effectiveness in responding to the accident.

Why was there a communications problem? Because a three-quarters of a billion dollar facility with the potential to harm thousands of people in the event of a mishap shared a communication system designed to meet the needs of the small towns and farms surrounding it.

The communications problems at Three Mile Island are a lesson which we cannot ignore.

What has happened in this area since the accident? I am pleased that we have made some progress in correcting the communications deficiencies. On June 1 work was completed on the establishment of "dedicated" telephone lines between 68 of the 70 power reactors and 14 licensed fuel cycle facilities and the NRC's operations center in Bethesda, Md. The two plants not connected are shut down for an extended period of time.

These lines make it possible for operations personnel in these facilities to communicate immediately and directly in case of an emergency with the NRC's technical staff who are on duty 24 hours a day, 7 days a week. Calls to or from individual reactors and the operations center can also be tied into the operations center at any one of the NRC's five regional offices where technical staff are also on round-the-clock duty.

Should an accident again occur these lines should play a critical role in managing the crisis. This system must also be extended, however, to provide a similar capacity to be in immediate contact with State civil defense personnel. The group charged with evacuations must not be forced to rely upon second and third-hand information.

Important as these lines are, they are still inadequate to insure that NRC personnel have all the necessary information during an emergency. The NRC is still dependent upon individuals at the plant's operations center to relay information on conditions in the reactor and at the facility. Progress is being made to address this problem, but the task is far from complete. Currently, the NRC is working toward the establishment of an information transmittal system which will be tied into the plant's computer system. This would transmit data such as reactor temperature to the NRC headquarters and will insure that NRC personnel have a complete and immediate picture of conditions at a plant during an emergency.

While these developments are encouraging they do not excuse the gross inadequacies in what should have been standard safety precautions. The President's Commission on the Accident at Three Mile Island addresses the shocking lackadaisical attitude of the NRC and the nuclear industry toward safety considerations, and this is clearly the center of much of our discussion here today.

Part of the NRC's deficiencies in the area of safety center upon inadequate inspections of nuclear powerplants. Both the Interior Committee and the President's Commission address themselves to this shortcoming. In its report, the Interior Committee states:

> * * * each power reactor [must] be adequately inspected so that problems will be immediately recognized when they occur. Resident inspectors at each reactor may be the answer.

I believe that the expansion of the resident inspector program is an important element in our efforts to improve safety at nuclear powerplants. Assigning a resident inspector to each reactor, together with a thorough overhauling of the NRC to insure that safety is given priority consideration, serves at least two crucial functions. First, a resident inspector would be intimately familiar with the plant and be better able to identify safety problems or violations of NRC requirements. Second, the resident inspector would be onsite from the beginning of an emergency and be independent of the utility.

I think that it is noteworthy that there was no resident inspector at Three Mile Island at the time of the accident. The NRC was not notified of the malfunction which caused the emergency until 3 hours had passed, and it was not until after 6 hours that the first NRC personnel arrived at the site. By this time events were already far along. We can only speculate what might have happened—or rather, what might not have happened—had a resident inspector been on the scene from the beginning. I think that it is clear, though, that the potential for averting the seriousness of the accident would have been greatly enhanced. We must move toward having resident inspectors at all plants at the earliest possible date.

Today there are approximately 33 resident inspectors at nuclear powerplants. The NRC is moving toward having 134 such inspectors in place by the end of the fiscal year. Whether or not that goal will be achieved is in question. While I wish the expansion of this program could be completed today, it is not possible. Resident inspectors must undergo a 2-year training program before being assigned to a plant. Many of the additional resident inspectors are currently in the midst of the NRC training program. It would be a mistake to rush their training to put them onsite at all plants. If these individuals are to accomplish their jobs they must have all of the necessary training. Placing a person at a plant prematurely has the potential of exacerbating rather than mitigating problems during an emergency.

Under the NRC resident inspector program it is planned to rotate the inspector from plant to plant every 3 to 5 years. The concept of rotation is a valid and important one to insure the independence and objectivity of the resident inspectors. Personally, I believe that a 3 to 5 year assignment for such a critical job is too long. While I am cognizant of the inconveniences a more frequent rotation may cause these inspectors, the need to insure their independence and objectivity must take precedence.

I applaud the Committee on Interior and Insular Affairs, and its able chairman, the Honorable MORRIS K. UDALL, for identifying these important issues in the committee's report accompanying this legislation. If we do not learn the lessons that the accident at Three Mile Island has so painfully taught us, we will be inviting future tragedies. At all times the safety and well-being of the public must be our overriding concern. The establishment of reliable and effective communication facilities and the assignment of NRC resident inspectors to all nuclear powerplants will help in protecting public health and safety.

Mr. LUJAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, I rise in support of H.R. 2608, a bill providing necessary authorizations for the Nuclear Regulatory Commission in fiscal year 1980.

As ranking member on the Interior and Insular Affairs Committee, I am well aware of the serious concerns which have been raised regarding the future of nuclear power following the accident at Three Mile Island. During the past 4 months, I have actively participated in the extensive committee investigation into the causes of that accident, as well as the broader questions of nuclear policy. As those hearings progressed, one fact became quite clear—decisions on the future role of nuclear power must be balanced and rational, based on facts not emotion.

One fact which I urge my colleagues to keep in mind as we debate this bill and amendments is that nuclear power is an energy source which cannot be replaced in the immediate future. When you get down to the statistics and consider our alternatives, the Nation's energy requirements indicate that nuclear power cannot be discarded as an option.

Clearly the Nation faces some hard choices regarding its energy future. Without a deliberate and long range policy based on facts, we could be facing an increased dependence on foreign oil and gas—skyrocketing electrical bills for the consumer—serious repercussion to the national economy, including dramatically increased unemployment and spiraling inflation.

With the present situation in Iran and the continuing power of the OPEC countries over the price and supply of oil, America clearly does not have the option to presently shut down its nuclear industry.

But what about the future? Unfortunately, our Nation's energy picture becomes worse, not better.

Recent reports by the General Accounting Office (GAO) and the Department of Commerce have made projections on the levels of national energy consumption and supply through the year 2000.

It is important to note that both reports factor into their data significant emphasis on energy savings resulting from conservation efforts and significant increases in solar, wind, and geothermal production. Both assume these sources will generate approximately 32 times the current level of energy. Both reports also assume that there will be a virtual phase-out of oil and gas as sources of electrical energy by the year 2000 as dictated by the Powerplant and Industrial Fuel Use Act of 1978.

ELECTRICAL ENERGY SUPPLY AND DEMAND PROJECTIONS

In 1978, nuclear powerplants produced 13 percent of all electricity consumed in the United States. This same energy production by fossil energy sources would have required 470 million barrels of residual crude oil or 135 million tons of coal.

To put these figures into perspective, total coal production last year was 691 million tons and current oil imports are at a level of 8 million barrels per day. To import the annual nuclear energy production in equivalent barrels of oil at mid-May, OPEC prices would add more than $6 billion to our trade deficit.

The GAO report estimates electrical demand will grow from 3.9 to 4.8 percent per year from 1977 to 1990 and 3.75 percent thereafter. This assumes that annual coal production will grow from the current 691 million tons to 1 billion tons in 1985 and to 2 billion tons by the year 2000. It also assumes that other sources of electrical energy such as solar and geothermal will double every 5 years, producing the equivalent of 240 million barrels of oil (1.4 quads) by the year 2000.

The Commerce report is more optimistic in its projections predicting an annual electrical growth rate of only 3.4 percent through the year 2000, with 1.86 billion tons of coal produced and the equivalent of 260 million barrels of oil (1.5 quads).

Based on these reports, our energy choices became very sobering. If, for example, we choose to impose a complete moratorium on nuclear power, the electrical growth rate must be held to only 2 percent to provide an adequate supply of coal for nonelectrical uses. (GAO report.)

If we allow just the 72 existing nuclear plants to continue operation plus the completion of the additional 81 plants already in the "pipeline," the electrical growth rate must be held below 3 percent.

This means that electrical growth will have to be curtailed in the range of 1.4 to 2.8 percent per year for a complete moratorium, or from 0.4 to 1.8 percent per year for a partial moratorium, based on optimistic assumptions. The real picture could be far worse.

Nuclear power is one option which can help ease the crisis. However, in the wake of Three Mile Island, we cannot afford to maintain an attitude of complacency about the safety of nuclear power. To quote the Kemeny Commission report:

> After many years of operation of nuclear power plants, with no evidence that any member of the general public has been hurt, the *belief* that nuclear power plants are sufficiently safe grew into a *conviction*. (Emphasis added)

This does not mean, however, that the technology does not exist to make nuclear power a safe and viable option for our future energy needs. The Kemeny Commission found:

> The fundamental problems are people-related problems and not equipment problems.

And that—

> (T)he equipment was sufficiently good that, except for human failures, the major accident at Three Mile Island would have been a minor incident.

These so-called human failures however, are potentially more serious than if the technology had been found insufficient. The Kemeny Commission recommended that virtually every entity affecting the nuclear industry reassess its attitudes, procedures, and organization. These entities include not only NRC, the utilities and the manufacturers of nuclear technology, but also State and local governments, Federal agencies, and the news media as well.

The changes necessary are numerous, but in the final analysis, I believe are "do-able." They include: a possible restructuring of NRC; a greater emphasis on actual safety rather than "regulatory" safety; increased self-policing and standard-setting by the industry; improved training of operating and management personnel; increased technical reassessment including safety evaluations and panel redesign; better coordination of emergency planning and response, and review of health issues associated with potential radiation exposure.

Finally, underlying all of the Kemeny Commission's recommendations is the need for better information collection and dissemination. Prior to the accident, key information on related incidents was not passed on to persons who could effectuate change. The Commission report states that "important safety issues are frequently raised and may be studied to some degree of depth, but are not carried through to resolutions * * *."

Another absolutely vital aspect of information dissemination was also found inadequate—the control room instrumentation. While the various gages, dials and indicators appear adequate under normal conditions, the more than 100 alarms that sounded in the first few minutes of the TMI accident made the information presented confusing and unclear, thereby contributing to human mistakes.

Confusion continued as the incident went into subsequent days. Conflicting accounts by utilities spokesmen, the NRC, and news media added to the tension. As Commissioner Anne D. Trunk, a resident of Middletown, Pa., stated in her supplemental views:

> The report concluded that the errors and sensationalism reported by the news media merely reflected the confusion and ignorance of the facts by the official sources of information. It further concluded that the press did a creditable ("more reassuring than alarming") job of news coverage.
>
> In fact, these conclusions are not generally supported by the staff reports. There were reliable news sources available. Too much emphasis was placed on the "what if" rather than the "what is." As a result, the public was pulled into a state of terror, of psychological stress. More so than any other normal sources of news, the evening national news reports by the major networks proved to be the most depressing, the most terrifying. Confusion cannot explain away the mismanagement of a news event of this magnitude.

As a final point, I am encouraged by the initial response of both industry and the NRC to the aftermath of Three Mile Island. The NRC Lessons Learned Task Force has completed its final report and made important recommendations, generally in accord with the President's commission. Chairman Hendrie has recently assumed sole responsibility for emergency response and coordination paralleling an important commission recommendation.

The nuclear industry has established a Nuclear Safety Analysis Center (NSAC) and the Institute for Nuclear Power Operations (INPO). In addition, the industry is working on a mutual insurance plan to cover the cost of replacement power after an accident.

The Nuclear Safety Analysis Center will provide the focus for industry safety studies, emergency management and accident responses. The Institute for Nuclear Power Operations will establish benchmarks for performance in the operation of nuclear plants and carry out independent industry audits. Certification by INPO will be required for the mutual insurance coverage.

As I said, I am encouraged by this response, but I am by no means complacent or satisfied. The long term viability of nuclear power depends on the ability of NRC and the industry to restore confidence in the American people that nuclear plants can be operated safely, both in human and environmental terms. It is the public who will be the ultimate decisionmakers in this issue. Unless the public is informed and convinced of the adequacy of guaranteed operational safeguards and the ability to dispose of nuclear wastes, the continued use of nuclear power will not remain as a viable option among our energy alternatives.

In conclusion, I urge my colleagues in the House to resist the temptation to use this bill today as a vehicle to resolve all the questions raised by Three Mile Island. As Chairman UDALL has stated:

> None of these questions can be resolved by shouting slogans or by demanding categorical positions. . . (September 18, 1979, Cong. Rec.)

And as I have shared both publicly and privately with the chairman, determinations concerning the role of nuclear power in meeting national energy requirements are of extreme urgency and importance. Decisions must be made on indepth evaluation of facts—not emotion or political rhetoric.

In the next few months, the Interior Committee will be conducting a bipartisan review of our own investigations, the recommendations of the Kemeny Commission, and the studies done by NRC. It is conceivable that we will be recommending legislation where appropriate. At that time the House will have the opportunity to make rational, comprehensive decisions based on facts, not emotion.

To paraphrase another statement of the chairman, there will be no one quick technological fix to our energy problems, but nuclear power serves as a "bridge" to the future.

The Nation is looking to our leadership in formulating an overall plan which provides our energy needs. I urge support for this bill as a small, short-term piece of the long-term solution.

□ 1040

Mr. LUJAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, the House will soon decide whether or not to accept certain amendments which, in essence, will put a moratorium on the further licensing and construction of nuclear plants.

It seems to me this is ill-advised. Our goal in this Nation certainly should be adopting an energy policy toward self-sufficiency. Already our 70 nuclear powerplants presently in operation provide the equivalent of 1.3 million barrels of oil per day, three times this Nation's imports from the country of Iran.

There are currently 95 nuclear powerplants under construction right now. If we complete just 16 on schedule to be finished next year, we will have the equivalent of some 465,000 barrels of oil per day. Completing all 95, plus the additional 21 plants awaiting construction permits, will mean that oil exporting nations can keep 4.5 million barrels for themselves, over half of our imports today.

Mr. Chairman, the delays and the costs associated with these moratorium amendments will eventually have to be borne by the consumer. The Congressional Budget Office estimated each facility affected by these proposed delays will increase by $8 million per month in construction costs.

It is interesting to note that the supporters of this moratorium are still caught up under the spell of the Three Mile Island syndrome. The question that has to be asked is: if we put the moratorium on nuclear powerplants, why not a moratorium on the standards for dams and for the licensing of dams and other energy sources? The great risk potential for killing thousands of people exists just with dams alone, not to mention the great risks associated with liquid natural gas.

Mr. Chairman, Prof. David Okrent from UCLA, who is doing risk studies for the NRC, analyzed the risks of dam failures. It is interesting to note that just in the State of California there are potentially some 700,000 people who live downstream from dams. Up in Sacramento there are over 260,000 people just immediately downstream from the Folsom Dam. Ten thousand persons died in Italy in the fifties from an Italian dam failure. Two thousand people died in the Johnstown, Pa., dam failure in 1890. In India, just in the past year or two, some 5,000-plus have died from dam failures.

Mr. Chairman, there exists a greater risk potential for the failure of a liquid natural gas plant. There is an LNG plant in Boston, Mass., which is the home of the author of one of the moratorium amendments—LNG ships chug up and down the Boston Harbor with the equivalent energy of 20 Hiroshima bombs.

So why not a moratorium on further construction of LNG plants?

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. DANNEMEYER. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. GOLDWATER. Mr. Chairman, the amendments largely, I think, are symbolic measures which will really impede rather than expedite the resolution of the important concerns that were raised by Three Mile Island. I hope this body will soundly defeat these delaying amendments.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman.

Mr. HYDE. Mr. Chairman, I want to congratulate the gentleman on an excellent statement. I would ask the gentleman if he knows if there is any move afoot to outlaw the left turn or to have a moratorium on the left turn? On our highways an awful lot of people are killed as a result of that maneuver. I understand there are 60,000 deaths on the highway every year and half of those are involved with liquor. In Illinois it is up to 70 percent of highway deaths having an involvement with liquor or narcotics. Does the gentleman know of any moratorium on the consumption of liquor?

Mr. GOLDWATER. I think the gentleman makes an excellent point that I have tried to make. Here we are addressing ourselves only to nuclear powerplants and, obviously, every nuclear source that exists has a risk factor. But every other energy source, hydro, coal, gas, so forth, has risk which we are completely ignoring.

Mr. DANNEMEYER. Mr. Chairman, I yield 4 minutes to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, I agree that this authorization bill is not the proper vehicle for making all of the necessary changes that we may desire to make at a later time on such legislation as may come out of the Interior and Insular Affairs Committee and other committees that are concerned about the future of nuclear energy. There are a few changes, I think, that we can debate and we might be able to make today that might increase the public level of confidence in nuclear energy.

I stand here with a background in engineering, and I am generally a supporter of nuclear technology. I think the real danger we face in this country is the tendency to go to extremes, either to say shut down nuclear plants immediately because we do not have all of the answers, or to say that there is absolutely no problem at all and go ahead with business as usual.

I do not think the public of the United States is going to accept either one of those two extremes, because these choices are not realistic. We cannot shut down nuclear plants immediately because we depend on nuclear plants for some 13 percent of our electricity. Whether we like it or not, we have started down that road. To shut that source of electricity off is going to mean much higher prices to the consumer and exacerbation of the already critical energy problem that we have in this country.

So, in the meantime, what we have to do is examine the operation and the safety of nuclear powerplants and try to address those problems that, in fact, exist. I think the nuclear industry has a primary responsibility here to recognize that whether they agree with people who question the desirability of nuclear power or whether they do not, they have to realize that the future of the nuclear industry is going to depend in very large part on their willingness and ability to recognize problems that exist, recognize divisions of public opinion, in public attitude and public concern, and try to address them with increased safety precautions, making any necessary changes in design and operation that may be necessary to show to the rest of the industry, the American consuming public, and those people who are now involved in opposition to nuclear power that they are willing to take the necessary steps to prove that their industry is responsible and desirable and fits in with the long-range energy plans of this country.

□ 1050

Later on, at the appropriate time, I am going to offer an amendment, a rather simple amendment, that would merely allow as part of State assistance to permit purchase of radiation-monitoring equipment to be used by States containing nuclear powerplants. It does not make a change in authorization levels, but merely includes radiation monitoring as another item which may be purchased under the State assistance program. I feel that this is an important first step.

We are going to have to examine the Kemeny Report and other studies of nuclear energy and come up with strong, effective guidelines for the NRC and other agencies that directly or indirectly monitor the control of nuclear power. I think that if we do this in a responsible manner, recognizing that neither extreme—shutdown or business as usual—is really responsible and realistic to the needs of this country, we will provide a source of responsive and reliable energy for the country in the future.

Mr. DANNEMEYER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I would like to share with my colleagues a few thoughts regarding the need for nuclear energy in light of recent international developments. The situation in Iran has precipitated the loss of approximately 4 percent of our foreign oil imports. This loss of 750,000 barrels of crude oil per day serves to point up the need for reducing our reliance on foreign energy sources. In order to do so we must endeavor to conserve to the greatest extent possible, and employ other safe and reliable domestic sources of energy. Nuclear power is just such a source.

Two amendments to this Nuclear Regulatory Commission authorization bill would seriously impair our national effort toward energy independence without offering any tangible benefits. My colleague from Massachusetts proposes to impose a 6-month moratorium on the issuance of construction permits by the NRC. It is represented that the NRC needs this time to incorporate the lessons learned from the post-Three Mile Island investigations. In order to put this in perspective, I think that we need to remember the time it takes to construct a nuclear powerplant. From the time the construction permit is issued, the plant is under construction for 6 to 8 years or more. It is common, I repeat common, for design changes to be incorporated into the plants as they are built. The NRC is constantly upgrading and improving safety standards and these changes are incorporated into existing plants and those under construction.

This being the case, it is a bit silly to insist upon a 6-month moratorium so that the NRC can further study the TMI accident. They will have ample time to study the results of the investigations and incorporate the subsequent changes during the construction period of new nuclear powerplants. No moratorium is needed to facilitate this process.

There is not a man in this House that does not strongly endorse the highest levels of safety for nuclear power generation plants. I will personally endorse and work to pass any measure that genuinely addresses this essential need for safety in the energy production field. The fact is that the amendment by the gentleman from Massachusets simply offers nothing in the way of assisting the NRC to make nuclear reactors more safe. This amendment accomplishes nothing more than to add the voice of the Congress to the body of irresponsible literature that spreads irrational fear about the safety of nuclear reactors. We must be careful not to misuse the prestige of this body in this important question. Passage of this amendment would not give the NRC any additional working time to solve problems discovered through the situation at TMI. It would simply serve to legitimize the efforts of those that are attempting to halt the use of nuclear power in the United States.

It should be noted that the NRC has placed a de facto moratorium on the issuance of operating licenses pending the completion of their post-TMI studies. This action more than guarantees the incorporation of necessary safety measures into reactors that are nearing completion. The amendment that will be before us, then, does nothing to address the need for safety in reactors about to come on line, and does not address any safety considerations whatsoever. In point of fact, this amendment is in direct contradiction to the recommendations of the Kemeny Commission report that concluded unanimously that nuclear powerplants should be licensed on a case-by-case basis while improvements are made on an ongoing basis in both operating and planned plants.

A second amendment may be offered by the gentleman from Oregon that would prohibit the issuance of an operating license unless the State has an NRC-approved emergency evacuation plan. The NRC itself has taken action that negates the need for this amendment. On September 19 of this year, the NRC published proposed regulations which would require any licensee of a nuclear facility to submit emergency plans to the NRC for their review and approval within 120 days of the effective date of these regulations.

Again, I wish to stress that I am sure there is no Member of this body that does not place the highest priority on the safety of all power generation facilities in the Nation. To this end I applaud the efforts of the NRC and the nuclear power industry for bringing us one of the safest forms of power we have available at the present time. To pass amendments that might impair the ability of this industry to provide badly needed power would be reckless and irresponsible. Let me place this need in perspective for the Members of the House.

My own district in southern California is served by the Southern California Edison Co., which has operated a nuclear power generating plant at San Onofre for roughly 11 years with an outstanding safety record. In a region with acute air pollution problems the clean source of electric power that this plant provides is a welcome sight. At present, there are two additional units under construction at San Onofre, and they will provide 1,100 megawatts of power each upon completion. To graphically give you an idea of what this means, each of these reactors would save the equivalent of more than 10 million barrels of oil per year when operating at only 65 percent of capacity. They have the probable potential of replacing far more of our oil imports based upon past operating capacity records. Today in the United States there are 15 nuclear powerplants under construction that will be completed by the end of 1981. These plants have a combined power generation capacity of over 15,000 megawatts that could replace over 150 million barrels of imported oil per year. This is a significant step toward energy independence.

This is an important decision that we all must make. No form of power is perfect or completely safe. But I submit to you that the safety record of nuclear power is superior, even without peer. To deny the American people the benefits of this badly needed source of power would be foolish and irresponsible. Please join me in supporting an energy independent America by defeating any amendments to restrict the use of nuclear power.

The CHAIRMAN. The gentleman from Arizona (Mr. UDALL) has 8 minutes remaining; the gentleman from New Mexico (Mr. LUJAN) has 1½ minutes remaining; the gentleman from Ohio (Mr. BROWN) has 6 minutes remaining, and the gentleman from Washington (Mr. SWIFT) has 14½ minutes remaining.

Mr. BROWN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5297, the amendment in the nature of a substitute to H.R. 2608.

I do not need to remind my colleagues that our country is in an energy crisis. This crisis has been heightened by the Iranian situation. Foreign sources of oil are uncertain and costly. We cannot depend on foreign energy. We must increase our reliance on domestic energy.

We have a number of uses for energy in our country, but let us concentrate on electrical generation, which is the primary use to which nuclear power is put. The four primary ways of generating electricity are oil, gas, coal, and nuclear. The universal truth is that there is no entirely safe way to generate electricity. There will always be some degree of damage to the environment and an element of risk to public health. What will we use to generate electricity? Oil and natural gas are scarce, oil more than gas. Coal is the most readily available alternative, but as the Washington Post has editorialized, there is a high death rate associated with the heavy use of coal, not to mention the environmental problems. That leaves nuclear. Nuclear provides about 13 percent of our electricity now. Even with slower growth rates in demand, we will need greater generating capacity.

Much rhetoric about safety will be heard today. There is no question about the need for safety in our powerplants, whatever fuel they use. There is no question that we want safety in all our activities. But we live in a highly technological age and there are risks which we all accept in order to enjoy the benefits of our age. Last year, 51,500 people were killed on our highways. We have not banned cars; 273 people died in a DC-10 crash earlier this year; and we have not banned planes. We have had three serious train accidents in which cars containing chlorine gas were involved. Evacuations were necessary for the surrounding areas. We have banned neither trains nor the shipping of chemicals. In short, we are willing to take certain risks in exchange for certain benefits.

At least two amendments will be offered today which seek to end any possibility of commercial nuclear power use in the United States. This is neither a wise nor a necessary procedure. Nuclear power is not a demon to be exorcised. It is a tool to be used. A 1,000-megawatt nuclear powerplant displaces 40,000 barrels of oil for every day it is in operation. Yet utilities will not go nuclear if Government makes it doubtful that nuclear will be allowed to proceed. We cannot afford to send that signal. If we wait until the lights go out, it will be too late. We must allow the utilities to engage in successful advance planning, planning which includes a nuclear option.

I urge passage of the bill H.R. 5297 as an amendment in the nature of a substitute to H.R. 2608.

□ 1100

Mr. Chairman, I reserve the remainder of my time.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, I want to take this opportunity not to offer any proposal but to say that the subcommittee which I chair on the Committee on Government Operations has been spending a significant amount of time overseeing the Nuclear Regulatory Commission, and in a sense I want to take this time on behalf of my subcommittee colleagues to point out a few of the things we have found in anticipation of some amendments which will be offered later on. First of all, we held several weeks of hearings and conducted several months of investigations with regard to emergency planning. My colleagues may recall that the gentleman from Oregon (Mr. WEAVER) offered an amendment on emergency preparedness and evacuation back in June on, I believe, the appropriations bill. At that time his amendment was fairly soundly defeated. I assume that a similar amendment will be offered today, or whenever we reach that particular point in the bill, and I would urge my colleagues to look very carefully at this issue and the fact that unanimous bipartisan support was evidenced for very strong emergency planning from the Government Operations Subcommittee on Environmental, Energy, and Natural Resources.

What did we find? We found that even in those few States where we do have emergency preparedness plans that have been concurred in by the Nuclear Regulatory Commission, even in those States, States such as South Carolina, New York, a State such as Maine, my own State of Connecticut, which is regarded as having a good plan for the Nuclear Regulatory Commission—even in those States which do have emergency plans there is a real question about whether the folks at the local level in responsible positions really know what those State plans mean and whether the existence of a State plan insures that they do have a local plan on paper.

For example, regarding the Indian Point facility, which is 40 miles or so from New York City and which has about 17 million people within that radius of 40 miles, three of the four counties in the shadow of Indian Point have no emergency preparedness plan on paper. It may well be that it is virtually impossible to evacuate in a situation such as Indian Point, or in the Chicago area, the Zion plant. In those two situations particularly, plants that were built for whatever reasons in very densely populated areas, it may well be impossible to have evacuation plans. There may be other emergency plans that are necessary. But we ought to focus on those plants and on the other plants in existence and those under construction. It is not exactly a radical proposition to say, as the Committee on Government Operations did with but three dissents of the full committee, that we ought to have solid emergency preparedness plans.

For those Members who are very strong nuclear proponents, such as my colleague, the gentleman from Ohio (Mr. BROWN) who just spoke, it makes eminent sense if we are really interested in building public confidence for the technology, and in giving some assurances that the plants are safe, to support the notion of emergency planning. Three Mile Island obviously will be mentioned many times today, and it, too, was in an area that supposedly, as the Members know, had an emergency planning State plan on paper. I need say little more about that. It is not clear whether the people surrounding the plant really knew what to do and whether the local officials really knew what to do, and whether the Nuclear Regulatory Commission knew what the emergency plan for Three Mile Island really was. I think the Kennedy Commission has said it quite well, that in fact there was mass confusion with regard to that particular issue.

Second, I would like to bring up, and will do so later in colloquy, the issue of safety during construction and sound construction principles.

We have just concluded in the Government Operations Subcommittee, which I am privileged to chair, 2 days of hearings on the Marble Hill plant in Indiana.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DINGELL. Mr. Chairman, I yield 2 additional minutes to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman.

We have just concluded 2 days of hearings, and again had bipartisan support, I believe, for the notion that during the construction phase there must be much more scrutiny of what is going on. Region 3 in Chicago, which has the Marble Hill plant under its jurisdiction really has done quite a splendid job, and we really do not take issue with the region 3 Nuclear Regulatory Commission per se, but we found some very troubling things with regard to quality assurance at that particular plant—especially, in fact, for those of us who know the construction business at all and concrete, and so forth—where there was massive honeycombing, faults, defects in the concrete within the containment area of that plant, which were for whatever reasons literally covered up during the construction phase. As the Members may know, all construction on that plant has halted, so even though this is one authorization bill, we ought to raise these major issues and make legislative history so that the Nuclear Regulatory Commission will at least upgrade its procedures and its regulations to the point where the public will have assurances on such major issues as emergency planning. I hope my colleagues who voted no before will reconsider on that issue and on the issue of safety during construction.

I thank the chairman for his generosity in yielding this time.

I yield back the remainder of my time.

Mr. BROWN of Ohio. Mr. Chairman, are there other requests for time?

Mr. UDALL. I have no requests on my share of the time.

Mr. DINGELL. Mr. Chairman, in considering the authorization of appropriations for fiscal year 1980 for the Nuclear Regulatory Commission, we must be mindful of the fact that it was formulated and submitted prior to the accident at the Three Mile Island nuclear powerplant. As such then, it reflects a business as usual approach to regulating the commercial nuclear industry. The $374,785,000 authorized under this bill will not, however, be spent on routinely continuing past practices. The accident at the Three Mile Island nuclear powerplant and the report of the Kemeny Commission clearly demonstrate that fundamental changes are needed.

The Nuclear Regulatory Commission itself has now acknowledged that the method by which the construction and operation of nuclear powerplants are regulated needs to be thoroughly reexamined, and earlier this month in testimony before my subcommittee, the Commissioners announced that they were going to initiate a pause in all regulatory activities to conduct such a review. This action by the Commission will necessitate the reprograming of certain funds, and the Commission has advised me that it has made a request to the Office of Management and Budget for a supplemental authorization so it can have the funds needed to conduct the kind of comprehensive evaluation the Commissioners believe should be conducted.

There are, however, certain reforms which should be implemented immediately. Of paramount concern among these is the issue of the safety of those who live near operating nuclear powerplants. The Commerce Committee adopted an amendment which would provide an additional $1.4 million to the authorization for the Office of State Programs to enable the Nuclear Regulatory Commission to expedite the review of State radiological emergency response plans and to assist States in formulating these plans and to train their personnel to implement them. It also directs the Commission to initiate a rulemaking proceeding to establish the criteria for such plans, and to review all existing plans or other preparations made by the States to respond to such emergencies, and to notify the Governor of each State and the Congress of any deficiencies, in these individual plans and preparations, and to assess each State's capability to implement such plans or preparations.

At the time of the Three Mile Island accident, only 10 States had plans concurred in by the Nuclear Regulatory Commission, and 16 States did not have such plans. Since the accident, many States have focused on the need for such plans and most have or will soon submit emergency response plans. However, the existence of a plan is not, in itself, adequate assurance. That is why the Commerce Committee believes it is essential that the criteria for radiological emergency response plans be reviewed in an open forum and be subject to debate. The substitute bill presently before the

House includes this provision, and its adoption will greatly expedite the resolution of this issue.

Moreover, H.R. 5297 includes two amendments to existing law. The first amends the Atomic Energy Act by increasing the maximum fine from $5,000 to $100,000 per violation and by eliminating the present $25,000 ceiling on fines within a 30-day period. Given the cost of obtaining replacement power, which could be as much as $500,000 a day, the existing limitations are an ineffective deterrent and impede the ability of the Nuclear Regulatory Commission to be an effective regulator. This was specifically recognized by the Director of the Nuclear Regulatory Commission's Office of Inspection and Enforcement, Mr. Victor Stello, who in imposing a $155,000 fine against the operators of Three Mile Island, stated that if it had not been for this limitation, he would have assessed a fine five times greater than the one actually levied. While I do not believe that authorization bills should include amendments to existing law, I recognize that recent events require an extraordinary and an immediate response and I, therefore, support this amendment.

The second amendment to existing law contained in the substitute, H.R. 5297, would clearly establish the authority of the Nuclear Regulatory Commission to withhold detailed safeguard measures regarding the security equipment and plans at licensed facilities from public disclosure. This amendment was initially proposed by the Nuclear Regulatory Commission and, as a result of a cooperative effort with the chairman of the Government Operations Subcommittee on Government Information and Individual Rights, we have been able to formulate an amendment which provides the Commission with needed authority to safeguard this information without unduly abridging the public's right to know.

Mr. Chairman, I am pleased to join my colleague on the Interior Committee in supporting H.R. 5297, and I urge its adoption.

□ 1110

Mr. DINGELL. Mr. Chairman, I have no further requests for time.

Mr. BROWN of Ohio. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, I merely want to urge my colleagues not to get off into such rhetoric today as suggesting we should not concern ourselves with reducing the risks of nuclear power because it is also dangerous to build a dam or to make a left turn. If a signal light is not working, we put up a stop sign until we get it fixed.

I have been, and I continue to be, outspoken in stressing the need for more energy production. But that does not mean we should not at the same time take whatever steps we can to increase the safety with which we produce that energy. That is simply a rational, thoughtful way to proceed.

Mr. Chairman, one can be for both nuclear power and nuclear safety and I would hope my colleagues would not feel the need to resist all attempts to improve safety. We cannot eliminate all risks but it only makes sense to eliminate unnecessary risks if we can.

● Mr. CORCORAN. Mr. Chairman, I rise in support of H.R. 5297, the amendment in the nature of a substitute to H.R. 2608. This bill is the first major energy issue addressed by the House of Representatives since the Iranian takeover of our Embassy in Tehran. While this is not the time to discuss that outrageous affair, I submit, Mr. Chairman, that there is a connection between the action we should take on this pending Nuclear Regulatory Commission authorization measure and our increasing dependence on foreign oil. Ever since the first signal of our energy problems back in 1973 with the Arab oil embargo, the unwitting response of this Congress has been to make us more dependent on foreign oil, rather than less dependent on imports. Today, by our action on this measure involving nuclear energy, we can send a signal to Iran, to other OPEC countries, to our allies, to our enemies and most importantly to the American people themselves that we in Congress will reverse the trend of our recent energy policies which have shackled domestic energy supplies and get back to allowing the people of this country to move America forward on energy and less dependent on the OPEC cartel.

Nuclear power development in this country is at a vital crossroad. Important decisions must soon be made which will affect its role in America's energy future. Most of the energy resources which power our high-technology industrial society are foreign and are undependable and increasingly expensive. We find our country itself being held hostage, in more ways than one, to foreign oil. Only the Congress of the United States can change this unfortunate state of affairs.

Mr. Chairman, every energy resource has risks. Coal, the most likely alternative to nuclear power for electrical generation, dirties the air, causes acid rain, and kills and injures miners. However, we are taking steps to control and minimize these risks. We need electricity for many necessities and conveniences—heating, lighting, cooking, even charging the new batteries which are to be used in electric cars. And for this we need both coal and nuclear power in order to back out foreign oil, which represents more than 50 percent of the 17 percent of electricity produced from oil in the United States. If we were to abandon nuclear power, and further restrict the use of coal, and they shut off our oil, what would we use to generate electricity?

We must not stick our heads in the Arabian sand. Actresses and rock-and-roll singers are using their notoriety to achieve massive press coverage of ill-conceived, unworkable future energy scenarios. Our energy future should not be determined at rock-and-roll concerts.

In H.R. 5297, we have taken several important steps toward strengthening the safety of our nuclear plants. This bill is the product of two committees, Commerce and Interior.

We believe that the States should be encouraged to have emergency response plans. We do not believe, however, that the utilities should be prevented from providing low-cost electrical power to their rate payers, our constituents, solely because a State has not acted on a response plan. The resulting cost to consumers of having an otherwise safe and ready plant unable to go "on line" is staggering, as the States of New Jersey and Virginia are now discovering. So, instead of prohibiting the issuance of new operating licenses to any plant which is located in a State which does not have an approved emergency response plan, our two committees agreed to direct the NRC to establish, by rule, standards for State emergency plans and to actively work with the States to implement the plans. We authorized $1,485,000 for training and assistance to State and local governments in establishing such plans.

This bill also gives the NRC two valuable tools with which to accomplish a greater degree of nuclear safety as it fulfills its duties. We have strengthened the NRC's power to impose civil penalties by increasing the amount which may be assessed for violations of its regulations. This will help eliminate an unfortunate process of gentle wrist-slapping for nuclear safety violations. Also, we have given the NRC greater power to protect "safeguards" information in order that nuclear power plants not be sabotaged. This will strengthen the security of our nuclear plants; and in order to accomplish these goals, we are amending the Atomic Energy Act of 1954 in a limited fashion.

In closing for now, I want to remind my colleagues that it is imperative that all nuclear power decisions be arrived at after a careful consideration of all the facts and a comprehensive decisionmaking process taking into account the entirety of our country's energy needs.

I urge the support of H.R. 5297 without any crippling amendments.●

● Ms. HOLTZMAN. Mr. Chairman, just in the past year, many events have undermined the country's previous complacency about the safety of nuclear energy. A Department of Heath, Education, and Welfare task force reported that the potential dangers of very low levels of radiation may be greater than had previously been believed. The Nuclear Regulatory Commission withdrew its earlier report, Rasmussen report, that had supposedly proved that the risks of a serious nuclear accident were small and growing smaller. An Interagency Review Group on Nuclear Wastes established by the President reported that it is not clear that nuclear wastes can be disposed of safely and permanently. The NRC ordered the immediate closing of five plants because of newly-discovered design error that has left them vulnerable to earthquakes.

The most dramatic event, the Three Mile Island accident, seriously strained the public's confidence in the Government's ability to insure the safe operation of nuclear powerplants. Recently the President's Commission on the accident at Three Mile Island—the Kemeny Commission—concluded that an accident like it was "inevitable" and that:

> To prevent nuclear accidents as serious as Three Mile Island, fundamental changes will be necessary in the organization, procedures and practices—and above all—in the attitudes of the Nuclear Regulatory Commission and, to the extent that the institutions we investigated are typical, of the nuclear industry.

I have been very troubled by these events. I do not believe we can ignore them and proceed with business as usual. Therefore, in the spring I introduced the first piece of comprehensive nuclear safety legislation in the House. I also prepared a series of amendments to the bill before us today, some of the drawing on the legislation I introduced earlier. These included amendments to:

Require a trained, highly qualified NRC inspector at each operating power plant 24 hours a day. The inspector would have the authority to shut down the plant in an emergency.

Require States and localities to submit, and the NRC to review and approve, a comprehensive plan for responding to radiological emergencies and require public hearings on these plans.

Require NRC to establish programs to assist States and localities in developing and implementing emergency plans.

Require new siting guidelines to prevent nuclear plants being located near population centers.

Require NRC to provide for qualified inspectors to be present during the construction of nuclear powerplants.

Require NRC to establish a registry for the central collection of data about the exposure of workers in nuclear powerplants to radiation to insure that no worker could be hired if the safe level of exposure would be exceeded.

Require emergency preparedness information to be disseminated to all households within 50 miles of a nuclear powerplant.

Require radiation monitors near nuclear powerplants to measure accumulated exposure of the public to radiation.

Require public announcements of scheduled and unscheduled releases from nuclear powerplants.

Increase criminal penalties for the violation of the Atomic Energy Act.

Because of the restrictive rule recommended by the Rules Committee and adopted by the House, I will not be permitted to offer most of these amendments. I voted against this rule; I regret the House's action in adopting it and limiting our first opportunity to look at the way the Government is regulating the nuclear industry and to try to improve it.

I urge your serious consideration of and support for the following amendments I will offer:

To upgrade the training of nuclear powerplant operators to insure that they will be capable of responding to emergencies.

To review the operations of the nuclear powerplants at Indian Point in New York.

To require a safety reinspection of all operating nuclear powerplants within the next 6 months.

We can no longer ignore the pressing need to protect the American public from one hazardous operation of nuclear powerplants.●

The CHAIRMAN. Pursuant to the rule, in lieu of the amendments recommended by the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce now printed in the bill, it shall be in order to consider by titles the text of H.R. 5297 as an original bill for the purpose of amendment, and each title shall be considered as having been read. It shall be in order to consider as amendments to said substitute the amendment printed in the Congressional Record of September 13, 1979, by Representative Weaver of Oregon and the amendment printed in the Congressional Record of October 29, 1979, by Representative Markey of Massachusetts. No amendments are in order that affect the Atomic Energy Act of 1954, except: First, germane amendments to sections 301 and 302 of said substitute relating to civil penalties and safeguards information; and second, an amendment printed in the Congressional Record of October 31, 1979, by, and if offered by, Representative Harris of Virginia, and said amendment shall not be subject to amendment except pro forma amendments for the purpose of debate.

The Clerk will designate title I.

Title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

Sec. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980 the sum of $374,785,000 to remain available until expended. Of the total amount authorized to be appropriated:

(1) not more than $57,040,000, may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized to accelerate the effort in gas-cooled thermal reactor preapplication review,

(2) not more than $41,200,000, may be use for "Inspection and Enforcement",

(3) not more than $14,270,000, may be used for "Standards Development",

(4) not more than $29,605,000, may be used for "Nuclear Material Safety and Safeguards", of the total amount appropriated for this purpose not less than $60,000 shall be available only for the employment by the Commission of two qualified individuals to be assigned by the Commission to implementation of the United States International Atomic Energy Agency Safeguards Treaty, following ratification of such treaty by the United States Senate,

(5) not more than $185,570,000, may be used for "Nuclear Regulatory Research", of which an amount not to exceed $3,700,000 is authorized to accelerate the effort in gas-cooled thermal reactor safety research,

(6) not more than $16,410,000, may be used for "Program Technical Support": *Provided*, That, of the total amount appropriated for this purpose, not less than $1,485,000 shall be available to the Office of State Programs for training and assistance for State and local governments in establishing radiological emergency response planning and operations, including support for eight additional positions, and

(7) not more than $30,690,000 may be used for "Program Direction and Administration".

(b) No amount appropriated pursuant to subsection (a) for purposes of paragraphs (1) through (7) of such subsection may be used for any function of the Commission in excess of the amount expressly authorized to be appropriated for functions referred to in such paragraphs, if such excess amount is in excess of $500,000, nor may the amount available from any appropriation for any function referred to in such paragraphs be reduced by more than $500,000, unless—

(1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of any adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action, or

(2) each such committee before the expiration of such period has transmitted to the Commission written notice stating in substance that such committee has no objection to the proposed action.

(c) No amount authorized to be appropriated by this Act may be used by the Commission to enter into any contract providing funds in excess of $20,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

(d) No amount authorized to be appropriated by this Act may be used by the Commission to—

(1) place any new work or substantial modification to existing work with another Federal agency, or

(2) contract for research services or modify such contract

in an amount greater than $500,000, unless such placement of work, contract or modification is approved by a Senior Contract Review Board, to be appointed by the Commission within sixty days of the date of enactment of this Act. Such Board shall be accountable to and under the direction of the Commission. If the amount of such placement, contract, or modification is $1,000,000 or more, approval thereof shall be by majority vote of the Commission. Prior to affording any approval in accordance with this subsection, the reviewing body designated hereunder shall determine that the placement, contract, or modification contains a detailed description of work to be performed, and that alternative methods of obtaining performance including competitive procurement, have been considered.

Sec. 102. During the fiscal year 1980, moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

Sec. 103. During the fiscal year 1980, transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

Sec. 104. (a) Of the amounts authorized to be appropriated under section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to—

(1) establish, by rule, standards for State radiological emergency plans which provide for the response to an emergency involving any material or facility required to be licensed under the Atomic Energy Act of 1954,

(2) review all plans and other preparations respecting such an emergency which have been made by each State in which there is located a nuclear reactor or in which construction of a nuclear reactor has been commenced and by each State which may be affected (as determined by the Commission) by any such emergency,

(3) assess the adequacy of the plans and other preparations reviewed under paragraph (2) and the ability of the States involved to carry out emergency evacuations during an emergency referred to in paragraph (1),

(4) identify which, if any, of the States described in paragraph (2) do not have adequate plans and preparations for such an emergency and notify the Governor and other appropriate authorities in each such State of the respects in which such plans and preparations, if any, do not conform to the guidelines promulgated under paragraph (1), and

(5) submit a report to Congress containing the results of its action under the preceding paragraphs and its recommendations respecting any additional Federal statutory authority which the Commission deems necessary to provide that adequate plans and preparations for such radiological emergencies are in effect for each State described in paragraph (2).

SEC. 105. (a) The Commission shall by October 1, 1979, promulgate regulations providing for timely notification to the Governor of any State prior to the transport of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State.

(b) As used in this section, the term "State" includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 106. The Commission shall include in its annual report to Congress under section 251 of the Atomic Energy Act of 1954 a statement of—

(a) the direct and indirect costs to the Commission for the issuance of any license or permit and for the inspection of any facility;

(b) the fees paid to the Commission for the issuance of any license or permit for the inspection of any facility.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as followws:

Amendment offered by Mr. BINGHAM: Page 7, line 10, strike out "and".

Page 7, line 17, strike out the period and substitute ", and".

Page 7, after line 17, insert:

(6) submit a report within 120 days from the date of the enactment of this Act which—

(A) lists each current rule, regulation, Division 1 regulatory guide and staff technical position which applicants for construction permits and operating licenses are currently required to meet and indicates on such list which of such rules, regulations, guides, and positions are safety-related;

(B) lists, for each licensee of an operating nuclear reactor which of the rules, regulations, regulatory guides and staff technical positions referred to in subparagraph (A) the licensee was required to meet at the time the operating license was granted and which the licensee was not required to meet at such time;

(C) lists the generic safety issues listed in NUREG 0410 (including categories A, B, C, and D), for which technical solutions have been developed;

(D) lists operating nuclear reactors in which the technical solutions referred to in subparagraph (C) have been implemented; and

(E) provides a schedule for developing a technical solution to those generic safety issues listed in NUREG 0410 which have not yet been technically resolved.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BINGHAM. Mr. Chairman, let me first say that this amendment is cosponsored by the gentleman from California (Mr. PANETTA), the gentleman from Oklahoma (Mr. EDWARDS), and the gentlewoman from New York (Ms. HOLTZMAN).

The President's Commission on the Three Mile Island nuclear accident has recommended dozens of significant changes in our approach to the use of nuclear power, most of which will require many months to assess and, where appropriate, to implement. One such recommendation can and should, however, be addressed in the context of this legislation—that is, the Kemeny Report's repeated assertion that there should be an improved program for the systematic safety evaluation of the 72 currently operating plants, so that we will know whether new requirements should apply to older facilities—and so that new and outstanding safety issues are identified and resolved.

Consistent with the findings and recommendations of the Kemeny Commission on this point, my amendment would require the NRC to address two specific concerns in a report to Congress: (1) the extent to which existing nuclear power plants conform with current NRC safety rules, regulations, regulatory guides, and staff technical positions, and (2) the status of efforts to resolve over 133 so-called "unresolved generic safety issues" which have been identified in the 72 licensed nuclear reactors operating at this time. This information, which has never before been properly tabulated and analyzed on a plant-by-plant basis, can then be used as a working document for the Congress and the NRC to assure the safety of all the operating nuclear power plants. This amendment in no way attempts to shut down nuclear reactors nor does it ask for immediate backfitting. Congress must know the status of operating plants and safety issues before such drastic actions are in order.

Like many of you, my district is not far from a number of operating nuclear reactors. Of particular concern to me and my constituents are the Indian Point nuclear reactors which are less than 30 miles north of New York City. I would like to provide a little information about the Indian Point Units 2 and 3, because I think it will help to illustrate what my amendment is intended to do. These plants were originally conceived of as twins. However, as the Union of Concerned Scientists has noted in a recent petition to the Nuclear Regulatory Commission, the design of Unit 3 meets stricter safety criteria than that of Unit 2. The basis for the upgrading of Unit 3 was a determination by the NRC staff that absent certain changes, the operation of Unit 3 would pose undue risks to public health and safety. Similar changes were not ordered for Unit 2. So, here is an example of two plants, operating side by side, one with greater safety measures to protect public health and safety than the other.

The point I am making is this: it is clear that there has not been a systematic evaluation of the need to upgrade operating plants to account for important safety lessons learned since we started down this road decades ago. This amendment will let Congress know what safety regulations and guides have and have not been applied to each operating nuclear power plant, and what the NRC has done about resolving outstanding safety issues which may affect all existing facilities.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will be glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I have had a chance to study the gentleman's amendment. The gentleman contributed a great deal when we put our bill together in committee. It seems to me this is a reporting requirement in a period of pause while we are deciding where the country wants to go on nuclear power.

Mr. Chairman, the kind of report the gentleman outlines would be very useful and very helpful. The amendment is certainly agreeable to me.

Mr. BINGHAM. I thank the committee chairman.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Washington.

Mr. SWIFT. The Committee on Interstate and Foreign Commerce has also examined this amendment and supports it.

Mr. BINGHAM. I thank the gentleman.

Mr. Chairman, I hope this amendment will not be controversial. I will not take more time to discuss it in detail.

● Mr. PANETTA. Mr. Chairman, I rise in support of the Bingham-Panetta amendment which would comprehensively address generic safety issues with respect to nuclear powerplants.

The Kemeny Commission has indicated its dissatisfaction with the current designation of safety problems as "generic." Once the NRC has labeled a safety problem which applies to a number of plants as generic, the licensing of an individual plant can be completed without resolution of the problem. While developing a timetable for resolution on paper, the NRC has the unfortunate history of leaving generic safety problems unresolved for years. Indeed, TMI-2 received its operating license without resolution of generic safety issues although the ACRS had recommended that prior to commercial operation further evaluation be done on possible accidents, including low-probability accidents. In retrospect, one can only conclude that the chances for the accident occuring would have been lessened had there been resolution of this generic safety issue.

The Bingham-Panetta amendment would implement the Kemeny Commission's recommendation to require the NRC to set deadlines for resolving generic problems. It would also implement the recommendation to develop an improved program for the systematic safety evaluation of currently operating plants, in order to assess the need to make new requirements retroactive to older plants, and to identify new safety issues.

This amendment would force the NRC to live in today's world and to evaluate the safety issues of operating plants according to our current state of knowledge. Should we not demand this of those who are charged with regulating an industry where potential for a disastrous nuclear accident is held in check only by the most rigorous concern with safety? We would be foolish indeed, not to take advantage of advancements of technical expertise which can lessen the likelihood of a nuclear catastrophe.

Safety is the crucial issue in the operation of nuclear power facilities. I would agree with the Kemeny Commission and with my colleagues who have recently held hearings on the Commission's findings, that we must take every possible measure to insure the safety of operating plants. Our concern with the health and safety of the American people will not permit us to bury our heads in the sand by not rigorously examining the safety requirements under which older plants operate. The tendency of the NRC to postpone decision and action on difficult safety questions by designating them generic, can no longer be tolerated.

In the days following Three Mile Island, a consensus of determination to learn from that experience developed. Since that time, much rhetoric has been offered attesting to the importance of heeding the recommendations of the Kemeny Commission. This amendment would begin that process and as such, I believe it is worthy of my colleague's support.●

Mr. LUJAN. Mr. Chairman, I move to strike the requisite number of words and will speak in opposition to this amendment.

Mr. Chairman, it is always well to get reports from the various agencies. In this particular case, however, Mr. Chairman, I think it is rather excessive. I will have an amendment shortly adding an additional $52 million for work that needs to be done because of all the things we learned from Three Mile Island.

Mr. Chairman, it is estimated that this Bingham amendment will cost about $4 million and would consume about 700 man-months.

Mr. Chairman, to show the scope of what we are asking the Nuclear Regulatory Commission to do if, one person were to do it, would take that one person 50 years to list all of the current regulations which are safety related, what regulations each plant had to adhere to when the plant was built. The generic safety issues, all of those things.

I would suggest if anyone is interested there is a complete set of safety evaluation reports which have been written by the NRC and I am sure if somebody wants that, just a simple letter to the Nuclear Regulatory Commission would accomplish that without the need for spending some $4 million.

□ 1120

In addition, the Nuclear Regulatory Commission has published the status of unresolved safety issues in what we call NUREG 0606. It is an unresolved nuclear issues summary. This summary is updated quarterly. I believe that the Congress ought to have all the information that the agencies can give us in order to make a rational decision; but all of that information exists and it is just overkill to spend 700 man-hours in this when there is so much to do already by the Nuclear Regulatory Commission and they do not have the manpower to do it.

So I would hope that the Committee of the Whole would see it in that light and turn down this amendment as just excessive.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, I would like to applaud the gentleman. I think this amendment basically is up to no good. I think it is not in good taste, either, at this particular time.

We have the situation where the people there are overworked as it is. They are trying to solve some substantive problems.

Now we are going to divert them over to making up a lot of lists. I think this is unnecessary, a slap in the face to what the NRC is trying to do.

I think there are some things behind this amendment which I will not mention, but I think they are all mischievous.

I would hope that the House would not go for this type of approach.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I would be happy to yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman has made a good point. I think it is questionable the need for this particular amendment. It is questionable why it is necessary to spend these kinds of resources, these kinds of dollars and these kinds of man-hours to put together these kinds of requests when, in fact, the NRC is already doing these now because of the postconcern over Three Mile Island and the evaluation and conclusions that they arrived at during their evaluation of Three Mile Island.

I do not think that this kind of requirement makes a contribution to nuclear safety when, in fact, these kinds of provisions are already being made.

Now, the gentleman from New York points to the Indian Point nuclear facilities as being questionably safe; but I want to point out to the gentleman that they recognize what we found by Three Mile Island that the training of operators was wholly inadequate and as a result Consolidated Edison is already using some of the most sophisticated simulators today to train operating personnel, not only for Con Ed unit No. 2, but also for the Power Authority of New York's unit No. 3; so Mr. Chairman, it seems to me that we have all learned lessons from the recent potential disaster at Three Mile Island and that the NRC is very well aware of those and is moving very quickly to comply with the findings of the various commissions.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, there is a certain amount of logic here that ought to be followed by the U.S. Congress, even the U.S. Congress, in dealing with the problem of nuclear safety. Certainly in dealing with the agencies it sets up, such as the Nuclear Regulatory Commission. The Nuclear Regulatory Commission's job ought not to be either to have to go out physically and go through every plant, every generating plant that it regulates, nor ought it be to have to go through all the regulations that apply generally to nuclear regulatory facilities and aggregate those for each individual plant.

A certain amount of assumption that the utilities that operate these plants are not in business to make them unsafe has to be allowed for.

Now, it seems to me that the basis of the amendment of the gentleman from New York is that the individual companies that operate the generating plants, the nuclear generating plants, are consciously trying to operate those plants in an unsafe manner and that the only authority for seeing that they are operated safely is the Nuclear Regulatory Commission, who then puts together the regulations and forces the utility to do the right thing.

In any regulatory process that this Congress undertakes, we have to assume that at least some effort on the part of those people who are licensed and regulated is going to be made to live up to the licenses and the regulations.

I do not think it is possible for us to put an army of employees of the Federal Government into the field to such an extent that we actually do the operation of these facilities. If you do, you are going to wind up in a post office department kind of approach, and Lord knows that has not always been the most efficient and the most successful operation.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I just noticed something in the amendment, that all this information, the NRC is required to submit it within 120 days. According to the estimates I have, it would take one individual 50 years to do it; so if we are going to do it in 120 days, we are going to have to put some 300 or 400 people to work on this when they ought to be working on something else.

Mr. BROWN of Ohio. That is exactly the point. They ought to be working on the overall concept of how we develop the regulations that people are going to try to follow, at least people of good intention, and be sure that those regulations are effective; but if you have to do all the work that is required in this amendment, in the first place you do not have the people to do it in 120 days, but even if you decided to spread it out over time, you would have an endless amount of work done by the Regulatory Commission itself, rather than the overall management work done by the regulatory commission, with the idea that the individual utilities are going to try to follow soundly developed rules and regulations.

Now, what is our objective? Our objective is for the nuclear regulatory commission in this authorization to develop sound rules and regulations that will be applicable in general terms to the utilities around the country. If we load on them this kind of detail, we cannot expect that they are going to have the time it takes to develop those regulations.

Mr. Chairman, I think this is a bad amendment and I think we ought to vote it down and get on about the business of putting the Nuclear Regulatory Commission in the business of doing what it can do effectively, and that is developing general regulations and taking the time to develop those regulations properly.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words. I rise to speak in favor of the amendment.

Mr. Chairman, we will hear a great deal today in this debate to the effect that, well, we are all interested in safety. We hear that all the time, and we are all interested in safety, generally. I think that is clear, but we are going to be called upon to make some very important decisions on these amendments that will indicate just how interested we are in safety.

I think not unpredictably, and certainly with the best of intentions, the gentleman from New Mexico and the gentleman from Ohio have so overstated the impact of this particular amendment as to make it seem ridiculous, but it is not. It is very important and I think the gentleman from New York should have a chance to respond to their criticism.

Mr. Chairman, I yield to the gentleman from New York (Mr. BINGHAM) at this time.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding and for the gentleman's contribution.

Frankly, I had hoped this amendment would be noncontroversial, but as the gentleman said, it has been honored by some opposition.

Let me provide the Members with a little background.

In the years since the license applications for the nuclear plants now operating were filed, the NRC staff's knowledge of nuclear plant designs improved and many unacceptable designs and operating practices were discovered. Operating experience also provided information indicating the need for design changes. As a result, the staff developed and promulgated many technical positions and regulatory guides. However, the staff's general practice has been to apply these new requirements only to plants that had not received construction permits, or in a few instances, to plants that did not hold an operating license. Again, there has been no systematic evaluation of the need to upgrade operating plants to account for important safety lessons learned.

The Kemeny Commission underscored this point in its report to the President which says:

> When NRC issues new guidelines concerning safety, there is usually no systematic review, on a plant-by-plant basis, of operating plants and plants under construction for possible "backfitting". (p. 53)
>
> The agency's inspection and enforcement functions must receive increased emphasis and improved management, including the following: there should be an improved program for the systematic safety evaluation of currently operating plants, in order to assess the need to make new requirements retroactive to older plants, and to identify new safety issues. (p. 66).

On the matter of the NRC's progress in dealing with generic safety issues, the Kemeny Report has this to say:

> NRC's primary focus is on licensing and insufficient attention has been paid to the ongoing process of assuring nuclear safety. An important example of this is the case of "generic problems," that is, problems that apply to a number of different nuclear power plants. Once an issue is labeled "generic," the individual plant being licensed is not responsible for resolving the issue prior to licensing. That, in itself, would be acceptable, if there were a strict procedure within the NRC to assure the timely resolution of generic problems either by its own research staff, or by the utility and its suppliers. However, the evidence indicates that labeling of a problem as "generic" may provide a convenient way of postponing decision on a difficult question. (p. 20)

The problem of unresolved safety defects in operating reactors is not new. In 1975, the NRC prepared a list of 235 generic safety problems affecting operating plants. The NRC kept the document secret, and its existence was made public in 1976 when Robert D. Pollard, a safety engineer in the NRC's licensing division, resigned his job. Under pressure, the NRC then released the list to the public.

In 1977, Congress directed the NRC to prepare a plan for resolving these problems by amending the Energy Reorganization Act of 1974:

> SEC. 210. The Commission shall develop a plan providing for specification and analysis of unresolved safety issues relating to nuclear reactors and shall take such action as may be necessary to implement corrective measures with respect to such issues. Such plan shall be submitted to the Congress on or before January 1, 1978 and progress reports shall be included in the annual report of the Commission thereafter.

In January 1978, the Commission presented Congress with a list of 133 unresolved generic safety issues listed in four priority groups (NUREG 0410). It did not, however, describe the three lower priority categories or the basis used for assigning problems to the lower three groups. Nor did it describe all the problems listed in the highest category.

□ 1130

In January 1979, the NRC sent Congress a progress report on the program. The list of 133 safety defects had been magically reduced to less than 20. How? By answering the questions raised? No, not at all. Simply by putting them in different categories. They were administratively resolved. This is the kind of thing that we need to have cleared up.

Obviously, the NRC has not done a proper job on its own or in informing the Congress on these matters.

If the NRC had prepared its annual reports according to the intent of section 210 of the Energy Reorganization Act, the portion of this amendment concerning generic safety issues would not be necessary. Unfortunately, this is not the case, and this amendment should provide Congress with the information it requested 3 years ago.

In response to the objections of my friend, the gentleman from New Mexico, as to the expense, I am not asking for detailed information, as he describes it. We are asking for information which deals with safety issues.

Specifically, this amendment requires the NRC to submit to Congress within 120 days certain information relating to the safety of the 72 licensed nuclear powerplants. This information is to include a listing of each current rule and regulation applicable to license decisions, and an indication of which rules and regulations are safety related. I do not intend by this amendment that the report to Congress should contain all of the procedural rules and regulations which clearly are unrelated to safety considerations. At a minimum, the report should reference those rules and regulations in 10 C.F.R. parts 20, 50, 51, 55, 73, and 100 dealing with reactor design and siting criteria, as well as those relating to the licensing of plant operators. Consistent with the above, the amendment also requires that the NRC list which of these rules, regulations, regulatory guides, and staff technical positions, are met by each operating nuclear powerplant. Two other submissions are required dealing with the question of the "unresolved safety issues": a list of the safety issues discussed in NUREG 0410 for which technical solutions have been found and implemented, and a schedule for developing technical solutions for those unresolved safety issues which have not yet been technically resolved.

As a matter of fact, the NRC is not opposing this amendment. They think that 120 days may be too little time. If someone wants to propose an amendment that that be 180 days, I would certainly not object to that amendment to my amendment.

It is the sort of information that the NRC should be preparing for itself, and I believe it is. It should be making it available to the Congress as we continue to review the difficult problems presented by the safety of the nuclear industry and what to do about it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the gentleman from Connecticut made a very good point. The Members of this body talk of the need for safety, but they often are not willing to stand up when there comes an issue on which they are required to state by their vote whether they truly are for safety or not.

The requirements in this amendment, which I am very proud to offer, along with the gentleman from New York, are very modest. They ask for things that we have a right to know.

Mr. Chairman, we have heard, and we continue to hear, with every suggestion that has been made, "We cannot do that because it is going to cost money; we cannot do this because it will take too many days; the NRC cannot do that because it is going to take too much manpower."

I would suggest that if the NRC is not capable of meeting this kind of a request then perhaps we have a more basic problem with the whole regulatory structure of the nuclear industry. What we are asking for in this amendment is very simple. I think 120 days is adequate. If it is not, then it reflects very poorly on what the NRC has done up to this point.

So I urge my colleagues to support this amendment. I, like the gentleman from New York, am somewhat surprised to see the opposition to it. I think it is an amendment that we should all be in agreement on. It is a reasonable thing to do to proceed toward having more nuclear safety.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The question was taken; and on a division (demanded by Mr. BROWN of Ohio) there were—ayes 15, noes 11.

RECORDED VOTE

Mr. GOLDWATER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 161, not voting 55, as follows:

[Roll No. 692]

AYES—217

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Atkinson
AuCoin
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chisholm
Clay
Clinger
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
de la Garza
Deckard
Dellums
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Giaimo
Gilman
Goodling
Gore
Gradison
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Heckler
Hinson
Hollenbeck
Holtzman
Howard
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jones, N.C.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Lederer
Leland
Long, Md.
Lowry
McCloskey
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mottl
Murphy, N.Y.
Murphy, Pa.
Neal
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Pritchard
Pursell
Rahall
Quillen
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Snowe
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Studds
Swift
Synar
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Weiss
White
Whitley
Williams, Mont.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki

NOES—161

Abdnor
Alexander
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Bailey
Barnard
Bereuter
Bouquard
Bowen
Breaux
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Campbell
Chappell
Cheney
Clausen
Cleveland
Collins, Tex.
Conable
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Davis, Mich.
Davis, S.C.
Derrick
Derwinski
Devine
Dornan
Duncan, Tenn.
Edwards, Ala.
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Findley
Flippo
Foley
Forsythe
Fuqua
Gaydos
Gingrich
Ginn
Goldwater
Gonzalez
Gramm
Grassley
Grisham
Guyer
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Hightower
Hillis
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kindness
Kramer
Latta
Leach, La.
Leath, Tex.
Lehman
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDonald
McEwen
McKay
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murtha
Myers, Ind.
Natcher
Nichols
Pashayan
Patten
Paul
Price
Quayle
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Rudd
Satterfield
Schulze
Sebelius
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wylie
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—55

Anderson, Ill.
Anthony
Ashley
Aspin
Bethune
Brinkley
Burlison
Carney
Coelho
Corcoran
Crane, Philip
Dannemeyer
Daschle
Dickinson
Diggs
Dodd
Duncan, Oreg.
Fascell
Flood
Ford, Mich.
Frenzel
Gephardt
Gibbons
Glickman
Hagedorn
Hawkins
Heftel
Jenkins
Jenrette
Jones, Okla.
Kemp
Leach, Iowa
Lee
Levitas
Murphy, Ill.
Myers, Pa.
Nolan
O'Brien
Preyer
Rosenthal
Rostenkowski
Runnels
Sensenbrenner
Shannon
Solarz
Stokes
Symms
Treen
Ullman
Waxman
Weaver
Wilson, Tex.
Winn
Wydler
Yatron

☐ 1150

The Clerk announced the following pairs:

On this vote:

Mr. Glickman for, with Mr. Murphy of Illinois against.

Mr. Diggs for, with Mr. Dannemeyer against.

Mr. Solarz for, with Mr. Corcoran against.

Mr. Burlison for, with Mr. Jenrette against.

Mr. Hawkins for, with Mr. Carney against.

Mr. Ford of Michigan for, with Mr. Runnels against.

Mr. Dodd for, with Mr. Symms against.

Mr. Stokes for, with Mr. Dickinson against.

Mr. Myers of Pennsylvania for, with Mr. Bethune against.

Mr. Waxman for, with Mr. O'Brien against.

Mr. Rosenthal for, with Mr. Philip M. Crane against.

Mr. Flood for, with Mr. Wydler against.

Messrs. KILDEE, VOLKMER, CLINGER, and GUDGER changed their votes from "no" to "aye."

Mr. CHARLES H. WILSON of California and Mr. LEACH of Louisiana changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL STATEMENT

Mr. DANNEMEYER. Mr. Speaker, on Rollcall 692 I was detained in committee questioning a witness and missed the vote. Had I been present, I would have voted "no."

AMENDMENTS OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer amendments and ask unanimous consent they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. LUJAN: Be it enacted by the House of Representatives of the United States of America as set out in section 101 of H.R. 5297 that the sums authorized to be appropriated shall be amended as follows:

Section 101(a) (page 2, line 8), by striking out the figure "374,785,000", and inserting in lieu thereof the figure "426,821,000", and

Section 101(a)(1) (page 2, line 10), by striking out the figure "57,040,000", and inserting in lieu thereof the figure "66,510,000", and

Section 101(a)(2) (page 2, line 15) by striking out the figure "41,200,000", and inserting in lieu thereof the figure "42,440,000", and

Section 101(a)(3) (page 2, line 17), by striking out the figure "14,270,000", and inserting in lieu thereof the figure "15,953,000"; and

Section 101(a)(4) (page 2, line 19), by striking out the figure "29,605,000", and inserting in lieu thereof the figure "32,380,000"; and

Section 101(a)(5) (page 3, line 3), by striking out the figure "185,570,000", and inserting in lieu thereof the figure "213,005,000"; and

Section 101(a)(6) (page 3, line 7), by striking out the figure "16,410,000", and inserting in lieu thereof the figure "18,125,000"; and

Section 101(a)(7) (page 3, line 15), by striking out the figure "30,690,000"; and inserting in lieu thereof the figure "38,408,000".

Mr. LUJAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. LUJAN. Mr. Chairman, the accident last March at the Three Mile Island nuclear plant near Harrisburg, Pa., was a sobering event for millions of Americans. While strong differences continue with respect to the relative safety and value of nuclear power, I think it is clear to all that there are at least some cracks in the protective armor of governmental regulation in need of mending.

In a sense the basic regulatory approach (defense in depth) worked. The harmful consequences of the most serious accident at a U.S. nuclear power facility to date were contained. The public health was protected. The industry can still make the argument that no member of the public has yet been fatally injured by commercial nuclear power.

And, yet, we all had a good scare. The mental anguish suffered by thousands of Pennsylvanians was brought home to the rest of America and the world through intense, daily media coverage. But the nuclear industry and our own Federal regulators suffered a shock as well.

Much has been done already. But much still needs to be done in order to reassure the public and those in the nuclear industry itself that, not some, but all U.S. reactors will in the future be operated in the safest possible manner.

Today we are considering funding the Nuclear Regulatory Commission for the current fiscal year. The bill before us was reported from committee months ago. To some extent it relies on budget submissions of the Commission received by the Congress back in January. A lot has happened in the intervening 9 months. In a sense, the nuclear world has been turned upside down by the events in Pennsylvania last spring and the sometimes painful reassessments by all those involved in recent months.

We cannot turn back the clock. With the ayatollah attempting to hold the dagger of Iranian oil to our throats, we have little choice but to rely on the commercial nuclear power reactors which today generate a significant portion of our electric supply.

We can, however, do what we can to make sure that the industry operates as safely as possible and that those to whom we have delegated the responsibility to regulate stringently have adequate resources to do the job.

Because some time has passed since the appropriate congressional oversight committees had an opportunity to consider the agency's resource needs in hearings and because much has happened in the interim to affect those needs dramatically, I asked the Nuclear Regulatory Commission to provide me with their current assessment of the additional resources they believe they need to take into account the implications of the Three Mile Island accident, not in their budget submission for a year from now, but today.

In response, the Commission was provided me with a preliminary estimate of their needs in addition to those currently provided for in the bill before us. The Commission's estimate is $52,036,000. These additional resources would be used to implement expeditiously the lessons learned from Three Mile Island in such areas as plant safety design, radiation monitoring, emergency planning, operator training and qualification, review of utility management capabilities, and enhanced inspection and enforcement while permitting licensing review activities to continue at a steady pace.

I do not want to go into detail concerning the individual items which comprise this estimate at this time. However, I will provide an explanation of these items when I offer an amendment later on today to increase the NRC's fiscal year 1980 authorization by $52,036,000.

I believe it is imperative that we act today to assure that sufficient spending authority is in place for the Commission to carry out whatever actions it deems necessary to fully protect the public in the current fiscal year.

In light of the extraordinary public concern following the accident at Three Mile Island and the compelling urgency, underscored by recent events in Tehran, to maintain all national energy options, my amendment does not, I think, represent an unreasonable increase and I urge my colleagues to support it at the appropriate time.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this amendment would add $52 million to the funds that we are authorizing in this legislation. This is sought, as the gentleman has said, by the Nuclear Regulatory Commission.

We have imposed a lot of new obligations and burdens on NRC in the last few months, and while we did not have any hearings on this supplemental request, and while it has not been cleared with the OMB, as I understand it, I am prepared to go along with the amendment at this time, provided that before we get through with the conference we get some reaction from the OMB and that we get some approval by ACRS of new funds for the research program, and we get some letters from the individual commissioners explaining that they do support this. With that understanding, I am prepared to vote for the gentleman's amendment.

Mr. LUJAN. I thank the gentleman.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I am happy to yield.

Mr. MOFFETT. Mr. Chairman, is it the gentleman's intention to specify that this money go toward safety-related work, or in any particular area, or is this more or less just an across-the-board increase?

Mr. LUJAN. No, it is in specific areas as listed in the amendments. I will be glad to furnish the gentleman with all of the figures, but they are funds needed in response to some of the things that have happened since the authorization first came out.

Mr. MOFFETT. If the gentleman will yield just for 1 more second, I feel it is really important that we not stock up central headquarters with a lot more money and leave the regions, that I think all of us are interested in, without any additional resources.

☐ 1200

In other words, this $52 million, I would hope, would in part go to the additional enforcement and safety-related work rather than just building up the NRC headquarters here. If that is not precluded, I certainly have no objection to the amendment.

Mr. LUJAN. Let me tell the gentleman that the amendment addresses his concerns. There is money, for example, for material safety and safeguards; regulatory research; technical support; standards development; inspection and enforcement.

Mr. MOFFETT. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the amendment offered by the gentleman from New Mexico would provide the Nuclear Regulatory Commission with an authorization of an additional $52 million above the amount approved by the two committees for fiscal year 1980. The additional funds which would be authorized by this amendment are based upon the total amount which the Nuclear Regulatory Commission has requested from the Office of Management and Budget and would be used by the Commission primarily to correct deficiencies which have been identified as a result of the accident at the Three Mile Island nuclear powerplant.

The Office of Management and Budget has yet to officially respond to the Nuclear Regulatory Commission's request, and, as a result, the formal justification for the additional funds has not been submitted to the Congress for review by the appropriate committee, nor has the request for additional research funds been reviewed by the Advisory Committee on Reactor Safety, as is customary. However, the commission has provided the committee staff with a description of what the funds would be used to accomplish, and on this brief description, the request appears to be reasonable.

In view of the obvious differences between the bill before the House and the bill passed by the Senate, it is clear that a conference will be required. While I believe that requests for supplemental authorizations normally should be reviewed by the appropriate committees, the size of this request, its purpose, and the present time constraints argue for expeditious consideration. As there will be some time between the passage of the bill and the conference, the committees will then have an opportunity to review the request in more detail, and the conference will afford us with an opportunity to make the needed adjustments.

Given the present circumstances, I do not oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On page 7, make the following changes:

Lines 18 and 19, strike "by October 1, 1979" and insert in lieu thereof: "within 90 days of enactment of this legislation";

Line 22, after the period, insert the following:

"Such notification shall not be treated as 'safeguards information' for the purposes of section 147 of the Atomic Energy Act of 1954. The Commission may require each Governor receiving such notification to comply with the procedures and the standard of confidentiality respecting such notification as the Commission deems necessary pursuant to section 147 of the Atomic Energy Act of 1947.

Mr. SEIBERLING. Mr. Chairman, this is essentially a technical amendment to section 105 of the bill, which requires NRC to promulgate regulations for the timely prior notification to State Governors about shipments of nuclear waste through their States.

In approving the bill, both the Interior and Commerce Committees approved a provision requiring this. The amendment stems from State concerns about shipments of nuclear waste traversing their jurisdiction with no knowledge by the State officials about the routes, timing, or nature of nuclear waste shipments. The Interior Committee also adopted an amendment at the request of the Nuclear Regulatory Agency which allows NRC to withhold information on physical security of nuclear materials in place or in transit if the disclosure of such information may contribute to diversion or sabotage of such materials.

The Commerce Committee agreed that this safeguards provision be included in the bill to be considered by the House. My amendment strengthens the prior State notification provision by specifically saying that notices to Governors shall not be in the category of information which NRC may withhold pursuant to the new section 147 of the Atomic Energy Act of 1954. My amendment says that regardless of the safeguards information provision, State Governors shall receive prior notice of nuclear waste shipments through their States.

However, the NRC may, under the amendment, limit further distribution of information beyond the Governors' offices, in accordance with section 147 of the Atomic Energy Act as revised.

I might say that the director of the Environmental Protection Agency of the State of Ohio, by a letter dated August 7, 1979, recorded the strong support of the State administration for this amendment. I would also note that the gentleman from Ohio (Mr. MOTTL) offered a similar amendment in the Commerce Committee.

Mr. Chairman, I now yield to my colleague from Ohio (Mr. MOTTL).

Mr. MOTTL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wish to commend my colleague, Representative JOHN SEIBERLING, for offering the amendment clarifying and perfecting the language he successfully added to the Interior Committee bill authorizing the Nuclear Regulatory Commission for fiscal year 1980. The Interior-adopted provision requires the NRC to give Governors timely notification of any nuclear waste shipments through their States.

During Commerce consideration of the NRC bill, I offered a similar amendment which was subsequently adopted.

One particular incident in the State of Ohio prompted our coordinated efforts.

Last May, radioactive nuclear waste material from the Three Mile Island nuclear power generating facility was transported through Ohio on its way to Richland, Wash. Yet not one responsible State official was notified. Not even the Ohio turnpike patrol itself knew what was aboard the flatbed trucks rumbling through toll gates toward a distant dumping ground.

This concerns me. States through which such materials are transported have an interest in the safety of such shipments and have a responsibility to respond initially to any incident involving such materials. Governors, as the States' chief executives, should be kept apprised of any movements in order to protect citizens from the risks associated with a possible accident or a security violation.

Had one of these flatbed trucks crossing Ohio jackknifed, the results would have been catastrophic. The possibility of contamination, or exposure to radiation, and of death cannot be ignored. The communities involved and the public officials responsible for their safety would not have had the time to react effectively. Time, which should be an asset, would have been a liability.

According to NRC projections, the number of shipments of all nuclear materials will quadruple between 1975 and 1985. And a significant increase in accidents involving radioactive material shipments could follow.

Critical Mass, a public interest lobbying group, reports 328 transportation accidents involving radioactive materials in the last 5 years. One hundred and eighteen of these released some degree of radioactivity.

The General Accounting Office, in an evaluation of policies and practices of NRC, and the Departments of Transportation and Energy, determined that these agencies failed to develop and enforce policies and regulations to adequately protect the public from exposure to radiation from such shipments.

These deficiencies have caused States to become concerned about the safety of such shipments. And poor Federal-State coordination, characterized by this failure to notify States of such nuclear materials movements, is causing the States to unilaterally act to regulate shipments within their jurisdictions.

If we are to stop the proliferation of potentially contradictory regulations which might impede the secure, safe, and efficient shipment of such materials, then we must act now.

Please support our efforts to retain this important provision in the bill and vote for the perfecting and clarifying amendment offered by Representative SEIBERLING.

Mr. SEIBERLING. I thank the gentleman. He certainly deserves commendation for his efforts in this matter.

Let me say that the first shipments of Three Mile Island nuclear waste crossed the State of Ohio unguarded on the Ohio Turnpike, going through populous areas such as those represented by the gentleman from Ohio (Mr. MOTTL) and myself, with no prior notification to the State. When the State did receive notification of later shipments, they provided a State highway patrol escort. It seems to me that was entirely appropriate and desirable, and this amendment will help make that standard procedure.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SIEBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this amendment addresses a concern that many States have, notification of the movement of major quantities of nuclear waste through their States. I think it balances the right of Governors to know against the public interest in whether these shipments can be made and can be made safely. I would personally support the amendment.

Mr. SEIBERLING. I thank the gentleman.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I think the gentleman has done a good thing in clarifying the intent of the safeguards information. This side accepts the amendment.

Mr. SEIBERLING. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: On page 8, after line 11, insert the following:

SEC. 107. Section 201(a) of the Energy Reorganization Act of 1974 as amended (42 U.S.C. 5841) is amended by adding immediately after paragraph (5) of that section a new paragraph to read as follows:

(6) Notwithstanding the provisions of subsection (a)(1) regarding decisions and actions of the Commission, the Commission may delegate to an individual Commissioner, including the Chairman, such authority concerning emergency response management as the Commission deems appropriate.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

Mr. UDALL. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Michigan reserves a point of order, and the gentleman from Arizona reserves a point of order.

The gentleman from New Mexico (Mr. Lujan) is recognized for 5 minutes.

Mr. LUJAN. Mr. Chairman, I have offered this amendment in response to some of the criticism by the Kemeny Commission. The Kemeny Commission has criticized the lack of coordination and direction in the event of some serious accident, and rightly so.

Let me point out that what I tried to do with this amendment is to go around this lack of coordination and the confusion by amending section 201(a)(1) of the Energy Reorganization Act of 1974. It has been interpreted now that that act states that all commissioners have equal responsibility and equal authority, and that no delegation of authority to any individual commissioner can exist. So, by having this amendment adopted by the committee, it will give an option to the commissioners, to delegate the management responsibility to a single commissioner. It may be the chairman, or it could be any other commissioner. I am not specifying which one.

At the present time, the only way to make a decision in the Nuclear Regulatory Commission is by the majority of the commissioners voting, and no one has any real responsibility. Many of the Members will remember that there was an article in the New York Times on November 25, where Chairman Hendrie said that he was going to take certain actions and assume certain responsibilities even though he may not have the statutory authority to do it. This amendment simply is an attempt to give him the statutory authority, or rather give the Commission the statutory authority, to designate someone to have management responsibilities.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I certainly will.

Mr. UDALL. Mr. Chairman, the gentleman's amendment goes to a point of real importance to the country. The Kemeny Commission and our committee and the other committees of the House with jurisdiction have been saying the serious question is whether we should reorganize it. Is the Commission the right form of organization for the NRC? Should we have a director? Should we have the chairman himself be the administrator of the Commission?

We hope to come out in the next few weeks with legislation addressing that question, but it seems to me that this bill is not the time or place to take a piecemeal shot at it. I think the gentleman's proposal is one that will get into the law fairly soon, or something similar to this, and I may well go along with it. But, at this time I think it is unwise to amend this section of the bill.

□ 1210

Mr. LUJAN. Let me ask the gentleman, is it his intention to very shortly take up this legislation, because this was meant as a stopgap measure only. I know that we have to do something for the long run, but I was offering it as a stopgap measure. But if the gentleman is going to be coming forth with some comprehensive legislation on the subject, then maybe he is correct that we ought to look at all aspects of it.

Mr. UDALL. Our committee intends to work on this more comprehensive legislation very soon, and I think for our purposes today it is enough for us to agree that the chairman today, if he can get two of his colleagues to vote with him, may have such a designation. I think it should be done, if we have another Three Mile Island situation. I would not want to see the basic law opened at this time.

Mr. LUJAN. Would the gentleman want support as far as urging the Commission to do that?

Mr. UDALL. If we have another emergency, I hope the Commission will designate the Chairman or one of the members, if it is appropriate, to lead out and take responsibility. We cannot have a five-headed quarterback in a crisis.

Mr. LUJAN. I thank the gentleman.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Arizona (Mr. Udall) insist upon his point of order against the amendment?

Mr. UDALL. I do, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Arizona desire to be heard on his point of order?

Mr. UDALL. Very briefly, the amendment amends section 201 of the Energy Reorganization Act. Neither title I we are now considering or the bill under consideration amends that law. While the rule does waive germaneness with respect to three amendments, nothing in that rule otherwise modifies the germaneness requirement, and I urge the point of order be sustained.

The CHAIRMAN. Does the gentleman from Michigan (Mr. Dingell) desire to be heard on the point of order?

Mr. DINGELL. I do not, Mr. Chairman.

The CHAIRMAN. Does the gentleman from New Mexico (Mr. Lujan)?

Mr. LUJAN. Mr. Chairman, let me point out that as to the germaneness and the appropriateness of this amendment, the rule makes out of order amendments to the Atomic Energy Act and not to the Energy Reorganization Act. For that reason I believe that the amendment is germane and in order.

The CHAIRMAN (Mr. Panetta). Does anyone else desire to be heard on the point of order? If not, the Chair is prepared to rule.

Title I of the bill before the Committee provides for a 1-year authorization for the Nuclear Regulatory Commission while this amendment seeks to permanently amend the Energy Reorganization Act of 1974. Title I does not in any way amend the Energy Reorganization Act of 1974. Therefore, the Chair finds the amendment to be nongermane under general germaneness rule, which is applicable to this bill, and the point of order is sustained.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Markey: Page 8, insert after line 11 the following new section:

Sec. 107. (a) No amount authorized to be appropriated under this Act may be expended by the Nuclear Regulatory Commission for the issuance of a construction permit for any commercial nuclear powerplant during the first 6 months of fiscal year 1980. The proceding sentence shall not apply to any commercial nuclear powerplant for which a construction permit, or operating license, has been issued before the commencement of fiscal year 1980.

Mr. MARKEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MARKEY. Mr. Chairman, exactly 8 months ago this country was alerted to the potential dangers of nuclear power by the serious accident at Three Mile Island. Today I am proposing an amendment on behalf of the Committee on the Interior which is a step in the direction of preventing future Three Mile Island nuclear accidents. I am pleased to have the support of many of my colleagues, including the distinguished chairman of the Committee on the Interior and the distinguished chairman of the Energy and Power Subcommittee of the Committee on Interstate and Foreign Commerce.

My amendment prohibits for the first 6 months of fiscal year 1980 the granting of construction permits for new nuclear powerplants. The simple message of this amendment is, make nuclear power safe. Let me begin with a personal comment.

I represent a working class district just north of Boston. My constituents are working people whose incomes are now being ravaged by inflationary forces due in large part to the rising cost of energy prices. Neither I nor my constituents are interested in a vendetta against the nuclear power industry. I believe that I represent the thoughts of my constituents, be they friend or foe of nuclear power, when I say that our regulatory framework has failed us and that fundamental reforms are needed to make nuclear power safe. The real issue is between unsafe nuclear power and safe nuclear power.

As a member of the special Three Mile Island task force, I had the opportunity to visit Three Mile Island last April to have a firsthand look. I inspected the plant, looked at the design of the control room, talked to the Metropolitan Edison officials and operators. Our task force held long hours of closed door hearings in which the Nuclear Regulatory Commission, Babcock & Wilcox, and Metropolitan Edison officials testified at length about the causes of the accident. In May, 1979, I offered to the Committee on the Interior the amendment we have before us today. The Committee on the Interior, the committee of primary Nuclear Regulatory Commission jurisdiction, passed the amendment 23 to 7. The Committee on Interstate and Foreign Commerce narrowly defeated it.

In the interim we have received the report of the President's Commission on Three Mile Island, chaired by the able president of Dartmouth College, Dr. John Kemeny. The report paints a dismal picture of the nuclear industry and the Nuclear Regulatory Commission in disarray. For example, to quote the report:

> We find the Nuclear Regulatory Commission is so preoccupied with the licensing of plants that it has not given primary consideration to overall safety issues.

Again:

> With its present organization, staff, and attitudes, the Nuclear Regulatory Commission is unable—unable—to fulfill its responsibility for providing an acceptable level of safety for nuclear powerplants.

Later in the report:

> We are convinced that an accident like Three Mile Island was eventually inevitable.

I want to make sure that my colleagues are listening carefully to those remarks by the influential and unbiased Kemeny Commission. The overall conclusion of the Kemeny report was this:

> To prevent nuclear accidents as serious as Three Mile Island, fundamental changes will be necessary in the Nuclear Regulatory Commission.

In summary, the Kemeny Commission describes a shambles of a nuclear regulatory program and indicts the Nuclear Regulatory Commission for failing to do its job in protecting the health and safety of the public. I feel very strongly that we need a zero-based reassessment of nuclear reactor performance in this country, and that it makes no sense to continue unchecked our current program. Nuclear power is an unforgiving technology. It allows no room for error.

There are compelling reasons, other than the Kemeny report, to support a construction permit moratorium. First, it will put in no uncertain terms congressional instructions to the Nuclear Regulatory Commission to concentrate efforts on policing the 72 reactors already licensed and the 94 that are now being built.

Second, it enables the NRC and the Congress to determine the crucial safety reforms necessary in the construction permit stage. To give one example, many people do not realize that construction permits are granted by the NRC before—before—they review the blueprints of safety design. It is only after the nuclear plant is constructed, after a point where hundreds of millions of dollars create an unrelenting pressure to overlook safety questions, that the NRC finally sees a complete blueprint. This and other fundamental questions such as reactor siting and plant standardization should be resolved before any plant construction permits are granted.

Third, the NRC is a discredited agency badly in need of reform from top to bottom.

This amendment is neither pro- nor antinuclear. It is prosafety. Many of its strongest supporters are Congressmen who support nuclear power but who understand now that the debate is between a careless and deficient nuclear program and a proper, safe nuclear program.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 5 additional minutes.)

Mr. MARKEY. This amendment gives Congress the opportunity to give a vote of no confidence to a discredited agency whose procedures or lack thereof led directly to the Three Mile Island accident. It sends a message loudly and clearly to the industry and the Nuclear Regulatory Commission that Congress will no longer tolerate any future corner-cutting in the area of nuclear safety.

Mr. Chairman, I am reluctant to respond to the numerous red herrings raised in emotional and deceptive opposition to my amendment, but at this time I must make a few brief comments. Opponents say that my amendment is an attempt to end the nuclear option. To the contrary, my amendment is an attempt to begin to correct the safety mess that our current NRC has created by not doing its job. Those who oppose my amendment in effect support the regulatory system which brought us Three Mile Island.

This amendment will not affect oil imports or electric power supply. A short moratorium will not force an increase in oil imports. The choice of future electricity, moreover, is between coal and nuclear, not between oil and nuclear. Existing coal and nuclear plants under construction will phase out current oil used for electricity. My amendment does not touch those plants.

It is argued that my amendment is superfluous because the NRC has announced an administrative moratorium on licensing new plants, but the NRC lacks credibility. It is a troubled and befuddled agency. It has profoundly shamed us at Three Mile Island. We should be skeptical that it can protect us in the future without serious reform. In addition, we are letting the fox guard the chicken coop. The respected journal Nucleonics Week described the NRC moratorium as "an eleventh-hour effort to head off" the Markey congressional moratorium.

□ 1220

In fact, the NRC could lift the moratorium as soon as the authorization has passed both Houses of Congress.

In July, Chairman Hendrie called the nuclear construction moratorium "cynical, political garbage."

In August, the NRC staff claimed they had learned all the lessons of Three Mile Island. They were ready to start issuing permits for new construction. Only the wrath of the Kemeny Commission made this precipitous action impossible.

In other words, the NRC has been playing games with the Congress. It is argued the amendment is symbolic and meaningless. I cannot disagree more. There are safety reforms that must be made at the construction permit stage that the NRC is not doing. The amendment is symbolic only to the extent that a vote against it will illustrate congressional failure to act on clear evidence that our program is flawed and in need of a breathing spell to be reborn into the type of safety process that protects the public.

Mr. Chairman, we have had a "brush" with the nuclear disaster at Three Mile Island. No one was killed, but the significance of that accident is not the body count but the fact that we came close, that we encountered unexpected failures and that we have been given the benefit of a warning. To ignore the warning and the indelible indictment of the unbiased Kemeny Commission is to invite a future nuclear catastrophe none of us want.

Eight of the 12 Kemeny commissioners supported moratorium proposals which were stronger than my own. Dr. Kemeny, himself, testified that were he a Congressman he would vote for my amendment. In addition, in October, an NBC-AP poll showed that 57 percent of the American public support a moratorium on construction permits. If nuclear power is to be a future energy source or even maintain its present levels, there cannot be a repetition of Three Mile Island. Nuclear power is a unique technology in that it exists in what sportscasters call sudden death. One major accident that releases a large amount of radiation and the program is over. We must guarantee to our constituents that nuclear power will be safe.

Mr. Chairman, my amendment begins the difficult process of getting the NRC or its successor agencies to do its job properly. Future generations will bless the day that this Congress began to seriously debate nuclear safety.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman.

Mr. GOLDWATER. The gentleman addresses himself to the performance of the NRC and the previous AEC. It seems to me if we look historically, their track record is not too bad in terms of fatalities associated with nuclear reactors. Nevertheless, we are all concerned about future performance and future safety.

I would like to ask a question with regard to the gentleman's amendment referring to what it will or will not do. In the gentleman's own district I believe 40 percent of the energy consumed is generated by nuclear energy. I think the Yankee facility is up there. That is an existing facility. What will the gentleman's amendment do in addressing itself to the safety of those particular reactors in the gentleman's own area?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 3 additional minutes.)

Mr. MARKEY. What does it do? It says to the NRC, "stop your business as usual, stop the permitting process that detracts your attention from the very serious question of generic design defects that may be present in the already existing 72 plants and those under construction."

It will focus their attention and it will give a mandate from the Congress to them that we believe that the lessons of Three Mile Island should be learned and incorporated into already existing plants and that we should have an opportunity of restructuring the NRC before we allow any new plants to begin their foundation.

Mr. Chairman, I believe that is the real lesson that I hope we are going to learn from Three Mile Island, that there are some real design defects out there. That, if many of those plants that are now online had to be relicensed under a post-Three Mile Island regulatory standard, that perhaps they would not be able to withstand that scrutiny.

Mr. Chairman, on a case-by-case basis the NRC personnel should be looking at already existing plants rather than looking at new plants which are not going to be providing us electricity for 8 to 10 years down the line.

Mr. GOLDWATER. If the gentleman will yield further, I see nowhere in the gentleman's amendment where it requires them to go back and analyze or have any kind of treatment on existing facilities. The only thing that I see that it does is that it holds up any further licensing or granting of construction permits.

Mr. MARKEY. I think the clear message is that we do not want them to be looking at new licenses, we want them looking at the old licenses, those already granted under a standard which the Kemeny Commission says, and I quote from page 56,

> The NRC is unable to fulfill its responsibility for providing an acceptable level of safety for already existing nuclear power plants.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

Mr. Chairman, I think the point the gentleman made about the Kemeny Commission having 8 members or two-thirds of its total number on the record, as I understand it, in favor of some type of moratorium, is extremely significant and I wanted to simply emphasize that and ask if the gentleman wanted to expand on that point. As I understand it, there were a number of different proposals before the commission. Perhaps the gentleman could give us something on that.

Mr. MARKEY. There were a number of proposals tied to siting, tied to just an arbitrary time deadline upon which they were unable to reach a consensus. The proposal we have before us today, the 6 months' moratorium, is one that Chairman Kemeny said he would have wholeheartedly supported, and at least seven other members of the commission supported a version of this moratorium, although they were not able to reach a consensus on the exact wording of it. So none was recommended in their report that would have been tougher than the one upon which we are going to vote right here in Congress.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MAGUIRE and by unanimous consent, Mr. MARKEY was allowed to proceed for 4 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Is it not also the case that Chairman Hendrie of the NRC has himself testified that he sees difficulty in handling the total job of both reviewing existing plants and licensing new plants at least for some time into the future?

Mr. MARKEY. Chairman Kemeny does not believe that as the NRC is presently structured that they have the ability to properly discharge those responsibilities and he believes that there has to be a complete overhaul of the Nuclear Regulatory Commission or its successor agency, and that is what this report is all about.

Mr. Chairman, I think that if every Member of Congress read the Three Mile Island accident report from the blue-ribbon Three Mile Island panel that was established by the President, I do not think they would have any hesitancy in voting for a moratorium. As a matter of fact, I think we would have a nearly unanimous vote. I am afraid we are just going to again allow a debate to evolve into a pro- or anti-nuclear debate rather than going into the question of whether or not the Nuclear Regulatory Commission as presently structured will be able to offer proper protection to the American people.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to commend the gentleman for his amendment which I think is thoughtful, very, very important and I think we all should rally behind it.

Mr. MARKEY. I yield to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. I thank the gentleman for yielding to me,

I read in a "Dear Colleague" letter by one of our colleagues, that the gentleman's amendment would tear as under the fabric of Western society. I would just like to get some assurances that if I vote for the gentleman's amendment that Western society and the Free World will not fall.

Mr. MARKEY. This Free World not only does not fall, but if we do not vote for this the wrong signal may be sent to the Free World that we are not going to get serious about making nuclear power safe in this country.

Again, we do not talk about existing nuclear powerplants, we do not talk about nuclear powerplants that are under construction. We are only talking about plants which have not yet been given construction permits. We want the NRC to close the door on that subject and turn to those plants that are already on line existing under Federal regulations which the Kemeny report has indicated as being inadequate.

Mr. DOWNEY. Will the gentleman yield further, Mr. Chairman?

Mr. MARKEY. I yield further to the gentleman from New York.

Mr. DOWNEY. We have a nuclear powerplant on Long Island scheduled to go on line in 1981. I notice one of my colleagues from Long Island, the gentleman from New York (Mr. WYDLER), is suggesting that a vote for your amendment is a vote for more dependency on Arab oil. I am concerned about that. Could the gentleman address himself to that question?

Mr. MARKEY. The question of dependence on oil because of a vote on a 6 months' moratorium on nuclear power construction is a real red herring. With respect to a delay right now in new construction permits, the Ayatollah, the Iranians, will have no bearing upon our situation.

□ 1230

These are plants that do not come on line until 1986 at the earliest, so it is really not an issue today.

Beyond that, the real question in this country is not going to be whether we have oil fired plants for generating electrical capacity. It is going to be whether we have coal or whether we have nuclear. That is the debate on new generating capacity in this country. Those that would say that this is an attempt to allow the Iranians or others to bring us to our knees are just totally misrepresenting the situation.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

I would like to say that I am in strong support of the gentleman's efforts. The gentleman is to be congratulated, I think, for presenting to this committee and to the Congress in general a position that really is not as controversial as people would have us believe, but is very fundamental and a question of safety whether we have it or not.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield on that?

Mr. MARKEY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, on the question of the gentleman from New York, how about conservation as well? We keep hearing about this great gap that we are going to have between now and the year 2000 if we do not go well beyond the nuclear plants we have now and the ones under construction, we can conserve.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MARKEY) has again expired.

(At the request of Mr. EDWARDS of Oklahoma, and by unanimous consent, Mr. MARKEY was allowed to proceed for 4 additional minutes.)

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, the gentleman from Massachusetts in his remarks referred to the lessons that we might have learned at Three Mile Island and made the point that although there were no deaths at Three Mile Island, we narrowly avoided a hazard that could have been rather disastrous.

I would like to make the point that

that near disaster that we did have at Three Mile Island could have been avoided if there had been a moratorium like this one. In fact that is a conclusion I came to somewhat belatedly, and if the NRC which has, in fact, done a very poor job of carying out its mandate had taken the time to investigate some of the previous incidents, like the one at the Davis-Besse plant or had taken the time to read the Michelson Report from the TVA had done some of those things which specifically indicated that an accident like the one at Three Mile Island was very likely, indeed, to happen; so I commend the gentleman and I intend to support the gentleman's amendment and will speak further on that subject.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I thank the gentleman for yielding. I also thank the gentleman for offering this amendment and pursuing this issue several times, because the House has yet to really reflect the change in public opinion that has occurred since the events at Three Mile Island.

There is no question that the NRC has taken a very sober look at nuclear power itself; but without the opportunity to vote on this amendment, the House will not have had a chance to reflect the understanding that I believe it now has that nuclear power has severe problems, which we as a body have never given the American people an awareness of. I think that is the key that causes us to take the opportunity today to vote in support of it.

I hope the gentleman can outline, and I would like the gentleman to for a few minutes here, what would be specifically done during the 6-month period that this moratorium would be in effect, to give the American people the assurance that additional safeguards will be built into the new plants which would have come on line during that period.

Mr. MARKEY. Well, I think first of all, the Congress would have to reclaim its responsibility. We are the final resting place for the structure of the nuclear regulatory process in this country. If at this point we do not signal that we want to reclaim that authority, that we want to say to the NRC that "we are not going to allow you to heal yourself, you have had 25 years, you and the AEC, in order to provide for proper protection for the American public; you have not done the job," then we have not done the job either.

The first thing we have to do is bring that responsibility back to ourselves, to have a zero based analysis done by the Congress.

We are not in a position right now to be able to cast votes on how we want to see nuclear power go forward in the future. We are going to have to have a major public policy debate within this body over the next 4 or 5 or 6 months and beyond that, the next few years, to determine whether or not we are going to be able to structure a nuclear regulatory process which is going to be able to afford proper protection to the American public.

Second, we are going to send a signal to the NRC that we want them to be looking at the really difficult questions of siting, of standardization of certain parts of nuclear power plant design and other areas that have up until now really not had the proper focus and attention tention of the NRC.

I think if we can at least have sent forth that message, that we will have accomplished a great deal, because we will have ended the status quo, the business as usual, and we will have finally been able to establish a forum which makes it possible for us, those of us who really are the guarantors of public safety, to be able to have that responsibility discharged by us.

If at the end of that moratorium on April 1, if we determine that we have made the proper restructuring of the NRC, if we are able to build in those kind of guarantees, then let industry go forward with the knowledge that there are new standards with which we are going to have them be guided by. If not, if we cannot do it within that time frame, perhaps we will have to extend the moratorium a little bit longer; but I think that we should have that discussion so that we have enough knowledge.

My own belief is that most people in this country are neither pro- nor antinuclear. They are neither atheists nor are they true believers. They are agnostics. They do not know enough.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Markey) has again expired.

(At the request of Mr. Walker, and by unanimous consent, Mr. Markey was allowed to proceed for 3 additional minutes.)

Mr. MARKEY. But the American public and the American Congress has for too long abdicated that responsibility. I think it is important over the next 4 or 5 months to have that kind of discussion and to have the kind of detailed testimony from the Kemeny Commission, from the Rogovin Commission, from Senators Hart, Udall, Dingell, McCormack, and others, so that we will be able to digest it and properly structure this regulatory process to be able to offer those protections to the American people.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I just wanted to clarify this. I know the gentleman has made the point in the gentleman's remarks, but I would like the gentleman to reemphasize, if the gentleman could, that the gentleman's amendment does not go to the plants that are presently under construction and plants that may come on line within the next, 2, 3, or 4 years. Would the gentleman just reemphasize that point?

Mr. MARKEY. That is exactly the point here. We are saying that the plants now in existence or for plants that are now already under construction that have already received construction permits, this amendment has no bearing. We are only talking about plants that are still in prospectus, prospectively trying to get permission from the NRC to go forward with the digging of their foundations.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I thank the gentleman for yielding. I certainly commend the gentleman for his interest in nuclear safety.

Now, there has been quite a discussion already today about the kind of signal that we are going to be sending to the country and to the nuclear industry. I am a little bit concerned about that signal. If we are truly interested in enhancing the safety and operating factors of existing nuclear powerplants, or if we are concerned about the design criteria and sitings and some of the other facts about those plants that are presently under construction or for which licenses have already been granted for construction, would it not have been maybe a more direct and a more effective mechanism to offer in an amendment, possibly as a substitute for the gentleman's amendment, some language that specifically stated that as a goal.

Can the gentleman give us some of his reasoning why the gentleman did not address that in more direct language, rather than in a less direct approach, as the gentleman took with the moratorium?

Mr. MARKEY. My own feeling is that we need a moratorium so that we can have a breathing spell, so that we can sort out the issues. At the end of that 4- or 5-month period, then we will be able, if you want, and you believe it is necessary, to then tie a moratorium to something specific, a specific set of goals that should be achieved. But at this point, I think we still are sorting out the questions, the Kemeny Commission is still fresh in our minds, the Rogovin Commission is about to come back at the end of December, and I think when we have that information we will be in a better position to determine what kind of moratorium, if it is going to be for a longer period of time, and what kind of goals we want to attach to it that should be established for the future.

At this point in time, though, I think the important thing we do is that we start that major public policy discussion.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Markey) has again expired.

(At the request of Mr. Emery, and by unanimous consent, Mr. Markey was allowed to proceed for 4 additional minutes.)

Mr. MARKEY. Mr. Chairman, I yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I thank the gentleman

A few minutes ago the gentleman issued some very sharp and stinging criticism to the NRC for being incompetent, not being particularly attuned to safety, not too concerned about licensing procedures and things of that nature. I think by and large I share some of those criticisms, although I think I would have to say that I feel that the NRC stated policy of self-imposed moratoriums is a responsible thing for them to have done.

Now, we may question as to whether or not they have the right to raise that, whether they will, whether they will continue with the moratorium until a more thorough analysis of Three Mile Island and other plants have been completed; but I must say, I think it is important for us to recognize the fact that they have at least responded to public pressure under that instance and recognized that one of the most serious problems in nuclear power at this point is a credibility gap. There is a credibility gap in this country with respect to nuclear power. This is really what we are debating here today is whether or not the Congress and the nuclear industry is going to recognize that there are problems with public opinion, there are safety questions that people are going to ask, and it is probably the greatest responsibility that we have as Members of Congress, who ultimately have the oversight responsibility, not only of the nuclear industry, but of the NRC, to have a responsible attitude toward some of these safety precautions.

Mr. Chairman, I appreciate the gentleman's comments.

Mr. MARKEY. Mr. Chairman, the point the gentleman makes is a good one. The question the gentleman asks is a good one, and that is whether or not the NRC has the will or the ability to be able to reform itself.

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In the Kemeny Commission report, page 8, it talks about a "mindset" at the NRC. It talks about a word they have heard over and over again, and that is "mindset," that they detected an inability from the NRC to be able to look at themselves objectively, to be able to make determinations, to make the real tough decisions that are needed in order to insure public safety.

Over the past 6 months, the NRC has flip-flopped over and over again as to whether or not we need a moratorium.

Again, on July 19, in private testimony at the NRC Commission, Hendrie called this moratorium "cynical, political garbage."

In August, Harold Denton, of the NRC, testified before the Kemeny Commission that the NRC was going to resume licensing right then, only to withdraw his decision later that day when the Kemeny Commission sharply criticized him.

Nucleonics Week, a respected trade journal in the industry, said that the main reason that the NRC has picked the end of the winter, the beginning of the spring, as their nuclear moratorium deadline is that they want to preclude the action of Congress. And that is exactly what they want to do. They do not want Congress to take any action. They want us to leave the responsibility in their hands. They believe we are supposed to think that the doctor can heal himself. I think it is time for us to reclaim that responsibility, and I think the clear history of the NRC indicates the need for the Congress to reclaim that and be the final repository of that decisionmaking responsibility.

Mr. EMERY. Mr. Chairman, will the gentleman yield on that point briefly?

Mr. MARKEY. I yield to the gentleman from Maine.

Mr. EMERY. I thank the gentleman for yielding.

Mr. Chairman, after a considerable amount of study and examination of what is really a very complicated and emotional issue, I have decided that I am going to support the gentleman's amendment, not because I am against nuclear power, but because I believe very strongly that if nuclear power in this country is going to survive, it is going to survive because the industry and those people who are responsible for overseeing that industry recognize the safety problems that exist, at least in people's minds. Until they are willing to recognize that those questions have to be answered either negatively or affirmatively, public confidence in nuclear energy is going to continue to slip.

I have argued with some nuclear experts, I have argued with utility people in my own district and other places, who see this as an attempt to shut down the nuclear industry. I countered with the argument—and I think that you may well agree—that unless they are willing to take the extra steps to assure nuclear safety, they may run into greater problems than we have now.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Markey) has expired.

(On request of Mr. Huckaby and by unanimous consent, Mr. Markey was allowed to proceed for 3 additional minutes.)

Mr. MARKEY. Mr. Chairman, if I may just respond to the gentleman from Maine that is my real heartfelt belief. Nuclear proponents who believe that they are going to be able to roll over the opposition, those people who have had real genuine concerns about nuclear safety in this country, and to continue with business as usual, are going to make the fatal flaw of feeding the skepticism, the cynicism of many people in this country who believe that the nuclear industry is unresponsive to the very real questions that have been raised by Three Mile Island. They may indeed be the ones who dig their own graves by not being willing to have this opportunity by the Congress, by the regulatory process, and by the American people, to make the judgment as to how indeed we can make nuclear power safe in this country.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

Mr. Chairman, I would like to pick up on a point that the gentleman from Maine mentioned, the fact of credibility. I think we all recognize here today that there is in fact a self-imposed moratorium. No utility company is rushing out today to try to get a new powerplant construction license to get going, until they see what Congress is going to do.

The gentleman from Massachusetts has correctly pointed out that in the next 4 to 6 months this Congress will be considering major legislation that will probably change the shape, the structure of NRC, and determine the future course of the nuclear industry.

I would suggest to the Members that I believe that is the time, after the proper committees have done their work and gone forth, to bring to the floor of this Congress a moratorium. I think it is premature to do it today. We have a moratorium. Why should we be sending out signals across the country, across the world, that Congress wants to impose a moratorium, when we here today recognize that we have not yet had the time to properly do our homework, to digest the reports, and to pursue and develop legislation that we, I think, all realize is necessary. Of course, we have disagreements of what that legislation should contain, but certainly there should be changes in the way we are doing business today.

I have serious problems with the way the NRC is functioning. But I think this is not the time that we should be sending out a signal that will be interpreted by many as the beginning of the end for the nuclear industry.

Mr. MARKEY. Mr. Chairman, I think the statement the gentleman makes not only is wrong, I think it misses the point. The signal that we are going to be sending out from this body today is that we are going to get serious about nuclear power in this country, about nuclear power safety. The signal we send out if we do not vote for this amendment is that business as usual is going to continue and that we are not going to seriously address the question of nuclear power safety in this country.

Every piece of legislation we pass out of this body, whether it be the defense budget or whether it be the agricultural budget, the FTC reform, tax reform, is symbolic. There is a symbolism which attaches to it. I am saying that the symbolism which attaches to this is that we are serious about the problem of nuclear safety.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Markey) has again expired.

(On request of Mr. Ertel and by unanimous consent, Mr. Markey was allowed to proceed for 4 additional minutes.)

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman knows, Three Mile Island is in my district in Pennsylvania, so I have had a great deal of interest in this particular moratorium. I respect the gentleman from Louisiana and his position. I also agree with the gentleman from Massachusetts that in fact what we are sending out now is a signal that we want to pause and look at the safety provision of the nuclear regulatory agencies and also the safety of the nuclear power industry.

Let us take an example. The report of the President's Commission on Three

Mile Island—and I will have to recite it exactly—states:

> With its present organization, staff and attitudes, the Nuclear Regulatory Commission is unable to fulfill its responsibility for providing an acceptable level of safety for nuclear power plants.

If in fact that conclusion is correct—and I believe it is—then at this point we have no one in America looking over the shoulders of the industry which is not competent to insure the safety of our nuclear power plants.

I have sent a letter to the President based upon that observation asking him to set up an oversight committee to look over our nuclear power industry. I have not had a full response to that letter. So, consequently, the only alternative is to force the Nuclear Regulatory Commission to look carefully at the operating nuclear plants, by stopping their other activities—one of those activities is the construction permit activity, and concentrate on insuring the safety of our existing plants.

That is why I am going to support the Markey amendment. I believe that now is the time we have the impetus in this country to look at the safety of the nuclear industry. The Markey amendment gives us the chance to do it. Let us stop and let us look.

When the President's Commission on Three Mile Island examined the moratorium issue, what they said is that they were not going to put the responsibility on the NRC as to when to lift that moratorium because they had no confidence in the NRC.

I am not sure that the Markey amendment goes far enough. I am not convinced that just establishing a 6-month period, an arbitrary time period, is adequate. We should have some other trigger mechanism to determine when that moratorium should be lifted or to continue it. I suggest that the Markey amendment does not have that kind of triggering mechanism, but the Markey amendment is the only vehicle we have now. That is why I am going to support the Markey amendment. I think we have to protect the American people, we have to get something in place which provides for decent safety in this country.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, all of the nuclear power plants in New Jersey are in my district. Every nuclear powerplant that is planned is planned for my district. That will be a total of six. So we have a great deal at stake in the southern part of New Jersey.

I have reluctantly come to the view that a moratorium at this time is in the national interest for all the reasons that have been stated and for reasons that have not been stated, such as, I think it does not make sense for us to continue to issue new licenses as we are reviewing the criteria and the methodology that is being used in the licensing process. I think that is another very valid reason why a moratorium is essential.

A great deal has been said about how it is going to send the wrong kind of signal. We already have a de facto moratorium in effect.

So those who would argue that in effect we are going to be either using more oil, as has been argued, or we are going to be doing the energy problems in this country a grave disservice, really are missing the mark.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MARKEY) has again expired.

Mr. HUGHES. Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts (Mr. MARKEY) be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I would just observe that everything that has been said is important and necessary, but I think, by my addition, the gentleman from Massachusetts has been in the well for over 30 minutes, and I would hope that we could pass this around a little bit.

I will not object this time, but I will object to any further additions of time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, if the gentleman will yield further, I know we are taking an inordinate amount of time, but I think this is a very important issue. I think the symbolism involved in the Congress imposing a 6-month moratorium is extremely crucial. I think we support the findings of the Kemeny Commission, and I think that we begin to address the credibility gap that my colleague from Maine talked about. I think that is so important. If nuclear power is to play a significant role in the long term, it seems to me that we have to come to grips with all of these nagging problems that have been with us for a number of years and which will be with us for a number of years in the future if we do not really begin to address it realistically.

Mr. MARKEY. I thank the gentleman for his remarks.

Mr. Chairman, for those who would try to imply some negative symbolism to this amendment, I can assure them that just the contrary is the case. The symbolism, if there is any attached to this, should be positive, and that is that the U.S. Congress is going to get serious about the issue of nuclear power safety in this country.

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Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment.

I would first like to point out just what we are about here. The gentleman in the well, in addressing his own amendment, said that what we need is breathing room. We have had breathing room or time to reflect for the last 8 months, since Three Mile Island occurred. We have had a Kemeny Commission report, and we are moving on that report as a Government through the action of the Nuclear Regulatory Commission.

This amendment was voted down in the full Committee on Interstate and Foreign Commerce where it was offered, fully debated, and rejected. It has been voted down by the other body after full debate, as only they can do it, and rejected there.

The gentleman from New Jersey said that the amendment is symbolic.

Well, are we in the business, really, here of trying to pass legislation that is symbolism?

The gentleman from Massachusetts said that the amendment did not really do anything in terms of enhancing safety; all it did was stop the Commission, the Nuclear Regulatory Commission, which must make the determination on these licenses, from issuing any licenses for six months.

If it does not do anything for safety, if it is only symbolic, and if it has been rejected by the other body and by the Committee on Interstate and Foreign Commerce, where it was originally offered; and if it has no impact on the problem that we are allegedly all worried about, and that is the safety problem, then why are we considering it? Why are we considering voting for it?

I want to read what the amendment in effect says:

> No amount authorized to be appropriated under this Act may be expended by the Nuclear Regulatory Commission for the issuance of a construction permit for any commercial nuclear powerplant during the first 6 months of fiscal year 1980.

And the amendment continues:

> The preceding sentence shall not apply to any commercial nuclear powerplant for which a construction permit, or operating license, has been issued before the commencement of fiscal year 1980.

To say we do nothing for 6 months is not sound.

In a minute, I will, after I yield, try to explain what the Nuclear Regulatory Commission is doing, on a case-by-case basis, about safety, which I think is the important issue here.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support the bill before us today to authorize funds for the Nuclear Regulatory Commission for fiscal year 1980, and I oppose both the Markey and Weaver amendments to impose legislative moratoriums on nuclear power development.

I am as concerned as any Member of the House with the need to strengthen safety measures in the nuclear power industry. This bill contains provisions which will contribute significantly to increased nuclear safety. It directs the NRC to establish standards for State emergency response plans. The NRC is also required to assess the adequacy of State emergency plans, to identify those

States which do not have adequate plans, and to notify the Governors of States in which plans are found to be defective. The bill contains $1,485,000 in funding to assist the States in developing emergency plans. In addition, the NRC must report to Congress on the results of such activities and make recommendations regarding additional Federal authority which may be necessary to insure that States develop adequate emergency plans.

The bill would also amend the Atomic Energy Act to increase the maximum civil penalty for nuclear license violations from $5,000 to $10,000 per day, and would eliminate the present limit of $25,000 on total penalties for license violations for any 30-day period.

The amendment to be offered by Congressman MARKEY would prohiibt the NRC from issuing construction permits for nuclear powerplants for 6 months. This amendment does not really address concerns about nuclear safety, since the NRC has already indicated that it will not grant new construction permits until new safety requirements are implemented, a process which will take far longer than six months. And such permits should be granted or denied based on evaluation of the individual facility, rather than the imposition of an across-the-board moratorium.

Although the Markey amendment would not require additional safety measures, it would provide a clear statement of congressional opposition to the continued development of nuclear power in this country. If Congress wishes to make such a declaration, it should not be couched in terms of a provision that purports to advance nuclear safety.

The amendment to be offered by Congressman WEAVER, to prohibit the issuance of an operating license for any new nuclear plant in a State which does not have an NRC-approved emergency evacuation plan, also takes an ineffective and potentially harmful approach to a real problem. This amendment would allow a utility to be denied an operating license by the NRC, even though it had complied with every NRC requirement, because of a State's failure to approve an emergency plan. In effect, States could impose their own moratoriums on new nuclear power facilities by failing to develop adequate State emergency response plans. Faced with such a situation, utilities would not develop new nuclear facilities, and their customers would be forced to pay the higher costs of other sources of power.

The bill already contains a provision to promote the development of State emergency evacuation plans, and the NRC has already begun to act to develop standards for States to follow.

I firmly believe that the United States needs nuclear power as a vital component in our national energy supply. Nuclear power is one of the primary means by which we can effectively reduce our dependence on imported oil. At this time of international uncertainty about our oil supplies, and the cutoff of oil imports from Iran, we should be especially concerned about increasing our domestic energy supply. The defeat of these amendments will also signal to our foreign oil suppliers that we are resolved to move forward to become more energy self-sufficient.

In my State of New Jersey, the Public Service Electric and Gas Co. is awaiting the issuance of an operating license for its Salem No. 2 nuclear plant. The generating capacity of this plant will be 1,115 megawatts, or the equivalent of 1 million barrels of oil per year. While this plant sits idle, ready to go on-line, it is costing New Jersey ratepayers $230,000 per day for the 45,000 barrels of oil required to maintain generating capacity.

I think it is clear that we cannot afford further delays in the development of nuclear power in the United States. I urge the defeat of these amendments which would work against that goal.

I think the gentleman has made an excellent point. I want to compliment him on it.

The fact of the matter is that the Markey amendment does not really address concerns about nuclear safety, since the NRC has already indicated it will not grant new construction permits until new safety requirements are implemented. That is a process we all know can take far longer than 6 months, and such permits, as the gentleman just stated, should be granted or denied based on evaluation of the individual facility, rather than the imposition of an across-the-board moratorium.

Now, although the Markey amendment would not require additional safety measures, it would provide a clear statement of congressional opposition to the continued development of nuclear power in this country.

If this Congress wishes to make such a declaration, it should not be couched in terms of a provision that purports to advance nuclear safety.

Finally, I want to state that, since my colleague and friend from South Jersey mentioned nuclear plants in New Jersey, the Public Service Electric & Gas Co. in New Jersey is currently awaiting the issuance of an operating license for its Salem No. 2 nuclear plant. The generating capacity of that plant will be 1,115 megawatts or the equivalent of 1 million barrels of oil per year.

While this plant sits idle, ready to go on line, meeting all current safety requirements, it is costing New Jersey ratepayers $230,000 per day for the 45,000 barrels of oil that are imported, which are required to maintain generating capacity.

Mr. BROWN of Ohio. What was the figure it cost again, this symbolic gesture will cost?

Mr. RINALDO. $230,000 per day right now for New Jersey ratepayers. That amounts to $25 million per year. That is all based on the assumption that we continue to obtain Iranian oil.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

(At the request of Mr. RINALDO and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 3 additional minutes.)

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New Jersey.

Mr. RINALDO. If I remember the figures correctly, I believe that something like 15 percent of our heating oil supply in the State of New Jersey and 11 percent of our gasoline comes from Iranian oil. Without that oil, and without nuclear energy, what we are really saying to the people is, $25 million more a year minimum, regardless of whether the plant is safe, and during that period of time we probably would not even have enough alternate sources to provide the energy we need to keep up our industrial and other capacities.

Mr. BROWN of Ohio. I appreciate the gentleman's very specific contribution.

Let me just add that this symbolic gesture we are discussing here, according to the Congressional Budget Office, has an estimated cost for each month's construction delay of $8.9 million in increased costs just for the construction of these plants. So the cost is somewhat more than symbolic.

The issue is not the symbolism or the cost. The issue is what kind of sources do we have for the power that we use?

I know in Ohio, and I guess I should not be worrying about this, about 93 to 96 percent of our electric generation comes from coal; so we do not have to use oil if we cannot use nuclear power.

I would say to the gentleman from Massachusetts that in New England that generating capacity does come from oil. Let me share what one other Member of Congress from New England says in a letter to the President of the New England Council, and I quote from it, written on October 10:

> At this point, I do not feel a moratorium on nuclear energy operation construction would be in the best interests of the United States. For these reasons—

There are several of them listed, but one of them is—

> should nuclear energy generation be stopped in the region, New England would be hard pressed for methods to make up the loss incurred by the moratorium.

Then he goes on and says:

> For these reasons, I do not foresee the need for legislation to impose a construction moratorium.

That is signed by another Member, as I say, from New England, the gentleman from Massachusetts (Mr. THOMAS P. O'NEILL, JR.), who functions as Speaker of this body.

Mr. RINALDO. If the gentleman will continue to yield, I think that is an excellent point. The real fact of the matter is that there is in existence at the present time a moratorium imposed by the NRC that is effectively closing down and keeping plants closed, keeping them from going on line until they are proving to be safe enough to go on line. I think that is sufficient.

We should not pass my type of amendment that is going to put into effect the self-imposed moratorium under the guise of additional safety.

The CHAIRMAN. The time of the

gentleman from Ohio (Mr. Brown) has again expired.

(At the request of Mr. Markey and by unanimous consent, Mr. Brown of Ohio was allowed to proceed for 5 additional minutes.)

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Massachusetts.

Mr. MARKEY. If I may first respond to the point of the gentleman from New Jersey, the plant he is talking about is going for an operating license, not affected by this amendment, so that is not really a relevant consideration.

Mr. BROWN of Ohio. However, it is not an irrelevant issue, because every construction permit that is delayed will have costs, and it will delay further the time that a nuclear power plant is able to be put on line. In the interim, some other source of energy will be required.

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So I think that the gentleman from New Jersey made a very good point.

Mr. MARKEY. If the gentleman will yield further, that is a plant that already has a construction permit, so it would not have a bearing.

Mr. BROWN of Ohio. But other plants that do not have construction permits are affected by this "symbolic" amendment.

Mr. MARKEY. I would say to the gentleman that either it is symbolic or it is not symbolic; he cannot have it both ways. It must be one way or the other. Is it symbolic or is it not symbolic?

Mr. BROWN of Ohio. It was cited by the gentleman from New Jersey as being merely symbolic. My first point was that if it is only symbolic, then why are we doing it? And my second point would be that it is a little more than symbolic if it costs us so much money and so much dependence on foreign energy sources.

Mr. MARKEY. The real import of this amendment is that it will give us in the Congress a chance to sort out the questions. As to the CBO report the gentleman referred to, there are not going to be any plants given any construction permits in the next 6 months, if the NRC can be taken at its word.

Mr. BROWN of Ohio. I do not think that is quite correct, because I think what the NRC said, and I think this is a good point to look at, is that they would look at those plants on a one-by-one basis, review them individually, and if it was appropriate to give them a construction permit, they would do so.

Now, I think that is an intelligent way to go about it. I do not think it is intelligent for the Congress to say to the NRC no money that is authorized in this legislation can be spent for consideration of these construction permits, because that is just slowing everything up in the way of construction permits for 6 months. To me that does not make sense, because if there is a plant ready to be constructed that meets all the safety requirements, and it is appropriate to be issued a construction permit, why then, given the situation we have got with respect to oil in this country, do we deny it?

Mr. MARKEY. The question is whether or not the present regulatory scheme is able to guarantee us that if they do grant new construction permits that they have been able to do so and guarantee the plants will be safe.

Mr. BROWN of Ohio. No. It does not do that. The gentleman said it merely stops the funding, and I agree. That is all it does. In that sense it is symbolic.

Why, if plants are safe, may I ask the gentleman, if they are safe, why should they not be given a construction permit? Can the gentleman tell me that?

Mr. MARKEY. Because we do not know if they are safe. They may be safe, they may not be.

Mr. BROWN of Ohio. Wait a minute. If we decide they are safe, should they not be given a construction permit?

Mr. MARKEY. The gentleman is telling me he trusts the present NRC to tell us whether they are safe or not.

Mr. BROWN of Ohio. If the gentleman does not trust the NRC, why does the gentleman not offer an amendment then to abolish it?

Mr. MARKEY. Because that would be precipitous and premature, just as it is to grant new construction permits.

Mr. BROWN of Ohio. And it is also premature to say that they should not do anything for the next 6 months.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(By unanimous consent Mr. Brown of Ohio was allowed to proceed for 5 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, let us look for a minute, if we may, at what the Nuclear Regulatory Commission did. The Kemeny Commission did not suggest a moratorium. It said take your time and look at these plants and see if they ought to be offered construction permits. The Nuclear Regulatory Commission has said precisely that, just what the Kemeny Commission recommended. That is that we will take time to look at each plant individually and, if it is appropriate, give it a construction permit. If it is not appropriate, we will not grant a construction permit.

What more do we want? If the plant is unsafe, we do not want them to have a construction permit. If the plant is safe, why do we want to stop them from being constructed if we have to substitute oil or some other energy source?

Let me read to my colleagues from a Washington Post editorial, if I may. It said:

> What the Commission on Three Mile Island finally did recommend was that the Nuclear Regulatory Commission not issue any new permits to build or operate a reactor until it has determined in each case that the necessary improvements have been made. These include the introduction of numerous new safety measures.

It goes on to say:

> In fact, what this amounts to is a moratorium, since it will take many months to do all these things. But it is a moratorium applied on a case-by-case basis, on the merits, not across the board. This approach would penalize badly-run utilities—

That is the NRC approach—

> would penalize badly-run utilities or poorly-sited reactors, but it would also encourage the resolution of long-standing safety problems.

I submit to my colleagues, what more do we want? Do we want a flat moratorium that says nothing in construction for 6 months while we think about it, we in the Congress? Well, now, we have had 8 months to think about it. Are we for it or against it?

Let me read to my colleagues what the President said last night, if I may, and I cannot do it the same way he did.

> We must also recognize now, as we never have before, that it is our entire Nation which is vulnerable because of our overwhelming and excessive dependence on oil from foreign countries. We have got to accept the fact that this dependence is a direct physical threat to our national security, and we must join together to fight for our Nation's energy freedom. We know the ways to win this war: more American energy and the more efficient use of what we have. The United States Congress is now struggling with this extremely important decision. The way to victory is long and difficult, but we have the will and we have the human and natural resources of our great Nation.

May I say to those of you who come from New England where the electricity is largely generated with oil that it is that electric generation that I am concerned about by favoring this effort of the Nuclear Regulatory Commission to look on a case-by-case basis at the safety and not to ban entirely the development of nuclear power.

Let me emphasize again that in Ohio, if we do not get oil from the Middle East, we will still generate electricity because we do it primarily from coal. Ninety-three to ninety-six percent is from coal, so we will have electricity.

But I can tell my colleagues that I also know what it is to be without electricity, because when we had the coal strike that affected us in Ohio, we had our utilities within a few days, all over the State of Ohio, of shutting down entirely because we did not have the coal.

If we lose 20 percent of our oil supply by having the oil supply from the Persian Gulf cut off, how do you intend to explain your support for the Markey amendment that says, well, we do not want to go into nuclear power because we just want to think about it for awhile? We do not even want the Nuclear Regulatory Commission to put them on line when they are safe. I think that is silly.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Just some further clarification on the New England energy situation. As it turns out, New England is particularly vulnerable to the oil lifeline from the Middle East. New England is dependent more than any other area of this country on oil. Nuclear power is their only alternative at present. The gentleman from Massachusetts' own district, a case in point, receives some 35 percent of its electricity from nuclear power generation. New England could conceivably make transitions to coal-fired powerplants. But the fact is there is no coal in New England.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. Ritter and by unanimous consent, Mr. Brown of Ohio was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. I yield to the gentleman from Pennsylvania.

Mr. RITTER. The fact is there is no coal in New England. There is some wood. I guess we could start deforesting New England and burn the wood. Recent articles in the news media call attention to the increasing pollution from burning wood. Up to a certain level that environmental problem is bearable, but beware the dark smoke clouds if we somehow make the massive transition. Wood, too, has its environmental limits.

Transitions to coal-fired powerplants would be exceedingly expensive. The fact of the matter is that the transportation infrastructure to bring the coal to New England; that is, the need railroad capacity, does not exist at this time. Anyone at all familiar with the state of the railroads in the northeast corridor of the United States knows that any massive infusion of coal fuel into New England, for example, from Pennsylvania, Ohio, or West Virginia, is at the present time plainly impossible.

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So, those Members who do come from New England have got to look very, very closely at a moratorium program whose ultimate result tends to prejudice New England probably more than any other region in the United States in terms delivering necessary electric power. The same argument could be extended to substituting centrally generated electric heat using heat pumps at home to substitute for home heating oil coming from the Middle East.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I thank the gentleman for yielding. I am somewhat curious by his statement that the NRC ought to do a case-by-case analysis, because I want to ask him a question. Does he agree with the Kemeny Commission when they make this conclusion and finding in section 12 of the provision under the NRC:

> With its present organization, staff, and attitudes, the Nuclear Regulatory Commission is unable—

I repeat—

> is unable to fulfill its responsibility for providing an acceptable level of safety for nuclear power plants.

Does the gentleman agree with that?

Mr. BROWN of Ohio. I agree it was a recommendation of the Kemeny Commission. I was not on the Commission and I have not made the exhaustive study of the Nuclear Regulatory Commission that they have, but I will take the Commission at its word.

Mr. ERTEL. The gentleman then accepts that as a fact, that they are unable to fulfill their responsibility to give us an acceptable safety level?

Mr. BROWN of Ohio. Would the gentleman read it once more, please?

Mr. ERTEL. Sure. "With its present organization, staff, and attitudes, the Nuclear Regulatory Commission is unable to fulfill its responsibility for providing an acceptable level of safety for nuclear powerplants."

Mr. BROWN of Ohio. Does the gentleman agree that the Nuclear Regulatory Commission has made modifications in staff, and that it is also undergoing reorganization, and that it most likely has changed some of its attitudes? Would the gentleman agree with that?

Mr. ERTEL. Would the gentleman answer my question?

Mr. BROWN of Ohio. Would the gentleman answer my question on my time, since I was kind enough to yield to him?

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. ERTEL. Would the gentleman be kind enough to respond to my question?

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. ERTEL and by unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. I yield to the gentleman from Pennsylvania. Does the gentleman recall my question?

Mr. ERTEL. If the gentleman would respond to mine first instead of using the Socratic method of turning my question back. Would the gentleman like to answer the question?

Mr. BROWN of Ohio. I did answer the question.

Mr. Chairman, whose time is it?

The CHAIRMAN. The gentleman from Ohio has the time.

Mr. BROWN of Ohio. I would be glad to discuss the issue with the gentleman if he will do it in such a way that we can have a conversation, not a shouting match.

I will yield to the gentleman in just a moment. The gentleman asked me a question, and I responded to the gentleman. Perhaps what I ought to do is ask that the response be read back to him. Would the gentleman respond to my question?

Mr. ERTEL. I am sorry, I missed the gentleman's response.

Mr. BROWN of Ohio. Why do we not have it read back, Mr. Chairman, if that is what it takes?

Mr. ERTEL. Does the gentleman remember his answer?

Mr. BROWN of Ohio. I just want to be sure I say it in the same way and do not confuse the gentleman from Pennsylvania.

The CHAIRMAN. It would be very helpful if the gentleman would just summarize and restate his answer.

The Chair will not direct that the colloquy be read back.

Mr. BROWN of Ohio. My response to the gentleman was, rather than strain the efforts of the Clerk—my response to the gentleman was that I did not serve on the Kemeny Commission and I can only assume that their judgment was correct. I also then asked the gentleman whether or not he was aware that the Commission is undergoing reorganization; whether or not he is aware that they have made staff changes; and whether or not he thinks that there has been any change in their attitude. Does the gentleman want to answer that question?

Mr. ERTEL. I would be happy to respond to the question. My understanding is we have not had any major changes. We have not made any, and we have debated changes.

Therefore, based upon your statement to accept the recommendation of the Kemeny Commission, then we could set this to come down to the question to allow construction and judge on a case-by-case basis we are operating on, and then come back with an acceptable level of safety.

Mr. BROWN of Ohio. Let me say to the gentleman from Pennsylvania that I for one have been called by the administration. I do not know whether the gentleman from Pennsylvania has been called. I assume the gentleman from Michigan (Mr. DINGELL) has been called, and perhaps the gentleman from Arizona (Mr. UDALL) has been called to have discussions with the administration with respect to the proposed reorganization of that Commission.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, I think the point that the gentleman from Massachusetts was trying to make, and that I would like to make, is that when it is suggested that what is wrong with letting the NRC give a license to plants that are serving in the Southwest for studying this, the task force looking into this has called in the NRC as to whether they are safe or unsafe.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. MAGUIRE. Mr. Chairman, reserving the right to object, and I will not object, but I would point out that we have spent an hour on this debate, and we have had only two speakers. It seems to me that the regular order of the House is somewhat frustrated.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, if I may conclude my remarks on my time, I would only say that if what the gentleman from Oklahoma says and what the gentleman from Massachusetts says and what the gentleman from Pennsylvania infers, that is, that the NRC is incapable of doing this, then what we ought to do is not have a Nuclear Regulatory Commission at all; just simply not have an authorization or appropriation.

Who makes the decision on nuclear power? I think the answer probably would have to be, well, either nobody makes it or possibly go ahead and build nuclear plants willy-nilly. I do not think anybody would want that. Or, we do not have any nuclear powerplants built in this country. If that is what you want, you go ahead and vote for the amendment.

I think that is a particularly foolish decision for many areas of the country that have oil-fired electric generation, and a really bad decision for all of the United States. I must say that in Ohio, where we sit on lots of coal, we are looking at nuclear power, safe nuclear power, for the State as one of the methods by which we can generate our own electricity and meet our own needs for the State.

The difference really, then, boils down to what is the objective of the amendment of the gentleman from Massachusetts? Is it to say that we ought not to have any more construction licensed in this country? If that is what it is and you feel that way, then vote for it. But, let me just say to you that I think you ought to read today's newspaper before you vote that way, because we have enemies in this world who are not going to see us get the oil that we need to generate electricity. If not nuclear and if not coal and if not oil from this country, what then?

Mr. ASHBROOK. Mr. Chairman, this amendment is most capricious and dangerous. The issues involving the future of nuclear power deserve better and more sincere consideration than to have the matter hinge on one amendment such as this. At a time when long-term solutions and in depth reviews are needed for this Nation to get out of its dependence on foreign energy sources we certainly should not dispatch nuclear options to cold storage. The American people want real leadership on energy. This amendment will do nothing to help this Nation meet future energy needs. It will not even help this Nation deal with the role of nuclear power in providing energy.

The rule that has been adopted cleared the deck of all possible debate save for a handful of issues of which this is one. This does disservice to an energy starved Nation. Only a few weeks ago a major new study of nuclear safety was published and sent to Capitol Hill. The work of the members of the Kemeny Commission should not be cast aside in order to have the Congress waste its time on symbolism and rhetoric. The Kemeny Commission report is a valuable addition to our knowledge of nuclear issues and a positive contribution to this Nation's energy policy. Its 18 pages of recommendations should be on the floor for discussion right now instead of this slip shod proposal. The issue before us today is the NRC. The Congress has a duty to look at ways to reform the NRC if it believes reform is needed. For all the chest pounding about this Chamber's concern about energy, the fact that a moratorium proposal is on the floor in place of open debate over nuclear safety reforms that many here are not yet ready to get serious about our current crisis.

I think my colleagues might like to hear some of the recommendations we are laying aside so that this amendment can be discussed. The public might also like to know what reforms were considered too trivial to be offered as amendments by this Congress:

The lead-off recommendation of the Kemeny Commission is for the abolition of the NRC and the creation of a new agency. This proposal should be seriously considered as it is the cornerstone of the Kemeny report. This Congress is refusing to address this item by plowing ahead with the reauthorization of the NRC. The report found that the current NRC is not able to rapidly make decisions affecting public health and safety, as it spends too much time on internal debating. A single administrator is offered as a replacement for the five-member Commission that presently operates the Agency.

The Kemeny Commission also recommended that the Advisory Committee on Reactor Safeguards (ACRS) be retained, in a strengthened role, to continue "providing an independent technical check on safety matter." The Commission goes on to state that "special consideration should be given to improving ACRS' capabilities in the field of public health." These are useful ideas that could save lives, but this Congress is choosing the symbolic way over the substantive way to approach these matters.

In the area of prioritizing the work of the ACRS, the Commission recommended, "the ACRS should not be required to review each license application." This is another good idea, ACRS should be devoted to critical examination and evaluation of reactor safety issues, not the mundane review of standardized plants. If congressional oversight would take place on this point they would find, as the Commission did, that current law amounts to a wasteful diversion of technical expertise to trivial matters.

Following on the removal of trivia in favor of increased focus on real safety issues the Commission found that the NCR should identify and remove any unnecessary responsibilities within the Agency that are not germane to safety. One example of the current situation is that the NRC has to delegate resources for the export licensing function of the Nuclear Non-proliferation Act of 1978. This could be handled by some other entity in DOE or DOD and allow the NRC to carry out its first priority, that of safety.

Directly addressing the NRC's safety role the Kemeny Commission recommended that the NRC "upgrade its operator and supervisor licensing functions. These should include the accreditation of training institutions from which candidates for a license must graduate." No moratorium on nuclear plants is going to increase the level of ability for those who run the plants, I therefore cannot understand why these provisions are being withheld from the amendment process:

First: The need for power evaluation: This hearing should be conducted once by the responsible State agency prior to issuance of a construction permit. It is absurd to conduct the hearing again 7–10 years later after having spent over $1 billion of ratepayers' money to redetermine if conservation, solar power, or wood stoves could eliminate the need to operate an already built facility.

Second. Visual aesthetics of the power plant: Does a pretty piece of equipment function more efficiently and effectively if it is more pleasing to the eye or is this merely another method of slowing construction progress?

Third. Antitrust issues: I fail to see how antitrust matters have any relationship to nuclear safety.

Fourth. Financial qualifications of utility: The real purpose of multiple hearings on this subject is to create delay, drive up costs, and erode a utility's financial position, it has nothing to do with safety.

These are but a few of the good ideas that have been brought into the public arena to be considered and have been shut out of this arena by a closed rule. I urge my colleagues to understand that the slapping of a moratorium on nuclear power accomplishes nothing in the long run. Only careful evaluation of material like the Kemeny report will provide this Nation with the energy it needs at the level of safety Americans demand. Anything short of this approach runs contrary to the best interests of the Nation. I urge the defeat of the amendment.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the understanding today with the leadership was that on this particular piece of legislation the committee would rise at or near 2:30. The leadership intends to go into other business today and come back to this probably next Tuesday.

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We will probably then go on and the leadership intends to go on to other business today and come back to this next Tuesday. It seems to me that there are several Members who wish to be heard and that we might arrange a time limitation so that everybody here may have 2 or 3 minutes to express himself, to be heard, and then we can come back to the remaining amendments next Tuesday.

With that in mind, Mr. Chairman, I ask unanimous consent that all debate on the Markey amendment and all amendments thereto close at 2 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. EMERY. Mr. Chairman, reserving the right to object, I will not object, but I would ask the gentleman from Arizona if he might conclude this debate at 2:30 so that we might have thorough debate on some of the other aspects and then go on to the remainder of the bill at a later date.

Mr. UDALL. If the gentleman will yield, I do not understand the gentleman. My request was for 2 o'clock.

Mr. EMERY. I am recommending that we extend the hour to 2:30.

Mr. UDALL. Will the gentleman split the difference with me so we can have a record vote starting at 2:15 and finish it up by 2:30?

Mr. EMERY. I agree to 2:15.

Mr. Chairman, I withdraw my reservation of objection.

Mr. UDALL. Mr. Chairman, I amend my unanimous-consent request to 2:15.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for one minute forty seconds each.

(By unanimous consent, Mr. GOLDWATER yielded his time to Mr. McCORMACK.)

The Chair recognizes the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Chairman, nuclear power is and will be a part of our energy mix, but surely we have not been as tough on safety as we should have been. We have plants like the Indian Point plant where no sensible evacuation plan seems feasible. We have had breakdowns at Brown's Ferry and Three Mile Island where systems did not work that should have worked. We have problems with notification and response time in the Three Mile Island case and in the Oyster Creek, N.J., case more recently, which clearly indicate that people who were supposed to know what was going on did not and notification and response time were very slow. The reactor in the Three Mile Island case was actually out of control. And, of course, there are unresolved waste disposal problems as well.

One interesting and disturbing point that came from a discussion I had with some engineers who work in the private sector is that we are not nearly as careful with nuclear power reactor components as we are with components for nuclear submarines or for our space program. I am talking about quality control, design supervision, and inspections of the operations at the installations. It does not make any sense at all for us to be sloppy with nuclear reactors where there are millions of people and their welfare at stake. So clearly we need a reassessment of the NRC structure, of the types of plants, and of their design and operation, and, finally, of how we will deal with crises when they develop.

For the reason that we now must insist on more careful work on all these matters, I support the gentleman's amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I would first like to focus on one aspect of the debate that was recently concluded in the well of this House. I think that debate that turned on the question of the adequacy of electrical generation and of the use of oil might have been relevant to an amendment that dealt with operating licenses, but this amendment does not.

The entire argument we have heard for most of the last half hour had to do with a shortage, an imminent shortage, of oil and other dire events should this amendment pass. If we were talking about the roughly seven plants that might be ready for operating licenses in this current fiscal year, I think there might be some merit in that argument. But we are not talking about the 72 plants that are operating, the 7 plants that might become operational, or the 90 plants that have construction licenses. We are talking about plants that have not yet gotten off the planning stage, plants that may be as much as 15 years away, if the Pilgrim II timetable is used as any kind of yardstick. It certainly would be in the range of 7 years to 15 years. So I submit to the Members not to be put off and not to be taken in and scared by talk that this debate today has anything to do with the current energy dependency problems that this Nation faces.

It is perfectly obvious also that the NRC must implement the Commission recommendations before licensing the construction of any more plants. What would happen otherwise? Utilities would receive permits based on current practice, and they would simply have to change management techniques, safety procedures, and design features before they can receive operating licenses, or worse yet, after they have begun operations.

Today, the Congress has the opportunity to demonstrate to the American people that we are concerned with their welfare and safety. What we are in fact doing today is reaffirming this Nation's policy of assessing the practicality and safety of nuclear power generation. We will not be taking a stand outside the boundaries of public policy as enunciated by the Nuclear Regulatory Commission. In fact, in testimony before the Subcommittee on Energy and Power of the Interstate and Foreign Commerce Committee, the Nuclear Regulatory Commission has stated that today there is a de facto moratorium not only on the issuing of construction permits, but on operating licenses as well. It is believed that the moratorium will last for a minimum of nine months and maybe for up to 2 years. So as you can see, a vote for this amendment falls short of the actions already taken by the Nuclear Regulatory Commission. It is a prosafety amendment, not an antinuclear amendment.

The NRC permitted an intolerably dangerous situation to develop at Three Mile Island. In almost every area in which the NRC should have assured public safety—for example, in the management of the utility, the training of reactor operators, the maintenance of equipment, the design of the reactor control room, the inspection of plants, the appraisal of prior breakdowns, and the preparation for emergencies—in all these areas, the NRC was unable to come up with procedures to protect the public.

The Kemeny Commission has warned that unless the NRC or its successor institutes a number of new procedures, nuclear reactors remain ripe for more accidents. Its recommendations involve massive changes in current practice and will require many months to implement if they are truly undertaken in good faith. They include rewriting operations manuals, establishing and accrediting new schools and curricula for reactor operators, redefining what equipment is deemed "safety related," writing emergency plans, revamping existing safety analysis and siting procedure, redesigning control room layout and instrumentation, restructuring the inspection and enforcement function of the NRC, and, of course, restructuring the NRC itself.

It is time for the Congress to put its stamp of approval on a delay in further construction licenses.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Chairman, I rise in support of the Markey amendment, which will impose a 6-month moratorium on the issuance of construction permits for new nuclear powerplants.

I am convinced that the time is here for us to take firm and decisive action on nuclear power policy. Nuclear power presents some very serious dangers, and before we expand our present nuclear network, the problems of nuclear plant safety must be solved.

For some time I have advocated that we undertake an exhaustive review and improvement of nuclear plant procedures to insure plant safety. The key lesson we have learned from Three Mile Island is that despite elaborate safety devices, nuclear plants are nowhere near being "fail-safe"—and when dealing with such a potentially dangerous situation we are entitled to demand perfection.

The near tragedy at Three Mile Island has revealed flaws in reactor design, deficiencies in operator training procedures, and inadequate emergency plans that must be rectified, nationwide, before we proceed with additional construction.

Obviously, this amendment is an important first step by which we can demonstrate our commitment to insuring nuclear plant safety.

I urge my colleagues to vote in favor of this necessary and timely amendment.

(By unanimous consent Mr. RICHMOND yielded the remainder of his time to Mr. UDALL.)

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, it is difficult as a member of the Energy and the Environment Subcommittee to distill my reading of some 300 to 400 pages of material on this in 1 minute and 40 seconds, but I will try to make a few points.

First of all, Mr. Chairman, I rise in support of the amendment offered by Congressman MARKEY. I supported his amendment in committee, and I support it now on the floor.

This is not an antinuclear amendment. If I felt it was, I would not be supporting it. I believe that nuclear energy must play an important role in meeting our Nation's energy demands at least during an interim period for the remainder of this century—before other alternative energy sources can be brought on line. My State of Nebraska has two nuclear powerplants that are serving us well and efficiently.

As a member of the Energy and the Environment Subcommittee of the House Interior Committee, I have reviewed the testimony we have received as a result of hearings after the accident at Three Mile Island. I believe there clearly are problems in the industry and within NRC that must be addressed. That is not an indictment; it is, I believe, a reasonable assessment of the facts. All parties agree that there are lessons to be gained from the accident. The information, technology, and policy options are there for our study and recommendations.

We should all recognize there is a de facto moratorium in effect not only by the NRC but the industry itself. Nobody, therefore, can talk about costs and suggest that those costs are attributable to this amendment. There will be costs for any delay to construction, but those are costs that are already going to be in effect anyway. This is not an amendment of substantive impact as far as delays and moratoria are concerned.

The Markey amendment is a positive signal to the public that we are willing to take some time to act responsibly on those options. We are saying to the public that their elected representatives will act with deliberate care as we direct the Nation's future use of energy.

Rather than continuing to quibble about a moratorium amendment when such a delay is already in effect, let us get to the serious business of addressing the bulk of data that has been gathered since the Three Mile Island accident and devise a nuclear policy that will allow us to meet at least a portion of our Nation's energy demands.

Even the strongest proponents of nuclear power ought to view the offering and passage of this amendment as a victory. We have not had a violent reaction from Congress. What we have is a petroleum moratorium that is already being imposed anyway. What we ought to have is both "armies" in this situation declaring a victory and going home.

I am amazed at the amount of time we are spending on this amendment. It is a signal; it is a positive signal. The opposite ought to be thought of. It is a positive signal. We have not reacted violently to an appropriate amendment.

I ask the Members to support the Markey amendment.

(By unanimous consent, Mr. Moffett yielded his time to Mr. Dingell.)

(By unanimous consent, Mr. Peyser yielded his time to Mr. Udall.)

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Ritter).

Mr. RITTER. Mr. Chairman, having been a scientist engineer back in the real world, it had occurred to me many times before I came to the Congress that a modern technological society has to make some tough decisions about its options and about the risks of these options, and that the best way to come to these decisions is by taking a balanced look at the alternatives—by considering a technological option not in a void, but in comparison to what else the society has available.

Since Three Mile Island, a coal mine caved in in Korea killing 45 people.

A massive dam broke in India killing several thousand people.

A massive oilspill from Mexico is soiling our gulf coast environment.

An oil rig toppled over in the gulf killing six individuals.

We have 90,000 persons lined up for black lung disease benefits, those on the black lung rolls currently cost the American taxpayers $1.5 billion annually and we cannot overlook the enormous suffering on the part of those people receiving those benefits.

We are just now learning about the effects of acid rain and CO$_2$ blanket and the general health effects of air pollution from coal-fired electricity generating powerplants. No one has suggested a moratorium on constructing hydroelectric dams, offshore oil rigs, or coal mines.

What I ask my colleague Members to do is make this decision on the Markey amendment considering what else is available to the United States to generate our electricity. We should be producing electricity at an increasing rate using domestic capability to substitute for oil for factories, for heating homes, and for power. We should not be slapping down such a major source, we should be stimulating and encouraging greater safety of nuclear powerplants.

Any other way of making this decision without consideration of alternative energy source risks is simply applying to enormous scrutiny to the safety of one particular technology far beyond all others. In a related accident situation, I call the Members' attention to the railroad disaster in Toronto where 250,000 people were evacuated because of highly dangerous chlorine sitting right next to burning propane. To date, nobody has put a moratorium on either the construction of railroad cars or the transport of chlorine and propane.

We need the safer nuclear technology for our energy present and future. We must work hard to encourage the NRC and the industry to provide us with concrete achievements. I agree with the editorial positions of the Washington Post and the New York Times that greater nuclear safety will not be served by the Markey amendment.

□ 1330

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Weiss).

Mr. WEISS. Mr. Chairman, in the limited time that we have perhaps I can make just a few comments. One thing I would like to state is that we have heard a lot of conversation as to how the adoption of this very modest amendment would, in fact, in some way play into the hands of the Iranians, of OPEC, and generally make us more dependent on foreign oil.

Mr. Chairman, the Department of Energy has issued a report dated September 25 of this year in which they indicate, assuming a moratorium, that a lower installed nuclear generating capacity number tends to increase coal use, but would not have an impact on U.S. oil imports, which the study put at 5.8 million barrels a day in 2000, unless coal use is also constrained, causing utilities to shift to oil for some new plants.

Mr. Chairman, I think that ought to put to rest the increased oil consumption argument.

Mr. Chairman, one does wonder why there is such opposition to a proposal which the NRC itself has said that they are going to be adopting in any event. I suspect the reason for the opposition is because those who have been most wedded to nuclear power, even in light of the very, very close call that we had at Three Mile Island, are not willing to admit to themselves that a major reevaluation must be undertaken of the future of nuclear energy. The fact is that not because of this moratorium proposal, but because of sheer economics, most of the energy industry has turned its back on nuclear power. I think what the proponents of nuclear power are afraid of is that public reaction to Three Mile Island will speed that process. And therefore they do not want any kind of criticism of nuclear power no matter what the dangers. But that seems to me to be very shortsighted indeed.

Mr. Chairman, all we need is one more Three Mile Island and that will clearly be the end of nuclear fission.

Mr. Chairman, I wholeheartedly support the Markey amendment to the Nuclear Regulatory Commission authorization for fiscal year 1980 (H.R. 2608).

The Markey amendment wisely imposes a 6-month moratorium on issuance of construction permits for new nuclear energy plants. The moratorium will give the American people and the Congress the desperately needed opportunity to thoroughly reassess and reexamine the nuclear power option.

This amendment is a minimum but crucial step toward reevaluation of the snowballing advancement of nuclear power in this country. While there will be no effect on plants about to come online, up to 10 projects awaiting construction permits would be temporarily halted.

Many of the opponents to this amendment argue that we can rely on the NRC to impose any moratorium that may be needed on a case by case basis. But experience with the NRC, especially during the recent Three Mile Island (TMI) crisis demonstrates that the NRC is not capable of effectively assessing the potential safety, environmental and health dangers.

The Presidential panel studying the TMI event—the Kemeny Commission—was extremely critical of the NRC. Dr. Kemeny declared that "the totality of our findings is that no one is running" the NRC. In a recent Washington Post report, which I would like to have inserted in the Congressional Record with my remarks at this point, it was revealed that a study completed by the University of Heidelberg, Germany, concludes that the NRC radiation exposure standards are based on fraudulent data.

As a glaring example of the difficulty the NRC has in coming to grips with the life and safety that may be at stake as a result of a nuclear accident one need only look to the Indian Point reactors which are less than an hour's drive away from my district—Manhattan/Riverdale in New York City. At the Indian Point plant the NRC has failed to institute any reliable evacuation procedure or deal with the obvious siting problem. In spite of a recent statement by a high ranking NRC official before a congressional subcommittee that the location of the Indian Point facility is "insane," the NRC has refused to take steps to shut it down or convert it to a conventional generating facility.

The New York Times in a November 18 article—which I would also like to insert in the RECORD with my remarks at this point—fully describes this situation. According to the article, Robert Ryan, Director of the NRC's Office of State Programs, testified that—

> It is insane to have a three-unit reactor on the Hudson River in Westchester County, 40 miles from Times Square. . . . I just don't think that's the right place to put a nuclear reactor.

It is apparent that an evacuation plan must be constructed for this facility which is within a 50-mile radius of more than 20 million people.

Even in its handling of the urgent moratorium following TMI the NRC was incapable of taking decisive action. After it was discovered that there was a flaw in the Babcock-Wilcox reactor design—affecting many other reactors beside TMI—the Commission agreed to institute a temporary moratorium. Then suddenly it decided to reverse itself under pressure from the nuclear industry. Then, again, only after a public outcry and opposition by the Kemeny Commission was the moratorium continued.

We can no longer doubt the seriousness of the problems that the nuclear option presents. The list of revelations and events surrounding nuclear power reads like a litany. Public health and environmental dangers associated with the atom demand a thoughtful second look; and the advisability of proceeding with further nuclear development must be studied.

Let us look at a partial list of the startling occurrences we have witnessed since TMI: The shutdown for safety reasons of 14 nuclear plants, the reaffirmation by the Department of Health, Education, and Welfare of the inherent risks of cancer in exposure to low-level radiation, and the serious accident which occurred recently in New Jersey at a nuclear station nearly resulting in similar emission levels as TMI. These kinds of publicized events, together with those which do not receive such public attention, and the unresolved problems of nuclear waste disposal, should cause us all to reconsider the wisdom of Federal encouragement for nuclear powerplant development.

The Markey amendment is an excellent opportunity for Congress to express the will of the American people in coming to grips with this problem. So often in this Chamber we have chided the bureaucracy for its ineptitude and for impeding the wishes of the public. This amendment offers us a clear opportunity to mandate to the NRC decisive action. I urge my colleagues to support the amendment.

[From the Washington Post, Nov. 11, 1979]

ARE NUCLEAR PLANTS UNSAFE, EVEN WITHOUT ANY MISHAP?—A NEW GERMAN STUDY CHALLENGES THE NRC'S ASSURANCES

(By Dick Brukenfeld)

Is fallout from nuclear reactors exposing people to dangerous levels of radiation—even without an accident? The Nuclear Regulatory Commission claims that normal emissions from reactors are safe. But a report which the commission has been sitting on since early this year shows that these government safety claims are based on fraudulent research.

Performed by Atomic Energy Commission scientists 20 years ago, the experiments demonstrate the Eisenhower-Lewis Strauss policy of making fallout look harmless. Thus today, the new report says, fallout from normally operating nuclear reactors is exposing people to radiation in excess of the authorized limits.

Although the NRC admits the charge about the fraudulent experiments, it denies that fallout from nuclear reactors is a health hazard. To find the truth in these conflicting claims, it helps to begin with what is known.

It is known that each of this country's 72 reactors releases some radioactive waste. This happens by design and because of human and mechanical flaws. Uranium fuel rods crack, pipes leak, filters fail and so do workers when they open the wrong valve. Thus the NRC limits how much atomic waste each reactor may discharge into the water and air.

To measure what this is doing to people, the commission makes a dose calculation. This tracks the radioactivity from the reactor through the food chain into human bone and tissue. The resulting "dose estimate" is the core of the claim that a normally operating nuclear reactor is safe.

But the NRC now acknowledges that this safety calculation is based in part on the dubious experiments of the 1950s. The problem begins with the conviction that atmospheric nuclear testing was essential to national security.

To quiet the Nervous Nellies who wanted a test ban, the old AEC took steps to show it was keeping on top of fallout. One such step was a program of experiments to find whether food crops would take up dangerous levels of fallout from the soil. More than just looking for results that would make fallout appear safe, most of the scientists rigged their experiments to produce the desired reassurance.

In measuring how much fallout plants would pick up from the soil:

The AEC scientists made preliminary tests on a variety of soils. They chose for their experiments those soils which absorbed the least amount of fallout.

It was known that plants have difficulty assimilating many fallout ingredients until they are acted upon by soil bacteria. To prevent this, the scientists cooked their soil in ovens and killed its bacteria.

Then they added the radiotoxic substances to the soil shortly before the plants were harvested. This avoided the conditions of reality, where the plants would grow from seeds in the contaminated soil.

Not surprisingly, these experiments showed hardly any fallout was getting into crop plants.

The report which reveals this information breaks new ground. It's the first time independent scientists have dug into the NRC's safety assurances to expose their foundations. Written by a team of 14 West German scientists—agricultural biologists, physicists, chemists, a mathematician, a physician and a veterinarian—from the University of Heidelberg, it applies directly to this country. Not only does Germany build its reactors from American designs but it proves their safety with the same set of calculations the Nuclear Regulatory Commission uses for that purpose here.

As performed by the NRC or the utilities, these calculations show a reactor giving little radiation to a person living within 10 miles—a fraction of a millirem to less than 5 millirems yearly. (Current estimates peg a chest X-ray between 15 and 30 millirems.)

But the German scientists say that in measuring fallout's journey from reactor to residence in the body, the NRC figures are "either at the lower end of the range given in the literature or far below the values that may be regarded as realistic. It follows that the results of these assessments are unrealistically low."

They say, for example, that NRC judgments on how much plutonium, cesium and strontium crops pick up from the soil are "between 10 and 1,000 times too low."

The Heidelberg group reached its conclusion after digging through 25 years of scientific journals to find what experiments had been done on how much fallout was getting to people. They then compared the results of these other experiments with the NRC figures—eight other experiments in the case of cesium, 11 others in the case of strontium.

After examining the NRC safety estimates, the report scores another first. It calculates the dose from a nuclear reactor, using figures chosen by independent scientists. What the German scientists did was feed their figures in to the NRC computer model.

They found that a pressurized water reactor planned for the town of Whyl on the Rhine could be expected to expose people to a yearly dose of 1,071 millirems of wholebody radiation. The major part of this dose would come from radioactive substances taken into the body with food and drink. The reactor's exhaust air is the principal source of this contamination, with its waste water playing a significant but lesser role.

The exposure limit in the United States is 170 millirems of whole-body radiation yearly from all nuclear facilities. On Dec. 1, the Environmental Protection Agency will reduce this limit to 25 millirems.

But it would be inaccurate to transfer the 1,071-millirem result from the Whyl study to a reactor in this country or anywhere else. Conditions specific to each power plant's site, such as wind patterns, nearness of farmland, size and type of reactor could bring these figures up or down.

Still, the study strongly suggests that realistic safety calculations would show each of this country's 72 reactors burdening people with more radiation than the new 25-millirem limit. Since the NRC uses these dose estimates as its basic yardstick for licensing and regulation, it would have cause to act against all the country's nuclear plants in more than a cosmetic way.

But this is not likely to happen, for more than economic reasons. Just as the Heidelberg group calls the NRC figures too low, the commission replies that the German scientists' figures are too high. "Their literature search was not comprehensive," an NRC spokesman comments. "They looked for experiments that would support their conclusions."

More importantly, Dr. Frank Congel, leader of the NRC's radiological impact section, says that "real measurements" by the utilities show that radiation emitted by nuclear plants is well within current safety limits.

Can the utilities be trusted to monitor how much radiation their own plants are giving off? Asked whether the NRC had assigned the fox to guard the chickencoop, Dr. Congel responded that the NRC "reviews the records and procedures of each plant on an average of twice a year." The commission also "spotchecks seven or eight plants each year."

But these "real measurements" by the utilities fail to answer the Heidelberg report. The German scientists are attacking not the utilities' emission figures but the set of calculations used to estimate what dose these releases give to human beings. To verify the Heidelberg report would require monitoring food from farms and dairies near reactors, a step which the NRC calls unnecessary and expensive.

Yet both the Environmental Protection Agency and the states monitor milk for radioactivity. Although milk from dairies near reactors often shows high levels of strontium 90, both the utilities and the NRC claim this contamination comes from atmospheric fallout. They blame this partly on the residue left in the atmosphere from old U.S. and Soviet tests, but mostly on the more recent Chinese bomb testing.

Since strontium 90 lacks a label of origin, no one can know for sure. But state and EPA monitoring shows a pattern. After the U.S.-Soviet test ban in 1963, strontium 90 milk levels remained high across the country for two or three years. Then the average dropped from roughly 25 picocuries per liter to 4 picocuries, where it remains. After a Chinese test, these levels jump briefly, then go back to what is now normal.

But in certain areas near nuclear plants the level of strontium 90 in milk has at times risen higher than it was at the height of atmospheric nuclear testing. Such readings were found in milk from dairies in Waterford, Conn., near the Millstone nuclear plant, when that facility was experiencing high radiation releases in 1976.

In Wisconsin, South Carolina and other states, rises in strontium 90 milk levels from dairies near reactors have also been recorded after releases of radiation from those facilities. Still, NRC and utility officials insist the strontium 90 comes from Chinese tests. This presents a picture of an America covered by a huge umbrella in the sky with holes punched over certain reactors.

This is less ridiculous than it sounds, since our technical institutes teach fledgling physicists that reactors do not give off strontium 90. Dr. Bernard L. Cohen, director of the Scaife Nuclear Laboratories at the University of Pittsburgh, writes in "Nuclear Science and Society" that "strontium 90, which has received wide publicity for its importance in bomb fallout, is removed in the chemical purification and hence is of little consequence here." (That is, it is removed by a filter within the reactor.)

Unfortunately, what's written in textbooks does not always happen in reality. Not only can filters be less than perfect, but the largest portion of radioactivity released from reactors, which is in the form of gases, presents special problems. These gases decay into radioactive particles, including strontium and cesium. Nuclear plants are designed to hold these gases long enough so that the decay takes place within the plant, where the particulates can be filtered out.

But if the gases leave the plant before they have had time to mellow, rather than floating away harmlessly, they deposit strontium, cesium and other isotopes in the environment. These gases can be released prematurely due to plant emergencies. Or, according to the Heidelberg report, significant quantities of the gases often leak out of the plant before they reach its filtering system.

Further, a Wisconsin investigation based on 14 years of milk monitoring by state officials supports the validity of the Heidelberg report, giving evidence that reactors are indeed releasing strontium 90.

America's dairyland state is bordered on three sides by a Big Dipper-shaped chain of 14 nuclear reactors. Wary of safety assurances, a Wisconsin environmental foundation asked the State Radiation Section to prepare a dose estimate based on the official milk sampling program, started in 1963. The state refused. So this concerned group of middle-aged, middle-class professionals—Land Educational Associates Foundation Inc.—took on the project with the assistance of a University of Minnesota biology professor. To insure credibility, they chose to use data only from state monitoring records.

The chain of reactors around Wisconsin grew from two to 14 between 1970 and 1976. State records show milk strontium 90 levels jumping in 1973 from just below to more than twice the national average, and staying there at least three years. (The study had to close with 1976, since state officials were more than two years late in supplying records which are supposedly public.)

The largest increases of strontium 90 came in a Wisconsin area 50 miles downwind, and downriver, from Minnesota's Monticello reactor, and in the Green Bay area around the Point Beach nuclear plant. Both high readings of strontium came and persisted during the year that Monticello was leading the nation in gaseous releases of radioactivity, and Point Beach was tripling its allowed emissions.

Showing instance after instance where nuclear plant releases were followed by high radioactivity in milk, the study points to reactor fallout as the major source of contamination.

In calculating its dose, the Heidelberg report judges the impact of a large reactor on people living in a small area—roughly within a 10-mile radius, making a circle around the plant of 314 square miles. But the Wisconsin study judges the impact of 14 smaller reactors on people spread across a territory of 54,000 square miles. Thus exposure for each person will be smaller.

Since they based their study on just the three radioactive poisons monitored by the state—strontium 90, cesium 137 and iodine 131—the Wisconsin investigators label their "Total Fission Dose" findings as "not the whole dose."

Using government formulas, they find the average yearly dose to Wisconsin citizens from nuclear waste in food and the environment is 33 millirems of whole body radiation for an adult, and 67 millirems for a growing child. The yearly dose to the bones is 76 millirems for an adult and 174 millirems for a growing child. The study says this "extra" radiation has more than doubled the risk of blood cancer for Wisconsin 14-year-olds.

They caution that this radiation comes from more than milk. Although ideal for monitoring, milk is one of the least radiotoxic foods. It contains only 10 percent of the radioactivity found in the grass eaten by the cow, which filters out the rest. As foods high in fallout radiation, the investigators note potatoes, whole wheat, leafy vegetables, soybeans, berries, venison, nuts, cabbage and cheese, which multiplies the milk dose times six.

The NRC rejects the Wisconsin study, even though it is based on verified state milk records and calculated with EPA and NRC formulas. The NRC's Dr. Congel states the Wisconsin study "showed extreme bias in its data and its presentation when we reviewed it."

At the same time that the EPA is establishing the new 24 millirem exposure limit, the NRC is stopping the monitoring of strontium 90 at nuclear plants. The reason given is that the utilities, assigned by the NRC to monitor themselves, aren't finding much. But like most manufacturers, utility executives want responsibility to end at the front gate. The public can't see the strontium 90 leaking out of the plant. Why should the utility? More importantly, why should nuclear plant owners be responsible for monitoring themselves?

The agency responsible for protecting the environment has given some indication of what its new 25 millirem limit means. One of its radiation officials explains, "The EPA does not have any regulatory requirement to monitor the environment around nuclear power plants; this monitoring is required by the NRC of their licensees."

When told of high strontium 90 levels being monitored in milk and fish from the area near the three Oconee reactors in South Carolina, another EPA radiation official responded that the 25 millirem limit applies to "planned discharges of radioactive materials." It does not apply, he said, "to background or fallout radiation in the vicinity of nuclear power plants." Chinese fallout again, and a large loophole for the many unplanned releases which reactors experience.

Both EPA and NRC plan to enforce the new limit by letting the utilities tell them what radiation is being released. From this they will estimate the dose to the public, using that same set of calculations which the Heidelberg report examined.

Both agencies have copies of the Heidelberg report. The NRC translated and printed it last spring (NRC translation 520: "Radioecological assessment of the Whyl Nuclear Power Plant.") Its distribution has been delayed while the German authors made some revisions. But Bernd Franke, one of the Heidelberg scientists, told this writer they had changed nothing of substance.

The significance of the report is that it indicates there is a great range of uncertainty in what is known about the impact of nuclear plants on human beings. The only way to determine whether the official dose estimates have validity is by a rigorous and continuing program of food monitoring performed by an independent agency.

[From the New York Times]

Indian Point Nuclear Plant Site Assailed

(By David Burnham)

Washington, Nov. 18.—A senior official of the Nuclear Regulatory Commission has said in a sworn statement that placing the nuclear power plant at Indian Point near New York City was "insane" and that emergency response planning for a serious accident there was a "nightmare."

Robert Ryan, director of the commission's Office of State Programs, made the comments in testimony a month ago to investigators for the President's Commission on the Accident at Three Mile Island. His statements were part of a crescendo of criticism in recent weeks about the locations of several of the nations' 72 nuclear reactors and the emergency planning that has been conducted at virtually all of them.

The criticism, voiced by the Three Mile Island Commission, Congressional committees, academic experts and officials of the regulatory commission, has prompted the Federal Government to consider whether any of the nation's existing multimillion-dollar reactors should be shut down.

FEDERAL AGENCY CRITICIZED

At the same time, the Government has initiated an emergency program to try to strengthen efforts by utilities and state and local governments to decide what they would do to protect the public in the even of another serious accident.

According to Mr. Ryan, because the Indian Point plant is in one of the nation's most congested areas, there could be a "calamitious" situation in the event of an accident similar to the one last March at the Three Mile Island plant in Middletown, Pa.

A recent report prepared by the House Subcommittee on Environment, Energy and Natural Resources charged that the regulatory commission had not "fully advised the public of the risk associated with nuclear power, especially the severity of accidents possible, and it has failed to inform the public of the need for emergency planning."

The subcommittee, headed by Representative Toby Moffett, Democrat of Connecticut, said further that "emergency preparedness at every level of responsibility—Federal, state and local governments and utility companies—is inadequate to protect the public health and safety in the event of a severe nuclear powerplant accident."

Two weeks ago, the Presidential commission essentially concurred with the criticism voiced by the subcommittee, concluding that planning for "the off-site consequences of radiological emergencies at nuclear power plants has been characterized by a lack of coordination and urgency at all levels of government."

The Presidential panel's report said that the planning had been made especially difficult by the Government's decision to permit some reactors to be built in densely populated areas.

WOULD HAVE BEEN CALAMITOUS

As a prime example of poor site selection, the report quoted the Oct. 9 deposition of Mr. Ryan about the Indian Point plant, near Buchanan, N.Y., north of New York City.

"I think it is insane to have a three-unit reactor on the Hudson River in Westchester County, 40 miles from Times Square, 20 miles from the Bronx," Mr. Ryan told the Presidential panel. "And if you describe that 50-mile circle, you've got 21 million people. And that's crazy. I'm sorry. I just don't think that's the right place to put a nuclear reactor."

Mr. Ryan said it was "bad enough" to place one reactor at Indian Point, but that subsequently two more were added, one of which is not at the moment licensed to operate. "It's a nightmare from the point of view of emergency preparedness," he said.

"Everybody says what a terrible situation we had at Three Mile Island, and I agree, but can you imagine what it would have been if it had been at Indian Point? It would have been calamitous. You would have had dozens, hundreds of people killed, perhaps, trying to get out of the place because the roads are north-south roads basically."

Bernard Stengren, director of public information for Consolidated Edison, the utility that built the plant, said that the Indian Point reactors "have been properly licensed as safe on a number of occasions," adding, "As we have repeatedly pointed out, 17 years of safe operation at the location prove it is a safe plant that has been safely operated."

PLAN MEETS AGENCY STANDARD

Mr. Stengren added that because the area was densely populated, the reactors had many extra safety features and that the utility's emergency plan was "consistent with the latest requirement" of the regulatory commission.

Tomorrow the Nuclear Regulatory Commission is scheduled to consider a staff proposal to clarify, expand and upgrade the commission's emergency planning regulations. Among the proposed requirements, which will not become legally binding for many months, are those requiring redundant communication systems, on-site and off-site emergency control centers, and new ways to alert the public.

Even without a new, formally approved regulation, however, the agency has moved to upgrade emergency planning. According to Brian K. Grimes, chairman of the agency's special steering committee on emergency planning, for example, teams of commission experts have visited 19 reactor sites offering advice on how to improve planning.

The improvements being sought are not required by regulations but every utility has been cooperative, Mr. Grimes said in an interview last week.

Joseph M. Hendrie, chairman of the Nuclear Regulatory Commission, has told Congress that because of the commission's emphasis on improving safety at existing reactors, the agency would not permit utilities to begin operating or building new reactors for at least six months.

The regulatory commission does not require that states and local jurisdictions with nuclear power plants establish emergency plans that meet its approval. Such a provision, however, was added to the agency's pending authorization bill by Senator Gary Hart, Democrat of Colorado. The legislation, already approved by the Senate, is scheduled for consideration by the House Nov. 27.

EIGHT PLANTS AROUSE CONCERN

Even with the best possible plans, however, there are some reactors in the United States that are of concern to experts in and out of government because of the large populations nearby.

Regulatory commission planners say that a serious accident might require evacuation of everyone within 10 miles. At eight sites where reactors are operating or under construction, more than 100,000 people live within that distance.

These sites are Indian Point, with 329,000 people; Zion in Zion, Ill., between Chicago and Milwaukee, 282,000; Limerick in Pottstown, Pa., 281,000; Enrico Fermi, Monroe, Mich., 185,000; Beaver Valley, Shippingport, Pa., 154,000; Three Mile Island, 121,000; Millstone, Waterford, Conn., 119,000, and Bailey, Westchester, Ind., 103,000.

"Indian Point, Zion and Limerick, when it begins operating in a couple of years, are the three sites we're looking at most carefully," said Mr. Grimes, echoing a statement made two weeks ago by Mr. Hendrie.

DEBATE ON REACTOR ACCIDENTS

The seriousness of a potential accident at either Indian Point or Zion was underlined recently in a debate between Dr. Joel Yellin, a professor at the Massachusetts Institute of Technology, and Dr. Norman C. Rasmussen, another M.I.T. professor who headed a major Government study of the likelihood and seriousness of a reactor accident.

"An accident at a site like Indian Point could have consequences which far exceed those of other 20th-century peacetime disasters in the United States," Dr. Yellin said. "And in your study, Norm, you calculated that after the worst accident at Zion 30,000 to 40,000 people would die within weeks or months because of high radiation doses. That doesn't include cancer or genetic diseases and it's a low estimate anyway, given what we know about making those calculations."

In the discussion, published in the June-July edition of the magazine Technology Review, Dr. Rasmussen did not comment on Dr. Yellin's estimate. Dr. David Rossin, senior safety adviser to the Commonwealth Edison Company, the owner of $600 million Zion nuclear power station, disagreed.

"Zion is an excellent site," he said in an interview. "I think Dr. Yellin's estimate is wrong—period."

The CHAIRMAN. The Chair recognizes the gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Chairman, in a September hearing before the Subcommittee on Energy and the Environment we heard testimony from representatives of the financial community on nuclear power. Hugh Devlin, the managing director of Morgan Stanley & Co., a New York City investment banking firm offered some sobering observations. The following is a quote taken from his testimony to us:

> The confidence of investors is extremely fragile. Accordingly, they will be watching the actions of legislators and regulators very carefully. If they see actions which they regard as unduly burdensome, an extended moratorium on the licensing of nuclear plants, for example, their confidence will vanish abruptly. This would result in substantial declines in the price of securities of nuclear utilities which would have an adverse impact on the holders of those securities and make it difficult, if not impossible, for these companies to raise additional capital at reasonable cost. This would prove very detrimental, not only to the electric utility industry, but also to the economy as a whole. We therefore urge you to move cautiously and to carefully consider the capital raising implications of any legislative actions you may take.

Some may say that the investment community is overstating the case—maybe so. But simple observation of the recent behavior of the stock market and of interest rates leaves little question of the financial impact of negative news. The question that we must ask ourselves when considering the Markey or Weaver amendments is—what kind of signals will Congress send to the financial markets and how will the financial markets react.

Mr. WOLPE. Mr. Chairman, I rise in very strong support of the Markey amendment. I want to take the short time available here to make a few brief points. First, I am very puzzled by the opposition that has been expressed to this amendment on the House floor. I am as puzzled by this congressional opposition as I was, earlier, by the opposition voiced by the NRC Chairman during his recent testimony before Mr. MCCORMACK's subcommittee. I would have thought that if the NRC, and specifically its Chairman, Dr. Hendrie, wanted to restore public confidence in the nuclear industry, and in the regulatory process, this amendment would have been welcomed. The opposition to it is precisely the kind of response that will further intensify public distrust of the entire regulatory process, and serve to further erode public confidence in nuclear power.

Mr. Chairman, I note concern has been expressed about the confidence of prospective investors in the nuclear industry. It has been argued that adoption of the Markey amendment will undermine investor confidence. Well, I am concerned about the confidence of the public in our energy policy. And I am concerned about the safety of nuclear energy. Moreover, I submit that unless a public climate exists to support any energy venture, investment capital will always be hard to come by. To be blunt, perhaps there is good reason—from both economic and safety standpoints, for wise investors to be withholding capital from further nuclear ventures at this time.

Mr. Chairman, what we are attempting to do in the Markey amendment is to make clear that the Congress, responsible to the American people, will participate directly in making public policy decisions which will determine the future of nuclear power. We will be saying in effect, that the Congress is determined to take whatever steps are necessary to restore credibility—and hopefully public confidence—in the nuclear regulatory system.

Opponents of a short moratorium on the issuance of new construction permits charge that any delays in nuclear powerplant construction are costly. What about the cost of our failure to effectively address the nuclear safety issues? According to the Kemeny Commission, the Three Mile Island accident will mean an additional cost—for emergency management, replacement power, and plant refurbishment—of between $1 billion and $1.8 billion. And these costs do not include the additional personal and business losses that resulted from the community disruption that the Three Mile Island accident produced.

Finally, Mr. Chairman, we have been told by the opponents of the Markey amendment that the nuclear industry, and regulators, have learned the lessons of Three Mile Island: Their attitudes about nuclear safety have improved, and on their own initiative they are taking steps to improve reactor safety. To this I would only offer the recent testimony of Dr. Chauncey Starr, vice chairman of the Electric Power Research Institute before our subcommittee. Dr. Starr testified that the public was never in any danger during the Three Mile Island episode, that there was only "the psychic appearance" of danger—notwithstanding the direct testimony of persons directly involved in the incident that they were fearful indeed that we were on the verge of a major catastrophe. Traditional industry and regulatory attitudes die hard. They are certainly little cause for public confidence.

I urge support for the Markey amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Massachusetts (Mr. MARKEY). Quite frankly, there have been all sorts of references made to the symbolism of this effort, and I happen to concur with the fact that it does appear to be nothing more than symbolic.

Furthermore, Mr. Chairman, I oppose the Markey amendment because it is both unnecessary and ineffective. The NRC has actually announced that it will not issue any new construction permits or operating licenses until it has completed the evaluation of the lessons learned from Three Mile Island. It is my understanding that this self-imposed moratorium will continue for 6 months at a minimum and possibly much longer. The Markey amendment, on the other hand, would expire at the end of March.

Mr. Chairman, in addition, the Markey amendment does not specify what action NRC is to take during the moratorium, making it all but meaningless.

Much has been said, Mr. Chairman, about the message from the American people. What is that message? As I see it, they want the Congress or the agencies of the Federal Government to investigate and to evaluate what they have learned from the Three Mile Island incident. They want to address those lessons and, more importantly, they want to come up with something in the way of a guarantee of safeguards.

Look what is going on. The President's Commission has conducted its inquiry and filed its report. The congressional committees of both the House and the Senate have been involved in extensive investigations. The NRC's task force on lessons learned from Three Mile Island has made its final report and the Commission is beginning to take steps to implement the recommendations. The industry has responded as well, setting up the Institute for Nuclear Power Operations and the Nuclear Safety Analysis Center.

I believe a New York Times editorial summed up the situation well:

> The proposal before the House this week, sponsored by Representative Edward Markey of Massachusetts, is particularly weak and pointless. It would prevent the issuance of any new construction permits for nuclear plants until next April 1. That might have symbolic value, by sending a message to regulators and the nuclear industry that Congress is concerned. But it would be superfluous: the Nuclear Regulatory Commission, mired in internal reviews and a survey of existing plants, has already said it will issue no new construction permits or operating licenses for several months. Worse, the Markey proposal would accomplish nothing. It simply calls for a 4-month halt without specifying that anything be done. Not that much could be done in such a short period.

Let me say that Congress is concerned about the safety of nuclear power and as ranking member of the Interior Committee. I intend to make sure that both NRC and the industry continue and improve the efforts that have already been made. A symbol is not needed, action is. I urge defeat of the amendment.

(By unanimous consent Mr. BAILEY yielded his time to Mr. MCCORMACK.)

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. WALKER).

(Mr. WALKER asked and was given permission to revise and extend his remarks.)

Mr. WALKER. Mr. Chairman, I rise in support of the Markey amendment because it seems to me that with this vote we may well decide whether the nuclear industry has a future and if so what kind of future it has.

Mr. Chairman, I want to put that in a little bit of Three Mile Island perspective, because it was many of my constituents who were among those who were affected by what happened at Three Mile Island. We had an area where it is true not a life was lost. There is even some question as to whether or not anyone's health was affected. However, it was an area that was severely traumatized.

Hundreds of thousands of people were traumatized by this incident. If that happens again and again and again, the nuclear option in this country will almost certainly be canceled. What the public wants as an assurance is that the nuclear industry is indeed safe. The Kemeney Commission has provided us with some guidelines as to how we can assure safety in the industry. All the Markey amendment asks is 6 months to assure the Nuclear Regulatory Commission will put those guidelines into effect.

Mr. Chairman, the role of Government in this matter is to assure safety. The public is not sure we have done that job well thus far. Now, we have a chance to stand forth as a Congress and say, let us do it right. The Markey amendment gives us a positive opportunity for safety and should be adopted.

☐ 1340

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Chairman, in earlier debate the Kemeny Commission report was referred to numerous times and the fact that the NRC probably did not have the capability today to insure safety; yet it is never mentioned, I do not believe, that the Kemeny report did not recommend a moratorium.

A vote was taken. The vote was not to impose a moratorium. They had enough confidence in the system that they felt we should go ahead.

I do not believe that this is the time nor the place for the Congress to send out the signal of a totally meaningless moratorium.

It has been pointed out, and correctly so, that there is in existence today a self-imposed moratorium.

Now, we are going to have major legislation in the next 6 months before this Congress dealing with the entire nuclear question. At that time we must examine, do we need a standardized plant? Today there are a half dozen manufacturers with two or three different designs each, some of them are as different as apples and oranges.

Do we need more specific considerations, as far as population and safety and concerns of sitings? These are the types of questions that should be answered and tied together with a moratorium until we develop where we want to go, instead of arbitrarily at this point in time on this legislation sending out really a meaningless signal that I think Congress would be acting irresponsibly if it took this action.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I would be happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I associate myself with the gentleman's remarks.

(By unanimous consent, Mr. SPENCE and Mr. ATKINSON yielded their time to Mr. MCCORMACK.)

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Chairman, it is clear that this amendment is the first step in an attempt to eliminate the nuclear energy option. The substance of the amendment is illusory. The real problem with it is the symbolism of the Congress taking such an extreme step on nuclear power development.

Our Subcommittee on Energy Research and Production of the Committee on Science and Technology had extensive hearings on the technical implications of the Three Mile Island accidents. Our findings are in good agreement with what most responsible people have concluded, that is, we should proceed with nuclear power but we should proceed with caution.

Neither of these amendments are constructive efforts to enhance nuclear safety. The Markey amendment is rendered even more symbolic by the fact that it addresses only construction permits for new plants which would not be built for a decade and do not even consider the issue of operating plants. The question of safe operation is one where I agree with the Kemeny Commission report. We should look at such questions of plant safety on a case-by-case basis.

The Weaver amendment ties a moratorium on operating licenses to States which do not have emergency plans approved by NRC. This is an aspect quite remote from the day-to-day safe operation of the plant itself.

I strongly urge my colleagues to defeat both of these antienergy supply gestures.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Chairman, I rise in support of this amendment. I must say, it is in reluctant support, because it certainly is an inadequate vehicle to get at the issues I wish to get at; but in the Kemeny Commission report, the Kemeny Commission indicated that the Nuclear Regulatory Commission was not able to fulfill their safety responsibilities, that they were incapable of doing that.

In addition to that, they pointed out that the utility at Three Mile Island, Met Ed, had an inadequate training program, and that Met Ed was basically inadequate in all respects. In addition, I am informed that Met Ed is one of the better utilities in the industry; and their people rate very high in the training examinations.

If you take those facts and put them together, then one would have to conclude that we do not have the requisite level of safety throughout the nuclear industry; so it seems to me that what we ought to do is stop for a moment, pause and look at the situation and concentrate our activity in improving safety throughout the industry. Certainly stopping construction permits does not do a great deal, but what it does do is it says to the NRC, "Clean up your act." It says to the nuclear industry, "Clean up your act, pause, look, and let us make this industry safe and concentrate our activities on the safety of the ongoing nuclear powerplants."

I do not have an operating nuclear powerplant in my district at this point. All TMI is closed down, so I am not really talking from a provincial point of view. I am talking about the safety of the industry as a whole and those other people who may go through the same experience that we went through at Three Mile Island.

The CHAIRMAN. The Chair recognizes the gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, a few moments ago my friend, the gentleman from Pennsylvania (Mr. RITTER) commented that New England, above all other areas in the country, was dependent on oil and dependent on nuclear energy for generating electricity.

You know, the gentleman is absolutely correct. We are dependent on electricity from nuclear power and oil; but the problem is that there has been a very serious erosion of public support in the last couple years, and especially in the last 6 months, and in the public confidence in nuclear energy. The Seabrook powerplant in New Hampshire, just 10 miles from my district, has been undergoing the most serious antinuclear demonstrations of any place in the country.

My own nuclear power plant, Maine Yankee in Wiscasset, has suffered a very serious erosion of support and acceptance as well. I think the reason for this is that the industry in many cases has not taken a strong enough stand in favor of improving safety, improving construction standards, answering some of the questions that my constituents and yours have the right to ask about construction standards, waste storage and processing, waste transportation, evacuation plans, operating procedures, and training procedures.

I may differ from some of my colleagues who support this amendment, because I believe we have the technological expertise to construct safe nuclear power plants and operate them; and I support them. But if industry does not move to calm public concern, nuclear energy will become the Vietnam of the 1980's.

I feel that nuclear power is important for the future of our energy supplies in this country, but the fact of the matter is that unless we take a strong stand to answer the questions raised by people who have legitimate concerns, nuclear power in this country is going to be doomed, and we had better recognize it.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, there will be many efforts today to put various signals on the message what this vote will mean. Many special groups will interpret it in different ways, but I do not feel that a vote for the Markey amendment can be interpreted in any way as an antinuclear vote. I do not think it can be interpreted as an effort to wipe out nuclear options in this country as we consider our future energy policies; but I do think that a vote for the Markey amendment is an effort to show that we are trying to express the will of a majority of the American people, as has been expressed in various polls, the will that shows a pause is necessary in this country's and in this administration's headlong rush to speed up the licensing processes of nuclear powerplants.

We should not allow recent events in Iran to scare us into a continuation of this headlong rush into nuclear licensing processes. The American people do not scare easily.

I would like to refer also to a comment made by the author of the amendment, the gentleman from Massachusetts, in the gentleman's opening comments when the gentleman stated that this is not a nuclear versus oil question. Indeed, it should be nuclear versus coal. The events in Iran should not be a factor in consideration of this amendment.

Just as the American people can and will conserve; just as the American people can and will use synthetic fuels, solar power and other energy options in the future, so we can and will convert to coal in the New England powerplants and other parts of this country. This has been done at New England Power Co.'s plant at Brayton Point, Mass. The home State of the author of this amendment, despite a lengthy regulatory delay. We can move faster toward coal conversion and move in a clean, safe, and efficient manner and in a cost saving to the American consumer, as has been done at Brayton Point.

Mr. Chairman, until we can move in such a manner in regards to nuclear energy, until we can solve many unanswered questions about safety, waste disposal and other related problems concerning our nuclear options, I feel this amendment is a well-intended and proper approach.

□ 1350

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, it seems that some of my colleagues have convinced themselves that they must resist any attempt to try to enhance the safety of nuclear power for fear that if we try to make it safer there will be no nuclear power.

Therefore, some of my colleagues seem to be saying, we must continue with our rather inept and, in fact, frighteningly inefficient system of trying to insure that our nuclear safety will be as safe as we can make it.

Mr. Chairman, I hope the accident at Three Mile Island will move this Congress to make nuclear power safe enough that we can proceed with the nuclear alternative.

Why do people believe we have only two options: either an all-out crusade to go ahead as fast as possible, no matter what, damn the torpedoes, or eliminate nuclear power as an energy alternative?

Who says there are only two options? What about the third option: Nuclear power that is as safe as we can reasonably make it?

The truth is, nuclear power is simply not safe enough.

Mr. Chairman, I began this year with the attitudes that have been expressed by some of the opponents of this amendment. I served on the task force that investigated the accident at Three Mile

Island, and I went to Harrisburg to try to make sure the Markeys and the Udalls and the Weavers and the Binghams of our Committee did not use that accident to try to do away with nuclear power.

I was committed to nuclear power, Mr. Chairman, but I was and am committed also to being a responsible legislator.

And I assure you, Mr. Chairman, that what I found really bothered me. How I wish somebody had at some time said: Wait a minute, let us see what we're doing.

For weeks, I, a pro-energy, pro-nuclear member of that task force, read reports, questioned witnesses, investigated what really happened at Three Mile Island and became convinced that we were lucky at Harrisburg—lucky because the problems went far beyond mere operator error, as the plant's operators would have us believe.

We found operator error, inadequate training, inadequate plant design, inadequate control panels, inadequate control room procedures, inadequate procedures for reviewing patterns in incidents and accidents at other plants, inadequate procedures for dealing with accidents when they do happen.

Metropolitan Edison was at fault, Babcock and Willcox were at fault, the NRC was at fault.

I would say to my Republican colleagues and the more conservative Democrats that you and I are constantly trying to reform—or do away with—inept Federal agencies. And yet—some of you do not want to even force the NRC to back off and look at what it is doing—and you will not find a worse Federal agency: The NRC is the Chrysler of the bureaucracy.

We cannot let the NRC proceed without pause because it is not capable of safeguarding the public interest unless it takes some time, or is forced to take some time, to see where it is going.

We need to reform the way in which nuclear power is regulated, and the Markey amendment will give us the time to make those changes. Its not an antinuclear vote—it is a pro-safety vote, and a pro-commonsense vote. And if it makes nuclear power safer, it will ultimately be a pro-nuclear vote.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, first I would like to straighten out the record as to the position of the Kemeny Commission on the matter of a moratorium. The gentleman from Louisiana (Mr. HUCKABY) said they voted down a moratorium. That is not correct. A majority of the members of the Commission actually favored a moratorium in one form or another, but they were not able to agree on the form of words. That is why the Commission as a whole did not take a position in favor of a moratorium.

I think many Members have made the point that I had in mind to make, the gentleman from New York (Mr. FISH), the gentleman from Nebraska (Mr. BEREUTER), the gentleman from New York (Mr. WEISS), the gentleman from Michigan (Mr. WOLPE), and the gentleman from Oklahoma (Mr. EDWARDS). I would particularly like to salute the gentleman from Oklahoma (Mr. EDWARDS) for demonstrating an open mind in this matter in having taken a first-hand look and coming to the conclusion that he has.

Frankly, I do not understand the opposition to the amendment on the strength of it. On the one hand, some of the opponents are saying that it is meaningless and unnecessary while other opponents are saying it means the end of the nuclear industry. It seems to me that the opponents cannot have it both ways. If we were to turn down this amendment, we would in effect be saying that the Congress is perfectly happy—and that is the way it will be construed—that the Congress is quite content with the state of regulation and the matter of safety in the nuclear industry today.

The CHAIRMAN. The Chair recognizes the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Massachusetts.

I hope we all realize the gravity of this issue. I believe this is not only a serious threat to our national security but to our economic security as well. It is going to inflict serious penalties upon utilities, as well as their customers. It is going to tie our hands as we try to plan and to put new plants on line. But worst of all, it is going to signal to the world that we are not serious about our commitments to energy independence.

Much has been said about a moratorium. I think we should keep in mind the time frame required to construct a nuclear plant. After a construction permit is issued, it takes from 6 to 10 years before that plant can come on line, before the generators are completed, before the safety systems are completed. This is the time to implement new requirements to make the most safe conceptual designs that man can devise.

Let us talk a little bit about the money involved. For every delay of each plant, it is going to cost $10 million to $15 million a month. As many as 20 plant applications could be affected by this amendment. That could translate into a total cost of $1.2 billion for a 6-month delay. A plant 15 miles from my home cost $600 million to build. If they had been subjected to the Markey amendment, when that plant was started it would cost $1½ billion today.

I ask you: If we had had a Markey amendment 6 to 8 years ago, where would we be today? From the standpoint of our national need for energy, as well as from the concern over the potential cost of this proposal, the Markey amendment is a symbol we simply cannot afford.

My colleagues, we are not debating the future of the nuclear industry. Without that industry we do not have a future. There simply are no near term alternatives to the rapid expansion of nuclear power. Do not tie the hands of those who are trying to make us independent of foreign energy and all the political pitfalls of that dependence.

I urge to soundly reject the Markey amendment and put this country on the path of a constructive energy policy.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, if I thought that this amendment would make nuclear powerplants more safe, I would be in support of it. But the Kemeny Commission—and it has been referred to here today—could not reach a consensus. They could not reach a consensus on the conditions or the goals that a moratorium would have. I do not think that to legislate or mandate a moratorium is going to be constructive.

It is obvious to me, and I think to all of us, that no danger can happen from a nuclear accident to a plant that has not even been constructed. The length of time that it takes to construct a plant, over 7 to 10 or 11 years, I think leaves ample opportunity, once we decide should there be modifications to that plant.

The NRC has determined to take it on a case-by-case basis. If a plant is safe why can it not be built? If it is not safe, then it should not be. There may be a moratorium on that plant for 3, 5, 10, or an indefinite period of time. But in my opinion, that is the procedure that we should use.

The New York Times, in an editorial this week, said that the Markey amendment is particularly weak and pointless. In that I agree. I do not see that we are going to accomplish anything by passing this amendment that would enhance nuclear safety. If we had some goals and some specifics that could be remedied in that period of time, then I think that would be one thing. But that is not the case. It is symbolism. I do not think that is going to aid us.

I urge defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Chairman, as much as I appreciate the work of the gentleman from Massachusetts (Mr. MARKEY) on the committee, I have to be opposed to this amendment. I think it does nothing for safety. It is simply, if we face the fact, a tool for us to demagog with back home.

I would like to take issue with one statement the gentleman from Massachusetts (Mr. MARKEY) made, that eight of the commissioners are for this moratorium and that Mr. Kemeny would be for it if he were a Member of the House.

The facts are that eight members of the Commission wanted some kind of a moratorium, but said they could not find any kind of equitable way to impose one. So the vote resulted in a 6-to-6 tie on the moratorium issue.

Mr. Kemeny had the option to break the tie if he wanted to. He did not break the tie.

So it seems to me that to say that he is for this is stretching the truth a bit.

Maybe I could just summarize my opinion with that of Commissioner Haggerty of the Commission when he said this:

> Recommendation 8 says "Look at every case and weigh it heavily before you issue

another license, but don't jump from an emotional commitment and a limited review to a general castigation of an industry as a whole, on which we have absolutely no facts to base such a recommendation."

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. Swift).

Mr. SWIFT. Mr. Chairman, the jury is out, and in this debate today I sometimes feel as though those we are trying to send a signal to have either been Jane Fonda or Edward Teller. In fact, the people we are trying to send a signal to are people we often forget about in this body, and that is the average American who all of the polls show believe at least two things about nuclear power: We need it as part of our energy mix in this country, and they have deep and abiding concern about the safety.

The symbolism of defeating the Markey amendment will be one of telling them that the Congress is not going to respond to their concerns in that area.

In a county in my district there has been a proposed nuclear plant. We are told that those who oppose that plant are simply flakey, the granola set. And the effort of the proponents of the plant was to push it through, drive it through at all costs. There was an advisory vote on that plant last election day. Seventy-one percent of the people opposed that plant. The issue: Safety. In this case, the geology of the area. And, parenthetically, there was the largest earthquake in the history of that county on Monday.

But nevertheless, safety was the issue. And because of the effort to urge it through, push it through, drive it through, the people whose hearts and souls we need, if nuclear power is going to be a part of the energy mix of this country, were lost to the opponents of nuclear power. That is the symbolism we are going to be deciding on today.

□ 1400

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. McCormack) for 7 minutes and 20 seconds.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the Markey amendment.

I agree with many of those on both sides of the debate who have said that the Markey amendment is purely symbolic. It is purely symbolic. It would accomplish nothing, and it would send a message to the world that this Congress really is not serious about solving our Nation's energy problems.

I agree also this is not a nuclear-versus-coal or a nuclear-versus-oil argument. I can never make any sense of such statements. We need every form of energy we can get; and every bit of it as soon as possible. We do not have the luxury of choosing between energy technologies. We must reduce our dependence upon imported oil.

The only significant sources we have, as our domestic supplies of petroleum and natural gas decline, are coal and nuclear; and we need all we can get of both. In particular, the New England area, which is so dependent today upon Arab oil, would do well to increase its dependence upon nuclear energy, which is far safer and cheaper, not only for electric generation, but also for heating homes with nuclear-powered electric heat pumps. Nuclear energy is, of course, secure. It is not imported.

Now, the gentleman from Massachusetts has said we should get serious about safety. He says that is what his amendment would do. By saying so, he assumes that nuclear power is not safe. This is portrayed by him as an established truth: that nuclear power is not safe. How absurd. Nuclear power is clearly the safest industry in the Nation or in the world.

We must keep these facts in context. In spite of all of the emotional flack that is generated, the truth is that not a single human being has ever been harmed, let alone killed, by any nuclear accident in any licensed nuclear powerplant anywhere in the free world. Not one person harmed ever, any place. We should be telling that truth, rather than pretending the opposite.

It is also important to remember that the Kemeny Commission reported that the Three Mile Island accident, which was a serious accident, did not actually harm anybody in the population at all. As a matter of fact, the report says, on page 14, that the accident probably could have been substantially more serious without any harm at all to the public.

The fact is that the Nuclear Regulatory Commission has already delayed awarding construction permits until it completes its review of the TMI accident, of the Kemeny report, and insures the changes arising from these studies and from its own lessons-learned group are implemented.

In a statement before the Subcommittee on Energy Research and Production, which has been studying this subject, Dr. Kemeny said in response to a question from the gentleman from New York (Mr. Carney):

> Would you support a Congressional moratorium?

Dr. Kemeny said:

> First of all, I would not tell Congress what to do. I am here as head of a Presidential Commission and therefore have to stand on those recommendations that the Commission, as a Commission, adopted, and what the Commission adopted was a case-by-case hold-up until three things are checked in each individual case.

In addition, Dr. Kemeny pointed out that the report was a snapshot in time, looking only at the TMI accident and only at the NRC response to it. It took no notice of subsequent actions by the industry in these intervening 8 months or by the Nuclear Regulatory Commission. It took no recognition of the creation of the Institute of Nuclear Power Operations—to train operators up to new high standards—no recognition of the creation of the Nuclear Safety Analysis Center, and no recognition of the industry's proposed mutual insurance program, which requires high standards of performance to participate.

It took no recognition at all of a distinction between the Nuclear Regulatory Commission, which it had justifiably criticized, and the Nuclear Regulatory Commission staff, which has been doing the good work. It took no recognition of the lessons-learned recommendations by the NRC staff.

Dr. Joseph Hendrie, Chairman of the NRC, in testifying before the committee, said:

> It is probable that the six months contemplated in Mr. Markey's amendment is very likely to run out before . . . actions are taken on the construction permit(s).
>
> (A) case-by-case approach is a much better one than some sort of blanket mandate of legislation.
>
> Let me point out that this measure deals with construction permits. The hazard in nuclear reactors has to do with fission products; and plants under (a) construction permit are ten years away from fission products in any quantity.
>
> We intend to implement changes in our own organizational practices and procedures, and in our regulatory requirements for operating plants and new plants so as to conform with the recommendations of the President's Commission as soon as possible.

As the gentleman from Florida (Mr. Fuqua) said, there is plenty of time to implement changes if any new safety requirements are indicated after a construction permit is issued.

The real thrust of the amendment of the gentleman from Massachusetts is symbolic. I think we agree to that, but we in the Congress are not going to significantly increase our knowledge about nuclear safety between now and the end of March; at least not enough to make a real difference in policymaking on licensing.

This amendment is totally negative. It has no redeeming value at all. It simply frightens people. It comes just as the President prepares to make a constructive public statement on this subject.

I want to suggest that we step back and recognize that the people of the entire world are looking to us. Not just our constituencies, but the entire world is looking to us, and to the President, for responsible leadership.

The passage of the Markey amendment would be used by certain sections of the press and media to dramatically harm public confidence in nuclear energy all across the world in the same way they use the TMI accident to sensationalize and exaggerate nuclear hazards. What harm that was done in the area of Three Mile Island was done not by the Nuclear Regulatory Commission, not by the industry, not by the plant, not by the radiation, but by certain elements of the press and the media. This harmful exaggeration and sensationalism would be reinforced if this amendment were passed.

And this attempt comes in the face of the political instability in the Middle East that threatens our supply of oil. I can scarcely believe my ears.

I urge that we "talk sense to the American people", and to the entire world; and vote "no" on the Markey amendment.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New Mexico.

Mr. LUJAN. I want to thank my friend, the gentleman from Washington (Mr. McCormack), and join in his remarks.

Let me just make one observation in the gentleman's very valuable limited time. Much has been said about the Kemeny Commission here.

The fact of the matter is that the Kemeny Commission did not vote for moratorium, and Dr. Kemeny himself had an opportunity to do so and did not.

More important than that is that the recommendation, recommendation 8, says look at very case and weigh it heavily before you issue any permits.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCormack) has expired.

The Chair recognizes the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment. I think it is important we should know what the amendment does. The amendment simply imposes a 6-month moratorium on construction permits. It does not deal with operating permits, and as such, it is not going to set this country back in terms of our development. It does send messages. It sends a message to the world, and says we are going to be careful. It sends a message to the industry. It says the days of the sweetheart relationship between the committees of the Congress, the Congress, the AEC and the industry are at an end. It sends a message to the AEC, or NRC now, and it says:

> NRC, commence work. Use the six months we are laying upon you to establish a sensible and a responsible program for issuing construction permits and use that time to clean up the backlog and long set of problems that need to be addressed.

It says if we can now have some confidence that the NRC will deal with questions such as inadequate training of operators, poor-quality insurance programs, inadequate operating procedures and practices and the lack of systematic review and analysis of operating expenses at the plants. It is not going to delay the construction program. As a matter of fact, a properly constructed program for issuance of permits and for construction of nuclear facilities can move along much faster and much better with a great deal more assurance to the American people that these projects will be constructed well and will be safely functioned.

□ 1410

It says at the same time that the projects that are now ready to be licensed can still be licensed, and we can get the benefit of having them operate so as to back out imported oil and to reduce and limit this Nation's dependence on imported oil.

Mr. Chairman, this is a sensible proposal. I urge my colleagues to adopt it. I believe that the pause will do no hurt, but rather afford great good to the Nation.

I think that we have to understand that the Commission is going to have to review the actions of the Kemeny Commission and its recommendations, it is going to have to build its own internal reforms, it is going to have to make sensible and rational and fundamental changes, some things will have to be done, and this pause will make it possible that that should be done. A 6 months' moratorium will enable the Commission to devote needed resources to examine problems with regard to the present system and to propose and carry forward the necessary reform. It will give the Congress and the Nation and the industry an opportunity to evaluate the different reports and the Commission's response and the industry's response to the questions that have been raised and determined to be troublesome in connection with the different investigations that have gone on at Three Mile Island and elsewhere.

I believe given the scope and the seriousness of the problems which exist in this industry, this kind of pause is not only desirable but necessary. I stress this is not going to prevent the moving forward. It is not an inhibition on progress.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Markey).

Mr. MARKEY. Mr. Chairman, I want to correct a number of erroneous statements.

First of all, Chairman Kemeny, before the subcommittee chaired by Mr. McCormack, in a colloquy with the gentleman from Michigan, Mr. Wolpe, said the following:

> Mr. Wolpe. In other words, you would be more in support of a congressionally-based moratorium?
>
> Dr. Kemeny. Yes, that is what I have said over and over again, and in the debate, that I thought the action should be by the President or the Congress. And I voted for those that were tied to the President and the Congress, and not to the ones where it would be up to the NRC to decide when it was time to start licensing again.

To confirm that, I called John Kemeny at his home in Hanover, N.H., the night before last and he again reiterated that point, that he would vote for this moratorium.

Nuclear power is not safe. The Kemeny Commission had 20 pages of recommendations as to what has to be done, 20 pages on what has to be done with the NRC in order to make it safe, a blistering and a scalding indictment of the NRC process as we see it today.

The moratorium is not symbolic. It has a practical import. It focuses the attention where it belongs, on already existing reactors and those under construction. It allows a reform of a befuddled and a troubled agency that is not able to afford us the protection which we need, and it allows us to look at the construction permit process so that we cannot just have a very skeletal plant outline, only a partial blueprint which is handed to us at that stage. As the construction process goes forward now, toward the operating license stage, they flesh out the blueprint, instead of having a complete design review at the construction permit stage.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, I have great respect for my two subcommittee colleagues who just spoke, the gentleman from Massachusetts (Mr. Markey) and the gentleman from Michigan (Mr. Dingell). So, rather than make my remarks concerning them directly, let me read something from the November 26 editorial page of the New York Times.

> Some people want a moratorium to last a specified time—even as long as five years. But there is no point in delay for delay's sake. The proponents have a duty to indicate what is to be accomplished during the time-out. Others would continue a moratorium until certain goals are met, like establishment of a new siting policy, or development of emergency evacuation plans, or improved testing of safety equipment. But the goals seem selected on a hit-or-miss basis, often reflecting little more than a pet concern. And some goals, like the opening of a disposal site for radioactive waste, would take so many years to achieve that a moratorium could become open-ended, a disguised way of blocking the expansion of nuclear power.
>
> The proposal before the House this week, sponsored by Representative Edward Markey of Massachusetts, is particularly weak and pointless.

The Times goes on to say:

> . . . the Markey proposal would accomplish nothing. It simply calls for a halt without specifying that anything be done.

We do not need to do nothing to get nothing done. We need to get something done.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Chairman, I voted against this Markey amendment in committee on the grounds, and got beat in the emotional days right after Three Mile Island, on the grounds that we were going to bring a comprehensive nuclear policy bill to the Congress this fall. I think we are going to make it next spring.

Nuclear power is not one question, it is a whole bunch of questions. The main questions are: First, we have 72 reactors operating; are we going to close them down? I do not think the American people want them closed down. I think they want them made safe and the Markey amendment does not deal with that.

The second question is: What are we going to do about the 90 new reactors under construction? Where I come out is make them safe and incorporate the design changes and the lessons of Three Mile Island, but let them be built. We are all going to have to stand by our guns when that day comes and say these new plants ought to go on line, load the fuel.

The Markey amendment does not deal with that.

The Markey amendment deals with the final question: How much nuclear expansion are we going to have? Are we going to have those 160 reactors in the two groups I just talked about? In the early days of the Nixon Presidency we were going to have 1,000 by the year 2000, 1,000 nuclear reactors, one in everybody's backyard. We were down to 400 or 500 recommended in the Ford administration. I am not quite sure where the present administration comes out on this, but they are talking about some expansion.

The Markey amendment simply says let us have a pause. Incidentally, 2 months of that 6 months' moratorium have already gone by. I was afraid the whole thing might expire before the debate finished here in the House.

But the Markey amendment says let us have a pause, that the nuclear industry really has no future unless it can restore its credibility. The best way to do that is to have this pause, come up with new safety legislation, come up with new plans and designs, and if, as a nation, as a country, we make a national decision to go further down this nuclear road, we will know what we are doing.

So, I think a vote for the Markey amendment is clearly indicated today and I hope it will pass.

● Mr. PANETTA. Mr. Chairman, I rise in support of the Markey amendment. This amendment would impose a 6-month moratorium on the issuance of construction permits for nuclear powerplants. My support of this amendment is based on my firm belief that it constitutes a reasonable and prudent approach to allow implementation of the lessons learned from the accident at Three Mile Island and the Kemeny Commission's subsequent investigation.

The Kemeny Commission found that in order to prevent nuclear accidents as serious as Three Mile Island, fundamental changes will be necessary in the practices and procedures of both the NRC and the nuclear industry. As my colleagues are well aware, such fundamental changes require assessment, reflection, and thoughtful implementation. I believe that the Markey amendment will afford us just such an opportunity by giving us the time necessary to determine what changes are required to insure the health and safety of the public.

House Interior Committee Chairman MORRIS UDALL has indicated his intention to hold hearings and begin markup on a bill which would have considerable impact on the way nuclear powerplants are built and licensed. The Markey amendment allows the committee time to develop comprehensive legislation without prejudicing their debate with a business as usual climate.

I would remind my colleagues that while the Kemeny Commission did not formally vote in favor of a moratorium, 8 of the 11 commissioners did vote for at least one of the moratoria proposals. Ultimately, the commissioners felt the notion of moratorium to be outside the scope of their mandate. They argued that the responsibility for declaring a moratorium, and for defining the criteria for its imposition and duration, was more properly a policy decision and as such rested with the Congress.

I urge my colleagues to accept that responsibility and build up on the foundation established by the Kemeny Commission by supporting the Markey amendment. A timeout period for thoughtful evaluation of existing problems will assure the citizens of our country that their legislators are willing to grapple with the difficult dilemmas presented by nuclear power, rather than sweeping them under the proverbial rug.●

● Mr. HOLLENBECK. Mr. Chairman, I have long been a supporter of development of our Nation's nuclear potential, as I am of all forms and potential sources of energy and power. But concurrent with what I see as our duty to investigate all potential sources, I see also an obligation to the public, our environment, and future generations to insure that this is done in a safe, forward-looking manner.

Let us look at the Markey amendment. It would prohibit, in effect, the issuance of construction permits for commercial nuclear plants for 6 months but it "shall not apply" to plants for which there has been a construction permit or operating license issued prior to fiscal 1980.

In this regard, I must respectfully disagree with my colleague from New Jersey. It does not impact the New Jersey utility he referred to in the manner stated since that utility has an operating license pending and is not affected by the ban. Also, the Markey amendment does not signal the reluctance of Congress to proceed with the nuclear alternative. But it does signal the clear intent and concern of the House with the safety of our nuclear facilities, both existing and future.

And I must take issue with the money figures being blithely thrown around as potential "costs" of this delay. All are based on a false interpretation of the amendment and are hence irrelevant and a "red-herring."

We are considering several fundamental issues today in the area of nuclear power and this is the most basic—safety. We have recently seen several incidents such as Three Mile Island which have raised serious doubts as to the inherent safety of nuclear plants in areas of design and quality control and as to the safety of their operation.

I agree with proponents of the amendment who state that this amendment is not a rejection of nuclear power as a part of our energy plan for the future—rather it is consistent with our stated goal of prudent and safe development of all forms of power. And it may be a step toward restoring ours and the public's confidence in nuclear energy.

I am somewhat disturbed by opponents of the amendment who paint dire doomsday scenarios about the amendment resulting in greater dependence on Arab oil. This is sheer nonsense. As was pointed out, even a permanent moratorium would have little effect on oil imports.

In fact, the Department of Energy, in a simulated study of energy supply and demand for the rest of the century, which study assumed no new nuclear plant starts before the year 2000, concluded that even a permanent halt—and this halt ends on March 31, 1980—would have no impact on oil imports.

Mr. Chairman, the real issue here today is whether we will promise the public and tell the industry and the NRC that we intend to make nuclear energy safe.

I say "yes," we must do that and then we must proceed to keep that promise.

I support the amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 135, noes 254, not voting 44, as follows:

[Roll No. 693]

AYES—135

Akaka
Ambro
AuCoin
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Boland
Bonior
Bonker
Brademas
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Daschle
Deckard
Dellums
Diggs
Dingell
Dixon
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
Ertel
Evans, Del.
Fazio
Ferraro
Fish
Florio
Fowler
Garcia
Gilman
Gonzalez
Goodling
Gore
Gray
Guarini
Hall, Ohio
Hammerschmidt
Harkin
Harris
Harsha
Hollenbeck
Holtzman
Hopkins
Howard
Hughes
Jacobs
Jeffords
Kastenmeier
Kildee
Kostmayer
Lagomarsino
Lederer
Long, Md.
McHugh
Maguire
Markey
Marlenee
Matsui
Mavroules
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mottl
Nolan
Oberstar
Obey
Ottinger
Panetta
Patterson
Petri
Peyser
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Roybal
Sabo
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Simon
Spellman
St Germain
Stack
Stanton
Stark
Stewart
Studds
Swift
Synar
Thompson
Udall
Van Deerlin
Vanik
Vento
Walgren
Walker
Waxman
Weiss
Williams, Mont.
Wirth
Wolff
Wolpe
Yates

NOES—254

Abdnor
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak
Annunzio
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bevill
Boggs
Bolling
Boner
Bouquard
Bowen
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Derrick
Derwinski
Devine
Dicks
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erdahl
Erlenborn
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frost
Fuqua
Gaydos
Giaimo
Gingrich
Ginn
Goldwater
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Heckler

Hefner
Hightower
Hillis
Hinson
Holland
Holt
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Latta
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mineta
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Sebelius
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Steed
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Volkmer
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wyatt
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—44

Addabbo
Anderson, Ill.
Anthony
Ashley
Aspin
Bethune
Blanchard
Breaux
Burlison
Carney
Coelho
Corcoran
Crane, Philip
Davis, S.C.
Dickinson
Fascell
Flood
Frenzel
Gephardt
Gibbons
Glickman
Hagedorn
Hawkins
Heftel
Jenrette
Leach, Iowa
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
O'Brien
Oakar
Rosenthal
Rostenkowski
Runnels
Sensenbrenner
Solarz
Stokes
Symms
Treen
Ullman
Weaver
Winn
Wydler
Yatron

The Clerk announced the following pairs:

On this vote:

Ms. Oakar for, with Mr. Jenrette against.

Mr. Glickman for, with Mr. Anthony against.

Mr. Hawkins for, with Mr. Breaux against.

Mr. Solarz for, with Mr. Runnels against.

Mr. Addabbo for, with Mr. Corcoran against.

Mr. ALBOSTA and Mr. BRINKLEY changed their votes from "aye" to "no."

Mr. NEAL changed his vote from "present" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. MURTHA, having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2608) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3282, ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL ACT OF 1979

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 366 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 366

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3282) to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

☐ 1440

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 366 provides for the consideration of the bill H.R. 3282 to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes.

This is a simple open rule providing for 1 hour of general debate. The first reading of the bill will be dispensed with. The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Education and Labor as an original bill for the purpose of amendment, and it provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3282 would make Federal funds available for loans and grants to both public and private schools for detection and control of hazardous asbestos materials in schoolbuildings. Scientific and medical evidence links exposure to asbestos fibers to debilitating diseases. Such materials were commonly used in school construction over the past several decades.

The bill authorizes a total of $30 million for fiscal year 1980 through 1982 for grants to schools for purposes of inspection. It also authorizes $100 million each year for fiscal years 1980 through 1982 for long-term, interest free Federal loans to school districts and private schools for the purpose of replacing hazardous asbestos materials which pose a danger to the health of schoolchildren and employees.

Mr. Speaker, this is a most worthy and much needed program. As the distinguished chairman of the Committee on Education and Labor has stated, the Asbestos School Hazard Detection and Control Act fulfills the duty of the Federal Government to be a partner in matters of this grave concern where the local resources are lacking.

I support H.R. 3282 and I urge the adoption of the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

The able gentlewoman from New York has explained the provisions of the resolution. The Committee on Rules heard this measure several months ago and it was pointed out during the hearings that a significant number of schools have asbestos hazards. Part of the funds in this bill are for grants to detect hazards, and part of the funds are for loans to remedy the hazards. I believe this bill is a good one. I have no requests for time on the rule Mr. Speaker.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio.

(By unanimous consent, Mr. LATTA was allowed to speak out of order.)

PATRIOTIC PROGRAMING BY RADIO STATION WHFD, ARCHBOLD, OHIO

Mr. LATTA. Mr. Speaker, I take this time to read an editorial which is being broadcast today over WHFD in Archbold, Ohio. This contains a marvelous suggestion and I urge other stations across the Nation to adopt it. The editorial reads as follows:

> For the past several days all Americans have seen, heard, and read of the growing tension in Iran. As of today there are still 49 Americans being held hostage in the American Embassy in Tehran. President Carter has appealed to Americans to demand the release of the American hostages by writing to the Iranian UN mission. President Carter also suggested that church bells be rung at noon each day until the 49 Americans being held in the U.S. Embassy are freed.
>
> America is a land of proud people and it is our belief that all Americans share in their hearts the deep concern and hope that the hostages are freed and that this conflict can be resolved peaceably and quickly. Beginning today WHFD—Someplace Special—will play at least one patriotic or American musical selection every three hours until all 49 Americans being held hostage in Tehran are freed. We are asking that broadcast stations throughout the U.S. join with WHFD in this musical proclamation of freedom, democracy and determination that as Americans the world will know that all of America is someplace special and that no power, dictator, or alliance in the world can ever hope to extinguish the American flame of freedom and democracy. So let this musical proclamation begin now and continue until such time as our hostages are free.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, but I reserve the balance of my time.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4962, CHILD HEALTH ASSURANCE ACT OF 1979

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 487 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 487

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 303(a)(4) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

☐ 1450

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Maryland (Mr. BAUMAN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 487 makes in order the consideration of H.R. 4692, to amend title XIX of the Social Security Act to strengthen and improve medical services to low-income children and pregnant women.

This is an open rule granting 1 hour of general debate with the time equally divided and controlled by the chairman and the ranking minority member of the Committee on Interstate and Foreign Commerce. The rule also provides for one motion to recommit upon completion of the bill.

The rule provides two Budget Act waivers so that the bill might be considered. These waivers refer specifically to sections 402(a) and 303(a)(4) of the Budget Act.

Section 402(a) of the Budget Act prohibits consideration of any bill which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless the bill was reported by May 15, preceding the beginning of the fiscal year. Various sections of the introduced bill would authorize the enactment of the new budget authority which could become effective during fiscal year 1980, and thus should have been reported by May 15, 1979.

Section 303(a)(4) of the Budget Act prohibits the consideration of a bill which provides new entitlement authority to become effective during a fiscal year before the first budget resolution for that year has been adopted. Several provisions of H.R. 4962 provide new entitlement authority which is to become effective in fiscal year 1981. The first concurrent resolution on the budget for fiscal year 1981 has not yet been adopted, the bill would be subject to a point of order under section 303(a)(4) of the Budget Act.

The Budget Committee has no objections to granting these waivers of sections 402(a) and 303(a)(4) to permit consideration of this bill.

In addition to the Budget Act waivers, the rule waives all points of order against the bill for failure to comply with clause 5, rule XXI, prohibiting an appropriation in a legislative bill.

Mr. Speaker, this is an extremely important piece of legislation to millions of poor and near poor children across the country. This bill would make crucial programmatic improvements for children in the medicaid program. It would substantially strengthen the preventive focus for approximately 15 million needy children who depend on medicaid for their health care. By emphasizing preventive and primary care, CHAP reaffirms the principle of health care cost reduction. Studies show savings of roughly 40 percent in health bills for children who receive preventive and primary care. In addition, early detection and treatment of health problems can often make a difference between life or death, a healthy and productive child against a disabled or chronically ill child who may grow up to be less than a fully productive citizen in need of public assistance.

One important aspect of CHAP extends coverage to needy women during pregnancy. Appropriate prenatal and postnatal care is extremely important during and after pregnancy, and I am very pleased that this bill places emphasis on the importance of providing pregnant women with needed medical services, care and treatment during a time when preventive care is vital. The failure to obtain these obstetrical services places a special hardship on pregnant women who are in need of these services, but very often cannot afford them.

I hope and trust that those of us who believe so strongly in Federal efforts to alleviate a condition of poor health in our communities, will support the efforts of this legislation to make this essential program an integral step in identifying and alleviating health problems that plague millions of low-income children of this Nation.

Mr. Speaker, I urge my colleagues to adopt House Resolution 487 so that we might proceed to the consideration of H.R. 4962.

Mr. BAUMAN. Mr. Speaker, the gentlewoman from New York has more than adequately described the rule.

Mr. Speaker, I have no requests for time. I yield back the balance of my time.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1871, EXTENSION OF INTERNATIONAL ENERGY PROGRAM

Mr. DINGELL. Mr. Speaker, pursuant to the order of the House granted yesterday, I call up the conference report on the Senate bill (S. 1871) to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 28, 1979.)

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on the Senate bill, S. 1871, extends certain provisions of the Energy Policy Conservation Act relating to the international energy program. The provisions extended in the conference report provide a limited antitrust immunity for oil companies with respect to their participation in the international energy program. Both Houses previously agreed to extend these provisions, but disagreed on the length of the extension.

A conference was held yesterday and it was agreed that the provisions with regard to the antitrust immunity would be extended until March 15, 1981. Under the existing law, the same provisions would expire at midnight on Friday.

The Senate yesterday approved the conference report by a vote of 83 to 0.

The legislation is noncontroversial, has bipartisan support, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of the conference report. The conference was unanimous in its adoption of the report. There were only two minor provisions. One was the time frame required in the filing of a report by the Department of Energy and the other was the time of termination of the authority granted in this legislation. We compromised both those issues. The time frame for the report is 120 days, namely, 90 and 180, which were the two considerations of the two bodies.

The other one was the March 15 deadline; namely October 31, 1981, or June 30 of 1980.

With those two compromises, we got unanimous support for the legislation.

Mr. DINGELL. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CORRECTING TITLE OF S. 1871, EXTENSION OF INTERNATIONAL ENERGY PROGRAM

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 55) making technical corrections in the enrollment of the Senate bill, S. 1871, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Speaker, reserving the right to object, I have no objection to the unanimous-consent request and agree with the proposal.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 55

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 1871) the Secretary of the Senate shall correct the title of the bill by striking out "for 2 years" where it appears therein.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ENVIRONMENTAL PROTECTION AGENCY RESEARCH AUTHORIZATION FOR APPROPRIATIONS FOR FISCAL YEAR 1980

Mr. FUQUA. Mr. Speaker, I call up the conference report on the bill (H.R. 2676) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. KAZEN). Pursuant to the rule the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 9, 1979).

The SPEAKER pro tempore. The gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. WALKER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

POINT OF ORDER

Mr. BOLAND. Mr. Speaker, I make a point of order against the conference report.

The SPEAKER pro tempore. The gentleman from Massachusetts will state the point of order.

Mr. BOLAND. Mr. Speaker, clause 5 of rule XXI prohibits committees without proper jurisdiction from reporting measures carrying appropriations. Interpretation of the rule has held that language reappropriating, making available, or diverting an appropriation already made for one purpose to another is not in order. This has been sustained numerous times, but it is very clearly stated in a ruling on August 11, 1921, and is a precedent that is nearly identical to the issue that is before us now.

In the paragraph authorizing appropriations for the health and ecological effects activity of the water quality research and development program House conferees on H.R. 2676 agreed to retain in the bill the following provision added by the Senate:

Provided, That of the funds appropriated pursuant to this paragraph $900,000 shall be obligated and expended on the Cold Climate Research program through the Environmental Protection Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon.

The 1980 Environmental Protection Agency budget request did not include any funding for cold climate research. The 1980 appropriation of EPA's research and development programs also did not include any funding for cold climate research.

The proviso amounts to a diversion of funds previously appropriated and violates clause 5, rule XXI.

Mr. Speaker, I urge that the point of order be sustained.

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The SPEAKER pro tempore. Does the gentleman from Florida (Mr. FUQUA) wish to speak on the point of order?

Mr. FUQUA. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore. The point of order is conceded and sustained.

AMENDMENTS IN DISAGREEMENTS

The Clerk will designate the first amendment in disagreement.

Senate amendment No. 1 reads as follows:

Senate amendment No. 1: Page 1, strike out all after line 6 over to and including line 10 on page 7 and insert:

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1980 for the following activities:

(1) $95,999,500 for water quality activities authorized under the Federal Water Pollution Control Act of which—

(A) $23,124,000 is for Health and Ecological Effects programs: *Provided*, That of the funds appropirated pursuant to this paragraph, $900,000 shall be obligated and expended on the Cold Climate Research program through the Environmental Protection Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon.

(B) $14,827,000 is for the Industrial Processes program;

(C) $12,250,000 is for the Monitoring and Technical Support program;

(D) $14,358,000 is for the Public Sector Activities program: and

(E) $32,340,800 is for the Energy program.

(2) $9,638,000 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act of which—

(A) $8,298,000 is for the Health and Ecological Effects program;

(B) $900,000 is for Industrial Processes program; and

(C) $440,000 is for the Monitoring and Technical Support program.

(3) $27,734,500 for water supply activities authorized under the Safe Drinking Water Act of which—

(A) $18,944,000 is for the Public Sector Activities program;

(B) $725,000 is for the Monitoring and Technical Support program; and

(C) $4,065,000 is for the Energy program.

(D) $4,000,000 is for groundwater, surface water, and soil pollution research activities.

(4) $33,977,000 for toxic substance control activities authorized under the Toxic Substances Control Act of which—

(A) $29,397,000 is for the Health and Ecological Effects program;

(B) $1,742,000 is for the Industrial Process program; and

(C) $2,838,000 is for the Monitoring and Technical Support program.

(5) $2,930,000 for radiation activities authorized under the Public Health Act, in the Health and Ecological Effects program.

(6) $134,731,500 for air quality activities authorized under the Clean Air Act of which—

(A) $50,624,000 is for the Health and Ecological Effects program;

(B) $4,050,000 is for the Industrial Processes program;

(C) $21,288,000 is for the Monitoring and Technical Support program; and

(D) $58,769,500 is for the Energy program.

(7) $19,728,500 for solid waste activities authorized under the Resource Conservation and Recovery Act, of which—

(A) $8,143,000 is for the Public Sector Activities program, and

(B) $11,585,500 is for the Energy program, of which—

(i) $300,000 shall be used for a study of non-nuclear hazardous waste disposal, including consideration of the effects of such disposal on the environment, and a general review of disposal technology, alternatives to disposal, and options for containing or removing hazardous wastes already in the environment. The Administrator of the Environmental Protection Agency shall enter into appropriated arrangements with the National Academy of Sciences to conduct this study.

The Academy should complete the study within eighteen months after funding arrangements have been made and make interim reports at least every six months to the Congress and the Environmental Protection Agency. The Administrator shall regularly report to the Congress on the Agency's response to the interim reports and shall deliver his recommendations for acting on the findings of the final study no later than July 1, 1981.

(ii) $300,000 shall be used to begin development of protocols and working manuals specifying the types of health problems associated with various hazardous wastes, effects of various kinds of exposure, and examination of exposed populations.

(iii) $1,500,000 shall be used to demonstrate cost-effective strategies for isolating, containing, or neutralizing hazardous wastes.

(8) $2,000,000 for noise control activities authorized under the Noise Control Act, in tho Health and Ecological Effects program, of which $500,000 is for the study of non-auditory effects of aircraft noise and $500,000 is for regional technical centers to assist States and local governments in establishing noise abatement programs.

(A) $16,883,000 is for the Anticipatory Research program.

(b) There is authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, for the fiscal year 1980, for program management and support, $27,452,000.

(c) No funds may be transferred from any particular category listed in subsection (a) or (b) to any other category or categories listed in either such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in either such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(d)(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air act as amended, the Federal Water Pollution Control Act as amended, and other pertinent pollution control statutes.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

(e) The Administrator shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, at least 15 per centum of the funds appropriated to the Agency for environmental research and development in each category listed in subsection (a) of this section shall be allocated for such long-term environmental research and development under this subsection.

MOTION OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Fuqua moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

Sec. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1980 for the following activities:

(1) $66,659,000 for water quality activities authorized under the Federal Water Pollution Control Act of which—

(A) $25,224,000 is for the Health and Ecological Effects program:

Provided, That the Agency is encouraged to obligate and to expend $900,000 of these funds on the Cold Climate Research program through the Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon.

Provided further, That of the funds appropriated pursuant to this paragraph, $3,600,000 shall be obligated and expended on the Great Lakes Research Station, Grosse Ile, Michigan: *And provided further*, That of the funds appropriated pursuant to this paragraph, $1,000,000 shall be obligated and expended on research to develop environmentally sound methods to control aquatic weeds;

(B) $14,827,000 is for the Industrial Processes program;

(C) $12,250,000 is for the Monitoring and Technical Support program; and

(D) $14,385,000 is for the Public Sector Activities program.

(2) $9,638,000 for activities under the Federal Insecticide, Fungicide, and Rodenticide Act of which—

(A) $8,298,000 is for the Health and Ecological Effects program;

(B) $900,000 is for the Industrial Processes program; and

(C) $440,000 is for the Monitoring and Technical Support program.

(3) $26,919,000 for water supply activities authorized under the Safe Drinking Water Act of which—

(A) $21,944,000 is for the Public Sector Activities program;

(B) $4,000,000 is for a groundwater program to include soil pollution research activities; and

(C) $975,000 is for the Monitoring and Technical Support program.

(4) $30,977,000 for toxic substances control activities authorized under the Toxic Substances Control Act of which—

(A) $26,397,000 is for the Health and Ecological Effects program;

(B) $1,742,000 is for the Industrial Processes program; and

(C) $2,838,000 is for the Monitoring and Technical Support program.

(5) $2,930,000 for radiation activities authorized under the Public Health Service Act, in the Health and Ecological Effects program.

(6) $71,963,000 for air quality activities authorized under the Clean Air Act of which—

(A) $46,624,000 is for the Health and Ecological Effects program;

(B) $4,050,000 is for the Industrial Processes program; and

(C) $21,289,000 is for the Monitoring and Technical Support program.

(7) $10,243,000 for solid waste activities authorized under the Resource Conservation and Recovery Act, of which—

(A) $3,143,000 is for the Public Sector Activities program, and

(B) $2,100,000 is for a Hazardous Waste program, of which—

(i) $300,000 shall be used for a study of non-nuclear hazardous waste disposal including consideration of the effects of such disposal on the environment, and a general review of disposal technology, alternatives to disposal, and options for containing or removing hazardous wastes already in the environment. The Administrator of the Environmental Protection Agency shall enter into appropriate arrangements with the National Academy of Sciences to conduct this study. The Academy should complete the study within eighteen months after funding arrangements have been made and make interim reports at least every six months to the Congress and the Environmental Protection Agency. The Administrator shall regularly report to the Congress on the Agency's response to the interim reports and shall deliver his recommendations for acting on the findings of the final study no later than July 1, 1981;

(ii) $300,000 shall be used to begin development of protocols and working manuals specifying the types of health problems associated with various hazardous wastes, effects of various kinds of exposure, strategies to contain releases from hazardous disposal sites, actions to be taken by on-scene response teams, and other activities deemed by the Administrator to be of urgent need in responding to hazardous waste releases; and

(iii) $1,500,000 shall be used to demonstrate cost-effective strategies for isolating, containing, or neutralizing hazardous wastes.

(8) $500,000 for noise control activities authorized under the Noise Control Act, in the Health and Ecological Effects program.

(9) $25,449,000 for Interdisciplinary activities of which—

(A) $5,099,000 is for the Health and Ecological Effects program;

(B) $16,883,000 is for the Anticipatory Research program; and

(C) $3,467,000 is for the Monitoring and Technical Support program.

(10) $103,461,000 for Energy-related activities of which—

(A) $49,186,000 is for the Health and Ecological Effects program; and

(B) $54,275,000 is for the Energy Control program.

(b) There is authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, for the fiscal year 1980, for program management and support, $26,753,000.

(c) No funds may be transferred from any particular category listed in subsection (a) or (b) to any other category or categories listed in either such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in either such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(d)(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended, the Federal Water Pollution Control Act as amended, and other pertinent pollution control statues.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

(e) The Administrator shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, at least 15 per centum of the funds appropriated to the Agency for environmental research and development in each category listed in subsection (a) of this section shall be allocated for such long-term environmental research and development under this subsection.

Mr. FUQUA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Speaker, I rise to urge the House to adopt this motion which would authorize the research and development programs of the Environmental Protection Agency. The motion would have the same effect as the language in the conference report which dealt with the same Senate amendment No. 1, except that changes have been made to correct the language that was objected to in the point of order raised earlier. Because the conference report has been rejected on a point of order, we have to deal with the Senate amendments. There are seven of these, and only one amendment, the amendment No. 1, is major. It deals with EPA research authorization. The other amendments are mostly technical. They will be dealt with in a subsequent motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that Senate amendments Nos. 2 through 7 be considered as read, printed in the RECORD, and considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida (Mr. FUQUA)?

There was no objection.

Senate amendments Nos. 2 through 7 read as follows:

Senate amendment No. 2: Page 7, strike out all after line 10 over to and including line 4 on page 8.

Senate amendment No. 3: Page 8, line 6, strike out "4" and insert "3".

Senate amendment No. 4: Page 8, line 9, strike out "$3,000,000" and insert "$500,000".

Senate amendment No. 5: Page 8, line 11, strike out "$2,000,000" and insert "$3,500,000".

Senate amendment No. 6: Page 8, line 15, strike out "5." and insert "4.".

Senate amendment No. 7: Page 9, line 2, strike out "6." and insert "5.".

MOTION OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FUQUA moves that the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, and 7, and agree to the same.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FUQUA) is recognized for 1 hour.

Mr. FUQUA. Mr. Speaker, Members will recall that this bill passed the House on March 27 by a voice vote. A very similar bill passed the Senate on May 23, also by a voice vote. There were only relatively minor differences between the two bills—both were close to the President's request. As a result, we were able to reach an agreement quite easily and keep virtually all of the provisions the House had passed.

Let me now summarize the funds authorized in this legislation. The House bill had authorized, on a program-by-program basis, a total of $381,342,000. The Senate had authorized—also on a program-by-program basis—$383,642,000. The conference report would have authorized a total of $379,492,000 for fiscal 1980. I believe the conferees did a good job in bringing the conference report in at this level of funding, and I want to repeat that the amendment before us would authorize the same level of funding that the conferees agree to. What is different in this amendment is that the direction of a specific expenditure for cold climate research has been deleted and replaced with hortatory language.

Before I yield to Mr. AMBRO, the chairman of the subcommittee that originally reported the bill, I want to say just a few words about a problem that has concerned me for some time and to tell the truth still concerns me.

That is the problem of aquatic weeds and their control. For some time now I have been pressing the Agency to take action in this area. The committee report (H. Rept. 95–985) accompanying last year's authorization bill directed that the Agency allocate $1,000,000 to develop environmentally sound methods of controlling such weeds.

As I have worked on this issue I have found that it is not just a problem in the Southern States. Both Mr. BROWN of California and Mr. AMBRO of New York have told me of problems elsewhere that they are familiar with. Indeed, it seems that various species of noxious water weeds can adapt to almost any climate. These weeds can affect water quality, marine life, and recreation, and can contribute to flooding problems. Clearly we do not want to spray toxic chemicals on them—that would just be replacing one evil with another. And mechanical removal can be expensive and almost invariably results in terrific disruption of the aquatic ecology.

What is needed is a method of control that is environmentally sound and will work safely and effectively in all parts of the Nation. In this year's House bill and in the conference report we have directed the Agency—by statute—to carry out research to develop such a program. We had to do this because, in spite of language in the committee report last year, the Agency did not propose such a program for 1980. Therefore, we have added $1,000,000 to the water quality health and ecological effects category and directed that it be spent for the necessary research.

We have, of course, been talking to the Agency about this, so they have known this was coming. They have promised to deliver to us a plan for their research program shortly. It is my intention to review the plan very carefully when it is received, and to follow this program as it is developed. It is not a 1-year item. The research must continue in an orderly manner until effective solutions are established and being effectively used.

Once again. I want to urge adoption of this amendment.

Mr. Speaker, at this time I yield for the purposes of debate only to the distinguished gentleman from New York (Mr. AMBRO), who is chairman of the Subcommittee on Natural Resources and Environment and who has done a very fine job in bringing this legislation and this conference report to the floor.

Mr. AMBRO. Mr. Speaker, I rise to urge the adoption by the House of the conference report on H.R. 2676, to authorize appropriations for environmental research, development and demonstration for fiscal year 1980. This bill contains the annual authorization for the research, development, and demonstration programs of the Environmental Protection Agency.

As has been indicated, the conferees agreed to authorize $375,492,000 for environmental R.D. & D. at the EPA, plus $4,000,000 for environmental research programs at the National Bureau of Standards, for a total of $379,492,000 for fiscal 1980. The House had authorized a total of $381,342,000 and the Senate $383,642,000 for the same purposes.

The total authorization in the conference report is only $7 million (or about 2 percent) over the President's request.

For the most part, the House and Senate bills funded the same programs at slightly different levels and the conferees merely compromised on a program-by-program basis. The two largest compromises were as follows:

First. The Senate had authorized an extra $4,000,000 over the President's request in air quality for research on diesel emissions. The conferees agreed that EPA's planned and ongoing activity was sufficient and so accepted the House figure.

Second. The Senate had authorized $3,000,000 more than the House for toxic substances research but the conferees again took the lower House for figure, because even that lower level represented substantial program growth over 1979 (actually plus 120 percent).

Nonfunding provisions of the bill were not amended by the Senate and so stand as passed by the House.

The conference report would break the authorization down by media as follows: Water quality, $66,659,000; pesticides, $9,638,000; water supply, $26,919,000; toxic substances, $30,977,000; radiation, $2,930,000; air quality, $71,963,000; solid waste, $10,243,000; noise control, $500,000; interdisciplinary activities, $25,499,000; energy-related research, $103,461,000; and for program management and support, $26,753,000.

It might be remarked that the total authorization in the conference report is less than that passed by either House. However, the total authorization figure does not appear in either bill; rather, there are separate categories for each program. Of course, the conferees did stay between the House and Senate figures for each category.

One problem that the conferees had to deal with concerned energy-related research. The Senate bill had split the energy-related research authorization among the several media (water and air quality, solid waste, and water supply). The conferees agreed to recombine the energy program as it had been in the House bill, with one exception: The Senate bill authorized several hazardous waste activities (above the House level) as part of the energy authorization under solid waste. The conferees agreed to leave these authorizations in the solid waste medium, and merely named a new "hazardous wastes" category.

This bill has some unique features—not necessarily in terms of dollar figures but in terms of programing developed primarily for the purpose of tilting the EPA in the direction of basing its regulations on expanded data gleaned from broader and more intensive research.

For example, the second most critical element in our survival, our drinking water, all agree must be protected from contaminants. But because of the explosion of chemical compounds that industry develops for a variety of useful purposes our water and our air are minute-by-minute bombarded with these.

The subcommittee believes that it is not enough for the regulation writers to attempt to ban or prohibit the intrusion of every one of these thousands of compounds. The subcommittee does believe that a great deal more should be done in determining human threshold tolerance levels and relative risk assessments in order to promulgate prudent and responsible regulations.

The committee also recognizes that, while the provision of safe drinking water is essentially a local function, that local authorities have neither the professional expertise nor the financial wherewithal to take remedial action once a contaminant has been identified as hazardous to human health.

And so the subcommittee, both in terms of its report and its funding levels have attempted to move the EPA in the direction of developing the remedial systems and the control technologies to serve as models for local decisionmakers.

Funds appropriated pursuant to this bill will be used for research projects which in turn will support the pollution abatement mission of EPA, the more publicized and frequently controversial mission of that Agency. In many cases the controversy and publicity arises when, in order to meet satutory deadlines, the Agency is called upon to make regulatory decisions on the basis of sparse information.

The R. & D. program at EPA is smaller than the programs related to abatement and enforcement, and the percentage of the overall Agency budget allocated to research activities has declined over recent years—the 1980 budget request for research represents less than 29 percent of the total Agency budget, compared with the 32 percent of Agency funds allocated to research in 1978. Thus, while the Agency is finding that its abatement mission continues to expand—as exemplified by the discovery of more abandoned hazardous waste dumps—the research program in support of these abatement activities is compelled to operate under tight fiscal restraint.

The Administrator of EPA, Douglas Costle, has commented on the problem this results in saying "we are operating within the limits of knowledge now." And talking about hazardous wastes he says:

> I think it would be prudent to make an investment in technology in order to give us an insurance policy against a future health effect that could be very grave. (Interview in the October 1979 Bio Science magazine)

The conference report now before this House would provide the funding needed for that investment in technology the Administrator talks about.

I think that all of us would like to see that EPA's regulatory decisions—either to regulate or not to regulate—are based on the highest quality information. We believe that good information will lead to more credible regulatory decisions. That is basically why we are here today, and why I urge you to adopt this report. If we are to insist that EPA's abatement programs have a sound information base, a sound and well-financed research program is essential.

With that thought in mind, let me now attempt to describe the approach we have taken in considering this bill. Basically, our consideration of the bill both in the Science Committee and in the conference committee involved setting priorities and allocating scarce resources. That is, while we attempted to stay close to the Agency's budget request, we also attempted to provide direction to their programs so as to help them generate the most useful information with the resources available. As a result, our changes in the Agency's budget request were centered more on the substance and direction of specific programs than on dollar amounts allocated to them. For example, if one compares the Agency's budget request with the conference report, it becomes apparent that the overall changes in the funding level recommended by the conferees are relatively minor.

The conferees' recommendation for the health and ecological effects research program (totaled over all media) is $186,200,000, which is virtually the same as the Agency's request of $186,702,000. This amount, incidentally, represents approximately half of the total EPA R. & D. budget. Although the overall funding level remained unchanged, there was a concern with respect to the nature and content of the Health Effects research program. In this program, we felt that the Agency needed to balance its efforts between, on the one hand, identifying new and potential health threats, and, on the other, developing quantitative information (such as tolerance levels) for pollutants already known to be harmful and perhaps already on the regulatory agenda. Thus, for all media, we have recommended program changes intended to effect such a balance. Language to this effect appears in our explanatory statement and in the committee report.

Having attempted to explain the reasoning that went into our consideration of the Agency's request and how the two bills were reconciled. I would now like to address some of the specifics of our recommendations.

One change from the Agency's request was the addition of $2 million in the water quality/health and ecological effects program to restore the program at the EPA Large Lakes Research Station, Grosse Ile, Mich. The intention is to encourage the Agency to develop hard, quantitative information concerning the effects of pollutants. For example, what human exposures result when people eat contaminated fish taken from the Great Lakes?

We would also add to the Agency request $1 million to support research on environmentally sound methods to control aquatic weeds. As Chairman FUQUA has said, the uncontrolled growth of these weeds is a major national problem presently often addressed by methods that can be very harmful to the environment such as spraying with herbicides. Again, this is an example of attacking a problem already identified rather than looking for new problems.

A major increase over the President's request, which was passed by the House and agreed to by the conferees is $4 million for a program of groundwater research. It is becoming more and more clear that a great many of our pollutants and toxic wastes one way or another end up being disposed of on land, where they can eventually migrate into our groundwater supplies. Not enough is known about how these toxic wastes migrate, about how the water supplies might be protected from contamination and how already contaminated parts of aquifers could be isolated. In other words, we need more information in order to take the first step toward actually achieving protection of our groundwater supplies. We must first understand how they might become contaminated.

In terms of the bill as a whole, I can rather briefly summarize the effects of our citizens on the EPA R. & D. budget.

First, we have made some relatively minor shifts in emphasis in the health and ecological effects program across all media.

Second, we have put increased emphasis on the area of drinking water and groundwater in order to get a good research program started in these areas.

Third, we have added some emphasis on the development of control technology to achieve the needed pollution abatement, and finally, we have encouraged the Agency to put greater emphasis on getting its research results out to a broad spectrum of users—for example, State and local officials.

Two small programs of environmental research are authorized to be carried out at the National Bureau of Standards in section 3 of the bill. These are the only funds not authorized directly to the Environmental Protection Agency. The first of these programs has to do with research into environmental measurement problems. We feel that there should be an independent effort (outside of EPA) looking at measurement and monitoring problems to insure that the most accurate and meaningful monitoring methods are established. The second program authorizes funds for a mission assigned to the Bureau of Standards in section 5002 of the Resource Conservation and Recovery Act (Public Law 94-580). In this program the Bureau would conduct research to support the development of standards for recycled materials.

Section 4 of the bill deals with certain reporting requirements and specifically requests an annual report from the Agency on their budget request and related research activities.

Section 5 provides authority for EPA to charge outside users for the use of special laboratory facilities. There are cases in which the Agency has developed unique facilities necessary to carry out its own mission; however, such facilities may not be in use all of the time. It has seemed to us that it might well be in the public interest to allow outside groups to use these facilities in certain instances. One particular example is the Agency's oil spill test facility, a large, instrumented tank in which equipment designed to clean up oil spills can be tested at full scale and with some degree of wave action present. Clearly, the Agency needs this facility for its own program and yet it has turned out that it is not used 100 percent of the time. Several outside groups have requested to use it, but the Agency does not have funds to cover such use, and it would probably not be appropriate to allow profitmaking firms to use the tank at Government expense. Therefore, this section would allow the Agency to charge such users for the actual costs of conducting tests in their special facilities.

Mr. Speaker, this concludes my remarks. I have not attempted to cover all of the items in the bill in detail; they are described in the report accompanying the bill (H. Rept. 96-58) and the conference report (H. Rept. 96-611) which is before the Members. Rather, I have tried to indicate to you our thinking and to demonstrate the ways in which we have attempted to direct the Agency's program in a way that will be most effective. We are aware that the Nation is confronted with serious economic problems and have tried to tailor our recommendations accordingly. At the same time, we recognize that the environmental problems confronting us are equally serious, and must be dealt with. I believe the conference report that we have before us today represents the most reasonable balance attainable between these two important goals, and I again urge the support of my colleagues in its passage.

Mr. FUQUA. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. WALKER), the ranking minority member on the subcommittee and one who has also rendered invaluable service to bringing this conference report to the floor.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the conference report on H.R. 2676. This bill is the annual authorization for research and development activities within the U.S. Environmental Protection Agency.

This bill passed the House last March 27, by an overwhelming voice vote. Two months later on March 23, the Senate passed a very similar bill by a voice vote. The differences between the House and Senate versions of the bill are minimal. As a result the conferees were able to reach an agreement which substantially sustains the House provisions but more importantly is a bill which can be supported by all Members of the House as being eminently fiscally responsible.

The House, last March, authorized a total of $381,342,000. The Senate acting some 2 months later, authorized 484,642,000. The conferees have managed through diligent efforts to reach agreement on an authorization of $379,492,000 for EPA research and development activities during fiscal year 1980. I can say to my colleagues in the House that the conference has done an excellent job in bringing in a conference report at this level of funding.

Mr. Speaker, I believe that my eminent colleague, Mr. AMBRO of New York, the chairman of our subcommittee has done an excellent job in summarizing the decisions reached by the conference. I do not intend to take the time of the House in going more deeply into those. I would like to point out that the total authorization in the conference report is approximately 2 percent over the President's request for this activity. Year after year we come before the House to authorize EPA R. & D. activities and we are asked why should Congress continue to provide funds for this R. & D. effort. Let me say to my colleagues that the major complaint I have heard in my years in Congress is that EPA far too frequently regulates environmental standards with insufficient data to scientifically justify their regulations. Our committee is deeply aware of this ongoing problem and we would point out that our effort is to provide sufficient funds and facilities so that the EPA will be able to do adequate scientific research in advance of regulatory effort so that the standards that they mandate under existing environmental laws will be fully supportable by an adequate data base.

Mr. Speaker, I would also point out that some Members may notice that the total authorization provided in the conference report is less than the total passed by either House of Congress. However, the total authorization figure appears nowhere in either bill. Rather, each bill contained separate catagories for each program. The conferees were careful to stay between the House and Senate figures in each category, but in this time of fiscal restraint we were able to bring back a conference agreement in which the total is less than that approved by either House of Congress.

In conclusion, Mr. Speaker, let me just say that this legislation is of great importance in this time of deep energy concerns within the United States. Our current situation in Iran indicates that traditional sources of energy can no longer be blindly counted on. Further, we are learning that in the future we will have to make accommodations if we are to provide sufficient energy supplies to the American people. In the balance between energy and the environment the regulatory activities of the EPA will take on more and more importance and be of even greater concern to the American people. Only if we provide sufficient funding and adequate facilities to insure that there is no room for future error will we be able to insure that future EPA environmental standards are sound and full supportable.

Mr. Speaker, I urge the adoption of the conference report.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I would be happy to yield to the gentleman from Illinois (Mr. McClory) for purposes of debate only.

Mr. McCLORY. I thank the gentleman for yielding.

I note in this conference report that a substantial amount of money is authorized for research and epidemiological studies relating to community water supplies. In my congressional district we have a number of communities which have barium ions naturally in their water supplies, and it has been there for eons, I would say.

The Federal EPA has established a standard for barium in such community water supplies, which is not based upon any adequate or reliable scientific studies or epidemiological data.

It is my hope that with the funds that are provided for the Federal EPA, specifically authorized for ground water research programs and for monitoring and for epidemiological work that the EPA will undertake to provide studies and data relating to barium so that at least it will base water standards upon some substantial research information. That is my concern.

The specific element of barium is not included in the conference report, nor is barium named in the committee report which accompanied the legislation which the House acted upon earlier.

Mr. AMBRO. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New York.

Mr. AMBRO. I would like to attempt to answer the gentleman's question and concern.

The thrust of my earlier remarks was precisely directed to the kind of question that the gentleman raises: Moving the agency in the direction of developing data so that we know exactly what kind of regulation we can write in terms of a variety of indices. There is sufficient money for the agency to do this. There is no specific direction from us or the report to deal with barium, but certainly since it is a concern of the gentleman's, it could certainly be part of our oversight function.

We can direct the agency to look into barium levels in order to develop prudent regulations in this regard.

I would hope that no only barium, but a variety of other contaminants will be generally a part of the kind of research they will be doing in order to form these more prudent regulations, but we will. I can assure the gentleman, notify the agency of the gentleman's concern and in oversight hearings as early as February, ask the EPA to direct themselves to the barium question.

Mr. McCLORY. I thank the gentleman very much.

I might say I have had the cooperation of the subcommittee chairman, the gentleman from California (Mr. Waxman), from the Committee on Interstate and Foreign Commerce, and we had one hearing on the subject of the EPA's barium standard in the general area that I represent in Illinois; and it would be extremely helpful if we could have a followup oversight hearing in Washington, so that it could be specifically directed at this subject of a responsible standard for barium in community water supplies.

I might say that we are confronted in these communities in my district with the prospect of expenditures involving millions and millions of dollars.

If these expenditures are necessary and they are useful and in support of providing an improvement in the quality of the drinking water, that is fine; but if, as the evidence clearly appears, we are going to substitute sodium, which poses a known danger to human health, for the barium about which there is virtually no information as far as any adverse effect on human health. It would be extremely unfortunate for us to permit the Federal EPA to persist in imposing a standard which is not based on reliable scientific data, and not based on epidemiological studies.

I appreciate the expression of support offered by the gentleman from New York (Mr. Ambro), and I appreciate the yielding of time which has been accorded to me by the gentleman from Florida (Mr. Fuqua).

Mr. Speaker, there is a very serious problem in my 13th Congressional District of Illinois related to barium occurring naturally in the public drinking water supplies. Although all experts involved agree that more studies are needed and that existing studies are clearly inadequate, the U.S. EPA seems to be maintaining their present low standard of 1 mg/liter of barium.

On November 5 there was a congressional information gathering hearing in Chicago related to this problem as it affects small communities and Dr. Andrew Reeves, representing the U.S. EPA laboratory in Detroit, suggested that if these communities, whose basically healthy inhabitants have been drinking this water from time immemorial, would care to be human guinea pigs, the information provided would be helpful. Although I have strong objections to this reference to my constituents as human guinea pigs, nevertheless the mayor of one of the villages in my district, Tom Warner of West Dundee, has written me:

> We believe that there is inadequate information available on barium removal using either ion exchange or lime softening. Therefore, we would like to have the USEPA fund pilot plant studies in West Dundee. West Dundee will provide a site for the equipment and make available raw water.

This village has already been the site of an inadequately controlled nonconclusive epidemiological study and now they are offering their water for experimentation due to another problem which has arisen. Another community, Crystal Lake, has treated their water using suggestions presently provided by the U.S. EPA and this treatment process will maintain a barium level as low as 4 mg/l but cannot consistently maintain the level as low as 1 mg/l using their present water supplies. Thus, there is clearly a need for studies related to treatment techniques as well, and I am hoping that this is included in your authorization.

I am also hopeful that animal studies will be conducted over the next 2 or 3 years regarding ingestion of barium through drinking water in order to provide an indication from scientific evidence at what level a barium standard should be established.

Therefore, I request that studies related to the presence of barium found naturally in drinking water supplies and studies related to an improved treatment method should be undertaken as soon as possible.

The treatment plant facilities presently recommended would cost around $800,000 for many of these communities, plus additional high costs for daily maintenance and sludge removal. Therefore, these small communities under 15,000 population, and most of which are under 10,000, strongly object to making these expenditures with clearly inadequate data on which to base the barium standard, particularly knowing of the disagreement expressed publicly by a number of technical experts. Some of the highest qualified technical experts feel that there is no basis at this time for any standard regarding barium. Nevertheless, the mayors of these communities want to know if there is a real danger from the barium found naturally in their water supplies and have requested that studies be conducted as soon as possible.

There is also a problem related to radium in a few of these drinking water supplies, and I believe the funding authorization includes studies related to radium. I am encouraged by our colloquy here today.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. Fuqua).

The motion was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION RELATING TO INVESTIGATIONS AND STUDIES TO BE MADE BY COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. BRADEMAS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–673) on the resolution (H. Res. 430), as amended, providing for further expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, which was referred to the House Calendar and ordered to be printed.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979

Mr. SIMON. Mr. Speaker, I call up the conference report on the Senate bill (S. 239) to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 9, 1979).

The SPEAKER pro tempore. The gentleman from Illinois (Mr. SIMON) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I am pleased to report from the conference committee on the Domestic Volunteer Service Act a 2-year reauthorization. The conference report was approved by the Senate by a voice vote.

It is, as all conference reports are on matters of some controversy, a matter of compromise, but I think the compromise, as does happen sometimes, really improves the bill, both as passed by the House and passed by the other body.

Let me just touch on a few of those very briefly. Some of the members will recall that our colleague from Oklahoma (Mr. EDWARDS), had an amendment which reduced the national VISTA grant area component from 20 percent to 15 percent. The conference put it at 16 percent, but added other limiting factors in specific dollars and in numbers of volunteers. It seems to me the sense of the House was clearly followed in that compromise.

The Senate had a provision which prohibited the use of funds for influencing State and local elections in addition to Federal elections, and that was accepted. It seems to me again a strengthening of the legislation.

On the lobbying area, there was disagreement between the two bodies and a compromise offered by my colleague from Colorado (Mr. KRAMER), was accepted.

On the legislative veto provision, the Senate, first of all, would not go along.

We had also the complication of a letter from the Department of Justice saying that they believed the provisions of the House bill were unconstitutional, and so a provision was adopted which calls for a submitting of the regulations to the appropriate committees, a postponement of the effective date and the submission to Congress of a timetable for promulgation of all regulations.

☐ 1520

On the question of termination and renewal of projects, my colleagues will recall there was some discussion in the House about having each local official, the chief executive of each local entity having the right to veto, and there was talk about the amount of paperwork that would be involved and the problems for example, of having 100 local officials in an area and one of the 100 able to veto programs for all of them.

The other body would not go along with that particular provision, but we adopted a compromise which requires the director of the agency to respond in writing to any objection that there might be. In addition, of course, we retain the right of veto by the Governor.

Frankly, I think it is a reasonable compromise. I would hope that the House would accept the conference committee report.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

At the outset, let me say on this conference report that my good friend from Illinois (Mr. SIMON) has spoken to, when he says the other body would not go along, what we were talking about, in all honesty, was one Senator sitting there with proxies backed up by the votes of the majority. So when he says the other body did not go along, it was a Senator from California who was there through the meetings. No one else was there on the majority side, so what we lost to were a handful of proxies in the pocket of one Senator and the sustaining votes of the majority members of the conference. I think that ought to be understood at the outset because my colleagues cannot really know what went on in conference unless they recognize this.

Mr. Speaker, we should reject this conference report. We should reject it for three reasons: First, it fails utterly to sustain the position of the House on any issue of importance; second, the House provisions which were scuttled are important ones, dealing with such issues as limitations on lobbying, State and local authority to veto unwanted programs, and the authority of the Congress to veto unwarranted regulations issued by Federal agencies; and third, this process whereby House conferees who do not agree with the position of the House routinely surrender to the Senate without real debate or attempt to reach a genuine compromise ought to be strongly discouraged. I fear that this tendency is especially prevalent on our committee which often has its legislation rewritten on the floor of the House and relys on surrender in conference with the other body to thwart the will of the House. If we ever are to assert the will of the House we need to rebuke its conference managers when this occurs.

As I said, the issues on which the House conferees surrendered were the major ones between the two bodies. I do not think they need great elaboration, for they are easy enough to understand. The House bill contained strong provisions against using appropriated funds for lobbying either legislative or regulatory bodies. The so-called compromise was to drop all restraint of lobbying administrative agencies and to open up the restriction against legislative lobbying to the point where it becomes virtually an invitation to use funds for this purpose. Indeed, the so-called compromise contains language about drafting and reviewing legislation upon the request of any member of a legislative body which does not appear even in the Senate bill and looks like a blueprint for lobbying. It barely falls within the scope of the conference, even given the broad reach of the Senate language permitting lobbying. We ought to reject it as a matter of public policy. In a new conference we could then carve out an exception to the House provision which might be desirable in limited circumstances but would not abandon all restraint on the use of Federal funds for this purpose.

Just as flagrant was the treatment of the House provision—adopted by a vote of 229 to 178 to give local elected officials a veto over VISTA volunteer projects within the local jurisdiction. This would parallel the veto power of a Governor for a VISTA project in the State. It was deleted. I do not see how anyone who truly believes in responsible local government can approve this conference report.

The conference even deleted an amendment we had adopted in our committee to permit the Governor of a State to veto the renewal of a project, just as the Governor can veto a VISTA project today under title I of the act. The bill we approved, with respect to the renewal of projects, would have extended the Governor's veto to the entire act.

So in this conference report we reverse a vote of the House on local option concerning the renewal of these projects and completely eliminate any option of a Governor to terminate unpopular projects as provided in the bill approved by the House.

So I do not see how anyone who truly believes in responsible State government can approve this conference report.

Finally, I had proposed an amendment, which was accepted on the other side, which would apply to these ACTION agency projects a law which has applied since 1970 to over 100 education programs administered by HEW. It is designed to give the Congress some control over regulations issued by Federal agencies which may be inconsistent with the law as approved by Congress. The heart of that detailed provision—which is embodied in section 431 of the General Education Provisions Act—reads as follows:

> Such final regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final regulation is inconsistent with the act from which it derives its authority, and disapprove such final regulation.

This provision—which originated in the other body in the first place—was stricken from my amendment as applied to the ACTION agency because the one member of the majority party in the other body who attended the conference meeting said he thought it unconstitutional. I have heard a constitutional argument raised over a one-House veto of agency regulations, but never over an action taken by both bodies. It appears that we are being deprived of our power to legislate by a single Member of the other body.

The rewrite of my amendment went further. It struck out the authority of our committee, and the Senate Committee on Human Resources, to insist that a final regulation shall not become effective until the committees have had 30 days to study it. That, too, has been existing law as applied to education regulations since 1970. To remove that power as applied to ACTION agency regulations from the House bill is insulting to the whole committee system of the Congress.

But our conferees blithely surrendered a principle affecting the power of Congress to legislate, and surrendered it in effect to one Member of the other body holding a fist full of proxies. Worse, in reality I think they surrendered it to his staff counsel who had rewritten the House provision to decimate it.

Maybe the House as a body has come to the point where they will surrender to a single Senator, but I hope it will not tolerate placing this institution in a position subservient to the Senate staff.

There was only one sentence in my amendment, which the House adopted, which has not been embodied in law for nearly a decade. That sentence declared that the rules, regulations, guidelines, and so forth, of the ACTION agency should not have the standing of a Federal statute. I never heard any argument as to why they should have the standing of a Federal statute. Where a statute is clear on its face a court does not look to agency regulations for interpretation, and where a regulation is relied upon it cannot prevail if contrary to the statute, so it cannot be said to have the standing of a statute in any event. The purpose of that sentence is more than to restate a legal maxim; the purpose was to call the attention of our courts, as well as the executive branch agencies, to the primacy of acts of Congress. The intent is to make more difficult legislation by regulation—which we all deplore from time to time but do so little to stop. But again, our conferees surrendered.

I would interject here it was not very long ago the majority leader stood in the well right next to me at this desk on the fast track legislation, if my colleagues want to look up the speech. He said, you know, the problem is that we pass these laws and we are not careful of the regulations; we should be more careful.

Well, here was a case where we were going to try to be more careful, but it comes home to haunt us many, many times. Fast track legislation was needed in the energy area because we were not careful with regulations in the regulatory process. Trying in some small way to limit the regulatory process, on the other hand, the Congress goes in the other direction.

The question posed by this conference report is how far the House itself wants to go in surrendering on these issues, as opposed to insisting on the House position or working out a genuine compromise where that is possible. I have no desire to delay action on this legislation just for the sake of delay. While I frankly admit that I would kill the bill if I could because I think there are far more effective ways we can spend the taxpayers' money to help the poor, I know the votes are not here for that. So I would do nothing to unnecessarily delay a new conference, which could swiftly be set up, if we defeat this conference report.

Accordingly, I urge you to join me in rejecting this report.

Mr. Speaker, I yield back the balance of my time.

□ 1530

Mr. SIMON. Mr. Speaker, I yield as much time as he may consume to the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. The conference report before us provides for the necessary extension of domestic volunteer programs administered by the ACTION agency. These are important and significant programs designed to benefit the poorest of the poor.

Let me say at the outset—passage of this legislation at this time is absolutely necessary. The ACTION agency and its programs have been operating on a continuing resolution for 3 years. We simply cannot allow this to continue. Passage of the conference report today will restore an authorization for the ACTION agency and its programs and activities and allow for the 1980 appropriation measure at an early date.

I should like to remind my colleagues that when this bill was on the floor of the House for consideration just a few weeks ago the House bill was passed by an overwhelming vote of 307 to 106. The conference report before us contains the substance of the bill as it passed the House. Those who supported this measure before should have no hesitation in voting for the conference report. Moreover, we have made some improvements in the conference report over the House bill and I believe that many of those who did not support it in the first instance can do so now.

May I take a few moments to commend the chairman of our Subcommittee on Select Education, Paul Simon, for his untiring efforts on this bill. This has not been an easy legislative task. There has been an enormous amount of work and effort put into the bill. In addition to the ground work that was laid during the 95th Congress the subcommittee, under the able and distinguished leadership of Chairman Simon, conducted extensive and thorough hearings. More than 62 witnesses called by both the majority and minority presented testimony. The ACTION agency and its programs were given the closest scrutiny during these hearings which, I think everyone will agree, were conducted in the most thoughtful and fair manner possible.

May I very briefly discuss the major items of difference between the conference report and the substance of the House-passed bill. Most of the changes are in three areas: Lobbying prohibitions, local veto authority, and reporting and legislative veto requirements.

The intent of the House-passed provisions on lobbying restrictions is basically maintained in the conference agreement, with two exceptions. A volunteer or employee of an ACTION program may draft, review or testify regarding measures or make representations to a legislative body, committee or member when so requested by them. The other exception is that volunteers may engage in activities involving an authorization or appropriation measure directly affecting the activities of their program, whether ACTION-funded or not. This allows participants in the retired senior volunteer program the freedom to engage in activities involving their own programs, which are partially funded by local and State governments.

The House-passed provision for the local disapproval of projects and termination of volunteers is modified in the conference agreement. The conference report provides local authorities with a strong voice as to whether programs should operate in their areas. Under the conference report if a mayor or other local authority objects to the renewal of a project, the director of ACTION is required to take these objections into account in deciding whether to renew the project.

The Director must also review the statement of objection and respond with a written statement of reasons, with specific reference to the objection, regarding his determination on the renewal. This process will provide for more local input, more information regarding possible local objections and how large a problem this really is, as well as providing for more response on the part of the Agency to such objections.

Section 420 of the statute, which deals with Agency guidelines and regulations, while not reflecting entirely the provisions of the General Education Provisions Act, is amended to give the Congress more control over such matters. In addition to the existing requirement that regulations be published in the Federal Register 30 days before enactment, under the conference report regulations must also be submitted to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources. Final regulations must also be published and submitted 45 days before becoming effective, and the Director must submit a timetable for promulgation of all such regulations, as well as a few additional requirements. These requirements may only be waived if the Director determines, and so notifies the committees, that such delay would cause substantial hardship for the intended beneficiaries of an applicable program. This should be regarded as a workable compromise, keeping in mind the need for reduced paperwork and Government accountability.

In closing, I would emphasize that this conference report is responsive to the concerns and views of the House on the ACTION Agency. Three years is far too long for an Agency to attempt constructive activities with funding from a continuing resolution. I urge all my colleagues to vote for passage of this report and the continuation of efforts to better the lives of the poor of this country.

Mr. ASHBROOK. Mr. Speaker, I yield such time as he may desire and may consume to our distinguished colleague, the gentleman from Colorado (Mr. KRAMER) the ranking minority member of the subcommittee.

Mr. KRAMER. Mr. Speaker, it is with some reluctance that I rise in opposition to the conference report and take issue with our distinguished chairman of the Committee on Education and Labor, on his interpretation of the conference report. I, for one, believe that the conference report guts most of the significant provisions that the House added during its debate on this particular authorization. This conference report simply does not provide the protections attached by the House to insure the integrity of the programs designed to assist the least advantaged among our citizenry.

Let us just for a moment enumerate those issues on which the Senate has emerged as dominant to the detriment of the House position.

A requirement that the agency not renew any ACTION project when so requested by the Governor—added by the House, deleted in conference.

The provision giving local elected officials approval and termination authority over VISTA projects in their jurisdiction—in the House bill, deleted in the conference.

The prohibition on the use of Federal funds for lobbying activities before regulatory agencies—added by the House, deleted in the conference.

The limitation on funds available for national grants raised from 15 percent to 16 percent.

The provision added by the House for congressional review and veto of agency regulations—deleted by the conference.

The House authorization level of $42.5 million substituted with the totally openended "such sums."

In short, on every major area of difference between the House and Senate bills, the House position was deleted or modified to reflect the other body's views. These amendments are not trivial, but taken together I think reflect the problems and controversy surrounding the agency and its programs as a result of the trend toward encouraging political activism under the agency's leadership. These amendments were designed to preserve the integrity of the job of the agency—to assist the poor and the disadvantaged in our communities, not to put them in confrontation. The effect of these deletions, I think, is substantial.

I would just like to go into, for a few minutes, the kinds of projects which ACTION has supported and which led us to adopt the amendments that the House decided to adopt, that have now been deleted in the conference report.

For example, there has been a growing number of local reports showing dissatisfaction with ACTION-supported projects by local governmental bodies, projects which are creating division and contention in local communities and are not fulfilling the purposes of the agency. For example, when a local community asked that a certain project be terminated—in fact, voted on it twice—the ACTION response, in a report noted for its bureaucratic arrogance from the State director, was as follows, and I quote:

> The town council has twice voted to request termination of the project. I expect to receive a letter from the town council requesting that I immediately terminate the VISTA project. I have concluded that sufficient grounds for terminating the project do not exist. Many residents feel the town council does not accurately reflect their opinions on this matter. There is now even some discussion of a recall petition aimed at the three council members.

I think this report reflects, as succinctly and clearly as it is possible to do so, the reasons why this amendment is necessary: That one State director should feel sufficiently unencumbered by the need to be sensitive and responsive to the decisions of locally elected officials that he would unilaterally take it upon himself to overrule a request made by the local governing body and go beyond that to suggest that political action, in other words, the recall of these town council members who oppose his viewpoint should be, or could be initiated. I think that is the reason that we need this amendment so desperately, and it should be retained.

□ 1540

Another community leader in commenting on a national grant program in his community stated, as cited in the Washington Post just 2 months ago.

> They—

Being the VISTA volunteers—

> are involving themselves in local election matters. They are running for offices. Their activities amount to nothing more than government-supported activism.

From my own State of Colorado, because of the debate on this issue, one of the county commissioners got in touch with me and told me about problems in his own local community. When an OEO-sponsored program that also contained VISTA volunteers came in, it caused a confrontation in the community involving the organization of chicanos in lettuce strikes and created a tremendous division in the Catholic parish and in the local government entity. So these are not isolated events, and I think we have just begun to scratch the surface. It is not surprising they are not isolated events when we consider the people—and the philosophy of the people, more importantly—who are running the agency today. Let us just take a look and see the kind of philosophy upon which this agency is predicated today.

Mr. Brown, Director of the Agency:

> Politics is the struggle to redistribute power and wealth. That's what I'm all about.
>
> Right now we have VISTA lawyers pushing paper for the community. My view is that they ought to be filing cases against the community.

Marge Tabankin, the VISTA director, reflects the same philosophy:

> If VISTA means organizing against a bank that's redlining, yes; . . . if it means taking on City Hall, yes.

Mr. Brown:

> VISTA is not simply a service organization . . . It ought not to be just a bunch of low-paid social workers. It ought to be people helping to get themselves together to build new institutions.

Marge Tabankin:

> VISTA should be organizing people to act upon their rights as citizens and work towards a more equitable distribution of income and opportunities.

Have Sam Brown and Marge Tabankin changed in their philosophy as a result of this exercise by the committee in which the subcommittee held days and days and days of hearings on authorization? And we have spent hours on the floor and now another hour? No. As recently as 2 months ago Mr. Brown was telling a group of native Americans that they need to get involved in elective politics; that elections are decided by narrow margins, and that they need to bloc vote; and he urged them to take an active role in the Democratic Party's nominating convention and platform process. Only 1 month before that statement was made—in September—he said:

> When people begin to realize basic problems facing them and when they begin to enjoy success in solving these problems, they begin to think politically. We don't plan it that way, but we don't discourage it when it happens either.

Yet, 3 weeks later in his role as Director of this agency, he is activating a group of Americans, a special interest group, one that has just causes, but he is activating them in the American political scene in his capacity as Director of the ACTION program.

Let us go on and see what the philosophy is that ACTION has supported in the past. Let us go beyond the Director and VISTA Director and see just what kind of organizations are being supported and what they are advocating. Two of the largest national grants and two of the first went to ACORN and the Midwest Academy. These organizations were used to train VISTA volunteers in community organizing, and they provided literature to train these volunteers. What did the literature say? Let us take a look at some selected samples:

> It has to be understood that ACORN deals with power, and not simply with winning issues, be they consumer issues, or environmental issues or economic issues, or whatever * * * all these issues are mere manifestations of a much more fundamental issue: the distribution of power in this country.

And from Midwest Academy:

> The Midwest Academy teaches how to unite people in step-by-step campaigns where our collective strength wins concrete improvements and begins the job of redistributing social wealth and power.

ACORN comes back and says:

> * * * unless your organization addresses the question of who has the power to control what happens in a neighborhood, a city, a county, or a State—and who should have the power to control what happens in these areas—then all your organization will achieve is a proliferation of stop-lights in low- and moderate-income neighborhoods, which theory leads inexorably" to the fourth: involvement in electoral politics * * *. It makes no sense to spend an afternoon confronting an elected official who is not doing the job he is supposed to be doing and then ignore the same official come November.
>
> On a more fundamental level, ACORN members understand that it is possible to begin exercising control over economic insti-

> tutions—over utility companies, for example, or over banks—by grabbing hold of the reins of political power.

I will tell the Members the material these organizations put out is not only advocacy; it is inflammatory advocacy. Let us take a look at some of the statements in a little more detail in those training manuals:

> Our goal is building power * * * we are not interested in just making people like each other. People coalesce around power, anything else is social work acclimating people to what exists.
>
> Always be wary and careful with people who are seen as community leaders in the neighborhoods * * * some are good and some are bad, but they are always potential problems * * *.
>
> When recruiting people stress power * * * what organizations have done and what they can force people to do.

Midwest Academy makes some of these things look pale by comparison:

> Give people a "taste of blood." Push your opponents so hard you can see them squirm.

That is what our dollars are financing, and without a local elective veto power in an ACTION authorization bill, this kind of thing will continue to happen. What more do these training manuals say?

They say:

> Make what the opposition is doing or not doing sound scandalous. It generally is scandalous, but the edge may have been dulled by the routine manner in which it is normally treated.
>
> Stunts can help * * *. If, for example, a politician won't meet with you, tape a sign across his office which says, "This Office Closed to the Public." If someone won't come into a debate, put a dummy in the chair and debate that for dramatic effect.

So the materials go on and on. I think, in light of these materials, in light of the philosophy of the VISTA Director and the Agency Director, it is irresponsible for us to authorize the existence of this agency without giving local elected officials the power to at least veto the operations of VISTA volunteers in their communities.

There are other things in this conference report that I think we ought to just highlight briefly. The ranking minority member, I think, was brilliant in his explanation of the cutting of a regular and prized procedure in this House, and that is a legislative veto of the agencies' regulations. What can the agency be afraid of? Why can we not have a legislative veto provision over the regulations that this agency has promulgated, especially in light of the problems this agency has encountered over the last few years? We have totally deleted the prohibition on regulatory agency lobbying. We put these in for good reason in the House, and the conference took them out. Without these restrictions, without these provisions, we shall give a green light to the ACTION agency to go ahead and lobby before regulatory bodies.

I have a list of activities ranging from the Massachusetts Community Center narrative to the New Jersey Citizen Action Alliance asking for funds, delineating clearly to the agency before they even got started that the basic purpose for which they wanted a grant was advocacy before regulatory and legislative bodies.

I think to adopt this report is irresponsible and ill-advised.

Let us go on to one other and final point. In the House we set an authorization ceiling, and yet in the conference this was taken out and the words "such sums" were substituted. What does this mean? I think we know what it means. It means we have given a green light in effect for the institution of the new Urban Volunteer program initiative, which called for $12 million worth of new authorization and which was taken out in this House. We have opened the door. We have not limited in any dollar sense, any meaningful sense, the ability of the Agency to go into new areas. The House should stand firm in its resolve against deficit spending, against new spending at a time when the Federal deficit has brought us an intolerable 15-percent rate of inflation. Especially is it irresponsible to add to the budget authorization of an agency which has proven itself to be in violation not only of statutes but of its own internal policies.

In sum, the House bill was supportable because it contained basic protections against further agency abuse of taxpayers funds. Those protections have been eliminated in this conference report. And hence the measures which the House is acting on today is fundamentally different from that passed by the House.

Mr. SIMON. Mr. Speaker, will the gentleman yield on that last point?

Mr. KRAMER. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding. I was very interested in his criticism, his severe criticism, of the use of "such sums may be necessary." Does the gentleman recall whose suggestion it was in the conference that we put that in?

Mr. KRAMER. No, I do not.

Mr. SIMON. I think he will find it was the ranking minority member of the House Education and Labor Committee who suggested that possibility, and we acceded to that request. But I was interested in the gentleman's criticism.

Mr. KRAMER. I thank the gentleman for his remarks. Of course, I think the able ranking minority member is perfectly capable of speaking for himself, and I do not have to speak on his behalf.

☐ 1550

Mr. ASHBROOK. It was our hope the Committee on Appropriations would give them nothing and possibly that is what resulted from this.

If the gentleman will recall, it was the choice between that and $60 million and it was the only way we could head off the $60 million figure.

Mr. KRAMER. I think that is absolutely correct from my recollection that the Senate was advocating a $60 million authorization figure rather than the $42.5 million that the House called for, and the strategy was that this was probably better than the $60 million. So we have an indication of what direction I think the agency is going to go in with "such sums," and I think that quite frankly it is unsupportable to give them an open-ended authorization in the light of their previous history and activities.

Now, I would hope, in a spirit of compromise, Mr. Speaker, we could go back to the conference table and redo this bill, not to delay it, not to scuttle it, not to kill it. I voted for the bill as it came out of the House. I thought we had made those kinds of reforms which were significant and meaningful and would put the Agency on the right footing and would put them back in the business of helping the disadvantaged rather than confronting local elected officials. I think we could still get that job done, but the first step in doing that is defeating this conference report, and I hope that other Members of the House will join with me in doing just that.

Mr. SIMON. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, I had not planned on speaking on this particular piece of legislation, but I could not let the remarks of the gentleman from Colorado go without some comment.

I think the gentleman makes what, by most reasonable standards, would be considered a rather extreme argument here. I think that some of us during the past week have had the feeling that we have been not in the U.S. House of Representatives but at a National Chamber of Commerce meeting, with all the rhetoric about how the Federal Government can do no good and never makes a positive contribution to anyone's life. I think that is a rather extreme argument.

The argument that we are using taxpayers' dollars to encourage activism is one that needs to be examined.

For example, the Washington Sunday Post, as you know, featured the ACTION program and its contribution toward making Fitchburg, Mass., a model community, with regard to conservation. It was a rather impressive article. There was activism involved in that project. Real activism. In fact, there was even some confrontation with certain local people involved, in the same sense that we use confrontation in a debate.

When the gentleman says that we should be helping the disadvantaged but not have any confrontation of any kind, that we should never do anything that local officials do not want, I think he is missing the point.

If I might have the gentleman's attention for a moment to relate a personal experience: In the late 1960's this Government tried to help some of the indigenous population of some inner-cities become involved in upgrading their communities.

I refer specifically to some of the street gangs that were formally involved in violence and confrontation; they later became involved in storefront schools and recreation programs and similar constructive efforts. The gentleman may not know that those programs were cut out almost entirely because of pressure from both Democrats and Republicans. That pressure was often generated by complaints from local officials. Those programs were eliminated because of the great political pressure that was generated from local officials.

Mr. Speaker, report after report now say that we made a mistake in cutting out some of those programs—those were the only programs that gave many of the young people in these communities a sense of worth, that lifted them out of their poverty, that gave them some self-respect and training. They circumvented much of the regular antipoverty bureaucracy. There were people who charged at that time that the Government was funding activism, and that led to the elimination of those programs.

Mr. Speaker, when all these young people were in the street demonstrating and marching in the streets, what did we say to them? We said, get into the system and do something constructive. Now, regretfully, the gentleman is saying: "Oh, no, the Government should not be involved in encouraging any activism."

Mr. Speaker, let us understand one thing. Many of these things are high-risk endeavors. Such endeavors are going to require two things from this body and from the American public. First, it is going to require some political courage. It means not jumping on every little project that shows any defect.

Second, it is going to require some patience on the part of the public and their elected officials, to see how these things work out. The gentleman has raised some good issues. I think the chairman of the subcommittee would agree with that. The gentleman has made some constructive suggestions. But to suggest, as he has, that the Government should in no way be involved in encouraging activism is like being against motherhood and democracy and all we stand for. We are not in Leningrad, and the gentleman knows that. We are in the United States of America, where activism is like apple pie. And it sometimes involves confrontation, and it sometimes involves public officials saying, "Let us give it a chance and see how it works, because we would rather have people in the system than out on the streets demonstrating." I am sure the gentleman agrees with that.

Mr. KRAMER. Mr. Speaker, I did listen carefully to the remarks of the gentleman. I appreciate where we are coming from. I think we simply have a true difference in philosophy.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ASHBROOK. I yield 1 minute to my colleague from Connecticut.

Mr. MOFFETT. I yield to the gentleman from Colorado.

Mr. KRAMER. I thank the gentleman.

I would simply like to point out to the gentleman there is no debate here. No one is trying to say that people do not have a right to organize, to advocate those things in which they believe, to try for social change, to try for regulatory change, to try for statutory change. Absolutely, in a free society, they ought to have that right, they do have that right and I would do nothing to impose or impinge on that right. The question is, do we favor one group over another with taxpayer-financed advocacy? To that I have to respond, no we ought not to be doing that.

Mr. MOFFETT. Mr. Speaker, if I may reclaim my time for a moment: if the gentleman were a community organizer with VISTA or any similar organization, he would work with all sorts of groups. It is like being an ambassador. It makes no sense to have a Congressman here on the House floor saying, "Oh, no, they got involved with the wrong group." You cannot have credibility in a community on the grassroots level unless you have your antenna out and unless you are dealing with different groups. Yet when the VISTA volunteers do just that, they get criticized.

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I shall very briefly respond to my colleagues from Colorado and Ohio.

First of all, 90 percent of what my colleague from Colorado was talking about really refers to the initial authorization. We responded to that at the time. I am not going to take the time of the House to do that again, but will mention one of the criticisms that he touched on: When my colleague from Ohio suggests we accept such sums in conference and we accept that and then are criticized by the other side for having that in the conference report, it becomes a little difficult to work out compromises.

Mr. Speaker, my colleague from Ohio mentioned several points that I think are substantial that ought to be responded to and I shall do that very briefly.

First, on the local veto. We have several protections. No. 1, the local official can go to the Governor. No. 2, the local official is now mandated under this law if we adopt the conference report, to have a written reply from the director of the agency as to why a program should continue if the local official does not want it.

No. 3. I would point out, if we turn this down then we go back to a continuing resolution with nowhere near the protections that we have under this conference report and under this proposed resolution.

□ 1600

The second point is the veto by the Governor. We retain the veto by the Governor in the critical area of VISTA. The Governor may at any point veto either a VISTA volunteer, one person, or a VISTA program. VISTA is the only controversial part of the ACTION program and that veto is retained.

Third, on the congressional veto, my distinguished colleague, the gentleman from Ohio, and I have great respect for the gentleman, the gentleman is one of the more able Members of this body, said that we simply blithely surrendered—to use the gentleman's phrase—to one Senator from the State of California who represented the Senate.

In fact, there were two other Senators who dropped in at one point or another, a former colleague of ours from the House, the gentleman from Colorado (Mr. ARMSTRONG), and another, the gentleman from New Hampshire (Mr. HUMPHREY).

If you will recall, at one point we were not able to reach agreement, because the Senator from California wanted to get hold of the Senator from New Hampshire to see whether the gentleman would agree on a certain point or not. I think that is the fact.

Mr. ASHBROOK. Mr. Speaker, will my colleague yield on that point?

Mr. SIMON. I would be pleased to yield.

Mr. ASHBROOK. Mr. Speaker, I think my colleague well recalls both of those Members left in almost, I will not say contempt, but in frustration, that it did not make any difference for them to be there anyway, that the proxies outvoted them. As a matter of fact, they did not sign the conference report, they were so upset.

Mr. SIMON. Mr. Speaker, I think in fairness to the gentleman from Ohio, we have probably seen proxies outvoted on the House side too from time to time. The gentleman from New Hampshire did take an active part. I would point out, also, that the opposition to the congressional veto was not simply from the Senator from California, but we had a letter from the Department of Justice very specifically pointing to the Ashbrook amendment, saying it was clearly unconstitutional. The conference committee went along with the Senate compromise because of the Justice Department's stand and the stand of the Senate.

I think, Mr. Speaker, this is a reasonable compromise. I hope the House will quickly adopt it.

Mr. ASHBROOK. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, I had not intended to speak today, not being a member of this committee; but listening to the discussion and realizing this is a bill I voted for when it was here before, and after looking at it in its present form after coming through the conference, recognizing that I will be forced to vote against it, I thought I might take this time to try to explain why.

I thought that the gentleman from Connecticut did a very sincere job of telling us why the gentleman believed we should vote for this; but I thought one of the comments the gentleman made was most interesting and to me really underscores why we ought not to vote for this particular piece of legislation in this present form.

He said that a VISTA volunteer is much like an Ambassador. An Ambassador has to deal with all types of people in a particular community. I think that really is the problem that many of us happen to think that our constituents are registering with us on a daily basis. For too long a period of time and for too many circumstances, people from Washington act as Ambassadors from this foreign capital to the poor people back home to tell us how we are to order our lives; particularly when it comes into question with what our elected officials are doing and we say we have to have confrontation politics and we have to allow these people to get involved on confrontation.

Where in God's name is democracy in all this? What about the idea that elected officials have the opportunity to represent the people that elect them in those areas?

To those who suggest that, well, if you are to help these people, the way to do it is the way this law is constructed, so that VISTA volunteers can allow them to have confrontation politics. I ask those colleagues, do you favor using Federal funds for low income parents so that they can oppose forced racial busing?

Would you suggest that VISTA volunteers should organize people, using taxpayer funds, organize them against Federal funding of abortion? I do not think we would have the same lineup here as we have today.

The question is not whether people should be heard. The question is whether Federal funds should be directed to specific individuals to allow their political persuasion to come to bear on decisions being made at the local level. That is the essential question.

The question that we are confronted with here daily is how do we draw the distinction between what is a proper function of local government and what is a proper function of the Federal Government?

Well, it seems to me that one of the best things that we can do is reject the idea that somehow the Ambassadors from the great capital in Washington are to come to those of us in the provinces in our particular districts and explain to us how Government ought to operate and to try to correct the tremendous errors that are being made by local officials.

It was suggested that decisions have been made in the past that were mistakes, that certain programs to help former gang members were cut off when they should have been contained. Well, I admit that there have been mistakes, but what Member can say that we do not make mistakes here in Washington and our mistakes because of the purview of them are even worse than those at the local level.

Mr. SIMON. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, in support of the conference report, I cannot believe the broad brush with which this program is being painted. I come to you as someone who served as Connecticut's commissioner on aging for a 2-year period of time and I say to you positively and emphatically, without the ACTION program many of the forward steps that Connecticut took to provide a high level quality of life for its senior citizens would not exist.

Look at what we are talking about, volunteers funded, yes, for expenses, who provide services of looking at complaints in nursing homes under a nursing home ombudsman program; volunteers, yes, funded for expenses who serve as home health aides so that people can be kept out of institutions; volunteers, yes, funded for expenses who work with the elderly nutrition programs; volunteers who serve as tutors in school systems so that kids who otherwise would go astray can have the benefit of an experienced voice and mind working in a position as a volunteer in the ACTION program.

These are critical programs. These are positive programs. These are programs without the limited expenses we provide the volunteer that would not exist.

Do not paint with a broad brush. Much benefit has come to society through the ACTION program. I speak directly of Connecticut's experience. We want the ACTION program and the only way we can have it is by approving the conference report.

I urge its support.

Mr. SIMON. Mr. Speaker, let me just take 30 seconds to respond to the gentleman from California, who I think believed that the things that the gentleman from Colorado described were typical of the ACTION programs.

Confrontation in the ACTION programs is the extreme rarity, rather than what the program is all about. I think my colleague should know that.

What my colleague, the gentleman from Connecticut (Mr. RATCHFORD) talked about, is what ACTION is all about.

● Mr. BIAGGI. Mr. Speaker, as a member of the House Select Education Subcommittee and a cosponsor of the House bill, I rise in full support of the conference report to S. 239, the Domestic Volunteer Service Act Amendments of 1979. I served as a conferee and feel the final legislative product is a good one which maintains the best features of the House-passed bill.

I wish to direct my comments to one very important feature of this conference report on which I had a direct involvement. The House passed legislation imposed new prohibitions against lobbying activities by ACTION personnel or volunteers. During House consideration I offered an amendment to the Kramer amendments to restrict the prohibitions to "those partisan or nonpartisan attempts to influence the passage or defeat of any Federal, State, or local legislation referenda or other ballot initiatives or any rulemaking or regulatory action."

In the ensuing weeks after House passage a number of concerns were raised by representatives of the retired senior volunteer program (RSVP) one of the three Older Americans Volunteer programs run by ACTION. Their concern was notwithstanding the modifications which my amendment made to the original Kramer amendment that it would still have the impact of restricting their activities in such vital areas as appealing for matching funds from State and local governments.

As a cosponsor of the 1978 Older Americans Act amendments which extended and increased funds for the OAVP programs for 3 years, it was never my intention to have my amendment restrict those activities of RSVP volunteers necessary for their program.

In conference, this issue was discussed at great length and the final language agreed upon should allay the concerns of the RSVP program personnel. The conference report will not preclude those communications requested by a legislative body or individual legislator or those activities carried out in connection with an authorization or appropriations measure directly affecting the program.

This provides safeguards against abuses but will not cripple the effective operations of the RSVP or the other Older Americans Act Volunteer programs. They are among the most cost effective programs in the Federal Government. It is estimated that for each $1 dollar expended on the volunteers, $6 is returned in the form of services by the volunteer. I am grateful that S. 239 does recognize the inherent worth of these programs. I urge adoption of the conference report.●

Mr. SIMON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SIMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 214, nays 152, not voting 67, as follows:

[Roll No. 694]

YEAS—214

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Derrick
Dicks
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Ertel
Evans, Del.
Fary
Fazio
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gudger
Hamilton
Harkin
Harris
Heckler
Holland
Holtzman
Horton
Howard
Hughes
Hutto
Jacobs
Jenkins
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta

Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Smith, Nebr.
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stratton
Studds
Swift
Synar
Thompson
Traxler
Van Deerlin
Vento
Volkmer
Wampler
Waxman
Weiss
White
Whitley
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—152

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bevill
Bouquard
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Ga.
Fenwick
Findley
Flippo
Forsythe
Gingrich
Goldwater
Goodling
Gramm
Grassley
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Ichord
Ireland
Jeffords
Jeffries
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDonald
Madigan
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Myers, Ind.
Nichols
Paul
Petri
Quayle
Quillen
Regula
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Shelby
Shumway
Shuster
Skelton
Slack
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stump
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Watkins
Whitehurst
Whittaker
Whitten
Wylie
Young, Fla.

NOT VOTING—67

Anderson, Ill.
Anthony
Aspin
Bedell
Bethune
Bonker
Brinkley
Burlison
Carney
Coelho
Corcoran
Crane, Philip
Davis, S.C.
Dellums
Devine
Dickinson
Diggs
Dingell
Dixon
Evans, Ind.
Fascell
Flood
Ford, Mich.
Frenzel
Garcia
Gephardt
Giaimo
Glickman
Hagedorn
Hall, Ohio
Hanley
Hawkins
Hefner
Heftel
Hollenbeck
Hyde
Jenrette
Leach, Iowa
McEwen
McKay
Mathis
Mazzoli
Mollohan
Murphy, Ill.
Myers, Pa.
O'Brien
Pashayan
Rose
Rosenthal
Rostenkowski
Runnels
Sensenbrenner
Solarz
Stokes
Symms
Treen
Udall
Ullman
Vanik
Walgren
Weaver
Wilson, Bob
Wilson, Tex.
Winn
Wydler
Yatron
Young, Alaska

☐ 1620

The Clerk announced the following pairs:

Mr. Giaimo with Mr. Sensenbrenner.
Mr. Rostenkowski with Mr. Carney.
Mr. Myers of Pennsylvania with Mr. Symms.
Mr. Hanley with Mr. Wydler.
Mr. Hawkins with Mr. Hyde.
Mr. Jenrette with Mr. O'Brien.
Mr. Mazzoli with Mr. Dickinson.
Mr. Davis of South Carolina with Mr. Bob Wilson.
Mr. Burlison with Mr. Anderson of Illinois.
Mr. Anthony with Mr. Bethune.
Mr. Dingell with Mr. Hagedorn.
Mr. Fascell with Mr. Leach of Louisiana.
Mr. Evans of Indiana and Mr. Frenzel.
Mr. Dixon with Mr. Winn.
Mr. Coelho with Mr. Corcoran.
Mr. Mathis with Mr. Devine.
Mr. Mollohan with Mr. Young of Alaska.
Mr. Rose with Mr. McEwen.
Mr. Murphy of Illinois with Mr. Pashayan.
Mr. Stokes with Mr. Philip M. Crane.
Mr. Weaver with Mr. Hollenbeck.
Mr. Udall with Mr. Solarz.
Mr. Garcia with Mr. Bonker.
Mr. Aspin with Mr. Bedell.
Mr. Brinkley with Mr. Hefner.
Mr. Dellums with Mr. McKay.
Mr. Diggs with Mr. Hall of Ohio.
Mr. Ford of Michigan with Mr. Gephardt.
Mr. Glickman with Mr. Heftel.
Mr. Vanik with Mr. Runnels.
Mr. Rosenthal with Mr. Ullman.
Mr. Walgren with Mr. Charles Wilson of Texas.

Mr. NELSON changed his vote from "nay" to "yea."

Mr. SKELTON changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished acting majority leader as to the program for the balance of the week and for next week.

Mr. FOLEY. If the distinguished minority leader will yield to me, first of all, I might say that no session is planned for tomorrow, and it will be the purpose to ask that when the House adjourns tonight, it adjourn to meet Monday next.

On Monday, there will be consideration of the Consent Calendar and 10 bills under suspension.

The bills under suspension are:

H.R. 5138, Civil Service Authorization Act;

H.R. 2535, tariff suspensions on alloy tool steels for chipper knives;

H.R. 2537, duty suspension on strontium nitrate;

H.R. 3352, temporary duty suspension on imported fluorspar;

H.R. 4309, tariff amendments re cold finished steel bars;

H.R. 5441, tariff schedule amendments;

H.R. 5580, NATO Mutual Support Act of 1979;

H.R. 4310, Federal Small Boat Safety Act amendments;

H.R. 5892, Wind Energy Systems Research, Development and Demonstration Act; and

H.R. 2743, Materials Policy, Research and Development Act of 1979.

All votes will be postponed until Tuesday.

☐ 1630

Also on Monday we will consider H.R. 4962, the Child Health Assurance Act of 1979, an open rule, the rule already having been adopted, for general debate only.

Also we will consider H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979, an open rule, 1 hour general debate only, and the rule has already been adopted.

The House meets at noon on Tuesday, and at 10 a.m. on Wednesday, Thursday, and Friday.

On Tuesday and the balance of the week we will consider H.R. 2608, the Nuclear Regulatory Commission Authorization Act to completion of consideration;

H.R. 3948, the Experienced Pilots Act of 1979, an open rule, 1 hour debate;

H.R. 4962, the Child Health Assurance Act of 1979, votes on amendments and the bill;

H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979, votes on amendments and the bill;

H.R. 5461, the Martin Luther King birthday bill, subject to a rule being granted;

H.R. 2492, tariff treatment of crude feathers and downs, an open rule, 1 hour of debate;

S. 423, the Dispute Resolution Act, an open rule, 1 hour of debate.

Lastly we will consider H.R. 2977, the Domestic Violence Prevention and Services Act, subject to a rule being granted.

The House will adjourn by 5:30 p.m. on all days except Wednesday, and by 3 p.m. on Friday. Any further program will be announced later.

This is, of course, made subject to the usual caveat that conference reports may be brought up at any time. Any further program will be announced later.

Mr. RHODES. May I ask my good friend from Washington if he can foresee the probability of a session next Friday? I have received communications orally from several Members, as I am sure the gentleman from Washington has, concerning the fact that there will be no session tomorrow. I think everybody is in favor of there being no session tomorrow, but the feeling is that if this had been announced earlier the Members would have then been able to make plans which would allow them to utilize the time now available to them to greater advantage.

It does strike me in looking at this calendar that it is not made up of legislation which is of a vital nature, to say the least, and perhaps the leadership on the majority side might be able to give the membership advance notice if, indeed, there will be no session next Friday.

I have to thank the gentleman from California for his applause. That is the most, I want to say to my friend from Washington, that is the most applause I have ever had on this floor. I think I may have made the most important statement I have ever made as well.

Mr. FOLEY. If the gentleman will yield further, I think the record will show the applause was from both sides of the aisle.

Mr. RHODES. They were, indeed.

Mr. FOLEY. Unfortunately, I am not at the moment authorized to assure the distinguished gentleman from Arizona anything, other than a Friday session is currently being planned for next week. But I will convey to the higher reaches of our leadership the suggestion of the distinguished minority leader that an early determination be made on that question for the convenience of Members.

Mr. RHODES. I am contented with the quality of my emissary, and I am sure the word will be taken on high.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I have no ambition to threaten the leadership of my distinguished minority leader, nor certainly the credentials to threaten the leadership on that side of the aisle. But I would like to ask what I think is an even more vital question, and that is, without depreciating the importance of the tariff treatment of crude feathers and downs, to ask if we have come to this point in the schedule, are we going to just keep going right up to Christmas Eve on this sort of thing, or will there be some date at which we might come to a whimpering conclusion on this session? Now, it occurs to me that for many of us who have young families, that date significant to our departure is the 19th of December, when most of the public schools in the area are let out. Many of us will pack the kids and the Christmas presents in the car and try to make it over the mountains before the snow flies, in the hope that we can make it home by Christmas Day.

Now, could either one of the gentlemen advise me as to what they are hoping for, nay praying for, for Christmas holidays?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Washington.

Mr. FOLEY. The hope is to be able to, I think, adjourn before the critical date that the gentleman mentioned, the 19th of December. I think the gentleman understands that it is not necessarily pursuing such bills as the Tariff Treatment of Crude Feathers and Downs that will keep the House in session even that long, but the concern about some very significant legislation dealing with energy which might possibly be ready for action by the House and the other body in the third week of December.

The majority leader has suggested at his press conference, and I pass this on to the gentleman, that the original target date that he was thinking about was the 14th or the 15th of December. He now foresees the possibility of the House staying in session perhaps as long as the 21st of December. I think the majority leader and other Members of the leadership on this side hope it is not that long but, unfortunately, we cannot give a clear target date to the gentleman at this time.

Mr. BROWN of Ohio. If the gentleman will yield further, let me just observe that this is not the termination of a Congress, this is the termination of a session. Apparently we will be returning sometime in January. I would just hope that there are not plans for waiting until the 21st or the 23d or 24th for conferees to finish what may be alleged to be critical legislation that could not be deferred until after we returned if, in fact, it cannot get completed by the 19th. If it is not completed by the 19th, I venture to say there will be several automobiles with wives in them, and children and presents honking out in front there in the plaza, and somebody is going to have to go out and tell them—and it is not going to be me—that we are not going to be in that car, because I will have to get out and get in the car and go, since I sometimes succumb to a higher authority.

Mr. FOLEY. If the distinguished minority leader would yield further, George Washington wrote a book on civility, among other things that he did, and as I recall, his number 85 was in the presence of your seniors and betters, put off your hat, speak briefly and sit down. My senior and better has arrived, and I will put off my hat and sit down.

Mr. RHODES. If I still have a few seconds, Mr. Speaker, I just want to say that I do agree with the sentiments of the gentleman from Ohio. I have discussed this with the distinguished majority leader, and it does seem likely that December coming on as it is, and the type of work which seems to be occupying our time not being of great importance, that it might be well to consider the possibility of recessing for 3 days at a time, as we can do under the Constitution, and not staying here all of the time, but coming back whenever it is necessary to conduct business. It seems that every legislative body when it is in town feels that it must stay busy, and when it stays busy with work that it makes for itself, sometimes that work proves to be somewhat less than necessary, and somewhat less than well done when it is completed.

So I would hope that the majority leadership would take into consideration the possibility that we might go under some sort of a predetermined schedule whereby the Members can be fairly sure that if they leave town at certain times there would not be votes missed and quorum calls.

☐ 1640

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I will be glad to yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, there are very few things that keep us in session, but they are important things, and some of them contain some element of urgency. One of them, of course, is a decision we have to make as to what we do with respect to the Chrysler situation. Unless that is attended to before our adjournment for this session, it might be too late.

Another of the concerns involves the possibility that we might be able to bring back conference committee reports on one or more of the vitally important energy initiatives Members of the House and the other body have voted. One of those is the Energy Mobilization Board, the fast track bill. Another is a synthetic fuel corporation proposal, a plan to have synthetic fuels for this country.

It is not necessarily granted that we will be able to have conference reports brought back and finally pass those bills, but we thought that worth our sticking around to try to do so because I think the American people expect this Congress to produce on energy, if it can this year, so much the better than next year, or at least get as far along as we can.

There is one other field of endeavor that probably would be considered this year. That would have to do with standby antirecession-type program of the countercyclical nature, or something somewhat akin to that but different. That is all. Those are the things that are holding us here.

While we are here there are committees of the House that have prepared legislation, and they are entitled to have that legislation considered so long as we are here. I think I can say for the leadership that we will take under serious consideration the gentleman's suggestion that we try to avoid having to have a session next Friday. If it is possible, we will make an announcement earlier in the week than was the case this week.

Mr. RHODES. I thank my good friend, the majority leader. I want to assure him that I am not at all suggesting that we should leave important legislation undone if indeed we can do it. I was merely suggesting that in the event where we get to the point where the main thing we are doing is waiting for conferees to agree or disagree, perhaps it is not necessary for all 435 Members of the House to be in Washington to await those events. We can get back rather hurriedly in the event it becomes necessary to return to transact business. I know the gentleman understands this, and I also know he is working just as hard as anybody could possibly be to bring this about. I thank him for his efforts.

Mr. WRIGHT. I thank the gentleman for his understanding.

REQUEST TO AUTHORIZE CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, December 3, 1979, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, can the gentleman tell me what the necessity for that permission is?

Mr. FOLEY. It is just a precaution, I think, in the event that some matter be presented, any bill that might be expired, over the weekend; something that could be duly enrolled.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the gentleman from Maryland last week did not object to a number of unanimous-consent requests, and subsequently found that what he had been told about some of the legislation and the form of rules that can cover that legislation, the commitments that were made to him were not being kept. The gentleman has told the Rules Committee and others that if that is the way we are going to conduct our business, business might be more difficult to conduct.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. FOLEY. Mr. Speaker, does the gentleman intend to object to all unanimous-consent requests?

Mr. BAUMAN. On a selective basis.

Mr. FOLEY. Would the gentleman like to hear them one by one?

Mr. BAUMAN. I will leave it to the gentleman's pleasure.

REQUEST TO CONVENE AT 9 A.M., FRIDAY, DECEMBER 7, 1979

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday, December 7, 1979, that it convene at 9 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST TO DISPENSE WITH CALENDAR BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO MONDAY, DECEMBER 3, 1979

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

EMERGENCY MEDICAL SERVICES SYSTEMS AMENDMENTS OF 1979

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 497) "an act to extend the authorizations of appropriations relating to emergency medical services systems under title XII and section 789 of the Public Health Service Act; to increase the authorizations of appropriations for sudden infant death syndrome counseling and information projects and revise and improve authorities under title XI, part B, of such act; and for other purposes", with the Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

That whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section of other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—EMERGENCY MEDICAL SERVICES SYSTEMS AMENDMENTS

SHORT TITLE

Sec. 101. This title may be cited as the "Emergency Medical Services Systems Amendments of 1979".

TRAINING IN EMERGENCY MEDICAL SERVICES

Sec. 102. Section 789(g)(1) (42 U.S.C. 295g–9(g)(1)) is amended by inserting before the period a comma and "$5,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $8,000,000 for the fiscal year ending September 30, 1982".

ASSISTANCE FOR FEASIBILITY STUDIES AND PLANNING

Sec. 103. Section 1202(f) (42 U.S.C. 300d–1(f)) is amended to read as follows:

"(f) Priority for making grants or entering into contracts under this section shall be afforded to eligible entities applying for such grants or contracts under subsection (a) of this section.".

ASSISTANCE FOR EXPANSION AND IMPROVEMENT

Sec. 104. (a) Subsection (b) of section 1204 (42 U.S.C. 300d–3(a)) is amended by (1) redesignating paragraph (2) as paragraph (3), and (2) adding after paragraph (1) the following new paragraph:

"(2) The Secretary may make a third grant or enter into a third contract under subsection (a) for an emergency medical services system if—

"(A) Federal financial assistance under this Act for emergency medical services for the geographical area with respect to which such grant or contract would be made or entered into was first provided under a grant or contract under this section, or

"(B) the Secretary determines that the applicant (i) demonstrates an exceptional need for such grant or contract, and (ii) is making substantial progress toward achieving financial support to implement the plan described in subsection (d)(1)(B)(ii).

A third grant to contract under subsection (a) may not be used to replace equipment or facilities acquired with a previous grant or contract under such subsection.".

(b)(1) Subsection (b)(1) of such section is amended by striking out "If a" and inserting in lieu thereof "Except as provided in paragraph (2), if a".

(2) Subsection (b)(3)(B) of such section (as so redesignated by subsection (a) of this section) is amended by striking out "the second grant or contract" and inserting in lieu thereof "a grant or contract (other than the first grant or contract)"

(3) Subsection (d)(2) of such section is amended by striking out "A second grant or contract" and inserting in lieu thereof "A grant or contract (other than the first grant or contract)".

(4) Subsection (e) of such section is amended by striking out "second such grant" and inserting in lieu thereof "last such grant".

(c) Section 1206(b)(1)(B) (42 U.S.C. 300d–5(b)(1)(B)) is amended by inserting before the period at the end "or a third grant or contract received under section 1204".

AUTHORIZATION OF APPROPRIATIONS

Sec. 105. (a) Section 1207(a)(1) (42 U.S.C. 300d–6(a)(1)) is amended by—

(1) striking out "(a)(1) For" and inserting in lieu thereof "(a)(1)(A) Except as provided in subparagraph (B), for"

(2) striking out "and" after "1977",

(3) striking out "1978; and for the purpose of making payments pursuant to grants and contracts under sections 1202, 1203, and 1204, there are authorized to be appropriated" and inserting in lieu thereof "1978,",

(4) inserting before the period at the end thereof a comma and "and $40,000,000 for the fiscal year ending September 30, 1980, and for each of the next two fiscal years", and

(5) adding at the end the following new subparagraph:

"(B) No funds appropriated under subparagraph (A) may be used to make payments under a third grant or contract made or entered into under section 1204. For the purpose of making payments under such a grant or contract, there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1981.".

(b)(1) Paragraph (5)(A) of subsection (a) of section 1207 is amended by adding at the end the following new sentence: "Of the sums appropriated under paragraph (1)(A)—

"(i) at least 1 per centum of the sums appropriated for the fiscal year ending September 30, 1980, at least three-fourths of 1 per centum of the sums appropriated for the fiscal year ending September 30, 1981, and at least one-half of 1 per centum of the sums appropriated for the fiscal year ending September 30, 1982, and

"(ii) not more than 5 per centum of the sums appropriated for any such fiscal year,

shall be used for grants and contracts under section 1202.".

(2) Paragraph (5)(B) of subsection (a) of such section is amended by (A) striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)", (B) striking out "such fiscal years" and inserting in lieu thereof "such fiscal year", and (C) striking out "two" and inserting in lieu thereof "five".

(c) Section 1207(b) is amended by inserting before the period at the end a comma and "$3,000,000 for the fiscal year ending September 30, 1980, $3,500,000 for the fiscal year ending September 30, 1981, and $3,500,000 for the fiscal year ending September 30, 1982".

INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

SEC. 106. Section 1209(c) (42 U.S.C. 300d–8(c)) is amended by inserting "the Federal Emergency Management Agency (established pursuant to Reorganization Plan Number 3 of June 19, 1978)," after "Commission,".

BURN, POISON, AND TRAUMA INJURIES

SEC. 107. (a) Section 1221(a) (42 U.S.C. 300d–21(a)) is amended by—

(1) inserting "and organizational arrangements" after "different methods", and

(2) inserting a comma and "trauma, or poison" after "burns" both times it appears.

(b) Section 1221(b) is amended by adding at the end the following sentence: "No grant or contract under subsection (a) for a program relating to poison injuries may be made for an amount in excess of 50 per centum of the costs of the program for which it is made."

(c) Section 1221(c) is amended by—

(1) striking out "and" after "1978,",

(2) inserting before the period a comma and "$6,000,000 for the fiscal year ending September 30, 1980, $12,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982", and

(3) adding at the end the following new sentences: "Not less than 50 per centum of the funds appropriated under this subsection for the fiscal year ending September 30, 1980, shall be obligated for grants and concontracts under subsection (a) for prorelating to poison injuries. Not less than 25 per centum of the funds appropriated under this subsection for each of the fiscal years ending September 30, 1981, and September 30, 1982, shall be obligated for grants and contracts under subsection (a) from programs relating to poison injuries and not less than 25 per centum of such funds shall be obligated for grants and contracts under subsection (a) for programs relating to trauma injuries.".

(d)(1) The title of part B of title XII is amended by striking out "BURN INJURIES" and inserting in lieu thereof "BURN, TRAUMA, and POISON INJURIES".

(2) The heading for section 1221 is amended by striking out "BURN INJURIES" and inserting in lieu thereof "BURN, TRAUMA, AND POISON INJURIES".

EFFECTIVE DATE

SEC. 108. The amendments made by this title to section 789 and title XII of the Public Health Service Act shall take effect with respect to appropriations made under those provisions for fiscal years beginning after September 30, 1979.

TITLE II—SUDDEN INFANT DEATH SYNDROME AMENDMENTS

SHORT TITLE

SEC. 201. This title may be cited as the "Sudden Infant Death Syndrome Amendments of 1979".

SUDDEN INFANT DEATH SYNDROME PROGRAM

SEC. 202. Part B of title XI (42 U.S.C. 300c–11) is amended to read as follows:

"PART B—SUDDEN INFANT DEATH SYNDROME

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS; PLANS AND REPORTS

"SEC. 1121. (a)(1) The Secretary, through an identifiable administrative unit under the supervision of the Assistant Secretary for Health, shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome, and to disseminate such information and materials to persons providing health care, to public safety officials, and to the general public. The Secretary shall administer, through such unit, the functions assigned in this section, and shall provide such unit with such full-time professional and clerical staff and with the services of such management and supporting staff as may be necessary for it to carry out such functions effectively.

"(2) The Secretary shall—

"(A) develop and implement a system for the periodic reporting to the Department, and dissemination by the Department, of information collected under grants and contracts made under subsection (b)(1) of this section; and

"(B) carry out coordinated clearinghouse activities on sudden infant death syndrome, including the collection and dissemination to the public, health and educational institutions, professional organizations, voluntary groups with a demonstrated interest in sudden infant death syndrome, and other interested parties of information pertaining to sudden infant death syndrome and related issues such as death investigation systems, personnel training, biomedical research activities, and information on the utilization and availability of treatment or prevention procedures and techniques, such as home monitors.

The Secretary is authorized to enter into contracts with public or private entities to carry out the information and clearinghouse activities required under this subsection.

"(b)(1) The Secretary is authorized to make grants to public or nonprofit private entities, and enter into contracts with public or private entities, for projects which include both—

"(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes and other appropriate aspects of sudden infant death syndrome; and

"(B) the provision of information and counseling to families affected by sudden infant death syndrome.

"(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall, by regulation, prescribe. Each application shall—

"(A) provide that the project for which assistance under this subsection is sought will be administered by or under the supervision of the applicant;

"(B) provide for appropriate community representation (including appropriate involvement of voluntary groups with a demonstrated interest in sudden infant death syndrome) in the development and operation of such project;

"(C) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

"(D) provide for making such reports in such form, at such times, and containing such information as the Secretary may reasonably require, including such reports as will assist in carrying out the provisions of subsection (a)(2) of this section.

"(c)(1) Not later than February 1 of each year after 1979, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a comprehensive report on the administration of this part (including funds and positions allocated for personnel) and the results obtained from activities thereunder, including the extent of allocations made to rural and urban areas. The report submitted on or before February 1, 1980, shall also set forth a plan to—

"(A) extend counseling and information services to the fifty States and the District of Columbia by July 1, 1980; and

"(B) extend counseling and information services to all possessions and territories of the United States by July 1, 1981.

"(2) The Secretary shall conduct or provide for the conduct of a study on State laws, practices, and systems relating to death investigation and their impact on sudden and unexplained infant deaths, and any appropriate means (such as model State laws governing death investigations) for improving the quality, frequency, and uniformity of the post mortem examinations performed under such laws, practices, and systems in the case of sudden and unexplained infant deaths. Not later than December 31, 1980, the Secretary shall report to the Congress the results of such study, including recommendations as to any appropriate actions by the Department of Health, Education, and Welfare with respect to the conduct of post mortem investigations in all cases of sudden and unexplained infant death (including the desirability and feasibility of establishing pilot projects for centralized post mortem and specimen examination systems on a statewide or regional basis).

"(d)(1) For the purpose of making grants and contracts under and otherwise carrying out this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975; $3,000,000 for the fiscal year ending June 30, 1976; $4,000,000 for fiscal year 1977; $3,650,000 for fiscal year 1978; $3,500,000 for fiscal year 1979; $5,000,000 for fiscal year 1980; and $7,000,000 for fiscal year 1981.

"(2) Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(3) Contracts under this section may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(4) The Secretary shall seek to make equitable distribution of funds appropriated under this section among the various regions of the country and to ensure that the needs of rural and urban areas are appropriately addressed.

"SUDDEN INFANT DEATH SYNDROME RESEARCH AND RESEARCH REPORTS

"SEC. 1122. (a) From the sums appropriated to the National Institute of Child Health and Human Development under section 441, the Secretary shall assure that there are applied to research of the type described in subparagraphs (A) and (B) of subsection (b)(1) of this section such amounts each year as will be adequate, given the leads and findings then available from such research, in order to make maximum feasible progress toward identification of infants at risk of sudden infant death syndrome and prevention of sudden infant death syndrome.

"(b)(1) Not later than ninety days after the close of the fiscal year ending September 30, 1979, and of each fiscal year thereafter, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives specific information for such fiscal year on—

"(A) the (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under this Act for research which relates specifically to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds; and

"(B) the (i) number of applications approved by the Secretary in such fiscal year for grants and contracts under this Act for research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, (ii) relationship of the high-risk pregnancy and high-risk infancy research to sudden death syndrome, (iii) total amount requested under such applications, (iv) number of such applications for which funds were provided in such fiscal year, and (v) total amount of such funds.

"(2) Each report submitted under paragraph (1) of this subsection shall—

"(A) contain a summary of the findings of intramural and extramural research supported by the National Institute of Child Health and Human Development relating to sudden infant death syndrome as described in subparagraphs (A) and (B) of such paragraph (1), and the plan of such Institute for taking maximum advantage of such research leads and findings; and

"(B) provide an estimate of the need for additional funds over each of the next five fiscal years for grants and contracts under this Act for research activities described in such subparagraphs.

"(c) Within five days after the Budget is transmitted by the President to the Congress for each fiscal year after fiscal year 1980, the Secretary shall transmit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives an estimate of the amounts requested for the National Institute of Child Health and Human Development and any other Institutes of the National Institutes of Health, respectively, for research relating to sudden infant death syndrome as described in subparagraph (A) and (B) of subsection (b)(1) of this section, and a comparison of such amounts with the amounts requested for the preceding fiscal year.".

TITLE III—MISCELLANEOUS

MISCELLANEOUS

SEC. 301. (a)(1) Subsection of section 340 (42 U.S.C. 256(a)) is amended by striking out "which provide health services".

(2) Subsections (c)(1) and (g)(4) of such section are each amended by striking out "section 301" and inserting in lieu thereof "section 301, 304, or 305".

(b) The amendments made by subsection (a) of this section shall take effect with respect to appropriations made under section 340 of the Public Health Service Act for fiscal years beginning after September 30, 1979.

Amend the amendment of the House to the title so as to read: "An Act to extend for three fiscal years the authorizations of appropriations under section 789 and title XII of the Public Health Service Act relating to emergency medical services, to revise and improve the authorities for assistance under such title XII, to increase the authorizations of appropriations and revise and improve the authorities for assistance under part B of title XI of such Act for sudden infant death syndrome counseling and information projects, and for other purposes.".

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as having been read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

Mr. CARTER. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentleman from California (Mr. WAXMAN) for an explanation.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the emergency medical services (EMS) program enacted in 1973 is one of the great success stories among our Federal health programs. The numbers of lives and dollars saved is demonstrable. Many communities regard their improved emergency services as equally as vital to the community as police and fire protection.

Both the House and Senate authorizing committees heard testimony from the administration on its alternative proposal to phase out Federal support for emergency medical services over the next 3 fiscal years. However, neither the House nor the Senate adopted the administration proposal because we felt it would abandon emergency medical services at critical stages in their development across the country.

During Interstate and Foreign Commerce Committee deliberations on the reauthorization of this program, H.R. 3642 enjoyed strong bipartisan support.

Furthermore, this reauthorization was originally passed in the Senate by a voice vote, and by the House with an overwhelming margin, 245 to 12. Due to the popularity of these programs, the House and Senate are now able to bring their reauthorization bills into perfect conformity without going to conference.

The Senate amendment embodies a compromise reached after discussions with the Subcommittee on Health and the Environment of the House Committee on Interstate and Foreign Commerce. The compromise agreement was reached in a fine spirit of conciliation and dedication to the goal of improving emergency medical services in the Nation.

Several Members of Congress deserve recognition for their hard work on this program. Congressman MOLLOHAN, who originated this program in the House in 1972, deserves special praise. Other Members who have assisted me with this reauthorization include Mr. STAGGERS, chairman of the Interstate and Foreign Commerce Committee, Dr. TIM LEE CARTER, Congressman RICHARDSON PREYER, Congresswoman BARBARA MIKULSKI, and Congressman RICHARD SHELBY.

Dr. CARTER deserves special praise for his dedicated efforts on behalf of rural areas' emergency services. He has my assurance that the Subcommittee on Health and the Environment will examine in reauthorization hearings 3 years from now the status of rural areas in need of funding resources when they have exhausted the Federal grant cycle provided under this program. We must explore what sources of funding these communities can turn to when Federal assistance expires, and whether they are able to maintain a high level of emergency care supported by State and local sources.

I urge my colleagues to join me in voting for this House-Senate agreement on the reauthorization of emergency medical services.

I request that the agreement with the Senate be printed in the CONGRESSIONAL RECORD.

EXPLANATION OF PROPOSED COMPROMISE AGREEMENT ON S. 497

TITLE XII, PART A, ASSISTANCE FOR EMERGENCY MEDICAL SERVICES SYSTEMS

Section 1202. Grants and contracts for feasibility studies and planning

Senate bill: Provides that priority in awarding grants and contracts for feasibility studies and planning for emergency medical services (EMS) systems must be afforded to entities seeking a first grant under section 1202 and earmarks a minimum of one percent of the EMS appropriations under section 1207 for each fiscal year for section 1202 grants or contracts.

House amendment: Provides that not more than five percent of such appropriations for each fiscal year may be used for section 1202 grants or contracts.

Compromise: The compromise includes the House provision with respect to the five-percent maximum, and the Senate provision with respect to the minimum with an amendment reducing the earmark to minimums of one percent for fiscal year 1980, three-fourths of one percent for fiscal year 1981, and one-half of one percent for fiscal year 1982.

Authorization of appropriations for emergency medical services program and administration's proposed phaseout of the program

Senate bill and House amendment: Both extend the authorization of appropriations for EMS systems development at $40,000,000 for each of fiscal years 1980, 1981, and 1982.

The Administration's proposal to phaseout the Emergency Medical Services (EMS) Systems program in fiscal year 1982 is rejected as premature. However, if sufficient funds are made available to the program in the fiscal years for which appropriations are authorized by S. 497, it is intended that the feasibility of phasing out the program be addressed when the extension of the authorization of appropriations is considered in 1982.

The relationship of EMS programs to the treatment of victims of domestic violence and of child abuse is recognized, and it is suggested that, in view of the likelihood of the victims of such violence and abuse seeking assistance in emergency rooms, it would be an appropriatie and effective means of providing continued assistance to these abused individuals if emergency rooms posted telephone numbers through which the victims could seek appropriate assistance or referral in their communities.

Additional EMS systems grants under section 1204. Grants and contracts for expansion and improvement of an emergency medical services system

House amendment: Authorizes a third or fourth grant or contract under section 1204 (expansion and improvement of an EMS system), specifying that such a third or fourth grant may not be used to replace equipment or facilities acquired with a previous grant or contract under existing section 1204 and that a third or fourth grant or contract may not be made or entered into unless the EMS system for which the grant or contract is made meets each of the requirements of existing section 1206(b)(4)(C); making applicable certain basic conditions applicable to second grants under existing section 1204 (that a third or fourth grant for a system may be made if the Secretary determines, after a review of at least the first nine months' activities of the applicant carried out under the preceding grant or contract, that the applicant is satisfactorily progressing in the expansion and improvement of the system in accordance with the plan contained in its application for the first grant under section 1204, that a third or fourth grant may not exceed 25 percent of the cost of the system for the year for which the grant or contract is made, or 50 percent of such costs for such year in the case of applications which demonstrate an exceptional need for financial assistance; and that a third or fourth grant or contract may not be made unless it complies with the provisions of existing section 1204(d)(2)); and authorizes appropriations of $5 million for fiscal years 1980, 1981, and 1982 for the purposes of making such grants or contracts.

Senate bill: Has no comparable provision.

Compromise: The compromise includes the House provision modified to (A) provide, as an exception that a third (but not a fourth) section 1204 grant or contract may be awarded and specifying alternative conditions which must be met before such a grant or contract may be made: either (1) the applicant received its first funding from H.E.W. for emergency medical services under section 1204, or (2) the Secretary determines that the applicant demonstrates an exceptional need for such funding and that the applicant is making substantial progress toward achieving financial support to implement the specific financial plan described in existing section 1204(d)(1)(B)(ii); (B) retain the House provisions with respect to the federal share of the cost and the restrictions on the utilization of the grant to replace equipment or facilities; and (3) authorize the appropriation of $6,000,000 for fiscal year 1981 only.

Section 1209. Interagency Committee on Emergency Medical Services

Senate bill: Adds a representative of the Federal Emergency Management Agency to the Interagency Committee on Medical Services established by section 1209 of existing law.

House amendment: Has no comparable provision.

Compromise: The compromise includes the Senate provision.

Section 1205. Research in emergency medical services

Senate bill: Extends the authorization of appropriations for EMS research at $3,000,000 for each of fiscal years 1980, 1981, and 1982.

House amendment: Extends this authorization of appropriations at $4,000,000 for each such fiscal year.

Compromise: The compromise authorizes appropriations of $3,000,000 for fiscal year 1980, $3,500,000 for fiscal year 1981, and $3,500,000 for fiscal year 1982 for EMS research.

In extending the authorization of appropriations for EMS research, both the House and the Senate Committee reports emphasized the need for research to be directed towards the provision of emergency medical services in rural areas. That concern is reiterated, and it is urged that the EMS research supported under section 1205 meet this need.

Section 789. Training in emergency medical services

Senate bill: Extends the authorization of appropriations for EMS training at $4,000,000 for each of fiscal years 1980, 1981, and 1982.

House amendment: Extends this authorization of appropriations at $10,000,000 for each of fiscal years 1980, 1981, and 1982.

Compromise: The compromise authorizes appropriations of $5,000,000 in fiscal year 1980, $7,000,000 in fiscal year 1981, and $8,000,000 in fiscal year 1982 for EMS training.

TITLE XII, PART B, BURN, TRAUMA, OR POISON TREATMENT PROGRAMS

Senate bill: Adds to existing section 1221—Programs Relating to Burn Injuries—authority for grants and contracts for demonstration programs in treatment, research, and training relating to trauma or poison, as well as (in existing law) burn, and authorizes appropriations of $3,000,000 for each of fiscal years 1980, 1981, and 1982 for such purposes.

House amendment: Authorizes appropriations of $10,000,000 for each of fiscal years 1980, 1981, and 1982 for programs relating to burn injuries under present section 1221; and adds a new section 1231, Poison Control Information and Treatment Centers, authorizing grants and contracts to assist in meeting the costs of establishing, training personnel for, operating, and acquiring equipment and material for poison control information and treatment centers, specifying that each grant or contract shall be made for costs incurred in the twelve-month period beginning with the month after the grant or contract is awarded, limiting the number of months for which an entity may receive such grants or contracts to not exceeding thirty-six, specifying that no grant or contract may exceed 50 percent of the costs for which it is made, and authorizing appropriations of $10,000,000 for fiscal year 1980, $8,000,000 for fiscal year 1981, and $6,000,000 for fiscal year 1982 for the purpose of making such grants or contracts.

Compromise: The compromise contains the Senate provision with amendments providing that section 1221 grants and contracts may be used to demonstrate the effectiveness of different organizational arrangements, as well as methods, for the demonstration of treatment and rehabilitation of individuals injured by burns, trauma, or poison, specifying that a grant or contract for poison programs may not exceed 50 percent of the cost for which it is made; authorizing appropriations under the revised section 1221 of $6,000,000 for fiscal year 1980, $12,000,000 for fiscal year 1981, and $10,000,000, for fiscal year 1982; and requiring that not less than 50 percent of the funds appropriated for fiscal year 1980 for carrying out section 1221 shall be obligated for poison programs, and that not less than 25 percent of the funds appropriated for fiscal years 1981 and 1982 for such purpose shall be obligated for poison programs and not less than 25 percent for trauma programs.

It is recognized that until the findings of the burn demonstration programs are completed (currently expected to be February 1981) further support of burn demonstration programs may not be the most effective use of funds appropriated under section 1221. However, initial studies indicate that there is a considerable need for training health care personnel in the treatment of burn patients as well as in methods of developing relationships between burn centers and related community health or rehabilitation providers. Providing support for such burn training activities is a factor that should be considered in making grants or contracts with funds appropriated under section 1221.

Section 1221 has been amended to include operative support for demonstration of poison information and treatment services and organizational arrangements. It is expected with this additional support that the development of a national network of regional poison control centers will substantially reduce mortality and morbidity due to poisoning and do so in a cost-effective manner stressing management of poisonings in the home rather than through hospitalization. The intent, therefore, is to encourage regionalization and consolidation of existing poison information and treatment services nationwide. This regionalization would curtail proliferation of additional new poison centers offering only very limited services in a geographic area already able to be adequately served by a more comprehensive poison information and treatment center.

In allocating funds authorized for poison control activities under section 1221, highest priority should be given to those areas of the nation presently lacking regional poison control capability. With adequate appropriations, it is not contemplated that federal support of regional poison control centers will be extended beyond the specified three-year funding period.

TITLE XI, PART B, SUDDEN INFANT DEATH SYNDROME PROGRAMS

Senate bill: Establishes within H.E.W. an identifiable administrative unit to carry out the Sudden Infant Death Syndrome (SIDS) program and the functions assigned to the Secretary in title XI, part B of the Public Health Service Act; requires that voluntary groups with a demonstrated interest in SIDS be appropriately represented in local SIDS projects; institutes, on an annual basis, the report regarding the administration of SIDS counseling and information projects previously required on a one-time basis (on January 1, 1976,) making it more specific and adding to it inclusion in the February 1, 1980, report of a plan to extend counseling and information services to all states and territories by specified dates; renews, with slight modifications, the expired requirement for an annual report on SIDS and SIDS-related research originally mandated by P.L. 93–270; mandates the study of state laws, practices, and systems relating to death investigations and their impact on sudden and unexplained infant deaths and any appropriate means for improving such systems in the case of sudden and unexplained infant deaths; and increases the authorizations of appropriations in existing law by $1 million in fiscal year 1980 and $2 million in fiscal year 1981 to levels of $5,000,000 and $7,000,000, respectively.

House amendment: Has no comparable provisions.

Compromise: The compromise includes the Senate provision with amendments making minor clarifications in the reporting requirements relating to SIDS-related research, and clarifying that one appropriate means for improving state death investigation systems is the development of a model state law governing death investigations.

Section 340. Primary case research and demonstration projects

House Amendment: Makes technical and clarifying amendments to section 340 of the Public Health Service Act—Primary Care Research and Demonstration Projects—in order to remove the requirement that grantees under existing section 340 must provide health services, so that educational institutions, among other entities, would be eligible for such grants, and to clarify that grants under section 340 may be made to a project that could also be funded under existing section 304 (General Authority Respecting Research, Evaluations and Demonstrations in Health Statistics, Health Services, and Health Care Technology), and under existing section 305 (National Center for Health Services Research). Existing section 340 prohibits grants to those projects that could be funded under any authority of the Public Health Service Act other than section 301 (General Research and Investigation Authority).

Senate bill: Has no comparable provision.

Compromise: The compromise includes the House provision.

* * * * *

The following chart explains the amounts authorized to be appropriated in the Senate bill, the House amendment, and the compromise agreement:

AUTHORIZATIONS OF APPROPRIATIONS IN S. 497

[In millions of dollars]

	Fiscal year 1980			Fiscal year 1981			Fiscal year 1982		
	House	Senate	Compromise	House	Senate	Compromise	House	Senate	Compromise
EMS programs:									
Systems development	$40	$40	$40	$40	$40	$40.0	$40	$40	$40.0
Sec. 1204 3d grants	[1]5			[1]5		6.0	[1]5		
Research	4	3	3	4	3	3.5	4	3	3.5
Training	10	4	5	10	4	7.0	10	4	8.0
Total	59	47	48	59	47	56.5	59	47	51.5
Subtotal									
Sec. 1221 programs:									
Burn, poison, trauma		3	6		3	12.0		3	10.0
Burn only	10			10			10		
Poison only	10			8			6		
Poison earmark out of amounts appropriated (percent)			(50)			(25)			(25)
Trauma earmark out of amounts appropriated (percent)						(25)			(25)
Subtotal	20	3	6	18	3	12.0	16	3	10.0
Sudden infant death syndrome program	(2)	5	5	(2)	7	7.0			
Totals	79	55	59	77	57	75.5	75	50	61.5

	Fiscal year 1980	Fiscal year 1981	Fiscal year 1982	3-yr total
Totals:				
House	$79	$77.0	$75.0	$231
Senate	55	57.0	50.0	162
Compromise	59	75.5	61.5	169

[1] House amendment included 4th grants also.

[2] Existing law authorizes the appropriation of $4,000,000 for fiscal year 1980 and $5,000,000 for fiscal year 1981.

Mr. WAXMAN. Mr. Speaker, the emergency medical services (EMS) program enacted in 1973 is one of the great success stories among our Federal health programs. The numbers of lives and dollars saved is demonstrable. Many communities regard their improved emergency services as equally as vital to the community as police and fire protection.

It was clear during Interstate and Foreign Commerce Committee deliberations on the reauthorization of this program that H.R. 3642 enjoyed strong bipartisan support.

This reauthorization was originally passed in the Senate by a voice vote, and by the House with an overwhelming margin, 245 to 12. The House and Senate are now able to bring their reauthorization bills into perfect conformity without going to conference.

The Senate amendment embodies a compromise reached after discussions with the Subcommittee on Health and the Environment of the House Committee on Interstate and Foreign Commerce. The compromise agreement was reached in a fine spirit of conciliation and dedication to the goal of improving emergency medical services in the Nation.

The compromise we have reached on S. 497 clearly indicates Congress continued commitment to carrying out the original intent of the Emergency Medical Services Systems Act of 1973, Public Law 93-154, to assist all areas of the Nation to achieve their maximum potential in providing comprehensive emergency medical services to their residents.

The emergency medical services program has introduced many progressive concepts to the American health care system. It is intended to assist in providing comprehensive and integrated emergency health care to previously underserved areas with specialized treatment of heart attacks, burn, and trauma victims, and public first aid and health care education.

The Federal EMS program enacted in 1973 envisions 304 regionally coordinated systems of emergency medical services in every State and in all U.S. territories. To date, 282 of these regional systems have received some assistance under the program. At the end of fiscal year 1978, 96 systems covering 67.2 million people were planned or being planned; 169 systems serving 118.3 million citizens were in some phase of operational development; and 17 systems covering 26.2 million people had completed eligibility under the program. Grants have been made in every State and territory, except American Samoa.

Since 1974, when the first EMS grants were made, funding of the program consistently has been below authorized levels. Thus, in 1978, requests for funding exceeded available appropriations by 52 percent. Development, therefore, has been slower than we would like, but the program is on firm footing and remarkable progress is being made in every section of the country.

Accidental injury is the leading cause of death in the United States among persons aged 1 to 38, and is the fourth highest cause of death in the United States. Recently, the National Center for Health Statistics reported that, in 1976, there were 100,000 accidental deaths. Although this number is high, it does represent a decrease from the 117,000 deaths from accidents which occurred in 1972—a decrease of almost 15 percent. Improvements in the quality of emergency care contributed to this decrease. These improvements were made possible by Federal funding to States and localities under the Emergency Medical Services Systems Act, enacted in 1973.

Several Members of Congress deserve recognition for the hard work they have put in on creating and furnishing vigorous congressional support for this program. Congressman MOLLOHAN originated this program in the House in 1972. His testimony before our subcommittee last spring was an inspiration. No one can question how important and effective a contribution to public health policy a single Member of Congress can make when one looks at the remarkable accomplishment of Mr. MOLLOHAN in working with Paul Rogers and Representative HARLEY STAGGERS to shepherd this program through the House and on to enactment in 1973. Other supporters who have assisted me with this reauthorization include Dr. TIM LEE CARTER, Congressman RICHARDSON PREYER, Congresswoman BARBARA MIKULSKI, and Congressman RICHARD SHELBY.

The Subcommittee on Health and the Environment heard testimony from the administration on its alternative proposal to phase out Federal support for emergency medical services over the next 3 fiscal years. However, the subcommittee did not adopt the administration proposal because we felt it would abandon emergency medical services at critical stages in their development across the country.

If we accepted the administration's plan, only 25 percent (75 of 304) of the regional systems would complete the 5-year Federal funding cycle with fully developed advanced life support (ALS) systems. Another 179 systems (59 percent) would be forced to stop development with basic life support (BLS). The remaining 50 systems (16 percent) would either receive no assistance or would be stymied at the planning stage. In short, under the administration's plan, 75 percent of the regional EMS systems we envision as being necessary would be left undeveloped or underdeveloped. This is a successful program that is saving lives and helping hold down medical costs. A drastic phaseout over the next 3 years just did not seem justified.

In addition to reauthorizing emergency medical services, this reauthorization squarely addresses the clear need for regional poison centers.

The threat of accidental poisoning is enormous and poses a risk of serious injury to every American. Poisoning is the fifth most frequent cause of accidental death and one of the leading causes of accidental injury. Each year an estimated 2 to 5 million poisonings occur in this country. The number of poisonings continues to increase as new drugs, household and industrial products present a growing hazard to our citizens.

Behind these statistics is a disheartening fact. The most frequent victims of accidental poisoning are young children—in most cases, children under the age of 5. Each year, hundreds of thousands of children are accidentally poisoned by an almost endless number of products found in and around the home. In fact, poisoning is the most frequent pediatric emergency. As every parent knows, young children have an insatiable curiosity and rarely share our own ideas about what should or should not be eaten.

While not all accidental poisonings result in crippling or life-threatening injuries, each year thousands of young children are seriously injured and endure long and expensive hospitalization due to ingestion of toxic substances. Currently, as many as 250,000 potentially lethal household products are available for sale in our neighborhood stores. The average American home may contain more than two dozen. Poisonous substances can range from household cleaners and polishes, to pesticides, prescription medicines, and common household plants. Despite the notable success of child resistant packaging and cautionary labeling—children continued to be at risk. Poisoning continues to threaten. With hundreds of new products and chemical formulations appearing on the market each year, the need for increasing the general availability of poison treatment services and the number of health professionals knowledgeable about medical toxicology will grow.

A major advance credited with blunting the frequency, severity, and cost of accidental poisoning has been the development of sophisticated regional poison centers. In the few areas of the Nation where such regional centers are located, dramatic reductions in mortality and morbidity due to poisoning have been demonstrated.

Regional poison centers are a relatively new, but thoroughly tested concept in delivering cost-effective health services. Regional centers are highly technical medical facilities which dispense poison treatment and information services to consumers and physicians over the phone. The centers are staffed by board-certified physicians trained in medical toxicology who are supported by pharmacists and highly skilled nursing personnel. Through the use of detailed and constantly updated files on product ingredients and successful treatment protocols, the cost of poison injuries are dramatically reduced and delivery of the highest quality treatment insured.

Services of regional centers are available 24 hours a day and are supplemented by active public education efforts encouraging poison prevention. Recent data generated from areas already served by regional centers, indicated that the need to visit a physician or emergency room is averted in 80 percent of reported ingestions. Treatment can be successfully administered in the home through telephone management.

In the 20 percent of ingestions which require hospitalization, experienced toxicological staff can provide direct lifesaving therapy or, in a consultant capacity, assist primary physicians in the delivery of care. Our committee's review of these regional systems found them to be of particular value in rural communities where large distances may exist between the poison patient and major urban medical centers.

Although poisoning has been identified as a specific patient care system within the emergency medical system network, development of high quality poison information and treatment centers has been sluggish and fragmented. Despite clear evidence that regional centers can substantially reduce mortality and morbidity due to poisoning, no more than 45 of the 304 EMS service regions currently have access to these lifesaving services.

S. 497, reaffirms the House's, earlier position that direct Federal assistance to develop a nationwide network of regional poison control centers is a necessary and highly desirable adjunct to the emergency medical services program. Section 1221 of S. 497 contains a special authorization of appropriations for direct support of regional poison-control center operations.

Such special assistance is appropriate because the services of poison centers are singularly unique from other EMS patient care systems. Indeed, unlike burn or trauma services, poison centers do not ordinarily bill the patient for treatment rendered in the center. The central distinguishing feature of poison centers is the management of poisonings in the home rather than through hospitalization. By providing Federal funds for the initial operation of poison centers, the bill recognizes that the major difficulty in developing and sustaining such systems is the initial startup.

Section 1221 provides the Secretary with authority to enter into grants and contracts to support the operation of regional poison information and treatment centers. In the award of such moneys, the Secretary is encouraged to give highest priority to those areas of the country which currently lack such services. Operational support is intended to be of limited duration as ultimate responsibility for long-term support appropriately rests with the State or local community.

In the award of support for poison center operation, no more than 50 percent of a center's annual costs should consist of Federal grants or contracts. This restriction is intended to encourage the availability of local and/or State financial support for center operations when the Federal contribution has ended. However, this restriction does not apply to clinical fellowships or research projects relating to the treatment of poison injuries or the training of poison center personnel.

In this regard, support for training of poison center personnel is critically important to the success of regionalization due to the current national and worldwide shortage of health professionals trained in this area. That fewer than 50 individuals worldwide have been certified in the speciality of medical toxicology points to the need for special emphasis on the support of clinical fellowships.

To a great extent, the current shortage of trained personnel is perpetuated by the limited availability of high quality centers in which training can be offered. Therefore, the objectives of regionalization and expanded training opportunities must be pursued simultaneously. As the number of new products and chemical formulations introduced on the market increases, the demand for trained poison control personnel—including pharmacists and nurses—will increase.

Federal assistance provided by this bill will facilitate the much needed establishment of a nationwide system of highly competent poison treatment and information facilities which promises to significantly reduce the severity and frequency of this senseless and preventable malady. Furthermore, such financial and technical assistance will go far to further health cost containment efforts by lessening demand on expensive emergency room services. The clear intent of the legislation is to encourage creation of a system of centers to provide the most up-to-date and cost effective poison information and treatment services to every American—regardless of geographic location.

I would like to express my appreciation for the spirit of cooperation which prevailed during all our discussions of this bill with the Senate. The constructive ideas contributed by Senator KENNEDY, Senator CRANSTON, and Senator SCHWEIKER were especially helpful. In particular, Senator CRANSTON's addition of administrative refinements in the Sudden Infant Death Syndrome program are deserving of praise. This SIDS provision originated in the Senate bill, and was developed by the Senate Subcommittee on Child and Human Development which Senator CRANSTON chairs. These programs have been a source of great help to parents who have lost a baby to SIDS and have generated information that is helping us to understand more about the nature of the infants who succumb to SIDS. They offer hope that we may soon be able to prevent many of these deaths in the future.

Throughout our negotiations with the Senate, both Senate and House staff communicated the mutual enthusiasm of their principals for the emergency medical services program. The staff work was diligent and thorough, and negotiations proceeded expeditiously to a successful conclusion with which we are all pleased.

I ask unanimous consent that documents describing the provisions of the two versions and the compromises which were reached on the several differences between them and showing the changes made in existing law be printed in the RECORD, at this point.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, the documents referred to are as follows:

SENATE AMENDMENTS TO HOUSE AMENDMENTS TO S. 497

Mr. President, I move that the Senate agree to the amendment of the House to the text of the bill S. 497 with the following amendment:

In lieu of the matter proposed to be inserted by the House amendment and insert the following:

That whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—EMERGENCY MEDICAL SERVICES SYSTEMS AMENDMENTS

SHORT TITLE

Sec. 101. This title may be cited as the "Emergency Medical Services Systems Amendments of 1979".

TRAINING IN EMERGENCY MEDICAL SERVICES

Sec. 102. Section 789(g)(1) (42 U.S.C. 295g-9(g)(1)) is amended by inserting before the period a comma and "$5,000,000 for the ficsal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $8,000,000 for the fiscal year ending September 30, 1982".

ASSISTANCE FOR FEASIBILITY STUDIES AND PLANNING

Sec. 103. Section 1202(f) (42 U.S.C. 300d-1(f)) is amended to read as follows:

"(f) Priority for making grants or entering into contracts under this section shall be afforded to eligible entities applying for such grants or contracts under subsection (a) of this section.".

ASSISTANCE FOR EXPANSION AND IMPROVEMENT

Sec. 104. (a) Subsection (b) of section 1204 (42 U.S.C. 300d-3(a)) is amended by (1) redesignating paragraph (2) as paragraph (3), and (2) adding after paragraph (1) the following new paragraph:

"(2) The Secretary may make a third grant or enter into a third contract under subsection (a) for an emergency medical services system if—

"(A) Federal financial assistance under this Act for emergency medical services for the geographical area with respect to which such grant or contract would be made or entered into was first provided under a grant or contract under this section, or

"(B) the Secretary determines that the applicant (i) demonstrates an exceptional need for such grant or contract, and (ii) is making substantial progress toward achieving financial support to implement the plan described in subsection (d)(1)(B)(ii).

A third grant or contract under subsection (a) may not be used to replace equipment or facilities acquired wtih a previous grant or contract under such subsection.".

(b)(1) Subsection (b)(1) of such section is amended by striking out "If a" and inserting in lieu thereof "Except as provided in paragraph (2), if a".

(2) Subsection (b)(3)(B) cf such section (as so redesignated by subsection (a) of this section) is amended by striking out "the second grant or contract" and inserting in lieu thereof "a grant or contract (other than the first grant or contract)".

(3) Subsection (d)(2) of such section is amended by striking out "A second grant or contract" and inserting in lieu thereof "A grant or contract (other than the first grant or contract)".

(4) Subsection (e) of such section is amended by striking out "second such grant" and inserting in lieu thereof "last such grant".

(c) Section 1206(b)(1)(B) (42 U.S.C. 300d-5(b)(1)(B)) is amended by inserting before the period at the end "or a third grant or contract received under section 1204".

AUTHORIZATION OF APPROPRIATIONS

Sec. 105. (a) Section 1207(a)(1) (42 U.S.C. 300d-6(a)(1)) is amended by—

(1) striking out "(a)(1) For" and inserting in lieu thereof "(a)(1)(A) Except as provided in subparagraph (B), for"

(2) striking out "and" after "1977",

(3) striking out "1978; and for the purpose of making payments pursuant to grants and contracts under sections 1202, 1203, and 1204, there are authorized to be appropriated" and inserting in lieu thereof "1978,",

(4) inserting before the period at the end thereof a comma and "and $40,000,000 for the fiscal year ending September 30, 1980, and for each of the next two fiscal years", and

(5) adding at the end the following new subparagraph:

"(B) No funds appropriated under subparagraph (A) may be used to make payments under a third grant or contract made or entered into under section 1204. For the purpose of making payments under such a grant or contract, there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1981.".

(b)(1) Paragraph (5)(A) of subsection (a) of section 1207 is amended by adding at the end the following new sentence: "Of the sums appropriated under paragraph (1)(A)—

"(i) at least one per centum of the sums appropriated for the fiscal year ending September 30, 1980, at least three-fourths of one per centum of the sums appropriated for the fiscal year ending September 30, 1981, and at least one-half of one per centum of the sums appropriated for the fiscal year ending September 30, 1982, and

"(ii) not more than 5 per centum of the sums appropriated for any such fiscal year,

shall be used for grants and contracts under section 1202.".

(2) Paragraph (5)(B) of subsection (a) of such section is amended by (A) striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)", (B) striking out "such fiscal years" and inserting in lieu thereof "such fiscal year", and (C) striking out "two" and inserting in lieu thereof "five".

(c) Section 1207(b) is amended by inserting before the period at the end a comma and "$3,000,000 for the fiscal year ending September 30, 1980, $3,500,000 for the fiscal year ending September 30, 1981, and $3,500,000 for the fiscal year ending September 30, 1982".

INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

Sec. 106. Section 1209(c) (42 U.S.C. 300d-8(c)) is amended by inserting "the Federal Emergency Management Agency (established pursuant to Reorganization Plan Number 3 of June 19, 1978)," after "Commission,".

BURN, POISON, AND TRAUMA INJURIES

Sec. 107. (a) Section 1221(a) (42 U.S.C. 300d-21(a)) is amended by—

(1) inserting "and organizational arrangements" after "different methods", and

(2) inserting a comma and "trauma, or poison" after "burns" both times it appears.

(b) Section 1221(b) is amended by adding at the end the following sentence: "No grant or contract under subsection (a) for a program relating to poison injuries may be made for an amount in excess of 50 per centum of the costs of the program for which it is made."

(c) Section 1221(c) is amended by—

(1) striking out "and" after "1978,",

(2) inserting before the period a comma and "$6,000,000 for the fiscal year ending September 30, 1980, $12,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982", and

(3) adding at the end the following new sentences: "Not less than 50 per centum of the funds appropriated under this subsection for the fiscal year ending September 30, 1980, shall be obligated for grants and contracts under subsection (a) for programs relating to poison injuries. Not less than 25 per centum of the funds appropriated under this subsection for each of the fiscal years ending September 30, 1981, and September 30, 1982, shall be obligated for grants and contracts under subsection (a) for programs relating to poison injuries and not less than 25 per centum of such funds shall be obligated for grants and contracts under subsection (a) for programs relating to trauma injuries.".

(d)(1) The title of part 3 of title XII is amended by striking out "BURN INJURIES" and inserting in lieu thereof "BURN, TRAUMA, AND POISON INJURIES".

(2) The heading for section 1221 is amended by striking out "Burn Injuries" and inserting in lieu thereof "Burn, Trauma, and Poison Injuries".

EFFECTIVE DATE

Sec. 108. The amendments made by this title to section 789 and title XII of the Public Health Service Act shall take effect with respect to appropriations made under those provisions for fiscal years beginning after September 30, 1979.

TITLE II—SUDDEN INFANT DEATH SYNDROME AMENDMENTS

SHORT TITLE

Sec. 201. This title may be cited as the "Sudden Infant Death Syndrome Amendments of 1979".

SUDDEN INFANT DEATH SYNDROME PROGRAM

Sec. 202. Part B of title XI (42 U.S.C. 300c-11) is amended to read as follows:

"Part B—Sudden Infant Death Syndrome

"SUDDEN INFANT DEATH SYNDROME COUNSELING INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS; PLANS AND REPORTS

"Sec. 121. (a)(1) The Secretary, through an identifiable administrative unit under the supervision of the Assistant Secretary for Health, shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome, and to disseminate such information and materials to persons providing health care, to public safety officials, and to the general public. The Secretary shall administer, through such unit, the functions assigned in this section, and shall provide such unit with such full-time professional and clerical staff and with the services of such consultants and of such management and supporting staff as may be necessary for it to carry out such functions effectively.

"(2) The Secretary shall—

"(A) develop and implement a system for the periodic reporting to the Department, and dissemination by the Department, of information collected under grants and contracts made under subsection (b)(1) of this section; and

"(B) carry out coordinated clearinghouse activities on sudden infant death syndrome, including the collection and dissemination to the public, health and education institutions, professional organizations, voluntary groups with a demonstrated interest in sudden infant death syndrome, and other interested parties of information pertaining to sudden infant death syndrome and related issues such as death investigation systems, personnel training, biomedical research activities, and information on the utilization and availability of treatment or prevention procedures and techniques, such as home monitors.

The Secretary is authorized to enter into contracts with public or private entities to carry out the information and clearinghouse activities required under this subsection.

"(b)(1) The Secretary is authorized to make grants to public or nonprofit private entities, and enter into contracts with public or private entities, for projects which include both—

"(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes and other appropriate aspects of sudden infant death syndrome; and

"(B) the provision of information and counseling to families affected by sudden infant death syndrome.

"(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall, by regulation, prescribe. Each application shall—

"(A) provide that the project for which assistance under this subsection is sought will be administered by or under the supervision of the applicant;

"(B) provide for appropriate community representation (including appropriate involvement of voluntary groups with a demonstrated interest in sudden infant death syndrome) in the development and operation of such project;

"(C) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

"(D) provide for making such reports in such form, at such times, and containing such information as the Secretary may reasonably require, including such reports as will assist in carrying out the provisions of subsection (a)(2) of this section.

"(c)(1) Not later than February 1 of each year after 1979, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a comprehensive report on the administration of this part (including funds and positions allocated for personnel) and the results obtained from activities thereunder, including the extent of allocations made to rural and urban areas. The report submitted on or before February 1, 1980, shall also set forth a plan to—

"(A) extend counseling and information services to the fifty States and the District of Columbia by July 1, 1980; and

"(B) extend counseling and information services to all possessions and territories of the United States by July 1, 1981.

"(2) The Secretary shall conduct or provide for the conduct of a study on State laws, practices, and systems relating to death investigation and their impact on sudden and unexplained infant deaths, and any appropriate means (such as model State laws governing death investigations) for improving the quality, frequency, and uniformity of the post mortem examinations performed under such laws, practices, and systems in the case of sudden and unexplained infant deaths. Not later than December 31, 1980, the Secretary shall report to the Congress the results of such study, including recommendations as to any appropriate actions by the Department of Health, Education, and Welfare with respect to the conduct of post mortem investigations in all cases of sudden and unexplained infant death (including the desirability and feasibility of establishing pilot projects for centralized post mortem and specimen examination systems on a statewide or regional basis).

"(d)(1) For the purpose of making grants and contracts under and otherwise carrying out this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975; $3,000,000 for the fiscal year ending June 30, 1976; $4,000,000 for fiscal year 1977; $3,650,000 for fiscal year 1978; $3,500,000 for fiscal year 1979; $5,000,000 for fiscal year 1980; and $7,000,000 for fiscal year 1981.

"(2) Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(3) Contracts under this section may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(4) The Secretary shall seek to make equitable distribution of funds appropriated under this section among the various regions of the country and to ensure that the needs of rural and urban areas are appropriately addressed.

"SUDDEN INFANT DEATH SYNDROME RESEARCH AND RESEARCH REPORTS

"SEC. 1122. (a) From the sums appropriated to the National Institute of Child Health and Human Development under section 441, the Secretary shall assure that there are applied to research of the type described in subparagraphs (A) and (B) of subsection (b)(1) of this section such amounts each year as will be adequate, given the leads and findings then available from such research, in order to make maximum feasible progress toward identification of infants at risks of sudden infant death syndrome and prevention of sudden infant death syndrome.

"(b)(1) Not later than ninety days after the close of the fiscal year ending September 30, 1979, and of each fiscal year thereafter, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives specific information for such fiscal year on—

"(A) the (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under this Act for research which relates specifically to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds; and

"(B) the (i) number of applications approved by the Secretary in such fiscal year for grants and contracts under this Act for research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, (ii) relationship of the high-risk pregnancy and high-risk infancy research to sudden infant death syndrome, (iii) total amount requested under such applications, (iv) number of such applications for which funds were provided in such fiscal year, and (v) total amount of such funds.

"(2) Each report submitted under paragraph (1) of this subsection shall—

"(A) contain a summary of the findings of intramural and extramural research supported by the National Institute of Child Health and Human Development relating to sudden infant death syndrome as described in subparagraphs (A) and (B) of such paragraph (1), and the plan of such Institute for taking maximum advantage of such research leads and findings; and

"(B) provide an estimate of the need for additional funds over each of the next five fiscal years for grants and contracts under this Act for research activities described in such subparagraphs.

"(c) Within five days after the Budget is transmitted by the President to the Congress for each fiscal year after fiscal year 1980, the Secretary shall transmit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives an estimate of the amounts requested for the National Institute of Child Health and Human Development and any other Institutes of the National Institutes of Health, respectively, for research relating to sudden infant death syndrome as described in subparagraphs (A) and (B) of subsection (b)(1) of this section, and a comparison of such amounts with the amounts requested for the preceding fiscal year.".

TITLE III—MISCELLANEOUS

MISCELLANEOUS

SEC. 301. (a)(1) Subsection (a) of section 340 (42 U.S.C. 256(a)) is amended by striking out "which provide health services".

(2) Subsections (c)(1) and (g)(4) of such section are each amended by striking out "section 301" and inserting in lieu thereof "section 301, 304, or 305".

(b) The amendments made by subsection (a) of this section shall take effect with respect to appropriations made under section 340 of the Public Health Service Act for fiscal years beginning after September 30, 1979.

Mr. President, I move that the Senate agree to the amendment of the House to the title of the bill with the following amendment:

In lieu of the matter proposed to be inserted by the House amendment insert the following: "An Act to extend for three fiscal years the authorizations of appropriations under section 789 and title XII of the Public Health Service Act relating to emergency medical services, to revise and improve the authorities for assistance under such title XII, to increase the authorizations of appropriations and revise and improve the authorities for assistance under part B of title XI of such Act for sudden infant death syndrome counseling and information projects, and for other purposes.".

APPENDIX—CHANGES IN EXISTING LAW (PUBLIC LAW 93-154, AS AMENDED, PUBLIC LAW 93-270, AS AMENDED, AND PUBLIC LAW 95-626) MADE BY COMPROMISE ON S. 497

For the information of the Members of Congress, changes in existing law (Public Law 93-154, as amended, Public Law 93-270, as amended, and Public Law 95-626) made by the compromise on the bill (S. 497), are shown as follows (existing law to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT, AS AMENDED

* * * * *

TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

* * * * *

PART D—PRIMARY HEALTH CARE

* * * * *

Subpart IV—Research and Demonstration Projects in Primary Care

PRIMARY CARE RESEARCH AND DEMONSTRATION PROJECTS

SEC. 340. (a) The Secretary may make grants to, and enter into contracts with, public and private entities [which provide health services]—

(1) to demonstrate new and innovative methods for the provision of primary health services and dental health services, or

(2) to conduct research on such methods or on existing methods for the provision of primary health services and dental health services,

to medical underserved populations or to such other populations as the Secretary determines are necessary to demonstrate or conduct research on particular methods.

(b) Grants and contracts may be made under subsection (a) to demonstrate and conduct research on—

(1) methods of attracting and retaining primary care physicians, dentists, physician assistants, nurse practitioners, and other health professionals, both individually and as teams, to train and practice among medical underserved populations;

(2) differing types of organizational models and relationships including federations of health service centers, designed to meet unique primary health and dental health service needs;

(3) management and technological improvements (including new or improved methods for biomedical communication and medical and financial recordkeeping and billing systems) to increase the productivity, effectiveness, efficiency, and financial stability of primary health and dental health service providers;

(4) methods of providing health promotion, disease prevention, and health education programs, including school health programs;

(5) methods of identifying, coordinating, and integrating existing primary health and dental health service programs with mental health and social service programs to maximize use of available resources, avoid duplication of effort, and ensure a coordinated, comprehensive care system;

(6) specific services or mixtures of services appropriate for a given area, including ambulatory care, home health care, environmental health services described in section 330(a)(4)), community outreach activities, transportation services, and other supplemental health services (as defined in section 330(b) (2));

(7) the effect of availability of primary health and home health services in terms of reduction of emergency room visits, hospitalizations, and institutionalization in long-term care facilities;

(8) the use of mobile health screening clinics to provide preventive health care services to meet the needs of medical underserved populations; and

(9) such other projects as the Secretary determines to be necessary to further the purposes of this section.

(c)(1) The Secretary may not make a grant or enter into a contract under this section for a project if the project can be carried out under the authority of any other provision (other than section 301, *304*, or *305*) of this Act.

(2) The Secretary shall, to the extent feasible, coordinate demonstration and research projects carried out under this section with any demonstration and research projects carried out under the Social Security Act for the reimbursement of services which are the subject of projects under this section.

(d)(1) No grant may be made under this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

(2) The amount of any grant or contract under this section shall be determined by the Secretary.

(3) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may find necessary.

(e) The Secretary shall submit an annual report to Congress not later than March 1 of each year (beginning with 1979) describing—

(1) the projects conducted under this section during the fiscal year ending in the previous year and why they could not be assisted under the authority of other provisions of this Act;

(2) the amount of funds expended in such fiscal year for each project area set forth in subsection (b) and, if more than 20 per centum of the amount appropriated for this section was expended on any single such project area, the reasons for such concentration of expenditures; and

(3) any recommendations resulting from the conduct of such projects.

In the first such report, the Secretary shall include the number of demonstration projects which were funded under section 1110 of the Social Security Act during the fiscal year ending September 30, 1978, which were related to health services in rural medical underserved areas, and which could have been assisted under this section during the fiscal year ending September 30, 1979, but for subsection (c)(1) of this section.

(f) As used in this section, the term "medical underserved population" has the meaning given such term in section 330(b)(3).

(g)(1) There are authorized to be appropriated for the purposes of funding grants and contracts under this section in areas that are not urbanized areas (as defined by the Census Bureau) $18,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $22,000,000 for the fiscal year ending September 30, 1981.

(2) There are authorized to be appropriated for the purposes of funding grants and contracts under this section in urbanized areas (as defined by the Census Bureau) $4,000,000 for the fiscal year ending September 30, 1979, $4,500,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

(3) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(4) The Secretary may continue to support, out of funds appropriated under this section, those demonstration projects which were funded under section 1110 of the Social Security Act during fiscal year ending September 30, 1978, and which are related to health services in rural medical underserved areas, but only if such projects can not be carried out under the authority of any other provision (other than section 301, *304, or 305*) of this Act.

* * * * *

TITLE VII—HEALTH RESEARCH AND TEACHING FACILITIES AND TRAINING OF PROFESSIONAL HEALTH PERSONNEL

* * * * *

PART F—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

* * * * *

TRAINING IN ELEMENTARY MEDICAL SERVICES

SEC. 789. (a)(1) The Secretary may make grants to and enter into contracts with hospitals having training programs which meet requirements established by the Secretary, schools of medicine, dentistry, osteopathy, and nursing training centers for allied health professions, other appropriate educational entities, and other appropriate public entities (as defined in paragraph (2)) to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services (including the skills required in connection with the provision of ambulance service), to assist in meeting the cost of training (including the cost of establishing programs for the training) of physicians in emergency medicine, especially training which affords clinical experience in providing medical services in emergency medical services systems receiving assistance under title XII of this Act, and to provide financial assistance (in the form of traineeships and fellowships) to residents who plan to specialize or work in the practice of emergency medicine.

(2) For the purposes of paragraph (1), the term "other appropriate public entity" means a State, unit of general local government, or any other public entity which—

(A) has established an emergency medical services system (as defined in section 1201 (1)), and

(B) except with respect to the basic training of emergency medical technicians, has entered into an agreement with an appropriate educational entity for a training program under this section.

(b) No grant or contract may be made or entered into under this section unless (1) the applicant is a public or nonprofit private entity, and (2) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner and contain such information, as the Secretary shall by regulation prescribe.

(c) The amount of any grant or contract under this section shall be determined by the Secretary. Payments under grants and contracts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. Grantees and contractees under this section shall make such reports at such intervals and containing such information, as the Secretary may require.

(d) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(e) No regulation, guideline, funding priority, or application without the full participation in the development of such regulation, guideline, priority, or form, by administrative unit described in section 1208.

(f) To the maximum extent practicable, the Secretary shall establish a uniform funding cycle so as to coordinate the submission and review of applications for grants and contracts under title XII and under this section and to coordinate funding policies among programs carried out under such authorities.

(g)(1) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974, and each of the next five fiscal years, *$5,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $8,000,000 for the fiscal year ending September 30, 1982.*

(2) Not less than 30 percent of the funds appropriated under paragraph (1) for any fiscal year shall be used in that fiscal year to assist in meeting the cost of training, and of establishment of programs for the training of physicians in emergency medicine.

* * * * *

TITLE XI—GENETIC DISEASES, HEMOPHILIA PROGRAMS, AND SUDDEN DEATH SYNDROME

* * * * *

PART B—SUDDEN INFANT DEATH SYNDROME

SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS; *PLANS AND REPORTS*

SEC. 1121. (a)(1) The Secretary, through *an identifiable administrative unit under the supervision of* the Assistant Secretary for Health, shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome, and to disseminate such information and materials to persons providing health care, to public safety officials, and to the [public generally.] *general public. The Secretary shall administer, through such unit, the functions assigned in this section, and shall provide such unit with such full-time professional and clerical staff and with the services of such consultants and of such management and supporting staff as may be necessary for it to carry out such functions effectively.*

(2) *The Secretary shall—*

(A) develop and implement a system for the periodic reporting to the Department, and dissemination by the Department, of information collected under grants and contracts made under subsection (b) (1) of this section; and

(B) carry out coordinated clearinghouse activities on sudden infant death syndrome, including the collection and dissemination to the public, health and educational institutions, professional organizations, voluntary groups with a demonstrated interest in sudden infant death syndrome, and other interested parties of information pertaining to sudden infant death syndrome and related issues such as death investigation systems, personnel training, biomedical research activities, and information on the utilization and availability of treatment or prevention procedures and techniques, such as home monitors.

The Secretary is authorized to enter into contracts with public or private entities to carry out the information and clearinghouse activities required under this subsection.

(b) (1) The Secretary [may] *is authorized* to make grants to public [and] *or* nonprofit private entities, and enter into contracts with public [and] *or* private entities, for projects which include both—

(A) the collection, analysis, and furnishing of information (derived from post mortem examinations and other means) relating to the causes *and other appropriate aspects* of sudden infant death syndrome; and

(B) the provision of information and counseling to families affected by sudden infant death syndrome.

(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall, by regulation, prescribe. Each application shall—

(A) provide that the project for which assistance under this subsection is sought will be administered by or under *the* supervision of the applicant;

(B) provide for appropriate representation (*including appropriate involvement of voluntary groups with a demonstrated interest in sudden infant death syndrome*) in the development and operation of such project;

(C) set for such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

(D) provide for making such reports in such form, *at such times,* and containing such information as the Secretary may reasonably [require.] *require, including such reports as will assist in carrying out the provisions of subsection (a) (2) of this section.*

[(3) Payments under grants under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

[(4) Contracts under this subsection may be entered into without regard to sections 3648 through 3709 of the Revised Statutes (31 U.S.C. 529; 44 U.S.C. 5).

[(5) For the purpose of making payments pursuant to grants and contracts under this subsection, there are authorized to be appropriated $2,000,000 for the fiscal year ending 1975, $3,000,000 for the fiscal year ending 1976, $4,000,000 for the fiscal year ending September 30, 1977, $3,650,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

[(c) The Secretary shall submit, not later than January 1, 1976, a comprehensive report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the administration of this section and the results obtained from the programs authorized by it.]

(c) (1) Not later than February 1 of each year after 1979, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a comprehensive report on the administration of this part (including funds and positions allocated for personnel) and the results obtained from activities thereunder, including the extent of allocations made to rural and urban areas. The report submitted on or before February 1, 1980, shall also set forth a plan to—

(A) extend counseling and information services to the fifty States and the District of Columbia by July 1, 1980; and

(B) extend counseling and information services to all possessions and territories of the United States by July 1, 1981.

(2) The Secretary shall conduct or provide for the conduct of a study on State laws, practices, and systems relating to death investigation and their impact on sudden and unexplained infant deaths, and any appropriate means (such as model State laws governing death investigations) for improving the quality, frequency, and uniformity of the post mortem examinations performed under such laws, practices, and systems in the case of sudden and unexplained infant deaths. Not later than December 31, 1980, the Secretary shall report to the Congress the results of such study, including recommendations as to any appropriate actions by the Department of Health, Education, and Welfare with respect to the conduct of post mortem investigations in all cases of sudden and unexplained infant death (including the desirability and feasibility of establishing pilot projects for centralized post mortem and specimen examination systems on a statewide or regional basis.)

(d) (1) For the purpose of making grants and contracts under and otherwise carrying out this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975; $3,000,000 for the fiscal year ending June 30, 1976; $4,000,000 for fiscal year 1977; $3,650,000 for fiscal year 1978; $3,500,000 for fiscal year 1979; $5,000,000 for fiscal year 1980; and $7,000,000 for fiscal year 1981.

(2) Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

(3) Contracts under this section may be entered into without regard to sections 3648, and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(4) The Secretary shall seek to make equitable distribution of funds appropriated under this section among the various regions of the country and to ensure that the needs of rural and urban areas are appropriately addressed.

SUDDEN INFANT DEATH SYNDROME RESEARCH AND RESEARCH REPORTS

Sec. 1122. (a) From the sums appropriated to the National Institute of Child Health and Human Development under section 441, the Secretary shall assure that there are applied to research of the type described in subparagraphs (A) and (B) of subsection (b) (1) of this section such amounts each year as will be adequate, given the leads and findings then available from such research, in order to make maximum feasible progress toward identification of infants at risk of sudden infant death syndrome and prevention of sudden infant death syndrome.

(b) (1) Not later than ninety days after the close of the fiscal year ending September 30, 1979, and of each fiscal year thereafter, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives specific information for such fiscal year on—

(A) the (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under this Act for research which relates specifically to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds; and

(B) the (i) number of applications approved by the Secretary in such fiscal year for grants and contracts under this Act for research which relates generally to sudden infant death syndrome, including high-risk pregnancy and high-risk infancy research which directly relates to sudden infant death syndrome, (ii) relationship of the high-risk pregnancy and high-risk infancy research to sudden infant death syndrome, (iii) total amount requested under such applications, (iv) number of such applications for which funds were provided in such fiscal year, and (v) total amount of such funds.

(2) Each report submitted under paragraph (1) of this subsection shall—

(A) contain a summary of the findings of intramural and extramural research supported by the National Institute of Child Health and Human Development relating to sudden infant death syndrome as described in subparagraphs (A) and (B) of such paragraph (1), and the plan of such Institute for taking maximum advantage of such research leads and findings; and

(B) provide an estimate of the need for additional funds over each of the next five fiscal years for grants and contracts under this Act for research activities described in such subparagraphs.

(c) Within five days after the Budget is transmitted by the President to the Congress for each fiscal year after fiscal year 1980, the Secretary shall transmit to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives an estimate of the amounts requested for the National Institute of Child Health and Human Development and any other Institutes of the National Institutes of Health, respectively, for research relating to sudden infant death syndrome as described in subparagraphs (A) and (B) of subsection (b) (1) of this section, and a comparison of such amounts with the amounts requested for the preceding fiscal year.

* * * * *

TITLE XII—EMERGENCY MEDICAL SERVICES SYSTEMS

PART A—ASSISTANCE FOR EMERGENCY MEDICAL SERVICES SYSTEMS

DEFINITIONS

Sec. 1201. For purposes of this part:

(1) The term "emergency medical services system" means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

(2) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) The term "modernization" means the alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

(4) The term "section 1521 State health planning and development agency" means the agency of a State designated under section 1521(b)(3).

(5) The term "section 1515 health systems agency" means a health systems agency designated under section 1515, and the term "health systems plan" means a health systems plan referred to in section 1513(b)(2).

GRANTS AND CONTRACTS FOR FEASIBILITY STUDIES AND PLANNING

Sec. 1202. (a) (1) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects which include both studying the feasibility of and planning (A) the establishment and operation of an emergency medical services system, (B) the expansion and improvement of such a system, or (C) both.

(2) If the Secretary makes a grant or enters into a contract under this section for a study and planning project respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under paragraph (1) for such project, and he may not make a grant or enter into a contract under paragraph (1) for any other study and planning project respecting an emergency medical services system for the same area or for an area which includes (in whole or substantial part) such area.

(b)(1) The Secretary may make a grant to or enter into a contract with an eligible entity (as defined in section 1206(a)) with respect to an emergency medical services system for the purpose of enabling the entity—

(A) to study the feasibility of, or plan for, the expansion and improvement of such system to provide for the use in such system of advanced life-support techniques, or

(B) if such system is the system of a State for which system a study and planning grant or contract has been made or entered into under subsection (a) and if the entity is that State, to update the plan of such system to improve the delivery of emergency medical services in rural areas and to medically underserved populations of the State.

(2) If the Secretary makes a grant or enters into a contract under paragraph (1) respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under paragraph (1) respecting such system, or respecting any other such system for the same area or for an area which includes (in whole or substantial part) such area.

(c) An eligible entity which has received a grant from or entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 1209) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of such grant or contract not later than one year after the date the grant was made or the contract was entered into, as the case may be.

(d) An application for a grant or contract under this section shall—

(1) demonstrate to the satisfaction of the Secretary the need of the area for the emergency medical services system for which the application is made;

(2) contain assurances satisfactory to the Secretary that the applicant is qualified to plan an emergency medical services system for such area; and

(3) contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation (A) with each section 1515 health systems agency whose health systems plan covers or will cover (in whole or in part) such area, and (B) with any emergency medical services council or other entity responsible for review and evaluation of the provision of emergency medical services in such area.

(e) The amount of any grant under this section shall be determined by the Secretary.

(f) [The Secretary may not obligate or expend in any fiscal year] *Priority* for *making* grants [and contracts made] or [entered] *entering* into [under subsection (b)(1) an amount greater than 50 per centum of the sums appropriated in such year for grants and contracts made or entered into] *contracts* under this section *shall be afforded to eligible entities applying for such grants or contracts under subsection (a) of this section.*

* * * * *

GRANTS AND CONTRACTS FOR EXPANSION AND IMPROVEMENT

Sec. 1204. (a) The Secretary may make grants to and enter into contracts with eligible entities (as defined in section 1206(a)) for projects for the expansion and improvement of emergency medical services systems, including the acquisition of equipment and facilities, the modernization of facilities, and other projects to expand and improve such systems.

(b)(1) [If a] *Except as provided in paragraph (2), if a* grant or contract is made or entered into under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of at least the first nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the expansion and improvement of the system in accordance with the plan contained in its application (pursuant to section 1206(b)(4)) for the first grant or contract.

(2) The Secretary may make a third grant or enter into a third contract under subsection (a) for an emergency medical services system if—

(A) Federal financial assistance under this Act for emergency medical services for the geographical area with respect to which such grant or contract would be made or entered into was first provided under a grant or contract under this section, or

(B) the Secretary determines that the applicant (i) demonstrates an exceptional need for such grant or contract, and (ii) is making substantial progress toward achieving financial support to implement the plan described in subsection (d)(1)(B)(ii).

A third grant or contract under subsection (a) may not be used to replace equipment or facilities acquired with a previous grant or contract under such subsection.

[2] *(3)* Subject to section 1206(f)—

(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

(B) the amount of [the second] a grant or contract (*other than the first grant or contract*) under this section for a system may not exceed (i) 25 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

(c) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances of the participation and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system's service area.

(d)(1) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

(A) the application for such grant or contract includes specific plans for the step-by-step achievement of compliance with each of the requirements of section 1206(b)(4)(C) within the period specified in section 1206(b)(4)(B)(i); and

(B) the application for such grant or contract includes assurances, evidenced by copies of formal resolutions, proclamations, or other acts of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of such bodies'—

(i) support and cooperation with the system, and

(ii) endorsement and support of a specific financial plan which provides for the maintenance of the financial support of the system, after the conclusion of the period of the grant or contract, at the level required to maintain the level of expanded or improved activity to be achieved during the period of the grant or contract.

(2) A [second] grant or contract (*other than the first grant or contract*) may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

(A) the Secretary has made the required determination under subsection (b)(1), and

(B) the application for such grant or contract includes assurances, of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, that substantial progress is being made toward achieving the financial support to implement the plan described in paragraph (1)(B)(ii).

(e) An eligible entity which has received a grant from or has entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 1209) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of grants made to or contracts entered into with the entity under this section not later than one year after the completion of the [second] *last* such grant or contract under this section.

* * * * *

GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS

SEC. 1206. (a) For purposes of sections 1202, 1203, and 1204, the term "eligible entity" means—

(1) a State,

(2) a unit of general local government,

(3) a public entity administering a compact or other regional arrangement or consortium, or

(4) any other public entity and any nonprofit private entity.

(b)(1)(A) No grant or contract may be made under this part unless an application therefor has been submitted to, and approved by, the Secretary.

(B) No applicant may receive more than a total of five grants, contracts, or grants and contracts under this part, except that in determining the number of grants and contracts which an applicant received under this part, the Secretary shall not include any grant or contract received under section 1202 (b)(1) or 1205 *or a third grant or contract received under section 1204.*

(2) In considering applications submitted under this title, the Secretary shall give priority to applications submitted by the entities described in clauses (1), (2), and (3) of subsection (a).

* * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 1207. [(a)(1) For] *(a)(1)(A) Except as provided in subparagraph (B), for* the purpose of making payments pursuant to grants and contracts under section 1202, 1203, and 1204, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, $60,000,000 for the fiscal year ending June 30, 1975, $35,000,000 for the fiscal year ending June 30, 1976, $5,083,000 for the period beginning July 1, 1976, and ending September 30, 1976, $45,000,000 for the fiscal year ending September 30, 1977, [and] $55,000,000 for the fiscal year ending September 30, [1978; and for the purpose of making payments pursuant to grants and contracts under sections 1202, 1203, and 1204, there are authorized to be appropriated] *1978*, $70,000,000 for the fiscal year ending September 30, 1978, *and $40,000,000 for the fiscal year ending September 30, 1980, and for each of the next two fiscal years.*

(B) No funds appropriated under subparagraph (A) may be used to make payments under a third grant or contract made or entered into under section 1204. For the purpose of making payments under such a grant or contract, there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1981.

(2) Of the sums appropriated under paragraph (1) for any fiscal year, not less than 20 per centum shall be made available for grants and contracts under this title for such fiscal year for emergency medical services systems which serve or will serve rural areas (as defined in regulations of the Secretary under section 1203(c)(5)).

(3) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1974, or the succeeding fiscal year—

(A) 15 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1202 (relating to feasibility studies and planning) for such fiscal year;

(B) 60 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1203 (relating to establishment and initial operation) for such fiscal year; and

(C) 25 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1204 (relating to expansion and improvement) for such fiscal year.

(4) Of the sums appropriated under paragraph (1) for the fiscal year ending June 30, 1976—

(A) 75 per centum of such sums shall be made available only for grants and contracts under section 1203 for such fiscal year, and

(B) 25 per centum of such sums shall be made available only for grants and contracts under section 1204 for such fiscal year.

(5)(A) Of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years at least 2½ per centum but not more than 5 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 1202. *Of the sums appropriated under paragraph (1)(A)—*

(i) at least one per centum of the sums appropriated for the fiscal year ending September 30, 1980, at least three-fourths of one per centum of the sums appropriated for the fiscal year ending September 30, 1981, and at least one-half of one per centum of the sums appropriated for the fiscal year ending September 30, 1982, and

(ii) not more than 5 per centum of the sums appropriated for any such fiscal year, shall be used for grants and contracts under section 1202.

(B) Of the sums appropriated under paragraph (1)*(A)* for the fiscal year ending September 30, 1977, and for each of the [two] *five* succeeding fiscal years, (i) not less than 20 per centum of such sums for each such fiscal [years] *year* shall be used for grants and contracts under section 1203, and (ii) not less than 20 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 1204.

(b) For the purpose of making payments pursuant to grants and contracts under section 1205 (relating to research), there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, and for each of the next five fiscal years, *$3,000,0000 for the fiscal year ending September 30, 1980, $3,500,000 for the fiscal year ending September 30, 1981, and $3,500,000 for the fiscal year ending September 30, 1982.*

* * * * *

INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

SEC. 1209. (a) * * *

* * * * *

(c) The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Science Foundation, the Federal Communications Commission, *the Federal Emergency Management Agency (established pursuant to Reorganization Plan Number 3 of June 19, 1978)*, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) and from the National Academy of Sciences, as the Secretary determines administer programs directly affecting the functions or responsibilities of emergency medical services systems, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

* * * * *

PART B—BURN, *TRAUMA, AND POISON INJURIES*

PROGRAMS RELATING TO BURN, TRAUMA, *AND POISON* INJURIES

SEC. 1221. (a)(1) The Secretary may make grants to, and enter into contracts with, public or private nonprofit entities for the support of, and may conduct, programs for the establishment, operation, and improvement of activities to (A) demonstrate the effectiveness of different methods *and organizational arrangements* for the treatment and rehabilitation of individuals injured by burns, *trauma, or poison,* (B) conduct research in the treatment and rehabilitation of such individuals, and (C) provide training in such treatment and rehabilitation and in such research.

(2) The Secretary may enter into contracts with entities and individuals for the support of research in the treatment and rehabilitation of individuals injured by burns, *trauma, or poison.*

(b) No grant or contract may be made or entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be submitted in such form and manner and contain such information as the Secretary may require. In considering applications under this section, the Secretary shall give priority to applications for programs which (1) will provide services within a geographical area in which services are not currently being adequately provided, and (2) are in or accessible to the service area of an emergency medical services system (as defined in section 1201(1)). *No grant or contract under subsection (a) for a program relating to poison injuries may be made for an amount in excess of 50 per centum of the costs of the program for which it is made.*

(c) For purposes of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1977, $7,500,000 for the fiscal year ending September 30, 1978, [and] $10,000,000 for the fiscal year ending September 30, 1979, *$6,000,000 for the fiscal year ending September 30, 1980, $12,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982. Not less than 50 per centum of the funds appropriated under this subsection for the fiscal year ending September 30, 1980, shall be obligated for grants and contracts under subsection (a) for programs relating to poison injuries. Not less than 25 per centum of the funds appropriated under this subsection for each of the fiscal years ending September 30, 1981, and September 30, 1982, shall be obligated for grants and contracts under subsection (a) for programs relating to poison injuries and not less than 25 per centum of such funds shall be obligated for grants and contracts under subsection (a) for programs relating to trauma injuries.*

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Mr. CARTER. Mr. Speaker, further reserving my right to object, I want to commend the chairman for his excellent work and leadership in getting this legislation passed. It is certainly necessary to the people of our country who need cardiopulmonary resuscitation, who are victims of trauma, burns, and poison, as well as sudden infant death syndrome. This is what this program is all about. I think it is a great program. Again, I commend the gentleman, and certainly I support this legislation.

Mr. Speaker, I strongly support the Senate amendment to S. 497—which extends for 3 years authorizations for emergency medical services systems programs under title 12 of the Public Health Service Act. I urge the House to concur in the Senate amendment.

Mr. Speaker, because the policy differences between the House and Senate bills were relatively minor—and because this program has received such overwhelming support during recent consideration by both bodies of Congress—those of us who would have been conferees wanted to try to resolve the differences between the bills without a formal conference.

And I am pleased to report to you that we have reached agreement which I believe closely parallels the intent of the House bill—and this compromise agreement is contained in the Senate amendment now before us.

Mr. Speaker, I would like to summarize briefly the main features of the compromise agreement.

First, the Senate amendment would continue for 3 years the authorizations for emergency medical services systems which Congress established in 1973.

As you know, EMS is a very worthwhile program because through these regional systems we can provide assistance to victims of accidents and other emergencies and help save lives and reduce disability and suffering.

In fact, it has been estimated that 60 thousand lives can be saved each year with an effective emergency medical services system nationwide.

Funds authorized under this program go toward supporting a variety of activities to develop regional systems of care.

For example, the legislation includes funds for planning—developing—and expanding EMS systems. Funds are also included to support training of emergency personnel—and to conduct research to find ways to improve our ability to provide effective EMS services.

Mr. Speaker, both the House and Senate bills reflected a commitment to continue support for the EMS program over the next 3 years—and that commitment is also embodied in our compromise agreement. To begin to phase out EMS funding at this time would be premature—and I know that rural areas in particular sorely need continued Federal support. And in my view—it may well be necessary to continue funding such EMS systems on a permanent basis.

In recognition of the special financial problems that many EMS systems are facing—the compromise agreement also includes authority for HEW to award an additional grant or contract under section 1204 of the act. This additional grant or contract could be awarded if the applicant EMS system can demonstrate an exceptional need for the funding—or—if the applicant entered the program at the 1204 funding level; $6 million has been authorized for fiscal 1981 for this purpose.

The provision is based on an amendment I offered in subcommittee in response to testimony we received about the need for such authority. I am confident the additional funds can be very effectively used.

In addition, Mr. Speaker, the Senate amendment combines provisions from the House and Senate bills relating to support for burn, trauma, and poison programs.

The goal of these programs is to reduce, and where possible to prevent, injuries from various types of accidents.

Let me mention just a few statistics to point out the need to address these problems:

There are an estimated 5 million poisonings each year in the United States, of which 5,000 are fatal.

Acute poisoning is the most common pediatric medical emergency.

In addition, trauma accounts for approximately 100,000 deaths and 11 million disability injuries every year.

Yet the extent of these injuries can be reduced through effective trauma and poison programs, and testimony before our subcommittee documented such accomplishments which have occurred in model programs throughout the country.

Finally, Mr. Speaker, the compromise agreement contains most of the provisions of the Senate bill regarding the sudden infant death syndrome program that is established under title 11 of the Public Health Service Act.

As you know, the sudden infant death syndrome is a tragic and still relatively inexplicable disease which claims the lives of about 6,000 to 7,000 infants annually. The incidence rate is approximately 2 per 1,000 live births.

I urge support of the provisions in the Senate amendment that are designed to improve our knowledge of this condition and to extend counseling to families who are touched by this tragic event.

In conclusion, Mr. Speaker, I believe we have reached agreement on a very reasonable and modest proposal. The total authorization level for the 3 fiscal years 1980–1982 is $35 million less than the House-passed legislation.

I urge my distinguished colleagues to join me in support of the Senate amendment to S. 497.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

UNITED STATES STEEL PLANT CLOSINGS

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, on Tuesday of this week, shockwaves occurred throughout America on the United States Steel Corp. announcement to permanently close three steelmaking facilities, in addition to a number of processing facilities. This will result in a permanent loss of 13,000 jobs.

I regret the decision and the resulting loss of employment at a time when America is moving into a deepening recession.

I fear that the decision of United States Steel is a forerunner of similar actions by other American steelmakers—both large and small. There are indications that we may experience a 10 percent cutback in national steel capacity with total job losses approaching 50,000 workers in this one industry alone.

There are many reasons for this steel crisis—in fact, it is a part of a world crisis in steel cutbacks and layoffs. Inefficient obsolete plants cannot compete with modern efficient plants abroad. The general state of the economy, Government policies, inept leadership in the industry, and excessive wage settlements are all to blame.

It would be folly for the steel industry to expect that the American people would countenance a rollback or deferral of their expectations in air and water pollution control. In my own community, I have marveled at the improvement in air quality and the outlook for better health. The high incidence of respiratory disease is being reversed for millions of people who live close to industry. The visible transformation of Lake Erie from a steel acid pickling pit to a body of water useful for life is one of the great miracles of our time. The battle for pollution control is worth fighting.

The answer to the problem is to replace rundown, old, obsolete mills with modern, efficient, clean facilities. The current high costs of borrowing prohibits the industry from entering the money markets for the capital infusion necessary to revitalize the industry.

For critical capital-hungry industries, it may be necessary to create a Federal loan and guaranty program—like the Reconstruction Finance Corporation which helped so many companies and recovered the depression-ridden economy almost a half century ago. In the aggregate, the RFC commitment was well worth the risk of public involvement.

For example, financial support such as this would make it possible for the steel companies to put modern new plants—such as the proposed Conneaut facility—on stream as obsolete facilities are retired. To lose productive capacity before new plants are substituted invites foreign imports to fill the gap forever. Steel customers lost to foreign producers are difficult to recover.

I regret that the steel industry has preferred to support the so-called 10–5–3 depreciation program which would constitute a massive tax-cut program across the whole spectrum of American enterprise. The 5-year cost of such a business tax-cut program would total $122 billion in 5 years and shift the burden to the average taxpayer. There is no guarantee that this program would produce any new productive facilities. For all we know, industry could invest these lost revenues in gold bars and sugar futures.

I believe a loan guarantee program for selected capital-heavy industries would cost the taxpayer less than 10 percent of the fast depreciation approach. If it were made available to those industries willing to make a commitment for the development of modern, efficient, productive facilities, it would create an enormous boom for the entire economy and reverse the tide of joblessness.

With respect to these fundamental steel issues, this Friday, and over the next several months, the Ways and Means Subcommittee on Trade will hold hearings to develop a comprehensive approach to the steel problem. We need to develop a national steel policy to strengthen our domestic industry and make it self-sufficient and competitive.

HUBERT HORATIO HUMPHREY OUTSTANDING STATESMAN AWARD GIVEN TO THE HONORABLE CLAUDE PEPPER

(Mr. LEHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. LEHMAN. Mr. Speaker, our distinguished friend and colleague, the Honorable CLAUDE PEPPER, was recently honored by the Florida Democratic Party when he was selected as the first recipient of the Hubert Horatio Humphrey Outstanding Statesman Award.

The award reads:

> The Florida Democratic Party 1979 State Convention proudly presents the Hubert Horatio Humphrey Outstanding Statesman Award to the Honorable Claude Pepper for his dedicated service and leadership on behalf of the United States of America and the Democratic Party of Florida.

The selection of Congressman PEPPER for this honor came about when State party officials were polled and their overwhelming response was that CLAUDE was the man who most closely embodied the ideals for which Hubert Humphrey had been known.

As CLAUDE's friend, I totally agree that he is most deserving of this tribute. I was proud to be present at the Presidential dinner in St. Petersburg, Fla., on November 17 and witness his surprise and emotion as Frances Humphrey Howard, Hubert Humphrey's sister, presented CLAUDE with the award. The assembled delegates from all over Florida applauded their statesman with a standing ovation.

Mr. Speaker, I would like to include in the RECORD the presentation address given by Mrs. Howard. In it, she very eloquently lists the similarities between CLAUDE PEPPER and the beloved Hubert Humphrey.

ANNUAL HUBERT HUMPHREY STATESMANSHIP AWARD

(The following is the presentation address given by Mrs. Frances Humphrey Howard at the Presidential Dinner of the Florida Democratic Party Convention 1979.)

The Democratic Party of Florida has honored me with the privilege of presenting the Hubert H. Humphrey Statesman Award to Hubert's friend and mine, Congressman Claude Pepper. This will be the first in a series of annual awards to be given by the Florida Democratic Party to a person in public life, exemplifying the characteristics of leadership and statesmanlike conduct which Hubert H. Humphrey personified in his lifetime.

This honor could not come at a more opportune time, as this year the people of Florida and the nation celebrate Claude's 50 years in public service.

We could honor him simply for his longevity. But the years alone don't tell the full story. What he has done in those years—and continues to do—is the measure of what one can accomplish with a keen mind, a loving heart, and a persistent determination to see the world made better for all God's creatures. Let us hope that he will go on serving in the Congress for many, many years to come.

As Hubert's sister, I observe many similarities between my brother and Claude Pepper.

Both fought enormous odds to make all people—equal in the eyes of God—equal under the law, as well;

Both men fought for a secure nation—secure from foreign aggression and from domestic timidity which weakens our resolve and threatens our liberty;

Hubert Humphrey and Claude Pepper fought to give every man, woman, and child in America access to a good education and a decent home, safe from crime;

And both struggled to protect our people against devastating illness and the cost of health care. I work at the National Institutes of Health, and I am proud to say that Claude Pepper is credited with the establishment of some 5 of the Institutes. And just this year, he fought successfully to increase funds for research on cancer—that brutal and uncompromising disease which took Hubert and Claude's own beloved wife, Mildred.

These men shared much more. Claude understands and relishes the art of politics, just as Hubert did. He undertands the role of history and the nature of great leaders. He is the gallant soldier who marches fearlessly into battle when the cause is just. Then, after the dust has cleared, he is the soothing healer, ready to comfort the weary and bind the wounded.

Claude Pepper is a risk-taker; and Hubert Humphrey was a risk-taker.

Hubert took some blows for his beliefs, and Claude has taken some blows for his. He has always put the public interest before his own political interests, and he is one of few men in public office who have suffered the political consequences that sometimes come when you put the people first.

The essence of Claude Pepper is the essence of "statesman"—honor, fairness, diligence, pursuit of justice, and love for what is right.

This is a wonderful day for you, Claude. I only wish that Mildred could be with us to share this hour, for she was truly your helpmate and partner in the endeavours we are honoring.

Let me close with a quote, which came from Hubert's heart and, I know, is also close to yours: "Governments will be remembered by how they care for those in the dawn of life, the children; those in the twilight of life, the elderly; and those in the shadow of life, the handicapped." ●

FIRST AMERICAN RELIEF AIRLIFT TO CAMBODIA

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, on Thanksgiving Day a Flying Tiger cargo plane jointly sponsored by Operation California and the American Friends Service Committee left the United States to deliver food and medical supplies to Cambodia.

This plane, the first American mercy flight to Phnom Penh, arrived in Phnom Penh on Monday and was greeted by officials of the Kampuchean government.

The 75,000-pound cargo included over $100,000 worth of medical supplies and vitamins desperately needed in the ongoing famine relief efforts. Food supplies on board were donated by the Mennonite Central Committee and others.

Complicated arrangements needed to make this flight possible were made with the cooperation of our Government and the Kampuchean authorities. The AFSC and Operation California deserve our highest commendation for mounting this successful effort. This is proof that an American airlift is feasible, and I call upon the Carter administration to enter into direct talks with the Kampuchean authorities with the aim of undertaking an expanded airlift into Phnom Penh.

The AFSC/Operation California flight raises several interesting issues. First, we should note that the Kampuchean government appears to have greeted this plane warmly. The authorities there have also agreed to full monitoring of the distribution effort by Oxfam, AFSC, the World Council of Churches, and others on the scene.

Second, we should note that the Kampuchean government, at least publicly, has never turned down American aid explicitly. The one rebuke we did receive was over the so-called land bridge to deliver aid across the Thai border. Rejection of the land bridge was not a specific rejection of aid but rather a rejection of the proposed means of delivery. The land bridge plan, as outlined in the CONGRESSIONAL RECORD by several U.S. Senators, called for direct distribution of aid by international relief organizations. The Kampuchean government is firmly on record as insisting that it distribute all aid, with international monitoring of the relief effort.

All of this leads me to conclude that the Phnom Penh authorities will, in fact, cooperate with Government in an expanded relief program so long as we acknowledge the right of the Heng Samrin government to distribute all aid received. In return, full international monitoring of the distribution would be permitted.

If this supposition is correct—and it has not been proved incorrect—I would like to know: what is holding us back? Why is not our Government directly coordinating an expanded airlift of food and medical supplies to Cambodia?

I fear that the answer to this question— and I hope I am wrong on this—rests in the Carter administration's continued hallucination that Pol Pot and his forces constitute the legitimate government of Cambodia. It seems as if we are clinging to the hope that food and other supplies can be channeled to Pol Pot's forces in Cambodia. The Thai Government has an expressed interest in this and I suspect we are backing them up.

If I am wrong and it is simply a matter of a desire on our part to send humanitarian support to civilians in those areas of Cambodia occupied by Pol Pot forces—where there is severe starvation, too—then by all means we first must repudiate any and all support of Pol Pot's guerrillas. Otherwise, our humanitarian intentions are bound to be misread as politically motivated and hostile to the present Kampuchean government.

We might not like the government of Heng Samrin but one fact is clear, and this is my point in addressing the House today: we must work with the existing Cambodian authorities to combat the massive famine which is destroying a whole race of people. We should recall that during F. D. R.'s administration, circumstances necessitated that we cooperate closely with none other than Josef Stalin in order to combat the tyranny of Hitler. F. D. R. had to disregard differences with Stalin and keep his eye on the ball. We succeeded in that war, but surely will fail in this war against famine unless President Carter does a better job in keeping his eye on the ball. Our fundamental goal is to keep as many people as possible from starving, and the President should not be distracted by those of his advisors who are preoccupied with political jousting between Pol Pot, Heng Samrin, the U.S.S.R., and the People's Republic of China. It disgusts me that so many people are spending so much time vying for control of a race that will be dead by the time a political decision is reached.

THE INDIVIDUAL SAVINGS ACT OF 1979

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KRAMER. Mr. Speaker, today I am introducing a bill which I believe would substantially improve the dismal economic picture which confronts both individuals and businesses. It is becoming increasingly evident that our Government's fiscal policies are encouraging consumption and debt and discouraging savings, and hence impeding capital formation. It is time to rectify this imbalance, and I know that many of my colleagues have introduced measures to do this by exempting various levels of interest and/or dividend income from taxation.

The bill I am introducing today takes a similar approach to the common end of encouraging greater savings, but differs in one important respect. Rather than providing a flat exemption on certain levels of interest income, my bill provides a tax exemption for the increase in interest income from one year to the next for individuals under age 65. For individuals 65 and over, there would be no increase test to qualify for the exemption. In a true sense, this approach encourages new savings by exempting from taxation that interest income which reflects an increase in savings from the previous year. The Individual Savings Act of 1979 allows interest earned from savings accounts in excess of the previous year's earnings to be tax free up to a total of $500 for an individual or $1,000 for a joint return. In the case of individuals 65 and over, the first $500 of interest income earned on savings would be excluded from taxable income.

This somewhat different approach has two significant advantages over a flat exemption.

First, it results in a lower revenue loss to the Treasury than a dollar for dollar flat exclusion.

Second, because the revenue loss factor is smaller, it is possible to increase the rate of the exemption, thus providing a greater incentive to increase savings.

The Joint Committee on Taxation estimates that the total revenue impact of this proposal for the years 1981–90 would be $23.5 billion. This compares with the estimated revenue loss during the same period from a flat $250 exclusion of $30.4 billion. Thus, the total revenue impact of the $500 exclusion in my bill is actually less than that of a $250 flat exclusion, yet it provides twice the benefit to the taxpayer who increases his savings. Thus, this bill puts the emphasis where it belongs—on increasing the present rate of savings.

If our objective is to provide an incentive for individuals to save more, the approach in the Individual Savings Act is clearly designed to meet that objective in the most cost-effective manner.

And there is no doubt that our objective should be to encourage increased savings. The Federal Reserve bank has recently reported that new consumer debt in September of this year increased by a record level of $4.45 billion over the previous month. That level was nearly twice the $2.45 billion new debt recorded in the month of August, and illustrates as clearly as any picture the impact of ever-rising inflation on consumer spending habits. And even while the level of new consumer debt was reaching new heights, the level of debt repayment decreased, indicating that borrowers might be having difficulty repaying past loans.

The Commerce Department reported in October that the savings rate of Americans fell to 4.1 percent of income in the third quarter of this year. That is the lowest level of savings in 25 years, and is far below the average savings rate in other industrialized countries. According to the National Savings and Loan Foundation, the British, for example, save 13 percent of disposable income, the West Germans save 15 percent, and the Japanese save 25 percent.

While the savings rate in this country continues its decline, the inflation rate continues to climb, and we are now assured a double-digit inflation rate for 1979. So long as this disparity continues, Americans will continue to respond to the built-in incentives to spend now, because they become double losers as savers. Not only do their savings lose spending power as savers forgo the price advantages of current consumption, but the interest earned on savings is subjected to taxes while the interest paid on consumer debts is deductible.

As the savings rate declines, capital investment is reduced; productivity declines; and interest rates rise. As the "buy now" philosophy takes over, demand increases for the same number of goods, thus further fueling the fires of inflation, and interest rates are pushed higher as the supply of savings declines.

It is clear that in order to halt this spiral, substantial incentives must be created to increase the rate of savings and decrease the amount of consumption financed by inflationary consumer debt. The measure I am introducing provides that incentive to all savers, thus spurring productivity and solid economic growth. By making savings more attractive, it would shift dollars away from inflationary consumption and into savings accounts to relieve the pressure on interest rates. This would not only stabilize prices, but would stimulate homebuilding and financing and would provide additional funds for badly needed capital investment.

In addition, it would help protect the savings of the elderly and retired from taxation and the ravages of inflation by exempting the first $500 of interest income earned on savings held by those 65 and over from taxation. This flat exclusion for this group recognizes the fact that these individuals have contributed to savings over the years to provide for their retirement, and are far more likely to be drawing down on those savings than to be increasing them as they reach retirement age. Those savings should be protected, and the elderly and retired should not be penalized for their inability to increase their savings at the time in their life when they must rely on those savings. The flat exclusion in my bill of the first $500 interest income earned on savings held by individuals 65 and over assures this protection.

This bill is identical to one introduced in the other body by Senator NELSON, and it is believed that the bill would have widespread support because it provides the greatest benefit with the least revenue impact.

I urge my colleagues to join me in the battle against inflation and to support this effort to stimulate increased savings.

PRESIDENT CARTER'S REMARKS DEMONSTRATE UNITY OF AMERICAN PEOPLE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LUNGREN. Mr. Speaker, I applaud President Carter's remarks last night on Iran, especially his praise for the way the American people are standing unified and firm in this crisis.

Nothing better demonstrates the failure of the ayatollah to divide this country, than the resentment expressed by black Americans over his attempt to use race to win sympathizers to his side.

A recent letter to the Los Angeles Times by a black former Peace Corps volunteer, S. A. Batchelor, puts it right on the line:

Mr. Batchelor says that he spent many years in the Middle East as a volunteer and received many kindnesses from the people there during his stay.

Still, he says. "It was the happiest day of my life when the plane landed in New York."

He adds that although the experience of being a Peace Corps volunteer was "the greatest of my life and one I will never forget * * * there is no place like America, with all its faults, regardless of race, color, or religion."

I would like to commend Mr. Batchelor, along with National Urban League Director Vernon Jordan, and all other Americans who are speaking up to show that—regardless of our internal differences and past problems—we all stand together today.

I think the ayatollah has seriously underestimated this country's resolve and unity.

Mr. Speaker, I include the article from the Los Angeles Times of Tuesday, November 27, as follows:

[Letters to the Times]

BLACKS AS PAWNS

I applaud Vernon Jordan, director of the National Urban League, for his resentment of the Ayatollah Khomeini's reason for the release of the black Marine hostages in Iran. Jordan resents using blacks as pawns to divide the Americans. I also resent it.

As a black American and former Peace Corps volunteer (1963–1965), I served in Kabul, Afghanistan, for two years, a country with a common border with Iran. I enjoyed the kindness and hospitality of the Afghans and many of my friendships still continue.

Since volunteers lived on the level of the poverty people, it gave me the opportunity to observe and witness the plight and isolation of the poverty population in all areas while on tour.

As one of the "older" volunteers, with many years experience of discrimination in America, I was an expert in making the comparison of the living conditions and treatment of blacks in America with the conditions and treatment of minorities (of the same race of people) in other underdeveloped countries.

After two years in Afghanistan and my travels in Jerusalem, Egypt, India, and Nigeria, Ghana and Liberia, West Africa, it was the happiest day of my life when the plane landed in New York.

The experience was the greatest of my life, and one I will never forget, but there is no place like America, with all of its faults, regardless of race, color or religion.

S. A. BATCHELOR.

LOS ANGELES.

THE LATE HONORABLE MICHAEL J. BRADLEY

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, I would like to pause in the business of the House to pay tribute to a former Congressman from my own Third Congressional District of Pennsylvania, Michael J. Bradley, who passed away in his home in Philadelphia on Tuesday, November 27, 1979.

Mike Bradley has left behind a career of illustrious service to his city and to his Nation. Born in the Kensington section of Philadelphia, Mike Bradley left St. Ann's Parochial School to work so that he could help support his family. He attended night classes to learn telegraphy. When World War I broke out, Mike Bradley became a chief radio electrician and served overseas in Rome. During the peace conference which ended the war, he was placed in charge of all Woodrow Wilson's telegrams and cables.

In 1937, Mike Bradley began an outstanding career in the U.S. House of Representatives. An ardent New Dealer he took up the struggle in Congress for a livable wage and fought for the Fair Labor Standards Act. Passage of this legislation by Congress in 1938, despite a barrage of big business propaganda dumped on Congress during that period, was due greatly to the Herculean efforts made by Mike Bradley on behalf of these reforms. Working people throughout this country are still benefiting today from the fruits of Congressman Bradley's efforts.

As a Member of the House of Representatives, Congressman Bradley was the moving force behind the passage of legislation, making the Independence Hall area a national landmark. His devotion to Independence Hall remained long after Congressman Bradley left Congress; he had been a member of the Independence National Historical Park Advisory Commission since he was appointed in 1949. Congressman Bradley's tireless efforts on behalf of Independence Hall has enhanced the enjoyment and appreciation of the countless Americans and foreign visitors who visit this historic site daily.

Michael Bradley's service to his city did not end when he stepped down from the House of Representatives in 1947. Michael Bradley was a collector of customs for the Port of Philadelphia, a job which he performed most ably until 1953, when he was named deputy city managing director by then Mayor Joseph Clark. As would be expected from a man of Mike Bradley's abilities, his work as deputy city managing director was a moving force behind the renaissance which took place in Philadelphia during Mayor Clark's term in office.

Mr. Speaker, I ask my colleagues in the House to join with me in paying tribute to Michael J. Bradley, a man who has served his country, this body, and the city of Philadelphia so well during his lifetime.

CIVIL SERVICE REFORM

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

● **Mr. DERWINSKI.** Mr. Speaker, it is interesting to note the rush to judgment, especially in Washington, by soap box orators for Federal employee unions and chronic pessimists, on the Civil Service Reform Act of 1978. They seem to be working overtime trying to undermine what Congress overwhelmingly decided was solid legislation designed to restore public confidence in the Federal Government by improving its productivity and the quality of its services.

It is far too early to be making any rash judgments on civil service reform. The act has been in full force less than 1 year, and many parts of the reform package will not be fully operational for another 2½ years. Obviously, implementation requires time, and the respective agencies must be allowed the flexibility to move from the development stage to full performance. Only then will we have solid evidence to evaluate the ramifications of civil service reform.

On a more positive note, a recently released preliminary report on the first Government-wide survey of Federal employees underscores the credibility of civil service reform. The most significant finding in that report is that the 1978 legislation deals directly and forcefully with problems that are of paramount concern to the employees. Prior to the enactment of that legislation, most Federal employees did not believe they would be rewarded for good job performance. They also believed poor job performance was not likely to result in any adverse consequences.

Those attitudes emerged in an opinion survey of 20,000 Federal employees nationwide. Employees were asked about their jobs and their workplaces in a survey taken last May. The results of this survey will be compared with future annual surveys to determine and gage attitude changes which result from revisions in personnel policy, such as the establishment of new performance appraisal systems and merit pay.

The same forces which tried to gut civil service reform in committee now are trying to slap at the act through a legislative authorization measure—H.R. 5138. It imposes a 2-year authorization, at fixed levels of spending, for the Office of Personnel Management, the Merit Systems Protection Board, the Federal Labor Relations Authority, and the Office of Special Counsel.

It is a politically motivated piece of legislation which attempts to superimpose committee policy on the administrative functions of those four agencies.

Alan K. "Scotty" Campbell, Director of the Office of Personnel Management, deserves special commendation for his outstanding efforts in closely monitoring the complex 1978 law. As various parts of that law continue to be implemented, Campbell knows how necessary it is to be aware of the attitudes of Federal employees.

Instead of subjecting Campbell and civil service reform to premature complaints, we should be supporting the effort to follow through on a new and meaningful public policy.●

THANKSGIVING

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 20 minutes.

Mr. COLLINS of Texas. Mr. Speaker, America is proud of her great traditional days. Thanksgiving in Texas has special meaning with our new Thanksgiving Square in the heart of downtown Dallas. This beautiful park with a chapel covers a block donated by local citizens. We are thankful all year, but Thanksgiving is the special day.

This year, Chairman Peter Stewart arranged our second annual Thanksgiving Day Service with our Congressional

Chaplain James David Ford bringing us the Thanksgiving message.

Chaplain Ford represents the finest in our Nation's religious leadership. I was proud to introduce him, and note that he has a father and grandfather who were Lutheran pastors before him. Educated at Gustavus Adolphus College, Augustana Seminary, and Heidelberg in Europe, he was also a leader in college activities. President of his class, both in college and graduate school, he was named Guild of St. Anosgar as the outstanding senior for scholarship and leadership.

My neighbors were interested to learn that Chaplain Ford in 1976 captained a 31-foot sailboat with a crew of two which sailed from England to New York in 51 days covering 5,920 miles. But this former Minnesota State ski champion provided the most unusual part of his background in relating that our chaplain had been on CBS describing his backward ski jump. Imagine a backward ski jump.

It was with personal pride that I could introduce our Chaplain Ford who has such warm human understanding that this Lutheran sounded like a Baptist evangelist to my Texas neighbors.

Here are some of the highlights of the Thanksgiving message by Chaplain Ford whose sound logic is shared with all of us from coast to coast:

Thanksgiving—Our Best Gift!

(Address by Dr. James David Ford)

> I appreciate the invitation to speak on this special day at this special place. Mr. Peter Stewart and Congressman Collins have spoken enthusiastically about Thanks-Giving Square and what it means and it is a privilege for me to share this moment with you.
>
> The Thanksgiving Holiday transcends all our boundaries and backgrounds. No matter who we are, what we've done or where we've been, we all stand together today and express our gratitude and praise for all the gifts of life.
>
> The spirit of Thanksgiving lives in good times and in bad. The words of today's front page make us anxious and cause us pain, particularly the story of the hostages to whom we reach out in prayer. Yet, today we exclaim our belief in Thanksgiving—our best gift—for to express gratitude is what makes us uniquely human and responsible.
>
> First, we give thanks for our Nation. When the *Mayflower* landed in Plymouth Colony 359 years ago, the colonists, in spite of travail and shortages, gave thanks for their lot.
>
> Let me tell you a personal story in which I felt the spirit of Thanksgiving for our Nation. In the year of the Bicentennial, I had a 31-foot sailboat, *Yankee Doodle*, built in Plymouth, England, and together with two crewmen, sailed nearly 6,000 miles to my home at West Point, New York. Our trip was unique in that none of us had sailed out of sight of land, and, more importantly, it was done by private citizens to celebrate the Nation's birthday. While I could talk of the cyclone we went through, or the near miss by a whale, what I want you to share is the exhilarating experience we knew in sailing back to our home, our country.
>
> Once we got halfway across the Atlantic, the emotion of going home to America became more intense. At night I would watch the phosphorous in the water slide by at 5 miles an hour and I would think about how lucky I was to be going home. Can you imagine what it was like to sail into New York and past the Statue of Liberty, can you share with me the pride of living in a country that welcomed all kinds of people from all types of places. On that June day just three years ago we experienced the thrill of being welcomed to our land in much the same way generations of new Americans have been welcomed. Together, we gave thanks for this land of liberty and freedom.
>
> We give thanks also for family and friends, those people who accept us as we are. There are those who appreciate what we will be, what we may become. It is friends and family who love us and encourage us each day. There are some people with whom we are acquainted, and there are others that we believe in and trust, and for these family and friends we express our gratitude and praise.
>
> Some years ago I got to thinking about how I could express my gratitude to my parents for all the love they had given me. I realized that I could gather all my savings and sell my possessions, and borrow all I could from the bank and present all this to my parents, and it would not be enough to repay their kindness. The greatest and best gift for them was to express in thought, word and deed, the sense and spirit of Thanksgiving. So today we give thanks to all those family and friends who love us as we are.
>
> We give thanks also to God who created each one of us. Our one common experience is to have been created in the image of God, whatever our religion or lack of it. It is God who breathed into us the breath of life and it is His spirit that sustains us. We worship Him and praise Him for the gift of life, our common heritage.
>
> In December of 1968, Apollo 8 was coming home after the first space launch around the moon. The world was waiting for news with appreciation and awe at these three American astronauts, these masters of navigation and math, experts at computers, these whiz kids of technology. If anybody could say, "what need do I have of God," these were they! Instead, on that Christmas Eve, they read from the Bible, the first book and the first chapter, "In the beginning, God created the heavens and the earth . . ." It was the most dramatic sermon I have heard. At the height of human achievement, they testified to God as creator of the world.
>
> We have come together from different backgrounds and religions at this Thanks-Giving Square in the heart of a great city to proclaim our gratitude for our Nation, our family and friends, and to praise our God for the gift of life.
>
> Thanksgiving—it's our best gift!

CAN REGULATORY AGENCIES MAKE SCIENTIFIC JUDGMENTS?

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. Wampler) is recognized for 5 minutes.

Mr. **WAMPLER**. Mr. Speaker, Federal regulations in all fields have become of increasing concern to a great many Members of Congress.

We have this concern because we are being made aware by our constituents of the growing impact of the proliferation of regulations on every facet of American life and the spirit of innovation and creativity which has propelled our Nation into its current international prominence.

The regulatory agencies were established for the most part in response to a universal concern for protection of health and the environment. It is my belief, however, that the implementation of the laws enacted by the Congress is exceeding the intentions which we had when we responded to the demands for increased protection of our Nation's food supplies and other health concerns of our people. For whatever the reasons, I believe that we have to recognize the deficiencies which are being made evident and take the actions necessary to return our regulatory agencies to reasonable and acceptable courses of action.

Can it be true, as our regulatory agencies announce almost daily in the news media, that such substances as bacon, beer, gin, automobile tires, cleaning fluids, or substances which kill weeds or control pests that give us our seemingly endless supplies of foods, fiber, and wood products, to name a few, are the primary causes of cancer or other health related risks? Or should we question, Mr. Speaker, the methodology of the Federal agencies which make these charges?

In the last several years, Mr. Speaker, protestations have been made by a rather large number of prominent scientists from the academic world and industry which strongly challenges the scientific basis for this recent rash of pronouncements by the regulators stating that this or that substance causes cancer or is suspected of causing cancer. Let me just cite a few of these most recent challenges.

Only yesterday the United Press International carried the following item on the ticker in the Speaker's lobby:

> Corvallis, Oreg.—A task force at Oregon State University was critical this week of an Environemntal Protection Agency study of possible links between miscarriages and the use of the herbicide 2,4,5–T.
>
> "Our critique does not support any of the three conclusions from EPA's Alsea II Study," said the Task Force. "We believe the most serious flaws in the study are the incomplete and inaccurate data which were used in the data analysis."
>
> Results of EPA's Alsea II study played a prominent role in the agency's decision to suspend the use of 2,4,5–T in forestry vegetation control and right-of-way clearing.
>
> In the report, the Task Force said its critique shows that EPA reached erroneous conclusions from the study because of failure to account for differences in characteristics in the study area and the rural and urban control areas in Oregon and because of inaccuracies in the collection of data on spontaneous abortions.
>
> The EPA study showed that human miscarriages were more common in the Alsea area of Western Oregon where the herbicide had been heavily used than in two other portions of the State where there had been no concentrated use.

Several weeks ago, I received a case history report from the Library of Congress also critical of EPA along the same general grounds as the UPI news story. This report, "Case History of 2,4,5–T Regulations," involves the action of the Environmental Protection Agency to suspend certain uses of the same pesticide, 2,4,5–T, because it has been alleged to present a number of health risks.

Moreover, many other criticisms of the study (Alsea II), used as a basis for EPA's regulatory actions against 2,4,5–T have been made by eminent scientists throughout the country, as well as EPA's own scientific advisory panel. Even EPA now admits the data used in the study, which triggered the emergency suspension, are faulty.

A little over 2 months ago, September 14 to be exact, I presented another report to the House, entitled "Case History of FDA Actions on MIT Nitrite Study," prepared by the Library of Congress. This report was extremely critical of a proposed regulatory action by the Department of Agriculture and the Food and Drug Administration, which would remove the food preservative and curing agent, nitrite, from our food supply. The basic criticism of the Library of Congress report was that both USDA and FDA had utilized the unvalidated Newberne nitrite study, alleging that test rats when fed nitrite contracted cancer, to initiate drastic and far-reaching economic and social actions against the use of nitrites before a substantive scientific review of the study had been obtained.

Mr. Speaker, at the insistence of Members of Congress and, I might add, after strong arguments against the need for such a review from USDA and FDA, a scientific peer review of Dr. Newberne's hypothesis has been initiated. As this review has progressed, it has become more and more evident that these agencies do not have and have not had the support of the broad scientific community sufficient enough to validate the Newberne study as a reasonable basis for regulatory action against nitrites.

Again, Mr. Speaker, we have an agency of the Federal Government initiating regulatory action before allowing any substantive review of the scientific basis for its decision. Here we see several documented situations where hasty decisions have deflated the public confidence in the industries of our country. Unfortunately, the damage has been done, and for no scientifically valid reason.

The only sensible course of action, Mr. Speaker, is to assess the scientific evidence before a regulatory decision has been made, not afterward. At the very least, we should confirm the scientific validity of an important study, especially those that indicate there might be a cancer risk or another serious related health risk, before taking action. Until a scientific study has been reviewed by other scientists, its conclusions represent the opinions of the authors only. This has always been an unwritten rule in science. Why should a single unvalidated study applied to the regulatory arena be given a new and different connotation? If anything, the political consequences of the work make it even more susceptible to possible erroneous conclusions.

It is obvious from the foregoing that we should raise the question—can regulatory agencies make scientific judgments?

Mr. Speaker, inasmuch as the personal representatives of the Administrator of the Environmental Protection Agency came to the Congress and briefed a number of Members of the Congress as to the authenticity of the Alsea study and the emergency nature of this action, I insert the CRS manuscript, entitled "Case History of 2,4,5–T Regulations," in the RECORD immediately following my remarks:

CASE HISTORY OF 2,4,5–T REGULATION

(By Sarah L. Hartman, analyst in life sciences, Science Policy Research Division, October 19, 1979)

The herbicide 2,4,5–T (trichlorophenoxyacetic acid) was first registered in 1948 for the control of broadleaf weeds. In the 1950's, it was found that 2,4,5–T could contain hazardous amounts of TCDD (tetrachlorodibenzo-para-dioxin, or simply "dioxin"), a contaminant well known for its extreme acute toxicity. TCDD is lethal in small amounts and may be carcinogenic (cancer-causing), teratogenic (cause birth defects while the mother is pregnant), mutagenic (cause mutations in the parents' germ cells that may later result in birth defects in the offspring), or cause other health effects in even smaller doses. The industrial production of 2,4,5–T always results in some TCDD contamination, although with current technology this amount can be reduced to .01 parts per million (ppm). Because the human health effects of chronic exposure to extremely low levels of dioxin are unknown, as is the actual degree of exposure to the substance from contaminated pesticides, there has been much debate over the risk to human health of continued use of 2,4,5–T. This debate necessarily focuses on the appropriate degree of regulation of pesticides contaminated with TCDD.

EARLY REGULATORY ACTIVITY

In October 1969, the President's Science Advisor announced the results of scientific tests which linked 2,4,5–T, and specifically its dioxin contaminant, to birth defects in laboratory animals. In response to this information, EPA acted to ban uses on food crops intended for human consumption with the exception of rice, whose manufacturers successfully appealed the ban. Other uses for which pregnant women were likely to come into contact with the substances, such as home and recreation uses, were similarly banned. After 1970, 2,4,5–T remained in use to control weed growth in hardwood forests, rangelands, power line rights-of-way, and rice fields.

In 1973, after successfully reversing an injunction brought by Dow Chemical Company to halt further proceedings against the product, the Environmental Protection Agency (EPA) initiated public hearings to consider or amend the registrations for those remaining uses. In the course of those hearings it became clear that two important types of information were lacking in EPA's case against the substance. First, the available technology for detection and quantification of trace environmental contaminants was inadequate to do the job of measuring the minute quantities of dioxin in the environment. Second, although toxic effects of low levels of dioxin had been well established in laboratory animal species, a link between exposure and these effects in humans could not be established. These two considerations made it difficult for EPA to determine, as required by law, whether the risks associated with the pesticide's use were unreasonable and EPA halted the proceedings.

In order to resolve these two questions regarding the potential human risk of 2,4,5–T use, EPA initiated the Dioxin Implementation Plan (DIP) in 1975. The purpose of the plan was to identify a reliable analytical methodology and to apply that methodology to monitoring human and environmental samples for dioxin. These two phases are still ongoing.

In April 1978, EPA issued a rebuttable presumption against registration (RPAR) of pesticides containing 2,4,5–T. In this procedure, information is gathered from all interested parties to lead to a decision on whether or not to take action against a product.

SUSPENSION OF FOREST MANAGEMENT USES: ALSEA II STUDY

The completion in February 1979 of the so-called Alsea II study put an end to the RPAR review of the use of 2,4,5–T on forests, utility rights-of-way, and pastures, instead causing EPA to impose an emergency suspension on those uses and initiate cancellation proceedings. As part of the RPAR process a group of women residing in the area near Alsea, Oregon registered complaints of large numbers of spontaneous abortions around the times when forests near their homes were sprayed with 2,4,5–T. (The Alsea area lies within a national forest which is sprayed each spring against the broadleaf underbrush which grows among the harvested hardwood trees.) In response to this complaint, EPA initiated the Alsea II study, which compared miscarriages of women in the Alsea basin area of western Oregon with those of women in a control area in eastern Oregon.

On March 1, 1979, EPA announced the results of the study, concluding that for a six-year period there was a strong correlation between spray times and a large increase in miscarriages, the so-called June peak. Because of this study, EPA announced an emergency suspension on uses to control weeds on power lines rights-of-way, in pastures, and in forest lands. In her press statement announcing the decision to suspend these uses, EPA Deputy Administrator Barbara Blum summed up the Agency's reasons for the suspension, saying the emergency was justified by the imminence of spring spraying:

"The potential for significant human exposure [EPA estimated 4 million could be exposed from those uses], the warning signals from the Alsea study, the preponderance of strong animal test data, and the low short-term economic impact, compel this unusual emergency decision."[1]

Thus, the Alsea II study was cited as providing the human data lacking in the 1974 decision to end proceedings against the pesticide.

As required by law, when an emergency suspension is ordered, proceedings to cancel registration for those uses of the pesticide must also commence. While a suspension is a temporary order that may be based on tentative data, the cancellation process must, by law, entail careful consideration of the larger issue of the risks and benefits accrued to society through the use of a product. At the same time, proceedings were begun against Silvex, a related pesticide likewise contaminated with trace amounts of TCDD.

RICE AND RANGELAND USES

Meanwhile, the RPAR process continued for the remaining uses of 2,4,5–T not suspended under the emergency order, most prominently its use in rice cultivation and range management. On July 17, 1979, EPA issued notices of intent to hold hearings on these uses of both 2,4,5–T and Silvex.[2] According to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), this action must be accompanied by a request to the U.S. Department of Agriculture (USDA) and the FIFRA Scientific Advisory Panel to review the effects of EPA's actions on health and the environment.

Scientific Advisory Panel Review. Accordingly, the Scientific Advisory Panel met in August and September 1979 to review the available data on health and environmental risks resulting from those remaining uses. In their report to EPA, the Panel unani-

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Footnotes at end of article.

mously recommended that EPA not hold a hearing and further stated:

"After extensive review of the data we find no evidence of an immediate or substantial hazard to human health or to the environment associated with the use of 2,4,5-T or Silvex on rice, rangeland, orchards, sugar cane, and the non-crop uses specified in the decision documents." [3]

In order to remedy some of the data deficiencies, they made recommendations that the Agency seek fuller details on several relevant studies discussed at the meetings and additional monitoring data regarding levels of TCDD, 2,4,5-T, and Silvex in milk, and range and edible aquatic animals.[4]

In requesting a review by the FIFRA Scientific Advisory Panel, EPA asked that they address specific assumptions of exposure and toxicology that EPA had made in issuing its notice of intent to hold hearings. In the area of toxicology, the Panel expressed agreement with the Agency that 2,4,5-T, Silvex, and TCDD are teratogens and fetotoxins, and that TCDD is carcinogenic in test animals, so that it is potentially carcinogenic in humans. However, in contrast to the Agency's position that no-effect level (NOEL) exists for TCDD's fetotoxicity, the Panel thought there was an established NOEL for mice and rats, but not for monkeys.[5]

On the question of exposure, EPA had presented the view that exposure from use on rice could be substantial through drift and diffusion through the water environment to food sources, and that the potential for exposure through drift from rangeland uses is lower, but still real. The panel agreed that there was a potential for exposure from both sources, but disagreed that the risk as extrapolated from current data is imminent.[6] The Panel nonetheless recommended that efforts should be made to further reduce the level of TCDD in commercial preparations of 2,4,5-T and Silvex.

PANEL COMMENTS ON THE ALSEA STUDY

The purpose of the Scientific Advisory Panel's August and September meetings was solely to discuss the proposed EPA action on rice and rangeland uses of 2,4,5-T and Silvex. Although this did not require a discussion of the Alsea study, which pertained only to forestry uses of 2,4,5-T, the subject was discussed informally among members of the Panel and others in attendance at the meetings. It was generally agreed that the study had some shortcomings which were to be examined in an ongoing review.

According to Dr. Edwin Johnson, Deputy Assistant Administrator for Pesticide Programs, EPA, the conclusions of the study are dependent on two types of information. The first is the actual timing of the sprayings, and the Agency is apparently investigating these data. The second involves estimates of how many miscarriages actually took place; although the assumption used was that hospital records reflected 50 percent of the actual miscarriages, the percentage actually may have been 10–20 percent.[7]

Other specific criticisms of the study were made in a lengthy presentation by Dr. Steven Lamm, of Tabershaw Occupational Health Associates. His major criticism was that the spontaneous abortion data were aggregated for the six years, but that only one year showed a June peak in the rate of miscarriages. In addition, according to Dr. Lamm, none of the women experiencing the miscarriages that year (1976) resided in the immediate spray area, and only four of them would have conceived by the time of spraying. Another fault he suggested was that spraying tripled from one year to another, and no such increase in miscarriages followed.[8] Other criticisms, mostly organized by industry groups, have been made of the study, and for this reason EPA is reviewing the data.

EPA POSITION

EPA is therefore currently in the position of having temporarily suspended one set of uses on the basis of a study whose data may be faulty. Moreover, review of animal and environmental data caused the FIFRA Scientific Advisory Panel to conclude that not enough information existed to take action (albeit of a more formal type) against rice and rangeland uses of the same substance. An obvious question is, Did EPA act precipitously in ordering an emergency suspension of the use of 2,4,5-T on forests and pastures without the benefit of peer review?

EPA has taken the position that the law mandated the Agency's extreme action. Given the short amount of time between the receipt of the Alsea study's results (late February) and the known spray time (early April), there was presumably no time for peer review of the study to assess its validity. At one meeting of the FIFRA Scientific Advisory Panel, Dr. Johnson explained the EPA's position:

"I think it is only fair to state that the Agency has never claimed that that study [Alsea] was faultless, nor that we have done the degree of checking into some basic underlying situations that we might have done if this were a multi-year study." [9]

Rather than a multi-year study, he said, this was done to solve a particular regulatory problem.

An EPA publication distributed at the time of the emergency suspension describes the legal basis for suspension:

"Suspension . . . involves a *preliminary* assessment of evidence and probabilities, not an ultimate resolution of the larger question of the risks and benefits of the pesticide to society over the long run. That larger question is addressed in the cancellation proceedings. The Courts have found in the past that for a suspension action. 'It is enough if there is a *substantial likelihood* [emphasis in original] that serious harm will be experienced during the year or two required in any realistic projection of the administrative (cancellation) process' [*Environmental Defense Fund, Inc. vs. Environmental Protection Agency,* 465 F2d 540 (D.C. 1979, p. 41531.

As is often the case with regulatory actions, the ultimate responsibility rests with the regulators who were obliged to interpret the phrase "substantial likelihood that serious harm will be experienced." Until there are foolproof monitoring and toxicological data on TCDD exposure from pesticide use, any action will be to some extent subjective.

FOOTNOTES

[1] Emergency Action to Stop Spraying of the Herbicides 2,4,5-T and Silvex. Press Conference Statement by EPA Deputy Administrator Barbara Blum. March 1, 1979.

[2] Federal Register, Vol. 44, No. 138. July 17, 1979. p. 41531.

[3] Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel. Review of Notices of Intent to Hold FIFRA Section 6(b)(2). Hearing on 2,4,5-T and Silvex. Sept. 27, 1979. Unpublished Report, p. 2.

[4] Ibid.

[5] Ibid. p. 3.

[6] Ibid. p. 4–5.

[7] FIFRA Scientific Advisory Panel. Proceedings of Twenty-fifth Meeting. (Acme Reporting Company transcript, p. 13.)

[8] Ibid. p. 189–202.

[9] Ibid. p. 13.

[10] U.S. Office of Toxic Substances. Fact sheet: What does suspension mean? p. 4.

INTRODUCTION OF BILL CLARIFYING LAW ON EMPLOYEE BENEFIT ASSOCIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have introduced H. R. 5968 a bill which would clarify existing law to allow the Army Mutual Aid Association and other employee benefit associations to retain their tax-exempt status under section 501(c)(9) of the Internal Revenue Code.

The Army Mutual Aid Association was formed 100 years ago, after the death of Gen. George Custer. It has provided life insurance for Regular Army officers since 1879. Its exempt status was never questioned until 2 years ago when a revenue agent proposed revocation of the association's tax exempt status based on proposed regulations. It should be noted that the predecessor provision to section 501(c)(9) was placed in the taxing statutes by the Revenue Act of 1928. In the 51 years since enaction there have never been final regulations issued under this provision. Proposed regulations were issued by the Treasury Department in 1969, but have never been made final. Persistent efforts have been made to determine finally the status of this association, but to no avail. The matter has been sitting in the National Office of the Internal Revenue Service for well over 1½ years and that Office says it is powerless as long as the regulations have not been placed in final form by Treasury.

This kind of treatment of good organizations is one of the main reasons why we have an underground economy in this country. People have simply lost confidence in the voluntary assessment system. This matter should be resolved, and my bill would do so.

H.R. 5968

A bill to amend section 501(c) of the Internal Revenue Code of 1954 to allow voluntary employees' beneficiaries associations to provide life benefits to their members through the use of whole or ordinary life insurance policies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 501(c)(9) of the Internal Revenue Code of 1954 is amended by adding the following parenthetical phrase after the word "life": "(whether provided through whole or term life insurance policies or otherwise)".

GEORGE MEANY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, I rise today to join my colleagues in honoring George Meany upon his retirement as president of the AFL–CIO.

George Meany's career has spanned several decades—starting as a journeyman plumber, and finally as leader of the Nation's largest labor organization. The

AFL–CIO is a living monument to George Meany, who had the foresight to lead the labor movement's merger in the 1950's. As president of the new AFL–CIO, George Meany immediately became chief spokesman for the American worker. As that spokesman, Meany consulted and advised six Presidents.

George Meany has been in the forefront of every major action to improve the workplace and the general standard of living of the American worker. Civil and equal rights reforms of the past 25 years owe much to the wisdom and tenacity of George Meany. As President Carter stated to the recent AFL–CIO convention:

> No American has fought harder for human dignity . . . or cared more for his country.

We in Congress shall miss George Meany's guidance, but I am sure that he will not retire from sharing his opinions on the critical issues facing us. I look forward to hearing from him in the years ahead.●

NATIONAL COIN WEEK RESOLUTION INTRODUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker it is with pleasure that I introduce a joint resolution authorizing the President to designate the third week of April of each year as National Coin Week. National Coin Week was originated in 1924 by the American Numismatic Association. The week aims to advance the cultural and artistic aspects of coin collecting and to advance the enjoyment of the hobby through education.

Coin collecting is much more than just a hobby to 3 million Americans. Collectors of coins learn about their country through their collections and America learns about its history through its coins. There are many examples of the relationship between our history and our coins that I could cite, but I believe a few examples are sufficient.

Virtually every American has heard of the rare and valuable 1804 silver dollar, but the history behind this coin far outweighs its monetary value. These coins were struck to be included in special presentation sets of American coins for use by United States envoys to Far Eastern countries in the 1830's. Thus, these coins truly represent the efforts of a young American nation to open the doors of new trading areas throughout the world.

In 1848 the U.S. Mint struck two and a half dollar gold coins with the word "CAL" on the reverse. This was to signify that these coins were made from gold from California. These coins give testimony to that significant event in American history, the California gold rush. In a similar manner the resumption of the minting of silver dollars in 1878 signified the fabulous Western silver and mineral discoveries of that period.

Between 1942 and 1945 the composition of our five-cent pieces was changed from nickel to a silver alloy and in 1943 our cents were made from steel rather than bronze. Both these changes were a direct result of the need for nickel and bronze in our war effort. Students of coins come to realize how the Second World War could affect even the smallest part of daily life. As a result, collectors can more fully appreciate the efforts and sacrifices that all Americans made during that struggle.

Mr. Speaker, in these times of trouble and upheaval it is more important than ever for Americans to more fully understand and appreciate their heritage. The coin collectors of America know this and it is appropriate that Congress help them share their knowledge of American history with all through National Coin Week. I urge the Congress to help them in their effort and promptly pass this resolution.●

THE COMPUTER VOTING SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Addabbo) is recognized for 5 minutes.

● Mr. ADDABBO. Mr. Speaker, I wish to record my strenuous objection to the workings of our computer voting system. I was present on the floor and voted in favor of the Markey amendment to H.R. 2608 earlier this afternoon. I now find out that I was not recorded as even having voted. It is not so important that this particular vote of mine goes on my record or not, Mr. Speaker, but it concerns me that somewhere along the line on a close and controversial vote, the decision of the House could be affected adversely by a vote that goes unrecorded.

Not being technically minded, I have no idea why the system did not function in this case this afternoon. All I know is, I was present, I did insert my card and vote for the amendment, and it did not record. I would hope that those in charge of our electronic voting system would assure us that what bugs exist in the system be removed as soon as possible.●

RAY ROBERTS WILL BE MISSED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Johnson) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, one of our most distinguished colleagues and steadfast friends, Congressman Ray Roberts of McKinney, Tex., is retiring from public life at the close of this 96th Congress, and I should like the record to show how sorely he will be missed.

In peace and war, Ray Roberts has devoted his life unsparingly to the service of his country, from the day in 1935 when, as a young man of 22 he went to work for Lyndon B. Johnson in the National Youth Administration, until today when he enters on the final passage of his 10 consecutive terms in the U.S. House of Representatives.

Our colleague first came to Washington on Christmas Eve, 1939, to serve as administrative assistant to Speaker Sam Rayburn, and he remained in that post until late November of 1941, when, 1 week before Pearl Harbor, he resigned to accept a commission in the U.S. Navy.

Roberts' naval service spanned the globe during World War II and carried through the Korean conflict as well. Serving in both Atlantic and Pacific theaters in World War II. He earned seven battle stars and retired as a captain in the Naval Reserve.

Following his return to civilian life Ray served for 7 consecutive years in the Texas State Senate and on January 30, 1962, he won a special election to fill the vacancy created in the U.S. Congress by the death of his old friend and mentor, Sam Rayburn.

Representative Roberts is now in his 10th successive term as the man in Washington for the Fourth Congressional District of Texas, and in the course of those years he has carved for himself an enviable record of service to his constituency and to the Nation.

This distinguished legislator's first committee assignment in Congress was with the House Veterans' Affairs Committee, and he is now in his third term as chairman of that body. His many years of service on that committee have resulted in a host of enduring contributions to the men and women who have fought our country's wars—contributions for which he will be long remembered.

Mr. Speaker, I am personally most grateful to Congressman Roberts for the unstinting devotion he has given to the work of the Committee on Public Works and Transportation which I have the honor to chair. As chairman of our Water Resources Subcommittee, he has been a leader in the fight to protect and upgrade our irreplaceable water supplies, to clean up our ravaged rivers and lakes and restore them for the benefit of future generations.

The list of this splendid man's legislative accomplishments in the field of veterans' benefits and water resources is almost endless, Mr. Speaker. But from my own vantage point in the arena of public works I would single out for special commendation his authorship of the Clean Water Act of 1977, one of the genuine legislative landmarks of this 20th century. He has always been willing and able to fill in as chairman during my absences. He has been a loyal and true friend in his support as ranking majority member on all legislative matters. Ray Roberts is the ideal person to have in this position because of his legislative know-how and his unswering integrity.

In announcing his decision not to run for reelection in 1980, our colleague observed characteristically that he adhered to the belief that no man, including himself, is indispensable.

In trying now to picture this great body without the presence of Ray Roberts, Mr. Speaker, I am tempted to challenge that statement.

My good friend from Texas comes closer to being "the indispensable man" than anyone I can recall. We shall miss him.●

HELSINKI ACCORD CONTINUES TO BE FLOUTED

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, human rights and the integrity of the Helsinki agreement are falling victim to renewed repression in Czechoslovakia.

On October 23, 1979, six Czechoslovakian dissidents were convicted of "subversion of the state." Their alleged crimes were to request that the government live up to the Helsinki agreement and respect certain basic human rights. Their arrests followed the publication of a study comparing economic conditions in Western Europe to those in Czechoslovakia. The Helsinki agreement provides for the free flow of precisely such information and specifically mentions information on national income and production. Yet, their release of this information resulted in harsh sentences including 4½ years imprisonment for playwright Vaclav Havel, 5 years for economist Peter Uhl, and 4 years for former Charter 77 spokesman Vaclav Benda. Four other members of the group arrested in May remain in jail awaiting a trial date.

These prosecutions appear to be part of a larger campaign directed against the over 1,000 signors of Charter 77, a document designed to draw attention to the Czechoslovakian Government's violation of the human rights provision of the Helsinki accords. The defendants were members of the committee for the defense of the unjustly prosecuted, a subgroup of Charter 77, whose sole purpose is the exposure of abuses of power by the governing authorities.

These blatantly unjust sentences are but another example of the flouting of the Helsinki accord by a government which pledged to uphold it. These latest trials in Prague are further evidence of the continued degeneration of human rights in Czechoslovakia.

As the Helsinki signators begin to prepare for the 1980 Madrid Review Conference, we must assure that these serious violations are not glossed over. Every possible pressure must be exerted to guarantee the release of those unjustly sentences and the prevention of further trials.●

FIFTY-FOUR HOUSE MEMBERS INTRODUCE SENSE OF CONGRESS RESOLUTION SUGGESTING ANOTHER MEANS OF APPROACH IF THE UNITED STATES IS FORCED TO USE THE MILITARY OPTION IN FREEING THE 49 U.S. HOSTAGES PRESENTLY HELD IN IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, today I have introduced, with the support of 53 cosponsors, including several members of the House Armed Services Committee, a House concurrent resolution that expresses the sense of Congress that, because of the serious nature of the crisis created by the takeover of the U.S. Embassy in Iran and the continuing holding, in disgraceful circumstances, of 49 U.S. military and diplomatic hostages, the President—at some point in the future which he would determine—should inform the Iranians that unless the American hostages are released unharmed and returned to U.S. control by some fixed future date, the United States will undertake what are termed "selected, deliberate, sustained, and increasingly severe military operations" against Iran.

The resolution further provides that the President should also—"to demonstrate the will and determination of the American Government and the American people"—order "into areas adjacent to Iran such American ground, sea, and air forces as he may deem necessary, and place them on full alert for appropriate action on or before the day previously announced."

In general we believe the resolution speaks for itself. However, so that there be no possible misunderstanding about what it represents, let me make several important points.

First and foremost, this is a resolution to support the President in his efforts to solve this complicated, perplexing, frustrating, and dangerous situation. It is not a resolution that is critical or in any sense intended to add to his already heavy burdens.

This is demonstrated in two ways. First, the resolution only expresses the sense of the Congress. It mandates nothing and the President is therefore free to consider it or ignore it as he see fit. Second, the determination of the deadline date called for in the resolution is entirely up to the President. Thus the course of action recommended by the President would not be put into effect until such time as the President might feel that other alternatives had been tried and had not succeeded. The decision would be entirely up to the President. If the diplomatic efforts, the deliberations of the UN Security Council, the intervention of other countries, the adoption of a new Iranian Constitution, or the departure of the Shah from the United States should give evidence of achieving the release of the hostages, we are in no way suggesting these avenues should not be fully and patiently explored.

Our resolution addresses itself only to the military option, which has already been mentioned as something that would likely be resorted to if the hostages were harmed or executed. What concerns us is that if the other courses of action fail to produce results, it is not beyond the realm of possibility that the hostages might continue to be held indefinitely, in captivity, in deplorable conditions, subject to rigged "spy" trials and other abuses. In our view the longer this situation continues unresolved, and without a commensurate, overt response from the United States, the greater will be the damage to American prestige and influence, and the greater will be the risk that other Americans in other Embassies in other parts of the World might also be taken hostage by terrorist groups, believing the United States was either unable or unwilling to reply. In other words, we do not believe that time is necessarily on the side of the United States in this confrontation.

The recommendation offered by this resolution offers, we believe, one possible course—admittedly a risky course, but in these circumstances all courses are risky—that might help to reduce the time and hence the possibility of damage to the United States and to other U.S. citizens elsewhere in the world. Indeed the adoption of such an approach might well increase the likelihood of a safe release of the hostages, with more urgent pressures place on Iran by neighboring states unwilling to see the introduction of military operations into the Persian-Arabian Gulf area.

Whether to use this course would still remain in the hands of the President to decide. But the adoption of the resolution by both Houses of Congress would represent the willingness of the Congress to support the President if he felt obliged to follow such a course.

And likewise, the adoption of this resolution would also indicate that Congress fully supports the courageous decision of the President not to yield to the various kinds of blackmail being proposed to us out of Tehran by a number of different sources.

It is true, Mr. Speaker, that the President said in his press conference last evening that he did not want to use a deadline approach. But he said he was constantly thinking of the matter. We do not think he ought to use it now, either, as I have already made clear. We, too, hope that the peaceful and diplomatic avenues presently being explored will bear fruit. But if not, if the military option does have to be resorted to, then we think this would be the best way to proceed.●

THE AYATOLLAH IS "BARKING UP THE WRONG TREE"

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Mrs. SCHROEDER) is recognized for 5 minutes.

● Mrs. SCHROEDER. Mr. Speaker, earlier this morning I sent to the Iranian Embassy here in Washington all of the constituent letters which I have received on the situation in Iran. I would now like to ask my colleagues to do the same.

I can think of no better way to tell the Ayatollah Khomeini that the American people refuse to be intimidated by the tactics of terrorism than by flooding the Embassy with letters from the people back home. If the sentiments of the people in my district are any indication of the intensity of feelings across the country, the message that we will send to Khomeini will be a strong one.

Ever since the Americans were first taken hostage 25 days ago, the strength, determination, and unity of the American people has remained steadfast. I think Khomeini may finally be starting to realize that the "vast section of the (American) society" which he said would demonstrate against the administration's handling of the Iranian situation has not materialized.

To borrow a phrase from Khomeini's speech of November 20, I think it is he, not Carter and the American people, that are "barking up the wrong tree."●

AIRPORT PROTECTION VERSUS THE GENERAL AVIATION LOBBY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 30 minutes.

Mr. VAN DEERLIN. Mr. Speaker, I rise to pose the somber question: How many more people must die before we start protecting our airports? It has been 14 months now since Pacific-Southwest Airlines flight 182 collided with a small private airplane in the skies above San Diego, killing 144 persons. To this day we have heard a lot of talk but we have seen precious little action to improve conditions at San Diego's Lindbergh Field.

In the meantime, there have been some harrowing near misses in the congested San Diego air space. Just this month, another Pacific-Southwest Airlines plane came within 300 feet of a small, private plane high above the San Diego Stadium while the San Diego Chargers and the Pittsburgh Steelers were playing before 51,000 people, most of whom were unaware of the peril overhead.

On November 9, there was an even closer call when a Western Airlines jetliner with 125 persons abroad came within 150 feet of a small plane over the San Diego suburb of Tierrasanta in the district of our colleague, the gentleman from California (Mr. BURGENER), before the pilots took evasive action.

Lindbergh Field remains doubly hazardous, due to its midcity location and inadequate air traffic controls. So why is not something done?

In fact, the Federal Aviation Administration has been wanting to do something about Lindbergh for some time, but has been restrained by pressures from private pilots and their lobby, the Aircraft Owners and Pilots Association.

Back in December 1978, Langhorne Bond, the FAA Administrator, proposed a series of tight controls on the skies around Lindbergh Field, including implementing a Terminal Control Area (TCA) that would require all aircraft—no matter how small—to be under the direct and constant control of Lindbergh's air traffic controllers. Lindbergh now operates under a much looser Terminal Radar Service Area (TRSA) system, which makes radio contact voluntary on the part of pilots—and which can have frightful consequences when the contact is not made.

The FAA had intended to publish a notice of proposed rulemaking for the Lindbergh TCA last summer, but the agency's hand was stayed by a flood of 43,000 protesting "comments," mainly from private pilots and other AOPA members.

All that mail "bogged us down," in the words of one FAA official contacted by my staff. At the same time, the influential AOPA began a campaign in Congress to limit the FAA's authority to create new TCA's or expand existing ones. Several restrictive amendments were proposed; none, fortunately, was enacted.

Thousands of San Diegans live and work in the path of extreme danger—as do scores of air travelers coming into our city. That being so, Mr. Speaker, I cannot indulge casually this ongoing obstructionism by the "Fortune 500" and others who like to jet around the country in private planes.

The FAA, meanwhile, has regrouped after this first onslaught and is again planning a rulemaking notice for the Lindbergh TCA, to be inserted in the Federal Register "on or about" December 17.

A period of 60 to 90 days will be reserved for comments, after which the FAA Administrator, weighing all the evidence, will decide whether, finally, to order a TCA system for Lindbergh. The notice will include such details as the design and dimensions of the proposed TCA, and an economic assessment.

If all goes well, the TCA could be implemented as early as next June.

But I am not holding my breath waiting for that to happen.

I know the AOPA will return to the attack, and probably with telling effect. Not only in the FAA, but also in these Halls. And the general aviation people do have some valid points: It is they who have to pay the price of installing the costly communications gear needed to operate within TCA airspace, and, to some extent, their flying freedom would be restricted.

But what is the price if we continue to do nothing about Lindbergh Field, and the 44 other airports where the FAA says the tighter control provided by TCA's are needed? (I understand the FAA is ready to go with a proposed TCA rulemaking for Honolulu, similar to San Diego's.) It is not enough to depend on pilots being able to spot danger, as all the near-misses (more than 1,000 were reported to the FAA in a recent 32-month period) so amply demonstrate.

There has to be more help from the ground; no air collision has ever occurred at any U.S. airport under TCA control.

And how much is a human life worth? Or putting it another way, how many more lives must be squandered in midair crashes before we convince ourselves that we must have the added protection provided by TCA-type systems?

Let us get TCA now, not only in San Diego, but wherever it is needed.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I am delighted to yield to my California colleague, the chairman of the Aviation Subcommittee of the Committee on Public Works.

Mr. ANDERSON of California. Mr. Speaker, I want to congratulate my colleague, the gentleman from San Diego, a very distinguished member of our delegation, for bringing this subject before the House.

As chairman of the Aviation Subcommittee, I, too, am very concerned about safety and the quality of air traffic control in this country. It was 14 months ago that the very tragic accident in San Diego occurred; 144 people were killed: 135 aboard the air transport, 2 aboard the Cessna, and 7 people on the ground—perhaps the most tragic because these people just happened to be where the plane hit and had made no decision to enter the air transportation system.

The Aviation Subcommittee held hearings in San Diego on that accident, along with the Senate committee, and there was a great deal of press as well as many speeches on the floor of the House here about what we should do. The FAA came out with a plan in the form of a a notice of proposed rulemaking. The FAA plan expanded the airspace in which all aircraft would be subject to control—thus enhancing overall safety.

The plan also provided that additional terminal control areas should be established. Lindbergh Field in San Diego was one of these. Strong opposition from general aviation concerns and Members of Congress opposed the plan recommended by the FAA. As a result, very little has been done, in San Diego or elsewhere, to improve the safety of the air traffic control system.

Now, as the gentleman has just pointed out, we have recently had a number of near midair collisions. One month ago we had the equipment outage in Leesburg. That was a computer equipment breakdown. The result was the near collision of two air carriers. That was a breakdown that I understand occurs much too often in some of these areas.

Of course, the gentleman mentioned on November 9 the near miss in the Lindbergh Field area involving a Western Airlines aircraft and a small plane. I was told it was 125 feet which was even closer than the gentleman mentioned.

On November 18 we had another near miss in San Diego involving a PSA aircraft and a small plane.

We received a report from the NTSB on the November 9 incident and to summarize what they told us, it says that because there was not a TCA there, a terminal control area, the general aviation aircraft that was involved was not in contact with the control tower. Actually, the control tower had to rely on other aircraft pilots to report the location of the general aviation aircraft.

In a TCA, all aircraft are under the direct control of the terminal control tower, but if it is on a voluntary basis, as in this case, there is usually no contact. Of course, we have not received a report on the November 18 case, but the situation seems to be almost identical, and I imagine we will get a similar report in about 2 weeks from the NTSB on that near-miss.

Mr. Speaker, I think what the gentleman is doing in having this special order is bringing to our attention that we have to make this a top priority issue. I am happy to report that our Subcommittee on Aviation is holding hearings on December 6 and December 11 to discuss the issues related to air traffic control safety. We will have the FAA before us once again to find out what they are doing to improve the situation in San Diego and elsewhere, since they have decided not to implement their proposed regulations as a result of pressure from many Members of this body.

We have to remember there are 40,000 general aviation pilots in this country. As an organization they pretty much fight the establishment of additional terminal control areas. I think we ought to listen to what the 40,000 general aviation pilots tell us. However, we also have to listen to the 250 million air passengers whose lives are endangered by these near misses, which can so easily turn into tragedies. We have to do something to improve air safety. I want to congratulate the gentleman on his special order which I am sure will help bring some of this out and maybe bring us some better solutions.

Mr. VAN DEERLIN. I thank the gentleman. I do know that the Federal Aviation Administration very early after its investigation did want to do something about Lindbergh Field. It does seem to me that they have been restrained by the lobby to which the gentleman referred in passing, which is the Aircraft Owners and Pilots Association.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman from California, who is the chairman of the Oversight Subcommittee of the Committee on Government Operations.

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman for yielding. I would like to commend the gentleman for having this special order. Our subcommittee had hearings scheduled on the issue "see and avoid," which is the present way people fly in and out of the San Diego Airport. That is, they look out of the window and see if another plane is coming. The hearing was scheduled 3 weeks in advance of the tragedy of a little over a year ago, but the date of the hearing happened to be about 3 days subsequent to the accident and, therefore, there was a great deal of attention focused on it.

I would like to state that the figures the gentleman has about near misses are correct, regardless of conflicting statistics on near midair collisions. And there have been no midair collisions in any areas served by a Terminal Control Area. I believe that FAA's blunderbuss response to the San Diego tragedy—they wanted to establish between 35 and 45 TCA's across the country under one rulemaking procedure—was responsible for causing such a furror in the general aviation community. It caused them to make slow progress. Had they approached this on a more reasonable basis, the backlash would not have been so great. I think we would have seen progress made on an airport by airport basis.

Some of the problems in their strategy were outlined in a letter by myself of March 15 to Langhorne Bond, which I would like to submit in the extension and revision of my remarks.

☐ 1710

Of equal importance—and I know the distinguished gentleman from California (Mr. ANDERSON) and others have been working on this—is to try to get the FAA to expeditiously get a collision avoidance system in place, so that planes that are flying in the air are going to avoid collision.

It does not matter if it is the Litchford approach, which the Appropriation Subcommittee on Transportation under the distinguished gentleman from Oregon (Mr. DUNCAN) has been considering, or whether it is an approach that developed by FAA. It should be a full system and it should not depend upon implementation of some further ground based system that the FAA might have grandiose designs for. It should be done expeditiously. It should be done immediately. We have the technology in this country to do it.

In my judgment, FAA has been dragging their feet on this matter and it will be my intention in the near future to introduce legislation which would mandate by a time certain that there would be a collision avoidance system adopted.

The records of our subcommittee hearings of December 1978, are available at the subcommittee offices of the Transportation and Government Activities Subcommittee of the Committee on Government Operations. I would invite the Members' attention to those hearing records.

Last, I am a little distressed by something I read in the paper today. The FAA does not seem at all sure if they are going to make the information concerning this recent near miss over the football stadium public, as though they have some kind of secret to withhold from the Congress and from the flying public of the United States.

So I think the gentleman is to be commended for this special order. I know that our subcommittee, along with the subcommittee of original jurisidiction chaired by our friend and colleague from California (Mr. ANDERSON) will keep after this matter.

The FAA has got to get to work on a collision avoidance system that can be installed in airplanes, that is reasonably priced and can avoid many of the problems that we talk about now.

It is clear from our hearings, in the General Aviation testimony, that they strongly fear terminal control areas. Yet they seem to be willing to adopt some form of collision avoidance system, even though they know that will cost them more money, because they know that it will guarantee them the type of safety that their members are interested in.

Mr. Speaker, I commend the gentleman.

Mr. Speaker, the letter I referred to is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 15, 1979.

Hon. LANGHORNE BOND,
Federal Aviation Administration,
Washington, D.C.

DEAR MR. ADMINISTRATOR: The September 25, 1978, midair collision over San Diego was a landmark in the struggle, often waged between this subcommittee and the Federal Aviation Administration, to maintain the highest possible level of safety in air transportation. It was a tragic reminder that, despite the excellent safety record achieved by U.S. airlines, the threat of midair collisions persists and no doubt will increase as the continuing growth in air traffic stresses the Air Traffic Control (ATC) system. The message of San Diego is clear: The ATC system must be improved.

After a three month delay, the FAA finally responded positively to the accident. Its December 27, 1978 "Plan for Enhanced Safety of Flight Operations in the National Airspace System," and the January 4, 1979, Notice of Proposed Rule-making (NPRM) entitled "Proposed Controlled Visual Flight Rules" (44 F.R. pps. 1321–1333), signify an encouraging departure from the past. As a subcommittee chairman who has adamantly criticized the FAA for failing to move expeditiously in this direction, I must commend you for your response, and I hope the FAA proposals are only the beginning of a new FAA approach to aviation safety.

Although this letter, which I would like to submit for inclusion in Rules Docket (AGC-24) No. 18605 after your review, criticizes these proposals for not going far enough and recommends a way to strengthen the rulemaking procedure used, I want you to know that we will always cooperate with you on any steps to improve aviation safety.

When such steps as these FAA proposals are perceived adversely by a large number of airspace users, it seems appropriate to hold a public hearing where these and other perceptions can be voiced in a manner most satisfactory to them.

The FAA has already announced that hearings on each new Terminal Control Area (TCA) it has proposed would be held locally, thus allowing for considerable direct public participation where the terminal environment is concerned. Nonetheless, the preamble to the NPRM, which only addresses the lowering of the Area of Positive Control (APC), is an "enabling document" and may be used by the FAA to predetermine later actions; and since the proposals have been linked together and should be examined that way, some additional delay in lowering the APC may be worth one public hearing where airspace users can address this important "package" of proposals.

While we both know the common view which would be expressed at such a hearing, and while I do not agree with that view, perhaps a quote from the FAA's NPRM preamble itself would be appropriate:

"The support of all airspace users is critical to the success of the controlled visual flight program".

With regard to the proposals themselves, I initially evaluated them by asking two basic questions. First, as an obvious response to San Diego, how, and to what extent, can these proposals, if implemented, help prevent similar midair collisions? Second, and more importantly, how, and to what extent, can they prevent the somewhat different type of midair collision (where the general aviation aircraft is not equipped with a transponder and is not under any ATC control) which seems more likely to occur in today's and tomorrow's ATC system. With this introduction, I would like to offer the following comments.

The available evidence strongly suggests that it is time for FAA to require, as soon as possible, all aircraft to be equipped with an ATC transponder and Mode C altitude reporting equipment, although a few narrow exceptions may be necessary. While the FAA has announced a tentative proposal in the "Enhanced Plan" for all aircraft operating in all TCAs and Terminal Radar Service Areas (TRSAs) to be equipped with this altitude-reporting transponder by July, 1981, and while the FAA will apparently address the transponder issued in an Advanced Notice of Proposed Rulemaking to be issued this spring, this proposal is by no means definite. Moreover, even if implemented as currently planned, the requirement would still not be comprehensive and would go into effect a considerable time after the APC had been lowered.

It seems apparent that the FAA is, in fact, gradually working toward such a comprehensive requirement. Its strategy seems to be one of designating increasing volumes of airspace in which the equipment is required and thereby encouraging, over a period of time, the industry to continue to equip itself until the anticipated opposition to such a requirement diminishes to comfortable levels.

While the massive resistance which the general aviation community has already shown makes this strategy understandable, it could possibly exacerbate existing or even create new midair collision problems before the overall problem is cured. Perhaps it would be helpful for me to elaborate upon these concerns.

Accident and incident data from the National Transportation Safety Board, the FAA, and the Aviation Safety Reporting System (ASRS) indicate that collisions involving airliners are most likely to occur with a general aviation aircraft as the airliner approaches or departs an airport. Some incident data contained in the ASRS 9th Quarterly report may indicate that, despite the relative absence of actual midair collisions in Terminal Control Areas (TCAs) in which all aircraft are under positive control and must be transponder-equipped, the collision potential inside TCAs is much greater than previously thought.

This new data argues for a re-examination of your decision to cancel ASRS immunity, and for the rapid implementation of a Collision Avoidance System (CAS) for airliners to provide independent protection in high-density airspace; but in no way does it lessen the threat of midair collisions outside TCAs between airliners and general aviation aircraft operating under Visual Flight Rules (VFR). According to evidence and testimony presented to the subcommittee, this threat increases either when the general aviation aircraft is not equipped with an altitude-reporting transponder, or when the FAA has failed to provide controllers with the equipment they need to use that altitude information.

While strictly speaking, this type of collision is not that which occurred in San Diego, it is the type of collision which Lindbergh Tower controller, Mr. Stephen Gibby, warned of in his now-famous Unsatisfactory Condition Report.

The FAA's response to this very real, though potential, danger, the best example of which was the September 9, 1969, midair collision between a Piper PA–28 and an Allegheny DC–9 near Fairland, Indiana, has been to designate Terminal Control Areas. Unfortunately, subcommittee witnesses have testified that while the FAA's actions have minimized this accident potential inside the TCA, it may also have transferred that problem outside the same airspace as uncontrolled, nontransponder equipped aircraft must skirt, rather than transit the area as before.

Moreover, as you know, no mere designation of a TCA ever cures all problems even inside its boundaries. Knowledge of where those boundaries are cannot be assumed on the part of the general aviation pilot, since uncontrolled, non-transponder equipped aircraft often enter the TCA accidentally.

In addition these aircraft can legally transit a TRSA and not "participate" in the control scheme. In all instances, the danger is that the controller may not be able to "see" the aircraft he cannot control.

While hardly a magic cure for all problems, the altitude-reporting transponder provides information enabling an air traffic controller, presuming he has adequate radar equipment, to separate airliners from aircraft he does not control, both inside and outside a TCA or TRSA. When combined with a Collision Avoidance System (CAS) which provides comprehensive coverage in all airspace (and which will require all aircraft without a CAS to be equipped with an altitude-reporting transponder anyway), a total transponder requirement can begin to help build the flexibility the FAA needs to confront the evolving midair collision potential.

More than that, FAA may actually have no alternative to a total transponder requirement if it is to attain or even maintain the highest possible level of safety. If by December 1979, the Area of Positive Control (APC) is covered from 18,000 feet to 10,000 feet in California, more aircraft without the equipment required in the APC—especially the altitude-reporting transponder—will be forced into uncontrolled airspace which must still be used by commercial airliners. (To insure that you understand how severe this problem is, I have attached information already submitted by the Southwest Flight Crew Association.)

In essence, therefore, the next step in FAA's strategy for inducing the general aviation fleet equipped with transponders may, in fact, temporarily exacerbate the midair collision potential in the state where it is already the greatest, and where the most recent midair actually occurred. I strongly recommend that, in the interests of aviation safety, you re-examine this part of your agency's strategy.

Finally, I am very disturbed that just as positive control is to be expanded, FAA may have, inadvertantly or otherwise, insured that the Active-only Beacon Collision Avoidance System (BCAS) and the Automated Traffic Advisory and Resolution Service (ATARS) (using a Discrete Address Beacon System (DABS) transponder and data link), will be the only collision avoidance systems for airliners that can be implemented.

The FAA should consider that a workable collision avoidance system (CAS) for airliners is an extremely appropriate and direct response to San Diego, since it offers the flexibility needed to meet the evolving midair collision problem, and that apparently only a multi-modal BCAS can provide, within an acceptable period of time, the flexible and comprehensive coverage that is needed. But by solidifying its development plans (Active-only BCAS to provide protection in low-density areas, and ATARS in high-density areas), the FAA may have eliminated any real possibility of implementing multi-modal BCAS. If this is so, can you really live with this result or expect others to live with it?

The FAA's Enhanced Plan shows that FAA will mandate all airliners to be equipped by January, 1985, with the Active-only BCAS avionics equipment, a DABS transponder and data link. The coordination of these avionics requirements is apparently reflected in the technical specifications of Active-only BCAS. Once the air carriers are forced to purchase this avionics package for collision avoidance purposes, it seems unlikely that they would voluntarily install—or that the FAA would again mandate—the new avionics equipment needed for multi-modal BCAS, which will be considerably more expensive.

If this is true, the FAA has incurred important liabilities. First, since the FAA may have to implement DABS/ATARS over a fifteen year period hopefully beginning in 1984–85, CAS protection may not be offered in some high density areas for at least two decades. Second, and equally important, comprehensive protection within the United States may be inherently precluded. To provide comprehensive protection, DABS/ATARS would have to be installed wherever Active-only BCAS degrades because of high traffic density.

It seems unlikely that the FAA can coordinate its budget, procurement and installation schedules to provide ATARS coverage outside continuously changing electronic boundaries of Active-only BCAS protection. Finally, what are the guarantees you have received that foreign civil aviation authorities will procure DABS censors or ATARS computer software that will be necessary for the full success of this approach? Is it not true that protection in high density areas overseas will be provided, if at all, much later than within the United States?

In contrast, a multi-modal Beacon Collision Avoidance System, combining passive with active technology, does not have these very severe liabilities. Since it does not depend upon DABS/ATARS implementation, we would not have to wait for as long as fifteen years to provide CAS protection in certain high-density U.S. terminal areas. For exactly the same reason, and because the various BCAS modes will be automatically alternated to work in varying air traffic densities, the multi-modal BCAS will provide comprehensive coverage. Finally, and once again for the same reason, we stand a much better chance of obtaining CAS protection overseas.

In short, the San Diego midair collision, and the evolving midair collision problem, require flexible and comprehensive CAS protection. Only a multi-modal BCAS can provide this within a reasonable time. Yet it is this system which FAA has made difficult, if not impossible, to implement.

Thank you for your cooperation, and I look forward to your response to these lengthy comments.

With best wishes,
Sincerely,
JOHN L. BURTON,
Chairman.

V–66 MZB–IPL MEA of 8,000 feet. Victor Airway 66, San Diego (Mission Bay VOR) to El Centro (Imperial VOR), Minimum enroute altitude of 8,000 feet reduces available airspace from 10,000 feet to 2,000 feet. Major arrival route for Oklahoma City and Dallas-Fort Worth airliners with San Diego destinations.

V–208 OCN–JLI–TRM–TNP–EED MEA of 9,000 feet. Victor Airways 208, Oceanside VOR to Julian VOR to Thermal VOR to Twenty-nine Palms VOR to Needles VOR, minimum enroute altitude of 9,000 feet reduces available airspace from 9,000 feet to 1,000 feet. Major arrival route for Chicago and Denver airliners with San Diego destinations.

V–16 LAX–ONT–PSP–BLH MEA of 9,000 feet. Victor Airway 16, Los Angeles VOR to Ontario VOR to Palm Springs VOR to Blythe VOR, minimum enroute altitude of 9,000 feet reduces available airspace from 9,000 feet to 1,000 feet at point where all westbound arrivals are descending for Los Angeles International Airport. The amount of traffic compressed in this area will be extremely high.

V–264 POM–Reans X MEA of 9,000 feet. Victor Airway 264, Pomona VOR to Reans Intersection (Redlands). Minimum enroute altitude of 9,000 feet reduces altitude available from 9,000 feet to 1,000 feet and underlies the same arrival airspace as V–16.

V–23 LAX–GMN–BFL MEA of 9,500 feet. Victor Airway 23, Los Angeles VOR to Gorman VOR to Bakersfield VOR. Minimum Enroute Altitude of 9,500 ft. This airway route follows the one geographical exit for all general aviation aircraft departing the Los Angeles area for the San Joaquin Valley. In addition, numerous airliners depart through this same airspace from Los Angeles International and Hollywood-Burbank airports for destinations such as Seattle, Portland, Oakland, Sacramento, etc. This will create a 500 ft. band of altitude for everyone to fly through.

V–12 S FIM–PMD–HEC MEA 9,000 feet. Victor Airway 12 South, Filmore VOR to Palmdale VOR to Daggett (Hector VOR), Minimum Enroute Altitude of 9,000 feet. This airway underlies both departure and arrival routes for Los Angeles International, Ontario International and Hollywood-Burbank Airports and leaves 1,000 feet of airspace for uncontrolled flight.

V-27. MZB–SXC–VTU–GVO–SBP–BSR–PYE–UKI–FOT MEA of 7,000 feet. Victor Airway 27 basically follows the entire California coastline with a Minimum Enroute Altitude of 7,000 feet. The NPRM reduces 11,000 feet of altitude for uncontrolled aircraft to 3,000 feet and airliners must fly through or near this airspace to land at numerous airports including: San Diego International, Long Beach, Los Angeles International, Santa Barbara, San Luis Obispo, Monterey, San Francisco International and Eureka-Arcata.

V–195 OAK–ILA MEA 7,500 feet. Victor Airway 195, Oakland VOR to Marysville VOR, Minimum Enroute Altitude of 7,500 feet. Northbound departures from Oakland International, San Francisco International and San Jose Municipal Airports use this route daily where again aircraft will be squeezed into a 2,500 foot band of altitude versus the present 10,500 feet of available altitude.

V–6 OAK–SAC MEA of 5,000 feet and V 107 OAK–PXN MEA of 7,000 feet. Both of these airways cross the departure and arrival paths of all normal East-West traffic to San Jose Municipal, Oakland International and San Francisco International airports.

There will undoubtedly be other similar geographical impacts in California, plus any mountainous area combined with large population centers in the U.S. which will have the same problem. One cannot limit usable airspace as this NPRM does and not create very hazardous conditions.

Mr. VAN DEERLIN. Mr. Speaker, I thank the gentleman for his participation.

I understand that no collision has ever occurred in airspace that was protected by a TCA system. Is that true?

Mr. JOHN L. BURTON. That is absolutely true, which is a marked improvement over where we are now.

Mr. VAN DEERLIN. While the thrust of the gentleman's remarks, I take it, is that the FAA overreached a bit in its response by designating as many as 40 as new areas——

Mr. JOHN L. BURTON. At one fell swoop, which brought in 40 organized groups of opposition, thereby not dealing with each airport on the merits. We pointed this out. I think had they taken a more measured approach on the rulemaking, they would not have found themselves as hung up as they are now and they could have addressed themselves to the problem in San Diego and solved it.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield on that?

Mr. VAN DEERLIN. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, I want to agree with the point the gentleman is making. I think the figure that I had understood to be involved was roughly 23 additional TCA's. We checked over the TCA's that were recommended. I am not saying that all of these new TCA's should have been created, but we felt that there were several of them there that should have been adopted. If they had come in with six or seven or eight, including Lindbergh Field, I do not believe that the opposition would have been so intense.

So I agree with the point the gentleman is bringing out here.

Mr. JOHN L. BURTON. Mr. Speaker, if you overreact in that way because you have an immediate crisis, you are buying opposition, the opposition of somebody in Toledo, Ohio, to something that the people in San Diego desire. Had it been done in a more measured way, I think we would find the TCA, if not actually in place, much further along at Lindbergh than it is now.

I think it is also important to point out that the traffic controllers at Lindbergh Field had consistently asked for an alpha-numeric for the radar on their bright scope, which would have given then 99 percent chance of avoiding the tragedy that happened last November. Even though the FAA western region asked for this type of equipment, the FAA Administrator, Mr. Bond, said that he thought there were higher priorities. They denied the request for this valuable piece of safety equipment. The cost would have ranged from a high of $400,000—which given the amount of tragedy involved would have been a cheap investment—down to a price as low as $50,000 or $60,000. Again it is an indication that the FAA does not act, they always react.

If their response had been more measured, Lindbergh Field would be a TCA now, or very close to it.

I think again the gentleman is to be commended for bringing this to the attention of the House and its membership.

Again, it is a tragedy that a year after that accident we have to have a special order after one or two near-misses to again encourage the FAA to speed up its process to carry out their primary responsibility, that is, to insure the safety of the air-traveling public.

Mr. VAN DEERLIN. Mr. Speaker, I am encouraged by what these two gentlemen have said, to believe that if a more modest program of TCA authorization and construction is broached by the FAA, there will be action and the opposition may be reduced.

I am mindful, however, that only today in San Diego the Airplane Owners and Pilots Association unveiled a counterproposal for Lindbergh Field which would require airliners to stay within safety corridors, as they call them, when approaching Lindbergh Field, while dispensing with the broader TCA controls that have been proposed.

While this idea would obviously have some merit and represents at least a proposal, as opposed to doing nothing, it would also conveniently place the major burden on the commercial carriers and through them on the passengers. The flying public would ultimately have to pay through higher costs and the additional time of flight, taking the circuitous routes over the mountains and in from the eastern reaches along these new corridors.

I, for one, question whether safety measures should be tailored for the convenience of private fliers.

The AOPA, an obviously well-heeled organization and out to polish what it might consider its tarnished image, just this week ran a full page ad in the Washington Post—at the prices that display advertising costs in this big city metropolitan newspaper. It was an apparent attempt to allay public anxiety.

They argued that the general aviation community does not use a great deal of fuel. But, Mr. Speaker, the public is not worried that private planes are going to run out of gas. What they are concerned about is that they may collide with commercial carriers above our cities and other cities of the land.

Mr. Speaker, I note the presence in the Chamber of my very esteemed colleague from San Diego, the gentleman from California (Mr. CLAIR BURGENER). It was above the gentleman's district that some of these near misses occurred. I know the gentleman would like to express himself on this subject as well.

Mr. Speaker, I yield to the gentleman from California.

Mr. BURGENER. Mr. Speaker, I thank my colleague for yielding and for those kind remarks. I apologize for being late for this Special Order.

I think that the San Diego delegation is unanimous, and please correct me if I am wrong, in support of the establishment of a terminal control area for Lindbergh Field as urgently and as soon as possible.

☐ 1720

Mr. Speaker, I did meet today with two officials of the FAA. They assured me that they were going ahead immediately. I will try to state what "immediately" means, and if I am repetitious I would appreciate being advised. They will go to the Federal Register, they say, by mid-December, with their proposal for the TCA in the San Diego area. The 60-day comment period would follow immediately thereafter, after which, hopefully, their final draft rule would be proposed. If all goes well and there are no further delays, they tell me that by July 1980, the system would be in place and operating in San Diego.

Many things must be done, such as changing all of the aircraft charts. I am a pilot myself, a private pilot, and I learned to fly in San Diego, with all the risks attendant thereto. I am convinced that private aviation, general aviation, can live with a terminal control area in the San Diego area. Under a TCA system, a pilot, noninstrument rated, even, heaven forbid, without a transponder, could depart from Montgomery Field, which is between the very busy Miramar Naval Air Station and Lindbergh Field, could depart safely and fly in any direction he or she chose to go under visual flight regulations and not interfere with controlled traffic in the TCA. All they would have to do is follow the rules. They could fly and depart and return safely. I am a member of the AOPA (Airplane Owners and Pilots Association) and while I do not agree with everything they do they make a significant contribution to aviation. I may be wrong—I hope I am not wrong—but I do not see a massive protest on the part of general aviation in San Diego County for the TCA to be installed. Much of the system is already in place. The necessary radar is already in place.

These near misses, by the way, which have occurred recently, have been quite legal, quite probably. They are not through investigating them, but the private pilots were probably flying according to the rules. It is just that the see-and-be-seen concept which we private pilots hold so near and dear to us no longer will survive in San Diego County due to the traffic congestion and the configuration of a modern jet, and due to the configuration of a lot of light aircraft. They often cannot see each other.

Mr. VAN DEERLIN. And the multiplicity of airports.

Mr. BURGENER. There are so many aircraft. They cannot see each other, as much as they may try.

So I am pleased to join with my colleague in urging the FAA, if indeed as indeed they say they are doing, to proceed with the utmost speed to get a terminal control area installed and in place in San Diego County.

I am most appreciative that the gentleman did take this special order to draw this forcibly to the attention of the FAA, general aviation, and the general citizenry in San Diego County. I am pleased that it appears there will not be any more undue delay in the procedure to achieve a terminal control area system.

Mr. VAN DEERLIN. I thank the gentleman for his comments. As the gentleman realizes, we have two of the most influential subcommittee chairmen in this field sitting in on this special order, participating in it, and they have promised full speed ahead.

Mr. BURGENER. If my colleague will yield further, taking the extreme view—I would call it extreme in this case—that some general aviators now take, their alternative to this would be to restrict the airlines to much more rigid and fixed corridors. The reason that is not a very good idea is that, first of all, it would jam a lot of commercial aircraft into a small air highway, so to speak. It would waste a lot of fuel and a lot of time on the part of the airlines and, therefore, a waste of energy. It would confine noise to a lot of narrow corridors. If they take that approach—I am convinced that would not be reasonable for them to do—I am convinced that when general aviation sees the plan in our country and sees how much safer their planes will be, they will fully endorse the plan.

Mr. VAN DEERLIN. Let us surely hope so, because it has been quite a factor in the delay that has ensued since the crash. At this point, I would like to insert in the RECORD a trenchant editorial from the San Diego Union:

[From the San Diego Union, Nov. 19, 1979]

AIRPORT'S INTOLERABLE DANGER

The 125 persons aboard Western Airlines flight 210 and the pilot of a private plane that came within a hair-raising few feet of colliding over San Diego in the early evening darkness on Nov. 9 were probably never before so near death.

Even though the air disaster of September, 1978, made all of us painfully aware of the crowded, unsafe skies around the approaches of Lindbergh Field, still it is shocking to learn that conditions are such that the private pilot had no inkling anything was wrong until he suddenly saw "this big red W" fill the entire window of his plane "as it whipped on by."

And public consternation over this latest near-miss is compounded by some incredible discrepancies and questions that have arisen.

The private pilot reported to the Federal Aviation Administration officials that he was operating under the San Diego approach control radar center at Miramar. But FAA officials deny this, asserting the pilot had not contacted them and was flying on a see-and-be-seen basis.

Obvious questions come to mind: How can there be safety over San Diego's crowded skies when general aviation pilots, and not FAA controllers, decide whether they are to be radar-controlled or will fly randomly on a "be-seen" basis? And, above all, why wasn't the Western pilot advised of the private plane's near and dangerous presence? Moreover, in the absence of radar control, one cannot but wonder about the danger of relying on visual avoidance after dark, as reportedly was the case here, amidst San Diego's vast expanse of bright and flashing lights.

In considering the miraculous element that has been present in avoiding additional air disasters here, one must also wonder about how soon we will run out of such miracles.

Outrageous is the only word to describe the FAA's failure to provide a Terminal Control Area (TCA) at Lindbergh, which was pledged last December. Had the TCA been in force, requiring all planes to be controlled, this latest near-disaster and others almost as bad during recent months would not, in all likelihood, have taken place. Indeed, no air collision has ever occurred at any U.S. airport under TCA control.

It is intolerable that the FAA should yield to general-aviation lobbyists and delay the installation of a TCA here. It is intolerable that consideration should be given the goal of private pilots to be exempt from radar control.

In the terrible aftermath of the air disaster more than a year ago, FAA did not hesitate to commit itself to strict safety standards, even then long overdue, for this and similarly crowded airports. It is simply unthinkable that another air disaster must take place here before obviously necessary standards can be enforced.

In view of FAA's procrastination, the time has come for San Diego to look to California's congressional delegation for help in obtaining the TCA controls that Lindbergh's dangerously crowded airspace urgently requires. We cannot afford to lose another day.

● Mr. BOB WILSON. Mr. Speaker, I thank my colleague and fellow San Diegan for requesting this special order and for allowing me the opportunity to speak on what I consider to be a matter of grave importance.

A year ago this past September, San Diego was the unfortunate site of this Nation's second worst aviation disaster. The crash, which took over 140 lives, occurred when a small private aircraft collided in midair with a commercial airliner.

As a result of that tragedy, San Diego's Lindbergh Field was declared by the FAA as a candidate for a terminal control area, or TCA, with work toward that goal to begin this past December.

It is now over a year later. There is still no TCA for San Diego, and the conditions that led to the crash continue to exist.

Even more harrowing are recent accounts out of San Diego that other near misses have occurred between commercial and noncommercial aircraft, the most recent coming but 3 weeks ago.

I fail to see what the holdup is on installing the equipment to bring the San Diego field into a terminal control area status. Anyone who has flown into San Diego even once can see that the approach to Lindbergh Field is a difficult one. The approaches and glide path pass directly over heavily populated areas, including downtown San Diego. The situation is analogous to a skateboard rider speeding down a steep street. The street may be negotiated safely, but great care must be exercised in order to arrive at the street's bottom in one piece.

Given the difficult approach to San Diego, when the entire cockpit crew is required to exercise to the utmost their skills and ability to make a safe landing, it is foolhardy to me to have all aircraft in the vicinity operating on a "see and be seen" basis, with little guidance from ground control personnel.

I believe a TCA is an absolute necessity for San Diego, and the sooner the better, for I am most fearful that unless we have more control over the aircraft in the skies above San Diego, the possibility of another, perhaps more terrible, crash looms dangerously high.●

GENERAL LEAVE

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. VAN DEERLN. I thank the Speaker for his indulgence and the scores of Members who have remained to hear this discussion on a subject of vital consequences to our community and many others.

MX SYSTEM GETS THOUGHTFUL STUDY

(Mr. SIMON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIMON. Mr. Speaker, one of the magazines that has contributed in a significant way in a variety of areas is Scientific American.

A few months ago I inserted an article in the RECORD on verification which our colleague, LES ASPIN of Wisconsin, wrote in that magazine.

I have just finished reading an article by Bernard T. Feld and Kosta Tsipis on the proposed MX system.

It is one of the most thorough, concrete, practical articles I have read, and I hope my colleagues and their staffs will take the time to read it.

I know that because the MX system is such a gargantuan thing, people tend to line up on one side or another without taking a look at some of the specifics.

In this case the two authors have written an understandable, practical article that I think has balance and merits careful study:

LAND-BASED INTERCONTINENTAL BALLISTIC MISSILES

(By Bernard T. Feld and Kosta Tsipis)

From the early 1960's until quite recently the strategic nuclear forces of both the U.S. and the U.S.S.R. were generally regarded as being invulnerable to a preemptive "counterforce" attack by the other side. This effective military standoff was a central factor in the emergence of the concept of mutual deterrence (or, as it is sometimes called, mutual assured destruction). According to this view, if the strategic nuclear forces of both sides could be counted on to stay mutually invulnerable (that is, if each nation, even after absorbing a surprise first-strike attack by the other, could be sure of retaining a sufficient number of deliverable nuclear warheads to inflict unacceptable retaliatory damage on the attacking nation), then no rational leadership would be tempted to start a nuclear war.

Recent technological advances, for the most part introduced by the U.S. but closely emulated by the U.S.S.R., have contributed to a decline in the acceptance of deterrence as the guiding principle of the strategic confrontation between the two superpowers. These developments have also given rise to an erosion of confidence in the future invulnerability of one component of the U.S. strategic forces: land-based intercontinental ballistic missiles (ICBM's). In response to concerns about this anticipated problem it has been advocated that a new mobile missile, the MX, begin replacing the fixed Minuteman ICBM's sometime in the next decade.

In this article we shall review the innovations that have led to the projected vulnerability of the Minuteman force. We shall also explore the various strategic situations in which this vulnerability could arise and try to predict what the actual vulnerability would be in those cases. In so doing we shall attempt to answer the difficult but crucial question of how vulnerable the Minuteman force is likely to appear to the military and political leaders of the U.S.S.R. Finally, we shall examine a number of technical options available to the U.S. that could help to reduce both the actual and the perceived vulnerability of this country's land-based ICBM force.

The strategic arsenals of the U.S. and the U.S.S.R. consist at present of three different nuclear-weapons delivery systems: ICBM's, submarine-launched ballistic missiles (SLBM's) and long-range bombers. The strategy of deterrence places a high premium on the postattack survivability of all three of these systems. For example, the fraction of the submarine-based missile force that is at sea at any time is essentially invulnerable to enemy action; submerged ballistic-missile submarines are hard to detect and even harder to destroy, particularly if all of them must be caught by surprise simultaneously.

Strategic bombers could in principle be vulnerable to a surprise attack by the ICBM's and SLBM's of the other nation. To minimize the vulnerability of the U.S. bomber force this country has developed early-warning systems: satellites that can observe the launching of Russian ICBM's and radars that can detect the launching of Russian SLBM's. An ICBM would take about 30 minutes to travel between the U.S.S.R. and the U.S., so that the early-warning satellites would provide ample notice to enable alert aircraft to fly away from their bases once a massive ICBM launch had been confirmed. SLBM's fired from Russian submarines near the U.S. coast, on the other hand, could take as little as five minutes to arrive on target, which might not be enough time for all the bombers to escape.

In order to minimize the vulnerability of the land-based ICBM's to a surprise attack both countries have emplaced these missiles in buried reinforced-concrete and steel structures called silos, where they are maintained in operational readiness and protected from nuclear attack. A modern missile silo is designed to withstand a pressure of several thousand pounds per square inch over atmospheric pressure and to substantially attenuate the effects of thermal and nuclear radiation from a nuclear explosion. At present the probability that such a missile would survive a nuclear attack must be considered excellent. The survival probability depends in a direct (although not entirely predictable) manner on the characteristics of the attacking weapons, on the "hardness" of the silo and to a lesser degree on the characteristics of the targeted missile itself. (Another way to avoid the destruction of these missiles, of course, would be simply to launch them toward their predetermined targets on receipt of an early warning of a massive attack by the other country's ICBM force.)

Originally the concept of a "triad" of strategic weapons was adopted by the U.S. not only as a hedge against some unanticipated vulnerability of one of the three component systems but also as a way of giving both the Air Force and the Navy a "piece of the action" in strategic weaponry. Another purpose was to complicate an enemy's strategic-attack planning, since each weapons system has its own special combination of strengths and weaknesses. Gradually, however, two beliefs emerged that were eventually accepted as dogma by military and political leaders in the U.S. The first belief was that each component of the triad must by itself be capable of surviving a surprise attack in sufficient strength to enable it to inflict unacceptable retaliatory damage on the U.S.S.R. The second was that the land-based component of the triad was militarily and politically its most important part. The latter belief was supported by a number of advantageous features of land-based missiles, such as their exceptionally reliable command-and-control provisions, their rapid retargeting capability, the high reliability and superior accuracy of their warheads and their comparatively low operational cost. In spite of the many advantages of land-based missiles, the U.S. strategic forces are rather evenly distributed among the three components of the triad. In contrast the U.S.S.R., perhaps because of some of the features listed above, has traditionally emphasized the land-based component of its strategic triad.

Although both countries clearly attach major importance to their land-based ICBM's, their policies and actions in recent years have failed to give commensurate priority to maintaining the survivability of these forces. For example, the perceived vulnerability of the Minuteman force has resulted from a number of interrelated factors: the constant efforts of both countries to improve the accuracy of their ballistic missiles, the development and deployment of multiple independently targetable reentry vehicles (MIRV's), first by the U.S. and soon afterward by the U.S.S.R., and the concurrent failure to ban MIRVed ICBM's in the bilateral strategic-arms-limitation talks (SALT).

In deciding to deploy MIRV's in the late 1960's the U.S. gave in to the temptation of what J. Robert Oppenheimer once called a "technically sweet" solution to a military problem. To the U.S. MIRV's offered an inexpensive but, as it is turning out, temporary military advantage over the U.S.S.R. Since a MIRVed ICBM carries more than one independently targetable nuclear warhead, it can attack more than one missile silo. Given a roughly equal number of missile silos in the U.S. and the U.S.S.R., it is evident that the side with a MIRVed ICBM force could devote only a fraction of its missiles to a surprise attack against the other side's missile silos and still expect (in principle at least) to destroy most if not all of them while retaining the bulk of its ICBM force safely in reserve.

One outcome of this turn of events is that a kind of nostalgia has developed among many military strategists in this country for the "good old days" of un-MIRVed ICBM's, when a surprise preemptive attack against the other side's missile silos would have required the expenditure of at least one of the attacker's missiles for each of the opponent's attacked silos, a ratio that made such a surprise countersilo attack unfavorable to the attacker and therefore improbable. Since it is difficult if not impossible to remedy the shortsightedness of the decision to deploy MIRVed missiles, however, the U.S. is left with the dilemma of having to choose between, on the one hand, the projected erosion of the survivability of the most highly valued component of its strategic triad and, on the other, the development and deployment of a new generation of expensive, somewhat arcane and ultimately counterproductive strategic weapons.

How is the vulnerability of an ICBM silo measured? If one makes the reasonable assumption that against such a structure the most destructive effect of a nuclear explosion is the sudden overpressure created by the blast wave, and if in addition one ignores numerous operational difficulties inherent in executing a coordinated, large-scale attack, then given the accuracy, yield and reliability of the attacking weapons and the hardness of the silos, it is possible to calculate a theoretical rate of destruction for silos subjected to the attack. The dominant variable that determines the destructiveness of the attack is the accuracy of the attacker's warheads. By convention the accuracy of a ballistic missile is expressed in terms of a quantity designated C.E.P. (for "circular error probable"), which is measured in nautical miles. The explosive yield of a nuclear warhead is expressed in equivalent tons of TNT, and the reliability is usually given as a percentage representing the probability that a given missile will function as intended.

C.E.P. is defined as the radius of the circle around a target within which half the warheads aimed at the target can be expected to land. The rated C.E.P. of any missile system is established in test flights, and it may or may not be duplicated in actual military operations. Furthermore, this measure of accuracy does not take into account the possibility of systematic aiming errors. The C.E.P. value for Russian missiles is presumably determined by U.S. intelligence experts from information gathered during Russian weapons tests by observing the launching of each missile and the return of its warhead (or warheads) to the surface. The U.S. Government, however, does not announce the results of its intelligence-gathering activities. As a result the C.E.P. values of the Russian ICBM's cited in unofficial public statements about the vulnerability of the Minuteman force may be neither the values measured directly by the Russians nor the values determined indirectly by the Americans. Since accuracy is the most important determinant of a missile's destructiveness against a silo, publicly quoted estimates of the C.E.P. values of Russian missiles are likely to be subject to powerful political pressures generated by highly motivated interests. The sensitivity of such estimates is easy to demonstrate: increasing the estimated C.E.P. of a Russian missile from .12 nautical mile to .25 would reduce its estimated lethality against a U.S. missile silo by more than half.

Similar doubts may be held concerning the estimated yields of Russian warheads quoted in "off the record" public statements by U.S. officials. In general the recent public debate about the anticipated vulnerability of the Minuteman force simply overlooks the considerable uncertainty that surrounds such key variables in the calculation of missile-silo vulnerability.

The most authoritative estimate available of the actual Minuteman vulnerability is presented in a graph accompanying Secretary of Defense Harold Brown's defense-posture statement to Congress for 1980. The considerable range of uncertainty introduced into the calculation of the vulnerability of a silo by the uncertainties involved in the determination of the accuracy, yield and reliability of the Russian missiles, compounding the uncertainty inherent in predicting the actual response of a silo to a nuclear explosion, is correctly represented here by the broad band of probable error. Clearly arguments about the vulnerability of a given Minuteman silo are extremely sensitive to changes in the estimates of the characteristics of the Russian weapons.

What is more, attempts to calculate the vulnerability of the entire Minuteman force by merely extrapolating to all silos in that force the results of the calculation of the vulnerability of one silo can result in misleadingly inflated figures. This result is virtually inevitable not only because such simple calculations are flawed by the omission of numerous operational considerations and fail to take into account the many uncertainties inherent in the modeling of an attack by a single warhead against a single silo but also because they ignore the many additional uncertainties inherent in the complex operation of launching hundreds of missiles carrying thousands of warheads cross-targeted on more than 1,000 targets. Systematic departures from designed performance criteria are bound to happen. Although such an attack could be rehearsed, it could never be tested to determine such systematic errors. Hence any theoretical calculation of the level of damage that could be inflicted on an entire land-based missile force will surely warrant a lower degree of confidence than the calculation of single-silo vulnerability. Experienced military leaders are keenly aware of these uncertainties, which apply to the missile forces of both countries equally.

In short, we view assertions of the imminent vulnerability of the U.S. Minuteman force as premature, to say the least. A counterforce attack of the type visualized in current "worst case" scenarios is an immensely complicated and risky operation that cannot be described adequately by any mathematical model. Therefore it is wrong to treat predictions made on the basis of such models as pragmatic guides for action. Such predictions are based on calculations that are inherently approximate and tend to ignore many factors that, if they were taken fully into account, would in almost every instance tend to reduce the resulting vulnerability figures. Therefore the assertion that the U.S. Minuteman force can now or in the near future be destroyed with any degree of assurance by an all-out Russian counterforce attack seems to us to be a careless oversimplification, if not a deliberate exaggeration.

Nevertheless, there is little doubt that in the long run fixed land-based missiles will appear to become increasingly vulnerable to a MIRV attack. If this perception were to be transformed into a conviction in the minds of an opposing country's leaders, then under certain circumstances it is conceivable they might be persuaded to attempt such an attack. Conversely, if either side were to become convinced that its own ICBM force appeared vulnerable to the other side, then in a time of crisis the fear of a surprise attack by the opponent might provide a strong incentive to preempt the opponent by launching one's own missiles first. In both cases the appearance of vulnerability could be as dangerous as the vulnerability itself.

Under what circumstances would the appearance of Minuteman vulnerability be likely to tempt the Russian leaders to launch an attack against the U.S. ICBM force? Since most of the Russians' strategic nuclear warheads are carried by land-based ICBM's, and since in the absence of any new strategic system the Minuteman force is the only part of the U.S. strategic arsenal that is theoretically capable of attacking the Russian ICBM force with any chance of destroying it, one possibility is that the U.S.S.R. could decide to attack the Minuteman missiles preemptively in order to protect its own land-based missiles. It does not appear, however, that the Russians' ICBM force can realistically be considered to be threatened with extermination by an all-out Minuteman attack, because it can be shown that a substantial fraction of the Russian ICBM force would survive such an attack. Since there is no reason to believe the Russian leaders would feel that their land-based ICBM force was threatened by the Minuteman force, it follows that they would not be motivated by such a hypothetical threat to attack preemptively, even if they believed the Minuteman force was vulnerable.

There are several factors that would tend to minimize the likelihood of a surprise Russian attack intended to eliminate the Minuteman force. For one thing, the Russians could never be sure that the U.S. had not adopted a "launch on warning" policy for at least part of the Minuteman force. In addition there is little if any reason for them to believe the U.S. would not counterattack immediately against the U.S.S.R. with its surviving ICBM's, SLBM's and bombers. It would therefore be illogical for the Russians to attack only Minuteman silos, they would have to attack all three components of the U.S. strategic triad simultaneously, expecting to disable them all. This task, however, is impossible to carry out successfully because of the different time constraints of an attack against each of the three components, the varying degrees of vulnerability that each one has and the dependence of this vulnerability on the element of surprise.

Finally, in view of the severity of the outcome of any massive nuclear exchange, one would expect that prudent political leaders would join even a limited nuclear conflict reluctantly and would escalate it gradually, always with an eye to war-termination opportunities that would minimize their losses. It is difficult to escape the conclusion that given the current array of strategic systems on both sides, even if the military leaders of the U.S.S.R. were convinced that the Minuteman force was vulnerable, no responsible political leader in that country would be willing to risk the consequences of a preemptive, first-strike attack.

Nevertheless, the perception of Minuteman vulnerability, even if it is technically unfounded and irrational, may well generate political problems for the U.S. Government, both domestically and internationally. As a result, although there is no compelling military reason to move precipitately into measures designed to alleviate the perceived vulnerability of the Minuteman force, there are pressing political considerations pointing in that direction. The most pragmatic response, from both the economic and the strategic point of view, to the current problem would be to do nothing; it is not unreasonable, however, to explore alternatives that could offer some relief of the perceived Minuteman vulnerability.

In the remainder of this article we shall consider three such alternatives. The first would be to attempt to return to the "good old days" of unMIRVed ICBM's. The second would be to try to reduce the vulnerability of the Minuteman silos by applying existing defensive technology. The third would be to proceed with the construction of one or more entirely new missile systems designed to avoid the vulnerability problem.

The first option would require that both the U.S. and the U.S.S.R. abandon their large MIRVed ICBM's and construct a new land-based force consisting of comparatively small single-warhead missiles in superhardened silos. This approach would ensure that there would be no strategic advantage to attacking the other nation's land force preemptively, as long as the two forces remained approximately equal, since the attacker would have to expend at least one missile for each enemy missile attacked.

It is an attractive option, since it would make a surprise countersilo attack unprofitable and would reverse the strategic arms race. It suffers, however, from several shortcomings. First, eliminating MIRVed missiles could revive interest in anti-ballistic-missile (ABM) defenses, particularly the exotic space-based systems that have recently been speculated on. Second, it is only a matter of time before the new ICBM's in their silos would become vulnerable to very accurate sea-based warheads. In fact, with the aid of the "global positioning system" of satellites that the U.S. will probably have in full operation by the mid-1980's, warheads from SLBM's could be accurate enough to destroy fixed land-based missiles with a high degree of confidence. Although the operational difficulties of such a sea-based attack against an entire land-based ICBM force would be formidable, the land-based force of the U.S.S.R. could appear vulnerable to the MIRVed SLBM's of the U.S. as early as the late 1980's. The same would undoubtedly be true of U.S. land-based ICBM's some years later.

This "return to the good old days" option is one of several possible ways to seek strategic stability through arms-limitation negotiations. Indeed, it could be thought of as a stage in a process that would lead to the eventual elimination (perhaps by mutual agreement at some later stage of SALT) of all fixed land-based missiles on both sides. After all, nuclear disarmament, not just strategic stability, remains a valid long-term goal, even though it may appear utopian in the present political atmosphere.

The second option open to the U.S. would be to reduce considerably the actual and perceived vulnerability of the Minuteman force by installing local silo defenses, as was proposed a few years ago by Richard L. Garwin. Such defenses might consist of jamming devices to confuse the radar altimeters in the fusing mechanisms of the Russian reentry vehicle or radar-triggered buried nuclear explosives that would lift a curtain of debris into the path of the incoming warhead. Since dirt and dust take a long time to settle to the ground, such a curtain could protect the silo for up to an hour. One disadvantage of this scheme is that even if low-radiation nuclear explosives were used, it would still be politically unpalatable to detonate numerous nuclear devices on one's own soil and create a distinct, even if limited, radioactive-fallout hazard. To be sure, the existence of these defenses could make a Russian attack, which would create vastly larger quantities of fallout, much less probable. Nevertheless, local resistance to such a Minuteman defense scheme is likely to be considerable.

A variant of Garwin's silo-defense scheme would be to install two small upward-looking radars north of each silo in order to determine the approximate trajectory of an incoming warhead. Then, about a kilometer from the silo, the warhead would be met by tens of thousands of minirockets, each one weighing no more than about 200 grams, fired from hardened launchers. This protection system could ultimately be defeated by a combination of nuclear explosions near the radars and by the deployment of several warheads per silo. Since there are 1,000 Minuteman silos, however, the enemy would have to expend many thousands of warheads to penetrate the protective system and attack them. (The proposed system would not utilize the guided missiles and ABM radars prohibited by the ABM treaty; nevertheless, a separate agreement that would allow installation of the system might have to be negotiated between the U.S. and the U.S.S.R.

so that it would not even appear to violate the treaty.)

The chief advantage of such silo-protection systems is that they could be deployed fairly quickly and therefore be in place by the mid-1980's, when the appearance of Minuteman vulnerability might otherwise become alarming. All the other policy options designed to counter this vulnerability cannot be expected to become effective before the early 1990's. The suggested protective devices could not protect the silos with absolute certainty, but they could decrease the expected number of destroyed silos to the point where the opponent would be forced to expend such a large portion of his counterforce warheads that the attack would be almost self-disarming. Furthermore, this approach would increase the uncertainty of the outcome of a countersilo attack and complicate it to such an extent that its planning would be made more difficult and the political decision to execute it would be made even more improbable. Such passive or quasi-passive defenses could be comparatively inexpensive. Since they would increase the safety of existing land-based ICBM's without threatening the assured-destruction potential of the opponent, they could reduce the fear of a surprise attack against Minuteman silos without interfering with the basic strategy of deterrence that has influenced the complexion of the strategic confrontation between the U.S. and the U.S.S.R. A weakness of this approach appears to be its lack of technological novelty, an aspect that seems to diminish its attractiveness to military planners.

The third option the U.S. could exercise to avoid the perceived vulnerability of the Minuteman force would be to construct an entirely new missile system and base it in such a way that it would be impervious to a surprise Russian attack. According to current plans, a new missile of this kind, known as MX ("missile experimental"), would be deployed; the missile would weigh about 95 tons, would carry 10 large and very accurate warheads and could be launched quickly and reliably. Its large throw weight, high accuracy and the contemplated number and size of its warheads are favored by those military and civilian defense analysts who believe the U.S. must have a countersilo capability comparable to that attributed to the Russians' large SS–18 missile. They believe a large new missile of this type would restore the strategic equality between the two countries that would be visibly altered after 1990, when the U.S.S.R. could have the perceived capability of destroying the Minuteman force. The main disadvantage of such a countersilo missile would be that no matter how it was based it would threaten the survivability of the land-based ICBMs of the U.S.S.R. It would therefore probably elicit from that country a response that could prove to be not in the ultimate interest of the U.S.

Several options have been proposed for the mode of deployment of this new missile that, in principle at least, would make it harder to target by Russian ICBM's. One option would be to conceal the missiles on vehicles circulating on tracks housed in underground tunnels. Because the hardness of the tunnel would be limited by economic factors, however, the missile would still be vulnerable; not only would the tunnel present a fairly soft, extended target to an attacker (in contrast to the "hard-point" target presented by a Minuteman silo) but also by assigning widely separated aim points along the tunnel a massive Russian attack could avoid the "fratricide" effects that limit to two the number of warheads that can be effectively allocated against a hard-point target such as a silo.

Another possible land-basing mode for the MX would be to construct a system of approximately 25 concrete shelters connected by a road along which a missile could be transported rapidly from shelter to shelter in some random fashion, one such complex for each of 200 missiles. The idea here would be simply to make the number of targets a large multiple of the number of missiles. Of course, one could never be sure that an opponent would not be able at some time in the future to devise a technology, involving either reconnaissance satellites or clandestine ground observers, that would make it possible to detect which shelters housed a missile and which were empty at any one time, thereby vitiating the purpose of this basing mode. Accordingly either the rest of the shelters would have to be filed with dummy missiles indistinguishable in every detectable physical characteristics from the real missile or the transporter would have to be able to dash from one shelter to any other in the time available between the detection of a massive enemy attack and the arrival of the attacking warheads. (The latter scheme is reported to be the one currently favored by the Carter Administration.) Unless the U.S. were to agree with the U.S.S.R. beforehand on a mutually acceptable, common multiple-shelter basing mode, however, there is no guarantee that the U.S.S.R. would in turn deploy a multiple-shelter system that would meet U.S. verification requirements. If the U.S. were to proceed to deploy the MX missile in a basing system of its choice without prior agreement with the Russians, what would stop the Russians from deploying a similar missile in a basing system of their choice and then asserting that it is verifiable?

Given the obvious inadequacy of "national technical means" of inspection in such a situation, how long could any future arms-limitation agreement withstand the suspicions now prevailing in both the U.S. and the U.S.S.R. even toward agreements whose verifiability by national means can hardly be in any serious technical doubt? With or without dummy missiles, however, such a basing scheme would not offer long-term protection to the U.S. land-based force, since the U.S.S.R. could choose to attack all the shelters. Adding more shelters would probably be a losing game because the incremental cost of adding one warhead to the Russians' ICBM force would probably be less than that of adding a shelter to the proposed U.S. system.

The large area of such a horizontal shelter directly exposed to the overpressure from a nuclear explosion would result in hundreds of millions of pounds of load on the protective structure, even from the explosion of a 750-kiloton warhead as much as 500 meters away, calling for unusually strong and therefore extraordinarily expensive structures for reasonable protection. Unless the shelters were superhardened to withstand more than 1,000 pounds per square inch of pressure or were spread out over areas considerably larger than those contemplated in the schemes discussed publicly so far, it would be possible to target an attack so that one warhead could destroy more than one shelter. In the absence of any constraints on the number of warheads in the attacking nation's arsenal, any multiple-shelter system could ultimately be defeated. The U.S.S.R. would be constrained until 1985 by the SALT II agreement to about 7,000 land-based warheads. After that date, however, it would be free to deploy as many warheads as it wanted to unless a new strategic-arms-limitation agreement were to at least maintain this constraint. Hence the survivability of any multiple-shelter basing mode is completely dependent on the cooperation of the U.S.S.R. in future SALT negotiations.

In addition to the unfavorable protection-to-cost ratio the various multiple-shelter missile-basing modes would offer, they would suffer from several further disadvantages. First, their missiles would be more susceptible than the current Minuteman missiles to a "pin down" attack. (In other words, their launching could be impeded for a considerable time by the explosion of an enemy warhead in the atmosphere above the missile launcher, even though the explosion would not damage the missile.) Second, these schemes would not start offering credible protection to the land-based strategic force of the U.S. until the number of existing missile shelters exceeded the very large number of warheads the U.S.S.R. would have available for a preemptive attack against them. That threshold, however, might not be reached before 1990, even if the ceilings established by SALT II were extended beyond 1985. Furthermore, since in case of war each cluster of shelters would require numerous ground-burst warheads for their destruction, they would introduce additional grave danger to the U.S. population by causing delayed radioactive fallout to the east of their sites. This effect might be mitigated by the decreased probability of a Russian countershelter attack, but only if these basing modes were to seem to the Russians to be virtually impossible to defeat. All the proposed multiple-shelter basing modes would have the additional environmental disadvantage of disrupting large areas in the proposed deployment regions in the southwestern U.S.

Consider also the opportunity such an approach would give the Russians for openly abrogating an agreement limiting the number of real missiles in their multiple-shelter system. Given a large number of available shelters, the Russians could manufacture and store clandestinely thousands of MIRVed missiles. Then they could suddenly abrogate the agreement and quickly deploy these missiles in the preexisting hardened shelters.

Such an augmentation of the Russians' land-based force would cost them only a small fraction of the expense of the entire force, since the protective shelters that would receive the missiles would already have been paid for. Hence a multiple-shelter basing scheme would militarily and economically tempt renunciation of numerical ceilings established in any future agreement between the U.S. and the U.S.S.R. Such a sudden abrogation of any future SALT agreement, accompanied by the overt deployment of thousands of additional warheads, would give the U.S.S.R. an enormous military advantage. Protected as these warheads would be in the preexisting shelters, they could be used to threaten violence to the U.S. without resort to a catastrophic nuclear war. Even if the U.S.S.R. did not resort to such chicanery, however, the security of the U.S. mobile force would still depend on the successful conclusion of future SALT agreements that constrained the number of Russian warheads.

In short, the deployment of very accurate MIRVed ballistic missiles appears to have permanently deprived land-based ICBM forces of the assurance of credible survivability they had in the past. The remaining choices for the U.S. are to learn how to live with land-based ICBM's that have some degree of vulnerability, to abandon land-based MIRVed missiles or to limit all new ICBM deployment to specially equipped aircraft and submarines.

Short-takeoff-and-landing (STOL) aircraft, for example, appear to offer better missile survivability than a multiple-shelter basing mode, given adequate warning of a Russian attack. This weapons system could consist of some 200 STOL aircraft, each carrying a single missile with between six and eight warheads. The system would presumably be designed to take advantage of the fact that the missile would be launched thousands of meters above the ground in order to make the ratio of the missile's payload to its gross weight greater than it is for ground-launched missiles. The planes could be deployed at about 100 bases, but they could be dispersed and moved at random among several thousand small airfields available around the country. On warning of a massive launch of Russian SLBM's the aircraft could escape to additional thousands of predetermined sites on the Federal highways network, making the preemptive targeting of all possible landing sites for the aircraft impossible.

Mobile ICBM's carried by transport aircraft offer several military advantages over a tunnel-based or multiple-shelter system. Their mobility, in conjunction with early-warning systems, quick alert and takeoff capabilities and several levels of basing, guarantees very high survivability, even in the case of an all-out barrage of SLBM's. The aircraft could be launched on warning of attack, but the missiles on board would not have to be fired toward their targets immediately. Although the missile that might have to be used in conjunction with an airborne basing mode would carry no more than eight MIRV's, its accuracy could be as good as that of a shelter-based missile. Finally, since an airborne system would be truly mobile, it would not tempt an enemy to acquire an unlimited number of warheads in the hope of making it vulnerable. Therefore the survivability of this system would depend neither on Russian adherence to agreed-on numerical ceilings on missiles and warheads nor on the outcome of future SALT negotiations.

In spite of the many advantages of an air-launched ICBM system, it would not be a short-term solution to the problem of the perceived vulnerability of land-based ICBM's. Certainly a decade and perhaps more would be necessary to develop, test and deploy such a system. The weakness of the system would be that in times of crisis hundreds of nuclear weapons would be circulating in the air over the country and would be moved from airfield to airfield with little physical security, exposing the weapons both to accidents and to possible sabotage. Moreover, the system would require an extensive and well-orchestrated (therefore often rehearsed) support network that could prove both expensive and awkward.

Another basing option, proposed in Congressional testimony by Garwin and Sidney D. Drell, would involve small submarines that could carry a few missiles each in canisters outside a pressurized hull; the submarines, which could be powered by inexpensive non-nuclear power plants capable of generating speeds of a few knots, would loiter over the continental shelf. Since the total area of the ocean over the U.S. continental shelf is 400,000 square miles, a saturation attack against such vehicles is practically impossible. The submersibles could be counted by national technical means of verification, and therefore they would not present any arms-limitation difficulties or open the way for unpleasant military surprises, such as a sudden abrogation of the SALT II treaty by the U.S.S.R. induced by the inability to verify their numbers confidently. The proposed submersibles could, for example, carry two missiles each, have an on-station endurance of a month and be operated by a crew of fewer than 20. Their survivability would not depend on any warning and would not be threatened by preemptive attack or by any Russian antisubmarine-warfare activities, since they would be deployed in areas of the seas firmly controlled by U.S. surface ships and submarines. Although at any one time some of these submersibles would be in port for crew changes and maintenance and therefore be vulnerable to a surprise Russian attack, the short distances the small submersibles would have to travel to reach their battle stations would make it possible to have about 80 percent of them on station (and therefore impervious to preemptive attack) at any given time. The accuracy of the missiles launched from such a system could be guaranteed to be as good as that of land-launched ICBM's.

Such a coastal submarine-based system could not be ready for deployment in the next decade or so. Therefore this system shares with the air-mobile system and the multiple-shelter basing mode the disadvantage that its unavailability for many years might mandate the need for intermediate remedial measures (such as local defenses for Minuteman silos), which would add to the overall cost of restoring invulnerability to the ICBM component of the U.S. strategic triad

In sum, much as one might like to advocate a return to the "good old days" of unMIRVed land-based missiles, both as an immediate solution to the perceived problem of Minuteman vulnerability and as a step in the right direction toward limiting the strategic nuclear arsenals of the U.S. and the U.S.S.R., this option appears remote in time and distant as a political and military reality. On the other hand, the U.S. need not rush into a new land-based ICBM system out of fear of the immediate vulnerability of the Minuteman force. Alarmist public descriptions of this vulnerability are exaggerated and misleading because they ignore the inherent uncertainties of a forcewide attack and are based on the assumption of a strategic scenario that is implausible on both political and military grounds. The actual vulnerability of the Minuteman force is very much open to question. Our own view is that the most likely outcome of even a concerted Russian countersilo attack during the late 1980's would be the survival of a significant fraction of the Minuteman force.

More important, the land-based Minuteman force carries only about a third of the total equivalent megatonnage of the U.S. nuclear strategic arsenal; the other two-thirds is carried by the SLBM force and the bomber force. Since only a small fraction of the total U.S. equivalent megatonnage is assigned to industrial and other economic targets in the U.S.S.R. as a part of the strategy of deterrence, even if in the course of an unexpectedly successful Russian attack the U.S. were deprived of all its land-based ICBM's, it would still be left with about half of its strategic nuclear force available for retaliatory attacks against Russian military targets.

The installation of local silo defenses, after prior discussions with the U.S.S.R. aimed at maintaining the ABM treaty unchallenged, would increase the actual and perceived security of the Minuteman force, decrease crisis instability and minimize still further the probability of a large-scale counterforce nuclear exchange. In such a strategic environment the U.S. and the U.S.S.R. could then attempt in future SALT negotiations to return as far as possible to the "good old days" of unMIRVed ICBM's and perhaps even go beyond that. If, on the other hand, such negotiations were to appear unpromising, the U.S. would still have plenty of time to develop other strategic systems, such as an underwater ICBM force deployed along the continental shelf of the U.S., that would offer a better solution than the land-based MX to the perceived problem of Minuteman vulnerability.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GEPHARDT (at the request of Mr. WRIGHT), for November 26 through 29, on account of official business.

Mr. BETHUNE (at the request of Mr. RHODES), for November 26 through November 29, on account of official business.

Mr. CARNEY (at the request of Mr. RHODES), for November 29 and 30, 1979, to attend funeral services for Cpl. Steven Crowley.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WHITTAKER) to revise and extend their remarks and include extraneous material:)

Mr. DERWINSKI, for 5 minutes, today.

Mr. COLLINS of Texas, for 20 minutes, today.

Mr. BURGENER, for 20 minutes, today.

Mr. WAMPLER, for 5 minutes, today.

Mr. DUNCAN of Tennessee, for 5 minutes, today.

(The following Members (at the request of Mr. MONTGOMERY) to revise and extend their remarks and include extraneous material:)

Mr. ULLMAN, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ADDABBO, for 5 minutes, today.

Mr. LUNDINE, for 15 minutes, today.

Mr. JOHNSON of California, for 5 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. VAN DEERLIN, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIMON, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,544.

Mr. ASHBROOK, in opposition to the Markey amendment to H.R. 2608, immediately following the remarks of Mr. BROWN of Ohio.

Mr. HOLLENBECK, to revise and extend his remarks immediately preceding the vote on the Markey amendment to H.R. 2608.

Mr. PANETTA, to revise and extend his remarks prior to the vote on the Dingell amendment and prior to the vote on the Markey amendment to H.R. 2608.

Mr. WEISS, to revise and extend his remarks and to include extraneous material in his debate on the Markey amendment.

(The following Members (at the request of Mr. WHITTAKER) and to include extraneous material:)

Mr. FORSYTHE.

Mr. RAILSBACK.

Mr. CONTE.

Mr. GOODLING.

Mr. JEFFRIES.

Mr. DERWINSKI in two instances.

Mr. BEREUTER.

Mr. FINDLEY in two instances.

Mr. LAGOMARSINO.

Mr. BROOMFIELD.

Mr. COLLINS of Texas in three instances.

Mr. THOMAS.

Mr. PAUL in two instances.

Mr. COLEMAN.

Mr. MILLER of Ohio in three instances.

Mr. DUNCAN of Tennessee in two instances.

Mr. GILMAN in two instances.

Mr. MYERS of Indiana.

Mr. MICHEL in three instances.

(The following Members (at the request of Mr. MONTGOMERY) and to include extraneous material:)

Mr. MURPHY of Pennsylvania.

Mr. BARNES.

Mr. STARK.

Mr. BALDUS.

Mr. MAZZOLI.

Mr. HAMILTON.

Mr. ADDABBO.

Mr. MOTTL.

Mr. LOWRY.

Mr. HIGHTOWER.

Mr. MINETA.

Mr. MINISH.

Mr. LAFALCE in two instances.

Mr. DASCHLE in two instances.

Mr. FUQUA in five instances.

Mr. GAYDOS in two instances.

Mrs. SCHROEDER in two instances.

Mr. ZEFERETTI.

Mr. FORD of Michigan.

Mr. GIAIMO.

Mr. JOHNSON of California.

Mr. DONNELLY in two instances.

Mr. APPLEGATE.

Mr. HARRIS.

Mr. OBERSTAR.

Mr. BIAGGI in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2009. An act to designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 132. An act for the relief of Dirk Vierkant;

S. 151. An act for the relief of Jerry W. Manandic and Ceferino W. Manandic;

S. 170. An act for the relief of Janet Abraham, also known as Janet Susan Abraham;

S. 1157. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes;

S. 1686. An act to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building"; and

S. 1871. An act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3354. An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes; and

H.R. 4483. An act for the relief of Jung-Sook Mun.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on November 27, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 1885. To amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies.

ADJOURNMENT

Mr. JOHN L. BURTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until Monday, December 3, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2907. A letter from the Chairman, The National Advisory Council on Extension and Continuing Education, transmitting a special report on the condition of adult learning in the United States; to the Committee on Education and Labor.

2908. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Gerald B. Helman and his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2909. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Sol M. Linowitz and his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2910. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the determination of the Deputy Secretary of State that the international security assistance programs of the United States for fiscal year 1979 are in compliance with the human rights requirements of section 502B of the Foreign Assistance Act of 1961, as amended, pursuant to section 502B (a)(2) of the act; to the Committee on Foreign Affairs.

2911. A letter from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting various project performance audit reports prepared by the International Bank for Reconstruction and Development, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2912. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration) transmitting a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2913. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration), transmitting a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2914. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration), transmitting a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2915. A letter from the Chief, Procurement and Property Management Branch, Administrative Services Division, Community Services Administration, transmitting a negative report on disposal of foreign excess property by the agency during fiscal year 1979, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2916. A letter from the Secretary of Health, Education, and Welfare, transmitting a report on an assessment of the national Area Health Education Center program, pursuant to section 802(b) of Public Law 94–484; to the Committee on Interstate and Foreign Commerce.

2917. A letter from the Director, Office of Personnel Management, transmitting notice of the exclusion by the President of the National Security Council staff from the Senior Executive Service, pursuant to 5 USC 3132 (f); to the Committee on Post Office and Civil Service.

2918. A letter from the Comptroller General of the United States, transmitting the fourth annual report on Amtrak activities and a discussion of Amtrak's inventory and property controls, pursuant to 45 U.S.C. 644 (CED–80–13, November 29, 1979); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

2919. A letter from the Comptroller General of the United States, transmitting a report on the Postal Service's grievance-arbitration system (GGD–80–12), November 28, 1979); jointly, to the Committees on Government Operations, and Post Office and Civil Service.

2920. A letter from the Comptroller General of the United States, transmitting a report on the directors' perspectives on the management of Federal laboratories (PSDA–80–8, November 28, 1979); jointly, to the Committees on Government Operations, and Science and Technology.

2921. A letter from the Chairman, Federal Election Commission, transmitting a copy of the Commission's correspondence with the Office of Management and Budget protesting any reduction in its original budget request, pursuant to section 310(d)(1) of the Federal Election Campaign Act of 1971, as amended; jointly, to the Committees on House Administration, and Appropriations.

2922. A letter from the President of the United States, transmitting notice of his determination that additional time is necessary to reach a decision on a west-to-east crude oil transportation system, pursuant to section 507(a) of Public Law 95–617; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BUTLER: Committee on the Judiciary. H.R. 891. A bill for the relief of Barbara Laws Smith (Rept. No. 96–670). Referred to the Committee of the Whole House.

Ms. HOLTZMAN: Committee on the Judiciary. H.R. 1829. A bill for the relief of Loraine Smart and Robert Clarke; with an amendment (Rept. No. 96–671). Referred to the Committee of the Whole House.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FUQUA: Committee on Science and Technology. H.R. 2743. A bill to provide for a national policy for materials research and development and to strengthen the materials research and development capability and performance of the United States; with amendment (Rept. No. 96–672). Referred to the Committee of the Whole House on the State of the Union.

Mr. BRADEMUS: Committee on House Administration. H. Res. 430. Resolution to provide for the further expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries; with an amendment (Rept. No. 96–673). Referred to the House Calendar.

Mr. DANIELSON: Committee on the Judiciary. H.R. 5174. A bill to amend section 209 of title 18, United States Code (Rept. No. 96–674). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 5583. A bill to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein (Rept. No. 96–675). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. COELHO:

H.R. 5987. A bill to improve the administrative process by making Federal agencies more responsive to the will of the people as expressed by their elected representatives in Congress; to the Committee on the Judiciary.

By Mr. HOLLENBECK (for himself, Mr. Hillis, and Mr. Moore):

H.R. 5988. A bill to amend title 10, United States Code, to authorize leave to be granted to members of the Armed Forces, in addition to regularly accrued leave in cases of extreme personal emergencies; to the Committee on Armed Services.

By Mr. KRAMER:

H.R. 5989. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Ways and Means.

By Mr. LOTT (for himself and Mr. Hinson):

H.R. 5990. A bill to provide for the wilderness designation of certain lands within the DeSoto National Forest, Miss., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McDADE:

H.R. 5991. A bill to amend the Internal Revenue Code of 1954 to provide businesses located in economically distressed areas a 30 percent credit against income tax for amounts paid or incurred for fuel oil used for heating a business facility; to the Committee on Ways and Means.

H.R. 5992. A bill to amend the Internal Revenue Code of 1954 to provide individuals an income tax credit for fuels used to heat their principal residences; to the Committee on Ways and Means.

By Mr. SLACK:

H.R. 5993. A bill to amend the Congressional Budget Act of 1974 to limit the levels of total budget outlays contained in certain concurrent resolutions on the budget; to the Committee on Rules.

By Mrs. SPELLMAN:

H.R. 5994. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

By Mrs. SPELLMAN (for herself, Mr. Nichols, and Mr. White):

H.R. 5995. A bill to amend titles 5 and 37 of the United States Code to authorize the pay of Federal employees and uniformed service personnel to be continued during periods in which the enactment of appropriations is delayed: jointly, to the Committees on Post Office and Civil Service, and Armed Services.

By Mr. ZEFERETTI:

H.R. 5996. A bill to amend the Second Liberty Bond Act to provide that the Secretary of the Treasury may not sell treasury bills in amounts of less than $25,000; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 5997. A bill to provide for the distribution of the Code of Ethics for Government Services; to the Committee on Post Office and Civil Service.

By Mr. WYATT:

H.R. 5998. A bill to authorize the Secretary of the Interior to display and preserve, at National Seashores, artifacts from historic shipwrecks; to the Committee on Interior and Insular Affairs.

By Mr. STRATTON (for himself, Mr. Solomon, Mr. Daniel B. Crane, Mr. Stockman, Mr. Kramer, Mr. Robert W. Daniel, Jr., Mr. Dan Daniel, Mr. Bauman, Mr. Ashbrook, Mr. Gilman, Mr. Lagomarsino, Mr. Dornan, Mr. Spence, Mr. Lloyd, Mr. Ichord, Mr. Sebelius, Mr. Symms, Mr. Abdnor, Mr. Thomas, Mr. Chappell, Mr. Robinson, Mr. Lee, Mr. Dannemeyer, Mr. Badham, Mr. Rudd, Mr. Taylor, Mr. Rousselot, Mr. Davis of South Carolina, Mr. McDonald, Mr. Charles H. Wilson of California, Mr. Goldwater, Mr. Roberts, Mr. Murphy of New York, Mr. Collins of Texas, Mr. Satterfield, Mr. Sawyer, Mr. Lent, Mr. Leath of Texas, Mr. Hall of Texas, Mr. Stenholm, Mr. Guyer, Mr. Jeffords, Mr. Walker, Mr. Lott, Mr. Montgomery, Mr. Stump, Mr. Hance, Mr. Davis of Michigan, Mr. Hillis, Mr. Dicks, Mr. Giaimo, Mr. Wyatt, Mr. White, and Mr. Jeffries:)

H. Con. Res. 218. Concurrent resolution expressing the sense of the Congress that the President should announce that unless the U.S. hostages being held in Teheran are released unharmed by a date certain, the United States will initiate specified military operations against Iran; to the Committee on Foreign Affairs.

By Mr. ANNUNZIO:

H.J. Res. 451. Resolution authorizing the President to designate the third week of April of each year as National Coin Week; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BIAGGI:

H.R. 5999. A bill to authorize the documentation of the vessel, *Esperance III*, as a vessel of the United States with coastwise privileges; to the Committee on Merchant Marine and Fisheries.

By Mr. DANIELSON:

H.R. 6000. A bill for the relief of Campanella Construction Co., Inc.; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 6001. A bill for the relief of Anne Pearce; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 6002. A bill for the relief of Nekhama Shevelev; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 6003. A bill for the relief of Eliazar Sandoval-Flores; to the Committee on the Judiciary.

By Mr. WOLPE:

H.R. 6004. A bill for the relief of Alvin Glenn White; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 816: Mr. Lewis.

H.R. 2967: Mr. Grassley and Mr. Edwards of Oklahoma.

H.R. 4752: Mrs. Spellman.

H.R. 5040: Mr. Guarini.

H.R. 5371: Mr. Anthony, Mr. Martin, Mr. Barnard, Mr. Hefner, Mr. Charles Wilson of Texas, Mr. Lloyd, Mr. Evans of Georgia, Mr. Hollenbeck, Mr. Pursell, Mr. Campbell, and Mr. Winn.

H.R. 5396: Mrs. Spellman.

H.R. 5504: Mr. Beilenson and Mr. Corman.

H.R. 5752: Mr. Guarini, Mr. Wolpe, and Mr. Gray.

H.R. 5798: Mr. Bafalis, Mr. Barnard, Mr. Bevill, Mr. Chappell, and Mr. Preyer.

H.R. 5813: Mr. Huckaby.

H.R. 5909: Mr. Young of Alaska, Mr. Carter, Mrs. Smith of Nebraska, Mr. Evans of Georgia, Mr. Oberstar, Mr. Whitehurst, Mr. Fountain, Mr. Courter, Mr. Duncan of Tennessee. Mr. Moffett, Mr. Mitchell of Maryland, Mr. Richmond, Mr. Ottinger, Mr. Patterson, Mr. Pease, Mr. Mathis, Mr. Vento, Mr. Ambro, Mr. Bingham, Mr. Mottl, Mr. Green, Mr. Frost, Mr. Rudd, Mr. Hyde, Mr. Albosta, Mr. Spence, Mr. Bevill, Mr. Wolff, Mr. Kindness, and Mr. Young of Florida.

H.R. 5935: Mr. Stark.

H.J. Res. 417: Mr. Lujan, Mr. Jacobs, Mr. Kindness, Mr. Fisher, Mr. Alexander, Mr. Madigan, and Mr. Blanchard.

H. Con. Res. 212: Mr. Pease, Mr. Vento, Mr. Huckaby, Mr. Evans of the Virgin Islands, and Mr. Walker.

H. Res. 491: Mr. Fazio, Mr. Murphy of Pennsylvania, Mr. Pease, Mr. Young of Alaska, Mr. Fountain, Mr. Mineta, Mr. Skelton, Mr. Benjamin, Mr. Lloyd, Mr. Lehman, Mr. Gudger, Mr. Hall of Texas, Mr. Evans of Indiana, Mr. Whitehurst, Mr. Kramer, Mr. Spence, Mr. Wolff, Mr. Dornan, Mr. Evans of Georgia, and Mr. Courter.

EXTENSIONS OF REMARKS

AVIATION SAFETY AND NOISE REDUCTION ACT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

• Mr. MINETA. Mr. Speaker, I have asked the White House for a clear signal that legislation rolling back the fleet noise rule would be vetoed. I have now received that response and I think it is something that all Members should be aware of.

This is a clear signal to those airlines which have been dragging their feet that they will have to bring their fleets into compliance, despite efforts in the Senate to the contrary. If the foot-dragging airlines fail to see the writing on the wall, they will have only themselves to blame as the compliance deadlines approach and they are not ready.

This is also a clear signal to the House-Senate conference on H.R. 2440 that they should report none of the Senate provisions which would roll back the fleet noise rule, and should instead move forward with the noncontroversial ADAP funding approved by the House.

Mr. Speaker, so that the record might be complete, I would like to include at this point Secretary Goldschmidt's letter of October 18 to you, the Secretary's letter of November 12 to Chairman Johnson, my letter of November 1 to the President, and the White House response of November 29 to me.

The letters follow:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 18, 1979.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I am writing to you regarding H.R. 3942, the "Aviation Safety and Noise Reduction Act", which is now pending before the Rules Committee. This bill, the so-called "noise bill", contains provisions which are unacceptable to the Administration for policy or budgetary reasons. In our view H.R. 3942 is an anti-environment bill which rewards some air carriers for delaying actions to meet environmental regulations, and which penalizes those carriers which have made efforts to be "good neighbors" to airports. Moreover, some of the major problems the bill addresses will be fully accommodated by legislation now being considered in the House to extend the Airport and Airway Development Act. More specifically, the Administration believes that H.R. 3942 is unnecessary and unacceptable for a number of reasons, including:

1. By redefining the Federal and local roles in reducing aircraft noise impacts, the bill implies a Federal responsibility for assuring land use compatibility with airport noise. This responsibility should continue to rest with local governments, which have the zoning and other authorities needed to insure land uses compatible with airport operations.

2. By exempting two and three engine aircraft from noise regulations issued in December 1976, it would delay relief from noise to millions of people around major airports. It would also weaken the incentives for replacement of aircraft with new technology airplanes that could offer even more noise relief to the millions of Americans who are exposed daily to unacceptable levels of aircraft noise.

3. By authorizing some $300 million in excess of the President's budget for FY 1980, an increase which is unwarranted, the bill would be inflationary. In any event, as you know, the House already acted to establish an obligations limit on the airport development program for 1980 at a level which is $70 million over the President's budget. In addition we are concerned that the bill could be interpreted as exposing the Federal Government to increased money damages by way of increased Federal liability in inverse condemnation actions.

4. By prohibiting the Federal Aviation Administration from making changes through regulatory action to control navigable airspace, the bill would tie the Administrator's hands in responding to changes in the operating environment for aviation. With aviation activity growing at about 5 percent annually this prohibition could have potentially adverse effects on safety. In any event the regulatory proposal this provision was intended to forestall has been withdrawn by the Federal Aviation Administration.

I wish to stress that, more broadly, the Administration believes that the principal airport noise problems the bill addresses will be dealt with adequately by the legislation now pending to extend the Airport and Airway Development Act of 1970. This legislation would extend the Airport and Airway Trust Fund and provide substantially increased authorizations for airport grants and for other FAA programs intended to promote safety. It would also broaden the use of airport grant funds to help mitigate noise impacts.

In summary, H.R. 3942, as reported, provides for more noise and less safety while at the same time being inflationary at a time when reducing inflation is a top priority for both the Administration and the Congress.

In recent testimony before both Houses the Administration expressed willingness to work with the Congress to find solutions to the aviation noise problem and to work toward an improved airport development program. H.R. 3942 is an unacceptable vehicle for accomplishing these important goals. Therefore, I will recommend to the President that he not sign this bill unless our concerns are resolved.

The Office of Management and Budget advises that enactment of H.R. 3942 would not be in accord with the program of the President.

I thank you in advance for your prompt and careful consideration of this important matter.

Sincerely,

NEIL GOLDSCHMIDT.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 12, 1979.
Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On October 18, I wrote to the Speaker and the Chairman of the Rules Committee expressing the Administration's strong opposition to H.R. 3942, the proposed "Aviation Safety and Noise Reduction Act", and my intent to recommend to the President that he not sign the bill if it is passed. I have enclosed a copy of my letter to the Speaker.

On October 22 the Senate passed H.R 2440, striking the provisions of the House initiated bill and substituting for them the provisions of S. 413, the Senate "noise bill". I am advised the Senate has already appointed conferees in anticipation of a conference on H.R. 2440.

In expressing the Administration's opposition to H.R. 3942, I outlined a number of objectionable features of the bill. The provisions of H.R. 2440, as passed by the Senate, are comparable in many respects to those undesirable fiscal and environmental provisions of H.R. 3942 to which we are opposed; one example being a Senate proposed funding level for noise planning and airport development programs $250 million above the President's budget for fiscal year 1980. Further, the Senate proposal is even more objectionable than H.R. 3942 on environmental grounds since, in addition to providing for mandatory waivers of the Department's noise regulations under certain circumstances, it would deem in compliance with our noise standards any airplane which exceeds those standards by as much as five decibels.

The effect of the five decibel exemption would be to permit all two and three engine narrowbody aircraft (i.e., 727s, 737s, and DC–9s) to continue operating in the United States for an indefinite period beyond the Department's 1983 compliance deadline without having to undergo retrofit or other noise reduction modification. This provision would drastically undercut the Department's efforts to reduce the adverse impact of noise on millions of Ameriacns since it fails to account for the fact that 75 percent of this Nation's air carrier airports receive major airline service only by these two and three engine narrowbody aircraft. Thus, the people living around these, as well as other airports, would be denied the benefits of noise reduction which they have rightfully come to expect since the issuance of our retrofit/replacement rule in 1976.

Though the Administration continues to support the provisions of H.R. 2440 which would authorize the obligation of discretionary funds under the Airport and Airway Development Act of 1970, as amended, the benefits to be attained from discretionary funding authority are far outweighted by the negative features of H.R. 2440 as amended by the Senate. Accordingly, I will recommend to the President that he not sign H.R. 2440 if it is enacted by the Congress with the objectionable provisions proposed by the Senate.

Further, the Office of Management and Budget advises that enactment of H.R. 2440, as passed by the Senate, would not be in accord with the program of the President.

In closing, I am deeply concerned that a conference on Senate passed H.R. 2440 will result in a retreat from the long-standing Federal commitment to reduce aircraft noise at the source. I urge you and the other Members of the House Committee on Public Works and Transportation to vote against sending this bill to Conference. I thank you in advance for your thoughtful consideration of this important matter.

Sincerely,

NEIL GOLDSCHMIDT.

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 1, 1979.
President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to follow-up on our recent conversation at the White House.

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

As you know, in 1976 the Federal Aviation Administration, pursuant to its authority under the Federal Aviation Act of 1958, as amended, promulgated a "fleet noise rule." That rule told the airlines that the portions of their fleets which did not comply with existing Federal noise emission standards would have to be either replaced or brought into compliance by 1983, in the case of 2- and 3-engine jets, or by 1985, in the case of 4-engine jets.

At the present time, approximately half a dozen airlines have made the contractual commitments necessary to bring their fleets into compliance. It is critical to our efforts to achieve compliance with the rule that the remaining airlines be making those commitments in the very near future. Unfortunately, however, at the very time these airlines should be taking action, they are receiving conflicting signals as to whether they will be required to comply. Specifically, two pieces of legislation (H.R. 3942 and S. 413) are under consideration which would virtually gut the fleet noise rule.

Many of us in the House have opposed this legislation, and it is by no means assured that any bill to roll-back existing noise regulations has sufficient support in Congress to be enacted. As an example, I enclose a recent letter opposing the House bill, signed by twelve of the Members of the committee which reported the bill.

Nevertheless, the mere possibility that such legislation might be enacted is threatening to prevent those actions by non-complying airlines which are necessary to achieve compliance within the mandated time frames. Your Administration has been most helpful by consistently supporting the fleet noise rule. The recent letters (enclosed) by Secretary Goldschmidt, further stating the case against the roll-back legislation and his intention to recommend a veto, have been most constructive.

However, non-complying airlines should know that, whatever may happen in Congress with H.R. 3942 and S. 413, such legislation will not become law. Only with such knowledge will some of the non-complying airlines make those commitments now which are necessary to meet the existing compliance deadlines. Without those commitments in the very near future, the chances for timely compliance with the noise rule will be seriously eroded, whether or not the legislation ultimately passes.

Only the clearest signal to the non-complying airlines will preserve the effective force of the fleet noise rule, and under the circumstances, that signal must come from the White House. A clear commitment from you that you definitely would veto legislation rolling back existing regulation of aircraft noise would create certainty where ambiguity now exists, and would make it possible for the remaining airlines to get on with their efforts to meet the compliance deadlines.

Thank you for your interest in this important issue, and if I may be of further assistance, please let me know.

Sincerely yours,

NORMAN Y. MINETA,
Member of Congress.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 29, 1979.
Hon. NORMAN Y. MINETA,
House of Representatives,
Washington, D.C.

DEAR MR. MINETA: The President has asked me to respond to your recent letter to him on the subject of aircraft noise legislation.

As you know, on October 22 the Senate passed H.R. 2440 after striking the provisions of the House passed bill and substituting for them the provisions of S. 413, the noise bill previously passed by the Senate. A conference on H.R. 2440 is expected to begin the week of November 26.

We are in total agreement with you that such legislation is unnecessary and unacceptable. Please be assured that Secretary of Transportation Goldschmidt has been speaking for the Administration in his letters to the Congress on this issue.

The Administration has several problems with H.R. 2440 as passed by the Senate (as well as S. 413 and H.R. 3942) including:

It exempts from the noise standards all aircraft which exceed the standards by up to 5 decibels. The effect of this provision is to permit all 2 and 3 engine narrowbody aircraft to continue operations for an indefinite period without undergoing retrofit. Seventy-five percent of the Nation's airports are served only by these aircraft. Passage of this bill would subject millions of residents to continued unacceptable noise levels.

It requires the mandatory waiver of noise regulations in certain other cases, thus again subjecting an airport's neighbors to unnecessary increased noise.

The bill may well disrupt plans of local airport authorities for noise reduction programs that were based on the reduced aircraft noise that could be assumed from the implementation of the Federal noise rules. As such, this may imply a shift to Federal responsibility for damages resulting from the continued noise.

H.R. 2440 authorizes $250 million more than the President's 1980 budget for noise planning and airport development programs. Furthermore, the bill could be the basis for large federally funded land purchases, the least cost effective way to address the noise issue.

For these and other reasons presented earlier in testimony and reports from the Department of Transportation, the Administration finds this bill to be unacceptable. If such a bill is passed by the Congress, I believe that the bill should be disapproved.

I deeply appreciate your efforts to oppose passage of this bill. My staff and I stand ready to help you in any way possible.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director. ●

NEW ITALIAN CHAPEL TO BE DEDICATED SUNDAY

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MINISH. Mr. Speaker, it is a great pleasure to bring to the attention of my colleagues the recent observance of the 65th anniversary of Silver Lake Baptist Church in Belleville, N.J. May I also point out that Rev. Benedetto Pascale, pastor of the church, has been minister of Silver Lake Baptist since its dedication day in 1914. He has devoted his life to serving God and his fellow man, and certainly is to be commended for the great good he has accomplished through these many years.

Historical highlights of the founding of Silver Lake Baptist Church were reported in the November 20, 1914, edition of the Bloomfield, N.J. Independent Press. This highly interesting account was reprinted in the church's program of November 18, 1979, and I would like at this time to include it in the RECORD.

NEW ITALIAN CHAPEL TO BE DEDICATED SUNDAY, NOVEMBER 22, 1914

"The Chapel which the First Baptist Church (of Bloomfield) has been erecting on the lower Franklin St. for the Italians will be dedicated Sunday afternoon at four o'clock with a service entirely in the Italian language. The Italian Churches of Newark, Orange and Passaic will be present. The churches of Orange and Newark will sing. The dedication sermon will be preached by Professor Antonio Mangano, dean of the Italian Dept. of the Theological Seminary of Colgate University. Other parts of the program will be by Prof. Ghigo (of Bloomfield College and Seminary), Prof. Allegri, Revs. Corbo, Pagano, Galassi, B. Pascale and H. S. Potter. Next Monday evening (Nov. 23), there will be a service in the English language to which the public is cordially invited. Rev. Charles A. Brooks of New York will preach the dedication sermon, and there will be reports and brief addresses by several as well as special music by the First Baptist quartet and the Italian choirs of Newark and Orange.

"The building is of hollow tile and stucco, and cost, with the lot, $11,000. There is pretty and commodious auditorium and Sunday School rooms opening into it . . ., a Basement fitted up for a Gymnasium, and living rooms are attached to the rear . . .

"Rev. Benedetto Pascale is the Minister and Howard E. Wharton is the Sunday School Superintendent.

"In addition to the preaching and S. S., B.Y.P.U. there are cooking classes, language classes, boys' clubs, gymnastics, etc. . . . The new building will help greatly as the rented building was not large enough to accommodate all who came. While the work is under the supervision of the First Baptist Church of our town, many others who are interested in the material, social, moral and spiritual welfare of our Italian neighbors are cooperating."●

FIFTIETH ANNIVERSARY OF FLIGHT OVER THE SOUTH POLE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. FUQUA. Mr. Speaker, this was to have been a happy day commemorating the historic flight of Richard E. Byrd over the South Pole just 50 years ago, on November 29, 1929. Instead, it has been marred by the tragic loss of an Air New Zealand DC-10, which crashed sometime Tuesday night just north of the U.S. base at McMurdo Sound, with no survivors among the 257 passengers and crew. Among those on board were twenty Americans who, with their fellow tourists, had taken an 11-hour, roundtrip, nonstop flight from New Zealand for a glimpse of the beautiful and awesome Antarctic continent. We grieve for the families of all those lost in the accident.

The National Science Foundation, which has responsibility for the U.S. program in the Antarctic, has made all of the resources of McMurdo Base available to assist in the search and rescue operation. Five planes and helicopters flown by the U.S. Navy Support Force stationed at McMurdo were sent up to search for the missing DC-10. It was sighted on the slopes of Mt. Erebus, some 30 miles from McMurdo, early Wednesday morning by one of the National Science Foundation's C-130 ski-equipped airplanes. The only air capability on the Antarctic continent is that operated out of McMurdo as logistic support for the NSF science program. These ski-equipped planes make it possible for NSF to maintain and supply inland bases, including one at the South Pole itself, for scientific activities.

The base at McMurdo was readied for medical treatment in the event there were any survivors. In the meantime, the harsh weather conditions and terrain made it impossible for helicopters to land at the site of the crash. A team of mountaineers from New Zealand have now been flown in and airdropped at the site and have confirmed that there are no survivors, making this one of the worst disasters in aviation history.

At McMurdo right now are Senator HARRY BYRD and Congressman JOHN WYDLER, the ranking minority member of the Committee on Science and Technology, who had just arrived in a group led by National Science Board Chairman Dr. Norman Hackerman to inspect the U.S. program in the Antarctic and to retrace Admiral Byrd's historic flight to the pole. Incidentally, Senator BYRD is the nephew of Admiral Byrd. With them are Admiral Byrd's grandson, Mr. Robert Breyer; Dr. Lawrence Gold; and Mr. Norman Vaughan, leader and member of the advance party that gave Byrd weather information from a point 1,500 miles inland, which they reached by dog team. Ambassador Pickering and a senior official from the State Department, senior officials of the Navy Department, members of the National Science Board, and the National Science Foundation's manager of the U.S. Antarctic research program are also in the group.

We rejoice in the news that the NSF group is safe, although the gladness is tempered by the sad developments almost immediately following their arrival at McMurdo. We also are reminded once again of the extraordinary courage of Admiral Byrd in setting out on an 18½-hour trip in a trimotor plane with a cruising speed of 100 miles per hour over the most treacherous terrain on this planet.●

THE KURDS, ORPHANS OF THE UNIVERSE

HON. THOMAS A. DASCHLE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. DASCHLE. Mr. Speaker, in light of the present crisis in Iran, where American diplomats are being held hostage, I believe it is important to acknowledge that Ayatollah Khomeini's venomous anti-Americanism is not shared by all the peoples of that country. I refer specifically to the Kurdish minority in northwest Iran.

In fact, at this very minute the Kurds are in their own life and death struggle against Khomeini and his band of bloodthirsty fanatics. The Kurds in years past have been pro-American. Though their enthusiasm was dampened by the end of American assistance a few years ago in their fight for an autonomous Kurdistan, the Kurds remain a significant force in Iran.

This would seem the proper time to rectify our past injustices and open a new chapter with the Kurds in Iran.

The Kurds, a much maligned, unfortunate people, have been struggling for an autonomous Kurdistan for over 100 years. For centuries, these people have been subject to invasion and suppression, first at the hands of the Greeks, then the Mongols, Turks, and Britons.

The best account of the recent and gloomy history of the Kurds was an article published in the Washington Star on September 16, by Smith Hempstone, a Washington-based syndicated columnist who spent the summer of 1974 with Mulla Mustafa Barzani's guerrillas in Iraq. Coincidentally, Barzani died in Washington this past spring. Unfortunately, his leadership and pro-Western attitude will be sorely missed.

THE KURDS, ORPHANS OF THE UNIVERSE—KHOMEINI WAGES "FEAST OF BLOOD"

(By Smith Hempstone)

"Shedders of blood, raisers after strife, seekers after turmoil and uproar, robbers and brigands; a people all malignant, and evil-doers of depraved habits, ignorant of all mercy, devoid of all humanity, scorning the garment of wisdom; but a brave race and fearless, of a hospitality grateful to the soul, in truth and in honor unequalled, of pleasing countenance and fair cheek, boasting all the goods of beauty and grace."

Thus a 19th Century Western traveller described the Kurds, the warrior-poets now locked in combat with the 79-year-old Ayatollah Khomeini's Islamic regime in Iran. Since the days of Alexander the Great, the Kurds have gotten the short end of the stick from history. And this latest Iranian chapter in their saga is no exception.

The Kurds, a Sunni Moslem but non-Arab people—they are thought by some to be the descendants of the ancient Medes—have lived in their Central Asian mountain fastness since the beginnings of recorded time. They have fought with ravenous joy for their independence against Greeks, Persians, Mongols, Turks, Arabs, Crusaders (Saladin was a Kurd) and Britons. When there has been no outsider to wage war against, they have kept in practice by fighting each other.

But while the Kurds number more than 10 million, no atlas portrays a nation called Kurdistan; it exists only in the hearts of those—and they have been many—who willingly have given their lives for it.

In the aftermath of World War I, when Wilsonian self-determination was all the rage, the 1920 Treaty of Sevres promised the Kurds a homeland of their own. But the rise of Kemal Ataturk, and the greed of Britain and France, aborted the treaty. The Kurds were left worse off than they were before: formerly united in bondage under the Ottoman Turks, the Kurds found their heartland divided among three masters, Turkey, Iraq and Iran. Today, six million Kurds live in Turkey, four million in Iran and two million in Iraq (another 600,000 are divided between Syria and the Soviet Union).

Since this betrayal, unrest has been endemic among the Kurds, with each rebellion seemingly costing more lives than the last.

In 1919, Ataturk, who dealt equally harshly with Turkey's Greek and Armenian minorities, swore "to proceed in such a manner as to destroy the possibility of a separatist movement by the Kurds." His successors took him at his word, and it is Turkish policy to this day to deny even the existence of a people called the Kurds: they are, according to Ankara, simply mountain Turks who have forgotten their language and miraculously learned another.

Kurdish rebellions in 1925, 1930 and 1937 were put down with great severity, the leaders executed and some tribes exiled from their mountain homes. Today, the Kurdish areas of eastern Turkey are under martial law, the use of Kurdish as a written language is forbidden, and it may not be spoken on Turkish radio or television. To be elected to the national assembly, one must demonstrate a fluency in Turkish that most Kurds do not possess.

SUPPRESSION IN TURKEY

Although there are at least 16 underground Kurdish organizations in Turkey, the only political party openly to espouse the Kurdish cause, the Marxist Turkish Labor Party, was banned in 1971 and its leaders given long prison sentences. Perhaps because they come from a poor country's most depressed region, those detribalized Turkish Kurds who acquire an education tend to be attracted to militant leftist movements.

But because of Ankara's tough policies, internal tribal rivalries and linguistic differences, there has been no significant Kurdish insurrection in Turkey for more than four decades. The few Kurds within Syria and the Soviet Union also have been quiet.

The situation has been quite different in Iraq. There the Kurdish nationalist movement since 1927 has been dominated by the Barzani clan, whose charismatic leader, Mulla Mustafa Barzani, died in exile in Washington earlier this year (Mulla Mustafa's father was hanged by the Turks). But even in Iraq, the Barzanis have encountered opposition within the Kurds—from the Bardost and Zibaris, for tribal reasons, and from detribalized Kurds such as Jalal Talabani on ideological grounds (Talabani, a Marxist, today leads a small force of Kurdish leftist guerrillas operating in northern Iraq).

Iraq, whether ruled by monarchists or leftists such as the current Moscow-supported Baathist regime, has from time to time granted its two million Kurds a degree of cultural and political autonomy. But it has never been enough for the freedom-loving Kurds, and Mulla Mustafa Barzani four times between 1961 and 1974 launched full-scale rebellions against Baghdad.

BARZANI'S LAST HURRAH

The 1974 insurrection was Barzani's last hurrah, and came closest to succeeding. Barzani's Pesh Merga ("those who face death"), supported by the shah of Iran, armed by the Central Intelligence Agency and assisted to a degree by the Israelis—perhaps because they have a predilection for unorthodox Islamic sects, Iraqi Kurds always have got on well with both Christians and Jews—gained control over 43,000 square miles of northeastern Iraq.

But it was never the intent of the shah, fearful of the attraction it might provide for Iran's four million Kurds, to see the Kurdish rebellion succeed in Iraq. Barzani, totally dependent on the shah for food and military equipment, was kept on a short leash by the shah, who used him to weaken the Baathist regime, which was fomenting disorders among Iran's Baluchi tribesmen and giving refuge to anti-shah dissidents.

When that purpose had been served, and Baghdad proved willing to make other political concessions to Iran, the shah (and Henry Kissinger) in 1975 pulled the oriental carpet out from under Barzani, the revolt collapsed and many of Barzani's followers fled into Iran, where they were disarmed and interned. Many of those who stayed behind in Iraq were executed or deported to punishment camps in the south, leaving whole areas of Iraqi Kurdistan depopulated.

REPUBLIC CRUSHED

Kurdish rebellions in northwestern Iran in 1921, 1926 and 1930 were put down by Reza Shah, father of the now-exiled monarch and founder of the short-lived Pahlevi dynasty. But while there were executions, the Iranian monarchy's Kurdish policies in some respects represented a compromise between Turkey's total denial of the very existence of the Kurds and the more permissive line of at least some Iraqi regimes.

In Iran, where Kurds account for about 10 per cent of a population that is no more than 60 percent Persian, the tribes were disarmed, the use of Kurdish was not permitted in schools or government, and Kurds who showed either marked leadership qualities or inconvenient dissidence were either bought off or restricted in their activities. But books in Kurdish were published, and Kurdish programs were broadcast by the state-controlled radio.

Yet the monarchy never succeeded by this judicious use of the carrot and the stick in totally extinguishing the spark of Kurdish nationalism. In 1946, the Kurds, with Russian help, succeeded in establishing an independent Marxist republic at Mahabad. But when Harry Truman forced the withdrawal of the Soviet Union from northern Iran, the central government retook Mahabad, executed the republic's president, Qazi Mohammad, and forced Barzani, who had crossed the Iraqi border with several thousand fighting men to help the Iranian Kurds, into a Russian exile that was to last a dozen years.

NEW AUTONOMY EFFORT

With the collapse of the Pahlevi dynasty in February of this year, many of Iran's Kurds nourished hopes they would be allowed autonomy within the framework of the Ayatollah Khomeini's Islamic Republic. But as a precaution—for there is a saying that "the Kurds have no friends"—they took over most of the police posts and army barracks within Iranian Kurdistan, helping themselves to the arms stored there.

Because Khomeini is no friend of the First Amendment—in recent weeks, he has padlocked 26 Iranian publications and expelled more than a dozen foreign journalists—it is difficult to say who started the fighting in Iranian Kurdistan, what the objectives of the Kurdish leaders are and what outside forces, if any, are supporting the insurrection. It is at least possible that Khomeini called for a Shi'ite holy war against the Sunni Kurds to divert the attention of his restive countrymen from the inadequacies of his regime. Certainly he used the disorders in Kurdistan as a pretext to crush all opposition to his rule.

The first confrontation between Khomeini and the Kurds came late last February after the Kurds took over the Mahabad garrison, wounding its commander. Dispatched to Mahabad to find out what was going on, Labor Minister Dariush Forouhar was told by Sheikh Ezzedin Hosseini, the bearded, 58-year-old Kurdish religious leader, that the Kurds "are not separatists."

What Hosseini and Abdul Raham Qassemlu, secretary-general of the banned Kurdish Democratic Party, said they wanted of Tehran was local autonomy within the framework of a federal, democratic Iran, joint control of military and police forces within Kurdistan and, paradoxically, a crackdown on the political and military activities of Barzani's two exiled sons, Idris and Massoud.

CRACKDOWN BEGINS

There was, insofar as is known, no formal reply to the Kurdish demands from either Khomeini or the government of Mehdi Barzagan.

Throughout the spring, Kurdish missions continued to travel between Mahabad and Tehran. More police posts and army barracks were peacefully occupied in Kurdistan, their demoralized garrisons disarmed and told to leave the area.

Late in July, Major General Nasser Fabrod resigned as Iranian army chief of staff, and was replaced by Brigadier General Hossein Shaker a hardliner. On July 22, the first major armed clash occurred when Iranian army units relieved a police post besieged by the Kurds near the Turkish frontier. Another bloody incident took place on July 28, when revolutionary militiamen called Pasdars tried to reenter the Kurdish town of Marivan.

The fighting escalated in August when the army and the hated Pasdars retook the town of Paveh after a bombardment by tanks, artillery, helicopter gunships and American-made F-4 jets. More than 400 people lost their lives in the Paveh fighting, and the Kurds claimed to have downed three helicopters and an F-4.

Khomeini, enraged at the Kurdish resistance—and fearful their separatist virus might prove contagious for Iran's Arab, Baluchi and Turkomen minorities (Pasdar brutality in Khuzistan already had provoked serious rioting among Iran's Arab minority)—assumed personal command of the armed forces, threatened military leaders who did not achieve immediate results in Kurdistan with "revolutionary justice" (a euphemism for execution) and called for "a feast of blood" in Kurdistan. The KDP was banned. Hosseini and Qassemlu were branded as "corrupt satanic agents" and the summary execution of captured Kurdish guerrillas began in Saqqez and other government-held Kurdish towns.

With the failure of a Kurdish peace mission to Tehran—Khomeini was quoted as saying the Kurds "deserved no mercy"—the Kurdish leaders abandoned Mahabad without a major battle and pulled their forces back deep into the mountains. Qassemlu accused Khomeini of planning "a genocide of the Kurds," while he and Hosseini continued to insist they were not separatists, but wanted only the right to run their own affairs within the framework of Iran's independence, territorial integrity and national sovereignty.

By Labor Day, the situation seemed to have reached a stalemate, with Khomeini's forces in control of most Kurdish towns, but KDP guerrilla units still roaming the mountains with their captured weapons.

KEY FACTORS MISSING

It is clear the Kurds cannot hope to succeed, if success is defined as the creation of an autonomous Kurdistan independent in all but name of Tehran. History has demonstrated that a Kurdish nationalist movement can succeed only with the coincidence of three key factors: the emergence of a single, charismatic Kurdish leader, the existence of a weak central government and the active support of an adjacent major power.

While Hosseini and Qassemlu are allies, the division of authority (and support) between them is unclear, and neither has the stature of a Mulla Mustafa Barzani. Massoud Barzani is gallant, but he is both an Iraqi and a tribal chief, and hence suspect to the radical faction of the KDP.

The regime in Tehran is weak, but, spurred on both by fear of their own executions and anti-Sunni prejudices, Iranian army commanders, with their far superior fire power, have shown themselves at least capable of holding the Kurdish towns and roads.

Finally, while Qassemlu claims (and Khomeini charges) he has Moscow's support, there is no firm evidence of this. The Kremlin has no love for Khomeini, who has cracked down on Iran's Communists and incited Afghan rebels against Moscow's client regime in Kabul. But the Russians, while they have influenced the Kurdish nationalist movement over the years, never have been prepared to bet all their chips on its success.

MORE ORPHANS

Certainly the United States, which participated in the shah's betrayal of the pro-Western Barzanis, has shown no disposition to embrace Qassemlu, who spent years in exile in Czechoslovakia and has ties to many European Marxist groups. Nor is there any evidence of Israeli participation in this chapter of the Kurdish saga, although Jerusalem has an ax to grind with Khomeini, who cut off the principal source of Israel's oil and backs the Palestine Liberation Organization.

In the absence of fruitful negotiations between the Kurds and Khomeini—and the chances of this now seem slight—the prospect is for a prolonged guerrilla war in Kurdistan, which will bring great suffering to the women and children among Iran's four million Kurds.

Mulla Mustafa Barzani, in the last bitter days of his Washington exile, once remarked that "the Kurds are the orphans of the universe." With Jimmy Carter, who has spoken more than once of the need to inject an element of morality into the conduct of foreign policy, selling kerosene and military supplies to Khomeini's regime, that would appear to be an accurate appraisal.

Before Khomeini's appetite is sated from his "feast of blood," there will be thousands of new orphans in Iranian Kurdistan.●

TELEVISION DIPLOMACY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. LaFALCE. Mr. Speaker, one of the more disturbing aspects of the current situation in Iran is the relationship of the state-controlled mass media to the events at the U.S. Embassy and in the streets of Tehran.

Joseph Goebbels, Adolf Hitler's propaganda minister, perfected the methods which are now being used by the Ayatollah Khomeini and his revolutionary council. Through state-control of the media and the use of lies, distortions, and prevarications, Goebbels was able to whip up nationalistic drives and war hysteria among the German people, which contributed to the outbreak of the Second World War, and the systematic slaughter of millions of civilians. Goebbels' manipulation of the media successfully kept people's minds off Germany's real problems and managed to keep many people ignorant about the holocaust and other atrocities.

We are once again confronting that phenomenon today in Iran. In recent months, the hold of the Ayatollah Khomeini over Iran had begun to unmistakably slip. There was growing unrest among the ethnic minorities who were making demands for autonomy under the proposed Islamic constitution. The Arab minority in the southwest was threatening to sabotage Iranian oil production, and the Kurds were in open rebellion against the ayatollah, which neither the so-called revolutionary guards nor the remnants of the army were able to subdue. Leftists were growing more restive, and there was increasing opposition to the mock trials and subsequent executions by the ayatollah's agents. Public services were declining, and the ayatollah was faced by increasing opposition from the government of Prime Minister Barzagan.

Confronted by this growing unrest, the

Ayatollah Khomeini adopted the Goebbels approach. His pronouncements and appearances on television were calculated to achieve three goals. First, eliminate all references to the real problems facing Iran. Second, stir up frenzied and wild nationalism. Third, escalate the pattern in clear stages right up to the national vote on December 2 concerning the approval of the Islamic constitution, which would solidify the ayatollah's power over Iran.

In Nazi Germany, Goebbels used radio. In Iran, the ayatollah uses television. That is the sole distinction between the two.

As his hold slipped, the ayatollah increasingly took to television from his headquarters in Qom with more and more references to "foreign devils" and a "sick or demented Carter" as the source of all of Iran's problems. He coupled these statements with attacks on the Barzagan government. As the stridency of these attacks increased, the government became powerless in the face of anti-American nationalism demonstrated by the Tehran mob. Those demonstrations culminated in the takeover of the U.S. Embassy, which convinced the Barzagan government that it no longer could stay in power. Thereby, the ayatollah eliminated the sole remaining check over his power.

The illegal and immoral takeover of the embassy increased the ayatollah's reliance on television. He well realized that his power could diminish, unless he constantly fed the mob's hatred of President Carter, the Shah, the United States, and the embassy. His television ravings have become ever wilder, and his lies ever bigger. Daily references to the President and this country have become more and more vituperative, and moderate statements by others have been denounced. The appearances on television by the ayatollah have shown that dark and uncontrolled savagery that lurked at the heart of Nazi Germany.

These efforts intensified, as Iran entered the holy period of Moharram, which is traditionally a holy period for Iranians. By obvious design, the referendum comes on December 2, only 1 day after the height of Moharram, Ashura, the anniversary of the death of Husayn, the cousin and son-in-law of the prophet Muhammad.

Although the arrival of the shah in New York provided the ayatollah with a useful reason for his violent anti-Americanism, it is probable that he would have found some other excuse. Like Goebbels, the ayatollah has the uncanny ability to seize on a chance event and turn it to his advantage, as he demonstrated through his public lies about the tragic event in Mecca.

In essence, the ayatollah is conducting his internal and foreign policies by television. The Tehran mob receives its marching orders from him via his almost daily broadcasts; the United States and others are forced to conducting diplomacy by watching the ayatollah's television broadcasts. Moderate statements by the former acting Foreign Minister, Bani-Sadr, were systematically denounced by the ayatollah's statements on television. That process culminated in the replacement of Bani-Sadr by Sadegh Ghotbzadeh, who is head of Iranian National Radio and Television. That personnel shift seems quite appropriate, in light of the ayatollah's use of television for diplomatic purposes.

All of this is somewhat bewildering for Americans. This country is accustomed to conducting diplomacy through normal channels on a government-to-government basis, and we are certainly not accustomed to examining the ravings of a fanatic to discern what another country's foreign policy is toward the United States. Because of our free and open press, this country might have some difficulty comprehending the media manipulation by the ayatollah. In order to help explain this phenomenon, I want to share an insightful article by Henry Brandon from the November 28th edition of the Washington Star with all of my colleagues.

Diplomacy by television is irrational, irresponsible, and counterproductive. It lies outside the normal and accepted rules of international diplomacy, but it must be remembered that it makes perfect and rational sense to the Ayatollah Khomeini because of his obvious goals.

The article follows:

TELEVISION'S DIPLOMATIC CHANNELS

(By Henry Brandon)

Television, as we are all aware, has an effect on everything and everybody, but the realization that it can also have a far-reaching influence on diplomacy is new. The world got a first inkling of it when a television interview seemed to have played a role in facilitating President Anwar Sadat's spectacular visit to Jerusalem.

But we have learned since that television's influence in this case was not as creative as had been assumed, because a secret meeting in Morocco between Moshe Dayan, the Israeli foreign minister, and Hassan el-Tohamy, a confidant of President Sadat, preceded the interview. During the meeting, el-Tohamy imparted President Sadat's idea of a secret meeting with Israeli Prime Minister Begin.

But during the Iranian crisis, television from the start has played a part that made everybody, and above all the diplomats, aware of its influence on world diplomacy. The military learned during the war in Vietnam how difficult it is to fight a war, especially a misconceived one, if television brings its bloodiness daily into the living room. Now the diplomats are getting their taste of it.

In the Iranian crisis, television unified the United States after it was treated to the shameful sight of American diplomats being led, blindfolded and handcuffed, before the cameras by so-called Iranian students.

But it also led Americans, in their anger, to want quick action, quick results and, if necessary, the application of force to teach Ayatollah Khomeini that he could not trifle with the United States.

Thus while new and better ways of escalating pressures on the revolutionary government were sought, American diplomacy was up against the need to keep American public opinion calm as the nightly provocations transmitted live from Tehran escalated the frustrations among Americans and pressures on the U.S. government to do more.

But that is easier said than done. American diplomacy succeeded in isolating Iran at the United Nations. It deprived it of an oil embargo against the United States. It even rallied the Soviet Union and China on its side on the narrow issue of the violation of the international code governing diplomatic relations.

Still there is no sign that the hostages would be released. On the contrary, they were being threatened with a show trial for espionage. The State Department organized an emergency situation room. But whatever crumbs of information it garnered came mostly via television.

However much the United States tried to bring diplomacy within diplomatic channels, it couldn't prevent television from taking the lead.

The television correspondents asked the crucial questions and once, at least, John Hart of *NBC* created the impression of testing a compromise formula. MacNeil-Lehrer of Public Broadcasting, in a satellite interview with Foreign Minister Bani-Sadr, brought up all the relevant questions, but the answers only illustrated the hopelessness of public diplomacy on television.

It took the revolutionaries a little time to learn that presenting nothing but demonstrators with their clenched fists parading in front of the invaded American embassy only enraged the American public and that they would be better off presenting their case against the shah. They had no case when asked about breaking the code of diplomatic immunity.

With the use of force in reserve as a deterrent to protect the lives of the hostages, diplomacy remained limited to gaining time. But dragging out diplomacy makes it hard to preserve the public's patience. Television heightens the urgency daily, and television reporters, often with remarkable resourcefulness and courage, do their best to find a bridge to a solution.

It is not surprising, therefore, that the United States welcomed the initiative of U.N. Secretary General Kurt Waldheim for an emergency session of the Security Council which would allow the Iranian government to vent its case and the United States to rally the council's support for release of the hostages.

It was one more maneuver to play for time until Moharram, a month of mourning which engenders self-imposed suffering, and the referendum for a new constitution, which would give Khomeini complete control over everything and everybody, have passed.

It is to be hoped that a more rational diplomatic approach will become possible. Assuming optimistically that the use of force can be avoided, it will be interesting to see whether the untying of the Gordian knot will be done via television or via traditional diplomatic channels.●

A BILL TO RAISE THE MINIMUM DENOMINATION OF TREASURY BILLS

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. ZEFERETTI. Mr. Speaker, I would like to bring to the attention of my colleagues a bill I have introduced today which amends the Second Liberty Bond Act to require the Department of the Treasury to raise the minimum denominations of Treasury bills to $25,000. This measure would result in boosting the housing mortgage market and would, in turn, substantially brighten the housing industry in our country. The sudden shift of savings into Treasury bills has seriously depleted the amount of funds available for the housing mortgage market. This, of course, is due to the outflow of savings from savings and loan associations, mutual savings banks and other types of thrift institutions. By raising the minimum to 25,000, I am confident the effect will be an increase in savings into these institutions which will correspondingly provide the desired results within the housing industry. This, however is not the only determinant for an increase in minimum denominations. Several factors are involved:

First. Because of the dramatic increase in sales of Treasury bills, the Department of the Treasury resources which service these accounts has been severely strained. In a statement released on May 8, 1979, the Department stated that one of the major reasons for delays in mailing checks in payment of Treasury bills was due to the "unprecedented volume" and the "dramatic increase in participation by small investors." They went on to say the problem is compounded by the fact that over half of the accounts maintained by Treasury are rolled over at maturity into new issues and, in most cases, these investors do not submit reinvestment until the last minute. If this trend continues, it would most certainly mean an increase in staff.

Second. Analysis will show that, due to processing expenses, the direct cost to the Government of issuing small denominations is exceptionally high in relation to the volume of funds attracted.

Third. In 1970, the Treasury bill minimum was raised from $1,000 to $10,000, much for the same reasons as have been listed above. Today, it would require approximately $19,200 to equal the purchasing power of $10,000 in 1970. So, in reality, by raising the minimum to $25,000, we are still providing access to U.S. Government Securities by the small investor. This is to say nothing of the large number of money market funds available.

Members of the House are aware of the difficulties this Nation is presently experiencing in the housing mortgage market and the dire straits in which many of our savings and loan institutions find themselves. Certainly, the $10,000 Treasury bill is exacerbating an already severe problem. I am hopeful the Committee on Ways and Means will look closely at my proposal and I would welcome my colleagues support in cosponsoring what I believe is a most-needed piece of legislation.●

THE K-AWARD

HON. THOMAS A. DASCHLE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. DASCHLE. Mr. Speaker, the disability compensation increase recently approved by the House and Senate was a long time coming and I am relieved that disabled veterans, dependents, and survivors of disabled veterans around the country will have a 9.9-percent cost of living increase applied to their December checks.

I was appalled, however, that the Senate, in an attempt to save $4.5 million over the next fiscal year, returned this bill to the House with a provision postponing the K-award increase until September 1, 1980. Surely, cost savings could have been achieved in some other area.

The K-award is an additional compensation awarded veterans who suffered the loss of a limb, eye, and so forth, due to service-connected causes. This award has only been increased three times in the past 28 years and was certainly due for another increase this year.

The Senate's action to postpone the effective date of increase for the K-award until 1980 is a callous and disturbing action that affects those veterans who are severely handicapped and disabled, surely the most disadvantaged members of our society.

If final approval of the disability compensation increase had not taken this long, I would have vehemently opposed this action.●

FREE BUS RIDES SIGNAL POSITIVE VIEW OF TRANSIT

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. LOWRY. Mr. Speaker, I would like to introduce into the RECORD the following article from the Washington Post, and reprinted in the Nation's Cities Weekly. This is a fine example of business working hand in hand with Government to address a serious problem. Seattle First National Bank is in my district and I am pleased to recognize their contribution to energy conservation. If all business and governmental concerns followed their lead we would be well on our way to easing a major energy crisis. The article follows:

[From the Washington Post]

FREE BUS RIDES SIGNAL POSITIVE VIEW OF TRANSIT

(By Neal R. Peirce)

SEATTLE.—American public transit may have turned an important corner last week as the nation's 27th largest bank, Seattle First National, started to offer its thousands of Washington state employees free yearly passes on their local bus systems.

It will be the first known instance in the United States that a major employer has made transit passes available as a permanent, completely cost-free fringe benefit of employment. Several other large Seattle firms are soon expected to follow suit.

And as Seattle goes, so may—in time—the nation. Whether an employer is a private business or government, it can claim credit—as Seattle First does now—for doing its part to conserve energy, reduce the number of private cars on the roads, ease center city congestion, cut down on air pollution and relieve parking problems. And the cost, compared to other employee fringe benefits, isn't high. The effective cost to Seattle First, for instance, will be $9 or $15 per pass per month, depending on the transit zone an employee lives in.

Moreover, providing transit passes relieves employers of the pressure to provide parking for their workers—often a very expensive outlay, especially in inner-city areas.

Seattleites were especially impressed that it was the very stolid Seattle First National, hitherto unknown for socially adventuresome attitudes, that took the first step into the free pass era.

Seattle is not, of course, the first or only city to experiment with reduced-cost or occasional free transit.

But Seattle First National is the first major employer anywhere to offer free systemwide transit passes with virtually no strings or time limits attached. Employees must simply sign what bank officials call "an innocuous statement" that they'll use the pass for commuting. In fact, there will be no restraint on their using the free passes at other times for shopping, recreation or any other purpose. It's precisely the totally free, unrestricted nature of the Seattle pass program which makes it so potentially significant. With a free transit pass in his pocket, a worker loses his last shred of rationalization for using his private car when reasonably convenient public transit is at hand.

There, of course, comes the rub: how good, how accessible is bus (and subway or trolley) service in most cities and suburbs? The answer: a very mixed bag. And there's a second question: If thousands of employers adopted the Seattle First National policy, could U.S. transit systems accommodate the new passengers? Seattle's Metro system is one of America's best, expanding with modern equipment—a major reason the bank decided on its free pass program. But many cities—Los Angeles, for example—have seriously aged and inadequate bus fleets.

To an extent, it's a chicken and egg problem. Neglected during the highway boom of the last decades, mass transit systems atrophied. Now a major recovery is under way. But it takes the political pressure of expanding ridership to free the government dollars needed for dramatic bus fleet expansion and improvement.

President Carter, who didn't even mention public transportation in his 1975 "moral equivalent of war" energy speech, has come full circle. At APTA's recent convention in New York, Carter fervently endorsed mass transit in an era when foreign oil dependency threatens U.S. security.

The administration occasionally exaggerates its fresh dollar commitment to transit (even mentioning figures as high as $50 billion). Still, $13 billion, all from the proposed windfall profits tax, would flow to transit. A chief priority in spending it, says Lutz, must be to put U.S. production, now in the doldrums, on a fast track. As much as "strategic oil reserves," he believes, America needs "strategic bus reserves" to assure mobility in a world energy emergency.●

THE 200TH ANNIVERSARY OF THE DRAFTING OF THE CONSTITUTION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. DONNELLY. Mr. Speaker, the towns of Braintree, Holbrook, Randolph and Quincy, Mass., just recently celebrated the 200th anniversary of the Massachusetts constitution. I would like to take this time to praise the Quincy Sun newspaper of Quincy, Mass., for its complete coverage of this historic anniversary. I was particularly pleased with the detailed coverage of the men and women behind this constitution.

The constitution, which was drafted in Quincy, Mass., by John Adams in 1789 is believed to be the legal and moral basis of our Federal Constitution. I have just recently introduced legislation which would create a stamp commemorating this important event.

I hope my colleagues will take a minute to read excerpts from the Quincy Sun, which I am submitting for the RECORD. I found it historically, interesting and informative.

[From the Quincy Sun, Aug. 30, 1979]

A CONSTITUTION IS BORN IN QUINCY

(By Dr. James R. Cameron)

The Constitution of Massachusetts was the culmination of more than a century and a half of political experience for the residents of this state but also marked an important milestone in the political history of the United States. This instrument reflected the experience of living under several forms of government and provided a model for the federal constitution.

Before the Pilgrims left the *Mayflower* in the fall of 1620 they drew up a written document which specified the responsibilities of the members of the new settlement that was to be established at Plymouth. Although this Mayflower Compact was not a constitution, according to Professor Robert E. Moody, it did contain the idea of self-government. Each of the 42 men who signed the agreement promised to obey the laws that should be made for their welfare. The Mayflower Compact did, in fact, serve as the basis of government until the colony charter of 1628, which was granted to "The Governor and Company of Massachusetts Bay." The next constitution for Massachusetts was the Provincial Charter of 1691. Each of these forerunners of the Massachusetts Constitution of 1780 were written documents, they spelled out the rights of the citizens and they provided for the participation of the citizens in the process of government.

The Colony of Massachusetts Bay had experienced separation of powers among the governor, who was appointed by the King of England; the House of Representatives, which was elected by tax-paying men; and the Council, which was chosen by the House subject to the approval of the governor. The governor received his appointment from the king but received his salary from the colonial legislature. It was when the British Government levied new taxes upon the colonists to make the governor independent of the colonial legislature that the inhabitants of Massachusetts experienced a unitary form of government and came to feel that they were being deprived of their liberties.

It was to secure such natural rights as life, liberty and property that the Declaration of Independence was written and adopted. There is a sense in which this document is a preamble to our Federal Constitution. John Adams was thinking of these rights when he drafted the first major section of the Massachusetts Constitution. Selections from this part of the Constitution are engraved on the monument in Quincy's Constitution Common. When the Constitution of the United States was first drafted it contained no bill of rights. Political leaders in Massachusetts insisted that provision be made to include in the Federal Constitution the same kind of safeguards that were already in the Constitution of this state before they would agree to ratify the proposed federal system.

John Adams recognized that in America government had moved from overcentralization before the War for Independence to too much decentralization. This was a natural reaction to the intense emotion raised during the war. In writing the Massachusetts Constitution, Adams restored the balance of political power among separate branches of government. Because of its balance, its reasonableness, and its guarantee of fair treatment, the Constitution of Massachusetts served as a model for our Federal Constitution and remains an example of republican government for all peoples everywhere.

DRAFTING THE CONSTITUTION

In an address delivered on the occasion of the 175th anniversary of the Constitution of Massachusetts, Samuel Eliot Morison offered a comprehensive statement on the drafting and adoption of this instrument of government. In Morison's judgment, John Adams' greatest achievement was not his service as second president of the United States but his drafting of the Constitution of Massachusetts. In the midst of the turmoil of war, the Revolutionists succeeded in establishing a government under law. They had the conviction that it must be done and they knew how to do it. Government under law was an old tradition in Massachusetts and, even in the midst of war, the citizens of Massachusetts did not lose sight of what they were fighting for. By the end of the American Revolution, eleven of the 13 states had adopted new constitutions. Morison declared that the Constitution of Massachusetts "has been the most enduring because it was the best." The 25 years which have passed since Morison made this statement have only served to validate his judgment.

In his presidential address before the American Historical Association, Professor Andrew C. McLaughlin emphasized the importance of the constitutional convention method of making the constitution rather than having it drafted by the legislature:

"If I were called upon to select a single fact or enterprise which more nearly than any other thing embraced the significance of the American Revolution, I should select—not Saratoga or the French Alliance, or even the Declaration of Independence—I should choose the formation of the Massachusetts Constitution of 1780; and I should do so because the constitution rested upon the fully developed convention, the greatest institution of government which America has produced, the institution which answered, in itself, the problem of how men could make governments of their own free will . . ."

In the fall of 1776 the towns of Middleborough, Concord and Acton opposed the suggestion that the legislature draft a constitution and requested that a constitutional convention be elected for that special purpose. The General Court ignored this suggestion and drafted a constitution which was rejected by the towns. After this rebuff, the General Court took up the suggestion of a constitutional convention and asked the citizens to vote on the proposal in their town meetings. The response was overwhelmingly favorable. The General Court then requested the towns to elect as many delegates to the Convention as they were entitled to send representatives to the legislature.

Delegates from 190 towns attended the first session of the Constitutional Convention which met in the First Church in Cambridge during the week of September 1–7, 1779. After electing James Bowdoin president and Samuel Barrett secretary, the Convention selected a committee of 30 to prepare a draft. This special committee selected from its members a subcommittee of three; James Bowdoin, Samuel Adams and John Adams. The subcommittee then delegated its functions to John Adams, who became the principal author, drafting the document in his law office in the John Quincy Adams Birthplace in what is now Quincy. An annotated copy of John Adams' draft is included in Volume IV of The Works of John Adams, edited by his grandson, Charles Francis Adams (1851). The Committee of Thirty submitted its report to the second session of the convention in Cambridge on Oct. 28, 1779. The report was read and printed copies distributed.

John Adams attended the second session of the convention but left for France the day after it ended to join Benjamin Franklin in negotiating a treaty of peace. The efforts of the second session were devoted entirely to a discussion of the Declaration of Rights. A third session, which met in January, 1780, discussed the organization of the new government. Copies of the proposed constitution were sent to every town where special town meetings were to be called to discuss the document, paragraph by paragraph. A fourth session of the convention declared the constitution formally adopted on June 15, 1780.

THEY CALLED HIM 'AN OLD FIELDER'

Contemporaries said a lot of things about John Adams, most of them hurtful, many of them true, for he was an Adams, which meant that he was scholarly, introspective, austere, humorless, tactless to the point of being rude.

"The Adamses have a genius for saying even a gracious thing in an ungracious way," complained James Russell Lowell, who knew several members of the family.

A Baltimore newspaper, probably an adversary for the middle colonies were suspicious of anything that smacked of the Massachusetts' Adamses or the Lees of Virginia, once called him "an old fielder" and he accepted it as a compliment.

"An old fielder," John Adams defined to his wife, Abigail, "is a tough, hardy, laborious little horse that works very hard and lives upon very little."

Which was one of the things the Massachusetts Constitutional Convention had in mind when it chose him to draft that most important document; he was given the job and left alone to do the work.

John Adams was born Oct. 19, 1735 (Old Style) in Braintree into a family of no particular distinction. It was through his mother's line, the Boylstons of Brookline, that he attained the social standing to graduate 15th in a class of 24 from Harvard in 1755.

He was a teacher for a while in Worcester but he found that he had small patience for the "little runtlings," as he called his class. He turned to the law, a fortunate choice for the American nation-to-be.

Another fortunate choice was Abigail Smith, the preacher's daughter from Weymouth. Her mother, a member of the prestigious Quincy family, didn't think very much of the match. Nevertheless, John and Abigail were married on Oct. 25, 1764, a union that lasted 54 years.

Alike yet different, they complimented each other nicely. She was witty, bright, "saucy," he called her, and extremely well-read in politics, literature and philosophy for a woman of her time. During the long years that he was away on his country's service, Abigail ran the farm at the foot of Penn's Hill and raised their four children who survived infancy

There was little law to practice in colonial Braintree, aside from the writing of wills and the viewing of fences, so more and more John Adams was attracted to Boston, where the action was. There he fell in with his fiery cousin, Sam Adams, and the brilliant James Otis Jr.

The Stamp Act was the big issue of the day and it brought young Adams to prominence. It was he who drafted the Braintree Instructions to Ebenezer Thayer, the town's representative in the General Court, protesting the act as contrary to the English constitution and common law and therefore null and void.

He moved his growing family, Abigail 3, and John Quincy 1, to Boston in 1768 and he was elected to the General Court two years later. It is a mark of the esteem in which he was held that at the time of his election he was preparing a defense for the British soldiers who were accused of murder in the Boston Massacre.

With the help of his friend, Josiah Quincy, he secured the acquittal of all but two soldiers, who were convicted of manslaughter, and a homicide in self-defense verdict against Capt. Thomas Preston.

The trial and the General Court left him weary. He moved back to Braintree in 1771 to enjoy "the air of my native spot . . . the fine breezes from the sea on one side and the rocky mountains of pine and savin on the other." Part of the time he spent taking the water at the mineral springs in Stafford, Conn. "Farewell, politics," he wrote in his diary.

But the situation in Boston was worsening and Adams found it difficult to stay away. He became involved in the growing controversy over Crown-granted salaries for governors and judges. He was elected to the Governor's Council in May, 1773, but the governor vetoed the choice. He was named a delegate to the first Continental Congress in Philadelphia in 1774.

For the next 26 years as revolutionary, legislator, diplomat and statesman, John Adams was a man "on call" by his state and country during their most critical formative years.

As a member of the Continental Congress, it was he who proposed the modest and virtuous, the amiable, generous and brave George Washington" as commander-in-chief; and he helped to write the resolutions of May 10, 1776, that led up to the Declaration of Independence.

The Congress dispatched him to Paris in 1778 to help negotiate a commercial and military alliance with France and, 17 months later, he arrived back home in Braintree just in time to be chosen a delegate to the Massachusetts Constitutional Convention. He wound up writing the whole first draft of the Constitution himself.

Adams had barely finished that assigned task when Congress sent him abroad again in November, 1779. This time he was gone for nine years, negotiating loans from the Dutch that saved the credit of the United States, negotiating a treaty of peace with Mother Britain and the last four of those years as minister to London. Abigail joined him in 1784.

It followed that immediately upon his return to the United States in 1789, Adams was elected the first vice president, serving under George Washington. It was a post that he despised for its inactivity.

"My country," he wrote, "has in its wisdom contrived for me the most insignificant office that was the invention of man."

Washington, the all but unanimous choice, retired from the presidency in 1796 and Adams was elected to replace him, but not without a fight as the Federalist party of Adams and Alexander Hamilton split and the Democratic-Republicans of Thomas Jefferson surged to the fore. He barely edged Jefferson, 71–68, in electoral votes.

Adams' four-year term as President was marked by intra-party strife. Perhaps his highest achievement was keeping the peace with revolutionary and belligerent France, with whom a treaty was concluded in the last year of his administration. But it was not enough to save John Adams.

He lost the presidency to Jefferson in a rematch in 1800 by eight electoral votes, 73–65. This time he really was through with politics. He retired to write and farm on his estate. Peacefield, in Quincy, where he died July 4, 1826, the 50th anniversary of the Declaration of Independence.

An Aging Firebrand Is Asked to Lift His Pen

Sam Adams was approaching his 57th birthday, an aging firebrand born to foment revolution whose time and place had long since passed, when he was tapped by his peers to help draft a constitution for Massachusetts.

"The world in his mind was not that of the true philosopher, filled with a variety of images, all well-rounded, symmetrical and beautiful," wrote one biographer. His figures were cut in bold relief, stiff, stark and austere.

"There was no place for shading there; everything was in sharp contrasts, in disconcerting black and white. Whatever he did see, he saw with intense clearness, but it was too often a caricature rather than the real image."

And the fall of 1779 was the time of the philosopher, the statesman; the day of the revolutionist, the man who saw people and events in caricature, was slipping into the past.

Samuel Adams was born in Boston on Sept. 16, 1722 (Old Style), the son of a well-to-do brewer, socially and politically prominent, who was forever exasperated by his son's ineptitude in business and finance.

Graduating from Harvard in 1740, he got a job in the counting house of Thomas Cushing. He may have been fired. His father gave him £1,000 to start his own business. It failed. He became a partner in his father's malthouse on Purchase St. The business languished.

He was elected provincial tax collector in 1756 and when he left office in 1765 his accounts were £8,000 in arrears. Royal Gov. Thomas Hutchinson charged him with defalcation, a polite term for embezzlement. The charge was probably not so. It was just that he was assigned to collect certain money and neglected to do it.

It was about this time, while his financial house was collapsing around him, that Sam Adams discovered his true calling: How easy it was to lift his pen and marshal the words that sent others to the barricades.

He had always been a rebel. His Harvard master's thesis defended the proposition; "Whether it be lawful to resist the Supreme Magistrate, if the Commonwealth cannot be otherwise preserved," delivered while Royal Gov. William Shirley glared from the same platform.

All these things had shaped the mind of Sam Adams by 1765 when parliament passed the hated Stamp Act, which required that all documents—legal papers, pamphlets, advertisements, newspapers—carry a revenue stamp. There were heavy fines for violations, levied without jury trial and payable in cash.

The pages of the Boston *Gazette* were filled with angry denunciations of the act, written by Sam Adams and his friends in the radical, semi-secret Caucus Club. Inflammatory? Inciting to riot? Indeed they were.

The ink was scarcely dry in the *Gazette* when Andrew Oliver, who distributed the stamps in the Massachusetts Bay colony, was hanged in effigy (he resigned the next day) and the palatial home of Lt. Gov. Hutchinson was demolished in the first appearance of a street mob in Revolutionary Boston.

Sam Adams was elected to the House of Representatives that same year (1765) and it gave him a larger stage from which to dispense his revolutionary doctrine. Emissaries from the Caucus Club fanned out across the colony, preaching passive resistance to the Stamp Act and inveighing against the presence of British troops in Boston.

Again, it was his articles in the *Gazette* that stoked the fires for the Boston Massacre in which the British troops were provoked into firing into a crowd, killing five. Strangely, while Sam Adams helped to incite the incident, his young cousin, John Adams, the lawyer from Braintree, defended the British soldiers from a murder charge.

By 1772, Parliament had repealed most of the repressive measures and radicalism was on the wane in Boston. Sam Adams barely held his seat in the House in the election. As one observer put it, "there was not enough British tyranny left to keep active opposition alive." If there were no issues then, of course, it was necessary to create some.

In May, 1773, Parliament placed a three penny duty on tea imported into the colonies, a rather innocuous measure. In November, three tea ships arrived in Boston Harbor. The radicals refused to let the tea be landed. Gov. Hutchinson refused to send it back. On the night of Dec. 16, at a signal from Adams, some 50 men disguised as Indians, seized the ships and threw 342 chests of tea into the harbor.

Six months later, as a man sent by the Royal governor, Gen. Thomas Gage, waited outside the locked door to dissolve the General Court, it was voted to send Sam Adams, cousin John James Bowdoin, Thomas Cushing and Robert Treat Paine, as delegates to the first Continental Congress. The door was locked because Sam had the key in his pocket.

The Congress, meeting in Philadelphia, was not really ready for Sam Adams and the radicals from the Massachusetts Bay. Nor were they prepared for Patrick Henry and the men of Virginia. One delegate from Maryland complained that "Adams with his crew, and the haughty sultans of the South, juggled the whole conclave of the delegates."

But the fire in Sam Adams was burning low. He withdrew from the Congress in 1781 and returned to Boston. But it was not the same. There were new leaders, new ideas, new issues. He broke with his old ally, John Hancock, and the latter's election as the first governor was a deep disappointment to him. The people, he wrote to his friend, James Warren, were deceived "with false appearance for the moment."

He ran for lieutenant governor in 1788 but the old magic wasn't there. He finished a poor third behind Benjamin Lincoln and Warren. He ran for Congress that same year and lost to the Young Turk, Fisher Ames of Dedham.

Finally, he was elected lieutenant governor under Hancock in 1789 and, when Hancock died in 1793, he succeeded him. By this time, the American political system was old enough to split up into parties, and he was elected governor in 1794 as a Democrat.

He declined to run again in 1797 and, on Oct. 2, 1803, Sam Adams died in quiet retirement in his native Boston.

John Adams: His Mood and His Times

(By Tom Henshaw)

"Voted, to send only one Delegate to represent them in the Convention appointed to be convened at Cambridge on the First day of September next for the purpose of Framing a New Constitution. Then the Honorable John Adams Esquire was chosen for that purpose.—Braintree Records, Aug. 9, 1779.

There is every reason to believe that the Honorable John Adams Esquire didn't really want to go.

He had arrived home only seven days before on the French frigate *La Sensible* after nearly 18 months in Paris helping to negotiate a commercial and military alliance with France. He was in such a rush to get home that he apparently landed the day before *La Sensible* reached Boston by rowing ashore from Nantasket Roads.

He missed his wife, Abigail, terribly, and she him.

"One was angry, another was full of Greif, and the third with Melancholy, so that I burnt them all," he wrote to her from Passy on Dec. 18, 1778, listing his complaints with her most recent letters. "If you write me in this style I shall leave of writing intirely, it kills me.

"Am I not wretched Enough, in this Banishment, without this? What Course shall I take to convince you that my Heart is warm? I beg you would never more write to me in such a strain for it really makes me unhappy."

"How lonely are my days?" she wrote on a Sunday evening, Dec. 27, "How solitary are my Nights? How insupportable the Idea that 3000 leigues, and the vast ocean now devide us—but devide only our persons for the Heart of my Friend is in the Bosom of his partner."

Somewhere on the vast ocean the two letters passed each other.

Paris and the dissolute court of Louis XVI held small appeal to the Puritan in John Adams, even when his closest everyday companions were Dr. Benjamin Franklin, still with an eye for the ladies at age 73, and the swashbuckling Capt. John Paul Jones, half patriot, half pirate, who had just taken command of the leaky old East Indiaman he had renamed *Bon Homme Richard*.

The American colonies, newly reborn as the United States of America, were going through the most dismal period of the War for Independence. Inflation was rampant: butcher's meat, a dollar to eight shillings a pound; flour, fifty dollars a hundredweight. The news from the fighting front was of defeat, privation and horror.

Massachusetts was deep in the agony of the ill-fated Penobscot expedition.

Late in June, the British started building a base near modern day Castine in the province of Maine to protect Halifax. The Americans dispatched 1,000 Massachusetts militia under Gens. Solomon Lovell and Peleg Wadsworth and a 37 ship flotilla under Commodore Dudley Saltonstall to stop them.

But while Saltonstall dawdled and procrastinated, British reinforcements arrived from Sandy Hook and bottled up the American forces, who fled into the wilderness of the Penobscot River valley. All the ships and 474 men were lost. So was all the artillery, under Lt. Col. Paul Revere.

A month later, the Provincial Congress wrote to the Continental Congress asking to be excused from the continental tax of $6 million until the expenses of the disastrous expedition were liquidated.

The failure of the expedition, the letter said, "hath involved this Government in extreme Difficulty. We not only have lost three State Vessels of Force but have insured all the others . . . The Calls upon us to make good our Contracts with the Owners of the private ships are pressing and must be fulfilled . . ."

"The "extreme Difficulty" of the people themselves called for a convention in Concord early in July "to take into Consideration the present distressed Situation of the People at large; and particularly the excessive high Prices of every Article of Consumption."

The convention fixed the price of beef at six shillings a pound until Sept. 1, five shillings after that; lamb and veal at four shillings a pound; milk at two shillings, six pence in Boston and directed that persons "who demand or take more for any of the above Articles . . . shall be held and deemed as Enemies to this Country and treated as such." In Boston, laborers' wages were set at 60 shillings a day; ship carpenters 78 shillings.

The news from the front was almost uniformly bad.

Gen. George Washington's main Continental Army was inactive around Philadelphia; Sir Henry Clinton's small British force was moving all but unimpeded up the Hudson; Savannah had fallen; and a band of Loyalists under Col. William Tryon was laying waste the Connecticut countryside. Fairfield and Green's Farms were burned and Norwalk destroyed all in a three-day period. West Haven was under attack and the fiercely anti-British Independent Chronicle of Boston fumed:

"Although in this expedition it must be confessed to the credit of the Britons that they have not done ALL the mischief in their power; yet the burning of the stores upon the wharf; the beating, stabbing, and insulting the Rev. Dr. Dagget after he was made a prisoner, the mortally wounding of Mr. Beers, senior, in his own door, and otherwise abusing him; the robbing and murdering the very aged and helpless Capt. English in his own house, and the beating and finally cutting out the tongue of a distracted man, are sufficient proofs that they were *really Britons*."

Raising men to soldier in the Continental Army was becoming a problem. The Provincial Congress resolved in June to raise 800 men 16 years and over to serve in Rhode Island, "exempting officers and students of Harvard, ministers, grammar schoolmasters, Indians, Negroes, mulattoes and those who pay a fine of £30 or procure a substitute." Suffolk County was asked for 95 men to serve as privates at £16 a month.

Once in the Army, soldiers were hard to hold, too, in the face of privations and uncertain terms of enlistment. Boston papers of September, 1779, advertised for Nathaniel Piper, 21, a deserter from Col. Jackson's battalion, Capt. Hastings' company, who was known to be about Boston, particularly at night; and Cpl. Samuel Berry 30, of Lynn, absent from Jackson's Corps.

Closer to home, there was the case of Elizabeth Etter, one of the Cleverly girls of Braintree, who was given permission by the Provincial Congress to take her 4-year-old child and join her husband, Franklin, the Tory, in Halifax where he was serving in the Loyal Nova Scotia Volunteers. Elizabeth was warned that she was "not to return to the state without leave from the government."

And, in Old Braintree, life went on.

The Town Meeting renewed the 30 shilling bounty on crows' heads and voted to prosecute anyone who obstructed the alewife in its annual passage upriver to the spawning ponds and named a committee "to use their influence with proper authority to suppress, any vexatious law suits that may be brought by Dr. Moses Baker against any of the Inhabitants of this Town," for what reason was not stated.

Like many Braintree wives whose husbands were away at war, Abigail Adams was forced into the unaccustomed role of head of the household, a function she filled with determination.

"I cannot avoid sometimes repining that the gifts of fortune were not bestowed upon us, that I might have enjoyed the happiness of spending my days with my partner," she wrote, "but as it is, I think it my duty to attend with frugality and economy to our own private affairs; and if I cannot add to our little substance, yet see to it that it is not diminished."

She abstained from drinking black market tea, allowing herself one tiny complaint: "I should like a little green (tea), but they say there is none to be had here. I only wish it for a medicine, as a relief to a nervous pain in my head to which I am sometimes subject."

John Adams attended the opening session of the Constitutional Convention in Cambridge on Wednesday, Sept. 1. On Saturday, he was named to a committee of 30 to prepare the declaration of rights and the constitution. On Monday, the committee delegated the task to a subcommittee of three, John and Samuel Adams; and James Bowdoin. The subcommittee, in turn, left it up to John.

"I was by the Convention put upon the Committee—by the Committee upon the subcommittee—and by the subcommittee appointed a sub subcommittee—so that I had the honor to be principal Engineer," he wrote to his friend, Edmund Jennings. Payroll records indicate that he was paid £90 for his work.

The so-called "Adams draft" of the Massachusetts Constitution was accepted by the Convention with a few alterations but by that time John Adams was long gone back to Europe, this time to help negotiate a treaty of peace with Britain and serve as America's first minister to London. He did not see the farm at the foot of Penn's Hill again for another eight years.

But he was immensely heartened by these words from the pen of his ever-loving Abigail, written on Oct. 15, 1780:

"Our Massachusetts Constitution is read with admiration in New York and pronounced by the Royal Governor as the best republican form he ever saw."

Little Red Farmhouses Were Probably Once Cream

The little red farmhouses at the foot of Penn's Hill where John and John Quincy Adams were born appear to be accurate reflections of their condition in Revolutionary times in structure only.

The U.S. National Parks Service, which took charge of the two cottages in April, 1979, is discovering new things about them daily as it strives to restore them to their appearance in 1807, the last year an Adams lived in them.

For one thing, they weren't painted red, probably a cream color, says Carole Perreault, architectural conservator from the North Atlantic Historic Preservation Center, a regional research arms of the USNPS.

Indeed, at least one of them was white at one time, as this passage from the memoirs of John Quincy Adams, dated Sept. 9, 1824, will attest:

"I took a ride of almost three miles with my father in his small carriage, called at Mr. Marston's and rode to the foot of Penn's Hill by the houses where my father and myself were born. That of his nativity has within the last year, at his request been painted white."

John Adams law office, in which most of the Massachusetts Constitution was drafted, probably looked different in 1779. For one thing, the ceiling, where the beams have been exposed since an earlier restoration in 1896, probably was plastered.

"There is no evidence that the beams were charred by smoke from the fireplace so they must have been covered," says Ms. Perreault. "Holes in the lathe lines in the beams were made by hand-wrought nails, which indicates the covering was there in pre-19th century."

The outside entry door at the corner of the law office probably was there in 1779, although it was not necessarly cut through the wall as an entrance to the office. It is there in a water color of the Birthplaces, done in 1822. But it is missing in photographs taken later in the 19th century.

"When the building was restored in the 1890's, they took the plaster out and found the door just as it is today," says Ms. Perreault.

Indications are that the fireplace was there in 1779, but it probably was larger and of a different shape. The lintel is probably the hand-hewn original but the hearth almost certainly has been rebuilt. The small bricks are not characteristic of the 18th century.

The John Quincy Adams Birthplace is the older of the two. There are indications that one Samuel Belcher was living there in 1663 in a one room structure with fireplace. It was expanded to its present size in 1716. During the 1896 restoration, a brick dated June 6, 1716, was discovered in the main part of the house.

The house was purchased by Deacon John Adams for £50 in 1744 and rented to Dr. Elisha Savil until 1761 when the Deacon's son John inherited it from his father and moved in. John Quincy Adams was born there Jan. 11, 1767.

John and his wife, Abigail, moved out and into the larger Mansion on Adams St.

in 1788, leaving the cottage and its farm to tenants. But John Quincy Adams moved back into his birthplace in 1803 and stayed until 1807, just before he was named U.S. Minister to Russia. He was the last Adams to live there.

The John Adams Birthplace originally was the home of Joseph Penniman but its age is not known. A brick inscribed with the date 1681 was found during restoration in the 1890's but dated bricks are not regarded as indisputable evidence of age by the National Park Service.

Deacon John Adams purchased the house and seven acres of land from James Penniman in 1720 and it was in the southeast bedroom next to the Coast Road that the future president of the United States was born on Oct. 19, 1735 (Old Style). The Deacon left it to his second son, Peter Boylston Adams, when he died in 1761.

Both houses were restored by the Adams Realty Trust, the John Quincy Adams Birthplace in 1896 at a cost of $1,650, and the John Adams Birthplace a year later at an expense of $515.49. They were presented to the city of Quincy in 1940 and supervised by the Quincy Historical Society until they were turned over to the USNPS in 1979.●

SALUTE TO GEORGE MEANY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. BIAGGI. Mr. Speaker, on November 19, 1979, the first president of the AFL–CIO, George Meany, retired. He leaves behind a remarkable record of achievement and a leadership base capable of carrying on the work of the AFL–CIO in his tradition.

I take special pride in saluting this legendary labor leader because he comes from my district in the Bronx, where he began his career at the age of 16 as an apprentice plumber. He moved on to become what one news article described as "a cigar chomping, finger-stabbing, table-pounding, tough-talking champion of labor."

He served as president of the New York State Federation of labor from 1934 to 1939, a fact that all New Yorkers are extremely proud and thankful. In 1940, New York was forced to share George Meany's extraordinary leadership abilities with the rest of the country when he was chosen as the secretary-treasurer of the AFL. He remained in that position until 1952, when he was elected to the national presidency of the union.

After 3 years of determined efforts, Mr. Meany was successful in uniting the American Federation of Labor with the Congress of Industrial Organizations, and became the AFL–CIO's president.

During his 24 years of service, the AFL–CIO was instrumental, under the strong leadership of George Meany, in obtaining the passage of landmark legislation dealing with such issues as minimum wage, civil rights, improved health and safety standards in the workplace, and pension-benefit guarantees.

However, Mr. Meany did not restrict his efforts solely to labor issues. He was very active in fighting against totalitarianism in all forms and protecting the AFL–CIO from Communist penetration and the influence of organized crime. He remained totally committed to democracy, and everything it stood for including the ballot box, the legislative process, and the freedom to assemble and bargain collectively, which he considered to be the cornerstone of a democratic society. Further, he has been influential in such areas as politics, foreign affairs and, in more recent years, he has focused his efforts on our Nation's energy problems.

While Meany's success over the years is part of our Nation's history, he has never taken time to look back. Rather, he has always focused his efforts toward goals still to be achieved. Mr. Meany expressed this philosophy in his recent farewell address:

> To achieve our goals, the labor movement cannot be content with defending the status quo, or reliving past glories. We must constantly look to the future, develop new leadership, adapt policies to changing conditions and new technologies—but—always, always with unswerving loyalty to the mission of the trade union movement as the instrument for improving and enhancing the working and living conditions of those who work for wages.

He went on to cite several important goals that have yet to be fulfilled: National health insurance, full employment, equal rights for women, and labor law reform.

In the words of the newly elected president of the AFL–CIO, Lane Kirkland:

> I cannot promise to match or even approximate the record of achievement of George Meany—but I am reassured by the certain knowledge that neither could anyone else in our time.

While I fully share Mr. Kirkland's sentiment, I would like to also express my wholehearted support for, and confidence in, the new leadership of the AFL–CIO, especially to Mr. Kirkland and the newly elected secretary-treasurer, Thomas R. Donahue, a fellow New Yorker.

Both of these men have much to offer, having gained invaluable experience while serving under the dynamic George Meany. Lane Kirkland served 9 years as Meany's executive assistant and 10 years as secretary-treasurer. Mr. Donahue, as part of his 30 years in the trade union movement, served as Meany's executive assistant since 1973.

Donahue's extensive labor experience also is closely tied to New York City, where he was a part-time organizer for the Retail Clerks in 1948, and then served as a business agent, contract director, publications editor and assistant to the president of Local 32B of the Service Employees. Donahue was later appointed Assistant Secretary of Labor in the Johnson administration with responsibility for the department's labor relations activities.

Mr. Speaker, this Nation is extremely fortunate to have been blessed with a man of George Meany's caliber, and I am hopeful that his vast wisdom continues to be utilized even in retirement.

At this time I would like to insert an article describing the recent AFL–CIO farewell to George Meany at the AFL–CIO's 13th biennial convention. The article appeared in the November 24, 1979, issue of the AFL–CIO News.

The article follows:

DELEGATES GIVE GEORGE MEANY A LAST HURRAH

(By John M. Barry)

The convention belonged to George Meany.

He held the hearts of the delegates from the first day, when he advised them officially that it was "the last time I will have the honor of opening a convention of the AFL–CIO," the federation of American workers that stands as his finest achievement.

And he remained in their hearts on the final day of the gathering, when the successor he had nominated, Lane Kirkland, rapped the gavel to adjourn the 13th biennial convention.

In between, the delegates let Meany know with repeated standing ovations of the high regard they held for him, for his leadership and courage in standing up front for working people whenever and wherever their rights were threatened or denied.

On his part, Meany had only gratitude—to the AFL–CIO staff for "a job well done," to the leaders of each federation affiliate and central body "who have carried out the programs and have made this federation a testament" to their forebears, to his fellow members of the Executive Council for their counsel and support and friendship, and to the delegates and the members they represent "for the highest honor that could be paid any human being, the honor of leading this great organization of workers who have built this nation."

Meany commissioned all of them to take the American trade union center he had helped to create and to carry it forward to new heights.

"It needs to continue to grow," he told them, "to consolidate its strength. And, I predict with certainty, it will."

Every speaker who took the convention podium had a special recollection of the achievements that marked Meany's career—government officials, Cabinet officers and President Carter himself; congressional leaders of both political parties; civil rights leaders and the victims of oppression; his fellow trade unionists from countries throughout the free world and from here in the United States.

On its second day, the convention paid its own tribute in the time-tested manner of conventions, through a resolution. It was read to the delegates by an old friend and colleague, Martin Ward, president of the Plumbers & Pipe Fitters, the union that had given Meany his start as an apprentice in New York. In the galleries, as Ward read the words, were members of the AFL–CIO headquarters staff who had been given the afternoon off by "the boss" so they could see what a federation convention is like. In the audience were his grandchildren and their parents, the close-knit family that occupies his private life.

"Whereas, George Meany—our friend, our leader, our brother . . . ," the resolution began. It went on to point out his "vision" in bringing about the merger of the AFL and the CIO in 1955, "his faith in the labor movement" and "his commitment to its highest ideals," his "strong voice" raised on behalf of workers and "in pursuit of freedom, democracy and dignity for all people." And it conveyed the convention's "love and respect, and its sincerest best wishes for a long and happy life."

Finally, the resolution declared Meany to be president emeritus of the AFL–CIO, with annual compensation equal to that of the organization's president.

To keep from adding days to the proceedings, the convention permitted a half-dozen speakers to convey the sentiments of all 895 delegates.

There was Fred O'Neal of the Actors & Artists, who said Meany "has taken the stage and held it against the critics of our profession" and of the entire labor movement; who hailed Meany's efforts on behalf of black workers, and who exhorted the convention, in the words of Shakespeare, to "embrace and love this man with a true heart and brotherly love."

Ray Corbett, head of the New York State AFL–CIO, recalled Meany's own leadership of his home-state central body that became a springboard for his rise to national leadership. "We thought we were losing something," Corbett said. "But all of us in New York suddenly recognized . . . that all we did was to share the benefits of your progress with the entire nation and, yes, I guess, the world."

Jack Sheinkman of the Clothing & Textile Workers pointed to Meany's lifelong fight against totalitarianism in all forms and presented him with a copy of a new booklet prepared by the Jewish Labor Committee, which Sheinkman heads, for distribution in America's schools. Its title: "George Meany—the Making of a Freedom Fighter."

Jean Ingrao, secretary-treasurer of the Maritime Trades, remembered starting out 27 years ago in Meany's office with plans to work for only two years and thanked him warmly for instilling in her "a desire to learn, to achieve, to strive."

Sol Chaikin of the Ladies' Garment Workers spoke especially for members of his own union in thanking Meany for his support of their efforts to lift their low wages and poor conditions to acceptable levels and remarked with wonderment at how "this plumber from the Bronx was easily at home with the unemployed, with the desperate, with the deprived, with the exploited . . . and then with the captains and kings."

Howard McClennan, the chief Fire Fighter and head of the AFL–CIO Public Employee Dept., conveyed the gratitude of the workers in the public sector for helping the department get started.

Lane Kirkland, who had stood beside Meany for a quarter-century as aide and fellow officer, earlier had asserted the privilege of reviewing Meany's accomplishments so that they will be "inscribed in one place in the living history of this federation."

Kirkland began with the legislative gains Meany had helped win for New York workers as head of the State Federation of Labor, including the state's pioneering unemployment insurance system, and he cited Meany's leadership of a successful strike against the government to preserve wage standards for WPA workers.

He recalled Meany's service on the War Labor Board during World War II and his post-war involvement with the Free Trade Union Committee.

The 1955 merger unifying a divided American labor movement was Meany's most important accomplishment, Kirkland observed, yet it was "not a climax, but just a beginning."

The list went on to cite adoption of the AFL–CIO Internal Disputes Plan, the evolution of COPE into a major political force on behalf of workers, Meany's strong stand in support of the civil rights struggle and his insistence over the doubts of President Kennedy on inclusion of a fair employment practices section in the Civil Rights Act.

In 1969, Kirkland, noted, Meany founded the Labor Studies Center that now bears his name so that the federation would have a center for training its future leaders. In the '70s, Meany rallied labor to win bargaining rights for postal workers and enactment of a strong occupational safety and health law.

He led American labor in its continuing support for the State of Israel against its enemies, and he provided the first platform in this country for the Soviet exile, Aleksandr Solzhenitsyn, to tell the story of Soviet tyrannny and the Gulag Archipelago.

This year, Kirkland noted, Meany initiated and guided the discussion leading to the National Accord with the Carter Administration giving labor a strong voice in the nation's economic programs.

When the list was done, Kirkland told the delegates that even in retirement Meany would be on call for advice and counsel.

"This great mine of wisdom, character, experience and memory is far from exhausted of its product," he said. "The trade union movement that he has done so much to build and advance is still not yet so rich in genius and inspiration as to be able to afford the neglect of the vital resource embodied in the person of George Meany."

But after all the words were said in that special tribute, Meany had the last word. He reminisced a bit for the delegates and thanked them.

"I hope to be able to render some service in whatever way I can. I'm sure that my successor will not have to call on me," he said as he turned to Kirkland with a smile. "I'll be breathing down his neck."●

AKRON "PROJECT DAWN" SPARKS COMMUNITY UNDERSTANDING OF THE MENTALLY HANDICAPPED

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. SEIBERLING. Mr. Speaker, I want to take this opportunity to inform my colleagues about a unique pilot program—"Project Dawn"—which was undertaken in my district to enlist community support and understanding of mentally handicapped citizens. The project was sponsored by the Summit County Association for Retarded Citizens under Ray Thomas Jr., executive director, with a grant from the Ohio Department of Mental Health and Mental Retardation and the Ohio Developmental Disabilities Planning Council, and was implemented by the Akron-based public relations firm, Meeker-Mayer.

"Project Dawn" was a public education effort to teach community residents about mentally handicapped individuals in institutions, and those returning to or living in the community. The purpose was to create a more open-minded attitude toward the developmentally disabled, to address the fears and anxieties of the public about the mentally handicapped, to educate the public about the different kinds of developmental disabilities, and to create a community climate where mentally handicapped individuals were encouraged to develop to their capacity.

The project incorporated personal experiences of 15 mentally handicapped individuals residing in the area who expressed their frustrations with their handicaps and their hopes for their lives. Although the project did not have the resources to measure the general community's attitudes before and after the project, which used both radio and television to reach the public, the general response to the broadcasts of "Project Dawn" showed that the knowledge levels and attitudes of the public were positively affected by the project.

Mr. Speaker, because of the amount of space it would demand, I will not include the full report on "Project Dawn"—its objectives, research and implementation. However, I call my colleagues attention to "Project Dawn," a unique and sensitive effort to open the minds and hearts of a community to the mentally handicapped who need special understanding to be—in the words of "Project Dawn"—the most they can be.●

THE AIR FORCE IN THE SPACE AGE

HON. JACK HIGHTOWER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. HIGHTOWER. Mr. Speaker, in the November 5 edition of U.S. News & World Report, there is an exceptionally interesting article written by the associate editor, Orr Kelly, concerning what we may expect in the next decade with respect to our Air Force operations in the decades ahead.

Who would have believed back in the days of Wilbur and Orville Wright that within a matter of a few short years, planes would be flying higher and faster than man could ever have dreamed, and that men would be landing on the Moon through the miracle of our technology and research.

I believe it is important for all Members to have the opportunity to read this very interesting and exciting article concerning the Air Force in the space age.

The article follows:

A NEW AIR FORCE FOR THE SPACE AGE

The most dramatic changes in its 32-year history are transforming the U.S. Air Force.

Taking shape is a high-technology military arm that will send men and women to live and work routinely in space in the early 1980s. Its planes will carry supersmart weapons and laser "death rays" that can score a certain kill against any target a pilot can see. Its ability to "look" deep into hostile territory will be greatly enhanced.

And, if no hitches develop, it will build and operate a 33-billion-dollar mobile missile system that could radically shift the superpower strategic balance before the end of the '80s.

The revolution in technology is matched by a revolution in personnel policy. Gone are the days when the 560,000-strong Air Force was headed by a cigar-chomping bomber pilot and only 10 percent of its officers had finished college.

Now, 40 percent of the colonels have master degrees or better, and the chief of staff is a nuclear physicist who wrote his doctoral thesis on "Photo Disintegration of Deuterium by 95 Mev X-rays."

Such talents will be in even greater demand as development of a shuttle enables the Air Force to leap into space. Air Force Secretary Hans Mark, a nuclear physicist, stresses that the importance of sending ordinary service personnel—and not just astronauts—for duty in space can't be exaggerated.

HUMAN JUDGMENT

Of the 487 shuttle missions the U.S. now plans to fly in the next dozen years, 113 will involve a military purpose.

"Every single flight of the space shuttle," says Mark, "will be accompanied by man, with human judgment. That will make a major change in how we do business." He predicts that the first service personnel to remain in space for long spells will not be supermacho test pilots but telephone technicians who will repair and monitor the unmanned satellites that are increasingly important for communications, navigation and surveillance.

From the shuttle, Air Force technicians will be able to place satellites in orbit and retrieve and repair older satellites. They may even check out foreign satellites to see how they work.

Maj. Gen. Jasper A. Welch, Jr., assistant chief of staff for systems and analyses, says the ability to carry out repairs in orbit will make it possible to produce satellites much more cheaply and to send them quickly into space to perform specialized jobs. Currently, every satellite must be manufactured to operate flawlessly for its full lifetime and then tested over and over to make sure it will not break down. With a repairman in space, there will be no need for that level of perfection.

Most spy-in-the-sky operations will be handled by unmanned satellites. But Lt. Gen. Thomas P. Stafford, a former astronaut who now heads Air Force research and development, says there also will be men with binoculars—or more-sophisticated devices—watching to see what's going on down below. Stafford says he is still amazed at how much detail can be seen from space, even with the naked eye.

Repair and maintenance teams will be followed into space by the crew of an orbiting control center. This will replace the flying command post that is on constant airborne alert to enable top officers to control the U.S. nuclear arsenal in a crisis.

SOMETHING OF VALUE

Will the Air Force eventually fight outside the atmosphere? Secretary Mark has no doubt that armed conflict will follow man into space. "Where there are things of value, people will fight about them," he says. With the shuttle, carrying 10 times the payload of existing rockets, there will be a rapid increase in the number of things of value in space.

Stafford and Allen, the chief of staff, foresee a fleet of two-man spaceships capable of taking off from ordinary airports, zooming out of the atmosphere and then returning to land at their home bases after completion of their missions. They will probably be equipped with laser weapons to burn out the electronics of a hostile satellite or another spaceship. Stafford says that such a fleet could be operational before the end of the century.

As a first step toward achieving this, the F–15 fighter is being fitted with a missile that can be fired into space from high in the atmosphere to knock down an enemy's satellite.

While the move into space will revolutionize the role of the Air Force, other developments, almost as dramatic, are in the works. Experimentation with lasers has reached the point where it is considered a near certainty that they will be used as "death ray" weapons in the near future.

"The 1980s will be the decade of the laser," Stafford says. Already, a laser-equipped plane is flying at Wirtland Air Force Base, N.M. In experiments, small unmanned planes and missiles have been destroyed in flight.

The first use of lasers as weapons will be to defend large planes. A cruise-missile carrier, for example, might be so armed to protect itself as it circled over the ocean preparing to launch its missiles. Later, laser weapons will be made small enough to be carried by lightweight fighter planes to attack ground targets and enemy planes.

Development of a new MX missile that can survive a Soviet surprise attack poses another staggering technological challenge. In one of the biggest engineering projects in history, the Air Force will build 200 "race track" courses for the new missile in the Western U.S., assuming that Congress authorizes the plan. Each track will consist of a 20-mile loop with 23 garagelike shelters to conceal a missile.

At the same time, work will be pushed ahead to perfect the missile itself, a monster capable of delivering 10 super-accurate warheads against targets in the Soviet heartland.

Other teams of engineers will design a 480,000-pound vehicle capable of "dashing" with the missile from one shelter on the race track to another at speeds up to 30 miles an hour.

The development and production of cruise missiles are another multibillion-dollar project that will bring revolutionary change to the Air Force. These are tiny, subsonic unmanned airplanes that will be launched from carrier planes hundreds of miles from their targets. Each missile, flying close to the ground, will be guided by a computerized brain following a terrain map.

A big new warplane is planned—although no decision has been reached on whether to build it or even what its ultimate mission ought to be.

During the coming year, the Pentagon will decide whether to design this aircraft to stand off and launch cruise missiles, penetrate to the heart of enemy defense or combine those two functions. The technological challenge of developing such a warplane—given improved Soviet air defenses—is considered immense.

While this "large warplane"—as Secretary Mark calls it—is on the agenda for the future, the Air Force is in the process of buying a whole new fleet of combat planes: F–15 and F–16 fighters, A–10 tank killers, E3A combat command posts.

In the next decade, as much as 12 billion dollars may be spent on electronic equipment—new radar, communications, guidance, fire-control and jamming devices—to improve the performance of these new planes. A major effort will be made to overcome a critical problem: The limited ability of American warplanes to attack ground targets at night and in bad weather.

Another critical problem is that the very-high-performance engines used in the F–15 and F–16 are wearing out much faster than expected.

In developing new aircraft, the emphasis is less on increasing altitude and speed and more on electronics that can tell a pilot where he is, help him find his target and enable him to communicate easily. New developments in electronics make it possible to put more and more computing capacity into small planes, enabling pilots to make split-second decisions.

How far the Air Force has progressed on this front was demonstrated recently when F–15 fighters supplied to Israel engaged a flight of Russian-made planes of the Syrian Air Force in a dogfight. Four Syrian planes were shot down in a battle that lasted only 1½ minutes.

FLYING COMMAND

To back up the increasingly sophisticated electronic equipment in small aircraft, four-engined flying command posts are coming into service to monitor everything that is happening in the battle area. Technicians in these planes not only guide the smaller planes but also use their computers to work out complex tactics in a matter of seconds.

Soon to come are superpowerful computers, packaged in tiny panels, that will increase the chances of a pilot to fight and live to fight another day. At present, a pilot must fly directly at his target at least for a few moments—an exceedingly dangerous maneuver.

The new electronic fire-control devices will eliminate that danger, permitting a flier to release his weapons while he is maneuvering violently—even if he is rolling upside down.

Technology is being developed to help pilots in other ways. New radar and lasers, now under test, will make American warplanes virtually immune to enemy jamming, a major problem. These devices are in what is known as a "constant jump mode"—that is, they move continuously and automatically from one frequency to another, defying enemy efforts to pinpoint them. Because of the Russian emphasis on disrupting enemy communications, this effort to jam-proof U.S. planes is a top Air Force priority.

ON THE GROUND

Other advances in technology promise dramatic improvements in the ground-support area. One example: New aircraft engines will have far fewer parts than those flying today. This not only will reduce the chances for failure but drastically cut the number of spare parts that must be bought and stored.

Another example: Streamlining of the Air Force Logistics Command. Gen. Bryce Poe II, who heads the command, claims that when Israel defeated Egypt and Syria in the brief but intense Yom Kippur War of 1973, it was logistics that made the decisive difference. He says: "It was a logistical conflict between us and the Soviets. We beat them hands down over a longer distance." His command is responsible for 800,000 items, from patrol dogs to nuclear weapons, with a budget of 16.4 billion a year. If it were a private business, it would rank 10th on a list of the top 500 corporations in the country.

Largely through the use of computers and automated equipment, the Logistics Command has reduced its depots from 21 in the mid-1950s to five today. At the same time, it has cut the number of people employed from 225,000 a quarter of a century ago to 91,000 today, and that number is scheduled to drop another 10 percent by the early 1980s. Despite these decreases, Poe says, the Logistics Command is doing essentially the same amount of work.

As the Air Force prepares for its new challenges, there are many in the service who worry that this elite corps is in serious danger of losing the very asset that has made possible its technological leadership: The high quality of its people.

THE EXODUS

One warning sign is that, for the first time since the introduction of the all-volunteer force seven years ago, the Air Force is not filling recruitment goals.

Even more worrisome is the fact that experienced men and women—both middle-level enlisted personnel and commissioned officers—are leaving the service in increasing numbers. The loss of pilots and engineers, critical to the future of the Air Force, is particularly acute.

A shortage of 2,000 pilots and 900 engineers is currently reported.

While there is concern in the Pentagon, in commands outside Washington the reaction is close to alarm. "We are in deep, serious trouble," declares Gen. Alton D. Slay, head of the Systems Command.

At Langley Air Force Base, Va., home of the Tactical Command, the situation appears particularly bleak. Gen. W. L. Creech, the tactical commander, described the steps he had taken to improve life in the service for his pilots. The result? "We've made so much progress they're leaving us now with smiles on their faces," he says. "Our pilot-retention rate is the best in the Air Force—and it's terrible." Not only is the loss of pilots reaching serious proportions, but there is also a less noticed loss of sergeants which, Creech says, "could reach a flood unless we address the issue."

For the long-range health of the service, the shortage of engineers may be even more serious than the loss of fliers. The Air Force counts on recruiting 800 to 1,000 engineers a year. It is now reaching only 40 percent of that goal, says Lt. Gen. Andrew P. Iosue, the service's manpower chief, and experienced engineers are leaving in record numbers.

"We are back-filling jobs that were held by captains and majors and lieutenant colonels with second lieutenants. A man with one year of experience replaces a man with 12. The experience exchange is disastrous," says Lt. Gen. Lawrence A. Skantze, commander of the Aeronautical Systems Division in Dayton.

Largely responsible for the manpower problem, say top Air Force officers, is the series of ceilings that have prevented military pay from keeping up with the cost of living and with raises received by union workers. Coupled with this is the price industry will pay men and women with certain critical skills. A pilot who takes an airline job can make two or three times the income he could achieve in the service. An engineer right out of college can go to work in industry for $18,000 or more. The Air Force can offer $12,000.

But beyond this difference in compensation is a growing bitterness, a feeling that service life is going to get steadily worse.

"Almost in every area, from the perspective of people in the service, there have not only been pay cuts but reneging on the deal they made with the country," Creech says.

A young pilot complains: "Do you know how they're going to pay for the new MX missile? They're going to take it out of our parking fees."

Thus, twin challenges face the Air Force as it prepares to move into space in the 1980s:

It must maintain the momentum of its revolution in technology and at the same time attract and hold the men and women whose special talents are needed to manage that revolution.●

FIRESCOPE—A RESOURCE FOR EMERGENCIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. LAGOMARSINO. Mr. Speaker, when massive assistance is needed to combat a fire of major proportions there has been, in the past, attendant massive confusion as various units from outlying areas rush into the disaster area. This confusion arises because emergency agencies, fire, sheriff, highway patrol, police departments and others, each talk their own language, and second because of a lack of unified command.

FIRESCOPE, which is an acronym for firefighting resources of southern California organized for potential emergencies, is a program designed to increase effectiveness of fire agencies involved in fires and disasters that occur within a large area. The Operational Coordination Center (OCC) is located in Riverside, Calif., and is manned by the California Division of Forestry, State Office of Emergency Services and the U.S. Forest Service. There they track, daily, all the fire resources in southern California.

The recent Eagle Canyon fire in the Santa Barbara area of my congressional district put FIRESCOPE to the test. The results were positive and merit being brought to your attention. Command was instantaneous and totally unified under the "Incident Commander," the title given to the chief in whose area the emergency exists. A uniform emergency structure was put into operation where all FIRESCOPE equipment and personnel worked interchangeably. In the words of Santa Barbara County Fire Chief William Patterson, "the nicest thing about FIRESCOPE is that it works." Without FIRESCOPE the Eagle Canyon fire might well have been a terrible disaster. FIRESCOPE enabled the positioning of fire units before the fire started.

The history of FIRESCOPE goes back to 1971, when Congressionial action authorized the U.S. Forest Service to assist southern California fire agencies in developing a system that would increase coordination and effectiveness during major emergencies. It encompasses Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside and San Diego Counties.

Because of the success to date of FIRESCOPE in saving lives and property, I ask the Members of the House to join with me in extending congratulations and continued support to the agencies involved.●

SENATOR CRANSTON'S SPEECH AT THE LASKER AWARDS CEREMONY, 1979

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. PEPPER. Mr. Speaker, each year amid the beautiful surroundings of the St. Regis Hotel roof the Albert and Mary Lasker Foundation, which has done so much for humanity through its programs for the stimulation of medical research and the application of medical knowledge, as well as the stimulation of the effort of public leaders in aid of such objectives. The Albert and Mary Lasker Foundation presents the Albert Lasker Medical Research Awards Luncheon. At this luncheon, the recommendation of the awards jury for medical research awards are presented and, on occasion, the awards jury also recommends a distinguished figure for his or her public service in advancing medical knowledge and service to humanity. On such occasions, there is always an outstanding speaker to make appropriate remarks pertaining to the expansion and the implementation of medical knowledge and providing greater and more meaningful health care to the people of our Nation, indeed, of the world.

This year at the luncheon on November 16, the speaker of the occasion was the Honorable ALLEN CRANSTON, U.S. Senator from California and majority whip of the Senate. Senator CRANSTON stimulated those present by his grasp of the problem of providing medical care for the people and for appreciation of one of the phenomena of our time, the increasing age of the population of our people and all that attends that significant change, Senator CRANSTON presented a scholarly dissertation and did it in a very engaging manner so that his address was warmly received by the distinguished audience present.

I should like to share with my colleagues in the Congress and the people of our country this eloquent address of Senator CRANSTON's, and I include in the RECORD following these remarks.

SPEECH BY SENATOR ALAN CRANSTON, LASKER AWARDS CEREMONY 1979

The Old Testament speaks of the years of human life as three-score and ten. But when the scriptures were written, average life expectancy was only 18 years. Much later, at the peak of the Roman Empire, life expectancy was about 22. By Shakespeare's time the average had crept up to 35 years.

Obviously, everyone in those days did not die that young. At all times in history some people have survived to 80 or 90 or even longer. In each generation a handful of strong individuals have come close to living a full and natural life span.

Life expectancy is an average. In the past, a larger percentage of people than now died at birth. Deaths used to be more frequent in the young and middle years due to poor nutrition, inadequate sanitation, harsh living conditions and the spread of infectious disease.

This century began with an average life expectancy of 49 years in the United States. Almost overnight—in terms of history—we have added more than 20 years to life expectancy here, and elsewhere in the world's wealthier nations.

In just the last decade we have added nearly three years more to this average. New figures from the U.S. Public Health Service show deaths from heart disease are down 22 percent since 1969. Deaths from stroke are down 32 percent. These are tremendous achievements, in large measure due to our efforts to educate the public about hypertension and new methods for alleviating some of its effects. Deaths from atherosclerosis and diabetes also are down significantly.

But we still have not changed our inherent life span. Scientists in the relatively new field of gerontology now can estimate what our true life span is, however. Most of them agree that human beings have the biological capacity to live to 100 or more—as some few manage to do even now.

Most people don't live that long because the underlying mechanism of the aging process make us vulnerable to cancer, heart disease, stroke, senility, diabetes and other degenerative diseases. These afflictions occur much more frequently among the aged. They rob us of the comfort and quality of our advanced years. They render many aging men and women helpless for years. And they shorten our lives.

I am convinced, however, that we are on the verge of major advances in what we know about the biomedical mechanisms of aging.

To understand these mechanisms is to begin to control them. And control of the aging process promises two distinct benefits.

First, by forstalling age changes in the body, physicians will almost surely have a powerful new strategy for preventing disease. And secondly, we will probably learn to avoid the prolonged deterioration of mind and body which now devastates so many people far short of their full life span.

As a member of the Senate Health and Scientific Research Subcommittee, and as chairman of the Veteran's Affairs Committee, I follow closely our progress in biomedical research. Often I invite research scientists to my office in the Capitol. They have an opportunity to discuss their work in an informal, crossdisciplinary forum. They share new findings with others working in parallel and complementary research.

What I have heard is astonishing to a layman. I suspect many scientists, too, would be surprised to learn how quickly we are assembling pieces to a very fundamental puzzle.

Researchers are probing basic mechanisms at the cellular and molecular level with tools that were unknown and unavailable just a few years ago. They are unravelling the secrets of how and why people age. Already some have successfully delayed and even reversed some aspects of the aging process in laboratory animals.

The field of gerontology for years was considered an unglamorous and unpromising field. To a degree, that attitude persists. But we also are seeing a stirring of great interest among scientists in the basic biology of aging.

The National Institute of Aging in Washington, D.C., reports a quadrupling of research applications over the last three fiscal years.

Researchers across the country are closing in on the disease of aging by pursuing strong leads in immunology, neural and endocrine mechanisms, genetics, protein systhesis and free radical pathology.

I believe that the question before us is not whether we will learn to intervene in the aging process to our benefit.

The question is: when?

For which generation?

Will my generation perhaps be the last to die prematurely, or the first to live to its full potential?

I expect that investigations now underway will pay our society a bonanza in a very few years. There are very real possibilities that we will learn to increase the robustness and vigor of older people, if we use our scientific and fiscal resources wisely.

By extending the potency of human immune systems—to cite just one example—we might be able to stretch the healthy middle years of life into the 70s and 80s and beyond.

This particular avenue of research might not pay its greatest reward in aging at all—but in prevention and treatment of cancer.

Many scientists believe that carcinogenesis and senescence share a common biologic origin. We know, for instance, that 50 percent of all newly diagnozed cancers and 60 percent of all deaths from cancer occur among people over 65.

Unfolding the mysteries of cellular and molecular changes which underly the aging process almost certainly will yield valuable information, possibly leading to cures for a host of medical problems from cancer to senile dementia, renal failure and atherosclerosis, to name a few.

In America today, 11 percent of our population—some 23 million people—are over the age of 65. Their numbers grow by a half-million more each year. In the beginning of the next century—which really is not so far away—the baby boom generation will approach 65. The number and percentage of older Americans will swell dramatically.

Federal spending for Social Security, health care and pensions for the elderly already are in the multiple billions. We could be in serious trouble by the year 2000. We cannot afford to begin the 21st century with a mushrooming population of dependent old people who are no better off than many who are in nursing homes today.

Make no mistake: our longer-lived population is a triumph and an opportunity for our country.

We have won some important battles against killer diseases and crippling disabilities. But we have some major challenges still ahead. We must surmount them if we are to succeed in enhancing, as well as prolonging, life.

We must plan ahead now for the kind of society we are becoming.

I think it is highly unlikely that in the next 30 or 40 years there will be no major technological breakthroughs that relate to human life span. Breakthroughs may come much sooner. But even if there are none soon, the number of people over 65 in our country will double in three to four decades.

With the commencement of control of the aging process we will have an even larger population of healthy, active older Americans.

What will our society then be like? What will the world be like when people live to 100 or more with the capacity to be vigorous and competitive until the very end?

Some will ask: why should we want to have more old people around? Especially when so many elderly today suffer from poverty, dependence, low social status and age prejudice?

What will be the burden of future health care capacity and tax-supported services? What about overpopulation? Jobs for everyone? Living space? Won't our culture stagnate if there are more and more old people and fewer younger citizens?

These are important questions. While it is impossible to project precise solutions into the future, we have some clues within our own century.

The present population of seniors was unanticipated when life expectancy was just 49 years. We have had problems with poverty, inadequate housing, health and nursing care for the elderly. But I agree with Dr. Bob Butler of the National Institute on Aging that these are temporary dislocations. They are the result, largely, of society's failure to anticipate and prepare for a major shift in human survival. We have no excuse to be unprepared in the future.

If people in their 80s and 90s someday enjoy the physical health and resilience associated with middle-aged people today, we need not worry about increased social costs of health care and dependency. Elderly Americans who work, produce for the economy and pay taxes will help us salvage much of the expense and wasted resources we now assume are inevitable with an aging population.

Certainly we will need to end forced retirement based on age alone in order to free the energies and productive capacities of a longer-lived, healthier population. Managing a larger work force and providing meaningful jobs for all who want to work are political problems, not scientific problems. They can be solved.

Ask yourselves this: has this century's dramatic increase in older Americans made ours a less flexible, intellectually sterile, or socially immobile society? Not by a long shot. Nor is stagnation the inevitable result of an older population.

I do not minimize problems of overpopulation and limited resources in our nation and in our world. We will have to find solutions to these problems. They will confront us whether or not we manage to intervene in the aging process.

I believe an older, wiser population will be an asset, and perhaps an absolute necessity if we are to cope with the future. It will help us grasp solutions that require years of technical training and the kind of learning that comes only through long and vast experience.

George Bernard Shaw wrote: "Men do not live long enough. They are, for all purposes of high civilization, mere children when they die."

In a technically complex society, such as ours, talented young people spend an increasing proportion of their lives being trained to produce and contribute. But long before their years of experience have enabled them to realize their very fullest potential, their faculties fail to the processes of age.

This is a tragic loss in human terms and in terms of productivity. We need to find life-span technologies that allow us to lengthen the middle years and to reduce to a minimum the period of eventual decline.

In this way we will develop a generation of people with the wisdom, insight and energy to lead us wisely forward to the future.

We need not fear biomedical advances that lead to greater human survival. Rather, we should be on guard against what Lewis Thomas calls halfway technologies.

Halfway technologies in medicine treat the manifestations of disease instead of its mechanisms. They aim to compensate for after-effects of illness rather than reaching for preventions.

The iron lung was an instance of halfway technology in the treatment of polio. Fortunately, we didn't stop there. We pursued the basic science that eventually yielded a vaccine.

I believe today's nursing homes someday will be seen in a similar light—as the equivalent of iron lungs for the dependent elderly. They will be regarded as an expensive relic of the days before we found more satisfactory answers to the challenges of human longevity.

We will not get to that happy day as quickly as we should, unless we marshal our intellectual and financial resources, and begin to do it now.

We will not get there rapidly unless we are willing to take some chances.

I am distressed when respected scientists tell me that many innovative and original research proposals are not given a chance to prove themselves.

These are times, in government especially, when research dollars are scarce. Inevitably there is a tendency to favor safe bets in research. Too often institutes, eager to show a return on research, fund projects that yield highly predictable—and minimal—results.

Predictable research will not speed us toward the answers we need if we are to meet the health challenges we face now and will face in the future. We need to have the flexibility and the good judgment to support occasional proposals that carry a high risk of failure—but that also holds the promise of a high payoff if they succeed.

It is difficult for government to justify risks. Yet I think it must. But the difficulty in moving the levers of government means that there is now a crucial need for the private sector to give competition to government—and to set a standard, too—in supporting potentially high benefit biomedical research.

I know many of you here today are making large contributions to science and to those working on its frontiers. I admire you greatly for the achievements and services you are making possible.

For the present, the new mass of knowledge in the field I've focused upon in these remarks is still formless, incomplete, lacking essential threads of connection. There are fascinating new concepts everywhere, irresistible experiments beyond numbering, countless new ways into the maze of problems and on to the heart that is their solution. Every next correct move is unpredictable, every outcome uncertain. But all hold the possibility of discovery.

I join with Lewis Thomas in assessing ours to be a puzzling time, but an exciting time, an exhilarating time, a very good time.

My thanks to many of you here for helping make it so. Thank you. ●

A TRIBUTE TO MR. AND MRS. JOSEPH MATASOVSKY

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MURPHY of Pennsylvania. Mr. Speaker, today, when the divorce rate in America is soaring to 50 percent of all marriages, when the traditional American family structure and values seem to be in decline, it is my distinct pleasure to bring to your attention the life and achievements of a noteworthy couple who most clearly exemplify those values we ought treasure most.

Mr. and Mrs. Joseph Matasovsky, lifelong residents of the south side of Pittsburgh observed their 70th wedding anniversary Sunday, June 3. They were married in St. Matthew's Church on the south side 70 years ago, and went to the same church to offer thanks for the blessings in their life.

The Matasovskys are the parents of four children: Mrs. Joseph Piroch (Mary) of Emlenton, Pa.; Mrs. Joseph Matuschak (Irene) of Uniontown, Pa.; Joseph M. Matasovsky of Plattsburgh, N.Y., deceased; Mrs. Susan Dvorak of McLean, Va., deceased.

They have five grandchildren: Dr. Joseph Piroch of Meadville, Pa.; Dr. George Matuschak of Rochester, N.Y.; Mark Matuschak, Dartmouth College, Hanover, N.H.; Mrs. Leonard Egan, Burlington, Mass.; Joseph P. Matuschak Jr., of Uniontown, Pa. There are five great grandchildren: Debbie, Joseph, and Greg Piroch; Christopher and Hope Anne Egan.

The Matasovskys conducted business, at three locations on the south side over the years—Jane Street, Sidney Street, and Spring Street. After retirement from the retail business, Mr. Matasovsky was and still is involved in real estate. For a time, they operated a business in Europe.

The couple led a full life with activities in their community, fraternals, and politics, American and European.

During World War I, Mr. Matasovsky was active in the recruitment of volunteers for the Czecho-Slovak Legion in France which fought with the Allies against the oppressive Hapsburg Austo-Hungarian Empire. Bundles for soldiers abroad were prepared and sent from the Matasovsky Jane Street address where Mrs. Matasovsky organized a Red Cross unit. The then Secretary of War, Newton D. Baker, wrote and thanked Mr. Matasovsky for his enthusiasm.

After the war, Mr. Matasovsky was a witness to the formal signing of the "Pittsburgh Pact" between Czech and Slovak leadership in the formation of Czecho-Slovakia.

During World War II, Mr. Matasovsky was with the civil defense and served in various areas including drilling of recruits.

As a young man, he was dedicated to physical fitness and was compared to the legendary physical culture proponent Bernarr McFadden. Mr. and Mrs. Matasovsky had an opportunity to channel their enthusiasm for both physical fitness and love of their homeland, Slovakia, in fraternal organizations which were involved in the physical culture Sokol movement here in America.

Mr. Matasovsky served as an officer on the national, district, and local levels in two of the largest Slovak organizations in America. He was the national commander of the Slovak Catholic Sokol, and the First Catholic Slovak Union Sokol for years. He set up gymnastic and track and field programs to be used in meets nationally in his two organizations. He introduced the concepts of districts and groups and published the first terminology and drill books. Interwoven in his original choreography of rhythmic drills used for mass exhibitions was the culture of Slovakia itself. In 1912 for instance, his Sokols performed movements with "valasky" long handled axes typical of the era of the legendary Slovak hero Janosik, the Rob Roy of England. Songs of Slovakia, depicting life there were used as musical accompaniment.

His Sokol enthusiasm caught the imagination of his wife Anna, the first gymnast of the Sokol organization, and their children and grandchildren. He had the pleasure of seeing his two daughters, Mary Prioch and Irene Matuschak, and a granddaughter, Renee Egan serve on the national level as physical directresses of the Sokol organization. His son, now deceased, Joseph M. Matasovsky, was a gymnast competing in the Slovak Catholic Sokol, Jednota Sokol, Swiss Turners and Sokol USA. His youngest daughter, now deceased, was a gymnast in Slovak Catholic Sokol, Jednota Sokol and Swiss Turners also. His grandsons, Dr. Joseph Piroch, Dr. George Matuschak, Joseph Matuschak and Mark Matuschak, competed and served as group commanders.

Aside from fraternals, Mr. Matasovsky was involved with the Slovak League of America, the spokesman for Slovak organizations in America. He was chosen to represent the league on a diplomatic mission to Czecho-Slovakia, to observe a plebiscite in a dispute over boundary lines of the new Republic. He organized the National Committee for the Integration of Certain Territories into the Republic.

In American politics, Mr. Matasovsky has been active in promoting candidates on the local and national level by contributing articles, addressing meetings, and taping speeches used on bilinqual radio broadcasts over wide areas in the country.

He sought to improve the image of the Slav through the arts and literature. He was active (treasurer) in the fundraising committee to bring to America, delegates of the Literary Academy of Slovakia (Matica Slovenska) for the purpose of disseminating more information concerning Slovak authors, artists and composers.

Mr. Matasovsky organized choral groups as well as little theatre actors whom he directed in Slovak plays, depicting life everywhere. He also served as an editor of a Slovak newspaper, Obrana, for a time.

While most of the companions of his life have passed on, he is still known to thousands who have trained in his gymnasiums, who have read his articles, who have heard him speak and sing, who have experienced his leadership, and who have followed in his footsteps.

Mrs. Matasovsky is known especially for her efforts for the Red Cross, the Slovak Catholic Sokol, but most of all for her gracious hospitality to the many Slovak leaders who were guests at their Jane Street home in years gone by.

True Slovak pioneers, their name will ever be a talisman of dedication, effort and sacrifice for others.

Today, villages in Slovakia evidently named after Mr. Matasovsky's ancestors, as for instance, Matiasovce and a geneological research which produced a coat of arms of a bear carrying a club and used by the bishops and barons in the lineage may stand as witnesses to noble ancestors, but as far as Mr. Matasovsky is concerned, it is the nobility of character that is prized—especially to stand up for the truth.●

UKRAINIAN NATIONAL ASSOCIATION

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. ADDABBO. Mr. Speaker, recently, one of the most respected and revered benefit societies in the world, the Ukrainian National Association celebrated in New York City its 85th anniversary. Since its inception the Ukrainian National Association has been deeply interested in the status of Ukraine and in the aspirations of its people for freedom and independence.

Founded February 22, 1894, in Shamokin, Pa., by a civic-minded group of Ukrainian pioneer immigrants, UNA has blossomed into a national organization of over 87,000 members with 460 branches in 27 States and 7 provinces of Canada.

This multifaceted organization promotes cultural, educational, social, athletic and community activities designed to benefit all Ukrainian Americans as well as their compatriots living in Canada and scores of other nations.

As the largest and most influential Ukrainian organization of the North American continent, UNA has rendered invaluable assistance to the Ukrainian people in their struggle against Communist oppression. Encouraged by the American defense of human rights, spearheaded by President Jimmy Carter, the association has aided and defended Ukrainian dissidents imprisoned for monitoring Moscow's infringement of the Helsinki agreements, as well as initiating such projects as the erection of the Taras Shevchenko Monument in Washington, D.C., honoring Ukraine's foremost poet and champion of freedom, and the establishment of the Ukrainian Studies Center at Harvard University, the only one of its kind in the country.

As part of its many services UNA is involved in the publication field. The association financed the publication of the first Ukrainian encyclopedia in the English language, as well as publishing the Ukrainian language daily Svoboda, the English language Ukrainian weekly and a children's illustrated monthly magazine, the Rainbow, in both languages.

The anniversary of UNA is an anniversary of faith, reason, and understanding. At a time when events around the world are constantly changing and shaping the lives of its members, UNA has shown and will continue to show its uncanny ability to meet those challenges head on, improving the lives of thousands everywhere.

On this joyous occasion I urge you and my colleagues to join in saluting UNA and its members throughout the world.●

TOM BERKLEY, OAKLAND LEADER, OAKLAND OAK

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. STARK. Mr. Speaker, Thomas L. Berkley is a man well known and respected in Oakland, Calif., and its environs. Some of my colleagues already know Tom Berkley. For those who do not, I wanted to place a few comments about him in our RECORD and in this way increase the number of people who are aware of Tom's many accomplishments.

Tom presently serves as the president of the board of commissioners of the Port of Oakland. He is the founder of the well-known law firm of Berkley & Rhodes. He is also the publisher of the Post Newspaper Group, a chain of six tri-weekly English-Spanish newspapers that serve the bay area.

The wood of the oak tree is well known to be tough, hard and durable. These adjectives describe Tom Berkley, too, but there are other adjectives that are just as apt—understanding, helpful, proud.

But it is always difficult to sum up a long, distinguished and continuing career in a few words. Rather than try to do that, let me list a few of Tom Berkley's accomplishments. They were recently commemorated at a testimonial dinner in Oakland and here is what the celebration was about: Tom Berkley as humanitarian, athlete, editor and publisher, lawyer, financier, educator, soldier, politician, civic leader, internationalist, public servant, molder of humans and civic activist.

This is not simply a list of things Tom Berkley has done and is doing. This is a list of things Tom Berkley has done well. He has been an inspiration to the young people he has worked with and helped. He is an inspiration to those who know him.●

GEORGE MEANY—THE HANDS THAT BUILT AMERICA

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 27, 1979

● Mr. FORD of Michigan. Mr. Speaker, I welcome this opportunity to take part in a special tribute to a unique American: Mr. George Meany, who for the past quarter century has been the leader, the spokesman, the driving force of the united labor movement in this country.

I would first like to commend my close friend and colleague, the gentleman from Indiana (Mr. BRADEMAS) for his foresight in arranging this special tribute now. Too often, we delay expressing our affection and esteem until the object of those sentiments has departed this Earth. I am delighted that George Meany is able to hear what we have to say. Given his insatiable interest in what we are doing in this legislative body, I am sure he is listening; given his innate sense of personal modesty, I am sure he will be embarrassed by the warmth of our regard.

But what we have to say is a tribute long overdue.

Throughout the long and distinguished history of the American trade union movement, only four men have presided over the united house of labor—Samuel Gompers, John McBride, William Green, and George Meany. Throughout my own lifetime, it has been George Meany who has loomed large on labor's horizon—as secretary-treasurer and then president of the former American Federation of Labor, and, since 1955, as president of the merged AFL–CIO.

George Meany's contribution to the trade union movement, itself, is something that can best be measured by his colleagues in organized labor. They are in the best position to render objective judgment on his day-to-day contribution in the fields of organizing and collective bargaining and on the bread-and-butter issues of wages, hours, and working conditions which represent the reason why trade unions came into existence. His colleagues in the trade union movement are best equipped, as well, to address his determination to rid labor's ranks successively of the Communists and the handful of racketeers who sought to prey off union members in the postwar period. I must say, however, that I have nothing but admiration for a man who was willing to preside over a smaller, but cleaner, house of labor.

His contributions to the trade union movement aside, George Meany was an activist on the political scene, and it is here that we, in the Congress, occupy a unique position to render our own judgment. On behalf of the millions of dedicated members of organized labor, George Meany made his voice heard on the broadest possible range of social issues; on behalf of all Americans, he helped us remember the constitutional injunction to "promote the general welfare."

His were not narrow, parochial views. He was concerned for the welfare of all working people, whether they belonged to trade unions or not; he was concerned with the quality of life, not only on the job but when the day's work was done. Scratch any domestic program you can think of—minimum wages for those, usually not union members, on the lowest rung of the economic ladder; dignity and economic security for people in their retirement years; better education for our kids and better housing for their families; better health care; equal opportunities for all as students, as workers, as voters, as human beings—scratch any one of these programs, or scores of others, and you will find the mark of George Meany.

He has spoken to the best that is in us—to our compassion, to our humanity, to our sense of purpose—and we have responded with a litany of social legislation that redounds as much to our own credit as to his.

And yet I have the feeling that, if George Meany were in this Chamber today, he would not be content with past accomplishments but would have his eye fixed firmly on the future; I have the feeling that he would echo that famous, one-word goal of the first of labor's giants, Samuel Gompers: "More." And we know what he would mean: More jobs at decent wages; more and better education; more and better health care at prices within reach of the family budget; more and better housing; and more attention to the needs of people as human beings in an increasingly depersonalized society. In the end, our finest tribute to this great man would be to continue on the road we have traveled together in the shared effort of improving and enlarging the human condition.

After a lifetime spent in the service of his fellow human beings, George Meany has retired. He leaves a legacy of great social achievement; he reminds us, by his accomplishments, that it has been the hands of people like him which have built America.●

GUINNESS BOOK OF RECORDS, ATTENTION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MICHEL. Mr. Speaker, wire service stories tell us that Leonid Brezhnev has told the world the Soviet Union has produced a "devastatingly low" 179 million metric tons of grain this year.

It seems to me that by this time the Soviet Union must have set some kind of world record for free-style crop failure in a fertile land. Pre-Czarist Russia was the breadbasket of Europe. Over 60 years of socialist planning, improved technological means of agricultural production and efforts to create the new Soviet man through collectivization have resulted in crop failures that boggle the mind.

I have no doubt that the Soviet leaders will blame this recent crop failure on the Nazi invasion of World War II, the Chinese Communists, the CIA (would not it be wonderful if that were true?) and capitalism's ability to control the weather.

I suppose it can be said that American farmers benefit from this example of Socialist know-how. But would not it be interesting if we could find other markets for our crops, convince our Western allies to do the same, and then sit down and talk things over with the Kremlin. Perhaps we could convince them to convert all of the energy and money they now use to prepare for war into a search for better farming methods.

At this point I wish to insert in the Record a wire story published in the Chicago Sun Times, November 28, 1979:

Grain Problems in U.S.S.R.

The Soviet Union produced a devastatingly low 179 million metric tons of grain this year, President Leonid I. Brezhnev announced Tuesday. In a speech to the plenary session of the Communist Party Central Committee, Brezhnev said 1979 "was a very difficult year." The figures were a sharp fall from last year's record crop of 237 million tons and underscored the country's roller-coaster production that has a sharp impact on the U.S. grain market. The Soviet Union has contracted to buy up to 25 million metric tons of grain from the United States and is expected to buy up to 32 million metric tons worldwide. A metric ton is about 2,205 pounds.●

UNITED STATES TAKES IRAN TO WORLD COURT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. FINDLEY. Mr. Speaker, today President Carter wisely decided to sue the Government of Iran in the International Court of Justice at The Hague. He is asking the World Court to order Iran to release the American hostages immediately.

Last week in a letter to the President, I pointed out that Iran's seizure of our diplomats and property blatantly violates the 1961 Vienna Convention on Diplomatic Relations. The text of my letter is included in my statement in the Congressional Record of November 26, page 33536, which makes clear that both Iran and the United States signed that treaty and have agreed in writing that either party can take the other to the World Court to enforce its provisions. Today, President Carter filed a complaint with the justices of the World Court citing the Vienna Convention, the U.N. Charter, and two other treaties.

As a result, it will be the Iranian Government that goes on trial, not American diplomatic prisoners as Khomeini has proposed. Action by the International Court should help galvanize world opinion against Iran and hopefully move that country toward an early release of U.S. citizens.●

MR. J. KENNETH SNYDER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. GOODLING. Mr. Speaker, I would like to recognize the accomplishments of one of my constituents, Mr. J. Kenneth Snyder, who has served the York-Adams Scholastic Press Association for half a century. His fine efforts while working with this organization have made it one of the most admired student press associations in the Nation.

Mr. Snyder has assisted in planning every convention from the first on April 17, 1929.

Several hundred young journalists attend these sessions to listen to seasoned writers, to ask questions and to observe the world of journalism. I myself have attended and enjoyed the conventions in the past. Each convention since 1929 has been centered around the schooling of young journalists and every year more students attend. In part, this is due to the hard work and dedication of Ken Snyder.

Graduates of the association newspaper writing programs have gone on to distinguish themselves in the field of journalism. Bill Kling, now press secretary with U.S. Senator John Warner; the late Emanuel Freedman, foreign news editor of the New York Times; Jerry Strine, racing editor of the Washington Post; Dick Smyser, managing editor of the Oak Ridge, Tenn., paper; and Adam Smyser, editor of the Honolulu Star-Bulletin, are all former students.

With the help and guidance of Ken Snyder many young writers have realized their dreams. And in helping them over his 50 years with the association, Ken has fulfilled a great dream of his own—to improve the quality of high school journalism.

I ask unanimous consent that the Harrisburg Patriot-News article of October 14, 1979, about Ken Snyder be inserted in the Record at this point:

50th Anniversary—Scholastic Press Conference Set

York.—The York-Adams Scholastic Press Association will mark its Golden Anniversary October 23 at Spring Grove Area Junior-Senior High School, and a familiar face will be greeting conferees.

J. Kenneth Snyder, who assisted in planning for the initial convention on April 17, 1929, is handling arrangements for the celebration.

Snyder, retired headmaster of Country Day School of York and one-time faculty adviser for the now-defunct York Collegiate Institute Chronicle, has participated in every conference since the association's inception.

The late Dean Hoffman, editor of the Harrisburg Patriot, was the main speaker at the first conference. At the second session, the late Lt. Gen. Albert Stackpole, general manager of the Harrisburg Telegraph, spoke.

The 50th anniversary program speaker will be Saul Kohler, executive editor of the Patriot-News Co. He will describe his experiences as a White House correspondent during the Johnson, Nixon and Ford administrations.

Several hundred young journalists will attend the 50th anniversary conference, according to Snyder. Panel discussions, conducted by local newspapermen, will center on newswriting, sports, features and other topics.

"The first planning committee was composed of outstanding educators, who were interested in furthering journalism in the high schools of York County," Snyder said.

"A key leader of the committee was Dr. Millard Gladfelter, who was principal of West York High School and later became president of Temple University," Snyder said. "Miss Anna Mae Morris, a West York High teacher, was also a member of the committee."

Both Miss Morris and Dr. Gladfelter are being invited to attend the celebration.

The National School Press Association was started in 1921 in the midwest. In 1925 the Pennsylvania School Press Association was organized simultaneously with the Columbia University Scholastic Press Association, and both today are considered prestigious organizations.

PSPA organized 13 area scholastic press groups, including the York-Adams unit. Today, the local group also includes schools from Lancaster County.

Attitudes of many educators towards high school newspapers have shifted over the last decade, Snyder said.

"Principals are unaware of the true values of newspaper training," he said. "There are no illiterates graduating from high school newspapers."

High school newspaper faculty advisers receive little or no pay for working with student editors and reporters, Snyder said. "High school football and basketball coaches receive hundreds of dollars for their efforts," he said. "Most high school newspaper advisers receive a thank you from their superiors.

"I'm also disappointed in some students working with their school newspapers," Snyder said. "They lack the dedication of the young men and women of 30, 40 or 50 years ago."

Currently, 250,000 students work on 34,000 high school publications throughout the nation, he said. "The United States still puts in more effort to publish high school newspapers than any other country in the world."

Snyder, who has been a PSPA executive board member, has little patience with officials of high schools who claim their institutions are too small for newspapers. "Any school can publish a newspaper," he said.

In his half-century of working with YASPA, PSPA and CSPA, Snyder believes that he has devoted a full two years to the cause of high school journalism. "If you figure on a 40-hour week, I've put in two years since 1929," he said.

In 1975, Snyder received the Golden Crown certificate from CSPA for being one of the outstanding leaders of the U.S. school press. In the same year, he was awarded a similar citation by the PSPA in an awards ceremony headed by former Gov. Milton J. Shapp.

In 1953, Snyder and his wife, Elizabeth, founded Country Bay School of York. The school has become a part of York College of Pennsylvania.●

PERSONAL EXPLANATION

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. BALDUS. Mr. Speaker, on Tuesday, November 27, I missed several important votes while I was attending the

National Milk Producers Federation annual conference in New Orleans. Had I been present, I would have voted as follows:

Rollcall No. 682: On agreeing to an amendment, as amended, that prohibits the FTC from enforcing the antitrust laws with respect to agricultural cooperatives and marketing orders. "Yes."

Rollcall No. 693: On final passage of H.R. 2313, the FTC authorization bill. "Yes." ●

ESCALATION IN THE DESERT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. DERWINSKI. Mr. Speaker, on November 10, 1979, the New York Times printed a letter to the editor from our outstanding colleague, STEVE SOLARZ. Entitled, "King Hassan Should Get No U.S. Arms for His Saharan War," Mr. SOLARZ' letter was, as always, an erudite exposition of his views. On November 20, the Washington Star published an editorial, to the contrary, "Escalation in the Desert." The Star recommended instead that Morocco receive the arms in question.

Both Mr. SOLARZ and the Washington Star agreed, as I do, I might add, that negotiation of the Western Saharan issue is the key. Mr. SOLARZ, however, seems to want to see King Hassan negotiate from a position of relative weakness; whereas, the Star prefers that he negotiate "from a position of reasonable strength." That appears to be the issue, and I might say that I agree with the point of view of the Star in this case.

I believe we should send the arms to Morocco, as the Star points out, "King Hassan is a friend of the West and his rivals are not known for this quality." I guess it all boils down to whether we want the Marxist-led Polisario guerrillas with Soviet-bloc weapons, supported by Algeria, Libya, and Cuba, to be relatively stronger in the negotiating stage, or our friend and ally, Morocco.

The Washington Star editorial is reprinted below:

ESCALATION IN THE DESERT

> The struggle for control of the Western Sahara has taken an ominous turn in recent weeks. After four years of small-scale hit-and-run attacks by guerrillas against the troops of Morocco's King Hassan, the rebels have started operating with greater confidence, greater firepower and apparently a bolder infusion of foreign help.
>
> The result, we learn from *Washington Star* reporter Walter Taylor, has been a series of pitched battles such as the desert has not seen since World War II. The 40,000-man Moroccan force, though unbeaten, is hard pressed to keep control of the vast, sparsely populated territory, formerly a Spanish colony.
>
> Escalation of the conflict increases the urgency of Morocco's bid to purchase sorely needed counter-insurgency equipment in this country. The administration for the last month has backed the proposed sale of reconnaissance planes and helicopter gunships, stressing the king's status as a longtime U.S. ally and the expectation that, with his hand strengthened, he could better negotiate a political settlement. But congressional approval of the arms sale is still awaited. A long delay on the Hill could be costly.
>
> The situation is messy on several counts. King Hassan may have overreached in first claiming a part of the former Spanish Sahara and then adding Mauritania's share when that country withdrew from the anti-guerrilla war in August. He resisted international pleas for a plebiscite to determine the post-colonial fate of the area, and his annexations have gone largely unrecognized abroad. But no one can point to a democratic mandate in the disputed region—certainly not the guerrillas whose mandate is their guns.
>
> Neighboring Algeria with its own ambitions toward the west and Africa's Atlantic coast has proved to be King Hassan's most important opponent in the venture, sponsoring and harboring the Marxist-led Polisario guerrillas. The guerrillas have sophisticated Soviet-bloc weapons. Radical Libya is believed to help finance the insurgency, and Cubans are reported to be providing some training.
>
> Algeria may now be participating even more directly against its fellow Arabs. Captured guerrillas say they were led by Algerian officers, according to Mr. Taylor's dispatch. But Morocco enjoys support from other Arab nations—Egypt and Saudi Arabia. The latter has urged the merits of the U.S. arms sale.
>
> While massive American involvement is not called for, there can be no question where the U.S. stands. King Hassan is a friend of the West, and his rivals are not known for this quality. If oil politics must be considered, Algeria's role as a supplier is more than offset by Saudi Arabia's.
>
> King Hassan should have the opportunity to acquire what he needs to fight off the Polisario threat (which has included attacks inside Morocco's original border). He should be encouraged to negotiate an end of the desert war, from a position of reasonable strength.●

TURKEY VOICES DISAPPROVAL OF AMERICAN EMBASSY TAKEOVER

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. BROOMFIELD. Mr. Speaker, the crisis in Iran not only seriously threatens international peace and security, but also affects the way in which diplomacy can be conducted by the community of nations. U.S. officials, the United Nations Secretary-General, the Presidents of the U.N. Security Council and the General Assembly, as well as other important foreign government spokesmen have stated their support for the sanctity of diplomatic premises and personnel throughout the world. Most recently the Turkish Prime Minister, Suleyman Demirel, has expressed strong disapproval of the Iranian takeover of the U.S. Embassy in Tehran and the seizure of American Embassy personnel as hostages. I commend my colleagues' attention to Mr. Demirel's November 23 statement:

> Naturally, we cannot approve of the events taking place in Iran. Since the outset of human history, it is unheard of taking hostages of embassy personnel, whichever embassy it may be, on the pretext of considering them as spies.●

NICARAGUA—PART II: SOCIAL AND ECONOMIC PROBLEMS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. HAMILTON. Mr. Speaker, Nicaragua has suffered during the decade of the 1970's as few other nations in the hemisphere. In December of 1972 a devastating earthquake shattered the capital city of Managua, claiming 5,000 lives and inflicting physical damage to the economy estimated at $800 million. Reconstruction was nowhere near complete when the country was ravaged by a civil war far more destructive than blind nature. At least 35,000 people died as a result of hostilities which ended this summer, and physical damage to the economy has been placed at $580 million. These figures are doubly grim when one considers Nicaragua's size and general economic condition: it is a nation about the size of Arkansas, with 2.5 million people whose per capita annual income fell to $650 this year.

It is difficult to comprehend the full social and economic costs of the Nicaraguan civil war, but suffice it to say that those costs will be paid by virtually every Nicaraguan in every walk of life. The social costs are perhaps the more severe. Beyond the staggering toll in war-related deaths, 100,000 people were wounded and 40,000 children were orphaned. Just last month the Nicaraguan Embassy reported that 10 percent of the populace was homeless and 40 percent was malnourished. The economic costs are high as well. With one business in four destroyed and agriculture in a depression due to outright damage and lost plantings, the gross domestic product of Nicaragua dropped 25 percent during the belligerency. About $515 million in capital fled the country in the same period. Upon assuming office in July, the Government of National Reconstruction faced accumulated debts of $1.5 billion, debt service of $660 million this year alone, and a public treasury stripped of all but $3.5 million in assets. Given social and economic dislocation of this magnitude, that Nicaragua has not yet sunken into chaos is nothing short of miraculous. The miracle, of course, stems from the strength and tenacity of the Nicaraguan people.

If the recitation of these figures in briefings did not impress upon us Members of Congress the seriousness of the situation in Nicaragua, what we saw of the country and heard from the people was more than enough to impress. Blasted buildings and piles of wreckage, some from the earthquake and some from the fighting, dotted the landscape in Managua. The walls of homes in the neighborhoods bore scars of intense gunfire. Power outages were frequent. An amputee with crutches was a commonplace sight.

Our very first meeting with Nicaraguans only served to define the seriousness of the situation more sharply. Junta member Alfonso Robelo, in answer to a question of mine concerning the problems and priorities of the Government of National Reconstruction, cited a combined 55 percent rate of unemployment and underemployment, shortages and maldistribution of food, and shortages of medicine as the principal problems. The creation of jobs, the planting of crops, and the management of a uniform health care delivery system were the top priorities of the government. I myself found it significant that the exigencies of national reconstruction dominated so many of our conversations with Nicaraguans, whether in offices of government or outside. The social and economic underpinnings of the nation are undergoing extreme strains, and relief from those strains is very much the order of the day.

In the past the United States has responded to Nicaragua's troubles with dispatch and generosity. We provided Nicaragua with some 11,400 tons of emergency food in the 4 months after the earthquake. Assistance directly related to reconstruction totaled $65.3 million in loans and nearly $4 million in grants through 1977. Our response to the depredations of civil war in Nicaragua has been equally speedy and ample. As of November 12, we had sent some 36,300 tons of emergency food valued at $13.3 million and had provided loans and grants of $13.9 million to government and private organizations. Another $29.4 million makes up the current loan pipeline. President Carter's supplemental request of $75 million for Nicaragua, which I have already described in brief, would round out the package and begin to make a difference in the ongoing effort to reconstruct a stricken nation.

The Nicaraguan people know of our assistance and are grateful for it. The day we arrived in Nicaragua, November 16, the independent newspaper La Presna carried a story entitled "U.S. Has Helped More Than During The Earthquake" (translation mine). The story gave the proper figures on our assistance and described how the assistance was being used. The day we departed from Nicaragua, November 18, I toured AID projects in the neighborhoods of Managua and saw a sign near one of them which read in part:

> This Site [Is] Financed With Funds Of The United States Government And The Government Of Nicaragua For The Benefit Of The Nicaraguan People (translation of embassy staff).

The Nicaraguans are a forthcoming people, and my honest impression is that they will continue to give credit where credit is due.

There are solid reasons to support the additional assistance that President Carter has requested for Nicaragua. Humanitarian concern, a quality which Americans have always manifested, is one, and another is the opportunity to begin a relationship with a new government by helping it solve its gravest problems. Also, we should bear in mind that the results of our actions will not be like dust in the wind. The Nicaraguan people will know and remember who helped them and who did not.●

NICHOLAS LAMBIS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. CONTE. Mr. Speaker, last week, when most of us were enjoying our children and grandchildren, I was again reminded of the youngsters in this country who are not as fortunate as some of our own—those children who suffer from Cooley's anemia. These children were called to mind by the death of a 27-year-old man, Nicholas Lambis, at the National Institutes of Health last Tuesday, November 20.

For the past 14 years, Mr. Lambis made a substantial contribution to the efforts to combat the disease that eventually took his life. For those of my colleagues unfamiliar with Cooley's anemia, or Beta-thalassemia major, it is a crippling blood disease that strikes children of Mediterranean heritage. Some of us in Congress have worked for many years to secure funding for research of Cooley's anemia, but Nicholas Lambis' own blood was an important part of the research that has been carried on at NIH for the past several years.

I submit for the RECORD Mr. Lambis' obituary from the Washington Post, which details his contributions to Cooley's anemia research, and call on my colleagues for continuing support of funding for research and treatment of this dread disease:

NICHOLAS LAMBIS, PATIENT IN NIH ANEMIA RESEARCH

(By Richard Pearson)

Nicholas Lambis, 27, a part-time personnel clerk at the National Institutes of Health for the past six years, died at NIH Tuesday of Beta-thalassemia major, or Cooley's anemia.

As a patient at NIH for the last 14 years, Mr. Lambis "made a substantial contribution" to efforts aimed at controlling the disease that took his life, according to one of his physicians, Dr. French Anderson, a hematology program chief at NIH.

The disease is hereditary and manifests itself as an inability of the body to produce its own blood.

Until the drug Desferal was tried as a possible treatment for Cooley's anemia at NIH in 1973, the life span of a patient with the ailment was seldom more than 13 to 15 years.

The primary treatment had been blood transfusions and Dr. Anderson said that in most cases the body was unable to assimilate the iron that accompanied the transfusions. As a result, he said, most patients would suffer cardiac arrest.

With the development of Desferal, patients were able to continue transfusions without the side effects of excessive iron, Dr. Anderson said. He said the life expectancy of Cooley's anemia patients is now far longer than previously.

He added that Mr. Lambis had donated much of the blood required in experiments to advance treatment of the illness.

In 1965 Mr. Lambis' blood was used in experiments that showed that blood cells of patients with Cooley's anemia could not make a normal hemoglobin molecule. In 1977, his blood was used in experiments showing that an iron-binding drug could improve treatment of the disease.

"As a result of his contributions as a patient in early studies of new therapy for Cooley's anemia, Mr. Lambis is now a widely known person in medical circles," said Dr. Anderson.

Mr. Lambis was born in Washington. He was diagnosed as having Cooley's anemia when he was less than a year old. After undergoing treatment at Children's Hospital he became a patient of Dr. Anderson, and in recent years, of Dr. Arthur Nienhuis at NIH.

Despite his illness, Mr. Lambis graduated from Calvin Coolidge High School in 1971 and attended Montgomery College.

Survivors include his mother, Eugenia, and a sister, Judy, both of Washington; four other sisters, Jenny Fytras of Brooklyn, N.Y., and Phyllis Axarlis, Judy and Barbara, all of Silver Spring, and two brothers, Constantinos, of Falls Church, and James of Silver Spring.

The family suggests that expressions of sympathy be in the form of contributions to NIH Patients Emergency Fund.●

CHRYSLER UNION FALLS SHORT

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. BEREUTER. Mr. Speaker, I would like to bring to the attention of my colleagues a recent editorial from the Omaha World-Herald on the economic dilemma of the Chrysler Corp. The editorial focuses on the opinions of Mr. Alfred Kahn, adviser to the President on inflation, regarding the proposed contract concession offered to Chrysler by the United Auto Workers. It discusses the role the U.A.W. may have in finding a workable solution to the Chrysler problem.

Whether Congress should grant the Chrysler Corp. a loan guarantee is an issue, I believe, that must be given painstaking consideration. Our decision will have long and extensive effects on the automobile industry. I request that the Omaha World-Herald editorial be placed in the RECORD.

The editorial follows:

CHRYSLER UNION FALLS SHORT

Are the United Auto Workers contributing their fair share to the Chrysler rescue mission?

Inflation fighter Alfred Kahn doesn't think so.

"All that we've heard so far from the union isn't sufficient," the chairman of the Council on Wage and Price Stability said.

Briefly, this was the plan:

The federal government would guarantee a $1.5 billion loan to Chrysler.

The auto company would match this by raising or saving a similar sum.

Part of the savings would be provided by a wage concession from the UAW.

The union and company have tentatively agreed to a contract which would save Chrysler $203 million in two years compared with the UAW's contracts with Ford and General Motors.

But Kahn said that Chrysler workers would be allowed to catch up with the other auto workers in the contract's third year and therefore there were no real savings.

Kahn also noted the anti-inflation pay guidelines call for three-year settlements of no more than 22.5 percent. The UAW contract is for 33 percent. This would undermine the anti-inflation program, Kahn said last week. He termed the pact "outrageous."

He first said that the White House might oppose the loan guarantee, then changed his mind after talking with Stuart Eizenstat, the president's chief domestic adviser. But Kahn added: "That wage contract—if nothing else happens, that ain't enough."

Union president Douglas Fraser called Kahn's statements "absolutely shocking and incomprehensible, as well as reckless and insensitive."

More complications will probably emerge as Congressional hearings continue this week.

The Wall Street Journal suggests letting Chrysler go into bankruptcy.

"It's not as harsh a solution as it sounds," the Journal said. "While selling off some of its assets, the company would be able to continue many of its operations as it worked out a plan to pay off its debts. It's the best way to cut the company's losses quickly."

Columnist James F. Kilpatrick also talks of bankruptcy. Says he: "One has to sympathize, of course, with the prospective plight of the workers, but their pathetic scenario demands careful scrutiny. A reorganization under Chapter X of the Bankruptcy Act by no means requires the instantaneous shutdown of every Chrysler facility everywhere."

Reluctantly, we still think the $1.5 billion loan guarantee is a better solution. This is not, as some mistakenly believe, an outright gift or loan of tax money. It is a promise by the government to make good any part of the loan that Chrysler is unable to repay. It continues a bad precedent, but under the circumstances, it appears to be a necessity.

Bankruptcy would be traumatic for many workers. We feel that their union should be required to make a greater effort to help. Taking Kahn's advice and making a real financial concession now increases chances for the loan and might save jobs later.●

ISRAEL AS A SECURITY ASSET FOR THE UNITED STATES

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. JEFFRIES. Mr. Speaker, I would like to bring to the attention of my colleagues the following article regarding Israel's strategic importance to the Western World. The article appeared in the Jewish Institute for National Security Affairs newsletter and I feel it is especially apropos considering the present situation in Iran.

The article follows:

ISRAEL AS A SECURITY ASSET FOR THE UNITED STATES

(The growth of Soviet naval power in the Eastern Mediterranean, Indian Ocean and, through its basing facilities, the Persian Gulf gives the USSR the capability to bottle up Middle Eastern and Persian Gulf oil in a crisis situation. Moreover, the very capability the Soviets are developing creates conditions where the political leaders in the Middle East and Persian Gulf, as well as Northeast Africa, make efforts to be responsive to Soviet requests. All of this is harmful to Western interests. Given the growth in Soviet military capability and the incapacity for the US in the short term to do much directly about it, the following JINSA essay outlines the role Israel may well play in rendering to the US and the Western Alliance vital assistance.)

Israel is a small country that, over its brief existence as a modern state, has spent most of its time fighting for its survival. Under this circumstance, consideration of Israel as a security "asset" to the United States might appear as presumptuous.

However, a number of important developments in the Middle East and in the competition between the United States and the Soviet Union have altered the picture considerably and have projected Israel from a state dependent entirely on military assistance to a nation of considerable and growing importance to the United States and to the Western alliance.

These developments can be summarized as follows: the expansion and elaboration of Soviet conventional force and its spill-over into the Middle East; the shifting naval balance of power in the Mediterranean, enhancing Soviet prestige in the third world and placing her nuclear capability realistically within range of the Middle East and Persian Gulf.

Most cleary visible is the growth of Soviet conventional military capability and the transfer by the Russians of sophisticated military hardware to her client states in the Middle East. By 1973 the Soviets had moved to the area advanced aircraft of the fighter and bomber variety, including swing-wing MIG 23 and advanced Tupolev and Sukhoi designs; modern tanks equipped with laser aiming devices and night-fighting gear; modern missiles, including the SA-6, then the most advanced type of its kind, enabling the Russian-backed Arab armies to move forward into Israeli-held territory under a "missile umbrella;" extremely modern bridging equipment, radars and other types of communications and target designating equipment; and surface to surface missiles with strategic potential and moderately long range, possessing relatively good accuracies.

The appearance of massive quantities of Soviet equipment in the region, and the realization by Western experts that much of the military hardware was much more effective than theretofore believed, required Israel to acquire on a rapid basis the means to combat any further convergence of Russion arms into the region. This was done with U.S. backing and strenuous political and economic efforts by Israel, resulting in Israel today fielding one of the best equipped and battle tested military forces of its kind in the world.

Unfortunately, the pace Israel has had to keep up because of the potential of Soviet pressure—represented by recent heavy arms acquisitions by Syria, Iraq and Libya—has not been matched by parallel buildup of US forces in or near the Middle East. Quite the contrary, US power in the region has declined, partly with the loss of extensive facilities in Iran and an impressive list of front line military hardware, and partly with the lack of growth in US naval capability in the Mediterranean.

The centerpiece of American military power in the Middle East is the presence in the Mediterranean of the US Sixth Fleet. The Sixth Fleet is the anchor that secures the vital sea lanes of the Mediterranean, projects US power in southern Europe, safeguarding NATO's southern flank, and inhibits the Soviets from considering active military intervention in the Middle East and Persian Gulf. Recent signs of erosion of America's military capability—the more visible use by the Russians of surrogates such as the Cubans in the African Horn and in South Yemen (PDRY), the extensive Soviet program of base expansion in and around the area, and the stockpiling of large stores of modern Soviet weapons in countries like Libya, reveals a Russian perception of US vulnerability and weakness.

Authorities are generally agreed that Soviet boldness has been stimulated by the investment they have made over the past 15 years in their own naval presence in the Mediterranean. Lt. Commander Bruce Watson, writing in *Problems of Sea Power as We Approach the Twenty-First Century* says: "Since 1967, the shift in the Mediterranean balance of naval power has been in favor of the Soviet Union." In the decade, 1966 to 1976, the Soviets have indeed improved their naval position in the Mediterranean, as the chart below derived from the recently published Atlantic Council volume *Securing the Seas* illustrates:

U.S./U.S.S.R. combat deployment in the Mediterranean

1966:	
United States	34
U.S.S.R.	6
1976:	
United States	33
U.S.S.R.	25

The chart reflects aircraft carriers, general purpose submarines, major surface combatants, minor surface combatants, amphibious ships and mine warfare ships. It does not account for the greater firepower of the smaller Soviet vessels compared to American vessels of equal tonnage, nor does it reflect the greater sea-carried air power of the US carrier fleet, or the land-based Soviet naval air force, used to protect the Soviet fleet.

JINSA has prepared a brief summary of Soviet naval activity in the Mediterranean which appears at the bottom of this page. The summary helps point out how growing Soviet naval power has been used to enhance the Soviet.

The expansion of Soviet naval capability in the Mediterranean, and its concentration in the Eastern Mediterranean, has not been matched by any enlargement of the US Sixth fleet, or even by a rapid modernization of the carrier task force. Frequent battles in the Congress on devising ways to combat the Soviet build-up has hindered US naval expansion on a timely basis. Moreover, the US has experienced serious problems in the NATO alliance making it difficult to deploy large numbers of US vessels on a regular basis, or to carry on effective NATO exercises in the Aegean and Mediterranean. This trouble, principally with Greece and Turkey is yet unresolved and neither country has yet reached a final military agreement with the US. Greece remains partly outside of the NATO alliance.

This leaves the southern flank of NATO partially unhinged and creates opportunities for the Russians to exploit Turkey and possibly Greece as well. Any conflict in the area in which US naval forces became embroiled with the Soviet flotilla could leave the two sides in an undecided battle—perhaps enhancing Soviet opportunities on the ground in southern Europe. The recent Atlantic Council study suggests that ultimately the balance of forces in the Mediterranean turns on air power. "The battle for the Mediterranean," the study says, "would probably be heavily influenced by the relative availability of airpower to each side. A substantial force of land based, long-range naval aircraft from Soviet bases would be pitted against the extensive carrier-based aircraft of the Sixth Fleet. *The outcome could well hinge on the ability to supplement US naval carrier-based aircraft from various land bases on the Mediterranean littoral.* Given US control of the air, it would then be reasonable to expect that control of the surface—and the subsurface—would follow." (emphasis added)

Where would the extra airpower come from? The most sophisticated and battle tested air force in the Middle East area, effective and experienced in the Eastern Mediterranean, is the Israeli air force.

Indeed, the list of enhancements Israel can coveniently provide for the US Sixth fleet is extensive. JINSA has prepared the following "Quick Reference" on Israel as a security asset to the United States:

QUICK REFERENCE: ISRAEL AS A U.S. SECURITY ASSET

1. Israel has a strong, secure location in the Eastern Mediterranean.

2. Israel has a well developed military infra-structure, featuring a wide range of sophisticated communications, transport, and supply systems.

3. Israeli forces are equipped to maintain, service and repair as needed U.S. origin military equipment including the most sophisticated electronic equipment and aircraft. Israel has a proven capacity for quick turnaround during conflict and the capacity to innovate rapidly in wartime.

4. Israel has an excellent deep water port at Haifa bay, featuring communications and military infrastructure.

5. Nearby Haifa, Israel has excellent air facilities of the most modern type and can service virtually any variety of jet engine or aircraft type.

6. Israel is close to vital sea lanes in the Eastern Mediterranean, Red Sea and Persian Gulf. Her ability to effect a rescue at Entebbe, jam radars in Uganda, maintain in the air a command and control and medivac aircraft, indicate a clear ability to project power over long distances.

7. Israel maintains a domestic air force larger than many fighter forces in Western Europe and possessing more up to date military hardware.

8. Israel is a multilingual country with an in-depth capability to monitor Soviet and Eastern European broadcasts, and to maintain surveillance over hostile states in her immediate region. Most Israeli officers read, write and speak English and received training in the United States, Great Britain or France.

9. Israel is experienced in combating Soviet tactics and is familiar with a wide range of Soviet military methods.

10. Israel is well situated to provide substantial assistance to the US Sixth Fleet when operating in the Eastern Mediterranean. It keeps in its arsenal equipment common to the fleet, including naval models of the US Phantom F-4 aircraft, many types of missiles, and the E2-C early warning aircraft, used widely by the Sixth Fleet.

11. In the case of wide-scale war in which the US may be tied down in southern Europe, Israel can provide essential military support to the US by combating flanking operations sponsored by the Soviets, by tying down local troublemakers, and by requiring the Soviets to commit forces to preventing an Israeli strike against her port facilities, air bases, and military stations in and around the Mediterranean. Israel can also provide emergency air cover for the Sixth Fleet if needed.

12. Israel is a democratic country with tested anti-Soviet, pro-Western leanings, a high level of internal order and a strong orientation to support the NATO system.

There is no doubt that Israel possesses the ability and the will to act as a vital back-up to the United States in the Mediterranean. The only outstanding issue is whether the US will take advantage of Israel's capability. This cannot be done passively. To make use of Israel's military power requires extensive, prior coordination between the two countries, detailed staff planning, and understanding of objectives between the commanders of the respective forces. While there has been some recent discussion of the potential of Israel, the critical issue for US national security, for NATO, and for Israel as well, is whether the US will take advantage of Israel's potential in a timely manner.

JINSA SUMMARY: USSR MEDITERRANEAN NAVAL ACTIVITY

1958—8 "Whiskey Class" Soviet Submarines with a submarine tender vessel operate in the Mediterranean for the first time. Submarines are home based in Vlone, Albania.

1960—Soviet intelligence ships and submarines conduct exercises in the Aegean sea to demonstrate ability to attack US carrier task force.

1961—Soviets lose Albanian base, discontinue Mediterranean activity.

1964—15 vessels from the Soviet Black Sea fleet make a grand tour of the Mediterranean. Continued buildup from this time of Soviet naval capability in the Mediterranean until middle 1970's.

1967—Admiral Gorshkov arrives in Egypt to seek Soviet port facilities. Soviets get port facilities at Alexandria and Port Said. Soviets start building a facility in Yemen. Soviets enhance fleet presence with Six Day war and begin regular monthly calls in Algeria. Berbera, Somalia base started.

1968—Soviet squadron begins operating in Indian Ocean. Four Soviet "spy ships" anchored in Arab ports—Basr, Iraq; Tartus, Syria; Port Said, Egypt; Hudeida, Yemen Arab Republic. Soviet "N" Class submarines visit Egypt. In 1968 Soviets complete 14,000 "ship days" in area.

1969—Soviet fleet "employed" in exercise to give diplomatic support to overthrow of King Idris of Libya. Soviets set up a ship-based air shield, blocking British from flying pilots into Libya from Cyprus.

1970—Soviet missile ships equipped with surface to air missiles (SAMs) stationed in Egyptian ports to hinder Israeli air strikes during war of attrition.

1972—Soviets begin enlarging base at Berbera. Soviets also build new naval facilities in Syria at Latakia and Tartus. Soviets average 18,000 ship days in Mediterranean. TU-16 reconnaisance aircraft transferred from Egypt to Syria.

1973—Iraqi deep water port of Basr used by Russians to support warships on patrol in the Persian Gulf. Soviet Mediterranean squadron nearly doubled with war. Ships stationed close to war zone and shadow US sixth fleet with surface to surface missile boats positioned close to US aircraft carriers. Four Soviet guided missile submarines also put within range of US carriers. US hesitates to deploy fleet close to war zone in early part of conflict.

1974—Soviets expand port facilities in Syria. First Backfire supersonic bombers assigned to Soviet naval aviation, some based in range of Soviet Mediterranean fleet.

1975—Soviets gain some limited facilities in Yugoslavia.

1976—Kiev "aircraft carrier" enters Mediterranean. Soviets finally expelled from Egypt.

1977—Soviets electronically jam radio circuits used by Egyptian fighter pilots in the border conflict with Libya. Soviets lose Berbera, but gain new facilities (still incomplete) in Ethiopia.

1979—New titanium-hull Soviet attack submarines identified by US intelligence.●

CORRIGAN CIVIC CLUB

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. PAUL. Mr. Speaker, twice in recent months, the people of the 22d District of Texas have suffered extensive flooding. In these tragic circumstances, I have been proud of the initiative and concern displayed by individuals and citizens' organizations. They have worked to resolve the flooding problems, and helped those whose homes and businesses have been damaged or destroyed.

One of the groups deserving special mention is the Corrigan Civic Club in Pearland, Tex. The club's work in monitoring flooding and drainage problems has provided extremely valuable information about the causes and potential solutions to these problems.

I would like to call the Corrigan Civic Club's achievements to my colleagues' attention, and congratulate the club on its magnificent efforts.●

ODD-EVEN GASOLINE PURCHASE SYSTEM SHOULD BE REINSTITUTED

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MAZZOLI. Mr. Speaker, several times in recent weeks, I have called to my colleagues' attention my belief that odd-even gasoline purchase systems should be reinstituted immediately.

As the following Washington Star editorial points out, it is the nagging inconvenience of odd-even that serves as a reminder of our national need to conserve.

And the need to conserve is with us now. Today—right now. Not next month nor next year.

Weekly fuel consumption and production statistics show that as of November 23—for the first time since early spring—national gasoline inventories dropped below the Department of Energy's minimum acceptable level. If this trend continues we could have a serious shortfall at the gasoline pumps in 4 to 6 weeks.

However, if through a greater consciousness of the need to conserve—a consciousness I am convinced can be brought about through the odd-even gasoline allocations system—Americans will increase their conservation efforts and gas inventories will rise again.

Perhaps it is especially noteworthy that California—the first to feel the gas pinch and the first to solve with odd-even—is reinstituting odd-even again.

The editorial follows:

ODD-EVEN AS SYMPTOM

The governors of 39 states who met recently with President Carter apparently did not actually snore during a White House session in which he urged greater energy conservation now that the U.S. will import no oil from Iran. But there was a good deal of dozing among the congregation.

After the meeting, the governors' reactions amounted to a collective yawn. Texas Gov. Bill Clements described Mr. Carter's recommendations as "just warming over yesterday's scrambled eggs."

If Mr. Clements' flippant view is shared by his brethern, it suggests our complacency about energy consumption has hardly been touched by the fearful events in Iran this month and what they may portend.

The president's recommendations were modest and prudent—among them, further reduction in fuel use by state agencies and vehicle fleets, tougher enforcement of the 55-mph speed limit and revival of odd-even gasoline sales.

There was one exception to the gubernatorial ennui. Gov. Jerry Brown ordered a scaled-down version of the odd-even scheme (if a driver can show he is 100 miles or more from home, he gets gas, for instance) in California. Though the young governor and Democratic presidential candidate not infrequently seems to court the label of space cadet, in this instance his action was eminently reasonable. The logic of such a system is to diminish the tendency toward panic buying, which exacerbated last summer's gas shortages, and to instill habits of conservation.

As a yoke of social discipline, this one is made of feathers. At worst, odd-even involves a modicum of inconvenience.

If the governors feel it is an intolerable imposition on the citizenry, one must wonder what, if any, measures they would endorse. Indeed, considerably more than mild constraints may be required eventually.

We note that Treasury Secretary William Miller, now in Saudi Arabia for discussions with the Riyadh government, said the administration is studying tougher energy-conservation controls. "I think all of the options of mandatory curtailment or price curtailment have to be looked at," he said. "That could be rationing or some other program that would limit use of automobiles." The options could be before the president by mid-December, he said. It seems increasingly imperative that mandatory constraints be invoked, despite the restrained enthusiasm of a Congress that this summer gave the president a standby rationing authority that is more standby than authority.

The lack of urgency on the energy front was further illustrated in this area in the odd-even matter. Representatives of Maryland, Virginia, the District, Delaware and Pennsylvania did manage to get together to draw up what was called a coordinated plan for an odd-even sales procedure—but for use, we gather, only after a shortage is imminent or develops.

"None of us felt that there is any kind of a problem at hand" that requires immediate action, said one of the officials at the session. The reasoning—that because any supply pinch is expected to take 60 to 90 days to make itself felt by motorists—misses the point so stunningly that one can only admire it.

The point, or so it clearly seems to us, is that *habits* of conservation are equally essential and absent at a time when our energy vulnerability is increasing.

What you may be fairly certain of, when gas lines materialize again, is that there will be howling from the statehouses about an alleged lack of presidential leadership that did nothing to prevent them.●

CITIZENS GROUP FORMS TO ADDRESS PROBLEMS AT WASHINGTON NATIONAL AIRPORT

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. HARRIS. Mr. Speaker, last night, citizens from the entire Washington metropolitan area, including residents of the Eighth Congressional District which I represent, met to form the coalition on airport problems (CAP), to deal with the intolerable situation at Washington National Airport.

This is an important step. The coalition will address the problems of Washington National from a regional viewpoint, representing the concerns of the entire Washington area. CAP will deal with airline noise, with health and safety problems, with environmental implications, and with the alternative transportation facilities, such as Dulles International Airport and Baltimore-Washington International, available to the Washington area.

I look forward to working with the coalition on airport problems, as we continue our quest for a quieter, safer airport facilities.●

INDEPENDENT OIL PRODUCERS

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. FORSYTHE. Mr. Speaker, as our colleagues in the Senate continue to consider legislation to impose an excise tax on the production of domestic oil, I was encouraged by the Senate's vote on November 27 to exempt independent oil producers from the so-called windfall profit tax. The Senate's decision to exempt the first, 1,000 barrels of oil a day produced by independent drillers is a step in the right direction. The important role independent oil producers play in the production and exploration of our future energy supplies is clearly illustrated by the article in the November 26, 1979, Forbes magazine by Howard Rudnitsky and Linda Gasparello. I am having it reprinted at the close of my remarks for any of my colleagues who may not have had an opportunity to read it.

Our aim is to increase our domestic energy production. I hope that we will remember, during the debate that is yet to come in the House on the conference report to this legislation, that any tax we impose on the price difference between controlled and noncontrolled prices will reduce the moneys available to the independent oil producers for additional exploration and drilling.

The article follows:

WHAT'S A WINDFALL?

In 1960 the U.S. had 20,000 independent oil operators. Today, there are about 12,000 as a result of relentless attrition in an industry that holds the key to a good deal of future domestic oil and gas production.

Independents (a broad classification covering any operation smaller than the 32 largest U.S. oil companies) accounted for one out of every five barrels of U.S. crude production last year and about 25 percent of its natural gas. But their role in the discovery of *new* reserves is far greater. Independents drill nearly half of all new U.S. producing oil wells and nearly three-quarters of all new gas wells. Last year they plowed over $6 billion into exploration, development and production.

In a business where more than eight out of every ten new field exploratory wells are dry holes, megasuccesses like Marvin Davis' are the reason thousands of other wildcatters, who will never own a stately home or a jet, keep trying. The fact that 8,000 left the game in the past two decades indicates that even at that, the business odds as well as the geologic odds—always slim—are turning against the wildcatter.

Among the independents, the true entrepreneurial wildcatter is a tiny minority. Giant Superior Oil, with several billion dollars in assets, or big companies like Louisiana Land & Exploration and Belridge Oil are classed as independents along with tiny one-man companies and drillers. But many of the biggest oil companies today were wildcatters 50 years ago—among them Getty, Superior, Kerr-McGee and Gulf.

True wildcatters will probably be the hardest hit by a windfall profits tax on oil companies. Exxon—and Davis Oil—have the financial resources to survive. But a good many smaller operators will overextend themselves by borrowing to drill those eight or nine dry holes should too much of the profits of the tenth be legally classed as "windfall." A good many others will get out of the game because those steep odds have become prohibitive instead of merely discouraging. Either way, U.S. oil and gas production will be the real loser.●

MORE ON HIGH MEDICAL COSTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. BROWN of California. Mr. Speaker, recent debate on hospital cost containment brought the broader topic of health care before the Members of Congress. This debate will continue as we deal with the issues surrounding national health insurance. There are several aspects of this debate that I believe we have overlooked. The main point is that until individuals begin to take more responsibility for their own wellness, no amount of Government expenditure will produce a healtheir society. This point was made in the following fashion in the August 1979 Science magazine:

> As the debate over these multibillion dollar plans heat up, the nation risks losing sight of the fact that one of the cheapest and most effective ways to put a cap on spiraling health care costs is through greater self-care.

Another factor in the rising cost of health care, is an inherent defect in the health care system's current financial structure. At the financial base of our hospitals and other health care facilities is a payment system lacking in cost effectiveness. It is a recognized fact that the "cost reimbursement" system, under which most health insurance companies, and medicare and medicaid, function, imposes little or no internal restraint on the amount of money spent for services. Knowing that costs are covered, especially by such an affluent guarantor as the public treasury, provides no incentive to use efficient or effective procedures and technology. And, with our system of third party payment neither the individual nor the doctor has reason to economize or control costs.

I would like to direct my colleagues' attention to a recent New York Times editorial which aptly summarizes the problems of containing medical expenses and which offers excellent suggestions for improving the effectiveness of our Nation's health care system.

The editorial follows:

[From the New York Times, Nov. 21, 1979]

STARTING OVER ON HIGH MEDICAL COSTS

Everyone agrees that something has to be done to control exploding medical costs. In two decades, they have gone from 6 cents of every consumer dollars to a dime and from 2 percent to 9 percent of Government spending. But there is little agreement on how costs should be controlled.

President Carter's program to control them by mandate has now been defeated in Congress. Hospital and medical associations fought the plans because they do not like Government controls any more than any other industry. They argue too that voluntary controls have reduced the rate of hospital-cost inflation from 19 percent last year to 13 percent this year. But 13 percent is still above the rate of inflation in every other industry except energy.

Congress's alternative to the Administration plan is weak: more voluntary local action and a national commission to study the problem. But as is evident in New York and other cities, it is no easier to control costs locally than nationally. And considering how many commissions have already studied the question, it's hard to imagine anything the new group can discover. So the country is back where it started.

Historically, bigger spending on health care has led to better health. Life expectancy in the 70's is improving four times as fast as in the previous 15 years. Differences in life expectancy between blacks and whites have been cut by a third; infant mortality is down a fifth. Yet high costs are not an inevitable part of good health. Much greater advances can be made at much less cost if people smoke less, eat more sensibly and exercise more. Indeed, in several other countries much less is spent but life expectancies are longer.

If medical costs take an ever larger fraction of all income, something else—defense, food, pensions, luxury goods—will have to yield.

To limit health-care spending, the United States is probably going to have to shift away from a system in which more than 90 percent of all hospital bills are paid by third parties—neither the patient nor those providing the service. In the existing system, no one has much incentive to control costs. The insured patient wants the best of everything. The doctor, knowing that insurance pays the bills, has little incentive to economize. Insurance agencies, whether public or private, know they can pass along higher costs to faceless customers in the form of higher premiums. Higher health spending should be no surprise.

Ultimately, a different financial structure, such as prepaid medical care, will have to be created to give doctors an incentive to control costs. They alone have the expertise to know what high-quality medical care requires. But they are not going to assume that job under the present system of incentives.●

AN ADDRESS OF HON. ALAN C. SUNDBERG

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. PEPPER. Mr. Speaker, I feel that it is a public service to put in the CONGRESSIONAL RECORD addresses of outstanding persons which are of particular significance to the American people. I was privileged to hear such an address from one of the new but outstanding justices of the Supreme Court of Florida, Hon. Alan C. Sundberg, when he spoke before a breakfast of Omicron Delta Kappa at a recent homecoming at Florida State University which, as a member of Omicron Delta Kappa, I was privileged to hear. Justice Sundberg has brought his scholarly observations to bear upon his college life in a way that is stimulating to those who have had their college days and enlightening to those whose college days are still ahead. Hence, I incorporate in the body of the RECORD this notable address by Justice Alan C. Sundberg and commend it to my colleagues and my fellow countrymen:

REMARKS OF JUSTICE ALAN C. SUNDBERG

Thank you. I am pleased and deeply honored to be before you this morning. However, to say otherwise than that I am pleased to be here would, of course, break the single bond that binds all platform speakers together. No matter who they are, what they have to say, or how long it takes them to say it, have you ever heard a speaker indicate anything other than: "I am pleased to be here?" Unfortunately, the same bond does not unite the audience. I have been one of you often enough to know that the pleasant emotion of "being here" is not equally shared by the speaker and his listeners. Sometimes that departure comes before the remarks begin, but most often it occurs at the point in the address when the speaker has really finished what he had to say, but did not realize it nearly as well as his listeners. The object, of course, is to see if I can make you as pleased to be here as I am.

I recognize that I have been invited here today because of the office I hold rather than because of any particular personal attraction which I exhibit. As a matter of fact, prior to my appointment to the Supreme Court, the only groups to which I had been invited to speak were my son's cub scout den and the north ward grammar school P.T.A. in St. Petersburg.

Now, however, I am asked to speak authoritatively on all sorts of subjects, which reminds me of a cartoon Sally Roney, Judge Paul Roney's wife, sent to my wife, Barbara, on the day of my investiture to the court. It depicts a guru with a long beard walking along clothed in a toga, carrying a staff. He is followed by a woman similarly dressed who says: "I just can't get over your being a sage, you didn't know beans when I married you!"

Be that as it may, since I am invited to speak, I would like to offer some personal thoughts on my college days and how they have related to my life and profession, and how the university experience in general relates to the development of our society.

First, my time here at F.S.U. upon entering Harvard Law School, we were told that Harvard would teach us how to think like a lawyer. Well, if Harvard taught me to think like a lawyer, Florida State University taught me how to think.

As a callow youth arriving here from a disaccredited high school in Jacksonville in 1951, I was exposed in the next four years to the likes of (1) Rogers in English; (2) Robers in History; (3) Daisy Parker Flory in Florida Government; (4) Miriam Irish in Constitutional Law; (5) Claude Flory in Literature; (6) Vincent Thursby in Political Theory. These fine, dedicated academicians opened my eyes to a whole world of thought, ideas, and concepts of which I never before imagined. For me it was an extraordinary and fulfilling experience that has not been duplicated in my life.

But, the four-year college has come under increasing and sometimes vitriolic attack from disparate segments of our society. College is expensive and elitist, they protest, and it esconces impressionable youths in ivory towers far removed from the painful realities of life. Not so, not so. College life, lived to its fullest, is and should be an all-encompassing, excruciating yet exhilarating leap into the infancy of maturity.

The intellectual challenge in college can be formidable. The scholastic force-feeding and rote process of high school education is replaced by a less certain, more independent system of learning. This freer-form process in turn engenders responsibility, discipline and persistence in the successful student. Academic competition pervades the system, sparkling otherwise hesitant students to better work. The result, ideally, is a person who possesses the intellectual discipline and analytical acuity to perceive the problems of today and how they relate to the events of the past and the uncertainties of the future.

On the other hand, college is and should be social interaction as well as just plain fun. Few things are more enjoyable than a good hearty fraternity party, nor more agonizing than a bad first date. Yet these experiences, along with the myriad other social opportunities F.S.U has to offer, are a vital part of life, and they, along with the spiritual and intellectual spheres, should be tasted and savored.

Thus I believe one's college career should be a comprehensive, balanced experience. A time when the fear and angst of adolscence can be tempered and transformed into maturity by the sweet successes and bitter defeats we all inevitably experience throughout life; a time when the energy of infantile curiosity can be harnessed into disciplined experimentation and reasoned analysis; a time when youthful percocity can flower into seasoned wisdom. My college days were the most exciting and invigorating, yet some of the most painful of my life. To my mind, it is this terrible, exhilarating contrast which transforms the halting freshman into the open-eyed and thoughtful graduate.

But to reap the harvest, you must first sow the field. Like anything else, college can be an empty wasteland if one retreats from its challenges. The student must seek involvement in both the academic and social areas of college life. This is equally important, if not more so, in later life. Basic to the democratic process is the free choice by the citizens, the governed who have given their consent, to become involved in the work of the society in meeting its needs. The small step of the individual in becoming involved is the beginning of the process.

One of the most damaging concepts today is that the "government" is some inanimate mechanism in which individual people are not involved. It is an outside force which does something to you, as an individual—or for you, as the case may be—but it is something for which most persons, as individual citizens, seem to feel no responsibility. We forget that every human endeavor is just a bunch of individual people, like you and me, working together. Sending a man to the moon and then getting him back is the finest example of a great achievement that was nothing more than a great many single persons working together, each having, and I sense really feeling, his own importance in the effort. And so it is with government.

Most of us who want to become involved are stopped by the really perplexing question: What can I, as an individual, do? Many people are defeated by the view that their vote does not really count or that their involvement in a cause or activity really will not make enough difference to warrant the effort. The problems are so big and so complex that we feel that nothing we can do at our level can contribute to the solution.

It is up to people such as you to be sure that we not lose sight of the fact that it is "the government we" and not "the government they." We must guard against thinking of the government, whether it be in Washington or Tallahassee, as being "they" rather than "us." The sole justification for the existence of government is for it to serve the people, certainly not for the people to serve it. The only sure way to accomplish this objective is for each of us to "get involved," so that our government truly expresses and serves the goals of the people.

The university campus is a microcosm of the larger community of our state and nation. The involvement one displays on campus is, I suggest, a barometer of the involvement one will later display in those larger communities.

My time here at F.S.U. marked the genesis of a sense of involvement in community affairs which has resulted in the role which I play in the government of Florida today. I had the opportunity to serve as president of my fraternity and of the inter-fraternity council. As a result of that I was tapped for membership in gold key and omicron delta kappa, which led to even greater involvement. Each of these activities was instrumental in nurturing the sense of responsibility and commitment I feel today. This university has always offered a climate for participation in myriad worthwhile activities that can and do make a difference in the lives of those around us.

My point is simply this—personal involvement in our social institutions—whether that be omicron delta kappa, this university, the state of Florida, or this nation—does make a difference, and without the personal involvement and commitment by the individual, the institutions will betray us. But it takes that first step on the part of each of us. The day the constitution of the United States was adopted, Benjamin Franklin, then over eighty years old, was leaving the constitutional convention when an elderly lady stopped him and asked—"what is it to be Dr. Franklin, a monarchy or a republic?"—for even then the people did not know what form of government they would have. To which Franklin responded: "A republic madam, if you can keep it. Not if they can keep it. You and your efforts will save this republic—or no one will."

And so I leave you with this admonition. We owe it to ourselves and our society to imbue our lives with quality. We must not be content with passable work, when we have the potential for far better. We must not be satisfied with one friend, when we have the understanding and compassion for scores. We must not be content to sit idle, when our energies and imagination could help shape the world. And we must not be content to be good, when we could be great. Quality, that's what F.S.U. stands for.

You do me great honor today and I am truly touched by it. But the honor belongs not to me—it belongs to my alma mater F.S.U. Thank you.●

NOMINATION OF JOSE CABRANES

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. GIAIMO. Mr. Speaker, the Federal judiciary is gaining the services of an extraordinarily capable individual, well schooled in the law and in government service and corporate administration. Mr. Jose Cabranes is a constituent of mine, residing in North Haven, Conn., and for the last 4 years he has been the legal counsel and director of government relations at Yale University. Mr. Cabranes has been nominated as U.S. district judge for the district of Connecticut, and I am confident that he will be unanimously approved. To better appreciate the unique qualities of the individual and the value of this appointment to the Federal judicial system, I would like to recount some highlights of his distinguished career.

Mr. Cabranes was appointed to the Yale administration in 1975 and has served under three Yale presidents—Kingman Brewster, Jr., Hanna H. Gray, and A. Bartlett Giamatti.

A graduate of the Yale Law School in 1965, he was associate professor of law at Rutgers University from 1971 to 1973 and served as special counsel to the Governor of the Commonwealth of Puerto Rico from 1973 to 1975.

Mr. Cabranes received his A.B. degree from Columbia University in 1961. After receiving his law degree from Yale, he studied at Cambridge University, England, on a Kellett Research Fellowship awarded by Columbia College and received his M. Litt. degree in international law in 1967. At Cambridge he also received a scholarship awarded by the Cambridge University Faculty Board of Law.

He was with the firm of Casey Lane & Mittendorf in New York City from 1967 to 1971 and was engaged in practice before Federal administrative agencies and in general corporate practice. At Rutgers, he taught administrative law, international law, and conflicts of law.

Mr. Cabranes is a director of various not-for-profit institutions, including the International League for Human Rights, the Puerto Rican Legal Defense and Education Fund (of which he is a founding member and chairman of the board of directors), and Yale-New Haven Hospital, Inc. He was appointed in 1977 by President Carter to serve on the President's Commission on Mental Health. He is also a member of the Council on Foreign Relations.

Earlier this year he was named by the Secretary of Health, Education, and Welfare to the seven-member Civil Rights Reviewing Authority which conducts judicial reviews of appeals under Federal laws prohibiting discrimination on the basis of race, national origin, sex or handicap.

The author of articles in several American and British law reviews, Mr. Cabranes is the author of a book "Citizenship and the American Empire: Notes on the Legislative History of United States Citizenship for Puerto Ricans," published by the Yale University Press (1979).

Mr. Cabranes was born December 22, 1940, in Mayaguez, P.R., and came with his family to New York in 1946. His father was director of a settlement house in the Bronx and later served as head of the Office of Puerto Rico in New York and as an official in the New York City administrations of Vincent R. Impellitteri and Robert F. Wagner.

He is married to Susan Beth Feibush of New York who is a graduate of Vassar and received a Master of Arts degree in history from Yale. They have two daughters and reside in North Haven, Conn.

As Congressman from the district which encompasses Yale Universey, it has been my privilege to work closely with Mr. Cabranes in his capacity as the legal counsel and director of governmental relations for the university. I am impressed with his thorough knowledge of the law, his broad range of teaching, administrative and legal experience at various levels of public service, and his calm, deliberative, rational approach to all problems.

I am confident that Mr. Cabranes has the requisite knowledge and the qualities of character and personal temperament to make an outstanding judge. Adding a man of his stature to the Federal bench is an act of public service of which we can all be proud.●

MONT PELERIN SOCIETY MEETING IN MADRID

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. PAUL. Mr. Speaker, in the November 23 issue of National Review, Mr. John Chamberlain reports on the Madrid meeting of the Mont Pelerin Society.

Mr. Chamberlain, one of our country's outstanding champions of the free market, writes—as always—in a most informative and interesting way. Few men have his economic wisdom or his eloquence.

I call his article to my colleagues' attention.

The article follows:

ALL EYES ON BRITAIN

(By John Chamberlain)

MADRID.—The word "liberal" in Spain retains its classic connotations. The modern Spanish liberal, even as his nineteenth century forebears did, believes in the free economy operating in a framework of law, with government limited to preserving the national security. He may be in a distinct minority in his own country, but he keeps his intellectual lines clear and refuses to surrender his nomenclature to interlopers. So it was hardly an anomaly when, in the midst of entertaining some three hundred members and guests of the Mont Pelerin Society at a dinner, the Liberal Club of Madrid invited Nobel Prize-winner Friedrich Hayek, the founder of Mont Pelerin, who for his own part won't be called a conservative, to become the Liberal Club's honorary president. It was like unto like. The title had previously been the exclusive property of the late Salvador de Madariaga, one of Spain's immortal liberal philosophers.

The honor paid to Hayek was an interlude in the September meeting of the Mont Pelerin Society, held in Madrid with a fascinating side excursion to the old university town of Salamanca. Hayek had no semantic difficulties communing with his hosts and graciously accepting their tribute. It is something of a personal crusade with Hayek to recover the word "liberal" from the collectivists and interventionists who have filched it. The Spaniards who listened in on the Mont Pelerin deliberations could understand Hayek's passion; after all, in Spain, the word "liberal" was first applied to a wholly non-collectivist nineteenth century political grouping. And it came as no news to Spanish scholars that the subjective theory of value commonly associated with Carl Menger and Hayek's own Austrian school of economics had been rather elaborately formulated in the sixteenth century by Dominican and Jesuit professors at the University of Salamanca who believed that the "just price" of medieval ethical concern was nothing more or less than the market price in an uncoerced transaction.

The Mont Pelerin deliberations in Spain followed usual lines for the most part. There were sessions on money ("private good or public good?"), on the law and union power, on the record of state intervention in Europe, on natural law, on government versus private education, on workers' management, on the ethics of competition, and on the economic theory of democracy. The papers were invariably nourishing, but for me the high points of the meeting were the trip to Salamanca and the old walled town of Avila, which took up all of one day, and an impromptu session given over to a discussion of Prime Minister Margaret Thatcher's chances for rescuing England from the grip of the labor unions and letting the average Briton keep just a little more of the income that, for thirty years, he has not dared call his own.

At Salamanca we sat in an ancient hall and listened to a remarkable paper on "The School of Salamanca" by Marjorie Grice-Hutchinson. As everyone knows, the Industrial Revolution took place in England, bringing an end to mercantilism. Dr. Grice-Hutchinson told us, in effect, that it might have happened in Spain, but didn't. The prerequisites for the revolution were there. The seven-hundred-year effort involved in driving the Moors out of Spain had fostered the qualities of courage, endurance, resourcefulness, and organizing ability, which, as Dr. Grice-Hutchinson pointed out, are not virtues of a rigidly ordered society. The "winds of liberty" blew for a time in the valleys of the Douro and the Tagus; if those winds had been tamer it is unlikely the Spanish cavaliers would ever have overrun most of America.

With the New World conquests went a demand for the products of the mother country—foodstuffs, tools, soap, horses, textiles, wine, and seeds. It was a time for market optimism in all of Spain. The professors at Salamanca were ready with theory that predated Adam Smith by 250 years. As good Christians, the professors had to reckon with the concept of the "just price" and the Church's prohibition of usury, which was defined as the taking of any interest at all on a loan.

One of the Salamanca doctors, Diego de Covarrubias, found his way to the just price by noting, in language that would surely find favor with Murray Rothbard, that "the value of an article does not depend on its essential nature, but on the estimation of men—even if that estimation be foolish. Thus, in the Indies wheat is dearer than in Spain because men esteem it more highly, though the nature of the wheat is the same in both places." Another sixteenth century doctor, Luis Saravia de la Calle, wrote that "if we had to consider labor and risk in order to assess the just price, no merchant would ever suffer loss, nor would abundance or scarcity of goods and money enter into the question . . . the just price is found not by counting the cost but by the common estimation." Carl Menger and Ludwig von Mises couldn't have said it better.

INTERESSE V. USURA

As for interest on loans—the "price of money"—the Spanish doctors arrived at the conclusion that a lender was entitled to be reimbursed for any loss that he had sustained through surrendering the use of his own money for a given time. The lender could legitimately accept compensatory "interesse," as contrasted with illicit *"usura."* The Church, in time, had to reckon with the Salamanca view.

Why didn't Salamanca theory sustain the growth of a liberal market system in Spain? Court and Church, of course, favored top-down controls, but it was slavery in the colonies more than authoritarian tradition at home that did Spain in. The gold and silver that flooded into Seville, the home port of the American trade, were produced by cheap Indian labor, causing an inflation that soon spread far beyond Andalusia. With gold and silver to spend in ever bigger quantities, it was easier for Spaniards to turn to northern Europe for goods than it was to develop their own industries and train their own apprentices. With less bullion, Spain would have been better off; it would have been forced to trade goods for goods, not for a just price in specie that came without effort.

A DEBT TO DRAKE

In a free moment between the Mont Pelerin sessions in Madrid, Ben Rogge showed one of the pictures that have been underwritten by the Liberty Fund of Indianapolis to illustrate good free-market principles. The subject was England as the incubator of the Industrial Revolution. But Rogge's picture missed an irony: it could be argued that England acquired at least a portion of her investment capital—a point that is important to an understanding of her economic development—thanks to the ability of her seamen, Francis Drake and the rest, to pirate the gold of Spain on the high seas.

Dr. Joaquin R. Reig, the Spanish Mont Pelerin member who was responsible for the Madrid meeting, is a businessman whose avocation is translating Ludwig von Mises into Spanish. His aim is to fill the void in Spain that was caused by the failure of the Salamanca school to perpetuate itself. Spain had obviously not done too badly in the last years of Franco the building boom, with its high-rise condominiums along the Costa del Sol and its workers' flats on the fringes of the big cities, had benefited the whole society. Spain is now prepared to enter the European Common Market. But the tradition of autarchy, a holdover from the earlier Franco years, does not die easily.

In one of the Mount Pelerin sessions spent on Spanish problems, Dr. Juergen B. Donges of the Institut für Weltwirtschaft in Kiel, West Germany, called for a "reconsideration" of the direct control of business which Spain's National Industry Institute (INI) exercises in the name of the "national interest." The INI not only presumes to ride herd, in Rexford Tugwell fashion, on new firms, it has taken over failing companies, playing a big part in steel, petroleum refining, and shipbuilding. INI-controlled companies get favorable treatment, which discourages investment in new private firms. Spain doesn't have as big a share of publicly run firms as Britain, but its record for interventionism is fully comparable to what goes on in France and Italy. Dr. Donges advises the Spanish National Industry Institute to divest itself of ownership in such enterprises as "do not require public support any longer for being commercially viable: food processing, textiles, automobiles, chemicals, and even electrical utilities. . . ." He also recommended more autonomous operation of remaining government industries. "The Italian experience with decentralized decision-making in the public sector," he said, "has much relevance for Spain."

Spain, according to Joaquin Aeig, is ripe for divestiture. The Left, though it is still formidable if Communists and Socialists are lumped together, has lost some of its certainties. Santiago Carrillio, the Secretary of the Communist Party, has officially softened the Communist line by dropping Lenin's name from its programmatic literature. Good Eurocommunists, he says, can no longer maintain that "Leninism is the Marxism of our epoch." Of course, only the useful idiots accept Carrillio as a democrat—he gave himself away when, in response to the taunts of Catalonian Reds, he asked a cynical question, "What would Lenin have done?" Lenin, of course, was always willing to indulge in a useful lie.

With the Communists donning sheep's clothing, the Spanish Socialists are split between believers in a distant revolution and those committed to ordinary West European social democracy. So, with the Left wobbling in its aims, the atmosphere could be right for an old-fashioned, classical liberal response to basic economic questions.

There was considerable clamor among the Spanish Mont Pelerin guests to hear more about Margaret Thatcher in England. It struck me, listening in at the session given over to the British chances for a return to a free economy, that the Spaniards had come to exactly the right place. Sitting in the room there happened to be the four people who—luckily for England—had molded Margaret Thatcher's thought: namely, Professor Hayek, Ralph—now Lord—Harris,, Antony Fisher, and Arthur Seldon.

THATCHER AND THE IEA

Reconstructing the progress of the intellectual movement that has a chance of reviving a free Britain, one recalled that, in 1946, Antony Fisher, then a young man out of the Royal Air Force, had gone to Professor Hayek for advice about entering politics. Hayek, fresh from his success with *The Road to Serfdom*, told Fisher that if he really wanted to have an effect on the future he should turn to the promotion of ideas instead of running for office. Accordingly, when Fisher had accumulated some capital in the chicken business by exploiting loopholes in a controlled economy, he subsidized an organization called the Institute of Economic Affairs (IEA) which, for a long time, consisted of two dedicated and considerably overworked young men, Ralph Harris and Arthur Seldon. Together, Harris and Seldon slogged away with anti-intervention studies—the Hobart Papers—for some three decades. It was discouraging at times to throw unappreciated words into the Keynesian sea. But Margaret Thatcher read the IEA literature and was convinced.

She has now made Ralph Harris a lord and thanked him publicly for giving the Conservatives a real sense of purpose. Her program for Britain is an IEA program. She has promised to restore incentives by tax cuts and tax switches and by selling off bits and pieces of nationalized industries. The Spaniards at the Mont Pelerin meeting came away with a vivid object lesson in the percolation of ideas. Jeffrey Bell, speaking up for an immediate Jack Kemp tax-cutting program in Britain, twitted Lord Harris and Arthur Seldon on Mrs. Thatcher's failure to begin her regime with across-the-board tax cuts on both the consumption and supply sides of the economic picture. But the Britishers at the Madrid meeting offered a hope that deep sales-tax cuts would accompany income-tax cuts in due time, after the Conservatives had succeeded in returning a few expensive nationalized businesses to private ownership.

Spain, like Britain, has its union problems—the Communists and anarchosyndicalist traditions won't disappear overnight. The Spaniards will be watching Margaret Thatcher's efforts in dealing with what, after all, is Trotskyism in the British unions. The Mont Pelerin meeting in Spain won't affect the issue directly. But the percolation of ideas can't be stopped.

Who knows, it may be that Joaquín Reig, who, like Antony Fisher, has listened to Professor Hayek, will turn out to be the Spanish Lord Harris. In a world in which Marxists are trying to pose as pluralist democrats, anything is possible.●

A COMPASSIONATE LOOK AT A THAI REFUGEE CAMP

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● **Mrs. SCHROEDER.** Mr. Speaker, I would like to share the following letter from a young American attorney living in Bangkok who, along with his wife, is a volunteer in the Thai refugee camp of Sa Kaew. The letter speaks of the Moon's experiences on their first trip to the Sa Kaew camp and gives a vivid picture of the terrible plight of the Cambodian refugees.

Through the words of Thomas Moon, we also see two caring and compassionate people of whom we, as Americans, can be very proud.

The letter follows:

"Sa Kaew—Escape From Genocide"

Sa Kaew—the name of this Thai city sounds like many others that would appear in a tourist guide book and indeed Sa Kaew is unique. It is sought out by a multitude of travelling people only none of them are toursists; they are refugees. They have arrived by the tens of thousands in emaciated, starving, and diseased conditions fleeing from the attacks of the Khmer Rouge and from the persecution of the Vietnamese. They are trying to escape the cross-fire of the Khmer Serei army and still avoid being shot by the Thai border patrol or by the bandits. So they flee to a refugee camp which three weeks ago was a rice field. This story is about what my wife and I saw and experienced on our first trip to Sa Kaew as volunteers with the U.N. relief program (UNHCR).

Cambodia has historically been a peaceful nation of rice farmers. It was first brought into international focus by the events of the Vietnamese war. The North Vietnamese communists would escape into Cambodia and America's bombers would follow after. Cambodia's then ruling Prince Sihanouk was forced to walk a tightrope. He was overthrown by Lon Nol and he, in turn, by Pol Pot who has yet to be recognized as one of history's most capable butchers and practitioner of mass genocide on a par with Adolf Hitler. It is reported that Nazi Germany destroyed over eight million persons. Pol Pot comes close to equalling this atrocious record, as he has destroyed some four million Khmers (Cambodians). Pol Pot sought to alter the political make-up of Cambodia by eliminating any opposition, real or suspected, present and future. Entire villages were razed, their inhabitants shot or buried alive in mass graves. Any person thought able to read or write or otherwise classified as an 'intellectual' was simply killed.

These atrocities forced the Khmers to flee by the thousands. Less than a year ago, the Vietnamese invaded Cambodia and they, in turn, under the puppet dictator Heng Samrin, sought to destroy Pol Pot, his army—the Khmer Rouge—and all those who supported him. Again the people of Cambodia suffered. Fleeing Khmer soldiers ransacked and murdered on their path of escape and the new "government" soldiers did likewise. Interspersed between these two elements are the anti-communist fighters—the Khmer Serei. It has all become too much for the native Cambodians who now are abandoning their country en masse. Many have fled by boat (the boat people) and others by land, many of whom eventually reached relief camps such as the one at Sa Kaew.

Sa Kaew is 40 miles from the Cambodian border near the town of Aranyaprathet. Sa Kaew is also the camp that Mrs. Rosalynn Carter visited last week and Senator James Sasser did a few weeks ago. It presently shelters (to one degree or another) some 32,000 inhabitants and another 250,000 are just on the other side of the border, hoping to also be one of the "lucky" ones. Cambodia less than five years ago had a population of about eight million people.

Officials now believe that the number has been reduced by half that. Some 4 million people have been quietly slaughtered in a modern day Dachau, an occurrence which has only recently gotten the attention of the modern world.

At Sa Kaew the mortality rate is about twenty-five people per day and close to 400 have perished since the camp opened. Of the present population, some 5,000 are "hospitalized" with about 1,000 seriously ill. Malaria, malnutrition, dysentery, anemia and pneumonia are the rule, not the exception.

Wanting to help in some way, my wife and I volunteered to assist a U.N. relief team that was aiding the Cambodians massed in a makeshift camp near Sa Kaew. We left Bangkok shortly after sun-up and headed for the Cambodian border. Anxious and eager to help, we rode by automobile for over three hours until we were within sight of the mountain range that separates Southeast Thailand from Cambodia. Less than five miles past a road intersection that is considered the city of Sa Kaew, we found the camp. It was an open field of several acres whose underbrush had been cleared away by bulldozer.

Surrounded by a barbed wire fence and guarded by M–16 carrying soldiers of the Thai army, it was an Asian version of the Nazi Auschwitz. Outside the camp were mounds of relief supplies that immediately signaled an overwhelming need and a channelled response.

The volunteer check-in station was outside the camp and, arriving at that point, we found our way to the U.N. volunteer coordinator. There we were "processed"—our identities and organization checked. We were issued green pieces of ribbon with the word "volunteer" inked in that were to serve as ID cards. This enabled us to freely pass through the guarded main gate throughout the day as we went about our work.

Our first assignment was to unload a large truck of supplies consisting of soap, clothing and medical supplies. After that was done, I was given a box labeled "children's clothing" and told to take it to the orphanage. I left the supply depot and entered the camp proper and into a world of horror. Once inside, the plight of the Khmers became all too real. Walking through the camp with my box of children's clothing, I saw the survivors aimlessly drifting about with that blank empty stare that only comes from starvation. There were not all ages represented in the camp, for during that entire day I only saw one gray-haired person. Dressed uniformly in black, ragged pajamas, they looked ravaged.

The first part of the camp was a "residence" section where the refugees lived. A typical shelter was formed by stretching string between two sticks and placing a piece of cloth, plastic or whatever they could find over the crown string. This was their "home." Some slept on a reed mat if they were lucky, most on the ground. Row upon row of these shelters covered section after section until an entire field of vision was covered. The effect was numbing, but the worse was yet in store.

Still seeking the orphanage, I made my way to the hospital section where the hospital "tents," medical facilities and orphanages were. There lay the true horror of the results of genocide. When one particularly large tent was pointed out as the main orphanage, I walked over to it and entered. What I saw inside that tent will never be forgotten. My ears heard a French lady telling me where to place the children's clothes, but I could not move or respond.

There were the children whose countless pictures I had seen for months in the newspapers and magazines throughout several countries. But here they were real; here I could hear the labored breathing and the strange hacking coughs. Here I saw the distended stomach flanked by rows of extending ribs.

The swollen bellies were all the more pronounced by the stick-like arms and legs long since void of possessing any muscles or energy. But worst of all were the eyes that simply did not respond. Their eyes told the story of their fatal condition.

I knelt by one child who was lying on a reed mat, his swollen belly flanked by his pencil-thin arms and legs and bent directly over him. He did not respond although my eyes were only a foot away from his. He just laid there gasping for breath with flies running in and out of his nostrils.

My soul shuddered as I realized the child had to be dying. Horrified, I raised up only to notice dozens of other babies on either side of this child in the same condition. As I turned around to leave, I saw rows of other children in the same condition. I left that tent only to see rows of similar tents that I knew only too well what tragedy lay within.

I don't know how long I stood there trying to regain my self when another volunteer came up and asked for help. Only too willingly did I respond. We went to the end of a row of tents where there was an empty space between the last tent and the barbed wire fence which marks the boundary of the camp. The refugees had been relieving themselves in that patch of open ground, as they were too weak to walk to the latrines. We were to cover this spot up with fresh dirt.

The first dump truck of gravel unloaded its contents over the barbed wire fence and I, two fellow Americans, an Englishman and a Frenchman began distributing the gravel. All too soon the stench of that field permeated my nose and feces clung to my shoes.

I realized in my own personal way what the refugees had known all along—there is no relief or escape from the horrors of their lives. Death is not only around them, it stalks them. It was said in the camp that when a person begins to act happy, it is because they are about to die.

This camp was the horror of horrors and I had come to help, which meant that I had to realize this and accept the inevitable. I could help in only a pitiful small way and would not achieve any meaningful change in this environment.

Accepting this realization gave me strength. Only then was I able to put down my shovel from time to time and see and accept the walking corpses and the suffering children.

After this assignment was finished I joined my wife, who was mixing dry soybean milk with boiled water and giving cupful after cupful to the people. Here I was able to see the shattered Khmers one at a time.

These were the strongest, because they were able to walk and could take care of themselves. But many were afraid of accepting our rations. They lingered back and had to be coaxed to take a cup of milk. I could only visualize the horror of what they must have been through if they were afraid of an unarmed woman giving them milk.

A lady came up to me holding one of the all-too-familiar starving, emaciated, swollen babies. She was crying and talking at the same time. She handed me the baby—a girl—and started rubbing her breasts. I soon understood that her milk was gone and the baby was starving.

I found a plastic baby bottle and filled it with the soybean milk and gave it to the baby. She was unfamiliar with it and would not take it. The baby screaming with the pains of convulsions, I silently prayed that God would let me in this one instance be of some significance, that I could make a difference at least with this starving little girl.

Desperately I plunged my finger into the milk and then let the drops fall into the baby's mouth. I repeated this over and over again until it was apparent that between gasps the baby was getting the milk.

Finally, she accepted the bottle. I then began to rock the baby back and forth.

Having done the same many times with my own son and daughter, I instinctively began humming "Amazing Grace" while rocking her. The child fell asleep and I gave her back to the mother, who grunted in thanks and went about seeking her own food.

Next I was asked to help pitch a tent next to the last hospital tent. The hospital tent held scores of helpless people suffering in real agony. They were dying from many varied and strong malarias. I saw sights that only could be seen in a medical text book.

The hospital tent consisted of a bamboo framework covered by palm thatchings. People lay on reed mats on the ground and were so crowded that only leg room was between them. One man lay covered with a type of sores that I had never seen before. Although his eyeballs were rolled into his head, he wasn't dead. for you could see breathing from beneath his "blanket," of newspapers.

Another woman was in convulsions as volunteers tried to insert an IV. Many people were moaning and vomiting. On the other side of the hospital tent were the latrines, which consisted of a big ditch dug into the ground covered with alternately placed bamboo poles.

Palm nets were erected in front and back to provide privacy. The stench from the latrines and the hospital tent was formidable, but by now my nose had become impervious. Nonetheless, I and another American from Minnesota pitched the tent.

By the door of the erected tent was a stitched-on patch which portrayed two hands clasped in greeting and read "A Gift From The People Of The United States" I looked at that patch with agreement and pride, for Sa Kaew is a living example of American generosity and willingness to assist those that cannot fend for themselves

History has shown that Americans have repeatedly given of themselves and their fortunes to assist whoever needed their help while asking for nothing in return.

One of the lady volunteers who had asked for the erection of the tent came by and expressed her thanks for our efforts. I asked for what purpose the tent was to be used. About the time her response hit any ears, my eyes saw another lady with a much more vivid answer to my question. She was carrying a dead baby.

The tent was to be used as a temporary shelter for dead babies. The sun had taken its toll on me and the camp had had its effect, but the dead child was too much. There was no sense of fairness, or of right or wrong—only that which was. Various people had sought to eliminate the Cambodian race and this was the result of their efforts. I thought of my previous life in Nashville. I was ashamed of how excessive and opulently I and so many others had lived. This camp had become much more to me and my wife than pictures in a magazine or stories in a newspaper.

On the way home that evening, one of the volunteers in the car related the story of a nine-year-old girl they had found at the entrance gate that morning. How she had managed to cross the mountain range that marks the border was a mystery. She was brought to the processing tent where she was preliminarily diagnosed by the doctors as having tuberculosis and pneumonia. She was then sent to a holding tent to wait for space in the overcrowded hospital. Space is usually provided by the death of another patient. She did not have to wait long, our friend related. She had a space by noon and her space was again available by that evening.

We were a quiet bunch as we rode back to Bangkok that evening. I stared out of the car window and watched the Thai countryside pass by. Reflecting on all that had happened in what was the first of many visits to Sa Kaew, I realized that nobody could work in these camps and not be changed by the experience. Nashville and the person I used to be both seemed very distant as darkness came upon us that night.●

MASSACHUSETTS COMMEMORATIVE STAMP

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. DONNELLY. Mr. Speaker, today I am introducing legislation that would create a stamp commemorating the 200th anniversary of the drafting of the Massachusetts constitution. Few people realize the importance of this event in the shaping of our Government and our history, and I would hope that this stamp could be used as a means to inform the people of this Nation. Such action is by no means exceptional, for it has been the practice of the Postal Service to issue stamps recognizing historic national events. I think this event is worthy of such recognition.

The constitution itself was written by John Adams in the city of Quincy, Mass., 200 years ago this month, making it the oldest surviving constitution in the world next to England's Magna Carta. From this document came the precepts upon which our Founding Fathers based the Constitution of the United States. In fact, many historians regard the formation of the Massachusetts constitution as the single most important aspect of the American Revolution.

John Adams recognized the problems of British imperial rule and also foresaw the troubles the new government would experience. These governments either had too much or too little central government, distorting the balance of political power between the various branches of government. Adams created, as a result, a document which restored the political balance of the government while guaranteeing the people of Massachusetts reasonable and fair treatment.

These fundamentals lent themselves very well to the broader spectrum of the entire country so, in 1787, when the government failed under the Articles of Confederation, an alternative was needed. The men in Philadelphia looked to Adams constitution and used it as their model. Therefore, when we in Massachusetts celebrate the 200th anniversary of the drafting of this document, we are, in fact, celebrating the beginning of our country's moral and political commitment to democracy. Perhaps Adams himself summed it up best:

> I made a constitution for Massachusetts which finally made the Constitution of the United States.

It is for this reason, Mr. Speaker, that I urge my colleagues to support the issuance of this stamp and to formally recognize one of America's greatest documents.

H.R. —

An act to provide for the issuance of a commemorative postage stamp in honor of the 200th Anniversary of the drafting of the Constitution of Massachusetts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General shall issue a special postage stamp in honor of the 200th Anniversary of the drafting of the Massachusetts Constitution which is the oldest written constitution still in force today. Such stamp shall be of such design and denomination, and shall be issued and sold for such period as the Postmaster General shall determine.●

MAYOR ALLAN R. MILLS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MOTTL. Mr. Speaker, today I would like to pay tribute to a fine public servant, Allan R. Mills, who has been an outstanding mayor of Olmsted Falls, Ohio, which is in my district.

Mayor Mills is typical of the thousands of dedicated officials who have donated countless hours to a job which carried no promise of reward except the satisfaction of public service.

Allan R. Mills first ran for elective office in 1967. In this initial bid for the mayor's chair in the village of Westview, Cuyahoga County, Ohio, he was successful.

The first years of his administration were marked by improvement in service levels and a desire to merge his community with the village of Olmsted Falls and Olmsted Township. While township residents rejected such actions, a special election in May 1970 approved the merger of the two villages now known as the city of Olmsted Falls. In an unprecedented move Mayor Mills of Westview (the annexing community) stepped down and submitted himself to a sepcial election to allow the now combined electorate to elect a mayor to head the new city. In a three-man race, he bested his opponents by a 2-to-1 vote margin. He has been mayor since that time, continuing to improve services to his people, and seeing through a charter issue that gave home rule to his community.

A part-time mayor, he left the insurance business in 1975 to become the appointed executive secretary to the Cuyahoga County Mayors and City Managers Association representing the combined interest of 56 cities and villages in Cuyahoga County. In 1977 the Council of Governments that formed the Regional Income Tax Agency (RITA) elected him its treasurer. He holds both posts to this day.

After 12 years as mayor, he chose not to run again this past election.

During those years Mayor Mills sought to deeply involve himself in his home county and now serves on 20 boards and commissions that span a multitude of activities and interests encompassing all levels of government and human services.

He has honorably served his country twice in his lifetime, the last with the U.S. Army in the Korean war.

Olmsted Falls will surely miss Mayor Mills' leadership, but will reap the benefits of his administration for years to come.●

BALANCE OF PAYMENTS IMPROVEMENT

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, at a time when nearly all news seems to be bad, some good news about the U.S. economy has been largely overlooked. This is the tremendous improvement in our balance of trade, apart from oil, and a corresponding improvement in our balance of payments. The most meaningful measure of the balance of payments, the current account, will show only a very small deficit this year and is likely to be in surplus next year—despite an oil import bill that now exceeds $60 billion a year. Not only has our nonoil trade balance improved dramatically, but also we are beginning to receive a major payoff in the "services" accounts from the earnings from all the overseas investments made by our corporations in the past several decades.

Judging from the nonoil trade figures, our competitiveness in the world may not be so bad after all. Our exports, farm and nonfarm, have been doing exceedingly well. Partly, of course, this reflects the lower exchange rate of the dollar that developed early in this decade, though in the past few years the dollar has been stable or rising against the currencies of the other industrial countries taken as a group.

A good summary of the recent improvement in the U.S. international accounts was contained in a speech delivered by C. Fred Bergsten, Assistant Secretary of the Treasury for International Affairs, before the Boston World Affairs Council on November 13. I am inserting the relevant portion of the address so that my colleagues may be aware of this heartening development.

The address follows:

> Our current account deficit during the first half of this year was only $1 billion. For the year as a whole, it is expected to run a few billion dollars at most. In 1980, we expect the United States to be in fairly substantial current account surplus, assuming oil prices rise no more than prices of other goods. Indeed, we expect the United States to have by far the largest current account surplus outside the OPEC group.
>
> The improved U.S. performance derives from two key developments. First, the trade deficit in the first three quarters of 1979 is running at a $6 billion annual rate below the $34 billion deficit in 1978 despite the rise of $16 billion in oil imports. Our nonoil trade balance has, in fact, improved by a whopping $44 billion annual rate over the past six quarters.
>
> In the year through September, the volume of non-agricultural exports is estimated to be more than 20 percent higher than the same period in 1978. At the same time, the volume of non-oil imports rose by only about 2 percent. Since the volume of world trade as a whole has been growing by 5–6 percent, it is apparent that both our exports and import-competing industries have made major gains in market share. The lagged effects of competitive gains from past exchange rate changes, and shifts in relative growth rates, have produced this substantial improvement in the competitive position of the United States. In 1980, these factors will produce continued improvement in our overall trade balance even though oil import costs will rise another $10 billion or so, even on the basis of current prices.
>
> Second, the United States surplus on services transactions is also growing rapidly. It is presently running about $7 billion higher than the $20 billion surplus achieved in 1978. Receipts from U.S. direct investment abroad have been especially strong, reflecting the improved profitability of foreign operations as growth overseas picked up and the translation effects of past exchange rate movements. In 1980, further gains in this area should result in an even larger services surplus.
>
> It is worth noting that, at the present level of our services surplus, the United States can run a merchandise trade deficit of almost $30 billion and still be in surplus on current account—the best single indicator of a country's international economic position. And our services surplus continues to rise rapidly each year. The structure of our current account is thus very different from that of Japan and Germany, each of which runs a sizable services deficit and thus must run a sizable surplus on merchandise trade to achieve overall current account balance . . .●

COKE . . . ON THE ROCKS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. GAYDOS. Mr. Speaker, America's coke industry, so vital to steel production, is on shaky ground despite the fact the United States sits atop vast reserves of coal. Steel industry experts see a growing dependence on foreign coke suppliers at a time when world demand for steel will be on the rise. If that prediction holds true, the domestic steel industry is headed for a rocky road.

According to a study by Fordham University, the United States must, if it is to meet the challenge of the mid-1980's, increase its coke production by 5 million tons in the next 5 years. If it does not, it will be forced to buy imported coke and there is a serious question if foreign sources could be counted on to meet our needs in the face of a heavy demand for steel worldwide.

Furthermore, the failure to increase domestic coke production inevitably means a decline in domestic steel production. If the United States is unable to meet its steel needs it will have to open the doors for increased importation of steel products as well as coke, experts warn.

Viewed from an economic standpoint such a development is most alarming when it is realized increased coke imports mean fewer jobs for American coke workers and coal miners. For example, the 1978 slump in coke production, accompanied by a record 5.7 million tons of coke imports, was translated into the loss of 9,000 jobs.

Major obstacles standing in the way of increasing U.S. coke capacity—as well as increased steel production through the construction of new "green field" plants or the expansion of existing facilities—can be traced to a lack of capital and an abundance of Federal environmental regulation which, some experts contend, are too stringent and too expensive.

The Fordham study is being given close scrutiny by the Congressional Steel Caucus. The caucus is well aware the Nation cannot allow itself to become dependent on foreign suppliers of coke and steel as it has on oil. As chairman of the House Steel Caucus, I assure you developments involving coke production, domestic as well as worldwide, will be strictly monitored in the months to come.●

CONGRATULATIONS TO COUNCIL 4361 OF THE KNIGHTS OF COLUMBUS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. APPLEGATE. Mr. Speaker, it is always an honor for me to come before the U.S. House of Representatives, but it is even a greater privilege to do so on this occasion. I would like to bring to the attention of my colleagues an honor which has been bestowed upon one of Ohio's 18th Congressional District's most outstanding organizations, the Msgr. Joseph F. Dooley Council No. 4361 of the Knights of Columbus, located in Mingo Junction, Ohio.

This council was honored at this year's Knights of Columbus State convention for their outstanding accomplishments during the council year 1978–79. Council 4361 was the No. 1 council in division 4, which classifies the councils according to size. Each year this group donates much of their time and efforts to helping those people in the community who are less fortunate than most. This year the theme for their endeavor was "Helping Hands." To accomplish the beneficial goals of their program, several activity committees were established. Those committees, and their chairman of each, are as follows:

Community activities, Thomas G. Sabatino; family life, John J. Bradley; church activities, Joseph Pulice; council activities, Robert Parmenter; fraternal activities, Lawrence Bell; youth activities, Frank Leeper; pro-life, Edward Karabaic; public relations, Daniel Marzeale; and membership director, Richard Harrick.

I would also like to point out that Daniel A. Sabatino and Stephen Gaydosh were recognized for their outstanding participation in church, community, youth, and council activities. These men truly deserve our congratulations.

It is obvious that Council 4361 members are a group of dedicated individuals who believe in a cause and are rewarded by the help they provide to others. Along these lines, I would like to point out one other fact. During the 1978–1979 year, Council 4361 contributed over $19,000 to schools and youth programs in the Mingo Junction area.

Mr. Speaker, this is truly remarkable, and each and every member of Msgr. Joseph F. Dooley Council No. 4361 deserves the warm thanks of many. On this occasion I would like to extend my sincere congratulations on a very successful year and best wishes for an equally successful year to come.●

FAA'S PALMDALE, CALIF., FACILITY TO BE COMMENDED AND CONGRATULATED

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. THOMAS. Mr. Speaker, allow me to take this opportunity to ask my colleagues to join me in commending and congratulating the Federal Aviation Administration's Palmdale, Calif., facility for its outstanding accomplishments in the area of energy conservation. It is not often that one hears of a Federal Government agency actively involved in trying to cut its operating costs, but in this case I can compliment the FAA's Palmdale facility for saving both energy and money.

The Southern California Gas Co., the Nation's largest natural gas utility, has presented its Commercial Concern Award for good energy management to the FAA Palmdale facility. To qualify for the award, the Palmdale facility reduced its consumption of natural gas in 1978 by 35.4 percent, a savings of nearly 5 million cubic feet of gas—enough gas to serve over 645 average southern California homes for a month. The reduction amounts to a savings of more than $12,300 on the facility's annual gas bill.

Figures for the first 9 months of 1979 indicate that this year's savings will be much greater than those achieved in 1978. Southern California is projecting that the Palmdale facility will be able to save nearly 6 million cubic feet of gas in 1979—a savings to the taxpayer of almost $15,000.

These savings are the direct result of an aggressive energy management program developed by the Palmdale facility's environment support unit. The program includes improved operating procedures, adjustment of equipment to operating procedures, adjustment of equipment to operate at peak efficiency, lowering heating water temperatures to 150° F., setting cooling thermostats at 78° and lowering domestic hot water temperatures to 105°.

Special congratulations are in order for one of the members of the Environmental Support Unit. The most significant savings were achieved through ideas and methods developed by FAA environmental technician Jan Svalbe for setting temperature differentials on equipment and for comfort heating and cooling. Mr. Svalbe successfully readjusted automatic control mechanisms to accommodate significantly lower temperature ranges.

According to the FAA, further efforts will be made to reduce energy consumption. Palmdale facility employees have been asked to help find other ways to conserve energy and help the FAA lower its utility bills.

Again, I congratulate all the employees at the FAA's Palmdale facility on their very effective energy-savings program, and I urge others both within the Government and in private homes and businesses to follow this fine example.●

THE SOVIETS GO DEEPER INTO AFGHANISTAN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MICHEL. Mr. Speaker, a short while ago I placed in the RECORD various news articles dealing with the Soviet Union's growing dominance in Afghanistan. Some say that the Soviet troops in that country are going to lead the Soviet Union into its own "Vietnam" in which more and more troops get sucked into a war they cannot win against local insurgents. Others say that, gradually, the Soviet Union is moving to all but annex Afghanistan so that Soviet influence can penetrate closer and closer to the Persian Gulf area.

Now it is reported the Soviets have sent troops into action in Afghanistan. But with considerable shrewdness, the Soviet leaders have sent only Tajik and Uzbek troops to fight. This means that for the most part the troops will be roughly of the same ethnic and religious background as the Afghanistans.

Perhaps Afghanistan will be a Soviet version of Vietnam. But I think we should not hope this will be the case. It could well be that within months we will be faced with a Soviet threat poised on Iran's eastern border, waiting for the lunacy of the Ayatollah Khomeini to run its inevitable course into political and social chaos. Iran will be ripe for the plucking.

It might be argued that the Soviet Union already shares a border with Iran and has shown no signs of attacking across the Soviet/Iranian border. Yes, this is true. But why should the Soviets do that when, after Afghanistan is in their pocket, they can send "volunteers" of the new Afghanistan Government across the Afghanistan/Iran border in order to go "to the aid" of the "Iranian revolution." If Soviet Uzbek troops just happen to be among those volunteers and if Soviet officers direct the "fraternal aid" of the Afghanistan people, who will complain? The United States? The United Nation?

What are we doing to help the Afghan anti-Soviet rebels? Nothing, of course. To help them would be naughty.

At this time I wish to insert in the RECORD, a wire service story from the Chicago Sun Times, November 29, 1979.

> Soviet combat troops have gone into action alongside Afghan forces in a major offensive against rebel-held territory in central Afghanistan, a report received in New Delhi from the landlocked Asian country said. Groups of Tajik and Uzbek soldiers, members of the Soviet army from the Central Asian Soviet republics just north of the Afghan border, were involved in the recently mounted government offensive, said the delayed report received Wednesday from the capital, Kabul. Moslem insurgents are waging a "holy war" against President Hafizullah Amin's pro-Soviet regime.●

A WOMAN IN THE U.S. SUPREME COURT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. OBERSTAR. Mr. Speaker, earlier this month, I rose on the floor to urge my colleagues to join me in a letter to the President urging the appointment of a woman to the Supreme Court.

I have been pleased by the response. I am delighted to report that 46 House Members have joined me in that letter.

The appointment of a woman to the Court will strike a major blow for equality under the law. With a determined effort to secure that appointment, we will achieve our goal.

I would like to include in the RECORD the text of our letter and the names of those who signed with me.

> DEAR MR. PRESIDENT: You have shown your commitment to increasing the number of women appointed to Federal office, including the Federal Judiciary. You have surpassed the record of your predecessors in the appointment of women.
>
> A vacancy on the Supreme Court would offer you a tremendous opportunity to strike a dramatic blow for equality under the law. The appointment of a woman to the Court would enhance the Court and end the im-

plied and regrettable discrimination against women in Federal judicial appointments.

Appointments to the Supreme Court have never been made without reference to current political and social reality. The Court does not operate in a vacuum; appointments are not made in a vacuum. The appointments of Louis Brandeis and Thurgood Marshall are tremendous milestones in the history of the Court. In making those appointments, Presidents Wilson and Johnson did not have to compromise standards because there were few Jewish or black judges of prominence at the time. The same would be true of the appointment of a woman today. There are many qualified women Federal and State judges, practicing attorneys and law professors whose record of achievement would sustain the judicial caliber of the Court.

We in the House will not vote on any appointment you make; we can, however, offer our recommendations for those appointments. We can also assure you that the appointment of a woman to the Court would be hailed by our constituents as a major step for equality in this country.

With best wishes,

Sincerely,

James L. Oberstar, M.C., Elizabeth Holtzman, M.C., Patricia Schroeder, M.C., Marilyn Bouquard, M.C., Millicent Fenwick, M.C., Anthony C. Beilenson, M.C., Ted Weiss, M.C., Martin Olav Sabo, M.C., George Miller, M.C., John B. Anderson, M.C., Bob Carr, M.C., Don Edwards, M.C., James M. Jeffords, M.C., Dan Glickman, M.C., William H. Gray, III, M.C., Edward J. Markey, M.C., Richard Nolan, M.C., Robert A. Roe, M.C., Bennett M. Stewart, M.C., Bruce F. Vento, M.C., Jim Weaver, M.C., Berkley Bedell, M.C., Charles F. Dougherty, M.C., Frederick W. Richmond, M.C.

Barbara A. Mikulski, M.C., Mary Rose Oakar, M.C., Marjorie S. Holt, M.C., Margaret M. Heckler, M.C., Lindy Boggs, M.C., Frank J. Guarini, M.C., Vic Fazio, M.C., Alvin Baldus, M.C., Melvin H. Evans, M.C., George E. Brown, Jr., M.C., Thomas A. Daschle, M.C., Martin Frost, M.C., Ray Kogovsek, M.C., John J. LaFalce, M.C., Robert Garcia; M.C., Romano L. Mazzoli, M.C., Nick Joe Rahall II, M.C., James H. Scheuer, M.C., Morris K. Udall, M.C., Harold L. Volkmer, M.C., Howard Wolpe, M.C., Jonathan B. Bingham, M.C., Paul N. McCloskey, Jr., M.C.●

HOME HEATING FUEL CRISIS, PART X*

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. GILMAN. Mr. Speaker, I rise to once again take up an issue that has a bearing all across the Nation, namely, the energy crisis.

Some believe that since was have lifted the odd-even plan on the purchase of gasoline, and now that the major oil companies are providing the independent dealers with home heating fuel—that all is well and that we can go ahead and drop our guard against any spot shortages or widespread emergencies. That is precisely what we did immediately after the last oil crisis in 1973.

Considering the sensitive leverage that foreign countries, such as Iran could and do use against us during times of conflict, and considering the wildly fluctuating market, we must adopt an attitude that we are not secure until such time when we have successfully ridden ourselves of the foreign oil yoke. To be able to do this is the greatest single challenge of the century to our Nation. It is a task that will require the cooperation of every American citizen and most certainly the united efforts of our industrial sector. While there are many American citizens who sense this challenge and are ready to rally behind a rational energy policy, including stringent conservation, unfortunately there are far too many businesses that still put self-interest above this crucial national concern. I have noted in prior statements in the RECORD, the degree with which oil companies are opposed to the windfall profit tax, price controls, and any other form of legislation that might interfere or regulate their domination and profits.

Now that we have stockpiled enough home heating fuel supplies to hopefully last us through this winter, and now that the independent dealers have been given relatively fair contracts and shipments, we must not stop our vigil against potential problems. I say this for various reasons: First, the refining capacity in this country has not been improved to the extent that it should be in order to accommodate the needs and distribution patterns of our industry and public sector. Not a single new refinery has been constructed in the United States since 1973. Second, we have not approved any legislation that will impose price controls on a product that could shoot up with the first sign of a shortage. Third, we have not negotiated any additional foreign oil supplies with countries that are on friendlier terms with the United States. As a result of these considerations—which by no means encompass all the problems on the energy issue, but do pose a daily threat—we would be foolhardy not to anticipate future spot shortages, price hikes, and oil blackmail. Our present situation should underscore that we are in an oil crisis.

I urge my colleagues to take advantage of this momentary flow of oil supply—at a time when we are not as critically threatened as we were a few months ago—to reflect on these points in order to try to put the problem into its proper context, and mindful that it demands constant vigil and forethought.

And I urge my colleagues to take advantage of this lull before the storm to move expeditiously in adopting the critical energy measures still lingering before Congress: The proposed Energy Mobilization Board, refinery incentives program, synfuels, and the windfall profit tax—All crucial issues that demand immediate attention if we are to come up with a comprehensive energy policy.●

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*Part X is part of a series of reports on the home heating fuel crisis with Numbers 1, 2, 3, 4, 5, 6, 7 and 8 appearing in the Congressional Record on 9-17-79, 9-22, 9-29, 10-11, 10-19, 10-26, 11-9, and 11-16, respectively.

PRESIDENT CARTER PROCLAIMS DECEMBER 1979 "NATIONAL CHILD ABUSE PREVENTION MONTH"

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues a proclamation signed by President Carter last week which proclaimed December 1979 "National Child Abuse Prevention Month." This proclamation has its origins in a resolution which I introduced on October 23, 1979, with the full and enthusiastic support of Speaker O'Neill. This resolution, House Joint Resolution 428, which I introduced reminds us that today, child abuse and neglect remains a very serious problem in this society. As the sponsor of one of the original child abuse prevention bills when I first came to Congress, I have maintained my commitment to working to alleviate this problem.

Today, more than 1 million children a year are victims of child abuse and neglect. The Child Abuse Prevention and Treatment Act of 1975 has yet to fulfill its intent as the cornerstone of a Federal policy to combat this menacing problem. In this last month of the International Year of the Child, it is most appropriate that we realize that we must all bear the responsibility to insure that the Nation's most precious natural resource, our children, have the opportunity to grow up in loving and healthy surroundings.

I wish to insert for the RECORD a copy of my resolution and proclamation 4704 of the President which designates National Child Abuse Prevention Month.

H.J. RES. 428

Whereas each year in the United States one million children are victims of child abuse and neglect, including three thousand who die; and

Whereas the Child Abuse Prevention and Treatment Act of 1975 has yet to fulfill its mandate of being the cornerstone of a United States policy for child abuse prevention and treatment; and

Whereas a dedicated core of organizations and individuals (including the National Alliance for the Prevention of Child Abuse; the New York Foundling Hospital and its director, Dr. Vincent Fontana; Children's Village; and the National Center for the Prevention of Child Abuse and its Director, C. Henry Kempe, doctor of medicine) are leaders in the effort to focus greater attention on and resources into the movement to combat child abuse and neglect; and

Whereas the month of December 1979 is the final month in the observance of the International Year of the Child: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1979 is designated as "National Child Abuse Prevention Month" and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

A PROCLAMATION

America's children are our most precious resource, and in this final month of the International Year of the Child I urge all Americans to consider what they can do to prevent child abuse and neglect.

The needs of children are best met in families where provisions can be made for the special needs and limitations of all family members. Even loving parents sometimes fail to provide adequate supervision, or find themselves in situations where needs are not met or emotions are difficult to control.

I urge communities and helping organizations to work with families to alleviate conditions that result in the abuse and neglect of children. I especially urge all those who feel unable to cope with problems to seek out help.

Our Nation's children are our Nation's future. We all share in the responsibility for making sure they grow up in a healthful environment. I appeal to public agencies, private organizations and the business community to support needed social, educational and health services in their communities to strengthen families during the critical childrearing years.

Working together, with sensitivity and concern, we can reduce the incidence and lifelong damage of child abuse.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim the month of December, 1979, as National Child Abuse Prevention Month.

In witness whereof, I have hereunto set my hand this twenty-sixth day of November, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.●

TURKEY DAY

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. JOHNSON of California. Mr. Speaker, I wish to bring to my colleagues' attention the editorial entitled "Turkey Day? For the Birds" which appeared in the Thursday, November 22, Record Searchlight, Redding, Calif. The observations and comments which appear in this editorial are ones we all should give serious consideration:

TURKEY DAY? FOR THE BIRDS

The sign in the gas station proclaimed the hours that fuel was available.

Added in crayon below was the following: "Closed Thursday—Turkey Day!!"

Tuesday's mail brought a letter from a representative of a news syndicate, who closed with this wish: "Hope you have a happy Turkey Day!!" On Wednesday, a caller wished us, "Happy Turkey Day."

Turkey Day: It ranks right up there with National Pickle Week. If it really is Turkey Day, what's its purpose? To honor turkeys? Chances are the birds would just as soon forego the tribute.

In truth, "Turkey Day" is just one more example of a growing carelessness with words. Today is no more Turkey Day than Christmas is Xmas.

Today is Thanksgiving Day—a national observance unique to the world, which has its roots in an event that occurred more than three centuries ago in New England.

The story of the Pilgrims is a familiar and important one—the Buchwald version appearing at the top of this page notwithstanding.

And there are two things about that first day of thanksgiving that especially need to be remembered. The first has to do with the very nature of the thanks that were given so long ago.

Thanks were given not so much for the abundance of a harvest, or for a gentle land of milk and honey, but for survival itself. Thanks were not given because all the celebrants had much more than they could ever hope to use, but because—for the first time since these Puritan refugees had fled Europe—there were sufficient food and supplies to sustain and nurture lives.

So far as we know, the celebration wasn't held so the settlers could congratulate each other. Thanks weren't given for the diligence of those who had planted the seeds, the culinary skills of those who prepared the meal, for the luck of those in good health, or to the dirt or the sun.

Thanks were given to God—for reasons that were obvious at least to those who gathered at the feast table.

The second thing to remember has to do with the feast itself.

For the feast wasn't simply a way of saying thanks, or an excuse to stuff oneself to the earlobes; it was just as much an experience of sharing.

And that sharing was not merely in the abundance of the land, but in the very life experience itself. Perhaps that's why Thanksgiving has been a time for the gathering of family and friends—not simply to indulge in a meal, but to share in each other and to share with each other our abundance.

Turkey Day? Perhaps some other day, but not today. Today is a day to give thanks—and to give thanks to God. It is also a day to remember that, even as we have far more than we can ever hope to use, untold millions have far less than they need—simply to survive.

And it's a day to remember that even as it's our pleasure to share our blessings with those who have been similarly blessed, it is also our charge to share those blessings with those for whom the simple act of survival is a struggle against odds that seem utterly overwhelming.●

EXCALIBUR AWARD FOR OUTSTANDING ACHIEVEMENTS BY FEDERAL GOVERNMENT PERSONNEL

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. BARNES. Mr. Speaker, as a lifelong resident of the Capital area where the Federal Establishment is headquartered, and where the largest concentration of Federal Government civilian and military employees live and work, I have always been sensitive to the mood of the country with respect to the Government service and personnel. Thus, I have observed with concern the unfavorable trend in public confidence in governmental institutions and the progressive lowering of the esteem in which public servants are held. This trend, in my opinion, is largely due to the mass of unwarranted criticism emanating from an ill-informed but vociferous minority. This minority paints the entire Government with a broad brush and depicts the bureaucracy as a group of lazy, inefficient individuals. And yet, during the short time that I have served in Congress, my travels and contacts have confirmed and even strengthened my conviction that most of this criticism is baseless, and that the overwhelming majority of Federal employees are dedicated, hard-working, and intelligent public servants. They make every effort to do their share in solving pressing national problems, advancing the quality of Government services to the public, and improving the cost-effectiveness of governmental programs.

I think it is time that the public be made aware of these and other positive aspects of Government service and learn of the many examples of outstanding performance, unique achievements, and efforts beyond the call of duty by Federal personnel. As a Congressman representing a district in the Capital area in which thousands of Federal employees live, I feel a special obligation to make an effort in this direction.

It has occurred to me that one way of doing this would be to offer, periodically, an award to a Federal Government employee who exemplifies some of the most desirable qualities of a public servant or outstanding achievement in service to the public. The citation which I am initiating is to be known as the Excalibur Award. All Federal civilian and military employees are eligible for the award. Nominations are invited on a continuing basis from heads and other officials of Federal departments and agencies, from other organizations and from the general public. From such nominations, final selections are made by an independent panel of seven distinguished citizens, some of them from the private sector and none connected with the executive branch of the Government. The current chairman of this committee is Mr. Harry McPherson, attorney and former White House Counsel to President Lyndon B. Johnson.

Since May, when the idea for this award was introduced to Federal agencies, I have received some 150 nominations. My staff has carefully reviewed each proposal, secured additional information where needed, and consulted with knowledgeable individuals, inside and outside the Government, to obtain supplementary independent evaluations.

From these submissions, the abovementioned selection committee has now chosen, as the recipient of the first Excalibur Award, Mr. Frank J. Nola, a 49-year-old aerospace engineer at NASA's George C. Marshall Space Flight Center in Huntsville, Ala. Following graduation from the University of Miami, employment in high technology industry and the U.S. Army Ballistic Missile Agency (Redstone Arsenal), Mr. Nola joined NASA at the Marshall Space Flight Center in 1962.

He has specialized in the development of electronic control systems for the guidance and stabilization of spacecraft. He holds nine patents on electronic control systems of motors and tachometers. In the course of this work with NASA, Mr. Nola invented and perfected the device which has qualified him for the Excalibur Award. It is a relatively simple and inexpensive power control mechanism, designed to reduce greatly the amount of power consumed by electric motors in industrial and domestic use.

Experts are satisfied that the machine has tremendous potential and could save upward of 30 percent of the power used by an electric motor. The viability and current practicability of the model are attested by the fact that NASA has already licensed over 30 companies to manufacture it, and is processing many additional applications. Several licensees are already producing and marketing this device. They are enthusiastic about the effectiveness and market potential of the Nola design and regard it as, by far, the best and least expensive of the many devices which have been designed for the purpose of power economy in electric motors.

With the problem of the present scarcity of energy and the gloomy outlook on all our minds, this unique method of effective energy-saving strikes me as a particularly significant and timely development. Hence, I heartily agree with the choice of my selection committee for this first Excalibur Award.●

GENERICIDE

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. RAILSBACK. Mr. Speaker, the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of which I am the ranking minority member, recently held 2 days of hearings on the issue of involuntary cancellation of registered trademarks on the ground that such trademarks have become commonly used names for a variety of articles or substances. This ground for invalidating trademarks is commonly referred to as "genericide" and has been the subject of substantial concern recently because of actions by the Federal Trade Commission to expand its activities in this area.

One of the most informative statements made on this subject during the course of our hearings was that of my good friend and colleague, ANDY MAGUIRE. For the benefit of my colleagues, I would like to take this opportunity to insert a summary of Congressman MAGUIRE's testimony in the RECORD at this time:

STATEMENT OF CONGRESSMAN ANDREW MAGUIRE ON H.R. 3685 BEFORE THE SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES AND THE ADMINISTRATION OF JUSTICE

Thank you Mr. Chairman and Members of the Subcommittee for both holding hearings on H.R. 3685 and for inviting me to testify on behalf of my legislation this morning. As some of you may know, my principal area of expertise is in the health field. But I think all of us are under a special obligation, during this session of what has been dubbed "the Oversight Congress," to participate in another look at every aspect of our regulatory structure. Where we can dispense with an unnecessary layer of legal bureaucracy for the benefit of citizens as taxpayers, without working to the detriment of those same citizens as consumers, we should do so.

I became interested in this issue after reading two letters from constituents in my district which complained about a generic trademark action launched by the Federal Trade Commission. Using its authority under Section 14(c) of the Lanham Act of 1946, the Commission petitioned the Commissioner of Patents to remove FORMICA from the register of trademarks on the sole ground that it had become generic. The corporation had been accused of no wrongdoing. No competitor had challenged the trademark nor had any complained that the FORMICA trademark represented an unfair exploitation of a generic term. No monopolistic practices had been alleged, nor had any customers complained of any confusion in the marketplace. Nevertheless, the Commission maintained that it was per se in the public interest to revoke the trademark on the basis that it had degenerated into common usage.

Moreover, the Commission made it clear that it intended to use generic trademark actions on an ongoing basis and that the FORMICA episode was an experiment that would be repeated. Since May, 1978, when the Commission started its famous action against FORMICA, the case has been described in several forums as a reusable, "innovative remedy." This is how it was described in the Annual Report of the Federal Trade Commission for 1978. Chairman Pertschuk in a January, 1979, interview in the Village Voice Newspaper, stated that he was going to rely on innovative remedies—like the action against FORMICA—because the scenario of Court Action, Consent Decree, and further monopolization, ad infinitum, is unproductive with respect to his agency fulfilling its role as the procompetitive arm of the Federal government.

While I have the most profound respect for Chairman Pertschuk, I find the Commission's intention to use its cancellation powers in this manner troubling. I believe that the record shows that the market is quite capable of promoting generic trademark actions without undue government interference. I believe that the record shows, in the Commission's first usage of this power, that the Commission is using inexact tools for gauging when a generic trademark action is appropriate, and that it is using the wrong legal tool, the Lanham Act, to promote a restructuring of the laminate market. I believe, in the absence of any indications of anti-competitive behavior in the market, that the government should refrain from playing the role of advocate and return to the role of arbiter, judging cases brought by competitors against registrants. Finally, I believe that the role of the government can be limited without degrading the common law distinction between the terms generic and trademark, and this is the intent of my legislation. . . .

Trademark law has always provided a mechanism for competitors who, at their own risk, expended the resources and hired the lawyers to confront a registrant. The casebooks are filled with examples. Notable are the entry of words like aspirin, cellophane, zipper, thermos, linoleum, mimeograph, yo-yo, safari, shredded wheat, lanolin, celluloid, and dry ice into the realm of everyday use. Time after time, when a trademark becomes generic, legitimate private actions weeded from the register names which identified classes of products and returned what was in effect common property to all competitors from the businesses which appropriated it. . . .

My bill, if enacted, would restore to the private sector the sole authority to petition the United States Patent Office to cancel a registered trademark exclusively on the ground that it has become generic, a power that we have seen works quite well. My bill would continue to permit the Commission to revoke a trademark where it sees the mark functioning in concert with practices which restrict competition. If, for example, a registrant attempts to prevent a retailer from selling his trademarked goods at a price other than that established by the registrant, the trademark will still be susceptible to cancellation. And, competitors will still be permitted to use the readily available descriptive name, i.e., NEWMICA kitchen surfaces, MICARTA countertops, or whatever. If enacted, my bill would relieve the legitimate concerns of the trademark community that the FTC is going to continue to rely on a shortcut procedure (The Lanham Act) to deal with cases where it may believe there is anti-competitive behavior, but where it does not want to sustain the burden of that argument directly.

As I mentioned in the opening of my statement, there is a serious need for us to reexamine the powers of government and to trim away excess layers of bureaucracy. The Lanham Act provides a good mechanism for the market to police the register of famous trademarks. If the trademark becomes a tool to circumvent free enterprise and unbridled competition, public policy dictates that the rights enjoyed by ownership be kept within bounds. Similarly, the powers of government, like the right to hold a registered trademark, should endure as long as their continued existence benefits the public. The Federal Trade Commission's first execution of its authority to cancel generic trademarks demonstrates that this particular power is not likely to be used beneficially. I offer my legislation as the medium for retracting this and only this authority which was uncertainly granted in the first place and which unnecessarily detracts now from the important anti-trust activities which the FTC ought under the Federal Trade Commission Act to pursue on the behalf of the public.●

ANTI-COMMUNIST CAMBODIANS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MICHEL. Mr. Speaker, how many Americans are aware that, at the present moment, there are almost one-half million Cambodian refugees located in areas controlled by non-Communist, anti-Vietnamese Cambodians? How many Americans know that these Cambodians, known as the "Free Khmer" have at least 6,000, and perhaps as much as 10,000 able-bodied, armed soldiers, ready to fight both Pol Pot's forces and the puppet Communist regime set up in Cambodia by the Vietnamese?

I would guess that most Americans are not aware of these facts. They do not make the front pages of most newspapers or the evening television news. But the Christian Science Monitor reports that the leaders of these groups want help from the United States. They ask for help from our CIA. We know, of course, that our CIA has been so crippled by domestic critics in Congress and the media that it is absurd for anyone to ask for its help. But, in any event, the people of this country deserve to know about the Free Khmer.

At this point I wish to insert in the RECORD, "Anti-Communist Khmers Call for Arms and CIA Help" and "Who's

Who in Cambodian War" from the Christian Science Monitor, November 28, 1979.

ANTI-COMMUNIST KHMERS CALL FOR ARMS AND CIA HELP

(By Frederic A. Moritz)

There he sat—in a field headquarters roofed with thatch.

Bearded, in military fatigues, with a colorful sash wrapped elegantly around his waist, this animated, emotional man explained to visitors: "We need arms and food and the support of the outside world".

The man is "Prince" Norodom Soriavong. He leads a Free Khmer anti-communist refugee camp holding between 100,000 to 200,00 Cambodians. "Help me contact your CIA. We need their help," he appealed to me, explaining the need to continue the fight against Vietnamese occupation of Cambodia.

A few miles to the north at a similar camp named Ban Nong Samet, chief of staff In Sakan makes a similar plea. In stylish fatigues and colorful sash, his high cheekbones and elegant face give an aura of dash to the hot, crowded shelter surrounded by the huts of thousands of destitute refugees.

To many experienced observers of Cambodia, military leaders like Norodom Soriavong and In Sakan seem all too familar. Skeptical "old-timers" say such men swathe themselves in khakis, sashes, and rhetoric—and lead their bands of followers in hopeless quixotic quests.

But some analysts take the forces these men lead more seriously.

"The existence of these groups is a symbolic threat to Vietnam," notes one. "For they stand for what most Cambodians probably want—a noncommunist, non-Vietnamese-dominated Cambodia. The Vietnamese know that under some circumstances these groups could quickly grow."

Although the refugees in these Free Khmer camps straddling the Thai-Cambodian border total some 450,000. Just how many are able-bodied, armed military "men" (often soldiers in these camps are school age) is unknown. Norodom Soriavong claims to command 6,000. In Sakan claims 2,800.

The question to be answered in the weeks ahead is just how much the military potential of these groups is weakened by civilian groups accepting the Thai offer to relocate at Khao I Dang. This camp has just been set up to house about 200,000 refugees.

Leaders like Norodom Soriavong and In Sakan are clearly concerned that if they lose their "civilian" populations, their "case" for international food aid will be weakened.

Vietnamese troops are believed to be only 10 miles from the perimeters of Ban Nong Mak Mun. A visitor occasionally hears the thump of a distant howitzer. Khaki-clad lads carrying automatic rifles and grenade launchers straggle in and out of camp.

Indeed, some analysts believe a serious Vietnamese attack could begin against these camps at any time—even though Vietnam may consider the Communist China-backed Khmer Rouge further to the south a more potent military force.

Other observers see these Free Khmer camps as a relatively low-priority Vietnamese target. The Thai interest in relocating these refugees stems less from concern over Vietnamese actions—and more from concern over having independent Cambodian warlords on the Thai border.

If the Vietnamese do strike, there seems little chance the bands of young men carrying weapons larger than themselves could hold their own.

WHO'S WHO IN CAMBODIAN WAR

The swirling guerrilla war in Cambodia has several major players. Among the most important:

Pol Pot and the Khmer Rouge: The former ruler of Cambodia and his communist forces have been reduced to a guerrilla movement in isolated pockets—mostly in the western part of the nation. Under their rule, hundreds of thousands of Cambodians were killed or died of hunger. Current strength, 25,000 to 50,000 guerrillas and "camp followers."

Heng Samrin: Successor to Pol Pot, he rules most of Cambodia thanks to support from Vietnam's army.

The Free Khmer: Strongly anti-communist, the Free Khmers are waging a small resistance movement in western Cambodia. Non-communists might rally to their side if Vietnam's effort in Cambodia faltered. The Free Khmer and other, smaller, non-communist factions are believed to control about 5,000 to 10,000 fighters.

Prince Norodom Sihanouk: Exiled from his country, the Prince might someday return as head of a coalition government.

Vietnam: With up to 200,000 troops in Cambodia, Vietnam wields the greatest military force. Vietnam's long-range aims there are uncertain. Guerrilla resistance has apparently been stronger than Vietnam expected.

China: The Chinese are worried about the growing power of Vietnam, a Soviet ally, on their southern flank. Complete control of Cambodia by Vietnam would add to China's concerns. China furnishes some aid to Cambodian guerrillas.●

BEN COLE—INDIANA SOCIETY'S MAN OF THE YEAR

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. MYERS of Indiana. Mr. Speaker, traditionally it has been the role of the news media to report to the people the activities of public officials. It is my privilege to turn the tables and bring to the attention of my colleagues the achievement of a member of the fourth estate.

Ben Cole, Washington correspondent of the Indianapolis Star was honored this week as the "Man of the Year" by the Indiana Society of Washington. For 30 years, Ben has kept Hoosiers advised of events in our Nation's Capital through his honest and objective news stories, as well as his informative and entertaining "Washington Ripples" weekly column.

It has sometimes been said Government and the media have an adversary relationship. But I would suggest that, in the case of Ben Cole, there has always been friendship and mutual respect. He is dedicated to fairness and objectivity and he has never forgotten his roots. In fact, despite 30 years in Washington, it has been said that Ben Cole is still so much a Hoosier that he has the mildest case of Potomac Fever ever diagnosed in the Nation's Capital.

It is a pleasure for me to know a professional like Ben Cole. Indeed, it is an honor to call him my friend.

At this point. I insert in the RECORD an article from the Indianapolis Star of Wednesday, November 28, 1979, which pays tribute to Ben Cole as the Indiana Society's Man of the Year.

BEN COLE CAUSES A RIPPLE IN WASHINGTON

WASHINGTON, D.C.—Ben Cole, Washington correspondent for the Indianapolis Star, was honored Tuesday night as Man of the Year by the Indiana Society of Washington.

Cole, who has covered the nation's capital for The Star the last 30 years, received the surprise award in ceremonies at the National Press Club.

The Indiana Society is an organization of more than 2,000 Hoosiers who live in the Washington area. According to Cole's own published account, it was founded in the 1920s as a way of registering Indiana residents for absentee voting, but it now is an important vehicle for bringing "uprooted" Hoosiers together, helping them to maintain their ties to home.

Perhaps no one feels those roots stronger than Benjamin R. Cole. Born in Indianapolis 63 years ago and graduated from Arsenal Technical High School, he has returned often to his native soil and from time to time he'll work a word or two about home into his weekly "Washington Ripples" column.

Even newsmaking events in Washington couldn't keep him away from a 50-year reunion at his beloved School 57 last May.

Cole attended Butler University (where he met his bride, the former Alice Louise Porteoss), Indiana State Teachers College and the American Press Institute at Columbia University.

After six years as a reporter for the Terre Haute Tribune and Star, he came to The Indianapolis Star in 1944 and rose quickly to statehouse reporter, assistant city editor and city editor. He was named Washington correspondent July 15, 1949.

Throughout his career, his solid, objective reporting has won him many admirers. A good storyteller as well, he is said to have captivated the Congressional press gallery on more than one occasion with his accounts of his early days as a cub reporter.

He is a member of the prestigious Gridiron Club of top reporters in Washington, National Press Club and Sigma Delta Chi Society of Professional Journalists, and is member and past president of the Indianapolis Press Club as well.

He and his wife live at McLean, Va. Their two sons and one daughter are grown.●

CUMULATIVE DEATHS ON A NATIONAL SCALE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. GAYDOS. Mr. Speaker, in the back pages of newspapers throughout this country one can find accounts of workers who have either been killed or injured while on the job. But generally people remain unaware of what a pervasive phenomenon this is. While this unawareness may be attributed to many factors, one important factor is that events such as these are treated as isolated events by local news services rather than being viewed as cumulative deaths on a national scale. However, when total national fatalities are analyzed over time, the extensive loss of life and the large number of disabling injuries become all too apparent.

For example, according to National Safety Council statistics, workplace fatalities accounted for 13 percent of all accidental deaths in this country during

1978. In terms of overall costs to our society, these fatalities become even more significant. The National Safety Council, which has computed costs to include wage loss, medical expense, insurance costs, et cetera, found that in 1978, work accidents in the United States cost $23 billion. In 1977, over $8.5 billion in compensation was paid to eligible workers in the Nation under workers' compensation laws, according to the Social Security Administration. This was more than four times the amount paid in 1966. Needless to say, these costs do not include the immeasurable human suffering resulting from these tragic deaths and disabling injuries.

At this point, I would like to provide for my colleagues information on some recent workplace fatalities. In the workplace many lives are lost as the result of falls from ladders, beams, scaffolds, et cetera, due to improper safety precautions. The following list represents only a few such accidents which have claimed the lives of workers throughout this country:

On September 11, 1979, a 26-year-old employee was killed in a fall at a nuclear plant construction site in Jackson County, Ala. The victim was assisting in the placement of 1½-ton steel plates on the top of the containment building, when one of the metal plates he was installing shifted, causing him to fall. Work in that section of the plant was suspended pending an investigation into the accident.

On September 16, 1979, a 35-year-old employee was killed in a fall at a plant located in Birmingham, Ala. The victim died of head injuries sustained in a 25-foot fall.

On October 1, 1979, a 40-year-old oil company employee drowned when he fell from a ladder and dropped into the St. Johns River. The victim fell between the dock and a barge that he and others were unloading near Jacksonville, Fla. An improperly secured ladder has been tentatively blamed for the accident.

On October 2, 1979, a 23-year-old employee of a plant located in Clarion, Pa., was killed when he fell into an acid filled tank.

On November 14, 1979, a 51-year-old employee of a steel plant located in McKeesport, Pa., which is in my district, was killed when he fell from a ladder. Two other workers had previously been killed at this plant when on November 2, 1979, they were crushed to death by a collapsing stack of steel slabs. OSHA is currently investigating all three fatalities.

On conclusion, although between 1912 and 1978 accidental work deaths per 100,000 population were reduced by 71 percent, the fact still remains that approximately 13,000 workers per year are losing their lives in work related deaths, not to mention the countless injuries. Furthermore, the effects of health hazards in the workplace are not generally felt for many years. Finally, the activities of the Occupational Safety and Health Administration, such as: Improved standards, targeted inspections, training, education, and consultation, should assist employers and employees in reducing the tragic loss of human life and the economic drain on our economy.●

THE USE OF OUR FOOD SUPPLY AGAINST TERRORIST NATIONS

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 29, 1979

● Mr. COLEMAN. Mr. Speaker, it is approaching a month now that Americans have been held hostage in our Embassy in Iran. Because of the crisis there, and related events elsewhere, I think we are forced to consider changing a long-time tradition of this country. We should begin to discuss ways to use our abundant food supply against terrorist nations. A pragmatic approach to foreign policy demands our Nation use every tool available. Food is one of those tools.

The student takeover of the American Embassy in Tehran is not an isolated case. Three of our ambassadors have been murdered. U.S. businessmen and Government officials have been abducted and sometimes killed. Embassies have been overrun, and their personnel held hostage. It is clearly time for the United States to reassess its relationship with other nations.

Obviously, some of our enemies receive our foreign aid. Some nations who receive our technology are using that technology against us and our allies. Some nations who depend on U.S. food allow—even encourage—terrorists to kidnap and murder our citizens and destroy our Embassies.

Last year, we exported $452 million worth of food to Iran. In fiscal year 1980, estimates are that we will export nearly $500 million worth of food. This represents about a fourth of all Iranian food imports, or about 7 to 8 percent of its total food consumption.

Iran needs our soybean meal, rice, wheat, and feedgrains, all of which we now export to that country. According to the Library of Congress, if our country were to withhold rice and feedgrains, Iranian cities would be hurt economically. The Iranian poultry industry, already suffering losses this year, would be crippled. These two commodities—rice and feedgrains—are vital to Iran. That country has no apparent alternative sources of soybean meal, and present shortages around the world would make it very difficult for Iran to supply the food its people depend on—rice.

In addition to our food embargo, we should call on other major food producing nations to join us in showing how food can be used to keep peace in the world. Our boycott of Iranian oil will not severely hurt Iran unless other nations boycott their oil, too. Likewise, a food embargo will not be as effective unless others join us in our fight against international terrorism. A total food embargo to Iran would create a short-fall in that country's food needs by nearly one-third.

Using food as a weapon is not a pleasant choice. But terrorist attacks on United States citizens and other nations are not pleasant either. Iran, and other terrorist nations, see us as a vulnerable country. They are taking advantage of our energy needs, and they don't think we have the will power to reduce our dependence on foreign oil.

I think they are wrong. The American people are willing to cut consumption of energy. We are willing to make a strong statement to the world we will no longer allow oil to control us. We will control it.

It is time we refocus our attention. We have something these nations need more than we need their oil. Except in times of war, we have never used food as a weapon. But, we are threatened by acts of terrorism around the world. World peace is threatened. It is time to serve notice our Nation will use all its resources—military, economic, agricultural—to protect itself, its citizens, and its allies.●

NUCLEAR REGULATORY COMMISSION AUTHORIZATION ACT

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. MICA. Mr. Chairman, today the House voted on the Markey amendment which would have placed a 6-month moratorium on construction permits for new nuclear powerplants. Mr. Chairman, I want to take this opportunity to explain why I did not support the Markey amendment.

When the Three Mile Island accident occurred earlier this year it raised some very fundamental questions over the safety and viability of nuclear power. I share many of the concerns regarding the future of nuclear power and would not want our Nation to seize upon an unsafe energy source in our search for energy independence.

The accident at Three Mile Island focused our attention on nuclear power and spurred a national debate which will continue for some time. During the past few months I have been contacted by many of my constituents on this issue, and I will continue to listen to and examine all their concerns. We must proceed very cautiously and closely evaluate all information on the use of nuclear power prior to making any final judgments.

I have personally spoken with the Nuclear Regulatory Commission on this matter and was assured that no new construction permits will be issued for the next 6 months. In light of this assurance and the possibility that a congressional moratorium could be construed as an antinuclear message, I did not feel that it was proper at this point in time to establish a moratorium. Should there be an attempt to issue a permit within this 6-month period, I will join with Congressman MARKEY in leading the opposition to its approval.

This does not mean that I am unconcerned over the effects and safety of nuclear power. I am very concerned and urge the Interior Committee, the Interstate and Foreign Commerce Committee, and the entire Congress to continue examining and reexamining this complex issue in order to determine our national policy.●

SENATE—*Friday, November 30, 1979*

(*Legislative day of Thursday, November 29, 1979*)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

O God, "our refuge and our strength, a very present help in trouble," we would be still and know that Thou art God. Quiet our restlessness. Fill our hearts with Thy love. Give us teachable minds and a devout obedience to Thy will. When we cannot see the distant scene, help us to do what can be done now, and to be open and responsive to all the light Thou dost impart for the future.

As the bells toll, may our hearts beat in unison with those in bondage. Shield them from harm and, by some miracle of divine grace, restore them to freedom.

To those who bear the burdens of government give Thy grace and that wisdom which comes from above. In this time of trouble, suffer not our trust in Thee to fail. May Thy righteousness prevail over man's sinfulness until peace and justice become the way of all men and all nations.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 30, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin.

TSONGAS AND LUGAR: GREAT JOB ON CHRYSLER

Mr. PROXMIRE. Mr. President, yesterday, the Senate Banking Committee reported the Chrysler loan guarantee legislation.

I voted against it because I oppose bailing out failing firms. But the bill from the committee does provide a far better chance for Chrysler to survive. It does require much greater sacrifice on the part of the interested parties that would gain from a Chrysler rescue. It provides a precedent that may be somewhat more discouraging in dissuading other failing firms from lining up for a Federal bailout when they get into trouble. It requires a somewhat lesser contribution from the taxpayer and considerably more protection for the taxpayer in the event of a Chrysler collapse.

For all these improvements, Senator RICHARD LUGAR and Senator PAUL TSONGAS deserve very great credit. They have put together a coalition that supports aid for this Nation's 10th biggest firm, employing over 100,000 people, and aid that, absent their efforts, in my judgment, would not be forthcoming at all.

Putting this kind of constructive package together is one of the most difficult but perhaps the most creative kinds of legislative work that we as Members of Congress can do. Senator LUGAR, who did the same kind of remarkable work in putting together the New York City package, and Senator TSONGAS, who demonstrated a really brilliant understanding of the complexities of this tough issue, deserve great thanks not only from the Chrysler family of dealers, suppliers, workers, creditors, and stockholders, but from the country as a whole.

This legislation is far from home free. It could fail in the House or Senate. Even if enacted, it could still not save a corporation that is in extremely grave condition. But it is a noble effort, and Senators LUGAR and TSONGAS deserve our gratitude.

Mr. President, I ask unanimous consent that a New York Times editorial of yesterday, entitled: "A Shrewd Compromise for Chrysler," be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A SHREWD COMPROMISE FOR CHRYSLER

As outlined by the White House, the Federal loan guarantee program for Chrysler is a cheap ride. Neither Chrysler's stockholders nor its employees would be asked to make major sacrifices. But two members of the Senate Banking Committee—Richard Lugar, a conservative Republican from Indiana, and Paul Tsongas, a liberal Democrat from Massachusetts—have a better idea. They suggest a bail-out program that would require those who stand to lose the most from Chrysler's demise to bear most of the burden of the rescue. That is the least the public should demand as the price of taxpayer support.

President Carter's plan calls for $1.5 billion in loan guarantees to be matched by an equal amount from private sources. But little of that matching private money would come from Chrysler's unionized employees, who are determined to hold on to their recently negotiated wage increases. They won a $1.3 billion package that would increase Chrysler's labor costs to about $20 an hour by 1982. Chrysler's stockholders would be sheltered, too; the company plans to borrow most of the private money it needs from banks, dealers, suppliers and communities with Chrysler plants.

The Lugar-Tsongas plan would redirect the risks. The Senators want to offer Chrysler $1.25 billion in Federal loan guarantees. But in return, every Chrysler employee would have to accept a wage freeze. And the company would have to raise a total of $2.5 billion from private sources, including the sale of stock. If, through such shared sacrifice, Chrysler prospered, everyone would win. Chrysler stock, though diluted by more stock sales, would still be worth more than now. The workers would keep their high-paying jobs and, by a provision in the Lugar-Tsongas proposal, receive $250 million in preferred stock as deferred compensation.

This bill is one with which everyone should be able to live. It would give Chrysler a good chance to survive. Yet it would ask for enough sacrifice to discourage other failing firms from rushing to apply for Federal rescue. It is a compromise between a giant Federal giveaway and a decidedly cold shoulder. We hope Congress sees the wisdom of this combination.

Mr. STEVENS. Mr. President, today's New York Times contains an editorial supportive of the new proposal offered by Senator LUGAR to resolve the Chrysler financing problem.

The distinguished junior Senator from Indiana has displayed an uncanny ability to effect compromises in areas of extreme sensitivity and controversy, and it appears that he has again suggested a workable plan of action with respect to the Chrysler situation. Although I have not decided what to do about this financing problem, it is my intention to give careful attention to the various proposals, particularly the one endorsed by my good friend from Indiana.

I commend him and his principal cosponsor, the Senator from Massachusetts (Mr. TSONGAS), for their diligence in this matter.

TIME TO CORRECT DEFECTIVE CONSUMER PRICE INDEX

Mr. PROXMIRE. Mr. President, in an editorial in yesterday's New York Times, we were told that we are better off than we think in our long losing battle with inflation. The Times calls attention to a gross distortion in the Consumer Price Index that exaggerates the increase in the cost of living very seriously. It does this by taking the increase in the price of homes and the rate of mortgage interest in the preceding month and assuming that every family in the country has bought a house and taken out a mortgage, and therefore has been required to pay both the higher mortgage rate and the higher house price.

Of course, this is wholly wrong—a fraction of 1 percent of the people in the country actually bought a house or took out a mortgage last month. For most of us, we paid the same mortgage interest and were completely bypassed by the fluctuations in the price of housing.

Yet, the Bureau of Labor Statistics told us that two-thirds of the increases in prices last month was caused by increased housing costs.

So that is good news. But the bad news is yet to come.

In the next few months, interest rates may begin to turn down. Indeed, the prime rate has been reduced in just the last few days. If mortgage rates fall and housing prices rise less rapidly or fall, we are going to set a severe distortion in the Consumer Price Index over the next few months that will result in reports that inflation is sharply improving and that will be just as distorted and wrong as the exaggeration in the CPI reports overstating inflation over the last few months.

This is more than just an aggravation or a deception. For not only do we base our economic policies on these statistics; tens of millions of wage earners have a cost-of-living adjustment in their contracts and receive a wage increase that depends directly on the rise in the cost of living. That wage increase translates into higher wage costs and price increases. So the defective statistics directly increase the cost of living for all Americans, when mortgage rates and housing prices rise sharply, and punish wage earners and social security recipients when housing costs rise less sharply or fall.

What we need in this situation is a consumer price index that accurately reflects the effect on the population as a whole of changes in housing costs. We do not have that now. We should change the CPI to reflect it, and quickly.

Mr. President, I ask unanimous consent that the article from the New York Times of yesterday, entitled: "We're Better Off Than We Think" be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WE'RE BETTER OFF THAN WE THINK

When the Consumer Price Index shows October prices continued marching upward at 1 percent a month, does that mean the average American's cost of living increased again by 1 percent?

No. Two-thirds of the increase reflects higher housing prices and mortgage rates. And not very many of us bought a new house in October.

But the index has gone up by more than 12 percent in a year. Isn't that a real erosion of living standards?

No, again. By assuming that Americans buy housing every month, the price index exaggerates inflation. It's bad enough without these measuring errors. They not only make things look worse, they make them worse. For instance, wages tied to the index increased last quarter at an annual rate of 14 percent, but by a better index they should have risen only 10 percent.

So why doesn't the Government change the index?

Because it's afraid people will say it is tampering with the facts. The damage from this fear is great; the damage to public perceptions may be even greater.

But aren't we truly worse off now? Incomes zoomed up in the 60's, didn't they?

Yes, real incomes rose by 30 percent, after correcting for taxes, inflation and population growth.

And haven't the 70's been sluggish?

Truly, no. On the same scale, real income has gone up 28 percent. Just a 2 percent difference—yet the public mood has shifted from optimism to pessimism.

Maybe that's because the progress in the 70's was concentrated in the first few years, now forgotten.

No. The rise in real living standards occurred equally before and after 1975.

But maybe the gains weren't spread across the whole population?

Wrong again. Real family incomes rose among white and black, farm and urban, rich and poor, young and old, and among male and female earners. The main difference is that more Americans had to work harder to maintain real income in the 70's, when the labor force grew by 25 percent compared with 19 percent in the 60's.

So a few statistical errors have misled the public that much?

No. The real cause of the sense of decline is a kind of money illusion. While real income—corrected for inflation—was rising by 28 percent in the 70's, actual income was rising by 134 percent. It was as if the average American got a $134 wage increase but had $106 immediately taken away. Actually, he or she had $28 more in purchasing power but felt deprived of the $106 that inflation took. Yet without inflation there would have been no $134 raise in the first place. Most people focus more on what they pay than on what they receive. They blame higher costs on inflation but feel inflated pay to be their just dessert.

It sounds as if you're saying all the pinch that people feel is just their imagination.

No. The damage of inflation, real and psychic, is undeniable. Moreover, it hurts many individuals even if the pain doesn't show up in general statistics.

So Washington is right to fight inflation?

Yes, but. It should choose anti-inflation policies on the basis of objective fact, not subjective or statistical exaggeration. To arrest inflation, policy makers are now creating a recession. And one thing is certain: in recessions, real incomes fall, which means real pain, objective and subjective. Destroying the village in order to save it is not economic wisdom.

THE GENOCIDE CONVENTION: EMPHASIZING OUR FUNDAMENTAL PRINCIPLES

Mr. PROXMIRE. Mr. President, for the past 3 weeks the crisis in Iran has not only shocked American citizens, but it has enraged the moral conscience of the world community. In the words of President Carter:

> This is an act of terrorism—totally outside the bounds of international law and diplomatic tradition.

Throughout the whole affair, America has never lost sight of its No. 1 concern—protecting the lives of the hostages. Such a position demonstrates this Nation's belief in the sanctity of human life as a fundamental principle.

In the following passage from his speech on November 15, 1979, before the AFL–CIO convention in Washington, President Carter emphasized this conviction:

> It is important for all of us to remember that we will not compromise our fundamental principles of justice no matter how grave the provocation nor how righteous our indignation.

Although the President's statement was made in reference to Iran, it is appropriate for American foreign policy in general. When dealing on the international level, we should never compromise our fundamental principles. And the cornerstone of American principles—dedication to protect the sacredness of human life—should be continually emphasized in all aspects of our foreign policy.

What better way to do this than by declaring our support for human rights treaties? What better way to demonstrate American principles than by ratifying the Genocide Convention?

Unfortunately, we have not taken advantage of this opportunity. For over 30 years, the Senate has failed to act on the Genocide Treaty. We have allowed this Nation to remain inconsistent and ambiguous on the issue of human rights.

In a world where, now more than ever, the principles of justice must guide our every action, America cannot afford to neglect the importance of the Genocide Convention.

I think that this situation in Iran, for many reasons, is another justification for our action on the Genocide Convention. I ask my colleagues to ratify this most fundamental human rights treaty.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I yield such of my time to the Senator from South Carolina as he needs.

PROPOSED INCREASES IN FUTURE DEFENSE BUDGETS

Mr. THURMOND. Mr. President, while I was impressed with the answers to questions on Iran by the President in his news conference last night, I was shocked to hear him state he was satisfied with the defense position of our Nation.

The President does not seem to understand, or is following bad advice, when, in assessing our defense posture, he expects the American people to believe, as he stated—

> Our country has made great strides ever since I've been in office.

Nothing could be further from the truth. His administration has sharply reduced defense spending and has canceled vital defense programs. He killed the B-1 bomber, vetoed initiatives by the Congress such as the nuclear aircraft carrier and, in general, has failed to strengthen our defense forces.

President Carter also spoke of a "new spirit in NATO" when the fact is that our allies have been shaken by the failure of this administration to stand up to the Soviets. They have viewed with alarm the administration's failure to deploy the neutron warhead, to press forward with the MX, cruise missile, airlift aircraft, and general modernization of our services. At the same time, they see Soviet power rising and the emergence of a strong foreign policy as evidenced by excursions in Africa, Cuba, and elsewhere. Soviet strength and U.S. weakness reduce the will for our allies to tie their future to us.

Mr. President, I support President Carter in his efforts to free our hostages in Iran and I think we must stand with him in this most serious crisis. However, I cannot stand mute when he tells the American people that his administration has made our defense stronger vis-a-vis the Soviets when just the opposite is the truth.

Besides the obvious flaws in the SALT II agreement, now before the Senate, is the correct perception by many in the Senate that this treaty is unacceptable not only because of its flaws but because it codifies a trend toward America's military inferiority. Even our military chiefs have admitted the United States will lose essential strategic equivalence with the Soviets in the early 1980's in response to my questions to them in the SALT II hearings. The President of course, would not admit this fact because to do so would be an admission of his failure to redress our defense problems.

Mr. President, these remarks bring me to the subject of future defense budgets. Thursday there appeared an article in the New York Times on this subject. It states the administration may increase future defense budgets by more than the originally planned 3 percent real growth, to something like 4 or 5 percent.

However, the administration makes clear these additional funds will go toward a quick deployment force for the Middle East, rather than to redress our broader defense problems. Once again they attempt to avoid the failure of policies during the past 3 years, by raising a requirement for a new element without admitting the inadequacy of the broader defense needs.

I submit to the Senate that if the Carter administration had not slashed the Navy shipbuilding program proposed by President Ford by one-half, we would be constructing some of the ships needed to meet problems such as those in the Middle East. If the Carter administration had not killed the B-1 bomber program, we would have the capability to make an incisive strike where necessary, rather than be forced with using a less effective bomber like the old B-52.

How much money would budgets of 4 or 5 percent in real growth apply to our defense shortages? This increase amounts to only 1 or 2 percent above the 3 percent originally planned. This would amount to an increase in real terms of only $2 to $5 billion over that originally programed. This is hardly the level of increased spending needed. Furthermore, by going to a new requirement, it fails to address the broader issues which Congress initially raised on this subject.

Mr. President, this country needs to increase defense spending by as much as 10 percent—I repeat, by as much as 10 percent. This country needs to restore its Navy to a first rate standing. This country needs to develop a long range airlift capability. This country needs to modernize its theater nuclear forces in NATO. This country needs to expand its tactical Air Forces, strengthen its Reserve Forces, and rebuild the strike and deployment capability of our Marines.

The list of our needs is great. It is great because we used huge resources in Vietnam, we delayed modernizations when we were embroiled in Watergate, and the current administration brought us the wrong defense politicies at the worse possible time.

Mr. President, I was also shocked to hear President Carter state, in reference to our move to recognize Red China, that "in doing so we have not alienated any of our previous friends." Has he forgotten Taiwan? While many of us supported the resumption of relations with Red China, we opposed the shoddy and unnecessary treatment of Taiwan when this shift was made. We not only alienated Taiwan, but by doing so we sent a message to other friends that past friendship and treaties count for little when we shift gears.

Mr. President, Congress is attempting to alert the Nation to our defense needs. While the leadership should be coming from the executive department, we are nevertheless making some small gains through congressional pressure. Whatever increase the administration proposes will be a step in the right direction, but it will undoubtedly lack the type of long range commitment we so desperately need.

I have been in Washington long enough to know that what an administration says it will do, and what it does, is often two different things. What we need is not a token 1- or 2-percent increase in defense spending, but a public recognition that our defense power is declining, and that we intend to correct it promptly and aggressively. We have always needed an overseas deployment force such as the administration now highlights. President Eisenhower needed such a force in Lebanon, President Johnson needed it in the Dominican Republic and President Carter may need it in the Middle East.

Mr. President, this country is entering the most critical period in its peacetime history. If our energy supplies fail, our society, as we know it today, will cease to exist. If we fail to provide adequately for our national defense, we will face the same result. In the 1980's, both of these problems, defense and energy, will haunt us throughout that decade. Only by mobilizing the resources and the people of this great country toward solving these issues, can we hope to pass on to our children a worthy heritage.

Mr. President, I ask unanimous consent that the article in the November 29, 1979, issue of the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARTER ACCEPTING SUBSTANTIAL RISE IN ARMS BUDGET

(By Richard Burt)

WASHINGTON, November 26.—The Carter Administration, under the prodding of Senator Sam Nunn, Democrat of Georgia, and former Secretary of State Henry A. Kissinger, has agreed to a substantial increase in its budget request for military spending over the next five years, Government officials said today.

The officials said that, in a determined effort to gain Senate approval for the treaty with the Soviet Union on limiting strategic arms, senior Administration aides had engaged in private negotiations with Senator Nunn and Mr. Kissinger on military spending plans.

The support of Senator Nunn and Mr. Kissinger for the arms accord is viewed as critical to achieving ratification of the treaty because of their influence with Senators who have not yet said which way they will vote, and both men have said that their position would depend, in part, on the size of future Pentagon budgets.

The officials said that in an unusual meeting on Capitol Hill last night, Secretary of Defense Harold Brown told Senator Nunn and Mr. Kissinger that the Administration had decided to raise military spending over the next five years beyond the 3 percent annual increase announced earlier by President Carter.

While confirming that the Administration would seek an added increase in military spending for the fiscal year 1981, Pentagon aides declined to provide specific figures. But other sources familiar with Mr. Brown's session with Senator Nunn and Mr. Kissinger disclosed that the Administration was now willing to increase the Pentagon budget for the fiscal year 1981 by almost 5 percent after allowing for the effect of inflation.

Budget officials said that, after taking the impact of inflation into account, a 5 percent increase would result in a Pentagon appropriations request approaching $160 billion for the fiscal year 1981, beginning next Oct. 1. The Administration's request for the fiscal year 1980 was $138.6 billion.

At the meeting last night, Secretary Brown was also said to have reported that Mr. Carter was prepared to agree to an average increase in annual military spending of over 4 percent through 1984.

Pentagon officials said that the proposed increases in the five-year military program would go mainly for new naval and aircraft programs designed to improve the United States' capacity for intervening in third world trouble spots, such as the Persian Gulf.

In Senate hearings on the arms treaty last summer, both Mr. Nunn and Mr. Kissinger said in separate testimony that unless the Pentagon received annual spending increases of 5 percent through the mid-1980's, Washington would be unable to keep pace with Soviet military improvements. Mr. Kissinger's views are known to carry substantial weight with several Republican senators, while Senator Nunn is said to be influential with conservative Democrats.

However, Congressional aides said that after last night's meeting with Secretary Brown it was still unclear whether either Senator Nunn or Mr. Kissinger would throw their support behind the arms pact. One aide said that while Senator Nunn was encouraged by the Administration's offer to increase spending, the Georgia Democrat was still bothered by certain provisions of the arms treaty itself.

The aides said that the Senator and Mr. Kissinger met this morning with about a dozen senators from both parties who have yet to take a position on the treaty. The group, which was also joined by James R. Schlesinger, a former Secretary of Defense in the Ford Administration and the Secretary of Energy under Mr. Carter, is said to have discussed the Administration's new military spending plans.

PRESENCE OF KISSINGER

Although Mr. Kissinger frequently meets with high-level Administration aides on various policy matters, several officials said it was unusual for the former Secretary of State to be included in private consultations with members of Congress. A Pentagon spokesman said that Mr. Kissinger had been invited to the session by Senator Nunn, but a White House aide added that, "we knew he would be at the meeting."

Mr. Kissinger was a primary architect of the first strategic arms agreement with Moscow in 1972 and helped negotiate the so-called Vladivostok accord of 1974, which laid down the outlines of the new treaty. But over the last year, he has been much more outspoken about the dangers posed by Soviet military modernization than in his eight-year tenure in Government.

Defense aides said that while the Administration was working to accommodate the desire of Senator Nunn and Mr. Kissinger for a larger military budget, there were additional reasons for going beyond a 3 percent annual increase in the Pentagon's five-year plan.

The most important, they said, was the growing support throughout the Administration for accelerating the creation of a so-called "rapid deployment force" for use in military crises in the Persian Gulf and other volatile regions.

RECOGNITION OF SENATOR SASSER

Mr. STEVENS. Mr. President, what time remains of the leadership time?

The ACTING PRESIDENT pro tempore. One minute remains.

Mr. STEVENS. Mr. President, I yield back the remainder of our time.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Tennessee need any additional time?

Mr. SASSER. Mr. President, I think I have 15 minutes under the order presently entered. I say to the distinguished majority leader that I doubt I will need additional time.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield that 4 minutes to the distinguished Senator for his use.

Mr. SASSER. I thank the distinguished majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

SENATE CONCURRENT RESOLUTION 58—SUBMISSION OF A CONCURRENT RESOLUTION WITH RESPECT TO PROTECTION OF DIPLOMATIC MISSIONS

Mr. SASSER submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 58

Whereas the Vienna Convention on Diplomatic Relations, opened for signature on April 18, 1961, (hereafter in this resolution referred to as the "Vienna Convention") declares that the premises of diplomatic missions (Article 22), the persons of diplomatic agents (Article 29), the members of diplomatic families, and the administrative, technical, and service staff of diplomatic missions (Article 37), and the archives and documents of such missions (Article 24), are to be held inviolable at all times and in all places;

Whereas the Vienna Convention declares that a state receiving diplomatic agents (hereafter in this resolution referred to as the "receiving state") is under an obligation to protect the premises, persons and papers of diplomatic missions;

Whereas recent events in Iran and Pakistan demonstrate that some receiving states which are parties to the Convention, on occasion, are unwilling or unable to provide adequate security forces to augment those of a state sending diplomatic agents (hereafter in this resolution referred to as the "sending state"), whose embassy, chancery, or consular facilities are besieged, overrun, or occupied by forces hostile to such sending state or to members of its diplomatic mission;

Whereas the provisions of the Vienna Convention are rendered meaningless unless they can be enforced in a timely fashion by security forces in adequate strength to withstand assaults such as those recently witnessed;

Whereas it is impossible and undesirable for any single sending state, acting unilaterally, to maintain security forces upon the premises of its own foreign diplomatic missions adequate to preserve the security of those premises under conditions comparable to those recently witnessed;

Whereas the aggregate number of diplomatic security forces now maintained by all sending states in a particular receiving state may number in the hundreds of thousands; and

Whereas it is in the mutual interest of all sending states that the integrity and security of the premises of each of their diplomatic missions be protected and preserved in each receiving state: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should begin negotiations with foreign states for the purpose of reaching an agreement for the participation of such governments in mutual and reciprocal diplomatic security arrangements, including arrangements for a participating sending state to call upon all other participating states with diplomatic security personnel in a receiving state to provide such personnel to assist such sending state to protect and maintain the security and integrity of the premises of its diplomatic mission when under threat of imminent attack or when attacked.

SEC. 2. (a) (1) It is further the sense of the Congress that the President should begin, at the same time as negotiations under section 1, appropriate action to obtain multilateral support for the establishment of a permanent diplomatic security corps under the auspices of the United Nations (hereafter in this section referred to as the "United Nations Diplomatic Security Corps" or the "Corps").

(2) The personnel of the Corps should be permanent employees of the United Nations.

(3) For purposes of this resolution, sending and receiving states which participate in the establishment of the Corps shall be referred to as "participating states".

(b) The function of the Corps should be—

(1) to augment or supplant, on a regular and continuing basis, existing diplomatic security personnel of sending states, if such personnel are stationed in receiving states which are parties to the Vienna Convention; and

(2) to provide assistance, upon request by a participating sending state, if the premises of the diplomatic mission of such sending state are under threat of imminent attack or are being attacked.

(c) The Secretary-General and the Security Council of the United Nations should assume overall direction of the Corps and should appoint for each receiving state a single commander to direct the Corps in each such state.

(d) The number of diplomatic security personnel of the Corps assigned to the premises of any diplomatic mission may be augmented by the transfer of such personnel stationed in other participating states, upon the determination of the Security Council of the United Nations meeting in emergency session.

(e) (1) Participating states should reimburse the United Nations for the costs of establishing and maintaining the Corps.

(2) In the case of any request for emergency assistance from the Corps, the participating sending state benefitting from such assistance should reimburse the United Nations for unusual expenses incurred, and each such state should be reimbursed the amount of such expenses by the receiving state.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. SASSER. Mr. President, I am today submitting a concurrent resolution which I believe can be a critical step toward preventing the kind of terrorism we have witnessed in Iran and Pakistan in recent weeks.

The fate of American hostages in Iran is in the hands of the President of the United States. I wish to state my firm and undivided support for President Carter in this crisis. The American people have demonstrated a unity and a strength of purpose that we have not witnessed in our country for many, many years.

Tomorrow the Security Council of the United Nations will convene in an effort to bring us closer to a resolution of the situation in Iran—a situation which is the result of a terrorist act, the result of a gross violation of international law.

Our world is no stranger to terrorism, Mr. President, but the unique aspect in Iran is the official sanction of the government there for the invasion and the attack on a diplomatic mission.

Whatever the differences among nations may be, and there are many in this modern world, the integrity of diplomatic missions is a fundamental principle of international relations. It is the bedrock on which we build our hopes for a more secure future.

That principle was codified in the Vienna Convention. It is the disintegration of that fundamental principle in Iran that has such grave implications, not only for our own future but for the future of diplomatic relations in the rest of the 20th century.

Subsequent actions in Pakistan, India, and Bangladesh underscore the pressing need for improved security against terrorist attacks on diplomatic missions and compounds of all nations. While the governments of those countries did, in the final analysis, take action to protect the lives of U.S. personnel, the vision of smolding embassies and of families fleeing for their lives has sent a chill through the entire international community.

The death of two U.S. Marines in the line of duty in a foreign land compels us to act, swiftly and appropriately, to prevent such events from happening in the future.

The resolution I am sponsoring recommends mechanisms for providing the additional security required to withstand or prevent assaults such as those we witnessed against the American compounds in Iran, Pakistan, India, and Bangladesh.

Rather than pursue an isolated course of simply strengthening our own diplomatic security forces overseas, I am recommending that we enter a joint effort with all countries which are parties to the Vienna Convention on Diplomatic Relations. This joint effort would be joined in two phases:

First, the President would urge the beginning of negotiations with foreign governments to seek to establish mutual and reciprocal diplomatic security arrangements; in other words, each party to such an agreement would guarantee the use of its own diplomatic security personnel for the protection of the mission compounds of every other party to the agreement in the event of a crisis.

This approach is sound for many reasons. It is not in the best interests of any nation—economically, diplomatically, politically or militarily—to erect a series of fortresses around the world to serve as embassies. Such a development would serve only to increase the already high levels of tension and the air of confrontation that have evolved from recent events. Yet, the provisions of the Vienna Convention are rendered meaningless unless they can be enforced in a timely fashion by security forces in adequate strength to withstand assaults such as those we have witnessed recently. It is self-evident that it is in the mutual interest of all nations that the integrity and security of each of their diplomatic compounds and residences be protected and preserved. I believe that this goal can be accomplished by means of the cooperative agreements I am proposing today.

Under these agreements, any participating country may call upon all other participating countries—those with missions in the locality where a mission is under attack or threat of attack—to provide additional security forces to assist in withstanding or preventing the attack. I stress here that such action would be taken only to maintain the security and integrity of diplomatic compounds in a defensive maneuver. In this way, no single nation would be burdened with the responsibility of maintaining forces at sufficient levels to deal with a crisis of the magnitude of that in Iran. Not only would the practical aspects of mutual defense be well served by a cooperative effort, but also, there would be a signal that the participants understand and agree that a threat to one is a threat to all—a threat to international peace that will not be tolerated.

Although I do not feel it would be appropriate to elaborate on what might have happened in Tehran if the attackers had known that the full strength of the combined international security forces would greet them at the U.S. mission, it is something we need to consider in planning for the future.

Negotiations on these agreements, Mr. President, can begin immediately. The first proposal involves coordination of security personnel already in place around the world. The need is compelling for the immediate future, and I feel that the process should begin as soon as possible. For the long term, I am recommending a more comprehensive approach.

This long-term plan calls for the establishment of a United Nations diplomatic Security Corps (UNDSC). The Diplomatic Security Corps would, on a regular and continuing basis, augment or supplant existing diplomatic security personnel of participating countries. All members of the UNDSC would be under the direct command of a local commander in each country and under the overall direction and control of the Secretary General and the Security Council. Each UNDSC command would respond immediately to a request for assistance from any participating country when its embassy is under the threat of imminent attack or under attack. If the Security Council determines that the force of the UNDSC is inadequate to carry out its functions in a particular emergency, the Council may direct that additional reinforcements be transferred from other jurisdictions to meet the emergency.

A vital factor of the local commander's role would be day-to-day coordination with local security agencies—not only diplomatic security forces but also the police and security forces normally under the direction of local authorities. It is absolutely critical to emphasize that a local UNDSC commander would not oversee the creation of a totally separate or superior force to supersede the local authorities. The commander's role would be that of a coordinator, a planner, a central point for the organization of a crisis-management team.

I emphasize that these United Nations teams would in no way alter or supplant the internal embassy security of participating nations. The internal security—that is, security inside the embassy—still would be under the sole authority of the nation to which that particular embassy belonged. In essence, the United Nations security forces would be perimeter forces, so to speak, and would not be accorded any rights or privileges with respect to the internal workings or internal security of the embassy itself.

Even though I believe, Mr. President, that we cannot afford not to pursue this course, the question of cost must be addressed. In general, the cost of establishing and maintaining the UNDSC would be borne by the participating countries.

Contributions would be proportional to the assignment and usage of UNDSC personnel on behalf of each participating country's diplomatic missions abroad. In the case of extraordinary expenses incurred during an emergency, those expenses would be first reimbursed to the UNDSC by the country receiving assistance from the organization; then, in turn, that country would be reimbursed by the country where the emergency took place—that is, the country where the local authorities were not sufficient to protect the embassy involved. I have asked the Congressional Budget Office for a cost analysis, and I will share this with my colleagues when it is completed.

Again, we are not talking about a completely new personnel deployment. We are talking about better management of existing personnel. In many, if not most cases, the presence of a UNDSC organization will decrease the need for security forces stationed by individual countries. In addition, we would be avoiding the additional individual expenses which are sure to arise in light of the obvious need for improved security at diplomatic missions. By pooling our resources, we will have available to us the forces of all participating nations in the event of a crisis, without having to maintain them at full strength when the need is not immediate.

Mr. President, all of us wish to see the release of the American hostages in Tehran. All of us abhor the violence and lawlessness that led to the situation there. As I mentioned earlier, we realize that the fate of our countrymen is in the hands of our President.

What I am seeking to do today is to suggest a means of avoiding such a tragedy in the future, a means by which all nations can take steps to see that the same fate does not befall their own diplomatic personnel in faraway lands.

I believe the events we have witnessed in the past few weeks could be harbingers of a new wave of international terrorism if we do not act. In the nuclear age, aggrieved parties and aggrieved nations may seek alternatives to warfare such as the attack that took place on our Embassy in Iran. Indeed, we may be witnessing there a new form of warfare.

Civilized nations must be prepared to respond rapidly and effectively if peace is to be preserved. The effects of increased security and international cooperation with respect to airline hijackings is a perfect example of the results that can be achieved through international joint effort. Let us do for the world's diplomatic establishments what we have done for the airlines. The thousands of lives that are at stake would be enough to warrant the establishment of a United Nations Diplomatic Security Corps. More than that, however, is the capacity of nations to deal with conflict in a manner that may preserve us from the holocaust of future wars.

EXECUTIVE SESSION

EXTRADITION TREATY WITH THE UNITED MEXICAN STATES

EXTRADITION TREATY WITH JAPAN

EXTRADITION TREATY WITH NORWAY

TREATY WITH THE REPUBLIC OF TURKEY ON THE ENFORCEMENT OF PENAL JUDGMENTS

TREATY WITH THE REPUBLIC OF PANAMA ON THE EXECUTION OF PENAL SENTENCES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session to receive and consider Executive Calendar orders numbered 14, 15, 16, 17, and 18, on which there shall be not to exceed 30 minutes of debate to be equally divided and controlled by the Senator from Idaho and the Senator from New York.

The clerk will state the resolutions of ratification.

EXTRADITION TREATY WITH THE UNITED MEXICAN STATES

The resolution of ratification of Executive M was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Extradition Treaty with the United Mexican States, signed at Mexico City on May 4, 1978. (Executive M, 96th Congress, 1st session.)

EXTRADITION TREATY WITH JAPAN

The resolution of ratification of Executive P was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Extradition Treaty with Japan, signed at Tokyo on March 3, 1978. (Executive P, 96th Congress, 1st session.)

EXTRADITION TREATY WITH NORWAY

The resolution of ratification of Executive CC was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Extradition Treaty with Norway, signed at Oslo on June 9, 1977. (Executive CC, 96th Congress, 1st session.)

TREATY WITH THE REPUBLIC OF TURKEY ON THE ENFORCEMENT OF PENAL JUDGMENTS

The resolution of ratification of Executive BB was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Treaty with the Republic of Turkey on the Enforcement of Penal Judgments, signed at Ankara on June 7, 1979. (Executive BB, 96th Congress, 1st session.)

TREATY WITH THE REPUBLIC OF PANAMA ON THE EXECUTION OF PENAL SENTENCES

The resolution of ratification of Executive Z was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate Advise and Consent to the ratification of the Treaty with the Republic of Panama on the Execution of Penal Sentences signed at Panama on January 1, 1979. (Executive Z, 96th Congress, 1st session.)

EXTRADITION TREATIES WITH MEXICO, JAPAN, AND NORWAY

Mr. CHURCH. Mr. President, the first three treaties the Senate will consider today are item numbers 14, 15, and 16 on the Executive Calendar. These are extradition treaties with Mexico, Japan, and Norway. They will replace existing extradition treaties with these countries.

These extradition treaties are in the same form as several modern extradition treaties that have expanded the list of offenses in which citizens or residents of a country may be extradited. The new list of offenses includes narcotic offenses, aircraft hijacking, and obstruction of justice.

In this age of rapid mobility, international efforts at law enforcement frequently fail because the criminals are able to move from one country to another and avoid arrest. These treaties will aid our law enforcement agencies and those of Mexico, Japan, and Norway in apprehending criminals.

Mr. President, I recommend that the Senate advise and consent to the ratification of these treaties.

Mr. President, I ask unanimous consent that the vote by which the Committee on Foreign Relations recommended the treaties favorably to the Senate may appear in the RECORD, together with the names of the Senators voting.

There being no objection, the votes were ordered to be printed in the RECORD, as follows:

EXTRADITION TREATY WITH THE UNITED MEXICAN STATES

The Senate Foreign Relations Committee voted on November 20, 1979, by a vote of 10 to 0 to report this Treaty favorably. Senators Pell, McGovern, Glenn, Zorinsky, Javits, Percy, Helms, Hayakawa, Lugar and Church voted aye, no Senators voted against reporting the Treaty.

EXTRADITION TREATY WITH JAPAN

The Senate Foreign Relations Committee voted on November 20, 1979, by a vote of 10 to 0 to report this Treaty favorably. Senators Pell, McGovern, Glenn, Zorinsky, Javits, Percy, Helms, Hayakawa, Lugar and Church voted aye, no Senators voted against reporting the Treaty.

EXTRADITION TREATY WITH NORWAY

The Senate Foreign Relations Committee voted on November 20, 1979, by a vote of 10 to 0 to report this Treaty favorably. Senators Pell, McGovern, Glenn, Zorinsky, Javits, Percy, Helms, Hayakawa, Lugar and Church voted aye, no Senators voted against reporting the Treaty.

TREATY WITH PANAMA ON EXECUTION OF PENAL SENTENCES AND TREATY WITH TURKEY ON ENFORCEMENT OF PENAL JUDGMENTS

Mr. CHURCH. Mr. President, the next two treaties before the Senate, and the treaty with the Republic of Panama on the Execution of Penal Sentences (Ex. Z, 96–1), and the treaty with the Republic of Turkey on the Enforcement of Penal Judgments (Ex. BB, 96–1).

These agreements have the support of both the administration and the committee. Having heard public testimony on these treaties on November 13 and 20, the committee reported them favorably by a vote of 10 to 0 on November 20 recommending that the Senate give its advice and consent to ratification.

Mr. President, I ask unanimous consent that the names of the Senators voting may appear at this point in the RECORD.

There being no objection, the votes were ordered to be printed in the RECORD, as follows:

TREATY WITH THE REPUBLIC OF PANAMA ON THE EXECUTION OF PENAL SENTENCES

The Senate Foreign Relations Committee voted on November 20, 1979, by a vote of 10 to 0 to report this Treaty favorably. Senators Pell, McGovern, Glenn, Zorinsky, Javits, Percy, Helms, Hayakawa, Lugar and Church voted aye, no Senators voted against reporting the Treaty.

TREATY WITH THE REPUBLIC OF TURKEY ON THE ENFORCEMENT OF PENAL JUDGMENTS

The Senate Foreign Relations Committee voted on November 20, 1979, by a vote of 10 to 0 to report the Treaty favorably. Senators Pell, McGovern, Glenn, Zorinsky, Javits, Percy, Helms, Hayakawa, Lugar and Church voted aye, no Senators voted against reporting the Treaty.

Mr. CHURCH. Mr. President, as you know, similar treaties are already in force with the United Mexican States, Canada, and the Republic of Bolivia. To date, the agreements have functioned well by enhancing the prospects of prisoner rehabilitation and by reducing bilateral tensions arising from the incarceration of the nationals of one state in the prisons of the other. Both of the agreements before us today will fulfill these purposes.

The treaty with Panama, moreover, complies with both the commitment contained in section IX of the 1977 Panama Canal Treaty, as well as the intent of Understanding No. 7 to the treaty which required that the prisoner exchange provision be submitted in treaty form to the Senate for its advice and consent. This understanding was recommended by the committee and approved by the full Senate.

Fundamentally, this agreement with Panama will provide official U.S. personnel and their dependents serving in Panama with additional assurances and protections through the life of the Panama Canal Treaty. These individuals, if convicted of certain crimes, may automatically request a transfer to serve out a sentence in the United States. Neither the United States nor Panama may object.

For other United States and Panamanian nationals, a prisoner may request a transfer, subject to the approval of both countries. Finally, a special provision applies to third country nationals incarcerated in U.S. penal institutions in Panama—which will close within 30 months after the canal treaty entered into force on October 1, 1979—by permitting them to serve out their sentences in Panama.

In the treaty with Turkey, the welfare of incarcerated U.S. nationals will be enhanced—an issue which has been the focus of much U.S. public and congressional concern. Under the terms of the agreement, the requested State may refuse to enforce a judgment that is inconsistent with its legal system—a provision included in neither the similar agreements in force nor in the treaty with Panama. A transferred prisoner is protected from being tried or punished for an offense other than those for which he has been convicted abroad unless the transferring statement agrees to such prosecution.

Other provisions cover the seizure and disposition of confiscated property and the right of a citizen in his home country to consent to the enforcement of a penal judgment rendered by the requesting State when the citizen has been present for trial and convicted.

Mr. President, in view of the committee's consideration and favorable vote on these two agreements, the success of similar penal exchange agreements already in force, and with the knowledge of the benefits and protections which will accrue to U.S. citizens incarcerated abroad, I support the ratification of these treaties. It is my hope that my colleagues here today will join me in their approval.

Mr. JAVITS. Mr. President, the treaties before us all received the unanimous approval of our committee and merit the advice and consent of the Senate.

Three of the treaties before us are additions to the network of extradition agreements which we are acting upon this week. They replace existing treaties which have become dated for a number of reasons.

These are the kinds of adjustments which we need to make in our treaty arrangements to keep pace with changes in the international arena. We are a country for whom the rule of law is one of our highest principles. Even powerful countries—in fact as we are seeing today especially powerful countries—rely upon the rule of law to prevent international relations from descending into chaos and arbitrariness. Treaties of this kind are the rules we live by.

The treaties with Panama and Turkey are prisoner exchange treaties allowing for the transfer back to the United States to serve their sentences of U.S. nationals convicted and serving sentences in prisons of these countries respectively, Turkey and Panama, and the transfer back to their home countries of Turkish and Panamanian nationals who are prisoners in our country. The sentences remain as determined in the country of conviction but parole is handled according to the laws of the nationality of the prisoner.

We now have such treaties in place with Mexico, Canada, and Bolivia, and while our experience is brief these arrangements seem to be working well and we hope to conclude additional agreements of this kind with other countries.

Also, no successful challenge has yet been made of these treaty agreements on constitutional grounds. It is a human, and in my judgment, intelligent innovation and I believe we are justified in extending it as we do in these two Turkish and Panamanian treaties.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I ask unanimous consent that, during the executive session, during this pending business, Gina DuPre and Larry Baskir, members of my staff, be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTRADITION TREATY WITH THE UNITED MEXICAN STATES

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution of ratification on Executive M, 95th Congress, 1st session, the Extradition Treaty with the United Mexican States.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The ACTING PRESIDENT pro tempore. Is there any Senator who has not been recorded?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 442 Ex.]

YEAS—91

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker

Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—9

Baker
Byrd,
Harry F., Jr.
DeConcini
Hatfield
Inouye
Kennedy
Mathias
Melcher
Simpson

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

EXTRADITION TREATY WITH JAPAN

The question is on agreeing to the resolution of ratification on Executive P, 96th Congress, 1st session, the Extradition Treaty with Japan.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The ACTING PRESIDENT pro tempore. Is there any Senator who has not been recorded?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 443 Ex.]

YEAS—91

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—9

Baker
Byrd,
Harry F., Jr.
DeConcini
Hatfield
Inouye
Kennedy
Mathias
Melcher
Simpson

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

EXTRADITION TREATY WITH NORWAY

The question is on agreeing to the resolution of ratification on Executive CC, 96th Congress, 1st session, the Extradition Treaty with Norway.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea".

The ACTING PRESIDENT pro tempore. Is there any Senator who has not been recorded?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 444 Ex.]

YEAS—91

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—9

Baker
Byrd,
Harry F., Jr.
DeConcini
Hatfield
Inouye
Kennedy
Mathias
Melcher
Simpson

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

TREATY WITH TURKEY ON THE ENFORCEMENT OF PENAL JUDGMENTS

The question is on agreeing to the resolution of ratification on Executive BB, 96th Congress, 1st session, the Treaty with Turkey on the Enforcement of Penal Judgments.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The ACTING PRESIDENT pro tempore. Is there any Senator who has not been recorded?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 445 Ex.]

YEAS—91

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—9

Baker
Byrd,
Harry F., Jr.
DeConcini
Hatfield
Inouye
Kennedy
Mathias
Melcher
Simpson

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

TREATY WITH PANAMA ON THE EXECUTION OF PENAL SENTENCES

The question is on agreeing to the resolution of ratification on Executive Z, 96th Congress, 1st session, the Treaty with Panama on the Execution of Penal Sentences.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Arizona (Mr. DeConcini), the Senator from Hawaii (Mr. Inouye), and the Senator from Massachusetts (Mr. Kennedy) are necessarily absent.

I further announce that the Senator from Montana (Mr. Melcher) is absent on official business.

I further announce that, if present and voting, the Senator from Arizona (Mr. DeConcini) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oregon (Mr. Hatfield), the Senator from Maryland (Mr. Mathias), and the Senator from Wyoming (Mr. Simpson) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Simpson) and the Senator from Oregon (Mr. Hatfield) would each vote "yea."

The ACTING PRESIDENT pro tempore. Is there any Senator who has not been recorded?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 446 Ex.]

YEAS—91

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—9

Baker
Byrd,
Harry F., Jr.
DeConcini
Hatfield
Inouye
Kennedy
Mathias
Melcher
Simpson

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider en bloc the votes by which the resolutions of ratification were agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I move that the President be immediately notified.

The PRESIDING OFFICER (Mr. Metzenbaum). Without objection, it is so ordered.

INTERNATIONAL SUGAR AGREEMENT, 1977; EXECUTIVE A—95TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider Executive A, 95th Congress, 2d session, International Sugar Agreement, 1977.

The resolution of ratification will be stated for the information of the Senate.

The resolution of ratification was read, as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Sugar Agreement, 1977, signed on behalf of the United States of America at the Headquarters of the United Nations in New York on December 9, 1977 (Ex. A, Ninety-fifth Congress, second session).

Mr. CHURCH. Mr. President, today the Senate will consider the International Sugar Agreement of 1977. The International Sugar Agreement is the result of many months of negotiations between over 70 importing and exporting nations. The purpose of this agreement is to bring order to the chaotic world sugar market through international cooperation. World sugar prices have historically been characterized by dramatic highs and lows—prices which reached as much as 70 cents per pound in 1974 and then later plunged to below 6 cents per pound. Such world price gyrations are good neither for consumers nor producers.

The ISA, using a combination of export quotas and reserve stocks, will attempt to stabilize world sugar prices within a range of 11 to 21 cents per pound. Exporting nations, which will be required to accumulate reserve stocks in periods of excess supplies, will receive financial assistance from the ISA to defray the cost of holding such stocks. These stocks will then be available for sale on the world market when the price of sugar climbs above 19 cents per pound.

The United States, as an importing member, will be required to limit imports from nonmembers when sugar prices are low, and refuse admission to any country's exports which do not bear a "certificate of contribution"—the verification that the necessary fees have been paid to the International Sugar Organization.

U.S. participation in the ISA will require no large U.S. Government contribution. The stock financing fund—a fund established as part of the agreement to help defray exporting members' costs of holding sugar off the market in times of excess supply—will be mainly self-financing; its moneys received from a small fee collected on sugar traded by exporting or importing members.

U.S. participation in the ISA is good economic policy and good foreign policy. American producers and consumers of sugar will benefit from the greater stability of prices and supplies of sugar. Many developing countries which rely upon sugar revenues to finance economic development will be able better to fashion their development plans in light of a more stable stream of income.

Forty-nine exporting and importing nations have already ratified the ISA and await only final ratification of the ISA by the United States before the agreement may come into effect definitively.

The Committee on Foreign Relations has studied this agreement closely over a 2-year period. On November 20, the agreement was reported favorably by the Committee on Foreign Relations by a vote of 10 to 1, with the recommendation that the Senate give its advice and consent to ratification.

Mr. President, I ask unanimous consent that the names of the Senators on the committee voting at that time and the manner in which they voted appear at this point in the Record.

There being no objection, the vote was ordered to be printed in the Record, as follows:

The Committee considered the proposed treaty on November 20, 1979, and ordered it favorably reported by a vote of 10–1; Senators Church, Pell, McGovern (by proxy), Glenn, Zorinsky, Javits, Percy, Helms, Hayakawa and Lugar all voting in the affirmative, with the recommendation that the Senate give its advice and consent to ratification of the treaty, and Senator Stone voting nay.

Mr. CHURCH. Mr. President, I think that this agreement is a well crafted agreement and that it has a strong likelihood of meeting its objectives. I urge my colleagues to give their advice and consent to ratification.

In addition, Mr. President, I want to share with my colleagues the commitment of the administration to maintaining a viable domestic industry. I have received a letter from Acting Secretary of Agriculture Jim Williams, reiterating an earlier Carter administration commitment made to me to establish a domestic market price objective of 15.8 cents per pound. This letter establishes a 15.8-cent market price objective. I ask unanimous consent that the text of this letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., November 29, 1979.
Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: I am glad to see that the Senate Foreign Relations Committee has voted to report the International Sugar Agreement ratification bill. I understand that you plan to bring it up for a Senate vote in the very near future and I hope that the Senate will complete work on that very important bill before the end of the year.

Chairman Vanik informed us this morning that the Trade Subcommittee of the House Ways and Means Committee will take up a measure that would authorize us to take the actions necessary to implement the International Sugar Agreement as soon as it can be scheduled, and certainly before the end of the current session. This action by the Trade Subcommittee, together with the action your Committee has already taken, will provide us the assurances needed to protect the 15.8 cents domestic market price objective that the Administration agreed upon some months ago and Secretary Bergland reconfirmed in the meeting with you and others last October 31.

World sugar prices have increased very rapidly the last few weeks and our domestic prices have increased as well. So far in November the New York Domestic Spot price has averaged 16.20 cents per pound. It is our expectation that prices will remain above the 15.8 cents level for the foreseeable future. Let me assure you, however, we will continue to closely monitor the market price situation and will undertake appropriate action to protect our market price objective.

We encourage you to bring the ISA resolution to the floor as soon as possible.

Sincerely,

JIM WILLIAMS,
Acting Secretary.

Mr. CHURCH. Mr. President, I ask unanimous consent that the following letters which I have received from the American Sugar Beet Growers Association and the Hawaiian Sugar Planters' Association supporting U.S. ratification of the International Sugar Agreement be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN SUGARBEET
GROWERS ASSOCIATION,
Washington, D.C., November 19, 1979.
Hon. FRANK CHURCH,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is to inform you of the continued support of the American Sugarbeet Growers Association for the International Sugar Agreement.

You will recall our testimony before your Committee in June in which we gave our initial support and want to restate it at this time.

The defeat of sugar legislation last month in the House of Representatives was a severe blow to our hope of achieving some stability in the industry. The I.S.A. may not be able to give sugarbeet growers the same assurance as domestic legislation, but it will serve to limit the boom and bust cycles which are characteristic of the world sugar market.

We sincerely urge the Senate Foreign Relations Committee to act favorably on the International Sugar Agreement and seek quick action by the Senate.

Unless action is forthcoming we foresee an even greater loss in sugarbeet acreage than has occurred in the past three years.

Sincerely,

RICHARD W. BLAKE,
Executive Vice President.

HAWAIIAN SUGAR PLANTERS'
ASSOCIATION,
Washington, D.C., November 15, 1979.
Hon. FRANK CHURCH,
Chairman, Senate Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to reaffirm our support for Senate ratification of the International Sugar Agreement (ISA). It is my understanding that your Committee may consider this important measure early next week.

I appeared before your Committee on June 21, 1979, and urged support of the ISA. We hoped at that time that the House would pass a satisfactory domestic sugar program to complement the international program envisioned by the ISA. As you know, the House has failed to enact such a domestic program.

In view of the House action it appears to us that ratification of the ISA and passage of implementing legislation is more important than ever. You will recall the statement of the Undersecretary of Agriculture, Dale E. Hathaway, when he was a witness before your Committee, to the effect that there is enough existing authority to run a satisfactory domestic sugar program, even without further legislation. We hope that the USDA will pursue that alternative and that lack of a legislated program will not constitute an obstacle to ratification of ISA.

We understand the very complex problem caused by the sugar situation and wish to thank you for your perseverance and leadership in trying to reach an equitable solution. Senate ratification of ISA is an essential part of that solution and we strongly support your efforts to achieve it.

Sincerely,

ROGER H. SULLIVAN.

Mr. JAVITS. Mr. President, the final treaty before us is the International Sugar Agreement. I support that. The committee reported it unanimously. It will help to stabilize the international sugar markets which have been plagued in recent years by wide fluctuations.

Mr. President, I rise in support of Senate ratification of U.S. membership in the International Sugar Agreement (ISA), which provisionally entered into force on January 1, 1979.

The ISA will help stabilize the international sugar markets which have been plagued in recent years by wide fluctuations; in 1974 the price of sugar was as high as 64 cents per pound, and in 1977 sugar sold for as little as 7 cents per pound, a price which is well below the cost of production in most producing countries.

Over 50 sugar producing and consuming nations, encompassing over 75 percent of world sugar production, are seeking to ameliorate the pitfalls of widely fluctuating world sugar markets through participation in the ISA. As both a major producer and importer of sugar, U.S. participation in the ISA is critical to the achievement of stabilized world sugar prices in the range of 11–20 cents per pound through the accumulation of buffer stocks and the imposition of export quotas.

The domestic sugar industry has also been subject to world market forces, which allegedly have driven down domestic sugar prices below the cost of production for a number of sugarcane and sugar beet producing regions of the United States.

As representative of a consumer state I feel that U.S. participation in the ISA, rather than domestic legislation which will artifically raise sugar prices to U.S. consumers, is the proper approach to aiding the domestic sugar industry. By stabilizing world market prices, U.S. participation in the ISA should remove the need for such domestic legislation, which would be highly inflationary to U.S. consumers and hurt lower cost sugar producing countries, especially in the developing countries.

The implementation of the ISA will help consumers by stabilizing fluctuations in the price of sugar and sugar products, which tends to rise over time rather than fall. Sugar price increases are quickly passed on to consumers while price decreases often are not. Consumers will, thus, substantially benefit from a stabilized price in terms of what they will have to pay in the future for products containing sugar.

In addition, U.S. participation in the ISA may facilitate the European Community's (EC) decision to participate in the agreement. The EC is the only major exporter which has refused to join the ISA as yet; however, the EC has agreed to assist in stabilizing world market sugar prices as is consistent with their domestic situation. U.S. ratification of the agreement would create an additional precedent for the European Community to join in this concerted international effort to stabilize world sugar prices.

Stabilization of world sugar prices is of great importance to the maintenance of a healthy international and domestic economy, and I commend to the Senate ratification of U.S. participation in the International Sugar Agreement.

Our sugar industry has been greatly subject to world market forces, at the same time our consumers need the protection of an agreement of this kind. Efforts have been made, as is known, to fix the price of sugar in this country.

Representatives of large consuming States like my own have felt that this price was being fixed too high. On the other hand, representatives of the producing States have felt that they were being fixed too low.

I believe that this agreement will go a far way toward a reasonable and decent compromise between both points of view. So I think the approval of this agreement becomes even more important in order to deal with the problems which are being discussed in respect of domestic legislation.

For all of these reasons and to assist in maintaining a healthy international and domestic economy, I commend to the Senate ratification of the U.S. participation in the International Sugar Agreement.

Mr. President, I yield the floor and reserve the remainder of my time.

Mr. LONG. Mr. President, I support approval of the resolution of ratification on the International Sugar Agreement.

The International Sugar Agreement is designed to stabilize world sugar prices in a range of from 11 to 21 cents per pound in order to benefit both consuming and producing nations. It was negotiated and accepted by both producing and consuming nations.

Under the agreement, when prices begin to approach or fall below the 11-cent price, producing nations would control exports and stocks would be accumulated so that the price of sugar in the world market would be supported. On the other hand, when prices begin to move toward or past the 21-cent upper limit in the agreement, the stocks which have been accumulated under the agreement would be released, holding down further increases in prices.

Thus, sugar consumers are benefited when prices begin to increase in the world market by the operation of the agreement, and sugar producers are aided when world prices begin to decrease.

It is hoped that this mechanism provided in the agreement will help remove some of the extreme fluctuations in world sugar prices so that we avoid the situation that we faced in the mid-1970's when world sugar prices increased to almost 60 cents a pound and then plummeted in a matter of less than 2 years to a price of 7 cents a pound.

The United States played a major role in the negotiation of the International Sugar Agreement. The United States is a signatory to the agreement, as are more than 50 other countries who produce and consume sugar. Most of the other countries who participated in the negotiations of the agreement have either formally ratified the agreement or indicated that they intend to follow the provisions of the agreement.

In carrying out these commitments, these countries have exercised restraint in their exportations of sugar on the world market in the last year. During this time, they have been anxiously awaiting action by the Senate to approve the International Sugar Agreement.

We should act now to carry out our commitment that we made internationally several years ago, a commitment which we have not formally implemented even as we have benefited by the implementation of the agreement by other countries.

Mr. President, I cannot let this moment pass without recalling the unfortunate defeat in the House of Representatives about a month ago of the sugar bill which would not only have implemented for the United States the agreement which we are today considering, but would have provided a domestic sugar program which would have further insured stability for the benefit of both producers and consumers of sugar.

I believe the International Sugar Agreement will help insure the stability and viability of a world sugar industry, but I also believe that the domestic sugar program contained in the bill recently defeated would have insured the viability of a strong domestic sugar industry.

Ultimately, the best protection for U.S. consumers and producers of sugar against the vagaries of world trade in sugar and resulting price gyrations is a strong domestic sugar industry. The Senate should ratify the International Sugar Agreement in order to achieve some stability in the international sugar market.

I hope in the future the Senate and the House will be willing to look in a more realistic reasoned manner at the need for a domestic sugar program to insure the viability of a domestic sugar industry also.

Mr. MATSUNAGA. Mr. President, for more than 40 years the producers, the refiners, the industrial users and the consumers of sugar were assured of adequate supplies of sugar at a reasonable price under sugar legislation that began with the Jones-Costigan Act in 1934, with periodic adjustments from time to time until December 31, 1974, when Congress let the act expire.

Although this historical legislation provided for sugar import allocations, it was strictly a domestic program, and if the concepts of the International Sugar Agreement under consideration today had been in effect in 1974, it is doubtful that we would have seen the dramatic escalation in sugar prices that we experienced in 1974 and 1975. Because there was no stabilizing program in operation during those years, we saw a world shortage of sugar and the consequent dramatic rise in price. In the years subsequent to 1974, we have seen increased production of sugar worldwide (as a consequence of those high prices) which has resulted in a surplus of sugar and a decline in prices—even below the cost of production in most, if not all, countries.

During the years since 1974, after the expiration of the Sugar Act of 1934, efforts have been made to enact legislation that would provide the kind of sugar stability we enjoyed under the old sugar programs, only to have those efforts fail in the House of Representatives, the most recent being its defeat of H.R. 2172, the Sugar Stabilization Act of 1979. A bill with similar intent was introduced as S. 463 in the Senate earlier this year by Senator CHURCH and 17 of his colleagues, myself included. This bill has not been acted upon in the Senate beyond hearings which I held on March 21, 1979 as chairman of the Finance Committee's Subcommittee on Tourism and Sugar. The defeat of H.R. 2172 in the House precluded any further action on this side.

Both H.R. 2172 and S. 463 provided for ratification of the International Sugar Agreement (ISA) under title I, but other elements of H.R. 2172, relating to direct subsidy payments and labor provisions resulted in controversy and opposition leading to its defeat.

With the dramatic developments in transportation and communications in recent years, countries throughout the world have become more and more dependent upon each other and the Trade Agreements Act of 1979 passed this year as a result of the multilateral trade negotiations with the objective of establishing fair and reasonable international trade relations giving due consideration to each countries' economy and capabilities. Sugar was not among those commodities included in the MTN and the United States was a significant partner in the development of the International Sugar Agreement between 53 exporting and 34 importing countries. Because of this fact there is an obvious need for an instrument that would provide guidelines for sugar stocks and prices which would promote fair and equal trade relations for both exporting and importing countries. At the risk of over simplifying, I would say that the pending treaty does no more than provide a price range within which both exporters and importers can deal fairly and a system of holding or releasing sugar stocks that will maintain prices within the established range and insure adequate supplies. As world sugar consumption increases at an estimated rate of 2.5 million tons per year and surpluses diminish the mechanisms of the ISA become all the more important.

It is most necessary for us to review and adjust our priorities. In past years we have seen many industries in our great country seriously hurt by imports from foreign countries, in many cases produced by technology, talent, and financing from the United States and transferred overseas as a result of constraints imposed by unwise or excess legislation. Our domestic industries need encouragement and a sense of direction. In the past few days, we have read of the decline in automobile production and the laying off of personnel; of the closing of steel mills and the consequent unemployment of valuable workers who have developed skills and made vital contributions to our Nation's economy. In my own State of Hawaii, the sugar industry for years conducted both pure and applied research unequalled in the world which led to Hawaii's fame for record sugar yields per acre.

Concurrently, Hawaii provided training for both labor and college graduates that not only satisfied the complex demands of our changing times, but also provided a personnel research pool to assist in the development of Third World or developing countries. Because of the lack of a domestic sugar stabilization program, with provisions setting objectives or sense of direction, and because of below cost of production returns, Hawaii's sugar industry has had to drastically curtail or eliminate these programs. Moreover, in order to survive, they have had to forego needed maintenance and unit replacements necessary for an intelligent modernization program. This pattern is showing up in our railroads and far too many of the activities and facilities that made our country once so strong economically.

There has been concern about how soon and how effectively the International Sugar Agreement would provide the kind of stability so necessary to our domestic growers, producers, refiners, and consumers; and it was for this reason that a domestic program was tied to the International Sugar Agreement. Since we have failed in our effort to adopt a domestic program, the International Sugar Agreement becomes all the more important, and I urge strong support for ratification of the agreement.

Mr. INOUYE. Mr. President, for many years it has been U.S. policy to maintain a domestic sugar industry capable of producing a significant portion of our sugar requirements. That policy avoids primary dependence on foreign suppliers.

In his statement on May 4, 1977, to the Special Representative for Trade Negotiations, President Carter stated that he firmly believed, and I quote "that it is important to maintain a viable domestic sugar industry in this country." This commitment is the basis of the sugar legislation now before Congress.

In all cases ratification of the International Sugar Agreement is a necessary component of any domestic sugar bill. As in some other commodity systems, there has been a strong degree of cyclicality in world sugar production. The reasons range from unfavorable weather conditions, to supply-demand problems, to international political traumas. Past international sugar agreements have attempted to regulate this cyclicality. However, in the aftermath of the 1974 sugar price explosions and the subsequent 1975 precipitous price declines, the search for a regulatory mechanism for this commodity system has grown all the more intense. The 1977 International Sugar Agreement attempts to meet the requirements of a sugar commodity system that will grow increasingly violent in its cyclicality unless we act to ratify that agreement.

Internationally, sugar has become embedded in a complicated matrix of intercommodity relationships. These interlinkages, rather than relatively simple production and consumption functions, will increasingly determine the level of sugar supplies, prices, and requirements in the future.

While the period and amplitude of the cycle is, of course, affected by a variety of factors, the underlying cyclicality of the world sugar market is due primarily to the short-run inflexibility inherent to sugar production. That flexibility is, in turn, due to first, the physical properties of sugarcane and sugar beets, second, the technology of sugar extraction, third, the economies of scale associated with this technology, and fourth, the high proportion of total production costs which are fixed rather than variable.

Slightly more than 28 percent of world sugar production, approximately 22 million tons, moves in international trade. One of the institutional peculiarities of the international sugar market has been the compartmentalization of a large part of international trade into preferential marketing arrangements. Sixty percent of internationally trade sugar, approximately 13 million tons, is traded under preferential agreements, leaving 40 percent of internationally traded sugar, approximately 9 million tons, trading on the free market. The sugar sold under the preferential trading arrangements is imported under quotas which assure relative stability to the trade, and at prices which are usually higher than those on the free market.

Until the end of 1974, the most important of these preferential arrangements were those covering the negotiated price quota exports to the United Kingdom under the Commonwealth Sugar Agreement of 1951, exports by Cuba to the socialist countries, and the sugar imports of the United States. The exporting participants of these arrangements thus received secure markets and stable prices higher than those on the free market.

The free market, which is comprised of all international transactions outside the preferential arrangements, is a residual market, serving both as a marginal outlet for protected beet sugar produced in excess of domestic requirements in temperate countries, and as an important market for cane sugar exporters with limited access to preferential markets. Because of preferential arrangements, and other reasons, only a part of the volume ascribed to the free world market is traded at the prices quoted on that market. Its narrowness and the absence of an adequate buffer-stock mechanism to cushion random fluctuations in output make the free world market price an oversensitive barometer of the short-term supply situation. A statistically significant relationship between changes in the free world market price and changes in buffer stocks has been proven.

The limited amount of sugar available on the residual free market has reduced the effectivenes of market mechanisms in bringing about necessary adjustments of production in response to changes in demand. Also, changes in supply impinging on a market where demand is relatively inelastic produces wide price fluctuations. The ISA will go a long way toward improving the world market infrastructure for sugar.

The overall achievements of International Sugar Agreements up until the 1977 agreement must be judged very largely on the basis of the price effects resulting from its various mechanisms. The first International Sugar Agreement was established in 1937. Others followed in 1953, 1958 and 1968. The 1953 agreement probably did contribute to price stability during the first 3 years of its operations. Throughout most of 1954, 1955, and 1956, sugar prices in the world free market remained remarkably steady in comparison to most other periods. In these 3 years, the price was close to the minimum specified in the agreement. The other sugar agreements were not as successful in regulating price.

The experience of past international sugar agreements produced a number of problem-solving ideas to be included in a new agreement. The only idea to gain strong support in the 1977 International Sugar Agreement was the creation of nationally held buffer stocks. However, the enforceability of the stock release provision is difficult to carry out under the system established by the 1977 International Sugar Agreement. The self-interest of national stockholders in higher sugar prices is much more apparent than in a system where stocks are held and controlled by an international regulating mechanism. How quickly nationally held stocks are released onto the free market, once such an action is designated by the International Sugar Council, will be determined by an exporting country's commitment to such an action.

Hawaii produces one-fifth of all the sugar grown in the United States, approximately 1,100,000 tons, or about 10 percent of the sugar consumed in the United States. The United States is the largest consumer of sugar in the free world market. Therefore, without a domestic sugar program my State's economic destiny is solely reliant on the success or failure of the International Sugar Agreement.

Without U.S. ratification of the ISA there is little chance that the ISA can succeed in bringing price stability to the world sugar market at a reasonable market price for sugar. In the absence of new sugar legislation, it can be expected that the United States will increase its reliance on the world market substantially.

Without ratification of the ISA, prices of sugar will likely become increasingly volatile; subject to rapid rises as high or higher than occurred in the period 1974 to 1975 and subsequent glut and disastrously low prices.

At the present time, world sugar prices have strengthened, but without ratification of the ISA and administration commitment to support sugar at a reasonable level, this may prove a short term phenomenon. To insure greater protection of the U.S. consumer and our domestic producer, I believe that it is extremely important that ratification of the ISA be achieved. I urge support of the ISA and early action by the administration to increase the sugar loan price to guarantee a break-even price for our efficient sugar producers.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive A. 95th Congress, 2d session, International Sugar Agreement, 1977.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI) and the Senator from Hawaii (Mr. INOUYE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Wyoming (Mr. SIMPSON). If present and voting, the Senator from Oregon, would vote "yea" and the Senator from Wyoming would vote "nay."

The PRESIDING OFFICER (Mr. METZENBAUM). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 80, nays 11, as follows:

[Rollcall Vote No. 447 Ex.]

YEAS—80

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Goldwater
Gravel
Hart
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—11

Chiles
Durkin
Garn
Hatch
Helms
Humphrey
McClure
Stone
Talmadge
Thurmond
Wallop

NOT VOTING—9

Baker
Byrd, Harry F., Jr.
DeConcini
Hatfield
Inouye
Kennedy
Mathias
Melcher
Simpson

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that the President be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and proceed to the consideration of S. 1918, which the clerk will state by title.

The assistant legislative clerk read as follows:

> Calendar 394, S. 1918, a bill to amend title 1, United States Code, to revise and make uniform the provisions of law relating to appointment, promotion, separation, and retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the grade of commodore admiral in the Navy, to equalize the treatment of male and female commissioned officers, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Debate on this bill is limited to 3 hours to be equally divided and controlled by the Senator from Georgia (Mr. NUNN) and the Senator from Iowa (Mr. JEPSEN), with 30 minutes on any amendment except an Armstrong amendment on enlisted travel on which there shall be 40 minutes, and an Armstrong amendment on military pay cap on which there shall be 3 hours; and 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

The Senator from Georgia.

Mr. NUNN. Mr. President, the Defense Officer Personnel Management Act, S. 1918, addresses one of the most important aspects of U.S. national security—the selection and management of our military leaders, the commanders and top and middle members of our Armed Forces. The purpose of the bill is to revise the laws which govern active duty officer management by establishing new statutory limits on the numbers of active duty officers who may serve in the higher grades, and by providing uniform law regulating appointment, promotion, tenure, separation and retirement of active duty regular and reserve commissioned officers.

I want to first commend the staff headed by George Travers, together with the minority staff, who have worked on this bill and this legislation for really almost 4 years.

I also want to commend Senator JEPSEN, the ranking minority member, who has attended all the meetings and gone through all the tedious testimony and done a marvelous job of both contributing to this legislation, to understanding it, and explaining it to our other members.

This bill is a most complex piece of legislation. It would overhaul or eliminate more than 300 sections of current law and codify others. It contains the statutory authority needed to provide more uniform promotion systems among the services and new grade authorization tables, but in many respects, it does not represent a radical shift from the present law.

DOPMA was originally recommended by the Department of Defense and introduced in the Senate in September 1975. Members of the Armed Services Committee and staff with the assistance of experts from the Congressional Research Service and the Congressional Budget Office, private consultants and representatives of the Department of Defense have been carefully examining this proposal in detail for some time.

In December 1975, the committee published a study on the proposal prepared by outside consultants, David Dellinger from Duke University and William R. King from the University of Pittsburgh.

The Subcommittee on Manpower and Personnel spent 11 days in hearings and markup over the past 3 years on this proposal. All of these considerations have made it clear that the issues associated with effective military officer management are complex.

CRITERIA FOR OFFICER MANAGEMENT

I believe we need an officer personnel system that provides youthful, vigorous personnel to perform many combat jobs but also produces an officer corps with sufficient experience.

The importance of experience cannot be underplayed in view of the many complex, scientific, technical, and administrative tasks vital to the support of today's Armed Forces.

We need an officer management system which will attract qualified and dedicated officers to military careers in the grades required to meet mission based requirements at an acceptable level of manpower costs. By this, I mean that the officer system, through its promotion policies, should provide enough, and only enough, officers to meet requirements.

We also need an officer system adequately controlled by the Congress which will also give the President, as Commander-in-Chief, as much management flexibility as he can safely and constitutionally be granted without eroding civilian control and congressional control over the military. In determining the criteria for officer management, policy considerations require tradeoffs, balances and discriminating judgments if the high quality of military leadership required for this Nation's security is to be achieved at reasonable cost. The bill as proposed by the administration did not measure up to the stringent criteria by which this important subject should be judged. The committee's recommendations meet these criteria.

MAJOR POLICY RECOMMENDATIONS

Mr. President, I will now highlight the major policy recommendations advocated by the committee in this bill.

PROMOTION AND TENURE

The administration's proposal would rigidify the already too rigid up-or-out system. The committee's recommendation maintains the up-or-out policy but modifies several of the administration's proposals.

The committee adopted the administration's recommendations that officers be involuntarily separated after twice failing promotion. Under the proposal, these separations of captains and majors would take place earlier than under current law. However, the Committee adopted a provision to allow for the selective continuation of captains to 20 years and majors to 24 years. This modification would permit, but not require, the service secretaries to continue captains and majors in critical skills on a voluntary basis. For example, the services are now making use of selective continuation for pilots, doctors, and chaplains who fail to be promoted. Under the administration's proposed bill, the Department of Defense would have had to end this sensible practice making shortages in these areas worse.

The administration's proposal would add a new provision to the up-or-out system by requiring in law that reserve officers be separated after 11 years service. This provision would provide for an All-Regular Officer Force after 11 years by law, but testimony indicated that about 6 percent of all officers would be forced out at the 11-year point solely because of this provision.

The administration's proposal would also prohibit the Secretary of Defense from voluntarily recalling experienced reserve officers with over 11 years service to active duty even if they were needed in particular skills like doctors or if the size of the military were to increase in a period of growing tension. The committee did not accept this requirement to separate reserve officers at 11 years. Instead, the Secretary of Defense would retain permissive authority to separate reserve officers and would have sufficient numbers of regular officer positions so that he could achieve an all-regular force through management actions. The Secretary would also be permitted, but again not required, to voluntarily recall experienced reservists to active duty.

The administration's proposal would operate only during peace. At time of mobilization, mobilized reservists would not be included under the grade limitations and would not be considered under the same promotion system as other active duty officers. The committee rejected these proposals because of its concern that the officer personnel system should be designed to work in both peace and war and that at time of mobilization the promotion system should insure that the best qualified officers are selected for command from among all officers serving on active duty.

The committee did adopt a provision authorizing the President to suspend these or other provisions in time of war or national emergency. So if it is necessary to suspend the regular operation of the management system, the President has the authority to do so, but the committee's intent is to adopt an officer management system that would also serve the country well at time of emergency.

GRADE LIMITATIONS

The bill provides for grade tables that limit the number of majors, lieutenant colonels, and colonels on a sliding scale depending on total officer strength. The committee also recommends flag and general officers in the grade tables in the numbers authorized by current law. The grade tables are based on the same ratio of total strength to flag/general officers for the Army, Navy, and Air Force and a ratio approximately 50 percent higher for the Marine Corps. The Secretary of Defense would have authority to allocate additional numbers to each service from a bank of 177 general/flag officer grades alotted to him by the committee recommendation.

The committee adopted grade tables with a reduced number of officers for several reasons. First, the Department of Defense is unable to justify the force structure requirements for these officer grade limits recommended in their proposal. In comparison to the number of so-called command billets for each service—that is, those positions recognized as a military command function like ship commander, squadron commander, and so forth—the number of colonel and Navy captain positions provided in the committee recommendation is about three times the number of command billets for the Navy and Air Force and six times the number of Army command billets. Clearly, the recommended grade tables are sufficient to meet requirements.

Essentially, the military has been operating under the same grade tables for the past 30 years—grade tables which reflected the experience from World War II. But the officer corps has changed over that period.

Between 1958 and 1976, the average officer grade of the officer corps has increased by 6 percent in the Army, and 10 percent in the Navy and Air Force. Real pay for those grades has also increased. Yet, experience levels have declined in all services. In the Army, the average length of service for Army officers has declined by 28 percent.

There are now relatively more officers—that is, fewer enlisted men per officer than at any time in the past, in peacetime or in war. In 1945, there were 8.6 enlisted men for every officer. In 1968, there were 7.5 enlisted personnel for every officer. Now, there are about 6.5 enlisted personnel for every officer.

The committee is concerned about tendencies toward officer corps richer in grade, better paid at those grades but poorer in military exeprience. The system is characterized by rapid turnover and higher retirement costs. Testimony by experts in military leadership indicated that the current system adversely affects the quality of military leadership and the combat effectiveness of military units. The committee's recommendation will provide a more effective and efficient officer corps of more experienced senior officers with more opportunity for command.

The legal grade table limits do not specify when promotions should take place or what proportion of eligibles should be promoted—that is best left to service managers who can adjust promotion policies to reflect service personnel management concerns and requirements.

The grade tables recommended by the committee will eventually—and I emphasize the word "eventually"—lead to a reduction of 30 percent in colonels, 25 percent in lieutenant colonels, and 20 percent in majors. The transition to these grade tables would take place over 10 years.

During the transition period, the services should be able to present a much better system for justifying officer grade requirements. At that time, changes to the permanent grade tables or further transition provisions can be considered.

SEPARATION AND RETIREMENT

The committee approved a provision in the proposed bill which would allow for the selective early retirement of lieutenant colonels and colonels. For example, in order to reduce the total numbers of lieutenant colonels, the bill would authorize the service secretaries to convene a board to select lieutenant colonels to be involuntarily retired before they reach 28 years of service.

The committee recommends an increase from 6 months to 3 years as the minimum time to be served in a grade in order to permit voluntary retirement in that grade. This provision is designed to increase the amount of time senior military officers spend in a grade.

The committee recommends a major revision to separation pay for officers who are involuntarily separated from the service. Under present law and the administration's proposal, officers separated with more than 5 but less than 20 years of service receive separation pay equal to 2 months basic pay for each year of service up to a maximum of $15,000. Under current pay conditions, the maximum is reached quickly so that a captain with 6 years of service would receive the maximum. The committee recommendation would revise the payment for those involuntarily separated to be equal to 10 percent of annual basic pay for each year of service up to a maximum of $30,000. Officers with less than 10 years of service would receive less under current law and those with over 10 years of service would receive more. The recommendation includes a save pay provision to permit an officer now on duty to select the greater of the new or old payment.

CONSTRUCTIVE SERVICE CREDIT

So-called constructive service credit is awarded to certain officers on being commissioned to provide an adjusted position on the active duty list for the purposes of determining grade and seniority in relation to other officers. Constructive service credit is a way of recognizing time invested in additional preparation for professional status and is awarded to officers entering service when that advanced preparation beyond the bachelor degree is a prerequisite to his or her being appointed as an officer in a professional capacity. The committee recommendation would continue the current practice of Congress prescribing the rules governing this credit in law and would retain the current categories that receive the credit. If changes are to be made, then the administration should propose the necessary changes by skill. The committee recommendation would apply the same rules to the reserves. The committee recommendation includes a provision to permit the Secretary of Defense to grant additional credit necessary to assure the entry grade of captain when he determines such action to be necessary to attract sufficient numbers of qualified judge advocates.

COMPETITIVE CATEGORIES

Competitive categories are categories to which officers on the active duty list of each service would be assigned to compete for promotions. Recognizing that changes in the needs of the military services do occur, the committee recommendation would delete the current categories specified in law and instead authorize the service secretaries to prescribe and abolish categories under regulations by the Secretary of Defense.

In looking at the costs of this legislation, Mr. President, any review of officer personnel management should include a review of the efficiency with which the system operates. The committee believes that these recommendations will lead to a more effective officer corps. It will also provide for increased efficiency. Over the first 5 years, the administration's proposal will increase costs by $36 million in 1979 constant dollars. The committee's recommendation will save $456 million in constant dollars over the next 5 years. When fully operational, the administration's bill would save $58 million per year while the committee's recommendation will save $446 million per year. Over the next 50 years, the committee's recommendations would save over $5 billion in today's dollars from the administration's proposal.

Mr. President, I want to acknowledge—and specifically thank him, on behalf of the committee and the Senate—the valuable contributions made by Senator JEPSEN, the ranking minority member of the Subcommittee on Manpower and Personnel and all the other members of the subcommittee over the past several years.

I also particularly want to thank Senator WARNER, who is a former service secretary, a man with considerable experience in the overall field of national security and a man with a great deal of expertise in the area of personnel management. As a member of the subcommittee, he made an unusual and unique contribution. I think he is certainly due the thanks of those of us who are on the subcommittee.

I also want to recognize the valuable assistance given our committee by the Congressional Research Service, the Senate Legislative Counsel's Office, the Congressional Budget Office, and the Department of Defense.

Mr. President, I urge the support of my colleagues on this legislation.

Mr. President, I yield. I know my colleague has some remarks he would like to make on this legislation.

Mr. JEPSEN. Mr. President, I thank Senator NUNN for his counsel and assistance in helping me to carry out my responsibilities as ranking member of the Manpower and Personnel Committee. I found the distinguished chairman of this subcommittee to be most knowledgeable and a dedicated student of military matters.

Mr. President, I enthusiastically join with the chairman of the subcommittee in urging my colleagues to support the Defense Officer Personnel Management Act, S. 1918, as reported out of the committee.

As the ranking Republican member of the Manpower Subcommittee, I have spent some time working on this bill. DOPMA is one of the most complex items of legislation ever to appear before the Senate, and in the short time available to me, I cannot go over all of its implications. The many provisions are intricate and closely related.

In the Manpower Subcommittee, which has held hearings on this legislation over a period of at least 3 years, we have tried to come up with a new officer management system for uniformed personnel which will insure that the military services can recruit and retain the highest quality officers possible. Toward that goal, we have found the existing system to be deficient in several regards.

First, we found that differences in the practices among the services resulted in inequities and lowered morale. Second, we found that artificial barriers to retaining and promoting the best officers available resulted in a system where better qualified officers were separated from the service while less qualified officers were permitted to continue. Third, we were disturbed by the "up or out" system which required that officers completely capable of performing their existing duties be separated from the service in order to make for younger officers. In addition, the existing officer structure had some anomalies with respect to women and inequities with respect to the different professional corps.

In the Senate version of DOPMA, S. 1918, we have worked closely with outside consultants and the Congressional Research Service of the Library of Congress to develop a more efficiently drafted set of rules for the management of military officers.

In making decisions as to specific provisions, we have been guided by several principles. First, we wished to insure that talent would be rewarded. Second, we sought to retain an optimal amount of competition. Third, however, we sought to permit the retention of twice-passed-over officers in positions where they are needed and where replacements are not readily available. Toward this end, we generally gave the Secretary of Defense and the service secretaries more flexibility rather than less flexibility as was given to them in the legislation submitted by the administration.

I should add, also, that we viewed the DOPMA bill in the context of the total force structure. We wished to make sure that this legislation which applies to active-duty officers would interact effectively with legislation covering reserve officers on active duty or in reserve status. It is my belief that S. 1918 reflects very clearly a total force concept compatible with a strong Reserve and National Guard force.

The Defense Officer Personnel Management Act contains officer grade tables under which the size of the officer corps is managed. We have established these grade tables on a sliding scale so that, when the size of the force expands, the number of high ranking officers expands also, but at a lesser rate. I voted for these grade tables both in the subcommittee and the full committee on the grounds that they are consistent with the evidence that in recent years, the military grade structure has grown too rich. We have had testimony of officer dissatisfaction resulting from a lack of responsibility in accordance with their rank and with a lack of command opportunity.

At the same time, I recognize that the cuts envisioned in these grade tables are severe. For that reason, we plan to phase them in over a period of 10 years. At the present time, the military services are experiencing some difficulty in retaining midlevel officers, especially pilots, and concern over the impact of these cuts on their futures could be demoralizing. I would hope that the military services, having had the opportunity to examine these grade tables at some length, will be able to provide us with information which will permit us either to make implementation easier and less disruptive or which will help justify making such stark reductions.

I want to address one other point. In looking at the existing officer management system, we were puzzled to find that so many inefficiencies and injustices had been built into the system. For example, we found that the "up or out" system was requiring the military services to separate from service badly needed doctors and chaplains because there was not enough grade structure at the top to support continuation of senior officers. At the same time, the services then had to go out and recruit replacements who were less qualified in these professional skills. The military has stopped this practice with respect to doctors, but we have given the secretaries the ability to moderate this practice with respect to other professions, such as chaplains. It makes no sense to fire a perfectly competent professional, such as a chaplain, because there is no room at the top only to return him to his religious organization and then request a replacement.

The Defense Officer Personnel Management Act is a complex bill, and I am certain there are few Members of the Senate who are aware of its operation in detail. But I think we are all aware of the importance of having an officer management system which insures first-class leadership for U.S. military forces. In S. 1918, we have sought to bring about a system which has evolved out of past practices and which is both efficient and fair, and I urge my colleagues to join with me in voting for passage.

The PRESIDING OFFICER (Mr. BUMPERS). Who yields time?

Mr. TOWER. Mr. President, S. 1918, the Defense Officer Personnel Management Act, is one of the most complex pieces of legislation ever to appear before the Senate. The bill itself is 164 pages long and our report is 496 pages long. I should note, however, that the Senate version of DOPMA, as it is known to those of us who have dealt with this proposal over the last three Congresses, is more efficiently structured and more tightly drafted than the original legislative proposal. I might add, also, that our report is still about 150 pages less than the last two House Armed Services Committee reports on this legislation.

The length of this bill is matched by its complexity. In DOPMA the Armed Services Committee has sought to make the Commissioned Officer Management and Promotion System of all four of the Military Services more effective, efficient, and equitable. As comprehensive as DOPMA is, however, it deals only with commissioned officers on active duty. A companion piece of legislation, the Reserve Officer Personnel Management Act (known as ROPMA), will inevitably be introduced once DOPMA becomes the law of the land.

When S. 1918 is enacted it will accomplish the following:

Provide uniform laws for the appointment of regular commissioned officers and for the promotion of officers on active duty,

Provide uniform laws for the involuntary separation and retirement of regular officers and common procedures governing separation pay,

Make uniform the treatment of male and female commissioned officers, and

Establish new statutory ceilings on the number of officers, by grade, by Service, and require that Congress annually authorize total officer strength for each military service.

With respect to any legislation as complex as DOPMA, a perfect system is not possible. We approached this challenging task, therefore, with certain goals in mind. We knew that we wanted a more equitable system. We knew that the piecemeal development of each of the services' officer management systems had resulted in numerous inequities and injustices within the services and between the services. For example, DOPMA as originally proposed eliminated most of the inconsistencies among the services relating to the practice of eliminating officers from the service who have twice failed to be selected for promotion to the next higher rank. The administration bill, however, retained certain inconsistencies as to when officers in specific grades must be mandatorily retired.

In the Marine Corps and Navy, O–5's (that is, commanders) must retire after 26 years of total commissioned service. Whereas, Army and Air Force O–5's (that is, lieutenant colonels) may stay for 28 years of service. Under the committee's recommendation, all of the services would establish the mandatory retirement at 28 years for O–5's. I might add that the committee also grants the Secretary of each military department the authority to defer mandatory retirement for those officers who are needed to complete mission requirements. Thus mandatory retirement of a regular O–5, or also an O–6, could be deferred for up to 5 years or until age 62 whichever occurs first.

In order to remove inconsistencies which have an adverse impact on the morale of professionals, the committee sought to make uniform the procedures for granting constructive service credit for additional education necessary for physicians, dentists, chaplains, and the like. We also sought to make these uniform with respect to both regular and reserve commissioned officers. The committee also indorsed an administration proposal to create the rank of commodore admiral in the Navy to correspond to the rank of brigadier general in the other services. The committee also provided uniform provisions for the establishment of the positions of Judge Advocate General and Deputy Judge Advocate General in all of the services and authorized the Secretary of Defense to determine the appropriate grade for each position. Although the committee has taken no action with respect to those provisions of title 10 which preclude assigning women to duty on combat ships and combat aircraft, it has repealed obsolescent provisions of the law which provided for different treatment of male and female officers.

In consideration of DOPMA our committee also sought to make the Officer Management System more efficient. Of primary concern were excesses associated with the so-called "up or out" system of promotion. Officers in the military are promoted on the "best qualified" basis. An effort is made in the promotion system to insure that there is an opportunity for those officers most qualified to serve at higher ranks to advance at a reasonable rate. In part this is achieved by a rigorous selection board process which includes the opportunity to identify and promote a limited number of outstanding officers above their more senior colleagues who may be fully qualified but not the most qualified.

Under current law, however, if a fully qualified officer twice fails to be selected for promotion to the next higher grade, he is then separated from the service, no matter how well he performs his current duties. In the case of some technical areas, including chaplains and at one time physicians, fully qualified officers were being separated from the service in the middle of their most productive years while the services sought to recruit and train more junior replacements. Not only was this abuse of the "up or out" system inequitable, but it was highly inefficient. The "up or out" system remains in DOPMA as reported out by the Armed Services Committee but we have added provisions which would permit the Service Secretaries to continue needed officers on a discretionary basis.

Insuring that the law provided for the most effective Officer Management System possible was a major goal of the committee. In general, we tried to make the administration's proposal more compatible with the total force concept between regular and reserve officers. Also, we tried to reduce institutional obstacles to the selection of the best qualified officers for promotion and retention. We eliminated a provision in the administration's proposal which would have required all active duty officers who have completed 11 years of commissioned service to be a member of the regular officer corps. The administration's proposal would have prohibited the Secretary of Defense from recalling, on a voluntary basis, experienced reserve officers with over 11 years of service whose skills were needed. We have given the Secretary of Defense sufficient authority to separate reserve officers and we have given him an adequate number of regular officer positions such that the goal of an all-regular career force could still be obtained through management actions. At the same time, the Secretary could recall volunteers who are reservists and whose experience is needed.

Likewise, we included mobilized reservists under the same promotion system and grade limitations as other active duty officers. It was the committee's view that an officer personnel system which could operate only in time of peace and which could not incorporate large numbers of reservists in time of war could not be justified. In the committee's view, the promotion system should insure that the best qualified officers are selected for promotion and for command from among all those officers available on active duty. The committee did authorize the President to suspend the DOPMA provisions in time of national emergency, but we have made changes to the administration proposal which should make that unnecessary.

In DOPMA, where the complex interaction of the many provisions could create tensions between our goals of efficiency, effectiveness, and equity, we have tried to give the Secretary of Defense or the Service Secretaries additional flexibility to deal with those specific cases which inevitably prove troublesome. We have also sought to make DOPMA compatible with anticipated changes in the reserve officer promotion system and in military retirement and compensation legislation.

Mr. President, I should like to bring to the attention of my colleagues one of the more controversial aspects of S. 1918 as reported out by our committee. Our bill provides for statutory grade limits on the numbers of field grade and flag and general officers in each of the military services. These limits are set by grade tables, which are adjusted on a sliding scale according to total officer strength for field grade limits and according to total service strength for general/flag officers. In the case of flag and general officers, the Secretary of Defense is given authority to allocate additional numbers to each of the services according to requirements.

The limiting table for field grade officers involved rather severe reductions to be phased in over 10 years, resulting in 30 percent fewer colonels, 25 percent fewer lieutenant colonels, and 20 percent fewer majors. Once the reductions are made, promotion opportunities should be similar at the reduced levels to those which exist today; however, during the transition period the services could experience, in my opinion, some disruption in their officer career management. This could result in a further reduction in morale at a time when the services are experiencing difficulty retaining its most highly qualified mid-level officers.

The committee made its stark reductions in field grade officers because it was dissatisfied with justifications which have been submitted for the present grade structure requirements. In particular, the committee notes that the average officer grade for the Army has grown 6 percent between 1958 and 1976, and 10 percent in the Navy and Air Force. However, the experience levels for each grade in all the services has declined. Many officers complain that, under the current system, they have too little chance to obtain a command position, too little responsibility in accordance with their rank, and insufficient time in each job held because of the necessity to diversify their experience rapidly in order to gain promotion to the next higher grade. In the future, a less rich officer structure could well prove to be to the advantage of all officers in all of the services.

In the meantime, however, I believe we should continue to examine possible consequences of reductions of this magnitude. I cannot help but suspect that a richer officer grade structure reflects the increasingly complex and technological nature of modern warfare and I suspect also that "grade creep" is another hidden cost of trying to maintain an All-Volunteer Force by making continuation of service more attractive.

In each of the last two Congresses, the House Armed Services Committee has reported out DOPMA in a form essentially identical to the administration's legislative proposal. Our bill differs in many significant ways, as I have shown, from that proposal. Prior to the House/Senate conference on the Defense Officer Personnel Management Act I am confident that the administration, the Defense Department, and each of the services will have had ample opportunity to examine our approach on its merits and make its case known. I am confident that, overall, when the Defense Officer Personnel Management Act becomes law, the law will look very much like the Senate recommendation. Although no weapon systems are involved, this legislation will have a great impact on the future national security of the United States and I urge all of my colleagues to join with me in voting to pass this legislation.

I thank the Chair.

Mr. NUNN. Mr. President, I yield the Senator from Mississippi whatever time he wants.

Mr. STENNIS. Two minutes, Mr. President, because of the shortage of time.

Mr. President, I say with emphasis that this Defense Officer Personnel Management Act is a highly important measure. It is a problem that is before the Department of Defense and the services from year to year. It is important to the personnel. It is important to the strength of the services. It is a difficult matter.

It has been worked on most diligently and effectively by the Senator from Georgia (Mr. NUNN) and the Senator from Iowa (Mr. JEPSEN), who has just joined our committee. They have worked with great talent and tenacity, if I may use those words, together.

I am interested in the passage of the bill. It is the kind and type that has to be finely written at conference between two Houses, after a lot of work by members and staff.

I commend it to the Senate and hope it will pass with a strong, solid vote.

It has been put off some heretofore and I do not think it can wait any longer.

Mr. President, under the Constitution, in addition to raising and supporting armies and providing and maintaining a Navy, the committee is charged with the responsibility of making rules for the government and regulation of our military forces. The bill before the Senate, S. 1918, the so-called Defense Officer Personnel Management Act (DOMPA), goes to the very heart of that congressional responsibility with our military system. This bill covers the rules and regulations that apply to the military officer corps. It covers the various stages of a military officer's life, from first appointment in the service to final discharge from the service and all the stages in between.

The last time this officer management system was thoroughly reviewed and updated was in 1954, some 25 years ago. While these rules and regulations on officer management must insure some stability for the individual officer's career, times change and a thorough review is needed from time-to-time. The Armed Services Committee has made such a review. This is a complicated, unglamorous but fundamentally important subject to the security of our Nation. Senator NUNN and the other members of our committee have spent more time on this bill than any other single bill before the committee in the last 4 years. This bill is truly a committee bill and represents the work of the membership.

The purpose of S. 1918 is to revise and make more uniform the provisions of law governing the appointment, promotion, separation and retirement of regular commissioned officers in the Army, Navy, Air Force, and Marine Corps. The bill strikes a balance between several important factors. First of all, it provides enough officers in the proper grades to command and regulate our Armed Forces. Second, in order to provide for getting top quality officers into the higher positions, the bill provides for a flow of officers in and out of the system. It strikes a balance between the experience of the force and the youth and vigor of the force in a way that would continue the "up or out policy", but slow it down from current levels. Third, the bill is designed to regulate the officer corps in both peace and war although the President could suspend some of the limitations of this bill in wartime. The bill is designed to permit expansion and contraction of the officer corps as necessary.

This bill originated as a result of congressional concern about our officer corps in the early 1970's. The Department of Defense studied this subject for several years and submitted a comprehensive proposal. The committee and in particular the Manpower and Personnel Subcommittee has held extensive hearings, conducted many studies, hired outside consultants and basically reviewed this matter from top to bottom. The bill before the Senate today would update and change the Officer Personnel Management Act of 1947 and the Officer Grade Limitation Act of 1954. As a whole, this previous legislation has served us well, but we are in a different situation today than we were after World War II.

The military grade structure authorized under the previous legislation was built to accommodate the larger numbers of officers and larger total personnel strength that existed during and after the World War II and Korean conflicts. The situation is different today with a smaller overall force as well as the fact that almost all of the World War II and Korean war veterans who stayed on to serve have now retired from military service.

Mr. President, I would like to personally commend the chairman of the Manpower and Personnel Subcommittee, Senator NUNN, and the ranking minority member of that subcommittee, Senator JEPSEN, for their fine work and leadership on this important bill, but I think all of the subcommittee members contributed to this important legislation. Senator BYRD of West Virginia, Senator WARNER, Senator CULVER, Senator COHEN, Senator MORGAN and Senator EXON all took part in the study and preparation of this legislation. The fact that this bill has been unanimously reported by the Armed Services Committee reflects the diligence of their efforts. In the end, this legislation will be worked out in conference with the House, but I want to now urge its passage on the Senate floor.

Mr. STAFFORD. Mr. President, will the manager yield for a question?

Mr. NUNN. I am glad to yield to the Senator.

Mr. STAFFORD. Mr. President, I have been studying parts of the pending legislation, with particular reference to section 625, as it appears in the committee report on page 21. I note that the section provides that the President may vacate the promotion of an officer who is promoted to the grade of brigadier general or commodore admiral during an 18-month period following his promotion to that grade.

I understand, under current law in the Army-Air Force, an officer who is promoted to that grade gets a temporary appointment for some period of time before he becomes permanently appointed.

It occurred to this Senator, who generally supports what the committee proposes to do in this bill, that when an officer in grade 6 in any of the services has gone through the throes of a selection board and been selected for promotion to grade 7, a responsible choice has been made and he is deserving of selection for promotion. Thus, I personally question the wisdom of then forcing him to an 18-month period of probation before he receives permanent position in that grade.

I ask the managers of the bill how deeply they are committted to requiring this 18-month period of probation. Also, I might ask whether or not the probationary period is applied to other grades. I do not think it is.

Mr. NUNN. I say to my colleagues that under current law, the system is based on a temporary appointment, followed at some point in the future by a permanent appointment. That temporary appointment serves as a probationary period to determine how they will perform on the job.

Under this bill, the temporary appointment is eliminated, and the subcommittee recommended that we put in an 18-month period, so that we would keep the feature of the current law which basically allows the President to determine and the promotion boards to determine whether a performance on duty, in grade, is satisfactory.

So we really are eliminating the temporary promotion, yet keeping the feature that would allow judgment to be made about how well the particular officer is performing in grade after promotion.

I have not focused on this feature in any great detail. I will be glad to consider the Senator's position and will be glad to consult with him. I assume that we are going to be in conference on this for a period of time. I am not sure that the House is going to pass this measure this year. Nevertheless, I will be glad to give the Senator's remarks consideration.

Mr. STAFFORD. I appreciate the Senator's response.

It seems to me that there is no particular reason to single out this grade for promotion for an 18-month probationary period. It should apply to all or none. It seems to me that it really is a reflection on the selection boards.

I will be glad to talk to the Senator further on this.

Mr. NUNN. Under the current law, when an officer becomes a general, a temporary appointment, the President can vacate that at any time.

Mr. STAFFORD. I understand that.

Mr. NUNN. The reason for this grade is that there is a psychological effect of moving into the general officer's grade, as opposed to those in the lower ranks, or even promotion from one star to two stars.

The Senator has raised a legitimate question, and we certainly can consider that.

Mr. STAFFORD. I thank the Senator very much.

AMENDMENT NO. 567

(Purpose: To correct certain inequities in entitlement to subsistence allowances by officers and enlisted personnel of the uniformed services)

Mr. ARMSTRONG. Mr. President, I call up my amendment No. 567.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself, Mr. MORGAN, Mr. DOLE, and Mr. HUMPHREY, proposes an amendment numbered 567.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 111, between lines 5 and 6, insert the following:

"SUBSISTENCE ALLOWANCE FOR ENLISTED MEMBERS WHILE PERFORMING CERTAIN TRAVEL

"SEC. 403. The third sentence of section 402(b) of title 37, United States Code, relating to basic allowance for subsistence, is amended to read as follows: 'An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from his designated post of duty, but not while being subsisted in kind at the expense of the United States.' ".

On page 111, line 7, after "CASES" add the following:

"; REIMBURSEMENT OF EXPENSES IN CONNECTION WITH CERTAIN MESS OPERATIONS".

On page 111, line 8, strike out "403" and insert in lieu thereof "404".

On page 111, line 18, strike out "a new section as follows" and insert in lieu thereof "the following new sections".

On page 111, line 24, strike out the quotation marks and the second period.

On page 111, after line 24, add the following:

"§ 1011. Mess operation: reimbursement of expenses

"At messes where meals are sold to officers, civilans, or enlisted members entitled to per diem pursuant to section 404(d)(2) of this title, the Secretary of Defense by regulations shall establish rates for such meals sufficient to provide reimbursement of operating expenses and food costs to the appropriations concerned, except that members of the uniformed services and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at a rate of not less than $2.50 per day. For the purposes of this section, payments for meals at the rates established hereunder may be made in cash or by deduction from the pay of enlisted members or civilian employees. Members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.".

On page 140, line 8, strike out "item" and insert in lieu thereof "items".

On page 140, strike out the material between lines 8 and 9 and insert in lieu thereof the following:

"1010. Commissioned officers: promotion; effective date for pay and allowances.

"1011. Mess operations: reimbursement of expenses.".

Mr. ARMSTRONG. Mr. President, this amendment has been printed, for the use of the Senate. I will take a short time to explain the amendment, which I bring to the floor on behalf of Mr. MORGAN, Mr. DOLE, Mr. HUMPHREY, and myself.

The PRESIDING OFFICER. Will the Senator advise the Chair which amendment this is? The time agreement gives him 40 minutes on one amendment and 3 hours on another.

Mr. ARMSTRONG. This is amendment No. 567, which relates to travel. It is the 40-minute amendment. I say to the Chair and to Senators that it is not my intention to call up the other amendment. The other amendment relates to the pay cap. That is an issue I desire to raise at a later time—within a few days, I hope—on a bill which will be more propitious and, we hope, a better vehicle for that amendment.

The PRESIDING OFFICER. There is a 40-minute time agreement on this amendment.

Mr. ARMSTRONG. I assure the Chair that I expect to take much less than 40 minutes.

This amendment is simply aimed at correcting a basic injustice in the system by which enlisted personnel are compensated when they are in a travel status.

As the Senators know, per diem is normally paid when members of the armed services are temporarily transferred away from their home duty stations. However, in the present law and in the present administration of this system, there is an injustice which, although inadvertent, is a serious one for the people involved.

This is how the system works: When an officer goes on a temporary duty, he continues to receive his basic allowance for subsistence. All officers receive the BAS, which covers food and other items. The Government also has an obligation to feed, clothe, and house enlisted personnel; but they do not automatically receive BAS, because there is an assumption that many enlisted personnel actually will be housed in Government facilities and will be provided meals in a Government mess. Those enlisted personnel who live off base—and we are talking mainly about married enlisted personnel—do receive the BAS.

This is where the injustice arises: Under current regulations, an officer on a temporary duty—that is, traveling away from his duty station—receives both his per diem pay and his basic allowance for subsistence. This is a reasonable duplication of payment, because while he is traveling, he has expenses incidental to traveling; yet, his basic expenses for maintaining his family continue at his home duty station.

Unfortunately, enlisted personnel are not entitled to the same consideration. Enlisted men and women have their per diem subtracted from the BAS to which they otherwise would be entitled.

The purpose of this amendment is to put an end to the inequity by permitting enlisted personnel authorized to draw BAS to continue to draw it while on temporary duty.

In its total impact, this amendment might seem small compared with the overall defense needs of the country, and I admit that is true. But in terms of its impact on enlisted personnel, who find themselves in travel status without having funds to pay their travel expense, unless they curtail the support of their families at their home duty stations, it has a very great impact. It is a severe injustice for the people involved.

So there are two reasons for the adoption of this amendment: First, to correct the injustice; second, because it is emerging as a serious morale factor and another reason that contributes to skilled personnel in the enlisted ranks leaving the service of their Nation.

It is interesting to me that in a recent Navy personnel study, this failure of the Government to provide adequately for the expenses of traveling enlisted personnel was named as a significant source of personnel concern. It was seen as a serious injustice, over and above its economic impact. As a consequence, the personnel involved cite it as one of the reasons why they are declining to renew enlistment.

So, on the ground of justice and on the ground of good management in continuing to attract and hold good people in the service, I urge the Senate to adopt this amendment.

Mr. NUNN. Mr. President, as I understand this amendment, it attempts to eliminate current perceived discrepancies in officer and enlisted personnel subsistence pay. At present, there are two portions of military pay for subsistence: These are the per diem allowance for subsistence and the basic allowance for subsistence or BAS. An officer draws BAS as a supplement to his pay every day he serves, yet while on temporary duty, he also receives a per diem allowance for subsistence.

It is a longstanding policy that enlisted personnel be subsisted in kind, that is, at Government operated facilities. Enlisted personnel, however, may receive BAS if married and would prefer to subsist with their families. When these enlisted personnel go on temporary duty away from their home base and subsist at Government operated facilities they do not continue to receive this payment. This causes a drop in their take home pay which is the source of the perceived inequity. The purpose of the BAS, however, is being fulfilled when the enlisted person receives his meals at Government operated facilities.

When no mess is available for either officers or enlisted personnel at the site of temporary duty, there is no inequity in subsistence payments. Both receive a per diem for subsistence of $13.50, but as stated earlier, the enlisted person does not continue to receive his BAS as a portion of his military pay as would an officer.

The Congressional Budget Office cites the cost of this amendment to be around $15 million. There is an identical Senate bill, S. 1272, now pending before the full Armed Services Committee and hearings have not been held on this proposal. Alternatives for solution of this perceived inequity may be available and should be considered.

Mr. President, the equity arguments, however, for this amendment are strong. There is a perception of lost cash even though the purpose for these payments, to be for the feeding of enlisted personnel is fulfilled. Furthermore, enlisted members have no option in that they must eat in the mess facility to avoid a real loss of income, if such facilities are available.

I recommend that we accept this amendment and take it to conference with the House of Representatives to give us a chance to take a detailed look at it.

I commend the Senator from Colorado for proposing the amendment and I am hoping that in spite of the budget problem it may pose we will be able to work it all out within the budgetary limits.

The Senator from Iowa wishes to make a statement.

Mr. JEPSEN. Mr. President, I join with the distinguished chairman of the subcommittee in echoing his sentiments and also commend the distinguished and able Senator from Colorado for his attention to detail and his concern for the thing that we are all concerned about today and that is the security of our country and the morale of our Armed Forces. We are deeply in his debt for bringing this to our attention and are pleased to accept it.

Mr. ARMSTRONG. Mr. President, I only add a word of appreciation to the distinguished managers of the bill for their understanding and interest in this problem. I am very grateful to them for accepting the amendment.

Mr. THURMOND. Mr. President, will the Senator from Colorado yield?

Mr. ARMSTRONG. Mr. President, I am very pleased to yield to the distinguished Senator.

Mr. THURMOND. I shall be pleased if the Senator from Colorado will see fit to add my name as a cosponsor of the amendment.

Mr. ARMSTRONG. I am honored to do so and ask unanimous consent that Senator THURMOND be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I believe the Senator from North Carolina wishes to speak on this amendment. He has been a leader on this subject. He has a separate bill pending before the committee on this subject. Whatever time he needs, I yield.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. I thank the distinguished chairman and my colleague.

Mr. President, I am pleased to sponsor, along with Senator ARMSTRONG, an amendment to end discrimination against enlisted personnel in the payment of military per diem pay.

We are having enough trouble retaining people in the military without such clearly unfair situations as exist when an officer and enlisted man travel on duty together.

Because of the way the basic allowance for subsistence is structured, the enlisted man gets less money each day to defray his expenses away from home, although he and the officer must incur the same expenses, and I add seldom will the allowance cover their expenses.

This is exactly the sort of inequity and irritant that forces our best enlisted people to become dissatisfied and leave the service.

Our All-Volunteer Force is having trouble enough in getting and keeping good people. We have allowed the benefits they get to be eroded. Here we have a chance to take a positive step to show these fine people that we are interested in their welfare, appreciate the sacrifices they make, and will treat them fairly.

I wish to join with Senator ARMSTRONG in expressing my appreciation to the distinguished majority and minority floor managers of the bill for accepting the amendment.

I thank you, Mr. President.

Mr. ARMSTRONG. Mr. President, one more item. I ask unanimous consent that the Senator from Arkansas (Mr. BUMPERS) also be added as a cosponsor.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

● Mr. DOLE. Mr. President, I was pleased to note that the committee has decided to accept an amendment that eliminates per diem pay discrimination against enlisted personnel.

PER DIEM PAY

Mr. President, under current law, officers on temporary duty receive both per diem pay and basic allowance for subsistence, while enlisted personnel on temporary duty have per diem pay subtracted from their basic allowance subsistence to which they otherwise would be entitled.

This amendment, of which I am a cosponsor, would correct these inequities by adding a new section which will provide that enlisted personnel be entitled to basic allowance for subsistence while on authorized leave of absence, confined in hospital, or performing travel under orders away from designated duty post if otherwise entitled to BAS. It would also require the Secretary of Defense, by regulation, to establish rates for meals sold at messes to officers, civilians, or enlisted personnel entitled to per diem, with such rates to be sufficient to provide reimbursement of operating expenses and food costs to appropriations concerned.

FAIR TREATMENT

Mr. President, this amendment should not be expected to solve the problems of our enlisted personnel serving in our armed services, but it can begin to show to these dedicated Americans that their Government intends to treat them fairly. Mr. President, with the problems we are experiencing in recruitment, retention, morale, and so forth, of members and potential members of our Armed Forces, we should constantly be about the business of eliminating such glaring forms of discrimination against either commissioned or noncommissioned officers of our Armed Forces.

Once again, Mr. President, I want to commend the Senator from Colorado, Senator Armstrong, for his efforts in addressing the serious problems facing members of our Armed Forces, which ultimately become serious problems in the defense of this country. I also want to commend the floor managers of this bill, Senators NUNN and JEPSEN, for agreeing to this important amendment.●

Mr. NUNN. Mr. President, I urge the adoption of the amendment, unless there is further comment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. NUNN. I yield back the remainder of my time.

Mr. ARMSTRONG. I yield back all my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

UP AMENDMENT NO. 851

(Purpose: To make technical corrections in the bill)

Mr. NUNN. Mr. President, I send to the desk an amendment to make certain technical corrections to S. 1918 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes certain technical corrections, UP amendment No. 851.

The amendment is as follows:

On page 9, line 6, strike out "and".

On page 9, strike out lines 7 through 23 and insert in lieu thereof the following:

(2) striking out the first sentence of subparagraph (A) of paragraph (5), as redesignated by clause (1) of this section, and inserting in lieu thereof the following: "The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the annual active duty end strength for officers for each of the military services for the next fiscal year, the annual active duty and strength for all military personnel for each of the military services for the next fiscal year, and the annual civilian personnel end strength for each component of the Department of Defense for the next fiscal year, and shall include in that report justification for the end strengths recommended and an explanation of the relationship between the personnel end strengths recommended for that fiscal year and the national security policies of the United States in effect at the time."; and

(3) striking out subparagraph (D) of paragraph (5), as redesignated by clause (1) of this section, and inserting in lieu thereof the following:

"(D) The Secretary of Defense shall also include in such report with respect to each armed force under his jurisdiction—

"(i) the number of posiitons that require warrant or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years;

"(ii) the estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of such officers that will be needed to serve on the last day of each of the next five fiscal years;

"(iii) an estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from each officer grade, including a tabulation of—

"(I) retirements displayed by year of active commissioned service and active military service;

"(II) discharges;

"(III) other separations;

"(IV) deaths;

"(V) promotions; and

"(VI) reserve and regular officers ordered to active duty; and

"(iv) an analysis of the distribution by grade in which serving and year of active commissioned service of reserve and regular officers serving on active duty on the last day of the preceding fiscal year.".

On page 14, in the table below line 22, insert "Army:" above "60,000".

On page 28, in the item at the top of the page, relating to section 631, insert "and" after "Air Force,".

On page 58, beginning with line 15, strike out all down through line 2 on page 60 and insert in lieu thereof the following:

"SEC. 107. Section 687, relating to pay readjustment pay for nonregulars, is amended to read as follows:".

On page 136, strike out lines 14 through 19 and insert in lieu thereof the following:

SEC. 504. (a) (1) Chapter 11 of title 14, United States Code, is amended by adding a new section as follows:

On page 140, in the material between lines 8 and 9, strike out "promotions" and insert in lieu thereof "promotion.".

Mr. NUNN. Mr. President, these changes are necessary because of amendments to the fiscal year 1980 Department of Defense authorization bill signed recently by the President, which repealed or amended certain sections of law that were also amended by S. 1918.

I know of no objections to these amendments. They are simply technical in nature bceause of the passage of subsequent legislation.

I ask that the amendments be adopted.

The PRESIDING OFFICER. Do both sides yield back their time?

Mr. NUNN. I yield back all my time.

Mr. JEPSEN. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

The PRESIDING OFFICER. Is there further amendment to be proposed?

Mr. NUNN. I think that Senator THURMOND has an amendment.

Mr. President, before the Senator from Colorado leaves, I commend him for his interest in this matter and thank him for bringing this to our attention. We will certainly continue to consult with him as this bill goes to conference.

I also thank him for deferring at least temporarily the other amendment he had which I think would require considerable debate.

Mr. ARMSTRONG. I again thank the distinguished managers for their courtesy and helpfulness on this amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I shall send to the desk an amendment in just a few moments. I might explain it. I have had the legislative counsel redraft it. But I sent it up to them just to refine it.

Mr. NUNN. Could the Senator let us have a copy or ask a copy be made? We have not seen that amendment.

We wish to put in a quorum call temporarily.

Mr. THURMOND. That will be all right.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the legislation before us constitutes a badly needed update to existing law dealing with officer personnel management.

While I am pleased S. 1918, the Defense Officer Personnel Management Act, has reached the Senator floor, I do have some reservations concerning certain features of this bill.

S. 1918 would authorize the Department of Defense about 1,073 generals and admirals for fiscal year 1980. This is a reduction of about 4 percent from the fiscal year 1979 ceiling of 1,119. The separate services, however, would be required to absorb reductions ranging from 9 percent for the Navy to 30 percent for the Air Force. While I am not aware of the rationale employed in levying these reductions on the services, I am concerned that flag equivalent civilians may not have been taken into account in developing the proposed flag officer strength table.

Mr. President, the difference between reductions levied in the services and the overall 4-percent reduction is accounted for by a "bank" of 177 authorizations allocated to the Secretary of Defense which may be used based on service needs. My experience as a major general in the Army Reserve makes me acutely aware of the management problems which would be created by such a bank of authorizations. The management structures of the services cannot accommodate large year-to-year adjustments, nor would such adjustments be conducive to the most effective utilization of generals and admirals.

Including generals and admirals in the DOPMA legislation would also result in new tenure and retirement rules for these officers. I do not believe that the impact of these changes on the management of generals and admirals has been adequately addressed. A problem here is that no hearings specifically addressed these changes. Therefore, we have no comprehensive review for the advisability or justification for the redistribution of authorizations for generals and admirals; the concept of a bank of authorizations allocated to the Secretary of Defense; or, the change in retirement and tenure provisions.

Mr. President, I am also concerned relative to the severe cuts in field grade authorizations which are contained in S. 1918. To propose cuts of this nature at a time when the services are experiencing difficulties attracting and retaining officers in many critical skills appears to be an unnecessary risk.

When the Congress reduces grade allocations it reduces promotion opportunities. This tells the officer his chance to advance is more limited. There is no doubt in my mind this will tend to drive out of service our best officers.

In the Air Force, for example, retention of pilots between the 6th and 11th years of service has suffered a decrease of over 40 percent over the last 4 years.

Mr. President, before supporting this bill in committee I sought and received strong assurances that a much smaller percentage of grade reductions would be considered in conference with the House. The views of the House on this subject are more akin to my own, and I would urge that the effects of the reductions provided in this bill be studied again by the Senate prior to consideration by the conference.

In closing, I wish to advise the bill managers that I will be offering an amendment to correct what I consider a technical error in the bill.

UP AMENDMENT NO. 852

(Purpose: To continue existing law with respect to appointment and grade of Judge Advocates General)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator THURMOND, which is a redraft of his amendment. Mr. President, there may still be a couple of inconsistencies as this amendment is drafted. I think we all know the intent of the amendment of the Senator from South Carolina, and I would suggest we adopt the amendment. We may have to work out technical details when we go to conference.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) for himself and the Senator from South Carolina (Mr. THURMOND) propose an unprinted amendment numbered 852.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, beginning with line 16, strike all down through line 25 on page 64.

One page 113, strike out lines 12 through 14.

On page 117, strike out lines 3 through 5.

One page 117, line 6, strike out "(1)".

On page 117, strike out lines 9 through 14.

On page 118, strike out lines 3 through 5.

On page 126, line 11, strike out "has the rank of rear admiral." and insert in lieu thereof "or Judge Advocate General has the rank of rear admiral. Unless otherwise appointed to a higher grade under another provision of law, an officer of the Marine Corps while serving as Judge Advocate General has the rank of major general.".

On page 126, strike out lines 13 and 14.

On page 126, line 15, strike out "(ii)" and insert in lieu thereof "(i)".

On page 126, line 16, strike out "(iii)" and insert in lieu thereof "(ii)".

On page 126, strike out lines 18 through 22.

On page 127, strike out lines 13 through 24.

On page 128, line 1, strike out "(9)" and insert in lieu thereof "(8)".

Mr. THURMOND. Mr. President, the present law provides that the Judge Advocate General and the Assistant Judge Advocate General of all of the services are statutory positions, except the Assistant Judge Advocate General of the Air Force. This amendment will retain these important positions as major general officer slots, as they are today, and place them back into the bill in that status.

The amendment would give equal treatment to all the services and would provide that the Air Force be treated as the other services are, especially with regard to the statutory position of the Assistant Judge Advocate General.

The PRESIDING OFFICER. Do both sides yield back their time?

Mr. NUNN. Mr. President, the Senator from North Carolina (Mr. MORGAN) would like to make a statement.

Mr. President, unless we start this vote by 1 o'clock, we are going to lose the chance to pass this bill at this time. We will have a rollcall vote. So I put all Senators on notice that we need to move along.

Mr. CHAFEE. Mr. President, I would ask that I have a couple of minutes, also.

Mr. NUNN. I will be glad to yield to the Senator from Rhode Island (Mr. CHAFEE) after the Senator from North Carolina (Mr. MORGAN) has completed his statement.

Mr. MORGAN. Mr. President, I join in the support of the amendment. I am familiar with it. We have talked about it in committee. In the interest of time, I will just note my support.

Mr. NUNN. Mr. President, I yield back all remaining time.

The PRESIDING OFFICER. The Senator from Rhode Island (Mr. CHAFEE) is recognized.

Mr. CHAFEE. Has the amendment been voted on?

The PRESIDING OFFICER. All time has been yielded back.

Without objection, the amendment is agreed to.

UP AMENDMENT NO. 853

(Purpose: To make technical corrections in the bill)

Mr. NUNN. Mr. President, I have a couple of other technical amendments that I would ask the clerk to report.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 853.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, line 6, strike out the quotation marks and the second period.

On page 113, line 15, strike out "(i)" and insert in lieu thereof "(j)".

Mr. NUNN. Mr. President, these are technical corrections. I do not believe there are any objections. There is no controversy on these amendments. I ask unanimous consent that they be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to, en bloc.

Mr. THURMOND. Mr. President, I ask unanimous consent that any technical amendments in connection with the amendment that was just agreed to be made in the amendment at the appropriate time and place.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I yield to the Senator from Rhode Island (Mr. CHAFEE).

Mr. CHAFEE. Mr. President, what we have before us here today is a very complicated and a very far-reaching piece of legislation with profound implications for the officer corps of all services of this country.

It is my understanding that work on this bill was initiated almost 8 years ago, in 1972, and that the bill itslef was originally introduced in 1975. While hearings and markup have been held over the years since then, the last markup session taking place on September 25, 1979, not many Members of this body are clearly aware what this bill entails and what its implications are.

After all, the bill itself runs 164 pages long, and the committee report is almost 500 pages long. And the point I want to make is that I wonder if we are not trying to rush things by pushing this massive piece of work for a vote in just 2 hours?

Mr. President, an essential element of this bill involves the reduction of the officer corps of the military services of the United States. What sort of signal will this give to those officers considering a career in uniform? At a time when manpower and retention in the military is a critical matter we are, in effect, considering what may be a major disincentive for anyone electing a career in the military.

For example, I have been told that the U.S. Marine Corps currently lacks 700 pilots out of the total 3,900 needed to fill out its total complement. This is a shortfall of 18 percent.

Further, the retention of naval aviators is now below 50 percent, and some military manpower experts believe that figure may drop as low as 20 percent. Yet, we need a minimum of 40 percent retention among naval aviators. I wonder what effect passage of this bill will have on naval aviators when they make their choice of staying on in the service, or of leaving for civilian job offers elsewhere? I think that we must carefully consider this before we can vote with confidence on this bill.

Mr. President, I have been told that the impact of this bill will be felt in several areas as follows:

Reductions will exacerbate the shortages Navy already experiences in filling required jobs by senior and midgrade officers.

Officer retention is expected to decrease as opportunity for promotions slows down.

Quality of officer corps will decrease as capable officers, faced with later than presently experienced promotions, opt to leave the Navy, causing fleet combat readiness to decline.

It was my understanding, Mr. President, that we have been trying to provide incentives for our military personnel to stay on in uniform. I wonder if this bill does not provide them with the opposite incentive—namely, an incentive to seek employment elsewhere after a few years in uniform. I wonder, then, if the timing for this sort of bill is not wrong.

Mr. President, there has been a lot of talk in recent years about our bloated officer corps, and the need to reduce the numbers of officers in uniform, especially since the post-Vietnam period resulted in a reduction of force at the enlisted level. And I would be one of the first to speak out against over-staffing, or a top-heavy military, but I think we have to consider two things in all of this.

First, we have to consider that the nature of warfare, the nature of the management of force (which is basically what our military is all about), has changed drastically in recent years. There is a greater need for management expertise, especially in the support areas. Every officer does not need to be a troop commander. In fact, most of them will not serve in this capacity in the event of hostilities. We are dealing now with more complex weapons, more complex systems, more complex missions, and a very much more complex world. All of these factors call for a greater dependence on an educated and a motivated officer corps.

Second, the living conditions for our officers have changed greatly since World War II. In the old days, officers were all provided big houses, stewards and the like. Time in grade was longer and Pershing, for example, could serve as a captain for 18 years, Eisenhower could serve as a major for 11 years and Marshall could serve as a lieutenant colonel for 10 years. Officer barracks built at 8th and I streets, Southeast, here in Washington, D.C., for company-grade barracks officers are now being used by generals.

The point of all this, Mr. President, is to say that military service for officers is no longer what it used to be, and we cannot easily go back to force levels previously enjoyed. Further, we must provide a different set of incentives to retain officers.

I would urge that this bill, and its implications for our officers corps, be seriously considered in conference, and that we carefully examine the possible adverse outcomes our officer corps might experience in the future as a result of recommendations made in this bill.

Thank you, Mr. President.

Mr. NUNN. Mr. President, I thank my colleague from Rhode Island. I respect his great knowledge in this area, and I assure him that we will give careful consideration to his views and the areas he pointed out.

There are two factors on morale; one is promotion rates. But there is another factor, and that is the area of how much responsibility people have. The theory of this bill is, if you have more responsibility in terms of available command positions in the military services, that we will increase retention, rather than reduce it.

One of the biggest frustrations that I find today in some of the services is that there are so few people who ever get to be in command of anything, because there are so many officers and so few command positions relative to that.

But the reductions being made in the officers are done over a 10-year period, and in the next 2 or 3 years there is virtually no reduction. So we will give careful consideration to that feature.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1918.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I would like to make one further comment. Paul Zinsmeister, who is a specialist in national defense, Congressional Research Service, Library of Congress, and Al Farlow, who is a consultant on national defense, Congressional Research Service, Library of Congress, have done a superb job in assisting the committee for many months on this legislation. Without their help, we would not have this legislation here today. I commend them and thank them for their great assistance.

Mr. President, unless there are further remarks by anyone, we have a time element here. I believe we have already requested the yeas and nays. I yield back all my remaining time on the bill.

● Mr. DOLE. Mr. President, the Defense Officer Personnel Management Act (DOPMA), has been the subject of much debate for the past 4 years, a bill whose purpose is to revise laws which govern the management of commissioned officers serving on active duty. The Senate Armed Services Committee is to be commended for its hard work on this piece of legislation, as it is badly needed by all of the services. The Senator from Kansas, however, is concerned with a provision that would reduce the authorizations for field grade officers.

Mr. President, the Senator from Kansas is greatly concerned with this proposed action, as it threatens to lower the quality and effectiveness of our officer force. Specifically, this action would result in the reduction of the number of colonels authorized by 30 percent, lieutenant colonels by 25 percent, and majors by 20 percent.

HISTORICAL PERSPECTIVE

To understand the merits of this proposal it would be helpful to review why it is before us today. First of all, the Officer Personnel Act of 1947—the basic legislation governing our officer force today—never invisioned that we would need to maintain a large military force. This act requires modification in light of today's needs. Second, the Officer Grade Limitation Act of 1954—drawn in the light of the post-Korean conflict realities to provide the authorization in law for field grade officers which would serve to meet requirements and provide reasonable and stable career opportunities—provided authorizations for the youthful Air Force which were constantly below those of the other services.

DOPMA was born out of the Air Force requirement for relief from these restrictive grade limits. When the Air Force proposal for its 6th grade relief was considered in 1972, the Department of Defense was instructed to prepare legislation to provide for a comprehensive office management system which would include new permanent grade authorizations. Such a plan was prepared and submitted after extensive study. Obviously, this kind of legislation is badly needed by all of the services.

AN UNATTRACTIVE CAREER

Mr. President, S. 1918, as reported by the committee, is not the kind of legislation needed for positive reform of officer grade limits. It contains reductions of 20 to 30 percent in the number of field grade officers which have been authorized over the past 30 years. This provision would result in fewer promotions, delayed promotions and reduced promotion opportunity. The Department of Defense has reviewed and costed the alternative officer management system proposed in S. 1918. It concluded that cumulative costs of the alternative system would not turn into savings until at least the 25th year after implementation.

More importantly, it cautioned against the significant risks associated with these uncertain future benefits and pointed out that "the wide range of changes in management proposed would generate higher turnover, produce a less experienced force, and introduce considerable uncertainty in the capability of the services to attract and retain the numbers and kinds of officers needed."

Mr. President, to pass S. 1918 in its current form would be to send a rather disturbing message to our officers that we believe many should be serving in lower grades with lower pay. It holds out reduced career chances to those currently balancing the rewards and sacrifices of a service career against the attractions of the civilian marketplace. To offer this proposal at a time when the services are experiencing disquieting difficulties attracting and retaining officers in many of the most vital skills is sheer folly. This limiting provision in S. 1918, seems designed to insure that our efforts to maintain an effective officer force in the All-Volunteer environment will fail.

Mr. President, a radical change to the authorizations which have existed over the past 30 years, for benefits which are tenuous at best and may well never materialize, places the effectiveness of our military forces in unwarranted and unnecessary jeopardy at a critical time. When this bill goes to conference, I urge the conferees to consider the serious potential impacts of this provision on the experience and readiness of our officer force.●

● Mr. HUMPHREY. During the past year the Senate Armed Services Committee has heard testimony from the civilian and military leadership of our defense establishment that they are beginning to lose many of their best officers. Trends in pilot retention are a visible and well-known illustration of this problem. In the Air Force, retention of pilots between the 6th and 11th years of service has decreased by over 40 percent since 1975. This represents a loss of experience, increased turbulence, and potential serious impacts on readiness.

The pilot retention problem, as serious and visible as it is, illustrates the growing difficulty the services have in attracting and retaining officers with the most needed skills. The services report that one of the primary factors at play is growing insecurity about the future of a career in the military service.

While, in general, I support S. 1918 as it emerged from the Senate Armed Services Committee, I do have reservations about provisions in the bill which would increase this insecurity by severely reducing the number of field grade officers authorized. I fear that the impact of such a reduction would be that officers would have to wait considerably longer for promotion, face a reduced promotion opportunity, or both.

I am not satisfied that we have clear evidence that the requirement for field grade officers in the military services has decreased by 20 to 30 percent over the last 30 years. The growing complexity and technological sophistication of the defense mission would certainly not lead one to this conclusion. Other questions need to be addressed in depth. What would be the effect on the ability of the services to attract and retain qualified officers?

Would the cost savings of cutting back on authorizations make up for the increased accession and training costs that would almost surely accompany such a move? More importantly, would we be able to get and keep the kinds and quality of officers that we need to insure readiness?

If these questions are addressed fully, I am certain that my distinguished colleagues would agree that we cannot afford to risk our readiness by approving reductions of the extent that have been proposed.●

Mr. HEFLIN. Mr. President, I rise to speak in support of the pending legislation, the Defense Officer Personnel Management Act. I wish to commend the Armed Services Committee and in particular Senator NUNN for his outstanding work in bringing this much needed reform legislation to fruition and I want to extend my congratulations both to the committee and to the Department of Defense for having the foresight to proceed with this much needed reform.

Some of the problems with the present officer personnel management system were recently brought to my attention by a constituent of mine from Alabama who pointed out that current law governing promotion of Navy and Marine Corps officers continues long-standing differences in the treatment of men and women officers. This is not the case, as I understand it with respect to laws governing the promotion of men and women officers in the Army and Air Force. In these services men and women officers compete with each other for promotion and women officers can advance to 3 and 4 star grades. I point with pride for example to Fort McClellan in Alabama which is commanded by Maj. Gen. Mary E. Clark. I am sure that General Clark won that command position based on her record of performance and I am also sure that she demonstrates the traits which will take her to the highest positions within the Army command structure.

Nevertheless, Mr. President, the current law imposes limits on women officers in the Navy and Marine Corps with respect to the highest grade they can attain through the normal promotion process. Women officers cannot advance beyond the grade of O–6 (that is colonel for the Marines or captain for the Navy) through the normal promotion process. Furthermore, women officers compete for promotion only with other women officers of the same competitive category; that is, women unrestricted line officers.

The only way a Navy or Marine Corps woman officer currently can be promoted above grade O–6 is to be assigned to a position designated by the Secretary of Navy to be of sufficient importance and responsibility to require the appointment of a rear admiral or brigadier general. The person occupying such a position holds the grade of rear admiral or brigadier general until their assignment is terminated.

There are, to my knowledge, currently two navy admirals and one marine general who would benefit from the bill. One of them, as I mentioned, is an Alabamian, Rear Adm. Fran McKee who was born in Florence, Ala. We in Alabama are proud of her outstanding personal accomplishments. We look forward to the day when she is considered for the position of Chief of Naval Operations, the highest rank attainable in the Navy. But Admiral McKee is currently prohibited by law from being advanced to the grade of rear admiral upper half only because she is a woman. This bill would end this invidious discrimination.

The Department of the Navy has been the proponent of revisions which would eliminate the existing provisions that differentiate between men and women officers of the Navy and Marine Corps with respect to such matters as appointment, promotion, separation, and retirement. These reforms are included in the pending legislation and I certainly urge every Member of this body to vote in favor of these much needed reforms. There are, however, Mr. President, one or two aspects of the act about which I have serious reservations.

I am concerned about the size of the cuts in authorizations for field grade officers which this bill would implement. The committee report expresses concern over an officer force which is higher in grade and better paid at those grades than formerly was the case. Perhaps these are desirable trends. The difficulties which the services are currently having in retaining pilots, nuclear officers, and many others with vital and costly skills would indicate the need for further increases in pay and prestige.

In point of fact, however, the evidence which I have seen indicates that military pay has lagged behind private sector pay increases over the past 6 or more years with a loss of purchasing power of about 15 percent.

The committee report also suggests that today's officer force is less experienced by grade as compared to an earlier period. I do not understand how cuts in the grade tables will increase experience. The further reductions in retention that would almost certainly follow on cuts of the type proposed here would reduce the average service expected of each new officer commissioned. I would also point out for the record that the services are, in most cases, promoting officers to the field grades later in their careers now than they were in 1974. Thus the current trend is certainly not in the direction of a less experienced force.

I am also concerned over the treatment of general office positions. It is my understanding that while the total number of positions is being retained, 177 spaces are to be allocated between the services by the Secretary of Defense on a year-by-year basis. I wonder if this is not injecting too much politics into the general officer management system. In addition, I fear that such annual reallocation will create conditions of windfall one year followed by famine the next thus leading to much instability in general officer personnel management.

Although I will vote for this bill because revised officer management legislation is badly needed and should not be further delayed, I urge that the drastic cuts proposed by reexamined and more reasonable authorizations agreed to in conference. To fail to do so is to take an unnecessary risk with the effectiveness of our military forces.

Mr. ROBERT C. BYRD. Mr. President, I thank the members of the Armed Services Committee for the thorough work they have done in bringing to the Senate the Defense Officer Personnel Management Act.

This is an act that is extraordinary both in its detail and in its scope. It has been called "the Internal Revenue Code of the military." The act goes to the heart of our national security, for it deals with the quality of leadership in our armed services.

The act modernizes the appointment and promotion system for the officer corps of our military services. It provides for uniform treatment, for advancement based on performance, and for equity in separation and retirement.

As these matters contribute to the morale and effectiveness of the personnel in our military branches, this act contributes to the security of our Nation.

Our appreciation goes to the able chairman of the committee, Senator STENNIS.

And our thanks go also to the Manpower and Personnel Subcommittee chairman, Senator NUNN; and to the ranking minority member of the subcommittee, Senator JEPSEN.

They brought to this legislation their considered skill and judgment, and they have provided genuine leadership in this important matter.

They have the gratitude of the Senate, and of the Nation.

Mr. STEVENS. Mr. President, I should like to express my sincere appreciation to the junior Senator from Iowa, Mr. JEPSEN, for his cooperation in scheduling this bill for floor consideration.

The leadership had been attempting to get this bill scheduled for the past week and a half, and had even suggested Saturday as a possible day for its consideration. During the various discussions, Senator JEPSEN was most accommodating to the requests of the leadership even though it meant a great deal of inconvenience on his part to have to be here Saturday.

As it turns out, we have been able to successfully resolve our conflicts in schedule and a Saturday session is no longer necessary.

I thank Senator JEPSEN, as well as Senator ARMSTRONG, for their roles in assuring the expediting of this important legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mr. MOYNIHAN), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The PRESIDING OFFICER (Mr. RIEGLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 0, as follows:

[Rollcall Vote No. 448 Leg.]

YEAS—87

Armstrong
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—13

Baker
Baucus
Byrd, Harry F., Jr.
DeConcini
Hatfield
Inouye
Javits
Kennedy
Mathias
Melcher
Moynihan
Simpson
Tsongas

So the bill (S. 1918), as amended, was passed, as follows:

S. 1918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Defense Officer Personnel Management Act".

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REFERENCES TO TITLE 10, UNITED STATES CODE

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

TITLE I—AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE—GENERAL MILITARY LAW

DEFINITIONS

SEC. 101. Section 101, relating to definitions, is amended—

(1) by striking out paragraph (36) and inserting in lieu thereof the following:

"(36) 'Active-duty list' means a single list for each of the military services (required to be maintained under section 620 of this title) which contains the names of all officers of that military service, other than those excluded under section 641 of this title, who are serving on active duty."; and

(2) by adding at the end thereof the following new paragraphs:

"(37) 'Competitive category' means a designated group of officers who compete among themselves for promotion.

"(38) 'Due-course officer' means an officer on the active-duty list who—

"(A) has been on continuous active duty since the date such officer was commissioned;

"(B) has not been awarded service credit other than for active commissioned service;

"(C) has been selected for promotion each time he has been in a promotion zone and considered for promotion;

"(D) has never been selected for promotion as an officer below the promotion zone;

"(E) with respect to the Navy and Marine Corps, has not lost numbers or precedence; and

"(F) is serving in a grade below brigadier general or commodore admiral.

"(39) 'Promotion zone' means a promotion eligibility category consisting of all the most senior officers on an active-duty list in the same grade and competitive category who—

"(A) are designated by the Secretary concerned to be eligible for consideration for promotion to the next higher grade;

"(B) have neither failed of selection to that grade nor been removed from a promotion list to that grade; and

"(C) if not selected for promotion by the selection board considering them for promotion shall be considered as having failed of selection.

"(40) 'Officers above the promotion zone' means a group of officers on an active-duty list in the same grade competitive category who—

"(A) are eligible for consideration for promotion to the next higher grade;

"(B) are in the same grade as those officers in the promotion zone for that competitive category; and

"(C) are senior to the senior officer in the promotion zone for that competitive category.

"(41) 'Officers below the promotion zone' means a group of officers on the active-duty list in the same grade and competitive category who—

"(A) are eligible for consideration for promotion to the next higher grade;

"(B) are in the same grade as the officers in the promotion zone for that competitive category; and

"(C) are junior to the junior officer in the promotion zone for that competitive category.".

ANNUAL AUTHORIZATION FOR OFFICER END STRENGTHS

SEC. 102. Section 138(c), relating to the authorization of active-duty and civilian personnel, is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, and inserting after paragraph (1) the following new paragraphs (2) and (3):

"(2) Congress shall authorize the strength as of the end of each fiscal year for active-duty officers for each of the military services. No funds may be appropriated for any fiscal year to or for the use of active-duty officers of any military service unless the end strength for active-duty officers of that military service for that fiscal year has been authorized by law.

"(3) The following described personnel shall not be counted in determining the strengths authorized under clause (1) or (2) of this subsection:

"(A) members of the ready reserve ordered to active duty under section 673 of this title;

"(B) members of the selected reserve ordered to active duty under section 673b of this title;

"(C) members of the National Guard called into Federal service under section 3500 or 8500 of this title;

"(D) members of the militia called into Federal service under chapter 15 of this title;

"(E) reserve personnel on active duty for training for 180 days or less; or

"(F) reserve personnel on active duty for 180 days or less to perform special work.";

(2) striking out the first sentence of subparagraph (A) of paragraph (5), as redesignated by clause (1) of this section, and inserting in lieu thereof the following: "The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the annual active duty end strength for officers for each of the military services for the next fiscal year, the annual active duty end strength for all military personnel for each of the military services for the next fiscal year, and the annual civilian personnel end strength for each component of the Department of Defense for the next fiscal year, and shall include in that report justification for the end strengths recommended and an explanation of the relationship between the personnel end strengths recommended for that fiscal year and the national security policies of the United States in effect at the time."; and

(3) striking out subparagraph (D) of paragraph (5), as redesignated by clause (1) of this section, and inserting in lieu thereof the following:

"(D) The Secretary of Defense shall also include in such report with respect to each armed force under his jurisdiction—

"(i) the number of positions that require warrant or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years;

"(ii) the estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of such officers that will be needed to serve on the last day of each of the next five fiscal years;

"(iii) an estimate and analysis of the current fiscal year and for each of the next five fiscal years of gains to and losses from each officer grade, including a tabulation of—

"(I) retirements displayed by year of active commissioned service and active military service;

"(II) discharges;

"(III) other separations;

"(IV) deaths;

"(V) promotions; and

"(VI) reserve and regular officers ordered to active duty; and

"(iv) an analysis of the distribution by grade in which serving and year of active commissioned service of reserve and regular officers serving on active duty on the last day of the preceding fiscal year.".

OFFICER STRENGTH AND DISTRIBUTION IN GRADE

SEC. 103. Part II of subtitle A is amended by inserting before chapter 31 the following new chapter:

"Chapter 30.—OFFICER STRENGTH AND DISTRIBUTION IN GRADE

"Sec.

"451. Officers: strengths in various categories.

"452. Regular components: authorized strength for commissioned officers.

"453. Commissioned officers on active duty in grades above colonel or captain (Navy).

"454. Commissioned officers on active duty in grades below brigadier general or commodore admiral.

"455. Suspension authority.

"§ 451. Officers: strengths in various categories

"(a) Whenever the needs of the services require, but at least once each fiscal year, the Secretary of Defense shall prescribe the authorized active-duty strength as of the end of the fiscal year for commissioned officers in grades above warrant officer grades for each of the armed forces under his jurisdiction.

"(b) Under such regulations as the Secretary of Defense shall prescribe, the Secretary of each military department may, for an armed force under his jurisdiction, prescribe the strength of any category of officers that may serve on active duty.

"(c) The authorized officer strength of the Navy is increased by the authorized officer strength of the Coast Guard when the Coast Guard is operating as part of the Navy.

"§ 452. Regular components: authorized strength for commissioned officers

"The authorized strengths of the Regular components of the military services in commissioned officers (other than retired members) in grades above warrant officer (W-4) are as follows:

"Regular Army	63,000
"Regular Navy	45,000
"Regular Air Force	69,425
"Regular Marine Corps	12,000

"§453. Commissioned officers on active duty in grades above colonel or captain (Navy)

"(a) Except as provided in subsections (b), (g), and (h) of this section, the number of officers who may serve in grades above colonel or captain (Navy) in any military service may not, on the last day of a fiscal year, exceed the number computed for that military service under the following table:

Col. I	Col. II	Col. III	Col. IV	Col. V
	The authorized strength in grades above colonel or captain (Navy) is—			
When the number of members serving on active duty on the last day of a fiscal year is—	For the Army	For the Navy	For the Air Force	For the Marine Corps
150,000				54
200,000				58
250,000				62
400,000	320	228	238	--------
500,000	328	236	246	--------
600,000	336	244	254	--------
700,000	344	252	262	--------
800,000	352	260	270	--------
900,000	360	268	278	--------
1,000,000	368	276	286	--------
1,100,000	376	284	294	--------
1,200,000	384	292	302	--------
1,300,000	392	300	310	--------

If the actual active-duty strength on the last day of a fiscal year, excluding members specified in subsection (b) of this section, is a number between any two consecutive figures specified in column I of the table, the corresponding strength limit for officers serving in grades above colonel or captain (Navy) for that military service is determined by mathematical interpolation between the respective numbers specified in columns II, III, IV, or V, as appropriate, opposite such consecutive figures. If such active-duty strength, excluding members specified in subsection (b) of this section, is a number greater or less than the figures specified in column I for that military service, the Secretary concerned shall fix the corresponding strength for grades above colonel or captain (Navy) in the same proportion as that reflected in the nearest strength limit shown in the table for such military service.

"(b) The following described members shall be excluded in computing strengths under this section:

"(1) members on active duty for training for 180 days or less; and

"(2) members ordered to active duty under section 673b of this title.

"(c) A person serving on active duty who is entitled to the rank or pay authorized for a grade above colonel or captain (Navy) is considered to be an officer serving in such grade for the purposes of determining strengths under this section.

"(d) Except as provided in this section, not more than 50 percent of the officers on active duty in any military service in grades above colonel or captain (Navy) may be serving in grades above brigadier general or commodore admiral.

"(e) Except as provided in this section, not more than 15 percent of the total number of officers on active duty in any military service serving in grades above colonel and captain (Navy) may be serving in the grades of general, admiral, lieutenant general, and vice admiral; and not more than 25 percent of that 15 percent may be serving in grades above lieutenant general and vice admiral.

"(f) A vacancy in any grade may be filled by an appointment in any lower grade.

"(g) An officer may not be reduced in grade, or have his pay or allowances reduced, because of a reduction in the maximum number of commissioned officers authorized for his grade.

"(h) When the Secretary of Defense determines that the needs of any military service with respect to officers in grades above colonel or captain (Navy) are greater or less than the strength determined under subsection (a) of this section for that military service, he may prescribe a strength for such officers greater or less, as appropriate, than the strength determined under such subsection. However, any strength increase prescribed under this subsection may not increase the total of the authorized strengths determined under subsection (a) of this section for all the military services by more than 177.

"§ 454. Commissioned officers on active duty in grades below brigadier general or commodore admiral

"(a) Except as provided in subsection (b) of this section, of the total number of commissioned officers serving on active duty in any military service in any fiscal year, the number of commissioned officers who may serve in each of the grades specified in columns II, III, and IV of the table below may not, as of the end of such fiscal year, exceed a number appropriate to the number of commissioned officers specified in column I of such table:

Col. 1	Col. II	Col. III	Col. IV
Armed force and number of commissioned officers serving on active duty on the last day of a fiscal year, excluding officers specified in subject. (b)	Colonel or captain (Navy)	Lieutenant colonel or commander	Major or lieutenant commander
Army:			
60,000	2,403	6,618	9,599
65,000	2,539	6,883	10,291
70,000	2,675	7,148	10,985
75,000	2,811	7,413	11,678
80,000	2,994	7,894	12,605
85,000	3,175	8,375	13,532
90,000	3,358	8,856	14,459
95,000	3,540	9,337	15,386
100,000	3,723	9,818	16,313
110,000	4,088	10,780	18,167
120,000	4,453	11,742	20,021
130,000	4,818	12,704	21,875
170,000	6,914	15,832	25,340
Navy:			
45,000	1,876	4,658	7,840
48,000	1,970	4,817	8,552
51,000	2,064	4,976	8,963
54,000	2,159	5,135	9,373
57,000	2,264	5,558	10,354
60,000	2,369	5,981	11,722
63,000	2,474	6,404	13,090
66,000	2,579	6,827	14,458
70,000	2,719	7,391	16,282
90,000	4,119	10,491	19,882
Marine Corps:			
12,500	451	1,110	2,194
15,000	459	1,172	2,354
17,500	474	1,270	2,514
20,000	518	1,518	3,776
22,500	678	1,825	3,626
25,000	838	2,133	4,076
Air Force:			
70,000	2,748	7,445	11,285
75,000	2,892	7,757	11,928
80,000	3,036	8,069	12,571
85,000	3,180	8,381	13,214
90,000	3,324	8,693	13,857
95,000	3,544	9,503	15,112
100,000	3,764	10,313	16,367
105,000	3,984	11,123	17,622
110,000	4,204	11,933	18,877
125,000	4,489	13,448	20,077

If an active-duty strength, excluding officers specified in subsection (b) of this section, is a number between any two consecutive figures specified in column I of the table for such military service, the corresponding strengths for the grades specified in columns II, III, and IV are determined by mathematical interpolation between the respective numbers of the two strengths. If such strength, excluding officers specified in subsection (b) of this section, is a number greater or less than the figures specified in column I of the table for such military service, the Secretary concerned shall fix the corresponding strengths for the grades specified in columns II, III, and IV in the same proportion as that reflected in the nearest limit shown in the table for such military service.

"(b) The following described officers shall be excluded in computing strengths under this section:

"(1) Reserve commissioned officers—

"(A) on active duty for training for 180 days or less,

"(B) ordered to active duty under section 673b of this title, or

"(C) on active duty for 180 days or less to perform special work.

"(2) Medical officers.

"(3) Dental officers.

"(4) Reserve or retired officers ordered to active duty for the specific purpose of administering the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).

"(5) Warrant officers.

"(c) An officer may not be reduced in grade, or have his pay or allowances reduced, because of a reduction in the maximum number of commissioned officers authorized for his grade.

"(d) A vacancy in any grade may be filled by an appointment in any lower grade.

"§ 455. Suspension authority

"In time of war, or national emergency declared by Congress or the President after the effective date of the Defense Officer Personnel Management Act, the President may suspend the operation of any provision of section 453 or 454 of this title. Such a suspension may not continue more than two years nor more than one year after termination of the war or emergency, whichever occurs first.".

REGULAR COMMISSIONED OFFICERS: ORIGINAL APPOINTMENT; HOW MADE; QUALIFICATIONS; SERVICE CREDIT

SEC. 104. (a) Chapter 33, relating to appointments in Regular components, is amended by inserting after section 541 the following new sections:

"§ 542. Commissioned officers: original appointment; how made

"Original appointments in the grades of second lieutenant through colonel in the Regular Army, Regular Air Force, or Regular Marine Corps and in the grades of ensign through captain in the Regular Navy shall be made by the President, by and with the advice and consent of the Senate.

"§ 543. Commissioned officers: original appointment; qualifications

"(a) Under regulations prescribed by the Secretary of Defense, original appointments in commissioned grades in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps may be given only to persons who—

"(1) are citizens of the United States;

"(2) are at least 21 years of age;

"(3) are of good moral character;

"(4) are physically qualified for active service; and

"(5) have such other special qualifications as the Secretary of the military department concerned may prescribe by regulation.

"(b)(1) Original appointments in the Regular Army or Regular Navy may be made in the grades of first lieutenant through colonel or ensign through captain (Navy) in the Medical Corps or Dental Corps and such appointments may be made in the Regular Air Force in the grades of first lieutenant through colonel with a view to designation as medical or dental officers. Appointments made under this subsection may be made only from qualified doctors of medicine, osteopathy, or dentistry, as the case may be. Persons appointed under this subsection shall be required to meet the qualifications prescribed in subsection (a) of this section.

"(2) To be eligible for appointment under this section to the Medical Corps or with a view to designation as a medical officer, as the case may be, a doctor of osteopathy must—

"(A) be a graduate of a college of osteopathy whose graduates are eligible to be licensed to practice medicine or surgery in a majority of the States;

"(B) be licensed to practice medicine, surgery, or osteopathy in a State or in the District of Columbia;

"(C) under regulations prescribed by the Secretary of Defense, have completed a number of years of osteopathic and preosteopathic education equal to the number of years of medical and premedical education prescribed for persons entering recognized schools of medicine who become doctors of medicine and who would be qualified for appointment under this section in the grade for which that person is being considered for appointment; and

"(D) have such other qualifications as the Secretary of the military department concerned prescribes after considering the recommendations, if any, of the Surgeon General of that military department.

"(c) Original appointments of officers designated for limited duty shall be made under section 5589 of this title.

"§ 544. Commissioned officers: original appointment; service credit

"(a) For the purposes of determining grade and rank within grade, a person originally appointed in a commissioned grade in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall be credited, subject to the provisions of subsection (f) of this section, at the time of his appointment with the active commissioned service, other than service as a commissioned warrant officer, that such person performed in the armed forces before such person's appointment.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall, in addition to any service credited to an officer under subsection (a) of this section, credit such officer, if applicable, with constructive service for advanced education, training, and experience as follows:

"(1) Three years, if appointed—

"(A) as a chaplain or veterinary officer in the Army or Navy;

"(B) in the Judge Advocate General's Corps in the Army or Navy;

"(C) as an officer in the Air Force or Marine Corps with a view to designation as a judge advocate; or

"(D) as an officer in the Air Force with a view to designation as a chaplain, or veterinary officer.

"(2) Four years plus his years of training and experience as a licensed physician or dentist, if appointed as a medical or dental officer in the Army or Navy, or, in the case of the Air Force, with a view to designation as a medical or dental officer.

"(3) Three years, if appointed as a medical service officer in the Army or Navy, or, in the case of the Air Force, with a view to designation as a medical service or biomedical sciences officer, and he holds a degree of doctor of philosophy or a comparable degree in a science allied to medicine which is a prerequisite to appointment under regulations prescribed by the Secretary of Defense.

"(c) Notwithstanding any other provision of this title, if the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in any military service in grades below major or lieutenant commander is critically short of the number needed by such service, he may authorize the Secretary of the military department concerned to award to any officer appointed in the Judge Advocate General's Corps of the Army or Navy, or to any officer appointed in the Air Force or Marine Corps with a view to designation as a judge advocate, a period of constructive service in such an amount in addition to the period of such service awarded under subsection (b)(1) of this section as will result in the grade of such officer being that of captain or lieutenant (Navy) and the date of rank of such officer being junior to all other officers of the same grade serving on active duty.

"(d) The service credited under subsection (b) of this section shall be used only for determining—

"(1) initial grade as a Regular officer;

"(2) position on an active-duty list;

"(3) rank in grade; and

"(4) service in grade for promotion eligibility.

"(e) Constructive service credit may not be granted for any education, training, experience, or qualifications attained while serving on active duty.

"(f) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the military services, to permit the Secretary of a military department to credit or not credit active commissioned service performed by officers in the categories described in subsection (b) of this section before their original appointments as regular officers in such categories.

"(g) Notwithstanding any other provision of this title, an officer of a reserve component who is originally appointed in a commissioned grade in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall be appointed in the grade and with the date of rank to which he would have been entitled had he served on active duty as an officer of a reserve component on the date of his original appointment as a regular officer.

"(h) Subsections (a), (b), and (f) do not apply to a graduate of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy.".

(b) Subsection (b) of section 555, relating to warrant officer grades, is amended to read as follows:

"(b) An appointment to any regular warrant officer grade in any armed force shall be made by warrant by the Secretary concerned.".

(c) Clause (3) of section 564(a), relating to effect of second failure of promotion of warrant officers, is amended—

(1) by inserting "(1)" after "with"; and

(2) by striking out "1167 of this title," and inserting in lieu thereof "286a of title 14. or (2) separation pay computed under section 1173a of this title, as appropriate".

APPOINTMENT OF RESERVE WARRANT OFFICERS

SEC. 105. Subsection (b) of section 597, relating to the appointment of reserve warrant officers, is amended to read as follows:

"(b) An appointment to any reserve warrant officer grade in any armed force shall be made by warrant by the Secretary concerned.".

TEMPORARY APPOINTMENTS; PROMOTION, SEPARATION, AND RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST (SECOND LIEUTENANTS AND ENSIGNS THROUGH MAJOR GENERALS AND REAR ADMIRALS)

SEC. 106. Part II, relating to personnel, of subtitle A, is amended by adding after chapter 35 the following new chapters:

"Chapter 35A.—TEMPORARY APPOINTMENTS

"Sec.

"605. Temporary appointments in time of war or national emergency.

"606. Generals and lieutenant generals; admirals and vice admirals.

"607. Warrant officers: temporary promotions.

"§ 605. Temporary appointments in time of war or national emergency

"(a) In time of war, or national emergency declared by Congress or the President after the effective date of the Defense Officer Personnel Management Act, the President may appoint any qualified person to any temporary commissioned officer grade below lieutenant general or vice admiral in the Army, Navy, Air Force, or Marine Corps.

"(b) An officer appointed under this section is entitled to the service credit prescribed in section 544 of this title.

"(c) An officer appointed under this section shall be ordered to active duty by the President as soon as practicable.

"(d) An appointment under this section shall be made by the President alone and may be vacated by the President at any time.

"(e) An appointment under this section does not change the permanent status of a member of the military service so appointed. A person who is appointed under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment under this section.

"(f)(1) An officer who is promoted to a temporary grade is considered to have accepted the appointment to such grade on the date of the order announcing the appointment unless such officer expressly declines the appointment.

"(2) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade.

"(g) A temporary appointment made under this section or under section 624 of this title shall, unless sooner terminated, terminate on the second anniversary of the appointment, six months after the end of the war or national emergency, or the date the appointee is released from active duty, whichever is earliest.

"§ 606. Generals and lieutenant generals; admirals and vice admirals

"(a) The President may designate positions of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral. The President may assign to any such position an officer of a military service who is serving on active duty in any grade above colonel or captain (Navy). An officer assigned to any such position has the grade specified for such position if he is appointed to such grade by the President, by and with the advice and consent of the Senate.

"(b) If the assignment of an officer who is serving in a position designated to carry the grade of general, admiral, lieutenant general, or vice admiral is terminated—

"(1) by orders assigning such officer to another position designated to carry one of those grades, such officer shall hold, during the period beginning on the day of that termination and ending on the day before he assumes the other position, the grade that he held on the day before that termination;

"(2) for the purpose of hospitalizing such officer, such officer shall hold, during the period beginning on the day of that termination and ending on the day he is discharged from the hospital, but not for more than six months, the grade that he held on the day before the termination; and

"(3) for the purpose of retiring such officer, such officer shall hold, during the period beginning on the day of that termination and ending on the day before his retirement, but not for more than 90 days, the grade that he held on the day before the termination.

"(c) Appointment to a grade under subsection (a) of this section does not vacate the permanent grade held by the officer.

"§ 607. Warrant officers: temporary promotion

"A warrant officer serving on active duty in any military service may be appointed to a higher temporary warrant officer grade under such regulations as the Secretary of the military department concerned may prescribe.

"Chapter 36.—PROMOTION, SEPARATION, AND RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST: SECOND LIEUTENANTS AND ENSIGNS THROUGH MAJOR GENERALS AND REAR ADMIRALS

"Sec.

"611. Selection boards.

"612. Composition of selection boards.

"613. Notice of convening; communications with board.

"614. Oath of members of selection boards.

"615. Information furnished selection boards.

"616. Recommendations for promotion by selection boards.

"617. Reports of selection boards.

"618. Submission of selection board reports.

"619. Eligibility for consideration by selection board for promotion.

"620. Active-duty lists.

"621. Competitive categories for promotion.

"622. Numbers to be selected for promotion.

"623. Promotion zones.

"624. Promotions: how made; date of rank; effective date.

"625. Brigadier generals and commodore admirals; authority to vacate promotion.

"626. Promotion; acceptance; oath of office.

"627. Failure of selection.

"628. Special selection boards.

"629. Removal from a recommended list for promotion.

"630. Regular commissioned officers: less than five years of active commissioned service; discharge.

"631. Regular second lieutenants and first lieutenants (Army, Air Force, and Marine Corps) and ensigns and lieutenants (junior grade) (Navy): effect of failure of selection for promotion.

"632. Regular captains and majors (Army, Air Force, and Marine Corps) and lieutenants and lieutenant commanders (Navy): effect of failure of selection for promotion; continuation on active duty.

"633. Regular lieutenant colonels and commanders: retirement for years of active commissioned service; continuation on active duty.

"634. Regular colonels and captains (Navy): retirement for years of active commissioned service; continuation on active duty.

"635. Regular brigadier generals or commodore admirals: retirement for years of active commissioned service; continuation on active duty.

"636. Regular major generals or rear admirals: retirement for years of active commissioned service; continuation on active duty.

"637. Regular commissioned officers: selective early retirement.

"638. Continuation on active duty to complete disciplinary action.

"639. Creditable service for involuntary retirement and other purposes.

"640. Deferment of retirement or separation.

"641. Exclusion of certain officers.

"642. Suspension authority.

"643. Entitlement to separation pay or retired pay.

"§ 611. Selection boards

"(a) Under such regulations as the Secretary of Defense shall prescribe, the Secretary of the military department concerned shall convene selection boards to recommend for promotion to the next higher grade officers on the active-duty list in each grade from second lieutenant through brigadier general in the Army, Air Force, or Marine Corps, and from ensign through commodore admiral in the Navy. The Secretary concerned may convene separate selection boards for each competitive category.

"(b) Under such regulations as the Secretary of Defense shall prescribe, the Secretary of the military department concerned may, whenever the needs of a service require, convene selection boards to recommend officers for continuation on active duty under section 632, 633, 634, 635, or 636 of this title, as appropriate, or for selective early retirement under section 637 of this title.

"§ 612. Composition of selection boards

"(a) A selection board convened under section 611 of this title shall—

"(1) consist of five or more officers serving in a grade or grades higher than the grade of the officers under consideration by such board, except that in no case may an officer serving in any grade below major or lieutenant commander be a member of any such board;

"(2) consist of officers on the active-duty list of the same military service as the officers under consideration, except that if qualified officers on the active-duty list are not available in sufficient numbers to comprise a board, the Secretary of the military department concerned shall complete the membership by appointing as members of the board retired officers of the same military service who hold a retired grade higher than the grade of officers under consideration;

"(3) include, when Reserve officers of a military service are to be considered by such board, two or more Reserve officers of that military service; and

"(4) include among its members at least one officer from each competitive category to be considered by such board, and include such other officers, consistent with paragraphs (1), (2), and (3) of this subsection and subsection (b) of this section, as may be determined by the Secretary of the military department concerned.

"(b) No officer may be a member of two successive selection boards for the consideration of officers of the same competitive category and grade.

"§ 613. Notice of convening; communications with board

"(a) At least 30 days before a selection board is convened under section 611(a) of this title, the Secretary concerned shall (1) notify in writing the officers eligible for consideration for promotion of the date on which the board is to convene and the names and dates of rank of the junior and senior officers in the promotion zone, or (2) issue a general written notice to the military service concerned regarding the convening of a board, the names of the officers eligible for consideration by the board, the convening date of the board, and the names and dates of rank of the junior and senior officers in the promotion zone.

"(b) An officer eligible for consideration by a selection board under section 611(a) of this title may send a written communication to the board, to arrive not later than the date the board convenes, calling attention to any matter concerning such officer that such officer considers important to his case. The selection board shall give due consideration to any timely communication sent to it under this subsection.

"§ 614. Oath of members of selection boards

"Each member of a selection board convened under section 611 of this title shall swear or affirm that he will, without prejudice or partially, and having in view both the fitness of officers and the efficiency of his military service, perform the duties imposed upon him.

"§ 615. Information furnished selection boards

"The Secretary of the military department concerned shall furnish the selection boards convened under section 611(a) of this title with—

"(1) the maximum number of officers in each competitive category under consideration that the board may recommend for promotion to the next higher grade;

"(2) the names of all officers in each competitive category to be considered by the board for promotion;

"(3) the records (determined pertinent by such Secretary) of all officers whose names are furnished to the board;

"(4) information relating to the skill needs of the military service; and

"(5) such other information and guidelines as may be necessary to enable the board to properly fulfill its functions.

"§ 616. Recommendations for promotion by selection boards

"(a) A selection board convened under section 611(a) of this title shall recommend from among the names of the officers furnished to it those officers whom the board considers best qualified for promotion within each competitive category, giving due consideration to the skill needs of the military service.

"(b) The maximum number of officers a selection board convened under section 611(a) of this title may recommend for promotion from among officers being considered from below the promotion zone in any competitive category may not exceed a number equal to 10 percent of the total number of officers that the board is authorized to recommend for promotion in such competitive category. If that number is less than one, the board may recommend one such officer. The number of officers recommended for promotion under this subsection shall not increase the total number authorized to be recommended for promotion under section 615 of this title.

"(c) A selection board convened under section 611(a) of this title may not recommend an officer for promotion unless—

"(1) such officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that such officer is fully qualified for promotion.

"(d) Except as otherwise provided by law, no officer on the active-duty list may be promoted to a higher permanent grade unless he has been considered and recommended for promotion to such grade by a selection board convened under this chapter.

"§ 617. Reports of selection boards

"(a) Each selection board convened under section 611(a) of this title shall submit a written report, signed by all the members thereof, containing a list of the names of officers recommended for promotion, and certifying that (1) the board has carefully considered the records of each officer whose name was furnished to it under section 615 of this title, and (2) in the opinion of a majority of the members, the officers recommended for promotion are best qualified for promotion to meet the needs of the military service concerned.

"(b) A selection board convened under section 611(a) of this title shall report to the Secretary concerned the name of any officer before it for consideration for promotion whose record, in the opinion of a majority of the members, indicates that such officer should be required under chapter 60 of this title to show cause for his retention on active duty.

"§ 618. Submission of selection board reports

"(a) Upon completion of the duties assigned to it, a selection board convened under section 611(a) of this title shall submit a report containing its recommendations to the Secretary of the military department concerned. In any case in which the Secretary concerned determines that the board acted contrary to law or regulation, he shall return the report to the board for proceedings in revision and resubmission.

"(b) After his final review, the Secretary concerned shall submit the report of the selection board, together with his recommendations for action thereon, to the Secretary of Defense for transmittal to the President for approval, modification, or disapproval.

"(c) The name of an officer recommended for promotion may be removed from the report of the board only by the President.

"(d) A list containing the names of officers recommended for promotion by a selection board convened under section 611(a) of this title which has been approved by the President, and confirmed by the Senate, when required, shall be promptly disseminated to the military service concerned.

"(e) Except as required by this section, proceedings of a selection board convened under section 611 of this title may not be disclosed to any person not a member of the board.

"§ 619. Eligibility for consideration by selection board for promotion

"(a) An officer on the active-duty list of a military service (other than a medical or dental officer) may not be considered for promotion to the next higher permanent grade until such officer has completed the period of service in grade prescribed below for the permanent grade in which such officer is serving:

"(1) Eighteen months in the grade of second lieutenant or ensign.

"(2) Two years in the grade of first lieutenant or lieutenant (junior grade).

"(3) Three years in the grade of captain (Army, Air Force, or Marine Corps) or lieutenant (Navy).

"(4) Three years in the grade of major or lieutenant commander.

"(5) Three years in the grade of lieutenant colonel or commander.

"(6) One year in the grade of colonel or captain (Navy).

"(7) One year in the grade of brigadier general or commodore admiral.

Whenever the needs of the military service require, the Secretary of the military department concerned may prescribe a longer period of service in any grade.

"(b) In computing service in grade for purposes of this section, service in a grade held as a result of assignment to a position or under a temporary appointment which is limited in duration by its own terms is counted as service in the grade in which the officer would have served except for such assignment or appointment.

"(c) In addition to the requirements set out in subsection (a) of this section, no officer may become eligible for consideration for promotion until all officers of his grade in his competitive category on the active-duty list senior to him are also eligible for consideration.

"(d) Each officer having once failed of selection for promotion to the next higher grade remains eligible for consideration for promotion to that grade as long as he continues on active duty in other than a retired status and is not promoted.

"(e) A selection board convened under section 611(a) of this title may not consider for promotion to the next higher grade—

"(1) an officer whose name is on a promotion list for that grade as a result of his selection by an earlier board convened under that section; or

"(2) an officer of the Navy or Marine Corps designated for limited duty holding a grade above lieutenant commander or major.

"(f) An officer who is in the promotion zone or above the promotion zone shall be considered for promotion by a selection board convened under section 611(a) of this title. The Secretary of the military department concerned may, by regulation—

"(1) limit the number of officers from below the promotion zone to be considered by such board to those who are determined by him to be exceptionally well qualified for promotion; and

"(2) prescribe criteria for determining which officers from below the promotion zone are considered to be exceptionally well qualified.

"§ 620. Active-duty lists

"(a) The Secretary of the military department concerned shall maintain a single active-duty list of all officers, other than those excluded by section 641 of this title, of the Army, Navy, Air Force, or Marine Corps, as the case may be, on active duty in the grades of second lieutenant or ensign and above.

"(b) Officers shall be carried on the active-duty list of the military service of which they are members in the order of seniority of the grade in which they are serving on active duty. Officers in the same grade shall be carried in the order of their rank in that grade.

"(c) An officer whose position on the active-duty list results from service in a temporary grade or a grade held by reason of his assignment to a position has, when that appointment or assignment ends, the grade and position on the active-duty list that he would have held if he had not received that appointment or assignment.

"§ 621. Competitive categories for promotion

"Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall establish competitive categories for promotion. Each officer whose name appears on an active-duty list shall be carrier in a competitive category of officers with whom he will compete for promotion.

"§ 622. Numbers to be selected for promotion

"Before convening a selection board under section 611(a) of this title, the Secretary of the military department concerned shall, under regulations prescribed by the Secretary of Defense, determine the number of positions needed to accomplish mission objectives which require officers of the grade and competitive category under consideration, the estimated number of officers needed to fill vacancies in such positions during the promotion period, and the number of officers authorized to serve on active duty in the grade and competitive category under consideration. Based on these determinations, the Secretary of the military department concerned shall determine the maximum number of officers in each competitive category who may be selected for promotion.

"§ 623. Promotion zones

"(a) Before he convenes a selection board under section 611(a) of this title to consider officers for promotion to any grade, the Secretary of the military department concerned shall establish a promotion zone for each competitive category to be considered.

"(b) The Secretary concerned shall determine the number of officers in any promotion zone from among officers eligible for promotion on the basis of an estimate of—

"(1) the number of officers needed in the next higher grade in each of the next five years;

"(2) the maximum number of officers authorized by law for the next higher grade in each of the next five years; and

"(3) the number of officers that can be placed in that promotion zone in those years to achieve equality of opportunity.

"§ 624. Promotions: how made; date of rank; effective date

"(a) When the report of a selection board convened under section 611(a) of this title is approved by the President, the Secretary concerned shall place the names of all officers approved for promotion on a single list in the order of their seniority on the active-duty list. Except as provided in subsection (d) of this section, and after confirmation by the Senate, when required, such officers shall be promoted to the next higher grade when additional officers in that grade are needed. Promotions shall be made in the order in which the names of officers appear on the promotion list and after officers selected for promotion by a previous board have been promoted.

"(b)(1) Except for an officer who is serving under a temporary appointment authorized by section 605 of this title, a regular or reserve officer who is promoted under this section shall be appointed to the regular or reserve grade, as the case may be, of his component.

"(2) An officer serving on active duty under a temporary appointment authorized by section 605 of this title who is promoted to a higher grade under this section shall receive a temporary appointment to that higher grade. Such temporary appointment shall terminate as is provided in section 605(g) of this title.

"(3) The date of rank of an officer appointed under this section is the date on which such officer is appointed to the higher grade.

"(c) Appointments of officers under this section shall be made by the President, by and with the advice and consent of the Senate, except that appointments, other than an original appointment as a regular officer, in the grade of first lieutenant or lieutenant (junior grade) and appointments under subsection (b)(2) of this section shall be made by the President alone.

"(d)(1) The Secretary concerned may delay the appointment of an officer under this section if—

"(A) sworn charges against such officer have been received by an officer exercising general court-martial jurisdiction over such officer and such charges have not been disposed of;

"(B) an investigation is being conducted to determine whether disciplinary action of any kind should be brought against such officer;

"(C) a board of officers has been convened under chapter 60 of this title to review the record of such officer; or

"(D) a criminal proceeding in a State or Federal court is pending against such officer.

If no disciplinary action is taken against such officer, the charges against him are withdrawn or dismissed, he is not ordered removed from active duty by the Secretary concerned under chapter 60 of this title, or he is acquitted of the charges brought against him, such officer is retained on the list of officers to be appointed, his date of rank and the effective date for pay and allowance in the higher grade to which appointed and his position on the active-duty list shall be the same as if no delay had intervened.

"(2) The Secretary concerned may also delay an appointment in cases where he finds that there is good cause to believe that an officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade for which he was selected for promotion. If the Secretary concerned later determines that the officer is qualified for promotion, the officer's date of rank, the effective date for pay and allowances in the higher grade to which appointed, and his position on the active-duty list shall be the same as if no delay had intervened.

"(3) The appointment of an officer may not be delayed unless such officer has been given written notice of the grounds for the delay. An officer whose promotion has been delayed shall be afforded an opportunity to make a written statement to the Secretary in response to the action taken by the Secretary. Any such statement shall be given careful consideration by the Secretary concerned. An appointment may not be delayed for more than six months after the date the officer would otherwise have been appointed unless the Secretary concerned specifies the period of delay. In no case may an officer's appointment be delayed more than 30 days after final action has been taken in any criminal case against such officer in a State or Federal court, more than 30 days after final action has been taken in any court-martial case against such officer, or more than 18 months after the date such officer would otherwise have been appointed, whichever is later.

"§ 625. Brigadier generals and commodore admirals: authority to vacate promotion

"The President may vacate the promotion of an officer who has served less than 18 months in the grade of brigadier general or commodore admiral after promotion to such grade under this chapter. An officer whose promotion is vacated under this section holds the regular grade of colonel, if he is a regular officer, or the reserve grade of colonel, if he is a reserve officer. His position on the active-duty list is the position he would have held had he not been appointed to the grade of brigadier general or commodore admiral.

"§ 626. Promotions: acceptance; oath of office

"(a) An officer who receives notice of his promotion is considered to have accepted his appointment on the effective date of the appointment, unless he expressly declines the appointment.

"(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon his appointment in a higher grade.

"§ 627. Failure of selection

"An officer who is in or above the promotion zone established for his grade under section 623 of this title and is properly considered but not selected for promotion shall be considered to have failed of selection.

"§ 628. Special selection boards

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may convene a special selection board, composed in accordance with section 612 of this title, to determine whether an officer who was otherwise eligible for consideration by a selection board that had been convened under section 611(a) of this title should be recommended for promotion if the Secretary concerned determines that such officer—

"(1) was not considered by that selection board because of error; or

"(2) was considered by that selection board and was not selected from promotion because (A) the board acted contrary to law, (B) the board's action resulted from material error, or (C) the board failed to consider material evidence which it should have considered.

"(b) The record of an officer submitted to a special selection board convened under subsection (a) of this section shall be the record as it should have appeared at the time the officer was considered by a selection board, or at the time the officer should have been considered by a selection board but was not considered as the result of an error. That record shall be compared with a representative sampling of the records of those officers of the same competitive category who were, and those officers who were not, selected by the board which should have considered, or did consider, the officer described in subsection (a) of this section.

"(c)(1) If the report of a special selection board, as approved by the President, recommends an officer described in subsection (a) of this section for promotion, and such officer is appointed to a higher grade, such officer is entitled to the same date of rank, the same effective date for pay and allowances of that grade, and the same position on the active-duty list as such officer would have had if he had been selected by the board which should have considered, or did consider, him.

"(2) If a special selection board convened under this section does not recommend for promotion an officer who is referred to it for consideration, that officer is considered as having failed of selection.

"§ 629. Removal from a recommended list for promotion

"(a) The President may remove the name of any officer from a list of officers recommended for promotion by a selection board convened under this chapter.

"(b) If, after consideration of a list of officers recommended for promotion, the Senate does not advise and consent to the appointment of an officer whose name is on such list, that officer's name shall be removed from such list.

"(c) An officer whose name is removed from a list described in subsection (a) or (b) of this section continues to be eligible for consideration for promotion. If he is recommended for promotion by the next selection board and promoted, he is entitled to the same position on the active-duty list, the same date of rank in the grade, and the same effective date for pay and allowances upon promotion to which he would have been entitled if his name had not been so removed. However, if the officer is not recommended for promotion by the next selection board or if his name is again removed under this section from the list of officers recommended for promotion by the next selection board, or if the Senate again does not advise and consent to his promotion, he is considered for all purposes as having twice failed of selection for promotion.

"§ 630. Regular commissioned officers: less than five years of active commissioned service; discharge

"The Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, may discharge any regular officer who has less than five years of active commissioned service.

"§ 631. Regular second lieutenants and first lieutenants (Army, Air Force, and Marine Corps) and ensigns and lieutenants (junior grade) (Navy): effect of failure of selection for promotion

"Except as provided in section 641(b) of this title, an officer of a military service serving in the regular grade of second lieutenant or first lieutenant, or each officer of the Regular Navy serving in the grade of ensign or lieutenant (junior grade) who has failed of selection for promotion to the next higher regular grade for the second time shall—

"(1) be discharged on the date requested by him and approved by the Secretary concerned, but not later than the first day of the seventh calendar month after the calendar month in which the President approves the report of the board which considered him for the second time but did not recommend him;

"(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, but not later than the first day of the seventh calendar month after the calendar month in which the President approves the report of the board which considered him for the second time but did not recommend him; or

"(3) if on the date he is to be discharged under clause (1) he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then be retired, unless he is sooner retired or discharged under another provision of law.

The retirement or discharge of an officer under this section shall be considered involuntary.

"§ 632. Regular captains and majors (Army, Air Force, and Marine Corps) and lieutenants and lieutenant commanders (Navy): effect of failure of selection for promotion; continuation on active duty

"(a) Except as provided by section 641(b) of this title, an officer of a military service serving in the grade of captain, major, lieutenant (Navy), or lieutenant commander who has failed of selection for promotion to the next higher regular grade for the second time and whose name is not on a recommended list for promotion, shall—

"(1) be discharged on the date requested by him and approved by the Secretary concerned, but not later than the first day of the seventh calendar month after the calendar month in which the President approves the report of the board which considered him for the second time but did not recommend him for promotion;

"(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, but not later than the first day of the seventh calendar month after the calendar month in which the President approves the report of the board which considered him for the second time but did not recommend him for promotion; or

"(3) if on the date he is to be discharged under clause (1) he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then retired, unless he is sooner retired or discharged under another provision of law.

"(b)(1) Notwithstanding subsection (a) of this section, any officer described in such subsection may be continued on active duty, subject to the needs of the service, if selected for continuation in the approved report of a selection board convened under section 611(b) of this title.

"(2) A captain or lieutenant (Navy) described in subsection (a) of this section may not be continued on active duty for a period which extends beyond the last day of the month in which that officer completes 20 years of service as determined under section 639 of this title unless promoted to the next higher grade.

"(3) A major or lieutenant commander described in subsection (a) of this section may not be continued for a period of active duty which extends beyond the last day of the month in which that officer completes 24 years of service as determined under section 639 of this title unless promoted to the next higher grade.

"(4) An officer who is selected for continuation but declines to serve under the terms of a continuation offer shall be discharged, retained, or retired under the provisions of subsection (a) of this section.

"(c) Each officer who is continued on active duty under subsection (b) of this section, who has not been subsequently promoted or continued on active duty, and who is not on any list of officers recommended for continuation or promotion to the next higher grade shall, unless he is sooner retired or discharged under another provision of law—

"(1) be discharged upon the expiration of the officer's continued service; or

"(2) if he is eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which that officer completes his continued service.

Notwithstanding the provisions of clause (1), any officer who would otherwise be discharged under such clause and who is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, shall, unless he is sooner retired or discharged under some other provision of law, be retained on active duty until he is qualified for retirement and then be retired.

"(d) The retirement or discharge of an officer under this section shall be considered involuntary.

"§ 633. Regular lieutenant colonels and commanders: retirement for years of active commissioned service; continuation on active duty

"(a) An officer of a military service who holds the regular grade of lieutenant colonel or commander, except an officer designated for limited duty, who is not on a list of officers recommended for promotion shall be retired on the first day of the month after the month in which he completes 28 years of service as determined under section 639 of this title.

"(b) The Secretary concerned may convene a selection board under section 611(b) of this title to determine whether an officer described in subsection (a) of this section should have his retirement deferred and be continued on active duty for a period not to exceed five years. However, such period may not be extended beyond the date of the continued officer's sixty-second birthday.

"§ 634. Regular colonels and captains (Navy): retirement for years of active commissioned service; continuation on active duty

"(a) An officer of a military service who holds the regular grade of colonel or captain (Navy), whose name is not on a recommended list for promotion to a higher grade, shall, if not earlier retired, be retired on the first day of the month after the month in which he completes 30 years of service determined under section 639 of this title.

"(b) The Secretary concerned may convene a selection board under section 611 (b) of this title to determine whether an officer described in subsection (a) of this section should have his retirement deferred and be continued on active duty for a period not to exceed five years. However, such period may not be extended beyond the date of the continued officer's sixty-second birthday.

"§ 635. Regular brigadier generals or commodore admirals: retirement for years of active duty service; continuation on active duty

"(a) An officer of a military service who holds the regular grade of brigadier general or commodore admiral whose name is not on a recommended list for promotion shall, if not earlier retired, be retired on the first day of the first month after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes 30 years of service determined under section 639 of this title, whichever is later.

"(b) The Secretary concerned may convene a selection board under section 611 (b) of this title to determine whether an officer described in subsection (a) of this section should have his retirement deferred and be continued on active duty for a period not to exceed five years. However, such period may not be extended beyond the date of the continued officer's sixty-second birthday.

"§ 636. Regular major generals or rear admirals: retirement for years of active commissioned service; continuation on active duty

"(a) An officer of a military service who holds the regular grade of major general or rear admiral shall, if not earlier retired, be retired on the first day of the first month after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes 35 years of service determined under section 639 of this title, whichever is later.

"(b) The Secretary concerned may convene a selection board under section 611 (b) of this title to determine whether an officer described in subsection (a) of this section should have his retirement deferred and be continued on active duty for a period not to exceed five years. However, such period may not be extended beyond the date of the continued officer's sixty-second birthday.

"§ 637. Regular commissioned officers: selective early retirement

"(a) Notwithstanding the tenure provisions of section 633 or 634 of this title, each regular officer on an active-duty list of the Army, Navy, Air Force, or Marine Corps serving in the regular grade of—

"(1) lieutenant colonel or commander who has failed of selection for promotion to the regular grade of colonel or captain (Navy) two or more times and whose name is not on a recommended list for promotion; or

"(2) colonel or captain (Navy) who has served at least four years of active duty in such grade and whose name is not on a recommended list for promotion;

may be considered for early retirement by a selection board convened under section 611(b) of this title. The number of such officers authorized by the Secretary concerned to be selected for early retirement may not be more than 30 percent of the number of those officers considered in each grade in each competitive category.

"(b) An officer who is recommended for early retirement under this section, and whose retirement is approved by the Secretary concerned, shall—

"(1) if such officer is eligible for retirement under any other provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, but not later than the first day of the seventh month after the month in which the Secretary concerned approves the report of the board that recommended him for retirement;

"(2) if such officer is not eligible for retirement under any other provision of law, be retained on active duty until qualified for retirement under section 3911, 6323, or 8911 of this title, and then be retired, unless he is sooner retired or discharged under some other provision of law; or

"(3) if his name is on an approved list for promotion to a higher grade than that in which he was serving at the time he was considered and selected for retirement under this section, be retained on active duty.

"(c) So long as an officer holds the same grade, he may not be considered for early retirement under this section more than once in any five-year period.

"(d) The retirement of an officer under this section is considered involuntary.

"§ 638. Continuation on active duty to complete disciplinary action

"When any action has been commenced against any officer who is to be separated under this chapter with a view to trying such officer by court-martial, the separation of such officer may be delayed without prejudice by the Secretary of the military department concerned until the completion of the action.

"§ 639. Creditable service for involuntary retirement and other purposes

"(a) The period of service which subjects an officer on the active-duty list to involuntary retirement under this chapter shall be the officer's total active commissioned service.

"(b) Constructive service credit awarded to any officer under section 544(b) of this title, or under any other provision of law, shall not be included in computing the years of creditable service under subsection (a) of this section.

"§ 640. Deferment of retirement or separation

"The Secretary of the military department concerned may defer the retirement or separation under this title of any officer in the grade of second lieutenant or ensign, or above, if evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date he would otherwise be required to retire or be separated under this title.

"§ 641. Exclusion of certain officers

"(a) Officers in the following categories are not subject to this chapter:

"(1) Reserved commissioned officers—

"(A) on active duty for training;

"(B) on active duty under section 175(a)(9), 3015, 3019, or 8019 of this title;

"(C) on active duty to perform special work; or

"(D) ordered to active duty under section 673b of this title.

"(2) Reserve or retired officers ordered to active duty for the specific purpose of administering the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).

"(3) The registrar, director of admissions, dean, and permanent professors at the United States Military Academy and the United States Air Force Academy.

"(4) Warrant officers.

"(5) Retired officers on active duty.

"(b) An officer designated for limited duty in the Navy or Marine Corps who fails of selection for promotion to the next higher grade for the second time and is not on a recommended list for promotion is governed by section 6383 of this title.

"§ 642. Suspension authority

"In time of war, or national emergency declared by Congress or the President after the effective date of the Defense Officer Personnel Management Act, the President may suspend the operation of any law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, or Marine Corps. Such a suspension may not continue more than two years or more than one year after the termination of the war or national emergency, whichever occurs first.

"§ 643. Entitlement to separation pay or retired pay

"(a) An officer discharged under this chapter is entitled, if eligible therefor, to separation pay computed under section 1173a of this title.

"(b) An officer retired under this chapter is entitled to retired pay computed under section 3991 or 8991 or chapter 71, 571, or 573 of this title, as appropriate.".

ANNUAL REPORTS TO CONGRESS; AUTHORITY TO ORDER RETIRED MEMBERS OF REGULAR COMPONENTS TO ACTIVE DUTY

SEC. 107. Section 687, relating to readjustment pay for nonregulars, is amended to read as follows:

"§ 687. Regular components: retired members

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may order a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to active duty at any time. The Secretary of the military department concerned may assign, to the extent consistent with other provisions of law, a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

"(b) A retired member of a military service who, while on active duty, is appointed to a grade that is higher than his retired grade, is entitled, upon his release from that tour of active duty, to placement on the retired list in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

"(c) Except in time of war, or national emergency declared by the Congress or the President after the effective date of the Defense Officer Personnel Management Act, not more than 15 retired officers of the Army, Navy, Air Force, or Marine Corps in grades above colonel or captain (Navy) may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of 60 days or less is not counted.".

RESERVE OFFICERS: GRADE IN WHICH ORDERED TO ACTIVE DUTY

SEC. 108. Chapter 39, relating to service on active duty of members of the armed forces, is amended by inserting after section 687 a new section as follows:

"§ 688. Reserve commissioned officers: grade in which ordered to active duty

"A reserve officer who is ordered to active duty shall be ordered to active duty in his reserve grade.".

RANK OF COMMISSIONED OFFICERS

SEC. 109. Chapter 43, relating to rank among commissioned officers of the armed forces, is amended—

(1) by striking out section 741 and inserting in lieu thereof the following:

"§ 741. Rank: commissioned officers of the military services

"(a) Among the grades listed below, the equivalent grades of general and admiral are senior to other grades and the equivalent grades of second lieutenant and ensign are junior to other grades. Intermediate grades rank in the order listed as follows:

Army, Air Force, and Marine Corps	Navy
General	Admiral.
Lieutenant general	Vice admiral.
Major general	Rear admiral.
Brigadier general	Commodore admiral.
Colonel	Captain.
Lieutenant colonel	Commander.
Major	Lieutenant commander.
Captain	Lieutenant.
First lieutenant	Lieutenant (junior grade).
Second lieutenant	Ensign.

"(b) Rank officers of the same grade or equivalent grades is determined by comparing dates of rank. An officer whose date of rank is earlier than the date of rank of another officer of the same or equivalent grade is senior to that officer.

"(c) Rank among officers of the same grade or equivalent grades who have the same date of rank is determined by regulations prescribed by the Secretary of Defense which shall apply uniformly among the military services.

"(d) An officer who holds a grade as a result of an original appointment shall be awarded a date of rank at the time of his appointment which reflects his prior creditable commissioned service and constructive service. This date is determined by the Secretary of the military department concerned under regulations which shall be prescribed by the Secretary of Defense and which shall apply uniformly among the military services.

"(e) Except as otherwise provided by law, the date of rank of an officer who holds a grade as a result of a promotion is the date of his appointment to that grade.

"(f) Under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the military services, the date of rank of a reserve officer subject to placement on the active-duty list who has not been on continuous active duty since his original appointment as a reserve commissioned officer may be changed to a later date to reflect his qualifications and experience."; and

(2) by inserting after section 749 a new section as follows:

"§ 750. Command: retired officers

"A retired officer has no right to command except when on active duty.".

OUTSIDE EMPLOYMENT OF ACTIVE DUTY OFFICERS

SEC. 110. Subsection (a) of section 973, relating to the outside employment of regular officers on active duty, is amended—

(1) by striking out "No officer on the active list of" and inserting in lieu thereof "An officer on active duty in";

(2) by striking out "Regular" wherever it appears; and

(3) by inserting "not" after "may".

MEDICAL AND DENTAL CARE OF DEPENDENTS OF FEMALE MEMBERS

SEC. 111. Paragraph (2) of section 1072, relating to definition of "dependent", is amended—

(1) by striking out "wife" in clause (A) and inserting in lieu thereof "spouse";

(2) by striking out clauses (C) and (D) and inserting in lieu thereof the following:

"(C) by the unremarried widower;"; and

(3) by redesignaing clauses (E) and (F) as clauses (D) and (E), respectively.

SEPARATION PAY FOR WARRANT OFFICERS

SEC. 112. (a) The second sentence of section 1165, relating to separation of regular warrant officers during probationary period, is amended to read as follows: "A warrant officer who is separated under this section is entitled, if eligible therefor, to separation pay under section 1173a, or he may be enlisted under section 515 of this title.".

(b) Subsection (a) of section 1166, relating to elimination or retirement for unfitness or unsatisfactory performance of regular warrant officers, is amended—

(1) by striking out "severance pay computed under section 1167(b) of this title" in the second sentence and inserting in lieu thereof a comma and the following: "if eligible therefor, separation pay under section 1173a of this title or severance pay under section 286a of title 14, as appropriate"; and

(2) by striking out the third sentence and inserting in lieu thereof the following: "However, instead of being granted the benefits of the preceeding sentence, he may be enlisted under section 515 of this title.".

(c) Section 1167, relating to computation of severance pay of regular warrant officers, is repealed.

SEPARATION PAY

SEC. 113. Chapter 59 is further amended by adding at the end thereof a new section as follows:

"§ 1173a. Members: separation pay upon involuntary discharge or release from active duty

"(a) For the purposes of chapter 36 (except section 630) and sections 564 and 6383 of this title, an officer who is involuntarily discharged or released from active duty and who has completed five or more, but less than 20, years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of this section.

"(b) Under regulations prescribed by the Secretary of Defense, an officer who is discharged from active duty under section 630 or 1187 of this title, or a warrant officer of a military service who is separated under section 1165 or 1166 of this title, and who has completed five or more, but less than 20, years of active service immediately before that discharge or separation is entitled, unless the Secretary concerned determines that the conditions under which the officer is discharged or separated do not warrant such pay, to separation pay computed under subsection (d)(1) or (d)(2) of this section, as determined by the Secretary of the military department concerned.

"(c) Under regulations prescribed by the Secretary concerned, a non-regular member of an armed force who is discharged or released from active duty and who has completed five or more, but less than 20, years of active service immediately before that discharge or release, is entitled, unless the Secretary concerned determines that the conditions under which the member is discharged or separated do not warrant such payment, to separation pay computed under subsection (d)(1) of this section, if—

"(1) such member is involuntarily discharged or released from active duty; or

"(2) such member was not accepted for an additional tour of active duty for which he volunteered.

"(d) The amount of separation pay which may be paid to a member under this section shall be—

"(1) 10 percent of the product of his years of active service multiplied by 12 times the monthly basic pay to which such member was entitled at the time of his discharge or release from active duty or $30,000, whichever is less; or

"(2) one-half of the amount computed under clause (1), but in no event more than $15,000.

"(e) A member who—

"(1) is discharged or released from active duty at his request;

"(2) is released from active duty for training; or

"(3) upon discharge or release from active duty, is immediately eligible for retired or retainer pay based on his military service;

is not entitled to separation pay under this section.

"(f) In determining the total number of years of service to be used as a multiplier in computing separation pay under this section, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

"(g) For the purposes of this section—

"(1) a period for which the member concerned has previously received separation pay, severance pay, or readjustment pay under this section, or under any other provision of law, based on his service in the armed forces may not be used again in computing the amount of separation pay; and

"(2) the total amount of separation pay, readjustment pay, and severance pay that a member may receive under this section, and under any other provision of law, based on his service in the armed forces may not exceed $30,000 in the case of a member who receives separation pay computed under clause (1) of subsection (d) of this section or $15,000 in the case of a member who receives separation pay computed under clause (2) of each subsection.

"(h)(1) A member who has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on his service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14, shall have deducted from his retired or retainer pay so much thereof as is based on the service for which he has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, until the total amount deducted is equal to the amount of the separation pay, severance pay, or readjustment pay received.

"(2) A member who has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on his service in the armed forces, is not deprived of any disability compensation to which he may be entitled under any law administered by the Veterans' Administration, but there shall be deducted from that disability compensation an amount equal to the amount of the separation pay, severance pay, and readjustment pay received. Notwithstanding the foregoing sentence, no deduction may be made from disability compensation for the amount of any separation pay, severance pay, and readjustment pay received because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.".

SEPARATION OF REGULAR OFFICERS FOR VARIOUS REASONS

SEC. 114. Part II of subtitle A is amended by inserting after chapter 59 a new chapter as follows:

"Chapter 60—SEPARATION OF REGULAR OFFICERS FOR VARIOUS REASONS

"Sec.
"§ 1181. Boards of officers: substandard performance of duty; authority to convene.
"1182. Boards of officers: other than substandard performance of duty; authority to convene.
"1183. Boards of inquiry: composition; duties.
"1184. Boards of review: composition; duties.
"1185. Removal of officer: action by Secretary upon recommendation.
"1186. Rights and procedures.
"1187. Officers considered for removal: retirement or discharge.
"1188. Officers eligible to serve on boards.

"§ 1181. Boards of officers: substandard performance of duty; authority to convene

"Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may, at any time, convene a board of officers to review the record of any commissioned officer, other than a commissioned warrant officer or a retired officer, of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, as the case may be, to determine whether such officer shall be required, because his performance of duty has fallen below standards which the Secretary of Defense shall prescribe, to show cause for his retention on active duty.

"§ 1182. Boards of officers: other than substandard performance of duty; authority to convene

"Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may, at any time, convene a board of officers to review the record of any commissioned officer, other than a commissioned warrant officer or a retired officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, as the case may be, to determine whether such officer should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active duty.

"§ 1183. Boards of inquiry: composition; duties

"(a) A board of inquiry composed of three or more officers shall be convened at such time and place as the Secretary of the military department concerned may prescribe to receive evidence and make findings and recommendations with respect to whether an officer who is required to show cause for retention under section 1181 or 1182 of this title should be retained on active duty.

"(b) A fair and impartial hearing before a board of inquiry shall be given to each officer required to show cause for retention on active duty.

"(c) If a board of inquiry determines that the officer has failed to establish that he should be retained, it shall send the record of its proceedings to a board of review.

"(d) If a board of inquiry determines that the officer has established that he should be retained on active duty, his case is closed. However—

"(1) an officer who is required to show cause for retention under section 1181 of this title may not again be required to show cause for retention under such section within the one-year period beginning on the date of that determination; or

"(2) an officer who is required to show cause for retention under section 1181 or 1182 of this title may again be required to show cause for retention under section 1182 of this at any time.

An officer who has been required to show cause as a result of proceedings under section 1182 of this title and thereafter retained may not again be required to show cause solely for conduct which was the subject of the previous proceedings, unless the findings or recommendations of the board of inquiry that considered his case are determined to have been obtained by fraud or collusion.

"§ 1184. Boards of review: composition; duties

"(a) Boards of review, composed of three or more officers, shall be convened by the Secretary of the military department concerned at such times and places as the Secretary may prescribe to review the records of cases of regular commissioned officers recommended for removal from active duty by boards of inquiry convened under section 1183 of this title.

"(b) If, after reviewing the record of a case, a board of review determines that the officer has failed to establish that he should be retained on active duty, it shall send its recommendation to the Secretary of the military department concerned for his action.

"(c) If, after reviewing the record of a case, a board of review determines that the officer has established that he should be retained on active duty, his case is closed. However—

"(1) an officer who is required to show cause for retention under section 1181 of this title may not again be required to show cause for retention under such section within the one-year period beginning on the date of that determination; or

"(2) an officer who is required to show cause for retention under section 1181 or 1182 of this title may be again required to show cause for retention under section 1182 of this title at any time.

An officer who has been required to show cause as a result of proceedings under section 1182 of this title and thereafter retained may not again be required to show cause solely for conduct which was the subject of the previous proceedings, unless the findings or recommendations of the board of inquiry or board of review that considered his case are determined to have been obtained by fraud or collusion.

"§ 1185. Removal of officer: action by Secretary upon recommendation

"The Secretary of the military department concerned may remove an officer from active duty if his removal is recommended by a board of review under this chapter.

"§ 1186. Rights and procedures

"Under regulations prescribed by the Secretary of Defense, any officer required to show cause under this chapter for his retention on active duty shall be—

"(1) notified in writing, at least 30 days before the hearing of the case by a board of inquiry, of the reasons for which such officer is being required to show cause for retention on active duty;

"(2) allowed reasonable time, as determined by the board of inquiry, to prepare his defense;

"(3) allowed to appear in person and be represented by counsel at proceedings before a board of inquiry; and

"(4) allowed full access to, and furnished copies of, records relevant to his case, except that a board shall withhold any records that the Secretary concerned determines should be withheld in the interest of national security.

When a record is withheld under clause (4), the officer whose case is under consideration shall, to the extent that the national security permits, be furnished a summary of the records so withheld.

"§ 1187. Officers considered for removal: retirement or discharge

"(a) At any time during proceedings under this chapter and before the removal of an officer from active duty, the Secretary of the military department concerned may grant a request—

"(1) for voluntary retirement, if the officer is otherwise qualified therefor;

"(2) for honorable discharge under subsection (b) of this section, in those cases brought under section 1181 of this title; or

"(3) for discharge under subsection (b) of this section, in those cases brought under section 1182 of this title.

"(b) Each officer removed from active duty under this chapter shall—

"(1) if such officer is eligible for voluntary retirement under any law on the date of his removal, be retired in the grade and with the pay for which he would be eligible if retired at his request; or

"(2) if such officer is ineligible for voluntary retirement under any law on the date of his removal—

"(A) be honorably discharged in the grade then held, in those cases brought under section 1181 of this title; or

"(B) be discharged in the grade then held, in those cases brought under section 1182 of this title.

"(c) An officer retired under this chapter is entitled to retired pay computed under section 3991 or 8991 or chapter 571 of this title, as appropriate.

"§ 1188. Officers eligible to serve on boards

"(a) An officer who serves on a board convened under this chapter shall be an officer of the same military service as the officer being considered by that board. No officer may serve on a board convened under this chapter unless such officer is serving on active duty in a grade above lieutenant colonel or commander and is senior in grade and rank to any officer being considered by that board. If qualified officers on active duty are not available in sufficient numbers to comprise a board, the Secretary of the military department concerned shall complete the membership by appointing retired officers of the same military service who have the prescribed qualifications.

"(b) No person may be a member of more than one board convened under this chapter to consider the same officer.".

RETIREMENT OF REGULAR COMMISSIONED OFFICERS AT 62

SEC. 115. Chapter 63, relating to retirement for age, is amended by inserting after section 1263 a new section as follows:

"§ 1264. Age 62: regular commissioned officers; exceptions

"(a) Unless retired or separated earlier, each regular commissioned officer of a military service, other than an officer holding a grade above general or admiral, or a permanent professor, director of admissions, or registrar of the United States Military Academy or the United States Air Force Academy, or a warrant officer, shall be retired on the first day of the month following the month in which such officer becomes 62 years of age. A permanent professor, director of admissions, or the registrar of the United States Military Academy or United States Air Force Academy shall be retired on the first day of the month following the month in which he becomes 64 years of age.

"(b) Notwithstanding subsection (a) of this section, the President may defer the retirement of an officer serving in a temporary grade above major general or rear admiral, or serving in a position that carries a grade above major general or rear admiral, but not later than the first day of the month following the month in which he becomes 64 years of age. Not more than ten deferments under this subsection may be in effect at any one time.".

RETIRED GRADE OF COMMISSIONED OFFICERS

SEC. 116. Chapter 69, relating to retired grade, is amended by inserting before section 1371 a new section as follows:

"§ 1370. Commissioned officers: retired grade; general rule

"(a) Except as provided in subsection (b) of this section and unless entitled to a higher retired grade under another provision of law, a regular, reserve, or temporary commissioned officer, other than a commissioned warrant officer, of the Army, Navy, Air Force, or Marine Corps who retires under any provision of law other than chapter 61 or 67 of this title will be retired in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months. However, in order to be eligible for voluntary retirement under section 3911, 6323, or 8911 of this title in any grade above major or lieutenant commander or below lieutenant general or vice admiral, a commissioned officer must have served on active duty in that grade for not less than three years. A reserve or temporary officer who requests retirement under section 3911, 6323, or 8911 of this title, after he is notified that he will be released from active duty without his consent and is retired pursuant to that request, is considered, for purposes of this section, to be retired involuntarily. An officer retired pursuant to section 1187(b)(1) of this title shall be considered to have been retired voluntarily under section 3911, 6323, or 8911, as appropriate.

"(b) An officer of a military service who is serving in or has served in a grade above major general or rear admiral may, upon retirement, be appointed by the President, by and with the advice and consent of the Senate, to the highest grade held by him while serving on active duty.".

COMPUTATION OF RETIRED PAY

SEC. 117. (a)(1) Section 1401, relating to computation of retired pay, is amended by adding at the end of the table contained in such section a new formula as follows:

"5.	631 632 633 634 635 636 637 634 1264	Monthly basic pay[1] of member's retired grade.[5]	2½ percent of years of service credited under sec. 405.[3]	----------	Excess over 75 percent of pay computation is based.".

(2) Section 1401 is further amended by adding after the last footnote to the table contained in such section a new footnote as follows:

"[5] For the purposes of this section, determine officer's retired grade as if section 3962(b) and 8962(b) did not apply.".

(b) Section 1405 is amended to read as follows:

"§ 1405. Years of service

"For the purposes of section 1401 (formulas 4 and 5), 3991 (formula B), 6151(b), 6323(e), 6325(a)(2) and (b)(2), 6383(c)(2), or 8991 (formula B) of this title, the years of service of a member of the armed forces are computed by adding—

"(1) his years of active service;

"(2) the years of service, not included in clause (1), with which he was entitled to be credited on the day before the effective date of the Defense Officer Personnel Management Act, in computing his basic pay; and

"(3) the years of service, not included in clause (1) or (2), with which he would be entitled to be credited under section 1333 of this title if he were entitled to retired pay under section 1331 of this title.".

OFFICERS ATTENDING UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES TO BE COUNTED AGAINST AUTHORIZED MILITARY STRENGTH

SEC. 118. The second sentence of section 2114(b), relating to students attending the Uniformed Services University of the Health Sciences, is amended by striking out ", but shall not be counted against any prescribed military strengths".

TITLE II—AMENDMENTS TO SUBTITLES B AND D OF TITLE 10, UNITED STATES CODE—THE ARMY AND THE AIR FORCE

PERSONNEL DETAILED OUTSIDE DEPARTMENT OF DEFENSE TO BE COUNTED IN COMPUTING STRENGTHS

SEC. 201. (a) Section 3230, relating to personnel detailed outside the Department of Defense, is repealed.

(b) Section 8230, relating to personnel detailed outside the Department of Defense, is repealed.

REPEAL OF PROHIBITION ON WOMEN BEING ENLISTED AS AVIATION CADETS IN THE REGULAR AIR FORCE

SEC. 202. Subsection (b) and (c) of section 8257, relating to the qualifications, grade, and limitations on aviation cadets in the Regular Air Force, is amended by striking out "male" wherever such term appears in such section.

SERVICE CREDIT UPON ORIGINAL APPOINTMENT OF RESERVE COMMISSIONED OFFICERS; ARMY AND AIR FORCE

SEC. 203. (a) Section 3353, relating to the appointment and service credit of commissioned officers of the Army, is amended to read as follows:

"§ 3353. Commissioned officers: service credit upon original appointment

"(a) For the purpose of chapters 337 and 363 of this title and under regulations prescribed by the Secretary of Defense, a person who is originally appointed as a reserve commissioned officer in the Army may be credited at the time of his appointment with service as a commissioned officer, except service as a commissioned warrant officer, that he performed in an active status in any armed force.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the Army shall, in addition to any service credited to an officer under subsection (a) of this section, credit such officer, if applicable, with constructive service for advanced education, training, and experience as follows:

"(1) four years plus his years of training and experience as a licensed physician or dentist, if appointed in the Medical Corps or Dental Corps;

"(2) three years, if appointed in the Chaplain Corps, the Veterinary Corps, or the Judge Advocate General's Corps; and

"(3) three years, if appointed as a medical service officer he holds a degree of doctor of philosophy or a comparable degree in a science allied to medicine.

"(c) Notwithstanding any other provision of this title, if the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Army in grades below major is critically short of the number needed by the Army, he may authorize the Secretary of the Army to award to any officer appointed in the Judge Advocate General's Corps of the Army a period of constructive service in such an amount in addition to the period of such service awarded under subsection (b) of this section as will result in the grade of such officer, if ordered to active duty, being that of captain or lieutenant (Navy) and the date of rank of such officer being junior to all other officers of the same grade serving on active duty in the Army.".

(b) Section 8353, relating to the appointment and service credit of reserve commissioned officers of the Air Force, is amended to read as follows:

"§ 8353. Commissioned officers: service credit upon original appointment

"(a) Under regulations prescribed by the Secretary of Defense, and for the purpose of chapters 837 and 863 of this title, a person who is originally appointed as a Reserve commissioned officer in the Air Force may be credited at the time of his appointment with service as a commissioned officer, except service as a commissioned warrant officer, in an active status that he performed in any armed force.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force shall, in addition to any service credited to an officer under subsection (a) of this section, credit such officer, if applicable, with constructive service for advanced education, training, and experience as follows:

"(1) four years plus his years of training and experience as a licensed physician or dentist, if designated as a medical or dental officer;

"(2) three years, if designated as a chaplain, veterinary officer, or judge advocate; and

"(3) three years, if designated as a medical service or biomedical sciences officer with a degree of doctor of philosophy or a comparable degree in a science allied to medicine which is a prerequisite to appointment.

"(c) Notwithstanding any other provision of this title, if the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Air Force in grades below major is critically short of the number needed by the Air Force, he may authorize the Secretary of the Air Force to award to any officer appointed in the Air Force with a view to designation as a judge advocate a period of constructive service in such an amount in addition to the period of such service awarded under subsection (b) of this section as will result in the grade of such officer, if ordered to active duty, being that of captain and the date of rank of such officer being junior to all other officers of the same grade serving on active duty in the Air Force.".

EXCLUSION OF ACTIVE-DUTY LIST RESERVE OFFICERS OF THE ARMY AND AIR FORCE FROM CERTAIN PROVISIONS RELATING TO RESERVE OFFICERS APPOINTMENTS

SEC. 204. (a) Chapter 337, relating to appointments as reserve officers, is amended by adding at the end thereof a new section as follows:

"§ 3396. Exclusion of certain officers

"The preceding sections of this chapter, except section 3353, shall not apply to those reserve officers on the active-duty list.".

(b) Chapter 837, relating to appointments as Reserve officers, is amended by adding at the end thereof a new section as follows:

"§ 8396. Exclusion of certain officers

"The preceding sections of this chapter, except section 8353, shall not apply to those Reserve officers on the active-duty list.".

WARRANT OFFICERS; TEMPORARY APPOINTMENT AND PROMOTION

SEC. 205. (a) Sections 3448 and 3449, relating to Army warrant officers, are repealed.

(b) Sections 8448 and 8449, relating to Air Force warrant officers, are repealed.

GRADE IN WHICH COMMISSIONED OFFICERS OF THE ARMY AND AIR FORCE ARE ORDERED TO ACTIVE DUTY

SEC. 206. (a) Section 3494, relating to the grade in which reserve commissioned officers of the Army are ordered to active duty, is repealed.

(b) Section 8494, relating to grades in which Reserve commissioned officers of the Air Force are ordered to active duty, is repealed.

CHIEF OF STAFF TO PRESIDENT (ARMY AND AIR FORCE) TO BE INCLUDED IN AUTHORIZED STRENGTHS

SEC. 207. (a) Section 3531, relating to the appointment of an Army general officer as the Chief of Staff to the President, is amended by striking out the last sentence thereof.

(b) Section 8531, relating to the appointment of an Air Force general officer as the Chief of Staff to the President, is amended by striking out the last sentence thereof.

GRADE OF THE SPECIAL ASSISTANT TO COMPTROLLER OF THE DEPARTMENT OF DEFENSE

SEC. 208. Section 3532, relating to the grade of the Special Assistant to the Comptroller of the Department of Defense, is repealed.

RANK, PAY, AND ALLOWANCES OF ASSISTANT TO THE CHIEF OF ENGINEERS

SEC. 209. Section 3535, relating to the rank, pay, and allowances of the Assistant to the Chief of Engineers in charge of civil works, is repealed.

COMMAND BY COMMISSIONED OFFICERS OF THE ARMY MEDICAL DEPARTMENT AND BY COMMISSIONED OFFICERS OF THE AIR FORCE IN CERTAIN CATEGORIES

SEC. 210. (a) Section 3579, relating to the exercise of command by officers of the Army Medical Department, is amended—

(1) by striking out ", other than an officer of the Army Nurse Corps or Army Medical Specialist Corps," in subsection (a);

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(b) Section 8579, relating to the exercise of command by Air Force officers in certain designated categories, is amended to read as follows:

"§ 8579. Command: commissioned officers in certain designated categories

"An officer designated as a medical, dental, veterinary, medical service, biomedical sciences officer, or nurse is not entitled to exercise command because of rank, except within the categories prescribed in section 8067(a) through (f) or (f) of this title, or over persons placed under his charge.".

TERMINATION OF APPOINTMENT OR ENLISTMENT OF REGULAR FEMALE MEMBERS OF THE ARMY AND AIR FORCE

SEC. 211. (a) Section 3818, relating to the termination of appointment or enlistment of regular female members of the Army, is repealed.

(b) Section 8818, relating to the termination of appointment or enlistment of regular female members of the Air Force, is repealed.

RETENTION IN ACTIVE STATUS OF CERTAIN RESERVE OFFICERS IN THE ARMY AND AIR FORCE UNTIL AGE 60

SEC. 212. (a) Section 3855, relating to the retention in an active status of certain Army Reserve officers until age 60, is amended—

(1) by inserting "Veterinary Corps, in the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, in the Optometry Section of the Medical Service Corps," after "Dental Corps,"; and

(2) by adding at the end thereof a new sentence as follows: "An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(b) Section 8855, relating to the retention in an active status of certain Air Force Reserve officers until age 60, is amended—

(1) by inserting "veterinary officer, optometrist, podiatrist," after "dental officer,"; and

(2) by adding at the end thereof a new sentence as follows: "An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

HIGHER GRADE FOR SERVICE IN SPECIAL POSITIONS

SEC. 213. (a) Section 3962, relating to a higher grade for service in special positions by Army officers, is amended—

(1) by striking out "3066" in subsection (a) and inserting in lieu thereof "606";

(2) by striking out "active list" in subsection (a) and inserting in lieu thereof "active-duty list";

(3) by striking out subsection (b); and

(4) by redesignating subsection (c) as subsection (b).

(b) Section 8962, relating to a higher grade for service in special positions by Air Force officers, is amended—

(1) by striking out "(a)" at the beginning of subsection (a);

(2) by striking out "8066" in subsection (a) and inserting in lieu thereof "606";

(3) by striking out "active list" in subsection (a) and inserting in lieu thereof "active-duty list"; and

(4) by striking out subsection (b).

(c) In the case of an officer of the Army or Air Force who served at any time prior to the effective date of this Act in a position described in section 3962(a) or 8962(a) of title 10, United States Code, for purposes of such service reference in such sections to section 606 shall be deemed to refer to section 3066, in the case of an Army officer, or section 8066, in the case of an Air Force officer, as such section was in effect on the day before the effective date of this Act, and the term "active-duty list" when used in such sections shall be deemed to mean "active list or active-duty list".

COMPUTATION OF RETIRED PAY (ARMY AND AIR FORCE)

SEC. 214. (a) Section 3991, relating to the computation of retired pay of Army personnel, is amended by striking out the table contained in such section and inserting in lieu thereof a new table as follows:

"Formula	For sections	Column 1. Take	Column 2. Multiply by	Column 3. Add	Column 4. Subtract
A	3911 3918 3920 3924	Monthly basic pay[2] of member's retired grade.[1]	2½ percent of years of service credited to him under section 1405.[4]		Excess over 75 percent of pay upon which computation is based.
B	3914	Monthly basic pay[3] to which member was entitled on day before he retired.	2½ percent of years of service credited to him under section 3925.[4]	10 percent of product of columns 1 and 2 for extraordinary heroism in line of duty.[5]	Excess over 75 percent of pay upon which computation is based.
C	3917	Monthly basic pay[3] to which member was entitled on day before he retired.	2½ percent of years of service credited to him under section 3925.[4]		Excess over 75 percent of pay upon which computation is based.

"[1] For the purposes of this section, determine member's retired grade as if section 3962(b) did not apply and, for an officer who has served as Chief of Staff, compute at the highest rates of basic pay applicable to him while he served in that office.

"[2] Compute at rates applicable on date of retirement.

"[3] Compute at rates applicable on date of retirement, or if the member has served as sergeant major of the Army, compute at the highest basic pay applicable to him while he so served, if such basic pay is greater.

"[4] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

"[5] The Secretary of the Army's determination as to extraordinary heroism is conclusive for all purposes.".

(b) Section 8991, relating to the computation of retired pay of Air Force personnel, is amended by striking out the table contained in such section and inserting in lieu thereof a new table as follows:

"Formula	For sections	Column 1. Take	Column 2. Multiply by	Column 3. Add	Column 4. Subtract
A	8911 8918 8920 8924	Monthly basic pay[2] of member's retired grade.[1]	2½ percent of years of service credited to him under section 1405.[4]		Excess over 75 percent of pay upon which computation is based.
B	8914	Monthly basic pay[3] to which member was entitled on day before he retired.	2½ percent of years of service credited to him under section 8925.[4]	10 percent of product of columns 1 and 2 for extraordinary heroism in line of duty.[5]	Excess over 75 percent of pay upon which computation is based.
C	8917	Monthly basic pay[3] to which member was entitled on day before he retired.	2½ percent of years of service credited to him under section 8925.[4]		Excess over 75 percent of pay upon which computation is based.

"[1] For the purposes of this section, determine member's retired grade as if section 8962(b) did not apply and, for an officer who has served as Chief of Staff, compute at the highest rates of basic pay applicable to him while he served in that office.

"[2] Compute at rates applicable on date of retirement.

"[3] Compute at rates applicable on date of retirement, or if the member has served as Chief master sergeant of the Air Force, compute at the highest basic pay applicable to him while he so served, if such basic pay is greater.

"[4] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

"[5] The Secretary of the Air Force's determination as to extraordinary heroism is conclusive for all purposes.".

DEAN OF ACADEMIC BOARD AND REGISTRAR, UNITED STATES MILITARY ACADEMY; DEAN OF THE FACULTY AND REGISTRAR OF THE UNITED STATES AIR FORCE ACADEMY

SEC. 215. (a)(1) Subsection (b) of section 4335, relating to the Dean of the Academic Board at the United States Military Academy, is amended by striking out the second sentence and inserting in lieu thereof the following: "The Dean has the grade of brigadier general, is counted as a brigadier general in determining strengths under section 453 of this title, and is entitled to the benefits authorized for regular brigadier generals of the Army, except that his retirement age is that of a permanent professor of the Academy.".

(2) Section 4336 is amended by striking out subsection (c).

(b)(1) Subsection (b) of section 9335, relating to the Dean of the Faculty of the United States Air Force Academy, is amended to read as follows:

"(b) The Dean has the grade of brigadier general, is counted as a brigadier general in determining strengths under section 453 of this title, and is entitled to the benefits authorized for regular brigadier generals of the Air Force, except that his retirement age is that of a permanent professor of the Academy.".

(2) Section 9336 is amended by striking out subsection (c).

TITLE III—AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE—THE NAVY AND MARINE CORPS

DEFINITIONS

SEC. 301. Section 5001, relating to definitions, is amended—

(1) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) 'Commissioned officer' means a member of the naval service whose appointment has been made by commission by the President."; and

(2) by striking out paragraphs (9) and (10).

RANK AND PRIVILEGES OF RETIREMENT OF THE DIRECTOR OF THE OFFICE OF BUDGET AND REPORTS

SEC. 302. Section 5064, relating to the Director and Assistant Director of the Office of Budget and Reports, is amended by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

GRADE OF THE CHIEF OF DENTAL DIVISION, BUREAU OF MEDICINE AND SURGERY

SEC. 303. Subsection (a) of section 5138, relating to the grade of the Chief of the Dental Division in the Bureau of Medicine and Surgery, is amended by striking out "in the grade of rear admiral" and inserting in lieu thereof "not below the grade of commodore admiral".

GRADE OF THE CHIEF OF MEDICAL SERVICE CORPS, BUREAU OF MEDICINE AND SURGERY

SEC. 304. Subsection (a) of section 5139, relating to the Medical Service Corps, Bureau of Medicine and Surgery, is amended by striking out "in the Navy" in the third sentence and inserting in lieu thereof "unless entitled to a higher rank or grade".

GRADE OF THE CHIEF OF CHAPLAINS

SEC. 305. Section 5142, relating to the Chief of Chaplains, Bureau of Naval Personnel, is amended by striking out "rear admiral" and inserting in lieu thereof "commodore admiral".

ABOLISHMENT OF POSITION OF ASSISTANT CHIEF FOR WOMEN

SEC. 306. Section 5143 relating to the Assistant Chief for Women, Bureau of Naval Personnel, is repealed.

ABOLISHMENT OF THE POSITION OF DIRECTOR OF WOMEN MARINES

SEC. 307. Section 5206, relating to the detail and retirement of the Director of Women Marines, is repealed.

NAVY AND MARINE CORPS POSITIONS OF IMPORTANCE AND RESPONSIBILITY; CHIEF OF STAFF TO THE PRESIDENT

SEC. 308. Chapter 517, relating to certain positions of admiral, vice admiral, general, and lieutenant general, is repealed.

PERSONNEL DETAILED OUTSIDE THE DEPARTMENT OF DEFENSE TO BE COUNTED IN COMPUTING STRENGTHS

SEC. 309. Section 5416, relating to personnel detailed outside the Department of Defense, is repealed.

REPEAL OF PROVISIONS LIMITING THE NUMBER OF WOMEN THAT MAY HOLD PERMANENT APPOINTMENTS IN CERTAIN GRADES IN THE LINE OF THE NAVY

SEC. 310. Section 5452, relating to women line officers on active duty in the Navy and women officers on active duty in the Marine Corps, is repealed.

NAVAL RESERVE OFFICERS IN ACTIVE STATUS IN PERMANENT GRADES ABOVE CHIEF OFFICER, W-4

SEC. 311. Subsection (a) of section 5457, relating to officers in an active status in grades above chief warrant officer, W-4, in the Naval Reserve, is amended—

(1) by striking out "grade of rear admiral" and inserting in lieu thereof "grades of commodore admiral and rear admiral combined"; and

(2) by adding at the end thereof a new sentence as follows: "Not more than 50 percentum of the officers in an active status authorized under this subsection may serve in the grade of rear admiral.".

REPEAL OF CERTAIN PROVISIONS RELATING TO ORIGINAL APPOINTMENTS OF NAVY AND MARINE CORPS OFFICERS

SEC. 312. (a) Section 5573, relating to appointment of graduates of the Naval Academy, is repealed.

(b) Section 5581, relating to the appointment of women in the Medical Corps, Dental Corps, and Medical Service Corps of the Naval Reserve is repealed.

(c) Section 5585, relating to the filing of vacancies in the grade of second lieutenant in the Regular Marine Corps from graduates of the Naval Academy and other officers, is repealed.

(d) Section 5590, relating to women in the Regular Navy and Regular Marine Corps, is repealed.

(e) Section 5591, relating to the maximum number of ensigns that may be appointed annually in the Supply Corps of the Regular Navy, is repealed.

(f) Section 5592, relating to the maximum number of ensigns that may be appointed annually in the Civil Engineer Corps of the Regular Navy, is repealed.

(g) Section 5593, relating to the maximum number of ensigns that may be appointed annually in the Medical Service Corps of the Regular Navy, is repealed.

(h) Section 5594, relating to the maximum number of ensigns that may be appointed annually in the Nurse Corps of the Regular Navy, is repealed.

(i) Section 5595, relating to restrictions on the appointment of former midshipmen and cadets in the Regular Marine Corps, is repealed.

REMOVAL OF DISCRIMINATORY PROVISIONS RELATING TO TRANSFERS IN LINE AND STAFF CORPS, REGULAR NAVY

SEC. 313. Section 5582, relating to transfers in line and staff corps of the Regular Navy, is amended to read as follows:

"§ 5582. Regular Navy: transfers, line and staff corps

"(a) A regular officer of the Navy in a staff corps in a grade not above lieutenant commander may be appointed in the line of the Navy to the same grade.

"(b) A regular officer in the line of the Navy in a grade not above lieutenant commander may be appointed in the Supply Corps or the Civil Engineer Corps to the same grade.".

ORIGINAL APPOINTMENT OF OFFICERS DESIGNATED FOR CERTAIN DUTIES, REGULAR NAVY

SEC. 314. Section 5587, relating to officers of the Regular Navy designated for engineering, aeronautical engineering, or other special duty, is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Persons may be originally appointed in the line of the Navy as regular officers designated for engineering duty, aeronautical engineering duty, or special duty.";

(2) by striking out "public information" in the third sentence of subsection (c) and inserting in lieu thereof "public affairs", and by inserting "geophysics, cryptography," after "psychology," in such sentence; and

(3) by striking out "are additional numbers in grade. They" in subsection (d).

ORIGINAL APPOINTMENT OF OFFICERS DESIGNATED FOR LIMITED DUTY, REGULAR NAVY AND REGULAR MARINE CORPS

SEC. 315. Section 5589, relating to Regular Navy and Regular Marine Corps officers designated for limited duty, is amended—

(1) by striking out that portion of subsection (a) before clause (1) and inserting in lieu thereof the following:

"(a) Original appointments as regular officers of the Navy in a grade not above lieutenant in the line, in the Supply Corps, and in the Civil Engineer Corps may be made from—";

(2) by striking out that portion of subsection (b) before clause (1) and inserting in lieu thereof the following:

"(b) Original appointments as regular officers of the Marine Corps in a grade not above captain may be made from—"; and

(3) by inserting in subsection (c) "the qualifications specified in section 543(a) (1), (2), (3), and (4) and must have" after "must have".

TEMPORARY APPOINTMENTS OF NAVAL RESERVE AND MARINE CORPS RESERVE OFFICERS

SEC. 316. Section 5598, relating to temporary appointments in the Naval Reserve and Marine Corps Reserve during a war or national emergency, is repealed.

SERVICE CREDIT UPON ORIGINAL APPOINTMENT OF RESERVE COMMISSIONED OFFICERS; NAVAL RESERVE AND MARINE CORPS RESERVE

SEC. 317. Section 5600, relating to service credit upon original appointment to the Naval and Marine Corps Reserves, is amended to read as follows:

"§ 5600. Naval Reserve and Marine Corp Reserve: service credit upon original appointment

"(a) Under regulations prescribed by the Secretary of Defense, for the purpose of determining his grade, seniority in grade, and eligibility for promotion, a person who is originally appointed as a commissioned officer in a permanent grade above chief warrant officer, W–4, in the Naval Reserve or Marine Corps Reserve may be credited at the time of his appointment with service as a commissioned officer, other than a commissioned warrant officer, that he performed in an active status in any armed force.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy shall, in addition to any service credited to an officer under subsection (a) of this section, credit such officer, if applicable, with constructive service for advanced education, training, and experience as follows:

"(1) four years plus his years of training and experience as a licensed physician or dentist, if appointed in the Medical Corps or Dental Corps;

"(2) three years, if appointed in the Chaplain Corps or Judge Advocate General's Corps, or, in the case of the Marine Corps, if designated as a judge advocate; and

"(3) three years, if appointed in the Medical Service Corps with a degree of doctor of philosophy or a comparable degree in a science allied to medicine which is a prerequisite to appointment.

"(c) Notwithstanding any other provision of this title, if the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Navy or the Marine Corps in grades below lieutenant commander or major is critically short of the number needed by the Navy or Marine Corps, respectively, he may authorize the Secretary of the Navy to award to any officer appointed in the Judge Advocate General's Corps of the Navy, or to any officer appointed in the Marine Corps with a view to designation as a judge advocate, a period of constructive service in such an amount in addition to the period of such service awarded under subsection (b) of this section as will result in the grade of such officer, if ordered to active duty, being that of lieutenant (Navy) or captain and the date of rank of such officer being junior to all other officers of the same grade serving on active duty in the Navy or Marine Corps, as the case may be.".

ASSIGNMENT OF RUNNING MATES TO NAVAL RESERVE AND MARINE CORPS RESERVE OFFICERS

SEC. 318. Section 5665, relating to assignment of running mates to Naval Reserve and Marine Corps Reserve officers in permanent grades above chief warrant officer, W–4, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) While in the grade of lieutenant (junior grade) or in a higher grade, each officer in an active status in the Naval Reserve who is not on an active-duty list has a running mate of the same grade who shall be assigned under regulations prescribed by the Secretary of the Navy.

"(b) While in the grade of first lieutenant or a higher grade, each officer in an active status in the Marine Corps Reserve who is not on an active-duty list has a running mate of the same grade who shall be assigned under regulations prescribed by the Secretary of the Navy."; and

(2) by striking out subsections (c), (d), and (e).

EXAMINATIONS FOR PROMOTION OF NAVY AND MARINE CORPS OFFICERS

SEC. 319. Chapter 547, relating to examinations for promotion, is repealed.

RETIRED OFFICERS WITHDRAWN FROM COMMAND

SEC. 320. Section 5955, relating to retired officers withdrawn from command, is repealed.

DETAIL OF RETIRED OFFICERS TO COMMAND POSITIONS

SEC. 321. Section 5982, relating to the detail of retired officers to command of ships and squadrons, is repealed.

REMOVAL OF LIMITATIONS ON ASSIGNMENT OF CERTAIN NAVY OFFICERS TO SHORE DUTY

SEC. 322. Section 6018, relating to limitations on short duty of Certain Navy officers, is repealed.

REPEAL OF PROVISION PROVIDING DIFFERENT TREATMENT FOR THE DISCHARGE OF WOMEN FROM THE REGULAR NAVY AND REGULAR MARINE CORPS

SEC. 323. Section 6294, relating to the termination of enlistment of women in the Regular Navy and Regular Marine Corps, is repealed.

RETIREMENT OR DISCHARGE OF LIMITED DUTY OFFICERS OF THE REGULAR NAVY AND REGULAR MARINE CORPS

SEC. 324. Section 6383, relating to retirement and related matters, retirement of Regular Navy and Regular Marine Corps officers, is amended—

(1) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Each regular officer on the active-duty list designated for limited duty, whose name is not on a promotion list, and who is serving in the grade of lieutenant commander in the Navy or serving in the grade of major in the Marine Corps shall be retired on the first day of the seventh month following the month in which he is considered as having failed of selection for promotion to the next higher grade for the second time.";

(2) by striking out the comma after "grade" in subsection (c)(1) and inserting in lieu thereof "and except as provided in section 1370,";

(3) by striking out subsections (d) and (e) and inserting in lieu thereof the following:

"(d) Each regular officer on the active-duty list designated for limited duty, whose name is not on a list of officers recommended for promotion, and who is serving in the grade of lieutenant in the Navy or serving in the grade of captain in the Marine Corps shall be honorably discharged on the first day of the seventh month following the month in which he is considered as having twice failed of selection for promotion to the grade of lieutenant commander or major.

"(e) Each Regular officer on the active-duty list of the Navy or the Marine Corps designated for limited duty, whose name is not on a list of officers recommended for promotion, and who is serving in the grade of ensign or second lieutenant, or lieutenant (junior grade) or first lieutenant, shall be honorably discharged on the first day of the seventh month following the month in which he is considered as having twice failed of selection for promotion.";

(4) by striking out subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively;

(5) by striking out "retirement or" in the first sentence of subsection (f), as redesignated by clause (4), and by striking out "retired or" in the first and second sentences of such subsection; and

(6) by adding at the end thereof a new subsection as follows:

"(h) An officer discharged under this section is entitled if eligible therefor, to separation pay under section 1173a of this title.".

ELIMINATION FROM ACTIVE STATUS OF NAVAL RESERVE AND MARINE CORPS RESERVE OFFICERS

SEC. 325. Section 6389, relating to the elimination from active status of Naval Reserve and Marine Corps Reserve officers, is amended—

(1) by striking out "subsection (a)" in the first sentence of subsection (b) and inserting in lieu thereof "subsection (a) or (f)";

(2) by striking out the second sentence of subsection (d) and inserting in lieu thereof the following: "Each other officer is considered to have for this purpose as much total commissioned service as the years of service computed under section 639 of this title of any regular officer on the active-duty list of the Navy not restricted in the performance of duty, or any regular officer on the active-duty list of the Marine Corps not restricted in the performance of duty, as appropriate, who has served continuously since original appointment as an ensign on active-duty in the Navy or as a second lieutenant on active-duty in the Marine Corps, has not lost numbers or precedence, and is, or has been after September 6, 1947, junior to that other officer."; and

(3) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) This section does not apply to women Reserve officers or to Reserve officers in the Nurse Corps.

"(f)(1) An officer in an active status in the Naval Reserve serving in the grade of commodore admiral shall be eliminated from active status if he is not on a list of officers recommended for promotion, has thirty years of total commissioned service, and has held the grade of commodore admiral for at least five years.

"(2) An officer in an active status in the Naval Reserve serving in the grade of rear admiral shall be eliminated from active status if he has thirty-five years of total commissioned service and has held the grade of rear admiral for at least five years.".

REPEAL OF PROVISION PROVIDING DIFFERENT TREATMENT FOR THE TERMINATION OF APPOINTMENTS HELD BY WOMEN OFFICERS IN THE REGULAR NAVY AND REGULAR MARINE CORPS

SEC. 326. Section 6393, relating to the termination of appointments of women officers in the Regular Navy and Regular Marine Corps, is repealed.

REMOVAL OF DISCRIMINATORY PROVISIONS RELATING TO THE ELIMINATION OF OFFICERS IN THE NURSE CORPS FROM ACTIVE STATUS IN THE NAVAL RESERVE

SEC. 327. Subsection (a) of section 6397, relating to the elimination of officers in the Nurse Corps from active status in the Naval Reserve, is amended to read as follows:

"(a) An officer of the Naval Reserve in any grade in the Nurse Corps may be eliminated from an active status under the conditions prescribed in this title for the separation from active duty of a regular officer in the same grade.".

RECALL AND RETIRED PAY OF RETIRED OFFICERS OF THE REGULAR NAVY AND REGULAR MARINE CORPS

SEC. 328. Section 6481, relating to authority to recall retired officers of the Regular Navy and Regular Marine Corps, and section 6487 of such title, relating to the retired pay of retired rear admirals, are repealed.

GRADE OF RETIRED MEMBERS

SEC. 329. Section 6483, relating to the grade of retired members when ordered to active duty, is amended by striking out subsection (a) and striking out the subsection designation "(b)" at the beginning of subsection V(b).

REMOVAL OF PROHIBITION ON WOMEN BEING ENLISTED AS AVIATION CADETS IN THE REGULAR NAVY AND MARINE CORPS

SEC. 330. Subsection (a) of section 6911, relating to the enlistment of aviation cadets, is amended by striking out "male" each time such word appears in the second sentence.

TITLE IV—AMENDMENTS TO TITLE 37, UNITED STATES CODE, RELATING TO PAY AND ALLOWANCES

PAY GRADE OF OFFICERS HOLDING CERTAIN POSITIONS IN THE NAVY

SEC. 401. (a) Section 202 of title 37, United States Code, relating to the pay grades of officers holding certain positions in the armed forces, is amended by striking out subsections (a) through (e) and (g) through (l) and by striking out the subsection designation "(f)" at the beginning of subsection (f).

(b) The catchline of section 202 of such title is amended to read as follows:

"§ 202. Pay grades: assignment to; rear admirals (upper half) of the Coast Guard".

COMPUTATION OF PAY; SERVICE CREDITABLE

SEC. 402. Section 205 of title 37, United States Code, relating to computation of basic pay, is amended—

(1) by inserting "and" at the end of clause (6) of subsection (a);

(2) by striking out clauses (7) and (8) of subsection (a) and redesignating clause (9) as clause (7);

(3) by striking out "clauses (2)-(9)" in the second sentence of subsection (a) and inserting in lieu thereof "clauses (2)-(7)";

(4) by striking out the second sentence of subsection (b); and

(5) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SUBSISTENCE ALLOWANCE FOR ENLISTED MEMBERS WHILE PERFORMING CERTAIN TRAVEL

SEC. 403. The third sentence of section 402 (b) of title 37, United States Code, relating to basic allowance for subsistence, is amended to read as follows: "An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from his designated post of duty, but not while being subsisted in kind at the expense of the United States.".

EFFECTIVE DATE FOR PAY AND ALLOWANCES IN CERTAIN CASES; REIMBURSEMENT OF EXPENSES IN CONNECTION WITH CERTAIN MESS OPERATIONS

SEC. 404. (a) Section 904 of title 37, United States Code, relating to effective date for pay and allowances for officers of the Navy and Marine Corps promoted under chapter 545 of title 10, United States Code, is repealed; and section 905 of such title, relating to effective date of pay and allowances for Navy and Marine Corps officers not covered under section 904 of title 18, United States Code, is repealed.

(b) Chapter 19 of title 37, United States Code, relating to administration of pay and allowances, is amended by adding at the end thereof the following new sections:

"§ 1010. Commissioned officers: promotion; effective date for pay and allowances

"An officer of a uniformed service who is promoted to a grade above second lieutenant or ensign is entitled to the pay and allowances of the grade to which promoted on the effective date of such promotion.

"§ 1011. Mess operation: reimbursement of expenses.

"At messes where meals are sold to officers, civilians, or enlisted members entitled to per diem pursuant to section 404(d)(2) of this title, the Secretary of Defense by regulations shall establish rates for such meals sufficient to provide reimbursement of operating expenses and food costs to the appropriations concerned, except that members of the uniformed services and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at a rate of not less than $2.50 per day. For the purposes of this section, payments for meals at the rates established hereunder may be made in cash or by deduction from the pay of enlisted members or civilian employees. Members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.".

TITLE V—TECHNICAL AND CONFORMING AMENDMENTS

AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE, RELATING TO GENERAL MILITARY LAW

SEC. 501. (a) Section 101 is amended—

(1) by inserting "(A)" after "(4)" in paragraph (4) and adding at the end thereof the following:

"(B) 'Military service' means the Army, Navy, Air Force, or Marine Corps."; and

(2) by striking out "duty on the active list," in paragraph (22).

(b) Section 123(a) is amended by striking out "3571,", "3847,", "5867,", "6397,", "8370,", "8571,", and "8847,".

(c) Subsection (a) of section 266 is amended by striking out "Each" at the beginning of such section and inserting in lieu thereof "Except as provided in section 6612(a)(3) of this title, each".

(d) The table of sections at the beginning of chapter 33 is amended by inserting immediately below the item relating to section 541 the following new items:

"542. Commissioned officers: original appointment; how made.
"543. Commissioned officers: original appointment; qualifications.
"544. Commissioned officers: original appointment; service credit.".

(e) Subsection (a) of section 593 is amended—

(1) by striking out ", except commissioned warrant officer," in the first sentence; and

(2) by striking out "3352 or 8352" in the second sentence and inserting in lieu thereof "624, 3352, or 8352".

(f) The table of sections at the beginning of chapter 39 is amended by striking out the item relating to section 687 and inserting in lieu thereof the following:

"687. Regular components: retired members.
"688. Reserve commissioned officers: grade in which ordered to active duty.".

(g) The table of sections at the beginning of chapter 43 is amended—

(1) by striking out the item relating to section 741 and inserting in lieu thereof the following:

"741. Rank: commissioned officers of the military services.";

and

(2) by adding at the end thereof the following new item:

"750. Command: retired officers.".

(h) Section 743 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(i) Subsection (b) of section 973 is amended—

(1) by inserting "regular" before "officer" in the first sentence; and

(2) by striking out "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard" and inserting in lieu thereof "of an armed force".

(j) Subsection (d) of section 1079 is amended—

(1) by striking out ", (C),"; and

(2) by striking out "(E)" and inserting in lieu thereof "(D)".

(k) Subsection (c) of section 1086 is amended by striking out "(F)" in clauses (1) and (2) and inserting in lieu thereof "(E)".

(l) The table of sections at the beginning of chapter 59 is amended—

(1) by striking out the item relating to section 1167; and

(2) by adding at the end thereof the following new item:

"1173a. Members: separation pay upon involuntary discharge or release from active duty.".

(m) Clause (1) of section 1208(a) is amended by striking out "or mandatory elimination from the active list" and inserting in lieu thereof ", discharge, or retirement for length of service".

(n)(1) Clause (1) of section 1211(a) is amended by striking out "active list of his regular component" and inserting in lieu thereof "active-duty list".

(2) Clause (2) of section 1211(b) is amended to read as follows:

"(2) if a warrant officer of a regular component, be recalled to active duty and, as soon as practicable, be reappointed by the Secretary concerned in the regular grade held by him when his name was placed on the temporary disability retired list, or in the next higher regular warrant officer grade;".

(o) The table of sections at the beginning of chapter 63 is amended by inserting immediately below the item relating to section 1263 the following new item:

"1264. Age 62: regular commissioned officers: exceptions.".

(p) The table of sections at the beginning of chapter 69 is amended by inserting above the item relating to section 1371 the following new item:

"1370. Commissioned officers: retired grade; general rule.".

(q) The table contained in section 1401 is amended by striking out "1255" in the column labeled "For sections".

(r) Clause (2) of section 2126 is amended by striking out ", other than subsection (a) (7) and (8), of title 37".

(s) The table of chapters at the beginning of subtitle A and the table of chapters at the beginning of part II of subtitle A are each amended—

(1) by inserting

"30. Officer Strength and Distribution in Grade........................ 451"

immediately above the item relating to chapter 31;

(2) by inserting immediately below the item relating to chapter 35 the following new items:

"35A. Temporary Appointments....... 605

"36. Promotion, Separation, and Retirement of Officers on the Active-duty List: Second Lieutenants and Ensigns Through Major General and Rear Admiral .... 611";

and

(3) by adding immediately below the item relating to chapter 59 the following new item:

"60. Separation of Regular Officers for Various Reasons................ 1181".

AMENDMENTS TO SUBTITLES B AND D OF TITLE 10, UNITED STATES CODE, RELATING TO THE ARMY AND AIR FORCE

SEC. 502. (a)(1) Subsection (b) of section 3034 is amended to read as follows:

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade.".

(2) Section 3036 is amended—

(A) by striking out "(3) Judge Advocate General." in subsection (a);

(B) by redesignating clause (4) as clause (3); and

(C) by striking out ", except the Judge Advocate General," in subsection (b) and by striking out the last sentence of such subsection.

(b) Subsection (b) of section 8034(b) is amended to read as follows:

"(b) The Chief of Staff, while so serving, as the grade general without vacating his regular or reserve grade.".

(c) Chapter 307 is amended by striking out section 3066 and by striking out the item relating to such section in the table of sections at the beginning of such chapter.

(d)(1) Chapter 807 is amended by striking out section 9066 and by striking out the item relating to such section in the table of sections at the beginning of such chapter.

(2) Subsection (e) of section 8062 is amended by striking out "and chapter 831" and inserting in lieu thereof ", chapter 831, and section 138".

(3) Subsection (a) of section 8067 is amended by striking out "in conformity with section 8289 or 8294 of this title,".

(4) Subsection (e) of section 8067 is amended by striking out "in conformity with section of this title,".

(e)(1) Chapter 331 is amended by striking out sections 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3209, 3210, 3211, 3213, 3214, and 3216 and by striking out the items relating to such sections and section 3230 in the table of sections at the beginning of such chapter.

(2) The first sentence of section 3212 is amended to read as follows: "The authorized strength in any reserve grade, as prescribed under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment in that grade under section 1211(a), 3036, 3365(a), or 3366 of this title.".

(3) Sections 3222 and 3225 are each amended by striking out "of 887,000" and "in section 3201(a) of this title".

(f)(1) Chapter 831 is amended by striking out sections 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8213, 8214, and 8215 and by striking out the items relating to such sections and section 8230 in the table of sections at the beginning of such chapter.

(2) The first sentence of section 8212 is amended to read as follows: "The authorized strength in any reserve grade, as prescribed under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 8365 (a) and (c), 8366 (a) and (d), 8375, 8376, 8380, or 8381 of this title.".

(3) Sections 8222 and 8225 are each amended by striking out "of 502,000" and "in section 8201(a) of this title".

(g) Chapter 335 is amended by striking out sections 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3299, 3300, 3302, 3303, 3305, 3306, 3307, 3308, 3309, 3312, 3313, and 3314 and by striking out the items relating to such sections in the table of sections at the beginning of such chapter.

(h) Chapter 835 is amended by striking out sections 8284, 8285, 8286, 8287, 8288, 8289, 8293, 8294, 8295, 8296, 8297, 8298, 8299, 8300, 8301, 8302, 8303, 8305, 8306, 8307, 8308, 8309, 8312, 8313, and 8314 and by striking out the items relating to such sections in the table of sections at the beginning of such chapter.

(i) The table of sections at the beginning of chapter 337 is amended—

(1) by striking out the item relating to section 3353 and inserting in lieu thereof the following:

"3353. Commissioned officers: service credit upon original appointment.";

and

(2) by adding at the end thereof the following new item:

"3396. Exclusion of certain officers.".

(j) The table of sections at the beginning of chapter 837 is amended—

(1) by striking out the item relating to section 8353 and inserting in lieu thereof the following:

"8353. Commissioned officers: service credit upon original appointment.";

and

(2) by adding at the end thereof a new item as follows:

"8396. Exclusion of certain officers.".

(k) Clause (1) of section 3360(b) is amended by striking out "or on the active list" and inserting in lieu thereof "as a Regular officer".

(l) Chapter 339 is amended by striking out sections 3441, 3442, 3444, 3445, 3447, 3451, and 3452 and by striking out the items relating to such sections and sections 3448 and 3449 in the table of sections at the beginning of such chapter.

(m) Chapter 839 is amended by striking out sections 8441, 8442, 8444, 8445, 8447, 8451, and 8452 and by striking out the items relating to such sections and sections 8448 and 8449 in the table of sections at the beginning of such chapter.

(n) Chapter 341 is amended by striking out section 3504 and by striking out the item relating to sections 3494 and 3504 in the table of sections at the beginning of such chapter.

(o) Chapter 841 is amended by striking out section 8504 and by striking out the item relating to sections 8494 and 8504 in the table of sections at the beginning of such chapter.

(p) The table of sections at the beginning of chapter 343 is amended by striking out the items relating to section 3532 and 3535.

(q) Chapter 345 is amended by striking out sections 3571, 3573, 3574, and 3582 and by striking out the items relating to such sections in the table of sections at the beginning of such chapter.

(r) Chapter 845 is amended by striking out sections 8571, 8573, 8574, and 8582 and by striking out the items relating to such sections in the table of sections at the beginning of such chapter.

(s) Chapters 359 and 360 are repealed.

(t) Chapters 859 and 860 are repealed.

(u) Chapter 361 is amended by striking out section 3814 and by striking out the item relating to sections 3814 and 3818 in the table of sections at the beginning of such chapter.

(v) Chapter 861 is amended by striking out section 8814 and by striking out the item relating to sections 8814 and 8818 in the table of sections at the beginning of such chapter.

(w) Chapter 365 is repealed.

(x) Chapter 865 is repealed.

(y)(1) Chapter 367 is amended by striking out sections 3913, 3916, 3919, 3921, 3923, and 3927 and by striking out the items relating to such section in the table of sections at the beginning of such chapter.

(2) Subsection (a) of section 3924 is amended by striking out "3786" and inserting in lieu thereof "1187".

(z)(1) Chapter 867 is amended by striking out sections 8913, 8915, 8916, 8919, 8921, 8922, 8923, and 8927 and by striking out the items relating to such sections in the table of sections at the beginning of such chapter.

(2) Subsection (a) of section 8924 is amended by striking out "8786" and inserting in lieu thereof "1187".

(3)(A) Section 3961 is amended by striking out "Unless" at the beginning of such section and inserting in lieu thereof "Except as provided in section 1370 of this title and unless".

(B) Section 3963 is amended by striking out subsection (a) and by striking out the subsection designation "(b)" at the beginning of subsection (b).

(aa) The table of chapters at the beginning of subtitle B and at the beginning of part II of such subtitle are each amended by striking out items relating to chapters 359, 360, and 365.

(bb) The table of chapters at the beginning of subtitle D and at the beginning of part II of such subtitle are each amended by striking out the items relating to chapters 859, 860, and 865.

(cc) Section 8961 is amended by striking out "Unless" at the beginning of such section and inserting in lieu thereof "Except as provided in section 1370 of this title and unless".

(dd) Section 8963 is amended by striking out subsection (a) and by striking out the subsection designation "(b)" at the beginning of subsection (b).

(ee) The first sentence of section 4301(b) is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(ff) The first sentence of section 9301(b) is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(gg) (1) The table of sections at the beginning of chapter 403 is amended by striking out "and commission" in the item relating to section 4353.

(2) Subsection (d) of section 4333 is amended by striking out "regular or temporary" and by striking out "applicable promotion list" and inserting in lieu thereof "active-duty list".

(3) Section 4336 is amended—

(A) by striking out "a promotion list officer" in subsections (a) and (b) and inserting in lieu thereof "a regular officer"; and

(B) by inserting "or active-duty list" after "on the promotion list" in subsections (a) and (b).

(4) Section 4353, relating to the degree of commission upon graduation of a United States Military Academy cadet, is amended—

(A) by striking out "and commission" in the catchline of such section;

(B) by striking out the subsection designation "(a)" at the beginning of subsection (a); and

(C) by striking out subsection (b).

(hh) (1) The table of sections at the beginning of chapter 903 is amended by striking out "and commission" in the item relating to section 9353.

(2) Section 9336 is amended—

(A) by striking out "a promotion list officer" in subsections (a) and (b) and inserting in lieu thereof "a regular officer"; and

(B) by inserting "or active-duty list" after "on the promotion list" in subsections (a) and (b).

(3) Section 9353, relating to the degree and commission of a United States Air Force Academy cadet, is amended—

(A) by striking out "and commission" in the catchline of such section:

(B) by striking out the subsection designation "(a)" at the beginning of subsection (a); and

(C) by striking out subsection (b).

AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE, RELATING TO THE NAVY

SEC. 503. (a) Subsection (a) of section 5064 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(b)(1) Subsection (a) of section 5081 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(2) Section 5085 is amended—

(A) by striking out "active list" in subsection (a) and inserting in lieu thereof "active-duty list"; and

(B) by striking out subsection (d).

(3) Section 5086 is amended—

(A) by striking out in subsection (a) "active list" and inserting in lieu thereof "active-duty list"; and

(B) by striking out subsection (c).

(4) Subsection (a) of section 5087 is amended by striking out "active list" each time it appears and inserting in lieu thereof "active-duty list".

(5) Section 5088 is amended—

(A) by striking out "active list" in subsection (a) and inserting in lieu thereof "active-duty list"; and

(B) by striking out subsection (d).

(c)(1) The table of sections at the beginning of chapter 513 is amended by striking out the item relating to sections 5134 and 5143.

(2)(A) Subsection (a) of section 5133 is amended to read as follows:

"(a) Unless otherwise appointed to a higher grade under another provision of law, an officer of the Navy while serving as a chief of bureau or Judge Advocate General has the rank of rear admiral. Unless otherwise appointed to a higher grade under another provision of law, an officer of the Marine Corps while serving as Judge Advocate General has the rank of major general.".

(B) Subsection (b) of section 5133 is amended—

(i) by striking out the second sentence; and

(ii) by inserting "or active-duty list" after "active list" in the last sentence.

(3) Section 5137 is amended by striking out "active list" each time it appears and inserting in lieu thereof "active-duty list".

(4) Subsection (a) of section 5139 is amended by striking out "active list" in the first sentence and inserting in lieu thereof "active-duty list".

(5) Subsection (a) of section 5140 is amended by striking out "active list" in the first sentence and inserting in lieu thereof "active duty list".

(6) The second sentence of subsection (a) of section 5141 and the second sentence of subsection (b) of such section are amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(7) Section 5142 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(8) Section 5150 is amended by striking out in subsections (b) and (d) "active list" and inserting in lieu thereof "active-duty list".

(d)(1) The table of sections at the beginning of chapter 515 is amended—

(A) by striking out "pay;" in the item relating to section 5202; and

(B) by striking out the item relating to section 5206.

(2) Subsection (a) of section 5201 is amended by striking out "active list" in the first sentence and inserting in lieu thereof "active-duty list".

(3) The catchline of section 5202 is amended by striking out "pay;".

(4) Subsection (a) of section 5202 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(e) The table of chapters at the beginning or subtitle C and at the beginning of part I of such subtitle are each amended by striking out the item relating to chapter 517.

(f) Chapter 531 is amended by striking out sections 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5412, 5415, and 5417 and by striking out in the table of sections at the beginning of such chapter the items relating to such sections and section 5416.

(g) Chapter 533 is amended by striking out sections 5441, 5442, 5443, 5444, 5445, 5446, 5447, 5448, 5449, 5450, 5451, 5454, and 5455 and by striking out in the table of sections at the beginning of such chapter the items relating to such sections and section 5452.

(h)(1) The table of sections at the beginning of chapter 535 is amended by striking out the items relating to sections 5504, 5505, and 5507.

(2)(A) Section 5501 is amended—

(i) by striking out the subsection designation "(a)" at the beginning of subsection (a);

(ii) by redesignating clauses (4) through (9) of subsection (a) as clauses (5) through (10), respectively;

(iii) by inserting after clause (3) a new clause (4) as follows:

"(4) Commodore admiral."; and

(iv) by striking out subsections (b) and (c).

(B) Sections 5504 and 5505 are repealed.

(3) Section 5506 is amended—

(A) by striking out "Officers" in the first sentence and inserting in lieu thereof "Subject to section 741, officers"; and

(B) by striking out "When" in the second sentence and inserting in lieu thereof "Subject to section 741, when".

(4) Section 5508 is amended—

(A) by striking out "a lineal" in the first sentence of subsection (a) and inserting in lieu thereof "an active-duty" and by striking out the last sentence of such subsection;

(B) by striking out the subsection designation (a) at the beginning of such subsection; and

(C) by striking out subsection (b).

(i)(1) The table of sections at the beginning of chapter 539 is amended by striking out the items relating to sections 5571, 5572, 5573, 5573a, 5574, 5575, 5576, 5577, 5578, 5578a, 5579, 5580, 5581, 5583, 5584, 5585, 5586, 5590, 5591, 5592, 5593, 5594, 5595, 5596, 5597, 5598, 5599, and 5601.

(2) Subsection (b) of section 5587 is amended by striking out "any officer on the active list" and inserting in lieu thereof "a regular officer".

(3) Section 5587a is amended—

(A) by inserting "regular" before "officer" and striking out "active list" and inserting in lieu thereof "active-duty list" in subsection (a);

(B) by striking out the subsection designation "(a)" at the beginning of subsection (a); and

(C) by striking out subsection (b).

(4) Sections 5571, 5572, 5573, 5573a, 5574, 5575, 5576, 5577, 5578, 5578a, 5579, 5580, 5583, 5584, 5586, 5596, 5597, and 5599 are repealed.

(j) Chapter 541 is amended by striking out sections 5651, 5652, 5652a, 5652b, 5652c, 5653, 5654, 5655, 5656, 5657, 5658, 5659, 5660, 5661, 5662, 5663, 5664, and 5666 and by striking out in the table of sections at the beginning of such chapter the items relating to such sections.

(k) Chapters 543 and 545 are repealed, and the table of chapters at the beginning of subtitle C and at the beginning of part II of such subtitle are amended by striking out the items relating to chapters 543, 545, and 547.

(l)(1) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5907.

(2) Section 5891 is amended—

(A) by striking out "(c), (d), and (e), a reserve officer who is on the lineal list maintained under section 5504" in subsection (b) and inserting in lieu thereof "(c) and (d), a reserve officer who is on the active-duty list maintained under section 620";

(B) by striking out subsections (c) and (g) and redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively; and

(C) by striking out "chapter 543" in subsections (d) and (e), as redesignated by clause (2), and inserting in lieu thereof "chapter 36", and by striking out "the lineal list" and "a lineal list" wherever they appear in such subsections and inserting in lieu thereof "the active-duty list".

(3) The fourth sentence of section 5892 is amended by striking out "prescribed for line and staff corps officers on the active list of the Navy" and inserting in lieu thereof "established by the Secretary for regular line

and staff corps officers on the active-duty list under other provisions of this title".

(4) Section 5896 is amended by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" wherever it appears therein.

(5) Section 5897 is amended by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" wherever it appears therein.

(6) Subsection (b) of section 5898 is amended by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title".

(7) Section 5899 is amended—

(A) by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" wherever it appears therein;

(B) by striking out "section 5764" in subsections (a) and (c) and inserting in lieu thereof "chapter 36";

(C) by inserting "or above" after "captain" in the second sentence of subsection (a);

(D) by striking out "section 5765" in subsections (b) and (d) and inserting in lieu thereof "chapter 36";

(E) by striking out "lineal list" in subsections (b) and (e) and inserting in lieu thereof "active-duty list";

(F) by striking out "section 5702" in subsection (e) and inserting in lieu thereof "chapter 36"; and

(G) by striking out "chapter 543" in subsection (f) and inserting in lieu thereof "chapter 36".

(8) Section 5901 is amended by striking out subsection (c).

(9) Subsections (b) and (c) of section 5902 are amended by striking out "chapter 545" and inserting in lieu thereof "chapter 36".

(10) Section 5906 is amended by striking out "chapter 543" and inserting in lieu thereof "chapter 36".

(11) The second sentence of subsection (a) of section 5910 and the second sentence of subsection (b) of such section are amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(m) The table of sections at the beginning of chapter 551 is amended by striking out the item relating to section 5955.

(n) The table of sections at the beginning of chapter 553 is amended by striking out the item relating to section 5982.

(o)(1) The table of sections at the beginning of chapter 555 is amended by striking out the item relating to section 6018.

(2) Section 6015 is amended by striking out "appointed under section 5590 of this title".

(p) The table of sections at the beginning of chapter 569 is amended by striking out the item relating to section 6294.

(q) Subsection (c) of section 6323 is amended by striking out "Unless" and inserting in lieu thereof "Except as provided in section 1370 and unless".

(r) Subsection (a) of section 6325 is amended by inserting "of this section or section 1370" after "subsection (b)".

(s)(1) Sections 6371, 6372, 6373, 6374, 6376, 6377, 6378, 6379, 6380, 6381, 6382, 6384, 6385, 6386, 6387, 6388, 6390, 6392, 6393, 6394, 6395, 6396, 6398, 6400, 6401, 6402, and 6407 are repealed.

(2) The table of sections at the beginning of chapter 573 is amended—

(A) by striking out the items relating to the sections referred to in paragraph (1);

(B) by striking out "or severence" in the item relating to section 6383; and

(C) by striking out "severance" in the item relating to section 6404 and inserting in lieu thereof "separation".

(3) Subsection (a) of section 6383 is amended by striking out "Each officer designated for limited duty on the active list of the Navy or the Marine Corps" and inserting in lieu thereof "Each regular officer of the Navy or Marine Corps designated for limited duty".

(4) Section 6403 is amended—

(A) by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" in subsection (a);

(B) by inserting "or chapter 36" after "this chapter" in subsections (a) and (b);

(C) by inserting "regular" after "woman line" in subsection (a); and

(D) by striking out "active list" in subsections (a) and (b) and inserting in lieu thereof "active-duty list".

(5) Section 6404 is amended by striking out "lump-sum payments" and inserting in lieu thereof "separation pay".

(6) The catchline of section 6404 is amended by striking out "severance" and inserting in lieu thereof "separation".

(t) Section 6488 is repealed and the table of sections at the beginning of chapter 575 is amended by striking out the items relating to sections 6481, 6487, and 6488.

(u) Sections 6909 and 6914 are repealed and the table of sections at the beginning of chapter 601 is amended by striking out the items relating to such sections.

(v) Subsection (a) of section 7042 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

AMENDMENTS TO TITLE 14, UNITED STATES CODE RELATING TO THE COAST GUARD

SEC. 504. (a)(1) Chapter 11 of title 14, United States Code, is amended by adding a new section as follows:

"§ 286a. Regular warrant officers; severance pay

"(a) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 564(a)(3) of title 10 is computed by multiplying his years of active service creditable to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by twice the monthly basic pay to which he is entitled at the time of separation.

"(b) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10 is computed by multiplying his years of active service creditable to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by the monthly basic pay to which he is entitled at the time of separation.

"(c) For the purposes of this section, a part of the year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

"(d) The acceptance of severance pay under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received severance pay under this section, until the total deductions equal the amount of such severance pay. However, no person is entitled to severance pay under this section in an amount that is more than $15,000.".

(2) The table of sections at the beginning of chapter 11 of such title is amended by inserting immediately below the item relating to section 286 a new item as follows:

"286a. Regular warrant officers: severance pay.".

AMENDMENT TO TITLE 32, UNITED STATES CODE, RELATING TO THE NATIONAL GUARD

SEC. 505. Paragraph (12) of section 101 of title 32, United States Code, is amended by striking out "duty on the active list".

AMENDMENTS TO TITLE 37, UNITED STATES CODE, RELATING TO THE PAY AND ALLOWANCES OF MEMBERS OF THE UNIFORMED SERVICES

SEC. 506. (a) Section 101(18) of title 37, United States Code, is amended by striking out "duty on the active list,".

(b) The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 202 and inserting in lieu thereof the following:

"202. Pay grades: assignment to; rear admirals (upper half) of the Coast Guard.".

(c) The table contained in section 201(a) of such title is amended—

(1) by striking out "Environmental Science Service Administration" in the heading of the third column and inserting in lieu thereof "National Oceanic and Atmospheric Administration";

(2) by striking out "Rear admiral (upper half)" in the third column and inserting in lieu thereof "Rear admiral (Navy) and rear admiral (upper half) (Coast Guard and National Oceanic and Atmospheric Administration)"; and

(3) by striking out "Rear admiral (lower half) and commodore" in the third column and inserting in lieu thereof "Commodore admiral (Navy and rear admiral (lower half) and commodore (Coast Guard and National Oceanic and Atmospheric Administration)".

(d) Subsection (a) of section 204 of such title is amended by striking out "Except for members covered by section 202(1) of this title, the" and inserting in lieu thereof "The".

(e) Section 302, section 302a(b), 302b, 303 (b), are amended by inserting ", separation pay," before "or severance pay".

(f) Section 406 of such title is amended—

(1) by inserting "separation pay or" before "severance pay" in subsections (d)(2) and (g)(2); and

(2) by inserting "separation pay or" before "readjustment pay" in subsections (d) (2) and (g)(2).

(g) Section 415 of such title is amended—

(1) by striking out "a reserve" in the first sentence of subsection (a) and inserting in lieu thereof "an";

(2) by striking out in subsection (a) ", an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10";

(3) by striking out subsections (c) and (e); and

(4) by redesignating subsection (d) as subsection (c).

(h) The table of sections at the beginning of chapter 17 of such title is amended by striking out the items relating to sections 904 and 905.

(i) The table of sections at the beginning of chapter 19 of such title is amended by adding at the end thereof the following new items:

"1010. Commissioned officers: promotion; effective date for pay and allowances.
"1011. Mess operations: reimbursement of expenses.".

AMENDMENT TO THE ACT OF MARCH 31, 1947 (OFFICE OF SELECTIVE SERVICE RECORDS)

SEC. 507. Subsection (d) of section 6 of the Act of March 31, 1947, chapter 26 (50 U.S.C. App. 326(d)), is amended—

(1) by striking out "on the active or retired list of the Army, Navy, Marine Corps, or Coast Guard, or of any Reserve component thereof,"; and

(2) by striking out "in the Army, Navy, Marine Corps, or Coast Guard or any Reserve component thereof, or as such officer or employee in any department or agency of the United States" and inserting in lieu thereof "or employee".

AMENDMENT TO THE MILITARY SELECTIVE SERVICE ACT

SEC. 508. Clause (4) of section 10(b) of the Military Selective Service Act (50 U.S.C. App. 460(b)(4)) is amended—

(1) by striking out "on the active or retired list of the armed forces, or any reserve component thereof with his consent,"; and

(2) by striking out "as such officer in the armed forces or reserve component thereof, or" and "in any department or agency of the United States".

TITLE VI—TRANSITION AND EFFECTIVE DATE PROVISIONS

GRADE AND PROMOTION STATUS OF ARMY AND AIR FORCE OFFICERS

SEC. 601. Notwithstanding any other provision of law—

(1) Except as provided in paragraphs (3), (5), (6), (7), and (8), a regular or reserve officer of the Army or Air Force subject to placement on an active-duty list who, on the effective date of this Act—

(A) is serving on active duty in a temporary grade below major general and such grade is equal to or higher than his permanent grade; or

(B) is on an approved list of officers who have been recommended for promotion, but has not been promoted, to a temporary grade below major general and such grade is equal to or higher than his permanent grade;

is considered to be recommended for promotion by a board convened under section 611 (a) of title 10, United States Code, as added by this Act, to a permanent grade equivalent to the grade in which he is serving or for which he was recommended, as the case may be.

(2) The date of rank of an officer promoted under authority of paragraph (1) is the date on which such officer is promoted unless, on the day before his promotion, such officer was serving in a temporary grade equivalent to the permanent grade to which he is promoted, in which event the date of rank is the date of his temporary grade.

(3) A reserve officer of the Army or Air Force subject to placement on an active duty list who, on the effective date of this Act, holds a reserve grade higher than the temporary grade in which he is serving on such date, may, if he is recommended for promotion under chapter 36 of title 10, United States Code, as added by this Act, to a temporary grade equal to or lower than his reserve grade, be appointed by the President, by and with the advice and consent of the Senate, to such temporary grade.

(4) A regular officer of the Army or Air Force who, on the day before the effective date of this Act, was on a recommended list for promotion to a regular grade higher than the grade in which he was serving on that day, is considered to have been recommended for promotion to such regular grade in an approved report of a board convened under section 611(a) of title 10, United States Code, as added by this Act.

(5)(A) An officer of the Army or Air Force who, on the effective date of this Act, holds the regular grade of first lieutenant, captain, or major and who has been considered only once, but has not been recommended for promotion to the next higher regular grade by a duly convened selection board shall, within one year after the effective date of this Act, be considered again by a selection board convened by the Secretary concerned for promotion to the next higher regular grade.

(B) If an officer described in subparagraph (A) is recommended by the selection board which again considers him for promotion, he is considered as having been recommended for promotion to the next higher regular grade or the grade in which he is serving, whichever grade is higher, by a board convened under section 611(a) of title 10, United States Code, as added by this Act. However, if such officer is not recommended for promotion by such board, he shall, unless continued on active duty under amendments made by this Act, be retired or discharged, as appropriate, under laws in effect on the day before the effective date of this Act (except as provided in section 603(3)).

(6) An officer of the Army or Air Force who, on the effective date of this Act, has the regular grade of first lieutenant, captain, or major and has twice failed of selection for promotion to the next higher regular grade, shall, unless continued on active duty under amendments made by this Act, be retired or discharged, as appropriate, under laws in effect on the day before the effective date of this Act (except as provided in section 603(3)).

(7)(A) A reserve officer of the Army or Air Force subject to placement on the active-duty list who, on the effective date of this Act, is serving on active duty and who has been considered only once, but not selected for promotion to the reserve grade of captain, major, or lieutenant colonel under section 3366, 3367, or 8866, as appropriate, of title 10, United States Code, shall, unless sooner promoted, be considered again for promotion to that grade by a selection board convened under section 3366, 3367, or 8866, as appropriate, of such title.

(B) If an officer described in subparagraph (A) is recommended for promotion by the selection board which again considers him for promotion, he shall be considered as having been recommended for promotion to the next higher reserve grade or a reserve grade equivalent to the temporary grade in which he is serving on the effective date of this Act, whichever is higher. However, if such officer is not recommended for promotion by such board, he shall (except as provided in section 603(3)) be governed by section 3846 or 8846, as appropriate, of title 10, United States Code.

(8) An officer of the Army or Air Force who, on the effective date of this Act, is serving on active duty and is considered to have twice failed of selection for promotion to the reserve grade of captain, major, or lieutenant colonel shall be retired or discharged, as appropriate, under the laws in effect on the day before the effective date of this Act (except as provided in section 603 (3)).

(9)(A) A regular or reserve officer of the Army or Air Force subject to placement on the active-duty list who, on the date before the effective date of this Act—

(i) was serving on active duty in a grade above brigadier general or was on a list of officers recommended for promotion, but not promoted to such grade;

(ii) held a permanent grade below major general; and

(iii) had not, at any time, been recommended for promotion to the regular or reserve grade of major general in an approved report of a selection board;

shall, within one year after the effective date of this Act, be considered for promotion to the permanent grade of major general by a special selection board convened by the Secretary concerned. An officer recommended for promotion by such board shall be considered as having been recommended by a board convened under section 611(a) of title 10, United States Code, as added by this Act.

(B) An officer described in subparagraph (A) who is not recommended for promotion by a special selection board convened under such subparagraph shall, if he holds a permanent grade below brigadier general, be considered to have been recommended for promotion to the permanent grade of brigadier general by a board convened under section 611(a) of title 10, United States Code, as added by this Act.

(C) The date of rank in the permanent grade of any officer recommended for promotion under this paragraph shall be determined by the Secretary concerned.

GRADE AND PROMOTION STATUS OF NAVY AND MARINE CORPS OFFICERS

SEC. 602. Notwithstanding any other provision of law—

(1) An officer of the Navy or Marine Corps who is subject to placement on the active-duty list and who, on the effective date of this Act, is on a promotion list to a grade below vice admiral or lieutenant general or is serving in a temporary grade below vice admiral or lieutenant general and such grade is higher than his permanent grade, is considered to have been recommended for promotion in an approved report of a board convened under section 611(a) of title 10, United States Code, as added by this Act, to a permanent grade equivalent to the grade in which he is serving on such date or for which he has been recommended for promotion, as appropriate. This paragraph does not apply to an officer—

(A) serving in a temporary grade which, by its own terms, is limited in duration;

(B) designated for limited duty in a grade to which he was appointed under section 5596 of title 10, United States Code, before the repeal of such section; or

(C) recommended for promotion or promoted to a grade under section 5787 of such title, as in effect before the effective date of this Act.

(2) An officer of the Navy or Marine Corps who, on the effective date of this Act, is considered to have failed of selection for promotion one or more times to a grade below captain (Navy) or colonel is subject to the amendments made by this Act as if such failure or failures had occurred after the effective date of this Act.

COMMON PROVISIONS FOR RETIREMENT, DISCHARGE, AND RELEASE FROM ACTIVE DUTY

SEC. 603. Notwithstanding any other provision of law—

(1) An officer of a military service who is serving under a temporary appointment on the day before the effective date of this Act, who has a permanent status as an enlisted member or a warrant officer, and who on the effective date of this Act—

(A) has not completed ten years of commissioned service for retirement eligibility under section 3911, 6323, or 8911 of title 10, United States Code; and

(B) becomes eligible for retirement under any other provision of law;

is entitled to retire in the highest permanent grade he held as an enlisted member or warrant officer, as the case may be, prior to the effective date of this Act.

(2) An officer of a military service who was recommended for continuation on the active list under Public Law 86-155 (73 Stat. 333) or section 10 of Public Law 86-616 (74 Stat. 395) shall not be subject to the selective early retirement provisions of section 637 of title 10, United States Code, as added by this Act.

(3) A member of an armed force who is on active duty on the day before the effective date of this Act and who is discharged or released from such duty on or after such date, may, if eligible therefor, elect to receive—

(A) readjustment pay or severance (lump-sum) pay under laws in effect before the effective date of this Act; or

(B) separation pay under section 1173a of title 10, United States Code, as added by this Act.

RETIREMENT PROVISIONS FOR ARMY AND AIR FORCE OFFICERS

SEC. 604. Notwithstanding any other provision of law—

(1) An officer of the Army or Air Force who, on the day before the effective date of this Act, held the regular grade of major or

was on a recommended list for promotion to such grade, shall be retired on the first day of the month in which such officer completes twenty-one years of service computed under section 3927(a) or 8927(a), as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act, unless such officer is—

(A) sooner retired or separated under another provision of law;

(B) promoted to a higher regular grade; or

(C) continued on active duty under amendments made by this Act.

(2) An officer of the Army or Air Force who, on the day before the effective date of this Act, held the regular grade of colonel or was on a recommended list for promotion to such grade, shall be retired on the date provided by laws in effect on the day before the effective date of this Act, unless such officer is—

(A) sooner retired or separated under another provision of law;

(B) promoted to a higher regular grade; or

(C) continued on active duty under amendments made by this Act.

(3) An officer of the Army or Air Force who is serving on active duty on the effective date of this Act and whose retirement has been deferred or suspended before that date may continue to serve on active duty in a deferred or suspended status for the period of such deferral or suspension.

RETIREMENT AND DISCHARGE PROVISIONS FOR NAVY AND MARINE CORPS OFFICERS

SEC. 605. Notwithstanding any other provision of law—

(1) An officer who, on the day before the effective date of this Act, held the regular grade of captain, commander, or lieutenant commander in the Navy, or the regular grade of colonel, lieutenant colonel, or major in the Marine Corps, or was on a promotion list to any such grade, shall be retired on the date provided under laws in effect on the day before the effective date of this Act, unless such officer is—

(A) sooner retired or separated under another provision of law;

(B) promoted to a higher regular grade; or

(C) continued on active duty under amendments made by this Act.

(2) An officer of the Navy who, on the effective date of this Act, holds the regular grade of rear admiral or is on a promotion list to such grade shall be continued on active duty or retired under laws in effect on the day before the effective date of this Act.

(3) An officer of the Marine Corps who, on the effective date of this Act, holds the regular grade of brigadier general or is on a promotion list to such grade shall be retired under laws in effect on the day before the effective date of this Act.

(4) An officer of the Navy who, on the effective date of this Act, holds or is on a promotion list to the reserve grade of rear admiral is not subject to section 6389(f) of title 10, United States Code, as added by this Act.

(5) Unless promoted to a higher regular grade under chapter 36 of title 10, United States Code, as added by this Act, a regular officer of the Navy or Marine Corps designated for limited duty before the effective date of this Act is subject to section 6383 of such title, as in effect on the day before the effective date of this Act.

(6) A regular officer of the Navy or Marine Corps who was subject to section 6396, 6401, or 6402, as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act, and who, after such date, would be subject to discharge under section 631 or 632 of such title, as added by this Act, may, if otherwise eligible, elect to be discharged under section 6396, 6401, or 6402, as appropriate, as in effect on the day before the effective date of this Act.

(7) Except as provided in section 637 of title 10, United States Code, as added by this Act, an officer of the Navy or Marine Corps appointed under section 5590 of such title, as in effect on the day before the effective date of this Act, who was not twice failed of selection for promotion prior to such effective date, and who is not selected for promotion to a higher regular grade after such effective date, may not be retired earlier than such officer would have been retired had this Act not been enacted.

PLACEMENT ON THE ACTIVE-DUTY LIST

SEC. 606. Not later than six months after the effective date of this Act, each officer of a military service who is required to be placed on an active-duty list under chapter 36 of title 10, United States Code, as added by this Act, shall be placed on such list with the same relative seniority such officer held on the day before the effective date of this Act. Such placement shall be considered to have been made on the effective date of this Act.

UNIFORM, PAY GRADE, RANK, AND TITLE OF CERTAIN REAR ADMIRALS

SEC. 607. (a) An officer who, on the day before the effective date of this Act, was serving in the grade of rear admiral and who, on that day, was entitled to the pay of a rear admiral of the upper half or of the lower half shall be considered after such date as serving in the grade of rear admiral or commodore admiral, as appropriate, except that in either case such officer's title shall be rear admiral. An officer who, on the day before the effective date of this Act, was on a promotion list to the grade of rear admiral shall, upon promotion, be considered as serving in the grade of commodore admiral, except that such officer's title shall be rear admiral.

(b) An officer who, on the day before the effective date of this Act—

(1) was serving on active duty in the grade of rear admiral and entitled to the basic pay of a rear admiral of the lower half; or

(2) was on a promotion list to rear admiral and is promoted to that grade after such effective date;

is entitled to wear the uniform and insignia of a rear admiral. For the purpose of computing basic pay, such officer shall be assigned the pay grade he would have been assigned under applicable provisions of law in effect on the day before the effective date of this act.

(c) Except as otherwise provided by law, an officer of the Navy who, on the day before the effective date of this act, held the grade of rear admiral on the retired list or the temporary disability retired list, retains that grade and is entitled to wear the uniform and insignia of a rear admiral as established under amendments made by this act. Such an officer, when ordered to active duty—

(1) holds the grade and wears the uniform and insignia of a rear admiral as established under amendments made by this act; and

(2) has the rank among commissioned officers of the military services and is entitled to the basic pay of—

(A) a commodore admiral if he was entitled to the retired pay of a rear admiral of the lower half on the day before the effective date of this act;

(B) a rear admiral if he was entitled to the retired pay of a rear admiral of the upper half on the day before the effective date of this act.

(d) Unless entitled to a higher grade under another provision of law, an officer of the Navy who, on the day before the effective date of this act—

(1) was serving on active duty; and

(2) held the grade of rear admiral;

and who retires on or after the effective date of this act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral as established under amendments made by this act. If such officer is ordered to active duty after his retirement, for the purposes of determining his pay, uniform and insignia, and rank among other commissioned officers, he is considered as having held the grade of rear admiral on the retired list on the day before the effective date of this act.

REGULAR NAVY WOMEN OFFICERS: REAPPOINTMENT AND PROMOTION STATUS

SEC. 608. Notwithstanding any other provision of law—

(1)(A) Each officer who was serving in a staff corps of the Navy under an appointment made in accordance with section 5590 of title 10, United States Code, as in effect before the effective date of this act, shall be reappointed in that corps under the amendments made by this act, notwithstanding any limitations otherwise specified by law with regard to age, grade, or physical standards.

(B) A reappointment made under subparagraph (A) shall be considered for all purposes as having been an original appointment, and all provisions of law applicable to male officers previously appointed in a staff corps of the Navy prior to the effective date of this Act shall apply to an officer reappointed under this section, except as otherwise specifically provided in this Act.

(C) Any officer reappointed in any staff corps of the Navy under this section shall be reappointed in the grade and with the date of rank held at the time reappointment.

(D) Any officer reappointed under this paragraph who at the time of reappointment has accrued leave to such officer's credit shall not lose such accrued leave by reason of such reappointment.

(2) Any officer appointed to the line of the Navy under section 5590 of title 10, United States Code, as in effect before the effective date of this Act, and who possesses the requisite statutory qualifications for appointment in any staff corps, may be reappointed in that corps under the terms and conditions specified in this section.

(3)(A) Each officer on the active list of the line of the Navy or the Marine Corps who was appointed under section 5590 of title 10, United States Code, as in effect before the effective date of this Act, shall be reappointed under this section, notwithstanding any limitations otherwise specified by law with regard to age, grade, or physical standards.

(B) All provisions of law relating to male officers on the active list of the Navy or Marine Corps apply to officers reappointed under this act except as otherwise specifically provided in this Act.

(C) Any officer reappointed under this section shall be reappointed in the grade and with the date of rank held at the time of reappoinment.

(D) Any officer reappointed under this paragraph who at the time of reappointment has leave accrued to his credit shall not lose such accrued leave by reason of such reappointment.

(4)(A) As soon as practicable after all reappointments are made under paragraphs (1), (2), and (3), the name of each officer so reappointed shall be entered on the appropriate active-duty list of the Navy or of the Marine Corps in a position among officers of such officer's grade as may be determined in accordance with such regulations as the Secretary of the Navy may prescribe. All officers shall be placed on the active-duty list without change in their relative positions held on any list for promotion established for them while they were appointed under any provision of title 10, United States Code, repealed by this Act.

(B) Any female officer who, by virtue of her date of rank and other considerations, would be placed on a promotion list senior to an officer who has failed of selection for promotion one or more times, and who is considered to have failed of selection for promotion not more than once, shall, for purposes of determining her eligibility for consideration for promotion to the next higher grade, be considered for promotion with those officers who are considered to have failed of selection for promotion the same number of times as such female officer, or with those officers who are considered never to have failed of selection for promotion, as appropriate.

(C) No female officer who is considered to have failed of selection for promotion one or more times and whose position on an active-duty list is junior to any male officer on such list who is considered to have failed of selection for promotion a fewer number of times than such female officer may be given any advantages over such male officer in the selection process by virtue of such active-duty list position.

CREDITABLE SERVICE FOR VARIOUS PURPOSES

SEC. 609. Notwithstanding any other provision of law—

(1) The years of service creditable to an officer of a military service which subject such officer to involuntary retirement, discharge, or separation are the years of service creditable to such officer for such purpose on the day before the effective date of this Act plus all subsequent years of service creditable under section 639 of title 10, United States Code, as added by this Act. In the case of an officer for whom no means of computing such service existed on the day before the effective date of this Act, creditable service shall be determined under regulations prescribed by the Secretary of Defense, except that in no case shall such officer be credited with less service than his total active commissioned service.

(2) The years of service to be credited to any person shall not be affected by the amendments made by this Act if, before the effective date of this Act, such person—

(A) was credited with such years of service on or after an original appointment; or

(B) was participating in a program leading to an appointment as an officer in a military service and the crediting of years of service.

(3) For purposes of computing retired pay or basic pay, each officer of the Army and Navy in the Medical or Dental Corps, each officer of the Air Force designated as a medical or dental officer, and each officer of the Public Health Service commissioned as a medical or dental officer before the effective date of this Act is entitled to count any service that was creditable to such officer for such purpose under laws in effect on the day before the effective date of this Act.

(4) For the purpose of computing the years of service for pay and allowances, including retired, severance, readjustment, separation, and basic pay, the total years of service of an officer of a military service shall be computed by adding to that service so creditable on the day before the effective date of this Act all subsequent service as computed under amendments made by this Act.

(5) An officer of a military service who was on active duty on the day before the effective date of this Act and who is retired under chapter 36 of title 10, United States Code, as added by this Act, shall be entitled to retired pay in an amount equal to not less than 50 percent of the basic pay upon which his retired pay is based.

(6) The service that an officer of a military service has in a particular grade is the sum of—

(A) the years, months, and days of service in that grade accrued under laws in effect before the effective date of this Act; and

(B) the years, months, and days of service in that grade accrued under laws in effect on and after the effective date of this Act.

GRADE STRENGTHS

SEC. 610. Notwithstanding any other provision of law, the maximum numbers of officers authorized to serve in the grade of colonel or captain (Navy), lieutenant colonel or commander, or major or lieutenant commander, as determined under the provisions of section 454 of title 10, United States Code, as added by amendments made by this Act, may be increased for the fiscal year shown in column I of the table below by the percentage indicated opposite such fiscal year for the grade shown in column II, III, or IV:

[In percent]

Col. I	Col. II	Col. III	Col. IV
For the fiscal year ending Sept. 30—	Colonel or captain (Navy)	Lieutenant colonel or commander	Major or lieutenant commander
Army:			
1980	20	33	18
1981	20	33	15
1982	20	33	11
1983	20	33	7
1984	20	33	0
1985	16	27	0
1986	12	21	0
1987	8	15	0
1988	4	8	0
Navy:			
1980	20	24	13
1981	20	24	11
1982	20	24	7
1983	20	24	4
1984	20	24	0
1985	16	19	0
1986	12	14	0
1987	8	9	0
1988	4	4	0
Air Force:			
1980	25	33	20
1981	20	33	16
1982	20	33	11
1983	20	33	4
1984	20	33	0
1985	16	27	0
1986	12	21	0
1987	8	14	0
1988	4	7	0
Marine Corps:			
1980	27	18	13
1981	27	18	10
1982	27	18	7
1983	27	18	3
1984	27	18	0
1985	21	15	0
1986	15	11	0
1987	10	7	0
1988	5	3	0

The computation of any increase authorized under this section shall be rounded off to the nearest whole number.

MISCELLANEOUS PROVISIONS

SEC. 611. (a) Notwithstanding any other provision of law—

(1) An officer who, on the day before the effective date of this Act, was—

(A) serving on active duty; and

(B) entitled to rank and contingent privileges of retirement under section 5064 of title 10, United States Code, as in effect on the day before the effective date of this Act;

shall have his rank and retirement privileges determined under laws in effect on such date.

(2) In order to maintain the seniority position among officers of any military service as such position existed on the day before the effective date of this Act, the Secretary of Defense, for a period of one year after the effective date of this Act, may adjust the date of rank of any officer of such service who was serving on active duty on the day before such effective date.

(b) Except as otherwise expressly provided in this Act, the provisions of this Act do not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act.

EFFECT ON SUSPENDED PROVISIONS OF LAW

SEC. 612. If any provision of law that is in a suspended status on the day before the effective date of this Act is amended by this Act, the suspension status of that provision is not affected by that amendment.

DEFINITIONS

SEC. 613. As used in this title, the term "military service" has the same meaning ascribed to it in section 101(4)(B) of title 10, United States Code, as added by this Act; the term "Secretary concerned" has the same meaning ascribed to it in section 101(8) of such title; and the term "active-duty list" has the same meaning ascribed to it in section 101(36) of such title, as added by this Act.

SEPARABILITY PROVISION

SEC. 614. If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid part.

EFFECTIVE DATE

SEC. 615. This Act shall become effective on the first day of the sixth calendar month following the month in which it is enacted.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, on the bill just passed, I think the Senate owes a debt of gratitude to Senator NUNN who has forcefully led this piece of legislation through the Senate. It is one that was long overdue, badly needed, and frightfully complicated. But he has worked untiringly to see that it has now passed unanimously in this Chamber.

Likewise, Senator JEPSEN, the ranking minority member on the Subcommittee on Personnel of the Armed Services Committee, together with staff, both minority and majority, deserve a major portion of recognition.

Mr. NUNN. Mr. President, I thank my colleague from Virginia for those kind remarks.

The Senator was not here, but I spent several minutes commending him for his efforts and stating to the Senate that without his expertise and experience and wisdom, we would not have that bill before us today which has just passed.

The Senator from Virginia has made an immeasurable contribution to it in his presence as a member of the subcommittee.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed the consideration of the bill.

UP AMENDMENT NO. 854

(Purpose: To amend H.R. 3919 by setting the tax on tier II to 80%, and for other purposes)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated by title.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. Bradley) proposes an unprinted amendment numbered 854.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 2, line 4, strike all through and including line 12 on page 37 and insert the following:

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

Sec. 101. Windfall Profit Tax.

(a) In General.—

(1) Amendment of subtitle d.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

"Sec. 4986. Imposition of tax.
"Sec. 4987. Amount of tax.
"Sec. 4988. Taxable crude oil; the 3 tiers for tax purposes.
"Sec. 4989. Windfall profit; removal price.
"Sec. 4990. Adjusted base price.
"Sec. 4991. Definitions and special rules relating to categories of oil.
"Sec. 4992. Other definitions and special rules.
"Sec. 4993. Phaseout of tax.
"Sec. 4994. Records and information; regulations.
"Sec. 4995. Cross references.

"Sec. 4986. Imposition of Tax.

"(a) Imposition of Tax.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

"(b) Tax Paid by Producer.—The tax imposed by this section shall be paid by the producer of the crude oil.

"Sec. 4987. Amount of Tax.

"(a) In General.—The amount of the tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be—

"(1) 75 percent of the windfall profit on such barrel in the case of tier 1 oil,

"(2) 80 percent of the windfall profit on such barrel in the case of tier 2 oil,

"(3) 60 percent of the windfall profit on such barrel in the case of tier 3 oil.

"(b) Fractional Part of Barrel.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"Sec. 4988. Taxable Crude Oil; the 3 Tiers for Tax Purposes.

"(a) Taxable Crude Oil.—For purposes of this chapter, the term 'taxable crude oil' means all domestic crude oil other than—

"(1) newly discovered oil,

"(2) incremental tertiary oil,

"(3) heavy oil, and

"(4) qualified stripper oil.

"(b) Tier 1 Oil.—For purposes of this chapter, the term 'tier 1 oil' means domestic crude oil (other than high water-cut oil or front-end tertiary oil) which—

"(1) is lower tier oil, or

"(2) would be lower tier oil if the base production control level for such oil were reduced for January 1980 and each month thereafter by 1½ percent (instead of 3 percent).

"(c) Tier 2 Oil.—For purposes of this chapter, the term 'tier 2 oil' means domestic crude oil which is—

"(1) upper tier oil (other than oil described in subsection (b)(2)), or

"(2) high water-cut oil or front-end tertiary oil.

"(d) Tier 3 Oil.—For purposes of this chapter, the term 'tier 3 oil' means taxable crude oil other than tier 1 oil and tier 2 oil.

"(e) Lower and Upper Tiers.—For purposes of this chapter—

"(1) Lower tier oil.—The term 'lower tier oil' means domestic crude oil which is or would be subject to the lower tier ceiling price rule of the June 1979 energy regulations.

"(2) Upper tier oil.—The term 'upper tier oil' means domestic crude oil which is or would be subject to the upper tier ceiling price rule of the June 1979 energy regulations.

"(3) Disregard of cumulative deficiencies.—For purposes of applying the June 1979 energy regulations to any domestic crude oil under paragraph (1), any cumulative deficiency shall not be taken into account in determining whether such oil is lower or upper tier oil unless such deficiency results from an attempt to avoid the tax imposed by section 4986.

"Sec. 4989. Windfall Profit; Removal Price.

"(a) General Rule.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount of the severance tax adjustment with respect to such barrel provided by section 4992(d).

"(b) Net Income Limitation on Windfall Profit.—

"(1) In general.—The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to such barrel.

"(2) Determination of net income.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"(A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil produced from such property during such taxable year.

"(3) Taxable income from the property.—For purposes of paragraph (2)—

"(A) In general.—Except as otherwise provided in this paragraph, the taxable income from the property shall be determined under section 613(a).

"(B) Certain deductions not allowed.—No deduction shall be allowed for—

"(i) depletion,

"(ii) section 263(c) costs, or

"(iii) the tax imposed by section 4986.

"(C) Taxable income reduced by cost depletion.—Taxable income shall be reduced by the cost depletion which would have been allowable for the taxable year with respect to the property if—

"(i) all section 263(c) costs incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

"(ii) cost depletion had been used by the taxpayer with respect to such property for all periods.

"(D) Section 263(c) costs.—For purposes of this paragraph, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"(4) Special rules for transfers of proven oil or gas properties.—

"(A) In general.—In the case of any proven oil or gas property transfer which, but for this subparagraph, would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only costs incurred during periods after such transfer.

"(B) Proven oil or gas property transfer.—For purposes of subparagraph (A), the term 'proven oil or gas property transfer' means any transfer (including the subleasing of a lease or the creation of a production payment which gives the transferee an economic interest in the property) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

"(5) Special rule where there is production payment.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from the property in computing the taxable income of the producer.

"(c) Removal Price.—For purposes of this chapter—

"(1) In general.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) Sales between related persons.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) Oil removed from premises before sale.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) Refining begun on premises.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(5) Meaning of terms.—As used in this subsection, the terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"Sec. 4990. Adjusted Base Price.

"(a) Adjusted Base Price Defined.—For purposes of this chapter, the term 'adjusted base price' means the base price for the barrel of crude oil plus an amount equal to—

"(1) such base price, multiplied by

"(2) the inflation adjustment for the calendar quarter in which the crude oil is removed (or deemed removed) from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(b) Inflation Adjustment.—

"(1) In general.—For purposes of subsection (a), the inflation adjustment for any calendar quarter is the percentage by which—

"(A) the implicit price deflator for the gross national product for the second preceding calendar quarter, exceeds

"(B) such deflator for the calendar quarter ending December 31, 1978.

"(2) First revision of price deflator used.—For purposes of paragraph (1), the price deflator used shall be the first revision thereof.

"(c) Base Price for Tier 1 Oil.—For purposes of this chapter, the base price for tier 1 oil is the lower tier ceiling price (as of May 1979) for such oil under the March 1979 energy regulations.

"(d) Base Price for Tier 2 Oil.—For purposes of this chapter—

"(1) In general.—Except as provided in paragraph (2), the base price for tier 2 oil is the upper tier ceiling price (as of May 1979) for such oil under the March 1979 energy regulations.

"(2) Monthly increments starting November 1, 1986.—Beginning with November 1986, the base price for tier 2 oil shall be increased by 6 cents per month over the 50 month period ending December 31, 1990.

"(e) Base Price for Tier 3 Oil.—For purposes of this chapter, the base price for tier 3 oil is the price provided pursuant to regulations prescribed by the Secretary for the purpose of estimating (as nearly as may be practicable) the price at which uncontrolled crude oil of the same grade and location would have sold in September 1979 if the average landed price during such month for imported crude oil were $15.30 a barrel.

"Sec. 4991. Definitions and Special Rules Relating to Categories of Oil.

"(a) Newly Discovered Oil Defined.—For purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), the term 'newly discovered oil' has the meaning given to such term by the June 1979 energy regulations.

"(b) Alaskan Oil From Sadlerochit Reservoir.—For purposes of this chapter—

"(1) In general.—In the case of Sadlerochit oil—

"(A) Adjusted base price increased by TAPS adjustment.—The adjusted base price for any calendar quarter (determined without regard to this subsection) shall be increased by the TAPS adjustment (if any) for such quarter provided by paragraph (2).

"(B) Removal price determined on monthly basis.—The removal price of such oil removed (or deemed removed) during any calendar month shall be the average of the producer's removal prices for such month.

"(2) TAPS adjustment.—

"(A) In general.—The TAPS adjustment for any calendar quarter is the excess (if any) of—

"(i) $6.26, cver

"(ii) the TAPS tariff for the preceding calendar quarter.

"(B) TAPS tariff.—For purposes of subparagraph (A), the TAPS tariff for the preceding calendar quarter is the average per barrel amount paid for all transportation (ending in such quarter) of crude oil through the TAPS.

"(C) TAPS defined.—For purposes of this paragraph, the term 'TAPS' means the Trans-Alaskan Pipeline System.

"(3) Sadlerochit oil defined.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oil field.

"(c) Incremental Tertiary Oil Defined.—For purposes of this chapter (and the application of the June 1979 energy regulations to this chapter)—

"(1) In general.—The term 'incremental tertiary oil' means the excess of—

"(A) the amount of crude oil which is removed (or deemed removed) from a property during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over

"(B) the base level for such property for such month.

"(2) Determination of amount.—

"(A) Base level.—The base level for any property for any month is the average monthly amount (determined under rules similar to rules used in determining the base production control level under the June 1979 energy regulations) of crude oil removed (or deemed removed) from such property during the 6-month period ending March 31, 1979, reduced by the sum of—

"(i) the greater of—

"(I) 1 percent of such amount for each month which begins after 1978 and before the project beginning date, or

"(II) the average monthly rate of decline for the months described in subclause (I) multiplied by the number of such months, and

"(ii) 2½ percent of such amount for each month which begins after the project beginning date (or after 1978 if the project beginning date is before 1979) and before the month for which the base level is being determined.

"(B) Minimum amount in case of projects certified by DOE.—In the case of a project described in paragraph (4)(A), the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

"(3) Allocation rules.—The determination of which barrels of crude oil removed (or deemed removed) during any month are incremental tertiary oil shall be made—

"(A) first by allocating the amount of incremental tertiary oil between oil which (but for this subsection) would be tier 1 oil, oil which (but for this subsection) would be tier 2 oil, and oil which (but for this subsection) would be tier 3 oil in proportion to the respective amounts of such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices beginning with the highest of such prices.

"(4) Qualified tertiary recovery project.—The term 'qualified tertiary recovery project' means—

"(A) a qualified tertiary enhanced recovery project with respect to which a certification as such has been approved and is in effect under the June 1979 energy regulations, or

"(B) any project for enhancing recovery of crude oil which meets the requirements of paragraph (5).

"(5) Requirements.—A project meets the requirements of this paragraph if—

"(A) the project involves a tertiary recovery process (within the meaning of paragraph (6)(A));

"(B) the project is implemented and operated in accordance with sound engineering principles;

"(C) the project area is delineated in such a manner that the property (for purposes of determining the amount of incremental tertiary oil) consists of that area from which the ultimate recovery of crude oil can reasonably be expected to be enhanced as a result of implementation and operation of the project; and

"(D) the operator submits (at such time and in such manner as the Secretary may by regulation prescribe) to the Secretary—

"(i) a certification from a petroleum engineer that the project meets, and continues to meet, the requirements of subparagraphs (A), (B), and (C); or

"(ii) a certification that a jurisdictional agency (within the meaning of paragraph (6)(C)) has approved the project as meeting and continuing to meet, the requirements of subparagraphs (A), (B), and (C), and has not revoked such approval (within the meaning of paragraph (6)(D)).

"(6) Definitions and special rules.—For purposes of this subsection—

"(A) Tertiary recovery process defined.—The term 'tertiary recovery process' means an oil field operation which, according to sound engineering principles, reasonably can be expected to enhance the ultimate recovery of crude oil by—

"(i) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations, or

"(ii) any other method approved by the Secretary.

"(B) Project beginning date.—The term 'project beginning date' means the later of the date on which the injection of liquids or gases begins, or the date on which—

"(i) in the case of a project described in paragraph (4)(A), the project is certified as a qualified tertiary enhanced recovery project under the June 1979 energy regulations, or

"(ii) in the case of a project described in paragraph (4)(B), a petroleum engineer or jurisdictional agency certifies or approves the project as meeting the requirements of subparagraphs (A), (B), and (C) of paragraph (5).

"(C) Jurisdictional agency.—The term 'jurisdictional agency' means—

"(i) in the case of an application involving a tertiary recovery project on lands not under Federal jurisdiction—

"(I) the appropriate State agency in the State in which such lands are located which is designated by the Governor of such State in a written notification submitted to the Secretary as the agency which will approve projects under this subsection, or

"(II) if the Governor of such State does not submit such written notification within 180 days after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979, the United States Geological Survey (until such time as the Governor submits such notification), or

"(ii) in the case of an application involving a tertiary recovery project on lands under Federal jurisdiction, the United States Geological Survey.

"(D) Revocation of approval by jurisdictional agency.—For purposes of paragraph (5)(D)(ii), the approval of a project may be revoked by the jurisdictional agency only if—

"(i) there was a misrepresentation of a material fact on the part of the operator in obtaining such approval, or

"(ii) the project is not implemented or operated in a manner reasonably consistent with the plan set forth in the materials submitted to such agency and upon which such approval was based or with an approved modification of such plan.

A revocation under clause (ii) shall not be effective prior to the date on which the operator ceased to implement and operate the project in a manner reasonably consistent with the plan, or approved modification of such plan, as determined by the jurisdictional agency.

"(E) Project continue in effect.—For purposes of paragraph (1)(A), a tertiary recovery project approved under paragraph (5)(D)(ii) shall be considered to continue in effect during any period after termination of injection of liquids or gases if—

"(i) the project was implemented and operated in accordance with sound engineering principles and in accordance with the plan (or with an approved modification of the plan),

"(ii) the approval of the jurisdictional agency has not been revoked, and "(iii) the terminated injection process was certified by the jurisdictional agency and by a petroleum engineer as being ineffective or counterproductive.

"(F) Implementation by jurisdictional agencies and secretary.—

"(i) Federal.—Not later than 180 days after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979, the Secretary and the United States Geological Survey shall promulgate and make effective such regulations and establish such procedures as are necessary to carry out responsibilities under this subsection.

"(ii) State.—As soon as possible after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979 and following submission of written notice by the Governor of a State under subparagraph (C)(i), the jurisdictional agency of such State shall publish such regulations and establish such procedures as it determines necessary to carry out its responsibilities under this subsection.

"(G) Basis of review of certain qualified tertiary recovery projects.—In the case of any project for which a certification is submitted to the Secretary under paragraph (5)(D)(ii), the project shall be considered a qualified tertiary recovery project unless the Secretary determines that—

"(i) the approval of the jurisdictional agency was not supported by substantial evidence on the record upon which such approval was based, or

"(ii) additional evidence not contained in the record upon which such approval was based demonstrates that such project does not meet the requirements of subparagraph (A), (B), or (C) of paragraph (5).

In the event a project is determined not to be a qualified tertiary recovery project, the burden of proof shall be on the taxpayer to establish that the project meets the requirements of subparagraphs (A), (B), and (C) of paragraph (5).

"(H) Rulings relating to certain qualified tertiary recovery projects.—In the case of any tertiary recovery project for which a certification is submitted to the Secretary under paragraph (5)(D)(ii), a taxpayer may request a ruling from the Secretary with respect to whether such project is a qualified tertiary recovery project. The Secretary shall issue such ruling within 180 days of the date he receives the request.

"(d) Qualified Stripper Oil.—For purposes of this chapter—

"(1) In general.—The term 'qualified stripper oil' means so much of an eligible taxpayer's qualified production during any taxable period beginning after September 30, 1980, as does not exceed the product of—

"(A) 1,000 barrels, multiplied by

"(B) the number of days during the taxable period.

"(2) Definitions and special rules.—For purposes of this subsection—

"(A) Qualified production.—

"(i) In general.—A taxpayer's qualified production during any taxable period is the number of barrels of crude oil—

"(I) which are removed from any property during such taxable period; and

"(II) with respect to which such taxpayer is liable for the tax imposed by section 4986 (determined without regard to this subsection and section 4988(a)(4)).

"(ii) Royalty owners.—In the case of the holder of any royalty or similar interest, the qualified production of such taxpayer from each property shall be equal to an amount which bears the same ratio to the amount of the total barrels of production of such taxpayer from such property (determined without regard to this subsection) as—

"(I) the working interests held by eligible taxpayers, bears to

"(II) the working interests held by all taxpayers.

"(iii) Transferred production.—A taxpayer's qualified production shall not include production from a property to the extent the taxpayer's interest in such property was held by an integrated oil company on October 24, 1979.

"(B) Eligible taxpayer.—The term 'eligible taxpayer' means any taxpayer other than—

"(i) an integrated oil company or a partnership, or

"(ii) any Member of Congress serving during the Ninety-sixth Congress or any member of such Member's family (within the meaning of section 267(c)(4)).

"(C) Integrated oil company.—The term 'integrated oil company' means any taxpayer described in paragraph (2) or (4) of section 613A(d).

"(D) Allocation among related persons.—

"(i) In the case of persons who are members of the same related group during the taxable period, the 1,000-barrel amount contained in paragraph (1) for days during such period shall be reduced for each person by allocating the 1,000 barrels among all such persons in proportion to their respective qualified production during such period.

"(ii) Related group.—For purposes of clause (i), the term 'related group' means—

"(I) a controlled group of corporations (as defined in section 613A(c)(8)(D)(i),

"(II) a group of entities among which an allocation would be made under subparagraph (B) of section 613A(c)(8), and

"(III) members of the same family (as defined in section 613A(c)(8)(D)(iii)).

"(3) Treatment of partnerships.—

"(A) In general.—For purposes of this subsection, the qualified production of a partnership—

"(i) shall be equal to the qualified production of the partnership (determined without regard to this paragraph) reduced, under regulations prescribed by the Secretary, by an amount which bears the same ratio to such amount as the interest of partners in such production who are not eligible partners bears to the interest of all partners in such partnership, and

"(ii) as so reduced, shall be allocated to eligible partners in the manner provided under this paragraph.

"(B) Allocation.—In the case of the qualified production of a partnership from any property, an eligible partner shall—

"(i) for purposes of paragraph (1), be treated as having produced, and

"(ii) for purposes of section 6429, be treated as having paid the tax,

with respect to an amount equal to his eligible partnership interest in so much of the qualified production of the partnership as does not exceed the product determined under paragraph (1) for such taxable period.

"(C) Definitions.—For purposes of this paragraph—

"(i) Eligible partnership interest.—The term 'eligible partnership interest' with respect to any qualified production means that portion of such production which bears the same ratio to the total production as an eligible partner's interest in such production bears to the interest of all eligible partners.

"(ii) Eligible partner.—The term 'eligible partner' means any partner who would be an eligible taxpayer with respect to such production.

"(4) Computation of tax for excess production.—If the qualified production of an eligible taxpayer during a taxable period exceeds the amount which may be treated as qualified stripper oil under paragraph (1), the windfall profit, for purposes of determining the amount of the tax imposed by section 4986 with respect to such excess, shall be equal to an amount which bears the same ratio to the amount of windfall profit on the total barrels of qualified production (determined without regard to this subsection) as—

"(A) the number of barrels of such excess, bears to

"(B) the number of barrels of such qualified production.".

"(e) Heavy Oil.—For purposes of this chapter, the term 'heavy oil' has the meaning given to such term by Executive Order Numbered 12153.

"(f) High Water-Cut Oil.—For purposes of this chapter—

"(1) In General.—The term 'high water-cut oil' means crude oil removed from a high water-cut oil property.

"(2) High water-cut oil property defined.—

"(A) In general.—The term 'high water-cut oil property' means any property which has had a water-oil ratio of 9 or more during any consecutive 12-month period beginning after December 31, 1977.

"(B) Water-oil ratio.—The term 'water-oil ratio' with respect to any property means the amount determined by dividing—

"(i) the aggregate volume of water produced from the property during such consecutive 12-month period, by

"(ii) the aggregate volume of crude oil produced from the property during such period.

"(C) Maximum feasible rate.—A property shall not be treated as having a water-oil ratio of 9 or more during any such period unless production during such period was at its maximum feasible rate consistent with recognized conservation practices (determined in the same manner as under the June 1979 energy regulations).

"(g) Front-end Tertiary Oil.—For purposes of this chapter—

"(1) In general.—Any front-end tertiary oil shall be treated as tier 2 oil.

"(2) Front-end tertiary oil defined.—The term 'front-end tertiary oil' means any crude oil receiving special price treatment for purposes of providing front-end financing for tertiary recovery projects.

"Sec. 4992. Other Definitions and Special Rules.

"(a) Producer and Operator.—

"(1) Producer.—For purposes of this chapter, the term 'producer' means the holder of the economic interest with respect to the crude oil.

"(2) Operator.—The term 'operator' includes any person responsible for the management and operation of crude oil production on a property.

"(b) Other Definitions.—For purposes of this chapter—

"(1) Crude oil.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(2) Barrel.—The term 'barrel' means 42 United States gallons.

"(3) Domestic.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

"(4) United states.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) Possession of the united states.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) Indian tribe.—The term 'Indian tribe' has the meaning given to such term by section 106(b)(2)(C)(ii) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3316(b)(2)(C)(ii)).

"(7) Taxable period.—The term 'taxable period' means each calendar quarter beginning after December 31, 1979.

"(8) Energy regulations.—

"(A) In general.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(B) March 1979 energy regulations.—The March 1979 energy regulations shall be the terms of the energy regulations as such terms existed on March 1, 1979.

"(C) June 1979 energy regulations.—The June 1979 energy regulations—

"(i) shall be the terms of the energy regulations as such terms existed on June 1, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhanced recovery projects.

"(D) Continued application of regulations after decontrol.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) Rules for Collection and Deposit of Tax.—

"(1) Deduction and withholding of tax.—Except as provided in paragraphs (4) and (5), if the removal of any taxable crude oil is determined under section 4989(c)(1)—

"(A) the tax imposed by section 4986 with respect to such crude oil shall be collected by the purchaser of such crude oil by deducting and withholding the amount of such tax from amounts payable for such oil,

"(B) the purchaser of such crude oil shall be liable for the payment of the tax required to be deducted and withheld under subparagraph (A), and shall not be liable to any person for the amount of any such payment,

"(C) the producer shall not be required to file a return of the tax imposed by section 4986 with respect to such oil, and

"(D) the producer shall be treated as having filed the return and paid the amount of the tax collected by the purchaser on the due date prescribed by section 6076 for filing the return for the taxable period in which such oil was removed from the premises.

"(2) Net income limitation not to be applied.—In determining the amount to be collected under paragraph (1)(A), section 4989(b) shall not apply.

"(3) Deposit of tax deducted and withheld.—

"(A) In the case of a purchaser who is not an integrated oil company, deposit of the amounts deducted and withheld under paragraph (1)(A) shall be made not later than—

"(i) 45 days after the end of the month in which such oil was purchased, or

"(ii) in the case of oil purchased under a contract therefor by an independent oil refiner (as defined in suparagraph (C)) under which no payment is required to be made before the forty-sixth day after the date on which the oil is purchased, before the first day of the third month which begins after the end of the month in which such oil was purchased.

"(B) In the case of an integrated oil company (as defined in subparagraph (D)) other than an independent refiner, deposit of the estimated amount of the taxpayer's liability for the tax imposed by section 4986 shall be made semi-monthly.

"(C) For purposes of this paragraph, the term 'independent refiner' has the same meaning as in paragraph (3) of section 3 of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752), except that 'the preceding taxable period' shall be substituted for 'November 27, 1973' in applying such paragraph for purposes of this paragraph.

"(D) For purposes of this paragraph, the term 'integrated oil company' means a taxpayer, other than an independent refiner, described in paragraph (2) or (4) of section 613A(d).

"(4) Election by the purchaser and operator to have operator pay tax and file return.—Under regulations prescribed by the Secretary, if the purchaser of taxable crude oil and the operator of the well from which the crude oil was produced make a joint election under this paragraph, the tax shall be paid and the return shall be filed by the operator

"(5) Qualified stripper property.—

"(A) In general.—In the case of crude oil removed from a qualified stripper property during any taxable period which is not qualified stripper oil, the tax shall be paid and the return shall be filed by the producer.

"(B) Deposit of tax.—

"(i) In general.—Except as provided in clause (ii), a producer required under subparagraph (A) to pay tax shall make a deposit of the amount of such tax within 45 days of the last day of the taxable period during which such oil was removed from the premises.

"(ii) Integrated oil company.—An integrated oil company required under subparagraph (A) to pay tax shall make a deposit of such tax in the same manner as a purchaser which is an integrated oil company makes such deposit under paragraph (3).

"(C) Meaning of terms.—For purposes of this paragraph, the terms 'qualified stripper property', 'qualified stripper oil', 'integrated oil company' and 'eligible taxpayer' have the same meaning as in section 4991(d).

"(d) Severance Tax Adjustment.—For purposes of this chapter—

"(1) In general.—The severance tax adjustment with respect to any barrel of crude oil shall be the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been extracted and sold at its adjusted base price.

"(2) Limitation on amount of severance tax.—The amount of severance tax taken into account under paragraph (1) shall not exceed the amount which would have been imposed under the State law in effect on March 31, 1979, unless such excess is attributable to an increase in the rate of the severance tax which applies equally to all portions of the removal price.

"(3) Severance tax imposed by Indian tribes.—For purposes of this subsection, the term 'severance tax' shall include any severance tax imposed by an Indian tribe, and such severance tax shall be treated in the same manner as a severance tax imposed by a State.

"(e) Special Rules for Post-1978 Transfers of Property.—In the case of a transfer after 1978 of any portion of a property, for purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), after such transfer—

"(1) crude oil produced from any portion of such property shall not constitute stripper oil, newly discovered oil, marginal oil, heavy oil, or high water-cut oil if such oil would not be so classified if the property had not been transferred, and

"(2) the allocation of the base production control level among portions of the property shall be made under regulations prescribed by the Secretary.

"(f) Exemption for Certain Interests Held by State of Local Governments.—

"(1) In general.—If—

"(A) an economic interest in crude oil is held by a State or political subdivision thereof, or by an educational institution, or other entity which is an agency or instrumentality of a State or political subdivision thereof, and

"(B) under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to public education or another public purpose,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest. For purposes of this paragraph, the term 'net income' means gross income reduced by production costs, and severance taxes of general application, allocable to such interest.

"(2) Amounts placed in certain permanent funds treated as dedicated to public purpose.—The requirements of paragraph (1)(B) shall be treated as met with respect to any net income which, under the applicable State or local law, is placed in a permanent fund the earnings on which are dedicated to public education or other public purpose.

"(g) Exemption for Certain Interests Held by Indian Tribes.—If—

"(1) an economic interest in crude oil is held by an Indian tribe, an individual member of an Indian tribe, or a tribal organization and the crude oil is produced from lands or mineral interests which are—

"(A) held in trust by the United States for that tribe, member, or organization, or

"(B) held by that tribe, member, or organization and are subject to a restriction against alienation imposed by the United States, or

"(2) the proceeds from the sale of crude oil are deposited in the Treasury of the United States to the credit of tribal or native trust funds,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest or proceeds.

"(h) Exemption for Certain Interests Held by Certain Charitable Organizations.—If an economic interest in crude oil—

"(1) is held by an organization—

"(A) described in clause (ii), (iii), or (iv) of section 170(b)(1)(A) that is not described in clause (vii) or (viii) of such section, and

"(B) which—

"(i) held that interest on October 24, 1979, and at all times during the period beginning on that date and ending on the last date of the taxable period, or

"(ii) received that interest by bequest after October 24, 1979, or

"(2) is held by an organization described in clause (i) of section 170(b)(1)(A) for the benefit of an organization described in paragraph (1)(A) of this subsection, and if all proceeds from such interest were dedicated to an organization described in paragraph (1)(A) of this subsection on October 24, 1979, and at all times during the period beginning on that date and ending on the last day of the taxable period,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest.

"(i) Adjustment of Removal Price.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

"Sec. 4993. Phaseout of Tax.

"(a) Estimates by Secretary.—

"(1) In general.—Each month the Secretary shall make an estimate, on the basis of the best data available as of the time of the estimate, of the target fraction as of the last day of the succeeding month.

"(2) Publication.—Not later than the last day of the month in which the Secretary estimates that the target fraction for the succeeding month will equal 9/10 or more, the Secretary shall publish notice in the Federal Register that—

"(A) such target fraction will equal 9/10 or more for the succeeding month, and

"(B) the provisions of subsection (b) shall apply with respect to crude oil removed from the premises in any month after, the target base month.

"(b) Phaseout Exemption.—

"(1) In general.—Nothwithstanding any other provision of this chapter, no tax shall be imposed by section 4986 with respect to that portion of taxable crude oil removed from the premises in any month beginning after the target base month as is equal to the product of—

"(A) the total amount of taxable crude oil removed from the premises during such month (determined without regard to this section), multiplied by

"(B) a percentage (not greater than 100) equal to the product of—

"(i) 3 percent, multiplied by

"(ii) the number of months (including the month for which the computation is being made) beginning after the target base month.

"(2) Allocation rules.—The determination of which barrels of crude oil removed during any month are exempt from tax by reason of this section shall be made—

"(A) first by allocating the amount of the oil determined to be exempt under paragraph (1) between oil which (but for this section) would be tier 1 oil, oil which (but for this section) would be tier 2 oil, and oil which (but for this section) would be tier 3 oil in proportion to the respective amounts of such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices beginning with the highest of such prices.

"(c) Definitions.—For purposes of this section—

"(1) Target fraction.—The term 'target fraction' means a fraction—

"(A) the numerator of which is the net amount of revenue attributable to the tax imposed under section 4986 (other than any revenue attributable to an economic interest in crude oil held by the Federal Government) during the period beginning on January 1, 1980, and ending on the last day of the month for which an estimate is being made under subsection (a)(1), and

"(B) the denominator of which is $141,200,000,000.

"(2) Target base month.—The term 'target base month' means the first month for which the Secretary estimates under subsection (a)(1) that the target fraction during such month will equal 9/10 or more.

"Sec. 4994. Records and Information; Regulations.

"(a) Records and Information.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information with respect to such oil as the Secretary may by regulations prescribe.

"(b) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this chapter, including such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes.

"Sec. 4995. Cross References.

"(1) For additions to the tax and additional amount for failure to file tax return or to pay tax, see section 6651.

"(2) For additions to the tax and additional amounts for failure to file certain information returns, registration statements, etc., see section 6652.

"(3) For additions to the tax and additional amounts for fraud, see section 6653(b).

"(4) For additions to the tax and additional amounts for failure to make deposit of taxes, see section 6656.

"(5) For additions to the tax and additional amounts for failure to collect and pay over tax, or attempt to evade or defeat tax, see section 6672.

"(6) For criminal penalties for attempt to evade or defeat tax, willful failure to collect or pay over tax, willful failure to file return, supply information, or pay tax, and for fraud and false statements, see sections 7201, 7202, 7203, and 7206.

"(7) For criminal penalties for failure to furnish certain information regarding windfall profit tax on domestic crude oil, see section 7241.".

(2) Clerical amendment.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Windfall profit tax on domestic crude oil.".

(b) Deductibility of Windfall Profit Tax.—The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

"(5) The windfall profit tax imposed by section 4986.".

(c) Time for Filing Return of Windfall Profit Tax; Depository Requirements.—

(1) Time for filing return of windfall profit tax.—

(A) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

"Sec. 6076. Time for Filing Return of Windfall Profit Tax.

"(a) General Rule.—Each return of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4992(b)(7)) shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) Cross Reference.—

"For depositary requirements applicable to the tax imposed by section 4986, see section 6302(d).".

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax.".

(2) Depositary requirements.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Windfall Profit Tax.—The mode and time for collecting the tax imposed by section 4986 (relating to windfall profit tax) shall be established by the Secretary by regulations.".

(3) Technical amendments.—

(A) Subsection (a) of section 6656 (relating to penalty for failure to make deposit of taxes) is amended by inserting "or 6302(d)" immediately after "section 6302(c)".

(B) Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended—

(i) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(ii) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) Certain Information Required To Be Furnished.—

(1) General rule.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"Sec. 6050C. Information Furnished by Operator Regarding Windfall Profit Tax on Domestic Crude Oil.

"(a) Certifications Furnished by Operator.—Under regulations prescribed by the Secretary, the operator of the well from which crude oil subject to the tax imposed under section 4986 was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser, or, if the producer is required to pay the tax under section 4992(c)(5), to the producer—

"(1) the base price (within the meaning of section 4990) with respect to such crude oil,

"(2) whether any part of the production of such crude oil is exempt from the tax imposed under section 4986 by reason of section 4988(a) (1), (2) or (3), was from a property described in section 4991(d)(2)(C),

"(3) the type of property,

"(4) the base production control level for the property, and

"(5) such other information as the Secretary by regulation may require.

For purposes of section 6652(b) (relating to additions to tax for failure to file other returns), such certification shall be treated as a statement of a payment to another person.

"(b) Cross References.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willful failure to supply information required under this section, see section 7241.".

(2) Technical and conforming amendments.—

(A) Section 6652(b) is amended by striking out "or section 6051(d)" and inserting in lieu thereof the following: "section 6050C (relating to information regarding windfall profit tax on domestic crude oil), or section 6051(d)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information furnished by operator regarding windfall profit tax on domestic crude oil.".

(e) Criminal Penalty for Failure To Furnish Certain Information.—

(1) In general.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

"Sec. 7241. Willful Failure To Furnish Certain Information Regarding Windfall Profit Tax on Domestic Crude Oil

"Any person who is required under section 6050C (or regulations thereunder) to furnish any information or certification to any other person and who willfully fails to furnish such information or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.".

(2) Clerical amendment.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil.".

(f) Deficiency Procedures.—Subchapter B of chapter 63 (relating to deficiency procedures in the case of income, estate, gift, and certain excise taxes) is amended—

(1) by striking out "and 44," each place it appears and inserting in lieu thereof "44, and 45,",

(2) by striking out "or 44," each place it appears and inserting in lieu thereof "44, or 45,", and

(3) by inserting "or of chapter 45 tax for the same taxable period," immediately before "except in the case of fraud".

(g) Extension of Statute of Limitations Where Property or Oil is Reclassified.—

(1) Assessment.—Section 6501 (relating to limitations in assessment and collection) is amended by redesignating the second subsection (q) as (r) and by adding at the end of such section the following new subsection:

"(s) Extension for Chapter 45 Liability Attributable to Reclassification.—In the case of a return of the tax imposed under chapter 45 (relating to windfall profit tax on domestic crude oil), if the classification under the June 1979 energy regulations (as defined in section 4992(b) (8) (C)) of a property or of domestic crude oil from a property with respect to which a tax is imposed under chapter 45 is changed, then the tax may be assessed at any time before the date which is 1 year after the date on which such change became effective.".

(2) Refund.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rule for Chapter 45 Taxes.—In the case of any tax imposed by chapter 45 with respect to domestic crude oil, the period for filing a claim for credit or refund of any overpayment attributable to a reclassification of the oil or of the property from which the oil was produced with respect to which the tax was determined shall not expire before the date which is one year after the date on which such reclassification became effective.".

(h) Overpayments of Tax.—

(1) Overpayment of tax may be credited against income tax liability or treated as overpayment thereof.—Subsection (a) of section 6402 (relating to authority to make credits or refunds) is amended by adding at the end thereof the following: "For purposes of the preceding sentence, an overpayment of the tax imposed by chapter 45 may, under regulations prescribed by the Secretary, be credited against any liability in respect of a tax imposed by chapter 1 on the part of the person liable for the payment under section 4986(b), and the balance may be refunded to such person.".

(2) Interest on overpayments.—Section 6611 (relating to interest on overpayment) is amended by redesignating subsection (h) as (i), and by inserting after subsection (g) the following new subsection:

"(h) Windfall Profit Tax Refund Within 45 Days After Return Is Filed.—If any overpayment of tax imposed by chapter 45 is refunded within 45 days after the last date prescribed for filing the return of the tax imposed by chapter 1 for the taxable year with or within which the taxable period with respect to which the overpayment was made, ends (determined without regard to any extension of time for filing the return) or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.".

(i) Tentative Refund Adjustment for Overpayment Attributable to Net Income Limitation.—

(1) In general.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6429. Overpayments of Windfall Profit Tax.

"(a) General Rule.—A producer (as defined in section 4992(a)) who makes, or is treated under chapter 45 as making, an overpayment of the tax imposed by section 4986 for a taxable period, may file an application for a tentative refund of any amount attributable to the application of section 4989 (b) (3), 4991(d) (2) (B) (ii), or 4992 (f), (g), or (h) and treated as an overpayment of the tax for the taxable year with or within which that taxable period ends. The application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

"(1) be verified in the same manner as an application under section 6411(e),

"(2) be filed during the period beginning on the earliest date on which the return may be filed for such taxable year and ending on the date 12 months from the last day of such year, and

"(3) shall set forth in such detail and with such supporting data as the Secretary may require—

"(A) the amount of the tax for such taxable period computed without regard to the application of section 4986(b) (3), 4991(d) (2) (B) (ii), or 4992 (f), (g), or (h),

"(B) the amount determined under such section for the taxable period,

"(C) the amount of the overpayment attributable to the application of such section, and

"(D) such other information as the Secretary may require.

"(b) Allowance of Adjustments.—Within a period of 90 days from the later of the date on which an application is filed under subsection (a), or the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year with or within which the taxable period, in which the overpayment occurs, ends, the Secretary shall—

"(1) review the application,

"(2) determine the amount of the overpayment, and

"(3) apply, credit, or refund such overpayment in a manner similar to the manner provided in section 6411(b).

"(c) Consolidated Returns.—Rules similar to the rules under section 6411(c) shall apply to an adjustment under this subsection to the extent and in the manner prescribed by the Secretary by regulation.

"(d) Application Not Treated as Claim for Credit or Refund.—An application under this section shall not be treated as a claim for a credit or refund.".

(2) Conforming amendment.—Subsection (c) of section 6405 (relating to tentative adjustments) is amended—

(A) by inserting "or 6429" immediately after "section 6411", and

(B) by striking out "In any such case," and inserting in lieu thereof "In the case of a credit or refund allowed or made under section 6411,"

(3) Clerical amendment.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6429. Overpayments of windfall profit tax.".

(j) Effective Date.—The amendments made by this section shall take effect on January 1, 1980.

Sec. 102. Provisions Relating to the Tax Court.

(a) Exclusive Jurisdiction Over Windfall Profit Tax Cases.—Section 7442 (relating to jurisdiction) is amended by adding at the end thereof the following new sentence: "Notwithstanding section 1340 of title 28, United States Code, the Tax Court and its divisions shall have exclusive original jurisdiction of any civil action arising under chapter 45 (relating to windfall profit tax on domestic crude oil). In all proceedings in connection with such actions, the Tax Court shall have the same powers as a United States District Court would have in a civil action brought before it.".

(b) Number of Judges.—Subsection (a) of section 7443 (relating to membership) is amended by striking out "16" and inserting in lieu thereof "19".

UP AMENDMENT NO. 855

(Purpose: To amend H.R. 3919 by setting the tax on tier II at 75 percent, and for other purposes)

Mr. ROBERT C. BYRD. Does the Senator yield the floor?

Mr. BRADLEY. Yes, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment in the nature of a substitute for the Bradley amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) (for himself, Mr. Bradley, Mr. Chafee, Mr. Nelson, Mr. Ribicoff, Mr. Roth, Mr. Moynihan, Mr. Packwood, Mr. Durenberger, Mr. Weicker, Mr. McGovern, Mr. Tsongas, Mr. Ford, Mr. Biden, Mr. Hart, and Mr. Leahy) proposes an unprinted amendment numbered 855 as a substitute to unprinted amendment numbered 854.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

Sec. 101. Windfall Profit Tax.

(a) In General.—

(1) Amendment of subtitle d.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

"Sec. 4986. Imposition of tax.
"Sec. 4987. Amount of tax.
"Sec. 4988. Taxable crude oil; the 3 tiers for tax purposes.
"Sec. 4989. Windfall profit; removal price.
"Sec. 4990. Adjusted base price.
"Sec. 4491. Definitions and special rules relating to categories of oil.
"Sec. 4992. Other definitions and special rules.
"Sec. 4993. Phaseout of tax.
"Sec. 4994. Records and information; regulations.
"Sec. 4995. Cross references.

"Sec. 4986. Imposition of Tax.

"(a) Imposition of Tax.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

"(b) Tax Paid by Producer.—The tax imposed by this section shall be paid by the producer of the crude oil.

"Sec. 4987. Amount of Tax.

"(a) In General.—The amount of the tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be—

"(1) 75 percent of the windfall profit on such barrel in the case of tier 1 oil,

"(2) 75 percent of the windfall profit on such barrel in the case of tier 2 oil, and

"(3) 60 percent of the windfall profit on such barrel in the case of tier 3 oil.

"(b) Fractional Part of Barrel.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"Sec. 4988. Taxable Crude Oil; The 3 Tiers for Tax Purposes.

"(a) Taxable Crude Oil.—For purposes of this chapter, the term 'taxable crude oil' means all domestic crude oil other than—

"(1) newly discovered oil,

"(2) incremental teritary oil,

"(3) heavy oil, and

"(4) qualified stripper oil.

"(b) Tier 1 Oil.—For purposes of this chapter, the term 'tier 1 oil' means domestic crude oil (rather than high water-cut oil or front-end tertiary oil) which—

"(1) is lower tier oil, or

"(2) would be lower tier oil if the base production control level for such oil were reduced for January 1980 and each month thereafter by 1½ percent (instead of 3 percent).

"(c) Tier 2 Oil.—For purposes of this chapter, the term 'tier 2 oil' means domestic crude oil which is—

"(1) upper tier oil (other than oil described in subsection (b)(2)), or

"(2) high water-cut oil or front-end tertiary oil.

"(d) Tier 3 Oil.—For purposes of this chapter, the term 'tier 3 oil' means taxable crude oil other than tier 1 oil and tier 2 oil.

"(e) Lower and Upper Tiers.—For purposes of this chapter—

"(1) Lower tier oil.—The term 'lower tier oil' means domestic crude oil which is or would be subject to the lower tier ceiling price rule of the June 1979 energy regulations.

"(2) Upper tier oil.—The term "upper tier oil" means domestic crude which is or would be subject to the upper tier ceiling price rule of the June 1979 energy regulations.

"(3) Disregard of cumulative deficiencies.—For purposes of applying the June 1979 energy regulations to any domestic crude oil under paragraph (1), any cumulative deficiency shall not be taken into account in determining whether such oil is lower or upper tier oil unless such deficiency results from an attempt to avoid the tax imposed by section 4986.

"Sec. 4989. Windfall Profit; Removal Price.

"(a) General Rule.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount of the severance tax adjustment with respect to such barrel provided by section 4992(d).

"(b) Net Income Limitation on Windfall Profit.—

"(1) In general.—The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to such barrel.

"(2) Determination of net income.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"((A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil produced from such property during such taxable year.

"(3) Taxable income from the property.—For purposes of paragraph (2)—

"(A) In general.—Except as otherwise provided in this paragraph, the taxable income from the property shall be determined under section 613(a).

"(B) Certain deductions not allowed.—No deduction shall be allowed for—

"(i) depletion,

"(ii) section 263(c) costs, or

"(iii) the tax, imposed by section 4986.

"(C) Taxable income reduced by cost depletion.—Taxable income shall be reduced by the cost depletion which would have been allowable for the taxable year with respect to the property if—

"(i) all section 263(c) costs incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

"(ii) cost depletion had been used by the taxpayer with respect to such property for all periods.

"(D) Section 263(c) costs.—For purposes of this paragraph, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"(4) Special rules for transfers of proven oil or gas properties.—

(A) In general.—In the case of any proven oil or gas property transfer which, but for this subparagraph, would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only costs during periods after such transfer.

"(B) Proven oil or gas property transfer.—For purposes of subparagraph (A), the term 'proven oil or gas property transfer' means any transfer (including the subleasing of a lease or the creation of a production payment which gives the transferee an economic interest in the property) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

"'5) Special rule where there is production payment.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from the property in computing the taxable income of the producer.

"(c) Removal Price.—For purposes of this chapter—

"(1) In general.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) Sales between related persons.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) Oil removed from premises before sale.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) Refining begun on premises.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(5) Meaning of terms.—As used in this subsection, the terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"Sec. 4990. Adjusted Base Price.

"(a) Adjusted Base Price Defined.—For purposes of this chapter, the term 'adjusted base price' means the base price for the barrel of crude oil plus an amount equal to—

"(1) such base price, multiplied by

"(2) the inflation adjustment for the calendar quarter in which the crude oil is removed (or deemed removed) from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(b) Inflation Adjustment.—

"(1) In general.—For purposes of subsection (a), the inflation adjustment for any calendar quarter is the percentage by which—

"(A) the implicit price deflator for the gross national product for the second preceding calendar quarter, exceeds

"(B) such deflator for the calendar quarter ending December 31, 1978.

"(2) First revision of price deflator used.—For purposes of paragraph (1), the price deflator used shall be the first revision thereof.

"(c) Base Price for Tier 1 Oil.—For purposes of this chapter, the base price for tier 1 oil is the lower tier ceiling price (as of May 1979) for such oil under the March 1979 energy regulations.

"(d) Base Price for Tier 2 Oil.—For purposes of this chapter—

"(1) In general.—Except as provided in paragraph (2), the base price for tier 2 oil is the upper tier ceiling price (as of May 1979) for such oil under the March 1979 energy regulations.

"(2) Monthly increments starting November 1, 1986.—Beginning with November 1986, the base price for tier 2 oil shall be increased by 6 cents per month over the 50 month period ending December 31, 1990.

"(e) Base Price for Tier 3 Oil.—For purposes of this chapter, the base price for tier 3 oil is the price provided pursuant to regulations prescribed by the Secretary for the purpose of estimating (as nearly as may be practicable) the price at which uncontrolled crude oil of the same grade and location would have sold in September 1979 if the average landed price during such month for imported crude oil were $15.30 a barrel.

"Sec. 4991. Definitions and Special Rules Relating to Categories of Oil

"(a) Newly Discovered Oil Defined.—For purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), the term 'newly discovered oil' has the meaning given to such term by the June 1979 energy regulations.

"(b) Alaskan Oil From Sadlerochit Reservoir.—For purposes of this chapter—

"(1) In general.—In the case of Sadlerochit oil—

"(A) Adjusted base price increased by TAPS adjustment.—The adjusted base price for any calendar quarter (determined without regard to this subsection) shall be increased by the TAPS adjustment (if any) for such quarter provided by paragraph (2).

"(B) Removal price determined on monthly basis.—The removal price of such oil removed (or deemed removed) during any calendar month shall be the average of the producer's removal prices for such month.

"(2) TAPS adjustment.—

"(A) In general.—The TAPS adjustment for any calendar quarter is the excess (if any) of—

"(i) $6.26, over

"(ii) the TAPS tariff for the preceding calendar quarter.

"(B) TAPS tariff.—For purposes of subparagraph (A), the TAPS tariff for the preceding calendar quarter is the average per barrel amount paid for all transportation (ending in such quarter) of crude oil through the TAPS.

"(C) TAPS defined.—For purposes of this paragraph, the term 'TAPS' means the Trans-Alaskan Pipeline System.

"(3) Sadlerochit oil defined.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oil field.

"(c) Incremental Tertiary Oil Defined.—For purposes of this chapter (and the application of the June 1979 energy regulations to this chapter)—

"(1) In general.—The term 'incremental tertiary oil' means the excess of—

"(A) the amount of crude oil which is removed (or deemed removed) from a property during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over

"(B) the base level for such property for such month.

"(2) Determination of amount.—

"(A) Base level.—The base level for any property for any month is the average monthly amount (determined under rules similar to rules used in determining the base production control level under the June 1979 energy regulations) of crude oil removed (or deemed removed) from such property during the 6-month period ending March 31, 1979, reduced by the sum of—

"(i) the greater of—

"(I) 1 percent of such amount for each month which begins after 1978 and before the project beginning date, or

"(II) the average monthly rate of decline for the months described in subclause (I) multiplied by the number of such months, and

"(ii) 8½ percent of such amount for each month which begins after the project beginning date (or after 1978 if the project beginning date is before 1979) and before the month for which the base level is being determined.

"(B) Minimum amount in case of projects certified by doe.—In the case of a project described in paragraph (4)(A), the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

"(3) Allocation rules.—The determination of which barrels of crude oil removed (or deemed removed) during any month are incremental tertiary oil shall be made—

"(A) first by allocating the amount of incremental tertiary oil between oil which (but for this subsection) would be tier 1 oil, oil which (but for this subsection) would be tier 2 oil, and oil which (but for this subsection) would be tier 3 oil in proportion to the respective amounts of such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices beginning with the highest of such prices.

"(4) Qualified tertiary recovery project.—The term 'qualified tertiary recovery project' means—

"(A) a qualified tertiary enhanced recovery project with respect to which a certification as such has been approved and is in effect under the June 1979 energy regulations, or

"(B) any project for enhancing recovery of crude oil which meets the requirements of paragraph (5).

"(5) Requirements.—A project meets the requirements of this paragraph if—

"(A) the project involves a tertiary recovery process (within the meaning of paragraph (6)(A));

"(B) the project is implemented and operated in accordance with sound engineering principles;

"(C) the project area is delineated in such a manner that the property (for purposes of determining the amount of incremental tertiary oil) consists of that area from which the ultimate recovery of crude oil can reasonably be expected to be enhanced as a result of implementation and operation of the project; and

"(D) the operator submits (at such time and in such manner as the Secretary may by regulations prescribe) to the Secretary—

"(i) a certification from a petroleum engineer that the project meets, and continues to meet, the requirements of subparagraphs (A), (B), and (C); or

"(ii) a certification that a jurisdictional agency (within the meaning of paragraph (6)(C)) has approved the project as meeting, and continuing to meet, the requirements of subparagraphs (A), (B), and (C), and has not revoked such approval (within the meaning of paragraph (6)(D)).

"(6) Definitions and special rules.—For purposes of this subsection—

"(A) Tertiary recovery process defined.—The term 'tertiary recovery process' means an oil field operation which, according to sound engineering principles, reasonably can be expected to enhance the ultimate recovery of crude oil by—

"(i) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations, or

"(ii) any other method approved by the Secretary.

"(B) Project beginning date.—The term 'project beginning date' means the later of the date on which the injection of liquids or gases begins, or the date on which—

"(i) in the case of a project described in paragraph (4)(A), the project is certified as a qualified tertiary enhanced recovery project under the June 1979 energy regulations, or

"(ii) in the case of a project described in paragraph (4)(B), a petroleum engineer or jurisdictional agency certifies or approves the project as meeting the requirements of subparagraphs (A), (B), and (C) of paragraph (5).

"(C) Jurisdictional agency.—The term 'jurisdictional agency' means—

"(i) in the case of an application involving a tertiary recovery project on lands not under Federal jurisdiction—

"(I) the appropriate State agency in the State in which such lands are located which is designated by the Governor of such State in a written notification submitted to the Secretary as the agency which will approve projects under this subsection, or

"(II) if the Governor of such State does not submit such written notification within 180 days after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979, the United States Geological Survey (until such time as the Governor submits such notification), or

"(ii) in the case of an application involving a tertiary recovery project on lands under Federal jurisdiction, the United States Geological Survey.

"(D) Revocation of approval by jurisdictional agency.—For purposes of paragraph (5)(D)(ii), the approval of a project may be revoked by the jurisdictional agency only if—

"(i) there was a misrepresentation of a material fact on the part of the operator in obtaining such approval, or

"(ii) the project is not implemented or operated in a manner reasonably consistent with the plan set forth in the materials submitted to such agency and upon which such approval was based or with an approved modification of such plan.

A revocation under clause (ii) shall not be effective prior to the date on which the operator ceased to implement and operate the project in a manner reasonably consistent with the plan, or approved modification of such plan, as determined by the jurisdictional agency.

"(E) Project continues in effect.—For purposes of paragraph (1)(A), a tertiary recovery project approved under paragraph (5)(D)(ii) shall be considered to continue in effect during any period after termination of injection of liquids or gases if—

"(i) the project was implemented and operated in accordance with sound engineering principles and in accordance with the plan (or with an approved modification of the plan),

"(ii) the approval of the jurisdictional agency has not been revoked, and

"(iii) the terminated injection process was certified by the jurisdictional agency and by a petroleum engineer as being ineffective or counterproductive.

"(F) Implementation by jurisdictional agencies and secretary.—

"(i) Federal.—Not later than 180 days after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979, the Secretary and the United States Geological Survey shall promulgate and make effective such regulations and establish such procedures as are necessary to carry out responsibilities under this subsection.

"(ii) State.—As soon as possible after the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979 and following submission of written notice by the Governor of a State under subparagraph (C)(i), the jurisdictional agency of such State shall publish such regulations and establish such procedures as it determines necessary to carry out its responsibilities under this subsection.

"(G) Basis of review of certain qualified tertiary recovery projects.—In the case of any project for which a certification is submitted to the Secretary under paragraph (5)(D)(ii), the project shall be considered a qualified tertiary recovery project unless the Secretary determines that—

"(i) the approval of the jurisdictional agency was not supported by substantial evidence on the record upon which such approval was based, or

"(ii) additional evidence not contained in the record upon which such approval was based demonstrates that such project does not meet the requirements of subparagraph (A), (B), or (C) of paragraph (5).

In the event a project is determined not to be a qualified tertiary recovery project, the burden of proof shall be on the taxpayer to establish that the project meets the requirements of subparagraphs (A), (B), and (C) of paragraph (5).

"(H) Rulings relating to certain qualified tertiary recovery projects.—In the case of any tertiary recovery project for which a certification is submitted to the Secretary under paragraph (5)(D)(ii), a taxpayer may request a ruling from the Secretary with respect to whether such project is a qualified tertiary recovery project. The Secretary shall issue such ruling within 180 days of the date he receives the request.

"(d) Qualified Stripper Oil.—For purposes of this chapter—

"(1) In general.—The term 'qualified stripper oil' means so much of an eligible taxpayer's qualified production during any taxable period beginning after September 30, 1980, as does not exceed the product of—

"(A) 1,000 barrels, multiplied by

"(B) the number of days during the taxable period.

• "(2) Definitions and special rules.—For purposes of this subsection—

"(A) Qualified production.—

"(i) In general.—A taxpayer's qualified production during any taxable period is the number of barrels of crude oil—

"(I) which are removed from any property during such taxable period; and

"(II) with respect to which such taxpayer is liable for the tax imposed by section 4986 (determined without regard to this subsection and section 4988(a)(4)).

"(ii) Royalty owners.—In the case of the holder of any royalty or similar interest, the qualified production of such taxpayer from each property shall be equal to an amount which bears the same ratio to the amount of the total barrels of production of such taxpayer from such property (determined without regard to this subsection) as—

"(I) the working interests held by eligible taxpayers, bears to

"(II) the working interests held by all taxpayers.

"(iii) Transferred production.—A taxpayer's qualified production shall not include production from a property to the extent the taxpayer's interest in such property was held by an integrated oil company on October 24, 1979.

"(B) Eligible taxpayer.—The term 'eligible taxpayer' means any taxpayer other than—

"(i) an integrated oil company or a partnership, or

"(ii) any Member of Congress serving during the Ninety-sixth Congress or any member of such Member's family (within the meaning of section 267(c)(4)).

"(C) Integrated oil company.—The term 'integrated oil company' means any taxpayer described in paragraph (2) or (4) of section 613A(d).

"(D) Allocation among related persons.—

"(i) In the case of persons who are members of the same related group during the taxable period, the 1,000-barrel amount contained in paragraph (1) for days during such period shall be reduced for each person by allocating the 1,000 barrels among all such persons in proportion to their respective qualified production during such period.

"(ii) Related group.—For purposes of clause (i), the term 'related group' means—

"(I) a controlled group of corporations (as defined in section 613A(c)(8)(D)(i),

"(II) a group of entities among which an allocation would be made under subparagraph (B) of section 613A(c)(8), and

"(III) members of the same family (as defined in section 613A(c)(8)(D)(iii)).

"(3) Treatment of partnerships.—

"(A) In general.—For purposes of this subsection, the qualified production of a partnership—

"(i) shall be equal to the qualified production of the partnership (determined without regard to this paragraph) reduced, under regulations prescribed by the Secretary, by an amount which bears the same ratio to such amount as the interest of partners in such production who are not eligible partners bears to the interest of all partners in such partnership, and

"(ii) as so reduced, shall be allocated to eligible partners in the manner provided under this paragraph.

"(B) Allocation.—In the case of the qualified production of a partnership from any property, an eligible partner shall—

"(i) for purposes of paragraph (1), be treated as having produced, and

"(ii) for purposes of section 6429, be treated as having paid the tax,

with respect to an amount equal to his eligible partnership interest in so much of the qualified production of the partnership as does not exceed the product determined under paragraph (1) for such taxable period.

"(C) Definitions.—For purposes of this paragraph—

"(i) Eligible partnership interest.—The term 'eligible partnership interest' with respect to any qualified production means that portion of such production which bears the same ratio to the total production as an eligible partner's interest in such production bears to the interest of all eligible partners.

"(ii) Eligible partner.—The term 'eligible partner' means any partner who would be an eligible taxpayer with respect to such production.

"(4) Computation of tax for excess production.—If the qualified production of an eligible taxpayer during a taxable period exceeds the amount which may be treated as qualified stripper oil under paragraph (1), the windfall profit, for purposes of determining the amount of the tax imposed by section 4986 with respect to such excess, shall be equal to an amount which bears the same ratio to the amount of windfall profit on the total barrels of qualified production (determined without regard to this subsection) as—

"(A) the number of barrels of such excess, bears to

"(B) the number of barrels of such qualified production.".

"(e) Heavy Oil.—For purposes of this chapter, the term 'heavy oil' has the meaning given to such term by Executive Order Numbered 12153.

"(f) High Water-Cut Oil.—For purposes of this chapter—

"(1) In general.—The term 'high water-cut oil' means crude oil removed from a high water-cut oil property.

"(2) High water-cut oil property defined.—

"(A) In general.—The term 'high water-cut oil property' means any property which has had a water-oil ratio of 9 or more during any consecutive 12-month period beginning after December 31, 1977.

"(B) Water-oil ratio.—The term 'water-oil ratio' with respect to any property means the amount determined by dividing—

"(i) the aggregate volume of water produced from the property during such consecutive 12-month period, by

"(ii) the aggregate volume of crude oil produced from the property during such period.

"(C) Maximum feasible rate.—A property shall not be teated as having a water-oil ratio of 9 or more during any such period unless production during such period was at its maximum feasible rate consistent with recognized conservation practices (determined in the same manner as under the June 1979 energy regulations).

"(g) Front-end Tertiary Oil.—For purposes of this chapter—

"(1) In general.—Any front-end tertiary oil shall be treated as tier 2 oil.

"(2) Front-end tertiary oil defined.—The term 'front-end tertiary oil' means any crude oil receiving special price treatment for purposes of providing front-end financing for tertiary recovery projects.

"Sec. 4992. Other Definitions and Special Rules.

"(a) Producer and Operator.—

"(1) Producer.—For purposes of this chapter, the term 'producer' means the holder of the economic interest with respect to the crude oil.

"(2) Operator.—The term 'operator' includes any person responsible for the management and operation of crude oil production on a property.

"(b) Other Definitions.—For purposes of this chapter—

"(1) Crude oil.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(2) Barrel.—The term 'barrel' means 42 United States gallons.

"(3) Domestic.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

"(4) United states.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) Possession of the united states.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) Indian tribe.—The term 'Indian tribe' has the meaning given to such term by section 106(b)(2)(C)(ii) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3316(b)(2)(C)(ii)).

"(7) Taxable period.—The term 'taxable period' means each calendar quarter beginning after December 31, 1979.

"(8) Energy regulations.—

"(A) In general.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(B) March 1979 energy regulations.—The March 1979 energy regulations shall be the terms of the energy regulations as such terms existed on March 1, 1979.

"(C) June 1979 energy regulations.—The June 1979 energy regulations—

"(i) shall be the terms of the energy regulations as such terms existed on June 1, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhanced recovery projects.

"(D) Continued application of regulations after decontrol.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) Rules for Collection and Deposit of Tax.—

"(1) Deduction and withholding of tax.—Except as provided in paragraphs (4) and (5), if the removal of any taxable crude oil is determined under section 4989(c)(1)—

"(A) the tax imposed by section 4986 with respect to such crude oil shall be collected by the purchaser of such crude oil by deducting and withholding the amount of such tax from amounts payable for such oil,

"(B) the purchaser of such crude oil shall be liable for the payment of the tax required to be deducted and withheld under subparagraph (A), and shall not be liable to any person for the amount of any such payment,

"(C) the producer shall not be required to file a return of the tax imposed by section 4986 with respect to such oil, and

"(D) the producer shall be treated as having filed the return and paid the amount of the tax collected by the purchaser on the due date prescribed by section 6076 for filing the return for the taxable period in which such oil was removed from the premises.

"(2) Net income limitation not to be applied.—In determining the amount to be collected under paragraph (1)(A), section 4889(b) shall not apply.

"(3) Deposit of tax deducted and withheld.—

"(A) In the case of a purchaser who is not an integrated oil company, deposit of the amounts deducted and withheld under paragraph (1)(A) shall be made not later than—

"(i) 45 days after the end of the month in which such oil was purchased, or

"(ii) in the case of oil purchased under a contract therefor by an independent oil refiner (as defined in subparagraph (C)) under which no payment is required to be made before the forty-sixth day after the date on which the oil is purchased, before the first day of the third month which begins after the end of the month in which such oil was purchased.

"(B) In the case of an integrated oil company (as defined in subparagraph (D)) other than an independent refiner, deposit of the estimated amount of the taxpayer's liability for the tax imposed by section 4986 shall be made semi-monthly.

"(C) For purposes of this paragraph, the term 'independent refiner' has the same meaning as in paragraph (3) of section 3 of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752), except that 'the preceding taxable period' shall be substituted for 'November 27, 1973' in applying such paragraph for purposes of this paragraph.

"(D) For purposes of this paragraph, the term 'integrated oil company' means a taxpayer, other than an independent refiner, described in paragraph (2) or (4) of section 613A(d).

"(4) Election by the purchaser and operator to have operator pay tax and file return.—Under regulations prescribed by the Secretary, if the purchaser of taxable crude oil and the operator of the well from which the crude was produced make a joint election under this paragraph, the tax shall be paid and the return shall be filed by the operator.

"(5) Qualified stripper property.—

"(A) In general.—In the case of crude oil removed from a qualified stripper property during any taxable period which is not qualified stripper oil, the tax shall be paid and the return shall be filed by the producer.

"(B) Deposit of tax.—

"(i) In General.—Except as provided in clause (ii), a producer required under subparagraph (A) to pay tax shall make a deposit of the amount of such tax within 45 days of the last day of the taxable period during which such oil was removed from the premises.

"(ii) Integrated oil company..—An integrated oil company required under subparagraph (A) to pay tax shall make a deposit of such tax in the same manner as a purchaser which is an integrated oil company makes such deposit under pargraph (3).

"(C) Meaning of terms.—For purposes of this paragraph, the term 'qualified stripper property', 'qualified stripper oil', 'integrated oil company' and 'eligible taxpayer' have the same meaning as in section 4991(d).

"(d) Severance Tax Adjustment.—For purposes of this chapter—

"(1) In general.—The severance tax adjustment with respect to any barrel of crude oil shall be the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been extracted and sold at its adjusted base price.

"(2) Limitation on amount of severance tax.—The amount of severance tax taken into account under paragraph (1) shall not exceed the amount which would have been imposed under the State law in effect on March 31, 1979, unless such excess is attributable to an increase in the rate of the severance tax which applies equally to all portions of the removal price.

"(3) Severance tax imposed by Indian tribes.—For purposes of this subsection, the term 'severance tax' shall include any severance tax imposed by an Indian tribe, and such severance tax shall be treated in the same manner as a severance tax imposed by a State.

"(e) Special Rules for Post-1978 Transfers of Property.—In the case of a transfer after 1978 of any portion of a property, for purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), after such transfer—

"(1) crude oil produced from any portion of such property shall not constitute stripper oil, newly discovered oil, marginal oil, heavy oil, or high water-cut oil if such oil would not be so classified if the property had not been transferred, and

"(2) the allocation of the base production control level among portions of the property shall be made under regulations prescribed by the Secretary.

"(f) Exemption for Certain Interests Held by State or Local Governments.—

"(1) In general.—If—

"(A) an economic interest in crude oil is held by a State or political subdivision thereof, or by an educational institution or other entity which is an agency or instrumentality of a State or political subdivision thereof, and

"(B) under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to public education or another public purpose,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest. For purposes of this paragraph, the term 'net income' means gross income reduced by production costs, and severance taxes of general application, allocable to such interest.

"(2) Amounts placed in certain permanent funds treated as dedicated to public education or other public purpose.—The requirements of paragraph (1)(B) shall be treated as met with respect to any net income which, under the applicable State or local law, is placed in a permanent fund the earnings on which are dedicated to public education or other public purpose.

"(g) Exemption for Certain Interests Held by Indian Tribes.—If—

"(1) an economic interest in crude oil is held by an Indian tribe, an individual member of an Indian tribe, or a tribal organization and the crude oil is produced from lands or mineral interests which are—

"(A) held in trust by the United States for that tribe, member, or organization, or

"(B) held by that tribe, member, or organization and are subject to a striction against alienation imposed by the United States, or

"(2) the proceeds from the sale of crude oil are deposited in the Treasury of the United States to the credit of tribal or native trust funds,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest or proceeds.

"(h) Exemption for Certain Interests Held by Certain Charitable Organizations.—If an economic interest in crude oil—

"(1) is held by an organization—

"(A) described in clause (ii), (iii), or (iv) of section 170(b)(1)(A) that is not described in clause (vii) or (viii) of such section, and

"(B) which—

"(i) held that interest on October 24, 1979, and at all times during the period beginning on that date and ending on the last date of the taxable period, or

"(ii) received that interest by bequest after October 24, 1979, or

"(2) is held by an organization described in clause (i) of section 170(b)(1)(A) for the benefit of an organization described in paragraph (1)(A) of this subsection, and if all proceeds from such interest were dedicated to an organization described in paragraph (1)(A) of this subsection, on October 24, 1979, and at all times during the period beginning on that date and ending on the last day of the taxable period,

then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest.

"(i) Adjustment of Removal Price.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

"Sec. 4993. Phaseout of Tax.

"(a) Estimates by Secretary.—

"(1) In general.—Each month the Secretary shall make an estimate, on the basis of the best data available as of the time of the estimate, of the target fraction as of the last day of the succeeding month.

"(2) Publication.—Not later than the last day of the month in which the Secretary estimates that the target fraction for the succeeding month will equal 9/10 or more, the Secretary shall publish notice in the Federal Register that—

"(A) such target fraction will equal 9/10 or more for the succeeding month, and

"(B) the provisions of subsection (b) shall apply with respect to crude oil removed from the premises in any month after the target base month.

"(b) Phaseout Exemption.—

"(1) In general.—Notwithstanding any other provision of this chapter, no tax shall be imposed by section 4986 with respect to that portion of taxable crude oil removed from the premises in any month beginning after the target base month as is equal to the product of—

"(A) the total amount of taxable crude oil removed from the premises during such month (determined without regard to this section),

multiplied by

"(B) a percentage (not greater than 100) equal to the product of—

"(i) 3 percent, multiplied by

"(ii) the number of months (including the month for which the computation is being made) beginning after the target base month.

"(2) Allocation rules.—The determination of which barrels of crude oil removed during any month are exempt from tax by reason of this section shall be made—

"(A) first by allocating the amount of the oil determined to be exempt under paragraph (1) between oil which (but for this section) would be tier 1 oil, oil which (but for this section) would be tier 2 oil, and oil which (but for this section) would be tier 3 oil in proportion to the respective amounts of such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices beginning with the highest of such prices.

"(c) Definitions.—For purposes of this section—

"(1) Target fraction.—The term 'target fraction' means a fraction—

"(A) the numerator of which is the net amount of revenue attributable to the tax imposed under section 4986 (other than any revenue attributable to an economic interest in crude oil held by the Federal Government) during the period beginning on January 1, 1980, and ending on the last day of the month for which an estimate is being made under subsection (a)(1), and

"(B) the denominator of which is $141,200,000,000.

"(2) Target base month.—The term 'target base month' means the first month for which the Secretary estimates under subsection (a)(1) that the target fraction during such month, will equal nine-tenths or more.

"Sec. 4994. Records and Information; Regulations.

"(a) Records and Information.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information with respect to such oil as the Secretary may by regulations prescribe.

"(b) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this chapter, including such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes.

"Sec. 4995. Cross References.

"(1) For additions to the tax and additional amount for failure to file tax return or to pay tax, see section 6651.

"(2) For additions to the tax and additional amounts for failure to file certain information returns, registration statements, etc., see section 6652.

"(3) For additions to the tax and additional amounts for fraud, see section 6653 (b).

"(4) For additions to the tax and additional amounts for failure to make deposit of taxes, see section 6656.

"(5) For additions to the tax and additional amounts for failure to collect and pay over tax, or attempt to evade or defeat tax, see section 6672.

"(6) For criminal penalties for attempt to evade or defeat tax, willful failure to collect or pay over tax, willful failure to file return, supply information, or pay tax, and for fraud and false statements, see sections 7201, 7202, 7203, and 7206.

"(7) For criminal penalties for failure to furnish certain information regarding windfall profit tax on domestic crude oil, see section 7241.".

(2) Clerical amendment.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Windfall profit tax on domestic crude oil.".

(b) Deductibility of Windfall Profit Tax.—The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

"(5) The windfall profit tax imposed by section 4986.".

(c) Time for Filing Return of Windfall Profit Tax; Depositary Requirements.—

(1) Time for filing return of windfall profit tax.—

(A) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

"Sec. 6076. Time for Filing Return of Windfall Profit Tax.

"(a) General Rule.—Each return of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4992(b)(7)) shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) Cross Reference.—

"For depositary requirements applicable to the tax imposed by section 4986, see section 6302(d).".

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax.".

(2) Depositary requirements.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Windfall Profit Tax.—The mode and time for collecting the tax imposed by section 4986 (relating to windfall profit tax) shall be established by the Secretary by regulations.".

(3) Technical amendments.—

(A) Subsection (a) of section 6656 (relating to penalty for failure to make deposit of taxes) is amended by inserting "or 6302(d)" immediately after "section 6302(c)".

(B) Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended—

(i) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(ii) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) Certain Information Required To Be Furnished.—

(1) General rule.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"Sec. 6050C. Information Furnished by Operator Regarding Windfall Profit Tax on Domestic Crude Oil.

"(a) Certifications Furnished by Operator.—Under regulations prescribed by the Secretary, the operator of the well from which crude oil subject to the tax imposed under section 4986 was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser, or, if the producer is required to pay the tax under section 4992 (c)(5), to the producer—

"(1) the base price (within the meaning of section 4990) with respect to such crude oil,

"(2) whether any part of the production of such crude oil is exempt from the tax imposed under section 4986 by reason of section 4988(a) (1), (2) or (3), was from a property described in section 4991(d)(2)(C),

"(3) the type of property,

"(4) the base production control level for the property, and

"(5) such other information as the Secretary by regulation may require.

For purposes of section 6652(b) (relating to additions to tax for failure to file other returns), such certification shall be treated as a statement of a payment to another person.

"(b) Cross References.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willful failure to supply information required under this section, see section 7241.".

(2) Technical and conforming amendments.—

(A) Section 6652(b) is amended by striking out "or section 6051(d)" and inserting in lieu thereof the following: "section 6050C (relating to information regarding windfall profit tax on domestic crude oil), or section 6051(d)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information furnished by operator regarding windfall profit tax on domestic crude oil.".

(e) Criminal Penalty for Failure To Furnish Certain Information.—

(1) In general.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

"Sec. 7241. Willful Failure to Furnish Certain Information Regarding Windfall Profit Tax on Domestic Crude Oil.

"Any person who is required under section 6050C (or regulations thereunder) to furnish any information or certification to any other person and who willfully fails to furnish such information or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.".

(2) Clerical amendment.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil.".

(f) Deficiency Procedures.—Subchapter B of chapter 63 (relating to deficiency procedures in the case of income, estate, gift, and certain excise taxes) is amended—

(1) by striking out "and 44," each place it appears and inserting in lieu thereof "44 and 45,",

(2) by striking out "or 44, or 45,", and

(3) by inserting "or of chapter 45 tax for the same taxable period," immediately before "except in the case of fraud".

(g) Extension of Statute of Limitations Where Property or Oil is Reclassified.—

(1) Assessment.—Section 6501 (relating to limitations on assessment and collection) is amended by redesignating the second subsection (q) as (r) and by adding at the end of such section the following new subsection:

"(s) Extension for Chapter 45 Liability Attributable to Reclassification.—In the case of a return of the tax imposed under chapter 45 (relating to windfall profit tax on domestic crude oil), if the classification under the June 1979 energy regulations (as defined in section 4992(b)(8)(C)) of a property or of domestic crude oil from a property with respect to which a tax is imposed under chapter 45 is changed, then the tax may be assessed at any time before the date which is 1 year after the date on which such change became effective.".

(2) Refund.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rule for Chapter 45 Taxes.—In the case of any tax imposed by chapter 45 with respect to domestic crude oil, the period for filing a claim for credit or refund of any overpayment attributable to a reclassification of the oil or of the property from which the oil was produced with respect to which the tax was determined shall not expire before the date which is one year after the date on which such reclassification became effective."

(h) Overpayments of Tax.—

(1) Overpayment of tax may be credited against income tax liability or treated as overpayment thereof.—Subsection (a) of section 6402 (relating to authority to make credits or refunds) is amended by adding at the end thereof the following: "For purposes of the preceding sentence, an overpayment of the tax imposed by chapter 45 may, under regulations prescribed by the Secretary, be credited against any liability in respect of a tax imposed by chapter 1 on the part of the person liable for the payment under section 4986(b), and the balance may be refunded to such person."

(2) Interest on overpayments.—Section 6611 (relating to interest on overpayment) is amended by redesignating subsection (h) as (i), and by inserting after subsection (g) the following new subsection:

"(h) Windfall Profit Tax Refund Within 45 Days After Return Is Filed.—If any overpayment of tax imposed by chapter 45 is refunded within 45 days after the last date prescribed for filing the return of the tax imposed by chapter 1 for the taxable year with or within which the taxable period, with respect to which the overpayment was made, ends (determined without regard to any extension of time for filing the return) or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.".

(i) Tentative Refund Adjustment for Overpayment Attributable to Net Income Limitation.—

(1) In general.—Subchapter B of chapter 65 (relating to abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6429. Overpayments of Windfall Profit Tax.

"(a) General Rule.—A producer (as defined in section 4992(a)) who makes, or is treated under chapter 45 as making, an overpayment of the tax imposed by section 4986 for a taxable period, may file an application for a tentative refund of any amount attributable to the application of section 4989(b)(3), 4991(d)(2)(B)(ii), or 4992 (f), (g), or (h) and treated as an overpayment of the tax for the taxable year with or within which that taxable period ends. The application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

"(1) be verified in the same manner as an application under section 6411(a),

"(2) be filed during the period beginning on the earliest date on which the return may be filed for such taxable year and ending on the date 12 months from the last day of such year, and

"(3) shall set forth in such detail and with such supporting data as the Secretary may require—

"(A) the amount of the tax for such taxable period computed without regard to the application of section 4986(b)(3), 4991(d)(2)(B)(ii), or 4992 (f), (g), or (h),

"(B) the amount determined under such section for the taxable period,

"(C) the amount of the overpayment attributable to the application of such section, and

"(D) such other information as the Secretary may require.

"(b) Allowance of adjustments.—Within a period of 90 days from the later of the date on which an application is filed under subsection (a), or the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year with or within which the taxable period, in which the overpayment occurs, ends, the Secretary shall—

"(1) review the application,

"(2) determine the amount of the overpayment, and

"(3) apply, credit, or refund such overpayment in a manner similar to the manner provided in section 6411(b).

"(c) Consolidated Returns.—Rules similar to the rules under section 6411(c) shall apply to an adjustment under this subsection to the extent and in the manner prescribed by the Secretary by regulation.

"(d) Application Not Treated as Claim for Credit or Refund.—An application under this section shall not be treated as a claim for a credit or refund.".

(2) Conforming amendment.—Subsection (c) of section 6405 (relating to tentative adjustments) is amended—

(A) by inserting "or 6429" immediately after "section 6411", and

(B) by striking out "In any such case," and inserting in lieu thereof "In the case of a credit or refund allowed or made under section 6411,".

(3) Clerical amendment.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6429. Overpayments of windfall profit tax.".

(j) Effective Date.—The amendments made by this section shall take effect on January 1, 1980.

Sec. 102. Provisions Relating to the Tax Court.

(a) Exclusive Jurisdiction Over Windfall Profit Tax Cases.—Section 7442 (relating to jurisdiction) is amended by adding at the end thereof the following new sentence: "Notwithstanding section 1340 of title 28, United States Code, the Tax Court and its divisions shall have exclusive original jurisdiction of any civil action arising under chapter 45 (relating to windfall profit tax on domestic crude oil). In all proceedings in connection with such actions, the Tax Court shall have the same powers as a United States District Court would have in a civil action brought before it.".

(b) Number of Judges.—Subsection (a) of section 7443 (relating to membership) is amended by striking cut "16" and inserting in lieu thereof "19".

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 o'clock p.m. today.

There being no objection, the Senate at 1:26 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Morgan).

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 2:30 p.m., recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Nelson).

RECESS UNTIL 3:30 P.M.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3:30.

There being no objection, the Senate, at 3 p.m. recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Bumpers).

RECESS FOR 5 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 3:31 p.m., recessed for 5 minutes; whereupon, at 3:36 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. Stewart).

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF SHIRLEY M. HUFSTEDLER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session at this time and that the Senate then proceed to the consideration of the nomination of Shirley Hufstedler to be Secretary of Education; that there be a time limitation for debate of 20 minutes, to be equally divided between Mr. Pell and Mr. Schweiker; that the vote occur on the nomination at 4 p.m.; and that, upon the disposition of the nomination, including the motion to reconsider and table, the Senate then immediately return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

The Senate proceeded to the consideration of executive business.

DEPARTMENT OF EDUCATION

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Shirley Mount Hufstedler to be the Secretary of Education.

Mr. ROBERT C. BYRD. Mr. President, this will be a rollcall vote. Mr. Proxmire has asked that rollcall votes occur on all Cabinet members, so I may as well ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I am delighted that the nomination of Shirley M. Hufstedler is coming up at this time. She is a person of magnificent intelligence and breadth of vision. She is articulate in her thoughts, with a tremendous background in the law and in broad fields of knowledge.

Mr. President, when the nomination first was brought up, I was among those who expressed some concern about her administrative and management skills and background in educational programs. She has little experience in those areas. But I think the breadth and depth of her wisdom and intellect will more than compensate for any lack of specifics. The very fact that she has a broad knowledge of education and a strong interest in education will mean that she will do her job well.

Also, the fact that she is not allied with any specific group in the field of education, be it higher education, be it general education, be it public colleges, private colleges, be it the National Education Association or the American Federation of Teachers, means she will have the objectivity and breadth of view that will permit her to do her job well.

I, for one, as chairman of the Subcommittee on Education, Arts and Humanities am glad to support her nomination, I trust she will devote all of her energies toward making this new department a success. I know this will be her prime priority, and I believe that she will prove worthy of the confidence that the President has shown in nominating her to serve as the first Secretary of the Department of Education.

For the information of my colleagues, I ask unanimous consent to insert in the RECORD at this point a biographical summary of Judge Hufstedler.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SUMMARY

Born Shirley Ann Mount on August 24, 1925. Judge Hufstedler spent her early years in Denver, Colorado. She received her Bachelor of Business Administration degree from the University of New Mexico in 1945 and her Bachelor of Law degree from Stanford University in 1949. During her final year at Stanford, she was article and Book Review Editor for the Stanford Law Review.

Upon completion of law school, Judge Hufstedler married Seth Hufstedler on August 16, 1949. They settled in Southern California. Mr. Hufstedler, an attorney, is past president of both the Los Angeles County Bar Association and the State Bar of California.

From 1950 to 1960, Judge Hufstedler was associated with the Los Angeles lawyer, Charles Beardsley, and the law firm Beardsley, Hufstedler, and Kemble. It was during this period (on February 20, 1953) that the Hufstedlers' only child, Steve, was born.

Judge Hufstedler served as special legal consultant to the Attorney General of Califorina during 1960–61, working on the federal multi-state litigation over the Colorado River in the United States Supreme Court. She was appointed judge of the Superior Court, Los Angeles County, in 1961 and elected to a full term on the bench in 1962.

In December of 1966, Judge Hufstedler was appointed an Associate Justice of the California Court of Appeal. She was appointed Circuit Judge for the Ninth Circuit of the U.S. Court of Appeals in September of 1968 by President Lyndon B. Johnson, and has served in that capacity to the present day.

The Judge has received honorary Doctorates of Law from: Columbia University; Georgetown University; Gonzaga University; Occidental College; Tufts University; University of Michigan; University of New Mexico; University of the Pacific; University of Pennsylvania; University of Southern California; and the University of Wyoming.

In addition, she has received special awards and citations for achievement from the American Academy of Achievement, the College of William and Mary, and Loyola Law School. Judge Hufstedler has been honored with the Herbert O. Harley Award and the Order of the Coif. Both the Los Angeles Times and the Ladies Home Journal have named her woman of the year.

In 1971, Judge Hufstedler delivered both the Charles Evans Hughes address to the County Bar in New York and the Benjamin N. Cardozo lecture to the New York City Association of the Bar. In 1972, she delivered the James Madison address at New York University. She was Chairwoman of the Law Faculty at the Salzburg Seminar in American studies in 1975. And she is currently a member of the faculty of the Appellate Judges Seminar at the Institute of Judicial Administration. Many of her addresses and articles have been published in professional journals.

The Judge is a past advisor, committee member, or trustee for: California Commission on the Status of Women; California State University of Los Angeles; Institute for Psychiatry and Law for the Judiciary; and State Board of Education of California.

Currently, Judge Hufstedler is a committee member, advisor, or trustee for: American Bar Association; American Bar Foundation; American Judicature Society; American Law Institute; Aspen Institute for Humanistic Studies; Colonial Williamsburg Foundation; Constitutional Rights Foundation; Harvard Law School; Institute for Judicial Administration; International Association of Women Lawyers; Jet Propulsion Laboratory; Law Society; National Committee of Law, Education, and Participation; Occidental College; Professional Women's Symphony Association; Supreme Court Historical Society; Town Hall; United States Judicial Conference; University of Pennsylvania Law School; University of Southern California Law Center; and Women Lawyers Association.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. PELL. Mr. President, I yield to the Senator from California such time as he may desire.

Mr. CRANSTON. Mr. President, I wish to say a few words about Shirley M. Hufstedler, Judge of the Ninth U.S. Circuit Court of Appeals, who is the President's nominee to be the first U.S. Secretary of Education.

Shirley Hufstedler was born in Denver, Colo., graduated with honors from the University of New Mexico, and received her law degree from Stanford University. She began private practice of the law in Los Angeles. In 1961, Mrs. Hufstedler was appointed to the Los Angeles Superior Court by Gov. Edmund G. (Pat) Brown, who later named her to the State court of appeals. In 1968, President Lyndon B. Johnson elevated her to the U.S. Ninth Circuit Court of Appeals—a move that made her the highest ranking woman judge in the Nation.

Mr. President, I believe President Carter has made a brilliant nomination to head the first Department of Education. Mrs. Hufstedler is a person of dynamic skills, an inspiring interpreter of the law and social justice, a woman of intellect and vision, and a thorough professional whose approach to jurisprudence has brought her the highest esteem of her judicial colleagues.

In her years on the bench, Judge Hufstedler has taken a holistic view of the law and society and her responsibilities as a jurist.

She has actively involved herself in the great issues of the day. She is a trustee of the California Institute of Technology, Occidental College, and the Aspen Institute for Humanistic Studies. In her own words, she has maintained an active concern throughout (my) life in working with educators and educational institutions, and a degree of objectivity and neutrality which characterize an earlier dedication to the bench.

Mr. President, the nomination of Shirley Hufstedler reaches us at a time of growing crisis in our system of public education. Public confidence in the schools has been declining; the questions of how we can best support public education remain unanswered, what students should learn and how is an issue of intense debate; and the Federal role in public education has yet to be adequately defined. The Department of Education itself became a reality in the midst of divisive and sometimes bitter argument that turned on these issues and more.

Given the intensity of these dialogs and the stormy birth of the new Department itself, one might have expected the President to nominate a Secretary drawn from the ranks of those who are full-time professionals in the multibillion-dollar enterprise that is American education. The wisdom of the President's designation of a skilled and brilliant generalist, whose involvement in education has been extensive but unsalaried, will, I am convinced, become more and more evident as the Department of Education moves toward completion. The President wanted as the first Secretary of Education someone, as he said, "who could take a fresh, innovative look" at American education; Shirley Hufsteadler brings the keenest of skills to that task.

The President needed, as Secretary of Education, a person who would join his Cabinet as a respected observer of the total realm of national affairs—a capability for which Shirley Hufstedler has become known and admired. And the President needed as his Secretary-designate a person with the all-too-rare ability to look at education as a whole, and to view the complex interrelationships that exist between Federal, State, and local government units that have basic responsibility for public education as we know it.

We have before us a nominee who not only meets these laudable criteria, but also a nominee whose announced priority is to "listen to parents, teachers, students, and other people who care about education in this Nation—(for) the first concern of the country in education must be helping all students to learn." Judge Hufstedler has also wisely observed that "all kinds of groups have been fighting over children, (but) not necessarily for them."

She is an outstanding woman, with a very remarkable background in jurisprudence.

She also has been very active in educational matters, both in connection with youth problems in Los Angeles and in California and serving on the boards of five distinguished institutions of higher education.

I introduced her to the committee when she appeared for her nomination to be considered, and I am delighted to speak now for her on the floor of the Senate.

I think that as a generalist in a field in which a generalist approach is badly needed, she will do absolutely outstanding work.

I am proud of the President for nominating her, and I am proud to have this opportunity to speak on her behalf. I know that she will perform magnificently in this office.

I cannot think of a better choice for our first Secretary of Education than an enthusiastic advocate for children, their classroom teachers, and for strengthening the bonds that link all levels of our American system of education.

The President's choice of Shirley Hufstedler is a choice that the Senate may receive with respect and with confidence.

Mr. HAYAKAWA. Mr. President, I am very grateful to the majority leader for his courtesy in permitting me to proceed.

Mr. President, I was very much opposed to the creation of this new Department of Education. However, the majority of my Senate and House colleagues disagreed with me, and voted to establish this new arm of the bureaucracy. This Department is now a reality, and I have accepted it as such. I would like to point out, as I did when I introduced Judge Hufstedler to the Labor and Human Resources Committee, that I had previously expressed strong concern about what kind of person would be selected to run this new Department.

With President Carter's selection of Judge Hufstedler, I must say that my fears have been laid completely to rest. The Senate's Labor and Human Resources Committee has also reported favorably on her nomination. I had been concerned that this Department of Education would be excessively dominated by products of schools of education. It would be such a mistake to limit the Department to points of view developed solely from within the discipline of professional education. Viewed broadly, education should combine all aspects of our lives. It should include the concerns of art, literature, science, economics, environment, history, labor, and world policy.

I hope that the nomination of a person with broad intellectual background such as Judge Hufstedler will bring to her tasks, will mean that this new Department of Education will be staffed by people of varied interests and backgrounds, as well as by professors of education.

I am not convinced that the problems of American education will be solved simply by reshuffling organizational structure. I believe that good government is not the result of the specifics of organization and structure, but the imagination, talent, and foresight brought to it. Judge Shirley Hufstedler, I really believe, will bring all of these important qualities to this new Department, not only the specifics of organizational structure, but imagination, talent, and foresight.

She will do her best to make this Department live up to its supporter's expectations.

Mr. President, I ask unanimous consent to have printed in the Record an editorial that appeared in the November 29 Washington Post editorial section regarding the nomination of Judge Shirley Hufstedler to be the first U.S. Secretary of Education.

This Washington Post editorial is most interesting, and I think says much of what I have said. I urge my colleagues' serious consideration and endorsement of Judge Shirley Hufstedler to be the first U.S. Secretary of the Department of Education.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

WHOSE SCHOOLS?

It is not surprising that the nomination of Judge Shirley M. Hufstedler to be the first secretary of education is encountering some opposition. She is not, after all, a part of the educational establishment that worked so hard to get this new Cabinet-level department created. Thus, she is said by the Association of Supervision and Curriculum Development, among others, to lack the necessary experience in education and management for the job.

To us, the fact that Judge Hufstedler has had relatively little experience in the educational field, other than as a consumer, is among her most important credentials. If the new Department of Education is to be anything more than an institutionalized lobby for professional educators, it must begin its life not only with a broad perspective on this country's educational needs but with a limited view of what the role of the federal government in education should be.

Judge Hufstedler's opening statement at the hearings on her nomination suggests that she understands both the possibilities and the dangers of the new department. While she said she believes the federal government should be encouraging educational excellence at all levels, she promised to work to minimize federal "disruption and domination" of the schools. "The strength of our educational system is rooted in the primacy of state and local governments," she told the Senate Committee on Labor and Human Resources.

The recognition—and acceptance—of that primacy is critical to any success the Department of Education may have. The clamor around the country concerning over-regulation by Washington is nothing compared with what it will be if local school boards begin to feel a larger federal presence in their affairs. Judge Hufstedler's lack of ties to either the educational establishment or the existing Washington bureaucracy gives her a chance, at least, to start the new department on a course that helps those who have the basic responsibility for educating our citizens—as distinct from hindering them.

Mr. HATCH. Mr. President, like many of my colleagues, I share mixed emotions about the newly federalized Department of Education. I believe that the Federal Government has a proper role to play in administering particular educational programs at the Federal level, through these functions should wherever possible, and as soon as possible be turned over to the States and localities. Local and State government ought to play the primary role in educational policy, both for reasons of constitutionality and of efficacy.

Mrs. Hufstedler has told me that she shares this view, and it is one of several reasons why I support and intend to vote for her nomination when it is put to a vote in this Chamber. When her nomination hearing was held earlier this week in the Senate Labor and Human Resources Committee of which I am a member, the legislative "markup" of the critically important criminal code reform bill in the Judiciary Committee to which I also belong necessitated my absence during Shirley Hufstedler's nomination hearing. It was a meeting I wanted to attend. I had a range of questions, many of which reflected the concerns of colleges and school administrators within my home State of Utah, and the questions were challenging to the degree that I wanted to see how well our impending nominee for Secretary of Education would perform under fire. Not only did Mrs. Hufstedler perform magnificently by every accounting, but her written answers to my range of questions were precise, candid, and admirable. There are areas of policy about which we would differ, though this is understandable enough considering that this is a Republican Senator talking during a Democratic administration.

However, areas of policy aside, I respect and share Mrs. Hufstedler's avowed desire to return more educational control to State and local government. I share her desire to see the title III program of the Higher Education Act return to its purposes of providing assistance to struggling colleges, particularly to those institutions offering educational opportunities to poor and minority students' colleges which might otherwise not survive.

I share her many stated reasons why there is needed a more comprehensive and less patch-worked and overlapping structure for Federal educational administration, and I ask unanimous consent that her answers to my questions in this area be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Washington, D.C., *November 28, 1979.*

Hon. Orrin G. Hatch,
U.S. Senate,
Washington, D.C.

Dear Senator Hatch: Enclosed are my answers to your supplemental questions. I have taken the liberty of sending copies to the minority staff of the Committee on Labor and Human Resources.

I look forward to the prospect of discussing these and other education issues with you in the future.

Sincerely,

Shirley M. Hufstedler,
Secretary of Education-Designate.

Enclosure.

ANSWERS OF HON. SHIRLEY MOUNT HUFSTEDLER TO SUPPLEMENTAL QUESTIONS OF SENATOR ORRIN G. HATCH

Q1. During the 1976 campaign, just prior to Jimmy Carter becoming President Carter, one of the most frequently made promises of the Democratic Party's Presidential candidate was his vow to "preserve the strength and to promote the quality of America's system of private education." The implication given by Mr. Carter, and certainly as it was perceived by my colleague Senator Moynihan, was that President Carter would support and use his office to promote the enactment of a voucher system or some other form of tax incentive system similar to that proposed during the last Congress by Senators Moynihan and Packwood. We have since witnessed, of course, the active involvement of President Carter and his administration to defeat such legislative proposals including the one proposed by Moynihan and Packwood.

I would like to solicit your own personal views, Mrs. Hufstedler, about the current state of private education in our country. In doing so, I specifically seek your opinions of voucher, tax credit and other proposals you think would be equitable and effective to achieve the ends once promised by the Carter administration.

A. I am aware of the Administration's commitment to explore ways of strengthening and promoting the quality of this country's system of private education. The Elementary and Secondary Education Act of 1978 included a number of features designed to assist needy children, whether attending public or private schools, on an equitable basis. I will honor the President's commitment to create within the Department of Education an Office of Non-public Education, to be headed by an Assistant Secretary, who will be particularly charged with exploring additional ways in which private education may be strengthened.

The Administration's position on past proposals for tax credits or other forms of financial incentives has reflected its concern with a number of issues, including the extent to which such programs are consistent with the requirements of the First Amendment; the way in which they can best channel federal benefits to students with the greatest need in the most cost-effective manner; and the wisdom of a shift of federal policy from one in which the federal government provides carefully targeted funds for specific purposes to one in which general aid, not now provided to public schools, would be made available.

I will continue to bear these concerns in mind while remaining open to consideration of ways in which the federal government can encourage a strengthening of private schools in order to promote a healthy pluralism of educational opportunity in this country.

Q2. Now pending in the Education Subcommittee of this distinguished committee is legislation to re-authorize the Higher Education Act for next year; as part of it, there will certainly be amendments to correct what I and many others see as abuses of the Title III program. Money under Title III which was meant to help struggling and small colleges has in many instances reportedly been given to educational institutions on the scale of Harvard and Princeton. What are your own views on the matter, and how as Education Secretary would you proceed to correct abuses in the Title III program where they exist?

A. I fully support the goal of Title III—providing assistance to colleges that are struggling to survive, particularly when those institutions offer educational opportunities to poor and minority students who might not otherwise attend any institution of higher learning. Some aspects of the program have been criticized by the General Accounting Office. In response to such criticism, changes to help improve the program's administration have recently been made in applicable regulations, and legislative reforms have also been proposed by the Administration in connection with the reauthorization bill for postsecondary education programs. I intend to study both the criticisms and the proposed remedies over the next several months, and if I believe that further changes are called for, I shall not hesitate to recommend them.

With respect to your specific inquiry about providing Title III funds to well-established educational institutions, I note that the current Higher Education Act requires struggling colleges to enter into cooperative arrangements with other institutions of higher education or with business entities and that some of the costs of these arrangements are covered by Title III funds. Because such arrangements may not always be necessary, the Administration has recommended in its reauthorization proposal that the arrangements no longer be required of all Title III schools.

Q3. I ask a followup question in the form of an observation, and it is that the currently assessed evaluations of rural school districts—and these predominate in my own State of Utah—are given education money on the presumption that the major portion of a rural district's capital outlays for education will be made up in the bonding process (i.e., bonds and referendums). Here as well the allocation formulas for smaller and rural states deserve a more comprehensive review than they have been given in the past. Wouldn't you agree?

A. Studies mandated to the Secretary under Section 1203 of the Elementary and Secondary Education Act include a special analysis of school financing reform in small rural areas. These studies should provide the comprehensive review that you suggest is necessary. I share your concern and hope that this study will prove fruitful.

Q4. Only by a very narrow vote, "sunset" provisions on the Department of Education failed during the last Congress. You are on record as having supported "sunset" provisions for some other kinds of administrative agencies. Would you also favor them for your own department? (Even though the vote for "sunset" provisions failed, would you accept them voluntarily as a show of good faith with the concept you have earlier endorsed?)

A. I do indeed believe that "sunset" legislation is sometimes appropriate to prevent the establishment of an entrenched bureaucracy. With respect to the Education Department, however, the preventive function of a sunset law is already met in large part by the five-year cycle of reauthorization for major programs. Reauthorization reviews force both administrators and Congress to ask the question, "Is this program really necessary?" I do not think that it would be useful, therefore, to add a second round of "sunset" review to the current reauthorization process.

Q5. A February, 1979 study conducted by the Rand Corporation for the National Institute of Education discovered that through collective bargaining "teachers have significantly improved their working conditions and increased their influence over school and classroom operations." It was found that this influence extended into such areas as class size, teacher evaluation and the use of additional personnel. In a recent *Washington Monthly* article entitled, "Saving Our Schools from Teachers Unions," Joseph Nocera noted that the Washington, D.C. teachers' union exercised exactly this kind of control over school policy. He also contends that this predominant union control was in large part responsible for D.C.'s schools ranking as some of the worse in the nation. And he is not alone in thinking so.

I ask you what you think, if you believe it may be necessary to limit some union power in favor of returning more authority to parents and the local community.

A. I would not favor federal limits on public employee collective bargaining. I do not believe that collective bargaining is inconsistent with the sound and efficient operation of public schools.

Q6. There are pending in Congress, several bills intended to curtail or to abolish altogether the federally imposed quota systems which have become increasingly controversial. Many civil libertarians and a healthy number of educators have cited particular abuses or civil rights deprivations directly attributable to such quota system arrangements. What are your own views on the matter? Will affirmative action be a top priority item in your dept. re: educational hiring?

A. I am deeply concerned that some groups in this country have been denied equal access to educational institutions. One of the purposes of the Act establishing the Department of Education is "to strengthen the federal commitment to ensuring access to equal educational opportunity for every individual." I intend to carry out fully that congressional directive.

The Supreme Court set forth in the *Bakke* decision some of the constitutional principles governing affirmative action in colleges and universities. To correct past discrimination, affirmative action, including numerical goals, is occasionally needed. Where there has been no past discrimination, universities are still free voluntarily to use affirmative action to expand the number of minorities attending the institution, although they must not set aside a fixed number of places for which white students cannot compete.

With regard to hiring in the Department of Education, I intend to staff the Department throughout with individuals of demonstrated excellence who are widely representative of the people who are affected by the work in this nation's educational system at all levels.

Q7. To the extent to which you choose to be involved as Education Secretary, would you support the preservation of the "subminimum wage" for student employees of educational institutions?

A. The current practice is to pay work-study students at the federally-established minimum wage where applicable under current law and regulations, including regulations which provide for appeal under exceptional circumstances. The Administration proposal, which I support, would continue that practice.

Q8. Do you believe that teachers and educators should be forced to join a union against their will?

A. I do not believe that teachers and educators should be *forced* to join unions, and I know of no attempt to do so. Of course, I do support the right of public employees to organize voluntarily, as permitted under State and local law.

Mr. HATCH. Mr. President, in short, I support Mrs. Hufstedler's nomination, will vote for her confirmation, and urge my colleagues to follow suit. She is a very able, articulate, and dedicated citizen who in my opinion has the capacity to do her new Department proud. The Department of Education will be very lucky to have her.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimcus consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, on November 29, 1979, the Committee on Labor and Human Resources reported the nomination of the Honorary Shirley M. Hufstedler to be the Nation's first Secretary of Education.

Our committee's examination of Judge Hufstedler's background and qualifications disclosed that she is an extraordinarily able person whose service on State and Federal judicial benches will be of invaluable assistance in managing the administrative burdens of the new Department.

Our nomination hearing on November 27, 1979, disclosed the careful, impartial and fresh way that Judge Hufstedler approaches her position as the first Secretary of Education. All Members in attendance at the hearing were impressed with Judge Hufstedler's candor, wisdom, and integrity.

High among Judge Hufstedler's priorities is the strengthening of the primary role of States and local education agencies in the formulation and implementation of education policies and programs. Judge Hufstedler repeatedly emphasized in her nomination hearing that the Federal role in education is supplementary to that of the States and localities. She pledged her energies to minimize Federal disruption and domination of the schools and to create a working partnership with States and localities in the design and utilization of federally initiated educational assistance programs.

Just as important, Judge Hufstedler pledged to continue the essential Federal role in higher education. She views Federal initiatives in such areas as the federally insured student loan programs as very effective and indicated her desire to improve Federal efforts in postsecondary educational assistance.

Judge Hufstedler's record and her comments attest to a balanced education perspective. She is able to view with equal concern the needs of urban and rural America. She is deeply concerned with the provision of equal educational opportunity for all Americans. Indeed, she views that mission, along with the Congress, as the most important activity of government with respect to education.

One of Judge Hufstedler's major objectives as the new Secretary of Education will be to reverse the decline in confidence in our Nation's educational effort. The challenges of productivity, technology, energy, and economy facing future leaders at all levels of national life will require continued high standards in America's classrooms from the elementary level to the professional schools. To maintain our position as the best educated and most advanced society, States and localities must create with Federal assistance the most appropriate and efficient educational system for persons of all ages, occupations, and aspirations.

Mr. President, Judge Hufstedler's nomination for the post of Secretary of Education has been the subject of a recent editorial in the Washington Post. That newspaper opposed the establishment of the Department of Education for many years. The nomination of Judge Hufstedler, however, has created a favorable view of the Department's prospects among many former opponents of the new agency, including the Washington Post as its editorial comment clearly indicates. I ask unanimous consent that a copy of the editorial be printed in the Record together with this statement as an excellent example of the inspiration occasioned by Judge Hufstedler's candidacy for this new Cabinet post.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Whose Schools?

It is not surprising that the nomination of Judge Shirley M. Hufstedler to be the first secretary of education is encountering some opposition. She is not, after all, a part of the educational establishment that worked so hard to get this new Cabinet-level department created. Thus, she is said by the Association of Supervision and Curriculum Development, among others, to lack the necessary experience in education and management for the job.

To us, the fact that Judge Hufstedler has had relatively little experience in the educational field, other than as a consumer, is among her most important credentials. If the new Department of Education is to be anything more than an institutionalized lobby for professional educators, it must begin its life not only with a broad perspective on this country's educational needs but with a limited view of what the role of the federal government in education should be.

Judge Hufstedler's opening statement at the hearings on her nomination suggests that she understands both the possibilities and the dangers of the new department. While she said she believes the federal government should be encouraging educational excellence at all levels, she promised to work to minimize federal "disruption and domination" of the schools. "The strength of our educational system is rooted in the primacy of state and local governments," she told the Senate Committee on Labor and Human Resources.

The recognition—and acceptance—of that primacy is critical to any success the Department of Education may have. The clamor around the country concerning overregulation by Washington is nothing compared with what it will be if local school boards begin to feel a larger federal presence in their affairs. Judge Hufstedler's lack of ties to either the educational establishment or the existing Washington bureaucracy gives her a chance, at least, to start the new department on a course that helps those who have the basic responsibility for educating our citizens—as distinct from hindering them.

Mr. WILLIAMS. Mr. President, I have every cofidence that Judge Shirley Hufstedler will provide the necessary leadership for the Department of Education to establish and maintain its role in meeting the challenges facing American education and I urge my colleagues to approve her nomination.

Mr. HELMS. Mr. President, I suppose no Senator enjoys voting against any nomination. I do not relish opposing the nomination of Judge Shirley Hufstedler to serve as Secretary of Education. But I must vote against her nomination—not on a personal basis, nor on the basis of her judicial service.

I presume Judge Hufstedler is a fine person who has done her best as a member of the judiciary.

I wish I could vote for her, but I cannot. And I cannot for two reasons.

First, I cannot support, even in an indirect way, the establishment of the enormous and expensive bureaucracy—the new Department of Education. All my knowledge of and experience in Government tells me that the creation of this vast new bureaucracy will increase the oppressive intrusion of the Federal Government into the affairs of the schools and universities of this country.

Second, I cannot support the appointment of a high Federal official, with such oversight authority over the educational policy of this Nation, who has been so closely linked with the development in this country of what is called humanism or secular humanism. Judge Hufstedler has served as a trustee of the Aspen Institute for Humanistic Studies which has been in the forefront of the social movement of humanism.

Now, let me be clear, Mr. President: Judge Hufstedler has every right to participate in the activities of this organization, and to hold these beliefs, or advance this or any other set of principles which she may favor. This is not the issue.

What is the issue in the mind of this Senator, is whether a person who has been active in the cause of humanism or, if you will secular humanism, should direct the policies of this Nation concerning the education of its children.

So, Mr. President, for those reasons I cannot support this nomination.

Mr. President, I ask unanimous consent that a January 1979, article from the Freeman Digest, by Michael Loyd Chadwick, entitled, "Global Ideology, Humanistic Studies and the Aspen Institute" and portions of an article from the winter 1978 Texas Tech Law Review by John Whitehead and John Conlan, entitled, "The Establishment of the Religion of Secular Humanism and Its First Amendment Implications" be printed in the Record at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Global Ideology, Humanistic Studies and the Aspen Institute

Many people have asked this question: Where do the leading officials of the Trilateral Commission, the White House, the Ford Foundation, the Rockefeller Foundation, the Exxon Corporation, the Brookings Institute, The New York Times, the Observer International, Die Zeit, the IBM Corporation, Goldman Sacks and Company, the International Institute for Strategic Studies, the Xerox Corporation, the Citibank, the U.N. University, the Milbank, the Tweed, the Hadley and McCloy Firm, the World Bank, the Council on Foreign Relations, the University of Chicago, the University of Rome, Sophio University, the Coca-Cola Co., the Chase Manhattan Bank, etc., go for advanced seminars in global ideology and humanistic studies? The not-so-obvious answer is Aspen, Colorado. To those who travel in high circles Aspen is not just a mountain retreat—famous for its majestic mountains and exhilarating skiing—it is a place where the world's elite gather to consider the problems of governance and to set forth possible plans for the future of humanity.

THE ASPEN INSTITUTE: HUMANISTIC IN VIEW AND INTERNATIONAL IN SCOPE

What is the Aspen Institute? According to Joseph E. Slater, President of the Institute, it is "humanistic in view and international in scope." It brings together "leaders in thought and action from various spheres who should spend intensive work time together. . . ." The goals of the Aspen Institute vary from "a deepening and broadening of public debate on vital social issues; to specific recommendations for new national and international policies and institutions in government, academia, and private enterprise; to proposals for new educational curricula and for innovative programs in the mass media."

THE DEVELOPMENT OF THE INSTITUTE

The Aspen Institute grew out of an international convocation held in Aspen, Colorado, in 1949, to celebrate the bicentennial of the birth of Johann Wolfgang von Goethe. The convocation was planned by the following three Chicagoans: Professor Giuseppe Antonio Borgese, Robert M. Hutchins, and Walter Paul Paepeke.

"Professor Giuseppe Antonio Borgese of the University of Chicago originated the idea for the Goethe Convocation and was supported by Robert M. Hutchins, then president of the university. Walter Paul Paepeke, Chicago businessman and philanthropist, completed the trio of founders. It was Paepeke who urged the setting of Aspen, Colorado, as a place where people could breathe freely and think clearly. Mortimer Adler, of the University of Chicago Great Books program, was also an early planner and participant in the Institute and its Executive Seminars.

"Later Robert O. Anderson—chairman of the board of Atlantic Richfield Company, rancher, humanist, and civic leader—took over the direction of the Institute, and for more than fifteen years has guided its operations and helped shape its programs. Joseph E. Slater, formerly of the Ford Foundation and the Salk Institute, became president of the Aspen Institute in 1969 and, working with Mr. Anderson, has developed the Institute into the major international institution which it is today."

INFLUENCING GOVERNMENT DECISIONS AT THE NATIONAL AND INTERNATIONAL LEVEL

As noted by Sidney Hyman, author of The Aspen Idea, "The Aspen Institute defines its own tasks, and proceeds with them in its own way. Yet its work as an 'early warning system'—in spotting emerging problems, in examining them from different perspectives, and in formulating alternative responses to them—has been increasingly valued by policy-makers and political executives in the United States government, in foreign governments, and in international agencies."

SOLVING PROBLEMS FROM A HUMANISTIC VIEWPOINT

According to Joseph E. Slater, the Aspen Institute is "humanistic" in nature and approach, whatever the subject. It seeks to solve problems "from a human-centered viewpoint." Hyman elaborates on this as follows:

"The Institute takes its unity from an idea and a commitment shared by the participants in its inner life, regardless of the city, nation, or continent where they otherwise make their home. The idea is, that any salient problem of contemporary human existence now shares a common frontier or merges with every other salient problem, and that any solutions framed for a particular problem must take into account its linkages to the rest. The commitment is to all the meanings packed into the strategic word 'humanistic'—to search for ways in which 'man' in Martin Buber's phrase, 'can reach for the divine, not by reaching above the human, but by striving to become, in all that he does, more human.' "

HUMANISM—THE SECOND AMERICAN REVOLUTION

Inasmuch as the Aspen Institute is one of the most prominent organizations in the world promoting humanistic studies, it is appropriate to discuss here the concepts and philosophy of humanism.

The present century is being proclaimed by many as the "humanist century." In fact, John D. Rockefeller, III, the late elder brother of David Rockefeller, has termed the transformation period we are now experiencing in the United States "the second American Revolution." In a recent book he states:

"In my attempts to understand the realities of today, I have come more and more to accept the view that in the United States we are in the early stages of a revolution—that the currents of change are so profound it is not an exaggeration to regard them as revolutionary in nature.

AMERICA—CENTER OF A 20TH-CENTURY WORLD REVOLUTION

"This view, of course, did not originate with me. So many solid and responsible observers share it that it must be taken seriously even if one does not agree. It came perhaps most prominently into the public consciousness in two books published since 1970. In one, *Without Marx or Jesus*, the French writer Jean-Francois Revel held that 'the revolution of the twentieth century will take place in the United States. It is only there that it can happen. And it has already begun. Whether or not it succeeds in the rest of the world depends on whether or not it succeeds first in America."

"And, in the other, The Greening of America, Charles Reich wrote that 'there is a revolution coming. It will not be like revolutions of the past. . . . It is now spreading with amazing rapidily, and already our laws, institutions, and social structure are changing in consequence.'

TWO BROAD SOURCES OF REVOLUTIONARY CHANGE

"At the risk of oversimplifying, let me say that I see two very broad sources of revolutionary change in our society. One is people, individually and in groups, who are concerned about justice and freedom and receiving a fair share of the fruits of our society. The other is impersonal and materialistic, stemming from economic growth, new knowledge and technological innovations, international rivalries.

THE SECOND AMERICAN REVOLUTION

". . . I have chosen to call the revolution I see emerging the "Second American Revolution," for that anchors it in terms of time and place—here and now.

DESIRE OF PEOPLE FOR A PERSON-CENTERED SOCIETY

". . . As for the content of this movement, it seems to me most expressive and accurate to refer to it as a humanistic revolution, for it springs from the first source of change mentioned above—the wants and needs and aspirations of people. It embodies a desire to create a person-centered society, to harness the forces of economic and technological change in the service of humanistic values. Its vision is that the ideals and purposes that give life its higher meaning may now finally be within our grasp.

THE NATURE OF THE COMING REVOLUTION

"To use the dictionary definition of humanism, this revolution is characterized by a 'devotion to human welfare, interest in or concern for man.' It is a search for 'a doctrine, set of attitudes, or way of life centered upon human interests or values.' I believe this is very much in the directions perceived by Revel and Reich. A true revolution, Revel wrote, is a 'social, cultural, moral and even artistic transformation, where the values of the old world are rejected, where relations between social classes are reconsidered, where relations among individuals are modified, where the concept of the family changes, where the value of work the very goals of existence are reconsidered.

"Reich wrote that the revolution 'promises a higher reason, a more human community, and a new and liberated individual. Its ultimate creation will be a net and enduring wholeness and beauty—a renewed relationship of man to himself, to other men, to society, to nature, and to the land.'

"The word 'revolution' is overworked, particularly in the advertising world, but it is important to realize that what is being considered here is revolution in the real sense."

PHASING OUT OLD-FASHIONED NATIONALISM

Concerning the interdependence of man, Rockefeller stated:

"Men are seen as having the same basic needs and desires everywhere despite differences in customs, ethnic backgrounds, and beliefs. There is a growing recognition of the mutual dependence of people of all nations on a fragile environment, and their dependence on one another for sustenance and support. Therefore people are seen as fundamentally interdependent. This value emphasizes cooperation and mutual respect among peoples, and de-emphasizes the competitiveness, insularity, and chauvinism which have characterized much old-fashioned nationalism."

THE PHILOSOPHY OF HUMANISM

The humanistic approach to the solution of problems has a long history. One of the most prominent humanist philosophers was Corliss Lamont, a graduate of Harvard and Columbia Universities and later an instructor at Cornell, at Harvard and Columbia Universities, and at the New School for Social Change. In 1965 he published a revised and enlarged version of The Philosophy of Humanism which traces the development of the growing humanist movement in America. Lamont outlined the philosophy of humanism as follows:

"Humanism has had a long and notable career, with roots reaching far back into the past and deep into the life of civilizations supreme in their day. It has had eminent representatives in all the great nations of the world. As the American historian Professor Edward P. Cheyney says, Humanism has meant many things: 'It may be the reasonable balance of life that the early Humanists discovered in the Greeks; it may be merely the study of the humanities or polite letters; it may be the freedom from religiosity and the vivid interest in all sides of life of a Queen Elizabeth . . .; it may be the responsiveness to all human passions of a Shakespeare or a Goethe; or it may be a philosophy of which man is the center and sanction. It is in the last sense, elusive as it is, that Humanism has had perhaps its greatest significance since the sixteenth century.' "

BASIC PRINCIPLES OF HUMANISM

"Humanism is a many-faceted philosophy, congenial to this modern age, yet fully aware of the lessons of history and the richness of the philosophic tradition. Its task is to organize into a consistent and intelligible whole the chief elements of philosophic truth and to make that synthesis a powerful force and reality in the minds and actions of living men. What, then, are the basic principles of Humanism that define its position and distinguish it from other philosophic viewpoints? There are, as I see it, ten central propositions in the Humanist philosophy.

NATURALISTIC METAPHYSICS

"First, Humanism believes in a naturalistic metaphysics or attitude toward the universe that considers all forms of the supernatural as myth; and that regards Nature as the totality of being and as a constantly changing system of matter and energy which exists independently of any mind or consciousness.

MAN IS AN EVOLUTIONARY PRODUCT

"Second, Humanism, drawing especially upon the laws and facts of science, believes that man is an evolutionary product of the Nature of which he is part; that his mind is indivisibly conjoined with the functioning of his brain; and that as an inseparable unity of body and personality he can have no conscious survival after death.

ULTIMATE FAITH IN MAN

"Third, Humanism, having its ultimate faith in man, believes that human beings possess the power or potentiality of solving their own problems, through reliance primarily upon reason and scientific method applied with courage and vision.

HUMAN BEINGS POSSESS GENUINE FREEDOM OF CHOICE

"Fourth, Humanism, in opposition to all theories of universal determinism, fatalism, or predestination, believes that human beings, while conditioned by the past, possess genuine freedom of creative choice and action, and are, within certain objective limits, the masters of their own destiny.

ALL HUMAN VALUES GROUNDED IN THIS EARTHLY EXPERIENCE

"Fifth, Humanism believes in an ethics or morality that grounds all human values in this-earthly experiences and relationships and that holds as its highest goal the this-worldly happiness, freedom, and progress—economic, cultural, and ethical—of all mankind, irrespective of nation, race, or religion.

CONTINUOUS SELF-DEVELOPMENT

"Sixth, Humanism believes that the individual attains the good life by harmoniously combining personal satisfactions and continuous self-development with significant work and other activities that contribute to the welfare of the community.

DEVELOPMENT OF ART AND BEAUTY

"Seventh, Humanism believes in the widest possible development of art and the awareness of beauty, including the appreciation of Nature's loveliness and splendor, so that the aesthetic experience may become a pervasive reality in the life of men.

FAR-REACHING SOCIAL PROGRAMS

"Eighth, Humanism believes in a far-reaching social program that stands for the establishment throughout the world of democracy, peace, and a high standard of living on the foundations of a flourishing economic order, both national and international.

COMPLETE SOCIAL IMPLEMENTATION OF REASON AND SCIENTIFIC METHOD

"Ninth, Humanism believes in the complete social implementation of reason and scientific method; and thereby in the use of democratic procedures, including full freedom of expression and civil liberties, throughout all areas of economic, political, and cultural life.

UNENDING QUESTIONING OF BASIC ASSUMPTIONS

"Tenth, Humanism, in accordance with scientific method, believes in the unending questioning of basic assumptions and convictions, including its own. Humanism is not a new dogma, but is a developing philosophy ever open to experimental testing, newly discovered facts, and more rigorous reasoning."

A HUMANIST CIVILIZATION

Lamont in the latter part of his book gives the reader a view of the emerging humanist civilization. Although rather lengthy, it provides an excellent summary of the direction in which the humanist movement is traveling in America and throughout the world. Lamont states:

"A Humanist civilization is one in which the principles of the Humanist philosophy are dominant and find practical embodiment in laws, institutions, economics, culture, and indeed all the more significant aspects of individual and social life. This requires, as the eighth proposition of Humanism phrases it, 'a far-reaching social program that stands for the establishment throughout the world of democracy and peace on the foundations of a flourishing and cooperative economic order, both national and international.'

DEMOCRATIZATION OF EDUCATION AND CULTURE

"Humanism's thorough democratization of education and culture will result, I am convinced, in a cultural flowering comparable in achievement to the outstanding epochs of the past and going far beyond them in breadth of impact. A Humanist society will invest in education and general cultural activity sums proportionate to what present-day governments allocate to armaments and war. Particularly will schools and colleges, universities and research institutes, with their perennial budget difficulties, benefit from vastly enlarged financial resources. At long last educational institutions will be able to construct adequate physical plants and employ full teaching staffs at generous salaries. Thus current overcrowding will be done away with and the advantages of individual attention for all types of students realized to the full. It is generally recognized that the current crisis in American education is principally due to a tidal wave of students, the result of an all-time high birth rate, inundating already inadequate schools, colleges, and universities.

PROMOTING SOCIAL RATHER THAN INDIVIDUALISTIC AIMS

"Humanist education naturally accents social rather than individualistic aims. This implies both more attention to social studies, such as economics, politics (including civil liberties), and sociology, and inclusion in the curriculum of courses on ethics in order to train the youth of a nation in the broad Humanist attitudes of loyalty to the social group and to humanity. Humanism would also greatly extend the teaching of science and scientific method, putting emphasis on the student's learning to think straight, but not neglecting the inculcation of basic facts. There need be no opposition between science and the Humanities, from both of which the Humanist draws inspiration, and no concentration upon one of them to the exclusion of the other.

SPREADING AN AWARENESS OF LITERATURE AND ART

"The Humanist educational program will be a large factor in spreading a fundamental awareness of literature and art among all of the people. This does not mean any letdown in standards; on the contrary the effects will be just the opposite, by raising to unprecedented levels the average cultural understanding and by widening to an unprecedented extent the range of true artistic accomplishment on the part of both amateurs and professionals.

COMPLETE FREEDOM OF EXPRESSION

"The Humanist stress on complete cultural democracy and freedom of expression means that artists and writers should have the widest latitude in what they produce and say. A free art and a free literature are absolute essentials for a free culture. A Humanist civilization will contain many different and contradictory currents of thought, including non-Humanist and anti-Humanist tendencies. It certainly will not bring pressure on art and literature to conform to any official philosophy; or seek to force the novel, the theatre, and the motion picture to deal with Humanist themes. Those who so wish will criticize and satirize to their heart's content; and will be at entire liberty to present unconventional ideas that shock and stir the Humanist orthodox.

REMOVING MORALISTIC RESTRAINTS ON ARTISTS AND WRITERS

"Narrowly moralistic restraints on artists and writers have ever been a bane in the history of the West; and those restraints have frequently stemmed from the supernaturalist's suspicion of earthly pleasures. As Professor Irwin Edman explains: 'The traditional quarrel between the artist and the puritan has been the quarrel between those who were frankly interested in the sensuous appearances and surfaces of things and those to whom any involvement or excitements of the senses was a corruption of the spirit of a deflection of some ordered harmony of reason. The history of censorship in the fine arts, if it could be told in full, would be found to revolve in no small measure around the assumed peril of corruption of the spirit by the incitements of the flesh through beautiful things.

EMBODYING THE HUMANISTIC VIEWPOINT IN ARTISTIC AND LITERARY WORK

"One of the challenges to Humanist writers and artists will be to embody in artistic and literary work the general point of view for which Humanism stands; to express that sense of the beauty and glory of life which Michelangelo, for instance, so superbly portrayed in the Sistine Chapel through the medium of a subject matter centered upon the supernatural. There is nothing in the nature of art, literature, or poetry that makes treatment of the Christian myth lead to great creative accomplishment and that prevents a similar result in the representation of the humanistic and naturalistic world-view. Genius is not confined to the delineation of any one philosophic position concerning the universe and man.

"Santayana enlarges upon our point. 'The naturalistic poet,' he writes, 'abandons fairy land, because he has discovered nature, history, the actual passions of man. His imagination has reached maturity. . . . Throw open to the young poet the infinity of nature; let him feel the precariousness of life, the variety of purposes, civilizations, and religions even upon this little planet; let him trace the triumphs and follies of art and philosophy, and their perpetual resurrections—like that of the downcast Faust. If, under the stimulus of such a scene, he does not some day compose a natural comedy as much surpassing Dante's divine comedy in sublimity and richness as it will surpass it in truth, the fault will not lie with the subject, which is inviting and magnificent, but the halting genius that cannot render that subject worthily.'

POETS SHOULD VERSE THE BASIC THEMES OF HUMANISM

"Great poets in the past have given expression to some particular philosophy or religion. In a general sense we can call Homer the poet of Paganism, Lucretius the poet of Materialism, Dante the poet of Catholicism, Milton the poet of Protestantism, Goethe the poet of Romanticism and Wordsworth the poet of Pantheism. As yet, however, no poet equal in rank to these just mentioned has put into enduring verse the basic themes of Humanism as a philosophy.

WORKING OUT RITUALS AND CEREMONIES THAT ARE CONSISTENT WITH THE CENTRAL TENETS OF HUMANISM

"An essential function for artists and writers in a Humanist society will be to work out rituals and ceremonies that are consistent with the central tenets of Humanism. Such ceremonies should appeal to the emotions as well as the minds of the people, capturing their imagination and giving an outlet to their delight in pomp and pagentry. Present-day Humanists regard a festival like Christmas, which has already become secularized to a large extent in the United States, as a folk day symbolizing the joy of existence the feeling of human brotherhood, and the ideal of democratic sharing. However, during the year's most intensive holiday season, many Humanists prefer to put their stress on New Year's Day rather than Christmas. Easter can be humanistically utilized to celebrate the rebirth of the vital forces of Nature and the renewal of man's own energies. In fact, according to the anthropologists, Easter probably originated in just such a way. Humanism will likewise naturally make much of the birthdays of outstanding leaders of the human race, and of other important anniversaries.

CHANGES NEEDED IN WEDDING AND FUNERAL SERVICES

"The average family in a Humanist civilization will also need wedding and funeral services based on a nonsupernatural philosophy of life. It seems reasonable to suppose that even today millions of families in America and throughout the world would like to have available definitely Humanist rituals for the occasions of marriage and death. Since such families are not usually acquainted with services of dignity and beauty that are in harmony with their ideas regarding life and destiny, they tend to fall back on the traditional supernaturalist ceremonies. One result of this has been that again and again rationalists, freethinkers, and Humanists are adjudged finally in the public eye as faithful supernaturalists because their funeral services are orthodox. A number of Humanist wedding and funeral services are already in use, such as those prepared by Ethical Culture and Humanist groups.

THE SOCIAL ORIGIN AND FUNCTION OF ART

"In general, Humanism believes in the social origin and function of art. Categorically asserting that art is for man's sake, it repudiates the superficial slogan of art for art's sake, which represented a natural reaction against the dreariness and ugliness of nineteenth-century industrialism. At the same time Humanism eschews the artificial distinction between the fine arts and the useful arts. This is another of the old, outworn dualisms and tends in the direction of an aristocratic, spectator view of art as residing in private mansions and public museums rather than as a pervasive complement of human work and play. So far as the products of labor are concerned, the Humanist theory is that they should embody a constant fusion of utility and grace, so that the quality of beauty will enter universally into the common objects of daily use.

"The mass production of industrial goods by machinery does not necessarily prevent the fulfillment of this aim. An excellent case can be made for claiming that the best designed American automobile is of as high a standard aesthetically as the ancient Greek chariot, modern china as the ancient Greek vase, and the twentieth-century skyscraper as the ancient Greek temple. The finest works of art in any case have always been socially functional in some sense. Where modern economic systems have held back and hampered the development of good art is particularly in their emphasis on the profit motive. The quality of artistic and literary creations cannot be justly assessed in terms of the money that they earn; and the general spirit prevalent in a predominantly money civilization is not conducive to the highest type of culture.

"All the great periods of cultural upsurge in the past have sprung from a definite material foundation, usually coinciding with or immediately following relative economic prosperity on the part of the particular people concerned. Greece of the Periclean Age, the European Renaissance, the flowering of New England in the nineteenth century, are cases in point. The lesson of history is, then, that for a dynamic and creative cultural life, a nation must have an adequate material base in the form of a healthily functioning economic system.

HUMAN RIGHTS MUST PREVAIL OVER PROPERTY RIGHTS

"It is not the purpose of this book to go into the details of economics. But it is necessary to state that Humanism, whatever the prevailing economic system may be, stands behind Abraham Lincoln's statement: 'Whenever there is a conflict between human rights and property rights, human rights must prevail.' Here we also return once more for guidance to what the Founding Fathers said in the Declaration of Independence. Instead of listing life, liberty, and property as the inalienable rights of men, as had John Locke, the English philosopher who so strongly influenced Jefferson and other early American statesmen, the signers of the Declaration substituted 'the pursuit of happiness' for 'property.' This was a most significant departure.

HUMANISM STANDS FOR COMPREHENSIVE SOCIAL PLANNING

"Humanism also brings to the fore the concept of planning as a key to the establishment of a sound economic order, though individual Humanists vary as to how far they favor pushing the techniques of planning. Effective thinking is in essence a form of planning and the final solution adopted for any problem constitutes a plan of action. The first level of planning is, then, problem-solving thought. The second level is a person's general planning for himself and his future, his conscious attempt to foresee and control relevant circumstances. This wise individual who looks ahead will draw up an annual budget for himself. The preparation of a budget by individuals, families, businesses, colleges, governments, or any organization whatever is always an example of planning.

"The third level of planning is that which a family does for the well-being of its members, including planned parenthood through some form of birth control. Next we come to the planning of individual private businesses, whether small or large, with the central coordination of different departments and the itemized control of finances. Then there are various types of government planning, whether Federal, State, or municipal. A further and crucial stage is that of continuous national planning for the benefit of all the people and through the means of coordinating the entire industrial and agricultural life of a country with transportation, finance, and distribution. Contrary to a widespread impression, socio-economic planning is fully compatible with democratic procedures and can be utilized as a major instrument in furthering the goals of democracy.

WORLD PLANNING FOR THE WELFARE OF ALL MANKIND

"World planning for the welfare of all mankind is the highest and broadest level of all. It becomes possible only with a tremendous extension of international organization. A successfully functioning United Nations, with its many specialized agencies, such as the Economic and Social Council, the Food and Agriculture Organization, the World Health Organization, and UNESCO, obviously entails some degree of global planning and could lay the foundations for an integrated world economy and political federation.

AN EVENTUAL COMMUNITY OF NATIONS EMBRACING ALL PEOPLES

"Manifestly any practicable and constructive scheme of world planning depends on the elimination of international war, the most terrible and destructive malady that has ever afflicted the human race. Modern philosophers have been perennially concerned with the scourge of war. Kant's succinct essay Perpetual Peace, written in 1795, was among the best philosophic studies of the subject. Kant included among his prerequisites for international peace that every nation should have a republican constitution, that each people should possess national self-determination, that there should be general disarmament, and that there should be a federation of free states agreeing to abolish war forever. He also suggested an eventual 'State of nations,' or world-republic, embracing all peoples. The Humanist, while disagreeing with the supernaturalistic aspects of Kant's philosophy, can certainly agree with his program for peace so far as it goes.

THE PRINCIPLE OF COLLECTIVE SECURITY

"In the twentieth century the idea of a federation of free states became embodied in the League of Nations, which collapsed with the outbreak of World War II, and in the United Nations, which was created at the war's end. Both these organizations were founded upon the principle of collective security, namely that the peace-loving countries of the earth should band together against any aggressor or potential aggressor and speedily put an end, by means of collective action and mutual assistance, to war or the threat of war. For Humanism the principle of collective security is a vital one in internatinoal affairs.

THE REALISTIC HUMANIST BELIEVES IN AT LEAST A LIMITED ECONOMIC INTERPRETATION OF HISTORY

"The realistic Humanist, however, believing in at least a limited economic interpretation of history, will look beyond fine-sounding peace pronouncements and formal peace organizations to those fundamental economic forces and relationships that make for war. We can find an economic interpretation of war as far back as Plato when he said, 'Wars are occasioned by the love of money.' Without contending that economics constitutes the whole story behind war, we can state that unless and until the different peoples of the world solve their basic economic problems centering around poverty, unemployment, inflation, depression, business monopoly, and the proper control of natural resources, there will be no lasting international peace.

ALL NATIONS ARE ECONOMICALLY, POLITICALLY AND CULTURALLY INTERDEPENDENT

"Clearly, too, the various nations, now some 120 in number, will not be able to work out their economic problems independently. All countries in this modern age are economically, politically, and culturally interrelated and interdependent. The time is past when any national unit can be sufficient unto itself and function prosperously and securely in isolation from the rest of mankind. A long time ago Plato stressed in his *Dialogues* the theme of the good individual in the good society, showing how difficult it is for a person to achieve virtue in a bad environment. Today it is relevant to talk about the good *nation* in the good *world*. No one country, however wealthy, populous, and powerful, can fulfill its finest potentialities until it can live in a decent international environment quite dissimilar from that of the present. A truly Humanist civilization must be a world civilization.

ALL MEN ARE FELLOW CITIZENS OF ONE WORLD

"For the Humanist it follows that beyond all questions of national self-interest, every people has a moral obligation to humanity as a whole; a duty, which is also an opportunity, to make common cause with the other peoples of the earth in man's eternal quest for peace, plenty, and freedom. All individuals of all countries are together fellow citizens of our one world and fellow members of our one human family. The Americans, the Russians, the English, the Indians, the Chinese, the Germans, the Africans, and the rest are all part of the same perplexed, proud, and aspiring human race.

HUMANISM IS A SUPRANATIONAL, PANHUMAN PHILOSOPHY

"Humanism is not only a philosophy with a world ideal, but is an ideal philosophy for the world. It is quite conceivable that a majority of this planet's population could come to see the truth of its underlying principles. The Humanist viewpoint, surmounting all national and sectional provincialisms, provides a concrete opportunity for overcoming the age-long cleavage between East and West. Even those who cling to some form of supernaturalism can unite with Humanists, as they did during World War II, on a program of democracy and progress that reaches to the farthest corners of the earth. Humanism is a supranational, panhuman philosophy of universal relevance; it is the philosophic counterpart of world patriotism.

"In my endeavor to present a compact, minimum prospectus of the Humanist philosophy, I have naturally had to deal very briefly with certain large topics. . . . I have tried to make explicit Humanism's clear and uncompromising answer on the major philosophic issues. In an era in which multitudes of people have lost the faith of their forebears and waver uncertainly in a no man's land of doubt concerning the ultimate problems of existence. Humanism takes an unequivocal position and offers an integrated and affirmative way of life. It provides modern man with a stable and meaningful frame of reference. The Humanist synthesis, while of course gathering strength from other philosophies, has a unity and a viability of its own. And it represents a viewpoint, still in process of evolution, that can never be restricted to any final formulation. Naturalistic Humanism is a comprehensive idea-system, but it is an open system.

"Despite the appalling world wars and other ordeals through which humanity has passed during the twentieth century, despite the unprecedented menace of nuclear annihilation. Humanism takes the long view and remains hopeful of the decades to come. This philosophy, with its faith in man and in his ability to solve his problems through human intelligence and scientific techniques, holds to what might be called a reasoned optimism. It rejects the dead ends of despair as well as the daydreams of Utopia. I believe firmly that man, who has shown himself to be a very tough animal, has the best part of his career still before him. And there is at least the possibility that by the close of this century 'the Humanist breakthrough,' in Sir Julian Huxley's phrase, will spread throughout the globe to create a higher civilization of world dimensions.

HUMANISM ASSIGNS TO MAN THE TASK OF BEING HIS OWN SAVIOR AND REDEEMER

"In the meaningful perspectives of the Humanist philosophy man, although no longer the darling of the universe or even of this earth, stands out as a far more heroic figure than in any of the supernaturalist creeds, old or new. He has become truly a Prometheus Unbound with almost infinite powers and potentialities. For his great achievements, man, utilizing the resources and the laws of Nature, yet without Divine aid, can take full credit. Similarly, for his shortcomings he must take full responsibility. Humanism assigns to man nothing less than the task of being his own saviour and redeemer.

BECOMING ACCUSTOMED TO THINKING IN GLOBAL TERMS

Along with being "humanistic in view," the Aspen Institute is "international in scope." Harlan Cleveland, former ambassador to NATO, State Department official and author of The Third Try at World Order, is head of the Institute's International Division. One of the Institute's program which is relatively new is titled "Global Perspectives in Education." Concerning this program Cleveland has noted that:

"We must introduce children much earlier in life to the nature of world politics and economics. . . . Children must come to understand how global systems of communications work. Also they must be aware of the dangers of the spread of nuclear systems and weapons. . . . Every citizen of the U.S. must become accustomed to thinking globally."

THE ASPEN INSTITUTE FOR HUMANISTIC STUDIES

A recent pamphlet describes the philosophy, purpose, concerns, programs and mode of operation of the Aspen Institute as follows:

"The Aspen Institute for Humanistic Studies is a continuing effort to help shape a world in which there is individual freedom, creativity and fulfillment as well as social justice.

"This goal is difficult in an increasingly complex society. The Aspen Institute approaches it by bringing together some of the ablest people from all sectors of society, worldwide, to look for solutions to the most critical issues of our time. The Institute gives them a unique means to debate their convictions, reflect on the fate of their fellows and define policies needed to enhance the human condition—while there is still time to make choices.

"From such interaction can emerge a surprising consensus and programs for action. Thinking is modified and in this process mankind takes a step forward. The Institute becomes a catalyst by which people who make or influence decisions can convert ideas and values into action. It encourages individuals and institutions to reach beyond their self-interest and try to form a more humane future.

CONCERNS AND PROGRAMS

"The Institute is independent, international, nonpartisan and non-profit. It considers contemporary issues from a human-centered viewpoint.

"Ideas are not examined in the abstract; technologies are not dissected as scientific puzzles. At the Aspen Institute, the weight given to ideas depends on their humanistic value to individuals and society. Ideas are seen as weapons in the constant struggle to improve the quality of life and to reinforce the always threatened underpinnings of freedom.

"For nearly 30 years the Institute has conducted its Executive Seminar Program. In it leaders from business and labor and the academic and public sectors discuss the relevance of the great ideas of mankind to the unsettled and unsettling issues of today. The Executive Seminar Program, now on a year-round basis for the first time, is adding seminars dealing with various cultures, the corporation and society, and special themes.

"The Institute has ongoing programs that concentrate on five of the most critical areas of contemporary concern:

"Communications and Society seeks to improve the standards, content, diversity and outreach of the mass media.

"Justice, Society and the Individual strives to clarify concepts of justice; search for better means of delivering justice; advance dispute resolution; define the limits to dissent, and strengthen the effectiveness of the distribution of justice.

"Science, Technology and Humanism examines how science can work as a humanitarian as well as a utilitarian force in society. It attempts to optimize the role of science and technology in improving global well being; increase scientific literacy; and, mindful of the balance between needs and risks, nurture innovation and creativity in science.

"International Affairs covers a range of concerns from arms control to concepts of basic human needs and fulfillment and the impact of the interrelationship between the industrialized countries and the developing nations. It attempts to identify the essential elements of a new world order and the management of our interdependent world.

"Education for a Changing Society explores the adequacy of formal education, the possibilities for life-long learning and the evolution of new expressions of the drive for knowledge.

"As an emerging theme of overarching importance, the Institute is undertaking a sustained examination of a series of crucial issues of Governance: how societies and their governments and institutions, public and private, national and international, can better respond to the often conflicting pressures for social justice, fairness, efficiency and individual freedom. Under this general title of Governance, the Institute focuses on such subjects as the Energy Crisis, Financing the Future, Human Rights, The Corporation and Society, Cultures and Modernization, and Policies and Structures of Peace. The preeminent setting for dealing with Governance issues is the Institute's newly-acquired Wye Plantation outside of Washington, D.C.

THE ASPEN INSTITUTE: A WORLDWIDE ORGANIZATION

"The Aspen Institute is directed by an international, 36-person Board of Trustees, representing all sectors of society and buttressed by a global network of Special Advisors. The Institute is managed by a leadership determined to perpetuate the integrity of the Aspen Institute idea; and it is supported by diverse foundations, tuition, individuals, corporations and, to a smaller extent, by grants from national and international public organizations.

"Its central office is in New York City and it has major centers of activity in Maryland outside Washington, D.C., and in Aspen, Colorado (where it all began nearly 30 years ago). Its programs and projects are based in Cambridge, Massachusetts; Princeton, New Jersey; Washington, D.C.; Boulder, Colorado; and Palo Alto, California.

"Recognizing that the world is a global community, the Institute has become increasingly international. In Berlin, it has a major center, fully staffed and integrated into all the Institute's programs. It also maintains centers in Tokyo and Hawaii. It has added a multi-year project on the Middle East, conducts seminars on Asian thought and has begun a Latin American program.

PAST RESULTS AND FUTURE GOALS

"The results of Institute activities take many forms, including among others; the creation of new communities of common interest, nationally and internationally, despite the growing compartmentalization of society; the broadening and deepening of public debate and understanding; the encouragement of more responsive institutions; the capability for giving more informed testimony; the evolution of new curricula and research; the stimulation of the growth and training of talented young people; the dissemination of ideas through a variety of publications, and improved decision making with more effective citizen participation.

"The experiment that is the Aspen Institute is constantly changing and flexible to meet the new and shifting problems for which mankind must find answers.

"The Institute believes that people of talent and good will can make a difference. It is rooted in the conviction that, in today's world, society must be mindful of its past, engaged in the challenges of the present, and help to serve as trustees for the future."

FREEMEN DIGEST VISITS WORLD HEADQUARTERS OF THE ASPEN INSTITUTE

Inasmuch as the Aspen Institute for Humanistic Studies is one of the major worldwide organizations having a major influence in shaping national and international policies, the Freemen Digest felt that a complete issue should be devoted to the Institute's long-rang goals and plans. Therefore the editor of the Digest traveled to their New York City office. He also visited their seminar facilities in Aspen, Colorado, and conducted an interview with Joseph E. Slater. The material in this issue is drawn exclusively from the files of the Aspen Institute.

THE ESTABLISHMENT OF THE RELIGION OF SECULAR HUMANISM

THE RELIGION OF SECULAR HUMANISM

In the study of any movement its history must first be considered, not only to discover its origin, but to enable one to envision its future as well. The roots of Secular Humanism and its extreme implications for the future of society are shrouded within the disciplines of history and law.

A. The rise of secular humanism

At one time in American society, including the founding era, the genesis of religious thought was biblical theism.[132] The biblical world view is based on theism, which posits that Man is created in the image of God.[133] Biblical theism teaches that absolute standards exist by which all moral judgments of life are to be measured [134] and that history is linear, that is to say that history is a meaningful sequence of events leading to the fulfillment of God's purpose for man.[135]

Biblical theism is clearly expressed in such founding documents as the Declaration of Independence, which presupposes that "God" endows men with "inalienable rights." [136] The men who sought independence from Britain did not hesitate to declare to the world their religious belief in a personal, infinite God who endowed them with inalienable rights. To the men of that day, if there were no God, there were no rights. Succinctly stated, the Declaration of Independence is structured upon a theistic base, in that it professes faith in a "Creator" who works in and governs the affairs of men (history) in establishing absolute standards ("inalienable rights").[137] In this respect, the drafters of the Declaration of Independence were not inconsistent in "appealing to the Supreme Judge of the world for the rectitude of [their] intentions . . . with firm reliance on the protection of Divine Providence. . . ." [138]

Early American law was no less theistic in its configuration. Probably the greatest influence on the law as understood by the men responsible for formulating the foundations of the American legal system was William Blackstone's [139] *Commentaries*.[140] Regarding the basis of law, Blackstone wrote:

> The doctrine thus delivered we call the revealed or divine law, and they are found to be only in the holy scriptures. . . . Upon these two foundations, the law of nature and the law of revelation, depend all human laws. That is to say, no human laws should be suffered to contradict these.[141]

Blackstone's thesis was that God was the source of all laws whether they were found in "the holy scriptures" or were observable as they operated in nature.[142] His suppositions were thoroughly theistic and founded upon the belief that there existed a personal, omnipotent God who worked in and governed the affairs of men. These same premises were utilized by Thomas Jefferson and others who studied Blackstone.[143] Blackstone's philosophy was evident throughout the Declaration of Independence and the Constitution.[144]

In the early eighteenth and early nineteenth centuries the influence of theistic thought in America increased until it peaked in the Third Great Awakening of 1858.[145] However, following the Civil War and the humanistic movement resulting from the introduction of the Darwinian theory of evolution by natural selection in 1859,[146] a new strain of humanistic thought emerged in American society. Historian Perry Miller commented on the problem that confronted traditional theism following the emergence of humanism:

> After 1860, American Protestantism was called upon to confront the forces of a new age—of industrialism, urbanization, economic conflict. To begin with, it had only the armory of weapons with which it had been equipped by the Great Revival—concepts of sublimity, of the heart, of benevolence, of the millennium. But above all it was committed to the absolute conviction that, amid a multitude of forms, revivalistic piety was the primary force in maintaining "the grand unity of national strength." This was the evangelical heritage.[147]

This Christian evangelical heritage of revivalistic piety was not prepared to withstand the onslaught of the aggressive humanistic thought that emerged after the Civil War.[148] Historian Ralph Henry Gabriel explained the connection between "the religion of humanity" that appeared subsequent to the Civil War and the effect of Darwinian thought and Comtean positivism on traditional theism.

The appearances of an aggressive humanism, a new religion of humanity, immediately after the end of the Civil War is one of the more significant events in the history of American democratic thought. The objective of the religion of humanity was to secure and to protect a larger human freedom and to make men understand that liberty implies responsibility. Like Morgan, the post-Appomattox humanists turned to science. When the anxieties of war relaxed there was a sudden impact of Darwinism upon Christian orthodoxy. Auguste Comte, who died in 1857, gave the world a positivist philosophy which affirmed that the theological stage in the progress of humankind had ended as had also the succeeding stage of rationalistic philosophies. Mankind, thought Comte, had entered, in the nineteenth century, the age of science; in this new intellectual world man was destined to become the master of his own destiny. Comtean positivism affected American thought at the moment when Darwinism was challenging the old religious doctrines of the nature of man.[149]

The splintered Union that resulted from the war was gradually healed as a consequence of an expanding industrialism. This was the era of unadulterated Victorian capitalistic rule at its best and worst; a Victorian capitalism that knew how to develop the country both economically and scientifically.[151] It was a "merciless . . . age when social Darwinism rules supreme, when Herbert Spencer's amalgamation of the old Puritan creed with the pseudoscientific biological outlook was almost unchallenged. . . . With Roman-like ruthlessness, these Spencerian apostles confused mechanical expansion with historical process and the very success of industrialization contributed to ensnare them in their own intellectual traps." [152] As a consequence, J. D. Rockefeller could justify his industrial monopoly: "The growth of a large business is merely a survival of the fittest." [153] Likewise, Andrew Carnegie could expound on his conversion to Darwinism: "Light came as in a flood and all was clear. Not only had I got rid of theology and the supernatural, but I had found the truth of evolution." [154] It was indeed the age of material gratification and a form of capitalistic dominance that possessed little if any Christian compassion. By the dawn of the twentieth century these humanistic forces had gained a significant hold on the economics and science of the American culture.

The industrialized, philosophical and religious systems that emerged in post-bellum America were at odds with the traditional theism that had preceded the conflict. The emphasis on moral absolutes or categories in business, education and society was diminishing. With the onslaught of evolutionary humanism a moral system composed of what theologian and lecturer Dr. Francis Schaeffer has called "arbitrary absolutes" began to dominate the thinking of man.[155] The theory of evolution and its emphasis on perpetual change in species [156] implies that there are no absolutes. Therefore, "philosophical relativism" is an inherent adjunct to the evolutionary theory.[157]

The momentum gathered by humanism in the so-called "irrepressible conflict" has spilled over to the twentieth century and maintained its thrust through the utilization of public education.[158] The transferring, through public education, of humanist ideology to succeeding generations, coupled with a humanistic onslaught against cultural absolutes has abetted the establishment of Secular Humanism in contemporary American society.[159]

B. Secular humanism and religion: A definitional approach

The term "Secular Humanism" is used in this article because it more succinctly and clearly defines the religious phenomenon that occurred in post civil war America. The basic tenets of the religion of Secular Humanism will be analyzed—particularly evolution, a cornerstone of Secular Humanism.

1. Secular Humanism—A Definition

The word "secular" by definition refers to "the temporal rather than the spiritual." [160] "Secularism" is a doctrinal belief that morality is based solely in regard to the temporal well-being of mankind to the exclusion of all belief in God, a supreme being, or a future eternity.[161] "Humanism" is a philosophy or attitude that is concerned with human beings, their achievement and interests, and the condition or quality of being human, rather than with the abstract beings and problems of theology.[162]

"Secularism" is nontheistic and "humanism" is secular because it excludes the basic tenets of theism.[163] Therefore, Secular Humanism is nontheistic. However while Secular Humanism is nontheistic, it is *religious* because it directs itself toward religious beliefs and practices that are in active opposition to traditional theism.[164] Humanism is a doctrine centered solely on human interests or values.[165] Therefore, humanism defies Man collectively and individually, whereas theism worships God. Moreover, while humanism draws its values and absolutes from the finite reasoning of relativistic Man, theism has received its values and absolutes through the revelation of the infinite Deity or Creator. Both humanism and theism worship their own "god." The difference is the object of worship not the act. Therefore, Secular Humanism is a religion whose doctrine worships Man as the source of all knowledge and truth, whereas theism worships God as the source of all knowledge and truth.

2. The Humanist Manifestos and the Religion of Secular Humanism

The twentieth century has been characterized as the "secular century."[166] "Secularization . . . occurs when supernatural religion—that is, religion based on 'belief in God or a future state'—becomes private, optional, and problematic." [167] Professor Harvey Cox of the Harvard Divinity School states that "secularization" must be distinguished from secular*ism*.[168] Professor Cox's apprehension is that "secular*ism* is not only indifferent to alternative religious systems, but as a religious ideology it is opposed to any other religious systems. It is, therefore, a closed system.[169]

Secular Humanism is a dangerous ideological system because, as Cox states, it "seeks to impose its ideology through the organs of the State." [170] Because Secular Humanism has no tolerance and is opposed to other religions, it actively rejects, excludes and attempts to eliminate traditional theism from meaningful participation in the American culture.[171] The twentieth century strategy of Secular Humanism is to personalize (privatize) traditional theism by introducing subjectivism, and thus to destroy all absolute standards.[172] Harvard law professor Harold Berman has written that:

> The significant factor in this regard—in the nineteenth century and even more so in the twentieth—has been the very gradual

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Footnotes at end of article.

reduction of the traditional religions to the level of a personal, private matter, without public influence on legal development, while other belief systems—new secular religions ("ideologies," "isms")—have been raised to the level of passionate faiths for which people collectively are willing not only to die but also . . . to live new lives.[173]

Traditional theism has lost much of its influence on societal values because of successful efforts to personalize it. The Christian faith, in particular, through the process of personalization, has lost much of its public character as well as its political and legal strength.[174] Says Berman:

> [F]or the most part, people go to church as individuals, or as individual families, to gain spiritual nourishment to sustain them in activities and relationships that take place elsewhere. . . . We are thus confronted with a combination of a "religionless Christianity" and what may be called a "Christianity-less religion." [175]

Cox's fear of secularism's attempt to construct a closed system is, therefore, in part realized. The motives and intent of those who adhere to Secular Humanism are particularly evident in two documents that have emerged in the past fifty years, Humanist Manifesto I (1933) and Humanist Manifesto II (1973). These doctrinal statements set forth in clear language the tenets of the religion of Secular Humanism.[176] As the term "Humanist Manifesto" suggests, the purpose of these documents is to codify and to affirm the major doctrinal theses of a mutually-held faith.[177]

Humanist Manifesto I squarely faces the question of the religious nature of Secular Humanism. Its preface reads:

> In every field of human activity, the vital movement is now in the direction of a candid and explicit humanism. In order that *religious humanism* may better be understood, we, the undersigned, desire to make certain affirmations which we believe the facts of our contemporary life demonstrate.
>
> Today man's larger understanding of the universe, his scientific achievements, and his deeper appreciation of brotherhood, have created a situation which requires a new statement of the means and purposes of religion. . . . [I]t is . . . obvious that any religion that can hope to be a synthesizing and dynamic force today must be shaped for the needs of this age. *To establish such a religion is a major necessity of the present.* We therefore affirm the following: [fifteen creedal statements follow].[178]

Humanist Manifesto I speaks of religion "doctrines and methods which have lost their significance and which are powerless to solve the problem of human living in the Twentieth Century." [179] This statement is a direct reference to traditional theism and is, again, a clear indication of Secular Humanism's "closed system" ideology and its onslaught against theism. Secular Humanism, therefore, affirmatively rejects all supernatural religions and, in particular, traditional theism. For example, Humanist Manifesto I states:

> *Ninth:* In place of the *old attitudes* involved in worship and prayer the humanist finds his religious emotions expressed in a heightened sense of personal life and in a cooperative effort to promote social well-being.
>
> *Tenth: It follows that there will be no uniquely religious emotions and attitudes of the kind hitherto associated with* belief in the supernatural.[180]

In the process of rejecting traditional biblical theology, Humanist Manifesto I states that it clearly rejects theism and biblical absolutes.

> *Fifth:* Humanism asserts that the nature of the universe depicted by modern science makes unacceptable any supernatural or cosmic guarantees of human values. . . .
>
> *Sixth:* [T]he time has passed for theism. . . .[181]

Humanist Manifesto I states: "The distinction between the sacred and the secular can no longer be maintained." [182]

This synthesis of the sacred and the secular produces the religion of Secular Humanism. Humanist Manifesto II, drafted some forty years after Humanist Manifesto I, reasserts the claim of the religious nature of humanism by proclaiming: "As we approach the twenty-first century . . . an affirmative and *hopeful vision* is needed. *Faith,* commensurate with advancing knowledge, *is also necessary.*" [183] Further, the 1973 Humanist Manifesto reasserts the humanist antithesis to traditional theism.[184] Its preface reads:

> As in 1933, humanists still believe that traditional theism, especially faith in the prayer-hearing God, assumed to love and care for persons, to hear and understand their prayers, and to be able to do something about them, is an unproved and outmoded faith. Salvationism, based on mere affirmation, still appears as harmful, diverting people with false hopes of heaven hereafter. Reasonable minds look to other means for survival.
>
> Traditional moral codes and new irrational cults both fail to meet the pressing needs of today and tomorrow. False "theologies of hope" and messianic ideologies, substituting new dogmas for old, cannot cope with existing world realities. They separate rather than unite peoples. Humanism is an ethical process through which we all can move, above and beyond the devisive particulars, heroic personalities, dogmatic creeds, and ritual customs of past religions or their mere negation.[185]

Humanist Manifesto II, more so than Humanist Manifesto I, emphasizes the Man-centeredness of Secular Humanism as opposed to the God-centeredness of traditional theism. Humanist Manifeso II states that as "non-theists, we begin with humans, not God, nature not deity. . . . No deity will save us; we must save ourselves."[186] Humanifest Manifesto II, as did its predecessor, rejects any form of absolute standards. Instead, any standards or ethics are "autonomous" and "situational." [187] In a direct contradiction of traditional theism, which teaches that absolute standards are promulgated by God through biblical revelation, Humanist Manifesto II proclaims that ethics originate in Man himself: "Ethics stem from need and interest." [188] "To deny this distorts the whole basis of life." [189] According to Humanist Manifesto II traditional theism is a distortion of the whole basis of life.[190]

Humanist Manifesto II attempts to caveat in its preface that those individuals who signed the document disclaimed that they were "setting forth a binding credo." [191] The reputed reason for the disclaimer, as the preface instructs, is that "their individual views would be stated in widely varying ways." [192] Although the views advanced by Humanist Manifesto II can and will be expressed in varying ways, there are basic tenets of the religion of Secular Humanism that are universally adhered to by Secular Humanists. The caveat mentioned above does not make Secular Humanism any less a religion than Christianity. For instance, it is common knowledge that those who are classified as "Christians" express their views in varying ways, but yet adhere to the basic doctrines of the Christian faith.[193] Can it be reasonably argued that Christianity is not a religion because Christians express their faith in varying ways? Secular Humanism, by its own admission, is a religion regardless of the personalized beliefs of its adherents.

3. The Tenets of Secular Humanism

Certain common elements of Secular Humanism establish Secular Humanism as a doctrinal "faith." [194] These common elements will be termed "tenets" since they apply universally to adherents of the religion of Secular Humanism.

The *first* tenet of Secular Humanism denies the relevance of Deity or supernatural agencies.[195] In place of traditional theism's worship and prayer to God, the Secular Humanist finds his religion expressed in a heightened sense of personal life and in a cooperative effort to promote social well-being.[196] If God is irrelevant, or even dead,[197] it follows that there has been no revelation from God to Man.[198] As a consequence, the Secular Humanist does not accept traditional theism's belief in the Bible as the divinely-inspired word of God.[199]

The *second* tenet of Secular Humanism is the belief in the supremacy of "human reason." The phrase "human reason" encompasses the belief that man can begin from himself and on the basis of the utilization of his mental facilities alone "think out the answers to the great questions which confront mankind." [200] Concerning "human reason" as a "pillar" of Secular Humanism, one writer has commented:

> Here . . . humanism is forced to its initial leap of faith. It is impossible to prove by reason alone that reason has the validity accorded to it by humanism, and the twentieth century has strongly undermined this confidence in two places. Modern psychology has shown that, far from being utterly rational, man has motivations at a deeper level than his reasoning powers, and he is only partially aware of these forces. Much of what was called reasoning is now more properly called rationalizing. . . . By *rationalism* I do not mean "rationalism" as opposed to "empiricism" but rather the hidden premise common to both—the humanist's leap of faith in which the critical faculty of reason is tactly made into an absolute and used as a super-tool to marshall particulars and claim meaning which in fact is proper only to a world of universals.[201]

The *third* tenet of Secular Humanism is the belief in the inevitability of progress. This tenet developed from the introduction of Christian linear teleology into Western culture.[202] The belief in progress is perpetuated through the evolutionary theory and its cultural application (Social Darwinism). Evolution has produced the mechanistic belief that nature is moving inevitably to higher and higher forms of life.[203] This optimistic view of progress has been rebutted by developments of the last forty to fifty years until now it is not seriously contended.[204] Historian and philospher Os Guinness has remarked:

> Many point to evidence of an evolutionary crisis, somewhat tarnishing the comfortable image of inevitable progress with man at the center of the stage controlling his own evolution. . . . [B]elief in inevitable progress is not supported by evidence of the past nor corroborated by the present situation and is hardly the united scenario of futurology. This means . . . humanism is less and less supported by empirical data. It is becoming more and more an ideology, an idea which is inflated to the status of truth quite beyond the force of evidence.[205]

As Secular Humanism takes a more pessimistic outlook toward man's progress, humanists look more to the state to assume a guiding hand in shaping man's future.[206] In recent years the State has heeded the humanists' call and taken on a more humanistic character. In this respect education is viewed by Secular Humanism as the fulfillment of the State's role as a "saving institution," [207] and thus, the State has become more intimately involved in education and now controls all public education.[208] Therefore, a

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logical conclusion of Secular Humanism's statist emphasis in the establishment of the State's role as a "saying institution" through a domination of the education system.[209] Because Man is either not progressing as rapidly as the Secular Humanist would desire, or because Man does not seem to be progressing in the evolutionary sense, many Secular Humanists have opted for forced progress and manipulative environment control.[210] Totalitarianism, therefore, could very well be the end result of Secular Humanism.[211]

A *fourth* tenet of Secular Humanism is the belief in science as the guide to human progress and the ultimate provider of an alternative to both religion and morals.[212] Therefore, science itself assumes a religious character,[213] and the tenet of science-as-provider can pose an equally frightening threat of totalitarianism. The scientist has faith that the universe is potentially knowable.[214] It has been said of Francis Crick, Nobel Prize winning scientist and signer of Humanist Manifesto II: "[H]is scientific enterprise is governed by a basic religious stance. And while he recognizes that the particular stance he takes is anti-religious in conventional terms, 'it is a religious attitude because it's concerned with religious problems.' He is absolutely right. What Crick and other scientists are doing is bringing forth a religion based science." [215] Secular Humanism has developed a "scientific theology" that has evolved from a description of concrete objects and events to a study of relationships observable in complex systems.[216] As science takes on a more pessimistic humanism, it will grow impatient with natural development and progress, and as pessimism expands, State technology will become more closely aligned with science and its goals. To encourage Man's progress toward a humanistic society, many scientists have suggested that State technology and money be used to genetically manipulate the citizenry.[217]

The *fifth* tenet of the religion of Secular Humanism is the belief in the self-sufficiency and centrality of Man.[218] This tenet encompasses the assertion of the autonomy and independence of Man apart from Deity of any kind, thereby supposedly releasing Man from all obligations to Deity. Along with the evolutionary theory, the centrality and autonomy of Man are the prominent features of Secular Humanism. Because Man is autonomous, Secular Humanism posits that man, contrary to traditional theism, is inherently good and in no need of salvation or theological redemption to correct or redeem what traditional theism designates as Man's fallen nature.[219] This tenet of Secular Humanism, therefore, promulgates the idea that Man's future and salvation are in Man's hands.[220] Thus, the tenet of the autonomous Man postulates that Man, not God, controls the destiny of the human race.[221] If God is non-existent, then there is no revealed word of God from which Man can assert absolutes. If Man is the master of his own destiny, he can create his own system of absolutes apart from divine revelation.[222] Therefore, to the humanist, the monstrosities perpetrated upon mankind by Hitler and Stalin, both autonomous men, cannot logically be criticized. Why? If there are no transcendent absolutes, then each individual is absolute and the sole judge of his own actions. Any condemnation of these autonomous men's actions by Secular Humanists would deny Man's absolute autonomy and impose an absolute standard upon the actions of Man from a source outside of himself. To the humanist, such condemnation would be hypocrisy. Pessimism too is beginning to mar the belief in the tenet of centrality.[223]

Philosopher Os Guinness has noted a "persistent erosion" of Man's view of his centrality and importance.

The fact that man has made so many significant scientific discoveries points strongly to the significance of man, yet the content of these same scientific discoveries underscores his significance. Man finds himself dwarfed bodily by the vast stretches of space and belittled temporarily by the long reaches of time. Humanists are caught in a strange dilemma. If they affirm the greatness of man, it is only at the expense of ignoring his aberrations. If they regard human aberrations seriously, they have to escape the dilemma raised, either by blaming the situation on God . . . or by reducing man to the point of insignificance where his aberrations are no longer a problem.[224]

The *sixth* tenet of Secular Humanism is the belief in the absolutism of evolution.[225] Because of its importance and breadth this tenet will be discussed separately.

4. The Tenet of Evolution

Evolution presumes "that all the living forms in the world have arisen from a single source which itself came from an inorganic form." [226] The evolutionary theory violently contradicts the basic elements of creationism, a doctrinal tenet of traditional theism.[227] Creationism "teaches that matter appeared through direct creation by God in the beginning and that this creation occurred by supernatural plan. . . . [It also teaches that] God created life from nothing and that life by direct act made [all the] living kinds [including man]." [228] While traditional theistic creationism propounds that a Creator through revelation has promulgated absolute standards upon which the universe operates, evolutionism postulates that "all things owe their existence to natural causes and chance." [229] Jacques Monod, French scientist, Nobel Prize winner and evolutionist, has commented: "Chance *alone* is at the source of every innovation, of all creation in the biosphere. Pure chance, absolutely free but blind, [is] at the very root of the stupendous edifice of evolution. . . ." [230] In Monod's view evolutionism destroys theism's absolute values.[231] As a result, Monod would argue that man evolved out of chaos and he will remain in chaos unless society establishes some arbitrary absolutes by which to live.[232]

Evidence exists to support the view that the evolutionary theory was not an innovation of Charles Darwin but was, in fact, a religious doctrine adhered to by ancient civilizations.[233] Contemporary humanists agree with the religious nature of evolution.[234] Sir Julian Huxley, a prominent author on the subject of the evolutionary theory and a signer of Humanist Manifesto II, believes in the "religion of evolutionary humanism." [235] Huxley regards the evolutionary theory as the primary and most essential element in Secular Humanism.[236] Contemporary scientists have been candid in expressing their "faith" in the evolutionary theory as the origin of life. For example, Harold C. Urey, a Nobel laureate, said:

> All of us who study the origin of life find that the more we look into it, the more we feel that it is too complex to have evolved anywhere. We all believe as an article of faith that life evolved from dead matter on this planet. It is just that its complexity is so great it is hard for us to imagine that it did.[237]

Similarly, physicist Robert Jastrow, an evolutionist, stated:

> Either life was created on the earth by the will of a being outside the group of scientific understanding; or it evolved on our planet spontaneously, through chemical reactions occurring in nonliving matter lying on the surface of the planet. The first theory is a statement of faith in the power of a Supreme Being not subject to the laws of science. The second theory is also an act of faith. The act of faith consists in assuming that the scientific view is correct, without having concrete evidence to support that belief.[238]

Darwin himself recognized the religious nature of evolution and its "faith" proposition.[239] He said that "[t]here is grandeur in this view of life . . . having been originally breathed by the Creator into a few forms." [240] Thus, when Charles Darwin began elaborating on his theory of natural selection, he was forced to rely upon "imaginary illustrations," not scientific evidence.[241] It is obvious that "Darwinism, despite its boast of scientific proof, is a theory erected upon a speculative supposition and supported by imaginary evidence; it does not establish historical factuality but merely gives us a 'way of looking' at the world." [242] Any world view that is "a speculative supposition . . . supported by imaginary evidence" is a proposition based on faith and therefore religious.[243]

The religious presuppositional status of the evolutionary theory is clearly delineated in the thinking of neo-orthodox theologian Pierre Teilhard de Chardin.[244] Teilhard de Chardin posits that even if all the specific content of the evolutionary explanation of life were to be demolished, evolution would still have to be assumed as Man's fundamental vision. Instead of traditional theism's belief in God's revelation to Man through the Bible, the evolutionary theory has become the manner in which one shall see "light." Thus, Teilhard de Chardin confesses his faith in evolution as the "light illuminating all facts, a curve that all lines must follow." [245]

A central thrust of evolution is the eradication of any chance of supernatural intervention into the universe or the affairs of man. For instance, contemporary evolutionists state their aversion to the concept of theistic Deity,[246] yet the "faith" doctrine of evolution emerges in their language.[247] The basic reason for the humanist aversion to theism is the antithesis formed between the two faiths regarding the origins of life. George Wald, Harvard biologist, has aptly perceived the problem when he states, "[t]here are only two possibilities: either life arose by spontaneous generation . . . or it arose by supernatural creation . . . there is no third position." [248] The aversion possessed by the Secular Humanist toward traditional theism clearly emerges from the statements of evolutionary proponents. "[T]here is no rival hypothesis except the outworn and completely refuted one of special creation, now retained only by the ignorant, the dogmatic, and the prejudicial." [249]

The relevant factor in the conflict of beliefs in origin is that neither theory of origin, creationism or evolutionism, is capable of scientific proof.[250]

> [I]t must . . . be emphasized that it is impossible to *prove* scientifically any particular concept of origins to be true. This is obvious from the fact that the essence of the scientific method is experimental observation and repeatability. A scientific investigator, be he ever so resourceful and brilliant, can never observe nor repeat *origins!*
>
> This means that, although it is important to have a philosophy of origins, it can only be achieved by faith, not by sight. . . .
>
> Thus one must *believe*, at least with respect to ultimate origins. However, for optimally beneficial application of that belief, his faith should be a reasoned faith; not a credulous faith or a prescribed faith.[251]

Both theories of origins suffer from the inability scientifically to prove their hypotheses, and both require an element of faith." [252] Therefore, the evolutionary theory, an undergirding tenet of Secular Humanism, is religious because of its dependents upon "belief." Moreover, Secular Humanism as a religion is incomprehensible without the evolutionary hypthesis. The evolutionary hypothesis is one tenet, if extracted, that will disembowel Secular Humanism. In fact, the other tenets of Secular Humanism are themselves based on the evolutionary implications

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of there being no Creator and no revelation from the Creator. If there is no Creator, then man is not dependent upon Diety, because Diety does not exist. Thus man is autonomous. The religion of Secular Humanism, based upon its six tenets, places Man at the center of its worship, and denies the traditional theistic concept of God. The implications of a culture's rejection of traditional theism in exchange for Secular Humanism are far-reaching.

C. The ramifications and implications of secular humanism

Secular Humanism, as the religion of the modern age, has penetrated virtually all walks of life and all disciplines, including the law. Renowned evolutionist Julian Huxley noted:

> The whole of evolution was soon extended into other than biological fields. Inorganic subjects such as the life-histories of stars and the formation of chemical elements on the one hand, and on the other hand subjects like linguistics, social anthropology, and comparative law and religion, began to be studied from an evolutionary angle, until today we are enabled to see evolution as a universal, all pervading process. . . . Furthermore, with the adoption of the evolutionary approach in non-biological fields, from cosmology to human affairs, we are beginning to realize that biological evolution is only one aspect of evolution in general. . . . Our present knowledge indeed forces us to view that the whole of reality is evolution—a single process of self transformation.[253]

Evolutionism has altered the course of history by shifting the base of moral absolutes from traditional theism to Secular Humanism. "The replacement of 'will' by 'chance' as the mediator of biological change has transformed our view of man's relation to the universe."[254] If life came into existence through natural, materialistic, chance processes, then it is without absolutes, moral direction or purpose. Without the traditional theistic absolutes revealed by God, Man must speculatively produce a set of arbitrary absolutes or situational ethics by which he can only hope to arrive at an orderly society. Therefore, life's answers to the myriad of questions facing Man emanate from a materialistic religion. "Materialistic philosophy relieves one of responsibility to anyone, including the supernatural. Atoms have no morals, thus, if they are our progenitors, man is amoral."[255] Morality and ethics are, therefore, purely relative to the Secular Humanist who is logical to his faith.[256]

The implications of Secular Humanism and its application to the various facets of life, including political and social philosophy, are clearly seen in the totalitarian regimes of history. Social evolution formed a basis for Fascism and its oppressive racist actions.[257] Benito Mussolini justified war (as did Friedrich Nietzsche) on the basis that it provided the means for evolutionary progress.[258] Adolf Hitler's Mein Kampf expressed his adherence to Secular Humanism, including evolutionism, to justify his world view of genocide, master race, and human-breeding experiments.[259] One anthropologist has said of Hitler: "The German Fuhrer . . . consciously sought to make the practice of Germany conform to the theory of evolution."[260] The class struggles and atheistic posture of Communism owe their existence to the political and social philosophy of evolutionary humanism.[261] As was previously noted, the practice of unethical capitalism in the United States and England during the late nineteenth and early twentieth century was based upon evolutionary humanism.[262] Contemporary psychology and its offspring, psychoanalysis, especially Sigmund Freud's "sex drive psychology," find their origin in evolutionary humanism.[263] No area of life or discipline can avoid the effect of Secular Humanism and its progeny, evolutionism.[264] Racism, both modern and ancient, is merely a sequel to evolutionism.[265]

For years Secular Humanists have used the public school system to teach generations of school children their doctrine and dogma.[266] It has gained a dominant foothold in higher education including legal education. The eminent Harvard law dean Roscoe Pound, an evolutionary humanist, initiated the movement in the United States toward the humanist doctrine of "sociological jurisprudence."[267]

Sociological jurisprudence has radically affected, sometimes directly and sometimes indirectly, the thinking of American jurists, judges, and lawyers. It had also made itself felt throughout the entire international field of Western jurisprudence. Perhaps no other man has had so profound an effect on our legal system as Roscoe Pound.[268]

Pound taught "that no current hypothesis is reliable, as ideas and legal philosophies change radically and frequently from time to time."[269] Pound's insistence on constant change is merely a reflection of his belief in Social Darwinism. Traditional theism's doctrine of absolutes was also rejected by Pound.[270]

Oliver Wendell Holmes, Jr., a contemporary of Pound, applied principles of evolutionism to both life and law.[271] In his most extensive and impressive piece of scholarship, The Common Law, Justice Holmes proclaimed: "The life of the law has not been logic; it has been experience."[272] One legal commentator said:

> In The Common Law the discarded system was nineteenth century "logic," by which Holmes meant the formalistic, religion-based logic that reasoned downward syllogistically from assumed truths about the universe; the proposed counter-system was "experience," the changing "felt necessities" that reflected current social values and were altered by time and circumstances. . . . [This was] merely a fatalistic acceptance that law was not so much the embodiment of reason as a manifestation of dominant beliefs at a given time.[273]

The "nineteenth century logic" of traditional theism which based its source of law on the written revelation of the Bible was an anthema to Holmes. Law could not be seen in absolute terms since law for Holmes "was simply an embodiment of the ends and purposes of a society at a given point in its history."[274] If there are no absolutes that proceed from a Creator who gives meaning to absolutes through Man in the form of inalienable rights, then the will of the State, as Holmes posited, is the law.[275] Laws under Holmes' view are considered "beliefs that have triumphed" and no more.[276]

The idea that God endows man with absolute rights, such as life, liberty and the pursuit of happiness are lost within Holmes' rationale. The implications of this philosophy are frightening when executed by someone with despotic power, such as a Hitler, a Stalin, or a Mussolini. Whether that power emanates from an individual or a majoritarian rule, the replacement of relativism for absolutes is alarming.[277] "Truth," Holmes said, "is the majority vote of that nation that could lick all others."[278] Truth or law is based on experience and, therefore, law to Holmes was "sociological law."[279] He declared that "when it comes to the development of a corpus juris the ultimate question is what do the dominant forces of the community want and do they want it hard enough to disregard whatever inhibitions may stand in their way."[280]

Holmes' humanistic jurisprudence has had a great influence on the development and thinking of the modern Supreme Court.[281] Chief Justice Fred Vinson in 1951 said:

> Nothing is more certain in modern society than the principle that there are no absolutes, that a name, a phrase, a standard has meaning only when associated with the considerations which give birth to nomenclature. To those who would paralyze our Government in the face of impending threat by encasing it in a semantic straitjacket, we must reply that all concepts are relative.[282]

Justice William O. Douglas shared the same humanist philosophy as that held by Holmes. Douglas associated relativism with liberty, and absolute truth with totalitarianism.

> To say . . . that the reason for "truth" is not man's mission may seem to some to be the ultimate sin. But those who construct a political system on the basis of their "truth" create totalitarianism. . . . Truth is not the goal, for in most areas no one knows what truth is.[283]

Douglas' humanistic view ignored any type of transcendent law or absolute. The obvious conclusion is that the traditional theistic base evidenced in the Declaration of Independence and other founding documents has been replaced by the humanistic base of "relativism." Thus, the only "absolute" that remains is the "absolute insistence that there is no absolute."[284]

The closed system of Secular Humanism in effect eradicates the entire basis of early American law. It severs the roots of law that grew from traditional theistic absolutes and that were expressed in the Declaration of Independence and Blackstone's *Commentaries*. Once Secular Humanism began to pervade the American culture and to infuse the educational and judicial systems, the transformation of constitutional law was merely a matter of course. Moreover, the transmogrification of the first amendment's concept of "religion" is a clear example of Secular Humanism's effect upon the Supreme Court's interpretive process.

CREATOR, MAN AND LAW: A CONCLUSION

Secular Humanism's decisive impact on society and law has substantially shifted the religious base of American culture. The transposition of the religious base from traditional theism to Secular Humanism has intensified the influence that Secular Humanism has exerted on societal institutions. More important, however, is the impact of Secular Humanism on man's view of Man. Specifically, Secular Humanism has promoted a mechanistic view of man, as opposed to theism's humaness view of Man. For example, behaviorist B. F. Skinner, Harvard professor and signer of Humanist Manifesto II, advocates the abolition of man as an individual:

> His abolition has long been overdue. Autonomous man is a device used to explain what we cannot explain in any other way. He has been constructed from our ignorance, and as our understanding increases, the very stuff of which he is composed vanishes. . . . To man *qua* man we readily say good riddance.[285]

Skinner proposes that Man, the spiritless and materialistic machine, be placed in a highly manipulative and regulated environment in order to control him.[286] Commenting on modern Man, it has been aptly noted:

> Modern man feels freer to ask, "What good is it?" The world has become "disenchanted," more "sensate," more "materialistic," less "spiritual," to use terms that have been applied to this trend toward *secularism*. Secularism encourages *rationality* in social organization. Group ways of acting are consciously designed and measured by effectiveness and efficiency. . . . Secularism and rationality are associated with *impersonality* in human relations. With a weakened sense of kinship and with a utilitarian orientation, it is easy to treat people as means rather than as ends.[287]

Dr. Francis Crick, an avowed atheist, who

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along with James D. Watson, unravelled the DNA Code, has said:

> [Y]ou must realize that much of the political thinking of this country [the United States] is very difficult to justify biologically. It was valid to say in the period of the American Revolution, when people were oppressed by priests and kings, that all men were created equal. But it doesn't have biological validity. It may have some mystic validity in a religious context, but . . . [i]t's not only biologically not true, it's also biologically undesirable. . . . We all know, I think, or are beginning to realize, that the future is in our own hands, that we can, to some extent, do what we want.[288]

For Crick, man is a "means" for the ends of science; but theologian and philosopher Dr. Francis Schaeffer has challenged Crick's view:

> If man is what Francis Crick says he is, then he is only the product of the impersonal plus time plus chance; he is nothing more than the energy particle extended. And, therefore, he has no intrinsic worth. Our own generation can thus disregard human life. On the one end we will kill the embryo with abortion—anytime, anyone wishes—and on the other end we will introduce euthanasia for the old. The one is here and the other is coming.[289]

Secular Humanism posits that man is no more than a machine or used "junk" that can be aborted when it is deemed desirable.[290] However, this contemporary humanistic view of man contrasts remarkably with the *weltanschauung* of those who settled and established the institutions upon which American freedom is based. Jefferson, and the other leaders of his time, well understood the relationship between the creature and the "Creator." The creature-Creator relationship transfers to Man not only legal or civil rights, but inalienable absolute rights. Presupposing an omnipotent Creator, the men who signed the Declaration of Independence "with firm reliance on the protection of Divine Providence," pledged their lives to the cause.[291] This reliance on the creature-Creator relationship posited an absolute value in man. In this respect, Russian scholar Vadim Borisov has said:

> The American Founding Fathers who many years ago first propounded the "eternal rights of man and the citizen" postulated that every human being bears the form and likeness of God; he therefore has an *absolute* value, and consequently also the right to be respected by his fellows.
>
> Rationalism, positivism and materialism, developing in opposition to religion, successively destroyed the memory of this absolute source of human rights. The unconditional equality of persons before God was replaced by the conditional equality of human individuals before the law. Deprived of divine authority, the concept of the human personality could now be defined conditionally, and therefore, inevitably arbitrarily. The concrete person became a judicial metaphor, a contentless abstraction, the subject of legal freedoms and restrictions.
>
> And it is here, in the admission of the conditionality of the human personality, that we find the root of its calamitous ordeals in our barbarous world. If the human personality is conditional, then so are its rights. Conditional too is the recognition of its dignity, which comes into painful conflict with surrounding reality.
>
> In breaking the link between human personality and the absolute source of rights, and yet affirming them as something to be taken for granted, rationalist humanism has from the very outset been inherently inconsistent, as its more logical successors very quickly understood. Darwin, Marx, Nietzsche and Freud (and many others) resolved the inconsistency each in his own way, leaving not one stone upon another in the edifice of blind faith in man's dignity. . . . These men represented the theoretical, logical culmination of mankind's humanist rebellion against God. . . . This century's totalitarianism, trampling the human personality and all its rights, rhinocerouslike, under foot, is only the application of this theory of life, or humanism put into practice.[292]

Crick and Skinner teach that man has only relative value and that therefore there is no creature-Creator relationship, but only a man-Man relationship. Contemporary man's appeal for freedom is, therefore, not to God but to Man in the form of the State. Thus, Man has only the "relative rights" attributed to him by the State.

Man, as a product of an evolutionary environment, collectivized in and through the masses, becomes, as Arthur Koeslter posited, the "ghost in the machine."[293] Unfortunately, collectivized man loses his individuality within the wheel of technology:

> If "evolution is good," then evolution must be allowed to proceed and the very process of change becomes absolutized. . . . But in even more areas, science is reaching the point of "destructive returns;" and the attempt to use evolution as a basis for morals and ethics is a failure. If evolutionary progress is taken as an axiom, then the trend towards convergence social and evolutionary "unaminization", becomes a value, as suggested by Teilhard de Chardin. But this militates against the value of individuality and can be used to support totalitarianism.[294]

Man, then, loses the individuality and dignity that emanates from the creature-Creator relationship. The divine nature of man dissipates. and as man loses his divine character, the law becomes a creature of the State.[295] The great danger of Secular Humanism is that it strives to destroy the old absolute values of traditional theism and replace them with relativistic values. Modern law is characterized by "existential relativism," and it is now generally recognized "that no judicial decision is ever 'final.'"[296] Therefore. the prevailing concept of law is that of complete judicial relativism.[297]

The present danger created by the pervasive influence of Secular Humanism is apparent.[298] Judicial relativism deposits "raw power" in the hands of State institutions and, in particular, the courts.[299] "In these circumstances the order of society and the established human rights are in no way protected against arbitrary power, and there is no reason why the discernment of right and wrong should not be given over to an all-powerful State charged with making its own criteria."[300] The chance of an imposed order becoming a reality in the modern technological State is imminent. The tide of totalitarianism can be stemmed by recovering the dignity of Man based in the creature-Creator relationship. Moreover, to prevent an imposed State order, Secular Humanism must be finally recognized as a religious ideology and its unconstitutional establishment within our governmental organs must be prohibited. The future resistance of State dominance, therefore, is dependent upon how we apply the truths of the past.

The key to a rejuvenation of the dignity and absolute value of Man is a return to traditional theism and its tenets as set forth by our forebears in the Declaration of Independence and as announced in Blackstone's *Commentaries*. This means a return to the "higher law" or "the laws of nature and of nature's God" as the basic cornerstone of law and jurisprudence.[301]

> History . . . including current history, testifies [that] people will not give their allegiance to a philosophy, unless it represents for them a higher, sacred truth. People will desert institutions that do not seem to them to correspond to some transcendent reality in which they believe—believe *in* with their whole beings, and not just believe *about*, with their minds.[302]

The founders understood that the only ground on which to base resistance against imposed order was upon "Divine Providence," and that freedom is based in the Creator, not in Man or documents. As Alexander Hamilton proclaimed: "The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written, as with a sunbeam, in the whole volume of human nature, by the hand of the Divinity itself, and can never be erased or obscured by mortal power."[303]

FOOTNOTES

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[132] H. Brown, The Reconstruction of the Republic 19 (1977).

[133] J. Sire, The Universe Next Door 29 (1976) (hereinafter referred to as Sire). Sire comments:

> We can summarize this conception of man in God's image by saying that, like God, man has *personality, self-transcendence, intelligence* (the capacity for reason and knowledge), *morality* (the capacity for recognizing and understanding good and evil), *gregariousness* or social capacity (man's characteristic and fundamental desire and need for human companionship—community—especially represented by the 'male' and 'female' aspect) and *creativity* (the ability to imagine new things or to endow old things with human significance).

Id. at 31.

[134] *Id.* at 39. Sire explains:

> God himself—his character of goodness (holiness and love)—is the standard. Furthermore, Christians and Jews hold that God has revealed his standard in the various laws and principles expressed in the Bible. The Ten Commandments, the Sermon on the Mount, the Apostle Paul's ethical teaching—in these and many other ways God has expressed his character to us. There is thus a standard of right and wrong, and people who want to know it can know it.

Id.

[135] *Id.* at 40.

[136] U.S. Declaration of Independence.

[137] *Id.*

[138] *Id.* The wording of the Declaration of Independence rebuts the assumption that the early founding fathers were, as a collective, deists. Deism, although it assumed a creator of the universe, promulgated the doctrine that God was "not imminent, not fully personal, not sovereign over the affairs of men, not providential." Sire, *supra* note 133, at 49. Deism thus presents a view of God as a clockmaker who wound the clock (the universe) and then abandoned the clock to its own workings. "The deist has no need to pray because God, the absentee landlord, is not listening anyway." J. Whitehead, The Separation Illusion 19 (1977).

[139] Blackstone's work has been noted as having become the "bible of American lawyers." D. Boorstin, The Mysterious Science of the Law 4 (1958) (hereinafter referred to as Boorstin). Boorstin further elaborates: "In the first century of American independence, the *Commentaries were not merely an approach to the study of law; for most lawyers they constituted all there was of the law. . . .*" *Id.* at 3.

Chancellor James Kent once said that "he owed his reputation to the fact that, when studying law . . . he had but one book, Blackstone's Commentaries, but that one book he mastered." C. Warren, History of the American Bar, 187 (1911).

[140] W. Blackstone, *Commentaries on the Law of England* 1–4 (1866) (two volumes) (commonly referred to as *"Chitty's Blackstone"*) (hereinafter referred to as Blackstone).

[141] Blackstone, *supra* note 140, at 28. Blackstone posited that the law of nature was "expressly declared so to be by God himself. . . ." *Id.* Blackstone also stated that prop-

erty rights had their origin in *Genesis* 2:21, wherein God gives Adam and Eve the command to take "dominion over . . . the earth." *Id*. at 2. He says: "The earth, therefore, and all things therein, are the general property of all mankind, exclusive of other beings, from the immediate gift of the Creator." *Id.*

[142] The law of gravity would be an example of an observable phenomenan in nature.

[143] Bootstin, *supra* note 139, at 48.

[144] See notes 136–138 *supra* and accompanying text.

[145] P. Miller, The Life of The Mind in America, 88 (1966) (hereinafter referred to as Miller).

[146] C. Darwin, The Origin of Species by Means of Natural Selection or the Preservation of Favoured Races in the Struggle for Life (1859).

[147] Miller, *supra* note, 145, at 95.

[148] R. Gabriel, The Course of American Democratic Thought 183 (2d ed. 1956) (hereinafter referred to as R. Gabriel).

[149] R. Rushdoony, The Nature of the American System, 78 (1965). Historian R. J. Rushdoony explains:

> Most churches, whatever their stand on slavery, opposed abolitionism and its social radicalism. As a result, in the North, these churches supported the war effort rather than demanding it. The Unitarian, Universalist, and transcendentalist champions of abolition were thus the real victors of the war. They called for war, tried to promote it by financing John Brown, and, when war began, called at once for emancipation as the war aim. These men were moved, as a Unitarian scholar has pointed out, by "the perfectionist desire to impose upon the West and South the intellectual and religious supremacy of New England. One significant result of the Civil War was to accomplish just this."

Id., citing Phillips, Puritan and Unitarian Views of Church and Society in America, at L1.

[150] R. Gabriel, *supra* note 148, at 183.

[151] A. de Riencourt, The Coming Caesars 179 (1957) (hereinafter referred to as de Riencourt).

[152] *Id.*

[153] H. Agar, The Price of Union 552 (1950) (hereinafter referred to as Agar).

[154] *Id.*

[155] *See* Schaeffer, *supra* note 125, at 224.

[156] R. Wysong, The Creation-Evolution Controversy 32–33 (1976).

[157] *Id.* at 6.

[158] *E.g., see generally* A. Cole, The Irrepressible Conflict (1971); V. Haubrich and M. Apple, Schooling and the Rights of Children (1975).

[159] Marshall McLuhan has been effective in communicating the various factors which have contributed to change in cultural makeup. In a 1978 interview he expressed his views on what he considered to be the significant twentieth century elements in the breakdown of moral categories of absolutes:

> [*Interviewer*]: But if you give up these categories, then do we get some kind of very different society? We have a society built on Mosaic law and codes and when you flip that over you may get a fairly mixed bag.
>
> [McLuhan]: In the year 1900 Max Planck produced this new quantum physics in which he pulled out all the connections, said there's no connections in matter. The same year Picasso pulled out all the connections in space between art forms. The same year Freud, that's 1900, Freud pulled out the connections between the conscious and the unconscious and began his dream analysis. In that year all the connections were pulled out between all the things that had been joined before. And at the same time when Picasso pulled out the connections in space—cubism means all spaces simultaneously—when he pulled out those connections he plunged back in the utmost form of primitive consciousness. That is where modern man started, in 1900. Back into the most primitive kind of awareness. And this is where it's at. Los Angeles Times, Mar. 12, 1978, at 1.

[160] American Heritage Dictionary of the English Language 1173 (W. Morris ed. 1973).

[161] 2 Shorter Oxford Dictionary of Historical Principles 1828 (1934). Secularism has been defined as "The view that consideration of the present well going of mankind should predominate over religious considerations in civil affairs or public education." *Id.*

[162] *Id.* at 640 (definition of Humanism). One of the earliest writers discussing secularism was George Holyoake. It was in 1845 that he defined "secularism" as the doctrine that morality should be based solely in regard to the well-being of mankind in the present life, to the exclusion of all considerations drawn from belief in God or in a future existence beyond death. *See generally* G. Holyoake, Secularism, The Practical Philosophy of the People (1845). Moreover, Holyoake envisioned secularism as being "independent of theistical or other doctrine" rather than as atheistic of anti-theological in attempts to avoid being characterized himself as an atheist. G. Holyoake, Life of Holyoake—Sixty Years of an Agitator's Life 293–94 (1906). Holyoake attempted to illustrate such independence with his "house" analogy:

> [A] man could judge a house as to its suitability of situation, structure, surroundings, and general desirableness, without ever knowing who was the architect or landlord; and if as occupant, he received no application for rent, he ought in gratitude to keep the place in good repair. So it is with this world. It is our dwelling place. We know the laws of sanitation, economy, and equity, upon which health, wealth, and security depend. All these things are quite independent of any knowledge of the origin of the universe or the owner of it. And as no demands are made upon us in consideration of our tenancy, the least we can do is to improve the estate as our acknowledgement of the advantage we enjoy. This is Secularism.

Id. at 294, *Cf.* G. Holyoake, The History of the Last Trial By Jury for Atheism in England (M. O'Hair ed. 1972). Holyoake's view, of course, is contrary to traditional biblical theism. *E.g.*, F. Schaeffer, The God Who Is There (1968).

[163] For a discussion regarding "Theism", see notes 132–135 *supra.*

[164] See notes 132–135 *supra* and accompanying text.

[165] Webster's New Collegiate Dictionary 556 (1975).

[166] D. Edwards, Religion and Change 15 (1969) (hereinafter referred to as Edwards).

[167] *Id.* at 16.

[168] *See* Cox, *supra* note 6, at 18. What Cox refers to as secularization" was summed up by Thomas Jefferson in Jefferson's surmising that the first amendment's establishment clause (i.e., "Congress shall make no law establishing a religion") was the embodiment of his renowned "wall of separation between church and state". Although "secularization" would hold that there is a wall of separation between church and state, "secularization" in Cox's view would mandate state *accommodation* of religious practices. E.g., *see generally* Toms and Whitehead, *The Religious Student in Public Education: Resolving a Constitutional Dilemma,* 27 Emory L.J. 3, 11 (1978). Harold J. Berman would not agree with Cox's dubious distinction between secularization and secularism. *E.g., see generally* Berman, *supra* note 3. It would seem logical to assume that secularization is the breeding ground for secularism and, therefore, the secularization process is responsible for contemporary secularism.

[169] Cox, *supra* note 6, at 18.

[170] *Id.*

[171] One writer, arguing against the inevitable clash of secularism and the traditional Theistic religion, advocates that the answer to this dilemma is in a pluralistic secularism. H. Kallen, Secularism Is the Will of God 11–17, 57–58 (1954). By eualizing all religions, and by making God a union of divinities, secularism can supposedly reduce any inevitable conflict between established beliefs. *Id.* Under this theory, the various religions become members of a large orchestra, combining to make beautiful music, rather than competing as out-of-tune ensembles.

This approach fails to recognize Secular Humanism's vehement opposition to traditional theism as well as the separateness from alien religious doctrines required by many Christian denominations and by many who hold to the Jewish faith. Note, *Freedom of Religion and Science Instruction in Public Schools,* 87 Yale L.J. 515, 524–25 (1978). The pluralistic approach in its attempt to avoid conflict between Secular Humanists and established, traditional theism fails to recognize that as secularism has become infused in contemporary society it has been met with a corresponding militancy on the art of traditional religion. Edwards, *supra* note 166, at 17. Christianity, in particular, regards secularism as unavoidably in conflict with basic Christian beliefs. *See generally* J. Spann, The Christian Faith and Secularism (1948) (hereinafter referred to as Spann). One Christian writer has said:

> [Secularism is] the ordering and conducting of life as if God did not exist; it is the placing of hedonistic and cultural goals above and in place of those of the Kingdom; it is deference to the methods and products of science to the depreciation of all other truth and all other values (and it is often marked) by a superficial optimism and inner despair.

G. Harkness, The Modern Rival of Christian Faith 16 (1952). Another Christian writer has called secularism "practical atheism," even though secularism claims to be indifferent in nature. Spann, *supra,* note 171 at 11.

[172] *See* Berman, *supra* note 3, at 67–68. Harvey Cox shares Berman's view on the "privatization" of religion in modern secular society. Cox, *supra* note 6, at 2.

[173] *See* Berman, *supra* note 3, at 67–68.

[174] J. Noltman, Religion, Revolution, and the Future 113–17 (D. Meeks trans. 1969). Cf. T. Luckman, The Invisible Religion (1967).

[175] *See* Berman, *supra* note 3, at 72.

[176] *Humanist Manifesto I and Humanist Manifesto II* (1973) (hereinafter referred to singularly or as *Humanist Manifestos I and II*). *See generally* C. Hagan, The Humanist Manifestos: The Creed of Secular Humanism (1975) (hereinafter referred to as Hagan); *Humanist Manifesto I* first appeared in 33 The Humanist (No. 5, 1973). The Humanist, published by the American Humanist Association and the American Ethical Union, is the "official" voice of humanism. The Humanist prints articles written by authors that range from such men as behaviorist B. F. Skinner to Edd Doerr, signer of Humanist Manifesto II and present editor of Church and State which is published by Americans United for Separation of Church and State.

[177] *See, eg.,* note 178 *infra* and accompanying text. The effective influence of the two manifestos is realized when one notes the capacity and position of the signers of the documents. *Humanist Manifesto I* was signed by 34 people including the renowned educator John Dewey as well as R. Lester Mondale, brother of Vice-President Walter Mondale.

Humanist Manifesto II was signed by 114 individuals of which but a few are: author Isaac Asimov, DNA pioneer Francis Crick, Edd Doerr of Americans United for Separation of Church and State and editor of Church and State, Lester Mondale (brother of Vice-President Walter Mondale), Harvard behaviorist B. F. Skinner, Sir Julian Huxley, the former head of UNESCO and Swedish author Gunnar Myrdal, father-in-law of Harvard President Derek Bok.

Vice-President Mondale, who has in the past been a contributor to The Humanist was a major participant in the 5th Congress of the International Humanist and Ethical Union held at the Massachusetts Institute of Technology in August 1970. In his opening remarks, Mondale made the following comment:

> Although I have never formally joined a humanist society, I think I am a member by inheritance. My preacher father was a humanist—in Minnesota they call them Farmer Laborites and I grew up on a very rich diet of humanism from him. All of our family has been deeply influenced by this tradition including my brother Lester, a Unitarian Minister, Ethical Culture Leader, and Chairman of the Fellowship of Religious Humanists.

C. Chambers, The Siecus Circle 346 (1977). *See also* note 183 *infra* and accompanying text.

[178] *Humanist Manifestos I and II, supra* note 176, at 7-8 (emphasis added). *Cf.* K. Kolenda, Religion Without God (1976).

[179] *Humanist Manifesto I, supra* note 176, at 7.

[180] *Humanist Manifestos I and II, supra* note 176, at 9–10 (emphasis added).

[181] *Humanist Manifestos I and II, supra* note 176, at 8.

[182] *Id.* at 8.

[183] *Id.* at 13 (emphasis added).

[184] The religious nature of *Humanist Manifesto II* is affirmed by the fact that one hundred and seventy of its signatories were ministers of the Unitarian-Universalist Church and many were members of the Fellowship of Religious Humanists. Wilson, *Pioneer of Evolutionary Humanism,* Humanist, May/June, 1975, at 40. Humanist Corliss Lamont observed that:

> In a sermon delivered in 1925 the Reverend John H. Dietrich showed how Unitarians had naturally laid the basis for Humanism. 'Unitarianism,' he asserted, 'offered opportunity for the enunciation of Humanism by virtue of its underlying spirit of spiritual freedom, by its insistence upon intellectual integrity rather than intellectual uniformity, but its offer of religious fellowship to everyone of moral purpose without regard to his theological beliefs. But this is not the important thing. The real reason why Unitarianism was the natural soil for the growth of Humanism is the fact that Unitarianism was a revolt against orthodox Christianity in the interest of the worth and dignity of human nature and the interest of human life.' A large proportion of the Unitarian churches in the United States are acknowledgedly Humanist.

Lamont, The Philosophy of Humanism 53–54 ((5th ed. 1972), *citing* C. F. Potter, Humanism: A New Religion 80 (1930).

Humanist Edward L. Ericson, a Unitarian minister, has noted: "Whether one prefers to think of humanism as religious or not, most humanists regard their belief as a deeply satisfying moral commitment to the best in human experience—and consider humanism a practical faith for modern men and women." Ericson, *The "Unchurched" Americans: What Do They Believe?,* Religions of America 257 (L. Rosten, ed. 1975).

Manifesto II also closes with the statement that it is "an expression of a living and growing faith." *Humanist Manifestos I and II, supra* note 176, at 24. Although *Humanist Manifesto II* claims in its preface that the signers are not "setting forth a binding credo" (and that "their individual views would be stated in widely varying ways"), this statement does not stand pat since in the concluding paragraph the signers pledge their "general support to Humanist Manifesto II." It is surmised that this position is taken to avoid the ramifications of Torcaso v. Watkins, 367 U.S. 488 (1961), realizing that if the signers assented to the 1973 document as a creed it would be evidence of an admission against interest that a religion was being espoused. For a discussion of *Torcaso* see notes 59–66 *supra* and accompanying text.

[185] *Humanist Manifestos I and II, supra* note 176 at 13–15. Manifesto II is even more specific in its attack on traditional theistic religion within the body of its credo:

> First: . . . . We believe . . . that traditional dogmatic or authoritarian religions that place revelation, God, ritual, or creed above human needs and experience do a disservice to the human species. . . . We find insufficient evidence for belief in the existence of a supernatural; it is either meaningless or irrelevant to the question of the survival and fulfillment of the human race.

Id. at 15–16.

[186] *Id.* at 16. *Humanist Manifesto II* further states: *"Fifth: The preciousness and dignity of the individual person* is a central humanist value . . . . We reject all religious, ideological, or moral codes that denigrate the individual, suppress freedom, dull intellect, dehumanize personality. We believe in maximum individual autonomy. . . ." *Id.* at 18.

[187] *Id.* at 17. *Humanist Manifesto II* reads: *"Third:* We affirm that moral values derive their source from human experience. Ethics is *autonomous* and *situational* needing no theological or ideological sanction. Ethics stems from human need and interest. To deny this distorts the whole basis of life." *Id.*

[188] *Id.*

[189] *Id.*

[190] *Id.*

[191] *Id.* at 13.

[192] *Id.*

[193] *See Constitutional Definition, supra* note 12, at 1068–69. *See also* P. Johnson, A History of Christianity (1976); H. Kung, On Being a Christian (1976). *Cf.* L Chafer, Major Bible Themes (1975).

[194] The "Preface" to *Humanist Manifesto II* declares: "As we approach the twenty-first century . . . an affirmative and hopeful vision is needed. Faith, commensurate with advancing knowledge, is also necessary." *Humanist Manifestos I and II, supra* note 176, at 13.

[195] The first premise of *Humanist Manifesto II* reads: "We find it insufficient evidence for belief in the existence of a supernatural; it is either meaningless or irrelevant. . . ." *Humanist Manifestos I and II, supra* note 176, at 16. *See also* note 186 *supra* and accompanying text. Paul Kurtz, editor of The Humanist, author of the preface of *Humanist Manifesto I* and co-author of the preface for *Humanist Manifesto II* has written that of at least two basic principles that characterize humanism, one such principle is that "there is a rejection of any supernatural conception of the universe. . . ." P. Kurtz, What is Humanism?, Moral Problems in Contemporary Society 1 (1969) (hereinafter referred to as Kurtz).

[196] *Humanist Manifesto I* declares:

> *Eighth:* Religious humanism considers the complete realization of human personality to be the end of man's life and seeks its development and fulfillment in the here and now. This is the explanation of the humanist's social passion.
>
> *Ninth:* In place of the old attitudes involved in worship and prayer the humanist finds his religious emotions expressed in a heightened sense of personal life and in a cooperative effort to promote social well-being.

Humanist Manifestos I and II, supra note 176, at 9. *Humanist Manifesto II* proclaims: "A humanist outlook will tap the creativity of each human being and provide the vision and courage for us to work together. . . . Humanism can provide the purpose and inspiration that so many seek; it can give personal meaning and significance to human life." *Id.* at 14, 15.

[197] The "God is dead" theme was popularized in the 1960's by various writers and, in particular, Thomas Altizer. For Altizer, the death of God was an actual event in history, i.e., "God has actually died in Christ." T. Altizer, The Gospel of Christian Atheism 103 (1966). Dietrich Bonhoeffer, a prominent European theologian, once wrote that "God is beginning to resemble not a ruler but the last fading smile of a cosmic Cheshire Cat." D. Bonhoeffer, Religion Without Reservation 58 (1957).

[198] *Humanist Manifesto II* states: "We find insufficient evidence for belief in the existence of a supernatural. . . ." *Humanist Manifestos I and II, supra* note 176, at 16. Humanist Edward L. Ericson, past president of the American Ethical Union, has said that "[m]any humanists . . . define humanism as a religious movement in its own right—a religion without reservation or God." Ericson, *The "Unchurched" Americans: What Do They Believe?,* Religions of America 257 (L. Rosten, ed. 1975).

[199] Obviously, no writing or so called "holy" book would be accepted by the Secular Humanist as being valid revelations from God. This is an apparent rejection of traditional Judaeo-Christian theism and its reliance on the Bible. The implication is, therefore, that it is mere human intelligence and reason instead of God's revelation that must be man's guide. *Humanist Manifesto I* states that man must "learn to face the crises of life in terms of his knowledge. . . . Man is at last becoming aware that he alone is responsible for the realization of the world of his dreams, that he has within himself the power for its achievement. He must set intelligence and will to the task." *Humanist Manifestos I* and *II supra* note 176, at 9, 10. *Humanist Manifesto II* posits: *"Reason and intelligence* are the most effective instruments that humankind possesses. There is no substitute. . . ." *Id.* at 17.

[200] Schaeffer, *supra* note 125, at 81. The term "reason" is defined as "the power of intellect by which man attains to truth or knowledge." Webster's New Collegiate Dictionary 962 (1975).

[201] O. Guinness, The Dust of Death 14 (1973) (hereinafter referred to as Guinness).

[202] *Id.* at 15. *Humanist Manifesto II,* although less optimistic than *Humanist Manifesto I,* declares:

> The next century can be and should be the humanistic century. Dramatic scientific, technological, and ever-accelerating social and political changes crowd our awareness. We have virtually conquered the planet, explored the moon, overcome the natural limits of travel and communications; we stand at the dawn of a new age, ready to move farther into space and perhaps inhabit other planets.

Humanist Manifestos I and II, supra note 176, at 14. Philosopher Os Guinness notes that humanism has become less optimistic and has developed a form of pessimism. Guinness, *supra* note 201, at 13-14. In this respect, *Humanist Manifesto II* remarks, concerning the 1933 Humanist Manifesto I: "Events since then make that earlier statement seem far too optimistic." Humanist Manifestos I and II, *supra* note 176, at 13. Although Humanist Manifesto II is less optimistic than I, II is yet optimistic concerning the aspirations of man and his progress.

[203] *E.g., see generally* H. Spencer, Principles of Sociology (1880–1897).

[204] See note 201 *supra* and accompanying text.

[205] Guinness, *supra* note 201, at 15.

[206] Historian R. J. Rushdoony writes:

> On all levels . . . the statist emphasis has been predominant. The state is the order of liberty, and the school is the means whereby

> citizens are prepared for the good life. The state has become the saving institution, and the function of the school has been to proclaim a new gospel of salvation.

R. Rushdoony, The Messianic Character of American Education 4 (1972).

[207] *Id.* Humanist Paul Blanshard writes:

> I think that the most important factor moving us toward a secular society has been the educational factor. Our schools may not teach Johnny to read properly, but the fact that Johnny is in school until he is sixteen tends to lead toward the elimination of religious superstition. The average American child now acquires a high-school education, and this militates against Adam and Eve and all other myths of alleged history.

Blanshard, *Three Cheers for Our Secular State,* Humanist, Mar./Apr., 1976, at 17. Seemingly, Blanshard is intimating that at least one purpose of public education should be the elimination of traditional theism. *Id.*

G. Richard Bozarth has written:

> And how does a god die? Quite simply because all his religionists have been converted to another religion, and there is no one left to make children believe they need him.
>
> Finally, it is irresistible—we must ask how we can kill the god of Christianity. We need only insure that our schools teach only secular knowledge; that they teach children to constantly examine and question all theories and truths put before them in any form; and that they teach nothing is proven by the number of persons who believe a thing to be true. If we could achieve this, god would indeed be shortly due for a funeral service.

Bozarth, *On Keeping God Alive,* American Atheist, Nov., 1977, at 8.

[208] Regarding education, Humanist Manifesto II proclaims:

> *Sixth:* Moral education for children and adults is an important way of developing awareness and sexual maturity. . . .
>
> *Eighth:* The conditions of work, education, devotion, and play should be humanized. . . .
>
> *Eleventh:* We believe in the right to *universal education.* Everyone has a right to the cultural opportunity to fulfill his or her unique capacities and talents. The schools should foster satisfying and productive living. They should be open at all levels to any and all. The achievement of excellence should be encouraged. Innovative and experimental forms of education are to be welcomed. The energy and idealism of the young deserve to be appreciated and channeled to constructive purposes.

Humanist Manifestos I and II, *supra* note 176, at 19, 20.

Humanist Manifesto II in particular identifies the State's concern in public life and education: "Ninth: The separation of church and state and the separation of ideology and state are imperatives. . . . It should not favor any particular religious bodies through the use of public monies [i.e., as in public education]. . . . *Id.* at 19–20. It must be noted that the principle of the separation of church and state is particularly important to the Secular Humanist. As Humanist Manifesto II states, this principle and the others embodied in that document "are a design for a secular society on a planetary scale." *Id.* at 15. Secular Humanism, therefore, envisions a society wherein the traditionally theistic church is separated from the secular state. This means that the school must be separated physically and ideologically from traditional theism (or any other supernatural religious doctrines) that conflict with Secular Humanism. The separation of the traditional theism from the state was a goal of John Dewey, a signer of Humanist Manifesto I. Besides Horace Mann, John Dewey has had the greatest influence upon modern "progressive education." Dewey "has profoundly influenced all other colleges of education and every generation of American teacher since his time." H. Morris, Education for the Real World 23 (1977). "John Dewey may be dead, but . . . it is his mind, his thinking, that's governing the schools around us." A. Grover, Ohio's Trojan Horse (1977); *Cf.* S. Schwartz, *Adolescent Literature: Humanism Is Alive and Thriving in the Secondary School,* Humanist, Jan./Feb., 1976, at 37. In rejecting traditional theistic religion Dewey wrote: "I cannot understand how any realization of the democratic idea as a vital moral and spiritual ideal in human affairs is possible without surrender of the conception of the basic division to which supernatural Christianity is committed." J. Dewey, A Common Faith 51 (1934). As an evolutionary humanist, Dewey believed that the evolutionary process had finally reached a state of consciousness in man who could thereby control future evolution. (Dewey, therefore, made systematic application of evolutionary concepts to the curriculum and methodology of public education). H. Morris, Education for the Real World 23 (1977). In his "Pedagogic Creed" Dewey wrote:

> I believe that:
>
> Education is the fundamental method of social progress and reform. . . .
>
> Every teacher should realize the dignity of his calling; that he is a social servant set apart from the maintenance of proper social order and the recurring of the right social growth.
>
> In this way the teacher is always the prophet of the true God and the usherer in of the true kingdom of God.

J. Dewey, *"My Pedagogic Creed,"* John Dewey on Education: Selected Writings 438–39 (1964). Dewey is speaking of the collective humanist deity of "humanity." Historian R. J. Rushdoony's study of modern public education has prompted him to remark that public "[e]ducation in this era is a messianic and a utopian movement, a facet of the Enlightenment hope of regenerating man in terms of the promises of science and that new social order to be achieved in the state." R. Rushdoony, The Messianic Character of American Education 4 (1972). By way of example, John Dewey as an influential Secular Humanist was the chief proponent of the messianic character of education.

[209] R. Rushdoony, The Nature of the American System 87 (1965). In this respect, both manifestos advocate the formation of a world government as a saving institution. Humanist Manifesto I states: "The goal of humanism is a free and universal society in which people voluntarily and intelligently cooperate for the common good. Humanists demand a shared life in a shared world." Humanist Manifestos I and II, *supra* note 176, at 10.

Humanist Manifesto II proclaims: *"Twelfth:* We deplore the division of humankind on nationalistic ground. . . . [W]e look to the development of a system of world law and a world order based upon transnational federal government. . . . We thus reaffirm a commitment to the building of a world community, at the same time recognizing that this commits us to some hard choices." *Id.* at 21.

It should be noted that on January 30, 1976, "A Declaration of Interdependence" was signed by 82 United States Congressmen and 24 Senators in Philadelphia calling for "a new world order" (or world government). *World Affairs Council of Philadelphia* (1975). To what extent humanist ideology has had an effect on congressional thinking is not precisely determinable, but it would definitely seem that it has had some impact.

[210] For example, B. F. Skinner, a leading behaviorist and a signer of *Humanist Manifesto II,* argues that man is simply a machine without dignity or worth and that man should be controlled by a manipulative statist environment. *See generally* B. Skinner, Beyond Freedom and Dignity (1971). *See also* notes 292–294 *infra* and accompanying texts.

[211] Guinness, *supra* note 201, at 39. *See* notes 292–294 *infra* and accompanying text.

[212] *Humanist Manifesto I* declares: *"Fifth:* Humanism asserts that the nature of the universe depicted by modern *science* makes unacceptable any supernatural or cosmic guarantees of human values. . . . Religion must formulate its hopes and plans in the light of the *Scientific spirit* and method." *Humanist Manifestos I and II, supra* note 176 (emphasis supplied).

Humanist Manifesto II proclaims:

> The next century can be and should be the humanistic century. Dramatic scientific, technological, and ever-accelerating social and political changes crowd our awareness. We have virtually conquered the planet, explored the moon, overcome the natural limits of travel and communication; we stand at the dawn of a new age, ready to move farther into space and perhaps inhabit other planets. Using technology wisely, we can control our environment, conquer poverty, markedly reduce disease, extend our lifespan, significantly modify our behavior, alter the course of human evolution and cultural development, unlock vast new powers, and provide humankind with unparalleled opportunity for achieving an abundant and meaningful life. . . . We need to extend the uses of scientific method, not renounce them, to fuse reason with compassion in order to build constructive social and moral values.
>
> * * * * *
>
> *Second:* [S]cience affirms that the human species is an emergence from natural evolutionary forces. . . .
>
> * * * * *
>
> *Sixteenth: Technology is a vital key* to human progress and development. . . . *Id.* at 14, 17, 22.

[213] Dr. John P. Friedrich has remarked: "Science is a kind of sacred cow today. It is being worshipped by the public." F. Trinklein, The God of Science 1 (1971) (hereinafter referred to as Trinklein). Likewise, one writer comments on the theological twist to science:

> Laymen—and most of us in this highly technical world are laymen—are at the mercy of researchers and technicians who set themselves up to interpret their particular part of nature to us. Over the years, they—the *high priests* of science and technology—have convinced us that we should leave the fact finding to them. And to a large part we have. In return, they have promised to be 'objective,' to tell the truth no matter how or whom it hurts. With the truth, freshly gathered from the mouth of the experts, politicians can make laws, and laymen can form opinions and make decisions with confidence. All is fine, until one of the experts decides that he knows more than the decision-makers and that he no longer need be objective. That he can be *preacher* as well as researcher.

Montgomery Advertiser, Dec. 9, 1974, at 4. *Cf.* The Scientist and Ethical Decision (C. Hatfield ed. 1973); *See also* B. Davidheiser, To Be As God (1972).

[214] Trinklein, *supra* note 213, at 3.

[215] F. Schaeffer, Back to Freedom and Dignity 19 (1974).

[216] R. Dubos, A God Within, 42, 43 (1972).

[217] See notes 206–211 *supra* and accompanying text. Theologian and philosopher Francis Schaeffer noted:

> Francis Crick considers where the money for genetic manipulation is going to come from and suggests that it be from the government, the state itself. Like John Kenneth Galbraith, Click believes that it is the intellectually and especially the acedemic and scientific world plus the state that will take the initiative.

F. Schaeffer, Back To Freedom and Dignity 22 (1974).

[218] Paul Kurtz, editor of The Humanist and

a signer of *Humanist Manifesto II*, states that "humanism is an ethical philosophy in which man is central." *See* KURTZ, note 195 *supra*. *Humanist Manifesto I* states: "Man is at last becoming aware that he alone is responsible for the realization of the world of his dreams, that he has within himself the power for its achievement." *Humanist Manifesto I and II, supra* note 176, at 10.

HUMANIST MANIFESTO II concludes: "We are responsible for what we are or will be. . . . [C]ommitment to all humankind is the highest commitment of which we are capable; it transcends the narrow allegiances of church, state, party, class, or race in moving toward a wider vision of human potentiality." *Id*. at 23.

[219] *Humanist Manifesto II* states: "We are responsible for what we will be. . . . We believe that humankind has the potential intelligence, good will, and cooperative skill to implement this." *Humanist Manifestos I and II, supra* note 176, at 23. The Judaeo-Christian religion, on the other hand, in affirmance of the Bible holds that man was created by God perfect, but due to disobedience to God's law man was cursed and fell from his perfect state (this fallen state was passed on to all men subsequent to the first act of disobedience). God being perfect and holy cannot have communion with a fallen creature. Therefore, God requires a blood sacrifice to atone for the "sins" of man. The Judaic tradition (Old Testament) holds that this sacrifice is finalized in animal sacrifice for the Jewish people (although the Jewish people ceased offering sacrifices when the temple was dstroyed in A.D. 70, the principle of sacrifice is yet inherent in their religion). The Christian tradition (New Testament) holds that Christ is that atoning sacrifice for all men for all time. The following Bible verses (Authorized or King James Version) sum up the above:

Old Testament

> And the Lord God said [unto] the woman . . . I will greatly multiply thy sorrow . . . [a]nd unto Adam he said . . . cursed is the ground for thy sake . . . . In the sweat of thy face shalt thou eat bread, till thou return unto the ground; for out of it wast thou taken: for dust thou art and unto dust shalt thou return. . . . Unto Adam also and to his wife did the Lord God make coats of skins, and clothed them. . . . So [God] drove out the man; and he placed at the east of the garden of Eden Cherubims, and a flaming sword which turned every way, to keep the way of the tree of life.—Genesis 3:14–24
>
> And Moses spoke. . . . Take the meat offering that remaineth of the offerings of the Lord made by fire, and eat it without leaven beside the altar: for it is most holy: And ye shall eat of it in the holy place, because it is thy due, and thy son's due, of the sacrifices of the Lord made by fire: for so I am commanded.—*Leviticus* 10:12–13.

New Testament

> Wherefore, as by one man sin entered into the world, and death by sin; and so death passed upon all men, for that all have sinned. . . . As it is written, there is none righteous, no, not one . . . for all have sinned, and come short of the glory of God. . . . but God commanded his love toward us, in that, while we were yet sinners, Christ died for us. . . . That if thou shalt confess with thy mouth the Lord Jesus, and shalt believe in thine heart that God hath raised him from the dead, thou shalt be saved.—*Romans* 5:12, 3:10, 3:23, 5:8, 10:9–11.

See generally N. ANDERSON, A LAWYER AMONG THE THEOLOGIANS (1973); COMAY, THE TEMPLE OF JERUSALEM (1975); A. EDERSHEIM, THE TEMPLE (1958); L. MORRIS, THE APOSTOLIC PREACHING OF THE CROSS. In clear rebuttal of the above. *Humanist Manifesto II* states: "Promises of immortal salvation or fear of eternal damnation are both illusory and harmful. They distract humans from present concerns, from self-actualization, and from rectifying social injustices." *Humanist Manifestos I and II, supra* note 176, at 16.

[220] Humanist Manifesto II states:

> Using technology wisely, we can control our environment, conquer poverty, markedly reduce disease, extend our lifespan, significantly modify our behavior, alter the course of human evolution and cultural development, unlock vast new powers, and provide humankind with unparallel opportunity for achieving an abundant and meaningful . . . While there is much that we do not know, humans are responsible for what we are or will become. No deity will save us. Humanist Manifestos I and II, supra note 176, at 14, 16.

[221] Humanist Manifesto I proclaims: "Man is at last becoming aware that he is responsible for the realization of the world of his dreams that he has within himself the power for its achievement." Id. at 10.

[222] Paul Kurtz has said:

> Although humanists share many principles, there are two basic and minimal principles which especially seem to characterize humanism. First, there is a rejection of any supernatural conception of the universe and a denial that man has a privileged place within nature (belief in a Creator affords man special dignity). Second, there is an affirmation that ethical values are human and have no meaning independent of human experience; thus humanism is an ethical philosophy in which man is central.

See Kurtz, supra note 195.

[223] The "Preface" to Humanist Manifesto II in its opening paragraph recognizes the problems inherent in the optimism of Humanist Manifesto I. Humanist Manifestos I and II, supra note 176, at 13. In response to the problems of the century, Humanist Manifesto II states: "As we approach the twenty-first century, however, an affirmative and *hopeful vision* is needed. *Faith*, commensurate with advancing knowledge, is also necessary," id. (emphasis added). Therefore, instead of abject pessimism Humanist Manifesto II takes a leap of faith. Colin Brown highlights the tensions evident in Secular Humanism:

> The gospel of Humanism invites men to make the best of a bad job. The world is ultimately pointless. All we can do is try to give it a few temporary points before we pass into the abyss of nothingness. The ancients said: Eat, drink, and be merry, for tomorrow we die. The Humanism of the sixties has become more sophisticated. It allows man to be serious in his merry-making. The image is new, but the basic idea is the same. Life has no meaning than that which we give it ourselves, and no other end by death. This in itself is not an objection to Humanism. For this view of life is perhaps the best we can do, if we assume that God does not exist and that he does care for the world. It is better to face the facts and recognize that this is the only valid alternative to Christianity than to pretend that there are various intermediate options open to us.

C. Brown, Philosophy and the Christian Faith 230 (1969).

[224] Guinness, supra note 201, at 16. See generally M. Adler, The Difference of Man and The Difference It Makes (1967).

[225] Humanist Manifesto I declares:

> First: Religious humanists regard the universe as self-existing and not created.
>
> Second: Humanism believes that man is part of nature and that he has emerged as the result of a continuous process. . . .
>
> Fourth: Humanism recognizes that man's religious culture and civilization, as clearly depicted by anthropology and history, are the product of a gradual development. . . .

Humanist Manifestos I and II, supra note 176, at 8.

Humanist Manifesto II professes:

> Using technology wisely, we can control our environment, [etc.] after the course of human evolution. . . .
>
> Second: [S]cience affirms that the human species is an emergence from natural evolutionary forces. . . .
>
> Seventh: We would safeguard, extend, and implement the principles of human freedom evolved from the Magna Carta to Bill of Rights, the Rights of Man, and the Universal Declaration of Human Rights. . . .
>
> Fourteenth: The cultivation and conversation of nature is a moral value; we should perceive ourselves as integral to the sources of our being in nature. . . . Id. at 14, 17, 19, and 21–22.

[226] G. KERKUT, IMPLICATIONS OF EVOLUTION 157 (1960). The "general" theory of evolution must be distinguished from the "special" or "limited" theory, which posits "that many living animals can be observed over the course of time to undergo changes" through genetic variation and limited mutation. *Id*.

One commentator has noted:

> The general theory of evolution, as it is presented by the leading biology textbooks in public secondary schools, embraces several key premises. It proposes origination of the universe and earth through natural processes, and naturalistic development of life from non-life. The general theory involves evolution of present living forms from this organism through mutation and natural selection, and entails evolution of human beings from ancestry with apes. It also postulates uniformitarianism—the concept that past physical processes acted much like present gradual processes—as the underlying key to the sequence of evolution and to the ages of the earth, life, fossils, and man.

Note, *Freedom of Religion and Science Instruction in Public Schools*, 87 YALE L.J. 515, 521–22 (1978).

[227] Note, *Freedom of Religion and Science Instruction in Public Schools*, 87 YALE L.J. 515, 522 n.33 (1978). Sir Julian Huxley stated that in "the evolutionary pattern of thought there is no longer either need or room for the supernatural. The earth was not created; it evolved." J. Huxley, *The Evolutionary Vision*, in 3 EVOLUTION AFTER DARWIN 249, 252 (S. Tax and C. Callender eds. 1960). Justice Black has also noted the antagonism between evolution and creationism. Epperson v. Arkansas, 393 U.S. 97, 113 (1968).

[228] Note, *Freedom of Religion and Science Instruction in Public Schools*, 87 YALE L.J. 515, 522 n.31 (1978). A distinction has been made between "religious creationism" and "scientific creationism." *Id*. at 517, 520. Religious creationism relies on a literal reading of *Genesis* from the Old Testament of the Bible regarding, for example, the creation of Adam and Eve and the worldwide flood sent by God that destroyed all mankind except Noah and his family. *Id*. at 520. Scientific creationism, on the other hand, is "a theory of the origin of the earth and life that employs scientific argument and not a sacred text in its challenge of the general theory." *Id*. at 517. Both forms of creationism assert there was a Creator who designed the universe, and both are in derivation religious as is the theory of evolution. This, of course, does not mean that scientific creationism is no less scientific than evolution.

[229] R. L. WYSONG, THE CREATION-EVOLUTION CONTROVERSY 33 (1976) (hereinafter referred to as WYSONG).

[230] J. MONOD, CHANCE AND NECESSITY 112–13 (1971).

[231] Now my point of view is that this is impossible, this is a farce. You cannot derive any sort of "ought" from the "is." If it is true that there is no intention in the universe and if it is true that man as any other animal species is a pure accident in evolution, it might as well not have appeared.

Id. at 180.

[232] SCHAEFFER, *supra* note 125, at 224.

[233] The world's oldest cosmogony was un-

earthed and found recorded on a tablet excavated in Babylonia a number of years ago and is known as the *Enuma Elish*. *See generally* T. Jacobsen, *Enuma Elish—The Babylonian Genesis*. Theories of the Universe (M. K. Munitz, ed. 1957). It is interesting to note that this Babylonian cosmogony is an apparent description of what is referred to today as the evolutionary theory:

> Specifically, *Enuma Elish* assumes that all things evolved out of water. This description presents the earliest stage of the universe as one of watery chaos. The chaos consisted of three intermingled elements: Apsu, who represents the sweet waters; Ti'amat, who represents the sea; and Munnu who cannot as yet be identified with certainty but may represent cloud banks and mist. These three types of waters were mingled in a large undefined mass. . . . Then in the midst of this watery chaos two gods came into existence.

Id. at 9. Another account of the ancient origin of evolutionary thought is found in the Tibetan Book of the Dead. This work was compiled from the teachings of sages over many centuries in ancient Tibet and was passed down through these early generations by word of mouth. It was finally written in approximately the eighth century A.D. One interesting account declares: "The Osiris, the Scribe Ani, whose word is truth, saith: I flew up out of primeval matter. I came into being like the god Khepera. I germinated . . . like the plants. . . ." The Book of the Dead 552 (E. A. Wallis Budge trans. 1960). Dr. Henry M. Morris comments:

> The idea of evolution did not, of course, originate with Darwin . . . but it was a doctrine held by many scientists and philosophers before Darwin. Belief in spontaneous generation of life from the non-living and in transformations of the species was quite common among the ancients. Among the early Greeks, for instance, Anaximander taught that men had evolved from fish and Empedocles that animals had been derived from plants. . . . One striking fact emerges from the study of all the ancient cosmogonic myths, whether from Babylon, Greece, Egypt, India, or wherever. The concept that the universe had originally been *created*, out of nothing, by an act of God, is completely absent. Always there is primeval chaos or a primeval system of some kind, upon which the 'gods,' or the forces of nature, begin to work in order to bring the world and its inhabitants into their present state. Special creation seems to have been a doctrine completely unknown (or, if known, rejected) by the ancients.

H. Morris, The Twilight of Evolution 75–76 (1963). Philosopher Greg Bahnsen views evolutionism as a form of pantheistic belief. He states: "It is now evident that the philosophic *successors* to Darwinism embody [a] pantheistic theme . . . ionism is a syndrome of beliefs and assumptions, a syndrome inclusive of (or going toward) reducing God to the level of imminent world process or elevating the created order to the status of divinity." Bahnsen, *Worshipping the Creature Rather Than the Creator,* I Journal of Christian Reconstruction 116 (No. 1 1974) (hereinafter referred to as Bahnsen). *Cf*. B. Swyhart, Narratives About Cosmic and Human Origins: Selected Readings (1976).

[234] A significant school of Secular Humanists regard their convictions as a religion and, in conjunction therewith, emphasize the need to adhere to the general theory of evolution as a tenet of their religion. Kurtz, *Humanism and Religion: A Reply to the Critics of Humanist Manifesto II,* Humanist, Jan./Feb., 1974, at 4.

[235] Huxley, *The Coming New Religion of Humanism,* Humanist, Jan./Feb., 1962, at 3–5. Huxley was candid in that he admitted his religion was "not based on revelation in the supernatural sense, but on the revelations [of] science." *Id*. at 5. In fact, Huxley surmised, "all reality is in a perfectly valid sense one universal process of evolution." *Id*. at 4. Huxley entitled the concluding chapter of one book "Evolutionary Humanism as a Developed Religion." J. Huxley, Religion Without Revelation 203 (rev. ed. 1957).

[236] Huxley, *Evolutionary Humanism,* Humanist, Sept./Oct., 1962, at 201, 206.

[237] Cowen, *Biological Origins: Theories Evolve,* Christian Science Monitor Jan. 4, 1962, at 4 (emphasis added) (hereinafter referred to as Cowen).

[238] Los Angeles Times, Nov. 9, 1977, at 1, Pt. IV. *See generally* R. Jastrow, Until the Sun Dies (1977). Carl Sagan states:

> "Today it is far easier to believe that organisms arose spontaneously on the Earth than to try to account for them in any other way. Nevertheless, this still *is a statement of faith* rather than of demonstrable scientific fact. Scientists have only sketchy notions of how this evolution might have occurred."

Cowan, *supra* note 237, at 4 (emphasis added). Dr. George Wald, Nobel prize-winning biologist of Harvard University, stated several years ago: "One only has to contemplate the magnitude of this task to concede that the spontaneous generation of a living organism is impossible. Yet here we are—as a result, I believe, of spontaneous generation." H. Morris and J. Whitcomb, The Genesis Flood 234 (1971). Rather than posit special creation as a possibility. Dr. Wald takes a leap of faith and believes in something he admits is "impossible."

Scientific creationists have argued that "creation is as scientific as evolution and . . . evolution is just as religious as creation. . . . [B]elief in evolution requires at least as much faith . . . as creation." H. Morris, Introducing Scientific Creationism Into the Public Schools 1, 11 (1975). W. R. Thompson states that "the concept of organic evolution [is] an object of genuinely religious devotion" in the scientific community. W. Thompson, Science and Common Sense 229 (1937). One writer, concurring, notes that scientists have "elevated Darwinism to the level of a religious dogma." W. Jones, 2 A History of Western Philosophy 924 (1952). Allen C. Burton, a former president of the American Physiological Society, states:

> "The facts must mold the theories, not the theories the facts. . . . I am most critical of my biologist friends in this matter. It seems to me that they have allowed what is a most useful working hypothesis in a limited field in the whole of biology, to become 'dogma,' in their worship of the principle of natural selections as the only and sufficient operator in evolution. If they have done this, they no longer can act as true scientists when examining evidence that might not fit into this frame of concepts. If you do not believe me, try telling a biologist that, impartially judged along with other accepted theories of science, such as the theory of relativity, it seems to you that the theory of natural selection has a very uncertain, hypothetical status, and watch his reaction. I'll bet you that he gets red in the face. This is 'religion' not 'science' with him."

Burton, *The Human Side of the Physiologist, Prejudice and Poetry,* 1 Physiologist 2 (No. 1, 1975).

[239] C. Darwin, The Origin of Species by Natural Selection or the Preservation of Favoured Races in the Struggles for Life 759 (L. Valorium ed. 1959): *Cf*. M. J. Savage, The Religion of Evolution (1876).

[240] Bahnsen, *On Worshipping the Creature Rather than the Creator,* 1 Journal of Christian Reconstruction 98 (No. 1, 1974) (hereinafter referred to as Bahnsen).

[241] *Id*. at 102. *See generally* N. Macbeth, Darwin Retired (1971).

[242] Bahnsen, *supra* note 240, at 102. Two prominent biochemists, D. E. Green and R. F. Goldberger, note the lack of evidence supporting various concepts of evolution:

> There is one step (in the mechanistic concept) that far outweighs the others in enormity: the step from macromolecules to cells. All the other steps are accounted for on theoretical grounds—if not correctly, at least elegantly. However, the macromolecule to cell transition is a jump of fantastic dimensions, which lies beyond the range of testable hypothesis. In this area, all is conjecture. The available facts do not provide a basis for postulation that cells arose on this planet. This is not to say that some paraphysical forces were at work. We simply wish to point out that there is no scientific evidence.

Vanderkool, *Evolution as a Scientific Theory,* 15 Christianity Today (No. 16) May 7, 1971, at 13.

[243] Bahnsen, *supra* note 240, at 102. Dr. W. R. Thompson says in his introduction to a current edition of Origin of Species: "Personal convictions . . . are presented as if they were proofs." W. Thompson, Origin of Species (Intro. to Everyman edition 1956). Paul Westmeyer states: "Evolution is useful but it is a myth." Westmeyer, *Twentieth Century Mythology,* Chemistry, Jan., 1956, at 17. Yet evolution continues to be propagated:

> The theories of evolution with which our studious youth have been deceived, constitute actually a dogma that all the world continues to teach; but each in his specialty, the zoologist or the botanist ascertains that none of the explanations furnished are adequate. . . . It results from this summary that the theory of evolution is impossible. . . . But evolution is a sort of dogma which the priests do not believe, but maintain for their people.

5 Encyclopeida Francaise 82–83 (1937).

[244] P. Teilhard de Chardin, The Vision of the Past 123 (J. Cohen trans. 1967). The evolutionary theory, as Teilhard de Chardin explains, has become the unassailable, authoritative, logically primitive standard of truth: "Evolution has long since ceased to be a hypothesis and has become a general epistemological condition . . . which must henceforth be satisfied at every hypothesis." P. Smulders, The Design of Teilhard de Chardin 30 (A. Gibson trans. 1967).

[245] P. Teilhard de Chardin, The Phenomenon of Man 241 (B. Wall trans. 1959). In the New Testament of the Authorized Version of the Bible Teilhard de Chardin's religious "light" is paralleled by the "Light" (Jesus Christ).

> In the beginning was the Word, and the Word was with God, and the Word was God. The same was in the beginning with God. All things were made by him; and without him was not anything made that was made. In him was life; and the life was the light of men. And the light shineth in darkness; and the darkness comprehendeth it not. . . . That was the true Light, which lighteth every man that cometh into the world.

John 1 :1–5, 9. It must be noted that "every culture and religion in history has placed light at the center of its cosmology. 'Receive the light,' 'Seek enlightenment,' 'The mind of light.' 'The luminescent soul.' " J. Mander, Four Arguments for the Elimination of Television 18 (1978). Thus, the adherents to the cult of evolution also have a light in their cosmology.

[246] G. Simpson, The Meaning of Evolution 135 (1951).

> There is neither need nor excuse for postulation of nonmaterial intervention in the origin of life, the rise of man, or any other part of the long history of the material cosmos. Yet the origin of that cosmos and the causal principles of its history remain unexplained and inaccessible to science.

Id.

[247] Dr. N. Heribert-Nilsson, Director of the Botanical Institute at Lund University. Sweden, said: "My attempt to demonstrate

evolution by an experiment carried on for more than 40 years has completely failed. . . . The idea of evolution rests on pure belief." Synthetische Artbildung (1953), *as cited by* H. Morris, Scientific Creationism 9 (Gen. ed. 1974). "Evolution itself is accepted . . . not because it has been observed to occur . . . or can be proved by logical coherent evidence, but because the *only* alternative, special creation, is clearly incredible." Watson, *Adaptation*, 123 Nature 233 (1929).

[248] Wald, *Theories of the Origin of Life*, Frontiers of Modern Biology 187 (1962); Wald, *The Origin of Life*, The Physics and Chemistry of Life 5 (1955). Others have commented on the exclusiveness of the two positions regarding origins. For example: "Such explanations tend to fall into one or the other of two broad categories: special creation or evolution. Various admixtures and modifications of these two concepts exist, but it seems impossible to imagine an explanation of origins that lies completely outside the two ideas." P. Davis and E. Solomon, The World of Biology 395 (1974). "Either evolutionary change or miraculous devine intervention lies at the back of human intelligence." S. Zucherman, Functional Activities of Man, Monkeys and Apes 155 (1933).

It has been hypothesized that there is a third alternative when speaking of origins—panspermia. This theory posits that "life [arose] on earth from extra-terrestrial beings dropping protoplasm from UFO's or from 'seeds' contained within meteorites." R. Wysong, The Creation-Evolution Controversy 33 (1976). Julian Huxley pointed out the difficulty in this position when he said that "it only removes the problem one step further back: We still have to face the question of how this supposed extraterrestrial life originated." J. Huxley, Evolution in Action 21 (1963).

[249] H. Newman, Outlines of General Zoology 407 (1924).

[250] H. Morris, Scientific Creationism 4, 5, (1974) (hereinafter referred to as Morris). "It must . . . be emphasized that it is impossible to prove scientifically any particular concepts of origin to be true." *Id.* A leading evolutionist, Theodosius Dobzhansky, has admitted:

> The applicability of the experimental method to the study of such unique historical processes is severely restricted before all else by the time intervals involved, which far exceed the lifetime of any human experimenter. And yet, it is just such impossibility that is demanded by anti-evolutionists when they ask for 'proofs' of evolution which they would magnanimously accept as satisfactory.

Dobzhansky, *On Methods of Evolutionary Biology and Anthropology*, 45 Am. Scientist 388 (1957). "Belief in the theory of evolution is thus exactly parallel to belief in special creation—both are concepts which believers know to be true but neither, up to the present, has been capable of proof," L. Matthews, *"Introduction"* to C. Darwin, Origin of Species XI (1971).

[251] Morris, *supra* note 250, at 5.

[252] Peter Medawar has recognized the problem entailed by the fact that no way exists by which to test evolution. Its acceptance is by leaps of faith. He states: "There are philosophical or methodological objections to evolutionary theory. . . . It is too difficult to imagine or envisage an evolutionary episode which could not be explained by the formula of neo-Darwinism." P. Medawar, Mathematical Challenges to the Neo-Darwinism Interpretation of Evolution XI (1967).

> It seems at times as if many of our modern writers on evolution have had their views by some sort of revelation and they base their opinions on the evolution of life, from the simplest form to the complex, entirely on the nature of specific and intraspecific evolution. . . . It is premature, not to say arrogant, on our part if we make any dogmatic assertion as to the mode of evolution of the major branches of the animal kingdom.

G. Kerkut, Implications of Evolution 155 (1965).

[253] Huxley, *Evolution and Genetics*, What Is Science 272–78 (J. Newman ed. 1955). Elsewhere it has been written:

> The master idea . . . was that of evolution. . . . Independently of the writings of Comte and Spencer, there proceeded during the 19th Century, under the influence of the evolutionary concept, a throughgoing transformation of older studies like History and Political Economy; and the creation of new ones like Anthropology, Social Psychology, Comparative Religion, Criminology, Social Geography.

Branford, *Sociology*, 20 Encyclopedia Britannica 912 (ed. 1949).

[254] L. Orgel, The Origins of Life: Molecules and Natural Selection 183 (1973).

[255] Wysong, *supra* note 229, at 6.

[256] Says one commentator: "An ethical system that bases its premises on absolute pronouncements will not usually be acceptable to those who view human nature by evolutionary criteria." Motulsky, *Brave New World*, 185 Science 654 (1974). The danger inherent in moral relativism has been noted:

> In the West today, there is a pervasive consent to the notion of moral relativism, a reluctance to admit that absolute evil can and does exist. This makes it especially difficult for some to accept the fact that the Cambodian experience is something far worse than a revolutionary aberration. Rather, it is the deadly logical consequence of an atheistic, man-centered system of values, enforced by fallible human beings with total power, who believe, with Marx, that morality is whatever the powerful define it to be and, with Mao, that power grows from gun barrels. By no coincidence the most humane Marxist societies in Europe today are those that, like Poland or Hungary, permit the dilution of their doctrine by what Solzhenitsyn has called 'the great reserves of mercy and sacrifice' from a Christian tradition.

Time, July 31, 1978, at 40.

[257] Wysong, *supra* note 229, at 7.

[258] R. Clarke, Darwin: Before and After 115 (1948) (hereinafter referred to as Clarke); Oscar Levy, The Complete Works of Nietzsche GE (1930). Concerning *Il Duce* Clarke wrote: "Our own generation has lived to see the inevitable result of evolutionary teaching . . . Mussolini's attitude was completely dominated by evolution. In public utterances, he repeatedly used the Darwinian catch words while he mocked at perpetual peace, lest it hinder the evolutionary process." *Id.*

[259] Clarke, *supra* note 258, at 115–17.

[260] A. Keith, Evolution and Ethics 230 (1949). R. Clarke has remarked: "Adolf Hitler's mind was captivated by evolutionary teaching—probably since he was a boy. Evolutionary ideas—quite undisguised—lie at the basis of all that is worst in *Mein Kampf* (sic)—and in his public speeches." Clarke, *supra* note 250, at 115. One commentator has written: "Suffice it to mention the so-called Social Darwinism, which often sought to justify the inhumanity of man to man, and the biological racism which furnished a fraudulent scientific sanction for the atrocities committed in Hitler's Germany and elsewhere." Dobzhansky, *Evolution at Work*, Science 109).

[261] J. Bernal, Marx and Science 17 (1952).

[262] See notes 151–159 *supra* and accompanying text.

[263] Fairbanks, *Sigmund Freud*, Twentieth Century Encyclopedia of Religious Knowledge 446 (L. Loetscher ed. 1955). *Cf.*, R. Rushdoony, Freud (1975); E. Froom, Beyond the Chains of Illusion—My Encounter with Marx and Freud 33 (1962).

[264] The pervasiveness of evolutionary humanism has been noted:

> Even our language has incorporated words and phrases that assume the truth of evolution, for example, proto means primitive or first. Thus we have pro-tons in the nuclei of atoms—assumed to have come first; protozoans as single celled microscopic organisms—assumed most simple and coming first; proto-humans—assumed primate precursor to humans; and proto-history—assumed evolutionary prerecorded history. Single cells are considered "simple" and man is termed "complex." Unruly children are spoken of as "just passing through a stage" and spanking . . . is considered "primitive" and "brutish."

Wysong, *supra* note 229, at 8.

[265] Rose, *The Slow Painful Death of the Race Myth*, Society Today and Tomorrow 194 (E. Hunt and J. Karlin eds. 1961). *Cf.* J. Haler, Jr., Outcasts from Evolution: Scientific Attitudes of Racial Inferiority (1971).

[266] John Dewey, an evolutionary humanist has had a tremendous impact on education. Dewey's biographer said: "The starting point of his system of thought was biological: he sees man an as organism in an environment, remaking as well as made. Things are to be understood through their origins and functions, without the intrusion of supernatural considerations." Durant, *John Dewey*, 7 Encyclopedia Britannica 297 (956). Concerning the impact of evolutionary humanism on traditional theism through the public education system, it has been recognized:

> The evolutionary origin of the universe, of life and of man is taught as scientific fact even to elementary school children in probably most public schools, at least by implication. The Christian and Biblical record of origins is usually ignored, sometimes allegorized or even ridiculed. Such concepts as Creation, the Fall, the Curse, Sin, Redemption, etc.—which really are the most important and basic facts of science and history—are taboo. Such patronizing references to 'religion' as are allowed at all in the public schools are given in a context of comparative religions, of 'world communities,' 'of brotherhood,' of social progress,' and the like.
>
> This is a remarkable phenomenon in a nation founded largely on Christianity and the Bible. Undoubtedly, many factors have contributed to this . . . but it is highly probable that the introduction of the 19th-century doctrines of evolutionary optimism is back of most of it.

Morris, The Twilight of Evolution 19–20 (1963).

[267] Pound wrote: "It must be borne in mind that 'nature' did not mean to antiquity what it means to us who are under the influence of the idea of evolution." R. Pound, Introduction to Philosophy 31 (1922).

[268] R. Wormser, The Story of the Law 484 (1962) (hereinafter referred to as Wormser). *Cf.* L. Tribe, American Constitutional Law 438 (1978).

[269] Wormser, *supra* note 268, at 185.

[270] *Id.* at 483. Pound said: "I am skeptical as to the possibility of an absolute judgment." *Id.* Pound's as well as Dewey's, influence on legal education is still present. John Rawls in commentating on the Aristotelian principle that, other things being equal, human beings enjoy the exercise of their realized capacities, writes:

> Now it may be objected that there is no reason to suppose that the Aristotelian principle is true. Like the idealist notion of self-realization, to which it bears a certain resemblance, it may have the ring of a philosopher's principle with little to support it. But it seems to be borne out by many facts of everyday life, and by the behavior of children and some of the higher animals. Moreover, it appears to be susceptible to an evolutionary

> explanation. Natural selection must have favored creatures of whom this principle is true. Aristotle says men desire to know. Presumably we have acquired this desire by a natural development, and indeed, if the principle is sound, a desire to engage in more complex and demanding activities of any kind as long as they are within our reach. . . .

Id., citing B. G. Campbell, Human Evolution 49–53 (1966); W. H. Thorpe, Science, Man, and Morals 82–92 (1965). For animals, *see* Iremaus Eibl-Eibesfeldt, Ethology 217–48 (190); *see also* J. Rawls, A Theory of Justice 431 (1971). Consider these statements by Rawls:

> The theory of evolution would suggest that it is the outcome of natural selection: the capacity for a sense of justice and the moral feelings is an adaptation of mankind to its place in nature. . . . These patterns of behavior have an evolution exactly as organs and bones do. . . . We can also see how the system of the moral feelings might evolve as inclinations supporting the natural duties and as stabilizing mechanisms for just schemes.

Id. at 503–04. Rawls indicates that man's sense of justice and moral feelings are products of evolution in suggesting a utilitarian approach to justice which is Kantian in nature. *Id.* at *viii*.

Lawrence Tribe's recent constitutional treatise emphasizes evolutionism (and thus the necessity of constant change) in constitutional law. He writes: "[T]he constitution is an intentionally incomplete, often deliberately indeterminate structure for the participatory evolution of political ideals and governmental practices." L. Tribe, American Constitutional Law *iii* (1978).

"[T]he highest mission of the Supreme Court, in my view, is not to conserve judicial credibility, but in the Constitution's own phrase, 'to form a more perfect Union' between right and rights within that charter's necessarily evolutionary design," *Id* at *iv*.

[271] G. White, The American Judicial Tradition 159 (1976) (hereinafter referred to as White). Concerning the nature of man, Holmes remarked:

> I see no reason for attributing to man a significance different in kind from that which belongs to a baboon or a grain of sand. I believe that our personality is a cosmic ganglion, just as when certain rays meet and cross there is a white light at the meeting point, but the rays go on after the meeting as they did before, so, when certain other streams of energy cross at the meeting point, the cosmic ganglion can frame a syllogism or wag its tail.

R. Hertz, Chance and Symbol 107 (1948).

[272] O. Holmes, Jr., The Common Law 1 (1881). Lawrence M. Friedman has called this treatise "the most important 19th-century book, from the 20th-century viewpoint. . . ." L. Friedman, A History of American Law 545 (1973).

Max Radin in seeming compliance with Holmes wrote: "We cannot state human experience except in terms of some generality which involves logic." M. Radin, Law as Logic and Experience 98 (1940). Radin's commitment to humanism is apparent:

> [T]he better kind of justice was determined by an irrational sense of human brotherhood, by a concession to humanity which in this case was the same as humaneness . . . the justice that just men who are also humane men will apply when they are judges. Just men are men who are so far Kantians that they do not think of other men as a means to their ends, not even when the others are concededly and immeasurably inferior to themselves. . . . Humanity is, after all, the business of the law.

Id. at 162–64. Radin's thesis has been criticized: "We can certainly agree with the need for humaneness, but when we reduce the law to humaneness and equate justice with it, then we have replaced justice with pity and substituted sentimentality for law. The logic of Radin's system is that of autonomous man, whose only law is himself." R. Rushdoony, Politics of Guilt and Pity 97–98 (1970).

[274] *Id.*

[275] *See, e.g.,* O. Holmes, Jr., 5 Am. L. Rev. 534 (1871), and 2 The Pollack-Holmes Letters: Correspondence of Sir Frederick Pollack and Mr. Justice Holmes 1874–1932, at 36 (M. Howe ed. 1942).

[276] The Mind and Faith of Justice Holmes: His Speeches, Essays, Letters, and Judicial Commentary 372, 389, 336–341 (M. Lemer ed. 1943). *Cf.* C. P. Curtis, Jr., Liars Under the Throne: A Study of the Supreme Court of the United States 25, 281 (1947).

[277] In this respect, R. J. Rushdoony has commented:

> Under the impact of relativism, justice, together with law, is made the creature of the state and is thus destroyed. Justice is what Stalin, Hitler, the President, Supreme Court, or people say it is, and no more. However, the relativist rejects the barrenness of this conclusion and insists that justice is in process, a development evolving together with man and his state towards a constantly higher stage or truth. The function of the jurist, in this process, becomes, as it was with Holmes and increasingly with others, the interpretation of that direction and the social mind, a rather mystical jurisprudence as a result. For the skeptical jurist, justice and positive law are inevitably the same; justice is what the state says and does, so that Holmes could feel justified in being 'anti-labor' at one period and 'pro-labor' at another. In every instance, he was 'just' because sensitive to the 'law' behind the law, i.e., the social temper of his day.

R. Rushdoony, Politics of Guilt and Pity 127 (1970).

[278] Schaeffer, *supra* note 125, at 217.

[279] *Id. Cf.* White, *supra* note 271, at 270.

[280] Schaeffer, *supra* note 125, at 217.

[281] See Wormser, *supra* note 268, at 430. Professor White has written that the "origins of modern liberalism in America coincided with the Supreme Court tenures of Justice Oliver Wendell Holmes and Louis Brandeis." White, *supra* note 271, at 151.

[202] *Barrons,* June 18, 1951.

[283] W. Douglas, Freedom of the Mind, 35, 36 (1962). Douglas's view on world government paralleled *Humanist Manifestos I and II:*

> We on this continent adopted a federation composed of sovereign nations, and we provided the Supreme Court as the tribunal for settlement of controversies between them. We can inaugurate the beginnings of a like rule of law in the international field by a few simple expedients. President Eisenhower's proposal to submit all disputes under treaties to the International Court with power on its part to render binding decisions is one place to commence. That device can be evolved to include many types of controversies, including territorial problems that now raise the specter of nuclear war. International institutions can be created to control and administer certain common problems. Nuclear energy is one. We must start now to provide specific procedural devices to adjudicate international controversies and to control and administer such crucial problems as the use of nuclear energy, which all nations have in common. We must in other words carry a 'rule of law' beyond the conversation stage and begin to reduce it to specific, concrete forms, if war is to be prevented.

R. Rushdoony, Politics of Guilt and Pity 352 (1970).

[284] Schaeffer, *supra* note 125, at 217.

[285] B. F. Skinner, Beyond Freedom and Dignity 200–01 (1971).

[286] *Id.*

[287] L. Broom and P. Selznick, Sociology: A Text with Adapted Readings 47–48 (4th ed. 1968).

[288] F. Schaeffer, Back to Freedom and Dignity 20 (1974).

[289] *Id.* at 23.

[290] Schaeffer's comments on the position in which modern man has placed himself are: "[T]he concept [of man's dignity] is gone. We are in the post-Christian world. Man is junk, and man can be treated as junk. If the embryo is in the way, ditch it. If the old person is in the way, ditch him. If you're in the way . . . and that's what lies before us." *Id.*

[291] U.S. Declaration of Independence.

[292] Borisov, Personality and National Awareness, From Under the Rubble 194, 200, 201 (M. Scammel trans. 1975).

[293] A. Koestler, The Ghost in the Machine 15 (1967).

[291] O. Guinness, The Dust of Death 15–16 (1973).

[295] J. Ellul, The Theological Foundation of Law 34 (1969) (hereinafter referred to as Ellul).

[296] T. Franck, The Structure of Impartiality: Examining the Riddle of One Law in a Fragmented World 62, 68–69 (1968).

[297] Ellul, *supra* note 295, at 8.

[298] It must be recognized that in recent years an awareness of the humanistic relativism that undergirds contemporary law has emerged. *See e.g.,* Brabner-Smith, *Contemporary Law: A Case of Contempt,* Worldwide Challenge 5 (Aug. 8, 1978). In fact, organizations have been formed to study the biblical foundation of law as it relates to modern law and society at large. For instance, the Christian Law Association of Cleveland, Ohio is an organization of churches, laymen and attorneys that, while providing a source of funds for church-state litigation, provides research and conducts seminars on the biblical foundation of the American legal system. The Christian Legal Society, to name another, is a membership association of approximately 1,500 attorneys, that publishes and conducts seminars on Christianity and the law.

[299] In his dissent in *Doe v. Bolton,* Justice White, concerning the abortion decision said: "As an exercise of raw judicial power, the Court perhaps has authority to do what it does today; but in my view its judgment is an improvident and extravagant exercise of the power of judicial review that the constitution extends to this Court." Doe v. Bolton, 410 U.S. 179, 222 (1973). *Cf.* Roe v. Wade, 410 U.S. 113 (1973).

[300] Ellul, *supra* note 295, at 8–9.

[301] *See, e.g.,* J. Montgomery, The Law Above the Law (1975); Corwin, *The "Higher Law" Background of American Constitutional Law,* 42 Harv. L. Rev. 149, 365 (1928).

[302] H. Berman, The Interaction of Law and Religion 73 (1974).

[303] A. Hamilton, 1 Works of Alexander Hamilton 113 (H. Lodge ed. 1904).

Mr. TOWER. Mr. President, today I voted against the nomination of Judge Shirley Hufstedler for Secretary of the newly-created Department of Education. My vote in this manner was not intended as a personal affront to Judge Hufstedler. Her credentials as a jurist are outstanding, and I have no doubt that she is capable of providing effective leadership to the Department of Education.

However, as my colleagues are aware, I have opposed the establishment of the Department of Education as the creation of yet another level of Federal bureaucracy. I believe that the creation of a separate Cabinet position for education will only compound existing problems of inefficiency, expense, and redtape. My vote against the Secretary's nomination is further evidence of my position on this matter.

● Mr. DOLE. Mr. President, although I voted against the creation of the new Department of Education on the grounds that more bureaucracy is not the answer to our Nation's educational problems, I now find it a privilege to support the appointment of Judge Shirley Hufstedler as our first Secretary of Education. My reservations concerning the Department itself simply stem from a belief that we do not have to build a new house when structural modifications might well serve the same purpose. Since the new Department is now a fact that we shall have to live with, we are very fortunate in having such a talented leader to head this new department. Judge Hufstedler's previous record of success on the U.S. Court of Appeals for the Ninth Circuit, as well as her own superb educational background and committed interest in providing high quality education for all Americans, leave no doubt in my mind that she is an excellent choice for this position.

DIRECTION OF NATIONAL POLICIES

Despite the fact that I continue to have grave reservations concerning the wisdom of creating a new bureaucracy, I am somewhat more comfortable in the knowledge that such a competent person will be at the helm. Judge Hufstedler has stated that she realizes that many of the issues and problems confronting our current educational system can best be handled at the State and local level, because it is here that the specific needs of each geographical area can be evaluated and dealt with most effectively. She shares a firm belief that the primary goal of our Nation's policies with regard to education should be that of doing everything possible to provide standards of academic excellence at all levels of society, as well as equal opportunity for all Americans to receive a high quality education.

Although considerable progress has been made over the last decade, there still remains much more to be accomplished before these goals are well on their way to being met. We need someone with Judge Hufstedler's administrative and management capabilities to take a perceptive look at that has been done in the past in order to decide what needs to be continued, as well as which programs should be abolished and what new initiatives might be taken.

CONCERN FOR CHILDREN AS INDIVIDUALS

Children are unique human beings in that they are immutably impressionable as they progress along the road of experience. We owe them the best tools available to cope with the problems that they will encounter as they proceed through life. A high quality education must be primarily to insure their future success in the world. Judge Hufstedler has spoken out time and time again on her concern for children as individuals and her respect for their rights as such. It is the intensity of her genuine interest in children from a purely human point of view that will serve her well in carrying out her new responsibilities.

She has expressed a commitment to listening to parents and students for valuable input on educational policies and has promised to explore effective mechanisms for providing opportunities to hear the voices of those who are most essentially affected by our country's educational policies. When making decisions in this area, it is necessary to always keep in mind the potential impact on each individual student of what is being done at the Federal level to improve their education, leaving the major part of this responsibility at the level of Government which best understands the needs of its own people.

DETERIORATION IN BASIC SKILLS

My distinguished colleague, the Senator from Missouri (Mr. EAGLETON) has raised the issue of the well-known evidence pointing to an increasing deterioration in the level of basic skills that our Nation's children are manifesting. This is becoming a widespread problem, and I feel certain that Judge Hufstedler will make it one of her first priorities to study the situation. Basic skills are the stepping stones which enable us to progress in our intellectual development, and they should be emphasized first in the education of our children, who must ever continue to build on them.

EDUCATION OF THE HANDICAPPED

Another attractive aspect of Judge Hufstedler's appointment is her shared concern with the Senator from Kansas for promoting greater accessibility for handicapped and other disadvantaged individuals to the educational opportunities available to them. Our country is just beginning to take steps to make up for decades of neglect in this important area.

Bearing in mind that I am opposed to the continued burgeoning of Federal bureaucracy, I have great confidence that Judge Hufstedler will take a close look at the unintended consequences of past benevolence and make every effort to channel Federal resources in directions where they will benefit most.●

The PRESIDING OFFICER. The hour of 4 p.m. having arrived, the question is, Will the Senate advise and consent to the nomination of Shirley Mount Hufstedler, of California, to be Secretary of Education? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Alabama (Mr. HEFLIN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), the Senator from Maryland (Mr. MATHIAS), the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 81, nays 2, as follows:

[Rollcall Vote No. 449 Ex.]

YEAS—81

Armstrong
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heinz
Hollings
Huddleston
Humphrey
Jackson
Javits
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—2

Helms
Tower

NOT VOTING—17

Baker
Baucus
Byrd, Harry F., Jr.
DeConcini
Hatfield
Heflin
Inouye
Jepsen
Johnston
Kennedy
Mathias
Melcher
Pryor
Simpson
Talmadge
Thurmond
Tsongas

So the nomination was confirmed.

Mr. PELL. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION—CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and resume the unfinished business which the clerk will report.

The second assistant legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed the consideration of the bill.

ENERGY INVESTMENT TAX CREDIT FOR FUEL EFFICIENT AERODYNAMIC DEVICES

Mr. PERCY. Mr. President, I am pleased to join Senator Levin in sponsoring an amendment (amdt. No. 719) to H.R. 3919, the windfall profit tax. The amendment would make available an energy-saving tax credit for the purchase of wind deflectors for tractors-trailers.

The American commercial trucking industry is a major consumer of diesel and gasoline fuel. It is estimated that in 1978 20 billion gallons of fuel were consumed by commercial motor vehicles over 10,000 pounds. Here is an area where fuel economy can have a significant impact on domestic fuel consumption.

The commercial trucking industry is vital to American business. In 1977 alone, intercity freight transported by trucks amounted to 561 billion ton-miles. The commercial trucking industry has already made important strides in its efforts to conserve fuel. The installation of variable fan clutches and radial tires, as well as the slowing of vehicles under the 55 mph speed limit, which I sponsored, have resulted in significant fuel savings. On the other hand, aerodynamic devices remain a source of untapped fuel economy. One manufacturer of nose cones, a name given to the aerodynamic device mounted on the front of trailers, has estimated the cost per gallon of diesel fuel for moving a tractor-trailer at 55 mph. Assuming a gallon of diesel fuel costs $1, 65 cents is used to overcome air resistance and 32 cents is needed to move the gross weight of a 45,000 pound tractor-trailer.

The cost of wind deflectors for tractor-trailers amounts to approximately $300 per vehicle. The tax credit in this amendment would provide additional incentive for truckers to make this initial investment. In this way, significant fuel saving can be achieved at minimal cost to the Federal Government.

The use of wind deflectors on tractor-trailers may even provide a benefit in the area of truck safety. Many Americans know the difficulty of passing a large truck in wet weather. A study in the United Kingdom has shown that approximately 17 percent of accidents on a major highway are due to splash and spray. A passenger car driver trying to pass, and a trucker being passed, can both be blinded by the splash and spray thrown out from the truck wheels and trailer. The Department of Transportation estimates that the use of wind deflectors on heavy trucks can cut down on truck splash and spray up to 10 percent. In addition, wind deflectors on tractor-trailers can add stability to a big rig, cutting down on side-to-side sway. The Levin tax credit for the use of aerodynamic devices on heavy trucks can thus provide an incentive to the trucker to install these devices and improve visibility and safety on our Nation's highways.

Truck safety remains a matter of continuing concern to me. I have introduced S. 1390, the Truck Safety Act of 1979, in an effort to combat unsafe trucking practices on our Nation's highways. The provisions of this bill would greatly enhance the effectiveness and efficiency of DOT in regulating and enforcing truck safety. The commercial trucking industry is critical to the business of America and continues to grow in leaps and bounds. The Highway Users Foundation predicts that, during the next 15 years, the number of trucks on the road will double. The safety and fuel economy of this industry should be of vital concern to all Americans.

ENCOURAGING PERSONAL SAVINGS AND INVESTMENT

Mr. PERCY. Mr. President, I want to take this opportunity to commend the members of the Senate Finance Committee for recommending to the full Senate a proposal to encourage personal savings and investment.

The Finance Committee yesterday by a vote of 15 to 2 agreed to a compromise proposal which will exclude from Federal income tax $200 per year in interest and/or dividend income ($400 on a joint return) starting in 1981.

I believe the compromise is a good one and I will be pleased to join Senator BENTSEN in introducing it next week as an amendment to the pending windfall profit tax bill.

As you know, Mr. President, this compromise amendment is the result of the Finance Committee's consideration of eleven savings and investment proposals, including an amendment which Senator BENTSEN and I introduced November 16 to the windfall profit tax bill and one introduced by Senator DOLE, which I also supported.

The committee compromise draws from both of these proposals and I look forward to it passing the Senate next week with overwhelming support.

For some time, I have been concerned about the low rate of savings in this country. On July 19 of this year I introduced the Small Savers Incentives Act, S. 1542. My bill provides a $500 exclusion for both interest and dividends if $400 is reinvested. The $100 exclusion for interest income, like the existing $100 exclusion for dividends, would be allowed regardless of reinvestment.

The committee proposal is more direct; it does not require reinvestment, but it does reduce the penalty our tax system inflicts on both interest and dividend income.

Mr. President, a high rate of capital formation is necessary if we are to increase the rate of productivity growth in the American economy. Increased productivity is key to fighting inflation. One way to spur capital formation is to encourage personal savings and investment. we can accomplish this by reducing the penalty our tax system inflicts on savings.

The United States has a dismal record of savings as compared to other industrialized nations. According to the Organization for Economic Cooperation and Development's 1979 economic survey, in 1977 the United States was last among the industrialized nations in the rate of household savings. Japan led the way with 21.2 percent, West Germany 12.6 percent, France 16.7 percent, the United Kingdom 13.7 percent, and the United States 5.3 percent.

The same survey also evaluated international savings rates as a percentage of gross national product. This rate is determined by deducting national consumption from GNP and stating it as a percentage of GNP. In 1977, Japan saved 32.2 percent of its GNP, West Germany 24.2 percent, France 23.4 percent, the United Kingdom 20.3 percent, and the United States 17.7 percent. While these statistics show the United States in a more favorable light, the fact is that we still finish last.

The low rate of savings is a major factor in the shortage of capital available for business investment in new plant and equipment. Here again, statistics show that the United States falls behind other major industrialized nations. From 1966 to 1976, the United States invested 13.5 percent of its GNP in plant and equipment. During the same period, Japan invested 26.4 percent, West Germany 17.4 percent, France 16.7 percent and the United Kingdom 14.9 percent.

It is time that we in Congress take steps to reverse these alarming statistics. And, that time is now.

Again, Mr. President, I congratulate the members of the Senate Finance Committee and in particular Senator BENTSEN for his leadership in fashioning this compromise.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. May I interrupt the majority leader, will the Senate please be in order. The majority leader is recognized.

AUTHORIZING A GOLD MEDAL FOR SIMON WIESENTHAL

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the acting Republican leader. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1792, with the understanding that it will take no more than 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the bill by title.

The second assistant legislative clerk read as follows:

A bill (S. 1792) to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 1, line 11, beginning with "are" strike through and including line 12, and insert "is authorized to be appropriated not to exceed $15,000 after October 1, 1980,";

On page 2, line 4, beginning with "The" strike through and including line 17, and insert in lieu thereof the following:

The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation made to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Simon Wiesenthal, a gold medal of appropriate design in recognition of his contribution to international justice through the documentation and location of war criminals from World War II. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed $15,000 after October 1, 1980, to carry out the provisions of this subsection.

The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation made to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

Mr. McGOVERN. Mr. President, as the majority leader said, this is cleared on both sides of the aisle. I just want to take a moment to thank the Committee on Banking, especially Senator PROXMIRE and Senator GARN, the ranking member of the minority, for acting as expeditiously as they have in reporting this bill to the Senate. I applaud their favorable actions on S. 1792, a bill to honor Simon Wiesenthal with a specially struck gold medal in recognition of his unparalleled achievements and immeasurable contributions in safeguarding the rights of humanity, regardless of nationality, religious belief, or race.

Simon Wiesenthal heads the Jewish Documentation Center located in Vienna, Austria. He is a citizen of Vienna, but a world renowned figure. He has received recognition from countless organizations here and abroad, and from the governments of Austria, Denmark, Italy, Luxembourg, and the Netherlands.

He initially earned the respect of many by pledging his life and fortune to extracting justice for the 11 million who perished at the hands of the Nazis. He assumed this herculean task days after his liberation from Auschwitz, when he was barely able to walk, and many of the murderers were already fleeing to hiding places oceans and countries away. But he remained to do the work that governments often found impossible to accomplish—to take affidavits from witnesses, to compile lists of survivors, and to build, step by step, files that were used by the Nuremberg Tribunal, and which eventually led to the indictment of over 1,100 Nazis.

Recently, he led the successful international campaign to abolish the statute of limitations on war crimes in Germany. He continues to pressure Paraguay and Brazil for the extradition of two of the most infamous of Nazi war criminals—Dr. Josef Mengele, and Gustav Franz Wagner.

Simon Wiesenthal, however, is a champion of human rights the world over, not only remembering and searching the past, but keeping a constant vigil on present movements and governments which threaten or deny human rights. He keeps extensive, up-to-the-minute files on the activities of neo-Nazi movements and extreme right organizations in every country. Presently, he serves on the Sakharov Commission investigating the status of human rights in the Soviet Union and Eastern Europe. In the past, he has secretly engineered exchanges of political prisoners between Chile and the Soviet Union.

As world events shock and batter our vision and hope for a just world, it is fitting and timely that we should stand before America and the world to recognize a man who has answered the crucial political and moral questions of our time by overcoming oppression and violence without resorting to oppression and violence.

He has made the world remember time and time again that justice is not an easy promise kept only in the best of times, but that justice, even when it seems to have retreated beyond recall, can rebound with even greater force and influence.

The accomplishments of Simon Wiesenthal must be told and never forgotten. His story has the power to inspire, move, and sustain people everywhere to stand bold and fast against oppression in its most devastating and pervasive forms. I can think of no better time for America to honor this man, and it is my belief that this bill will receive the support it so well deserves.

There are a number of Senators who have cosponsored this measure on both sides of the aisle, and I want to especially thank them for such cosponsorship. They are Mr. BAYH, Mr. COHEN, Mr. CHURCH, Mr. KENNEDY, Mr. DOLE, Mr. BRADLEY, Mr. PACKWOOD, Mr. NELSON, Mr. METZENBAUM, Mr. HEINZ, Mr. WILLIAMS, Mr. TSONGAS, Mr. SIMPSON, and Mr. STONE.

Mr. JAVITS. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. May I interrupt the Senator from New York. The Senate is not in order, and I ask that Senators and others on the floor retire to the cloakroom with their conversations.

The Chair recognized the Senator from New York and he is entitled to be heard. The Senate will please be in order. Senators standing in certain sections of the Chamber will please retire to the cloakroom so that we can hear our colleague who has the floor.

The Chair recognizes again, with apologies, the Senator from New York.

Mr. JAVITS. I thank the Chair. All I wanted to say was that I think this is an award very richly merited and earned, and it is the most extraordinary enterprise the world has ever seen in human rights.

Mr. McGOVERN. Mr. President, I thank the Senator from New York. I ask unanimous consent that the following Senators be added as cosponsors to this measure: Senator STEVENS, Senator GARN, Senator HAYAKAWA, Senator JAVITS, Senator BOSCHWITZ, these in addition to those Senators already listed as cosponsors of the bill.

Mr. PELL. Mr. President, will the Senator add my name, too?

Mr. McGOVERN. I add the name of the Senator from Rhode Island (Mr. PELL).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I am very pleased to join with Senator McGOVERN in cosponsoring this bill which recognizes the outstanding contributions of Simon Wiesenthal.

I have had the great honor of meeting with Mr. Wiesenthal on several occasions when he visited the United States. He is indeed a man of truly historic value.

For the last three decades, Simon Wiesenthal has dedicated his life toward the pursuit of Nazi war criminals, so that their horrendous crimes may not go unpunished nor ever be forgotten.

The efforts of this one man have proven to be a living memorial to the millions who died at the hands of the Nazis. He has given comfort and strength to the millions who survived and who continue to live with the memories of that brutal holocaust. And for all of us he has come to represent the cause of international justice and the values of human life and human dignity—values which must be protected above all else.

The striking of a Presidential Medal would be a most fitting tribute to this outstanding man.

RECOGNITION OF SIMON WIESENTHAL, A CHAMPION OF JUSTICE

● Mr. DOLE. Mr. President, I am pleased to cosponsor S. 1792—a bill honoring Simon Wiesenthal, a champion of justice. The presentation of a gold medal is but a small way to recognize this man for his contribution to international justice, but it is an important and symbolic recognition of his accomplishment. Despite the horrors that he faced during the Second World War, Mr. Wiesenthal has never turned his back on the world. At a time when he seemed to have every reason to withdraw, his faith in the ultimate triumph of humanity over inhumanity was never lost. Because of his strength, we can, today, continue to believe in justice and the rights of humanity.

Injustice anywhere is a threat to justice everywhere. Today, we see in the events in Iran, the threat that a contempt for law and humanity can be to the civilized world. Thanks to this man of rare quality, the world did not turn its back on the horrors of the Nazi regime, but reaffirmed the ancient values of justice and toleration. We cannot forget his achievements and contribution for us all. This medal offers a symbolic memorial to a man whose strength of character and will allowed a seed of hope to blossom again for mankind after the tragedy of the holocaust.

It is fitting for the President to present on behalf of the Congress, this gold medal specially struck to honor Mr. Wiesenthal. With great respect and admiration for this man I urge the passage of this bill.●

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I ask unanimous consent that I be added as a cosponsor to the resolution just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. MUSKIE may proceed for not to exceed 5 minutes on a matter which has been cleared on both sides, and that following the disposition of that matter, and after not more than 5 minutes the Senate resume to its consideration of the excess profit tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORATORIUM ON INDUSTRIAL COST RECOVERY

Mr. MUSKIE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 901.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from Senate (S. 901) entitled "An Act to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610)", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking out "eighteenth month" and inserting in lieu thereof "forty-second month".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 is amended by striking out "eighteen-month period" each place it appears and inserting in lieu thereof "forty-second month" in each such place.

(c) The amendments made by subsections (a) and (b) of this section shall take effect on June 30, 1979.

Amend the title so as to read: "An Act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery.".

UP AMENDMENT NO. 856

Mr. MUSKIE. Mr. President, I move that the Senate concur in the amendments of the House to S. 901 with an amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) proposes an unprinted amendment numbered 856.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause, and insert in lieu thereof:

That (a) subsection (b) of section 15 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "the last day of the eighteenth month which begins after the date of enactment of this section" and inserting in lieu thereof "June 30, 1980".

(b) Subsection (d) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "eighteen-month" each place it appears and inserting in lieu thereof in each place "thirty-month".

(c) The amendments made by subsections (a) and (b) of this section shall take effect as of June 30, 1979.

Mr. MUSKIE. Mr. President, this bill will amend the Clean Water Act to provide for a continued moratorium on the collection of industrial cost recovery payments to the Treasury until June 30, 1980. The statutory moratorium (enacted in 1977 under Public Law 95–217) expired on June 30, 1979. The Environmental Protection Agency administratively extended the moratorium until December 1, 1979, in the hopes that Congress would complete action on S. 901 prior to that time.

Should this extended moratorium expire without further congressional action, all industries should be prepared to commence industrial cost recovery payments. The Agency, all grantees, and all industries involved must clearly understand that actions must be taken to be capable of fully implementing the industrial cost recovery requirements on July 1, 1980. The extension of the moratorium in no way indicates that the law will necessarily be altered.

Mr. President, the House and Senate had approved different time frames for the moratoriums. We have now agreed to the Senate formula and we expect next year to be working on this policy issue. Whether or not we can resolve it in some other way, time alone will tell. But, in the meantime, this moratorium lifts the burden and the uncertainty from the backs of industries which are subject to the requirement.

Mr. President, I yield to my good friend from Vermont (Mr. STAFFORD).

Mr. STAFFORD. Mr. President, very briefly, I simply wish to say that I concur in the statements and recommendations which have been made by the distinguished Senator from Maine.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine (Mr. MUSKIE).

The motion was agreed to.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. MUSKIE. Mr. President, does that complete action on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. MUSKIE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today. I say that for the information of the Senators.

WAIVER OF TIME LIMITATION ON AWARD OF CERTAIN MILITARY DECORATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for not to exceed 5 minutes on the bill H.R. 3407, Calendar Order No. 452.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, what is the majority leader's intention after that bill?

Mr. ROBERT C. BYRD. Perhaps to recess. But certainly there will be no more rollcalls.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3407) to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JAVITS. Mr. President, this matter goes back a long time into World War II. But justice deferred is, nonetheless, justice done when it is done.

I thank so much Senator LEVIN, particularly, who took this bill under his wing in the Armed Services Committee. Without him, we would never have reached a solution.

It involved a very complicated series of factors involving the judgmental factor as to heroism, probably the hardest thing in the world to judge when you are dealing with the heroism of the man involved whether or not he is entitled to the Congressional Medal of Honor, though I think he is and many, many other veterans and others believe he is.

He was severely wounded. He then returned to the United States. He died in June of 1977, shortly after the 36th operation which he had received as a result of his war injuries.

The sponsors of this legislation—and they include, aside from myself, Senators MOYNIHAN, SARBANES, MATHIAS, TSONGAS and BAYH—appreciate the quick Senate action on the bill. For 35 years the bravery demonstrated by Private Tsakanikas, and the other members of his platoon, has gone unrecognized, and that is long enough.

Under the terms of the bill, the authority is given to reward the acts of valor which were performed during the

Battle of the Bulge. I hope and pray, Mr. President, that they are indeed found worthy of the Congressional Medal of Honor.

Again, Mr. President, I thank Senator Levin for an extraordinary fatherhood, as it were, of this matter before the Armed Services Committee.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator Levin, and this is more than fitting, be added as cosponsor to my companion bill in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. I thank the Chair.

First, I thank the Senator from New York for his leadership in this matter. He introduced the companion bill in the Senate. His leadership brought this to our attention in the Armed Services Committee and resulted in its favorable action.

Mr. President, this legislation waives the time limitation on the award of any military decoration to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment of the 99th Infantry Division of the U.S. Army. Although the bill waives the time limit, it leaves the final decision of whether any award should be made to the President, and it does not prescribe which award should be given, if the President decides that any or all of the platoon members deserve decoration.

The members of the platoon acted with great valor on December 16, 1944, at Lanzereth, Belgium. They followed their orders without question and remained in position while others retreated. Despite overwhelming odds, they opposed the spearhead of the Sixth SS Panzer Army. In this, the outset of the Battle of the Bulge, the platoon's actions substantially delayed the progress of a major component of the attacking German force and altered the outcome of a significant battle in World War II.

I realize and support the important reasons for the statutory time limitations for the granting of awards and decorations. We must protect and maintain the integrity and prestige of these awards. In most cases, I would not suggest that we lift the time limit for awards of valor. However, I believe that the actions of the Intelligence and Reconnaissance Platoon on December 16, 1944, deserve this extended consideration.

We considered the unusual circumstances encountered by the surviving members of the platoon who were captured by the enemy and liberated, only to find upon their return, that their division had been deactivated. There was massive confusion following the battle, the capture and the liberation and these circumstances could easily have prevented the normal procedures for recognition of individuals from functioning.

The platoon's commanding officer, Lt. Lyle J. Bouck, recently informed the Senate Armed Services Committee of his strong support for this legislation and of the reasons why he did not immediately file the necessary recommendations for individual citations. In a letter dated November 6, 1979, he told us of his recollections of the battle:

> At dusk we were out of ammunition and our ranks depleted by virtue of comrades being killed and wounded. As we prepared to break contact with the enemy and withdraw under the cover of darkness, a fourth and final attack overran our position leading to our capture. Not one man returned to our parent organization—therefore no "on the site" report concerning the particulars of the 16th at Lanzereth. Upon liberation of the prison camps in 1945—each individual was returned piecemeal to the states. It was my duty to have followed with recommendations the individual citations. I did plan to do so. But the following ten years consisted of a struggle to regain a health level to live and earn a living. To forget the war and all of its trauma, hell and misery was foremost in the hearts and minds of the fortunate who survived.

Also of great assistance was an affidavit of G. Vernon Leopold of Huntington Wood, Mich., a member of the platoon which is the subject of this legislation.

It should also be noted that Jack Anderson's feature article in Parade Magazine of Sunday, March 25, 1979, was an important contribution to the public knowledge and awareness of this matter.

Much of the evidence of the courage and valor of the 18 members of the Intelligence and Reconnaissance Platoon has only recently surfaced. Many of the official records of the individuals of the platoon were destroyed by fire at the National Personnel Records Center, St. Louis, Mo., in 1973. But testimony before the House Armed Services Committee earlier this year clearly provides substantial evidence of the bravery of all the members of the platoon at this critical juncture of the Battle of the Bulge.

Mr. President, the chairman of the Armed Services Committee wrote to Senator Javits, our esteemed colleague and the sponsor of this legislation, that "the House's action on H.R. 3407 was similar to congressional action taken in the case of Anthony Casamento, of West Islip, N.Y., under Public Law 95–163 (approved November 2, 1978)." Thus, there is precedent to provide the President the opportunity to review the evidence of the valor of the members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment.

By removing the statutory limitation, we will allow the President the opportunity to make awards as he considers appropriate. While it may not be appropriate for Congress itself to make those awards, we have discovered that there is sufficient evidence to warrant waiving the time limitations and allowing the President to use his discretion in this matter.

Mr. President, I also thank Senator Stennis for his help in this matter. It has been a privilege to floor manage the bill for the majority side.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3407) was ordered to a third reading, was read the third time, and passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 5 P.M.

Mr. MATSUNAGA. Mr. President, if there is no other Senator who wishes to speak, I move that the Senate now stand in recess until the hour of 5 p.m.

The motion was agreed to, and at 4:32 p.m., the Senate recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Metzenbaum).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, that Senators may speak therein up to 5 minutes each, and that the period not extend beyond 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FRAUD HOTLINE

Mr. SASSER. Mr. President, I wish to take this opportunity to report to my colleagues on the progress of the fraud hotline established last January.

My colleagues will recall that this hotline was established at my request, and with the strong support of the former ranking member of our Legislative Appropriations Subcommittee, the distinguished Senator from Pennsylvania (Mr. Schweiker).

The hotline was installed at the General Accounting Office with the cooperation of Comptroller General Elmer Staats.

I first made the suggestion for the hotline at a December 4, 1978 hearing which we conducted on fraud in Government.

The hotline allows any concerned citizen with knowledge of fraud and abuse—in any Federal program—to report that knowledge to a General Accounting Office Special Task Force for the Prevention of Fraud. The anonymity of any caller will be respected—the name of the caller need not be given to the task force. In 64 percent of the cases, the caller has chosen to remain anonymous.

Mr. President, I ask unanimous consent that the fraud hotline number be printed in the Record.

There being no objection, the number was ordered to be printed in the Record, as follows:

Fraud Hotline

The national toll free fraud hotline is 800–424–5454. In the Washington, D.C., metropolitan area the number is 633–6987.

Mr. SASSER. Mr. President, I ask unanimous consent that a description of the GAO fraud hotline procedures be printed in the RECORD at this point.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

GAO TASK FORCE HOTLINE PROCEDURES

Each caller on the GAO "Fraud Hotline" is interviewed following the general format of a data collection form, with a separate control number assigned to each call. This will be used to track those allegations which appear substantive through later verification of facts and investigation if warranted. The type of information GAO is attempting to record is:

Federal agency or source of Federal funds/material involved in the allegation.

Specific locations where the action is alleged to be taking place.

Recurring or one time?

Length of time activity has been going on.

Extent of activity (some idea of numbers of people involved).

Estimate of dollar value involved.

The GAO Task Force will provide an initial screening of the calls to eliminate those which are obviously non-substantive. Those which appear to be substantive but relate to program effectiveness and efficiency rather than fraud will be referred to the operating divisions of GAO for consideration in their audit work. Those which appear to be allegations of fraud will be coordinated with the appropriate agency Inspector General for investigation. In the event the agency Inspector General is unable to respond in a timely manner because of manpower limitations or priority of on-going work, GAO will perform a verification of facts relative to the allegation utilizing regional offices. This data will be evaluated by GAO and a decision made relative to referral to the Department of Justice for possible prosecution.

FIRST 6 MONTHS PROGRESS

Mr. SASSER. Mr. President, during the first 9 months of operation—the period of January 18 through October 15, 1979—over 6,800 allegations had been written up by GAO Task Force personnel.

The task force is now in the process of classifying the 6,800 allegations—as to materiality, agency, and program involved, and geographic location.

Initial computer analysis of the first 6,751 allegations is complete. That follow-up on these hotline leads has begun. Additional calls are being received daily, and will be handled by the same process.

MIX OF CALLS

Of the 6,751 allegations reviewed so far 4,408 or 65 percent appear to have sufficient substance to merit further consideration for audit or investigation. (The other 35 percent relate to non-Federal activities or lack sufficient factual information to justify further consideration for audit or investigation at this time.)

The 4,408 allegations that merit further consideration for audit or investigation have been received from 50 States, the District of Columbia, and overseas locations.

Mr. President, I ask unanimous consent that a State-by-State listing of the locations of these 4,408 hotline allegations be printed in the RECORD at this point.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

Location of reported activity

Washington, D.C.	204
Alabama	75
Alaska	16
Arizona	49
Arkansas	50
California	469
Colorado	78
Connecticut	22
Delaware	7
Florida	196
Georgia	150
Hawaii	8
Idaho	22
Illinois	103
Indiana	62
Iowa	32
Kansas	28
Kentucky	78
Louisiana	68
Maine	19
Maryland	118
Massachusetts	77
Michigan	150
Minnesota	31
Mississippi	61
Missouri	137
Montana	24
Nebraska	22
Nevada	15
New Hampshire	17
New Jersey	88
New Mexico	31
New York	210
North Carolina	83
North Dakota	16
Ohio	202
Oklahoma	66
Oregon	40
Pennsylvania	199
Rhode Island	14
South Carolina	28
South Dakota	19
Tennessee	169
Texas	195
Utah	21
Vermont	2
Virginia	224
Washington	140
West Virginia	38
Wisconsin	42
Wyoming	2
Overseas	25
Missing State Codes	76

AFFECTED FEDERAL AGENCIES

Mr. SASSER. Mr. President, the 4,408 hotline allegations that have been selected for further consideration for audit or investigation affect virtually every major department or agency in the Federal Government. We have compiled a list of the affected Federal agencies. I ask unanimous consent that an agency-by-agency listing of the affected Federal agencies be printed in the RECORD at this point.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

LIST OF AFFECTED FEDERAL AGENCIES

Department of Agriculture	167
Department of Commerce	54
Department of Defense (other than Air Force, Army, Navy)	118
Department of the Air Force	151
Department of the Army	239
Department of the Navy	252
Department of Energy	45
Department of Health, Education and Welfare (other than SSA, OE)	374
Social Security Administration (Welfare, SSI)	590
Office of Education	44
Department of Housing and Urban Development	335
Department of the Interior	133
Department of Justice	111
Department of Labor	369
Department of State	22
Department of Transportation	105
Department of the Treasury (other than IRS)	57
Internal Revenue Service	360
Community Services Administration	45
Environmental Protection Agency	68
General Services Administration	122
National Aeronautics and Space Administration	21
Small Business Administration	36
Tennessee Valley Authority	26
United States Civil Service Commission	26
United States Postal Service	153
Veterans Administration	200
All other	185

TYPES OF ALLEGATIONS RECEIVED

Mr. SASSER. Of the 4,408 allegations selected for further consideration, about 34 percent are instances of apparent mismanagement. Generally, these allegations will be dealt with through the audit process rather than the investigative process.

In contrast, the remaining 66 percent—2,906 allegations—appear to be instances of intentional wrongdoing or fraud.

Mr. President, I ask unanimous consent that a table and a short narrative categorizing the 2,906 allegations of intentional wrongdoing be printed in the RECORD.

There being no objection, the table and narrative were ordered to be printed in the RECORD, as follows:

Participant category:	No. of Allegations	Percent of total
1. Federal employees only	885	30.5
2. Federal employees in conjunction with others	249	8.6
3. Federal contractors or grantee organizations	655	22.5
4. Corporate recipients of Federal financial assistance	14	.5
5. Individual recipients of Federal financial assistance	649	22.3
6. Other individuals or corporate entities	454	15.6
	2906	100.0

The "Federal employees only" category included 108 allegations of theft, 107 allegations of private use of government property, 241 reports of employee working hour abuses, 224 reports of improper financial transactions, and 205 reports of other improper activities.

The "Federal employee in conjunction with others" included 141 allegations of a bribe or kickback having been paid, 5 allegations of extortion and 103 miscellaneous other allegations.

The "Federal contractor/grantee" category included 281 allegations of improper expenditure of Government grant funds, 57 allegations of contract nonperformance, 64 reports of the theft of Government funds or property and 253 other allegations of various natures.

The category "Corporate recipients of Federal financial assistance" involved 14 instances of improper receipt of subsidy funds.

The "Individual recipients of Government financial assistance" included 182 allegations of welfare cheating, 114 of cheating on social security benefit eligibility, 141 of collecting inappropriate disability benefits, 43 of cheating on veterans benefits, 33 instances of food stamp cheating, 41 of medicare/medicaid cheating and 95 miscellaneous allegations.

The sixth and final category, "Other individuals or corporate entities" included 298 allegations of personal and corporate income tax cheating and 156 other allegations of improper activity.

WIDESPREAD REPORTS OF WRONGDOING

Mr. SASSER. Mr. President the instances of alleged intentional wrongdoing is widespread throughout the Federal Government. Intentional wrongdoing has been reported involving the funds of every one of the 12 Cabinet departments of the Federal Government. These cases involve activity in all 50 States and the District of Columbia.

REFERRAL OF CASES TO AGENCY INSPECTORS GENERAL

Mr. President, we are now getting close to the bottom line. I hope my colleagues will be encouraged to hear that the General Accounting Office has already referred 2,410 of these cases to agency inspectors general for their action.

What this means is that there are 2,410 cases of intentional wrongdoing now in the hands of Inspectors General—cases that probably would never have been investigated had it not been for the establishment of the fraud hotline in January 1979.

LIST OF REFERRALS

I ask unanimous consent that an agency-by-agency list of the 2,410 cases that have been referred to agency Inspectors General or their equivalents be printed in the Record.

There being no objection, the table was ordered to be printed in the Record as follows:

Department or agency and cases referred

Health, Education and Welfare	577
Labor	225
Housing, Urban Development	204
Defense	332
IRS	161
Veterans Administration	117
General Services Administration	93
Agriculture	134
Post Office	86
Interior	88
Environmental Protection Agency	56
Transportation	76
Energy	30
Commerce	25
Justice	37
Treasury	31
Small Business Administration	21
NASA	10
Law Enforcement Assistance Administration	17
GAO	24
Community Services Administration	37
Tennessee Valley Authority	17
All other	12
Total referrals	2,410

This includes 15 cases that have been referred directly to the Department of Justice for their investigation or prosecution.

Mr. President, I urge the various agency Inspectors General to actively follow these cases to their conclusion.

Mr. President, I want to extend my thanks to the Comptroller General, Mr. Elmer Staats, who has aggressively pursued our suggestion for a nationwide hotline. My thanks also to Mr. Harold Stugart, the first director of the GAO Fraud Task Force, who has recently left GAO to assume the position of Auditor General of the Army. My thanks also to his very able Deputy, Mr. Robert Meyer.

THE HOLOCAUST

Mr. ROTH. Mr. President, how many phrases have been written, or sorrowful words spoken about Nazi Germany? Yet, when all has been read and all has been spoken, is it possible to relive those times when men, women, and children were systematically exterminated, just because they were Jews? Maybe, it is best we cannot.

Perhaps, it is as well we can only be reminded of man's inhumanity toward man and the despotic ruler who became a maniac at the throne of power, of the man who trampled every right and freedom, who squeezed dignity from his merciless victims.

On December 2, the city of Wilmington will commemorate the holocaust and the 6 million Jews who were so brutally murdered by the Nazis during World War II when it unveils a sensitive memorial in Freedom Plaza.

Portraying four figures—a man and woman chiseled in stances of horror, and a woman and child expressing hope for the future—the memorial will stand as a permanent reminder of survival: Survival of those who escaped the brutalities, survival of individual rights, religious freedom, justice, and equality.

Having visited Yad Vashem in Israel, I feel it is fitting and appropriate that this Holocaust Memorial be located in the center of Wilmington's Civic Center, where it may be appreciated by citizens and their public servants within the three branches of Government. There it will be an ongoing symbol of the inhumanity that continues throughout the ages—just as we are today, witnessing in Cambodia.

For me, the Holocaust Memorial will not merely commemorate those who died in Nazi Germany. It will also serve as an incentive to elevate standards of decency in our relationships here in our homeland and in our dealings internationally.

The Holocaust Memorial can remind us of its humane antonym, of man's compassion and benevolence toward his fellow man. Standing, permanently, it will be a remembrance to all ideals of the democratic society in which we live.

It can guide us and give us hope for the future.

JUDICIAL ACTIVISM

Mr. ROTH. Mr. President, I believe there is no better time than the confirmation of new judges to talk about the problem of judicial activism. I do not mean to imply that it is solely the fault of judges that courts are active in every facet of our lives, for that is not the case. But the judges themselves can go a long way toward lessening the impact and frequency of court intervention.

One of the group of nominees which we confirmed earlier this week has expressed his judicial philosophy in a recent Trial magazine article which I would like to share with you today. Peter Beer, then a State court judge in Louisiana and now confirmed to serve as a district judge in the U.S. District Court for the eastern district of Louisiana, wrote that article, entitled "On Behalf of Judicial Restraint." In the article, Judge Beer reflects upon the recent criticism of the courts by myself and others who favor a return to an atmosphere in which the courts as Judge Beer states, do not "decide the justice or injustice, the policy or impolicy, of laws." That is, decision must be based on the law, not on popular belief as perceived by an isolated judiciary.

I, too, have recently spoken on this subject at the third annual conference of the great achievements program in Saratoga Springs, N.Y. I will submit for the Record a copy of my speech.

But I think Judge Beers words sum up this problem best. I call to the attention of readers of the Record and this new group of judges, his thoughts.

> Those of us who are part of the judicial system are now called upon to provide the most difficult type of leadership example, leadership by restraint. To do this is neither a retreat from responsibility nor an acknowledgment that the legislative process always works for the overall best interest of the people and of the nation. It is simply an acknowledgment on the part of the judiciary that the controlled social experiment in which the courts substitute themselves for listless, lethargic, or lack luster legislatures is inconsistent with the perceps of our constitutional democracy regardless of the possible short range sociological advantages that may be accomplished.

The article and the speech follow:

ON BEHALF OF JUDICIAL RESTRAINT

(By Hon. Peter Beer)

In *Dred Scott* v. *Sandford*, Chief Justice Taney observed:

"It is not the province of the Court to decide upon the justice or injustice, the policy or the impolicy, of these laws. The decision of that question belonged to the political or law-making power; to those who formed the sovereignity and framed the Constitution. The duty of the court is, to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to its true intent and meaning when it was adopted."

About one hundred years later (1953), Professor William L. Prosser, discussing *Palsgraf* v. *Long Island Railroad Co.* in the *Michigan Law Review*, observed that courts confronted with the knotty resolution of the problem of proximate cause could not reach a solution through any one single range of consideration. He wrote:

"It is not a question of logic, but of practical politics, and the courts do the best they can to draw an uncertain and wavering line which will be practical and in keeping with the general understanding of mankind."

Professor Prosser further observed: "In the decision [of the court] whether or not there is a duty, many factors interplay: the hand of history, our ideas of morals and justice, the convenience of administration of the rule, and our social ideas as to where the loss should fall."

In *Korematsu* v. *United States*, Justice Black, speaking for a divided court in the closing months of World War II, stated:

"Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direst emergency and peril, is inconsistent with our basic governmental institutions. But when under conditions of modern warfare our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger."

And now, in the 1970s, Professor G. Edward White, reviewing Richard Kluger's *Simple Justice*, observes:

". . . Kluger is a superb 'publicist' for the Court, for he shows that Supreme Court justices, like the rest of us, make decisions as human beings, regardless of the constraining factors of their office and the technical requirements of their profession."

U.S. News & World Report observed in June 1977 that:

"Controversy over legal abortions suddenly has moved from the courtroom to Congress and the statehouses.

"The turn came when the Supreme Court ruled on June 20 that it is up to Congress, state legislatures, and local officials to determine whether government money and public hospitals can be used to provide abortions for the poor.

"In a six-to-three decision on three cases, the Court said that when an issue involves policy choices as sensitive as government funding of voluntary abortions 'the appropriate forum for their resolution in a democracy is the legislature.'

"It was the first ruling by the Court in more than four years that gave legislators freedom to establish any significant restrictions on abortion services."

Senator William V. Roth, Jr. (R-Del.) opens an article in the July 1977 issue of TRIAL with this observation:

"The judicial review of legislation has long been considered a crucial function of our nation's courts. This function historically has been confined to inquiries into whether legislation complies with the mandates of the Constitution. Today, however, we find that with increasing frequency and boldness, judges in our judicial system are intervening into social and political affairs once thought either to be non-justiciable or reserved to the legislature."

To even the casual observer, it is apparent that in the last quarter century the judicial process has, at an ever-increasing tempo, been confronted with the necessity of sounding the limit of public acceptance of its pronouncements. That such acceptance may be reluctantly or even grudgingly accorded has been of much less significance than that the acceptance comes without material and long-term damage to the judicial process. Courts, generally speaking have not as yet opted to enter the popularity contests or public relations gambits that are now an accepted part of the "games people play" in the executive and legislative branches.

It is questionable, however, as to whether any credit is due the judiciary for this apparent restraint because of two overriding considerations:

1) Many judges are appointed rather than elected;

2) Many judicial decisions are so hedged about with limiting factors that the question of general public acceptability is far removed (if not totally absent) from the effect of the decision. Specifically, the great majority of controversies that require judicial resolution are between individuals, and not much general public interest is generated except in those cases involving movie and television celebrities, big name athletes, lusting politicians, etc.

Nevertheless, those public interest matters which do enter the judicial system for resolution are, in many such instances, highly-charged and extremely volatile. This creates an incredible sort of paradox. In those cases, the traditional role of collegial judges on appellate courts is subject to a most violent and consuming change of pace from the present day concept of the orderly judicial process as practiced by appellate tribunals.

Can the same appellate judges who bring deliberate and studied consideration to the finite distinctions of intricately worded statutes or previous decisions be the same individuals who must, on their own authority, call a sudden and irrevocable turn in the mainstream of public life in the United States that will markedly affect the lives of millions of people? What constitutes the basic validity of such judicial decisions when it is clear that they will impact a broad spectrum of the mainstream everyday life of the nation? Are the judges who render those decisions responsible for sounding the limits of public acceptability as the basis for such decisions when that same sort of sounding is totally unnecessary in most of the cases that they are called upon to decide?

Appellate courts are, by their very nature, almost totally unequipped to take such public acceptance soundings or to judge them accurately. They are, by tradition, and, in many instances, by statute, obliged to confine the ambit of their consideration to the record itself as it has been made up in the trial court. The very idea of appellate court judges seeking to probe the limits of public acceptability prior to their judicial pronouncement on a case that is under submission is, generally speaking, repugnant and unacceptable. Lawyers specifically and the public generally would be justifiably outraged at the revelation that an appellate tribunal had decided a case on the basis of the outcome of a public opinion poll or a popularity contest.

Yet, the decisionmaking process which is to be brought to those cases which are the subject of great public interest seems to require that the appellate court must ultimately decide that kind of case within the bounds of public acceptance, or else gamble on doing great (and perhaps irrevocable) damage to acceptability of the judicial process by the public.

Meanwhile, back at the law schools, it has become popular to observe that legislatures do not respond to the needs of minorities; that they respond to the needs of majorities, and that, accordingly, the courts must protect the interest of the minorities.

However, it is submitted that Catch–22 is lurking just below the surface of this sort of rationalization. Why? Because courts are systematically urged to adjudicate only within the limits of general public acceptability or risk non-acceptance of their mandate. How can courts do this? They are neither set up nor staffed in such a manner as to even acknowledge the existence of, much less the necessity of, gaining public acceptability of their decisions.

While Americans unhesitatingly accept the expenditure of huge sums on the part of their legislative and executive branches to sound public opinion and to respond to the soundings, it is not so with the judiciary. It is considered to be out of the question; inconsistent with the basic thesis that the goddess of justice is blind. Who ever heard of a department of public acceptability in the staffing of an appellate court!

Most appellate judges would be horrified at the thought of deciding a case without a full and complete consideration of the record and of the briefs painstakingly drafted by counsel for the parties. Yet, when they are confronted by the necessity to make a decision which, by its very nature, will cause those same judges to probe the limits of public acceptability, they must proceed to that task with no more to go on than their own ivory-towered concepts, dulled, in many cases, in direct proportion to the number of years that they have been in the appellate ivory tower.

Senator Roth states that "the unwarranted judicial intrusion into every facet of our daily life is now common." He then goes on to observe that judicial restraint should be an implied condition of the authority for judicial review and remarks that although legislative overreaching may restrict or inhibit individual protections secured by the Constitution, judicial overreaching can result in the inhibition of the fundamental right of the people in a democracy to govern themselves.

Justice John M. Harlan has written that the "Constitution is not a panacea for every blot upon the public welfare; nor should [the] court, ordained as a judicial body, be thought of as a general haven for reform movements."

Thus, we note that there are strong contentions indicating that although courts must, surely, fulfill the vital function of curbing abuses on the part of the legislative and executive branches as well as furnishing a forum for the resolution of individual conflicts, they are not really designed nor equipped for a totally activist role in the implementation of social policy rather than law. Particularly is this the case when such implementation, in and of itself, necessarily requires the sounding of public acceptability.

There is a vast difference between the use of the judicial process as a sword and as a shield.

When minority rights are threatened by legislative or executive abuse, the judicial system should shield those who are discriminated against.

But when that same judicial system is, for whatever reason, transformed into a sword for the implementation of social policies to the extent that the court becomes irrevocably intertwined with the absolute necessity for public acceptability of its mandate, then, it is submitted, judicial restraint has been shunned. However well-intentioned, the court is cast into the role of grasping power that it was not intended to have or to wield, and of seeking public acceptability that it does not know how to obtain or how to gauge.

There seems to be a trend, though of recent and perhaps halting origin, for courts to rediscover their function in juxtaposition to that of the legislative and executive branches.

This writer does not perceive that this rediscovery is, in any sense, a stealthy retreat from responsibility nor evidence of a lack of judicial intestinal fortitude. On the contrary, it is a recognition of the basic validity of the observation that we are a government of laws and not of men.

It is submitted that day to day exercises of power in our democratic society should not be a judicial function. Judicial power, acknowledged to be ultimately dependent upon public acceptability, must be sparingly exercised. To proceed otherwise, even with deliberate speed, may hasten the unhappy moment when judicial determinations will be more or less ignored and the intricate system by which we operate as a government of laws and not of men will be reduced to shambles where only raw power will hold sway and the courts' efforts to protect any minority will be materially weakened if not completely rejected.

Chief Justice Taney was neither overly conservative nor socially irresponsible when he observed that the province of the Court is not to decide the justice or injustice, the policy or impolicy, of laws. Professor Prosser's thesis that courts should embark upon the drawing of a wavering line, based upon practical politics, social ideas, and the convenience of administration of the rule, is a dangerous directional signal.

Such openings toward judicial activism have the effect of moving the judicial process into a climate where *Korematsu* v. *United*

States can easily be planted, nurtured, and harvested.

It is further submitted that even though Kluger can be a superb publicist for the Supreme Court justices because he shows them making decisions "as human beings, he does an unintended disservice to the overall process if he is showing that they make such decisions regardless of the constraining factors of their office and the technical requirements of their profession.

Judicial activism has now held sway to the point where it is newsworthy that public choices as sensitive as government funding of voluntary abortions are to be decided in the legislatures rather than in the courts. We have, to a far greater extent than is generally acknowledged or, perhaps, even understood, become "conditioned" to superlegislative action by court decision.

Yet, it is a mistake to believe that such "conditioning" on the part of the American public is anything other than transitory and thus, essentially, not to be depended upon for the "long haul." The American public has a great capacity to wake up, ask itself what has been going on, and then to react. That reaction can also be described as public acceptability.

All of us who are charged with the preservation and protection of the judicial process may need to wake up first. Whether "activist" courts can continue to burden the process or the public's acceptance of the process with legislation by judicial fiat is a question which, by the fact that it clearly exists, places the process itself in material jeopardy.

The pendulum of such judicial activism has perhaps reached the outer limit of its arc where further extension may likely result in breakdown. Increasing judicial activism is inconsistent with the orderly administration of the judicial process in a democratic society. When it becomes absolute, the democratic process could cease to function at all. We are nearer to such a situation than many are willing to admit or perhaps even suspect.

Those of us who are part of the judicial system are now called upon to provide the most difficult type of leadership example: leadership by restraint. To do this is neither a retreat from responsibility nor an acknowledgement that the legislative process always works for the overall best interest of the people and of the nation. It is simply an acknowledgement on the part of the judiciary that the controlled social experiment in which courts substitute themselves for listless, lethargic, or lackluster legislatures is inconsistent with the precepts of our constitutional democracy regardless of the possible short range sociological advantages that may be accomplished.

To sum up, the attitudes and beliefs which are the basis for public acceptability prevailing at the time that public interest decisions are handed down by courts should not limit those decisions nor confine the rationale which "justifies" those decisions. When that premise prevails, the judicial process begins to be seriously jeopardized, and we should move away from, not closer to, such a premise.

As courts struggle to define (and then act upon) that hazy line that stands between what the public has accepted and now only needs to be judicially defined and what the public should be required to accept as soon as it is susceptible to judicial definition, they should err on the side of restraint. They are not the arbiters of public acceptability either by training or by tradition. A proper court can be a stout shield in a hard battle, but, as a sword indiscriminately wielded, its sharpness will quickly be lost and only an unwieldy bludgeon will remain.

Finally, judges who feel committed to unrestrained judicial activism should channel their energies into the legislative process in the same manner as others in the democracy who seek change. Specifically, they should make such observations as they believe necessary in their opinions and before legislation committees. They should be as forthright and demanding before those committees and with the legislators themselves as any other special interest group.

In short, judges who think that the law should be changed should seek those changes in the legislature with a vigor that is directly proportionate to their enthusiasm. But when they short-circuit this process, they are short-changing the premises of democracy.

Remarks By U.S. Senator William V. Roth, Jr.

Anniversaries are occasions for the nostalgic contemplation of things past. Less than a decade from now, we will, as a nation, celebrate the 200th anniversary of a milestone in the development of democratic government: the Constitutional Convention of 1787.

Nostalgia, however, is not appropriate. The Western democracies are afflicted with a self-doubt about the viability and fairness of their basic governmental institutions. Such times call, not for sentimentality, not for a hard-headed look at the accomplishments of the Convention of 1787, the changes wrought by succeeding generations and the state of our present constitutional system.

Many have argued that the Founding Fathers were elitists who lacked faith in democracy and sought to circumscribe people by devices such as the Electoral College and election of Senators by the state legislatures. That they feared rule by plebiscite and the instant gratification of what might be transient majorities, I have no doubt. That they proposed representative institutions over direct majority rule is manifest in the document itself. Nevertheless, it can hardly be contended that the original Constitution located the ultimate, sovereign power anywhere but in the people.

Senators were not hereditary peers, and, as the Federalists soon discovered, Presidents ignored strongly-held views only at their political peril. Most important, the amending process provided by the Constitution is itself ultimately democratic.

The governmental structure created by the Founding Fathers thus guaranteed that a truly abiding conviction among the public would make itself felt in the legislative and executive branches of the federal government. To the extent such a conviction called for a change in the structure itself, amendment of the Constitution would result. Our governmental institutions have in fact, moved over time in a majoratorian direction because, and only because, a majority of our citizens so desired.

What the Founding Fathers feared was the danger to freedom and to political minorities which gratification of transient majorities might create. In the Federalist, Madison tells us there are two methods to guard against this danger. The first entails a supreme hereditary or self-appointed power. Rejecting this as offering "precarious security" for the rights of majority and minority alike, Madison praised the method used by our Constitution, which located ultimate power in the people but also provided for a division of authority between the States and federal government and a separation of powers within the branches of the federal government. "Whilst all authority . . . will be derived from and dependent on the society," Madison wrote, "the society itself will be broken into so many parts; interests and classes of citizens, that the rights of individuals or of the minority, will be in little danger from interested combinations of the majority."

For Madison, "the very definition of tyranny" was "the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many . . ."

I regret to report to you that in my opinion we have departed from Madison's teachings in the last generation and have begun to permit "the accumulation of all power . . . in the same hands." Most unfortunately, because this power is being gathered by non-elected branches of government, democracy itself is being eroded.

For example, the federal bureaucracy today must administer billions of dollars in grants of various kinds. That is an executive power. In the course of administration it promulgates regulations embodying important and controversial policies which are chosen according to the views of the bureaucracy itself. That is a legislative power. Finally, it decides whether particular grantees have complied with these regulations. That is a judicial power.

More significant is the fact that the judicial branch is assuming the powers of the other branches, and even challenging the basic tenet that ultimate power is in the people. Democracy itself is thus threatened.

The courts have, in recent years, promulgated a code for the regulation of abortion, restricted the use of the death penalty, created what is in effect a constitutional right to use contraceptives, prohibited residency requirements for welfare, compelled particular racial balances in local schools, allowed private employees and unions to discriminate against some races in spite of the Civil Rights Act of 1964, required state legislatures to spend millions on certain facilities and have even attempted to set local tax rates.

Whatever the merits of each of these decisions as public policy, no fair person can read the opinions delivered and conclude other than that each decision was based solely on the personal, political views of the judges involved. That, I submit, is an exercise of legislative authority.

The steady expansion of judicial prerogative has not stopped with the pronouncement of general policies but has been followed by judicial control over the administration of government services. Elaborate codes for the administration of prisons and mental hospitals, decisions to close schools and build new ones, directives as to teacher qualifications, orders to hire a specific number of social workers, and decisions on the size and location of mental hospitals, have emanated from the federal courts. In the city of Boston alone, both the school system and the housing authority have been taken over by federal district judges. This, I submit, is an exercise of state executive authority.

These developments have not encountered great resistance. Some federal judges crow about their decisions in law review articles, even to the point of suggesting that a finding of poor administration of state social services is itself sufficient to justify federal judicial intervention.

In the law schools the conventional wisdom taught by the great majority of law professors is that the only limit on the judicial power is that it must not be exercised so as to frustrate contemporary liberal policies. In other words, a judge with political views agreeable to the bulk of the law teaching profession is free to do whatever he or she feels is wise.

It is also argued that the "inaction" or unfairness of other branches of government compel judicial intervention. Thus, Professor Lawrence Tribe is quoted as saying that "the myth of the Imperial Judiciary is nothing but a mask for injustice." Others have suggested that the courts are a continuous constitutional convention, rewriting our fundamental law as they find necessary.

The trend toward the accumulation of all power in the judiciary is to be deplored. First, because it turns the judicial power to purposes which the Founding Fathers never intended, it is a usurpation of authority. Second, because it calls upon courts to exercise prerogative and to make judgment for which they are ill-suited, it is wrong in practice. Third, because this expansion of judicial power implies rule by an appointed oligarchy, it is a threat to our basic governmental institutions and to democracy itself.

An omnipotent and politicized judiciary is in no sense a legitimate offspring of the Convention of 1787. In the spirit of the judicial activists of today, certain delegates sought to create a Council of Revision, including the Justices of the Supreme Court with the power to veto legislation. Like Professor Tribe, proponents of the Council, such as James Wilson, argued that limiting courts to issues of constitutionality was inadequate since "laws may be unjust, may be unwise, may be dangerous, may be destructive; and yet not be so unconstitutional as to justify the judges in refusing to give them effect." Opponents of the Council such as Nathaniel Gotham, argued that judges "are not to be presumed to possess any particular knowledge of the mere policy of public measures." The proposal for a Council of Revision came to a vote at the Convention and was defeated. Whether judges were to be free to impose their political views as law thus was explicitly debated at the Convention and the proponents of judicial activism lost.

The Federalist Papers too reflected on the role of federal courts in the constitutional scheme. Openly acknowledging the judicial power to decide constitutional issues, Hamilton saw it as inherent in a government of limited powers. Because litigation will arise in which one or both parties will rely on constitutional provisions, courts must "in practice" serve as an "intermediate body" between the people and other branches of government. In exercising that function, courts are to ascertain the "intention of the people" in the "Fundamental law." In a famous passage, Hamilton declared ". . . the judiciary . . . has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL but merely judgment." Judicial supremacy was not intended, Hamilton declared, because courts were not to be free to "substitute their own pleasure" interpreting the Constitution.

Again, the Founding Fathers were aware of the issue of judicial activism, addressed it explicitly and rejected it.

Finally, Chief Justice John Marshall's opinion in *Marbury* v. *Madison*, contrary to the common assumption, took a most modest view of judicial power. Marshall argued only that courts may not ignore the Constitution when it arises in litigation. Indeed, he emphasized that the Constitution is written, a fact which stresses relative fixity in meaning, and stated that it is a "rule for the government of courts, as well as of the legislature."

History thus gives the lie to the proposition that the Constitution left the courts free to impose their political values on the nation and to usurp the policy-making functions of the elected branches, much less to serve as a continuous constitutional convention. Because the Convention of 1787 created a government of limited powers, some relatively independent tribunal was necessary to resolve disputes over those limits. This task fell to the federal judiciary, which held life terms and which were skilled in determining the intent behind written laws. This resolution was clearly to be according to the traditional legal criteria of constitutional intent and that alone; for the courts were not free to, in Hamilton's phrase "substitute their own pleasure" in the guise of constitutional interpretation.

A government of limited powers is thus not a government of unlimited judicial power. Contrary to the views of judicial activists, it is the Constitution, not a court, which is supreme.

Many seem to argue that whatever the intent of the Founding Fathers, it is good government for courts to impose their political views on the nation over a wide spectrum of public issues. In commenting on the recent expansion of judicial fairness, Judge Irving Kaufman, Chief Judge of the United States Court of Appeals for the Second Circuit, observed "sometimes it seems that business, psychology and sociology degrees, in addition to a law degree, should be prerequisites for the federal bench."

This is a disturbing state of affairs. First, it all but concedes that the present role of the federal judiciary far exceeds its competence since few persons, if any, have the breadth, training or experience which Judge Kaufman believes is necessary. Second, his observation reflects a state of affairs in which it is assumed that all that is necessary to justify the expansion of judicial authority into virtually every issue of governmental policy is formal training in business, and the social sciences.

This bodes ill for our government. The judicial urge to engage in social problem solving will necessarily plunge courts into waters far above their depth. The legal process is not suited to many kinds of decision making. Compelling a state to spend millions on prisons must lead to the denial of claims in other areas such as education, police services or welfare. Yet because the courts can claim to be deciding each case on the basis of a constitutional right, competing claims may be ignored. Sensible fiscal decisions can never be made without taking such claims into account, as well as the impact on taxes and the local economy. Nevertheless, courts almost routinely do so.

Moreover, the means by which courts inform themselves of the social and economic impact of their decisions is patently flawed. Social science "experts" produced by parties to litigation inevitably reflect a very narrow segment of the particular discipline. Their testimony is groomed so as to help one party to the litigation rather than to describe the present state of thinking on a subject. As such, it is likely to be incomplete and often in statement of an extreme view. One commentator, after reviewing the evidence in a busing case, concluded that the decision had been based on "pop sociology." The likelihood that the evidence before them is inadequate has not, however, stopped courts from undertaking experiments in penology, psychiatric care, education and race relations.

Judges also seem to assume that the present state of the art in the social sciences is the last word for a millennium. The expert testimony before the court will almost universally exaggerate the intensity of the conclusion offered. In fact, the state of the art is rarely more than a tentative conclusion subject to repudiation at any time. Many educators and sociologists argued in the 60's that racial balance and high per pupil expenditures were correlated with educational benefit and urged courts to act on that conclusion. Many of them have now changed their mind. And one federal court decreed that a particular kind of mental hospital was constitutionally required only to discover as soon as it was built under court order that the experts were now saying that kind of hospital denied patients their right to treatment.

Many of the lawsuits which plunge courts into fiscal and administrative matters are not adequately defended, moreover. Bureaucratic officials who anticipate that losing a case will increase the size and budget of this department can hardly be expected to testify that they have all the resources they need. To the contrary, their testimony before appropriations and other legislative committees—routinely exaggerated for political reasons—may serve as the basis for judicial findings as to inadequate state services.

Judicial decisions will increasingly misfire unless courts exert an effort to withdraw to their area of competence. Life tenure for judges always risks "dead hand" rule by those who have lost contact with public opinion. That risk seems particularly great at this moment, for, as the nation turns from big government and social experimentation, the federal courts seem bent on continuing to engage in a social engineering which has its genesis in the thinking of the 60's.

There is an objection even more fundamental than a lack of historic legitimacy or competence to the politicization of our courts. Proponents of judicial activism have utterly failed to reconcile their position with democratic theory. They seem rather to thrive on the proposition that, in the words of the late Alexander Bickel, "when the vote comes out wrong" the Supreme Court must act. As such, they hold a point of view which is profoundly anti-democratic.

That this attitude should be found in the company of a strong penchant for social engineering should come as no surprise, for there has long been an anti-democratic strain of thought among those who clamor for a governmental solution to every problem, real or imagined. The committed social engineer comes armed with what he believes are expert studies establishing the one right solution to each problem. The rough and tumble and ups and downs of electoral or legislative politics always seem an exercise in unnecessary delay to those who believe they have a monopoly of political truth. How much easier it is to put your case before a judge who decides "rights" rather than priorities, and imposes "solutions" rather than compromise. How much better to call the latest spending program a "right" so no one will ask what is to be abandoned in its place or what the effect on taxes or the local economy will be. How much more efficient it is to deal with governmental authorities who don't have to worry about the next election.

Joseph Rauh is quoted as saying, "The Imperial Judiciary is simply the conservative doctrine of inaction dressed up in $5 words." Mr. Rauh should consider the matter more closely. If judges are free to impose their political values, then they may do so even when those values are not shared by Mr. Rauh. When the first HEW appropriation is declared unconstitutional or a court decrees that more should be spent on defense, I have no doubt that Mr. Rauh will discover limitations on judicial power.

And to those who doubt this might occur, I should point out that it was only as recently as the 30's when the conservatives in the Supreme Court sought to impose their economic philosophy on the nation by declaring President Roosevelt's new deal policies as being unconstitutional, acts beyond the power of the Federal government.

Proponents of judicial activism are far more elitist and skeptical of democratic rule than were the Founding Fathers. However hedged about majoritarian institutions were in the original Constitution, the ultimate power was left with the people. The theory of judicial activism vests that power in the courts. The notion that courts are a continuing constitutional convention, after all, implies that judicial power is superior to the amending process itself.

You will recall that Madison stressed two methods for protecting minorities against overreaching by majorities. One was a supreme non-elected authority; the other, a system of checks and balances among governmental institutions which have limited powers. According to Madison, the Constitution rejected the first because it endangers minorities and majorities alike and instead adopted a system of limited government with federalism and a separation of powers. Judicial activism turns that decision on its head for it creates a supreme non-elected authority. In effect, it replaces the Constitution with a court.

The risk of great tragedy inheres in judicial activism. Because it calls upon courts to assume extra-constitutional functions, it also invites critics of this role to seek curbs on judicial power. This is to be emphasized because there is no guarantee that a rollback of judicial power will not eliminate the proper as well as improper functions of courts.

Let me say straight out that the judicial function is critical to our constitutional scheme. A government of limited powers with a written Constitution needs a tribunal to determine legitimate governmental actions as being proper and within constitutional intent and to strike down others as being unauthorized and unintended. Limited government needs a way to settle disputes over the legitimacy of governmental acts so it can go about the business of deciding policy on policy grounds. John Marshall proposed no more in *Marbury* v. *Madison*. To expand judicial power to policy issues as well as determinations of constitutional intent risks a retaliation which eliminates the proper and valuable functions of courts along with the illegitimate and usurped.

Indeed, the proponents of judicial activism invite this very result by some of the arguments they make. For example, we often hear it said that the intentions behind most constitutional provisions are so indeterminate that courts cannot find adequate guidance and must, therefore, make their own judgments on policy grounds.

Even if the premise were true, the conclusion hardly follows. If in fact there is no discernible purpose behind the Constitution, then there is no need for courts to interpret it. It is the existence of constitutional intent which creates the occasion for judicial interpretation. Once the existence of that purpose is denied, there is no justification for courts to make constitutional decisions.

The argument that courts must of necessity impose their political views in constitutional cases is an argument which is easily turned against the judiciary. There is thus reason to fear a backlash against judicial power which may sweep away the proper functions with the improper. This fear is aggravated by the fact that most of the devices available for controlling judicial power are draconian. Packing the Supreme Court by adding a number of judges, as proposed by Franklin Roosevelt in 1937, would establish a precedent which might in the long run increase rather than decrease the politicization of that tribunal. Withdrawal of jurisdiction to decide constitutional cases would create a constitutional crisis and strip the Supreme Court of its legitimate functions. Many fear, rightly or wrongly, that a constitutional convention might have unanticipated consequences.

Unless the courts themselves heed the dangers in judicial activism, however, I fear such draconian measures will be taken more and more seriously.

The first step, therefore, is to call upon judges themselves to reexamine the view that courts are forced to impose their own political views on the nation, to reexamine the doctrine of unlimited judicial power. They should view criticism of the current judicial role in the spirit in which it is intended, as means of preserving the judicial function from self-destruction. I believe the work of the Convention of 1787 is worth fighting for; to protect it against all enemies, even those who are well-intentioned.

Our Constitution has worked remarkably well down the years of its existence. Occasionally, the balance between the three equal, but separate branches becomes askew, as it did in the days of the Imperial Presidency and as it does today with judicial activism. The challenge of today, for those of us who cherish this noble document, must be to take steps—no matter how unpopular—to insure the continuance of limited government with Federalism and a separation of power; this we must do to preserve the most noble experiment in democracy, not only for the people of today but for the generations to come.

SAN FRANCISCO'S TEACHERS' STRIKE

Mr. HAYAKAWA. Mr. President, I would like to submit for the RECORD an article that appeared in the San Francisco Examiner on October 29, 1979. This article, although it discusses the teachers' strike in San Francisco, really focuses on the problems in our education system today.

It has now become obvious to Californians, and to parents, teachers, and students nationwide, that changes are in order for our schools. These changes will surface in many different ways—such as a voucher system—which is being proposed in California. There is an effort underway to place on California State ballots an initiative to give families public money to send their children to schools—private or public—of their choice.

If this school voucher initiative qualifies for the 1980 ballot and succeeds, California will be the first State to begin a system of voucher schools, including public, private nonsectarian and religious institutions.

In view of our recent strikes, and the growing public dissatisfaction with our present system of education, it is quite possible that this voucher initiative, despite certain imperfections in its wording, will be approved by the voters. Regardless of the success or failure of this proposition, change in our school systems is imminent and necessary. Our children are not receiving the schooling they need, the teachers are not happy with the situation, parents feel helpless—in short, no one is satisfied with the status quo. With this growing awareness of unhappiness with our present system, we in Congress must try to anticipate the needs and wants of our constituents in this regard.

I therefore hope my distinguished colleagues will read this article and see for themselves that change is in the air, and it will be to our best interests if we try and adjust. Instead of ignoring the inevitable changes in our education policies, let us try to work with them and make the changes the best ones possible.

The article was written by Dr. Kevin Starr, a distinguished historian who now, in addition to continuing this historical work, is a columnist for the paper. He is always worth listening to.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AFTER THE STRIKE

(By Kevin Starr)

The school strike, thank God, is over. The following remarks are not intended to be bitter or divisive. Good people found themselves on both sides of the issue. I do think, however, that the strike has disrupted profoundly the educational progress of our students. It also will go a long way towards convincing many parents to vote for a tuition voucher system.

Can students realistically be expected to settle down after the events of the past six weeks? Can teachers who yelled at students not to cross picket lines, who verbally harassed substitutes who did cross, who in certain cases actually invaded schools, demonstrating noisily in the corridors—can they now reverse their roles and maintain order in the classroom?

Can teachers who defied a court order now teach lawfulness to their civics classes?

Can seniors, moreover ever recoup the momentum they have lost in this most vital year when they are applying to colleges? Will not every college and university of any worth look slightly askance at a graduate of the San Francisco school system, knowing that nearly two months were lost at the opening of the term in the most bitter sort of internecine strike?

No one won anything in this strike. The teachers did not obliterate the larger reality that taxpayer support for public education is eroding, especially here in San Francisco, where fewer and fewer residents are rearing children. Whatever immediate gains they have made, the long-range prospects for teachers here are not bright—and this is a very sad thing for those men and women who have dedicated themselves to a noble calling.

The teachers won an immediate pay raise, funded by monies saved by the strike itself. They did not win a long-range commitment to a higher standard of living. Does this mean that they will strike every time they want a raise—strike so that the money saved from the closed down system can be transferred to wages?

Our teachers for some time now have been legitimately complaining about misbehaving students. I think that such students will be running more wild than before. The disruption of the past six weeks has eroded whatever minimal social controls were there in the first place.

Parents feel more hopeless than ever. The middle classes who still send children to public school will once again think very seriously of pulling them out or even leaving San Francisco itself. Parents I've talked to are truly angry. The school system, they feel, like most government, has gotten out of the immediate control of citizens. The system seems to be some remorseless engine functioning for its own purposes.

This frustration, most obviously, will translate into votes for the tuition voucher system. Under this plan, councils of parents would have substantive authority in the decision-making process of the schools their children are attending. One suspects the strike would not have gone on so long had parents had some authority in the negotiations. Protagonists on both sides would have been urged to a speedy settlement by parents anxious to have their children return to the classroom.

This is not a time for cheap shots. I sympathise with the frustrations of teachers faced with a most difficult inner-city generation of students. I sympathize with their efforts to survive in this inflationary economy. I sympathize with the school board and the administration, faced with the necessity of keeping the system afloat in an age when there is less and less financial support for programs that are more and more expensive.

Above all, however, I sympathize with students and their parents. They have gained nothing from this strike—except the conviction that something is wrong, terribly wrong, with public education as it is currently structured, funded, and administered. Because of this frustration, San Francisco and the entire state of California are poised on the brink of a major breakthrough. Within the next year, the voters will authorize a radically new approach to public education—a tuition voucher system. As in the case of Proposition 13, California will lead the way in wrestling back to private control that which should never have been surrendered to government. The idea that government should administer education is not in the Constitution. It is a creation of the late 19th century. President Carter's creation of a separate Department of Education on the cabinet level proves once again the historical truism that bureaucracies have a ghoulish taste for dead ideas.

URGING AMERICANS TO FLY THE FLAG UNTIL HOSTAGES ARE FREED IN IRAN

Mr. STONE. Mr. President, for weeks now we have watched the U.S. flag being burned, abused, even used to carry out trash by the demonstrators who are holding our people hostage in the U.S. Embassy in Tehran. And today, we are receiving reports of the same anti-American activities and the desecration of our flag by protestors in Kuwait.

It is time for us to demonstrate to the world, the strength, the resolve, the deep love we have for our Nation—the greatest in the world. The flag is a symbol of our great Nation, of its long tradition of freedom, and the hope and opportunity it has given to people around the world for two centuries.

The flag is a symbol, too, of our unity—where each of the 50 States is represented but where all of us share the same strong faith in liberty and in the future of freedom.

Today, in my home State of Florida, a national effort is being launched to urge all Americans to fly the flag until our hostages in Tehran are released. The Ft. Myers News-Press started this campaign, and is offering free flag lapel pins to anyone who wants them. It is selling cloth flags at below cost and, this morning, it devoted two full pages to printing a U.S. flag.

Here it is, and it can be displayed, without purchasing a flag, in every window. The people in southwest Florida are being urged to do just that.

The Ft. Myers News-Press also printed a front page editorial today, calling all its readers to join in this campaign to fly the flag. I would like to read this short editorial to you:

> Now is the time for Americans to stand up and be counted. The seizure of the United States Embassy and its employees in Iran has thrust a grave crisis upon America. The world is watching to see if we face up to the saber-rattling blackmail that threatens to besmirch the image of the mightiest nation on the earth. A simple but forceful show of resolve would be for all to fly the banner that has symbolized this nation's unity for more than 200 years.
>
> Today the News-Press is launching a campaign urging all Southwest Floridians to run up the flag in a show of support for your country. Fly the banner every day to tell the world we will stand together to meet the challenge. And our neighbors across the nation should join in for all to see an America united.

I ask unanimous consent that the complete editorial also run today be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Fly American Flag To Show Spirit of Independence

The pealing of church bells at noontime, urged by President Carter, is a fitting demonstration of prayerful support for 49 American hostages innocently caught up in the fanaticism of a Moslem nation.

But Southwest Florida, somewhat short of church bells, can do more. The people of this area can and should display the American flag, at home and place of business, throughout each day the Tehran embassy hostages remain in captivity.

We urge all Southwest Floridians to fly the stars and stripes, known the world over as a symbol of courage and justice. All people who believe in their nation will want to fly the flag at this time as a symbol of the solidarity of the American public in a time of international crisis.

While America's enemies are burning our flag, as seen on television nightly, Southwest Floridians should fly the flag, proudly and properly. A properly flown flag ought to tell our own leaders—as well as the world—that the people of America are ready and willing to respond to a crisis.

By displaying the American flag at this time, Southwest Florida residents will clarify both their pride in our nation and their determination never to bow down to the tyranny and blackmail of foreign madmen.

Let this widespread flying of the flag remind our leaders—and particularly the architects of our foreign policy that the American people are not prepared to sit quietly if the United States is ever again poorly prepared to respond swiftly to a foreign challenge.

At the same time, all area residents should back such a gesture with a determined effort to reclaim our nation's destiny. That can be accomplished by pledging to conserve fuel.

Unless we all do whatever is possible to reduce our consumption of fuel, the fate of the United States will remain in the greedy hands of oil rich kingdoms in the Mideast.

The gravity of that situation ought to be particularly obvious to Southwest Floridians. Oil rich nations have been allowed to damage our economy—even threaten the lives of many thousands of northern Americans, who could have to do without heating oil this winter.

At the same time, federal officials have been groveling at the feet of Mexican officials. Our government seems perfectly willing to allow unscrupulous Mexican growers to engage in unfair trade practices, thereby sacrificing the winter vegetable industry of Southwest Florida in return for a half-hearted promise that the United States may be able to buy Mexican oil and gas—at some horrendous price or another in the future.

We believe Americans have suffered enough at the hands of foreign nations. We think most area residents share our belief that it is way beyond time to call an end to blackmail and fanatical attacks on the United States.

Fly the flag to demonstrate America's determination to restore its heritage.

Our nation must revitalize its commitment to independence. We must all join that fight. For without independence, we are not Americans at all.

DISPLAY FLAG PROPERLY

Fly the flag proudly and properly. Displaying it improperly is disrespectful. Here are some simple rules for displaying the stars and stripes:

The flag should be displayed outdoors only in good weather, between sunrise and sunset. It may be flown at night when lighted.

From a building, the flag should be hoisted, top first, either on a staff or on a rope over the sidewalk.

Over a street, the flag should be suspended vertically with its top to the north on an east-west street, or to the east on a north-south street.

On a car, a small flag may be attached to the top of the radio antenna. The American flag should never be draped over any vehicle.

On a speaker's platform, it should hang free, either flat against a wall or from a staff to the right of the speaker. If the flag is displayed anywhere else in the room, it should be on the right of the audience or congregation as the people face front.

The U.S. flag should never be used for advertising purposes. It should never be marked or have anything attached to it.

More specific rules are available from various veterans' organizations in Southwest Florida.

Fly the flag with pride.

Mr. STONE. Mr. President, the Ft. Myers News-Press is a member of the Gannett newspaper chain, and already has enlisted the support of its two sister newspapers in Florida—the Pensacola News Journal and the Today newspaper in Cocoa. Other newspapers in the Gannett chain are expected to join in the effort soon.

We have seen a desire by many Americans to show the world that we are united freedom-loving people, President Carter has urged that church bells be rung every day at noon until our hostages are released. Many churches across the country have joined this appeal, and I support it wholeheartedly.

I support this new suggestion as well, and urge that we all demonstrate our united patriotism and concern for the hostages by wearing the flag on our lapel, and by flying it proudly in front of our homes and businesses until all of our hostages in Iran are freed.

Mr. NUNN. Mr. President, I would like to congratulate my colleague from Florida on his statement and say that I share both his concern and his promise of support.

I think that is a good way of demonstrating that this country is united and that we stand together. I hope those in Iran in authority will realize that.

Mr. THURMOND. Mr. President, I associate myself with the remarks of the distinguished Senator from Florida, also.

Mr. STONE. I thank the Senators very much.

Mr. THURMOND. Mr. President, recently the supreme court in Kentucky handed down a well-reasoned decision, rejecting efforts by the heavy arm of Government to regulate education in private Christian schools.

Based on a clause in the Kentucky State constitution dealing with religious freedom, the court held that the State could not control the course curriculum, textbook contents, or instructor qualifications in private, church-supported schools. As one who believes that private Christian schools not only generally offer outstanding educational opportunities, but also are doing a commendable job in instilling in our young people sound moral principles, I hail this decision upholding religious freedom.

The distinguished columnist James J. Kilpatrick recently commented on this decision and the ramifications of it. In order to share his excellent analysis with my colleagues and other readers of the CONGRESSIONAL RECORD, I ask unanimous consent that a copy of his column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FREEDOM FOR KENTUCKY

(By James J. Kilpatrick)

It caused no splash in the national press—the opinions of state supreme courts seldom do—but an opinion last month from the Supreme Court of Kentucky merits a round of rousing applause. The court struck a fine blow for religious freedom.

In the process, the court delivered a well-deserved comeuppance to the autocrats of public education whose purpose is to impose an effective monopoly upon the teaching of children. What the court held is that the Kentucky State Board of Education cannot compel a religious school to obey its decrees. And I, for one, cry hallelujah.

The Kentucky case paralleled similar cases in recent years in Wisconsin, Ohio, Vermont and North Carolina. In each instance, parents have chosen to send their children to fundamentalist, Christian schools; the schools have refused slavishly to abide by regulations of the several states; and state authorities, exasperated by such impudence, have brought criminal charges against the parents under the truancy laws.

So it was in Kentucky. Faced with a serious threat of criminal prosecution, a group of parents of children enrolled in private church schools brought suit for a declaratory judgment. The state's regulations demanded that all teachers in church schools must be state certified, that certain courses must be taught and that only state-approved textbooks could be used. On Oct. 9, in the opinion by Justice Robert O. Lukowsky, the court unanimously found the regulations invalid.

It is regrettable in one sense, but encouraging in another, that the court did not base its opinion upon the First Amendment of the U.S. Constitution. A precedent of national usefulness might have been established. Instead, the court relied entirely upon a clause in the Kentucky state constitution which says flatly that no man may be compelled "to send his child to any school to which he may be conscientiously opposed." The clause was written into the state's supreme law in 1890 to apply specifically to parents who were conscientiously opposed to sending their children to public schools. It's pleasant to see a state court interpret its own state constitution.

The underlying purpose of education—at least in terms of a state's interest in education—is to prepare children intelligently to exercise as adults their right of suffrage. Toward that legitimate end, a state may validly impose some form of compulsory education. But what form?

The state took the view that its own standards must prevail as to teachers, courses and textbooks. The court refused to accept that proposition. "It cannot be said as an absolute that a teacher in a non-public school who is not certified under (state law) will be unable to instruct children to become intelligent citizens." A bachelor's degree is not a *sine qua non*.

Neither can the state decree particular textbooks. "The textual materials used in the public schools are at the very heart of the conscientious opposition to these schools. To say that one may not be compelled to send a child to a public school but that the state may determine the basic texts to be used in the private or parochial schools is but to require that the same hay be fed in the field as is fed in the barn."

The Kentucky court did not nullify state regulations altogether. The church schools must comply with requirements affecting health and safety and the state may require pupils in private schools to take the same standardized achievement tests administered in the public schools. Otherwise the church schools are free to go their own way.

The court's opinion provoked some lugubrious predictions from the educational establishment. Fly-by-night schools would spring up; charlatans and illiterate messiahs would dragoon little children into their clutches. The public schools would lose customers.

Maybe so. But occasional abuses are part of the price we willingly pay for freedom of religion, freedom of the mind to seek truth and happiness in individual ways. The benefits of diversity far exceed the supposed advantages of uniformity. The Kentuckians who rewrote their constitution in 1890 did a better piece of work than they may have realized at the time.

TERRORISM AND THE WEST

Mr. HATCH. Mr. President, it has become obvious recently that to an unusual extent in the history of our republic those of us taking part in public debate can be divided into two sharply contending schools. Some us go around muttering that the sky is falling, and complaining about long-term deterioration in our economy, our strategic position, the supply of ten-cent cigars, and so forth. Others—and they are certainly better represented in the media, the permanent government and probably even among my colleagues here—look out on their handiwork and pronounce it good. There's a Democrat in the White House, and all is right with the world. It is true that our allies, such as Iran and South Vietnam, seem to be afflicted with a mysterious vanishing disease; and our opponents have an equally peculiar appearing disease, which has put them in control of areas of the globe we used to consider vital to us. And we have persistent economic irritants. But it only takes a little semantic ingenuity to abolish these questions from the national forum, so that we can focus on really momentous issues like Federal grants to States about to hold Presidential primaries. The White House's elimination of Castro's Russian guard has been a particularly fine example of this process.

The State of New York has recently been blessed with two junior Senators in succession who have been eloquent proponents of the falling-sky school. One of them, our former colleague Senator James L. Buckley, actually continued to speak to the matter after his election and during his term here. In fact, Senator Buckley's recent address to the Society of Former Agents of the F.B.I., entitled "Terrorism and the West", shows that he is continuing to apply his analytical powers to the extraordinary failure of nerve our societies have shown in the face of terrorism from those who openly assert their lethal intentions toward them.

Whether you think this important depends essentially on whether you take any notice of what's going on around you. It is a notable fact, as Senator Buckley points out, that compared to the uproar over Three Mile Island, where no one died, there was no systematic coverage at all of the hundreds of terrorist bombings in the United States in the early 1970's. No one has yet pointed out that the fruits of the fashionable radicalism of the Vietnam era have been Jonestown, the symbionese liberation army, and the new world liberation front—which is still setting bombs in the Western States. I add that no one seems to be interested in the overwhelming evidence of Soviet bloc involvement in terrorist activity here—in vivid contrast to the attention paid the minimal signs of Chilean and other intervention.

The roots of this ineffable complacency have to be sought in the elitist culture. Senator Buckley provides us with a penetrating insight. I cannot hope that he will convert many of the opposite school. But surely all can agree that, for example, given the role Cuba currently plays in the world, the beatification of Che Guevara currently underway on Broadway is a paradox of singular proportions.

I ask unanimous consent that Senator Buckley's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD as follows:

TERRORISM AND THE WEST

(By James L. Buckley)

It is now almost twenty years, incredibly enough, since President Kennedy promised in his inaugural address to "bear any burden, pay any price . . . to ensure the survival and success of liberty."

A lot of things have happened to the United States and to the cause of liberty since then, most of them unpleasant. We have seen the Soviet Union, in the greatest military build-up in history, move to the point where its nuclear power is at least equal to ours, and its conventional forces in many ways superior. We ourselves have lost the first war in our history; and since Vietnam, we and our allies have suffered an almost continuous series of diplomatic defeats, so that large areas of the Third World which were once friendly to us have passed into dubious or avowedly pro-Soviet hands.

At a time when our economic well-being absolutely depends on a continuing access to Mideast oil, we have seen the Soviets establish military bases and subvert once-friendly governments in an arc extending from Libya, through Ethiopia, South Yemen, Iran, to Afghanistan. They are developing the power to choke off the lifeblood of the industrialized West, and we may soon find ourselves without the military strength to contest them.

And today, we see the Marxist cancer spreading from the Soviet Union's Cuban satellite to other nations of our own hemisphere; and the best our President can do when confronted with the presence of a Soviet combat brigade in Cuba is declare that while Brezhnev lied to him when he denied these troops were a combat force, he will nevertheless accept Brezhnev's word that they will behave themselves. So much for the Monroe Doctrine.

These are developments of the utmost importance; and future historians will be astonished that we allowed them to happen with such blind equanimity. They have involved military and diplomatic miscalculations on a majestic scale. But the damage done can be remedied by a new and determined leadership, although at very great cost given the ground we have lost.

What concerns me just as much, and what I want to dwell on today, however, is quite another phenomenon of the past dozen years; and that is the surge of national and international terrorism. Because the West's susceptibility to this facet of the ongoing struggle suggests an endemic weakness or disease that could prove fatal unless we come to terms with terrorism and recognize it for the monstrous evil that it is.

This susceptibility arises out of the very nature of our society—not just our relative openness, but more importantly, out of the ambivalence and misgivings that so many of our own political and intellectual leaders have developed about the institutions they are supposed to manage and defend.

This is not to say, incidentally, that the Soviet Union and its satellites are innocent of responsibility for international terrorism. In fact, since it is one of those obvious facts that for some reason is everywhere overlooked, I want to take this opportunity to assert exactly the contrary. The Soviet Union is largely responsible for world terrorism today. It is responsible in precisely the same way that a man who throws rocks down a mountainside is responsible for the avalanches which descend upon passers-by below; except that in the case of the Soviets, they often intend to trigger the avalanches.

The kremlin may not know in detail which innocent civilians will be maimed and murdered by its protégés. It may have little or indeed no control over what further groups of bandits its weapons, techniques and money will be transmitted to, and what havoc they will wreak in turn. It may even find itself backing, for reasons of temporary advantage, movements that could ultimately be hostile to communism, as appears to have happened in parts of the moslem world. But nevertheless, it remains ultimately and eagerly culpable.

Training in Communist bloc states, if only for a short period, is a constantly recurring theme in the personal histories of today's terrorists. Despite all the propaganda, the venceremos brigade was not in Cuba to cut cane. And in a Communist state, you don't get your hands on weapons and learn to use them unless those in charge have decided that it is in their interest that you should. The failure to point this out and to draw the necessary conclusions has been one of the most remarkable features of our own response—or rather non-response—to terrorism in recent years.

It is this that suggests the conclusion that terrorism is symptomatic of a disease of the spirit. It has long been obvious that you do not find endemic terrorism in states where the regime is itself ruthless enough to engage in absolute repression. This is true no matter how severe the social problems and injustices that we are sometimes told will force the desperate to resort to the most extreme measures.

The most recent example of this is the relative ease with which the shah was overthrown by militant islamic fundamentalists, compared with the total quiescence of the infinitely more oppressed islamic populations of Soviet Central Asia. To cite another example closer to home, compare the success of the Sandnistas in ousting Samoza with what Cuban dissidents must endure in silence in the face of Castro's brutally efficient secret police and the gulag archipelago over which they preside.

More significant for our purposes is the fact that societies which are undeniably civilized, liberal democracies are perfectly capable of containing terrorism when they are determined to do so. The Israelis have had their problems ever since they acquired large, hostile populations in the captured territories after the 1967 war, but they have never even remotely approached losing control of a square inch of them.

In these areas, there is no question of the sort of regular slaughter we see in Ulster, or even in Italy. The Israelis' methods are robust, but (except perhaps outside their own borders) there is little convincing evidence of a systematic deviation from the rule of law. Israel is not a police state. It does, however, manage to capture, convict, and punish terrorists. And that is all that seems to be necessary. So successful has it been, in fact, that it seems almost odd that the Palestine Liberation Organization is able to attract students to its training courses at all. But then, I suppose, Americans continue to vote to reelect politicians who promise to stop inflation.

The Israelis' secret weapon against terrorism is that the whole community is united in opposing them, and rejecting their cause. Thus successive Israeli governments have always acted against them with substantially more vigor than has been shown, alas, by other Western governments. For example, no one in the West has shown the Israelis' vigor in opposing concessions in situations where hostages are held.

Interestingly, the Russians seem to share this approach. In the two recent incidents that could not be hidden from outside eyes, the man who took a bomb into the U.S. Embassy in Moscow and the seizure of the U.S. Ambassador in Kabul, the defeat and death of the perpetrators obviously far outweighed any consideration of innocent lives in the Russians' minds. Whatever you want to say about the Soviet imperial elite, you can't accuse it of a lack of self-confidence.

Now, compare this to events in the United States. As you of the FBI have had particular cause to know, we suffered a wave of domestic terrorism in the late 1960's and early 1970's. From 1965 to 1970, according to one estimate, there were some 1,391 acts of terrorism, with a total of 546 in the latter year. The Weather Underground organization, which J. Edgar Hoover estimated at over 1,500 people in 1972, launched a systematic campaign against law enforcement officers which resulted in death and injury; and the Weathermen made no secret of it.

The reaction of press and politicians to that particular development was most instructive. Compared with the uproar over the accident at Three Mile Island, where no one died, it cannot be denied that the story was essentially ignored. There was little effort to link the various bombings together or to stimulate public interest in who was doing it. Nor is there now any interest in the activities of California's New World Liberation Front, which has laid claim to more than 60 bombings in western states.

At the time, however, their political roots were not only ignored or misunderstood, but their resort to bombs and arson was excused by far too many who occupied positions of moral authority. The blunt fact is that editorial writers, college presidents, and influential churchmen condoned the most appalling acts because those commiting them clothed themselves in the most high-minded causes: Opposition to the Vietnam war in the case of the S.D.S.; to racism in the case of the Black Panthers; and to what they described as the predatory economic and social order in the case of the Weathermen.

This collapse of the ability to make the most elementary moral distinctions between means and ends had the effect of turning criminals into victims; and this in turn prepared the way for as grotesque a miscarriage of justice as we have seen in recent years, one with which you are all too familiar.

I speak, of course, of the series of prosecutions—they are really persecutions—launched by the Justice Department against past and present members of the FBI, beginning with John Kearney in early 1977.

What made this action so appalling was that Kearney and others like him were being accused of nothing more than faithfully carrying out their orders in accordance with procedures that attorney general Bell admitted had been considered lawful at the time. To compound the injury, the Justice Department refused to provide them with the funds with which to defend themselves. It was this that led Clare Boothe Luce, William Simon and me to set up the Citizens' Legal Defence Fund for the FBI.

As I reflect upon this extraordinary story, two aspects of it in particular strike me as being worthy of comment today. One is that the bureaucracy was in effect able to bypass the courts and punish men who it admitted were innocent when it dropped its cases against them, simply through the mechanism of forcing them to incur tens of thousands of dollars in legal costs. The other aspect is the astonishing tenacity someone in the Justice Department showed in these cases, waiting until years after the alleged offences, until the last possible moment before the statute of limitations would have rendered Edward Miller and Mark Felt immune. No doubt enemies of our society are pursued as diligently.

Speaking of enemies, our political reactions towards terrorism and terrorists can sometimes be explained in terms of simple venality. Recently, for example, President Carter released four unrepentant Puerto Rican terrorists who had been residing in U.S. federal jails ever since they attempted to kill President Truman and shot up the House of Representatives more than 25 years ago. His motives, of course, were not political. We know that because he rushed over to the Hispanic Caucus Banquet to tell them so. When a voice from the crowd expressed skepticism, he repeated that he had released the prisoners "for humane reasons;" and because the jail sentences already served were "long enough."

I will pass over this instructive scene without further comment, except to say that the bombing, some days later, of the Torturgero National Guard Armory west of San Juan seems to have made no more impression on the President than the fact that the guard who died during that terrorist attack cannot be restored to his loved ones, not even after 25 years.

It seems probable, however, that a recent story in the New York Times reflects the real reason for our official hesitations. It discussed the imminent arrival on broadway of the hit British Musical "Evita"—by the authors of "Jesus Christ Superstar". Their superstar on this occasion is Eva Peron, the wife of the late Argentinian dictator, Juan Peron. Eva Peron, as you know, was a brilliant and unscrupulous demagogue who was a major factor in her husband's initial rise to power in the 1960's.

This naturally did not worry British audiences, who think foreigners are all a little crazy anyway. But it proved too much for the New York producer. He was afraid he would be accused of favoring the Fascist regimes with which Peron certainly flirted. So he insisted that the musical be rewritten for American audiences, emphasizing Eva Peron's reprehensible nature by building up a minor character also based on an historical personage who happened to be in Argentina at the time.

This character, who is described as "very much a good guy and a hero," steps in and out of the action, serving as a narrator and a commentator, so that the audience will share his anger and revulsion. His name is Che Guevara.

Incredibly, this is the second broadway musical to romanticize Guevara. But at least the first predated the Cuban role as an explicit instrument of the Soviet ambition to bury the West and with it, freedom. It is difficult to see what more the Cubans can do to make clear their intentions towards our society and the values for which it stands. But there are none so blind as those who will not see. I think we may reasonably suppose that some of the same people will be organizing laudatory musicals if and when Cuban military advisors are providing "stability" in New York's upper west side.

This, then, is the disease of the spirit of which the phenomenon of terrorism is merely a symptom. It is simply not realized widely enough what we are defending and what they are attacking. Listening to the hesitations and evasions of the custodians of American righteousness on the subject, I am irresistably reminded of Cavafy's famous poem, expecting the barbarians. The emperor and the senate of some Alexandrian Greek town have assembled in the public square. They are expecting barbarian invaders to arrive that day. They are magnificently dressed. ("Such things dazzle the barbarians.") But the Senate is not in session. ("When the barbarians come, they'll make the laws.") And the public orators are silent. ("Because the barbarians arrive today/and they are bored with eloquence and speechmaking.")

But then consternation spreads through the crowd, and it disperses, looking deeply perturbed. According to Cavafy, it's

Because night is here and the barbarians
Have not come;
And some people have arrived from the frontier.
They say there are no barbarians any more.
And now what will become of us without
barbarians?
Those people were some sort of a solution.

Some sort of a solution! That's what our academics thought when they acquiesced in all kinds of mayhem on the campus because those inflicting it opposed the Vietnam war. That's what our press thinks when it refuses to inquire too deeply into the record of a Jim Jones or a Huey Newton, because in their extreme rhetoric they see dimly their own misgivings about our society. That's what Andrew Young thinks when he surveys the Cubans in Africa. That's why so many Americans view the disciplined, lockstepped societies built in Cuba and China with such fascination. That's why there's been such reluctance to admit that the Weathermen were connected with foreign powers, because that would mean they couldn't be regarded as merely hyperactive reformers, as part of the solution.

Things are relatively quiet on the domestic front these days, or at least the bombings that do occur are too sporadic to command broad attention or concern. But on the global scale, terrorism is on the march. It is being perfected as the barbarians' most effective tool for political intimidation and the disruption of the existing order.

Over the past decade, during which we have been dismantling the FBI's ability to protect us, we have seen a vast upsurge in campaigns of systematic terrorism—with their attendant kidnappings, assassinations, and random slaughter of innocents. We have seen them in Northern Ireland, in Rhodesia, Italy, Spain, Lebanon, Iran, Nicaragua, and a dozen or more other countries; and almost always, these terrorists have had their training or received their weapons from the communist bloc.

If we continue to blind ourselves to the reality of this phenomenon, if we do not begin now to adopt the measures required to cope with it—or better still, to head it off, there is no reason to believe that we ourselves will escape a renewed, and more intensified, and better coordinated outbreak of terrorism here at home.

Clearly, we must reexamine the constraints now being placed upon the FBI, the CIA, and our police agencies. The Constitution, after all, as Justice Goldberg once said, is not a suicide pact. It may be a delicate task to combine the necessities of public order with the ideals of public freedom. But it is not an impossible feat for civil libertarians of good will.

And we must begin to take note once more of the morale of the FBI. In recent years, our press and politicians have developed the same attitude to FBI men that our early pioneers had to the buffalo. There are always more coming over the horizon. Well, it isn't so, and what's more, in the case of the FBI there's some reason to believe the old Indian legend that when the buffalo are gone, the world will come to an end.

There may be sourballs in the FBI. There are in any human organization. But when men have served their country in good faith while relying on what are then believed to be lawful procedures, their country should and must stand by them when they are involved in test litigation and at least meet any costs they may incur in defending themselves. To do otherwise is not merely self-destructive, because it demoralizes those currently in the service. It is utterly contemptible.

When all is said and done, however, neither the most effective procedures nor the most dedicated counter-intelligence agents will protect us if we do not first come to terms with the sickness of the soul, the moral paralysis in the face of violence, to which I have referred.

I believe we can defeat this terrorism; and we can do it without surrendering one jot of our freedom. But we will only do so if our political and intellectual leadership will once again recognize terrorism for the unmitigated evil that it is. To use the words of New Statesman editor Paul Johnson, terrorism is an "exaltation of violence" that requires a "deliberate suppression of the moral instincts in man." It is "intrinsically evil, necessarily evil, and wholly evil," and must therefore be cut loose from the connection it now has in so many minds with notions of national liberation and social justice.

We are all familiar with the various corrupt intellectual sophisms that allow this identification to be made. No attack on terrorism will work, we are told, that does not aim at solving its "causes". We must not respond forcefully—or, as it is invariably described, "overreact"—to the terrorist. That would be "blaming the victim." We should not consider his resort to violence in isolation from the state's "institutionalized violence". In fact this is no sort of violence at all, except the ultimate violence of not immediately providing the terrorist with what he wants, which is power, and has nothing to do with social conditions. Above all, we must not make the terrorist into a "martyr". This, of course, is the most telling admission. It tells us that in their hearts, the supposedly moderate opponents of terrorism have accepted the terrorist at his own estimation, as the hero of some sanctifying cause. We must suppress our outrage at his murderous activities. Instead, we must bow to his own indignation that he should ever have to pay the price.

The answer to all this, of course, was far better put 2,000 years ago than I could hope to phrase it today: "By their fruits ye shall know them."

In any case, the whole notion that terrorism can be excused as a response to social conditions is as absurd as the idea that armed robbery can be excused as a response to hunger. Possibly so, in some cases. But we already know that well-fed people will rob; and equally, free—indeed, privileged—people will terrorize. Both robbery and terrorism grow out of human nature itself; the one in the endless quest after something for nothing, and the other, in the quest for naked power. In neither case is there room for compromise. Both are evil, both must be suppressed.

Perhaps this answer is too simple for our political leaders, who are unfortunately among the weakest in the history of the republic. It is certainly too simple for our intellectual leaders, whom I will not attempt to characterize today. But it is not too simple for the American people. They will have no trouble at all making up their minds on terrorism. That is why it is essential that all our leaders recognize that public order, if it is to be combined with freedom, depends upon a few laws, firmly applied. If our leaders do not realize this, then, whether we like it or not, we will inevitably find that the public will insist on order, at whatever cost to freedom.

This is the vital role that groups like yours have to play, in drawing on your experience to provide steadying counsel amidst the hysteria of public debate. On you, and groups like yours, depends not just order, but the future of liberty itself.

And that, in conclusion, is why I am proud and grateful to be in your presence today.

J. EDGAR HOOVER—AS I KNEW HIM

Mr. HATCH. Mr. President, when public figures pass on, it is frequently the case that a period of years is required before their careers can be placed in the proper perspective. This is often a process that involves extremist interpretations of this figure both from an adulatory and critical point of view. Perhaps as much as any man in recent times, J. Edgar Hoover has been the subject of this sort of historical revisionism.

The former FBI Director, while becoming a legend in his own lifetime, was undoubtedly spared some of the probing and searching analysis that is now taken for granted by the national media. As a result of this, the present reaction taking place in establishing his reputation seems to have gone to extremes. Hoover, we are now being informed, was an implacable opponent of civil liberties, an ineffective administrator, an enemy of the legitimate aspirations of the black civil rights movement, and a constant abuser of his position.

It is about time to reassess this reassessment of J. Edgar Hoover. W. Cleon Skousen, formerly a member of the FBI and presently a respected author and commentator, has undertaken such an effort. I ask unanimous consent to print in the RECORD some excerpts from Mr. Skousen's latest newsletter, "Behind the Scenes." It begins to restore a bit of the balance that is necessary in reviewing the career of this man.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

J. EDGAR HOOVER—AS I KNEW HIM

"When great men die, the brickbats fly." Such has been the fate of three great men who belonged to our generation. One was General Douglas MacArthur. Another was General George Patton. The third was J. Edgar Hoover.

Mr. Hoover served as Director of the FBI for 48 years (1924–1972). He became an American legend, yet during the years of his greatest service he was forced to endure continuous attacks, both personally and professionally. After his death, the brickbats really began to fly, and these have been aimed not only at Hoover but against the FBI as an institution and against almost everything which Hoover felt was essential for America to survive in this age of sky-rocketing crime and international subversion.

OPEN ASSAULT ON THE AMERICAN CIVILIZATION

To a remarkable degree, MacArthur, Patton and Hoover all seemed to have seen the assault on the American civilization through the same set of binoculars. The thrust of their warnings was similar, almost identical, and their enemies came from the same quarter—the anti-Constitutional elements of Congress and the iconoclastic segments of the press.

Most Americans do not realize that there is a powerful faction in Congress who despise the Constitution. This segment of our national leaders consider the Constitution a serious hindrance to their global plans, and their speeches and voting records make them easy to identify. Furthermore, they are supported by powerful allies in the media. The Director of the FBI found that both of these forces considered him their enemy and therefore kept him in their direct line of fire.

Those of us who worked close enough to Mr. Hoover to see him function under this constant barrage of invective and intrigue were amazed that he could endure the psychological trauma of these attacks and still make persistent headway in the job that needed to be done.

Who was J. Edgar Hoover?

A THUMBNAIL SKETCH OF HOOVER'S LIFE

It was New Years Day, 1895, when J. Edgar Hoover was born in Washington, D.C. He came from substantial Swiss stock. In fact, his great grandfather was the first Swiss consul-general to the United States. The family lived on Capitol Hill and one of Hoover's great uncles was a stonemason during the construction of a section of the Capitol Building. His father and grandfather both worked in the U.S. Geodetic Survey.

Young Hoover matriculated through the District of Columbia schools and was valedictorian of his high school class. His energetic performance in carrying groceries while he was in grade school won him the nickname of "Speed" Hoover which stuck with him. He walked or ran six miles a day to and from Central High School in fair weather or foul. The record says he was absent only four days in four years.

The High School records also show that he far exceeded the requirements for graduation. He studied four years of mathematics instead of two, four years of history instead of two, and took physics, Latin and French. He was on the debate team and won twelve decisions in twelve meets.

The greatest influence in the life of J. Edgar Hoover was his mother, Annie Hoover. She was the cornerstone of the family, a model homemaker, staunch Presbyterian, and a woman with strong ideals. Patriotic sentiment was vigorously verbalized around the home and there was constant emphasis on high moral standards, regular church attendance, and strict sobriety.

Young Hoover was captain of his High School Cadet Corps and drilled his company to the point where it won the coveted assignment of marching in the inaugural parade of President Woodrow Wilson. The school paper said Hoover's cadence training for his cadets was like "an approaching thunderstorm." But "Speed" Hoover was popular with his company even though he worked them to a frazzle.

UNIVERSITY TRAINING AND EARLY CAREER

While attending George Washington University, J. Edgar Hoover earned his keep by serving as a clerk at the Library of Congress. He mastered the highly complicated Library index system which he later adapted to the FBI files. After graduating with honors he went on to receive a Master of Laws degree in 1917. Then he became a $900-a-year law clerk in the Department of Justice.

When World War I broke out, Hoover prepared to enlist. However, by that time he had become so valuable as a law clerk that the Attorney General had him classified as "essential" in his Department of Justice job. The war was over in 18 months and J. Edgar Hoover suddenly found himself in the thick of a different kind of war.

HOOVER MAKES ONE OF THE FIRST GOVERNMENTAL IN-DEPTH STUDIES OF COMMUNISM

World War I brought tens of thousands of new immigrants to the shores of the United States. Among them were some who hated America. They looked upon the Communist revolution in Russia as the hope of the world and propagandized for violence and revolution in the United States. In 1920 the Soviet Union sent over Ludwig Martens to collaborate with the American "proletariat," and soon afterwards bombings, burnings, and killings began to show up in the worst civil strife since the Draft Riots of 1865.

The law provided that any immigrant who joined an organization advocating the overthrow of the government by violence was subject to deportation. The Department of Justice therefore began preparing the legal papers and supporting evidence for several hundred immigrants who identified themselves with the revolutionary radicalism of the Communist movement. J. Edgar Hoover got the assignment.

The first thing he did was to mingle among these people in an effort to understand their thinking. He talked to them for hours and spent many more hours reading their literature. It was baffling to comprehend their hostility toward the one nation that had offered them asylum. In fact, at that time Federal Judge George W. Anderson was describing the Communist Party as merely a "fraternal society" devoted to "words not deed." But after spending weeks with these people and reading their tracts Hoover knew the Communist movement was far more sinister than a routine "fraternal society." He ended up writing a documented memorandum on the threat of International Communism which was probably the first in-depth study of its kind ever written for government leaders. It was on the basis of the Hoover memorandum that the deportations began.

The record shows that he insisted that the deportees have the benefit of counsel when they were taken into custody. Later on, there were serious legal breaches in the "Palmer Raids," but even Emma Goldman, top Communist Party leader whom J. Edgar Hoover helped deport along with 248 others, admitted frankly that "At least, Hoover was fair." (Ralph de Toledano, *J. Edgar Hoover*, Arlington House, 1973, p. 45). Before long, Hoover was in line for another assignment.

HOOVER BECOMES HEAD OF THE BUREAU OF INVESTIGATION

A whole series of scandals broke out during the Harding Administration revealing the total incompetence of the Bureau of Investigation in the Department of Justice. (This agency was not called the *Federal* Bureau of Investigation until 1935) Following Harding's death, Coolidge appointed Harlan Fiske Stone as the new Attorney General, and Stone was urged by Secretary of Commerce Herbert Hoover to appoint "that brilliant young attorney, J. Edgar Hoover," to the tough job of cleaning up the scandalized Bureau of Investigation. The two Hoovers (Herbert and J. Edgar) were not related. Stone interviewed young Hoover but he refused to be the new Director unless the Bureau was completely divorced from politics. "I wouldn't give it to you under any other conditions," said Stone. Hoover took the job.

HOOVER'S FIRST FIVE YEARS AS DIRECTOR OF THE BUREAU

What happened to the Bureau of Investigation in the next five years was something Washington had probably never seen before. The old personnel were fired right and left. Replacements were mostly trained attorneys or experienced accountants. A stream of memos poured out of Hoover's office requiring employees "to be neat, to be moral in their private relations, to be sober." (Ibid., p. 75) As for efficiency, every employee was to see his personal rating and thereby know exactly where he stood in the new organization.

From 1924 to 1928, Hoover reduced the number of field offices from 53 to 30. Every year he reduced the number of personnel. Every year he reduced the Bureau's expenditures, yet every year the Bureau solved more cases and had more fines and recoveries than it cost the government to run the Bureau. The Bureau's annual report was submitted to the Attorney General like a profit-and-loss statement. It seemed as though J. Edgar Hoover was in the business of fighting crime and making it pay for itself in the process. Congress was jubilant with the results but the rest of the country had never heard of J. Edgar Hoover.

THE GANGSTER ERA

It was the brutal kidnapping and murder of the Lindbergh baby on March 1, 1932, which suddenly shocked Americans into the realization that gangsters, killers and crime had become a menace to the whole nation. Congress hurriedly turned over to the FBI the interstate aspects of felonious crimes and within three years the name of J. Edgar Hoover had become a household word. Those were terrible years. Several Agents were killed. Hoover worked far into the night on a regular basis. So did the Agents in the field. Running gun battles were frequent. Gradually, however, the number of bank robberies, kidnappings, hi-jackings, extortions and various crimes of violence began tapering off.

When Agents cornered the murderous "Machine-Gun" Kelly in a house near Memphis he shouted, "Don't shoot, G–Men! Don't shoot!" From then on, FBI Agents were known as G–Men.

WHAT IT WAS LIKE WORKING FOR THE FBI

I entered the FBI during the gangster era. A growing roster of Agents killed in action was prominently displayed on a special plaque in the Director's front office. One of those Agents was a friend of our family—Sam Cowley— whom Mr. Hoover always referred to as "the bravest man I ever knew."

One of my field office assignments was Kansas City where the Kansas City Massacre was still fresh on everybody's mind. In that office I had a Special Agent in Charge with the toughest reputation in the entire Bureau. "He'll make you or break you," a friend told me. But it was from Kansas City that I received my first major promotion to the position of a supervisor back in Washington.

If there is one word which best describes my 16 years in the FBI, I think it would be "tempestuous." Mr. Hoover was an exciting person to work for and sometimes totally overwhelming in the demands he made upon us. But I have to admit that most of the time I enjoyed it. We were always surrounded by pressures comparable to sailors in a boisterous sea or soldiers fighting in the trenches. L. B. Nichols, top assistant to Mr. Hoover, appropriately compared it with working in the climate of continuous crisis. Mr. Hoover was always in the eye of some hurricane, tempest or tornado, and took us in with him. Sometimes it was a series of violent crimes, sometimes a spy ring, sometimes it was a high government official who had just been discovered collaborating with a hostile nation. With each new problem, the FBI machinery had to be meshed into gear and brought up to speed fast. There was nothing casual about Mr. Hoover. I have seen assistant directors literally trembling as they feverishly searched the files for an evasive detail or some illusive fact which Mr. Hoover needed in a hurry. In fact, everything he needed was in a hurry. He wasn't nicknamed "Speed" Hoover for nothing.

As an administrator Mr. Hoover liked things clean, orderly, attractive and efficient. He ran a tight ship. When it came to service, he demanded the best. Top managers of the telephone company could expect a call in the middle of the night if their communications weren't up to par. He was a bear when it came to late reports from the field or inadequate coverage of a lead.

Most of us recognized these characteristics of Mr. Hoover as elements of greatness in a leader, but some bucked it. Those of us in charge of units of the Bureau were always having to perk up the troops so they wouldn't collapse under the pressure. I always found that if they had Mr. Hoover's vision of the Bureau's mission, they thrived on the pressure. If not, they folded.

"LOYALTY" WAS A FAVORITE WORD WITH HOOVER

As a rule people don't feel neutral or casual about great men. The demanding discipline of their life-style will make them either loved and respected or despised and resented. Mr. Hoover received both. So did MacArthur and Patton.

In my case, I had been around enough to recognize in Mr. Hoover not only tremendous courage and love of country, but some remarkable qualities of total commitment to public service which was far beyond anything I had seen in government.

Mr. Hoover had elements of genius in his makeup and we worked hard for him. You always knew the man next to you had to work hard, too.

I would never have left the FBI until retirement had there not been special circumstances which launched me into a university career. When I did leave, Mr. Hoover said, "You're going from the defensive team to the offensive team." Then he added, "I always knew where you stood. If you ever want to come back, just let me know."

In Mr. Hoover's book, "loyalty" was a major attribute. And it was not just loyalty to himself, but to the kind of FBI he was trying to build to protect America from the tidal wave of crime and subversion which he knew was sweeping down upon us.

J. EDGAR HOOVER'S CRITICS

Mr. Hoover had some human frailties, but no more than his fair share. In my book they were minimal compared to his qualities as a great leader. Often he was criticized for the very things that made the FBI successful. For example, he had a strong temper, but that was the fuel which kept the FBI fine-tuned and up to speed. He was also criticized for exerting so much energy in building good relations with the public. However, when I got out in the field I saw doors open in high places as well as down in the underworld because of the respect Mr. Hoover had built for the FBI. Those good relations helped solve thousands of cases and save millions of dollars for the government.

Mr. Hoover was criticized for never allowing mail to go out of the FBI except over his signature, but that was just his way of taking total responsibility for everything the Bureau did. He didn't like buck-passing. He was also criticized for having answers prepared on letters from admiring children or common folks writing on improvised stationery. They claimed it was a waste of Bureau personnel and funds, but I was in the Bureau long enough to see some of those fan-mail kids grow up and become dedicated FBI employees. One time I received some very important assistance from a family in Nebraska just because Mr. Hoover had written to one of their grade-school sons. People were important to Hoover and he knew they were the key to FBI success in a tough assignment.

THINGS THE HOOVER CRITICS NEVER MENTION

I counted it a great blessing in my own life to have walked in the shadow of J. Edgar Hoover for 16 years. His critics have been given far more attention than they deserve. The thousands of us who belong to the ex-FBI Agents Association said this when Mr. Hoover died:

"The disciplines which we acquired as Special Agents remained with us as we left the Bureau to enter various professional pursuits, and have been the key to many successful careers. Mr. Hoover's dedication to duty, his refusal to compromise the principles of the FBI, have inspired all of us to become better citizens. All of us look back on our FBI service as one of the greatest experiences of our lives."

Mr. Hoover did more to lift American law enforcement from a mere night-watchman's role to that of a respected profession than any person in the nation's history.

He introduced comprehensive professional law-enforcement training in America for the first time.

He established the National Police Academy to train local police officers the same way the FBI trained its Agents.

He testified in Congress *against* a plan to make him the head of a nationalized police force.

He launched the first major scientific crime detection laboratory in the United States.

He set up the first national fingerprint identification bureau in America.

He made the first and only successful attempt to gather national statistics on crime records in America.

He fought Communism, Nazism, and the Ku Klux Klan with equal intensity.

He took over the Bureau when it was filled with incompetence, corruption, and political hacks. In a decade he made it the pride of America.

I know of no other Bureau which has been assigned a budget and then worked mightily to save money so that millions of dollars could be turned back at the end of the year. Mr. Hoover did that.

ONE MISTAKE

In my estimation, the most important mistake in Mr. Hoover's career was his failure to get married and raise a family. When I asked him for leave without pay to go west and marry my California sweetheart, he gave me leave—with pay and said it was the smartest thing a man could do—get married and raise a family. He even confessed that he would have led a happier life if he had married. "Just couldn't find the right woman," he said. "I guess I'm married to the FBI."

A SOFT SPOT IN THE HOOVER PERSONALITY

Mr. Hoover had a couple of tender spots in his personality. One of these was his missionary spirit. Perhaps it was a reflection of his younger days when he taught a Presbyterian Sunday School class. For example, he was always hopeful of converting certain people who were on the other side but for whom he felt a measure of admiration. This resulted in overtures being made to certain movie personalities who were pouring thousands into the Communist coffers. Sometimes Agents assigned to bring these people around were remarkably successful. Sometimes not. In any case, Mr. Hoover was willing to risk the possibility of ridicule from some of these people just in hopes they might see the light.

But this same quality of tolerance for people with an opposing point of view backfired in the case of William C. Sullivan, a top FBI executive. Mr. Hoover nursed Sullivan along through nervous illnesses and outright insubordination in hopes of making a grown-up American out of him. But Sullivan was a different cut of cloth than Hoover. Sullivan was often outstanding on a specific assignment and this impressed Hoover, but Sullivan never did get a real grasp of the big picture or comprehend the complete implications of the mountains of material which poured across his desk. Consequently, he came to fantastically naive conclusions which drove Mr. Hoover to near distraction. But he kept him on. That was the Hoover tender spot.

I knew Sullivan well and felt that his recent slanderous book, *My Thirty Years in Hoover's FBI*, was an indictment against himself. His caliber of thinking is reflected in his statement that he didn't think the Communists ever successfully penetrated the colleges and universities—only the labor unions. My question to Sullivan would be, "Where have you been for the past 30 years?" Even the Communists confess to that achievement.

His book contains numerous errors of fact and a number of admissions of activities which he says would have cost him his job if Mr. Hoover had known about it. I agree.

In 1971 Sullivan thought he had enough clout in the Department of Justice and the White House to get Mr. Hoover ousted from the Bureau. He ended up being fired himself. Many of us thought Mr. Hoover should have fired him at least fifteen years earlier.

WHY DIDN'T MR. HOOVER RETIRE?

Top FBI officials were very worried about the fate of the FBI if Mr. Hoover retired. A lot of the pressure to stay on came from them. Mr. Hoover did train a number of his subordinates for the job but circumstances never seemed quite right to make the change.

I think in 1955 he almost did it. I was asked by the President of Brigham Young University to invite Mr. Hoover to be the commencement speaker at the June graduation. Mr. Hoover suggested that he be invited the following year. He stated, in confidence, that he was going to retire. But it never happened. 1955 was the year the cold war heated up in the Formosa Straits and President Eisenhower threatened to use atomic weapons if the Red Chinese attacked Matsu and Quemoy.

1956 wasn't any better. President Eisenhower had a heart attack and the Hungarian Revolution broke out.

1957 was the frantic year of the "Sputnik."

1958 was the Soviet-sponsored revolution in Cuba with the U.S. State Department and the liberal press cheering for Castro.

1959 was the Castro takeover of Cuba and the visit of Khrushchev to the U.S.

1960 was Mr. Hoover's announcement that student riots were being planned nationwide. The SDS was set up to do it.

1961 was the catastrophic Bay of Pigs debacle.

1962 was the Cuban missile crisis.

1963 was the assassination of President Kennedy.

1964 was the year extensive rioting and terror bombing got under way.

1965 saw rioting and the burning of dozens of cities. The Communists called a press conference to take credit for the devastating riot in Watts, a precinct of Los Angeles.

1967 saw more than a hundred American cities burning with Cuban-trained radicals like Stokely Carmichael calling for guns, killing, burning and bombs.

1968 was the year Martin Luther King was shot by James Earl Ray and Robert Kennedy was assassinated by Sirhan Sirhan.

1969 was the year the Weathermen launched their terror bombing with the announcement that they were "a revolutionary organization of communist women and men committed to the revolutionary necessity of clandestine and armed struggle." The press brushed them off as a "student protest group." Then the bombing began.

So that's the way it went from year to year. People often asked why Mr. Hoover didn't retire. I always asked them back, "When would have been a good time?" I believe if he could have, he would have.

THE DEATH OF MR. HOOVER

J. Edgar Hoover passed away from a massive heart attack sometime during the night of May 2, 1972. For many of us it was difficult to think of the FBI without Mr. Hoover. In our minds the FBI and the man who had built it into the most famous law enforcement agency in the world were synonymous.

Congress responded immediately with a resolution to have his body lie in state beneath the dome of the nation's capitol, an honor accorded only twenty-one American heroes and statesmen before him. A thousand mourners per hour passed by the draped casket before it was finally taken away to be buried beside his parents in the Congressional Cemetery.

The benediction to his life was summarized by national columnist Ralph de Toledano as follows:

"John Edgar Hoover did not wear golden shoes. . . . But he loved America, he believed in America, and he fought for America. For most Americans, that was enough." (Ibid., p. 377)

MY INTERVIEW WITH THE PRESS

The day after Mr. Hoover died, I was interviewed by the press concerning some of the attacks on Mr. Hoover. Here are some of the questions and answers:

WHAT KIND OF BOSS WAS HOOVER?

Extremely dynamic, very demanding and very appreciative of a job well done. During working hours, Mr. Hoover operated at an amazing peak of efficiency. The time to talk to him was during the evening when he returned to the office after dinner. If he wasn't too pressed with worry and work, he enjoyed a warm, casual conversation. By nature, Mr. Hoover was a gregarious person. He liked people. When the Bureau was smaller he prided himself in knowing all of the personnel and their families.

What about Jack Anderson's charge that Hoover furnished memos to President Johnson which served as "bedtime reading" about the sex lives, drinking habits and personal affairs of prominent public officials?

It would appear that Mr. Anderson was using journalistic license to pull the facts completely out of focus. Two of the most serious security problems among high officials in Washington are alcohol and sexual promiscuity. FBI reports on high officials recklessly passing along highly confidential information in bars and bedrooms is a lot more serious reading for worried Presidents than merely "bedtime stories."

WAS HOOVER A SENTIMENTALIST?

Yes, but it only came out once in a while. When Dr. John Halliday and I took the BYU A Capella Choir on an eastern tour we arrived in Washington just in time for Mr. Hoover's 30th anniversary as Director. He was terribly busy with dignitaries and well-wishers, but he took time to meet our group. We asked him if he would like to have our choir sing him a special song to commemorate his anniversary. He said "By all means," so we told him it was going to be sung in Russian especially for him. The choir made the executive offices ring with their music and when they were through Mr. Hoover was deeply affected. This is the only time I ever saw Mr. Hoover with tears in his eyes. He called for a photographer and had his picture taken with the choir. Then he sent a copy to each member of the group.

Was the recent firing of Sullivan and the shakeup of the FBI due to Mr. Hoover getting old and crotchety?

In my estimation Bill Sullivan should have been fired years ago. Mr. Hoover's patience with him lasted a lot longer than time.

THE NEW FBI DIRECTOR

For several years following Mr. Hoover's death in 1972, the FBI suffered severely from a hailstorm of brickbats. There were those who were determined to destroy everything Mr. Hoover had built. However, a promising change occurred in 1978 with the appointment of U.S. District Judge, William H. Webster, as the new Director. A lot of old-time ex-FBIers like myself breathed a hopeful sigh of relief because just a few months earlier President Carter had seriously considered a man for the job who probably would have been as great a disaster for the FBI as Andrew Young turned out to be in the United Nations. However, fortuitous circumstances precluded the earlier appointment and so the President came up with a completely different type of person in Judge William H. Webster.

After Judge Webster had been sworn in he came to Salt Lake City where the ex-FBI Agents were invited to hear him along with the regular Agents. We were all deeply impressed with Judge Webster's sincerity, his astuteness and his grasp of the problem involved in regaining public confidence for the Bureau in the original Hoover tradition.

The nation cannot afford to be without the professional services of a great law enforcement body such as the FBI. And the FBI cannot afford to be assigned to any man who will not subscribe to the ideals of J. Edgar Hoover.

NEWS COVERAGE OF THE AYATOLLAH KHOMEINI

Mr. STEVENS. Mr. President, the entire world is caught in an international dilemma of horror and cruelty as 50 innocent individuals are imprisoned by the order of one dangerous but powerful man. The entire free world is watching silently.

Our distinguished colleague, Senator S. I. HAYAKAWA, came to the Senate with an international reputation as a semanticist—the creator of a new perception of language and its meanings. Few people realize, however, that Dr. HAYAKAWA entered the field of semantics through studying the rise of Adolf Hitler, one of the world's most skilled propagandists, whose brilliant manipulation of mass hysterical techniques had been unmatched since his time, until the present day by the Ayatollah Khomeini.

Because of Senator HAYAKAWA's concern about the power of propaganda and the role of the media of the world in disseminating it, he has written to the three national television networks of our country urging them to temper their coverage of Khomeini, without suggesting any type of censorship.

Mr. President, I ask unanimous consent that the text of Senator HAYAKAWA's letter to the networks be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TEXT OF LETTER FROM SENATOR S. I. HAYAKAWA

"Forty years ago, I got into the field of semantics through studying the rise of Adolf Hitler and his propaganda techniques. The Ayatollah Khomeini is just as skillful as Hitler in his use of the media. Morning, noon and night we see the news from Iran on our television screens, and it's usually the same—chanting, cheering crowds of Iranians burning the American flag and effigies of our President. We got their message. I think it's time they got ours.

"I wonder what would happen if American networks stopped paying so much attention to the Ayatollah and his gangs? What would happen if you simply stopped beaming Iranian demonstrations night after night into our living rooms? The purpose of television is to bring us the news—not propaganda. I believe that without the encouragement of television cameras, the demonstrations in Iran would slow down and stop. Perhaps then the Iranian government will recognize that we will deal with them only on a diplomatic level to secure the release of our people, but we will not be manipulated by Khomeini's propaganda tricks.

"I am not suggesting that freedom of the press should be interfered with in any way. Of course, the American people have a right to know and should know what is going on in Iran. But it seems to me that the Iranians are using the media in an effort to hypnotize the American public with dramatic, exotic, violent images, to the exclusion of rational discussion of what they really want, how their behavior stacks up in the light of historical concepts of international civility and international law and the legitimacy of the charges they make against the Shah. What about the charges of cruelty and inhumanity and murder that can be brought against the Ayatollah's own regime?

"Your network has interviewed Khomeini under ground rules you certainly would not accept from an American official, allowing him complete control over the interview so that he can be sure that his views are presented without challenge.

"I hope you, as well as the other two major networks, will consider tempering your telecasts in the interest of the lives of the 50 Americans involved. I believe you can fully report the situation in Iran and present all points of view without allowing the Iranians the opportunity to monopolize our attention with their propaganda day after day.

"Such a change in American television programming may not change the situation in Iran, but it will surely send a clear message to Khomeini and his followers that we are not interested in expressions of madness, but in serious diplomatic efforts to solve this problem."

Mr. ROBERT C. BYRD. Mr. President, in that regard, I have been told that the

Ayatollah Khomeini does not watch television. I do not know how accurate that is.

Mr. STEVENS. I only say that, standing in the shadow of the majority leader, as I do more often these days. I have not watched television, either. [Laughter.]

DR. KISSINGER ON IRAN

Mr. PERCY. Mr. President, in response to statements, some distorted, which had been reported by the media concerning the position of former Secretary of State Henry Kissinger in the Iranian situation, Dr. Kissinger yesterday detailed his role and attitudes in an article in the Washington Post. I ask unanimous consent that Dr. Kissinger's article be printed in the RECORD so that his detailed and comprehensive side of the story can be considered by my colleagues and by all readers of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KISSINGER ON THE CONTROVERSY OVER THE SHAH

(We asked Henry Kissinger to comment on allegations that he pressured the administration to permit the shah of Iran to enter the country and that he was exploiting the Iranian crisis politically. Mr. Kissinger's response, which we print here, was written before the president's press conference last evening.)

Only the president of the United States can solve the present crisis, and I believe all Americans, of whatever party or persuasion, owe him our support and our prayers.

I have made no criticism of the president's handling of the crisis. My public comments in New York on Nov. 7, in Dallas on Nov. 10 and in Los Angeles on Nov. 11 all called for national unity behind the president. A senior White House official told me at breakfast on Nov. 21 that, on the basis of fragmentary news ticker reports, remarks I had made in Austin on the foreign policy challenges of the 1980s were subject to misinterpretation. I offered to put out an immediate clarifying statement expressing support for the president in this crisis and calling for unity. (Indeed, I suggested that Jody Powell draft it.) The offer was ignored.

Since then I have read and heard myself described by high White House officials as acting deviously and dishonorably; as advising the shah—strangely enough—to seek the advice of our government about whether to stay or leave this country; and as having exerted pressure to get him here in the first place.

This campaign struck me as all the more remarkable against the background of a call by me on the first day of the crisis to Deputy Undersecretary of State Ben Read in which I told him that I would not criticize the administration for its handling of the crisis either during its course or afterward; it could be sure that I would do my utmost to keep the crisis and its aftermath insulated from partisan controversy. The administration was well aware that from the first I have been calling congressional and other leaders urging restraint in comment. In short, it is not I who has been courting controversy in the middle of a national crisis.

As for my own involvement in recent events, ironically it began at the administration's initiative. In the first week of January 1979, a senior official of the State Department asked my help in finding a residence for the shah in the United States. Our government had concluded, I was informed, that the shah must leave Iran if the Bakhtiar government were to survive the efforts of Ayatollah Khomeini to obtain total power. If I could find a suitable domicile in America, the shah might overcome his hesitation and hasten his departure. I doubted the analysis but acceded to the request. I called David Rockefeller for help. Mr. Rockefeller expressed his personal sympathy for the shah but also his reluctance to become involved in an enterprise that might jeopardize the Chase Manhattan Bank's financial relationships with Iranian governmental or quasi-governmental organs. I then appealed to his brother Nelson; with his help, a suitable residence was located. A week later the shah left Iran. Two weeks afterward Nelson Rockefeller died.

Thus David Rockefeller's later role was hardly spurred by economic considerations as has been alleged; it ran, in fact, contrary to his commercial interests. He was motivated by his desire to carry out the legacy of his late brother and his devotion to the principle that our nation owed loyalty to an ally who had been loyal to us. This was my view as well, and remains so.

Less than two months later—in mid-March—another senior official of the Department of State urged me to dissuade the shah, who had spent the intervening period in Morocco, from asking for a U.S. visa until matters settled down in Tehran. I refused with some indignation; David Rockefeller was then approached. He too refused. When Rockefeller and I inquired whether our government would help the shah find asylum in another country, we were told that no official assistance of any kind was contemplated.

This I considered deeply wrong and still do.

Every American president for nearly four decades had eagerly accepted the shah's assistance and proclaimed him as an important friend of the United States. President Truman in 1947 awarded the shah the Legion of Merit for his support of the Allied cause during World War II and in 1949 praised him for his "courage and farsightedness" and his "earnestness and sincerity in the welfare of his people." President Eisenhower in 1954 paid tribute to the shah for his "enlightened leadership." President Kennedy in 1962 hailed the shah for "identifying himself with the best aspirations of his people." President Johnson in 1964 lauded the shah as a "reformist 20th-century monarch" and in 1965 praised his "wisdom and compassion . . . perception and statesmanship." President Nixon in 1969 declared that the shah had brought about "a revolution in terms of social and economic and political progress." President Ford in 1975 called the shah "one of the world's great statesmen." President Carter in 1977 praised Iran as "a very stabilizing force in the world at large" and in 1978 lauded the shah for his "progressive attitude" which was "the source of much of the opposition to him in Iran." Such quotations could be multiplied endlessly.

And they were correct. In my own experience the shah never failed to stand by us. In the 1973 Mideast war, Iran was the sole American ally adjoining the Soviet Union which did not permit the overflight of Soviet transport planes into the Middle East. In 1973–74, Iran was the only Middle East oil-producing country that did not join the oil embargo against us; it continued to sell oil to the U.S., to Israel and to our other allies. Iran kept its oil production at maximum capacity (thus helping stabilize the price) and never used oil as a political weapon. The shah was a source of assistance and encouragement to the forces of moderation in the Middle East, Africa and Asia; he used his own military power to ensure the security of the Persian Gulf and to discourage adventures by radicals. He firmly supported the peace process that culminated in the Egyptian-Israeli treaty; he was a defender of President Sadat against radical forces in the area. After his initial advocacy of higher prices in 1973, he used his influence to keep the prices steady so that the real price of oil actually declined over the period from 1973 to 1978 (due to inflation).

The crisis we face in 1979—the 65 percent hike in oil prices, the cutback of Middle East oil production, the radical challenges to the peace process and the rise of anti-American fanaticism in the whole area—is the price we are paying for the *absence* of a friendly regime in Iran. The conclusion is inescapable that many of the shah's opponents in Iran hate him not only for what he did wrong, but also for what he did right—his friendship for the United States, his support for Mideast peace, his rapid modernization, his land reform, his support for public education and women's rights; in short, his effort to bring Iran into the 20th century as an ally of the free world.

I do not doubt that wrongs were committed by the shah's government in his long rule; the question is how appropriate it is to raise them, after four decades of close association, in the period of the shah's travail. I have been deeply worried about the foreign policy consequences of spurning him. What will other friends of the United States in the area, in comparably perilous situations and perhaps even more complex domestic circumstances—leaders essential for a moderate evolution of the whole region—conclude if we turn against a man whom seven American presidents had lauded as a loyal ally and a progressive leader?

My conviction that on the human level we owed the shah a place of refuge had nothing to do with a scheme of restoring him to power. I have stated publicly that we should seek the best relations possible with the new authorities in Tehran. I simply assert that it is incompatible with our national honor to turn our back on a leader who cooperated with us for a generation. Never before have we given foreign governments a veto over who can enter our country as a private citizen.

Between early April and early July, I put these considerations before three senior officials in phone conversations. And I called twice on Secretary of State Vance in the same period. The upshot was a refusal to issue a visa explained by the tenseness of the situation in Iran. In April I delivered a public speech stating that I thought it morally wrong to treat the shah as a "flying Dutchman looking for a port of call."

In other words, I made five private approaches on this subject to the government—*none* after July. Such was the "obnoxious" pressure, as George Ball has called it, to which our government was subjected.

When it became apparent that our government would not help the shah and that he was unable to stay any longer in Morocco, David Rockefeller and I did what we could to find him a place of refuge. David Rockefeller was able to arrange a temporary stay in the Bahamas. In April and May, I appealed to the government of Mexico. To its enormous credit, it had the courage to extend a visa even though—as one official pointed out to me—Mexico was being asked to run risks on behalf of a friend of the United States that we were not willing to assume ourselves.

Once the shah was in Mexico, David Rockefeller, John McCloy and I tried to be helpful with private matters on a personal basis. The education of the shah's children in America was the principal issue. We did our best to find appropriate schooling; this raised the issue of visas. Contacts with our government were handled by Mr. Rockefeller's assistant, Joseph Reed, and John McCloy. Mr. McCloy repeatedly urged the Department of State to designate an official with whom the shah's entourage could communicate on such matters without using our groups as intermediaries. Such a contact point was never established.

This was the state of affairs when the shah fell ill early in October. As it happened, I was out of the country from Oct. 9 to Oct. 23 and had no communications with any level of the government about the matter. While in Europe, I kept in touch with the Rockefeller office but did not intercede personally with any official or agency of the government—though I would have had it been necessary. My understanding is that Joseph Reed presented the medical records to Undersecretary Newsom and on the basis of those records the administration admitted the shah for treatment. I am not aware that there was any hesitation. To the administration's credit, no pressure was needed or exercised; I gather that the medical facts spoke for themselves. All of us conceived that the reaction in Tehran would have to be evaluated by the administration which alone had the relevant facts.

As for advice to the shah about whether or not to leave—the subject of other strange stories—the situation was as follows. With conflicting threats emanating from Tehran as to the impact on the safety of the hostages of a movement by the shah, Rockefeller, McCloy and I concluded that it was inappropriate for us to advise the shah. Rockefeller called the president on Nov. 15 to ask once again for the designation of an individual who could accurately convey the government's recommendations to the shah's entourage. McCloy stressed the need for this to the deputy secretary of state on Nov 20; I repeated it to a senior White House official on Nov. 21. We were told the administration agreed with our approach. No such point of contact has yet been established. We were given no guidance; therefore we made no recommendations to the shah as to what he should do when and if his medical condition permits him to leave the United States.

I reaffirm my support for the effort to assure a measure of decency toward a fallen friend of this country. The issue of the shah's asylum goes not only to the moral stature of our nation but also to our ability to elicit trust and support among other nations—especially other moderate regimes in the area. I do not condone all the practices of the shah's government, though they must be assessed by the standards of his region and, even more, the practices of those who will sit in judgment. Yes, we must seek the best relations which are possible with the new dispensation in Iran. But we shall impress no one by engaging in retrospective denigration of an ally of a generation in his hour of need. We cannot always assure the future of our friends; we have a better chance of assuring our own future if we remember who our friends are, and acknowledge what human debts we owe those who stood by us in our hours of need.

I hope this ends the controversy. I think it is imperative that all Americans close ranks. Nothing will more strengthen the president's hand in pursuit of an honorable outcome than a continuing demonstration of national unity now and in the aftermath of the crisis. I shall do all I can to contribute to this end.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

PAPERWORK REDUCTION—MESSAGE FROM THE PRESIDENT—PM 140

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In the past two and one half years, my Administration has achieved real progress in cutting the paperwork burden government imposes on the public. Today I am announcing steps to expand and accelerate that effort.

I have today signed an Executive Order on paperwork reduction. I am also calling on the Congress to enact two bills which will help eliminate needless forms, cut duplication, streamline those forms which are necessary and strengthen central oversight of Federal paperwork.

Government efficiency is a central theme of my Administration. If we are to restore confidence in government, we must eliminate needless burdens on the public. We have pursued this goal through regulatory reform, civil service reform, reorganization, and other initiatives. Paperwork reduction is an important part of this program.

Some Federal paperwork is needed. The government must collect information to enforce the civil rights laws, compile economic statistics, design sound regulations, and for many other purposes. In recent years, however, government forms, surveys and interviews have mushroomed. Much of this paperwork is unnecessary or duplicates information being collected elsewhere.

My Administration has stopped the paperwork surge and started cutting this burden down to size. We have reduced the amount of time Americans spend filling out Federal forms by almost 15%—127 million hours. That is the equivalent of 75,000 people working full-time for a year. We have evaluated the 520 recommendations of the Paperwork Commission and have already implemented more than half of them.

The Internal Revenue Service made it possible, for example, for five million taxpayers to switch from the long tax form to the short one. The Occupational Safety and Health Administration exempted 40,000 small businesses from reporting requirements. The Interstate Commerce Commission sliced a 70-page report required from 13,000 carriers down to 8 pages. The Labor and Treasury Departments slashed the paperwork burden that was crushing the small pension plans. I am today announcing that we are consolidating three reports required from the States on welfare and food stamp programs; this will eventually save 500,000 hours and $10 million per year.

The progress in cutting Federal paperwork has been substantial, but we must do more. Congress is enacting new requirements in energy, environmental protection, and other programs that will add to the paperwork burden. To continue our success in eliminating Federal paperwork, we need the broad management program I am announcing today.

The Executive Order I have signed establishes strong management tools for the Executive agencies. First of all, it creates a "paperwork budget." Each agency will submit an annual estimate of the numbers of hours required to fill out all its forms. The Office of Management and Budget will then hold agencies to that total or order it cut. The process will be similar to the spending budget; it will give agencies incentives to set priorities and to eliminate or streamline burdensome forms.

The Order creates a Federal Information Locator System, which will list all the types of information collected by Federal agencies. Before an agency collects information, it will check in this System to see if another agency already has the data.

The Order also requires agencies to consider the special paperwork problems of small organizations and small businesses. Data gathering that may be easy for a corporation with computerized records may be very costly for a small business person who keeps records by hand. Some reports must necessarily be universal and uniform, but in many cases agencies can meet their information needs while providing exemptions or less burdensome reports for small businesses. Some agencies already have started doing so. The Executive Order requires all agencies to review each form to identify those cases where small organizations can be exempted or given simpler forms. Senator JOHN CULVER deserves credit for leading the development of this concept of special consideration for small organizations.

Finally, the Order mandates a "sunset" process. This process will be similar to the legislation I am supporting to mandate sunset reviews for regulations, spending programs, and tax expenditures. The Paperwork Order requires that each form terminate every five years unless a new decision is made to continue it.

We also need legislation to build a complete paperwork control program and extend it to all agencies. Representatives JACK BROOKS, FRANK HORTON, and TOM STEED and Senator LAWTON CHILES have taken the lead in developing a Paperwork Reduction Act which will strengthen and unify existing paperwork oversight. The Federal Reports Act is insufficient in this regard. It gives OMB power to disapprove many agencies' forms, but the independent regulatory commissions are reviewed by the General Accounting Office and tax, education, and health manpower programs have no central review at all. These loopholes represent 81% of the total paperwork burden, of which tax forms are 73%.

This legislation will close these loopholes, providing central oversight for all forms. It also strengthens the paperwork clearance process by allowing members of the public to refuse to fill out forms that have not been properly cleared.

The legislation will provide additional tools to cut duplication in paperwork requirements. When several agencies want to collect overlapping data, the bill will empower the OMB to assign one agency to do the job. The bill will also deal with the special problems of statistical systems. One cause of duplication is that agencies collect statistical data under pledges of confidentiality, and these pledges hamper sharing the data. The bill will authorize such sharing while strengthening safeguards to ensure the data is used only for statistical purposes and never to abuse personal privacy. These provisions will also strengthen our Federal statistical systems, which are crucial to economic and other policymaking.

While controlling the paperwork imposed on the public, we must also hold down paperwork within the Government itself. I am therefore submitting to the Congress the Reports Elimination Act of 1979. This bill, together with administrative action we are taking now, will eliminate or simplify 278 annual agency reports, saving at least $5.5 million per year.

This overall paperwork reduction program has been developed in a cooperative effort with the leaders of the Senate Governmental Affairs and House Government Operations Committees. Working together, we will continue the progress on cutting away red tape.

I urge the Congress to act promptly on the two bills I have discussed.

JIMMY CARTER.

THE WHITE HOUSE, *November 30, 1979.*

MESSAGES FROM THE HOUSE

At 3:40 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 914. An act to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 434. A joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week."

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated:

H.J. Res. 434. Joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

S. 1792. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck medal to Simon Wiesenthal (Rept. No. 96-435).

SIMON WIESENTHAL GOLD MEDALLION

Mr. PROXMIRE. Mr. President, from the Committee on Banking, Housing, and Urban Affairs, I report favorably legislation which would authorize the President to award a gold medal to Simon Wiesenthal in recognition of his contributions to international justice through the documentation and location of war criminals from World War II. The legislation is reported with two technical amendments: the first one would authorize in fiscal year 1981 the sum of $15,000 to manufacture the gold medallion and is consistent with the Congressional Budget Act of 1974; the second technical amendment would revise subsection (b) concerning the authorization of bronze duplicates for sale to the general public. The language of this particular subsection as introduced appears to follow the provision found in private medal proposals where use of the Mint's facilities is authorized by the Congress to manufacture medals for private, nonprofit organizations on a reimbursable basis, which is clearly not the case here. As reported by the committee, S. 1792 authorizes the Treasury to manufacture bronze duplicates for sale to the general public at a price sufficient to cover all production costs, including overhead expenses. The legislation further requires the Treasury to attempt to recover the cost of the gold medallion through the sale of these duplicates.

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

H.R. 5651. An act to establish by law the position of Chief of the Capitol Police, and for other purposes (Rept. No. 96-436).

S. Con. Res. 48. Concurrent resolution providing for the acceptance of a statute of Mother Joseph of the Sisters of Providence presented by the State of Washington for the National Statutary Hall collection, and for other purposes (Rept. No. 96-437).

H. Con. Res. 184. Concurrent resolution providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws" (Rept. No. 96-438).

S. Res. 266. Resolution authorizing the printing of the report entitled "The Cost of Clean Air and Water" as a Senate document (Rept. No. 96-439).

S. Res. 285. Resolution authorizing additional expenditures by the Committee on Foreign Relations for routine purposes (Rept. No. 96-440).

S. Res. 286. Resolution authorizing supplemental expenditures by the Committee on Foreign Relations for inquiries and investigations (Rept. No. 96—441).

S. 2069. An original bill to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities (Rept. No. 96-442).

S. Res. 294. An original resolution relating to official expenses payable or reimbursable from a Senator's official expense account (Rept. No. 96-443).

S. Res. 295. An original resolution to make technical changes in the names of the Senate Office Buildings.

S. Res. 296. An original resolution to pay a gratuity to Alison T. Bank.

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 282. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5269.

S. Res. 284. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5168.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

John M. Deutch, of Massachusetts, to be the Representative of the United States to the 23d session of the General Conference of the International Atomic Energy Agency.

Gerard C. Smith, of the District of Columbia, to be an Alternate Representative of the United States to the 23d session of the General Conference of the International Atomic Energy Agency.

Roger Kirk, of the District of Columbia, to be an Alternate Representative of the United States to the 23d session of the General Conference of the International Atomic Energy Agency.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIBICOFF:

S. 2063. A bill to authorize the Bureau of Engraving and Printing to use recording clocks to record time and attendance of employees; to the Committee on Governmental Affairs.

By Mr. WILLIAMS (for himself, Mr. CRANSTON, Mr. BAUCUS, Mr. CHAFEE, Mr. JAVITS, Mr. TSONGAS, Mr. RANDOLPH, Mr. BRADLEY, and Mr. WALLOP):

S. 2064. A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on certain mortgage revenue bonds will not be exempt from Federal income tax; to the Committee on Finance.

By Mr. THURMOND:

S. 2065. A bill for the relief of Dora Medina de Pradel and Nicholas Enrique Pradel, her son; to the Committee on the Judiciary.

By Mr. HART (for himself and Mr. ARMSTRONG):

S. 2066. A bill to convey Federal land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development; to the Committee on Energy and Natural Resources.

By Mr. JACKSON (by request):

S. 2067. A bill to change the name of Moores Creek National Military Park to Moores Creek

National Battlefield; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 2068. A bill relating to conflicts between leasable and locatable minerals; to the Committee on Energy and Natural Resources.

By Mr. PELL (from the Committee on Rules and Administration):

S. 2069. A bill to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities. Original bill reported and placed on the calendar.

By Mr. ROTH:

S. 2070. A bill to restore voluntary prayer in our public schools; to the Committee on the Judiciary.

S.J. Res. 121. A joint resolution calling for a Constitutional amendment allowing voluntary prayer in public schools; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF:

S. 2063. A bill to authorize the Bureau of Engraving and Printing to use recording clocks to record time and attendance of employees; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Deputy Secretary of the Treasury, I am introducing legislation which would authorize the Bureau of Engraving and Printing to use recording clocks to record time and attendance of employees.

Existing law prohibits the use of recording clocks to record time worked by an employee of an executive department in the District of Columbia.

The Department of the Treasury advises that the Bureau of Engraving and Printing is a multiproduct manufacturing organization, which finances its operations from a revolving fund, and, accordingly, is required by law to operate economically and to be reimbursed by its customers for both the direct and indirect costs of operation. In order to do this properly, Treasury states that enactment of this measure is necessary, since it would authorize the Bureau to implement a computerized cost accounting system, including automated daily input of time and attendance data.

I ask unanimous consent that the text of the bill and the accompanying letter explaining in detail the need for this legislation be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 4, 1950, 64 Stat. 408, (31 U.S.C. 181-181e), as amended, is further amended by adding a new section as follows:

"Sec. 9. Notwithstanding section 6106 of title 5, United States Code, the Bureau of Engraving and Printing in the Department of Treasury may use recording clocks to record time and attendance of employees."

The Deputy Secretary of the Treasury,
Washington, D.C., November 2, 1979.
Hon. Walter F. Mondale,
President of the Senate, Washington, D.C.

Dear Mr. President: There is transmitted herewith a draft bill to authorize the Bureau of Engraving and Printing to use recording clocks to record time and attendance of employees.

The Bureau of Engraving and Printing is a multiproduct manufacturing organization, which finances its operations from a revolving fund, and, accordingly, is required by law (P.L. 81-656) to operate economically and to be reimbursed by its customers for both the direct and indirect costs of operation. In order to do this properly, enactment of the attached draft bill is necessary in that the bill would authorize the Bureau to implement a computerized cost accounting system, including automated daily input of time and attendance data.

In hearings this Spring on the Bureau of Engraving and Printing, the Senate Permanent Subcommittee on Investigations endorsed this concept. During the recent appropriation hearings before the Senate Appropriations Committee support was also given for adoption of such a system. In addition, the Treasury Department has completed a Management Review of the Bureau of Engraving and Printing, April 1979, which recommended implementation of such a system as soon as possible.

The intent of the draft bill is to amend the Act of August 4, 1950 (31 United States Code 181 et seq) so as to exempt the Bureau from section 6106 of title 5, United States Code which provides that "[a] recording clock may not be used to record time of an employee of an Executive department in the District of Columbia." This law has been interpreted as a prohibition against the use of automatic data entry devices for the collection and recording of time and attendance data.

Operating under this restriction, the Bureau has for some time utilized a cumbersome, time-consuming, and expensive manual system for recording and processing time and attendance data. This has resulted in two serious difficulties.

1. Since it is an industrial organization, the Bureau has employees who are paid under several quite different pay plans. Further, the Bureau has to deal with many unique time and recordkeeping functions required by round-the-clock operation, overtime, pay and premium shift differentials, flexitime and compressed work schedules.

These conditions and the lack of a daily time and attendance input reconciliation have produced a realistic concern that people are being paid for overtime that they did not actually work. Every pay period, several hundred adjustment cards are submitted to modify the hours that are recorded on the original time cards. The sheer volume and complexity of such changes inevitably produce errors.

2. Labor cost comprises approximately $.70 out of every dollar that the Bureau spends. Its accurate identification to products is an essential prerequisite to an effective cost accounting system, and is directly dependent upon an accurate identification of hours worked in each cost center. Due to a number of limitations in the Bureau's current reporting system, the variance between the amount that is estimated to be paid on the basis of daily production reports and the amount that is actually paid is large enough effectively to prevent any truly useful cost analysis of Bureau operations.

If the bill were to be enacted, the Bureau expects the following benefits:

1. Automated cost accounting activities would cost less than the current manual system of processing data;

2. payments would be more accurately made, such as for overtime, with cost reductions; and

3. the Bureau would be better able accurately to track labor costs in that an automated cost accounting system would provide an accurately detailed identification and distribution of costs to products. Such control is essential in a revolving fund.

The type of system proposed for the Bureau has been successfully implemented by the United States Government Printing Office, which is comparable to the Bureau in that both are large printing manufacturing plants. The Government Printing Office "PROBE" System, which includes time and attendance, has resulted in an annual savings of $970,000. The Government Printing Office is able to use such a system because it is not an executive branch agency, and, therefore, is not subject to the provisions of section 6106, of title 5, United States Code.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

Robert Carswell.●

By Mr. WILLIAMS (for himself, Mr. Cranston, Mr. Baucus, Mr. Chafee, Mr. Javits, Mr. Tsongas, Mr. Randolph, Mr. Bradley, and Mr. Wallop):

S. 2064. A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on certain mortgage revenue bonds will not be exempt from Federal income tax; to the Committee on Finance.

TAX EXEMPT MORTGAGE REVENUE BONDS

● Mr. WILLIAMS. Mr. President, I am pleased to offer legislation to establish a Federal policy to promote the targeted use of tax exempt mortgage revenue bonds. This policy is intended to insure that the issuance of these bonds will advance the production of affordable housing and the revitalization of urban communities.

I am delighted that a number of my distinguished colleagues have joined me in sponsoring this measure.

Over the last year, there has been growing apprehension that the proliferation of such bond issues would have an increasing and adverse impact on Federal revenues, while resulting in questionable public policies. One of the most serious complaints made about some bond issues involved their use by some localities to reduce mortgage costs for high income families, without any restrictions as to where such mortgages could be used. It has also been argued that the unchecked use of tax exempt mortgage revenue bonds constitutes federally subsidized competition with traditional private lenders, and undermines the structure of the tax exempt bond market in general.

The congressional response to these concerns, particularly in the House, has focused primarily on the tax implications of such bond issues, to the neglect of equally important housing considerations. To assure that the housing aspects of the tax exempt mortgage bond question would be adequately addressed, I conducted hearings on the issue last June in my Subcommittee on Housing and Urban Affairs. The legislation I have introduced today is the result of the process begun by those hearings.

The hearings, confirmed the view that

mortgage revenue bonds, used prudently, can be a potent weapon in helping us to meet the housing needs of moderate income people, and an important supplement to conventional mortgage markets—especially in times of economic stress when the private market cannot keep up with demand.

Even with the problems we have seen involving some of the bond issues, the general record of tax exempt mortgage bonds with respect to improving moderate income homeownership opportunity has been positive. A recent comprehensive study of tax exempt financing of housing investment by the Urban Institute found that:

> In all cases, the share of mortgages going to moderate income households under the public [mortgage bond] programs is higher than the share under private market financing.

The study went on to note that the effect of targeted mortgage bond programs is to promote homeownership for first time buyers and to boost moderate cost housing production.

The Housing Subcommittee's hearings on this controversial subject helped focus our attention on the kinds of programs that are most supportive of a valid public purpose. To begin with, it became clear that distressed neighborhoods in urban areas are not just underserved but are often excluded from conventional lending programs. In periods of economic stress and high interest rates, these neighborhoods are even more adversely impacted. For example, the city of Baltimore found that many of its own employees were unable to obtain mortgage loans for home purchases or for rehabilitation within the city limits, although they were eligible for mortgage and rehabilitation loans outside the city.

Testimony from witnesses demonstrated that a large number of cities and States have utilized mortgage revenue bonds in conjunction with other Federal programs to inject mortgage lending into previously neglected and forgotten neighborhoods. For many of these communities, the availability of mortgages and rehabilitation loans is critical to the success of revitalization efforts, which are, in turn, vital to the future of our cities.

The urban programs with which I am familiar are remarkably diverse, representing distinct approaches both to address existing problems and anticipate future needs. Despite the number of cities involved with comprehensive revitalization, homeownership, and housing rehabilitation programs, we found that virtually no urban or State program was the same as another, reflecting, in large part, the diversity of heritages and development patterns which have characterized urban America.

At the same time, witnesses helped to clarify the growing gap between family income levels and homeownership potential. There are an increasing number of families who are moderate income, but who can no longer meet the burden of mortgage interest costs, and who are thus denied a chance to own a home. I believe these people are unfairly caught in the unrelenting housing cost-interest rate spiral. Their income are too high to be eligible for the usual Federal housing assistance programs, yet, are insufficient in today's maket to carry a mortgage and other costs of owning a home without some help. These families, comprising a growing percentage and nearly a majority of American households, are denied the important and fundamental opportunity of homeownership.

In response to this problem, a majority of States have developed programs, made possible through mortgage revenue bonds, to assist families to obtain housing either through multifamily rental programs, or, where the traditional lending institutions are not able to meet the need, through homeownership assistance. These State programs, which have been effective in both urban and rural areas, have helped thousands of families who would otherwise be effectively excluded from decent and safe shelter.

The State of Massachusetts, for example, has concentrated its efforts on multifamily rental housing opportunities. The program focuses on multifamily rehabilitation and the development of new multifamily rental opportunities. My own State of New Jersey has a triple objective: Neighborhood revitalization, multifamily rental opportunities, and homeownership assistance for low- and moderate-income families. One part of the program emphasizes rental housing availability for persons eligible for Federal assistance under the section 8 program. A second part, the neighborhood loan program, is targeted to urban distressed areas in need of revitalization through incentives for homeownership opportunities. The third part, the home improvement loan program, emphasizes home improvements and energy conservation measures for those families who have inadequate income to participate through conventional programs.

The task, then, is to permit those programs which have been effective and innovative, and which serve a true public purpose, to go forward, while prohibiting the use of bonds where a tax subsidy is unnecessary and represents an unreasonable drain of Federal revenues. This requires great flexibility as well as a recognition that State programs and many local programs are carried out in diverse and unique ways, but are consistent with basic Federal housing and development policies.

Over the past several months, the Housing Subcommittee has consulted with the many groups which would be affected by legislation to restrict tax exempt mortgage revenue bonds—traditional lenders, cities, redevelopment agencies, State housing agencies, State legislators, builders, unions, municipal bond counsels, and so forth. The bill we are introducing today is the product of these efforts.

Under this legislation tax exempt treatment of mortgage revenue bonds would be allowed in three basic situations, which I believe further valid public purposes.

First, it would allow localities to use tax exempt mortgage bonds as part of local redevelopment programs utilizing Federal funds. A commitment of Federal funds equal to 5 percent of the amount of the bond issue would be required. By making this commitment of Federal funds, the purposes of the bond issue would be consistent with the goals of existing Federal programs—such as UDAG or community development block grants—while avoiding the necessity for new levels of Federal regulation. Moreover, the allocation of a sizable portion of Federal grant funds available to a locality would require hard choices at the local level. This tie-in between the requirements of Federal programs and the local political process would insure that the redevelopment program utilizing mortgage bonds reflects responsible local decisionmaking. While families receiving mortgages as a result of such bond issues would not be precluded from participating on the basis of income, their mortgages could be used only in areas connected with an overall community revitalization program.

Second, this legislation would allow tax exempt treatment of mortgage bond issues by State housing agencies. States have been involved with the issuance of mortgage revenue bonds for years. These bond issues have been targeted in many ways, each expressing the collective wisdom of the State legislatures. Some have responded to the difficult problems of urban distress, while others have spoken to family needs which would otherwise go unmet. In the State of West Virginia, for example, tax exempt bonds have been used to assist in the development of elderly housing, while in Wyoming and other Western States, bond proceeds are being used to relieve the intense pressures on local housing supplies that can accompany energy development projects.

In reviewing the State programs, we have found that each State has set statutory restrictions on its bond issues to assure that they are used for low- and moderate-income families and/or distressed communities. I do not think that we would be well-serving these families if we were to apply an additional layer of Federal bureaucracy and regulatory control. Since these State programs have shown themselves to be remarkably well self-policed, it seems to me that, we should allow these successful programs to continue.

Finally, the legislation would provide for targeted and limited use of tax exempt issues in jurisdictions which are not served by State agencies or find it impossible to contribute Federal funds toward a bond issue that local housing needs demand. These jurisdictions, which would tend to be smaller cities and towns, should have the opportunity to serve those families which do not have full access to traditional mortgage markets. Consequently, the legislation would allow communities to issue tax exempt mortgage revenue bonds, without a commitment of Federal funds under certain conditions. Proceeds must be used by families whose incomes do not exceed 120 percent of median area income and at least half of such proceeds must go for households earning below the median income for a given area. In order to assure that this type of bond issue does not become predominant, they would be limited to a specific percentage of annual mortgage activity in the issuing community.

It is important to point out that this bill deliberately does not affect current law on the issuance of tax exempt bonds for multifamily rental housing. The Nation is experiencing a crisis in rental housing, detailed most recently in a devastating General Accounting Office report which declared, "The rental housing problem is so severe that it requires the immediate attention of and action by the Congress and the Administration."

Interference with the issuance of tax exempt bonds for multifamily housing production would only close the door on a useful and necessary means of combating this crisis. For many years, State housing agencies have been effective in producing low- and moderate-income rental housing. It is my hope that this legislation will encourage States and localities to stay active in the multifamily housing area.

In developing this legislation, I have been concerned about involuntary displacement problems. I have found that mortgage revenue bond programs can be structured to be affirmative antidisplacement mechanisms in and of themselves. These we should encourage. At the same time, we have learned that some of these programs have contributed to unwarranted displacement. It is my intent to limit such occurences under this legislation. In addition, this bill addresses the particularly difficult problem of condominium conversions by prohibiting the use of bond proceeds for the purchase of formerly rented occupied units in multifamily buildings, unless the purchaser is the tenant.

I should also emphasize that my bill is not meant to fuel the speculative side of today's housing market. Consequently, it provides that bond issue proceeds would be used to finance only homeowner-occupied dwellings.

In the final analysis, Mr. President, I feel that it is our responsibility to weigh the plight of the number of families whose hopes of homeownership become dimmer with each passing day. We do need to place prudent restrictions on the use of tax exempt mortgage bonds; there has been abuse. And, uncontrolled issuance has unacceptable revenue and development implications. But the abuse involved in some issues should not obscure either the beneficial purposes many of these bonds have served or the very special opportunities that they have vested.

This bill will offer a means to control and even diminish the expenditure of our tax revenues for tax exempt mortgage revenue bond issues and at the same time clearly set forth a responsible Federal policy for such issues. Through this legislation, we have, after all, an opportunity to help those who are most affected by inflation and recession. We have a way to protect the working men and women of this country who have worked so hard for a chance for decent shelter and affordable homeownership. Equally so, we can let the people of this country know that we will not let moderate-income families become the chief victims of inflation and the strong medicine of high interest rates now being used to fight that inflation.

I would hope that my colleagues will carefully review what has been a most intricate issue. Many proposed remedies which seem simple at first glance, have proved unworkable or unacceptable when applied to their own State's circumstances. All the interests which have participated in the long and difficult mortgage bond controversy will not endorse all features of this bill. But it is a vehicle which I believe can form the basis for a reasonable Federal policy. I fully expect there will be serious debate over how best to frame the Federal limitations on these programs—and whether we need greater or fewer limitations than those proposed in this bill.

However, I must strongly urge my colleagues to support this consensus approach. By doing so, we can stop the issuance of mortgage bonds that promote narrow interest, and allow programs which truly serve the broad national interest—better housing and urban environments for all Americans.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed at this point in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Mortgage Revenue Bonds.—

"(1) In general.—Except as provided in paragraph (3), any mortgage revenue bond shall be treated as an obligation not described in subsection (a) (1) or (2).

"(2) Definitions.—For purposes of this subsection—

"(A) Mortgage revenue bonds defined.—The term 'mortgage revenue bond' means any obligation—

"(i) which is issued as part of an issue any portion of the proceeds of which constitute single family housing proceeds, and

"(ii) the payment of principal or interest on which is not secured by the general obligation of any State, territory, or possession of the United States, or any unit of general local government.

"(B) Single family housing proceeds.—The term 'single family housing proceeds' means that portion of the proceeds of any issue which are to be used directly or indirectly to make or purchase loans (including mortgages and other owner-financing) with respect to single family residences.

"(C) Single family residence.—The term 'single family residence' means any owner occupied residence consisting of not more than four dwelling units or any owner occupied unit in condominium or cooperative owned housing.

"(D) Families of low and moderate income.—The term 'families of low and moderate income' means any family with income not in excess of the greater of—

"(i) 120 percent of the area median family income (as determined by the Secretary of Housing and Urban Development pursuant to section 8 of the Housing Act of 1937), or

"(ii) the minimum income permissible under the rural housing guaranteed loan program provided for by section 517 of the Housing Act of 1949.

"(E) Qualified housing agency.—The term 'qualified housing agency' means any political subdivision of a State, or any department, agency, or other entity established by or pursuant to State law and acting on behalf of a State or political subdivision thereof, which is authorized to issue obligation for one or more of the purposes set forth in paragraph (6).

"(F) State.—The term 'State' includes a State, a territory or possession of the United States, or the District of Columbia.

"(3) Exceptions.—Paragraph (1) and subsection (b) shall not apply to any mortgage revenue bond which is part of an issue—

"(A) with respect to which—

"(i) all of the proceeds (other than proceeds used for necessary reserves or administrative expenses) constitute single family housing proceeds which are used under a program described in paragraph (4), (5), or (6), or

"(ii) if all of such proceeds do not constitute single family housing proceeds which are so used, that portion of the proceeds not so used is used for a purpose described in subsection (b) (4) (A), and

"(B) the single family housing proceeds of which may not be used to finance, directly or indirectly, the purchase of any unit in condominium or cooperative-owned housing if such unit was occupied by a renter (other than the purchaser) during the one year period before the issuance of such issue.

"(4) Assisted state and local housing, redevelopment, and renewal program.—

"(A) In General.—A program is described in this paragraph if under the program all of the single family housing proceeds are to be used in connection with a housing assistance, redevelopment, or revitalization program with respect to which a program contribution is made from the proceeds of any Federal grant in an amount equal to at least 5 percent of such single family housing proceeds.

"(B) Program contribution.—For the purpose of this paragraph, the term 'program contribution' shall include payments made as part of such housing assistance, redevelopment, or revitalization program, or by another governmental unit, for—

"(i) funding of a portion of any loans or obligations made from or purchased with such single family housing proceeds;

"(ii) interest subsidies, discounts, fees, or supplemental financing in connection with such loans or obligations;

"(iii) establishing reserves for the insurance or guarantee of such loans or obligations, except that in the case of of reserves created to insure, secure, or guarantee a pool of loans or obligations which includes loans or obligations which are not made from such single family housing proceeds, the amount of the program contribution shall be that proportion of the initial amount of such reserves which bears the same ratio to such initial amount as the amount of loans or obligations made from such single family housing proceeds bears to the total amount of loans or obligations which are insured, guaranteed, capable of being insured, or capable of being guaranteed by such reserves;

"(iv) costs of originating, purchasing, servicing or insuring loans or obligations made from such single family housing proceeds or the costs of issuance of the issue of which the mortgage revenue bond is a part;

"(v) capital expenditures or other direct subsidies for the construction or rehabilitation of residences to be financed with such loans or obligations;

"(vi) the funding of all or a portion of any loans or obligations made by the issuer to serve those families and individuals who, by reason of lack of adequate income or assets, cannot qualify for loans financed from such single family housing proceeds, except that such a program contribution must be made no earlier than 6 months prior to the issuance of the issue of which the mortgage revenue bond is a part and no later than the day on which all of such single family housing proceeds available for funding of loans or obligations are disbursed; and

"(vii) public improvements which are provided under a comprehensive redevelopment or renewal program, except that such a program contribution must be made no earlier than the date of such approval and no later than 3 years after the date of issuance of the issue of which the mortgage revenue bond is a part and must be attributable only to that portion of the public improvement which is located within the geographic area covered by such approved program and primarily serves the beneficiaries of such issue.

The issuer shall not be precluded in any way from recovering the program contribution provided that recovered funds are used for other purposes eligible under the terms of the Federal grant or this paragraph.

"(C) Limitation.—A program shall not be considered a program described in this paragraph unless the program describes a comprehensive plan and strategy to alleviate physical and economic distress in a manner consistent with meeting the housing needs of families of low and moderate income, especially families already residing in the area in which such single family housing proceeds will be used.

"(5) State program.—A program is described in this paragraph if the issue from which the single family housing proceeds are derived is issued by a State, or an instrumentality, commission, authority, agency, or public corporation of a State which has power to act throughout the State and which—

"(A) is authorized by State law to directly or indirectly originate, finance, or purchase loans which finance the acquisition, ownership, rehabilitation or improvement of residential real property for persons and families who meet the eligibility requirements designated by, or established pursuant to such law;

"(B) has its directors, trustees, or other governing officers appointed by the legislative body or an executive officer of the State;

"(C) reports to the legislative body or an executive officer of the State at least annually on its financial affairs and the achievement of its legislative objectives; and

"(D) maintains a full-time staff responsible for overseeing the issuance of the indebtedness required to finance its programs, monitoring the processing of applications for financial assistance, and supervising the resulting loans.

"(6) Low and moderate income housing program.—A program is described in this paragraph if the issue from which the single family housing proceeds are derived—

"(A) is issued by a qualified housing agency and all of the single family housing proceeds are to be used—

"(i) to provide rehabilitation loans to families of low and moderate income—

"(I) in an amount and for a term and purpose eligible for insurance pursuant to title I of the National Housing Act; or

"(II) in an amount such that at least 50 percent of the principal amount of such loan is to be used for rehabilitation expenditures and not more than 50 percent of such loan is to be used to discharge existing indebtedness on the related owner-occupied residence;

"(ii) to provide directly or indirectly for the construction or ownership of residences other than through refinancing for families of low and moderate income under a program authorized by law and implemented by a qualified housing agency; or

"(iii) for both of the purposes described in clauses (i) and (ii);

"(B) which provides by its terms that at least 50 percent of the single family housing proceeds shall be made available to families whose income does not exceed the area median income;

"(C) contains a certification by the Secretary of Housing and Urban Development that the use of such single family housing proceeds will not promote the displacement of residents of the localities in which such proceeds are to be used; and

"(D) is comprised of an amount of single family housing proceeds, which, when added to the single family housing proceeds of mortgage revenue bonds described in paragraph (3) previously issued by the issuing authority during such calendar year, does not exceed 20 percent of the average annual aggregate principal amount of mortgages (other than mortgages used for a purpose described in subsection (b)(4)(A)) executed during the immediately preceding 3 calendar years for single family residences which are located within the jurisdiction of the issuing authority.

"(7) (A) In general.—The Secretary of the Treasury, the Secretary of Housing and Urban Development, and the Comptroller General of the United States shall jointly conduct a study of—

"(i) the effectiveness of tax exempt mortgage revenue bond programs as compared to existing private and Federal mortgage activities in terms of providing community rehabilitation, revitalization, and housing assistance programs, especially with regard to families of low and moderate income,

"(ii) the extent to which tax exempt mortgage revenue bond programs have been directed towards those who would not otherwise have home ownership opportunities, and

"(iii) the degree to which issuers have taken specific steps to alleviate substantial displacement in the development of mortgage revenue bond programs as they would impact families of low and moderate income.

"(B) Report.—Not later than two years after the date of the enactment of this Act, the findings and recommendations of this study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.".

(b) The amendment made by subsection (a) shall apply to obligations issued on or after the date of the enactment of this Act.

Tax Exempt Mortgage Revenue Bond Bill—Section By Section

PARAGRAPH (1) MORTGAGE REVENUE BONDS IN GENERAL

Section 103 of the tax code would be amended to add a new subsection (g) to provide that interest on bonds will not be exempt from federal income tax if the bond proceeds are to be used directly or indirectly for mortgages (or other financing) of single family residences, except as provided in this subsection.

PARAGRAPH (2) DEFINITIONS

Mortgage revenue bonds means any obligation which is part of an issue any part of the proceeds of which constitute single family housing proceeds; and the payment of which is not secured by the general obligation of the jurisdiction.

Single family housing proceeds means that portion of a bond issue to be used directly or indirectly to make or purchase loans with respect to single family residences.

Single family residence means an owner occupied residence of not more than four units or an owner occupied unit in a condominium or cooperative.

Families of low or moderate income means a family with income of up to 120 percent of area median income (as determined by HUD pursuant to sec. 8) or the minimum income permissable under the sec. 517 rural housing guaranteed loan program, whichever is greater.

Qualified housing agency means any political subdivision of a State, or other entity established pursuant to State law which is authorized to issue obligations for the purpose of paragraph (6).

State means a State, territory, possession. or the District of Columbia.

PARAGRAPH (3) EXCEPTIONS

Mortgage revenue bonds will be treated as tax exempt if:

(a) the single family proceeds are used for a purpose eligible under paragraph (4), (5), or (6);

(b) the non-single family portion of the proceeds are used for a purpose which is tax exempt under another provision of sec. 103; and

(c) the single family proceeds may not be used to finance the purchase of units in condominium or cooperative housing which was occupied by a renter other than the purchaser during the one year period prior to issuance of the bond issue.

PARAGRAPH (4) ASSISTED HOUSING, REDEVELOPMENT AND RENEWAL PROGRAMS

A bond issue can qualify for tax exempt treatment if all the single family proceeds of the issue are used in connection with a housing assistance, redevelopment, or revitalization program to which a program contribution is made from the proceeds of any Federal grant in an amount equal to at least 5% of such single family proceeds.

Eligible contributions for such programs are:

(i) funding a portion of the loans or obligations made through the single family bonds;

(ii) interest subsidies, discounts, fees, or supplemental financing in connection with these loans or obligations;

(iii) loan reserves, provided that such reserves are used in proportion to the proceeds of the single family housing bonds;

(iv) costs of originating, purchasing, servicing, or insuring loans or obligations made for single family housing bond proceeds;

(v) capital costs or direct subsidies for the construction of rehabilitation or residences to be financed through loans or obligations under this program;

(vi) the cost to make up the difference between the cost of loans and what is affordable by low income families or individuals. Contributions made in this way must be made within 6 months of the time of issuance and before all the proceeds are disbursed; and

(vii) public improvements which are part of a comprehensive redevelopment program, which are located in the same geographic area as the intended use of the proceeds, and which are made during the same time period as the issuance of the mortgage revenue bonds.

The issuer, in the above cases, may recover the program contribution, provided it is subsequently used either as part of a continuing program contribution, or as prescribed by the original Federal grant. The program must be part of a comprehensive plan and strategy to alleviate physical and economic distress, consistent with housing needs of low and moderate income families, especially those already residing within the area of such plan.

PARAGRAPH (5) STATE PROGRAMS

Bond issues will be tax exempt if the single family proceeds are part of a bond issue by a State agency with power to act throughout the State and which

(A) is so authorized by State law;

(B) has its governing officers appointed either by the State legislature or a State executive officer;

(C) reports annually to the legislature or the executive; and

(D) maintains a full time staff responsible to supervise such programs.

PARAGRAPH (6) LOW AND MODERATE INCOME HOUSING PROGRAMS

This paragraph permits tax exempt treatment of bond issues when:

(A) they are issued by a qualified housing agency; and the single family proceeds are used either for home ownership, or for improvement loans as described under Title I of the National Housing Act, or for major rehabilitation, as long as not more than 50 percent of such loan is used for refinancing a pre-existing indebtedness. Such proceeds may only be used to assist families at or under 120 percent of median family income, and 50 percent of such proceeds must be used for families below median income.

(B) the Secretary of Housing and Urban Development certifies that the use of such bond proceeds will not promote the displacement of residents; and

(C) the proceeds for single family housing mortgages within the issuing jurisdiction, when added to previous issues, do not exceed 20 percent of the average annual mortgage activity.

PARAGRAPH (7) STUDY

This paragraph provides for a joint study to be conducted by the Secretary of the Treasury, the Secretary of the Department of Housing and Urban Development, and the Comptroller General to compare the effectiveness of tax exempt mortgage revenue bonds, especially as they affect low and moderate income families, to other private and federal community rehabilitation and housing programs. The study is also directed to determine what number or proportion of families would not otherwise have had homeownership opportunities. Finally, the study is to explore and measure the actions taken by issuers to alleviate the adverse impacts of displacement.

This report would be submitted to the Finance Committee and Ways and Means Committee within two years of the date of enactment. The bill would become effective upon the date of enactment.●

By Mr. HART (for himself and Mr. ARMSTRONG):

S. 2066. A bill to convey Federal land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development; to the Committee on Energy and Natural Resources.

COMPENSATION FOR UTE INDIAN TRIBE

● Mr. HART. Mr. President, Senator ARMSTRONG and I are introducing a bill today which would compensate the Ute Indian Tribe for an injustice caused by congressional error, by transferring to the tribe some Federal land in Colorado and some money.

The purpose of this legislation is to correct an unintentional injustice brought upon the Ute Indian Tribe in 1895. As part of a treaty commitment, Congress gave to the Ute Tribe land in New Mexico. Congress, however, had earlier given 15,000 acres of that land to the Navajo Tribe under a previous treaty. In 1972, a U.S. district court ruled that this land—rich in oil, gas, and mineral wealth—belongs to the Navajos, not the Utes. The Utes, therefore, are without land Congress meant to give them to settle a treaty.

To compensate them for this loss, this bill would give the Utes 3,100 acres of Federal land, now managed by the Bureau of Land Management, within and adjacent to a ranch the Utes own just southwest of Gunnison, Colo. This is substantially less than the 15,000 acres Congress originally "gave" the Utes.

In addition, this bill would give the Utes $5.8 million as compensation for the millions they have lost from the oil, gas and mineral revenues from the land in New Mexico Congress intended to give them. The mineral worth of that New Mexico land is actually far greater than $5.8 million, while the smaller tract of BLM land in Colorado has no mineral worth.

The total value, in land and money, the bill would give the Utes is far less than the value of the land Congress meant to give the Utes in 1895. The Utes, however, are willing to accept the smaller amount of land and money as full settlement for the injustice done by congressional error.

The 1895 conveyance to the Utes was a direct outgrowth of a treaty that was negotiated by the Federal Government in 1880, but never ratified formally. This was an attempt to put to rest the controversy over the proposed resettlement of all the Ute peoples outside of the State of Colorado. Under this agreement, Congress established the Ute Mountain Reservation in Colorado and New Mexico. The Weeminuchi Band of Indians, whom the Ute Mountain Tribe succeed in interest, peacefully settled on the reservation.

The reservation was not surveyed until 1914. As specified in the 1895 agreement, the U.S. surveyor used the standard New Mexico grid system as the basis for his survey. The survey set the western boundary of the reservation at the then eastern boundary of the previously established Navajo reservation. This committed some 15,000 acres Congress intended to include in the Ute reservation, by creating partial townships where full townships had been granted by Congress.

In 1936, a general land office replatting of this area indicated that the disputed land was within the Ute Mountain Reservation and contained full townships as originally intended by Congress.

This situation existed until the 1950's, when oil and gas leasing of the land began. Then, the companies leasing the property became concerned about the questionable ownership of the land.

In 1957, the Bureau of Indian Affairs refused to allow oil and gas revenues from the leases to be paid to either the Navajo or Ute Mountain Tribes. The tribes, therefore, agreed to put the revenues into a escrow account, pending resolution of the dispute. This resolution came in 1972 when the U.S. Supreme Court affirmed the judgment of a special three-judge U.S. district ruling that the disputed land belonged to the Navajos.

The court decision did not address the issue of compensation to the Utes for the land which Congress intended to grant them. The bill we are introducing today will provide that compensation.

Representative KOGOVSEK of Colorado introduced an identical bill in the House this year. The House Interior Subcommittee on Public Lands began consideration of the bill recently, with hearings on October 26.

This bill then, will compensate a people who have faced a serious injustice. It will give the Ute Indian Tribe 3,100 acres of Federal land in Gunnison County, Colo., which is presently being managed by the Bureau of Land Management. This land is now being used by the tribe under a grazing permit from the BLM. The land joins and is intermingled with the Pinecrest Ranch, which the tribe owns as a private landowner. This land would be of great benefit to the tribe in consolidating their landholdings in and around the Pinecrest Ranch and in providing needed grazing areas for the tribe's essential cattle business.

The granting of these lands to the Utes will not have any adverse impact on other users, as these lands are now being used solely by the tribe. The Utes would pay taxes on this newly acquired land, just as they do for the land they now own.

The bill would also give $5.8 million to the Ute Indians. This is the amount of the mineral revenues, from the disputed land, in the escrow account when the district court made its 1972 ruling in favor of the Navajos. Since then, the 15,000 acres denied the Utes has earned another $1 million from oil, gas, and mineral leasing for the Navajos, and much more will be made off it in the future. All of this money, as well as the grazing rights and the value of the land itself, has been denied the Utes. The $5.8 million that this bill provides is the least that the Congress can grant for the injustices its error has brought upon these people.

The Ute Tribe is in great need of this money to help ease their unemployment and boost their economic development. The money could only be used for tribal economic development—not, for instance, for cash grants to tribal members.

Gov. Richard D. Lamm of Colorado, the Colorado Commission of Indian Affairs, and the county commissioners of Gunnison County have all endorsed this bill.●

By Mr. JACKSON (by request):

S. 2067. A bill to change the name of Moores Creek National Military Park to Moores Creek National Battlefield; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to change the name of Moores Creek National Military Park to Moores Creek National Battlefield.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Acting Secretary be printed in the RECORD.

There being no objection, the bill and

letter were ordered to be printed in the RECORD, as follows:

S. 2067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the area formerly known as "Moores Creek National Military Park", established pursuant to the Act of June 2, 1926 (44 Stat. 684), shall henceforth be known as the "Moores Creek National Battlefield".

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. November 20, 1979.
Hon. WALTER F. MONDALE,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is draft legislation "To designate the Moores Creek National Military Park as Moores Creek National Battlefield."

We recommend that it be submitted to the appropriate Committee for review and that it be enacted.

The proposed draft legislation would redesignate the Moores Creek National Military Park, North Carolina, as the Moores Creek National Battlefield.

Moores Creek was established pursuant to the Act of June 2, 1926 (44 Stat. 684) under the administration of the Secretary of War, as a "national military park." The "park" was established to preserve the site of the Battle of Widow Moore's Creek Bridge, February 27, 1776, in which patriots repulsed an attack of 1,600 Scottish Loyalists who were attempting to join regular British forces on the Carolina coast under the command of Sir Henry Clinton. The victory silenced Loyalist sentiment in the Carolinas and forced Clinton to Charleston, South Carolina, where he suffered another defeat and abandoned his campaign in the South for 2 years. The Battle of Widow Moore's Creek Bridge was also instrumental in forging North Carolina's defiance of the British Crown, leading to the State's distinction as the first colony to instruct its delegates to the Continental Congress to sue for independence.

Until the 1933 transfer of national parks and cemeteries under the War Department to the Department of the Interior, the denomination "national military park" was applied exclusively to certain areas controlled by the Secretary of War.

Not surprisingly, the continued use of the name "Moores Creek National Military Park" creates confusion to this day between areas under the administration of the Defense Department and the Department of the Interior. Moores Creek is located within a dense concentration of active military reservations, *i.e.*, For Bragg, Camp Lejeune MCB, Seymour Johnson Air Force Base, etc., causing confusion for visitors.

It is felt redesignation of the park as the Moores Creek National Battlefield will help resolve much of his problem. In addition, the new designation would more closely resemble the traditional name used by local residents: "Moores Creek Battleground." As would be expected, the proposal has the support of the local community, as well as the Moores Creek Battleground Association and the Pender County Board of Commissioners.

Redesignation of the park will not result in any additional expenditures. The main roadway leading to the park is to be realigned within the next several years, and replacement of park signs would be required regardless of redesignation. In addition, construction of a major artery leading from the north is currently underway, and signs will have to be replaced along this route as well.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

ROBERT HERBST,
Acting Secretary.●

By Mr. HATCH:

S. 2068. A bill relating to conflicts between leasable and locatable minerals; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, in the past several weeks the Senate has debated and passed extraordinary legislation that is intended to resolve the Nation's critical dependence on foreign sources of energy fuels. As the record reflects, I have generally opposed the large-scale intervention in conventional, supply-oriented, free-market systems by the Federal Government that most of the proposals to date constitute.

The most serious problem I have with this approach is the fact that the emotionally charged controversy over such dramatic and exotic ideas as a Government-owned corporation with the Federal Treasury as financier have obscured a number of rather mundane considerations that, unresolved, will preclude any significant efforts to produce fuel from the resources on the vast, federally owned public domain in the West. I hope that my colleagues realize that 85 percent of the oil, 72 percent of the oil shale, and nearly all of the tar sands in the continental United States are located on these Federal public lands. The bill that I am introducing at this time addresses but one of the more innocuous of these problems.

Mr. President, this bill would simply reaffirm that the Congress intends lands that are currently covered by mining claims that were legally established under the General Mining Laws to also be available for lease under the Mineral Leasing Act of 1920, as amended. I say "reaffirm," because the Multiple Mineral Development Act of 1954 expresses that intent in fairly clear terms. The solicitor of the Interior Department, however, has chosen to interpret that law otherwise, with the effect of eliminating an unknown but clearly significant portion of many leasable resources from availability for development.

Mr. President, as you may recall, I proposed this same language as an amendment to S. 932 last week, and withdrew it under an agreement with the minority and majority of the Energy and Natural Resources Committee that assured the priority consideration by that committee of the measure as separate legislation. I am introducing it now so that the committee can deal with this and other, similar restrictions to development of energy resources in the West.

I would like to thank my distinguished colleagues on the Committee on Energy and on Natural Resources for their timely recognition of the need for this bill and anticipate their prompt action on it.

By Mr. ROTH:

S. 2070. A bill to restore voluntary prayer in our public schools; to the Committee on the Judiciary.

S.J. Res. 121. Joint resolution calling for a constitutional amendment allowing voluntary prayer in public schools; to the Committee on the Judiciary.

THE PRAYER AMENDMENT

Mr. ROTH. Mr. President, today I am reintroducing legislation to restore voluntary prayer to our public schools as well as a joint resolution calling for a constitutional amendment allowing voluntary prayer in public schools. This legislation is identical to legislation I introduced May 5, 1977 and in previous Congresses. Because of the strong support the Senate has shown for such legislation, I am urging my distinguished colleague from Massachusetts (Mr. KENNEDY) to support hearings in the Judiciary Committee on this issue.

The Senator from Massachusetts is absolutely correct when he said the Helms amendment raises separation of powers issues. These issues concern the separation of powers between the representatives of the people of Congress and the unelected Federal judiciary which in the last 40 years has rewritten the Constitution and usurped the people's rights of self-government. I might add the Helms amendment raises still another separation of powers issue—the separation of powers between Federal Government and State and local governments.

My school prayer legislation not only restores freedom of worship to our public schools—it also restores a right of local control over schools which the Supreme Court usurped in the 1962 Engel against Vitale case.

The freedom to worship is a fundamental right of the American people guaranteed by the Constitution.

The U.S. Supreme Court in 1962 in *Engel* v. *Vitale* 370 U.S. 421 (1962) and again in 1963 in *Abington School District* v. *Shempp* 374 U.S. 203 (1963) held that State-sponsored prayer or Bible reading in public schools violates the first amendment to the Constitution. After 14 years the scope of these decisions remain broad. They deny the State the authority to conduct or prescribe almost any religious exercise or display, even when participation is voluntary.

Mr. President, over the years public reaction to these decisions remains strong. Throughout our Nation, there is proponderant support for voluntary prayer in public schools.

In a recent poll of my constituents, I found that over 80 percent of the respondents favored a constitutional amendment to permit voluntary prayer in public schools.

It seems incongruous that this Nation, whose birth certificate invoked the blessing of our God upon its struggle for freedom, should now outlaw prayer—even voluntary prayer—in public schools. School prayer can never be an effective substitute for parental guidance or religious training. However, the return of school prayers would help restore a sense of individual morality that at times seems forgotten. Indeed, I find it difficult to understand how the President of our great Nation can lead the American people and millions of people around the world in public prayer at the signing of the Egypt-Israeli peace treaty—and then turn around and condemn voluntary prayer by schoolchildren because, as he says, "the Government should not be in the prayer business."

As a Member of Congress and indeed throughout my career in the Senate I have supported and introduced legislation to amend the Constitution to permit voluntary prayers in public schools and other public buildings. My proposed constitutional amendment is relatively clear in scope. It guarantees the right of all persons "lawfully assembled, in any public school or other public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer."

I do not view the proposed amendment as an attempt to impose a particular religion on an individual. Were that its aim, I would oppose it. The Constitution bars the Government from establishing an official State religion, but it should not deny individuals the right to pray if they wish. I believe that our forefathers devised the Constitution to guarantee and preserve the freedom of religion rather than the freedom from religion.

Mr. President, I introduce a second measure today to limit the jurisdiction of the Supreme Court of the United States and any such inferior court as ordained and established by the Congress of the United States, to enter any judgment, decree, or order, denying or restricting, as unconstitutional, the voluntary participation by anyone in the exercise of free religious expression or the saying of a prayer of his or her choice in any public school or public building.

This bill, if enacted, will not overturn the Engel and Shempp decision. The purpose of this bill is to reinstate the legal right of the States to make their own decision with respect to prayer in public school. My bill will preclude the Supreme Court of the United States from having any appellate jurisdiction, and any Federal district court from having any original jurisdiction over cases emanating from any State statute, ordinance, rule, regulation or the like related to the free exercise of religious expression or the saying of a voluntary prayer in any public school or public building.

Mr. President, it is time that we quit denying our children the right to reaffirm their faith and dependence on God. It is time for the Congress to give effect to the public outcry for action.

Mr. President, I now send to the desk my legislative package, in support of prayer in public schools and ask unanimous consent that the text be printed in the RECORD.

There being no objection, the bill and joint resolution were ordered to be printed in the RECORD, as follows:

S. 2070

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provision of sections 1253, 1254 and 1257 of this chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ, or certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to the exercise of free religious expression or the saying of voluntary prayers in public schools or other public buildings."

(b) The section analysis at the beginning of chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. 2. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1363. Limitation on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1363. Limitations on jurisdiction.".

SEC. 3. The amendments made by the first two sections of this Act shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

S.J. RES. 121

Resolved by the Senate and House of Representatives of the United Staates of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE—

"SECTION 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public school or other public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.".

ADDITIONAL COSPONSORS

S. 1121

At the request of Mr. HAYAKAWA, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1874

At the request of Mr. BAYH, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1874, a bill to amend the act incorporating the American Legion so as to redefine eligibility for membership.

S. 1913

At the request of Mr. CRANSTON, the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1913, to preserve the existing tax status of wine used in the production of distilled spirits.

S. 1942

At the request of Mr. MCGOVERN, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 1942, the Resources Conservation and Development Act of 1979.

S. 1965

At the request of Mr. RIEGLE, the Senator from Missouri (Mr. EAGLETON), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1965, a bill to provide financial assistance to the Chrysler Corp.

SENATE JOINT RESOLUTION 115

At the request of Mr. RIEGLE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of Senate Joint Resolution 115, a joint resolution to designate National Porcelain Painting Art Month.

AMENDMENT NO. 719

At the request of Mr. LEVIN, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of amendment No. 719 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 294—ORIGINAL RESOLUTION REPORTED RELATING TO OFFICIAL EXPENSES PAYABLE OR REIMBURSABLE FROM A SENATOR'S OFFICIAL OFFICE EXPENSE ACCOUNT

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 294

Resolved, That this resolution applies to payments and reimbursements from the contingent fund of the Senate under paragraphs (5) and (9) of section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)). For purposes of such paragraphs and this resolution, the terms "official office expenses" and "other official expenses" mean ordinary and necessary business expenses incurred by a Senator and his staff in the discharge of their official duties.

SEC. 2. The following expenses are not considered official office expenses or other official expenses and payment thereof or reimbursement therefor may not be made:

(1) commuting expenses, including parking fees incurred in commuting;

(2) expenses incurred for the purchase of holiday greeting cards, flowers, trophies, awards, and certificates;

(3) donations or gifts of any type;

(4) dues or assessments;

(5) expenses incurred for the purchase of radio or television time, or for space in newspaper or other print media (except classified advertising for personnel to be employed in a Senator's office);

(6) expenses incurred by an individual who is not an employee (except as specifically authorized by subsections (e) and (h) of such section 506);

(7) travel expenses incurred by an employee which are not reimbursable under subsection (e) of such section 506;

(8) relocation expenses incurred by an employee in connection with the commencement or termination of employment or a change of duty station; and

(9) compensation paid to an individual for personal services performed in a normal employer-employee relationship.

SEC. 3. Payment of or reimbursement for the following expenses is specifically prohibited by law and may not be made whether or not such expenses constitute official office expenses or other official expenses:

(1) expenses incurred for entertainment or meals (2 U.S.C. 58(a));

(2) payment of additional salary or compensation to an employee (2 U.S.C. 68); and

(3) expenses incurred for maintenance or care of private vehicles (Legislative Branch Appropriation Acts).

SEC. 4. This resolution shall apply with respect to expenses incurred on or after the date on which this resolution is agreed to.

SENATE RESOLUTION 295—ORIGINAL RESOLUTION REPORTED TO MAKE TECHNICAL CHANGES IN THE NAMES OF THE SENATE OFFICE BUILDINGS

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 295

Resolved, That (a) Senate Resolution 296, Ninety-second Congress, agreed to October 11, 1972, is amended as follows:

(1) In subsection (1) of the first section, insert the word "Senate" immediately after "Richard Brevard Russell";

(2) In subsection (2) of the first section—

(A) strike out "including any extension to such building,"; and

(B) insert the word "Senate" immediately after "Everett McKinley Dirksen".

(b) The first section of Senate Resolution 525, Ninety-fourth Congress, agreed to August 30, 1976, is amended by inserting the word "Senate" immediately after "Philip A. Hart".

SENATE RESOLUTION 296—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 296

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Alison T. Bank, daughter of John T. Taintor, an employee of the Senate at the time of his death, a sum equal to eight and one half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 297—SUBMISSION OF A RESOLUTION AUTHORIZING A CHECK BY HEW TO DETERMINE IF ANY SENATE EMPLOYEES ARE INDEBTED FOR DEFAULTED STUDENT LOANS

Mr. PELL submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 297

Resolved, That if the Secretary of Health, Education, and Welfare agrees to carry out the provisions of section 2 according to the terms and conditions prescribed therein and such other terms and conditions as the Committee on Rules and Administration may prescribe, the Secretary of the Senate is authorized to furnish to the Secretary of Health, Education, and Welfare a computer tape containing the name, social security number, and address of each Senate employee. For purposes of this resolution, the term "Senate employee" means an individual whose compensation is disbursed by the Secretary of the Senate.

SEC. 2. (a) Upon receipt of the computer tape described in the first section, the Secretary of Health, Education, and Welfare shall conduct a computer check to determine whether any Senate employees are indebted to the United States by reason of default on a student loan guaranteed and paid by the United States. No other use may be made of such computer tape by any officer or employee of the Department of Health, Education, and Welfare and it shall be returned to the Secretary of the Senate upon completion of such check.

(b) If the computer check conducted pursuant to subsection (a) reveals that any Senate employees are so indebted to the United States, the Secretary of Health, Education, and Welfare shall report to the Committee on Rules and Administration the name of each such employee together with the principal amount and total amount of his present indebtedness to the United States. No other use may be made of the results of such computer check by any officer or employee of the Department of Health, Education, and Welfare and no disclosure of the results of such check shall be made by any such officer or employee except to the Committee on Rules and Administration.

SEC. 3. (a) Upon receipt of the report under subsection (a), the Committee on Rules and Administration shall inform each Senate employee listed in such report, and the Senator, committee chairman, or officer of the Senate in whose office such employee is employed, that according to the records of the Department of Health, Education, and Welfare, such employee is indebted to the United States and the amount of such indebtedness.

(b) The Senator, committee chairman, or officer of the Senate in whose office such employee is employed shall endeavor to have such employee make arrangements for the repayment of such indebtedness. If, at the end of 90 days after receipt of the information under subsection (a), such employee has not made arrangements to repay such indebtedness, or if such employee leaves the employment of the Senate within such 90-day period without having made such arrangements, such Senator, committee chairman, or officer shall so notify the Committee on Rules and Administration. The Committee shall, thereupon, identify such employee, together with his social security number and address, to the Secretary of Health, Education, and Welfare for the purpose of initiating procedures to collect such indebtedness.

SEC. 4. The Committee on Rules and Administration may make public disclosure of a digest of the report received under section 3(a) but may not publicly disclose the identity of any Senate employee listed in such report or the office in which he is employed.

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 723

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself and Mr. JACKSON) submitted an amendment intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 724

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NO. 725 THROUGH 727

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 728

(Ordered to be printed.)

Mr. BRADLEY proposed an amendment to H.R. 3919, supra.

AMENDMENT NO. 729

(Ordered to be printed.)

Mr. ROBERT C. BYRD proposed an amendment to Amendment No. 728 proposed to H.R. 3919, supra.

AIRPORT AND AIRWAY SYSTEM DEVELOPMENT ACT OF 1979—S. 1648

AMENDMENT NO. 730

(Ordered to be printed and to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to S. 1648, a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources.

The hearing is scheduled for Monday, December 3, 1979, beginning at 2 p.m. in room 3110 of the Dirksen Senate Office Building. Testimony will be heard on the Rattlesnake Roadless Area in the State of Montana.

For further information regarding the hearing, you may wish to contact Mr. Thomas Williams at 224-7145.

Those wishing to submit a written statement for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

● Mr. SASSER. Mr. President, I announce that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs has scheduled a hearing on S. 1835, a bill to extend for 5 years the Joint Funding Simplification Act of 1974.

The purpose of the hearing is to examine the implementation of the joint funding process for grants administration authorized by statute in 1974.

The hearing will be held Monday,

January 8, 1980, beginning at 9 a.m. at the Civic Forum in Chattanooga, Tenn. For further information regarding the hearing contact Dru Smith of the subcommittee staff at 224–9519. Statements to be included in the hearing record should be mailed to Lucinda Dennis, Subcommittee on Intergovernmental Relations, 301 First Street NE., Washington, D.C. 20510.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will hold a hearing jointly with the Senate Agriculture Committee on December 7, 1979, in Little Rock, Ark. Senator BUMPERS will chair the hearing. The hearing will begin at 9:30 a.m., in the auditorium of the Arkansas Game and Fish Commission. Additional information about the hearing may be obtained by contacting the Small Business Committee offices (202) 224–5175.●

ADDITIONAL STATEMENTS

ALASKA LANDS

● Mr. EAGLETON. Mr. President, the Alaskan national lands legislation will certainly be among the most important environmental measures to come before the Senate in the 96th Congress. Alaska is a land of superlative natural beauty, as yet undisturbed by modern development. It bears none of the scars of modern technology and man. The wildlife habitants of Alaska still roam freely. It is imperative that we preserve a part of our Nation's wilderness heritage and irreplaceable natural resources.

No set of conservation proposals has ever received more careful study than the D–2 lands. With the passage of the 1971 Alaskan Native Claims Settlement Act the process started. Each year since, Congress has grappled with the frustrating process of trying to balance environmental values with our future economic, energy, and mineral resource needs.

The Senate Energy and Natural Resources Committee has spent 2 years of consideration and a record number of 60 markup sessions in drafting the detailed legislation it reported on October 30. I commend the committee and Senator STEVENS on their fine efforts to seek a balance of the issues while being as equitable as possible to the people of Alaska.

Unfortunately, I am unable to support the committee's bill as reported. In trying to accommodate the many divergent interests, the committee has fragmented the act into a patchwork of management categories. The committee bill is shortsighted, and vague in its language. It alters boundaries and subdivides key parks and refuges. It permits mining in areas that will theraten major wildlife habitats and watersheds. It would mandate timber harvest in the Tongass National Forest, which would be inconsistent with sound management principles.

The Tsongas-Roth substitute, I believe, provides a sounder approach for preserving Alaska's natural heritage. Today, I am joining my colleagues, Senators TSONGAS and ROTH in cosponsoring the substitute bill. The bill, which is similar to the House-passed measure, increases the level of protection for the Alaskan lands. In southeast Alaska, it would preserve in its entirety, the Misty Fiords (one of the finest examples of untouched fiord systems in North America), and Admiralty Island, which has one of the largest bald eagle populations in the world. The committee bill divides these wilderness areas in half, and mandates timber levels in the areas. Another example of the increased protection for the Alaskan lands is in the Gates of the Arctic. The committee bill creates unnecessary administrative problems by dividing responsibility of the land into five separate units. The Tsongas bill designates the Gates area into one wilderness park. The Tsongas approach weaves a good blend of States rights for Alaskans, wildlife protection, and national park development, while providing important access for development of the Alaskan economy.

Overall, the Tsongas substitute is a sound one. However, I do have reservations over the issue of oil exploration in the Arctic National Wildlife Range. The Tsongas bill forecloses any exploration of what could be prime oil land. While I realize that approximately 95 percent of the land is left open for exploration and leasing under the Tsongas substitute, I do not think it makes good energy sense to lock up potentially energy-rich lands without some kind of study and evidence that there is not a hidden Prudhoe Bay. The Arctic Wilderness Area may not be our best hope for easing the energy crunch. But then again it might be. After consulting geologists from all sides of the issue, I am still left with my unanswered question—What is the oil potential of the Arctic Wilderness Area? The estimates I have heard range from 750 million barrels of oil (a 38-day supply) to 3 to 10 billion barrels (larger than Prudhoe Bay). The point is that no seismic exploration has been made in this area. Literally, it is anybody's guess as to how much oil is really there.

The energy potential of Alaska is vital to our country's future. I agree with the committee's view that exploration is needed. The Jackson bill would provide for restrictive exploration in the Arctic National Wilderness with a report back to Congress. I hope that an "energy conscious" compromise can be struck between the Tsongas substitute and the Energy Committee, when this key legislation is debated on the Senate floor.

Alaska's beauty needs to be preserved for our future generations. Alaska's oil needs to be explored for our energy future.●

A NATION AFRAID

● Mr. GOLDWATER. Mr. President, the situation in Iran has treated the American people, to say the least, to a very traumatic and humiliating experience. Although among the world's most powerful nations, we find ourselves literally handcuffed by events put in motion by a terrorist government. I very much fear that the end is not in sight. I am afraid we will see further examples of a total lack of respect for the United States by two-bit nations who seem to have agreed that the American Government is impotent or unwilling to act. In this regard, the columnist George F. Will recently wrote a very incisive article which appeared in the November 11 edition of the Washington Post.

I ask that the following column, entitled "A Nation Afraid," be printed in the RECORD.

A NATION AFRAID

(By George F. Will)

It is difficult, and not at all desirable, to be coolly clinical about photographs of American citizens bound and blindfolded and spat upon by rabble, but the freezing truth is that Americans had better get used to such photographs, if they are not already. Enduring the contempt of the contemptible is just one severity that life has in store for a declining nation.

A nation that, in gestures aimed at the Middle East, sends an aircraft carrier steaming in circles in the South China Sea, and sends ostentatiously unarmed airplanes to Saudi Arabia (where many are then grounded for days because of bungled planning and support)—such a nation had better get used to enemies who think it is impotent. Well, not altogether impotent; it can unleash Ramsey Clark.

A nation that loses a war it could have won by confidently employing its conventional military assets had better get used to humiliation. A nation that has no serious response when three ambassadors are murdered (in Cyprus, Sudan and Afghanistan) had better get used to spittle on its cheeks.

A nation that, in February, orders the Marines guarding its embassy in Iran to surrender without a fight to a mob should not be surprised when, in November, another mob arrives to play with the embassy as with a toy.

A nation that uses an ally such as Taiwan as a pawn for utterly unnecessary appeasement had better get used to having fewer and fewer allies of any size, and to the worldwide conviction that it is a nation with no serious convictions. A nation that collaborates in throwing to the wolves an ally like the shah should not expect respect from the wolves.

Respect? For a nation too feckless even to confine Iran's diplomats to their Washington compound when they are collaborating with the rabble of Tehran? Respect? For a nation so inanely tolerant it does not promptly ship home to Khomeini the thousands of Iranian "students" who are here illegally, and who adore Khomeini—from a safe distance, of course—from the comfort of what Khomeini calls "Satan America"?

You know Khomeini: he's the fellow Andrew Young said might be a saint. You remember Young: he's the fellow who symbolized the Carter administration's plan to get America loved in the Third World by appeasing terrorists in Rhodesia and subverting the shah.

You remember the shah, an ally for 37 years. During the 1973 war he was the only ruler in the region who banned Soviet overflights. He urged an end to the oil embargo and rushed fuel to U.S. ships. He rushed arms to South Vietnam (you remember South Vietnam: an ally deceased) before the ban on such aid went into effect under the Paris accords. (You remember the Paris accords: they brought peace to Indochina.) The shah helped the United States in many ways, but such is our trembling fear of Khomeini, that the shah had to become a cancer patient before we would let him past the Statue of Liberty.

A nation afraid of Khomeini should not

bluster at the Soviet Union. A nation that blusters about Soviet activities in Cuba being "unacceptable," and then says, well, er, come to think about it, we just remembered that these activities are, well, for want of a better word, acceptable—and, no, don't worry, we won't reject SALT II; we were very decent, you must admit, canceling the B1 and neutron weapons, no reciprocity asked; and, oh, yes: are you quite sure 25 million metric tons of grain will be sufficient?—a nation that behaves this way had better get used to the cackle of derisive laughter.

Speaking of grain, and of photographs that take some getting used to, and of the price of losing wars, consider Cambodia. If the people who used to rant about "American genocide" are really interested (and they really aren't) they should note this: real genocide looks like what is happening in Cambodia now. The starving of millions, the obstruction of relief: this is Hanoi's work and could be stopped by Moscow. But we flood the Soviet Union with grain while the Soviet Union collaborates in keeping to a trickle the relief for the people it is helping to exterminate.

Will we make continued grain shipments to the Soviet Union contingent on Soviet cooperation about Cambodia? No.

President Carter says Cambodia is "a moral issue." Yes. But I, for one, am past trying to understand what he means by that, and past hoping he will understand that, between nations, such issues also are problems of power.●

ALLIED REACTION TO THE IRANIAN CRISIS

● Mr. BIDEN. Mr. President, as chairman of the Subcommittee on European Affairs, I have been particularly concerned, as the Iranian crisis has unfolded, to observe the reaction of our NATO Allies. In the present uncertain circumstances and given their heavy dependence on Iranian oil production, the Allies are of course deeply worried. I have therefore been gratified by their broad if somewhat belated show of support for U.S. diplomatic and economic actions taken in response to the American Embassy's seizure in Tehran. This support has been expressed through bilateral assistance from European ambassadors in Tehran, through concerted statements issued by the European Community and the Council of Europe, and through active backing for the United States in the United Nations.

The degree of Allied vulnerability to the consequences of an escalation of hostilities bears noting and certainly helps to explain the initial caution of our Allies' response. Western Europe imports almost 2.1 million barrels of oil per day from Iran—approximately 16 percent of its total oil imports. Significantly, the largest Allied economy—that of West Germany—is also the most dependent, drawing some 18 percent of its imported oil from Iran. In addition, European Community exports to Iran amount to some $7 billion annually—which roughly equals, and thereby pays for, current EC purchases of Iranian oil.

Despite this dependence on trade with Iran—a dependence far heavier than our own—the Allies' contribution has been clearly constructive. At the outset of the crisis, European ambassadors in Tehran visited the American hostages and expressed concern to Iranian authorities about the conditions under which the hostages are being held. On November 20, the nine EC foreign ministers formally condemned Iran's occupation of the U.S. Embassy and urged OPEC countries to announce that OPEC would continue to price oil in dollars. On November 22, the 21 foreign ministers sitting on the Council of Europe—which comprises all of the European democracies—labeled the Iranian action "a flagrant violation of the most fundamental rules of international law." And currently the newly elected European Parliament is acting on a motion that would formally deplore the Khomeini government's actions. While it may be said that these condemnations consist of nothing more than words, the Allies have most certainly helped to put Khomeini on notice that he risks making Iran a pariah among nations if he carries out his threat to try American diplomats as spies.●

MILITARY DECORATIONS FOR HEROIC ACTION IN WORLD WAR II

● Mr. JAVITS. Mr. President, on April 9, 1979, I introduced Senate Resolution 135 for myself and Senators MOYNIHAN, SARBANES, MATHIAS, TSONGAS, and BAYH. Our introduction of this resolution and its referral to the Senate Armed Services Committee was intended to initiate a committee inquiry into the actions of Pfc. William James Tsakanikas and the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment of the U.S. Army during the Battle of the Bulge during World War II. According to the information available in December 1944 this platoon halted the advance of an entire German battalion at a vital crossroads in the Ardennes; the platoon of 18 men is reported to have held off an elite German battalion for almost an entire day, inflicted over 500 casualties, and made it possible for the 99th Infantry Division to regroup and hold on against this last German offensive until the Allied Armies could react and win the Battle of the Bulge. This action was the subject of a cover story in Parade magazine on March 25 of this year.

As the sponsors of this resolution, we hoped to initiate an inquiry into this event to determine authoritatively the appropriateness of awarding posthumously the Congressional Medal of Honor to William James Tsakanikas, or any other deserving individual involved in this incident. It was also contemplated that some other form of decoration might be found to be most appropriate to award the clearly heroic actions that took place in the incident in question.

The Armed Services Committee in the House of Representatives has conducted hearings on legislation introduced in that body by Congressman OTTINGER concerning this matter. That committee favorably reported and the House passed H.R. 3407 to waive the time limitation on the award of "certain medals" to members of Private Tsakanikas' platoon who took part in this heroic action during the Battle of the Bulge. The bill does not rule out the award of the Congressional Medal of Honor and leaves the matter of the appropriate form of any award, and its recipients, to the President, which is the traditional U.S. practice.

H.R. 3407 was automatically referred to the Senate after its House passage and was sent on to the Senate Armed Services Committee. That notwithstanding, I and the other Senate sponsors of the original Senate Resolution 135 believed this matter merited our reintroducing the House passed legislation; this was done in S. 1950.

We support Senate passage of H.R. 3407 as the inquiry we sought has been conducted by the House Armed Services Committee and appropriate legislative action in the light of that inquiry has been taken by the House of Representatives. We hope the Senate will act similarly.

Special note must be made of the role of William James Tsakanikas in this matter. While it would be preferable for the legislation to take specific notice of his own extraordinary heroism during the Battle of the Bulge, we believe that enactment of H.R. 3407 will effect the long overdue recognition for this now deceased citizen's valor performed in his service to the Nation.

Private Tsakanikas was very severely wounded in the action in Lanzereth, Belgium. After the war, he returned to the United States, completed his college education, and went to Cornell Law School. He married and had a family in Port Chester, N.Y. There he lived what has been described as the life of a model citizen and became Rye Town Republican Committee chairman. He died in June 1977, shortly after the 36th operation he had resulting from his war injuries.

The sponsors of this legislation appreciate the quick Senate action on this bill. For 35 years the bravery demonstrated by Private Tsakanikas and the other members of his platoon have gone unrecognized, and that is long enough.●

SENATOR RIEGLE ANNOUNCES COSPONSORS TO S. 1965

● Mr. RIEGLE. Mr. President, the Senate will soon consider legislation to provide financial assistance to the Chrysler Corp. Today, I am pleased to add several of my distinguished colleagues as cosponsors of S. 1965, which I introduced at the request of the administration. Senators EAGLETON, MOYNIHAN, NELSON, MCGOVERN, and KENNEDY are being added to this legislation.●

SALUTE TO AN ENVIRONMENTALIST

● Mr. MUSKIE. Mr. President, John N. Cole, a distinguished Maine journalist and author has received the prestigious Outdoor Life Conservation Award for 1979 in recognition of his efforts on behalf of the striped bass of the Atlantic.

John's study of the striped bass brought to life our centuries-old appreciation and fascination for this remarkable species of fish. It underscored the value of the species and its special character. And it spurred others to take up the cause of the striped bass. The result was Federal legislation—signed into law by President Carter 12 days ago—mandating an emergency study of the Atlantic coast striped bass. The 3-year, $5 million plan is a recognition of the striped bass as a sport fish and a food fish. It is a recognition of the increased pressure on the species. It admits our ignorance of the magnitude of the crisis the species is experiencing. And it mandates a wide-ranging analysis and proposals for action. It is also a recognition in another sense of the work of John Cole. I offer my congratulations, and on behalf of all who believe in conservation, my thanks.

It is not only conservation of natural resources which has engaged John over the years. He has written and spoken about our political, cultural and social resources—their definition, their value and the risks they face in a technological world. He is eloquent, imaginative, and most of all, he is effective.

I think John would be disappointed if he met anyone with whom he did not disagree at least occasionally. And he would be satisfied if he did no more than challenge his readers to apply their own intellect and imagination to our problems.

Indeed, the contributions individuals can make are an important part of his view of life.

I request that the following items be printed in the Record.

History of Outdoor Life Annual Conservation Award

Outdoor Life has always recognized Americans who make outstanding and unselfish efforts to conserve our natural resources. In the 1930's, two distinguished conservationists, Aldo Leopold and J. N. (Ding) Darling, were given special awards.

It was at the end of World War II, when the outdoor magazines were full of stories about a wildlife "crisis," that the magazine pulled out all the stops in "a concerted effort to save and restore the prized outdoor resources."

The editors decided to sponsor a contest. First prize was $3,000, and altogether the pot was $5,000. "Write a 30-word Conservation Pledge which Americans may recite like the Pledge of Allegiance to the Flag—a solemn promise to safeguard our national resources," the ads said. Thousands responded. The winner was L. L. Foreman of Santa Fe, New Mexico, whose words still appear in every issue of Outdoor Life. (the word "air" was added in 1970). Second-place winner was Rachel Carson, who would later write the conservation classic "Silent Spring."

The pledge was read before the House of Representatives and accepted for the people of the United States by Secretary of the Interior J. A. Krug. February 5, 1947, was Conservation Pledge Day, with radio programs, speeches, and thousands of recitations of the pledge itself. In 1950, President Harry S. Truman was presented with a hand-carved plaque of the pledge.

Today's Outdoor Life Conservation Award started with that pledge. It is presented every year to an individual who has fought and sacrificed to defend our natural resources, but it's also important for the attention it draws to conservation issues. The editors of Outdoor Life recognized that when they instituted the award in 1951. "Surveys showed that many more people were reading our hunting and fishing and adventure yarns than our conservation stories," said the magazine's September 1951 editorial. "Might we not scratch a head or two and come up with an idea for getting more people to read conservation stories voluntarily—and enjoy them?"

What the editors came up with was the award, presented that month to a Florida eradication firm that cleared Lake Talquin of water hyacinth. The award was presented monthly until 1956, then reinstituted on an annual basis in 1968. Some of the winners who preceded John N. Cole, who is the 1979 recipient for his efforts on behalf of the striped bass of the Atlantic, were Ed Breathitt, who as governor of Kentucky fought to control the ravages of strip mining in his state and elsewhere; Gerald D. Schuder, who led a Virginia citizens' drive for regulation of river channelization; Dr. Rex Hancock, who fought to save the Cache River; Dr. Bruce Cowgill, who initiated the "Acres for Wildlife" program; George T. Dagby of the Georgia Game and Fish Commission, who fought to save the Alcovy River; Ralph A. McMullen, who as Michigan DNR director campaigned against the use of hard pesticides that threatened Lake Michigan; George Palmiter, whose innovative ideas cleared Ohio rivers of logjams without damaging channels, and Robert Boyle, the first journalist to make Americans aware of the perils of PCBs in fish.

[From the New York Times, July 16, 1978]

Catfish Hunter, a Candidate for the People

(By John N. Cole)

Brunswick, Maine.—I've been voting ever since I was discharged from the Army Air Corps in 1945. As a survivor of 35 combat missions, I concluded the numbing experience might acquire some significance if I participated in the process I had risked so much to help protect.

Since I moved to the small community in Maine where I have lived for the past 20 years, I have voted in every town, primary and general election. The people here make it easy. There are no long lines, no bureaucrats checking computerized voting lists. Here, I have an identity; a visit to the polls is a pleasant, folksy experience.

But I did not vote in the primary elections this past June, and I've been thinking about the reasons ever since. My conscience has been nudged by frequent newspaper and magazine columns about the disturbing decline in the number of voters in each succeeding election of the past decade. If the trend continues—and it is accelerating—the nation's elections will be decided by a relative handful of the more than 100 million eligible voters.

As a lifetime believer in participatory democracy, I am well aware of the dangers of the current trend. Yet, after 30 years of voting, I consciously became part of the danger. Why?

Part of the answer came to me when I realized the significance of a change in my reading habits. During the war in Vietnam, which I actively opposed, I was often dismayed when the public seemed unimpressed by news items I considered revealing and significant. "That's the trouble with this country," I would say. "Most of the people read the sports pages and the supermarket ads. They don't pay attention to the important news."

These days I am reading the sports pages with much more interest than I read the news from Washington. Mario Andretti, Catfish Hunter, Billy Martin, and Niki Lauda are engaged in far more interesting efforts—I have decided—than Jimmy Carter, Ed Koch, Hugh Carey, and Perry Duryea.

The nation's political process and its politicians have been dehumanized. There is no romance, no adventure, no humanity, no drama and no grace left in politics. As far as elections go, Hemingway has indeed been buried. Over the past decade or more, a combination of ad agency campaigns, professional pollsters, computerized strategies, intricate ethical and financial codes, television, and the cynicism bred by Watergate and its fallout has produced the dehumanized candidate.

The ready reason given for not voting by most of the nonvoters interviewed is: "There's no difference between the candidates. They're all the same. . . . They're all crooks." The popular logic argues that voters will return to the polls when they have a "choice." I question that logic. There are choices offered now. They are relatively indiscernible, however, because they are propounded by candidates of such controlled balances, of such premixed neutrality, that they excite and interest no one except the professional party members.

We (myself and the 15 million voters who have stopped voting during the past 10 years) cannot relate to manufactured candidates and computerized issues. If we are to return to the polls, humanity must be restored to the electoral process. We need to see palpable vitality, heroism, failure, clumsiness—humanity in all its diversity.

Consider George Scott's comments about Catfish Hunter, which the Times reported on July 3: "That man (Catfish) don't have nothing to be ashamed of, no matter how he goes out. He went out and challenged peoples. He went out and beat peoples. He battle your tail. The man coulda alibied lots of times, 'cause he was pitching hurt, but I never heard him alibi once, 'cause he ain't that type. I'd give him the ball in a big game before I'd give it to anyone. He pitched his 300 innings and won his 20 games for years. He's a Hall of Famer, Jack!"

George Scott of the Red Sox and Catfish Hunter of the Yankees are eminently human beings; their humanity is vital and apparent. As candidates, that humanity would be stripped from them as it has been from nearly every candidate in recent years.

I'll vote again when it is required, and I'll bet I'll be joined by most of the 15 million who stopped voting before I did.

(Note: John N. Cole is contributing editor of Maine Times.)

Striped Bass: For Countless Fishermen From the Chesapeake to the St. John, the Striper Is the Cadillac of Sport Fish

(By John N. Cole)

In the striper's beginning, there was the glacier. It came, a ponderous ice plain, one hundred thousand years ago. Moving south from what is now Labrador, the pale sheet slid as slowly as the centuries. Like a hatch cover closing, it obliterated lakes, rivers, forests, and all the earth as far south as the mouth of the Hudson River. In the tumult of its melting and recession fifteen thousand years ago, the glacier gouged new seas, cut new waterways, mixed the brine of the Atlantic with the pure fresh waters of inland lakes and rivers. From this massive crumbling of natural barriers, the striped bass evolved: a fresh-water creature who found a new environment in the salt sea the glaciers had tumbled toward it.

That heritage has shaped the striper's behavior since its violent genesis; the creature has never abandoned its affinity for the purity of its beginnings. Stripers are seldom, if ever, seen more than three miles off the coast; they swim up rivers with the ease of their distant forebears; they choose the fresh waters of their ancient ancestors for their most critical rite—reproduction and the preservation of the species.

It was this compulsion that first brought fish and man together. Before Christ was born, East Coast Indian tribes could find the striper pursuing its preservation in shallow rivers flowing by spring campgrounds. There are records in shell heaps and other archeological artifacts that indicate the waterway tribes knew of the creature. And early in the seventeenth century, with the coming of the European explorers to the New World's Atlantic Coast, the striper's prolific presence is duly recorded by the captains, historians, and journal keepers who took detailed notes on whatever novel species were discovered, particularly if they appeared to be of value.

The fish is a sort of white salmon, which is of very good flavor and quite as large; it has white scales; the heads are so full of fat that in some there are two or three spoonfuls, so that there is good eating for one who is fond of picking heads. It seems the fish makes the Indians lascivious, for it is often observed that those who have caught any when they have gone fishing have given them, on their return, to their women, who look for them anxiously. (Isaak De Rasieres, a Dutch commercial agent on the Hudson River 1623).

The Basse is an excellent Fish, both fresh & salte, one hundred wherof salted (at market) have yielded five pounds (sterling). They are so large, the head of one will give a good eater a dinner, & for daintinesse of diet they excell the Marybones of Beefe. There are such multitudes that I have seene stopped in the river close adjoining to my house with a sands at one tyde so many as will loade a ship of 100 tonnes. I myselfe at the turning of the tyde have seene such multitudes passe out of a pounde that it seemed to me that one mighte go over their backs drishod. (*Captain John Smith, off the New England coast, 1614.*)

The basse is one of the best fishes in the Country, and though men are soon wearied with other fish, yet are they never with basse. It is a delicate, fine, fat fast fish . . . sweet and good, pleasant to the pallat and wholesome to the stomach . . . When they use to tide in and out of the rivers and creeks the English at the top of high water do crosse the creek with long seanes or bass nets which stop the fish; and the water ebbing from them, they are left on dry ground, sometimes two or three thousand at set, which are salted up against winter, or distributed to such as have present occasion either to spend them in their homes or use them for their grounds (*William Wood*, New England Prospect, *1634*)

The maize growers and squash planters of seventeenth century New England had just five years after 1634 to continue using striped bass as fertilizer for "their grounds." Recognizing the commercial and food value of the fish, the general court of the Massachusetts Bay Colony issued an order in 1639 that prohibited that practice.

Thirty years later, the patriarchs of Plymouth Colony decreed that funds from the sale of striped bass would be used to construct this nation's first public schools. Thus, more than a century before the American Colonies declared their independence and the new nation was born, the presence of the striped bass had become a bright and significant thread in the American tapestry. So admired was the creature from the very earliest days that in 1879 a sprightly and ingenious public servant named Harry W. Mason spent ten days in June on the Navesink River in New Jersey trying to collect a significant number of striped bass fry for his boss, the Honorable Livingston Stone, the U.S. Commissioner of Fish and Fisheries.

It was Commissioner Stone's purpose to respond to a plea from his counterpart in California, S. R. Throckmorton, chairman of that state's Fish Commission. Throckmorton had discovered the striper on a trip east; he urged Stone to try to transplant some to the West Coast, and Stone dispatched Mason to the Navesink.

"On reaching Red Bank," writes Mason in a subsequent report to his chief, "I found none of the arrangements which we had directed to be made had been attended to; the two men—I cannot say fishermen—had but a faint notion of what was wanted, and had provided themselves with an eel seine wholly insufficient for my use."

Overcoming these nineteenth-century bureaucratic barriers with a dogged zeal. Mason got his two men to haul a bass seine every high tide around the clock (midnight included) for a week. He and his unwilling crew went to the upper reaches of the river and ". . . also spent Saturday morning exploring the mysteries of mud and water in every ditch and brook that empties into or communicates with the Navesink River above Red Bank.

"The hauling was continued Wednesday but as I had sixty small bass, 3½ to 4½ inches long, and thirty medium-sized bass, 6 to 8 inches long. I thought best to be sure of keeping some of them alive, at least, and so stand myself with the fish on the shore for the first time, the men going out alone with an empty tank and a thermometer. As might have been expected, they made a large haul of 139, mostly small, and lost all but twelve before getting back to the wharf. This rather disheartened them, but after considerable argument they were persuaded to try again Thursday, and very fortunately in the first haul we took seventy-five small bass and six large, and succeeded in bringing every one safe to the tank. The tanks were thoroughly washed and filled with water, half from the river, high tide, and half from a spring with sea salt added.

"Thursday noon took the train from Red Bank, the tanks being expressed to Grand Central depot, charge, $15 . . . at five o'clock the tanks arrived at Grand Central, and on examination only one dead bass was found.

"Finding the baggage car was run through Chicago without change I made arrangements to have the tanks in that car, discharged the boy I had brought from Red Bank to help, and congratulated myself that I had one hundred and thirty-three small bass and thirty-four medium-sized bass alive and in good condition. The trip to Albany was uneventful, and with the delivery of the fish [there] I gladly relieved myself of the responsibility that had weighed rather too heavily for comfort upon me during the ten days of my service.

"The difficulty in obtaining the bass, requiring the services of from four to eight men day and night for a week made the expense of my experiments more than it would have been under more favorable circumstances (as a week later in time), but I did not dare relinquish in the least particular lest I should lose all the fish I had, and leaving the account to speak for its own necessity I respectfully submit this report of my ten days at Red Bank (signed) Harry W. Mason."

Mason may have worried about the reception given to his expense account, but he shouldn't have. In terms of public monies invested, his ten days at Red Bank and the care he bestowed on his small charges surely ranks as one of the most rewarding projects the U.S. Government ever executed. Of the original Mason group, 107 stripers survived the transcontinental rail journey and were released in the Carquines Straits near San Francisco. Twenty years later, the West Coast commercial catch of the progeny of Mason's travelers topped one million pounds a year. Today, after passage of West Coast laws that prohibit netting, the bass ranges from San Diego County in southern California to Oregon and the Columbia River and Vancouver to the north.

The creature that originally came surging through the tumult of the glacier's wake, adapting to the East Coast salt sea from the St. John to Florida, had successfully survived the manmade tumult of a 3,000-mile train trip and adapted to Pacific waters as well. This is, evidently, a creature committed to survival.

And well equipped for it too. The striper is strong, muscular, hardy, and—in a marvelous evolutionary metamorphosis—better able than any other fish to cope with the thumping chaos of breaking surf. Hardheaded, its gill plates covered with bony protection (plus a set of cutting gills as well), and blessed with a tail that can be extended laterally to become almost as broad as the broadest part of its body, the striper sports at the foaming fringes of the sea as a mountain goat leaps from peak to peak, or a gibbon swings from branch to branch high above a jungle floor.

Whenever the southeast wind has cleared the south-facing Atlantic beaches of the Northeast, especially those in Massachusetts and on Long Island, bass can be seen in the very curve of a cresting wave. Driving smaller bait fish into the white water where the minnows become confused and unable to maintain equilibrium in the tumult, the striper feeds easily in the scattering panic, maneuvering gracefully in water so shallow that the fishes' bronze shoulders gleam above the pale foam. The striper never loses its composure in its high-risk environment. Often, when a wave's backwash leaves it all but high and dry, the fish will lie calmly on its side in the slight depression between two sand ridges, waiting in the two inches of sea water for the next incoming wave to bring it enough watery space to swim in.

The sight of a four-foot fish weighing close to fifty pounds lying on its side in the shallow wash of the Atlantic startles and amazes most observers. What few are likely to realize is the depth of the creature's experience. Bass that size are at least twenty years old, more likely twenty-five. The fish live relatively long lives, even when that longevity is measured on a human scale. Stripers weighing more than one hundred pounds—and catch records over the years are dotted with such giants—are between forty and fifty years old.

On both East and West Coasts, the great striper populations spend much of their lives on migratory journeys, when vast numbers of the fish follow coastal geography in and out of estuaries, up and down rivers and streams, through natural and manmade tidal channels and canals, around the rims of bays and harbors, and, with conquering vitality, through the swells, rip tides, undertows, foaming breakers, and surging seas of that most violent place where ocean and land come together.

That meeting line, if every convolution of its granite and sand could be straightened, would cover tens of thousands of miles. The striper is a presence along every one of them, from the St. John River in easternmost Maine to Florida's bather-burdened Atlantic beaches. The striper concentrations, however—the teeming schools that had Captain John Smith believing he could walk dryshod on their backs—range from Chesapeake Bay's southern gateway at Cape Charles to the northernmost harbors of Massachusetts at Plum Island and Newburyport. It is between these points that the primary migration moves each spring and fall; the bulk of it originates in the broad and richly rivered Chesapeake each April when the bass move north to return again in December for a somnolent winter in the bay's deeper reaches.

It is a journey that moves them past the great industrial sprawls of the most heavily populated, the richest, the most developed and electrified such coastal corridor anywhere on the globe. Past Norfolk, Richmond, Washington, Baltimore, Wilmington, Philadelphia, Trenton, Newark, New York City, Bridgeport, New Haven, Providence, Boston, and Lynn they go—past more than fifty million humans working in more than ten thousand factories, living in more than twenty-five million housing units each concentrated within ten miles of waters the bass can reach from the sea, each persuaded the American Dream is woven from threads of mass production, mass consumption, and mass waste, each persuaded the pursuit of happiness demands a compulsive dedication to weekend recreation, and millions believing there are good reasons why fishing is the nation's number one leisure-time activity, with each of these spending a work week in factory, store, and office, restaurant, supermarket and carwash so they can acquire the wherewithal to purchase the rods and reels and lines and boats and boots that will enable them to better catch the striped bass—a creature embattled by the very lunge to industrialism that makes leisure possible for the legions of blue-collar and white-collar and mink-collar humans who have made the striped their favorite fish because it dependably stays within reach, keeps to a seasonal schedule, and possesses such a driving life force that it has been caught in city sewers by Manhattan fishermen, who lower lines through manhole gratings knowing before they do that they will never be able to retrieve the fish they hook from the fouled, piped waters that run where brooks once ran when stripers swam past the tents of the Algonquin Indians.

No one is certain of the complete explanation for the annual journey north from the Chesapeake and back. While the striper population of the Hudson River also migrates, most fisheries biologists and observers of the river, like Robert H. Boyle, put the proportion at somewhere between 10 and 20 per cent, and those do not travel with the great sweep of their Chesapeake brethren, moving only from the river mouth to either Long Island Sound or Montauk Point via the ocean route. If the wintering stripers in the Chesapeake were sealed in that bay by nets at Cape Charles and across the Chesapeake and Delaware Canal, the megaloptian millions would be denied their favorite.

Is it the tides of the creature's evolution that pull it on its voyage? Surely, in addition to its search for food, those currents of past eons must be part of the reason. Like travelers from another country searching for their birthplace in a distant nation, the stripers could be trying to retrace that first journey that began with the glacier's elemental convulsions. The erratic history of the creature's scientific nomenclature is evidence that some ichthyologists share this thesis. Originally christened *Roccus lineatus*, Latin doggerel, for the coastal rocks the fish prefers and for the lines, or stripes, that mark it, the bass had its name changed in the 1930s to *Roccus saxatilis* (a redundancy that means rocks found among the rocks) when it was learned that *Roccus lineatus* was a name previously bestowed on a Mediterranean fish that was no relation. Then, in 1967, after what has been labeled "considerable research," the striper became *Morone saxatilis* in the wake of pronouncements by the British Museum that the genius *Morone* more accurately indicates the striper's ties to the freshwater perch, which is the evolutionary progenitor who, with the help of the Ice Age, was probably the genetic parent of the fish that now swims the Atlantic coast twice a year in its search for a homeland that lies buried beneath megatons of glacial till, or under lakes the striper would have to cross mountains to reach.

The price in its numbers of the adult striper has paid for its migratory compulsion is a price beyond counting. Who can guess how many thousands of stripers were trapped and speared by hunters of the Atlantic Indian tribes, eager to ease the winter's yearning for fresh meat with the flesh of this large creature that finned slowly through salt marsh channels, or rolled in the shallows of narrow rivers, intent only on its spawning rituals.

Who can measure the numbers that were taken by the English, the Dutch, the Spanish, and the Italian fleets that made landfall in the New World only to find those harbors writhing with the silversided splashing of stripers chasing herring or shrimp? And will there ever be any counting of the stripers stop netted in tidal coves, their gleaming carcasses soiled on the mud flats of their final thrashing after the ebb had left them by the thousands for colonial farmers to hoist to hand barrows for the trip to the corn fields and their burial there?

And, as the nation grew, who ever tallied the bass taken by a growing commercial fishing effort that utilized hand lines, trot lines, line trawls, gill nets, stake nets, drift nets, runaround nets, seine nets, fyke nets, pound nets, trawl nets, scoop nets, trammel nets, and bag nets specially made to be slid under a river's winter ice to trap the bass as it crowded in giant schools near the bottom where the specific salinity and the water temperature were just one degree above the survival limits and a cold that would crystalize the creature's blood?

And who has ever conceived of a system that would tabulate two centuries of recreational, sport, and meat fishing by individuals using hand lines fashioned from packing string or silk, rods from hickory branches or Calcutta cane, fishing from 50-foot motor cruisers or wading in the surf, casting Atom plugs, bucktails, tin squid, cedar jigs, plastic worms, Mooseluk wobblers, or trolling umbrella rigs, Japanese feathers and Rebel minnows, or drifting live eels, menhaden, mackerel, or a soft-shelled crab tied to the hook with elastic thread?

No, there is no way the fare charged the striper for its annual trips can ever be computed. Every fish taken becomes a river of fish, then a cataract of billions, cascading over the centuries in a torrent of silver shapes that roars its testimony to nature's marine abundance.

In their annual verification of that abundance, mature stripers still leave the rivers around the Chesapeake every spring after they have spawned. Thinned and weakened by the vigor and intensity of their spawning, the fish ease down the rivers, borne as much by the current as by the listless movement of their tails. After the April nights when the rivers gleam with the fecundity of these fish, the stripers depart the Nanticoke, the Choptank, the Wicomico, the Chester, the Pocomoke, the Wye, the Corsica, the Sassafras, and fourteen more Chesapeake rivers that are still striper nurseries. On their way, the spent fish are taken by the river's drift netters, but once by those and in the open bay, they are relatively free of harassment by fishermen.

Starved during their spawning, the fish feed as they travel, gathering numbers as they move, segregating into schools according to size and age, establishing the behavior patterns that will set the schools on a compass course—first south to the bay gateway at Cape Charles, then north along the barrier beaches of Maryland, past the oil refineries and chemical plants of Delaware and New Jersey, then across Sandy Hook and the Hudson delta in the shadow of the Statue of Liberty, and then past Brooklyn, Coney Island, Fire Island and on along the edge of the open Atlantic to the beaches of eastern Long Island and the oceanic migratory crossroads at Montauk Point where the Atlantic meets Long Island Sound and Block Island Sound and where twenty or more species of food fish and game fish gather during the year on their way to and from the goals of their different migrations. Of these comings and goings, none is more certain, more regular than the arrival of the striped bass in May.

There is movement through Long Island's temperate spring on land and in the air as well as under the sea. Furred, hibernating creatures of the woods emerge from their dens; geese, warblers, wildfowl, shorebirds, and the red-winged blackbird flock to the marshes and thickets of this sandy, scrub-oak plain—this low spur of narrow land that juts seaward, pointing east with its two forked fingers toward an escape from the citified millions that crowd at its western end. This wind-scoured island has somehow withstood enough of the pressures of those millions still to provide east end ponds where Canada geese can rest on the flight from Carolina to Labrador, or where golden plover can swing down for a safe pause on their three-thousand-mile transnational trip from South America.

Yet each year there is a bit less of eastern Long Island marsh; each year one more pond has been drained. Only the Atlantic survives and holds its territory essentially inviolate, and even that is invaded by behemoth barges carrying the rotten offal of the city so it can be dumped in the ocean's depths. But if Long Island's fish of May are deterred by that dumping, it is a sea change not yet understood or acknowledged by humankind. There are still too many fish for that.

They come in great spring floods, undersea rivers that overflow their banks. First the herring, the alewives, bluebacks, and bunkers, the dense fluttering pods of their millions darkening the waters like oval clouds of blue dye, their nervous, fragile tails stippling the sea's surface like a squally breeze, the sound of their placid progress hissing gently like the wake of a sailing ship.

And after the herring brethren come the dogfish, toothless cousin to the shark—summer dog and spiny dog, gray replicas of shark shapes, but in such numbers that if ever they should sprout the teeth and meanness of a shark there would be no other fish in the sea. They glide by Long Island's eastern beaches in May, the bellies of the female stretched with their cargoes of pups, the infant dogfish born complete, dropped swimming by the dozen from their mother's womb with a day's supply of food suspended in the volk at their umbilical—a day, that's all, to learn to hunt, catch, and eat.

Under the dogs move skates and rays, flying over the sea bottom on the undulating wings that give such grace to these creatures of whipping tails and ugly, grimacing features set in the pale alabaster of their unseen undersides. And with the rays and skates, nuzzling the same sea floor, are the sea robins, sand crabs, lady crabs, blueclaw crabs, spider crabs, angler fish, scup, sea bass, tautog, ling, sturgeon, and star fish—all of these and more setting the sea in motion with the sustained movements of their May migration.

The inshore Atlantic, the half mile of breaking, rolling sea between the outer sandbar fashioned by the largest swells and the inner, barrier beach where the sea ends and the lands begin, here in this single ribbon of brine, the scale of life becomes overwhelming in the Long Island spring. From the quiet windless dawns to the evenings ruffled by the afternoon's southwest winds, the corridor teems. Small bait fish—the silversided spearing and the sardine-sized herring—flash like a silver rain blown from under the sea. Terrified by the approach of an infant dogfish, panicked by a scup's rush, the dense schools of these finger-length mites take to the air as if they could find safety where they cannot breathe.

There is a sound like the tearing of a cotton sheet when the bait schools shatter the surface and spray upwards in the sun. If the feeding fish below them are persistent, terns and gulls gather screaming in the sky. Then, as the hapless minnows leap from the yawning mouths below, they jump into the scissoring beaks above. But it takes a feeding frenzy to alert entire flocks of birds. More often, the silver showers of bait break here, there, the length of the beach in occasional and random patterns, little noted by either bird or human, yet overall a daily and nightly part of the spring sea's particular pattern.

It is only when the stripers and the other school fish move that the birds are likely to gather. First come the small bass, then the middle-weights, and, finally, the ponderous patriarchs and matriarchs, the thirty-, forty-, fifty-, and sixty-pound fish who wait until May is almost gone before they slide past Shinnecock and the Hamptons. With them come the weakfish, bluefish, and some of the larger sharks—makos, threshers, and hammerheads.

There is an order to the procession. Places are made for all, even the dense and apparently aimless schools of blowfish, packing stupidly just behind the surf even though the conformation of their stubby frames and inadequate tails makes it difficult for them to survive the inshore surging. Somehow they do survive, even though breaking swells are often darkened by the hundreds of the small creatures tossed in disarray by their own misjudgments.

The bass make no such errors; nor do the blues and weakfish—the primary schooling, toothed, muscular feeders of the inshore territory. These are the mass killers of the silverside, the mullet, the herring, the shrimp, the tinker mackerel, the blueback, and the bunker. When a school of three or four hundred stripers receives its simultaneous feeding message from impulses not yet fully deciphered by humankind, the creatures detonate a group frenzy that shatters the water's surface with the violence of an erupting undersea geyser.

Everywhere the bait fish fly, as if some soundless, invisible tornado were sucking them up from beneath the sea. The bass broad tails smash the surface in white welts of foam; the turnings of the feeding fish start scores of swirling whirlpools, each a mark of the consummate energy a fish needs to reverse its course and swerve, open-mouthed through the very center of the massed panic the bait fish school has become. Shredded bits of demolished bunker, spearing, or blueback drift to a surface made slick with the released oils of the tiny, dismembered fish. Seabirds scream of the carnage; their coarse signals carry for miles, attracting hundreds, sometimes thousands of their kin. Then the air above becomes part of the tumultuous mass—a sky filled with stripped feathers, the hysterical cry of anxious terms, the hoarser calls of the herring and black-back gulls, all diving, wheeling, hovering and heedless of any approach as they swallow the hapless bait fish whole whenever the prey is driven live from the sea, or pick with their bills at the flesh fragments that rise in the wake of the stripers' feeding rush.

The gluttony ends with the same unity it began with. Another coded message stills the sated school, the birds become silent, scatter; just a few stay, sitting on the surface, drifting markers on a patch of sea, mobile memorials to the oceanic moment when ten thousand tiny herring were consumed.

The striper school moves on, traveling east to Montauk, guided by the sound of the rolling surf, compelled to continue by voices calling across the Ice Age with urgings that have transcended every fear of net, spear, hook, and trap since the bass first embarked on its journey, before the Indian, before the colonists, before Harry Mason, and before Manhattan's millions.

[Condensed from National Wildlife]

A Christmas Garland—Taking the Tree

(By John N. Cole)

It is four days before Christmas and I have come to these woods of pine, spruce and balsam fir to take the tree. For me it is an annual rite that reaches across four decades to my boyhood. Then it was city streets I roamed, late Christmas Eve when tree sellers, hunched by their trash-can fires, pulled their overcoats closer and hoped for a straggler to buy the last of the firs that leaned incongrously against stone skyscrapers. Racing through solemn streets, I would find the best of the trees and trot home.

The boy within me has survived the decades; he is here every Christmas, surging for the annual adventure that taking the tree has become. Yet on this lowering afternoon with its soft cascade of wet snow, I wonder if the boy and the man haven't overreached their grasp. In this December dusk, will I be able to discern the detail that the boy in me—and my pride—demand? Just over the ridge, at the sea's edge, a houseful of critics waits to comment on conformation, taper, fullness of boughs and purity of the topmost spire, poised for its crowning with the glass star that has shone down on two-score country Christmas dawns.

These Maine woods are easily walked. They are fourth- and fifth-generation trees, sprouting in scattered patches—spindly replicas of giants that once marched across the land. Those massive virgin trees gave this place its earliest purpose; felled, then towed to the water, they were fashioned into great ships. When the Yankee fleet had taken sailors to every sea, the great forests were gone—a river-bed of stumps the only memorial to the trees' sacrifice. Soon the stumps too were gone, pulled or burned by farmers determined to create fields where forest had been, barns where birches had soared. For another century, the farms prospered; then, like the wooden ships, they shrank, rotted and disappeared.

Wild creatures returned as the pasture pine took over and the last of the cordwood cutters stripped a third-generation woodlot, leaving slash and brush piles to shelter the cottontail and snowshoe, new growth to feed the porcupine, enough thickets and bogs to hide the deer and moose.

I am just one of the centuries' tenants on this land, living lightly on it for a while and coming once a year for the taking of the tree. As I walk, I can see settlers, shipbuilders and generations of saltwater farmers with me in these wavering trees, walking, axes in hand, looking for their trees, as they must have in their Decembers. But I must hesitate no longer, or surely it will be night and I will walk, treeless, along the snowy road that leads home.

Here—this thick-framed balsam, vigorous and full in comparison to its neighbors. This is the tree. Kneeling, the bucksaw held in front of me, I begin. The lowest boughs tremble a bit with each bite of the steel; the fragrance of fir mixes with the seasoft wind, and the perfume of the resins grows with each labored stroke. The tree eases over but does not fall. Its branches are too thick, too close to the earth. They cushion the falling so the tree reclines with dignity, a monarch going gracefully to its rest even though its trunk is severed.

I rise, fit the saw over my shoulder and grip the base of the tree's lowest bough. I find it difficult to see the trail, so swiftly has afternoon become night. This is, I realize, the shortest day of the year, the day of the winter solstice. Indeed, it is nearing the very hour when the sun will touch the lowest point of its lowest arc in these heavens, will pause there, shuddering with the immensity of its celestial change, and then begin the ascendancy to its zenith in June.

What I am witnessing here in these woods, and what millions of others share in this Northern Hemisphere at Christmas week, is something more than the start of winter. It is the beginning of an annual solar journey that speaks to us of renewal, of the restoration of light, of earlier dawns, longer twilights and more brilliant days, until spring blossoms and summer blooms. There is a gift in this natural event as inspiring as any Christmas ritual. Knowing that the solstice is proceeding even as I labor down the home road, I am filled with joy at the task the boy in me has done this December day.

I see the porch lights. I am up the steps, the door is open, and I surge into the room with the tree behind me. Its branches compress as it comes through the door, then spring back, flinging snow, ice and crystal droplets around the warm room. The tree is alike, like a colt. It shakes, trembles, fills this Christmas house with the vitality of its wildness. Until another December, the rite is done.●

FINANCIAL AID FOR CHRYSLER?

● **Mr. McGOVERN.** Mr. President, shortly after I signed on as a cosponsor of the Chrysler Emergency Loan Guarantee Act (S. 1937), I received a call from a South Dakota businessman whose small family-owned enterprise had just filed for bankruptcy. His question to me—which I think is central to the debate on Chrysyer assistance legislation—was simply—"How can you justify bailing out a big company with Federal money when you let me go bankrupt?"

His point is well taken. Last year, for example, more than 6,000 U.S. businesses of every size and variety went bankrupt. In some cases, the failures were caused by the incompetence of the management, or by the vigor and good luck of the competitors and, in some instances, the public just stopped buying the company's product or utilizing the company's services.

But in almost every case, an infusion of capital—a loan guarantee or a favorable loan—would have staved off bankruptcy. A lot of jobs could have been saved if the Federal Government had stepped in. To those businesses and their employees—their own company bankruptcy was just as serious, just as important, and as financially debilitating to them as the present financial problems of Chrysler Corp. are to their management, employees, and stockholders.

I do not believe that it is the policy of the Congress or the administration to say to the American people, "If you are a big company we will help you, but if you are a small company, we will not." Yet, that is the interpretation that many will place on actions by the Congress to assist Chrysler, absent any other explanation.

In the free-enterprise system, which is the foundation of our economy, the right to succeed carries with it the parallel possibility of the threat of failure. If we take the edge off the competitive spirit of the American system by establishing a Federal assistance program that prevents failure, we end up destroying the basic principle on which our economic system is based.

Universal Federal assistance in these kinds of circumstances would cause efficient firms to suffer unfairly because their inefficient competitors were, in effect, being subsidized by the Government.

Even in this climate of assistance for larger companies, it is an interesting paradox that many of the voices now crying for Federal assistance for Chrysler Corp. were strangely silent when similar problems beset a number of railroads in this country, including the Milwaukee Railroad which provides service through my State of South Dakota. It was only with the greatest of effort that we were able to secure any kind of relief for the Milwaukee—and even that is generally conceded to be temporary with the threat of service abandonments seemingly weeks or months away.

It is ironic that during a time of energy shortage that there should be firm administration support for Federal subsidies to an automobile company—and only lukewarm help for the more fuel-efficient, cost-effective railroads.

In the case of Chrysler, we seem to be confronted with an "either/or situation." If the Federal Government does not help, then we are told that the company will go bankrupt. We are reminded almost daily that Chrysler is the 10th largest industrial corporation in the United States. Its 1978 revenues were $13.6 billion, generated almost entirely from the sale of 1.2 million cars and 490,000 trucks. Its employment at the beginning of this year was 131,000, and is about 113,000 today. About 250,000 other jobs are dependent on Chrysler's continued operation through employment provided by the company's principal suppliers and dealer network.

What we are not told, however, is the details of what would actually happen if Chrysler is allowed to go under. What portion of the company could be restructured and reorganized under the bankruptcy laws, so that operations could continue? What portion of the company might be purchased by other automobile companies or those in the private sector who might find it profitable to take on some of the existing Chrysler-product line?

Subsequent to the introduction of S. 1937, the administration has come to the Senate Committee on Banking, Housing and Urban Affairs with its proposal for financial assistance to the Chrysler Corp. It seeks authority to provide up to $1.5 billion in Federal loan guarantees for the benefit of Chrysler on the condition that the company raise, on its own, $1.5 billion of new cash or savings from parties on an unguaranteed basis.

It is the administration's view that it will take about $3 billion to finance the Company through 1983. After that time, it is hoped that Chrysler will emerge as a commercially viable, self-financing enterprise.

However, the slow car sales during October and November call into question whether the amount of assistance from both the public and private sector would be sufficient to meet Chrysler's needs.

Instead of the 10.2 percent market share that Chrysler had forecast in its bid for Government loan guarantees, the more recent figures indicate that its market share has slipped to 8 percent. With some analysts now predicting 1980 sales of 9.3 million units industrywide, the $2.1 billion cash-flow shortfall that Chrysler predicts in 1982 may exceed even the safety cushion built into the Carter administration's proposed $3 billion aid plan, which includes $1.5 billion in federally backed loans.

What may be called for, if the Congress intends to provide assistance to Chrysler, is a protracted Government commitment to keep the car company afloat. At present levels of projected aid, a case can be made that the loan guarantees may merely stave off the inevitable collapse of the company until after the elections next year.

It is no secret, either, that Chrysler's bankers are somewhat edgy about the long-term ability of Chrysler to repay its present and projected loans in the face of what is perceived as a worsening market situation.

The other members of the so-called big three domestic auto companies, General Motors and Ford, are feeling serious financial pressures on their own, but they appear to have the broad financial strength to be able to handle the transition to smaller automobiles without Federal assistance of the kind Chrysler is now requesting.

As a result of the changing buying habits of the American motoring public brought on in large part because of the energy crisis—and due, in some measure at least, to Government regulations dealing with clean air and fuel efficiency standards—U.S. auto companies are being forced to make substantive changes in their product offerings.

As this transition proceeds it provides, unfortunately, a marketing opportunity for foreign-car manufacturers who had earlier embarked on production of small, fuel efficient automobiles in response to their own domestic requirements. In this context, it is important to note that motor vehicles, next to the importation of petroleum, constituted the major contribution in the negative U.S. balance of payments. Our deficit in the motor vehicle account in 1978 was $7 billion, and it may go higher this year as U.S. vehicle manufacturers continue their change-over to smaller automobiles.

A case can be made on the mistaken production judgment of Chrysler's management in the past, but it is now less than a year away from being able to produce new cars of the four-cylinder, front-wheel drive type, with high fuel efficiency that have demonstrated substantive public acceptance in American automotive showrooms.

There is, of course, ample general precedent for Federal assistance, although perhaps not quite of this magnitude. In fiscal year 1978, Congress provided funding and authorization for the Economic Development Administration to give up to $550 million in loan guarantees for steel companies. The Federal Government has extended financial assistance to thousands of private borrowers for a multitude of purposes.

Over $7 billion in loan guarantees is currently outstanding for international security and development assistance. The Agriculture Department now has $54 billion in loan guarantees to help finance investment in farms, rural housing, and rural electric facilities. The Commerce Department has over $7 billion in outstanding guarantees to finance shipbuilding and numerous other American industries. The Small Business Administration has guarantees out of over $11 billion. All in all, the Federal Government now has a total of about $240 billion in outstanding loan guarantees.

In the auto industry itself, the Federal Government has helped out American Motors with a wide variety of measures, including tax breaks, Government purchase of AMC vehicles, and some relaxation and extension from mandated standards.

Acknowledging my own philosophical concerns over any proposal that involves the Federal Government in financing assistance to private corporations I, nonetheless, feel that in this instance such assistance should be given serious consideration.

The fact remains that a Chrysler bankruptcy could cost the Federal Government more than the $1.5 billion, presently envisioned for loan guarantees, in 1980 and 1981 alone. Administration estimates indicate that the Federal cost for those years could total upwards of $2.75 billion, an amount that includes loss of revenues, unemployment claims, welfare costs—with additional sums lost to State and local governments by erosion of their tax base. Also, this does not take into account any cost to the Pension Benefit Guarantee Corporation on Chrysler's unfunded liabilities of about $1.1 billion—which might ultimately have to be borne by other pension fund sponsors.

To the extent that it is possible to do so, the administration's legislative proposal appears to be drafed in such a way to insure private participation in the overall assistance program for Chrysler. Presumably, private investors will not provide additional financing to the company, which is required before the Federal-loan guarantee commitment becomes operative, unless they are convinced that Chrysler can repay the new amounts borrowed.

These blends of public guarantees and private financing—together with some assurances that those who have the most to gain or lose in retaining the existing Chrysler corporate structure will be directly involved in the solution—woud seem, to me, to be the appropriate way to respond to the problem.

The final result of the Lockheed loan guarantee program resulted in the Federal Government actually making a profit from its investment and permitted Lockheed to, again, become a viable business enterprise. We can only hope that Chrysler will, if this loan guarantee plan is ultimately approved, enjoy similar success.●

WHO SPEAKS FOR THE PRESIDENT: JUSTICE OR STATE DEPARTMENT?

● Mr. GOLDWATER. Mr. President, I rise to protest the high-handed and irregular tactics of lawyers for the President in the suit I have brought to uphold the Senate's rights in treaty termination.

Having sat in the courtroom during the

presentation of arguments by both sides on November 13, I was amazed at the argument presented by the lawyer for the Justice Department, whose major theory was that the President had derecognized Taiwan and we cannot have a military treaty with a nation we do not recognize. He claimed that the treaty became inoperative on January 1, 1979.

Now it struck me that the lawyer was putting words in President Carter's mouth. The President never has said the defense treaty was inoperative. In fact, he has indicated exactly the opposite because he promised the American people that he did not capitulate to Communist China's demand that the treaty be abrogated immediately on last January 1.

Also, I have personal knowledge the treaty and its related agreements are not inoperative because there are United States military aircraft sitting on the ground in Taiwan right now undergoing maintenance work. I also know the United States has in effect and operation right now an agreement allowing our military aircraft emergency landing rights in Taiwan. I believe the people of Taiwan continue to receive military training in the United States that is implicit in the delivery of defensive equipment that is still being sold to the Taiwanese under existing contracts.

The existence of these ongoing military activities proves that it is possible and feasible for the United States to maintain a military agreement with a nation we do not recognize.

Beyond these ongoing agreements I will quote from a front-page story on February 11 of this year in the Washington Post, which carries the three-column headline:

> Carter Says U.S. Could Go to War To Help Taiwan.

The article reports that President Carter informed a news conference with editors that nothing in the derecognition of Taiwan prevents the United States, "if we feel that Taiwan is unnecessarily endangered, from interposing the American Pacific Fleet between the island and the mainland."

The President continued:

> And there is certainly nothing to prevent a future President or Congress from even going to war, if they choose, to protect the people of Taiwan . . .

Now, if the President himself says that nothing prevents the United States from going to war for Taiwan, why in the world can we not maintain a military alliance with her?

Of course, the answer is that we can have military contacts with Taiwan or any other country we do not recognize so long as we remain on friendly terms with the authorities who govern that country.

But the thing that points the strongest to the improper tactics by the trial lawyers for President Carter is that they are contradicted by the President's own representatives before Congress. Earlier this year two high-level State Department representatives gave complete assurance to Congress that the United States can and will implement and carry out its obligations under the treaty in all of 1979, even though we have an unofficial relationship with Taiwan.

On February 8, 1979, Roger Sullivan, Deputy Assistant Secretary of State for East Asian and Pacific Affairs, was directly asked by Senator MUSKIE, How could we "implement" a defense treaty with a nation we do not recognize? Mr. Sullivan replied:

> If there were any threat to the security of Taiwan we could consult with the authorities on Taiwan. We would find a way to consult.

When he was asked to answer the same question, Herbert Hansell, legal adviser to the State Department, said "we would find the means to do it, unofficial or otherwise, to perform our obligations under the treaty."

The legal adviser added:

> The fact of the matter is we would find the mechanism to do whatever had to be done regardless of whether it was official or unofficial channels.

When pressed by Senator BIDEN as to how we can have a treaty "with a non-nation," the legal adviser answered:

> The simple answer to that is that it is possible to have treaties and agreements with entities that are not recognized as states or nations. We have others, obviously none as significant as this, but there is nothing in international law that requires that an agreement or treaty deal only with a nation or a state.

Mr. President, the testimony of the highest lawyer in the State Department stands in direct conflict with the arguments presented to the Court of Appeals by the lawyer for the Justice Department. I suggest the two Government departments get their act together, because as the record now exists they are in disagreement with each other.

Even if I were not involved in the case, I would want the American public to know of the contradiction between what the Justice Department has argued on behalf of President Carter and everything that he and his representatives have told the people up to now.

I do not think the court has been properly informed by the President's lawyers as to his true position, and I hope that the President himself will take steps to correct the matter, whatever the outcome of the case.●

SPECIAL TREATMENT FOR MEXICAN IMMIGRANTS

● Mr. **HUDDLESTON**. Mr. President, S. 1763, which is now pending before the Senate Judiciary Committee, would substantially increase the quota for Mexican immigrants. While the country is being deluged with illegal aliens, most of whom come across the Mexican border, the committee is concentrating on providing special favorable treatment for one nationality. Zero Population Growth, Inc. correctly points out that this is the type of "piecemeal change" which is not needed.

Phyllis Eisen, immigration program director of ZPG, stated in her testimony on S. 1763 that:

> Limits on immigration, whether for one country or all, constitute the heart of immigration policy. There is no more fundamental issue than this, affecting the political, economic, and social objectives of the law. ZPG opposes action by this Congress to change the uniform 20,000 limit in isolation of other, unresolved immigration policy issues.

I ask that the full text of Ms. Eisen's thoughtful statement be printed in the RECORD.

The statement follows:

S. 1763, THE IMMIGRATION AND NATIONALITY EFFICIENCY ACT OF 1979

I am Phyllis Eisen, Immigration Program Director for Zero Population Growth, Inc. On behalf of ZPG, I would like to thank the Committee for its invitation to state our views on S. 1763.

ZPG is a private, non-profit organization. It is supported by citizens around the country who believe the United States would benefit from a planned, voluntary end to its continued population growth.[1] At present and in the decades ahead, our country will experience major changes in its population—not only continued growth but also new shifts in the distribution of the population and an increasingly larger proportion of older people.

According to the House Select Committee on Population last year, these changes both influence and are influenced by federal programs to the detriment of public well-being. Yet, the federal government has neither a policy nor the capacity to plan ahead for those changes.[2]

In the stresses we place on our natural resources, whether energy, water, or land, we already are experiencing the strains caused by continued population growth and overconsumption. In the school shortages of the 1950's as well as the job and housing shortages today, we are paying for the consequences of the changes in our population which we continue to ignore.

ZPG believes the federal government should commit itself to planning for population changes as it shapes public policy. And, at the same time, it should encourage those changes which will lead to a voluntary stabilization of the nation's population.[3]

Because immigration significantly influences the growth, the distribution, and the age structure of the U.S. population,[4] ZPG believes it must be addressed in public planning for ongoing changes and long-term population goals. Immigration, both legal and illegal, represents a complex human phenomenon affected by demographic as well as social, economic, and political factors in the United States and around the world. For that reason, in previous testimony to this and other Congressional committees,[5] ZPG has advocated a comprehensive reform of immigration law which would speak to long-term population goals for the country in addition to other important concerns.

It is our commitment to comprehensive policy reform which compels us to comment on S. 1763. This legislation proposes two kinds of changes in our immigration law. First, it sets forth several procedural changes intended to improve the efficiency and effectiveness of the Immigration and Naturalization Service's implementation of the objectives of existing immigration policy.[6] ZPG supports these changes.

Second, in Sections 3 and 4, S. 1763 raises a major policy issue, which Congress spoke to and acted on in 1976: Should countries of the Western Hemisphere be permitted to send a larger number of immigrants to the United States than Eastern Hemisphere nations? In the "Immigration and Nationality Act Amendments of 1976," Congress established a uniform 20,000 limit for every nation.

Limits on immigration, whether for one country or all, constitute the heart of immigration policy. There is no more fundamental issue than this, affecting the political, economic, and social objectives of the law. ZPG

Footnotes at end of article.

opposes action by this Congress to change the uniform 20,000 limit in isolation of other, unresolved immigration policy issues.

The intent of Sections 3 and 4 is to reduce the pressures for the immigration of Mexicans illegally into the United States, the most serious problem challenging our immigration policies today. However, the lesson of repeated amendments of the law and examinations of the problem of illegal immigration has been that only a comprehensive reform of the law and complementary public policies will effectively reduce illegal immigration. That is especially true for the United States, Mexico, and Canada, whose demographic, economic, and political destinies are so intertwined. While addressing a serious problem, Sections 3 and 4 represent the kind of piecemeal change in policy which ZPG opposes.

In addition, action by this Congress on this provision of S. 1763 would come at a time that, despite strong concerns and good intentions, would detract from the political credibility of the work of the Select Commission on Immigration and Refugee Policy, the first through re-examination of the goals and instruments of immigration policy to which Congress has committed itself.

Last year, ZPG lobbied for the creation of this commission.[7] We were aware of the problems inherent in any commission effort but convinced that it represents the only opportunity for the kind of comprehensive policy review—undertaken jointly by representatives of the Congress, the Administration, and the public—that is needed so much. The Select Commission owes much to the Senate Judiciary Committee and its chairman for its existence today.

It is the fate of too many commissions for their work to be ignored before it has been completed and for their recommendations to be avoided after they have been published. The political visibility and credibility of the Select Commission already have been tested by the long delays in the appointment of its members, the recent change in its leadership just as its work has finally gotten underway, and the tremendous complexity and sensitivity of the issues with which it must deal.

In the face of such tests, it is the continued commitment of the Congress—the final arbiter of immigration policy—which determines the Commission's political support and influence. For this Congress to move ahead to rewrite policy so central to the Commission's work will surely weaken the respect and the confidence which public officials and concerned private citizens invest in it.

Since the Commission's establishment, ZPG has worked continually to promote widespread awareness of the Commission and support for its work. We believe the Judiciary Committee has demonstrated this support, too. We believe that it and other committees, through action on the practical problems that impede the implementation of current policy and the exploration of major policy issues, can complement the Commission's work and further public interest in it. But, we believe that action now on Sections 3 and 4 of S. 1763 will do neither.

Thank you again for the opportunity to express our concerns.

FOOTNOTES

[1] In 1978, according to the U.S. Census Bureau, the U.S. population grew by 1.7 million people, resulting from 3.3 million births, 1.9 million deaths, and net immigration, as estimated by the Bureau, of about 347,000. (The Census Bureau does not include estimates of illegal immigration in its net immigration estimate.) The attached "U.S. Population Fact Sheet" illustrates in greater detail the changes in the nation's population growth as well as distribution and age structure. U.S. News & World Report, in its October 15, 1979, issue, reported that during the next decade, "Growth in the number of Americans will speed up. Population will expand by about 21 million in the coming decade, or 3 million more than in the 1970's. By 1990, the country will have . . . 242 million . . .

[2] In its report, "Domestic Consequences of United States Population Change," the House Select Committee on Population stated:

"The Federal Government has no capacity to plan systematically for population change; yet changes in the size, age composition, and geographical distribution of the population can, and often do, have profound effects on Federal policies, and Federal policies and programs often influence the direction of population change unintentionally.

"The United States has no explicit policy outlining goals relating to the overall size, growth, and distribution of the population; and the benefits and disadvantages of those policies and programs that do affect the U.S. population are not assessed in terms of their impact on population."

[3] In August, Representative Richard Ottinger introduced H.R. 5062, which would declare a federal policy of planning for population change and eventual stabilization as well as create a White House Office of Population Policy which would oversee the policy's implementation. The bill, which now has 16 cosponsors, is pending before the Subcommittee on Legislation and National Security of the Committee on Government Operations.

[4] In its March 1979 staff report, the Interagency Task Force on Immigration Policy stated:

"The primary significance of immigration may be its contribution to population growth. Even if the rate of legal immigration were to remain at its present level, its proportionate share of population growth would remain significant if the annual natural increase of the American population remains small."

[5] ZPG has testified on imigration policy to the Senate Judiciary Committee on March 31, 1976, May 4, 1978, and August 14, 1978. We also have presented testimony to the House Judiciary Committee on March 12, 1975, October 1, 1975, and April 22, 1977. In addition, we have testified on immigration policy to the House Select Committee on April 5, 1978, and on numerous occasions to the House and Senate Appropriations Committees.

[6] The last major revision of immigration policy occurred with enactment of the 1965 Immigration and Nationality Act Amendments. In 1976, Congress passed amendments which imposed a uniform 20,000 limit on Western Hemisphere countries as already existed for Eastern Hemisphere nations, and in 1978, Congress replaced the separate Hemispheric ceilings with a single, global annual ceiling of 290,000.

[7] In our testimony of May 4, 1978, ZPG stated its support for a Congressionally established Select Commission in place of an inter-agency task force, arguing that, "Historically, Congress has been the shaper of immigration policy. We believe it should be involved directly and from the start of any serious rethinking of policy today."

WOONSOCKET'S "AUTUMNFEST"

● Mr. PELL. Mr. President, the people of the city of Woonsocket, R.I., this fall joined in a remarkable and impressive demonstration of civic pride and enthusiasm. The occasion was Woonsocket's "Autumnfest," a 3-day celebration of life in and around this Rhode Island city.

The event was a new one for the city, but Autumnfest was so successful and so immensely enjoyed by the hundreds of thousands who attended and participated that it is certain to be repeated in the coming years.

Autumnfest '79, sponsored by local civic organizations, was heartwarming evidence of a vitality and a joyful spirit that exists in American community life. It included athletic and sports competitions, arts and handcrafts exhibits, music and dancing, and a wide variety of food and refreshments.

It was a festival of people displaying pride in their heritage, their community, and in their artistic works and talents. At Autumnfest people were celebrating life in their city of Woonsocket and, in a larger sense, life in the United States.

Mr. President, I congratulate the organizers of Autumnfest and all who participated in it, and I ask that an article from the Woonsocket Call describing the festival be printed in the RECORD.

The article follows:

[From the Woonsocket (R.I.) Call, Oct. 9, 1979]

FESTIVE SPIRIT IN CITY OVERCAME WIND, RAIN

It was bigger than they expected, this 3-day celebration of Woonsocket called Autumnfest.

And the spirit of togetherness prevailed through sunshine, torrents of rain and a wintry, windy day.

The Autumnfest Committee expected about 100,000 persons, but according to Lawrence Very, a committee member in charge of the entertainment portion, the crowds exceeded that number, although he couldn't put a figure on the hordes of people who flowed in and out of World War II Veterans Memorial State Park over the 3-day period.

From the opening ceremonies on Saturday to the last glass of wine sold at the Woonsocket Lions Club booth during the sunset hours of Monday, it was clear that Autumnfest is destined to become an annual event.

According to police estimates, more than 100,000 persons strolled through the park during the three days, and as many as 75,000 watched the 10-division parade.

This was the event that has been planned for one year as a way to bring back to Woonsocket the spirit the city had during the 1950s when its Mardi Gras festivals drew thousands of celebrants. And, by all accounts, Autumnfest was a success.

"There's no doubt there'll be an Autumnfest 1980," said Dave Russell, publicity and promotion chairman for the event. "Judging from the comments of people, we'd be lynched if we didn't have one."

In fact, said Russell, planning for next year's version may begin as soon as this week.

The weather was as unpredictable as New Englanders have come to expect: warm and sunny Saturday, rainy and cool Sunday and cool and sunny but windy yesterday. But the crowds remained strong each day.

And not only strong in number but in good spirit, too. "The one thing that's newsworthy," said Everett R. Bishop, desk sergeant at the Woonsocket police station last night, "was the lack of incidents. There were three minor arrests in three days and a larceny complaint."

From the onset of Autumnfest at 10 a.m. Saturday with thundering cannons, incessant drumming, wailing sirens and chiming bells to its ending with the breakdown of tents and booths and tables last night at 6 at the World War II Memorial Park, nearly everyone who was asked had something positive to say about the celebration.

There were Pauline and Lorraine Beauregard of 23 Rutland St., who were present all three days in all kinds of weather: "We are here because we believe in Woonsocket."

Then there was Georges "Frenchy" Ansay of St. Barnaby Street, who with his friend Eugene Phillips of Fairmont Street made a final toast with wine to Autumnfest:

"They should make this one week-long Autumnfest.

"This is the greatest thing the city has ever had," said Georges "Frenchy" Ansay of St. Barnaby Street.

Frenchy, an RSVP Band stalwart, bellied up to the wine and cheese bar for a final toast to Autumnfest with his friend Eugene Phillips of Fairmont Street during the last hours of the fair.

"They should make this one week long. Autumnfest brought back the brotherhood of people There was a fraternity of all people here. In fact, they should hold this four times a year, one for each season."

Autumnfest began more than a year ago. It was sparked by the desire of Rep. Roger N. Begin, D-Dist. 65, to emulate a successful festival he and his wife had attended elsewhere and from a desire to rekindle the spirit that was prevalent in the Mardi Gras celebrations of two decades ago. And it was given life by the confidence of many Woonsocket residents to demonstrate to all that Woonsocket not only exists but enjoys a spirited existence.

Estimates of more than 30,000 persons jammed the park on Saturday. They came to hear the music provided by the Woonsocket High School Band, the RSVP Band, RSVP Chorale, Applejack—a country band from Putney, Vt., Twilight and the Veritones.

Parents and children flocked to the Circus Wagon Theatre, which according to Begin, general chairman of Autumnfest, was one of the most popular events of the three-day celebration.

Weaving in and out of the park like a variegated ribbon were dozens of arts and crafts booths displaying everything from painted rock people to artists creating on-the-spot pastel-chalk drawings of volunteer models.

From early morning to early afternoon, the Superstar team competitors hopped through rubber tires, valuted over hurdles, slipped into the drink during canoe races until the final two teams competed in a tug-of-war which resulted in The Cellars team besting the efforts of 20 other teams.

Then there was the food. The mouthwatering aroma of fried dough, clamcakes and chowder, pizza, stuffed cabbage, fried squid, spinach pies and countless other samples of ethnic foods assailed the nostrils, and like a magnet the food smells drew the people to the food pavilion which was a swirling mass of people from beginning to the end of Autumnfest.

As the sun set, the music grew louder and the block party scheduled for 6:30 p.m. went into full swing with music provided by the Applejack group.

A Kiwanis-sponsored champagne breakfast began Sunday's celebration and according to Begin, more than 1,000 people attended.

Meanwhile the music and dancing groups resumed their entertainment on the bandstand. There was continuous entertainment from a variety of local and out-of-town groups during the three-day period. The RSVP Band held up the fort for the seniors and for those who enjoy big-band-era music. The Woonsocket High Band opened the festivities. The Bobby Shannon group rocked and socked it to all during yesterday's brisk wind. There were so many others, including the Blue Grass Boys and Joe Val, the Bavarian Band. There were singing groups, too, the Veritones, the Bandura Male Chorus, the Union St. Jean Chorale and the St. Louis Chorale, and there were square and other kind of dancers.

On Sunday, the mood changed for a time, from revelry to disaster. The sky clouded over and the rains came.

Begin leaned back against the red leather upholstered seat in the information mobile unit. He peered out of the rain-spattered window and watched the people streaming out of the park: "They'll come back as soon as it stops raining."

He was right.

According to Very, the park overflowed with people that night. They came to witness the fireworks and to take part in the evening stroll through the park.

A parade opened Autumnfest's final day. It was one of the best attended in many years.

By all accounts, Autumnfest was everything it was planned to be. It was a celebration of spirit. It was a party that Woonsocket had waited for ever since the days of the Mardi Gras and it was a coming together of people from different ethnic backgrounds, sharing their foods, their cultures and their pride in this city.

From Begin: "From the first day we were a success. We have set the foundation for this year and for the coming years of Autumnfest. The spirit is here. There is pride here and good feelings about the city. This is a celebration."

From Marguerite DiChristoforo of North Smithfield, who sold handcrafts at one of the many arts and crafts booths: "This is a great thing for Woonsocket. Everybody was happy. I'm happy to be a part of this. Woonsocket needed Autumnfest to gather the community together in this happy atmosphere."

And from Pauline and Lorraine Beauregard of 23 Rutland St., who stayed for Autumnfest through sun, wind and rain: "We are here because we believe in Woonsocket."

WHO HAS THE GREATEST NEED FOR FUEL ASSISTANCE?

● Mr. MUSKIE. Mr. President, the debate over the proper level of fuel assistance for low-income families across the country was an arduous one. It is safe to say almost no Senator is completely satisfied with the program we have fashioned. Regional difference in climate, income levels, and local energy made conflict unavoidable and will color our discussions about Federal energy policy for the foreseeable future.

In the case of low-income fuel assistance, there are other questions which the Federal Legislature has not been able to—and probably cannot—answer.

Chief among them is this one: Will the assistance the Federal Treasury can afford to provide go to the people most in need? That question occupied the Maine Legislature at a recent special session. What emerged was a standby plan to go into effect if the Federal Government did not act.

What also emerged was a fundamental difference of opinion about where the need for fuel assistance is greatest.

Mary Adams of Garland, Maine, offered one answer in an eloquent analysis of how our energy ills have affected the poorest of her neighbors in Maine. Ms. Adams' conclusions may surprise some of my colleagues. I remain convinced that a compassionate Federal response is proper and absolutely necessary. I am also convinced that the key to making a fuel assistance program work lies in making certain the program is administered not just correctly, but also wisely.

To share Ms. Adams' column with my colleagues, I ask that it be printed in the RECORD.

The article follows:

THE OVERTAXED MIDDLE CLASS AND THE SPECIAL SESSION

(By Mary Adams)

Ma Bell's latest advertising message to the American public is "Reach out, reach out and touch someone." This is a phrase which the Maine Legislature ought to heed when it deals in special session with underwriting fuel allowances for the poor and deciding which level of government should administer the program.

The first thing the Legislature should define is, who is poor? In my opinion, the "poor" is fast becoming the middle class, a besieged group which is finding itself in the bewildering situation of being forced to "save" everybody but itself.

I took a day recently to go visiting friends around town choosing people who I knew would be considered "poor" by every bureaucratic standard.

In my town, typical of rural Maine, we have a high percentage of people who don't have a lot of cash income, but who, thanks to 100 percent valuation of property, sit on inherited land which presumes wealth. It's the resulting high property taxes which give them the most trouble, a trouble which has been created in part by legislatures similar to our current one who presumed to know what's best for people.

After visiting half a dozen households, I realized that the wise "poor" have already seen what's ahead and made appropriate arrangements.

For example, one couple on a high hill bought and installed two windmills three years ago for a combined cost of around $1,000. The energy is stored in their abandoned chicken house in some old telephone batteries.

The initial investment has already paid off and the retired school janitor who did this installation of his inhouse electrical plant told me, nodding toward the windmills, "'They don't owe me nothin'." (Multiply your monthly electric bill times 36 months and you'll see what he means.)

None of the people I talked with are asking for this special session. I also realized that they are better off in many ways than those who are going to have to finance whatever aid the Legislature decides to earmark for fuel aid.

There were common threads in the fabric of their lives; some receive aid for dependent children, one receives two pensions because he is retarded, some receive social security. In fact, all but one are in receipt of some form of monthly income.

By good use of their land, they have cellars full of canned goods and freezers packed from summer gardening, with enough room set aside for the deer which is essential to many of their diets.

Because of their income levels they receive free medical and hospital care, free school breakfasts and lunch for their school-age children, free dental work, free eye glasses, free food stamps and free insulation.

They burn wood, not fossil fuel (and have done so for a long, long time) and the wood is donated or bartered. (In that range of $500 to $3500 annual income, like the elite of Boston used to say about their hats, "We don't buy our wood, we have our wood.")

Unlike the middle class, they don't "charge" anything (a third of them don't even have telephones) because they have no illusion about being able to pay later: They couldn't.

If former Federal Reserve Board chairman William McChesney Martin is correct in his prediction that the U.S. is due for a depression in three to five years (Wall Street Journal, Sept. 17), the people I visited will never notice the difference.

Yet their quality of life is good. Without romanticizing too much, I found that the best of natural Maine talents blossoms in these practical people. Without venturing too far afield, I would even say that we should learn from them how to look after ourselves and to "make do." They battened down their hatches long ago and know how to live well on little cash.

The idea of "neighboring" in towns like ours is strong because one reason for the good quality of life that many enjoy is that they help one another and enjoy a closeness known only to those who share a mutual dependence.

In our community, my husband and other men have an annual ritual of getting wood for a widow. She has no electricity, no running water, no telephone, but she lives in a style of graceful frugality and pride which has been a guiding light to us all.

If I could address the Legislature face to face, I would ask them: "Aren't you sitting in special session primarily because you are now feeling the pinch and are allowing yourselves to transfer your anxiety to the poor?"

What I found in my personal survey is that fuel prices went beyond the purses of the poor years ago; it's the middle class which is now having trouble with high fuel bills, on top of loss of buying power caused by inflation and taxes.

I hope the Legislature refuses to get carried away with a giveaway program that will further crush the middle income group which will have to pay for whatever is done and which, in many ways, is not as well off as the people it is supporting.

Whatever the Legislature appropriates for this program, it should be administered at the local level. Town officers know generally who's needy and who isn't. General Assistance run by the towns is the place to funnel money if it's appropriated so that there won't be a raid on the treasury. In fact, our town can probably take care of any fuel aid within the $1,700 for welfare raised at town meeting.

If the Governor and Legislature would add up the dollar value of services given the poor and then consider that inflation is draining the middle income group and business in this state to the breaking point, they would find that the special session should deal with capping government spending instead of extending it.

The group that is paying for the transfer payments to others has to pay its own way. No cut-rate mortgage loans or subsidized housing for them, no free meals or free rides. The middle class (often with both husband and wife working) pays its own medical insurance and health care services, gets little or no help in educating its young beyond high school, pays its own food bills, insulates its homes without aid, buys its own eye glasses and pays for its own dental care.

This group gets no help with property tax relief and will continue to pay (even after this session) its own fuel bills, completely support its children (including paying for school breakfasts and lunches) and watch with dismay when a stupid Legislature decides next spring (that's what I predict) that it needs to increase taxes to pay for what it does this fall because of declining general revenues. Or it may decide to raise the corporate income tax, because it's politically easier, in spite of the fact that rising energy costs and the beckoning of the South give them every reason to court business rather than beat it to death. Unless they want everyone to work for CETA.

Just as most legislators were out of touch in the case of the state property tax repeal, they are out of touch now. The needy can be provided for within existing funds and mechanisms with no need for a special session to spend more money.

The overburdened and desperate taxpayers of this state should reach out and get a hold of their legislators before Oct. 4 or they'll get nailed again.

The legislators are going to spend more tax dollars. Are we going to let them get away with it?

(NOTE.—Mary Adams, a Garland housewife, was the leader of a grassroots movement that successfully overturned Maine's uniform property tax in 1977.) ●

ORDER FOR RECESS UNTIL 11:30 A.M. ON MONDAY, DECEMBER 3, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Mr. DECONCINI be recognized for not to exceed 15 minutes, Mr. STEVENS be recognized for not to exceed 15 minutes, and I be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this means that after the orders for the recognition of Senators on Monday, the Senate will resume consideration of the unfinished business, the windfall profit tax bill. The pending question at that time will be on the adoption of the Robert C. Byrd, and others amendment to the amendment by Mr. BRADLEY to the House bill. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday, after the two leaders have been recognized under the standing order, Mr. MUSKIE be recognized for not to exceed 15 minutes, that I be recognized for not to exceed 15 minutes, and that Mr. CRANSTON be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I expect rollcall votes daily throughout next week. The possibility of a Saturday session next week, I would think, would be better than 50–50.

We have only 3 weeks after this week until the Christmas week, and we have a long way to go yet on the excess profits tax bill.

So I hope Senators will adjust their schedules accordingly, keeping in mind that for the first 6 months of this year, we were in session on only two Fridays. Therefore, if it becomes necessary for a Saturday session, I hope Senators will temper their anger with mercy in regard to the majority leader and remember that there were those days when we were in session 4 days a week and less, for the first 6 months of this year.

Of course, I received no complaints at that time. I was sort of a great guy around here. So I hope Senators will keep that in mind, and I know they will be merciful as well as just.

There may be a Saturday session next week, and there may be one the following week. We have a good bit of work to be done on this bill. I think progress is being made. Discussions are going forward on the excess profits tax bill; and as long as people are talking, they are not fighting, and I have some hope that all will turn out well.

RECESS UNTIL 11:30 A.M. MONDAY, DECEMBER 3, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 11:30 a.m. on Monday next.

The motion was agreed to; and at 5:07 p.m., the Senate recessed until Monday, December 3, 1979, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 30, 1979:

DEPARTMENT OF JUSTICE

Sanford M. Litvack, of New York, to be an Assistant Attorney General, vice John H. Shenefield, resigning.

THE JUDICIARY

Richard Alan Enslen, of Michigan, to be U.S. district judge for the western district of Michigan, vice Noel P. Fox, retired.

Diana E. Murphy, of Minnesota, to be U.S. district judge for the district of Minnesota, vice a new position created by Public Law 95–486, approved October 20, 1978.

Robert G. Renner, of Minnesota, to be U.S. district judge for the district of Minnesota, vice a new position created by Public Law 95–486, approved October 20, 1978.

Gilberto Gierbolini-Ortiz, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico, vice a new position created by Public Law 95–486, approved October 20, 1978.

William Matthew Kidd, of West Virginia, to be U.S. district judge for the southern district of West Virginia, vice a new position created by Public Law 95–486, approved October 20, 1978.

CIVIL AERONAUTICS BOARD

Marvin S. Cohen, of Arizona, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1985 (reappointment).

THE JUDICIARY

Stephen R. Reinhardt, of California, to be U.S. circuit judge for the ninth circuit vice a new position created by Public Law 95–486 approved October 20, 1978.

IN THE ARMY

The following-named cadets, graduating class of 1979, U.S. Military Academy, for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 3284 and 4353:

Grant, Michael W., 408-06-1135.
Hill, Curtis B., 457-21-8848.
Sobers, Arthur A., 086-48-1870.
Traylor, Jimmie L., 275-56-2978.
Williams, Thomas W., 266-25-5784.

U.S. INTERNATIONAL TRADE COMMISSION

Robert E. Baldwin, of Wisconsin, to be a Member of the U.S. International Trade Commission for the remainder of the term expiring June 16, 1981, vice Italo H. Ablondi, resigned.

CONFIRMATION

Executive nomination confirmed by the Senate November 20, 1979:

DEPARTMENT OF EDUCATION

Shirley Mount Hufstedler, of California, to be Secretary of Education.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

WITHDRAWAL

Executive nomination withdrawn from the Senate November 30, 1979:

U.S. INTERNATIONAL TRADE COMMISSION

Robert E. Baldwin, of Wisconsin, to be a Member of the U.S. International Trade Commission for the remainder of the term expiring June 16, 1980, vice Italo H. Ablondi, resigned, which was sent to the Senate on November 28, 1979.

SENATE—*Monday, December 3, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

From the rising of the Sun unto the going down of the same the Lord's name is to be praised. The Lord is high above all nations, and His glory above the heavens.—Psalms 113: 3, 4.

Let us pray.

Righteous God, Ruler of men and nations, who has brought us through the perils of the past to this time of testing in the present, grant to our leaders a sacred stewardship in the use of force, employing neither too little or too much or the wrong kind for the achievement of justice. Keep us firm and strong but free from hate and hardness. Be with the representatives of this Government wherever and however they serve throughout the world. Grant to the captives grace and strength, and to those who must risk themselves grant courage and sustaining grace. Guide by Thy higher wisdom all who serve in the Government that neither dangerous duties nor hard decisions may separate us from Thy love and from living as loyal disciples of Him who has brought life and freedom and redemption. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 3, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE NEED FOR UNFLAGGING RESOLUTION AT THIS TIME

Mr. ROBERT C. BYRD. Mr. President, the unified support for the U.S. position that has been evident this weekend in the United Nations Security Council debates concerning the outrage against the American Embassy and staff in Tehran is encouraging and heartening. Fortunately for the future of the international diplomatic process, most civilized nations realize the threat posed to world order and security by the actions of the Khomeini regime in violating diplomatic laws, principles, and protocols that were honored even in time of war. In the Security Council, representatives of one nation after another, including the Soviet Union and the People's Republic of China, have added their voices to the cry that the American hostages should be released immediately and unconditionally.

As welcome as this unified support is, the unity of spirit among the citizens of the United States is even more significant, and no one in any country, should fail to recognize that the people of our country have probably not been so united in their determination, revulsion, and indignation by any international assault and insult since the attack on Pearl Harbor in 1941.

Oftentimes, authoritarian governments, unversed in the workings of a complex democratic republic, mistake the currents of debate in the United States for signs of essential weakness or a lack of national solidarity. Such governments, groups, or individuals who so misinterpret the normal functioning of the democratic process in the United States should be under no illusions whatsoever and should be on notice that the people of the United States view the attacks on our Embassies, and especially our Embassy in Tehran where American hostages are being held, as an attack on the American people and an attack on our entire country, and they should be on notice that the current stance of our Government under the leadership of the President of the United States in relation to the despicable developments in Tehran mirrors the will of the American people, the will of all the people of this country; and that where the safety, well-being, sanctity, and immediate release of the American hostages in Tehran are concerned, the American people are of one immovable, unshakable resolve, and the voice of the President of the United States is the voice of all Americans, of both major political parties.

Mr. President, I commend the American people for the patriotic spirit that they have demonstrated during this national ordeal and for the extraordinary restraint, patience, maturity, and comprehension that they have generally evinced in the face of the extraordinary provocations to which we have been subjected. I urge that all our citizens continue in this spirit, and that we not waver of vacillate in our purpose until the Americans in captivity in Tehran are released and safely returned to their families and friends in the United States. The singleness of mind of 220 million Americans at this point and at this moment is one of the most powerful weapons of suasion and influence that we can exert on events in Iran, and with that singleness of mind and singleness of purpose we can best demonstrate that such aberrations as those we have witnessed against our diplomats are beyond

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● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

the tolerance of civilized governments in any age, now or at any time in the future.

(Mr. BRADLEY assumed the chair.)

SECURITY MEASURES IN THE SENATE

Mr. ROBERT C. BYRD. Mr. President, action will be taken in the next several weeks to enhance security in the Senate Chamber and in the Senate office buildings. These measures should be viewed as progress toward fully implementing a program which was designed more than 2 years ago to provide maximum protection for Senators, staff, the visiting public, and for the Capitol buildings. The original plan was designed to phase in the use of additional security personnel and metal detection devices. Due to the unfortunate incident which recently occurred in Senator KENNEDY's office, the phasing in of these measures has been accelerated.

I am aware of the implication of installing extensive security measures. I realize that Senators, staff, and the public may be inconvenienced by having to face routine clearance procedures upon entering office buildings. However, I am sure we all realize that these steps have been taken to insure the protection of everyone, not only Senators, not only staff, but the American public as well as it visits these buildings, and I am sure that everyone will cooperate.

I am also sensitive to the impact and impression that increased security procedures and personnel will have on the visiting public. Except for a brief period in 1972 after another security incident, the American public historically has had extensive access to the Capitol and congressional offices, an opportunity unheard of in many capitols throughout the world. Every Member of this body, as well as our colleagues in the House, has encouraged and welcomed visitors, not only from the State each Senator represents, each Member of the House represents, but from around the world. This practice has allowed American citizens, young and old, to get a bird's-eye view of their representatives and their Government at work. It has also seved as a statement to the international community of America's commitment to openness in Government. Public access to the day-to-day workings of the legislative branch is more than a symbol of democracy, it is an operational component of it.

Presently, there are no plans to limit access to the general public. However, it disturbs me that we will have to inconvenience the public and our own staffs in any way, and, perhaps, ourselves, by installing the extensive security precautions. Unfortunately, there are a few individuals in this world, relatively speaking, who wish to do harm to Members of this body or to the buildings that make up the Capitol Hill complex of the Senate and congressional offices. I feel it is out of necessity for the protection of the people who work in these buildings, the people who visit these buildings from our States, and the protection of the buildings themselves that the Senate take these security precautions.

The Senate is fortunate to have a professional and competent police force that will be responsible for fully implementing all security measures. These measures have had proven success in detecting dangerous devices brought into Senate facilities and into the Capitol Building in the past. It is hoped that they will continue to serve as deterrents to potential threats in the future. I trust that with everyone's cooperation and understanding, the Senate security force will be successful in maintaining the safety of all of us.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the acting minority leader is recognized.

SENATOR KENNEDY'S STATEMENTS CONCERNING THE SHAH OF IRAN

Mr. STEVENS. Mr. President, so that there is no misunderstanding, because I voiced these comments prior to the convening of the Senate, I want to say on the record the comments I have made concerning the statements made by the Senator from Massachusetts yesterday as he criticized the regime of the Shah of Iran.

It does not seem to me this is the kind of statement that should be made by an incumbent Senator or by a Presidential candidate because it voices the comments that are being made by those who call themselves students, who are holding our hostages in Iran.

I believe at this time we can only speak with one voice in dealing with the dissidents who are holding these hostages, and that voice, under our system, must come from the executive branch, from the President, and for the President through the Secretary of State.

To have made the statements that the Senator has made I think may give these people who are holding our hostages reason to believe if they hold them longer they may, in fact, start a trial in this country of the actions of the Shah or those of our people who dealt with the Shah during his period of time as head of the Government of Iran.

I commend those in the Presidential race, those other candidates and those Members of the Senate—I think so far all Members of the Senate have maintained a solidarity behind the President and behind the dealings of the administration in attempting to secure the release of our fellow citizens who are held hostage.

I hope Senator KENNEDY will desist from this course and once again join all of us who are trying to convince those dissidents who are holding our hostages that they will secure no solace in this country for their point of view so long as those Americans are held captive in Tehran.

Mr. President, I have some other remarks. I would like to defer to the Senator from Arizona (Mr. DECONCINI). I ask unanimous consent that the remainder of my time be deferred until the time when my order will come before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, let me withdraw that.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR DECONCINI

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona (Mr. DECONCINI) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I have an order?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I would be very happy to yield all of my time to the distinguished Senator from Arizona with the understanding that he yield a couple of minutes, 2 or 3 minutes, to Mr. PROXMIRE.

Mr. DECONCINI. I thank the majority leader, and I do yield the time so indicated to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader for his graciousness, and also the distinguished Senator from Arizona (Mr. DECONCINI) for yielding me the time.

HAITI'S HUMAN RIGHTS DIVISION AND THE NEED FOR INTERNATIONAL LAW

Mr. PROXMIRE. Mr. President, this week the Government of Haiti announced the creation of a Human Rights Division in their Ministry of Foreign Affairs. Georges Salomon, Haiti's Foreign Minister, said the new human rights office would provide a liaison between the Haitian Government and national and international organizations working to further human rights protection.

It is too early to tell whether the new division is a meaningful attempt to protect human rights or merely a cosmetic reaction to appease world opinion. Having witnessed such flagrant crimes against humanity committed in the past by the Haitian Government, we can only hope that this effort is sincere. Perhaps it is a first step.

While it was not the only motivating force, criticism from the international community was certainly a major influence in Haiti's decision to at least acknowledge the need to better protect human rights. If the United States, along with other concerned nations, continues to demand that the Haitian Government respect the rights of man, the new human rights office could turn out to be more than a mere political propaganda facade.

While the creation of human rights offices in nations is an important step, there is a more fundamental task facing the world community—the establishment of a firm human rights principle under international law. Countries who have failed to protect human rights must be made aware that the international community has laid down rules governing the protection of human rights.

Why, then, has America failed to accept the covenant providing for international law protecting the most basic fundamental human right? Why has the Senate not declared genocide a crime against humanity? Why have we not ratified the Genocide Convention?

We have been afforded innumerable opportunities. For 30 years the Genocide Treaty has been before the Senate. For 30 years we have failed to accept the cornerstone for the protection of human rights through international law.

Let us correct this failure. Join with me in proclaiming intolerance of genocide. Let us ratify the Genocide Convention now.

I thank my good friend from Arizona, and I yield the floor.

(Mr. FORD assumed the chair.)

THE SALT II TREATY IS FLAWED

Mr. DECONCINI. Mr. President, I rise today to discuss the SALT II treaty.

The SALT II treaty, as negotiated and signed by the President and as modified and reported to the Senate by the Foreign Relations Committee, is flawed. I have come to this conclusion reluctantly after considerable study and thought. The treaty does not, as it ostensibly purports, enhance American security; nor does it, as its advocates claim, contribute to international stability and world peace. Rather, it legitimizes the outcome of a decade-and-a-half-long arms race that the United States has lost, or is in the process of losing by refusing to participate. The treaty is a clever legal facade behind which is hidden the fundamental and growing military inequality between the United States and the Soviet Union. It saves face for American Government officials by proclaming strategic parity; yet, that parity is no more than an illusion, a diplomatic sleight-of-hand. The vaunted strategic equality of SALT II is no more real than the flickering shadows on the walls of Plato's cave. Both deceive the viewer and mask the truth.

The disconcerting fact that every American must face, and face squarely, is the decline of American military power. Our capabilities have been eroding for a decade and a half while those of the Soviet Union have been growing at a rate and with a degree of technological sophistication few analysts thought possible.

The SALT II treaty is not to blame for American military weakness—that weakness is to blame for the shape of this treaty. It is this causal relationship that raises the pivotal issue of the Senate debate: Should the United States accept the inferior status imposed upon it by its own lack of will and foresight and assent to a document that will perpetuate the myth of American military equality with the Soviet Union until that myth collapses under the weight of Soviet political demands? Or should we, instead, accept the truth of our own weakness, reject the treaty, and begin to rebuild our strategic and conventional forces to insure American survival and the integrity of the dwindling entity, the free world?

The latter course of action also carries with it certain risks. To be sure, Soviet propaganda will denounce us as warmongers, and a certain segment of world and domestic opinion will be convinced. Some of our allies will be anxious—they, less than we, are reluctant to face the truth; it is more comfortable to allow oneself to be deceived than to struggle to stem the tide of events. Others are genuinely convinced that SALT II reduces arms and offers the hope of a new era of international cooperation and good will. But the sincerity and depth of their belief will not make it so.

The SALT II treaty enshrines a strategic doctrine that has guided American thinking for 15 years and which is largely responsible for the pitiful state of our defenses. America's precipitous fall from power has followed closely the adoption in the mid-1960's of the doctrine of mutual assured destruction. The Kennedy administration originally debated and rejected this strategy, opting instead for counterforce. Counterforce was expensive and required that the United States deploy a range of weapons systems to provide maximum response flexibility. Mutual assured destruction replaced counterforce at the time of the Great Society and the Vietnam war—as much as anything, it provided a rationale for cutting back on strategic weapons systems while the United States was involved in a conventional war in Asia and massive social welfare programs at home.

Mutual assured destruction is the intellectual equivalent of the Maginot Line—it promises unlimited security irrespective of what the enemy may do. Moreover, nuclear weapons are elevated to a transcendental force capable of guaranteeing world peace and stability. Historically, such fanciful inventions have been the product of peaceful and defense-minded peoples who preferred easy solutions to the hard reality of international relations. They have always been challenged and destroyed—usually at a great cost in human life—by the aggressive and warlike.

The doctrine of mutual assured destruction is simple: The awesome destructiveness of nuclear weapons insures they will never be used against an opponent who possesses them. Furthermore, the chance of any conflict between two nuclear-armed opponents is dramatically reduced because of the potential for escalation. The efficacy of the doctrine hinges on the capacity to retaliate after an attack. Each nation must be able to deploy nuclear weapons that can survive a first strike. This has led the United States to concentrate much of its efforts on submarines capable of launching nuclear-armed missiles. Under the premises of mutual assured destruction, it is wasteful, even absurd, to develop nuclear weapons capable of initiating, fighting, and winning a war.

Soviet military planners, unhappily, have never accepted mutual assured destruction. Their inability to perceive the inevitable, according to our strategists, matters little; whether the Soviets accept it or not, assured destruction is a fact that must lead to superpower stability. Influenced partly by Marxist-Leninist doctrine which could never accept such a limitation on socialist expansion and ultimate victory and partly by a less cataclysmic view of nuclear weapons, Soviet planners have developed a nuclear arsenal based upon the premise that a nuclear war can be fought and won without precipitating the destruction of Soviet society. Their current inventory of weapons precisely reflects that view.

American and Soviet negotiators have, thus, approached SALT II from fundamentally different perspectives. Americans enthusiastically wanted to demonstrate the principle that arms reductions and control was possible, betraying not a little evangelical fervor. We exhibited maximum flexibility on practically every issue. No problem was insurmountable because ultimately our negotiators believed American security interests were protected by mutual assured destruction. Major concessions were made for the principle of arms control. When the Soviets proved contentious and adamant, we argued it was because their society and institutions lacked flexibility. Their intransigence on such issues as the SS-18 and Backfire was treated more as stubbornness that had to be humored than reflective of a darker strategic purpose.

To the Soviets, SALT has always been an integral part of their overall strategy. Its purpose was to consolidate and legitimize gains already made while enticing America to continue moving down the path of arms self-restraint. In the protocol, for example, the Soviets insisted that we agree not to deploy a mobile ICBM. This seems absurd on its face since the United States could not deploy, under the best of circumstances, any mobile missiles until 1985, or beyond. However, the Soviet goal is to make the protocol the basis for SALT III negotiations. In this manner, they hope to eliminate any American deployment of the MX (or similar) missile.

By giving Americans a false sense of security, mutual assured destruction has led to the negotiation of an arms limitation treaty that is indefensible. Confronted with challenges to specific provisions, proponents cavalierly suggest that any inequities will be cleared up in SALT III. This is precisely what was said during the SALT I debate. Proponents of the treaty do not deny its faults;

rather, they minimize the implications of those faults by reference to mutual assured destruction. Some administration spokesmen have even suggested that so long as one American submarine armed with nuclear missiles can survive, the Soviets will be deterred. This is an obviously absurd extension of the flawed logic implicit in mutual assured destruction. But the frame of mind it betrays demonstrates why American negotiators capitulated to Soviet demands.

As negotiated, SALT II lays the foundation for an era of Soviet-American confrontation in which the United States will inevitably lose. Our military options will be so drastically reduced that we will continuously be forced to concede or risk destruction. Unless the inequities in SALT II are eliminated, the United States will perpetually—subtly and not so subtly—be subject to nuclear blackmail.

A number of specific provisions contribute to this result. First, the treaty does not count the Soviet Backfire bomber in the total allowed launchers. At present, the Soviet Union has between 120 and 150 of these supersonic, intercontinental bombers. They are easily capable of hitting targets in the United States without refueling, and they are far more capable of penetrating our air defenses than any American bomber is of penetrating Soviet air defenses. The Backfire is the best and most capable Soviet bomber. Yet, the treaty counts all 569 American B–52 bombers even though less than 400 are even operational and those are obsolete. This provision alone is sufficient, in my judgment, to deny approval of the treaty. Yet, it is only one of a series of unilateral concessions.

Second, the treaty allows the Soviet Union to deploy 308 SS–18 heavy missiles while the United States is denied this right. The SS–18 is the most powerful and most destructive weapon system that exists in the world today. It has the potential to carry 40 independently targeted reentry vehicles on each missile, and is presently armed with at least 10. By itself, this provision allows the Soviets a minimum of 3,080 nuclear warheads. More importantly, each of those warheads is exceptionally accurate and can destroy any presently existing American missile base, including hardened sites.

The treaty thus gives the Soviet Union an unacceptable war-waging capability against the United States. Using only two-thirds of its SS–18 force, the Soviets could destroy virtually our entire Minuteman force. With the remaining one-third, they could destroy most of our B–52 bombers, our submarine bases, Washington, D.C., SAC Headquarters, NORAD, and the largest 100 urban centers in America. It should be underscored that this devastating destruction would be the result of only the SS–18 missile. The Soviets also have the SS–17 and SS–19, each of which is more powerful than our Minuteman, but which, under the terms of the treaty, are treated as light, not heavy missiles. To treat one SS–18 as the equivalent of one American Titan is a travesty; it is part of the meaningless illusion of equality created by SALT II.

Third, the Soviets have developed a mobile missile designated as the SS–20. They claim that this missile which carries three independently targeted warheads is of medium range and designed for the European theater. It can also be used against targets in Africa, the Middle East, and China. If, however, the SS–20 is reduced from three warheads to one, its range becomes intercontinental and can be used against targets in the United States. Since it is launched from mobile platforms—items which the United States is prevented from deploying for the duration of the protocol—it is also practically invulnerable to attack.

The Soviet Union is in the process of deploying 750 to 1,000 SS–20 mobile launchers, none of which is counted in the treaty. The SS–20 launcher is equally capable of firing an SS–16 missile, which is an intercontinental device. Furthermore, the SS–20 missile is identical to the SS–16 except that it lacks a third stage. Thus, the 750 to 1,000 SS–20 launchers scattered around the Soviet Union could easily and quickly be loaded either with SS–16's or the warhead weight could be changed. In either event, this "oversight" in the treaty gives the Soviet Union the potential of 3,000 additional nuclear warheads capable of hitting the United States, all of which would be invulnerable to American attack.

Fourth, the treaty does not deal adequately with the cold fire, reload capability the Soviet Union has developed. When the Minuteman is fired from its silo, ignition occurs within the silo itself, destroying the launching apparatus. In counting American missiles, therefore, it is reasonable to assume that one silo launcher equals one missile. The Soviets, however, now have the capability to reuse their launch silos by pushing the missile out of the silo with compressed gases and igniting the missile above ground. This prevents damage to the launch mechanism and allows reloading within a number of hours. This new capability would allow them to conduct a first strike, reload, and present the United States with a missile force almost undiminished in strength.

Because the issue of verification has received so much attention, the administration has strived to give the impression that every element in the treaty is subject to verification that is in no way dependent upon Soviet cooperation. To a considerable extent, this claim is valid. But there are portions—crucial portions—of the treaty that either cannot be verified or which, to one degree or another, depend upon Soviet cooperation.

The treaty limits missile launchers, not missiles themselves. Unless they have followed the evolution of SALT II rather closely, most citizens are probably unaware of this distinction. Originally, the United States, quite logically, proposed that the number of missiles be limited. This was rejected by the Soviet Union because it would have required onsite inspection. We eventually accepted limitation of launchers because these could be monitored by satellites. A launcher is generally a large hole in the ground or a submarine, both of which are hard to disguise and take time to construct. At the time, mobile launchers and reloadable silos had not been developed or deployed. Today they are. Their existence calls into question the basic concept of the treaty.

It is generally conceded that satellite technology is not sufficient to detect the number or type of missile being produced in the Soviet Union. Missiles can be, and are, stockpiled. Satellites cannot locate mobile platform launchers such as the SS–20, nor can they determine if SS–16 missiles are located nearby or whether a third stage has been hidden close to the site. They certainly cannot reveal whether the payload of a SS–20 has been reduced to make its range intercontinental. Satellite technology cannot tell us much about whether a missile silo is cold fire and, thus, resuable.

Other aspects of verification concern the testing of missiles. For example, the treaty provides that a missile will be considered to have the maximum number of warheads for which it has ever been tested. To know this, we must be able to intercept test data and then properly interpret it. Recently, the Soviets have begun the practice of encoding that test data telemetry so that it cannot be recovered. In what the administration proclaimed to be a major concession, the Soviets agreed not to encode test data relevant to monitoring the terms of the treaty—however, they will decide which data is relevant. Adding this to the loss of listening posts in Iran and elsewhere, serious doubt has been cast upon America's ability to monitor the treaty.

Over the last few months, proponents of the treaty have generally retreated from their earlier claims of verifiability by changing the meaning of the word. It no longer denotes our ability to verify accurately every single provision. It was first watered down to mean a reasonable probability of verifying most of the provisions. More recently, however, the administration has argued that verification is adequate if cheating on a scale sufficient to alter the overall balance of power could be detected in time for the United States to take remedial action. This new definition abandons all pretense that SALT II is verifiable. It implicity concedes that cheating will probably occur. But, it asks the American people to console themselves with the thought that by the time cheating becomes so widespread and massive that it might alter the balance of power it can be detected. Thus, SALT II rests upon an act of faith—faith in the Soviets to abide by its terms, and faith in our intelligence agencies to alert us before it is too late.

The goal of arms control and limitation is a worthy one, and I doubt that any American would not welcome serious steps in that direction. Thus, I applaud the SALT process which was initiated by President Nixon and continued through Presidents Ford, and Carter. I am convinced, however, that as negotiated SALT II does not meet the minimal standards for real arms control—a fact that is in no small measure the result of inappropriate American strategic thinking. The challenge that faces us is to reconceptualize and reconstitute our strategic thinking so that it matches the realities we will face during the 1980's and beyond. Once this has been accomplished, the SALT process should go forward.

Arms control and limitation is a mutual reduction of the most destructive and destabilizing weapons, but in a gradual and even-handed manner which preserves the underlying balance of power. History has repeatedly demonstrated that peace in the world is the product of equilibrium.

When, as was the case immediately preceding the outbreak of the Second World War, an expansionist nation meets no resistance, it is encouraged to press its claims yet another step further. In its present form, SALT II gives a decided military edge to the Soviet Union, upsetting the balance of power. This will destabilize international politics and may ultimately cause the disaster that arms control strives to eliminate.

The administration has insisted that no attempt be made to link conceptually Soviet foreign policy to the SALT II treaty. This "no linkage" approach is, in my judgment, a fundamental mistake. Arms control is not separate from foreign policy; if anything, it is the central foreign policy issue. It both reflects and influences the other dimensions of the superpower relationship. It is contrived and unrealistic to treat arms control in isolation because any treaty depends upon mutual perceptions of trust and goodwill.

Arms control simply cannot flourish in an atmosphere of intensifying superpower competition and antagonism. For the last decade, the Soviet Union has paid lip service to detente while pursuing an aggressive and adventuristic foreign policy in Africa, Asia, the Middle East, and Latin America. This escalation of activity is the existential manifestation of Soviet intentions. It matters little if their propaganda extols the virtues of detente if they actively seek at every turn to undermine the United States and free world. Detente implies moderation and an acceptance of the status quo. Soviet actions contradict Soviet words, and until the two are reconciled, meaningful arms control—not one-sided limitations like those in SALT II—will be unlikely.

Arms control agreements can become a powerful force for good. But they must be agreements which reduce and limit nuclear weapons without giving either party a strategic advantage. The SALT II treaty does not meet this test, and it would be a major mistake for the Senate to approve it in its present form. It may be possible for the Senate to correct its deficiencies. But without radical surgery, I intend to vote against SALT II and would urge my colleagues in the Senate to do likewise. The proper course for the Senate is to charge the administration to renegotiate a treaty consistent with American security interests and world peace.

Thank you, Mr. President.

RECOGNITION OF SENATOR STEVENS

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska (Mr. STEVENS) who, under the previous order, is recognized for not to exceed 21 minutes.

Mr. STEVENS. Thank you, Mr. President.

ALASKA LANDS ISSUE

Mr. STEVENS. Mr. President, I should like to continue my review of some of the major issues involved in the Alaska lands issue with respect to how the Senate Energy Committee has dealt with them.

One of the most important was that of transportation and access. This is really three separate issues: First is the establishment of major rights-of-way future transportation and utility systems such as the Alaska pipeline; second, the right of private and State landowners to utilize Federal lands for access to their own lands; and, third, the extent to which traditional methods of access such as airplanes, snow machines, and motorboats, would be allowed in different areas to be established by the bill.

The Senate Energy Committee dealt thoughtfully and fairly with each of these issues. It developed provisions which insure that environmental standards for transportation activities would be established and implemented. But it also established congressional policy and intent that adequate access not be frustrated or prevented by unnecessary regulation.

Future rights-of-way for major transportation systems was the first issue dealt with by the committee. The Energy Committee bill sets up a series of criteria upon which future right-of-way applications are to be judged. The Secretary of Transportation is to be involved in preparing the environmental impact statements for those applications where the Department of Transportation has program authority along with the Secretaries of Interior and Agriculture. Time limits are set for the completion of the EIS process and the applicant is granted the right to appeal to the courts if his application is denied.

Currently, the granting of rights-of-way is a discretionary authority vested in the Land Management Agency with no specific criteria for the review of applications for rights-of-way.

The Senate committee version takes into account the fact that the development of Alaska's surface transportation system is in its infancy. There are today less than 10,000 miles of roads in all of Alaska. This is less than the combined total of the roads in the District of Columbia and Montgomery County, despite the fact that Alaska is one-fifth the size of the whole United States.

The present authorities for granting rights-of-way on Federal lands are based upon the supposition that the major transportation systems are already in place as, indeed, they are in the West. This is not so in Alaska, and the Senate committee provisions permit the development of rational rights-of-way for the future utilization of our people.

Secondly, with regard to access to inholdings, it has always been considered a common law right that a private landowner has the right to utilize another landowner's land for access. The Senate Energy Committee recognized this right and has provided a complementary provision in Federal law to that of the common law right of access, and the Senate Energy Committee's bill does guarantee this right of access.

Under this provision the private landowner or the State of Alaska would be guaranteed access to their land, and this access would have to be adequate and feasible, that is, economic, for other purposes.

This provision is particularly important because the Senate committee bill establishes some of the largest Federal landholdings in the Nation, and it is possible that the establishment of these areas could effectively block access to private or State lands without this access provision.

Third, Mr. President, the traditional access methods such as airplanes, snow machines and motor boats are very important and they are of particular importance in rural Alaska. Because of the underdeveloped transportation systems, residents of rural Alaska utilize airplanes as though they were automobiles. We often call our planes our air taxis. The rivers have become our highways and in the winter time, snow machines are the most practical method of surface transportation in a considerable portion of Alaska. The continued use of these and other traditional methods of transportation is vitally important to our State. The Senate Energy Committee has recognized that and has provided that the continued use of these methods of transportation will be permitted, subject to reasonable regulation to insure that there is no damage to the environment in those areas set aside.

The Senate Energy Committee bill has dealt fairly with Alaska in relation to the transportation needs. I believe the committee crafted a series of new provisions to provide adequate transportation access and it has done so consistent with the desire of all for the protection of our environment.

Mr. President, I urge my colleagues to support the work of the Senate Energy Committee, which spent 60 markup sessions, developing these and other provisions. The Senate committee's version is a balanced project which deserves the support of the entire Senate.

THE IMPACT OF THE WINDFALL PROFIT TAX ON ALASKA

Mr. STEVENS. Mr. President, I wish also to comment upon the current windfall profit tax bill and its impact upon our State. At the present time, according to the Department of Energy monthly report, we are importing more than 8 million barrels per day of petroleum products. This Nation has a daily consumption of more than 18 million barrels per day. This means that about 46 percent of our petroleum consumption is imported. Of our domestic production, which runs slightly over 8 million barrels daily, Alaska contributes 1.3 million barrels per day just from the North Slope. Roughly 1 out of 6 barrels of oil produced domestically comes from my State—an impressive amount. The problem with the current windfall profits tax bill, from my point of view, is that there is no tax included whatsoever on imported oil.

Mr. President, it is difficult for me to understand why, in our consideration of this tax, that oil imported from overseas is not dealt with at all. Currently, we have a situation in which the price of imported oil is increasing about $1 a month per barrel. It is interesting to review some of the prices we paid for this oil. In May of 1979, for example, the price of Indonesian crude was $16.84; of Iranian crude, $17.27; of Mexican crude, $18.56; Saudi Arabian crude, $14.62; the United Arab Emirates, $17.38; Venezuela, $15.76. Currently, I am told we pay an average of $23.98 per barrel.

An importer can acquire a contractual price for these oil imports with delivery of that oil to take place several months later. These are the people who are actually making any windfall. The vast profits that we read about are related to foreign oil transactions; they are not related to domestic oil transactions. In the first 6 months of 1979 the price of imported oil went up 59.4 percent, Alaskan crude on the other hand increased only 5.9 percent; one-tenth of the increase for foreign oil in the same period. Yet, under the windfall profits tax bill substantially more in terms of cash flow will be taken from one reservoir, the Prudhoe Bay reservoir, than from any other source. If the real purpose of this bill is to tax windfall profits, Mr. President, why does it not address the area where the greatest profits stand to be made?

Including the Bradley amendment, which would take an additional $6 billion, under this tax, $30 billion would come from Alaskan oil alone. And that is from the first production from that reservoir. There still remains some 800 million barrels of potential production in the west end of the Sadlerochit Reservoir. Unfortunately, only about 10 percent as much oil can be recovered per well in the west end as in the east end. That means that it is necessary to drill 10 wells in the west end to get the same production. Obviously, that means that costs increase at least tenfold—more than tenfold, because they are being drilled now as opposed to 4, 5, and 6 years ago. I would point out that I do not know of any other situation in which we would not allow the money that comes in from the first production to be placed back in the kitty to increase the production.

This is not wildcatting, this is not exploration; this is development of a known reserve, a reserve that is capable of producing over 800,000 barrels a day more than this country is currently producing.

The Bentsen amendment, which has been adopted, will bring some 300,000 barrels a day increased production by 1987, I am informed, at a projected cost of about $10 billion by providing incentives to independents bringing in new oil.

Furthermore, this amendment entirely exempts from the windfall profit tax the moneys that are necessary to produce the 300,000 barrels a day. Yet there is no incentive whatsoever given to develop the existing and known production potential of the North Slope. I have suggested the concept of the "plowback" or incentive for Alaskan production. That is meeting increasing opposition, however.

Mr. President, my good friend from Oklahoma has suggested a production tax credit for those actually bringing on new production following the passage of this bill. This would act as a credit against the windfall profits tax already paid so that they could have increased capital formation capability to continue to develop the area. This formula would reward success. In an area such as Alaska, it would be extremely helpful. While I believe a plowback to be a better approach, this other amendment is the very least the Senate should do in order to encourage development of potential oil and gas resources in my State.

Once again, Mr. President, I must say that I am alarmed at the fact that this bill will not even deal with the real area of increased profits. There is no tax whatsoever on the windfall that comes about from having entered into a contract for the delivery of imported oil and having that contract fulfilled several months later, when the actual market price in the United States is substantially higher.

That is where there is a true windfall. It is no windfall to have an increased price brought about largely by declining supply.

Furthermore, this is what I foresee, Mr. President, about 6 months from now, assuming that the Congress passes this tax bill, which is really an excise tax, at the President's request.

As there are few if any independents in my State, the Bentsen amendment will have no impact in providing incentives on Alaska. So in about 9 months from now, when we have suffered a reduction in the amount of imports allowed us from the OPEC countries—and we can all see that handwriting on the wall now—we will be faced with a situation in which some stimulus for domestic production will be necessary.

I do not see any stimulus in this bill. I foresee that the administration, which sent us this mistake of a bill, is going to have to face up to the question of incentives. They will have to reassess what is necessary in order to encourage increased domestic production of oil in the short run.

In the long run, we will be able to switch over to synthetic fuels. We will be making petroleum from coal from the State of the good Presiding Officer, Kentucky. Other areas of the country will also be producing more coal and we will be producing oil or gas from that coal as well. That is going to happen, but that is not going to happen in a short period of time.

Alaska could substantally increase its production of oil and gas now if incentives were provided and be producing energy well before the first synthetic fuel plant is on line.

The construction of the Alaska gas pipeline alone would be the equivalent, as far as new energy into the South 48 States, of our imports from Iran. We have known reserves of gas that are not capable of being delivered to the South 48 States because of the lack of a transportation system. The money to build that system could be provided for largely by the major oil producers.

The administration went to the major producers and said, "We want you to participate in the cost of construction of this pipeline." They agreed to put up $4 billion; the first time that has ever been done. And, if it can be worked out, consistent with our antitrust laws, it will be done.

But where is the money to come from if the windfall profit tax proposed by the administration takes away from those very people over the period of 11 years, some $30 billion, at a minimum?

I think it is foolish to have such a tremendous potential in our State and to have that potential unrealized because of foolhardy tax legislation.

Mr. President, as I indicated, in the west end of the Sadlerochit area, are 800 million barrels of some of the most costly oil in the country to produce. That is a lot of oil.

But, who, in any board room, in his right mind, would put up the money to produce that oil, knowing that he will make more money through imports? There is no windfall from producing North Slope oil and delivering it through the transportation network to market. There is no windfall profit potential, for any oil produced in the whole State of Alaska, compared to what can be gained from the import of oil from Venezuela, the Mideast, or Indonesia.

Yet, all those imports do not face one single dollar of taxation.

Mr. President, if we are talking taxes, I think the Senate ought to consider a tax on those imports; a tax of $1 per barrel for example.

As I have indicated, the rate is going up at $1 a month. If we had imposed a tax on imports 4, 5, or 6 years ago, as some of us suggested, we would probably not find ourselves in the situation we face today and what is more we could perhaps have deterred the continued increase in the cost of these foreign imports.

Mr. President, I hope we might have some exchanges. I was involved in an exchange with my friends from New Jersey and Rhode Island the other day. I had an appointment out of the building that I had to keep. But I would be very willing to engage in an exchange at length with them concerning the impact of this bill on the potential production in Alaska.

I certainly know what the impact of this bill will be on that potential. I hope the people of the country understand that if this bill passes, at the very least, the potential production from Alaska will be greatly stretched out. It will not be available soon when it will really be needed.

Our No. 1 goal ought to be increasing domestic production. This bill, to me, runs contrary to that goal.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

THE PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919, which will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed its consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:30 p.m. today.

There being no objection, the Senate, at 12:44 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 1:31 p.m. recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ZORINSKY).

RECESS UNTIL 3 P.M.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the Senate stand in recess until 3 p.m. today.

There being no objection, at 2:30 and 5 seconds p.m. the Senate took a recess until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

The PRESIDING OFFICER. The Senate will come to order.

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, without losing my right to the floor, I yield to the Senator from Arizona for a unanimous consent request.

LEAVE OF ABSENCE

Mr. GOLDWATER. Mr. President, I ask unanimous consent that I may absent myself from the Senate, beginning at noon on December 4 until my return on December 12. The purpose is for a visit to Taiwan, which involves visiting Fu Jen University and other related matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 3:30 P.M.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the Senate stand in recess until 3:30 p.m.

There being no objection, the Senate recessed at 3:00:44 p.m.; whereupon at 3:30 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

RECESS UNTIL 4 P.M.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the Senate stand in recess until 4 p.m.

There being no objection, the Senate recessed at 3:30:19 p.m.; whereupon, at 4 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. CHILES).

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill (H.R. 3919).

The PRESIDING OFFICER (Mr. CHILES). The Senate will come to order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

Mr. WALLOP. Mr. President. I ask unanimous consent to have printed in the RECORD in our discussions on the windfall profit bill an editorial from the Wall Street Journal today entitled "Costly Catharsis" and another article from the Washington Post entitled "Oil Mining May Increase U.S. Supply Dramatically."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 3, 1979]

COSTLY CATHARSIS

As readers of this page know, we have disputed from the beginning the belief that higher domestic crude oil prices from decontrol can be passed through to consumers who are already paying the world price for refined products. If the prices cannot be passed through, then there can't be any windfall revenues and the tax will be paid out of the industry's current profits.

Now a high administration official, R. Robert Russell, Director of the Council on Wage and Price Stability, says as much. He told the Joint Economic Committee last Tuesday that the "windfall profits" tax "is a tax on capital."

It seems to us that Mr. Russell's remark is a pretty straightforward admission that there aren't going to be any "windfall" profits to tax. If the cost of higher priced crude oil were simply passed along in higher prices to consumers, the tax would fall on consumption, not capital.

Taxes on capital get passed along in another way, and Mr. Russell, to the great credit of his professional honesty, pointed out the route it takes. A tax on capital inhibits "investment in capital, and insofar as it does that it can in the long-run have inflationary impact by lowering productivity." In other words, it's a route to less economic growth and lower real incomes.

While the JEC was pondering the revelation that the "windfall profits" tax is going to be passed through to the consumer in lower living standards, Budget Committee chairman Muskie was on the Senate floor pressing to increase the tax.

The challenge of the 1980s, said Sen. Muskie, is to develop more ways to redistribute the wealth, which is to say, to tax capital. Besides, we need the money to balance the budget: "We have mortgaged our future. Without a more productive windfall profits bill, we just can't make the payments."

Having been the first to note way back then that the "windfall profits" tax was just another revenue measure to pay the spending bills, we don't fault the Senator for unabashedly treating it as such. But Sen. Muskie acknowledged so many "hard realities" about the perilous state of the budget in the absence of an even higher tax that he left many of his colleagues wondering about the budget process.

Senator Long noted that the Congress, by its own count, was staring in the face $446 billion in unanticipated revenues from the windfall profit and income taxes on the oil industry. Yet, Senator Long continued, the Budget Committee chairman was standing there saying that "all is lost, we are gone, because the $446 billion that we were not counting on will not be enough."

"All I can say," said Mr. Long, "is that those on the spending end have some very ambitious plans indeed. They had not anticipated the $446 billion and we had not anticipated their imagination in spending it. All I can say is that it just proves what I have said—it is beyond the capability of those on the Finance Committee to recommend tax increases as fast as somebody on some other committee can think of some way to spend them." The spending proclivities of the Congress, concluded Sen. Long, are sufficient to guarantee a budget deficit no matter how many taxes are laid on—or how few.

The problem is that the spenders are running out of things to tax and are resorting now to spending the seed corn by directly taxing capital itself, in addition to the income from capital. Of course, Senator Muskie's budget economists are telling him that he can spend our way to prosperity if he will just try hard enough. It is this atavistic policy advice, and not profitable oil companies, that is the real threat to the economy.

Just as grass-roots pressure and intellectual arguments for controlling spending and lowering taxes were beginning to take hold, along came a manufactured "energy crisis." The big spenders seized their opportunity and laid the groundwork for a big new tax by stirring up the public against the oil companies with the crudest kind of demagogy. Now they have their tax, and the spenders are off the hook for a while longer. Even with the tax, says Senator Muskie, given the Congress's likely spending plans the budget will continue in deficit until 1988. The economy has lost another round.

Oh well, gorged on demagogy perhaps the country needs the catharsis of venting its emotions on the oil industry—just as long as everybody knows that there's no such thing as a free catharsis.

[From the Washington Post, Dec. 3, 1979]

Oil Mining May Increase U.S. Supply Dramatically

(By J. P. Smith)

Back in the 1920s, a Union Oil geologist told his company he was onto a major oil discovery in central California. Impressed, Union drilled a string of wells and hit—black goo.

The geologist was fired.

Today that black goo is known as heavy crude and—thanks to some new developments in extraction technology—several oil companies are betting a lot of money that they can get it out of the ground and sell it at a tidy profit.

Getty Oil, for one, is opening a $21 million operation outside Bakersfield, Calif., not far from the Union find, to tap a reservoir Getty believes contains 400 million barrels of crude. Other companies are contemplating similar efforts in New Mexico, Utah and other oil-producing states.

In fact, Shell Oil's $3.6 billion purchase of California's Belridge Oil Co. earlier this year may have been predicated on Shell's ability to squeeze a lot more out of Belridge's holdings than could be obtained through conventional drilling.

The key to all this is oil mining, a term that encompasses several processes. In one, the oil-bearing rock is simply mined out of the ground and the crude "cooked" out of it. In others, huge pits are dug down to the oil formation and chemicals applied to loosen the oil. In still others, shafts are drilled underneath the reservoir and holes cut upward so the oil drips out, like sap from a maple tree.

These processes are attractive because they are applicable not only to heavy crude, but also to tar sands, a hydrocarbon-bearing soil called diatomite, and, perhaps most importantly, to oil fields of lighter crude where conventional wells have run dry.

Studies for the Interior Department's Bureau of Mines conclude that oil mining could increase America's economically exploitable oil reserves tenfold, adding hundreds of billions of barrels to the nation's current 30 billion barrels of proven reserves.

John Hutchins of Energy Development Consultants, who worked on one of the studies, says: "It's quicker and probably a lot cheaper than oil shale and coal liquefaction. The only thing left is just going out and trying it." And that is what Getty and the others are doing.

The idea of mining for oil is not new. A 1932 Bureau of Mines study by George S. Rice concluded, "Where conditions are favorable, mining methods in depleted oilfields may bring large financial returns and recover oil that might otherwise be lost."

But until recently an important factor has been lacking: price.

In the development of any mineral resource, the first question that must be answered is whether the deposit is "economic"—that is, can the mineral be mined and processed and sold for a profit at the prevailing price?

Oil is no different, and when crude was selling for $2 to $3 a barrel, only the cheapest extraction process could be employed profitably.

Now all that has changed.

Bureau of Mines consultants say that surface-mined oil can be produced at a cost ranging from $12 to $21 a barrel, and that the cost for oil from underground mining operations ranges from as little as $10 a barrel to $60 a barrel.

World oil prices have risen more than 70 percent this year. The Organization of Petroleum Exporting Countries is charging "official" prices averaging $22 a barrel, and also sells much of its oil on a one-time, or spot, basis at prices of up to $40 a barrel.

Richard Dick of the Bureau of Mines' Twin Cities Research Center in Minneapolis says: "A couple of million barrels a day of production from oil mining is possible, by 1990, no doubt about it."

Dick oversaw the studies prepared by Golder Associates and Energy Development Consultants and released to the public earlier this year.

"Under today's economics, many of the oil deposits in this country can be mined economically," he adds.

Sheldon Wimpfen, the bureau's chief mining engineer, also is optimistic.

"From a mining standpoint, all of this is proven technology in use worldwide," Wimpfen says.

Wimpfen became interested in oil mining years ago when he noticed that mining engineers continued to make advances in ore recovery processes, but that oilmen still left 40 percent to 60 percent of the oil they discovered in the ground, even with so-called "enhanced oil recovery" operations.

"We have some mineral operations that typically recover up to 90 percent of the ore, but the oil boys have settled for a lot less," Wimpfen continues.

In the last century, more than 450 billion barrels of oil have been discovered in the United States. But just 115 billion barrels have been produced. Current conventional production technology will allow the oil companies to produce about another 30 billion barrels, leaving some 305 billion barrels out of reach.

Another 26 billion barrels of oil are locked in Utah's tar sands, and billions more elsewhere. Then there are an estimated 30 billion barrels of "heavy" viscous oil in California, and billions more in shallow diatomite formations.

The one million to two million barrels a day of new production from oil mining that supporters say is possible, is equivalent to President Carters' most optimistic forecast of production from synthetic fuels by 1990.

Not everyone familiar with the oil mining concept is quick to embrace it, however, or agrees with the Bureau of Mines studies.

Lee Marchant of the Energy Department's Laramie Energy Research Center is one of the skeptics. He says the optimistic conclusions of the Golder Associates and Energy Development Consultants studies "have to be considered speculative." Further, Marchant says, the firms have a "vested interest" in generating more studies through their encouraging reports.

Until an oil or mining company actually mines oil on a commercial scale, Marchant says, it will be too soon to accept unequivocally the bureau's economic analysis.

As for the priority the Department of Energy assigns to oil mining, Marchant says:

"We don't see spending a large portion of our money on this technology. . . . We feel mining is only applicable to a small percentage of our total resource."

Conoco, a major oil company that has tried underground oil mining methods on a limited basis on its Lakota field near Casper, Wyo., is skeptical.

"If reservoir conditions are favorable, we might try this again," says Aurelio Madrazo, Conoco's head of North Ameican production.

Conoco has been operating a 50-barrel-a-day underground mining plant for the last three years, draining oil into a 2,000-foot-long horizontal shaft, 180 feet underground, beneath a shallow oil field.

"It's not something we see as solving the energy crisis," Madrazo says. "It is still a very small contribution."

Getty Oil Co., however, is moving ahead with its $21 million pilot plant at its McKittrick field outside Bakersfield.

Construction will begin early next year, Getty spokesman George Schwarz says, and the company expects to be producing 20,000 barrels a day by the late 1980's.

The McKittrick operation, if it works, is an illustration of oil mining's potential. Discovered in 1896, the McKittrick field produced 15,900 barrels a day at its peak. But by June of this year, production had dropped to 6,000 barrels a day.

Schwarz says Getty is confident that the company will be able to extract nearly 400 million barrels before the field is mined out—largely through digging and processing hydrocarbon-rich diatomite overlying the field. The 400 million barrels Getty hopes to get amount to nearly twice the total production from the field during the 80 years it has been worked.

Most of the oil-soaked diatomite laced through and around the McKittrick field easily can be surface-mined. A few miles away, another company has a surface mining operation to extract diatomite that is free of oil, for use as cat litter.

Getty's pilot plant will produce 150 barrels of oil daily, from 240 tons of surface-mined ore processed at one of two facilities.

The purpose of the test is to determine which of the two methods of separating the oil from the ore is the most profitable. One method will employ a variation of a process devised by the Germans to convert coal to oil. The other will use a solvent from Dravo, a company that is experienced in extracting vegetable oil from soybeans.

"With conventional methods you can't get the oil out, but mining should work," Schwarz says.

Similar plans are under way in Utah to mine and process billions of barrels of oil locked in tar sands deposits.

Dr. Francis Hansen, of the University of Utah, says that maybe 25 percent of the state's tar sands can be surface-mined. While no major oil company has announced plans to go ahead, several are exploring it, Hansen says.

Hansen and other researchers believe it is feasible to construct units that could produce from 50,000 to 150,000 barrels a day by mining the tar sands. They believe the process could yield quality oil that could be sold profitably at $25 a barrel.

"I'm bullish on oil mining," Hansen says, adding, "It is only a year or two away."

The nation's largest gasoline retailer, Shell Oil Co., according to oil industry executives, also has plans for mining-style operations to recover billions of barrels of oil in the 33,000 acres of Kern County, Calif., fields it bought from Belridge Oil Co.

"There is a widespread belief that Shell has the capability to squeeze oil out of those formations," says Bruce Wilson, an energy analyst with the brokerage firm of Smith, Barney, Harris, Upham Co. Inc.

"If you have a process with a higher recovery rate, then you have a larger exploitable resource base," Wilson points out.

This could explain why Shell's purchase of Belridge—the largest merger in U.S. history—called for paying almost $9 a barrel for the little-known California producer's known reserves, compared with the $6 a barrel that industry analysts normally figure in transactions of this type.

Yet another oil mining project is taking shape near Santa Rosa, N. Mex. There, James Young, president of American Mining and Exploration Co., has obtained the rights to 11,000 acres of tar sands deposits.

Young says his plan to establish a $25 million oil mining operation at the site is "strictly a private venture, not requiring state or federal money."

Young anticipates the tar sands should yield some 250 million barrels of oil that will be mined and processed with solvents. He expects a recovery factor of "about 95 percent."

He is confident that his oil mining project will prove competitive with oil selling for $18 a barrel, once his plant is in operation.

"It sounds simple, and it is," Young insists. "We're combining oil technology with mining technology. When you stand in the quarry and see a face of rock 30 feet high, with oil bleeding out in the summer sun, you can't deny that there is oil in that rock."

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Bradley). Without objection, it is so ordered.

Mr. BOREN. Mr. President, I have a question for the Chairman concerning one important yet unclear aspect of the rules that would apply when determining which property will qualify as a high water-cut or stripper property. Specifically, I am interested in clarifying the term "maximum feasible rate." to qualify as a high water-cut or stripper property, the committee bill requires that the property must be operated at the maximum feasible rate of production that is consistent with recognized conservation principles. The committee report indicates that the "maximum feasible rate" is essentially equivalent to the "maximum efficient rate of production." Could the chairman explain the connection between the maximum feasible rate and the maximum efficient rate of production?

Mr. LONG. Mr. President, I am happy to respond to the question from the Senator from Oklahoma. The committee bill requires that to qualify for either stripper or high water-cut status, production must be maintained at the maximum feasible rate of production. By the use of this term, the committee does not intend that production will always have to be maintained at the maximum efficient rate of production. The maximum efficient rate of production is a term that has been interpreted by various regulatory agencies to mean the highest rate of production that can be sustained without damage to the reservoir and which if exceeded would lead to avoidable waste through loss of ultimate oil recovery. Thus, the maximum efficient rate of production is a regulatory term presently used to describe the upper limit of production which should be allowed consistent with sound conservation practices. Thus, in situations where the production from wells is limited by a regulatory body through an allowable or by the producer to the maximum efficient rate, the term maximum feasible rate would be similarly limited.

However, in other situations, it is not possible for wells to be maintained at the maximum efficient rate of production since this rate exceeds the capability of the wells to produce.

In such cases, the maximum feasible rate of production will be the actual rate of production provided that the wells have not been curtailed significantly. Of course, as in all tax situations, the burden of establishing qualification remains on the taxpayer.

There are numerous examples, some of which are contained in DOE Ruling 1975–12, of when the actual rate is the maximum feasible rate. DOE explained in that ruling that with some wells for which the rate of flow into the area of the well-bore is low, it is common and acceptable operating practice to allow the crude oil in the reservoir to accumulate in the area of the well-bore for several days before it is pumped. Though the well is not pumping, it will be considered to be in operation at its maximum feasible rate and no adjustment to the calculation of the average daily production is necessary.

Mr. BOREN. I thank the Chair.

Mr. President, I think that clarifies the matter accurately.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Boren). Without objection, it is so ordered.

BUDGET DEMANDS FOR THE 1980'S: CRITIQUE AND REBUTTAL

Mr. MUSKIE. Mr. President, on Tuesday, I made a statement on the Senate floor which appears in the Record at pages 33588 to 33599 for November 27. In my remarks I attempted to set the present debate on the windfall profit tax in the context of the budget demands for the 1980's. After that statement and the colloquies which followed it, a number of Sentors commented on various aspects of that statement. I believe the following is a valid summary of their critiques:

Senator Domenici challenged the idea that windfall profit tax revenues should be used to help balance the budget. He argued that they should be given back entirely in tax cuts. He also questioned how budget prospects would look if we had not had control and therefore had no windfall profits to tax.

Senator Long cited, as a major contribution to meeting budget demands, the large increase in current law revenues that is alleged to come from oil companies under decontrol. He also emphasized the need to cut outlays to balance the budget while pointing to the potential difficulty of doing so.

Senator Hatch pointed to the significant effective tax increases from social security taxes and the effects of the inflation that are occurring and are expected to occur in the next few years. He argued that tax reduction is necessary to increase economic growth. Through this route, he argued that a balanced budget could be achieved.

Senator McClure argued that balancing the budget must be done by reducing the size of Government not by raising windfall profit tax revenues to finance growth in Government.

Unfortunately, I was unable to be present to discuss these points at that time. So I would like to make the following responses now:

First, a number of these comments seem to proceed on the assumption that the revenues projected for the 1980's are somehow adequate—enough to finance the programs already called for by congressional action and to keep up with inflation—without any windfall profit tax.

Mr. President, I ask unanimous consent to have printed in the Record at this point the table I used in my earlier presentation.

There being no objection, the table was ordered to be printed in the Record, as follows:

BUDGET DEMANDS FOR THE 1980'S

[In billions of dollars; fiscal years]

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Outlays:											
Current law	548	612	666	720	775	835	888	938	992	1,056	1,125
Current policy	553	629	688	749	803	871	925	980	1,036	1,105	1,178
Revenues	516	610	670	722	785	833	907	962	1,047	1,139	1,240
Surplus (+) or deficit (−):											
Current law	−32	−2	+4	+2	+10	−2	+19	+24	+55	+83	+115
Current policy	−36	−19	−18	−27	−18	−38	−18	−18	+11	+34	+62

Note: Current policy and current law outlays have been adjusted to include the congressional commitments to real growth in defense, 1980 energy legislation, House-passed welfare reform nd catastrophic health insurance (Finance Committee). Revenues include those from the Finance Committee's bill for the windfall profit taxs. Detail may not add to total due to rounding.

Source: Senate Budget Committee.

Mr. MUSKIE. Mr. President, this table shows that both windfall profit tax revenues and budgetary restraint will be required in the decade ahead. Let me remind the Senate, Mr. President, that the congressional budget adopted just a few weeks ago—a budget which assumes substantial restraint on spending by the Congress in order to achieve small budget margins in fiscal year 1981 and fiscal year 1982—also assumed windfall profit tax revenues. Indeed, it assumed even greater windfall revenues than in the finance reported bill, despite the fact that the Budget Committee wished to leave ample room for a free and full debate on this important issue.

Next, let me note that the tax cuts included in the projections for the 1980's are significantly larger than the windfall profit tax revenues. It is no one's objective to raise windfall profit tax revenues in order to lock them up or use them only to finance added outlays. Rather, I suggested that windfall profit tax revenues can help to meet the Nunn-Chiles-Bellmon objective of substantial tax cuts and balanced budgets.

In addition, it should be noted that if we had not had the recent OPEC oil price increases—and all of their consequences including decontrol—we would have lower inflation and a stronger economy now and for the next year or so. And we would have no need for the additional spending for energy initiatives and low-income fuel assistance that were built into our projections, with lower inflation and no need for for the energy initiatives outlays would be lower—$5 billion, to $15 billion later in the decade, less for indexed programs and $3 to $6 billion less for energy-related spending. Yes, lower inflation also means lower revenues. But this revenue effect must take into account the fact that OPEC price increases do not provide tax revenues from the oil bill paid to OPEC. When we allow for that, we find that it would be slightly easier to balance the budget without OPEC price increases and decontrol—easier by perhaps $1 or $2 billion per year.

Third, the assertions about higher current law revenues from decontrol must be challenged. It is easy to point to the higher current law revenues to be obtained from the oil companies under decontrol. But there are other considerations: Higher OPEC prices are initially a drain on the economy. While the oil companies have higher taxable profits other firms have less. And consumers have less real earnings to spend. If inflation is to come down, higher oil prices must be offset by lower prices and wages elsewhere in the economy. Thus, higher taxes from oil companies will be offset by lower taxes from the rest of the ecenomy. Of course, we can hope to have higher real growth and tax revenues as we expand domestic energy production but that is the only genuine lasting source of revenue gains.

To those who would say that tax cuts are necessary to spur economic growth, it should be said again that the budget projections for the 1980's include large tax cuts. But tax cuts do not help to balance the budget, by themselves, even after allowing for the growth they induce.

Finally, in regard to holding down spending, I would like to note that Senator LONG's concern with cutting spending is welcome; his recognition of the political difficulty of doing so is shared.

And to those who say that we must curb the growth of Government in order to balance the budget, I would like to say two things: The projections for the 1980's were indeed intended as a challenge to use the windfall profit tax to recycle oil company revenues—to reimburse the consumers who pay the higher prices through tax cuts and public services. But the projections were also intended as a challenge to the Congress to weigh priorities carefully and to control spending diligently.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, for not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on November 30, 1979, he had approved and signed the following acts:

S. 411. An act to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes;

S. 1157. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes; and

S. 1871. An act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, and for other purposes.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 4:05 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 239. An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes;

S. 497. An act to extend for three fiscal years the authorizations of appropriations under section 789 and title XII of the Public Health Service Act relating to emergency medical services, to revise and improve the authorities for assistance under such title XII, to increase the authorizations of appropriations and revise and improve the authorities for assistance under part B of title XI of such Act for sudden infant death syndrome counseling and information projects, and for other purposes;

H.R. 3407. An act to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; and

H.R. 5871. An act to authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. (MAGNUSON).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 3, 1979, he presented to the President of the United States the following enrolled bills:

S. 239. An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes; and

S. 497. An act to extend for three fiscal years the authorizations of appropriations under section 789 and title XII of the Public Health Service Act relating to emergency medical services, to revise and improve the authorities for assistance under such title XII, to increase the authorizations of appropriations and revise and improve the authorities for assistance under part B of title XI of such Act for sudden infant death syndrome counseling and information projects, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2557. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the positions established in the National Aeronautics and Space Administration as of September 30, 1979; to the Committee on Commerce, Science, and Transportation.

EC-2558. A communication from the President of the United States, transmitting, pursuant to law, a report on the decision on a west-to-east crude oil transportation system; to the Committee on Energy and Natural Resources.

EC-2559. A communication from the Secretary of the Federal Energy Regulatory Commission, transmitting, pursuant to law, opinion and order on rehearing modifying licenses and stay, determinating net investment and severance damages, and otherwise denying rehearing in certain dockets before the Commission; to the Committee on Energy and Natural Resources.

EC-2560. A communication from the Alternate to the Chairman of the United States Water Resources Council, transmitting a draft of proposed legislation to amend the Inland Waterway Authorization Act of 1978 (P.L. 95-502; 92 Stat. 1693); to the Committee on Environment and Public Works.

EC-2561. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for alterations at the U.S. Postal Service Terminal Annex, Dallas, Texas; to the Committee on Environment and Public Works.

EC-2562. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for alterations at the Lakewood, Colorado, Building 25, Denver Federal Center; to the Committee on Environment and Public Works.

EC-2563. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for alterations at the Lakewood, Colorado, Building 67, Denver Federal Center; to the Committee on Environment and Public Works.

EC-2564. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for alterations at the Justice William O. Douglas Federal Building, U.S. Courthouse, 3rd and Chestnut Streets, Yakima, Washington; to the Committee on Environment and Public Works.

EC-2565. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to November 28, 1979; to the Committee on Foreign Relations.

EC-2566. A communication from the Special Assistant to the President for Administration, transmitting, pursuant to law, an aggregate report on personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, and the Office of Administration for fiscal year 1979; to the Committee on Governmental Affairs.

EC-2567. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a proposed new system of records for the Defense Mapping Agency, for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-2568. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a proposed new system of records for the Department of the Army, for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-2569. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a proposed new system of records for the Department of the Army, for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-2570. A communication from the Chief of the Procurement and Property Branch, Administrative Services Division, Community Services Administration, transmitting, pursuant to law, a report on the disposal of foreign excess property for fiscal year 1979; to the Committee on Governmental Affairs.

HOUSE BILL PLACED ON CALENDAR

Pursuant to section 402(b)(2) of the Congressional Budget Act, the Committee on Appropriations was discharged from the further consideration of H.R. 1543, an act to improve the operations of the adjustment assistance programs for workers and firms under the Trade Act of 1974, and the bill was placed on the calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. TALMADGE, Mr. NUNN, Mr. MORGAN, Mr. BAKER, Mr. STEVENS, Mr. HEFLIN, Mr. HARRY F. BYRD, JR., Mr. FORD, Mrs. KASSEBAUM, Mr. STONE, Mr. HATCH, Mr. CHILES, Mr. JAVITS, Mr. STEWART, Mr. PRESSLER, Mr. WALLOP, and Mr. BRADLEY):

S.J. Res. 122. Joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. TALMADGE, Mr. NUNN, Mr. MORGAN, Mr. BAKER, Mr. STEVENS, Mr. HEFLIN, Mr. HARRY F. BYRD, JR., Mr. FORD, Mrs. KASSEBAUM, Mr. STONE, Mr. HATCH, Mr. CHILES, Mr. JAVITS, Mr. STEWART, Mr. PRESSLER, Mr. WALLOP, and Mr. BRADLEY):

S.J. Res. 122. Joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week"; to the Committee on the Judiciary.

SCOUTING RECOGNITION WEEK

Mr. HOLLINGS. Mr. President, I am introducing a joint resolution calling attention to "Scouting Recognition Week" on behalf of myself, Mr. THURMOND, Mr. TALMADGE, Mr. NUNN, Mr. MORGAN, Mr. BAKER, Mr. STEVENS, Mr. HEFLIN, Mr. HARRY F. BYRD, JR., Mr. FORD, Mrs. KASSEBAUM, Mr. STONE, Mr. HATCH, Mr. CHILES, Mr. JAVITS, Mr. STEWART, and Mr. PRESSLER. I should be glad to add Mr. WALLOP and Mr. BRADLEY.

Mr. WALLOP. By all means.

Mr. BRADLEY. I hope the Senator will.

Mr. HOLLINGS. I thank the distinguished Senators.

Mr. President, one of the fondest memories I have from my childhood is my membership in the Boy Scouts of America. There is hardly anyone who is not familiar with the outstanding work of this organization and the many contributions that scouting has provided in leadership training and other areas for the young men and women of our Nation. Without recounting this organization's long list of achievements, I will only say that the contribution has been very significant and we are all greatly indebted for it.

Today, I am pleased to introduce a joint resolution to honor scouting by designating the week of December 3–9, 1979 as "Scouting Recognition Week." This period is appropriate, since it coincides with the 55th annual calendar week of the Boy Scouts. Scouting is a time-honored tradition in the United States and a very worthwhile endeavor to the many boys and girls who participate. Scouting has made many contributions to the social fabric of America. I urge the Senate to join with me and my colleagues cosponsoring this resolution in calling attention to "Scouting Recognition Week" and in doing so promoting the scouting movement in America.

Mr. HOLLINGS. I thank the distinguished Senator from New Jersey and the distinguished Senator from Wyoming.

Mr. WALLOP. I take it the Senator did add our names as cosponsors.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the names of the Senators from Wyoming and New Jersey, Mr. WALLOP and Mr. BRADLEY, be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 1862

At the request of Mr. MCCLURE, the Senator from Missouri (Mr. EAGLETON) and the Senator from Nebraska (Mr. EXON) were added as cosponsors of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

SENATE RESOLUTION 298—SUBMISSION OF A RESOLUTION INCORPORATING CERTAIN STUDIES INTO GEORGES BANK OIL LEASE OPERATIONS

Mr. WEICKER submitted the following resolution, which was referred to the Committee on Energy and Natural Resources:

S. RES. 298

Whereas, a 20,000 square mile portion of the continental shelf known as Georges

Bank is one of the world's richest fishing grounds;

Whereas, the fisheries of Georges Bank provide 17 percent of all fish caught, sold, and consumed in the United States and have supported a continuous fishing industry for over 350 years;

Whereas, the Secretary of the Interior, hereinafter referred to as the Secretary, has scheduled Lease Sale No. 42, offering 116 tracts on Georges Bank for oil and gas development on December 18, 1979;

Whereas, the Ixtox No. 1 well blowout and oil spill in the Mexican Bay of Campeche indicates that oil development on the continental shelf must be undertaken cautiously with stringent safeguards for the environment;

Whereas, it is recognized that there is a need to broaden the scope of the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 1510), hereinafter referrred to as the Plan, and the proposed revisions to the Plan have yet to be promulgated;

Whereas, the Commonwealth of Massachusetts specifically petitioned the Council on Environmental Quality to revise the Plan;

Whereas, in compliance with report requirements of the Plan, the Coast Guard is preparing an interim report on the Ixtoc No. 1 spill for the period June 3, 1979 to November 1, 1979;

Whereas, during the floor debate on the fiscal year 1980 Department of Transportation Appropriations bill, H.R. 4440, the Senate requested the Department, with the assistance of the Coast Guard, to report to the Congress within 90 days the progress on implementation of the Coast Guard recommendations contained in "A Plan for Implementing Presidential Initiatives Concerning Oil Pollution Response";

Whereas, the purpose of the Outer Continental Shelf Lands Act Amendments of 1978 (PL 95–372) hereinafter referred to as the "Act" is to ". . . minimize or eliminate, conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;"

Whereas, evaluation and assessment of factors surrounding the Campeche spill impact Sec. 208, 21(b) of the Act which requires ". . . on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies . . . wherever failure of equipment would have a significant effect on safety, health, or the environment. . . ."

Be it resolved, therefore, that:

By January 30, 1980, the Congress is in receipt of the Coast Guard's interim report on the Ixtoc No. 1 blowout and spill;

By March 31, 1980, the Secretary of the Interior delivers the above report as well as that report requested by the Senate during debate of H.R. 4440 to all lessees of Sale No. 42 as well as other federal, state and local governments or agencies and industries involved in procedures leading up to the sale; and

The Secretary of the Interior, in keeping with requirements of the Act ensure that the Department and lessees incorporate results of these reports and the revised National Oil and Hazardous Substances Pollution Contingency Plan into their operations.

● Mr. **WEICKER.** Mr. President, on December 18, 1979, the Secretary of the Interior has scheduled lease sale No. 42 offering 116 tracts, comprising over 700,000 acres of the Georges Bank for oil exploration and development. Georges Bank is one of the world's richest fishing areas and supplies this country with 17 percent of its seafood.

Georges Bank lies off the coast of New England and is washed by a system of strong currents and generally heavy seas. Its abundant marine life enlarges its susceptibility to pollutants. Our understanding of how the physical and biological components of the Bank's ecosystem and its response to human induced stress is minimal.

On November 1, 1979, I addressed the floor concerning the Mexican oil spill in the Bay of Campeche. I expressed concern then over the impact that spill would have on the marine ecosystem as well as the ability of the Coast Guard and the rest of the Federal Government to deal effectively with future oil spills in the Gulf and elsewhere.

My concern persisted, and on November 28, 1979, I offered an amendment to the windfall profit bill to provide funds to the national response team to improve their capability to deal with spills in unprotected waters. We do not need a Campeche experience in Georges Bank.

Events of the past few weeks in the Middle East make clear this Nation needs to reduce it dependence on foregin oil. The search for new sources focuses on the Outer Continental Shelf.

Certainly we need feed and fuel and I believe it is possible to develop our Continental Shelf oil resources in an environmentally compatible manner, particularly if Government and industry apply to future operations the experience of the past.

Mr. President, it is in this spirit that I propose this resolution before you as a clear message to the Secretary of the Interior that the Senate wants lessons learned at the Campeche Bay oil spill incorporated into OCS lease No. 42 activities and all subsequent OCS leases. I believe this to be possible if:

By March 31, 1980, the Secretary of the Interior delivers the above report as well as that report requested by the Senate during debate of H.R. 4440 to all lessees of sale No. 42 as well as other Federal, State, and local governments or agencies and industries involved in procedures leading up to the sale; and

The Secretary of the Interior, in keeping with requirements of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95–372) insure that the Department and lessees incorporate results of these reports and the revised national oil and hazardous substances pollution contingency plan into their operations.

There is no doubt in my mind that offshore oil production should take place. I am keenly aware of the great need my native State of Connecticut and New England in general has for new energy development. With the proper safeguards on Georges Bank, exploration and production should go ahead. This Nation faces difficult times. It must face many conflicts between energy development, food, air, and water.

This resolution before you does not call for stoppage of the lease sale on Georges Bank nor elsewhere. Rather, it is an attempt to insure that past experience and new knowledge is applied to future OCS petroleum production for the benefit of all.●

AMENDMENTS SUBMITTED FOR PRINTING

DISABILITY INSURANCE AMENDMENTS OF 1979—H.R. 3236

AMENDMENT NO. 731

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself, Mr. CRANSTON, Mr. ARMSTRONG, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. FORD, Mr. GARN, Mr. HATCH, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. LAXALT, Mr. MATSUNAGA, Mr. NUNN, Mr. RANDOLPH, Mr. ROTH, Mr. SCHWEIKER, Mr. THURMOND, Mr. YOUNG, and Mr. ZORINSKY) submitted an amendment intended to be proposed by them, jointly, to H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

PARKS, RECREATION, AND RENEWABLE RESOURCES SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Parks, Recreation, and Renewable Resources Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a hearing on the Montana wilderness—Rattlesnake Roadless Area in Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROCUREMENT POLICY AND REPROGRAMING SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Procurement Policy and Reprograming Subcommittee of the Committee on Armed Services be deemed to have been authorized retroactively to meet during the session of the Senate on Friday, November 30, 1979, to hold a hearing on the civil reserve air fleet.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be deemed to have been authorized retroactively to meet during the session of the Senate on Friday, November 30, 1979, to hold an executive session on Iran.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

SUBCOMMITTEE ON PRIVATE PENSION PLANS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Private Pension Plans of the Committee on Finance be authorized to meet during the sessions of the Senate on Tuesday and Wednesday, December 4 and 5, 1979, to hold hearings on various pension bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COURT OF APPEALS DECISION IN TREATY TERMINATION CASE

● Mr. GOLDWATER. Mr. President, I rise to briefly address the decision announced by the court of appeals on Friday reversing the earlier ruling by district court Judge Gasch.

I think it is important to note that the broad point reached by the court, relative to Presidential authority, is supported by only four members of the 10 judge court. There are 10 members of the U.S. Court of Appeals for the District of Columbia. Two of those judges removed themselves from any deliberation in the case. One other judge died before the decision was made. Only four of the seven remaining judges supported the idea of Presidential power to terminate treaties.

Next, I must comment that the four judge, majority opinion is a very weak one, which indicates that the court charged ahead with the single-minded determination to uphold the President based on political expediency.

In effect, the court says that the President found it politically expedient to derecognize Taiwan and there is nothing else that matters.

Well, Mr. President, I say that the Constitution matters.

I say the opinion by the court of appeals is in violent conflict with the views of the Founding Fathers.

It is in sharp disagreement with the predominant weight of historical precedents.

It even is in conflict with the clear legislative history of the Mutual Defense Treaty with Taiwan itself, which proves that legislative concurrence is necessary for its termination.

But, the most important thing, Mr. President, is that the four judge opinion supports rule by decree, not rule by law. It support rule by an emperor, not Government by a system of divided and checked powers.

The court of appeals uses the general language of article II, section one, of the Constitution, as a basis for finding the existence of a broad power of the President to abrogate treaties generally. This provision states:

> The executive power shall be vested in a President of the United States of America.

The court then makes an unprecedented act of judicial construction by transforming the sparse enumeration of executive powers in article II into an absolute power of treaty termination which the framers unmistakably omitted from the text.

This kind of judicial acrobatics is clearly in conflict with the famous decision of the Supreme Court in Youngstown Sheet and Tube Co., which overturned President Truman's effort to seize the Nation's steel mills during the Korean war. Justice Black, writing for the Court in that case, said that the President's powers cannot be implied from section one of article II or even from the aggregate of his enumerated powers.

Justice Black said, and I quote:

> In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. 343 U.S. 587 (1952).

Justice Jackson agreed, writing:

> I cannot accept the view that this clause is a grant in bulk of all conceivable executive power, but regard it as an allocation to the Presidential office of the generic powers thereafter stated. 343 U.S. 641.

Justice Jackson also attacked the notion, adopted in the court of appeals opinion, that there is an implied power in the President based on expediency. He said that the President's plea is really "for a power to deal with a crisis or an emergency according to the necessities of the case, the unarticulated assumption being that necessity knows no law." 343 U.S. 646.

The Taiwan case presents again the choice between a claim of inherent powers in the President, unchecked unless a specific restraint be found in the Constitution, and a concept of checks and balances among the three branches of Government, which is a general restraint upon all powers of the Executive.

Mr. President, there is another aspect to the case which I should mention and that is that not one of the seven judges who decided the case believed that it should be ducked on the basis of the political question doctrine. Five of the seven judges held that I and the other Members of Congress who initiated the suit had standing. This itself is a major victory for the right of individual Members of the Senate or House to vindicate their functions as legislators, and to uphold the powers of the Senate or House as institutions.

Mr. President, I can announce that my lawyers have already completed the petition for review of the case by the Supreme Court; it is at this moment in the hands of the printer; and by this afternoon it will be filed with the Supreme Court. The Court is meeting this Friday on the very subject of cases which it will take on review, and I am hopeful this will be one of them.●

THE CONCERNS OF ELDERLY IOWANS

● Mr. CULVER. Mr. President, I would like to share with my colleagues an article from the November 26 Wall Street Journal relating how a group of older Iowans feel about the difficulties and rewards of growing older in our society.

The basis of this article was a candid discussion with 13 residents of Davenport, Iowa, ranging from age 56 to 74. It afforded them an opportunity to reflect on their lives and the conditions around them—and it affords us the opportunity to benefit from their observations.

Inflation understandably ranks as their foremost concern, as it diminishes the buying power of their pensions and retirement benefits, erodes the value of their savings, and dispells any sense of financial security. It is dangerously wrong to assume that retired persons are protected from the rising cost of inflation simply because social security benefits are indexed to increases in the Consumer Price Index. Many pensions and other sources of retirement income are not adjusted for rising prices. And the serious inflation of the seventies has been especially unfair for senior citizens because the costs of basic necessities—such as food, fuel and medical care, on which they spend most of their income—have risen faster than the overall inflation rate and their social security benefits.

But this group of Iowans did not confine their observations to the problems and worries associated with growing older today. I was pleased to note that many of them mentioned several favorable aspects of retirement. And all expressed a genuine appreciation for social security and medicare.

Mr. President, I invite my colleagues to benefit from this very informative article, and I ask that it be printed in the RECORD.

The article follows:

INFLATION IS A WORRY, BUT OLDER PEOPLE FEEL LUCKIER THAN PARENTS

(By Lawrence Rout)

DAVENPORT, IOWA.—For Marion "Bud" Pietz, a 66-year-old retired service-station owner, growing old here in Middle America is fraught with hardships.

"My income is beihg eaten by inflation," says Mr. Pietz whose youthful looks belie the two heart attacks he has suffered. "My dollar just doesn't go as far."

Still, Mr. Pietz admits, "I'm enjoying life; I do all the things I've always wanted to do." That's something, he says, "that I never heard my parents say."

That same mixture of pessimism and optimism, of bitterness and gratitude, surfaces repeatedly here in a free-flowing panel discussion with a group of older men and women. Ask them about growing old, and without exception they rail against the problems that confront them and millions of older people all over this country. But ask them to take a closer and more personal look at their lives, and the bitterness fades into memories of their parents' more-troubled times.

Arranged for The Wall Street Journal by Washington pollster William R. Hamilton, the 2½-hour discussion involves 13 men and women, ranging in age from 56 to 74. They talk about health and security, rejection and death. They reflect on the past, talk candidly about the present and peer hesitantly into the future.

Their views aren't meant to be taken as a scientific polling. But all 13 people are growing old in America's heartland. They all come from Davenport, an industrial city along the Mississippi River. And they all have a lot to say about growing old in America today, as well as the aging of America itself.

Listen to Adeline McDermott, a 70-year-old former Chicago resident, tick off the troubles plaguing today's elderly: "Health, more crime, and more immorality all over society. And the greatest problem—inflation."

Indeed, most of the complaints among the elderly do concern soaring prices and the squeeze this puts on their incomes. Although Social Security payments rise along with the consumer price index, older people contend that the things that they spend most of their money on—health, food, fuel and shelter—have gone up faster than the price index. Moreover most corporate pensions don't rise at all with prices.

"UNFAIR" BURDEN

"The inflation problem has reached crisis proportions," the American Association of Retired Persons warns, "and the elderly are unfairly bearing an excessive share of the inflation losses."

For Viola Felderman, a 68-year-old former Californian who moved to Davenport eight years ago, that rings true. "Prices are the big problem today," the bespectacled and ever-smiling Mrs. Felderman says. "I can't get used to the food prices I pay, and now with my medical bills, it makes it kind of rough on us."

Mrs. Felderman and her husband live on their monthly Social Security checks, which total less than $500. It isn't enough, and she says that they are dipping into their savings to the tune of about $200 a month. "My savings are just about gone," she says, her voice cracking. "I don't know what I'm going to do when it's gone. As it is, I wear the same old clothes, don't buy anything or do too much."

Mrs. Felderman says that she has tried to get a part-time job, but "the minute I write down my age, I'm through. You just can't get a job at this age."

SOME EXTRA INCOME

Murl James, a burly 62-year-old retired truck driver, is luckier: He has been able to pick up some cash fixing house trailers to supplement the $300 a month he gets from Social Security and a $400-a-month pension from his former employer. But, he says, when he pays his rent of $250 a month, "that income cuts back in a hurry." As a result, the shy Mr. James says that he and his wife "pretty much have a schedule of what we buy, and we've stopped going to restaurants altogether."

The six-foot, two-inch 250-pound Mr. James doesn't worry, however, about one thing that plagues Pauline Lee, a 65-year-old retired schoolteacher. That's crime.

Miss Lee, a sad-eyed woman who speaks in a hushed voice, is single and lives with a woman friend. "I don't go out at night too often because I don't like the crime situation," she says. "It used to be 15 years ago I remember getting in my car at nine at night and I wouldn't think about it. I'd drive over to East Moline to a little place that served tacos and I'd go in by myself. But today I wouldn't do it."

All of that is rather depressing for Esther Ginsberg, 71 years old and twice widowed. Her voice quivering, Mrs. Ginsberg wonders aloud whether the increased crime "has something to do with people not being as friendly and sociable as they used to be years back."

But Hollis "Mac" McCleave, the most bitter and most vocal member of the group, blames today's youth. "I was raised during the Depression," the large, 64-year-old retired fire captain says, "and there was a different breed of youngster in that day. He had nothing to begin with; he didn't have a nickel for a bag of Bull Durham to roll cigarets, and he treated his elders with more respect."

But no longer, Mr. McCleave says, his big tattooed arms flailing away as he makes his point. "Today I'm next door to a high school that has almost 5,000 students, and they're a bunch of maniacs. They've got almost 1,000 cars over there, and they all come in Mustangs without mufflers. They disregard all speed laws, and they drive through where I live."

While the group nods in agreement, many are quick to qualify their condemnation. "You get those kids separate from each other, and they're great kids," says Herbert Laake, a thoughtful 56-year-old warehouse worker. The problem, he says, is "that they've got jobs, they've got money, they've got wheels, and they can move around." It's easier, he says, for today's kids to get in trouble.

MORE SELFISHNESS

The jobs, the money and the mobility have also made the youths, and their parents, more selfish, according to George Mennig, a 74-year-old retired building manager. Mr. Mennig, who uses a cane to walk and has a pronounced stoop, says that the "people today—they just haven't got the time. I go to nursing homes, and you hardly ever see a visitor. It's a lack of concern. The story is, 'I haven't got the time.' Or, 'I don't like to see someone in that condition.' But even their closest friends don't come to see them. Families don't either."

Mr. Mennig worries that "If we had another depression, the attitude of the people today would be vicious." He recalls that during the Great Depression, "the neighborhood grocers had a little money in the cushion, and they gave people credit." But, he asks, "Where can you go in a grocery store in Davenport today and get credit?"

Still, remembering the economic hardships of the 1930s doesn't trigger too many nostalgic yearnings in the group members. Despite today's crime, self-centeredness and high prices, just about all of them agree that things are a lot rosier now for the elderly than in the past.

PRAISE FOR SOCIAL SECURITY

"We talk about we don't have it as good, but damn it, anybody who is 65 or 70 years old can't make that statement," says Grover Miller, a retired manager of a credit union. Mr. Grover, who looks younger than his 69 years, says, "Our parents just didn't have the opportunities that we have. They would have never lived like we do. My God, I wish my dad and mother were here so that they could have gotten Social Security."

Mr. Mennig agrees. "Back in those days the word retirement really wasn't part of our vocabulary. Everybody just worked and worked and worked until Social Security came into the act."

Even the irascible Mr. McCleave admits, "It used to be very simple—you punched a time clock or you didn't get paid." People never planned for retirement back then, "they just planned to keep working until they got laid off." Today, he says, "the government does the planning for you."

Indeed, all members of the group are quick to praise Social Security and Medicare. The payments may not be as much as they feel they need, but at least the money provides them with the chance to retire and continue living. Even Mrs. Felderman, who has almost exhausted her savings, says she couldn't live as well as she does if she had been elderly in the past. "If we didn't have Social Security," she says, "I'd be on the poor farm."

SURGERY BILL COVERED

Mr. Miller, the balding former credit union manager, recalls his heart-bypass surgery two years ago. The total bill for the surgery and hospitalization came to $17,000, Mr. Miller says, "and I didn't pay up a damn dime." Medicare and Mr. Miller's former employer picked up the tab.

Health problems aside, most of the group are enjoying retirement. "I think there's an art to this retirement," says good-humored Howard Burkhart, who retired six months ago as a steamfitter at the age of 64. "I was never a howling success at anything in my life until retirement. I watch ball games in the afternoon, I walk 3½ miles a day, and I sit. I love it."

Not everybody is enamored of retirement, however. Miss Lee retired this year as a schoolteacher because she was tired of "punching a clock." "When you quit all of a sudden, there's something that's all missing," she says. "I get up some mornings and there's nothing to look forward to."

That's the way Mr. Laake felt when he retired in 1977 after 35 years as a mailman. "After I sat there for a month and a half, I said to my wife, 'God, I hate soap operas. I'm going out to get a job.' Now I work 40 hours a week at the warehouse, and I love it."

There is one thing that all members of the group face—in common with their parents and with the generations of elderly before them.

"I'm ready to take death anytime," says the diminutive Mrs. McDermott. "I don't think about it so that I get depressed, but I do hope that when I go, I go all at once and not linger."

Mr. McCleave agrees. "You get fatalistic about it; anybody over 60 knows that it's inevitable and close, and you just hope you can do it without too much pain."

That fatalism can even make life more enjoyable for some. "At this age, you're a little more willing to let things happen instead of trying to make them happen," Mr. Burkhart says. "I think this is one of the beauties today. There are some fine things about this age." ●

LET US TAKE RESPONSIBILITY FOR DEALING WITH TAXFLATION

● Mr. DOLE. Mr. President, when we talk about inflation and taxes, we should pay attention to those features of the tax structure that are most seriously affected by inflation. For example, inflation is relatively neutral with respect to a flat rate tax; but, with progressive tax rates, inflation can have a dramatic effect. Given a progressive tax structure, the higher the basic tax rate, the greater the impact of inflation. This is because inflation pushes people into higher rate brackets; and the higher the rate, the more inflation will cost in increased taxes.

The U.S. income tax, of course, is highly progressive and has comparatively high rates. But a number of States also impose significant income tax burdens on those taxes. Over one-half of the States that impose an income tax have a highly or moderately progressive tax and rely to a significant extent on the revenues from that tax. That is why the inflation tax penalty—taxflation—is an important issue at the State level as well as the Federal level.

Mr. President, the difference is that a number of the States have responded to this problem. Of the States with significant progressive income tax, four—Colorado, California, Minnesota, and Wisconsin—have indexed their income tax for inflation. In other words, these States have provided for automatic adjustments in the tax structure to compensate for the distortions caused by inflation. In addition, Arizona—which has a moderately progressive income tax—and Iowa—which relies significantly on its income tax—have indexed their income taxes for inflation.

This is an important political fact because it demonstrates the public concern over the effect of inflation on taxes, and because it shows that some of our political leaders are willing to come to grips with this issue. Taxflation is an issue that must be faced, and it is a problem that can be solved so long as we have the will to do so. We in Congress have not shown that kind of resolve, although we have not lacked opportunities. Bills to index the Federal income tax have been introduced before. The Senator from Kansas introduced one last year. Unfortunately, the Congress has not seen fit to act on these proposals.

Mr. President, I have introduced legislation again this year that would index the income tax for inflation. The bill is the Tax Equalization Act, S. 12. Each year it would adjust the income tax brackets, personal exemption, and zero bracket amount according to the rise in the Consumer Price Index for the previous fiscal year. Income tax rates would be stabilized, but Congress could always act to change them. Taxes would not rise automatically, as they now do in periods of inflation.

Mr. President, if State legislatures can take the responsibility for dealing with this problem, so can the U.S. Congress. The way to proceed is clear, and the public is increasingly aware of the failure of Congress to deal with taxflation. The time to act is now, and I urge the passage of the Tax Equalization Act.●

STATE OF ISRAEL HONORS BRUCE G. SUNDLUN

● Mr. PELL. Mr. President, last week in Rhode Island, one of my State's most distinguished citizens, Bruce G. Sundlun, was honored by the State of Israel which awarded him its Prime Minister's Medal, that nation's highest public service award.

Bruce Sundlun has had a singularly exciting and full life. He was shot down as an American pilot in World War II and spent many months in occupied France behind the German lines. He stayed active in the Air Force Reserve until he retired as a colonel. Then, as a practicing lawyer, a director of Comsat, and chief executive officer of Executive Jet, he made his mark in our American business community.

A huge throng of his friends and admirers crowded one of Rhode Island's largest banquet rooms to join in paying tribute to Mr. Sundlun, presently the president and chief executive officer of the Outlet Co. and a civic leader of virtually unparalleled achievement.

Mr. President, I was particularly struck with the eloquent and moving response which Bruce Sundlun, who is widely known and admired by my colleagues in this body, made to the award from the State of Israel. I am sure that my colleagues will be equally moved by his stirring remarks and I ask that they be printed in the RECORD.

The remarks follow:

REMARKS OF BRUCE G. SUNDLUN

Colonel Eini, I thank you for the Prime Minister's Medal which I shall wear with pride and appreciation. And, Colonel, I am particularly glad that you as the Israeli Air Attache were here to present the medal to me, because I relate closely to the Air Force—especially the United States Air Force—and my associations with the State of Israel have been directly concerned with its military forces and with Israeli Aircraft Industries, your country's largest company.

Back in 1948, when the State of Israel was proclaimed, I was a student at the United States Air Force Command and Staff School at Maxwell Field, Alabama. I persuaded the faculty there to assign as a class project the preparation of a defense plan for the new state It was an intriguing military and academic project—designing a defense plan for a country that had not existed until the week before, that had no regular army, navy, or air force, no military history, no allies, only enemies; a population largely composed of immigrants from other continents, and that had no agreement on what form of government should exist, let alone who should run it.

Because of the prevailing fair weather in the Middle East, because of the distances over essentially open terrain that any attacker had to cross, because of the technological skill of the largely European-born population, coupled with the lack of any large manpower pool and the high value placed on an individual life, it was dictated that Israel's defense plan be based upon aircraft and armor. That plan was delivered to the Israelis and I have observed with interest since that many of its specifics were implemented, perhaps even followed.

When I finished the Air Command and Staff School, the new state was seeking planes and pilots, and I volunteered to go. But as anyone who knew my father well can testify, he was a strong personality. We had our loyalties to each other, but we had our differences too. To this day, one of my real regrets is that I let him talk me out of going to Israel to fly in the 1948 war, and instead I stayed in Rhode Island to assist him in his 1948 primary campaign for the United States Senate, Rhode Island's first primary election. He lost.

I did arrange for planes and pilots to go to Israel in 1948, but my conscience still tells me I should have gone myself.

Perhaps one of the principle reasons we are all here tonight is because I did not go. Maybe I am trying to compensate with dollars what I did not contribute in time and professional skill. I am most grateful to all of you, business and personal friends, who purchased bonds for tonight's dinner.

The Providence Journal quoted someone as saying that it was "nice" that I had "lent my name" to this fundraising evening. I want to disavow that statement because it is presumptuous. I have no name to lend but I, like everyone else in this room, have causes in which I believe and time and energies which I am willing to give to those causes. Supporting the continued existence of the State of Israel is a belief that I hold hard, and I know exactly why.

But if a name from the Jewish Community in Rhode Island were to be honored, the name to be nominated might far more appropriately be Hahn, Mr. Justice Jerome; or Silverman, Archibald or Ida; or Joslin, Judge Philip C.; or Smith, Joseph; or Boyman, Berger, Sopkin, Fain, Irving Jay; Grant, Darman, or Hassenfeld, or even Sundlun—but Walter I. Those men were giants of the past who with no precedent to guide them, contributed a fervor for results which produced orphanages, hospitals, schools, temples—practically every institution existing in the Rhode Island Jewish community today. They were personification of the historic tradition in this state, which commenced with the Touro Synagogue in Newport, the oldest Jewish place of worship in America.

But that tradition is not for the past alone; it is well carried over today by contemporaries like Licht, Governor Frank; Joslin again—Mr. Justice Alfred this time; Sapinsley, Milton, John and Senator Lila; Alperin, Fain, Norman; Ress, Riesman, Robbins, Grossman, Smith, Morton; and Holland. To those names belong the praise for day-by-day, month-by-month, year-by-year work within the community—not to me who was born here, left at age 17 and really returned only three years ago, and whose contributions to Jewish life here or elsewhere have been, at best, minimal.

Besides, at least I think I am much too young to be the honoree of a dinner. Last week in Washington, I went to a dinner honoring Averell Harriman on his 88th birthday. His remarks that night evidenced not only his vast experience, but more important, the usefulness and timeliness of that experience when applied to the problems of today. I can make no such contribution tonight.

Why then, am I here tonight? Two reasons: First, because the creation of the State of Israel is the most conspicuous and successful forward step that democracy as an institution has taken since Fascism was defeated in World War II. Here is a land that once again took people from all over the world and built a democratic country controlled by free elections. As a Jew I am proud of Israel, but if it were a Protestant, Catholic, Muslim, or Hindu state populated by white, black, yellow, brown, or red people, I would still be admiring of another country that could create and continue through troubled times a democratic government of laws and not of men. It is because of that universal appeal of democracy that Israel has earned the support tonight and other nights of Jews and non-Jews, blacks, and whites, Republican and Democrats, and even an Egyptian Ambassador.

My second reason is because I firmly believe that the existence of the State of Israel since 1948 has made life for my family, for Jews in America, and for Jews in every other nation on earth, more dignified, and more respected than before the state came into existence. Before the state, Jews were too-often characterized as frail people who would flee rather than fight. Nowhere in the world did they share the respect which all societies and all countries give to the farmer and to the soldier. The world has always given honor and respect to the man who tills the soil and to the man who fights for his country, his family, and himself.

The creation of the State of Israel and its history of turning the Negev desert into greenery, of planting and growing forests out of rock—and one of those forests is named for Senator Pell's father—and most important, their military victories in the war for survival in 1948, and other wars since, plus the great rescue mission at Entebbe, has given the Jew self-pride in a military tradition equal to any other people on earth.

With that pride in self given by the Israeli example in agriculture and war, I truly do not believe there could ever be another Holocaust where Jews went dociley to their deaths, nor do I believe there can be another ghetto or pogrom. The Jew in America has learned to stand tall with a more quiet assurance of his worth, and it is calluses on the hands of the Kibutzim and the casualties on the Golon Heights that have given him that new found assurance. It is because of what the State of Israel and the Israelis have given to me and to mine that makes me willing to do whatever I can to give something back to them.●

EUROPE AND SALT

● Mr. GOLDWATER. Mr. President, for month after month we have been told by the Joint Chiefs of Staff, by the State Department, by the President, and by everyone doing his best to force the SALT II treaty on this country, that the NATO countries would be very upset if we failed to pass this treaty. Writing in Aviation Week and Space Technology of November 26, Mr. William Gregory has pretty much thrown the lie at these statements. He quotes Gen. Pierre Gallois, retired from the French Air Force, on this subject, and the conclusion that is reached by the general is that the rejection of SALT II would comfort American allies. So that my colleagues and those who read the RECORD might have a chance to get the true story of the NATO position, I ask that this editorial be printed in the RECORD.

The editorial follows:

EUROPE AND SALT

Western European nations—North Atlantic Treaty Organization alliance nations—have been getting a sales message from the Carter Administration to support the SALT II Treaty. Defense Secretary Harold Brown had begun to develop the Administration line at a NATO meeting last May that a Senate rejection of the treaty would endanger the cohesiveness of the alliance.

Political leaders in Western Europe have since echoed the Administration theme. (AW&ST Oct. 22 p. 18). There is some reason, though, to take these endorsements of SALT with a grain of the same.

As Gen. Pierre Gallois puts it: "Do not be mislead by the official positions expressed by the European governments. Already the military superiority of the Soviets has a dipiomatic consequence and Western European nations prefer to compromise with such a might." Gen. Gallois, retired from the French air force, was one of the architects of the French independent nuclear strike force—force de frappe.

He questions the usefulness of SALT to Europe when, in fact, the reverse may be true. "It is a position of potential superiority of the Soviet Union which is endangering the cohesiveness of NATO," Gen. Gallois contends. "NATO nations know that SALT 2 is not concerned with the weapons which are capable of destroying Western Europe, such as the Backfire bomber and the SS-20 ballistic missile."

While the U.S. is offering to base longer-range Pershing 2 ballistic missiles in Europe to counter the Soviet SS-20 buildup, Gen. Gallois points out that at the same time the U.S. is talking about withdrawing some of its forward based nuclear weapons, almost as if by agreement with the Soviet as part of the deal for their signatures on the arms control treaty. Such proposals take Europeans for imbeciles, he says.

DISGUISED RETREAT

How the spectacle of U.S. bargaining with the Soviets must look to Western Europe is a pertinent question. To the Europeans, the U.S. agreement with the Soviets must indeed have overtones of a disguised retreat, leaving Europe to face the SS–20 with promises—Pershing 2 and the ground-launched cruise missile, if the latter is not eliminated again in subsequent U.S.-Soviet bargaining.

To some Europeans, such as Gen. Gallois, the entire SALT history has the aura of U.S. preoccupation with an academic vision of Armageddon while ignoring the threat at hand—burgeoning Warsaw Pact forces at Europe's doorstep backed by Soviet medium-range nuclear weapon systems. Reflecting a European view, Gen. Gallois contends a Soviet nuclear first strike at the U.S. is no more likely than a U.S. first strike at the Soviet Union, with or without SALT. "As before SALT I," Gen. Gallois says, "America is still a country having the privilege of nuclear immunity. Some 80 percent of American strategic warheads may be in permanent or semi-permanent mobility is such a way that their simultaneous destruction is not feasible. Whatever the size of their ballistic inventory, the Russians could not now attack the land of America without risking incredible destruction."

That destructive potential is fine for protecting the American homeland. It does not necessarily apply to U.S. interests overseas where numbers of forces, not sophistication, impress other nations. A case at hand is the U.S. humiliation in Iran.

Touching on the question of numbers, Gen. Gallois comments: "Should America accept a position of numerical inferiority in modern parliaments, her foreign policy would be penalized, her alliances shaken and her military guarantees questioned. That is why SALT I appeared to many of us in Europe as proof of a new U.S. policy of retreat to fortress America." SALT 2 in his view is simply codifying Soviet numerical superiority.

EUROPEAN DOUBTS

Similarly, Europeans are not so sure that SALT 2 is as verifiable as the Carter Administration says it is. That claim was made for SALT 1, with debatable validity.

"U.S. policy planners," Gen. Gallois says, "have failed to take into account that we are, in Europe, far more exposed to a surprise attack than U.S. territory. The military posture which has been imposed upon European NATO countries is such that it invites a preemptive attack on our conventional forces. The state of the ballistic art is such that the accuracy of Russian missiles allow a dramatic reduction of yields of their weapons. Having the initiative of military operations and, consequently, the benefit of surprise, Warsaw Pact forces may disarm European NATO countries through atomic strikes of a surgical precision, almost without significant collateral damage. To neutralize such a threat mobile atomic forces would be necessary. On the contrary, European NATO nations are told to increase their conventional contributions, the type of forces that are more vulnerable to the present and future Soviet ballistic nuclear inventory.

"This is why we think that, far from endangering the future cohesion of NATO, the rejection of SALT 2 would comfort American allies in Western Europe. Many in Europe are convinced that during these talks, Russian negotiators have succeeded in convincing their American counterparts that disconnection and even disengagement from Europe is the safest solution for the United States." ●

THE SPREADING MADNESS FROM IRAN

● Mr. DOLE. Mr. President, in this time of international crisis the Senator from Kansas wants to express his gratitude, his thankfulness, to be an American. The United States is not like most other countries. When our Nation was founded just over two centuries ago, we set out to make this country different. We wanted it to be a nation founded on both laws and principles of inalienable rights for the individual. The principles were incorporated into the laws and the laws were designed to enhance and protect these basic principles, best expressed by Thomas Jefferson in the Declaration of Independence as "The right to life, liberty and the pursuit of happiness." All our famous freedoms—freedom of speech, freedom of religion, freedom of the press, the freedom of assembly—derive from that basic outpouring of will and justice that saw us break our ties to the Old World, and establish this new land of freedom.

Mr. President, the growth of the United States over the last 200 years was far from easy. Many times Americans were forced to defend our land and our Constitution with "their lives, their fortunes, and their sacred honor." No, it was not easy and many lives were lost in sacrifice for the principles we hold so dear, and for those who come after us, our sons and daughters and the generations of the future. Our forebears did that for us, and we must be willing to do that for our children—if we are not willing, then America has lost its meaning.

KHOMEINI AND CHAOS RULE IN IRAN

The situation in the Middle East is a dangerous one, for the interests of the United States, yes, but for the entire civilized world as well. Millennia ago Hammurabi ruled where Khomeini and chaos now hold sway. By codifying the laws he began the process of civil order and stability which made the growth of civilization possible. But the tides of history have dealt cruelly with Elem, known today as Iran. Today we see the fruits of a tradition of intolerance and tyranny. The people of Tehran who revolted against an unjust and corrupt system replace it now with one equally intolerant and contemptuous of the civilized world's laws.

There is a great danger of this contagion spreading through the masses of the Third World, where poverty and the deprivation of individual rights cause the people to seek surcease in radical movements and impassioned religious causes. These causes readily accept the sacrifice of even the most basic principles of humanity, principles we hold paramount, in order to achieve a change in their condition. While the people of the United States have always been sympathetic to the victims of oppression, we cannot accept nor allow a spreading madness to assault in the name of Islam the foundations of civilization. Those who would bring down the modern world in order to change it are our enemies. Their retoric for the poor and downtrodden is one that draws our sympathies falsely—it is a mask for a determined attack on the principles of freedom which underlie our national heritage.

THE TIME HAS COME

Every day that passes finds our concern growing deeper for the 50 hostages in Tehran. Since this crisis began, outbreaks of anti-Americanism have occurred in Pakistan, Bangkok, and Kuwait, threatening more American lives. The United States, standing firm and united behind the leadership of our President, must halt this spreading wave of contempt and destruction toward America and civilized values. We have appealed, with mixed results, to our allies and all other nations of the world to recognize this threat as one that vitally affects all. With or without these other nations, such as our neighbor to the South, Mexico, the time has come when we must begin to make our will and determination evident to those who would bring us down.

The United States hopes to avoid military actions in Iran. Greater resistance and enimity are the too-likely results of armed intervention anywhere. But if the United States and the values it holds most dear are going to be attacked, America is ready to respond, as it has so many times over its past 200 years been forced to do.

Mr. President, right now the United States is calling on its allies for support, urging condemnation of Iran by the United Nations, and seeking International legal sanctions through the World Court, as well as our own, protective economic actions. In addition to this pressure on those who hold power in Iran in addition to the calls of reason and the calls of compassion from around the world, the Senator from Kansas would like to add this warning to Iran: Watch out for the aroused wrath of America; look to our history, to our founding principles; observe the actions and responses of our countrymen over these past 200 years; see what America stands for, and know we will continue to stand steadfast in support of those very principles which are the life's blood of our national heritage.●

THE MILITARY BALANCE

● Mr. GOLDWATER. Mr. President, we are told that possibly that SALT II treaty might be called up this year before we go home for Christmas or that it might be put off until after the holidays. Regardless of when it is called, I think the more we know about the advantages the Soviets already have over us in the military field, the better off we will all be.

One of the most prestigious groups in the world in the field of the study of the military is the International Institute for Strategic Studies in London. They have written, as they do every year, a résumé of the world military picture as they see it. All of this appears in the December issue of Air Force magazine, but of particular interest to the Members of this body should be the comparison between the U.S. forces and those of the Soviet Union. I ask that both the foreword and the text of this particular phase of the study be printed in the Record.

The Military Balance 1979/80 as Compiled by the International Institute for Strategic Studies, London

FOREWORD

It is once again a privilege for Air Force Magazine to present "The Military Balance," compiled by The International Institute for Strategic Studies, London, England, which has been an exclusive feature of each December issue since 1971. The Institute, an independent center for research in defense-related areas, is universally recognized as the leading authority in its field.

"The Military Balance" is an annual, quantitative assessment of the military power and defense expenditure of countries throughout the world. It examines the facts of military power as they existed in July 1979, and no projections of force levels or weapons beyond this date have been included except where specifically noted. The study should not be regarded as a comprehensive guide to the balance of military power, since it does not reflect the facts of geography, vulnerability, or efficiency, except where these are touched on in the sections on balances.

National entries are grouped geographically, but with special reference to the principal regional defense pacts and alignments. A short description of multilateral and bilateral pacts and military agreements introduces each of the regional sections.

The section on the U.S. and U.S.S.R. includes an assessment of the changing strategic and general-purpose force balances between the two superpowers. A separate section assesses the European theater balance between NATO and the Warsaw Pact and summarizes the statistics of forces and weapons in Europe that are in position or might be used as reinforcements. Included this year is a supplementary essay, "The Balance of Theater Nuclear Forces in Europe."

As in the past, space limitations make it necessary for us to exclude some tabular material, including data on arms production in developing countries, arms agreements that have been negotiated since the last issue of "The Balance," and force structures of smaller countries that maintain only minimal defense establishments.

In preparing "The Military Balance 1979/80" for our use, we have retained the Institute's system of abbreviating military weapons and units as well as British spelling and usage. A list of abbreviations found in the text appears on following pages.

Figures for defense expenditures are the latest available. However, since many countries update these figures each year, they will not in all cases be directly comparable with those in previous editions of "The Balance." Defense expenditures for the USSR and the People's Republic of China are estimates. Notes on estimating their defense expenditures appear at the end of the sections on those countries. Where a $ sign appears, it refers to US dollars unless otherwise stated.

GNP figures are usually quoted at current market prices (factor cost for East European countries). Where figures are not currently available from published sources, estimates have been made. Wherever possible, the United Nations System of National Accounts has been used, rather than national figures, as a step toward greater comparability. For the Soviet Union, GNP estimates are made in roubles, following R. W. Campbell, "A Shortcut Method for Estimating Soviet GNP" (*Association for Comparative Economic Studies*, Vol. XIV, No. 2, Fall 1972). East European GNPs at factor cost are derived from Net Material Product, using an adjustment parameter from T. P. Alton, "Economic Growth and Resource Allocation in Eastern Europe," *Reorientation and Commercial Relations of the Economies of Eastern Europe*, Joint Economic Committee, 93d Congress, 2d Session (Washington: USGPO, 1974).

For easier comparisons, national currency figures have been converted into United States dollars, using the rate prevailing at the end of the first quarter of the relevant year. In all cases the conversion rates used are shown in the country entry but may not always be applicable to commercial transactions. An exception is the Soviet Union, since the official exchange rate is unsuitable for converting rouble estimates of GNP. Various estimates for more appropriate conversion rates have been made, but they have shortcomings too great to warrant their being used here. The official rate is, however, given in the country section. Further exceptions are certain East European countries which are not members of the IMF and Romania (which is), for which the conversion rates used are those described in Alton's study mentioned above.

Unless otherwise stated, the manpower figures given are those of active forces, regular and conscript. An indication of the size of militia, reserve, and para-military forces is also included in the country entry where appropriate. Para-military forces are here taken to be forces whose equipment and training goes beyond that required for civil police duties and whose constitution and control suggest that they may be usable in support, or in lieu, of regular forces.

Equipment figures in the country entries cover total holdings, with the exception of combat aircraft, where front-line squadron strengths are normally shown. Except where the contrary is made clear, naval vessels of less than 100 tons of structural displacement have been excluded. The term "combat aircraft" used in the country entries includes only bomber, fighter-bomber, strike, interceptor, reconnaissance, counterinsurgency, and armed trainer aircraft (*i.e.*, aircraft normally equipped and configured to deliver ordnance or to perform military reconnaissance). It does not include helicopters.

Where the term "mile" is used when indicating the range or radius of weapons systems, it means a statute mile.

The Institute assumes full responsibility for the facts and judgments contained in the study. The cooperation of the governments that are covered was sought and, in many cases, received. Not all countries were equally cooperative, and some figures were necessarily estimated.

ABBREVIATIONS

<: under 100 tons.
—: indicates part of establishment is detached.
AA: anti-aircraft.
AAM: air-to-air missile(s).
AB: airborne.
ABM: anti-ballistic missile(s).
ac: aircraft.
AD: air defence.
AEW: airborne early warning.
AFV: armoured fighting vehicle(s).
AFB: air force base.
ALBM: air-launched ballistic missile(s).
ALCM: air-launched cruise missile(s).
amph: amphibious.
APC: armoured personnel carrier(s).
Arg: Argentinian.
armd: armoured.
arty: artillery.
ASM: air-to-surface missile(s).
ASW: anti-submarine warfare.
ATGW: anti-tank guided weapon(s).
ATK: anti-tank.
Aus: Australian.
AWACS: airborne warning and control system.
AWX: all-weather fighter.
bbr: bomber.
bde: brigade.
bn: battalion *or* billion.
Br: British.
bty: battery.
Can: Canadian.
cav: cavalry.
cdo: commando.
CEP: circular error probable.
Ch: Chinese (PRC).
COIN: counter-insurgency.
comd: command.
comms: communications.
coy: company.
det: detachment.
div: division.
ECM: electronic counter-measures.
ELINT: electronic intelligence.
engr: engineer.
eqpt: equipment.
EW: early warning.
FAC(G): fast attack craft (gun).
FAC(M): fast attack craft (missile).
FAC(P): fast attack craft (patrol).
FAC(T): fast attack craft (torpedo).
FB: fighter-bomber.
fd: field.
FGA: fighter, ground-attack.
flt: flight.
Fr: French.
GDP: gross domestic product.
GDR: German Democratic Republic.
Ger: German (West).
GNP: gross national product.
GP: general purpose.
gp: group.
GPS: Global Positioning System.
GW: guided weapon(s).
hel: helicopter(s).
how: howitzer(s).
hy: heavy.
ICBM: inter-continental ballistic missile(s).
indep: independent.
inf: infantry.
IRBM: intermediate-range ballistic missile(s).
KT: kiloton (1,000 tons TNT equivalent).
LCA: landing craft, assault.
LCM: landing craft, medium/mechanized.
LCT: landing craft, tank.
LCU: landing craft, utility.
LCVP: landing craft, vehicles and personnel.

LHA: amphibious general assault ship(s).
log: logistic.
LPD: landing platform, dock.
LPH: landing platform, helicopter.
LRCM: long-range cruise missile(s).
LSD: landing ship, dock.
LSM: landing ship, medium.
LST: landing ship, tank.
lt: light.
m: million.
MARV: maneuverable re-entry vehicle(s).
MCM: mine counter-measures.
mech: mechanized.
med: medium.
MICV: mechanized infantry combat vehicle(s).
MIRV: multiple independently-targetable re-entry vehicle(s).
mor: mortar(s).
mot: motorized.
MR: maritime reconnaissance.
MRBM: medium-range ballistic missile(s).
MRCA: multi-role combat aircraft.
MRV: multiple re-entry vehicle(s).
msl: missile.
MT: megaton (1 million tons TNT equivalent).
n.a.: not available.
Neth: Netherlands.
OCU: operational conversion unit.
para: parachute.
pdr: pounder.
Pol: Polish.
Port: Portuguese.
PSMM: patrol ship, multi-mission.
RCL: recoilless launcher(s).
recce: reconnaissance.
regt: regiment.
RL: rocket launcher.
RV: re-entry vehicle(s).
SAM: surface-to-air missile(s).
SAR: search and rescue.
sig: signal.
SLBM: submarine-launched ballistic missile(s).
SLCM: sea-launched cruise missile(s).
Sov: Soviet.
SP: self-propelled.
spt: support.
sqn: squadron.
SRAM: short-range attack missile(s).
SRBM: short-range ballistic missile(s).
SSBN: ballistic-missile submarine(s), nuclear.
SSM: surface-to-surface missile(s).
SSN: submarine(s), nuclear.
sub: submarine.
TA: territorial army.
tac: tactical.
TAVR: Territorial and Army Volunteer Reserve.
tk: tank.
tp: troop.
tpt: transport.
trg: training.
UNDOF: United Nations Disengagement Observation Force.
UNEF: UN Emergency Force.
UNFICYP: UN Force in Cyprus.
UNIFIL: UN Interim Force in Lebanon.
UNTSO: UN Truce Supervisory Organization.
USGW: underwater-to-surface guided weapon.
vch: vehicle(s).
V(/S)TOL: vertical (/short) take-off and landing.
Yug: Yugoslav.

The Military Balance 1979/80: The United States and the Soviet Union

AMERICAN STRATEGIC FORCES

The second Strategic Arms Limitation Talks agreement (SALT II) is now undergoing consideration by the US Senate. Pending completion of this process, both superpowers have continued to modernize their strategic forces within the context and limits imposed by SALT I and stipulated in the Vladivostok Accord of 1974. Although the Interim Agreement (SALT I) was due to expire on 3 October 1977, both sides have undertaken to observe its provisions while SALT II is being negotiated.

In the case of the United States, some programmes are in train for modernizing and upgrading strategic forces, but important decisions remain to be taken about the ICBM force. For many years the ICBM force has remained at 1,054 (550 *Minuteman* III each with 3 MIRV warheads, 450 single-warhead *Minuteman* II, and 54 *Titan* II), but plans are in hand to upgrade *Minuteman* III yield and accuracy with the NS–20 guidance system and the Mk 12A warhead. Development of the Mk 12A should be complete by the end of 1979 and production will then begin. Accuracy should then increase from a CEP of 0.25 nautical miles (nm) to 700 feet. MARV development continued, as did component development of the MX ICBM, but some fundamental decisions remain to be taken on the basing mode for the new missile. The MX will be 92 ins in diameter and have 10 warheads.

At sea, 496 *Poseidon* SLBM, each with 10–14 MIRV, form the missile complement of 31 SSBN, and a further 160 *Polaris* SLBM (each with 3 MRV) are carried in 10 SSBN. Of the *Poseidon* C3 warheads, 400 are allocated to SACEUR for European missions, although the submarines concerned are no longer based at Rota in Spain, having been withdrawn in early 1979. Construction of the first seven of the new 24-tube *Trident* boats continues and the first has been launched. Delays in the programme have been reported. Testing of the *Trident* C4 missile has continued. With a range of 4,000 nm, this will also be retrofited into 12 of the in-service *Poseidon* boats starting this year. The C4 has not only almost twice the range of in-service SLBM but accuracy will improve to about 1,500 feet CEP. It will carry 8x100KT MIRV. A second-generation SLBM for *Trident* boats (the D5) is under early development. This is expected to have a range of 6,000 nm, to carry 14x150KT MIRV warheads, and may employ a maneuverable warhead, the Mk 500 *Evader*. In conjunction with GPS *Navstar satellites,* very high degrees of accuracy might be obtainable.

Some 120 B–52G/H strategic bombers are to be adapted for the carriage of ALCM or a mix of ALCM and short-range attack missiles (SRAM). This will involve structural and avionic improvements. Flight-testing continued on 3 B–1 bomber prototypes but plans to procure further aircraft were cancelled. There are two ALCM designs competing for a production contract, and a fly-off is taking place. Range will be of the order of 1,500 nm and ALCM could be in service by about 1982/3. Although there is considerable and perhaps growing interest in ground- and sea-launched cruise missiles, the SALT II Protocol will prohibit their deployment with effective ranges of over 350 nm until its expiry at the end of 1981. However, testing and development may proceed.

There has been a slight drop in total numbers of American delivery systems (2,270 in 1969, 2,142 in 1979), although the number of deliverable warheads has doubled (to 11,000) in the same period.

By contrast, defence against strategic attack has been accorded a lower priority. Interceptor aircraft to handle a Soviet bomber attack were held at six active and ten reserve (Air National Guard) squadrons. One of these ANG squadrons is due to disband in FY 1979. Radar development continued and several programmes are in hand to enhance satellite survivability; these include satellite "hardening", maneuverability, and an anti-satellite capability.

SOVIET STRATEGIC FORCES

The Soviet Union's pace of modernization continued to be impressive. Although total ICBM numbers fell (to a little under 1,400 as older ICBM were replaced by new SLBM), at least 230 new ICBM (SS–17, –18, –19) were deployed during the year in single-warhead and MIRV variants. Accuracy has improved dramatically, and the SS–18 and SS–19 reportedly have accuracies comparable to American systems. The SS–16 ICBM is ready for deployment in a mobile mode, but the Soviet Union has undertaken in SALT II not to deploy it in this way and to dismantle any facilities for the rapid conversion of the mobile 3-MIRV SS–20 IRBM to the SS–16 by the addition of an extra stage. SS–20 deployment, however, is not constrained by SALT, and about 120 launchers are deployed, at least some of them assumed to be targeted against China. It is unclear as yet whether the rather elderly SS–4 and SS–5 IRBM are being retired as the new (and much more capable) missile is brought into service, but it appears probable that at least some of the older missiles will be placed in storage. There is little doubt that several ICBM are being developed, but only one of these could be deployed before 1985, which is 'new' under the terms of SALT II.

At sea there is also marked improvement. Soviet SLBM now number 950 in 64 submarines (this figure excludes SS–N–4 and SS–N–5 SLBM, which are not counted in SALT). Five Delta II and nine Delta III SSBN are in service. The former carry 16 4,800nm-range SS–N–8 missiles each, and the latter are being fitted with the 5,000nm-range SS–N–18—a new 3-MIRV replacement for the SS–N–8. Another new SLBM, the SS–N–17, is believed to be in service on one Yankee-class SSBN. It is believed that a new SLCM to replace the ageing SS–N–3 is under development.

Tu–22M Backfire bombers are entering service at a rate of about 25 per year, but a letter of understanding is attached to SALT II in which the USSR undertakes not to use this aircraft as a strategic nuclear delivery vehicle (SNDV) and to limit production to 30 a year. A new ASM is expected before long, and there are persistent reports of a new strategic bomber being flight-tested.

In 1969 the Soviet Union was deploying 1,369 SNDV. The total is now 2,504 which, under the terms of SALT II, will have to reduce to 2,250 by 1982. Some retirements of elderly systems are therefore expected, provided SALT II is ratified. Warheads, however, are increasing quite sharply as a direct result of the switch to MIRVed systems on land and at sea. The figure is now about 5,000, and this will rise to 7,500 in the early 1980s. The average yield of these warheads is substantially higher than the average yield of American warheads.

Strategic defence is provided for by extensive air defence radars, SAM, interceptors, and the Moscow ABM complex of 64 launchers. Considerable effort is being devoted to defences against the US ALCM threat which will develop in the 1980s. It is believed that research is continuing on anti-satellite and exotic technologies which may have application for ballistic missile defence.

AMERICAN GENERAL-PURPOSE FORCES

Numbers in the American armed forces have not changed significantly in the past year, although there is recurrent concern over recruitment. A number of significant programmes for improving the capability of conventional weapons are in train, with marked emphasis on aircraft and anti-tank systems. One American infantry division is being mechanized. Procurement of TOW and Dragon ATGW continued. Cannon-launched guided projectiles (CLGP) and scatterable mines are being developed, together with the GSRS rocket launcher. Tank production continued to increase, but numbers remain at much the same level (10,500) as ten years ago. The first 110 of the new XM–1 tank are due for delivery this year, to be followed by 569 in FY 1980. Plans to develop a new infantry/cavalry fighting vehicle have been cancelled and a less-costly alternative is being considered. As an interim measure, 1,207 more M–113 APC will be produced by FY 1980.

Deployment of the new generation of tactical fighters has continued, with the Navy F–14 and the Air Force F–15 and F–16 entering service in substantial numbers. Development of the less costly F–18 continued. The A–10 ground-attack aircraft is in full production. Fourteen E–3A AWACS aircraft are in service and eight are on order (and NATO has agreed to purchase a further eighteen for deployment in Europe). New scout, attack, and transport helicopters are being developed. In the field of long-range air transport, in-flight refueling for C–141 transports and production of the advanced tanker cargo aircraft (ATCA) will significantly enhance strategic airlift in the early 1980s.

The number of American naval units declined sharply in the 1970s, reaching a low of 172 major surface combatants. This trend should be reversed if plans proceed as intended. The building of a large new nuclear-powered carrier was vetoed by the President, although the decision may be challenged in Congress. Planning has concentrated on a new class of smaller, conventionally-engined carrier. A total of 42 SSN–688 attack submarines are to be built, nine of which have entered service, with three more due this year. The *Harpoon* anti-shipping missile has entered service with a range of 100km. The *Tomahawk* SLCM, with a much greater range and a nuclear capability, may enter service after 1981. Improvements are also under way for amphibious lift and afloat support. Development is proceeding on a new type of air-cushion vehicle for ship-to-shore movement.

SOVIET GENERAL-PURPOSE FORCES

There has been no sign of any slackening in Soviet improvement programmes. Holdings of all types of armoured vehicles have increased as the BMP MICV, T–64, and T–72 tanks continue to enter service. Tank numbers are assessed at about 50,000, compared with 34,000 in 1967, although a significant proportion of these are obsolete and are considered to be in reserve. Nevertheless, the Soviet Union thus can rapidly increase the number of formations at short notice on full mobilization. *Hind* attack helicopters are being seen in much greater numbers, and new SAM, new ATGW, and new tactical nuclear missiles (SS–21 and SS–22) have all been identified. Self-propelled artillery deployment continues to take pace rapidly.

Greater numbers of modern Soviet tactical aircraft—Su–17 *Fitter* C, MiG–23 *Flogger* B, MiG–27 *Flogger* D, and Su–19 *Fencer*—have been brought in, and all have greater range and payload than the aircraft they are replacing, as well as much improved avionics. Many are nuclear-capable and have considerable ability to penetrate at low level. Armament and ECM are improving. Long-range transport aircraft (especially the Il–76 *Candid*), with impressive payload/range characteristics, continue to enter service. The Soviet Navy received more *Forger* VTOL and *Backfire* aircraft, both to improve the air defences of the fleets and to enhance long-range anti-shipping capabilities.

Although a very substantial number of Soviet naval vessels are overdue for replacement and can only be suitable for service close to shore, emphasis continues to be placed on new amphibious shipping (*Ivan Rogov*-class), carriers (two *Kiev*-class operational, another launched), and attack submarines. Other major surface combatants under construction include *Kara-*, *Kresta-II-*, and *Krivak*-class vessels, and new missile attack boats of the *Matka*-class are under construction to replace or augment the *Osa*-class. There are reports that a nuclear-powered cruiser of over 20,000 tons is now fitting out in the Baltic.

THE UNITED STATES

Population: 220,300,000.

Military service: voluntary.

Total armed forces: 2,022,000 (134,310 women).

Estimated GNP 1978: $2,106.6 bn.

Defence expenditure 1979–80: $122.7 bn. (Expected Outlay in Fiscal 1980. Budget Outlay $135.0 bn; Total Obligational Authority $135.5 bn.)

Strategic Nuclear Forces: (Manpower included in Army, Navy, and Air Force totals.) Offensive: (a) *Navy:* 656 SLBM in 41 SSBN. 31 *Lafayette* SSBN, each with 16 *Poseidon* C3 (12 to be retrofitted with *Trident* C4 msls). 5 *Washington*, 5 *Allen* SSBN, each with 16 *Polaris* A3. (7 *Trident* SSBN, each with 24 *Trident* C4, building.)

(b) *Strategic Air Command* (SAC): *ICBM:* 1,054. 26 strategic msl sqns: 9 with 450 *Minuteman* II, 11 with 550 *Minuteman* III, 6 with 54 *Titan* II.

(On order: 200 MX ICBM.)

Aircraft: Bombers: 573. 66 FB–111A in 4 sqns (with 120 SRAM); 240 B–52G/H in 15 sqns. (with 120 SRAM); 75 B–52 in 5 sqns. Training: 50 B–52D/F. Storage or reserve: 142 incl. B–52D/G/H. Tankers: 515 KC–135A in 30 sqns. Strategic recce and comd: 1 sqn with 10SR–71A, 1 sqn with 10 U–2C1R, 1 sqn with 4 E–4A/B, 3 sqns with 19 RC/EC–135. (On order: 25 TR–1.)

Defensive: North American Air Defense Command (NORAD), HQ at Colorado Springs, is a joint American-Canadian organization. It includes:

ABM: Safeguard system (msls deactivated).

Aircraft (excluding Canadian and tac units):

Interceptors: 325.

(i) Regular: 6 sqns with 146 F–106A.

(ii) Air National Guard (ANG): 3 sqns with 63 F–101B/F, 2 with 40 F–4C/D, 5 with 76 F–106A.

Genie, Falcon, Super Falcon AAM.

Warning Systems:

(i) *Satellite-based early-warning system:* 3 DSP satellites, 1 over Eastern Hemisphere, 2 over Western; surveillance and warning systems to detect launchings from SLBM, ICBM, and fractional orbit bombardment systems (FOBS).

(ii) *Space Detection and Tracking System* (SPADATS): USAF *Spacetrack* (7 sites), USN *SPASUR*, and civilian agencies. pace Defense Center at NORAD HQ: satellite tracking, identification, and cataloguing control.

(iii) *Ballistic Missile Early Warning System* (BMEWS): 3 stations (Alaska, Greenland, England); detection and tracking radars with ICBM and IRBM capability.

(iv) *Distant Early Warning* (*DEW*) *Line:* 31 stations roughly along the 70°N parallel.

(v) *Pinetree Line:* 24 stations in Central Canada.

(vi) *474N:* 1 station on US East, 1 on Gulf, 1 on West coast (to be replaced by *Pave Paws* phased-array radars: 1 on East, 1 on West coast); SLBM detection and warning net.

(vii) *Perimeter Acquisition Radar Attack Characterization System* (PARCS): 1 north-facing phased-array 2,000-mile system at inactive ABM site in North Dakota.

(viii) *Cobra Dane Radar:* phased-array system at Shemya, Aleutians.

(ix) *Back-up Interceptor Control* (BUIC): system for AD command and control (all stations but 1 semi-active).

(x) *Semi-Automatic Ground Environment* (SAGE): 6 locations (2 in Canada); combined with BUIC and Manual Control Centre (MCC) in Alaska (to be replaced by Joint Surveillance System (JSS) with 7 Region Operations Control Centres, 4 in US, 1 in Alaska, 2 in Canada); system for co-ordinating surveillance and tracking of objects in North American airspace.

(xi) *Ground radar stations:* some 47 stations manned by ANG, augmented by Federal Aviation Administration (FAA) stations (to be replaced as surveillance element of JSS).

Army: 750,800 (56,840 women).

4 armed divs.

5 mech divs.

5 inf divs (1 to become mech in 1979. One National Guard bde is incorporated in 1 mech and 3 inf divs).

1 airmobile div.

1 AB div.

1 armed bde.

1 inf bde.

3 armd cav regts.

1 bde in Berlin.

2 special mission bdes.

Army Aviation 1 air cav combat bde, indep bns assigned to HQ for tac tpt and medical duties.

4 *Pershing*, 8 *Lance* SSM bns.

Tanks: some 10,500 med, incl 1,825 M-48A5, 1,555 M-60, 5,875 M-60A1, 540 M-60A2 with *Shillelagh* ATGW, 615 M-60A3; 1,600 M-551 *Sheridan* lt tks with *Shillelagh*.

AFV: some 22,000 M-577, M-114, M-113 APC.

Arty and Msls: about 2,500 105mm, 155mm towed guns/how; 4,000 175mm SP guns and 105mm, 155mm, and 203mm SP how; 3,500 81mm, 2,000 107mm mor; 6,000 90mm and 106mm RCL; *TOW, Dragon* ATGW; *Honest John, Pershing, Lance* SSM.

AA arty and SAM: some 600 20mm, 40mm towed, and SP AA guns; some 20,000 *Redeye, Stinger, Chaparral/Vulcan* 20mm AA msl/gun systems; *Nike Hercules* and *Improved HAWK* SAM (to be replaced by *Patriot*).

Aircraft/Hel: about 550 ac, incl 200 OV-1/-10, 350 U-21/C-12; hel incl about 1,000 AH-1G/Q/S, 4,000 UH-1/-19, 15 UH-60A, 500 CH-47/-54, 2,500 OH-6A/58A.

Trainers incl about 200 T-41/-42 ac; 250 TH-55A hel.

(On order: 689 M-60A3, 110 XM-1 med tks, 1,100 M-901 *Improved TOW*, 550 M-113A1 *TOW* veh, 450 M-198 155mm, 232 M-109A2/3 155mm SP how, 485 *Roland*, 795 Improved *HAWK* SAM 297 AH-1S, 234 UH-60A hel.)

Deployment: *Continental United States:*

Strategic Reserve: (i) 1 mech, 1 AB divs, 1 armd bde. (ii) To reinforce 7th Army in Europe: 2 armd, 2 mech, 3 inf, 1 airmobile divs, 1 armd cav regt, 1 inf bde (one armed div, 1 mech div, 1 armd cav regt have hy eqpt stockpiled in W. Germany). (iii) Alaska: 1 bde. (iv) Panama: 1 bde.

Europe: 202,400.

(i) Germany: 193,000. 7th Army: 2 corps, incl 2 armd, 2 mech divs, 1 armd, 2 mech bdes, plus 2 armd cav regts; 3,000 med tks. (Includes those stockpiled for the strategic reserve formations.)

(ii) West Berlin: 4,400. HQ elements and 1 inf bde.

(iii) Greece: 800.

(iv) Italy: 4,000.

(v) Turkey: 1,000.

Pacific:

(i) South Korea: 33,400. 1 inf div, 1 AD arty bde with 12 *Improved HAWK* btys.

(ii) Hawaii: 1 inf div less 1 bde.

Reserves: 534,000.

(i) Army National Guard: 348,000 capable after mobilization of manning 2 armd, 1 mech, 5 inf divs, 21 indep bdes (3 armd, 8 mech, 10 inf), and 4 armd cav regts, plus reinforcements and support units to fill regular formations. (The 21 indep bdes include 4 indep bdes and 11 bns incorporated in active army divs.)

(ii) Army Reserves: 186,000 in 12 trg divs, 1 mech, 2 inf indep combat bdes; 49,000 a year do short active duty.

Marine Corps: 184,000 (5,085 women).

3 divs.

2 SAM bns with *Improved HAWK*.

575 M–60A1 med tks; 950 LVTP–7 APC; 175 mm SP guns; 105mm, 155mm towed, 155 mm.

203mm SP how; 230 81 mm mor; 106mm RCL; *TOW, DRAGON* ATGW, *Redeye* SAM.

3 Air Wings: 392 combat aircraft.

12 FGA skns with 144 F–4/S with *Sparrow* and *Sidewinder* AAM.

13 FGA sqns; 3 with 78 AV–8A *Harrier*, 5 with 80 A–4M, 5 with 60 A–6A/E.

1 recce sqn with 10 RF–4B.

2 ECM sqns with 20 EA–6B.

2 observation sqns with 36 OV–10A.

3 assault tpt/tanker sqns with 36 KC–130F/R.

3 attack hel sqns with 54 AH–1J/T.

6 lt hel sqn with 96 UH–1N.

9 med. hel sqns with 162 CH–46F.

6 hy hel sqns with 126 CH–53D.

6 trg sqns with A–4M/TA–4J, A–6C, AV/TA–8A, F–4J/N ac, CH–46F, CH–53D hel.

Deployment: *Pacific:* 1 div. 1 air wing.

Reservers: 33,000.

1 div and 1 air wing: 2 fighter sqns with 24 F–4N, 5 attack sqns wtih 60 A–4E/F, 1 observation sqn with 18 OV–10A, 1 tpt/tanker sqn with 12 KC–130, 7 hel sqns (1 attack with 18 AH–1G, 2 hy with 18 CH–53, 3 med with 54 CH–46, 1 lt with 21 UH–1E), 2 tk bns, 1 amph assault bn, 1 SAM bn with *HAWK*, 1 fd arty gp.

Navy: 524,200 (25,290 women); 180 major combat surface ships, 80 attack submarines.

Submarines attack: 73 nuclear: 9 *Los Angeles* with *Harpoon* SSM and *SUBROC*, 52 with *SUBROC* (1 *Lipscomb*, 1 *Narwhal*, 37 *Sturgeon*, 13 *Thresher*), 5 *Skipjack*, 7 *skate*. 7 diesel: 3 *Barbel*, 2 *Grayback*, 2 *Tang*.

Aircraft carriers: 13. 3 nuclear: 2 *Nimitz* (91,400 tons), 1 *Enterprise* (89,600 tons). 10 conventional: 4 *Kitty* and *J.F. Kennedy* (78/82,000 tons), 4 *Forrestal* (76/79,000 tons), 2 *Midway* (62,200 tons).

These normally carry 1 air wing (70–95 ac) of 2 fighter sqns with 24 F–14A or 24 F–4J, 3 attack (1 AWX, 2 with 24 A–7E, 1 with 10 A–6E), 1 recce with 3 RA–5C or 3 RF–8G, 2 ASW (1 with 10 S–3A ac, 1 with 8 SH–3A/D/G/H hel), 1 ECM with 4 EA–6B, 1 AEW with 4 E–2B/C, 4 KA–6D tankers, and other specialist ac.

Other surface ships: 8 nuclear-powered GW cruisers with SAM, *ASROC* (3 *Virginia*, 2 *California*, 1 *Truxun*, 1 *Long Beach*, 1 *Brainbridge*).

20 GW cruisers with SAM, *ASROC*, 8 with 1 hel (8 *Belnap*, 9 *Leahy*, 2 *Albany*, 1 *Cleveland*).

37 GW destroyers with SAM, *ASROC* (10 *Coontz*, 4*F. Sherman*, 23 *C. F. Adams*).

35 gun/ASW destroyers, most with SAM or *ASROC* (21 *Spruance*, 13*F. Sherman/Hull*, 1 *Gearing*).

7 GW frigates with SAM, *ASROC hel*(1 *O. H. Perry*, 6 *Brooke*).

58 gun frigates with *ASROC* (52 with 1 hel; 46 *Knox*, 10 *Garcia*, 2 *Bronstein*).

2 *Asheville* large patrol craft.

1 *Pegasus* GW hydrofoil with *Harpoon* SSM.

3 *Aggressive* ocean minesweepers.

65 amph warfare ships (1 *Raleigh*, 2 *Blue Ridge* comd. 3 *Tarawa* LHA, 7 *Iwo Jima* LPH, 12 *Austin*, 2 *Raleigh* LPD, 5 *Anchorage*, 8 *Thomaston* LSD, 20 *Newport* LST, 5 *Charleston* amph cargo ships).

105 LCU (60 Type 1610, 24 Type 1466, 21 Type 501).

36 replenishment and 47 depot and repair ships.

(On order or funded; 25 SSN, 1 nuclear carrier, 1 nuclear GW cruiser, 11 destroyers, 32 GW frigates, 5 GW hydrofoils, 2 LHA.)

Ships in reserve: 3 subs, 6 aircraft carriers, 4 battleships, 7 cruisers, 46 log support, and 41 troop, cargo, and tanker ships. (239 cargo ships, 162 tankers could be used for auxiliary sealift.)

Aircraft: 12 attack carrier air wings; some 1,100 combat aircraft. 26 fighter sqns: 14 with 168 F–14A, 12 with 144 F–4.

36 attack sqns: 11 with 110 A–6E, 25 with 300 A–7E.

5 recce sqns with 30 RA–5C, 30 RF–8G.

24 land-based MR sqns with 260 P–3B/C.

11 ASW sqns with 110 S–3A.

13 ASW hel sqns with 72 SH–3A/D/G/H.

7 lt ASW hel sqns with SH–2F.

17 misc support sqns with 12 C–130F/LC–130, 7 C–118, 2 C–9B, 16 CT–39, 13 C–131, 6 C–117, 20 C–1, 10 C–2, 26 EA–6B ac; 30 AH–53D, CH–46, SH–3, SH–2F hel.

38 trg sqns with A–7, A–6, F–4, F–5E, F–14, E–2, P–3, TA–4J, T–2C, T–34/–39, TS–2A ac, TH–57A, TH–1L, HH–64, UH–1H, HH–1K hel.

Standard, Bullpup, Shrike ASM, *Sparrow*, Phoenix AAM.

(On order: 12 A–6E, 12 A–7E, 60 F–14A, 24 F–18 fighters, 24 P–3C MR, 12 E–2C AEW ac.)

Deployment and bases (average strengths of major combat ships; some in Mediterranean and Western Pacific based overseas, rest rotated from US).

Second Fleet (Atlantic): 5 carriers, 61 surface combatants, Norfolk, Mayport, Roosevelt Roads (Puerto Rico), Charleston, Philadelphia, Brooklyn, New London, Newport, Boston, Guantanamo Bay (Cuba), Argentia (Newfoundland), Keflavik (Iceland), Holy Loch (Scotland).

Third Fleet (Eastern Pacific): 4 carriers, 67 surface combatants. Pearl Harbor, San Francisco, San Diego, Long Beach, Adak (Alaska).

Sixth Fleet (Mediterranean): 2 carriers, 16 surface combatants, 1 Marine Amphibious Unit (MAU). (Marine Amphibious Units are 5–7 amph ships with a Marine bn embarked. Only 1 in Mediterranean and 1 in Pacific are regularly constituted. 1 Bn Landing Team (MAU less hel) also deployed in the Pacific; 1 occasionally formed for the Atlantic.) Naples (Italy), Rota (Spain).

Seventh Fleet (Western Pacific); 2 carriers, 19 surface combatants, 1 MAU, 1 Marine Bn Landing Team. Yokosuka (Japan), Subic Bay (Philippines), Apra Harbor (Guam), Midway.

Reserves: 83,000. Ships in commission with the Reserve include 28 destroyers, 3 amph warfare ships, 22 ocean minesweepers.

2 carrier wings; 6 attack sqns with A–7B, 4 fighter with F–4N, 2 recce with RF–8G, 2 AEW with E–2B, 3 electronic with EA–6A, EKA–3.

13 MR Sqns with P–3A.

4 tac spt sqns with 12 C–9B, 30 C–118B.

2 composite sqns with TA–4J.

7 hel sqns: 4 ASW with SH–3A/G, 2 lt attack with HH–1K, 1 SAR with HH–3A.

Air Force: 563,000 (47,095 women); about 3,400 combat aircraft. (Excluding ac in SAC and NORAD; incl ac in ANG and Air Force Reserve.)

81 FGA sqns: 43 with 1,000 F–4, 3 *Wild Weasel* (1 with 24 F–105G, 2 with 48 F–4G), 12 with 282 F–111A/D/E/F, 13 with 312 F–15, 3 with 72 A–7D, 7 with 112 A–10A.

7 tac recce sqns with 192 RF–4C.

3 AWACS sqn with 14 E–3A.

1 defense system evaluation sqn with 21 EB–57 (2 with 40 EF–111A due).

11 tac air control sqns: 6 with 88 OV–10 and O–2E, 1 with 7 EC–130E, 1 with 11 EC–135 ac, 3 with 27 CH–3 hel.

5 special operations sqns: 4 with 20 AC–130 ac, 1 with CH–3, UH–1 hel.

4 aggressor trg sqns with 55 F–5E.

17 OCU; 1 with F–16, 7 with F–4, 1 with F–5, 2 with F–15, 2 with F–101/–106, 3 with A–10, 1 with RF–4C.

1 tac drone sqn with 7 DC–130A.

15 tac airlift sqns with 231 C–130.

17 hy tpt sqns; 4 with 70 C–5A, 13 with 234 C–141.

5 SAR sqns with 30 HC–130 ac, 76 HH–3/–53, 11 HH–1 hel.

3 medical tpt sqns with 23 C–9.

2 weather recce sqns with 14 WC–130, 29 WC–135.

Hel incl 138 UH–1N, 21 HH–3E, 51 HH/CH–53.

28 trg sqns with F–16B, 300 T–33A, 680 T–37B, 730 T–38, 113 T–39, 52 T–41A/C, 15 T–43A, C–5A, C–130E, C–141A.

Standard, Maverick, Shrike ASM, *Sparrow*, *Sidewinder* AAM.

(On order: 320 F–16, 138 F–15 fighters, 483 A–10 FGA.)

DEPLOYMENT: *Continental United States* (incl Alaska):

(i) Tactical Air Command: 87,000, 9th and 12th Air Forces, 43 fighter sqns, 5 tac recce sqns.

(ii) Military Airlift Command (MAC): 64,500. 21st and 22nd Air Forces.

Europe: US Air Force, Europe (USAFE): 74,300. 3rd Air Force (Britain), 16th Air Force (Spain; units in Italy, Greece, and Turkey), 17th Air Force (Germany and Netherlands). 1 AD sqn in Iceland; 28 fighter sqns (plus 5 in US on call) with 108 A–10, 204 F–4C/D/E, 20 F–5E, 72 F–15, 156 F–111E/F; 3 tac recce sqns (plus 3 in US on call) with 60 RF–4C; 2 tac airlift sqns (plus 6 in US on call) with 32 C–130.

Pacific: Pacific Air Forces (PACAF): 23,000. 5th Air Force (Japan, Okinawa, 1 wing in Korea), 13th Air Force (Philippines). 10 fighter sqns, 1 tac recce sqn, 1 spec ops sqn.

RESERVES: 147,000.

(i) Air National Guard: 93,000; about 800 combat aircraft.

10 interceptor sqns; 30 fighter sqns (4 with 80 F–105B/D, 8 with 160 F–4C, 14 with 320 A–7D, 2 with 40 A–10, 2 with 49 A–37B); 9 recce sqns (1 with 20 RF–101C, 8 with 135 RF–4C); 19 tac tpt sqns (18 with 150 C–130A/B/H, 1 with 16 C–7A); 6 tac air spt sqns with 120 O–2A; 13 tanker sqns with 104 KC–135, 1 ECM sqn with 10 C/EC–121; 2 special electronics sqns with 20 EB–57B, EC–130; 2 SAR sqns with 8 HC–130 ac, HH/–3 hel.

(ii) Air Force Reserve: 54,000; about 180 combat aircraft.

8 fighter sqns (3 with 69 F–105D, 4 with 90 A–37B, 1 with 20 F–4); 17 tac tpt sqns (11 with 121 C–130/A/B, 4 with 64 C–123K, 2 with 32 C–7); 1 AEW sqn with 10 EC–121, 1 recce drone sqn with DC–130 ac, 7/CH–3 hel; 3 tanker sqns with 24 KC–135; 1 speical operations sqn with 10 AC–130; 4 SAR sqns (2 with 13 HC–130 ac, 2 with 20 HH–3E, HH–1H hel); 1 weather recce sqn with 4 WC–130. 18 Reserve Associate Military Airlift sqns (personnel only): 4 tpt for C–5A, 13 tpt for C–141A, 1 aero medical for C9A.

(iii) Civil Reserve Air Fleet: 385 long-range commerical ac (113 cargo-convertible, 272 passenger).

THE SOVIET UNION

Population: 261,300,000.

Military service: Army and Air Force 2 years, Navy and Border Guards 2–3 years.

Total armed forces: 3,658,000. (Excludes some 500,000 internal security forces, railroad, and construction troops.)

Estimated GNP 1977: 516 bn roubles. (See "Foreword," p. 61. Official exchange rate 1977, $1 = 0.661 roubles.)

Estimated defence expenditure 1979: see essay on following page.

Strategic Nuclear Forces: (For characteristics of nuclear delivery vehicles, see Table 1, pp. 130–131.)

Offensive:

(a) *Navy:* 1,028 SLBM in 90 subs.

9 D-III SSBN, each with 16 SS-N-18 (more building).

5 D-II SSBN, each with 16 SS-N-8.

15 D-I SSBN, each with 12 SS-N-8.

34 Y-class SSBN: 33 with 16 SS-N-6 *Sawfly*, 1 with 12 SS-N-17.

1 H-III SSBN with 6 SS-N-8.

(The following 78 launchers are not considered strategic missiles under the terms of the Strategic Arms Limitations [Interim] Agreement:)

7 H-II SSBN, each with 3 SS-N-5 *Serb*.

13 G-II diesel, each with 3 SS-N-5.

6 G-I diesel, each with 3 SS-N-4 *Sark*.

(b) *Strategic Rocket Forces* (SRF): 375,000. (The SRF and *PVO-Strany*, separate services, have their own manpower.)

ICBM: about 1,398. 100 SS-9 *Scarp* (converting to SS-18). 638 SS-11 *Sego* (converting to SS-17 and SS-19). 60 SS-13 *Savage*. 100 SS-17. 200 SS-18. 300 SS-19.

IRBM and MRBM: some 710 deployed (most in Western USSR, rest east of Urals). 90 SS-5 *Skean* IRBM. 120 SS-20 IRBM (mobile). 500 SS-4 *Sandal* MRBM.

(c) *Long-Range Air Force* (LRAF): about 850 aircraft. (About 75 percent based in the European USSR, most of the remainder in the Far East; there are also staging and dispersal points in the Arctic.)

Long-range bombers: 156. 113 Tu-95 *Bear* A/B, 43 Mya-4 *Bison*.

Medium-range bombers: 503. 318 Tu-16 *Badger*, 135 Tu-22 *Blinder*, 50 Tu-22M *Backfire* B (all with ASM).

Tankers: 53. 9 Tu-16 *Badger*, 44 Mya-4 *Bison*.

ECM: 100 Tu-16 *Badger*.

Recce: 35. 4 Tu-95 *Bear*, 18 Tu-16 *Badger*, 13 Tu-22 *Blinder*.

Defensive:

Air Defence Force (*PVO-Strany*) 550,000: early warning and control systems, with 7,000 early warning and ground control intercept (EW/GCI) radars; interceptor sqns and SAM units.

Aircraft: about 2,600. Interceptors: incl some 80 MiG-17 *Fresco*, 500 Su-9 *Fishpot* B, Su-11 *Fishpot C*, 320 Yak-28P *Firebar*, 150 Tu-28P *Fiddler*, 850 Su-15 *Flagon* A/D/E/F, 400 MiG-23 *Flogger* B, 300 MiG-25 *Foxbat* A.

Airborne Warning and Control Aircraft: 10 modified Tu-126 *Moss*, 8 Il-76.

Trg ac incl 40 Su-11, 120 Su-15, 20 MiG-15, 60 MiG-17, 50 MiG-23, 50 MiG-25, 10 Yak-28.

ABM: 64 ABM-1 *Galosh*, 4 sites around Moscow, with *Try Add* engagement radars. Target acquisition and tracking by phased-array *Dog House* and *Cat House*, early warning by phased-array *Hen House* radar on Soviet borders. Range of *Galosh* believed over 200 miles; warheads nuclear, presumably MT range.

SAM:

Fixed-site Systems: some 10,000 launchers, at over 1,000 sites. SA-1 *Guild*, SA-2 *Guideline*, SA-3 *Goa*, SA-5 *Gammon*. (Development of SA-X-10 continues.)

Army: 1,825,000.

47 tk divs.

118 motor rifle divs.

8 AB divs.

Tanks: 50,000 IS-2/-3, T-10, T-10M, hy, T-54/-55/-62/-64/-72 med (most fitted for deep wading), and PT-76 lt.

AFV. 55,000 BRDM scout cars; BMP MICV; BTR-40/-50/-60/-152, OT-64, MT-LB, BMD APC.

Artillery: 20,000 100mm, 122mm, 130mm, 152mm, 180mm, and 203mm fd guns/how, 122mm, 152mm SP guns; 7,200 82mm, 120mm, 160mm, and 240mm mor; 2,700 122mm, 140-mm, 240mm multiple RL; 10,800 76mm, 85mm, and 100 mm towed and ASU-57/-85 SP ATK guns; *Swatter, Sagger, Spigot, Spandrel, Spiral* ATGW.

AA Artillery: 9,000 23mm and 57mm towed, ZSU-23-4, ZSU-57-2 SP guns.

SAM (mobile systems): SA-4 *Ganef*, SA-6 *Gainful* SA-7 *Grail*, SA-8 *Gecko*, SA-9 *Gaskin* SA-11.

SSM (nuclear capable): about 1,300 launchers (units organic to formations), incl. *FROG*, SS-21, *Scud* A/B, SS-12 *Scaleboard*.

Deployment and Strength:

Central and Eastern Europe: 31 divs: 20 (10 tk) in East Germany, 2 tk in Poland, 4 (2 tk) in Hungary, 5 (2 tk) in Czechoslovakia; 10,500 med and hy tks. (Excluding from the area tks in reserve, replaced by new ones but not withdrawn.)

European USSR (Baltic, Byelorussian, Carpathian, Kiev, Leningrad, Moscow, and Odessa Military Districts (MD)): 66 divs (about 23 tk).

Central USSR (Volga, Ural MD): 6 divs (1 tk).

Southern USSR (North Caucasus, Trans-Caucasus, Turkestan MD): 24 divs (1 tk).

Sino-Soviet border (Central Asian, Siberian, Transbaikal, and Far East MD): 46 divs (about 6 tk), incl 3 in Mongolia.

Soviet divs have three degrees of combat readiness:

Category 1, between three-quarters and full strength, with complete eqpt; Category 2, between half and three-quarters strength, complete with fighting vehicles; Category 3, about one-quarter strength, possibly complete with fighting vehicles (some obsolescent).

The 31 divs in Eastern Europe are Category 1. About half those in European USSR and the Far East are in Category 1 or 2. Most of the divs in Central and Southern USSR are likely to be Category 3. Tk divs in Eastern Europe have over 320 med tks, motor rifle divs up to 265, but elsewhere holdings may be lower.

Navy: 433,000, incl 59,000 Naval Air Force, 12,000 Naval Infantry, and 8,000 Coast Arty and Rocket Troops; 275 major surface combat ships, 248 attack and cruise-missile subs (87 nuclear, 162 diesel). A further 29 major surface combat ships and 115 attack submarines are in reserve.

Submarines, attack:

41 nuclear: 13 N-, 17 V-I-, 5 V-II-, 5 E-, 1 A-class.

138 diesel: 60 F-, 1 G-, 10 R-, 10 Z-IV-, 40 W-, 4 B-, 8 T-, 5 coastal Q-class.

Submarines, cruise missile:

45 nuclear: 1 P-class (10 unidentified msls), 15 C-class (8 SS-N-7 *Siren* each), 29 E-II (8 SS-N-3 *Shaddock* each).

24 diesel: 16 J-class (4 SS-N-3 each), 6 W-*Long Bin* (4 SS-N-3 each), 2 W-*Twin Cylinder* (2 SS-N-3 each).

Surface Ships:

2 *Kiev carriers* (43,000 tons) with SSM, SAM, SUW-N-1 SSM/ASW msl launcher, 12 VTOL ac, 20 hel (2 building).

2 *Moskva* ASW hel cruisers with SAM, SUW-N-1 launcher, 18 Ka-25 hel.

16 ASW cruisers with SAM, SS-N-14 ASM msls, 1 hel; 6 *Kara* (more building), 10 *Kresta*-II.

8 GW cruisers with SSM, SAM: 4 *Kresta*-I (with 1 hel), 4 *Kynda*.

11 cruisers: 10 *Sverdlov* (3 with SAM, 1 with hel), 1 *Chapaev* (trg).

50 ASW destroyers with SAM: 23 *Krivak*-I/-II (with SS-N-14 ASW msls, more building), 8 *Kanin*, 19 *Kashin* (5 with SSM).

50 destroyers: 4 *Kildin* (with SSM), 8 modified *Kotlin* (with SAM), 18 *Kotlin*, 20 *Skory*.

136 frigates: 20 *Mirka*, 48 *Petya*, 35 *Riga*, 32 *Grisha* (with SAM), 1 *Koni* (with SAM).

143 FAC(M)S: 18 with SSM, SAM (17 *Nanuchka*, 1 *Sarancha* hydrofoil), 125 with SSM (70 *Osa*-I, 50 *Osa*-II, 5 *Matka*).

90 FAC(P) (70 *Stenka*, 20 *Pchela* hydrofoils<).

90 FAC(T) (30 *Turya* hyrofoils, 45 *Shershen*, 15 P-6<).

124 large patrol craft (64 *Poti*, 60 SO1).

25 *Zhuk* coastal patrol craft<.

About 160 ocean minesweepers (25 *Natya*, 50 *Yurka*, 20T58, 60 T43, 5 T43/GR).

About 140 coastal and inshore minesweepers (4 *Zhenya*, 70 *Vanya*, 20 *Sonya*, 16 *Sasha*, 30 *Evgenya*<).

About 100 minesweeping boats < (8 *Ilusha*, 2 *Olya*, 20 TR40, 70 K2).

About 85 amph ships, incl 1 *Ivan Rogov*, 14 *Alligator*, 11 *Ropocha* LST (more building), 59 *Polnocny* LCT.

About 70 LCU (30 *Vydra*, 40 SMB1).

61 hovercraft (15 *Aist*, 11 *Lebed*<, 35 *Gus* <).

85 underway replenishment oilers, 40 oilers, 25 supply ships, 145 fleet spt ships.

54 intelligence collection vessels (AGI).

Ships in reserve, 10 Z-; 90 W-, 15 Q-class subs, 2 *Sverdlov* cruisers, 15 *Skory* destroyers, 12 *Riga* frigates, 35 T43 minesweepers.

Naval Air Force: some 870 combat aircraft.

30 Tu-22M *Backfire* B strike bbrs with ASM.

295 Tu-16 *Badger* C/G med bbrs with ASM.

40 Tu-22 *Blinder* C med bbrs, MR, ECM ac.

Some 30 Yak-36 *Forger* MP VTOL FGA, 30 *Fitter* C FGA.

40 Tu-16 *Badger* D/F recce. 30 Tu-16 ECM ac.

215 MR ac: 45 Tu-95 *Bear* D, 30 *Bear* F, 50 Il-38 *May*, 90 Be-12 Mail amphibians.

80 Tu-16 *Badger* tankers.

Some 275 ASW hel: 25 Mi-14 *Haze*, 250 Ka-25 A/B *Hormone*.

280 misc tpts and trainers.

Naval Infantry (Marines): 12,000.

5 naval inf regts, each of 3 inf, 1 tk bn, one assigned to each of Northern, Baltic, and Black Sea fleets, two to Pacific fleet. T-54/-55 med, PT-76 lt tks; BTR-60P, BMP-76 APC; BM-21 122mm RL; ZSU-23-4 SP AA guns; SA-9 SAM.

Coastal Artillery and Rocket Troops:

Hy coastal guns, SS-C-1B *Sepal* SSM (similar to SS-N-3) to protect approaches to naval bases and major ports.

Deployment and bases (average strengths, excluding SSBN and units in reserve):

Northern Fleet: 120 subs, 70 major surface combat ships. Severomorsk (HQ), Archangelsk, Polyarny, Severodvinsk.

Baltic Fleet: 30 subs, 50 major surface combat ships, Baltiisk (HQ), Kronstadt Tallin, Lepaia.

Black Sea Fleet (incl Caspian Flotilla and Mediterranean Squadron): 25 subs, 75 major surface combat ships. Sevastopol (HQ), Tuapse, Poti, Nikolayev.

Pacific Fleet: 75 subs, 70 major surface combat ships, Vladivostok (HQ), Nakhodka, Sovyetskaya Gavan, Magadan, Petropavlovsk.

Air Force: 475,000; about 4,350 combat aircraft. (Excluding *PVO-Strany* and Long-Range Air Force.)

Tactical Air Force: aircraft incl 60 Yak-28 *Brewer*, 220 Su-70 *Fitter* A, 1400 MiG 23/-27 *Flogger* B/D, about 1,000 MiG-21 *Fishbed* J/K/L/N, 640 Su-17 *Fitter* C/D, 230 Su-19 *Fencer* A FGA; about 250 *Beagle, Brewer*, 170 MiG-25 *Foxbat* B/D, 300 *Fishbed* recce; 60 *Brewer* E, 6 An-12 *Cub* ECM ac; 230 tpts; 3,460 hel, incl 800 Mi-1/-2, 130 Mi-4, 470 Mi-6, 1,470 Mi-8, 10 Mi-10, 580 Mi-24 *Hind;* 1,100 tac trg ac.

Air Transport Force: about 1,200 aircraft, incl 50 An-8, 560 An-12 *Cub*, 70 An-24/26 *Coke/Curl*, 130 Il-14 *Crate*, 15 Il-18 *Coot*, 2 Il-62 *Classic*, 50 Il-76 *Candid*, 60 Li-2 *Cab*, 10 Tu-104 *Camel*, 8 Tu-134 *Crusty* med, 50 An-22 *Cock* hy.

1,300 Civil Aeroflot med- and long-range ac available to supplement military airlift.

Deployment:

16 Tactical Air Armies: 4 (1,700 ac) in Eastern Europe and 1 in each of 12 MD in the USSR.

Reserves (all services):

Soviet conscripts have a Reserve obligation to age 50. Total Reserves could be 25,000,000, of which some 5,000,0000 have served in last five years.

Para-Military Forces: 460,000.

200,000 KGB border troops, 260,000 MVD security troops. Border troops equipped with tks, SP guns, AFV, ac, and ships; MVD with tks and AFV. Part-time military training organization (DOSAAF) conducts such activities as athletics, shooting, parachuting, and pre-military training given to those of 15 and over in schools, colleges, and workers' centres. Claimed active membership 80 million, with 5 million instructors and activists; effectives likely to be much fewer.

SOVIET DEFENCE EXPENDITURE

No single figure for Soviet defence expenditure can be given, since precision is not possible on the basis of present knowledge. The declared Soviet defence budget is thought to exclude a number of elements such as military R&D, stockpiling, and civil defence—indeed some contend that it covers only the operating and military construction costs of the armed forces.

Furthermore, Soviet pricing practices are quite different from those in the West. Objectives are set in real terms with no requirement for money prices to coincide with the real costs of goods and services. The rouble cost of the defence effort may thus not reflect the real cost of alternative production forgone and, in turn, a rouble value of defence expressed as a percentage of Soviet GNP measured in roubles may not reflect the true burden.

If rouble estimates are then converted into dollars to facilitate international comparisons, the difficulties are compounded, because the exchange rate chosen should relate the purchasing power of a rouble in the Soviet Union to that of a dollar in the USA. The official exchange rate is considered inadequate for this purpose, and there is no consensus on an alternative.

An alternative approach—estimating how much it would cost to produce and man the equivalent of the Soviet defence effort in the USA—produces the index number problem: faced with the American price structure, the Soviet Union might opt for a pattern of spending different from her present one. This particular method tends to overstate the Soviet defence effort relative to that of the USA.

Accordingly, the estimates produced by a number of methods are given below, both in roubles and dollars, together with official figures for the defence budget published by the Soviet Union. Estimates produced by China are also given but their basis is not known.

Source	Price base	Defense expenditure 1970	Defense expenditure 1975	Defense expenditure 1978	1970–78 Percent annual growth rate	1970–78 Burden (percent of GNP)
Billions of roubles:						
CIA[1]	1970	40–45	50–55	55–61	4.5	11–13
Lee[2]	1970	43–49	72–79	91–101	8–10	14–15
Lee[2]	Current	43–49	67–76	88–100		
China[3]	Current	49	72.5	9.25	8.26	15+
U.S.S.R.[4]	Current	17.9	17.4	17.2	NA	NA
Billions of dollars:						
CIA[5]	1978	105	120	148	4.5	
CIA[6]	Current	66–99	105–108	148		
Lee[7]	1970	80–105	97–133	116–154	5	

[1] Estimated Soviet Defense Spending in Roubles. CIA SR 78–10121, June 1978.

[2] W. T. Lee, "Soviet Defense Expenditures in the 10th FYP", Osteuropa Wirtschaft. No. 4, 1977; W. T. Lee, The Estimation of Soviet Defense Expenditures, 1955–75: An Unconventional Approach (New York: Praeger, 1977).

[3] Peking Review, November 1975, January 1976. Extrapolation to 1978 using their growth rate.

[4] Official declared budget.

[5] A Dollar Cost Comparison of Soviet and U.S. Defense Activites 1967–1978, CIA SR 79–10002, January 1979. 1970 and 1975 figures taken from diagram.

[6] Ibid.; 1978 prices converted to current ones using wholesale price index.

[7] W. T. Lee, "Soviet Defense Expenditures" in W. Schneider and F. P. Hoeber (eds), Arms, Man & Military Budgets, issues for fiscal year 1977 (New York: Crane Russak, 1976). 1978 figures by extrapolation. ●

STATE TURNBACK AMENDMENT TO WINDFALL PROFIT TAX

● **Mr. PERCY.** Mr. President, sometime in the next few days during consideration of the windfall profit tax, I intend to call up an amendment (No. 682) which has important implications for each State.

It would simply use a portion of the windfall profit tax revenue to fund a declining, 5-year program of block grants apportioned to States to help offset State transportation revenue losses resulting from the decontrol of oil prices and other Federal energy conservation measures. The funds would have to be used for energy conserving projects.

This is a program of short duration, requiring no additional funding increases, limited to energy-conserving projects, and easing for States the financial disruption caused by the decontrol of oil prices. I am delighted that Senator McGOVERN has become a cosponsor.

Mr. President, in order that my colleagues can gain a better understanding of this amendment, I ask that a series of "Questions and Answers," together with a "Dear Colleague" letter, be printed in the RECORD.

The material follows:

QUESTIONS AND ANSWERS ON THE PERCY AMENDMENT TO PROVIDE GRANTS FOR ENERGY-CONSERVING TRANSPORTATION PROJECTS

1. Isn't this amendment just another form of revenue sharing?

This amendment differs from revenue sharing in several important ways. First, funds are not available for a broad array of purposes as in revenue sharing. Instead, the funds are limited to a narrow, specific use: the financing of energy-conserving transportation projects. In addition, this amendment is only temporary: it is designed to give states funding aid for a short period of time while they make the needed adjustments to their own state and local revenue mechanisms.

2. Does every State receive a portion of these funds?

Yes, funds are distributed to every state, to the District of Columbia and to Puerto Rico.

3. Doesn't the lion's share of these funds go to the most populous States to the detriment of the smaller States?

Funds are apportioned by a formula incorporating existing, established distribution factors such as area, population and highway mileage. While the most populous states generally receive larger apportionments, these states also consume the most transportation energy and thus have the greatest opportunities for major energy-conserving projects.

4. Can these funds be used for improvements to coal-impacted roads?

The amendment expressly states that the funds may be used to improve coal-impacted roads and rail-highway crossings.

5. Is this an appropriate action for the Senate to take at this time?

Yes, it is an appropriate action, given the widening gap between the cost of energy-conserving transportation projects and the ability of states to fund such projects. In 1977, I introduced and the Senate adopted an amendment very similar to that under consideration today. The major difference is that this new amendment is restricted to those transportation projects which are energy-conserving. Although the 1977 bill never became law, the need for such a program is still with us. At the time of the original amendment, the states had lost $2.3 billion in anticipated gas tax revenues as a result of declining gasoline consumption following the Arab oil embargo. Today that amount has risen to $4 billion, and the trend is expected to accelerate as additional fuel conservation measures take effect. Ultimately, states will have to adjust their revenue mechanisms to replace gas tax losses. This amendment gives them the opportunity to make such adjustments in an orderly fashion, without neglecting needed improvements to facilitate fuel conservation.

6. How will these dollars be spent?

The funds will be used for energy-conserving transportation projects. Typical types of projects include channelization of traffic; improved traffic control signalization; preferential treatment for mass transit and other high occupancy vehicles; passenger loading areas and facilities; fringe and corridor parking facilities; encouragement of car pools and van pools; resurfacing, restoring and rehabilitating Federal-aid highways; and various public transit improvements.

7. Wouldn't these funds be better spent for other more energy-efficient purposes?

While a variety of conservation efforts are needed to achieve all potential conservation opportunities, transportation, as a major consumer of petroleum, is an especially appropriate focus. Currently, transportation accounts for 55 percent of the nation's total petroleum consumption. Hence, there are extensive opportunities for reducing our petroleum consumption through a variety of transportation improvements.

8. Does this amendment create a need for more taxes beyond those raised by the windfall profits tax?

No, this amendment could be financed entirely within the revenues raised by the Windfall Profits Tax.

9. Why should the Senate consider such an amendment (i.e., what is the need for this program)?

Transportation accounts for 55 percent of the nation's petroleum use, and energy-conserving transportation projects to improve the efficiency of the transportation system can greatly contribute to the national objective of reducing petroleum consumption. However, many states can no longer afford even to maintain their existing systems in an efficient condition, much less to make additional energy-conserving improvements. Since 1974, states have lost billions of dollars in anticipated motor fuel tax revenues as a result of fuel conservation measures. This trend is expected to accelerate as additional conservation measures take effect. At the same time, the costs of transportation maintenance and improvements have skyrocketed far outstripping funding resources. This amendment would provide temporary aid to the states, giving them time to revamp their revenue structures without slashing programs and providing the wherewithal to undertake energy-conserving transportation initiatives.

10. How would the funding mechanism work?

Funds would be appropriated annually from the Windfall Profits Tax Revenues. The funds would then be apportioned quarterly to all states based on an average of existing apportionment factors for major highway programs (the Primary, Secondary, Urban, and Bridge programs).

11. What funding level is contemplated?

A total of $1.9 billion is reserved for this program, $500 million in each of the first and the second years, $400 million in the third year, $300 million in the fourth year and $200 million in the fifth year.

12. How is the distribution formula derived?

Funds are apportioned to the states based on an average of existing apportionment factors for major highway programs (the Primary, Secondary, Urban and Bridge programs). These factors are derived from such data as area, population and highway mileage. The advantage of this distribution approach is that it relies on established, well-accepted funding distribution formulas.

13. How does it work in regard to the windfall profits tax? If there is no tax, does that mean there is no turnback?

Funds would come entirely from Windfall Profits Tax revenues, so if there is no tax, there will be no block grant program.

14. Why should the revenues be specifically reserved for this program? Why not just put them in the Treasury?

The major portion of the Windfall Profits Tax revenues should be specifically earmarked for various energy-related programs. Transportation, as a major consumer of petroleum, is a particularly appropriate target for such funds since it holds so great a potential for reducing fuel consumption. In addition, because fuel conservation measures have drastically reduced state motor fuel tax revenues, it is appropriate for the Windfall Profits Tax revenues to be used to finance a temporary program of transition aid while states adjust their revenue mechanisms.

15. Are there really $1.9 billion in useful energy savings projects, or is this just a giveaway to the States?

Transportation accounts for 55% of the nation's petroleum use. Private automobiles alone account for about 34% of our total petroleum consumption. Obviously, the potential for savings in fuel consumption is substantial. The Administration has called for a transportation energy conservation program of over $1 billion per year, or more than $5 billion during the life of this amendment.

16. Shouldn't the money be designed exclusively for transit rather than just any project?

Funds in this program are earmarked for energy-conserving projects and may not be used for any other type of project. Transit is only one area of transportation where significant conservation can be obtained. The vast majority of trips even in large urban areas are made by auto, normally in an energy intensive manner, so great potential exists to dramatically reduce energy consumption through traffic and highway improvements.

17. Will projects have to meet other Federal project requirements?

Where dollars are used to match federal program dollars, federal program requirements would have to be followed.

18. Shouldn't grants go to cities rather than States since most energy-efficient projects are in urban transit and highway improvements?

The state grant approach is preferable for a number of reasons. First, not all projects for promoting energy-efficient transportation are located within the cities. Second, although cities will have important responsibilities in initiating and developing project proposals, states are in the best position to assess and prioritize projects from throughout the state. Third, dispersing the funds among the nation's nearly 280 urbanized areas could severely dilute the effectiveness of the program. Finally, a major purpose of the program is to ease the impacts of reduced motor fuel tax revenues following energy conservation measures. It is the states which are hardest hit by these reductions.

19. Wouldn't we save money by just enforcing 55 mph?

The Surface Transportation Assistance Act adopted by Congress last year contained several provisions to strengthen 55 mph enforcement. However, stricter enforcement is not the only answer. There are numerous other transportation improvements which can be made to foster fuel conservation.

20. Isn't it more important to use funds for new energy development rather than conservation efforts?

Both new energy development and energy conservation are essential to meet short and long-term national energy objectives. Because of the lead-time required to develop new energy sources, the continued conservation of existing fuel is crucial.

U.S. Senate,
November 28, 1979.

Dear Colleague: While federal efforts to cut gasoline waste are beginning to have the desired effect on gasoline consumption in this country, they also are beginning to impact adversely on the amount of state revenues traditionally drawn from this source. It is estimated that for every gallon saved, states lose an average of 8 cents in state revenues, with a possible loss of $20 to $30 billion nationwide through 1985. Some states are already experiencing revenue shortfalls of up to $800 million a year. Furthermore, because petroleum products have increased in cost, the states must bear an additional burden in the purchase of petroleum-based materials such as tar and asphalt used for highway maintenance and repair.

I believe that, if the Congress imposes a windfall profit tax, it should also consider reserving a portion of the money earned through the tax to alleviate this condition, as such a conservation measure would increase the fiscal pressure on states already subject to conflicting budgetary demands. The aid I am proposing to states will not mean new road construction, for I do not intend to encourage new gasoline use. But road repair is vital. If conservation means that states cannot maintain their roads, it gives them the incentive not to cooperate in implementing conservation measures.

This proposal is similar to a provision I proposed in 1977 which was adopted by the Senate during consideration of earlier energy legislation. Under that provision, the states would have been apportioned $400 million per year for four years. However, unlike the earlier Senate provision, this new proposal would require that funds be used for energy conserving projects and projects would be so certified to the Secretary of Transportation.

During consideration of the energy tax bill I will offer the attached amendments to either reserve or authorize $1.9 billion for state road repair and related programs, should the windfall profit tax bill be enacted. The program would distribute the money according to the existing formulae for noninterstate highway aid. Money would be earmarked for resurfacing, rehabilitation, and reconstruction as defined under the Highway Trust Fund. States could not construct new roads with it.

I attach both the amendments and a table showing the percent distribution by state. Please contact me or have your staff contact Chris Palmer (41462) if you wish to cosponsor, or if you would like further information.

Sincerely,

Charles H. Percy,
U.S. Senator.

ESTIMATED DISTRIBUTION OF BLOCK GRANTS TO STATES

[Based on fiscal year 1980 noninterstate highway apportionments (FAP, FAS, FAU, HBRRP)]

	Percent share	1st-yr funding (millions)	5-yr total (millions)
Alabama	1.7	$8.5	$32.3
Alaska	2.5	12.5	47.5
Arizona	1.0	5.0	19.0
Arkansas	1.3	6.5	24.7
California	6.4	32.0	121.6
Colorado	1.2	6.0	22.8
Connecticut	.9	4.5	17.1
Delaware	.4	2.0	7.6
District of Columbia	.4	2.0	7.6
Florida	2.9	14.5	55.1
Georgia	2.3	11.5	43.7
Hawaii	.5	2.5	9.5
Idaho	.8	4.0	15.2
Illinois	5.3	26.5	100.7
Indiana	2.0	10.0	38.0
Iowa	2.0	10.0	38.0
Kansas	1.9	9.5	36.1
Kentucky	2.2	11.0	41.8
Louisiana	2.6	13.0	49.4
Maine	.7	3.5	13.3
Maryland	1.6	8.0	30.4
Massachusetts	2.0	10.0	38.0
Michigan	3.1	15.5	58.9
Minnesota	2.4	12.0	45.6
Mississippi	1.2	6.0	22.8
Missouri	2.2	11.0	41.8
Montana	1.0	5.0	19.0
Nebraska	1.3	6.5	24.7
Nevada	.7	3.5	13.3
New Hampshire	.6	3.0	11.4
New Jersey	2.3	11.5	43.7
New Mexico	.9	4.5	17.1
New York	6.8	34.0	129.2
North Carolina	2.4	12.0	45.6
North Dakota	.8	4.0	15.2
Ohio	3.7	18.5	70.3
Oklahoma	1.3	6.5	24.7
Oregon	1.2	6.0	22.8
Pennsylvania	4.9	24.5	93.1
Puerto Rico	.7	3.5	13.3
Rhode Island	.5	2.5	9.5
South Carolina	1.3	6.5	24.7
South Dakota	.8	4.0	15.2
Tennessee	2.3	11.5	43.7
Texas	5.4	27.0	102.6
Utah	.7	3.5	13.3
Vermont	.6	3.0	11.4
Virginia	2.5	12.5	47.5
Washington	1.9	9.5	36.1
West Virginia	1.0	5.0	19.0
Wisconsin	2.2	11.0	41.8
Wyoming	.7	3.5	13.3
Total	100.0	500.0	1,900.0

Amendment No. 682

(Purpose: To reserve funds for certain transportation purposes)

On page 97, insert the following between lines 9 and 10:

Sec. 105. Reservation of funds for payments to States for energy-conserving transportation projects.

(a) Findings.—The Congress finds that—

(1) transportation is a major consumer of petroleum-based energy, and energy-conserving transportation projects to improve the efficiency of the transportation system can greatly contribute to the national objective of reducing petroleum energy consumption;

(2) transportation energy conservation efforts have severely decreased the growth of motor fuel tax revenues in fiscal years 1974 through 1979 resulting in a loss of billions of dollars in State revenues and in a projection of additional losses of billions of dollars in fiscal years 1980 through 1984;

(3) increases in costs for highway construction have far outstripped the growth of motor fuel tax revenues and are expected to continue to do so as a result of increased prices for petroleum products; and

(4) limited State motor fuel tax revenues are preventing States from adequately maintaining and preserving the existing transportation network in an energy-efficient condition and from making transportation improvements which would contribute to energy conservation.

(b) Reservation of Funds.—The Secretary

of the Treasury shall reserve an amount not to exceed $500,000,000 for fiscal year 1980, $500,000,000 for fiscal year 1981, $400,000,000 for fiscal year 1982, $300,000,000 for fiscal year 1983 and $200,000,000 for fiscal year 1984 from the receipts of the tax imposed by section 4689 of the Internal Revenue Code of 1954 for the purposes of this section.

(c) Payments.—

(1) In general.—The Secretary of Transportation shall make quarterly payments during each of the fiscal years 1980, 1981, 1982, 1983 and 1984 to each State in an amount equal to one-fourth of the amount which is apportioned to that State for that fiscal year under paragraph (2).

(2) Apportionment.—The Secretary of Transportation shall apportion to each State for each fiscal year an amount which bears the same ratio to the total funds made available under this section for that fiscal year as the amount apportioned to that state during that fiscal year under section 144(e) and paragraphs (1), (2), and (6) of section 104(b) of title 23, United States Code, bears to the amount apportioned to all States under such sections during that fiscal year.

(d) Use of Payments.—A State shall use any amount received under this section only for energy-conserving transportation projects, including projects for channelization of traffic, improved traffic control signalization, preferential treatment for mass transit and other high occupancy vehicles, passenger loading areas and facilities, fringe and corridor parking facilities, and encouragement of the use of car pools and van pools; projects for resurfacing, restoring, and rehabilitating Federal-aid highways; projects for coal-impacted roads and rail highway crossings; and projects eligible under sections 3, 18 and 21 of the Urban Mass Transportation Act of 1964. For each project receiving funds under this section, the State shall certify to the Secretary of Transportation that the project is an energy-conserving project. The Secretary of Transportation shall not approve any project under this section for which the State has failed to make such certification.●

MANDATORY CONSERVATION AMENDMENT TO WINDFALL PROFIT BILL

● Mr. WEICKER. Mr. President, I am pleased to announce that Senators HART, JAVITS, and PERCY have cosponsored amendment No. 701 to H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1979.

This amendment establishes a mandatory conservation program to reduce national consumption of petroleum products by at least 5 percent. The 5 percent conservation goal approximates the percentage Iranian oil imports have represented in relation to total U.S. oil consumption. The target is established to alleviate the anticipated shortage by conservation, rather than through resort to the spot market to make up the loss, which would defeat the spirit, if not the purpose, of the embargo.

The conservation program itself is adapted from title II of the Emergency Energy Conservation Act of 1979 (Public Law 96–102; enacted November 5, 1979). Title II of the act provides for an emergency energy conservation program whereby the President is authorized to establish conservation targets for each State, and each State is required to implement an approved State conservation plan. If the State plan does not meet the conservation target, then a standby Federal plan could be imposed. This standby Federal conservation plan is not related to the standby motor fuel rationing mandated by title I of the Emergency Energy Conservation Act.

Amendment No. 701 would require the President to establish a conservation target of not less than 5 percent for the reduction of petroleum products consumption. The mandated conservation targets would then be implemented in precisely the manner prescribed by title II of the Emergency Energy Conservation Act. The act itself would not be amended by the Weicker amendment, but its provisions would be incorporated into a mandatory conservation program.

Mr. President, this amendment requires mandatory conservation, but assures equity and flexibility in the implementation of the program. Two features of the mandatory conservation program which should be emphasized are:

First. Section 511 requires the President to establish monthly conservation targets of not less than 5 percent for the use of petroleum products for the Nation generally and for each State. The State targets are be computed by applying no less than a 5-percent reduction to a base period consumption of petroleum products. The base period consumption would be calculated by determining the State's petroleum consumption in the 12-month period prior to November 1, 1979 (that is, immediately prior to the takeover of the American Embassy in Tehran) as modified to reflect the trends in the State's use of petroleum products during the 3-year period prior to November 1, 1979. The President would be able to adjust the base period consumption figure to insure the objectives of section 4(b) (1) of the Emergency Petroleum Allocation Act of 1973. This is intended to protect, to the maximum extent practicable, of public health, safety, welfare, and the national defense. In addition, adjustment may be to take into account reduction in petroleum consumption already achieved, petroleum shortages which may affect petroleum consumption, and variations in weather from seasonal norms. Therefore, States which have already achieved significant conservation through State initiatives will not be penalized; likewise market distortions and adverse weather conditions will be also factored into the base period consumption figure.

Second. Section 512 requires the Governor of each State to submit a State petroleum conservation plan no later than 45 days after publication in the Federal Register of the 5-percent conservation target for that State. This date may be extended by the Secretary of Energy for good cause shown.

Each State plan must provide for a reduction in the public and private use of petroleum products. The plan may permit those affected by it to use alternative means of conserving at least as much petroleum as would be conserved under the State's program, provided the Secretary of Energy approves of the State's procedures for the approval and enforcement of the alternative. The plan must contain adequate assurances that the provisions contained in it will be effectively implemented, either by measures authorized under State law or by measures for which the governor seeks a delegation of Federal authority to administer and enforce.

Within 30 days after receipt of the State plan, the Secretary of Energy shall review the plan and approve it unless he finds that, taken as a whole, "the plan is not likely to achieve the conservation target," or is likely to impose an unreasonably disproportionate share of the restrictions on petroleum use on any segment of the economy.

The State is entrusted with the administration and enforcement of the State plan and, if a Federal measure is used in the State plan, the State must administer and enforce the measure under delegation of Federal authority.

Therefore, the States have absolute flexibility in developing a State conservation plan which will achieve the target of 5-percent reduction in consumption of petroleum products. State officials are responsible for planning, administration and enforcement of the plan provided it is fair and effective.

Mr. President, Time magazine recently made a persuasive argument for conservation of petroleum:

> Though the immediate crisis facing the world is the direct responsibility of the Ayatollah Khomeini and his pseudo-government in Iran, the danger would not be nearly so grave if the U.S. had not allowed itself to become so dependent on foreign oil. Under the circumstances, there is no guarantee that economic disruption can be avoided no matter what steps the nation takes. But the best hope for avoiding real trauma is to cut consumption, conserve supplies, and, at the very least, make do with 700,000 bbl. less of crude each day. Such an effort would put some slack in worldwide petroleum supplies and help restrain prices. More important, it would also show Iran and the world that the U.S. can start breaking its addiction to the demon oil. November 26, 1979, p. 43.

Mr. President, I urge my colleagues to give careful consideration to amendment No. 701. I believe it is a constructive and productive amendment which represents an important step toward energy independence for America.

Mr. President, when I call up amendment No. 701 later this week, I intend to offer several modifications of a technical nature designed to conform the amendment more closely to the provisions of title II of the Emergency Energy Conservation Act of 1979 (PL 96–102), from which it is derived. These modifications primarily incorporate administrative provisions of that act.

Mr. President, for the information of my colleagues, I ask that the proposed modifications to amendment No. 701, along with a section-by-section analysis of the amendment as it would be modified, be printed in the Record.

The material follows:

Proposed Modifications to Amendment No. 701

The amendment would be modified as follows:

On page 3, line 13, after the word "establish" and before the word "monthly" on page 3, line 14, add the phrase "within 45 days after enactment of this Title".

On page 18, after line 19 and before line 20, add the following:

"(A) any State petroleum conservation target established by the President under section 511(a);".

On page 18, line 20, strike "(A)" and insert in lieu thereof "(B)".

On page 19, line 3, strike "(B)" and insert in lieu thereof "(C)".

On page 20, after line 20, add the following sections:

SEC. 516. APPLICABILITY OF OTHER PROVISIONS OF LAW.

The President may, in his discretion, invoke the provisions of section 221 of the Emergency Energy Conservation Act of 1979 (P.L. 96-102).

SEC. 517. ADMINISTRATION.

(a) INFORMATION.—(1) The Secretary shall use the authority provided under section 11 of the Energy Supply and Environmental Coordination Act of 1974 for the collection of such information as may be necessary for the enforcement of this title.

(2) In carrying out his responsibilities under this title, the Secretary shall insure that timely and adequate information concerning the supplies, pricing and distribution of petroleum products is obtained, analyzed, and made available to the public. Any Federal agency having responsibility for collection of such information under any other authority shall cooperate fully in facilitating the collection of such information.

(b) EFFECT ON OTHER LAWS.—No State law or State program in effect on the date of the enactment of this title, or which may become effective thereafter, shall be superseded by any provision of this title, or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with any such provision of section 513 (or any rule, regulation, or order under this part relating thereto) in any case in which measures have been implemented in that State under the authority of section 513.

SEC. 518. FUNDING FOR FISCAL YEAR 1980.

For purposes of any law relating to appropriations or authorizations for appropriations as such law relates to the fiscal year ending September 30, 1980, the provisions of this Title (including amendments made by this Title) shall be treated as if it were a contingency plan under section 202 or 203 of the Energy Policy and Conservation Act which was approved in accordance with the procedures under that act or as otherwise provided by law, and funds made available pursuant to such appropriations shall be available to carry out the provisions of this Act and the amendments made by this Act.

SEC. 519. EFFECTIVE DATE.

The amendments made by this Title shall take effect on the date of the enactment of this Title.".

SECTION-BY-SECTION ANALYSIS OF THE WEICKER AMENDMENT INCLUDING PROPOSED MODIFICATIONS

This amendment would incorporate the provisions of Parts A and E of Title II of the Emergency Energy Conservation Act of 1979 (P.L. 96-102) into a mandatory plan for the conservation of not less than five percent of the use of petroleum products.

Under the Emergency Energy Conservation Act, whenever the President finds an actual or potential severe interruption of any energy source, or that action is required to fulfill obligations of the United States under the international energy program, he may establish monthly energy conservation targets for the energy source for the nation generally and for each state. The establishment of these targets serves as a trigger for the requirements of Title II of the Act.

The Weicker amendment would trigger the requirements of Parts A and E (Energy Conservation Program and Enforcement) of Title II of the Act with regard to the use of petroleum products. Parts B (Automobile Fuel Purchase Measures), C (Building Temperature Restriction) and D (Studies) of the Act are not included in the Weicker amendment, although the amendment empowers the President, in his discretion, to invoke the provisions of Part B of the Emergency Energy Conservation Act. It should be noted that Part C, relating to building temperature restrictions, is governed not by the Emergency Energy Conservation Act but by the Energy Policy and Conservation Act, and that the study mandated by Part D has been started.

As the following section by section analysis of the Weicker amendment indicates, it tracks the language of the Emergency Energy Conservation Act in mandating a plan for the conservation of not less than five percent of the use of petroleum products.

Section 501. Findings and Purposes.

The findings and purposes show the intent of Congress to mandate conservation in the use of petroleum products in furtherance of the general welfare of the nation and to protect interstate commerce. The purposes of the title are to provide a means whereby the States and local entities are given the first opportunity to develop conservation measures. If they fail to meet the targets, then provision is made for Federal conservation measures, all aimed at protecting interstate commerce and national security.

Section 502. Definitions.

Petroleum, which is the subject of the conservation plan, is defined to include oil and oil products in all forms, including, but not limited to, crude oil, lease condensate, unfinished oil, natural gas liquids, and gasoline, diesel fuel, home heating oil, kerosene and other refined petroleum products.

Section 511. National and state conservation targets.

The President is required to establish monthly conservation targets of not less than 5 percent for the use of petroleum products for the nation generally and for each state. The state targets are to be computed by applying no less than a five percent reduction to a base period consumption of petroleum products. The base period consumption would be calculated by determining the state's petroleum consumption in the twelve month period prior to November 1, 1979 (that is, immediately prior to the takeover of the American embassy in Tehran) as modified to reflect the trends in the state's use of petroleum products during the three year period prior to November 1, 1979. The President would be able to adjust the base period consumption figure to ensure that the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973. This is intended to protect, to the maximum extent practicable, of public health, safety, welfare and the national defense. In addition, adjustment may be made to take into account reduction in petroleum consumption already achieved, petroleum shortages which may affect petroleum consumption, and variations in weather from seasonal norms.

A petroleum conservation program, designed to achieve a reduction of at least five percent in petroleum use, would be established by the President for the Federal government and for its employees in connection with their employment.

Section 512. State conservation plan.

The Governor of each state would be required to submit a state petroleum conservation plan no later than 45 days after publiction in the Federal Register of the conservation target for that state. This date may be extended by the Secretary of Energy for good cause shown.

Each state plan must provide for a reduction in the public and private use of petroleum products. The plan may permit those affected by it to use alternative means of conserving at least as much petroleum as would be conserved under the state's program, provided the Secretary of Energy approves of the state's procedures for the approval and enforcement of the alternative. The plan must contain adequate assurances that the provisions contained in it will be effectively implemented, either by measures authorized under state law or by measures for which the Governor seeks a delegation of federal authority to administer and enforce.

Within 30 days after receipt of the State plan, the Secretary of Energy shall review the plan and approve it unless he finds that, taken as a whole, "the plan is not likely to achieve the conservation target", or is likely to impose an unreasonably disproportionate share of the restrictions on petroleum use on any segment of the economy.

The state is entrusted with the administration and enforcement of the state plan and, if a Federal measure is used in a state plan, the state must administer and enforce the measure under delegation of federal authority. Violators of the requirements of a Federal measure included in a state plan will be subject to a civil penalty of up to $1,000 per violation.

Section 513. Standby Federal conservation plan.

Within 90 days after enactment of this legislation, the Secretary of Energy would be required to establish a standby federal conservation plan which would provide for not less than a five percent reduction in the public and private use of petroleum products. Like the state plans, the federal plan would have to be consistent with the attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, thereby protecting public health, safety and welfare (including maintenance of residential heating), the national defense and maintaining public services. The federal plan would serve as a guide to the states for conservation measures deemed to be most effective in achieving the desired reduction in petroleum use, and would contain measures capable of implementation in a variety of states.

If the President finds that a state plan has been in operation for a period of time not to be less than 90 days, and the conservation target is not substantially being met and it is likely it will continue to be unmet, he could, after consultation with the state's Governor, impose all or part of the federal plan in the state. In those cases where a state does not have an approved plan or the approved plan is not being implemented as provided for in assurances given the Secretary of Energy by the state, the President may implement the federal plan after any reasonable period of time. The President is required to make available to the Congress and the public the information and analysis providing the basis for the decision to implement a federal plan in any state. These prerequisites to federal intervention are designed to encourage states to come up with their own plans in recognition of the fact that conservation can be most effectively achieved if local officials are responsible for planning administration and enforcement.

In addition, even when all or part of a federal plan has become effective in a state, the state is afforded a series of options to enable it to assume responsibility for the mandatory conservation program. The state may at any time submit a state conservation plan for consideration by the Secretary of Energy under the same conditions of approval as would have applied if the plan had been timely submitted. In the alternative, the state may substitute one or more measures under authority of state law for any federal measure in effect under the federal standby plan implemented by the President.

The Secretary of Energy is required to provide procedures for such substitution on a measure-by-measure basis for elements of the Federal plan. These substitute measures may include provisions whereby persons affected by the Federal measure are permitted to use alternative means of conserving at least as much of petroleum as would be conserved by the Federal measure. The substitute measures would be approved if they would conserve at least as much energy as would be conserved by the Federal measures and that such measures would have been approved had they been a part of a State plan submitted to the Secretary of Energy for approval. The Federal measure would cease to be effective in the state, but would be reimposed if the substitute measures are not being implemented as required.

Violators of the requirements of the federal plan would be subject to a civil penalty of up to $1,000 per violation.

Section 514. Judicial review.

A state may seek judicial review, in the appropriate federal district court, of: the conservation target established for the state; any determination by the President that an approved state plan is not achieving its assigned target; or any determination by the Secretary of Energy disapproving a state conservation plan.

Section 515. Reports.

The Secretary of Energy would be required to monitor implementation of state conservation plans and of the standby federal conservation plan, and to make recommendations for modifications to the states. The President would report annually, and make appropriate recommendations, to Congress on the petroleum savings achieved in each state and the performance of each state under this legislation.

Section 516. Applicability of other provisions of law.

This section would enable the President, on his discretion, to invoke the minimum automobile fuel purchase measures contained in Section 221 of the Emergency Energy Conservation Act of 1979. Thus, the President could establish a program restricting purchases of motor fuel in any automobile or other vehicle to certain minimum amounts without the necessity of making a finding as required by that Act. This option is afforded the President in recognition of the fact that by adopting this legislation Congress has found a need to establish a petroleum conservation target and to require the President to make such a finding would be superfluous.

Section 517. Administration.

Administrative provisions relating to the legislation are contained in this section.

Section 518. Funding for fiscal year 1980.

This section provides that for purposes of any law relating to appropriations or authorizations for appropriations for Fiscal Year 1980 the conservation program shall be treated as if it were a contingency plan under sections 202 or 203 of the Energy Policy and Conservation Act. There is no specific authorization or appropriation figure.

Section 519. Effective date.

The provisions of the amendment are to take effect on date of enactment.●

MEALS ON WHEELS

Mr. JEPSEN. Mr. President, I rise at this time to thank my Senate colleagues who cosigned a letter to Commissioner Benedict of the Administration on Aging. It is very significant that 30 U.S. Senators should join together in supporting the continued existence of private, nonprofit, voluntary Meals on Wheels programs.

Mr. President, I submit that letter for inclusion in the CONGRESSIONAL RECORD, complete with the original cosigners and the names of five Senators who expressed interest in supporting the letter subsequent to mailing.

I also submit for the RECORD a letter to Secretary Harris of the Department of Health, Education, and Welfare, requesting her attention and support in this matter.

I am confident that the support exhibited by my colleagues and the anewed concerns of the respective congressional committees will assure a favorable solution to this problem.

Mr. President, I ask unanimous consent that the material to which I made reference be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 16, 1979.

Hon. ROBERT BENEDICT,
Commissioner on Aging, Administration on Aging, HEW North Building, Washington, D.C.

DEAR COMMISSIONER BENEDICT: It has been brought to my attention that Section 1321.141 (b) (1) (i) of the July 31, 1979 Federal Register to the Comprehensive Older Americans Act Amendments of 1978 was composed in plain opposition to the directives of Congress. We find the ruling both incongruous in method and dangerous in content.

In limiting meals-on-wheels programs eligible for federal subsidies to only those which also operate a congregate feeding program, many private, non-profit, voluntary programs are being placed in serious jeopardy. These small community programs, that originated to meet a specific community need, have neither the capability or the desire to operate a large-scale social welfare program. The final result is the creation of a bureaucratic program which is more expansive and pays little attention to the actual needs of the nation's elderly.

The regulation effectively communicates to a community that active community concern had best give way to uniformed institutionalized governmental methods. In spite of the success of many community programs, the Administration on Aging has effectively authorized the destruction of small volunteer community programs at the local level.

The ruling is especially frustrating because it seems to have totally ignored the efforts of Congress. In discussion of the Older Americans Act Amendments of 1978, Congress clearly favored supporting the existing community programs as vehicles for effective nutritional care. Your ruling obviously discounts those programs, and replaces them with a more costly government program.

We are confident that you will reconsider the aforementioned ruling and explore the actual needs of the elderly. I hope that progress can be made to reconcile the Administration on Aging's rulings with the wishes of Congress.

Very truly yours,

Roger W. Jepsen, Rudy Boschwitz, Alan K. Simpson, S. I. Hayakawa, William S. Cohen, Pete V. Domenici, Lowell P. Weicker, Jr., Mark O. Hatfield, Milton R. Young, Charles H. Percy, Jesse Helms, Ted Stevens, James A. McClure, Jake Garn, Strom Thurmond, John W. Warner, William L. Armstrong, Robert T. Stafford, John Melcher, Edward Zorinsky, Robert Dole, Howard H. Baker, Donald W. Stewart, David L. Boren, John H. Chafee, Harrison Schmitt, Malcolm Wallop, David F. Durenberger, Barry Goldwater, and Thad Cochran.

Cosignors subsequent to mailing:

The Honorables Richard Lugar, Dale Bumpers, Orrin Hatch, Gordon Humphrey, and Jennings Randolph.

U.S. SENATE,
Washington, D.C., November 30, 1979.

Hon. PATRICIA HARRIS,
Department of Health, Education and Welfare, Hubert H. Humphrey Building, Washington, D.C.

DEAR SECRETARY HARRIS: It is my understanding that you are currently examining the final regulations of the Older Americans Act Amendments of 1978. As set forth in the Federal Register of July 31, 1979, Section 1321.141 (b) (1) (i) poses a considerable threat to the private, non-profit, voluntary Meals-on-Wheels programs.

I am confident that if you examine the legislation and the supporting documents carefully, you will see that the Congressional intent was to support these programs. I have enclosed a copy of a letter recently sent to Commissioner Benedict, of the Administration on Aging, exhibiting substantial Congressional concern in this matter. In addition to the original co-signors, Senators Lugar, Bumpers, Hatch, Randolph and Humphrey have expressed interest in supporting the letter subsequent to mailing.

I urge you to develop regulations which do not unjustifiably deny federal support to Meals-on-Wheels programs, consequently forcing those programs out of existence. In the hope that you will move quickly and efficiently to remedy this situation, I will be happy to be of service to you, and will work to expedite technical amendments if that proves necessary.

Sincerely,

ROGER W. JEPSEN,
U.S. Senate.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 472, 473, 474, 475, and 449.

The PRESIDING OFFICER. Without objection, it is so ordered.

NAMES OF THE SENATE OFFICE BUILDINGS

The Senate proceeded to consider the resolution (S. Res. 295) to make technical changes in the names of the Senate office buildings.

Mr. ROBERT C. BYRD. Mr. President, this resolution would insert the word "Senate" immediately after the words "Richard Brevard Russell" and "Everett McKinley Dirksen," respectively, as the names of the two buildings that previously have been designated in honor of those two Senators.

So that if the resolution is adopted, the Russell Building would be known as the "Richard Brevard Russell Senate Office Building," rather than the "Richard Brevard Russell Office Building."

The same change would be made with respect to the Everett McKinley Dirksen Office Building. It would then be designated officially the "Everett McKinley Dirksen Senate Office Building."

A similar change would be made with respect to the Philip A. Hart office building, which would be designated officially the "Philip A. Hart Senate Office Building."

That is the purpose of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 295) was agreed to, as follows:

Resolved, That (a) S. Res. 296, Ninety-second Congress agreed to October 11, 1972, is amended as follows:

(1) In subsection (1) of the first section, insert the word "Senate" immediately after "Richard Brevard Russell";

(2) In subsection (2) of the first section—

(A) strike out "including any extension to such building,"; and

(B) insert the word "Senate" immediately after "Everett McKinley Dirksen".

(b) The first section of S. Res. 525, Ninety-fourth Congress, agreed to August 30, 1976, is amended by inserting the word "Senate" immediately after "Philip A. Hart".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALISON T. BANK

The resolution (S. Res. 296) to pay a gratuity to Alison T. Bank, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Alison T. Bank, daughter of John T. Taintor, an employee of the Senate at the time of his death, a sum equal to eight and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

BUDGET ACT WAIVER

The resolution (S. Res. 282) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5269, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5269, a bill to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The Panama Canal Act of 1979, Public Law 96-70, which required for the first time that appropriations for operation of the Panama Canal be previously authorized, was passed after May 15, 1979.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5269 as reported by the Committee on Armed Services.

BUDGET ACT WAIVER

The resolution (S. Res. 284) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5168, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5168, a bill to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

Such a waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5168, as reported by the Committee on Armed Services.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PANAMA CANAL APPROPRIATIONS AUTHORIZATIONS, 1980

The Senate proceeded to consider the bill (H.R. 5269) to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes, which had been reported from the Committee on Armed Services with amendments as follows:

On page 2, line 2, strike "$427,262,000" and insert "$423,090,000";

On page 3, line 2, strike "and Canal Zone Government";

On page 3, beginning with line 7, strike through and including page 7, line 2, and insert in lieu thereof the following:

SEC. 3. (a) There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission not to exceed $40,419,000, to remain available until expended, for acquisition, construction, and replacement of improvements, facilities, structures, and equipment required by the Panama Canal Commission, including—

(1) the purchase of not to exceed forty-eight passenger motor vehicles, of which twenty-eight are for replacement only;

(2) the recruitment of expert and consultant services, as authorized by section 3109 of title 5, United States Code;

(3) the improvement of facilities of other United States Government agencies in the Republic of Panama used by the Panama Canal Commission;

(4) the improvement of facilities of the Government of the Republic of Panama, used by the Panama Canal Commission, of which the United States retains use pursuant to the Panama Canal Treaty of 1977 and related agreements; and

(5) the payment of liabilities of the Panama Canal Company and Canal Zone Government incurred or outstanding for capital projects as of September 30, 1979.

(b) Of the sums appropriated pursuant to subsection (a) of this section, not more than the following amounts shall be available for the following purposes:

(1) for transit projects, $23,543,000;

(2) for general support projects, $1,733,000;

(3) for utilities projects, $935,000; and

(4) for quarters improvement projects, $1,033,000.

(c)(1) Subject to the limitations prescribed in paragraph (2), the amount that may be expended for any individual project within any category of projects contained in clauses (1) through (4) of subsection (b) may be increased above amount specified for that individual project in the budget estimate submitted to the Congress by an amount necessary to meet increased costs in such project due to inflation or other unforeseeable factors if the Board of the Panama Canal Commission has approved such increase and has notified the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Armed Services of the Senate in writing of the Commission's approval of such increase, the reasons for such approval, and the new cost estimate for the project concerned.

(2) In no event may (A) the total cost of all projects within any of the categories of projects contained in clauses (1) through (4) of subsection (b) exceed the amount authorized by law for that category, or (B) the total cost of all capital projects authorized by this section exceed the amount appropriated for such projects.

On page 9, line 21, after the period, insert the following:

Noting in this section shall be construed to limit the appropriation of funds authorized by sections 1301 and 1303(a) of the Panama Canal Act of 1979.

On page 10, beginning with line 13, insert the following:

CONTINUATION OF HEALTH SERVICES

SEC. 7. (a) During fiscal year 1980 and the transition period provided for in Article XI of the Panama Canal Treaty of 1977, the Surgeon General of the United States may provide medical, surgical, and dental treatment and hospitalization to any person at any facility of the United States within any area or installation made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements if such medical, surgical, and dental treatment and hospitalization could have been provided to such person under section 322 of the Public Health Service Act (42 U.S.C. 249) on September 30, 1979.

(b) The provisions of subsection (a) shall take effect as of October 1, 1979.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIXING THE ANNUAL RATES OF PAY FOR THE ARCHITECT OF THE CAPITOL AND THE ASSISTANT ARCHITECT OF THE CAPITOL

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4732.

The PRESIDING OFFICER laid before the Senate H.R. 4732, an act to fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 4732) was ordered to a third reading, was read the third time, and passed.

ORDERS FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, orders have already been entered for the recognition of Mr. MUSKIE, Mr. ROBERT C. BYRD, and Mr. CRANSTON, on tomorrow.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I wish to be added on tomorrow.

ORDER FOR THE RECOGNITION OF SENATOR STEVENS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the name of Mr. STEVENS be added for recognition on tomorrow.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR CHAFEE AND SENATOR WEICKER ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that preceding Mr. MUSKIE on tomorrow Messrs. CHAFEE and WEICKER be recognized for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR COHEN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow following the orders for the recognition of the two leaders or their designees and prior to the recognition of other Senators in accordance with the previously entered orders, Mr. COHEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:30 a.m. tomorrow.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar beginning with the Office of the Special Representative for Trade Negotiations and proceeding through New Reports on page 2.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The legislative clerk proceeded to read nominations on the executive calendar.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting Republican leader has no objection, I ask unanimous consent that the aforementioned nominations be considered and confirmed en bloc.

Mr. STEVENS. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Robert D. Hormats, of Maryland, to be a Deputy Special Representative for Trade Negotiations.

INTERNATIONAL ATOMIC ENERGY AGENCY

John M. Deutch, of Massachusetts, to be a Representative of the United States of America to the 23d Session of the General Conference of the International Atomic Energy Agency.

Gerald C. Smith, of the District of Columbia, and Roger Kirk, of the District of Columbia, to be Alternative Representatives of the United States of America to the 23d Session of the General Conference of the International Atomic Energy Agency.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominations were confirmed, en bloc.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, discussions have continued with respect to the bill H.R. 3919, the unfinished business, an act to impose a windfall profit tax on domestic crude oil.

Mr. President, I believe that the discussions thus far have been helpful. They are continuing, and I hope that they will culminate in some early action with respect to amendments on the amendments to the bill and amendments to the substitute.

I call attention to the fact that this bill, H.R. 3919, was first laid before the Senate on November 15, which was a Thursday, which means that as of last Friday the Senate began its third week on the bill. Counting from the first day on the bill, November 15, which was a Thursday, Thursday the 22d was 1 week, Thursday the 29th was a completed 2 weeks, and Friday the 30th began the third week. So we are in the midst of the third week on this bill and that sort of speaks for itself.

RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until 10:15 a.m. tomorrow morning.

The motion was agreed to; and at 4:58 p.m., the Senate recessed until Tuesday, December 4, at 10:15 a.m.

NOMINATIONS

Executive nominations received by the Senate, December 3, 1979:

DEPARTMENT OF ENERGY

Leslie J. Goldman, of Illinois, to be an Assistant Secretary of Energy (International Affairs), vice Harry E. Bergold, Jr., resigned.

DEPARTMENT OF JUSTICE

Ira M. Schwartz, of Washington, to be Associate Administrator of Law Enforcement Assistance, vice John M Rector, resigned.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

John A Calhoun III, of Massachusetts, to be Chief of the Children's Bureau, Department of Health, Education, and Welfare, vice Blandina Cardenas, resigned.

THE JUDICIARY

Helen Jackson Frye, of Oregon, to be U.S. district judge for the district of Oregon, vice a new position created by Public Law 95–486, approved October 20, 1978.

James Anthony Redden, Jr., of Oregon, to be U.S. district judge for the district of Oregon, vice a new position created by Public Law 95–486, approved October 20, 1978.

Owen M. Panner, of Oregon, to be U.S. district judge for the district of Oregon, vice Otto R. Skopil, Jr., elevated.

Barbara J. Rothstein, of Washington, to be U.S. district judge for the western district of Washington, vice a new position created by Public Law 95–486, approved October 20, 1978.

IN THE NAVY

The following-named captains of the Reserve of the U.S. Navy for temporary promotion to the grade of rear admiral, in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, sections 5910 and 5912:

LINE

John William Cronin, Jr.
Howard Roop
Thomas Albert Stansbury
Lester Robert Smith
Michael Peter Nemchick
Carlos Paul Baker, Jr.
Donald Thomas Corrigan
Whitney Hansen
Ted Levy

MEDICAL CORPS

Joseph Hardy Miller

SUPPLY CORPS

Gerald Clayton Sullivan

JUDGE ADVOCATE GENERAL'S CORPS

Julian Robert Benjamin

CONFIRMATIONS

Executive nominations confirmed by the Senate December 3, 1979:

OFFICE OF SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Robert D. Hormats, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the Twenty-third Session of the General Conference of the International Atomic Energy Agency:

Representative: John M. Deutch, of Massachusetts.

Alternate Representatives: Gerard C. Smith, of the District of Columbia; Roger Kirk, of the District of Columbia.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, December 3, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The salvation of the righteous is from the Lord; He is their refuge in the time of trouble.—Psalms 37: 39.

O Lord, You know that our world is buffeted by fear and unrest that cause Your people to be anxious and afraid. At the beginning of this Advent season looking to the celebration of the Prince of Peace, we do not know the things that make for peace and good will. Yet, You have promised that whatever our situation You are with us. We pray with one voice for Your protection and guidance, particularly for those in bondage and for those who do not know freedom and liberty. Sustain us, O God, with the promise of peace, and enable us to use our talents and abilities in ways that bring reconciliation to people and glory to Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3407. An act to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; and

H.R. 5871. An act to authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 901. An act to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610).

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

AUTHORIZING SECRETARY OF THE INTERIOR TO ENGAGE IN FEASIBILITY STUDY

The Clerk called the bill (H.R. 2757) to authorize the Secretary of the Interior to engage in a feasibility study.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CERTIFIED MAIL AUTHORITY FOR NATIONAL LABOR RELATIONS BOARD

The Clerk called the bill (H.R. 5673) to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 5673

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of June 11, 1960 (74 Stat. 200), is amended by adding at the end thereof the following new paragraph:

"(57) Section 11(4) of the National Labor Relations Act (29 U.S.C. 161(4)) is amended—

"(A) by inserting 'or certified' after 'registered' each place it appears; and

"(B) by inserting 'when' after 'mailed or'.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HENRY D. PARKINSON FEDERAL BUILDING

The Clerk called the bill (H.R. 4532) to designate the U.S. Post Office and Federal building in Scott City, Kans., as the "Henry D. Parkinson Federal Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 4532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Federal building located in Scott City, Kansas, is hereby designated as the "Henry D. Parkinson Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Henry D. Parkinson Federal Building.

● Mr. LEVITAS. Mr. Speaker, I would like to lend my strong support to this legislation to designate the U.S. Post Office and Federal building in Scott City, Kans., the "Henry D. Parkinson Federal Building."

Henry Parkinson was a man whose whole life was dedicated to the conservation and development of our agriculture resources, to responsible economic growth, and to a sustained involvement in civic affairs.

This legislation is enthusiastically supported by Scott City residents. Over 15 leading civic organizations of Scott City have endorsed resolutions to name the building for Mr. Parkinson. Mr. Parkinson's influence in the development of Scott City was admirable. He worked unselfishly in local, State, and national affairs, and truly loved this country.

Honoring Henry Parkinson in this manner will encourage others to pursue the principles of community commitment, sound conservation of our agriculture resources, and responsible business practices he represented.●

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 4532, a bill to designate the U.S. Post Office and Federal building in Scott City, Kans., as the "Henry D. Parkinson Federal Building."

Henry D. Parkinson was born at Wellsville, Utah, on September 5, 1907, and led an active career in agriculture, banking, and politics. He died in Wichita, Kans., on June 25, 1977, after a full and productive life.

Mr. Parkinson, who had been a resident of Scott City since 1925, was owner of the Burnett-Parkinson feedlot at his farm near Scott City. He was founder, president, and chairman of the board of directors of the Security State Bank of Scott City. He was a member of the Garden National Bank board of directors in Wichita, Kans., the Kansas Bankers Association, and the Kansas and National Livestock Associations.

Along with his interest in banking and agriculture, Mr. Parkinson was active in a number of civic groups, including the Masonic Lodge, the Shire Club, the Wichita Consistory, and the Iris Temple of Salina. The political arena also held a special place in Mr. Parkinson's life. Highlights of his political career were a campaign for Congress in 1948 and a race for the governorship in 1952.

Henry Parkinson's voice was heard and respected in the highest councils of fraternal, business, agricultural, and political affairs and his advice was sought by many. As a businessman, civic leader, politician, and local philanthropist, Mr. Parkinson earned the admiration and devotion of his neighbors. He typified the best qualities of Kansas, indeed, the national character. Unfailingly, Henry Parkinson was a man unselfishly devoted to his community and neighbors.

In recognition of his outstanding career, it is fitting to name the U.S. Post Office and Federal building located in Scott City, Kans., the "Henry D. Parkinson Federal Building." ●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1491) to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building".

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 211 Main Street in Scott City, Kansas (commonly known as the Federal Building) shall hereafter be known and designated as the "Henry D. Parkinson Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the Henry D. Parkinson Federal Building.

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4532) was laid on the table.

KENNETH B. KEATING FEDERAL BUILDING

The Clerk called the bill (H.R. 4845) to designate the Federal building in Rochester, N.Y., the "Kenneth B. Keating Federal Building".

There being no objection, the Clerk read the bill, as follows:

H.R. 4845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building at 100 State Street, Rochester, New York, shall hereafter be known and designated as the "Kenneth B. Keating Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Kenneth B. Keating Federal Building".

Mr. HORTON. Mr. Speaker, I urge support of H.R. 4845, to designate the Federal building in Rochester, N.Y., the "Kenneth B. Keating Federal Building."

It is a privilege and an honor for me to be able to pay honor to a friend and colleague who served as one of my predecessors in the district which I now represent.

I knew Ken Keating for many years, from the time I first moved to Rochester, N.Y., in 1947 at which time he was the Congressman representing the district into which I moved.

Ken Keating had a distinguished and honored career as a lawyer, a soldier, a Congressman, a U.S. Senator, a jurist, as a member of the New York State Court of Appeals and as an Ambassador, having served in India and Israel.

As a soldier Ken Keating began his service to his country as a sergeant in the U.S. Army during the First World War and then as a colonel in World War II. He was promoted to the rank of brigadier general in 1948 after having been awarded the Legion of Merit with oak leaf cluster; American, European, and Asiatic theater ribbons with three battle stars and the Order of the British Empire.

He served 12 years in the House of Representatives from January 3, 1947, until 1959 where he distinguished himself as a member of the House Judiciary Committee. He was elected to the Senate of the United States and served for 6 years, where he again distinguished himself in that body.

Subsequent to his service in the Senate, he was elected to the New York State Court of Appeals in 1965 and served until his resignation in April 1969 to become the U.S. Ambassador to India. Thereafter, he served as the U.S. Ambassador to Israel which was one of his lifelong ambitions. He was highly regarded and respected by the Israelis. His death on May 5, 1975, was a great loss to our Nation.

It is fitting to his memory and to his outstanding service to his country and fellowman that the new Federal building in Rochester, which is located in my congressional district, be named after Kenneth B. Keating. I, therefore, urge the House act favorably on my bill, H.R. 4845, to designate the Federal building the "Kenneth B. Keating Federal Building."

Mr. Speaker, I withdraw my reservation of objection.

Mr. CONABLE. Mr. Speaker, I urge support of the resolution to name the Federal building in Rochester, N.Y., as the "Kenneth B. Keating Federal Building and Courthouse." Kenneth Keating represented the Rochester area in Congress for 12 years as a member of the House of Representatives and 6 years in the Senate between 1947 and 1965. Subsequent to that period he served as our country's ambassador to Israel and India and as a judge of the New York State Court of Appeals.

Ken Keating entered public service from the pinnacle of success in the legal profession. He was an outstanding figure in our community and served with distinction in all of his public offices. Ken Keating was the ultimate western New Yorker—independent, pragmatic, public spirited, with strong character and personality. He was admired by constituents and colleagues.

Senator Keating was born in 1900 in Lima, N.Y., south of Rochester, graduated from the Genesee Wesleyan Seminary there, the University of Rochester and Harvard Law School, after which he commenced the practice of law in Rochester. He served in both World Wars and was a delegate to each Republican National Convention from 1940 to 1964. The Senator passed away in 1975.

I hope the House will act favorably on this resolution so that we may honor the memory of a man who was an outstanding Member of Congress, served the country with distinction in many ways and was an admirable citizen of the community.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 4845, a bill to name the Federal building in Rochester, N.Y., the "Kenneth B. Keating Federal Building."

Kenneth Keating had a distinguished and honored career as a lawyer, a soldier, a U.S. Congressman, a U.S. Senator, a jurist, as a member of the New York State Court of Appeals, and as an Ambassador, having served in India and Israel.

As a soldier, Ken Keating began his service to his country as a sergeant in the U.S. Army during the first world war and then as a colonel in World War II. He was promoted to the rank of brigadier general in 1948 after having been awarded the Legion of Merit with oak leaf cluster; American, European, and Asiatic theater ribbons with three battle stars and the Order of the British Empire.

Following World War II, Ken Keating resumed the practice of law and was a delegate to each Republican National Convention from 1940 to 1964. He was elected to the 80th Congress and reelected to the five succeeding Congresses where he served with distinction from January 3, 1947, until 1959. He was elected to the U.S. Senate for the term commencing January 3, 1959, and ending January 3, 1965. Subsequent to his service in the Senate, he was elected to the New York State Court of Appeals in 1965 and served until his resignation in April 1969 to become the U.S. Ambassador to India. Thereafter, he served as the U.S. Ambassador to Israel which was one of his lifelong ambitions. He was highly regarded and respected by the Israelis. His death on May 5, 1975, was a great loss to our Nation.

In recognition of his long and faithful public service to his country, it is appropriate and fitting to name the Federal building at 100 State Street, Rochester, N.Y., the Kenneth B. Keating Federal Building.●

● Mr. LEVITAS. Mr. Speaker, I would like to lend my strong support to this legislation to designate the Federal Building in Rochester, N.Y., the "Kenneth B. Keating Federal Building."

His list of accomplishments and his public service to the country are worthy of praise. He served as a soldier, a U.S. Congressman, a U.S. Senator, a jurist, a member of the New York State Court of Appeals, and as an Ambassador in India and Israel.

In recognition of his unparalleled service to his State and country, and his undiminished vigor in working in the people's behalf, it is appropriate we memorialize Kenneth B. Keating by naming the Federal building in Rochester the "Kenneth B. Keating Federal Building." ●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1535) to name a certain Federal building in Rochester, N.Y., the "Kenneth B. Keating Building."

The SPEAKER. Is there objection to the request of the gentleman from California?

These was no objection.

The Clerk read the Senate bill, as follows:

S. 1535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building located at 100 State Street, Rochester, New York, shall herein after be known as, and is hereby designated as, the "Kenneth B. Keating Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such a building shall be considered to be a reference to the Kenneth B. Keating Building.

MOTION OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JOHNSON of California moves to strike out all after the enacting clause of the Senate bill, S. 1535, and to insert in lieu thereof the text of H.R. 4845, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act to designate the Federal Building in Rochester, N.Y., the 'Kenneth B. Keating Federal Building'."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4845) was laid on the table.

FRANCES PERKINS DEPARTMENT OF LABOR BUILDING

The Clerk called the bill (H.R. 5781) to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building."

There being no objection, the Clerk read the bill, as follows:

H.R. 5781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 200 Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known as the Department of Labor Building) shall hereafter be known and designated as the "Frances Perkins Department of Labor Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Frances Perkins Department of Labor Building".

● Mr. LEVITAS. Mr. Speaker, I wholeheartedly support enactment of this bill, H.R. 5781, a bill to designate the Department of Labor Building at 200 Constitution Avenue NW., Washington, D.C., as the "Frances Perkins Department of Labor Building."

Passage of this legislation will honor one of the great women in American history. At a time when it was generally recognized that a "woman's place was in her home" Frances Perkins became the first woman ever to be appointed to a President's Cabinet. The appointment of Frances Perkins as Secretary of Labor in 1933 by President Franklin Delano Roosevelt symbolized the ability of women to hold the highest positions in government and society.

Frances Perkins had already distinguished herself prior to her appointment as Secretary of Labor. While waiting for a job offer after graduation from Mount Holyoke College in 1903, Perkins did volunteer social work among factory workers of Worcester, Mass. A teaching position in Lake Forest, Ill., took her west in 1904 where she learned the social meaning of trade unionism. Before Perkins returned to the East in 1907, she had been a temporary resident of Hull House and met Jane Addams and other leaders of various movements for social reform. Frances Perkins was firmly committed to a vocation as a social worker. She received her master's degree from Columbia University in 1910.

Subsequently, Perkins became Secretary of the New York Consumer League, organized to spread information about harmful industrial conditions and to lobby for social welfare legislation. On March 25, 1911, Perkins witnessed the tragic fire at the Triangle Shirtwaist Co. in which 146 young girls were killed. The Triangle focused attention in many New York City workplaces. In 1912, the city's social reform agencies formed a Committee on Safety, and Frances Perkins was appointed executive secretary. Between 1911 and 1915, the commission completely altered the New York industrial code and the State legislature enacted 36 new laws protecting workers on the job, limiting the hours of women and children, and compensating victims of on-the-job injuries.

In 1919, after she had served for 2 years as executive director of the New York Council of Organization for War Service, she was made a member of the New York State Industrial Commission. In 1921 she became director of the Council on Immigrant Education, in 1922 a member of the New York State Industrial Board and in 1926 its chairman. In 1929 Roosevelt, when he became Governor, made her Industrial Commissioner of New York State.

"Madame" Perkins, as she was known, served as Secretary of Labor under President Franklin D. Roosevelt from 1933 to 1945, longer than any other Secretary of Labor. Her tenure came during one of the most turbulent periods in American labor history as unions and management fought each other. The "conference method"—bringing together representatives of all interested groups—she adopted as one of the principal techniques of the Department of Labor for achieving its objectives.

Secretary Perkins' most important contribution was the development of old-age and unemployment insurance through the Social Security Act of 1935. She played a leading role in developing the Civilian Conservation Corps to provide work for unemployed youths. She supported the Fitzgerald Act which established standards for apprenticeship training, and the Wagner-Peyser Act, which created the U.S. Employment Service to provide job placement for the unemployed. She played an active role in developing the Works Progress Administration which made millions of temporary jobs to carry workers through the worst years of the depression.

Secretary Perkins was among the leaders of almost every New Deal social and labor law. She was an advocate of the National Labor Relations Act. In addition, she sponsored the Walsh-Healy Act of 1936 which set prevailing minimum wages, maximum hours, and safety and health standards for work performed under Government supply contracts.

President Lyndon B. Johnson, learning of her death on May 14, 1965, said:

> I am deeply grieved to learn of the passing of this great woman. She was a pioneer in the field of human welfare and equal rights. Her selfless dedication to the services of others will always be an inspiration to people of compassion and good will. ●

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 5781, a bill to designate the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building."

Frances Perkins was born in Boston, Mass., and brought up in Worcester. She went to Worcester Classical High School, graduated at 16 and then entered Mount Holyoke College where she majored in biology and chemistry. She was chairman of the YWCA committee and elected permanent president of her class in 1902. She later entered the University of Pennsylvania and while studying economics and sociology acted as executive secretary of the Philadelphia Research and Protective Association. Because of her work, Columbia University offered her a fellowship and she received her master's degree from the university in 1910.

Shortly afterward she became executive secretary of the New York Consumers' League which investigated industrial conditions and fought for protective legislation, especially for women and children. It was in 1911 that Frances Perkins witnessed the Triangle Shirtwaist Co., fire in which 146 girls died. She never forgot it and for the next 6 years devoted much of her time to safety legislation. In 1912 she became executive secretary of the New York Committee on Safety, a position she held until 1917. In 1921 she became director of the Council on Immigrant Education. In 1922 she became a member of the New York State Industrial Board and was appointed chairman in 1929 by Gov. Franklin Delano Roosevelt. When Roosevelt became President of the United States in 1933, one of his first appointments was Frances Perkins as Secretary of Labor, the first woman ever to be appointed to a Presidential Cabinet.

Once in office, she assisted in strengthening the country's work force suffering from the depression. She immediately laid the groundwork for a more secure and prosperous work force. Social security insurance, unemployment compensation, minimum wage legislation, and child labor regulations were among her accomplishments. She served with distinction until 1945.

W. Willard Wirtz. Secretary of Labor under Presidents John F. Kennedy and Lyndon B. Johnson, learning of her death in 1965, said:

> Every man and woman in America who works at a living wage, under safe conditions, for reasonable hours, or who is protected by unemployment insurance or social security is her debtor.

To designate the Department of Labor Building as the "Frances Perkins Department of Labor Building" is one small way to demonstrate the country's gratitude to her.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1655) to designate the building known as the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building".

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California.

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 200 Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known as the Department of Labor Building) shall hereafter be known and designated as the "Frances Perkins Department of Labor Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Frances Perkins Department of Labor Building".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5781) was laid on the table.

WINFIELD K. DENTON BUILDING

The Clerk called the bill (H.R. 5794) to designate the building known as the Federal Building in Evansville, Ind., as the "Winfield K. Denton Building".

There being no objection, the Clerk read the bill, as follows:

H.R. 5794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 101 Northwest Seventh Street, Evansville, Indiana (commonly known as the Federal Building), shall hereafter be known and designated as the "Winfield K. Denton Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Winfield K. Denton Building".

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 5794, a bill to designate the Federal Building in Evansville, Ind., as the "Winfield K. Denton Building."

Winfield K. Denton served admirably in the First World War and was commissioned a second lieutenant as an aviator in the U.S. Army Air Corps. In 1932, Winfield Denton was appointed prosecuting attorney of Vanderburgh County, Ind., where he seved two terms ending in 1936. He was subsequently elected to serve three terms in the Indiana State Legislature, where he was appointed Democratic Caucus chairman in 1939 and minority leader in 1941. His dedication to his country was highlighted when at the age of 46 he reentered the military service to serve in World War II.

Winfield Denton was elected as a Democrat to the 32d and 83d Congresses (January 3, 1949—January 3, 1953). He was unsuccessful in his efforts for reelection to the 83d Congress in 1952, however, was elected to the 84th Congress and to the five succeeding Congresses (January 3, 1949—January 3, 1967). During his eight terms in the House of Representatives he was a member of the Appropriations Committee, where his work reflected his concern for medical research on cancer, heart disease, and mental health. His work as chairman of the Subcommittee on Appropriations for the Department of Interior brought about the establishment of several national parks which we prize today.

It was my great privilege to have served many years side by side with this great servant of the State of Indiana, Winfield Denton. In view of his long and faithful public service to his country, it is appropriate to honor him by naming the Federal Building in Evansville, Ind., the "Winfield K. Denton Building." ●

● Mr. LEVITAS. Mr. Speaker, I would like to lend my strong support to this legislation, H.R. 5794, a bill to designate the Federal Building in Evansville, Ind., as the "Winfield K. Denton Building."

The people of Indiana elected Winfield Denton to serve as their representative in the U.S. House of Representatives for 16 years. During that time, the record he established was one of outstanding performance, worthy of praise. Therefore, it is appropriate in commemoration of his long and faithful dedication to public service, to name the Federal Building at Evansville, Ind., the "Winfield K. Denton Building." ●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the four bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. This concludes the call of the Consent Calendar.

CLEAN WATER ACT AMENDMENTS

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 901) to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610), with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments as follows:

> In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:
>
> That (a) subsection (b) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "the last day of the eighteenth month which begins after the date of enactment of this section" and inserting in lieu thereof "June 30, 1980".
>
> (b) Subsection (d) of section 75 of the Clean Water Act of 1977 (91 Stat. 1610) is amended by striking "eighteen-month" each place it appears and inserting in lieu thereof in each place "thirty-month".
>
> (c) The amendments made by subsections (a) and (b) of this section shall take effect as of June 30, 1979.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HARSHA. Mr. Speaker, reserving the right to object, I shall not object if the gentleman will explain the measure he is offering.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, S. 901, as amended by the Senate would extend the moratorium for 1 year and, as provided in the House-passed bill, clarifies that there is no break in the moratorium from June 30, 1979, and the date of enactment of this legislation.

S. 901 amends section 75 of the Federal Water Pollution Control Act Amendments of 1977 and extends for 1 year, from June 30, 1979 to June 30, 1980, the moratorium on collecting industrial cost recovery payments.

In the 1977 act, the House sponsored a provision which calls for a 12-month study by the Environmental Protection Agency (EPA) of the efficiency of, and the need for, industrial cost recovery (ICR) payments. The study was to include, but not be limited to, an analysis of such payments on rural communities and on industries in economically distressed areas or in areas of high unemployment.

The House gave very specific directions as to what the study should encompass, and directly called for recommendations by EPA to accompany the study report.

In January 1979 the study was submitted to Congress. The major finding of the contractor was that ICR is ineffective in achieving its legislative purposes.

The significant findings of the contractor include:

Changes in the tax law mooted the question of the construction grant program being a subsidy to industries that participate in municipal treatment works;

User charges have had a more significant impact on water conservation practices than industrial cost recovery;

ICR has been an administrative burden for both EPA and municipalities;

ICR produces little discretionary revenue for most local governments, particularly when revenues are compared with local costs of administering ICR.

On the basis of this information, it was expected that EPA would develop recommendations as to legislative alternatives to ICR, including whether the provisions should be repealed. However, EPA decided not to endorse the contractor's recommendations and stated they would prepare a separate analysis of alternatives and recommendations. It has been almost 1 year since the study was due, and the committee has yet to receive any recommendations from EPA on substantive disposition of ICR.

In order that Congress may move expeditiously to resolve ICR, it is expected that EPA will move immediately to develop such recommendations and alternatives. It is expected that such recommendations will be formally submitted to Congress when the new session begins in January 1980.

In developing these recommendations, EPA is to take into account, among many other things:

An analysis of the impact of Federal tax laws on an industry's decision to discharge either directly or as part of a municipal system;

The combined impact of pretreatment costs and requirements, user charges, and industrial cost recovery on an industry's decision to join a municipal waste treatment works;

The net effect of amendments contained in the Federal Water Pollution Control Act Amendments of 1977: The provision allowing municipalities to modify an industry's pretreatment requirements and the provision allowing EPA to exempt from industrial cost recovery any industrial use with a flow equivalent to 25,000 gallons or less per day of sanitary waste;

The impact of abolishing ICR altogether; and

The total amount of money which can be expected to be collected through the implementation of ICR when compared with the costs of administering the system.

S. 901 extends the ICR moratorium for 1 full year—from June 30, 1979, to June 30, 1980. There is absolutely no break in the terms of the moratorium, as set out in section 75 of the Federal Water Pollution Control Act of 1977, during the period of July 1, 1979, and the date of enactment of S. 901.

Section 204(b)(1) of the act requires grantees with industry tie-ins to develop an approvable industrial cost recovery system as a condition of the grant award. This condition is not affected during the time of the moratorium. However, the administrator is expected to continue to make grants and not to withhold any funding. According to EPA regulations, EPA cannot pay more than 50 percent of the Federal grant unless the grantee has submitted adequate evidence of timely development of its system, nor more than 80 percent of such grant unless the regional administrator has approved the system. It is expected that EPA will continue this policy until either the moratorium ends or Congress legislates on ICR, whichever occurs first.

Mr. Speaker, the Subcommittee on Water Resources held a full day of hearings on this matter. We heard from the Environmental Protection Agency and representatives of industry, cities, States, and environmental groups. All witnesses unanimously supported the need to extend the moratorium on industrial cost recovery.

I urge the enactment of this necessary legislation.

Mr. HARSHA. Mr. Speaker, I reluctantly support the bill the Senate has sent to us. While an extension of the moratorium on the industrial cost recovery requirement of the Clean Water Act is vitally necessary, I doubt that S. 901 will solve our problems, only postpone them.

At the administration's request, the House has passed H.R. 4023 which extended the moratorium on ICR, imposed by the 1977 Clean Water Act, for 2 years. This was felt necessary in order to provide enough time for consideration of the recommendations which were to accompany the study on the need for industrial cost recovery mandated by section 75 of the 1977 Clean Water Act. As many will note, $500,000 has already been expended to conduct that study. However, EPA did not favor us with their recommendations, transmitting to Congress only the study without its conclusions. After the House had favorably considered H.R. 4023, EPA, in a letter dated August 9 from then Assistant Administrator Thomas Jorling, promised to forward recommendations to Congress by the end of the first session. While that date is not yet upon us because of the recent extensions of the first session, I doubt that EPA will make it. In light of that, I foresee great difficulty for Congress to adequately reflect on any administration recommendations and develop appropriate legislation. I hope that I am wrong.

Mr. Speaker, in my remarks accompanying the passage of H.R. 4023 I made note of the testimony received by the committee from the Environmental Protection Agency. At the hearing by the Subcommittee on Water Resources on this legislation, EPA stated that they would interpret the congressional intent of extending the moratorium to include extending the date by which grantees are required to have an approved ICR system. I will not take the time of the House today to reiterate the intent with respect to that issue for I feel it is adequately covered by the debate on H.R. 4023. I merely restate that nothing has changed since the passage of H.R. 4023, we support the Agency's interpretation.

Mr. Speaker, I urge the adoption of S. 901 as sent to us by the Senate and hope my colleagues will join in sending this legislation to the President.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

● Mr. CLAUSEN. Mr. Speaker, as the principal author of section 75 of the 1977 Clean Water Act which placed a moratorium on collection of industrial cost recovery payments pending a completion of a study by EPA of the efficiency of and need for the ICR requirement, I urge my colleagues to support S. 901 which extends that moratorium until June 30, 1980.

Last June the Committee on Public Works and Transportation brought to the floor H.R. 4023, an administration-requested bill which would have extended the moratorium for 2 years. It was felt necessary to have this additional time because, notwithstanding the requirements of the 1977 act, EPA had not forwarded any proposals or recommendations concerning the future of the industrial cost recovery. The Agency has still not made any ICR recommendations.

The current uncertainty over the future of ICR has caused a great deal of concern in industry and municipalities alike. While many Clean Water Act grantees have attempted to continue to develop the required ICR systems, many others have complained that they are spending time and money to develop systems that may never be used. Still other grantees have slowed or even halted the development of their systems. To further muddy the waters, approximately 1,000 approved ICR systems, less than 20 of the effected grantees have elected to collect ICR payments.

Mr. Speaker, this situation cannot be permitted to continue. Those who are required to develop ICR systems and make ICR payments must be able to act with a measure of confidence in our legislative and regulatory process. In my opinion, we owe it to those who are effected by ICR—in fact, it is our responsibility—to support S. 901 and extend the ICR moratorium until Congress has been given an adequate opportunity to reach a final decision on the future course of ICR.

And speaking of giving Congress an adequate opportunity, Mr. Speaker, let me just add one more comment. One of the major shortcomings of the Environmental Protection Agency's response to the 1977 Clean Water Act's section 75 and its requirement to study the effectiveness of the ICR provisions was the Agency's failure to make any recommendations to Congress concerning the future of the ICR provisions. This occurred despite the fact that the ICR study commissioned by EPA concluded that the ICR provisions should be repealed. I want to make perfectly clear that, in extending this moratorium, we expect EPA to forward to us, not just alternatives, but its recommendations for the future of ICR.

It is with these thoughts in mind that I urge my colleagues to support extension of the ICR moratorium until June 30 of next year.●

Mrs. HECKLER. Mr. Speaker, while I would have preferred the House 2-year moratorium version of this industrial cost recovery legislation, I do support the Senate's preference—a 1-year moratorium during which no charges, fees or assessments would be levied.

I view these moratoria, Mr. Speaker, as way stations on the road to outright repeal of the onerous provisions of section 204(b)(1) of the Federal Water Pollution Act Amendments of 1972. I am proud to have been the principal sponsor of that legislative effort for several years.

At my insistence, those amendments were subjected to the "trial by fire" of extensive public hearings in many of the major cities of this country including Fall River in the district I have the honor to represent in this House. The ICR charges imposed on the business and industry of Fall River would damage—seriously damage—the economy of that city.

The facts gathered at those EPA hearings and the additional research material which the Agency amassed resulted in an EPA verdict that this legislation was "not effective in accomplishing its legislative purposes."

Seldom have labor, business, and the EPA been in such total agreement on an important matter of public policy.

I shall continue my efforts, Mr. Speaker, until the ICR costs and charges are completely wiped off the statute books. Hopefully, that can and will be accomplished during the second session of this, the 96th Congress.

I wish to extend my compliments to the chairman of the House Public Works Committee—the gentleman from California, Mr. Harold T. Johnson, and to the ranking minority member of that committee, Mr. Harsha of Ohio. They have done their usual able, thorough job. And I would like to offer special thanks to my friend and colleague from California, Don H. Clausen, who has been an invaluable ally in this important effort.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of S. 901. This bill amends the Clean Water Act of 1977 to extend the moratorium on collecting industrial cost recovery payments from June 30, 1979, to June 30, 1980.

I congratulate the chairman of the Subcommittee on Water Resources, Congressman Ray Roberts of Texas, and the ranking minority member of the subcommittee, Congressman Don Clausen of California, on the continued interest and leadership which they have focused on this very pivotal provision.

The Clean Water Act called for a 12-month study, to be accompanied by recommendations, and an 18-month moratorium on collection of ICR payments. Theoretically, the Congress would have had 6 months to act on the analysis and recommendations developed by EPA. To date—almost a full year after the study was due—the Congress has yet to receive any recommendations on future imposition of ICR payments. At this point in time, even if proposals were immediately sent to Congress. It would be impossible for the matter to be resolved by the end of this session.

In order to assure that there is no disruption in the construction grants program while recommendations are developed by EPA and submitted to Congress, S. 901 would extend the moratorium for 1 full year—from June 30, 1979, to June 30, 1980. It is expected that EPA will submit its proposals on future implementation of the ICR requirement to Congress in January 1980. It is expected that these recommendations will be developed in close cooperation with the committee. In this way, when Congress is back in session, we will be able to substantively resolve this matter.

Mr. Speaker, I urge enactment of this necessary legislation.●

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, I object.

PROVIDING FURTHER EXPENSES FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 430 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 430

Resolved, That in addition to the funds authorized by H. Res. 132, and for the further expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed $184,278, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed $87,500 of the total funds provided by H. Res. 132 and by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

Sec. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation or any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

Sec. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1980.

Sec. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS. Mr. Speaker, House Resolution 430 provides an additional $94,074 in funds for the Committee on Merchant Marine and Fisheries so that it may complete its investigations and studies in the current session.

Among the investigations and legislative activities of the committee, Mr. Speaker, which have necessitated the additional funding provided in this resolution, are the Mexican oil well blowout, the omnibus maritime law proposal, the Panama Canal, and the Fisheries Conservation and Management Act hearings.

The original amount requested by the committee in order to complete its investigations and studies was $184,278. After consultation between the Subcommittee on Accounts and the Merchant Marine and Fisheries Committee, several steps were taken to reduce the amount to the proposed $94,074 figure. These steps included a moratorium on hiring, on purchasing and on further field hearings.

□ 1210

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: strike out all after the resolving clause and insert:

That in addition to the funds authorized by H. Res. 132, and for the further expenses of investigations and studies to be conducted by the Committee on Merchant Marine and Fisheries, acting as a whole or by subcommittee, not to exceed $94,074, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to sections 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration, not to exceed $87,500 of the total funds provided by H. Res. 132 and by the resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(ii); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation or any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Merchant Marine and Fisheries shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1980.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the distinguished gentleman for yielding.

The committee amendment makes a substantial reduction in the amount of money requested by the Merchant Marine and Fisheries Committee. It is the judgment of the minority that the amendment should be supported.

However, it is unfortunate that any committee would overspend its budget as this one did. This is a perfect example of out-of-control spending on congressional staff.

I am particularly pleased that the Accounts Subcommittee is seriously attacking the runaway staff problem. The subcommittee's work on this resolution ought to be a clear signal to all committees that the belts must be tightened.

The committee amendment was agreed to.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR PRINTING AS HOUSE DOCUMENT OF STUDY ENTITLED "SOVIET DIPLOMACY AND NEGOTIATING BEHAVIOR: EMERGING NEW CONTEXT FOR UNITED STATES DIPLOMACY"

Mr. HAWKINS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–676) on the resolution (H. Res. 469) providing for the printing as a House document of the study entitled "Soviet Diplomacy and Negotiating Behavior: Emerging New Context for United States Diplomacy" which was prepared at the request of the Committee on Foreign Affairs by the Congressional Research Service of the Library of Congress, which was referred to the House calendar and ordered to be printed.

VICTOR H. PALMIERI

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I rise to bring to the attention of my colleagues the appointment by the President of Victor H. Palmieri as the new U.S. Coordinator for Refugee Affairs. The President has also nominated Mr. Palmieri as Ambassador at Large for Refugee Affairs.

Victor Palmieri has a long and outstanding record of public service both in and out of Government and his outstanding achievements highly qualify him to oversee the Nation's refugee and humanitarian relief programs so successfully and compassionately initiated by President Carter. I am confident that he will make major contributions to America's long and splendid record of worldwide programs to alleviate the suffering caused by earthquakes, famines, and wars.

Victor Palmieri is a Californian who received his education at Stanford University and is the chief executive at the company he founded in 1969 to assist business and government in corporate reorganization and management.

After graduating from law school, he practiced with the firm of O'Melveny & Myers in Los Angeles from 1955–59, and then became vice president at the Janss Corp. at the age of 29. Only 4 years later, he became the corporation's president.

Mr. Palmieri has been a lecturer at Harvard and Stanford Universities, is a trustee of five foundations, is a director of Phillips Petroleum, and serves as chairman of Pinehurst, Inc., and the American Learning Corp.

In 1967, Victor Palmieri came to Washington as deputy director of the Kerner Commission on Civil Disorders, and he has also served on the President's Commission on White House Fellows, on the Board of Directors of the Rural Development Corporation, as a member of the National Academy of Sciences and the National Academy of Engineering.

He has also served on the California Governor's Advisory Council on Housing, the Coordinating Council on Urban Policies, the Advisory Committee to the Department of Housing and Urban Development, the Board of Directors of the New Communities Development Corporation, and on the board of directors of the California State colleges, Immaculate Heart College, and Community Television of Southern California.

Mr. Speaker, it is with pride that I welcome Victor Palmieri to his new and crucial job as Coordinator for Refugee Affairs and I extend my best wishes to him for every success as he continues to serve the people of our Nation.

OIL AND TURMOIL: WESTERN CHOICES IN THE MIDDLE EAST

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, I believe most Members of this body will agree that there is no more significant area of the world today insofar as our national interest is concerned than the eastern Mediterranean. Recently, I have obtained a policy paper by the Atlantic Council of the United States Working Group in the Middle East on the subject of "Oil and Turmoil: Western Choices in the Middle East." I quote in part:

> Turkey's geographical position, as well as its size and military power, give it prime importance both as the eastern anchor of NATO and as a guardian of the security of the Middle East. It is necessary to aid the Turks in their current economic crisis, so that they can maintain their economic stability, their democratic institutions, and the common security. Turkey's acceptance of International Monetary Fund recommendations on economic policy will make it all the more imperative that American and other aid be provided in sufficient volume both to help the country through this period of social tensions and to make it possible to tackle the long-term economic problems. The proposals currently under consideration by the United States and its allies are a necessary initial attack on the problem, although they do not strike the Working Group as large and bold enough to ensure success over the long run. Beyond the necessary emergency economic measures, the United States should expand its relations with Turkey in the political and cultural sectors, to create a mutually beneficial relationship, not based solely on the need for military facilities or listening posts but on a broad solidarity grounded in respect for past performance and confidence in future common interest.

As first one country then another succumbs to international strife and external pressure, those friends this Nation has in that area become ever more important. The Turkish people need our help and need it badly if they are to survive in the maelstrom which has been created.

Turkey is vital to American security and there is a direct relationship of mutual defense interests.

PEOPLE ARE STILL STARVING IN CAMBODIA

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, for weeks, our attention has been riveted to the events in Iran, as well it should be. But events in another part of the world have rightfully drawn the deep concern of Americans as well. I am speaking about the tragic developments in Cambodia where death by starvation is a daily occurrence for thousands.

Little new can be said of the situation there, but here in Congress a daily vigil helps remind us of the urgent need for action.

Our Government has appropriated funds for relief; our people privately are giving generously to join with other nations to bring food and medicine to the Cambodian people. And such generosity will be required for some time because of the magnitude of the need. But these efforts remain stymied by the cruel battle for political power in Southeast Asia.

Our Government has pursued many diplomatic avenues in hopes that the humanitarian aid may rapidly flow to the sick and starving. It must be alert to every opportunity, every imaginable course, to overcome the remaining obstacles.

CAMBODIANS STILL BEING DEPRIVED OF FOOD

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I, too, would like to address the question of Cambodia to which my colleague has just referred. The situation is beyond doubt one of the most tragic and terrible. These people were subjected for a number of years, to a despot who killed without mercy, drove the city people into the country and murdered right and left.

Now they are faced with an invading army of 200,000 men from neighboring Vietnam, their historic enemy. The army is dynamiting the rice fields, burning the crops when they mature so the people cannot harvest, denying their right to fish.

What do we hear now? We hear that the food that is donated and comes in ships up the Mekong through Vietnam, receives a $10,000 tax that goes to the Vietnamese Government. We hear that the food that comes to the port of Kompong Som, which has an inadequate railway system, must come to Phnom Penh in trucks, but each truck is borrowed from the Vietnamese Army, at a cost of $3,000. We hear that the faction that governs in Phnom Penh is unwilling to allow more than a handful of foreigners to supervise distribution of the food, and is in fact storing it.

□ 1220

SACKING OF AMERICAN EMBASSY IN TRIPOLI CALLS FOR REASSESSMENT OF RELATIONS

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, the burning and sacking of our Embassy in Libya on Sunday is the latest act of terrorism, condoned by a nation-state, against the United States in the last 4 weeks. News reports indicate that members of the Libyan Armed Forces and Militia took part in this attack and luckily no American was injured. The Libyan Government has a long history of supporting terrorist movements such as the PLO, IRA Provos, Baader-Meinhoff gang, and has given sanctuary to former Ugandan dictator Idi Amin. In the light of Libya's history in fostering terrorism and being a friendly base for Soviet military activities I hope the administration will reassess its relations with Colonel Quadaffi with the view that this nation poses a major threat to peace in the Middle East by its support of terrorism, its strong anti-Sadat campaign, its irresponsible calls for using the oil weapon against us and its close ties to the Soviet Union.

Even though 10 percent of our imported oil is from Libya, and that accounts for 5 percent of our national consumption, we cannot be blackmailed into silence or forego our inherent right to self-defense against such blatant hostile acts.

CHILE

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, we are all keenly concerned about Iran. One of the major issues is the extradition which Iran has demanded of the United States and the United States has refused.

But with the extradition issue so important, I was amazed to read on one side of the front page about Iran's request and then on the other side of the page to read that the United States itself is demanding an extradition from Chile. The country of Chile has turned down our extradition request. This matter with Chile is about three citizens of Chile. Extradition is a decision which must be made and full determination should be made by each country as to its own judgment.

The State Department has no consistent policy.

The United States has the right to decide whether we extradite the Shah. The United States chose not to extradite.

Chile has the right of choice on extradition. Chile chooses not to extradite.

For the U.S. State Department to push this matter further with Chile, confirm's the world's opinion that the United States has no foreign policy. The right to extradite rests within each country for self determination. Let us once and for all close this extradition issue with Chile.

It should be the policy of our State Department that the issue of extradition is a self determination policy within each country.

SENIOR SENATOR FROM MASSACHUSETTS DISPLAYS BAD TIMING

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I wonder if the senior Senator from Massachusetts has considered registering as an agent for the Government of Iran. His attack on the Shah made yesterday while appealing to his constituency on the left can only give renewed vigor to the militant elements in and out of Iran in their efforts to make the Shah, and not our hostages, the central issue.

The Senator's attack on nuclear energy also strengthens our critical dependence on OPEC oil, and thus gives aid and comfort to Iran in its quest for using oil as a weapon against America.

As usual, the Senator's sense of timing and direction are dead wrong.

PRACTICES OF WORLD BANK QUESTIONED

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. YOUNG of Florida. Mr. Speaker, Barron's, a national business and financial weekly, today published a news article which all Members of this House should read before voting again on any appropriations to the World Bank group.

The article reveals a number of things that Members of the House will find extremely interesting.

It reveals that soon after World Bank President Robert McNamara wrote to the House Appropriations Subcommittee on Foreign Operations promising that the World Bank group would not loan money to Vietnam in fiscal 1980, he wrote another letter to Treasury Secretary G. William Miller and apologized for writing that letter to us.

It reveals that World Bank employees are increasingly concerned over the emphasis on quantity rather than quality in approving Bank projects. It reveals that a report prepared by the World Bank Group Staff Association found that "* * * Many staff believe the Bank to be over-controlled and undermanaged." In effect, the report charges that McNamara runs the Bank in such an autocratic manner that he fails to make adequate use of the professionals on his staff.

The Barron's report also reveals that the Bank's own annual review of 98 operations, representing about $1.8 billion in loans, found that projects are frequently changed because of faulty or incomplete design, because of a change in objectives, or because of what were described as "financial reasons."

That internal bank report found that five projects had large cost overruns. Three of these were in Indonesia and one project cost five times as much as budgeted. It revealed that many questions remain about procedures used in spending money loaned to Iran, loans which have since been canceled. And it reveals that a loan to Pakistan was so hurriedly put together that the project ran 4 years behind schedule.

Mr. Speaker, the House is learning more and more about the questionable practices and problems of the World Bank. I believe many Members of this House are beginning to look on that institution with increased skepticism as a result of information that has come to light in the last 3 years as a result of the subcommittee's efforts.

Barron's has made a significant contribution to that flow of information, and I commend that publication and its reporter, Shirley Hobbs Scheibla, for this excellent example of investigative reporting.

Mr. Speaker, I will make a more detailed report and include the full text of the Barron's article later today in the Extension of Remarks section of the CONGRESSIONAL RECORD.●

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. MOAKLEY) laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C., November 30, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 10:58 a.m on Friday, November 30, 1979, and said to contain a message from the President, entitled Special Message on Paperwork Reduction.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

EXECUTIVE ORDER ON PAPERWORK REDUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–234)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

In the past two and one half years, my Administration has achieved real progress in cutting the paperwork burden government imposes on the public. Today I am announcing steps to expand and accelerate that effort.

I have today signed an Executive Order on paperwork reduction. I am also calling on the Congress to enact two bills which will help eliminate needless forms, cut duplication, streamline those forms which are necessary and strengthen central oversight of Federal paperwork.

Government efficiency is a central theme of my Administration. If we are to restore confidence in government, we must eliminate needless burdens on the public. We have pursued this goal through regulatory reform, civil service reform, reorganization, and other initiatives. Paperwork reduction is an important part of this program.

Some Federal paperwork is needed. The government must collect information to enforce the civil rights laws, compile economic statistics, design sound regulations, and for many other purposes. In recent years, however, government forms, surveys and interviews have mushroomed. Much of this paperwork is unnecessary or duplicates information being collected elsewhere.

My Administration has stopped the paperwork surge and started cutting this burden down to size. We have reduced the amount of time Americans spend filling out Federal forms by almost 15%—127 million hours. That is the equivalent of 75,000 people working full-time for a year. We have evaluated the 520 recommendations of the Paperwork Commission and have already implemented more than half of them.

The Internal Revenue Service made it possible, for example, for five million taxpayers to switch from the long tax form to the short one. The Occupational Safety and Health Administration exempted 40,000 small businesses from reporting requirements. The Interstate Commerce Commission sliced a 70-page report required from 13,000 carriers down to 8 pages. The Labor and Treasury Departments slashed the paperwork burden that was crushing the small pension plans. I am today announcing that we are consolidating three reports required from the States on welfare and food stamp programs; this will eventually save 500,000 hours and $10 million per year.

The progress in cutting Federal paperwork has been substantial, but we must do more. Congress is enacting new requirements in energy, environmental protection, and other programs that will add to the paperwork burden. To continue our success in eliminating Federal paperwork, we need the broad management program I am announcing today.

The Executive Order I have signed establishes strong management tools for the Executive agencies. First of all, it creates a "paperwork budget." Each agency will submit an annual estimate of the numbers of hours required to fill out all its forms. The Office of Management and Budget will then hold agencies to that total or order it cut. The process will be similar to the spending budget; it will give agencies incentives to set priorities and to eliminate or streamline burdensome forms.

The Order creates a Federal Information Locator System, which will list all the types of information collected by Federal agencies. Before an agency collects information, it will check in this System to see if another agency already has the data.

The Order also requires agencies to consider the special paperwork problems of small organizations and small businesses. Data gathering that may be easy for a corporation with computerized records may be very costly for a small business person who keeps records by hand. Some reports must necessarily be universal and uniform, but in many cases agencies can meet their information needs while providing exemptions or less burdensome reports for small businesses. Some agencies already have started doing so. The Executive Order requires all agencies to review each form to identify those cases where small organizations can be exempted or given simpler forms. Senator JOHN CULVER deserves credit for leading the development of this concept of special consideration for small organizations.

Finally, the Order mandates a "sunset" process. This process will be similar to the legislation I am supporting to mandate sunset reviews for regulations, spending programs, and tax expenditures. The Paperwork Order requires that each form terminate every five years unless a new decision is made to continue it.

We also need legislation to build a complete paperwork control program and extend it to all agencies. Representatives JACK BROOKS, FRANK HORTON, and TOM STEED and Senator LAWTON CHILES have taken the lead in developing a Paperwork Reduction Act which will strengthen and unify existing paperwork oversight. The Federal Reports Act is insufficient in this regard. It gives OMB power to disapprove many agencies' forms, but the independent regulatory commissions are reviewed by the General Accounting Office and tax, education, and health manpower programs have no central review at all. These loopholes represent 81% of the total paperwork burden, of which tax forms are 73%.

This legislation will close these loopholes, providing central oversight for all forms. It also strengthens the paperwork clearance process by allowing members of the public to refuse to fill out forms that have not been properly cleared.

The legislation will provide additional tools to cut duplication in paperwork requirements. When several agencies want to collect overlapping data, the bill will empower the OMB to assign one agency to do the job. The bill will also deal with the special problems of statistical systems. One cause of duplication is that agencies collect statistical data under pledges of confidentiality, and these pledges hamper sharing the data. The bill will authorize such sharing while strengthening safeguards to ensure the data is used only for statistical purposes and never to abuse personal privacy. These provisions will also strengthen our Federal statistical systems, which are crucial to economic and other policymaking.

While controlling the paperwork imposed on the public, we must also hold down paperwork within the Government itself. I am therefore submitting to the Congress the Reports Elimination Act of 1979. This bill, together with administrative action we are taking now, will eliminate or simplify 278 annual agency reports, saving at least $5.5 million per year.

This overall paperwork reduction program has been developed in a cooperative effort with the leaders of the Senate Governmental Affairs and House Government Operations Committees. Working together, we will continue the progress on cutting away red tape.

I urge the Congress to act promptly on the two bills I have discussed.

JIMMY CARTER.

The WHITE HOUSE, *November 30, 1979*.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, December 4, 1979.

CIVIL AUTHORIZATION ACT OF 1979

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5138) to authorize certain appropriations to the Office of Personnel Management, the Merit Systems Protection Board, the Special Counsel of the Merit Systems Protection Board, and the Federal Labor Relations Authority, as amended.

The Clerk read as follows:

H.R. 5138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Authorization Act of 1979".

OFFICE OF PERSONNEL MANAGEMENT

SEC. 2. There are authorized to be appropriated to the Office of Personnel Management for each of the fiscal years 1981 and 1982—

(1) not to exceed $114,000,000 for salaries and expenses; plus

(2) such additional sums as may be necessary for—

(A) increases in pay and related expenses required by any adjustment to rates of pay which occurs under section 5305 of title 5, United States Code, after September 30, 1979;

(B) increases in payments to the Administrator of General Services required by any increase which occurs after September 30, 1979, in charges for space and services under section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490); and

(C) increases in payments to the United States Postal Service under section 3206 of title 39, United States Code, for matter sent in the mails which is necessary for the basic operation of the programs of the Office if the increases are required because of any increase in postage rates which occurs after September 30, 1979.

MERIT SYSTEMS PROTECTION BOARD

SEC. 3. There are authorized to be appropriated to the Merit Systems Protection Board for each of the fiscal year 1981 and 1982—

(1) not to exceed $15,000,000 for salaries and expenses; plus

(2) such additional sums as may be necessary for—

(A) increases in pay and related expenses required by any adjustment to rates of pay which occurs under section 5305 of title 5, United States Code, after September 30, 1979;

(B) increases in payments to the Administrator of General Services required by any increase which occurs after September 30, 1979, in charges for space and services under section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490); and

(C) increases in payments to the United States Postal Service under section 3206 of title 39, United States Code, for matter sent in the mails which is necessary for the basic operation of the programs of the Authority if the increases are required because of any increase in postage rates which occurs after September 30, 1979.

SPECIAL COUNSEL OF THE MERIT SYSTEMS PROTECTION BOARD

SEC. 4. There are authorized to be appropriated to the Special Counsel of the Merit Systems Protection Board for each of the fiscal years 1981 and 1982—

(1) not to exceed $8,000,000 for salaries and expenses; plus

(2) such additional sums as may be necessary for—

(A) increases in pay and related expenses required by any adjustment to rates of pay which occurs under section 5305 of title 5, United States Code, after September 30, 1979;

(B) increases in payments to the Administrator of General Services required by any increase which occurs after September 30, 1979, in charges for space and services under section 210 of the Federal Property and Administrative Services Act (40 U.S.C. 490); and

(C) increases in payments to the United States Postal Service under section 3206 of title 39, United States Code, for matter sent in the mails which is necessary for the basic operation of the programs of the Special Counsel if the increases are required because of any increase in postage rates which occurs after September 30, 1979.

FEDERAL LABOR RELATIONS AUTHORITY

SEC. 5. There are authorized to be appropriated to the Federal Labor Relations Authority for each of the fiscal years 1981 and 1982—

(1) not to exceed $15,000,000 for salaries and expenses; plus

(2) such additional sums as may be necessary for—

(A) increases in pay and related expenses required by any adjustment to rates of pay which occurs under section 5305 of title 5, United States Code, after September 30, 1979;

(B) increases in payments to the Administrator of General Services required by any increase which occurs after September 30, 1979, in charges for space and services under section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490); and

(C) increases in payments to the United States Postal Service under section 3206 of title 39, United States Code, for matter sent in the mails which is necessary for the basic operation of the programs of the Office if the increases are required because of any increase in postage rates which occurs after September 30, 1979.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6. (a) Chapter 11 of title 5, United States Code relating to the Office of Personnel Management, is amended by adding at the end thereof the following new section:

"§ 1106. Annual authorizations

"Except as otherwise expressly provided under this title, appropriations for the Office of Personnel Management for any fiscal year beginning after September 30, 1980, shall be considered to be authorized only to the extent expressly provided by statute for the fiscal year involved.".

(b) Chapter 12 of such title 5, relating to the Merit Systems Protection Board, is amended by adding at the end thereof the following new section:

"§ 1210. Annual authorizations

"Appropriations for the Merit Systems Protection Board and the Special Counsel for any fiscal year beginning after September 30, 1980, shall be considered to be authorized only to the extent expressly provided by statute for the fiscal year involved.".

(c) Section 7104 of such title, relating to the Federal Labor Relations Authority, is amended by adding at the end thereof the following new subsection:

"(g) Appropriations for the Authority for any fiscal year beginning after September 30, 1980, shall be considered to be authorized only to the extent expressly provided by statute for the fiscal year involved.".

(d) (1) The table of sections for chapter 11 of such title 5 is amended by inserting after the item relating to section 1105 the following new item:

"11.06. Annual authorizations.".

(2) The table of sections for chapter 12 of such title 5 is amended by inserting after the item relating to section 1209 the following new item:

"1210. Annual authorizations.".

(e) (1) Section 903 of the Civil Service Reform Act of 1978 (5 U.S.C. 5509 note) is repealed, effectively with respect to fiscal years beginning after September 30, 1980.

(2) The table of contents for the Civil Service Reform Act of 1978 is amended by striking out the item relating to section 903.

REPORT TO CONGRESS

SEC. 7. (a) (1) Not later than January 31 of each year the Office of Personnel Management shall transmit to each House of the Congress a report describing each contract entered into by an executive agency (as defined in section 105 of title 5, United States Code) during the fiscal year ending September 30 preceding the transmittal of such report for—

(A) the performance of any personnel management function; or

(B) training, research, development, or

evaluation relating to any personnel management function.

(2) For the purpose of this subsection, "personnel management function" includes performance evaluation, position classification, and labor management relations, but does not include, with respect to any executive agency, any personnel management function for which the Office of Personnel Management has no responsibility.

(b) Each report required under subsection (a) shall include, with respect to each contract described, detailed information concerning—

(1) the parties to the contract,

(2) the cost of the contract,

(3) the cost which would have been incurred if the functions contracted for had been performed directly by an executive agency,

(4) the number of full-time employees which would have been required to perform the functions contracted for if those functions had been performed directly by an executive agency, and

(5) if the cost reported under paragraph (2) with regard to any contract exceeds the cost reported under paragraph (3) regarding that contract—

(A) the authority for entering into the contract,

(B) the reason for entering into the contract, and

(C) whether the personnel and expertise required to perform the functions contracted for were available within any executive agency or the Office of Personnel Management.

(c) In addition to the information required under subsection (b), each report transmitted under subsection (a) shall set forth for the fiscal year involved—

(1) the total number of contracts required to be reported,

(2) the total cost of all such contracts,

(3) the total number of full-time employees which would have been required to perform the functions contracted for if the functions had been performed directly by executive agencies, and

(4) a description of each personnel management function, with respect to each executive agency, for which the Director of the Office of Personnel Management has determined the Office has no responsibility.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. COURTER) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, H.R. 5138 places the civil service agencies of the Federal Government on limited duration authorizations for specific sums of money. In so doing, it places the Office of Personnel Management (OPM), the Merit Systems Protection Board (MSPB), the Office of the Special Counsel (OSC), and the Federal Labor Relations Authority (FLRA) on the same basis as the Department of Defense, the Department of Energy, and the Department of State. Each of these Cabinet departments are provided with the funds they need to operate by virtue of an expiring authorization. Unless a reauthorization is passed at the appropriate time, each of these essential agencies of Government would cease to exist. The fact of the matter is, however, that reauthorization legislation is routinely passed. Why, then, do I support placing the civil service agencies on such limited authorizations?

The answer is that authorizations of limited duration force Congress to scrutinize the operations of the agencies on a periodic basis. I have learned over my 7 years in Congress and during my 5 years as a subcommittee chair that oversight is low-priority work. The press of pending legislation forces us to place systematic investigation of Federal agencies on a back burner. Around here, once something is on the back burner, it never again receives the attention it deserves. A periodic authorization marshalls the pressure of having to move legislation into the service of needed oversight.

In this way, H.R. 5138 works on the same theory as sunset legislation. The difference is that each authorizing committee, in the case of sunset legislation, would be subject to an arbitrary and externally imposed schedule for review. In the case of this bill, the Post Office and Civil Service Committee has determined that a 2-year review cycle is appropriate at the beginning. The next time we reauthorize these agencies, as we may well decide that less-frequent reauthorization is appropriate.

In drafting H.R. 5138, the committee authorized each of the civil service agencies only for the amount of money definitely needed. We tried to keep the total authorized levels very close to what the President had recommended. For the most part, we succeeded. The vast majority of the civil service moneys go to the Office of Personnel Management, which can be best understood as the central personnel manager of Government. We held OPM to its current expenditure level of $115 million a year. The three "employee protection" agencies, MSPB, OSC, and FLRA, were all grossly underfunded in the President's request. The Appropriations Committee learned of this problem and substantially increased funding for these agencies. Due to the swelling workload of these units, however, the level set by the Appropriations Committee will not be adequate for future years. For this reason, the committee recommends an increase of about $9.5 million in the total budgets of these agencies.

It seems to me that this bill is needed, desirable, and fiscally responsible. I thought that legislative oversight was a noncontroversial goal. I have been surprised to find, however, that there is at least one member of this body who has problems with the concept. This surprise was intensified by the fact that no one raised any objections during the markup of the legislation in committee.

Nevertheless, let me answer some of the late-in-coming arguments raised by the critic of this legislation. First, H.R. 5138 is necessary to assure that the Civil Service Reform Act of 1978 works. All too often, Congress has passed a major program, closed its eyes to implementation, and then learned of the program's demise. I do not want that to happen to the Reform Act. I voted for it and I want it to work. Only by watching implementation, can Congress assure that the act is properly carried out. H.R. 5138 serves that purpose.

Second, it is foolish in the extreme to say that oversight is premature. It is now that major decisions about the implementation of the act are being made. It is now that agencies and employees will determine whether the new performance appraisal system is meaningful or meaningless. It is now that performance standards are being set on which merit pay and Senior Executive Service bonuses will be based. It is now that the Merit Systems Protection Board will either establish or undercut its own credibility. If this is not the time for congressional scruitiny, I do not know what is.

Third, at no time during consideration of the Reform Act last year was there any discussion about the permanent authorization contained in the bill the administration sent up. With all the other meaty, substantive issues to consider, we just plain missed the issue of the length and type of authorization. It is, therefore, misleading to claim that Congress considered the question last year and made a deliberate decision.

Mr. Speaker, H.R. 5138 is significant reform legislation which will not disrupt the operations of Federal agencies and will not cost any additional money. All it will do is force Congress to be accountable for the program it created. Because I believe in legislative accountability, I urge support for this legislation.

□ 1230

Mr. COURTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the question before the House today is whether it is necessary to make a major change in the recently enacted Civil Service Reform Act of 1978, as is proposed in H.R. 5138.

This legislation imposes a 2-year expiring authorization and further, fixes the level of funding under that authorization 2 years in advance.

This is a sharp departure from the decision made by the House just 1 year ago when it decided to provide unexpiring authorization of funds for the administration of that act. Implementation of the comprehensive reform package requires time, and the respective agencies must be allowed some flexibility.

In testimony before our committee, the effected agencies, except the special counsel, felt it was inappropriate to apply the sunset principle to the particular agency they represented.

Mr. Speaker, legislative oversight is a proper and valuable tool of the legislative process, but we also need to be fair in allowing these newly created agencies to perform as the Civil Service Reform Act intends them to perform. It may be far too early for the type of tinkering this legislation would encourage.

It is generally recognized the Civil Service Reform Act is being implemented and administered in a very efficient fashion. It is my hope this landmark legislation will be given every opportunity to succeed. We in the Congress have the responsibility to assure that it not only receives the necessary funds to operate but that we do nothing to hinder its successful implementation.

Mr. Speaker, as indicated before, some people may have reservations with regard to this legislation because of the 2-year expiring authorization and further because of the fact that it fixes the level of funding under that authorization for 2 years. On balance, however, I think it is needed legislation, obviously. It is a reasonably good piece of legislation, and the minority has no serious reservations.

● Mr. HARRIS. Mr. Speaker, the Civil Service Authorization Act (H.R. 5138) authorizes the Office of Personnel Management (OPM) and the other personnel agencies established by the Civil Service Reform Act (P.L. 95-454). This bill contains language which I introduced as an amendment in subcommitte, and which was approved by the full Post Office and Civil Service Committee, to require that this Congress be told about the millions of dollars being spent by the executive branch in contracts in the area of personnel management.

I introduced this amendment because of the lack of accountability in the executive branch in the area of contracting. OPM is supposed to be the personnel management arm of the executive branch and yet when the Department of Energy contracted to write position descriptions—a contract that should never have been let—OPM said it was not their responsibility to know about such contracts.

Last July, Alan Campbell, director of OPM, testified in hearings before my subcommittee that contracts were being let by agencies to design performance-appraisal systems for the senior executive service. He could not tell me how many, how much they cost, whether several agencies were contracting with the same firms, and paying 2 or 3 times for the same work. We have just determined that the Department of Navy is planning to issue $10 million in contracts for development of performance-appraisal systems—enough to fund the entire commission on Civil Rights or the Federal Maritime Commission for a full year.

It is time for someone to be accountable. This bill will make OPM accountable. It will provide Congress with the information necessary for oversight.

The bill requires an annual report to Congress, by OPM, describing each contract entered into by an executive agency in the area of personnel management.

In addition to information about the cost, both by contract and in-house to perform the function, the report must state the reason for entering into any contract which is not cost-effective. It must also state the authority for entering into a contract which is not cost-effective.

The annual report would also provide total figures for these contracts on the number, cost, and number of full-time employees who would have been required to perform the functions contracted for if the functions had been performed by the agencies.●

Mrs. SCHROEDER. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the bill, H.R. 5138, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill H.R. 5138.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

RECREATIONAL BOATING FUND ACT OF 1979

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4310) to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT

SEC. 101. This title may be cited as the "Recreational Boating Safety and Facilities Improvement Act of 1979".

SEC. 102. The Federal Boat Safety Act of 1971 (Public Law 92-75, 85 Stat. 213), as amended, is amended as follows:

(1) In section 2 by striking the first sentence and inserting in lieu thereof the following: "It is declared to be the policy of Congress and the purpose of this Act to improve recreational boating safety and facilities and to foster greater development, use, and enjoyment of all the waters of the United States by encouraging and assisting participation by the several States, the boating industry, and the boating public in the development, administration, and financing of a national recreational boating safety and facilities improvement program; by authorizing the establishment of national construction and performance standards for boats and associated equipment; and by creating more flexible authority governing the use of boats and equipment.".

(2) In section 3—

(a) by striking clauses (10) and (11) and inserting in lieu thereof the following:

"(10) 'United States' and 'State' include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction.

"(11) 'Eligible State' means a State that has a State recreational boating safety and facilities improvement program that has been accepted by the Secretary."; and

(b) by adding the following new clauses:

"(12) 'Recreational boating safety program' means education, assistance, and enforcement activities conducted for the purpose of boating accident or casualty prevention, reduction, and reporting.

"(13) 'Recreational boating facilities' means public facilities that create, or add to, public access to the waters of the United States to improve their suitability for recreational boating purposes, including such ancillary facilities as are necessary to insure the safe use of those facilities.

"(14) 'Fund' means the National Recreational Boating Safety and Facilities Improvement Fund established by title II of this Act.".

(3) Section 25 is amended to read as follows:

"NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT PROGRAM

"SEC. 25. (a) In order to encourage greater State participation and uniformity in boating safety and facility improvement efforts, and particularly to permit the States to assume the greater share of boating safety education, assistance, and enforcement activities, the Secretary shall implement and administer a national recreational boating safety and facilities improvement program. Under this program, the Secretary may allocate and distribute funds to eligible States to assist them in the development, administration, and financing of State recreational boating safety and facilities improvement programs. The Secretary shall establish guidelines and standards for this program. In doing so, he shall—

"(1) consider, among other things, factors which affect recreational boating safety by contributing to overcrowding and congestion of waterways, such as the increasing number of recreational boats using those waterways and their geographic distribution, and the availability and geographic distribution of recreational boating facilities within and among applying States, as well as State recreational boating casualty and fatality statistics;

"(2) consult with the Secretary of the Interior so as to minimize duplication with the purposes and expenditures of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4) and with the guidelines developed thereunder; and

"(3) maintain environmental standards consistent with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464)) and other Federal laws and policies intended to safeguard the ecological and esthetic quality of our Nation's waters and wetlands.

"(b) A State whose recreational boating safety and facilities improvement program has been accepted by the Secretary shall be eligible for either full or partial allocation and distribution of funds under this Act to assist that State in the development, administration, and financing of its State program. Matching funds shall be allocated and distributed among eligible States by the Secretary in accordance with section 26 of this Act.".

(4) Section 26 is amended to read as follows:

"PROGRAM ACCEPTANCE AND ALLOCATION OF FUNDS

"SEC. 26. (a) The Secretary, in accordance with this section and such regulations as he may promulgate, may allocate and distribute funds from the fund to any State that has an accepted State recreational boating safety and facilities improvement program, if the State demonstrates to his satisfaction that—

"(1) the program submitted by that State is consistent with the purposes of this Act;

"(2) the program submitted by that State was developed in consultation with State officials responsible for the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4) and for any program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–64).

"(3) funds distributed will be used to develop and administer a State recreational boating safety and facilities improvement program containing the minimum requirements set forth in subsection (b) of this section; and

"(4) sufficient State matching funds are available from either general revenue, boat registration and license fees, State marine fuels taxes, or from a fund constituted from the proceeds of such a tax and established for the purpose of financing a State recreational boating safety and facilities improvement program. No Federal funds from other sources may be used to provide a State's share of the costs of the program described under this section, nor may any State matching funds committed to a program under this Act be used to constitute the State's share of matching funds required by any other Federal program.

"(b) The Secretary shall accept a State recreational boating safety and facilities improvement program that includes—

"(1) a vessel numbering system, either approved or administered by the Secretary under this Act. An approved State vessel numbering system is necessary for full eligibility for Federal funds allocated and distributed under this section;

"(2) a cooperative boating safety assistance program with the Coast Guard in that state;

"(3) sufficient patrol and other activity to insure adequate enforcement of applicable State boating safety laws and regulations;

"(4) an adequate State boating safety education program;

"(5) the designation of a State lead authority or agency, which would implement or coordinate the implementation of the State recreational boating safety and facilities improvement program supported by Federal financial assistance in that State, including the requirement that the designated State authority or agency submit required reports that are necessary and reasonable for a proper and efficient administration of the program and that are in the form prescribed by the Secretary; and

"(6) a facilities improvement program describing boating facility projects, including but not limited to: acquisition of title, or any interest in riparian or submerged land; and capital improvement of riparian or submerged land for the purpose of increasing public access to the waters of the United States, and such ancillary facilities as are necessary to insure the safe use of those facilities.

"(c) Allocation and distribution of funds under this section is subject to the following conditions:

"(1) Of the total funds available for allocation and distribution, one-third shall be allocated each year for recreational boating safety programs and two-thirds shall be allocated for recreational boating facilities improvement programs.

"(2) Of the funds available for allocation and distribution for recreational boating safety programs, one-third shall be allocated equally among eligible States. One-third shall be allocated so that the amount each year to each eligible State will be in the same ratio as the number of vessels numbered in that State, under a numbering system approved under this Act, bears to the number of vessels numbered in all eligible States. The remaining one-third shall be allocated so that the amount each year to each eligible State shall be in the same ratio as the State funds expended or obligated for the State boating safety program during the previous fiscal year by a State bears to the total State funds expended or obligated for that fiscal year by all eligible States for State recreational boating safety programs.

"(3) Of the funds available for allocation and distribution for recreational boating facilities improvement programs, one-third shall be allocated each year, equally among eligible States. One-third shall be allocated so that the amount each year to each eligible State will be in the same ratio as the number of vessels numbered in that State bears to the number of vessels numbered in all eligible States. The remaining one-third shall be allocated so that the amount each year to each eligible State shall be in the same ratio as the State funds expended or obligated by the State for a recreational boating facilities improvement program approved under the Act during the previous fiscal year by a State bears to the total State funds expended or obligated for that fiscal year by all eligible States for recreational boating facilities improvement programs.

"(4) The amount received by any State under this section in any fiscal year may not exceed one-half of the total cost incurred by that State in the development, administration, and financing of that State's recreational boating safety and facilities improvement program in that fiscal year.

"(5) No allocation or distribution of funds under this section may be made to any State for the maintenance of boating facilities under an approved State recreational boating safety and facilities improvement program.

"(6) The Secretary is authorized to expend from the funds available for allocation or distribution in any fiscal year those sums, not to exceed two percent of the funds available, as are necessary for the administration of this Act."

(5) Section 27 is repealed.

(6) In section 28 by striking subsections (a) and (d) and redesignating subsections (b) and (c) as (a) and (b), respectively.

(7) In section 29 by adding, following the words "boating safety", the words "and facilities improvement" and following the words "costs of" the first time they appear, the word "land,".

(8) Section 30 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT PROGRAMS

"Sec. 30. For the purpose of providing financial assistance for State recreational boating safety and facilities improvement programs, there is authorized to be appropriated from the National Recreation Boating Safety and Facilities Improvement Fund $30,000,000 for each of the fiscal years beginning with fiscal year 1981 through fiscal year 1983, those appropriations to remain available until expended.".

(9) Section 31 is amended—

(a) in subsection (a) to read as follows:

"(a) Amounts allocated and distributed under section 26 of this Act shall be computed and paid to the States as follows: The Secretary shall determine, during the last quarter of a fiscal year, on the basis of computations made pursuant to section 29 of this Act and submitted by the States, the percentage of the funds available for the next fiscal year to which each eligible State shall be entitled. Notice of the percentage and of the dollar amount, if it can be determined, for each State shall be furnished to the States at the earliest practicable time. If the Secretary finds that an amount made available to a State for a prior year is greater or less than the amount which should have been made available to that State for the prior year, because of later or more accurate State expenditure information, the amount for the current fiscal year may be increased or decreased by the appropriate amount."; and

(b) in subsection (c) by adding, following the word "safety" wherever it appears, the words "and facilities improvement".

(10) Section 32 is amended—

(a) by striking in subsection (a) the words "boating and boating safety" and inserting in lieu thereof the words "boating safety and facilities improvement."; and

(b) by adding in the first sentence of subsection (b) following the word "safety" the words "and facilities improvement".

TITLE II—ESTABLISHMENT OF FUND

Sec. 201. Short Title.

This title may be cited as the "Recreational Boating Fund Act of 1979".

Sec. 202. Establishment of National Recreational Boating Safety and Facilities Improvement Fund.

There is established in the Treasury of the United States a separate fund to be known as the "National Recreational Boating Safety and Facilities Improvement Fund", consisting of such amounts as may be paid into it as provided in section 209(f)(5) of the Highway Revenue Act of 1956. Amounts in the Fund shall be available, as provided in appropriation Acts, for making expenditures after September 30, 1980, and before April 1, 1984, as provided in section 26 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1476).

Sec. 203. Transfer of Motorboat Fuel Taxes to Fund.

(a) General Rule.—Paragraph (5) of section 209(f) of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) is amended to read as follows:

"(5) Transfers from the trust fund for motorboat fuel taxes.—

"(A) Transfer to national recreational boating safety and facilities improvement fund.—

"(i) In general.—The Secretary of the Treasury shall pay from time to time from the trust fund into the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1983.

"(ii) Limitations.—

"(I) Limit on transfers during any fiscal year.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $30,000,000.

"(II) Limit on amount in fund.—No amount shall be transferred under this subparagraph if the Secretary determines that such transfer would result in increasing the amount in the National Recreational Boating Safety and Facilities Improvement Fund to a sum in excess of $30,000,000.

"(B) Excess funds transferred to land and water conservation fund.—Any amount received in the trust fund which is attributable to motorboat fuel taxes and which is not transferred from the trust fund under subparagraph (A) shall be transferred by the Secretary from the trust fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

"(C) Motorboat fuel taxes.—For purposes of this paragraph, the term 'motorboat fuel taxes' means the taxes under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel in motorboats and under section 4081 of such Code with respect to gasoline used as fuel in motorboats."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxes received on or after October 1, 1980.

SEC. 204. STUDY BY SECRETARY OF THE TREASURY.

The Secretary of the Treasury (after consultation with the Secretary of Transportation) shall conduct a study to determine the portion of the taxes imposed by sections 4041(b) and 4081 of the Internal Revenue Code of 1954 which is attributable to fuel used in recreational motorboats. Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Congress on his findings under such study.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York, Mr. Biaggi, will be recognized for 20 minutes, and the gentleman from Washington, Mr. Pritchard, will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4310 amends the Federal Boat Safety Act of 1971 to improve recreational boating safety and further greater development, use, and enjoyment of all the waters of the United States.

This measure responds to two separate but interrelated needs of our boating population—safety and access. Over 50 million persons in the United States engage in recreational boating on a regular basis. Today, there are an estimated 14 million pleasure craft operating on our 25 million square miles of waterways—reflecting a sevenfold increase over the last 40 years. These figures are expected to double again before the end of this century.

Most Americans today live within 50 miles of one of our four coastlines—extending for a hundred thousand miles along the perimeter of the Lower 48 States. However, despite this vast expanse of waterways and coastlines, our boating population is perhaps even more densely concentrated than the population at large—residing and boating for the most part near urban and coastal areas. Moreover, only 4 percent of our coastline is publicly owned or provides public access to the water.

Density inevitably leads to conflict. This is first reflected in accident statistics. Recreational boating follows this pattern. Overcrowding and congestion of waterways—and the lack of safe, adequate boating access in many areas—are already contributing to a spiraling increase in boating casualties. Coast Guard statistics show a continuing 6 percent annual increase in search and rescue activity.

Seventy-six percent of all Coast Guard SAR cases involve recreational vessels. Most of these incidents occur within 25 miles of the coast. Half of all boating accidents occur on internal waters subject to exclusive State jurisdiction—along with one-third of the accompanying fatalities. Clearly, boating accidents do not respect jurisdictional boundaries.

Despite these trends and conditions—reflecting a sense of inexorability to the continuing increase in boating accidents—two facts stand out. Since 1971, the number of boating fatalities has actually declined—and the rate of boating fatalities, in proportion to the increasing number of recreational boats operating on our waterways, has decreased by more than half. The principal reason for this reverse trend in boating fatalities is simple. Since 1971, the Federal Government—through the Coast Guard—and the States have been engaged in a unique partnership with a single goal—the improvement of boating safety.

Enactment of the Federal Boat Safety Act of 1971 created an administrative and operational framework that has resulted in 51 of 55 eligible jurisdictions establishing comprehensive boating safety programs—including:

The implementation of vessel numbering and casualty reporting systems;

The proliferation of boating safety education programs;

And the entering into cooperative agreements with the Coast Guard, whereby the States assume the predominant role in recreational boating law enforcement and assistance.

The financial inducement for States to assume this responsibility was the inclusion of Federal matching grants as the principal feature of the 1971 act. Despite the demonstrated record of accomplishment and cost-effectiveness of this program, the authorization for it will expire at the end of fiscal year 1980.

However, this committee—after assessing the positive benefits expected from the continuation of some form of Federal assistance to State boating programs—and the almost certain negative impacts from its termination—elected to seek an alternative financing method to assist State boating programs.

Just as the original Federal Boat Safety Act permitted a shift in the operational and administrative responsibilities of boating safety programs from the Coast Guard to the States, H.R. 4310 will shift the financial burden of support for boating safety programs to the boating population itself. It will accomplish this through the utilization of an already existing user fee—in the form of Federal taxes on motor fuels used in boating.

At present, some 33 States earmark a portion of their State marine fuels tax revenue for State boating safety and facilities improvement programs. Therefore, enactment of this measure will aline Federal policy with prevailing State practice.

In addition, national recreation policy has not considered the availability and distribution of boating facilities as a contributing factor to the increase in boating accidents. By incorporating a concern for boating safety and facilities development at both the Federal and State level, we can insure that, in the future, there will be both safe and adequate means of access to our waterways for our boating community.

Specifically, H.R. 4310 establishes a new fund in the Treasury, entitled "The National Recreational Boating Safety and Facilities Improvement Fund." It authorizes the transfer of up to $30 million each year in Federal marine fuels tax proceeds from the highway trust fund to the new boating fund. Any receipts in excess of $30 million would continue to go to the land and water conservation fund.

All transfers of funds would be subject to annual appropriations acts. A third of the funds transferred will be available for utilization on a matching basis to continue Federal assistance in support of State boating safety programs. The remaining two-thirds would be used to finance the development of new boating facilities in accordance with approved comprehensive State-wide plans—designed to meet future demand for those facilities where they are needed most. In this manner, the States would be assured of a continuing financial commitment on the part of the Federal Government in support of State boating programs.

Allocation and distribution of funds would be in accordance with formulas utilized in the predecessor grants program. These formulas generally reflect the relative proportion of numbered boats in each State—while, at the same time, balancing the needs of large and small States and providing incentives for States that wish to undertake additional efforts in boating safety and facilities development.

Perhaps the most significant feature of this legislation is that it represents no additional spending authority. Rather, it represents a congressional reordering of priorities and reprograming of authorizations as a consequence of the exercise of the congressional oversight function in determining the most cost-effective use of limited budgetary resources in an austere fiscal climate.

Other important features of this bill are—

It will help save lives and reduce property damage.

It has the support of every national boating organization: The boating industry—the National Association of State Boating Law Administrators—and the national boating advisory committee.

It will achieve its objectives at no direct expense to the general taxpayer. Few programs can make this claim.

It will replicate the accomplishments of a highly successful program with a singular record of accomplishment and cost-effectiveness.

Moreover, it will perpetuate a unique experiment in federalism in the promotion and enforcement of recreational boating safety.

I urge the unanimous passage of H.R. 4310 by my colleagues. In so doing, we will send a signal to the other Chamber of the importance of this legislation to the safety and welfare of our national boating constituency.

□ 1240

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleagues from both the Merchant Marine and Fisheries and the Ways and Means Committees in supporting the passage of H.R. 4310. The bill would amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program.

The Federal Boat Safety Act of 1971 provides Federal matching funds for State boating safety programs. Federal funding for these programs will end after 1979 because of an administration decision that the States should fund the programs. H.R. 4310 would continue the existing State boating safety programs and enlarge the Federal role by developing recreational boating facilities programs, which include shoreside land acquisitions. It would do this by creating a new national recreational boating safety and facilities improvement fund administered by the Secretary of the Department in which the Coast Guard is operating. The fund would be financed by diverting $30 million annually—for fiscal years 1981 through 1983—of motorboat fuel tax receipts from the existing land and water conservation fund. One-third of the funds are to go to boating safety programs and two-thirds to facilities acquisition and improvement.

Consultation at both the Federal and State levels would be required to avoid duplication by other programs and to insure consistency with coastal zone management programs. The bill would tighten the fiscal mechanism by precluding use of other Federal funds as the matching share by a State and by disallowing State matching funds as a credit against other Federal programs.

The bill would also require a report from the Secretary of the Treasury that would identify with greater certainty how much Federal motorboat fuel taxes are being received. This information would be used in future oversight and reauthorization actions.

I urge my colleagues to support this measure.

I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise as a cosponsor of the legislation and I support it. It is very much needed legislation and it appeals to my instincts since it involves no additional expenditure but rather a diversion of Federal gasoline tax. That means that there will be no additional cost to the Federal taxpayers but rather the funds will come out of the gasoline taxes paid by the boaters who will benefit from this legislation.

There are now more than 14 million recreational boaters in the United States and some summer Sunday afternoons on the Chesapeake Bay it seems that all of them are having fun in Maryland. As one who lives on the water and enjoys boating, I can attest to the fact that legislation of this nature is truly needed.

It is needed so that we can continue the boating safety programs which have worked so well, but equally so that public access to boating can also be expanded. This bill would permit the States to join in a matching partnership with the Federal Government in allocating funds for facilities acquisition and improvement. The need for such improvements have been well demonstrated in the State of Maryland and it is the same in other areas.

Mr. Speaker, I strongly urge the passage of this legislation and I am pleased to be a cosponsor.

Mr. PRITCHARD. Mr. Speaker, I have no further requests for time.

Mr. BIAGGI. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Speaker, I rise in support of H.R. 4310, the Federal Small Boat Safety Act amendments. As a member of the Merchant Marine Committee and a Representative from a State completely surrounded by water, I am aware of the need for Federal boat safety programs.

Dramatic increases in recreational boating further impel us to extend Federal assistance to States for boat safety programs. Arguments against extension of boat safety programs have lately focused on the unnecessary expenditures by the Federal Government. I want to point out to my colleagues that this bill will not expend 1 cent in additional revenues. Rather, this program, while administered by the Coast Guard, will be entirely financed with revenues from marine fuel taxes: $30 million in marine fuel taxes will be supplemented by States contributions to insure continuation of these important programs. States will have a very difficult time continuing boat safety programs without Federal assistance.

Mr. Speaker, boat safety programs since 1971 have led to a dramatic decline, a 50-percent decrease, in boating-related accidents and fatalities. This will continue that trend without any additional expenditures. I urge its approval.

Mr. BIAGGI. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I rise in strong support of the Recreational Boating Safety and Facilities Improvement Act of 1979. As a member of the Subcommittee on the Coast Guard and an original sponsor of the legislation, I feel that this bill marks a major step forward in our efforts to promote recreational boating safety and provide adequate facilities for the boating public.

The need for this legislation is clear. Recreational boating has increased dramatically in popularity in recent years. Since 1971, the total boating population has doubled from 7 million boats to just over 14 million boats. Moreover, the safety of these boats is a substantial concern of the Federal Government. Statistics show that recreation boats are involved in 76 percent of all Coast Guard search and rescue missions.

This bill is modeled closely after the Federal Boat Safety Act of 1971. That act has proved to be remarkably successful in reducing boating accidents and fatalities. Since enactment, boating fatalities have declined from 1,581 in 1971 to 1,321 in 1978. This decline takes on added significance in view of the large increase in the number of recreational boats over that period.

A major reason for the success of the 1971 act was its State grant program. Under that program, the States received Federal grants for programs to improve the skills of boat operators through enhanced education and enforcement efforts. The program, however, is scheduled to lapse at the end of fiscal year 1980. It would be illogical and counterproductive for this grant program to come to an end at this time. Our hearings demonstrated conclusively that the States will not be able to continue their safety programs without some form of Federal assistance.

This legislation would continue Federal assistance to State boating safety programs. It would authorize $20 million a year for that purpose. It also would authorize a modest matching grant program to assist States in building and expanding public boating facilities, such as launching ramps, marinas, and dock space. These grants are aimed at easing the critical shortage of adequate facilities that faces much of the boating public today. In the coming years, the problems of boating safety and adequate facilities are expected to come into sharper focus in view of the projected increase in recreational boats and marine recreation.

In summary, this legislation is based on a program with a proven record of success. It will pay substantial benefits to the public in reduced fatalities and fewer accidents. I urge my colleagues to support it.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, the Committee on Merchant Marine and Fisheries, with the Committee on Ways and Means, has reported H.R. 4310 a bill that would amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program.

It is the purpose of this bill to establish a national program for recreational boating safety and facilities improvement and thus to meet a crucial need for Federal support of the boating public of our Nation. The bill would provide assistance to State boating programs through dedication of Federal motorboat fuel tax revenues. State governments would be assured of a proper and continuing role in the management of recreational boating programs and in the improvement of facilities to serve the 55 million of our citizens who engage in recreational boating.

The national program would be self-supporting. It would adopt the principle of matching funds, thus multiplying the benefits obtained from a centrally administered national fund. And it would provide for appropriate legislative safeguards through the congressional authorization and appropriation process.

This bill should be viewed against the backdrop of the boating safety grant program, which is in the process of phasing out. In 1971, the Federal Boat Safety Act established the principle of Federal assistance for State boating safety programs. For 1972, and for each ensuing fiscal year through 1979, the Congress provided funds for this purpose—funds administered by the Coast Guard through its boating safety grant program.

Last year, in enacting the Coast Guard

authorization bill, we authorized appropriations of up to $10 million to continue this program for fiscal year 1980. Yet, for reasons still obscure, the administration—in submitting its 1980 budget—failed to request funds for this purpose. The House Committee on Appropriations, in reporting out the Department of Transportation appropriation bill for 1980, did not include funds for the boating safety grant program—chiefly because the administration did not ask for them.

We can only hope that this development does not signal the decline of State boating safety programs, now nearing maturity and full effectiveness. The comparatively small Federal investments beginning in 1972 nourished the growth and health of established State programs and sustained the progress of State agencies—some of which are only now hitting their stride.

The return on Federal investments in State boating safety programs accrues not only to the benefit of each State but to the Federal Government as well. Through close cooperation and mutual efforts, State authorities substantially augment Coast Guard activities in boating safety, search and rescue, and marine environmental protection. The efforts and dedication of State administrators and field personnel add immeasurably to the effectiveness of the national program. Given the success of these endeavors, it it incumbent upon us to fashion through legislation a new means of sustaining State boating safety efforts within a national framework.

H.R. 4310 provides such a way by charting a new course toward lasting Federal-State cooperation and mutual assistance in the boating safety field. The bill would not legislate a grant program, which some in the administration find so onerous. Rather, the bill would provide for the boating public to pay its own way through allocation of Federal marine fuels tax revenues to a national fund. Even the cost of administering the fund will not be borne by the nonboating public: it will be financed from the fund itself. This concept has been tested in both Federal and State programs of varying purpose and has been found to be sound. It is time now to apply it to the clearly identified needs in the field of boating safety by acting favorably on the bill before us.

H.R. 4310 provides a rational, workable, and effective solution to the problems we face today in boating safety and facilities programs nationwide. The boating public does not constitute a rich elite, but boaters are capable of paying their own way, given the opportunity. The financial mechanism employed in this legislation provides that opportunity. Furthermore, boating is a $7 billion national industry, employing 550,000 people in 5,000 locations throughout our Nation.

Presently, 50 percent of the country's population lives in coastal areas. Estimates are that this proportion will grow to 75 percent by the 1990's. H.R. 4310 will help sustain the wide-flung boating industry and will open new opportunities for our populace to enjoy the benefits of recreational boating. It thus satisfies important national purposes and pays its own way in the bargain.

Before closing, I wish to commend the Committee on Ways and Means for the expeditious and constructive manner in which it considered H.R. 4310. While leaving the substantive features of the bill as it found them, the committee restructured the legislation to enhance clarity and to provide for more effective oversight. The Committee on Merchant Marine and Fisheries quickly acceded to these changes, recognizing them as useful and proper. We appreciate the cooperative attitude of the Committee on Ways and Means.

□ 1250

Mr. BIAGGI. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I thank my colleague, and the chairman of the subcommittee for yielding.

Mr. Speaker, I rise in support of H.R. 4310. I recently have heard from several enthusiasts of recreational boating in my area, advocating this bill. But, I am much more impressed having heard favorable comments on this program from boaters over the years when there was no legislation pending.

I can think of no other program involving leisure-time activities which has been so successful and so universally supported. With so much of our attention in Congress focused on controversial problems and programs which have difficulties, one of the pleasures of our job is to be able to continue a service like this one, which has saved an uncountable number of lives over the last 20 years.

With the continued growth in recreational boating in this country, the need for this program grows rather than diminishes.

Very appropriately, funding for the Boating Safety Act comes from taxes on marine fuel, and not from the general revenues from all taxpayers.

Finally, I would also especially like to commend the Coast Guard for their fine and important participation in this program.

● Mr. TREEN. Mr. Speaker, I join in the endorsement of my colleagues from both the Merchant Marine and Fisheries and the Ways and Means Committees for H.R. 4310 and urge its passage.

I recall a few years ago, prior to enactment of the Federal Boat Safety Act of 1971, when oversight committees of the Congress were most critical of the Coast Guard responsiveness to a serious recreational boating situation. The numbers of boats and boaters were expanding rapidly—as were the casualty statistics. Congress responded to a Coast Guard proposal with a most cost-effective program that promoted, as the heart of that effort, a comprehensive Federal-State boating safety partnership aided by a Federal financial assistance or grant-in-aid plan that has had a significant multiplier effect reflected in States' spending some seven times the amount of Federal grants. Of even greater significance is the corresponding reduction in boating fatalities over the years.

Though Federal grants to the States averaging about $5 million annually has ceased, a Federal role persists in maintaining a boat numbering responsibility and regulations for equipment performance and manufacturing standards—not to overlook its primary and traditional search-and-rescue responsibilities. In each of these areas the States' ability to shoulder a greater share of the burden will be seriously curtailed by the discontinuance of the grant-in-aid program which would necessitate a concomitant increase in the residual responsibilities of the Coast Guard and in its operating expenses.

A logical solution has been found that supports the State boating safety programs, reduces the burden to the general taxpayer, is consistent with current user-pay philosophies, and enhances the safety of those ever increasing numbers of people who find an essential and affordable recreational outlet in boating—that is at the same time fiscally responsible and consistent with the appropriate use and enhancement of our coastal environment. That is a tall order but I find that it is reasonably achieved through H.R. 4310.

The $30 million authorized in this bill provides for the continuance of State boating safety efforts as before and an additional process to achieve the objectives I have outlined through development of boating facilities, such as essential moorings and launchways. Desirably, the States determine siting priority and participate in the funding effort.

The funds that will hopefully be appropriated would be derived from Federal motorboat fuel tax receipts that are now deposited in an Interior Department managed land and water conservation fund. This latter fund would continue to be most adequately supported by Federal surplus property sales and from Outer Continental Shelf oil and gas revenues.

Earmarking of fuel taxes is consistent with other Federal programs, such as that affecting Federal aid highways, and with the practices of some 26 States.

The limited authorization, for the next 3 fiscal years, is consistent also with the oversight concerns of the cognizant committees. This provides ample but not too expansive a period for the processes to be set in motion, plans and projects to be started, States' responsiveness to be weighed, and both boating trends and tax receipts to be assessed.

H.R. 4310 provides for a responsible use of heretofore inequitably dedicated marine fuel tax moneys. I strongly support its passage and commend the subcommittee chairman, the Honorable MARIO BIAGGI, for guiding this bill through committee and to the floor with appropriate concern for a recognized safety and citizen need.●

● Mr. LENT. Mr. Speaker, I join my colleagues from both the Merchant Marine and Fisheries and the Ways and Means Committees in supporting the passage of H.R. 4310.

At one time, we were all concerned with the appalling number of accidents and casualties that beset the recreational boating community. Congress responded in 1971 with the Federal Boat

Safety Act that recognized a continuing Federal responsibility for this interstate activity, but which also was a catalyst for increased and cooperative State involvement in patrolling its waters and in standards setting and educational activities. This Federal-State partnership was nurtured by a Federal grant-in-aid program which, though meagerly funded, has had a substantial effect on increased State financial commitments (some seven times the amount of Federal grants) and on reducing boating fatalities.

The administration, feeling that the objectives of the 1971 act had been achieved, discontinued grant-in-aid funding at the close of fiscal year 1979. But a deterioration and possible reversion to the pre-1971 state of conditions is forecast.

H.R. 4310 addresses a basic Federal safety responsibility and insures the continuation of State programs through a revised grant and matching fund effort.

Of equal significance is the fact that funding for essential State boating safety and facilities improvement or development programs is consistent with a current user-pay philosophy. The Federal funding contributions are derived from motorboat fuel tax receipts now deposited in a land and water conservation fund, that will continue to be amply and more substantially supported from other existing revenue sources.

New York, with one of the largest boating populations in the country, that is swelled by seasonal vacationers, and with a growing need to address urban recreational needs, would receive approximately three-quarters of a million dollars annually to be used for facility development and safety and education programs. This legislation deserves favorable action and I urge its passage.●

● Mr. CORRADA. Mr. Speaker, as cosponsor of H.R. 4310, the Federal Boat Safety Act, I rise in support of this bill.

It is my understanding that the administration opposes the bill on grounds that the program was intended to be a temporary one, and contends that its goals now have accomplished. I have to disagree with the administration.

In the particular case of Puerto Rico this program has proven to be of vital importance for our State boating safety program. A considerable headway in reducing the rate of boating accident and facilities has been achieved in Puerto Rico through this Federal program. It is the success of the program in Puerto Rico that has really moved me to cosponsor and support this bill. If this program is ended, as originally intended, we will be doing a disfavor to those well intentioned jurisdictions that are trying to further improve their State boating safety program. The program should be continued in order to make the boating activity a pleasant and secure one.

I wish to commend the members of the House Committee on Merchant Marine and Fisheries and in particular the gentleman from New York, Mr. BIAGGI, for their efforts in reporting out this bill favorably.

I urge my colleagues to support and vote favorably for this bill.●

● Mr. ULLMAN. Mr. Speaker, title II of H.R. 4310, as reported by the Committee on Ways and Means, establishes a separate fund in the Treasury, to be known as the national recreation boating safety and facilities improvement fund. For fiscal years 1981 to 1983, the bill authorizes the transfer of a maximum of $30 million per year into this fund from receipts attributable to the excise taxes on gasoline and special motor fuels used in motorboats. Presently, receipts from the motorboat fuels taxes are transferred into the land and water conservation fund. Any amounts in excess of the $30 million per year from the motorboat fuels taxes would continue to go into the land and water conservation fund.

Title II of the bill also requires the Secretary of the Treasury to conduct a study of the estimated annual motorboat fuels tax revenues, and to report to the Congress within 2 years.

Mr. Speaker, the Committee on Ways and Means considered the special fund provisions of H.R. 4310, and is in agreement with the Committee on Merchant Marine and Fisheries that a separate fund should be established for the specific purpose of providing Federal moneys for State recreational boating safety programs and for boating facilities improvements. The Ways and Means reported out its provisions of the bill as title II.

Title II of the bill establishes a new fund in the Treasury, to be known as the national recreational boating safety and facilities improvement fund. This title also provides that this new fund shall receive up to $30 million per year of the amounts attributable to the existing 4-cents-per-gallon excise taxes on motorboat use of gasoline and special motor fuels, for fiscal years 1981 to 1983. Revenues attributable to these taxes on motorboat fuels presently are transferred into the land and water conservation fund.

Amounts in excess of the $30 million per year from these fuels taxes will continue to go into the land and water conservation fund. Also, to prevent excessive accumulations in the fund, an additional limit on this new boating fund is that the balance in the new fund cannot exceed $30 million.

Mr. Speaker, I would like to point out that the transfer of the motorboat fuels tax revenues to the new boating fund will not diminish the overall revenues available to the land and water conservation fund. Present law authorizes transfers to that fund from miscellaneous receipts under the Outer Continental Shelf Lands Act to bring in sufficient revenues to the fund as authorized to be appropriated through fiscal year 1989.

Amounts in the new boating fund are to be available, as provided in appropriation acts, for making expenditures after September 30, 1980, and before April 1, 1984, as provided in section 26 of the Federal Boat Safety Act of 1971—as amended by title I of this bill. Title I of the bill authorizes appropriations of $30 million per year for fiscal years 1981 through 1983 for Federal-State programs relating to recreational boating safety and facilities improvements. This 3-year limitation on the authorization of appropriations from the new boating fund will give the Congress an opportunity to review the operation and effectiveness of the program.

Finally, title II of the bill requires the Secretary of the Treasury to conduct a study to determine the portion of receipts from the excise taxes on gasoline and special motor fuels—imposed under sections 4081 and 4041(b) of the code—attributable to fuel used in recreational motorboats. The Secretary is to report his findings to the Congress within 2 years following enactment of the bill.

Mr. Speaker, I urge the adoption of the bill.●

● Mr. GRASSLEY. Mr. Speaker, I wish to commend the members of the House Committee on Merchant Marine and Fisheries and, in particular, the gentleman from New York, Mr. BIAGGI, for the efforts in reporting out H.R. 4310 favorably.

Through this legislation, a logical solution has been found that supports the State boating safety programs; reduces the burden to the general taxpayer, is consistent with current user-pay philosophies, and enhances the safety of those ever-increasing numbers of people (my own State of Iowa has 160,000 registered boats, ranking 15th in the United States), who find an essential and affordable recreational outlet in boating.

The $30 million authorized in this bill provides for the continuance of State boating efforts plus the added process of developing boating facilities, such as essential moorings and launchways, with the State determining the sites and helping with the funding. Most significantly, this legislation carries no additional spending authority; rather it represents a congressional reordering of priorities and programming of authorizations.●

Mr. BIAGGI. Mr. Speaker, I would like to take this occasion to commend each member of the subcommittee for their contribution on a bipartisan basis. There is unanimity in the undertaking, and also I want to commend the chairman of the full committee, the gentleman from New York (Mr. MURPHY) for his leadership and support, and the Committee on Ways and Means for responding in such a sympathetic and expeditious fashion.

With that, Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill, H.R. 4310, as amended.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 4310.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT, ALONG WITH MINORITY OR SEPARATE VIEWS, ON H.R. 5741, ENERGY SUBSIDY BOND TAX ACT OF 1979

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight, Monday, December 3, 1979, to file a report, along with any minority or separate views, on H.R. 5741, the Energy Subsidy Bond Tax Act of 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TEMPORARY DUTY SUSPENSION ON CERTAIN ALLOY STEELS USED FOR MAKING CHIPPER KNIVES

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2535) to amend the Tariff Schedules of the United States to suspend for a temporary period the duty on certain alloy tool steels used for making chipper knives, as amended.

The Clerk read as follows:

H.R. 2535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"911.29	Alloy steel containing, in addition to iron and by weight, not less than 0.48 nor more than 0.55 percent of carbon, not less than 0.20 nor more than 0.50 percent of manganese, not less than 0.75 nor more than 1.05 percent of silicon, not less than 7.25 nor more than 8.75 percent of chromium, not less than 1.25 nor more than 1.75 percent of molybdenum, none or not more than 1.75 percent of tungsten, and not less than 0.20 nor more than 0.55 percent of vanadium (provided for in item 608.52, part 2B, schedule 6)..	Free	No change	On or before 6/30/82".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 2535 as reported by the Committee on Ways and Means, is to temporarily suspend the column 1 (MFN) rate of duty on imports of alloy tool steel used to manufacture chipper knives until June 30, 1982. H.R. 2535 was introduced by our colleagues Messrs. ALBOSTA, DRINAN, SHANNON, and BRODHEAD.

Tool steels are used primarily to make tools capable of cutting, forming, or otherwise shaping other materials in the manufacture of virtually all industrial products. More than 95 percent of the alloy steel covered by H.R. 2535 is used to make chipper knives, which are used in machines that chip trees and other wood to make pulp and wood fiber products.

Domestic production of this specialty steel only meets between 25 and 33 percent of U.S. consumption requirements. Since the cost of the steel represents approximately 80 percent of the finished product, that is, the chipper knife, suspension of the duty will result in lower costs to chipper knife manufacturers, the consumers of this steel, and improve their competitive position vis-a-vis foreign knife manufacturers.

The bill as amended was ordered reported by voice vote, and I urge its passage.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. FRENZEL. Mr. Speaker, I support H.R. 2535, a bill to suspend through June 30, 1982, the duty on column 1 entries of alloy tool steels used for making chipper knives. These chipper knives in turn are used as the cutting part of machines that chip block wood into pulp and other wood fiber products.

During testimony before the committee, it was revealed that domestic production of the type of steel covered by this bill is barely sufficient to supply from one quarter to one third of the demand in this country. Imports must be relied upon for the remainder. Although many specialty steel producers in the United States possess the ability to manufacture the type of steel used in making chipper knives, they have preferred to move into other more profitable lines. This trend is expected to continue in the future.

For the four chipper knife manufacturers in the United States, chipper knife steel represents about 80 percent of the cost of the finished product. The duty suspension provided by H.R. 2535 will lower the cost of these manufacturers' principal raw material, and thus improve their competitive position with respect to foreign knife manufacturers. Furthermore, the impact of such a duty suspension is expected to negligible effect on domestic alloy steel manufacturers, who apparently are moving out of the production of this particular type steel anyway.

I would like to note here that the chipper knife steel covered by this bill does not in any way come under the quantitative restrictions currently imposed on imports of specialty steel under the import relief provisions of the Trade Act of 1974. In other words, it has been determined that imports of chipper knives do not in any way disrupt the domestic market. The Departments of Commerce and State and the Office of the Special Trade Representative indicated that they have no objection to enactment of H.R. 2535.

Mr. Speaker, the bill before us is a straightforward and fair piece of legislation, and I urge my colleagues to approve H.R. 2535 at this time.

● Mr. WALGREN. Mr. Speaker, I urge my colleagues to join me in opposing H.R. 2535, a bill to be brought up under suspension of the rules on Monday to eliminate the current tariff on foreign chipper knife steel.

When American steel companies are having to lay off thousands and thousands of American workers, it is simply not the right time to make it easier for foreign steel to enter our country.

Chipper knife steel is a specialty steel used by machine knife manufacturers. It was specifically exempted from the specialty steel quotas which protected most specialty steel products for a 3-year period. Consequently, foreign producers have been able to drive a number of American producers out of the business. Now the foreign producers are claiming that, since there are few American producers left, they should be permitted to supply the whole market without a tariff.

Frankly, H.R. 2535 rewards the foreign steel companies for being successful in hurting American chipper knife steel producers.

The truth is that passage of H.R. 2535 will make it virtually impossible for American producers to ever reenter the chipper knife market. And it will leave our American machine knife manufacturers more dependent on foreign steel producers for their chipper knife steel.

I urge my colleagues to oppose this tariff reduction.●

● Mr. LAFALCE. Mr. Speaker, I rise in opposition to H.R. 2535, which would suspend the import duty on chipper knife steel.

During the past few years, all but one domestic producer of chipper knife steel has stopped producing this type of alloy tool steel; and that is the Guterl Special Steel Corp. of Lockport, N.Y., in my congressional district. The fact that Guterl is the sole remaining U.S. producer is no accident, and that is the very reason why this duty was initially imposed. Without this duty, Guterl would be unable to effectively and equitably compete with its directly and indirectly subsidized foreign counterparts in Sweden and the Common Market and would have to cease production of chipper knife steel. Foreign producers' prices are not predicated on actual cost considerations, unlike Guterl's, but rather on national policies to maintain full employment in Sweden and the Common Market.

In the face of predatory pricing practices by foreign producers, Guterl has managed to maintain a competitive position because of the existence of this duty. It has, in fact, embarked on an ambitious expansion program to expand and modernize its facilities. This 5-year program calls for capital expenditures which will enable the corporation to significantly improve production efficiency, reduce costs, increase productivity, and provide sophisticated laboratory and quality control methods. Guterl's steadfast commitment to increasing the production of chipper knife steel could be imperiled if it is unable to compete on a fair and equal basis with its foreign counterparts.

Passage of this bill will not make more chipper knife steel available to those, like the manufacturers of chipper knives, who use this type of alloy tool steel. Foreign producers of this steel are also manufacturers of the knife product, and they could choose to reduce supplies of the steel to U.S. manufacturers, if the sole domestic producer of chipper knife steel ceases production.

Suspension of the duty on chipper knife steel will leave domestic manufacturers of the knife product at the no doubt tender mercies of Swedish and Common Market producers of the steel. In addition to the possibility of reduced supplies of the steel, these foreign sources, once they are the only remaining source of the steel, could decide to sell their product at any price they desire. The absence of effective domestic competition could, therefore, have a markedly inflationary impact, as we have seen in the case of oil and other products.

Guterl is committed to a policy of strong and fair competition with foreign specialty steel producers, and other producers are considering reentering this market. Suspension of the duty would place U.S. producers at an unfair disadvantage and eliminate the sole remaining domestic producer and the possibility of additional domestic producers.

Therefore, I urge all of my colleagues to vote against H.R. 2535, because it would encourage an additional and increasingly dangerous dependence on foreign products.●

● Mr. ALBOSTA. Mr. Speaker, I rise in support of H.R. 2535, a bill to suspend for a temporary period the import duties on chipper knife steel.

The American manufacturers of chipper knives have had increasingly difficulty in obtaining supplies of chipper knife steel over the past 15 years. American manufacturers have faced increased competition at the same time from foreign producers of these important machine knives. This Nation and others are returning to renewable resources for energy and other uses, such as the treatment of municipal waste and home building. Wood is one of the foremost of those renewable resources, and chipper knives are an essential element of the wood processing industry.

In April 1978, the International Trade Commission and President Carter saw the need for more chipper knife steel in this country. Therefore, the President removed any restrictions on the amount of chipper knife steel that American manufacturers can import into this country. However, one obstacle remains. This obstacle is inhibiting the ability of the American producers to compete with foreign producers for these same machine knives. That obstacle is an unfair and unnecessary duty on chipper knife steel. The effective duty on chipper steel is over 12 percent, while the duty on the finished knives is only 5 percent. This chipper knife steel is 100 percent of the raw materials required for the production of chipper knives. If we give the American manufacturers of chipper knives a fighting chance by lifting this duty, they estimate that they can double their production within a very few years. If we do not lift this duty, the United States will continue to lose this vital business to foreign manufacturers.

With some of the largest forest resources in the world, why should not we be able to make our own wood processing equipment? Even today we are devising new ways to harvest processed wood, new ways which are environmentally beneficial, new ways that waste almost none of the natural resource that is harvested. Yet, if we can not make the knives that are required to cut and chip that wood, how do we expect to become self-sufficient? This is just one example of an American industry that needs to be treated fairly. They are not asking for special consideration. They are not asking subsidies. They just want a chance to compete. Unfortunately, the production of this particular kind of specialty steel requires a very exact amount of special alloys and a great deal of care in its manufacture. The volume involved is apparently low enough so that American manufacturers of specialty steels have not been interested in supplying this steel at a competitive price. They have benefited from a 12 percent advantage, and they still have not been able to supply this steel at a competitive price.

In fact, just recently domestic price quotations have jumped, making it nearly impossible for domestic manufacturers of these knives to purchase significant amounts of this steel domestically with any hope of competing against foreign producers of the finished knives.

The domestic producers of this steel produce many other kinds of steel. They do not rely on this particular steel for a significant portion of their business. In fact the U.S. Commerce Department reports that imports of chipper knife steel represent less than three-tenths of 1 percent of the domestic specialty steel production. Chipper knife steel is 100 percent of the raw material required by chipper knife manufacturers. If they cannot get this steel at competitive prices, and competitive quality, then they just cannot go on.

We are not just up here today asking a special favor for one particular constituent in one small area of the country. There are currently manufacturers of chipper knives in the economically depressed area of central Michigan, New England and the South. The Machine Knife Association has members in 12 States who strongly urge you to pass this legislation. But beyond these manufacturers themselves, the chipper knife customers in the forestry, wood and paper industries and their customers, in home building, sewage treatment, lanscaping, energy, plywood and paper industries, all depend on this one pivotal product. Savings which you can make possible today can be passed on to these customers who are without a doubt in each and every congressional district in the country.

Finally, we feel that the arguments in favor of H.R. 2535 are strong. These arguments were accepted by the administration, the Subcommittee on Trade, and Ways and Means Committee. We believe they also justify your vote in favor of H.R. 2535.

Thank you.●

● Mr. RITTER. Mr. Speaker, I rise in opposition to H.R. 2535, a bill which would suspend the duty on chipper knife steel which is used in the production of industrial cutting blades. My opposition to this bill rests on several points which I believe Members can no longer afford to ignore if this Nation's steel industry is to meet the challenge of the subsidized foreign competition. First, I am troubled by the apparent public and Government disinterest over the plight of the domestic steel industry. Some among us apparently are satisfied with the proposition that the domestic steel industry should be abandoned—that America's need for steel products should be met by foreign imports. Reports in recent newspapers about the closing of plants in Ohio, in Pennsylvania, and throughout the country, provide painful evidence of this proposition.

Mr. Speaker, this week shockwaves occurred throughout America on the United States Steel Corp. announcement to permanently close three steelmaking facilities, in addition to a number of processing facilities. This will result in a permanent loss of 13,000 jobs.

I regret the decision and the resulting loss of employment at a time when America is moving into a deepening recession.

I fear that the devision of United States Steel is a forerunner of similar actions by other American steelmakers—both large and small. There are indications that we may experience a 10-percent cutback in national steel capacity with total job losses approaching 50,000 workers in this one industry alone.

There are many reasons for this steel crisis—in fact, it is a part of a world crisis in steel cutbacks and layoffs. Inefficient obsolete plants cannot compete with modern efficient plants abroad. The general state of the economy, Government policies, leadership in the industry, and personnel costs expanding beyond productivity are all to blame.

The answer to the problem is to replace rundown, old, obsolete mills with modern, efficient, clean facilities. The current high costs of borrowing, poor return on capital in the face of rampant inflation and negative tax policy toward depreciation all prohibit the industry from entering the money markets for the capital infusion necessary to revitalize the economy.

Federal tax incentives and capital financial support will make it possible for the steel companies to put modern new plants on stream as obsolete facilities are retired. To lose productive capacity before new plants are substituted invites foreign imports to fill the gap forever.

Steel customers lost to foreign producers are difficult to recover.

With respect to these fundamental steel issues, I urge the Ways and Means Subcommittee on Trade to hold hearings to develop a comprehensive approach to the steel problem. We need to develop a national steel policy to strengthen our domestic industry and make it self-sufficient and competitive.

I reject the notion that America should be strongly dependent on foreign producers to meet its steel needs. The United States, in my view, must maintain an active and competitive steel industry. We who share that view should act now to oppose H.R. 2535.

For H.R. 2535, if made law, would be another illustrative example of how foreign producers have been able to drive American producers from the U.S. steel marketplace.

During the start of the last decade, three American specialty steel producers manufactured chipper knife steel. Through various means foreign producers succeeded in eliminating two of these producers from their own domestic market. If H.R. 2535 is passed, the sole remaining American producer of this product, although it has sharply increased its production over the last 3 years, will be eliminated from the market. Even worse, other producers like Bethlehem Steel will be unable to competitively introduce newer varieties of the product.

As Members of Congress, we should not, indeed cannot, permit the dismantling of the domestic steel industry product by product, or sector by sector.

Those who favor maintaining a domestic steel production capacity in chipper knife steel, I would like to ask to join me in opposing H.R. 2535, both in the House and Senate.

The failure to oppose this measure, is an invitation to foreign producers to seize a domestic steel market we are no longer interested in preserving.●

Mr. FRENZEL. Mr. Speaker, I have no further requests for time. I yield back all my time.

Mr. VANIK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 2535, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TEMPORARY REDUCTION OF DUTY ON STRONTIUM NITRATE

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2537) to suspend until December 31, 1982, a portion of the duties on strontium nitrate, as amended.

The Clerk read as follows:

H.R. 2537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"907.45	Strontium nitrate (provided for in item 421.74, part 2C, schedule 4)........	Free	No change	On or before Dec. 31, 1981".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as amended by the committee, the purpose of H.R. 2537 is to temporarily suspend until December 31, 1980, the column 1 (MFN) rate of duty on strontium nitrate. The existing 6 percent ad valorem rate of duty would be reduced to zero.

H.R. 2537 was introduced by our colleague, Mr. BAUMAN of Maryland.

Strontium nitrate is used in the manufacture of tracer bullets, flares, and other signal-type products since it produces a red color during combustion. The principal consumers are the military and the railway and trucking industry. Currently there is only one domestic basic producer of strontium nitrate which is unable to meet domestic demand.

Imports increased from 69,302 pounds valued at $8,220 in 1971 to a high of 1,200, 546 pounds valued at $282,803 in 1976. Imports decreased in 1977 to 281,000 pounds valued at $80,000. In 1978, imports increased to 672,403 pounds valued at $177,869. The east coast had been importing most of its needs from one plant in Canada. That plant recently closed and imports were supplied by West Germany and Italy in 1978. A producer of barium chemical products in Georgia has indicated it is seriously considering entering the domestic market as a supplier of strontium nitrate, but would reconsider if the tariff barrier was removed.

Reports opposing enactment of H.R. 2537 were received from the Department of Commerce and Labor, on the grounds that domestic production is adequate to supply all of domestic demand and that a firm which has announced plans to produce the product will not proceed if the bill is enacted. The International Trade Commission filed an informational report suggesting technical changes.

The committee amended H.R. 2537 to suspend the column 1 (MFN) rate of duty for only 1 year, instead of 2; that is, until December 31, 1980, on the grounds that the domestic firm that has announced plans to produce strontium nitrate should be encouraged and allowed an opportunity to do so. The committee further amended the bill by accepting a request by the author, Mr. BAUMAN, that the column 2 rate of duty not be reduced from its current level of 25 percent.

The committee also made technical amendments to reflect properly the numerical sequence in the Tariff Schedules of the United States and to state the termination date in the accepted form.

The bill, as amended, was ordered reported by the committee by voice vote, and I urge its passage.

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Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also support enactment of H.R. 2537, a bill to suspend until December 31, 1982, the column 1 duty on imports of strontium nitrate. This bill is another of many bills which were passed by the House during the 95th Congress but failed to be approved by the Senate before adjournment.

Strontium nitrate is used in the manufacture of tracer bullets, flares and other signal-type products. The military is the principal consumer of strontium nitrate, and because of this association, many production statistics are confidential. However, it is apparent that domestic production does not meet the demand in this country. Other users include the railway and trucking industries. Currently there is only one domestic producer of strontium nitrate located on the west coast, requiring that users on the east coast import most of their needs from Canada, West Germany, and Italy.

An important supplier in Canada has recently shut down, but it is hoped that a suspension of the duty on strontium nitrate will encourage the reopening of the plant.

The Departments of Commerce and Labor have opposed enactment of H.R. 2537 because a producer of barium chemical products located in Cartersville, Ga., is seriously considering taking steps to begin production of strontium nitrate. However, it is unlikely that this company could actually begin production before the duty suspension provided in H.R. 2537 expires. In fact, the committee reduced the effective dates of the bill specifically so that the economic impact could be reviewed after a short period of time as well as the status of the Georgia firm in expanding the domestic supply of strontium nitrate.

Mr. Speaker, H.R. 2537 is a good bill which, as I said, has already been approved once by this body. I urge my colleagues to again support enactment of this important piece of legislation.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I also want to express my appreciation to the members of the subcommittee for their interest in this matter. As the gentleman indicated, his bill did pass unanimously, last year and this legislation will save several hundred jobs in Maryland, Indiana, and Illinois.

Mr. Speaker, for purpose of explanation I include at this point in my remarks my statement made when the bill passed and I also want to say that we appreciate the cooperation the committee has given us.

The statement follows:

Mr. Speaker, I rise as the sponsor of this bill to provide for my colleagues a brief explanation of its intent and purpose and why I believe it should be passed without delay.

For those unfamiliar with the chemical, strontium nitrate is the prime ingredient in the flares that are used by motorists, boaters, and military personnel as well as the luminating component in tracer bullets used by the military during night combat. It is not the kind of product that is in constant use, as it is quite common for a motorist or boater to purchase one flare for emergency purposes and to have the flare sit for long periods of time. However, when the occasion calls for the use of the flare, the need is very great indeed. It is frequently a matter of life and death and the flare can make a great difference in the outcome.

Up until the past few years there have been several domestic suppliers of strontium nitrate to the manufacturers of pyrotechnic products, but in 1975 DuPont, which had been a major supplier of strontium nitrate to domestic manufacturers, elected to terminate its activities in this area. Accordingly, only one U.S. source is now available to supply this market. This corporation has one plant, and it can only produce a limited amount of the supply of this chemical which is needed domestically. The only other alternative for the pyrotechnic industry has been the foreign importation of strontium nitrate from Canada. While the U.S. pyrotechnic industry has done this; that is, importing the chemical from Canadian Kaiser Aluminum which runs the only nitrate plant in Canada, Kaiser has most recently announced that the present high duties on strontium nitrate may force the closure of its one plant in Nova Scotia.

This closure, which would come about as a direct result of the high tariff rates imposed by this country to protect domestic industry, would create a monopoly for the production of strontium nitrate for a company that is only able to supply a portion of the demand. Such a situation would be tragic for the several U.S. manufacturing companies in Maryland, Indiana, Illinois, and elsewhere that depend upon strontium nitrate to produce the flares and safety devices used by the consuming public and the military. Many hundreds of jobs will be affected by this decision because the pyrotechnics industry employs thousands of people and that industry is completely dependent upon a steady supply of strontium nitrate to continue operations.

The bill will act to prevent the creation of a monopoly industry in the supply of strontium nitrate in this country, will help to insure the continued operations of the pyrotechnics industry that relies upon strontium nitrate, and will insure that the American consumer will pay a reasonable price for the flares that save lives in emergencies and prevent accidents in hazardous conditions. It will save money, save jobs, and save lives, and I commend it to my colleagues for passage.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

Mr. VANIK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 2537, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title was amended so as to read: "A bill to reduce until December 31, 1981, the duty on strontium nitrate.".

A motion to reconsider was laid on the table.

TEMPORARY SUSPENSION OF DUTY ON FLUORSPAR

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3352) to provide for the temporary suspension of duty on the importation of fluorspar, as amended.

The Clerk read as follows:

H.R. 3352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"909.09	Fluorspar (provided for in items 522.21 and 522.24, part 1J, schedule 5).	Free	No change	On or before 6/30/82".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 3352 is to suspend the column 1 (MFN) rate of duty on fluorspar through June 30, 1982.

H.R. 3352 was introduced by our colleague, Mr. ROSTENKOWSKI of Illinois.

The production of steel, aluminum, and fluorocarbon chemicals all require fluorspar. It serves as a flux in steel making. A derivative of fluorspar, aluminum fluoride, also serves as a flux in aluminum metal manufacture. The chemical and petroleum industries require hydrofluoric acid made from fluorspar to synthesize fluorocarbon polymers. Fluorspar is also used as an opacifier in ceramics.

U.S. production of fluorspar has declined since 1974 and in 1978 the fluorspar industry operated at less than one-half capacity. On the other hand, exports have increased and were almost $1 million in 1978. Imports have generally declined, however, from 1.3 million tons in 1973 to 895,000 tons in 1976 and totaled 917,000 tons in 1978.

Fluorspar has long been classified as a strategic and critical material. The U.S. Government stockpiled large quantities of both tariff-defined grades of fluorspar until the early 1960's. At present, the stockpile consists of about 1.3 tons of fluorspar, of which 0.4 million tons is metallurgical grade, and the balance is acid grade.

A report favoring enactment of H.R. 3352 was received from the Department of Commerce, and a report not objecting to enactment was received from the Department of State. An informational report was received from the International Trade Commission.

The committee agreed to three technical amendments in the bill suggested by the International Trade Commission to reflect the proper numerical sequence in the Tariff Schedules of the United States, and to reflect preferred legislative language in the date of enactment provision.

The bill, as amended, was ordered reported by voice vote, and I urge its passage.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting H.R. 3352, a bill suspending through June 30, 1982, the column 1 rate of duty on fluorspar. The bill applies to both acid grade and metallurgical grade fluorspar under items 522.21 and 522.24 of the Tariff Schedules of the United States.

Production of fluorspar has been steadily declining in the United States since 1974, and by 1978 the industry was operating at less than 50-percent capacity. The production of steel, aluminum, and fluorspar fluorocarbon chemicals all require the use of fluorspar, and two multinational and vertically integrated companies—Pennwalt Corp. and Allied Chemical Corp.—own about 90 percent of domestic production of fluorspar. Imports generally have declined since 1973, totaling 917,000 tons in 1973. Two-thirds of all imports of fluorspar come from Mexico.

Although a similar bill last year failed to get the two-thirds vote necessary to be approved under suspension of the rules, the passage of another year indicates that a duty suspension is even more urgently needed at this time. Fluorspar is a critical strategic material and the duty suspension should encourage increased supplies to this country that would perhaps supplement our government stockpiles. In addition, the competitive position of the important steel, aluminum and chemical industries in the United States would be greatly enhanced without adversely affecting domestic fluorspar production.

The Department of Commerce favors enactment of H.R. 3352 and the State Department has indicated that it does not object to the bill's passage. It is expected that the loss in customs revenue associated with H.R. 3352 amounts to a maximum of $3.6 million annually based on 1978 imports.

Mr. Speaker, the committee has carefully reviewed the possible effects of a duty suspension on imports of fluorspar both this year and during the last Congress. I hope we can favorably dispose of the issue this year, and I urge my colleagues to support passage of H.R. 3352.

Mr. VANIK. Mr. Speaker, I yield such time as he may desire to my distinguished colleague, the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, let me say to my colleagues in the House that, with great due deference to my friend, the gentleman from Ohio (Mr. VANIK), and my friend, the gentleman from Minnesota (Mr. FRENZEL), I rise in opposition to this bill, which is not good legislation. Let me point out why it is not, and let me point out my own personal involvement here so we are putting everything on the table.

Primarily, I am going to be talking about the national interest, but in my district we are going to lose about 250 jobs in an area of very high unemployment if this bill passes. So I have a personal involvement in my district, but there is a national purpose that would be ill served were we to pass this legislation.

As my colleague, the gentleman from Ohio (Mr. VANIK), has pointed out, this mineral is essential in the production of steel, aluminum, and a number of chemicals. A continuous supply of fluorspar is essential to the Nation. The Federal Emergency Management Agency sets certain minimum goals that we ought to have by way of a stockpile, and we are less than one-fourth toward that goal in metallurgical fluorspar; in acid grade we are just a little better than one-half.

On our net import reliance, my figures differ from the figures of the gentleman from Ohio. My figures show that our net import reliance has risen from 77 percent of our national consumption in 1976 to 80 percent in 1977 and to 82 percent last year. In 1977 there were 15 working fluorspar mines in the United States. By the end of 1978 there were only 12, and now there are fewer than 10.

From what countries do we get this fluorspar? We get it from two countries: Mexico and South Africa. While Mexico is the leading supplier, we are increasingly reliant on South Africa, and that is where the big growth is.

Now, the question we have to ask ourselves is whether, because of the policies of the Government of that nation, we want to take jobs from industries in the United States and give them to South Africa. That is one question.

The second question is: Do they have the kind of stability in South Africa that is needed so that we can rely on South Africa as a source for our fluorspar?

I think there are serious questions that have to be asked. Here I would point out to this body that our colleague, the gentleman from Nevada (Mr. SANTINI), who is chairman of the Subcommittee on Mines and Mining and who knows more about minerals than any other Member of this House, has written a strong "Dear Colleague" letter to every Member of the House saying that it would not be in the national interest to pass this legislation, and that it puts in jeopardy a very, very fundamental supply source.

Mr. Speaker, at this point I wish to enter in the RECORD the "Dear Colleague" letter to which I have just referred:

MY COLLEAGUES ON MONDAY, DECEMBER 3D, 1979, DON'T BE SWEPT UP IN THE FLUORSPAR FOLLY!

H.R. 3352, to suspend the import duty on fluorspar coming into this country, is another piece of a larger problem. We are already 82% reliant on foreign sources for fluorspar, and H.R. 3352 would just about destroy our already weakened domestic producers.

There is no satisfactory substitute for fluorspar in its major metallurgical and chemical uses; about 48% of consumption goes into U.S. steelmaking, about 23% into primary aluminum production, and 25% to our chemical industries.

H.R. 3352 would be another nail driven into the coffin of our industry that Congress and the Executive continue to neglect. While every other government of the world is committed to the development of its minerals industry, we drift along totally unconcerned for ours, asleep to the vulnerability of growing foreign dependence.

We have only two major producers of fluorspar, which account for 90% of our production. There is absolutely no doubt in my mind that removal of the present duty would seriously discourage the development of two new major fluorspar deposits in Idaho and Tennessee. These prospective developments could materially improve domestic supply and benefit their areas of underemployment. The meager benefit from suspension of the duty would be more than offset by prospective job losses where new mines would be located and decrease our vulnerability to supply disruptions.

My Subcommittee on Mines and Mining is trying to make some sense out of the thousands of Federal regulations and actions that bit-by-bit are reducing our ability to produce. Congress must start looking at the larger picture. I ask that you oppose the removal of the fluorspar tariff until we have the whole of the problem in perspective.

Sincerely,

JAMES D. SANTINI,
Chairman,
Subcommittee on Mines and Mining.

Mr. Speaker, new mines for the production of fluorspar are being looked at in Idaho, as I understand it, in Tennessee, and possibly in Vermont. I see my colleague, the gentleman from Vermont (Mr. JEFFORDS), on the floor, and he may know more about that than I do.

The largest find of fluorspar has been recorded in the State of Tennessee, in the district of our colleague, the gentleman from Tennessee (Mr. DUNCAN). If this legislation passes, the company that is involved there will not go ahead with the mine. If this legislation does not pass, that company is going to go ahead with the mine in Tennessee.

We will lose about $3,600,000 in direct revenue if this bill passes. And for what? It amounts to 0.02 of 1 percent on the end product.

Now, if we think that 0.02 of 1 percent is going to be passed on to the consumer, that is one thing, but let me point out that we are then putting ourselves in jeopardy because we will be at the mercy of two nations which can at any point double the price of fluorspar, and that will adversely impact on the steel mills of my friends from Indiana and Ohio. It will adversely impact on the aluminum industry in the United States, and it will adversely impact on the American consumer.

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It is not in the best interests also, obviously, of the balance of trade.

So I would urge that this seemingly innocuous bill, which is quietly wending its way through Congress, be stopped at this point. It is not in the national interest that we pass this legislation.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I want to assure my distinguished colleague, the gentleman from Illinois, that our committee, and I think the gentleman from Minnesota (Mr. FRENZEL) will agree, we made every effort to try to preserve and protect domestic sources, for the reasons that the gentleman from Illinois has outlined. Insofar as practicable, we want to do that. But here we have other secondary industries which are heavily impacted by imports—the steel industry, the aluminum industry and the chemical industry. Without this legislation, they are going to have some real problems.

I will tell the gentleman that I am hopeful that the domestic sources will come on stream in adequate force and strength to take care of the American market. We will watch that very carefully, and we certainly do not want to jeopardize the jobs in the gentleman's district. I would encourage our domestic industry to go forward, because when they demonstrate the capacity to eliminate the imports, I will be happy to deal otherwise with this legislation.

Mr. SIMON. Mr. Speaker, if I may respond, I have complete respect for the sincerity of my colleague, the gentleman from Ohio (Mr. VANIK), and usually the gentleman and I are in the battle on the same side. But the reality is that if this bill passes, these mines close, period, and you do not just open a mine overnight.

The legislation is drafted in such a way that you see what the impact is until 1982. I will say to my good friend that by 1982 there will not be a mine open in the United States. These mines are very, very marginal right now. If this legislation passes, there will not be a fluorspar mine in the United States and we will be 100 percent dependent on two countries for our fluorspar and they can jack that price up wherever they want. So I think this is not the direction we ought to go.

Mr. VANIK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 3352, as amended.

The question was taken.

Mr. SIMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

TARIFF CLASSIFICATION OF COLD FINISHED STEEL BARS

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4309) to amend the Tariff Schedules of the United States to provide for the proper classification of cold finished steel bars; and for other purposes, as amended.

The Clerk read as follows:

H.R. 4309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) headnote 3(1) to subpart B of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "or cut to length" each place it appears therein.

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after March 1, 1980.

SEC. 2. (a) Subpart B of part 2 of schedule 6 of such Tariff Schedules is amended by striking out item 608.50 and inserting in lieu thereof the following:

"	Cold formed:		
606.87	Finished, drawn, nontubular product, of any cross-sectional configuration, cut to length, and not over 0.703 inch in maximum cross-sectional dimension and containing not over 0.25 percent by weight of carbon.	5% ad val.	0.125¢ per lb. +20% ad val.
606.89	Other	7.5% ad val.	0.125¢ per lb. +20% ad val.".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on and after March 1, 1980, and before January 1, 1982.

SEC. 3. (a) Effective January 1, 1982, subpart B of part 2 of schedule 6 of such Tariff Schedules is amended by striking out items 606.87 and 606.89 (as added by section 2(a) of this Act) and inserting in lieu thereof the following:

"606.88	Cold formed	7.5% ad val.	0.125¢ per lb. +20% ad val".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1982.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK.)

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as reported by the Ways and Means Committee, H.R. 4309 provides for the proper classification of certain cold finished steel bar and amends the rate of duty with respect to cold finished bars. H.R. 4309 was introduced by our colleagues Mr. Benjamin et al.

Cold finished steel bars are a special steel product produced by drawing and/or turning, grinding, and/or polishing hot rolled special quality bars. Steel bars are used in a wide range of applications in the production of noncritical parts of bridges, buildings, ships, agricultural implements, roadbuilding and railroad equipment, and general machinery.

The definitions of "bar" and "wire" currently contained in the Tariff Schedules of the United States as such that small diameter cold finished steel bar, which accounts for 20–30 percent of all cold finished steel bar imports, falls within the wire definition. The bill would amend the definition of wire to delete the words "or cut to length" therefrom. The primary feature which distinguishes bar from wire is the fact that it is cut to length rather than coiled.

Because of the disparity in tariff levels currently applicable to cold finished steel bar and those wire categories under which small diameter bar is now classified, the definitional change I just mentioned would have had the effect of substantially increasing the duty on a large proportion of the imports of small diameter bar from 1.7 to 8.5 percent ad valorem. The administration objected to this on the grounds that the duty increase would place the U.S. in violation of its obligations under the GATT.

In an effort to address the objection, the committee amended the bill to provide two classifications of cold finished steel bar: one primarily applicable to the large diameter bar, the other applicable primarily to small diameter bar. The column 1 rate of duty on large diameter bar would be decreased from the current rate of 8.5 to 7.5 percent ad valorem. This decrease would amount to an acceleration of the staged reduction negotiated in the multilateral trade negotiation which will otherwise be fully implemented in 1987.

The column 1 rate of duty on small diameter bar would be increased from 1.7 to 5 percent ad valorem. Thus, the duty decrease on the first item is intended to offset the duty increase on the later item. The rates of duty established by this amendment would apply to articles entered on or after March 1, 1980, and before January 1, 1982.

The committee further amended the bill to provide that effective January 1, 1982, all cold finished steel bar would be classified in a single item and dutiable at a column 2 rate of 7.5 percent ad valorem. The timing of this amendment is intended to afford the executive branch an opportunity to take action with regard to tariff issues in the context of planned negotiations to harmonize our tariff schedules with those of other countries.

The bill, as amended, was ordered reported by voice vote, and I urge its passage.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not personally support H.R. 4309, a bill that amends the definition of "wire" in the Tariff Schedules of the United States, accelerates certain related duty reductions negotiated in the MTN, provides temporarily for a separate classification of small diameter steel bar, and ultimately provides for a single redefined classification of steel bar beginning January 1, 1982. But the minority on our committee was strongly supportive of H.R. 4309.

This rather complicated bill is designed to address the problem of a misclassification of small diameter steel bar as wire with the consequences of having a higher rate of duty applied. This small diameter bar, although currently classified as wire, is neither used for the same purpose or made in the same manner as the wire with which it is categorized.

Cold finished steel bars are used in a wide range of applications including the production of noncritical parts of bridges, buildings, ships, agricultural implements, roadbuilding, and railway equipment, and machinery in general.

The Departments of Commerce and State and the office of the Special Trade Representative opposed enactment of H.R. 4309 on the basis that the duty increases that would result would be in violation of our international commitments under the General Agreement on Tariffs and Trade (GATT). The committee, of course, is sensitive to this argument and amended the bill so that the impact of the reclassification, and resulting duty increases, would be staged and otherwise implemented with the least possible disruption.

The bill, as it now stands, provides for two new classifications for cold finished steel bar—one for small diameter bar and the second for all other bar. The duty applicable to the second category would be reduced from 8.5 to 7.5 percent ad valorem. This decrease would amount to an acceleration of the duty reduction negotiated in the MTN which would not otherwise be fully implemented until 1987. The first category, which applies to the bar that had previously been misclassified as wire, would have a column 1 duty of 5 percent ad valorem. In other words, the duty increase on this first category would be balanced by the duty reduction on the second category.

Finally, effective January 1, 1982, a single rate of duty of 7.5 percent column 1 ad valorem would be applied to all imports of cold finished steel bar. Also, the bill provides that the definition of "wire" be changed immediately to eliminate the confusion that allowed the misclassification initially.

Mr. Speaker, even though I do not support it, I believe that H.R. 4309 as amended is a pretty good compromise that will not be damaging to U.S. interests and will not abrogate the responsibilities of the United States under the GATT.

Mr. VANIK. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Speaker, I urge support of H.R. 4309 which amends the U.S. Tariff Schedule to properly classify cold-finished steel bars (CFSB).

The reported bill is the result of a series of compromises effectuated by the diligent efforts of Mr. LEDERER of Pennsylvania to satisfy opposition from the Departments of Commerce and State and the Office of the Special Trade Representative to adopt H.R. 4309 in its original form.

I truly appreciate the understanding and assistance of trade subcommittee Chairman VANIK, members of the subcommittee and its staff. Their assistance has been extremely invaluable in developing this legislation which is fair and equitable to our domestic producers of cold-finished steel bars, the U.S. Government and our trading partners. Unfortunately, despite this balance and the work of the subcommittee, it is not known whether the bureaucracy of our Government—which appears to be more interested in helping foreign producers than understanding the problems of the U.S. steel industry—has been satisfied. Regardless, the bill before this House is fair, balanced, and well prepared to solve an inequity in the law which is even recognized and admitted by the bureaucracy.

For background, the cold-finished steel bar industry has been grappling with a problem caused by an anomaly in our tariff schedules which has resulted in the misclassification of about 20–25 percent of our total imports of cold-finished steel bars. Instead of properly being classified as "bar," these products are considered to be "wire."

The Tariff Schedules of the United States define "wire" as a drawn product not over 0.703 inch in diameter. "Bars," including cold finished bars, are defined as products of solid section not conforming to the definitions for other specified products, including "wire." Thus, the definition of "wire" takes precedence over that of "bar." Since the definition of wire includes any drawn product up to 0.703 inch in diameter, whether in coiled form or cut to length, cold finished bars now fall into this category. Only products over 0.703 inch can be considered to be cold finished bars.

The result is that the tariff schedules do not recognize the existence of cold finished bars 0.703 inch or less in diameter. Yet such products account for about 20 percent of domestic production of cold finished steel bars.

This anomaly in the tariff schedules results in a substantial loss or revenues to the United States since wire is dutied at $6 per ton against the $40 per ton ordinarily applicable to CFSB imports. In 1978, when 48,000 tons of steel bar was classified as wire, the loss approximated $1,600,000 in duties.

Other Government entities have already corrected the anomaly. The Commerce Department has modified the export schedule B so that the definition of "wire" is limited to coiled products. In addition, Representatives of the European communities and the Government of Japan have proposed a similar limitation to the definition of "wire" in the Brussels tariff nomenclature.

In the United States, the greatest share of cold finished bars are made by relatively small companies, often family owned. About 12,000 American workers are directly employed in the production of cold finished bars, and approximately another 12,000 produce the raw material for cold finished bars.

For these reasons, I urge my colleagues' support for H.R. 4309 which would clarify that "wire" is a product sold in coil form only. Any drawn product otherwise meeting the definitional requirement of "bar" would be considered a cold finished steel bar. This measure would assure the proper classification of cold finished steel bar imports and prevent any monetary loss to the U.S. Government.

I conclude with gratitude to my cosponsors for their work in support of this bill. I am particularly grateful to Mr. LEDERER, whose understanding and legislative ability were instrumental in clearing this bill for action today.

● Mr. WALGREN. Mr. Speaker, I rise in support of H.R. 4309, a bill to amend the U.S. Tariff Schedules. Specifically, H.R. 4309 would fairly and appropriately reclassify many cold finished steel bar (CFSB) products from the category of "wire" to the category of "bars."

On the surface, this may not appear to be a crucial or even important distinction. However, this misclassification of some steel "bars" as "wire" involves 20 to 25 percent of our total imports of steel bars. Further, this anomaly results in a loss of revenues to the United States since wire products are dutied at $6 per ton as opposed to $40 per ton charged against steel bars. The total revenue loss exceeds $1.6 million.

I think it is important to note that the duty on those products now classified a "wire" would be raised only to the level of other "bar" products. Since the higher duty on "bar" products has not prevented record imports, the equalization of duties would not result in any significant reduction in existing trade.

It is important that we correct this inequity through remedial legislation expressing the congressional intent to remove this loophole in our tariff schedule. This bill would correct a mistake that is acknowledged by all objective observers—including those representing supplying countries.

Again, I want to urge my colleagues to support H.R. 4309 as a part of the continuing effort to improve upon our trade rules. I also want to commend my distinguished colleague, Representative ADAM BENJAMIN, for his fine job as the sponsor of this legislation as well as his active role in the Congressional Steel Caucus.●

Mr. VANIK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 4309, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MISCELLANEOUS TARIFF SCHEDULES AMENDMENTS

Mr. VANIK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5441) to amend the Tariff Schedules of the United States with respect to the tariff treatment of certain articles, as amended.

The Clerk read as follows:

H.R. 5441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT DUTY-FREE TREATMENT FOR SYNTHETIC TANTALUM-COLUMBIUM CONCENTRATES.

(a) Part 1 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 603.65 the following new item:

"603.67	Materials, other than the foregoing, which are synthetic tantalum-columbium concentrates	Free	30% ad val.".

(b) Item 911.27 of the Appendix to such Schedules is repealed.

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 2. PERMANENT DUTY-FREE TREATMENT FOR CERTAIN CARILLON BELLS.

(a) (1) Item 725.38 of the Tariff Schedules of the United States (19 U.S.C. 1202, relating to chimes, peals, or carillons containing over 34 bells) is amended by striking out "3% ad val." and inserting in lieu thereof "Free".

(2) The amendment made by paragraph (1) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(b) (1) The Secretary of the Treasury shall admit free of duty 47 carillon bells (including all accompanying parts and accessories) for the use of Wake Forest University, Winston-Salem, North Carolina, such bells being provided by the Paccard Fonderie de Cloches, Annecy, France.

(2) If the liquidation of the entry for consumption of any article subject to the provisions of paragraph (1) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

SEC. 3. TEMPORARY SUSPENSION OF DUTY ON CERTAIN ALLOYS OF COBALT.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numericial sequence the following new item:

"911.90	Unwrought alloys of cobalt containing, by weight, 76% or more but less than 99% cobalt (provided for in item 632.84, part 2K, schedule 6)	Free	No change	On or before 6/30/82".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 5. TEMPORARY SUSPENSION OF DUTY ON BICYCLE PARTS AND ACCESSORIES.

(a) Item 912.05 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/80" and inserting in lieu thereof "6/30/83".

(b) Item 912.10 of the Appendix to such Schedules is amended—

(1) by inserting "two-speed hubs with internal gear-changing mechanisms," immediately after "coaster brakes,";

(2) by striking out "rims," and inserting in lieu thereof "frame lugs,"; and

(3) by striking out "6/30/80" and inserting in lieu thereof "6/30/83".

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

SEC. 5. TEMPORARY SUSPENSION OF DUTY ON MANGANESE ORE AND RELATED PRODUCTS.

(a) Item 911.07 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/79" and inserting in lieu thereof "6/30/82".

(b)(1) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article—

(A) that was made after June 30, 1979, and before the date of the enactment of this Act; and

(B) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal;

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

SEC. 6. PERMANENT DUTY-FREE TREATMENT FOR CERTAIN MODELS OF HOUSEHOLD FURNISHINGS AND ACCESSORIES.

(a) Subpart E of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out "(except parts)" in headnote 1 and inserting in lieu thereof "(except parts other than parts of models classified in item 737.08)";

(2) by amending the superior heading immediately preceding item 737.05—

(A) by striking out "and" immediately before "construction kits", and

(B) by inserting immediately before the colon the following: "; and parts of models classified in item 737.08"; and

(3) by inserting immediately after item 737.07 the following new item:

"737.08	Models of household furnishings, lamps, lighting fixtures, other household accessories, and building parts of houses, and parts thereof, and kits for constructing same; all the foregoing made approximately to 1/12 scale (whether or not made to scale of an actual article).	8% ad val.	45% ad val."

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 7. DEFINITION OF RUBBER FOR PURPOSES OF THE TARIFF SCHEDULES.

(a) Headnote 2 to subpart B of part 4 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"2. (a) For the purposes of the tariff schedules, the term 'rubber' means any substance, whether natural or synthetic, in bale, crumb, powder, latex, or other crude form, that—

"(i) can be vulcanized or otherwise cross-linked, and

"(ii) after cross-linking, can be stretched at 68 F. to at least three times its original length and that, after having been stretched to twice its original length and the stress removed, returns within 5 minutes to less than 150 percent of its original length.

"(b) For purposes of the tariff schedules other than schedule 4, the term 'rubber' also means any substance described in subdivision (a) that also contains fillers, extenders, pigments, or rubber-processing chemicals, whether or not such substance, after the addition of such fillers, extenders, pigments, or chemicals, can meet the tests specified in clauses (i) and (ii) of subdivision (a).".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of the enactment of this Act.

SEC. 8. MISCELLANEOUS AMENDMENTS TO THE TRADE AGREEMENTS ACT OF 1979.

The Trade Agreements Act of 1979 (Public Law 96-39, 93 Stat. 144-317) is amended as follows:

(1) Paragraph (8) of section 510 is amended by striking out "item 719.—" and inserting in lieu thereof "items 717.—, 718.—, and 719.—".

(2) The rate of duty column in section 514(a) is amended—

(A) by striking out "1% ad val." opposite each of items 607.01, 607.02, 607.03, and 607.04 and inserting in lieu thereof "Additional duty of 1% ad val."; and

(B) by striking out "0.5% ad val. + additional duties" opposite item 607.21 and inserting in lieu thereof "1% ad val. + additional duties".

(3) Subsection (a) of section 601 is amended—

(A) by inserting immediately after "such articles" in paragraph (2) the following: "(other than flight simulating machines classified in item 678.50 and civil aircraft classified in item 694.15, 694.20, or 694.40)"; and

(B) by amending paragraph (3) to read as follows:

"(3) Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

" '(f) CIVIL AIRCRAFT EXCEPTION.—The duty imposed under subsection (a) shall not apply to the cost of equipments, or any part thereof, purchased, of repair parts or materials used, or of repairs made in a foreign country with respect to a United States civil aircraft, within the meaning of headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States.' ".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5441 contains eight noncontroversial sections relating to duty-free entry, temporary duty suspension, product reclassification, and redefinition, and correction of technical errors in the Trade Agreements Act of 1979.

The purpose of section 1 of H.R. 5441 is to permanently eliminate the column 1 (MFN) rate of duty on synthetic tantalum/columbium concentrate, repealing the existing duty suspension. The 7.5 precent duty has been suspended since November 1977.

Synthetic tantalum/columbium concentrate is used in the production of high-grade steel which in turn is used in heavy equipment, oil and gas pipelines, and structural members of buildings and bridges. Tantalum metal is a vital input for most electronic circuitry used in computers, communications equipment, military systems, and consumer electronics, as well as an alloying ingredient in superalloys used in jet-engine parts.

There is no known domestic production of either natural or synthetic tantalum/columbium concentrate and domestic industry must rely totally on imports. No objections to this section were received by the committee from any source.

Section 1 would eliminate our unnecessary charge on a resource material not produced in the United States and for which there is a growing demand.

Mr. Speaker, the purpose of section 2 of H.R. 5441 is to admit free of duty 47 carillon bells, including their parts and accessories, for the use of Wake Forest University, Winston-Salem, N.C. The bells entered the United States in May 1978 and were installed in November 1978.

Currently, there is only one domestic producer of sets of cast, tuned bells. Production of bell sets is valued at about $100,000 annually. No sets containing over six bells were produced in 1978, because the company did not receive orders for larger sets.

Imports of cast, tuned bell sets containing over 34 bells increased from $51,000 in value in 1973 to $323,000 in 1978. The 1978 imports reflect four or five sets. Imports accounted for all apparent domestic consumption in 1978.

Reports not objecting to enactment of section 2 of H.R. 5441 were received from the Department of Commerce and the Special Trade Representative.

On the grounds that carillon bells containing over 34 bells are not manufactured in the United States, the committee amended section 2 of H.R. 5441 to permanently eliminate the duty on TSUS 725.38. The committee also made a technical amendment to reflect accepted TSUS language

Mr. Speaker, the purpose of section 3 of H.R. 5441 is to temporarily suspend the column 1 (MFN) rate of duty on certain alloys of cobalt through June 30, 1982.

Cobalt is a hard, tough metallic element principally used to make corrosion resistant alloys which retain their strength at high temperatures, for use, for example, in jet engine parts. It is also used in the manufacture of alloys for permanent magnets.

Since 1976, supplies of cobalt have been tight and prices have increased substantially. The weighted average producer price, per pound of cobalt, was $4.44 in 1976; by the end of 1978 prices had risen to $18.20 per pound, with prices on the spot market as high as $55 per pound. Such price increases, and the limited availability of cobalt from traditional sources, would tend to stimulate production of these cobalt alloys.

There is only one domestic refinery for production of cobalt metal. Imported copper-nickel-cobalt matte from Botswana, New Caledonia, and South Africa is refined at this facility primarily for its nickel content. The rated production capacity for cobalt at the facility is 1 million pounds per year.

Cobalt alloys covered by section 3 are imported only from West Germany, and are a relatively recent phenomenon. It is estimated that 120,000 pounds of this material were imported within the past 12 months. In addition, it is estimated that a maximum of 260,000 pounds per year can be produced in West Germany for export to the United States. For comparative purposes, imports of unwrought cobalt metal—other than cobalt alloys—and cobalt waste and scrap into the United States during 1978 totaled 16.5 million pounds.

Reports favoring H.R. 5441, section 3 were received from the Departments of Commerce and State. An informational report was received from the International Trade Commission.

The committee made two technical amendments to section 3 suggested by the International Trade Commission to reflect the proper numerical sequence in the Tariff Schedules of the United States and provide a product description which more accurately describes the article.

Mr. Speaker, the purpose of section 4 of H.R. 5441 is to extend the suspension of the column 1 (MFN) rate of duty on certain bicycle parts and accessories. The rationale for the duty suspension on certain bicycle parts and accessories has been to improve the ability of domestic producers to complete with foreign bicycle parts and accessories which are not available from domestic sources. The great bulk of imported bicycles are subject to rates of duty substantially lower—11 percent and 5.5 percent ad valorem—than the parts covered by the duty suspension which is 19 percent. Imports of complete bicycles have steadily increased their share of the domestic market.

The existing temporary suspension of duties on certain bicycle parts and accessories was originally enacted by Public Law 91-689 on June 12, 1971. It covers caliper brakes, drum brakes, coaster brakes, three-speed hubs not incorporating coaster brakes, click twist grips, click stick levels, multiple free wheel sprockets, cotterless type crank sets, rims, parts of the foregoing, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for assembly. Section 4 of H.R. 5441 would remove "rims" from the present suspension and add "frame lugs" as an additional item.

The committee adopted an amendment which includes "two speed hubs with internal gear-changing mechanisms" in the coverage of those bicycle parts receiving duty-free treatment.

No objections to this section of the bill have been received from any source.

Mr. Speaker, section 5 of H.R. extends the suspension of the column 1 (MFN) rate of duty on manganese ore—including ferruginous ore—and related products from June 30, 1979 to June 30, 1982. Over 90 percent of the U.S. consumption of manganese ore is used for the production of ferromanganese for steel making. At the present time there is no commercial production of manganese ore in the United States. The last U.S. mine closed in 1970 and the remaining domestic deposits of manganese ore are small and of very low grade. The U.S. Bureau of Mines has indicated that there are no foreseeable changes in either technology or economics that would make domestic production of these reserves feasible. As a result the United States must rely on imports of manganese ore.

The suspension of duty on manganese ore helps domestic producers of ferromanganese compete with foreign suppliers of ferromanganese. Imports of ferromanganese have increased substantially over the last several years.

As a result of the multilateral trade negotiations (MTN), the duty on manganese ore—including ferruginous ore—and related products will be permanently eliminated, effective January 1, 1980. Therefore, without this legislation, duties will be applicable over a 6-month period—July 1979 through December 1979.

Section 5 also contains a provision which covers those entries made after the expiration of the prior duty suspension—June 30, 1979—and before the date of enactment of this act.

No objections to this section of the bill have been received from any source.

Mr. Speaker, section 6 of H.R. 5441 creates a separate tariff classification for miniature furnishings, household accessories, doll house buildings components, parts of these items, and kits for constructing these item.

Model household furnishings and accessories are high-valued pieces used chiefly for purposes of collection and decoration, generally through the creation of room or house displays of recognizable historical period or decor. The cost and sophistication of these articles, including the detail of construction and the approximate scale of 1 to 12, differentiates them from the less expensive and more crudely made doll house parts, and furnishings, and accessories used by children for play. It is not uncommon for a single piece of model furniture to cost several hundred dollars at retail. In addition, most children's products, if made to scale at all, are made on a ratio of 1 to 6 or 1 to 16.

There is only one known domestic producer of miniatures in commercial quantities. Domestic production is estimated to have a value of not more than $500,000 annually over the last 5 years.

Between 1974 and 1978, the value of imports of these articles are estimated to have increased from approximately $1 million to $6-$8 million annually. Imports of these articles do not generally compete with the domestic product as the domestic articles represent unique or specialized items having relatively small markets.

Current practice with respect to the classification of these articles has not been consistent, and the reclassification provided by this section will provide uniform treatment of imports of these articles.

The committee made technical amendments to conform the language in the headnote and the superior heading covering the new tariff item for these articles to the description of the articles contained in the item. The description of the articles covered by the new tariff item was also amended to eliminate redundant and ambiguous language.

Mr. Speaker, the purpose of section 7 of H.R. 5441 is to interpret and clearly define the meaning of "rubber" for purposes of the Tariff Schedules, in a manner consistent with the way in which the U.S. Customs Service has historically and uniformly interpreted that term.

At issue is whether the existing tariff definition of rubber—which contains a so-called stretch and return test—refers to substances which contain natural or synthetic rubber with fillers added or whether it refers only to the crude, natural form.

A recent court case overturned the Customs Service practice and made the "stretch and return" test applicable to rubber compounds and products as well as the crude substance. As a result of this interpretation, the court held that midsoles of certain basketball sneakers were not rubber, thus creating a loophole whereby such imported footwear will be able to avoid the duties specified in tariff item 700.60, for which the American Selling Price (ASP) basis of valuation is applicable.

The committee amended this definition so as to apply the existing "stretch and return" test for all of the Tariff Schedules, and to apply the second part of the definition—that is, the exemption of rubber substances which also contain other enumerated elements from the "stretch and return" test—to all the Tariff Schedules except schedule 4, Chemicals and Related Products.

No objections to this section of H.R. 5441 have been received from any source.

The committee agreed to include four amendments as section 8 of H.R. 5441 brought to its attention by the President's Special Trade Representative as necessary to correct inadvertent errors in the Trade Agreements Act of 1979, which implemented the results of the Multilateral Trade Negotiations. The amendments correct: First, the omission of a conforming amendment in section 510 eliminating unnecessary classifications in the tariff nomenclature for watch movements; second, printing errors in section 514 in new column 2 rates of duty for five tariff item numbers; third, a drafting error in section 601 pertaining to the certification required of parts for use in civil aircraft to qualify for duty-free treatment; and fourth, specific inclusion of "equipment" as well as "parts" in the exemption from duty on aircraft repairs abroad as intended by the civil aircraft agreement. These amendments are strictly technical in nature and there is no known opposition to them.

H.R. 5441, as amended, was ordered reported by voice vote, and I urge its passage.

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Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume. I rise to speak in support of H.R. 5441.

Mr. Speaker, as my colleague, the distinguished chairman of the Trade Subcommittee, has already suggested H.R. 5441 is an amalgam of several measures which came before the subcommittee individually and which the subcommittee and full committee favorably reported.

Section 1 of this bill would permanently eliminate the column 1 duty rate on synthetic tantalum/columbium concentrate. Synthetic tantalum/columbium concentrate is used interchangeably with the natural material for producing ferroalloys used in steel production. Steel produced with this product are often used in heavy equipment, oil and gas pipelines, structural members of buildings, bridges and in architectural trim. Furthermore, tantalum metal is a basic material in the production of tantalum capacitors. It is a vital component in most electronic circuitry for computers, communication equipment, military systems. Columbium oxide is an ingredient in the superalloys used in jet engine parts and other high strength specialty steels.

There is no known domestic production of either natural or synthetic tantalum/columbium concentrate. The last mining of the natural material was in 1969. The revenue loss for this section is $161,250 in fiscal 1980, $45,000 annually thereafter. This section would eliminate an unnecessary cost to domestic users for a resource material which is not produced commercially in the United States. No objections were heard to this section.

Section 2 of this bill provides for duty-free admission of 47 carillon bells (including accompanying parts and accessories) for the use of Wake Forest University.

The McShane Bell Foundry Co., Inc., of Glen Burnie, Md., is the only domestic producer of sets of cast, tuned bells. Production of bell sets is valued at about $100,000 annually, but no sets containing over six bells were produced in 1978 as no order for larger sets was received. In contrast, the value of imports of cast, tuned bell sets containing over 34 bells increased from $51,000 to $323,000 in the period 1973 to 1978. Consequently, the committee included a further provision eliminating the duty on bell sets with over 34 bells which entered under TSUS 725.38.

No objections were raised to this section. The fiscal 1980 revenue loss is $7,500 and $10,000 annually thereafter.

Section 3 of H.R. 5441 provides for a new item 911.80 in subpart B of part 1 of the TSUS which would allow for a temporary suspension of the column 1 rate of duty on certain alloys of cobalt through June 30, 1982.

Cobalt alloys are used to make corrosion alloys which retain their strength at high temperatures. These alloys are used in jet engines. Cobalt alloys are also used in the manufacture of permanent magnets.

Domestic production of cobalt is insufficient to supply demand. In 1978 it was approximately 643,000 pounds while imports of cobalt metal and cobalt waste and scrap totaled about 16.5 million pounds. The cobalt alloys under consideration here are produced from low-grade slag and comes from West Germany. In 1978, 120,000 pounds of the material were imported and it is thought that 360,000 pounds can be produced in West Germany. Cobalt obtained in this fashion is much cheaper than that obtained from the usual sources. Since 1976 cobalt from usual sources has risen in price from $4.44 to $18.20 per pound in 1978. Prices on the spot market have been as high as $55 per pound.

The estimated revenue loss is estimated at $847,000, in fiscal 1980, about $1.1 million in 1981, and $847,000 in fiscal 1982. The Departments of Commerce and State submitted reports favoring this section.

Originally section 4 of this bill provided for a duty suspension on fluorspar, but the suspension is before us as a separate bill, H.R. 3352. The new section 4 provides for the continuation of the duty suspension on certain bicycle parts. The current suspension expired on June 30, 1978. This section extends the suspension until June 30, 1983.

The purpose of this duty suspension, which was first granted in 1971, has been to improve the ability of domestic producers to compete with foreign bicycle manufacturers by reducing the landed cost of certain imported bicycle parts and accessories which are not available from domestic sources. Most imported bicycles are subject to duty rates substantially lower than the parts covered by this suspension.

This section continues the suspension on the same parts which have been covered except that it removes "rims" and adds "frame lugs" and "two speed hubs with internal gear-changing mechanisms."

Favorable reports were received from the Department of Commerce and the Office of the Special Trade Representative. Revenue loss for this section will be about $2.7 million in fiscal 1980; $10.6 million in fiscal 1981 and 1982. In 1983 it is expected that an $8 million revenue loss will be suffered.

Section 5 of H.R. 5441 would suspend duty on imports of manganese ore (including ferruginous ore) and related products. As a result of the multilateral trade negotiations, the duty on manganese ore (including ferruginous ore) and related products will be permanently eliminated, effective January 1, 1980. This section provides for duty suspension to continue on those items entered after the expiration of the prior suspension, June 30, 1979, and before application of the duty elimination under the MTN.

No objections were raised to this section. The one-time revenue loss will be approximately $375,000.

Section 6 of this bill would create a separate tariff classification for miniature furnishings, household accessories, dollhouse building components, and so forth. Current practice with respect to the classification of these articles has not been consistent and the reclassification provided by this section will provide uniform treatment of imports of these articles.

The revenue loss for this section is estimated at $562,000 in fiscal 1980 and $750,000 thereafter.

Section 7 of the bill would amend the TSUS to redefine the meaning of rubber. A recent court decision overturned the established practice of the Customs Service in classifying rubber. That decision provided a loophole which permits rubber footwear to avoid duties under the American selling price basis of valuation. This section would close such a loophole.

Favorable reports were received from the Departments of Commerce, Treasury, and from the Office of the Special Trade Representative. There is no revenue loss suffered as a result of this section.

The final section of H.R. 5441 makes four technical amendments correcting errors in the Trade Agreements Act of 1979. It is without revenue impact and without objection.

I urge my colleagues to support this legislation as it will, in all instances, operate to reduce inflation and in most instances will better enable U.S. producers to compete with imports.

Mr. VANIK. Mr. Speaker, I want to take this time to express my gratitude to the members of the Subcommittee on Trade, from the minority, the gentleman from Minnesota (Mr. FRENZEL), and the gentleman from Michigan (Mr. VANDER JAGT). We resolve our decisions in this subcommittee on the basis of economic considerations and politics seldom has a part in what we do. I certainly want to thank all of the members of the committee for their cooperation in the group of bills we presented to the House today.

I yield back the balance of my time.

● Mr. NEAL. Mr. Speaker, section 2 of H.R. 5441 would refund to Wake Forest University of Winston-Salem, N.C., the duty due on a set of 47 tuned carillon bells imported from the Paccard Co. of Annecy, France. The amount of duty at issue is $4,045.

In the course of approving this duty waiver, which I sponsored as H.R. 4385, the Committee on Ways and Means went further and voted for a permanent duty waiver on all sets of more than 34 carillon bells.

As far as I can determine, this is a simple case. Numerous other educational and religious institutions have been granted duty-free entry of similar purchases of carillon bells. I believe that Wake Forest, as a small, private, church-related institution, should be given the same consideration. The committee amendment assures that future waivers of duty on these bells will not require legislation.

In making its purchase, Wake Forest concluded that bells meeting its specifications were not available from U.S. manufacturers. A study by the U.S. International Trade Commission found that only one U.S. company, with limited production facilities, manufactures large sets of tuned bells.

The Wake Forest bells are installed in Wait Chapel, which also serves as a Baptist church for the university and the surrounding community. The bells were dedicated last November and have brought much pleasure to the university community and to the people of Winston-Salem.

I am certain that the bells will be played with great joy and enthusiasm on the evening of December 22, 1979. That will be the day that Wake Forest's superb football team defeats Louisiana State University in the Tangerine Bowl.

As for this waiver of duty, I would like to emphasize that, even though the amount of customs duty at stake is small, a refund would be of considerable help to a privately supported institution in this time of inflation. I believe that it will be appropriate and equitable to exempt Wake Forest from payment of duty on these bells.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 5441, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

NATO MUTUAL SUPPORT ACT OF 1979

Mr. DAN DANIEL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5580) to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization, as amended.

The Clerk read as follows:

H.R. 5580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Atlantic Treaty Organization Mutual Support Act of 1979".

SEC. 2. (a) Title 10, United States Code, is amended by inserting after chapter 137 the following new chapter:

"Chapter 138—NORTH ATLANTIC TREATY ORGANIZATION ACQUISITION AND CROSS-SERVICING AGREEMENTS

"Sec.

"2321. Authority to acquire logistic support, supplies, and services for United States armed forces in Europe.

"2322. Cross-servicing agreements

"2323. Law applicable to acquisition and cross-servicing agreements.

"2324. Methods of payment for acquisitions and transfers by the United States.

"2325. Liquidation of accrued credits and liabilities.

"2326. Crediting of receipts.

"2327. Limitation on amounts that may be obligated or accrued by the United States.

"2328. Inventories of supplies not to be increased.

"2329. Regulations.

"2330. Annual reports.

"2331. Definitions.

"§ 2321. Authority to acquire logistic support, supplies, and services for United States armed forces in Europe

"Subject to section 2323 of this title and subject to the availability of appropriations, the Secretary of Defense may acquire from the Governments of North Atlantic Treaty Organization countries and from North Atlantic Treaty Organization subsidiary bodies logistic support, supplies, and services for elements of the armed forces deployed in Europe and adjacent waters.

"§ 2322. Cross-servicing agreements

"Subject to section 2323 of this title and to the availability of appropriations and after consultation with the Secretary of State, the Secretary of Defense may enter into agreements with the Government of any North Atlantic Treaty Organization country and with any North Atlantic Treaty Organization subsidiary body under which the United States agrees to provide logistic support, supplies, and services to military forces of such country or subsidiary body deployed in Europe and adjacent waters in return for the reciprocal provision of logistic support, supplies, and services by such country or subsidiary body to elements of the armed forces deployed in Europe and adjacent waters.

"§ 2323. Law applicable to acquisition and servicing agreements

"(a) Except as provided in subsection (b), acquisition of logistic support, supplies, and services under section 2321 of this title and agreements entered into under section 2322 of this title shall be made in accordance with chapter 137 of this title and the provisions of this chapter.

"(b) Sections 2207, 2304(g), 2306(a), 2306(b), 2306(e), 2306(f), and 2313 of this title, section 3741 of the Revised Statutes (41 U.S.C. 22), and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall not apply to acquisitions made under the authority of section 2321 of this title or to agreements entered into under section 2322 of this title.

"§ 2324. Methods of payment for acquisition and transfers by the United States

"(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this chapter on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an identical or substantially identical nature.

"(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization country for the acquisition or transfer of logistic support, supplies, and services on a reimbursement basis, the Secretary of Defense shall negotiate for adoption of the following pricing principles for reciprocal application:

"(A) The price charged by a supplying country for logistics support, supplies, and services specifically procured by the supplying country from its contractors for a recipient country shall be no less favorable than the price for identical items or services charged by such contractors to the armed forces of the supplying country, taking into account price differentials due to delivery schedules, points of delivery, and other similar considerations.

"(B) The price charged a recipient country for supplies furnished by a supplying country from its inventory, and the price charged a recipient country for logistics support and services furnished by the officers, employees, or governmental agencies of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

"(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

"(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

"(B) transfer by the United States to such country under this Act of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country are not waived by operation of the reciprocal pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

"(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies under this chapter.

"§ 2325. Liquidation of accrued credits and liabilities

"Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this chapter shall be liquidated not less often than once every three months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

"§ 2326. Crediting of receipts

"Any receipt of the United States as a result of an agreement entered into under this chapter shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

"§ 2327. Limitation on amounts that may be obligated or accrued by the United States

"(a) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable liabilities that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed $100,000,000 in any fiscal year, and of such amount not more than $25,000,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants).

"(b) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable credits that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed $100,000,000 in any fiscal year.

"§ 2328. Inventories of supplies not to be increased

"Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this Act to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body.

"§ 2329. Regulations

"The Secretary of Defense shall prescribe regulations to implement this chapter and shall, not later than sixty days before the effective date of such regulations, transmit copies of such regulations to the Congress. No agreement to make an acquisition or transfer under the authority provided by this chapter may be entered into until such regulations take effect.

"§ 2330. Annual reports

"The Secretary of Defense shall submit to the Congress not later than February 1 of each year a report containing—

"(1) a description of each agreement entered into under the authority of this chapter that was in effect during the fiscal year preceding the fiscal year in which such report is submitted;

"(2) a report of the dollar value of each reimbursable acquisition or transfer of logistic support, supplies, or services by the United States (by appropriation, account, or fund) during such fiscal year under each such agreement;

"(3) a report of nonereimbursable acquisitions and transfer of logistic support and services by the United States (by appropriation, account, and fund) during such fiscal year under each such agreement; and

"(4) a description of each agreement entered into (or expected to be entered into) under the authority of this chapter that is expected to be in effect during the fiscal year in which such report is submitted, together with a report of the estimated total dollar value of acquisitions and transfers by the United States (by appropriation, account, or fund) expected to be made during such fiscal year under each such agreement.

"§ 2331. Definitions

"In this chapter:

"(1) 'Logistic support, supplies, and services' means food, billeting, transporttion, petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, and port services.

"(2) 'North Atlantic Treaty Organization subsidiary bodies' means—

"(A) any organization within the meaning of the term 'subsidiary bodies' in article I of the multilateral treaty on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

"(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 137 the following new item:

"138. North Atlantic Treaty Organization Acquisition and Cross-Servicing Agreements .... 2321".

The SPEAKER pro tempore. Is a second demanded?

Mr. DICKINSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Virginia (Dan Daniel) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. Dickinson) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. Dan Daniel).

Mr. DAN DANIEL. Mr. Speaker, H.R. 5580 authorizes the Secretary of Defense after consultation with the Secretary of State to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

It waives certain provisions of contract law in order that the Secretary may more expeditiously acquire logistical support, supplies and services for the U.S. Armed Forces in Europe.

What is the history of this proposal?

The Department of Defense has presented two bills which were unacceptable to the subcommittee, because the authority requested exceeded that which in the judgement of the committee was needed.

H.R. 5580 as amended responds appropriately to the problems it addresses.

Is there a need?

There is unquestionably a critical need for NATO to become a more closely integrated military force.

Arms cooperation and weapons standardization, the high-ticket items, have captured the headlines.

But it is a host of unglamorous issues and arrangements which will have the real impact on force readiness in the alliance.

I am speaking of day-to-day, commonsense things such as feeding and billeting NATO allies attached to U.S. units during integrated training exercises, providing medical services to them, refueling allied vehicles and aircraft, and using host nation capabilities to maintain U.S. bases, providing laundry services and routine nontactical transportation services.

We can do some of these things today but the procedures are cumbersome, time consuming, bound up in redtape which, in some cases, is offensive to our allies.

What solutions does it offer?

The bill has two fundamental objectives:

First. To facilitate U.S. "agreements" with NATO countries for the acquisition of host nation support services and supplies without making those sovereign nations subject to provisions of U.S. domestic procurement law which they find offensive; and

Second. To enable the United States to provide similar services and supplies to NATO nations through cross-servicing agreements without having to treat each transaction as a foreign military sales case under the Arms Export Control Act.

Sections 2321 and 2322 provide the authority the Secretary of Defense needs to accomplish these objectives.

The second objective is primarily under the jurisdiction of the Committee on Foreign Affairs.

This is the reason for the joint referral of the bill.

The underlying premise of sections 2321 and 2322 is that the traditional seller-customer concept is not appropriate to the relationship between sovereign nations of an alliance seeking to enhance military readiness through cooperative arrangements to provide reciprocal logistic support of a routine nature.

How will the bill be implemented?

Sections 2323–2326 deal with the question of how the authority granted under sections 2321 and 2322 is to be implemented:

Section 2323 provides that with certain exceptions, all U.S. acquisition and transfer agreements authorized must continue to be made in accordance with chapter 137 of title 10 of the United States Code—the chapter dealing with military procurement law.

Increasingly, our field commanders have had difficulty increasing the use of host nation support because the NATO allies have objected to signing agreements structured by U.S. procurement law.

They believe it is offensive to sovereign nations when asked to conform to another nation's essentially domestic procurement laws.

Generally, our commanders have found that the allies believe they should sign agreements, not contracts.

This sensitivity—whether we agree with it or not—it is a fact of life that we have to deal with.

Several European NATO countries, most notably the Netherlands, have served notice on us that they are simply not going to sign any more contracts structured on U.S. procurement law.

It has now progressed to the point where it could well be impossible to conduct integrated training exercises such as Reforger unless we provide our military commanders in Europe waiver authority with respect to certain provisions of the law: among the provisions is section 2306(b) which demands a warranty must be included in contracts that commissions were not paid to selling agents hired specifically for the purpose of winning the contract.

European allies object to making these warranties since in dealings between nations such warranties imply that the nation making the warranty is inferior to the other and that dealings between them are not based on a concept of equality.

Another provision which sticks in their throats is a section of the Code (41 U.S.C. 22) which provides that all agreements must include a clause stating that no Member of Congress may receive any benefit from a contract.

The European position is very simple: Members of Congress do not have the leverage to influence European national procurements.

Section 2324 of the bill spells out the methods of payment for logistic support, supplies and services the United States will acquire or provide under the act.

The key feature of section 2324 is reciprocity.

Currently, the U.S. military sales are subject to pricing provisions of the Arms Export Control Act which means that we add administrative surcharges, prorated retirement costs, and so forth, into the price.

The result is that we are required to charge our allies substantially more for supplies and services than we charge our own armed services.

This situation invites a similar pricing structure by our allies—a situation which does not serve the best interests of NATO.

Section 2324 directs the Secretary of Defense to negotiate reciprocal pricing agreements in which we would agree to charge each other basically what is charged each nation's own armed services for the same supplies and services—in other words, the lowest possible cost.

However, if a country will not agree to reciprocity, U.S. supplies and services must be priced according to the pricing provisions of the Arms Export Control Act.

But are there sufficient safeguards?

Sections 2327–2331 constitute a series of limitations and safeguards on the authority granted to the Secretary of Defense to insure that the legislation is used only for the purposes intended.

They represent subcommittee initiatives not contemplated in the original Department of Defense request last year and not adequately addressed in legislation proposed by the Department this year.

They are consistent with expressions of concern by Members and outside witnesses representing U.S. industry and labor.

Section 2327 limits the authority to acquire or transfer supplies and services to $100 million in any fiscal year.

The authority for acquisitions—or purchases by the United States—is further subject to a limitation of $25 million with respect to supplies.

Implementation is specifically limited to the availability of funds provided in appropriations acts before it is utilized.

By limiting the potential acquisition of supplies to $25 million in any fiscal year, the Congress is thus, assured that the authority will be used only to enhance readiness.

Section 2328 provides that U.S. stocks cannot be increased for the purpose of meeting European demands on our supply system.

Without such a restriction the potential exists for European countries to allow reductions in their stock levels by relying on the U.S. supply system instead of investing in their own inventory.

Such a practice would obviously have a negative rather than positive effect on overall alliance readiness and would constitute a form of U.S. subsidy to NATO European military forces.

Section 2329 allows the Congress 60 days in which to review DOD's regulations before the authority granted by the Act can be implemented.

This safeguard will insure that the Department does not expand the scope of the legislation by "interpretation".

Section 2330 provides for a detailed annual report to the Congress enumerating each agreement entered into; the dollar value of all reimbursable transactions during the previous fiscal year; a reporting of nonreimbursable transactions; and a description of proposed agreements the Department expects to conclude in the upcoming fiscal year.

Finally, section 2331 defines the term "Logistic support, supplies and services" to mean only a specific group of things.

Elements of the definition such as "food," "billeting," and "base operations support" are further defined in the committee report as part of the legislative history.

To summarize, Mr. Speaker, H.R. 5580 as amended has one underlying purpose—to give field commanders the flexibility required to enhance the readines of NATO forces in Europe.

It is not a backdoor mechanism to promote a "two-way street" in defense trade with Europe.

Nor is it another abstract political symbol that would create illusions of alliance solidarity without substance.

H.R. 5580 as amended addresses specific readiness problems and provides specific legislative solutions.

It contains the minimum waiver authority deemed necessary by our field commanders to get the job done without doing violence to the Military Procurement Act. It also contains important safeguards to assure that the authority cannot be abused as well as a provision requiring DOD to submit implementing regulations to Congress 60 days prior to action. It is limited to the availability of funds and has no budget impact.

DOD and specifically, Gen. Bernard Rogers, Supreme Allied Commander, Europe, support the bill and acknowledge that it will fully meet the need for the present. And I urge the adoption of H.R. 5580 as amended.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, I rise in support of H.R. 5580, the North Atlantic Treaty Organization Act of 1979, a bill authorizing the Secretary of Defense to enter into agreements to further the readiness of NATO's military forces.

The Committee on Foreign Affairs is interested in the legislation because it seeks to strengthen the NATO alliance and its military capabilities and because it would allow the United States to provide logistics supplies and services to our NATO allies without treating each transaction as a foreign military sales case, under provisions of the Arms Export Control Act.

We have assurances against any abuse of this authority. Safeguards include:

A ceiling of $100 million on the total amount of transfers that can be made by the United States to its NATO allies under this act in a fiscal year;

Minimal possibilities of third-country transfers or of improper end use of supplies and services;

No major end items or single transfers of an amount that would trigger the section 36(b) notification procedures are involved.

Mr. Speaker, over the past 3 years, the United States and its NATO allies have been engaged in a series of measures designed to improve NATO's ability to meet threats to Western security. This legislation is but one part of a larger attempt to fulfill our goals of—

Strengthening the NATO alliance;

Improving NATO standardization and cooperation;

Streamlining host-nation logistics support of U.S. forces in Europe; and

Improving working relationships within NATO.

Mr. Speaker, this legislation would reduce U.S. deployed logistical structure by allowing the United States to take maximum advantage of logistics supplies and services available in Europe. By permitting easier reciprocal purchase and exchange of vital and necessary supplies and services, this legislation contributes to overall NATO logistic effectiveness and combat readiness. Many of our allies believe that new procedures will enhance 1980 NATO training exercises and maneuvers.

Mr. Speaker, I urge passage of H.R. 5580 and would like to congratulate the gentleman from Virginia (Mr. DAN DANIEL) for his leadership on this important piece of legislation which will strengthen our national security.

□ 1330

Mr. DAN DANIEL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I simply want to compliment the chairman of the committee and the ranking member of the committee for this legislation. Having had the experience in the last several months of observing some of the NATO forces and the needs in NATO, I am convinced this legislation is essential and it will answer, at least in part, some of the basic problems being faced by our own field commanders in Europe today.

This deals particularly with the training problems they have been confronting, the limitations due to the procedures that have been in effect before this legislation came into being. Therefore, I think it is in the best interests of our NATO forces in the total field in Europe and particularly for the American forces, and I compliment the committee and trust this legislation will be passed.

Mr. DAN DANIEL. Mr. Speaker, it was at the urging of the gentleman from New York (Mr. PEYSER) that we brought this measure to the floor as rapidly as we did. I wish to commend him for his continuing interest in the problems of NATO.

Mr. Speaker, I have no further requests for time.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5580, as amended, a bill which will further NATO military cooperation by satisfying the Defense Department's real host nation support requirements without resorting to the kind of blanket authority the Department originally requested. The goals are reasonable and I think worthwhile. We want to be able to negotiate agreements with NATO host nations for support which we need without treating sovereign nations as though we were contractors or they were contractors subject to American law. I think, unfortunately, Mr. Speaker, we have been somewhat arrogant in the past in our demands. As a matter of fact, in the testimony that came before our committee it was pointed out that the United Kingdom and other nations had refused to sign the certifications that we have been requiring because the sovereigns did not feel they needed to certify that they were not cheating or overcharging the United States, or one thing and another. What we are doing here is in our own interests because what we are providing is a device or mechanism whereby our troops can be fed, housed, or we can buy the materials if they are on maneuvers and so forth without going through a whole raft of redtape. It is in our interest that this be done.

The Supreme Allied Commander of NATO, General Rogers, supports this measure. The Secretary of Defense supports it. The chairman of the Foreign Affairs Committee of the House and the ranking minority member support it. Chairman PRICE and the ranking minority member on the Armed Services Committee, BOB WILSON, support this. Our distinguished colleague from Illinois, Mr.

FINDLEY, supports it, and that is most important to me.

I would just say it is in our interests that this bill pass. I know of no objection to it. I certainly support it.

Mr. Speaker, I rise in support of H.R. 5580, as amended, a bill which will further NATO military cooperation by satisfying the Defense Department's real host nation support requirements without resorting to the kind of blanket authority the Department originally requested.

The goals are reasonable and worthwhile. We want to be able to negotiate agreements with NATO host nations for support—which we need—without treating sovereign nations as though they were contractors subject to American law.

And on a limited basis—particularly during the course of integrated training exercises—we want to be able to support our allies with supplies and services without having to process an FMS case every time we feed a German battalion attached to a U.S. division for a couple of days training.

The bill recognizes that closer cooperation between the United States and its allies requires some exceptions to our customary way of doing business and—on the principle of reciprocity—it would permit cross-servicing arrangements.

However, it contains important safeguards:

First. It very carefully limits the provision of U.S. law which can be waived only to those provisions where a waiver is absolutely essential to accomplishing the purpose of the legislation.

Second. It spells out pricing principles to insure reciprocity and specifies that the United States will use the pricing principles of the Arms Export Control Act in its sales where the receiving country will not agree to reciprocal pricing principles.

Third. It very wisely limits the total liabilities and credits to $100 million in any fiscal year of which not more than $25 million could apply to reimbursable U.S. acquisitions of supplies. This provision will insure that the emphasis remains on the acquisition of host nation support services as opposed to hardware where emotions and dollars run high.

Fourth. Finally the bill contains very detailed reporting requirements so the Congress will have an annual opportunity to review the ways in which DOD is using its authority and to exercise appropriate oversight.

In summary, Mr. Speaker, I think this bill represents a balanced effort to address the needs of the services, the sensitivities of our NATO allies and the concerns of the Congress and the American taxpayers. I support the bill and I urge my colleagues on both sides of the aisle to do so as well.

Mr. Speaker, at this time I yield such time as he may consume to that outstanding orator from Middle America, the State of Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, the NATO Mutual Support Act is designed to facilitate NATO readiness. It waives complex U.S. contracting procedures for Alliance logistical arrangements. On a reciprocal basis, the U.S. military and the armed forces of our NATO partners will be able to obtain logistical supplies and services—such as food, fuel, and ammunition—without having to go through complicated procedures before each individual transaction. The complexity of such arrangements has prohibited, for example, American GI's from eating in a British mess hall in West Germany.

A facilitated reciprocal procurement process is extremely important to the success of upcoming Allied maneuvers in Europe. There will be more than 10 of these maneuvers in 1980. It is thus critical to approve this legislation prior to the end of the year in order not unnecessarily to hamstring NATO in the future as we have often done in the past.

The sense of security and confidence which NATO has provided the West for 30 years is now eroding because of the Soviet military build-up and the lack of better arrangements for military readiness between the United States and its European allies.

Although the NATO Mutual Support Act will provide new and better ways for the Alliance partners to maintain its collective security, we need to go beyond this bill to remedy NATO's most serious problems.

Indeed, there is an urgent need to seek new and creative ways to foster enhanced cohesion and unity among the partners of the North Atlantic Alliance. We need to undertake a thoughtful analysis of the institutions of NATO in order to stimulate their reinvigoration and revision. NATO is too essential to Western security to permit it to stagnate and to deteriorate, a phenomenon common to old institutions.

For example, it is surely time for NATO to look beyond its borders, recognizing that events far removed from the territory of member states bear directly on NATO security.

It is time to examine ways in which NATO nations can coordinate policy formulation and execution. Sea lane security is a pressing need, just to mention one area of need.

I would like to see the President of the United States, in a cooperative effort with the other NATO heads of state, appoint a Committee of Wise Men to deliberate ideas and propose new remedies and directions for NATO in order to improve its effectiveness. The end objective of all such proposals should be the reinforcement of the political and military unity of the North Atlantic Treaty Organization. The unity of the Atlantic Alliance, based on a strong defense deterrent and political solidity, will remain the key to our collective Western defense.

Mr. DICKINSON. Mr. Speaker, in conclusion, I would just like to draw the attention of the Members to the fact that NATO has an increasing significance and importance to all of us. While we have the RSI, so-called, rationalization, standardization and integration of weapons, and everything needed between the allies, I think this particular piece of legislation is very much needed because, as I have said, we seem to have taken on, I think, unintentionally, an arrogance to require a sovereign nation to certify certain things, as we have in the past, which, as I have stated, sometimes they have refused to do. I think it is in our best interests that this bill pass.

I have no further requests for time and I yield back the balance of my time.

● Mr. ZABLOCKI. Mr. Speaker, I rise in support of H.R. 5580, the NATO Mutual Support Act of 1979.

This legislation compliments and is consistent with previous efforts by the Committee on Foreign Affairs to enhance NATO standardization and readiness. Its principal purpose is to authorize the Secretary of Defense, after consultation with the Secretary of State, to enter into agreements with NATO countries and subsidiary bodies for acquisition and transfer of logistics support between the United States and NATO military forces. In entering into these agreements, the Secretary of Defense would be able to waive certain provisions of the Arms Export Control Act and other U.S. laws relating to acquisition and transfer of goods and services by the Department of Defense.

Mr. Speaker, the Committee on Foreign Affairs, in its consideration of H.R. 5580, determined that the exception to normal arms export procedures provided in this bill for our NATO allies will not adversely affect the policy objectives of the Arms Export Control Act. The authority in H.R. 5580 is also consistent with the worldwide arms transfer and security assistance policies of the United States, the responsibility for which is vested by law in the Secretary of State.

H.R. 5580 contains a number of safeguards designed to prevent abuse of the authority contained in the bill by the Secretary of Defense. An annual report to Congress on all transactions carried out with the NATO countries is mandated. Regulations issued by the Secretary of Defense to implement the authority of H.R. 5580 must be submitted to Congress before they become effective; $100 million ceilings are placed on both the acquisition and transfers of logistics support by the United States in any fiscal year. Finally, according to the Department of Defense, no transfers of a dollar value exceeding or equal to those which would trigger congressional notification and possible disapproval under section 36(b) of the Arms Export Control Act are involved in this legislation.

In light of these safeguards and understandings in H.R. 5580, and the importance of the bill for NATO readiness efforts, I urge its adoption and wish to commend the gentleman from Virginia (Mr. DAN DANIEL) for presenting a bill before the House that can be fully supported by both the Committee on Foreign Affairs and the Committee on Armed Services.●

● Mr. BROOMFIELD. Mr. Speaker, recently I had the privilege of attending the Brussels Conference on the Future of NATO as part of a study mission to Europe led by my good friend and colleague, CLEM ZABLOCKI, chairman of the House Foreign Affairs Committee. In Brussels, Dr. Kissinger and other political-military experts keynoted the conference with statements examining the North Atlantic Alliance's future concerns. The Brussels Conference, as well as recent committee hearings on Western security, have left me with the distinct impression that the sense of security and confidence which NATO has always provided is now eroding because of the serious Soviet military buildup as well as a lack of better arrangements for military readiness between the United States and its European allies.

The legislation we have before us today is specifically designed to facilitate NATO readiness by enabling the United States to acquire such logistic support as food, lubricants and medical services from our European friends without entering into complex contracting procedures. The bill also allows our NATO allies to acquire similar logistical supplies and services without procedural complexities. In short, I believe that the NATO Mutual Support Act will provide new and better ways for the United States to join its good friends and allies in maintaining our collective security, and I urge my colleagues to support the bill.●

GENERAL LEAVE

Mr. DAN DANIEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. DAN DANIEL) that the House suspend the rules and pass the bill, H.R. 5580, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.".

A motion to reconsider was laid on the table.

ESTABLISHMENT OF WIND ENERGY SYSTEM RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5892) to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, as amended.

The Clerk read as follows:

H.R. 5892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wind Energy Systems Research, Development, and Demonstration Act of 1979".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds—

(1) that the United States is faced with a finite and diminishing resource base of native fossil fuels and, as a consequence, must develop as quickly as possible a diversified, pluralistic national energy capability and posture;

(2) that the current imbalance between supply and demand for fuels and energy in the United States is likely to grow for many years;

(3) that the early demonstration of the feasibility of using wind energy for the generation of electricity and for mechanical energy could lead to relief in the demand for existing fuel and energy supplies;

(4) that the use of wind energy for certain limited applications has already proven feasible;

(5) that an aggressive research and development program should solve existing technical problems of converting wind energy into electricity and mechanical energy and, supported by an assured and growing market for wind energy during the next decade, should maximize the future contribution of wind energy to the Nation's future energy production;

(6) that it is the proper and appropriate role of the Federal Government to undertake research, development, and demonstration programs in wind energy technologies and to assist private industry, other entities, and the general public in hastening the general use of such technologies;

(7) that the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity would have a beneficial effect upon the environment;

(8) that the evaluation of the performance and reliability of wind energy technologies can be expedited by the testing of prototypes under carefully controlled conditions;

(9) that innovation and creativity in the development of components and systems for converting wind energy into electricity and mechanical energy can be fostered through encouraging direct contact between the manufacturers of such systems and utilities and other persons interested in utilizing such systems; and

(10) that, consistent with the findings of the Domestic Policy Review on Solar Energy, wind energy can potentially contribute 1.7 quads of energy per day by the year 2000.

(b) It is declared to be the policy of the United States and the purpose of this Act to establish during the next eight years an aggressive research, development, and demonstration program for converting wind energy into electricity. It is declared to be the further policy of the United States and the purpose of this Act that the objectives of such program are—

(1) to reduce the average cost of electricity produced by installed wind energy systems, by the end of fiscal year 1988, to a level competitive with conventional energy sources; and

(2) to reach a total megawatt capacity in the United States from wind energy systems, by the end of fiscal year 1988, of at least eight hundred megawatts, of which at least one hundred megawatts are provided by small wind energy systems.

Nothing in this Act shall be construed as preventing the Secretary from undertaking projects or activities in addition to those specified in this Act if such projects or activities appropriately further the purposes set forth in this subsection.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "wind energy system" means a system of components which converts the kinetic energy of the wind into electricity or mechanical power, and which includes all components necessary (including energy storage, power conditioning, and control systems where appropriate) to provide electricity or mechanical power for individual, residential, agricultural, commercial, industrial, utility, and governmental use;

(2) the term "small wind energy system" means a wind energy system having a capacity of less than one hundred kilowatts;

(3) the term "large wind energy system" means a wind energy system having a capacity of one hundred kilowatts or more;

(4) the term "facility" means any building, residential, commercial, agricultural, or industrial complex, utility network, or device which employs wind energy systems, and the land necessary for such building, complex, network, or device;

(5) the term "public and private entity" includes any individual, corporation, partnership, firm, association, agricultural cooperative, public- or investor-owned utility, public or private institution or group, State or local government agency, or other entity;

(6) the term "known wind resource" means a site with an average annual wind velocity of at least twelve miles per hour; and

(7) the term "Secretary" means the Secretary of Energy.

ESTABLISHMENT OF RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM FOR SMALL WIND ENERGY SYSTEMS

SEC. 4. (a) The Secretary shall establish a six-year small wind energy system research, development, and demonstration program to carry out the purposes of this Act. As part of such program, the Secretary shall—

(1) promote the coordination and acceleration of reseach, development, and applications testing of small wind energy systems and components thereof; and

(2) promote the initiation and coordination of demonstrations of small wind energy systems and components which could be used in applications dependent on the wind for their energy.

(b) In carrying out the provisions of subsection (a)(1), the Secretary is authorized to enter into agreements with public and private entities, based on the need to obtain scientific, technological, and economic information from a variety of small wind energy systems under a variety of circumstances and conditions, for the design, fabrication, purchase, installation, and testing of prototype small wind energy systems.

(c)(1) In carrying out the provisions of subsection (a)(2), the Secretary is authorized to establish procedures to allow any public or private entity wishing to install a small wind energy system to apply for and (upon meeting such terms and conditions as the Secretary may prescribe) to receive assistance in purchasing such wind energy system. Assistance under the preceding sentence with respect to a small wind energy system shall be provided in the form of payment (by the Secretary) of a portion of the purchase cost of such system, in an amount (subject to paragraph (5)) not exceeding (A) 50 per centum of the capital cost of the system in the case of a small wind energy system purchased during any of the first four years of the program under this section, (B) 35 per centum of such cost in the case of a system purchased during the fifth year of the program, and (C) 25 per centum of such cost in the case of a system purchased during the sixth year of the program.

(2) Title to and ownership of the demonstration systems purchased with assistance under paragraph (1) may be conveyed to the purchasers of such systems upon terms and conditions prescribed by the Secretary.

(3) The terms and conditions prescribed by the Secretary under paragraph (1) for the provision of assistance in purchasing a small wind energy system, or under paragraph (2) for the conveyance of such a system to the purchaser, shall require an express agreement that the entity receiving the assistance or conveyance will (in such manner and form and on such terms and conditions as the Secretary may prescribe)

observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of the system for a period of five years and that such entity (including any subsequent owner of the system or the facility containing the system) will regularly furnish the Secretary with such reports thereon as the agreement may require and will at reasonable times permit members of the public to view and inspect the system.

(4) Notwithstanding the specific provisions of paragraph (1), Federal subsidization of purchases of small wind energy systems by public or private entities under this subsection shall terminate when the Secretary determines, in the annual update of the comprehensive program management plan pursuant to section 7, that small wind energy systems have become competitive with conventional energy sources, or on September 30, 1986, whichever occurs first.

(5) The amount of the assistance to which any entity is otherwise entitled under paragraph (1) with respect to the purchase of a wind energy system shall be reduced by the amount of any credit which such entity claims and is allowed under subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (for the taxable year or other period involved) for renewable energy source expenditures made in purchasing such system; and the terms and conditions prescribed by the Secretary under paragraph (1) for the provision of such assistance shall require the entity's express agreement to the establishment and implementation of specific procedures for the recovery from such entity (or from a subsequent owner of the system), in the event that such a credit is claimed and allowed, of the appropriate portion of any assistance theretofore so provided.

(d) In carrying out his duties under subsection (a)(2), the Secretary (1) shall set aside approximately 10 per centum of the funds appropriated to carry out that subsection and use the funds so set aside for the accelerated procurement and installation of small wind energy systems by Federal agencies, and (2) shall enter into arrangements with appropriate Federal agencies to carry out such projects and activities (including demonstration projects) as may be appropriate for the demonstration of small wind energy systems which are suitable and effective for use by such Federal agencies.

(e) Within ninety days after the termination of the six-year program established under this section, the Secretary shall by rule promulgate voluntary performance standards for small wind energy systems. The standards so prescribed shall take into account (but need not be limited to) the reliability and safety of such systems and the cost of electrical or mechanical power. In developing such standards the Secretary shall consult with appropriate experts concerning performance needs for small wind energy systems; and such performance standards shall be revised periodically, by rule, as the state-of-the-art improves.

ESTABLISHMENT OF RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM FOR LARGE WIND ENERGY SYSTEMS

SEC. 5. (a) The Secretary shall establish an eight-year large wind energy system research, development, and demonstration program to carry out the purposes of this Act. As part of such program, the Secretary shall—

(1) promote the coordination and acceleration of research, development, and applications testing of large wind energy systems and components thereof; and

(2) promote the initiation and coordination of demonstrations of large wind energy systems and components which could be used in applications dependent on the wind for their energy.

(b) In carrying out the provisions of subsection (a)(1), the Secretary is authorized to enter into agreements with public and private entities, based on the need to obtain scientific, technological, and economic information from a variety of large wind energy systems operating in a variety of utility and other applications, for the design, fabrication, purchase, installation, and testing of prototype large wind energy systems.

(c)(1) In carrying out the provisions of subsection (a)(2), the Secretary is authorized to establish procedures to allow any public or private entity (including a public or investor-owned utility) wishing to install a large wind energy system to apply for and (upon meeting such terms and conditions as the Secretary may prescribe) to receive assistance, on or after October 1, 1982, in purchasing such wind energy system. Assistance under the preceding sentence with respect to a large wind energy system shall be provided in the form of payment (by the Secretary) of a portion of the purchase cost of such system, in an amount (subject to paragraph (5)) not exceeding (A) 50 per centum of the capital cost of the system in the case of a large wind energy system purchased during the first six years of the program under this section, and (B) 25 per centum of such cost in the case of a system purchased during the seventh or eighth year of the program.

(2) Title to and ownership of the demonstration systems purchased with assistance under paragraph (1) may be conveyed to the purchasers of such systems upon terms and conditions prescribed by the Secretary.

(3) The terms and conditions prescribed by the Secretary under paragraph (1) for the provision of assistance in purchasing a large wind energy system, or under paragraph (2) for the conveyance of such a system to the purchaser, shall require an express agreement that the entity receiving the assistance or conveyance will (in such manner and form and on such terms and conditions as the Secretary may prescribe) observe and monitor (or permit the Secretary or his agents to observe and monitor) the performance and operation of the system, and permit public access to the system, for a period of five years, and that such entity (including any subsequent owner of the system or the facility containing the system) will regularly furnish the Secretary with such reports thereon as the agreement may require.

(4) Notwithstanding the specific provisions of paragraph (1), Federal subsidization of purchases of large wind energy systems by public or private entities under this subsection shall terminate when the Secretary determines, in the annual update of the comprehensive program management plan pursuant to section 7, that large wind energy systems have become competitive with conventional energy sources, or on September 30, 1988, whichever occurs first.

(d) In carrying out his duties under subsection (a)(2), the Secretary (1) shall set aside approximately 10 per centum of the funds appropriated to carry out that subsection and use the funds so set aside for the accelerated procurement and installation of large wind energy systems by Federal agencies, and (2) shall inter into arrangements with appropriate Federal agencies (including the Bureau of Reclamation and the Federal power marketing agencies) to carry out such projects and activities (including demonstration projects) as may be appropriate for the demonstration of large wind energy systems which are suitable and effective for use by such Federal agencies.

WIND RESOURCE ASSESSMENT

SEC. 6. The Secretary is authorized and directed to initiate a three-year national wind resource assessment program. As part of such program, the Secretary shall—

(1) conduct activities to validate existing assessments of known wind resources;

(2) perform wind resource assessments in regions of the United States where the use of wind energy may prove feasible;

(3) initiate a general site prospecting program;

(4) establish standard wind data collection and siting techniques; and

(5) establish, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Environmental Protection Agency, a national wind data center which shall make public information available on the known wind energy resources of various regions throughout the United States.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 7. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct under this Act of research, development, and demonstration activities consistent with the provisions of sections 4, 5, and 6. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Interior, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include (but need not be limited to) a statement setting forth (with respect to each of the programs under this Act) any changes in—

(1) the anticipated research, development, and demonstration objectives to be achieved by the program;

(2) the program elements, management structure, and activities, including any regional aspects and field responsibilities thereof;

(3) the program strategies and commercialization plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(4) the economic, environmental, and societal significance which the program may have;

(5) the total estimated cost of individual program items; and

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, and any legislative or other recommendations which the Secretary may have to help attain such goals.

CRITERIA FOR PROGRAM SELECTION

SEC. 8. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purpose of this Act and which are in accordance with the following criteria:

(1) The operations and maintenance costs of wind energy systems shall be minimized.

(2) Programs conducted under this Act shall be established with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems.

(3) Preference shall be given in the conduct of activities under this Act to those projects in which funds are provided by private, industrial, agricultural, commercial, or governmental entities or utilities for the purpose of sharing with the Federal Government the costs of purchasing and installing wind energy systems.

MONITORING, INFORMATION GATHERING, AND LIAISON

SEC. 9. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems assisted or installed under this Act;

(2) collect, evaluate, and disseminate data and information on the performance and operation of wind energy systems assisted or installed under this Act; and

(3) from time to time carry out such studies and investigations and take such other actions (including the submission of special reports to the Congress when requested) as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the purposes of this Act.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the projected benefits of programs under this Act are and will continue to be realized.

UTILIZATION OF CAPABILITIES AND FACILITIES

SEC. 10. The Secretary shall utilize the technological and management capabilities, equipment, and facilities of the National Aeronautics and Space Administration to the maximum extent practicable in carrying out his duties under this Act, and shall enter into such additional agreements with the Administrator of such Administration as may be necessary for this purpose.

STUDIES AND DISSEMINATION OF INFORMATION

SEC. 11 (a) The Secretary shall assure that full and complete information with respect to any project or other activity conducted under this Act is made available to Federal, State, and local authorities, relevant segments of private industry, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

(b) The Secretary shall—

(1) study the effects, at varying levels of market penetration, of the widespread utilization of wind energy systems on the existing electrical utility system;

(2) determine the necessity for, and make recommendations to the Congress within eighteen months after the enactment of this Act on, a program of incentives to users, in each of the potential markets for wind energy systems, to accelerate the commercial application of wind energy technologies;

(3) investigate the need for financial assistance to the wind energy systems manufacturing industry, and make recommendations to the Congress thereon no later than twelve months after the enactment of this Act;

(4) evaluate the actual performance of wind energy systems in various applications, including but not limited to residential, agricultural, large and small scale irrigation pumping, industrial, commercial, remote nonnetwork utility, and other applications, and report thereon to the Congress within two years after the enactment of this Act; and

(5) study the export potential of wind energy systems and report thereon to the Congress within two years after the enactment of this Act.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

SEC. 12. (a) In carrying out his functions under this Act, the Secretary shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this Act to the maximum extent practicable.

(b) The Secretary shall, to the maximum extent practicable, use all authority provided by law to protect trade secrets and other proprietary information submitted by small business under this Act and to avoid the unnecessary disclosure of such information.

(c) The Secretary shall take such steps as may be necessary to assure compliance with the antitrust laws in the conduct of activities directly or indirectly assisted under this Act, and shall implement this Act in a manner which will protect against the creation of noncompetitive market situations in the conduct of such activities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There is authorized to be appropriated to the Secretary to carry out this Act (1) for the fiscal year ending September 30, 1981, the sum of $100,000,000 (of which $10,000,000 shall be available exclusively for purposes of section 6), and (2) for each fiscal year beginning after that date, such sum as may be authorized by legislation hereafter enacted.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. Fuqua) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. Kramer) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Fuqua).

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New York (Mr. Ottinger) the ranking minority member, Mr. Fish, and the subcommittee for the fine work they did in bringing this bill before us. Further, I would like to commend the original authors of this legislation, my distinguished colleagues, Norm Mineta, of California, Jim Blanchard, of Michigan, and Jim Jeffords, of Vermont for bringing this much needed legislation to the attention of the Committee on Science and Technology and for the cooperation they extended our committee during its consideration of this bill.

Mr. Speaker, I rise in support of H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979. This bill provides for a focused, goal oriented research, development, and demonstration program over the next 8 years relating to wind energy systems. These systems offer great promise for providing significant portions of our future energy needs from an inexhaustible source; the winds. By the end of fiscal year 1988 the programs H.R. 5892 establishes will bring the cost of wind energy systems down to a point where they are competitive with conventional sources of electric generation.

The Committee on Science and Technology has carefully drafted this legislation to contain the necessary elements for successful implementation of this program. This committee has received a great deal of testimony from the DOE, NASA, the Bureau of Reclamation, the program laboratories, the wind system manufacturing industry, utilities, and State governments on the need of a strong Federal commitment to the development of wind energy systems market. After much effort and deliberation, we have structured a piece of legislation that will specify an accelerated program for wind energy systems, leading to their widespread use in supplementing and replacing conventional methods of generating electricity, especially those methods based on imported oil. I believe that this legislation is responsive to these needs.

Mr. Speaker, I consider H.R. 5892 to be a responsible piece of legislation which deserves our support. We must continue to develop solar energy applications that show great promise for the future as well as serve our needs today. With this legislation, we will be able to develop wind energy systems in a rational and comprehensive manner. This will insure that the taxpayers' dollars are used in as efficient and effective manner as possible. I urge passage of this bill.

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Mr. Speaker, I now yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from New York (Mr. Ottinger).

Mr. OTTINGER. Mr. Speaker, I want to thank the chairman of the subcommittee, the gentleman from Florida (Mr. Fuqua) for his cooperation on this bill, and also the ranking minority member, the gentleman from New York (Mr. Fish), who had participated very actively in our extensive deliberations on it, and made a very real contribution to it.

Mr. Speaker, H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979 was reported unanimously from the Subcommittee on Energy Development and Applications and then from the full Committee on Science and Technology. It has over 100 sponsors in the House. The bill authorizes $100 million for fiscal year 1981 for accelerated research, development, applications testing, resources assessment, and demonstrated programs on wind energy utilization.

The bill we are considering provides the Congress an opportunity to take positive action in the development of a renewable alternative energy source which can begin contributing to this Nation's growing domestic energy requirements in the near term. It provides a commitment to an 8-year program, for large wind resources and 6 years for small wind resources that will bring wind energy systems and the wind systems industry, to maturity at the earliest possible date.

The high potential of wind energy has now become widely recognized. The President's Domestic Policy Review on Solar Energy identified wind energy as having the largest potential of any of the solar electric technologies to provide significant amounts of electricity by the end of the century. The DPR estimated that wind energy can contribute 1.7 quads of power by the year 2000. The recently released Mitre Corp. "Analysis of National Energy Plans" estimated an even higher potential when it identified wind as potentially contributing 2.5 quads in the year 2000. If these contributions can be reached then it would mean that in 2000, wind energy would be producing more electricity than the Nation received from all sources in 1950.

H.R. 5892 is a rewritten and reintroduced version of H.R. 3558, which was authored by Congressmen Norm Mineta, of California, Jim Jeffords, of Vermont, and our colleague and ranking minority member of this subcommittee, Jim Blanchard, of Michigan. I would like to join the chairman in commending them for their initiative in formulating this legislation and for the cooperation they have extended to my subcommittee during hearings and during the drafting of H.R. 5892.

My subcommittee held exhaustive hearings on the DOE wind program and on the legislation. These hearings began in July with a day-long oversight hearing on DOE's program. This was followed by 4 days of hearings on H.R. 3558 during September and October. During these hearings the subcommittee received testimony from DOE, NASA, the Bureau of Reclamation, the laboratories involved in the program, the wind system manufacturers, the utilities, and from the Energy Commissions of various States.

With the information and recommendations that were received, we felt that the original legislation should be redrafted, and we sent the administration back to the drawing boards to give us much more detailed justification for the legislation that was being presented. After these efforts, I think we have a very good product, a well-thought-out product, one that will produce the kind of energy contribution that I described as its studied potential.

In this effort we received the assistance of the administration and the program laboratories to come up with a carefully thought-out legislative initative which will accomplish the objectives to develop cost-effective wind systems in the different wind machine sizes and to provide Government-assisted market penetration of these cost-effective machines through cost-shared demonstrations. I would briefly like to outline the five key provisions to the substitute.

1. THE SMALL WIND PROGRAM

The small wind program as contained in H.R. 5892 is a 6-year, research, development and demonstration effort with the goals of producing small wind systems that are competitive with conventional sources of energy and of installing 100 megawatts of small machines by the end of fiscal year 1988. There are two key elements of this small wind effort. First, research, development and applications testing of limited numbers of prototype small machines; and second, cost-shared demonstrations of small machines.

Additional R. & D. and applications testing is needed to improve the reliability, to reduce the cost of small machines, and to identify and understand where the true applications for small machines are, and how they actually function in the different applications. The testimony from the hearings and the information DOE provided the subcommittee indicates that the cost reductions resulting from this work, as well as the better understanding of which markets and application are best suited to small machines would greatly assist the demonstration effort of commercialization of small machines.

The demonstrations of small machines would be done on a cost-shared basis with the DOE providing a maximum of 50 percent of the capital cost of a system purchased during the first 4 years of the program. The DOE share would be reduced to a maximum of 35 percent in year 5, and to a maximum of 25 percent in year 6. Ten percent of the funding for small machine demonstrations would be made available to other Federal agencies for their purchase of small wind systems.

At the completion of the 6-year small machine program voluntary performance standards will be instituted to protect the consumers.

The Secretary is provided an opportunity to terminate the program prior to September 30, 1986, if he determines that small wind systems have been made competitive with conventional energy sources at some earlier date. This takes into account the administration's concern for flexibility if the job can be done sooner.

2. THE LARGE WIND PROGRAM

The large wind program is an 8-year research, development and demonstration effort with the goals of producing large wind systems that are competitive with conventional sources of electric generation and of installing 700 megawatts of large machines by the end of fiscal year 1988.

There are two key elements in the large machine program: First, research, development and applications testing of additional prototypes; and second, cost shared demonstrations of the large machines.

Research, development and applications testing would be emphasized in the initial years of the program and the demonstrations would not begin until fiscal year 1983. This will allow for the development of the next generation of large machines (the MOD-5, MOD-6, and the Bureau of Reclamation's System Verification Unit). The administration very strongly recommended this early commitment to R. & D. while delaying the demonstrations a few years. This is a valid recommendation since the MOD-5 machine is estimated to be 30 to 50 percent cheaper than the MOD-2 in production. The MOD-2 is presently the most advanced megawatt scale machine in DOE's program.

The demonstration would begin in fiscal year 1983 with cost sharing on the basis of a maximum of 50 percent DOE share. In years 7 and 8, this would be reduced to a maximum of 25 percent. This reduction in the final 2 years is warranted since full commercial scale production facilities for the MOD-5 and 6 would come on line in fiscal year 1987.

A 10-percent funding set aside for other Federal agencies is called for, as well as flexibility for early termination of the program if the Secretary determines that the program is successful prior to the end of fiscal year 1988.

3. WIND RESOURCE ASSESSMENT

Several of our witnesses as well as DOE emphasized that gaining a better understanding of the wind resource and its site specific nature should be a key element of any wind program effort. The National Wind Resource Map that Battelle Pacific Northwest Laboratory is developing for DOE is not sufficient to deal with the potential wind systems purchaser's uncertainty that the map is valid for his specific site. Therefore, the substitute contains a 3-year national wind resource assessment program which will do three things: First, validate the existing wind resource information; second, provide instrumented towers on loan to individuals for 1 year to test their specific wind site; and third, establish a wind data center (in NOAA) to collect the wind resource data and put it into a form that is useful to the public and disseminate that information. A first year authorization of $10 million is called for to begin this effort in the authorization section.

4. COMPREHENSIVE PROGRAM MANAGEMENT PLAN

The revision contains the requirement that DOE prepare and present to Congress within 9 months, a detailed program management plan covering all aspects of the program, and what it is going to take to implement the program. It will address cost reduction goals, program cost by program element, program management structure, and staffing requirements in headquarters and in the field.

The Secretary is further required as part of the annual budget submission to Congress, to update the plan and provide detailed justification for any changes which take place in the previous year's plan. This will allow DOE some flexibility, but holds them accountable for utilizing that flexibility.

5. THE STUDIES AND DISSEMINATION OF INFORMATION

The last major section of the bill is the study section. In this section DOE is to address what additional market incentives may be required as well as financial assistance to the industry. DOE is also to investigate the effect of different levels of wind system market penetration on the utilities and to study the export potential for wind systems.

The Wind Energy Systems Research, Development and Demonstration Act has received support from the administration, industry, the utilities, and from various citizen's groups. It was reported from the committee unanimously.

Mr. Speaker, I request support for this legislation.

Mr. **KRAMER**. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979, and I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979. This bill provides for an aggressive program over the next 8 years to develop wind energy systems. H.R. 5892 molds our efforts to make wind energy systems competitive with conventional energy systems. It calls for a coordinated Federal program to meet this goal to be carried out by the Department of Energy with the support of NASA and other Federal agencies.

We have only recently awakened to our pressing energy needs. Recent energy shortages and the dramatic increases in the price of crude oil have made us painfully aware of our energy problems. Our Nation's inability to face our energy situation head on and to take drastic action may soon come to haunt us. We must press forward now with a vigorous research and development program if we are to reduce our reliance on uncertain foreign oil supplies.

H.R. 5892 takes one important step in this direction. It will allow us to begin a serious effort to harness the great potential of wind energy. This legislation establishes a well-balanced program that will permit us to develop both large and small wind energy systems in a reliable and cost-effective manner. The bill permits other Federal agencies, such as the Department of the Interior and NASA, to play an active role in the development of these wind systems. It will allow us to carefully consider the extent of our wind energy resources, and to develop wind systems that can best take advantage of this resource. Under this legislation, it is estimated that wind energy will be able to replace close to 5,850,000 barrels of imported oil per year by the end of fiscal year 1988.

I would like to commend the authors of this bill, the gentleman from California (Mr. Mineta), the gentleman from Michigan (Mr. Blanchard), and the gentleman from Vermont (Mr. Jeffords) for their extremely fine work.

Through their efforts, I believe that we have structured a comprehensive and well-thought-out piece of legislation that will allow us to effectively harness the potential of wind. I would also like to commend our distinguished subcommittee chairman—the gentleman from New York—for his fine leadership in bringing this legislation to the floor. He has spent long hours in structuring a national wind program that will insure the success of our efforts. This legislation has also been developed to insure that we spend our taxpayers' moneys in the wisest and most prudent manner possible.

Wind energy offers us renewable energy resource that can be developed in a manner consistent with our environmental goals. The committee received testimony that utilities and communities are ready and willing to make commercial wind energy a reality now. Wind energy systems can be used for a wide range of applications, such as for residential, industrial, and agricultural use and for central power generation. These systems can also be of great potential for use in other nations where the energy demands of remote villages cannot presently be met.

Our Nation must now recognize that we must look to other sources if we are to satisfy our energy needs in the future. A strong commitment to develop renewable resources such as the Sun must be reaffirmed to assure that progress continues in developing competitive solar applications. H.R. 5892 embodies this commitment. It establishes a comprehensive program that will help us meet the President's goal of deriving 20 percent of our energy needs by the year 2000 from the Sun. It provides a clear signal that wind energy is a major component of our national energy strategy, and that the Federal Government will develop a coherent program to support it.

Mr. Speaker, our Nation anxiously awaits to see if we can meet the challenge offered in harnessing the energy of the Sun. H.R. 5892 represents part of our answer to this challenge. It is an important step in helping us on our way to utilizing the great potential offered by the Sun. I urge my colleagues to support this legislation.

Mr. Speaker, I also want to state that my colleague from New York (Mr. Fish), who cannot be with us today, also supports these views and joins in this statement.

Mr. Speaker, I yield 2 minutes to the gentleman from Vermont (Mr. Jeffords).

Mr. **JEFFORDS**. Mr. Speaker, I join with my coauthors Mr. Mineta, Blanchard, and subcommittee chairman Ottinger in support of H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979. This refined version of the original bill I cointroduced with Mr. Mineta and Mr. Blanchard earlier this year, will provide the impetus for development of this most promising renewable source for electric power.

I am proud to have played a role in the formation of the measure before the House today.

Also I want to extend my sincere thanks to a fellow Vermonter, Mr. Peter McTague, president of the Green Mountain Power Corp. He argued strongly at the subcommittee hearing on this measure in September, for joint development of energy storage systems with proper funding, flexibility and incentive to put small wind energy systems in place quickly and economically for both consumers and electric utilities. I am pleased to see that the refined bill before the House today gives much attention to the advancement of small wind energy applications. I am pleased that the goal level of having small machines achieve 100 megawatts of power over a 6-year period has been accepted and incorporated into the final version of this bill.

Green Mountain Power of Vermont has set a standard for many other utilities to follow in the area of wind energy. The corporation has already been promoting the use of heat storage systems as energy-conservation and load-leveling measures to people in the State. As Mr. McTague pointed out when testifying on the bill, the development of any number of storage systems—battery storage, heat storage and cool storage—jointly with small wind systems, is a goal industry and utilities alike should pursue. It is his hope along with mine, that the bill before us today will help stimulate such development.

It is my absolute belief that wind energy should be an important component of this Nation's energy policy. Social, environmental, economic and political pressures are leading policymakers to reexamine domestic energy supply strategies. As a result, renewable energies, representing secure sources of supply, are attracting more and more attention. Wind energy, Mr. Speaker, as a solar-derived, renewable, and nonpolluting energy form, represents a source of energy with infinite supply security.

Wind energy, cost-effective in some applications today, with projected cost reductions for the future, will become competitive with other forms of energy in the generation of electricity. At the point when wind energy is economically viable, the nation will be able to look to this energy form for a potential supply of up to 13 quads of energy, which represents 7 percent of projected U.S. energy demand in the year 2000.

The full committee bill before us today sets forth an aggressive research, development, and demonstration program with a goal of 800 megawatts of electric power capacity by the end of fiscal year 1988. This is about the equivalent of 6 million barrels of oil a year. The bill also provides for an 8-year program of promoting large wind systems—those over 100 kilowatts in size—with a goal of reaching 700 megawatts of power, and a 6-year program of promoting small wind machines with a goal of 100 megawatts. Both of these programs would consist of R. & D. and testing of prototype machines during the early years and cost-shared demonstrations in the later years, with the Federal share diminishing as wind energy becomes more fully cost-competitive.

Also contained within the measure is provision for a national wind resource assessment program which would collect wind data nationwide and make it available to prospective buyers of wind machines. Additionally, H.R. 5892 requires the Department of Energy to prepare and present to Congress, within 9 months, a detailed program management plan which will outline staffing and funding requirements to meet the program goals. Finally, another major provision of this legislation is for a detailed study of market incentives to determine how wind energy can most effectively be commercialized.

My home State of Vermont has been and continues to be a leader in the field of wind energy, and for that reason, I would like to draw upon the experiences in Vermont to dramatize the need for further development of this alternative energy source.

Before relating to my colleagues the very encouraging progress it is making in its serious approach to the development of wind energy, I think it is appropriate to note, Mr. Speaker, that the President has called for a national commitment of advancing this alternative energy source. In his June 20 message to the Congress, the President outlined a national strategy for accelerating the use of solar and other renewable resources setting a national goal of deriving 20 percent of the Nation's energy needs from the Sun by the year 2000. To this end, the President has called for a program which seeks to develop, through R. & D. support to industry, a series of wind systems of improved capability with total costs that, assuming the machines were produced and deployed on a large scale, will be competitive with other energy sources. It is encouraging to me to see that the administration is putting its weight behind the advancement of this energy source, though I feel the financial commitment in the bill before the committee is a much more realistic approach if we are serious in getting this energy form on-line soon.

The significance of wind energy in this age of dwindling traditional energy sources has been documented in two recent studies by the General Electric and Lockheed Cos. Both studies have predicted that—

First, with 300,000 large wind energy conversion systems—WECS—produced by the year 2000, wind could produce over 13 percent of the electricity demand in that year. General Electric estimates market saturation for small-scale WECS at 9.3 million units in the residential sector alone.

Second, if rapid implementation—160,400 15-kilowatt units installed by the year 2000—of wind energy were achieved, 852 million equivalent barrels of oil could be saved annually by A.D. 2000. This translates, for the purpose of the legislation before the committee, to 300,000 barrels of oil saved per day in 1985.

Third, if oil, coal, and gas prices do not escalate above inflation trends—again, it is very possible that they will—as much as 4.8 percent of the 1995 national electrical demand could be furnished by wind turbines at a price less than the equivalent fossil fuel cost.

Fourth, in the electrical utility sector, WECS have the potential of cumulative savings of 288 million barrels of oil if their implementation was "slow." If implementation was "rapid," it would result in a savings of 4,000 million barrels of oil equivalent in nuclear, coal, and natural gas fuels and 260 million barrels of oil in the electric utility sector.

Mr. Speaker, it is obvious from the findings of these studies that wind energy, if successfully commercialized, can make a significant impact on the national energy picture.

With this information as a backdrop to the national impact wind energy could have if pursued aggressively, I wish to relate to the committee, Mr. Speaker, the story of Vermont's experience with this energy form, which serves as an excellent example of the adaptability of this energy source to current consumption patterns. The present-day interest in wind as a source of usable energy, Mr. Speaker, is particularly gratifying for Vermonters. Vermont is a recognized pioneer in harnessing the wind to produce electrical energy. As early as the 1940's, the practicality of using wind in the generation of electricity was demonstrated in the Smith Putnam project at Grandpa's Knob, Vt. A 1,250-kilowatt wind turbine was used to supply the Central Vermont Public Service Corp. utility network. A blade failure on the turbine and the inability to compete with the then low cost of coal- and oil-generated electricity necessitated the abandonment of that pioneering effort. Today, with the advance of technology and the ever-escalating cost of conventionally produced electricity, the wind is once again being looked to as an economical and environmentally benign source of power. Recognizing this, many people in Vermont, both in public and private sectors, have been working toward the practical application of this free and inexhaustible resource.

In November of 1978, the Vermont State Energy Office sponsored a workshop to which every utility serving the State were invited. At that workshop, utility representatives as well as representatives from every State agency which would be affected by the development of wind energy, heard members of the Department of Energy and NASA Lewis Research Center describe the Federal wind program as it applied to large wind electrical systems. A representative of Southern California Edison described his company's program which is the placing of a number of wind turbines on line to supplement their high fossil fuel cost. A representative from Block Island Power talked about his company's involvement in the Federal wind program which placed a 200-kilowatt machine on the island. Workshop attendees also heard Dr. Gerald Koeppl, president of New England Conversion Services describe the potential of wind as a usable energy source in Vermont.

I had the pleasure of participating in this workshop myself, and found, Mr. Speaker that the level of interest in pursuing an aggressive approach to development of wind energy was high. This demonstrated to me that this form of alternative electrical energy generation is a logical outgrowth of shifting perceptions in the use of traditionally expensive and diminishing energy forms.

As a result of the interest generated at that workshop, Ronald Allbee, Director of the Vermont State Energy Office, called together an ad hoc committee on wind, which began meeting in January of 1979. This committee, chaired by State Representative Anne Just (Warren, Vt.), and made up of representatives from the State Agency of Environmental Conservation, the Public Service Board (the State regulatory agency for utilities), and the State Energy Office. Joining members on the committee were the president and the director of the New England Wind Energy Conversion Services, a representative of the Green Mountain Power Corporation (one of the State's largest private utilities), and a consulting meteorologist.

Charged with examining the potential of wind power as a usable energy source in Vermont, the committee is presently studying environmental, economic and social implications of wind energy as well as the aesthetic impacts caused by the placement of megawatt-sized machines in the Green Mountains. There are at present, instruments measuring wind velocity, direction, and frequency on three mountaintops in the State. In December of this year, a report by the committee detailing the results of data collected at these sites will be submitted to the director of the State Energy Office. This report will reflect not only committee conclusions on data collected at these sites, but also recommendations as to how to proceed in the development of this promising resource.

The efforts of the Vermont State Energy Office's ad hoc committee serve as an excellent example of an arrangement which should meet with success similar to the kind of effort our bill is calling for.

It should be noted, Mr. Speaker, that the Vermont State Energy Office has also chosen to take the responsibility of implementing the Federal field evaluation program in my State. The program is designed to evaluate small wind energy conversion systems as they supply about 50 percent of the electrical energy needs of a residence or institutional building. Also to be evaluated in this program will be how small wind energy conversion systems interface with the utility grid. Institutional, technical and safety problems which may arise through implementation of this program will also be examined. Thus far Mr. Speaker, over 70 people in Vermont have contacted the State Energy Office to express interest in participating in this program. The State Energy Office has decided to take on this responsibility, Mr. Speaker, in the hope that it can develop in-house expertise regarding the institutional and legal factors associated with the placement of a large number of small wind generating systems in the State. In addition, Mr. Speaker, the State Energy Office is working closely with the Northeast Solar Energy Center in developing wind demonstration and commercialization programs.

On another front, Mr. Speaker, Vermont's Johnson State College held an all-day conference on small wind energy conversion systems in the spring of this year. Senator Patrick Leahy as well as representatives from Senator Robert Stafford's office and my office, attended this gathering. The conference was well attended by individuals from public and private sector interests, who heard a detailed presentation on the economic and environmental implications of wind energy systems.

Of considerable significance, Mr. Speaker, is the fact that Vermont is the home of two of the leading manufacturers in the small wind system industry. These companies provide between 70 and 80 percent of the small wind systems produced and sold in the United States. It should be remembered that the bill before the committee calls for small wind energy systems to meet at least 5 megawatts of the total energy capacity called for in the bill, by fiscal year 1986. In Vermont alone, Mr. Speaker, it has been estimated by Dr. Jerry Koeppl of the New England Wind Energy Conversion Services, that 100 wind machines of 2 megawatt capacity could provide about 14 percent of the State's 1978 requirements for electrical energy.

The successes of these two Vermont firms stand as good examples of the kind of small business participation we are calling for in the bill before the committee.

Mr. Speaker, one of the basic provisions of the bill before the committee is to give Federal aid to private parties wishing to use wind energy systems for power. This basic aim is presently being sought in my home State with the availability of a tax credit of 25 percent or $1,000, whichever is less, for the installation of a renewable energy system in a private residence. In its first year of implementation, the tax credit program delivered such credits to 11 Vermonters installing wind energy systems. In another area Mr. Speaker, Central Vermont Public Sevice Corp., the State's largest private utility, has established a residential power rate that a customer with a windmill or "backyard" hydro unit could utilize. At the same time, this utility is measuring, for informational purposes, the output of wind systems for integration with their utility grid.

Of current interest, it should be noted that the Green Mountain Power Corp., the State's second largest private utility, is one of three utilities in the Nation chosen to participate in a national wind power research project. The project, using computer models, is a major study of electric utility use of wind power. Sponsored by the Electric Power Research Institute of Palo Alto, Calif., and conducted by the General Electric Co., the study is designed to compare various applications of wind power generation of electricity within a utility's system. The total project is being conducted over a 22-month period and will require nearly 5 person-years of effort by the various applicants.

Other efforts on the utility front include proposals for four additional large wind machines which are being submitted by the Vermont Electric Cooperative Inc. of Johnson, Vt., and the Morrisville Water & Light Department of Morrisville, Vt.

It is apparent, Mr. Speaker, that Vermont has a long standing interest in wind and that the interest is growing and being translated into effective action for the implementation of this attractive alternative energy resource. It is my hope that similar levels of interest within public and private sector groups around the Nation will be shown in the near future. Certainly with positive action by the House on the measure before it today, impetus would be given to this expanding interest. Of more importance, passage of this legislation would give individuals the incentive to invest in this form of energy, and thus lessen our dependence on more expensive and rapidly vanishing traditional forms of energy.

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Mr. KRAMER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise today to support what I feel is a positive commitment in the direction of our national goal of energy independence: The Wind Energy Research, Development and Demonstration Act of 1979 is a proposal to establish an aggressive program to develop wind energy, a renewable resource.

This proposal allows for a "large wind" and "small wind" research and development program, with a sunset provision for reduced Federal funding as wind energy becomes more cost-competitive. I am particularly pleased with the provisions of section 12 directed toward encouragement and protection of small business.

I also strongly support the establishment of a study to assess how wind energy can be commercialized through market incentives, as this allows for the greatest public participation and input in this developing energy source.

But perhaps most importantly, the act sets a goal for wind energy production at 800 megawatts by the end of fiscal year 1988—an energy equivalent of 6 million barrels of oil per year.

Mr. Speaker, I believe the country enthusiastically supports development of wind energy. We can send a clear message to the Nation and begin with a strong program to explore this energy alternative by supporting this vital legislation. I urge my colleagues to support the Wind Energy Research, Development and Demonstration Act of 1979 as a major step forward in the development of this clean, domestic and inexhaustible renewable energy resource.

The legislation contains the following basic provisions:

First. It sets forth an aggressive research, development and demonstration program with a goal of 800 megawatts of electric power capacity by the end of fiscal year 1988. (Eight hundred megawatts is about the equivalent of 6 million barrels of oil a year.)

Second. It provides for an 8-year "large wind" program (large wind machines are those over 100 kilowatts in size) with a goal of 700 megawatts of power, and a 6-year "small wind" program with a goal of 100 megawatts. Both programs would consist of R. & D. and testing of prototype machines during the early years and cost-shared demonstrations in the later years, with the Federal share diminishing as wind energy becomes more fully cost-competitive.

Third. It provides for a national wind resource assessment program which would collect wind data nationwide and make it available to prospective buyers of wind machines.

Fourth. It requires DOE to prepare and present to Congress, within 9 months, a detailed program management plan which will outline staffing and funding requirements to meet the program goals.

Fifth. It provides for a detailed study of market incentives to determine how wind energy can most effectively be commercialized.

Mr. KRAMER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Speaker, I would like to commend the sponsors on the majority side for their far-sighted approach and the gentleman from New York (Mr. FISH) on the minority side for his foresight.

Mr. Speaker, I rise in support of H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979. This bill provides for a R.D. & D. program that will allow us to tap the great potential offered by solar energy, and in particular, our wind resources. It has become increasingly necessary to develop our solar resources if we are ever to reduce our reliance on foreign oil supplies. Wind energy has been identified as one promising resource that may be able to contribute 1.7 quads of energy by the year 2000. I believe that we must take actions now to develop this resource to help us meet our future energy needs.

H.R. 5892 is one important measure in that direction. It is an attempt to establish a comprehensive wind program, with aggressive goals to help us replace conventional energy supplies. It requires the Department of Energy to work together with other Federal agencies in a coordinated manner to reach these goals. The bill provides the funding necessary to allow us to develop wind energy systems in an effective manner, and to insure that demonstration projects are wisely chosen and adequately funded. I believe that we have chosen an appropriate level of funding for this effort to insure that our taxpayer's moneys are wisely spent.

Wind energy systems offer the potential of supplying significant amounts of electricity and mechanical power before the year 2000. With significant reductions in cost, these systems can be used in residential, agricultural and industrial settings, and for large-scale utility applications. Of particular importance in this legislation is the goal of 100 megawatts for small wind systems, a worthy goal recognizing the important contribution which can be made by these small systems. This goal is consistent with the expectations that we can expect from small wind systems.

I would also hope that the Department of Energy would emphasize the development of advanced wind energy systems. An aggressive Federal program in this area could stimulate the development of far more effective wind systems which can make an important contribution in the future.

Mr. Speaker, I believe that we must vigorously pursue the development of all of our renewable energy resources. H.R. 5892 offers us the chance to develop reliable and durable wind systems that can contribute to our energy supplies. I support this bill, and urge my colleagues to do the same.

Mr. KRAMER. Mr. Speaker, I have no further requests for time, and yield back the remainder of my time.

Mr. FUQUA. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BLANCHARD) also a cosponsor of the bill and a member of the committee.

Mr. BLANCHARD. Mr. Speaker, I wish to thank my distinguished chairman of the Committee on Science and Technology and chairman of the Subcommittee on Space Science and Applications, the gentleman from Florida (Mr. FUQUA).

Mr. Speaker, I rise in support of H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979.

As one of three authors of this bill, along with the gentleman from California (Mr. MINETA) and the gentleman from Vermont (Mr. JEFFORDS), I would like to extend a special expression of thanks to the chairman of the Subcommittee on Energy Development and Applications, Mr. OTTINGER, for his leadership in moving forward with it.

During the 4 days of hearings which the subcommittee held on wind energy legislation, I was very favorably impressed with the unanimity of opinion of the expert witnesses who appeared. Virtually everyone urged us strongly to proceed as rapidly as possible.

The following are some samples of the sort of testimony we received:

Henry Kelly, Assistant Director for Analysis of the Solar Energy Research Institute, noted that studies show wind energy can supply, by the year 2000, the equivalent of some 850,000 to 1 million barrels of oil a day—or 4 to 5 times the amount the United States was importing until very recently from Iran. He also described the bill's goals for windpower production as "modest"—they have since been increased by 60 percent.

James Lerner, senior technical adviser for the wind program of the California Energy Commission, told us that—

> Wind energy is now the most economic solar electric technology, producing electricity at costs below that of oil-fired electric plants.

He went on to say that California hopes to meet 10 percent of its electric power needs by the year 2000 through the use of wind energy, and added:

> Achieving this 10 percent target translates to supplying 30 billion kilowatt hours of electricity per year . . . and is equivalent to about 20 percent of current electricity production in California. These wind systems would represent an investment by utilities of about six billion dollars and would result in an annual saving of 54 million barrels of fuel oil, worth over $1 billion at current market prices. Reaching the 10 percent goal would result in the development of only a small fraction of the total California potential wind resource . . .

Dr. Edward Johanson of JBF Scientific Corp., a major consulting contractor for DOE, testified that—

> Studies show that utilities like Niagara Mohawk, New England Gas and Electric, Southern California Edison, and Hawaiian Electric soon will be able to spend about $1,000 per kilowatt for (wind energy systems) and break even over 30 years.

NASA, he added, places production costs of Boeing's latest large wind turbine at only $800 per kilowatt—or $200 less than break even. As to why utilities are not yet buying wind machines in a big way, he had the following comments:

> The public, and utility commissions, demand that the utilities maintain high reliability. This is one of the reasons the wind community is so pleased to see the subject bill. I can tell you unequivocally that utilities will not purchase significant amounts of wind systems, irrespective of economics, until their technical performance and reliability has been established.

Eric Leber, director of energy research for the American Public Power Association, a national service organization representing more than 1,400 publicly owned power systems across the country, told us that public utilities are extremely interested in wind energy. APPA's members are jointly supporting the installation of a 500-kilowatt Alcoa wind turbine in Eugene, Oreg. The Eugene project received a 96-percent vote of approval from APPA's committee on electrical research—the greatest degree of support ever registered in the 5 years of APPA's research program. Utility ownership of the wind turbine, Leber said, will save ratepayers $12,000 a year.

Ron Barchet, manager of wind programs for the General Electric Co., said the long-range, year-2000 goal for wind energy should be the equivalent of 850,000 barrels of oil a day and noted that reaching that goal would result in annual fuel savings of about $6 billion. Subsequently, that long-term goal was made a part of the "Findings and Purpose" section of the bill.

These are some of the statements we have heard and some of the reasons why the Energy Development and Applications Subcommittee and the full Science Committee both endorsed H.R. 5892 unanimously.

Mr. Speaker, over the last few years any number of studies and assessments have been done of the potential of windpower, and virtually all of them have concluded that it is promising indeed.

One of the most recent is the interagency Domestic Policy Review of Solar Energy, conducted last year.

The final report of the Research, Development and Demonstration Panel of that review group described wind energy's position today as follows:

> Estimates (for wind energy supply) for the year 2000 range widely from near zero to the fossil fuel equivalent of 6 quads per year, with a median of 13 estimates being near 2 quads per year . . . All of these estimates recognize that the natural resource is very much larger than even the largest year 2000 estimate of generation, and that the actual impact will therefore be sensitive to economic relationships (especially the cost of energy from alternative sources) and to the effectiveness and timing of R.D. & D. and incentive measures.

Mr. Speaker, what we have here is a technology which, compared to putting a man on the Moon, or launching the first artificial satellite, is already virtually proven. What we do here today and in Congress during the next few weeks may well make a difference of hundreds of million of barrels of oil in terms of our dependence on foreign countries in the year 2000—and even more in the years which follow.

It is a matter of simple arithmetic. If windpower saves 1 quadrillion Btu's a year, or 1 quad, by the year 2000, we could reduce our oil imports by about 180 million barrels a year. At an average price of $20 a barrel, our foreign trade balance would be improved by $3.6 billion a year. Perhaps that figure demonstrates more clearly how we strengthen our economy, and our country, by moving ahead rapidly with the development of alternative energy sources.

We are in a bad situation today. We have squandered our most environmentally acceptable and obtainable conventional fuels, light crude oil and natural gas, with little thought to the future. Now we have to make some hard choices, and consider the long-term consequences of those choices.

From where I stand, Mr. Speaker, wind energy looks like an excellent bet, and one that we should pursue strongly until we have clear and convincing evidence to the contrary.

● Mr. CARNEY. Mr. Speaker, I rise in support of the bill, H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979. Wind energy is an important energy source that in many places in the country can be used to replace imported oil in the not-too-far-distant future. Therefore, an aggressive but well-thought-out wind energy research, development and demonstration program is of crucial importance both to Long Island and to the Nation.

The wind energy legislation before us is actually two important programs in one. Section 5 of this legislation is a wind-energy development and demonstration program that is aimed at developing wind machines around 1 megawatt in size; these machines will be primarily of use to utilities and should provide several advantages for them once these machines become cost-competitive with conventional sources of electricity. Utilities located in windy areas of the country will be able to add on economical small increments to their grid rather than having to guess whether the huge increments of power provided by a conventional coal or nuclear plant will be necessary several years in the future. In addition, wind systems are generally speaking environmentally benign and should be much easier to site.

Section 4 of the bill establishes an aggressive program for development of small-scale wind applications. These machines, by the mid-1980's, should be very attractive as remote or dispersed sources of electricity, if we pass this legislation. The cost-sharing provisions of this legislation for small wind, in my opinion, should give these technologies which are on the verge of being ready to enter the commercial marketplace, the necessary push to make them a commercial reality.

Therefore, I would urge my colleagues to vote for this important legislation.●

● Mr. MINETA. Mr. Speaker, I am proud to ask my colleagues to consider the

Wind Energy Research, Development and Demonstration Act of 1979 as a well-thought-out program for the commercialization of wind energy within the next decade. By voting for passage of H.R. 5892, the House can go on record with a strong statement about our resolve to lessen our dependence on imported oil by developing a new alternative energy source.

H.R. 5892 calls for 1.7 quads or 44,000 megawatts of electric power generation from wind energy by the year 2000, and sets an immediate goal of 800 megawatts of energy from wind systems by the end of 1988. The initial goal under the program will plant the seed for the rapid development of the wind-systems industry which will supply the balance of the 1.7 quads of energy by the year 2000.

The aim of H.R. 5892 is to allow the U.S. wind systems industry to move along the learning curve faster than it would otherwise. The bill is a comprehensive program designed to break through the social, institutional, and economic barriers of developing wind energy with the objective of commercializing wind energy during the next decade.

For both small and large wind systems, the emphasis of H.R. 5892 is on research, development and demonstration in the initial years, and commercialization in the later years. The demonstration efforts will help Americans see that wind is a feasible and practical source of energy that is available now—not in the distant future. By helping to provide a sure market for wind systems, H.R. 5892 will allow the wind industry to gain valuable product research experience and production experience. Yet, the program will subsidize not the industry, but the user, and never for more than 50 percent of the price of the machine. Further, the Federal subsidy decreases to 25 percent in the out-years of the program. The industry is then on its own. Through discussions with industry and Government agencies, the committee found that the 6- and 8-year programs for small and large wind systems, respectively, are sufficiently long to help the industry become commercially viable.

The bill also includes several meaningful studies which will provide the base data necessary for developing the industry. The studies will document wind velocities at various sites, the markets for wind machines, and the need, if any, for further assistance to the industry.

I am particularly pleased with the flexibility of H.R. 5892. Congress will be informed of problems by the Department of Energy as part of the President's annual budget submission; and if the program is an early success and no longer needed, it can be terminated early by the Secretary of Energy.

The programs authorized by H.R. 5892 are also intended to benefit Puerto Rico, Guam, the Virgin Islands, American Somoa, the Northern Mariana Islands, and the trust territories of the Pacific. Many of these places offer high promise for the economic use of wind systems, and we can all benefit from their experience with wind energy.

I am pleased to inform my colleagues that the consensus approach to legislation has been very effective in the consideration of H.R. 5892. Much care was taken to listen during the 5 days of hearings to the concerns of the administration, NASA, the industry, and others. Further, the majority and minority Members and staff have worked together closely to develop H.R. 5892. The result of the consensus approach is the 107 cosponsors of H.R. 5892; and, moreover, unanimous approval by the subcommittee and the full Science and Technology Committee.

In addition, I would like my colleagues to know that the following Members have indicated to me their desire to cosponsor H.R. 5892, but could not do so because the committee report had already been filed.

Mr. PRITCHARD, Mr. THOMPSON, Mr. MAGUIRE, Mr. WEISS, Mr. COELHO, Mr. HAMILTON, Mr. FAZIO, Mr. STACK, Mr. EVANS of the Virgin Islands, Mr. YOUNG of Alaska, Mr. EMERY, Mr. D'AMOURS, Mr. BONIOR, Mr. MILLER of California, Mr. CORMAN, Mr. MAZZOLI, Mr. GAYDOS, Mr. FOWLER, Mr. WOLFF, Mr. RANGEL, Mr. WHITE, Mr. OBERSTAR, Mr. EVANS of Georgia, Mr. MARKS, Mr. FITHIAN, Mr. WILSON of Texas, and Mr. PANETTA.

Mr. Speaker, H.R. 5892 is an excellent bill, and I feel it is worthy of the support of the full House of Representatives.●

● Mr. HEFTEL. Mr. Speaker, today the House has under consideration H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979. I would like to take this opportunity to express my strong support for this measure and to congratulate my distinguished colleagues, Congressmen MINETA, BLANCHARD, and JEFFORDS, the original authors of the legislation, for bringing this issue to the attention of the Congress.

Mr. Speaker, at a time when there is talk of gasoline rationing, continued controversy over the development of nuclear power and synthetic fuels and increasing political instability within the OPEC nations, I feel that it is vitally important to upgrade Federal programs for research and development of new sources of energy. H.R. 5892 is designed to accelerate the wind energy program in the Department of Energy by authorizing a goal oriented 8-year program with the object of bringing wind energy costs down to a level where they will be competitive with conventional energy systems.

Mr. Speaker, wind energy is not some exotic, futuristic idea. It is an energy source with a solid technological base going back many years. Already, the cost of energy generated by wind power is the most nearly competitive with conventional fuels of any renewable power source, with the possible exception of the direct burning of wood. Wind electricity generating systems are projected to eventually become competitive with coal and oil-fired powerplants—and with little or no environmental impact.

Mr. Speaker, I am hopeful that my home State of Hawaii will achieve electrical energy self sufficiency by the turn of the century. I have long felt that Hawaii could be a national laboratory for developing renewable resources. However, this dream will be realized only if the Federal Government develops integrated research and development programs within the Department of Energy which incorporate all of the viable natural energy alternatives. As the various indigenous sources evolve from the R. & D. phase, certain ones will become obviously attractive and cost-competitive. I believe that wind energy has the potential to be one of the first alternative energy sources to prove out commercially.

Mr. Speaker, although the early euphoric expectations of nuclear energy undoubtedly had something to do with it, probably the primary reason for the lack of interest in developing wind power through the fifties and sixties was the cheapness and abundance of fossil fuels. This reason is no longer operative. Beyond this fact, I feel that we should be developing our wind resource for three reasons: First, wind is environmentally benign and will not present the myriad of problems associated with nuclear waste disposal or widespread coal or synthetic fuel use for example; second, wind is a domestic energy source which can never be denied to us by the whim of a foreign cartel; and third, wind is renewable and therefore is a source we can truly build our energy future around. As we consider applying modern technology to feed our greatly expanded present and future use of power, the questions of whether an energy source is environmentally acceptable, domestic and renewable should be uppermost in our minds.

Mr. Speaker, as we fashion a broad based national energy policy, it is my hope that renewable sources such as wind will play an increasingly significant role. Clearly, with H.R. 5892, we will have taken an important step toward realizing that goal.●

● Mr. WOLFF. Mr. Speaker, I rise in support of H.R. 5892, the Wind Energy Systems Research, Development and Demonstration Act of 1979. I am proud to have cosponsored this fine piece of legislation and I would like to commend my distinguished colleagues, Congressmen JAMES BLANCHARD, NORMAN MINETA, and JAMES JEFFORDS for their introduction of this important bill. I would also like to commend the distinguished chairman of the Committee on Science and Technology, the Honorable DON FUQUA, for his hard work in bringing this needed bill to the floor quickly and efficiently.

I call my colleagues' attention to a number of recent developments on the energy front:

The near catastrophe at Three Mile Island and the Kemeny Commission's sobering report on the future of nuclear energy;

The spot market price for a barrel of crude oil reaching toward the $50.00 mark;

The fact that the United States imports over 40 percent of the petroleum that we consume;

And the recent flair-ups of anti-American sentiment in the ever volatile Middle East.

These and other recent events

throughout the world convincingly demonstrate the overwhelming need for America to develop reliable, renewable, and environmentally acceptable sources of energy for the 1980's.

It is clear that any efforts the United States makes toward energy independence must be broad based in nature, with an ultimate dependence upon no one particular energy source but with many different technologies and sources contributing to fulfill our energy needs. It is also clear that wind power will be a viable and significant energy source for the 1980's if we choose to develop it. The President's recent Domestic Policy Review of Solar Energy identified wind energy as the nonconventional source of energy which is closest to being cost-effective.

Presently, wind energy systems generate power within 30 percent of the cost of conventional electricity. Significant improvements have been made in the efficiency of this technology, and more are certain to follow in the near future. With the cost of conventional electricity rising rapidly, and with the breakthroughs being made in the wind power field, it is my hope that with this legislation we will see wind energy systems become cost efficient over the next 10 years. Furthermore, wind energy is virtually pollution free, it is indefinitely renewable, and it would appear that initial capital costs for the installation of a small wind energy system will not be unreasonable.

In light of these facts, I must question the decision of the Office of Management and Budget to single out wind energy as the only solar energy research and development program whose budget for fiscal year 1980 was not increased to the level recommended by the Domestic Policy Review of Solar Energy's Panel on Research and Development. The Panel had recommended that the wind program be increased in 1980 to the $100 million level that this bill authorizes for fiscal year 1980. I believe that this is one investment in America's future which would be well worth making. The development of this viable energy source for the 1980's is essential not only for our Nation's energy security but for our national security, as well. This is why I wholeheartedly support the objectives of H.R. 5892:

First. To reduce the average cost of electricity produced by wind energy systems by the end of fiscal year 1988 to a level competitive with that produced by conventional energy sources.

Second. To reach a total megawatt capacity in the United States from wind energy systems, by the end of fiscal year 1988, of at least 800 megawatts, of which at least 100 megawatts will be provided by small wind systems—800 megawatts being roughly equivalent to 6 million barrels of oil.

Last week, the House moved to develop another alternative energy source, the Solar Power Energy Research and Development Act. This week by approving the Wind Energy Research and Development Act of 1979, we can continue America's move toward energy independence in the 1980's. I hope that my colleagues on both sides of the aisle will join me in supporting this important piece of legislation and in helping our Nation move toward the realization of energy self-sufficiency.●

Mr. FUQUA. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and pass the bill, H.R. 5892, as amended.

The question was taken.

Mr. JEFFORDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MATERIALS POLICY, RESEARCH, AND DEVELOPMENT ACT OF 1979

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2743) to provide for a national policy for materials research and development and to strengthen the materials research and development capability and performance of the United States as amended.

The Clerk read as follows:

H.R. 2743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Materials Policy, Research, and Development Act of 1979".

FINDINGS AND DEFINITION

SEC. 101. (a) The Congress finds and declares that—

(1) technological progress in the area of materials is essential for national well-being and security and to enable adaptation to (A) increasing dependence on foreign sources for essential industrial materials, (B) instability of materials markets, (C) international competition for materials, and (D) need for energy conservation and environmental quality;

(2) the United States lacks a coherent national materials policy and a coordinated program of materials research and development consistent with the goals and policies as set forth in the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94–282; 42 U.S.C. 6601 et seq.);

(3) extraction, production, processing, use, recycling, and disposal of materials are closely linked with national concerns for energy and environment;

(4) the United States is strongly interdependent with other nations through international trade in materials and other products; and

(5) notwithstanding the enactment of the Mining and Materials Policy Act of 1970 and the directives and provisions contained therein to the Secretary of the Interior to carry out its provisions that Act has not been implemented resulting in the absence of a coherent national minerals policy.

(b) As used in this Act, the term "materials" means substances of current or potential use in the production of goods or services, with the exclusion of food and of energy fuels used as such.

DECLARATION OF POLICY

SEC. 102. The Congress declares it is the continuing policy of the United States to promote an adequate and stable supply of materials necessary to maintain the national well-being and security with appropriate attention to a long-term balance between energy, a healthy environment, natural resources conservation, full economic factors, and societal needs. Enactment of this policy requires that the United States Government, among other objectives, should—

(1) promote a vigorous and comprehensive program of materials research and development consistent with the policies and priorities set forth in the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94–282; 42 U.S.C. 6601 et seq.);

(2) establish a long-range assessment capability concerning materials needs, including the research and development necessary to meet those needs;

(3) establish a mechanism for the coordination of Federal materials research and development and for the evaluation of materials research and development, Federal and private; and

(4) promote cooperative research and development programs with other nations for the equitable and frugal use of materials and energy; and

(5) promote and encourage private enterprise in the development of economically sound and stable domestic materials industry, including but not limited to mining, minerals, metal and mineral recycling industries as well as the other goals and objectives as set forth in the Mining and Minerals Policy Act of 1970.

ACHIEVEMENT OF OBJECTIVES

SEC. 103. For the purpose of achieving the objectives set forth in section 102, the Congress declares that the Federal Government should—

(1) support basic and applied research and development to provide for (A) advanced technology for the exploration, discovery, and determination of nonfuel materials, (B) enhanced methods and processes for the use of renewable resources, (C) improved methods for the extraction, processing, recovery, and recycling of materials which encourage the conservation of materials, energy, and the environment, and (D) improved understanding of new and current materials performance, processing, substitution, and adaptability in engineering designs;

(2) provide for increased dissemination and effective communication, through existing private and professional channels and otherwise, of technical information and data resulting from research and development activities of Federal, State, and local governments and other sources as appropriate:

(3) assess the need for technically trained personnel necessary for materials research, development, and industrial practice;

(4) recommend appropriate measures to promote industrial innovations in materials and materials technologies; and

(5) encourage cooperative materials research and problem solving (A) by private corporations performing the same or related activities in materials industries and (B) by Federal and State institutions having shared interests or objectives.

IMPLEMENTATION

SEC. 104. Within one year after the enactment of this Act, the President shall submit to the Congress—

(1) a program to implement such proposals and organizational structures within the executive branch, existing or prospective, as he finds necessary to further the policy and objectives as set forward in sections 102 and 103, with such proposals and organizational structures providing for the following minimum elements:

(A) policy analysis and decision determination within the Executive Office of the President;

(B) continuing private sector consultation in policy analysis; and

(C) interagency coordination at the level of the President's cabinet;

(2) recommendations for the collection

and use of information concerning materials, including materials research and development; and

(3) recommendations for legislation to establish programs and institutional structures necessary for the implementation of a national materials research and development policy.

LONG-RANGE ASSESSMENT AND REPORT TO CONGRESS

Sec. 105. (a) In accordance with the provisions of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94–282; 42 U.S.C. 6601 et seq.), the Director of the Office of Science and Technology Policy shall place special emphasis on the long-range assessment of national materials needs and the research and development, Federal and private, necessary to meet those needs. Pursuant to section 206 of that Act (42 U.S.C. 6615), the Director shall assess national materials needs and technological changes over the next five years and where possible extend his assessment in ten-, twenty-five-, and fifty-year increments over the expected lifetime of such needs and technologies. Such assessment shall be revised annually and used in accordance with such section 206.

(b) The Federal Coordinating Council for Science, Engineering, and Technology shall exercise the functions vested in it under section 401(e) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651(e)) in implementing and carrying out the policy and objectives established in this Act.

(c) The Secretary of Defense, together with the Secretary of the Interior and such other members of the Cabinet as are deemed necessary by the President, shall prepare in collaboration with the Director of the Office of Science and Technology Policy a report assessing critical materials needs related to national security and identifying the steps necessary to meet those needs. Such report shall be made available to the Congress within one year after the enactment of this Act. Thereafter, such assessment shall be revised annually, and shall be taken into account by the Director in making his assessments under subsection (a).

THE MINING AND MINERALS POLICY ACT OF 1950

Sec. 106. Nothing in this Act shall be interpreted as changing in any manner or degree the provisions and requirements of the Mining and Minerals Policy Act of 1970. For the purposes of achieving the objectives set forth in section 102, the Congress declares that the President shall direct the Secretary of the Interior to act immediately to attain the goals contained in the Mining and Minerals Policy Act of 1970.

AMENDMENT

Sec. 107. Section 209(a)(4) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94–282; 42 U.S.C. 6618(a)(4)) is amended by inserting after "problems" the following: ", including those involving materials,".

The SPEAKER pro tempore. Is a second demanded?

Mr. HOLLENBECK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. Fuqua) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. Hollenbeck) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Fuqua).

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection?

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I noted this spring in introducing this bill H.R. 2743, The Materials Policy, Research and Development Act of 1979, follows in succession a number of materials-related bills introduced in the 94th and 95th Congresses by members of the Committee on Science and Technology. This includes our former Chairman, Olin E. Teague. Their concern and mine arises from the apparent reluctance by the Federal Government to address head on the increasingly important issues related to materials and our industrial resources.

The recent decision by United States Steel to cut back its steel producing facilities at the cost of 12,000 jobs is just the tip of the iceberg of problems related to materials in this country. The failure to be innovative in the face of intense international competition is but one of many problems plaguing our basic materials industries. Perhaps of more importance is our severe vulnerability in new resources. Like our petroleum resources of the near past, depleted domestic materials supplies have led to more and more imports to fill our needs. Today we are import dependent at levels exceeding 50 percent of most of our important industrial materials. Many of these are critical both economically and strategically. Moreover, many of these key materials are found only in one or two countries, some of whose economical or political interests may not coincide with those of the United States. For example, 20 percent of our chromium imports come from Russia, with the remainder coming from South Africa and Turkey.

In the recent 5-year outlook on science and technology by the National Research Council materials and related issues warranted a major discussion. They noted:

> They recognized interaction and interdependence of materials, energy, and the environment are a needed catalyst for the understanding of the pervasive force of materials technology throughout our world. Certainly, the trends in materials supply, availability, and costs will bring additional pressures and intensify others. Research and development programs on materials, with emphasis on conservation, recycling, substitution, and the management of materials, can provide opportunities to offset some of these pressures.

It would appear that we are at the same point with regard to materials as we were with respect to oil 10 years ago. We must begin taking steps now if we are to avoid such an economic and strategic disaster later.

Aside from the extensive hearings held by the Science and Technology Committee, I would like to note as well the interest shown by our colleagues on the Committee on Interior and Insular Affairs. In particular, the full committee chairman, Moe Udall, and my colleague from Nevada, Jim Santini, have expressed particular interest regarding nonfuel minerals. Their Subcommittee on Mines and Mining has held extensive oversight hearings on the nonfuel minerals policy review conducted by the administration. Mr. Santini has also participated in our hearings on materials.

In short, our two committees have been in continuing consultation on the important issues of materials and minerals and, I believe, share many points of view on these matters. I would like to state as a point of clarification that we feel H.R. 2743 and the policy stated is entirely compatible with that expressed in Public Law 91–631, the Mining and Minerals Policy Act of 1970.

In view of the close interest of these two measures, I would like to point out a committee amendment which clarifies the relationship of H.R. 2743 to Public Law 91–631. The amendment is technical in nature and simply underscores the importance of the Mining and Minerals Policy Act of 1970.

I also understand that Mr. Santini would like to enter for the record at this time a statement expressing his views on this matter.

H.R. 2743 is only the start in trying to deal with this complex issue. It will, however, require the President to act rather than simply restudy the situation. I strongly recommend this measure to my colleagues and give it my fullest endorsement.

Mr. HOLLENBECK. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, as ranking minority member of the Subcommittee on Science, Research, and Technology, I rise in support of H.R. 2743, the Materials Policy Research and Development Act of 1979, a concept I have worked hard to bring to the forefront during my time in the House. I want to associate myself completely with the excellent analysis provided in the remark of my colleague, the chairman of our subcommittee. He has done a tremondous amount of work preparing this bill for our consideration. At this time I will simply reemphasize the points which I made in my additional views to our committee report.

The first point I would make is that national materials policy must relate materials needs to our needs for a healthy environment and for assured supplies of energy based on a program of maximum energy conservation throughout our economy. I strongly support the recognition that this bill gives to the interdependence of energy, materials, and environmental policies.

Second, H.R. 2743 calls for the development of long-range materials assessment capability of national materials needs. As the committee report states, innovation in materials technology has an extremely long leadtime—up to 20 years. Beyond that the lifetime of any new technology or new materials production such as mines or forests may last upward of 50 or 100 years. It is very important that we develop a long-range assessment capability so that eventually we can coordinate and synchronize our public policies with the generation-long turnover of materials facilities and technology. We must work with the evolution of technology—not against it. We cannot afford to scatter resources helter skelter on project after project while failing to sustain our efforts long enough to the point where they can really pay off. The energy situation, over the last 5 years, illustrates this point. We can ill afford to behave similarly with regard to materials.

Mr. Speaker, last year I introduced legislation, H.R. 13025—the Materials Technology and Planning Act—which enunciated these principles. I am glad to see that they are recognized in section 105 of this bill. In the connection, I am also pleased that the mandate for research includes, in section 102, a mandate for research on the process of technological change itself. Greater understanding of technological change in materials production and consumption should be of great benefit in many other fields as well—not the least of which includes change in energy technology and changing impacts on the environment of both materials and energy use.

Third and finally, I emphasize, as I did in my additional views to the committee report, that materials research and development is not an end to itself; it must ultimately find application in industrial technology. Therefore, I fully support the directive which the committee report gives concerning the need for possible financial and tax measures to stimulate the implementation of research through industrial innovation. The materials research and development policy enunciated here should include elements which seek to determine how we can stimulate the application of the research which results therefrom

It is my view and the committee's that when the President submits his recommendations for legislation as called for in section 103, he should include measures of all types including possible financial and tax policy incentives. His recommendations may also include those dealing with patent policy. In short, anything which can stimulate the application of materials research and development is mandated for inclusion under the program which the President is to submit to the Congress in 1 year.

Mr. Speaker, the bill declares that the Federal Government should "promote cooperative research and development programs with other nations for the equitable and frugal use of materials and energy." My colleague on our subcommittee, the gentleman from Ohio, correctly points out that—

> We must work out equitable trading relationships which allow (developing) countries to gain access to loans for capital development and to put our scientific and technical expertise to work on their development problems.—Our access to other countries' critical materials rests on a very basic human foundation. It is essential that we demonstrate to underdeveloped countries that we care about what happens to their people as much as we care about what happens to their raw materials.

In that context, we should also support research and industrial innovations for critical materials so as to reduce our dependence on governments whose values are inimical to our's and whose activities do not enhance the condition of the broad mass of their people. My participation in the recent U.N. Conference on Science and Technology for Development convinced me that resource security, including both materials and energy, depends, over the longrun, on our willingness to apply our scientific and technical resources to foster social and economic development of Third World nations. All the figures I have seen suggest that, provided we retain our scientific and technological leadership through measures such as this bill, cooperative research and development assistance will prove a profitable investment for us besides meeting vital human needs.

Mr. Speaker, I strongly support H.R. 2743; it embodies many of the concepts in materials research and development which I myself have offered in bills in the last Congress and which I co-sponsored—for example, H.R. 10859, the National Materials Policy, Research, and Organization Act, which was introduced by my former colleague, Chairman Ray Thornton, who is admired by all of us for his initiatives in this area. The bill before us represents a fusion of the best concepts of these earlier bills which, themselves, result from many years of work by our committee and staff, particularly Mr. Scoville of the minority and Mr. Maxwell of the majority. I urge the House approve this bill so that we may obtain final passage of this important legislation soon after the new year.

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Mr. FUQUA. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BROWN), the distinguished chairman of the Subcommittee on Science, Research and Technology, a gentleman who has devoted many hours to seeing to it that this bill comes to the floor.

Mr. BROWN of California. Mr. Speaker, I join my colleague, the gentleman from Florida and rise in support of H.R. 2743, the Materials Policy, Research and Development Act of 1979. It is to provide for materials research and development and to strengthen Federal and, where possible, private programs of materials research and development. The bill contains no new funding authority. Any expenditures for assessment or reporting as required by the bill are already authorized by existing law and could be made within current budget limits.

Since the Paley Commission report of 1952 one national commission after another has pointed out the potential dangers facing the United States with regard to the supply of basic materials such as minerals, timber, plastics, and fibers. Yet, for all the talk little action has occurred prior to this bill. The U.S. basic materials industry has an annual output valued at about $20 billion by itself. When translated into finished products the contribution of materials of all types to our national economy rises to over $200 billion. Yet of 27 minerals and metals listed in the monthly report by the U.S. Bureau of Mines, 18 are imported at a level exceeding 50 percent. Many are critical economically and strategically. For example, we import 97 percent of our cobalt, 89 percent of our chromium, 98 percent of our manganese, and 92 percent of our platinum.

We even import a substantial fraction, on the order of 30 percent, of our iron ore. In the nonmineral area we import the bulk of our newsprint. In many ways, the United States position with regard to materials is about the same now as it was with regard to petroleum about a decade ago. Few people recognized the potential vulnerability of the United States to the growing levels of importation of petroleum. The same is now true with materials. As the figures I cited above illustrate, we are now critically dependent upon external sources for our supply of basic materials. As Dr. Bruce Hannay, the vice president of Bell Labs noted in response to committee inquiries, the need for attention to materials resources is greater than ever before. "It would be very timely indeed to act now before we have a materials crisis comparable to today's energy crisis."

These problems are not just the imagination of doomsayers as can be seen by the case of cobalt. This material, critical for making the high temperature alloys used in jet engines, has risen in the past year by over 900 percent in price as a result of political unrest in Zaire, Africa. Similarly over 95 percent of world chromium reserves are in South Africa and Rhodesia, which are currently undergoing changes in their political and philosophical conditions.

This bill provides a first step toward the solution of some of these problems by calling upon the administration to develop a national policy of materials research and development which should include measures of all types. This includes stimulating the application of materials research and development for long-term industrial innovation. The United States currently conducts over $1 billion Federal research and development. This represents about a fifth of all U.S. materials research. Yet coordination and planning of this research between agencies is virtually nonexistent. The General Accounting Office estimated that millions of dollars could be saved in duplicated research if proper information and coordination could be achieved. More important, developing a comprehensive materials research policy would help pinpoint vital areas of research not now carried on—research which could promote and examine new sources of materials or improve new uses of materials in engineering and in industrial and commercial processes.

To the contrary, in spite of all the evident need, metallurgy programs, at the Department of Interior have been curtailed. We must also note that materials problems are not just isolated. They are intimately related to our energy and environmental problems, and nowhere are they limited solely to the consideration of minerals. Much advanced energy technologies such as fusion or such as solar photovoltaics will depend for their successful application upon the development of new materials. Similarly, the solution of environmental problems such as nuclear waste disposal, resource recovery, conservation and recycling, all require the solution of technical problems in materials research and development. Thus not only must there be coordination within materials research and development but materials research policy must be coordinated with our environmental and energy policies. This should occur at all levels and at all stages of the materials cycle from production or mining through processing and through consumption and ultimate disposal.

Mr. Speaker, one might ask, "What are materials?" Most generally and perhaps most commonly, materials are "the stuff" from which things are made. More precisely, in the words of the bill, "materials are substances of current or potential use in the production of goods and services with the exclusion of food and energy."

They include minerals, as well as renewable organic materials such as wood, plants, or fibers. Some materials, such as petroleum and grains, may also be used as a material, for example, when salt or corn are used as chemical feed stocks. I stress the inclusive nature of the concept of the definition of materials provided in this bill because it is important to recognize, as some have not, that materials includes far more than minerals or metals. And indeed the solution to many of our mineral and metal shortages may only come through the development of new materials such as composites or glasses or various organic substances derived from wood or other plant fibers.

Mr. Speaker, it is useful here to lay out briefly each section of the bill and at the same time I will try to reflect what to my mind and with which my fellow committee members concur, are some of the important concepts and policy principles contained in the bill. The intent and purpose of the bill as expressed in the title is to provide a policy for materials research and development to strengthen the U.S. performance in the development of materials. Research and development, we believe, are intended to be used in implementation of the policy and objectives described. Particular emphasis should be given to industrial innovation. Throughout the bill this notion of a policy for research and development coupled to implementing the results of research in industry is emphasized.

The bill contains five sections. The first section contains the findings and the definition of materials which I have already spelled out. In section 101A there are four findings. The first identifies the necessity for U.S. industry to accommodate itself through technological process to changing circumstances with regard to U.S. reliance on imports and industrial materials; price fluctuations reflecting instabilities both political and economic and the supply of materials; the rapid increase of foreign industrial demands relative to U.S. needs and that such is particularly true in the developing nations, and; there is a growing complex interrelationship between materials supply and use with a need for energy conservation and environmental quality.

The second finding is that there is no articulated and systematic course of action for policy with respect to materials consistent with the goals and policy of the National Science and Technology Policy, Organization and Priorities Act of 1976.

The committee, as the report notes, believes that there is no coordinated program of research and development pursuant to any set of national goals and policies. The third finding explicitly links the activities and processes throughout the entire materials cycle from discovery through processing through recycling and disposal to energy and environmental concerns. The committee believes, and I strongly emphasize, that recognition of this relationship between environment, energy and materials policies is an essential requirement for a sound, national resource policy.

The fourth finding emphasizes the interdependence of the United States with other nations in regard to production and use of materials. As noted above, section 101B defines materials along the lines I have discussed earlier.

The second section, section 102, provides a general declaration of policy. It declares that U.S. policy should be the assurance of an adequate and stable supply of essential materials but attention is called to, and the committee concurred with the necessity for striking a long-term balance between energy and environment as well as conservation of actual resources, economic factors and societal needs. When we frame and determine our actions with regard to the use of materials we cannot only consider the short term immediate costs or the price of materials. Consideration must be given to such long-term effects as resource depletion, environmental pollution and community dislocations caused by the sudden introduction of large scale materials processing industries.

The policy also identifies four objectives for the embodiment of this policy including the promotion of a vigorous program of materials research and development. A second objective is the establishment of the capability to analyze and assess potential changes in supply, demand, technical requirements, and physical behavior of materials. Once again I would emphasize that this analysis and assessment should consider the long term since the benefits of research itself are only fully realized over a generation or more.

The third objective is the establishment of mechanisms to coordinate Federal research and development and to evaluate, where appropriate, private research and development activities both domestic and international. Finally, a fourth objective of this policy is the promotion of cooperative international programs of research and development with particular emphasis on furthering the equitable and frugal use by all nations of global resources of materials and energy. Mr. Speaker, the committee emphasizes that the words "equitable" and "frugal" are included here to recognize the growing worldwide demand for materials and energy in order to satisfy economic and social development needs while protecting the environment.

The third section, section 103, identifies five means to be employed by the Federal Government in order to achieve the policy and its objectives defined in section 102. These are four specific areas of research and development related to:

First. The location of new sources of materials and minerals,

Second. The improved ability to use renewable agricultural and plant materials,

Third. Improved engineering and technology for conserving energy and the environment throughout the materials cycle from extraction to disposal, and

Fourth. Basic research on the nature of materials to provide new and improved engineering properties. One such example is Guayule rubber, currently the subject of the Native Latex Commercialization Act of 1978 which I sponsored last year.

The second means is to improve the effectiveness of scientific and technological information related to materials research and engineering. This information network in materials could well form one link in our contribution to the global science and technology information network called for at the recent U.N. Conference on Science and Technology for Development. I hope we would explore increased use of foreign research documents to our benefit as well as to the application of satellites and other advanced information transmission techniques to disseminate materials information throughout the world.

The third means provides for an evaluation of the training and supply of scientific and technical persons in materials science and technology. We must have and be able to predict the need for scientists, engineers, and technicians in the area of materials research if the policies directed by this act are to be effective.

Fourth, the committee believes that materials research and development offer "a special opportunity for the enhancement of industrial innovation generally." As our committee report notes and the committee concurs, a national materials research and development policy must contain measures for implementing results of research and development. These measures may be of all types, including economic analysis; financial, tax and regulatory incentives; as well as the integration of specific new materials into improved industrial processes for the production of goods and services.

Fifth and finally, this section declares that the Federal Government should seek to encourage, by all means possible, cooperative materials research both nationally and internationally. New approaches to combining and coordinating research in materials across the entire industry should be sought. The new program proposed in the recent Presidential review memorandum on industrial innovation is one example. Cooperative efforts between Federal and State agencies are a further example of cooperative research and development efforts.

Section 104 deals with implementation

and mandates that the President submit, within 1 year after enactment, a program of action to implement appropriate proposals and organization structures as he deems necessary to achieve the policy and objectives set forth in the substantive section of the bill. The Presidential program should provide for a policy analysis in decisionmaking mechanisms within the Executive Office of the President. It should provide for a private sector consultation on policy analysis and for interagency coordination at the Cabinet level. This section also requires two other actions to be reported by the President. First, a set of recommendations regarding actions to improve methods for collection, management and use of information concerning materials science, engineering, and technology.

Second, the President is to submit recommendations for legislation which may be required to strengthen organizations or advanced programs which he identified as necessary to implement the National Policy on Materials Research and Development. These legislative recommendations should cover all measures including financial, tax and regulatory incentives which will stimulate the applications of materials research and development by industrial and commercial sectors of the economy. Such recommendations should consider the effect of any proposed measures on the whole life cycle of materials technology.

That is from initial R. & D. through demonstration to introduction in the economy to the final replacement by new technologies a generation in the future. In addition these proposed measures should, as implied earlier in congressional findings, consider the long-term balance between economic benefits and social, environmental and economic costs.

The fifth and final section provides for the creation of a long range assessment capability within the executive branch with regard to future materials needs and developments. Section 105(a) provides that the Office of Science and Technology Policy is to prepare a 5 year outlook on materials needs. This outlook is to be revised annually and the bill also mandates that the Director of OSTP is to extend his assessment by 5, 25, and 50 years where possible so as to include the whole life cycle of materials technology.

Mr. Speaker, evidence has been provided in testimony to show that innovations in materials production and consumption require upwards of 20 years to become operational. Beyond that, their life span may exceed a generation. Accordingly a comprehensive policy regarding materials research and development and the application of materials research to industrial innovation requires assessing materials needs as well as new technologies far into the future, perhaps, as far as a generation in advance at least in broad outlines.

Such forecasting as the committee report emphasizes, and I concur, should lead to the eventual synchronizing of public policy in national resources with the timing of technological changes in materials production and consumption. Time and time again the situation both with regard to materials shortages and energy shortages provide illustrations of the attempt to mandate short-term solutions to long-term endemic problems in the supply and use of materials and energy. We expect our problems in energy to be solved overnight whereas their true solution may occur only over a generation as one technology slowly replaces another, as one source of energy or one source of materials is slowly replaced by a substitute. It is essential that public technology recognize this gradual evolution and that we learn to work with these essential constraints rather than frantically throwing money after one problem and then the next all to no avail.

Research on technological change in materials production and consumption is necessary to improve our long-range forecasting and assessment capabilities. Section 105 also mandates that the Federal Coordinating Council for Science, Engineering, and Technology is to carry out policy and objectives established in the act as appropriate. Finally, section 105(c) requires the Secretary of Defense, together with the Secretary of the Interior, to assess materials and materials policy from the point of view of national security. The Secretary of Defense is to have the lead in carrying out this responsibility and his assessment would be made annually as a separate section of the annual science and technology report to Congress of the Office of Science and Technology Policy.

Mr. Speaker, the committee made a number of relatively minor amendments most of which were not substantive but were merely intended to clarify the intent of the bill. Most important perhaps in the section on implementation the word "plan" was changed to the word "program" under the mandate to the President. It was the committee's intention that the President come up with a flexible program of action and not with a rigid plan as some witnesses thought might occur if the word "plan" were used in the bill. In addition, the original bill gave the President 6 months to prepare his program of action whereas the committee decided that a year would be more appropriate to achieve the ambitious objectives of the bill.

On page 4 of the bill concerning technically trained personnel the committee changed the language to make clear that we were not attempting to monitor the actual performance of specific individuals but that rather a general assessment of manpower needs in materials research and development and in industrial materials processes was necessary. The committee also deleted a reference to some specific areas of materials research and development such as corrosion or materials processing in space on page 5 of the bill.

While it considers these areas extremely important, it did not wish the executive branch to focus on these four interests to the exclusion of others which might be equally important. The principal substantive amendment on page 7 is the amendment which added the requirement that the Secretary of Defense prepare an assessment of critical materials needs as related to national security. The security aspects of materials research and development and the need felt by many witnesses to be of considerable concern as the case of cobalt illustrates.

Therefore, the committee found it advisable to add this amendment to section 105 so that the Congress and the Nation could have a better view of the long-term impact of materials on national security. Finally, we included four technical amendments to clarify the relationship between H.R. 2743 and the Mining and Minerals Policy Act of 1970.

Mr. Speaker, our committee has held numerous hearings over the past several years on materials policy. This bill grew out of several bills, including those sponsored by the former chairman, Mr. Olin E. Teague, by Mr. Thornton, former chairman of our subcommittee and by Mr. HOLLENBECK, ranking minority member of our subcommittee. Our current bill incorporates many of the provisions of these bills. Furthermore, substantial hearings were held throughout the last session. During this session my colleague, Mr. HOLLENBECK, and I cochaired two sets of hearings and a symposium on materials sponsored by the Subcommittees on Natural Resources and Environment, and Science, Research, and Technology. All nonadministration witnesses were in agreement with the need for the bill and the need for legislation.

Dr. Hannay's remarks, which I cited earlier, are illustrative of this feeling. The administration supported and is in agreement with the committee as to the importance and nature of materials research and development and policy regarding all aspects of materials production and use. They felt that current means for addressing materials problems were adequate. I disagree.

Mr. Speaker, the bill's provisions for implementation are fairly general in nature. We have followed this approach to give the President maximum flexibility in addressing these complex and wide-ranging issues involved. However, we are quite serious in our intent that the President deliver to the Congress a comprehensive and specific program of action. We do not intend that the 30-year history of commissions and paper studies be repeated.

I urge my colleagues to join us in supporting H.R. 2743. This action is long overdue and I hope that by passing this bill today we can successfully persuade our colleagues in the Senate to join us in acting on this important and timely legislation. I urge the House to pass H.R. 2743, the Materials Policy, Research, and Development Act of 1979 today.

Mr. FUQUA. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. PEASE), a member of the committee.

Mr. PEASE. Mr. Speaker, I would like to join my colleagues in urging approval of H.R. 2743, Materials Policy, Research and Development Act of 1979, as amended. The virtues of this legislation are numerous. My colleagues have enumerated the provisions of H.R. 2743 at length. Therefore, I will discuss only a small portion of the bill which I believe is particularly timely today.

The bill under consideration addresses the problems this Nation is experiencing in establishing and coordinating a materials policy. The necessity for speedy enactment of this legislation can be no more self-evident than it is today. We failed to learn an important lesson from the 1973–74 oil embargo. This failure is the foundation upon which we have built our oil dependency and upon which we have handed Khomeini the weapon to attack us. Without a national policy for nonfuel materials in general and for critical materials in particular, we are setting the stage for future embargoes of a large number of imported materials. With these embargoes, we will experience a constant state of national crisis and an attendant paralysis of our foreign policy.

I am a member of both the Foreign Affairs and the Science and Technology Committees. The work of both committees emphasizes the urgency we face in protecting ourselves from capricious and political embargoes on critical materials. For this reason, I support the Ambo amendment, adopted in committee, which calls for the Secretary of Defense with the Secretary of the Interior and the Office of Science and Technology Policy to prepare a report assessing critical materials needs related to national security. The study should also identify steps necessary to meet those needs. As a further precaution, I have asked the committee to include language in its report which responds to my concern over insuring U.S. access to critical materials in foreign countries.

In my view, it is essential that this study include a scrupulous review of existing reports and analyses of materials supplies and depletion of these supplies to determine their accuracy. Reports of oil reserves upon which we base our domestic consumption and the conduct of our foreign policy are notorious for their constant revisions and inaccuracies. It is obvious that we cannot allow our nonfuel materials policy to be developed in accordance with the precedent set by our oil supply forecasts. A workable nonfuel materials policy can be developed only if the statistics used are reliable. Therefore, I have asked the committee to add language in the report analyzing the reliability of the minerals research and factfinding information we are using.

I believe today's debate on legislation establishing a national materials policy is the proper place to make one other point. The security of our access to critical materials can be no greater than our willingness as lawmakers to concern ourselves with the struggles and aspirations of the developing countries of the world. Obviously, the political and economic problems of foreign countries prompt their decisions to restrict supplies or to cartelize price structures for commodities vital to the United States. Yet, there is little discussion of this basic cause and effect mechanism in this country during times of peace. Nor is it adequately represented in the organizational structure of the U.S. Government. Unfortunately, American officials tend to think in terms of two mutually exclusive states—one is war, where anything is possible, and the other is peace—where nothing is dangerous. That approach leaves no provision for the substantial area in between, where most of our current problems originate.

Good relations with developing countries is imperative for the United States as well as for the European community. We must determine how to satisfy our needs for raw materials and for markets for our industrial products. We also must determine how to satisfy developing countries' needs for markets for their raw materials, for markets for their fledgling manufacturing plants, for technical assistance and for development of their human and economic resources. We must work out equitable trading relationships which allow these countries to gain access to loans for capital development and to put our scientific and technical expertise to work on their development problems. Above all, it is important to recognize their growing economic and world political importance.

The security of this country's access to critical materials in underdeveloped countries goes much further than a study of our security needs. Our access to other countries' critical materials rests on a very basic human foundation. It is essential that we demonstrate to underdeveloped countries that we care about what happens to their impoverished, illclad, malnourished, disease-ridden people as much as we care about what happens to their raw materials.

Mr. HOLLENBECK. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho (Mr. SYMMS), a member of the Subcommittee on Mines and Mining of the Committee on the Interior and a ranking member of the Subcommittee on Environment and Energy.

Mr. SYMMS. Mr. Speaker, I thank the gentleman from New Jersey.

Mr. Speaker, I wish to compliment the gentlemen from Florida and New Jersey for their efforts regarding the bill the Science and Technology Committee brings to the floor today, H.R. 2743.

As amended, that bill contains important language regarding what now passes for America's national minerals policy—the Mining and Minerals Policy Act of 1970. As my colleagues know, that act is the briefest of statutes containing a congressional directive to the Secretary of the Interior to promote and encourage the development of an economically sound and stable domestic minerals industry. Yet as my colleagues may not know, that act has yet to be implemented in an effective, constructive manner.

Mr. Speaker, over the past 9 months, as as a member of the Miners and Mining Subcommittee, I have participated in hearings regarding the ongoing nonfuel minerals policy review or, as I have called it, the non-nonfuel minerals policy review. During those hearings it has become paramountly clear that the Mining and Minerals Policy Act of 1970 has been ignored and circumvented by this administration much to the detriment of America's minerals industry and to our national security.

The effort of Congress to insure the continued availability of strategic and critical minerals essential to our national survival has thus been frustrated. The result of that avoidance of congressional directives has been the growing dependence of this Nation on foreign sources for minerals without which we may not survive. It is time, Mr. Speaker, that we worried not only about the gas in our tank, but our tank as well.

Testimony received in October by the Mines and Mining Subcommittee from four international mineral experts clearly indicated that were we cut off from minerals supplied by southern African nations our industrial system, and our national defense would be on the verge of collapse within 6 months.

It is time this Nation gave its attention to the ever-growing crisis in nonfuel minerals, lest we learn too late of the importance of these minerals to our Nation.

The bill brought to the floor by the Science and Technology Committee takes an important step in that direction. It is an excellent bill, one which I support. I am particularly pleased with the new directives which it gives the President so as to insure that the purposes of the Mining and Minerals Policy Act of 1970 may be accomplished.

● Mr. SANTINI. Mr. Speaker, while America lies in the midst of a growing crisis over our energy resources, over the fuel that will heat our homes and run our factories, drive our transportation system and furnish us the synthetics which are an essential part of the daily lives of all Americans, there is an ever growing, albeit quietly, crisis even more serious, even more frightening in the danger that it poses for this great Nation of ours. While all in America fret, and justifiably so, over our dependence on imported oil, over our vulnerability as a result of our energy dependence on foreign sources, few seem concerned over the likely disaster that we face as a result of an even more frightening dependence on foreign sources for our nonfuel minerals.

Just as man does not live by bread alone, America does not survive on fuel minerals alone. We need—our lifestyle, our Nation, our defense, our very existence depend on nonfuel minerals, strategic and critical minerals, the manganese, the cobalt, the copper, the chromium, titanium, the silver, the tin, the lead, the zinc, the bauxite, and aluminum and others even more esoteric and obscure. These minerals are just as essential, as vital to our existence as the oil that we burn, as the coal that we dig, as the gas that flows through pipelines across America. Were we to ever lose, to be cut off from these minerals, our industry, our national defense, our very system would collapse.

While we may burn coal instead of oil from Iran, there is no substitute for the cobalt that comes from Africa. While we may utilize the 40 to 60 percent of oil resources that we now leave in the ground in the form of heavy crude and tar sands and thus decrease our frightful dependence on OPEC nations, there is no substitute for the manganese that comes exclusively from southern Africa and Russia or the chromium that comes from those sources. Yet even given the essential nature of these minerals to our

Nation's survival few appear cognizant of the very issue let alone the growing crisis.

It is a growing crisis. Today this Nation is dependent on foreign sources in excess of 50 percent for 24 of the 32 minerals essential to our very being. Many of these minerals come exclusively from foreign sources while some are furnished by foreign nations at the rate of 98 percent. Cobalt and manganese are two of these. Meanwhile, the Soviet Union is import dependent for only six of its mineral needs and only two of the six approach the 50 percent importation level. There is a lesson, an important lesson, regarding national security to be learned here.

It is this issue, that of our growing mineral dependence, that has so concerned the Mines and Mining Subcommittee of the Interior and Insular Affairs Committee—and by the legislation offered today by the Science and Technology Committee—that committee as well. For the past 9 months the Mines and Mining Subcommittee has conducted almost bimonthly hearings regarding this matter of America's growing strategic and critical minerals crisis. The subcommittee has received testimony from the Department of the Interior, Department of Commerce, Department of the Treasury, General Accounting Office, Department of State, the National Science Foundation, the Environmental Protection Agency, as well as representatives of the mining and minerals industry.

These hearings have been conducted both as a matter of congressional oversight as well as a matter of congressional inquiry into this question of America's dependence on foreign sources for minerals essential to our survival. The impetus for the congressional inquiry is a clear one given the crisis into which this Nation would be thrown by a shortage or an embargo or a boycott of all or even some of these vital minerals. The impetus for congressional oversight concerns a Presidentially mandated review regarding nonfuel minerals policy. The origin and status of that review deserve some explanation.

In mid-1977, 25 Members of Congress journeyed to the White House in order to discuss with President Carter the importance of this matter of nonfuel minerals. It was clear at that time that this issue greeted the President as a matter of first impression. It is my sincere belief that he was stunned by the information that was presented to him. Within a matter of months the President ordered that a nonfuel minerals policy review be undertaken by some 14 departments and agencies to last a period of 15 months, to analyze the problems present and to propose solutions. The review was to be conducted regarding some nine problem areas and was to be a sweeping study of this entire matter.

It was an awesome undertaking and one which was fully supported by the Members of Congress who had urged it upon the President. Unfortunately, almost immediately that review suffered its first serious setback in the redefinition by the Policy Coordinating Committee, the name given the 14 departments and agencies conducting the review, of its area of inquiry. The PCC excluded from the study seven issue areas which most experts believe to be essential to an understanding of this matter of strategic and critical minerals. Nevertheless, concerned Members of Congress continued to support the review in hopes that a study would be completed and problems could be fully laid out before this Nation and before the Congress.

Delay built upon delay causing the review to fall far short of its projected 15 month completion date. In fact, the review which was to have been completed in a two-stage process in a 15-month period was only half done in August of this year with the release of a draft concerning the problem areas. Despite the delay, concerned Members of Congress continue to support the review.

In August, the Policy Coordinating Committee released a 250-page background paper which was in fact a synthesis and a rewrite of background papers previously prepared by the PCC staff. That background paper had been synthesized into a 42-page document of which only 34 pages were a textual discussion of the problems facing America. That report was also released in August. For those in the Congress who had such high hopes for this review, the report came as a dismal shock. The report had failed to come to grips with the hard decisions necessary regarding the problems, the impacts, and their interrelationship. The report failed to acknowledge that Government has a role to play in this entire process and absolved the Government of any adverse influence on the domestic minerals industry. The report glossed over the weakened financial condition of America's mineral industry and entirely omitted the national security aspects of America's growing foreign dependence. The report assumed there will always be alternative world sources of cheap mineral supplies while failing to declare a clear consensus on identifying the problems and issues facing this Nation.

These are not just the conclusions and objections and frustrations of the minerals industry regarding this report. These are the views of all who have testified publicly regarding the report. A month after that report was released, public hearings were held regarding it in Los Angeles, Calif., in Denver, Colo., and in Washington, D.C. There was a crowded witness list in every city. Yet not a single witness, neither representatives from industry nor representatives from the environmental community nor representatives from so-called public interest groups spoke favorably regarding the report. It was universally condemned. Yet the review that gave birth to that report will go on leaderless, aimless, in its own innocuous, irrelevant fashion to the continuing detriment of this great Nation of ours. It is time this Congress instructed the administration and advised the administration concerning this growing crisis over nonfuel minerals.

We are not dealing with an esoteric, irrelevant subject. Nearly 2 months ago on the 18th of October the Mines and Mining Subcommittee conducted hearings regarding the matter of national security and the nonfuel minerals policy review. The subcommittee was privileged to have present before it four of the world's most acknowledged experts regarding the national security aspect of nonfuel minerals. It was their testimony, it was their unanimous testimony, that America was on the brink of national disaster, not as a result of our dependence on foreign sources of energy, but solely as a result of our dependence on foreign countries, unstable at best and hostile at worse, for our strategic and critical minerals. These witnesses were asked how long before the crunch would be felt in America were a small part of southern Africa to cut off the supplies of the platinum group metals, of chromium, of cobalt, of manganese, from this Nation. Their answer—6 months. Six months, Mr. Chairman, a tiny part of the world cuts us off and in 6 months we begin to collapse. The greatest nation in the world shudders and quakes when those minerals that supported our entire system are pulled out from beneath us.

The hearings which the Mines and Mining Subcommittee have conducted over the past 9 months have led our subcommittee to two conclusions: The first is that the Mining and Minerals Policy Act of 1970 which this Congress adopted so as to encourage and develop America's mining and minerals industry has not been implemented and, second, that the nonfuel mineral policy review, as I have already indicated, has been and is now a dismal failure.

Mr. Speaker, I want to congratulate the gentleman from Florida for moving quickly through his committee and to the floor this vital piece of legislation regarding America's minerals and materials policy. As well, Mr. Chairman, I would like to thank the gentleman from Florida, the chairman of the Science and Technology Committee, for his fairness and his kindness in dealing with me regarding the amendment that he has proposed to the committee-passed bill and which now lies on the desk which would accomplish the following:

It indicates that the Congress is concerned with the fact that the Mining and Minerals Policy Act of 1970 has not been implemented, its provisions have not been carried out, and that that failure has resulted in the absence of a national minerals policy. This bill further states that it is the intention of the Congress that the 1970 act shall be carried out and it requires the President of the United States to so direct the Secretary of the Interior.

Mr. Speaker, these are important changes, these are changes that the Committee on Science and Technology have accepted at the urging and request of the Committee on Interior and Insular Affairs, Subcommittee on Mines and Mining. These are matters which fall within the jurisdiction of the Mines and Mining Subcommittee but in the interest of expediting this legislation the gentleman from Florida has been kind and gracious enough to assure that the concerns of that subcommittee could be folded into this legislation in this manner. I congratulate him for his skill and for his cooperative spirit. I urge adoption of this legislation.●

● Mr. AMBRO. Mr. Speaker, I am pleased to join my colleagues in support of H.R. 2743, the Materials Policy, Research and Development Act of 1979. I would like to commend our chairman, the Honorable Don Fuqua, for bringing this legislation so rapidly to the floor for consideration.

At issue here is a glaring lack of policy and coordination addressing important national materials problems. Materials represents over $200 billion in the U.S. economy. We spend over $1 billion in Federal moneys for materials R. & D.—over $4 billion is spent in the private sector. Despite its importance there exists no constitutional structure accepting responsibility for establishing needed materials policy. Neither does there exist a means for implementing or coordinating such a policy.

These facts are crucial, especially given our vulnerability to imported critical materials. As noted in our recent hearings we are at about the same point with respect to materials today as we were with oil a decade ago. Of 27 materials listed by the Bureau of Mines, 18 are imported at levels exceeding 50 percent. The contrast with the Soviets is startling. Looking at these same materials, the Soviets are only importing seven, all at levels less than 50 percent; four at levels of less than 20 percent.

Many of the materials we are discussing are crucial to us—both economically and strategically. A good example is cobalt. Imported at a level of 97 percent and mostly from the African nation of Zaire, it is vitally important to our aerospace and other industries. It takes 1 ton of cobalt for every F–16 fighter—it requires 2 tons for every 747. Because of guerrilla activities in Zaire, production allocations have been halved and prices have soared by over 900 percent. Government analysts indicate a high probability that this shortfall will worsen, yet administration witnesses indicated that actions on this and other materials issues would have to await the results of yet another materials study. Our Nation may not be able to wait that long.

Simply put, this legislation puts forth several straight-forward measures to hopefully preclude the economic and strategic disaster of our past energy policies. We define a policy which calls for a balance between energy, environment, and materials. We describe four objectives of that policy and describe means for achieving such objectives. We call on the President to take action in implementing this policy and such objectives, giving some minimal conditions for acceptance.

Because of the problems of national security, I introduced in subcommittee an amendment which requires the Secretary of Defense, in coordination with other members of the Cabinet and the President's Science Office, to assess the Nation's critical materials needs related to security. This assessment would be conducted and reviewed annually, becoming part of the annual Science and Technology Policy Report to the Congress.

There are other important measures and issues related to this bill. I will leave it to my good friend and colleague from California, George Brown, to go into further detail.

I would just note that this bill should not be considered as a panacea to this Nation's materials problems. It represents, however, a good step in addressing those problems. I fully recommend and endorse this legislation. I urge my colleagues to vote for its enactment.●

Mr. RITTER. Mr. Speaker, I rise in strong support of H.R. 2743, the Materials Policy Research and Development Act of 1979. This bill, reported from the Science, Research and Technology Subcommittee on which I serve, will require the President to establish a program to coordinate materials policy and related research and development in this country.

I actively support the views of the committee in reporting H.R. 2743 because I feel a hidden crisis may be brewing in this country caused by a worldwide shortage of critical raw materials. In fact, the United States faces increasingly stiff competition for raw materials even though our consumption of materials has declined from one-half to one-third of world production in recent years. This does not indicate any slackening of U.S. demand but rather the growing world demand, particularly in developing nations. We may face the same problem soon with other raw materials that we face with petroleum as world demand rises and supplies diminish.

I believe most Americans do not realize that our economy is so completely dependent upon foreign sources for critical materials. Of 27 minerals and metals listed by the Bureau of Mines, 18 are imported at levels exceeding 50 percent—including cobalt, chromium, and platinum. Cobalt, which is essential for making jet airplane engines and many high performance turbines, has risen in price almost 900 percent in the last year as a result of political unrest in Zaire, Africa. Or take the example of chromium which we currently import from Southern Africa and the Soviet Union. Chromium is absolutely essential to the steel industry and to those who benefit from it. For example, the chemical industry is totally dependent on stainless steel which is made corrosion-resistant by chromium. The same is true for our entire energy industry. Major dislocations in chromium supply would have a very negative impact upon hundreds of thousands of jobs throughout the Nation.

Given the instability of current sources of supply, we obviously need to develop a materials policy which keeps chromium coming into the United States. On this point, the National Materials Policy Board reported in 1977 that perhaps as much as two-thirds of our chromium consumption could be replaced over the next 15 years by substitute materials and by more efficient use, including recycling.

On the other hand, it is not easy to apply innovative technology. As the National Academy of Sciences' 5-year science and technology outlook points out, major technological innovations in the steel industry are inhibited by a lack of capital investment. It is important, therefore, that this bill which deals with research and development policy also emphasize the need for recommendations, including financial measures, to promote industrial innovation. I strongly concur with the committee's directive that the President's program mandated in section 104 should include measures dealing with all means to stimulate industrial innovation in materials technology.

The committee report emphasizes the comprehensive and systematic nature of materials R. & D. policy. First it recognizes that long-range materials needs are inextricably related to environmental and energy problems. Policymaking in materials research and development should not be carried out in a vacuum. Second, the bill's definition of materials explicitly states that the concept of a material goes far beyond minerals alone. Indeed, the solution to our mineral shortages may well come from the development of substitute materials such as plastics and ceramics.

Further, the provisions of this bill stipulate that the President shall submit to Congress within 12 months of enactment: First, a plan for implementation of organizations and programs for carrying out materials policy and goals of the act; second, recommendations for the collection and use of information concerning materials, including materials research and development; and third, recommendations for further legislation, including financial measures to stimulate industrial innovation.

This important legislation places needed special emphasis on long-range assessment of national materials needs and the research and development necessary to meet those needs as part of the Office of Science and Technology policy's annual report to Congress. The Federal Coordinating Council for Science, Engineering and Technology is designated as the instrument to implement and carry out relevant policy and objectives established in the act.

The time to act on this legislation is now. I strongly urge my colleagues to support the materials policy for the United States embodied in this bill, which, while granting needed flexibility to the executive branch, requires the President to take coordinated action now for the immediate future.

In sum, as a metallurgist and materials engineer who has learned professionally about the stiff competition which the United States faces for raw materials, I strongly support the committee's recommendations and urge passage of H.R. 2743.

Mr. HOLLENBECK. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

Mr. FUQUA. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. Fuqua) that the House suspend the rules and pass the bill, H.R. 2743, as amended.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

REQUEST FOR CONSIDERATION OF H.R. 4962, CHILD HEALTH ASSURANCE ACT OF 1979

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman from Maryland will state the point of order.

Mr. BAUMAN. Mr. Speaker, I make a point of order against the present consideration of the bill, H.R. 4962, on the grounds that the committee report fails to comply with the provisions of clause 3 of rule XIII, the so-called Ramseyer rule.

The relevant provision of clause 3 of rule XIII requires that—

> Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document—a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made.

Section 4 of the bill amends subparagraph (B) of section 1905(a)(4) of title XIX of the Social Security Act. This amendment is properly shown in italic type on page 111 of the report (H. Rept. 96-568). Section 4 further amends section 1905(a)(4) by adding a new subparagraph (D). This amendment is also properly shown in italic type. Subparagraph (C) of this section of the Social Security Act is not amended, but the committee report also has this provision shown in italic type indicating that it is a change in existing law, and is, therefore, in violation of the House rule. Subparagraph (C) is not an amendment nor is it amended by the bill and, therefore, the committee report is in violation of the provisions of clause 3 of rule XIII, which has the purpose of clearly showing existing law and proposed amendments to that law.

The purpose of the rule is to make it readily apparent what change in existing law is intended. I cite volume 8, chapter 236, section 2236 of "Cannon's Precedents of the House of Representatives" in support of this. On Monday, February 3, 1930, the House was considering bills on the Consent Calendar, when the bill—H.R. 8156—to change the limit of cost for the construction of the Coast Guard Academy was reached.

Mr. Fiorello H. La Guardia, of New York, made the point of order that the change proposed in the law was not properly indicated in the report.

The Speaker, the great Mr. Longworth of Ohio, sustained the point of order and said:

> It is perfectly apparent to anyone reading the bill that its language is not exactly in the form prescribed by the Ramseyer rule, which provides that—
>
> "Whenever a committee reports a bill or joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document—
>
> "(1) the text of the statute or part thereof which is proposed to be repealed; and
>
> "(2) a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended showing by stricken-through type and italics, parallel columns or other appropriate typographical devices, the omissions and insertions proposed to be made."
>
> The Chair does not think that the rule has been complied with. What is required under the second part has not been done. Of course the rule is intended to make it evident just what change in a bill or resolution is intended. It is to make this change apparent to anybody without consulting the statute which it is intended to amend.

Mr. Speaker, the report on H.R. 4962 does not make it evident just what change is intended. The report does not make it apparent what is being amended without consulting the statute. In fact, the report clearly and erroneously indicates a section of existing law is amended when it is not.

Furthermore, Mr. Speaker, I note that the report has not even "substantially" complied with the rule. The precedents demonstrate that substantial compliance is achieved even though the report may contain errors of punctuation, capitalization, or abbreviations which are at variance with the bill. The report error here goes far beyond these minor problems and causes difficulty in clearly discerning what this amends and what is now statutory law. The fact that this appears in italic type signifies it as an amendment, which it is not. The report causes confusion rather than clarification and is, therefore, clearly in violation of the rule.

The SPEAKER pro tempore. Does the gentleman from California desire to be heard on the point of order?

Mr. WAXMAN. Yes, Mr. Speaker, I do desire to be heard on the point of order.

Mr. Speaker, there are over 20 pages in the proposed bill. The gentleman is referring to one paragraph, in which I am informed has a typographical error; but the point that I would make in opposition to the point of order that is made is that the Ramseyer is in substantial compliance with the rule and that on that basis the point of order ought to be overruled.

□ 1420

The SPEAKER pro tempore. The Chair would ask the gentleman from California (Mr. WAXMAN) to withhold his motion until the Chair can ascertain whether the Ramseyer rule was violated by the committee or whether a typographical error by the Government Printing Office exists in the report.

Will the gentleman withdraw his motion?

Mr. WAXMAN. Mr. Speaker, I will withhold my motion.

Mr. BAUMAN. Mr. Speaker, if I may be heard further, for the Chair's deliberations I would only indicate that the gentleman from California (Mr. WAXMAN) has offered as his only rebuttal that this is substantial compliance and not anything more than an error.

The fact of the matter that the section is involved I discovered only because of the substantive nature of that section in my own desire to possibly offer amendments. Now, if this gentleman was misled, I am sure other Members may have been misled, and I think the purpose of this rule is to prevent that.

The SPEAKER pro tempore. The motion to go into committee has been withdrawn, so the Chair will at the present time withhold its ruling.

ANNOUNCEMENTS BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair is awaiting the arrival of the gentleman from Kentucky (Mr. PERKINS) to take up the asbestos bill.

The Chair at this time will recognize any Members who wish to make 1-minute speeches.

PERSONAL EXPLANATION

(Mr. CARNEY asked and was given permission to address the House for 1 minute.)

Mr. CARNEY. Mr. Speaker, on Thursday, November 29, 1979, at the request of his mother, I attended memorial services for Marine Cpl. Steven Crowley, who was killed in action defending the American Embassy in Islamabad, Pakistan. Therefore, I missed the three recorded votes taken that day. These are the only votes on legislation that I have missed this year. Had I been present, I would have voted in the following manner:

Rollcall No. 692: An amendment to the Nuclear Regulatory authorization bill that requires the NRC to submit certain information to Congress on safety issues regarding nuclear reactors. I would have voted "yes."

Rollcall No. 693: Prohibition on granting of new construction permits for new commercial powerplants through March of 1980. I would have voted "no."

Rollcall No. 694: On agreeing to the conference report authorizing appropriations for programs under the Domestic Volunteer Service Act of 1973, and to amend the act. I would have voted "no."

ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL ACT

(Mr. MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. MILLER of California. Mr.

Speaker, I rise in support of the enactment of H.R. 3282, the Asbestos School Hazard Detection and Control Act.

This legislation will provide very limited Federal assistance, predominantly in the form of repayable loans, for the removal of deteriorating asbestos materials in school buildings. Both grants and loans must be matched 50–50 by the State or local community, and the loans must be fully repaid to the Federal Government.

The inhalation of asbestos fibers has been tied to increased rates of lung cancer and other respiratory disease with absolute certainty. No one disputes the direct correlation between exposure to asbestos materials and these fatal diseases.

The incidence of asbestos related disease is limited to those who have been exposed in occupational settings. A recently disclosed opinion, dated 1948, warned asbestos company officials that even those with minimal exposures could develop asbestos-related illness.

Elevated cancer rates have also been documented among the families of asbestos workers, even though those family members themselves never worked with the substance. Similarly elevated rates have been found among those living in the vicinity of asbestos factories.

Beginning just after World War II, asbestos was heavily used in the construction industry, including the construction of school buildings. Up until 1973, when its use was largely banned, sprayed asbestos was applied in the construction of thousands of schools throughout this country.

Today, some of that asbestos material is deteriorating and is crumbling, or, in the language of the experts, becoming friable. Asbestos fibers are being released into the air of the school buildings, and are being inhaled by schoolchildren and employees alike.

This is a very serious problem. In most cases, the fiber content of the air is verv low, but in some cases, it approaches and even exceeds low occupational levels.

During testimony on this problem, the Director of National Institute on Environmental Health Sciences, Dr. David P. Rall, noted:

> The asbestos hazard would be serious enough if workers were the only group at risk, but there is some evidence to indicate that much lower levels of exposure to asbestos than found in the workplace are capable of producing asbestos related disease. . . . the conclusion is that exposure means risk.

One of the Nation's leading doctors who has studied asbestos in school buildings echoes this opinion. Dr. Robert Sawyer of Yale University told the subcommittee:

> The use of the Occupational Safety and Health (OSHA) exposure limits is quite inappropriate for school children . . . all unnecessary exposure to asbestos should be eliminated and all essential or necessary or unavoidable exposure should be minimized.

We should also note that children may especially be at risk with regard to asbestos-induced cancers for several reasons:

Their accelerated rate of cell multiplication;

Their increased respiration rate;

Their rate of physical activity and destructiveness;

And especially, their long life expectancy following exposure, during which the disease may develop.

It is very critical to recognize that asbestos-induced cancers have a very long latency period, sometimes as long as 20 to 30 years. It is not surprising that we cannot point to cases of asbestos-related cancers in schoolchildren today, just as we did not have a large number of cases involving occupationally exposed people several decades ago.

Today, literally millions of people who were exposed in the 1940's to 1970's are "at risk." We do not know how many of them will develop cancers, although HEW has predicted that about 18 percent of future cancer deaths will be attributable to asbestos exposure. Dr. Sawyer describes our situation with regard to those cases as "nothing short of body counting."

I do not think we want to get ourselves into a comparable situation with regard to our children, and that is one reason that enactment of H.R. 3282 is essential.

As Dr. Nicholson has written:

> The "prudent person approach" would indicate that, at the very least, where feasible, excess asbestos exposure be controlled.

Several years ago, the leading asbestos expert in the world, Dr. Irving Selikoff, told a Senate committee:

> The prevention of cancers in the year 2000 have to be our concern in 1973. It is what is happening in 1973 which will become evident in the year 2000.

The thrust of this legislation is to assist hard-pressed States and local communities in removing those asbestos materials which are deteriorating and crumbling, and which, in the words of the legislation, constitute "an imminent hazard to health and safety."

We do not want to redesign the Nation's schools. We do not want to encourage the needless repair of buildings.

But neither do we want to stand by and do nothing to assure that very serious health hazards are removed from our Nation's schools where, according to a low estimate, nearly 2 million students may be exposed daily.

I want to point out some of the very important features of this legislation, because they have been written in such a way as to assure that this is a limited program.

First, this program is entirely voluntary. No school need undertake inspection or repair activities, and no one need take a grant or loan from the Federal Government.

The issue of whether States will be mandated to inspect their schools is a separate issue which may be addressed by the EPA. If that Agency decides to press for mandatory inspections, it seems to me that the argument for this legislation becomes all that much stronger.

Second, most of the funds in this legislation are in the form of loans for use in the repair or removal of asbestos materials. These loans must be fully repaid to the Federal Government.

Third, recipients of Federal grants or loans must put up half the cost of the program. This 50–50 match assures that States will not frivolously apply for Federal loans.

It should also be noted that only those situations involving friable or deteriorating asbestos materials which pose "an imminent hazard to health and safety" of school children and employees are eligible for Federal assistance. We will not loan funds to repair any materials which is not likely to emit asbestos fibers into the ambient air of the school. Rigid standards for qualifying for a loan will be established on the basis of sound scientific criteria.

I would like to briefly address some of the questions about this legislation which might be raised.

I thoroughly object to the amendment which will apparently be offered by Mr. GOODLING which would merely permit States to divert up to 1 percent of their Federal education funds to an asbestos control program. While I am gratified to see that Mr. GOODLING supports the idea of Federal assistance in the elimination of asbestos hazards, this is not an appropriate financing method.

Moneys which have been appropriated for education purposes are needed for instruction, and must not be used for other purposes. These funds are limited enough without raiding them for other worthwhile purposes.

This view has been echoed by Albert J. Comfort, Jr., president of the National Association of State Coordinators of ESEA Title I—Education for the Disadvantaged.

> I would like to voice a strong objection to the diversion of title I ESEA funds for purposes other than those established in the title I statute. However meritorious the removal of the asbestos hazard in classrooms may be, it is inconceivable that title I funds would be considered for that purpose.

Approval of the Goodling substitute would establish a dangerous precedent whereby education money would forever be raided for other admirable purposes. We should strongly vote down that substitute.

I would also like to remind my colleagues that the authorization in this legislation would be used only if approved applications were submitted for funding. It may well be that the level of need will not be as high as the estimates at the time the legislation is written, or that some areas will not choose to apply for Federal loans, or will not qualify.

In any event, I want to point out that the Congressional Budget Office, in reviewing H.R. 3282, concluded that the maximum expenditure for next fiscal year would be just two one-hundredths of 1 percent of outlays, and the inflationary impact of this expenditure would be minimal. For the remaining 3 years of the program, the percentage shrinks still further.

I really do not think that that amount of money is too much to allocate to the elimination of this serious health hazard to children. As a preventive effort alone, it is a very wise expenditure. And, you must keep in mind, virtually all of that money will be repaid, in full, to the Government.

Lastly, let me address the administration's position on this legislation. It has been all but impossible for us to get an opinion on this legislation out of the administration for many months. Meanwhile, several representatives of the administration have testified in support of removing asbestos hazards from schools.

The administration statement notes that the Federal Government role should be limited to providing technical assistance and research to the States.

I disagree. Not every school district, not every State is going to be impacted by asbestos problems. But for those which are, and this includes States like Massachusetts, Georgia, Michigan, New Jersey, Ohio, New York, California, Florida, Indiana, Pennsylvania, Louisiana and others, I do not see why we cannot extend a very limited Federal hand, if those areas are willing to put up at least an equal part of the funding. And, I remind my colleagues, they will have to repay every dime they take in loans from the Federal Government.

We know that many States are reluctant to initiate a detection program because they do not have the funds to follow up with repairs. Although HEW urged Governors to initiate an inspection program of all their schools a year and a half ago, by last December only 13 States had inspected more than 1 percent of their schools.

We have all sorts of special loan programs and disaster funds to deal with unexpected emergencies. We provide bailouts to companies that make managerial mistakes, or that market a faulty product or pollute the environment and need Federal support.

I cannot believe that it is reasonable for this Government, whose own specialists and experts are very concerned about this asbestos problem in schools, to limit its efforts to solve that serious problem to merely warning the States. I think we can offer a small amount of help in the form of loans in order to assure that detection and repair activities are undertaken expeditiously and safely.

I would like to close by noting that a companion bill has already been introduced in the Senate by Senator Javits. His cosponsors include Senators Stafford, Moynihan, Cranston, Kennedy and Bradley.

I am hopeful that the House will pass this legislation intact this week, so that we may move over to the Senate and assure that a final bill is on the President's desk early next year. This will hopefully allow States to proceed with detection programs so that repairs can be made during the summer of 1980 when buildings are normally vacant.

I again urge my colleagues to vote in favor of passage of H.R. 3282.

HAZARDOUS ASBESTOS MATERIALS

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3282) to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. Perkins).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3282, with Mr. Benjamin in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Kentucky (Mr. Perkins) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. Erdahl) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3282, the Asbestos Hazard Detection and Control Act of 1979, addresses a very serious threat to the health of our Nation's schoolchildren. This bill would help school districts and private schools identify and control the exposure of schoolchildren and personnel to hazardous asbestos fibers.

But before I describe the contents of the bill, I would like to take a minute and commend Congressman George Miller of California for the leadership he has shown in this area. Mr. Miller's bill is the one before us today, and I believe that he is the leading expert here in Congress on the issue of the health dangers posed by exposure to asbestos.

The bill before us represents a reasonable solution to an urgent need. For some time, medical evidence has existed linking asbestos with cancer and with other chronic or fatal diseases. The overwhelming scientific and medical opinion holds that there is no threshold level below which exposure to asbestos fibers can be considered safe. And the long life expectancy of children increases the chances that asbestos-related cancer, which takes 15 to 40 years to develop, will occur within their lifetimes.

Mr. Chairman, the committee thoroughly investigated this problem in hearings and legislative sessions. At that time we discovered that hazardous asbestos materials have been found in many of our Nation's schools. And in too many instances, this asbestos material is damaged or deteriorating, and is releasing dangerous fibers into the air within the buildings.

H.R. 3282 would help school districts and private schools remedy these problems by providing two types of Federal assistance.

First, the bill makes Federal grants available to school districts and private schools to inspect their facilities to detect the presence of asbestos. The bill authorizes a total of $30 million for fiscal years 1980 through 1982 for these grants.

Second, H.R. 3282 authorizes $100 million per year for fiscal years 1980, 1981, and 1982 for long-term, interest-free Federal loans to school districts and private schools. These loans can be used to contain, remove, or replace asbestos-containing materials which pose an imminent health hazard in school buildings. The loan money can also be used to restore these buildings to their former state before containment or removal activities.

The legislation will only cover up to 50 percent of the costs of both the detection and removal programs. The remainder of the costs will have to be supported from State and local funds. However, the Secretary of HEW is given the authority to increase the Federal share up to 100 percent for districts and private schools with limited financial resources.

In addition, grants and loans can be made to retroactively reimburse districts and private schools for activities conducted back to January 1, 1977.

To my mind, the need for this legislation is quite clear. But for the information of the Members, I would like to devote the remainder of my remarks to answering three questions which will likely arise in connection with the bill.

EXTENT OF THE PROBLEM

First, I suspect my colleagues are interested in knowing what the extent of the problem is.

Undoubtedly, many of you have been contacted by parents in your district concerned about the presence of asbestos in their children's schools. In fact, asbestos was widely used in schools between 1940 and 1972 for fireproofing, insulation, soundproofing, and even decoration.

Although there has been no systematic national inspection, the Environmental Protection Agency has estimated on the basis of preliminary surveys that between 5 and 15 percent of our Nation's schools may be affected.

What is more disconcerting is that several States in different parts of the country have confirmed the presence of loose, flaking asbestos materials in their schools. And a comprehensive study of schools in New Jersey revealed that where there is material in this form, the concentration of asbestos fibers in the air can even exceed the standard that has been developed for asbestos contamination in the workplace.

In my view, this alone is sufficient evidence to warrant Federal concern. In fact, the Federal Government has already demonstrated its concern by banning the use of asbestos in spray-on applications, and by the Environmental Protection Agency implementing a program to distribute information to State and local educational agencies to help them assess whether they have a problem and what can be done.

To summarize, the extent of the problem covers between 5 and 15 percent of the schools in the country. And the level of danger is not precisely known, but could in many instances equal that of the workplace.

NEED FOR FEDERAL ROLE

A second question that might be raised is why the Federal Government should undertake to help pay for the costs of remedial action. There are several reasons why.

First, removal and replacement activities can be quite expensive—anywhere from $2 to $12 per square foot. When one considers that an average school project will involve about 10,000 square feet, one can see how a school could be hard pressed to undertake such a program. In these times of inflation and limits on local taxation, raising all the necessary funds can be almost impossible for some school districts.

And if a recent Environmental Protection Agency proposal comes to pass, school districts may soon be required by the Federal Government to correct dangerous asbestos situations. On September 20, the EPA published an advance notice of proposed rulemaking calling for public comments on EPA's intention to regulate what constitutes an acceptable level of asbestos in a school building. Thus, it is possible that within a matter of a few months, school districts will have no choice but to rectify these hazards pursuant to a directive of EPA. Already, schools are anticipating this situation and asking how they will pay for this work.

Second, the States have been very slow to move in this area. The committee found that half the States have no asbestos program, and that only six of the States have inspected more than 20 percent of their schools.

Third, no authority presently exists in Federal law for a program of this magnitude. Both EPA and HEW have told the committee that they feel their present authority is limited in this area and that there must be legislation for them to go beyond the present scope of their activities.

Fourth, a systematic Federal program would assure that the work is done according to safety and quality control standards. According to the EPA, poorly performed work can create a greater hazard than it eliminates. And it is unfortunate that this has already occurred in some places. Consequently, the bill requires the Secretary of HEW to develop safety and quality control standards, to eliminate the possibility of profiteering by unscrupulous outfits.

Fifth, another reason to support the bill is that it will actually save the Federal Government money in the future. If we do not remove this dangerous asbestos soon, we run the risk of exposing schoolchildren to it; and, as a result of that exposure, some could become ill with cancer or asbestosis when they become adults. Such illness for many of them will cost the Federal Government in the years ahead through increased expenditures for medicare and medicaid and unemployment compensation. So, to state it in purely dollar terms, it pays to spend a little now to save more in the long run.

For all these reasons, I believe the Federal Government must become involved. However, I would like to point out that such involvement would not unduly burden the Government. The loans authorized by the bill are required to be paid back within a specified period of time. In addition, the inspection program will certainly uncover instances where, although asbestos is present, it does not constitute an imminent hazard and therefore no further action will be needed.

AMENDMENT TO DIVERT PRESENT FUNDS

The final question I would like to address is why a substitute amendment which would allow States to use 1 percent of their Federal elementary and secondary education funds for this purpose is inadequate.

I see several shortcomings with this approach:

First, it would set a dangerous precedent of redesignating already-appropriated money. While 5 percent, the maximum amount that could be taken from any one program, does not sound like a lot, it could easily add up were Congress to take advantage of this option very many more times.

Second, when the current inflation rate is taken into account, the fiscal year 1980 appropriations for the education programs in question already represent a virtual standstill for some programs and a reduction in real dollars for others. For example, the Labor-HEW appropriations bill includes additional money for only a limited number of school districts in the title I program, and these are just the poorest districts. The other school districts will receive the same amount as they received last year which means a substantial decrease when you consider inflation. Nor does the appropriations bill include any notable increases for any other State-administered education programs.

So this means that school districts will already have to cut back on the services provided, just to keep pace with inflation. To ask them to take a further reduction to support an asbestos removal program does not seem fair.

Third, the substitute would leave all decisions about whether to mount an asbestos program in the States' hands. As I mentioned, many States do not have a good track record in this area. The substitute would make no provision for schools, no matter how serious their asbestos problem, in States which do not choose to participate. In addition, there is no guarantee that the States will adhere to acceptable safety or quality control standards for asbestos detection, removal, or containment work.

Mr. Chairman, for all these reasons, I would urge my colleagues to speedily pass the committee bill, H.R. 3282. The problem is serious. There is a need for a limited Federal role. And most importantly, I do not think we should tarry when the health of our Nation's schoolchildren is at stake.

□ 1440

Mr. ERDAHL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I would like to associate myself with the previous remarks of our distinguished chairman, the gentleman from Kentucky (Mr. PERKINS), regarding the need to deal with any asbestos hazard in our schools, which poses the likelihood of imminent or potential danger to persons in those buildings.

Most reasonable people agree with the intent of this legislation, to assist States, local school districts and nonpublic schools in surveying the extent of exposure to an asbestos hazard and to correct dangerous conditions.

I want to commend our chairman and the gentleman from California (Mr. MILLER) for bringing this critical problem before this body, however, I have serious reservations about creating an additional Federal spending program with its accompanying layer of bureaucracy, paperwork, cost, and duplication.

I believe there is a more effective way to assist State and local education authorities in the process of detecting and removing any asbestos hazard.

I intend to support the approach which will be offered as an amendment in the nature of a substitute to the committee bill. This substitute approach will be offered by my colleague, the gentleman from Pennsylvania (Mr. GOODLING). This was also offered during consideration by the committee. I feel this is more efficient and realistic than the bill reported out of the committee.

The Goodling substitute is based on the fact that the Environmental Protection Agency already is currently involved in an ongoing nationwide information and technical assistance program to assist States, and I understand every school district in the country, in the process of identifying and controlling exposure problems caused by asbestos-containing material in school buildings. The substitute approach is intended to reenforce this effort by allowing State and local education authorities the option of using up to one percent of their Federal elementary and secondary education funds for the purpose of detection and/or removal or containment of an asbestos hazard based on EPA guidelines.

I would correct one observation made by the distinguished chairman. My understanding is that in the Goodling amendment these funds would not be limited just to title I funds, but all Federal education program funds.

The substitute insures no more than 5 percent of the Federal funds for any specific education program can be used. This, I think, preserves the viability of these various Federal educational programs.

I would also like to point out that the substitute amendment would in no way affect the impact aid funds. All impact aid funds are already available for use by the local educational agencies for detection and removal of asbestos; therefore, the impact aid funds are not included in the 1-percent aggregate of Federal aid to elementary and secondary education administered by the State education agencies, nor are they limited by the 5-percent ceiling for an individual program.

Comparison of the two approaches, Mr. Chairman, shows the advantages of the Goodling substitute. Whereas, the substitute would not expand the Federal budget, the committee bill would initially cost $30 million which is not budgeted.

In addition, the committee bill authorizes up to $100 million for each of 3 fiscal years to be used for 20-year interest-free loans, a provision which amounts to a potentially enormous cost to the taxpayers.

Since the substitute affords a means for corrective action without the need for a separate appropriation, it insures that any hazardous conditions in our schools can receive immediate attention.

In contrast, the committee bill is merely an authorization requiring a separate appropriation. Recognizing the current congressional attitude toward new spending programs, along with that from the White House and the OMB, are we willing to risk delay on this issue if our children are in danger of exposure to hazardous levels of asbestos in the school environment?

I think we should not take that risk. My colleagues might be interested to learn that the Congressional Research Service reported that under the provisions of the Goodling substitute, the following amount of money would be available to States for use in asbestos detection and removal and containment programs based on 1977–78 figures.

The total amount available nationwide from the 1 percent of the Federal elementary and secondary education aid administered through the State education agencies is over $60.6 million. It should be noted that the State and local authorities would decide on whether to use this amount in part or in total. Yet, the 5-percent cap on the amount that can be redirected from any particular program preserves the integrity of all our Federal education programs. The figure that I just mentioned does not include the over $767 million now available to schools in the from of impact aid funds in the district where that is applicable.

Therefore, depending on the severity of the problem in a particular State, a significant amount of Federal aid would be available.

From the perspective of administrative efficiency, the substitute again in my opinion proves to be superior. It offers the option of using Federal aid without any significant increase in bureaucracy or State and local paperwork.

On the contrary, the committee bill. as reported—and incidentally, I voted for it, but I think the substitute is a better one would establish a new bureaucratic task force with the usual requirements for standards, plans, and review procedures. Although this aspect was somewhat improved by amendment in committee, the potential still exists for duplication, overlap, and confusion of authority between HEW or the new Department of Education and between the EPA.

The advantage of the substitute is that it reinforces and utilizes the ongoing EPA mechanism rather than creating a new and separate entity to accomplish the same goal.

I urge my colleagues to support the substitute amendment when this bill receives further consideration on the House floor.

Considering the uncertainties regarding actual assistance associated with the bill, as reported, and here we talk about, of course, the need to go through the appropriations process, not only in the House but in the other body as well, it seems that this bill has more certainty of being accepted by the Congress in total.

I feel the reasons for adopting the substitute are persuasive. They are not based upon an unwillingness to provide Federal aid to prevent exposure of our schoolchildren and personnel to an asbestos hazard. Rather, they are considerations based on efficiency, cost, and the possibility of realistic action.

The substitute does not raise expectations, while the committee bill might raise false ones, of potential Federal assistance, but rather, allows State and local education authorities to select their priorities while guaranteeing them the availability of aid for the detection and removal of any asbestos hazard.

For all these reasons, Mr. Chairman, and with full respect for the distinguished chairman of our committee, I feel that the substitute will improve upon the committee's approach.

I plant to support the Goodling substitute's positive solution.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the Asbestos School Hazard Detection and Control Act of 1979, H.R. 3282. This bill would establish a Federal program of grant assistance to schools for the detection of asbestos hazards and loan assistance to remedy these hazards. And I want to commend this committee for the action they are taking today.

Over the past 30 years or so, asbestos use in school buildings has been common. In recent years, much attention has been drawn to the health hazards of asbestos. I have been, for quite some time now, actively involved in helping to focus attention on the asbestos problem in general, especially in the workplace. I would hope that the type of concern exemplified by this bill can be extended to the workplace, as well as to schools. I have been. and remain. particularly concerned about exposure of workers to asbestos in our naval shipyards. For fiscal year 1979 Congress provided, and the President approved. a naval operations and maintenance budget of almost $12 billion. Out of this total. the Navy ought to be able to find the funds to protect its workers.

An examination of Long Beach Shipyard workers in 1978 revealed that 16 percent had asbestosis. Thirty-seven percent who had been employed there between 22 and 27 years had the disease. A recent GAO report indicates asbestos will continue to be used for years in some ships. The Navy believes that replacing it with a substitute would be too costly.

This bill before us today, H.R. 3282 is a bill that will help address this same problem in our Nation's schools. Potentially dangerous levels of contamination do exist in some schools. This measure is needed to help determine the extent of the problem and to deal with it. I would urge my colleagues to support H.R. 3282. I also hope that the concern demonstrated in this bill will not end here.

☐ 1450

Mr. ERDAHL. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman from Minnesota for yielding this time to me.

Mr. Chairman, I rise in support of the proposed substitute bill to be offered by our colleague from Pennsylvania (Mr. GOODLING).

I have been disturbed by the legislative process of this bill before us because I think it points up one of the worst aspects of congressional activity, and that is with each new problem we want to create a new bureaucracy, have a new authority for appropriation, another item in the appropriation process, and much time, much waste goes with that sort of congressional activity.

We created some years ago the Environmental Protection Agency to be the principal focus of Federal action in environmental matters. The Environmental Protection Agency is there. I think it is working and working quite well.

If it is not working, I think we have an obligation in our oversight responsibilities to find out that it is not working, what the defects are, and then make certain that the changes are made to assure that the Environmental Protection Agency does work. I think, as I said, it is working.

I have here before me copies of the Federal Register for Friday, July 13, 1979, and Thursday, September 20, 1979.

In the July 13 Federal Register the Environmental Protection Agency makes this announcement:

> The Environmental Protection Agency has decided to grant the petitions of the Environmental Defense Fund and State of New Jersey that EPA initiate a rulemaking proceeding to regulate asbestos-containing material in schools.

Then they go on and explain the proposed rulemaking.

Then the Thursday, September 20, Federal Register contains the following EPA notice:

> EPA has initiated a rulemaking proceeding under the Toxic Substances Control Act regarding friable asbestos-containing materials in schools. This action is a continuation of EPA's school asbestos program announced March 23, 1979.

The proposed rulemaking discusses EPA's plans for a—

> . . . rulemaking to require 1] a survey of elementary and secondary schools to determine whether they contain friable asbestos-containing materials; 2[corrective action in situations which present an unreasonable risk to the health of students, teachers, or others who use or work in the school buildings; and 3] periodic reevaluation of friable asbestos remaining in schools to determine whether subsequent corrective action is necessary.

In addition to this rulemaking, EPA has already initiated a voluntary program of assistance to schools that request such assistance in identifying and assessing the extent of risks that asbestos might have in our schools.

So we have parallel actions by the EPA. We have the voluntary program for assessing the extent and finding ways to do away with the risk that are in our schools, plus the rulemaking which will force all schools to undergo a process of determining the extent of the risk and taking action to resolve that risk.

I think adopting the Goodling substitute is wholly compatible with what EPA is doing, which will then make Federal funds available to those local jurisdictions, local school districts that find they do not have sufficient local resources to comply with the rulemaking or to engage in the voluntary activity under the auspices of the EPA.

To start a whole new program instead of that, to set up an entire new bureaucracy, find some place to house them, have them come back here and go through the appropriation process, and then have this terrible bureaucracy along with the EPA just seems to me to be the height of folly.

I do understand that it is awfully nice if there is a headline in the newspaper today for the Congress to react, for somebody to get their name on a bill, and then maybe even have that go down in history as the Erlenborn antiasbestos program. You know. that is wonderful. But then when we find asbestos in a factory, it will be the Goodling antiasbestos program, or, as we had here on the floor of the House some years ago, a fourth or fifth antirat program because it was handy to have another Congressman get the credit for having heart enough to start a new program to solve a current problem.

How much better than creating these monuments for each other it would be if we would see that the already existing bureaucracy did the job that they are supposed to do. If there is a shortage of funds in the ordinary process, make some funds available. It will take less time, it will take less of our effort. It will mean a reduction in paperwork and bureaucracy, and it will mean the problem is likely to be solved more rapidly and in a better manner.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to my chairman.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ERDAHL. Mr. Chairman, I yield 3 additional minutes to the gentleman from Illinois (Mr. Erlenborn).

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to my chairman.

Mr. PERKINS. Mr. Chairman, I would like to ask the gentleman from Illinois if it is not true that both the EPA and the HEW have stated that they could not do any grant-making work in this area unless they had legislative authority.

Mr. ERLENBORN. I will be happy to answer the gentleman. The answer to that is no.

As a matter of fact, EPA is already, and if the chairman were listening to me he would have heard me say EPA already has the voluntary program and the rulemaking procedure both active and both in place. So there is no question but what they have the authority.

As a matter of fact, I would like to tell the chairman and the rest of the Members that I wrote to the EPA to ask them their opinion of this proposed legislation, and they did prepare an answer to me that went to OMB. It never got out of OMB. Just why I am not certain. But as I recall, at that time this Administration was opposed to this legislation, at least initially. I have not heard whether they have changed.

Mr. PERKINS. If the gentleman will continue to yield, let me say to the gentleman that the EPA has the authority to send out information to the school districts, but beyond that they do not have authority. They do not have any money or any authority to grant funds to make loans to detect or to remove asbestos in a dangerous situation.

Mr. ERLENBORN. I will not yield to the gentleman further now.

I would like to answer the gentleman. They do have the money, they do have the authority to engage in rulemaking. That they are doing. If the chairman had been listening to my original comments, I pointed out that we could make money available to comply with those rules through the Goodling substitute. I am supporting that.

Mr. PERKINS. I do want to state to the gentleman in response——

Mr. ERLENBORN. I will be happy to yield to the chairman.

Mr. PERKINS. If the gentleman will yield, the EPA has the authority to send the information, but they do not have any authority to makes grants to detect asbestos or to make loans to remove danerous asbestos in a school system.

Mr. ERLENBORN. Then the chairman will want to join with me in supporting the Goodling substitute to make that money available.

Mr. PERKINS. And I want to state further, if the gentleman will yield, neither does EPA have authority to make grants available.

Mr. ERLENBORN. Then the gentleman will have to support the Goodling substitute for that, and I welcome the support of my chairman to see that the Goodling substitute is adopted.

□ 1500

Mr. PERKINS. Let me say to the gentleman that I hope that no one falls for the misinformation that the gentleman has given the committee, because EPA does not have any authority to make grants or to make loans to remove deteriorating asbestos.

Mr. ERLENBORN. I am going to say to my chairman that I will resist the impulse to demand that the gentleman's words be taken down. I am not going to do that. No one is giving any misinformation.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. Mr. Chairman, I want to congratulate the committee on its action in this very important matter. Asbestos was one of the first clear examples of the development of scientific data which proved conclusively a relationship between an environmental hazard and cancer, in this case, lung cancer and mesothelioma, a cancer of the lining of the lung. The hazard was first discovered among workers in asbestos-related industry, but recently investigators discovered that our Nation's school population may be at risk because asbestos is also present in school buildings in many parts of the country.

The scientific data show that exposure to ambient asbestos fibers, fibers present in the air is the most serious kind of hazard, and that cancers will appear in persons so exposed in 10 or 20 years—sometimes before that and sometimes after that. In New Jersey, in my own State, we found a number of schools where asbestos had been sprayed on walls and ceilings. We were greatly concerned about it. There was a tremendous additional problem of providing proper information to the school administrators and also of encouraging school districts throughout the State to check to see whether they had asbestos materials in their schools and whether, if they did, those materials could get into the air.

We found that we did not have enough information about what to do once we found that the problem was present. With the help of the National Institute of Environmental Health Sciences, under Dr. David Rall, and the help of the Mt. Sinai Center for Environmental Studies, under Dr. Irving Selikoff, we developed a grant proposal which was funded by NEIHS. This put the Mt. Sinai experts into the field with contractors who then experimented with various ways of treating the asbestos in the various conditions they found in three New Jersey schools. They issued a report that has provided guidance for those who do have a problem as to the most effective, efficient, and least costly way to treat the problem.

But, we know that this condition exists in many States and many schools all over the country. Schools are hard-pressed with their funding locally. The Goodling substitute takes money out of existing Federal appropriations for education. Given the critical nature of this problem it makes sense for us to lend localities the money so that they will have the incentive to do the detection rather than simply closing their eyes to the problem and hoping it will somehow go away, without a Federal funding source, school districts are not likely to be stimulated to find out if there is a problem under this bill, they will be able to get the funding on a temporary basis, which they will have to pay back. They can then protect these children and the employees who are working day in and day out in their schools.

If we act now to prevent these unnecessary assaults on young people, it will pay us back in dollars many times over, in health costs that will not have to be assumed by the taxpayers, and we will have healthier and more productive citizens.

So, I commend the committee on the work that it has done on this bill. I commend Mr. Erdahl for his comments about the substance of the bill. I hope that we can combine behind an approach such as this.

Mr. ERDAHL. Mr. Chairman, I yield myself 3 minutes for closing comments.

Mr. Chairman, I think several points need to be stressed here. One is the obvious need we have in this country for dealing with a very serious health problem. Just how widespread that problem is, I do not think we know. I would guess it is found in every State and many communities, because it does affect schools that were constructed basically between 1946 and 1972, and probably other remodeling jobs that occurred during that period, when material containing asbestos was widely used as fire retardant and acoustical material. There is no argument about the need to deal with the problem, but there is an argument about how best we should deal with it and how best we should be able to find it.

As I said earlier, a real pressure is on this Congress. It comes from our own Members; it comes from the White House; it comes from the Federal agencies, as far as the expenditure of funds. Our distinguished chairman was well aware of that because he was one of the people leading the fight to counter the assault on the school lunch program which has been one of the well-established programs for a long time. There are assaults on other Federal programs. The fiscal year 1981 budget submitted this month by HEW to the OMB shows a real loss of $900 million for education programs when compared to the fiscal year 1980 budget.

I think this underscores the danger we face in trying to start a new program. Also, while H.R. 3282 is admitted by all to be a needed bill, we have no guarantee that it will provide the immediate remedies. Although a bill has been introduced in the other body, to my knowledge no hearing has been held; and if we get beyond May 15 of next year, then we have the real possibility that we will never commit funds until fiscal year 1982, which really deals with the academic year of 1982–83. So, I think there are some persuasive reasons why the Goodling amendment is a workable alternative, and I would hope the majority of this body could support it.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PERKINS. Mr. Chairman, I yield the remainder of my time to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, first of all I would certainly like to thank the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS) for his help in drafting this legislation and in convening hearings on a timely basis so that the Congress could attempt to respond to a problem concerning the health and welfare of young children in many of this Nation's schools. This legislation, as is reported from committee, as Chairman PERKINS outlined, is a very limited attempt, a very restricted attempt, to try to remove serious asbestos hazards which pose a very imminent health hazard to young children in our Nation's schools.

□ 1510

This bill is not an attempt to remove all asbestos from every schoolroom, but only in those conditions where it poses a very serious, imminent threat to the employees and to the children in those school buildings. We must remember that none of this money for the removal of asbestos is available unless an applicant can make a showing that a serious health hazard in fact exists to the children in that particular school.

I think two things become very, very clear. Nobody suggests that the problem is not real, and nobody suggests that the hazard is not imminent in those cases where asbestos is in advanced stages of deterioration. The medical community and the scientific community testified before the Education and Labor Committee. Respected physicians and scientists made it very clear there is no such thing as a safe level of inhalation of asbestos. Especially in terms of young children, the hazard is even greater because of their accelerated respiratory rate, because of the rapid multiplication of their cells, because of the long time which they spend in these schools and because of their activities. As a result of asbestos inhalation, they become a population that is at risk.

Given that as the problem, the question is: How will this Congress respond? How will this Congress respond to the danger, now that it has the scientific evidence? How will this Congress respond to the danger, now that it knows of the unanimity in the scientific community as to the hazards if we ignore the asbestos hazard in these particular schools, when we know that this situation may cause us to come on the scene 20 or 30 years from now and find cancer in thousands of young children. Just as we were ignorant, in many cases, during World War II, and we now find that the workers in the shipyards who had no understanding of the problem, and who have now been stricken by lung cancer. The estimates are that as many as 11 million people nationally may be ultimately affected by asbestos induced diseases. Does this Congress really want to set in motion that silent but deadly force with today's schoolchildren in these schools?

The question of solution is, one, whether or not this Congress is prepared to loan up to $100 million to various school districts which have made a showing that the asbestos poses an imminent health hazard, according to rigid scientific standards. Will we loan that money and get on with the solution of a very serious problem, or do we engage in a little bit of a sham, as the proponents of the Goodling amendment would have us do?

There is no disagreement that EPA can make rules, that EPA can write regulations. EPA has already conducted a voluntary survey of the problem, which is a dismal failure. A little over 1 percent of school districts have responded to that survey. So EPA is now considering a mandatory program for which they have no greater expectaton of success because many of the schools tell them that the money is still not available for purposes of removal. So the hazard will continue in these schools with these children if we do not pass this bill, and also if we vote for the misleading Goodling substitute.

Now we are offered a substitute, which I hope the House will reject, because what the substitute says is, "Look, use some of your Federal money, which was given to you for your vocational education, which was given to you for education for the handicapped, for education for the poor children, and if you have some money left over"—and yet I do not know a school district in the country that does—"you can use that to remove asbestos."

The gentleman from Minnesota just testified to substantial cuts in the real education dollars in the President's upcoming budget in 1981. We know that inflation has caused real cutbacks in education of 8 or 9 percent a year. So now we are telling these districts, "Go ahead and take it out of the money you already do not have." That is not going to remove asbestos from a single schoolroom, from a single lunchroom, a hall room, or anything else. The question is: Will we help these districts, or will we hold out mirrors and blow smoke, as somebody once wrote about this House, in the appearance of doing something?

The only way this Congress is going to really help solve this problem is by providing these loans and providing the detection moneys. Otherwise we set in motion bitter battles between the educational and health communities. It is not a question of prioritizing when we are choosing between poor people, against handicapped children, against the libraries—all of these programs that our committee constantly hears are already underfunded.

In fact, the Goodling substitute is no remedy at all. It gives a few people an opportunity to say that they voted for the program because they were terribly concerned about the children. In fact, what they voted for is a fraud, because the amendment suggests that Federal moneys are forthcoming. In fact, those Federal moneys are already allocated. This Congress has deliberated on education programs and this Congress has authorized funds for specific programs, which we expect to be spent in that fashion.

Now the supporters of the Goodling substitute want to come along after the fact and tell them that the money must be used for something else, which nobody has anticipated. I think their purpose is to misrepresent this Congress's true concern. So when this bill comes to the House for amendments, I would hope that the Members would reject the Goodling amendment because it does not offer a solution.

If you are in one of the many States which has a serious asbestos problem, do not kid yourselves into thinking that your local education authorities are going to be happy just because you voted for the Goodling bill. They are far too sophisticated for that. Do not think that people who recognize a health hazard are going to believe that you did something positive because you make no money available under that approach. So I hope the Members of this House, when the bill comes to the floor would reject the Goodling amendment, and support the bill. The bill is a restricted and limited effort to try to benefit a number of school districts which contain deteriorating asbestos materials which pose an imminent hazard to the health and safety of children. There is no disagreement about the existence of this hazard from the scientific or medical community. Both the minority and the majority sides recognize the problem.

With that, Mr. Chairman, I would hope that the Goodling substitute would be rejected. We will have additional reasons. I think we can clearly show that the Goodling substitute has no relationship to the problem, and will not result in the removal of any asbestos from any school.

California does not have a serious asbestos problem, but we certainly have an awful lot of title I money and ESEA general money. How does that help a school in Pennsylvania? How does that help a school in Minnesota? How does that help a school in New York? We do not have a significant asbestos problem because our schools in many cases are of a different type of construction. So I want to know what relationship your handicapped community has to asbestos, and I want the gentleman from Pennsylvania (Mr. GOODLING) to tell us what relationship title I money has to asbestos, and what relationship library money has to asbestos?

I submit, Mr. Chairman, it has no relationship, and that the Goodling solution is, in fact, no solution at all.

Mr. Chairman, I yield back the remainder of my time.

Mr. PERKINS. Mr. Chairman, we have no further requests for time.

Does the minority have any further requests for time?

The CHAIRMAN. The minority has yielded back its time.

Mr. PERKINS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore (Mr. VENTO) having assumed the chair, Mr. BENJAMIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3282) to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes, had come to no resolution thereon.

ADDRESS OF POPE JOHN PAUL II TO THE ROMAN CATHOLIC COMMUNITY AT ANKARA, TURKEY, NOVEMBER 29, 1979

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● **Mr. BRADEMAS.** Mr. Speaker, on November 29, 1979, His Holiness, Pope John Paul II, delivered a significant address in his first meeting with Roman Catholic communities in Turkey.

Because of the fact that Pope John Paul II spoke in a country that is almost totally Moslem, with a Christian population of less than 1 percent, I think it significant that the Pope discussed some of the teachings of the religion of Islam.

Mr. Speaker, I include at this point in the RECORD a translation of the French text of the address of Pope John Paul II on this occasion:

Dear brothers and sons,

Dear friends,

1. It is an immense joy for me, successor of St. Peter in the apostolic college and in the See of Rome, to address you today with the same words that St. Peter addressed 19 centuries ago to the Christians who formed then, as they do today, a minority in this land, "strangers scattered throughout Pontus, Galatia, Cappadocia . . .: Grace and peace be yours in abundance" (*1 Pet. 1:1, 2*).

Like Peter, I would like first of all to give thanks for the living hope that is in you and that comes from the risen Christ. I would like to exhort each of you to be thankful to God and firm in the faith like "obedient children," keeping your souls pure in obedience to the truth, in a sincere brotherhood with good conduct in the midst of nations . . . so that, seeing your good works, men may glorify God (*Cf. Ibid. 1:3, 14, 22; 2:12*).

The apostle even took care to mention loyalty toward the civil authorities. "Live then," he said, "as free men, not as men who use your freedom as a cloak for vice, but as servants of God" (*1 Pet. 2:16*).

Yes, I would like to invite you to consider as particularly yours this letter written to those who preceded you on this land, to reread it attentively, to meditate upon each of its affirmations. I now draw your attention to one of its exhortations: "Should anyone ask you the reason for this hope of yours, be ever ready to reply, but speak gently and respectfully, in possession of a good conscience" (*Ibid. 3:15–16*).

GOLDEN RULE

These words are the golden rule for the relations and contacts that the Christian must have with his fellow citizens who have a different faith. Today, for you Christians living here in Turkey, your lot is to live in the framework of a modern state—which provides for everyone the free expression of his faith without identifying itself with any—and with persons who, in their great majority, while not sharing the Christian faith, declare themselves to be "obedient toward God," "submissive to God," and even "servants of God," according to their own words, which match those of St. Peter already quoted (*Cf. Ibid. 2, 16*). They have, therefore, like you, the faith of Abraham in the only all-powerful and merciful God. You know that the Second Vatican Council pronounced explicitly on this subject, and I myself recalled in my first encyclical, "Redemptor Hominis," that "the council . . . expressed its esteem for the believers of Islam whose faith also refers to Abraham" (*n 11*).

Allow me to recall here before you these words of the conciliar declaration, "Nostra Aetate": "Upon the Moslems, too, the church looks with esteem. They adore (*'with us' we read in another text of the council, the Constitution 'Lumen Gentium,' n. 16*) one God, living and enduring, merciful and all-powerful, maker of heaven and earth, who has spoken to men. They strive to submit wholeheartedly even to his inscrutable decrees, just as did Abraham, with whom the Islamic faith is pleased to associate itself. Though they do not acknowledge Jesus as God, they revere him as a prophet. They also honor Mary, his virgin mother; at times they call on her, too, with devotion. In addition they await the day of judgment when God will give each man his due after raising him up. Consequently, they prize the moral life and give worship to God especially through prayer, almsgiving, and fasting" (*Declaration "Nostra Aetate," n. 3*).

It is therefore in thinking of your fellow citizens, but also of the vast Islamic world, that I express anew today the esteem of the Catholic Church for these religious values.

DEVELOP SPIRITUAL BONDS

3. My brothers, when I think of this spiritual patrimony and of the value it has for man and for society, of its capacity to offer, especially to the young, a direction to life, to fill the void left by materialism, to give a sure foundation to social and juridical organization, I wonder whether it is not urgent, precisely today when Christians and Moslems have entered a new period of history, to recognize and develop the spiritual bonds which unite us in order to "safeguard and foster, on behalf of all mankind—as the council invites us to do—social justice, moral values, peace and freedom" (*Declaration "Nostra Aetate," Ibid.*).

Faith in God, which the spiritual descendants of Abraham, Christians, Moslems and Jews, profess, when it is lived sincerely so that it penetrates life, is an assured foundation of the dignity, the brotherhood and the freedom of men and a principle of rectitude for moral conduct and life in society. And there is more: as a consequence of this faith in God the transcendent Creator, man finds himself at the summit of creation. He has been created, the Bible teaches, "in the image and likeness of God" (*Gen. 1,27*). For the Koran, the sacred book of Moslems, although man is made from dust, "God has breathed into him his spirit and endowed him with hearing, sight and heart," and that is with intelligence (*Sourate 32,8*).

For the Moslem the universe is destined to be submitted to man inasmuch as he is a representative of God; the Bible affirms that God ordered man to subdue the earth, but also to "cultivate and care for it" (*Gen. 2,15*). Insofar as he is a creature of God, man has rights which may not be violated, but he is also bound by the law of good and evil which is based on the order established by God. Thanks to this law, man will never submit to any idol. The Christian abides by the solemn commandment: "You shall not have any other God but me" (*Ex. 20,30*). For his part, the Moslem will always say: "God is the greatest."

I would like to take advantage of this meeting and of the opportunity which the words written by St. Peter to your predecessors give me to invite you to consider each day the profound roots of the faith in God in whom your Moslem fellow citizens also believe, to draw from it the principle of a collaboration with a view to the progress of man, to emulation in welldoing, to the extension of peace and brotherhood in the free profession of the faith proper to each.

4. This attitude, dear brothers and sisters, is in exact correspondence with the already very meritorious fidelity of your Christian communities represented here. This fidelity is the heir of a great past. We have already spoken of the letter of St. Peter. One could dwell on the loving kindness of St. Paul, of St. John for the churches of Asia Minor. A secular author at the beginning of the second century, Pliny the Younger, described the life of the disciples of Christ with astonishment in a testimony which remains precious in the eyes of history. But how could the flourishing period which followed the forgotten, and particularly the time of the fathers of the Church?

And since St. Peter speaks of Cappadocia, I think spontaneously of St. Basil the Great (329-379), one of the most remarkable Glories of the church of this region, all the more because this year is the 16th centenary of his death: I am happy to announce to you that a pontifical document, elucidating the figure of this great doctor will crown this memorable anniversary.

TESTIMONY OF BROTHERHOOD

5. Today, even if your communities are unobtrusive, they are rich in the presence of various traditions and they are constituted by persons coming from many parts of the world. That gives you the opportunity to express to one another your faith and your hope, and to give here an important testimony of unity and brotherhood.

Always have the courage and the pride of your faith. Deepen it. Ceaselessly approach Christ, the cornerstone, like living stones, sure of winning the goal of your faith, the salvation of your souls. Henceforth the Lord Jesus makes you members of his body; children of God, he makes you participate in his divine nature, he gives you a share in his spirit. Draw with joy from the gushing source which is the Eucharist. May he fill you with his charity! Feel also that you are in communion with the universal church which the pope represents before you in his humble person. Your witness is so much the more precious because it is limited in number, but not in its quality.

For myself, I want to tell you my profound affection and my confidence. Let us remain closely united by the bond of prayer. I recommend to Christ Jesus, and to his most holy mother, all the human and spiritual needs of your communities, of each of your families. I have a special thought for your children, your sick, those who are afflicted. May they be comforted by the love of God and the mutual aid of their brothers! With all my heart I bless you in the name of the Father, of the Son, and of the Holy Ghost.

"RELIGIOUS CURRENTS IN THE ARAB-ISRAEL CONFLICT," AN ADDRESS BY CONGRESSMAN JOHN BRADEMAS

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, our colleague, the distinguished majority whip of the House, the Honorable JOHN BRADEMAS, of Indiana, on December 1, 1979, delivered the keynote address at a conference, held at the University of Notre Dame, on the subject of "Religious Currents in the Arab-Israel Conflict."

The conference was sponsored by the university and by American Professors for Peace in the Middle East.

Mr. Speaker, because I believe that Members of Congress will read with interest Mr. BRADEMAS' thoughtful address on this occasion, I insert it at this point in the RECORD:

RELIGIOUS CURRENTS IN THE ARAB-ISRAEL CONFLICT

(Address by Congressman JOHN BRADEMAS)

I count it a great honor to have been invited to take part in this conference, and I want to commend Professor Alan Dowty for his leadership in organizing it and the University of Notre Dame and American Professors for Peace in the Middle East for sponsoring it.

As you know, there are 435 members of the United States House of Representatives, and each of us is understandably proud of the district he or she represents. I, nonetheless, persist in counting myself particularly blessed in that I am the only Member of Congress who can say that he represents the district where the University of Notre Dame is located.

And I make that statement despite this year's football season!

For Notre Dame, as those of you who are not natives of this area are aware, is not only a national institution but, under the extraordinary leadership of our community's most distinguished citizen, Father Theodore Hesburgh, Notre Dame has become known throughout the world as an outstanding center of teaching and learning.

NOTRE DAME'S COMMITMENT

It is, therefore, altogether fitting and proper that Notre Dame, an institution committed to the flowering of the human spirit as well as the enrichment of the human mind, should be the setting for a gathering like this.

Here we—Christians, Jews, Muslims, and others—meet on a university campus in Northern Indiana to discuss one of the most difficult but consequential problems facing humankind today—the continuing conflict between Arabs and Israelis in the Middle East.

But we hold our talks under the Golden Dome of Our Lady with a special eye to the religious dimensions of the differences that divide these two peoples.

And who would have predicted when this conference was first arranged that we should be meeting at a time when the Middle East—and the forces of religion there—should be on the front pages of every newspaper every night and the leadoff dispatch on every radio and television newscast every day of the week?

Before I plunge into a consideration of some aspects of the subject of our conference, I should like, if I may, to make some observations I believe necessary to what I have to say.

For I think that my own life and experience are not unrelated to the reason we are here.

I speak as a Christian, a Protestant, a Methodist.

My Hoosier mother is also a Protestant but a member of the Disciples of Christ Church, while my late father, born in the Peloponnesian town of Kalamata whence he migrated to this country sixty-five years ago, was Greek Orthodox.

I speak as well as one who grew up in the shadow of Notre Dame and who, for a time between elections, taught across the road at St. Mary's College.

Let me say further, as one who for the last twenty-five years has been directly engaged in public life, most of that time as an elected member of the Congress of the United States, that what provoked some of my first political stirrings as a schoolboy at James Madison School in South Bend were the radio broadcasts we heard of the speeches of Adolf Hitler. I can remember still the dramatic, staccato voice of H. V. Kaltenborn reporting those speeches from Germany.

SECURITY FOR ISRAEL

And nothing shook me more profoundly in those incredible days, days of my own childhood, than the news of what Hitler was doing to the Jews.

All those memories rushed back to me when, last summer, I visited the death camps of Auschwitz and Birkenau.

And so like many Christian Americans of my generation, I came to be a strong supporter of the creation of a secure homeland for the Jewish people in Israel—and I still am.

Over ten years ago, I led a delegation of Members of the House Committee on Education and Labor to visit Israel for the purpose of seeing the moshavim, the kibbutzim, the child daycare centers, schools, colleges and universities of that remarkable land—and I was in Jerusalem again last May to give a lecture at the Hebrew University.

No Christian, I venture to say, can see and touch and smell and walk in places like Bethlehem and Galilee and Nazareth without experiencing the deepest emotional feelings.

Beyond what I have just said to you by way of explaining some of the reasons for the affinity that links many American Christians to Israel, there are at least three others.

Israel is a feisty, vigorous, flourishing democracy and so is the United States. The two peoples have a common commitment to individual freedoms and popular self-government.

There is a second reason that Christians feel so close to Jews. Every Sunday in every church in America, we read not only from the New Testament but the Old.

And I need hardly here remind you that the person in whom Christians see God most perfectly revealed was a Jew.

Moreover, to offer yet a third explanation of the closeness that many Christians in our country feel toward Jews: in nearly every community in the United States, Jews and Christians work together—for the United Way, in the NCCJ, for civil rights, in nearly every kind of activity aimed at civic and human betterment.

I do not mean here to paint a sentimental picture. Obviously, there have been tensions and disputes between Christians and Jews even as there are dark strands in our history in the relationship between Protestants and Roman Catholics. You must remember that the state of Indiana was once an outpost of the Ku Klux Klan.

I recall my own father's telling me that, as a Greek immigrant, he found his restaurant, then located not far from where we meet, boycotted because he was not a wasp. And I remember, too, that my father saw Notre Dame students fighting in the streets of South Bend with Klansmen.

But I am making a different point. I am saying that woven into the fabric of our national life are the most intimate relationships between those of us who are Christians and Americans who are "People of the Book."

THE RELIGION OF ISLAM

Yet it must be obvious to us all that there is no such history or experience in our country with the religion of Islam and with those who call themselves Muslims.

We do not read the Koran during our religious services on Sunday.

There is no Islamic counterpart in American towns and cities of B'nai Brith or Hadassah.

If many Christian Americans have been in a synagogue or temple, almost none has set foot inside a mosque.

In the House of Representatives, we do no legislative business on Passover or Yom Kippur anymore than we would on Good Friday. But we take no cognizance of the Holy Days of Islam, Muharram or Ashura.

In our school days, we may have known Lebanese or Syrian children, but they were Christians or Jews.

And though we may have been well acquired with the map of Western Europe, Latin America or Japan, few among us, unless he or she took college courses on the Middle East, could have told you just where Syria and Iraq began or where Saudi Arabia and Jordan commenced.

And then, I should like to suggest, about six years ago, Americans—and I speak here of university educated, politically sophisticated Americans as well as those who may not pay so much attention to these matters—began to pay attention, serious attention, to that rather mysterious part of the world we call the Middle East.

POLITICAL IMPACT OF OIL

And the reason, of course, was oil.

The Arab oil boycott of 1973–74 began to bring home to Americans the immense impact on our daily lives of actions taken by people of whose religion and culture and politics we were so generally ignorant.

Events in succeeding years have caused Americans to realize that the day of our isolation from the Middle East is, whether we like it or not, over.

For we now know that, whether we like it or not, what happens there affects in the most direct and daily way how we live here.

The conflict between Israel and the Arab states is, of course, together with oil, the other great factor that commands us to heed the Middle East.

That conflict is ongoing and its twists and turns and ups and downs are not easy to follow, even for those of us whose vocation is politics.

Even as the Mayors of Nablus and of some twenty other Arab municipalities on the West Bank resigned last month to protest certain actions of the Israeli Government, that same government, in compliance with the Camp David Accord, has just returned to Egypt oil wells in the Sinai that supplied twenty percent of Israel's energy needs.

Even as most thoughtful Americans believe it imperative that there be justice for the Palestinian people, many of these same Americans are unwilling to accept as an instrument to achieve that goal an organization committed to the destruction of Israel.

And almost unnoticed in the struggle between Israel and the Arab states is the dreadful war in Lebanon, with Jordan and Syria, Israel and the PLO all contributing, justly or unjustly, to laying waste this small nation of intelligent, resourceful, diligent people.

THE CRISIS IN IRAN

And, of course, perhaps most difficult for those in the Hebrew-Christian West to understand in all the tortured history of the Middle East is the tragedy through which we are now living in Iran:

A tyrannical Shah, deposed and exiled, after years of support by American administrations of both political parties;

An equally tyrannical, if radically different, Ayatollah, bitterly hostile to the United States and to all that western culture represents;

The seizure of American citizens at an American embassy and a defiant insistence that only with the Shah's return will the hostages be released—

These events taken together are like an ever more dangerous minefield . . . for the United States, for Iran and potentially for other nations of the world.

As I thought about what I might say to you tonight, I realized that yesterday marked Ashura, the day on which Shi'ite Muslims observe the martyrdom fourteen hundreds years ago of Hussein, grandson of the Prophet Muhammad, and that tomorrow is the day of elections in Iran. I realized as well what limited knowledge we Americans have of what is happening there and, indeed, what is happening in the wider world of Islam.

There are, after all, some 800 million people on this planet who are Muslims.

We are only now beginning to realize that they are not all of the same temperament or conviction any more than are all Christians or all Jews.

We are learning that the differences between the Sunni majority and Shi'ite minority are deep and significant.

Last Tuesday, the leaders of Congress met with President Carter at the White House to discuss the crisis in Iran and now, every afternoon at four o'clock, Secretary Vance or Undersecretary Warren Christopher comes to Capitol Hill to brief the Speaker, the Minority Leader and the other Members of the House Leadership on the latest developments.

ISLAMIC STUDIES LACKING

As we discussed the situation in Tehran, I wondered how well equipped we were as a Nation to understand the roots of our troubles there and, more broadly still, the revival of Islam that appears to be sweeping across a wide arc of nations from Egypt to Pakistan.

So I began to ask some questions about the state of Islamic studies in the United States.

I found that there are currently eleven centers of Middle Eastern studies in this country, one of them, soon to be closed, at Indiana University.

There are, including these eleven centers some 25 colleges and universities in the entire country that offer Middle East studies programs. Beyond these 25, three or four theological seminaries have Islamic programs but there is only one college in the United States with a comprehensive "Muslim World" program—Ricker College in Houlton, Maine.

The total number of students in Middle East centers and college programs throughout the United States is no more than 2,000.

Of the 25 colleges with Middle East programs, most offer Judaic rather than Islamic studies and in the latter group, most courses deal with anthropology, social history or literature; few with the Islamic religion.

Another leading scholar, at Harvard, reminded me that Islamic studies cover a wide geographical area, including not only Iran and the Arab states but the Philippines and Indonesia, sub-Saharan Africa, Spain and Turkey as well. He might have added the Soviet Union!

Although, he said, there may be several hundred persons in Iranian studies in the United States today, those who could be called "Persian specialists", knowledgeable in the language, history, culture and society are, he said, "far, far smaller" in number.

Another Middle East scholar, from Columbia University, bewailed the great scarcity of Iranian specialists at the Department of State and asserted that from the time major troubles in Iran began last year, it was "ages" before the State Department believed that the religious dimensions of the Iranian situation was significant.

Nor have we sufficient specialized knowledge, he said, to deal with other potential danger spots such as Turkey with the Kurds; the Sudan and Somalia.

INTERNATIONAL EDUCATION ACT

As I listened to these comments, I knew that I had heard it all before for my mind returned to a time, nearly fifteen years ago, when I had labored hard, as Chairman of a special Congressional Task Force, to write into law what came to be known as the International Education Act of 1966.

That law authorized Federal grants to colleges and universities in the United States—it was not a foreign aid bill—to support studies and research at both the undergraduate and graduate level in international affairs. The funds could be used for either area studies or to focus on specific issues, or combinations of both.

And a key thrust of the International Education Act, signed into law by President Lyndon Johnson while flying over Thailand, was to enhance our knowledge and understanding of the non-western world.

I remember still how the great Harvard Sinologist, John King Fairbank, once declared that when the Vietnam war began, there were no more than half a dozen senior scholars in the United States who knew the language, culture, and history of the nation that became the locus of one of the great tragedies of American history.

And what became of the International Education Act?

For reasons pointless here to recount, Congress never appropriated one penny for it.

Partly as a result of this failure, we have seen in recent years a sad decline in international studies, including foreign languages, at American schools, colleges and universities, and our nation is the weaker for it.

Listen to these facts:

Only 15% of American high school students now study a foreign language—down from 24% in 1965.

Only 1 of 20 public high school students studies French, German or Russian beyond the second year; four years are generally considered a minimal prerequisite for usable language competence.

Only 8% of American colleges and universities now require a foreign language for admission, compared with 34% in 1966.

There are an estimated 10,000 English speaking Japanese business representatives on assignment in the United States. By contrast, there are fewer than 900 American counterparts in Japan—and only a handful of these have a working knowledge of Japanese.

SUBJECTS ARE FOREIGN

The figures I have cited come from the so-called Perkins Report, the result of a year-long study released in October by the President's Commission on Foreign Language and International Studies.

The Commission, under the chairmanship of James Perkins, former President of Cornell, conducted lengthy hearings and received testimony from over a thousand persons. The Commission's conclusion: "We are profoundly alarmed by what we have found."

Beyond the statistical danger signs I have already mentioned, the Commission found other reasons for apprehension:

Over 40% of 12th graders in a recent survey, for example were unable to place Egypt correctly while over 20% of those students were equally ignorant about the location of France or China.

Only 5% of prospective teachers take even a single course relating to international affairs or foreign peoples and cultures as part of their professional preparation.

Federally financed foreign language and area studies fellowships fell from a peak of 2557 in 1969 to 828 in 1978.

American participation in exchange programs is declining at a time when other nations are expanding their efforts. A recent General Accounting Office study found that, compared to both allies and potential adversaries, American investment in exchange programs is proportionately the lowest of any of the countries surveyed.

It was this rather sorry record that led the Perkins Commission to call for an increased commitment to foreign language studies and international education on the part of the Federal government, state and local governments and the private sector.

And it was this same record that led a number of us in Congress—including Speaker O'Neill—to write to President Carter and Secretary of State Vance urging that there be included in the President's budget recommendations for Fiscal 1981 30 to 40 million dollars under Title VI of the National Defense Education Act. This Title supports foreign language and area studies fellowships, research, summer intensive language courses and undergraduate and graduate field programs.

In the current year, by way of contrast, we are investing only $14 million to support these activities.

STRENGTHENING OUR KNOWLEDGE

Now President Carter has, quite rightly, in my view, called on the American people to respond to the crisis in Iran with increased efforts at conservation of energy and has insisted that Congress pass a substantial tax on the windfall profits of the oil industry.

Even as we seek to make better use of our energy resources, so too must we strengthen our resources of knowledge.

The tragedy unfolding in Iran should spur us to invest substantially more in studying those cultures and peoples of the rest of this planet, especially of the non-Western world, more particularly still, the world of Islam.

So this is the first lesson I draw from the religious currents that have shaped and continue to shape the Middle East: We in the West must study harder and we must learn more about other peoples and other cultures.

But there is one more lesson that I would leave with you at this conference of outstanding scholars of and from three major world religions.

It is the lesson that three men of deep religious faith taught the world 15 months ago in meetings in the Catoctin Mountains of Maryland.

It is the lesson of Camp David—and the teachers were a Moslem, a Jew and a Christian—Anwar Sadat, Menachem Begin and Jimmy Carter.

FOUNDATIONS FOR PEACE

As a practicing and, I hope, extant, politician, I am not unaware that each of these political leaders, because of his actions or inactions on one or another issue, foreign or domestic, is a figure of considerable controversy.

But what bound them all together at Camp David was a common conviction that a durable peace could be built between Egypt and Israel, and they laid the foundations for that peace.

On issues that appeared to be irreconcilable, these three men showed that agreements were possible.

I take a lesson for our meeting here at Notre Dame from what they did at Camp David. It is that the diversity of their religious convictions did not impede their efforts. Anwar Sadat, Menachem Begin and Jimmy Carter were able to make progress because all three were motivated by a commitment to certain values common to each of their religious traditions.

Only this week in Turkey, Pope John Paul II stressed the positive values of the teachings of Islam, and chief among them, he said, was "the faith of Abraham in the only all-powerful and merciful God".

Now I respectfully suggest to you that as we look to the issues that divide people against people, nation against nation, Jew against Arab in the Middle East, we must, in the final analysis, if we are to contribute to the construction of an edifice of peace in that region, be inspired by the theme of which the Holy Father spoke in Ankara this week.

"Faith in God," he said, "which the spiritual descendants of Abraham—Christians, Moslems and Jews—profess, when it is lived sincerely so that it penetrates life, is an assured foundation of the dignity, the brotherhood and the freedom of men and a principle of rectitude for moral conduct and life in society. . . ."

Let us then seek to know one another better and to learn more about each other.

And let us above all respect one another, including respect for that which divides us, for we shall be moved by what is common to the faiths of us all, whether we are followers of Jesus, Moses, or Muhammad.

ADMINISTRATION SHOULD ESTABLISH OFFICE OF COORDINATION FOR AID TO KAMPUCHEA

(Mr. MILLER of California, without objection, was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, although the attention of the world community has been focused in recent weeks on the continuing crisis in Tehran, the starvation in Kampuchea also goes on. Within recent weeks, significant amounts of food and medical supplies have been sent to Bangkok and directly to Kampuchea through various international relief agencies. A substantial amount of American financial assistance has been extended to these organizations to support the relief effort.

I would like to take a minute, however, to direct the attention of the House to one area in which we are not doing as much to aid these starving people as we may. I am referring to the lack of a coordinated effort by the Government to collect food, medical supplies, and other items donated by the people of the United States, and to send them expeditiously to Thailand and Kampuchea.

Over the past several weeks, I have been working with a group of people in southern California who have gathered nearly $2 million in essential supplies which have been donated by generous Americans to aid the Southeast Asian refugees. A seemingly endless series of financial, bureaucratic and administrative roadblocks delayed the shipment of this UNICEF-approved relief from leaving Los Angeles, even though that city is a major departure point for government flights to southeast Asia.

The irony is that a great deal of our money is being spent on the relief effort. Our aid package now totals some $105 million in new and reprogramed money including $25 million under food for peace and about $50 million is disaster relief.

Much of this money goes to international relief agencies which use it to purchase supplies, sometimes on the open market, for use in Kampuchea. Transportation costs of these supplies may be much higher from European sites than from our own country.

Thus, it seems to me that a portion of the relief funds approved by the Congress ought to be reserved for the movement of supplies directly from the United States to relief operations in Southeast Asia. It would be far more cost effective to spend funds merely on transportation, while availing ourselves of donated goods provided through the good will of the American people, than to spend limited funds to purchase these same goods.

I recognize that the backbone of the effort will remain with the international relief agencies. But we should not, while supporting that effort, turn our backs on our own citizens, and snub their donations of good will. I would hope that other Members will join with me in urging the administration to establish, without delay, an office to coordinate the identification of donated supplies for Indochina, methods for gathering these donated supplies at specified central locations, and the ultimate movement of these supplies to relief agencies in Asia.

I will be circulating a "Dear Colleague" letter urging the administration to take this step to expedite our participation in the relief effort, and I urge other Members to join in signing this letter to the President.

□ 1520

TWO HOUSE RESOLUTIONS CONCERNING IRANIAN DIPLOMATS AND IRANIAN NATIONALS IN THE UNITED STATES—NOVEMBER 30, 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. COURTER) is recognized for 10 minutes.

● Mr. COURTER. Mr. Speaker, the United States has a long tradition of welcoming foreign visitors to pursue their professional and personal ambitions. Once here, many of them enjoy liberties that are nonexistent in their own lands. However, when our "welcome" is turned into a "welcome mat" by some of these visitors, I feel that the Congress and the courts should give a fitting response to this type of misbehavior.

Today I am introducing two House resolutions expressing the sense of the Congress that the executive branch should act against those Iranian nationals and diplomats who willfully violate American laws.

The first resolution urges the Secretary of State to expel any diplomat, accredited to the United States, who deliberately advocates, incites or participates in actions which violate Federal or local laws that are designed to insure the public safety, such diplomats do a disservice to both our Nation and the one they represent.

The second resolution, in response to recent actions by pro-Khomeini Iranian nationals here, urges the Attorney General to expel as expeditiously as possible any alien convicted of a deportable offense with special regard to acts of physical harm and destruction of property.

None of these measures will deny any alien due process of the law. I hope my colleagues will join me in these initiatives.●

LASKER AWARDS CEREMONY 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, each year amid the beautiful surroundings of the St. Regis Hotel roof, the Albert and Mary Lasker Foundation, which has done so much for humanity through its programs for the stimulation of medical research and the application of medical knowledge, as well as the stimulation of the effort of public leaders in aid of such objectives, the Albert and Mary Lasker Foundation presents the Albert Lasker Medical Research Awards luncheon. At this luncheon, the recommendation of the awards are presented and, on occasion, the awards jury also recommends a distinguished figure for his or her public service in advancing medical knowledge and service to humanity. On such occasions, there is always an outstanding speaker to make appropriate remarks pertaining to the expansion and the implementation of medical knowledge and providing greater and more meaningful health care to the people of our Nation, indeed, of the world.

This year at the luncheon on November 16, the speaker of the occasion was the Honorable ALAN CRANSTON, U.S. Senator from California and majority whip of the Senate. Senator CRANSTON stimulated those present by his grasp of the problem of providing medical care for the people and for appreciation of one of the phenomena of our time, the increasing age of the population of our people and all that attends that significant change. Senator CRANSTON presented a scholarly dissertation and did it in a very engaging manner so that his address was warmly received by the distinguished audience present.

I should like to share with my colleagues in the Congress and the people of our country this eloquent address of Senator CRANSTON's, and I include in the RECORD following these remarks.

LASKER AWARDS CEREMONY 1979

(Speech by Senator ALAN CRANSTON)

The Old Testament speaks of the years of human life as three score and ten. But when the scriptures were written, average life expectancy was only 18 years. Much later, at the peak of the Roman Empire, life expectancy was about 22. By Shakespeare's time, the average had crept up to 35 years.

Obviously, everyone in those days did not die that young. Life expectancy is simply an average. At all times in history some people have survived to 80 or 90 or even longer. In each generation a handful of strong individuals have come close to living a full and natural life span.

In the past, a larger percentage of people than now died at birth. Deaths used to be more frequent in the young and middle years due to poor nutrition, inadequate sanitation, harsh living conditions and the spread of infectious disease.

This century began with an average life expectancy of 49 years in the United States. Almost overnight—in terms of history—we have aded more than 20 years to life expectancy here, and elsewhere in the world's wealthier nations.

In just the last decade we have added nearly three years more to this average. New figures from the U.S. Public Health Service show deaths from heart disease are down 22 percent since 1969. Deaths from stroke are down 32 percent. Deaths from atherosclerosis and diabetes also are down significantly.

But we still have not changed our inherent life span. Scientists in the relatively new field of gerontology now can estimate what our true life span is, however. Most of them agree that human beings have the biological capacity to live to 100 or more—as some few manage to do even now.

Most people don't live that long because the underlying mechanisms of the aging process make us vulnerable to cancer, heart disease, stroke, senility, diabetes and other degenerative diseases. These afflictions occur much more frequently among the aged. They rob us of the comfort and quality of our advanced years. They render many aging men and women helpless for years. And they shorten our lives.

I am convinced, however, that we are on the verge of major advances in what we know about the biomedical mechanisms of aging.

To understand these mechanisms is to begin to control them. And control of the aging process promises two distinct benefits.

First, by learning how to forstall age changes in the body, physicians will almost surely have a powerful new strategy for preventing disease. And secondly, we will probably learn how to avoid the prolonged deterioration of mind and body which now devastates so many people far short of their full life span.

As a member of the Senate Health and Scientific Research Subcommittee, and as chairman of the Veterans' Affairs Committee, I follow closely our progress in biomedical research. Often I invite research scientists to my office in the Capitol. They have an opportunity to discuss their work in an informal, cross-disciplinary forum. They share new findings with others working in parallel and complementary research.

What I have heard is astonishing to a layman. I suspect many scientists, too, would be surprised to learn how quickly we are assembling pieces to a very fundamental puzzle.

Researchers are probing basic mechanisms at the cellular and molecular level with tools that were unknown and unavailable just a few years ago. They are unravelling the secrets of how and why people age. Already some have successfully delayed and even reversed some aspects of the aging process in laboratory animals.

The field of gerontology for years was considered an unglamorous and unpromising field. To a degree, that attitude persists. But we also are seeing a stirring of great interest among scientists in the basic biology of aging.

The National Institute of Aging in Washington, D.C., reports a quadrupling of research applications over the last three fiscal years.

Researchers across the country are closing in on the disease of aging by pursuing strong leads in immunology, neutral and endocrine mechanisms, genetics, protein synthesis and free radical pathology.

I believe that the question before us is not whether we will learn to intervene in the aging process to our benefit.

The question is: when? For which generation?

Will our generation, perhaps, be the last to die prematurely? Or the first to live to its full potential?

I expect that investigations now under way will pay our society a bonanza in a very few years. There are very real possibilities that we will learn to increase the robustness and vigor of older people, if we use our scientific and fiscal resources wisely.

By extending the potency of human immune systems—to cite just one example—we might be able to stretch the healthy middle years—the prime of life—so that a person can retain that health into his 70s and 80s and beyond.

This particular avenue of research might pay its greatest and most immediate reward in the prevention and treatment of cancer.

Many scientists believe that cancer and aging may be sides of the same coin. Normal cell division maintains all the body's natural repair systems. But as people age, cells divide less efficiently. There is cellular damage and "errors" accumulate in the cell nucleus. When repair mechanisms fail altogether and abnormal cells begin to proliferate, the result is cancer.

Unfolding the mysteries of cellular and molecular changes which underly the aging process almost certainly will yield valuable information, possibly leading to cures for a host of medical problems from cancer to senile dementia, kidney failure and hardening of the arteries to name a few.

In America today, 11 percent of our population—some 23 million people—are over the age of 65. Their numbers grow by a half-million more each year. In the beginning of the next century—which really is not far away—the number and percentage of older Americans will swell dramatically as the baby boom generation approaches 65.

Federal spending for Social Security, health care and pensions for the elderly already are in the multiple billions. We could be in serious trouble by the year 2000. We cannot afford to begin the 21st century with a mushrooming population of dependent old people who are no better able to care for themselves than many who are in nursing homes today.

Make no mistake: our longer-lived population is a triumph and an opportunity for our country.

We have won some important battles against killer diseases and crippling disabilities. But we have some major challenges still ahead. We must surmount them if we are to succeed in enhancing, as well as prolonging, life.

We must plan ahead now for the kind of society we are becoming.

I think it is highly likely that in the next 30 or 40 years there will be major technological breakthroughs that relate to human life span. Breakthroughs may come much sooner. But even if there are none, soon, the number of people over 65 in our country will double in three to four decades.

With the commencement of control of the aging process we will have an even larger population of healthy, active, older Americans.

What will our society then be like? What will the world be like when people live to 100 or more with the capacity to be vigorous and competitive until the very end?

Some will ask: why should we want to have more old people around? Especially when so many elderly today suffer from poverty, dependence, low social status and age prejudice?

What will be the burden of future health care capacity and tax-supported services? What about overpopulation? Jobs for everyone? Living space? Won't our culture stagnate if there are more and more old people and fewer younger citizens?

These are important questions. While it is impossible to project precise solutions into the future, we have some clues within our own century.

The present population of seniors was unanticipated when life expectancy was just 49 years. We have had problems with poverty, inadequate housing, health and nursing care for the elderly. But I agree with Dr. Bob Butler of the National Institute on Aging that these are temporary dislocations. They are the result, largely, of society's failure to anticipate and prepare for a major shift in human survival. We have no excuse for being similarly unprepared in the future.

If people in their 80s and 90s someday enjoy the physical health and resilience associated with middle-aged people today, we will not need to worry about increased social costs of health care and dependency. Elderly Americans who work, produce for the economy and pay taxes will help us salvage much of the expense and wasted resources we now assume are inevitable with an aging population.

Certainly we will need to end forced retirement based on age alone in order to free the energies and productive capacities of a longer-lived, healthier population. Managing a larger work force and providing meaningful jobs for all who want to work are political problems, not scientific problems.

Ask yourselves this: has this century's dramatic increase in older Americans made ours a less flexible, intellectually sterile, or socially immobile society? Not by a long shot. Nor is stagnation the inevitable result of an older population.

I do not minimize problems of overpopulation and limited resources in our nation and in our world. We will have to find solutions to these problems. They will confront us whether or not we manage to intervene in the aging process.

I believe an older, wiser population will be an asset, and perhaps an absolute necessity if we are to cope with the future. It will help us grasp solutions that require years of technical training and the kind of learning that comes only through long and vast experience.

George Bernard Shaw wrote: "Men do not live long enough. They are, for all purposes of high civilization, mere children when they die."

In a technically complex society, such as ours, talented young people spend an increasing proportion of their lives being trained to produce and contribute. But long before their years of experience have enabled them to realize their very fullest potential, their faculties begin to fail to the processes of age.

This is a tragic loss in human terms. And in terms of productivity. We need to find lifespan technologies that allow us to lengthen the middle years and to reduce to a minimum the period of eventual decline.

In this way we will develop a generation of people with the wisdom, insight and energy to lead us wisely forward to the future.

We need not fear biomedical advances that lead to greater human survival. Rather, we should be on guard against what Dr. Lewis Thomas, of Sloan-Kettering Hospital, calls halfway technologies.

Halfway technologies in medicine treat the manifestations of disease instead of its mechanisms. They aim to compensate for after-effects of illness rather than reaching for preventions.

The iron lung was an instance of halfway technology in the treatment of polio. Fortunately, we didn't stop there. We pursued the basic science that eventually yielded a vaccine.

I believe today's nursing homes someday will be seen in a similar light—as the equivalent of iron lungs for the dependent elderly. They will be regarded as an expensive relic of the days before we found more satisfactory answers to the challenges of human longevity.

We will not get to that happy day as quickly as we should, unless we marshall our intellectual and financial resources, and begin to do it now.

We will not get there rapidly unless we are willing to take some chances.

I am distressed when respected scientists tell me that many innovative and original research proposals are not given a chance to prove themselves.

These are times, in government especially, when research dollars are scarce. Inevitably there is a tendency to favor safe bets in research. Too often institutes, eager to show a return on research, fund projects that yield highly predictable—and therefore minimal—results.

Predictable research will not speed us toward the answers we need if we are to meet the health challenges we face now and will face in the future. We need to have the flexibility and the good judgment to support occasional proposals that carry a high risk of failure—but that also hold the promise of a high payoff if they succeed.

It is difficult for government to justify taking risks. Yet I think it must. But because it is so difficult to move the heavy wheels of government, there is a crucial need for the private sector to support potentially high-benefit biomedical research, to compete with, and thus set a higher standards for, government.

For the present, the new mass of knowledge in the biomedical field is still formless, incomplete, lacking essential threads of connection. There are fascinating new concepts everywhere, irresistable experiments beyond numbering, countless new ways through the maze of problems to the heart of the solution. Every next correct move is unpredictable, every outcome uncertain. But all avenues hold the possibility of discovery.

I assess ours to be a puzzling time, but an exciting time, an exhilerating time, a very good time. We should all be grateful to the biomedical researchers among us who are helping make it so.●

THE "PRODUCTION BOARD" ROUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, I have been advocating a "production board" for a long time, not only for energy, but also for conservation, and anti-inflation purposes. That is how we used the War Production Board during World War II, and the National Production Agency (NPA) during the Korean war. The function of the "production boards" was to make the most of anything in short supply, with particular reference to the national needs, whatever they may be and to increase supply where needed for national purposes.

The first regulation (regulation 1) was an antihoarding regulation which applied to anything added to the list. The NPA list shown on the attached copy shows what happened to be in short supply at that time. If the pending bill does not give authority to the agency to do what this regulation does, then I would suggest that a separate bill be introduced for regulation 1 alone, perhaps along with any other specific omissions.

When the bill was introduced for the Energy Mobilization Board, I met a man from one of the major trade associations, and he was very pleased with it. Then I ran into him the next day and he told me that the Wall Street Journal came out against the Mobilization Board merely because it is a "regulatory program." And some other business publications and columns have since come out against that Board, arguing for "free market" methods. The fact is, that the "production boards" were run by industry people, whether as WOC's or officials on staff or on actual industry advisory committees. I suspect that the industry's oppositions might cause a watered down approach with a minimum of effort to meet national needs—favorable to high prices, and so forth.

One of the big advantages of taking the "production board" route is that people are still available who did it before, which means it can be set up and running well in short order, providing the administration goes after people who "did it before"—like Truman did during the Korean war. I can understand industry fears of administrative deficiences some must avoid the tendency to start from scratch with novices.

[Trillions of Btu's in 1973]

	Breakdown of consumption by—					
	Gas	Oil	Gasoline	Anthracite coal	Bituminous coal	Petroleum
Industry				29	4,425	6,043
Commercial						
Residuals						7,020
Transportation						17,927
Electric						3,425
Miscellaneous						280
Total						34,689

War Production Board was headed by a man from Sears Roebuck, which means that he came from a buyer background, which is to say—demand-side, rather than supply-side. The industries which need the energy should dominate the Board, since those who consume energy want ample supplies at moderate prices. The synthetic rubber program of World War II had 51 plants built, and that program was headed by Jeffers from the railroads, after the program was getting nowhere when it was headed by a man from the rubber industy.

The Board we get from Congress may turn out to be a shadow, with many of the functions missing. If that happens a Small Business Production Board might be worth considering. Maury Maverick had within the War Production Board, which meant that any smaller war plant which had important work—from the national point of view—could get all sorts of assistance. That list of assistances might well be reexamined, and it might help smaller firms get more of the business opportunities and production assistances. The fact is, that where shortages exist with regard to energy, inflation, conservation, and so forth it would be nice for small business to expand with Government assistance, rather than to help big industry to expand. Small business is more domestic too.

The "production boards" applied to manufacturing, which uses about half of the total energy consumed in the United States. If industry conserves, and so forth, then the need for residential controls should be greatly reduced even in real emergencies. The idea of going for residential controls first seems nonsensical; with a decent "mobilization board", or production board, the administration might have little or no need for rationing.

It is also noteworthy that if the "Mobilization Board" or "production board" is not limited to "energy," it can be used to reduce the cost of military equipment manufacturing.

As I indicated above, there are some types of legislation that can be separately pursued, for example, the antihoarding regulation—Regulation 1—if the "Mobilization Board" bill that passes leaves out important items that were in the Defense Production Act of 1950—which gave authority for the National Production Administration—during the Korean war.

Let us take a closer look at the antihoarding regulation No. 1 that we had in NPA, and which was directly patterned on similar experience in the War Production Board. This was the first official action of the NPA, effective September 11, 1950, and it limited the quantities of materials in short supply that may be ordered, received, or delivered. To whom did the antihoarding regulation apply? It applied to everyone except an ultimate consumer buying for personal or household use. The regulation applied to wholesalers and retailers to the extent that they handled the items listed as being in short supply. And the regulation also applied to agencies of State and Federal governments.

To curb tendency to hoard in the face of shortages or possible shortages, each industrial consumer and so forth of the item was limited to a "practical minimum working inventory" which was defined as the smallest quantity from which a person could reasonably meet his deliveries, or supply his services, on the basis of his currently scheduled method and rate of operation. Each business had the responsibility of justifying any inventory that was out of proportion with that normally maintained prior to June 1950 (which was several months before the effective date of regulation No. 1). The allowed inventory was related to the rate of production, so that the allowed inventory could be adjusted accordingly. Excessive ordering from a number of suppliers with intent to cancel excess, was not permitted.

Where a supplier had doubt as to whether his customer was entitled to receive delivery, he could protect himself by requiring from the customer a certificate stating that receipt of the material would not increase the customer's inventory beyond the permitted limit. Imported items were not subject to the inventory restrictions while they remained in the hands of the importer, but any person to whom the importer subsequently delivered it was subject to the regulation and was not permitted to accept delivery if his inventory already was, or would thereby have been made, excessive. Those who complied with the regulation as to deliveries were protected from damages or penalties. Hoarding of an item on the shortage list was considered a crime.

Regulation No. 2 described a priority system to assure that production of materials and goods required for meeting national urgencies would have the right of way. The Korean war required only a simplified priority system because the aggregate of war goods involved was a modest fraction of the total industrial output of the United States and all war goods could be considered equally essential. However, in shortage situations a priority designation assigned by the Department of Defense, Atomic Energy Commission, National Advisory Committee for Aeronautics, U.S. Coast Guard, or Civil Aeronautics Administration, could materially advance production of items having national urgency, ahead of items which had no such urgency.

Where necessary, nonessential usage of an item in shortage supply was restricted, which not only assured the availability of the item for essential purposes, but also avoided the development of a skyrocketing price for that item which might result from mere scarcity rather than from increased cost.

Increased private investment for expansion of essential plant capacity was achieved very rapidly, by providing special tax provisions only to investments directed to assurance that national needs would be met. If national needs are in competition with investments for nonessential purposes the sole criteria for investment remains relative profitability without regard to national needs. By confining the "fast amortization" to investments required for national needs there was introduced a relative priority of private investment in favor of increased assurance than national needs would be expedited.

In "The Battle for Production," by the Director of Defense Mobilization (January 1, 1952) it was reported (p. 12) under "Methods Employed in Aiding Expansion":

> To assist in the expansion programs, the Government employs a number of devices—including accelerated tax amortization, purchase and resale of vital material, direct loans to business, loan guarantees, commitments to purchase at specified floor prices, and Government financing of part of the cost of exploration of minerals.
>
> The most important of these devices is accelerated tax amortization, which enables a varying proportion of plant costs to be written off for tax purposes at the accelerated rate of 20 percent annually. (Certificates for accelerated tax amorization covering $11.4 billion in proposed plant expansion have already been issued.)

Three months later the certificates issued totaled $16.6 billion, with an additional $9.9 billion pending. A billion dollars bought a lot of plant capacity in those days. The expansion achieved here was all for meeting national urgencies, and not aimlessly squandered. The procedure was for the NPA Office of Construction and Resources Expansion to receive the applications (Form GA–71) from companies, which then forwarded one copy to the appropriate industry division. If necessary the industry division obtained comment (on Form GA–119) from other (user) Government agencies as to essentiality.

Senator JACKSON was on "Face the Nation" program July 29. He described the pending coal-liquefaction and coal-gasification program as a guarantee by the Federal Government of privately-funded plant construction. That means that the Government might have too little control over the expenditures which might not even be audited as the construction progresses. Also the private-funding may be provided by those with reason to tolerate higher cost of synthetic oil and gas rather than lower.

The oil and gas industries are already over-involved in coal and uranium. It is actually to the economic interest of the oil and gas companies that the alternate sources of liquid and gaseous fuels be expensive. The value of oil and gas output and reserves is directly connected with the cost of the alternatives, as a matter of market economics. So it is preposterous to expect oil and gas companies to have the same incentives toward having low cost alternatives.

It is worth billions upon billions to the oil and gas industry for the cost of the synthetics to be high, and that should not be ignored at this time. If it is at needlessly high prices, it will not only cause the Government to sustain a needlessly high guarantee-cost ultimately, but would cost the Nation enormously when synthetic fuels get into general use. It would also cause high prices for petroleum and natural gas as well.

The question is, What alternative funding might be considered? First, the huge plants for coal conversion and so forth, are a boon to certain States, and particularly in the State where the plant will be located. Accordingly, the State government should issue tax-free bonds to cover perhaps 20 to 30 percent of the cost of the plant. The spending of the construction money within that area is bound to boost the area economically, and the payrolls during operation will also be a boost to the area. The Federal part of the funding should give the Government ownership of the plant with operation by a private company (as was done for synthetic rubber). A special energy bond could be issued by the Federal Energy Bank, income of which would be tax free in any State, not merely where the plant will be built (agreement by the States can be obtained by the FEB). The Security Board provided in the Mobilization Board program can include the Federal Energy Bank. Thus, there would be an annual interest cost paid by the Federal Government on about 70 to 80 percent of the construction cost, and the annual interest can be covered by an annual addition to the bond-construction issue rather than by taxation annually. The patents resulting from Federal R. & D. should not be tax free, but should carry a royalty charge as though the patent was developed by a private laboratory. When the plant is in operation, the Government would still be covering losses on synthetic oil and gas sold at market price; petroleum and natural gas industry might want the coal product sold at cost of production so that they could further raise the price of petroleum and natural gas.

The chances are that the special State and Federal energy bonds might be substantially redeemed when the plants are sold by the Government. (The synthetic rubber plants were sold by the Government during the 1950's for their depreciated cost or better). Unless inflation is brought down substantially that too can contribute to bond requirement. The coal-conversion plants should be constructed with potential resale in view.

The coal-conversion program is described as long term, and some other energy programs are also long term. The "production board" can service such longer term objectives. It also can begin yielding short term benefits if it is used to expedite gasohol and solar programs as well, and to accelerate any other environmental improvements. All these are in the national urgency category. They are not new problems. Energy shortages are old problems which began to receive media notice as far back as 1948.

It should be realized that all the military equipment will merely be a maginot line if we keep depending on sources of oil that are insecure or distant and subject to easy interruption. We need to give the highest priority now to receive supplies of clean energy, without needless skimping, and we need to count every day as vital. Otherwise we may well be losing the next war now, with possibility of the United States becoming an occupied country. ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Andrews of North Dakota (at the request of Mr. Rhodes), for today and until further notice, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Corcoran) to revise and extend his remarks and include extraneous material:)

Mr. Courter, for 10 minutes, today.

(The following Members (at the request of Mr. Miller of California) to revise and extend their remarks and include extraneous material:)

Mr. Pepper, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Weaver, for 10 minutes, today.

Mr. Addabbo, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Carney, prior to the vote on H.R. 5892 today.

(The following Members (at the request of Mr. Corcoran) and to include extraneous matter:)

Mr. Dannemeyer.

Mr. Young of Florida in five instances.

Mr. Findley in two instances.

Mr. Bafalis.

Mr. Kemp.

Mr. Lagomarsino.

Mr. Corcoran.

Mr. Hyde.

Mr. Conable.

Mr. Spence.

Mr. Lent.

(The following Members (at the request of Mr. Miller of California) and to include extraneous material:)

Mr. Mazzoli.

Mr. Walgren in two instances.

Mr. Pepper.

Mr. Pease in two instances.

Mr. Anderson of California in 10 instances.

Mr. Gonzalez in 10 instances.

Ms. Byron in 10 instances.

Mrs. Bouquard in five instances.

Mr. Hamilton in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Cavanaugh in five instances.

Ms. Mikulski.

Mr. Barnes.

Mr. Conyers.

Mrs. Schroeder in two instances.

Mr. Ireland.

Mr. Bennett.

Mr. Lloyd of California.

Mr. Bonker in two instances.

Mr. Seiberling in 10 instances.

Mr. Wirth.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3407. An act to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; and

H.R. 5871. An act to authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 239. An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes; and

S. 497. An act to extend for 3 fiscal years the authorizations of appropriations under section 789 and title XII of the Public Health Service Act relating to emergency medical services, to revise and improve the authorities for assistance under such title XII, to increase the authorizations of appropriations and revise and improve the authorities for assistance under part B of title XI of such act for sudden infant death syndrome counseling and information projects, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on November 30, 1979, present to the President, for his approval, bills of the House of the following titles:

H.R. 3354. To authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes; and

H.R. 4483. For the relief of Jung-Sook Mun.

ADJOURNMENT

Mr. MILLER of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 24 minutes p.m.), the House adjourned until Tuesday, December 4, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2923. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1980 (H. Doc. 96–235); to the Committee on Appropriations and ordered to be printed.

2924. A letter from the Assistant Deputy Chief of Naval Material (Contracts and Business Management), transmitting the annual report for fiscal year 1978 on Navy research and development procurement actions of $50,000 and over, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

2925. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the export expansion facility program for the quarter ended September 30, 1979, pursuant to Public Law 90–390; to the Committee on Banking, Finance and Urban Affairs.

2926. A letter from the Secretary of Labor, transmitting the annual evaluation plan and report covering the areas of research, statistics, evaluation, experimentation, and demonstrations, pursuant to section 313(d) & (e) of the Comprehensive Employment and Training Act of 1973, as amended; to the Committee on Education and Labor.

2927. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Mabel M. Smythe and her family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

2928. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of an export license for major defense equipment sold commercially to the Government of Malaysia (transmittal No. MC–4–80), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2929. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2930. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Switzerland (Transmittal No. 80–20), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2931. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to discontinue or amend certain requirements for agency reports to Congress; to the Committee on Government Operations.

2932. A letter from the Acting Inspector General, Department of Health, Education, and Welfare, transmitting the 10th quarterly report on the activities of his office, covering the period ended September 30, 1979, pursuant to section 94-505; to the Committee on Government Operations.

2933. A letter from the Secretary of Housing and Urban Development, transmitting a semiannual report on the activities of the Department's Office of Inspector General, covering the period April 1 through September 30, 1979, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

2934. A letter from the Secretary of Transportation, transmitting a semiannual report on the activities of the Department's Office of Inspector General, covering the period April 1 through September 30, 1979, pursuant to section 5(b) of Public Law 95-452; to the Committee on Government Operations.

2935. A letter from the Assistant Attorney General for Administration, transmitting a proposed new records system, pursuant to 5 U.S.C. 552(o); to the Committee on Government Operations.

2936. A letter from the Director, International Communication Agency, transmitting a report on the Agency's disposal of foreign excess property during fiscal year 1979, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2937. A letter from the Secretary, Federal Energy Regulatory Commission, transmitting an opinion and order suspending for 2 years the effective date of the Commission's Opinion No. 36 and orders issued February 26, 1979, issuing a new license for project No. 176, Escondido Mutual Water Co., city of Escondido, Calif., and Vista Irrigation District, pursuant to section 14(b) of the Federal Power Act, as amended; to the Committee on Interstate and Foreign Commerce.

2938. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of August 1979, pursuant to section 308 (a) (1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2939. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of August 1979, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 38(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2940. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of September 1979, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2941. A letter from the Acting Secretary of Commerce, transmitting recommendations on the eighth annual report of the National Advisory Committee on Oceans and Atmosphere, pursuant to section 4(b) of Public Law 95-63, together with a further report on actions taken on recommendations contained in the committee's seventh annual report, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Merchant Marine and Fisheries.

2942. A letter from the Special Assistant to the President for Administration, transmitting a report on personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, and the Office of Administration, during fiscal year 1979, pursuant to 3 U.S.C. 113; to the Committee on Post Office and Civil Service.

2943. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on scientific and engineering positions established within NASA as of September 30, 1979, under the authority of section 203(c)(2)(A) of the National Aeronautics and Space Act of 1958, as amended, pursuant to section 206(b) of the act of October 4, 1961; to the Committee on Post Office and Civil Service.

2944. A letter from the alternate to the Chairman, Water Resources Council, transmitting a draft of proposed legislation to amend the Inland Waterway Authorization Act of 1978 (Public Law 95-502; 92 Stat. 1693); to the Committee on Public Works and Transportation.

2945. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Justice William O. Douglas, Federal Building, U.S. Courthouse, 3d and Chestnut Streets, Yakima, Wash., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2946. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Lakewood, Colo., Building 25, Denver Federal Center, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2947. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the U.S. Postal Service Terminal Annex, Dallas, Tex., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2948. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Lakewood, Colo., Building 67, Denver Federal Center, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2949. A letter from the Comptroller General of the United States, transmitting a report on needed improvements to the Grain Standards Act of 1976 (CED-80-15, November 30, 1979); jointly, the Committees on Government Operations, and Agriculture.

2950. A letter from the Comptroller General of the United States, transmitting a report on the depletion of phosphate deposits in the United States (EMD-80-21, November 30, 1979); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Science and Technology.

2951. A letter from the Comptroller General of the United States, transmitting a report proposing changes in the minimum disability benefit provisions of the civil service retirement system (FPC-D-80-26, November 30, 1979); jointly, to the Committees on Government Operations, and Post Office and Civil Service.

2952. A letter from the Comptroller General of the United States, transmitting a report on the Army Corps of Engineers proposal to add generators to Libby Dam on the Kootenai River, Mont., and to construct a reregulating dam nearby (EMD-80-25, November 20, 1979); jointly, to the Committees on Government Operations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on House Administration. H. Res. 469. Resolution providing for the printing as a House document of the study entitled "Soviet Diplomacy and Negotiating Behavior: Emerging New Context for United States Diplomacy" which was prepared at the request of the Committee on Foreign Affairs by the Congressional Research Service of the Library of Congress (Rept. No. 96-676). Referred to the House Calendar.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 4887. A bill to authorize appropriations for the San Francisco Bay National Wildlife Refuge; with amendment (Rept. No. 96-677). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 4084. A bill to provide for a cooperative agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California; with amendments (Rept. No. 96-597, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5741. A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to exempt interest on certain savings from Federal income tax; with amendments (Rept. No. 96-678). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. CLAUSEN:

H.R. 6005. A bill to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies; to the Committee on Science and Technology.

By Mr. CLINGER (for himself, Mr. McDADE, and Mr. DOUGHERTY):

H.R. 6006. A bill to designate certain public lands in the State of Pennsylvania as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FISHER:

H.R. 6007. A bill to subject gain from foreign investment in U.S. real estate to the income tax; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 6008. A bill to amend the Small Business Act to increase assistance to small businesses in exporting; to the Committee on Small Business.

By Mr. MURPHY of Pennsylvania:

H.R. 6009. A bill to establish the U.S. Olympic Fund, to amend the Internal Revenue Code of 1954 to allow taxpayers to designate that 50 cents of their income tax payments be paid to such fund, and for other purposes; jointly to the Committees on Ways and Means, and the Judiciary.

By Mr. TRIBLE:

H.R. 6010. A bill to allow the heads of Executive agencies to pay to certain individuals amounts equal to 10 percent of the amounts saved by the detection and reporting by such individuals of waste or fraud in such agencies; to the Committee on Government Operations.

By Mr. KEMP:

H. J. Res. 452. Joint resolution to recognize the Polish holocaust of World War II; to the Committee on Post Office and Civil Service.

By Mr. SPENCE:

H.J. Res. 453. Joint resolution requesting the President to issue a proclamation calling on the people of the United States to set aside a period of time each day to show their support for the hostages at the United States Embassy in Iran; to the Committee on Post Office and Civil Service.

By Mr. BRODHEAD:

H. Res. 494. Resolution to express the sense of the House of Representatives in support of the "Day of Solidarity with Oppressed Jewry"; to the Committee on Foreign Affairs.

By Mr. COURTER:

H. Res. 495. Resolution urging the Secretary of State to expel any diplomat to the United States who incites individuals residing in the United States to engage in illegal actions which threaten the public safety or public tranquility; to the Committee on Foreign Affairs.

H. Res. 496. Resolution urging the Attorney General of the United States to expedite certain deportation proceedings with respect to certain Iranians; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of Rule XXII, a memorial of the following title was presented and referred, as follows:

324. By the SPEAKER: A memorial of the Legislature of the Territory of Guam, relative to homeporting additional ships of the U.S Pacific Fleet in Guam; to the Committee on Armed Services.

325. By the SPEAKER: A memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to Commissioner Bowie K. Kuhn; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. DAVIS of South Carolina introduced a bill (H.R. 6011) for the relief of William H. Koss; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as followed:

H.R. 1297: Mr. Atkinson.

H.R. 1644: Mr. Conyers.

H.R. 2020: Mr. Atkinson and Mr. Grassley.

H.R. 4885: Mr. Corcoran.

H.R. 5548: Mr. McHugh, Mr. Richmond, Mr. Skelton, Mr. Maguire, and Mr. Edwards of Oklahoma.

H.R. 5609: Mr. Clinger, Mr. McKinney, Mr. Mineta, and Mr. Richmond.

PETITIONS, ETC.

Under clause 1 of rule XXII, the following petitions and papers were presented and referred as follows:

240. By the SPEAKER: Petition of the State Convention of Baptists in Ohio, Columbus, Ohio, relative to continued U.S. food assistance programs; to the Committee on Foreign Affairs.

241. By the SPEAKER: Petition of the 28th annual Child Support Enforcement Institute, Lake Buena Vista, Fla., relative to improvements in the child support program; to the Committee on Ways and Means.

242. By the SPEAKER: Petition of the Joint Legislative Committee on Energy, Columbia, S.C., endorsing amendments to the Clean Air Act and amendments to the Federal Surface Mining Act which allow States greater flexibility in meeting demand for the production of coal; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5461

By Mr. McCLORY:

—Page 2, strike out lines 2 and 3 and insert in lieu thereof the following:

"The birthday of Martin Luther King, Junior, the third Monday in January.".

By Mr. RODINO:

(Substitute for the committee amendment).

—On page 2, line 3, strike out "January 15." and insert in lieu thereof "the third Monday in January.".

EXTENSIONS OF REMARKS

A REALISTIC ENERGY POLICY

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. YOUNG of Florida. Mr. Speaker, 6 years have passed since the Arab oil embargo shocked America into a recognition of our dangerous dependence on foreign oil imports and of the precarious balance between our total energy supplies and our energy needs. Since then, official Washington has spent countless hours, days and weeks talking about a national response to this very real problem. Yet for all these years spent in debate and controversy—in the House, in the Senate and in the executive branch—the United States still has no effective national energy policy.

Like other Americans, I have no "magic formula," no "miracle plan," that would provide an overnight solution to the problem. And like other Americans, I am fed up with all the talk, all the wrangling, all the intramural squabbling that has been going on as every self-interest group in the Nation seeks to gain some advantage from what should be a bipartisan, national response to this national problem. I believe that the problem is solvable—that American ingenuity and cooperation can result in the production of enough energy to meet our essential energy needs. In that spirit, let me state several principles that I believe are self-evident and then discuss some of the proposals that have been offered as "solutions" to the energy problem.

First, I believe it is evident to all thinking Americans that we must produce more energy within the boundaries of our own country. We must become less dependent on foreign sources of supply. We must be self-sufficient to remain a strong Nation. We must never sink to a point where we would ever fear the Khomeinis of this world.

Second, it is equally self-evident that conservation should be our first line of attack against energy shortages but that conservation efforts alone will not be enough to balance our energy supplies with our energy needs. Energy conservation is important, but conservation without production will never get the job done.

Third, it should be evident to all that regulations do not produce energy. Unfortunately, the main product of the Department of Energy has been regulations. We need to change that agency from a department of energy regulations to a department of energy production.

Fourth, it should be clear to all that taxes do not produce energy. All the taxes and all the regulations that have been proposed have not created one additional gallon of gasoline or produced one additional kilowatt of electricity.

As we discuss energy production, contrary to some thinking, we do not have to choose between the production of energy versus the protection of our environment. We can do both, and only extremists on either side of the energy debate seek to persuade us that we can only do one or the other but not both.

Mr. Speaker, there should be little real controversy over these principles, although they are sometimes forgotten in the heat of debate. We must produce more energy, and we must produce as much of it as possible in our own country. We can no longer afford to depend on the whims of a foreign power.

Unfortunately, the policy of the present administration appears to ignore these principles. The policy of the present administration has been to reduce energy consumption by making it so expensive that no one can afford to use it. The administration has proposed program after program of new taxes and increased taxes and more regulations. And not one of these—I repeat—has created an additional gallon of gasoline or produced one kilowatt of electricity.

The administration's first energy "program," Members of this House will remember, called for increased gasoline taxes. Congress refused. The administration also proposed additional taxes on crude oil at that time. Congress again refused.

The administration also proposed various gasoline rationing schemes. Although I had numerous reasons for

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

opposing President Carter's first standby rationing scheme, the unfairness of the plan to the people of Florida was high on my list. For example, although Florida has less than adequate public transportation, we are helping to pay for a very fine metro system in Washington, D.C. Despite this fact, under President Carters' first rationing plan the bureaucrats living in Washington would have gotten more gasoline than Floridians or the people of 45 other States. Although I was greatly disturbed over this obviously unfair gasoline distribution formula, I was not at all surprised. After all, how could we expect to get a fair plan from people who believe the answer to our energy problem is to make gasoline so expensive that people will quit using it?

Although Mr. Carter's first plan would have provided coupons needed to buy gasoline, it did nothing to guarantee that the gas stations would have enough gasoline to honor those coupons. In fact, on May 16 of this year Mr. Carter's former Energy Secretary, James Schlesinger, conceded to me and several other members of the Appropriations Committee that, "The allocation system is a system of misallocation." That is a short statement but its meaning is all too obvious. Mr. Schlesinger and other officials in the Department of Energy have admitted that the Department itself was to blame for the long gasoline lines of this past summer. The Department's allocation system is a national failure.

Recently, the administration proposed and the House passed a "windfall profit" tax. A modified version of that plan is being considered in the Senate. I have always supported the concept of enacting a windfall profits tax as an effective means of preventing oil companies from reaping huge profits at the consumers' expense. As a matter of fact, former Presidents Nixon and Ford both proposed a tax on windfall profits with a provision that funds from such a tax would be used to accelerate the development of new energy sources, and I am pleased that President Carter finally decided to support this plan. I believe it is a workable approach to protecting the interests of the American people, while also moving us closer to that time when Americans will finally be free from the economic pressures of OPEC countries.

There is one difference of opinion, however, that I do have with President Carter's windfall profit tax proposal. Rather than redistributing a large portion of the proceeds from this tax through our social programs, as requested by the President, I believe all the moneys realized from this windfall profit tax should be put back into energy production, research and development. I do not believe it is appropriate to tie our energy initiatives to our welfare initiatives. In my opinion, one of the best things we could do for people on low incomes is to lower the price of energy and other oil-related items as medicine, food production (petrochemical fertilizers), clothing (synethic fabrics), plastics, and so forth. The only way we will ever lower the price of energy is to develop our own energy resources and free us from dependence on foreign oil producers. The only way we will ever become self-sufficient is to place much more emphasis on increased exploration for new oil and exploitation of known existing untapped supplies as well as on the development of alternative sources of energy. For example, it is a well-known fact that there are billions of barrels of untapped oil in the United States. The problem is that it is either too deep, too dispersed in rock, or too thick to be removed by conventional pumping procedures. What is needed, then, is the more effective procedures for extracting this oil, which unfortunately are also more expensive. With additional funds available from a windfall profit tax, these hundreds of millions of barrels of American oil can be recovered.

One reason for the frustration shared by so many Americans is their conviction that they are not being told the truth by the oil companies or the Government. I share that frustration. The President of the United States is the only individual in the United States who is powerful enough to get the real truth about the energy situation. For that reason, last May I initiated, and the Republican leadership in the House joined me in sponsoring, a resolution of inquiry directing the President to respond to 11 very specific questions concerning the energy shortage. I raised this issue because I felt it was time to end the confusion and contradiction surrounding the administration's statements, and to demand a concise, factual accounting of the energy situation. My proposal, House Resolution 291, passed the House June 15.

Unfortunately, when President Carter directed the Department of Energy to investigate the big oil companies to determine whether they were telling the truth about energy supplies, the Department of Energy responded by providing the President with the oil industry's own figures instead of conducting its own investigation. We have heard calls from the American people to stand up to the big oil companies and, as one Member of this House, I am ready and willing to stand up to them with all my strength. That was the point of our resolution of inquriy. Not only should we be willing to stand up to big oil, we should also be willing to stand up to big government with equal resolve. Big Government is a big part of the problem. As I noted earlier, the Department of Energy has conceded that its allocation program was responsible for the long gasoline lines of this past summer.

Until we can stabilize the energy situation in our country, no alternative energy source should be discounted, and every means should be employed to encourage its development. On June 26th the House passed and sent to the Senate legislation which addresses this long neglected aspect of energy production. The measure, H.R. 3930, proposed establishment of a national production goal for synthetic fuels equivalent to 500,000 barrels of petroleum per day. It would help create a synthetic fuel industry using coal, shale and other resources found in abundance within the boundaries of the United States. Although President Carter originally supported this legislation, his commitment to it has since softened. As a matter of fact, as recently as October 14, President Carter was quoted by the New York Times as saying: "As a last resort we'll have to have some additional supplies of energy." That was his phrase: "As a last resort." With thinking like that, it is no wonder that we still have no realistic national energy policy. And consider this: the synthetic fuels bill to create more energy could use the same $2 to $3 billion that it would cost just to set up the President's first gasoline rationing plan.

One day we will develop an efficient, renewable, nonpolluting and unlimited source of energy, either from the sun, agriculture, a combination of the two or some other exotic means that we have not even thought of yet. But until then, much more emphasis must be placed on increased exploration for new oil, exploitation of known existing untapped supplies of crude oil in the United States, and the development of synthetic and alternate fuels.

While trying to obtain domestic energy production goals, we must not lose sight of our environmental goals. However, laws and regulations must be applied fairly and reasonably, so that production consistent with these goals is encouraged. Some are concerned about the increased use of coal, and the environmental impact this may pose. Such concerns are understandable, but I am convinced that American technology can reduce those risks to a level where coal can be safely and efficiently utilized, either in its natural form or in a form of gas or liquid made from the coal.

No alternative source of energy should be ignored. We should proceed carefully and cautiously with the development of nuclear energy. We must continue research and development of nuclear reprocessing techniques so that the United States can have long-term insurance against overdependence on depletable fuels. I do not dismiss the concerns of those who have expressed legitimate questions about the continued development of nuclear energy. We must study their questions carefully and learn from the lessons of experience. But I am convinced that the United States has the ability and the will to reduce any real or imagined danger posed by continued production of nuclear energy.

In order to make the best use of our energy resources, the development of public transportation should have a high priority. Throughout my service in Congress, I have supported legislation to improve public transportation including the Amtrak passenger rail service system. In addition, there should be more emphasis on use of carpools, vanpools, bus and other rail services.

In summary, Mr. Speaker, we must approach our energy problems realistically and on many fronts. We must take strong measures to conserve available energy sources. We must develop new energy sources. And—above all—we must develop these safe and secure energy supplies within the borders of our own country, free from the political and economic pressures of the OPEC countries.●

INNOVATIVE CONGREGATE HOUSING PROGRAMS FOR THE ELDERLY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. PEPPER. Mr. Speaker, one of the major concerns of the Select Committee on Aging, which I have the honor to chair, has been alternative housing to institutionalization. A most promising alternative has been congregate housing, a program to house the elderly in a group environment where necessary services can be provided. Many such projects have been built across the country, each set up somewhat differently, providing different services, with the same goal in mind, to allow senior citizens to live independently or semi-independently for as long as possible.

Through the aid of an outstanding newsman with the National Broadcasting Co. in New York, who has displayed great sensitivity in this area, Mr. Joe Michaels, our committee has learned of two model congregate housing facilities. Both models are located in New York and both should certainly be commended for their experimentation in senior citizen housing.

The Nassau County Department of Senior Citizen Affairs initiated an experimental program over a year ago that has since been taken over by the Long Island Jewish Medical Center. The program involves housing for senior ctiizens recently discharged from the hospital and provides them with a family-type living environment. Eight residents share a large living room and kitchen, with separate bedrooms and baths. Among the services provided are a homemaker, who does shopping, and so forth, a social worker, and a medical team including a mental health specialist. The residents are able to care for themselves to a great extent, many prepare their own meals, others are fed through the meals-on-wheels program. Supportive grab bars and handrails are provided throughout the apartment for those residents who have problems with mobility.

Another experiment turned success in congregate housing is the Westchester communal living arrangements program, sponsored by the Westchester Jewish Community Services. Two apartments were rented in a complex housing more than 200 people in White Plains, N.Y. The setting is attractive and decidedly residential, where the elderly are not barricaded from the rest of the world. Grab bars and handrails have been installed and any hazards that would hamper mobility have been removed. Each apartment houses four senior citizens who have applied for this housing and are screened according to compatibility. Each has their own private bedroom, with two people sharing baths and one living room and kitchen per apartment. A homemaker comes in 6 days a week, 6 hours a day to do shopping, prepare lunch and do other houshold chores. Other services include social work, case work, physical education, mental health facilities as well as a doctor for emergencies. A spokesman for the Jewish Community Services said that the residents are very happy in their apartments, they have become a family, and attributes this to the type of living facility as well as the care and concern of the agency.

Both agencies plan to establish similar housing facilities elsewhere, due to the success of these first experiments. I am immensely pleased to find that there are people who do care enough to find alternative housing for senior citizens and that such housing proves to be beneficial to the elderly.●

JAMES A. GROTH—MANAGING EDITOR OF THE SAN PEDRO NEWS-PILOT 1974–1979

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. ANDERSON of California. Mr. Speaker, in October of 1974, Copley Newspaper publisher Hubert L. Kaltenbach announced that James A. Groth would become the new managing editor for the San Pedro News-Pilot. "Jim will have the responsibility of maintaining the image of the News-Pilot as an integral part of the harbor community. He will become an active part of the community and will work to keep the News-Pilot as the voice of the community," he said.

Those acquainted with the newspaper's publication during the last 5 years know that Jim Groth did not take these words lightly. During the time that he has managed the newspaper, it has not deviated from its traditional role as the harbor area's most dependable source of news and event coverage. Now a new advancement and challenge is in store for James Groth; he will soon become managing editor of the Pasadena Star News. As he nears this transition in his rising career, I would like to take this moment to share with my colleagues words to describe some admirable contributions made by this man to the journalistic profession and to the San Pedro community.

James Groth came to the News-Pilot from the Daily Breeze newspaper of Torrance, where he served as sportswriter, general assignment reporter, and assistant city editor in charge of special sections and feature writers. Prior to this time he worked for the Burbank Daily Review, the Orange Daily News, and on a tabloid publication while in the U.S. Army stationed in Hawaii.

His stories and editorial work have received wide recognition. In 1967, 1974, and 1977 he was presented the Copley Ring of Truth Award. In 1975, his editorial page work was noted by the California Newspaper Publishers Association.

Many professional organizations have also received his active support and participation. He is a founding member of the SouthWest Press Association; a member of the Associated Press Managing Editors' Association; and is the present chairman of the Associated Press News Executives Council for the California-Nevada region.

Without doubt the entire community of San Pedro, as well as the News-Pilot, will miss the presence of Jim Groth. He has done more than run a newspaper as a business. He has given generously of his time to numerous community services. The people of San Pedro, his friends, and acquaintances will always be appreciative of this.

My wife, Lee, joins me in congratulating our friend Jim Groth on the new advancement in his career. We wish him great success and happiness in the future. This is a reward he richly deserves.●

AUSTRALIA TO LIFT SANCTIONS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. FINDLEY. Mr. Speaker, in a November 22, 1979 statement, the Government of Australia announced that it would lift its sanctions against Zimbabwe-Rhodesia when Great Britain does. I am placing in the RECORD that part of the Australian statement that deals with sanctions so that my colleagues might have the benefit of the cogent arguments it contains.

I hope that my colleagues will agree that it would be unfortunate for the United States to maintain its sanctions against Zimbabwe-Rhodesia once a British Governor has been installed in Salisbury and the British remove their sanctions. To maintain U.S. sanctions against British authority given the outstanding British role in promoting a peaceful settlement in Zimbabwe-Rhodesia would be unthinkable.

Australian statement on sanctions follows:

I also wish to state the government's position on the removal of the sanctions that have been in force against Rhodesia since the unilateral declaration of independence in 1965. It is possible to engage in some fine legal distinctions about the obligations of UN members in regard to the lifting of sanctions. It seems clear to the government, however, that when all the Rhodesian parties concerned and the British Government have freely agreed to an independence constitution, freely agreed on arrangements for the holding of elections and the implementation of the constitution, and when British authority has been re-established in Rhodesia for the purpose of instituting those arrangements, then the objectives for which sanctions were originally imposed will have been achieved. We recognise that for a number of reasons there may be some delay before the UN Security Council may be able to take the formal steps which may be thought necessary in respect of sanctions. We hope this process will not be long. For Australia, however, as we are likely to have Australian military and civilian personnel and an Australian liaison office in Rhodesia during the period leading up to independence as we will in the circumstances I have described, be satisfied that the objectives for which sanctions were imposed have been achieved, the government considers—and I believe all Members of the House will agree with this—that it would be inappropriate for it to maintain sanctions during that time. A further announcement will be made on this matter in due course.●

CONGRESSIONAL VETO OF FTC REGULATIONS A PRUDENT SAFEGUARD

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. RUDD. Mr. Speaker, I question the large size of the recommended budget for the Federal Trade Commission and have serious reservations about many of the ongoing activities of the Commission under its present chairman. Nevertheless, I would like to compliment the members of the Interstate and Foreign Commerce Committee for including within their recommendation the provision for congressional review and veto of FTC regulations.

In particular, I would like to express appreciation to the gentleman from North Carolina (Mr. BROYHILL) for his persistent spearheading of this effort within the committee to incorporate the legislative veto concept in the FTC reauthorization.

Mr. Speaker, the present FTC illustrates all too well what has happened to our system of Government due to the unconstrained growth and power of the Federal bureaucracy. This agency and others, as well, have become like a fourth branch of Government—in many respects more powerful than those established by our Founding Fathers and without the checks and balances incorporated by them.

Because the FTC makes its own rules, decides how they are to be implemented, and sits in judgment over them, it effectively combines legislative, executive, and judicial functions.

Its actions directly affect tens of thousands of businessmen, as well as every consumer throughout the Nation. Indeed, the FTC is one of the prime culprits for the increased regulation of the American economy and the subsequent higher costs to consumers.

Yet, because the Commission is directly responsible to no one, it has exercised power without restraint, far exceeding congressional intent.

It is because congressional and executive oversight have not been sufficient or timely enough to deal with the excesses of agencies like the FTC that there is now such widespread popular support among the American people for the concept of legislative review and veto. I am optimistic that the Senate will reverse its previous opposition and concur with the House position in favor of the legislative veto.

While I have reservations about other aspects of this legislation, I wholeheartedly support this provision in the FTC bill to remove power from the hands of unelected bureaucrats and to return it to the American people through their elected representatives in Congress.●

A CALL FOR NATIONAL UNITY—FLY THE FLAG

HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. BAFALIS. Mr. Speaker, Americans in every State of this great Nation are irate and angered by the Iranian Government's blatant disregard for international law and human dignity. And they are crying for a way in which to show their unity in this hour of crisis and their determination to see the hostages in Tehran freed.

I am proud to report a newspaper in my district, the Fort Myers (Fla.) News-Press is showing us how to show our unity and our resolve—by flying our flag.

In a front page editorial in the November 30 editions, the News-Press declared:

> Now is the time for Americans to stand up and be counted. The seizure of the United States Embassy and its employees in Iran has thrust a grave crisis upon America. The world is watching to see if we face up to the saber-rattling blackmail that threatens to besmirch the image of the mightiest nation on the earth. A simple but forceful show of resolve would be for all to fly the banner that has symbolized this nation's unity for more than 200 years.
>
> Today the News-Press is launching a campaign urging all Southwest Floridians to run up the flag on a show of support for your country. Fly the banner every day to tell the world we will stand together to meet the challenge. And our neighbors across the nation should join in for all to see an America united.

This action by this strong voice of southwest Florida is in keeping with the finest traditions of American journalism.

We have drifted away—far too far away—from the resolve shown by our forefathers when they declared their independence from Great Britain under a flag bearing the likeness of a rattlesnake and the motto: "Don't tread on me," or when the leaders of this fledgling Nation greeted the demands of the pirates with the shout "Millions for Defense, but not one cent for tribute."

We need to once again display that determination and the Fort Myers News-Press has shown us the way—by displaying our flag, a flag which has long represented that which is best, bravest and finest about the human race.

This will serve notice on both our friends and our enemies that we are not pushovers, forced to suffer every indignity. No, we are Americans, proud of our heritage and our Nation, and willing to take whatever steps are necessary to see that our citizens, our flag and our country are given the respect they deserve.

It is extremely important for the world to know not only of our determination to see our hostages freed unharmed, but also to learn of our national resolve to see no more such incidents in which a two-bit demagogue attempts to besmirch our country. And I know of no better way to demonstrate that determination and that resolve than by flying The Stars and Stripes from as many U.S. homes as possible.

So I am glad to report that the News-Press campaign has been picked up by other newspapers in the Gannett family, most noticeably by the Pensacola News and Journal and by Today in Cocoa. And others are expected to join in the force.

I was particularly pleased to see the News-Press, in a second editorial the same day, call for greater energy conservation to loosen the OPEC nations' stranglehold on our economy.

Each gallon of gas we conserve, each additional gallon of gas we can produce here at home is a slap in the face of the Iranian Government—a much deserved slap in the face.

But, Mr. Speaker the News-Press is doing more than just calling for others to fly the flag. It is giving away lapel flag pins and selling cloth American flags below cost. And today's editions—all 70,000 of them—contain a bumper sticker with the message: "Free the Hostages * * * Fly the Flag."

For that reason, I wish to share with my colleagues the editorial page main editorial of the November 30 edition:

> A CALL FOR NATIONAL UNITY—FLY THE FLAG
>
> The pealing of church bells at noontime, urged by President Carter, is a fitting demonstration of prayerful support for 49 American hostages innocently caught up in the fanaticism of a Moslem nation.
>
> But Southwest Florida, somewhat short of church bells, can do more. The people of this area can and should display the American flag, at home and place of business, throughout each day the Tehran embassy hostages remain in captivity.
>
> We urge all Southwest Floridians to fly the stars and stripes, known the world over as a symbol of courage and justice. All people who believe in their nation will want to fly the flag at this time—as a symbol of the solidarity of the American public in a time of international crisis.
>
> While America's enemies are burning our flag, as seen on television nightly, Southwest Floridians should fly the flag proudly and properly. A properly flown flag ought to tell our own leaders—as well as the world that the people of America are ready and willing to respond to a crisis.
>
> By displaying the American flag at this time, Southwest Florida residents will clarify both their pride in our nation and their determination never to bow down to the tyranny and blackmail of foreign madmen.
>
> Let this widespread flying of the flag remind our leaders—and particularly the architects of our foreign policy—that the American people are not prepared to sit quietly if the United States is ever again poorly prepared to respond swiftly to a foreign challenge.
>
> At the same time, all area residents should back such a gesture with a determined effort to reclaim our nation's destiny. That can be accomplished by pledging to conserve fuel.
>
> Unless we all do whatever is possible to reduce our consumption of fuel, the fate of the United States will remain in the greedy hands of oil-rich kingdoms in the Mideast.
>
> The gravity of that situation ought to be particularly obvious to Southwest Floridians. Oil-rich nations have been allowed to damage our economy—even threaten the lives of many thousands of northern Americans, who could have to do without heating oil this winter.

At the same time, federal officials have been groveling at the feet of Mexican officials. Our government seems perfectly willing to allow unscrupulous Mexican growers to engage in unfair trade practices, thereby sacrificing the winter vegetable industry of Southwest Florida in return for a half-hearted promise that the United States may be able to buy Mexican oil and gas—at some horrendous price or another in the future.

We believe Americans have suffered enough at the hands of foreign nations. We think most area residents share our belief that it is way beyond time to call an end to blackmail and fanatical attacks on the United States.

Fly the flag to demonstrate America's determination to restore its heritage.

Our nation must revitalize its commitment to independence. We must all join that fight. For without independence, we are not Americans at all.●

AMERICA IS IN DISTRESS, SAYS PUBLISHER

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. HYDE. Mr. Speaker, as a thoughtful response to the incredible violations of international law and human decency now being perpetrated by the Government of Iran, Lloyd H. Weston, president and publisher of an important group of community newspapers in my district has issued the following statement:

> In a unique demonstration of protest and patriotism, the Addison Leader Newspaper Corp. is today printing all 11 of its suburban Chicago newspapers with the "flags," or nameplates, of the newspapers running upside down on the front page.
>
> ALNC President and Publisher Lloyd H. Weston says he took his cue from Title 36 of the United States Code: the American flag should never be displayed upsided own, "except as a signal of dire distress in instances of extreme danger to life or property".
>
> In an editorial in today's editions, Weston notes the many symbolic demonstrations Americans are conducting in venting their frustrations over the Iranian take-over of the U.S. Embassy in Tehran. "We are obliged to do our part too in protest of the taking of American hostages in Iran and in supporting our government's attempts to obtain speedy release of all captives."
>
> "Patriotism," Weston says, "is a word coming back into fashion, as never before in this decade. Uncle Sam may not be wanting 'you' to join the Army over this, but most Americans, I believe, want to do something to show their support of this country and President Carter's actions in this crisis."
>
> The copyrighted editorial continues: "As a symbolic gesture of our disdain for the actions during the past fortnight of the Ayatollah Khomeini and the so-called Iranian 'student' terrorists, we are flying our 'flag' upside down on the front page of this newspaper."
>
> The Addison Leader Newspapers will continue to print its "flags" upside down "until all the American hostages in Iran are released."
>
> Weston, who is also President and Publisher of Chicago Daily News, Inc., says he urges other American newspaper publishers to join him in "inverting their 'flags' as part of a great national protest and a show of support for our government and our president in this time of distress."
>
> The Addison Leader Newspaper Corp. circulates 55,000 community newspapers each week "West of O'Hare" in Addison, Bensenville, Wood Dale, Itasca, Elk Grove Village, Bloomingdale, Roselle, Glendale Heights, Hanover Park, Bartlett and Streamwood, Ill.●

CALL FOR JOINT U.S.-ISRAELI NAVAL MANEUVERS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. FINDLEY. Mr. Speaker, Western naval cooperation is critical to countering the growing Soviet global threat. Over the past year I have repeatedly urged the administration to foster improved coordination between our Navy and the navies of friendly nations. For example, enhanced cooperation among the navies of the NATO nations is critically important in the Indian Ocean and Persian Gulf region in order to protect the vital sealanes of communication there, and I plan soon to introduce a resolution which urges the President to seek ways of promotong naval cooperation between the United States, Canada, Japan, Australia, New Zealand and the ASEAN nations.

Therefore I found it extremely distressing to learn from a November 26 Newsweek article that the United States is discouraging an Israeli proposal to undertake joint United States-Israeli naval maneuvers. United States-Israeli naval maneuvers would be an important step toward naval cooperation between the United States and friendly nations. It would enhance our naval capabilities and resources in a critical region of the world.

As I mentioned in the following letter which I am sending to Secretary of Defense Brown, I do not believe that United States-Israeli naval cooperation should have to await the approval and participation of other nations. Although evenhandedness in the Middle East is important, I feel that it should not require that the United States can only proceed as part of a trio with Egypt and Israel forever hereafter.

Indeed, the capabilities of the Israeli Navy make it a prime candidate now for joint maneuvers with the United States. It is important for the United States to recognize the strategic importance of Israel and its willingness to play a role in increasing Western deterrence and defense. Therefore, I hope the Secretary will reconsider and give his approval to joint United States-Israeli naval maneuvers in the near future.

The Newsweek article follows:

MIDEAST MANEUVERS

> Israel wants the U.S. to join in Mideast maneuvers that would involve the U.S. Sixth Fleet and the Israeli Navy and Air Force. The Israelis reason that both countries would gain from such preparedness, and the Pentagon likes the idea, but there are political and diplomatic obstacles. For one thing, the U.S. would also have to conduct joint maneuvers with Egypt in the name of evenhandedness, and the Egyptians don't seem interested.●

CONTROVERSY OVER THE SHAH

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. LAGOMARSINO. Mr. Speaker, there has been a great deal of finger-pointing and recriminations about allowing the deposed Shah of Iran to come to the United States for medical treatment. Various quotes have appeared in the press, perhaps the most notable attributed to former Under Secretary of State George Ball who alleged former Secretary of State Kissinger used "obnoxious" pressure to force the administration to allow the Shah into the United States for medical treatment.

In his news conference November 28, President Carter responded to a question about Secretary Kissinger's role in the "Shah affair." The President cleared the record by saying that he had made the decision himself "without pressure from anyone." President Carter added that he had received no word from former Secretary Kissinger during the period when he was considering granting permission for the Shah to come to the United States.

On November 29, the Washington Post carried an extensive commentary by Kissinger on his role in the supposed "controversy" surrounding the Shah's coming to the United States. I believe, in order to have the record clear on this issue, the Post commentary should be included in the RECORD for the attention of my colleagues.

[From the Washington Post, Nov. 29, 1979]

KISSINGER ON THE CONTROVERSY OVER THE SHAH

> Only the president of the United States can solve the present crisis, and I believe all Americans, of whatever party or persuasion, owe him our support and our prayers.
>
> I have made no criticism of the president's handling of the crisis. My public comments in New York on Nov. 7, in Dallas on Nov. 10 and in Los Angeles on Nov. 11 all called for national unity behind the president. A senior White House official told me at breakfast on Nov. 21 that, on the basis of fragmentary news ticker reports, remarks I had made in Austin on the foreign policy challenges of the 1980s were subject to misinterpretation. I offered to put out an immediate clarifying statement expressing support for the president in this crisis and calling for unity. (Indeed, I suggested that Jody Powell draft it.) The offer was ignored.
>
> Since then I have read and heard myself described by high White House officials as acting deviously and dishonorably; as advising the shah—strangely enough—to seek the advice of our government about whether to stay or leave this country; and as having exerted pressure to get him here in the first place.
>
> This campaign struck me as all the more remarkable against the background of a call

by me on the first day of the crisis to Deputy Undersecretary of State Ben Read in which I told him that I would not criticize the administration for its handling of the crisis either during its course or afterward; it could be sure that I would do my utmost to keep the crisis and its aftermath insulated from partisan controversy.

The administration was well aware that from the first I have been calling congressional and other leaders urging restraint in comment. In short, it is not I who has been courting controversy in the middle of a national crisis.

As for my own involvement in recent events, ironically it began at the administration's initiative. In the first week of January 1979, a senior official of the State Department asked my help in finding a residence for the shah in the United States. Our government had concluded, I was informed, that the shah must leave Iran if the Bakhtiar government were to survive the efforts of Ayatollah Khomeini to obtain total power. If I could find a suitable domicile in America, the shah might overcome his hesitation and hasten his departure. I doubted the analysis but acceded to the request. I called David Rockefeller for help. Mr. Rockefeller expressed his personal sympathy for the shah but also his reluctance to become involved in an enterprise that might jeopardize the Chase Manhattan Bank's financial relationships with Iranian government or quasi-governmental organs. I then appealed to his brother Nelson; with his help, a suitable residence was located. A week later the shah left Iran. Two weeks afterward Nelson Rockefeller died.

Thus David Rockefeller's later role was hardly spurred by economic considerations as has been alleged; it ran, in fact, contrary to his commercial interests. He was motivated by his desire to carry out the legacy of his late brother and his devotion to the principle that our nation owed loyalty to an ally who had been loyal to us. This was my view as well, and remains so.

Less than two months later—in mid-March—another senior official of the Department of State urged me to dissuade the shah, who had spent the intervening period in Morocco, from asking for a U.S. visa until matters settled down in Tehran. I refused with some indigation; David Rockefeller was then approached. He too refused. When Rockefeller and I inquired whether our government would help the shah find asylum in another country, we were told that no official assistance of any kind was contemplated.

This I considered deeply wrong and still do.

Every American president for nearly four decades had eagerly accepted the shah's assistance and proclaimed him as an important friend of the United States. President Truman in 1947 awarded the shah the Legion of Merit for his support of the Allied cause during World War II and in 1949 praised him for his "courage and farsightedness" and his "earnestness and sincerity in the welfare of his people." President Eisenhower in 1954 paid tribute to the shah for his "enlightened leadership." President Kennedy in 1962 hailed the shah for "identifying himself with the best aspirations of his people."

President Johnson in 1964 lauded the shah as a "reformist 20th- century monarch" and in 1965 praised his "wisdom and compassion . . . perception and statesmanship." President Nixon in 1969 declared that the shah had brought about "a revolution in terms of social and economic and political progress." President Ford in 1975 called the shah "one of the world's great statesmen." President Carter in 1977 praised Iran as "a very stabilizing force in the world at large" and in 1978 lauded the shah for his progressive attitude" which was "the source of much of the opposition to him in Iran." Such quotations could be multiplied endlessly.

And they were correct. In my own experience the shah never failed to stand by us. In the 1973 Mideast war, Iran was the sole American ally adjoining the Soviet Union which did not permit the overflight of Soviet transport planes into the Middle East. In 1973–74, Iran was the only Middle East oil-producing country that did not join the oil embargo against us; it continued to sell oil to the U.S., to Israel and to our other allies. Iran kept its oil production at maximum capacity (thus helping stabilize the price) and never used oil as a political weapon.

The shah was a source of assistance and encouragement to the forces of moderation in the Middle East, Africa and Asia; he used his own military power to ensure the security of the Persian Gulf and to discourage adventures by radicals. He firmly supported the peace process that culminated in the Egyptian-Israeli treaty; he was a defender of President Sadat against radical forces in the area. After his initial advocacy of higher prices in 1973, he used his influence to keep the prices steady so that the real price of oil actually declined over the period from 1973 to 1978 (due to inflation).

The crisis we face in 1979—the 65 percent hike in oil prices, the cutback of Middle East oil production, the radical challenges to the peace process and the rise of anti-American fanaticism in the whole area—is the price we are paying for the absence of a friendly regime in Iran. The conclusion is inescapable that many of the shah's opponents in Iran hate him not only for what he did wrong, but also for what he did right—his friendship for the United States, his support for Mideast peace, his rapid modernization, his land reform, his support for public education and women's rights; in short, his effort to bring Iran into the 20th century as an ally of the free world.

I do not doubt that wrongs were committed by the shah's government in his long rule; the question is how appropriate it is to raise them, after four decades of close association, in the period of the shah's travail. I have been deeply worried about the foreign policy consequences of spurning him. What will other friends of the United States in the area, in comparably perilous situations and perhaps even more complex domestic circumstances—leaders essential for a moderate evolution of the whole region—conclude if we turn against a man whom seven American presidents had lauded as a loyal ally and a progressive leader?

My conviction that on the human level we owed the shah a place of refuge had nothing to do with a scheme of restoring him to power. I have stated publicly that we should seek the best relations possible with the new authorities in Tehran. I simply assert that it is incompatible with our national honor to turn our back on a leader who cooperated with us for a generation. Never before have we given foreign governments a veto over who can enter our country as a private citizen.

Between early April and early July, I put these considerations before three senior officials in phone conversations. And I called twice on Secretary of State Vance in the same period. The upshot was a refusal to issue a visa explained by the tenseness of the situation in Iran. In April I delivered a public speech stating that I thought it morally wrong to treat the shah as a "flying Dutchman looking for a port of call."

In other words, I made five private approaches on this subject to the government—*none* after July. Such was the "obnoxious" pressure, as George Ball has called it, to which our government was subjected.

When it became apparent that our government would not help the shah and that he was unable to stay any longer in Morocco, David Rockefeller and I did what we could to find him a place of refuge. David Rockefeller was able to arrange a temporary stay in the Bahamas. In April and May, I appealed to the government of Mexico. To its enormous credit, it had the courage to extend a visa even though—as one official pointed out to me—Mexico was being asked to run risks on behalf of a friend of the United States that we were not willing to assume ourselves.

Once the shah was in Mexico, David Rockefeller, John McCloy and I tried to be helpful with private matters on a personal basis. The education of the shah's children in America was the principal issue.

We did our best to find appropriate schooling; this raised the issue of visas. Contacts with our government were handled by Mr. Rockefeller's assistants Joseph Reed, and John McCloy. Mr. McCloy repeatedly urged the Department of State to designate an official with whom the shah's entourage could communicate on such matters without using our group as intermediaries. Such a contact point was never established.

This was the state of affairs when the shah fell ill early in October. As it happened, I was out of the country from Oct. 9 to Oct. 23 and had no communication with any level of the government about the matter. While in Europe, I kept in touch with the Rockefeller office but did not intercede personally with any official or agency of the government—though I would have had it been necessary. My understanding is that Joseph Reed presented the medical records to Undersecretary Newsom and on the basis of those records the administration admitted the shah for treatment. I am not aware that there was any hesitation. To the administration's credit, no pressure was needed or exercised; I gather that the medical facts spoke for themselves. All of us conceived that the reaction in Tehran would have to be evaluated by the administration which alone had the relevant facts.

As for advice to the shah about whether or not to leave—the subject of other strange stories—the situation was as follows. With conflicting threats emanating from Tehran as to the impact on the safety of the hostages of a movement by the shah, Rockefeller, McCloy and I concluded that it was inappropriate for us to advise the shah. Rockefeller called the president on Nov. 15 to ask once again for the designation of an individual who could accurately convey the government's recommendations to the shah's entourage. McCloy stressed the need for this to the deputy secretary of state on Nov. 20; I repeated it to a senior White House official on Nov. 21. We were told the administration agreed with our approach. No such point of contact has yet been established. We were given no guidance; therefore we made no recommendations to the shah as to what he should do when and if his medical condition permits him to leave the United States.

I reaffirm my support for the effort to assure a measure of decency toward a fallen friend of this country. The issue of the shah's asylum goes not only to the moral stature of our nation but also to our ability to elicit trust and support among other nations—especially other moderate regimes in the area. I do not condone all the practices of the shah's government, though they must be assessed by the standards of his region and, even more, the practices of those who will sit in judgment. Yes, we must seek the best relations which are possible with the new dispensation in Iran. But we shall impress no one by engaging in retrospective denigration of an ally of a generation in his hour of need. We cannot always assure the future of our our friends; we have a better chance of assuring our own future if we remember who our friends are, and acknowledge what human debts we owe those who stood by us in our hours of need.

I hope this ends the controversy. I think it is imperative that all Americans close ranks. Nothing will more strengthen the president's hand in pursuit of an honorable outcome than a continuing demonstration of national unity now and in the aftermath of the crisis. I shall do all I can to contribute to this end.●

VETERANS' DAY

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. SPENCE. Mr. Speaker, Veterans Day 1979 held special significance for many of us this year. Once again, the lives and property of the American people are being threatened. The takeover of the U.S. Embassy in Tehran by Iranian students on November 4 and the subsequent actions by the ayatollah's government have rekindled a spirit of concern and involvement in the American people. Many of us recognize the importance of keeping all our options open during this unprecedented crisis. We must not rule out military action as a last resort, and the situation in Iran brings to mind the many sacrifices which have been made by the men and women who have served our country in the past.

I had the pleasure of attending a Veterans' Day service at the Washington Street United Methodist Church in Columbia, S.C., on November 11, 1979. The minister, Rev. C. J. Lupo, Jr., delivered a very inspirational message that evening, and I agree with his comments that the people of the United States must remember the sacrifices of those who have given their lives so that the rest of us might live in freedom. We must do all we can in the days ahead to insure that these past sacrifices have not been in vain. Further, we must be willing to make similar sacrifices ourselves so that others may enjoy what we all too often simply take for granted. I believe that Reverend Lupo's message is an especially timely one, and I ask that it be reprinted at this point in the RECORD.

The message follows:

VETERANS' DAY

II SAMUEL 23:14–17

We Americans are funny people. We go to Chinese restaurants and buy bird nest soup, egg rolls, and chop suey or chow mein; we frequent Italian restaurants for spaghetti or pizza or manicotti; we buy Danish pastries and Greek salads and French crepes. Yet when we travel overseas, as tourists we rush to restaurants which advertise, "We serve American food", and a great many hot dogs are sold. Many Carolinians order "southern fried chicken" from yankee restaurants. When we are away from home the thought of things we enjoyed at home tempts us. This is one reason college students and people in military service enjoy so much boxes sent from home. I remember that when I first went away from home, my mother sent me a box of cookies after a few weeks. I don't think there was a whole cookie in the box when it got to me; we had to scoop up the crumbs in a paper, but they surely did taste good!

One time, when the Philistines were giving David a bit of trouble, he was encamped at the Cave of Adullam. The Philistine garrison surrounded Bethlehem.

David got terribly tired of the flat-tasting water from the storage tanks and began thinking about the wonderful tasting cool, clear water he used to get from the well at Bethlehem while he was still a shepherd, tending his sheep. And he said, "I don't know what I wouldn't give for a drink of water out of that well at Bethlehem."

Some of you who dieted on K rations for a while probably know how he felt. Did you never think: 'I'd give a month's pay for a nice, juicy, well-broiled t-bone steak?"

Some of David's soldiers heard him, and they slipped off, broke through the Philistine's lines, drew some water from the well—and carried it back to their commander.

What did he do? Gulp it down and say, "Thanks, I'll see that you get a promotion and pay increase?" Not at all—he poured it out!

Wasn't he grateful? Yes. He poured it out because he was grateful. He said, "These men risked their lives to bring this to me—this water might represent their life's blood which they placed in jeopardy to obtain it for me. The price was too much. I can't drink it"—and so he poured it out in a ritual service as an offering to God.

I think the story has meaning for us who gather for this memorial service. We meet in memory of those who gave their lives as the last full measure of their devotion to their country, and in honor of those who risked their lives. Even if they never faced real danger, they faced possible dangers, and they suffered interruption in their personal plans for family and for profession.

What shall we do with their sacrifice? What shall we do with its fruits?

David looked at the water, considered its cost in terms of the danger his men had faced in order to get it—and said, "I can't drink it." He felt that to have gulped it down in order to slake his thirst would have been a selfish, wasteful use of something which had become very precious.

The people in whose memory or honor we gather this night helped to purchase or preserve our freedom at the risk—and for some, the price—of their own life's blood. Surely we cannot—or at least ought not—make their sacrifice an occasion for selfish gain. Somehow to me it seemed wrong for labor unions to call strikes in defense plants and vital industries during war years. It seemed wrong to fortify a demand for higher wages by hampering the defense effort when others were fighting for their country at low wages and at great risk. Nor was it right for business tycoons and industrial magnates to conspire to fix prices that they might get rich off defense contracts. The sacrifice of a patriot's blood is too precious to be used for selfish gain.

But perhaps we need to make this more personal. In a real sense, these in whose memory we gather did this for us—for you and me. When one man loses his life rescuing another from danger, the one who is saved often feels: "I've got to live for two—for him and me." And this is something of the feeling we ought to have as we contemplate the thousands who lie in some Flanders' Field or on some atoll in the Pacific or beneath white crosses at Arlington, or whose body was blown to bits and could not be collected or identified. Their sacrifice was too precious for us to use it selfishly.

What did David do with the precious water, brought back at the risk of his soldiers' lives? He dedicated it to God. When he poured it out, it was not like pouring out rain water that has collected in a coke bottle. For him, it was a religious gesture, a way of offering it in sacrifice unto God.

So do we need to dedicate the results of their sacrifice.

In the Revolutionary War, our soldiers were fighting for independence—for freedom. The Declaration of Independence set forth some of their ideals. "We hold these truths to be self-evident, that all men are created free and equal, and that they are endowed by their Creator with certain unalienable rights, and that among these are the rights to life, liberty, and the pursuit of happiness." Today we must not interpret their sacrifice as gaining special favor for the privileged few nor for the majority as opposed to minority groups. Our pledge of allegiance reminds us that we stand for "liberty and justice for all." The resurgence of the Ku Klux Klan and the growth of Nazi and Fascist movements seem out of keeping with respect for some of the real heroes of our freedom and independence.

A little over a hundred years ago our nation experienced division and civil war. Today we can look back and give honor and respect to the men who fought on either side. In his address at Gettysburg, Lincoln reminded his audience: "Fourscore and seven years ago, our fathers brought forth upon this continent a new nation, conceived in liberty, and dedicated to the principle that all men are free and equal. Today we are engaged in a struggle to determine whether that nation, or any nation so conceived and dedicated, can long endure."

The result of the war was union—and we stamp on our coins today, "E pluribus unum"—one from many. The world itself has shrunk in size, and our nation is too small for divisive sectionalism. It ought not be—it must not be—North against South and East against West. Their sacrifice was in vain, if we do not learn how to live together in union.

The slogans of World War I were "The war to end wars" and "Make the world safe for democracy." But again the bloody sacrifices were in vain unless we dedicate ourselves in faithful work for peace, and unless we exert ourselves to make democracy work. Most people who study the philosophy of history agree that the seeds of World War II were planted at the end of World War I in the treatymaking and demand for reparations, and so on. If we today sow seeds of discord we make vain the sacrifice of those who died. I doubt that a democracy such as ours can be conquered from without unless it first suffers decay from within. When we fail to study the issues, fail to register our opinion, fail to exercise our citizenship responsibility by voting—we are helping to undermine the strength of our democracy, and to that extent render ineffective the sacrifice of those who fought that we might be free.

World War II did not have quite as many slogans, but we did talk a lot about the four freedoms: freedom from want, freedom from fear, freedom of speech, and freedom of religion. But we jeopardize their sacrifice when we selfishly seek an ever-ascending level of living despite the suffering and starvation of so many peoples around the world. Rather, we need to dedicate our technological know-how and mass-production techniques, and we need to share our wealth that we may help feed and clothe the hungry and naked peoples of the world. We must learn to curb our own appetites for more and more, and become more willing to give and share. And we need to make certain that in our own lives freedom of religion is not misinterpreted to mean freedom from religion. On our coins and in our pledge of allegiance we express our faith in God. We must likewise express this faith in our life—day by day.

We still remember fighting that was called "police action" in Korea, and a long-drawn out involvement in Vietnam which claimed the lives of many and caused so much disunity in our nation. Many of these veterans have not received a "welcome home", with thanks they deserve for responding to their nation's call.

When David expressed his longing for water from the well at Bethlehem, three men risked their lives to get it. We can't be completely sure of their motives. Perhaps they wanted to gain praise and promotion and advancement in rank. Or perhaps they were so loyal to their commander that his very wish became their command. Yet it really was not worth their risk.

Crises continue to erupt in many places: we learn there are Russian troops in Cuba; Americans are held hostage in our embassy in Iran. A government friendly to us is toppled, and a hard-line communist takes over. Some persons clamor for immediate, forceful action, while others support a reasoned, rational response.

I think we need not fear that we shall lack volunteers for any real and special need that might arise, but we do need to do our best to make sure the cause for any call is worth the risk involved. If we call on our citizens for this kind of sacrifice, it must be for worthy goals.

You remember Sherman's definition of war, don't you? "War is hell," he said. Let's not forget that when we honor those who fought bravely and well and who gave or risked their lives. Rather, this sacrifice ought to remind us of war's costs—not in tanks and guns—and now in guided missiles and atom bombs, but in human life. And so we might pray with Kipling,

"Lord God of hosts, be with us yet—lest we forget, lest we forget."●

DEVELOPING FUTURE LEADERS

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. LLOYD. Mr. Speaker, community leaders who work primarily in developing our future leaders, today's youth, deserve the highest commendation. Orrin Widman of Rancho Cucamonga is such a man and he spends almost every minute of his spare time working with young people. The following excerpts are from an article in the California Ontario Daily Report by Dennis Kelly:

> For starters, the 51-year-old Alta Loma resident has been on the board of directors for the West End Boys Club the last three years and in January was installed as president.
>
> He has been youth services chairman of the Rancho Cucamonga Kiwanis Club the last three years. The night he was interviewed he was being installed as that club's president. . . .
>
> As part of his club activities, he organized the first Kiwanis sponsored Special Olympics at Chaffey College. The May 5 event drew 325 contestants, down from the 475 who registered because the gas crunch had just hit.
>
> Next year—he is chairman again—he expects a crowd of 800 to 1,000 mentally retarded youngsters to take part.
>
> Widman is a past president of the Miss Softball America league for girls from 7 to 17. In addition, he volunteered as an umpire three games a week . . .
>
> Even though he doesn't look the part with crewcut hair and a lean figure, Widman has even played Santa Claus the last three years. Last year alone, he had 2,000 kids come sit on his lap and tell what they wanted from St. Nick.
>
> He is also on a citizens committee that is trying to put in concrete walks around Domingua High School in Ontario for the trainable mentally retarded. When it rains, the students often face the prospect of stumbling in the mud and dirt.
>
> Widman says he gets involved because he feels that we all should pay rent to our communities for the privilege of living there.
>
> "If we all stayed in our houses and front yards, our communities wouldn't grow and expand," he said.●

HOW TO LIVE

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. MOFFETT. Mr. Speaker, it was Martin Luther King's belief that: "It is not how long a man lives, but how well."

I feel, Mr. Speaker, that Dr. King's biographer, the historian Lerone Bennett, places that statement in the correct historical light for today's vote.

Bennett wrote:

> By resurrecting that truth and flinging it into the teeth of our fears, by saying it repeatedly and by living it, the Reverend Martin Luther King, Jr. has taught us, all of us, Black men and White men, Jews and Gentiles, not only how to die, but also, and more importantly, how to live.

On this day, in which we consider legislation to commemorate January 15—the birthdate of Martin Luther King—a national public holiday, I wish to remind my colleagues of the many accomplishments of the man who, during our Nation's civil rights movement, spoke for all people by saying: "Black and White together We Shall Overcome."

Dr. King's politics were harnessed to an overriding moral force, as he led the Birmingham movement in 1963 to end legal segregation, the Selma movement to win full political rights, and the other campaigns of conscience in Montgomery and elsewhere to end segregation in public places, overcome housing and school discrimination, and win a better life for all people.

In February 1957, in New Orleans, La., the Southern Christian Leadership Conference was founded and Dr. King was elected president, and held the office for the rest of his life.

Through the SCLC, the cornerstone of the King movement policy of civil disobedience was formed. Dr. King believed that if the people had to go to jail for freedom, the leaders must go to. It was his profound belief that, "* * * unearned suffering is redemptive and that suffering may serve to transform the social situation." As a result of his faith in the will of the American people to be truly free, King organized sit-ins, freedom rides, and founded the Student Nonviolent Coordinating Committee.

Dr. Martin Luther King possessed many qualities which touched the hearts of many, the world over, but the quality which reached beyond all others was his sense of hope, and his courage in acting on the hope, whatever the obstacles. It was this quality which allowed Dr. King to reach out to millions; it was this quality which prompted him to speak of hope on the steps of the Lincoln Memorial in August 1963:

> This is the faith I go back to the South with. With this faith we will be able to hew out of the mountain of despair a stone of hope * * * (and) transform the jangling discords of our Nation into a beautiful symphony of brotherhood.

Mr. Speaker, Dr. Martin Luther King was a compelling orator who moved millions in his world travels and nonviolent struggles. He was a man of the people, marching with them in the dust and the heat, in the rain and the cold. He was, by any standard, a man of boundless faith and courage.

I urge the Members of the 96th Congress to honor Dr. King, this man who taught so many how to live, and live with dignity, with a national holiday on January 15.●

IF THE SABER DOESN'T RATTLE, IT'S BECAUSE THE HAND IS FIRM

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. BARNES. Mr. Speaker, I call the attention of my colleagues to the commentary by Haynes Johnson in yesterday's Washington Post, "If the Saber Doesn't Rattle, It's Because the Hand is Firm." Mr. Johnson has well articulated the record of U.S. leadership in world affairs over the past several decades.

Our country has made mistakes in these decades. We have not always chosen the right side, and sometimes we have acted when we should not have acted. But on the whole, I believe the special quality of American foreign policy in the modern era has been our willingness to put the strength of our resources behind the courage of our convictions—to act when we believed it was necessary to act.

That, Mr. Speaker, is more than can be said of many nations, and few major powers can look back over the record of these decades and feel as great pride as we can of our performance in times of challenge. It is too easy to view each immediate challenge as an issue unto itself, and to reach decisions based on short-term national interest. It is more difficult to react from a sense of long-term responsibility for the future, even when that requires short-term inconvenience or sacrifice.

I think the United States has more often done the latter, and our allies, always quick to say "tut, tut," have too often done the former. I am grateful to Haynes Johnson for setting the record straight. His commentary follows:

[From the Washington Post, Dec. 2, 1979]

IF THE SABER DOESN'T RATTLE, IT'S BECAUSE THE HAND IS FIRM

(By Haynes Johnson)

LONDON.—It's not an easy time to be an American abroad. Our allies maintain a discreet distance from us, giving lukewarm support in public about our ordeal over Iran but tut-tutting somewhat gleefully in private about how far the mightly Americans have fallen. Our good neighbor to the south, Mexico, suddenly closes the door at a critical moment, adding to our sense of isolation. Our hopes, if any, for real help from the United Nations remain modest indeed; it takes that august body a full month even to get around to considering so elemental a threat to all diplomats and all national sovereignty. Everywhere, it seems, you hear pitying, but smug (if not secretly pleased) remarks about America's weakness, America's lack of resolve, America's impotence.

"Look what happens," said a financier at dinner. "Your embassy is burned and two Marines are killed in Pakistan, and you do nothing." And even some of our own most respected commentators bemoan what they believe to be American decay. George F. Will sees "Vichyite behavior" in the actions of some of our released embassy hostages and pronounces it "not the result of two weeks of captivity in Iran, but of years of absorbing the spirit of a liberal culture." He adds: "There is too much of the France of 1940 in the United States of 1979."

Here, at least, is one American who bridles at all these assertions. The history of these last 40 years testifies to quite a different reading of America's willingness to sacrifice to both its resoluteness and exercise of responsibility in the world.

Strolling through Mayfair the other day I passed an old church with a tablet embedded in the stone walls. It was not, as I first assumed, a memorial to some ancient event. "Inside this church," it read, "the armed forces of the United States of America prayed for divine guidance during the war years 1939–45 and gave thanks for the victory of the allied powers."

There weren't many Americans in Britain when World War II began 40 years ago and at home the United States was wrestling with whether to remain isolationist or become more active internationally. The outcome was uncertain. Even a year later, when events worsened and war for the United States became a virtual inevitability, our armed forces were conducting maneuvers with wooden rifles and we were spending less than $1.5 billion for national defense. Authority to draft American citizens was achieved by only a one-vote margin in Congress. Some of the nation's most noted names were warning against American involvement in any European wars.

In the decade since, the United States has assumed perhaps more international burdens than any other society in history. The expenditure of lives and national treasure, given freely by the citizenry over so long a period, has been unprecedented.

We left nearly half a million dead out of our armed forces of 16½ million during the war. The cost in dollars alone was more than 250 billion. After the war, we rebuilt our former enemies' industrial plants from the ground up. We provided the economic salvation for Europe through the expenditure of more billions in the Marshall Plan. We served as the military shield for Europe, employed a nuclear umbrella of defense and stationed hundreds of thousands of American troops on the line between East and West (and 300,000 of them are still there).

And all during that period, Americans spent the greatest amount of their national resources for defense and the aid of countries around the world—and they continued to die in service abroad. Seven million Americans served for the three years of the Korean War, and 55,000 of them died.

After that, we maintained a standing armed force of some 3 million, dispatched the fleet to the Mideast, the Marines into Lebanon, and stood watch around the world during the years of peace between Korea and Vietnam. Then, for nearly 12 years, we had some 10 million people under arms as the initial trickle of American blood in Southeast Asia turned into a hemorrhage. This time, 57,000 more Americans died in service and another hundred thousand became casualties. We are still paying the economic price of that drawn-out and tragically misguided conflict in the form of an inflationary spiral that began in the early massive mobilization over Vietnam in the mid-1960s.

I don't recite all this to strike a jingoistic note. But I do insist that the record of all the years from the beginning of World War II to the present stands as a source of national pride. And it marks a historic change; from the days of the first Neutrality Act in 1794, stating U.S. desire to keep out of a war between France and England, the American people and their policymakers traditionally shunned a military role abroad. These last 40 years have ended that forever.

Someone asked me, somewhat belligerently, during this brief visit to London, if it weren't true that Americans had become too soft to fight. I replied, with some heat of my own, that such a view was nonsense.

The real question is different. Dr. Johnson was right, as always, and probably never more so than in his remarks about patriotism being the last refuge of scoundrels. But there are many forms of patriotism. The easiest, and cheapest, as old Sam knew well, involves waving the flag and blaring the trumpets. The more difficult requires exercising restraint in the face of a flagrant provocation and yet remained measured and strong. Which was just the example President Carter set in his news conference this week.

He was not mistaking lack of military action for weakness and neither, I suspect, are the American people. In the perspective of America's acts during these difficult last two generations, the present national response to the agonizing crisis in Iran should bring a renewed pride in the country.●

TRIBUTE TO CASIMIR PULASKI

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Ms. MIKULSKI. Mr. Speaker, I would like to take this opportunity to commemorate the 200th anniversary of the death of a great hero of the Revolutionary War. Gen. Casimir Pulaski died while in the service of our country aboard the brig *Wasp* on October 11, 1779.

To honor this occasion, the Polish Association of Maryland, in cooperation with the Maryland State Society of the Sons of the American Revolution and the War Memorial Commission, unveiled a portrait of Pulaski and his stallion, just prior to his death during the Battle of Savannah.

The artist, Stanislav Rembski, is a Baltimore portrait painter who came to this country over 50 years ago. His most recent work, "Count Pulaski, The Father of the U.S.A. Cavalry," was unveiled following Mr. Rembski's 83d birthday.

The portrait of General Pulaski magnificently conveys the character of a man who, bereft of his homeland, had faith in the victory of freedom. We must not forget this valiant hero's courageous efforts in behalf of our fight for freedom. We must also express our gratitude to Mr. Rembski for so brilliantly capturing the essence of Pulaski.●

ILLEGAL ALIENS INSURED MINIMUM WAGE

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. IRELAND. Mr. Speaker, my good friend, Florida State Representative Gene Ready (Democrat of Polk County) recently brought to my attention an article published in the Tampa Tribune on November 2 regarding efforts by the Labor Department to insure that illegal aliens receive the minimum wage. A copy of the article is printed below.

While the Immigration and Naturalization Service is working on returning illegal aliens to their native countries, the Labor Department is trying to insure that these same aliens receive the minimum wage in this country.

Instead of addressing the real problem of trying to stop illegal aliens from entering our country by identifying them and deporting them, we are concerned that they receive the minimum wage for jobs they hold illegally.

I share State Representative Ready's distress about this and urge the Labor Department to take another look at their hypocritical policy.

The article follows:

GOVERNMENT WILL TRY TO INSURE THAT ILLEGAL ALIENS GET FAIR WAGES

MIAMI.—Possibly as early as January, as many as 15 U.S. Labor Department investigators may be working out of Miami, making sure illegal aliens who manage to get illegal jobs also get fair wages.

"The prime target will be employers who exploit illegal aliens," says Dick Robinette, assistant administrator at the department's regional offices in Atlanta.

He said the task force of 10 to 15 investigators will be similar to ones active in Houston and in New York City's Chinatown. Those task forces have found some employers paying illegal workers less than half the $2.90-per-hour minimum wage.

Illegal aliens are not supposed to take jobs at any pay, but in an apparent quirk of U.S. law, all workers—illegals included—are guaranteed minimum wages. Employers caught doing otherwise can be hauled into court if they don't agree to pay back wages.

Robinette said he was 99 percent sure Miami would get the task force. He said it was a natural selection.

"We feel that Miami is the best area in the Southeast for this strike force because of the high concentration of low-paid workers, many of them illegal aliens from Latin America and the Caribbean," he said Wednesday.

Estimates vary as to the number of illegals in the area. The U.S. Department of Immigration and Naturalization says it ranges from 50,000 to 300,000.

Robinette said the task force would concentrate on such businesses as hotels, motels and restaurants. He also said many illegal aliens are hired by "transient employers who open up a business and close it after making a quick profit."

Labor department statistics show that in the year ending Sept. 30, the department found 8,600 employes, including illegal aliens, who were owed almost $2 million in underpayments. Employers agreed to pay $1.4 million of that to 7,000 of the workers, and department spokesmen said court action is being planned to recover the rest.

Robinette explained that any illegal employment discovered by the task force would not automatically mean deportation for the illegal alien. Immigration authorities and the courts would have to decide that.

Fred Worfe, who heads the Houston strike force, said his 10-member squad was formed because most illegal workers "are so intimidated, by circumstances or by the employer, that they do not complain to us."

"We found a case where the employes were all undocumented workers and were being charged $25 twice a month by the foreman just for the privilege of working there," Worfe said.

"They couldn't leave the premises unless they went in his truck. He would bring them whatever they wanted, beer or Cokes or cigarettes, and charge them extra money for that. In a sense, they were his captives." ●

WASHINGTON REPORT

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. PEASE. Mr. Speaker, today I wish to insert in the RECORD two columns which I recently wrote for my constituents, summarizing my views on some of the most troubling aspects of the energy crunch our Nation is facing. In these two columns, I discussed the effect that foreign oil dependence is having on American foreign policy, and on the domestic American scene, and the need for greater attention to conservation and other "low-techology" methods of lessening our need for foreign oil. In the hope that these columns may prove interesting and, perhaps, thought-provoking, I would like to share them with my colleagues.

The columns follow:

WASHINGTON REPORT

(By DON J. PEASE)

[U.S. Congressman, 13th District]

The Iranian situation illustrates vividly the way in which our foreign policy decisions get mixed up with our dependence upon imported oil. Try as we might, we can't separate the two entirely.

Another illustration will come up soon when Congress gets a request from the Carter Administration to sell a particularly sophisticated and lethal tactical weapon to Saudi Arabia "for the protection of the Saudi oil fields."

Ordinarily, Congress would question sharply that proposed sale.

But do we have a choice? Earlier this year the Saudis set their desired oil production level at 8.5 million barrels per day (mbpd). This summer, as a favor to us, and at our urgent request, they agreed to increase their daily production to 9.5 mbpd for a period of six months.

If the Saudis drop back to 8.5 mbpd, it could set off another world scramble for oil and drive already-sky-high oil prices up even further.

Dare we in Congress risk that result over an arms sale to a friendly nation willing to pay cash? Even though the Saudi need for the arms may seem doubtful, we'll probably approve it. With Saudi Arabia supplying roughly 20 percent of our daily oil imports, the oil consideration is too important.

The foreign policy angle is, of course, only one way—and not at all the most bothersome—in which we Americans suffer because we are hooked on foreign oil to the tune of over 8 mbpd out of our total usage of more than 18 mbpd.

Consider:

The disruption of our economy, particularly the auto industry which is so important to Ohio, caused by a dreadful combination of high oil prices and uncertain supplies.

The inflationary impact of constantly-rising OPEC oil prices. Economists say that 5 percentage points of our current inflation rate are the direct result of higher energy costs.

The continual erosion of the value of the dollar against gold and foreign currencies like the Japanese yen and German mark. Last year we paid out $45 billion for imported oil. This year it will be close to $70 billion.

Can we end this dependence on foreign oil which causes us so much grief?

Not very soon!

In fact, President Carter may have trouble keeping his promise, made during his energy speech in August, not to allow our dependence to grow even greater. Never again, said the President, will be import more than 8.2 mbpd. But can that promise be kept?

Bear in mind that in 1970 we were importing just over 3 mbpd of oil (and paying an unbelievably low $4 billion a year for it). In eight years, our demand grew by 5 mbpd. If demand did grow by 5 mbpd in eight years, what makes us think our demand for imports can be kept steady for the next eight years? In my view, we've being far too optimistic.

Congress is embarking on a crash program for the development of synthetic fuels, mostly from coal. But even though we will commit billions of dollars to synthetic fuel production, production is projected to reach 500,000 barrels per day by 1985 and 2 million barrels per day by 1990. Helpful, yes, but hardly a complete solution.

Other measures already passed by Congress will help reduce our oil consumption by encouraging conservation, requiring better auto mileage, requiring conversion to coal of industrial boilers, etc. But we're kidding ourselves if we think they will do the whole job.

No, the truth is this. As long as we Americans take a "business as usual" attitude toward energy, we will be very lucky to hold our imports down to 8.2 mbpd. And even if we don't exceed President Carter's target ceiling of 8.2 mbpd, we will remain for the next 10 years just as vulnerable as we are today to the whims of far-off countries which supply us with our daily "fix" of imported oil.

Last week, when the Iranian takeover of our embassy occurred, several constituents telephoned me in white hot anger. "You tell those Iranians," I was told, "that we don't want their oil and we won't buy it, no matter what adjustments we Americans have to make at home."

If Americans can develop and sustain that kind of resolve, solutions to our energy woes will be a lot faster in coming.

WASHINGTON REPORT

(By DON J. PEASE)

[U.S. Congressman, 13th District]

Now that the U.S. will no longer purchase oil from Iran, we will have to pay a lot more attention to energy conservation in the years ahead.

"Conservation? Oh, yes, conservation. You're right, we'll certainly have to do more with conservation in the coming years."

If a friend gave you that kind of response, you would be understandably skeptical about the friend's commitment to conservation. You might expect lip service to be paid, but not much more.

Distressingly, I sense something of that attitude among the American people, in the Carter administration and in the Congress.

For example, I recently attended a briefing at the White House with President Carter, Secretary of Energy Charles Duncan and Secretary of the Treasury William Miller. In their presentations, each made passing references to conservation. But the clear emphasis of each was on synthetic fuels—and the President's proposal to commit billions and billions of dollars for a crash program of extracting liquid fuel from coal, shale, tar sands, etc.

In the U.S. Congress, conservation does come in for much discussion and even considerable action. In its concern about energy, Congress is moving on every conceivable front. But the big money is going to high-priced projects like synthetic fuels.

The situation says two things about the United States.

First, we are not a conserving society. We've never had to be. Over 200 years, our remarkable stock of natural resources encouraged us to be profligate.

Second, we are a high-technology society. We've been fabulously successful over the years in solving our problems and opening new horizons through science and technology. When new problems arise, like our present energy crisis, it is understandable that Americans would look to high technology solutions like synthetic fuels and nuclear power.

Indeed, that attitude showed up strikingly on the House floor earlier this month on a bill to push development of a solar satellite. Of all the potential energy solutions, solar energy lends itself to low technology as well as any. Solar panels already developed could provide hot water and heat for millions of American homes, stores and factories.

But the House of Representatives was determined to heap money on development of a futuristic solar satellite which would collect the sun's rays in space and send them to the earth via laser beam. The plan, which would require the construction in space of satellites six miles wide and 12 miles long, could cost up to $2.5 trillion—five times the total annual federal budget.

So it's no wonder that a simple idea like conservation fails to capture the imagination of congressmen or the public.

Yet conservation is our very best bet for short-run relief from our energy woes. Synthetic fuels, in any significant quantity, are 10 years off. Solar satellites are 25 years off at the earliest. Conservation is available right now.

Think, for example, of the millions of American homes which lack sufficient insulation. Think of the diesel fuel which is wasted by trucks which "deadhead" empty on return trips. Think of the steam and hot water which industrial plants let escape every day.

And don't believe that conservation is small potatoes. A widely-respected new Harvard University study states that conservation could save energy equivalent to 4.4 million barrels of oil per day by 1990 without cutting back at all on our standard of living. Compare that with the 8 million barrels per day (mbpd) we are now importing and with the 2 mbpd which we hope we can get from synthetic fuels by 1990. Clearly, energy conservation has great potential and, I repeat, it's available now.

But lip-service by government leaders won't produce the energy savings which are available through conservation. Nor will the variety of token conservation programs which Congress has enacted thus far.

Rather, the President, the U.S. Department of Energy, the Congress and the people need to put as much commitment and faith and money into conservation as we do into synthetic fuels, solar satellites and other high-technology solutions. We can do it if we but have the will and the common sense to see the easiest, the fastest and probably the least expensive way to attack our energy crisis. ●

LIST OF KEY VOTES OF CONGRESSMAN DON J. PEASE, 1ST SESSION OF 96TH CONGRESS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. PEASE. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

LIST OF KEY VOTES OF CONGRESSMAN DON J. PEASE, FIRST SESSION OF 96TH CONGRESS

(38) Bill to redefine U.S. relations with Taiwan in light of recognition of the People's Republic of China. Yes. Passed, 345–55.

(45) Amendment to require the Council on Wage and Price Stability to include public representatives in monitoring compliance with anti-inflation program. Yes. Failed, 128–282.

(47) Bill to extend the council on wage and price stability for one year, through September 30, 1980. Yes. Passed, 242–175.

(62) Conference report on bill to redefine U.S. relations with Taiwan in light of the recognition of the Republic of China and recognition of the People's Republic of China as the sole legitimate government of China. Yes. Passed, 339–50.

(73) Amendments to require the House and Senate Budget Committees to report balanced budgets for FY 1981 and FY 1982 this year and the next two years, and to show the consequences of such budgets. Yes. Passed, 209–165.

(78) Amendment to delete $11.7 million in economic aid to Panama in FY80. No. Passed, 246–150.

(88) Amendment to remove the Peace Corps from ACTION. No. Passed, 276–116.

(89) Amendment to cut the FY80 authorization by 5 percent in the International Development Cooperation Act. Yes. Passed, 259–135.

(91) Bill to authorize $4 billion for FY80 for international development and economic assistance programs of the Agency for International Development. Yes. Passed, 220–173.

(100) Conference report on bill to extend the Council on Wage and Price Stability for one year, through September 30, 1980. Yes. Passed, 240–168.

(108) Amendment to restore $200 million in FY 1979 budget authority and outlays for the Targeted Fiscal Assistance Program, and add $25 million in FY79 budget authority and $20 million in outlays for disaster loans. No. Passed, 224–197.

(109) Amendment to maintain the FY79 spending cap on the food stamp program. No. Failed, 146–276.

(113) Amendment to increase the FY1980 level of defense spending by $2.6 billion in outlays, to a total of $137.8 billion in budget authority and $125.1 billion in outlays. No. Failed, 188–209.

(115) Amendment to reduce budget authority and outlays in FY80 by $1.1 billion representing cuts in government travel, filmmaking, paperwork, overtime, and other allowances. Yes. Passed, 402–3.

(117) Amendment to balance the budget by reducing the outlays ceiling by $17.7 billion, to 51.5 billion, and raising the revenue floor by $7.2 billion. Amendment also to assume a net tax cut of $10 billion. No. Failed, 186–214.

(124) Amendment to add $2.3 billion in FY 1980 budget authority and outlays to restore funds for general revenue sharing for state governments. No. Failed, 190–195.

(129) Amendment to increase FY 1980 revenues by $1.2 billion, by recommending curtailment of foreign tax credits for oil companies. Yes. Passed, 355–66.

(130) Amendment to restore $2.3 billion for general revenue sharing for states, and cut $2.3 billion in foreign assistance programs. No. Failed, 199–214.

(135) Amendment to reduce FY80 budget deficit to $15.2 billion and to assume a net tax cut of $6.5 billion. No. Failed, 191–228.

(136) Amendment to reduce FY80 budget deficit to $18.7 billion and to assume a net tax cut of $6.5 billion. No. Failed, 198–218.

(137) Amendment to generate $1 billion in additional revenues in FY 79 and $4 billion in additional revenues in FY80 by reducing tax expenditures. Yes. Failed, 130–277.

(139) Resolution to approve the President's gasoline rationing plan. Yes. Failed, 159–246.

(145) Amendment to increase funds for emergency fuel assistance for low-income families. No. Failed, 179–222.

(148) Adoption of the First FY80 Budget Resolution setting budget authority at $605.1 billion, outlays at $529.9 billion, revenues at $509 billion, and the deficit at $20.9 billion. Yes. Passed, 220–184.

(152) Amendment to increase from 53 million to 67 million the number of acres of Alaskan land to be preserved as wilderness. Yes. Passed, 268–157.

(158) Bill to create 125.4 million acres of national parks, wildlife refuges, and forest in Alaska and designate 67 million of those acres as wilderness. Yes. Passed, 360–65.

(175) Bill to authorize $1.47 billion to support the Israeli-Egyptian peace treaty. Yes. Passed, 347–28.

(176) Amendment to delete $265 million for development of the MX missile. No. Failed, 89–311.

(178) Bill to provide $1.46 billion in additional funds for the Defense Department for FY 1979 and to encourage full-scale development of the MPS basing system for the MX missile. No. Passed, 314–72.

(184) Amendment to add $125 million to the FY79 budget in grants for mass transportation. No. Failed, 127–270.

(186) Amendment to eliminate Davis-Bacon prevailing wage requirement for construction funded under the Housing and Community Development Act of 1979. No. Failed, 155–244.

(203) Amendment to the Department of Education Organization Act to make daily opportunities for voluntary prayer and meditation in public schools a purpose of the proposed Education Department. No. Passed, 255–122.

(205) Amendment to Department of Education Organization Act to prohibit the new department from requiring busing to achieve racial balance as a condition for receiving federal assistance. No. Passed, 227–135.

(210) Amendment to Department of Education Organization Act to ensure that no one is denied access of education opportunities because of racial or sexual ratios or quotas as a purpose of the proposed Education Department. No. Passed, 277–126.

(211) Amendment to Department of Education Organization Act to transfer the Defense Department overseas dependent schools. No. Failed, 178–230.

(214) Admendment to establish an Office of Bilingual Education and Minority Languages affairs in the proposed Department of Education. Yes. Passed, 290–124.

(225) Amendment to reduce from 7% to 5.5% the size of the cost-of-living pay increase for the members of Congress, judges, and high level personnel in the legislative, judicial, and executive branches. Yes. Passed, 396–15.

(227) Bill to provide a total of $562.9 million in new budget authority for congressional operation and $389.9 million for other agencies for FY 1980. Yes. Failed, 186–232.

(267) Amendment to provide for annual payments to Panama from Canal reserves, to authorize property transfers to Panama, to require Panama to pay for water, electricity, and other services it purchased from the Canal Commission. Yes. Passed, 255–162.

(239) Amendment to require Panama to pay the $7.5 million cost of U.S. military construction incurred as a result of implementing the treaties. No. Failed, 210–213.

(271) Motion to require Panama to pay for all U.S. costs in implementing the Canal treaties. No. Failed, 210–216.

(272) Bill to implement the Panama Canal Treaties of 1977. Yes. Passed, 224–202.

(273) Motion opposing a $50 million military grant to Turkey. No. Passed, 303–107.

(283) Amendment to prohibit the eight largest oil companies from contracting with the government to provide synthetic fuels. Yes. Failed, 127–263.

(284) Bill to encourage production of the equivalent of 500,000 barrels per day of oil by 1985 from synthetic fuels. Yes. Passed, 368–25.

(292) Amendment to cut $10.3 billion in FY80 funding for OSHA. No. Failed, 177–240.

(293) Amendment to prohibit federal funding of abortions except where the mother's life is endangered, where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to full term, and for victims of rape and incest. Yes. Failed, 180–241.

(294) Amendment to prohibit OSHA inspectors from visiting a work site within six months following an inspection by a state and health agency. No. Passed, 236–176.

(302) Amendment to reduce the windfall profit tax rate from 70% to 60% for marginal wells, and to end tax on newly discovered oil at the end of 1990. No. Passed, 236–183.

(303) Amendment to extend for 13 months the tax on oil discovered before 1973. Yes. Failed, 172–241.

(305) Amendment to require the termination of sanctions against Zimbabwe, Rhodesia by Dec. 1, 1979, and to permit an extension past the date only with congressional approval. No. Failed, 147–242.

(306) Bill to lift sanctions of Zimbabwe-Rhodesia by October 15, 1979, unless the President determines it would not be in the national interest to do so. Yes. Passed, 350–37.

(314) Bill to create a Cabinet-level Department of Education into which would be transferred the education programs now administered by the Education Division of HEW. Yes. Passed, 210–206.

(316) Motion expressing sense of Congress that free and fair elections had been held in Zimbabwe-Rhodesia and the President should lift economic sanctions against that nation. No. Failed, 168–248.

(328) Amendment to prohibit the use of funds by the Justice Department to facilitate the busing of students, except for those requiring special education resulting from physical or mental handicaps. No. Passed, 209–190.

(337) Bill to provide $1.6 billion for final construction of Washington's Metro subway system. Yes. Passed, 261–125.

(356) Amendment to prohibit the use of U.S. funds contributed in FY80 to the International Development Association to finance any assistance or reparations to Vietnam. No. Passed, 291–122.

(372) Motion to discharge the House Judiciary Committee from further consideration of the Constitutional amendment on busing and bring it to the House floor for a vote. No. Passed, 227–183.

(373) Motion to close debate and bar amendments to the original version of the Constitutional amendment on busing which have prohibited busing to relieve overcrowding schools, to respond to schools being closed by strikes, and for other purposes and which would have empowered Congress "to insure equal educational opportunities for all students." Yes. Failed, 172–251.

(374) Proposed amendment to ban busing

which read as follows; "No student shall be compelled, on account of race, color, or national origin, to attend a public school other than the public school nearest to the residence of such student which is located within the school district in which such student resides and which provides the course of study pursued by such student." No. Failed, 209–216.

(384) Amendment to provide for a one-House veto within 30 days of submission of a stand-by gas rationing plan by the President. No. Passed, 232–187.

(390) Amendment to terminate funding in FY80 for the Clinch River fast breeder nuclear reactor, and to authorize a study for an alternative breeder reactor. Yes. Failed, 182–237.

(399) Motion to block expulsion of Congressman Charles Diggs from the U.S. House of Representatives. Yes. Passed, 205–197.

(404) Resolution to censure Rep. Diggs for violations of House Rules. Yes. Passed, 414–0.

(408) Amendment to provide for a one-House veto of a stand-by gas rationing plan proposed by the President and to delete the provision for a one-House veto of the implementation of a stand-by gas rationing plan. No. Failed, 192–232.

(409) Amendment to delete requirement which provided for a one-House veto of the actual stand-by gas rationing plan in addition to the one-House veto of the implementation of the plan. Yes. Passed, 234–189.

(424) Bill to authorize the President to implement gasoline rationing, subject to a one-House veto, if the President found that the nation had experienced a 20 percent shortage for 30 days. Yes. Passed, 263–159.

(427) Amendment to approve the FY80 appropriation for construction of the new Hart Senate Office Building. No. Passed, 214–184.●

KING'S DAY REGATTA

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. BENNETT. Mr. Speaker, the Rudder Club of Jacksonville, Fla., deserves great credit for their leadership in putting on the annual King's Day Regatta in Jacksonville, weekend before last. Ed Burroughs sailed his Stoner 32, "Wild Hare" over the finish line to get his name etched on the Carl Z. Suddath Trophy as the first boat in. His name will be there along with that of the winner of the Midget Ocean Racing Conference class, Jay Cummings in his J–24 "Sage." Burroughs had trailed Steve Henderson's "Indigo" for almost the entire race but his boat is lighter weight and the fact that Henderson tacked early and had to give way to Burroughs at the finish line helped Burroughs to cross the line first.

In the light wind Burroughs took 3 hours and 17 seconds to cover the 5½ nautical miles. Cummings came across in 3 hours and 3 minutes, while Bob Rives in another JX24 came in third. Henderson came in fourth overall. but second in the Performance Handicap Rating Fleet "A" class, to Burroughs at 3 hours and 10 minutes and 40 seconds.

Terry Brady, Dr. Fred Vontz, and Charlie Johnson did an excellent job in putting the regatta on for the Rudder Club and Alicia Dorsie-Frank, president of the Florida Daughters of the British Empire did an excellent job in the festivities in connection with the regatta, sponsoring a banquet at the Florida Yacht Club, which was addressed by Adm. R. M. Burgoyne, British Naval Attaché, who referred to the "close and warm association and friendship that exists today between the United States and the United Kingdom."

A principal purpose of the regatta is to strengthen American-British ties of friendship and understanding. The annual event commemorates the first King's Day Regatta at the same location in the St. Johns River, when the King's birthday was celebrated there by a regatta in 1776, just prior to the signing of the Declaration of Independence. Then the area was a British province.

As Admiral Burgoyne said: "The essential basis for the survival of the western way of life is the closest cooperation between the United Kingdom and the United States, the countries which gave us Magna Carta and the Declaration of Independence." Events like Jacksonville's annual King's Day Regatta can increase our friendly bonds and cooperation.●

NOT ALL SENATORS SUPPORT NOISE BILL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. ANDERSON of California. Mr. Speaker, the House and the Senate are now in conference on H.R. 2440. H.R. 2440 is a simple House bill authorizing the expenditure of discretionary funds in fiscal year 1980 under the airport development aid program. The Senate version of H.R. 2440 is a complex and controversial bill aimed at gutting Federal regulations designed to significantly reduce the impact of aircraft noise. The Senate version is an industry bailout of the worst kind. The Senate conferees would have us believe that every reasonable person supports their bill. I know of many reasonable Senators who do not share the views of their conferees. Today, I received a letter from 16 Senators expressing their strong opposition to waiver provisions of H.R. as amended by the Senate. The text of this letter follows:

U.S. SENATE,
Washington, D.C., November 28, 1979.

DEAR CONFEREE: We write to lay before you some important facts on three provisions of the Senate version of H.R. 2440, the Airport and Airway Development Act of 1970, and hope they may be of aid to you in resolving these issues.

In general, FAA regulations provide that all non-complying aircraft operating in the United States must be quieted—through various methods (replacement, re-engining and retrofitting)—in stages to be completed. for two and three engine planes, by January, 1 1983, and for four engine planes by January 1, 1985.

THE TWO AND THREE ENGINE EXEMPTION

First, under the Senate version two and three engine airplanes that come within five decibels of the rules are exempted from the noise-reduction requirements. This gives away the noise reduction expected from the FAA limits and also sacrifices the one to three decibels below the FAA limits that implementation of noise-reduction technology would bring. We read the experts to agree that a six-to-eight decibel reduction brings perceptible relief.

THE SO-CALLED "NEW TECHNOLOGY" WAIVER

Under the so-called "new technology" waiver of the Senate version of H.R. 2440, four engine fleets are given a mandatory waiver from compliance with the anti-noise rules by merely signing a contract to buy complying aircraft by January 1, 1985—the present deadline for full compliance. Since normal delivery time is 3½ years, full compliance would not be reached until at least mid-1988, and the interim compliance deadline of January 1, 1983, for one-half the four engine fleet could be ignored.

This delay is unwarranted; necessary technology to build the replacement aircraft is available now. Complying aircraft can be ordered immediately and many carriers have already done so.

Moreover, reengining is a viable option for the older four engine aircraft. (New engines can result in an over 20 percent reduction in fuel consumption and an increased plane life of 10 years).

THE SO-CALLED "GOOD CAUSE" WAIVER

The third vitiating provision of the Senate version of H.R. 2440 is the so-called "good cause" waiver. This gives discretionary authority to the Secretary of Transportation to provide a waiver if non-compliance is due to "good cause". But the FAA already has the power to waive any of its regulations if such a waiver is in the "public interest".

Nor is there danger of a slavish adherence to the rules. As FAA Administrator Langhorne Bond stated in testimony before the House Aviation Subcommittee: The regulation includes provisions for granting exemptions when a true hardship might result. . . . We are fully aware that narrow-sighted insistence on adherence with any regulatory requirement could work against the public interest.

Aircraft noise is not a big city problem alone. Small and medium sized communities with airports will also be adversely affected if the noise rules are not implemented on schedule. 75% of the airports in the country would receive no noise relief if two and three engine aircraft are exempted. In addition, larger airports are more likely to put on additional restrictions on flights such as curfews and limitations on numbers of flights. If airlines are required to eliminate flights, they may well eliminate flights from smaller cities.

The cost of achieving the noise reduction objectives contemplated by these aircraft noise rules is not great when compared to the noise relief it brings. The per plane cost of retrofitting is approximately $200,000 for 2 engine and $250,000 for 3 engine aircraft. The total fleet cost would be about $220 million. For a 727–200 plane with a remaining life of ten years, the average cost per flight is $6.20, out of a total per flight cost of $1,390. And, as to fuel consumption, the FAA has concluded that retrofitting the entire two and three engine fleet will add less than one-tenth of one percent per year to the annual domestic commercial fuel bill.

Changes in the noise rules within little more than a year of the initial compliance date seem to be patently unfair to those carriers which have made the expenditures necessary to bring their fleets into compliance. Some of these airlines will be competing on the same routes with carriers who have not made decisions to bring their fleets in compliance.

The Department of Transportation, FAA, and EPA oppose these anti-noise changes as do other governmental entities, trade associations, environmental and consumer groups. Among these are: American Association of Airport Executives; Aviation Consumer Action Project; Airport Operators Council International; Congress Watch; Friends of the Earth; National Association of Counties; National League of Cities; National Organization to Insure a Sound-Controlled Environment, N.O.I.S.E.; National Parks and Conservation Association; Sierra Club, Metropolitan Washington Group; and the United States Conference of Mayors.

With best wishes.

Sincerely,

Howard M. Metzenbaum, Jacob K. Javits, Paul Tsongas, Daniel Patrick Moynihan, Harrison A. Williams, Jr., David Durenberger, Carl Levin, S. I. Hayakawa, Edward M. Kennedy, William Proxmire, Adlai E. Stevenson, Charles McC. Mathias, Jr., William S. Cohen, Paul S. Sarbanes, Edmund S. Muskie, Claiborne Pell.●

NICARAGUA—PART III: THE GOVERNMENT OF NATIONAL RECONSTRUCTION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. HAMILTON. Mr. Speaker, one of the most agreeable aspects of the congressional mission to Nicaragua was the access of Members of Congress to the leadership of the Government of National Reconstruction. The access enabled us not only to contact persons and groups who could speak authoritatively on Nicaraguan affairs, but also to examine relationships among centers of power and influence in the new government. I believe that we left Nicaragua with a good sense of the problems and possibilities of Nicaragua's leaders.

In the aftermath of the civil war, Nicaragua has developed a highly collegial form for its Government of National Reconstruction. There are three important entities to be reckoned with. The first, one for which there is no analog in our system of government, is the Directorate of the Sandinista National Liberation Front. Generally acknowledged to be the main focus of power in the country in virtue of its control of the armed forces and its understandable popular appeal, the Directorate consists of nine men from three distinct guerrilla factions who seem to conceive of their role as one of guaranteeing or safeguarding the Nicaraguan revolution. The left-leaning character of the Directorate is unmistakable, though in discussions with us no doctrinaire attitudes were apparent. In any case, their remarks were directed to issues of development and nationalism rather than political philosophy.

The second important entity is the legal executive or Junta, a five-person committee whose members were appointed by the Directorate. The Junta rules by decree at present, and presumably its decrees are arrived at through internal consensus and external consultation. If occupational background is an indicator, the membership of the Junta represents a fair cross-section of Nicaraguan political opinion. The Junta is supported by 18 ministries whose heads, together with other public officials, comprise the third important entity, the Cabinet. Ministries range from more familiar ones such as Defense or Interior to less familiar ones such as Agrarian Reform or Culture and Sports, and by impression was that individual ministers vary in the mix of policymaking and administrative duties that falls to them. Professionals and technocrats predominate in the Cabinet, which also contains two priests.

Collegial government is rare because it tends toward instability. The difficulty of consensus building has been known since Roman times, as has the strong temptation for some leaders to combine to exclude others from power. My guess is that the government of national reconstruction feels the instability inherent in its own structure, but during our visit it presented a remarkably unified face. The three guerrilla factions of the Directorate were invisible. If there were any outstanding disagreements between the Directorate and the other bodies, they were nowhere in evidence. Junta members whose politics might have prompted them to clash seemed to be speaking the same language. Academics, businessmen, and priests in the Cabinet displayed a deep consistency of opinion. Was this unanimity an illusion conjured up for the benefit of Members of Congress? I think not. Collegial government appears to be working for the present because political differences have been temporarily set aside in an effort to meet pressing social and economic needs.

Collegial government has obvious drawbacks, but it also has a certain logic in the context of present-day Nicaragua. The Nicaraguan revolution was brought about by many diverse groups in the society, and each has claim to a say in how the revolution develops. Collegial government can satisfy those claims because of its natural inclusiveness. Also, the Nicaraguan people know all too well the effect of concentrating too much power in too few hands. Collegial government can allay their fear of authoritarianism. Finally, Nicaragua needs all the resources it can muster if it is to rebuild. Collegial government can attract the human resources that make reconstruction possible. Although no one can know the future with certainty, I believe that the following observation is sound: the forces that led to the development and initial success of collegial government in Nicaragua are forces that push Nicaragua toward an open and pluralistic political figure. Other forces are abroad in the society, to be sure, but there is no reason to think that they are irresistible and cannot be counterbalanced.

Opinions as to the general political outlook of the government of national reconstruction gave us further reason for optimism about the political future of Nicaragua. Although it clearly took second place to the overwhelming commitment to heal the nation's social and economic wounds, there was a common political theme in the government's statements. Junta member Sergio Ramirez, for example, described the Nicaraguan revolution as a movement toward democracy. He then spoke of the parallel tasks of economic and democratic reconstruction, saying that the government would not await the achievement of economic goals before establishing democracy. Directorate member Jamie Wheelock sounded a similar but more tentative chord in his introductory remarks. He explained that the Sandinista movement had dealt with other sectors of society because it wanted Nicaragua to be pluralistic and democratic, tough Nicaragua's democracy might not mimic that of other nations. In the same meeting, Directorate member Victor Tirado responded to a direct question about Nicaragua's political future by saying that the nation would have a plural-party system. He suggested that it might be more advanced than our two-party system.

The structure, success, and statements of the government of national reconstruction are not grounds for untrammeled optimism concerning Nicaragua's political future. They are nothing more or less than hopeful signs. Many obstacles stand between Nicaragua and the kind of open society that all good men strive to achieve. If we become impatient with Nicaragua's political progress in the months ahead, perhaps our impatience will be eased by the realization that for us, too, the idea of genuine democracy in Nicaragua is new.●

ASSAULTS ON MULTILATERAL INSTITUTIONS ILL CONCEIVED

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. BONKER. Mr. Speaker, a New York Times editorial underscores the problems associated with placing country restrictions on moneys the United States contributes to international financial institutions. While the House has acted unwisely by putting several country restrictions on this year's contributions, we still have the chance to accept a rational position when we confer with the Senate on this issue—provided the Senate does not succumb to the same parochial interests the House has.

The United States is a voting member of these international financial institutions and can, therefore, voice any objections through the appropriate forums of governing boards. To place restrictions on the moneys through legislative maneuvering undermines the whole purpose of U.S. participation in these institutions. and will, in all probability, lead to the dismantlement of arguably the most cost-efficient "aid" effort in which the United States participates. That would not only be bad for the developing world, which desperately needs these low-interest loans and loan guarantees to improve the lot of their people, but it would also unnecessarily tarnish the image of the United States.

The editorial follows:

UNDOING A TANTRUM ON FOREIGN AID

Congress has it in its power, perhaps today, to decide whether the United States will, in a kind of tantrum, turn its back on the world's poor countries. The issue is United States support for the World Bank and other international lending agencies it helped create. An emotional House would cripple their aid. Only cooler Senate heads can thwart such recklessness.

The House has voted, for the third year in a row, to cut donations to these international agencies and, far more important, to bar the use of American contributions in aid to a half-dozen countries it doesn't like—Vietnam, Cuba, Cambodia, Laos, Angola and the Central African Republic. In 1977 and 1978, the Senate removed similar restrictions because they make it impossible for the international agencies to accept any American funds. That would also reduce contributions from other nations. The Senate position was sensible; yet last year, it was adopted by just one vote.

This year, the issue has been posed again by a 281–117 House vote swelled by outrage over Vietnam's invasion of Cambodia, expulsion of refugees and opening of Vietnamese ports and airfields to Soviet forces. The World Bank is being pilloried now for its action two years ago, before any of these events, when it lent Vietnam $60 million to increase food production. The irony is that Vietnam is not scheduled to receive any more aid anyway. Cuba, which also stirs House emotions, is ineligible for aid as a nonmember of the Bank. But the House action would, meanwhile, reduce aid to the very countries in Southeast Asia and Central America that some House members believe are threatened by Vietnam and Cuba.

The attack on the international lending institutions comes at a time when their importance is greater than ever. Bilateral aid programs by the United States and the other main donor countries have been curtailed by the world's stagflation. Yet the deficits of the poor countries are soaring as a result of oil prices, and living standards are being cut back.

By borrowing in private markets, the World Bank has been able to lend poor countries $50 for every $1 paid in by the United States. The "soft loan" agencies, like the International Development Association, raise almost $3 in matching contributions from Western Europe, Japan and other nations for every American aid dollar. The United States cannot dictate to these international organizations. If it cripples them, it destroys the best mechanism yet devised for equitably sharing the cost of foreign aid among the rich. The Senate has much to stand firm for.●

HEARING ON H.R. 4973, CORPORATE CRIMINAL LIABILITY FOR COVER-UP OF LETHAL DEFECTS IN PRODUCTS AND BUSINESS PRACTICES BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. CONYERS. Mr. Speaker, the second hearing on H.R. 4973, which creates corporate criminal liability for certain nondisclosures by business entities as to dangerous defects in products and business practices has been scheduled for 9:30 a.m. on Thursday, December 13, 1979 in Room 2226, Rayburn House Office Building.

The witnesses at the hearing will be Dr. S. Prakash Sethi, Director of the Center for Research in Business and Social Policy, School of Management and Administration, University of Texas at Dallas; and Dr. Samuel S. Epstein, Professor of Occupational and Environmental Medicine, School of Public Health, University of Illinois Medical Center at Chicago.

Those persons wishing to testify at future hearings, or wishing to submit statements for the RECORD, should address their requests to the Committee on the Judiciary, Subcommittee on Crime, 207E Cannon House Office Building, Washington, D.C. 20515. Telephone: (202) 225-1695.●

WORLD BANK CRITICISM

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

○ Mr. YOUNG of Florida. Mr. Speaker, As I reported to the House this morning, Barron's, a national business and financial weekly, today published a news article which all Members of this House should read before voting again on any appropriations to the World Bank group.

The article reveals a number of things that Members of the House will find extremely interesting.

It reveals that soon after World Bank President Robert McNamara wrote the House Appropriations Subcommittee on Foreign Operations promising that the World Bank group would not loan money to Vietnam in fiscal 1980, he wrote another letter to Treasury Secretary G. William Miller and apologized for writing his letter to us.

It reveals that World Bank employees are increasingly concerned over the emphasis on quantity rather than quality in approving Bank projects. It reveals that a report prepared by the World Bank Group Staff Association found that

> Many staff believe the Bank to be overcontrolled and undermanaged.

In effect, the report charges that McNamara runs the Bank in such an autocratic manner that he fails to make adequate use of the professionals on his staff.

The Barron's report also reveals that the Bank's own annual review of 98 operations, representing about $1.8 billion in loans, found that projects are frequently changed because of faulty or incomplete design, because of a change in objectives, or because of what were described as "financial reasons."

That internal Bank report found that five projects had large cost overruns. Three of these were in Indonesia and one project cost five times as much as budgeted. It revealed that many questions remain about procedures used in spending money loaned to Iran, loans which have since been canceled. And it reveals that a loan to Pakistan was so hurriedly put together that the project ran 4 years behind schedule.

Mr. Speaker, the House is learning more and more about the questionable practices and problems of the World Bank. I believe many Members of this House are beginning to look on that institution with increased skepticism as a result of information that has come to light in the last 3 years as a result of the subcommittee's efforts.

Barron's has made a significant contribution to that flow of information, and I commend that publication and its reporter, Shirley Hobbs Scheibla, for this excellent example of investigative reporting.

The article follows:

McNAMARA'S BAND SOUR—DIRECTORS, STAFF CRITICAL OF WORLD BANK OPERATIONS

(By Shirley Hobbs Scheibla)

WASHINGTON.—In a heated secret meeting recently, the executive directors of the World Bank gave President Robert S. McNamara a sharp rebuke for promising Congress that the Bank will make no loans to Vietnam during fiscal 1980. McNamara acted in haste in order to avoid jeopardizing a pending appropriation of $1.092 billion for the International Development Association, the Bank's soft-loan window. The directors, however, believe that in so doing, he exceeded his authority.

It was on the basis of this commitment that House-Senate conferees decided not to proceed with the Young Amendment, which would have banned the use of U.S. contributions to the Bank for either direct or indirect aid to Vietnam in fiscal 1980.

One executive director told *Barron's*: Legally, the directors have the responsibility for general operations of the Bank, and they could countermand Mr. McNamara's action . . . But they did not do so, and it was clear to me that the sense of the majority was that it was not an opportune time to consider lending to Vietnam . . . Nobody really wants to fight on that, even though they may be disturbed about some of the principles involved." In the future, however, the directors warned McNamara that if he exceeds his authority again, he risks having it countermanded.

Congress is expected to vote on appropriations for the World Bank sometime this week. House-Senate conferees have agreed on $1.092 billion for the IDA, which makes loans for 50 years with a 10-year grace period. Except for an administrative charge of three-quarters of 1%, they are interest-free. For the World Bank's "hard" loan operation, the two chambers are far apart. The Senate wants to appropriate $880 million, the House only $163 million. The Administration had sought $1.025 billion.

CAMPAIGN TRAIL

The special meeting of the executive directors is one example of the mounting dissatisfaction in the World Bank against McNamara's autocratic—and occasionally indiscreet—way of doing things. The directors also have berated McNamara for taking part in Sen. Edward Kennedy's Presidential campaign strategy in violation of the Bank's charter, which bans such political activity. On this score, Rep. C. W. "Bill" Young (R., Fla.), author of the Young Amendment, and Rep. Robert K. Dornan (R., Calif.) have called for McNamara's resignation.

While the directors don't plan to ask him to resign (his term expires in 1983), they have begun to establish binding criteria for cutting off loans to a country. They also plan to stipulate that in order to obtain Bank aid, a recipient must demonstrate that it enjoys a certain measure of stability.

Barron's has obtained a report by a group of Bank employes which criticizes the emphasis on quantity in approving Bank projects. The U.S. government and the executive directors have voiced similar concern and have held lengthy sessions with McNamara on the subject. In particular, the former has always had doubts about the wisdom of loans for tourism, a McNamara innovation. It recently urged him to make no more of them. Instead, he has agreed only to curtail such activity.

McNamara's commitment to Congress to make no loans to Vietnam in fiscal 1980 came about in dramatic fashion. Following disclosure that, contrary to Congressional impression, a $60 million loan to Vietnam would be disbursed and would be used to subsidize the communization of the southern part of that country (*Barron's*, Sept. 3), the House voted to ban the use of U.S. funds for the Bank for direct or indirect aid to Vietnam.

On Nov. 1, House-Senate conferees seemed ready to approve a ban on loans to Vietnam with U.S. money. Asked what would persuade him to drop his amendment, Rep. Young replied: "A commitment from Mr. McNamara or the board of directors that they will not lend to Vietnam in fiscal 1980."

During the lunch recess, two conferees, Rep. David R. Obey (D., Wis.) and Rep. Matthew F. McHugh (D., N.Y.) met with C. Fred Bergsten, assistant secretary of the U.S. Treasury for international affairs and also acting U.S. executive director of the Bank. They asked if Young's conditions could be met. Bergsten said he thought so.

AMENDMENT WITHDRAWN

Bergsten quickly presented the draft of a proposed letter from McNamara to Rep. Clarence Long, chairman of the Foreign Operations Subcommittee of the House Appropriations Committee. But the problem was to find McNamara, who was traveling, and have him sign it. It was presented to him as he left a plane at Washington National Airport, and he signed. Addressed to Long, it read: "In response to your inquiry, I would like you to know that events over the past year have raised a very serious question about Vietnam's current commitment to a rational development policy. These questions were considered sufficiently fundamental to warrant a suspension of new lending to Vietnam.

'Under current conditions it would not be possible to invest funds there with a high probability that investment objectives would be realized or with assurances that the project would benefit the masses of the people. Consequently, I cannot recommend a loan to Vietnam to the Board in FY 1980 and therefore the Bank Group will not be providing a loan to Vietnam in FY 1980."

This proved acceptable to Young, who withdrew his amendment. Indeed, the lawmakers felt it was more than he had hoped to achieve with his bill because the letter pledged the Bank not to use anyone's money to lend to Vietnam.

On that same day, several executive directors met informally with McNamara and told him that he should not have communicated directly with Long. McNamara for years had insisted that the Bank is an international institution, not answerable to the U.S. Congress. Hence he had made it look ridiculous. McNamara acknowledged as much. He quickly sent a letter to Secretary of the Treasury G. William Miller, one of the governors of the Bank, which read as follows:

"Owing to the extreme urgency of the matter and the lateness of the hour, this afternoon, I addressed the appended letter directly to the Chairman, Subcommittee on Foreign Operations, U.S. House of Representatives, thus deviating from the rule I have invariably followed of communicating with member Governments only through officially designated channels, in your case, through Treasury. . . . While I know you will in the circumstances understand the compelling reasons for this departure from our fixed rule, I neverthless ask you to accept my apologies."

For the more serious issue of McNamara exceeding his authority, the directors found it necessary to consult the countries they represent. That's why the formal, (but secret) meeting with McNamara cited above did not take place until Nov. 6.

NO DECISION REACHED

In response to the push to make stable conditions a requirement for receiving money, the Bank recently called a meeting of international lenders and donors to discuss Uganda. So far no final decision has been reached. The Bank's latest summary of proposed projects lists a proposed credit of "about $50 million" for a "program credit" for Uganda's Ministry of Finance.

Both Chairman Long and Rep. Young, ranking minority member of the Foreign Operations Subcommittee, are also watching developments in Pakistan carefully. So far they have decided that the burning of the U.S. Embassy in Pakistan does not warrant seeking a Bank commitment against loans to that country, since, unlike the turmoil in Iran, the violence apparently was not engineered by the government. (To date, the Bank has approved $1.964 billion in soft loans for Pakistan and an additional 14 projects, totaling $451 million, are pending.) Iran is not at issue, since the Bank has dropped consideration of the only pending projects there.

Bank employes are increasingly concerned over the emphasis on quantity rather than quality in approving projects. Barron's has obtained a document titled, "Draft Report of the Participation Advisory Committee," issued by the World Bank Group Staff Association. It says, in part: ". . . Many staff believe the Bank to be over-controlled and under-managed. The problem has many dimensions. Some are related to the objectives of the Bank; the failure of many staff to understand them; the eroding consensus about how to achieve them; the resulting ineffectiveness in pursuing them. Some are related to the character of management at the Bank: the style of senior management; the gaps in communications; the inefficiency of many procedures; the absence of trust in managers; the failure of managers to do what they believe to be correct; the excessive redrafting and packaging of documents; the emphasis on quantity, not the quality of the product. . . . Morale is at a low point because of the way the place is managed."

In essence, the report charges that McNamara runs the Bank in such an autocratic way that he fails to make adequate use of the many competent professionals on the staff. It denounces management for measuring effectiveness and productivity solely by the numbers of dollars loaned and projects processed, and suggests the Bank has become too "output-oriented," at the expense of both the quality and the ultimate development impact of its work.

This document (and others like it) have come to the attention of the executive directors, Assistant Treasury Secretary Bergsten says that the U.S. government has looked carefully at the problem, but has no immediate action in mind. One reason involves mere mechanics: on Oct. 31, Edward Freed resigned as the U.S. executive director of the Bank to go to the National Security Council. A few months earlier, William P. Dixon, the U.S. alternate executive director, left to plan the Democratic National Convention. Bergsten now is acting as the U.S. executive director.

SELF-EVALUATION

Staff dissatisfaction with the Bank's operations even has managed to creep into the Fifth Annual Review of Project Performance Audit Results. This document covers 98 operations, representing about $1.6 billion in loans. Not a true audit, it amounts to a Bank evaluation of its own performance. Nevertheless, it found that projects frequently were changed during implementation for such reasons as faulty or incomplete original design, shift in objectives and "financial reasons."

The document also discloses the following:

Of the five projects with the largest cost overruns, three were in Indonesia. An irrigation scheme there had a cost overrun of 500 percent, caused "by inadequate appraisal, underestimation of rehabilitation costs, subsequent increase in project size and rising costs fueled by inflation." So far the Bank has loaned $3.234 billion to Indonesia, and an additional $2.114 billion, covering 29 projects, is pending.

The Iran Ghazvin (irrigation) Development project had a zero rate of return, and 58 percent of the loan was cancelled. Those in charge of the project failed to comply with the Bank's procedures for international competitive bidding and refused to pursue agreed-upon land reform. The failure of the project, the review said, underscores the consequences of seeking to introduce sophisticated farm technology to rural populations not yet ready to accept such innovations.

The Bank cancelled 44 percent of a loan for the Iran Tehran Urban Transport project, and full cost information was not available at audit.

The Third Agricultural Credit to Pakistan was hurriedly put together without adequate attention to problems which plagued the first and second credits. As a result, the project ran four years behind schedule.

The Benin Zou Borgou Cotton project failed to reach its objective of increasing seed cotton production owing mainly to changes in government, organizational disruptions and frequent policy revisions.

The San Lorenzo Land Settlement Project in Peru took eight and a half years longer than originally estimated, even though 42 percent of the loan was cancelled, with a consequent reduction in project size. The project suffered from deficient appraisal and design, inadequate Bank review, poor management, difficulty in procuring machinery and equipment and problems with water allocation.

The Chile Second Highway Maintenance Project took eight years, instead of the expected three and a half. There were problems with international bidding procedures for procuring equipment and temporary suspension of purchases when a bilateral source of equipment became available.●

ROLLCALL VOTES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. MAZZOLI. Mr. Speaker, due to illness, I was unavoidably absent from the House of Representatives for several days in November and missed a number of rollcalls.

Had I been present on November 7, 1979, I would have voted "aye" on rollcall No. 630, the rule on H.R. 4007, repayment of loans to State unemployment funds.

Had I been present on November 8, 1979, I would have voted "aye" on rollcall No. 642, the rule on H.R. 2335, solar power satellites; "aye" on rollcall No. 643, passage of H.R. 2603 to authorize appropriations for Department of Energy national security programs; "aye" on rollcall No. 644, to close parts of the conference committee on H.R. 2603 for national security reasons; "aye" on rollcall No. 645 to resolve into the Committee of the Whole House to consider the bill; "aye" on rollcall No. 647, agreement to the conference report on H.R. 4930, Department of the Interior appropriations; "aye" on rollcall No. 648, to concur in Senate amendments to H.R. 4930; "aye" on rollcall No. 649, motion to adjourn until Tuesday, November 13, 1979.

Had I been present on November 13, 1979, I would have voted "aye" on rollcall No. 651, to suspend the rule and pass H.R. 5461, designating Martin Luther King's birthday as a legal holiday; "aye" on rollcall No. 652, House Concurrent Resolution 200 expressing the sense of Congress regarding the Baltic States and Soviet claims to citizenship over certain U.S. citizens; "aye" on rollcall No. 653, passage of H.R. 5235, Uniformed Services Health Professionals Special Pay Act; "aye" on rollcall No. 654, to close parts of the conference committee on H.R. 5259, Department of Defense appropriations, for national security reasons; "aye" on rollcall No. 655, amendment to H.R. 440, continuing appropriations, to prohibit use of funds therein for economic and military aid to Iran; "aye" on rollcall No. 656, rule on H.R. 2727, Meat Import Act.

Had I been present on November 14, 1979, I would have voted "aye" on rollcall No. 657, approval of the Journal; "aye" on rollcall No. 649, amendment to H.R. 2727, Meat Import Act, to increase minimum access levels to 1.3 billion/lbs.; "aye" on rollcall No. 660, passage of H.R. 2727, Meat Import Act; "aye" on rollcall No. 661, rule on H.R. 2063, Public Works and Economic Development Act; "no" on rollcall No. 663, striking Regional Development Commission language for certain provisions of H.R. 2063; "no" on rollcall No. 664, motion to recommit H.R. 2063 with instructions to readjust authorizations for public works standby programs; "aye" on rollcall No. 665, passage of H.R. 2063, to amend and extend authorization for Public Works and Economic Development Act; "aye" on rollcall No. 666, amendment to H.R. 2313 Federal Trade Commission Improvement Act, to prohibit the agency from promulgating the proposed funeral rule.

Had I been present on November 15, 1979, I would have voted "aye" on rollcall No. 667, rule on H.R. 2626, Hospital Cost Containment Act; "aye" on rollcall No. 668, the Gephardt substitute for H.R. 2626; "aye" on rollcall No. 669, passage of H.R. 2626, Hospital Cost Containment Act.

Had I been present on November 16, 1979, I would have voted "aye" on rollcall No. 671, instructing conferees for H.R. 2440, Airport and Airways Development Act, to agree to Senate language regarding solicitations at airports; "aye" on rollcall No. 672, conference report on H.R. 4391, military construction appropriations; "aye" on rollcall No. 673, passage of H.R. 2335, Solar Power Satellite Research and Development Act; "aye" on rollcall No. 674, conference report on S. 1319, military construction authorizations; "aye" on rollcall No. 675, rule on H.R. 3994, Solid Waste Disposal Act; "aye" on rollcall No. 676, rule on H.R. 3546, Federal Insecticide, Fungicide, and Rodenticide Act; "aye" on rollcall No. 677, rule on H.R. 3580, amendments to the Rural Development Act.●

MILITARY CONVERSION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mrs. SCHROEDER. Mr. Speaker, military conversion recently has become an important issue in the Denver area. With 1 out of every 10 jobs in Colorado directly dependent upon military spending, conversion of Rocky Flats to a civilian industry would be no easy task. Still, the result would probably be safer for local residents, and we could expect to produce more jobs than with a military enterprise.

Five church agencies have recently filed a shareholder resolution with Rockwell International, which manages the Rocky Flats plant. These church agencies are: Sisters of Loretto, Ladies of Bethany, Capuchins, Dominican Priests, and Fellowship of Reconciliation. Their resolution was submitted to me by the Interfaith Center on Corporate Responsibility (ICCR), which coordinates the shareholder activities of an ecumenical coalition made up of 14 Protestant denominations and over 175 Roman Catholic orders and dioceses.

It is with pleasure that I share with you the resolution on Rocky Flats. I hope that such popular involvement in the conversion issue increases substantially in the near future:

Rockwell International

Whereas Rockwell International manages the Rocky Flats plant in Colorado which produces the plutonium components for all U.S. nuclear weapons;

Whereas the Governor and State and Jefferson County Health Departments have voiced concern about the health and environmental hazards posed by the plant;

Whereas the Colorado Medical Society has urged the Department of Energy to establish a timeline for converting the facility to nonnuclear uses;

Whereas members of the Colorado Congressional delegation have called for governmental and independent assessments of alternative uses for the facility and the potential reemployment of its workers;

Whereas Rockwell's operation of Rocky Flats exposes the Company to unfavorable publicity and costly and damaging lawsuits due to off-site contamination and possible future accidents;

Therefore be it resolved, That the shareholders request the Board of Directors and Rocky Flats management to:

A) establish a joint management-labor committee to begin exploring possibilities for conversion of the plant to non-nuclear, civilian oriented activity from its present military mission; and

B) cooperate fully and provide all necessary information for conversion planning and assessment studies conducted by local, state and federal agencies.

STATEMENT OF SECURITY HOLDER

Rockwell's role in operating the Rocky Flats facility has generated increased controversy and criticism in the past year. An open letter signed by over 500 prominent Americans, including scientists and religious leaders, urged the Company to re-examine its involvement with nuclear weapons production. Thousands of Colorado citizens have participated in rallies calling for the plant's conversion. Under the pressure of growing public concern, the DOE has undertaken an internal study of Rocky Flats, its safety and long-term future.

The potential risks to human life and health, as well as the long-term costs of radiation contamination and cleanups, far outweigh any benefits to the Company gained by continuing to operate Rocky Flats. In addition, the nuclear arms race has serious economic, moral and social consequences that shareholders cannot ignore. It is in the Company's interest, we believe, to make preparations for the conversion of Rocky Flats.●

THE POSTAL SERVICE: SUCCESS OR FAILURE?

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. CORCORAN. Mr. Speaker, I would like to insert in the Congressional Record the following excerpted statement by our Postmaster General, Mr. William F. Bolger, on the status of the U.S. Postal Service at the end of fiscal year 1979.

The U.S. Postal Service has, for the first time in decades, realized a surplus and Mr. Bolger is understandably proud to have been the captain of the ship at such a time. He is to be commended for his leadership. The statement made here squares with testimony before the Committee on Post Office and Civil Service, of which I am a member, and is evidence of the continuing efforts of all those involved with the Postal Service to improve that Service.

Mr. Bolger discusses herein the problems caused in a labor intensive industry by today's runaway inflation and he raises the more basic issue of future financing sources for the Postal Service. As he points out fiscal year 1980 is projected to have a $600 million deficit. If we are to continue to have a Postal Service second to none with universal mail service for all Americans at reasonable rates, this and future deficits will have to be addressed by our Postmaster General Mr. Bolger and the Congress.

Nonetheless, the USPS record for 1979 is a good one and I commend it to my colleagues for their consideration:

The Postal Service: Success or Failure?

(By Postmaster General William F. Bolger)

Good afternoon, ladies and gentlemen. I welcome this opportunity to participate in this prestigious forum.

We are today grappling with an economy that defies comprehensible description, let alone accurate prediction. With unemployment at six percent, inflation topping 13½ percent, the prime rate at 15¾ percent and the bond market in great disarray—clearly we have cause for concern.

And, even though the overall profits of American Corporations stayed surprisingly high through the third quarter of 1979, some industries suffered severe setbacks.

I mention these facts because I think they provide an important backdrop to my major subject—the Postal Service and its role in our society and economy.

The underlying, overriding reason the Postal Service exists is to serve you and all of our customers. Service is our last name but our first priority. Since business mailers account for 80 percent of our volume, we have found it particularly necessary and instructive to seek their counsel and adopt their proven techniques. Our partnership dates back to Postal Reorganization in 1971.

Prior to that time, as you know, our difficulties were legion. We were sustaining heavy losses year after year, losses in terms of financial deficits, employee morale, and customer confidence.

In the four years immediately preceding Reorganization, for example, we showed a negative productivity figure of 2.5 percent in terms of pieces per work year and there was a general feeling something had to be done about the post office. That feeling grew enormously in the spring of 1970, when a strike by postal unions virtually halted much of the nation's mail.

Five months later, the Congress enacted the Postal Reorganization Act, the principal portions of which went into effect July 1, 1971. The necessity of Reorganization was obvious; the attainment of its goals, though entirely desirable, was less easy to discern.

The mandated goals were:

To provide quality mail service;

To improve working conditions for employees and make their wages and benefits comparable to those in the private sector;

To charge fair and reasonable rates; and

To achieve financial self-sufficiency.

That was an enormous challenge, particularly for an organization the size of the Postal Service. The final item alone, the one on the balanced budget, seemed to border on impossibility. The organization had run multi-million dollar deficits every year since 1946, spilling over into the billion-dollar category in 1967, '68, '69, and '70.

Further, postal facilities were old and crumbling and usually located in exactly the wrong place, near rail lines that no longer met our transportation needs.

It was, in the late Sixties and early Seventies, a system that greatly resembled the one in which our founder, Benjamin Franklin, grew up. Hand sorting into pigeon-holed cases was the normal way of mail processing, almost as if the entire industrial revolution with its miracles of mechanization had never taken place.

The overwhelming majority of people who came to work for the post office retired from the same jobs in which they had begun. There was little hope for advancement—unless, in the common phrase of those political days, you "knew someone."

In short, America's postal system was in shambles and the prediction of former Postmaster General Lawrence O'Brien seemed destined to come true, for the post office seemed truly "in a race with catastrophe."

In exactly the way the Marshall Plan was needed to rebuild Western Europe, so a Marshall Plan was needed for the post office.

This past July marked the eighth anniversary of the start of this plan—the Postal Reorganization Act—and it is very appropriate to ask, how well has this plan done?

My answer is: It has worked very well, so well, in fact, that I believe I can say with no exaggeration that the Postal Service today is in the vanguard of good government and that America enjoys the best postal service of any nation in the world.

Those are bold words, I know. And I appreciate that many people do not share my opinion. In fact, one doesn't have to look far to find someone lamenting "the crisis in the post office" or "the Postal Service mess" and advocating that, once again, the system be pulled up by its roots and refashioned in some new form, or worse yet, returned to the old.

While these are the popular and easy things to say, the fact is they are simply not accurate. For, ladies and gentlemen, there is no crisis in the post office . . . and there is no mess. And consequently there is no need to fix something that isn't broken.

Why, then, is the perception that something is wrong in the Postal Service so widespread?

I believe the chief reason is rooted in what people think about government these days.

Whether right or wrong, when most people talk about government, they are likely to give a highly critical assessment that goes something like this:

We all know, they say, that government is fat and lazy and inefficient—that all government agencies want is more and more of the taxpayer's dollars, for which they give less and less service.

They will also say, generally, that government is mismanaged, with excessive payrolls and exorbitant waste.

Furthermore, they also will add that government is extending its authority too far . . . that it does things for its own convenience, not the public's, and that its chief product is red tape.

Unfortunately, since the Postal Service is the only arm of the federal government that reaches out and touches every household in the country, six days a week, 52 weeks a year, more than a little of this ill feeling toward government inevitably rubs off on us. . . . How fair are these charges? Personally, I think they are overstated. In government, there are the usual share of good and bad decisions, and efficient or inefficient people that one finds anywhere.

But, I would not presume to argue the case for the quality of all of government, for it is not within my knowledge or competence. I do know, however, that these charges certainly do not describe the Postal Service.

Can an organization be considered fat, lazy and inefficient that over the last eight years reduced its workforce by some 75,000 employees while its workload increased by almost 14 billion pieces a year?

Yet that is the record of the Postal Service.

Can an organization be considered a sponge soaking up taxpayer dollars that has cut its dependence on subsidy to nearly a third of what it had been?

Yet that is the record of the Postal Service.

Can an organization be considered mismanaged and wasteful when for the first time in 34 years—I repeat, 34 years—it has turned the red ink on its balance sheet into black?

Yet that is what the Postal Service has done this year.

And can an organization be considered unresponsive and guilty of serving its own convenience when it goes out of its way to listen to its customers and produces such innovations as our presort program and dozens of other red-tape-cutting/customer convenience measures?

Yet that, too, is the record of the Postal Service.

It is not a perfect record—not by any means.

The Postal Reorganization Act pointed us in a general direction, but it did not show us the way. In our early years, lacking any precedents, this often meant a process of trial and error. Mistakes were made, and certain steps had to be retracted. And it certainly did not help, as we struggled to find this new way, to be hit by runaway inflation and the brand-new problem of an energy shortage.

Despite this, however, the facts speak for themselves.

While reducing our payroll by 75,000—from 740,000 in 1971 to some 665,000 this year—we saw our annual volume grow from 86 billion pieces to 100 billion pieces.. This translates into a productivity gain of more than 23 percent.

Such a gain would be noteworthy in any context. But when measured against the fact that it broke a decades'-old tradition, it is, in my opinion, even more impressive. And when measured against what has happened in the private sector, it becomes still more impressive.

In the Post Office Department, growth in mail volume was often considered a problem—not an opportunity. It was often discouraged, but when mail volume still grew, there was one answer to the problem: Hire more people . . . throw more manpower at the mountain of mail.

While that might have been a defensible posture in those days when postal wages were below industrial standards, it is certainly not today when the average clerk and carrier earn some 21 cents a minute, with fringe benefits.

Further, with personnel costs consuming about 85 cents of every postal expense dollar, the new management recognized what it had to do. It began mechanizing, building modern plants, imposing modern methods, and—above all—applying good old-fashioned, time-proven, hard-nosed management planning and control.

As a result, the amount of mail processed mechanically has grown during this period from 25 to almost 70 percent, and cost-awareness and concern about productivity have become a way of life in the post office.

At the same time, we awakened to the fact that since we are obliged to come to your door everyday, whether we have one piece or a dozen pieces of mail for you, we had to increase and encourage volume growth to offset our fixed costs. And this, in turn, has produced a Postal Service that is marketing- and customer-oriented and determined to make it easier and more advantageous for everyone (particularly its major mailers) to do business with us.

This strategy is paying off.

While there is no question that rates rose too often in the early years of Reorganization, we are frankly proud of the fact that we were able to go 2½ years before our last general rate increase, from December 1975 to May 1978. We are equally proud that we will have gone another 2½ years before the next rate increase.

Just in case you somehow have missed it, we are still holding fast to our earlier commitment that there will be no general rate increase until 1981.

Our postage rates—which, by the way, are the lowest of any industrialized nation—will remain unchanged for at least the next 13 months. And in today's inflationary climate, I think any fair-minded observer must agree that that is a noteworthy accomplishment.

In addition, we are also proud of our bottom-line financial results. As I mentioned, the Postal Service has completed fiscal 1979, the year that ended September 30, with its first surplus since 1945. The results of an audit just completed show that the Postal Service ended the year $469 million in the black.

It is this surplus that will enable us to keep our commitment to hold rates as they are until at least 1981.

And it is this surplus that indicates more than anything else how far your Postal Service has come in the eight years since Reorganization.

There are some who have charged that this surplus is the result of some bookkeeping maneuvers, not of sound management. This is absolutely false.

Our methods of accounting have not changed and our books continue to be certified by outside auditors of the highest reputation, Ernst and Whinney International, formerly Ernst and Ernst.

Furthermore, the true picture emerges by looking at the trend line of the last four years. This shows constant progress, with our deficit dropping from $1.2 billion in 1976 to $688 million in 1977 and to $379 million in '78, before breaking into the black in '79.

And, I don't believe you saw any other agency except the Postal Service tell the Congress this year that we did not need the increased subsidy proposed in pending legislation. Yet that is what we were able to do.

So this progress, financial and otherwise, is no fluke. It is solid and it is real.

In fact, we follow the conservative business practice of accrual accounting, unlike most of the rest of government. We do so because the accrual accounting method properly treats long-term liabilities as a current-year expense and thus gives a more accurate picture of an organization's financial status.

Throughout this recital, I have not mentioned service, and one may be tempted to think service has been sacrificed to productivity and financial concerns.

But the answer to that, I think, best lies with you, our customers. While I'm certain you have problems with your mail from time to time, I think you know from your own experience that our system is indeed sound and reliable.

. . . Instead, our measurements show us on an even keel, and these results are verified by outside measures. For example, in the past year, 10 newspapers that we know about—including the Los Angeles Herald-Examiner—conducted surveys and in all but one instance found service to be better than they had presumed it to be.

In addition—and despite the tendency of the public to be skeptical about us—a recent Roper survey shows that 83 percent of a national sampling said they were either fully or fairly satisfied with our service—a rating, I might add, just a point below that of the phone company.

As pleasant as it might be to continue by painting only a rosy picture, I must put these facts in the broader perspective.

We know we cannot expect to reap a surplus every year. For one thing, we are a public service whose goal is not to make a profit, but to live within our income, and in today's hazardous economic climate which I mentioned earlier, double-digit inflation is hitting us every bit as hard as it is hitting you.

All of us are in the grips of an inflation explained by its most simple, yet profound, classic definition: There is too much money chasing too few goods.

In this context, I expect that the Postal Service will return to a deficit posture next year. Now, we could have avoided this deficit by increasing our postage rates in 1980. However, the broader effect of a rate increase—such as fueling inflation and possibly driving away some of our customers to other forms of delivery—had to be taken into consideration

Instead, we carefully examined our cash flow and overall financial position and determined that we could absorb this loss in 1980. By doing so, we will be able to hold the line on our rates until 1981

The crucial fact is that we are preparing to cope with this deficit. To keep it as low as possible we are doing all that we can to increase our productivity and to decrease our energy consumption.

Where it had been predicted that our deficit could reach $1.2 billion, we intend to halve it to no more than $600 million.

But, what is troublesome to me—and ironic, considering where we were just eight years ago—is that the results of postal productivity increases and reduced energy consumption can be diminished and even negated by what happens in the rest of the nation.

Last fiscal year, for instance, while we increased our productivity, in the private sector it actually declined, even though wages were skyrocketing. And, as a result, it's no wonder that inflation reached one of the highest levels in the United States history.

Frankly, it's time everyone in this country realized—including management as well as labor, and let's include the politicians too—the only way to combat inflation is to reverse the current practice of tying wage increases to it. In my opinion, they should be tied to increased productivity, and only increased productivity.

The problem is that inflation has far exceeded the bounds of simply an economic problem. It is a political, psychological, and social problem, as well.

And the biggest problem of all is that no one wants to face the fact that the real culprit is each and every one of us, and our assumption that we are entitled to increase, or at least maintain, our purchasing power as individuals, and our profits in business.

That assumption—if we are to reduce inflation—is simply no longer valid

It's going to be tough to do and hard to sell, but we must stop responding to price increases with wage increases. And better still, we must find ways to produce more and better products and services without price increases

Another great weakness in the national economy which seriously affects our efforts in the Postal Service is the area of energy.

Escalating oil prices have been a primary cause of inflation, threatening our economic vitality. In this challenge, however, there is also opportunity—opportunity for the American people to once more take the lead. We have captained our fate too well and too long to shrink in the face of this latest crisis.

At the Postal Service, we have taken significant steps over the past six years to reduce our energy needs. Our economic concern—a nearly billion-dollar energy bill each year—is not as important to us as the moral imperative involved here.

The Postal fleet, the third largest in the world, uses some 350 million gallons of gasoline each year. Additionally, we heat, light, and cool over 190 million square feet of space in our facilities nationwide. To meet this challenge in 1973, we established rigid guidelines on energy efficiency for our buildings and on reduced fuel consumption for our vehicles.

As a result, in Fiscal Year 1978, our overall use of energy was down more than 597 billion B.T.U.s compared with Fiscal Year 1975—and this in spite of a 12 percent increase in the amount of building space.

In barrels of oil—a measure with which we are all painfully familiar—between Fiscal Years 1977 and 1978, the Postal Service saved 630,000 barrels, and, between Fiscal Years 1978 and 1979, we saved an additional 450,000 barrels.

We believe we have finally and effectively turned back the upward spiral of our energy consumption. And, we are determined that future figures on our energy flow charts will move downward in similar—if not better—fashion.

In summing up, therefore, I think it is accurate to say that in eight years—eight short years, in historical terms—the Postal Service has succeeded in becoming a responsive and responsible operation—one that is doing its assigned job well, and one which is conscious of, and contributing to, the solution of other national problems.

I state this not just because these are facts that I am proud of, but because I believe this is information of practical value to each of you, and to every American.

In varying degrees, the Postal Service is important to you, and your business or organization is linked to the health of our universal delivery system. I believe it is in your interest as well as ours to see that the mail system continues on the right track.

And, to go back to what I said at the beginning of my speech, I think the best way you can do this is by rejecting the "easy answers" about the Postal Service that are neither easy nor accurate.

There are, for example, still people who believe that the clock should be turned back on the Postal Service and the old ways of heavy subsidies and politics should be returned. They apparently believe that if only Congress would make a small infusion of taxpayer dollars, then postage rates would not go up and all would be rosy.

They neglect the fact that no subsidy has been invented yet that will curb inflation, and that subsidies work to increase the appetite of unions at the bargaining table, and to create the illusion among managers that maybe they don't have to work as hard at managing costs.

Further, if one seriously wanted to keep postage rates at the same level, the cost of the subsidies would be anywhere from an additional $2½ to $4½ billion per year over the next several years.

Is it realistic to think that Congress would vote such massive funding in the current climate? The answer is an absolute no.

Barring such relief, I maintain the best hope for every American concerned about postal rates and good postal service is to press actively for the continued business-like operation of the institution . . .

. . . to lend his or her voice to correct ill-informed charges of "the mess in the post office" . . .

. . . to put the facts about the Postal Service in perspective, acknowledging that, yes, though mistakes are made, there also has been much progress.

It is this type of realistic thinking that we need to apply to all of our national problems—thinking that rejects slogans and cliches.

And it is this type of thinking that will help insure that we in the Postal Service keep performing for you as you want and expect—and deserve.

Thank you very much for your time and attention.●

REMEMBER THE POLISH HOLOCAUST

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. KEMP. Mr. Speaker, this fall I was privileged to attend a dinner of the General Pulaski Society of Buffalo, N.Y. where His Eminence John Cardinal Krol paid tribute to the history of Poland's dedication to democracy, as I do today.

Cardinal Krol commented on the history of the Polish people that offers "a 10-century example of how deeply they understood and practiced the church's teachings on human dignity and human liberty":

> In their long history (Poles) manifested a passionate devotion to liberty: their own as well as that of others. They lived with the conviction that freedom is indivisible—that freedom is for all—that unless all are free, freedom is in jeopardy. They lived by the maxim. "Polak Nie Sluga."—"A Pole is not a Serf," and to safeguard freedom they helped others to fight "for your freedom and for ours."

Before the war Poland was a country of religious toleration for all—Catholics, Protestants, and Jews. Poland was known as a "paradise for heretics." But for the last 30 years Poland has been subjugated by a government which has never disguised its objective of suppressing all political and religious observation and all belief in God.

THE POLISH HOLOCAUST

On September 1, 1939, Nazi Germany attacked Poland, precipitating World War II and setting the stage for a gruesome Polish Holocaust. In the course of the war, terrible atrocities were committed by both the Nazis and the Russian Army against the Polish people who fought for their freedom against communism and fascism.

In the spring of 1943 the bodies of 4,000 Polish P.O.W. officers were discovered in the Katyn Forest in the U.S.S.R. These 4,000 officers had been brutally executed by the Russian Army and the fate of another 11,000 officers has never been determined.

The war touched everyday citizens, not only soldiers. Auschwitz was established for the persecution of the Polish intelligentsia, whom the Nazis felt were a distinct threat to them. The camp was used for interrogation, torture, and extermination.

On August 1, 1944, the citizens of Warsaw united and began the tragic Warsaw Uprising—a battle which was to last 63 days in an attempt to overcome Warsaw's Nazi captors and to liberate the Polish capital. Almost the entire city was destroyed—some 20,000 people, men, women, and children, lost their lives while the Soviet Army "waited" in the outskirts of Warsaw.

I would like to share with my colleagues a story that illustrates the heroism and humanity of the Polish people during these dark days.

Raymond Kolbe was born on January 8, 1894, in Zdunska Wola, Poland. He entered the Franciscan order, adopting the name of "Father Maximilian." As a Franciscan at the monastery in Niepokanow, he became known for his talents as a printer-editor, founding several Catholic writings and literary publications. As his priestly career matured, he was sent to Japan, where he resided between 1931–35. He returned to Poland and, on February 17, 1941, was taken by the Nazis to the Auschwitz death camp, along with many other Poles. Incarcerated in Compound No. 14, Father Maximilian bore prisoner number 16670 on his forearm.

Following the escape of several prisoners from Auschwitz in the summer of 1941, the Nazis selected a number of persons, at random, for death, as had been the custom in such circumstances. One of those selected, a Polish Army sergeant by the name of Francis Gajewniczek (prisoner No. 5659), had been a fellow inmate of Father Maximilian. The doomed prisoner tearfully pleaded for his life, exclaiming that he would never again be able to see his wife and children. Moved by this display of grief, Father Maximilian calmly requested an audience with the camp authorities, offering his life in place of that of his fellow inmate. Although surprised by the priest's peaceful tone and most unusual sacrifice, the authorities nevertheless consented.

Father Maximilian was cremated in the ovens of Auschwitz on August 15, 1941. Since that time, the story of his heroic and selfless deeds has become known throughout the world. In 1971, the Vatican conducted beatification proceedings for Father Maximilian with a view toward canonization as a Saint of the Roman Catholic Church. After hearing hundreds of witnesses, examining countless documents, and investigating the priest's entire life, the Church declared him as the Beatified Father Maximilian on October 17, 1971.

The story of Fr. Maximilian is only one of millions of stories of innocent victims of a concerted effort to destroy the freedom-loving Poles. They are stories too often forgotten in the modern wish to bury the horrors of the past and to live for the future.

George Santayana once said, "Those who cannot remember the past are condemned to repeat it."

There is a lesson in the Polish Holocaust for all of modern América. It is a lesson of perseverance, of determination in defense of right in the face of indescribable evil, and of hope for the future. In his address before the General Pulaski Society, His Eminence Cardinal Krol said of the enslaved state of Poland, "Communists have failed to prove that there is no God, they merely proved that there is a devil."

I believe it is appropriate that we, as Americans who value democracy and freedom, commemorate those brave freedom fighters who perished and suffered in the Polish holocaust during World War II.

I urge my colleagues to cosponsor and support my bill to observe and honor those who heroically perished in the name of freedom.

The text of the legislation follows:

REMEMBER THE POLISH HOLOCAUST

H.J. RES. 452

Whereas on September 1, 1939 Nazi Germany invaded Poland thus precipitating World War II; and

Whereas Poland was the first country to offer resistance by force to the Nazi invasion; and

Whereas the people of the Republic of Poland were colleagues of the allied nations during World War II; and

Whereas the Polish people fought to preserve their nation from fascism and communism; and

Whereas Polish forces fought in the West—in the battle of Britian, at Narvick, in Africa, Italy, France, Belgium, and the Netherlands; and

Whereas Poland suffered immeasurably from oppression inflicted upon its people, of all faith, on the battlefield and in the concentration camps; and

Whereas Auschwitz was established as a concentration camp for Polish citizens by the Third Reich; and

Whereas at the massacre at Katyn in the spring of 1940, 4,000 Polish prisoner-of-war officers were murdered by Soviet soldiers; and

Whereas Poland lost approximately five million of her citizens, of all faiths, both Christians and Jews, between 1939 and 1945 as a result of the War: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in memory of all the victims of the Polish Holocaust, during World War II the President is requested to issue a proclamation calling upon the people of the United States to remember the atrocities committed by the Nazis and Russians upon Poland during World War II and to commemorate Poland's struggle for liberty, freedom, and democracy with appropriate ceremonies and activities.●

A RETURN TO TRIBALISM

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 3, 1979

● Mr. BONKER. Mr. Speaker, the holiday season is upon us. Stores are jammed, carols peal from our radios, children write to Santa, and the words "Peace on Earth" appear in sermon titles and on Christmas cards. Yet, during the season when unity and "good will among men" should be the watchwords, we instead find ourselves reverting to our separate loyalties as the continuing crisis in Iran and the precarious condition of our citizens held hostage in that far-off Embassy remind us of our differences. For that reason, I commend to your attention the following article which appeared in the pages of the Washington Post.

The article follows:

A RETURN TO TRIBALISM

(By Meg Greenfield)

From the outset, the "old" and the "new" have been mixed up in the Iranian affair in an absolutely disorienting way. This was nowhere better expressed than in Mike Wallace's "60 Minutes" interview with the ayatollah and the commercial static it prompted. There he was—pure 7th-century man. And yet we were to learn that there had been a terrible ruckus over which network got what and that somehow the holy man of Qom had understood the elaborately murderous relationships among CBS, NBC and ABC (does he study the ratings?) and had taken the exigencies of their competition into account. In the end, there had been a little something for each.

This play back and forth in time is important to understand. Many Americans, staring in disbelief at the breakdown of diplomatic ritual and civility and relating it to the rise of terrorism and mob policy, seem to think they are in the presence of something revolutionary—something that is frightening precisely because it is unmeasured, unfamiliar, "new." But the truth is that when you step behind all the imagery and message-sending and related stage play, you find that you are in the presence of habits and techniques that are very, very old. We are witnessing a reversion, as distinct from a revolution. And to some extent, of necessity, we are participating in it. Hostages, siege warfare, tribalism—it is all there.

At the State Department and among the consultancies to government, a great deal of work has been done on the psychology of these various disturbances. We know more than we did just a few years ago about the byways of the terrorist mind. And the new lore has been helpful in knowing how to approach the people who commit these acts and what is likely to calm them down and what may set them off. There has been considerable work done, with benefit of 20th-century psychological insights, on mobism, mob-think and the mentality of the mob in general. But what is novel here is the science, not the phenomena themselves that are the objects of this baleful study.

"Friends, Romans, countrymen . . ."—Marc Antony knew as much as the ayatollah does about how you get the mob inflamed on your side, and Shakespeare understood how the Romans used the mob. These seething, lunging masses of humanity are an ancient form of weapon, contemporaneous with the spear, the crossbow and now, as it seems, the MIRV. Leaders unleash them and sometimes pretend they are not their leaders but their helpless pawns. Sometimes it turns out that they do lose control.

Siege warfare and the taking of hostages are of equally ancient lineage, of course. There is a wonderfully sentimental idea around that warfare used to be—somehow—more decent and honorable (dare one say *fun*?) than it is now and that combatants were splendid figures in armor or operetta garb doing harm only to one another as consenting adults will. The gore of innocents, however, is torrential in history, and there didn't used to be all that much fuss made about it. The besieged city was intended to surrender when conditions within it had reduced the general population to a pestilence- and disease-ridden remnant. (Some armies used to catapult their own dead and decomposing soldiers over the walls and into the besieged city to hasten this result.) Populations and leaders were regularly taken for ransom.

So this is what we are headed back to, or at least what it looks to be at the moment, and the disintegration of that veneer of modern practices and assumptions we had thought went somewhat deeper is occurring in the name of a kind of worldwide return to tribalism. Courtesy of the tube and modern communications generally, there has developed a fine way to turn the whole world into a reverberating jungle in which the sounds of chest-thumping, howling near-men can be conveyed to each other across continents and seas.

For us, the temptation and the provocation have been severe. But that doesn't make the impulse to retaliate against their *tribe* here any prettier. "This is a punitive action and it's intended that way," a high official of a college in South Carolina observed the other day, in explaining why the school had actually kicked out all of its Iranians. "Some innocent people will suffer. But there are some innocents in the U.S. Embassay too." This is precisely the feeling that Khomeini has been trying to generate not only among his own people but, for example, among American blacks—a reversion to all our separate primal loyalties.

You could look at much about modern America and see in it the underlying themes that we find so offensive today. Our nuclear strategy is, in one sense, a holding hostage of great segments of the world's population, maybe all of it. Blockades, asset-freezing and so forth are forms of siege. And surely, in the manipulation-of-perceptions-of-reality department, our media and communications technology and our public-relations industry—we actually endow university professorships and departments in these subjects—we are right out there in front. Nor can the Ayatollah himself be said to have dealt us our first blow in these terms. Tet was never so much a military victory for our adversaries in Vietnam as a public-relations and public-opinion victory. The Russians are also better than we are at exploiting these assets—clumsy klunks that they are in so many other kinds of conflict.

But even when you have acknowledged that the underlying themes and assumptions of much of American policy are simply more sophisticated versions of the psychological pressures being used against us now, you haven't covered what is genuinely distinctive about the current predicament or what our own vulnerability and distress in the face of it say about us. We are too "modern," too reason-bound, too successful, too powerful, too well off for it. Our weapons and our theories of their use disqualify us from conflict with the Ayatollah's minions, at least on a direct-confrontation footing (how fitting that when this terrible episode has ended, we will go back to our theologically finespun arguments about MX missiles and SS20 capabilities and the rest of the good book on SALT).

Our stake in our own prosperity is too great and historically novel to tempt us to great risk or to invite what-have-we-got-to-lose fatalism. The answer is we've got plenty to lose. Our vision of the "right" society, the "just" society, one that has faith, reason, the individual's rights and the group's well-being in the best relationship is just downright disqualifying for this competition in obscurantism, mass revenge and hatred.

We are in a hell of a pickle because of it. And we often do truly vicious things on our own motion or in response. Still, I think we will only find the right response in our 18th-century roots—the humanistic and rational sources of our society and our success. The democratic idea was never in worse trouble—and it never looked better.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 4, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 5

9:00 a.m.

Commerce, Science, and Transportation

To hold joint oversight hearings with the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources to review implications for future Outer Continental Shelf leasing, relative to the oilspill at Campeche, Mexico.

3106 Dirksen Building

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation to review implications for future Outer Continental Shelf leasing, relative to the oilspill at Campeche, Mexico.

3106 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To resume oversight hearings on HUD's administration and monitoring of the Clifton Terrace apartments in Washington, D.C.

1318 Dirksen Building

Armed Services

Manpower and Personnel Subcommittee

To hold hearings on S. 523, 1100, and H.R. 5235, bills to revise the pay provisions of medical personnel in the armed forces.

212 Russell Building

Foreign Relations

To hold closed hearings on U.S. military assistance to Egypt, and to consider S. Res. 235, concerning an evaluation of U.S. foreign policy, defense and security needs and the means for Congressional review and approval.

S-116, Capitol

Rules and Administration

Business meeting, to resume markup of S. 2018 and S. Res. 281, measures to simplify and clarify the system by which Senate committees are provided funds for their operating expenses, including staff salaries; and to consider other legislative and administrative business.

301 Russell Building

Select on Indian Affairs

Business meeting, to mark up S.J. Res. 108, to validate the effectiveness of certain plans for the use or distribution of funds to pay judgments awarded to Indian tribes; S. 1730, declaring that title to certain lands in New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe; S. 1832, authorizing the Secretary of the Interior to declare certain land to be Indian reservation land; and S. 1273, to restore Federal recognition to certain bands of Paiute Indians in the State of Utah.

6228 Dirksen Building

10:30 a.m.

Conferees

Closed on H.R. 5359, making appropriations for fiscal year 1980 for the defense establishment.

S-128, Capitol

2:00 p.m.

Environment and Public Works

Water Resources Subcommittee

Business meeting, to continue markup of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.

4200 Dirksen Building

2:30 p.m.

Finance

Private Pension Plans and Employee Fringe Benefits Subcommittee

To continue hearings on S. 1089, 209, 511, 989, 1090, 1091, 1092, 1240, and 1958, bills to provide certain tax deductions and credits for employee pension contributions.

2221 Dirksen Building

3:00 p.m.

Budget

To consider S. Res. 288, waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 1648, authorizing funds through fiscal year 1985 for airport development aid programs under the Airport Airway Act.

6202 Dirksen Building

3:30 p.m.
Select on Intelligence
To hold a closed business meeting.
Room S-407, Capitol

DECEMBER 6

8:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold oversight hearings to review the District of Columbia 1979 Summer Youth Program.
1114 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Business meeting on pending calendar business.
235 Russell Building

Foreign Relations
To hold hearings on S. 2012, proposed Special Central American and Caribbean Security Assistance Act.
4221 Dirksen Building

Governmental Affairs
To hold hearings on S. 1945, to establish a procedure for congressional review of Federal agencies' rules and regulations.
3302 Dirksen Building

Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
To hold hearings on S. 938, to allow injured American companies the right to sue a foreign manufacturer for selling below the cost of production and selling in the U.S market below the price in the home markets.
5110 Dirksen Building

10:00 a.m.
Finance
Business meeting to consider cost-savings, and various tax and tariff proposals.
2221 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
Business meeting, to consider S. 1878 and 1879, bills to extend the authority of the General Accounting Office in areas relating to auditing procedures.
1114 Dirksen Building

11:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the procedures for the allocation of mass transportation funds, and to hold hearings on the nomination of Theodore Lutz, of Virignia, to be Administrator, Urban Mass Transportation Administration, Department of Transportation.
5302 Dirksen Building

DECEMBER 7

9:30 a.m.
Foreign Relations
To continue hearings on S. 2012, proposed Special Central American and Caribbean Security Assistance Act.
4221 Dirksen Building

Judiciary
To hold hearings on the nomination of John H. Shenefield, of Virginia, to be Associate Attorney General.
2228 Dirksen Building

10:00 a.m.
Joint Economic
To resume hearings on the employment-unemployment situation and price data information for November.
5110 Dirksen Building

DECEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Subcommittee
To hold hearings on S. 2002, to prohibit the use of the "Rule of '78" in the computation of computing rebates of unearned interest relative to consumer loans.
5302 Dirksen Building

2:00 p.m.
*Select on Indian Affairs
To hold hearings on S. 1464, to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.
5110 Dirksen Building

DECEMBER 11

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Richard J. Green, of New Jersey, to be an Associate Director of the Federal Emergency Management Agency; William J. Beckham, Jr., of Michigan, to be Deputy Secretary of Transportation; Susan J. Williams and William B. Johnston, both of Virginia, each to be an Assistant Secretary of Transportation.
235 Russell Building

Select on Small Business
To hold hearings on the structure of the solar energy industry.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2002, to prohibit the use of the "Rule of '78" in the computation of computing rebates of unearned interest relative to consumer loans.
5302 Dirksen Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 1452, to provide war risk insurance for American vessels.
457 Russell Building

DECEMBER 12

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.
235 Russell Building

9:30 a.m.
Select on Small Business
To continue hearings on the structure of the solar energy industry.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

DECEMBER 13

8:00 a.m.
Appropriations
District of Columbia Subcommittee
To resume oversight hearings to review the District of Columbia 1979 Summer Youth Program.
1114 Dirksen Building

8:30 a.m.
Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold closed hearings to review the current status of the strategic petroleum reserve program.
S-407, Capitol
5302 Dirksen Building

10:00 a.m.
Labor and Human Resources
Business meeting, to mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, National Endowment for the Humanities, and the Institute for Museum Services, and S. 1429, authorizing funds through fiscal year 1982 for programs under the Museum Services Act.
4232 Dirksen Building

DECEMBER 14

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.
235 Russell Building

9:30 a.m.
Labor and Human Resources
To hold hearings on the nomination of William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

2:30 p.m.
Labor and Human Resources
Business meeting, to consider the nomination of William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.
4232 Dirksen Building

DECEMBER 17

10:00 a.m.
*Energy and Natural Resources
Energy Regulation Subcommittee
To receive testimony on the current price and supply situation for petroleum fuels.
3110 Dirksen Building

Select on Indian Affairs
To hold hearings to determine whether the April 1, 1980, statute of limitations deadline should be extended for commencing actions on behalf of an Indian tribe, band, or group by the Federal Government.
1202 Dirksen Building

JANUARY 15, 1980

10:00 a.m.
Banking, Housing, and Urban Affairs.
International Finance Subcommittee
To hold hearings to examine U.S. trade and technological competitiveness with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.
5302 Dirksen Building

CANCELLATIONS

DECEMBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to insure equitable mortgage lending practices.
5302 Dirksen Building

DECEMBER 7

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to insure equitable mortgage lending practices.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

SENATE—*Tuesday, December 4, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. LAWTON CHILES, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who in Thy providence hast made all ages a preparation for the kingdom of Thy Son, make ready our hearts for the advent of Him who shall be King of Kings and Lord of Lords. Renew our faith in things spiritual. Keep the door of our hearts open to the divine entrance. Take away the barriers of cynicism and fear and doubt. Quicken in us a high sense of expectation for the divine breakthrough, the defeat of evil, the enthronement of good, the universal reign of Thy spirit. As Thou hast committed our work to us, we commit our cares to Thee.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 4, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LAWTON CHILES, a Senator from the State of Florida, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. CHILES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FARMERS HOME ADMINISTRATION CONTRIBUTES TO RURAL DEVELOPMENT

Mr. ROBERT C. BYRD. Recently, the Department of Agriculture submitted to Congress its fifth annual report on the progress of rural development programs. The Rural Development Act of 1972 requires that the report be made each year so that Congress may monitor programs designed to address rural problems.

The Farmers Home Administration is responsible for planning and executing several of these programs. The needs of rural Americans have caused changes to be made in the operation of Farmers Home. More emphasis is placed on economic growth in rural areas through better housing, water and sewer facilities, and industrial and business development. Cooperation between several Federal agencies, led by Farmers Home, has aided the effort to provide these services.

Farmers Home provides an outreach program to offer help to those in depressed rural areas who would not otherwise seek assistance. Loans for home repairs are an example of this type of activity.

Congress amended the Rural Development Act last year to provide that Farmers Home would pay a greater share of project costs for water and waste treatment plants. Under the new provision, more distressed communities will be able to improve the quality of their water. Farmers Home is working with EPA to insure that the projects meet the requirements of the Safe Drinking Water Act.

Initiatives in energy conservation and production are part of FmHA's new orientation. Low-cost solar water and space heating equipment is being demonstrated at six rural sites. The equipment is simple enough to be assembled and operated by people with only basic technical skills.

All homes with FmHA-subsidized mortgages will be subject to thermal performance standards designed to increase energy conservation. The 116,000 homes affected should experience a savings in energy equivalent to about 2 million barrels of oil per year, starting in 1980.

These programs are positive signs of effective rural development. The Farmers Home Administration should continue to seek the cooperation of other Federal agencies, and State and local officials as it implements our national rural development policy.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, I would like to reserve the leadership time until the time for the order that I have, which is next to the last one on the list. I ask unanimous consent that I may do that.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR COHEN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maine (Mr. COHEN) is recognized for not to exceed 15 minutes.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. COHEN. Mr. President, for over 2 weeks, the Senate has had under consideration the Crude Oil Windfall Profit Tax Act of 1979. Few would disagree with the notion that this is the most important energy bill ever considered by the Congress. In terms of its impact on our economy and our economic future, it may very well be the most important legislative measure—energy or otherwise—ever considered by the Congress.

Given its premier importance, I would like to share with my colleagues, and with my constituents, some of my thoughts on the legislation. In doing so, I hope that I can make a positive contribution to the debate on this vital measure.

The genesis of the windfall profit tax bill lies in President Carter's decision earlier this year to phase out price controls on domestic crude oil. By allowing the price of our oil to rise to world levels, the President hopes to stimulate additional domestic production and decrease demand for energy, thereby reducing our unacceptably high dependence on insecure and expensive imported oil.

While no one can predict with precision what the supply and conservation responses will be to the President's action, one fact emerges unchallenged: Oil price decontrol and the prospect of even higher world oil prices will lead to an enormous transfer of wealth from consumers to producers of energy. How much of this added wealth should be taxed for public purposes without curtailing incentives needed by the oil industry to increase domestic production is the central policy issue confronting the Congress. As the debate on the windfall profit tax bill has shown, consensus is extremely difficult to reach on this pivotal question.

The full House and the Senate Finance Committee have answered this question differently. In general, the House bill earmarks a greater percentage of the revenues resulting from decontrol and OPEC price increases for public purposes. In dollars and cents, the net windfall profit tax adopted by the Senate Finance Committee totals $138.2 billion, with the House figure nearly twice this total.

After carefully assessing the differing judgments of the House and the Finance Committee, I have concluded that the House bill will provide the oil industry with ample incentives to find and produce more domestic oil. Accordingly, I have supported amendments to strengthen the tax approved by the Finance Committee and opposed efforts to broaden or carve out new exemptions for the industry.

During the debate on this bill, we have heard much discussion about the need for proper production incentives. The questions that repeatedly occur to me are, what is the proper incentive and when does it exceed the capacity of our citizens to pay? Where do you draw the line, as my distinguished friend from Kansas (Mr. DOLE) has asked on numerous occasions during the debate?

For far too many Americans, the cost of energy has already exceeded their capacity to pay, and for countless others, this day is not far off. Without the special energy assistance programs we recently approved, millions of Americans could not meet their basic heating needs.

I would like to be able to share the boundless optimism of those who argue that with the proper incentives, we can produce our way out of the mess we are in. Unfortunately, the evidence supporting this position is very shaky.

As many of my colleagues will recall, the old crisis of 1973 provided the impetus for numerous studies which attempted to forecast energy supplies that might become available in the future at increased price levels. The majority of these studies yielded predictions about the U.S. energy situation that have been consistently more optimistic than reality proved to be. For example, 1973 supply forecasts of the National Petroleum Council indicated that this Nation would be awash in domestic oil if only we permitted the price to rise to $11 a barrel. Well, the price of oil is rapidly approaching $30 a barrel, while imports climb and domestic production continues its fall.

A week or so ago, I received a letter from the President of the American Petroleum Institute stating that with crude oil decontrol and no windfall profit tax, U.S. producers would be able to find and develop an additional 4 million barrels a day beyond what otherwise would be produced. Can I or any Member of this body be faulted for failing to accept such optimistic projections on blind faith when virtually every other study has concluded otherwise?

No domestic energy source has been treated more generously than oil over the years, yet we in Congress never seem to provide enough incentives. The promised land is always just another tax breakaway.

I do want to stress that I have no desire to punish the oil industry by enacting a tough windfall profit tax. Blaming the oil industry, OPEC, the President, the Congress, the environmental movement, or the Department of Energy for our energy situation may make us feel better, but such an exercise will only further distract us from the more urgent task at hand.

That task is to mold a comprehensive energy policy for our Nation that will result in adequate domestic supplies at the lowest possible cost to consumers. We must begin to look beyond the esoteric world of econometric models used to predict future energy scenarios and focus on the practical human suffering and economic chaos created by soaring energy costs. We must pursue a least-cost energy strategy that gives alternatives to oil including conservation, a fair chance, rather than supporting a policy that locks us into oil costing anywhere from $60 to $135 a barrel, the price some have suggested we will pay for the additional production resulting from the Finance Committee bill.

Our own Office of Technology Assessment recently issued a report indicating that using current technologies, Americans can cut energy use in new and existing homes and apartments by 50 percent or more with no loss in personal comfort or change in lifestyle. The equivalent of 19 billion to 29 billion barrels of oil could be saved by the turn of the century if people invested in their homes to the point of maximum dollar saving.

The Council on Environmental Quality, in assessing the potential of conservation, concluded that by increasing the productive use of energy with today's technology, the U.S. economy would operate on 30 to 40 percent less energy. Numerous other studies, including the excellent effort of the Harvard Business School, have been equally optimistic.

Conservation alone will not solve our energy problem. But there are many opportunities available at or below the present cost of oil that we must seize. Conservation is a major immediate alternative to more imported oil, and it must receive the emphasis in energy planning that it justly deserves.

The Finance Committee bill does earmark approximately $8.4 billion of tax receipts for expanded residential conservation programs. While I applaud these provisions of the bill, I cannot help but notice what a small pittance conservation receives when compared to the additional incentives for oil production.

The independent producer exemption, which was approved without my support, will result in a projected revenue loss of nearly $10 billion. Yet the production response to this exemption will be negligible. This amendment represents a misallocation of $10 billion that will not be available for conservation or for any other public purpose, however urgent it may be.

Mr. President, decontrol and a properly structured windfall profit tax will help stabilize the environment in which energy planning occurs. This legislation, when enacted, will signal to producers and consumers of energy what to expect in the next decade.

This is an important accomplishment. Past uncertainty and division on energy pricing have only served the interests of the oil cartel, while paralyzing energy planners in this country. As we know only too well, OPEC has skillfully exploited the indecisiveness which has so frequently characterized our energy planning. We need to look no further than Iran for confirmation of this fact.

Making energy choices is a complex and difficult business. It requires that we attempt to balance innumerable competing concerns, all important in their own right. In addition, the facts upon which we base our decisions are not always known or, for that matter, are the potential consequences of our actions.

For these reasons and others, it is probably an impossible task to devise an energy strategy that is completely equitable and pleasing to everyone. There will always be "winners and losers," real or imagined.

The recent report on energy prepared by Resources for the Future suggests what our objective might be as we proceed with this bill and other energy measures that will follow:

> Detente in the multifaceted conflict over energy policy might be achieved through an approach that meets the minimum requirements for acceptability by all important groups and thus creates an overall energy strategy which, while not the preferred path for any of them, is judged to be superior to some plausible outcomes by all of them.

Mr. President, no one is going to walk away from the debate on the windfall profit tax bill with everything he or she hoped for. But if all of us scale back our expectations and keep the national interest foremost in mind, we can produce a responsible and farsighted bill that will move this Nation toward energy security at an acceptable price.

There is no more urgent task facing us, and I look forward to working with my colleagues in this effort.

S. 2071—HIGHER EDUCATION MILITARY SERVICE STUDENT LOAN CANCELLATION ACT

Mr. COHEN. Mr. President, I am pleased to introduce today a bill to amend the Higher Education Act by providing forgiveness of Federal student loans under the national direct student loan (NDSL) and the guaranteed student loan (GSL) programs, in exchange for active duty or National Guard/Reserve military service.

My bill proposes loan forgiveness of $1,000 or 20 percent (whichever is greater) for each year of satisfactory service completed after enlistment in an active armed force. Similarly, it proposes $500 or 10 percent (whichever is greater) forgiveness for each satisfactory year of service completed following enlistment in the National Guard or Reserve. Five years of active or 10 years of Reserve service would provide 100-percent loan forgiveness.

This measure provides a positive incentive, at the time of enlistment, for people who have completed 1 or more years of college training financed through NDSL or GSL. More important, the incentive would encourage those considering reenlistment in the Guard or Reserve to achieve the years of service needed for 100-percent loan forgiveness.

The recent controversy over registration has clearly demonstrated the need for alternative methods of attracting adequate numbers of qualified young and men and women into the military. Whether or not we decide at some point to return to registration, it is essential that something be done to provide proper incentives to recruit and retain military personnel. Current shortfalls total 24,000 in the Active Forces and 130,000 in the Selected Reserve.

Reserve problems are especially acute. The number of those with some college background who are entering the Reserve enlisted ranks has dropped considerably since the end of the draft 7 years ago. Enlistees with some college background comprised 38 percent of Reserve recruits in 1972; in 1978, they represented 5.5 percent of inductees.

Under the Pentagon's total force policy, our Reserve Forces are particularly important. One point emphasized in our debate on the Nifty Nugget mobilization exercise was that it showed serious inadequacies in pretrained manpower—the primary source of personnel for augmenting Active Forces in all military emergencies, particularly in Europe.

My bill is designed so that the loan forgiveness benefit can be directed to the areas of greatest need in both the Reserve and Active Forces. The Secretary of Defense and the individual service secretaries would determine the number of participants in the program and military occupational specialties open to these enlistments. Priority would be given for service in areas of hostility.

This is the kind of program that will encourage young people to consider military service, particularly in the Reserves. At the same time, it will offer a new opportunity to pursue higher education to those who have considered forgoing college because of a reluctance to go into debt.

The Higher Education Act currently contains programs for student loan forgiveness and deferral to encourage students to devote time to worthwhile and necessary social needs. Certainly, encouraging military service is as worthy a purpose as many of the other programs in existing law.

Right now, we have problems, not only with military recruiting, but with Federal student loan programs as well. My legislation directly addresses both these problems. It does so in a way that entails minimal cost. At the same time, it offers the opportunity for long-term benefits both for the individuals involved and the Nation as a whole.

To finance their higher education, young people often have to borrow large amounts of money—and then find themselves starting their lives in debt. This bill provides young people with a way to borrow money, up to $3,000 a year, from the Government, or from a Government-guaranteed lender; they then pay it back over a period of years by serving the Nation on a part-time basis, whether they are in school or have graduated.

All of this can be accomplished at minimal cost. My proposal calls for a 5-year authorization, limited to $7 million in the first year and gradually increasing to $15 million in the last. It thus takes into account both continuing and new participants.

My bill does not conflict with other current incentive programs. This approach complements these programs by crediting education already obtained.

The program is targeted to a small, but definite need for more recruits with some higher education. It will have a positive impact on both the quantity and quality of active and Reserve Force military recruits.

If the incentive is not attractive—if it does not serve as an incentive for those with some college training to enlist—cost will be essentially nonexistent. But if it does succeed in attracting these top quality individuals, as I believe it will, it will be perhaps the most cost-effective incentive program ever implemented.

Young people worried about the cost of a college education will find an obstacle to higher learning removed. Those just graduated and saddled with large debts as they begin their careers will find an excellent way to reduce that debt. At the same time, they will be able to serve their country and repay the Government in a personal, positive way. Active duty military service will be one option. I expect, however, that Reserve service—where the need is the greatest—is likely to be especially appealing.

The merit of this proposal is reflected in the strong support it has received. The American Association of Community and Junior Colleges, the Non-Commissioned Officers Association, the National Guard Association, the Reserve Officers Association, and the National Association for Uniformed Services have all endorsed this proposal.

During the November 2 House debate on the Education Amendments of 1979, Representative TOM PETRI of Wisconsin proposed an amendment similar to the bill I am introducing today. His proposal was overwhelmingly approved by the House, by a 236 to 115 margin. The strong bipartisan support for the amendment during House consideration is clear proof of the importance of this measure.

Through this legislation, we have an opportunity to strengthen our military forces, particularly the Reserves, and to provide a positive program for those faced with repaying Federal student loans in a time when inflation already creates a burden for those just out of college and beginning their careers. It is a program that costs very little, but has the potential to gain us very much. I urge my colleagues to join me in supporting this initiative.

Mr. President, I yield back the remainder of the time to the acting minority leader.

Mr. STEVENS. Mr. President, I am happy to have that time. The next speaker has not yet arrived, surely assuming that the rest of us would consume more time. I would like, therefore, to suggest the absence of a quorum, with the time charged to the time just yielded to me by the Senator from Maine (Mr. COHEN).

The ACTING PRESIDENT pro tempore. Will the Senator repeat the last part of his request?

Mr. STEVENS. That the quorum call be charged to the time just yielded to me by Senator COHEN.

Mr. ROBERT C. BYRD. And that it be without prejudice to the following speaker.

Mr. STEVENS. Yes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR CHAFEE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Rhode Island (Mr. CHAFEE) is recognized for not to exceed 15 minutes.

AMENDMENT TO THE SALT II TREATY REGARDING VERIFICATION NEEDED

AMENDMENT NO. 732

Mr. CHAFEE. Mr. President, when the Senate Foreign Relations Committee published its long-awaited report on the SALT II treaty 2 weeks ago, it offered a recommendation regarding verification which I believe is particularly pertinent and worthy of consideration.

On Page 220 of its report, the committee recommended:

> That the Senate be promptly informed whenever a question concerning compliance is raised by either the United States or the Soviet Union. This will help the Senate monitor the compliance process.

This recommendation reflects one of the findings which the Senate Select Committee on Intelligence made during its intensive hearings on SALT verification this fall. This finding was that—

> The Congress was not supplied . . . intelligence information on SALT I monitoring.

And that—

> Intelligence of possible Soviet violation of the Treaty was . . . withheld from Executive branch officials who had a need for such information.

Mr. President, there can be no doubt that verification of compliance with the terms of the SALT II treaty—or any SALT treaty for that matter—is an essential element of whether or not this treaty is accepted by the American people and this Senate as being in the best interests of the United States. And I am confident that this treaty can be adequately verified.

But how, Mr. President, how can this body be sure that the verification process is working adequately if information on verification can be embargoed within the administration itself, and if the Senate is not kept informed on the status of the verification policy process?

In my judgment, Mr. President, we cannot be sure. And this exclusion of the Senate from the verification policy process is undesirable for several reasons as follows:

It prevents the Senate from having any current information on SALT compliance as determined by the verification policy process;

It allows the administration to delay introduction of possible violations, and to conceal the nature of Standing Consultative Commission (SCC) adjudication, for what may be purely partisan reasons;

It gives the administration complete discretion as to when the Senate will be informed about a confirmed violation and, alternatively, it gives the administration a good deal of latitude in deciding whether an activity is to be considered a "confirmed" violation at all;

It prevents the appropriate committees of the Senate from making timely and ongoing assessments of the SALT verification process—assessments that might affect their votes on related defense and intelligence issues;

It allows U.S. protests to the SCC to languish, sometimes for years, without bipartisan impetus for quick and satisfactory resolution.

In short, by excluding the Senate from the verification policy process, the current system denies the process the advantage of checks and balances which has worked so well in other areas of government.

For the past 2 months, Senators DURENBERGER, LEAHY, and I have worked to come forward with a legislative proposal that would address what we consider to be these problems with the current verification policy process. We have not been alone in addressing these problems, and several of our distinguished colleagues—most notably Senators GLENN, HUDDLESTON, and BAYH—have already offered possible solutions. Nonetheless, we believe that our proposals make an important contribution in the area of verification legislation, and we would like to offer the results of our work in two parts here today.

The first part consists of an amendment to the resolution of ratification of the SALT II treaty whose purpose is to make available to the Senate information relating to verification of compliance with the SALT II treaty.

This amendment contains an understanding that "nothing in the SALT II treaty prohibits the President of the United States of America from providing the Senate of the United States of America with information relating to verification of compliance with the SALT II treaty or relating to actions to insure such compliance."

The amendment also contains reservations which state that—

> (1) The President shall keep the Select Committee on Intelligence of the Senate fully and currently informed of:
>
> (A) any intelligence information that indicates compliance or possible noncompliance of the Soviet Union with the Treaty; and
>
> (B) any activity of the Soviet Union that is inconsistent with the objectives of the Treaty;
>
> (2) The President shall provide timely notification in writing to the Select Committee on Intelligence of the Senate of any questions, and the resolution thereof, relating to compliance with the obligations assumed under the provisions of the Treaty, including questions of unintended interference with the national technical means of verification of either party and possible violations, of the Treaty, that are raised by either Party in the Standing Consultative Commission and of such questions that the President determines shall not be raised with the Union of Soviet Socialist Republics; and
>
> (3) the Select Committee on Intelligence of the Senate shall prepare reports from time to time on the status of verification of compliance with the SALT II Treaty, including reports regarding questions raised in the Standing Consultative Commission, and shall provide copies of such reports to the Committee on Armed Services and the Committee on Foreign Relations of the Senate, as appropriate, in accordance with its rules of procedure and sections 4(A) and 8(c)(2) of Senate Resolution 400, Ninety-fourth Congress.

The second part of our proposal consists of letters to the chairman and the vice chairman of the Senate Select Committee on Intelligence—the distinguished senior Senator from Indiana (Mr. BAYH) and the distinguished senior Senator from Arizona (Mr. GOLDWATER) respectively—requesting that a subcommittee within the Select Committee on Intelligence be designated to have responsibility for the day-to-day oversight of SALT II verification.

We believe that this important task merits creation of a new subcommittee expressly for this purpose. At the same time, however, we would be content to see an existing subcommittee assigned this task, if its chairman and vice chairman indicated their acceptance of the burden they were being asked to assume.

The important requirement is that the committee create a clear focal point for verification oversight responsibility. Only when this is done and when the committee's access to full and current information is mandated, will we be comfortable in assuring the American people that the Select Committee on Intelligence is prepared to insure a vigorous verification policy on the part of the U.S. Government.

Mr. President, I ask unanimous consent that the amendment of the letter be printed in the RECORD.

There being no objection, the amendment and letter were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 732

On page , line , strike out "and".

On page , line , strike out the period and insert in lieu thereof a semicolon and "and".

On page , between lines and , insert the following:

"(N) the reservations that—

"(1) the President shall keep the Select Committee on Intelligence of the Senate fully and currently informed of—

"(a) any intelligence information that indicates compliance or possible non-compliance of the Soviet Union with the Treaty; and

"(b) any activity of the Soviet Union that is inconsistent with the objectives of the Treaty;

"(2) the President shall provide timely notification in writing to the Select Committee on Intelligence of the Senate of any questions, and the resolution thereof, relating to compliance with the obligations assumed under the provisions of the Treaty, including questions of unintended interference with the national technical means of verification of either Party and of possible violations of the Treaty, that are raised by either Party in the Standing Consultative Commission and of such questions that the President determines shall not be raised with the Union of Soviet Socialist Republics; and

"(3) the Select Committee on Intelligence of the Senate shall prepare reports from time to time on the status of verification of compliance with the SALT II Treaty, including reports regarding questions raised in the Standing Consultative Commission, and shall provide copies of such reports to the Committee on Armed Services and the Committee on Foreign Relations of the Senate, as appropriate, in accordance with its rules of procedure and sections 4(a) and 8(c)(2) of Senate Resolution 400, Ninety-fourth Congress.".

On page , line , strike out "and".

On page , line , strike out the period and insert in lieu thereof a semicolon and "and".

On page , between lines and , insert the following:

"(F) the understanding that nothing in the SALT II Treaty prohibits the President of the United States of America from providing the Senate of the United States of America with information relating to verification of compliance with the SALT II Treaty or relating to actions to ensure such compliance.".

SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C. December 4, 1979.

Hon. BIRCH BAYH,
Chairman,
Hon. BARRY GOLDWATER,
Vice Chairman,
Select Committee on Intelligence,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN AND MR. VICE CHAIRMAN: One important conclusion of the Select

Committee's report on SALT II monitoring is that "the Soviet Union will push to the greatest extent possible any advantages which the provisions or ambiguities of the SALT II Treaty might permit." Another is that "the Select Committee on Intelligence should be kept fully and currently informed on all intelligence concerned with the monitoring of the SALT II Treaty." Recently-introduced amendments to the resolution of ratification, such as those of Senator Huddleston and of ourselves, attempt to ensure that our Committee will acquire the needed information in a timely manner.

Our nation needs further assurance, however, that the Senate will oversee the SALT verification process in a thorough and responsible fashion. We believe it essential that a subcommittee be designated within the Select Committee on Intelligence which will have the responsibility for day-to-day oversight of SALT II verification This would assure the American people that there would be at least two senators, the chairman and vice chairman of that subcommittee, who accepted the task of being always up-to-date regarding this crucial information.

We believe that this important task merits creation of a new subcommittee expressly for this purpose. At the same time, however, we would be content to see an existing subcommittee assigned this task, if its chairman and vice chairman indicated their acceptance of the burden they were being asked to assume.

The important requirement is that the Committee create a clear focal point for verification oversight responsibility. Only when this is done and when the Committee's access to full and current information is mandated, will we be comfortable in assuring the American people that the Select Committee on Intelligence is prepared to ensure a vigorous verification policy on the part of the United States Government.

Sincerely,

JOHN H. CHAFEE.
DAVID DURENBERGER.
PATRICK J. LEAHY.

Mr. CHAFEE. Mr. President, basically what I am saying is that I think it is extremely important that once SALT II is approved, as I hope it will be, a continuing oversight on the verification policy be assigned to a committee—and I believe the Select Committee on Intelligence is the correct committee—in order that we can follow the proceedings that go before the Standing Consultative Commission or that do not go before the Standing Consultative Commission because of some particular reasons that the President has.

I think it is extremely important that the Senate, through the Intelligence Committee, be aware that the verification policy is continuing and that there be careful oversight throughout the life of the SALT II treaty.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

Mr. CHAFEE. Mr. President, how much time do I have left?

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island has 6 minutes and 18 seconds remaining.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I may yield 3 minutes to the distinguished senior Senator from Minnesota (Mr. DURENBERGER).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I am delighted to be joining my distinguished colleagues from the Select Committee on Intelligence, Senators CHAFEE and LEAHY, in introducing this amendment to the resolution of ratification for SALT II. Language requiring proper executive branch reporting to the Senate and a firm verification policy will go a long way toward removing certain public concerns regarding SALT verification.

Two very similar amendments have already been introduced—one by Senator GLENN, which the Committee on Foreign Relations has approved, and one by Senator HUDDLESTON and others from the Select Committee on Intelligence. I believe that the amendment which we are introducing today plows important new ground, however, by requiring that the Select Committee on Intelligence be kept fully and currently informed of all relevant intelligence information.

Our proposed understanding is also important. It would put the Soviet Union on notice that the Senate has a role in the verification process and is entitled to information on such matters as sessions of the Standing Consultative Commission. And I will introduce later a second understanding which will commit the executive branch not to use every ambiguity and imprecision in intelligence as an excuse for inaction in the face of any apparent Soviet noncompliance with SALT provisions.

I am confident that we who are concerned with SALT verification can combine our various proposals into an agreed version. And I believe that this amendment will make a distinct contribution to the confidence with which SALT verification can be assured.

Mr. President, the ability of the United States to verify Soviet compliance with SALT II has proved to be an exceedingly complicated question. The Senate Select Committee on Intelligence, in its report on SALT monitoring capabilities, found it essential that two conditions be satisfied:

A high level of funding for intelligence; and

A steadfast verification policy on the part of the executive branch.

In order to insure such a firm verification policy, the Intelligence Committee recommended that it "be kept fully and currently informed on all intelligence concerned with the monitoring of the SALT II treaty."

The commitment of the executive branch to sufficient funding for the intelligence community will be tested in the budget process. Just as members of the Armed Services Committee are concerned to insure that the defense budget is adequate to America's needs, so are the members of the Intelligence Committee determined to see proper funding levels for the organizations that will have to monitor SALT compliance.

Mr, President, the amendments to the resolution of ratification which my esteemed colleagues and I are introducing today are intended to make more likely the kind of firm verification policy which the Intelligence Committee recommends in its report. They are based upon a realization that fine intelligence collection and analysis alone are not enough to insure this.

The intelligence community must not only monitor Soviet activities, but also convey the information quickly and accurately to policymakers. Similarly, policymakers must have the fortitude to accept bad news and the courage to act resolutely on the basis of that information.

Both history and human nature, however, serve to remind us that such virtues are often in short supply. The messenger with bad news is no longer executed, but rarely is he or she promoted. Unpleasant facts are often ignored or denied. And since intelligence data are rarely unambiguous, there is always a way to make the clear conclusion fuzzy. There is always the option of calling for more studies, instead of timely action.

Mr. President, these reservations will make it much more difficult for policy makers to ignore or deny unpleasant intelligence. By requiring with the force of law that the Select Committee on Intelligence be kept "fully and currently informed of any intelligence information that indicates compliance or possible noncompliance of the Soviet Union with the treaty and any activity of the Soviet Union that is inconsistent with the objectives of the treaty," we will bolster the position of intelligence community officials, who recognize the need to provide this information. And we will make it most unlikely that a single official could put a hold on information that other officials ought properly to see.

Similarly, Mr. President, the requirement that the Select Committee on Intelligence be notified of issues raised in the Standing Consultative Commission and of their resolution will make it difficult for any administration to sweep an issue under the rug. And the fact that the committee would be directed to prepare reports which would be transmitted to the Committees on Armed Services and Foreign Relations guarantees that those committees will be kept fully apprised of these issues.

At the same time, however, by requiring that this classified information be provided to the Select Committee on Intelligence, we insure that the information will be covered under the security procedures mandated in Senate Resolution 400, 94th Congress. These procedures have worked impressively to safeguard sensitive national secrets, while providing reasonable procedures for any public release of material.

Mr. President, I intend later to introduce an understanding that the President shall take action regarding cases of Soviet noncompliance "whenever there is a reasonable probability that noncompliance has occurred," unless the President determines that a particular issue should not be raised with the Soviet Union for national security reasons. The purpose of this understanding is to secure the administration's agreement that an unrealistic demand for intelligence perfection will not be used as an excuse for inaction when we suspect the Soviets of noncompliance.

This language will help make clear to the executive branch the Senate's concern over the need for a firm and steady verification policy. We do not want any administration to fritter away the precious lead time that this country's fine intelligence system provides. We do not want every ambiguity or imprecision in intelligence estimates to be used as an excuse for inaction in the face of discomforting facts. And we want the Soviet Union to know that it is the American people who insist that their Government demand the most scrupulous adherence to each provision of SALT II.

With sufficient funding, we can be confident that our intelligence system will be of the highest quality. And with these amendments to the resolution of ratification, I will be more confident of reporting procedures and a verification policy that can meet the challenge of making sure that the Soviet Union will not achieve through noncompliance the kind of significant breakthrough that SALT II is supposed to prevent.

Mr. CHAFEE. Mr. President, I would like to thank my friend, the distinguished senior Senator from Minnesota, Senator Durenberger, for his fine assistance in this matter, and for his excellent remarks.

I also ask unanimous consent that a statement by Senator Leahy in support of this amendment be printed in the Record at this point.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT OF SENATOR LEAHY

● Mr. Leahy. Mr. President, I believe the Senate agrees that it has a need to be fully and currently informed of any and all instances of Soviet compliance and possible noncompliance with SALT II treaty. I am happy to join Senators Chafee and Durenberger in this effort because I believe that it is the duty of the U.S. Senate in giving its advice and consent to the SALT II treaty to make sure it receives this intelligence in a full and timely manner during the course of the SALT II treaty.

I say it is our "duty" rather than our "right" in order to emphasize that implicit in the exercise of its constitutional role is the obligation that we in the Senate have to our constituents to maintain a continuing vigilance over whether the Soviet Union is complying with the terms of the SALT II treaty.

Mr. President, this obligation is not one that starts and finishes with the ratification of the SALT II treaty but one that continues to rest on our shoulders as long as the treaty is in force. It derives not so much from any one particular constitutional imperative as much as from the fact that treaties—particularly one as serious as the SALT II treaty—are transitory by their very nature and require a continuing review of the situation in order to be sure they are as applicable and appropriate 3, 4, or 5 years from now as they are today.

As Senator Huddleston has recently noted on this subject—

"In view of the seriousness of the issues involved and the likelihood of continuing developments within the verification field, I do not believe the Senate can make one final judgment about verification and let that judgment stand for the duration of the treaty."

Mr. President, acting through Senate Resolution 400 this amendent creates an appropriate and proper procedure by which the Senate can continue to be fully informed regarding SALT II compliance throughout the period the treaty is in force, while at the same time providing the means of protecting this extremely sensitive information from unlawful disclosure which could compromise intelligence sources and analytic methods vital to the security of the Nation.

There is another reason I believe it is important for the Senate to be assured of receiving this information. The question of the degree to which the Soviet Union has complied with the SALT I Treaty has figured prominently in the debate on SALT II and certainly was not overlooked by our negotiators as they labored on the treaty. It is very likely that the record of Soviet compliance with SALT II will be equally as important to the future SALT III, if not more so. It is the Senate's duty, therefore, to keep itself well informed during the formulation and negotiation of SALT III on the details of Soviet compliance with SALT II. As we have all experienced over the past several years the SALT process is very complex and likely to grow increasingly so as SALT III is developed. It is not a subject that is always quickly learned nor easily understood. It requires constant monitoring as it winds its way toward each successive milestone in order to be sure that when the time next arrives to vote "yea" or "nay" the Senate will do so in an informed and knowledgeable manner.●

Mr. CHAFEE. Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR WEICKER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. Weicker) is recognized for a period not to exceed 15 minutes.

THE WHEELING-PITTSBURGH STEEL CORP. LOAN

Mr. WEICKER. Mr. President, in June of this year, the Senate authorized a loan of $150 million to the Wheeling-Pittsburgh Steel Corp. The debate on that matter was rather heated. The position of the junior Senator from Connecticut was that the loan did not meet the criteria as set forth by law. Point No. 2 was that material financial misrepresentations had been made by the Wheeling-Pittsburgh Steel Corp. and/or its officers. And the third point was that to grant the loan for the purpose stated—that of building a steel rail mill—would create an excess capacity situation in the industry which would only cause further unemployment as far as other steel companies were concerned.

At the time of the debate, the junior and senior Senators from West Virginia and the junior Senator from Pennsylvania were on the floor and my statements were contested by them—fairly in some instances; rather unfairly in others.

The innuendo was cast forth by one of the participants in the debate that my opposition to that loan was generated by some sort of personal or political self-interest.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. WEICKER. Yes.

Mr. ROBERT C. BYRD. The Senator mentioned my name by implication and also used the word "innuendo." Does the Senator mean that this Senator cast any innuendo?

Mr. WEICKER. No, the distinguished majority leader is not the one I have reference to, and, I might add, neither is the senior Senator from West Virginia (Mr. Randolph).

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. WEICKER. Nevertheless, I would hope that in a few minutes I could have the attention of the distinguished Senator from West Virginia (Mr. Robert C. Byrd) as to what has transpired.

Mr. ROBERT C. BYRD. The Senator always has my attention when he speaks. The distinguished Senator always has my attention when he speaks. The able and distinguished Senator always has my attention when he speaks.

Mr. WEICKER. Anything is possible at Christmas time.

Mr. ROBERT C. BYRD. Is anything possible?

Mr. WEICKER. Anything.

Mr. ROBERT C. BYRD. I read that the Senator was going to filibuster the Chrysler bill. Is it possible that he might not?

Mr. WEICKER. Anything is possible at Christmas time.

Since that issue was resolved and the loan granted, the corporation has instituted certain legal proceedings which involved the U.S. Senate by virtue of their accusations against this Senator. Boiled down, it can best be phrased in the terms of one of the lawyers for Wheeling-Pittsburgh Steel in an article that appeared in the New York Times on Tuesday, November 13.

I ask unanimous consent that the article in its entirety appear in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Nov. 13, 1979]

Wheeling-Pittsburgh Steel and Weicker Clash Over Inquiry by S.E.C.

(By Diane Henry)

Greenwich, Conn.—A legal battle between a steel company and the Securities and Exchange Commission has led to allegations—and denials—that the S.E.C. has been manipulated by Senator Lowell P. Weicker Jr. and another steel company.

The allegations have arisen in Federal District Court in Pittsburgh, headquarters of the Wheeling-Pittsburgh Steel Corporation, which is trying to halt an S.E.C. investigation of trading of its stock.

Wheeling-Pittsburgh says that it is being harassed by the commission and that there is "absolutely no basis" for the investigation. The company asserts that Senator Weicker, a Connecticut Republican, succeeded in getting the S.E.C. to open the investigation, and the company insists that all this is part of a broader plot by the Senator and the CF&I Steel Corporation to keep Wheeling-Pittsburgh from getting $150 million in Federal loan guarantees.

The S.E.C. argues that it is pursuing a legitimate inquiry and that its staff has acted properly. It says it fears that the case may set a harmful precedent by starting an avalanche of similar challenges in court that could cause the agency's investigatory efforts to "grind to a halt."

In court documents, Wheeling-Pittsburgh lawyers assert that Senator WEICKER "has done everything in his power to prevent Federal loan guarantees to Wheeling-Pittsburgh" for a new steel mill and antipollution equipment.

At a hearing of the Senate Appropriations Committee in June, the Senator questioned Wheeling-Pittsburgh's chairman about the loan guarantees. The Senator also wrote a letter to the S.E.C. All parties agrees that the letter led to the commission's investigation of Wheeling-Pittsburgh. Later, Senator WEICKER proposed legislation that would prohibit any company under investigation from receiving Federal loan guarantees. The measures failed to win approval in Congress.

"I'm boiling," responded Senator Weicker in a telephone interview. "This whole thing is absolutely ridiculous." Denying that his actions were in any way inspired by a competitior of Wheeling-Pittsburgh, Senator Weicker said he was philosophically opposed to the loan guarantees because the company "does not meet the criteria of the law."

Wheeling-Pittsburgh eventually got the loan guarantees on Aug. 29—the largest guarantees ever made to a single company under a program set up in 1975 to help create jobs in areas of economic decline. But its dispute with the CF&I Steel Corporation continues.

In an action separate from the S.E.C. case, CF&I has gone to court in Colorado to try to reverse the decision granting loan guarantees to Wheeling-Pittsburgh. CF&I, based in Pueblo, Colo., is owned by the Crane Company of New York City.

To support its argument that Senator Weicker was working on behalf of CF&I, Wheeling-Pittsburgh has said in court papers that Thomas Mellon Evans, Crane's chairman, and Mr. Weicker were once neighbors in Greenwich, Conn. Mr. Weicker, now a resident of Stonington, Conn., lived for many years in Greenwich, where he began his political career.

Among his Greenwich neighbors were other members of the Crane board of directors. William H. Donaldson, a Crane director who is now dean of the Yale University School of Organization Management, was a Yale classmate of Mr. Weicker's. Mr. Donaldson was also once a partner with Daniel Lufkin in a banking investment firm. Earlier this year Mr. Lufkin was chairman of Senator Weicker's short-lived Presidential campaign committee.

"So what?" said the Senator. "I absolutely never—unequivocally, I never ever—talked," he declared, to any of the Crane directors or Mr. Lufkin about the loan guarantees. He also said that, "to the best of my knowledge, I don't have campaign contributions" from any of the Crane board members.

LAWYER COMMENTS ON CASE

As outlined in court documents, Wheeling-Pittsburgh has not shown any concrete links between Senator Weicker and the Crane Company or CF&I. But Paul A. Manion, a lawyer for Wheeling-Pittsburgh, said his argument was basically that lightning does not strike in the same place three times.

"I don't know what's in it for Weicker," Mr. Manion said, but he noted that an aide to Senator Weicker had had meetings and a dinner with top representatives of CF&I.

A spokesman for the Crane Company said it would have no comment on the matter.

The case is now before Federal Judge Donald E. Ziegler. Wheeling-Pittsburgh has filed a counterclaim in his court in Pittsburgh to the S.E.C.'s subpoena enforcement complaint. Last month the judge granted Wheeling-Pittsburgh the power to take depositions and look at some S.E.C. documents.

The commission is investigating the question of whether Wheeling-Pittsburgh's president, Dennis J. Carney, made a false and misleading public statement to shareholders last April about possible acquisitions and the company's status with regard to the Federal loan guarantees.

Investigators are trying to find out if there has been trading of Wheeling-Pittsburgh stock on the basis of "non-public information." In a recent seven-month period the stock doubled in price. The stock, listed on the New York Stock Exchange, closed yesterday at 17¼, down ⅛.

Mr. WEICKER. The article states:

> As outlined in court documents, Wheeling-Pittsburgh has not shown any concrete links between Senator Weicker and the Crane Company or Colorado Fuel and Iron. But Paul A. Manion, a lawyer for Wheeling-Pittsburgh, said his argument was basically that lightning does not strike in the same place three times. "I don't know what's in it for Weicker," Mr. Manion said, but he noted that an aide to Senator Weicker had had meetings and a dinner with top representatives of CF&I.
>
> "I don't know what's in it for Weicker."

Well, Mr. President, we now know what is in it for Wheeling-Pittsburgh Steel and its officers and its shareholders.

Last week, specifically on Thursday, November 29, Wheeling-Pittsburgh Steel set a special dividend payout of $1 per share. This is the financially disabled corporation that came on its knees to the U.S. Senate to ask for $150 million in loans, taxpayer loans—a $1 per share dividend.

What is in it? What is in it for LOWELL WEICKER today is the same as it always has been. It is a matter of principle.

I do not believe in bailing out Wheeling-Pittsburgh, Lockheed, or Chrysler. But now I know what is in it for Wheeling-Pittsburgh. I know what is in it for Dennis Carney, its president. There is $22,000-some odd; and for Victor Posner, one of the largest shareholders, some $190-odd thousand.

Let us be clear on that point. The loan granted by the U.S. Government had nothing to do with the capacity of this corporation to retrieve its earnings or to pay dividends. Indeed, the loan has not actually been turned over yet.

One dollar per share of common stock on 3,792,000 shares of common outstanding, that payout, totals $3.8 million from a corporation pleading financial distress. It got $150 million of taxpayer moneys.

Mr. Carney, Wheeling-Pittsburgh president, told a Senate Appropriations subcommittee that financial sources for the company had dried up and without a Federal loan guarantee the company would fold. And yet they can pay $4 million to their officers and to their stockholders.

Under the aegis of "modernization" and pollution control, the Federal Government handed out $150 million in loan guarantees to Wheeling-Pittsburgh this past August. Now we hear that this company that was so financially strapped in August is today funneling $4 million in cash to its stockholders in the form of a special dividend. At the same time it is enjoying record earnings. This is the first dividend paid since 1975. This act is outrageous itself.

How many small businesses in my State of Connecticut and throughout the United States are being brought to their knees in this period of high interest rates, by the unavailability of capital to either expand or to start? Nothing is available to them, but $150 million is available to Wheeling-Pittsburgh, a corporation hardly strapped financially as evidenced by $4 million in special dividend payout.

Yet the same people, the taxpayers of this country, who are supposed to supply that money, have nothing available to them as they slide deeper and deeper into either the status quo or into bankruptcy, or whatever. It is not available to them. They are too small. They do not have the clout of important U.S. Senators.

They do not have the clout of a long list of shareholders and the big corporate name nationally.

Now I will tell you on the floor today, Mr. President, I am going to make Mr. Manion eat those words, "What's in it for Mr. WEICKER?" Not one dime, not one vote, nothing but the matter of principle. How many shares does Mr. Manion hold? How many shares do the officers of Wheeling-Pittsburgh hold? Maybe we can actually put a dollar amount on what was in it for Wheeling-Pittsburgh. Not their workers, they have not even started to employ them yet in the new steel plant. I am just talking about the fat cats and the corporate officers. I am talking about those on Wall Street, Wall Street houses speculating in that stock. And the little man is expected to pay for this kind of chicanery.

Wheeling-Pittsburgh has paid out this money before any of the loans have been granted. In other words, the argument cannot be made that the loan, once provided, created a financial atmosphere to support a cash dividend. Without the loan this same company which so passionately sought $150 million in Federal loan guarantees in June turns around 6 months later and pays a whooping $4 million to its stockholders.

Why am I in this matter? I will tell you why, Mr. President, I am concerned about the degree to which the Federal Government should be involved in the marketplace. I am concerned about bailing out a company by supporting a new product line to produce excess capacity, at a time when we see new loans going to Youngstown when U.S. Steel is laying off its workers. We are going to create excess capacity in the industry. That is really smart.

I will tell you who we helped. Not the workers, not the steel workers in West Virginia or in Ohio or in Pennsylvania. We helped the hounds in Wall Street who have been behind this company, the corporate officers in Wheeling-Pittsburgh, Victor Posner, the takeover artist, those who are taking this case to the courts. Those are whom you helped.

Congress was sold on the $150 million Wheeling-Pittsburgh loan because we were told this was a struggling company and 14,500 employees were about to lose their jobs because of Federal environmental regulations, high operating costs, and cheap imports. Less than 6 months later, before the loans were closed, the Wheeling-Pittsburgh's stock price has shot up and the company's chief executives have voted themselves a cash dividend of $1 a share, in the process of having a record year of roughly $12 per share earnings.

This dividend, I repeat, will mean $20,000 to Mr. Carney, the president, and nearly $200,000 to Posner, the takeover artist.

Well, I suggest to my colleagues it is not too late to learn from this experience. With the Christmas season rapidly approaching, the Chryslers and United States Steels will be hitting up this generous body of ours for specially designed relief kits. The more we bend our economic principles of free enterprise in order to assist such beseeching pleas, the more difficult it will be to turn down the next call for aid.

More particularly, I suggest that when someone does seek aid we look into all aspects of the problem regardless of the political benefits for any one of us on the floor of the U.S. Senate. We are not dealing with our own money for our own reelection. We are dealing with taxpayer money. That is what is involved. And we have given away $150 million so some Wall Streeters and executives can line their pockets with $4 million in hard-earned taxes. It is a disgusting exhibition.

How we ever had the hood pulled over our eyes in this one, the Lord only knows.

I repeat what I said at the outset: The loan should never have been granted, No. 1, because it did not meet the criteria of the act; No. 2, because it will create excess capacity. And now, more fervently than ever, I state it: They have a bunch of fast-buck operators that put one over on the U.S. Senate. They have some wheelers and dealers that outfoxed some U.S. Senators.

There is no price to be paid here on the floor of the U.S. Senate. No Senator will suffer, but an awful lot of people are laughing their way to the bank while many, many more, as each day goes by, are crying themselves into the poorhouse.

I suggest we get our priorities right. Our priorities belong to the people of this country, not the corporate executives.

Mr. President, I ask unanimous consent that an editorial from the Washington Post of December 3, 1979, and an article published in the Wall Street Journal on November 29, 1979, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 3, 1979]

The Steel-Maker's Lament

To justify its latest plant closings and layoffs, the U.S. Steel Corporation offers an anthology of explanations that are, at best, disingenuous. It seems to have become fashionable for businesses to attribute all of their troubles to the federal government. That's what Chrysler has done in its pursuit of federal aid. Now U.S. Steel has returned to the same refrain.

Throughout the world, the steel industry has overbuilt its productive capacity, and throughout the world, governments and companies are slowly and painfully closing plants. The industry, here and abroad, overestimated its future markets during the long boom that ended five years ago. Producers in the traditional steel-making countries have lost many of their export markets as developing countries have built their own steel mills. In the United States, the shifts to lighter products—for example, to smaller cars—are cutting into the sales that steel-makers had expected. On top of all the long trends, a recession seems to be gathering momentum. U.S. Steel has reacted, reasonably enough, like other steel companies in other countries, by shutting down some of its oldest and least efficient plants.

As an economy grows and changes, sometimes it is necessary to close mills and drop lines of production. That's a harsh process, hard on the people laid off and on their communities. To deflect their anger, the company in this case has chosen to blame the closings specifically on federal environmental regulation, high operating costs and imports.

It's true that environmental regulations have hit the steel industry disproportionately hard; that's because the steel industry has been a disproportionately heavy contributor to air and water pollution. But operating costs have soared in large part because the steel industry has granted wage increases over the past decade far larger than any other American industry except coal mining—where large wage increases have also directly affected the cost of making steel. Repeatedly, the steel companies have granted high wage demands and then joined hands with the unions to come to Washington and cry for protection from the imports that undersell them. The imports have been the only effective check on a steady escalation of wages automatically passed on to the buyers of steel.

But imports have become a less effective check over the past two years because the Carter administration has given the domestic steel industry an unusual degree of protection against competition from abroad. It has, in effect, prohibited imports sold below certain prices. U.S. Steel shows a special kind of ill grace in blaming the layoffs on imports at a time when, because of this elaborate and exceptional government protection, imports have in fact been falling.

The American steel industry is a good deal stronger, more efficient and more advanced in its technology than you might think from its incessant whining. Change inevitably overtakes any industry, and change is not always a gentle or welcome process. The steelmakers are developing a bad habit of hunting for scapegoats in Washington to explain it all away.

Wheeling-Pittsburgh Sets Special Dividend, First Payout Since 1975

Pittsburgh.—Wheeling-Pittsburgh Steel Corp., which hasn't paid a quarterly dividend on its common stock since the 1975 second quarter, declared a special year-end dividend of $1 a share.

Separately, the steelmaker won a favorable ruling from a Federal judge in Denver, clearing the way for $63.5 million in U.S. loan guarantees that were opposed by CF&I Steel Corp., a rail producer. The guarantees are for the construction of a rail mill.

Wheeling-Pittsburgh said the special dividend is payable Dec. 31, to stock of record Dec. 10. Dennis Carney, chairman, cautioned that the special payout "doesn't signal in any way" a resumption of quarterly dividends.

Mr. Carney said the action was prompted by the "substantial" earnings improvement in the 1979 nine months. In that period the steelmaker had previously reported net income of $41.7 million, or $10.33 a share, compared with $4.1 million, or 47 cents a share, the year earlier.

The higher nine-month results reflected strong demand for flat-rolled products, which account for more than 80 percent of Wheeling-Pittsburgh's product line. More recently, however, demand has slipped for those products, used mostly by the auto and appliance industries. Wheeling-Pittsburgh said that because of this softening, earnings in the next several quarters will be "substantially below those achieved in the first nine months."

MODEST DIVIDEND

Despite the uncertain outlook for the eighth largest steelmaker, analysts weren't surprised by the special payout. One said that considering that the company is expected to earn about $12 a share for all of 1979, the dividend amounts to only a "modest" 8 percent of those potential earnings.

Wheeling-Pittsburgh is seeking to diversify its product line by going into the rail-making business with the help of Federal loan guarantees.

CF&I, a Crane Co. unit based in Pueblo, Colo., sued last August to block the Commerce Department guarantees, contending that the agency's feasibility studies were improperly conducted and that the mill would create an excess rail-making capacity in the U.S. SR&I noted that it recently spent $85 million to modernize its rail-making facility using internally generated funds and cash from private lenders.

LITIGATION ISN'T OVER

But U.S. Judge Fred Winner, in an oral ruling, said the Commerce Department's Economic Development Administration "had acted within the scope of its authority" in awarding the guarantees. He added in an interview that whether the new mill would create excess capacity to the harm of other producers "wasn't an issue" for him to decide.

Though the ruling doesn't conclude the litigation—both sides must submit additional material to the court—Judge Winner said he "told CF&I not to hold out any hope that I would change my mind. The matter is settled."

A spokesman for CF&I said the company wouldn't decide whether to appeal the ruling until it sees a final written opinion from the judge.

Savannah Electric & Power Co. raised its quarterly on common shares to 30 cents from 25 cents, payable Jan. 15 to stock of record Dec. 31.

Gino's Inc. raised the quarterly dividend five cents to 10 cents a share, payable Dec. 28 to stock of record Dec. 12. The fast-food concern said it plans to purchase two million of the 2,422,528 shares it received under its previously announced tender offer.

EG&G Inc. increased its quarterly dividend to 20 cents a share from 15 cents and declared a two-for-one stock split, both payable Feb. 1 on stock of record Jan. 11. The increased cash dividend will be paid on the presplit shares. EG&G is a high-technology concern.

Mr. WEICKER. Mr. President, I yield the floor.

RECOGNITION OF SENATOR MUSKIE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maine (Mr. Muskie) is recognized for a period not to exceed 15 minutes.

(During Mr. MUSKIE's remarks the following occurred:)

The PRESIDING OFFICER (Mr. MORGAN). The time of the Senator from Maine has expired.

Mr. ROBERT C. BYRD. Mr. President, do I have an order at this time?

The PRESIDING OFFICER. The Senator does have an order for a period of time not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield my time to the distinguished Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I thank the distinguished majority leader for his courtesy.

SALT II

Mr. MUSKIE. Mr. President, SALT II, the Strategic Arms Limitation Talks with the Soviet Union, has been reported to the Senate by the Committee on Foreign Relations. I voted to report the treaty. I support its ratification.

President Carter has said that SALT II reduces the danger of nuclear war. But how?

Each side has more than enough nuclear weapons to destroy the other side. Each side is spending many billions of dollars to make its weapons even better, even more accurate, even more deadly.

SALT II will not stop these developments, but it will slow them down. It will make them less costly. More importantly, SALT II attacks a fundamental notion which has propelled the arms race for 35 years—that we will be safe only if our nuclear weapons are superior, greater in number, better in quality, more accurate.

For as long as there have been nuclear weapons, we have been encouraged by our leaders to stay ahead in the arms race. The Russians have committed themselves to catching up. It is a race neither side can win. SALT II proposes that we run the race side by side.

The treaty attempts, for the first time, to make the nuclear arsenals of both of the superpowers roughly equal in size and deadliness.

The treaty allows the United States to build the forces our experts say we need to maintain this equality. The treaty enhances our own ability to monitor what the Soviet Union is doing, and, because it is a step toward more effective control of nuclear weapons in the future, this treaty makes war less likely.

The Soviet Union is building new weapons at a rapid rate. SALT II will slow them down, cutting by one-third the number of missile launchers and bombers they could have produced by 1985 had they continued to build at the present rate.

The number of warheads and the size of missiles will be limited. The Soviet Union will have to destroy or dismantle some 250 nuclear weapons.

The United States will not be forced to reduce its arsenal. But the other limits will apply to us, as well, they will not, however, block, or even limit, any of the weapons we now plan to build. With or without the treaty, we must modernize and strengthen our own strategic forces. But SALT II makes that task easier and less expensive.

For example, if SALT is not ratified, we would certainly be forced to spend billions more in making our weapons safe from the destructive force of their weapons. They would respond with new weapons and so on down the same road we have followed in the past.

We can build the MX—a missile we can move regularly so the Soviets will never be certain of its location. Our missiles will thus be safer from attack.

SALT I imposes no limits on our armies and allows us to continue our efforts to build up and modernize NATO forces.

Some months ago, as the Senate began to consider this treaty, I asked a series of questions about SALT. I said the answers would determine my vote.

All those questions aimed at one basic issue: Will SALT II enhance the security of the United States? My conclusion, after long hours of careful study, is yes, the treaty will enhance U.S. security in a number of important ways.

First, the treaty imposes equal limits on the total number of bombers and missile launchers for both the United States and the Soviet Union.

Second, each side is limited to one new type of missile. Any technological modifications of more than 5 percent in the major characteristics of any existing missile are prohibited.

Third, the treaty prohibits deliberate interference with the steps we take to verify Soviet compliance. It prohibits concealment measures so we can be more certain of what the Soviets are doing than we would be otherwise. The same restraints apply to us.

Fourth, the Soviets have given up their option to develop the SS-16, a large new mobile missile so advanced that our experts say its production would have forced a new round of improvements on us.

Fifth, the United States will be free to move ahead on its strategic modernization programs to increase the survivability of our land-based and sea-based missiles. We are free to continue cruise missile development and upgrading of our bomber forces.

Sixth, by limiting the number of missiles and warheads, SALT II allows both the United States and the Soviet Union a degree of certainty about the destructive ability of each arsenal. For the United States, this means we can protect our own new weapons, like the MX missile, more easily.

SALT II, Mr. President, is a more modest step than we would like it to be in the direction of arms reduction. But it is a solid step. Why, then, is there opposition?

One fundamental reason goes back to the concept of essential equivalence. By accepting SALT II, both the United States and the Soviet Union accept the idea of a rough balance in strategic nuclear forces.

By essential equivalence, I mean that each country will continue to have the means to destroy the other, even after a major surprise attack. This retaliatory ability will mean that there is no advantage in a surprise attack. And that, in turn, means a more stable world.

Many Americans and the current leaders of the Soviet Union accept this idea. Others on both sides do not. There are those in both countries who believe strategic equality is unacceptable. There are those in the Soviet Union who believe that only through unquestioned nuclear superiority can the Soviet cause be advanced throughout the world. And, there are those in the United States who believe that only with unlimited nuclear superiority can we check adventurism. There and here, those people are wrong:

First. Superiority in nuclear forces is not useful in managing the activities of either country. As long as each side can certainly retaliate with enough force to inflict unacceptable damage on the other side, the price of nuclear war will remain too high. Superiority becomes meaningless.

Second. The plain fact is the United States does not have any meaningful superiority today and is not likely to achieve superiority in the future even if this treaty is rejected. The Soviet Union is in most respects now equal in strategic force to the United States and without this treaty will continue to build at whatever rate is necessary to maintain or improve its position.

Third. The price of rejecting SALT II and attempting to achieve some form of superiority is unacceptable, both in terms of proper use of our Nation's resources and in terms of the instability it would create among the nations of the world.

And rejection would mean a new arms race, with its enormous costs and greater security risks. As a world leader, most of us know we must not lead the march to worldwide destabilization.

Mr. President, a number of less global issues have been identified in the debate, and have sometimes clouded the debate.

The first is that the treaty is unequal and favors the Soviets. This is simply wrong. The treaty establishes equal levels of strategic forces for both sides. While the Soviets do lead in some measures, we lead in others. Our major advantages are in our submarines and bombers that constitute about 75 percent of our force, and in the new cruise missile. Our submarines are far better than Soviet submarines. They are invulnerable to attack. Our bombers are less vulnerable to attack than missiles based on land. They will carry the cruise missiles. The cruise missiles are small, deadly, and hard to destroy.

The major Soviet advantage is in land-based missiles which constitute about 75 percent of their force. They are vulnerable. So are ours. I certainly would not be willing to trade our submarines and bombers for their land-based missiles.

The second argument is that we were out-negotiated by the Soviets. Let us examine that allegation.

The United States gave up the idea of nuclear superiority—which I have already described as unacceptable—but retained the right to continue all of its weapon development programs.

We accepted limits on our force levels, but we are under the limit now. We will not have to give up any existing forces. We can replace our old weapons with new ones according to our current production schedule.

What about the Soviets?

They accepted our cruise missiles even though they regard the cruise missile as an important and dangerous new weapon.

They agreed to prohibit any testing, production or deployment of their long-range intercontinental mobile missile, since we insisted this weapon could not be distinguished from their intermediate-range mobile missile.

They conceded to the development of our MX missile.

They agreed to equal force limits, even though it meant the elimination of some existing forces and even though they still have to cope with Chinese, British and French strategic forces.

They agreed to leave out of the treaty the nuclear forces we have stationed in Europe, even though many could reach the Soviet Union.

By any measure, the Soviet concessions were significant.

We are also told that the treaty should be rejected because it did not require elimination of Soviet "heavy missiles"—it did not limit the Backfire bomber—and it could not be verified.

I call the heavy missile the "small is beautiful" argument. The heavy missile is large. And it is heavy. It is also no more a threat to the United States than smaller Soviet missiles that can deliver the same number of warheads.

As a matter of fact, the heavy missiles have the disadvantage of concentrating their power in a small number of missiles that are vulnerable to U.S. attack. Moreover, because we never planned to build heavy missiles in the first place, we agreed not to build them as a part of SALT II.

At the same time, so long as the number of warheads on each missile is restricted by the SALT II treaty, our M-X is as devastating as the Soviet heavy missiles.

The Backfire bomber is essentially a tactical aircraft, like many of our own bombers. It is designed to be used in a war in Europe or China or for coastal defense. It could get here, but the trip would take a minimum of 10 to 12 hours and the Soviets would be unlikely to use it in this role.

We have similar bombers based in Europe and the Far East, as well as in the United States. If we insist on controls on the Backfire bomber, it is virtually certain the Soviets would insist on controls on our theater weapons.

I am convinced that it would be a serious mistake to risk the progress of SALT II for this issue.

Verification is a particularly difficult question. Put another way, the question is: "How positive can we be that the Soviets are not cheating?" I am satisfied that our resources are adequate to detect any significant cheating. Moreover, I am certain that, absent a treaty, we would be less able to monitor the Soviets. And even if we knew every step they took, the information would be worthless, since we would be facing unlimited escalation and greatly increased risk of nuclear war.

Beyond these questions regarding the treaty itself, broader "linkage" issues have been raised. One is that the treaty should be rejected because of the Soviet Union's activities in other parts of the world.

I believe it would be a serious mistake to link ratification to Soviet behavior. The treaty is in the interests of both countries and we should not abandon those interests because we disagree in other areas.

The list of people who have argued against this kind of linkage is a distinguished one. It includes the chairman of the Joint Chiefs of Staff; the Secretaries of State and Defense; Henry Kissinger; two former U.S. Ambassadors to Moscow; official NATO representatives; and numerous Soviet experts.

We and the Soviets will pursue our respective national interests as we perceive them—with or without SALT II. That pursuit will find us in competition with each other for influence, for resources, for trade, for strength and all the other goals which nations seek. We cannot resolve them all in this one treaty.

Moreover, that competition can develop sharp edges, which could raise the risk of confrontation and conflict. Is it not better to face such possibilities by rationalizing the arms race and limiting its dangers? SALT II can reduce the level of risks. Its rejection could raise it.

The other linkage argument is that SALT ratification should be linked to significant increases in defense spending. The proponents of this position believe we have fallen behind the Soviets in both nuclear and conventional forces, and they argue that we must make a firm commitment to a 5-percent annual rate of real growth in defense spending before the treaty is ratified.

I believe it is a mistake to link desired defense spending levels to treaty ratification. I have shown how rejection of the treaty could lead both to instability and to defense spending that would not otherwise be necessary. Given these facts, I do not see the logic in simultaneously being for increased security and against the treaty.

I cannot believe that people dedicated to the defense of our country could oppose the treaty because they are dissatisfied with our level of defense spending. If they are so concerned about our security, they could improve our security by supporting the treaty and still pursue increases in defense spending.

I believe that the case for ratification of the SALT II treaty is solid. The treaty does reduce the chance of war. It does improve our national security. It certainly means that we will have to spend less on strategic nuclear forces than if there were no treaty.

Finally, and in the long-run, ratification will preserve the SALT process. This process, this dialogue between the leaders of the two countries, is more important than any single treaty.

On this basis, I intend to vote to ratify the treaty.

With SALT I we began to talk to the Soviet Union. With SALT II we have defined equality with an adversary and together have rejected nuclear superiority.

So we have not reduced the arms race. But we have a process that can move us in that direction, if we can keep that process alive. The superpowers are talking to each other—and SALT is our chief line of communication.

Real arms reduction remains our hope and our goal, whether in a SALT III, or SALT IV, or even later. It will be possible only if we continue to talk—and only if we recognize some realities:

We must accept the Soviet Union as a neighbor on this planet whatever its political philosophy—a neighbor with rights, hopes and fears. And we must acknowledge that our journey toward real arms reduction is a journey of many steps. SALT II is just one of them. Neither reality compromises legitimate American interests.

If we accept these realities we can, in the decades ahead, slow down, stop and reverse the arms race.

Mr. President. on November 9, 1979, I voted in the Senate Foreign Relations Committee to report the SALT II treaty to the Senate. I ask unanimous consent that the remarks which I made at that time be printed in the Record at this point.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

SENATOR MUSKIE

It is clear that this is not the end of the debate. It is not even the beginning of the end. I am not sure that it is the end of the beginning.

But, in any case, because I, for reasons all members of the committee understand, have not been as fully in attendance as other members, I am reluctant to spend as much time characterizing my views.

However, I have followed the work of the committee closely, as closely as one can without always being present. I think I have gotten the flavor of the debate and so I do have a position.

Senator Helms outlined in some detail the magnitude of the destructive power which the Soviet Union "enjoys," if that is the word. The point is that we also have the power to destroy the Soviet Union several times over. This, of course, is the reason why arms control and arms limitations are so important.

It is not a one-sided capacity to destroy civilization that exists. It is a two-sided capacity.

There are two strong points of view with respect to this treaty. Lest it be misunderstood, each point of view, if it prevails, would bear a heavy responsibility for the consequences of prevailing.

Those who oppose the treaty, if they prevail and if the result is a destruction of the SALT process, if the result is not renegotiation but an end to negotiation and an end to the prospect for a treaty, would bear a heavy responsibility for those consequences.

Those who support the treaty, if the treaty is ratified, if it prevails, if it leads to the kind of Soviet superiority which the opponents have described as the basis for their concern and opposition, if the result of that is U.S. vulnerability in terms of our survival as a society, a democratic society, and our interests around the world, then they would bear a heavy responsibility.

So, it is no easy vote. To oppose the treaty and prevail is a heavy responsibility; to support the treaty and prevail is a heavy responsibility.

Senator Sarbanes has suggested that the responsibility of negotiating the treaty is a complicated one. We have asymmetrical societies. We find ourselves, the Soviet Union and the United States, in asymmetrical geopolitical situations. We have asymmetrical defense needs, and so, understandably, we have asymmetrical defense systems.

I could suggest that the only way, really, to achieve equality of arms is, first, to negotiate absolute symmetry of arms, an absolute symmetry with respect to these other imperatives, which drive us both. But this, obviously, is impossible.

So, it is not difficult to identify a particular provision of the treaty and say, as to that provision, that the treaty is unequal with respect to the United States and the Soviet Union. One must look at the totality and make a judgment. Those judgments are not easy.

The second point I would like to make is that as I have followed the debate of the committee—and I compliment my colleagues on the quality of that debate and the thoughtfulness and the effectiveness—there are many useful proposals that might well have been included in the treaty. There is no question about that. I cannot conceive of a treaty being negotiated, even if the negotiation were conducted by the opponents of this treaty, which would produce a treaty immune to useful suggestions for improvement. I simply cannot conceive of it. I have been in the legislative process too long to believe that any group of my colleagues is capable of producing a significant, policymaking document, whether it is legislative or a treaty, that would be immune to improvement.

We concluded one last night which was approved by the Senate by an overwhelming vote. I find many flaws in it. There are many things that I would change if I could write it myself.

The fact is, of course, that a treaty of this kind involves tradeoffs. It cannot be otherwise. We cannot expect to produce a treaty totally in our favor, totally negative with respect to the Soviet Union. Surely the Soviets could not expect the reverse.

And so, we are confronted with this question: Is it conceivable that a better set of tradeoffs from our point of view could be negotiated? Considering the nature of this treaty as a step in a process aimed at further reduction, a goal which Senator Helms expressed so eloquently, perhaps the first meaningful reduction in arms, is there a better set of tradeoffs which conceivably could be negotiated if we reject this treaty?

The opponents of this treaty have offered a long list of points, each of which they insist should be a part of the treaty.

Now one looks at the cumulative total of those points which they regard as essential to a treaty, the cumulative total. Really, what is the prospect that one could defeat this treaty, go back to the Soviets, and say we must have not just one of these points, but all of them, included in a new treaty or we will not ratify it?

All of us have been involved in the legislative process. What is the credibility of an argument that we could renegotiate the treaty and get everything that the opponents of this treaty have insisted are essential? They have indicated no willingness to trade off the points that they have advanced, one for another. They have insisted on all of them. Unless we get all of them, they say, we have been out-traded and our national security interest and our survival are in jeopardy.

I just do not see that as a viable alternative. If this is the case, then it seems to me that we must look at what we have, acknowledging its shortcomings—and each of us may have a different set of them—but we must look at the overall package.

At this point I would like to associate myself with the excellent statement of my colleague, Senator Sarbanes, who covered points that I would cover if I felt disposed to take more time.

So, Mr. Chairman, I am going to vote for this treaty because I think the threat to mankind that is posed by the explosive power so eloquently described by Senator Helms, which both sides possess, is such that we must take a step now. It may not be the best time, it may not be the best step, but I prefer it to no step at all. I simply believe that whether or not ultimately a new treaty might be negotiated, a new treaty would not develop in time to prevent another escalation in the arms race that would find us at a higher level, a more complicated level, a more difficult level to develop tradeoffs than the level at which we find ourselves now. I simply do not think we can afford to waste that time.

This does not mean that we should vote for a bad treaty. I will certainly credit my colleagues who oppose the treaty with the highest motivation. They are going to vote against it because they believe it is not in our country's interest. But I happen to believe, with its shortcomings, it is a step we must take at this time.

RESPONSE TO PRESS REPORTS

Mr. MUSKIE. Mr. President, recent reports in the press indicate that Members of this body believe the treaty should not be ratified "because it does not provide for equality between the United States and the Soviet Union." Supporters of this view have three principal arguments. Let me address each of these arguments in turn.

According to these arguments, the first reason for opposing the treaty is that the treaty "confers on the Soviet Union the right to deploy modern, large ballistic missiles with multiple warheads, a right denied to the United States."

This is a restatement of the hackneyed argument that the United States should be allowed to build a heavy ICBM even though it has no desire to do so. There are three principal reasons why this argument is inadequate as a basis for rejecting the treaty:

First, as I just said, the United States has no desire to build a heavy missile. Even the Joint Chiefs of Staff, who seldom miss an opportunity to buy a new weapon, have rejected this one. They rejected it because we can obtain the same capability from a smaller missile—the MX. Indeed, the MX will be equal in capability to the Soviet heavy missile so long as the Soviet heavy missile is constrained as it is by the treaty to no more than 10 warheads. In addition, the MX will be considerably more survivable than the Soviet missile, because it is mobile.

Second, the Soviet heavy missile, particularly when it is constrained by the treaty to no more than 10 warheads, provides the Soviets no unique capability. The Soviet threat to our land-based missiles is as great from other types of Soviet missiles. In other words, a Soviet heavy missile is not necessary to threaten our existing land-based missiles. All Soviet land-based missiles threaten our land-based missiles. What is important is that the treaty limits total Soviet land-based missiles and the warheads on those missiles.

Third, a revision of the treaty to allow the United States to build a heavy missile would be a serious mistake. This is so because the Soviets would demand some concession from the United States in return for permission to build a heavy missile. Since we have no intention of ever building a heavy missile, we would be giving something for nothing. Certainly U.S. stature in the international community would suffer if we were to make any meaningful concession to the Soviets in return for permission to build a missile we have no intention of building.

The second argument made by treaty opponents is that the treaty should be rejected "because it permits the continued deployment outside the treaty ceiling of a Soviet bomber (the Backfire that has the capability to operate over intercontinental distances against targets in the United States.)

I believe omission of the Backfire bomber from the treaty was appropriate for two reasons:

First, as Gen. Russell Daugherty, former Commander of the Strategic Air Command, made clear in his testimony before the Foreign Relations Committee, the Backfire bomber is essentially a tactical aircraft. It is oriented toward NATO and China and toward antiship operations. Although it has a minor strategic capability, the Soviets would be unlikely to use it in this role.

In other words, the former Commander of the Strategic Air Command, the man who was directly responsible for maintaining our land-based missiles and our bomber forces, does not believe the Backfire bomber is a threat worth worrying about.

Second, the omission of this aircraft from the SALT treaty was a trade for Soviet concessions such as the elimination of the SS-16 mobile ICBM, the agreement to leave forward-based nuclear systems out of the treaty, the acceptance of U.S. cruise missiles, and the acceptance of equal force limits. The importance of each of these concessions far outweighs the importance of the Backfire issue in reducing the total threat to the United States and in protecting U.S. interests.

Because of the limited threat from the Backfire and because of the other Soviet concessions that justify its omission from the treaty, I see no reason to reject the treaty on this basis.

The third argument made by treaty opponents is that the treaty should be rejected "because it permits the Soviets to deploy more warheads on their strategic missiles than we are permitted to deploy on ours."

This is an interesting argument and, among the three, is the only one I have never seen before, notwithstanding the long months of hearings and markup in the Senate Foreign Relations Committee. Perhaps the reason I have not seen it before is that it is so mistaken. As stated on its face, the argument is clearly wrong.

Because the treaty provides equal limits on the number of missiles and the number of warheads per missile, the treaty limits both sides to the same maximum number of warheads. At the present time, however, neither side has reached its maximum and the United States has considerably more warheads than the Soviet Union. We will continue to have an advantage in the total number of warheads throughout the life of the treaty.

The only advantage the Soviets have is in the number of land-based warheads. The Soviets have this advantage because they have placed 75 percent of their capability into their land-based missiles. We, on the other hand, have only placed about 25 percent of our capability into land-based missiles. The other 75 percent of our capability is in our submarines and bombers.

The only advantage that this imbalance conveys to the Soviets is a greater capability to kill land-based missiles and other hardened targets. This advantage might be important if we, like the Soviets, had placed the bulk of our capability in vulnerable, land-based missiles. Since the bulk of our capability is in our submarine and bomber force, this is not a reason to reject the treaty. Indeed, even if you believe that this is an important imbalance, it is no reason to reject the treaty because the imbalance could very likely be worse without the treaty than with it.

That concludes my statement, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. MUSKIE. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I rise to compliment the distinguished Senator from Maine on the thorough, cogent, persuasive speech that he has just made in support of the SALT II treaty. I think that he has very carefully analyzed and addressed the arguments in opposition to the treaty in a very forceful way.

I would like, if time permitted, to comment on several of the points that he made, but time does not permit that. I do however, want to mention one or two of the points.

He indicated that to reject the treaty would be to "lead the march toward destabilization." I think that is an accurate quote. I wish to comment on that statement.

Mr. President, this country entered into a nonproliferation treaty some years ago, and I believe that, under article VI of that nonproliferation treaty, this country along with the Soviet Union and the other powers that presently possess nuclear weapons, pledged to take actions to reduce these arsenals. We made that pledge in order to secure pledges of other countries which did not then, and do not now, have that capability. And the assurance was that we would make efforts to reduce our arsenals if they would sign on, with the understanding that they would not even begin to go down that road.

Next June, there is going to be a nonproliferation treaty conference. All of these nations will gather to discuss the progress made under that treaty. If this country in the meantime has rejected the SALT treaty, not only will this be one of the greatest propaganda victories the Soviet Union could possibly achieve, but, moreover, the other signatories to the nonproliferation treaty in June are going to be able to point the finger at us and say: What a poor example of living up to the nonproliferation treaty. What a poor example. Why should you, Mr. Uncle Sam, expect us to deprive ourselves of this protection—if they choose to use that word—why should you seek to deprive us from going down this road when you yourself have set such a deplorable example? You rejected the SALT II treaty. You have, therefore, not lived up to article VI of the nonproliferation treaty. You have not lived up to your promise.

What position are we going to find ourselves in when these countries begin to criticize us for our failure to ratify SALT II? Even worse, what position are we going to be in when nuclear weapons begin to proliferate among these smaller countries?

Can we imagine what the situation would be today if Iran had nuclear weapons? How would we like to see nuclear weapons in the hands of Ayatollah Khomeini and his crowd?

How would we feel about that?

And there may be other situations in the future in which we would all be better off to keep potential conflicts localized, but, if smaller nations acquire such weapons, those potential conflicts which might otherwise be kept localized or regionalized could escalate into nuclear exchanges and could conceivably bring on the final and ultimate nuclear exchange that would end in world holocaust.

I think this is a very important point the Senator made. Approval of the treaty tends to stabilize; rejection of the treaty will destabilize, and it will make more unpredictable and uncertain, to our force planners, what potential they are up against. The treaty, if it is approved, will mean that our force planners will not have to hedge against this possible suspicion or some other, because they will know what the limits are and our force planners will be able to make plans accordingly. There will be greater dependability, predictability, and certainty. So the SALT II treaty will be stabilizing rather than destabilizing.

But what a position our country will be in next June if we reject this treaty, and what a position the world would be in if some of these smaller countries were to get a signal from the U.S. Senate that our Nation is not willing to keep its commitment under the nonproliferation treaty by virtue of rejection, by the Senate, of the SALT treaty.

What a signal to send to the world. The smaller countries, many of them, today have the capability—I understand that 12 or 15 of these lesser countries have the capability—right now to proceed to go the nuclear weapons route were it not for the fact that they are signatories to this treaty, and if they should proceed who knows where they will go.

But I just leave for the RECORD this question: How would we like to see nuclear weapons in the hands of an Ayatollah Khomeini and his band of international outlaws, and where would we be then, and where would we be if other countries in that area of the world develop or procure nuclear weapons? There can be future Irans.

Mr. MUSKIE. Mr. President, the distinguished majority leader makes a very important point which I will not seek to embellish, but I would like to add another thought to it. The situation in Iran and in other parts of the world is a demonstration of the fact that there are too many areas of the world that are tending toward anarchy not only internally but externally as between nations. When such a long-held international principle of law as the immunity of diplomats and diplomatic missions can be flouted with impunity by a nation like Iran, what the world needs is a strong impulse toward world law.

If the two superpowers, with the supreme weapons at their disposal, are unable to set an example of countries with often conflicting goals and policies being able to pursue their competition in an expanding regime of international law, particularly with respect to strategic weapons, why should lesser powers, beleaguered by the internal pressures generated by the disadvantaged peoples within their own borders, frustrated by the division of affluence (unequally and unjustly divided amongst world powers and the people of the world) do anything but move toward the edge of confrontation and conflict in pursuit of the aims of their people?

So we have this responsibility as superpowers generally and, as the distinguished majority leader has said, specifically with respect to the mandate of the Nonproliferation Treaty.

In closing, I would also like to add my compliments to the distinguished majority leader for the thoroughness with which he has examined these issues and the strong leadership position he has taken in pursuing ratification of the SALT II treaty. He has my compliments and my heartfelt support.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. I thank him for his statements.

RECOGNITION OF SENATOR CRANSTON

The PRESIDING OFFICER. Under the previous order, the Senator from California (Mr. CRANSTON) is recognized for not to exceed 15 minutes.

SALT II

Mr. CRANSTON. Mr. President, I believe I have 15 minutes. First of all, I yield such time as may be needed to the majority leader.

I would like to say that I think the majority leader made a very important point that all Senators and all our people should consider. The danger, if we reject SALT, is we set a terrible example for other countries we are trying to persuade to exercise restraint in the development and potential use of nuclear energy for military purposes. The threat to our Nation's security and to the world, and to the people of the world, if people like the ayatollah become possessed of nuclear weapons should be starkly obvious to the American people presently, and that is an issue that is very much at stake in the consideration of SALT at the present time.

I yield to the majority leader such time as he may require.

Mr. ROBERT C. BYRD. Mr. President, I had wanted to comment on another point the distinguished Senator from Maine raised, and I will proceed to do that briefly.

The distinguished Senator spoke about linkage, and he touched upon various areas in which linkage has been suggested, for example, the area of Soviet misbehavior and also the area of defense spending.

Mr. President, there is no question but that we should be concerned about Soviet adventurism in any part of the world, but I join with the distinguished Senator—I do not think the SALT treaty is the answer to that. I think we have to judge the treaty on the basis of its merits—I see it as being beneficial to this country—and I do not think that rejecting SALT would change the Soviet behavior except, perhaps, to exacerbate it.

There ought to be some other strategy developed for dealing with Soviet adventurism in other parts of the world, but we should not attempt to make the SALT treaty the hostage.

If we were considering SALT II purely as a favor to the Soviet Union, it would be quite a different matter. Then we could say, "OK, if you are going to proceed to use Cuban troops here and there, and stir up mischief, we will just reject SALT."

If we were doing SALT only as a favor to the Soviets—and many of the arguments I hear leave me to draw the inference that we are—I would subscribe to that view of linkage supposed to be doing the Soviets a favor by adopting the treaty.

On the other hand, as the matter now stands, I suppose the Soviets might adopt the same tactic and say, "OK, Mr. Uncle Sam, you are improving your relations with the People's Republic of China, how about linking that to SALT?"

I do not think linking the treaty with Soviet misbehavior elsewhere is going to change one iota their misbehavior except to exacerbate it if SALT is rejected.

Now, I support increased defense spending. The reason I am so strongly for it is because I have read the hearing transcripts on the treaty, and I am convinced thereby that we need to improve our capabilities in connection with not only strategic central systems, but also conventional weapons, and theater nuclear forces, but entirely aside from increasing defense spending, I think we should proceed with the treaty, and here is where I do link the treaty with defense spending, but in a reverse sort of way.

As the distinguished Senator from Maine pointed out, without the treaty or with the treaty we are going to have to spend more money for national defense, but we will spend more money for national defense without the treaty than with the treaty, because if the treaty is rejected, then the limits are off strategic nuclear delivery systems. The Soviets have the momentum, and we are talking about items that require long lead time. For example, the MX will not begin to be deployed until 1986, and will not be fully operational until 1989—10 years from now.

These items, these weapons, require long lead time, so one has to develop a momentum over a period of several years before the weapon proceeds from the design stage to the testing stage to the production stage to the deployment stage. It takes years, and the Soviets already have that momentum going. We do not. They can proceed not to have just 308 SS–18's by 1985, but 500. They have the momentum.

Now, if the treaty is rejected we are going to have to spend a higher percentage of the total defense dollar on strategic central systems which, in turn, means a bleeding away from the conventional forces of the additional funding that we may need with which to deal with just such a situation as we are seeing occur right now in Iran. Nuclear weapons are not a deterrent to situations such as we see in Iran because we are not going to use strategic central systems against Iran. These strategic central systems cannot be used to deal with localized or regionalized dangerous situations, but conventional forces might have to be used.

So there is the linkage as I see it. Reject the treaty and, as a result, spend a higher percentage of the defense dollar on strategic systems in order to try to catch up with the Soviets in the face of the momentum they already have, and bleed away from the conventional forces the money they so direly need, and bleed away from the theater nuclear forces in Europe the money they need.

We need to have essential equivalence with the Soviet Union in the strategic nuclear field, yes. But we must also be able to deal conventionally with localized situations that may arise to threaten our national security interests. If we bleed away defense funds from conventional forces, we are going to be caught like the five foolish virgins—without oil in our lamps when the bridegroom cometh.

There is the true linkage. If we approve the SALT treaty, we have more predictability in strategic systems, in planning, and in funding, and this country will not then have to spend as much of its defense dollar for strategic sensor systems, and can thus allocate more money, a higher percentage of the defense dollar, to conventional forces. These are what we will need to protect our interests here, there, and in other places around the globe, because the Soviets, you can bet, will have the mobility to move their conventional power or to use surrogates.

So I make that link. Approve the treaty, so that we can indeed turn to the conventional forces and improve these capabilities, and at the same time have more of the total budget to spend on needed social programs than we would otherwise have.

Again I thank the distinguished Senator from Maine. I appreciate very much his statement today, and I hope that every Senator will read it. I would even presume to mail it myself to other Senators, but I think he is the Senator who should do that, and I hope he will do it.

Mr. MUSKIE. Mr. President, I will be glad to do that. I express my appreciation to the distinguished majority leader, not only for his approval of the speech, but for adding to it the remarks which he has just concluded.

Mr. CRANSTON. Mr. President, I wish to express my admiration for the very fine, thoughtful remarks, based on a great deal of experience, study, and thought, by the distinguished Senator from Maine. He made out a very effective case for ratification of SALT, and cited the grave liability to our country and indeed to the world that would lie in rejection of the treaty.

I would like to address one question to the Senator relating, in part, to the remarks that he made. It relates also to his particular field of expertise as chairman of the Senate Budget Committee, with all the careful thought that the Senator is required to give and does so generously give to our budget, the level of expenditures, and the effect of all that on our economy.

One might point out that while I think it should not be linked to SALT, it is rather obvious that we are going to have an increase in defense spending if SALT is ratified, probably about a 4- or 5-percent increase annually for a while, after inflation. He also made plain that we would have to have a larger increase in defense expenditures as a result of the instability and the hostile situation in relation to the Soviet Union that would probably occur in the wake of Senate rejection of SALT.

I would like to make the point that it is possible, if SALT II is ratified and if we move on to a SALT III with relation to deep cuts, that some of the expenditures that will occur even after SALT II is ratified may ultimately prove to be unnecessary, if we work out in SALT III the deep cuts, on a mutual basis, that would make unnecessary the increase of expenditures that would otherwise occur.

I would like to ask the Senator if he is able to give any dimensions in terms of dollars or percentages to the sort of increase he feels may come about if SALT II is rejected, and what he feels that would do to our efforts to balance our budget, to restrain spending, perhaps to curtail taxes at some point, and finally to halt inflation.

Mr. MUSKIE. Mr. President, I think the Senator has raised an appropriate question. It is more difficult to frame an answer.

The other day, in connection with the debate on the windfall profit tax, I undertook to present to the Senate an analysis of budget demands in the 1980's. That analysis, unrelated to the windfall profit tax as such but simply to put it in context of what other demands in the 1980's could be, included the assumption to which the Senator has referred, of an increase in defense spending that was voted by the Senate earlier this year in connection with the first budget resolution. That is 3 percent in 1980, 5 percent in the 2 years following, and thereafter it is speculative as to what the rate would be.

In the hearings before the Budget Committee and also the Armed Services Committee, which the majority leader has indicated he was strongly influenced by, I think the figures used with respect to potential additional spending that would be required if SALT II was rejected would be on the order of $30 to $40 billion. My own view is that that would be conservative, because it seems to me that rejection of this treaty, especially on the wide range of terms that were insisted upon in the Foreign Relations Committee markup by opponents of the treaty, would surely trigger a massive effort on the part of the Soviet Union to take advantage of our failure to ratify the treaty.

The Soviet Union, in the last 10 to 15 years, has demonstrated an enormous capacity to build up its strategic arms. It has been so successful as to achieve rough equivalency today, and, as the majority leader has pointed out, it has enormous momentum.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. I ask unanimous consent to proceed for another minute.

Mr. ROBERT C. BYRD. Are there any other special orders, Mr. President?

The PRESIDING OFFICER. The last special order is to add 15 minutes to the leadership time in behalf of the minority.

Mr. STEVENS. Mr. President, I am happy to yield a minute to the Senator from Maine.

Mr. MUSKIE. I thank the Senator.

So my feeling is that the kind of momentum the Soviets are capable of achieving would involve an arms race in a new dimension, that would make even $30 or $40 billion over a decade look like small potatoes compared with what we would otherwise have to consider.

Mr. CRANSTON. Mr. President, I thank the Senator very much for his fine response.

Mr. STEVENS. Mr. President, does the Senator from Louisiana seek time?

Mr. JOHNSTON. Yes; will the Senator yield me 3 or 4 minutes?

Mr. STEVENS. Yes; I am happy to do so.

Mr. JOHNSTON. Mr. President, at this time of crisis in Iran, when we are calling on allies for help and sometimes not getting it, I think it is important that we realize who our true friends are. In this context, I would like to invite the attention of the Senate and the country to all that Saudi Arabia is doing for the United States.

The first thing they are doing is maintaining production at 9.5 million barrels a day, which is at least a million barrels a day more than they would like. Indeed, a production level of 5 million barrels a day would probably yield all the revenue that Saudi Arabia really needs. So, by keeping their production up at 9.5 million barrels a day, they are enabling the world economy to function with minimum disruption.

Secondly, Mr. President, and this is perhaps the least understood aspect of what Saudi Arabia is doing for us, they are holding the price of their crude oil down to $18 a barrel, the lowest in the world, while the average world price exceeds $25 a barrel.

The spot market price now averages about $38 a barrel. So you can figure the difference between the $18 a barrel that they are selling to us and the world average spot market of $38 a barrel, and consider the truly monumental amount of foreign aid, if you want to call it that, that Saudi Arabia is giving to this country and the rest of the industrialized world.

If Saudi Arabia raised their average price to $25 a barrel, which is below the average world market price, it would cost the buyers of that oil $60 million per day, or more than $20 billion a year. If they raised that price up to the average spot market price, the cost to the buyers of that oil would double.

Another way, Mr. President, that the Saudi Arabians are contributing to world stability and relieving this country of its burden is in foreign aid to developing countries. This country is spending considerably less than 1 percent of its GNP for foreign aid, and many of us think, perhaps, we are spending too much. But the Saudis, Mr. President, are spending in the neighborhood of 5 percent of their GNP for foreign aid to developing countries and, I think, in the process, taking a great burden off our country.

Finally, Mr. President, in the foreign trade arena, the Saudis have shown themselves to be quite sensitive to the problem of recycling petrodollars. In 1978, when you put the whole trade picture together, you find that there was a surplus on behalf of the United States of more than a billion dollars. In spite of all of that oil that we bought from Saudi Arabia, we had a surplus in 1978 of over a billion dollars. Of course, that includes the trade and service balance and it includes military sales.

On the capital account, the Saudis have consistently reinvested large portions of their surplus in the United States. Even in 1978, when other OPEC nations were apparently deserting the dollar and, thereby, exacerbating its slide, the Saudis were once again a moderating force.

Mr. President, I think it is important for the Congress and for the entire country to recognize how very important the Saudis are to us and to understand fully the implications of their actions. Saudi Arabia is truly the linchpin of energy and economic stability worldwide.

The Saudis have shown themselves to be our true friends and I think it is important that we recognize them.

I thank the Senator from Alaska for yielding.

The PRESIDING OFFICER. The Senator from Alaska (Mr. STEVENS) is recognized.

Mr. MUSKIE. Will the Senator from Alaska yield for a unanimous-consent request?

Mr. STEVENS. Yes. I am happy to yield to the Senator from Maine.

SECOND BUDGET RESOLUTION CROSSWALK ALLOCATIONS TO SENATE COMMITTEES

Mr. MUSKIE. Mr. President, the House has now adopted the second budget resolution for fiscal year 1980. This completes action on the congressional budget.

The resolution the House adopted was Senate Concurrent Resolution 53, an original resolution passed by the Senate on November 16 and sent to the House. It is the same as the conference agreement on the earlier budget resolution, Senate Concurrent Resolution 36, except that a sense of the Congress statement on reconciliation savings was substituted for the previous reconciliation instructions. An original resolution was required because Senate Concurrent Resolution 36 could not be further amended.

I ask unanimous consent to print in the RECORD a table showing the crosswalk allocations to Senate committees under section 302(a) of the Congressional Budget Act reflecting the agreements reached under the budget resolution that has been adopted.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1980				
Appropriations Committee	390.2	343.1		
Agriculture, Nutrition, and Forestry Committee	.5	1.4	3.8	3.6
Armed Services Committee	−.5	−.5	11.7	11.7
Banking, Housing, and Urban Affairs Committee	2.4	−1.6		
Commerce, Science, and Transportation Committee	1.3	(1)	.2	.2
Energy and Natural Resources Committee	1.0	.9	.1	.1
Environment and Public Works Committee	23.7	2.1		
Finance Committee	245.5	239.9	38.3	38.1
Foreign Relations Committee	12.4	9.7		
Governmental Affairs Committee	30.9	21.8		
Judiciary Committee	.2	.2	(1)	(1)
Labor and Human Resources Committee	4.4	4.9	3.2	3.1

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
Rules and Administration Committee	.1	.1		
Veterans' Affairs Committee	1.1	.8	14.0	13.9
Select Committee on Indian Affairs	.3	.2		
Select Committee on Small Business	(3)			
Not allocated to committees	−75.3	−75.3		
Total, budget	638.0	547.6	71.3	70.7
FISCAL YEAR 1981				
Appropriations Committee	400.5	371.8		
Agriculture, Nutrition, and Forestry Committee	.6	2.2	3.3	3.2
Armed Services Committee	(4)	(5)	12.8	12.8
Banking, Housing, and Urban Affairs Committee	3.0	−1.1		
Commerce, Science, and Transportation Committee	1.4	(3)	.2	.2
Energy and Natural Resources Committee	1.1	1.0	.1	.1
Environment and Public Works Committee	9.4	1.8		
Finance Committee	277.2	265.2	39.5	40.3
Foreign Relations Committee	13.6	10.8		
Governmental Affairs Committee	33.5	24.1		
Judiciary Committee	.2	.2	.1	.1
Labor and Human Resources Committee	4.8	5.2	3.2	3.2
Rules and Administration Committee	(6)	(7)		
Veterans' Affairs Committee	1.1	.8	14.6	14.5
Select Committee on Indian Affairs	.3	.3		
Select Committee on Small Business	(3)			
Not allocated to committees	−81.8	−81.8		
Total, budget	664.9	600.5	73.7	74.2
FISCAL YEAR 1982				
Appropriations Committee	449.1	401.1		
Agriculture, Nutrition, and Forestry Committee	.7	2.4	3.6	3.5
Armed Services Committee	(4)	(5)	14.2	14.2
Banking, Housing, and Urban Affairs Committee	3.3	−1.3		
Commerce, Science, and Transportation Committee	1.5	(3)	.2	.2
Energy and Natural Resources Committee	1.1	1.1	.1	.1
Environment and Public Works Committee	8.6	1.6		
Finance Committee	315.2	292.2	42.3	43.1
Foreign Relations Committee	14.8	11.8		
Governmental Affairs Committee	36.5	26.9		
Judiciary Committee	.2	.2	.1	.1
Labor and Human Resources Committee	4.9	5.6	3.2	3.2
Rules and Administration Committee	(6)	(8)		
Veterans' Affairs Committee	1.1	.9	15.3	15.2
Select Committee on Indian Affairs	.3	.3		
Select Committee on Small Business	(3)			
Not allocated to committees	−89.8	−89.8		
Total, budget	747.6	653.0	79.0	79.5

[1] Minus $2,000,000.
[2] Less than $50,000,000.
[3] Less than $5,000,000.
[4] Less than $30,000,000.
[5] Less than $25,000,000.
[6] Less than $45,000,000.
[7] Less than $20,000,000.
[8] Less than $10,000,000.

Note: Details may not add to total due to rounding.

Mr. MUSKIE. These allocations are exactly the same as contained in the statement of managers accompanying the conference report on Senate Concurrent Resolution 36 (S. Rept. 399) which the Senate pased on November 7 but which has now ben superseded by Senate Concurrent Resolution 53.

I further ask unanimous consent that this table be considered as meeting the requirements of section 302(a) of the Budget Act. This action is necessary to formalize the second budget resolution crosswalks, since there is no conference report, and thus no statement of managers, on Senate Concurrent Resolution 53.

The PRESIDING OFFICER. There being no objection, it is so ordered.

Mr. MUSKIE. I thank my good friend from Alaska (Mr. STEVENS).

(Mr. EXON assumed the chair.)

ALASKAN OIL

Mr. STEVENS. Mr. President, with respect to the bill that will be before us, I shall yield to the majority leader soon so that we can go to the pending business.

I would like to take this opportunity to speak on a related subject, not directly involved in the windfall profit tax bill. My remarks are specifically directed to comments made by the New York Times in an article on its editorial page entitled "Alaskan Oil Is the Public's Business."

In that editorial, the New York Times points out:

> The Department of Interior is pressing ahead with offshore Alaskan oil and gas leases that could provide 4 to 5 million barrels of oil a day by the early 1990's—three times the target of the developing $100 billion synthetic fuels program.

I would like to point out to the Senate that this is the Beaufort Sea. The New York Times is taking solace in the fact that there is great potential in the Beaufort Sea for the production of oil and gas which could provide the equivalent of 4 to 5 million barrels of oil a day by the early 1990's.

The irony of the New York Times' position—and it is the syndrome of the eastern establishment that is speaking out again, telling Alaska what to do—is that they would force us out into the offshore area, into the highest risk area in the world, while, at the same time, their editorials are predominantly in favor of locking up Alaska's lands.

They fail to mention that onshore in the Arctic wildlife range there is a potential of 9 to 10 billion barrels of oil which, before 1990, in the 1980's, could be producing 4 to 5 million barrels of oil a day.

I repeatedly stated on the floor of the Senate that if my State was left alone and industry allowed access to the lands in Alaska that we know are capable of producing oil and gas, the State could be producing 7½ million barrels a day by 1985. At the same time, the Senate is arguing here daily over what it can do to assist the Nation in meeting its crisis.

I am a little angry. I just finished talking with a good friend of mine who is in the oil business. He has just returned from Mexico where they were trying to put together contracts for the purchase of Mexican oil. He said to me, "What is going on back in Washington? Do they not realize that the rest of the world is carving up the world's oil supplies? The only true hope for increasing domestic production in time," he said—"to meet the Nation's needs—as the foreign sources of oil are taken away from us through competition and through the political decisions made by other nations in the world, lies with Alaska."

The only place we could meet the energy demands of our Nation in a short time frame, if there is a curtailment as we all now see coming, is to allow access to Alaska's lands. It will take 4 to 5 years just to complete testing of the offshore areas. We could have rigs moved onto the Arctic Plain or the Arctic Wildlife Range by next summer. We could be drilling in the National Petroleum Reserve of Alaska, next summer. We could be shipping oil from those areas to the South 48 States by 1981.

And I find it increasingly frustrating that as a Member of this body I am continually forced to defend a State that has such great potential, and furthermore wants to help. Our State government wants to help.

Almost every Senator on this floor has got a plan for Alaska development. Yet, I venture to say that there is not one of them spent more than 2 days in the Alaska Arctic. There is not one of them who has done any more than just read reports written by environmental extremists concerning the lack of potential in Alaska's land.

They refused to acknowledge the reports of the U.S. Geological Survey. They refused to acknowledge the reports of those in the oil and gas industry who ought to know in view of their study of the Alaska lands, what our potential is.

When I come across an editorial such as this one from the New York Times I am apalled. The article asks at one point:

> But how much risk is tolerable in Alaska? How long should energy production be delayed to improve the odds? These questions ought to be addressed openly by the President and Congress, not disputed in the Federal courts or in private talks among civil servants and lobbyists of various persuasions.

What is needed is for the New York Times to open its eyes and to open its ears. For over 2 years now I have tried to set a meeting with the editorial board of the New York Times without success. They, despite this, continue to write editorials about Alaska and its energy potential such as this example. They are perfectly willing to accept the risk involved in the Beaufort Sea. Yet, they are unwilling to discuss policy concerning the Alaska lands issue. I, for one, believe that it is time that they wake up.

It is time that the eastern establishment press wake up because, as the oil spigots in the OPEC countries, Indonesia, and oil-producing countries throughout the world are either turned off or turned down or diverted to other nations, they are going to ask, "Where were we? Why are we not producing more oil from Alaska?"

The simple answer lies in their own editorial pages, their own articles and their own newspapers. They are going to have to take the responsibility for deterring this Nation from developing domestic potential, giving us some degree of independence from political judgments made in foreign countries.

Mr. President, this paper is published in a part of the country where a great portion of the economic policy of this country is made. Yet if one looks on the business pages of the New York Times, one would wonder if those writers even read the editorial pages, or if those people who write the editorials read the financial pages. This editorial above all just leaves me cold.

These editors are perfectly willing to risk the future lifestyle of the Alaskan Eskimo and they are perfectly willing to take the risk involved to the marine environment. Nevertheless, they are against opening up the wildlife range to oil and gas exploration where caribou exist for a mere 6 weeks out of the year. Their position opposes allowing oil and gas rigs in there. Industry could close down all oil and gas activity for the 6 weeks the caribou are there. All of this aside, if these people would just come up to the State, go to Prudhoe Bay, land at the airstrip there and see the caribou standing on the end of the runway, maybe they could get it through their heads that caribou and oil and gas production can and do exist compatibly in Alaska.

This editorial in effect, endows those who are trying to protect the marine resources off our shores with the responsibility for making the decision as to how much risk is tolerable in Alaska. Instead, they should ask how much risk is tolerable onshore in Alaska. That is the area we ought to be considering. There has not been a new oil and gas lease issued by the Federal Government since 1965 in my State. The Federal Government owns 99 percent of Alaska and yet this same entity continues to ask, "Why do we not get more oil and gas production?" It is in the hands of the Secretary of the Interior and the President to make the decision today. The Arctic wildlife range is not protected by an act of Congress. It is protected by a decision of the President.

When it was established as an Arctic wildlife range it was set up so oil and gas leasing could continue so long as it was compatible with the protection of the caribou. But even disregarding the wildlife range and the naval petroleum reserve, both of which the President controls, not 1 acre of Federal lands in Alaska has been leased since 1965.

It is high time that the New York Times started doing some research. I am appalled at this. I am appalled that they are willing to sit in New York in a tall building and say how much risk is tolerable in Alaska offshore.

I hope, Mr. President, that the editors in the New York Times understand one of the reasons that the Western rebellion is starting lies with them. Do not misunderstand it, the sage brush rebellion is not limited to Nevada. That bill passed the California Legislature and was vetoed by Governor Brown. It will pass the legislature of every State in the West within a few years. We are closer now to drawing a line down the middle of our country similar to the Mason-Dixon line than these people know, and it is caused by situations like this. It is caused by people having the audacity to decide how much risk is tolerable in Alaska and make judgments as to where those risks will be taken without firsthand knowledge of the area. The result is a decision to take those risks in what turns out to be the most highly vulnerable environment we have.

I, for one, hope that in the course of debate on the windfall profit tax bill we will get around to talking about risks and talking about where we have the right to take risks and how perhaps we ought to listen to the people involved before the Government mandates risks as to oil and gas development offshore in my State.

Mr. President, I ask unanimous consent that this editorial from the New York Times be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 24, 1979]

ALASKAN OIL IS THE PUBLIC'S BUSINESS

Gas lines and the vulnerability of foreign oil have focused public attention on synthetic fuels as one way to increase the domestic production of energy. But far more important decisions about future fuel supplies are being made out of the limelight. The Department of Interior is pressing ahead with offshore Alaskan oil and gas leases that could provide 4 to 5 million barrels of oil a day by the early 1990's—three times the target of the developing $100-billion synthetic fuels program. These leases will be vigorously opposed in court by the Eskimos and some environmentalists who fear damage to local marine life.

Sales of leases in the Beaufort Sea are scheduled for December. The Interior Department appears to have accepted the need for environmental caution by requiring leaseholders to limit initial exploration until the risks of larger operations can be properly examined. But Beaufort is only one of a dozen promising offshore sites in the region, the largest potential source of undiscovered oil in the United States. The decisions about when to lease the areas, and with what safeguards, are too important to be made outside the arena of public discussion.

Each lease in an offshore area presents special problems. But Beaufort is typical in the sense that the potential benefits of oil discovery must be weighed against less tangible costs to the environment. If recoverable energy is found in the shallow coastal waters off Alaska's Arctic coast, it will probably exceed one billion barrels of oil and two trillion cubic feet of natural gas. At current prices, Beaufort could offer more than $40 billion worth of fuel within easy access of the trans-Alaska pipeline.

The natives, as well as environmentalists, are worried that the technology of drilling and cleanup in ice-covered waters lags far behind the nation's appetite for energy. They fear that an accident could devastate two endangered whale species and leave a permanent residue of muck along a now unspoiled coast. To allay these fears, the Interior Department and the State of Alaska are limiting early exploration to the winter months when the whales are locked out by ice. They are also requiring oil companies to test their rigs for two years before operating them in water deeper than 40 feet.

These lease conditions satisfy some of the critics. But nothing—short of doing nothing—can eliminate all risk to the Beaufort Sea or to sites in the prolific fisheries off Alaska's west coast. Nor is there any comparably rich or secure source of oil for the energy-starved American economy in the 1980's or 1990's. For those reasons, offshore leasing policies deserve at least as much public consideration as synthetic fuels or nuclear energy, coal and conservation.

Risk is implicit in the exploration and use of any fuel from any source. Coal, for example, damages the ecology of the mining sites, reduces air quality and may raise the acidity of soil in ways that reduce crop yields. But how much risk is tolerable in Alaska? How long should energy production be delayed to improve the odds? These questions ought to be addressed openly by the President and Congress, not disputed in the Federal courts or in private talks among civil servants and lobbyists of various persuasions.

ORDER OF BUSINESS

Mr. STEVENS. What is the pending business, Mr. President?

The PRESIDING OFFICER. The unfinished business will be the next item.

Mr. STEVENS. If I yield back the remainder of my time, will that become the matter pending before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I yield back the remainder of my time.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. The clerk will state the unfinished business.

The legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate continued with the consideration of H.R. 3919.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I do not seek recognition right now.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 733

Mr. STEVENS. Mr. President, I rise today to submit an amendment for myself and Senator GRAVEL to the windfall profit tax bill. This amendment will provide tier 2 tax treatment to oil produced from the Cook Inlet in Alaska.

Approximately 125,000 barrels of oil per day are produced from 13 platforms in this offshore oil field. These platforms are subjected to ice flows, 35-foot tides, and currents exceeding 8 knots, making maintenance of the field an extremely difficult proposition. The waters in the inlet are so treacherous that underwater divers performing platform maintenance put steel plates in their face masks to protect them from debris carried by the current. The divers must literally feel their way around the job they are doing.

The fact that this oil is produced offshore in severe aquatic and climatic conditions, which considered together with the extra expenses of labor and supplies in Alaska, make this some of the most expensive oil to produce in the United States. The production costs have risen to a point that these wells are subject to premature abandonment because they do not generate sufficient revenue to justify the work needed to obtain the additional oil which is available. Cook Inlet oil is currently treated as tier 1, old oil. By moving Cook Inlet oil to tier 2, we can provide the necessary incentive and revenue to rework this field and prevent premature abandonment. Tier 2 treatment will make it possible to recover an additional 120 million barrels of oil which would otherwise not be recovered. This oil is of excellent high-grade quality and of the type which is in great demand.

It is this additional production of 120 million barrels which is the important aspect of my amendment. It makes no sense to me to allow one drop of domestically producible oil to go unrecovered when we are forced to replace that unrecovered oil at the rate of $40 per barrel on the overseas spot market. Leaving American oil in the ground makes even less sense in light of the current Iranian disruption and the tenuous position of oil supplied from the Middle East. To increase our dependence on overseas oil sources when commonsense dictates that we lessen that dependence represents sheer folly on our part. This additional recovery represents a step toward our national commitment for a policy of energy self-sufficiency. Certainly 120 million barrels of oil is not going to make us self-sufficient, but support of my amendment will put each of us on record as acknowledging that goal and taking a step toward its accomplishment.

The estimated revenue loss from my amendment is $200 million. In return, we obtain additional production of 120 million barrels of high-quality oil. This would appear to be a small price to pay for this additional production. Finally, I point out to my colleagues that it has been and continues to be the intent of our national policy to increase the production of domestic oil and lessen our dependence on foreign sources. We must not lose sight of this goal during our deliberations of the windfall profit tax.

Mr. President, I would like to make one last comment while I have the floor. One of my colleagues yesterday asked me about the problems related to the application of the windfall profit tax to Prudhoe Bay production. Only one portion of that field is now producing oil. It is given tier 2 treatment under this bill. That tier 2 treatment commences at $13. In other words, the windfall profit tax is measured from $13 to whatever the wellhead price becomes, and 75 percent of that would be paid to the Federal Government. It was pointed out to me that under its current treatment and under existing law that ceiling is $7.50.

Mv colleague pointed out that the wellhead price can go up from $7.50 to $13 without any additional tax being paid on the difference. Why is that not enough, he asked? Let me say here why it is not enough. The difference between that portion being produced now, and the other portions of the reserve is the difference between high-cost oil and low-cost oil. Different hydrocarbon pool structures exist. We shall have to drill 10 times as many wells in the west side of the Sadlerochit Reservoir to raise the same amount of oil. Those wells are costing millions of dollars to drill. This bill is going to foster a policy of producing only inexpensive oil. No one in his right mind is going to take the revenues left after the windfall profit tax and put them into the high-cost oil of this country.

This is similar to the problem in the Cook Inlet. In Cook Inlet, with tier 1 tax treatment, there is just not enough money left after a 75-percent windfall profit tax to expand production from that field. Unless it gets tier 2 treatment, we are going to lose in the ensuing years, 200 million barrels of oil that is capable of being produced right now.

With regard to the western portion of Prudhoe Bay, unless there is sufficient money to continue to drill 10 times as many wells as have been drilled in the past per barrel of production, they just will not drill the wells and we shall not have the extra 800 million barrels of oil. It makes no sense to me to review computer runs and decide after examining them the wellhead price is going to be $30, $40; whatever arbitrary figure it might be. The real question is, how much is the amount of cash flow and will it sustain the drilling program necessary to recover the proved, known recoverable oil in that reservoir? If there is not enough money left, we simply are not going to get the production.

Mr. President, I would hope that, one of these days, people whose decisions have an impact on Alaska oil will start listening to those of us who know something about it. I say this publicly: I hope I have been told for the last time by one of my colleagues that if another one of my colleagues agrees with me, they will consider my amendment.

There is an inference in that statement that those of us who are from Alaska are willing to fool with figures in order to gain some result. That comment should not be made to me again. If it is made again, I can guarantee the Senate that there will be no unanimous consent on this bill.

I do not make statements for the purpose of achieving approval on an amendment. Any statement I make are based on fact. If anyone wants to challenge the facts, I shall be glad to substantiate them. But I do not want my personal statements challenged on the basis of their being proven by another Senator's corroboration of what I have said. I do not say this lightly.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at the conclusion of my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 40, line 24, delete the word "or" and insert in lieu thereof a comma and insert between the second word "oil" and the parenthesis the words, ", or effective October 1, 1980 Cook Inlet Oil".

On Page 41, line 9, delete the word "or" and insert in lieu thereof a comma and insert between the second word, "oil" and the period the words ", or effective October 1, 1980 Cook Inlet Oil, other than oil produced from a stripper well property".

On Page 66, between lines 6 and 7, insert a new subsection (h) as follows:

"(h) COOK INLET OIL.—For purposes of this chapter—the term 'Cook Inlet Oil' shall mean oil produced from properties located in the Cook Inlet of Alaska."

Mr. ROBERT C. BYRD. Mr. President, on November 15, the Senate began its consideration of H.R. 3919, an act to impose a windfall profit tax on domestic crude oil. This bill was the subject of extensive hearings and it has been the subject of long and exhaustive markup sessions by the Committee on Finance. The committee has worked long and hard on the bill. The bill was reported on November 1; today is December 4; so the bill and the accompanying report were available for several days before the Senate took up the measure on November 15 and they have been available, of course, for the days subsequent thereto.

It is no surprise that a great deal of interest has been evoked by this bill. I am told that there are 130 printed amendments at the desk at this moment. This is an indication of the level of interest in the bill and it is an indication of the scrutiny to which the bill is being subjected.

Since November 15, the Senate has been in session 11 working days, including today. This means that the Senate has been in session something like 75 hours during those 11 days, and most of the hours during those 11 days have been spent on the windfall profit bill.

There have been 14 rollcall votes in relation to the bill. Nine amendments have been disposed of. At the same time, many hours have been spent in meetings that have been conducted in my office and in other offices in the north wing of the Capitol in an effort to reach an orderly means of proceeding with the bill and amendments thereto.

Senators from both sides of the aisle, Senators from the Finance Committee, representing a broad spectrum of opinion, have been involved in these meetings. A good-faith effort has been put forth by all concerned to reach an agreement—not necessarily an agreement that would include every detail. That was never the intention or the purpose. It is only the hope that we might agree on some rather broad approach that would, in the end, avoid a filibuster and break what appeared to be an impasse and produce a product that would be not only fair and equitable to the oil companies, but a bill which would be fair and equitable to the American people and would result in the production of more energy.

So, it was intended, hopefully, that these meetings would produce this kind of broad consensus that would protect the rights of all Senators to offer any amendments they wished but which would expedite consideration of the bill. In other words, the final product would not be decided in offices off the floor, but would be decided by the Senate and would be modeled and hammered out and shaped by the Senate, with every Senator being able to call up his own amendment if he wishes to, or any number of amendments, have them voted on, and let the Senate work its will and get on with other business. That was the purpose of the meetings that I have conducted—the purpose being, as I say, to expedite action on the bill and produce a final product that, in reality and also by perception, would be a good bill to take to conference.

I want to thank and do thank Senators who have participated in those meetings. The distinguished chairman of the Committee on Finance (Mr. Long), the distinguished ranking member of the Finance Committee (Mr. Dole), and other Senators on that committee on both sides of the aisle have participated.

I believed, and believe now, that those Senators represented various viewpoints on the major elements of the bill.

No agreement has been reached, but the discussions have been beneficial.

I supported the President's decision to decontrol the price of domestic oil with the understanding and, so far as I was concerned, with the commitment on the part of the Congress to pass a meaningful windfall tax bill.

I continue to support the President's decision to decontrol and I continue to support a meaningful tax, one that is fair to the American people and which does justice to their expectations.

Such a measure is not intended to be punitive toward the oil companies. Such an approach would not be helpful to this country's energy dilemma. But it is important the Senate get on with the business, and it is to that end I felt the meetings might be helpful and would avoid a filibuster. I think they have been helpful.

I take the floor at this time merely to say for the record what I have said about the meetings, their purpose, and what we had hoped to achieve and to say that even though the meetings have not produced any firm agreement, I think they have been helpful.

I do hope that the Senate can begin to vote on some of the major amendments that are around and which have been discussed. I would hope the Senate could begin voting today. I do not think at this particular moment that any further meetings that I might call would be beneficial. I think we have explored the matter pretty thoroughly.

I want to thank Senators who have participated. I have already mentioned the name of the distinguished Senator from Kansas (Mr. Dole) in my remarks—and he is present.

I also express my appreciation to the chairman of the committee (Mr. Long) and all Senators who have, I think, made a sincere effort to see where we might be apart, what the broad differences are, what the problems are with the various amendments.

I want to say this to him in his presence, he has contributed to these meetings.

I believe and hope, as I say, in winding up my remarks, that the meetings will have contributed to the Senate's going forward with some decisions on the amendments beginning, I would trust, today.

Mr. DOLE. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. DOLE. I did not hear everything the distinguished majority leader had to say, but I can report that the Senator from Kansas has met with the Senator from Louisiana this morning, and just left a meeting with about a dozen Republican Senators, including Senator Schmitt, who is on the floor. We will be discussing this matter at the policy luncheon.

The Senator from Kansas will propose to the Republicans that we vote on the Bradley-Chafee amendment, maybe by 3 o'clock this afternoon; followed by a vote on the Moynihan amendment on phaseout, hopefully today, through some time agreement that would permit us to at least dispose of those two matters this afternoon, followed hopefully, tomorrow morning, by some agreement on the Leahy amendment. We have a couple of other suggestions to make to the majority leader.

Hopefully that would be followed by an amendment by the distinguished Senator from Delaware (Mr. Roth); followed, again with a time agreement, by an amendment by a number of Senators who are interested in the so-called tax credit, or production credit, or plowback. The Senator from Kansas, the Senator from Oklahoma, the Senator from Idaho, the Senator from Alaska, are trying to figure out which version.

But that would, I think, indicate the meetings have been helpful. At least we have been able to narrow down some major issues.

If the Senator from Kansas is successful during the policy luncheon, we will be able to reach some agreement on at least this much of the agenda immediately following that policy luncheon.

I am not certain what the Senator from West Virginia has in mind. But that would, at least, start moving and voting.

Mr. ROBERT C. BYRD. Mr. President, what the distinguished Senator from Kansas has said comports with what I have in mind and I am encouraged by what he has said. As far as I am concerned, this would be a very agreeable approach.

I hope the distinguished Senator can get an agreement during the luncheon from his colleagues on his side of the aisle to begin in this manner so that the Senate can begin voting and begin working its will.

The amendments that have been mentioned are very appropriate prospects, I would say, for early votes. The Bradley-Chafee amendment has been before the Senate now for several days, and the motion to table it on one occasion failed.

Mr. DOLE. That would be the Moynihan amendment which changes the phaseout figure.

Mr. ROBERT C. BYRD. Next would be Leahy.

Mr. DOLE. The Leahy amendment.

Mr. ROBERT C. BYRD. And then Roth.

Mr. DOLE. Then Roth and some combination of McClure, Bellmon, Dole, and Stevens on the plowback.

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. That would still leave the Danforth amendment, the minimum tax, and other amendments. But at least we would be moving.

Mr. ROBERT C. BYRD. Yes. And at some point, we need to dispose of these amendments. Senators certainly have a right to call them up and get a vote on them after a reasonable time for debate, and the order in which they have been presented here would suit this Senator just fine. I just want to see us get moving.

I thank the Senator.

Mr. DOLE. The Senator from Kansas will do his best to try to persuade his colleagues.

I think it is fair to say that some are opposed to any tax, some are opposed to the amount of the tax, some have different proposals. But we have had a discussion this morning and one yesterday morning. I believe we all understand the need to move as far as we can.

Certainly, the distinguished Presiding Officer (Mr. Bradley) would like to have us vote on his amendment. We want to accommodate him in every way we can.

Initially, we wanted to defeat that amendment. We counted again and nothing was changed. So the better part of wisdom is to claim victory and move on to something else.

Mr. ROBERT C. BYRD. I thank the Senator.

I personally appreciate his efforts in pursuing this modus operandi.

Mr. SCHMITT. Will the Senator yield?

Mr. DOLE. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I think it would be useful if we terminate this particular discussion, presumably heading toward some kind of agreement, to realize what we are talking about is somewhere in the ball park of $160 billion to $200 billion over an 11-year period, however the Senate finally works its will, assuming some bill is passed.

We should put that in the context of other tax increases on the American consumer and the American economy, in particular, over that same period.

When we look at the soon-to-come social security increase, the inflation generated increases in personal and corporate income taxes, the increases in Federal tax due to decontrol, and State tax and royalties due to decontrol, and we add that to this so-called windfall tax, we come up with numbers something like $2 trillion over an 11-year period—$2 trillion of increased tax on the American economy.

The implications of that are extraordinarily profound in terms of redistribution of income, of redistribution of Government, just generally increases in the size of Government but the availability of these kinds of funds.

I hope the Senate can begin to deal with those more philosophical questions as it deals with the procedural ones.

For perspective, if we look at what an average annual increase in tax will be, something like $230 billion annually, and compare that with the optimistic estimates of the increase in the gross national product of something like $50 billion annually, we can see the magnitude of what we are doing to ourselves. We are going to increase taxes at a rate almost five times the rate at which our gross national product is going to increase. If that is not going to mask any other considerations that we may come up with when we talk about $200 billion over an 11-year period, I do not know what will.

I am profoundly disturbed by this trend, this taxation madness, that we suddenly find ourselves in, and I hope the rest of the Senate and the rest of the country becomes equally disturbed.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, have any orders been entered for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. None have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, as the distinguished Senator from Kansas (Mr. DOLE) has indicated, Republican Senators are meeting at this time—and will be meeting for the next hour—to discuss the bill that is before the Senate and an approach by which certain amendments, it is hoped, can be voted on today, with the understanding, beyond that, that perhaps other amendments can be agreed upon, so far as sequence is concerned, for future votes beginning with tomorrow.

So, in order that our friends on the other side of the aisle may proceed in this fashion and not have any interruptions in those deliberations, which I consider to be very important if we are going to complete action on this bill within the next week or 10 days, I think a recess would be in order. Therefore, I ask unanimous consent that the Senate stand in recess until 1:30 p.m. today.

There being no objection, the Senate, at 12:33 p.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DECONCINI).

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate at 1:34 p.m., recessed until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. LEVIN).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:21 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate at 2:06 p.m. recessed until 2:21 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEVIN).

RECESS UNTIL 2:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:45 p.m. today.

There being no objection, at 2:21 and 19 seconds p.m., the Senate took a recess until 2:45 p.m.; whereupon the Senate reassembled, when called to order by the Presiding Officer (Mr. PRYOR).

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

UNANIMOUS-CONSENT AGREEMENT ON AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I am prepared to present to the Senate the outlines of an agreement whereby some of the major amendments which have been discussed thus far would come before the Senate for votes, and there would be a sequential arrangement for those amendments, and, it is hoped, times for voting thereon. Discussions have grown out of the meetings that have been conducted over the past several days, and discussions have gone forward today.

I ask unanimous consent that a vote occur on the Bradley-Chafee amendment at 3:30 p.m. today. Provided, further——

Mr. STEVENS. Mr. President, I do not mean to interrupt my good friend, but the 3:30 was based on the fact that we would commence that at 2:30. Could we keep that in mind?

Mr. ROBERT C. BYRD. We can keep it in mind, but I hope we can vote at 3:30, because it has been talked about a good bit. I am not denigrating the suggestion made by the distinguished acting Republican leader. It may be necessary to slip that time a little. For now, let us say 3:30 p.m.

That upon disposition of the Bradley-Chafee amendment to the Bradley amendment to the committee substitute to the House bill, the amendment by Mr. MOYNIHAN be made the pending business; that a vote occur on the Moynihan amendment no later than 6 p.m. today, with the understanding that no tabling motions be in order to either of these two amendments.

Ordered, further, that no amendment to either amendment be in order.

Provided, further, that upon the disposition of the amendment by Mr. MOYNIHAN, Mr. LEAHY call up his amendment on percentage depletion, and he may wish to modify the amendment. A printed amendment is at the desk, but he may wish to modify that, or he may not. In any event, it still would be the percentage depletion limit; with the understanding that there be a vote on a motion to table the amendment at, say, 12:30 tomorrow afternoon.

Provided, further, that no amendment to that amendment be in order, except that the Senator may call up a modified amendment rather than the amendment as it specifically is written at the moment, or he may not.

Provided, further, that if the Leahy amendment is tabled, the Senate then proceed to the consideration of an amendment by Mr. ROTH; that if the amendment by Mr. LEAHY is not tabled, it is hoped that some time agreement can be reached under which a definite period would be allowed for debate on the amendment and/or a definite time set for a vote.

That is still open for discussion, as to a time for final disposition of the Leahy amendment in the event it is not tabled.

In any event, upon disposition of the Leahy amendment, one way or the other, an amendment by Mr. ROTH would be in order; that there be a time limit on the Roth amendment of not to exceed 6 hours, 3 hours to be allotted to Mr. ROTH and 3 hours to the manager of the bill. If the manager of the bill opposes the amendment, the time can be under his control.

Mr. LONG. Mr. President, at this moment, I do not know how I will vote on the Roth amendment; but I will turn the time over to those who are opposed to it, if I am not opposed to it.

Mr. ROBERT C. BYRD. It would be the understanding, then, that the distinguished Senator from Louisiana, if he is not opposed to it, will yield the time to me, and I could yield it to those in opposition.

Provided further, that following the amendment by Mr. ROTH——

Mr. DOLE. Mr. President, will the Senator yield?

That amendment will not be subject to a tabling motion.

Mr. ROBERT C. BYRD. That amendment will not be subject to a tabling motion?

Mr. LONG. Mr. President, it seems to me, as the manager of the bill, that we should not agree that no one would have a right to move to table, when we have an agreement and the time has expired. If we have an agreement, the usual agreement is that at a certain time, when the time has expired, we vote on the amendment. But that does not preclude someone from making a motion to table, when the time has expired and everybody has had a chance to have his say. I do not think we should waive that right. I would be inclined to object to that. But I am perfectly willing to agree that no motion to table will be made until the time has expired.

Mr. ROBERT C. BYRD. That is the usual rule in any regard.

Mr. LONG. I do not think we should start this, otherwise a Senator can come in with amendments and say, "I'm going to object to a unanimous-consent agreement. I'm going to object to the Senate doing business unless I get unanimous consent to vote of my amendment the way I offer it, and nobody can make a motion to table it."

I may vote for the Roth amendment, for all I know. I have not heard the discussion as yet. I do not think we should put the condition on amendments that no one can make a motion to table, even after all time for debate has expired and everybody has heard the arguments.

Mr. DOLE. Mr. President, I think we can go ahead with the agreement and come back to that and perhaps drop the time agreement.

Mr. ROBERT C. BYRD. At this point, the proposal would include 6 hours on the Roth amendment.

Do I correctly understand that no amendment will be in order to that amendment?

Mr. STEVENS. That is the suggestion.

Mr. DOLE. That is the suggestion. I have just learned that Mr. Roth does not disagree with the statement of the chairman as to a motion to table, but he does not want an amendment to his amendment.

Mr. ROBERT C. BYRD. There will be no amendment to the Roth amendment, but it will be subject to a tabling motion to the expiration of the time.

Provided, further, that following the disposition of the Roth amendment, the Senate take up a series of plowback amendments by Mr. Bellmon, Mr. McClure, Mr. Dole, Mr. Stevens, and Mr. Jackson; that upon the disposition of the plowback amendments, the Senate take up an amendment by Mr. Stevens on Cook Inlet; that the Senate proceed to the consideration of an indexing amendment by Mr. Armstrong.

That is the order in which the amendments would be called up, and with the exception of the first, second, and fourth amendments, and a time for a vote on the tabling motion—no, the amendment is by Mr. Leahy. There is no time limitation. I am not requesting any time limitation on the other amendments at this point. It is merely the sequence.

The PRESIDING OFFICER (Mr. Baucus). Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object——

Mr. METZENBAUM. Mr. President, reserving the right to object——

Mr. STEVENS. I will be happy to yield to the Senator from Ohio, if he wants to reserve the right to object.

Mr. ROBERT C. BYRD. I have been asked to modify the request so as to make the vote on tabling Mr. Leahy's amendment occur at 1 p.m. tomorrow, rather than 12:30 p.m.

Mr. METZENBAUM. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, will the leader be good enough to explain to me the proposal with respect to the Moynihan phaseout amendment?

Mr. ROBERT C. BYRD. First of all, the Senator was not here when I first began propounding the request. So let me say that the vote shall occur on the Bradley-Chafee amendment at 3:30 p.m. today. We may have to change that to 3:45 p.m., or something. Anyhow, Mr. Moynihan's amendment will then be called up and a vote shall occur on the amendment by Mr. Moynihan no later than 6 p.m. today with no amendments thereto in order and no tabling motion in order.

Mr. METZENBAUM. Mr. President, under those circumstances I have to object.

Mr. ROBERT C. BYRD. Will the Senator state what his problem is?

Mr. METZENBAUM. I do not favor a phaseout at all, and I believe that the Senate should be given an opportunity to have that issue itself placed before the Senate, and at a time that is appropriate I wish to offer an amendment so that that issue may be made to the Senate.

Mr. DOLE. The Senator may do that at any time. We do not take away that right.

Mr. METZENBAUM. I believe that once the $210 billion phaseout proposal is agreed to or rejected it would be foolhardy to offer it thereafter. My feeling is that the time to offer it is as an amendment either in the first degree or second degree to the Moynihan amendment. I am not quite certain as to whether——

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. STEVENS. Does the Senator wish to call up his amendment prior to the Moynihan amendment?

Mr. METZENBAUM. First, I wish to lay it down. But the answer is "Yes," I am very happy to lay it down and call it up prior to the Moynihan amendment.

Mr. DOLE. And vote on it today.

Mr. METZENBAUM. I have no problem about when we vote on it.

Mr. DOLE. That is all right with me.

Mr. STEVENS. That is agreeable with us.

Mr. ROBERT C. BYRD. Mr. President, I modify the request as follows: Following the vote on the amendment by Mr. Bradley and Mr. Chafee at 3:30 p.m. or circa 3:30 p.m., say 3:45 p.m. now, Mr. Metzenbaum be recognized to call up his amendment and that we vote no later than 5 p.m. today on the amendment by Mr. Metzenbaum and that the amendment by Mr. Moynihan then be called up and that a vote occur no later than 6:30 p.m. and that the remainder of the agreement stand as presented.

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding——

Mr. METZENBAUM. Mr. President, if the Senator will yield, I inquire of the leader one further question. As I understand it there is nothing in the leader's proposal that precludes any other amenrment after we have concluded this.

Mr. ROBERT C. BYRD. No, not indeed.

Mr. DOLE. There are 127 pending amendments.

Mr. METZENBAUM. I thank the Senator.

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding that Senator Metzenbaum's amendment will be offered. Does he also want a provision that there be no amendment proposed to his amendment?

Mr. METZENBAUM. The Senator from Alaska is correct, and I appreciate his making that as a suggestion.

Mr. STEVENS. Does he seek an up-and-down vote on his amendment?

Mr. METZENBAUM. The answer is yes.

Mr. DOLE. We are not going to agree to that.

Mr. STEVENS. I am just asking.

Mr. METZENBAUM. The answer is yes. Otherwise, it would be necessary for me to ask the leader to provide an appropriate order so that I may offer it in the second degree, but I think it would be better if we just agreed that no amendment will be offered and called up and voted upon without the amendments by 5 p.m.

Mr. STEVENS. That is agreeable with this Senator. I am trying to find out what some of the conditions will be. It is my understanding the Roth amendment will be on the basis that there will be no amendments in order but it will be subject to a motion to table.

Mr. LONG. Mr. President, I insist that all amendments subject to a time limitation be under the usual condition. When the time has expired, if one wishes to make a motion to table he may do so. I have no plan to make a motion to table, but every Senator, I think, should have that right. I do not think we should depart from that tradition.

Mr. ROBERT C. BYRD. The Senator accepts the Chafee-Bradley amendment, does he not?

Mr. LONG. We had a motion to table on that one.

Mr. ROBERT C. BYRD. All right. We had a tabling motion.

Mr. LONG. It failed.

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. So it would not be in order to make it anyway.

Mr. ROBERT C. BYRD. It would be because 3 days have passed.

Mr. LONG. But it will not be made.

Mr. STEVENS. I might say to my good friend from Louisiana some Senators have a feeling that they wish to have an up-and-down vote; others do not. I do not mind a motion to table my amendment; others do. The Senator from Ohio does not want his tabled. The Senator from Missouri says it is all right with his. The Senator from Delaware says it is all right with him. Other Senators do not want an up-and-down vote. I think we should be able to work it out.

Mr. LONG. When one agrees to a vote on an amendment and he agrees to limit debate and the time expires, if those opposed to the amendment wish to move to table it they may, but if the motion to table fails the Senate proceeds immediately to the vote. It is a waste of time to move to table, a complete waste of time.

Mr. ROBERT C. BYRD. And it takes one additional vote.

Mr. LONG. It takes one additional vote to table, one more than it does to defeat the amendment.

Mr. METZENBAUM. I ask the Senator from Louisiana in this particular instance, in order that we not use up the time, will he be willing to agree to have an up-and-down vote on the motion at 5 p.m., without any amendments to the motion?

Mr. DOLE. Motion or amendment?

Mr. METZENBAUM. Amendment.

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding the Senator from Idaho on his amendment seeks an up-and-down vote also without a motion to table as does the Senator from Ohio. To my knowledge there is no one else who has an amendment who opposes the concept of limiting a motion to table. The Senator from Wyoming——

Mr. WALLOP. Mr. President, I wish to clarify, if I may, that the time on the Metzenbaum amendment be equally divided.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. It would be in the usual form.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Will the Senator from Louisiana not agree that under these circumstances to get an agreement worked out the Senator from Ohio wishes an up-and-down vote, and the Senator from Idaho wishes an up-and-down vote, let them have an amendment——

Mr. LONG. What amendment is it?

Mr. STEVENS. The plowback.

Mr. LONG. The plowback amendment?

Mr. STEVENS. Yes.

Mr. LONG. On those two, all right.

Mr. LEAHY. Mr. President, reserving the right to object, I understand to make absolutely sure following the normal course each Senator has the right to amend his amendment, those of us within this agreement.

Mr. DOLE. The Senator from Vermont has a right to amend his amendment.

Mr. LEAHY. That is what I mean. The sponsor of the amendment has the right to amend his amendment.

Mr. LONG. Up until the yeas and nays are ordered he has.

Mr. STEVENS. I might request of the Senator from West Virginia, could we add to the bottom of the list after the Armstrong amendment an amendment be offered by the Senator from Connecticut dealing with conservation with a 2-hour limitation subject to the usual form. It is by Mr. WEICKER.

Mr. ROBERT C. BYRD. I include that in the request.

Mr. LONG. What amendment is that?

Mr. STEVENS. It is a conservation amendment offered by the Senator from Connecticut (Mr. WEICKER). He wishes 2 hours on that amendment to follow the indexing amendment of the Senator from Colorado (Mr. ARMSTRONG).

Mr. DOLE. Mr. President, further reserving the right to object, and I shall not object, I think this is a good agreement that is going to get movement here.

I raise the point on behalf of Senator DANFORTH. Senator DANFORTH is not asking that his amendment be put in any sequence. He is not concerned about motions to table. But he wishes, when his amendment is reached, that no amendment to his amendment be in order.

Mr. STEVENS. He also seeks that he be permitted to modify his amendment at any time prior to the motion to table.

Mr. LONG. Mr. President, I object. I have no idea what the Senator is talking about.

Mr. ROBERT C. BYRD. Wait a minute. If we could get what we have here I think we will have a pretty full platter.

Mr. JAVITS. Mr. President, reserving the right to object, on the Weicker amendment I may wish to amend it so I will not agree to not amend on Weicker. I am a cosponsor, and I may wish to amend it.

Mr. ROBERT C. BYRD. Could we leave that off at the moment? I only discussed down to the point I had reached with my colleagues and beyond that I think——

Mr. JAVITS addressed the Chair.

Mr. STEVENS. I say to the Senator from New York that the Senator from Connecticut said he wishes 2 hours on the amendment and to include the right of the Senator from New York to amend his amendment.

Mr. JAVITS. That is fine.

Mr. STEVENS. Others asked for no amendments. The terms of the Senator from Connecticut are that he wishes 2 hours and he wishes to come in this schedule following Senator ARMSTRONG. We are not scheduling Senator DANFORTH's amendment. He merely wishes an understanding now. When he offers his amendment he knows he is going to be subject to a motion to table. He wishes the right to modify that amendment without having the yeas and nays and then he has no right to modify it. He wishes to preserve his right to modify the amendment any time prior to a motion to table.

Mr. LONG. I object. I just think, Mr. President, that Senators can offer any kind of amendment they want to offer. We do not have a germaneness requirement at this moment. They can offer whatever they want to offer. But they come in here and ask for all kinds of advantages and all kinds of conditions, and they ask waiving parliamentary rights, when a Senator can offer anything he wants to. He can offer a constitutional amendment on this bill. But to ask then that he be permitted to modify and change it around after the yeas and nays have been ordered, and all that, sets a bad precedent and we should not have to agree to that. I object. Just in a vacuum some Senators want to bring amendments in and then change them after the yeas and nays have been ordered——

Mr. STEVENS. As I say, it was not exactly a vacuum. The Senator was on the floor prepared to offer an amendment when this whole thing started with regard to the Bradley amendment, and he sort of stood aside. That is my memory of it. He was seeking the floor, seeking to bring his amendment up, and I know what his amendment is. I oppose it.

Mr. LONG. He has more than one.

Mr. STEVENS. He wants the right to modify his amendment. What is wrong with that?

Mr. LONG. I do not even know what amendment it is we are talking about. I know of one amendment, one Danforth amendment, and I do not know what else.

Mr. STEVENS. There is only one.

Mr. DOLE. We are now getting in contact with Senator DANFORTH. It is not my understanding that he wanted this as any part of any package. If that is not the case we can proceed. But I would like to consult with Senator DANFORTH before we agree.

Mr. ROBERT C. BYRD. I can state that the mere fact that there was a time limit on the amendment itself constitutes action on the amendment. One does not have to order the yeas and nays on it to prevent a modification of it. A time limit on the amendment itself constitutes action on the amendment and, consequently, it could not be modified.

Mr. STEVENS. He does not seek a time agreement on his amendment but is seeking an understanding that his amendment is not going to be called up by somebody else where the yeas and nays could be ordered, and then he could not modify it.

Mr. ROBERT C. BYRD. Could we then agree that following the amendment by Mr. ARMSTRONG we would proceed to the amendment by Mr. WEICKER?

Mr. STEVENS. If we could get an agreement that Weicker could follow Armstrong and have 2 hours subject to the usual form, there is no problem on that one. You do not object to that, do you? That is the conservation amendment.

Mr. LONG. I do not guess I do. I do not know what it is. I have no objection. I would just like to have germane amendments to the bill.

Mr. STEVENS. It would be subject to amendment and subject to a motion to table, too.

Mr. ROBERT C. BYRD. All right. It will be subject to amendment then. Two hours on the amendment, and how much time on an amendment to that amendment?

Mr. JAVITS. Ten minutes on each side.

Mr. ROBERT C. BYRD. Twenty minutes equally divided on an amendment to the amendment.

Mr. STEVENS. I still have some questions if I might propound them. In terms of the Leahy amendment, the modification to the Leahy amendment, does that still deal with depletion on windfall profits, the modification?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. It is the same subject.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Modification of that amendment.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. My understanding is on the Metzenbaum and McClure an up or down vote.

Mr. METZENBAUM. With no amendments.

Mr. STEVENS. It is my understanding that no amendments are in order to any of these we have been discussing, with the exception of the Weicker amendment; am I correct?

Mr. ROBERT C. BYRD. I did not ask for that in connection with and respect to the plowback amendments. I do not believe I included that, because if we are not going to have amendments or are not going to allow tabling motions, we certainly ought to have time agreements.

Mr. STEVENS. With regard to Senator McCLURE's plowback amendment, it was his request that it not be subject to amendment or motion to table.

Mr. ROBERT C. BYRD. I think that was agreed to. That is in the request.

Mr. STEVENS. And Senator METZENBAUM's. On the plowback amendments, Dole, Bellmon, Stevens; they are subject to amendment.

Mr. DOLE. Mr. President, reserving the right to object——

Mr. STEVENS. The Senator from Connecticut will confirm my understanding that he seeks 2 hours on his conservation amendment in the usual form subject to amendment. Senator JAVITS indicates he may offer an amendment to that.

Mr. WEICKER. My amendment No. 701?

Mr. STEVENS. Yes.

Mr. WEICKER. Two hours, and it would be subject to amendment.

Mr. STEVENS. It is in the usual form, that the time would be equally divided. You do not seek 2 hours yourself but 2 hours equally divided.

Mr. WEICKER. Yes.

Mr. STEVENS. Yes.

Mr. WEICKER. Included in there would be an up or down vote on this.

Mr. STEVENS. We have not included that. In the usual form it would be subject to a motion to table. Does the Senator wish an up or down vote?

Mr. WEICKER. I wish an up or down vote.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object——

Mr. LONG. The Senator is talking about an amendment that, so far as I know, is not germane to the bill, and when the time has expired on amendments—and mind you I am not talking about shutting off someone's right to discuss, but when the time has expired, the amendment ought to be subject to a motion to table if somebody wants to make a motion to table. I do not have any mind, making a motion to table, but Senators ought to have that right, particularly when they talk about an amendment that is not, strictly speaking, germane to the bill, and we should not waive that right.

Mr. WEICKER. Mr. President, reserving the right to object, let me make two statements: First, I hope a motion would not be made, but let me modify what I agreed to here. I will withdraw the aspect of insisting on an up or down vote, but I would like to limit the amendments to my amendment, however, to one by the Senator from New York. If we can do that, in other words, my amendment being subject to an amendment by the Senator from New York, I will withdraw from insisting on an up or down vote.

Mr. JAVITS. May I say that my amendment would be on conservation.

Mr. STEVENS. That amendment is at the desk, it is 701 and deals with conservation of petroleum products.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Can we have the agreement as understood by the chair now? [Laughter.] May we have order?

The PRESIDING OFFICER. The Senator is correct. Could we please have order?

The request begins with a vote at 3:45 on the Bradley-Chafee amendment of the Bradley amendment to the committee substitute.

Mr. STEVENS. Will the Senator agree to making it at 4?

The PRESIDING OFFICER. Amended to 4 o'clock.

Following the disposition of the Bradley amendment——

Mr. ROBERT C. BYRD. Mr. President, it is understood that when we talk about the disposition of the Bradley-Chafee amendment we are talking about the amendment in the second degree and the amendment in the first degree.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. If the amendment in the second degree is adopted, I assume a voice vote would be satisfactory?

Mr. BRADLEY. This is to the committee substitute.

Mr. ROBERT C. BYRD. Yes

The PRESIDING OFFICER. On the disposition of the Bradley-Chafee amendment, then the amendment of the Senator from Ohio (Mr. METZENBAUM) is ordered, on which a vote will occur at 5 o'clock. No motion to table will be in order and no amendment to that amendment will be in order.

Following the disposition of the Metzenbaum amendment next is the amendment by the Senator from New York (Mr. MOYNIHAN) which will be in order, and a vote occur on that amendment no later than 6:30 today. No motion to table and no amendment to the amendment will be in order.

Following the disposition of the Moynihan amendment, then the amendment of the Senator from Vermont (Mr. LEAHY) will be in order regarding percentage depletion which may be modified——

Mr. ROBERT C. BYRD. Excuse me.

The PRESIDING OFFICER (continuing). May be modified when it is sent to the desk.

Mr. ROBERT C. BYRD. When he sends it to the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. By the principal sponsor.

Mr. ROBERT C. BYRD. By the principal sponsor only.

The PRESIDING OFFICER. The Senator is correct. A motion to table that amendment will be in order.

Mr. ROBERT C. BYRD. May occur.

The PRESIDING OFFICER. No amendment to that or amendments will be in order.

Mr. ROBERT C. BYRD. And the vote will occur tomorrow at 1 p.m.

The PRESIDING OFFICER. The Senator is correct.

Following the disposition of the Leahy amendment, an amendment by the Senator from Delaware (Mr. ROTH) will be in order, for a time not to exceed 6 hours evenly divided between the Senator from Delaware and the manager of the bill or if he so designates the majority leader or his designees. No amendment to that amendment will be in order. The Roth amendment will be subject to a motion to table.

Following the Roth amendment, a series of amendments are then in order on plowback to be offered by the following Senators: Senator BELLMON, from Oklahoma; Senator McCLURE; Senator DOLE; Senator JACKSON; and Senator STEVENS.

Mr. STEVENS. I have one plowback amendment.

The PRESIDING OFFICER. Following the plowback amendments, then an amendment will be in order by the Senator from Alaska (Mr. STEVENS) on the Cook Inlet.

Then following the disposition of that amendment, the next amendment would be an amendment by Mr. ARMSTRONG concerning indexing; and following the disposition of the amendment of the Senator from Colorado, then an amendment by the Senator from Connecticut (Mr. WEICKER) regarding conservation will be in order, with a 2-hour time limit; with 20 minutes on second-degree amendments.

Mr. ROBERT C. BYRD. On one second-degree amendment.

The PRESIDING OFFICER. On one second-degree amendment to the original amendment.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, reserving the right to object, by the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. By the Senator from New York (Mr. JAVITS).

Mr. DOLE. Further reserving the right to object, with further reference to the amendment of the Senator from Idaho, it will not be subject to amendment or to a motion to table, but only subject to an up-or-down vote.

Mr. STEVENS. With reference to the amendment of the Senator from Idaho, that is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Reserving the right to object, and not as a part of the time agreement, we are asking no time agreement on the amendment of the Senator from Missouri, but he has requested that he be permitted to offer an amendment, and that it be subject to modification prior to the time the yeas and nays are ordered on a motion to table or on the amendment itself; am I correct?

Mr. LONG. Mr. President, there is no agreement on that. I am not asking any advantage, and I do not see any reason why the Senator should have any advantage. I know of no purpose of anyone to deny the Senator any of his rights, and on behalf of those who are not for the amendment, I am not asking for any advantage, but I do not want to give the other side any advantage, either. I think fair is fair, and Senators will not be taken advantage of, so far as I know; but on the other hand the manager of the bill does not like to be taken advantage of, either. I just think we should let the Senator bring up his amendment when he is ready.

Mr. STEVENS. I ask the Senator from Missouri, does he want to press the issue now?

Mr. DANFORTH. No; I would say to the assistant minority leader, clearly we are trying to work out some sequence of amendments being brought up and some general method of handling them. I would be very much interested in working something out here. I am sure that the Senator from Louisiana would want to make a motion to table, or reserve that option, to whatever amendment I would offer, but it seems to me we could at least get to this business of second degree amendments, and that one way or the other I should have an agreement that either on an up or down vote or on a motion to table I could get a vote on the amendment I call up.

Mr. ROBERT C. BYRD. Mr. President, "the longer I go the nervouser I get."

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I want to say, with reference to the amendment of the Senator from Missouri, that should his amendment be subject to this agreement we are making now, it would not be subject to modification, because modification is not possible under the terms of the agreement. I think we should serve notice that the Senator may or may not want to offer it.

Mr. DANFORTH. Yes; that is correct. I may not offer it.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. When is the vote?

The PRESIDING OFFICER. Four o'clock.

Mr. STEVENS. Is that time subject to division now?

The PRESIDING OFFICER. There is no such agreement specified.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the agreement be in the usual form.

Mr. STEVENS. Does that request of the majority leader apply to all the amendments the agreement covers?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. As to division of time only.

The PRESIDING OFFICER. As to division of time only.

Without objection, the unanimous-consent request is agreed to.

Who yields time on the pending Bradley-Chafee amendment?

Mr. CHAFEE. Mr. President, what do we have, 7½ minutes per side?

The PRESIDING OFFICER. The Senator is correct.

Mr. BRADLEY. You take 3½ and I will take 3½.

Mr. CHAFEE. Very well.

The text of the agreement relating to tomorrow follows:

Ordered, That on Wednesday, December 5, 1979, when the Senate resumes consideration of the unfinished business, H.R. 3919 (Order No. 421), an act to impose a windfall profit tax on domestic crude oil, the Senate resume consideration of the amendment by the Senator from Vermont (Mr. Leahy), relative to percentage depletion, with no amendment thereto to be in order: *Provided*, That time available for debate on this amendment be equally divided and controlled by the Senator from Vermont (Mr. Leahy) and the manager of the bill: *Provided further*, That at the hour of 1:00 p.m. the Senate proceed to vote on a motion to table the Leahy amendment.

Ordered further, That following the disposition of the Leahy amendment, the Senator from Delaware (Mr. Roth) be recognized to call up an amendment, on which there shall be a time limitation of not to exceed 6 hours, to be equally divided and controlled by the Senator from Delaware (Mr. Roth) and the manager of the bill: *Provided*, That no amendment be in order to the Roth amendment: *Provided further*, That a tabling motion be in order to the Roth amendment.

Ordered further, That following the disposition of the Roth amendment, the Senate proceed to the consideration of a number of "plow-back" amendments to be offered by the Senator from Oklahoma (Mr. Bellmon), the Senator from Idaho (Mr. McClure), which shall not be subject to any amendment or a motion to table, the Senator from Kansas (Mr. Dole), the Senator from Alaska (Mr. Stevens), and the Senator from Washington (Mr. Jackson).

Ordered further, That following the disposition of the "plow-back" amendments, the Senator from Alaska (Mr. Stevens) be recognized to call up an amendment on the Cook Inlet.

Ordered further, That following the disposition of the Stevens amendment, the Senator from Colorado (Mr. Armstrong) be recognized to call up an amendment on indexing.

Ordered further, That following the disposition of the Armstrong amendment, the Senator from Connecticut (Mr. Weicker) be recognized to call up an amendment on conservation, on which there shall be a time limitation of 2 hours, to be equally divided and controlled by the Senator from Connecticut (Mr. Weicker) and the manager of the bill: *Provided*, That the only second degree amendment in order be an amendment by the Senator from New York (Mr. Javits), on which there shall be 20 minutes, to be equally divided and controlled.

Mr. CHAFEE. Mr. President, the purpose of the decontrol of oil was to permit it to go to the world price, so that there would be encouragement within the United States for development of new oil production and to bring alternate sources of energy into production.

Once that was done, the administration came forward with a windfall profit tax. In my view, this tax should be on those sources of current production of oil in order to produce revenue, and at the same time not significantly discourage production.

The revenues from the windfall profit tax were then to provide moneys for a whole range of activities: To help the poor meet their fuel bills, because they were the hardest hit by the decontrol of oil; to help pay for synthetic fuel; to help encourage conservation.

In the Finance Committee, we very carefully considered what areas should be exempted so that future production would be encouraged. By a vote of 19 to 1, we agreed not to apply the windfall profit tax to new oil. Nonetheless, we thought, in the case of lower tier, tier 1 oil, that a 75-percent tax would not significantly discourage production.

There were a very close votes on upper tier oil, tier 2 oil, and there, it was decided not to increase the tax from 60 percent to 75 percent, or indeed to 70 percent.

When the bill came to the floor of the Senate, an additional exemption was added, notably the total 1,000 barrels of production by independents—not just stripper oil, but the entire 1,000 barrels of production. That caused a significant loss of revenue. This amendment, which Senator BRADLEY and I have before the Senate today, would provide for increasing that tax on tier 2 oil from 60 percent to 75 percent, thereby raising $22.5 billion.

It has been noted by the Congressional Budget Office that such an increase in tax would not have a significant effect on supply. In other words, as they stated, the supply response would change only marginally.

It is my strong belief, Mr. President, that this is an area where we should increase the tax, with marginal effect on production. With our amendment, we can preserve these other very significant areas that are exempted, notably newly discovered oil and tertiary production.

So, Mr. President, I urge my colleagues to support this amendment, which would yield very significant amounts of revenue, nearly $23 billion over the course of the 10-year period.

The PRESIDING OFFICER. The Senator has used 3½ minutes.

Mr. CHAFEE. And would not have a significant effect upon production.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I am happy to yield the remainder of my time to the Senator from Kansas.

Mr. DOLE. Mr. President, I will not use all the time. I want to give a windfall to the distinguished Senator from New Jersey, and let him have part of my time.

Mr. President, as I have repeatedly stated, I strongly oppose the proposed amendment to increase the tax rate on tier 2 oil to 75 percent. In my judgment, the Finance Committee properly rejected the imposition of 75-percent rate on tier 2 oil during the markup of this bill, and this body should do likewise.

Tier 2 generally consists of oil from properties on which production started between 1972 and 1979. Under the Finance Committee bill, tier 2 also includes Alaskan Sadlerochit oil, high water cut oil, marginal oil, and tier 1 oil in excess of the 1½-percent decline curve.

Tier 2 properties are the backbone of America's domestic petroleum reserves. Approximately 60 percent of our current production falls into this category. Tier 2 properties offer the best prospect for a near-term supply response. It may take many years for synfuels, tertiary production, and even production from newly discovered fields to contribute significantly to our goal of energy independence. Tier 2 fields, on the other hand, can offer an almost immediate supply response. America may desperately need this immediate supply response from tier 2 in order to weather any sudden shortfall in foreign supplies.

Proponents of the 75-percent tax rate on tier 2 apparently assume that no further investment is needed to recover existing tier 2 reserves. This assumption is simply incorrect. Massive expenditures must continue in order to maximize production from these existing fields.

For example, it is estimated that only about $4 billion has been spent of the $19 billion total needed to develop the known reserves in the Alaskan North Slope. Moreover, a substantial investment is needed in existing tier 2 fields for infill drilling, secondary recovery, and pressure maintenance projects and well workovers. It has been estimated that about 120 billion barrels of additional production could be recovered by expanded use of waterflooding and infill drilling on known properties. Without the necessary investment these 120 billion barrels will remain unrecoverable. Nevertheless, I fear that a higher tax rate on tier 2 may simply drive capital elsewhere to the detriment of the Nation's overall energy interests.

This concern has been dramatically underscored by our recent decision to discontinue the importation of Iranian crude oil. At a time when an immediate petroleum supply response is vital to America's national defense interests, it seems the height of folly to cripple the incentive to increase tier 2 production by imposition of a harsh 75-percent tax rate. Indeed, I think this body should seriously consider lowering the tax rate on tier 2 production.

I recognize there are those who believe that production from existing fields will continue at the same rate regardless of what tax rate is imposed under the crude oil tax. Nevertheless, even the CBO concedes that a higher tax rate will have at least some negative effect on production from existing fields. Others, who are perhaps closer to the problem have estimated that a much more serious drop in production will occur if that windfall tax rate is raised to 75 percent. For example, one company has estimated that an increase in the windfall profit tax from 60 percent to 75 percent on both tier 1 and tier 2 would cost this country 200,000 barrels of oil per day by 1985. This same company estimates that this change would decrease total recoverable reserves by 700 million barrels. This is oil we can ill afford to lose.

It should also be noted that a 75-percent rate on tier 2 would simply undercut the committee's decisions to put high water oil, marginal oil, and front end tertiary oil in tier 2. It was hoped that by putting these high cost categories of oil in tier 2, we would stimulate or at least preserve production from these reserves. Nevertheless, if the tax rate on tier 2 is increased to 75 percent, the intended incentive will be substantially diluted.

Mr. President, I would much prefer that the Senate reduce the tax rate on tier 2 oil to 50 percent. This was the tax rate originally proposed by the administration and the tier 2 rate that I proposed to the Finance Committee. If this body is unwilling to lower the tier 2 rate to 50 percent, I would urge my colleagues to at least reject any attempt to increase the tier 2 rate to 75 percent. A 75-percent rate would be flatly contrary to our national energy interests, since it will discourage the investment needed in tier 2 oil fields and in energy production in general.

The arguments have been made, and I think everybody understands the issue. There is no doubt in this Senator's mind that the Senator from New Jersey and the Senator from Rhode Island will prevail. I do not believe that is the correct way to go, but I also recognize what the vote was on a motion to table this amendment. I also understand the Senators have been trying to work out some agreement and this has been in part completed. There are a number of major issues that still have not been addressed, and as to these the Senate ought to be able to work its will.

The Senate will work its will. It will increase the tax. It has been determined by those in control of the Senate that this should be a tax bill and not an energy bill.

It has been determined that the merit of this bill depends on the dollars it raises, not the oil it produces. It has been determined that that total revenue figure ought to be approximately $185 billion. That may or may not be the case in the final analysis.

So it would seem to this Senator that since we have moved from production to taxes that there is little use in opposing this amendment.

I yield to the Senator from Arkansas (Mr. BUMPERS).

Mr. BUMPERS. Mr. President, I want to speak briefly in support of the amendment to increase the tax rate upon upper tier oil from 60 percent to 75 percent.

For days we have heard the argument that a lower tax increases incentives for finding oil, and these incentives are supposedly necessary to offset the greater risks now involved in finding oil. I do not accept that argument, and it certainly has no validity here, because domestic producers were well rewarded for their efforts even before oil prices were decontrolled. The price increases resulting from decontrol are a pure windfall which was neither anticipated nor earned. They cannot provide an incentive to find something which has already been found.

These additional revenues now realized from the sale of upper tier oil also provide no incentive to find new oil, because the risks involved in future undertakings must be assessed only against the anticipated rewards resulting from those undertakings.

It is argued that oil companies need the added profits in order to raise the capital necessary to fund future exploration. No attempt has been made to document this need, not even in the Finance Committee's report of this bill. One thing is certain, and that is that decontrol, coupled with inevitable OPEC price increases, will provide more capital than would have resulted from continued controls, regardless of OPEC action.

Also, there is no economic law that such venture capital must be internally generated, although I realize that the generous tax laws make that a frequent practice. The simple fact is that the higher prices will lure plenty of eager investors to provide the capital. Investment counselors are advising their clients to invest in oil, because they know what the future holds.

In addition, we have already exempted the first 1,000 barrels a day of production by independent producers. At current prices, that amounts to $30,000 a day, or nearly $11,000,000 a year. That sum is itself sufficient for a great deal of drilling, and it will attract additional capital. The major oil companies can expand their exploratory efforts by drawing upon their risk-free operations, which also will attract capital.

Finally, because these profits are derived from the monopolistic practices of OPEC and have no relevance to risks, a 75 percent tax rate is not punitive, especially in view of the good which can be accomplished with the tax revenues, such as developing alternative fuels and easing the burden of energy costs imposed upon those who cannot pay them.

Mr. DOLE. Mr. President, I yield a minute or two to the Senator from Wyoming (Mr. WALLOP) and the remainder to the Senator from New Jersey (Mr. BRADLEY).

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming (Mr. WALLOP).

Mr. WALLOP. I will just say that I see the handwriting on the wall and I know where this amendment is going. One of my great disappointments has been that no one will talk about what is actually at issue here. Everybody is now talking in terms of symbols: "The majority leader's symbol is $185 billion." Somebody else's symbol is $210 billion; somebody else's symbol is the House's $174 billion.

And we have all forgotten that somehow or another all we are doing is creating a tax on capital, which ultimately will discourage the production of oil and discourage the country from achieving the kind of independence from being taken as hostages. I am not really talking about Iran but that we are being held hostage to our own energy appetite.

I find that remarkably discouraging. If only we could focus the dialog and discussion about windfall profits and the change in energy from a subsidized energy economy to a, more or less, true cost energy economy, it would be helpful to the country and it would be helpful to those of us who seriously want to discuss the merits, or lack thereof, of this kind of tax.

Unfortunately, in our attempt to get it to $185 billion, all that debate has gone out the window. All we talk about is our symbolism and we will take whatever cosmetic effect is necessary to achieve $185 billion in windfall revenue. I find that unfortunate, but I also find it a realistic assessment.

Mr. President, I yield to the Senator from New Jersey, reserving whatever time the Senator from Kansas (Mr. DOLE) may want to have left.

Mr. MOYNIHAN. Mr. President, the Senator from New York is happy to yield to the Senator from New Jersey (Mr. BRADLEY).

Mr. BRADLEY. Mr. President, it is time for the other shoe to fall. The first one fell last week and the second one should fall immediately. We should approve this amendment.

We need to increase the tax rate on tier 2 oil from 60 to 75 percent. Tier 2 oil represents about 51 percent of the oil we produce domestically, primarily consisting of Alaskan and marginal oil and old oil that will move into the upper tier under decontrol.

There are several reasons why it is important to pass this tax. First, the argument that there will not be sufficient revenues for investment in exploration and development, I find is a faulty argument, given the windfall profit tax revenues that will accrue to oil companies in the next 10 years. As a result of decontrol and after all taxes there will be over $300 billion available for investment in exploration and development. Last year their investment in development and exploration was $16 billion. Even with this tax increase to 75 percent the oil companies will have an opportunity to double their investment, if they choose to do so.

Second, Mr. President, I would suggest that the decision whether to invest in new oil exploration and development should depend more on the producers' expected returns on this investment than on whether they reap a windfall from investments made a decade ago. The wellhead price of world oil is the biggest determinant of expected return on investment.

I would suggest further, Mr. President, that there is no better testimony to this fact than that given to the Energy Committee in 1977 by Mr. Herbert Zachow of the Atlantic Richfield Co.

Mr. President, I ask unanimous consent that excerpts from his statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

> To us, the fundamental issue that remains, over and above everything else, is to establish an adequate wellhead price for Alaskan north slope oil. In this, there are a number of important criteria to be considered: First, it must be adequate to provide a reasonable return on investments made at Prudhoe Bay; second, it must be adequate to promote further testing and development of the discovered, but as yet unproven reserves in the Kuparuk and Lisburne formations; and third, it must be adequate to encourage further exploration of the Alaskan north slope. . . . In our belief, the treatment proposed in the President's Energy Program [namely, giving Alaskan oil upper tier prices and import treatment for entitlements purposes] will provide adequate but not excessive incentives required to assure full development of the Prudhoe Bay.

Mr. BRADLEY. Mr. President, it is instructive that the wellhead prices established under the energy program to which Mr. Zachow referred and which he endorsed were $7.40 to $10 a barrel. At $10 a barrel producers would recover their invested capital, earn about 12-percent return on their investment and have adequate incentive to explore and develop unproven reserves. If $10 was sufficient in 1977 what has changed to make it inadequate now? Ironically all that has changed is that the President has chosen to eliminate controls and OPEC has raised world oil prices to $30 a barrel.

Mr. President, I think we have to remember, as well, that in this windfall profit bill we were trying to limit incentives such as exemptions and lower taxes to those categories of oil that would respond to higher prices. New oil and tertiary oil will respond to higher prices. Tier 2 oil will not. The opponents of this amendment have not demonstrated in any form that a tax rate of 60 percent would yield significantly greater production than a tax rate of 75 percent.

Further, Mr. President, I suggest that it might even be construed to be a misallocation of our country's resources for us to forgo this tax increase on tier 2 and to allow this $22 billion to accrue to the oil companies instead of taking them in taxes and investing them in other forms of energy, such as solar coequivalent amounts of energy at less cost than it would take to produce oil.

Finally, throughout this debate a number of individuals have stated that the oil companies could accept the 60 percent tax, because that would yield, given a world price of $22, $16.60 a barrel to spend on development or to distribute to their shareholders. Mr. President, given the increase in world prices of oil, a 75-percent tax would yield that same oil company $17.25 today.

Mr. President, there is no merit to the argument that this amendment will produce less energy. On the contrary, this amendment will produce more energy, because it will generate the resources needed to move from oil production to other forms of energy, such as solar cogeneration and urban waste, and increased expenditures on conservation. I strongly urge my colleagues to vote for this amendment.

Mr. PRYOR. Will the distinguished Senator from New Jersey yield for a question?

The PRESIDING OFFICER. Who yields time on part of the opposition?

Mr. MOYNIHAN. Does the Senator from New York have time remaining?

The PRESIDING OFFICER. The opposition has 3 minutes and 22 seconds remaining and the Senator from New Jersey (Mr. BRADLEY) has 9 seconds remaining.

Mr. MOYNIHAN. May the Senator from New York yield a minute to the Senator from New Jersey (Mr. BRADLEY) for a question?

The PRESIDING OFFICER. Is the Senator speaking on behalf of the opposition?

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. Yes. The Senator may proceed.

Mr. PRYOR. Mr. President, may I ask the Senator from New Jersey (Mr. BRADLEY) if the tax proposed in this category or proposed on this tier is an excise tax?

Mr. BRADLEY. This is an excise tax.

I will also point out to the Senator that other oil producing countries in the world also have excise taxes. For example, the United Kingdom has a 60-percent excise tax, which, in combination with royalties and corporate taxes, adds up to a total tax on oil production of over 85 percent. Norway has a 25 percent excise tax, a corporate tax of 32–51 percent, and a 16-percent royalty. This amounts to a 65–80 percent tax on oil production.

Mr. PRYOR. I am proud to know what they are doing in those countries, I say to my friend from New Jersey.

But the concern I have is that this excise tax is simply going to be classified as a cost of doing business and as such is going to be passed on to the consumer in the form of higher gas prices. What we are doing is increasing consumer tax on gasoline from 60 percent to 75 percent.

That is the way I interpret what we are about to do.

Mr. BRADLEY. Mr. President, I respond to the distinguished Senator from Arkansas (Mr. PRYOR) by stating that the only way prices of gasoline and other forms of oil derivatives will go up is if we are unable to find additional resources in this country. Given the massive revenues from decontrol the windfall profit tax will allow oil companies to invest double what they presently invest in seeking new oil.

I also suggest that oil will be found in sufficient quantity and new energy sources developed and enough energy saved with these tax revenues for you not to have to characterize this as a consumer tax.

Mr. PRYOR. Mr. President, I do not know of any excise tax that this Congress has ever placed on any business that has not been passed on directly to the consumer, and this is my fear over what we are about to do.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. MOYNIHAN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from New York has 1 minute remaining.

Mr. MOYNIHAN. Mr. President, I will use that 1 minute to congratulate the Senator from Rhode Island (Mr. CHAFEE) and the Senator from New Jersey (Mr. BRADLEY) on their careful and reasoned advocacy of this measure.

May I have order, Mr. President?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. The Senator will suspend until the Senate is in order. Senators who wish to converse, please leave the Chamber and converse outside of the Chamber.

Mr. MOYNIHAN. Mr. President, with this vote, the Senate commences to enact a windfall profit tax that the President has asked for, the Nation needs, and the world expects. This is the vote that will take us through to a successful conclusion, this week or early next week, of the most important bill that will have passed this session of the Congress. And I am proud to support it.

I am proud to have the support of the Senators from New Jersey, Rhode Island, and Connecticut who, with other cosponsors, have put this measure forward.

I believe the time has expired, Mr. President. I believe the Senate is ready to vote.

● Mr. LEVIN. Mr. President, I support the amendment proposed by Senators BRADLEY and CHAFEE to raise the tier 2 tax rate on upper tier oil to 75 percent. It is evident the production response of tier 2 oil would be marginal even without a windfall profit tax. CBO has estimated the production response of tier 2 oil without an excise tax as only 154,000 barrels per day over the 10-year period. It is further estimated that a tax rate of 75 percent for this tier would not reduce production significantly. Increasing the rate however will raise $24 billion in additional revenues. As members of the Finance Committee maintain, preferential tax treatment was afforded those oil categories whose production would increase significantly in response to favorable tax treatment. It was this reasoning that led the Finance Committee to exempt newly discovered and incremental tertiary oil entirely from the tax. This reasoning also supports a 75-percent tax for tier 2 oil.

In addition, the overall complexion of the windfall profit tax presents a compelling case for supporting this amendment. The Senate earlier exempted independent producers from the windfall profit tax at a revenue loss of $10 billion thereby reducing public revenues to $128 billion. As I argued during debate on the Bentsen amendment, exemptions should be considered both on their merits and on their impact on the objectives of this legislation.

Two principal objectives are aggressive conservation incentives and incentives for production of alternate fuels, production of which will form the cornerstone of our energy independence. These objectives should be balanced against incentives for immediate production of what depletable domestic resources we have left. It is my opinion that the revenue gained by this amendment will be more productive if used for alternative energy production and conservation incentives. Furthermore, Federal programs are necessary to protect families from higher energy costs as a result of decontrol. There is no question that the deliberate decision to remove controls will impose tremendous burdens on American consumers. To insure that the Federal Government is financially capable of meeting the energy challenges before us, I support the Bradley-Chafee amendment.●

The PRESIDING OFFICER. All time has expired. The hour of 4 p.m. having arrived, the question is on agreeing to the amendment of Senators BRADLEY and CHAFEE.

Mr. BUMPERS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No, they have not been ordered.

Mr. MOYNIHAN. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent attending the funeral of a friend.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The PRESIDING OFFICER (Mr. JOHNSTON). Are there other Senators in the Chamber who wish to be recorded?

The result was announced—yeas 58, nays 35, as follows:

[Rollcall Vote No. 450 Leg.]

YEAS—58

Baucus
Bayh
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Exon
Ford
Hart
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams

NAYS—35

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Byrd, Harry F., Jr.
Cochran
Dole
Domenici
Garn
Glenn
Gravel
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher
Pressler
Pryor
Schmitt
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—7

Baker
Biden
Church
Goldwater
McGovern
Stennis
Talmadge

So Mr. BRADLEY's amendment (No. 714) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN and Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. MOYNIHAN. Mr. President, I understand that the yeas and nays have been ordered on the amendment as amended.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question occurs on the amendment in the first degree, as amended, of the Senator from New Jersey (Mr. BRADLEY).

The amendment in the first degree, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio (Mr. METZENBAUM) is recognized in order to call up an amendment.

Mr. METZENBAUM. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. A vote on this amendment is to occur at 5 o'clock. Is my understanding correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. The time is equally divided between myself and—who is handling the opposition?

Mr. WALLOP. The Senator from Wyoming.

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 857

(Purpose: To eliminate phaseout provisions of windfall profit tax)

Mr. METZENBAUM. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 857:

Strike out all the language beginning on page 76, line 22 through page 79, line 14.

Mr. METZENBAUM. Mr. President, this is not a complicated amendment. It is simple. It is direct. It eliminates from the bill any provision having to do with phaseout.

Frankly, Mr. President, I know of no reason for there to be a phaseout of the windfall profit tax. As a matter of fact, when the bill came over from the House there were certain parts that provided for a phaseout, but other portions of the legislation that did not provide for a phaseout.

What we are really saying in connection with this matter is pretty elementary and simple. If there is going to be a phaseout, the oil companies are going to withhold their production until such time as they can and the tax is no longer applicable, and one will say to the other, "Let the other company continue to produce and pay the tax and we will hold back," except that that might not serve our Nation's best interests.

It could very well develop that one oil company upon another would determine that it was in their best economic interest to hold back their production until the windfall profit tax had expired.

When this measure was proposed in the House, and even since that date, the administration has made its position very clear. In their memo to the Congress they stated as follows:

> The administration believes that the tax should remain in place until such time as Congress determines that the tax has served its purpose.

I could not agree more. Congress always has the right to repeal a tax. It always has the right to bring it to a conclusion. But the facts are that we need the funds for the purposes with respect to which we have been legislating here in this Congress.

We talk about using these windfall profit taxes for conservation. We have legislation to use it to aid mass transit, and conservation included in the legislation, as well.

We intended to offset higher energy costs for those least able to afford them, and we expect to use them particularly for the purpose of developing new energy supplies, such as synthetic fuels.

Mr. President, there is no logic, rhyme, nor reason why these profits—these are not profits that are normal profits of the oil companies, these are the windfall profits we are talking about, the extra profits that have come about by reason of decontrol—there is not any logic or reason why those taxes should go to a certain point and then say, "Well, now, we will phase them out."

As a matter of fact, I may be wrong about this, but I know of no other area in which we raise money and then when we get to a certain point eliminate the tax.

Congress reserves that right to its future judgment and Congress never gives up that right. When and if these funds are not needed and when it is appropriate to do so, then I think it will be time enough for Congress to terminate the tax. But until that day occurs, this Congress should not, while it is considering passing a windfall profit tax, also provide for it to be terminated at a date certain in the future.

It is fair to point out that as the OPEC nations increase their prices, the date would be accelerated as to when the phaseout would occur.

It is wrong. It is unfair. It is inequitable. It is illogical, particularly because it is counterproductive to this Nation's need to have our oil companies producing oil for the country's needs.

Mr. President, I reserve the remainder of my time.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I find the remarks of the Senator from Ohio interesting, to say the least, in the light of the fact that he is one of the cosponsors of the sunset legislation.

Mr. President, when the President sent down his message, he identified at the same time certain specific needs of the country, to deal with the transition between low cost and high cost energy, between subsidized and true cost energy.

In that, he identified the need to take care of poor people and fixed income people whose livelihoods were not flexible enough to deal with the new and changing reality brought on by decades of shortsighted energy policy.

In that, he also recognized that the country will need more mass transit to take care of those who can no longer afford the freedom we all have enjoyed for the last 30 years in our automobiles.

In that, he also identified a need to shift to other kinds of energy—synthetic fuels, gasohol, conservation, and more exotic energy sources.

In that, he identified several other needs, and the Finance Committee met those needs to the extent he described them, and beyond.

Mr. President, the Senator from Ohio says that there is going to be a disincentive to produce if we have the windfall phaseout. It is the most preposterous argument, but it does, at least, admit that the very fact we have a windfall profit tax is a disincentive to produce.

I congratulate the Senator for that bit of wisdom he has achieved in this debate on the windfall tax.

But, more than that, it displays an utter lack of understanding of the bill's provisions in the first place.

The exempted categories will be the primary producing categories at that time, and the economics of not producing, the economics of failing to produce, belies everything about what bankers require of people who pay off loans and have borrowed money; what investors consider from people with whom they place money, and in confidence; what the necessary economics of geology itself are of producing a well.

We cannot put a well to bed and then bring it back to life without extraordinarily increasing the expense of producing oil in the first place. So the economics of oil production just escapes the argument of the Senator from Ohio.

There is no reason, and even if there was a reason, there is no practical way in which anybody could begin to reduce the production to escape the effects of the tax.

The Senator says he knows no instance in which the Congress has ever reversed itself to that kind of right. I agree with him. But there has been no instance in which the Congress ever had any sunset legislation of any kind.

In this instance, we have identified a need associated with the transition and nobody can convince this Senator that a windfall tax that is not based on profit; by everybody's agreement it is an excise tax, purely and simply. It is preposterous, just on the face of the economics, that a windfall can go on forever.

First, take a look at what will happen. The cost of producing and discovering energy will go up in direct relationship to the world price of energy, the price of a foot of steel, the price of the wages of the people, the price of getting wells out in the field, the price of everything will go up.

Contrary to what the Senator thinks, there might be a lowering of production in the presence of a phaseout, there will be a distinct lowering of production in the presence of a permanent tax. I, for one, believe there is a time coming, in the future when the economics of producing oil, as the economies begin to adjust, rise to meet what has been identified as a windfall profit, and pass it.

With the great wisdom that was in the House bill, in order to prevent this tax from being a burden to low income properties, the tax is limited to 100-percent of the net income produced from that property.

When somebody gets to a 100 percent of net income production from that property, he probably is going to say, "The hell with it." If he has any sense at all, he will; and if he does not have any sense, his banker will tell him; and if he does not have that sense, his coinvestors will tell him to close down.

The plain fact is that this windfall tax dealt with a specific period in time, a transition period, and to that extent it has a legitimate purpose in the world. It has a legitimate purpose to take care of pensioners and other people on fixed income.

If there is a time when the Senator thinks there is a need to go on with the tax, the phaseout figure can be changed. It can be changed from an excise tax to a true profit-oriented tax, if those are identifiable. You can change it in any way. But at this moment in time, the symbolism is necessary to the country. The country must realize that this is a tax to fund a transition; and it is hoped that in that transition, we will not so adamantly go after those who can take care of the interim that there will be no transition at all.

I reserve the remainder of my time.

Mr. BUMPERS. Mr. President, will the Senator yield me 2 or 3 minutes?

Mr. METZENBAUM. I yield.

Mr. BUMPERS. Mr. President, I support the amendment by the Senator from Ohio, for a very simple reason. If there is any basis for the windfall profit tax in the first instance, then there is ample justification for it continuing ad infinitum. I never have understood the rationale for phasing it out.

Second, the windfall profit tax will phase out naturally, as I will mention in a moment.

Third, I think it is rather foolhardy for Congress to be dealing with something such as a phaseout 10 years in the future, when we all know that we are going to be relying on the revenues, and future Congresses can do or undo whatever they wish.

The Members of this body who may vote one way today may change their minds in 5, 6, or 7 years from now. However, whatever we do today on a phaseout is not likely to withstand the assaults of the next 10 years, so why pretend that we know what will be necessary then.

Returning to my second point, reservoirs of oil have various life expectancies. Some may last 10 years; some may last 20 years. It is my understanding—and I note that the Senator from Alaska is in the Chamber—that even Prudhoe Bay is going to start declining in 1990. Production from Prudhoe Bay will not be at the current rate of about 1.6 million barrels a day or at 2 million barrels a day in 1990; instead, it will start declining at a rather rapid rate by that time.

If we look at the committees' report as to how much money is going to be produced from the windfall profit tax, we can see how the tax is going to self-destruct.

In 1980, decontrol is not going to be fully in effect, and we only derive $4.5 billion from the windfall tax. In 1981, decontrol will fully take place, but not until about the middle of the year, and we derive $11.816 billion.

Then, in 1982, the first full year of decontrol, we get $15.150 billion, and the figure every year declines after 1982, until in 1990, when the figure will be $9.835 billion.

Mr. President, the point I want to make is that in 1989, we will be getting $12.761 billion; and in 1 year, between 1989 and 1990, the tax will decline by $3 billion, and it will continue to decline. My guess is that by 1995, those reservoirs will be so depleted that the windfall profit tax from them will be negligible, minimal, or maybe nonexistent.

So why try to bind future Congresses on something that is going to take care of itself? My guess is that it will, regardless of the result with respect to this amendment.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BUMPERS. Mr. President, will the Senator yield me 1 additional minute?

Mr. METZENBAUM. I yield.

Mr. BUMPERS. Let future Congresses decide. If Senators do not want to do that, they should bear in mind that there is a self-destruct provision, by virtue of a geological fact—that the oil fields are going to deplete themselves.

I thank the Senator for yielding.

Mr. METZENBAUM. I yield myself 3 minutes.

Mr. President, my good friend from Wyoming talks about the fact that the bankers are going to insist upon payment from the oil companies, and for that reason, we need not worry about their holding back their production. The bankers have pretty good brains, also, and they can add two and two and know when it equals four, except that in this case it equals six. They can understand that if you hold back your production and the windfall profit tax is going to expire, they have all the security they need, and they can afford to wait a little more.

The Senator from Wyoming says there is a kind of symbolism, to show that this tax is a matter in transition. I do not know that it is a tax in transition, and I wonder where he got that idea.

What we are really talking about is the fact that the President of the United States opted to decontrol the price of oil. I said before and I say again, I do not think he should have done that. However, once he did, it meant that the oil companies of this country were going to be given a bonanza; it meant they were going to be given a gift.

It should be understood that we were not talking then about new oil, where they go out and find a new product. We are talking about old oil which has been flowing and will continue to flow and whether or not they should get a much higher price tomorrow than they did today. That is really the issue, because the effect of decontrol has not yet had its full impact.

If we phase out the windfall profit tax, what we have done is to send a signal to the oil companies that they and the OPEC nations can work together to push up prices, and the oil companies will continue to do that. They have done it in the past. They have encouraged higher prices on the part of the OPEC nations because every time the price of oil went up a dollar, the domestic production in this country also increased a dollar, except for certain restricted quantities that had to do with tier 1 and tier 2.

However, now we are talking about changing that, and that means that the more the OPEC nations charge, the more the oil companies can encourage them to charge, the more will be the profits of the domestic oil companies.

So, instead of having our best representatives, or those who should be our best representatives, trying to hold down oil prices as they dealt with the OPEC nations, we have a counterproductive program again. We have the oil companies, who should be helping us hold down the prices, actually urging their suppliers to increase prices.

I feel that the only way the American people can look for some assistance in this respect is by eliminating completely any phaseout of the tax, and I hope the Senate will see fit to do just that.

I reserve the remainder of my time.

Mr. WALLOP. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fourteen minutes.

Mr. WALLOP. I yield myself 4 minutes.

Mr. President, I am totally bewildered as to what would convince the Senator from Ohio that this tax has nothing to do with OPEC. It has nothing to do with OPEC or foreign profits of the oil companies.

Secretary Miller talks about how OPEC wants this tax. Of course they want it, because it makes the American oil business less attractive. This tax has nothing to do with the profits people make, and nobody can claim it does. In fact, nobody can make the claim that it has anything to do with profits.

I did not say that there is a transition tax. I said it raised revenues to deal with transition—the transition from the circumstance of a subsidized energy economy to a true cost energy economy, with all the implications in mass transit and aid to fixed-income individuals.

The Senator says future Congresses can decide. Of course they can and of course they will. But they will have to decide based on whether or not the transition has been dealt with and whether or not there is "a windfall."

Congress more or less said "Tell us how much you need; cite the programs that you want." The Finance Committee having heard those words funded them and funded them well, and there is still money left over, far more money than Congress should be taking unto itself.

Let me tell the Senator that someone else's money has a unique ability to create tenacious constituencies. This is someone else's money, and people are not going to be willing to vote that away. Future Congresses are not going to be willing to vote that away. People get hooked on tax money, and the constituency that spends it gets hooked on the funding. At least someone will have to make a conscious decision as to whether or not we continue with a tax that is unrelated to profits by everyone's admission or we somehow get into a period where we deal with the real profit picture of domestic production.

Mr. President, I reserve the remainder of my time.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum and ask unanimous consent for the time to be charged equally to the Senator from Wyoming and myself.

Mr. WALLOP. Mr. President, before that takes place, I inquire as to what the time circumstance is.

The PRESIDING OFFICER. The Senator from Wyoming has 11 minutes; the Senator from Ohio has 8 minutes.

Mr. WALLOP. Mr. President, let me use a bit more of my time. I saw the Senator from Maine in the Chamber. This is sunset legislation of the first order. It is sensible, reasonable, and it is a good precedent for Congress to set, an extraordinary precedent. Mr. MUSKIE in a quote from the Governmental Affairs Committee report on sunset legislation on October 11 of this year said:

> The basic purpose of sunset is to compel Congress to reconsider its past program enactments. All that sunset requires is that Congress take positive action to reauthorize the program which it wishes to continue. The thrust in sunset is reconsideration, not reevaluation. Nothing in the sunset concept would require Congress to embark on a wholesale evaluation of all programs scheduled for termination. When it reconsiders an expiring program, Congress can decide on the most appropriate course of action.

I suggest that is what we have done in the most responsible way here.

Mr. President, I renew the request of the Senator from Ohio to suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the Senator from Ohio yield?

Mr. METZENBAUM. I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wish to speak briefly in support of the amendment striking out the phaseout provision contained in the reported version of this bill.

The flaws of this provision are numerous, and they are best illustrated by comparing it to the phaseout inserted in the House bill by oil-State Congressmen. Under that provision, first tier oil would be phased into second tier oil, which, in turn, would be phased into third tier oil. There would be no tax on oil discovered after 1990. Consequently, the tax would gradually decline in the 1990's as wells existing in 1990 naturally ceased production, so that, by the year 2000, the tax would shrivel away. By comparison, the phaseout provision reported to the Senate would begin eliminating the tax once it had collected 90 percent of the revenues which are anticipated from it, that is, $138 billion. That point is expected to be reached near the end of the 1980's.

That figure of $138 billion and the anticipated beginning of the phaseout are based upon the assumption that the average cost of oil will be $30 per barrel for the fourth quarter of 1979, and that it will increase at the rate of inflation plus 2 percent. I would not quarrel with the $30 assumption, but it is as certain as OPEC's next meeting that oil prices will rise much more quickly than the rate projected by the Finance Committee. It is possible that by the end of this year, the world price of oil will have doubled from the price which prevailed at the beginning of the year. Any such future increases would allow a very early termination of the tax.

Any early termination would not of itself be an unwelcome occurrence, because that would mean the quick receipt of revenues by the Treasury. This tax, however, is not simply a revenue raiser; it is also intended to help rectify the ill effects of its source, decontrol, and to redirect this oil wealth toward the development of alternative energy sources. The outline for that development has already been approved by this body in the form of the omnibus energy production bill. The Finance Committee itself took pains to expand and extend the credits allowed for using alternative sources of energy.

The revenue necessary to achieve these desirable goals cannot be reliably projected. Instead, some of the revenue needs will increase as oil prices increase. In particular, the need for low income energy assistance will grow as oil prices increase. It is also very likely that unanticipated price increases will precipitate unanticipated needs. In short, revenue needed to realize the goals of this tax is not a fixed amount, so the tax phaseout, and the consequent cessation of revenues, should not be based upon attaining a fixed amount.

Finally, there is simply no reasons to further reinforce the mutual interests of domestic producers and the OPEC cartel. Clearly, abrupt increases in OPEC prices will be cheered by domestic producers if there is a phaseout based upon a fixed amount of tax revenue. Those increases merely hasten the day when domestic producers will rid themselves of the tax and when the Nation will no longer have the revenues to offset the impact of even more increases.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BUMPERS. Mr. President, will the Senator withhold that request?

Mr. WALLOP. I am happy to withhold the request.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Mr. President, under the unanimous-consent agreement agreed to, is it possible for both parties to yield back the remainder of their time and vote prior to the agreed time?

The PRESIDING OFFICER. The Senator is correct. It is possible to vote before the hour designated.

Mr. WALLOP. Only by unanimous consent; is that correct?

The PRESIDING OFFICER. The agreement was to vote not later than 5 p.m.

Mr. WALLOP. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WALLOP. I think that if someone goes back to look at that agreement, the agreement in this instance was a vote at 5 p.m. and the vote to follow it was not later than 6:30 p.m.

The PRESIDING OFFICER. The record shows no later than 5 p.m.

Mr. METZENBAUM. Mr. President, if the Senator from Wyoming is prepared to yield back the remainder of his time, I am prepared to do so and ask for a rollcall vote. But if there is a problem on the minority side with some Members having been misled, I will not suggest that procedure, and I am prepared to suggest the absence of a quorum.

Mr. WALLOP. Mr. President, until the Senator from Wyoming has a chance to find out, it was my opinion and the opinion of our cloakroom that the agreement was binding at 5 p.m.; therefore, I wish to check to see if there is any circumstance that will not allow me to have a vote before then.

Mr. METZENBAUM. I am prepared to accommodate the Senator from Wyoming in whatever suits his pleasure.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. WALLOP. I would be happy to yield 30 seconds to the Senator from Texas.

SAVINGS EXCLUSION AMENDMENT TO THE WINDFALL PROFIT TAX (AMENDMENT NO. 735)

Mr. BENTSEN. Mr. President, today I am submitting with Senators Percy, Talmadge, and Dole a savings exclusion amendment which was approved last Thursday by the Senate Finance Committee by a vote of 15 to 2 as an amendment to the windfall profit tax, H.R. 3919.

This amendment has 59 Senate sponsors including the following: Senators Bentsen, Percy, Talmadge, Dole, Gravel, Danforth, Moynihan, Chafee, Matsunaga, Durenberger, Baucus, Wallop, Boren, Packwood, Church, Roth, Pryor, Heinz, DeConcini, Tower, Morgan, Cochran, Domenici, Humphrey, Stafford, Ford, Weicker, Johnston, Baker, Stone, McClure, Hollings, Cohen, Stewart, Hayakawa, Durkin, Thurmond, Huddleston, Pressler, Cranston, Helms, Leahy, Lugar, Riegle, Javits, Simpson, Biden, Schweiker, Stevens, Laxalt, Hatfield, McGovern, Warner, Kassebaum, Nunn, Armstrong, Jepsen, Goldwater, Inouye, and Hart.

The amendment provides a tax exclusion for the first $200 of combined interest and dividends received during the year ($400 for a couple filing a joint return).

This is a very simple and easily understandable savings exclusion amendment which would apply to the following types of interest and dividends: Dividends from domestic sources including certain dividends from a regulated investment company and real estate investment trust; interest from a savings account at banking and thrift institutions; interest on corporate obligations; and interest on governmental obligations which is otherwise taxable.

The amendment avoids complicated reinvestment requirements, threshold, and other restrictions which would cause endless confusion for tens of millions of taxpayers.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

At the appropriate place in the bill, insert the following new section:

Sec. . Exemption of Certain Interest Income From Tax.

(a) In General.—Section 116 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

"Sec. 116. Partial Exclusion of Dividends and Interest Received by Individuals.

"(a) Exclusion From Gross Income.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

"(1) dividends from domestic corporations, and

"(2) interest.

"(b) Limitations.—

"(1) Maximum dollar amount.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $200 ($400 in the case of a joint return under section 6013).

"(2) Certain dividends excluded.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, et cetera, organizations) or section 521 (relating to farmers' cooperative associations).

"(c) Definitions; Special Rules.—For purposes of this section—

"(2) DEFINITION OF INTEREST.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid by a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, credit union, or other savings or thrift institution chartered and supervised under Federal or State law, in respect of deposits, investment certificates, or withdrawable or repurchaseable shares, the deposits or accounts of which are insured under Federal or State law or protected and guaranteed under State law,

"(C) interest on evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and, to the extent provided in regulations prescribed by the Secretary, interest on other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public, and

"(D) interest on obligations of the United States, a State, or a political subdivision of a State not excluded from gross income under any other provision of law, and interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

"(2) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to distributions by—

"(A) regulated investment companies to the extent provided in section 854, and

"(B) real estate investment trusts to the extent provided in section 857(c).

"(3) DISTRIBUTIONS BY A TRUST.—For purposes of subsection (a), the amount of dividends and interest properly allocable to a beneficiary under section 652 or 662 shall be deemed to have been received by the beneficiary ratably on the same date that the dividends and interest were received by the estate or trust.

"(4) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

"(A) in determining the tax imposed for the taxable year pursuant to section 871(b) (1) and only in respect of dividends which are effectively connected with the conduct of a trade or business within the United States, or

"(B) in determining the tax imposed for the taxable year pursuant to section 87(b).".

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

(2) The first sentence of paragraph (2) of section 265 (relating to interest) is amended by inserting after "subtitle" the following: ", or to purchase or carry obligations or shares, or to make deposits, the interest on which is described in section 116(c) to the extent such interest is excludible from gross income under section 116".

(3) Paragraph (2) of section 584(c) (relating to income of participants in fund) is amended by inserting "or interest" after "dividends" each place it appears in the caption and text thereof.

(4) Paragraph (7) of section 643(a) (relating to definition of distributable net income) is amended by inserting "or interest" after "dividends" each place it appears in the caption or text thereof.

(5) Paragraph (5) of section 702(a) (relating to income and credits of partners) is amended by inserting "or interest" after "dividends".

(6) Section 854 (relating to limitations applicable to dividends received from regulated investment company) is amended—

(A) by inserting "AND TAXABLE INTEREST" in the caption after "DIVIDENDS", and

(B) by adding at the end thereof the following new subsection:

"(c) TAXABLE INTEREST.—

"(1) IN GENERAL.—In the case of a dividend received from a regulated investment company (other than a dividend described in subsection (a) or (b))—

"(A) if the regulated investment company meets the requirements of section 852(a) for the taxable year during which it paid the dividend, and

"(B) the aggregate interest income received or accrued by the regulated investment company for the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116(a)(2), only that portion of the dividend which bears the same ratio to the amount of such dividend as the aggregate interest received or accrued by the regulated investment company for the taxable year bears to its gross income for the taxable year shall be taken into account.

"(2) EXCLUDIBLE PORTION.—The amount of the exclusion under section 116(a)(2) (before the application of section 116(b)(1)) shall not exceed an amount which bears the same ratio to the portion of the dividend taken into account by reason of paragraph (1) as the aggregate interest income which may be taken into account under paragraph (1) for the taxable year bears to the total interest income for the taxable year.

"(3) CERTAIN INTEREST NOT TAKEN INTO ACCOUNT.—For purposes of paragraph (1), interest other than—

"(A) interest described in section 116 (c)(1), and

"(B) distributions by a regulated investment company which meets the requirements of section 852(a), or a real estate investment trust which meets the requirements of part II of this subchapter, which represent interest described in section 116 (c)(1),

shall not be taken into account.".

(7) The table of sections for part I of subchapter M of chapter 1 is amended by inserting "and taxable interest" after "dividends" in the item relating to section 854.

(8) Subsection (c) of section 857 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

"(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals) and section 243 (relating to deductions for dividends received by corporations)—

"(1) CAPITAL GAIN DIVIDEND.—A capital gain dividend (as defined in subsection (b) (3)(C) received from a real estate investment trust shall not be considered a dividend.

"(2) OTHER DIVIDENDS FOR SECTION 243 PURPOSES.—A dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend for purposes of section 243.

"(3) OTHER DIVIDENDS FOR SECTION 116 PURPOSES.—In the case of a dividend received from a real estate investment trust other than a capital gain dividend as defined in subsection (b)(3)(C))—

"(A) if the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate interest income received or accrued by the real estate investment trust for the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116(a)(2), only that portion of the dividend which bears the same ratio to the amount of such dividend as the aggregate interest income received or accrued by the real estate investment trust for the taxable year bears to its gross income for the taxable year shall be taken into account.

"(4) EXCLUDIBLE PORTION.—The amount of the exclusion under section 116(a)(2) (before the application of section 116(b)(1)) shall not exceed an amount which bears the same ratio to the portion of the dividend taken into account by reason of paragraph (3) as the aggregate interest income which may be taken into account under paragraph (3) for the taxable year bears to the total interest income for the taxable year.

"(5) CERTAIN INTEREST NOT TAKEN INTO ACCOUNT.—For purposes of paragraph (3), interest other than—

"(A) interest described in section 116(c) (1), and

"(B) distributions by a regulated investment company which meets the requirements of section 852(a), or a real estate investment trust which meets the requirements of this part, which represent interest described in section 116(c)(1),

shall not be taken into account. For purposes of paragraph (3), interest income received or accrued by a real estate investment trust and subject to tax under paragraph (4) of subsection (b) shall not be taken into account.

"(6) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum with the time equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. How much time does the Senator from Wyoming have?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. WALLOP. Mr. President, I would be happy to yield whatever time the Senator from Louisiana desires.

Mr. LONG. Mr. President, if the Senator will yield me a minute-and-a-half that will be sufficient.

Mr. President, this bill is supposed to be a windfall profit tax bill, a bill to tax the windfall profit. Now, there are not many people in this Senate and not many people in this country who believe that a so-called windfall, which results from removing the controls on oil production, is something that goes on forever and ever. Most people believe that windfall is a short one, in the long run, the forces of supply and demand come into balance, and certainly all that ought to happen within a 10-year period. Therefore, it is suggested that there ought to be a phaseout, that this tax should not go on forever.

There is nothing new about that. We have a lot of provisions in the tax law which go on for 2 years, and then have to be renewed after Congress sees how they are proceeding.

If this tax should be a very popular thing, if it makes good sense, then maybe Congress would want to extend it after 10 years. But it is strange to hear some people come here and argue in favor of sunset provisions on taxes, and then take a tax which, on the face of it, would appear to be taxing a temporary condition, and suggest that it ought to go on forever and ever.

I submit, Mr. President, that it may very well be that the tax should be extended at some point. But, if so, Congress should make that decision then and it should not commit itself at this point to tax production on and forever.

The PRESIDING OFFICER. The 1½ minutes of the Senator from Louisiana has expired.

Mr. LONG. That is all I have to say.

Mr. WALLOP. Mr. President, I would just like to say that I appreciate the remarks of the Senator from Louisiana. I would also point out that the amendment subsequent to this would raise the tax from the committee's $141 billion to a figure of $210 billion. The Senator from New York (Mr. MOYNIHAN), and this Senator and others who have been involved in the negotiations over the last 3 days, have come to the conclusion that that was a reasonable figure to set.

We thought and felt we had agreement among those who were intent upon these negotiations to accomplish that, and we did.

This comes as something of a surprise, but I understand the basis of its existence.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold that request?

Mr. WALLOP. I withhold the request.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

● Mr. DOLE. Mr. President, I strongly oppose the amendment of the Senator from Ohio to delete from the windfall profit tax the triggered phaseout. In my opinion adding this phaseout was one of the most constructive amendments that the Finance Committee made to the House-passed bill.

Essentially, the phaseout triggers in when 90 percent of the net revenue of the tax is received by the Treasury. The following month 3 percent of production would be exempted from the tax. Each succeeding month an additional 3 percent would be exempted until the entire tax phased out in 34 months. Since the net gain to the Federal Government from the windfall profit tax is estimated to be $138.2 billion, the tax would begin to phase out when $127.1 billion was received by the Treasury.

Mr. President, the administration proposed a $142-billion energy program this past July. This program was to be financed by a windfall profit tax and out of the increases in general corporate revenue due to decontrol. The Finance Committee has acted responsibly. It has reported out a bill which raises $138 billion. Additionally, $340 billion will be raised from general revenues. This is more than enough money to finance every facet of the administration proposal and still leave ample funds for the imagination of Congress.

Mr. President, almost everyone who has seriously studied the oil industry agrees that there is some relationship between the capital available to the industry and its exploration and production activity. We have justified this tax by arguing that the country needs to develop a synthetic fuels industry, to encourage construction and alternative energy sources and to soften the blow of high energy costs. Once we have done all of this—there is no justification for continuing this onerous tax. We will at that time be discouraging future domestic production for no reason.

Mr. President, I am also supporting their triggered phaseout because I fear that if excess billions of dollars are available to the Congress and the administration, we will find a way to spend it. At a time when Government spending is the principle cause of inflation in this country, we can not dangle so tempting a carrot in front of our noses.

Indeed, I believe that triggering the phasing out of taxes after their stated purpose has been met may well prove to be a model for future special proposed taxes.●

The PRESIDING OFFICER. The hour of 5 p.m. having arrived, all time having expired, the question is on agreeing to the amendment (UP No. 857) of the Senator from Ohio (Mr. METZENBAUM).

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. ZORINSKY assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent attending the funeral of a friend.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

Mr. MOYNIHAN. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. BRADLEY). Are there other Senators in the Chamber desiring to vote, who have not done so?

The result was announced—yeas 39, nays 54, as follows:

[Rollcall Vote No. 451 Leg.]

YEAS—39

Baucus
Bayh
Bradley
Bumpers
Byrd, Robert C.
Chiles
Cranston
Culver
Durkin
Eagleton
Exon
Hart
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Proxmire
Ribicoff
Riegle
Sarbanes
Sasser
Stevenson
Stewart
Stone
Tsongas
Williams
Zorinsky

NAYS—54

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Cannon
Chafee
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Ford
Garn
Glenn
Gravel
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Mathias
McClure
Melcher
Packwood
Percy
Pressler
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Weicker
Young

NOT VOTING—7

Baker
Biden
Church
Goldwater
McGovern
Stennis
Talmadge

So Mr. METZENBAUM's amendment (UP No. 857) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New York (Mr. MOYNIHAN) is recognized.

Mr. MOYNIHAN. Mr. President, while there are Senators remaining in the Chamber——

The PRESIDING OFFICER. We will have order in the Senate. Order in the Senate. Will Senators please take their seats?

Mr. MOYNIHAN. Mr. President, while there are Senators in the Chamber, may I note that I am about to send up an amendment on a phaseout of this tax at 90 percent of $210 billion. I will speak briefly to the matter. My good friend and colleague from Wyoming (Mr. WALLOP) I believe intends to speak briefly. There may be other Senators wishing to speak.

We have agreed to vote no later than 6:30. But if there are no other Senators wishing to speak, or not many Senators who wish to speak at length, it will be our expectation that we might call the amendment for a vote at approximately 5:45 p.m.

UP AMENDMENT NO. 858

(Purpose: To adjust the phaseout of the windfall profit tax)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 858.

On page 79, line 10, strike out "$141,200,000,000" and insert "$210,000,000,000".

Mr. MOYNIHAN. Mr. President, this is an amendment submitted, as have been many in these days, for myself, Senator Bradley—the distinguished Presiding Officer—Senator Ribicoff, Senator Nelson, Senator Stone, and Senator Weicker.

Mr. President, the Senate has just now reached judgment by a decisive margin.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MOYNIHAN. The Senate has reached a judgment by a decisive margin that it does not wish to make the windfall profit tax a permanent tax of unlimited duration. The question before us now is, do we wish, on the other hand, to have this a rather modest tax that does not give promise to provide the revenues which we will need to carry out the work this money is required for?

Mr. RANDOLPH. Will my colleague yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. RANDOLPH. What the able Senator is saying, in a very persuasive manner, is that the pending amendment is both a realistic and fair amendment. Is that correct?

Mr. MOYNIHAN. The Senator from West Virginia (Mr. Randolph), the distinguished chairman and my friend, has so sayeth, and that certainly would be my judgment. I am here to say to the distinguished chairman that this figure of $210 billion—$210 billion—the largest tax on a single industry to have passed this body perhaps in its history, has been reached through careful negotiation and discussion on both sides of the aisle between advocates of no tax and advocates of a total tax.

It is what we think is a prudent decision. It will give us the money we need to produce the new forms of energy and enhance old forms of energy, such as coal; I repeat what the distinguished Senator now presiding, the Senator from New Jersey, said in his advocacy of an amendment already adopted today—these resources will be put to creating more energy, to conserving energy through mass transit and energy conservation, industrial and domestic arrangements, and to providing the low income families of this Nation some relief from the extraordinary price increase which will take place during the period that my friend from Wyoming has defined as a transition from artificially low energy prices below market to a market price level in the 1990's.

That is our purpose, I say to the chairman of my Committee on Environment and Public Works.

Mr. RANDOLPH. Will my colleague yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. RANDOLPH. I feel that there are times within this body when we are thinking about controversial and critical legislation when we should understand that the imperative need is to act. I am never critical of a colleague in a personal way, or the position he might take on an issue. I might, of course, disagree with that position. I honor the right within the province of each Senator to present his views. I would always, as now, give careful attention to them.

I have studied this proposal. I have looked at the dollar sign. It is my feeling that it would be well for the Senate, in its good judgment, to approve it.

There is one fact I think we learn here after 1 year or many years, when we really evaluate these vital subjects, and our decisions on them. Polarization in itself is self-defeating.

Members possess opposite views on this modified solution, and yet we come through well-reasoned discussion. The Senator from Wyoming (Mr. Wallop) has counseled with other leaders on a partial solution to the phased-up or down dollar figure. I commend his cooperative participation. We are now moving, hopefully, toward approval of this amendment, which I support.

Possibly other amendments with some adjustments, will give us the opportunity, with the House of Representatives, to work a collective will so we can pass the legislation and place it on the desk of the President for his signature. Thus, American people will be well served.

Mr. MOYNIHAN. Mr. President, I could not thank the chairman (Mr. Randolph) more for his statement. We are going to get a windfall profit tax bill. We are beginning to legislate today. Agreements have been reached among persons of very divergent views who nonetheless think what the American people need is action by this Congress. At this point the only thing that prevents it is action by the Congress and the Senate. The Senate is now acting.

I would like to make just a few further points, Mr. President.

I make the point to those who ask in general what does this amendment do? It increases by half the amount of money that would be raised by the bill of the Committee on Finance, a 48-percent increase, $69 billion.

Just as important, it will have the result that 98.82 percent—99 percent—of the existing domestic reserves subject to windfall profit tax will, in fact, have paid that tax before the phaseout has finished. It means all the oil in the ground that has experienced this windfall increase in price will return some of that windfall to the Treasury for public purposes.

Mr. President, I ask unanimous consent that two tables which show these numbers be printed in the Record at this point.

There being no objection, the tables were ordered to be printed in the Record, as follows:

THE MOYNIHAN AMENDMENT INCREASES WINDFALL PROFITS THAT WILL BE PUT TO PUBLIC USE

	Committee bill (with Bradley and Bentsen amendments)	Moynihan amendment
Phaseout starts	$127 billion (90 percent of $141 billion).	$189 billion (90 percent of $210 billion).
Time of phaseout	Late 1988 to early 1991.	Mid-1994 to mid-1997.
Total revenues collected by the time the tax ends.	$145 billion	$214 billion

Note: The Moynihan amendment increases total revenues by $69 billion. This is a 48 percent increase.

Virtually all of the "old" oil that is the object of this tax will have been produced by the time the tax ends in 1997.

A. Known domestic reserves ["old" oil] 28 billion barrels; amount of this "old" oil that will remain when the tax ends in 1997, .321 billion barrels.

B. 98.82 percent of our domestic reserves will have been produced, and the windfall profits thereon taxed, by the time the tax ends.

Mr. MOYNIHAN. Mr. President, I am willing to respond to questions, but I think that brevity may be the prudent course at this point. I would note that the distinguished chairman of the Committee on Finance said just recently, at a time of speaking in opposition to the removal of any limit in time on this tax, that "It may very well be that the tax should be extended at some point." Should that point come, the Congress will be here, the Senate will be here, and it can consider that.

(Mr. PRYOR assumed the chair.)

Mr. BRADLEY. Will the Senator yield at that point?

Mr. MOYNIHAN. I am happy to yield.

Mr. BRADLEY. My distinguished colleague from New York correctly points out that if the world price of oil dramatically increases to $40 or $50 a barrel, there might be greater revenues coming in at a rapid pace. Is that correct?

Mr. MOYNIHAN. That is the case. With the low level of phaseout in the committee bill we can look to 4 or 5 years' time and find ourselves with no statute.

Mr. BRADLEY. Even by increasing the phaseout to $210 billion, if the world oil prices skyrocketed we might reach that and it is my understanding that the Senator has confirmed, through the comment of the distinguished chairman, that if indeed it got totally out of hand we might want to reconsider that upward cap.

Mr. MOYNIHAN. The Senator is entirely correct.

Mr. BRADLEY. I thank the Senator.

Mr. MOYNIHAN. Mr. President, I see that my friend from Wyoming is on the floor and I look forward to his remarks.

May I make just one further point, if he will allow me. I thought his statement describing the purpose of this tax was accurate and informative, and I hope it will be attended by all those who will be affected by this legislation. It was a clear, businesslike, economically sound and brief statement.

(Mr. BRADLEY assumed the chair.)

Mr. WALLOP. Mr. President, I thank my colleague.

Mr. President, obviously I am not enthusiastic about a figure of $210 billion when it is this Senator's opinion that that is tantamount to an extraordinary windfall to the Treasury of the United States.

Also, I cannot say that I am very enthusiastic when indeed the President himself, when sending his message down in July, called for a windfall tax of something in the neighborhood of $105 billion and now we have exactly doubled that figure, and we are 50 percent higher than the figure that we arrived at in the Finance Committee bill.

Nevertheless, as the Senator from West Virginia has spoken, this was the agreement and the Senator from Wyoming cannot support it but he will not fight it because of the negotiation.

I want to give a little idea to Senators just how some of these decisions take place. Nobody, certainly not the Senator from Wyoming, whose amendment it is, claims that this is the best way for the Senate to achieve either sunset or a phaseout provision. But with every other phaseout proposal, Treasury kept telling us that it had a revenue cost associated with it. We had to get around to the point of saying, "Well, how much do you need, what do you want?"

Then, having achieved that figure, we said, "All right, when you get to 90 percent of the target, we will begin to phase this tax down at 3 percent a month until it is gone. In 33 months you will get more than you are asking for. You will probably get 110 to 115 percent of it."

Treasury's argument was always stated in that way and it is difficult for the Senator from Wyoming to understand how anybody can lose something that he does not already have. In fact, carrying it to its logical extreme and, perhaps, the silent daydreams of members of the Treasury Department, we can take that idea and assume that all the goods and services of this country, all its products and labor, belongs to the national Treasury and we poor citizens keep what we have by their grace.

Nevertheless, the idea of the phaseout in this manner came from that function. It simply said, identify what your needs are. Now we have identified needs of $210 billion. The Senator from Wyoming does not agree, but I am not going to stop this vote. I cannot say I view this with enthusiasm. Nevertheless, it is part of what we discussed and agreed to vote on.

I thank my colleague from New York for his kind words. He and I have worked on this together. He gave a little and I gave a little and that is the figure we came down with.

I am prepared to yield the floor.

Mr. DOLE. Mr. President, I think we have a compromise here that most of us can vote for. I thank both distinguished Senators for their diligent work. This Senator believes that the phaseout is a good idea, and I assume, from the compromise suggested by the Senator from New York that he believes it is a good idea—I know the Senator from Wyoming believes it is a good idea since it was his. It did pass in the Senate Finance Committee.

I certainly share the views just expressed by Senator WALLOP. I think, in the spirit of compromise that consistently prevails in our committee, that this is a good resolution. I intend to support it.

The phaseout is sound. The amount is not satisfactory to some, but it is to this Senator.

Mr. STEVENS. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. STEVENS. I noted the conversation the distinguished Senator from New York had with the distinguished present occupant of the chair about whether this could go up. Does the Senator contemplate that this ceiling could ever come down?

Mr. MOYNIHAN. Yes. The Senator can contemplate that. It may be that the stimulus to production that will come about when the oil is decontrolled will bring much more than we had anticipated. It may be that we shall be lucky. It would be particularly happy for me to find that in the middle of New York State, there is an east Texas oil dome.

The fact is that the world has not had any major oil discoveries since the late 1960's. But it may be that the energy situation will change. If it does, our response to it might very well change.

Mr. STEVENS. I was thinking more about the windfall profit to the Treasury. It seems to be the assumption of the proponents of this bill that, as the world oil price goes up, ours will automatically go up and our consumers will not revolt at those increased costs based upon OPEC prices.

It also seems to be the assumption that the Treasury of the United States needs this money in addition to the normal increases in taxation that are coming about through inflation. That is a great windfall profit to the Treasury, and the increased taxes that will come from the application of the normal business taxes on the oil industry should these prices continue to go up.

I hope that, somewhere along the line, we are, in fact, going to review the total contribution that is made to the Treasury from the taxpayers of this Nation and determine whether, in fact, all of these taxes are needed by the Government to sustain it. Of course, this is where the Senator from Delaware is going with his amendment, but from my point of view, I hope that the record is clear that we are going to insist upon a review of this ceiling from both ways—from the point of view of whether it is adequate or should be increased, and also, whether it ought to go back to the reasonable figure that the Senator from Wyoming had in the first place and phase it out when we say enough is enough.

Coming from the State that I come from, I wonder how many years it is going to be before someone says, "Well, you have all that oil you just discovered in the Beaufort Sea or the national petroleum reserve or the Arctic Wildlife Range or the Bristol Bay country or the Glennallen country; it is not paying windfall profit taxes." We will say, "Well, it was not supposed to be paying windfall profit taxes, that is newly discovered oil. The policy of the Congress was that it should not pay windfall profit tax."

Someone is going to say, "But look at all the money people are making up there," and we are going to be facing a bill, I predict, to impose additional taxes upon domestic production without regard to the fact, again, as I said yesterday, that not one dime of this tax will be imposed upon anyone who makes a profit off of the sale of foreign oil in this country.

This is only a bill to impose taxes upon domestic production.

I hope that we shall find some way to review this. I view the amendment of the Senator from Wyoming as a sunset provision. As I understand it, it will take an act of Congress to extend that. Am I correct?

Mr. MOYNIHAN. That is accurate.

Mr. WALLOP. The Senator is correct.

Mr. STEVENS. I thank the Senator. I predict that if this Senator is around at that time, it is going to take a long time to extend this phaseout.

Mr. WALLOP. I think even in the age of the intrepid Dr. Kahn, the escalation in our expectations from the windfall profit tax far exceeds inflation in either the domestic economy or the oil industry. As I pointed out only in July of this year, some 5 months ago, the total figure we felt we needed was $105 billion. We have now exactly doubled that by the amendment of the Senator from New York.

Mr. STEVENS. Let me add this. I was reminded of it last evening when I was talking to a young couple thinking about buying a house. I bought a new house in 1961 and paid $36,000 for it. I sold it at just slightly below $100,000, after owning it for about 18 years. That has now been sold for over $200,000 by the person who owned it for 2 years. To get a house of that size built today would cost $250,000. At the time, it was considered a fairly small house.

No one is saying that the people involved in that industry are making windfall profits. I do not hear anyone saying that there are windfall profits in the housing industry or—I paid, just Sunday, $150 for the same amount of wood that is in my backyard—you can come over and see it—that I paid $37 for just 3 years ago. Are there windfall profits in the wood industry? Why is it that we are seeking out one industry alone and saying, these are windfall profits? I hope the record is clear that the next time we are dealing with the subject, we are going to be dealing with excess profits across the board, dealing with every industry, and that this concept is a sunset for windfall profits as we know it in this bill.

I support the concept of the Senator from Wyoming. I am opposed to this increase in the phaseout because I think it is going too far. But the defect of what we are talking about is that we are singling out one industry and saying that that industry, in and of itself, is guilty of windfall profits. Yet, strangely enough, 55 percent of the oil that is being consumed in this country is not subject to this tax at all.

Mr. MOYNIHAN. Mr. President, I would like at this point to respond to the distinguished Senator from Alaska whose knowledge of this industry and the particular impact of this legislation on Alaska is equaled only by that of his colleague on our side of the aisle.

But to make a point, first of all, no one is saying the oil industry is guilty of anything.

Second, I ask the Senator from Alaska to consider that in economic theory and in market reality, there is such a thing as a windfall profit. It is not a new idea dreamed up for purposes of this particular exercise.

A windfall profit in theory and practice is one where a sudden change in price is so large to the producer that a reduction in that price would not produce a diminishment, a decline in supply.

It is an old theory. It is a concise one. It is not a new idea. It means that in a situation where prices, for some exogenous reason, go up very sharply, that a certain amount of that increase might be recouped by the Treasury without reducing the supply brought to market.

What happened here? We know what happened here. The OPEC cartel quintupled prices in the course of 36 months, an altogether artificial intervention in the market which would be illegal were it to take place in the United States or, to my knowledge, any other industrial nation. That kind of price fixing would be illegal.

Oil companies, the oil companies and entrepreneurs, businesses, working within the United States, suddenly found that the value of their product had been artificially quintupled. They were selling it at a profit at $3 and $4 a barrel. Suddenly, they will be offered $15 and $16, and then $25 and $30, because of the action of nations interfering with the price system in ways contrary to every principle of free market economies, every principle, as far as I am concerned, in the general agreement on tariffs and trade.

They did it, and this one-time windfall occurred. The President has been entirely right to ask it be recouped. The House has done so. The Senate clearly will do so.

Mr. President, this is modest.

Mr. STEVENS. Will the Senator yield?

Mr. MOYNIHAN. No, it is not modest. It is necessary because of the extraordinary action of the OPEC cartel.

I am happy to yield.

Mr. STEVENS. Is the Senator talking about gold or oil?

It seems to me that the price of gold has gone up a great deal more than the price of oil.

Are we thinking now about a windfall profit tax on gold? I hope not.

Mr. MOYNIHAN. No.

Mr. STEVENS. The market price is based on demand, and it keeps going up and fluctuating sharply, any kind of mineral or metal in short supply, and oil is in short supply in the world. That is the problem, and it will be in worse supply if this passes because of the impact of this bill on production in this country.

I hope some Senators favoring this windfall profit tax will help us devise some incentives to restore the oil business, restore the production that could come about if there was, in fact, incentive built into this bill.

I had a professor tell me about the resource business. He said, "When you produce one unit of your resource, before you sell it, find out how much it will cost to produce the next unit, because if you sell that at less than what it will cost you to get another one above the ground, you are out of business."

This windfall profit tax has nothing to do with the cost of staying in business, the cost of lifting more oil. It presumes the Government can take 75 percent of the increase in the wellhead price because that increase is related to OPEC actions and it entirely discounts or ignores the increased cost of doing business in this country.

Particularly, it ignores the fact that we will have to go 20,000, 30,000, or 40,000 feet for wells.

I say the windfall profit tax concept in this bill is an excise tax. It has nothing to do with costs. It has nothing to do with locations. It has nothing to do with building $15 billion pipelines to get gas to market, or $7.5 billion pipelines to get oil to market, or $42 million for dry holes. The last dry hole in my State cost $42 million.

Again, those holes are not being drilled when we take 75 percent of their cash flow from them. That is the increased cash flow available to those companies. When they are not drilled, I hope the Senator from New York and others will listen about what is necessary to restore some incentives in this industry, because I do not think they will be drilled at the rate they would have been had it not been for this preposterous proposal.

Mr. MOYNIHAN. The Senator from New York will state that it seems to me that was a good faith statement by the Senator from Alaska, and we will listen. Those of us who are here, we will listen. We ought to. I fear this body will be seized with this subject for the rest of this century. But, for the moment, we are acting the way the Nation expects us to act, which is the way the President has asked us to act, and which seems, at least to a majority of us, to be a prudent way to act.

Mr. President, we had remarked that it was not necessary to prolong this discussion. The Senator from New York has spoken more than he had intended. The Senator from Wyoming, who is much closer to this industry, perhaps wants to make some remarks.

Mr. WALLOP. Mr. President, I do not.

Mr. President, I think my colleague from Oklahoma (Mr. BOREN) wishes the floor to speak in regard to this matter.

Mr. BOREN. I thank the Senator.

Mr. President, I want to associate myself with the remarks that have been made by the Senator from Wyoming. I am disappointed at the increase in the amount being proposed in this amendment.

As the Senator from Wyoming already said, the President himself in his original proposal asked for $105 billion. He said that was sufficient to meet the needs we were trying to address with this bill.

I believe the figure was later increased to approximately $140 billion. But it has never even approached the figure of $210 billion.

I think we should not lose sight of what we are trying to accomplish. Our purpose is not to increase taxes on the American people. Our purpose is to produce more energy here in the United States.

Recently, I had a visitor in my office from Japan, a man very knowledgeable in financial matters and principles of economic policy. He asked me this question:

> We are a little confused, observing you from perhaps a different perspective, as one outside your country. We realize your problem in the United States is that you are not producing enough energy within the United States and you are consuming too much.

He said:

> The question I want to ask is this: Why, since you do not produce enough and you consume too much, are you taxing your production and indirectly subsidizing your consumption?

I had no easy answer for him on an economic basis. I do not think there is any answer, except to say that we have not had the courage in this country, the political courage, to face up to the need, as the No. 1 national priority, for the production of more energy here at home.

So we must be careful as to the amount we raise by this tax, if our purpose is to produce more energy. There are some legitimate short-run reasons to have a tax. We realize that in the short run, there are going to be those who will not be able to cope with the transition to higher energy prices—the elderly and those on fixed incomes who need some special assistance during this period of change.

We realize that there are new energy sources, synthetic fuels, that need to be developed and that, at least in their early stages, will require some assistance from the Government to get them started. We realize that special incentives are needed for energy conservation.

So there is a legitimate place for tax credits to encourage energy conservation. Having said that, I think our obligation then is realistically to put a price tag on those legitimate needs and to phase out the tax as soon as we can, once those needs are met, so that we can get on with the business at hand, highlighted by our Japanese visitors, who said that our business must be to produce more energy in this country.

Having come to that point, we have to decide whether we will pay for that domestic production of energy through higher taxes and have the Government produce the energy or pay for it through allowing profits to private companies and having the free enterprise system produce the energy we need for this country.

When we come down to that choice, I think it is one about which a majority of the American people clearly would have no doubt. They would tell us to let the free enterprise system solve the problem, because it can do so in a much more cost effective way.

I am glad to see that the amendment by the Senator from New York keeps intact the principle of a phaseout and phasing out the tax when we have collected a dollar figure that we think is necessary to meet the needs I have discussed earlier. I commend him for that. I regret that I cannot endorse the proposal, because I think it goes beyond the amount of dollars necessary for the needs I discussed earlier.

I associate myself with the remarks of the Senator from Wyoming. I congratulate him for developing the original concept of the phaseout and the dollar figure.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Oklahoma for his fairmindedness and the warmth of his remarks. Even if he cannot support the bill, he clearly recognizes that those who do support it act in a sense of compromise and good faith.

Mr. President, unless other Senators wish to speak, I am prepared to yield back the remainder of my time.

Mr. WALLOP. Mr. President, I know there was no time agreement, but I am prepared to yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll on the suggestion of the absence of a quroum.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, when the amendment of Mr. Moynihan is disposed of, that will be the last rollcall vote today.

Mr. STEVENS. I thank the Senator.

Mr. ROBERT C. BYRD. I thank all Senators for their cooperation, which has made it possible for the Senate to make some progress today.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Stennis) and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 68, nays 26, as follows:

[Rollcall Vote No. 452 Leg.]

YEAS—68

Baucus
Bayh
Biden
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Stewart
Stone
Thurmond
Tsongas
Weicker
Williams
Zorinsky

NAYS—26

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
Harry F., Jr.
Cochran
Domenici
Gravel
Hatch
Helms
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
McClure
Schmitt
Simpson
Stevens
Tower
Wallop
Warner
Young

NOT VOTING—6

Baker
Church
Goldwater
McGovern
Stennis
Talmadge

So Mr. Moynihan's amendment (UP No. 858) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, under the order, Mr. Leahy is to send his amendment to the desk. I wonder if the Senator would object if I ask unanimous consent that Mr. Jackson be recognized to call up a conference report at this point? He wants to get the conferees appointed.

EXTENSION OF THE DEFENSE PRODUCTION ACT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 932.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the amendments of the House to the bill (S. 932) to extend the Defense Production Act of 1950, as amended, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Bradley) appointed for the purpose of all titles, from the Committee on Energy and Natural Resources, Messrs. Jackson, Church, Johnston, Bumpers, Ford, Durkin, Metzenbaum, Matasunaga, Melcher, Tsongas, Bradley, Hatfield, McClure, Weicker, Domenici, Stevens, Bellmon, and Wallop.

For the purpose of title II, Agricultural, Forestry, and Rural Energy, from the Committee on Agriculture, Nutrition, and Forestry: Messrs. Talmadge, McGovern, and Helms.

From the Committee on Banking, Housing, and Urban Affairs, Messrs. Proxmire, Stewart, and Lugar; for the purpose of title I, synthetic fuels, from the Committee on Banking, Housing, and Urban Affairs, Messrs. Proxmire, Williams, Cranston, Stevenson, Morgan, Riegle, Sarbanes, Stewart, Garn, Tower, Heinz, Armstrong, Mrs. Kassebaum, and Mr. Lugar; for the purpose of title III, gasohol, from the Committee on Banking, Housing, and Urban Affairs, Messrs. Proxmire, Stewart, and Lugar; for the purpose of title V, energy conservation, with the exception of subtitle E, utility programs, from the Committee on Banking, Housing, and Urban Affairs, Messrs. Proxmire, Williams, Cranston, Stevenson, Morgan, Riegle, Sarbanes, Stewart, Garn, Tower, Heinz, Armstrong, Mrs. Kassebaum, and Mr. Lugar; for the purpose of title IX, Solar Energy Development Bank, from the Committee on Banking, Housing, and Urban Affairs, Messrs. Proxmire, Williams, Cranston, Stevenson, Morgan, Riegle, Sarbanes, Stewart, Garn, Tower, Heinz, Armstrong, Mrs. Kassebaum, and Mr. Lugar; for the purpose of title XI, extension of the Defense Production Act, from the Committee on Banking, Housing, and Urban Affairs, Messrs. Proxmire, Williams, Cranston, Stevenson, Morgan, Riegle, Sarbanes, Stewart, Garn, Tower, Heinz, Armstrong, Mrs. Kassebaum, and Mr. Lugar; conferees on the part of the Senate.

Mr ROBERT C. BYRD. Mr. President, I do not believe even the Chinese have more battalions than the Senator from Washington has. [Laughter.]

Mr. JACKSON. I thank the distinguished Senator, the majority leader.

Mr. President, I have an explicit understanding with the distinguished chairman of the Housing and Urban Affairs Committee, Senator Proxmire, that the appointment of the conferees just announced shall not be treated as a precedent in the future on any other action that may be taken in connection with the subject matter covered by the conference.

I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished chairman of the Energy Committee. That was certainly my understanding, and I feel very strongly, and it is extremely important, that it not be regarded as a precedent. We tried to make the accommodation to Members who had a particular interest and expertise in these various areas. But it is very important that our committee retain jurisdiction in all matters affecting credit, and I think the Senator from Washington has done a fine job in working out this agreement, and I am happy to support him on it, with the understanding that this is not a precedent that will restrain us in the future.

Mr. JACKSON. Mr. President, I thank my good friend from Wisconsin. This really does get down to people. The Senator from Wisconsin has been most cooperative.

On the light side, if we can have a facetious moment, I would hope that we would not have another precedent with as many people going into various aspects of the bill from three different committees to deal with what is, of course, indeed a very complex problem. I do think that for this specific situation we are dealing with it was the only way that we could move with some, I hope, expedition in getting the matter resolved.

I yield now to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Washington.

Mr. President, I just wanted to ask a few questions of my good friend from Washington. I have no objection. As I understand it, this was an advance understanding that he and the distinguished chairman of the Banking Committee had before we brought S. 932 to the floor of the Senate with reference to synthetic fuels.

But let me ask this: Senator Jackson, do you recall when we went to conference on the natural gas bill? I note you are putting up one hand. I would have thought you would have put up both.

You know, we went there with a committee that was not committed to the Senate position, if you recall. I am not critical of anyone, but the Senate passed a version of the Natural Gas Act, and we went to conference with the House, which had another version, and we went with Senators who were equally split, half for the House version and half for the Senate version; and as a result we spent 4 months trying to get a natural gas bill for this country.

So I just want to ask this question: Since we are taking it entirely back, the entire measure back to the conference committee, including this synthetic fuels title I, on which we spent untold hours here on the floor, if the basic position of the Energy Committee, which is significantly different from the House position, were to prevail, what is the tradition or precedent with reference to the Senate conferees that go to conference in terms of what position they are obligated to support, as Senate conferees, when we get to conference with the House, which has passed a different version?

Mr. JACKSON. There is no written rule, but there is a Senate rule of honor that the Senate conferees are responsible to hold to the Senate position.

I would further state that in this case there were rollcall votes on the specific differences, precisely, and I have great faith in Chairman Proxmire, and that the additional conferees we have included here from the Banking, Housing, and Urban Affairs Committee will indeed support the Senate position.

Mr. DOMENICI. I thank the distinguished chairman. I did not rise here tonight to commit Senators a week or a month from now, in that conference, but I really wanted to make the point——

Mr. JACKSON. We do not want this to be a precedent for the repetition of the trouble we went through in the natural gas bill.

Mr. DOMENICI. I really think that is true, and I also think that when the Senate, by as many as 20 votes disparity, supported the basic concept that the Senate passed, I just wanted to make the point that while we are not setting a precedent on the committees that are going to be represented on the various titles, I would hope we would not set a precedent in having a whole new debate in terms of the Senate position when we go to conference.

Mr. JACKSON. Mr. President, I subscribe entirely to what the Senator from New Mexico has said.

Mr. ROBERT C. BYRD. Mr. President, I do not know how much time Senator Jackson has remaining, but as far as I am concerned we can go without eating. When it comes to the time for conference, I suppose it will take an Amtrak train to get all these Senate conferees to the other body, but I certainly want to compliment the Senator from Washington. He has worked hard, and the Senate has been enthusiastic, and Senators will, I am sure, be available to the conferees.

Mr. JACKSON. Mr. President, I simply want to say that we are all of us in debt to the majority leader for his help and cooperation in all of this. It has been no easy task to get it all worked out.

I yield to the junior Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I would just like to note that I am the only member of the Banking Committee who is not on the conference.

Mr. JACKSON. What?

Mr. TSONGAS. I am the only member of the Banking Committee not just appointed to the conference. I am on the conference as a member of the Energy Committee.

Mr. JACKSON. Well, you can be on both committees, but you can only vote once.

Mr. TSONGAS. That was my point. I was hoping to vote twice.

Mr. JACKSON. If we had your name down twice.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

UP AMENDMENT NO. 859

(Subsequently numbered amendment
No. 739)

(Purpose: To provide that, except in the case of heavy oil, percentage depletion with respect to a property shall be determined without regard to the windfall profit on oil from the property, treating exempt oil as if it were tier 3 oil, and without regard to the windfall profit tax on that windfall profit)

Mr. LEAHY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. Leahy), for himself, Mr. Nelson, Mr. Bradley, Mr. Muskie, Mr. Eagleton, Mr. Metzenbaum, Mr. McGovern, Mr. Danforth, and Mr. Bumpers, proposes an unprinted amendment numbered 850.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 80, strike out lines 7 through 11, and insert in lieu thereof the following:

(b) Technical Amendments.—

(1) The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

"(5) The windfall profit tax imposed by section 4986.".

(2) Subsection (a) of section 613 (relating to percentage depletion) is amended by inserting before the last sentence the following new sentence: "For purposes of this subsection and section 613A(c)(1), in the case of taxable crude oil (within the meaning of section 4988(a)) and oil which is exempt from the tax imposed by section 4986 (other than heavy oil), gross income from the property shall be reduced by the amount of the windfall profit (within the meaning of section 4989(a) determined without regard to the severance tax adjustment and, in the case of exempt oil, as if it were tier 3 oil) and taxable income shall be determined without regard to the tax imposed by section 4986.".

(3) Clause (i) of section 57(a)(11)(C) (relating to net income from oil, gas, and geothermal properties) is amended by inserting after "613(a)" the following: "but without regard to the next to last sentence of such section".

Mr. LEAHY. Mr. President, this amendment is really quite simple. It is designed to prevent the percentage depletion subsidy, to which only independent oil producers are entitled, from increasing by some $14.6 billion at the very time when it is needed least.

Unless this amendment is adopted, independent oil producers will receive an additional $14.6 billion bonus at the expense of the American taxpayer—and they will receive it with absolutely no assurances that domestic oil production will be increased one iota.

Last week the Senate generously adopted an amendment that exempts from the windfall profit tax the first 1,000 barrels per day of oil production by independent producers. As a result, independent producers will be permitted as much as $11 million each in windfall oil revenues that will be exempt from the tax imposed by this act. The cost to the U.S. Treasury of this exemption is estimated to be in excess of $22 billion.

Unless my amendment is adopted, these same independents will receive an additional windfall in the form of $14.6 billion in increased Federal tax subsidies.

Mr. President, there is a limit to how much we can afford to give away in the name of "production incentives," and that limit has been reached.

I am in total agreement with those who argue that domestic production must be increased to its limit.

I am in agreement with those who favor giving the independents every possible opportunity to continue their valuable contributions toward meeting our national energy needs.

Nonetheless, Mr. President, I cannot see the justice, I cannot see the slightest bit of wisdom, in increasing the depletion subsidy to which they are entitled by three, four, five, or even sixfold at the very time they need it least. I cannot see the wisdom of heaping subsidy on top of windfall and exemption.

Mr. President, my amendment would not repeal percentage depletion. It would not alter the depletion rate or the deletable oil quantity. Nor would it impose a new tax on oil companies.

Opponents of my amendment have charged that it will reverse the gains achieved for independents by the 1,000 barrel exemption; it will not. It will have no effect whatsoever on the $22 billion exemption already provided for independents.

What it would do, simply stated, is deny the percentage depletion allowance beyond a certain dollar amount per barrel of oil receipts—that dollar amount being $15.30, adjusted for inflation.

Stated alternatively, percentage depletion would be permitted on up to $15.30 of revenue per barrel of oil.

Mr. President, I would like to take a minute to briefly describe the history of the percentage depletion allowance.

In 1913, when the income tax was instituted, depletion was limited to cost recovery. In 1918, "discovery depletion" was enacted, allowing depletion based on the value of the well upon discovery. In 1926, because of difficulties with administering "discovery depletion," percentage depletion was enacted. A depletion deduction equal to 27½ percent of gross oil receipts was allowed. In 1969, the percentage depletion was reduced to 22 percent. At that level, industry experts estimated that oil companies were still recovering the costs of wells on the average 15 times over.

As a result, percentage depletion was repealed outright for major oil producers in 1975, and a depletion phase-out was adopted. In 1980, independent producers will qualify for a 22 percent depletion allowance on the first 1,000 barrels of production.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a table illustrating how percentage depletion actually works.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

How Percentage Depletion Works. The following table illustrates how percentage depletion works, assuming oil receipts for the sale of 50,000 barrels of old oil at the control price of $6 per barrel:

50,000 barrels at $6/barrel:	With depletion	Without depletion
Gross receipts from sales of oil	300,000	300,000
Cost	100,000	100,000
Net income	200,000	200,000
Percentage depletion (22 percent of gross receipts)	66,000	-------
Taxable income	134,000	200,000
Tax (46 percent corporate rate)	61,640	92,000
Net after tax earnings	138,360	108,000

In this example percentage depletion reduces the taxpayers' tax bill by 33 percent.

Effects of Leahy Amendment. Decontrol, coupled with the pricing policies of the OPEC cartel, will soon push the price of domestically produced crude oil to $30 and beyond.

Mr. LEAHY. As it has evolved, percentage depletion no longer has a basis related to the value of the depletable oil, or to the costs of recovering that oil. It is a straight percentage subsidy based entirely on the dollar amount of gross oil receipts.

In today's world, where decontrol and the pricing policies of the OPEC cartel are forcing price increases of 200 and outright repeal of percentage depletion, subsidy based on oil receipts is clearly unjustified and irrational.

Imagine if, in a manufacturing industry, a cartel increased the selling price of a manufacturer's product by threefold, and as a result, he was also permitted to increase his capital depreciation allowance by threefold.

Obviously such a situation would be outrageous, but that is precisely how the percentage depletion allowance works.

Mr. President, I honestly believe I could make a strong case today for the outright repeal of percentage depletion, but I am not making that case. My amendment does not begin to go that far.

Again, all it would do is limit the percentage depletion subsidy to the first $15.30 in revenue per barrel of oil. That subsidy, I might point out, would be a larger subsidy than has been received at any time in history.

Mr. President, I know that most of my colleagues share my grave concern with the serious energy problems presently facing this Nation.

None of us wants to do anything in this tax to hinder domestic oil production, and thus increase the stranglehold the OPEC nations have on our foreign and economic policies.

This line of reasoning was, no doubt, largely responsible for the Senate's approval of the independent producers exemption yesterday.

I recognize and share the deep concerns of my colleagues who feel domestic oil production must not be dampened, at any cost, and I can assure you my amendment would not have this negative effect.

I suspect that those who will oppose my amendment will argue that it robs independent oil producers of the cash flow they need to expand oil exploration and production.

I must say I am beginning to wonder just how much cash flow they actually need.

They have already benefited from the windfall revenues resulting from decontrol and cartel-induced oil price increases—revenues that will total some $350 billion over the next 10 years.

They have already benefited from a specific exemption from the tax on those windfall revenues, an exemption worth some $22 billion.

And now, Mr. President, I suppose it will be argued that they need a three or fourfold increase in their percentage depletion subsidy.

I have prepared some tables that demonstrate what is really happening to the cash flow of independent oil producers.

I ask unanimous consent that those tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

EFFECTS OF LEAHY AMENDMENT ON INDEPENDENT PRODUCER CASH FLOW

Following are some charts which illustrate the effect the Leahy amendment would have on the cash flow of corporate independent oil producers (roughly 40 to 50 percent of all exempt independent producers.) The effect on non-corporate independents would be similar, except that the maximum tax rate, which they rarely pay, could be 70 percent instead of 46 percent.

These charts demonstrate that even with the Leahy denial of percentage depletion amendment, after tax earnings of independents are more than six times greater than before decontrol for old oil, 2½ times greater for upper tier oil, and 2 times greater for uncontrolled oil (using the March 1979 price.)

As with most oil industry statistics, these figures represent rough approximations.

Old oil (Approximately 11 percent of Exempt Independent Production):

Sale of 50,000 barrels	With depletion before decontrol ($6/bbl)	With current depletion after decontrol ($30/bbl)	With Leahy depletion after decontrol ($30/bbl)
Gross receipts from oil sales	$300,000	$1,500,000	$1,500,000
Windfall tax	None	Exempt	Exempt
Cost	100,000	100,000	100,000
Net income	200,000	1,400,000	1,400,000
Percentage depletion (22 percent of gross receipts) [1]	66,000	330,000	176,000
Taxable income	134,000	1,070,000	1,224,000
Tax (46 percent corporate rate)	61,640	492,200	563,040
Net after tax earnings	138,360	907,800	836,960

UPPER TIER OIL (APPROXIMATELY 21 PERCENT OF EXEMPT INDEPENDENT PRODUCTION)

Sale of 50,000 barrels	With depletion before decontrol ($13/bbl)	With current depletion after decontrol ($30/bbl)	With Leahy depletion after decontrol ($30/bbl)
Gross receipts from oil sales	$650,000	$1,500,000	$1,500,000
Windfall tax	None	Exempt	Exempt
Cost	225,000	225,000	225,000
Net Income	425,000	1,275,000	1,275,000
Percentage depletion (22 percent of gross receipts) [1]	143,000	330,000	176,000
Taxable income	282,000	945,000	1,099,000
Tax (46 percent corporate rate)	129,720	434,700	505,540
Net after tax earnings	295,730	840,300	769,460

UNCONTROLLED OIL (APPROXIMATELY 68 PERCENT OF EXEMPT INDEPENDENT PRODUCTION)

Sale of 50,000 barrels	With depletion March 1979 price ($15/bbl)	With current depletion ($30/bbl)	With Leahy depletion ($30/bbl)
Gross receipts from oil sales	$750,000	$1,500,000	$1,500,000
Windfall tax	None	Exempt	Exempt
Cost	250,000	250,000	250,000
Net Income	500,000	1,250,000	1,250,000
Percentage depletion (22 percent of gross receipts) [1]	165,000	330,000	176,000
Taxable income	335,000	920,000	1,074,000
Tax (46 percent corporate rate)	154,100	423,200	494,040
Net after tax earnings	345,900	826,800	755,960

[1] Leahy percentage depletion equals 22 percent of the adjusted tier 3 base price—$15.30 (adjusted for inflation).

Mr. LEAHY. First let me say that, as is always the case with oil industry statistics, these figures represent rough approximations. Nonetheless, the point they make is clear and accurate.

Assuming a world oil price of $30 a barrel, and I dare say it will be significantly higher in the very near future, independent producers will have approximately six times the after tax earnings for the sale of a barrel of decontrolled old oil, even if my amendment is adopted.

Again, assuming a $30 per barrel oil price, the after tax earnings from the sale of a barrel of decontrolled upper tier oil will become two and one half times greater than before decontrol, even with my amendment.

The fact is that even if my amendment is adopted, independent producers will have considerably more cash on hand to reinvest in oil exploration and production than at any time in recent history.

I might further point out, without elaborating here, that increased cash flow is not the only source of funding for oil exploration and production. It can be argued, in fact, that cash flow has little or nothing to do with levels of investment in oil production.

The tremendous prospects for future profits in the oil industry, given decontrol and dramatically rising world prices, coupled with sharp increases in the value of oil reserves in the ground, together insure that external financing will be readily available for those interested in looking for and producing oil. Together, they insure that adequate funds will flow into oil production in the years ahead.

Mr. President, those who are likely to speak in opposition to my amendment will also contend that independents are responsible for the lion's share of domestic oil discoveries, and that my amendment will deprive them of the incentives they need to continue this exploration.

I readily acknowledge that independents discover the bulk of the new oil in this country, and they are to be commended for that. My amendment, however, will not in any way interfere with, or inhibit their exploration activities. It simply will not affect exploration.

In the first place we have already provided the greatest incentive for exploration—we have decontrolled the price of crude, and exempted newly discovered oil from the windfall tax.

In the second place, the percentage depletion subsidy is not an exploration incentive, it is a production incentive. The subsidy is received only when oil is actually sold.

Indeed, if anything, the percentage depletion subsidy discourages exploration and encourages overdrilling in known oil fields. Since the depletion allowance is based solely on production and sales, oil companies prefer to spend money drilling in existing fields to be certain of receiving the subsidy.

The major incentive for exploration is provided by the generous deductions allowed for intangible drilling costs. Permitting those costs, and the costs of "dry-holes," to be written off as current production costs, rather than requiring that they be capitalized, provides a tremendous incentive for exploration.

This favorable tax treatment of intangible drilling costs will result in an estimated $2 billion subsidy for independents in 1980 alone, and my amendment in no way reduces or restricts that amount.

Mr. President, in summary I am no expert on taxes. Nor am I an expert on the oil industry. I do not pretend to be. But it seems to me that the case for my amendment is as compelling as it is simple.

At a time when we are striving to reduce the Federal deficit, and provide a modicum of tax relief for the American taxpayer, I cannot believe the Senate would be so shortsighted as to approve a $14.6 billion tax subsidy for independents, on top of the huge windfall revenues they are already receiving.

I cannot see how anyone can justify, or explain, taking $14.6 billion from hard-working Americans, and giving it to oil producers who, under current circumstances, already have more revenues than they can possibly invest in oil production.

This Nation has numerous pressing energy-related needs, and they all demand scarce Federal revenues.

We must provide assistance to the poor who simply cannot cope with soaring energy costs.

We must provide incentives for Americans and American businesses to conserve energy—energy that, no matter what we do in the Senate here today, will be more and more expensive to produce and transport in the decades ahead.

We must provide incentives for the expansion of alternative energy production. Whether one agrees precisely with the oil reserve estimates of the U.S. Geological Survey or not, none would argue that petroleum, by itself, will be sufficient to meet our energy needs in the years ahead.

Mr. President, each of these needs is real, and each is pressing.

I would hope that the Senate will recognize this, and will adopt my amendment. The $25 billion in special tax exemptions for independents that will remain in the bill, even if my amendment is adopted, is more than sufficient to stimulate new production.

I urge my colleagues to draw the line and oppose this unwarranted $14.6 billion tax subsidy.

Mr. BENTSEN. Mr. President, I urge the Senate to reject the pending amendment which denies a portion of the existing percentage depletion deduction for independent oil producers. This amendment increases the income tax burden on independent producers only. It has no effect whatsoever on the major oil companies. Furthermore, this amendment relates to the income tax treatment of independent producers and does not even apply to the windfall profit tax liability. The Senate is now considering the windfall profit tax and should not increase the income tax on independents at the same time.

In 1975 Congress debated the issue of percentage depletion for oil and gas producers at great length. The Congress decided to repeal percentage depletion for the major integrated oil companies, but retain the deduction for the independents. The deduction was retained for the independents since they are the ones that do some 90 percent of the wildcat drilling and Congress wanted to increase domestic exploration and development. Recent events clearly demonstrate that our decision in 1975 was a correct one. We must increase domestic production. We simply are unable to rely on extremely unstable overseas sources of crude oil. There is absolutely no reason to cut back on percentage depletion at this time. I urge the Senate to reject the pending amendment.

Independent oil producers traditionally rely on three sources for their drilling capital: The intangible drilling deduction, internally-generated funds, and the percentage depletion allowance. Their competitors, the integrated corporations, can subsidize their production operations—even under domestic crude oil and gas price controls—with income from refining, retailing, transportation, overseas operations, horizontal enterprises and bank borrowing. They do not rely on depletion deductions to the same extent as the independents.

Thus, the pending amendment would reduce the capital available for exploration for new oil and gas at a time when we desperately need to increase domestic production.

It is the independent producer who drills about 90 percent of the exploratory wells directed at finding new oil and natural gas reserves in the United States. According to the American Association of Petroleum Geologists, independents made 75 percent of the "significant" U.S. oil and natural gas discoveries in the years 1969–73. Drilling is an extremely high-risk business. Many estimate that only one exploratory well in nine produces anything. The rest are dry holes.

The number of independents has declined in recent years from 20,000 to some 12,000. A study released by the Federal Trade Commission in 1974 indicated that between 1957 and 1970 the 20 largest major integrated oil companies purchased 106 substantial American oil and gas producers—seven of which were large integrated companies themselves.

It is counterproductive to place additional burdens on independent producers. Without the existence of independent producers, we will find that independent refiners and independent marketers will find it more and more difficult to exist. We should be encouraging competition and not concentration.

The President's 1977 energy message stated:

> Since energy is an essential commodity for all Americans, effective competition in the energy industries is a matter of vital concern. The President's energy plan calls for continuous vigilance to insure that the structure, behavior and performance of the energy industries are vigorously competitive.

The costs of drilling and exploration have risen substantially in recent years. The greater depths required to find oil and gas translates into higher costs. The "easy" oil has been found. New discoveries produce smaller yields. The same level of investment in exploration and development yields progressively fewer barrels of oil.

The costs of drilling a 16,000-foot well in the Green River Basin of Wyoming can cost $2.4 million. The completion costs alone—which include the cost of "fracing" the well and renting appropriate equipment—may cost about $200,000.

A 13,000-foot exploratory well in North Dakota can cost more than $1 million, including $700,000 of intangible expenses.

A 10,000-foot wildcat well in Bear Lake County, Idaho, may cost about $1.8 million, including $1.5 million in intangible costs.

The typical independent producer uses the cash flow from the sale of crude oil and natural gas production to finance his exploration and production efforts. According to recent studies, the independent historically has reinvested over 100 percent of his net revenue at the wellhead in exploration, development, and production.

Drilling is an extremely high risk business. It is estimated that only one exploratory well in nine produces anything. Eight out of nine exploratory wells are dry holes. In addition, at least 20 percent of developmental wells are dry holes. Due to the extreme risk, private foundations are not allowed under Federal law, to invest in oil and gas activities. In addition, trust funds of widows or orphans cannot be invested in drilling, again because of the extreme risk of these investments. In order to prevent increasing dependence on overseas oil, our tax laws must not discourage risk taking in the oil and gas business.

Mr. President, the allowance for percentage depletion under section 613 of the Internal Revenue Code currently applies to about 100 different minerals and many of these minerals receive a depletion allowance which is larger than the allowance for oil and gas.

Let me briefly list just some of the minerals eligible for 22 percent depletion: Sulphur, clay, asbestos, bauxite, graphite, mica, quartz crystals, cobalt, lead, lithium, manganese, mercury, nickel, platinum, tin, tungsten, zinc, and vanadium.

Some 15 percent depletion applies to gold, silver, copper, and iron ore; 14 percent depletion is available for rock asphalt, vermiculite, and certain kinds of clay.

Other items eligible for 14 percentage depletion include borax, calcium carbonates, granite, limestone, marble, and phosphate rock.

Under present law, percentage depletion for oil and gas has been repealed for major, integrated companies and is being phased down for the independents. For 1979 only 1,200 barrels per day of oil are eligible for percentage depletion and this is being phased down to 1,000 barrels per day in 1980. The depletion rate for oil and gas is 22 percent in 1979 and 1980 and this is gradually phased down to 15 percent in 1984.

I urge the Senate to reject the pending amendment.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Vermont (Mr. LEAHY) agree to resume consideration of his amendment tomorrow at 11 or 11:30, with the time divided equally between then and 1 o'clock?

Mr. LEAHY. Eleven-thirty.

Mr. BENTSEN. The Senator from Texas reserves the right to object to that. We are talking about voting at 1 o'clock.

Mr. ROBERT C. BYRD. There is a vote at 1 o'clock on a motion to table.

Mr. BENTSEN. I think we will need at least 2 hours.

Mr. LEAHY. If the Senator from Texas would like 2 hours, I am perfectly willing to agree to 2 hours, equally divided, beginning at 11:30.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume consideration of the pending amendment on tomorrow at 11 o'clock a.m. and that the 2 hours between 11 o'clock and 1 o'clock be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont (Mr. LEAHY).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at this time on the motion to table which will be made tomorrow.

Mr. LEAHY. Mr. President, reserving the right to object, and I have no intention of objecting, but just to make a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, may I indicate to the Senator that he is not going to be mousetrapped.

Mr. LEAHY. I realize I am not. I just wondered whether I should order the yeas and nays on the amendment at the same time.

Mr. ROBERT C. BYRD. The Senator might want to modify his amendment. No, he cannot modify the amendment under the order.

Mr. LEAHY. Would the majority leader be willing to add for the yeas and nays both on the amendment and the motion to table, realizing, of course, under the order the motion to table has to be heard first, anyway?

Mr. ROBERT C. BYRD. I suggest that the Senator not press for the yeas and nays at this time on his amendment. The Senator can always get that. And it might be to the advantage of the Senator.

Mr. LEAHY. It just occurred to the Senator one reason why it might be to his advantage. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for yeas and nays on the motion to table which will be made at 1 o'clock p.m. tomorrow.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Will the Senator yield?

Mr. BENTSEN. Yes.

Mr. STEVENS. Mr. President, I ask unanimous consent that my administrative assistant, Tim McKeever, be allowed access to the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I want to join in the remarks just made by the distinguished Senator from Texas. I believe many of us will be speaking tomorrow in opposition to this amendment. At the appropriate time I will join with the distinguished Senator from Texas in a motion to table the amendment. That will occur at the hour of 1 o'clock.

It seems to the Senator from Kansas after weeks and weeks and months and months we finally reach some agreement in the Senate Finance Committee, which was expanded to some extent by the Bentsen amendment on the floor, and now we seek to undo what was approved in the Senate Finance Committee and what was approved on this floor by a substantial vote. I would hope that those who have an understanding of the need for more production, the need for production response, the need for cash flow, and the need for capital will vote with us to table the amendment of the Senator from Vermont.

I recognize the interest of some from nonproducing States to somehow punish the oil industry. I recognize the industry itself is an easy target. The Senator from Kansas recognizes that everybody has a different judgment on how to treat a resource in some State other than their own. But the Senator from Kansas has been up and down the hill on the so-called depletion allowance. The Senator from Kansas is not certain of the date but it was several years ago that it took seven or eight votes one evening to retain what little we have left of the depletion allowance.

Much has changed since that time, and it is changing on a daily basis, in fact almost on an hourly basis. There is a recognition by most Americans, whether they come from producing or nonproducing States, that we cannot continue to punish particularly the independents and the small producers in this country and expect them to respond.

They have a right to make a profit.

As the Senator from Texas has said, they are not alone in the depletion allowance. It is part of our Tax Code for a very good reason. I would hope at the appropriate time there will be a substantial vote, a majority vote, in favor of tabling the amendment of the distinguished Senator from Vermont. I will speak further tomorrow on this subject.

THE CASE AGAINST THE WINDFALL PROFIT TAX

Mr. BOSCHWITZ. Mr. President, today I point out to my colleagues a recent column in the Minneapolis Tribune regarding the so-called windfall profit tax. Mr. Anthony Morley of the editorial page staff of the Tribune presents an excellent case against adoption of the windfall profit tax currently pending before Congress.

Mr. President, I ask unanimous consent that the column written by Anthony Morley in the November 25, 1979 edition of the Minneapolis Tribune be printed in full in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

NO WINDFALL PROFIT TAX

Before year-end, Congress will probably pass a windfall-profits tax on American oil. There is little opposition. Despite its large bite and long-term nature, the proposed new tax is popular. Proponents have presented it as a matter of equity and a source of benefits.

Without a windfall tax, the argument runs, oil companies will reap a bonanza while everyone else faces energy hardships. But with the tax, money will be available for synthetic fuels, solar-energy, expanded mass transit and help with home heating for families in need. Who would attack such a laudable list of goals? Even oil-company executives seem resigned to the notion that windfall payments are their social duty.

Nevertheless, the windfall-profits tax should be opposed. It is falsely named, rests on disproven assumptions, raises money unnecessarily for dubious promises and weakens America's energy policy.

First, the windfall-profits tax is not a tax on profits. It is a tax per-barrel on domestic oil. Every producer will pay it, whether the company's profits are high, low or negative. To be sure, by taxing the product instead of the profit, the windfall levy will make the product less profitable. But products less profitable are also less plentiful. And in this case the product is American oil. Thus the windfall tax will work against the national need for greater energy independence.

A similar perverse result can be seen by considering whom the tax will affect. Because it applies to American production only, the windfall tax cannot touch the profits from buying and selling foreign oil. Those are the profits that politicians love to hate, and that feed the resentment which makes windfall taxes popular. But large corporations in international oil will not be burdened where their profits are greatest by the windfall tax. The tax will hit hardest at 10,000 smaller companies finding and pumping American oil. Relatively, then, the proposed tax favors oil giants over oil independents, oil importers over oil producers. Perhaps that is why the giant importers can accept the tax so calmly.

Besides being misnamed and misleading, the windfall tax is fundamentally misconceived. Its bedrock assumptions are that the oil industry makes too much money, that oil companies can't be trusted to use their money wisely, and that therefore the government should take much of the oil income for government distribution. Those are ominous assumptions in an economy based on profit-making industries. And in any event, as applied to oil, the assumptions are wrong.

Financial evidence shows that oil is no more lucrative than most manufacturing and that oil-company earnings are heavily reinvested in energy enterprises. Oil-company profits in the last decade were almost exactly the average (two-10ths of a percentage point higher) for all American industry. And in that period even the oil giants put less than 6 percent of their capital investment in non-oil businesses. Most of the folklore about oil-company ripoffs and frivolous diversification is precisely that—folklore.

Meanwhile, there is no evidence that Congress and the White House can make better decisions than 10,000 oil companies about ways to use oil earnings and profits. In oil-company hands, most of the money (after normal corporate taxes) would be reinvested in energy opportunities picked for their efficiency and profit potential. What remained would be paid to stockholders, who (after income taxes, again) would make their own several million separate decisions about how to use it.

Concentrated in government hands, this same money would be allocated very differently. The criteria for its use would not be economic, but inevitably political. Political criteria guarantee decisions based on corporate lobbying or votes for re-election, not on actual costs or efficient performance. And opportunities for government spending are an invitation to porkbarrel politics. Already, to no one's surprise, Congress is jockeying over tax breaks for gasohol (the farm vote), cost-plus subsidies for synthetic fuels (largely to big oil companies, believe it or not) and regionally balanced formulas for fuel-assistance welfare (Arizona must be treated as kindly as Minnesota).

This process does not suggest that parceling out the windfall in Congressional committees will bring new energy more quickly or cheaply than decentralized decisions motivated by profits. Quite the contrary. The government route is through a lobbyists' paradise of tax exceptions and special considerations. It also leads clearly to payment by the public, not by investors, for new-energy ideas that are money-losers, not winners.

Nor is there a convincing argument that government needs windfall-tax revenues for clearly governmental energy responsibilities. In this category by far the most urgent item is public assistance to cushion the impact of energy prices on the poor. After that, perhaps, come aids to mass transit. The highest proposed price-tag for these two federal purposes is $85 to $90 billion in the next decade. It sounds like a lot.

Yet even that amount can be easily covered by royalties and existing taxes on oil companies' higher income from decontrolled domestic oil prices. The automatic gain in federal revenues, according to Senate Finance Committee figures, will be $358 billion. In short, *without* a windfall tax, Congress is assured of windfall receipts quadruple the combined need for fuel-assistance and mass-transit funding.

If a new tax is not needed and much of it is sure to be wastefully spent, if the assumptions are discredited and the impact would detract from energy independence, and if the tax package is falsely labeled, what reasons remain for a windfall levy on American oil? None. This bad legislation should be defeated.

● Mr. STEWART. Mr. President, I would like to rise in support of an amendment (Amendment No. 718) to H.R. 3919 offered recently by my distinguished colleague from Kansas, Mr. DOLE. I would also like to commend my distinguished colleague from Indiana, Mr. BAYH, chairman of the National Alcohol Fuels Commission, for his continuing leadership in this field, and my distinguished colleagues from Oregon, Georgia, and Nebraska, Mr. PACKWOOD, Mr. TALMADGE, and Mr. EXON, for their hard work in putting this package together. I am proud to join in cosponsorship with Mr. PERCY, Mr. CHURCH, and Mr. McGOVERN, all of whom have been in the forefront of advocacy for alcohol fuels since before I became a Member of this body. I am also pleased to join with Mr. McCLURE, Mr. BAUCUS, and Mr. NELSON, and I look forward to working with them again in the future on other alcohol fuels initiatives.

Mr. President, I mention each of my cosponsors as a means of expressing my appreciation for their efforts. I do so also to demonstrate that the promotion of alcohol fuels transcends partisan politics, philosophical orientation, or geographical location. Alcohol fuels are clearly our best short-term hope for reducing our dependence on foreign oil. They are probably our best long term hope as well.

The numerous compelling arguments for increasing our Nation's supply of alcohol fuels have been effectively presented many times in this Chamber. I will not attempt to cover familiar ground today. I do, however, feel that a few general remarks are appropriate.

One of the greatest advantages of alcohol fuels resides in their potential to decentralize our Nation's supply of energy. Promoting the expanded use of alcohol fuels and other decentralized, renewable energy technologies would enable Americans to become more self-reliant in their production and consumption of energy. I think it is time we begin letting the average American call some of the energy shots in this country. I think most Americans are tired of relying on Middle Eastern sheiks, big oil companies, and Washington bureaucrats to make all of the decisions for them.

If alcohol fuels are to achieve their full potential, many different segments of our great pluralistic society will need to become involved. The farmer who has seen his fuel costs increase by 200 percent in the past 2 years will have a key role to play. The jobber struggling to survive as a small, independent businessman in the increasingly integrated oil industry must be brought in. The participation of the private investor looking for a stable business climate and a decent rate of return must also be encouraged.

The alcohol fuels legislation I rise to support would extend and expand the tax incentives to utilize alcohol fuels enacted by Congress 2 years ago. It would do so without jeopardizing the productive apparatus already in place. This legislation builds on a good foundation, solidifying that foundation while branching off in some promising new directions.

By preserving the 4-cent Federal excise tax exemption and extending it until the year 2000, we would fortify an institutional arrangement which has already contributed substantially toward the establishment of a nationwide gasohol sales network. The best thing about the 4-cent excise tax exemption is that it works. Extending it to the year 2000, a proposal which has been the cornerstone of the administration's gasohol policy, would enable it to work better.

Besides extending the 4-cent Federal excise tax exemption until the year 2000, passage of this legislation would promote the expanded use of alcohol fuels by extending tax incentives beyond the standard gasohol blend of 90-percent gasoline/10-percent alcohol to include mixtures using greater or smaller percentages of gasoline, as well as blends using motor fuels other than gasoline. Also, for the first time, alcohol produced and used on the farm as well as alcohol utilized in industrial processes would qualify for tax incentives.

Briefly, alcohol used to make gasohol would continue to receive the 4-cent-per-gallon Federal excise tax exemption. Anhydrous alcohol used for any other energy-related purpose would qualify the producer for a 40-cent-per-gallon nonrefundable tax credit, a level of subsidy equal to the excise tax exemption. Nonanhydrous alcohol would receive a slightly lower production tax credit of 30 cents per gallon.

Another provision of this comprehensive piece of legislation would stimulate the expanded use of alcohol fuels by making it possible for many small petroleum marketers to participate in the burgeoning gasohol industry. Up to now, their involvement has been restricted by some unforeseen technical problems in administering the excise tax exemption. By correcting these problems, this legislation would bring these small marketers into the gasohol network permanently.

Last but not least, I would like to address myself to the beneficial impact of this legislation on the American farmer. As we all know, no group has suffered more from OPEC's spiraling price hikes than the American farmer. Do not let me be misunderstood. Legislating incentives that promote the expanded use of alcohol in our Nation's fuel supply would help not only farmers but all Americans by reducing our excessive and inflationary dependence on foreign oil. But the American farmer, who has borne a special burden, would reap some special benefits.

Extending a 30-cent-per-gallon production tax credit for nonanhydrous alcohol would be an enormous boon to family farmers and farm cooperatives seeking to become energy independent. It is a clear, simple procedure involving a minimum of Government involvement. This tax incentive would provide literally thousands of small farmers in the State of Alabama and across this Nation with the financial wherewithal to build small, on-farm stills. Once these stills are in operation, farmers could begin utilizing their own agricultural wastes to produce motor fuel for their tractors, and heating fuel for their homes and their barns.

Passage of this legislation would provide additional impetus for rural America in its efforts to become more energy self-reliant by enabling the Bureau of Alcohol, Tobacco, and Firearms (BATF) to revise their regulations on alcohol fuels production. These regulations were originally written to discourage moonshiners. The BATF has up to this point been extremely helpful in simplifying its regulatory procedures and bonding requirements for small-scale producers of denatured alcohol. This legislation would merely codify these procedural changes.

Mr. President, this is truly a fine piece of legislation. It provides a powerful stimulus to alcohol fuels production in this country, while minimizing Government involvement and maximizing the clear benefits that decentralizing our supply of energy would bring. The American people are aroused and anxious to contribute to the resolution of our Nation's energy crisis. They are tired of being blamed for causing the problem, and they want very much to be a part of the solution. Enactment of this legislation would give many Americans that chance.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I am presently seeking to see if the Senate can take up some other business in the morning prior to 11 o'clock.

For the moment, I ask unanimous consent that there be a brief period for the transaction of morning business, that the period not extend beyond 20 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GENOCIDE TREATY DOES NOT INCREASE UNITED NATIONS JURISDICTION

Mr. PROXMIRE. Mr. President, many critics of the Genocide Convention have contended that ratification of the treaty would increase the power of the United Nations. They denounce this treaty in defense of American sovereignty. They are wrong.

They are wrong for one simple reason—the Genocide Convention would not grant the United Nations any more power than it has at the present. Former U.S. Representative to the United Nations, Charles W. Yost, in 1970 explained to the Senate Foreign Relations Committee that member countries have always had the right to call on the United Nations to take appropriate action in regard to human rights violations. Mr. Yost concluded that—

> These rights exist under the (United Nations) charter and would not be affected by this convention.

Even the body of the treaty itself stipulates that the powers of the United Nations are not enlarged. Article VIII of the Convention explains that the United Nations, when dealing with allegations of genocide, would only have what power it was granted in its original charter.

Has the United Nations infringed upon American sovereignty? Has the United Nations limited our country's influence on world affairs?

I think it has done quite the opposite.

TAX-EXEMPT MORTGAGE REVENUE BONDS

Mr. TSONGAS. Mr. President, I am pleased to join the Senator from New Jersey (Mr. WILLIAMS) and others in cosponsoring S. 2064, legislation establishing a policy for the use of tax-exempt mortgage revenue bonds.

This legislation represents a balanced, sensible approach to an issue of great importance to all of us: providing access to homeownership opportunities, and expanding the supply of affordable housing for low and moderate income persons.

The legislation sets out a fair policy. It corrects past abuses while continuing to provide a key financing mechanism that allows the delivery of quality housing at a reasonable cost to families without the means to obtain conventional financing for home purchase.

When the discussions on this issue began in the Congress over 8 months ago, we did not have the same housing situation we are facing today. The President, Treasury officials, Congressman ULLMAN and others began their discussions in a tax and monetary policy context. Whatever the original framework or premise for limitations on mortgage revenue bonds, I suggest that we cannot avoid dealing with the issue now in the context of our pressing housing needs.

Tax-exempt mortgage revenue bonds, carefully targeted to avoid credit substitution and to minimize revenue loss, are an integral part of the solution to our housing crisis. Mortgage revenue bonds have always been an important supplement to the conventional money market, and they have always provided opportunities to individuals traditionally excluded or underserved by conventional markets. Now, with the cost of construction money at 17 percent, we are facing a serious downturn in our housing industry, and mortgage revenue bonds will play an increasingly important role.

Let us review the harsh facts.

First, we can anticipate a serious shortage of housing. By early next year, we will be able to see the true nature of the crisis in new home construction and existing home sales. We have a minimal need for 2 million housing starts a year in order to meet household formation requirements. Housing starts could plummet as much as 50 percent by the end of next year, and we are already in a period of housing shortage, with record low vacancy rates and record high mortgage rates.

Second, housing clearly has been singled out to take the brunt of a tight money policy, just as it was singled out to take the brunt of budget cutting. Millions of moderate income Americans have been denied access to home purchases by rising costs. They are caught in the double pincers of inflation and interest rates—with one exacerbated by the other. Since January 1979, the rising interest rates have added $41,000 to the debt service on a $50,000 home financed with a 30-year mortgage.

Overall housing costs are increasing twice as fast as earning capacity. In 12 months, the principal and interest payments on a median priced home have escalated three times faster than income. Just 4 days ago, for example, the Government announced that consumer prices rose another 1 percent in October, led by a 3.4-percent jump in housing costs.

Existing Federal programs—both for homeowners and renters—are simply not adequate to meet the demands and provide the necessary relief. In multifamily housing, we have cut our starts over 50 percent in the past 3 years, and we are fast approaching a de facto moratorium on assisted housing. Our homeowner programs are in many cases woefully underfunded, and even FHA and VA programs are beyond the means of many families, or not competitive with conventional rates and current sale prices.

I believe that a carefully targeted

mortgage revenue bond program is an absolutely crucial tool to compensate for the high costs of housing for low- and moderate-income people. Senator WILLIAMS has gone into the provisions of this legislation in great detail, and I will not repeat his effort, but I want to highlight some of the provisions of greatest importance.

This legislation will carefully target funds in three basic ways.

First. The legislation permits local jurisdictions to issue mortgage revenue bonds to supply housing in areas where other physical revitalization activities are being carried out, and requires that 5 percent of the bond value be contributed from Federal funds being used to carry out those revitalization activities. Thus, a city undertaking a comprehensive neighborhood revitalization program using perhaps a combination of block grant, EDA, UDAG, or similar funds, would contribute 5 percent of the face value of the bond from one of these sources. This provision will provide much needed access to mortgage funds for people in areas where there is little or no access to conventional financing. It will also insure that the bonds are clearly tied to a public purpose, and will insure that the bonds will be subject to controls built into existing Federal regulations.

Second. The legislation would permit State housing agencies to issue mortgage revenue bonds. At this point we have over 33 State housing agencies involved in single family housing. Since 1970 those agencies have provided 150,000 mortgages for low- and moderate-income persons. I think it is especially important to clarify the past participation by State agencies in mortgage revenue bonds. When we talk about $150,000 condominiums in Redondo Beach, clearly we are not meaning to indict the State agencies, where there has not been abuse, with the exception of one inadvertent loophole in a New England State which was corrected quickly by the State legislature.

These agencies have a statutory restriction targeting to low- and moderate-income people, and they have done a fine job of fulfilling that obligation. The States regulate their programs closely, they control all aspects of bond issuance, loan underwriting and servicing, they establish income limits, they carefully monitor and in most cases forbid substitution for conventional credit. In short, they are dedicated both by law and by practice to serving low- and moderate-income households, and to increasing the money supply for affordable housing by requiring low downpayments and lower monthly payments from lenders.

In Massachusetts, a recent survey of State agency lending activities revealed that 84 percent of the clients were first-time buyers, all had low and moderate income, the average mortgage amount was less than $27,000, and at least 50 percent of the mortgages were made with only a 5- to 10-percent downpayment.

The State agencies are doing exactly what the Congress intended them to do with these bonds. They should be permitted to continue this valuable service.

Third. The legislation permits jurisdictions which are not served by a State agency, or which are not involved in extensive Federal revitalization efforts, to issue mortgage revenue bonds to assist low- and moderate-income homebuyers, with strict limitations on both income and on lending ceilings.

Senator WILLIAMS has pointed out, and I would like to reiterate, that this legislation continues the tax exemption of interest on mortgage revenue bonds for multifamily housing. I simply cannot stress enough the crucial role which the Federal Government is playing here. We are the primary producers of multifamily housing in this country. The continued use of tax-exempt financing for family housing, which in many cases is section 8, is absolutely essential.

I look forward to participating in the debate on this issue in the Senate. This legislation has many virtues, not the least of which is that it will not burden our overloaded system with a truckload of implementing regulations. It is a good solution to an important problem. I urge my colleagues to give it their full support.

AN IMPORTANT ENERGY PROJECT IN COLLEGEVILLE, MINN.

Mr. BOSCHWITZ. Mr. President, I rise today to commend St. John's University in Collegeville, Minn. for taking the initiative in working toward meaningful energy conservation. Within 2 years, Mr. President, St. John's University will be receiving 45 percent of its steam needs from a new solid waste burning incinerator equipped with a heat recovery boiler.

This resource recovery plant project is a result of successful public-private cooperation. A large portion of this project will be financed through the Department of Housing and Urban Development's college housing program. In addition, the plans for the project could not have been started without the important assistance of Stearns County officials and the Collegeville Township Board.

One of the most significant aspects of this project, Mr. President, is the fact that the energy produced from the facility will be the result of incinerating roughly 35 percent of the Stearns County solid municipal waste. This is an important move away from our reliance on traditional fossil fuels to a nearly endless supply of a renewable energy source.

Mr. President, I ask unanimous consent that a letter sent to me from Father Gordon Tavis of St. John's University explaining the project be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SAINT JOHN'S UNIVERSITY,
Collegeville, Minn., October 30, 1979.
Senator RUDY BOSCHWITZ,

DEAR SENATOR BOSCHWITZ: I am writing to inform you that Saint John's University will begin construction next spring of a solid waste burning incinerator equipped with a heat recovery boiler. When the University signed a contract for the project with Basic Environmental Engineering Inc., of Glen Ellyn, Illinois August 31, 1979, it culminated three years of careful study and cooperation between Saint John's and Stearns County officials.

Saint John's will install a Basic Series 3000 Solid Waste Burning Incinerator equipped with a Deltak heat recovery boiler. Pfeifer-Shultz-HDR will be responsible for architectural and engineering aspects of the $1 million project. St. John's expects to have the installation completed and functioning within 15 months. Building construction will begin in the Spring of 1980.

The resource recovery plant project at Saint John's has been developed as an example of public-private cooperation. The Stearns County Board of Commissioners and Planning Office staff have played an active role in evaluating the project and in establishing mutually beneficial plans for disposing of combustible wastes at the waste-burning unit here. Collegeville Township Board assisted in ascertaining acceptability of the project.

Financing of the project has been arranged, in large part, through the U.S. Department of Housing and Urban Development (HUD) under its College Housing Program. The balance of financing has been provided by Saint John's.

The Saint John's Power Plant has used a system known as district heating and cogeneration for more than 30 years. The addition of the Resource Recovery Unit is, in essence, the addition of an additional boiler. Four of the current boilers burn coal. One burns oil. The one to be added will burn solid waste. The steam produced by the new unit will generate electricity; it will heat hot water; and it will provide heat for student residence halls on the campus.

The unit is rated at 17,000 pounds of steam per hour and it will consume 24,000,000 Btu per hour. In terms of energy, it will provide approximately 45 percent of the University's annual steam needs. In terms of solid waste, if the wastes being burned are at the quoted national average of 4,500 Btu per pound, the unit will handle 64 tons per day or approximately 35 percent of the county's solid municipal waste. Two of the county's landfills have nearly reached capacity and their operators have asked for authorization to close. This installation will make that possible, and will extend the life of another landfill by reducing its flow of waste by about 200 tons per week.

We at Saint John's believe that this project can serve as a model for other private institutions and municipalities around the nation. I thought you would be interested in learning of our progress and plans, and I will be pleased to answer any questions you may have about the work we are doing here.

Very sincerely,
GORDON TAVIS, OSB,
Prior.

NICK THEODORE

Mr. THURMOND. Mr. President, recently Gov. Dick Riley of South Carolina appointed former Greenville County legislator Nick Theodore as chairman of the South Carolina Department of Social Services.

A recent editorial in the Greenville Piedmont of Greenville, S.C., expressed how Theodore's previous experience can be an asset to running the agency.

Mr. President, in order to share this fine article with my colleagues, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THEODORE WILL LEAD DSS WELL

When former Greenville County legislator Nick Theodore lost to Max Heller in a congressional primary election, most observers felt he would return to public life eventually. The only questions involved time and place.

Beginning Nov. 30, Theodore will succeed Bobby Kneece as board chairman for the state Department of Social Services, the result of an appointment from another former Greenville legislator, Gov. Dick Riley.

Ironically, Heller also lost his bid for the congressional seat in the general election and later was appointed as chairman of the state Development Board, a position he fills with zeal and relish.

Gov. Riley thus continues his pattern of rewarding friends and former officials from his own region and political party.

Theodore brings compatible credentials to the DSS position that once was embroiled in controversy over the agency's director and his effectiveness. The new chairman is suited by temperament and experience to give support and leadership to the reorganized department.

DSS programs are necessarily linked to state, federal and local governments; thus, Theodore can call on his previous experience to establish policies and directives. In outlook, he is open to human delivery systems as a necessary role of government.

Although some will fault the DSS's fainthearted attempts to ferret out fraud on a systematic basis, the agency has improved its accountability in recent months.

Judging from his past performances, Nick Theodore will apply his energy and resources toward a responsible course for the agency.

WHY TAX CHEATING GROWS

Mr. THURMOND. Mr. President, a tax revolt has swept our country, and it is being led by honest, hardworking citizens who are tired of giving the Government money which they feel will be wasted on any number of hopeless boondoggles.

As governmental spending continues to increase, even on projects contrary to the best interests of the United States, it is little wonder why Americans are becoming fed up with an unresponsive Government which continues to pour money into fruitless programs.

Mr. President, a recent article in U.S. News & World Report graphically demonstrates the attitude of many taxpayers from across the country. In order that I may share this interesting article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY TAX CHEATING GROWS

(By Marvin Stone)

The reaction to our recent article on tax cheating in the "underground economy" was both sizable and surprising. In two weeks, people wrote to us from 24 states, and 3 out of 4 defended or sympathized with the tax dodgers.

After several of the first letters were printed in Letters to the Editor, however, the balance shifted a little; some loyal taxpayers had their say.

If our society is to survive, then our government must be able to make plans and collect money to carry out those plans. It cannot endure violation of its laws.

At the same time, the government must listen to the complaints of its citizens. To do less is to risk a widening split between government and governed.

For these reasons we think it useful to present a further sampling of complaints—

From California: "Cheating on taxes has become a worldwide pursuit because confiscatory tax policies threaten the economic survival of the people."

From Nebraska: "Perhaps you could write a sequel entitled, 'How Uncle Sam Cheats 220 Million Americans Out of Billions in Taxes' (by inflation, debasement of currency, keeping the United Nations afloat to provide an open forum for our enemies)."

From Texas: "As an active tax-return preparer for over 25 years, I have observed an extraordinary change in taxpayer attitudes. The patriotic American who reluctantly submitted, but with concealed pride, in contributing his share of government upkeep just a few years ago has become a rebellious individual today who resents the unwarranted and unwanted spending programs imposed and administered without regard to the wishes of the electorate. One cannot help but note the similarity between 1979 and 1763."

From New York: "When people see that their government spends their money sparingly and on worthwhile items, they will respond by being less inclined toward devious avoidance."

From Florida: "American taxpayers are being cheated by government in areas where we have no say-so, such as feeding our enemies, throwing away billions to people who are able to work but unwilling, etc."

From Georgia: "The federal government is costing everyone billions in boondoggles and pork-barrel giveaways."

From Illinois: "So now it is the evil waitresses, cab drivers, tomato sellers and the godless unemployed who are behind the plot to destroy America!"

From Michigan: "The loopholes in the tax laws that allow the wealthy to, in many instances, pay no taxes are cheating the little guy because he must support them. Many people, because they cannot understand the gobbledygook tax laws, dutifully pay taxes over and above what they need to pay, thereby being cheated."

From Iowa: "When we learn about the corruption that is a common practice in government, I can understand why there are people who will cheat to try to get even with our cheating bureaucrats."

From California: "Our lawmakers tell us to tighten our belts, but vote themselves generous pay increases."

From Maine: "We recently returned to Congress members who have stolen from the voters and government but gave handouts to their constituents. We do this and then scream about taxes and rotten government. You get the type of government you deserve."

From Virginia: "A 'tax revolt'? We have just begun to fight."

Documented here is a fund of traditional Americanism that calls for sounder government. Documented also is frustration, unfortunately spilling over into lawlessness, that could serve as warning to all in government and Congress who have fostered waste or stealing or have temporized with tax reform.

The warning deserves attention.

DRAFT SUMMARY OF INTERNATIONAL NUCLEAR FUEL CYCLE EVALUATION CONCLUSIONS

Mr. THURMOND. Mr. President, there appeared yesterday on the front page of the Washington Post an article which I would like to call to the attention of my distinguished colleagues in the Senate. It was entitled "Nations Reject U.S. Bid to Limit Use of Plutonium," and it discussed a 20-page draft summary of the International Nuclear Fuel Cycle Evaluation conference. This conference, in which 63 countries have been participating, was convened by the Carter administration in October 1977, to provide a forum for discussion of the nuclear proliferation problems accompanying the development of advanced nuclear technologies. Its final meeting will be held in February of next year in Vienna, Austria.

This article underscores what I have been saying on the Senate floor and in other forums for some time now. President Carter's approach to nuclear nonproliferation is simply not working. His indefinite deferral of commercial nuclear fuel reprocessing in the United States, in light of the INFCE draft conclusions, is having very little impact on the policies of other nations. According to the Post article, the summary supports the European and Japanese view that such advanced facilities as fast-breeder reactors and reprocessing plants will be needed to meet world energy needs. Many of the countries participating in the INFCE apparently feel that they cannot give up the greater degree of energy independence and the contribution to solution of the nuclear waste disposal problem which utilization of these advanced technologies will provide.

Mr. President, I can certainly understand their feelings in this regard, because the United States, if President Carter's position prevails, has been and will be foregoing the same benefits. In light of our increasingly important need to lessen our dependence on foreign sources of energy, I feel that President Carter's position on these issues is a shortsighted one. For example, a reprocessing plant, such as the Barnwell Nuclear Fuel Plant located in South Carolina, could provide the energy equivalent of about 300 million barrels of oil per year in the form of fresh nuclear fuel. Put another way, that amount equals two-thirds of the annual supply from the Alaskan pipeline. One does not need an extensive background in mathematics to comprehend the tremendous savings involved as the world price of oil steadily climbs upward.

By virtue of the President's indefinite ban on commercial reprocessing, we are also forgoing significant advantages in the management of nuclear waste material. Reprocessing not only results in a sevenfold volume reduction in this waste but also converts this material into a solidified form which is safer to handle and to store than the spent fuel rods themselves.

Mr. President, I am sure that all Senators share President Carter's concern about increased availability of plutonium suitable for making atomic weapons, which accompanies the utilization of advanced nuclear facilities. The possibility that this plutonium may fall into the hands of terrorists or irresponsible government leaders is a very real threat to world peace. We must, however, try a different approach to this very important problem for at least two reasons. First, as I pointed out earlier, President Carter's approach is not at all effective Other nations are moving full speed ahead to develop their nuclear reprocessing capacity while we do nothing. Second, this misguided policy is being pursued at a tremendous cost to the United States, in terms of our energy independence, our economic well-being and our nuclear waste disposal problems. The total price involved, I submit, is far too high to pay for the results this policy has produced.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 3, 1979]

NATIONS REJECT U.S. BID TO LIMIT USE OF PLUTONIUM

(By Milton R. Benjamin)

The Carter administration has failed in a major two-year effort to persuade the rest of the world to halt construction of advanced nuclear facilities likely to greatly increase the availability of plutonium suitable for use in fabricating atomic bombs.

A 20-page draft summary of the conclusions of the 63-nation International Nuclear Fuel Cycle Evaluation conference, which the U.S. organized in October 1977 as the cornerstone of its effort to prevent nuclear proliferation, began circulating among the participating countries several days ago.

The summary backs the European and Japanese view that advanced facilities—fast-breeder reactors and plutonium reprocessing plants—will be needed to meet the world's future energy needs.

It also takes such a bullish view in the future of nuclear power that some U.S. sources say the Carter administration is seriously considering a formal dissent on this point at the final INFCE meeting in Vienna next February.

The summary, according to an authoritative source who has seen it, spells out the consensus of the participants in the conference "in a way that is most negative to U.S. policy—no ban on reprocessing, no ban on the breeder."

"We certainly did not persuade the rest of the world of the wisdom of our opinions," one of the Carter administration's top nuclear negotiators acknowledged in an interview. "If this was the criteria, we'd rate a D-minus."

To the surprise of few experts, the INFCE conference failed to realize Carter's hope that it would find new "safer" technologies that could be developed in the next decade to reduce the proliferation risk inherent in a world where nuclear power plants produce large quantities of plutonium as part of their burned-up fuel.

The plutonium can be separated out of the waste by a country that has a reprocessing facility, and used either as new fuel for power plants or in the manufacture of atomic bombs.

"We discovered no technical fixes," a U.S. official said. "People who thought that we would—their hopes were exaggerated. Whether we like it or not, there is going to be a certain amount of plutonium floating around the world in the future."

The draft summary also distresses many U.S. experts by forecasting construction of hundreds of new atomic power plants around the world in the next two decades—a project that even most European experts now consider too high.

"The estimates were made in 1977," one U.S. official said. "The report doesn't reflect the changes since. The estimates of growth are outrageously high."

But while conference sources express dismay at the possibility that the United States may decide to jeopardize the consensus it has been trying to build in nuclear issues by publicly dissenting from the report, they say the projections on the future of nuclear power will not be revised downward.

"There's no way that is going to be changed," a conference source said. "Anybody who is for plutonium recycling for breeders needs those numbers. The Americans can say whatever, they want in the plenary, but the numbers stay in the report."

One reason that some administration officials see a need to put distance between President Carter and the study he commissioned is that they view it as a political embarrassment that belies the fact that a generally more favorable nonproliferation climate exists today than two years ago.

Plutonium reprocessing provides a case in point.

In 1977, the Carter administration—alarmed over efforts by South Korea, Pakistan and Brazil to acquire reprocessing plants that could give them material to become nuclear weapons states—was pressing for a ban on these facilities.

The United States argued that there was no need—on either economic or supply grounds—to reprocess spent fuel from current-generation nuclear power plants.

A number of other countries, however, felt they could ultimately save money on fuel for their power plants through reprocessing. They also felt they could gain greater energy independence by separating out and reusing the plutonium, thus reducing the need to buy more uranium fuel for their reactors. Some also felt reprocessing the spent fuel and separating out the plutonium was the only way to solve the nuclear waste disposal problem.

Two years later, the INFCE conference is ending with no ban on reprocessing. "The Europeans and Japanese can't accept the American view that it is an illegitimate activity," an administration official said. "To the extent that we tried to persuade them it was illegitimate, we've lost the battle."

But at the same time, the INFCE study has concluded that "there is not much of an economic case to be made for reprocessing, reprocessing does not provide energy independence and it is not necessary for waste disposal," according to a conference source.

As a result, even though there will be no ban on reprocessing, many nuclear experts feel the headlong rush of several years ago to build plutonium reprocessing plants has been slowed.

"I think the U.S. position is going to prevail because the U.S. is right on the economics," a conference source said. "There is not much real pressure for reprocessing except in Japan. There is not going to be much more reprocessing in at least the next decade."

Somewhat more of a potential problem for the Carter administration is the INFCE conference's view that the world will probably need fast-breeder nuclear reactors—so-called because they produce more plutonium fuel than they use.

Carter campaigned against the breeder reactor in 1976, and as President set out to kill construction of a prototype breeder reactor at Clinch River, Tenn.—even though congressional backers of Clinch River have forced him to continue spending more than $14 million a month on that project.

The INFCE report, sources say, not only declares that there is a substantial probability that major industrial nations will need breeder reactors to meet their energy needs—probably in the first quarter of the 21st century but also backs the European view that breeders are safer, potentially less costly and environmentally better than current nuclear reactors.

"This part of the INFCE effort was not satisfactory from our standpoint, a Carter administration official said.

JOHN AND CONNIE GARCIA, AND THE GARLIN HOUSE IN HOUSTON

Mr. TOWER. Mr. President, at a time when even charity and help for our fellow man has become depersonalized, it is fitting to honor a man who reminded us that one person can indeed make a difference in salving human suffering.

Touched by the plight of cancer patients away from home and supporting friends during treatment—and so financially burdened by medical costs they could not afford meals and lodging—John Garcia and his wife, Connie, acted. They founded Garlin House in Houston. There, innumerable patients receiving treatment at M.D. Anderson Hospital and Tumor Institute found not only a comfortable place to stay, but also hope and dignity.

The cost was $5 a night—if the guest could afford to pay that much.

When the Garcias began their venture in 1973, it was on a hope and a dare. It was only later that Garlin House became a nonprofit corporation.

Ironically, John Garcia succumbed to the disease he worked so hard to help others overcome. But during his illness, he continued to give of himself, offering hope and comfort to others. His death November 27 is a loss to his family, his friends, his community, and mankind itself.

Mr. Garcia said of his work:

> You give someone a fair shake when they are sick and dying and need money, and there is no need to make a profit from them. Now I really know what it means to have friends and not have to worry about a place to sleep and getting a meal.

Mrs. Garcia plans to continue the work she and her husband started. It is my hope and belief that she will be able to do so, and that others will rally behind her to help her as a fitting tribute to an outstanding man—John Garcia.

SENATOR GOLDWATER'S ADDRESS TO FIRST INTERSERVICE/INDUSTRY TRAINING EQUIPMENT CONFERENCE

Mr. TOWER. Mr. President, my distinguished colleague, Senator Barry Goldwater, recently addressed the First Interservice/Industry Training Equipment Conference in Orlando, Fla.

One of the major purposes of this conference was to discuss flight simulator programs, on which Senator Goldwater is a recognized expert. I believe it is not incorrect to say that Barry Goldwater has flown almost every flight simulator that has been built and is being used by either the military services or the commercial airlines. In addition, Senator Goldwater has held the only hearings conducted by the Congress on the subject of flight simulators; and, in this regard, he has made a significant contribution to the work of the Senate Armed Services Committee.

Mr. President, because of the interest and importance of flight simulators, along with Senator Goldwater's views on this subject, I ask unanimous consent at this time that his speech of November 27 be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

ADDRESS BY SENATOR BARRY GOLDWATER

Captain Westbrook, Colonel Maynard, distinguished guests, ladies and gentlemen.

It is my pleasure to be able to address the First Interservice/Industry Training Equipment Conference, and I commend the Services for getting together to exchange ideas on the increasingly important area of training equipment. I am pleased to see so many members of industry here to participate in these discussions. Contrary to what some of my colleagues have said about a close military-industry relationship, I believe a close working relationship is not only proper, but essential, if we are to guarantee the quality of our national security.

I am also pleased to know that some of our allied friends are here, as well as members of the academic community. Your contribution can help in that you bring another perspective. I am sure the other conferees will be glad to have you share your thoughts with them.

SALT II DEBATE

As most of you probably know, I flew down from Washington, D.C., today and it is always refreshing to get away from there. However, there is a lot going on in Washington that is of serious consequence to the country. In the Senate, we are about ready to begin debate on the SALT II treaty, a treaty that I believe, in its present form, should not be ratified. Unless major changes are made in the substance of the treaty during the debate, I will vote against it.

TREATY NOT EQUITABLE

In my opinion the treaty is not equitable, primarily because the overall limits on Strategic Nuclear Delivery Vehicles, as well as the limits on ICBMs and SLBMs with MIRVs, give too great an advantage to the Soviet Union. Also, the Backfire bomber should be included and while the two understandings on the Backfire reported by the Foreign Relations Committee help, they do not relate to counting the Backfire. In addition, verification is still a concern and I doubt that we can verify compliance with the treaty to the extent required. Of course, if the Soviet Union was serious about arms control, it would agree to on-sight inspection which could resolve the verification issue.

Amendments that I would favor will not be easy. The dilemma is that while the pro-treaty forces at this point do not have the two-thirds majority necessary to pass the treaty, the anti-treaty forces probably cannot muster the simple majority necessary to pass substantive amendments. Possibly some compromise can be worked out in this regard, but I seriously doubt it. Consequently, the treaty appears to be headed for defeat.

FY 1981 DEFENSE BUDGET INCREASE

The Administration is not idle and, after much pressure, is going to try to buy votes by proposing an increase in the fiscal year 1981 defense budget and the accompanying five-year plan. That may buy a few votes, but I point out there is nothing binding on an Administration to follow a five-year plan. However, I do not expect this Administration to be around that long anyway. I think that we need to maintain a sizeable real growth in the defense budget for the foreseeable future, but that is a position I have long advocated with or without SALT II. However, let me note that increasing the defense budget by even 100 percent will not make a flawed treaty better. That can only be done by amendment or returning it to the negotiating table.

FLIGHT SIMULATORS AND CONGRESS

Turning now to the subject of this conference, I have some apprehension over talking about training equipment before so many experts, but maybe the congressional point of view will be helpful. I would like to make a few comments on what I think the future holds, particularly as to flight simulators, and how the Congress is likely to respond to future annual Service budget requests for these devices.

REDUCTION IN FLYING HOURS

When the flight simulator boom, so to speak, began in 1974, the Office of Management and Budget established as a goal for the Department of Defense, a 25 percent reduction in flying hours by the early 1980's. This flying time reduction was to be made up by substituting flight simulator hours.

I objected to this proposal because I felt the 25 percent reduction was an arbitrary one, not related to any Service requirement or study. Actually, it was a bureaucratic figure because of the fuel crisis and I understood that. But the troublesome thing was the arbitrary use of flight simulators with a corresponding reduction in flying time that was totally unrelated to the qualitative role flight simulators could play in improving combat readiness.

NOT SUBSTITUTES FOR FLYING

At the time I said that flight simulators must be considered as complementary to flying rather than substitutes for flying and that in striving for this qualitative improvement we should make sure that flight simulators always remain the means and not the end. Flying is the end, and if the Services did not have flying missions, flight simulators would be the last thing needed.

THINGS HAVE CHANGED

Let me now turn to the real world of today. Can I continue to be as firm in my position about not substituting flight simulator hours for flying hours? I will examine that because it relates to what I think the future holds for these devices.

FUEL COSTS UP

A lot has happened since the energy crisis of 1974, especially with the price and availability of fuel. Over that period of time, you know that retail gasoline prices increased about 150 percent and that aviation fuels went up at the same rate. The rate of increase in fuel costs to the Department of Defense for just one year was recently dramatized with the $600 million request in the fiscal year 1979 DOD supplemental budget. These extra millions will not buy anymore flying or steaming hours than orginally requested in the fiscal year 1979 budget. The DOD is just trying to stay even, but it probably will not be enough.

DOLLAR SHORTAGE—FUEL SHORTAGE

The problem is serious because we may reach the point where we have to make major cuts in flying hours because we cannot afford the fuel necessary for those hours. To a certain extent we have already reached this point. A more serious possibility is that the time may come when the Services will be limited on flying hours because the availability of fuel is no longer a function of dollars, but is a function of the fuel available.

YEARLY FUEL ALLOCATION

At that point the Services will work from a yearly fuel allocation and all flying training will have to be done within that allocation, provided, of course, the dollars are available to buy even that reduced amount of fuel.

Either less dollars available to buy flying hours or less fuel available to support flying hours means the role of flight simulators can only increase in importance in the future. The Services will have to increase their dependence upon them as well as other training devices that simulate fuel using systems.

For example, a B–52G uses more than 4,000 gallons of fuel per hour and the current cost of that fuel is about $2,200 per hour. I point out that the total hourly operating cost for the B–52G is considerably more, but fuel is the major item. Using a ten percent inflation rate, the hourly fuel cost in 1985 will be about $3,900.

This example is not to be critical of the B–52, but only to dramatize a problem that will apply to all our aircraft as they too are squeezed by fuel and dollar limitations. Unfortunately, for the future we can no longer count on fuel being available at today's quantities and at today's price. Therefore, we must make sure that our training systems, and the programs they support, are fully capable of substituting for those flying hours that are not going to be available.

TOTAL TRAINING SYSTEMS

The Services need to direct their efforts toward a Total Training Systems approach for each major weapon system. That will not be easy because a TTS is best implemented when the development of a new weapon system first begins. The VTX, although not a weapons system, is an example of how the TTS can be implemented. For those systems now operational, most of the effort has been directed toward individual pieces of equipment, not a TTS, and justified on the basis of how much fuel each can save and what the amortization rate of each will be. If each major weapon system is to have a TTS, additional training equipment will be required to supplement the larger and more expensive trainers that are primarily designed for complete mission training.

WEAPON SYSTEM TRAINERS

A number of Weapon System Trainers are under construction or are being delivered that will provide complete mission training for the crew. However, these are not the training systems to use for individual crew training tasks because that can be done more effectively for less cost and energy expended in a trainer designed for that task. We must then assure that each Weapon System Trainer has the proper stable of support trainers, either by modifying and updating older trainers, or with new part task trainers and other required equipment. If necessary, WST programs should be adjusted in order that funds are made available for the other items of training equipment required for a TTS.

COMPANION TRAINER AIRCRAFT

Flight simulators are not the only way to do training that is feasible, effective and less costly. The Companion Trainer Aircraft proposed by the Strategic Air Command, a light utility jet that would fly like a B–52, is an innovative way to have real flying training with significant fuel and dollar savings. The Companion Trainer Aircraft should fit well into a TTS for the B–52 and the Air Force may submit this program to the Congress next year. The CTA concept, of course, has application to other weapon systems as well.

The CTA will also provide an excellent way for SAC pilots to build up their flying time and confidence for a very modest fuel and dollar cost. It will be an especially good program for the young, newly assigned, SAC pilot who joined the Air Force to fly airplanes, not simulators. Remember, the pilot retention problem, something I have been concerned about for some time, is difficult enough now and the problem will be further exacerbated if flying time is reduced more than absolutely necessary. We must constantly examine our flight simulator programs to make sure that while we are realizing these assumed great savings through their use, we do not end up with an exodus of $500,000 pilots who left because they were not able to fly. We cannot afford those kinds of savings.

FUTURE FUNDING BY CONGRESS

How is the Congress going to respond to future requests by the Services for flight simulators and related devices? If the more than $750 million appropriated for fiscal years '78, '79 and '80 is an indication, the future looks bright. In fiscal year 1981, the Services are expected to request over $300 million and a number of major systems will be looking for continued funding.

If these programs run into trouble it might be because it is not understood how they are part of a Total Training System, if they are at all. It might be felt that some of the more complex and expensive WSTs are only some kind of fancy toys that have too much gold plating and do not offer that much improvement in training or readiness. There may be some who want to base their approval on some arbitrary number of flying hours that will be saved or on some specific amortization rate. As is often the case, there could be a tendency to examine the trees rather than the forest.

CONGRESSIONAL UNCERTAINTY

There are other things that can impact on your programs. One is the year-to-year uncertainty of Congressional funding for major systems that GAO recently reported was a big factor in driving up acquisition costs. The Congressional annual authorization and appropriation process with the budget is unnecessarily lengthy and redundant. It is a process that would bankrupt any private company in short order, often adding unnecessary costs to programs because they are not authorized or funded at the most economical rate or on time.

TWO YEAR AUTHORIZATION AND APPROPRIATION

This problem could be eased some if the budget was presented for a two-year period at the beginning of each new Congress. Authorization and appropriation for the programs presented would occur during the first session and requested changes and program adjustments could take place in the second session. However, all authorization and appropriations would be for two years. This procedure would also cut down on the number of hours Administration and Service officials spend testifying before Congressional committees and would give them more time to do their jobs at the Pentagon.

TIGHTER REVIEWS

In general, as annual dollar requests for training systems increase, visibility and oversight by the Congress will also increase. Although the Services are going to have to depend more heavily upon these devices, the overall congressional justification process may become more difficult. Total Training Systems, presented as part of new weapon systems, will probably be approved, but they will be vulnerable to cuts, especially when budget times are lean. It will take a good lobbying effort to make sure that the full advantage of a Total Training System is understood.

GET YOUR ACT TOGETHER

In conclusion, I counsel the Services and industry to make sure your act is together before you come to the Congress for program authorization and appropriation. Make sure your program and cost schedules are fully scrubbed and supportable and you are not asking for more than you need. Above all, make sure the technology is in hand to do the program you request and that R & D is not required on a procurement contract.

To all of you, my congratulations on this conference and I wish you success for this and future ones. Thank you.

MESSAGES FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1491. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kansas, as the "Henry D. Parkinson Federal Building"; and

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building."

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 901) to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610).

The message further announced that the House has passed the bill (S. 1535) to name a certain Federal building in Rochester, N.Y., the "Kenneth B. Keating Building," with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 717) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, for 1 year, with amendments; that the House insists upon its amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FOLEY, Mr. DE LA GARZA, Mr. MATHIS, Mr. BROWN of California, Mr. FITHIAN, Mr. SKELTON, Mr. GLICKMAN, Mr. ENGLISH, Mr. WAMPLER, Mrs. HECKLER, Mr. GRASSLEY, and Mr. JOHNSON of Colorado were appointed as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2535. An act to amend the Tariff Schedules of the United States to suspend for a temporary period the duty on certain alloy tool steels used for making chipper knives;

H.R. 2537. An act to reduce until December 31, 1981, the duty on strontium nitrate;

H.R. 4309. An act to amend the Tariff Schedules of the United States to provide for the proper classification of cold finished steel bars; and for other purposes;

H.R. 4310. An act to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes;

H.R. 5138. An act to authorize certain appropriations to the Office of Personnel Management, the Merit Systems Protection Board, the Special Counsel of the Merit Systems Protection Board, and the Federal Labor Relations Authority;

H.R. 5441. An act to amend the Tariff Schedules of the United States with respect to the tariff treatment of certain articles;

H.R. 5673. An act to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; and

H.R. 5794. An act to designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building".

At 3:45 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 5580. An act to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 2535. An act to amend the Tariff Schedules of the United States to suspend for a temporary period the duty on certain alloy tool steels used for making chipper knives; to the Committee on Finance.

H.R. 2537. An act to reduce until December 31, 1981, the duty on strontium nitrate; to the Committee on Finance.

H.R. 4309. An act to amend the Tariff Schedules of the United States to provide for the proper classification of cold finished steel bars; and for other purposes; to the Committee on Finance.

H.R. 4310. An act to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes.

H.R. 5138. An act to authorize certain appropriations to the Office of Personnel Management, the Merit Systems Protection Board, the Special Counsel of the Merit Systems Protection Board, and the Federal Labor Relations Authority; to the Committee on Governmental Affairs.

H.R. 5441. An act to amend the Tariff Schedules of the United States with respect to the tariff treatment of certain articles; to the Committee on Finance.

H.R. 5673. An act to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5794. An act to designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building"; to the Committee on Environment and Public Works.

HOUSE BILL HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5580, an act to amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization, be held at the desk pending further consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2571. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Export Grain Inspection and Weighing Program: Improvements Can Make Them More Effective and Less Costly"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2572. A communication from the Administrator of the Rural Electrification Administration, Department of Agriculture, transmitting, pursuant to law, a report on a commitment to guarantee a non-REA loan in the amount of $452,000,000 to Cajun Electric Power Cooperative, Inc., of New Roads, Louisiana, to finance certain generation facilities; to the Committee on Appropriations.

EC–2573. A communication from the Assistant Deputy Chief of Naval Material, Department of the Navy, transmitting, pursuant to law, the annual report of the Department of the Navy of research and development contracting actions of $50,000 and over for the period October 1, 1978 through September 30, 1979; to the Committee on Armed Services.

EC–2574. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on Indian and Alaska Native Housing and Community Development Programs; to the Committee on Banking, Housing, and Urban Affairs.

EC–2575. A communication from the Vice President for Governmental Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, the report on the average number of persons on board and the on-time performance of each train operated by the Corporation for September 1979; to the Committee on Commerce, Science and Transportation.

EC–2576. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the annual report of the National Advisory Committee on Oceans and Atmosphere; to the Committee on Commerce, Science, and Transportation.

EC–2577. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Phosphates: A Case Study Of A Valuable Depleting Mineral In America"; to the Committee on Energy and Natural Resources.

EC–2578. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a report on the study and recommendations on the feasibility of reconstructing the Fort Union Trading Post; to the Committee on Energy and Natural Resources.

EC–2579. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Montana's Libby Dam Project: More Study Needed Before Adding Generators and a Regulating Dam"; to the Committee on Environment and Public Works.

EC–2580. A communication from the Director of the International Communication Agency, transmitting, pursuant to law, the annual report of the Agency on the disposal of foreign excess property for fiscal year 1979; to the Committee on Governmental Affairs.

EC–2581. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the activities of the Office of Inspector General, Department of Transportation for the period April 1 through September 30, 1979; to the Committee on Governmental Affairs.

EC–2582. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Minimum Benefit Provision of the Civil Service Disability Retirement Program Should Be Changed," November 30, 1979; to the Committee on Governmental Affairs.

EC–2583. A communication from the Acting Inspector General, Office of the Secretary, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Inspector General for July-September 1979; to the Committee on Governmental Affairs.

EC–2584. A communication from the Director, Office of Management and Budget, Executive Office of the President, a draft of proposed legislation to discontinue or amend certain requirements for agency reports to Congress to the Committee on Governmental Affairs.

EC–2585. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report on the activities of the Office of Inspector General, covering the period April 1, 1979 to September 30, 1979; to the Committee on Governmental Affairs.

EC–2586. A communication from the Assistant Secretary of the Interior, reporting on corrections of errors in a transmittal letter of November 19, 1979, transmitting proposed legislation which would provide for the establishment of a reservation for the Confederated Tribes of Siletz Indians in Oregon; to the Select Committee on Indian Affairs.

EC–2587. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 1,054 reports concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC–2588. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the National Institute of Arthritis, Metabolism, and Digestive Diseases, 1979; to the Committee on Labor and Human Resources.

EC–2589. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, on the submission of a report on the extent to which Federal programs and departments are concerned with and are dealing effectively with alcohol abuse and alcoholism; to the Committee on Labor and Human Resources.

EC–2590. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on RD&E activities to fulfill requirements in title III, part B, sections 313 (d) and (e) of the Comprehensive Employment and Training Act, as amended; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 1246. A bill to amend the Clayton Act to protect against the growth of monopoly power of major petroleum companies, and for other purposes (together with minority and additional views) (Rept. No. 96–444).

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, with amendments and an amendment to the title:

S. 1978. A bill to establish an improved program for extra-long-staple cotton (Rept. No. 96–445).

By Mr. HUDDLESTON (for Mr. McGovern), from the Committee on Agriculture, Nutrition, and Forestry, with an amendment and an amendment to the title:

H.R. 3398. An act to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes (together with additional views) (Rept. No. 96–446).

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 300. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3398. Referred to the Committee on the Budget.

By Mr. PELL (for Mr. Church), from the Committee on Foreign Relations, without amendment:

S. 2076. An original bill to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances (Rept. No. 96–447).

By Mr. PELL (for Mr. Church), from the Committee on Foreign Relations, without amendment, and without recommendation:

S. Con. Res. 51. A concurrent resolution stating the rejection by the Congress of the determination of the President with respect to sanctions against Zimbabwe-Rhodesia (Rept. No. 96–448).

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. J. Res. 122. A joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week".

H. J. Res. 448. A joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Sol M. Linowitz, of the District of Columbia, for the rank of Ambassador during the tenure of his service as Personal Representative of the President of the United States.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Sol M. Linowitz.

Post: Personal Representative of the President with the Rank of Ambassador to Autonomy Negotiations on West Bank and Gaza.

Contributions, amount, date, and donee:

1. Self:

1975	
Democratic FORUM	$50
Democratic Congressional Dinner Committee	1,000
Common Cause	200
Maine for Muskie	200
Committee to Re-elect Humphrey	200
Maine for Muskie	100
1976	
Jim Symington	100
Abner Mikva	50
William Lehman	100
Jimmy Carter	500
John Chafee	100
Paul Sarbanes	50
Democratic Party	450
Edmund Muskie	300
Howard Metzenbaum	300
Inauguration Committee	150
1978	
Jim Shannon	100
1979	
Democratic Congressional Campaign Committee	500
John Brademas	200
Frank Church	200

Mrs. Toni Linowitz, Federal political campaign contributions 1978: Charles Percy, $200.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, none.

5. Grandparents names, none.

6. Brothers and spouses names, David Linowes, $2,000, Robert Linowes, $6,000, Harry Linowes, $1,500.

7. Sisters and spouses names, none.

By Mr. PELL, from the Committee on Foreign Relations:

Gerald Bernard Helman, of Michigan, to be the Representative of the United States to the European Office of the United Nations, with the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Gerald B. Helman.

Contributions: amount, date, donee.

1. Self, None.
2. Spouse, None.
3. Children and Spouses Names, None.
4. Parents Names, None.
5. Grandparents Names, None.
6. Brothers and Spouses Names, See attached.
7. Sisters and Spouses Names, See attached.

6. Brothers and Spouses: Dr. & Mrs. Paul Helman, $50, 1976, Carter/Mondale Campaign; $50, 1976, $50, 1978, Campaign for Congressman Mikva.

Dr. & Mrs. Norman Helman, $25, 1976, Senator Jackson.

7. Sisters and Spouses: Dr. & Mrs. Elie Aboulafai, $20, 1976, Republican National Committee; $5, 1976, $5, 1977, $5, 1978, $5, 1979, Dollars for Democrats.

By Mr. KENNEDY, from the Committee on the Judiciary:

Charles Frederick Carson Ruff, of the District of Columbia, to be U.S. Attorney for the District of Columbia.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Jose A. Cabranes, of Connecticut, to be U.S. District Judge for the District of Connecticut.

Robert J. McNichols, of Washington, to be U.S. District Judge for the Eastern District of Washington.

David K. Winder, of Utah, to be U.S. District Judge for the District of Utah.

Horace T. Ward, of Georgia, to be U.S. District Judge for the Northern District of Georgia.

Juan M. Perez-Gimenez, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COHEN:

S. 2071. A bill to provide cancellation of student loans made or guaranteed under the Higher Education Act of 1965 for military service, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BELLMON:

S. 2072. A bill conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 2073. A bill to amend the Social Security Act to revise the medicaid matching formula; to the Committee on Finance.

By Mr. LEVIN:

S. 2074. A bill to amend title 39 of the United States Code to provide for the postage-free mailing of absentee ballots and other materials pertaining to absentee ballots; to the Committee on Governmental Affairs.

By Mr. GRAVEL:

S. 2075. A bill to amend the Internal Revenue Code of 1954 to include as an affiliated group for purposes of the transportation excise tax union locals and their tax exempt trusts and wholly owned corporations, and for other purposes; to the Committee on Finance.

By Mr. PELL (for Mr. CHURCH) (from the Committee on Foreign Relations):

S. 2076. A bill to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances. Original bill reported and placed on the calendar.

By Mr. HAYAKAWA:

S. 2077. A bill to amend section 302(a) of the Fishery Conservation and Management Act of 1976 to create a new California Pacific Council with authority over the fisheries in the Pacific Ocean seaward of the State of California; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S.J. Res. 123. A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with the first Sunday in June of each year as "National Garden Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN:

S. 2071. A bill to provide cancellation of student loans made or guaranteed under the Higher Education Act of 1965 for military service, and for other purposes; to the Committee on Labor and Human Resources.

(The remarks of Mr. COHEN when he introduced the bill appear earlier in today's proceedings.)

By Mr. BELLMON:

S. 2072. A bill conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma; to the Committee on the Judiciary.

● Mr. BELLMON. Mr. President, I am introducing a bill today which will allow the Cherokee Nation of Oklahoma to bring suit against the United States to determine and render judgment for the damages caused by the loss of minerals from the Arkansas Riverbed.

In 1969, the U.S. Supreme Court, in the case entitled *"Cherokee, Choctaw and Chickasaw Nations* v. *State of Oklahoma,"* 397, U.S. 620, held that these three tribes owned certain portions of the Arkansas River.

Beginning in 1973, Congress appropriated $440,000 annually for 5 years to fund a study to determine the extent and value of each of the Nation's mineral reserves in the Arkansas River. Appraisal on the tribal lands was made for the value of the coal reserves, the market value and utilization of the land, appraisal of power head rights, recreation, fish and wildlife benefits, appraisal of dam sites, oil and gas resources, and sand and gravel evaluation. The total value was placed at $177 million.

Since that time the Cherokee Nation has worked with the Bureau of Indian Affairs to reach the figure of $8.4 million for the loss of sand and gravel from the Cherokee portion of the river. Year after year the administration and Congress have not appropriated the funds to honor this debt to the Cherokee Nation of Oklahoma.

Mr. President, I sincerely request that the Senate of the United States act expeditiously to pass this legislation allowing the Cherokee Nation to go to court for a final determination of this issue.●

By Mr. MOYNIHAN:

S. 2073. A bill to amend the Social Security Act to revise the medicaid matching formula; to the Committee on Finance.

● Mr. MOYNIHAN. Mr. President, I am today introducing legislation that would make a fundamental change in the Nation's principal program of health care for the poor and that would thereby enable New York to maintain its excellent and comprehensive health care system in a time of serious financial distress for our State and local governments.

The Federal Government now provides more than $10 billion annually to reimburse States and localities for portions of their medicaid expenditures. These funds are distributed on the basis of an antiquated and savagely unjust formula. My bill—prepared in conjunction with Carol Bellamy, president of the New York City Council, and based in large part on a superb analysis commissioned by her—would significantly change and modernize that formula. The result would be about $600 million in additional Federal medicaid reimbursement for New York State, of which one-third—some $200 million a year—would accrue to New York City.

The present medicaid program follows a model that was designed during the New Deal, whereby national programs—in this case health care for the poor—are run by the States, which retain both the authority to determine the benefit levels and the responsibility for paying a portion of the costs. More precisely, the States (and, in New York and nine others, the localities) pay the bills and then obtain partial reimbursement from Washington.

But the Federal reimbursement level varies from State to State. It ranges from 50 percent in New York and 14 other States, to more than 70 percent in 4 States. This results from the application of a remarkable formula that looks like this:

Federal Share = 100 — .45 x (state per capita income)^2/ (national per capita income)^2.

The only constraint is the requirement that the Federal share not be less than 50 percent nor greater than 83 percent in any State.

Consider the perverse and inequitable elements of this formula.

Perhaps the most serious flaw is the unqualified use of per capita income as the measure of a State's ability to pay for medicaid. Income is certainly one-gauge of a State's economic condition, but it is not the only measure and it is certainly not the most accurate measure of a State's fiscal capacities. Per capita income figures ignore the sizable cost-of-living differences among States, and this results in unfair treatment of areas with higher living costs. For example, a family residing in New York City needs approximately 25 percent more income to maintain itself at the same standard of living as a similar family in Dallas or Houston.

The use of per capita income also penalizes those States whose citizens pay high taxes on their income. Nowhere is this clearer than in New York, which according to a study by the National Institute of Education has a "tax capacity" of $654 per capita—roughly the national average—but which collects taxes in the amount of $991 per capita, much of the heaviest tax burden in the Nation. This means that our citizens, already hard pressed by the cost-of-living in New York, have their disposable income further eroded by taxation.

Nor does the use of average income figures respond to the uneven distribution of incomes within a State. One State may have many residents with relatively high incomes but also have many impoverished and dependent citizens. Another State with the same average income might have a more homogeneous income distribution. States with sizable numbers of poor and dependent persons are more likely to need large, and relatively costly, medicaid programs. But this need is ignored by the present funding formula.

The "squaring" mechanism in that formula simply exacerbates the distortions. This idea of squaring the State/national per capita income ratio, which was first employed in the Hill-Burton Act of 1946, was intended to assure greater Federal financial assistance to States with the least ability to pay. The underlying assumption was that "poorer" States could not provide an acceptable level of benefits without disproportionate Federal assistance. Squaring the ratio served to heighten the differences among States and thereby to supply additional matching funds to "poor" States. Of course, it also served to supply less to other States.

However well meaning its original purpose, the squaring mechanism no longer makes sense. There is no evidence whatsoever that a State's need for Federal matching funds is geometrically related to the ratio of its income to national income levels, or that an "unsquared" ratio would not allocate Federal moneys in closer proportion to the true needs of the State. The squaring mechanism only aggravates the distortions caused by the failure to adjust for cost of living, tax levels, and other elements ignored in the per capita income ratios.

Those ratios contain another distortion that is especially insidious. The "income" that is counted in deriving those averages includes cash transfer payments such as welfare, social security, supplemental security income, and general assistance. Most of these payments vary, State by State, and the proportion of the population that receives them does, too. This means that a State—such as New York—with a large number of welfare recipients, and with higher benefit levels, finds itself taxing some of its citizens so as to support others and losing Federal reimbursement funds as a consequence of its success in alleviating poverty and meeting human needs. Our own commitment to adequate provision for our neediest residents serves to raise their cash income levels and thereby to boost our average State income level. This "inflation" is then squared.

The final large weakness in the current medicaid formula is the use of the 0.45 multiplier. Not only is it entirely arbitrary. But the requirement that the States continue to pay a large share—in our case a full half—of the costs of a national program of health care for the poor imposes a heavy burden, particularly on those States with large dependent populations.

It is little wonder that our State and its cities and counties are teetering on the brink of insolvency. We are spending nearly $2 billion a year out of our own resources just to pay for what is termed "our share" of the national medicaid program—and hundreds of millions more to cover the full costs of health care for needy individuals and families not eligible for the Federal program.

This is an exact parallel to our situation with respect to the Federal program of aid to families with dependent children. And I think it is significant that the HEW has been uncomprehending and uncaring in both areas. Its "welfare reform" proposals would have a total Federal cost of $5.7 billion, out of which New York would receive at most $150 million in "fiscal relief." This is a return of about 22 cents on our Federal tax dollar and represents just 10 percent of what New York State and its countries are presently spending—out of their own resources—for cash assistance.

The administration's proposal for "national health insurance" is similar, only worse from New York's standpoint. No one in New York would get any more health care. And a Federal expenditure of some $10.7 billion for "improved low income health care" would yield just $150 million in "fiscal relief" to New York. A return of about 12 cents on the dollar.

Further, the States whose needy citizens do benefit from such welfare "reforms" and medicaid "improvements"—and there are a dozen of them—will find the Federal Government paying for 100 percent of the additional services, while New York will continue paying 45 or 50 cents of every dollar spent within its borders for these purposes.

We cannot even maintain our programs on this basis, much less improve them. Our welfare benefits, frozen since 1974, as a consequence of the State's fiscal difficulties, lose more of their purchasing power to inflation every year. Our medicaid program, which cannot—and ought not—be "frozen" (as the funds go to those who provide health care, and who must charge on the basis of their own soaring costs) is more expensive every year.

A large change in the political economy of the Nation is called for. The legislation we are submitting today would begin to make such a change with respect to medicaid, and would do so in the simplest and most straightforward way: by changing the formula that is now so damaging to us and to other States.

The changes we propose are just four in number and are easily understood:

First, we would eliminate the squaring mechanism.

Second, we would adjust State income measures for cost-of-living differences.

Third, we would exclude need-based cash transfer payments from income as defined for purposes of this formula.

Fourth, we would change the multiplier from .45 to .35.

These changes would reduce medicaid costs for 41 of the 50 States at a cost to the Federal Government of just $2.1 billion. A "hold harmless" provisions for the other nine States would cost only another $26 million. These figures are equivalent to just one-fifth of the cost of the administration's low-income health care proposals, and just one-fifth of the cost of the current Federal medicaid program. It is a modest price to pay to assist the fiscal revival of New York and for the opportunity to insure that we can continue to provide adequately for the health care needs of our citizens.

The Senate Finance Committee, to which this bill will be referred, is already embarked on an extended consideration of various proposals to reform the present health financing system. Medicaid, as an essential component of any new national health plan, will be subjected to especially close scrutiny. I believe that this examination will demonstrate that the changes in the medicaid formula that we are proposing today are prudent, equitable and urgently needed.●

By Mr. LEVIN:

S. 2074. A bill to amend title 39 of the United States Code to provide for the postage-free mailing of absentee ballots and other materials pertaining to absentee ballots; to the Committee on Governmental Affairs.

POSTAGE-FREE ABSENTEE BALLOTS

● Mr. LEVIN. Mr. President, over the past few years voter turnout in this country has declined to the point where less than half of those eligible voted in the 1978 congressional elections. The same holds true for the 1974 elections, and both set records for the lowest turnout for midterm elections since 1942.

Presidential-year figures are worse, and the turnout in 1976 was the worst in 52 years.

Every possible effort should be made to encourage voter participation, and toward this end I rise today to introduce legislation that would provide for the postage-free mailing of absentee ballots and ballot requests in Federal elections.

Many voters find themselves away from their precincts on election day due to the highly mobile nature of today's modern society. Voters who are poor, sick, or elderly often find it hard to get to the polls to vote, and since the lowering of the voting age, hundreds of thousands of college students attending out-of-State schools cannot make it home to vote.

The absentee ballot voting system was created to help these people and others to vote, but many find the processes of obtaining and returning the ballots cumbersome, time consuming, and for those who are poor or on fixed incomes, costly. Theoretically, the right to vote is so precious that these factors should not deter people from voting, but in our real world they often do. This may account for the fact that only 6 percent of all votes cast in elections are absentee.

This bill would provide for the U.S. Postal Service, in conjunction with local election agencies, making available to the general public postage-free envelopes within which can be mailed requests for absentee ballots and the completed ballot to the sender's election agency. The bill authorizes to be appropriated the sum of $3,000,000 for each of fiscal years 1980 and 1981 to provide for the purchase, printing, and distribution of the envelopes, and for related purposes.

Mr. President, removing the postage requirement would give many more of those eligible to vote a voice in their National Government, and would demonstrate to the American people that we are concerned over the alarming decline in voter turnout and are attempting to rectify the problem. With the 1980 elections on the horizon, I urge the prompt consideration of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 34 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3406. Mailing of absentee ballots

"(a) Except as provided in subsection (b)—

"(1) the United States Postal Service, in cooperation with election agencies, shall—

"(A) make available to the general public envelopes within which requests for absentee ballots may be mailed free of postage to an election agency, and

"(B) make available to election agencies envelopes which may be used by persons requesting absentee ballots.

"(2) an individual may mail free of postage to an election agency in an envelope provided under paragraph (1) a request for an absentee ballot and the absentee ballot.

Any matter mailed free of postage under paragraph (2) of this subsection shall bear the words 'Postage Free—Absentee Ballot or Ballot Request', or words to that effect specified by the Postal Service, in the upper right-hand corner of the address area.

"(b) Subsection (a) of this section shall not apply in the case of any mail matter transmitted under the provisions of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–1973cc–26) or the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd–1973dd–26).

"(c) For the purposes of this section—

"(1) the term 'absentee ballot' means any absentee ballot in connection with any general, special, primary, runoff or other election for Federal office by an election agency;

"(2) the term 'election agency' means any department, agency, board, commission, official or other entity of a State or political subdivision of a State charged under the laws of such State or political subdivision with responsibility for elections for Federal office; and

"(3) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.".

(b) The analysis for chapter 34 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"3406. Mailing of Absentee Ballots.".

(c) Sections 2401(c) and 3627 of title 39, United States Code, are each amended by striking out "3405" and inserting in lieu thereof "3406".

(d) There is authorized to be appropriated for each of fiscal years 1980 and 1981 the sum of $3,000,000 to carry out the provisions of section 3406(a)(1) of title 39, United States Code.

SEC. 2. The amendments made by the first section of this Act apply with respect to matter mailed on or after the date of enactment of this Act.●

By Mr. GRAVEL:

S. 2075. A bill to amend the Internal Revenue Code of 1954 to include as an affiliated group for purposes of the transportation excise tax union locals and their tax exempt trusts and wholly owned corporations, and for other purposes; to the Committee on Finance.

● Mr. GRAVEL. Mr. President, Internal Revenue Code section 4261 imposes an excise tax on amounts paid for taxable transportation of any person by air. Tax is also imposed on the transportation of property by air under IRC section 4271. The rationale underlying this tax is to impose a levy when one person "furnishes" transportation for a fee to another person. Thus, if a corporation owns or leases an airplane for use by its executive personnel, no transportation tax is imposed when that aircraft is used by the owner or lessee because the corporation involved is not furnishing transportation to any other party but simply operating the plane for its own use.

Occasionally, however, the aircraft is used by several affiliated corporations. For example, a plane may be owned by a parent corporation but used by the executives of its two wholly owned subsidiaries as well. In such a situation it would be common for the parent and the two subsidiaries to share in the cost of the plane's operation, each paying that amount attributable to its use. In such a situation, the Internal Revenue Service originally took the view that the corporation owning the planes was considered to be furnishing transportation to the two subsidiaries. Thus, the amounts paid to the parent corporation by the subsidiaries as their share of the plane's operating expenses would be considered as an amount paid for transportation subject to the excise tax. When Congress was informed of this situation, it corrected the matter by providing that no transportation tax would be due where the aircraft is used only by members of an affiliated group. Since the parent and the subsidiaries in the example would be an affiliated group no transportation tax would be imposed.

The enactment of IRS Section 4282 was prompted by the restrictive interpretation given to the transportation tax by the Internal Revenue Service. Congress recognized, through the enactment of this provision, that cost sharing arrangements between entities that were commonly owned did not involve a situation where one person was "furnishing" transportation to another. Each participating entity was simply paying its share of the aircraft's operation. No transportation was being provided to another person.

The amendment which Congress adopted is not, however, in the view of the Internal Revenue Service, broad enough to cover other situations deserving of inclusion within the scope of a provision which recognizes that cost sharing arrangements do not involve the "furnishing" of transportation. The reality of this has been strikingly brought home at the Alaska Teamsters Local 959 which, in conjunction with its related Alaska Teamster Employer trusts, share the cost of the expenses of operating an aircraft. This aircraft is used not only for transporting union local personnel on official business but, also, for the benefit of its related employer trusts which are created and operated for the benefit of the union membership. For example, a significant use of the aircraft is for the purpose of evacuating injured union members from locations which are removed a considerable distance from medical or hospital care. All of the use of the aircraft is, in reality, on behalf of the Alaska local in the sense that it is for the benefit of its membership. No furnishing of transportation to another entity is involved.

The employer trusts which share the cost of operation for the Alaska local's aircraft in proportion to their use are not "owned" by the local through stock ownership. They are, like the local itself, exempt organizations. The creation of these organizations grew out of collective bargaining agreements between the local and various employers. Although these trusts are not owned by the local through stock as a parent corporation would own a subsidiary they are operated for the benefit of the same group of individuals, the membership of the Alaska local.

Since these organizations are, however, trusts, not corporations, they are not, in the view of the Internal Revenue Service, an affiliated group within the meaning of IRC section 4282. Thus, even though Congress has recognized that cost sharing between affiliated entities does not involve the type of "furnishing" of transportation which should be subject to the transportation tax, a cost-sharing arrangement between the Alaska local and its related trusts will not, according to the Service, qualify as being within the definition of affiliated set out in section 4282.

It is unfair to render unions and their affiliates ineligible for relief from the transportation excise tax simply because they conduct their affairs in the form of nonstock entities. Exempt organizations, such as union locals, are usually nonstock in nature. The related entities, being trusts, do not issue shares such as would permit them to be owned, through that medium, by their union locals. And yet the arrangement which the Alaska local has with its related trusts is every bit as much a cost-sharing arrangement as any such plan between a corporation and its subsidiaries. If the latter is exempt from the transportation excise tax under section 4284, so should a cost-sharing arrangement between a union local and the trusts which it creates to serve its membership. The same commonality of benefit and interest which marks an "affiliated group" as defined within IRS section 1504 is present when a union local and its related trusts are concerned. This includes any corporation wholly owned by a trust established for the exclusive benefit of its members.

Congress realized, when it enacted IRC section 5383, that cost-sharing arrangements between related corporations should not be subject to the transportation excise tax. Exempt organizations may share the cost of an aircraft's operation in the same way and yet, under the view of the Service, no relief is provided. This cannot be viewed as a sensible legislative result.

Mr. President, I have an amendment to Internal Revenue Code section 4282 which addresses the problem I have outlined. It redresses the inequity inherent in the corporate exemption from the transportation excise tax by providing a similar exemption to labor unions and their related tax exempt trusts established for the sole and exclusive benefit of the members of such labor unions and their families and dependents. The amendment is a simple one extending the definition of "affiliated group" in section 4282 to include labor unions and their trusts. This amendment does not do violence to the provisions of the transportation excise tax, but merely does justice in the extension of exemptions from its scope.

The furnishing of any transportation by a union local under this amendment to a taxable entity is not intended to affect the eligibility of such local for treatment under this provision. However, the transportation excise tax could be levied where appropriate with respect to transportation directly furnished by the union local to other related entities which are not tax exempt.

Mr. President, I thank the Senate for its attention and I ask that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 4284 of the Internal Revenue Code of 1954 (relating to excise tax on transportation by air for members of affiliate group) is amended by striking out everything after the words "'affiliated group'" and inserting in lieu thereof:

"(1) has the meaning assigned to such term by section 1504(a) except that all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)), and

"(2) shall include a labor organization exempt under section 501 together with the following organizations:

(A) any trusts, also exempt under section 501, which are established for the sole and exclusive benefit of the members of such labor organization and their families and dependents; and

(B) any corporations wholly owned by a trust described in subparagraph (A).".●

By Mr. HAYAKAWA:

S. 2077. A bill to amend section 302(a) of the Fishery Conservation and Management Act of 1976 to create a new California Pacific Council with authority over the fisheries in the Pacific Ocean seaward of the State of California; to the Committee on Commerce, Science, and Transportation.

CALIFORNIA PACIFIC COUNCIL

● Mr. HAYAKAWA. Mr President, I would like to introduce a bill to create a new California Pacific Council.

This legislation would amend the Fishery Conservation and Management Act of 1976 by giving a newly created California Pacific Council the authority over the fisheries in the Pacific Ocean seaward of the State of California. The California Pacific Council would have nine voting members, including seven to be appointed from the State of California by the Secretary of Commerce.

The legislation is supported by many organizations, including the following: The California State Legislature; the Marin Conservation League; the Del Norte Municipal League; the Western Boat Owners Association; the California Seafood Institute; the Board of Supervisors of Del Norte County; and the Sportfishing Association of California.

California has over 1,000 miles of coastal water, more than the other Pacific Council States combined. Yet California has a relatively small representation on the Pacific Management Council. California has well over half of the fishery resources of the present council, which consists of Washington, Oregon, Idaho, and California, and yet California has only three voting members on the 15 member council.

The fishermen in my State are fearful of having their industry jeopardized by disputes in other States and in which California is not directly involved. Therefore, our fishermen feel that the Pacific Fisheries Management Council is not really representing them. These fishing groups, in addition to many municipal groups, support this legislation that I am introducing.

My bill does not address what would happen to the terms of the California representatives on the existing Pacific Fisheries Management Council. This matter would be determined by the Secretary of Commerce. I do not believe this matter will present any problems.

This legislation is a companion bill to H.R. 4638 which was introduced by Congressman LEON PANETTA on the House side.●

By Mr. HEINZ:

S.J. Res. 123. A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with the first Sunday in June of each year as "National Garden Week"; to the Committee on the Judiciary.

NATIONAL GARDEN WEEK

● Mr. HEINZ. Mr. President, I am pleased to introduce today a joint resolution to designate the calendar week beginning with the first Sunday in June of each year as "National Garden Week."

Garden clubs play an important role in the culture of our country, and their efforts deserve proper public recognition. The dedication and service of more than 500,000 members of garden clubs in this country merits the support of all civic-minded individuals.

This resolution is aimed at providing support and encouragement for the activities of garden clubs across the country, and I urge my colleagues to join with me in recognizing the people involved in the worthy efforts of all garden clubs.

I ask unanimous consent that a pamphlet issued by the National Council of State Garden Clubs entitled "A Force for Good" be printed in the RECORD, together with the text of the resolution.

There being no objection, the resolution and article were ordered to be printed in the RECORD, as follows:

S.J. RES. 123

Whereas, the gardeners of this country produce a multitude of foods for our people and enable us to export foods to other countries which are in desperate need; and

Whereas, our gardeners help to preserve and foster our traditional spirit of independence and individual initiative; and

Whereas, gardening instills in our people, both young and old, a greater appreciation for nature, in general, and for our beautiful land, in particular; and

Whereas, such appreciation naturally leads to a greater respect and care for our environment; and

Whereas, gardening, in addition to being most beneficial for our country, furnishes a pleasant and productive full or part-time activity for a large number of our citizens; and

Whereas, our gardens also yield flowers of great variety and breath-taking beauty; and

Whereas, these flowers bring beauty into our lives and satisfy our aesthetic needs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation—

(1) designating the calendar week beginning with the first Sunday of June of each year as "National Garden Week"; and

(2) urging Federal, State and local government agencies, as well as citizens and private organizations, to observe that week with educational efforts, ceremonies and other aprpopriate activities which shall include the wearing of garden flowers as a symbol of our appreciation for the efforts and contributions of our gardeners.

A FORCE FOR GOOD

As has been recognized for years, any number of women, organized and dedicated . . . whether 40 or 40,000 or 500,000 . . . compose a force to be reckoned with.

And "strong force" is a proper description for the members of the over 14,000 clubs that comprise the National Council of State Garden Clubs, Inc.

While their interest and backgrounds are as diverse as their numbers, these approximately 500,000 garden club members from every state in the nation evince their strength in many areas.

They are strong in their love of gardening.

They are strong in their interest in their communities.

They are strong in their concern for the environment.

They are strong in their desire to preserve, conserve and enhance natural resources.

They are strong in their pride of heritage.

They are strong in their conviction that through their combined efforts they can and will accomplish their goals.

This dedication and strength arises from one of the most closely knit organizations in the world . . . National Council of State Garden Clubs, Inc.

Since its beginning in 1929, National Council has grown from 13 charter state federations to a membership representing every state in the Union and one federation representing the National Capital Area. It is organized on state and regional levels, with the clubs having complete freedom and flexibility in their activities. In addition to the State Federations there are over 70,000 Junior, Intermediate and High School Gardeners. National and International Affiliates number 125 clubs. National Officers and Committee Chairmen provide leadership and ideas for the clubs. Members are given the choice of a large number of projects involving conservation, horticulture, beautification, landscape design, preservation, restoration and education.

In keeping with the philosophy on which the organization was founded, clubs—whether large or small, urban or rural—are concerned with community beautification, roadside development, good horticulture practice, litter control, environmental action, education of youth, the preservation or restoration of historic sites. Through its member services National Council provides member clubs a vast array of researched and annotated material covering these subjects. Slides, pamphlets and program ideas are available for a small fee. Books on various types of gardening, flower arranging and flower shows, landscape design, birds and other related subjects are offered at discount to members.

Through the Council's official publication, The National Gardener, members are provided information concerning the actions of the organization and well written articles on subjects relevant to its aims.

The objectives established by the founders have been retained, and as with any alive, on-going organization in a changing world, new concepts are constantly being put forth and all objectives broadened.

Members of a group with "Garden Club" in its name are obviously devoted to the pursuit of growing plants, flowers, shrubs, trees, fruits, vegetables, the landscaping of their home grounds and are concerned with the environment that affects them. Specific information on methods of growing trees, indoor gardening, improved cultivars, hydroponic and organic gardening is available from chairmen who are specialists in these methods. At this writing a committee has been appointed to develop guidelines and curriculum for a Gardening Study Course, with emphasis placed on the very highest academic standards for this new educational program. Through Landscape Design courses members have the opportunity to gain knowledge in home landscaping, as well as good land-use planning and community involvement.

Flower Show Schools are designed to interest and guide members in growing and showing beautiful horticulture specimens in flower shows and in their home grounds, as well as training them in the use of these specimens in creating artistic designs. Flower shows perform an important community service by providing the public an opportunity to see and appreciate natural and artistically created beauty.

The curriculum in flower show schools and landscape design courses are constantly updated. Bi-lingual courses in both are now offered, with a number of flower show schools having been held in Central and South America, Panama and Mexico. By request, landscape design study courses are being made available to International Affiliates.

A scholarship fund makes it possible to offer scholarships to qualified students in specified fields. In addition to those provided by the National organization, hundreds of other worthy students are being assisted through scholarships given by the state organizations.

Intensive training at Environmental Education Workshop Schools, conducted by the USDA Forest Service and co-sponsored by industry, resulted in trained leaders in every state federation who are well equipped to conduct similar workshops in their own communities.

Members are kept informed on pending legislation at local, state and national levels that affects the environment, land-use, energy conservation, and other areas of concern.

Through the Civic Development committee, member clubs are encouraged to develop projects in their communities that change liabilities into assets and to influence citizens and agencies to cooperate in these efforts.

Conservation of National Resources has been one of the basic concerns of National Council since its inception. Guidelines have been formulated to assist clubs in understanding the expanded role of conservation, and they present ideas for educational enrichment and environmental action.

Efforts in the area of World Gardening are felt around the world. Among the many projects are contributions to CARE, American Kor-Asian Fund, which help developing nations improve their food production. Contributions of money for equipment, seeds, tools, trees to various countries demonstrate the concern of garden clubs for their fellow man.

This concern is also shown in Garden Therapy projects. Members devote their time, talents and efforts to bring garden-related activities to groups and individuals, young and aged, who are physically, mentally or emotionally ill or disabled. Through the program aid is given in the rehabilitation and recovery of the handicapped.

During America's Bicentennial Year, garden clubs participated in the celebration in many ways. On the national level four projects were undertaken. A collage contest was held with each state submitting a collage featuring the state bird, tree and flower made from natural materials. Every state was represented and the 51 collages were displayed at National Council Headquarters in St. Louis, Missouri, during the bicentennial year, with the top winners awarded special ribbons.

Another bicentennial project was the planting of "Liberty Trees," commemorating Boston's Liberty Tree that was the rallying point for patriots during the Revolution. Millions of trees were planted on private and public grounds, in parks and around government buildings.

A magnificent International Flower Show was held in Miami Beach, Florida, a first in National Council history. With a bicentennial theme, it attracted entries and visitors from all over the United States, Australia, Central and South America, Mexico, the Philippines and the Caribbean islands.

The fourth project was a comprehensive Network of Historic Trails. Work on the trails of historic significance is being done at the regional, state and local club level from the deep south to the northwest, from east to west, assuring the preservation and restoration of these trails for future generations to enjoy. It was encouraging when a bill was passed by Congress establishing a National Historic Trails System, adding permanence to the project.

Recently, National Council accepted the challenge of an ambitious program of conservation. It endorsed the program of the American Land Trust (ALT) and agreed to assist in acquiring and conserving America's significant and threatened land areas. ALT enlisted the help of The Nature Conservancy to administer the program. The major goal of ALT is to select at least one wilderness or natural land area of prime environmental importance in each of the 50 states. Every area chosen will be evaluated to insure that it is adequately protected and is large enough to retain its natural qualities for the next 200 years.

National Council President, Mrs. Vernon L. Conner, stated in her announcement of the program, "This program provides National Council members with the opportunity to make an investment in America's future, the effects of which will be felt and known for a hundred years and for generations to come." An article in The National Gardener states: "Garden club members have always been conservation minded.

"Through the years they have conducted workshops, given programs, listened to conservationists from various fields and achieved considerable success in many worthwhile conservation projects. With this opportunity to assist in a nation-wide conservation movement, 'Operation Big C', one which will cover our land like a blanket, they can help ensure for hundreds of years the safe-keeping of thousands of acres of ecosystems which would otherwise be lost for all time. This affords them an opportunity to more fully and meaningfully utilize their cumulative knowledge and experience."

The women of National Council of State Garden Clubs continue what they have been busy doing for almost half a century . . . combining their efforts to achieve a better world.

"National Council has a distinguished heritage and its members can take pride in its progress," declared Mrs. Conner. "Each decade has presented new problems, and goals have been expanded to meet the needs of each new era.

"The greatest resources of National Council are its members," continued the National Council president. "Working together, our organization's resources become significant community resources and this 'working togetherness' enables us to meet mutual commitments of service to our community, state and nation."

Truly, women of the National Council of State Garden Clubs comprise a mighty force for good.●

ADDITIONAL COSPONSORS

S. 92

At the request of Mr. Thurmond, the Senator from Wyoming (Mr. Simpson) was added as a cosponsor of S. 92, a bill to amend title 5 of the United States Code to permit present and former civilian employees of the Government to receive civil service annuity credit for retirement purposes for periods of military service to the United States as was covered by social security, regardless of eligibility for social security benefits.

S. 1401

At the request of Mr. Biden, the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 1401, a bill to amend the Federal Power Act to revise procedures for the changing of rates.

S. 1495

At the request of Mr. Hatfield, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 1495, a bill to acquire certain lands so as to assure the preservation and protection of the Potomac River shoreline.

S. 1638

At the request of Mr. Roth, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 1638, a bill to amend the Internal Revenue Code of 1954 to provide for the amortization of start-up expenditures paid or incurred in starting a new trade or business.

S. 1549

At the request of Mr. Boren, the Senator from Iowa (Mr. Culver) was added as a cosponsor of S. 1549, a bill to amend the Internal Revenue Code of 1954 to change the period for payment of taxes under section 4161(a) of such code.

S. 1858

At the request of Mr. Bayh, the Senator from Wyoming (Mr. Wallop) was added as a cosponsor of S. 1858, the National Guard Tort Claims Act.

S. 2064

At the request of Mr. Williams, the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 2064, a bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on certain mortgage revenue bonds will not be exempt from Federal income tax.

SENATE JOINT RESOLUTION 115

At the request of Mr. Riegle, the Senator from Delaware (Mr. Roth) was added as a cosponsor of Senate Joint Resolution 115, a joint resolution to designate National Porcelain Painting Art Month.

SENATE JOINT RESOLUTION 122

At the request of Mr. Hollings, the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of Senate Joint Resolution 122, a resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week."

SENATE CONCURRENT RESOLUTION 37

At the request of Mr. Heinz, the Senator from Idaho (Mr. Church), the Senator from Florida (Mr. Stone), the Senator from Alaska (Mr. Stevens), the Senator from South Carolina (Mr. Thurmond), the Senator from Ohio (Mr. Metzenbaum), the Senator from Montana (Mr. Melcher), the Senator from Michigan (Mr. Levin), the Senator from Arizona (Mr. DeConcini), the Senator from Arizona (Mr. Goldwater), the Senator from New Hampshire (Mr. Humphrey), the Senator from New Mexico (Mr. Schmitt), the Senator from Minnesota (Mr. Boschwitz), the Senator from Colorado (Mr. Armstrong), the Senator from California (Mr. Hayakawa), the Senator from New Jersey (Mr. Williams), the Senator from Indiana (Mr. Bayh), the Senator from Maine (Mr. Cohen), the Senator from Hawaii (Mr. Inouye), the Senator from Montana (Mr. Baucus), the Senator from Oregon (Mr. Hatfield), and the Senator from Iowa (Mr. Jepsen) were added as cosponsors of Senate Concurrent Resolution 37, expressing the sense of Congress that, in hosting the 1980 Olympic games, the Soviet Government should adhere to the Helsinki Accords and the Olympic spirit of fair play and equality of opportunity.

AMENDMENT NO. 626

At the request of Mr. Tsongas, the Senator from Missouri (Mr. Eagleton) and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of amendment No. 626 intended to be proposed to H.R. 39, an act to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

AMENDMENT NO. 692

At the request of Mr. Bellmon, the Senator from Arizona (Mr. Goldwater) and the Senator from Colorado (Mr. Armstrong) were added as cosponsors of amendment No. 692 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 701

At the request of Mr. Weicker, the Senator from Colorado (Mr. Hart), the Senator from New York (Mr. Javits), and the Senator from Illinois (Mr. Percy) were added as cosponsors of amendment No. 701 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 299—SUBMISSION OF A RESOLUTION RELATING TO U.S. DEFENSE AND FOREIGN POLICY

Mr. BELLMON submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 299

Whereas it is the responsibility of the Congress to authorize and appropriate funds to support the defense and foreign policies of the United States and the responsibility of the Senate to advise and consent to the ratification of treaties;

Whereas the national security interests of the United States are directly affected by significant political, military, economic, and social changes taking place in the world today;

Whereas the strategic position of the United States throughout the world is specifically affected by a growing and increasingly capable Soviet military posture;

Whereas the United States is required to maintain a competent military posture in order to guard its global national security interests in this changing international security environment;

Whereas it is essential that any arms control negotiations in which the United States is involved must support the national security interests of the United States;

Whereas the Senate requires a clear enunciation of present and long-term defense and foreign policy objectives in order to determine that the United States' defense capabilities, foreign assistance programs, and arms control efforts are coordinated, mutually supportive, and serve as effective tools for promoting the United States national security objectives.

Now, therefore, be it

Resolved, that a special Senate select committee composed of members of the appropriate committees in the Senate, shall be created and be empowered and provided with the necessary funds and staff to conduct a special examination and assessment of the United States' foreign and defense policy objectives; and that this special Senate select committee shall report to the Senate within six months of its creation, regarding the status of the United States' national security policy goals and the degree of mutual support and coordination between the United States' defense and foreign policies.

● Mr. BELLMON. Mr. President, on September 17 of this year I introduced Senate Resolution 235 which proposed delaying a vote on SALT II until March 1, 1980, pending the submission of a report by a special Senate committee on the status and long-term objectives of U.S. defense and foreign policy with special attention to be given to assessing whether the SALT process has served as a useful policy tool supporting these U.S. policy objectives.

My decision to offer this resolution was based upon my belief that the SALT II debate had become too technical and that sufficient attention was not being given to assessing the broader issues underlying the SALT debate. Uncommitted Senators, such as myself, are repeatedly told to base a decision regarding SALT II on whether it is in the national interest. However, I have not seen any useful assessment of the national interest which could serve as a tool in assessing SALT II.

Mr. President, the lack of a clear and concise statement of U.S. policy goals and objectives is a problem which transcends the SALT debate. It is not the Senate's or Congress responsibility to make foreign policy, but it is our responsibility to fully understand U.S. policy objectives so that we can act responsibly to fulfill our constitutional role to advise and consent to treaties and authorize and appropriate funds to support these policies. I seriously question whether the Senate is currently in a position to do this. My intent in offering Senate Resolution 235 was to initiate a Senate activity which would fill what I see to be a major shortcoming in the Senate's understanding of U.S. foreign and defense policy.

Since I first offered Senate Resolution 235, the situation relating to it has changed in two respects. First the full-Senate's consideration of SALT II has been delayed by the Foreign Relations Committee's extended schedule of hearings and markup sessions and by the Senate's need to first dispose of other important legislative matters. It seems likely to me that a vote on SALT II will not be held this year. It is regrettable that these months were not used in foreign and defense policy reevaluation.

Secondly, on November 7, I appeared before the Foreign Relations Committee to present my resolution. At that time, I received strong statements of support for the objective of the resolution—to provide for a thorough reexamination of U.S. foreign policy and defense policy objectives to determine whether they were being pursued in a mutually supportive fashion—and the chairman of the Senate Foreign Relations Committee, Senator Church, assured me that the Foreign Relations Committee would hold hearings on my resolution immediately following completion of its SALT II markup. I am aware that the staff of the Foreign Relations Committee is currently scheduling these hearings.

In the light of these two developments Mr. President, I am today submitting a new resolution. This resolution repeats the call for a thorough congressional reexamination of U.S. defense and foreign policies. In light of the significant political, military, economic, and social changes which have occurred around the world during the last decade, and which are likely to be more dramatic in the future, I believe it is imperative that the Senate and the whole Congress take stock of our national security objectives and how they are affected by these changes.

Furthermore, I am increasingly concerned by what I regard as a serious disconnect between the way the United States formulates its foreign policies and the way in which it maintains its defense posture. These two activities, which should be closely related and mutually supportive, appear to be addressed by the Congress in an unrelated fashion. This is a dangerous situation and I believe the type of reexamination called for in this resolution would help reconcile this situation.

This new resolution no longer contains a provision which would delay Senate consideration of SALT II pending the completion of the proposed examination and assessment of the defense and foreign policies of the United States. Mr. President, it is with a good deal of reluctance that I have agreed to drop this provision. As I have stated previously, I believe the Senate's consideration of SALT II would be well served if it were possible to delay the issue pending a review of U.S. national security objectives which would place the treaty in a better perspective. I very much regret that the full Senate will not have such an examination available as a tool to assess the overall political-military implications of the SALT II treaty and the larger SALT process. In this regard, each Senator will have to trust his or her own judgment.

However, I have decided that it is more important to try and begin this policy reexamination process than it is to achieve a Senate consensus to delay SALT. I believe a majority of my Senate colleagues will agree with me. This resolution is not a "SALT resolution." That was never my intention. It is clear, though, that SALT is precisely the type of issue which requires the Senate and the Congress to have full and complete understanding of U.S. national security policy. To that extent, SALT is very much an element of this resolution's objective.

Mr. President, I have expressed my own views regarding the need for the congressional examination called for in this resolution on numerous previous occasions and I shall not belabor the point at this time. I would simply like to stress the point that this resolution goes to the heart of what I see as a basic flaw in the Congress approach to national security policy during the last decade or more. We have lost sight of the elements of our national interest and that has prevented us from effectively assessing the implications of various policy proposals. I believe it has also inhibited our ability to foresee and anticipate the effect that major changes in the international political environment will have on our national security interests.

What this resolution proposes is that the Congress undertake a major effort to develop a useful perspective on our defense and foreign policy objectives. In effect, I am proposing that the Congress define and develop a way, a tool for understanding and developing a cohesive, mutually supportive U.S. defense and foreign policy. Such an effort could make a lasting contribution to the future security and well-being of the country.●

SENATE RESOLUTION 300—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HUDDLESTON (for Mr. McGovern), from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 300

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of H.R. 3398, a bill to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes. Such waiver is necessary to permit consideration of H.R. 3398, as amended by the Committee on Agriculture, Nutrition, and Forestry, which provides for increased target price spending authority to become effective in a fiscal year for which the first concurrent resolution on the budget has not been agreed to.

AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96-1

AMENDMENT NO. 732

(Ordered to be printed and to lie on the table.)

Mr. CHAFEE (for himself, Mr. Durenberger, and Mr. Leahy) submitted an amendment to the resolution of ratification of the SALT II Treaty (Ex. Y, 96-1).

(The remarks of Mr. Chafee when he submitted the amendment appear earlier in today's proceedings.)

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 733

(Ordered to be printed and to lie on the table.)

Mr. STEVENS (for himself and Mr. Gravel) submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

(The remarks of Mr. Stevens when he submitted the amendment appear earlier in today's proceedings.)

AMENDMENT NO. 734

(Ordered to be printed and to lie on the table.)

Mr. DeCONCINI (for himself, Mr. Nunn, Mr. Chiles, Mr. Schmitt, and Mr. Domenici) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 735

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN (for himself, Mr. Percy, Mr. Talmadge, Mr. Dole, Mr. Gravel, Mr. Danforth, Mr. Moynihan, Mr. Chafee, Mr. Matsunaga, Mr. Durenberger, Mr. Baucus, Mr. Wallop, Mr. Boren, Mr. Packwood, Mr. Church, Mr. Roth, Mr. Pryor, Mr. Heinz, Mr. DeConcini, Mr. Tower, Mr. Morgan, Mr. Cochran, Mr. Domenici, Mr. Humphrey, Mr. Stafford, Mr. Ford, Mr. Weicker, Mr. Johnston, Mr. Baker, Mr. Stone, Mr. McClure, Mr. Hollings, Mr. Cohen, Mr. Stewart, Mr. Hayakawa, Mr. Durkin, Mr. Thurmond, Mr. Huddleston, Mr. Pressler, Mr. Cranston, Mr. Helms, Mr. Leahy, Mr. Lugar, Mr. Riegle, Mr. Javits, Mr. Simpson, Mr. Biden, Mr. Schweiker, Mr. Stevens, Mr. Laxalt, Mr. Hatfield, Mr. McGovern, Mr. Warner, Mrs. Kassebaum, Mr. Nunn, Mr. Armstrong, Mr. Jepsen, Mr. Goldwater, Mr. Inouye and Mr. Hart) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 736

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 737

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to amendment No. 735 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 738

(Ordered to be printed and to lie on the table.)

Mr. ROTH (for himself, Mr. DOMENICI, Mr. DANFORTH, Mr. DOLE, Mr. ARMSTRONG, Mr. BOREN, Mr. CHAFEE, Mr. COCHRAN, Mr. DURENBERGER, Mr. JEPSEN, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. MCCLURE, Mr. GARN, Mr. SCHMITT, Mr. COHEN, Mr. HUMPHREY, Mr. LUGAR, Mr. HATCH, Mr. HELMS, Mr. LAXALT, Mr. WARNER, Mr. TOWER, Mr. MELCHER, Mr. HEINZ, and Mr. HAYAKAWA) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 739

(Ordered to be printed.)

Mr. LEAHY (for himself, Mr. NELSON, Mr. BRADLEY, Mr. MUSKIE, Mr. EAGLETON, Mr. METZENBAUM, Mr. MCGOVERN, Mr. DANFORTH, and Mr. BUMPERS) proposed an amendment, jointly, to H.R. 3919, supra.

NOTICE OF HEARINGS

SUBCOMMITTEE ON CONSUMER AFFAIRS

Mr. TSONGAS. Mr. President, the Subcommittee on Consumer Affairs of the Committee on Banking, Housing, and Urban Affairs will hold hearings on December 10, 1979, at 9:30 a.m. and December 11, 1979, at 10 a.m. in room 5302 of the Dirksen Senate Office Building to consider S. 2002, a bill to restrict the use of the "Rule of 78" in longer term consumer loans.

The "Rule of 78" is an archaic lending practice which costs unsuspecting U.S. borrowers many tens of millions of dollars annually. S. 2002, which I sponsored, will greatly restrict the hidden penalties arising from lender's use of the "Rule of 78."

The witnesses appearing before the Subcommittee on December 10 will be: James Hunt, actuary, Boston, Mass.; Mrs. Margaret Miller, consumer, Thompson Falls, Mont.; Henry Wells, consumer, Manassas, Va.; Ellen Kaplan, counsel for Harmony Homes Tenant's Association, Chicopee, Mass.; Lee Richards, Consumer Federation of America; Willard Ogburn, National Consumer Law Center, Boston, Mass.; Richard Perry, vice president, Bank of America; Elaine Simmons, vice president, Mutual Bank for Savings, Newton, Mass.; Prof. Robert W. Johnson, Purdue University, Ind.; Office of the Attorney General, State of Massachusetts.

The witnesses appearing before the Subcommittee on December 11 will be: Gov. Nancy Teeters, Federal Reserve Board; Prof. Jonathan Landers, University of Illinois Law School; Toby E. Sherry, senior vice president, First Wisconsin National Bank, American Bankers Association; Leonard F. O'Connor, vice president, First National Bank of Boston, Consumer Bankers Association; Office of the Comptroller of the Currency; Department of Housing and Urban Development; Louis Goldfarb, Federal Trade Commission; Robert B. Evans, senior vice president, National Consumer Finance Association; Kenneth R. Scott, president, Financial Publishing Co., Boston, Mass.

Anyone interested in submitting a written statement on this proposed legislation or interested in additional information about the hearings, should contact John E. Quinn of the committee staff at 224–7391.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources on the nominations of the following:

Hazel R. Rollins of the District of Columbia to be Administrator of the Economic Regulatory Administration.

Edward Allan Frieman of New Jersey to be Director of the Office of Energy Research.

George Fumich, Jr. to be Assistant Secretary for Fossil Energy.

George Woody Cunningham of Tennessee to be Assistant Secretary of Energy for Nuclear Energy.

Leslie J. Goldman of Illinois to be Assistant Secretary of Energy for International Affairs.

The hearing is scheduled for Tuesday, December 11, beginning at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510. For further information regarding the hearing, you may wish to contact Jessie Mackenzie of the committee staff on extension 47147.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Friday, December 14, 1979, at 9:30 a.m. in room 4232 Dirksen Office Building, on the nomination of William A. Lubbers of Maryland to be General Counsel of the National Labor Relations Board.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly and Business Rights will hold hearings on S. 938, the Unfair Foreign Competition Act of 1979, on December 6, 1979. The hearing will be held in room 5110 Dirksen Senate Office Building and will begin at 9:30 a.m.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WATER RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to mark up the Water Resources Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate today to hold a markup session on S. 1722 and S. 1723, revisions to the Criminal Code; and pending judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to consider two executive nominations and one treaty between Colombia and the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SOMETHING NEW IS ABORNING

● Mr. COCHRAN. Mr. President, Ellen Douglas, the Mississippi novelist, was recently interviewed in Delta Scene, a quarterly magazine published by Delta State University. Ms. Douglas stated that she feels that Western society is "in collapse, and something new is aborning. I do not know what the hell it is."

We are now in the last month of the last year of this decade, and although I disagree about the collapse of Western society, I will grant that "something new is aborning." And I am not sure what it is, either.

The 1980's bode to be difficult times for us here in the United States. Indeed, this promises to be a difficult decade throughout the world. Things change now so rapidly. Whether the center will hold or not remains to be seen. The 1980's may very well be decisive.

In his book "Inventing America," Garry Wills discusses the notion of a proposition being "self-evident"; what did Jefferson mean by "self-evident" truths in the Declaration of Independence?

Wills argues that Jefferson was using the term as used by Thomas Reid, a contemporary English philosopher, who spoke of the "communal" truths which—

> * * * serve to direct us in the common affairs of life, where our reasoning faculty would leave us in the dark. They are part of our constitution, and all the discoveries of our reason are grounded upon them. They make up what is called the common sense of mankind; and what is manifestly contrary to any of those first principles is what we call absurd.

In view of the current situation in the world, particularly in Iran and throughout the Middle East, one can legitimately ask whether, in fact, we are now living in the Age of the Absurd. Perhaps nothing is self-evident. Perhaps we will have to "re"invent America.

The fact that reason is not universal, however, does not justify forsaking reason. In fact, these times require reason more than ever before. Once we lose our hold on that rudder, we are at the absolute mercy of perilous currents.

Because America can no longer control the world—assuming that it was ever able to—does not mean that America can not influence the world for the better. This is our responsibility for the 1980's.

Irving Kristol wrote an article for the Wall Street Journal that insightfully addresses the issuses and challenge of the 1980's. I ask that it be printed in the Record. I urge my colleagues to read it and take it to heart.

The article follows:

[From the Wall Street Journal, Nov. 26, 1979]

THE WORST IS YET TO COME

(By Irving Kristol)

The 1980s have already begun. They began with the takeover of the American embassy in Tehran earlier this month and with the subsequent confrontation between the United States and a virulently anti-Western Iranian regime. This episode is as it were, the shocking prologue to an equally tense drama that stands poised to unfold in the decade ahead. It promises to be an absolutely ghastly period.

These past years have been dominated by problems of domestic economic policy—of maintaining economic growth in the face of inflation, stagflation, high rates of taxation, government overregulation of business, etc. Even OPEC has been regarded as primarily a phenomenon within the economists' universe of discourse, and the arguments have centered around the kind of economic policy that would be most appropriately responsive to the new level of energy costs.

On the whole, and from this same economic perspective, we have managed these problems rather badly. The cast of mind shaped in the 1960s—one which perceived the United States as an "affluent society" whose major challenges were achieving a better "equality of life" and a "fairer" (i.e., more equal) distribution of entitlements to wealth, income, and opportunity—was quite unfit to cope with the bleaker realities of the 1970s, and we were very slow getting on a new learning curve.

THE ROLE OF FOREIGN POLICY

More recently, however, there have been hopeful signs of progressive adaptation to these realities, an increasing recognition of the need for an economic policy to spur economic growth instead of being indifferent or hostile to it. But one senses it no longer matters quite so much. For it seems clear that in the 1980s it will be foreign policy, not domestic economic policy, that will be decisive for economic growth, and for our destiny in general.

If the 1970s were dominated by considerations of domestic economic policy, the 1980s are going to be dominated by considerations of foreign and military policy. The two are not unrelated, of course—and, indeed, in the case of oil they are most intimately related. But a whole new set of priorities will have to be established, as we come to grips with the fact that the American economy does not exist in isolation from world politics.

Take, for instance, the issue of inflation which President Carter now says is the most important economic problem facing the nation, a proposition that is heartily assented to by conservative economists and Republican politicians. They are almost surely wrong. Two years ago they would have been right, but not now. Today it is military rearmament that is the first priority, economic as well as political. And if there are going to have to be massive increases in military spending, then we shall have to put up with more inflation, for a longer time, than any of us would like. Should the rate of inflation in the 1980s stabilize at, say, 8 percent, that would represent a not inconsiderable achievement.

The truly important problems of the American economy in the years to come will result from what economists so chastely call "exogenous shocks"—i.e., things that happen elsewhere in the world, things that will profoundly affect us and to which we shall have to respond. None of these things is likely to be pleasant, for the world order—such as it is, which isn't saying much to begin with—is in the process of going through a whole series of convulsions.

The Middle East is the most obvious source of trouble. Even if the Arab-Israeli conflict were not a constant irritant, the chances for stability in that area seem slight. Intra-Moslem religious tensions are on the rise and anti-Western paranoia is endemic. Egypt under Sadat is indeed a remarkable exception, but one can properly doubt whether Egypt after Sadat will remain so. Iran will surely be hostile to American interests, whatever kind of regime is eventually established there. The days—at best, the years—of Saudi Arabia's anachronistic feudal oligarchy are numbered, to be succeeded by Lord only knows what. Iraq is likely to go to war against Iran, or against Syria, or against itself. Syria could easily go the way of Afghanistan and end up as a Russian puppet. Oil at $50–$75 a barrel is not too far down the road, and chaos in that region might well result in no oil being available at any price.

All this would seem to suggest the likelihood of some American military involvement in the Middle East to protect our interests, both economic and strategic. Unfortunately, we shall there encounter another presence: the Soviet Union.

The U.S.S.R. is today our superior in effective military power of a kind that is relevant to a situation such as the Middle East's—i.e., conventional military power. Even if we were now to undertake a serious and sustained effort to improve our military capabilities in this respect, it would probably take a good part of the decade to accomplish it. Moreover, a new Soviet leadership is on the verge of coming to office, and all the evidence points to its being very self-confident, highly nationalistic, and likely to be more boldly assertive than its predecessors. And, perhaps most important, the Soviets are going to be needing foreign sources of oil by 1981, and the Middle East is not only the logical place for them to turn to, it is the only place. So an era of confrontation with the Soviet Union seems to be in the cards.

And as the post-World War II international order falls apart—not only in the Middle East but probably in Latin America as well—all thinking about American foreign policy derived from that era assumes an air of irrelevance. SALT becomes irrelevant. The United Nations becomes irrelevant. Foreign aid becomes irrelevant. Sermons on human rights become irrelevant. NATO itself may soon become irrelevant, as our European allies decide that, in the face of American weakness, sauve qui peut is the sensible flag to fly. What will be relevant is an American foreign policy in which power, and the readiness to use it boldly, will play a far more central role than has ever before been the case in our history.

Nor will the United States really have any alternative but to use such power to recreate a world order it can live with—a world in which there is relatively free trade and relatively free access to the world's resources. Though there is much we can, should, and in the end probably will do to set our own economic house in order—including the more abundant use of coal and nuclear power, despite any hazards they might create—it is an inescapable fact that the American economy is a vital organ of a larger world economy. The one cannot survive, and certainly cannot prosper, without the other. The wealth of nations today is indivisible. Our economic growth will henceforth be as dependent on our foreign policy as on our economic policy. And if we fail to establish the conditions for such growth, our democracy will itself unravel, as economic pressures give rise to political polarization, at home and abroad.

There is far too much easy and glib talk these days about the need for Americans to tighten their belts, accept a reduction in their living standards, even resign themselves to an economic philosophy of no-growth. It is dangerous and irresponsible talk. Yes, of course, the American democracy can cope with a temporary cessation of economic growth, as it has done in wartime. But only if it is perceived to be temporary. What few seem to realize is that a prospect of economic growth is a crucial precondition for the survival of any modern democracy, the American included.

For over two thousand years, the consensus among political philosophers was that democracy—the rule of the majority—was an inherently unstable and therefore undesirable form of government. The reason they came to this conclusion was not because they were snobs or disliked the common people, or because ordinary people then were inferior to the people of today. It was because they believed, on the basis of experience (in the ancient Greek city-states especially), that in a democracy the majority, being poor, would always use its power to expropriate the wealth of the more affluent minority, and that this would lead (as it always had) to economic chaos, followed by political chaos, followed by the restoration of order by a dictator.

What changed the attitude of political philosophers was the emergence of modern capitalism, with its promise of economic growth—of an economic system in which everyone could improve his condition without having to do so at someone else's expense. It is because this promise of economic growth has been kept that democratic politics has survived in the United States, in Western Europe, more recently in Japan. And it is only so long as economic growth remains a credible reality that democracy will remain an actuality. It is the expectation of tomorrow's bigger pie, from which everyone will receive a larger slice, that prevents people from fighting to the bitter end over the division of today's pie.

WHAT THE U.S. SHOULD DO

The 1980s will see a disintegrating international order in which economic growth is going to be extraordinarily difficult to achieve, and in which even economic stability will be hard to maintain. It will therefore have to be an overriding goal of American foreign policy to help shape this world so that the growth of the world economy can continue. This will require many sacrifices, but so long as the goal is visibly there, the sacrifices are tolerable. If the goal is not there, our situation will gradually deteriorate until we end up divided among ourselves and destroying our institutions in a frenzy of recriminations.

For the very survival of this nation, our foreign policy is going to have to be oriented quite explicitly toward such a goal. Where will such a foreign policy come from? Who will articulate it? Who will be able to sustain it? Those are the questions that ought to be dominating the 1980 elections. But no one, so far as I can see, is asking them.●

FIGHT TO SAVE THE CITY'S FINE WATER

● Mr. MOYNIHAN. Mr. President, this Sunday's New York Times magazine included an article entitled "Fight To Save the City's Fine Water" by Roger Starr of the paper's editorial board. This excellent article presents an account of the history

of New York City's water supply from colonial days to the present and details the water policies that have shaped this history. Starr's account makes amply clear the fact that our present ad hoc water policy has lost much of its relevance, leaving many serious water needs like municipal water supply unmet.

Mr. President, the Senate Committee on Environment and Public Works Subcommittee on Water Resources is now engaged in an examination of national water policy. Testimony before the subcommittee has consistently pointed to the inequities and failings of the status quo policy. The average time between authorization and implementation of a water project is 26 years. Over 800 projects already authorized have yet to be funded. Over 175 formulas are used to determine the local share of project costs. These facts expose a policy badly in need of change. The National Water Policy and Development Act of 1979, S. 1241, proposed by Senator DOMENICI and myself meets this need for change.

The New York Times article underscores the imperative for water policy reform. I therefore ask that the attached article be printed in the RECORD.

The article follows:

[From the New York Times Magazine, Nov. 25, 1979]

FIGHT TO SAVE THE CITY'S FINE WATER

(By Roger Starr)

Most New Yorkers regard the Central Park Reservoir as a body of water to jog around. Yet anyone who lives in the Manhattan sections whose pipes are full of Croton water sip from the Central Park Reservoir every day. Framed by apartment towers and surrounded by a high wire fence, the reservoir is a working unit in the water supply system that, in addition, keeps New Yorkers clean, extinguishes their fires, stores heat as steam in their radiators, turns their cement into concrete, and washes their streets (though that not particularly well).

The high fence is not there simply to discourage athletes from cooling their overheated bodies in the water. It is meant to keep out all unwelcome intruders. No fence, unfortunately, could keep out the least welcome reservoir visitors—the gulls. They commute from their feeding stations at the sewer outfalls a few blocks east, and rest on the city's water supply. There is little real danger of disease from the gulls, however, since the reservoir provides millions of gallons of water to dilute each bird's nastiness. But New York's official water guardians would certainly prefer that they were not there at all.

The dispute between gulls and water guardians is neither least nor last of the battles that keep New York City's reservoirs boiling, at least metaphorically. Banishing the birds would cost about $4 billion and the need for their eviction would be eliminated by the completion of the third water tunnel, an immense project—20 feet in diamdiameter, about 60 miles long and hundreds of feet below ground. When and if even two of its four stages are completed (the first one is nearly finished), the tunnel will eliminate the need for the Central Park Reservoir and its connectors as essential parts of New York's water delivery system.

But that day will come only if New York obtains a much larger share than ever before of the money disbursed under Federal water legislation. The Western and Southern states have traditionally taken most of this money, and the reasons for this are basically sound. The West lacks the bountiful rainfall of the East Coast, and the South, which has plenty of rain, has needed Federal help to control erosion and flooding.

The Federal Bureau of Reclamation (now called the Water & Power Resources Service), which was established in 1902 and administers much of the water money, believes its principal aim is the same as it has always been: to make the poor Western states habitable. But much of the West is no longer poor, and the Northeast and Middle West are beginning to demand a bigger share of Federal water help. A bill introduced in the Senate by Pete V. Domenici of New Mexico and Daniel Patrick Moynihan of New York would change the basis for allocating water funds, thus helping the Northeast. It will not pass without a battle, but New York City has been fighting water battles for centuries.

First came the quarrel over the Collect, a pond in Lower Manhattan, which used to occupy the present site of the Criminal Courts Building. Into the Collect went the city's offal and out of it came the drinking water. Citizens, unaware of the connection between dirty water and typhoid fever, argued over the cost of replacing the Collect with a better water system. Aaron Burr, that prickly and ambitious instigator, prevailed upon the young State of New York to charter the Manhattan Company, based on its promise to dig wells outside the city and pipe the well water through hollow logs (cast-iron and clay pipe had not yet been invented) to the center of population. In return, the company would be allowed to open a bank.

After more than 100 years, and several Rockefellers, the Manhattan Company's bank became known as Chase Manhattan. So clearly did its early owners prefer banking to plumbing that they pumped and plumbed only enough to repel challenges to their financial franchise. Thus they opposed any innovative schemes that would bring water to New York from mainland watercourses.

Throughout the 18th and most of the 19th century, the city suffered from epidemics that we now know were related to waterborne bacteria and a general lack of sanitation. Although disease primarily attacked the poor, fear of contagion among the more powerful impelled them to invest in a water supply, even if it would produce smaller returns than similar expenditures on ironworks and railroads. But fire was also persuasive. After the Great Fire of 1835, which burned down a third of the city, De Witt Clinton, fresh from the triumph of his Erie Canal, pushed New Yorkers to take their water problems seriously.

Philadelphia had supplied a splendid example of what to avoid in water planning. So as not to fight the battles involved in acquiring land outside the city's borders, Philadelphians depended on a steam engine to hoist river water into a wooden reservoir tank, whence it would flow under the streets. Unfortunately, the steam engine was still a bit impractical for this task. Its cylinders were hollowed wood, like the water pipes, and blowout breakdowns were frequent. The workmen, who were expected to keep the fire going, were as unreliable as the designers and builders whose preliminary estimates were always low.

New York decided against pumping, and opted for a gravity-fed water system. Over the years, pumps have been improved, but New York's water guardians still prefer gravity, pointing out that it will remain in operation, free from rising energy costs, through any emergency. They are probably thinking of war, but do not say so.

In choosing gravity, New York was selecting clean water from highland origins. It found high ground in northern Westchester and Putnam Counties. And in battling successfully for the water rights, as Philadelphia had been unwilling to do, it founded for posterity a water supply system of uniquely high quality.

The watercourse New York chose was the Croton River, rising in Dutchess County and flowing through Westchester's hills to the Hudson, which it joined just below what is now the city of Peekskill. The rivers drained a watershed of 375 square miles, largely but not completely uninhabited. A Croton River dam, impounding the river waters into a great reservoir, was started in Putnam County in the 1830's, and completed by 1842 over the broken and bloodied bodies of the Croton Valley farmers. Their cries so aroused the residents of Dutchess County that the State Legislature ultimately adopted a law forbidding New York City from ever penetrating that county's borders in its unending search for water.

The Croton complaints were not limited to the loss of farmland (which was paid for), and the loss of taxes the area would otherwise have received for the flooded land (ultimately, whenever New York built water facilities, it assumed both the tax burden and the responsibility for furnishing a water supply to the towns and cities through which its aqueduct passed). Croton residents objected even more strenuously to the actual construction of the dam because they found the workers to be wild immigrant gangs who drank, caroused, committed felonies and generally terrorized the neighborhood.

The promoters of the 1842 Croton dam expected that it would provide for New York's needs for a century or more. But they soon learned that supply encourages demand. Having previously bathed only on ceremonial occasions; having never known flush toilets of any kind; and having depended upon river water to quench fires, New Yorkers of the pre-Croton era used very little water. When the bridge-aqueduct carried the first Croton water over the Harlem River into Manhattan, cheap water, readily available (by previous standards), changed everyone's habits.

New Yorkers numbered 300,000 when construction ended on the Croton dam, and they were expected to consume 26.4 per capita gallons of water a day, as was the case in Europe. But by 1850, they were using an average of 78 gallons per day, and their numbers were growing by 300,000 a year. To augment the storage capacity of the dam, new ones were built on the tributaries of the Croton, holding the water back when the big reservoir was full, and preventing the excess from spilling into the Hudson.

By 1880 it was clear that either new water sources would have to be exploited, or the people would be obliged to learn water conservation. The latter was impractical; in fact, New York was still water-primitive by modern standards. The daily shower, the universal flush toilet, hot water and steam heat in every apartment were still years away.

The remedy was to build a new, much higher Croton dam, downstream from the old one and reserve much more water. The combined Croton system provided (and still provides) the city with 30 gallons per person per day. (Today, that is about one sixth of a New Yorker's total consumption.)

Ten years later, when people began talking seriously about extending the boundaries of New York City to include Brooklyn, Queens, Staten Island and parts of Westchester, it was clear that greater capacity was needed. Brooklyn was using well water provided by commercial enterprises. If more water was needed for the still growing city, it could come only from west of the Hudson (because of the Dutchess County ban). The alternative was to bring water down from the upper Hudson, which was a difficult proposition because the Hudson is still at least slightly salty as far as 60 miles upstream from the ocean.

So the city water supply officials turned to the Catskill Mountains, and the two mainstreams of its eastern slopes, the Esopus and the Schoharie. This brought them again into conflict with many local residents. Though the final battles over condemnation values dragged on in the courts for almost 15 more years, the basic political battle was won in 1905, when the State Legislature authorized New York City to proceed with its plan for bringing water from the Catskills to the city.

Ashokan Dam, on Esopus Creek, was the first piece of work, creating a reservoir with a 128 billion gallon capacity. The Catskill water is fed directly into the underground Catskill Aqueduct, which runs 92 miles to Kensico Reservoir in Westchester County, and then to the small Hill View Reservoir at the city's northern edge. From there, two aging water tunnels carry it well into New York for further distribution by water mains. It is these two tunnels that require supplementation by the Third Water Tunnel, which would run from Kensico to several distribution points in the city.

The Ashokan Catskill system is a pressure siphon that carries water under the Hudson River near West Point, through a 14-foot tunnel 1,114 feet below sea level. It was then regarded as the second most impressive engineering job in the history of the United States (the Panama Canal was rated first). But during the construction period, the local gentry objected strenuously to the presence of the thousands of workmen who were building the dam. The immigrant gangs were accused of drinking, fighting, committing felonies, and otherwise terrorizing the farmers almost exactly as their predecessors had harassed inhabitants of the Croton watershed 60 years earlier.

Despite the protests of the local citizenry, the New York water guardians finished the Ashokan Dam and went right ahead with the development of Schoharie Reservoir. This was accomplished by impounding the Schoharie River, which flowed north to the Mohawk, which, in turn, flowed into the Hudson. When the engineers had finished, the Schoharie Reservoir, one of the most beautiful in the system, sent its water in the opposite direction, south, through the Shandaken tunnel, which flows into the Esopus and adds materially to the supply of the Ashokan.

But New York continued to grow, and its per capita water consumption rose with its housing standards and the abandonment of the wells that had fed Brooklyn and parts of Queens. It was becoming clear that not even the fully developed Catskill System provided an adequate water supply. Some prominent city dwellers reopened the argument that the Hudson be used, but the water guardians again won the day and recommended that New York City maintain its high quality water by turning farther westward. The Bureau of Water Supply suggested tapping the tributaries that flow down the western slopes of the Catskills into the Delaware River. This mammoth idea involved spectacularly long water tunnels, though its Hudson crossing was somewhat less spectacular than the Catskill aqueduct's crossing—only about 600 feet below sea level. But the political fireworks outshone the engineering accomplishments.

New York's decision to tap the three headwater streams of the Delaware—the Neversink and the east and west branches of the Delaware itself—roused New Jersey and Pennsylvania officials to the realization that they had a vital interest in the river that forms their mutual boundary. Any reduction in the flows of the Delaware River would not only reduce the water available for the adjacent cities, but it would also raise the possibility of pollution by reducing the amount of water available to dilute it. In addition, reduced fresh water flows might cause salt water permeation from Delaware Bay.

To meet the official challenges to New York's use of Delaware water, in 1961 the states entered into a compact establishing a commission to regulate the use of Delaware River waters. The compact embodied a 1954 decision by the Supreme Court that New York could withdraw 800 million gallons of water daily from the Delaware provided it maintain minimum downstream flows. A kind of interstate referee, called the river master, would decide what the minimum flow should be.

Any agreement between states must be approved by the Federal Government, and in this there was no problem. But individual Pennsylvania and New Jersey water users have subsequently sued for reconsideration of their rights. The latest decision favors the Empire State. However, New York's right to the water could still be reduced, especially if it turns out that the normal flow of the Delaware is less than was calculated when the interstate compact was signed.

But this is by no means the only battle that threatens the water supply. Those who consider fishermen peaceful souls, prone to exaggeration and contemplation in equal quantities, have had little experience with their political intelligence and the tenacity with which they defend their interests. Of all fishing subgroups, none are more effective than that composed of gentlemen who pursue the trout with the artificial fly. From the beginning of the Catskill water system, the fly fishermen and New York City have been locked in battle over the water rights. The same Catskill streams that the city dammed for its water supply—the Esopus, the Neversink, the Schoharie and the East and West Branches of the Delaware—are crucial to America's development of the popular British pastime. The names of these streams mean as much to American sportsmen as the Rubicon and the Nile mean to students of Julius Caesar.

The building of the Ashokan dam backed up miles of Esopus Creek, changing a fly fishing stretch into a big lake, suitable for pickerel and bass. The damming of the Neversink in the Delaware watershed destroyed some of the places where Theodore Gordon tested his theories of fly fishing in Catskill waters. Damming the Delaware's East Branch at Downsville, N.Y., and the West Branch near Cannonsville, reduced these great trout streams to merely overheated trickles in the summertime. The only good thing fly fishermen derived from the Delaware compact was the Shandaken Tunnel, which carries the Schoharie River water, icy cold from the bottom of the Schoharie Reservoir, southward into the Esopus. The injection of the cold clear flow of these waters into the Esopus near Allaben, N.Y., encouraged the fishermen to get a bill passed by the State Legislature. The law requires the water supply people to insure that water released from the reservoirs will keep all downstream flows adequate and water temperatures cool enough for trout to survive. It is not likely that either the New York guardians or the Delaware compact states are terribly happy with this arrangement, their considerations being solely concerned with water supply; but since its adoption, there has fortunately been enough rainfall to satisfy everyone.

The success of the fishermen has stimulated other groups who want to use the reservoirs for recreation, and advocates have an excellent case. Lake Mead behind Hoover Dam on the Colorado River, for example, is open to motor-boating, camping, and other forms of recreation that are proscribed in New York's reservoirs, which constitute some of the handsomest lakes in the entire state. The water supply people fear that the proximity of the reservoirs to truly large centers of population will bring busloads of picnickers, complicating the already difficult protection problems. Camp and picnic grounds would have to be provided and patrolled, sanitary facilities constructed, and the possibility of deliberate sabotage of the water supply would create a constant source of anxiety. In the interest of the people themselves, water officials believe, their access to the reservoirs should be limited. But if the demand for recreation on the reservoirs becomes a clamor, their argument might be difficult to defend.

In the meantime, access to New York's supply system is limited to fishermen with permits. They are allowed to use a specified type of rowboat which must be kept in designated locations.

The Bureau of Water Supply's next fight is with the New York State Power Authority, which wants to erect a pumped-storage hydropower plant on the Schoharie Reservoir. The plant would use surplus nighttime electric power to pump some of the Schoharie water to a new, artificial basin, hundreds of feet above the level of the present reservoir. At peak electric demand times, the water would be released to drive huge turbines, thus augmenting the capacity of distant urban generating stations precisely when they need help.

This ingenious design has been used in many places in the world, taking advantage of natural or man-made bodies of water. But it is not necessarily suited to the New York City reservoir system. The fishermen, for example, object strenuously that it might change the effect of the Shandaken Tunnel, at whose outlet they gather on hot summer days to catch cold-water trout. The source of the Shandaken Tunnel's water is the same Schoharie Reservoir from which the pumped storage power station would take its water and to which it will return the water after it has done its work. The fishermen fear that the water will have been warmed in the process. Worse, they say, the cold stratum of reservoir water at the bottom of Schoharie might be so roiled up in the pumping process that silt from the lake's bottom would be picked up, darkening the Shandaken Tunnel water until it would no longer be habitable for trout. The resolution of this question remains in doubt, although Mayor Edward Koch has given the State Power Authority his blessing.

All of these arguments are relatively trivial alongside the city's one final battle—to get Federal help for its Third Tunnel. The two tunnels that currently connect Hill View Reservoir with the distribution networks in the city's five boroughs were constructed in 1917 and 1936. The growth of Staten Island and Queens and the abandonment of the well systems that once served Queens and Brooklyn are imposing new and greater burdens on them. There is no way for the city to do without either tunnel, so that they can be inspected from inside, and a breakdown or stoppage in one of them would be instantly disastrous. The long-range demands on the system can be met most easily by a third tunnel. Among the benefits of completing all four stages of the project would be to eliminate the need for the Central Park Reservoir, leaving it to the runners and the gulls.

But the United States Corps of Army Engineers has reported that while the tunnel is justifiable, Government help cannot be provided unless it is connected to a plan for increasing the capacity of New York's water system. The Engineers claim that the New York water supply was proved to be inadequate by the long drought of the 1960's. And New York City water officials generally agree that the six-year drought proved the capacity of the system to be about 500 million gallons a day smaller than was expected. In the event of another similar drought, they add, the supply would fall about 240 million gallons short of New York's daily demand. If, simultaneously, the city lost its next fight with New Jersey and

Pennsylvania, and was required to step up its releases of water into the Delaware, the situation could become critical.

The Army Engineers and the city's water officials agree that New York needs more water reserves. But city officials argue among themselves over how high the quality of these reserves should be. Some accept the Army Engineers recommendation that the city tap the Hudson River, although its historic impurities are now complicated by the presence of PCB's, deadly chemicals produced and formerly discarded into the river at Schenectady. The dissenting city officials believe that New York should turn farther north, to the foothills of the Adirondacks, where it might find water of the same quality it found in the Catskills. Of course, it might also find even tougher local resistance to this urban invasion of the countryside.

Another problem with the Adirondack idea is that it horrifies leaders of the environmental movement, who oppose both sides in this battle. They believe that the third tunnel should be completed, but they do not believe that New York City needs more water. They favor conservation facilitated by individual metering, a plan which many experts feel is impractical in an apartment-house city, even if the money could be found to install the meters. They also believe that New York should plug the leaks in the water mains, though no one is really sure whether the tunnels even leak at all. Others argue that a drought, like the one in the 60's, will come only every 400 years. Serious droughts do, in fact, occur on the average of once every 400 years, but they do not happen with the regularity of Halley's comet or the 17-year cicada. So, two droughts could follow one another within a short interval.

For those who find the city's water quality a source of continuing pride in its past and a major hope for the future, the issue is clear. To add Hudson River water to New York's present supply is to degrade one of the few city assets that have remained in prime condition over the years. It would be like diluting champagne with root beer. But with strong opposition from the Army Engineers, environmentalists and even many water officials themselves, the final question remains unanswered: Who will save the fine, clear water to which New Yorkers have long been accustomed? ●

COALITION FOR ASIAN PEACE AND SECURITY

● **Mr. GOLDWATER.** Mr. President, it is reassuring to me, as it should be to every American, to know that a special group has been established to help Congress monitor threats to peace in the Pacific Basin region, and particularly to help insure that the terms of the Taiwan Relations Act are fully respected. The prolonged debate in both Houses of Congress last February concerning details of that defense commitment was clear testimony to the importance that all of us attach to Taiwan's security.

As is well known to all my colleagues, my own position, supported by a 59 to 35 vote in the Senate on June 6, is that the President lacks the constitutional authority to terminate any mutual defense treaty without the approval of the Senate.

Regardless of whether or not the courts eventually sustain my position or the President's it is clear that future security conditions for Taiwan require constant scrutiny here in the United States. Those who have the time and the expertise to monitor day-to-day developments in the region do us a service by alerting us to any factors that jeopardize our Chinese and Asian allies.

For that reason, it is genuinely reassuring to know that men and women of the caliber associated with this coalition will be studying and discussing and analyzing events that could spell danger for peace in Asia, and ultimately for peace throughout the world.

It is particularly reassuring to know that the group will alert the appropriate congressional oversight committees to any such danger and stand ready to provide expert testimony and advice on U.S. policy in the region.

It also must be reassuring to our allies throughout the Pacific Basin who lately have had reason to doubt the credibility of traditional American commitments to their defense. Their reassurance can only benefit our interests in the region, and the interests of global freedom.

Accordingly, I commend all of those associated with the new coalition for Asian peace and security, for their public-spirited desire to donate their time and efforts toward the cause of stability in the Far East.●

DEAN EMERITUS CARROLL W. WEATHERS

● **Mr. MORGAN.** Mr. President, Wake Forest University in my home State of North Carolina is a place that is dear to my heart. I graduated from its law school and now sit on its board of visitors. Over the years, if I might brag a little, its graduates have been a mainstay of the North Carolina Bar and, I note, the Chief Justice of our Supreme Court is a graduate of Wake Forest.

The quality of its instruction always has been superior and it has produced attorneys who have distinguished themselves in their profession and in civic and political affairs. That this has been true is no accident. It is the result of inspired leadership and a rare sort of dedication.

Standing as a giant among those who have provided leadership to the law school over the years is Carroll W. Weathers, long-time dean of the law school who is now retired and living in Winston-Salem. But his interest in the law school is still keen and he still is revered by those who have been associated with him over the years and understand the depth of this affection for the law school and its graduates.

Carroll W. Weathers is the epitome of the southern gentleman. Students remember him as standing tall and erect, impeccably and conservatively dressed, certainly to the manner born. Soft spoken, but stern when required, he provided the personal counsel and encouragement required to see many a young attorney through to graduation in spite of difficulties and temporary setbacks.

Dean Weathers above all believed in his students, for he handpicked them—every one—and his confidence in them helped his students gain confidence in themselves. His respect for his students earned their respect and no person ever left the law school without life time devotion to the dean and the Wake Forest University School of Law.

In short, Carroll W. Weathers is a living legend in North Carolina legal circles, and it is no wonder that graduates and friends of the law school gathered recently to honor the dean. I could not be present because of a conflicting obligation but my friend, law school classmate, and former North Carolina Congressman Horace Kornegay sent me a copy of Chief Justice Joe Branch's comments on that occasion.

Justice Branch's comments were inspiring to me, and I felt that perhaps all those who read the RECORD could benefit from this insight into a man who has held duty above all else and lived by standards which all of us could well strive for.

The remarks follow:

REMARKS BY CHIEF JUSTICE JOSEPH BRANCH

In the eyes of many people, the law is an imperfect instrument, administered by imperfect people. Often they find it humdrum and confusing, an inadequate prescription for the ills which keep man a beleagured creature. Mr. Bumble in Oliver Twist called the law "a ass, a idiot."

Now it is true that there are not many laws in our civilization, with the exception of the Ten Commandments and the Golden Rule, which encourage a man to be brave or dutiful or compassionate or honest.

But I say to you that those who constantly carp at the law are people whose sight is short and whose imaginations are corroded. They are the asses, the idiots. They do not have the vision to see that the law is the edifice on which our civilization is built and that it is a powerful and sublime creation of the mind of man.

There are, of course, many of us who view the law with awe and love. And there are a few people whose lives are rendered great because they perceive the law as the embodiment of order and because they live to tend the gardens of justice.

Such people make the law come alive, and they raise the aspirations of lesser souls. No matter what they accomplish professionally, it is the basic quality of their existences which is their greatest contribution to the law.

My nomination for this elite legion is Carroll W. Weathers who helps make the law great by recognizing its greatness and by abiding by its best precepts.

When President Scales presented the Medallion of Merit to Dean Weathers in February, 1977, he began his remarks by saying:

"When we hear the phrase, 'The majesty of the law,' it seems natural to give it to the personality. For some John Marshall or Roger B. Taney or Charles Evans Hughes was the embodiment of majesty; for others, a row of British chancellors in fine wigs and silken robes. For me, 'the majesty of the law' means Carroll Weathers."

President Scales has already made his nomination, and I am confident that there is no one among us tonight who will enter a brief disagreeing with my opinion, unless, it is the learned dean himself, but I have disqualified him from filing a brief upon this question.

Others will tell you about Dean Weathers' contributions to the School of Law. I remind you that the years of his deanship were preceded by twenty-seven fruitful years in the practice of law. These were years when members of the Wake County Bar often said that when Carroll Weathers gave an opinion on a question of law or certified a title that it was "Weatherized." The word "Weatherized" of course was a synonym for excellence and perfection.

At one time or another he has been a trustee of the North Carolina Baptist Foundation, a judge of the Recorder's Court in Zebulon, Chairman of the Directors of the State School for the Blind and Deaf in Raleigh, a member of the State Senate and chairman of that body's Committee on Constitutional Amendments in 1935, an active and able participant in the work of the American Bar Association and its state and county affiliates, and finally, a member for four years and vice president for two years of the Board of Trustees of what was then Wake Forest College.

When he gave up his practice to come to Wake Forest, Dean Weathers surrendered material rewards, but that is his nature, too. I recently talked with his former law partner who told me that when Carroll Weathers was faced with the decision of whether he would leave his law practice and go to Wake Forest that he never heard him mention money or his own personal well being. The sole question was what is my duty. It is his joy to give to others at his own expense.

One other note about the deanship. When Wake Forest was moved to Winston-Salem in 1956 there was only one building that was completely completed. That was the Law School building. The other buildings were ready for occupancy, but there were still some loose ends of work. Door knobs were missing or light fixtures or window shades. Not so with the Law School. Dean Weathers made repeated trips from the Forest of Wake to the new campus, and in his persistent, gentle manner guaranteed that his charges would be properly housed.

To use the mortal words of the Wake Forest cheerleader: "He don't mess around." Indeed, he never has, because he knew that life is short and that the tasks of the dutiful are many. In the most important analysis, it does not matter whether Dean Weathers stood behind an academic lectern or behind a judge's bench or even before one. The light of his life cannot be hidden. As a lawyer, I thank him for choosing the field of law, and as an alumnus of Wake Forest, I thank him for choosing to come to our School of Law.

I take it that all of you know that he has trouble with his eyes. But if all of us had his vision, we could see to eternity.●

EXPO '82—WHY NOT THE WORST?

● Mr. HATCH. Mr. President, only 2 short years ago, the Carter administration was pledging to reduce pork-barrel spending. Mr. Carter then embarked on an ill-advised crusade against Federal dams and water projects—programs which will directly affect the quality of life for millions of Americans in the next decades.

Now we see that the President was not concerned with cutting pork barrel per se, but only those programs from which he had little to gain in the political arena. This is the revelation found in an article in the November issue of Reader's Digest, by Mr. Kenneth Y. Tomlinson.

Expo '82, as Mr. Tomlinson writes, is indeed a boondoggle that refuses to die. For the benefit of President Carter's friends in Knoxville, Tenn., several small businessmen and homeowners will be uprooted for an energy carnival. As my colleague and friend (Senator WEICKER) remarked, we should be concerned with energy solutions rather than energy carnivals.

Reader's Digest and Mr. Tomlinson are to be commended for bringing the truth of Expo '82 to light. I ask that the article be printed in the RECORD.

The article follows:

THE SHOCKING SAGA OF EXPO '82

(By Kenneth Y. Tomlinson)

One morning in February 1977, three weeks after President Carter's inauguration, Knoxville, Tenn., banker Jake Butcher strolled into the private office of Bert Lance, the newly appointed director of the federal Office of Management and Budget. Lance needed no introduction to Butcher: five months earlier Butcher's bank had loaned Lance $515,000. Nor did President Carter when Butcher, an early political and financial supporter, entered the Oval Office that afternoon. This time, however, Butcher wanted something. "I told them Knoxville would be a great place to host a World's Fair," Butcher later recalled. "It would be good for Knoxville. Good for the Southeast."

It also would be good for Jake Butcher and his friends. In less than seven years, Butcher and his brother C. H. had parlayed huge sums of borrowed money into a powerful 14-bank network, centered at the United American Bank (UAB) in Knoxville but stretching the length of Tennessee. Now, Butcher envisioned a fair, Energy Expo '82, for an 80-acre section of downtown Knoxville, just below the site of a glittering 27-story office building being constructed by UAB associates for the bank's new home. The mammoth project would enhance the value of the $28-million skyscraper, channel millions of dollars through the bank, and provide fat contracts to business interests controlled by members of Butcher's bank board.

Ultimately, Butcher and the White House would mobilize the federal bureaucracy behind this highly dubious exposition. Despite strong reservations by a member of his own Cabinet, President Carter ordered federal funds funneled into the project. The money will financially benefit his close political friend at the expense of the nation's taxpayers and the Knoxville residents who stand to lose their properties.

RAIDING THE TREASURY

In the weeks following his sessions with Lance and the President, Butcher met with other high Administration officials, including Commerce Secretary Juanita Kreps and Treasury Secretary Michael Blumenthal, and in April, President Carter gave his official blessing to Expo '82.* The President directed Administration officials to obtain official certification through the Bureau of International Expositions in Paris; within 24 hours a letter of certification was on its way. But Expo needed more than an official endorsement. The project had no chance of becoming a reality without a massive influx of federal dollars.

A year after Expo received Carter's blessing, the White House dispatched a message to the Department of Housing and Urban Development, demanding to know why HUD officials were blocking a $13.8 million grant for acquisition of the Expo site. HUD Secretary Patricia Harris replied to the President in a lengthy memo detailing the proposal's shortcomings: there was no firm commitment for redevelopment of the property after the six-month exposition closed. No practical plan had been presented for relocating the 62 businesses employing 1377 people that were to be bulldozed for Expo. Moreover, of 300 cities eligible for such HUD grants, Knoxville was among the least needy.

President Carter returned the memo with a handwritten note: "Just let Tennessee people know about problems and help them comply with requirements."

Unfortunately, the people of Knoxville already knew about the problems with Expo, and for many, they centered on Jake Butcher and his associates. In 1975, Butcher had agreed to head the local group that wanted a world's fair in the city. Butcher says he took the challenge out of a sense of civic responsibility. His critics charge that he saw the proposal as a means to feed the demanding appetite of his heavily mortgaged financial empire and propel his ambition to be governor.

Almost overnight, as Butcher was lining up his friends in the Carter Administration, Expo opponents, a group of political novices, collected more than 14,000 signatures on petitions demanding a referendum on the issue. Says University of Tennessee professor Joseph Dodd, "We were united by the conviction that the benefits of Expo would be reaped by a chosen few, while the taxpayers paid the bill."

THE UAB CONNECTION

These fears were justified. When it came time to select a local financial consultant, for example, Expo managers named a firm newly created by two vice presidents of Butcher's bank. The company stockholders, including Butcher's brother-in-law and the bank's legal counsel, all had close ties to UAB. Another company, headed by a UAB director and former member of Expo's governing board, became the project's managing architectural firm, responsible for handing out contracts for construction. But if the project meant a windfall to some, it represented a threat to the goals and livelihood of others.

At 39, Dr. Bergein Overholt was a widely acclaimed medical specialist. From around the nation patients journeyed to his medical center for treatment of stomach and intestinal diseases. Now he and his physician brother were planning to build a privately financed facility, staffed by 40 physicians and another 125 medical personnel. In the name of Expo and "downtown redevelopment," not only was the property for the new clinic to be taken, but the existing medical center as well.

In 1961, high-school band director Tom Hewgley and his wife used their life's savings to convert an abandoned restaurant into a music store. Hard work and a convenient location turned the store into a good business for the Hewgleys and their 20 employees. For the last two years, however, they've lived with the threat that their store would be taken by Expo '82.

The tire business of Sam and Stan Tinsley's, established by their father in 1918, was also located in Expo's way. "What bothered us most," recalls Sam Tinsley, "was how elements of the business community were ready to combine forces with big government to do us in. There's a principle involved bigger than our plot of ground. If politicians and bureaucrats can violate our rights, they can do so to others. That's why we chose to fight."

Indeed, though Expo '82 had the strong backing of the city's business and political establishment, it lacked solid public support. There was overwhelming backing—80 percent according to one poll—for a referendum on the exposition, but the city council flatly rejected the call. Expo supporters argued that since local tax dollars would not be used, there was no necessity for a referendum.

ELECTION TIME

As weeks turned to months, it became clear that Expo's redevelopment plan so lacked merit that, even with the support of the President, the $13.8-million HUD grant could not be justified. So, in June 1978, the President turned to the White House Interagency Coordinating Council to shake the federal money tree for Expo funds. By now, Butcher's campaign for governor was in full swing, and a federal bailout of Expo was an essential part of his strategy. With it, he believed he could neutralize his opposition and roll into the governor's mansion.

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*While Lance assisted Butcher in Washington, he received more than $130,000 in additional loans from Butcher banks, according to a pending criminal indictment.

About a month before Election Day, Butcher, along with Tennessee's Democratic Senator, James Sasser, went to the White House for the Presidential announcement that federal funding for Expo was assured. More than $5 million had been squeezed out of HUD; $4.5 million from the Economic Development Administration; $2 million from the Appalachian Regional Commission and $1.2 million from the Department of the Interior.

Just before the election, Carter flew to Tennessee to assure the state: "You have a true treasure coming up as your governor." But Tennessee voters were getting a different picture. In an exhaustive examination of Butcher's banking empire, the Memphis Commercial Appeal disclosed that "insider" loans to UAB officials and their associates had at times exceeded the total equity capital in the bank itself. For example, Butcher's brother-in-law, a bank director, had outstanding $6 million in UAB loans at one point in 1977 And Butcher, the bank's leading stockholder, was paid more than $350,000 (not including stock dividends), making him one of the highest-paid bankers in the nation.

Despite the President's help, Butcher lost—and around Knoxville he was beaten badly. According to politicians and members of the press, Expo was an albatross around his political neck. Nevertheless, last December, five weeks after Butcher's defeat, President Carter directed the Secretary of State to invite foreign governmens to participate in the energy exposition in Knoxville.

Ignoring their pledge not to involve local taxpayers, Expo leaders got the city council to approve what was in effect an $11.6-million bond issue for redevelopment of the Expo site. The Butcher organization would not let the proposal die.

But the dark clouds over the proposition persisted. Gaping irregularities turned up in President Carter's federal-aid package for Expo. The city of Knoxville had not even applied for two of the four grants announced by the President, nor had local authorities met conditions that had to be fulfilled to get the funds provided in the other two.

As the deadline for Expo property acquisition approached, Knoxville Journal reporter Ernie Beazley took apart the claim of Expo leaders that $25 million in private financing was assured. He also discovered that appraisers for the city's redevelopment commission had grossly undervalued the cost of acquiring the property and the amount needed to relocate industries.

The state of Tennessee had been counted upon to build a $25-million pavilion, but agreed to spend only $10 million. In Congress, plans for a federal pavilion to cost more than $20 million ran into trouble, with Sen. Lowell Weicker (R., Conn.) demanding, "Why does the President insist on spending money on an energy carnival when we need energy solutions?"

GROSS WASTE OF MONEY

Yet Expo '82 is apparently a boondoggle that will not die. Committing $3.4 million of UAB money and attracting pledges from financial institutions in New York and abroad, Butcher moved to shore up the exposition's shaky private financing. To counter cost overruns, Expo planners cut the size of the project from 80 to 67 acres, a move many feel will leave the exposition short of space.

As an attorney for the Tinsley brothers battled in court to prevent the seizure of his clients' property, the executive head of the city's redevelopment commission vowed to condemn the land for urban renewal—with or without Expo. When the commission deadlocked over the issue of forcibly taking property before the exposition is certain to be built, Knoxville's mayor, a Butcher ally, replaced a dissenting board member whose term was up with one favoring immediate condemnation. The appointee is the wife of a UAB advisory-board member.

During President Carter's first months in office, he led a highly publicized campaign against federal pork-barrel programs. At the time, he explained: "I recognize the enormous interest of local chambers of commerce in having [such] money either spent or, in my view, wasted in a community. It creates temporary jobs, and it's a matter of status. But somebody's got to bite the bullet. . . and stop a gross waste of American taxpayers' money."

Surely the Administration must realize that if any project ever fell in that category, Expo '82 does. If the President refuses to recognize Jake Butcher's World's Fair for what it is—"a gross waste of American taxpayers' money"—then constituents should demand that Congress do the job.●

ANOTHER SOVIET FORGERY: THE VANCE REPORT

● Mr. HUMPHREY. Mr. President, the full extent of Soviet forgeries against the United States has not yet been revealed, but it must be brought to the attention of the American public. We must begin to realize the depth of Soviet hostility to our interests on every level of international activity.

On November 13, Senator Garn and I revealed for the first time Soviet forgeries of Presidential level statements. We subsequently suggested to President Carter that he should take a position on Soviet forgeries, because otherwise he would be condoning Soviet duplicity.

Another example of a Soviet forgery, Mr. President, comes from April 1977. At that time there was a forgery directed against Egypt and President Sadat. The Egyptian Embassy in Rome received photocopies of a six-page excerpt of official State Department correspondence ostensibly prepared by a secretary or confidant of Secretary of State Cyrus Vance. The forgery presented excerpts of an alleged report from Secretary Vance to President Carter in which President Sadat, Jordan's King Hussein, Syria's President Asad, and the Saudi, and Kuwaiti leadership were described with considerable invective. The forger said further that because of his ostensible official position, he could not reveal all the secrets at his disposal, but that he was making partial revelations as a plea to "honest journalists to inform the whole world" about the apparent American plot against the Arabs.

Mr. President, this forgery dovetails perfectly with the Soviet propaganda line in the Middle East. It bears all the markings of Soviet origin. We need to ask whether the Soviets were ever requested to retract this forgery. Did the Carter administration ever protest this Soviet forgery? Why does this exposure of Soviet duplicity have to come from outside the executive branch, from a Member of the Senate? Does it suggest an element of timidity and even gullibility within the Carter administration?

I do not know the answers to those questions. I ask them because I believe the American people have a right to know. They especially have a right to know because documents which are starting to surface in connection with the sacking of American Embassies in Middle Eastern countries may very well be forgeries of the type I have identified as the Vance report.●

MAC SHEPARD RECEIVES ROCKEFELLER AWARD

● Mr. DANFORTH. Mr. President, today Macler Shepard will be honored as the recipient of the Rockefeller Public Service Award for his work in "revitalizing communities and neighborhoods." I am proud to say that Mac Shepard lives and works in St. Louis, Mo.

In the words of the judges, Mac Shepard's "resourceful and persevering leadership of Jeff-Vander-Lou, a self-help community group, reversed the trend of decay in a deteriorated 700-block section of St. Louis * * * replacing despair with community pride and self-reliance."

Clearly, community pride and self-reliance are the hallmarks of Mac Shepard's work. With the rubble of Federal housing projects only blocks away, Mac Shepard is justly proud of the fact that his neighborhood group has built over 400 housing units, with another 400 planned. It is also worth noting that, after 15 years of hard work, his organization is on its way to financial independence, with less than a third of its support coming from tax dollars. At the same time, the corporation has paid over $1.5 million in property taxes. As Mac Shepard puts it: "You can't call us welfare people anymore."

Mac Shepard's work was recently the subject of an article which appeared in the St. Louis Globe-Democrat. I ask that it be printed in the Record following these remarks.

The article follows:

[From the St. Louis Globe-Democrat, Nov. 28, 1979]

He Reversed the Trend of a Decaying Neighborhood

(By Tim Poor)

Macler C. Shepard has been a North Side neighborhood hero for more than two decades, first as a local scoutmaster and later as the president of a neighborhood association that has almost single-handedly stemmed the tide of urban decay in his community.

His efforts during the last decade resulted in "the most successful urban rehabilitation story in America today," according to W. L. Hadley Griffin, president of Brown Group Inc., the shoe company that built a factory in the neighborhood.

Shepard received notional recognition this month when it was announced that he will be corecipient of the $10,000 Rockefeller Public Service Award for "revitalizing communities and neighborhoods."

"Shepard's resourceful and persevering leadership of Jeff-Vander-Lou, a self-help community group, reversed the trend of decay in a deteriorated 700-block section of St. Louis . . . replacing despair with community pride and self-reliance," said the judges in announcing the award which Shepard will receive Tuesday.

Shepard, a 60-year-old upholsterer who has lived in the North Side neighborhood for 47 years, saw the area begin to deteriorate in the late 1950s, when factories begin to move out and banks refused to make loans to repair houses.

A native of Marvell, Ark., he moved to St. Louis when he was a child and returned here from a six-year stint in the Army to open an upholstery shop.

When he organized Jeff-Vander-Lou (named for Jefferson, Vandeventer and St. Louis avenues, the major thoroughfares in the area) in 1964, he recalled, he had no grand design in mind for the neighborhood.

"I had a shop here, I couldn't afford to move. We were fighting for the survival of ourselves. But one crisis led to another, and one fight led to another."

Shepard and the organization began what seemed like a never-ending battle against city authorities, financial institutions, insurance companies and absentee landlords who they believed had marked the area for destruction.

"We would stand on the corner of Jefferson Avenue and watch the money coming through in the morning and going back in the evening, but it never stopped here," he said.

Two other residents, Florence Aritha Spotts, a retired schoolteacher, and Hubert Schwartzentruber, a young Canadian Mennonite who ran a local church, teamed with Shepard. They formed the association, which immediately began to battle the local landlords by filing hundreds of complaints in an effort to force the enforcement of housing codes.

The city responded by condemning hundreds of buildings and evicting families. Jeff-Vander-Lou set up emergency housing for displaced families in churches and community centers.

Landlords whose buildings were condemned were eventually willing to sell their property at low prices. One of the major buyers was Jeff-Vander-Lou.

"We were willing to stay here and take what they were going to leave," explained Shepard.

A management corporation was formed to buy and rehabilitate housing with federal financial assistance. The corporation now owns more than 400 housing units and plans to build or rehabilitate another 400 in the next few years.

But Shepard's association didn't stop with housing. It encouraged business to locate in the area and won a major victory when Brown Shoe Co. decided to build a new factory there in 1968, providing more than 400 jobs for the area.

A senior citizens' center, two child care centers, a medical service, job training programs and a renovated shopping district are other benefits the neighborhood has received through his efforts.

"You can just look at the neighborhood and see it's turned around," he said.

He is especially proud of the group's steadily decreasing dependence on tax money for support, which has fallen from 100 percent when the association was formed to 32 percent in 1979.

And the corporation has steadfastly refused tax breaks on its property, paying more than $1.5 million in taxes to the city during the last 10 years.

"If we bring the tax base up we'll be able to demand better services, better schools," he said. "You can't call us welfare people anymore. We can deal from strength rather than weakness in getting services from the city."

As Jeff-Vander-Lou looks to the 1980s, Shepard said the organization will try to attract private investment in commercial businesses by buying, renovating and leasing commercial buildings in much the same way it has done with area housing.

That will, in turn, bring more jobs and make the neighborhood self-sufficient.

Area industries, however, continue to flee from the community and although Shepard is trying to convince many to say, he believes it will be increased services, not industry, that will be the salvation of the neighborhood and of the city.

"If you can't stop a runaway horse, it's best to let it go," he said.

Involvement in city politics by Jeff-Vander-Lou must wait until the neighborhood and the corporation have matured and developed enough to gain some clout at City Hall.

"We've been running to them. But when we build this neighborhood up, they'll be coming to us; then we can get into politics, then they will be talking to us about whole new neighborhood programs. I may not be around then, but that's my dream."

Shepard said the future of the neighborhood will be in the hands of its young residents. He hopes his achievements have "built confidence in the younger leadership in the neighborhood."

"The next 10–15 years are going to tell the story. A new generation will be coming back and taking its rightful place in the neighborhood."●

THE NEED FOR A FUEL ASSISTANCE PROGRAM

● Mr. BAYH. Mr. President, President Carter has now signed into law the Interior appropriations bill, which will provide badly needed funds to beef up the Federal energy assistance program for the coming winter. Indiana will be allocated some $41 million under this measure, with $10 million of the total directed to the programs administered by the Community Services Administration, including the crisis intervention program. An additional $8.6 million will be channeled to SSI recipients in the form of a special energy allowance, and the remaining funds will be used to provide assistance to others in need of help in meeting spiraling energy costs. I hope these funds will be distributed quickly, to meet the needs of those already faced by cold weather in Northern States like my own.

In separate action, the Senate has also endorsed the establishment of an expanded program of Federal fuel assistance to low- and fixed-income Americans for future years. In approving in substance S. 1724, the Home Energy Assistance Act which has been incorporated into the windfall profits tax bill, H.R. 3919, the Senate has devised a program which will help Americans meet the ever-rising costs of home heating on a more permanent basis. As reported by the Finance Committee, H.R. 3919 also authorizes tax credits for lower-middle- and middle-income households designed to help these families cope with rising energy prices and provide some relief from the pressures on family budgets caused by inflation. The need for such action is urgent.

Between 1972 and 1978, as we are all painfully aware, we have experienced an unprecedented increase in energy prices. While inflation has resulted in a 60-percent increase in the Consumer Price Index over this period, fuel oil and coal prices have risen a whopping 152 percent. Wage earners, whose salaries have not nearly kept pace with inflation, have struggled to meet food, energy, housing, and other costs. The problems facing those on fixed incomes have been even more serious, as many of these families have found their budgets pushed to the breaking point. As an example, SSI recipients have seen natural gas and home heating oil prices increase five times faster than their benefits under the SSI program. The situation has indeed reached the critical point.

The elderly, the handicapped and the poor, those who can least afford higher and higher energy prices and who are most susceptible to physical danger stemming from inadequate heat in the winter, are being forced to bear a disproportionate burden in terms of energy costs. Increases in fuel prices have eaten up a much larger share of the budgets of lower-income families than of other households. In 1978, the average American family spent 4.7 percent of its annual income for household energy. However, on a national average, low-income households were forced to use 18.4 percent of their limited incomes on fuel and utilities that year. The tremendous increases in the last 11 months in energy costs may well mean that many elderly, low-income citizens and others living on fixed incomes will be forced to spend up to half of their incomes paying for their fuel this winter.

We have often heard it said that no American should be forced to make a choice among food, fuel, medical care, clothing and other necessities of life. Yet the pressures of skyrocketing energy bills on American families may make such choices inevitable in some cases unless timely assistance is provided. None of us needs to be reminded that in the recent past, Americans have frozen to death in their homes because their heat has been cut off. We have a moral responsibility to prevent the repetition of these tragedies. We must act now to assure that the burdens of energy costs do not overcome the resources of individual Americans.

More than half of our States have begun local efforts to assist the elderly, disabled and poor in paying energy bills. These programs encompass a variety of approaches, including direct financial assistance to households, utility rate reductions, weatherization assistance and conservation measures. In Indiana, the State legislature initiated Project SAFE this year, which will provide assistance through a vendor reimbursement plan to elderly and disabled households. An estimated 90,000 households are eligible to participate in the program, which provides up to $200 in assistance for heat and electric bills.

At the Federal level, the weatherization and crisis intervention programs established by Congress in 1977 have made significant contributions to the health and safety of many low income and elderly Americans. But we must recognize that the resources allocated to these programs have not been sufficient to meet the need, and many who need and deserve help have not been reached by the existing programs. In addition, these programs have faced substantial administrative problems. The Senate has built on the experience gained in these programs in drafting the outlines of a major new Federal effort for S. 1724.

S. 1724 will enable us to take advantage of the experience of the individual States in this area by leaving the bulk of the authority for the formulation of programs with State authorities. This is a significant step forward in Federal energy policy, as it will enable us to draw upon resources already in place to provide for the most efficient and timely establishment of a coordinated approach.

To participate in the new program, the States will be required to submit to HEW a proposed State-administered plan, drawn under Federal guidelines sufficiently flexible to allow each State to develop the plan most closely tailored to meet the needs of its citizens. Assistance may be provided through either direct payments or credits to energy vendors, including utilities as well as fuel oil suppliers, or through payments to eligible households. Priority assistance will be directed to the elderly, or households including severely handicapped individuals.

Other families will be eligible if their income is at or below the Bureau of Labor Statistics Lower Living Standard income level. S. 1724 further requires that the States implement comprehensive outreach programs to enroll eligible families.

Funding will be distributed to the States under an allocation system which considers the number of eligible households as well as the relative severity of a State's climate. The final funding formula agreed upon represents a compromise among a number of approaches which were suggested to the Senate during the course of our debate. I feel strongly that we should direct the bulk of our efforts toward helping individuals meet those energy costs most directly associated with heating in the winter. A lack of adequate heat can be life-threatening for many of our citizens, and our objective must be to do all that we can to see to it that this most essential need is met.

The funding authorized under this proposal for fiscal 1981 and 1982, which will be subject to appropriations, should enable us to meaningfully assist a far greater number of Americans than are presently served by fuel assistance programs. Based on the eligibility guidelines set out in the program, an estimated 18 million households will be eligible for assistance. In Indiana, 391,000 households will be eligible for aid in coming winters, and approximately $84 million would be available in 1981 for the expanded program.

I hope, Mr. President, that we can reach final agreement on the features of a Federal home energy assistance program in the near future. We really do not have very much time to get geared up for a program of the size contemplated in S. 1724, and we must assure the States that they will have adequate time to get a workable plan in place before next winter. One of the top priorities for this Congress has been to provide a fuel assistance program to offer the maximum assistance to the most Americans. Prompt congressional approval of this proposal is essential to meet this important goal.●

COALITION FOR ASIAN PEACE AND SECURITY

● Mr. McCLURE. Mr. President, I was pleased to note the recent formation of the Coalition for Asian Peace and Security. Under the leadership of Dr. Ray Cline, this group of distinguished public figures will monitor developments in Asia and the Western Pacific with special attention paid to safeguarding the freedom and independence of the Republic of China. When Congress passed the Taiwan Relations Act, we declared that any attempt to undermine the future of Taiwan by other than peaceful means, including boycotts or embargoes, would be regarded as a threat to the security of the region and of grave concern to the United States. By alerting Congress and the American people to any attempt to circumvent, evade or weaken our commitments to our anti-communist allies in Asia, the Coalition will play a vital role in restoring integrity to our commitments and respect for our promises. I look forward to working with Dr. Cline in this task, and ask that the press release announcing the formation of the Coalition be printed in the Record.

The press release follows:

Coalition for Asian Peace and Security Formed by Noted Public Figures

The "Coalition for Asian Peace and Security" has been incorporated in the city of Washington, D.C. by a group of distinguished American scholars, retired military and diplomatic officers, and other leading public figures.

The announcement was made by Dr. Ray S. Cline, Executive Director of the Georgetown Center for Strategic and International Studies, who will serve as President of the new Coalition. Dr. Cline has served with the U.S. Government for more than thirty years as a senior intelligence officer, most recently, from 1969–1973, as Director of the Bureau of Intelligence and Research in the Department of State.

Members of the Advisory Board of the new Coalition for Asian Peace and Security include Ambassador U. Alexis Johnson, Ambassador Clare Boothe Luce, Admiral Thomas H. Moorer, General Richard G. Stillwell, Professor Parris H. Chang, Professor Paul Seabury, Professor Richard Pipes, Professor Richard Walker, Dr. Edward Teller, Sol C. Chaiken, Leo Cherne, Albert Shanker, and Ben Wattenberg among others. A complete list of the Advisory Board members is attached.

"The Coalition's central purpose," Dr. Cline stated, "is to monitor developments in Asia and the Western Pacific region, and to identify real or potential threats to the security of nations in that area." He said that special emphasis would be given to safeguarding the peace, security, and freedom of the Republic of China on Taiwan in accordance with the Taiwan Relations Act, approved by Congress and enacted by the President in April 1979.

The Taiwan Relations Act declares that "peace and stability" in the Western Pacific "are in the political, security, and economic interests of the United States," and that "any efforts to undermine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, is a threat to the peace and security of the Western Pacific area and of grave concern to the United States." Cline stated, "Our objective is to alert Congress and the American people immediately to any threats or harassment which jeopardize the independence of our Asian allies."

Specific functions of the Coalition, according to Dr. Cline, will include careful study of political and military events in the Asian region, sponsorship of conferences to discuss their implications, publication of press notices and scholarly materials, and recommendations for Congressional action—all designed to focus attention on threats to Asian stability. In this manner, the Coalition will assist Congressional committees in meeting their oversight responsibilities, and in developing recommendations concerning the defense needs of Taiwan.

In addition to Dr. Cline, the Coalition's Board of Directors includes James C. Roberts and Robert L. Downen of Washington, D.C., both specialists in research on Congressional treatment of strategic and foreign-policy issues.●

● Mr. WARNER. Mr. President, on October 5 of this year, I had the pleasure of attending the press conference announcing the formation of the Coalition for Asian Peace and Security, a new organization one of whose objectives is to insure that the provisions of the Taiwan Relations Act are faithfully observed by our Government. I want to express my full support for the important work the Coalition is doing. Our country has had a long and cordial relationship with the Republic of China on Taiwan and I know the American people wish to see this close relationship maintained between our two nations.

In addition, we wish to see the preservation of a free, secure, and prosperous Taiwan, and the Congress has gone on record to this effect by amendments it adopted to strengthen the Taiwan Relations Act. One of the functions of the Coalition's distinguished Board of Advisers will be to assist us in assuring that the terms of this act are faithfully executed.

Preserving the stability of the Western Pacific region—and the security of our longtime ally, the Republic of China on Taiwan—are important concerns of the United States and the Coalition for Asian Peace and Security can play an important role in helping achieve these objectives. I congratulate Dr. Cline and the other directors on the launching of their enterprise and I look forward to working with them in the future.●

● Mr. HUMPHREY. Mr. President, I was pleased to be able to participate in the press conference on October 5 marking the formal creation of the Coalition for Asian Peace and Security. It is a group well-suited to the needs of the moment for, as I said at the press conference, there is no other area in the world where U.S. interests are necessarily better served by stability and peace. As a nation, we rely heavily on the peaceful resolution of controversy in that region to insure our own economic and defense requirements.

Flanking the borders of the Soviet Union and Communist China, the Northwest Pacific region remains well within the traditional defense perimeter strategically connected to U.S. security interests. Our long-standing allies—Japan, South Korea, Taiwan, Malaysia, and the Philippines—deserve no less than our constant vigilance against threats to their prosperity and well-being. If ever there were a place where U.S. commitment and resolve deserve to be demonstrated, it is in the Asian-Pacific region, where vital sea lanes, markets, and defense bases are located.

The Coalition for Asian Peace and Security provides a suitable organ for channeling information about factors that may jeopardize those interests. As such, it can serve as an additional set of eyes and ears for those of us in the Congress who are charged with the responsibility of monitoring the region under mutual defense pacts and the Taiwan Relations Act.

I am pleased to join with my colleagues in lauding the efforts of the coalition, and in wishing it much success.●

● Mr. DOLE. Mr. President, I think the events in Iran of the past few weeks have impressed on all of us the value and the necessity of having secure allies in strategic regions of the world, both for the sake of protecting U.S. interests and for the sake of maintaining international stability. Once we undermine or otherwise fail to support a faithful ally in any part of the world, we subject American credibility and international stability to the whims of fate.

Barely 18 months ago, we had a strong and reasonably stable ally situated in the heart of the oil-rich Persian Gulf area; today, we are suffering indignities inflicted by a barbarian successor regime that taunts our weaknesses and dares us to respond. Both the stature of the United States in the Middle East, and the future of world peace are seriously threatened.

In another part of the world today, we retain an important strategic alliance with several faithful friends: Japan, South Korea, and Taiwan. But the preservation of stability and of American commitments to the fragile western Pacific area are by no means guaranteed. Political upheaval in Korea leaves it unusually vulnerable to external threats. The end to diplomatic relations and to a formal defense treaty between the United States and Taiwan leave its future security uncertain.

Just recently, the People's Republic of China has joined North Korea in demanding the final withdrawal of all American defense forces from South Korea. It continues to insist upon complete termination of all U.S. security ties and arms sales to Taiwan. Soviet expansionism, both direct and through its client Vietnam, continues unabated.

Clearly, this is not a time when we can predict with confidence that peace and security will prevail throughout the Asian-Pacific region for the foreseeable future. Indeed, American withdrawal and retreat from our traditional commitments in the region would virtually guarantee just the opposite. We have had a consistent record of congressional testimony to this effect from expert military and scholarly specialists during the past several months. The message is that this is no time to reduce or place into question our commitment to the Asian region—this is the time to reaffirm our traditional pledge of support to faithful allies, and to closely monitor potential threats to their safety.

The new Coalition for Asian Peace and Security is established at a time when its professional service can be of real value to Congress in tracking developments throughout Asia. The men and women who are associated with the coalition represent some of the finest minds in America today, and I feel sure they will come forward with appropriate testimony and advice with regard to future Asian stability when called upon to provide it to the Congress of the United States.

Their attentiveness to any destabilizing threats will help reassure our allies that the American people care about their future security, and may help prevent any "Iran's" in that part of the world. I commend the coalition for its worthy objectives and wish it well in its efforts. The president of the new coalition, Dr. Ray Cline of the Georgetown Center for Strategic and International Affairs, and his fellow board members, James C. Roberts and Robert L. Downen, are distinguished specialists in research on congressional treatment of strategic and foreign policy issues. The expertise they and their advisory board bring to these issues will be greatly appreciated.

Mr. President, I ask that the list of these expert contributors to our knowledge and formulation of Asian foreign policy be printed in the RECORD.

The material follows:

ADVISORY BOARD: COALITION FOR ASIAN PEACE AND SECURITY

Murray Baron, Former Trustee, Freedom House.

Admiral Arleigh Burke, USN (Ret.), Former Chief of Naval Operations, Chairman Emeritus of Georgetown Center for Strategic and International Studies.

Sol Chaikin, President, International Ladies Garment Workers Union.

John Chamberlain, Syndicated Columnist.

Dr. Parris H. Chang, Professor, Department of Political Science, Pennsylvania State University.

Leo Cherne, Executive Director, Research Institute of America.

Dr. Victor Fediay, President, Institute of American Relations.

Lt. Gen. Daniel O. Graham, USA (Ret.), Former Director, Defense Intelligence Agency, Department of Defense.

Bryce Harlow, Former Special Assistant to President Gerald Ford.

Dr. Sidney Hook, Philosopher, Hoover Institution.

Dr. Chalmers Johnson, Chairman, Department of Political Science, University of California at Berkeley.

Hon. U. Alexis Johnson, Former Undersecretary of State for Political Affairs.

Hon. William R. Kintner, Director, Foreign Policy Research Institute, University of Pennsylvania, Former Ambassador to Thailand.

Dr. Jeane Kirkpatrick, Levey Professor, Georgetown University.

Hon. Clare Boothe Luce, Former Ambassador to Italy.

Warren Meeker, Chairman of the Board, Research Institute of America.

Hon. William Middendorf, President, Financial General Bankshares, Inc., Former Secretary of the Navy.

Admiral Thomas H. Moorer, USN (ret.), Former Chairman, Joint Chiefs of Staff.

Michael Novak, Syndicated Columnist.

Dr. Howard Penniman, Professor of Government, Georgetown University.

Dr. Richard Pipes, Baird Professor of History, Harvard University.

Dr. Stefan Possony, Professor, Hoover Institution, Stanford University.

William Rusher, Publisher, National Review.

Dr. Paul Seabury, Professor of Political Science, University of California at Berkeley.

Albert Shanker, President, American Federation of Teachers.

Dr. Gerald Steibel, Managing Editor, Research Institute of America.

General Richard G. Stilwell, USA (ret.), Former Commander, United Nations Forces, Korea.

Rabbi Marc Tanenbaum, National Interreligious Affairs Director, American Jewish Committee.

Dr. Edward Teller, Physicist.

Dr. Frank Trager, Professor, International Affairs, Director, National Security Program, New York University.

Dr. Cory Ser Vaas, Editor & Publisher, Saturday Evening Post.

Dr. Richard L. Walker, Director, Institute of International Studies, University of South Carolina.

Ben Wattenberg, Chairman, Coalition for a Democratic Majority.

Richard Whalen, Author.

Dr. Eugene P. Wigner, Educator and Nobel Laureate.●

EMPLOYEE-SHIPPER OWNERSHIP PLAN FOR THE MILWAUKEE RAILROAD

● Mr. BAUCUS. Mr. President, pursuant to the Milwaukee Railroad Restructuring Act (Public Law 96-101), a coalition of Milwaukee employees and shippers known as New Milwaukee Lines has filed a reorganization plan for the Milwaukee with the Interstate Commerce Commission.

The Milwaukee Railroad Restructuring Act requires the Commission to approve this plan within 30 days if it finds it to be feasible.

If the Commission finds that the plan is feasible, it shall submit its finding to the bankruptcy court. Within 10 days after the date of submission, the bankruptcy court must determine whether the plan is fair and equitable to the estate of the Milwaukee Railroad.

If both the Interstate Commerce Commission and the bankruptcy court approve the plan, the proponents will have until April 1, 1980, to implement the plan.

Mr. President, the New Milwaukee Lines proposal envisions that employees will acquire a substantial portion of the equity of the new railroad through an employee stock ownership plan. New Milwaukee Lines has applied to the Economic Development Administration and the Farmers Home Administration for Federal loan guarantees to fund the employee stock ownership trust. Because of the importance of these loan applications to the ultimate success of the New Milwaukee Lines proposal, it is important that the agencies act quickly on these loan applications.

I submit for the RECORD the following copy of the executive summary of the New Milwaukee Lines proposed employee-shipper ownership plan.

The material follows:

New Milwaukee Lines Employee-Shipper Ownership Plan

GLOSSARY

(1) "Abandonment proceeding" refers to the proceeding before the Interstate Commerce Commission by the Trustee in August 1979 seeking permission to abandon the Milwaukee Road's lines west of Miles City, Montana. The proceeding was given Docket Number AB-7, Sub. No. 86F and is entitled Richard Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment—Portions of Pacific Coast Extension in Montana, Idaho, Washington and Oregon.

(2) "Booz-Allen" and "Booz, Allen studies" respectively refer to Booz, Allen—Hamilton, the consulting firm employed by the Trustee, and its "Strategic Planning Studies" which were performed for the Trustee.

(3) "Consulting Center" or "CCI" refers to the Consulting Center, Inc., a Virginia-based consulting firm that established and managed the project team which produced the operating and financial data and analyses contained in this Plan.

(4) "ESOP" refers generally to an employee stock ownership plan that is capable of obtaining certain favorable federal income tax treatment, and, where the context so indicates, to the particular ESOP that this Plan proposes be established as part of the capital structure for the New Railroad.

(5) "Milwaukee" or "Milwaukee Road" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

(6) "MRRA" means the Milwaukee Road Restructuring Act, P.L. 96-101.

(7) "NewMil" means New Milwaukee Lines, a nonprofit corporation composed of representatives of employee coalitions and shippers.

(8) "New Railroad" is the term used in this Plan to refer to the company that will own and operate the rail system to be established under this Plan.

(9) "Northern tier" refers to the states of Minnesota, North Dakota, South Dakota, Montana, Idaho, Oregon and Washington.

(10) "Pacific Coast Extension" or "PCE" means that portion of the existing Milwaukee Road west of Miles City, Montana. Historically, the expression "Pacific Coast Extension" may have referred to the Milwaukee lines west of Mobridge, South Dakota. Since, however, the former definition was freely used in the abandonment proceeding, we adopt that usage here.

(11) "Pacific Rim countries" refers to the developed nations located on or near the Pacific Coast of Asia, particularly Korea, Japan, China and Taiwan.

(12) "Plan" means the employee-shipper ownership plan filed by NewMil under section 6 of the MRRA.

(13) "Reebie" and "Reebie Study" respectively refer to Reebie Associates and its "Traffic Effects Study of the Viability of the Western Lines" performed for the Federal Railroad Administration.

(14) "Reorganization Court" and "reorganization proceeding" respectively refer to the United States District Court, Northern District of Illinois, Eastern Division, and the proceeding in that Court for the reorganization of the Milwaukee Road, captioned *In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company*, Debtor, Docket Number 77 B 8999.

(15) "Reorganization Plan" and "Milwaukee II" refer respectively to the plan of reorganization filed by the Trustee on August 10 in the reorganization proceeding, and subsequently with the Interstate Commerce Commission, and to the railroad configuration proposed in that plan.

(16) "SORE" refers to the Association to Save Our Railroad Employment, a coalition of past and present Milwaukee Road employees.

(17) "Trustee" means the Trustee of the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

I. EXECUTIVE SUMMARY

Introduction

The Milwaukee Road filed its petition for reorganization on December 19, 1977. The reorganization proceeding has been complicated and costly litigation in which a wide range of parties—the Trustee, the railroad's creditors and shareholders, rail labor, shippers, various agencies of the Federal government, a number of states, and many others—have all been competing to protect their particular interests. The railroad has lost nearly $200 million since its petition was filed.

This past autumn was a particularly bleak period in the proceedings. In late September of 1979 the reorganization court found that the railroad was literally "cashless." The railroad's creditors introduced an analysis demonstrating persuasively that the scaled-down "Milwaukee II" system previously proposed by the Trustee was unlikely to survive. The parties to the reorganization proceedings seemed to be hopelessly at odds with each other with little, if any chance, that the main parties to the litigation would ever agree voluntarily to a compromise resolution. No early end to the crisis appeared possible.

On November 4, 1979, the President signed the Milwaukee Railroad Restructuring Act ("MRRA"). This statute ordered the Interstate Commerce Commission and the reorganization court to give prompt and expedited consideration to a plan for saving the railroad by reorganizing the Milwaukee into an employee and shipper-owned carrier operating a restructured and self-sustaining system. The statute provided funding to keep the entire railroad operating during the period required for consideration of this alternative and granted the reorganization court sweeping powers to quickly approve abandonments on all lines not included in the employee and shipper owned system. If an Employee-Shipper Ownership Plan, as contemplated in the statute is not approved by the commission and court and implemented by NewMil on or before April 1, 1980, MRRA precludes any directed service on the Milwaukee system until April 1, 1981.

New Milwaukee Lines ("New Mil"), a not for profit corporation created under the laws of the State of Washington, has been organized by concerned employees and shippers, joined by representatives of government, for the purpose of forming, obtaining funding for, and preparing and processing various applications for approvals for a new company that will purchase and operate a substantial portion of the bankrupt Milwaukee Railroad's present system.

The present document represents NewMil's specific Employee-Shipper Ownership Plan for the reorganization of the Milwaukee Road. Adoption of the proposals contained in this Plan will enable the most essential lines of the present Milwaukee Road to be operated as a money-making private railroad. The railroad proposed here will provide valuable, and rapidly improved, service to shippers and states that badly need rail transportation. Moreover, the proposals contained in this Plan, when coupled with the funding provisions and summary abandonment powers contained in the new statute, make it possible for the proposed reorganization to be accomplished on terms that are scrupulously fair to the railroad's creditors, shareholders, and employees. All of these interests receive substantially more generous treatment under the present Plan than they were accorded under any other plan that has been filed to date with the Commission. Indeed, based upon preliminary discussions with representatives of most of the major interests represented in the reorganization proceedings, NewMil is cautiously optimistic that the proposals contained in this Plan may form the basis for a reorganization of the carrier that will be supported by many, and possibly all, of the former antagonists.

This Executive Summary briefly describes the central elements of NewMil's Plan. Detailed discussions of each of the subjects treated here follow in the body of the Plan.

A. The New Railroad's System

NewMil's Plan proposes that a new corporation ("New Railroad") be formed to operate a substantial portion, but not all, of the Milwaukee Road's present system. The routes to be included in the new system are shown on Map A. The proposed system extends from the North Coast Ports of Seattle, Tacoma and Portland through the Twin Cities to Milwaukee, Chicago, and Louisville, and also includes a number of important feeder lines. The system's base route mileage will be approximately 3,550 miles. Certain of the system's lines—those shown in green on Map A—are still being subjected to blocking and other analyses by New Milwaukee Lines' traffic consultants.

The new system proposed is for a single system comprised of (i) a base system for which the financial analysis is, with one exception, complete and (ii) contingent lines that will be included in the final system if (1) it can be determined that the line will make a positive cash contribution to the system (whether from operating revenues, surcharges or subsidies), (b) any required rehabilitation will be borne by a third party such as a state agency or shippers, (c) all contingent lines taken on a whole do not adversely affect the overall revenue and expense structure of the resulting system, and (d) arrangements for compensation to the Estate, for the included contingent lines do not adversely affect the cash flow or financial positions of the New Railroad during its first six years of operation. As discussed more fully in the body of the Plan, compensation to the Estate is required since the conclusion that the Plan is fair and equitable to the Estate assumes a system of base lines only. If contingent lines are added to this base system, the system's total route mileage will be increased accordingly.

B. The new railroad's level of service

New Railroad will concentrate all of the Milwaukee Road's present fleet of equipment and locomotives, and more than $540 million worth of modern new cars and rebuilt boxcars, on a system with approximately half as many route miles as the present Milwaukee system. New Railroad will immediately return to fully normalized maintenance on all of its equipment and track. In addition, an ambitious seven-year program of rehabilitation will be undertaken to return the track structure and equipment fleet to truly competitive levels.

These programs are designed to permit safe operations at 25 mile-per-hour speeds on all of New Railroad's major line segments by the end of its first year of operations and a minimum mainline speed of 40 miles per hour by the end of the third year of operations. By the end of 1984, the fifth year of operations, 85 percent of the system will have been rehabilitated to competitive track standards.

New Railroad's service will not only be faster than that provided by the Milwaukee today: Service will also be more frequent and more dependable. More and better equipment will be moving over a rationalized and rehabilitated system. The result will be improved turn-around times, significantly expanded ability to meet shipper demand, and predictable delivery dates.

New Railroad will employ approximately 7,900 employees in 1980. Approximately 9,200 employees will be needed by 1982. The present Plan encompasses commitments from rail labor to participate in an innovative labor management task force that will be created to fashion changes in operating practices, and an employee stock ownership plan ("ESOP") designed to give New Railroad's employees a substantial ownership stake in their company. Both will result in significant improvements in labor productivity for the new company.

Even more importantly, the Milwaukee's employees will be given a chance to operate a modernized and rehabilitated system. The Milwaukee's employees have managed to retain their reputation for high quality, loyal service despite the disintegration of the present system that has been going on around them. For the first time in years, these employees will be given an opportunity to show what they can do with a physical system that is as good as they are.

New Railroad will provide a level, and quality, of service that bears no resemblance to the performance of the present Milwaukee Road.

C. Financial Performance

Based upon the detailed projections prepared by NewMil's expert consultants, and taking into account all projected rehabilitation expenditures, New Railroad is expected to lose money in its first two years of operation, then turn around during the third and fourth years, and make rapidly increasing profits thereafter. New Railroad's annual adjusted net income for the seventh year of the projected turnaround period is expected to be approximately $60 million. New Railroad is expected to attain a positive cash flow for the first time in its fourth year of operations and to have a cash flow of nearly $60 million by 1986. New Railroad's pro forma income and cash flow statements are attached as Exhibits VII–A and VII–B.

These projections reflect the fact that the revised system proposed in this Plan has an earning potential that the present Milwaukee system does not. By concentrating existing and new equipment, maintenance efforts, rehabilitation work and the labor force on the system's main money-making lines, the New Railroad can pursue a realistic turn-around strategy that would not be possible if the available resources had to be spread over a much larger, and costlier, system.

Moreover, the new system's traffic configuration will differ sharply from that of the present system. Much of the Milwaukee's present system operates in areas plagued by substantial overcapacity in their general transportation systems. A number of the Milwaukee's lines, for example, cover routes that the Department of Transportation classifies as "corridors of excess capacity." All carriers that operate in these areas suffer from intense competition with each other, and from other modes of transportation, that has resulted in depressed rate structures. Moreover, the traffic moved in these areas is costly to carry by rail. Substantial per-car costs are incurred because of the frequent switching and extensive yard times endemic in congested systems carrying large amounts of short-haul traffic. The Rock Island and the ICG are but the latest examples of marginal midwestern carriers that have found it difficult or impossible to survive under such conditions.

NewMil provides a realistic opportunity to deal with some of these problems. The Labor Management Task Force concept will be employed to help improve efficiency in moving cars through terminals. The Task Force will also be effective in helping to introduce operating efficiencies that can turn marginal traffic into profitable traffic and simultaneously strengthen the New Railroad positions in highly competitive markets.

The fact that other railroads are in financial trouble can lead to opportunities under the "401" process. New Railroad can work with other carriers directly and with the Federal Railroad Administration to address the problems of excess capacity. At the same time the New Railroad can strengthen the traffic flows in those markets to which it is committed and help other carriers improve traffic in areas that cannot be served by the New Railroad.

The new railroad proposed here is designed to seek a different kind of traffic. The long-haul, high revenue, relatively low cost per car, traffic available to the new company over the transcontinental mainline and other long-haul arteries in the present Milwaukee system offers the new system its best chance to survive and prosper. It is no accident that the five major railroads that provide transcontinental service to the west are today among the nation's healthiest rail carriers. These railroads have concentrated their efforts on developing traffic configurations that permit revenues to be maximized with minimal operation expense.

NewMil and its consultants regard the detailed financial projections contained in Exhibits VII–A through VII–G as conservative. Indeed, there is good reason to believe that these projections substantially understate New Railroad's true potential for successful financial performance. The projections have intentionally excluded a number of important opportunities that NewMil believes are likely to be available to New Railroad to significantly expand its tonnages of transcontinental and other long-haul traffic. Long-haul bulk commodity traffic—particularly in coal, grain, containerized export-import shipments and lumber—recently have become available to the Milwaukee in unprecedented volumes. Substantial growth in all such traffic is projected in the future. The consultants that prepared this Plan's financial projections, however, deliberately excluded the revenue opportunities created by these developments from their projections.

In order to ensure a conservative and cautious analysis, the projections were based instead on the traffic levels projected by Booz-Allen and Hamilton, the Trustee's expert consultants, coupled with a small number of specific movements discounted by an appropriate probability analysis described to the consultants in personal interviews they conducted with specific shippers. This methodology reflects the proper concern of NewMil's consultants that only conservative and generally agreed-upon revenues be included in the financial forecasts upon which the various plans are based.

If this plan is approved and implemented, however, the new company will be running a railroad, not defending a methodology. NewMil believes that the forecasts used here show only a fraction of the actual revenue opportunities that will be available to a properly-managed, rehabilitated transcontinental carrier serving the Northern Tier in the coming decades.

NewMil believes that one additional factor will heavily influence the ability of New Railroad to make money. The employees of the present Milwaukee Road, many of whom are third and fourth generation members of "Milwaukee families," have a loyalty and concern for the success of this railroad not often encountered in any industrial enterprise. The major restructuring and rehabilitation of the system proposed in this Plan, the productivity commitments that rail labor has made, and the fact that these employees will become part owners of the new company through their ESOP, when combined with the traditional commitment that Milwaukee employees have always made to the success of their company, will ensure an employee contribution of profound importance to the financial performance of New Railroad.

D. Implementation of the Plan

1. Assets to be acquired and acquisition procedures:

The plan would be implemented by the acquisition by New Railroad of all the assets necessary to operate the New System and the assumption of certain specified liabilities of the Milwaukee. After necessary proceedings under MRRA, implementation will proceed in two phases. In the first, assets to be transferred will be identified in greater detail and transition mechanics will be refined and expanded. These details described in the plan will be included in a comprehensive plan which will be submitted to the Reorganization Court with requests for the necessary orders authorizing and directing the transfer of assets and assumption of liabilities. Also, in this period, a preferred alternative transfer mechanism having certain advantages of economy, simplicity, and speed, but intended to accomplish the same result, will be explored to determine whether certain limitations apparently precluding its utilization for the ultimate transfers can be overcome. In the second phase the Reorganization Court will consider the mechanical transfer procedures contained in the acquisition plan and after proceedings limited to the consideration of those issues, will enter the necessary orders authorizing and directing the Trustee to take the necessary action to conclude the transaction.

Assets now committed to railroad service but not included in the New System would be ordered abandoned pursuant to the procedures established in MRRA; the Estate would therefore retain those assets free of the obligation for service, permitting prompt disposition thereof in the bankruptcy proceeding.

2. Capital requirements and financing for new railroad:

During the initial phase of the implementation process, arrangements would be completed for the financing of New Railroad. The financing would be accomplished by the issuance of redeemable preference shares of New Railroad under Section 505 of the 4R Act, the issuance of guaranteed debt obligations under Section 511 of the 4R Act, and borrowings guaranteed by the EDA or FMHA, or both, which would finance the acquisition of common stock by an ESOP trust, and by investment by shippers. The redeemable preference share financing will provide approximately $101 million in 1980 and 1981 for the purposes of rehabilitation and improvement of properties transferred to the New Railroad that carried high average daily tonnage during the previous three-year period. The guaranteed borrowings would provide approximately $22.8 million for equipment rehabilitation and a new yard at Fife, Washington. Federal financing programs, in general, offer to the New Railroad both the advantages of low average annual costs of capital and deferrals of debt service obligations to years of significantly improved performance.

3. Equity ownership and management of new railroad:

The ESOP trust would acquire, with funds provided under federal loan guarantee programs just described, $15 million of the common stock of the New Railroad. The preliminary investigation described in the plan indicates a willingness of shippers to invest at least $10 million in New Railroad. NewMil management anticipates that when the details of the plan are available for consideration by the shippers it will be possible to obtain shipper investment of $15 million in the form of common equity. This is consistent with NewMil's desire that the common stock of New Railroad be owned by the ESOP trust and the shippers in equal parts. The projections and the pro forma statements included in the plan reflect these financing assumptions, except that in the case of shipper investment they conservatively assume investment of $10 million in the form of a noncumulative 12 percent preferred stock.

The Board of NewMil has begun an ambitious program for the selection of a management team having the experience, background, commitment, and ability to insure the success of New Railroad, including a search for persons outside the Milwaukee Road and the NewMil organization to become New Railroad's chief executive officer and chief operating officer. In structuring new management strategy, NewMil recognizes the importance of continuity. NewMil's Board, reflecting the viewpoints of executives of shippers experienced in the operation of their own businesses and in the importance of transportation to the development of that business, representatives of local government having somewhat different perspectives and representatives of labor bringing yet a third viewpoint, is uniquely qualified for this task of management selection.

E. The Value of New Milwaukee Lines Proposal to the Present Creditors and Shareholders of the Milwaukee Road

The NewMil Plan offers to the estate, under legal standards, an arrangement which is fair and equitable. Two alternative analyses of the impact on the estate are presented in the body of the Plan—an analysis based on present values to it of earnings power and of net liquidation values. Under either analysis, the estate is more valuable to creditors and stockholders without a railroad than with it. In addition, without the railroad the liabilities of the estate are significantly reduced, dramatically emphasizing that the NewMil Plan offers to the estate the most favorable opportunity for satisfying the interests of creditors and stockholders.

F. Importance of the New Milwaukee Lines Proposal to the Public Interest

Section 77 of the Bankruptcy Act requires that any plan of reorganization provide for the convenience and necessity of the shipping public, the wellbeing of employees, and fair treatment of the estate. Section 2(b) of the Milwaukee Railroad Restructuring Act recited a Congressional declaration that the "emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and the Nation which a cessation of essential services by the Milwaukee Road would otherwise cause."

NewMil believes that the employee-shipper ownership Plan proposed here would make an important contribution to the public interest.

The New Railroad proposed in this Plan will provide desperately needed service—and, as the new company's equipment acquisition, normalized maintenance, and plant rehabilitation programs take effect, significantly improved service levels—to the communities and shippers that the system will serve. The need for this rail service is particularly pressing in the northern tier states, where available transportation service is presently substantially inadequate and where demand for such service is rising at a rapid rate.

The communities and companies that genuinely need the services that the present system provides will continue to receive service, and will receive more and better service, than they do now.

Moreover, the rehabilitated railroad proposed in this Plan will help preserve meaningful and genuine competition for the provision of rail services in large portions of the country that otherwise will become the sole province of one monopoly carrier. The preservation, and eventual strengthening, of this rail competition will yield favorable impacts on car supplies and rate levels throughout these areas. The importance of these competitive benefits will become even more significant as proposals for deregulation of railroads and as the steady escalation of diesel fuel prices inexorably drives the prices of intermodal alternatives to unacceptable levels.

The proposals contained in this Plan would contribute to a rationalization of the present excess capacity in the midwestern rail network by reducing the Milwaukee's present concentration on local, short-haul, traffic in congested midwestern corridors of excess capacity and would tie the Milwaukee's remaining, essential midwestern traffic to the inherent strengths involved in a transcontinental system traversing areas that have a genuine, and growing, need for rail transportation.

New Railroad will not hire all of the existing system's employees, but it will provide employment for approximately 8,000 employees in its first year of operations, and it is anticipated that many more employees will be needed in the years immediately following as service levels expand to the projected levels. Moreover, these employees will no longer be confronted on a daily basis with the uncertainties and insecurities that have attended their employment in recent years by a sick and troubled carrier providing steadily deteriorating service and possessing no certain prospect or survival. New Railroad's employees will work for a genuinely viable, competitive, and growing railroad that will be providing profitable and aggressive service in expanding market areas.

The employee and shipper ownership features of the present Plan will place ownership of New Railroad in those interests most vitally concerned with the venture, and thereby create a built-in incentive for management, labor, and shippers to flexibly fashion a railroad that responds directly to the concerns of each of those interests. Important advances in the efficiency and productivity of operations will almost certainly result.

The agricultural communities of the northern tier, presently unable to move large volumes of grain to western ports for export, will receive improved and expanded service. The rapidly growing Puget Sound ports of Seattle and Tacoma, as well as the Columbia River ports, will be afforded the rail capacity to move import-export traffic in the volume presently projected. Important concepts such as Milwaukee's successful Sprint train operation will be significantly expanded.

Moreover, the preservation of the essential portions of this railroad will contribute in two very important ways to resolution of this nation's current energy problems. On a consumption side, preserving the railroad's ability to continue to provide long-haul transcontinental freight service would represent one small but significant contribution to the formulation of a national freight transportation system designed to maximize fuel conservation. In a period of rising fuel prices and frequent shortages, this nation should be striving for a freight transportation network that moves long-haul traffic on trains and short-haul traffic on trucks. On the supply side, the proposals contained in the present Plan would help protect the national interest in assuring that adequate transportation capacity will be available to move low sulfur western coal to market in the coming years. The service that will be provided by New Railroad will make available important rail capacity to move western coal into markets in the midwest, southeast, and—in a few years—the west, where it will be needed for domestic consumption and for export.

The Employee Shipper Ownership Plan proposed by New Milwaukee Lines offers a blueprint for preservation, not destruction, of a precious and irreplaceable national asset.●

DON'T PRIME THE PUMP THIS TIME, FIX IT

● Mr. HATCH. Mr. President, an interesting editorial appeared in the October 1 issue of U.S. News & World Report entitled "Don't Prime the Pump This Time, Fix It" by Marvin Stone. This editorial criticizes the failure of the demand management approach to economic policy followed by the Federal Government in recent years. It emphasizes the importance of taking measures to stimulate the supply side of the economy to counter our present stagflation. Without removing some of the disincentives to savings, investment, work, and production that exist in our tax code and regulatory policies, Government pump priming policies to stimulate the economy will only result in more inflation, as demand but not supply responds to the plump priming. The Congress would be better advised to take actions to directly stimulate the supply side of our economy through the tax and regulatory changes recommended in the editorial, as well as others.

I have long been concerned that the short-term economic policies followed by the Congress, under the guidance of the Congressional Budget Office, are harmful to the long-term growth potential of our economy. The Congress must focus its attention on removing the disincentives to production that its own policies have created and avoid policies to give the economy a shortrun type that will only be paid for later in lower real growth. I think that this is also the thesis of Mr. Stone's editorial. I commend it to my colleagues and ask that it be printed in the RECORD.

The editorial follows:

DON'T PRIME THE PUMP THIS TIME, FIX IT

(By Marvin Stone)

With the economy sliding deeper into another recession, there is a growing tendency to assume that Carter and Congress will soon decide to slash personal income taxes or payroll taxes and boost federal spending—in other words, give people more to spend and expect their spending to create more jobs. That's what usually happens when politicians hearken to the cry to "get the country moving again."

Well, this time that's the wrong prescription.

Among economists there is a growing recognition of the fact that today's inflation, which after all is at the root of the recession, is caused by too much money chasing too few goods.

Over the past decade, the supply of money and credit has grown far more rapidly than the output of goods and services, with the result that prices have been pushed up at unprecedented rates. Industry has been hard put to guarantee adequate supplies of fuel oil and gasoline. Consumers have been gobbling up all the beef that farmers can produce at near-record prices. In many localities, there have been waiting lists for houses and condominiums.

Even Lord Keynes, who popularized the pump-priming doctrine during the Great Depression of the 1930s, was well aware that an economy characterized by shortages cannot be helped by increasing demand. Witness the mandatory savings program that he advocated during World War II to restrain demand and thus help hold down prices at a time when goods were scarce.

The correct approach to the nation's present ills is to lay the basis now for modernizing and increasing production, so that when the recession ends, industry will be able to supply the things that people want to buy and do so at declining costs.

It will take a major increase in capital investment to accomplish that—not just more of the machines we now have, but new and improved equipment, better processes, and products and services that are redesigned to reflect cost-reducing innovations.

Poor progress on productivity—output per man-hour of work—is one reason for the shortages and rising costs that have plagued this country in recent times. Productivity is a measure of how efficiently we produce goods and services. Gains provide more supplies at lower cost. Declines make costs go up.

The record on this score is a sorry one. In the 20 years immediately following World War II, productivity increased fairly regularly at an average rate of about 3.3 percent a year, by no means the best showing among the developed nations but certainly much better than what has happened since 1967.

In this more recent period—beginning about the time the inflationary spiral got under way—the gains in productivity have averaged less than 2 percent a year, and in recent months there have been none at all. Productivity is actually declining this year, and inflation has soared back into the double-digit range.

Fortunately, there are things that can be done to reverse that trend, to promote industrial expansion and to speed up improvements in productivity. Here is a list of steps on which many economists now agree, regardless of whether they classify themselves as "liberals" or "conservatives"—

1. Change the tax laws so that business can be more certain of recovering the cost of research and development, thus reducing the risk of losing money on efforts that, by their very nature, must prove disappointing in many cases. This is an area where the biggest strides are not likely to be taken by companies that stick to "the sure thing."

A study by John W. Kendrick, professor of economics at George Washington University, indicates that more than half of the net productivity growth in the 1948–77 period can be traced to technological advances, the results of successful research and development. Dr. Kendrick has long been an advocate of more liberal tax treatment of these expenditures, which amounted to 3 percent of the gross national product in the mid-1960s and are now little more than 2 percent.

2. Allow industry also to write off the cost of investments in new plant and equipment more rapidly. Technological advances are meaningless unless put to work. Many American industries are burdened by aging and outmoded facilities and are hard pressed to compete with foreign producers who have more-modern plants.

In the last 15 years, Japanese steelmakers have constructed nine "supermills," while U.S. industry has built only one. Our companies can produce no more steel today than they could 10 years ago. Our consumption of steel has increased, but the additional supplies we are using are coming from abroad. An alternative to faster depreciation would be an increase in the tax credit that industries can claim for investing in new facilities.

3. Encourage people to save more and to invest more—directly through the stock market or indirectly through the savings institutions. In a number of countries, some money that is put into savings accounts is exempt from income tax. That idea could be given a try here. Along with it, the tax on capital gains could be further reduced to get our more affluent citizens to put more of their funds into equities. A shift of money from personal spending to savings would help to restrain price inflation.

4. Improve training programs for labor through better coordination among schools, state employment services and federal agencies. Despite the nation's 6 percent unemployment rate, many companies are begging for more skilled workers. People could improve their productivity—and qualify themselves for higher pay—through extra training. Others could contribute more to the economy by being retrained for different jobs from those they now have.

5. Reduce regulation of business where gains in safety and health are small relative to the costs of achieving them. Research by Edward F. Denison of the Brookings Institution shows that productivity in the coal industry has dropped by nearly one third since the mine-safety laws of 1966 and 1969 were enacted. And a report by the New York Stock Exchange estimates that 10 percent of the funds that are being spent for new plant and equipment are required simply to meet new pollution-control standards. They do little or nothing to boost production. These are two indications of the extent to which regulations have become a major cost to industry—and to all the rest of us, as consumers.

Most economists agree that government intervention is necessary to protect the public from pollution, flagrantly unsafe conditions at work and the unscrupulous minority of business people. The stock exchange put it this way: "Such controls are [not] undesirable. But costs and benefits must be realistically assessed on a case-by-case basis. The benefits are better air, cleaner water, fewer accidents. The costs are more inflation, fewer new jobs, less long-term . . . growth. . . . Unrealistic government policies, however well-intended, can stifle innovation, investment and risk taking."

Those, then, are five steps that Congress can take, providing, of course, that it manages the budget prudently so that there will be leeway for a substantial amount of tax relief. Considerable support already exists among members of both parties for moving in this direction.

But it will not be easy in the months ahead to convince a majority to do what is needed to encourage saving, capital investment and expansion—not at a time when the shortages will be replaced, temporarily, by surpluses: Too many big cars, too many big, expensive houses, too many overage steel mills and other facilities that will be shut down for lack of orders. It will seem more attractive to give consumers more money to spend and hope in this way to bring the recession to a speedy end and worry about inflation later on.

If that policy is adopted once again, we can look forward to even higher prices, to a recovery, like the last one, filled with uncertainty, and then to still another downturn. It is time to try a new approach.●

ORDER FOR RECESS TODAY UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 8:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders No. 448, 457, and 458.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

The resolution (S. Res. 269) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 1543 was considered and agreed to, as follows:

Resolved, That (a) pursuant to section 402 (c) of the Congressional Budget Act of 1974, section 402(a) of such Act shall not apply with respect to the consideration in the Senate of the bill H.R. 1543 to improve the operation of the adjustment assistance program for workers and firms under the Trade Act of 1974; and

(b) That waiver of such section 402(a) is necesary in order to enable the Senate to consider such bill inasmuch as it includes both "authorization" provisions which under section 402 of the Congressional Budget Act are ordinarily required to be reported prior to May 15 and "new spending authority" provisions which under section 303 of such Act may not be considered by the Senate until after the adoption of the first concurrent budget resolution. The "new spending authority" provisions are of substantially greater budgetary impact than the "authorization" provisions. The bill as a whole, therefore, is more properly considered at the time in the congressional budget schedule which is appropriate for legislation providing "new spending authority."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN RED CROSS GOLD MEDAL

The bill (H.R. 4259) authorizing the President of the United States to present a gold medal to the American Red Cross was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DR. JESUS TAN, MARGARET PEARL LIYAO TAN, AND JESSE WILLIAM LIYAO TAN

The bill (S. 68) for the relief of Dr. Jesus Tan, his wife, Margaret Pearl Liyao Tan, and their son, Jesse William Liyao Tan was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Jesus King Tan, his wife, Margaret Pearl Liyao Tan, and their son, Jesse William Liyao Tan, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR INDEFINITE POSTPONEMENT OF SENATE RESOLUTION 245

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 429, Senate Resolution 245, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of David K. Winder, of Utah, to be U.S. district judge, and that the Senate proceed, notwithstanding the 1-day rule, to the immediate consideration of the nomination.

Mr. STEVENS. Reserving the right to object, I will not object, I am grateful to the majority leader for doing this at the request of the Senator from Utah (Mr. HATCH) who is present and has requested this action.

There being no objection, the Senate proceeded to the consideration of the nomination.

The PRESIDING OFFICER. The nomination will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of David K. Winder, of Utah, to be U.S. district judge for the district of Utah.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

KENNETH B. KEATING BUILDING

Mr. ROBERT C. BYRD. Mr. President, on behalf of my distinguished senior colleague (Mr. RANDOLPH), I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1535.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1535) entitled "An Act to name a certain Federal building in Rochester, New York, the Kenneth B. Keating Building", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the Federal Building at 100 State Street, Rochester, New York, shall hereafter be known and designated as the "Kenneth B. Keating Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Kenneth B. Keating Federal Building".

Amend the title so as to read: "An Act to designate the Federal Building in Rochester, New York, the 'Kenneth B. Keating Federal Building' ".

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RANDOLPH, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote on the action that has been taken.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO HOLD BILL AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator RANDOLPH, I ask unanimous consent that at such time as a message from the House on H.R. 5794 is received at the desk, it be held there until further disposition.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCOUTING RECOGNITION WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 448.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (H.J. Res. 448) proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week."

Without objection the Senate proceeded to consider the joint resolution.

The joint resolution was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO INDEFINITELY POSTPONE SENATE JOINT RESOLUTION 122

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from South Carolina (Mr. HOLLINGS) I ask unanimous consent that a companion measure, Senate Joint Resolution 122, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VITIATE STANDING ORDERS FOR RECOGNITION OF TWO LEADERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the standing orders for the two leaders or their designees be vitiated for tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JAVITS AND FOR CONSIDERATION OF H.R. 3236 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, immediately after the disposition of the approval of the Journal on tomorrow, Mr. JAVITS be recognized for not to exceed 15 minutes; after which, the Senate proceed to the consideration of Calendar Order No. 438, H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program and for other purposes, with the understanding that, no later than 11 a.m, the Senate will resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I anticipate that there may be some votes on amendments or motions in relation to H.R. 3236 tomorrow morning between the hour of 9 o'clock and the hour of 11 o'clock, but at the hour of 11 o'clock, no later than that hour, the Senate will resume consideration of the unfinished business. The bill, H.R. 3236, in that event, if it has not been disposed of, and, in all likelihood, it will not have been, would be set aside until a later date.

Mr. STEVENS. Reserving the right to object, it is my understanding that there is a possibility that there will be rollcall votes prior to the resumption of the tax bill on crude oil tomorrow.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. And those could take place between the hours of 8:45 and 11 o'clock.

Mr. ROBERT C. BYRD. Between the hours of 9 o'clock and 11 o'clock.

Mr. STEVENS. I thank the Senator.

RECESS TO 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 8:45 tomorrow morning.

The motion was agreed to; and at 7:06 p.m., the Senate recessed until tomorrow, Wednesday, December 5, 1979, at 8:45 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 4, 1979:

THE JUDICIARY

David K. Winder, of Utah, to be U.S. district judge for the district of Utah.

HOUSE OF REPRESENTATIVES—*Tuesday, December 4, 1979*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
December 3, 1979.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Tuesday, December 4, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Rabbi Abraham Hecht, Shaare Zion, Brooklyn, N.Y., offered the following prayer:

אבינו שבשמים - מלך העולם.

A-mighty G-d—Ruler of the Universe.

We lift our hearts unto You in prayer, for the welfare and success of our beloved President and of our illustrious Members of Congress.

Our Nation is now facing serious challenges throughout the world. Our magnificent democracy, beacon of light and hope in a world shrouded in the darkness of oppression, hatred, and violence, is under attack.

We beseech you, dear G-d, to grant wisdom, courage, and determination to our elected Representatives, to overcome these serious difficulties. We pray that they be inspired to proclaim universally, our complete confidence in the principles of human dignity, human rights, religious liberty, and morality.

May there come forth from this Congress a resounding statement, reaffirming and repledging our faith in our great and powerful Republic.

Dear L-rd, we invoke your blessings of prosperity, tranquillity, and peace, upon all mankind. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4732. An act to fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5269. An act to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1792. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize the gentleman from New York (Mr. SOLARZ) to address the House for 1 minute, and then the Chair will take up the Private Calendar before returning to the 1-minute speeches.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

RABBI ABRAHAM HECHT

(Mr. SOLARZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLARZ. Mr. Speaker, it is, indeed, a high honor and great privilege to have with us in the House today, Rabbi Abraham Hecht, the spiritual leader of the Shaare Zion Congregation, the largest Sephardic synagogue in the United States.

Since coming to Congress 5 years ago, one of my main priorities has been the plight of the beleaguered Jewish community, numbering 5,000 souls, trapped in Syria. As you may know, the vest majority of Syrian Jews in America reside in the district I represent back in Brooklyn and, needless to say, they are vitally concerned about their brethren in Syria.

Working closely with Rabbi Hecht and other community leaders, our efforts to help the Jews of Syria have met with some success. There has been a relaxation of many socioeconomic restrictions once placed upon the Jewish community, including the right to buy and sell property, to travel freely throughout Syria, and to practice their faith openly. We were also able to arrange proxy marriages for a dozen young Syrian women to American men, the first officially sanctioned emigration of Syrian Jews in over 30 years. But Rabbi Hecht, and the Syrian Jewish community in Brooklyn which he serves and I represent, remain deeply concerned over the refusal of the Syrian Government to permit those Jews who want to leave Syria to do so. With this help and strong support, we were able to pass a concurrent resolution a few months ago calling upon the Government of Syria, on humanitarian grounds, to let the Jewish community emigrate. In these and other important endeavors, I have leaned heavily on the advice, wisdom, guidance, and good offices of Rabbi Hecht.

A gentle man with a good heart, Rabbi Hecht has always been available to help anyone who might need assistance. His kindness and understanding set an example few can equal.

Rabbi Hecht is president of the Rabbinical Alliance of America, vice president of the Rabbinical Council of the Syrian and Near Eastern Jewish Communities of America and author of the noted tome, "Spiritual Freedom."

In addition to his role as a religious leader, Rabbi Hecht has placed great emphasis on involvement in civic affairs. He recognized that he could not divorce himself from the daily life of the community, and he has spent countless hours in trying to keep New York City a desirable place in which to live. His perception of problems and his ability to develop solutions has made him one of the persons to whom the community turns during times of crisis. He can truly be described as one of the most outstanding leaders in the Jewish community, not only in New York, but throughout the Nation.

I know that my colleagues join me in saluting this outstanding spiritual and civic leader on the occasion of his memorable and moving invocation this morning. I am enormously proud to count Rabbi Hecht as both a constituent and a friend.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

CLARENCE S. LYONS

The Clerk called the bill (H.R. 3818) for the relief of Clarence S. Lyons.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

COL. (DR.) PAUL A. KELLY

The Clerk called the bill (H.R. 2148) for the relief of Col. (Dr.) Paul A. Kelly.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 3872) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 4285) for the relief of Morris and Lenke Gelb.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MARYROSE AND ROSEMARY EVANGELISTA

The Clerk called the bill (H.R. 918) for the relief of Maryrose and Rosemary Evangelista.

There being no objection, the Clerk read the bill, as follows:

H.R. 918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maryrose and Rosemary Evangelista may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Frank and Noemi Quijano, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHN H. R. BERG

The Clerk called the bill (H.R. 2782) for the relief of John H. R. Berg.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

JAN KUTINA

The Clerk called the bill (H.R. 3873) for the relief of Jan Kutina.

There being no objection, the Clerk read the bill, as follows:

H.R. 3873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Jan Kutina has resided in the United States and any State or the District of Columbia since his lawful admission for permanent residence on September 17, 1976, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOZEF SWIDERSKI

The Clerk called the bill (H.R. 4013) for the relief of Jozef Swiderski.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REGRETTABLE AND IRRESPONSIBLE REMARKS OF SENATOR KENNEDY ABOUT THE SHAH

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, the recent remarks of Senator EDWARD KENNEDY alleging abuses of the ex-Shah of Iran are regrettable and irresponsible.

Public officials should be ever mindful of the fact that American lives are at stake in the Tehran Embassy and that the issues involved are far broader than the record of the deposed Shah.

The Shah's stewardship of Iran and the American hostages are separate issues and should be recognized as such by all concerned citizens.

□ 1210

METHANE-POWERED CAR IS ON EXHIBIT HERE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I just want to call the attention of my colleagues to the fact that in the horseshoe of the Rayburn Building there is on exhibit an automobile developed by Beech Aircraft Corp. in its Boulder, Colo., facility that is powered by liquid natural gas or actually liquefied methane.

This car has proved to be safe and the fuel is less expensive to operate than gasoline. By the way it is fueled, it has significantly reduced fuel emissions, and the fuel has a very high octane.

Mr. Speaker. I would urge my colleagues to go to the Rayburn Building and drive the car and view it as a very promising fuel source.

CAMBODIAN RELIEF HINGES ON SOLVING TRANSPORTATION PROBLEMS

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, the United States has committed itself to delivering over $69 million in aid to the starving people of Cambodia. Despite this commitment, thousands of Cambodians will continue to die of malnutrition unless the present regime allows available food and medical supplies to reach the Cambodian people.

While recent reports indicate that the present regime may be backing down from its previous refusal to permit outside assistance, the fact remains that even if food and medicine are delivered, not one single Cambodian will be saved if the government decides to transport these supplies to Phnom Penh warehouses or distribute them among Vietnamese troops. There is evidence that this is already taking place. It is, therefore, absolutely essential that overland routes and provincial airports be opened for those relief agencies attempting to distribute food.

The most pressing need is to make certain that the assistance provided is actually distributed among Cambodians, regardless of political ideology. The United States and the United Nations must increase their efforts to secure open avenues of transportation into Cambodia. The fate of the Cambodian people hangs on the success of these efforts.

SUPPORTING THE ADMINISTRATION ON ACTIONS CONCERNING IRAN

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I, too, stand here before the Members today in support of our President in his actions concerning the Iranian crisis and in support of our 50 people who are today in bondage and as hostages of Iran.

To those who say that it is time we look at the Shah for the crimes that were committed by the Shah during his period of control of Iran, I say to them that we should also look to what we presently have in Iran and see whether there is some comparison. Can we say that the Khomeini government is any better than the government under the Shah—a government of Khomeini that in the name of Allah has killed over 200 without trial by just plain lining them up and shooting them down?

Mr. Speaker, that government of Khomeini is no better than the Idi Amin government that we despised so much.

THE SITUATION IN CAMBODIA

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I am joining with my colleagues in speaking about the relief efforts underway to aid the starving people of Cambodia/Kampuchea.

For quite some time, the United States has been in the forefront of the human rights movement. Our commitment to human rights is tangibly expressed by our work with the international relief agencies and through diplomatic channels to bring food and medical supplies to the needy Cambodians.

Congress has moved quickly to pass a refugee assistance bill providing $60 million for relief purposes. Flexible authority has been granted the President to go ahead and provide this aid before the actual enactment of the appropriations bill.

Resettlement efforts are being expedited so that as many refugees as possible can be brought to the United States from the camps in Thailand.

Our people have opened their hearts and pocketbooks by contributing generously to the various charities assisting in the relief efforts. We can and will do much more as soon as the hurdles have been cleared for delivering food and medicine by air, sea, and land.

We stand firm in our desire to insure that human rights is not just a catch phrase uttered by the right people at the appropriate times.

The right to be nourished and well is the most basic of all human rights. The people of the United States and their Government are ever ready to honor that deep and abiding commitment.

THE MURDER OF NAVY ENLISTED PERSONNEL YESTERDAY IN PUERTO RICO

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORRADA. Mr. Speaker, I am shocked and anguished by the killing of Navy personnel in Puerto Rico by what was apparently a small band of terrorists.

The people of Puerto Rico are overwhelmingly peace-loving and law-abiding, just like our fellow American citizens in the 50 States. We are saddened and grieved by these tragic events.

The Government of Puerto Rico will do everything within its power to investigate these odious crimes and to see that those responsible are duly prosecuted in the courts, as already stated by Governor Carlos Romero-Barceló.

These outrageous criminal acts happen to coincide with the concluding session of a Communist-inspired international conference of alleged solidarity with Puerto Rican independence.

I have no doubt in my mind that those responsible for this terrorist attack are not patriots fighting for Puerto Rican independence or the well-being of the residents of the Puerto Rican offshore island of Vieques, where the Navy carries on some military practice, but rather Marxist-Leninists who respond to the goals of Fidel Castro, who wants to see Puerto Rico become an independent nation because he would like Puerto Rico to be another Cuba in the Caribbean. I can assure our fellow American citizens throughout the Nation that the people of Puerto Rico, who are proud of our American citizenship, will never give in to terrorists who today kill innocent people and tomorrow would seek to enslave the 3.3 million American citizens in Puerto Rico who are deeply committed to the principles of democracy and peace.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding. Mr. Speaker, I simply want to join with the gentleman from Puerto Rico (Mr. CORRADA) in his statement to let the Nation know that Puerto Ricans are law-abiding and good citizens of the United States. This one terroristic action is not going to change that Puerto Ricans abhor these violent, bloody, and unreasonable brutal terroristic illegal actions.

THE HOSTAGES IN IRAN

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Speaker, at the request of the Secretary of State, our colleague, BILL BROOMFIELD, ranking minority member of the Foreign Affairs Committee and myself attended the special meeting of the United Nations Security Council over the past weekend.

At this time I wish to share with you, Mr. Speaker, and with our colleagues our observations.

While there has been no resolution approved to date, I can report to the House that there is unanimity with the position of the United States that seizure of the hostages was an illegal act which violates all of the international laws and all of the international agreements relating to the protection and immunity of diplomats.

Mr. Speaker, it is unfortunate that at a time when there is unanimous support for the President's efforts to bring about the release of the hostages without condition, that certain individuals in and out of public office in the United States would make irresponsible statements which on their face can only lead the students and the Government in Iran to conclude that the unity of purpose and the resolve of the American people with respect to the hostages is lessening. This cannot be allowed to happen. We must continue to support the President in his commendable effort to bring about a peaceful release of the hostages.

Mr. Speaker, we must recognize his efforts and commend Mr. Kurt Waldheim, Secretary General of the United Nations, for his role in bringing about the release of the hostages.

In my judgment, he deserves our thanks, and gratitude, and I would ask my colleagues to write to the Secretary General expressing those sentiments.

In closing, Mr. Speaker, I would also like to report that representatives of other nations on the Security Council expressed to us their appreciation and commendation of the Members of the Congress and the people of our country for their patience and understanding during this period of crisis. If we persevere in this restraint, I believe that we can and will achieve the release of the hostages.

SPECIAL MEETING OF UNITED NATIONS SECURITY COUNCIL

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, at the invitation and request of the Secretary of State, the distinguished chairman of the Foreign Affairs Committee, Mr. ZABLOCKI, and I joined the U.S. delegation this weekend at the United Nations Security Council session on the crisis in Iran.

I am pleased to report to the House that there was widespread, indeed unanimous, concern expressed by the representatives of the nations of the world over the seizure of the Americans at our Embassy in Tehran.

There was unanimity that this action by Iran violates one of the most fundamental principles of international law, and of the rules which allow nations to deal peacefully with one another—namely, the right of diplomatic protection and immunity for persons who are representing their governments abroad.

I am hopeful that the Security Council will soon approve a resolution looking toward prompt release of the hostages.

A special tribute is due to the United Nations Secretary General, Kurt Waldheim. Without his initiative, the Security Council would not have been convened in this hour of test. His action has brought credit to the United Nations system when it was on trial.

Members of Congress should also be gratified to know that, at the United Nations, we found admiration for the restraint which has been shown by the Congress, and by the American people generally, in the face of this grave provocation by Iran.

Mr. Speaker, I support President Carter in calling for continued backing by the American people of his efforts to win the immediate, safe, and unconditional release of all the Americans held prisoner in Iran. I hope our colleagues will do likewise.

INTRODUCTION OF X-RAY RADIATION LEGISLATION

(Mr. LUNDINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNDINE. Mr. Speaker, today I am pleased to produce legislation designed to eliminate the amount of unneeded and excessive exposure to radiation that is presently being experienced by many persons receiving medical and dental X-rays.

Recently, attention has been focused on the potential dangers posed to individuals by exposure to radiation. Studies indicate that 90 percent of this radiation exposure stems from medical procedures, primarily diagnostic X-ray examinations. This bill would set a uniform national standard of training for all users of medical and dental radiation equipment. It would provide criteria and guidelines for the credentialing and licensure of all personnel administering radiation to consumer-patients.

Forty-one States do not now have regulations in effect to govern the proper use of X-ray equipment. In these States, it is possible for someone to operate medical and dental X-ray equipment without ever having undergone any educational or on-the-job training instruction relating to potential dangers to both the operator and patient from radiation overexposure. Proper training of equipment users and education about radiation risks can help eliminate unnecessary X-rays, retakes and, overexposure to radiation when an X-ray is being administered.

☐ 1220

RESOLUTION TO SPEED UP WINDFALL PROFIT LEGISLATION

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, this Thursday the gentleman from Connecticut, Toby Moffett, and myself will introduce a unique resolution calling upon the Senate to act promptly in passing a strong windfall profit tax. The delay is costing our Government billions of dollars and increasing our daily dependence on the OPEC countries. We hope that many of our colleagues will join us in this effort.

FREE USE OF AIRCRAFT AN UNFAIR TRADE PRACTICE

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, 2 years ago Airbus Industrie, a consortium backed by French, British, German, and Spanish corporations, controlled or financially backed a highly questionable sales practice. Airbus Industrie loaned free of charge four airbuses, each worth between $25 and $30 million, to Eastern Airlines for a 6-month trial period. Naturally, at the end of this "free loan period," Eastern decided to buy some Airbuses and placed an order for 23 aircraft. At that time I criticized this free use of aircraft as an unfair trade practice.

It is incredible that this same foreign-government-backed consortium is now threatening to make a major inroad in another U.S. airline through the use of generous export financing credits.

According to news reports of last week, a major American-flag carrier is considering a substantial aircraft purchase, with the choice lying between new Boeing jets and Airbuses. The size of the purchase is enormous, reportedly about $1.35 billion involving 45 aircraft. The winner of the sale will probably pick up additional sales, as the airlines begin a move into a $50 billion fleet modernization program.

Airbus is tempting the domestic airlines with a subsidized export financing rate of around 8 to 9 percent, about half the prime rate available domestically. If the same domestic company were to purchase American aircraft, it would face interest rates almost twice as high.

No American aircraft producer can long face up to this type of competition from foreign treasuries. Indeed, if Airbus Industrie should offer these terms for all of the approximately $50 billion in aircraft demand anticipated in the next few years, it would destroy one of the most efficient and creative industries America has ever developed. It would be tragic—and it would be unacceptable—for our domestic manufacturing industry to face destruction because of unfair financing practices.

We cannot remain insensitive to this assault on a vital domestic industry. Our Government will have to find a way to deal with unfair financing practices which destroy normal trade.

We simply cannot permit foreign state producers to plunder our domestic aviation industry with predatory financing.

UNFORTUNATE REMARKS BY SENIOR SENATOR FROM MASSACHUSETTS

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAVIS of Michigan. Mr. Speaker, the recent remarks by the senior Senator from Massachusetts regarding the Shah of Iran are most unfortunate. To make such irresponsible comments, at a time when the lives of 50 Americans are at stake, represents very poor judgment on the part of the Senator.

I understand that the Senator feels a need to speak out on the issues of the day.

I recognize that he intends to challenge certain policies followed by the present administration.

But his untimely statement goes totally against the grain of unification that this country has shown in its backing of the President in this matter. All of the other candidates, from both political parties, appear to have realized that it is essential to present to the world a firm and united position and have refrained from making comments that could undermine the safety of the hostages.

The Senator has given an impression of a division amongst the American people that does not exist and may have jeopardized an already dangerous and unstable situation.

If I were the Senator, I would hope that there are no "Kennedy for President" campaign posters present today in the streets of Tehran.

IRONY OF THE IRANIAN CRISIS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the loss of Iranian oil hardly shapes up as a disaster for many American oil companies. In fact, the larger oil concerns may simply dismiss the loss of this relatively small percent of total imports and sit back and wait for higher prices or profit margins. This is the apparent irony of this whole Iranian crisis.

Already this year, the major refiners have managed to perpetrate a 120-percent increase in profit margin upon the American consumer. This occurred while crude oil and gasoline stocks were relatively low and motorists sat in line at the gas pumps. The same profit scenario seems to be shaping up for early next year as well. Some analysts have already raised their 1980 oil earnings estimates to reflect the cutoff of supplies from Iran.

In addition, according to an article in the Wall Street Journal, a confidential White House analysis of oil price rises contends that a "handful" of major oil companies are pushing up the price of oil in the United States by exercising great leverage over world oil markets.

Mr. Speaker, just because this Nation reached the target of 240 million barrels of home heating oil in place before November, it must not be content to sit back. Rather, we must continue to monitor closely the activities of the large oil companies in order to be assured of an adequate supply of petroleum products at a reasonable price.

☐ 1230

KNEE-JERK FOREIGN POLICY

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. HANSEN. Mr. Speaker, I have just been given a copy of the December 8 edition of Human Events attacking my visit to Iran and find their desire to cover up for the Shah and for irresponsible elements in this administration who stabbed our Embassy employees in Iran in the back most bizarre.

It seems the lessons of Watergate have not been well-learned.

Maybe the author of the Human Events article, like certain administration spokesmen who seem embarrassed that I could open doors they could not, should go to Iran themselves so they can speak from firsthand knowledge rather than hearsay and speculation.

A knee-jerk personal attack, not properly grounded in fact and commonsense, will not give us the unity and strength and imagination necessary to save the hostages and improve our international position.

CONFERENCE REPORT ON H.R. 595, STRATEGIC AND CRITICAL MATERIALS TRANSACTION AUTHORIZATION ACT OF 1979

Mr. BENNETT submitted the following conference report and statement on the bill (H.R. 595) to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96-680)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 595) to authorize the Administrator of General Services to dispose of thirty-five thousand long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Strategic and Critical Materials Transaction Authorization Act of 1979".

SEC. 2. There is authorized to be appropriated the sum of $237,000,000 for the acquisition of strategic and critical materials under section 6(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e). Before any acquisition using funds appropriated under the authorization of this section may be carried out, a list of the materials to be acquired shall be submitted to the Committees on Armed Services of the Senate and House of Representatives, and such acquisition may not then be carried out until the end of the 60-day period beginning on the date such list is received by such committees.

SEC. 3. The President is hereby authorized to dispose of materials determined to be excess to the current requirements of the National Defense Stockpile in the following quantities:

(1) 35,000 long tons of tin.

(2) 3,000,000 carats of industrial diamond stones.

(3) 5,000,000 troy ounces of silver.

SEC. 4. Any acquisition using funds appropriated under the authorization of section 2, and any disposal under the authority of section 3, shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98 et seq.).

SEC. 5. The President, on behalf of the United States is authorized to contribute (from the amount of tin authorized to be disposed of under section 3(1)) up to 5,000 long tons of tin to the Tin Buffer Stock established under the Fifth International Tin Agreement. Upon the termination of such agreement in 1981, all proceeds generated from such contribution shall be remitted to the National Defense Stockpile Transaction Fund established by section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h).

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

CHARLES E. BENNETT,
ROBERT H. MOLLOHAN,
FLOYD SPENCE,
DAVID F. EMERY,
Managers on the Part of the House.

GARY HART,
JOHN C. STENNIS,
HOWARD W. CANNON,
STROM THURMOND,
JOHN TOWER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 595) to authorize the Administrator of General Services to dispose of thirty-five thousand long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATION FOR ACQUISITIONS

The Senate amendment provided authorization for appropriations for $237 million to begin a program of acquisition of needed strategic and critical materials. The Senate conferees argued that the current National Defense Stockpile is badly out of balance and that a program of acquisitions needs to be initiated at the earliest practical time. The Administration had included funds in its budget request for fiscal year 1980 to begin this acquisition program.

The House bill did not include an authorization for acquisitions.

The conferees agreed to the authorization provision; however, the House conferees insisted that language be included in the bill which would require congressional review of the materials to be acquired in advance of their acquisition.

DISPOSAL OF INDUSTRIAL DIAMOND STONES

The Administration requested the authority to dispose of 1.5 million carats of excess industrial diamond stones.

A separate bill (H.R. 3384) was passed by the House, authorizing the disposal of 5.5 million carats of excess industrial diamond stones.

The Senate amendment included authority to dispose of 1.5 million carats of excess industrial diamond stones as requested by the Administration.

The conferees agreed to authorize the disposal of 3 million carats of excess industrial diamond stones.

DISPOSAL OF SILVER

The Administration requested the authority to dispose of 15 million troy ounces of excess silver.

The House bill contained no disposal authority for silver.

The Senate amendment included authority to dispose of 15 million troy ounces of silver as requested by the Administration.

After lengthy debate, the House conferees reluctantly agreed to accept the disposal of 5 million troy ounces of silver, a reduction of 10 million ounces from the amount contained in the Senate amendment.

REQUIREMENT TO REPORT ON CONTRIBUTION TO THE TIN COUNCIL

The Senate amendment deleted a provision in the House bill requiring that the President transmit to Congress, at least 60 days before the transfer of any tin to the International Tin Council, a report projecting the impact of the tin transfer on the economy of the United States and on the economic and political development of the major tin exporting nations. However, the Senate had included in its report on the bill a requirement for a more detailed quarterly report on the overall impact of all proposed tin transactions.

The House receded with the understanding that the Senate reporting requirement would prevail.

CHARLES E. BENNETT,
ROBERT H. MOLLOHAN,
FLOYD SPENCE,
DAVID F. EMERY,
Managers on the Part of the House.

GARY HART,
JOHN C. STENNIS,
HOWARD W. CANNON,
STROM THURMOND,
JOHN TOWER,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON S. 717, EXTENSION OF FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 717) to extend the Federal Insecticide, Fungicide, and Rodenticide Act for 1 year, with the House amendments thereto, insist on the House amendments, and request a conference with the Senate.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Messrs. FOLEY, DE LA GARZA, MATHIS, BROWN of California, FITHIAN, SKELTON, GLICKMAN, ENGLISH, WAMPLER, Mrs.

HECKLER, Mr. GRASSLEY, and Mr. JOHNSON of Colorado.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order, all by the yeas and nays: H.R. 3352; H.R. 5892; and H.R. 2743.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

TEMPORARY SUSPENSION OF DUTY ON FLUORSPAR

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3352, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and pass the bill, H.R. 3352, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 240, nays 163, not voting 30, as follows:

[Roll No. 695]

YEAS—240

Akaka
Albosta
Andrews, N.C.
Annunzio
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonker
Bouquard
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Danielson
Dannemeyer
Davis, S.C.
de la Garza
Deckard
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Ertel
Evans, Del.
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harris
Harsha
Hefner
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Jacobs
Jeffries
Jenkins
Jenrette
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kindness
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lundine
Lungren
McClory
McDade
McDonald
McHugh
Madigan
Marks
Martin
Mavroules
Mica
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
Patten
Pease
Pepper
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Taylor
Thomas
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Wampler
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wolpe
Wyatt
Wylie
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—163

Abdnor
Addabbo
Alexander
Anderson, Calif.
Anthony
Applegate
Ashbrook
Atkinson
Bailey
Barnes
Beilenson
Bolling
Bonior
Brademas
Brodhead
Brooks
Brown, Calif.
Burgener
Burton, John
Butler
Byron
Carr
Carter
Chisholm
Clausen
Clay
Cleveland
Coelho
Conyers
Corcoran
Coughlin
D'Amours
Daniel, Dan
Daschle
Davis, Mich.
Dellums
Derwinski
Dixon
Dodd
Donnelly
Drinan
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Ga.
Evans, Ind.
Fazio
Ferraro
Florio
Forsythe
Frost
Garcia
Gaydos
Giaimo
Glickman
Grassley
Gray
Hall, Tex.
Hansen
Harkin
Hawkins
Heckler
Heftel
Hightower
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Johnson, Calif.
Kildee
Kogovsek
Kramer
Lagomarsino
Leach, La.
Leath, Tex.
Lent
Lloyd
Lujan
Luken
McCloskey
McEwen
McKay
McKinney
Maguire
Markey
Marlenee
Marriott
Matsui
Mattox
Mazzoli
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Montgomery
Moorhead, Pa.
Mottl
Natcher
Nelson
Nolan
O'Brien
Oakar
Ottinger
Panetta
Pashayan
Patterson
Perkins
Petri
Peyser
Rangel
Ratchford
Reuss
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rudd
Russo
Sabo
Santini
Scheuer
Sebelius
Simon
Skelton
Slack
Smith, Iowa
Solarz
St Germain
Stark
Stokes
Studds
Symms
Synar
Tauke
Thompson
Udall
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weiss
Whitten
Williams, Mont.
Wilson, Tex.
Wvdler
Yates
Yatron
Zeferetti

NOT VOTING—30

Ambro
Anderson, Ill.
Andrews, N. Dak.
Archer
Ashley
Bedell
Boland
Bowen
Collins, Ill.
Dornan
Fary
Fish
Flood
Foley
Frenzel
Gudger
Holland
Ichord
Ireland
Johnson, Colo.
McCormack
Mathis
Murphy, Ill.
Myers, Ind.
Paul
Stewart
Swift
Treen
Winn
Wright

☐ 1240

The Clerk announced the following pairs:

Mr. Ambro with Mr. Anderson of Illinois.

Mr. Murphy of Illinois with Mr. Fish.

Mr. Mathis with Mr. Paul.

Mr. Foley with Mr. Stewart.

Mr. Ashley with Mr. Winn.

Mr. Boland with Mr. Gudger.

Mr. Bedell with Mr. Frenzel.

Mr. Ichord with Mr. Dornan.

Mr. Ireland with Mr. Andrews of North Dakota.

Mr. Swift with Mr. Johnson of Colorado.

Mr. McCormack with Mr. Myers of Indiana.

Mrs. Collins of Illinois with Mr. Flood.

Mr. Fary with Mr. Bowen.

Mr. Wright with Mr. Holland.

Messrs. MITCHELL of New York, DOWNEY, WOLPE, BEVILL, NEDZI, and BROOMFIELD, Mrs. FENWICK, Messrs. MOLLOHAN, BROYHILL, RAHALL, RAILSBACK, and DEVINE, Mrs. SCHROEDER, and Mr. WIRTH changed their votes from "nay" to "yea."

Ms. MIKULSKI, Mrs. CHISHOLM, Mr. SYMMS, Mr. MOORHEAD of Pennsylvania, and Ms. OAKAR changed their votes from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

☐ 1250

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DICKS). Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

ESTABLISHMENT OF WIND ENERGY SYSTEMS RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5892, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and pass the bill, H.R. 5892, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 23, not voting 27, as follows:

[Roll No. 696]

YEAS—383

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener

Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—23

Archer
Bauman
Benjamin
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Devine
Edwards, Okla.
Hansen
Harsha
Holt
Hubbard
Jacobs
Jeffries
Kelly
Latta
McDonald
Paul
Roberts
Stump
Symms
Young, Fla.

NOT VOTING—27

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashley
Bedell
Beilenson
Bowen
Collins, Ill.
Dornan
Fary
Fish
Flood
Foley
Frenzel
Gudger
Holland
Ichord
Ireland
Johnson, Colo.
McCormack
Mathis
Murphy, Ill.
Myers, Ind.
Swift
Treen
Williams, Mont.
Winn

The Clerk announced the following pairs:

Mr. Ambro with Mr. Anderson of Illinois.
Mr. Murphy of Illinois with Mr. Fish.
Mr. Foley with Mr. Johnson of Colorado.
Mr. Fary with Mr. Williams of Montana.
Mr. Ireland with Mr. Gudger.
Mrs. Collins of Illinois with Mr. Andrews of North Dakota.
Mr. Bowen with Mr. Dornan.
Mr. Ashley with Mr. Frenzel.
Mr. Swift with Mr. Flood.
Mr. McCormack with Mr. Winn.
Mr. Ichord with Mr. Bedell.
Mr. Holland with Mr. Beilenson.
Mr. Mathis with Mr. Myers of Indiana.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1300

MATERIALS POLICY, RESEARCH, AND DEVELOPMENT ACT OF 1979

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2743, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and pass the bill, H.R. 2743, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 8, not voting 27, as follows:

[Roll No. 697]

YEAS—398

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton

Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—8

Bauman
Collins, Tex.
Dannemeyer
Goldwater
Jacobs
Jeffries
McDonald
Paul

NOT VOTING—27

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashley
Bedell
Bowen
Dornan
Erlenborn
Fary
Fish
Flood
Foley
Frenzel
Gudger
Harsha
Holland
Ichord
Ireland
Johnson, Colo.
McCormack
Mathis
Murphy, Ill.
Myers, Ind.
Swift
Treen
Williams, Mont.
Winn

□ 1310

The Clerk announced the following pairs:

Mr. Ambro with Mr. Williams of Montana.
Mr. Murphy of Illinois with Mr. Frenzel.
Mr. Foley with Mr. Fish.
Mr. Fary with Mr. Anderson of Illinois.
Mr. Ashley with Mr. Andrews of North Dakota.
Mr. Ichord with Mr. Gudger.
Mr. Mathis with Mr. Harsha.
Mr. McCormack with Mr. Dornan.
Mr. Ireland with Mr. Erlenborn.
Mr. Swift with Mr. Winn.
Mr. Bedell with Mr. Myers of Indiana.
Mr. Bowen with Mr. Johnson of Colorado.
Mr. Holland with Mr. Flood.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, DECEMBER 5, 1979

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday, December 5, 1979, be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING FUNDS FOR STANDING AND SELECT COMMITTEES OF HOUSE OF REPRESENTATIVES

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 492) authorizing funds for the standing and select committees of the House of Representatives, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 492

Resolved, That (a) there shall be paid out of the contingent fund of the House for the period beginning January 3, 1980, and ending March 31, 1980, such sums as may be necessary for the continuance of necessary projects, activities, operations, and services, by contract or otherwise, including payment of staff salaries for services performed, by each standing or select committee of the House.

(b) Each committee referred to in subsection (a) shall be entitled, for each month during the period specified in subsection (a), to payments out of the contingent fund of the House in amounts equal to 9 per centum of the total amount authorized for use by such committee during the first session of the Ninety-sixth Congress.

Sec. 2. The entitlement of any standing or select committee of the House to payments out of the contingent fund of the House pursuant to this resolution shall cease on the effective date of the primary expense resolution adopted with respect to such committee.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to rules and regulations established by the Committee on House Administration in accordance with law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. Thompson) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, House Resolution 492 is the committee continuing resolution. It allows standing and select committees of the House to expend necessary moneys from the contingent fund until the House is able to adopt primary expense resolutions in the second session or until March 31, 1980.

Mr. Speaker, I yield for debate only to the distinguished ranking member of the Committee on House Administration, the gentleman from Alabama (Mr. Dickinson).

Mr. DICKINSON. Mr. Speaker, this is a necessary resolution. If we do not pass it, the committees cannot function or get paid when they come back in January until the Committee on House Administration can hold hearings and act. We do this every year. We do it because it is necessary to give us an interim of about 2 months in order to give all the committees an opportunity to come before the Committee on House Administration to justify their requests for the budget for the coming year and to enable them to pay their staffs in the meantime. It allows them to continue spending next year at the same level per month as they are spending this year until their new budgets are approved. I urge support of the resolution.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TODAY DURING 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be permitted to sit this afternoon while the House is meeting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, in order to prevent this request from being approved, it requires 10 Members to stand; is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Chair will count Members standing.

(Messrs. Edwards of Oklahoma, Lewis, Ashbrook, Rousselot, Corcoran, Kemp, Lagomarsino, Hagedorn, Brown of Ohio, and Mrs. Snowe also objected.)

The SPEAKER pro tempore. A sufficient number has objected.

Objection is heard.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION ACT

Mr. UDALL. Mr. Speaker, I move the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2608) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. Udall).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2608, with Mr. Panetta in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, November 29, 1979, title I of H.R. 5297, which is being considered as an original bill for the purpose of amendment, was open to amendment at any point.

Are there further amendments to title I?

☐ 1320

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: Page 8, after line 11, insert the following new section:

SEC. 107. No amount authorized to be appropriated by this Act will be used to grant any license, permit or other authorization or permission to any person for the transportation to or the interim, long-term or permanent storage of spent nuclear fuel or high-level radioactive waste on any territory or insular possession of the United States or the Trust Territory of the Pacific Islands unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which both Houses of the Congress are in session or either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies as soon as possible the Speaker of the House of Representatives and the President of the Senate of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, this amendment requires the President to submit a report to Congress if he authorizes the transfer of spent nuclear fuel to U.S. territories or possessions.

It is identical to an amendment I offered, and which was adopted, to the DOE Authorization bill.

As you may know, a specific island in the Pacific Basin is being considered for the interim storage of spent nuclear fuel. Except for a story that appeared in the Washington Post, however, we in Congress might not yet know of the U.S. proposal to Japan that spent nuclear fuel be stored on this island. Even the Secretary of the Interior, who is specifically responsible for these territories and possessions, apparently did not know of the proposal.

For this reason, I decided to sponsor this amendment, which specifically requires the President to notify Congress 30 days before authorizing a policy of transferring the spent fuel.

The Congress has a special commitment to U.S. territories and possessions. The residents of the various States have the protection of two Senators, several Representatives, a Governor, and State and local legislators. The inhabitants of the territories have only the Secretary of Interior and the Congress. We have a unique and special responsibility for the welfare of those who live in the territories and possessions of the United States, and for the protection of the many uninhabited islands. This amendment fulfills part of our responsibility to these territories.

It does not prohibit such storage; it only would require prior notice to Congress.

It has nothing to do with the question of storage of U.S. nuclear spent fuel.

[From the Washington Post, Nov. 22, 1979]

U.S. PLAN TO STORE NUCLEAR WASTE DRAWS ASIAN FIRE

(By William Chapman)

TOKYO.—A U.S. proposal to establish a storage site for spent nuclear fuel on a Pacific island has drawn an almost unanimously negative response from Asian countries.

Their reaction ranges from indifference to outright hostility. Some object on the ground that the stored spent fuel would represent a serious environmental hazard. Others resist because they want to reprocess their own fuel someday to generate electric power and they see the U.S. plan to avoid reprocessing as a threat to their goal of energy independence late in the century.

The opposition has created a problem for American officials who view the storage of spent fuel for up to 30 years as an important step in a world-wide policy to slow or block the proliferation of nuclear weapons.

Early this year, State Department officials began approaching several Asian countries with a plan to store spent fuel and proposed studies to determine if an island—Wake, Midway or Palmyra—could be used as the site by sometime late in the 1980s.

Since February, they have been urging Japan to join in a feasibility study to determine which if any of the islands would be suitable. So far Japan has not responded definitely and a recent meeting here produced only a vague pledge to consider participating.

Even if Japan joined in the study, it has no intention of storing its spent fuel on such an island. The builders of Asia's most highly developed nuclear energy programs are going ahead with plans to construct a reprocessing plant that would create a vast new energy source late in this century. To make it work, officials emphasize, Japan will want to reprocess most of its spent fuel, not store it.

The United States is strongly opposed to reprocessing in many countries because out of it would come plutonium, which can be used to make nuclear weapons. In the long range, U.S. officials believe reprocessing will lead to the proliferation of nuclear warheads, although Japan insists it has no intention of producing such weapons.

Japan is gearing up now for its first commercial-scale reprocessing center. It should be ready to operate in 1990, according to Atsuhiko Yatabe, director general for scientific and technological affairs of the Foreign Ministry. The Japanese parliament this year passed legislation permitting power companies to build it.

When the center is ready, Yatabe said, Japan either will reprocess or store spent fuel in Japan and will have no need for a storage site on a Pacific island. It is willing to discuss participating in the feasibility study but has made no decision to join in it and pay half the cost as the Americans ask, he said.

To a certain extent, Japan is vulnerable to U.S. pressure on the issue because it obtains virtually all of the enriched uranium used in domestic power plants from American sources. It ships the spent fuel now to Britain and France for reprocessing and each shipment requires U.S. approval. Officials here indicate that if Japan ever does participate in the storage facility feasibility study it will be as a gesture to pacify American interests and guarantee the shipments to Europe are allowed to continue.

In addition to Japan, countries that the United States had hoped would store spent fuel at the island site someday are South Korea, Taiwan and the Philippines. But the Korean government has let it be known that it, like Japan, is not interested in overseas storage.

News stories emanating from government sources in Seoul assert that, ultimately, Korean spent fuel will be stored in that country. South Korea now has one atomic power plant and plans to have about 40 by the end of this century.

Taiwan and the Philippines, which lag behind in the nuclear power field, have not replied formally to the U.S. suggestion.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the distinguished chairman.

Mr. UDALL. Mr. Chairman, this amendment is almost identical with one the gentleman from California offered when we had the Department of Energy authorization bill. We worked it out and it was acceptable to me at that time.

I think this is a good amendment. I am prepared to vote for it. It is very clear that nobody wants to be the host for the nuclear garbage this country has been generating and if we are not going to slough it off on some State in the middle of the night, we should not do this to the people out in the Pacific for whom we have some special responsibility.

As the gentleman has pointed out, it does not prohibit nuclear waste being stored in some of the Pacific Islands, but it says we are going to do it out in the open and give the people who are affected some notice before this kind of decision is made.

Mr. Chairman, I think it is a good amendment.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman. I would point out that the amendment is identical, word for word, to the amendment that was already adopted.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

I, too, would like to compliment the gentleman for adding this amendment to the legislation and I support it.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 8, after line 11, add the following new section:

SEC. 108. From sums appropriated under section 101(a), the Nuclear Regulatory Commission shall use such sums as may be necessary to develop revised employee training and certification standards to ensure that operators, supervisors, and other employees at nuclear powerplants licensed by the Commission who are responsible for responding to radiological emergencies are adequately trained to operate the plant safely and to detect and respond to radiological emergencies.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

Mr. WYDLER. Mr. Chairman, reserving the right to object, may I ask, how long is this amendment? Is it more than one page?

Ms. HOLTZMAN. Six and a half lines.

Mr. WYDLER. Mr. Chairman, could I have it read?

Mr. Chairman, I object. I would like to hear it.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment.

Ms. HOLTZMAN. Mr. Chairman, this is really a very simple amendment and it goes to the issue of safety in the operation of existing nuclear powerplants. The amendment simply calls for the Nuclear Regulatory Commission to revise the standards for employee training and certification, so that those who operate nuclear powerplants will be adequately trained to operate them safely.

There is no question, and I do not think anybody disputes this, that present training standards are inadequate. The Kemeny Commission found, in fact, at Three Mile Island that the major reason that a minor incident turned into a major incident was a lack of proper training of the operators. In addition, the Commission found that all the operators were trained in accordance with NRC standards. Clearly there can be no question that NRC standards at the present time are inadequate.

I think if we are serious about assuring the American public that existing nuclear powerplants will be operated in a safe and efficient manner, that this amendment should be agreed to. In fact, I cannot think of any objection to requiring a revision of present standards, which everyone acknowledges are inadequate to insure that the operators of nuclear powerplants are adequately trained.

Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I will be happy to yield to my distinguished colleague.

Mr. UDALL. Mr. Chairman, I think the amendment is acceptable. It is certainly consistent with everything in our bill and in our report. Everyone seems agreed that we are going to have to upgrade the standards for training and deploying the operators.

The Kemeny Commission made a recommendation which is similar to this amendment. I think the NRC itself agrees in this and the people in the industry are setting up tighter training standards for supervisors and operators.

So I think this is consistent with what the bill is trying to do and I have no objection to it.

Mr. CORCORAN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I would be happy to yield.

Mr. CORCORAN. Mr. Chairman, I appreciate the gentlewoman yielding.

I congratulate the gentlewoman on the amendment. I think it conforms explicitly with the intent of the Commerce Committee version of the bill and we would have no objection.

Mr. LUJAN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I would be happy to yield to my colleague.

Mr. LUJAN. Mr. Chairman, I am wondering about the amendment. I am not going to oppose it, but I would like to ask, does this entail diverting some moneys from other areas within NRC to emphasize this kind of training?

Let me tell the gentlewoman that I think we do need this kind of a program, but I am just wondering if the gentlewoman has made any analysis of that, that we would have to divert some money.

Ms. HOLTZMAN. There are existing standards on the books right now. Those standards are inadequate. This amendment directs the NRC to revise those standards so that operators will be adequately trained.

I appreciate the gentleman's comments.

Mr. SYMMS. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I would be happy to yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentlewoman for yielding.

I just wanted to ask the gentlewoman two questions. One is, Could the gentlewoman clarify, on line 4 it says: "revised employee training and certification standards".

The word "certification", to what degree does the gentlewoman mean certification?

Ms. HOLTZMAN. Certification applies only with regard to the operators. I am not talking about certification of powerplants. This amendment has to do only with certification of operators; in other words, are they adequately trained, are they adequately educated, are they capable of operating the plants safely?

Mr. SYMMS. Does this mean we will be in a position where we would expect the NRC to issue certificates of operator training or just to assure that there is adequate training? I do not think they are certified.

Ms. HOLTZMAN. This amendment calls for revising and upgrading the existing standards for employee training. It does not talk about certification of anything except the adequacy of the employees themselves. It does not necessarily require certification. It just simply asks the NRC to revise its existing standards and to upgrade them.

Mr. SYMMS. Mr. Chairman, I thank the gentlewoman very much.

Down below, two lines down, it says, "for responding to radiological emergencies are adequately trained."

□ 1330

Mr. Chairman, I would like to ask the gentlewoman what the word "adequately," defines. I would like to know what that means so we are not getting into some difficulty here.

Ms. HOLTZMAN. Mr. Chairman, I will tell my colleague that the Kemeny Commission made a number of specific recommendations. I did not in this amendment include those specific recommendations because it seems to me there has to be latitude for the Nuclear Regulatory Commission to determine and define adequacy.

Perhaps the amendment should say they should be "superbly trained" and "unquestionably excellently trained," but I think what is essential is that they should be adequately trained to do the job of operating those plants in a safe manner.

Mr. SYMMS. Right. Mr. Chairman, I thank the gentlewoman very much.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUILLEN

Mr. QUILLEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUILLEN: On page 3, line 2, after the comma, insert the following: "and not less than $180,000 and six additional positions shall be included in the Division of Safeguards for the regulatory improvement of material control and accounting safeguards and the development of improved regulatory requirements for safeguarding the transportation of spent fuel."

Mr. QUILLEN. Mr. Chairman, I am offering this amendment in response to the shocking deficiencies of the Nuclear Regulatory Commission in regard to the regulation of material control and accounting safeguards, and the safeguarding of spent fuel.

Less than 2 months ago, some of these defects became especially apparent to me when the NRC shut down a nuclear processing plant in Erwin, Tenn., in my district. At least 20 pounds of weapons-grade uranium are missing, and recent reports now indicate that over 200 pounds of uranium inventory are unaccounted for at the plant over the past 11 years.

That is lousy oversight any way you look at it, and unless the NRC tightens up its procedures the outlook for nuclear power and nuclear processing will be bleak.

I hope the adoption of my amendment will provide the NRC with the personnel and the congressional directive to move rapidly in setting things right.

The amendment provides that at least $180,000 of the $32,380,000 authorized for "nuclear material safety and safeguards" be used for six additional positions in the division of safeguards for improving the regulation of material control and accounting safeguards, and for improving the requirements for safeguarding the transportation of spent fuel.

The amendment is aimed at ending the NRC's foot-dragging and mismanagement on the accounting of nuclear materials from point of enrichment through final disposition, and the transportation of spent fuels and other radioactive materials. We need to order them to get on with the job, and get on with it now. This amendment will provide the means to do so.

It is clear that the public is going to have to have strong assurance, which is now lacking, that adequate safeguards exist in order to support the continued development of nuclear power and the processing of nuclear materials.

Mr. Chairman, I urge adoption of the amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the gentleman from Tennessee (Mr. Quillen) has discussed his amendment with me, and I understand there is a serious problem in the area of Tennessee and the district the gentleman represents.

I think this is a good amendment, and these funds and positions ought to be earmarked within the limits of the overall appropriation.

Mr. Chairman, I support the gentleman's amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

I would like to compliment the gentleman from Tennessee (Mr. Quillen) for offering this amendment and state that I do support the amendment.

Mr. DERRICK. Mr. Chairman, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Chairman. I thank the gentleman for yielding. I would like to commend the gentleman for offering this amendment. It provides that a portion of the funds authorized in this bill for nuclear material safety and safeguards be directed to two crucial areas—nuclear material control and accounting, and transportation of nuclear wastes. Both of these areas are of vital importance to the safe and continued operation of our nuclear energy plants nationwide. This amendment will help assure the adequacy of such safeguards, and I urge my fellow colleagues to adopt it.

Mr. QUILLEN. Mr. Chairman, I urge the adoption of the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. Quillen).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dicks: Page 2, line 16, after the words "Inspection and Enforcement"," insert the following: "*Provided*, That of the total amount appropriated for this purpose, $4,684,000 shall be available for support for 146 additional inspectors for the Resident Inspector program;".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. Dicks).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: Page 8, after line 11, add the following new section:

Sec. 109. From sums appropriated under section 101(a), the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study to examine the operations of the power plants at the Indian Point nuclear facility in the State of New York to determine the technical basis for allowing the power plants to continue in operation. Not later than 6 months after the date of the enactment of this Act, the Commission shall submit a report of the results of its study to appropriate committees of the Congress.

Ms. HOLTZMAN. Mr. Chairman, the purpose of this amendment is to call for a study of the technical basis for the determination that the continued operation of the Indian Point nuclear powerplants is consistent with the public's health and safety.

The Indian Point plant is located 24 miles from New York City. Ten percent of the country's population is located within 60 miles of the plant.

It seems to me, given the statement by a senior official of the NRC that placing a nuclear powerplant at Indian Point, with its close proximity to such a large population, was "insane"; we ought to have a study conducted of the technical basis for allowing the plants to continue to operate.

Since I prepared this amendment I have been told that such a study will be conducted by the Nuclear Regulatory Commission, and if the gentleman from Arizona (Mr. Udall) is in a position to give me some assurance about that, I will be happy to withdraw the amendment.

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Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the Indian Point plant has been the subject of a great deal of controversy, and I do not know what the answer is. But I am a little bit troubled about using this kind of an authorization bill for the Congress to legislate how a specific nuclear plant is to be regulated.

I am advised that the NRC now has before it a petition filed by the Union of Concerned Scientists, who want to revoke the license for both Indian Point Nos. 2 and 3.

The argument is made that the gentlewoman's amendment is unnecessary because NRC is considering the petition of the Union of Concerned Scientists. The Union of Concerned Scientists have advised me that the amendment now pending would provide NRC with an excuse not to hold the hearings that are going to be held on the UCS position.

So I would strongly urge my colleague to withdraw the amendment. I think what she is trying to do would be covered better and more expeditiously if the amendment is not adopted.

Ms. HOLTZMAN. Mr. Chairman, the gentleman is saying that the technical basis for allowing the powerplants to continue to operate would in fact be the subject of a hearing?

Mr. UDALL. Yes. Although the term "technical basis" is a little difficult to nail down, I think the basic things the gentlewoman is trying to get in regard to Indian Point would be addressed quicker and better if we do not have this amendment.

Ms. HOLTZMAN. I thank the gentleman.

Mr. WYDLER. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I agree with the chairman of the committee, but I think a couple of other matters should be pointed out to the Committee and to the Members before this matter is disposed of.

First of all, this amendment, as I understand it, would require a study by the Office of Technology Assessment.

Ms. HOLTZMAN. No. The gentleman is incorrect.

Mr. WYDLER. Is that a different amendment?

Ms. HOLTZMAN. Yes.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: Page 8, after line 11, add the following new section:

Sec. 109. From sums appropriated under section 101(a), the Nuclear Regulatory Commission shall use such sums as may be necessary to request the Office of Technology Assessment to conduct a study to determine the feasibility of phasing out of operation the nuclear power plants at the Indian Point facility in the State of New York. Not later than six months after the date of the enactment of this Act, the Commission shall submit to the appropriate committees of Congress a report of the results of the Office of Technology Assessment's study and its comments on that report.

Mr. SYMMS. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, is this amendment on section 107?

Ms. HOLTZMAN. Yes; 107. That is correct.

Mr. SYMMS. Not section 109?

Ms. HOLTZMAN. No.

Mr. SYMMS. I was just wondering if we had the right amendment here.

PARLIAMENTARY INQUIRY

Mr. WYDLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WYDLER. Mr. Chairman, I was almost sure I heard the Clerk read section 109.

The CHAIRMAN. The Chair will advise the gentleman that in renumbering, the section would be 109 as opposed to 107.

Ms. HOLTZMAN. Mr. Chairman, the purpose of this amendment is to require a study by the Office of Technology Assessment of the feasibility of phasing out of operation the two operating nuclear powerplants at the Indian Point facility in the State of New York.

As I mentioned earlier, the operation of these facilities is a matter of grave concern to the very large population living within close proximity to this plant. The two plants are located approximately 24 miles from New York City with its population of close to 8 million people. Almost 10 percent of the entire population of the United States lives within 60 miles of the plant. There is no question that the sites were picked at a time when standards for the siting of plants were not as rigorous as they are today.

As I mentioned earlier, a senior official of the NRC testified that placing a nuclear powerplant at Indian Point, in such proximity to such a large population was, to use his word, "insane."

I think, that Members ought to know that in addition to the question of the siting of the plants, there have been some problems with the operation of the plants at the Indian Point facility.

For example, the plants are built on a geological fault. There has been expert testimony by geologists that there is a 5- to 11-percent chance that an earthquake would occur at the Indian Point facility that is greater than the plants were built to withstand. In other words, there is a 5- to 11-percent chance that an earthquake could occur that would cause the facility to be ruptured and create a danger of enormous loss of life and an enormous hazard to a population of millions.

Mr. GILMAN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentlewoman for yielding.

Mr. Chairman, I want to commend the gentlewoman for bringing this problem to the attention of the committee and to the floor of the House. It is a serious problem, one that has been questioned for a number of years in our region.

Mr. Chairman, I rise in support of the amendment related to the safety of the Indian Point nuclear facility offered by the gentlelady from New York (Ms. Holtzman).

Electrical energy is an essential force, touching on every aspect of our daily lives. Our society, for better or worse, is a technological one, highly dependent on this force. Yet, by the same token, the survival of the human race also depends on a sound environment including clean air and water, a healthy soil, and other unimpaired organic entities. While we need electrical energy to keep our society functioning, we also must not neglect the importance of a healthy environment. The Catch-22 is that in many instances these two vital concerns have come into a headlong clash. Witness the Indian Point nuclear powerplant.

The Indian Point nuclear facility is located on the Hudson River approximately 30 miles north of New York City and immediately opposite the heart of my congressional district. Within 10 miles of this plant there are some 250,000 residents.

In 1976 I urged the Nuclear Regulatory Commission to take the necessary measures to insure that the structural ability of the plant would be able to withstand an earthquake, since the Indian Point plant is situated on the Ramapo Geological Fault. To my knowledge nothing has been done to formally investigate its shortcomings. Any expected mishap at the plant could have serious repercussions, as almost 10 percent of the U.S. population lives within 50 miles of the plant, making a quick evacuation a physical impossibility.

The catch-22 situation is that Indian Point provides the city of New York and the surrounding area with a significant amount of its needed power. The implications of this energy production cannot be overlooked. The New York metropolitan region accounts for roughly 10 percent of our GNP. Add to that the present problems we are having in not only meeting the price of foreign oil, but of assuring continued delivery, one can readily understand the beckoning call for domestic nuclear power. Nevertheless, the Three Mile Island (TMI) nuclear accident makes all of us give serious thought to nuclear safety.

The Union of Concerned Scientists recently focused attention on the problem of this plant's safety and the lack of emergency plans in their petition to the Nuclear Regulatory Commission to shut down the remaining two of the three operating plants at Indian Point (plant No. 1 having been previously closed). That petition is presently being considered by the NRC. There is an obvious need for an in-depth study of the nuclear safety.

Accordingly, I support the amendment offered by the gentlelady from New York (Ms. Holtzman), which would mandate the Nuclear Regulatory Commission to call upon the Office of Technology Assessment to conduct a 6-month feasibility study of phasing out operation of the Indian Point nuclear plant. Such a study hopefully will permit us to apply some of the 20/20 hindsight that TMI has provided.

I recognize that phasing out Indian Point would mean a serious loss by way of energy. For that reason, I think that the gentlewoman's suggestion of phasing out its operation would be quite appropriate. It is for that reason that I support the gentlewoman's proposal, and I would hope that my colleagues would take a serious and favorable look at the proposal.

Ms. HOLTZMAN. I thank my colleague for his comments.

Mr. Chairman, I would like to finish pointing out the problems with regard to the plants. Not only do they lie on a geological fault, but in addition, neither of the two operating plants would receive operating licenses if they applied for those licenses today.

Understanding of safety has changed sufficiently since these plants were built that they no longer conform to present standards for new plants.

Operating experience has shown that there are many problems with these plants. In the last 5 years alone, Indian Point No. 2 has had 146 unexpected shutdowns, more than double the national average. The second unit does not even have many of the new safety features required of the third unit. There is a problem of inadequate housing of the back-up source of electricity for safety systems. There is insufficient independence between the main battery systems and redundant batteries, and there is an auxiliary feedwater system that may be inadequate.

On January 1, 1978, a NRC report to Congress identified 133 unresolved safety issues. Over half of these applied to units such as those at Indian Point.

Because of the proximity of these two powerplants to the population of the New York City metropolitan area, the consequences of a serious accident could be enormous.

The CHAIRMAN. The time of the gentlewoman from New York (Ms. Holtzman) has expired.

(By unanimous consent, Ms. Holtzman was allowed to proceed for 2 additional minutes.)

Ms. HOLTZMAN. For example, Mr. Chairman, the testimony was that a major accident could create the possibility that every single child in New York City could be exposed to enough radiation to get thyroid cancer, and therefore every single child living in New York City would have to be monitored for radiation for the rest of his or her life.

Do we really want to expose all children in such a large population area to such an unnecessary hazard? Do we really want to expose the people of such a large area to this kind of hazard?

What my amendment does is very simple. It does not prejudge the issue of whether the plants should be shut down. All it asks is for a feasibility study of the consequences; how much it would cost, how the power could be replaced, how much it would cost the consumers of electricity, how long it would take, and so forth.

Perhaps it will turn out that there are no alternative sources of energy that these people could use. But it seems to me that, given the enormous risks and given the enormous threat to the population, there ought to be scientific study of that question conducted as soon as possible. I think we can reassure a very large population as to the concern of Congress about that safety issue by requiring this kind of a study without undertaking any prejudgment of the consequences.

The OTA is not a stacked deck either way. The OTA is an independent body, with a sound reputation, and it could conduct a study that I think the Congress would have confidence in and the people of the area would have confidence in. I would hope that this amendment would be accepted.

I would just like to add one final point. This is not special-interest legislation.

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These powerplants were built next to the largest population in this country and are too close. We would never site them there today.

The question is, Are we going to allow this threat of doom to hang over such a large population without doing anything?

The CHAIRMAN. The time of the gentlewoman from New York (Ms. HOLTZMAN) has expired.

(At the request of Mr. CORCORAN and by unanimous consent, Ms. HOLTZMAN was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I would be happy to yield to the gentleman from Illinois.

Mr. CORCORAN. I wonder if the gentlewoman could tell me why she chooses to direct the Nuclear Regulatory Commission to engage the Office of Technology Assessment in this particular study?

Ms. HOLTZMAN. Because of the parliamentary requirements. Why is not the Office of Technology Assessment itself directed to undertake the study? It would not be germane to this bill and we probably could never get it otherwise.

Mr. CORCORAN. The background for my inquiry is the OTA is essentially a legislative tool of Congress.

I wonder why the procedure of asking the Nuclear Regulatory Commission to come back and ask an entity affiliated with the Congress to conduct this particular study?

Ms. HOLTZMAN. Because I think the OTA has a well-established reputation and has credibility as an organization that can conduct such a study.

I think having the Nuclear Regulatory Commission itself conduct the study would raise questions about caliber and quality and bias. I think we want to have an unbiased, scientific analysis of a very serious problem. I think the gentleman would agree this is a serious problem.

Mr. CORCORAN. I would comment that the Nuclear Regulatory Commission is already engaged in a study of this particular issue.

Ms. HOLTZMAN. I do not believe it is. It is not studying the feasibility of the phaseout.

Mr. CORCORAN. I beg to differ. I think there is a study going on not only with respect to Indian Point, but also with respect to the nuclear powerplant at Zion, Ill., with which I am quite familiar; but the question I would have is, if we want as a Congress for the OTA to conduct this kind of study, why would we not direct them in a more efficient fashion?

Ms. HOLTZMAN. Well, if the gentleman would introduce such a bill and supersede this authority, and if we could pass it, I think it would be fine. But, I am concerned that such a study be undertaken as promptly as possible, and this is the only legislative vehicle for doing so.

Mr. SYMMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from New York.

Mr. WYDLER. I want to follow up on the colloquy that just took place on the floor and make it clear to the members of the committee that, if we adopt this amendment, we are setting a precedent. I think the gentleman from Arizona would be in a position to agree with me. I have never heard of the OTA undertaking a study at the direction of a nonlegislative Federal body such as an executive agency or department or independent commission. This is what this amendment in effect directs us to do.

I happen to serve as a member of the Board of OTA. The gentleman from Arizona (Mr. UDALL) is Chairman of the Board. OTA makes studies for Congress, Members of Congress, or the committees of Congress. We are the Congress branch.

It seems to me to be entirely inappropriate to order the Nuclear Regulatory Agency to ask the OTA to conduct the study. It would be precedent setting.

It would seem to me that such an order would have to go to a vote of the Board of the OTA, in any event, to determine how the matter would be funded and how the funds would be transferred from the executive branch to the legislative branch. All this seems to me to be a big, complicated matter. I do not think it is proper to do it this way. I am suggesting on this basis alone, not even going to the merits of this proposal, that the amendment should be defeated.

Mr. SYMMS. I thank the gentleman for his point. I certainly would like to say I agree with the gentleman from New York on the point he made.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from New Mexico.

Mr. LUJAN. I just ask for a little time to ask the gentleman from New York and the gentleman from Arizona, perhaps would it not be possible and within the regular scope of business for the gentlewoman from New York, if she wanted such a study made by OTA, to go directly to OTA and request such a study rather than going through the Nuclear Regulatory Commission?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Arizona.

Mr. UDALL. I am going to reluctantly oppose the amendment, but on some other ground.

I think the gentleman from New York (Mr. WYDLER) makes a good point. We set up the OTA to serve the Congress, and the charter and statute that requests for assessments be made by congressional committees or individual Members of Congress. It is a service to the Congress.

We have on only a couple of occasions mandated by law that OTA make a specific assessment of some kind, but in those cases, the report goes to the committees of Congress, and Congress as a whole, and not to an executive branch agency such as the NRC.

The CHAIRMAN. The time of the gentleman from Idaho (Mr. SYMMS) has expired.

(By unanimous consent, Mr. SYMMS was allowed to proceed for 5 additional minutes.)

Mr. SYMMS. I am in agreement with what the gentleman from Arizona (Mr. UDALL) has just pointed out and the gentleman from New York (Mr. WYDLER) and the gentleman from New Mexico (Mr. LUJAN). I would like to provide a little background information for my colleagues.

The NRC has recently commenced a study of Indian Point, as was mentioned earlier by the chairman when the gentlewoman withdrew her previous amendment.

The Union of Concerned Citizens has recently petitioned NRC to order the shutdown of Indian Point 2 and 3, and that has already been pointed out on the floor.

For this reason, the NRC has paid particular attention to this plant at Indian Point. There are three operating plants at Indian Point, and only two of those plants are now operating.

In the past 20 years we have had six separate reviews on the Indian Point site for powerplant safety. These reviews spanned three construction permits and three operating licenses, and all of these found the plants operating satisfactorily and safely and according to the accepted standards. I think these are some things that we should recognize and understand here this afternoon.

Currently, there is a resident NRC inspector working at Indian Point.

In the zero to 10-mile radius of Indian Point there are somewhat less than a quarter of a million people. The 10-mile radius is also the new NRC/EPA planning distance for emergency evacuation due to radiation exposure.

To give a specific example, in Ontario, Canada, a quarter of a million people were evacuated to escape the effects of escaping gas from derailed railroad tank cars.

There is no reason we cannot accomplish a similar evacuation in the United States in case this were necessary.

Economically, the impact of shutting down Indian Point would be absolutely devastating to the area if we had to replace Indian Point with oil-fired generation. To replace the Indian Point powerplant would require 20 million barrels of oil per year, almost all of which will be imported. Hydropower electricity to be purchased from Quebec is pegged closely to the price of imported oil.

The cost of replacing Indian Point power would be close to half a billion dollars annually. About half the energy generated by Indian Point is for New York City Municipal Government and subway system. Any shutdown would have severe economic consequences on the State and the city.

What has the NRC been doing about all this?

I think those in the committee are concerned. I think there are a lot of us opposed to this amendment and not because we do not recognize the concern that the gentlewoman from New York (Ms. HOLTZMAN) brings before the committee here today. Let me try to put some of these concerns to rest. We will find that the Commission in June of 1975 requested the NRC staff to reevaluate nuclear reactor siting criteria. The report summarizing the results of this effort was transmitted to the Commissioners in mid-August of 1979.

On November 9, in a letter to the Office of the President, Chairman Hendrie described NRC's activities in this area of remote siting of new powerplants.

It states in part:

> For operating plants sited in more populated areas, the staff is considering the effectiveness and need for additional protective actions or additional design features. If indicated, design changes to extend the time available for protective action will be required or, in the extreme, plant shutdown or power reduction may be required.

I think what we have is the NRC, as the proper agency, making the proper steps at the present time. To drag OTA into it at this point in time, I think, would be highly inappropriate, and I would agree with the points that the gentleman from New York made earlier. It would be highly inappropriate for us to do it at this time, probably not productive to the country; and I would urge a defeat of the amendment.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I would like to respond to some of the points that were raised.

First of all, a single Member of Congress cannot request a study by OTA. Now the committee sitting here could certainly do that, but I have not heard any willingness on their part to request such a study. To say OTA is not appropriate because it is not an executive branch agency is to quibble when the lives of over 20 million people who live in the area are at stake.

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Mr. SYMMS. I thank the gentlewoman very much for her comments. I would reclaim my time for just 1 minute to say to the gentlewoman that she is certainly within her rights to request OTA to make a survey of this.

Ms. HOLTZMAN. The gentleman is not aware of the rules regarding OTA. A single Member cannot request a study.

Mr. SYMMS. I would like to make one other point while I still have my time. Would the gentlewoman not agree with me that in her committee, in her amendment, the amendment implies that OTA then should have something to do with licensing studies and it also implies the Congress will get into the licensing? This is where we run a very, very high risk of trying to intervene OTA into something where we already have the appropriate agency. My approach to this is to let us see that the appropriate agency with responsibility is reacting properly for us—if not, then at that time the gentlewoman could request OTA, and then Chairman UDALL and Mr. WYDLER and others on that OTA board could make a judgment as to whether or not they actually need an outside study.

For example, we might want to go to California and get the Electric Power Research Institute to do a study of what the impact would be. We would not necessarily have to have it done by OTA; however, I just think that it would be highly inappropriate.

Ms. HOLTZMAN. Will the gentleman yield?

Mr. SYMMS. I am happy to yield.

Ms. HOLTZMAN. I thank the gentleman for yielding. I think his point that this whole issue does not really need to be studied raises some questions. In the first place, we cannot evacuate a population within the area——

Mr. SYMMS. My point was, and I read to the gentlewoman what is happening. The NRC is studying the matter, they have a resident inspection on duty at Indian Point. Chairman Hendrie has recently written the President of what his actions are on remote siting. The gentleman from Idaho has already made all of these points very clear.

Ms. HOLTZMAN. Will the gentleman yield?

Mr. SYMMS. I am happy to yield.

Ms. HOLTZMAN. The gentleman said you could evacuate the population of the area. The gentleman must then not be familiar with the statements made by Mr. Hendrie and by everyone else who examined the population within the area affected by Indian Point. You cannot, and the testimony has been repeated, you cannot evacuate the population of 20 million people that live within an area of 60 miles of the plant.

Mr. SYMMS. The gentlewoman knows that the gentleman from Idaho said within a radius of 10 miles. I did not say the entire New York City metropolitan area.

Ms. HOLTZMAN. The gentleman is aware, is he not, if there is a serious accident at Indian Point it would affect a population of 20 million people?

Mr. MOFFETT. Mr. Chairman, I move to strike the last word and rise in support of the amendment.

Mr. Chairman, I wonder if I might continue basically on this same track and perhaps have the attention of the gentleman from Idaho and, of course, my other colleagues.

In rather extensive hearings that our Government Operations Committee had, and in a subsequent report that was approved overwhelmingly by the full Government Operations Committee, and unanimously by the Environment, Energy, and Natural Resources Subcommittee of the Committee on Government Operations, we found that there is really no likelihood of evacuating people.

We found, in addition to that, that when I asked the utility, Con Ed, I said:

> Mr. MOFFETT. [C]an we get an answer from the utility of whether or not they think it is possible within [a] 10-mile radius to evacuate a significant number . . . of the 210,000 people [living there]?

Mr. Cahill of Con Ed said:

> Certainly, in the case of our plant, with its design [10 miles] is way beyond any area that we would see any need for evacuation.
>
> Mr. MOFFETT. Let's go to 15 miles. There are a half million people within a 15-mile radius of Indian Point. Is it realistic to expect that a significant percentage of a half million people could be evacuated from the area?

The utility responded:

> It is not realistic. I don't think, to think that they have to be evacuated in the first place.
>
> Mr. MOFFETT. Your position is basically that there is no possibility of an accident at Indian Point 2 that would jeopardize the welfare of persons beyond one-half mile—

Which is what they call the low population zone—

> from the plant gate?

Mr. Cahill from Con Ed responded:

> I would say there is no realistic possibility. . . .

The utility takes the position the plant is so safe that you do not really have to seriously address how, if at all, you could evacuate people. I do not know if that is the position that the gentleman is taking.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Idaho.

Mr. SYMMS. The position the gentleman from Idaho takes is that the 10-mile standard is what the emergency planning operation is. The gentleman is trying to compare apples and oranges. We are not talking about 15 miles, we are talking about 10 miles. Ten-mile radius has a population of 250,000 people. We know, from past experience right next door in Ontario, Canada that 250,000 people were evacuated, most recently from poisonous gas. The gentleman is trying to talk about 15 miles, and 20 miles, and 50 miles, and is comparing apples with oranges. I am saying we are talking about the gentlewoman's amendment.

Mr. MOFFETT. I would like to reclaim my time.

Mr. SYMMS. The gentlewoman's amendment introduces a new plethora of possibilities.

Mr. MOFFETT. I will reclaim my time because that is not what I am saying. I am talking about 10 miles, and if the gentleman was listening, the question I asked the utility, the first question was about the 10-mile radius.

Second, Chairman Hendrie testified before the subcommittee and indicated that they were moving in the direction of trying to get away from plants like Zion and Indian Point that were located so close to population centers. He said some of these sites go back a long time. They are there. They would have to be given some special provision in order to update.

I said then:

> When you say you are moving in that direction, that still does not speak to the issue as to whether the people that say you should close down Indian Point and close down Zion because they are too close to major population centers . . . are correct or not correct.
>
> Are you reviewing that? Are you considering that as an option as a Commission?
>
> Mr. HENDRIE. I do not recall a specific paper before us that dealt explicitly with that, but it is certainly implicit in the considerations that are going on about emergency planning and so on . . .

The concern of so many of us, and granted it may not be a majority, but I think it certainly should be, is that many, many people, many respected people say that you have to seriously consider phasing out these plants and doing it in a hurry because there is no way to evacuate. With all due respect to the gentleman, and I do respect his view on this, but with all due respect to the gentleman, there is a considerable body of opinion, and I think the preponderance of opinion certainly is what we heard on the subcommittee, which says that the NRC is having one heck of a lot of trouble with under 10 miles in figuring out how to evacuate people. Also in those States that even have emergency plans on paper you have areas surrounding the plant which have no emergency planning on paper at all. Indian Point is a good example, as the gentleman may know. We can find that in New York State an emergency plan exists, indeed. This is true. But when we go to the counties surrounding the plant itself, three of the four counties have not one thing on paper.

I think the gentlewoman from New York is saying is this a major question before this body, before the NRC, and this body has a responsibility to at least try to find out what in the world is possible and not possible, should it be phased out, should it not, and what are the technical implications of that. We have no indication that there is an in-depth study of this going on at the NRC. We do have this scientific arm that the gentlewoman is seeking to use, and I think we should support the amendment.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(At the request of Ms. HOLTZMAN and by unanimous consent, Mr. MOFFETT was allowed to proceed for 4 additional minutes.)

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for his comments. I do not think anyone seriously takes a position that we can evacuate the affected population from the area around Indian Point.

The gentleman from Idaho talks about 10 miles. That might be fine in Idaho, but we are talking about a major metropolitan area with an enormous population. Radiation does not follow some kind of a map and then cut itself off at a 10-mile radius. That is absurd.

If there is a major accident at Indian Point radiation could easily stretch well across a 50-mile radius and the city of New York, with its population of 8 million, is located only 24 miles from Indian Point. As one of the senior NRC officials said, it would be insane to build a plant that close to a major population center. But this "insanity" is a fact.

Let us not talk about some abstract standard of 10 miles. Let us talk about the 20 million human beings who live close enough to that plant to be seriously affected in the event of a major accident. I think the possibility of a major accident is not unconsiderable and not negligible, and that is why I raised those points in my earlier statement.

The question here is whether the Congress, in the consideration of this NRC bill, is just going to close its eyes to these 20 million people, close its eyes to the children who live in this area, and just say, "Business as usual," or whether we are going to say this is a serious enough question, we do not have the answers to it, but it is a serious enough question so that we will ask for a scientific study of the consequences of a shutdown and of the feasibility of a shutdown.

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The gentleman from Idaho talked about the figures of 20 million barrels of oil, and that a shutdown of Indian Point would be devastating. How does he know? There has not been any scientific study of this. That is what I am saying to the gentleman from Idaho and to my colleagues: Let us get the facts. That is a serious enough issue. We have over 20 million people at risk. This is serious enough for us to get the facts from scientists on an impartial basis.

Mr. MOFFETT. I thank the gentlewoman. I make this point: The top NRC staffer on emergency planning, in a deposition to the Kemeny Commission, said that it is insanity—"insanity" is the word he used—to try to do emergency planning at Indian Point.

One of the things I would like to stress here in the course of this debate is that the most pro-nuclear people in this body—and again, I respect their viewpoint—but the most pro-nuclear people who want a wholesale development of nuclear power I think are missing a very good, practical opportunity. Those who want a wholesale development of nuclear power should be embracing these token propositions being offered. Mr. MARKEY's proposition was a mild proposition, and the proposition of the gentlewoman from New York is mild. If those Members really want to instill public confidence, why stand up and vehemently oppose making a token—if the gentlewoman from New York will excuse that term with regard to her amendment—mild amendments that are offered when the top NRC staffer says it is insanity to try and talk about emergency planning.

The gentlewoman from New York is merely trying to reassure the public. Why do we not join her in her endeavors? It is not, as she said, trying to shut the plant down, but to see if it is feasible to phase it out.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield further, it may well turn out that the cost of shutting it down may be so enormous that the people at risk may say, "We are willing to take the risk." The argument that OTA is not the proper branch because it is connected to the legislative arm instead of the executive arm is just flimsy. The question is, is OTA competent and is it capable? If it meets those standards, I think we ought to go ahead with the amendment, and I think it does.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is not a bad amendment. It is well intended, and I do not intend, in opposing it, that any great danger is going to come from it. But, Indian Point has been a focus of concern, I well understand that, and the gentlewoman from New York very vigorously and effectively, I think, expresses the concerns of the people in that area.

It is very clear to me that we should not have built Indian Point where it is. If I had hindsight and if I had foresight, I could go back and build this plant somewhere else. But, let me point out that this thing is already underway. The NRC now has the power to close down Indian Point 2 and 3. It is a pending matter. They are going to study it, and they would have the power to close it down.

Second, I have been trying to get a national nuclear policy bill out of our committee. We started about a month before Three Mile Island. Sooner or later, this fall or early in the next session, we are going to try to bring to the floor a bill which will let the country express to the Congress where they want to go.

I would be quite willing to work with the gentlewoman from New York to get some kind of provision to study these tough cases. If there were an accident at Indian Point, they are not going to evacuate New York City, or that if you ever site one like this again, you have to take certain risks. I want this new legislation being developed by the Interior Committee to have some siting provisions as well as problems associated with the siting of old plants such as Indian Point wisely.

But, I think in this authorization bill we ought not to get into mandating certain things for study; specific plants out of the dozens we have operating. I think the gentlewoman from New York has made some very valid points. I do not think the offering of the amendment is all that bad, but I think it ought to be defeated given the present context.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, would the distinguished chairman more fully describe the processes that will take place in the pending petition with regard to the closing down of Indian Point Units 2 and 3? Is there going to be a full-scale hearing on the safety of the Indian Point plant?

Mr. UDALL. Yes, the Union of Concerned Scientists has filed a specific petition relating to that specific plant, and under the law they have the power to do that. The Commission is going to get underway, I believe, with a full-scale hearing to see if this should or should not be done. Many of the issues raised by the New York City delegation and those of neighboring areas have focused on this, and certainly they will get a hearing before our committee as well.

Mr. GILMAN. Therefore, the full safety issue will be before the Commission?

Mr. UDALL. Yes. One of the things wrong with this amendment is that we are asking the OTA to talk about "feasibility." Does that include safety? Does that include economic cost? Does that include siting questions? What does this "feasibility" study really encompass? I would like a little testimony and I would like to give it a little thought before we authorize such a study.

Mr. GILMAN. With those questions in mind, then, would not such an OTA study as suggested by this amendment be helpful to the Commission at the time it conducts its hearing?

Mr. UDALL. That may be the way to

go, and as chairman of that Board with Mr. WYDLER and others, if there is a good case that can be made I will certainly support OTA making studies.

Mr. GILMAN. I thank the gentleman for his concern and support.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, just to add one point to those the chairman made—and that the gentleman from New York was asking about. The chairman has pointed out, that there is a suit filed by the Union of Concerned Scientists, and NRC is reviewing it. A staff report to the Commission recommending action should be forthcoming late next month. This thing is in the mill and on the way and will not be overlooked.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I appreciate the chairman yielding to me. To me, the important point is the question that is being raised here about the Office of Technology Assessment. This is not the way to go. This requirement, I think the chairman would agree, of getting a report back in six months from the OTA would probably be unattainable. I do not think it is possible physically for them to do that. They do not have all these experts sitting around waiting to issue reports on a matter of this type. They would have to put a whole group together to start this study.

Mr. UDALL. I think the gentleman is correct. I think the concerns that have been voiced by the gentlewoman from New York are going to be addressed, they have to be addressed, and they ought to be addressed, but this is not the time or place to do it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 5, section 101, add the following new subsection:

"(e) No amount authorized to be appropriated by this Act may be used by the Commission to license or approve of the disposal of nuclear wastes in the ocean."

Mr. VENTO. Mr. Chairman, the amendment which I am offering is straightforward, and hopefully will not meet any objections. This amendment already has been adopted by the Senate in the companion authorization bill. It would prevent dumping of all nuclear waste in the ocean for fiscal year 1980.

Mr. Chairman, I could go through a lot of discussion with this, but I just want to point out to the Members that there has been an evaluation by the Nuclear Regulatory Commission with respect to alternative methods available for the disposal of low-level waste. While high-level waste is currently banned from dumping in the ocean, this country has used the ocean as a repository for low-level waste. In fact, we have dumped some 45,000 55-gallon drums in the ocean. As the pressure to waste storage grew, the NRC ordered a study conducted by Ford, Bacon & Davis, Inc., which was completed in July 1979, on disposal of radioactive low-level wastes. In that committee report was discussed the desirability of the way we dispose of waste. The descending order of the most favorable way to eliminate or dispose of low-level waste, was: First, the current practice of land burial; second, deep burial; and third, ocean dumping. So it is apparent that shallow-land burial as a practice is the most viable means. I think that we would do well to act on this, especially in light of the concerns that have been raised. It is, of course, very important that we discover a means to adequately deal with the waste disposal problem. I think that this bill and past bills that we have passed with regard to away-from-reactor storage, and its study, and so forth, answer and resolve that question.

□ 1420

Although the United States has not dumped any radioactive wastes in the oceans since 1972 and title I of the Marine Protection, Research and Sanctuaries Act prohibits the ocean dumping of "high-level radioactive waste," recent restrictions on domestic onland waste disposal sites may make the ocean an attractive alternative.

Before we turn to this alternative, it is essential that we review the possible impacts and the many variables associated with the ocean dumping of nuclear waste. Such factors as hydrostatic pressure at great depths, the corrosive effects of saltwater and the transportation of radioactive wastes and their containers by currents and organisms will not effect onland waste disposal but will have serious impacts on waste disposed in the ocean. Ocean dumping also requires additional transportation and handling and thus increases the possibility for error.

A monitoring of the some 75,000, 55-gallon drums of radioactive waste that have been dropped reveal that serious problems do exist with ocean dumping. There is evidence of a hydrostatic implosion of some of the containers in excess of the maximum concentrations expected was found in the vicinity of disposal sites.

Ocean dumping is not an acceptable alternative. Too many variables exist that make this alternative a threat to the ocean and its many resources.

I am concerned that in view of the general reluctance to accept waste for onland storage and disposal, we may turn to the ocean despite the clear indication of significant risk. This amendment is a necessary precaution which would prohibit such an action while we deal with the entire waste disposal issue. I urge that my colleagues support this amendment.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Illinois.

Mr. CORCORAN. I appreciate the gentleman's yielding. I would just ask one question. Is there any rulemaking proceeding now pending in the Nuclear Regulatory Commission which would entertain the possibility of ocean dumping of nuclear wastes?

Mr. VENTO. I am not aware of any pending rulemaking power right now. I think the policy had been one of not dumping. For the past 18 years we have not utilized any dumping in the ocean. I would hope that we would not go forth in terms of doing so. I would like, of course, a statutory provision to insure that.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding. I am not going to oppose the amendment, but I do not think it is necessary, and I do not think it accomplishes anything. I am told by my legal experts that the NRC now has no statutory authority or any other kind to authorize the dumping of nuclear wastes in the ocean. This is something we could address in our overall policy bill when we get to that point. The fact is that the country ought not to make that kind of decision except with the most careful study, and I think it would be a decision for the Congress if we ever got to the point where we decided that that was the likely place to dump.

Mr. VENTO. I think the Chairman raises a good point. According to a study, under the Marine Protection, Research, and Sanctuaries Act of 1972, the Environmental Protection Agency has responsibility for developing criteria and issuing permits for sea disposal of low-level wastes. However, the NRC has authority for licensing land and sea disposal operations as provided in the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974. Under section 274 of the Atomic Energy Act they may delegate this even to States. So the point is that there is no clear delineation as to which agency has the ultimate authority in this area.

Mr. UDALL. I am not going to oppose the amendment. I would note that in the Senate-passed bill last July an identical provision was included. I do not think it does any particular harm, but it is unnecessary, and I do not think it is required.

Mr. VENTO. I thank the Chairman.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding. I would oppose the amendment, if I could tell the gentleman, because I feel that people will read into it something that maybe the gentleman does not intend, and that is that we are making a decision here on the floor of the House today to only dispose of our nuclear waste on land. If we do that, of course, we are in effect saying we have decided to dispose of it all within the landmass of our own country. That may be a decision we will come to, but I do not know if we should just cavalierly make that today. The material the gentleman talked about which was dumped in the ocean previously is low-level waste. That means, if one understands, that that waste is of such a low level that it will harm no one.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WYDLER, and by unanimous consent, Mr. VENTO was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. If the gentleman will yield further, of course, it will be released into the ocean after awhile and it will disappear as part of the radiation that exists in the ocean. We would not be able to find it. So there is no danger from that, and it might be a sensible way to dispose of some low-level waste in the future. We have problems with that now, as a matter of fact, as we know, and it might have closed down all of our nuclear medicine throughout our country—the problems that are being raised. So it just seems to me that at this moment in history to say to the country we are not going to dump any type of nuclear waste whatsoever in the ocean at anytime is not a sensible way to proceed. I think the Chairman is correct when he says the way to proceed is to get a study of what are the pluses and the minuses of doing this or that particular thing.

Mr. VENTO. I agree with the gentleman in terms of a study, but I would especially agree with regard to what we do not know about it. In other words, we do not know what the impact of hydrostatic pressure is; we do not know what effects saltwater has; we do not know what happens to the movements of these 55-gallon drums that have already been dumped. It is impossible to monitor them adequately. We do not know what the long-term impacts are. This is a real concern. I would certainly agree with the gentleman that we do not have the information. Until we do have the information, I think it is desirable that we prohibit the dumping of this material in the ocean. We have not used it for 18 years. There is no great urgency that we have this particular mode of waste disposal. I think it does well to recognize that in the statute. That is why I am offering the amendment. There has already been evidence of problems with this dumping in terms of the monitoring of it, the lack of information, and leakage of wastes.

I have just reported that the NRC has asked what was the most desirable criteria. I think it is obviously of great concern.

I want to mention, Mr. Chairman, that there is support for this. I want to just note that the gentleman from Hawaii (Mr. HEFTEL) and his colleague (Mr. AKAKA) have commented to me about their concern about this and their support for this particular amendment. I just think that we do have available sites on land for the disposal of low-level wastes. We ought to use them. They are the most desirable, they are the most cost efficient and safest, and we ought to place in the statute this particular limitation. It is a reasonable one based upon information, based on the economics of the situation, and what we know so far on low-level wastes and the 75,000 drums that have been sitting in both oceans for almost 18 years. We know we are not monitoring them. We cannot just dump wastes into the ocean and let them go away. They are not going to go away. They are going to be there for now and for succeeding generations. All I am asking is that we put a prohibition in here until we have adequate information in order to move forward in terms of low-level wastes in the ocean.

Mr. SYMMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will be very brief and just say that if those folks, for whatever sincere reason, as most are who are in opposition to the development of nuclear power, are able to be successful in stopping all places where any nuclear waste can be stored or gotten rid of, they will be successful in stopping the advancement of nuclear power. I think that even though it has been pointed out here in the debate, that there is no intention to do any of this, we have to agree that the signal it sends is wrong for the country. If we want to have an economy in this country that is growing and offering opportunity for people into the future, it will require energy—and we do everything we can to paralyze the growth and development of energy resources, we will be actually returning the people of America back to the slavery of hard work.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding. The trouble here is that we appear to think in this legislative body that we can control the actions of the world. Of course, in many places in the world today we know we cannot do that. The fact of the matter is that many of the countries of the world are disposing of their waste in the ocean today. So the oceans are not pristine pure, and nothing we do here is going to make it such.

We do have to face the problem of disposing of our various kinds of nuclear waste. To say that there are three low-level burial grounds in the country that are taking it today seems to me to be flying in the face or reason; we know those three dumps were closed just a few weeks ago—two of them completely—for the rest of the Nation. We did not have a place to put our hospital wastes then.

I think it becomes almost wildly speculative for this body to start passing total prohibitions against certain types of action which may be very much in our national interest. Before we do that, it seems to me we should try to get the facts, so I hope the amendment will be defeated.

Mr. SYMMS. I thank the gentleman.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding. I just want to say to the gentleman from Idaho I am not trying to send anyone a signal. I am trying to get this body to make a policy decision. The policy decision is going to be we are not going to prevent the dumping of low-level waste in the ocean until such time as we have the information we need. In addition to that, if we can send a message to other countries that are dumping materials in the ocean, which the United States has not used for some 20 years for dumping, that would be a great accomplishment on our part. There is not the intention here to cut off any nuclear power. We are not sending any signals. I said what I meant, and I think we ought to act on the basis of all we know around here and not on the basis of whether or not we are sending a signal for public relations purposes.

Mr. SYMMS. I thank the gentleman very much.

I think the gentleman from New York (Mr. WYDLER) made an excellent point that when we start passing prohibitions in this Congress prior to the assessment—and some of us do not believe we have had a careful enough assessment of where we are going and what decision should be made—it is a mistake. I urge defeat of the amendment.

☐ 1430

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The amendment was rejected.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY: Page 3, line 11, after "Programs" insert "(A)".

Page 3, line 14, before the comma insert "and (B) for providing financial assistance to the States to be used for the purchase of appropriate radiation monitoring equipment".

Mr. EMERY. Mr. Chairman, this is a very simple amendment. It merely allows that under the provisions for program technical support it offers a State program the same amount of money proposed in this legislation may also be used for the purchase of radiation monitoring equipment. The intent is very simple and that is to allow the States to have access to necessary equipment with which to monitor any ambient radiation in the air in the vicinity of nuclear powerplants in that particular State.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield.

Mr. UDALL. In this debate, with some of these amendments we have been able to earmark and focus a little better and hone up on what we want the NRC to do, that is an important part of this legislative authorization bill. I think the gentleman's amendment is good and I support it.

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. EMERY. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, this is a good amendment and I favor it, but I hope that the equipment will be used in more places than just outside a nuclear plant. This is the trouble with much of the debate we have here on the floor of this Committee. We talk constantly about the radiation outside a nuclear plant, how dangerous it is to mankind, and we are monitoring it. However, we ignore the radiation that exists outside of coal-burning plants, which is more than the radiation that exists outside of nuclear-powered plants. We ignore that danger. We do not monitor that radiation even though it is greater than the radiation that comes out of the nuclear plants.

Mr. Chairman, the only thing I suggest to the gentleman as part of his amendment is that these monitors be put in many places in our society. Comparisons should be made with such things as the radiation outside a nuclear plant, with the radiation outside of buildings that have granite in them, and with coal-burning plants. I think these comparisons would be very educational for the American public and would start to give them some relative judgment about how dangerous the operation of a nuclear plant really is.

Mr. Chairman, I would approve the gentleman's amendment, but I only hope it causes this equipment to be used in more places than just outside nuclear plants. The implication in the amendment is that the only place there is any radiation is in the nuclear plants. Of course, this is not a fact, as the gentleman knows.

Mr. EMERY. I thank the gentleman for his support of my amendment and I also agree if this equipment is used in other areas where possible radiation may or may not exist that is helpful and I agree with the gentleman's comments.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Illinois.

Mr. CORCORAN. I appreciate the gentleman yielding.

Mr. Chairman, I am in a quandry as to just where the money that would be earmarked under the gentleman's amendment would come from. Could he explain?

Mr. EMERY. Well, under the provision for program technical support, listed on lines 7 through 14 on page 3, it is clearly earmarked in the amount of $16,410,000 to program technical support and provision that $1.485 million is available to the Office of State Programs.

Mr. Chairman, I have not said the money shall be allocated nor have I changed the figures in the bill. All I am doing is simply saying if it is desirable under this act that money may be used for the purchase of such equipment. I have made no change in the appropriation.

Mr. CORCORAN. So am I correct in concluding that the money would come from the $16-plus million item rather than the $1.4 million line item? That is the reason for my concern, because the $1.485 million that is provided in that particular section is designed to give the State and local governments the additional financial assistance in order to prepare the emergency response plan. If we are now diluting that money, I would have objection to the gentleman's amendment.

Mr. EMERY. I think the language is quite clear. It says, "not less than $1.485 million shall be used for that purpose," and a good deal more could be as I read the legislation and it is not my intention nor is it the scope of the language in my amendment that we deplete money for that purpose.

Mr. CORCORAN. So your funds would come from the $16 million-plus line item rather than the latter?

Mr. EMERY. That is my intention.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding. I would just like to ask the gentleman one other question. Was there any intention on the part of the gentleman about redundancy of Government availability of radiation detection equipment? EPA does some of this and I do not know who else.

Mr. EMERY. My feeling is a certain amount of redundancy in monitoring the program is probably a good idea. Sometimes the equipment is not read properly, sometimes it is not in working order. There are any number of reasons why it is available for EPA or NRC or individual power companies or the State office of emergency planning, to have the capability, and inasmuch as this equipment is not wildly expensive and inasmuch as various agencies have some responsibility for safety in monitoring——

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SYMMS and by unanimous consent, Mr. EMERY was allowed to proceed for 1 additional minute.)

Mr. SYMMS. Will the gentleman yield further?

Mr. EMERY. I yield to the gentleman from Idaho.

Mr. SYMMS. It is too bad the gentleman did not earmark within his amendment that certain radiation detection equipment be monitored to go along with Ralph Nadar and Jane Fonda to see how much radiation they give when they are laying on the beaches or flying in jet aircraft or testifying in the Senate or House Office Buildings. Maybe since they have become the Nation's technical advisers on nuclear power, we could see how much radiation they pick up jetting around the country in jet aircraft.

Mr. EMERY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PEYSER

Mr. PEYSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEYSER: Page 7, line 3, strike the comma at the end of line 3 and insert the following: "and submit a report of such assessment to the appropriate committees of the Congress within six months of the date of enactment of this act,".

Mr. PEYSER. Mr. Chairman, I would first like to point up what I am amending here so everyone will have a clear picture of it. On page 6, basically, one of the things called on for the Nuclear Regulatory Commission is to establish by rule and standards for States, radiological emergency plans and furthermore to review all plans and other preparations respecting such an emergency which have been made by each State and in areas located near nuclear plants.

All I am doing is taking exactly what is in the bill here and simply putting a time limit of 6 months to report back to the appropriate committees.

Now the one reason I am bringing this up at this time, Mr. Chairman, is the fact that this whole concept of evacuation is really something that is being used, in my opinion, to dupe the public. I think the real concern is that nuclear energy be proven safe, have the kind of regulations that are going to guarantee safety in all aspects. Evacuation and evacuation plans are an absolute snare and delusion.

New York State, to take one State, and there are 34 States that have plans on file, New York State has a plan that is approved by the NRC on file. The New York State plan was drawn up in 1975. Part of it is the plan made out in 1977 for Indian Point. I do not mean to be picking on Indian Point but I simply want to state that I have looked through this plan that the NRC told me was operative and in effect and I find out upon inspection that the thing they are talking about such as stockpiling of food, rehearsals, numbers where people can be reached, none of these things are in place. There is no stockpiling of food. They did at the initial time in 1977 stockpile food but the food went rancid and that was the end of that stockpile.

Mr. Chairman, we all know these things and this is what happens.

The telephone numbers that are listed in here of people that the NRC and others should be in contact with, a number of them are people who are no longer even connected with the organization.

□ 1440

I do not think the public should be led into the belief that we are really all right because we have emergency evacuation plans in place; so all this amendment does is to follow the good sense of this bill in saying let us have the report in 6 months as to the feasibility of all these plans.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I thank the gentleman for yielding.

We are giving in this bill a lot of paperwork to the NRC and a lot of reporting to do. I think most of it is necessary and will give us a better idea of where we are going.

Mr. Chairman, I see no objection to the gentleman's amendment. I would note that we will probably have in conference a number of different timetables and reports than the Senate bill will have and we will have to sort them out; but for purposes of House action, I certainly will not oppose the gentleman's amendment.

Mr. PEYSER. Mr. Chairman, I thank the gentleman.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

My question to the gentleman is, has the gentleman had an assessment from the gentleman's own staff of how many reports are being requested from NRC in a certain 6 months' time frame?

I am wondering if we are going to give the agency down there so many reports to fill out that at the end of 6 months they will come back and request more people to fill out more reports.

Mr. PEYSER. Mr. Chairman, I thank the gentleman.

I would not have requested this amendment if all the language that I was looking for basically appears in the bill itself. The only thing I am doing is rather than go say to the full term of this legislation of saying that within a 6-month period the appropriate committees should be notified of the feasibility of these plans, because if there is one thing that is misleading to the public, it is to say to them, well, we have an evacuation plan that has been approved by the NRC; therefore, basically if something goes wrong, we are safe. I know that is not the case, but I think we have to get an official statement on it to the appropriate committee and I am sure that this would not create a problem.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much.

Mr. CORCORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to object to this amendment, but I would just point out that there really is no essential need for it. We are already considering subsection 5 which requires that the Nuclear Regulatory Commission report to the Congress its findings.

I am concerned about the distraction that this committee would impose upon the Nuclear Regulatory Commission from looking at the safety and other serious considerations that we should be examining through the regulatory responsibilities granted to the Nuclear Regulatory Commission, rather than the additional paperwork that would be imposed as a result of this particular amendment.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. Yes. I would be happy to yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I assure the gentleman that I do not want to create extra paperwork for the Commission; but I also would like to say to the gentleman that I think this is of the most critical importance, which is why I think the gentleman and the chairman had the good sense to see this in the bill.

I think this whole question of evacuation is of critical importance to the public, because they view it one way and I think the facts are going to show it to be very different. That is the only reason I am doing it at this time.

Mr. CORCORAN. Mr. Chairman, I would reply that I am sure that the gentleman is well-intentioned in what the gentleman is attempting to do.

My concern is that with this and other additional paperwork requirements, that we are taking the Nuclear Regulatory Commission from its main responsibility at the moment, which would seem to me to be to learn the lessons of Three Mile Island and apply those lessons to the new nuclear power plants coming on line, as well as those we already have.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I would be happy to yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding and for making that point, because I think oftentimes the well-intended safety regulations, even in other areas, sometimes become so concerned with the forest that they oftentimes miss seeing the trees.

I hope the amendment of the gentleman from New York will not be just a further burden to the NRC. I think there is a great deal of risk there, that it becomes unessential, unnecessary, extra cost, extra expense, and diverts them from their real duties of providing us with a safe nuclear power framework to work within under government sponsorship, and not subsidy.

Mr. WYDLER. Mr. Chairman, would the gentleman yield to me?

Mr. CORCORAN. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, the trouble with this amendment is that we are giving this group of men, and it is a very limited group of men down at the Nuclear Regulatory Commission, 6 months to come in with a very comprehensive, detailed and complicated report, I am sure the gentleman would agree, at a time when they are loaded and overburdened with work under the current circumstances. As a matter of fact, they had to stop all their work on new permits that are going through the Commission to concentrate on the Three Mile Island recommendations. They are all tied up with that now.

I do not know if there is anything in all this bill that gives them additional personnel to do all this work that we are just dumping on them and saying, "Send us a report on all that in 6 months"? Is it reasonable to request them to do that and to expect that they will be able to do a competent and a sound job?

I should point out to the gentleman that nobody is against the idea of having such a report; but has the gentleman given any thought to the time period that the gentleman has set forth. Where did the gentleman come up wih these figures from, 6 months for all of these reports to be submitted to the Congress?

Mr. CORCORAN. Mr. Chairman, if I might reclaim my time and respond to the gentleman, although I am sure the author of the amendment would want to comment, there is additional money within this authorization bill in order to give the Nuclear Regulatory Commission the money with which to work with state and local officials in order to come up with the emergency response plan, which we want to make sure that every one of the appropriate States ultimately possesses. My concern, as I have indicated earlier, is that if we add additional requirements like this for things which we want the Commission to do and not provide the additional support, then we dilute the capacity of that particular agency to do the serious work it should be considering.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding.

The gentleman is perfectly correct. I would like to say to my good friend, the gentleman from New York, that my understanding is that there is $52 million additional in this bill just for the additional work that the NRC is going to be asked to do.

I would just like to say that I do view this as a critical part, I cannot think of anything more important they can do in the area of this whole thing of public safety, other than evaluating what the public believes to be a safe shield for them to hide behind, which I do not happen to believe is true, and that is what we are going to find out.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(By unanimous consent, Mr. CORCORAN was allowed to proceed for 1 additional minute.)

Mr. CORCORAN. Mr. Chairman, I just ask for this additional minute to ask the maker of the amendment one question. Is it the gentleman's intention that the gentleman's report would not in any way delay the ongoing work of the Nuclear Regulatory Commission to assist State and local governments in developing these emergency response plans?

Mr. PEYSER. No. As a matter of fact, it would be my hope when they make the evaluation, which they must make first before they can assist them, that the facts will develop what they have to do in order to have an effective evacuation program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PEYSER).

The amendment was agreed to.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think most of the title I amendments that I am aware of either have been offered or will be offered very shortly. I am wondering if we can get an agreement on time.

To that end, Mr. Chairman, with the understanding, of course, that under the rules of the House amendments printed in the RECORD get the regular 5 minutes, I ask unanimous consent that all debate on title I and all amendments thereto close at 10 minutes after 3.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. In accordance with the agreement, all debate on title I will end at 10 minutes past 3.

PARLIAMENTARY INQUIRIES

Mr. CORCORAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CORCORAN. Mr. Chairman, is

that time limit with respect to title I only?

The CHAIRMAN. That limit is with regard to title I and all amendments thereto.

Mr. MOFFETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOFFETT. Mr. Chairman, those of us who did have amendments printed in the Record are still protected, as far as amendments are concerned?

The CHAIRMAN. That is correct. Those Members who had amendments printed in the Record will be entitled to their 5 minutes.

Members standing at the time the unanimous-consent request was granted will be recognized for 1 minute and 45 seconds each.

□ 1450

The Chair recognizes the gentleman from Connecticut (Mr. Moffett), a member of the committee.

Mr. MOFFETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moffett: Page 7, after line 17, insert:

"(b) In carrying out its review and assessment under subsection (a)(2) and (3) and in submitting its report under subsection (a)(5), the Commission shall include a review and assessment, with respect to each nuclear reactor and each site for which a construction license has been issued for a nuclear reactor, of the emergency response capability of State and local authorities and of the owner or operator (or proposed owner or operator) of such reactor. Such review and assessment shall include a determination by the Commission of the maximum zone in the vicinity of each such reactor for which evacuation of individuals is feasible at various different times corresponding to the representative warning times for various different types of nuclear incidents."

The CHAIRMAN. The Chair will inquire, was the gentleman's amendment printed in the Record?

Mr. MOFFETT. Yes, it was, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Connecticut (Mr. Moffett) insist on his 5 minutes?

Mr. MOFFETT. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut (Mr. Moffett) is recognized for 5 minutes in support of his amendment.

Mr. MOFFETT. Mr. Chairman, perhaps I will not need the 5 minutes.

Let me say to my colleagues on the committee, Mr. Chairman, that this amendment would require the Nuclear Regulatory Commission to determine how large an area can be evacuated within several given times. That would be at the discretion of the Nuclear Regulatory Commission itself as to how much of an area could be evacuated around each nuclear plant now operating or under construction.

An NRC study on this matter said that we might have as little as a half hour or as much as a day in warning time in the event of an accident. The study that this amendment would require is a perfect complement to what we see in section 104, the assessment that was addressed by the gentleman from New York (Mr. Peyser) and that has been addressed by others.

But this goes somewhat beyond that to attempt to address what are some obvious uncertainties and what is in some cases confusion in regard to just what the evacuation capabilities are for each plant.

In the colloquy that I had and that others had with the gentleman from Idaho (Mr. Symms) earlier on the amendment offered by the gentlewoman from New York (Ms. Holtzman) with regard to the Indian Point plant, I think it was obvious that neither of us really had a firm grasp on what was possible and what was not with regard to evacuation, let us say, within 10 miles or 15 miles.

This amendment is intended to complement what would be an ongoing study of the NRC and would enable all of us and the American public to begin to address the question of what is possible and what is not with regard to evacuation capabilities.

As I indicated earlier, the Subcommittee on Environment, Energy and Natural Resources of the Committee on Government Operations issued a report which indicated very clearly that emergency preparedness was grossly inadequate in many instances, and in many, many instances it was not even known what emergency response capability was possible. The Kennedy Commission itself addressed the same issue and came basically to the same conclusion.

Mr. Chairman, this amendment is supported by Northeast Utilities in my part of the country and, I suspect, by other utilities which realize that it is important to identify just what the warning time should be.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I support the gentleman's amendment. I think the information that he specifies ought to be in this report and would probably be included by a conscientious commission in any report it makes.

I think it is well to nail it down and specify it, and I think this amendment adds to the bill.

Mr. MOFFETT. Mr. Chairman, I appreciate the gentleman's support.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, I thank the gentleman for yielding.

I have asked the gentleman to yield simply to raise a question with the maker of the amendment.

As the gentleman knows, section 104 of the bill imposes upon the Nuclear Regulatory Commission certain duties and provides funds for the agency to work with State and local governments in the development of an emergency response plan. At the same time, after that work has been completed, the legislation would require the Nuclear Regulatory Commission to report back to the Congress on what inadequacies in the law and elsewhere should be addressed by the Congress.

My question is this: Would this report which would be provided for under the amendment in any way slow the submission of the general report that we want under section 104?

Mr. MOFFETT. Mr. Chairman, the gentleman has put his finger on a very important point, and I think this is a very important question.

I think we should make it clear in this colloquy and in the legislative history here that we do not intend that this function that we are requiring or this study will in any way interfere with what they are doing. In fact, the NRC has indicated that what they are doing is closely related with this, and what we mandated they do on page 6 is also closely related.

But never do we mention—and this is what I seek to amplify—evacuation capability per se. How many people can we get out? How much time does it require? Is it, let us say, a half hour, 4 hours, or a day?

That is something that has been sorely lacking, and it is something we want to address. In no way do we want to delay other things.

Mr. CORCORAN. Mr. Chairman, I appreciate the gentleman's clarification.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I would envision a study of this kind to be a separate study where they would take norms and apply them to each reactor site. Or did the gentleman have a more extensive review in mind?

Mr. MOFFETT. No, the gentleman is absolutely correct in terms of my intent, yes, and I thank the gentleman for his question.

Mr. DECKARD. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to my colleague, the gentleman from Minnesota.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Moffett) has expired.

Mr. MOFFETT. Mr. Chairman, I believe the gentleman has his own time.

Mr. DECKARD. Mr. Chairman, I rise to speak on the amendment.

The CHAIRMAN. The Chair will inquire. Is the gentleman speaking on behalf of the amendment?

Mr. DECKARD. Yes, I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Indiana (Mr. Deckard) is recognized for 1 minute and 45 seconds.

Mr. DECKARD. Mr. Chairman, as a member of the subcommittee chaired by the author of this amendment I wish to rise in its support.

The Nuclear Regulatory Commission already has the authority to review and concur in emergency preparedness plans of utilities and State and local governments—but in an exhaustive survey, the subcommittee found that the efforts of both these private and governmental entities can best be described as perfunctory—and in many cases have no basis in practical reality.

Regardless of one's position on nuclear energy—whether in favor, opposed, or steadfastly ambivalent—I think everyone will agree that safety should be the uppermost concern in the siting, design, construction and operation of these plants. And just as engineering redundancies are very properly designed into nuclear plants, emergency preparedness represents the final social redundancy: A recognition that in spite of the magnificent technology of nuclear plants, and the unliklihood of a class 9 incident, we have nevertheless not yet attained personal and technological infallibility.

Thus, a prudent, cautious, and conservative society is one that provides contingencies for those times when events may not follow our carefully-laid plans.

This is all this amendment attempts to do and I urge its favorable consideration.

Mr. WYDLER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New York (Mr. Wydler) is recognized for 5 minutes in opposition to the amendment.

Mr. WYDLER. Mr. Chairman, I do not really believe this amendment is that harmful to the legislation. However, it adds another burden to the staff of the Nuclear Regulatory Commission to perform one more set of duties at a time when they are trying very hard to get our nuclear power program in our country back on the track.

I do not know whether they can really perform all these duties and everything that every Congressman can think of to impose upon them within the next 6 months, or some such period of time, but I personally doubt it. However, that seems to be the intention of some Members here.

I do think this amendment might give us some cause to reflect on how much attention we are paying to the unlikely event of some serious accident happening at a nuclear powerplant where some large amount of radioactive material would get into the atmosphere. That is something that did not happen at Three Mile Island, even though we considered it a very serious accident. We are going to have many national, State, and local plans. Everybody is going to have plans for some eventuality. We are paying so much attention to this that a great deal of our time and effort are going to be put into this one area.

We are doing this while at the same time, as a nation, we basically have no plans whatsoever for the much more likely event that our country would face a nuclear attack from some foreign country. In that case we would not have any plans at all. Everybody would more or less have to be on their own. The country is not adequately prepared for this. We have no national plan, no State plan, no local plan. For that eventuality we have virtually nothing.

However, for the very unlikely possibility that we would have some kind of a serious nuclear accident at a powerplant, we will have plans in every State, every locality, and even at the Federal level. There is a certain inconsistency in this comparison, and I think that the Congress has to address this and think about it a little.

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Also, we are going to put all this attention on the dangers from radiation, but we are not going to put any effort, it appears to me, into the much more likely possibility that we might have a catastrophe at one of the large dam sites around our Nation. Many of them are in the Western and far Western part of our country, where dams might collapse in an earthquake or for some other reason, hundreds of thousands of people might be endangered by the rushing waters. We have no Federal plan, any State plan, or any local plan for this. We do not pay any attention to that.

All we consistently and continually think about is this most remote of all possibilities that there is going to be some serious leakage of radioactive material out of one of our nuclear powerplants. I think that the Congress, if it is really going to be complete, as it seems to want to do, in protecting the public from this very far-out danger should start to think how much more responsibility they owe to the general public of the dangers of a nuclear attack on our country, the dangers of possibly a dam bursting, or some of the chemical plants around our country exploding and exposing the public to a large amount of chemical pollutants in the air.

We seem to ignore these other dangers. We seem to spend all our time worrying about nuclear energy accidents, the most remote of all possibilities; we are going to spend a tremendous amount of time, effort and money on it. I think we should consider in our minds whether that is a rational policy for this Congress to pursue.

Mr. DECKARD. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Indiana.

Mr. DECKARD. I thank the gentleman for yielding.

Mr. Chairman, I believe my colleague is aware that the NRC has already begun to perform an assessment of emergency response capability, and in that sense this amendment merely reinforces the greater determination of the NRC to improve all aspects of nuclear safety, and it gives adequate assurances that we in the Congress share NRC's and the public's concern toward greater progress toward that goal. Failure to adopt that amendment would be a clear signal to the NRC that the Congress does not share their concern about emergency plans.

Mr. WYDLER. The gentleman may be right. It is unfortunate that the amendment was offered, so that we are put in this position. But the fact of the matter is that this amendment does not require them to do something in addition to what they are already going to do; I agree with the gentleman is a great amount to do. This is just adding another set of requirements and burdens to the tasks they have to perform. I do not see any sense for offering the amendment in the first place.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. Moffett).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The amendment is as follows:

Amendment offered by Ms. Holtzman: Page 8, after line 11, add the following new section:

Sec. 107. (a) From sums appropriated under section 101(a), the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct, within six months after the date of the enactment of this Act, thorough inspections of all operating nuclear powerplants to determine—

(1) whether the operators of the facilities are complying with all applicable rules and regulations of the Commission;

(2) whether, notwithstanding compliance with the rules and regulations of the Commission, there are serious flaws in the design, construction, or utilization of any facility that pose a hazard to the health or safety of the public; and

(3) whether any history of accidents at any plant indicates the likelihood that there are serious flaws in the construction of any component parts at the facility, or in the design of any part of the powerplant.

With respect to each nuclear powerplant inspected under this subsection, the Commission shall issue a report containing the results of the inspection, together with appropriate conclusions regarding the safety of the operation or construction of the plant and recommendations for modifications in such operation or construction.

(b)(1) The Commission shall promptly make the reports issued under subsection (a) available to each operator and owner of a nuclear powerplant inspected under such subsection.

Mr. SYMMS. Mr. Chairman, I reserve a point of order on the amendment.

Ms. HOLTZMAN. Mr. Chairman, this is a basically simple amendment. It requires that the Nuclear Regulatory Commission reinspect all operating nuclear powerplants and determine whether they are operating within the existing rules or regulations, determine whether or not there are any serious flaws in the design that pose a hazard to the public, and to determine whether a history of accidents at the plant raises the possibility of a design flaw.

The Commission is directed to report back to the Congress and to make those reports available to the utilities and the operators of the powerplants.

Mr. Chairman, we have talked a great deal about the need—and it is obvious to the American public that there is a need—to insure and improve the safety of operating nuclear powerplants.

My amendment says that the Nuclear Regulatory Commission should go back and reinspect all operating nuclear powerplants to see if there is a problem, to see if they are operating safely, to see if there is a design flaw, to see if there is a serious inadequacy. I do not see how we can continue to allow these plants to operate without knowing if there are some serious safety flaws and without making every reasonable effort to insure that they are being operated as safely as possible.

Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I am going to vote for the amendment, but I want to put every Member on notice that we have had a lot of report language here. We have had reports required, we have had studies required. I think most of what the gentlewoman's amendment does is already being done anyway. A lot of it overlaps the amendment offered by the gentleman from New York (Mr. BINGHAM) that was adopted last week about certain things being done.

When we get to conference with a much simpler Senate bill, I want to rationalize and short-cut a lot of this and get the right kind of studies and the right kind of investigations and not a lot of duplication. So I warn my colleague, the gentlewoman from New York (Ms. HOLTZMAN), on that particular point. But subject to that, I am going to vote for the amendment.

Ms. HOLTZMAN. I appreciate the gentleman's comments.

Mr. CORCORAN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. CORCORAN. I thank the gentlewoman for yielding.

Mr. Chairman, I would say, first of all, that I would associate myself with the comments of the gentleman from Arizona. But I do have a question regarding subparagraph (2), which I think would provide possibly an unintended loophole for the maker of the amendment.

The language reads, "* * * whether, notwithstanding compliance with the rules and regulations of the Commission," there might be flaws or design problems.

My question is: Would not the maker of the amendment want the Nuclear Regulatory Commission, when it finds such design flaws, to take appropriate steps to modify its rules and regulations accordingly?

Ms. HOLTZMAN. Mr. Chairman, I would tell my good friend, the gentleman from Illinois, that we should take one step at a time. Obviously, it would be important, if a serious design flaw is found, for the Nuclear Regulatory Commission to address that problem, perhaps by modifying its rules or regulations. All my amendment calls for is an examination of existing plants to determine if the flaws exist. I think that is the first step and a very important step. Obviously, we cannot take corrective action or order the NRC to do so unless we know what the problems are.

The CHAIRMAN. Does the gentleman from Idaho (Mr. SYMMS) insist on his point of order on the amendment?

Mr. SYMMS. Mr. Chairman, I withdraw the point of order.

Mr. LUJAN. Mr. Chairman, I rise in opposition to the amendment and claim my 5 minutes.

The CHAIRMAN. The Chair will advise the gentleman that this is not an amendment subject to 5 minutes but to 1 minute. So the gentleman is recognized for 1 minute.

Mr. LUJAN. This amendment was not printed in the RECORD, Mr. Chairman?

The CHAIRMAN. This amendment was not printed in the RECORD. Therefore, the gentleman is recognized for 1 minute.

Mr. LUJAN. Mr. Chairman, let me just state that the gentleman from Arizona is correct. We have so many paper studies going on all over the place that we are going to have armloads of books to review after this authorization year.

I would hope that the NRC is now—and I understand and know that they do—continually reviewing safety hazards with every plant, and that should continue to be done.

How many times can we order, "Do another study, do another study," when we know that they are doing it all the time? Can you imagine a book containing all of the flaws that could ever happen to be in any reactor to be published? First of all, it would be quite a voluminous book, but then it would give all of the ammunition for every kind of a suit on every single nuclear powerplant that we have in this country.

I think this is an overkill. Although I agree with the gentlewoman that every single reactor should be as safe as possible, still this is an overkill, and I would hope that we do not accept this amendment.

The CHAIRMAN. If there is no further debate on the amendment, the question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The question was taken; and on a division (demanded by Ms. HOLTZMAN) there were—ayes 5, noes 11.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—AUTHORITY TO MAKE PAYMENTS

SEC. 201. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

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The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III

SEC. 301. Section 234 of the Atomic Energy Act of 1954 is amended by striking out "$5,000" and inserting in lieu thereof, "$100,000", and by striking out, after the word "violation", all that follows in the first sentence, and submitting in lieu thereof a period.

SEC. 302. (a)(1) The Atomic Energy Act of 1954 is amended by adding a new section 147 "Safeguards Information" to read as follows:

"SEC. 147. SAFEGUARDS INFORMATION.—

"a. In addition to any other authority or requirement regarding protection from disclosure of information and notwithstanding section 552 of title 5, United States Code, relating to the availability of records, the Commission shall prescribe such regulations or orders as it may deem necessary to prohibit the unauthorized disclosure of safeguards information which identifies a licensee's or applicant's detailed—

"(1) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

"(2) security measures (including security plans, procedures, and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

"(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by (1) and (2) in this paragraph,

if the unauthorized disclosure of such information could have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority in this subsection so as to apply the minimum restrictions needed to achieve the objectives of protecting the health and safety of the public or the common defense and security, and upon a determination that the unauthorized disclosure of such information could have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion, or sabotage of such material or such facility. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

"b. For the purposes of section 223 of this Act, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.".

(2) The table of contents for such Act is amended by inserting the following new item after the item relating to section 146:

"Sec. 147. Safeguards information.".

(b) Section 181 of the Atomic Energy Act of 1954 is amended—

(1) by striking out "or defense information" the first time it appears and substituting ", defense information, or safeguards information protected from disclosure under the authority of section 147", and,

(2) by striking out "or defense information" in each other place it appears in such section and substituting ", defense information, or such safeguards information".

The CHAIRMAN. Are there amendments to title III?

Mr. MOFFETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in regard to section 302(a)(1) of H.R. 5297, I wonder if I might ask the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL), am I correct in interpreting the phrase, "* * * if the unauthorized disclosure of such information could have a significant adverse effect on the health and safety of the public, or on the common defense and security by facilitating theft, diversion or sabotage of such material or such facility * * *" as a meaning that the burden is on the NRC to demonstrate that the disclosure of such information would be likely to have a significant facilitating effect and that this facilitation would be likely to have a significant adverse effect on health and safety of the common defense and security?

In other words, am I correct in assuming that the intent of the legislation is to provide a very specific defined authority to withhold information, where the significant risk to health and safety and common defense and security is clearly demonstrated by the agency?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Arizona.

Mr. UDALL. The gentleman is entirely correct in his interpretation of the intent of this legislation, and specifically the bill, pages 10, lines 9 to 12. I am delighted the gentleman takes this opportunity to clarify the intent on that important point.

Mr. MOFFETT. I thank the gentleman.

If I may continue, with regard to clarification of kinds of shipment safeguards information to be withheld by the NRC, Mr. Chairman, in regard to section 302 (a)(1) of H.R. 5297, am I correct in interpreting the phrase, "* * * safeguards information which identifies a licensee's or applicant's detailed * * * security measures * * * for the physical protection of—special and source or byproduct—nuclear material, by whomever possessed, whether in transit or at fixed sites * * *" as intended to include, first, the specific routes and times of any specific shipment of nuclear wastes regarding safeguards?

Mr. UDALL. If the gentleman will yield further, the gentleman stated it correctly. The answer is clearly "Yes."

Mr. MOFFETT. Second, the detailed, specific security measures, in other words, the methods used in deciding the specific routes for any specific shipment of nuclear wastes requiring safeguards?

Mr. UDALL. The gentleman is also precisely correct on this point.

Mr. MOFFETT. If I might continue, Mr. Chairman, as I understand the intent of the provision, however, it is not intended to include such general information as the frequency, quantities, and forms of nuclear wastes regularly in transit through a particular jurisdiction and the general routes used—which in the case of spent fuels, for example, are approved by the NRC—by nuclear waste shipments?

Mr. UDALL. The answer to that question is also "Yes," I would say to my friend.

Mr. MOFFETT. I thank the chairman.

I yield back the balance of my time.

The CHAIRMAN. Are there any further amendments to title III?

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not want to leave this debate without drawing some conclusions from the lessons of Three Mile Island. We are not in this bill drastically reforming the Nuclear Regulatory Commission Act, and yet we have had a profound experience this year that should require that.

The nuclear industry said, prior to Three Mile Island, that Three Mile Island could not happen. We must remember that.

Prior to March 28, 1979, all the experts of the nuclear industry said Three Mile Island could not happen.

Dr. Rasmussen, in his report, said such an event such as Three Mile Island was virtually impossible, something to the effect of 2 billion to 1.

What I discovered as chairman of the task force of the investigation of Three Mile Island was that the equipment in the nuclear plants, the gages, the meters, the knobs, were not designed, were not even designed, to take into consideration such an event as Three Mile Island, when one meter had a maximum reading of 600, when the levels went up to 2,000, because they never expected Three Mile Island to occur. The nuclear industry was, prior to March 28, 1979, living in a dreamworld.

As exhibited in their advertisements, and pronouncements in the last weeks and months, they still are. They have not awakened.

You know, the Kemeny Commission came to the same conclusions that I did after the task force, and this was the most profound announcement in the Kemeny Commission, and that is Three Mile Island was inevitable. Inevitable. I certainly found that to be the case in my own investigation and that future Three Mile Islands are inevitable. They are going to happen again, tomorrow, next week, next month, 10 years from now. I could not tell you, but it is going to occur again.

The existing law is in the same shape as the nuclear industry. It is obviously not equipped to deal with Three Mile Islands and the new problems we see now vividly after Three Mile Island.

Existing plants obviously are not equipped to deal with the new exigencies we see now from Three Mile Island. We need, if not a complete termination of the nuclear industry, a complete revamping of nuclear law, of nuclear commissions, of nuclear regulations.

You know, the nuclear industry is in a dilemma. Let me point out the dilemma. I just read the advertisement by the institute in the newspapers, and it exhibits this dilemma.

On the one hand, they say there are too many regulations, too many safety standards, too many things they have to do to a nuclear plant and therefore nuclear plants are extremely and exorbitantly expensive because of these regulations.

On the other hand, they say in their advertisement that we are going to make nuclear plants safe. We are going to put in new safety standards and new safety equipment.

Now, which of these prongs of the dilemma are we to accept?

Already nuclear energy is a poor bet economically. The cost of construction of nuclear plants in this country are strangling our capital markets.

In my own area in the Northwest, we are building five nuclear plants, and the plants started in the last few years are now projected to cost almost $3 billion apiece, $3 billion apiece, to produce 1,100 megawatt electricity-generating plants.

However, the facts of the nuclear industry are, and I invite other Members to take this on in debate, and the facts are that the nuclear plants in existence today do not run very well.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. WEAVER) has expired.

(By unanimous consent, Mr. WEAVER was allowed to proceed for 2 additional minutes.)

Mr. WEAVER. Trojan in Oregon is running at 15 percent capacity this year. On any given day, one-third of the nuclear plants in this country are shut down. That is not a reliable source of energy in this country.

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One thing we know, one thing we know about Three Mile Island that is beyond debate, absolutely irrefutable, is that it cost $1 billion. Now, whatever else we can say about Three Mile Island, we know that. It cost us $1 billion, no question about it, out the window, gone. Is that reliability? Is that producing energy for this country at a cost Americans can afford?

Let me tell my colleagues, in Oregon we can make electricity from the wood wastes that are now being burned in the woods for one-third the cost of nuclear. One-third. Do my colleagues know why we are not doing that? It is because the local utility will not buy it from the lumber industry, they want to produce the nuclear plants and charge their customers three times as much. I am serious. That is an absolute and actual fact.

Now, how many opportunities are lost because our utilities in this Nation are hellbent to build nuclear plants? How many sources and opportunities of creating energy in every nook and cranny and every corner of this Nation are lost because of this desire and demand to build nuclear plants by the utility industry?

Mr. Chairman, it is time for a thorough, critical evaluation of nuclear energy, not some blind go-ahead, let health, safety, and economic risks be cast aside.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I will yield whatever time I have left to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, the gentleman's concern for nuclear safety I think is commendable.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(At the request of Mr. GOLDWATER and by unanimous consent, Mr. WEAVER was allowed to proceed for 1 additional minute.)

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from California.

Mr. GOLDWATER. But I detect a bit of hypocrisy with your concern inasmuch as there are other forms of energy which present far greater risks demonstrated through years and years of experience that the gentleman does not even show a concern, let alone express an interest in paving the way or taking a leadership position. I am speaking about the very hundreds of dams that are located right in your own State of Oregon which were never built to withstand the seismic shock of a nuclear powerplant and which the history of dams have shown that there have been thousands of people killed almost yearly when the dams break.

So I would hope that the gentleman would take the same kind of enthusiasm he has for the safety of nuclear powerplants and apply that to other forms of energy which likewise have certain degrees of risk.

Mr. WEAVER. Thank you very much. I would simply say that I am concerned with the economics as well as the safety.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to get into another debate on the general question of nuclear power in our country. I think everyone in this Committee knows my strong feeling that, if we are to do anything to make our country independent of foreign oil, the best hope we have to do that right now is to quickly develop our nuclear resources and do it in a safe but very quick manner.

However, I cannot let one assertion by the last speaker, the gentleman from Oregon (Mr. WEAVER), go unanswered. That was in regard to the Rasmussen report. The people who attack nuclear energy generally seem to have a great trouble adhering to what the facts really are. So that this Committee nor the Members of the House are not misled, let me explain that the Rasmussen report was essentially right on target in trying to define the risks that one takes when building and operating a nuclear powerplant.

The accident the gentleman talks about, which was one chance in billions, indeed did not happen at Three Mile Island. He thought that accident happened at Three Mile Island. The one in the movie title was the "China Syndrome" meltdown accident. He has them confused.

The "China Syndrome" meltdown never took place at Three Mile Island. That accident has not happened in the world today. The chances of it ever happening are, indeed, as outlined in the Rasmussen report, a very far-out, practically mathematically impossible, incident.

Instead, what did happen at Three Mile Island was an accident that did receive a great deal of public attention, but which, when it was all over, did exactly what the nuclear safety devices were supposed to do. They contained nearly all of the radioactive material in the containment building, and it is still there. Essentially none did get out. It did not hurt anybody. Nobody was injured. Nobody was killed.

From all we can find out, the chances in the future of anybody ever being hurt from the Three Mile Island accident are possibly one additional cancer case in a population in which 350,000 people will die of cancer. That is the kind of thing that happened at Three Mile Island, and that is the accident that, indeed, we may have again. Nobody can tell us we will not. We may indeed have another nuclear plant have a leak of radiation within the containment building. This is possible to happen and conceivably will.

But again, most likely no one will be hurt. Dr. Rasmussen's report did, indeed, predict these kinds of accidents. They did not predict the one the gentleman is talking about, the meltdown, the "China Syndrome" and all of that. Dr. Rasmussen's report did speak about the Three Mile Island type of accident taking place. Actually, his report was almost exactly right in that regard, saying that the chances after all of the nuclear reactor-years we have had in our country, such an accident was possible and might take place. One did take place.

So, indeed, we might have another Three Mile Island accident. However, we will not have another accident of the type the gentleman keeps talking about, which did not take place at Three Mile Island—the "China-Syndrome" meltdown accident—that the gentleman is talking about but which never took place.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I am delighted to yield.

Mr. WEAVER. I am afraid the gentleman has got his facts exactly reversed. In the movie, the China Syndrome, no accident actually occurred.

Mr. WYDLER. I never saw the movie.

Mr. WEAVER. There is no accident in the China Syndrome, just a potential one. Is the gentleman then saying there was no meltdown of the core in Three Mile Island?

Mr. WYDLER. Correct, there was none. That is exactly what I am telling the gentleman.

Mr. WEAVER. I am sorry. The gentleman should go out there. There was a serious melt of the core at Three Mile Island.

Mr. WYDLER. I am going to tell the gentleman a few other things now since he brings this up. I have to tell the gentleman that I did go there. As a matter of fact, I was there the day after the accident took place. I think I was in with the very first group that arrived at Three Mile Island. I have followed very carefully what happened. There was damage to the core by failure only of the cladding to the fuel, but there was no meltdown of fuel material in the core. There was no leakage from the containment building whatsoever.

I am surprised the gentleman does not know this, I know that he was there, since he had his picture taken in the control room, if I am not mistaken.

Mr. WEAVER. There was severe melt in the core. What does the gentleman mean when he says there was damage in the core? There was serious melt in the core. The zirconium cladding broke apart.

Mr. WYDLER. That is right. The cladding, the coverage of the fuel material is believed to have failed. The fuel material itself, the radioactive material, did not melt. Therefore, there was no meltdown of the type the gentleman is talking about.

Mr. WEAVER. There was.

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 11, after line 15, add the following new section:

SEC. 303. The Atomic Energy Act of 1954 is amended by adding a new section to read as follows:

"SEC. 235. SABOTAGE OF NUCLEAR FACILITIES".—

"(a) Any person who willfully injures, destroys, or contaminates or attempts to injure, destroy or contaminate, any nuclear production facility or utilization facility or utilization facility licensed under this Act any nuclear waste storage installation licensed under this Act, any special nuclear material or byproduct material possessed pursuant to a license issued by the Commission under section 53 or section 81 of this Act or pursuant to a license issued by a State under an agreement entered into under section 274 of this Act, or any special nuclear material or byproduct material possessed pursuant to a license issued by the Commission under section 53 or section 81 of this Act or pursuant to a license issued by a State under an agreement entered into under section 274 of this Act, or any special nuclear material or byproduct material contained in a carrier, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"(b) For purposes of this section—

"(1) the term 'carrier' means any motor vehicle, railroad train, or aircraft and

"(2) the term 'nuclear waste storage installation' means a facility or area the purpose of which is to contain nuclear byproduct material.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 234:

"Sec. 235. Sabotage of nuclear facilities."

Mr. HARRIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HARRIS. Mr. Chairman, I am pleased that the House is now considering my amendment to H.R. 2068, the Nuclear Regulatory Commission's authorization bill.

Earlier this year, I had an opportunity to tour the Vepco nuclear generating facility in Surry, Va. I was impressed with the elaborate and intricate security measures in place to guard against potential damage to the plant and danger to workers and to the public. But notwithstanding this most sophisticated security system, in May of this year two persons with access to the plant demonstrated that the security system could be breached and that, in fact, a nuclear facility could be sabotaged. Something else was demonstrated by this incident, that there is no apparent Federal jurisdiction either to investigate or prosecute in a case of sabotage against a nuclear generating facility.

The Federal Bureau of Investigation (FBI) did initially enter the Surry case under the belief that existing Federal statutes might have been violated, but the FBI later discovered that the Surry incident did not fall within Federal jurisdiction. As a result, the FBI turned over the case and its files to the Commonwealth of Virginia for prosecution.

My proposed amendment to H.R. 2068 would clearly establish the Federal interest in preventing, investigating and punishing acts of sabotage against nuclear plants. It would make it possible for the FBI to become involved in investigating attempts to sabotage nuclear facilities and would provide for criminal penalties for those who engage in sabotage of not more than $10,000 and/or 10 years in prison.

I feel strongly that there is a clear Federal interest in insuring the health and safety of all Americans who might be jeopardized as a result of sabotage to a nuclear facility. Sabotage of a nuclear facility could clearly affect parts of the Nation other than the place in which the sabotage occurred. This amendment would make it clear that nuclear sabotage is a serious offense that the Federal Government will thoroughly investigate and fully prosecute. We cannot tolerate willful and intentional acts of violence to nuclear facilities which could endanger the safety of the American people and the environment.

I have carefully defined the acts of sabotage covered under my amendment with the intent of achieving a narrow, but effective definition of nuclear sabotage. Specifically, my amendment would cover willful and intentional acts of sabotage that cause serious physical damage to a nuclear facility. My amendment is tightly worded and specifically covers only those nuclear facilities actually involved in the production, utilization, or storage of nuclear material. It would not cover other auxiliary components such as fences, access roads, guardhouses, and visitors centers.

In order to protect the national interest, my amendment would impose uniform sanctions against the sabotage of any nuclear facility. It would provide criminal penalties for those who engage in nuclear sabotage of not more than $10,000 and/or 10 years in prison.

I should point out to my colleagues that the Senate considered the NRC authorization bill on July 19 and adopted by voice vote a nuclear sabotage provision.

I feel strongly that it is in the national interest to protect the health and safety of all Americans and to protect the environment from the sabotage of a nuclear facility. It is absolutely necessary to pass this amendment and clear up this ambiguity in Federal law. We must make it clear that nuclear sabotage is a serious offense that the Federal Government will thoroughly investigate and prosecute.

□ 1530

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman from Virginia very much for yielding. I am familiar with the amendment and I am in support of it.

Mr. HARRIS. We felt that this is a time of restraint and judicial calm that is present here. We will consider the gentleman's recommendation in the future.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I was pleased that the Rules Committee made the gentleman's amendment in order, because we have a real gap in the law. It should be a Federal offense for sabotage. Some of the civil rights groups and other people were interested in possible ramifications of the gentleman's amendment and the things he did or did not intend. I would like to make a little legislative history here.

Am I correct in my understanding of the gentleman's statement that his amendment is aimed at deliberate acts of sabotage in which a person physically destroys or contaminates a powerplant or storage facility, and that his amendment would not cover minor damage to a facility such as the damaging of a fence?

Mr. HARRIS. That is correct. My amendment would cover only those nuclear facilities actually involved in the production, utilization or storage of nuclear material. It would not cover other auxiliary components such as fences, access roads, guard houses, or visitor centers.

Mr. UDALL. In other words, the term "injure" refers to substantial physical damage, and the terms "nuclear production facility and nuclear utilization facility" refer to those important components of a powerplant which are actually involved in the production or utilization of nuclear power?

Mr. HARRIS. Yes, those are the definitions intended in this amendment.

Mr. UDALL. I understand that current Federal law on sabotage includes a specific "intent" section, which states that in addition to committing the offense, the offender must have the specific intention of committing the act of sabotage. Is that also the case in your amendment?

Mr. HARRIS. The gentleman is correct that current Federal law includes a specific intent provision and I assure you that this is also my intention in this amendment.

Mr. UDALL. Would the gentleman have any objection to technical changes being made in conference to clarify these points?

Mr. HARRIS. I would not have any objections, and I am not sure what good it would do the gentleman if he did have, but I would encourage my colleagues to be extremely careful with this amendment. We feel that it is as carefully hewed a set of legislative work as is possible to put into this act. We certainly would not want to desecrate it in any way in the process of legislative procedure.

Mr. UDALL. With these understandings I am proud to support the gentleman's amendment.

Mr. HARRIS. I am very pleased and happy to hear the gentleman say that.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I want to tell the gentleman that I support his amendment, and I would like to say why. First, I would like to say that the colloquy between the gentleman from Virginia and the gentleman from Arizona is very important, because we must establish that it is only for the actual use of sabotage.

Ralph Nader, and I know that opinions on Ralph Nader vary in this House——

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(At the request of Mr. Weaver and by unanimous consent, Mr. Harris was allowed to proceed for 2 additional minutes.)

Mr. WEAVER. Ralph Nader has made the point for a number of years that one of the gravest threats offered by nuclear power is the fact that we are going to have government, law, police power, policemen, and surveillance in order for it to exist. Therefore, he used the phrase that eventually if we developed a huge plant capacity in this country, we would turn our country into a garrison state, a police state, simply to protect the transportation and operating capacity of nuclear plants.

But, let me tell the gentleman from Virginia why I believe it is absolutely essential to make this, the sabotage of such a plant, one of the most heinous of offenses. Did the gentleman know that if a plant loses its power, the incoming power from outside, that that plant goes into irreversible meltdown and the "China Syndrome" Mr. Wydler talks about? If it loses its power, and we have blackouts all the time and backup generators, if they fail to work—and the most likely reason is if they had been sabotaged—that plants goes into irreversible meltdown, the "China Syndrome?"

My feeling is that if that kind of sabotage would occur it would be like, I think, for us one of the most frightful and horrible things in our civilization, and it should be the most heinous crime if someone did this.

I thank the gentleman for offering this amendment.

Mr. HARRIS. I thank the gentleman for his support.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to the gentleman from New York. If I know my colleagues on this floor, I do not think there is a single Member who is soft on sabotage. I know we can in fact achieve early and prompt adoption of this amendment.

Mr. WYDLER. As a matter of fact, I approve of it and I will support fully the gentleman's amendment. The only thing is, again I cannot believe on the record there is this kind of irresponsible statement. I consider it to be that when you give people the impression that if some——

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

(At the request of Mr. Wydler and by unanimous consent, Mr. Harris was allowed to proceed for 1 additional minute.)

Mr. WYDLER. If there is some cutoff in the power coming into the plant, the whole plant melts down and millions of people are radiated out. This is just the type of thing, in my judgment, that is intended to make it to the movies again.

What the real facts are, of course, are that nuclear powerplants have many, very many backup power systems so that if power is lost from one source, another source comes on and gives it the power it needs to take the safety steps to protect the public. That is not going to happen, and I do not know why the gentleman wants it to go out from this floor today to the American public, the occasion of fear he seems to want to inject into their minds. It is not a rational fear, it is not a real fear.

What is gained by telling the people things like that when the gentleman himself, who I think is a very thoughtful and intelligent man, knows that those things are not going to happen and could not happen? Why he wants to tell the American people they will happen is more than I can understand.

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

(At the request of Mr. Symms and by unanimous consent, Mr. Harris was allowed to proceed for an additional 2 minutes.)

Mr. HARRIS. I thank the gentleman. I was going to suggest that, contrary to popular belief, the production and distribution and development of nuclear energy is not entirely free from controversy in these particular days, and there is some room for disagreement as narrow as that disagreement might be.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to the gentleman who got the additional time, the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I ask the gentleman to yield just to ask the gentleman, is it the intent of the gentleman in his amendment that if a mob of people at a nuclear site knocks down a fence, that a Federal judge would then have the authority to have them arrested or locked up?

Mr. HARRIS. May I say to my colleague that I think that the language is drafted quite clearly. Where there is a clear intent at sabotage, or attempted sabotage, this is a Federal offense. This particular Member is not going to try to play judge and jury at this time as to a particular set of circumstances, but what I am saying is that as carefully as my training and my background permits, we have drafted language here that says that where there is an intent at sabotage and a physical act of sabotage at a facility producing nuclear energy, this would constitute a Federal offense and would call for Federal jurisdiction over that matter.

Mr. SYMMS. I thank the gentleman very much. Can he give us any idea of what the gentleman has in mind for a case like the Seabrook plant, where there is a big mob of people and some damage is done, whether there is intent or not intent?

Mr. HARRIS. Quite seriously, this would be up to the courts, obviously, to decide whether or not there was an attempt at sabotage or just an expression of belief.

Mr. WEAVER. Mr. Chairman, will the gentleman yield further?

Mr. HARRIS. I yield.

Mr. WEAVER. Mr. Chairman, I would just like to say to my dear and cherished friend from New York that had he been listening to my statement, I said that if the power failed coming into the plant and the backup generators had been sabotaged, it goes into irreversible meltdown.

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

(At the request of Mr. Weaver and by unanimous consent, Mr. Harris was allowed to proceed for 1 additional minute.)

□ 1540

Mr. HARRIS. I will be happy to yield further to my colleague from Oregon.

Mr. WEAVER. I thank the gentleman. Backup generators have been jeopardized, according to Dr. Harold Denton and Dr. Hendrie, the vice president of Babcock and Wilcox, all of whom I asked this question in hearings: What goes into irreversible meltdown?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. McCormack, and by unanimous consent, Mr. Harris was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be happy to yield to my colleague from Washington.

Mr. McCORMACK. I thank the gentleman for yielding and rise in support of his amendment.

Mr. HARRIS. I thank the gentleman.

Mr. McCORMACK. I also want to say that the statements of the gentleman from Oregon (Mr. Weaver) are categorically and catastrophically in error. There are a number of backup systems in any nuclear plant, and even if both of the outside energy sources were lost, and if water-cooling systems in the plant were cut off, you would still have additional sources of cooling and additional backup systems, and it does not necessarily follow that the reactor core would even overheat, let alone melt down under these conditions. We should not suppose this position.

Mr. HARRIS. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Is there any further debate on the amendment offered by the gentleman from Virginia (Mr. Harris)? If not, the question is on the amendment offered by the gentleman from Virginia (Mr. Harris).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title III? Are there any further amendments to the committee amendment in the nature of a substitute?

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had an amendment I was considering offering at this point which was earlier printed in the Record at page 33700. My amendment was straightforward and easy to understand.

It would have directed the NRC to issue operating licenses to those nuclear powerplants that meet the requirements of law. Thirteen are listed because those 13 represent all the reactors that are expected to be ready for operating licenses within the next year, which is the scope of this authorizing bill.

I drafted my amendment because I had heard the NRC testify before the Energy and Power Subcommittee on which I serve that it was considering not licensing another reactor for up to 2 years. Action of that nature on the part of the NRC would be unfortunate, when a reactor meets all the requirements of law and is safe. We must not have unnecessary delays in licensing safe reactors.

I have decided, however, not to offer that amendment because I think, given the progress that we have had on this piece of legislation today, the amendment is not necessary. I think our instructions to the NRC as a result of our consideration of this legislation are fully clear. We are urging the Nuclear Regulatory Commission to proceed with action.

I have received much support for this amendment, but the most excitement and support has come from those States which are directly affected by the consumer costs of licensing delays. There is a lesson to be learned here. When all of our low level waste burial grounds were closed, there was a sudden panic. Nuclear medicine, cancer treatments, and laboratory work was threatened with coming to a screeching halt in weeks. Suddenly, we realized the urgency of the problem and now new regional burial grounds are being found. When costly regulatory delays prevented reactors which were ready to come on line from getting their operating licenses, suddenly the ratepayers, and their Congressmen, and a number of State officials began to realize the need for preventing unwarranted delays in licensing new safe ready-to-generate reactors.

I am not going to offer my amendment because this House has already spoken to the NRC loud and clear. Last week we decisively and overwhelmingly defeated an amendment which was designed to frustrate or slow nuclear power in this country by providing a 6-month moratorium on the issuance of construction permits. In June of this year we decisively and overwhelmingly defeated an amendment which would have put a moratorium on issuing new operating licenses in States without evacuation plans. We have defeated the advocates of delay and have said to the NRC, you are the statutorily created agency which must take the lead in regulating our nuclear industry. You, NRC, and you alone, must decide which safety measures to require of our reactors to make them safe to operate. Do not delay. We need nuclear power and you must bring it on line safely and soon.

In September, my esteemed chairman of the Energy and Power Subcommittee, the gentleman from Michigan (Mr. Dingell) joined me in a letter to Dr. Hendrie at the NRC, a copy of which I will later ask permission to insert in full in the Record at this point. At that time, Mr. Dingell and I reminded Dr. Hendrie that NRC was created by Congress to regulate the nuclear industry and that we expected the Commission to assert its authority and regulate safely and effectively.

Let me read from that letter:

Dear Chairman Hendrie: We are compelled to comment on your agency's current consideration of whether or not to resume the issuance of operating licenses for new nuclear powerplants.

Our understanding is that Harold Denton, head of your Nuclear Reactor Regulation division and able coordinator of post-accident developments at Three Mile Island, has recommended that the Commission resume issuing operating licenses. That recommendation was based on the institution by the NRC of numerous additional safety requirements which resulted from NRC's ex-

> amination of the accident at Three Mile Island. Mr. Denton was satisfied that new operating licenses could safely be issued under these circumstances, regardless of whether further safety requirements are instituted in the future. (We should note that the history of issuing operating licenses is filled with the continuous addition of safety requirements.) It is also our understanding that the President's Commission on Three Mile Island has been studying the Three Mile Island accident and is expected to issue its report in late October at the earliest.
>
> A problem seems to have arisen in that the President's Commission believes there should be a moratorium on the issuance of new operating licenses until it makes its recommendations. The issue, it seems to us, is clear. The NRC. not the President's Commission, is the independent regulatory commission statutorily charged by Congress with the responsibility for nuclear reactor regulation. The President's Commission was established by Executive Order to investigate the Three Mile Island accident and make recommendations based on its findings. Those recommendations certainly deserve to be given full consideration when they are presented. However, the regulatory process should not halt in the interim.
>
> The exercise of your responsibility with regard to safety measures and the resumption of licensing will in no way demean the efforts of the President's Commission. To allow nuclear regulation to become a political football, with the President's Commission as the rookie quarterback and head coach combined, would be a serious abdication of your Congressionally designated role as lead agency in this field.

In conclusion, the NRC must now get on with its job and do it safely. If it has been lying low waiting to hear from the Congress, I would submit now that it has heard Congress speak. Rise up, Commissioners, and do your job. Congress, it seems to me, has spoken.

I would hope that the chairman of the Committee on Interior and Insular Affairs would agree with me that the NRC should now get on with its job of issuing the operating licenses for those generating plants ready to go safely "on line."

Mr. UDALL. Mr. Chairman, if the gentleman will yield, and if the gentleman will permit me to get my own time, I will be pleased to have colloquy with him on the subject.

Mr. BROWN of Ohio. I will be pleased to do that.

Mr. Chairman, I reserve the remainder of my time.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

I am not aware of any additional amendments, and I think I am ready to close out the good debate we have had on this legislation. Let me say just a couple of things in response to the points made by the gentleman from Ohio (Mr. BROWN). I am personally pleased he is not going to offer his amendment. I think we can avoid a bloody clash that will not accomplish anything, and I think it is unnecessary.

This country in the 1950's in all good faith made the decision to go down the nuclear road, and we were going to use as the basis for electric power in this country in the 1980's and 1990's and on beyond nuclear power. Our best scientists, presidents, and leaders said it was safe, cheap power. We were not going to have to meter it. It was power for the underdeveloped world. We were going to have a new source of power. Gas and oil would run out someday, but the power of the Sun would always be useful. Now we have a lot of major problems about nuclear power. A lot of Americans have real doubts—and I am one of those—about whether we made the right decision. Should we have in the 1970's, the 1980's, and the 1990's nuclear power? We crossed that bridge 20 years ago and we have about 12 percent nuclear power today.

So my position in this debate has been very simple. No. 1, the 72 plants that are now licensed to operate we are going to have to live with through the 1980's and 1990's until they begin to wear out toward the end of the century.

The second level of decisionmaking is, what do you do about the ones under construction? My position there is that you incorporate in those plants the lessons of Three Mile Island learned from the inquiries conducted by the NRC and the President's Commission. You make them safe, just as we have to go back and retrofit the first class of plants and make them meet the standards of Three Mile Island.

The third level of decision, and the real big question before our country is, are we going to have an expansion of nuclear power?

In the Nixon administration we were talking about a thousand plants by the end of the century. In the Ford and Carter presidencies we cut that back a little bit. But one of the big arguments remaining is, are we going to encourage, discourage, or prohibit large numbers of new nuclear plants? On that question I think we have to go slowly, and I think we should take our time and let the country all get involved in the debate that we are going to try to help along when we bring to the floor a nuclear policy bill.

The gentleman from Ohio, Mr. BROWN's amendment, dealt with question No. 2: What are we going to do about the plants that are under construction and will be coming on line?

□ 1550

As he points out in the next year—this is not an academic question—in the next year or year and a half there will be approximately 15 plants ready to go. They were started 10 or 12 years ago; a billion dollars apiece or more for each one of them. Do you know, when the time comes, do you fuel up, turn the switch and turn them on, or do you not? I think those who take what I view as my middle-ground position that we are going to have to use in the 1980's and 1990's and early into the next century some of this nuclear power; if you are going to be consistent, you have got to say to yourselves and say to the nuclear industry: "We do not like it very much, maybe we made a mistake going down this road, but to keep faith with the American people and to keep faith with the prudent kind of policy that will help our economy and not force us into crises, we have to put the fuel rods in and we have to turn them on."

So, I was going to qualify the gentleman's language a little bit and make sure that it was understood that turning them on means turning them on after you have made very sure that the lessons of Three Mile Island are incorporated, the changes are made, but that I personally, who have had some heavy responsibilities in this decisionmaking area, am going to say to the NRC: Turn them on. If they meet the requirements of Three Mile, if the necessary changes have been made as a result of the lessons learned from Three Mile Island; if they are up to speed and meet the standards, we are going to have to turn on these plants as they are ready to go on line. I do not like it but I think that is the responsible and consistent position to take.

Mr. BROWN of Ohio. Will the gentleman yield, Mr. Chairman?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I appreciate the gentleman's support of my statement and I concur with his. I think we must learn from any accidents or any difficulties that we have in the whole nuclear field and clearly we must learn from the commitment for future research in this field. It may be that the future of nuclear energy is not in the present technology but in some other kind of technology, as the future of all energy may be in synthetic fuels, solar, and a lot of other areas, which I think the gentleman and I share our enthusiasm for continuing to explore.

We must try to find the safest, the most efficient and, hopefully, the most productive energy sources for the people of this country as we go into the future and that is the responsibility of this Congress. We are addressing it in other pieces of legislation which come before the Congress and I would say to the gentleman, while we have had our differences of opinion on a few other pieces of legislation like the Energy Mobilization Board and so forth, as to the best way to proceed, I am delighted to see and to hear that the gentleman and I are together in wanting to proceed in this area.

Mr. UDALL. Mr. Chairman, I want to make it very clear that it was on the third level of decision, the whole question of whether we are going to expand from the 72 now on the line to the 90 that are under construction, how far beyond that do we go if at all. I am a pessimist on that score. I doubt very much that we ought to go much further into this nuclear swamp. But that is not the question involved in the Brown amendment. The Brown amendment involves what we do with those that we deliberately decided 10, 12, 15 years ago ought to be built. I think they should turn them on and insert the fuel if they are safe and if they have incorporated the lessons we have learned from the inquiries by the NRC and President's Commission into the Three Mile Island accident.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the comments of the gentleman from Ohio (Mr. BROWN) and in appreciation of the comments of the chairman of the committee, the gentleman from Arizona (Mr. UDALL).

I think it is critically important that we get these plants on the line as quickly as possible.

When he testified before the Subcommittee on Energy Research and Production during our hearings on nuclear safety and on Three Mile Island, Chairman Hendrie of the Nuclear Regulatory Commission said there was no real technical or safety reason why these first four plants that are now waiting could not go on the line routinely.

Mr. Chairman, I think it is important to understand that these plants that can be on the line by the end of 1981 will produce the electric energy equivalent of 450,000 barrels of oil a day. That is a great deal more than our losses from not having the production of Iranian oil.

Mr. Chairman, the 90 plants that are presently under construction, together with the 70 that are on the line today, will produce the electric energy equivalent of about 4.3 million barrels of oil a day, more than half of all of our imports and approximately 10 percent of our total energy usage at that time, the mid-1980's.

I think if one takes a look at the level-3 consideration the gentleman from Arizona mentioned and looks on beyond to the year 2000, and accepts the President's concept of reducing our energy consumption by one-third and then triples our coal production, then with reasonable assumptions for what is possible from domestic oil and gas and imports, from solar and geothermal energy, and from other energy technologies, then we will find it is necessary to have a minimum of 400 to 500 nuclear plants on the line by the year 2000.

Mr. Chairman, whether one likes nuclear power or not, the fact is that any number of reputable studies have been made and reported to the Congress, and they show that nuclear energy is the cheapest, safest, and most environmentally acceptable significant source of energy we have available to us in this country for the balance of this century, and on into the early part of the next century.

Mr. Chairman, we must remember the long leadtimes that are involved in bringing new energy sources on the line. As the gentleman from Arizona said, these decisions that were made for plants coming on the line now were made more than 10 years ago, back in the 1950's or 1960's. Commitments were to the program in the 1950's, and to the plants themselves in the 1960's.

I think it is important to remember this, that we cannot get these plants on the line in the late 1980's and 1990's in order to prevent economic catastrophe in this country and total vulnerability to oil-exporting countries unless we have an aggressive plan to do so now.

We all recognize the need for the highest possible standards of safety. I think it is fortunate that we are starting from this base of discussion, when in reality we have the safest energy technology that there is. Nuclear energy is the safest technology there is. With the lessons learned from Three Mile Island we will make it substantially safer. This has already been done to a significant extent and we will go on doing that.

Mr. Chairman, the important point to remember is that the greatest hazard we face with respect to energy is not to have an adequate supply. This is the problem we may be facing yet this year, because as we get closer and closer to a more critical situation, which I very much fear we are approaching in the Middle East, we may suddenly find that the problems in Iran have spilled over into other oil-exporting countries, and then we will find ourselves in a catastrophic situation indeed as far as our own economy, our economic stability, our national defense, and our political vulnerability in the international community is concerned.

Mr. Chairman, it is my belief that if we were producing all our own energy today, if we did not have to import energy, if we did not have to import oil, then there would have been no attacks on American embassies or American personnel overseas. The only reason these kinds of attacks can occur is because these people overseas know that we are vulnerable, that we are helpless, that our very economic stability depends upon importing oil. We must remove that sword from above our heads, that need to import oil. We must remove this dependence upon foreign energy sources. We must produce our own energy from domestic sources. Since we know that our supplies of petroleum and natural gas will decline in spite of any economic incentive that might be provided, then we know that we must rely primarily upon our remaining domestic energy sources, coal and upon nuclear fission.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SYMMS and by unanimous consent, Mr. MCCORMACK was allowed to proceed for 1 additional minute.)

Mr. SYMMS. Mr. Chairman, will the gentleman yield to me?

Mr. McCORMACK. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much for his very lucid and enlightened statement of the situation and I commend him for it.

Mr. Chairman, I would like to support the position of the gentleman from Ohio in the colloquy between he and the chairman of the Committee on Interior and Insular Affairs, and I think what needs to be very unmistakably clear from this body to the NRC is that the Atomic Energy Act is to be carried out and there be no delays and no circumventing of it and that we move on and move forward with the law as the law is written today.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman and I agree with the gentleman on that.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I think the contribution of the gentleman is significant. The gentleman always stands ready to clarify some of the technical questions involving nuclear energy. I think the gentleman's point that the supply is a significant concern is well taken and obviously the bottom line could be measured in human value.

□ 1600

The CHAIRMAN. The time of the gentleman from Washington (Mr. MCCORMACK) has expired.

(At the request of Mr. GOLDWATER, and by unanimous consent, Mr. MCCORMACK was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Mr. Chairman, I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, a fact that some of the critics never seem to point out is that if you just take these 95 plants that are planned to be built, plus the 21 plants that are awaiting construction permits, you are talking about an equivalent of half of our imports today, half of our imports.

Now, if we do not build these, obviously we are going to have to continue to rely on foreign imports.

I think the point of the gentleman from Arizona perhaps is well taken. I am not sure that we need to slow down our efforts, as much as to apply what we have learned, because obviously each plant is going to take anywhere from 7 to 10, perhaps longer years, and that is sufficient time to apply the knowledge that we gain through accidents, through research, through technology evolution, in order to assure the absolute safest power situation involving nuclear energy.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know of no other amendments. I think there are two or three or four of our colleagues that want to get one final word in here. To expedite that, I would ask unanimous consent that all debate on this bill and all amendments thereto close at 4:15.

The CHAIRMAN. The Chair will indicate that we believe there is one additional amendment to be offered by the gentleman from Texas (Mr. GONZALEZ).

Mr. UDALL. Mr. Chairman, then I would ask unanimous consent that all debate on this bill and all amendments thereto close at 4:15.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous consent request was granted will be recognized for 40 seconds each.

The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 11, after line 15, add the following new title:

TITLE IV—PROTECTION FOR INSPECTORS

SEC. 401. Section 1114 of Title 18, United States Code is amended by inserting "any construction inspector or quality assurance inspector on any Nuclear Regulatory Commission licensed project," after "Department of Justice.".

Mr. SYMMS. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. Gonzalez) is recognized.

(By unanimous consent, Mr. Kazen and Mr. Hightower yielded their time to Mr. Gonzalez.)

POINT OF ORDER

Mr. SYMMS. Mr. Chairman, I insist on my point of order.

The CHAIRMAN. The gentleman will state the point of order.

Mr. SYMMS. Mr. Chairman, it is my understanding that this is a violation of the rule, because it is a modification of the law.

The CHAIRMAN. The gentleman will suspend for a moment. The gentleman is addressing his point of order at this point?

Mr. SYMMS. Yes, Mr. Chairman. I insist on my point of order.

The CHAIRMAN. The gentleman will proceed with the point of order.

Mr. SYMMS. Mr. Chairman, on my point of order, according to the rule, these modifications of major law are not allowed, and this is a modification of the law, so it is not appropriate at this time. It is not germane to the bill.

The CHAIRMAN. Does the gentleman from Texas (Mr. Gonzalez) wish to respond to the point of order?

Mr. GONZALEZ. Yes, I do, Mr. Chairman.

Mr. Chairman, also I would reserve a parliamentary inquiry, regardless of the outcome of the point of order.

The CHAIRMAN. The gentleman may proceed.

Mr. GONZALEZ. Mr. Chairman, first, let me say that I have checked "Deschler's Rules of Procedure." I find nothing here that conflicts with the particular wording of the rule under which this is being considered.

In the first place, it does not address itself to any revision of the Atomic Energy Commission Act.

In the second place, it addresses itself to a fundamental problem, a most significant and most disturbing problem that should concern all Members of Congress writing laws on the inspection process, which is the key and the heart of the whole deficiency that we have heard many complaints about the NRC.

Therefore, I cannot think of anything more germane than this amendment, which merely says that it shall be an offense to assault, attack or criminally intimidate an inspector.

I think we have greater protection for meatpacking inspectors than we have in nuclear plants. In fact, I know so.

I cannot find any real reason why this would not fall squarely within the definition of the rule limitations, as well as an amendment that has already been adopted, having to do with culpability and sanctions.

Mr. UDALL. Mr. Chairman, could I be heard on the point of order?

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Chairman, I believe the point of order should be sustained, even though the gentleman is trying to do something that is meritorious. We ought to protect our inspectors, our public officials; but two quick points. We have had what is called a modified closed rule here in which certain kind of amendments were ruled out. It seems to me that the amendment of the gentleman from Texas is not within the scope of the rule adopted by the House.

Second, the gentleman's amendment would change title 18, section 114, which is the Criminal Code of the United States and deals with protection of officers and employees of the United States in the performance of their duties.

I do not see anything in the bill that relates to that title 18.

I therefore urge the point of order be sustained.

The CHAIRMAN (Mr. Panetta). Does any other Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

There are two bases for possible objection here with regard to this amendment. The first is in regard to the rule and the statement in the rule prohibiting with one exception any amendment to the bill that amends or affects the Atomic Energy Act. This amendment in no way affects or changes the Atomic Energy Act.

The second possible basis is with regard to germaneness to the bill as a whole, in its amended state. There are in the bill as amended diverse permanent provisions of law that deal with civil and criminal sanctions, the most relevant of which was the Harris amendment. This amendment would impose criminal sanctions for assaults on an Atomic Energy employee, a matter within the class of general subjects related to nuclear regulations and safeguards already covered by the bill as amended.

Therefore, it is the opinion of the Chair that the amendment is germane, considering the other amendment dealing with criminal violations against the Federal nuclear establishment.

Therefore, the Chair overrules the point of order on the amendment.

The gentleman from Texas (Mr. Gonzalez) is recognized for 40 seconds.

PARLIAMENTARY INQUIRY

Mr. GONZALEZ. Mr. Chairman, I would like now to interpose my parliamentary inquiry with regard to the time allotted me.

The CHAIRMAN. The gentleman from Texas is recognized for a parliamentary inquiry.

The gentleman will suspend for a moment. The Chair was mistaken. There were two unanimous-consent agreements that added additional time.

At the present time, the gentleman would have 1 minute and 20 seconds for his amendment. The gentleman is recognized with regard to his parliamentary inquiry.

Mr. GONZALEZ. Mr. Chairman, let me ask a question here. Why should I be limited to a motion that was made subsequent to the knowledge that I had a pending amendment to offer?

Had I known that I would come under that limitation on a subsequent motion, though I had not been recognized for the purpose of amendment, because the gentleman from Arizona was recognized anticipatorily on a motion I had no knowledge was going to be made. If I had known, I would have objected to the unanimous-consent request, because I wanted the opportunity to offer the amendment and be given at least 5 minutes, that is the customary time allotted a Member.

Let me say this, in order to avoid any kind of an argument. How much net time will I have to present this amendment?

The CHAIRMAN. The gentleman has 1 minute and 20 seconds on his amendment.

Mr. GONZALEZ. Mr. Chairman, I thank the Chair very much.

The CHAIRMAN. With regard to the parliamentary inquiry, the Chair would indicate that he first recognized the chairman, the gentleman from Arizona as manager of the bill, that the gentleman made a unanimous-consent agreement with regard to limitation of time and that there was no objection.

Therefore, the gentleman is recognized for 1 minute and 20 seconds on his amendment.

☐ 1610

(By unanimous consent, Mr. Goldwater and Mr. Lujan yielded their time to Mr. Gonzalez.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. Mr. Chairman, I thank my colleagues for yielding their time to me because I consider this matter very important.

I had occasion after Three Mile Island to find myself communicating with inspectors, some of whom are still on the job, and they were so scared stiff that every communication I have had with them has had to be under covert situations and circumstances. Some of them left their employment since then, and it was because of this reason.

Every one of them had been inspectors on the job at a total of about 11 different nuclear sites. Of the 11 nuclear sites, one is still under construction. The others had been completed, and they were either there as inspectors on a post-operational periodic inspection or were there on a last inspection, a prelicensing inspection.

I cannot begin to tell the Members how their testimony turned me around completely on the whole subject matter of commercial, private nuclear fission development, because I can assure the Members that I was shocked. I think that if any Member of the Congress were to have this same information, he would not believe it, to begin with, because I know I did not.

The idea is that the Nuclear Regulatory Commission is something we have created. I know we are heaping abuse on this Commission now, but it is our creature. The Congress created it in this way and has suffered it to be this way. It does not have any kind of real control or oversight on the inspection process, at least during 45 percent of the construction period of any nuclear plant.

I am not exaggerating when I tell the Members that the meat inspectors of a meat processing plant are far more thorough and actually more responsive to the requirements of Congress in the inspection sector than are those in the nuclear regulatory inspection process. I can tell the Members that right now.

Mr. GOLDWATER. Mr. Chairman, if the gentleman will yield, I wonder if the gentleman would tell us what his amendment will do.

Mr. GONZALEZ. Yes, I will. Mr. Chairman, this amendment will make and define as a crime any assault, intimidation, or threat to an inspector of a nuclear plant.

Of the men I talked to, some were assaulted because their reports indicated criticism of construction. In one case they were assaulted by construction men who were insulted because they were raising questions about the proper degree of efficiency in the welding, which, as the Members know, is all important.

Also in some instances the inspectors' reports had been altered. I made a complaint and registered a complaint with the Commission investigating it. The Commission made a report that every Member ought to read.

Mr. Chairman, this is very necessary if we are going to safeguard the inspectors and their integrity.

Mr. UDALL. Mr. Chairman, in the light of the confusion and the degree to which I participated in the delay, I ask unanimous consent that all Members who are on the list to speak have 1 minute instead of the remaining seconds that are left now on the clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Chairman, I take this time simply for the purpose of trying to determine from the author of the amendment just exactly what additional powers we would be giving the agency and what provisions we would be adding to the code.

As I am sure the gentleman realizes, the language in the amendment does not deal with anything that is included in the bill, and that is why I am rather puzzled as to why the amendment was permitted to be in order. Nonetheless, I would ask, could the author of the amendment tell me exactly what additional protection he wants to give to these inspectors?

Mr. GONZALEZ. Mr. Chairman, if the gentleman will yield, as it stands now, there is no definition. It is just the same case as a threat or a crime committed on the person of a Federal official, a Member of Congress, or the President before the adoption of specific legislation. I refer to legislation we had adopted after the assassination of President Kennedy. It was not a Federal offense.

This would merely define it as a Federal offense to attack, threaten, or physically abuse any inspector of a nuclear plant.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

The Chair will inquire, does any other Member seek recognition with regard to the pending amendment?

If not, the question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was agreed to.

The CHAIRMAN. The Chair will now recognize Members for the purpose of speaking for 1 minute each.

The Chair recognizes the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Chairman, let me remind my colleagues that a phrase comes down to us from the Revolutionary War: "These are times that try men's souls."

These are times that are challenging the genius and the will and the determination of the American people to survive. What is going on around the world today is frightening. With our principal source of energy in the hands of those who are possibly hostile people, we are prevented from getting energy delivered to us. If we got into a war, the private use of an automobile would be almost an impossibility.

So, Mr. Chairman, now is the time, if we can do it safely in any area, to produce a maximum of energy for the people of America, and now is the time to stop quibbling about the details of how we are going to do it.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I rise in support of the legislation.

I would just observe that I hope the Nuclear Regulatory Commission moves expeditiously to review and implement the recommendations of the Kemeny Commission.

Mr. Chairman, I rise in support of the nuclear regulatory authorization.

At this time of critical reassessment of nuclear power, it is difficult for any of us to know the long-range future of nuclear power.

I do know, however, that in the short run nuclear power must continue to play a significant role in meeting our Nation's overall energy needs. With nuclear power accounting for some 13 percent of our generating capacity on a nationwide basis, and more than 50 percent in some regions of the Nation, we cannot afford to turn our backs on this technology.

Moreover, with the current crisis in Iran and the threat of turmoil in other major oil producing nations, we must objectively evaluate all of the options available to us.

It is for these same reasons, however, that it is all the more important for us to begin now to address the fundamental issues involving nuclear power. Recent events, including the near disaster at Three Mile Island, speak for themselves in underscoring the need for this type of action.

In particular, the Kemeny Commission report should be implemented as soon as possible. These findings, which have been hailed by critics and supporters of nuclear power alike, provide an excellent starting place for assuring the safety and acceptance of nuclear power in the near term.

In the long term, however, we must go far beyond the confines of the Kemeny Commission mandate, which limited it to only the causes of the accident, and ways to avoid a repetition.

The Commission did not, and could not, get into the other important and long-standing issues affecting nuclear power, such as the nuclear fuel cycle and the lack of an approved plan for the permanent storage or disposal of commercial nuclear waste. As yet, there is still no plan for decommissioning nuclear powerplants at the ends of their useful lives.

There are other long-standing unresolved issues as well, such as the long-term health affects of low-level radiation, the adequacy of insurance plans, and many others. These issues must eventually be addressed, and we have made a serious mistake by deferring their resolution.

If nuclear power is to play a growing role in meeting our country's energy needs, we must make a major commitment to resolving these issues.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I think it was a wise decision of the gentleman from Ohio to withdraw his amendment. I think it would have placed an administrative straitjacket upon the Nuclear Regulatory Commission. It would have detracted from the flexibility which they need to implement the recommendations of the Kemeny Commission report.

"Applicable law" right now has not been changed to reflect the lessons that have been learned from Three Mile Island. After the Three Mile Island incident, those people at the Metropolitan Edison utility in Pennsylvania would have been able again tday to have been licensed under "applicable law."

I think that we have to learn. We have to understand that there have been no changes in procedure at the Nuclear Regulatory Commission, and there have been no changes in the structure of that agency. There have been 20 pages of recommendations from the Kemeny Commission that have not been implemented, and the independent special task force commissioned by the NRC and directed by Mitchell Rogovin is about to return, sometime in the next 2 months, with its report on the Three Mile Island accident.

All right, Mr. Chairman, let us go forward, but let us go forward after we have carefully digested, analyzed, and implemented the recommendations that have come forward from independent panels that tell us that the present regulatory process is in a shambles.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I think we have had a good debate. I think we have produced a better bill than the one we arrived on the floor with, and I urge strong support for its passage.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, nuclear power is neither safe nor economical. Its safety is profoundly questioned by the accident at Three Mile Island and the conclusions of the Kemeny Commission.

Whether nuclear power is economical is certainly questioned by the fact that in the Northwest nuclear powerplants are now costing up to $3 billion apiece. That is a cost that will bankrupt the economy of the Northwest, and we have available to us far more inexpensive sources of energy to meet the demands of this Nation.

● Mr. ALEXANDER. Mr. Chairman, as we continue the deliberations on the authorization bill for the Nuclear Regulatory Commission, I think it is important to put into clear perspective the role of nuclear power in this Nation's energy resource arsenal.

Nuclear power is a domestic, I repeat domestic, energy resource that is vital in insuring the continuation of safe and plentiful electricity to millions of Americans.

The accident at Three Mile Island has produced a hysteria fomented by those possessed by the Jane Fonda syndrome—a hysteria that has resulted in an unfounded indictment of nuclear technology. At more objective examination, I think it is clear that the incident is not a case of failure of technology, but rather a failure of management.

Human error can be corrected. But it is patently unfair to sound the death knell on nuclear technology when it is the safest, most environmentally acceptable and least risk-laden method of generating base-load electricity when compared to all available technologies for generating electricity today.●

☐ 1620

The CHAIRMAN. All time has expired. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MOAKLEY) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2608) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, pursuant to House Resolution 472, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 398, nays 9, not voting 26, as follows:

[Roll No. 698]

YEAS—398

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho

Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gavdos
Gephardt
Giaimo

Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee

Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar

Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder

Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—9

Conyers
Dellums
Goodling

Holtzman
Jeffords
Kelly

Markey
Paul
Weiss

NOT VOTING—26

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashley
Bedell
Bowen
Crane, Philip
Dixon

Dornan
Fish
Flood
Foley
Frost
Gudger
Holland
Ireland
Johnson, Colo.

McDonald
Mathis
Mitchell, Md.
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Swift
Treen
Winn

☐ 1630

The Clerk announced the following pairs:

Mr. Ambro with Mr. Anderson of Illinois.

Mr. Murphy of New York with Johnson of Colorado.

Mr. Foley with Mr. Philip M. Crane.

Mr. Frost with Mr. Winn.

Mr. Murphy of Illinois with Mr. Dornan.

Mr. Ireland with Mr. Fish.

Mr. Ashley with Mr. McDonald.

Mr. Bowen with Mr. Flood.

Mr. Mitchell of Maryland with Mr. Holland.

Mr. Swift with Mr. Myers of Indiana.

Mr. Mathis with Mr. Bedell.

Mr. Dixon with Mr. Andrews of North Dakota.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, pursuant to the provisions of House Resolution 472, I call up from the Speaker's table the Senate bill (S. 562) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, and ask for its immediate consideration.

☐ 1640

The Clerk read the title of the Senate bill.

A MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the Senate bill, S. 562, and to insert in lieu thereof the provisions of the bill, H.R. 2608, as passed by the House, as follows:

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

SEC. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980 the sum of $426,821,000 to remain available until expended. Of the total amount authorized to be appropriated:

(1) not more than $66,510,000, may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000, is authorized to accelerate the effort in gas-cooled thermal reactor preapplication review,

(2) not more than $42,440,000, may be used for "Inspection and Enforcement", provided that of the total amount appropriated for this purpose, $4,684,000 shall be available for support for 146 additional inspectors for the Resident Inspector program;

(3) not more than $15,953,000, may be used for "Standards Development",

(4) not more than $32,380,000, may be used for "Nuclear Material Safety and Safeguards", of the total amount appropriated for this purpose not less than $60,000 shall be available only for the employment by the Commission of two qualified individuals to be assigned by the Commission to implementation of the United States International Atomic Energy Agency Safeguards Treaty, following ratification of such treaty by the United States Senate, and not less than $180,000 and six additional positions shall be included in the Division of Safeguards for the regulatory improvement of material control and accounting safeguards and the development of improved regulatory requirements for safeguarding the transportation of spent fuel,

(5) not more than $213,005,000, may be used for "Nuclear Regulatory Research", of which an amount not to exceed $3,700,000 is authorized to accelerate the effort in gas-cooled thermal reactor safety research,

(6) not more than $18,125,000, may be used for "Program Technical Support": *Provided*, That, of the total amount appropriated for this purpose, not less than $1,485,000 shall be available to the Office of State Programs (A) for training and assistance for State and local governments in establishing radiological emergency response planning and operations, including support for eight additional positions and (B) for providing financial assistance to the States to be used for the purchase of appropriate radiation monitoring equipment, and

(7) not more than $38,408,000 may be used for "Program Direction and Administration".

(b) No amount appropriated pursuant to subsection (a) for purposes of paragraphs (1) through (7) of such subsection may be used for any function of the Commission in excess of the amount expressly authorized to be appropriated for functions referred to in such paragraphs, if such excess amount is in excess of $500,000, nor may the amount available from any appropriation for any function referred to in such paragraphs be reduced by more than $500,000 unless—

(1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of any adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action, or

(2) each such committee before the expiration of such period has transmitted to the Commission written notice stating in substance that such committee has no objection to the proposed action.

(c) No amount authorized to be appropriated by this Act may be used by the Commission to enter into any contract providing funds in excess of $20,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

(d) No amount authorized to be appropriated by this Act may be used by the Commission to—

(1) place any new work or substantial modification to existing work with another Federal agency, or

(2) contract for research services or modify such contract

in an amount greater than $500,000, unless such placement of work, contract or modification is approved by a Senior Contract Review Board, to be appointed by the Commission within sixty days of the date of enactment of this Act. Such Board shall be accountable to and under the direction of the Commission. If the amount of such placement, contract, or modification is $1,000,000 or more, approval thereof shall be by majority vote of the Commission. Prior to affording any approval in accordance with this subsection, the reviewing body designated hereunder shall determine that the placement, contract, or modification contains a detailed description of work to be performed, and that alternative methods of obtaining performance including competitive procurement, have been considered.

SEC. 102. During the fiscal year 1980, moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 103. During the fiscal year 1980, transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 104. (a) Of the amounts authorized to be appropriated under section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to—

(1) establish, by rule, standards for State radiological emergency plans which provide for the response to an emergency involving any material or facility required to be licensed under the Atomic Energy Act of 1954,

(2) review all plans and other preparations respecting such an emergency which have been made by each State in which there is located a nuclear reactor or in which construction of a nuclear reactor has been commenced and by each State which may be affected (as determined by the Commission) by any such emergency,

(3) assess the adequacy of the plans and other preparations reviewed under paragraph (2) and the ability of the States involved to carry out emergency evacuations during an emergency referred to in paragraph (1) and submit a report of such assessment to the appropriate committee's of the Congress within 6 months of the date of enactment of this act,

(4) identify which, if any, of the States described in paragraph (2) do not have adequate plans and preparations for such an emergency and notify the Governor and other appropriate authorities in each such State of the respects in which such plans and preparations, if any, do not conform to the guidelines promulgated under paragraph (1),

(5) submit a report to Congress containing the results of its action under the preceding paragraphs and its recommendations respecting any additional Federal statutory authority which the Commission deems necessary to provide that adequate plans and preparations for such radiological emergencies are in effect for each State described in paragraph (2); and

(6) submit a report within 120 days from the date of the enactment of this Act which—

(A) lists each current rule, regulation, Division 1 regulatory guide and staff technical position which applicants for construction permits and operating licenses are currently required to meet and indicates on such list which of such rules, regulations, guides, and positions are safety-related;

(B) lists, for each licensee of an operating nuclear reactor which of the rules, regulations, regulatory guides and staff technical positions referred to in subparagraph (A) the licensee was required to meet at the time the operating license was granted and which the licensee was not required to meet at such time;

(C) lists the generic safety issues listed in NUREG 0410 (including categories A, B, C, and D), for which technical solutions have been developed;

(D) lists operating nuclear reactors in which the technical solutions referred to in subparagraph (C) have been implemented; and

(E) provides a schedule for developing a technical solution to those generic safety issues listed in NUREG 0410 which have not yet been technically resolved.

(b) In carrying out its review and assessment under subsection (a)(2) and (3) and in submitting its report under subsection (a)(5), the Commission shall include a review and assessment, with respect to each nuclear reactor and each site for which a construction license has been issued for a nuclear reactor, of the emergency response capability of State and local authorities and of the owner or operator (or proposed owner or operator) of such reactor. Such review and assessment shall include a determination by the Commission of the maximum zone in the vicinity of each such reactor for which evacuation of individuals is feasible at various different times corresponding to the representative warning times for various different types of nuclear incidents.

Sec. 105. (a) The Commission shall within 90 days of enactment of this legislation, promulgate regulations providing for timely notification to the Governor of any State prior to the transport of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State. Such notification shall not be treated as "safeguards information" for the purposes of section 147 of the Atomic Energy Act of 1954. The Commission may require each Governor receiving such notification to comply with the procedures and the standard of confidentiality respecting such notification as the Commission deems necessary pursuant to section 147 of the Atomic Energy Act of 1947.

(b) As used in this section, the term "State" includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Sec. 106. The Commission shall include in its annual report to Congress under section 251 of the Atomic Energy Act of 1954 a statement of—

(a) the direct and indirect costs to the Commission for the issuance of any license or permit and for the inspection of any facility;

(b) the fees paid to the Commission for the issuance of any license or permit for the inspection of any facility.

Sec. 107. No amount authorized to be appropriated by this Act will be used to grant any license, permit or other authorization or permission to any person for the transportation to or the interim, long-term, or permanent storage of spent nuclear fuel or high-level radioactive waste on any territory or insular possession of the United States or the Trust Territory of the Pacific Islands unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which both Houses of the Congress are in session or either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies as soon as possible the Speaker of the House of Representatives and the President of the Senate of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

Sec. 108. From sums appropriated under section 101(a), the Nuclear Regulatory Commission shall use such sums as may be necessary to develop revised employee training and certification standards to insure that operators, supervisors, and other employees at nuclear powerplants licensed by the Commission who are responsible for responding to radiological emergencies are adequately trained to operate the plant safely and to detect and respond to radiological emergencies.

TITLE II—AUTHORITY TO MAKE PAYMENTS

Sec. 201. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE III

Sec. 301. Section 234 of the Atomic Energy Act of 1954 is amended by striking out "$5,000" and inserting in lieu thereof, "$100,000", and by striking out, after the word "violation", all that follows in the first sentence, and submitting in lieu thereof a period.

Sec. 302 (a)(1) The Atomic Energy Act of 1954 is amended by adding a new section 147 "Safeguards Information" to read as follows:

"Sec. 147. Safeguards Information.—

"a. In addition to any other authority or requirement regarding protection from disclosure of information notwithstanding section 552 of title 5, United States Code, relating to the availability of records, the Commission shall prescribe such regulations or orders as it may deem necessary to prohibit the unauthorized disclosure of safeguards information which identifies a licensee's or applicant's detailed—

"(1) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

"(2) security measures (including security plans, procedures. and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

"(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by (1) and (2) in this paragraph,

if the unauthorized disclosure of such information could have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority in this subsection so as to apply the minimum restrictions needed to achieve the objectives of protecting the health and safety of the public or the common defense and security, and upon a determination that the unauthorized disclosure of such information could have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion, or sabotage of such material or such facility. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

"b. For the purposes of section 223 of this Act, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.".

(2) The table of contents for such Act is amended by inserting the following new item after the item relating to section 146:

"Sec. 147. Safeguards information.".

(b) Section 181 of the Atomic Energy Act of 1954 is amended—

(1) by striking out "or defense information" the first time it appears and substituting ", defense information, or safeguards information protected from disclosure under the authority of section 147", and,

(2) by striking out "or defense information" in each other place it appears in such section and substituting ", defense information, or such safeguards information".

Sec. 303. The Atomic Energy Act of 1954 is amended by adding a new section to read as follows:

"Sec. 235. Sabotage of Nuclear Facilities.—

"(a) Any person who willfully injuries, destroys, or contaminates or attempts to injure, destroy, or contaminate, any nuclear production facility or utilization facility licensed under this Act, any nuclear waste storage installation licensed under this Act, any special nuclear material or byproduct material possessed pursuant to a license issued by the Commission under section 53 or section 81 of this Act or pursuant to a license issued by a State under an agreement entered into under section 274 of this Act, or any special nuclear material or byproduct material contained in a carrier, shall be fined not more than $1,000 or imprisoned for not more than ten years, or both.

"(b) For purposes of this section—

"(1) the term 'carrier' means any motor vehicle, railroad train, or aircraft; and

"(2) the term 'nuclear waste storage installation' means a facility or area the purpose of which is to contain nuclear byproduct material.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 234:

"Sec. 235. Sabotage of nuclear facilities."

TITLE IV—PROTECTION FOR INSPECTORS

Sec. 401. Section 1114 of title 18, United States Code is amended by inserting "any construction inspector or quality assurance inspector on any Nuclear Regulatory Commission licensed project," after "Department of Justice."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2608) was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION AND SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT ON THURSDAY, DECEMBER 6, 1979, DURING 5-MINUTE RULE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation and the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries be permitted to sit on Thursday, December 6, 1979, during the 5-minute rule, for the purpose of holding a hearing on H.R. 5577, a bill relating to the blowout of Ixtoc I, Bay of Campeche, Mexico.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. CORCORAN. Mr. Speaker, due to a previous commitment in my district last Thursday, I was unable to be present and voting on a number of matters before the House. If I had been present, I would have voted in the following way:

Rollcall No. 692: On an amendment which requires the Nuclear Regulatory Commission to submit to Congress within 120 days after enactment certain information on safety issues regarding operating nuclear reactors, "paired against."

Rollcall No. 693: On an amendment which sought to prohibit the granting of construction permits for new commercial nuclear powerplants for the first 6 months of fiscal year 1980 (Markey amendment), "paired against."

Rollcall No. 694: On adoption of the conference report on S. 239, to authorize appropriations for programs under the Domestic Volunteer Service Act, "no."

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 218

Mr. WALKER. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of House Concurrent Resolution 218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I would ask unanimous consent to proceed for 1 minute for the purpose of asking the program of the majority leader. I wonder if the distinguished majority leader could tell the House whether there have been any changes in the program or the days of session this week?

Mr. WRIGHT. Will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. WRIGHT. I thank the gentleman for yielding. It will be of some interest to the membership, I am sure, that the leadership plans, barring some unforeseeable emergency, that there will be no session on Friday.

The next order of business today will be to complete general debate on the Child Health Assurance Act of 1979.

If time remains following that, we would take up the rule on the Experienced Pilots Act of 1979. We intend to rise at 5:30 today.

Tomorrow the presently planned order of things would be the Experienced Pilots Act of 1979, the Martin Luther King birthday bill, and thereafter the other bills that have been listed on the weekly calendar, including the tariff treatment of crude feathers and downs.

On Thursday we would expect to complete the Child Health Assurance Act and take up the Asbestos School Hazards Detection and Control Act, voting on amendments and the bill. We would hope to rise at 5:30 on Thursday, also.

Mr. BAUMAN. I thank the gentleman from Texas.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5461, MARTIN LUTHER KING, JR., BIRTHDAY

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96-684) on the resolution (H. Res. 497) providing for the consideration of the bill (H.R. 5461) to designate the birthday of Martin Luther King, Jr., a legal public holiday, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2977, DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96-685) on the resolution (H. Res. 498) providing for the consideration of the bill (H.R. 2977) to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2816, REFUGEE ACT OF 1979

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96-686) on the resolution (H. Res. 499) providing for the consideration of the bill (H.R. 2816) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CHILD HEALTH ASSURANCE ACT OF 1979

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4962), to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, yesterday when the motion was made by the gentleman from California to resolve the House into the Committee of the Whole House for the consideration of H.R. 4962, the gentleman from Maryland made a point of order against that motion on the grounds that the report accompanying that bill did not comply with clause 3, rule XIII.

At that time the Chair indicated that the Chair would withhold judgment if the gentleman would withdraw his motion. I would like first to ask the Chair whether or not the Chair would rule on the point of order made yesterday?

The SPEAKER pro tempore. The Chair will inform the gentleman that the Chair will rule on any new point of order now.

Mr. BAUMAN. Mr. Speaker, it is my understanding that the point of order that I made yesterday resulted in the discovery that, in fact, the language that I pointed out was not in compliance with the rule, and that there has been a star print of the report made; is that correct?

The SPEAKER pro tempore. That is correct.

Mr. BAUMAN. Well, I make a point of order against the consideration of the bill at this time on the grounds that the star print on page 111 is missing what would have been line 32 and, therefore, does not comply with the rule. I am sure the gentleman ought to find the Chair would admit that leaving out an entire line overnight at the Printing Office would not be substantial compliance with the well-known Ramseyer rule.

The SPEAKER pro tempore. Does the gentleman from California desire to be heard on the point of order?

Mr. WAXMAN. Mr. Speaker, in opposition to the point of order, the gentleman from Maryland is referring to, as I understand it, one word only, which is the word "services" and a semicolon. I believe that the omission of that word, while it is unfortunate, leave us in clear substantial compliance with the rule. I would argue that the point of order should not be sustained on that ground.

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The SPEAKER pro tempore. In response to the gentleman from Maryland, the Ramseyer rule requires the Committee on Interstate and Foreign Commerce to include in its report a section showing appropriate changes in existing law. The Chair is specifically aware that the committee has complied with its responsibility and that the report has been star printed to correct a substantial GPO error.

The fact that a minor GPO omission remains in the star print does not affect the committee bill at this time. The committee has met its responsibility under the rule as shown by the original copy of the committee report, which has been reviewed by the Chair and which correctly shows the changes in law. Under the precedents, there has been substantial compliance with clause 3, rule XIII.

The Chair overrules the point of order.

The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4962, with Mr. ANNUNZIO, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. WAXMAN) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation, the Child Health Assurance Act of 1979, or CHAP as it is commonly known, represents an important commitment to bring better health care coverage to poor children and low-income pregnant women in the United States.

Despite the extensive coverage by private health insurance for many of our citizens, and despite the existence of the medicaid program, large numbers of poor American children are today without adequate health care coverage. Estimates indicate that 10 million American children have no known source of primary care; 20 million children are inadequately immunized. As many as 18 million children have not seen a dentist. One-fourth of mothers under 15 years of age receive no prenatal care during the course of their pregnancy.

One could go on with these statistics. We are all familiar with them. But the essential point is this: Medicaid today falls short in effectively providing health care to poor children and pregnant women. And it has been limited in its success because:

In many States, children are not covered unless they come from a broken family; if the father is in the household, no matter how poor the family, the children often are not eligible for medicaid;

Many States do not cover even most of the poor; many millions of children living in families whose income is below the poverty line are not covered under medicaid;

Many pregnant women, particularly young mothers bearing their first child, find they are not eligible for medicaid until after the baby is born, because medicaid does not cover single people or childless couples. The result: no prenatal care is covered; and

Even for those covered under medicaid, unless they have access to preventive services and continuing care, many health problems are undetected and untreated. Children go without glasses or hearing aids or basic dental care. Over 50 percent of children screened under medicaid now—children who have medicaid eligibility—have some condition needing treatment.

H.R. 4962 is designed to remedy many of these defects in the current medicaid program.

First, it assures coverage for needy children, regardless of whether they come from a broken or a complete family.

Second, it establishes a nationwide minimum income standard for medicaid eligibility for children at two-thirds of the official poverty level. That works out to be about $5,000 for a family of four. If we pass this bill, we can say to all our citizens in every State—if a family has an income of less than two-thirds of the poverty level, their children will have health care coverage. It is not excessively generous. But it is a reasonable first step. A State would, of course, retain its option to establish a more generous standard of eligibility. The Congressional Budget Office has estimated that these two provisions—covering children in intact families and establishing a national minimum income level—would make as many as 5 million children potentially eligible for medicaid who are not eligible today. Of course, some of those children may have some private health insurance coverage. If they do, medicaid coverage would be residual.

Third, H.R. 4962 makes all needy pregnant women eligible for medicaid, whether or not they have a husband or are pregnant with the first child. It establishes a minimum income standard at 80 percent of poverty (about $3,000 for a single pregnant woman), and covers necessary prenatal and postnatal care. Studies have shown this can reduce the incidence of premature birth by nearly three-quarters, and with it the conditions associated with premature birth—mental retardation, birth defects, and high infant mortality. Medicaid coverage would continue for 60 days after the birth for the woman and her child. Of course, they could be eligible for a longer period if they were otherwise eligible for medicaid, for example as an AFDC recipient.

Fourth, H.R. 4962 establishes incentives to encourage States to make the child health assurance program a successful, fully implemented part of their medicaid program, through higher Federal matching for ambulatory services for children who have been given good, timely health assessments, through making funds available for outreach and followup, and through several administrative reforms of the program as it is run under current law.

Finally, it makes medicaid more accessible to migrants, to children in foster care who today often are not adopted because they have some health problem which raises the specter of high medical costs for the adopting family, and to children who are detained in public institutions.

This legislation can mean good health care for millions of children who are not cared for today. I urge the Members' support.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I will be pleased to yield to my colleague from California.

Mr. ROUSSELOT. This is the same program that the General Accounting Office said there were all kinds of problems in, and the gentleman is now expanding it to $2 billion?

Mr. WAXMAN. If the gentleman would allow me to answer, I do not know what the gentleman is referring to as coming from the General Accounting Office, since there are a number of GAO reports on the medicaid program. This bill restructures that part of medicaid relating to child health, called EPSDT, which has not always been successfully administered by the States.

Mr. ROUSSELOT. That is the one.

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Mr. WAXMAN. I believe that one of the major reasons it has not been successful is that the incentives have not been there for the States to carry out the program. What we propose to do is to remedy what we know are the defects in that existing program, not to create a new program but to replace that program with one that will work.

Mr. ROUSSELOT. Have all the defects pointed out by the GAO—and I am sure the gentleman's staff there has a copy someplace—been corrected?

Mr. WAXMAN. I believe that many of the defects that have been pointed out in the report have been addressed and that we are undertaking a program that will accomplish the results of screening children who qualify for medicaid and then providing for followup care thereafter.

Mr. ROUSSELOT. So the gentleman has changed the defects, or made sure that they will not continue to exist, and all he has done is increase it from $600 million presently to $2 billion over a period of years?

Mr. WAXMAN. There are $3.4 billion spent under medicaid for children right now that covers services for some 12 million children. This bill would provide by the end of a 5-year period for $2 billion in additional expenditures for 5 million more eligible children. It would be, I think, effectively spent to get early health treatment to them so that we could avoid those costly expenses that will occur later with children who are not treated at a stage when diseases can be dealt with successfully; the exacerbated medical situations which will cost far more than providing early care so they can be cured or prevented.

Mr. ROUSSELOT. So in the fourth year it is $2 billion; is that right?

Mr. WAXMAN. Five years from now it is $2 billion.

Mr. ROUSSELOT. And the gentleman is sure we have corrected all these massive defects that the GAO pointed out?

Mr. WAXMAN. We have addressed them. We have done the best we can.

Mr. ROUSSELOT. The gentleman has done the best he can.

Mr. WAXMAN. With the hard work of the members of the subcommittee, particularly the ranking Republican, the gentleman from Kentucky (Mr. CARTER), who has been a leading force for this bill, I think we have a bill which even the gentleman, my colleague from California (Mr. ROUSSELOT), can support with a great deal of pride.

Mr. ROUSSELOT. Do not get carried away now.

Mr. WAXMAN. Especially when it has to do with the needs of children. I would like to yield some time now to my colleagues.

Mr. ROUSSELOT. Certainly. I appreciate the gentleman's yielding.

Mr. WAXMAN. Mr. Chairman, I yield

now such time as he may consume to my colleague, the gentleman from New Jersey (Mr. MAGUIRE), who has been a leading force in this legislation and who has worked with us to bring forth this bill.

Mr. MAGUIRE. I thank the gentleman.

Mr. Chairman, in response to my friend, the gentleman from California (Mr. ROUSSELOT), I would like to start by indicating that this is a classic example of not tootling off in some new direction to set off yet another new way of dealing with yet another problem. What we are doing here quite deliberately, after very careful work done inside and outside the Government on the problems in the existing program, is to refine and tune that program to meet its original objectives. It is a classic case of doing the kind of work that we ought to do in this Congress on more programs.

What we are going to do is structure incentives so that more physicians and other providers of care will participate in the program. We are going to encourage States to reach out for more children, and we are going to follow those children through the process so that they do not get dropped after an initial screening but actually get the preventive services and the treatment that they need in order to fully take advantage of the program. This translates, by the way, into rather substantial savings of the health care dollars. The estimates that have been made are that when we use a preventive health strategy like this with children, we will save 40 percent of what it would otherwise cost to later hospitalize and treat children for the more serious illnesses and disabilities that would develop in the event that they did not receive proper preventive services earlier along the way.

We are going to face an amendment from one of our colleagues, the gentleman from Michigan (Mr. STOCKMAN), which would have a very negative effect on what we are trying to do here. He is going to present it as a cost control amendment. He is going to say that he is going to provide caps. What he actually does, though, is to take children, and only children, out of the existing medicaid preventive health entitlement program. Children already, by the way, get short shrift under the existing program, and under the Stockman amendment they would get even shorter shrift. He will then set up an additional pot of money which when it is allocated among the States will discriminate against rural States, against States that have a lot of families and children which have not yet participated in the program but which will wish to participate in the program once the basic equalization of the benefits and participation is accomplished as it would be in this bill. But under Stockman the allocations will vary from State to State, and the States that will have the most new children to include in the program will be the ones who get the least amount of money per child. The incentives, in fact, will be exactly the opposite of what any rational person would suggest they ought to be. It will give the most incentive to the States that least need it and the least incentive to the States that most need it.

The program that is before us is one that I think we ought to think about in the context of the kind of care that the Shah of Iran is now getting, for example, in a Texas hospital. He is going to be given everything he needs. How can we do anything less for the children of this country? Not only are we talking about dollars saved; we are also talking about the very lives of these children and the way they are going into their lives, whether healthy or sick, with either temporary or permanent disabilities, depending upon how effectively we can reach them early.

I congratulate the Chairman, the gentleman from California (Mr. WAXMAN) on the work that he has done, and I also congratulate the gentleman from Kentucky on the Republican side, the ranking minority member (Mr. CARTER) who has made such an important and sustained contribution to the work of the committee and the Congress on this issue. If we are going to achieve any kind of consistency, any kind of cost control in our health program, we have got to become serious about prevention. Everything we know tells us that if we can prevent people from getting sick, we are way ahead of the game, and that it not only saves lives, it also saves dollars.

Mr. Chairman, I referred a moment ago to the Shah of Iran who continues to recuperate at an Army hospital in Texas after spending 28 days in New York City receiving what is often believed to be the best medical care the world has to offer. Because we are a humanitarian, compassionate, and civilized nation, we have chosen to give the Shah access to this care even though other options would surely have been less complicated and less costly, both politically and economically. We have subscribed to the philosophy that it would be unthinkable to ask him to leave this country before his treatment is compete.

However, our insistence on accessibility, quality and continuity of care surely has not been as zealously pursued when applied to the poor children of this Nation. Prior to 1967, before the program popularly known as EPSDT was established, only 13 percent of the poverty stricken medicaid eligible children received any kind of health care services. Funding was sporadic and fragmented, and fewer children were screened, diagnosed or treated.

With the establishment of EPSDT, screening and diagnostic services increased in the Northeast, California, Hawaii, and several other urban areas where income eligibility under these States' medicaid plans allowed access to medical care for a reasonable number of poor children. However, in most southern and rural States children are not eligible for needed medical treatment because in many States children from needy families are excluded if their parents make more than $3,000 per year. Children who come from intact families, even if they meet the required income standards, are often excluded from care as well. Another serious problem with the existing program is the lack of incentives for providers to encourage comprehensive care and treatment.

How does the child health assurance program (CHAP) proposed in this legislation differ from the existing EPSDT program? CHAP, which is part of the existing medicaid program, builds on EPSDT, and authorizes the addition of the vital components of continuing care and ongoing treatment to the previously more utilized diagnostic and screening components. It gives each child the chance to receive diagnostic treatment and referral services from a particular provider, clinic, health maintenance organization, or school. This legislation establishes a uniform eligibility level for poor children and it provides funds for adequate outreach, so that the children who are most in need of help are reached. Once these children are in the program, CHAP covers the necessary outpatient services that make up basic health care. We all know, based on solid evidence that the availability and utilization of appropriate health care services decreases the likelihood of the development of costly chronic conditions which then demand more costly inpatient treatment and therapy.

Let me give you an example of what can happen when care is not administered as needed.

I will call the child I am going to talk about Barbara. She is a bright, talkative, attractive 3-year-old child who was born to teenage parents. Her father has worked sporadically, making between $3,000 and $4,000 per year—too much to qualify for the medicaid program in the State where she lives. Barbara, since she has been an infant has been subject to croupy attacks of coughing and congested breathing. Her mother had taken her to the emergency room on a number of occasions. There Barbara was given a shot of epinephrine and her mother was told that she had asthma but would grow out of it. One morning Barbara woke up particularly congested and could not catch her breath. Her parents rushed her to the emergency room, which was busy and overcrowded. When the child arrived, she had become somewhat less congested and the parents were asked to wait.

By the time she was seen she was again barely breathing, and by the time medication was administered oxygen was no lnoger getting to her brain. From this point her condition went from bad to worse. She has been in and out of hospitals for periods of as long as 6 months. Now she is in a wheelchair, is partially paralyzed, and has an endoctrachial tube to help her breathing. She can no longer talk and is just awaiting a bed in a long-term care facility where rehabilitative efforts will be attempted.

Barbara is now 5½ years old and the taxpayers have supported her care for the past 2½ years. The physicians and other health care professionals are unanimous in stating that if this child had been enrolled in a comprehensive care program where her parents had been taught how to work with her condition, and if they had someone who was familiar with Barbara's condition, or even somebody who was familiar with the specialized treatment of childhood asthma, this very tragic situation would have been averted.

Barbara and others like her continue to have their lives ruined, and we continue to pay huge amounts of money for their care, because as legislators we refuse to understand that the need for adequate health services does not fluctuate in rhythm with budgetary authorizations and appropriations. These health care needs have a pulse that is independent of political and economic vagaries. Many of you have children or grandchildren of your own, and when they need care you know how to get it for them immediately, not when the next budget resolution goes through.

In closing, I want to stress that no child asks to be born and surely no child asks to be born poor. I think most of us would agree that each of these lives is precious. It follows then that all poor children, no matter where they reside or what their health problems, should be entitled to adequate health care throughout all of their developmental years.

Mr. CARTER. Mr. Chairman, I yield 5 minutes to the distinguished minority whip, the gentleman from Illinois (Mr. Michel).

Mr. MICHEL. I thank the gentleman for yielding, but I certainly would not want to preempt the normal procedure of the distinguished ranking Member's speaking first on a subject on which he is such an expert. I did request time, but the gentleman is more than generous to yield to the gentleman from Illinois, but I would be happy to defer to his good judgment first.

Mr. CARTER. If my distinguished friend would yield, it is always a pleasure to favor the minority leader.

Mr. MICHEL. The gentleman is very kind, and I appreciate his yielding to me.

Mr. Chairman, one of the basic shortcomings of this bill is the greatly expanded entitlement program it authorizes, and the entitlement issue will be the subject of an amendment to be offered by the gentleman from Michigan (Mr. Stockman).

Over and above that issue, however, this bill as a whole is structured in a manner that does an injustice to our federal system of government and represents another example of rampaging "big-brotherism" at the Federal level.

The present medicaid program for the most part allows the States to determine eligibility standards and the services to be covered. This is the way it should be in a true Federal-State partnership.

This bill, however, removes those State options with respect to children and pregnant women, and establishes nationwide minimum income eligibility standards under which all such persons must be covered. They are standards at levels which exceed the current levels in 36, or almost three-quarters, of our States.

The bill also mandates a whole series of specific services that must be provided. It prohibits any State limitations on the amount, duration, or scope of such services and prohibits the establishment of cost-sharing, or copayment, requirements.

The bill, in other words, leaves virtually no discretion in the hands of the States—except to expand coverage even further.

I would like to see the best health care possible for poor children and pregnant mothers. We ought to take action to stimulate such care, but we ought to do it in the form of financial incentives and penalties, rather than in a dictatoral fashion.

This bill does have some incentives and penalties, which are commendable. It would be a good bill, worthy of support if it stopped there.

The law since 1969 has required that early and periodic screening, diagnosis, and treatment services be provided under medicaid. Since 1972, the law has required that the States be financially penalized for failure to provide such services. That was 7 years ago, but HEW has not seen fit to collect a single penalty in all that time.

What we should be doing is dictating to our own Federal bureaucracies, rather than to the States. If HEW were forced to carry out the law as written, the EPSDT program would be in much wider use than it is today. Strict enforcement of the present law, coupled with additional incentives and penalties, would accomplish much of what most of us wish to achieve, but without the heavy-handed Federal mandates and major program expansion provided in this bill.

Finally, we come to the matter of cost. The Congressional Budget Office estimates that the annual cost increase to the Federal Government will reach $2 billion by 1984. With no cap on the program, and in view of the history of sharp increases in the medicaid program, which have exceeded all expectations, I think we can figure on the CHAP increases ranging even higher than what CBO estimates.

The committee seems to think such increases are peanuts. Well, I must say that such an attitude appears to be in keeping with the prevailing sentiment around here in recent weeks. Any kind of spending restraint seems to have gone out the window, as we have enacted a multibillion increase in welfare, a multibillion increase in education, a multibillion increase in energy, a multibillion-dollar fuel subsidy program, and are contemplating multibillion-dollar increases in food stamps and defense.

I do not know how we expect to pay for all these increases. Or where the concern over the deficit has gone. There are several other points which should be mentioned.

This bill provides for a study of the duplication of existing programs of services to children and how such duplication should be reduced. That is placing the cart before the horse, and, in effect, represents an admission that this program duplicates activities in other programs. Which, in fact, it does. The child and maternal health program, the community health centers program, the migrant health program, the adolescent pregnancy program, and the immunization program, among others, all provide services similar to various types of services mandated in this bill. We should be seeking to avoid duplication before, not after, we launch major new programs.

The bill allows medicaid payments to be made for hard-to-place adopted children, regardless of the family income level. A family could be making $70,000 a year, and the child would still be covered by medicaid. It is a potential loophole allowing the excessive use of considerable sums of money.

Proponents of the bill suggest that it will lead to reduced health costs, but the committee report itself says that the data in this regard is "limited." In other words, we do not really know what will happen.

Statistics in the committee report show that poor children make about as many visits to physicians as do wealthy children, which casts doubt on the allegation that the poor are not being adequately served, thus requiring this big new compulsory program.

□ 1710

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Kentucky.

Mr. CARTER. I would like to say to the gentleman, although he may be correct in stating that the visits may be as often for the poor child, when that child is hospitalized he stays there a great deal longer. With proper preventive and primary care as provided under this bill, we can reduce the need for such costly hospitalization.

I thank my distinguished friend.

Mr. MICHEL. I thank the gentleman for his contribution.

I guess I could overlook the deficiencies that I cited in this bill if we refrained from making this an expanded entitlement program and instead adopted the Stockman amendment to provide for funding of this program through the annual appropriating process. Then we will be assured that Members of this body and the other body, those of us responsible for these vast expenditures of sums will have an opportunity for annual review of these ever increasing expenditures.

I thank the gentleman again so much for his yielding to me at this time.

Mr. CARTER. Mr. Chairman, I am pleased to yield to my distinguished friend from Illinois, always, as much as I disagree with his elocution.

Mr. Chairman, I yield 5 minutes for purposes of debate only to the distinguished gentleman from California (Mr. Dannemeyer).

Mr. DANNEMEYER. Mr. Chairman, I rise today in opposition to this bill, not on the basis of what it purports to do, but out of concern for its cost, its impact on physician decisionmaking, its erosion of parental responsbiility and its potential as forerunner of national health insurance. The claims of proponents notwithstanding, the fact is, H.R. 4962 represents nothing less then "Kiddicaid," with an extra dose of Federal control thrown in for good measure.

Although this bill is labeled H.R. 4962, we also could call this bill 7 equals 9. The reason I say this is because when this bill was considered in the Subcommittee on Health and Environment, of which this gentleman from California is privileged to be a member, it had 16 members assigned which means a majority of 9.

Now under the rules of the House, in order for a bill in markup to achieve passage out of the subcommittee, it takes nine votes, but the record will show on the day this bill was considered in the Health and Environment Subcommittee for markup, there were seven members present. This member was privileged to be present and, believing we would need nine in order to have a majority, I walked from the dais over to a telephone about 10 or 15 feet away in order to make a telephone call and make use of the time in a constructive way. Lo and behold during the course of my short telephone conversation I came to the realization out of my other ear from the telephone that the chairman of the committee, the distinguished gentleman from California (Mr. WAXMAN) had called the meeting to order and had, in a low voice made a motion to put the bill out and by the time I got my communication to his attention that I objected on the grounds that a quorum was not present, the distinguished gentleman from California said, "You are too late, the bill is already out."

Mr. Chairman, the bill passed under those circumstances from the subcommittee to the full committee. I raised that point there and, of course, since the gentleman from California enjoys the position of one of the majority in that committee, my remarks with respect to the lack of a quorum got the weight to which it was entitled under the circumstances, so here we are considering this bill on the floor.

To understand the merits of CHAP, children's health assurance program, one can also observe a marked departure of the Federal Government in respect to its relationship to the children of our country, because on page 93 of the committee report, we begin to get the change in philosophy of what this bill represents; namely, an affront to the institution of the families of this country, because to the knowledge of this gentleman from California, for the first time in print the Federal Government, our Government, is now saying to us citizens of the United States: It is the function of the State to manage the medical care for the child.

Mr. Chairman, you have to ask the question, what happened to the family? What happened to the responsibility of the parent or the parents, and I suppose the answer is the Government is going to take care of children in our country and that is the reason for this bill. Considering how the Government has managed the Post Office and Amtrak, one must be fearful for our children.

With deficit spending having totaled $315 billion since 1970 and with the Nation facing a budget deficit of another $30 to $40 billion for fiscal 1980, just the cost of H.R. 4962 should be enough to discourage this House from going ahead with it. According to the CBO, the child health assurance program (CHAP) called for by H.R. 4962 will add an estimated $156 million to the Federal budget, with this figure rising to nearly $2 billion by 1984. Not only that but CHAP will be an entitlement program, unless we see fit to change it, which means these estimates could quickly become obsolete as occurred with the medicare and medicaid programs. If Members will recall, medicaid cost the Federal Government only $1.2 billion in its first year of operation. But, in fiscal 1979, just 12 short years later, the cost of medicaid rose to $12.4 billion and it continues to rise. Similarly, when medicare first began, the projected cost of part A was estimated at $4.2 billion. When 1975 rolled around, the cost of part A actually came to $10.7 billion.

With the inflation rate pushing 14 percent, making the need for fiscal restraint abundantly clear, the very least we can do is make CHAP an authorized, rather than an entitlement, program. Better yet, we should simply stick with the existing EPSDT program and make it work better than it has heretofore.

□ 1720

Reinforcing that view are two documents of considerable relevance plus corroborating testimony by former HEW Secretary Joseph Califano. The documents are a 1975 GAO report and a 1976 report of the Subcommittee on Oversight and Investigations citing deficiencies in the current EPSDT program; the testimony came in 1977 when then Secretary Califano admitted "We have not done our job well at HEW" with respect to EPSDT. Of course, Mr. Califano is no longer at HEW, but I doubt that his removal alone is sufficient to justify expanding a program that HEW was still having difficulty administering 7, 8, and even 9 years after its inception. Rather, we ought to be questioning the logic, if you can call it that, which suggests that if we only make programs bigger, Federal bureaucrats will implement them better. Acceptance of such logic can only lead us toward national health insurance—with its $100 billion-plus pricetag and its threat to the provision of the best possible health care to the most people at the desired time.

If there was any doubt about the inadvisability of a CHAP, two recent studies should put such doubt to rest. One study, done by U.S. News and World Report, indicates that the growing tax burden in this country has helped produce an underground economy estimated at $200 to $500 billion. The other, done by the Census Bureau, estimates the increase in Federal, State, and local taxation from 1971 to 1977 at 59.4 percent and the increase in the Federal income tax take during the same period at 70.6 percent. So, while the budget can be balanced and new programs financed by still greater tax increases, the evidence is clear that we need to go in the other direction. Taxes are too high as it is, what is needed is a cut in spending and a moratorium on new spending proposals. At the head of the list of those programs that could be deferred is CHAP. After all, current law permits the States to provide additional services if they wish; we do not need another Federal program to do it for them.

In that context, it should be noted that some States—California is an example—already provide the level of services anticipated by CHAP. Thus CHAP, if enacted, will not help everyone uniformly; rather, it takes from the Federal taxpayer and rewards those States which have the least comprehensive programs.

As if all this were not enough there are two other, even more significant, considerations: The increase in governmental, at the expense of parental, responsibility for children and the substitution of bureaucratic for physician decisionmaking in the area of patient treatment. Relative to the first point, page 93 of the Commerce Committee report, puts the problem in its proper perspectives. One of the functions of health care providers, says the report, is "to manage the medical care for the child." If adopted, such an approach would go totally contrary to the traditional American concepts of making parents responsible for supervising the health care given their children and leaving them with the authority necessary to exercise that responsibility.

Moreover, if parental responsibility for, and authority over, child health care is abridged in this instance, how will that affect parental authority in other areas. Or, to put it another way, if government tells children that it, rather than the parents, knows what is best in the area of health, is it not likely that children will start looking to government rather than parents for leadership in other areas?

There is another danger as well. If we are to accept, and the Nation subsequently accepts, the premise that the government, rather than poor parents, should determine what kinds of medical testing and treatment poor children should have, then is it not possible to subsequently rationalize the placing of poor children in foster homes or government-run child care centers on the grounds that, no matter how loving their family may be, they lack the physical or material benefits the government thinks they should have. One hopes not, but the fact of the matter is that H.R. 4962, with its minimum Federal eligibility requirements, its higher levels of Federal, as opposed to State, funding, and its encouragement of HEW decisionmaking in matters ranging from the types of tests to be run to the kind of followup to be done, is a step in that direction. One further hopes it is a step that will not be taken.

As for physician decisionmaking, the same provisions that affect poor parents, authority over their children, compromise the doctor's ability to decide what is best for his patients. At the same time, these provisions will drive up costs. A pediatrician may feel, based on his treatment of a patient, that a given test or medical procedure might not be necessary. Yet, if this bill is passed, and the outreach effort the bill contemplates is undertaken, the tests or procedures may well be undertaken anyway. In short, this bill is likely to further encourage the overutilization of medical services much as medicare and medicaid have. In light of the concern over rising health care costs, such an action would be ironic indeed.

What are the citizens saying in this nation about new Federal programs in the face of their $40 billion Federal deficit this year?

From California:

> Cheating on taxes has become a worldwide pursuit because confiscatory tax policies threaten the economic survival of the people.

From Nebraska:

> Perhaps you could write a sequel entitled, How Uncle Sam Cheats 221 Million Americans Out of Billions in Taxes by Inflation and Debasement of the Currency.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has again expired.

Mr. CARTER. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. DANNEMEYER. "Keeping the United Nations afloat to provide an open forum for enemies."

From Texas, a person wrote:

> As an active tax return preparer for over 25 years, I have observed an extraordinary change in taxpayer attitudes. The patriotic American who reluctantly submitted, but with concealed pride in contributing his share of government upkeep just a few years ago has become a rebellious individual today who resents the unwarranted and unwanted spending programs imposed and administered without regard to the wishes of the electorate. One cannot help but note the similarity between 1979 and 1763. The state of the health of the American taxpayer is very, very poor.

I would suggest that the proponents of this legislation who profess concern for the state of the health of our children have a little more compassion for the state of the health of the people who are paying the tab.

There are other points that can be made in opposition to this bill, such as the designation of Head Start agencies as qualified health care providers and the possible duplication of provisions already contained in H.R. 3434, but rather than dwell on them, let me conclude by saying that, if the cost of CHAP is not enough to justify its rejection, then its threat to the structure of the American family should be. The family has long been the basic unit of American society if it is to survive as such, its authority cannot be impaired much more than it has been already. That is not to say that parents can neglect or abuse their children; there are other sanctions against that. It is to say that parents should have the primary responsibility for their children and, to the extent government involvement is justified, it should be kept at the State and local level as much as possible. CHAP hardly meets those criteria. Instead, it will fan the fires of inflation and Federal Government regulation which, in turn, will threaten children, their parents, their grandparents trying to survive on fixed incomes, and every other American with a stake in the future of this Nation. For that reason alone, it should be rejected.

Mr. WAXMAN. Mr. Chairman, I might for the benefit of the Members indicate that in the subcommittee there was only one known opponent to this legislation. The full committee did have the opportunity to consider a motion to take up this bill before the full committee. The bill was ordered reported with amendments finally after deliberations in the full committee by a vote of 17 to 5 on October 16, 1979, a vote that reflected, as it has throughout our deliberations, bipartisan support.

Mr. Chairman, I would like now to yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. WALGREN).

Mr. WALGREN. Mr. Chairman, I want to just quickly address two points raised in the debate thus far. The first, to address the question of whether or not the provisions for hard-to-place adopted children might through some technicality in this bill allow a child who may be adopted by a family of high income to receive an unjustifiable medical payment from the public.

First, the decision to provide coverage is left to the option of States under the bill. In other words, that is not a mandated Federal coverage of any kind. States contribute their share of the cost of providing the coverage. They are not going to grant coverage unless they find the adoption will not occur without it.

Second, it is a needed provision to take care of the circumstances where a child is having difficulty being placed for adoption, because it has a severe existing medical condition, which if the family were to take that child would possibly result in future medical bills to that family of extraordinary proportions. Because of that existing condition the family's insurance would not cover the child. Few families could take on the financial burden of paying for the care out of their own pocket. In other words, it is a simple necessity that we provide some kind of public support for the future treatment of the severe medical condition of a child who is asking to be placed for adoption, so that that child will be able to be adopted.

I am sure that no Member of this body would begrudge a child under those circumstances, having that kind of coverage.

I wanted to simply say that from my point of view there are two reasons why this bill should be fully funded and in particular funded under the entitlement concept.

Those are, first, because it is just self-defeating to fund it in any way that has built-in limitations. The premise of this bill is that expenditures in the child health assurance area are cost effective. That means that they will return more dollars than would be required in the initial expenditure. If we limit the funds spent in this area, we are simply cutting off the taxpayer's nose to spite his face.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I wonder if those who wrote this bill have inquired among the States, what are the medical arrangements, what are the arrangements for paying for preexisting medical conditions in adoption?

In my own legislature in New Jersey, I introduced and it was law a subsidized adoption bill whereby any preexisting medical condition will continue to be funded by the State; prosthetic devices when the other leg grows longer, that sort of thing. However, if a child falls out of an apple tree, that is a broken leg on the adopted family.

I wondered if any check has been made as to which States protect this?

Mr. WALGREN. Mr. Chairman, it is my understanding that the coverage for this kind of circumstance varies from State to State. Any State that provides coverage now does it at full State cost. Our attempt here is to share the burden with the State. Obviously, a number of States have been unwilling to undertake that responsibility.

Mrs. FENWICK. There is no reason it should not be on the State. You see, this is the problem we are getting. If the gentleman could tell me the number of States that have it or have not got it, then we would perhaps be in a little bit clearer position; but the Federal Government continually does this, removes from the State the function of the State.

Mr. WALGREN. I do not have the specific answer for the gentlewoman. Perhaps the distinguished gentleman from Kentucky might.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman from Pennsylvania yield?

Mr. WALGREN. I yield to the distinguished gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I think we have it. On page 53 of the report it states that "the decision whether to cover these children would be the State's." It is not mandated.

Mrs. FENWICK. Well, there you are. That is what I mean. This would not insure those States that did not cover preexisting medical conditions would do so, because as our distinguished colleague has just told us, the report quite clearly states that it is going to be up to the States to decide whether or not to do it.

□ 1730

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, this bill provides certain extensions of medicaid eligibility for poor children. For example, one such extension would be for as long as 4 months, if the child would otherwise be eligible except for a slight increase in family income.

In certain other instances, when the child has a controllable disease or condition, such as diabetes, the extension of medicaid eligibility will last as long as 12 months. In other cases, the bill leaves the decision up to the State whether to provide medicaid coverage for a child who is hard to place for adoption because of his medical condition.

Mrs. FENWICK. But, Mr. Chairman, if the gentleman will yield, all this is up to the State only. It is at the discretion of the State, as I understand it, and in our New Jersey law any preexisting medical condition in an adopted child is taken care of by the State. That specific preexisting medical condition is taken care of whether he is 21 or whatever until he becomes no longer a child.

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present. It is after 5:30.

The CHAIRMAN. The Chair will count for a quorum.

Mr. CARTER. Mr. Chairman, there is no agreement on my part to rise at 5:30. That may have been the agreement by someone else.

The CHAIRMAN. The Chair is counting for a quorum.

Mr. CARTER. Mr. Chairman, where is the majority leader?

It does not matter with me. If the Chair wants to exert that power, he can certainly do it.

Mr. WALGREN. Mr. Chairman, I yield to the chairman of the Subcommittee on Health and the Environment.

The CHAIRMAN. That is not in order at this point. Does the gentleman from California (Mr. WAXMAN) have a motion?

● Mr. COELHO. Mr. Chairman, I rise in support of H.R. 4962, the Child Health Assurance Act of 1979, and I strongly urge my colleagues to support the bill as it was reported by the committee.

This bill will provide needed health care coverage under the medicaid program to additional low-income children and pregnant women—two vulnerable groups of individuals we can help to avoid permanent health problems if we provide them medical care coverage early on.

Although some would question the rationale for expanding our medicaid program for children and pregnant women at a time when we are all concerned about fiscal constraints, I contend that moneys spent to provide health care for these groups is money well spent. If we can assure that these youngsters and their mothers are given preventive care or needed treatment at these early, critical stages of their development, we can cut down on a good deal of suffering and disability and help to guarantee that these children will have a fair chance to reach their full potential. By spending a little more for needed health care at the early stages, we can also cut down on future expenditures for our medical disability, and social services programs by helping to insure that these individuals will not wind up dependent on these more costly programs throughout their adult life.

I urge that we pass this bill.●

● Mr. BIAGGI. Mr. Chairman, I rise to join my colleagues in full support of this bill, H.R. 4962, the child health assurance program (CHAP). The merits of this legislation are many and I urge my colleagues to join me in support of this bill which would strengthen and improve medicaid services to low-income children and pregnant women.

Let me begin by reminding my colleagues here that we are now celebrating the final month of the "International Year of the Child," a year which has been dedicated to increasing the awareness of this Nation and the world of the problems which our children face and the pressing need to continue to work to eliminate these problems, social, developmental, nutritional and psychological. Additionally, President Carter recently signed into law a resolution which I originally introduced, with the strong support of Speaker O'NEILL, designating December 1979 as "National Child Abuse Prevention Month."

As the sponsor of one of the original child-abuse prevention bills, I have maintained my commitment to work to eliminate this national disgrace which we call child abuse and neglect. This body took a step in the right direction when it passed with my strong support, the Child Abuse Prevention and Treatment Act of 1974. While this act has yet to fulfill its mandate of being the cornerstone of a Federal policy to eliminate and treat child abuse, I stress the need of this body to maintain our commitment to our children and expectant mothers by passing this important piece of legislation.

By focusing Federal efforts on prevention and comprehensive health care for all eligible children under 18 who are members of families whose income is less than either two-thirds of the poverty level or the applicable State medicaid standard, we can insure, through CHAP, that access to health care is assured to this Nation's neediest children. This bill fills the gap in the current program which eliminates many needy children because they live in two-parent families and do not meet restrictive State income requirements.

CHAP also includes coverage for pregnant women, whether they are in single or two-parent families, and establishes a minimum income floor to assure that the very poorest children and expectant mothers are covered by medicaid. This bill also offers financial incentives to States to expand and service a large number of children.

It is clear to many of us who have been following the development of this legislation, that the need for change and adaptation in this program had been clearly established. Medicaid currently offers the early and periodic screening diagnosis and treatment program (EPSDT), and evidence shows that this program has yet to reach its potential. The value of prevention and detection of illness at an early age is clear. There is no need to exclude the 11 million children in families with incomes at less than 150 percent of the poverty level, all of whom could substantially benefit from the benefits of this program. EPSDT experience shows that the number of conditions where treatment is needed drops substantially when a child is given initial screening, diagnosis and treatment. One can hardly argue that a dramatically improved health-care status of this Nation's children is not something that we as policymakers should strive for in passing legislation such as this.

The benefits to prenatal care in this bill are also well-founded and long overdue. Findings show that mothers with no prenatal care are three times more likely to give birth to infants with low birth weights, which is associated with almost half of all infant deaths and substantially increases the likelihood of birth defects. The long-run benefits of H.R. 4962 are many: The decline of mental illness and birth defects and a significant savings on institutional care paid out by medicaid as a result of early diagnosis and treatment of pregnant women and children.

I take great pride in the fact that my own State of New York has been a leader in this Nation with regard to our CHAP program. Since this program began in 1974, our State and local agencies have encouraged parents to bring their children to doctors and clinics of their choice for a comprehensive physical assessment. They are also encouraged to continue treatment on a follow-up basis in order to establish a relationship between providers and recipients of health-care services. Passage of this bill would allow States, such as New York, to work to reach out to those families in the community who have been underserved or not served at all by the current program and will encourage the development of agreements with comprehensive-care providers to improve continuity of care and access to that care.

I would like to make note of the provision of this bill which amends current law to give States the option to provide coverage to adopted children who have been placed in foster care and who were hard to place for adoption because of a handicapped condition requiring expensive medical care. As the ranking New York member on the House Education and Labor Committee, I chaired an important series of hearings in New York City during 1975 which brought attention to the problem of handicapped children in foster care. The desire to adopt these children is minimal in many cases because of expensive health-care costs, and contributes in many cases to the instability factor of children in foster care. If potential parents were assured financial support for these hard-to-place children after adoption, many of these children would find themselves in more permanent family settings. Regardless of the income level of the adoptive family, this bill allows for the option of the State to provide medicaid coverage for all services covered in the medicaid program, or only those required to treat the condition.

While there are many laudatory aspects to this legislation, I feel that I must express my reservation about the provisions which allow medicaid coverage of children in public institutions for juveniles who were eligible for medicaid when they entered the facility or would have been eligible if they remained in the family. There are health-care facilities in these institutions and I would seriously question the worth of providing supplemental health-care assistance to juveniles incarcerated in facilities which are already supported at public expense.

In short, it is of utmost importance to the families of this Nation that we pass this bill, H.R. 4962. The Child

Health Assurance Act of 1979 will significantly strengthen and enhance CHAP to insure that children from low-income families and expectant mothers will be assured proper and essential medical care and treatment. I can think of no better way to insure that our Nation's most vital natural resource, our children, can be assured a healthy and happy passage into adulthood in the closing weeks of the International Year of the Child. This bill enjoys the strong support of the administration, which has maintained ongoing support for this program, as well as numerous groups such as the AFL-CIO, the Children's Defense Fund, National Urban League, Child Welfare League of America, National Association of Social Workers, American Public Health Association, American Dental Association, American Nurses Association, American Hospital Association, and the March of Dimes. It is a vital piece of legislation and I urge that my colleagues join me and support it.●

Mr. WAXMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. OBERSTAR) having assumed the chair, Mr. VENTO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes had come to no resolution thereon.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4962, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR ADDITIONAL TIME FOR GENERAL DEBATE ON H.R. 4962

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole again meet on the bill, H.R. 4962, Child Health Assurance Act of 1979, the gentleman from Kentucky (Mr. CARTER), the ranking Republican member of the subcommittee, be given additional time in order to complete his remarks during general debate.

The SPEAKER pro tempore. The Chair will advise the gentleman that that is a matter which will have to be determined by the Chairman of the Committee of the Whole at that time.

Mr. WAXMAN. Then, Mr. Speaker, I indicate at this time that I will be making that unanimous-consent request when we resume consideration of the bill in the Committee of the Whole.

REQUEST FOR SPECIAL ORDER

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent that following legislative business and any special orders heretofore entered into, the following Members be permitted to address the House, revise and extend their remarks, and include therein extraneous matter:

Mr. DERWINSKI, today, for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. CARTER. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. CARTER) reserves the right to object.

Mr. CARTER. Mr. Speaker, I have reserved the right to object for the purpose of asking the distinguished gentleman from South Carolina (Mr. CAMPBELL) if these Members are going to speak this afternoon, or are they going to insert their remarks in the RECORD?

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I am happy to yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, I have only one request today for a speech under special orders, and I have no way of knowing whether the gentleman is going to speak or not. I do not see the gentleman in the Chamber at this time.

Mr. CARTER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection, and I shall not object.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

FACTS ON ENERGY IN THIS COUNTRY

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, as I just heard the distinguished gentleman from Massachusetts (Mr. CONTE) give the New England viewpoint, I wanted to bring out a few facts, because it seems that on energy this Congress has been short on facts a long time.

We are considering a windfall profits bill. Windfall profits is not the right name. What it does is, it taxes American oil companies 60 percent and it taxes OPEC oil zero percent.

We seem to forget around here that all of these American oil companies we are talking about, are only making 3 cents per gallon on gasoline. Three cents a gallon is not much. We also seem to forget that under price control regulation we pay American oil companies $11 a barrel of oil while we pay OPEC countries $24 a barrel. We seem to forget the fact that 6 years ago the United States was importing $3 billion worth of oil, and this year we import $60 billion of oil.

Mr. Speaker, we are going to ruin our country by depending more and more on OPEC oil.

The current issue of Forbes magazine describes how the energy policy of Congress has helped OPEC. In plain language let us review the story written by M. S. Forbes, Jr. Here is the way Forbes of Forbes tells it.

HELPING OPEC

(By M. S. Forbes, Jr.)

> The windfall profits tax should be labeled "The OPEC Aid Act of 1979." To most Americans, the levy will merely siphon off for the government some of the cash flooding into oil company coffers. We're going to pay a price for that kind of thinking.
>
> The windfall profits tax is actually an excise or sales tax on U.S. crude oil revenues. It has nothing to do with profits. It sharply reduces the price crude oil producers will get for pumping oil. Is that the way to encourage more production, more exploration?
>
> Another disincentive is the legislation's mind-numbing complexity, with numerous categories of oil, each subject to a different tax. Confusion, mammoth under the existing set of convoluted rules, will grow ever more. Litigation will increase.
>
> Even without the windfall tax, federal, state and local governments would receive from 50 to 60 percent of any rise in wellhead crude oil prices through existing taxes.
>
> There are a number of myths that are fueling public support for the windfall profits tax, which was originally proposed to take away "excess revenues" that would accrue to oil companies as a result of President Carter's program to gradually free oil prices by late 1981.
>
> The lion's share of new, producing oil and gas wells are drilled in this country by independents and wildcatters, most of them marginal, not by oil giants.
>
> The bulk of oil company profits has been reinvested in energy. Capital expenditures by the oils have exceeded the industry's after-tax profits for decades. Since 1973, for instance, capital outlays averaged 1.8 times earnings. In the first half of this year, when reported profits were surging, capital spending exceeded earnings by more than 50 percent. That's why oil companies' indebtedness has gone up, not down, in recent years.
>
> Given the enormous surge in the cost of drilling and exploration, taxing away capital from the oil industry is self-defeating to our goal of less dependence on OPEC.
>
> Decontrol will raise consumer prices hardly at all. We have already been paying world market prices for gasoline, heating oil and other refined products despite restrictions on crude oil charges. The wholesale price of gas in New York and in Rotterdam is almost identical. Gasoline costs much more in Europe and Japan because they have significantly higher gasoline taxes.
>
> Controls have transferred revenues from oil producers to oil refiners, dealers, brokers and others in the distribution chain. The net profits of the whole U.S. oil industry will not be much changed by decontrol. There would simply be more revenue for producers, less for refiners and distributors. The windfall profits tax would intercept that intra-industry transfer, reducing overall profitability.
>
> U.S. gasoline and heating oil prices have surged because OPEC has been relentlessly jacking up the cost of oil. The rise in domestic oil earnings is a one-shot inventory profit. In 1974, when OPEC quadrupled oil prices, the return on equity for American oil companies almost doubled to 23 percent. A year later, the return on equity plunged to around 13 percent.
>
> The windfall profits tax should be killed by Congress, if irresponsible political demagoguery doesn't make them chicken. Other-

wise we're going to help OPEC tighten its grip on our independence.

MOTION TO DISCHARGE COMMITTEE ON WAYS AND MEANS FROM THE CONSIDERATION OF H.R. 4646 THE CAPITAL COST RECOVERY ACT

(Mr. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McKINNEY. Mr. Speaker, if there remains any doubt in this Chamber that our economy suffers a dangerous and deeply rooted malady, I recommend a study of the Chrysler Corp. As the ranking Republican member of the Banking Committee's Economic Stabilization Subcommittee, I was recently obliged to complete such a study, and it is in part due to what I learned there that I offer this extraordinary motion today. For if the unprecedented economic phenomena of simultaneous inflation, unemployment, decreasing productivity, and predatory foreign competition are to be overcome, it will require unprecedented action on the part of this House. Such an action would be immediate consideration of the Capital Cost Recovery Act (H.R. 4646) to lay the proper groundwork for the economic revitalization that must come in the 1980's.

Let me make it clear at the outset that I do not offer this motion to discharge the Ways and Means Committee from consideration of H.R. 4646 lightly, or out of any disrespect for its distinguished chairman, Mr. ULLMAN. On the contrary, I have great respect for him and all the members of that overworked panel. However, it must be admitted that the 1st session of the 96th Congress has not been notable for its attention to the niceties of the legislative process. As we daily try to sort through the Byzantine tangle of energy legislation and count the months wasted on jurisdictional turf-warfare, it must become clear that extraordinary procedures are needed. In my view, we have been so frantic trying to address one crisis after another—and thereby tailoring our decisionmaking to the crisis situation—that the underlying problems which produce ever-more frequent crises have gone unattended. It is in order to give this Congress an opportunity to address a fundamental weakness in our economy—the lack of adequate capital formation—that I offer this motion today.

Our economic ailment is a dangerous shortage of investment capital, an anemia which saps our ability to break the inflationary spiral through market expansion and productivity increases. We were once the most vital capital-rich economy in the world. Today, we stand, last among industrialized nations in productivity growth and investment as a percentage of gross national product (GNP). While our trading partners modernize their productive capacity and become more energy efficient, we import oil and capture needed capital through inflated taxes. That cannot continue without drastic consequences.

I am aware that some basic industries and companies, with Chrysler among them, would not benefit immediately from enactment of the Capital Cost Recovery Act. However, I think even that fact argues pursuasively for prompt action to stem the debilitating drain of capital which puts once-profitable concerns into that cash-poor condition. With this motion today I am trying to avoid the Chrysler of tomorrow. The fact that some may already be too sick to save should not deter us from dispensing the medicine we know is needed to avoid the spread of the disease.

The goal of the Capital Cost Recovery Act, better known as the 10–5–3 plan, is as simple as are the mechanisms proposed to achieve it. A reduced depreciation period better enables the tax system to reflect the rapidly escalating replacement cost of plant and equipment in an inflationary period. The antiquated useful life depreciation system would be replaced with a 10-year depreciation schedule for buildings, a 5-year period for equipment, and a 3-year write-down for automobiles and light trucks. Such a modernization of our capital recovery schedules would eliminate the voluminous asset depreciation range (ADR) which now contains over 130 asset categories and which is too complex to be used by most small businesses at all.

Adoption of the 10–5–3 plan would also bring the U.S. tax system into line with the practices of almost every other industrialized nation. They long ago abandoned the cumbersome and static useful life system. Today that disparity costs U.S. taxpayers hundreds of millions of dollars because foreign competitors can write-off new capital expenditures in 10 years while it takes almost 15 years to recover the cost of comparable new equipment here.

A noted economist recently estimated that understated depreciation in light of inflated replacement costs totals $40 billion annually, or one-third of all corporate tax payments. That money could have been used to modernize plant and equipment, employ more people, and pay more taxes.

The able sponsors of this bill, my colleagues, Mr. CONABLE and Mr. JONES, have spent countless hours researching and refining this proposal and they can explain and defend its merits far better than I. Evidently they have done that job well since H.R. 4646 has 261 House cosponsors. I urge all of you who support this bill to join me in signing this discharge petition today. The momentum created by their work will be enhanced by a strong show of support now. Despite any technical flaws, I believe this bill must be enacted before inflation robs more employers of the capital needed to modernize, before 13,000 more employees are laid off, before more jobs are lost to foreign competition.

Mr. Speaker, it is estimated that the U.S. economy will require up to $5 trillion in new investment throughout the 1980's to remain competitive and expand economic opportunity for a growing citizenry. We can no longer be timid about worst case revenue loss projections when the very source of all government revenue—the productive economy—is in need of massive renewal. I offer this motion today because I want this session of Congress, the last in the 1970's, to have its chance to take the extraordinary but farsighted action necessary for our economic growth into the next decade.

CARTER DOUBLETHINK

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, if there were ever an example of State Department-Carter doublethink, it surfaced ever so clearly in President Carter's press conference last Wednesday night. Trying to tick off the accomplishments of his administration in the area of foreign policy would be difficult for any magician. Trying to answer questions on our military toughness after a series of disastrous Carter actions which have reduced our military and intelligence capabilities tortured the truth pretty sadly.

However, doublethink hits a new bottom when the President said:

> We have opened up avenues of communication, understanding, trade, with people that formerly were our enemies or excluded us—several countries in Africa, the vast people and the vast country of the People's Republic of China.
>
> In doing so we have not alienated any of our previous friends. I think our country is strong within itself. There is not an embarrassment now about our Government, which did exist in a few instances in years gone by.

Now who does he think he is kidding? Can he actually believe the State Department gobbledygook that declaring the Republic of China a nonnation, crawling in craven submission to the arrogant demands of the Chinese Communists, trying to rescind the mutual defense treaty with our Chinese friends on Taiwan was done without alienating them?

They are loyal friends. They love the United States. They are among the freest people in the world. What an insult to say that kicking them in the face "did not alienate any of our previous friends." No wonder his words cannot be trusted.

Last December 15, President Carter started a train of events which have insulted and alienated our friends in free China. Just last week, one more indignity was added. The International Olympic Committee repeated the Carter-Kennedy line that free China is a noncountry. They can only compete in the Olympic games if they give their country another name, get a different national anthem, and not offend the Communist dictators on the mainland who, courtesy of our State Department and Mr. Carter, now have copyright on anything that bears the stamp "China."

Hold on good friends in free China. This man does not speak for the overwhelming majority of Americans who are not pro-Communist and pro-Mao or pro-Peking. Things will turn around and we will be back together as friends again, working for the betterment of the free world.

George Orwell told us war is peace, freedom is slavery, and ignorance is truth.

President Carter is telling us that weakness is strength, appeasing an aggressive foe is statesmanship, and kicking an ally in the face while saddling up to their Communist adversaries does not alienate them. And, he would add, a government which is an embarrassment to most Americans is not an embarrassment. What next?

SYNTHETIC FUEL REPORTS BURIED 28 YEARS AGO

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, the Federal Government has shelved and ignored its own official studies—conducted 28 years ago—that the United States has enough coal reserves in 38 States alone to produce more than 226 billion barrels of synthetic liquid fuel.

At current rates of consumption, that would be enough synthetic fuel to replace all our oil requirements for about 33 years.

Despite continuing energy problems, starting with the 1973 Middle East oil embargo, both Congress and the Federal agencies involved in energy matters have ignored these studies conducted long ago by the U.S. Army Corps of Engineers.

The Department of Energy is costing taxpayers $13 billion a year, and has not produced one drop of energy for our people.

It spends billions on further energy research and development, but fails to act on synthetic fuel findings reported 28 years ago which are a sure bet for helping rid our Nation of Middle East oil dependence.

I am today requesting the President to require some action based on these synthetic fuel studies that have gathered dust on Government shelves.

A good summary of the Corps of Engineers findings appeared this past Sunday in the Arizona Republic. I would like to include the article including tables at this point in the RECORD:

[From the Arizona Republic, Dec. 2, 1979]

SYNTHETIC FUEL DATA SHELVED 28 YEARS AGO

(By Harold K. Milks)

Government studies gathering dust in the Library of Congress show that as far back as 1951, engineers estimated the United States had the potential to produce 226.3 billion barrels of synthetic liquid fuel from coal.

At the current consumption rate of 18.8 million barrels of petroleum daily, this would be enough to meet all U.S. oil requirements for 32.9 years.

The Department of the Interior ordered the studies in 1947, contracting with the Army Corps of Engineers to determine the synthetic liquid-fuel potential in 37 states and Alaska.

Detailed reports began flowing into Washington four years later, outlining the availability of coal deposits and of water supplies necessary for conversion of coal to liquid fuel through hydrogenation or the synthine process which has a lower yield per ton.

Many areas of the United States, the engineers reported in studies that were then classified "restricted," possessed both coal deposits and water supplies to make the coal-to-oil conversion feasible.

With oil prices steadily climbing, the corps studies take on new importance, according to private and government experts on energy.

"Obviously they were shelved 28 years ago because of the availability of cheap crude oil which was then largely replacing the traditional coal for energy uses in the United States," one energy expert said. "Now they represent a vital insight into a possible solution to our fuel problems."

The Arizona Republic first encountered the reports in discussions with representatives of an energy firm in Cheyenne, Wyo., which has thousands of acres under lease for coal mining.

Subsequently, copies of some of the reports and a national summary listing 26 of the 37 states for which the Bureau of Mines asked surveys were found in the Library of Congress. No corps report was found for Alaska.

The massive figure of 226.3 billion barrels of potential oil covered use of the hydrogenation process, the summary showed. Using the synthine process would produce 195.26 billion barrels from available coal resources, the engineers reported.

Summary sheets from the 1951 reports indicate Illinois had the greatest potential for synthetic-fuel conversion with an estimated 34.64 billion barrels.

Close behind was Kentucky with 31.79 billion, Montana with 30 billion, West Viginia with 27.6 billion, Pennsylvaia with 19.8 billion and Colorado with 18.3 billion barrels.

There was no mention of Arizona's coal reserves in the summary, an indication that the corps may have skipped this state because of questionable water supplies.

The engineers, in the case of their Wyoming and Utah report, said they considered raw materials, water supply of quality and quantity and "various economic factors further affecting the suitability of such areas for plant location."

In Wyoming, the engineers said they looked for—and located—deposits of at least 100 million tons of coal in an area of not more than five square miles, averaging at least 15 gallons of oil per ton.

"Coal reserves in Wyoming were grouped into 18 subdivisions covering parts of 11 counties," the report said. "Each subdivision contains sufficient reserves for 40 years' supply of at least one 10,000-barrel-a-day synthetic liquid-fuel plant."

Wyoming alone, the detailed report said, had sufficient recoverable coal reserves in 1951 to produce 515,000 barrels of synthetic "crude" daily from hydrogenation or 402,000 through the synthine process.

The reports raised a number of questions.

How much have the coal reserves been depleted since 1951?

Energy experts estimated coal depletion between 1951 and 1979 at no more than 3 percent, recalling that "during the many years of cheap oil, coal consumption by the railroads, power plants and individual-home use dropped off sharply."

What effect would environmental and mining restrictions have on conversion of coal to oil now?

"Certainly there would be a considerable effect," said one energy expert. "But in the time since 1951, both mining processes and processes for converting coal to oil have been developed which cause less harm to the ecology. Our need for energy security is so great today that some environmental rules may have to be bent a little."

Those 1951 corps reports have not been completely forgotten. The U.S. Bureau of Mines, which had them prepared, now operates an experimental coal gasification plant at Hanna, Wyo., 85 miles northwest of Laramie.

One visitor to this project reported, "I found the gasification project well directed and the personnel devoted and eager to move ahead. Performance in Washington was in painful contrast to that in Wyoming.

"The Office of Management and Budget has been slow to release appropriated funds to increase coal research by the Bureau of Mines. Expenditures for underground gasification—a must if the ecology is to be protected—have been considerably less than $1 million a year."

Those aware of the oil-from-coal potential in this country generally agreed that the government would face a major battle from environmentalists before they could activate a major conversion program.

"Unfortunately, most of the coal deposits are found in some of the most beautiful areas of the country," one said. "That is the big problem."

EQUIVALENT TOTAL RESERVES, BY PROCESSES OF SYNTHETIC LIQUID FUELS IN THE UNITED STATES[1] [2]

[In thousand barrels]

State	Equivalent total reserves[3]			
	Hydrogenation	Coal	Natural gas[4]	Retorting oil shale[5]
Alabama	2,832,400	2,204,600		
Arkansas		540,200		
Colorado	18,279,200	14,030,600		87,016,000
Illinois	34,645,800	26,922,400		
Indiana	15,125,600	11,767,600		
Iowa	3,401,800	2,657,200		
Kansas	379,600	292,000		
Kentucky	31,798,800	24,761,600		
Louisiana			189,800	
Maryland		335,800		
Missouri	1,211,800	934,400		
Montana	30,090,600	23,389,200		
New Mexico	2,525,800	1,956,400		
North Dakota and South Dakota	8,657,800	6,570,000		
Ohio	12,176,400	9,475,400		
Oklahoma	1,839,600	2,190,000		
Pennsylvania	19,797,600	21,929,200		
Tennessee	2,613,400	2,029,400		
Texas			591,300	
Utah	3,007,600	2,350,600		12,337,000
Virginia	3,474,800	3,606,200		
Washington	219,000	175,200		
West Virginia	27,637,800	32,251,400		
Wyoming and Idaho	6,643,000	4,891,000		
United States	226,358,400	195,260,400	781,100	99,353,000

[1] As limited by water resources.

[2] Totals for all processes not shown since they are dependent in the case of coal, on choice made for specific installations, between hydrogenation and coal synthine processes.

[3] Equivalent reserves obtained by multiplying potential daily production capacity by 365 days and by 40 yr, (20 yr for the natural gas synthine process).

[4] Exclusive of potential production from additional reserves which may become available after pressure maintenance and recycling programs.

[5] Based on crude shale oil output instead of output of synthetic liquid fuel final products as in other processes.

SUMMARY OF RECOVERABLE COAL RESERVES CONSIDERED FOR SYNTHETIC LIQUID FUELS MANUFACTURE (AS OF JAN. 1, 1949)

State	Recoverable coal reserves (thousand tons)					Heating value Btu per pound as received
		In general areas of coal availability, suited for:		In general areas of coal and water availability, suited for:		
	Total [1]	Hydrogenation	Coal synthine	Hydrogenation	Coal synthine	
Alabama	1, 236, 754	1, 045, 622	1, 045, 622	1, 045, 622	1, 045, 622	12, 360–14, 270
Arkansas	415, 654	--------	250, 454	--------	250, 454	13, 550–14, 430
Colorado	16, 396, 782	13, 818, 683	13, 818, 683	11, 540, 816	11, 540, 816	9, 130–13, 160
Illinois	24, 867, 174	15, 356, 946	15, 356, 946	15, 356, 946	15, 356, 946	9, 750–12, 610
Indiana	6, 966, 623	6, 412, 055	6, 412, 055	6, 412, 055	6, 412, 055	11, 110–12, 040
Iowa	2, 318, 166	1, 669, 517	1, 669, 517	1, 669, 517	1, 669, 517	9, 200–10, 530
Kansas	452, 832	150, 578	150, 578	150, 578	150, 578	11, 790–13, 080
Kentucky	12, 826, 094	11, 910, 205	11, 910, 205	11, 910, 205	11, 910, 205	10, 790–14, 090
Maryland	241, 257	--------	159, 287	--------	159, 287	12, 850–13, 520
Missouri	859, 104	552, 324	552, 324	552, 324	552, 324	9, 900–11, 860
Montana	21, 825, 137	17, 536, 309	17, 536, 309	17, 442, 371	17, 442, 371	6, 020–10, 690
New Mexico	3, 324, 816	3, 062, 988	3, 062, 988	1, 144, 647	1, 144, 647	10, 360–11, 420
North Dakota and South Dakota	14, 767, 277	9, 543, 786	9, 543, 786	9, 242, 848	9, 242, 848	5, 720– 7, 090
Ohio	6, 023, 031	4, 788, 412	4, 788, 412	4, 788, 412	4, 788, 412	11, 470–13, 350
Oklahoma	1, 251, 588	701, 116	1, 037, 562	701, 116	1, 037, 562	11, 520–14, 350
Pennsylvania (bituminous coal)	14, 750, 959	7, 214, 990	10, 026, 411	7, 214, 990	10, 026, 411	12, 530–14, 020
Pennsylvania (anthracite culm)	318, 569	--------	256, 311	--------	256, 311	8, 340
Tennessee	1, 018, 314	956, 053	956, 053	956, 053	956, 053	12, 900–14, 050
Utah	5, 902, 209	4, 635, 258	4, 635, 258	1, 220, 958	1, 220, 958	10, 390–13, 060
Virginia	2, 133, 979	1, 234, 328	1, 652, 946	1, 234, 328	1, 652, 946	12, 190–14, 870
Washington	513, 412	102, 433	102, 433	102, 433	102, 433	10, 030–11, 750
West Virginia	21, 057, 259	9, 884, 265	14, 576, 392	9, 884, 265	14, 576, 392	12, 190–14, 750
Wyoming and Idaho	10, 123, 374	6, 412, 120	6, 412, 120	3, 750, 458	3, 750, 458	7, 770–12, 870
United States	169, 590, 374	116, 987, 988	125, 912, 652	106, 320, 942	115, 245, 606	--------

[1] Estimated in accordance with the specifications and procedures established for this survey; before elimination of unsatisfactory areas and of excess secondary reserves.

Source: U.S. Army Corps of Engineers, Summary Report for the Bureau of Mines, Department of the Interior, The Synthetic Liquid Fuel Potential of the United States, Mar. 3, 1952.

YOU COULD DIE HERE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SOLOMON. Mr. Speaker, much has been said and written about our inability to protect our embassies from attacks by terrorists. I, for one, would like some answers from the State Department as to its policies and procedures for protecting American lives and property abroad. But whatever inadequacies in these policies we uncover once the tragic course of events in Iran has come to a conclusion, we must not overlook the individual acts of heroism on the part of our marines as they sought, under impossible circumstances in Iran, Pakistan, and elsewhere, to protect the lives of their fellow Americans.

Mr. Speaker, two of these heroes gave their lives for their country during the sacking and burning of our Embassy in Pakistan. The other marines on duty during those fateful hours risked their lives to lead our Embassy personnel to safety. It is a dramatic episode of courage and sacrifice which has been told by Time magazine correspondent Marcia Gauger, the only journalist inside the Pakistan Embassy at the time of the attack. As a former marine, I am proud to offer her account of this moving story for the consideration of my colleagues:

YOU COULD DIE HERE

It started as if it were nothing. Just two red buses; maybe 150 people. They got out and started milling around the big iron gates. They chanted anti-Carter slogans, threw a few rocks over the red brick wall, got back in the buses and drove away. End of demo. I was headed for the cafeteria, and Embassy Political Officer Herb Hagerty called out, "Save me a seat, I'll be right there." He never made it. It was a few minutes later, about 1 p.m., that the buses returned, this time six of them. They were crammed with people, both inside and clinging to the roof. And now all hell broke loose.

The Marines slammed shut the gates as some of the mob began setting cars in the parking lot afire. Others bashed at the brick wall, using a heavy pole. There was constant yelling outside. Embassy staffers began locking their files. Dave Fields, the administrative counselor, watched the rioters smashing at the walls. "If the wall goes, we're in for it," he said. Moments later it did. "Everybody upstairs," Fields shouted.

We climbed a curved staircase to the embassy's third-floor vault, a specially designed, windowless steel-walled room, about 20 ft. by 30 ft. It contained communications equipment, coding devices, and an enormous safe. It had its own back-up power generator and battery-powered radios. "They're shooting," someone shouted. "They shot a Marine." "Where was he?" On the roof." "Is he O.K.?" "I don't know."

Cpl. Steve Crowley, 19, a Long Islander who served in Pakistan about three months, had been assigned to roof duty, and a rioter had shot him in the side of the head. They got him down and brought him to an anteroom of the vault. A nurse hovered over him, fitting an oxygen mask. He lay in a pool of blood. I hadn't been scared at first, but now I was as I stood there looking at this young dying Marine.

"Everybody into the vault," somebody ordered. Marines were throwing tear gas as we retreated. Some 90 of us were herded into the vault, arranging ourselves on chairs, desks, the floor. The tear gas began filtering into the room, causing a lot of crying and retching. "Down on the floor," Fields yelled. "The air's better there." A lot of people were already on the floor, bending over, retching from the gas. We were pretty packed in. The lights went out, then on again. A phone rang and we were told that police were on their way. Six minutes later, another phone call said General Zia was sending reinforcements.

Just before 2 o'clock, one hour after the siege began, word came from the British embassy, which could observe the outside of our building, that "they" were moving demonstrators off the compound. But "they" were not. We began to smell smoke. There was fire somewhere.

At 2:23, the attackers smashed their way into the embassy itself. The Marines—there were seven of them—moved up to the third floor, covering their retreat with tear gas. Radio contact was established with other areas of the embassy community. We were Dixie 14. Dixie 20 was Ambassador Arthur Hummel, who was at home. "I know you're uncomfortable in there, but just hold on and take it easy," Hummel said. He told us the Pakistani army was just a few minutes away.

At 2:40, we learned that the warehouse near the embassy was on fire. We began to wonder how long we could hold out. There were fresh attempts to reach the ambassador and a report that helicopters were on the way to rescue us from the roof. I was trying to listen for the helicopters when Public Affairs Officer James Thurber reached for my notebook and pen. When he handed it back, it contained this note: "3:35 Marine died." Tears started to my eyes. Thurber had his fingers to his lips. "Nobody knows," he whispered. It was an emotional piece of information the room did not need.

At 3:48, we heard new sounds. "They're on the roof," somebody yelled. Dixie 17, the American school, told us there were three truckloads of Pakistani troops on a side road "waiting to move." An embassy officer grabbed the mike. "This is the third floor of the American embassy," he yelled. "You have our permission to move those troops."

At 4:08, a voice in the back of the room asked: "You got a fire extinguisher in here?" The carpet was getting quite hot. At 4:11, Dixie 53 (I don't know where it was) came on the air: "The embassy is on fire—the theater building and the entrance—and there is also smoke pouring out of the motor pool. The Pakistani military are not doing anything at all. The front of the second and third floors is on fire."

There was a lot of banging and crashing outside the vault, but we had no way of knowing what it was. Our room was now mostly quiet. It was getting warmer and warmer, the first real thoughts began to enter your mind that you could die here, that somebody was trying to cook us to death—quite literally. The link to reality was Dixie.

"This is Dixie 14. Tell Zia to get the troops here and get the people off the roof."

Dixie 20: "More troops have arrived. The military are on the scene and have taken command. They understand the urgency of clearing the building."

Dixie 14: "Someone is banging on the roof. Mr. Ambassador, they are shooting down the air-conditioning vents."

Dixie 20: "You are right. There are still dissidents on the roof. You should not open the hatch."

Dixie 14: "Now they're beating on the vault door. We don't have much time."

There was a huge bang.

Dixie 14: "There's lots of smoke, gas, and they're using some heavy object to batter the doors. Do you have any hope for us?"

There was more heavy banging, and then someone unlocked the door and our Marines crowded in; more tear gas came in with them. The radio now turned bad.

Dixie 14: "The floor in the vault is getting warm. There are fires underneath us. We need to evacuate to the roof. Can you tell us, is the roof clear?" No answer.

At 5:30 came a frightening call from the back of the room: "Fire in the vault!" Amazingly, no one panicked. One official carried the fire extinguisher over to where the carpet had begun to burn. Two blasts put out the flames.

The steel shell of the vault was now so hot from the fires raging below that the tiles laid over it were beginning to crack and buckle. We were all drenched in sweat. We were breathing through wet paper towels, very slowly and shallowly, trying to save oxygen. The smoke was getting heavy, making it hard to breathe. It was doubtful we could have lasted another 30 minutes in the vault. Dave Fields asked: "Are there some senior Pakistanis who would like to establish contact with the dissidents on the roof?" There were a number of volunteers.

"We will see if it's clear on the roof and we will go out very slowly, very orderly," said Fields. "I will say who goes."

Finally it was the Marines who led the way up the stairs to the hatch. The first Marine opened the hatch and stuck his head out into the darkness. He had no way of knowing what might be waiting for him out there on the roof. It had gotten quiet; the shooting had stopped, the hammering and pounding had stopped. But it could well have been a trap. We didn't know. The only thing we had going for us was the darkness itself, and I guess the fires too. That must have been what drove the rioters away.

With the Marines standing guard over the hatch, two groups of women went out onto the roof, then some men, then some more women. A burst of fresh air suddenly hit me; very cold, very fresh. There was a strange glow around the edges of the roof from the fire that was consuming the building beneath us. The Marines warned us in whispers: "Stay down! Stay down!" They could not be sure there were not still rioters somewhere on the roof.

As more people came up from the vault, we gathered in knots for the move across the roof to a second ladder that went to the ground. The Marines led us over the side. "I'm sorry we have to take you through a little smoke here," one of them said to me. This part of the building was blazing from both sides, and smoke hung over everything. I kept thinking that the roof had to collapse soon—any minute.

When we came down the last ladder, we looked across to the embassy gates. The Pakistani army that had been coming to our rescue since the assault began at 1 p.m. finally opened the gates and some soldiers ceremoniously marched over to the ladder and welcomed us to the ground.

When we finally reached safety, Ambassador Hummel praised us for "having done more for ourselves than I could get the government of Pakistan to do." He was absolutely right. I don't care what President Carter says. I don't care what Secretary Vance says. We came out all by ourselves. It was our Marine guards who saved us. Nobody else.

GROWING NATIONAL RECOGNITION OF GEN. DRAZA MIHAILOVICH'S CONTRIBUTIONS TO ALLIED CAUSE IN WORLD WAR II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

● Mr. DERWINSKI. Mr. Speaker, I want to call the attention of my colleagues to the growing grassroots movement calling for recognition of the very great contributions made to the Allied cause in World War II by Gen. Draza Mihailovich, leader of the democratic resistance forces in Yugoslavia.

In August of 1967, after several exchanges with the Department of State, the Department confirmed to me that in March 1948, President Truman, acting on the recommendation of General Eisenhower, had conferred the Legion of Merit in the Degree of Supreme Commander on Gen. Draza Mihailovich, leader of the democratic resistance forces in Yugoslavia during World War II. Apparently the fact of the award and the citation that went with it had been classified by the State Department immediately after President Truman signed it.

One of the major contributions to the Allied cause mentioned in the citation was Mihailovich's rescue and evacuation of some 500 American airmen who had been forced to bail out over Yugoslavia during the course of 1944.

But despite the release of the Legion of Merit citation, the Mihailovich issue at that time appeared to be ancient history and aroused only limited interest.

Some 4 years ago, the National Committee of American Airmen Rescued by General Mihailovich, acting in the name of the 500 rescued airmen, petitioned Congress for permission to erect a memorial in Washington, with publicly subscribed funds, to the man who had saved the lives of so many American World War II airmen. Enabling legislation is now pending before the House and Senate. In the House alone we now have 76 cosponsors, Democratic and Republican. I want to point out that this legislation was twice approved by the U.S. Senate without a dissenting vote, based on the prior approval of the Department of the Interior and the Senate Rules Committee. Regrettably we were unable to bring this legislation to a vote in the House because the legislation was not reported by committee. I earnestly hope that the Subcommittee on Monuments and Libraries will report the legislation early enough in this session for the House of Representatives to work its will on it.

But the National Committee of American Airmen Rescued by General Mihailovich are not the only ones who believe that it would be fitting and proper for the United States to pay this belated tribute to a faithful World War II ally—an ally whom we shamelessly abandoned because we had agreed to blindly follow the British lead in Balkan policy. In recent years major ethnic and national organizations, syndicated columnists and editors, and State legislators have spoken up on the issue. Just over 2 years ago the National Convention of the American Legion adopted a resolution strongly endorsing the legislation I had introduced in response to the petition of the rescued American airmen. The year previously, the Arizona State Senate had adopted a similar resolution. Last year, President George Meany of the AFL–CIO wrote a letter stressing his very strong support for the project. And on June 11 of this year Gov. Edward J. King of Massachusetts signed a statement proclaiming July 17, 1979—the anniversary of Mihailovich's execution by the Tito government—as "Gen. Draza Mihailovich Memorial Day." Let me here quote the text of this proclamation because I think it is characteristic of the widespread reevaluation that is taking place of the true role played by General Mihailovich during World War II in Yugoslavia:

> Whereas: In May of 1941, when the war power of Hitler's Germany appeared invincible to the faint-hearted, Colonel and later General Drazha Mihailovich and his brave followers launched a campaign of guerilla warfare aganst the Nazi, Fascist and callaborationist forces in occupation of his native Yugoslavia; and
>
> Whereas: General Drazha Mihailovich as a leading underground fighter provided inspiration and hope for the liberation of Europe from Nazi tyranny and also drew such enmity from the Third Reich that a Nazi reward offer of 100,000 gold Reichsmarks was placed on his head; and
>
> Whereas: General Drazha Mihailovich effected the rescue of hundreds of American airmen that had been forced down in Yugoslavia and for this was posthumously honored by President Harry S. Truman in the award of the Legion of Merit decoration; and
>
> Whereas: It is hoped that the true story of General Drazha Mihailovich will be genuinely understood by the people for whom he fought so bravely;
>
> Now, therefore, I, Edward J. King, Governor of the Commonwealth of Massachusetts, do hereby proclaim July 17, 1979, as "General Drazha Mihailovich Memorial Day" and urge the citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

I share Governor King's hope that "the true story of Gen. Drazha Mihailovich will be genuinely understood by the people for whom he fought so bravely." I also hope that Congress will respond to the petition of the rescued American airmen by permitting them to erect a memorial to the man who saved their lives.

Mr. Speaker, I insert into the RECORD at this point the following documents:

First. Text of statement signed by President Truman in conferring the Legion of Merit on General Mihailovich;

Second. Text of resolution adopted by American Legion Convention endorsing legislation to authorize a monument to General Mihailovich;

Third. Text of resolution adopted by Arizona State Senate endorsing Mihailovich monument legislation;

Fourth. Text of letter from Arizona State Senators to President Gerald R. Ford, dated June 24, 1976;

Fifth. Text of letter of President George Meany stating his support for Mihailovich monument legislation; and

Sixth. Articles by syndicated columnists William F. Buckley, Jr. and John Chamberlain supporting the petition of the rescued airmen to Congress.

NATIONAL CONVENTION OF THE AMERICAN LEGION—RESOLUTION

To support the intent of the legislation introduced in the U.S. House of Representatives to authorize construction of a Memorial to General Drazha Mihailovich, a World War II Resistance leader.

Whereas nearly 500 American airmen were rescued by General Drazha Mihailovich during World War II; and

Whereas General Mihailovich at the risk of his own life and the lives of his men, rescued these missing-in-action American airmen from enemy territory and was instrumental in returning these airmen to allied control; and

Whereas these almost 500 airmen were returned to military duty and thus were able to continue to contribute to the military effort of the United States until the end of World War II; and

Whereas General Mihailovich and his troops lacked adequate supplies and fought under conditions of extreme hardship; and

Whereas when General Mihailovich was captured by Marshal Tito's communist government in 1946, the National Executive Committee of the American Legion on June 11, 1946 passed a resolution (that was mailed to the Secretary of State, Washington, D.C.) urging that the American Legion petition the United States government to exert its influence by every possible means to insure a fair and impartial trial for General Mihailovich in return for the generous aid and assistance accorded American airmen; and

Whereas the members of American Legion Post 827, Department of California honored General Mihailovich by naming the Post the "General Drazha Mihailovich Post No. 827"; and

Whereas President Harry S. Truman in 1948 posthumously awarded the Legion of Merit in the Degree of Chief Commander to General Draza Mihailovich in recognition of his efforts on the behalf of such airmen and of his other services to the Allied cause; and

Whereas the National Committee of American Airmen Rescued by General Mihailovich, Inc. has petitioned the Congress for permission to construct and maintain a memorial to General Draza Mihailovich in the District of Columbia or environs; and

Whereas such monument will express the gratitude of the rescued airmen to General Draza Mihailovich for his role in saving their lives; and

Whereas the construction and maintenance of such monument will not involve the expenditure of any Federal funds; and

Whereas legislation to authorize the construction of such a memorial was introduced in the United States Senate (S. 244) and has been approved by the Interagency National Capital Memorial Advisory Committee, approved by the U.S. Department of Interior, reported favorably by the Senate Rules Committee and passed by the Senate without dissent on June 29, 1977; and

Whereas similar legislation has been introduced in the U.S. House of Representatives by Congressman Edward Derwinski of Illinois and thirteen other members (H.J. Res. 374) including Congressman Dan Daniel of Virginia, a Past National Commander of the American Legion, and by Congressman Murphy of New York (H.R. 1009): Now, therefore, be it

Resolved, That the American Legion in convention assembled at Denver, Colorado on August 22 through 24, 1977 does hereby support the intent of the legislation pending in the U.S. House of Representatives for the purpose of authorizing construction of a Memorial to General Draza Mihailovich as a lasting expression of gratitude by these almost 500 American airmen.

HOUSE JOINT MEMORIAL 2002

To the President and the Congress of the United States of America: Your memorialists respectfully represents:

Whereas, the Legislature and citizens of the State of Arizona are concerned for the lives, minds and well-being of its loved ones and citizens who are still carried as missing in action or prisoners of war; and

Whereas, the veterans of Arizona are also concerned for their comrades at arms that are still missing in action or prisoners of war in Southeast Asia; and

Whereas, the United States House of Representatives passed the Montgomery Resolution to carry out an investigation of the unanswered questions about the estimated two thousand four hundred American servicemen and civilians still "Missing in Action" or otherwise unaccounted for in Southeast Asia; and

Whereas, the dictates of humanity itself demand that the sons, daughters, brothers, sisters, wives, fathers and mothers learn of the fate of those they love and without whom their lives are shattered and empty; and

Whereas, there is strong evidence that the communist governments in Southeast Asia, as other communist nations have done in the past, are without any moral justification, illegally retaining prisoners of war in despite of their firm agreement to return all prisoners of war; and

Whereas, these very same communist countries of North and South Vietnam are asking to be recognized and admitted to the United Nations; and

Whereas, objection by the United States to the admission of North or South Vietnam to the United Nations has thus far been based on the fact that the Republic of Korea has not been admitted but such objection should also be based on a further detailed accounting of our citizens still carried as missing in action or prisoners of war. Wherefore your memorialist, the Legislature of the State of Arizona, prays:

1. That the President and the Congress of the United States take every possible step and make every possible effort to obtain a more detailed accounting of all Americans still carried as prisoners of war, missing in action or unaccounted for in Southeast Asia.

2. That it be publicly stated by Congressional Resolution and Presidential Decree that the United States through its ambassador to the United Nations will continue to veto any move to admit either North or South Vietnam to the United Nations, regardless of the status of the Republic of Korea, until there is forthcoming a more detailed accounting of all Americans still carried as prisoners of war, missing in action or unaccounted for in Southeast Asia.

3. That copies of this memorial be dispatched by certified mail, with a return receipt requested, to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Arizona Delegation to the United States Congress.

To the President and the Congress of the United States of America: Your memorialist respectfully represents:

Whereas, the Legislature and the citizens of the State of Arizona are aware that nearly five hundred American airmen owe their lives to the late General Draza Mihailovich of Yugoslavia; and

Whereas, General Draza Mihailovich, at the risk of his own life and the lives of his men, rescued these airmen from enemy territory and helped them get to American lines; and

Whereas, General Draza Mihailovich was awarded the Legion of Merit in 1948 by President Truman; and

Whereas, the National Committee of American Airmen Rescued by General Mihailovich has requested permission to construct a simple concrete monument to General Mihailovich; and

Whereas, such monument would be constructed and maintained at no public expense.

Wherefore your memorialist, the Legislature of the State of Arizona, prays:

1. That the President and the Congress of the United States make every possible effort to insure the passage of legislation authorizing the construction and maintenance of the General Draza Mihailovich Monument in Washington, District of Columbia.

2. That copies of this memorial be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Arizona Delegation to the United States Congress.

ARIZONA STATE SENATE,
Phoenix, Ariz., June 24, 1976.

President GERALD R. FORD,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As individuals concerned with insuring the future safety of American airmen in times of war or national emergency, we the undersigned, believe it is time the United States of America pay its debt of gratitude to Yugoslavian General Draza Mihailovich who, by his direct actions, was responsible for saving the lives of nearly 500 American airmen who had been shot down behind German lines during World War II.

We further believe that such a debt should be commemorated by allowing the construction of a simple concrete monument by the National Committee of American Airmen Rescued by General Mihailovich. Such a monument would contain the words of President Truman which were engraved on the Legion of Merit award which he presented posthumously to General Mihailovich in 1948 and would also contain the names of the nearly 500 Americans who are alive today because of General Mihailovich. Because such a memorial would not be constructed or maintained with public funds, we believe that it is appropriate for the United States of America to finally thank a World War II General who risked his life to save the lives of American servicemen.

Mr. President, we ask for your direct support to insure the passage of legislation now before Congress which would authorize the construction and maintenance of the General Draza Mihailovich Monument in Washington, District of Columbia. Thank you for your support in this matter.

Sincerely,

Sue Dye, Bob Stump, William Swink, Betty Morrison, Lucy Davidson, Madelene Van Arsdell, Frank J. Felix, Manuel Pena, Stan Turley, Jones Osborn, Tom Moore, Morris Farr, Tony Gabaldon, Marcia Weeks, Bill McCune, Stephen Davis.

AFL–CIO,
Washington, D.C., July 19, 1978.

Hon. LUCIEN NEDZI,
Chairman, Subcommittee on Monuments and Libraries, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN NEDZI: It has come to my attention that you are considering legislation in the Subcommittee on Monuments and Libraries which may approve the erection of a monument to the late General Mihailovich of Yugoslavia.

Having reviewed the history of his very great and heroic deeds which contributed to the Allied cause of World War II, and to the safety of American airmen who now wish to honor the memory of this partisan for freedom, it is my hope that you and the members of your Subcommittee will now approve this privately sponsored project.

With every good wish,

Sincerely yours,

George Meany,
President.

TIME FOR JUSTICE TO AN OLD ALLY

(By John Chamberlain)

For one reason or another, governments are never very grateful. During the early days of World War II, the Western allies were dependent on the Yugoslav Gen. Draja Mihailovich and his Chetniks for pinning down Nazis on the Balkan front. The U.S. tended to favor Mihailovich over the Communist Tito and his Partisans.

Despite the U.S. preference, Winston Churchill, who had few qualms about walking his mile with the devil when it came to saving the British Empire, thought Tito was a better bet than Mihailovich as a "soft underbelly" helpmate in pushing the war in southeast Europe against Hitler.

With British help the Communists were permitted to get away with the big lie in propagating the idea Mihailovich was a "reactionary," indeed a Nazi collaborator. So the Chetnik movement, which would have saved Yugoslavia from Communism as well as Nazism, was doomed.

After the war, the need to drive a wedge between the victorious Tito and the Stalinists in Moscow took preference in Washington over any policy of fairness to Mihailovich's memory. The "Truman Doctrine" would have been vastly imperiled in neighboring Greece if Tito had not broken with the Kremlin. But Harry Truman, despite his enforced commitment to a distasteful realpolitik, couldn't be totally ungrateful.

In 1947 Truman awarded the Legion of Merit posthumously to Mihailovich for his help to the allied cause. He did so with the proviso that the award would remain a classified secret until such time as the "Truman Doctrine" would no longer be endangered by the revelation that the U.S. still stood by the memory of Mihailovich as a dedicated anti-Nazi who had to be sacrificed to political expediency.

Truman's gratitude had a specific as well as a general reference. While the war was on, some 500 U.S. airmen had been rescued by Mihailovich's Chetniks when their planes crashed in Yugoslav territory.

The problem was how to get them back to Italy. The British, who were breaking with Mihailovich, were not in a position to be helpful; they were afraid, if there were a renewal of American representation at Mihailovich's headquarters, Tito would consider it an evidence of double-dealing.

To get around the diplomatic impasse, the U.S. 15th Air Force headquarters created their own "authority"—the Air Crew Rescue Unit. And so, without any formal blessing, the stage was set for the dispatch of three Americans by airdrop into Chetnik-held territory.

Led by George [Guv] Musulin, a 250-pound ex-pro football player, the Americans made contact with the Chetniks and helped prepare a 775-yard-long airstrip on a natural plateau to bring in C-47 rescue planes. Three hundred peasants hauled the gravel for fill, refusing to take a cent for their work.

Within a few hours some 250 American airmen, including 26 who were sick or wounded, had been lifted back to safety. Other rescue missions followed, forcing the Titoists, as represented by Louis Adamic's South Slav Bulletin, to admit that "Nazi Chetniks" had been "forced" to release "some" Allied aviators.

It took some 20 years for Rep. Edward J. Derwinski [R., Ill.] to compel the release of news about Truman's bestowal of the posthumous Legion of Merit on Gen. Mihailovich. Said Richard Nixon, in a 20-year-after testimonial, "Gen. Mihailovich was a patriot, a brave soldier and a gallant ally of the United States."

The rescued airmen have not been content with a mere acknowledgment that despite Tito and our need to keep Moscow from invading Yugoslavia as it invaded Hungary and Czechoslovakia, Mihailovich is now to be remembered as an ally. They have formed a National Committee of American Airmen Rescued by General Mihailovich, and they now propose to build a National Memorial to the general in Washington as the "savior of American airmen."

A petition for enabling legislation is being drawn up, and a dozen of the rescued airmen have already signed it. One problem is to locate the full number of airmen, who are dispersed thruout the U.S. Those who have not yet signed the petition are urged to get in touch with Rep. Derwinski's office on Capitol Hill.

The time for justice has come; after some 30 years, there is no point to concealing the skullduggery and ingratitude that marred our victory in World War II.

John Chamberlain also appears in the Saturday editions of the Chicago Tribune.●

MARKET FORCES JUSTIFY LOWER PRIME RATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, the time has come for the large banks of this country to begin making significant reductions in their lending rates across the board—rates which continue at unacceptable levels.

During the past week, major banks have reduced their prime rate from the record-breaking 15¾ to 15½ percent. This is not good enough.

There is no justification for continuing to hold the prime rate at 15½ percent when underlying market interest rates are declining, loan demand is off substantially, and the rate of growth in the money supply is down comfortably within the Federal Reserve's target range. Specifically:

The interest rate on 3-month certificates of deposit has fallen from a peak reached in late October of 14.47 to 13.18 percent, and the Federal funds rate from a peak of 15.61 to 14 percent. If these CD rates hold, Citibank, which led the way up, should by its own formula reduce its prime rate to 15 percent or lower;

Demand for commercial and industrial loans at large New York banks has dropped for the last 3 weeks in a row, for a total decrease of $800 million; and

The Federal Reserve has brought the rate of growth in the money supply for the year ending November 14, 1979, down to 5 percent, about the middle of its target of 3 to 6 percent. This indicates there is no need for the Federal Reserve to tighten the money supply further in order to stay within its money growth targets.

Keeping interest rates higher than underlying market forces require simply enriches the big banks while driving many small businesses to the wall and choking off needed credit for housing and for productive investment. Such continuing high rates jeopardize our chances of reducing inflation without precipitating a sharp recession.

Not all the Nation's bankers are as high interest prone as the big money center banks. First Marine Bank of Riviera Beach, Fla., a $417 million institution for instance, has reduced its prime rate to 14½ percent. As mortgage rates in many cities edged past the 13-percent level, First Marine cut its home mortgage rate to 12¾ percent. It has now reduced automobile financing rates from 12½ to 11 percent. First Marine chairman, Jerry Thomas, tells me in a letter of November 26, 1979, of his "objections to the high interest rates being charged by most large banks."

I agree with Mr. Thomas' belief that interest rates are generally higher than they need to be. Mr. Thomas said:

> The prime is a very nebulous thing the banks are using to jack up their lending rates. They don't have to charge what they're charging. They seem to have a contest to see who can be first to raise the rate and then all the rest fall in line, playing follow the leader.

Thomas points out that there is "nothing altruistic" about his bank lowering its interest rates. He said:

> It's good business. This will prove profitable for us.

If other banks would follow the lead of First Marine, the economy would be better off, the people would be better off, and the banks themselves would be better off.●

SOLAR ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Addabbo) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, energy from the Sun is mentioned frequently with regard to our future energy supply. The Sun's rays are without cost, but the cost of the equipment to convert the Sun's rays for household purposes is still considered to be causing a lag in the installing of the equipment. In some locations there is still need to have conventional heating, with solar used to materially reduce the need for conventional fuels. In time the solar installation may pay for itself, and a "solar bank" as proposed can go far to reduce the burden of the initial cost of installation cost over the life of the solar-conversion equipment.

It has been estimated that solar energy might provide about 20 percent of the

Nation's energy needs. But when? By the year 2000? Even the year 1990 would sound too far into the future in the light of the national urgencies.

The use of solar energy can avoid various costs that are otherwise borne by the community. Solar causes no pollution costs, and it provides no wastes that need to be removed, and it does not depend on insecure foreign sources which may burden the military establishment for protection. Community savings of these types seem to warrant substantial inducements by the community for faster installation of solar equipment.

Solar energy is typically not a central-station technology, so that it does not require an energy distribution system. Each consumer of solar energy installs his own. In a sense, it competes with central-station industry, and it competes with conventional fuels. To the extent that solar installations serve, there will be reduced need for rationing.

Let us look at the situation of the person who has a house, and is contemplating the possibility of installing a solar system. A "solar bank" and tax allowance can go far to alleviate the financial pressure involved, but that is only the beginning. The selection of a knowledgeable installation contractor is far from easy. The suppliers of equipment in this new technology are not on sure ground either. If we improve the conditions under which these various decisions are being made, we might be able to accomplish in 10 years or even less, the potential 20 percent of our energy requirements.

Solar installations are largely a part of housing, and we have a Department of Housing and Urban Development (HUD). It seems appropriate that the "solar bank" should be administered by HUD, and that a solar production bureau in that Department be establised to promote and assist the Nation's householders to obtain the installation of the solar equipment by knowledgeable installers, with successful equipment, and at lowest possible cost. It would be shortsighted for solar manufacturers involved to charge high prices if in doing so the number of installations is reduced. The hope is that profits would be sought on the basis of volume rather than on the basis of price, because in reality we as a nation do not have time to spare.

Some point to the fact that current technology may be outdated later, with consequent risk to the householder. Perhaps we should sell the householder technology insurance, to relieve him of the technology risk, but there are already many successful installations. Where there is the will there is a way. If we really want to see that 20 percent of energy potential fulfilled promptly, we will do what it takes to get it done promptly. We already see that anything that is not done promptly costs a lot more later, and the benefits are postponed too.

The auto manufacturers are masters of mass production, and they need to make Detroit employment less dependent on autos alone. They have distributors all over the country. They could do a wonderful job of mass producing and mass distributing solar installations. Let us not wait for the Japanese to do it for us.

Besides the application of solar energy for householder purposes, there is potential opportunity to use solar to meet about 50 percent of the energy requirements of the Nation's farms. Farms consume about 2 percent of U.S. total energy requirements, mostly for drying crops, and the heating of homes, animal shelters, and greenhouses. As long ago as June 1976, ERDA (DOE's predecessor agency) was reporting agricultural solar experiments and demonstrations. These agricultural solar process heat research projects are financed by DOE, and managed by the Agricultural Research Service (ARS) of the Department of Agriculture. The application of successful research by farms seems to warrant broadening of the function of the Rural Electrification Administration, to optimize their use of solar energy in place of fossil fuels. The "solar bank" could provide the funding to REA borrowers for this purpose.

DOE is also working with industry for developing solar heat and hot water applications in industrial processes. The potential for using solar energy for industrial processes should be very significant since industry consumes about 40 percent of total U.S. energy requirements, and surveys indicate that the major share is from fossil fuels. Much of the industrial use of process heat is for preheating at relatively low temperatures. Several surveys have been made to identify potential industrial applications of solar energy, and experiments of this kind has been accelerated based on state of the art components already available. Essentially, much will depend on how solar energy compares in cost with the cost of fossil fuels in each application, but relatively small added inducements may be sufficient to promote choice of solar systems so as to reduce the Nation's use of fossil fuels.

In summary, by expanding the responsibilities of existing successful Federal and State agencies, and with assistance from energy consuming sectors which are in need of assurance of future energy supplies, the community may be able to achieve important gains in solar energy usage at very modest cost to the community. In any event, it is worthwhile to aim for 20 percent solar in 10 years, rather than in 20 years.●

SOVIET PRISONERS OF CONSCIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, as a participant in the "Conscience of Congress" program, I spoke last May on behalf of Soviet "refuseniks" Boris Tsitlionok and Ida Nudel.

Mr. Tsitlionok, denied a visa for "security reasons," was forced to stay behind in the Soviet Union when the rest of his family was told to leave for Israel in 1971. Later, in 1975, Mr. Tsitlionok was sentenced to 5 years of internal exile for raising a banner which said, "Let My People Go."

It is good news that the Soviets are at last letting Mr. Tsitlionok go to Israel. Clearly, the force of world opinion is helping to loosen Soviet restrictions on emigration.

But while we rejoice in the release of Mr. Tsitlionok, many others are still being denied the right, guaranteed by the Helsinki Agreements, to emigrate from the U.S.S.R. Ida Nudel, called the "Angel of Mercy" because of her tireless activities on behalf of Soviet prisoners of conscience, is still a prisoner, serving a 4-year sentence because she hung a banner in her window asking permission to join her sister Elena in Israel.

We must not relax our vigil until the right of free emigration for Soviet citizens is secured.●

HOSPITAL COST CONTAINMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, we can expect hospital cost containment to continue to be an issue for public debate in the Congress and the Nation generally. This is especially true since the problem of rising hospital costs is a serious difficulty in our most densely populated areas.

As I have said in the past, my instinct is to vote for regulation of the health care industry. But, when we had the bill providing for mandatory controls before us in the House I supported a proposal for voluntary controls because I felt the mandatory proposal dealt unfairly with the needs of our less densely populated regions, particularly those with health care needs resulting from rapid population growth.

I, as a matter of intellectual curiosity, became interested in who voted for imposition of mandatory controls. Analysis of the vote shows that all but 20 of the 166 Members of the House voting for mandatory controls were from our most densely populated congressional districts, or are from States that would have been excluded from the impact of the mandatory cost control provisions. And, of those 20, 4 are members of the subcommittees recommending passage of the mandatory controls.

Inasmuch as hospital cost containment is most troubling to our densely populated areas, perhaps there is a need for the appropriate authorizing committees to consider and recommend a bill specifically addressing the needs of those areas.●

PATIENT RADIATION HEALTH, SAFETY, AND TRAINING ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 30 minutes.

● Mr. LUNDINE. Mr. Speaker, today I am pleased to have introduced the Patient Radiation Health, Safety, and Training Act of 1979. This legislation is designed to eliminate the unneeded and excessive exposure to radiation that many persons who now receive medical and dental X-rays experience.

Much attention has been focused on the dangers inherent in exposing individuals to radiation. Studies show that 90 percent of this exposure to radiation is from medical procedures such as diagnostic X-ray examinations. This bill would set a uniform national standard of training for all users of dental and medical radiation equipment, providing guidelines for the credentialing of all personnel administering radiation to consumer-patients. Proper training of equipment users coupled with education about radiation risks will help eliminate unnecessary X-rays, retakes, and overexposure to radiation when an X-ray is being administered.

Forty-one States do not now have regulations in effect to govern the proper use of X-ray equipment. In these States, it is possible for someone to operate medical and dental X-ray equipment without ever having undergone any educational or on-the-job training instruction relating to potential dangers to both the operator and patient from radiation overexposure. In testimony given earlier this year before the Subcommittee on Oversight and Investigations of the House Interstate and Foreign Commerce Committee, the president of the American Society of Radiologic Technologists gave examples of operators in nonregulated States who did not know how to properly use an X-ray machine. This is inexcusable and dangerous in our present age, since such risks need to be minimized for the health and safety of our present and future generations.

Adequate training of X-ray equipment users will not decrease the number of X-rays ordered by physicians or dentists, but it will decrease significantly the overexposure to the patient caused by using too high a radiographic exposure. The training will also decrease the number of retakes needed. These retakes cost hundreds of thousands of dollars in film costs, lab time, and have an incalculable cost in possible damage to a person's health.

My home State of New York was the first State in the Nation to establish a licensing law with uniform statewide educational standards in the field of radiologic technology. As a result, the risk of overexposure to patients and operators has greatly decreased. A bonus effect is that expensive film costs have also decreased. Since the operator is well-trained, a proper image can usually be obtained on the first try, thereby using fewer image plates and lessening the amount of exposure to the patient.

I have spoken to many doctors, radiologic technologists and health educators regarding the impact of establishing a national criteria for X-ray training. The overwhelming response is one of extreme concern over the health hazards that exist from untrained operators, and a desire to see some form of national standards enacted.

Under the provisions of the bill, the Secretary of Health and Human Services is directed to issue voluntary standards for the licensure of radiologic technologists by December 31, 1980. One year after the issuance of such voluntary standards, the Secretary is directed to review and evaluate any existing voluntary certification programs or State licensure programs to determine whether these programs meet the national standards. When it is determined that the programs do comply, the Secretary shall, within 1 year, certify the existing programs in conformance with the standards and may revise those regulations promulgated to meet changing needs.

The bill further provides for certain educational grants to States to carry out the purposes of the act. These grants will be gradually phased out as the States have completed developing and setting up their own programs. Review and appeal processes are also set forth in this act.

The Senate has twice passed similar legislation, and is again considering a bill, while the House has yet to act in this vital area. I would urge my colleagues in the House to support this important measure to protect the health of our Nation's citizens and that of future generations.

The complete bill follows:

H.R. 6023

A bill to provide for the protection of the public health (including consumer patients) from unnecessary exposure to radiation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

GENERAL PROVISIONS

SHORT TITLE; TABLE OF CONTENTS

SEC. 101. This Act may be cited as the "Patient Radiation Health, Safety and Training Act of 1979".

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PART IV—FEDERAL ACTIVITIES

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PART VI—APPROPRIATIONS AUTHORIZATIONS

Sec. 161. Authorization of appropriations.

FINDINGS

SEC. 102. The Congress finds that—

(1) it is in the interest of the Nation's public health and safety to minimize exposure of consumer-patients to potentially hazardous radiation;

(2) while the use of radiologic procedures is essential in modern medicine, even the most advanced procedures will not adequately protect the health and safety of either the consumer-patient subjected to radiologic procedures or the individuals performing such radiologic procedures, including their progeny, unless the individuals performing such radiologic procedures are fully qualified by reason of education and experience in the operation of radiologic equipment or in the performance of radiologic procedures so as to avoid unnecessary consumer-patient and operator exposure to unnecessary radiation and to assure efficacious consumer-patient radiologic services;

(3) it is in the interest of public health to have an adequate and continuing supply of well-educated radiologic technologists;

(4) consistent with Federal radiation protection guidance for diagnostic X-rays approved by the President on January 26, 1978, it is in the national interest and in the interest of public health and safety to assure that persons administering potentially hazardous radiation to consumer-patients are properly qualified as has been recommended by—

(A) the National Advisory Committee on Radiation to the Surgeon General in 1966;

(B) the Secretary's Task Force on Environmental Health and Related Problems in June 1967;

(C) the Surgeon General's Medical X-ray Advisory Committee on Public Health Considerations in Medical Diagnostic Radiology in October 1967;

(D) the 1970 report of the Secretary to the Congress pursuant to the Radiation Control for Health and Safety Act of 1968;

(E) the National Academy of Sciences-National Research Council's Advisory Committee on the Biological Effects of Ionizing Radiations in November 1972; and

(F) the Conference of Radiation Control Program Directors in May 1974.

(5) the protection of the public health and safety from unnecessary consumer-patient exposure to potentially hazardous radiation from all sources is the primary responsibility of State and local government; and

(6) any person who prescribes or administers radiologic procedures to consumer-patients, including at Federal facilities, should be required to demonstrate competence by reason of education, experience, and examination.

STATEMENT OF PURPOSES

SEC. 103. The purposes of his Act, which shall be carried out consistent with the maximum protection of public health from unnecessary consumer-patient exposure to radiation, are to—

(1) provide for the establishment of criteria and guidelines for the credentialing or licensure of all personnel administering radiation to consumer-patients;

(2) provide for the establishment of criteria and guidelines for use in accrediting programs for the education of radiologic technologists;

(3) provide for the formulation of criteria and guidelines applicable to all Federal agencies in the (A) establishment and execution of consumer-patient radiation protection programs, and (B) formulation of consumer-patient radiation protection standards;

(4) insure that all Federal agencies administer programs carried out or funded by such agencies so as to further the purposes of this Act; and

(5) encourage State adoption and administration of programs for the accreditation of educational programs for the education of radiologic technologists and for the licensure of radiologic technologists.

DEFINITIONS

SEC. 104. Unless otherwise expressly provided, for the purposes of this Act the term—

(1) "dental practitioners" means licensable doctors of dentistry, who do or will prescribe or administer radiation to consumer-patients;

(2) "medical practitioners" means licensable doctors of medicine, osteopathy, podiatric medicine, or chiropractic, who do or will prescribe or administer radiation to consumer-patients or for specified limited procedures, postgraduate physician trainees, such as interns and residents;

(3) "radiation" means ionizing and nonionizing radiation from such sources as consumer and commercial products, medical and dental radiation (including diagnostic X-rays), and natural radiation;

(4) "radiologic technologist" means any person, other than a medical or dental practitioner, who administers radiation to consumer-patients and includes, but is not limited to, medical radiologic technologists (including radiographers), dental radiologic technologists (including dental hygienists and dental assistants), radiation therapy technologists, and nuclear medicine technologists; and

(5) "Secretary" means the Secretary of Health and Human Services.

PART II—FEDERAL RADIATION PROTECTION GUIDELINES PROMULGATION OF RADIATION PROTECTION GUIDELINES

SEC. 121. (a)(1) The Secretary shall promulgate Federal radiation guidance with respect to consumer-patient radiation matters directly or indirectly affecting public health. Such guidance shall contain information regarding (A) the sources of consumer-patient radiation exposure and (B) techniques, procedures and methods to minimize unnecessary and nonefficacious consumer-patient radiation exposure.

(2) Pursuant to paragraph (1), the Secretary shall, in consultation with affected Federal agencies, promulgate guidelines regarding medical and dental exposure to consumer-patients. Such guidelines shall be in a form so as to (A) facilitate the establishment of optimum techniques to minimize consumer-patient exposures, (B) eliminate inconsistency and the resultant need for retakes of diagnostic radiologic procedures, (C) eliminate unproductive screening programs; and (D) obtain the optimum diagnostic information with minimum consumer-patient exposure.

(b) Within eighteen months of the date of the enactment of this Act, the Secretary shall promulgate criteria and guidelines with respect to—

(1) the application of diagnostic X-rays to consumer-patients;

(2) the therapeutic application of radiation to consumer-patients; and

(3) the application of radiation to consumer-patients in the treatment of disease, such as nuclear medicine applications.

(c) The Secretary shall review and, as appropriate, revise guidelines promulgated by him pursuant to this section.

(d) The functions of the Administrator of the Environmental Protection Agency under section 274(h) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(h)) are transferred to the Secretary.

PART III—ESTABLISHMENT OF STATE PROGRAMS FOR THE CONTROL OF RADIOLOGIC SERVICES

RECOMMENDED MINIMUM RADIATION PROTECTION STANDARDS FOR ACCREDITATION

SEC. 131 (a) Not later than December 31, 1980, the Secretary shall promulgate voluntary minimum standards for the accreditation of educational institutions conducting education programs in radiologic services. Such standards shall distinguish between programs for the education of (1) radiologic technologists, (2) medical or dental practitioners, (3) dental hygienists, and (4) dental assistants.

(b) The Secretary may authorize appropriate professional organizations to certify such accreditation as consistent with the purposes of this section if he determines that such organization will adhere (and is continuing to adhere) as a basis for certification to the minimum standards issued pursuant to this section. For the purposes of such accreditation, the Secretary shall, to the maximum extent practicable, consistent with the purposes of this Act, utilize organizations recognized by the Secretary of Education for such purposes.

(c) The Secretary shall review and, as appropriate, revise the standards promulgated by him pursuant to this section.

RECOMMENDED MINIMUM STANDARDS FOR LICENSURE FOR RADIOLOGIC TECHNOLOGISTS

SEC. 132. (a) Not later than December 31, 1980, the Secretary shall promulgate voluntary minimum standards for licensure of radiologic technologists. The Secretary may designate categories of specialization or levels of competence for the purpose of licensure if he finds that such categories are required to assure adequate protection of public health from unnecessary radiation exposure or to assure efficacious consumer-patient radiologic services. The Secretary shall consider for possible designation the following categories of specialization: senior radiologic technologists, medical radiologic technologists (including radiographers), dental radiologic technologists (including dental hygienists and dental assistants), radiation therapy technologists, nuclear medicine technologists, technologist-in-training, and students in radiologic technology.

(b)(1) The Secretary shall, within one year after promulgation of voluntary minimum standards under this section, review and evaluate any voluntary certification programs or State licensure programs in existence as of such date and, based on such review and evaluation, determine whether such programs meet such standards.

(2) If the Secretary is satisfied that the program meets such standards he shall, within one year thereafter, certify such programs as in conformance with such standards.

(c) The Secretary shall review and, as appropriate, revise the standards promulgated by him pursuant to this section.

STATE ASSISTANCE

SEC. 133. The Secretary shall provide the States such advice and assistance as will foster establishment of appropriate programs to achieve the purposes of this Act. Such advice and assistance shall include model laws and may include educational curriculum and teaching aids. Such model law shall provide that—

(1) graduation from an educational institution for the education of radiologic technologists which is accredited as in conformance with the voluntary standards promulgated pursuant to section 131 shall satisfy the requirements for a provisional license as a technologist-in-training conditioned on licensure within one year in one or more categories of specialization the Secretary may designate;

(2) it shall be unlawful for an individual to apply potentially hazardous radiation to consumer-patients unless such individual is a medical or dental practitioner or meets the standards promulgated pursuant to section 132; and

(3) if adopted by the State any violation of the model law by an individual applying potentially hazardous radiation to consumer-patients shall be subject to a civil penalty of not more than $1,000, and any such violation shall be with respect to each act or omission made unlawful by such law.

GRANTS TO EDUCATIONAL INSTITUTIONS

SEC. 134. The Secretary may, under title VII of the Public Health Service Act, make grants to educational programs accredited pursuant to section 131 to carry out the purposes of this Act.

GRANTS TO CERTIFICATION ORGANIZATIONS

SEC. 135. The Secretary may make grants to States or professional organizations designated pursuant to section 131(b) in an amount up to 66⅔ per centum of the cost of the first year and up to 33⅓ per centum of the cost of the second, third, and fourth years for the planning, development, and establishment of programs to carry out the purposes of this Act.

STATE PROGRAM GRANTS

SEC. 136. (a) The Secretary may, in accordance with subsections (b) and (c), make grants to State radiation protection agencies up to 50 per centum of the costs of programs which the Secretary determines are consistent with the purposes of this Act. Such grants shall provide for the accreditation of educational programs and for the mandatory licensure of radiologic technologists.

(b) Within six months of the issuance of any criteria and minimum standards pursuant to section 131 for the accreditation of educational programs, the Governor of a State may file with the Secretary a letter of intent that such State will, within two years of the issuance of such criteria and minimum standards, adopt as a minimum such criteria and standards for the accreditation of such educational programs. If, after two years, a State fails to adopt such standards, or is unable to adopt such standards or more stringent standards, eligibility for grants pursuant to this section shall terminate, except that upon application of a Governor, the Secretary may grant an extension for not more than two years if after review the Secretary determines that good faith efforts have been made by the State and reasonable assurance is provided that an effective accreditation program will be provided by the State within the period of the extension.

(c)(1) Within six months of the issuance of any criteria and minimum standards issued pursuant to section 132 for the licensure of radiologic technologists, the Governor of a State may file a letter of intent that such State will, within two years of the issuance of such criteria and minimal standards, adopt as minimum standards for such criteria and the licensure of radiologic technologists. If, after two years, a Governor fails to adopt such standards, or is unable to adopt such standards or more stringent standards, eligibility for grants pursuant to this subsection shall terminate, except that upon application of a Governor, the Secretary may grant an extension for not more than two years if after review the Secretary determines that good faith efforts have been made by the State and reasonable assurance is provided that an effective licensure program will be provided by the State within the period of the extension.

(d) Notwithstanding any other provision of this section, in the case of a State which has, prior to the effective date of standards and guidelines promulgated pursuant to this subpart, established standards for the accreditation of educational programs or licensure of radiologic technologists, such State shall be deemed to be in compliance with the conditions of this section unless the Secretary determines, after notice and hearing, that such State standards do not meet the minimum standards prescribed by the Secretary or are inconsistent with the purposes of this Act.

PART IV—FEDERAL ACTIVITIES

FEDERAL AGENCY COMPLIANCE

SEC. 141. Each department, agency, and instrumentality of the executive branch of the Federal Government shall comply with any minimum standards promulgated pursuant to this Act.

FEDERAL ASSISTANCE PROGRAMS

SEC. 142. (a) In order to carry out the purposes of this Act, the President shall, not later than one year after the date of enactment, issue an Executive order requiring each Federal agency which is authorized to extend Federal assistance or reimbursement of funds by means of grants, loans, contracts, or other forms of financial assistance or reimbursement to promptly effectuate the purposes of this Act, including the adoption of minimum standards promulgated pursuant to this Act.

(b) The President may by order exempt any specific grant, loan, contract, or other form of financial assistance from the requirements of this subsection if he determines such exemption is in the national interest. The President shall notify the Congress in writing of such exemption at least 90 days before it is effective.

PART V—ADMINISTRATION

ADMINISTRATIVE PROCEDURES

SEC. 151. Guidelines and standards prescribed under this Act shall be promulgated by rule in accordance with the procedures set forth in section 553 of title 5, United States Code.

CONSULTATION

SEC. 152. In establishing guidelines and minimum standards under this Act the Secretary shall consult with the Environmental Protection Agency, State health departments and appropriate professional organizations.

PART VI—APPROPRIATIONS AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 161. There is authorized to be appropriated to the Secretary such sums as necessary to carry out the purposes of this Act.●

A BILL TO PREVENT THE TAXATION OF SOCIAL SECURITY CASH BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. ALBOSTA) is recognized for 5 minutes.

● Mr. ALBOSTA. Mr. Speaker, today I introduced legislation that would amend the Social Security Act to prohibit the taxation of social security cash benefits. This legislation is needed because shortly, the Advisory Council on Social Security of the Social Security Administration will be recommending that taxing 50 percent of a person's social security cash benefits would financially boost the ailing social security system. I do not feel that this is an appropriate method of accomplishing that goal, because with the current cost of living, our senior citizens need every last dollar of their social security benefits in order to survive.

As there currently is no statutory prohibition on the taxation of these social security benefits, I felt it necessary to introduce my legislation to write into statute a very important concept prohibiting the taxation of these benefit payments. This bill clearly gives our elderly public confidence that the Federal Government will not go back on promises made about the payment of social security cash benefits, particularly in this time of financial need.

The recommendation of the Advisory Council on Social Security is expected within 2 weeks. I hope you will join me before then to be on top of this issue with legislation that will make it clear to the bureaucracy that it is illegal to tax social security cash benefits. I need not tell you the response of our elderly community to the recommendations of the Advisory Council. These older people need our help now, prior to the delivery of the Council's report. Please do not let them down.

I am currently seeking cosponsors for my legislation and would appreciate the support of any of my colleagues. If anyone has any questions about this bill, please contact Micah Green in my office at extension 53561.

Without objection, I have included for the RECORD a copy of the brief, yet important language in my bill:

H.R. 6012

A bill to amend title II of Social Security Act to reaffirm the fact that benefits payable thereunder are exempt from all taxation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 207 of the Social Security Act is amended by striking out "subject to execution" and inserting in lieu thereof "subject to any tax or to execution".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to benefits and payments made before, on, and after the date of the enactment of this Act.●

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, I am submitting to the House today a notification from the U.S. Export-Import Bank on proposed financing to make possible the sale of $71 million in U.S.-made jet aircraft to CP Air of Canada. In addition, the Eximbank is prepared to make preliminary commitments for future CP Air purchases in the United States of nearly $1.5 billion in export value.

This notification has been referred to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment and Monetary Policy. Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, requires the Bank to notify the Congress of proposed loans or financial guarantees or combinations thereof of $100 million or more. Unless Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress following notification.

In this notification, the Eximbank proposes a direct credit of $42,660,000 to CP Air to help finance the purchase of $71,100,000 in jet aircraft, parts, equipment and services. CP would buy one new McDonnell Douglas DC-10-30 and two new Boeing 737-200 jet aircraft.

In addition to this transaction, the Eximbank also has issued a preliminary commitment to CP Air for future financing of up to $989,600,000 to assist in the purchase of up to 31 additional new U.S.-made aircraft and related items valued at nearly $1.39 billion. Also, CP Air has indicated plans to request financing by Eximbank next year for the purchase of another six Boeing 737's with an export value of $88,700,000.

I am inserting in the RECORD correspondence from the Eximbank explaining the terms and details of this proposed financing arrangement. I would welcome any comments or questions my colleagues might have about this proposed transaction.

The correspondence follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., November 9, 1979.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

H. K. ALLEN.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., November 9, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Canada:

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to make a credit of $42,660,000 available to CP Air to facilitate the purchase in the United States by CP Air of one new McDonnell Douglas DC-10-30 and two new Boeing 737-200 jet aircraft, spare engines and related parts and services. The total U.S. export value for this transaction is estimated to be $71,100,000.

In addition to the aircraft proposed for sale in this transaction, Eximbank has issued a preliminary commitment to CP Air in which it has indicated the terms and conditions under which it will be prepared to extend up to $989,600,000 of additional financing to CP Air to assist it in the purchase of up to 16 Boeing 767-200, 6 Boeing 737-200 and 9 McDonnell Douglas DC-10-30 jet aircraft to meet its needs for increased traffic on its transcontinental routes and replacement of its ageing fleet. The total U.S.

export value for these additional purchases is estimated to be $1,387,000,000. Furthermore, CP Air has indicated plans to purchase 6 additional Boeing 737's with an estimated export value of $88,700,000 for which it intends to submit an application for a commitment to Eximbank in 1980.

The Eximbank Credit for this transaction, together with the Eximbank financing contemplated in the preliminary commitment, would fall within the purview of cases to be referred to Congress under Section 2(b) (3) (i) of the Eximbank Act.

2. Identity of the borrower

CP Air, a wholly-owned subsidiary of Canadian Pacific Limited, was established in 1941 to provide airline service within Western Canada. Its routes are now worldwide, the principal routes being to the Orient, the South Pacific and to Hawaii, in addition to extensive operations throughout Canada. Eximbank has previously made 12 loans to CP Air and repayments have been made on a timely basis.

3. Nature and use of goods and services

The principal goods to be exported from the United States at this time are three commercial jet aircraft to be used by CP Air in its expanded operations resulting from the recent deregulation of transcontinental routes within Canada. The additional commercial jet aircraft contemplated by the preliminary commitment will be exported under various schedules during the period 1980–1986 and will be used to handle increased traffic on CP Air's transcontinental routes and to replace its aging fleet of aircraft.

The airframes for the 737's will be manufactured in the Seattle-Renton-Everett area by the Boeing Company of Seattle, Washington. Approximately 67 percent of the DC–10 production will be carried out in California and Ohio by the McDonnell Douglas Corporation and its subsuppliers. The engines for the 737's will be manufactured by the Pratt and Whitney Aircraft Division of United Technologies Corporation, while the engines for the DC–10 will be provided by the General Electric Company. In addition, other U.S. firms will furnish spare parts.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80 percent of the world market for commercial jet aircraft. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40 percent of total U.S. aircraft sales. Over the next two to three years several large foreign airlines will be undertaking major reequipment programs, and most airlines choosing a particular aircraft type will continue with future purchases of the same models to maintain fleet continuity. During these next few years there will be intense competition from foreign aircraft and engine manufacturers and they will be supported by subsidized export credit from government sources. Eximbank believes it must be sensitive to purchasers' needs during this period of new product selection to insure that U.S. aircraft and engine manufacturers are able to offer attractive financing which helps them to sustain their position as a leading U.S. export sector.

Eximbank is prepared to extend financing to CP Air for 60 percent of the U.S. costs of the DC–10 and Boeing 737 aircraft and for 80 percent of the U.S. costs of the Boeing 767 aircraft in order to meet government-supported subsidized financing offered in support of a competing European Airbus proposal.

Boeing estimates that the export of the two 737 aircraft will provide 807,800 man/hours of work for Boeing and its subcontractors and McDonnell Douglas estimates that the export of one DC–10 jet aircraft will provide 294 man/years of work for McDonnell Douglas and its subcontractors. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

2. The financing plan

The financing plan for the total U.S. procurement supported by Eximbank is as follows:

(a) Present Sale of 3 Aircraft.

	Percent of U.S. costs	Amount
Cash payment	20	$14,220,000
Private financing	20	14,220,000
Eximbank credit	60	42,660,000
Total	100	71,100,000

(i) Eximbank Charges: The Eximbank credit will bear interest at the rate of 8.5 percent per annum.

(ii) Repayment Terms: Aggregate disbursements under the Private Financing and Eximbank Credit will be repaid by CP Air in 2 repayment schedules of 20 equal semiannual installments each, beginning May 15, 1980 with respect to aircraft to be delivered in 1979, and beginning November 15, 1980 with respect to aircraft to be delivered in 1980. The Private Financing will be repaid from the first 5 installments of each schedule and the Eximbank Credit will be repaid from the last 15 installments of each schedule.

(b) Preliminary Commitment.

(1) Boeing 767 Aircraft.

	Percent of U.S. costs	Amount
Cash payment	20	$157,400,000
Eximbank credit	80	629,600,000
Total	100	787,000,000

(i) Eximbank Charges: The Eximbank Credit will bear interest at the rate of 8.7 percent per annum.

(ii) Repayment Terms: Disbursements under the Eximbank Credit will be repaid by CP Air in 4 repayment schedules of 24 semiannual installments each, beginning approximately 6 months after the end of each aircraft delivery schedule during the period 1983–1986.

(2) DC–10 and Boeing 737 Aircraft.

	Percent of U.S. costs	Amount
Cash payment	20	$120,000,000
Private financing	20	120,000,000
Eximbank credit	60	360,000,000
Total	100	600,000,000

(i) Eximbank Charges: The Eximbank Credit will bear interest at the rate of 8.5 percent for disbursements through 1982 and 8.75 percent for disbursements during the period 1983–1984.

(ii) Repayment Terms: Aggregate disbursements under the Private Financing and Eximbank Credit will be repaid by CP Air in 5 repayment schedules of 20 semiannual installments each, beginning approximately 6 months after the end of each aircraft delivery schedule during the period 1980–1984. The Private Financing will be repaid from the first 5 installments of each schedule and the Eximbank Credit will be repaid from the last 15 installments of each schedule.

Sincerely,

JOHN L. MOORE, Jr.●

INABILITY TO LIMIT USE OF NUCLEAR ENERGY IN THE WORLD

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, over 2 years have gone by since the administration initiated an international study concerning the use of nuclear energy. The study is now coming to an end. A report of its conclusions was contained in an article by Milton R. Benjamin in the Washington Post for Monday, December 3, 1979. I would like to include the article at the close of my remarks, since it reports on the factual determinations of the international group.

The study, which was initiated over 2 years ago, had, in my view, the fundamental objectives of inducing the rest of the world to restrict its use of nuclear energy. The organization, called the International Nuclear Fuel Cycle Evaluation Conference, had the participation of 65 nations. They, as reported in the following article, reached the opposite conclusion to that expected by administration leaders initiating the review: Nuclear energy must be utilized to meet the energy needs of humanity. Of course, this is no surprise to me nor others who considered the overall energy needs of our Nation in a formal and comprehensive way over 20 years ago. Facing all of the available facts, we all agreed at that time we had no alternative. We still do not.

I wrote a letter to the State Department, who organized and oversaw this international study, on February 22, 1977. This letter was inserted in the Congressional Record for April 18, 1977, by my colleague Manny Lujan—page E2222. In this letter I outlined to the best of my ability the realities concerning the need for nuclear energy in the world and the impracticality, in light of the facts, of trying to restrict its use. I also stated my views on the controlling facts concerning the proliferation of nuclear weapons by the diversion of nuclear materials from a nation's energy program. I commend my letter to those concerned with these matters.

The article follows:

Nations Reject U.S. Bid To Limit Use of Plutonium

(By Milton R. Benjamin)

The Carter administration has failed in a major two-year effort to persuade the rest of the world to halt construction of advanced nuclear facilities likely to greatly increase the availability of plutonium suitable for use in fabricating atomic bombs.

A 20-page draft summary of the conclusion of the 63-nation International Nuclear Fuel Cycle Evaluation conference, which the U.S. organized in October 1977 as the cornerstone of its effort to prevent nuclear proliferation, began circulating among the participating countries several days ago.

The summary backs the European and Japanese view that advanced facilities—fast-breeder reactors and plutonium reprocessing plants—will be needed to meet the world's future energy needs.

It also takes such a bullish view in the future of nuclear power that some U.S. sources say the Carter administration is seriously considering a formal dissent on this point at the final INFCE meeting in Vienna next February.

The summary, according to an authoritative source who has seen it, spells out the consensus of the participants in the conference "in a way that is most negative to U.S. policy—no ban on reprocessing, no ban on the breeder."

"We certainly did not persuade the rest of the world of the wisdom of our opinions," one of the Carter administration's top nuclear negotiators acknowledged in an interview. "If this was the criteria, we'd rate a D-minus."

To the surprise of few experts, the INFCE conference failed to realize Carter's hope that it would find new "safer" technologies that could be developed in the next decade to reduce the proliferation risk inherent in a world where nuclear power plants produce large quantities of plutonium as part of their burned-up fuel.

The plutonium can be separated out of the waste by a country that has a reprocessing facility, and used either as new fuel for power plants or in the manufacture of atomic bombs.

"We discovered no technical fixes," a U.S. official said. "People who thought that we would—their hopes were exaggerated. Whether we like it or not there is going to be a certain amount of plutonium floating around the world in the future."

The draft summary also distresses many U.S. experts by forecasting construction of hundreds of new atomic power plants around the world in the next two decades—a project that even most European experts now consider too high.

"The estimates were made in 1977," one U.S. official said. "The report doesn't reflect the changes since. The estimates of growth are outrageously high."

But while conference sources express dismay at the possibility that the United States may decide to jeopardize the consensus it has been trying to build in nuclear issues by publicly dissenting from the report, they say the projections on the future of nuclear power will not be revised downward.

"There's no way that is going to be changed," a conference source said. "Anybody who is for plutonium recycling for breeders needs those numbers. The Americans can say whatever they want in the plenary, but the numbers stay in the report."

One reason that some administration officials see a need to put distance between President Carter and the study he commissioned is that they view it as a political embarrassment that belies the fact that a generally more favorable nonproliferation climate exists today than two years ago.

Plutonium reprocessing provides a case in point.

In 1977, the Carter administration—alarmed over efforts by South Korea, Pakistan and Brazil to acquire reprocessing plants that could give them material to become nuclear weapons states—was pressing for a ban on these facilities.

The United States argued that there was no need—on either economic or supply grounds—to reprocess spent fuel from current-generation nuclear power plants.

A number of other countries, however, felt they could ultimately save money on fuel for their power plants through reprocessing. They also felt they could gain greater energy independence by separating out and reusing the plutonium, thus reducing the need to buy more uranium fuel for their reactors. Some also felt reprocessing the spent fuel and separating out the plutonium was the only way to solve the nuclear waste disposal problem.

Two years later, the INFCE conference is ending with no ban on reprocessing. "The Europeans and Japanese can't accept the American view that it is an illegitimate activity," an administration official said. "To the extent that we tried to persuade them it was illegitimate, we've lost the battle."

But at the same time, the INFCE study has concluded that "there is not much of an economic case to be made for reprocessing, reprocessing does not provide energy independence and it is not necessary for waste disposal," according to a conference source.

As a result, even though there will be no ban on reprocessing, many nuclear experts feel the headlong rush of several years ago to build plutonium reprocessing plants has been slowed.

"I think the U.S. position is going to prevail because the U.S. is right on the economics," a conference source said. "There is not much real pressure for reprocessing except in Japan. There is not going to be much more reprocessing in at least the next decade."

Somewhat more of a potential problem for the Carter administration is the INFCE conference's view that the world will probably need fast-breeder nuclear reactors—so-called because they produce more plutonium fuel than they use.

Carter campaigned against the breeder reactor in 1976, and as president set out to kill construction of a prototype breeder reactor at Clinch River, Tenn.—even though congressional backers of Clinch River have forced him to continue spending more than $14 million a month on that project.

The INFCE report, sources say, not only declares that there is a substantial probability that major industrial nations will need breeder reactors to meet their energy needs—probably in the first quarter of the 21st century—but also backs the European view that breeders are safer, potentially less costly and environmentally better than current nuclear reactors.

"This part of the INFCE effort was not satisfactory from our standpoint," a Carter administration official said.●

NUCLEAR ENERGY IS VITAL TO OUR NEEDS

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, considering the stark energy supply situation, how can anyone even suggest that we decrease our utilization of any one of the only two significant and practical domestic alternatives we have—coal and nuclear? Of course we cannot. Our national security and welfare depend absolutely on our taking maximum advantage of these sources. At the conclusion of my remarks I am including an excellent, coherent statement of the related facts printed in this morning's Washington Post which was sponsored by the American Nuclear Energy Council. The president of the council, Mr. John T. Conway, has had extensive experience in both legislative matters and actual operation of an electric utility. His analysis should be read by everyone in this Chamber.

The Weaver amendment has the potential of preventing our use of nuclear energy. The realities of need and safety, as outlined in the statement which follows, makes such an amendment unacceptable, and therefore, it should be defeated.

The material follows:

[An advertisement from the Washington Post, Dec. 4, 1979]

A MESSAGE TO THE PRESIDENT AND CONGRESS: AMERICA'S NEED FOR NUCLEAR POWER AND HOW WE ARE MAKING IT SAFER

The Iranian crisis is only the latest example of why American dependence on oil from the Middle East and other foreign sources has grave consequences. The potential for further turmoil throughout the Persian Gulf threatens an even tighter squeeze on our energy supplies. The risks of continued depedency on any foreign source of oil are too great; domestic alternatives must be used now.

The American people are looking to President Carter and the Congress for leadership. Public opinion polls show that energy now ranks along with inflation as the issue of most concern to Americans. People want and expect action that will result in adequate energy supplies here at home. But our choices are few.

A MORATORIUM ON NUCLEAR POWER?

One of the first tests of energy leadership will be Presidential and Congressional decisions on nuclear power—currently the source of 13 percent of our nation's electricity. A few are calling for a total nuclear shutdown of plants now operating. Some others want a moratorium on all plants now proposed or under construction.

The outcome of this debate will have far-reaching consequences. A moratorium—de facto or otherwise—on plants that are now ready to provide power and those under construction would make us more vulnerable to fuel shortages and force consumers to pay even higher electric bills. More importantly, a moratorium is sure to result in brownouts—even blackouts in the 1980's.

We have no choice but to use nuclear energy. Here's why:

OIL

Even before the Iranian oil imports were halted, President Carter had announced the Administration's intention to cut present oil imports in half by 1990. This is a lofty, but necessary goal. However, the Iranian situation accelerates this timetable. Already the Administration has found it necessary to relieve the poor and elderly, with $1.6 billion in assistance for their winter heating bills. Continued dependency can only make this situation worse.

SOLAR

Everyone favors solar development. But desire should not be confused with availability. We can heat and cool buildings with solar energy. But the technology does not now exist to generate electricity from the sun economically. As University of Arizona Professors Marjorie and Aden Meindel, both pioneers in solar research, have stated, "It would be folly to cripple existing energy capability in anticipation of the imminence of solar energy."

CONSERVATION

The need to reduce our energy usage is obvious to all. President Carter and Congress have wisely emphasized conservation in their energy policies. But conservation alone is not the answer. In its mid-year report to the Congress, the federal government has conceded that even if the nation maintains a vigorous conservation program and a rate of energy growth at about one-half of our historical rate, we would still need to build hundreds of new power plants—coal, nuclear, hydro, etc.—over the next 20 years.

COAL

America has vast coal supplies which should be utilized. Many of those who oppose nuclear development also oppose the burning of coal and are attempting to impose even more restrictions on its use. In addition, the transportation and mining problems associated with coal are such that we cannot rely entirely upon this source of energy.

NUCLEAR

Nuclear power is an energy source that is available now. There are 70 nuclear power plants currently licensed. Construction permits have already been issued for nearly a hundred others and an additional thirty plants are awaiting permits. Together, these plants offer America the energy equivalent to 4½ million barrels of oil per day. This is equal to the amount of imported oil which President Carter wants cut by 1990. And the fuel for these plants is available here at home!

Nuclear power is also less expensive than the fuels required to replace it—on the average, 50 percent cheaper than oil.

It is the American consumer who will pay the higher price of a decision to delay or halt the nuclear option!

PUBLIC OPINION OPPOSES A MORATORIUM

Before making a final judgment on the future of nuclear power, Congress and the President should also consider the following facts: All national surveys have shown the American public consistently supporting nuclear power over the years. Following Three Mile Island, the level of support dipped, but supporters of nuclear energy still heavily outnumber those who want to halt its development.

For example:*

68 percent of the American public oppose closing down existing nuclear power plants; only 17 percent favor such a drastic step.

51 percent oppose a policy that would allow only current plants to operate while construction of new plants is halted; only 33 percent favor such a moratorium.

61 percent agree with this statement: "In spite of the fact that Three Mile Island occurred, America still needs more energy in the future and nuclear power must continue to be one of our sources of energy."

Most importantly, all of the surveys show that public support for nuclear power increases in direct proportion to America's need for energy even though they recognize there are safety risks.

The political question to consider is this: With a majority of Americans already opposed to a moratorium, just how popular will a moratorium be when brownouts occur, factories and schools are closed, gasoline lines reappear, homes are cold in the winter, and prices continue to soar?

Only a policy of conservation and increasing energy supplies will lead America out of the energy crisis.

We realize that the American public is concerned about the safety of nuclear power. They have every right to be. And they deserve to know just how safe nuclear power is, realizing, as they do, that no technology is completely risk free.

UNSURPASSED SAFETY RECORD

One thing is certain: Ensuring maximum safety of nuclear power plants does not require a moratorium. Immediately following the accident at Three Mile Island, active steps were undertaken to improve safety at all existing plants, as well as those planned for the future.

In the twenty-five year history of commercial nuclear power, not one life has been lost from this technology. As the Kemeny Commission pointed out, even at Three Mile Island—which has been called the worst nuclear accident ever—"most of the radiation was contained and the actual release will have negligible effect on the physical health of individuals."

Still, TMI showed us that we cannot afford to be complacent. We have accepted the report of the Kemeny Commission and are meeting this challenge with determination. We will do whatever is required to provide the highest calibre of personnel for these nuclear plants. We in the industry realize that we assume the major responsibility for improvements in design, operation and training—and we are doing so now.

Consider the steps already taken:

Plant Safety Review. Each nuclear-operating utility has set up a full-time task force to review every aspect of plant equipment, procedures and operating personnel to identify ways to further ensure the safety of each plant.

Improved Equipment. Each utility has installed additional equipment and instruments in its plants to further assure reliable and safe operation, consistent with the latest NRC requirements. Additional modifications are being reviewed and undertaken as required.

Operator Training. Every nuclear power plant operator and supervisor has received—and will continue to receive—additional training with emphasis on potential emergency plant situations.

Emergency Response Plan. Each nuclear-operating utility has developed an Emergency Response Plan and personnel have been trained to implement it.

Institute of Nuclear Power Operations. The electric utility industry has established a new organization—The Institute of Nuclear Power Operations (INPO)—to ensure the highest quality of operations in nuclear power plants. The primary purpose of the Institute is to establish educational and training requirements for nuclear power plant operating personnel and to certify plant instructors. Further, it will develop training programs for plant supervisors, provide coordination for emergency procedures, and assist local utilities. The annual budget will be approximately $12 million with a staff of two hundred skilled professionals.

Nuclear Safety Analysis Center. The utility industry has also established the Nuclear Safety Analysis Center to review and analyze data relevant to the operation and management of all nuclear plants and to develop guidelines that will further ensure safe energy production.

These steps—and others that can and will be taken—will ensure that the nuclear power Americans need will be produced in as safe and reliable a manner as possible.

THE WORLD COMMUNITY: MOVING AHEAD WITH NUCLEAR POWER

It is a telling fact that virtually every industrialized nation of the world—Japan, France, Canada, the Soviet Union and others—are moving rapidly ahead with the development of nuclear power. They recognize that continued dependence on foreign oil is unacceptable. The link between energy and economic and human survival is simply too great.

When President Carter met with other leaders of the Western World at the 1978 Economic Summit Conference in Bonn, West Germany, they issued the following declaration:

"The further development of nuclear power is indispensable, and the slippage in the execution of nuclear power programs must be reversed."

This commitment was reaffirmed at the June, 1979 Economic Summit Conference in Tokyo.

We repeat—America must produce its way out of the energy crisis. We need to utilize all of the energy sources available to us—and never again depend on any one source. The American people need energy security. They do not need a moratorium on an existing source as important as nuclear power.

American Nuclear Energy Council, John T. Conway, President, 1750 K Street, N.W., Washington, D.C. 20006.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MURPHY of Illinois (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

Mr. SWIFT (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CAMPBELL) to revise and extend his remarks and include extraneous materials:)

Mr. DERWINSKI, for 5 minutes, today.

(The following Members (at the request of Mr. GUDGER) to revise and extend his remarks and include extraneous material:)

Mr. REUSS, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. ADDABBO, for 15 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.
Mr. ALEXANDER, for 5 minutes, today.
Mr. LUNDINE, for 30 minutes, today.
Mr. LAFALCE, for 30 minutes, today.
Mr. ALBOSTA, for 5 minutes, today.
Mr. AUCOIN, for 60 minutes, on December 13.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN of Ohio, to revise and extend his remarks and include extraneous matter on H.R. 2608 during the 5-minute rule in the Committee of the Whole today.

(The following Members (at the request of Mr. CAMPBELL) and to include extraneous matter:)

Mr. ASHBROOK in three instances.
Mr. MICHEL in two instances.
Mr. RITTER.
Mr. SYMMS in four instances.
Mr. DERWINSKI in four instances.
Mr. ERLENBORN.
Mr. COUGHLIN.
Mr. ROUSSELOT in three instances.
Mr. PHILIP M. CRANE.
Mr. LEE.
Mr. MCCLOSKEY.
Mr. GILMAN.
Mr. RHODES.
Mr. RUDD.
Mr. YOUNG of Florida.

(The following Members (at the request of Mr. GUDGER) and to include extraneous matter:)

Mr. HOLLAND in five instances.
Mr. FROST.
Mr. OBERSTAR.
Mr. WOLFF in two instances.

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*Polling information supplied by Cambridge Reports, Inc.

Mr. PATTERSON in two instances.
Mr. LEHMAN in two instances.
Mr. MOTTL.
Mr. UDALL.
Mr. SKELTON.
Mr. LUNDINE.
Mr. DRINAN in five instances.
Mr. COELHO in two instances.
Mr. RUSSO.
Mr. BOLAND.
Mr. AUCOIN.
Mr. APPLEGATE.
Mr. MCDONALD.
Mr. HAMILTON.
Mr. HUCKABY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1792. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal; to the Committee on Banking, Finance and Urban Affairs.

ADJOURNMENT

Mr. GUDGER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 39 minutes p.m.) the House adjourned until tomorrow, Wednesday, December 5, 1979, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third quarter of calendar year 1979 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Norman Dicks	8/18	8/21	Philippines		$225.00						
	8/21	8/23	Thailand		150.00						
	8/23	8/24	Hong Kong		60.04		$2,350.00				
Total					435.04		2,350.00				$2,785.04
Hon. Jack Hightower	6/30	7/1	United Kingdom		99.00						
	7/1	7/4	West Germany		247.00		52.50				
	7/4	7/6	Italy		150.00		38.86				
	7/6	7/9	France		270.00		1,847.20				
Total					766.00		1,938.56				2,704.56
Hon. Clarence Long	8/7	8/9	Hong Kong		156.00						
	8/9	8/10	Thailand		97.12						
	8/10	8/12	Vietnam		150.00						
	8/12	8/15	Sri Lanka		225.00						
	8/15	8/17	Pakistan		150.00						
	8/17	8/24	Russia		225.00						
Transportation furnished by DOD							3,533.00				
Less reimbursement to Department of State					(174.00)						
Total					829.12		3,533.00				4,362.12
Hon. John Murtha	8/5	8/9	West Germany		465.00						
	8/10	8/11	Belgium		214.00						
Transportation furnished by DOD							1,409.61				
Total					679.00		1,409.61				2,088.61
Hon. George O'Brien	8/14	8/21	France		630.00						
	8/21	8/27	England		856.00		69.50				
	8/27	9/1	Ireland		396.00		1,011.35				
Total					1,882.00		1,080.85				2,962.85
Hon. Louis Stokes	8/5	8/7	Japan		216.85						
	8/7	8/9	Korea		225.00						
	8/10	8/12	Hong Kong		156.00						
	8/12	8/15	Thailand		225.00						
	8/15	8/19	Singapore		225.00						
	8/19	8/22	Hawaii		410.18						
Transportation furnished by DOD							2,843.59				
Total					1.458.03		2,843.59				4,301.62
George Allen	8/12	8/15	Greece		328.00						
	8/15	8/17	Norway		224.00						
	8/17	8/19	Denmark		136.00		1,853.00				
Total					688.00		1,853.00				2,541.00
Robert V. Davis	8/8	8/8	United States		75.00						
	8/9	8/15	Germany		525.00						
	8/15	8/15	Luxemburg								
	8/15	8/17	Germany		150.00						
	8/17	8/20	Spain		150.00		792.40				
Total					900.00		792.40				1,692.40
Aubrey A. Gunnels	8/7	8/11	United States		250.00						
	8/12	8/16	Canada		300.00		776.84				
Total					550.00		776.84				1,326.84
Dempsey B. Mizelle	6/30	7/1	United Kingdom		99.00						
	7/1	7/4	West Germany		247.00		52.50				
	7/4	7/6	Italy		150.00		38.86				
	7/6	7/9	France		270.00		1,847.20				
Total					766.00		1,938.56				2,704.56
Edwin F. Powers	8/5	8/9	Switzerland								
	8/9	8/11	Senegal								
	8/11	8/14	Ivory Coast								
	8/14	8/15	Upper Volta								
	8/15	8/18	Mali								
	8/18	8/21	France		[3] 1,488.00		2,865.50				
Total					1,488.00		2,865.50				4,353.50

Footnotes at end of tables.

REPORT OF EXPENDITURES FOR OFFICAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979—Continued

	Date			Per diem [1]		Transportation		Other purposes		Total	
Name of Member or employee	Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency [3]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Donald E. Richbourg	8/7	8/9	Hong Kong		$156.00						
	8/9	8/10	Thailand		150.00						
	8/10	8/12	Vietnam		150.00						
	8/12	8/15	Sri Lanka		225.00						
	8/15	8/17	Pakistan		150.00						
	8/17	8/24	Russia		177.26						
Transportation furnished by DOD							$3,507.00				
Less reimbursement to Department of State					(150.00)						
Total					858.56		3,507.00				$4,365.26
Committee total					11,299.45		24,888.91				36,188.36
George C. Baird	9/23	9/27	Germany		375.00						
	9/27	(4)	United Kingdom		345.00		1,736.00				2,456.00
James B. Denney	9/30	(4)	Germany		75.00		1,729.00				1,804.00
William Fleshman, Jr	9/23	9/27	Germany		375.00						
	9/27	(4)	United Kingdom		345.00		1,712.00				2,432.00
William P. Haynes, Jr	9/30	(4)	Germany		75.00		1,729.00				1,804.00
Samuel N. Stanton	8/25	9/11	Germany		1,363.50		1,729.00				3,092.50
James S. Van Wagenen	9/30	(4)	Germany		75.00		1,729.00				1,804.00
R. W. Vandergrift	8/25	9/11	Germany		1,363.50		1,729.00				3,092.50
Committee totals					4,392.00		12,093.00				$16,485.0

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Total per diem claimed is based on per diem rates in each country. The equivalent of 2 days per diem was returned and thus full per diem was not claimed.

[4] On duty in above country as of 11:59 p.m., Sept. 30, 1979.

JAMIE L. WHITTEN,
Chairman, Committee on Appropriations.

Nov. 5, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND SEPT. 26, 1978

	Date			Per diem [1]		Transportation		Other purposes		Total	
Name of Member or employee	Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S currency[2]
Hon. Trent Lott	3/27	3/31	Italy	256,800	$300.00				$44.14	256,800	$344.14
	3/31	4/2	Switzerland	282	150.00				25.73	282	175.73
Local transportation in Switzerland						131.66	$70.03	0	0	131.66	70.03
Transportation provided by DOD (transatlantic and intercountry).							682.35				682.35
Hon. William L. Clay	8/21	8/23	England	75	150.00			0	0	75	150.00
Local transportation in England							73.30	0	0		73.30
	8/23	8/27	France [3]	1,305	300.00			0	0	1,305	300.00
	8/27	8/29	Sweden	667.50	150.00			0	0	667.50	150.00
Local transportation in Sweden							401.72	0	0		401.72
	8/29	9/3	Germany [4]	909	450.00			0	0	909	450.00
Transportation provided by DOD (transatlantic and intercountry).							1,022.40				1,022.40
Gail E. Weiss	8/21	8/23	England	75	150.00			0	0	75	150.00
Local transportation in England							73.30	0	0		73.30
	8/23	8/27	France [3]	1,305	300.00			0	0	1,305	300.00
	8/27	8/29	Sweden	667.50	150.00			0	0	667.50	150.00
Local transportation in Sweden							401.72	0	0		401.72
	8/29	9/3	Germany [4]	909	450.00			0	0	909	450.00
Transportation provided by DOD (transatlantic and intercountry).							1,022.40				1,022.40
Herman G. Thompson	8/21	8/23	England	75	150.00			0	0	75	150.00
Local transportation in England							73.30	0	0		73.30
	8/23	8/27	France [3]	1,305	300.00			0	0	1,305	300.00
	8/27	8/29	Sweden	667.50	150.00			0	0	667.50	150.00
Local transportation in Sweden							401.72	0	0		401.72
	8/29	9/3	Germany [4]	909	450.00			0	0	909	450.00
Transportation provided by DOD (transatlantic and intercountry).							1,022.40				1,022.40
E. David Minton	8/28	8/31	England	150	300.00			0	0	150	300.00
Transatlantic transportation						584	1,168.00			584	1,168.00
Hon. William Lehman [5]	9/7	9/10	England	152.47	300.00			0	0	152.47	300.00
Local transportation in England							713.90	0	0		713.90
Michael J. Ferrell	9/3	9/10	England	266.47	525.00			0	0	266.47	525.00
Local transportation in England							713.90	0	0		713.90
	9/10	9/13	Germany [4]	447.75	225.00			0	0	447.75	225.00
Transatlantic transportation							797.00				797.00
Committee total					4,950.00		8,637.44		69.87		13,657.31

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Bills have not been received for local transportation in France.

[4] Bills have not been received for local transportation in Germany.

[5] Attended Inter-Parliamentary Union in Germany. I.P.U. furnished transportation costs.

*This report supersedes the previous report filed on Dec. 21, 1978.

JAMES M. HANLEY,
Chairman, Committee on Post Office and Civil Service.

Nov. 21, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON LEADERSHIP STUDY MISSION TO SOUTHEAST ASIA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 2 AND AUG. 11, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Benjamin Rosenthal, Hon. John Hammerschmidt, Hon. Robert Drinan, Hon Thomas Downey, Hon. George Miller, Hon. Richard Nolan, Hon. Daniel Akaka, Hon. Lyle Williams, Hon. Antonio Won Pat, Mr. Robert Boyer, Mr. John Williams, Ms. Marian Chambers, Ms. Shelly Livingston.	8/3	8/4	Hong Kong	[3] 400.30	[3] [4] $8.00 [5] 1,014.00		[6] $405.58		[7] $1,189.19		$2,583.52
Do	8/4	8/5	Thailand	[3] 3,063	[3] [8] 150.00 [5] 1,950.00		[6] 978.10		[7] 418.50		3,322.60
Do	8/6	8/7	Indonesia	[3] 46,500	[3] 75.00 [5] [9] 1,950.00		[6] 236.53				1,987.97
Do	8/7	8/8	Malaysia	[3] 160	[3] [10] 75.00 [5] 974.97		[6] 1,717.83		[7] 177.96		2,855.76
Do	8/8	8/9	Vietnam	NA	[3] [11] 75.00 [5] 975.00						900.00
Committee total											11,649.85
U.S. military transport for delegation.							61,012.90				61,012.90
Committee total					6,526.16		64,350.94		1,785.65		72,662.75

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Each.
[4] Drinan returned $25.25.
[5] Total.
[6] Total in country.
[7] Total delegation.
[8] Drinan returned $24.
[9] Delegation returned $198.56.
[10] Drinan returned $15.
[11] Drinan returned $75.

Oct. 30, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, CODEL McCORMACK, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN AUG. 9 AND 22, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Barbara L. Bush	8/9	[3] 8/20	West Germany	949.77	$519.00	(3)	(3)			949.77	$519.00
	8/20	8/22	Switzerland	496.60	300.00					496.60	300.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Expenses for period Aug. 13 to 17 and travel expenses courtesy of SMIRT Conference.

Nov. 29, 1979.

BARBARA L. BUSH.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2953. A letter from the Secretary of Housing and Urban Development, transmitting the annual report for fiscal year 1979 on Indian and Alaska Native housing and community development programs, pursuant to section 4(d) of the Department of Housing and Urban Development Act, as amended; to the Committee on Banking, Finance and Urban Affairs.

2954. A letter from the Assistant Secretary of the Interior, transmitting a correction to the transmittal letter covering the draft of proposed legislation to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon (Executive Communication No. 2879); to the Committee on Interior and Insular Affairs.

2955. A letter from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting a report on the feasibility of reconstructing the Fort Union Trading Post, pursuant to section 4 of Public Law 89-458, as amended (92 Stat. 3478); to the Committee on Interior and Insular Affairs.

2956. A letter from the Acting Secretary of Agriculture, transmitting the annual report for calendar year 1978 on enforcement of the Horse Protection Act, pursuant to section 11 of the act (Public Law 91-540); to the Committee on Interstate and Foreign Commerce.

2957. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2958. A letter from the Under Secretary of the Treasury, transmitting a report on the investigation of allegations dealing with the destruction and/or concealment of records at the Bureau of Government Financial Operations which had been the subject of a Freedom of Information Act request, pursuant to 5 U.S.C. 1206(b)(5); to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3928. A bill to amend the Act of November 8, 1978 (92 Stat. 3095) to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico; with an amendment (Rept. No. 96-679). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee of Conference. Conference report on H.R. 595 (Rept. No. 96-680). Ordered to be printed.

Mr. FUQUA: Committee on Science and Technology. Report on allocation of budget totals for fiscal year 1980 (Rept. No. 96-682). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 5015. A bill to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes; with an amendment (Rept. No. 96-683). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. H. Res. 497. Resolution providing for the consideration of H.R. 5461, a bill to designate the birthday of Martin Luther King, Junior, a legal public holiday (Rept. No. 96-684). Referred to the House Calendar.

Ms. CHISHOLM: Committee on Rules. H. Res. 498. Resolution providing for the consideration of H.R. 2977, a bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes (Rept. No. 96-685). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. H. Res. 499. Resolution providing for the consideration of H.R. 2816, a bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes (Rept. No. 96-686). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS: Committee on the Judiciary. H.R. 2318. A bill for the relief of Casimir Jan Kray (Rept. No. 96-681). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ALBOSTA:

H.R. 6012. A bill to amend title II of the Social Security Act to reaffirm the fact that benefits payable thereunder are exempt from all taxation; to the Committee on Ways and Means.

By Mr. BEARD of Rhode Island (for himself and Mr. St Germain):

H.R. 6013. A bill to amend the Federal Water Pollution Control Act to revise the allotment formula for grants for construction of treatment works; to the Committee on Public Works and Transportation.

By Mr. BURGENER:

H.R. 6014. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Santa Margarita Project, Calif., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CAVANAUGH:

H.R. 6015. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of expenditures by farmers for clearing land; to the Committee on Ways and Means.

By Mrs. COLLINS of Illinois:

H.R. 6016. A bill to amend part A of title XVIII of the Social Security Act to provide emergency assistance to medicare participating hospitals to enable them to continue to provide vital medical and other health services; to the Committee on Ways and Means.

By Mr. DOWNEY:

H.R. 6017. A bill to amend the Communications Act of 1934 to provide that the requirements of section 315 of such Act relating to equal broadcasting opportunities for political candidates shall not apply to candidates for the offices of President and Vice President; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee:

H.R. 6018. A bill to amend the Internal Revenue Code of 1954 to provide that corporations will not be required to make installment payments of estimated tax if the amount of the estimated tax is less than $500; to the Committee on Ways and Means.

H.R. 6019. A bill to amend the Internal Revenue Code of 1954 to provide that gross income shall not include interest on certain obligations issued by the Tennessee Valley Authority; to the Committee on Ways and Means.

H.R. 6020. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for charitable contribution of the right to use a residence for occupancy by handicapped individuals; to the Committee on Ways and Means.

By Mr. GIAIMO (for himself, Mr. Mineta, Mr. Mattox, Mr. Panetta, Mr. Nelson, Mr. Conable, Mr. Regula, Mr. Udall, Mr. Patten, Mr. Davis of South Carolina, Mr. Akaka, Mr. Flippo, and Mr. Coelho):

H.R. 6021. A bill to amend the Congressional Budget Act of 1974 to limit the levels of total budget outlays and tax expenditures contained in concurrent resolutions on the budget; and to establish procedures for making loans and loan guarantees under Federal credit programs subject to the congressional budget process; to the Committee on Rules.

By Mr. HUCKABY:

H.R. 6022. A bill to establish the Tensas River National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. LUNDINE:

H.R. 6023. A bill to provide for the protection of the public health (including consumer patients) for unnecessary exposure to radiation; to the Committee on Interstate and Foreign Commerce.

By Mr. McCLOSKEY:

H.R. 6024. A bill to amend the Atomic Energy Act of 1954 to increase the penalties imposed for the disclosure of restricted data thereunder, and to provide that any person disclosing such data shall be subject to such penalties without regard to his employment by or relationship to the Federal agency or agencies involved; to the Committee on Interior and Insular Affairs.

By Mr. NOWAK:

H.R. 6025. A bill to amend the act of November 2, 1966, relating to the Ansley Wilcox House, Buffalo, N.Y., a national historic site; to the Committee on Interior and Insular Affairs.

By Mr. RANGEL (for himself, Mr. Edwards of California, Mr. Stokes, Mr. Gray, Mr. Clay, Mr. Dixon, Ms. Chisholm, and Mr. Mitchell of Maryland):

H.R. 6026. A bill to amend title VI of the Civil Rights Act of 1964 to eliminate the exception of coverage for contracts of insurance or guaranty; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 6027. A bill to provide that Federal Reserve notes shall be printed in a manner which enables an individual who is blind to determine the denomination of each such note; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SYMMS (for himself, Mr. Collins of Texas, and Mr. Hansen):

H.R. 6028. A bill to strengthen the American family and promote the virtues of family life through education, tax assistance, and related measures; jointly to the Committees on Education and Labor, Ways and Means, Agriculture, and the Judiciary.

By Mr. ULLMAN (for himself, Mr. Vanik, Mr. Foley, Mr. Bafalis, Mr. de la Garza, Mr. Downey, Mr. Frenzel, Mr. Guarini, Mr. Heftel, Mr. Holland, Mr. Moore, and Mr. Rostenkowski):

H.R. 6029. A bill providing for the implementation of the International Sugar Agreement, 1977, and for other purposes; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. DORNAN:

H.J. Res. 454. Joint resolution to amend the Export Administration Act of 1979 to prohibit all exports of grain or soybeans to the Soviet Union until the Soviet Union ceases its religious persecution of Christians, Jews, and other religious groups; to the Committee on Foreign Affairs.

By Mr. MARLENEE:

H. Res. 500. Resolution urging the President to take certain actions with respect to ongoing negotiations to conclude an agreement between the United States and Canada concerning air quality; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BURGENER:

H.R. 6030. A bill for the relief of Elena Patricia Mattos; to the Committee on the Judiciary.

By Mr. RAHALL:

H.R. 6031. A bill for the relief of Maria Luna Tan, M.D.; to the Committee on the Judiciary.

DELETION OF SPONSOR

Under clause 4 or rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 218: Mr. Walker.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 654: Mr. Kemp.

H.R. 1297: Mr. Studds.

H.R. 1542: Mr. Andrews of North Dakota, Mr. Bailey, Mr. Brown of California, Mr. Carney, Mr. Cavanaugh, Mr. Clinger, Mr. Courter, Mr. Dickinson, Mr. Edwards of Oklahoma, Mr. Emery, Mr. Evans of Indiana, Mr. Evans of Delaware, Mr. Frost, Mr. Guarini, Mr. Heftel, Mr. Hinson, Mr. Huckaby, Mr. Jeffords, Mr. Jones of Oklahoma, Mr. Leach of Louisiana, Mr. McHugh, Mr. Marks, Mr. Mazzoli, Mr. Miller of California, Mr. Moakley, Mr. Mottl, Mr. Moorhead of California, Mr. Murphy of New York, Mr. Petri, Mr. Price, Mr. Pursell, Mr. Quillen, Mr. Rahall, Mr. Rousselot, Mr. Spence, Mr. Wampler, Mr. Weaver, Mr. Williams of Montana, and Mr. Won Pat.

H.R. 2400: Mr. Kogovsek, Mr. Bedell, Mr. Richmond, Mr. Mineta, and Mr. Ottinger.

H.R. 2493: Mr. Barnes, Mr. Beard of Rhode Island, Mr. Burgener, Mrs. Chisholm, Mr. Derwinski, Mr. Devine, Mr. Dougherty, Mr. Downey, Mr. Edwards of Oklahoma, Mr. Fascell, Mr. Kemp, Mr. LaFalce, Mr. Long of Maryland, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Oberstar, Mr. Pepper, Mr. Pritchard, Mr. Roe, Mr. Scheuer, and Mr. Stokes.

H.R. 3789: Mr. Abdnor.

H.R. 4513: Mr. Stockman, Mr. Dixon, Mr. Mitchell of New York, Mr. Neal, Mr. Corcoran, and Mr. Coelho.

H.R. 4646: Mr. Dingell, Mr. Donnelly, and Mr. Long of Louisiana.

H.R. 4939: Mr. Ottinger, Mr. Brown of Ohio, and Mr. Ambro.

H.R. 5038: Mr. Kogovsek and Mr. Gray.

H.R. 5166: Mr. Evans of the Virgin Islands and Mr. Moffett.

H.R. 5327: Mr. Lungren, Mrs. Spellman, Mr. Goodling, and Mr. Abdnor.

H.R. 5478: Mr. Collins of Texas and Mr. Forsythe.

H.R. 5531: Mr. Charles H. Wilson of California.

H.R. 5610: Mr. Campbell, Mr. Dougherty, Mr. Gudger, Mr. Sawyer, Mrs. Spellman, and Mr. Stangeland.

H.R. 5642: Mr. Richmond.

H.R. 5643: Mr. Quillen, Mr. Perkins, Mr. Roth, Mr. Jenkins, Mr. Ginn, Mr. Broyhill, Mr. Runnels, Mr. Williams of Montana, Mr. Abdnor, Mr. Hightower, Mr. Baldus, Mr. Fuqua, Mr. Young of Florida, Mr. Guyer, Mr. Lehman, Mr. Coughlin, Mr. Weaver, Mr. Cavanaugh, Mr. Brinkley, Mr. Courter, Mr. Frenzel, Mr. Ireland, Mr. Whitten, Mr. Gray, Mr. Hefner, Mr. Duncan of Tennessee, Mr. Petri, Mr. Kramer, Mr. Jones of Tennesseee, Mr. Coleman, Mr. Edwards of Alabama, Mr. Simon, Mr. Beard of Tennessee, Mr. Stenholm, Mr. Oberstar, Mr. Hance, Mr. Huckaby, Mr. Neal, Mr. Hubbard, Mr. Swift, Mr. Kazen, Mr. Wyatt, Mrs. Bouquard, Mr. Leath of Texas, Mr. Barnard, Mr. Loeffler, Mr. Evans of Georgia, Mr. Derrick, Mr. Hall of Texas, Mr. Frost, Mr. Preyer, Mr. Jones of North Carolina, Mr. Wolpe, and Mr. Nolan.

H.R. 5697: Mr. Luken.

H.R. 5740: Mr. Martin.

H.R. 5743: Mr. Oberstar, Mr. D'Amours, and Mr. John L. Burton.

H.R. 5795: Mr. Udall, Mr. Dornan, and Mr. Badham.

H.R. 5846: Mr. Edwards of Oklahoma.

H.R. 5855: Mr. Edwards of Oklahoma, Mr. Collins of Texas, and Mr. Whitehurst.

H.R. 5857: Mr. LaFalce, Mr. Ford of Michigan, Mr. Kildee, Mr. Santini, Mr. Swift, Mrs. Holt, Mr. Dingell, Mr. Edgar, Mr. Drinan, Mr. Gray, and Mrs. Fenwick.

H.R. 5865. Mr. Richmond, Mr. Murphy of Pennsylvania, Mr. Whitehurst, Mr. Yatron, Mr. Snyder, and Mrs. Holt.

H.R. 5919: Mr. Corrada and Mr. Thompson.

H.J. Res. 267: Mrs. Collins of Illinois, Mr. Grassley, Mr. Donnelly, Mr. Won Pat, Mrs. Spellman, Mr. Garcia, and Mr. Mica.

H.J. Res. 416: Mr. Akaka, Mr. Biaggi, Mr. Bingham, Mr. Clay, Mr. Conte, Mr. Conyers, Mr. Courter, Mr. Dodd, Mr. Duncan of Oregon, Mr. Fary, Mr. Flood, Mr. Ford of Michigan, Mr. Frenzel, Mr. St Germain, Mr. LaFalce, Mr. Lederer, Mr. McDade, Mr. McHugh, Mr. Mitchell of New York, Mr. Moakley, Mr. Murphy of Illinois, Mr. Murphy of Pennsylvania, Mr. Oberstar, Mr. Pepper, Mr. Price, Mr. Rahall, Mr. Richmond, Mr. Rosenthal, Mr. Scheuer, Mr. Steed, Mr. Udall, Mr. Vento, Mr. Weaver, Mr. Weiss, Mr. Young of Missouri, Mr. Zeferetti, Mr. Panetta, Mr. Lagomarsino, Mr. Markey, and Mr. Downey.

H.J. Res. 426: Mr. Jacobs.

H.J. Res. 435: Ms. Oakar.

H.J. Res. 449: Mr. Abdnor, Mr. Albosta, Mr. Alexander, Mr. Ambro, Mr. Anderson of California, Mr. Annunzio, Mr. Applegate, Mr. Archer, Mr. Ashbrook, Mr. Badham, Mr. Bafalis, Mr. Bailey, Mr. Barnard, Mr. Bauman, Mr. Beard of Tennessee, Mr. Benjamin, Mr. Bereuter, Mr. Biaggi, Mr. Bingham, Mr. Blanchard, Mr. Boland, Mrs. Bouquard, Mr. Bowen, Mr. Brinkley, Mr. Broomfield, Mr. Brown of Ohio, Mr. Broyhill, Mr. Burgener, Mrs. Byron, Mr. Campbell, Mr. Carter, Mr. Chappell, Mr. Cheney, Mr. Clausen, Mr. Cleveland, Mr. Clinger, Mrs. Collins of Illinois, Mr. Conte, Mr. Corcoran, Mr. Corman, Mr. Cotter, Mr. Coughlin, Mr. Philip M. Crane, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. Daschle, Mr. Deckard, Mr. Devine, Mr. Dickinson, Mr. Dicks, Mr. Dingell, Mr. Dodd, Mr. Dornan, Mr. Dougherty, Mr. Duncan of Oregon, Mr. Edwards of California, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. Emery, Mr. Erdahl, Mr. Evans of Georgia, Mr. Evans of the Virgin Islands, Mr. Fary, Mrs. Fenwick, Ms. Ferraro, Mr. Findley, Mr. Fish, Mr. Fisher, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Forsythe, Mr. Fountain, Mr. Gaydos, Mr. Gilman, Mr. Ginn, Mr. Goldwater, Mr. Goodling, Mr. Gore, Mr. Gradison, Mr. Grisham, Mr. Guyer, Mr. Hall of Texas, Mr. Hammerschmidt, Mr. Hansen, Mrs. Heckler, Mr. Hillis, Mr. Holland, Mr. Hollenbeck, Mrs. Holt, Mr. Hopkins, Mr. Howard, Mr. Hubbard, Mr. Huckaby, Mr. Hutto, Mr. Hyde, Mr. Ichord, Mr. Ireland, Mr. Jacobs, Mr. Johnson of Colorado, Mr. Jones of North Carolina, Mr. Kelly, Mr. Kemp, Mr. Kostmayer, Mr. Kramer, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Leath of Texas, Mr. Lederer, Mr. Lee, Mr. Lehman, Mr. Lent, Mr. Livingston, Mr. Loeffler, Mr. Long of Louisiana, Mr. Madigan, Mr. Markey, Mr. Marks, Mr. Marriott, Mr. Mathis, Mr. Matsui, Mr. Mattox, Mr. Mavroules, Mr. Mazzoli, Mr. McClory, Mr. McCormack, Mr. McDade, Mr. McDonald, Mr. McEwen, Mr. McHugh, Mr. McKinney, Mr. Mica, Mr. Michel, Mr. Mineta, Mr. Mitchell of New York, Mr. Mollohan, Mr. Montgomery, Mr. Moore, Mr. Moorhead of California, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Murtha, Mr. Myers of Pennsylvania, Mr. Neal, Mr. Nichols, Mr. Nolan, Ms. Oakar, Mr. Oberstar, Mr. Pashayan, Mr. Patten, Mr. Peyser, Mr. Pickle, Mr. Preyer, Mr. Pritchard, Mr. Pursell, Mr. Quayle, Mr. Quillen, Mr. Rahall, Mr. Railsback, Mr. Ratchford, Mr. Regula, Mr. Richmond, Mr. Ritter, Mr. Rodino, Mr. Roe, Mr. Roth, Mr. Rousselot, Mr. Royer, Mr. Rudd, Mr. Russo, Mr. Santini, Mr. Satterfield, Mr. Sawyer, Mr. Scheuer, Mr. Seiberling, Mr. Sharp, Mr. Shumway, Mr. Simon, Mr. Solomon, Mrs. Spellman, Mr. Spence, Mr. Staggers, Mr. Stangeland, Mr. Stanton, Mr. Stenholm, Mr. Stewart, Mr. Stockman, Mr. Stratton, Mr. Symms, Mr. Synar, Mr. Thomas, Mr. Traxler, Mr. Treen, Mr. Trible, Mr. Udall, Mr. Van Deerlin, Mr. Vento, Mr. Volkmer, Mr. Walker, Mr. White, Mr. Whitehurst, Mr. Whittaker, Mr. Williams of Ohio, Mr. Winn, Mr. Wolpe, Mr. Won Pat, Mr. Wylie, Mr. Yatron, Mr. Young of Florida, Mr. Young of Alaska, and Mr. Young of Missouri.

H. Con. Res. 122: Mrs. Spellman and Mr. Evans of Georgia.

H. Con. Res. 210: Mr. Goldwater, Mr. Collins of Texas, and Mr. Whitehurst.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2977

By Mr. KRAMER:

—Page 32, after line 24, insert the following new section (and redesignate the following sections, and any references to such sections, accordingly):

VETO OF GRANTS BY STATE LEGISLATURES

Sec. 5. (a) In any case in which the Secretary—

(1) approves an application submitted to the Secretary by a State for a grant under section 4(a) or section 4(e); or

(2) approves an application submitted to the Secretary by any local public agency or private nonprofit organization in any State for a grant under section 4(d);

the Secretary shall submit written notice of such approval as soon as practicable after the date of such approval to the State legislature for the State involved for review by such legislature in accordance with this section. Such notice shall include such information as the Secretary considers appropriate describing the nature of activities which are proposed in such application and the reasons of the Secretary for approving such application.

(b)(1) If a State legislature, after receiving written notice from the Secretary under subsection (a), disapproves any further disburzement of funds under the grant involved, then the Secretary shall not have any authority to disburse any additional funds after the Secretary is notified by the State legislature that it has voted to cut off funding.

(2) In any case in which a State legislature disapproves any disbursement of funds by the Secretary under this section, the State legislature shall notify the Secretary of such action as soon as practicable after such action is taken.

(3) Any action of disapproval by a State legislature under this section shall be carried out in accordance with such rules and procedures as the State legislature may establish.

(c)(1) If the State legislature for any State disapproves any further disbursement of funds by the Secretary to such State under a grant approved by the Secretary under section 4(a) or section 4(e), then the Secretary shall reallot the funds involved in accordance with section 5(b).

(2) If the State legislature for any State disapproves any further disbursement of funds by the Secretary to any local public agency or private nonprofit organization in such State under a grant approved by the Secretary under section 4(d), then the Secretary shall make such funds available for grants under section 4(d) to other local public agencies and private nonprofit organizations under section 4(d).

—Page 44, line 11, strike out "with whom such person" and insert in lieu thereof "to whom such person is otherwise related by blood or marriage and".

—Page 44, after line 14, insert the following new paragraph (and redesignate the following paragraph accordingly):

(5)(A) The term "shelter" means any shelter, facility, or other institution which—

(i) is licensed under State law to provide, on a regular basis, shelter, meals, and related assistance to victims and dependents of victims of domestic violence;

(ii) meets such standards prescribed by the Secretary as he considers necessary or appropriate for the proper provision of such assistance; and

(iii) meets such standards of safety and sanitation as may be prescribed by rule by the Secretary in addition to those applicable to shelters under State law.

(B) The term "shelter" also includes any shelter, facility, or other institution which—

(i) is located on an Indian reservation or in a State which has not established any licensing requirements applicable to shelters; and

(ii) is certified by the Secretary as meeting the requirements of subparagraph (A)(ii) and subparagraph (A)(iii) and providing the assistance specified in subparagraph (A)(i).

H.R. 5461

By Mr. BEARD of Tennessee:

—Page 2, line 3, insert immediately after "Junior" the following: "third Sunday in January".

Sec. 2. Section 6103 of title 5, United States Code, is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) For the purpose of statutes and Executive orders relating to pay and leave of employees, the birthday of Martin Luther King, Junior, the third Sunday in January, shall not be considered a legal public holiday.".

Redesignate the following section accordingly.

EXTENSIONS OF REMARKS

CARTER'S CALM STRENGTH

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. COELHO. Mr. Speaker, I would like to share with my colleagues an editorial which appeared in the Christian Science Monitor on Friday, November 13, following President Carter's news conference on the Iran crisis.

All Americans can be proud of our President's firm but peaceful response to this extraordinary, illegal, and unprecedented move by the Iranian Government. He has indeed "embraced the best qualities of leadership" and deserves the support of all of us.

The article follows:

CARTER'S CALM STRENGTH

President Carter embraced the best qualities of leadership in his news conference Wednesday night. In the trying situation of the continued captivity of US citizens in Iran, he conveyed to the American people a sense of composure, dignity, and resoluteness. He did not say "never" to the use of U.S. military force in the Iranian situation, an option he could not politically or diplomatically rule out. But, we are happy to say, he chose to put the nation's weight in the scale of restraint and peaceful diplomacy. No doubt he sought to persuade Americans of the continuing need to keep their own tempers in check. The next few days, as the Iranian people emotionally celebrate a religious holiday and vote for a new Islamic constitution, especially call for public calm in the United States.

What struck us as particularly significant in the President's remarks, however, had less to do with Iran per se than with America's place in the world generally. Mr. Carter warmed most to a question many Americans have on their minds these days: namely, is Iran but the latest in a succession of events proving that American power has declined? And what does this mean for US foreign policy in the 1980s? The President, rejecting the idea that the US has lost its superior military, economic, or moral strength, nonetheless made this forceful point:

"The United States has neither the ability nor the will to dominate the world, to interfere in the internal affairs of other nations, to impose our will on other people whom we desire to be free to make their own decisions . . . if anybody thinks that we can dominate other people with our strength—military or political strength or economic strength—they are wrong. That is not the purpose of our country. Our inner strength, our confidence in ourselves, is completely adequate."

This sober view offers Americans food for thought. It is voiced at a time when many people—in the government, in the media, in academia—seem obsessed with and depressed by what they perceived to be a growing US weakness in the world. The headline on a recent cover of Newsweek—"Has America Lost Its Clout?"—is indicative of the mood. The magazine's analysis points to the political changes in Iran and Nicaragua, the Soviet inroads in Africa and Afghanistan, the rise of OPEC, and other "blows" to America's pride and prestige. Yet, as the journal also notes, US prospects look much better than do those of its chief rival, the Soviet Union, whose bankrupt ideology, indolent economy, and authoritarianism are not the model the world looks to for its progress and whose foreign policy "gains" could be built on shifting sands.

Our purpose here, though, is not to weigh the relative geopolitical strengths of the US and the USSR but to make the point again that both superpowers today function in a world of rapid political change requiring each side to moderate its actions. Neither can impose its will or "dominate," as Mr. Carter rightly says, but it is dealing with forces—nationalistic, tribal, religious—which diminish the usefulness of military power. By all means the US must be prepared to use physical force to defend its legitimate interests and those of its allies. The Iran crisis does seem to be wrenching Americans loose from the psychological reluctance even to contemplate vigorous action abroad after the humiliation of the Vietnam war. We count that a healthy recovery.

But it is important that the pendulum now not be permitted to swing to the other extreme in a misguided sense that it is military power which primarily demonstrates the nation's strength, influences events, or wins friends. US Treasury Secretary G. William Miller in fact comments after a tour of Gulf countries that leaders there hope the US will avoid force or violence which could set off a chain reaction in the region. No, America's real strength will be evidenced in the dignity and maturity with which it handles its foreign policy challenges. In its wisdom of knowing when to choose military power and when to exercise caution. In its ability to understand and respond to other nations' yearnings for their own sense of identity. In its willingness to admit its mistakes and learn from them. In its determination to put its own economic and energy house in order. And, not least of all, in its capacity for righteous government.

Such a United States will feel no need to "dominate" the world. But it will continue to influence others constructively through the force of its own economic, political, and moral vitality. Mr. Carter's comment should help Americans keep Iran in perspective.

SENATOR CHARLES POTTER

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 26, 1979

● Mr. RHODES. Mr. Speaker, last week we laid to rest a man who truly was a hero in service to his people and his country, former Congressman and Senator Charles E. Potter of Michigan.

His public service spanned more than 15 years, and it was my privilege to meet him and to know him as a public servant who loved his country with a devotion borne of principle, loyalty, and courage.

Enlisting as a private during World War II, he later received an officer's commission, was wounded three times during the Battle of the Bulge and lost both legs after stepping on a German land mine. His decorations included the Silver Star, the Bronze Star, the French Croix de Guerre, and three Purple Hearts.

After service in the House, he won a special Senate election in 1952 to fill the unexpired term of the late Senator Arthur H. Vandenberg, and continued in the Senate until 1958.

Senator Potter leaves behind a distinguished record of public service, and I extend my deepest sympathies to his wife, Betty, and their daughter, Mrs. Wendy Cundy.●

MELVIN J. CARRO HONORED BY LIFELINE CENTER

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. WOLFF. Mr. Speaker, on Saturday, December 1 the Lifeline Center for Child Development held its annual Candyland Ball to help raise funds to support the services it provides to seriously emotionally disturbed children. Founded in 1959, the Lifeline Center for Child Development is devoted to meeting the needs of severely disturbed children of all races and creeds. It is the only day-school treatment, recreation and research center of its kind which treats and educates mentally ill children from the entire city of New York. I would like to take this opportunity to commend the Lifeline Center, its officers, trustees, and staff, for their outstanding work.

While many of the people involved with Lifeline are my constituents, I would like to pay a special tribute to Melvin J. Carro, who was honored this past Saturday by Lifeline. Mel Carro is a Lifeline vice president and trustee, my constituent, and long-time friend. I join with the Lifeline Center in honoring Mel for his dedication to the needs of seriously emotionally disturbed children in the city of New York. As chairman of the Lifeline building committee his efforts contributed importantly to the acquisition of Lifeline's new facility. Through his work I am proud to say that the children of Lifeline will continue to receive what are perhaps the finest services of this kind in the United States.

Finally, I would be remiss if I did not say a few words about the Lifeline children themselves. The 120 children served by Lifeline range in age from 2 to 16. They are special children with special problems which require special treatment. The success of the Lifeline Center in meeting the needs of these children was apparent this Saturday night when about 2 dozen of them sang and danced for the almost 400 persons attending the Candyland Ball. The fact that many of these children neither spoke to, nor made eye contact with, another human being only a few short years ago, speaks more praise to the work of the Lifeline Center than anything I, or anyone else, could possibly say. These children are on their way to leading fuller and more rewarding lives, and for this the entire city of New York is indeed proud of the Lifeline Center for Child Development.●

THE FTC IS AT IT AGAIN

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. RUSSO. Mr. Speaker, on November 27 the House approved H.R. 2313. That legislation contains an amendment by me prohibiting the Federal Trade Commission from promulgating its proposed funeral rule. If anyone still cannot believe this amendment is needed, they need only review the Federal Register of November 14. That register contains an FTC request for clearance to do a "survey to identify recent purchases of funeral services."

In their justification for the request, this is what the Commission says:

> One action presently being considered by the Commission is the promulgation of a trade regulation rule (TRR) which would require the disclosure of prices related to funeral services. The rule would also require certain other disclosures as well as prohibit certain practices.
>
> *Because no in-depth information about the purchase of funeral services has ever been gathered, this survey is necessary to allow an evaluation of the impact of this proposed rule.* Because of the low incidence of funeral service purchasing this study requires a screening questionnaire to identify consumers who have recently purchased funeral services. The screening questionnaire is the subject of this clearance request. The main data collection effort will also utilize a mail questionnaire and a separate clearance request will be sent for that questionnaire.

This is unbelievable. Both Houses of Congress approved a joint resolution on November 16 continuing appropriations for fiscal year 1980. The FTC is not supposed to initiate any new activities or to expend funds for the final promulgation of trade regulation rules. I would say the FTC is undertaking a new activity and intends to expend over $30,000 in funds. Their justification shows they will use the survey in considering whether to promulgate the funeral rule.

I would hope that this questionnaire is stopped. It violates the intentions of H.R. 2313 and Public Law 96-123, the Appropriations Act.

This also is of interest because the FTC itself says "no in-depth information about the purchase of funeral services has ever been gathered." This is what I have been trying to tell people. They don't even have a record down at the Commission to substantiate a rule. Now here they are at this late date, after spending approximately $1.5 million of taxpayer funds, seeking even more information after their record has long been closed.

The House acted properly in supporting my amendment. Obviously, only its enactment into law will get the message to the bureaucrats at the FTC.●

A PLEA FROM GUATEMALA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. ASHBROOK. Mr. Speaker, at a time when a major crisis is focusing world attention on one part of the world it is easy to overlook actions that are occurring in other parts of the world. We should remain aware, however, of the fact that each action, or inaction, taken by the United States in one part of the world does have impacts elsewhere. One of the reasons we have seen the security of our diplomatic corps vanish under the Moslem radicals in Iran is that U.S. foreign policy has set the stage for rebellion through appeasing the enemies of America.

This point came through loud and clear recently when a group of citizens from Guatemala meet with Members of Congress and staff regarding the future of their country. They expressed grave concern over the way the United States has handled itself in world affairs under the Carter administration. They pointed to the abandonment of Taiwan, to the undermining of Somoza, and to the lack of response to Soviet troops being in Cuba. These and other incidents have eroded their faith in the United States to act on behalf of itself or its friends in the world.

They appealed to the Congress to recognize that Communism is on the march in Central America and is now threatening Guatemala. They spoke from their own first-hand knowledge of what is happening. Some of them have been victims of terrorism or had friends, and in one case family, killed or wounded by Communist guerrillas. Their plea for help is not a demand for money or for troops, it is a plea to the United States to not knowingly or unknowingly aid those who would destroy their nation.

There is already evidence that the Carter State Department is stopping loans to Guatemala and dissuading large investment banks from backing business ventures there. This is an incredible turn of events. As we watch the tragedy in Iran unfold we should remember that there are indications that Mr. Carter may have hastened the fall of the Shah through Maj. Gen. Robert E. Huyser's mission last January. What is past may be prologue and we may now be watching another nation being set up for collapse. I offer the Guatemala plea as a timely warning:

MEMORANDUM

> We are most grateful for the opportunity you have given us to exchange a few thoughts with you concerning the necessity of improving the existing relations of your country, not only with Guatemala, but with all of Latin America.
>
> The purpose of our visit is to convey to you what we believe is the honest opinion of the friends of the United States in Latin America in general and Guatemala in particular, regarding our relationship with the United States.
>
> No problems exist in the direct relations between citizens of our two countries. Business affairs have always thrived in congenial arrangements of mutual benefit and respect.
>
> We do however, have very serious problems with the official attitude of your government, and on this particular we would like to take a few minutes of your time.
>
> Our beautiful Guatemala is incomparable to the rest of the world. We are one race of Indian and Spanish admixture in which the existence of racial problems is impossible; however, we do have varied cultures. The majority of our people are bilingual, since they speak both Spanish and the Indian dialects. We adhere to both Indian and Spanish traditions and customs.
>
> Our people are industrious, deeply religious and respectful of the rights of others and of their dignity. We enjoy absolute freedom of expression, a representative type of government and are firm believers in the system of free and competitive private enterprise. We are proud of the fact that ours is one of the least socialistic countries in the world. The majority of our banks are private owned and so is our transportation system (except for the railroads), as well as our insurance companies, our industries, our commerce, a good number of our hospitals and even many of our social welfare institutions.
>
> Guatemala borders on both the Pacific Ocean and the Caribbean; it has an area of 42,000 square miles and a population of more or less 6,800,000. Its gross national product per inhabitant is $827.00, one of the highest in Central America. Its main industry is agriculture with coffee, sugar, cotton, cattle and bananas being the main products of export. The formation of the Central American Common Market made the establishment of new industries possible. Guatemala is the largest manufacturer and exporter of a great variety of goods, mostly to the other Central American countries. In consequence, our balance of payments has been very favorable during the last decade. Our agricultural land is more than fairly distributed, since most of it is owned by small land owners. The titles of communal lands belonging to small towns and villages throughout the country were emitted by the King of Spain and have been in the hands of the same Indian speaking—communities, in some cases, during more than 400 years without interruption. We still have problems, despite our booming economy and the tremendous growth of our middle class. We are still plagued by some poverty and illiteracy. But we have progressed very much, especially during the past fifteen years, and our people have attained standards of well-being never experienced before; however, given the opportunity, we can and we shall do even better in the near future. There are two problems:
>
> (1) Russian aggressiveness;
>
> (2) The attitude of the present United States Government towards such aggressiveness.
>
> It is said that "no man is free if he can be terrorized by his neighbor." As you are very well aware, no country in the world has accepted the imposition of the communist system of its own free will; there is definitely not even one case in history where communist tyranny was introduced in a state by the majority decision of its own people. Mr. Alexander Solzhenitsyn points out the fact that during the 34 years after the end

of World War II, 42 countries of the world have been taken over by the communists.

Latin America has proven to the world that it does not like to live under dictatorships. Our more advanced countries, like Argentina, Uruguay, Brazil and Chile, had enjoyed all the blessings of what we in the West call "democracy" until communist parties and imported communist agents, taking advantage of the freedom specified in constitutions and the guarantees of our legal systems, disrupted our former government to such an extent, that the people in each country were obliged to accept the more or less liberal types of dictatorships, which have usually lasted just long enough for each government to avoid the takeover by communist governments, and to reorganize itself. This has been true especially since World War II. In other words, the pause in the democratic system at the occurrence of a coup has usually been accepted by the people as a necessary evil in the hope that communist aggressiveness will be stemmed in a short time, and a democratic form of government will soon be reestablished.

The communist movements in our Latin countries have comprised small, but very active, very well organized, very well financed and very well disciplined groups of young fanatics and their collaborators.

In the case of our own country, we experienced a spell of communism when Colonel Jacobo Arbenz Guzman, took over the government, but we managed with little help from the outside to overthrow him.

Again in the 60's communist invaders of native and foreign origin managed to take over the northeastern part of our country causing death and destruction and blocking our main port which is on the Caribbean. This time small land owners in the same region soundly defeated the enemy. You may imagine that after two failures, the Russians and their surrogates, the Cubans, are most anxious to take vengeance. After their success in Europe, the Far East, The Middle East and Africa, they are hitting harder than ever in our American Hemisphere. Russian aggression became more active after the takeover in Cuba. Jamaica, Guyana, Grenada and Nicaragua, now have communist governments; and countries in which communist sympathizers have dominated the situation are naturally Panama, Pery, Belize (which is claimed by our country as Guatemalan territory held by the British) and various other small islands in the Caribbean.

Of course, we are not surprised by Russia's attitude and actions, but we are flabbergasted by the responses of the present United States Government toward communist intervention. While we do not favor the evil of dictatorships, we cannot understand, for instance, the attitude of your State Department with regards to Chile. The impression it gives to Latin America is that Chile must be punished for having shaken off a communist government, rather than be aided to reestablish itself in a democratic form of government to which it has adhered throughout its history in a very specific manner.

Mrs. Rosalynn Carter and Mr. Andrew Young, who has a long record as a sympathizer of communism, made separate trips to various Latin American countries and during their stays at Jamaica and Guyana, they expressed their deep sympathies for the systems of governments of these two states, which by the way, have declared themselves to be "marxist-leninist." As Latin Americans, we are very much surprised at your President's insistence on favoring General Torrijos with a new treaty on the Panama Canal, after all he took the Panamanian Government by force, still runs it by force against the will of the Panamanian people, and is a great friend of Mr. Fidel Castro and the Russians. We keep on asking ourselves why Mr. Carter, so vigorously and so forcefully pushed the Panama Canal Treaty through the House and through the Senate to the benefit of such a government.

As we mention in the case of Nicaragua, we must firstly confirm to you again that we do not believe in dictatorships; we cannot admire a family that installs itself in a country for over 40 years and runs it as it wishes. However, it was too obvious that elements of the far-left were being favored to form a new government.

An internationally known communist, Tomas Borges, was actually given the post of Minister of the Interior, thus controlling the police and lower courts. Cuba, through its radio broadcasts, which can be more clearly heard throughout this hemisphere than the Voice of America emphasized from the very beginning the importance of the victory for the invading communist mercenaries which were armed, organized and financed by Cuba, Panama and Venezuela in Costa Rica and undoubtedly also by the Russian Embassy there, which has a staff of over 220 members, although Costa Rica has no trade dealings with Russia. The State Department could not have chosen a worse alternative at each step of developments in Nicaragua as proven by the results. Now that the Communists are in absolute control of Nicaragua to the extent that they have placed block wardens throughout all of the cities, very much in the style of Cuba and to our dismay, the present United States Government has promised a loan of $97,000,000, which apparently will serve to install the Russians even more firmly and to finance the operation. Cuba, of course, is a little more effective and is sending "teachers" and "advisors" and opening a new embassy in Nicaragua. This type of team work is most discouraging. We know well what their true role is. Now Moscow will have a second embassy in Central America.

Quite frankly, we cannot understand the present United States foreign policy as it relates to Latin America. It seems to us that while the Russians are trying to pull us into the communist camp, your State Department is helping them in the effort. A change in foreign policy is essential if you are to retain Latin America as a friendly area and as a possible ally.

We cannot think of a United States' presidential term during which the communists have gained so much ground as during the present Administration. This is totally inconsistent with the spirit of liberty and fair play of the Amercan people. We have witnessed the abandonment of Taiwan, the appalling losses in Africa to the communist camp, the surrounding of the sources of oil in the Middle East, vital to the Western World, the constant pressure on South Africa and Rhodesia, the failure to aid anticommunist governments of Iran and Afghanistan, the concessions and consequent weakening of United States' strength with regards to Salt II; the badgering of non-communist regimes in Latin America by the State Department; the fiasco of Nicaragua. And now, the present Administration is bent on pushing Salvador, Honduras and Guatemala toward the left, and, wittings or not, towards communism. The premise is that in order to prevent communism, especially in a developing country, one must induce a change of structures towards socialism. Socialism has been a failure whether applied in developed countries such as Great Britain or in underdeveloped countries such as Peru.

Under the relatively free enterprise system, Guatemala has progressed remarkably, especially during the last fifteen years. Never have so many Guatemalans achieved a standard of living so favorable as the one we now enjoy and with so much freedom. Naturally, we still have many deficiencies and shortcomings but we are overcoming them and will continue to do so by own efforts.

To think that a change in structures, which the State Department is avidly advocating, will improve our situation is a grave and serious mistake. It would only cause further capital consumption and chaos, as in Peru, and bring about the loss of the relative well-being that an increasing number of Guatemalans are experiencing, and principally the loss of our dearest treasure: our personal liberties.

Based on our past record of economic growth and the raising of the standard of living of our people, we are confident that we can solve our problems especially if we can continue to strike towards a market economy. We are not asking for handouts. If we can't solve our problems, we have no right to ask anybody else to solve them for us.

We would indeed like to see a reversal in the official attitude of the United States, which has consisted mainly in promoting the growth of the government sector, in the financial support of ideologically left-wing governments or movements, in exercising pressure on the non-socialistic governments, and in hampering our efforts in defense of democratic institutions. We do not think that your State Department's official policy is conducive to the best interests either of the United States or those of Latin America.

We trust that the coming presidential elections will bring about a more equitable and less anarchic foreign policy. We know the American people to be fair-playing, generous and respectful of the dignity and rights of others. We hope that in the near future those principles will be emphatically projected in your foreign policy; that you may restitute the United States' leadership in the eyes of the Free World.

Roberto Alejos Arzu.
Manuel F. Ayau,
Carlos Widmann,
Roberto Berger,
J. C. Trotter.●

BRONX SCIENCE DEBATE TEAM SCORES AGAIN

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. BINGHAM. Mr. Speaker, one of the fine institutions of learning in my congressional district in the Bronx, N.Y., is the Bronx High School of Science. It is well known nationally for its excellent programs and the achievements of its graduates.

One of its greatest assets is its speech and debate team which has a remarkable record. This year, under the expert direction of Richard B. Sodikow, director for forensics, the debate team—58 students—competed in 1,112 rounds of debate, winning 60 percent, while 92 speakers competed in 1,172 rounds of speech; 208 trophies were won this season as were several tournament championships. These include first place at the tournament of champions, first place at the National Forensic League District tournament for the eighth straight year, and the district sweepstakes award for the sixth consecutive year. In addition, for the third time out of the last four tries, Bronx Science won the New York State Junior Varsity Championship.

I extend my congratulations to the members of the team, to Richard Sodikow, and to Dr. Milton Kopelman, the principal of Bronx Science. I am proud of this remarkable record of talent and achievement.●

A FOOD CARTEL CAN WORK

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. MOTTL. Mr. Speaker, I am sponsor of House Concurrent Resolution 129 which calls on the President to form a wheat cartel with Canada, Argentina, and Australia, to combat the skyrocketing price of OPEC oil.

The recent events in Iran emphasize the need for the United States to use all its resources, including food, technology, and equipment, to deal with international events.

Thirty-two other Members of the House have joined me in cosponsoring House Concurrent Resolution 129 and I welcome other cosponsors.

The case for a wheat cartel is made very well by Warren C. Robinson in a column which appeared in last Thursday's Washington Star.

The column follows:

THE CASE FOR A WHEAT CARTEL

(By Warren C. Robinson)

We have all gotten used to the idea that "America Feeds the World" and, if this is true, it's puzzling to find the United States on the defensive in international trade and finance. The "cheaper crude or no more food" notion has been received enthusiastically by the grass roots, yet the reception has been cool in Washington.

This is understandable. Government policy-makers pay experts for advice and listen to them. Experts listen only to other experts (if they listen to anyone at all). In any case, one does not expect serious economic policy to originate with a disc jockey.

Yet perhaps it should. The creation of Social Security owed more to an obscure retired physician, Dr. Francis E. Townsend, and the mass movement he launched in 1934 than to farsighted political leadership. Let us rather ask whether there is a valid idea behind the slogan.

What about the formation of a cartel to do approximately the same thing for wheat prices that OPEC has done for oil prices? Could it work?

Objection: There are too many wheat-producing countries to make a wheat cartel workable.

Reply: In fact, there are far fewer wheat-exporting countries of any consequence than oil-exporting ones. Over 80 percent of wheat exports in recent years were supplied by four countries: the United States, Australia, Canada and Argentina. The U.S. alone represents some 40 percent.

Objection: Wheat can be replaced by many other food grains and cereals in human consumption.

Reply: True, and so can petroleum be replaced as a source of energy. But the substitution of rice or potatoes or some other source of carbohydrates in family diets would be difficult for many nations. (The U.S. is also in a strong export position in corn, soy beans and rice.)

Objection: High wheat prices will encourage other nations to increase supply for their own domestic use and also for export.

Reply: Certainly, almost any country can produce wheat, but the dominance of the grain trade by a handful of countries is based on historical-geographical advantage. The price must rise considerably before it is possible for Saudi Arabia, for example, to become an efficient wheat producer.

Objection: An international price-fixing agreement would cause U.S. food prices to rise also.

Reply: Not necessarily. The government could calculate anticipated U.S. domestic needs and undertake to export only the "surplus." A two-price system requires only that the government act as the sole exporter of wheat.

Objection: The OPEC nations import a minor fraction of the world grain trade.

Reply: The OPEC nations as a bloc account for about half the world's wheat exports.

Objection: Such blatant self-interest in foreign' economic policy will invite retaliation and open economic warfare.

Reply: Perhaps. But is it not equally possible that OPEC and other nations may come to see the United States as an adversary which has finally learned the new rules and must be taken seriously again?

Perhaps the greatest objection to such a U.S.-led cartel is our inbred distaste for the idea. But it's time to accept the realities of our present situation. The tradition goal of free multilateral trade and the picture of a U.S. so strong it can ignore foreign economic assaults serve us ill in today's world.

We must gain new leverage in world trade. "Cheaper crude or no more food" may be a simple-minded suggestion taken literally, but it may also be a useful idea. Policymakers in Washington should, one might argue, take fresh ideas these days wherever they can find them.●

GREATER SPRINGFIELD'S THANKSGIVING CONTRIBUTION TO THE CAMBODIAN RELIEF EFFORT

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. BOLAND. Mr. Speaker, the terrible human suffering which continues in Cambodia has aroused the sympathy and generosity of people in this Nation and around the world. The Congress has already approved $105 million for the relief program, and other governments have made pledges as well. The plight of those in Cambodia, where only 10 percent of the fields have been cultivated this year, has not been paralleled since the end of World War II. The widespread disease and starvation in that land has given a special significance to the holiday season in America.

In my area of Massachusetts, Thanksgiving marked the beginning of an ecumenical appeal for private contributions to the Cambodian relief effort. The appeal conducted by the religious leaders of Greater Springfield has already enjoyed tremendous success, and contributions continue as we approach Christmas. The appeal has given an opportunity for individuals in Greater Springfield to show compassion and sacrifice for those victims of the ruthless Phnom Penh regime. Their contributions are a tribute to the American spirit of sharing with those less fortunate than ourselves which began with the Pilgrims on the first Thanksgiving holiday. I am proud to bring to the Members' attention the commendable efforts of the people of the Springfield area who have already contributed in excess of $150,000. We can only hope that the personal sacrifices which have been made in behalf of the Cambodians will serve as a sign to the Phnom Penh government that its brutal campaign of starvation will not go unchallenged by the world.●

CONGRESSMAN STUDDS ON THE FUTURE OF THE FISHING INDUSTRY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. DRINAN. Mr. Speaker, my friend and distinguished colleague from Massachusetts (Mr. STUDDS), recently wrote an interesting article about the future of the fishing industry which was published in the Magazine of the November 25, 1979, issue of the Boston Sunday Globe.

Congressman STUDDS' efforts on behalf of our Nation's fishermen are well known to everyone in this Chamber, particularly his successful effort to secure enactment of the 200-mile limit. His article offers an informed and hopeful outlook for this important industry. He cautions, however, that the danger of offshore drilling and the importance of negotiating a new fishing treaty with Canada are critical issues that remain to be resolved.

For the benefit of my colleagues, I ask that the full text of Congressman STUDDS' article be included in the RECORD at this point:

THE FISHING OUTLOOK: EXCELLENT, IF WE CAN SOLVE TWO KEY ISSUES

(By U.S. Representative GERRY STUDDS)

On March 1, 1977, the 200-mile fishing limit went into effect in this country. The ensuing two and a half years have brought great prosperity to the fishing industry of New England.

Fish landings and the value of those landings are up in nearly every port; foreign overfishing of our most precious stocks of cod, haddock and flounder has been stopped altogether and will never again be allowed. Badly depleted stocks of fish have begun to regenerate.

Statistics show that last year more than 680 million pounds of fish worth over $275 million were landed in New England—an increase of nearly 100 million pounds and $70 million over the record figures of 1977, the year the law went into effect.

The fleet of New Bedford, the highest dollar volume port on the East Coast, had landings worth over $54 million—an increase of 25 percent over 1977.

But even more important than these impressive statistics is the fact that our two most important goals have been met: we have eliminated the plundering of our stocks by foreign fleets and we have developed the means to protect and preserve our fisheries and to assure that they will remain as a bountiful food source for generations to come.

As a result, the foundation for a very, very bright future for the New England fishing industry has been laid.

Still, the fishermen of our part of the country will be faced with a great many difficult challenges over the next few years. They will, for example, be asked to comply with regulations governing the type and amount of fish they catch; oftentimes they will feel these regulations are unfair, arbitrary and unnecessary.

I am confident, however, that the solution to this particular problem is within the grasp and control of the fishing industry itself. By working together with their representatives on the Regional Fisheries Management Council, there is no doubt in my mind that more workable and broadly supported plans to manage the fisheries of New England can be developed and implemented.

Another challenge which will confront the New England fishermen will be the necessity to diversify their catch and to harvest in greater quantity underutilized stocks like squid, whiting and mackerel, which are just as nutritious, tasty, and even more economical than traditional stocks like cod, haddock and flounder.

This effort will require a great deal of imagination on the part of the industry itself in order to develop profitable new markets where these fish can be sold. I am hopeful that the federal government will help in this effort by educating consumers about the value of these species and by demonstrating a willingness to purchase these fish through various government procurement programs.

But there are two additional problems whose solutions—unlike species managements and market diversification—are beyond the reach of the fishing industry itself. It is these problems—offshore drilling and the U.S.-Canadian fishing treaty—which could prove to be the biggest obstacle to the continued prosperity of the industry.

At this point, I do not believe that the Carter administration has developed and implemented environmental safeguards adequate to protect the fishing industry from the hazards of offshore drilling, particularly with respect to the disposal of toxic materials raised during drilling operations.

The careless disposal of those materials—drill muds used to lubricate drilling equipment, drill cuttings taken from the ocean floor, and formation waters from the drilling hole itself—could adversely impact upon bottom dwelling fish in the area. It is my view that these materials should be barged offsite rather than dumped overboard on Georges Bank. It would seem that the burden of proof for the safety of these materials should not rest with the fish stocks of the Bank; guarantees for their safety should come from the oil industry before any such dumping is allowed. These types of guarantees have not yet been forthcoming.

With proper management, these fisheries will last for generations to come. It does not make sense to jeopardize them for what could turn out to be a few days' supply of oil, particularly in the absence of strong environmental safeguards. This oil will remain in Georges Bank for many years; a delay in the first lease sale will not affect the amount of oil contained in these reserves.

A delay could however, provide us with the necessary time to develop a workable plan which could provide our fishing industry with reasonable assurances about the safety of drilling operations being conducted in their backyards.

However it is incumbent upon us to remember that the strictest environmental safeguards in the world cannot prevent an oil spill from occurring on Georges Bank. As long as we continue to drill for oil from beneath the ocean floor or transport oil over the ocean in tankers or under the ocean through pipelines, the threat of an oil spill will continue to loom.

What we can do, however, is seek to minimize the risks, and to assure that offshore drilling is conducted on our terms rather than on those of the oil industry.

The second major problem now facing the fishing industry is the U.S.-Canadian fishing treaty, which in my view is unfairly balanced in favor of the Canadian fishing industry.

I am sorry to say that with respect to this treaty our State Department has once again failed to stand up for the fisheries of this country.

They have instead tried to saddle the industry with a permanent fisheries agreement which provides unfair shares of our fisheries and unfair access to our fishing grounds to the Canadians forever—even if U.S. boundary claims should ultimately prevail and the entirety of Georges Bank is placed under U.S. jurisdiction.

I will continue to work with our senators—who will ultimately be asked to vote on this issue—to develop reservations which can eliminate the most objectionable parts of the treaty.

If this effort is unsuccessful, then it is clear to me that the economic expansion we have witnessed over the past few years, and which we have worked so hard to achieve, could be stifled.

It is the outcome of these two particular problems which will have the greatest impact upon the future of our fisheries. If they can be solved, then I am confident that we now have the tools to guarantee a prosperous future for the fishermen of New England.●

OUR ELDERLY AND SERIES E BONDS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. LEHMAN. Mr. Speaker, today I am reintroducing with cosponsors H.R. 2493, legislation to exclude from gross income the interest on series E U.S. savings bonds for those who have reached age 65.

The census figures for 1977 show that our aged have relatively low incomes. For a husband and wife family, where the husband is 65 years of age or older, the median income is $9,110. In contrast, the median income for all families for this year is $16,009.

A large percentage of the income of our elderly citizens comes from interest income on savings and investments which have been carefully accumulated during their working years. Yet, we are all aware of the severe hardship which inflation has imposed on our senior citizens who are struggling with rapidly rising living costs.

The rate of return on U.S. series E savings bonds is nowhere near the present rate of inflation. If we want people to "invest in America," there should be greater incentive to do so. Perhaps, after an experimental period, this tax benefit could be extended to the population at large. In the meantime, however, we can attempt to help that segment of our population which relies most heavily on income from savings.

With my colleagues showing such strong interest in this bill to help our older Americans, I am hopeful that every consideration will be given to this needed legislation.●

PROGRESS BEING MADE IN NAZI WAR CRIMINAL INVESTIGATIONS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. LEHMAN. Mr. Speaker, I would like to bring to my colleagues' attention the progress being made by the Office of Special Investigations of the Department of Justice in the investigation and prosecution of Nazi war criminals who still reside in the United States.

Only 3 months have passed since Congress appropriated an additional $800,000 in order to meet the $2.3 million budget required for intensifying the investigations. In this short period of time, the Office has filed three new cases. This is a direct result of additional staff and funding under the directorship of Walter J. Rockler, a former Nuremberg War Crime Tribunal prosecutor, and Deputy Director Martin Mendelsohn.

The move by Congress to redouble our Government's efforts to find suspected Nazi criminals in the United States began when Congress amended the immigration law last year to facilitate deportation of "all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion under the direction of the Nazi Government of Germany." My distinguished colleague from New York, Congresswoman ELIZABETH HOLTZMAN who chairs the House Judiciary Subcommittee on Immigration, Refugees, and International Law, led the fight to enlist the cooperation of the Justice Department in this long-overdue effort. The Justice Department finally responded to the congressional pressure by agreeing to transfer the Office of Special Investigations from the Immigration and Naturalization Service to the Criminal Division, thereby upgrading the Office.

It is indeed tragic that our Government has not committed itself until now to investigate, prosecute, and deport from the United States all those who participated in Nazi Germany's systematic murder of 11 million people, 6 million of whom were Jews. Given the number of cases requiring investigation; the delays that are inevitably encountered; and the ages of the suspects and witnesses involved, it is imperative that our support continue until the job is done once and for all. The symbolic importance of bringing these criminals to trial and stripping them of their American citizenship cannot be overstated. During a time when we are witnessing yet another holocaust in Southeast Asia, our failure to bring Nazi war criminals to justice would only serve to justify those atrocities.

I commend the Office of Special Investigations for moving swiftly since receiving the additional funds. As a direct result of its increased funding the larger staff of the office has intensified its current litigation efforts, filed new cases, and increased the number of investigations.

After speaking with the unit's Deputy Director Martin Mendelsohn, I am confident that in this case our money is being well spent.●

TOWARD A NATIONAL COMMUNICATIONS AND INFORMATION POLICY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. BROWN of California. Mr. Speaker, the coming of the "Information Age" has been widely heralded in the media; already the 1980's have been dubbed "The Information Decade." The communications and information technologies to effect this revolution are no longer the exotic dreams of science fiction, but a functioning reality. In developed countries, the communications and information sectors of the economy are increasingly important and appear likely to replace other products and commodities as the key factors influencing economic change and even broader cultural change in the future global organization of human society.

The rapid maturation of these technologies presents policymakers with an unprecedented set of challenges. My colleague, LIONEL VAN DEERLIN of California, has for some time been struggling valiantly to meet these challenges in the area of telecommunications, where the archaic Telecommunications Act of 1934 is proving more and more inadequate to cope with the vast possibilities for telecommunications services created by technological advances. On the same front, the Office of Technology Assessment will soon complete a major study of telecommunications, as well as a study on national information systems; both of these will provide needed resources for legislative initiatives in this area. The Congressional Research Service is also preparing, at my direction, a background paper and annotated bibliography on telecommunications and information systems.

As this activity indicates, the information base needed for legislative activity in communications and information policy is rapidly coming into place. In addition to the work of Mr. VAN DEERLIN's Communications Subcommittee, the Science Research and Technology Subcommittee, which I chair, has held hearings on information technology in education and is mounting a wider effort in this and other aspects of information policy. I believe the time is now propitious for a wider congressional effort to move forward on a broad front in developing a communications and information policy for the 1980's and beyond. The enormous potential of the new technologies can be realized in an equitable and beneficial way if our vision is equal to the task.

Mr. Speaker, a recent article in the San Bernardino Sun provides an excellent account of the way in which Mr. VAN DEERLIN's efforts have instigated a national debate on communications policy. I commend this article to my colleagues and ask that it be inserted in the RECORD.

The article follows:

[From the San Bernardino Sun, Nov. 22, 1979]

CALIFORNIA LAWMAKER HOPES TO HASTEN ELECTRONIC AGE

(By Lee Byrd)

WASHINGTON.—At age 65 and after 17 years in Congress, Rep. Lionel Van Deerlin, D-Calif., has but a single dream and no illusions.

"I'm chairman of a committee that introduces one bill a year," he says. "We don't pass it . . . We just introduce it."

Now, Van Deerlin may make his second effort of 1979, albeit with lowered sights, to revamp the 45-year-old law governing the nation's communications industry. "Cancel the wake," he says. "And stay tuned."

Van Deerlin, a one-time newspaperman and television news editor, wants to hurry the day when most office file cabinets will be replaced by video computers, when Americans can shop and bank and even get their news and comics at the push of a few buttons.

On the entertainment front, he believes that the answer to questions about the jiggle and violence of network television lies not in censorship but in the opening up of broadcast programming and technology so that every home viewer has dozens of channels from which to choose.

The chairman of the House Communications subcommittee is convinced all of this is not only possible, but inevitable. To Van Deerlin, the issue is whether it happens smoothly and expeditiously or in belated, court-entangled fits and starts which could jolt key sectors of the economy—if not America's way of life.

Thus, Van Deerlin's dream: a complete overhaul of the Communications Act of 1934, one that would gradually deregulate the industry and spark far greater competition and innovation in products and services ranging from telephones to multipurpose computer terminals, from cable television to satellite telemetry.

Van Deerlin and his Senate counterpart, Ernest F. Hollings, D-S.C., have taken their knocks in promoting such notions, though Hollings' approach to deregulation is not nearly so sweeping as that of the California congressman. Both hoped to bring a bill to the floor this year, but neither has managed to get past his own subcommittee. Still, Hollings insists that "times are changing . . . 'natural monopoly' and 'economy of scale' are words of the past. Competition and diversity are ideas of the future."

The highly complex issue has not escaped the notice of a diverse mixture of heavyweight lobbyists, including labor, the PTA, the major networks, the National Association of Broadcasters, professional sports, Hollywood producers, corporate giants like AT&T, RCA and ITT, church groups, Ralph Nader and even the Grand Ole Opry and the National Organization for Women.

Virtually all have had some good things to say about deregulation—and all have found their own special faults with it.

Indeed, these loud but collectively jumbled voices have left committee members with little more than a powerful ringing in their ears. Van Deerlin, for his part, claims to know what "life is like for the marble in a pinball machine."

Some friends predicted the buffeting would prompt him to retire, especially in light of a then-secret 7-7 vote in July by his subcommittee which effectively killed the comprehensive revision after a drafting effort that took three years.

But Van Deerlin, while disappointed, took the bill's defeat in stride. "We were able to reduce its odds on passage from a 1,000-to-1 to 10-to-1," he says. And that, apparently, was good enough to prompt him to announce he will run again next year.

Meanwhile, Van Deerlin has been considering a new strategy which he hopes might yet result in a bill passed by the current Congress, though probably not this year. That idea involves dropping most of the provisions in the bill calling for broadcast deregulation—indeed, the sections that were most controversial—and introducing a shorter version that would apply solely to telecommunications, meaning AT&T, other telephone companies, and the firms which provide satellite communications, computer links and other specialized data services.

In the broadcasting area, Van Deerlin hoped to end immediately all federal regulation of radio and cable television, while phasing out controls on regular television over 10 years. Broadcasters would have been freed of their obligations under such "public interest" standards as the equal time and fairness doctrines, which require them to air conflicting views on editorial and political issues.

"Though not carved in stone," says Van Deerlin, only half-joking, "the bill attempted to deliver the children of the electronic media—reporters, producers, owners and viewers—out of their bondage under the 1934 act, and into a land of milk and honey."

But the industry objected to other provisions, such as a restructuring of frequency allocations to allow for more stations and a requirement they pay some fees to the government for use of the public airwaves.

But Van Deerlin sees brighter prospects for telecommunications deregulation, and that, in itself would involve massive change. The telecommunications sector accounts for more than one million employees and annual revenues exceeding $50 billion, and the effects of a free market could make similar reforms in the airline and other industries pale by comparison.

Van Deerlin was especially heartened when President Carter declared his support for just such an approach. "This industry," said the president, "can provide more and better services while cutting costs. It can help fight inflation and promote growth. We cannot afford to have this progress frustrated by unwarranted regulation."

Virtually no one would argue that years, even decades of dazzling technological improvements have far outstripped the vision of the authors of the 1934 act. Universal telephone service, now a reality, was then seen as a national goal which logically could be accomplished only through protection of the "natural monopoly" of the telephone company. For that matter, broadcasting, too was viewed as a fledgling industry of promise, meriting such help as free and exclusive access to assigned frequencies on the public air waves.

But while government helped with one hand, it restrained with the other. For example, AT&T, in exchange for its monopoly on interstate lines, was effectively barred in a 1956 antitrust agreement from entering any other domestic market not directly connected with its primary service. It also was forbidden to compete with such other corporate giants as ITT and RCA in international communications.

Recent court decisions and steps by the FCC already have broken some ground toward deregulation. For example, consumers may now shop among several manufacturers for telephone sets and other terminal equipment, such as automatic message devices. At least one firm even offers businesses a way to make long-distance calls between major cities at rates lower than the Bell System's.

Even so, the "outmoded regulatory controls and slow procedures are harming new competitors, established telephone companies and the users of telephone and other telecommunications services," Carter has said. "Regulatory delays and uncertainties discourage firms from entering new markets and offering new services."

Though the biggest members of the industry, including AT&T—the world's largest utility—are somewhat wary of all that deregulation entails, they have made it clear they find a clear-cut legislative course preferable to those uncertainties. In a reversal of Bell's longstanding opposition, AT&T Chairman Charles L. Brown told Van Deerlin's panel "deregulation will make a significant contribution to the satisfaction of consumer needs and the exploitation of technological opportunities."

Already, AT&T is working on low-cost computer terminals for office and home use. One device, reportedly, would provide a sort of automated Yellow Pages, allowing the customer to obtain quick information, say, on all the plumbers in his area. Such devices also could be used for a variety of other purposes—even the instantaneous delivery of printed news material—but current law makes it unclear, at best, whether AT&T could market such products unless they relate directly to telephone service. On the other side of the coin, existing data processing firms are somewhat barred from establishing competing transmission facilities.

Whatever the fate of his legislation, Van Deerlin feels some triumph already. It is "more than a bill," he says. "It represents the first national debate on communications policy in this country."

At the least, he says, "the old, prosperous industries have been given a good elbow in the ribs. . . . As a longtime observer and participant, I tell you this: Things will never be the same again." ●

DEPORTATION OF IRANIAN STUDENTS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. MOFFETT. Mr. Speaker, distressed as we all are about the continuing crisis in Iran and the continuing danger to American diplomats there, it still behooves us to consider carefully actions which we take at home to show our disapproval of Ayatollah Khomeini.

I refer especially to the wholesale visa review and deportation of Iranian students in the United States. While simple enough on the surface, this action could endanger still more innocent lives. It might give the American people and the Congress a sense that we are "doing something"—but that something might be the wrong thing in the case of many of these students.

Under Khomeini's "leadership," Iran in the past few months has been a dangerous place to live for a number of ethnic minority groups. The Bahai's, a religious minority noted for its devotion to internationalism and pacifism, have been persecuted; their religious shrines have been desecrated and destroyed. Minority Moslem sects have been threatened. Jewish Iranians have felt the threat of economic and, at times, physical persecution.

Iranian students here in the United States represent the ethnic diversity of their home nation. It is insensitive and inappropriate to lump together into one supposedly hostile group these diverse students, many of whom may be here to escape persecution at the hands of Khomeini. Sad to say, the INS' visa review recalls for many people the shameful action taken against Japanese-Americans in World War II.

I urge my colleagues in the House, and the administration, to think twice before deporting Iranian students. Each and every case deserves careful scrutiny.●

RICHARD BOLLING AND THE RULES COMMITTEE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. SKELTON. Mr. Speaker, on Sunday, November 4, the Baltimore Sun ran an article by Clarence Mitchell entitled "Richard Bolling and the Rules Committee." In his article, Mr. Mitchell points out that our colleague, DICK BOLLING, is the youngest House Member to become chairman of the Rules Committee in recent years, and he aptly illustrates the respect and admiration that the gentleman from Missouri has rightfully earned over the past 31 years as a judicious and effective legislator.

Mr. Speaker, it is with great pride that I share Mr. Mitchell's article with my colleagues as I believe that it is an insightful piece about an outstanding Missourian—a man who is "a legend before his time."

The article reads as follows:

RICHARD BOLLING AND THE RULES COMMITTEE

(By Clarence Mitchell)

At a Sunday dinner honoring Representative Richard Bolling (D., Mo.) in Kansas City, House Speaker Thomas P. O'Neill twitted him about being the youngest House member to become chairman of the Rules Committee. Representative Bolling is now 63.

Guests who did not know the past history of this powerful committee were somewhat puzzled until the Speaker told the story of octogenarian Adolph Sabath (D., Ill.) who was chairman when Mr. O'Neill was first elected. According to the O'Neill story, Mr. Sabath died and another 80-year-old took his Illinois seat.

When asked why he would want to come to Washington at such a late age, the new member said: "Adolph and I tied for election to Congress, so the party organization had us flip a coin and he won. However, I was promised the next vacancy and I am here because it is my turn."

Aside from the glimpse he gave of how the system worked in Chicago, Speaker O'Neill gave a rundown on the ages of the congressmen who preceded Mr. Bolling as chairman. First was Howard Smith of Virginia, followed by William Colmer of Mississippi, who was succeded by Ray Madden of Indiana, and he by James Delaney of New York. All of these were Democrats and in their 70s when they became chairman.

Mr. Bolling began his service on the committee as a young new member of the House, but he had the powerful blessing of President Harry Truman and then Speaker Sam Rayburn of Texas. There is little doubt that if the Rayburn plans for Representative Bolling had been carried out, the Missourian would now be speaker of the House instead of Mr. O'Neill.

When he was elected in 1948, Mr. Bolling was considered a liberal, but that did not limit his effectiveness. Members discovered very early that he was a student of House Rules and this gave him an advantage.

Until he came on the scene most of the knowledge of the complicated rules was dispensed by Southern members who used their talents to emasculate or kill civil rights and other progressive legislation. One such member was John Rankin (D., Miss.), who delighted in using racial epithets in his floor speeches, but could get away with it because members feared he could cite a rule that made his remarks in order.

One of the last Rankin efforts to extend segregation in the national government was his bill to establish an all-black veterans' hospital. This failed and his star began to decline. However, his place as a repository of knowledge on rules was quickly taken by Representative Smith, who had been a judge at one time and liked to be addressed by that title.

As chairman of the Rules Committee, Judge Smith had a double shot at bills he opposed. First, he could delay or kill them in committee simply by not holding meetings and, second, he could tie matters in knots by invoking little understood rules on the floor.

At one time when Judge Smith said he was going home to see after his cows on his farm and did not know when he could get back to have a meeting on a pending civil rights bill, Representative Bolling forced his return by threatening to use a rule that would have permitted the committee to have a meeting without the chairman's consent.

Without the Bolling presence as a member of the Rules Committee, it is doubtful that civil rights bills which passed between 1957 and 1968 could have reached the floor. Unlike some liberals who avoid working with members of the opposite party or with conservatives, even when it would help their cause, Representative Bolling often teamed up with Congressman Clarence Brown (R., Ohio), who was the ranking Republican on the Rules Committee, to get action on civil rights proposals.

Mr. Brown, a top figure in national Republican party politics, was also a close friend of many Southern members, including Judge Smith. Once he told me that he did not like to "embarrass the judge, but I have told him I can't let him kill this (civil rights) bill and I am going to vote with Dick Bolling to report it out."

In 1968, when many members gave up on the possibility of getting fair housing legislation through the rules committee, Mr. Bolling's friend Mr. Brown had died, but Representative John Anderson (R., Ill.) was on the committee. An Anderson-Bolling effort outwitted the opposition, the bill went to the floor and was passed.

At present, there is no obstruction practiced in the Rules Committee and this is because Mr. Bolling, as chairman, is determined to place the old practices that he abhorred out of order.●

THE INVERTED FLAG

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. ERLENBORN. Mr. Speaker, the deplorable course of events in Iran and the reprehensible actions of the student terrorists have provoked deep-seated feelings of anger, hostility, and revenge here at home. Along with this reaction, we have witnessed a more positive development—an unmistakable surge of patriotism.

Americans from diverse backgrounds, different occupations, and divergent political viewpoints have joined in expressing unequivocal support and unwavering concern for their countrymen held captive in Iran. Suddenly it is no longer considered "old fashioned" to believe in one's country and stand up for its ideals. We are witnessing the rebuilding of a national unity and cohesiveness that was fractured by our experience in Vietnam.

A unique demonstration of patriotism and support for the American hostages in my congressional district has recently come to my attention. Lloyd N. Weston, president and publisher of the Addison Leader and 10 other Chicago suburban newspapers, has inverted the paper's masthead, or "flag" in the jargon of journalism, as a symbol of protest over the Iranian situation.

Mr. Weston cites title 36 of the U.S. Code, which sanctions flying the American flag upside down "as a signal of dire distress in instances of extreme danger to life or property." He notes that at the present time, American life and property are, indeed, in danger and "in a broader sense America herself is in distress."

I would like to insert in the RECORD an editorial from the Addison Leader in which Mr. Weston poignantly explains his reasons for flying his "flag" upside down.

The editorial follows:

INVERTED FLAG: AMERICA IN DISTRESS

"The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property."—Title 36, United States Code.

In America's mighty shipyards, longshoremen are refusing to load or unload Iranian vessels. In Elk Grove Village, Ill., a shopping center parking lot is plastered with hand-lettered "Death to Khomeini" posters. In Clovis, N.M., a mock grand jury symbolically indicts the Ayatollah Ruholla Khomeini on charges of kidnaping Americans held hostage at the U.S. Embassy in Tehran contrary to the provisions of international law."

We are not at war. Uncle Sam does not want us to join up. This is not an election. We cannot register and vote. Yet, frustrated Americans everywhere are, these days, finding little, symbolic, personal ways to vent that frustration. The word "patriotism" seems to be coming back into fashion as housewives and bankers, politicians and plumbers, secretaries and businessmen—each in his or her own way—express their belief in America, and their support for President Carter's actions in this crisis.

In that regard, here at the Addison Leader Newspaper Corp., we are obliged to do our part too in protest of the taking of American hostages in Iran and in supporting our government's attempts to obtain speedy release of all the captives.

In journalism jargon, a flag is the name of the newspaper as displayed on the front page. According to the Flag Code of the United States, the Stars and Stripes are to be displayed in an upside down position at times of "dire distress in instances of extreme danger to life and property."

We believe that such a time is now. American citizens and American property are indeed in danger. In a broader sense, America herself is in distress.

As a symbolic gesture of our disdain for the actions during the past fortnight of the Ayatollah Khomeini and the so-called Iranian "student" terrorists, we are flying our "flag" upside down on the front page of this newspaper.

We will continue to run this inverted flag every week—on this and on our 10 other community newspapers—until all the American hostages in Iran are released.

We urge every American newspaper—large and small alike—to join in this manner as part of a great national protest and a demonstration of support for our government and our President in this time of "dire distress." ●

HANDGUN BODY COUNT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. DRINAN. Mr. Speaker, during the month of October, 571 Americans were killed by handguns, bringing the yearly total to 6,446. This handgun body count is a list of media-reported handgun deaths from cities and towns across the Nation compiled by Handgun Control, Inc.

The FBI has reported a 3-percent increase in robberies during 1978, and a 15-percent increase in robberies during the first 6 months of 1979. Since handguns are one of the most widely used weapons in such crimes, there is a clear need for effective legislation to control handgun misuse.

Senator EDWARD KENNEDY and Congressman PETER RODINO have introduced the Handgun Crime Control Act of 1979 to confront this dangerous national problem. I urge my colleagues to support this new legislative effort, and contribute to putting and end to the misuse of handguns now.

The handgun body count compiled by Handgun Control, Inc. follows:

ROLL OF HANDGUN DEAD

ALABAMA (6)

Ronald Brannon, Mobile; Sammy Bryant, Jemison; Melvin Porter, Birmingham; Johnny Tuttle, Monroeville; Helen Woods, Ozark; Hubert Woods, Ozark.

ARIZONA (8)

Donna Appleby, Phoenix; Marie Curle, Yuma; Jill Gardner, Phoenix; Ray Gledhill, Apache Junction; James Layman, Scottsdale; Daniel Richey, Glendale; David Rivas, Phoenix; Todd Weckesser, Glendale.

ARKANSAS (7)

Richmond Cogdell Sr., Little Rock; Dorothy Dees, Fordyce; Charles Jacks, Pine Bluff; Gerald McGinnis, Little Rock; Sharon Mitchell, Magnolia; Annie Thompson, Little Rock; Arthur Thompson, Little Rock.

CALIFORNIA (75)

James Allen, Los Angeles; John Alleson, Trinity County; Robert Amaro, Oxnard; Rich Avante, Hayward; Weldon Ayers, Bakersfield; Renard Beverly, Los Angeles; Edward Block, Sacramento; Charles Bowman, Brea; Christopher Bridge, Pioneer; Ricardo Brizuelas, Venice; Garry Budjan, Fremont; Valerio Castillo, Oxnard; David Chavez, Carlsbad; Ronald Coleman, West Covina.

Alex Coria, Union City; Johnny Dapper, San Diego; John Dunbar, Pasadena; Arnold Frisch, San Bernardino; Monte Fry, Los Angeles; Rodolfo Gonzales, Fresno; Rosilio Gonzalez, Pasadena; Agnes Gould, Mill Valley; Randall Gould, Mill Valley; Merle Green, Hollister; Jerry Guzman, Los Angeles; Joe Heinz, Hayward.

Cheryl Hubbard, Inglewood; Juan Jara, Panorama City; Frederick Jenkins, Los Angeles; Victor Kastellanos, Highland Park; Sim Kirklem, Palos Vedes Peninsula; Michael Ladd, Riverside; Ignacio Macial, Van Nuys; Ruben Maestas, Stockton; Michael Manno, Signal Hill; Debra Martinez, Sacramento; Ruth Mavriks, San Francisco; Dana McCutcheon, Venice; Betsy McGuire, Wilshire; Michale Melero, San Diego.

Ted Miller, Huntington Beach; Jose Mora, San Francisco; Franciska Moser, Beverly Hills; Frank Moyer, Jr., Wisalia; Yvette Nance, Oakland; Luis Narex, Hollister; George Olekszak, Buena Park; Arnold Perez, Pomona; Barbara Riley, Bakersfield; Ronald Ronquillo, Indio-Coachella; George Rothenberger, La Crescenta.

Elynor Salas, Hollywood; Stephen Saunders, Encino; George Shriver, Muscoy; Luna Silva, Carpinteria; Ison Simpson, Linda Vista; Alex Smith, Lynwood; Arlan Smith, Wilshire; Donn Suniga, Pittsburg; Marque Tinkler, San Diego; Archie Tolbert, Watts; Mike Urweider, Redwood City; Martin Villa, Chino; Eddie Walker, Palos Verdes Peninsula; Frank Whitecraft, Monterey Robert Zahnow, San Jose.

Unidentified male, Pasadena, 10–10–79; unidentified male, Hawthorne, 10–10–79; unidentified male, Costa Mesa, 10–11–79; unidentified male, Hawthorne, 10-11-79; unidentified female, Montebello; unidentified male, Ontario, 10–12–79; unidentified male, San Bernardino, 10-15-79; unidentified male, age 25, Rancho Palo Verdes, 10-24-79; unidentified male, age 60, Rancho Palo Verdes, 10–24–79.

COLORADO (15)

Willie Bender, Park Hill; Louis Duran, Denver; Larry Franklin, Denver; Tereso Gonzales, Denver; Reuben Graeb, Bear Valley; Roger Hammond, Denver; John Montgomery, Rifle; Johanna O'Malia, Leadville; Pete Pasquale, Salida; Fred Rease, Park Hill; Herman Smith, Monte Vista; Ernest Summers, Denver; Richard Sutton, Denver; Jessie Swan, Greeley; James Wilson, Denver.

CONNECTICUT (3)

John Donaldson, Waterbury; David Hervin, North Haven; Unidentified male, Norwalk.

DISTRICT OF COLUMBIA (5)

John Daughtry; Jonathan Howell; Clifton Jones; Donnie McMillian; James Rose.

FLORIDA (15)

Catherine Alexander, Eatonville; Leon Berry, Miami; Dennis Bishop, Sarasota; Scott Cooper, Margate; Thomas Davidson, Sarasota; Mark Hutchenson, St. Petersburg; Niel McClung, Jacksonville; Michael Orlando, Hollywood; Kenneth Oppenheimer, Stuart; William Rhodes, Bradenton; Cedric Rollings, Miami; Unidentified female, Miami; Unidentified male, Neptune Beach; Unidentified female, Neptune Beach; Unidentified male, Hollywood.

GEORGIA (23)

Kendrick Bailey, Atlanta; Patricia Barry, Atlanta; Raymond Bunting, Atlanta; Alex Flemister, Atlanta; John Fuller, Atlanta; Clarence Gabbard, Hatchechubbee; William Gray, Atlanta; Valarie Hardaway, Atlanta; Bernard Harris, Albany; Holly James, Atlanta; Angelo Johnson, Atlanta; Jimmy Longshore, La Grange; Asa McKeever, Atlanta; Robert Nunn, Atlanta; Rev. Willie Poole, Atlanta; Cyril Russell-Howland Sr., Atlanta; Herbert Schlitter, Atlanta; Nathan Sparrow, Atlanta; Larry Watkins, Atlanta; William Willis, Brunswick; Snow Wright, Atlanta; Unidentified male, Catoosa County; Unidentified male, Dalton.

IDAHO (1)

Georgia Fisher, Emmett.

INDIANA (15)

Ramon Alvarez, Chicago; Charles Boone, Carbondale; Kenneth Bryant, Chicago; Ellen Carniol, Chicago; Gregory Conners, Chicago; Charles Crump, Chicago; John Gavin, Chicago; Stanley Irizarry Chicago; Edward Johnson, Chicago; Joseph Lachowolski, Chicago; Harry Lara, Chicago; Charmette Parker, Park Forest; Dennis Potter, Chicago; Victor Rolon, Chicago; Richard Russell, Chicago; Hugh Ruttenberg, Chicago; Louis Tragas, Chicago.

INDIANA (17)

Ruth Annahooth, South Bend; Kenneth Bird, South Bend; Herkimer Byrnes, Dowagiac; Clarence Cole, Gary; Robert Dewar, South Haven; Joseph Harris, Indianapolis; Eloise Husband, South Bend; Wayne Hybarger, Marion; Larry Lottie, South Bend; Donald Mabery, Wabash; Dale Miller, Elizabeth; Carol Moiser, South Bend; Reginald Purnell, South Bend; Robert Terhune, Mooresville; Farandz Vines, Clarksville.

IOWA (5)

Gary Duffy, Humboldt; Richard Lafountain, Davenport; Edward Smith, Des Moines; Eddie Williams, Davenport; unidentified male, Davenport.

KANSAS (11)

Henry Daniels, Wichita; Larry Duggar, Crestline; Karen Harmon, Wichita; Ronald Mcready, Leavenworth; Nancy Metz, Leavenworth; Thomas Peknik, Kansas City; Cloie Ray, Wichita; Thomas Smith, Wichita; Delbert Watson, Kansas City; unidentified male, Kansas City; unidentified male, Wichita.

KENTUCKY (16)

Jimmy Donovan, Frankfort; Earl Fair Sr., Elkhorn; Danny Gentry, Crofton; Mae Hawthorne, Shepherdsville; Daniel Hay, Maysville; Joe Johnson, Shepherdsville; Lawrence McKiddy, Harlan; Betty Miles, Lexington; Patrick Moore, Perryville; Marsha Ponder, Liberty; Ernest Roberts, Frankfort; Gregory Smith, Danville; Kermit Smith, Elkhorn City; Roger Smith, Elkhorn City; Greg Vanover, Frankfort; Patricia Walker, Harlan.

LOUISIANA (22)

Lionel Alexander, New Orleans; Wendell Ashley, Alexandria; Michael Bonds, Baton Rouge; Benjamin Caruthers, Fort Polk; Donald Coulon, Westwego; Willie Hall, Shreveport; Anthony Hebert Sr., Metairie; Anthony Hebert Jr., Metairie; Ruth Hebert, Metairie; Ronert Henley, Lake Providence; Nemi Hudson, Shreveport.

Eugene Jones, Ponchatoula; Leander Kirkland, New Orleans; William McDaniel, Bastrop; Charles Minor, Shreveport; Zachery Patterson, New Orelans; William Pierce, Baton Rouge; Dennis Singleton, Houma; Howard Spann, Beaumont; Jimmy Spates, Shreveport; Marlene Stevenson, Baldwin, Nathaniel Wilson, Shreveport.

MARYLAND (21)

Garl Brown, Towson; Isaac Dobson, Baltimore; James Ellis III, Baltimore; Theodore Gantz, Silver Spring; Millicent Haywood, Prince George's County; Steven Horad, Linthicum; Annie Logan, Chevy Chase; Kenneth Marshall, Baltimore; Roger Mason, Baltimore; David McLarty, Linthicum; John McNeal, Baltimore; Gary Miller, Baltimore; Michael Morley, Woodlawn; Douglas Orem, Baltimore; Dale Scott, Baltimore; Clifton Shorter. Baltimore; Edward Smith, Baltimore; Lester Williams, Baltimore; Louis Williams, Baltimore; Kenneth Withers, Baltimore; unidentified male, Baltimore.

MASSACHUSETTS (1)

Dwayne Swan, Roxbury.

MICHIGAN (8)

Duane Badder, Rogers City; Orie Birdslee, Berrien Center; Julian Grant, Detroit; Curtis Hill, Lansing; Julius Pilarski, Rogers City; Brian Viau, Gladstone; Ralph Viau, Gladstone; James Wilkes, Detroit.

MISSISSIPPI (8)

L. D. Causey, Walthall County; Bennie Hayes, McComb; Marvin Leach, Waynesboro; Velma Rankin, Forest; Richard Roberts, Waynesboro; Norman Thigpen, Hattiesburg; Daniel Trosclair, Biloxi; Katie Waldrop, Greenville.

MISSOURI (18)

David Ball, St. Louis, Thomas Brown, Alorton; Laurence Carlton, St. Louis; William Cole, St. Louis; Carl Davis, St. Louis; Terry Davis, Webb City; Andy Dunlap, St. Louis; Ronnie Forte, St. Louis; Matthew Gray, St. Louis; Cleveland Johnson, University City.

Frank Matlock, Kansas City; Bobby Moore, Bonne Terre; Donald Moreau, Jefferson City; Lester Smith, Kansas City; Wallace Whitley, Kansas City; Marvin Willard Jr., Campbell; unidentified male, St. Louis, 10-24-79; unidentified male, St. Louis, 10-31-79.

NEBRASKA (7)

Michael Berry, Omaha; Kenneth Enfield, Lincoln; Betty Goshinska, Omaha; Michael Husar, Lincoln; James Robinson, Omaha; Lester Vaughn, Omaha; Charles Williams, Omaha.

NEVADA (3)

Willie Mae Belton, Las Vegas; Pamela McKinley, Las Vegas; Edward Tucker, Douglas County.

NEW JERSEY (7)

Timothy Brokaw, Somerset; Willie Chestnut, Newark; Scott Kafchinski, Winfield Park; Daniel and Phyllis Muse, Millville; Robert Nenortas, Atlantic City; John Tamburro, Orange.

NEW MEXICO (3)

Carl Amaya, Albuquerque; Ethel Clements, Albuquerque; Ethel Simpson, Albuquerque.

NEW YORK (34)

Kenneth Anderson, White Plains; Olga Carter, Riverdale; Gregory Cherry, New York City; Walter Cosella, New York City; Philip Risimini, Valhalla; James Eppolito, Brooklyn; Herbert Finn, New York City; Alphonso Flood, New York City; Raymond Ford, Syracuse; Mary Hartman, Valhalla; Julius King, West Brighton; Mario Lonbardi, Brooklyn; Kyriakus Lucas, New York City; Mary Maduras, Yonkers; Miguel Martinez, Port Chester; Thomas McCullough, Riverdale; Michael Merola, Bulls Head.

Joseph Miller, East Greenbush; Robert Musacchia, New York City; Aftab Muzaffar, New York City; Mileagros Neris, Port Chester; Kavid Okunok, Brooklyn; Martha Rivera, New York City; Joseph Tinnerello, Bulls Head; William Walker, New York City; Lekia Williams, Brooklyn; Pamela Williams, Rochester; Robert Williams, Rochester; Rudolph Williams, White Plains; Tai Wing, Bronx; unidentified male, New York City, Park Slope; unidentified male, New York City, 150 W. 28th St.; unidentified male, New York City, Van Cortland Park.

NORTH CAROLINA (15)

Tommy Ausley, Greensboro; Mergie Boney, Holly Springs; Marian Britt, Lillington; Rebecca Coleman, Asheville; George Funka, Jr., Greensboro; Billy Hubbard, Alamance County; Dale Hubbard, Alamance County; Benny Jones, Emma; Cleveland Jones, Fayetteville; Richard Long, Winston-Salem; Levern Lowrey, Charlotte; Walter Martin, High Point; Freddi Pacheco, Greensboro; Edward Parrish, Durham; unidentified youth, Charlotte.

OHIO (32)

Walter Aisel, Columbus; George Baker, Youngstown; Teresina Bevilacqua, Columbus; Nathaniel Brown, Cleveland; Douglas Elfers, Lakewood; Delores Elliott, Pleasant Township; George Faulk, Jr., Columbus; Monte Freeman, Cleveland; Todd Glenn, Columbus; Donald Glover, Toledo; Robert Groce, Columbus; William Hart, Cleveland; Russell Hill, Franklin County; Mark Howard, Mansfield; Robert Leet, Dayton; Timothy Lowe, Dayton.

Caroline McKinney, Akron; Gayle Mize, Hamilton; John Russo, Hamilton; Joseph Shear, Cleveland; Arthur Smith, Bellefontaine; Jacqueline Smith, Cleveland; Lesly Sparrow, Richwood; Lawrence Treadwell, Akron; Paul Wagner, Prairie Township; Kent Wheeler, Grove City; Gary White, Cincinnati; John Williams, Cleveland; Gary Winfield, Mentor; Margaret Winfield, Mentor; Roddy Wright, Hamilton; Unidentified female, Cleveland.

OKLAHOMA (14)

Frederick Atchison, Tulsa; Dionna Cunningham, Oklahoma; Marilyn Douglass, Okarche; Rev. Richard Douglass, Okarche; Bernard Fehring, Grady County; Robert Foster, Tahlequah; Bruce Jones, Spencer; Ralph Latullipe, Tulsa; Benny Mullinex, Luther; James Profit, Oklahoma City; Judith Proffit, Oklahoma City; Robert Proffit, Oklahoma City; James Smith, Oklahoma City; Unidentified male, Oklahoma City.

OREGON (2)

Richard Beller, Springfield; Julianne Raymond, White City.

PENNSYLVANIA (26)

Thomas Beitler, Pittsburgh; Wayne Blandburg, Homewood; Helen Coppedge, Philadelphia; Genardo Delvalle, Philadelphia; Joseph DeMarco, Pittsburgh; Keith Dennis, Philadelphia; Edward Dixon, Philadelphia; Charles Freeman, Pittsburgh; George Funka, Jr., Washtown; Edith Gibson, Pittsburgh; Calvin Gilbreath, Philadelphia; Robert Griggs, Aliquippa; Anthony Herrle, Brodhead Manor; William Kellam, Philadelphia.

Florence Legion, Philadelphia; Robert Matson, Philadelphia; Roscoe McKenna, Philadelphia; Gaguna Messiri, Philadelphia; George Peyton, Philadelphia; Anna Russell, Willow Grove; Harry Russell, Willow Grove; David Sanchez, Bethlehem; Elmer Sueck, Dallastown; Donald Williams, Philadelphia; unidentified male, Philadelphia; unidentified male, Homewood.

SOUTH CAROLINA (6)

Randall Adams, Lancaster; J. E. Allman, Clinton; William Ingle, Salem; Terrell Johnson, Columbia; Patrick McGinty, Columbia; Joe Smith, M.D., Lancaster.

SOUTH DAKOTA (2)

Debbie Frey, Lead; Vicki Scholl, Lead.

TENNESSEE (23)

George Blankenship, Clinton; Sheila Booker, Memphis; John Brandon, Memphis; Charles Britt, West Knox County; Walter Crawley, Chattanooga; James Evans, Nashville; Herschel Frierson, Nashville; William

Glenn, Memphis; Reginald Granger, Memphis; Rocky Hopkins, Norton; Doris Howard, Hixon.

Abe Jones, Memphis; Michael Mitchell, Nashville; Horace Raybon, Memphis; Dorris Sanders, M.D., Waverly; Martha Shaver, Gibson; Theresa Shea, Memphis; Alfred Smith, Memphis; Pauline Stewart, Memphis; Eric Strickland, Fayette County; Martin Tackett, Caryville; David Wise, Chattanooga; unidentified male, Memphis.

TEXAS (70)

Pedro Adame, Houston; James Baker, New Caney; Robert Barley, Houston; Howard Battles, Tyler; Henrietta Bedford, San Antonio; Millie Bingley, Houston; Carol Boring, Sherman; Robert Body, Houston; Billie Burns, Dallas; Marilyn Campbell, Farmers Branch; Alvin Cashmere, Houston; Donna Cleveland, Houston; Gary Cooper, Houston; Howard Crisp, Mission.

Edward Daniels, Dallas; Lloyd Delvige, Freeport; Robert Ebert, Brownsville; Carl Everson, West Rosedale; Ed Field, Houston; Michael Gorrell, Seguin; Matthew Goss, Houston; Elwood Groff, San Antonio; Dave Hall, Galveston; Lynette Hall, Gatesville; Denzil Halsey, Houston; Norman Harris, Wichita Falls; William Hassbrock, Houston; Robert Hebert, Brownsville; Alvin Henderson, San Antonio.

Hillard Hightower, Port Arthur; Michael Hinton, Lamesa; Danny Hoskins, Kermit; Joann Huffman, Houston; David Jackson, Corpus Christi; Alice Jacobs, Dallas; Lucy Johnson, Houston; Edward Kiesel, Dallas; Jakie Kiker, Wichita County; Linda Maney, Harris County; Felix Martinez, Houston; Eloy Mendoza, Bexar County; Earlene Miner, Dallas.

W. R. Mints, Midland; Armando Ochoa, Dallas; Ramira Padilla, Houston; Lee Page, Dallas; Samuel Phillips, Houston; Jackie Quin, Houston; Frank Reyes, San Antonio; Jessie Rodriguez, Corpus Christi; Lisa Rodriguez, Robstown; Neil Rogers, Wheeler; Rolando Saldivar, Houston; Obie Sanders, Houston; Harry Schlesinger, Austin; Molly Schlesinger, Austin; Robert Sego, Haskell; William Smith, Bonham; Sharon Tumlinson, San Antonio.

Manuel Velasco, Odessa; Felipe Villarreal, Corpus Christi; Morton Ware, Forth Worth; Annie Wells, Houston; Lonnie Williams, Fort Worth; Freeman Wilson, Fort Worth; unidentified male, San Antonio; unidentified male, Houston, 10-23-79; unidentified male, Houston, 10-27-79; unidentified male, Corpus Christi; unidentified male, Freeport.

UTAH (3)

Kent Dodge, Duchesne; Grant Raymond, Salt Lake City; Guadalupe Saucedo, Ogden.

VIRGINIA (6)

Melissa Elliott, Hanover; Milton Hayes, Richmond; Ruby Hevener, Richmond; Alan Rotton, Burke; Frank Stinson, Richmond; Rebecca Walker, Manassas.

WASHINGTON (2)

Debbie Hafner, Stanwood; Susan Schwartz, Snohomish County.

WEST VIRGINIA (4)

William Evans, Logan; Boyd Halford, Jefferson County; Edward Phillips, Marmet; Michael Treadway, Fayetteville.

WISCONSIN (8)

Ryan Baxter, Milwaukee; Jesus Cano, Milwaukee; Phillip Christians, Portage; Jay Flom, Ixonia; Jose Guerra, Menomonee Falls; Rose Powell, Milwaukee; Houston Watkins Jr., Milwaukee; Raymond Woods, Milwaukee.

WYOMING (6)

Joe Ely, Greybull; Thomas Ely, Greybull; Billy Hames, Douglas; Glenda Hames, Douglas; Richard Ward, Rawlins; Kenneth Windjue, Greybull.

NOTE.—The Handgun Body Count is based on a compilation of news reports of handgun violence appearing in the nation's daily and weekly newspapers during the month. The figure includes murders, suicides, and accidents by handguns.●

TILTING AT WINDFALL PROFITS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. SYMMS. Mr. Speaker, I wish to submit to the CONGRESSIONAL RECORD an excellent article on windfall profits by William E. Simon which appeared in the December 1, 1979, issue of Human Events and the winter 1979 issue of Policy Review, published by the Heritage Foundation.

Mr. Simon discusses the inconsistency of those who are concerned about the windfall profits of the oil companies, but do not object to profits in other areas of the economy. The real result of this discriminatory windfall profit tax on the oil companies would be to discourage investment in energy development. We need to increase investment in domestic energy development if we are ever going to decrease our dependence on foreign oil and critical minerals necessary to our economy.

I urge my colleagues to carefully read this statement as the Senate is now considering the windfall profit legislation, and we may be going to conference on this bill in a couple of weeks.

The article reads as follows:

TILTING AT WINDFALL PROFITS

(By William E. Simon)

"There are ten thousand stout fellows in the streets of London ready to fight to the death against Popery," observed Dr. Johnson, "though they know not whether it be a man or a horse." A similar state of affairs reigns in Washington, D.C. There are ten thousand stout fellows in the Carter Administration ready to do and dare against windfall profiteering in the oil industry—though they know not whether it be a man, a horse or, as I will argue here, a dragon (which is to say, a mythical beast).

But let us look first at the economic history of the notion. According to Mr. Arthur Seldon, the author of that indispensable little guide, the *Everyman Dictionary of Economics*, it was Keynes who invented the term "windfall profits" to describe those entirely unforeseeable economic gains which accrue to people *as a result of inflation*. Here is a Keynesian argument which contains some truth. Inflation is a mixed curse. Not only economically and socially disruptive in general, inflation also inflicts disproportionately severe hardships on some groups and confers actual economic advantages on others. It does so, moreover, in an arbitrary, capricious and unforeseeable fashion.

Debtors, for instance, benefit from inflation, which reduces the real cost of repaying debts. So do owners of those forms of property which rise in value as investors desperately seek a hedge to shelter them from the inflationary whirlwind. Houses and objets d'art are usually safe investments against inflation—but not invariably. Hence, the arbitrary windfall element in their gains.

On the other hand, creditors lose by being paid back in a devalued currency. In effect, they have been paying the debtor for the privilege of lending him their money. Savers of all kinds also suffer, especially holders of fixed-income securities. And those entering the housing market for the first time find that house prices have risen so steeply that their down payments are just about adequate for purchasing a converted tool shed.

Inflation, then, rewards some with windfall profits and burdens others with windfall losses. If a government were seriously intent on correcting these inflationary inequities created by its own monetary incontinence, it would have to introduce a complex indexed network of differential subsidies and taxes to compensate some and punish others in proportion to their ever-changing financial gains and losses.

This is clearly an administrative impossibility. Yet, even if it were a simple bookkeeping transaction, politicians would steer well clear of it for the obvious reason that the government is the biggest windfall profiteer of all from inflation.

The trick is worked thus. Taxpayers, whose incomes rise in line with inflation, are no better off in real terms. But their rising paper incomes push them into higher tax brackets so that they pay in tax a larger percentage of the same real income. Corporations, too—including the oil companies—find that inflation has reduced the real value of allowable depreciation provisions. Add together all of the taxes which have been silently increased by inflation in recent years and you will find that the total figure amounts to a substantial extra sum in government revenue.

Prof. Milton Friedman estimated that the government's total revenue from inflation amounted to more than $25 billion in 1973 alone. And other studies have suggested that inflation-induced tax increases could add $50 billion to its citizens' tax bill by 1980. So a tax on the government's own windfall profits (i.e., a tax reduction) would restore large sums to all classes of taxpayers (again, not excluding the oil companies).

So much for the windfalls of inflation. In a wider, more colloquial sense, however, the term has come to mean any undeserved and unexpected surplus of income over costs. But how are respectable profits distinguished from the windfall sort? Let us look at two hypothetical and contrasting success stories.

Suppose that you wake up tomorow morning with a vision: the accurate blueprint for a revolutionary new automobile engine that multiplies gasoline mileages severalfold. Your invention is quickly put into production, enabling hundreds of thousands of drivers to enjoy Cadillac comfort at Pinto prices. Naturally, your line of cars sells as fast as your assembly line can produce them. As the inventor holding the patent, you become fabulously rich. What shall we call the riches you acquire? Quite obviously, they are the profits of ingenuity, application, hard work and enterprise.

Now, take a slightly different case. Suppose that you are working in your garden, planting tulip bulbs, when suddenly your trowel strikes a massive oil deposit—a real gusher. Again in short order, you become rich.

What is the difference between the two cases? In each case you would reap fantastic profits over a short period of time. In each case you would reduce American dependence on imported oil, thereby easing our balance-of-payments worries. Whether by making more gasoline available or by reducing motorists' consumption of fuel, you would be aiding the consumer. Society would benefit equally from both contributions. But in one case, your rewards would come as the fruit of your own ingenuity; while, in the other case, they would apparently be the result of pure, blind, dumb, senseless luck!

In all probability, your neighbors would be proud of you in the first instance, resentful in the second. If the public approves of the manner in which you acquire your riches (as it smiles upon the fabulous incomes of athletes and movie starlets), then the money you earn is regarded as rightfully your own. If the public frowns on your business or doubts your moral claim to *deserve* the level of rewards, then your income is disparaged as "windfall profits."

Yet this distinction is based upon a fundamental confusion. As the egalitarians themselves argue when it suits them, we are simply unable to identify and separate the distinctive contributions of luck and merit to economic success. Both play a part—but a different part in each individual case.

Luck, for instance, covers more than merely discovering oil wells with a trowel. It is responsible for much that is most personal and individual about us. There is no merit in being born with the kind of figure that wins the Miss Universe contest or the kind of brain that picks up Nobel prizes. From the moral standpoint, it is merely a matter of chance.

Of course, merit enters at some stage. Some people put their advantages to good use; others allow striking figures to run to fat or waste high intelligence in the search for an infallible system to break the bank at Monte Carlo. Nor is meritorious endeavor enough on its own. There are decent people who work hard all their lives but never prosper because God endowed them with average or inferior abilities. Even in what seem the clearest cases of poor-boy-makes-good, therefore, we have no way of disentangling, let alone measuring, the relative importance of personal effort, inherited ability, the helpful or damaging influence of other people, or any of the innumerable factors that might just determine success or failure in the individual's life.

The concept of windfall profits is weakened even further if the element of foresight is introduced. Some people profit from their acute business savvy, their ability to predict fortuitous market conditions. Now, conscious accurate prediction surely reduces the purely chance windfall element in their reward. But does the mere exercise of intelligent speculation, which may profit from price changes without affecting them, make a man as deserving as our gasoline engine inventor? Does it make him more deserving than our lucky gardner? Indeed, would the gardener's profits be less of a windfall if he had chosen his house partly because of rumors that the surrounding land was oil-rich? Suppose, too, that he had paid more for the land because of these rumors. Would not his windfall profits then be the reward of risk capital, namely the extra element of the house price? And if so, would they not be more "deserving" and justifiable—though bringing no greater benefit to society?

On the other hand, would the speculator be more deserving of a high income if his speculation happened to improve the workings of the market by smoothing out price fluctuations? Who can answer these questions at all satisfactorily? Only God has the comprehensive information required for making judgements of that order.

A capitalist economy makes no attempt to pursue such distinctions. Income is not taxed on a scale according to the abstract, unknowable merits of the earner. Instead, anyone who generates wealth is entitled to keep his fair share after paying the level of tax levied on everyone else. The prospect of reward stirs people to take initiatives—and the prospect of unusual reward prompts daring people to take unusual intiatives. Whereupon our present prosperity is based.

We cannot therefore pass judgment on the windfall element in individual success. But can we perhaps ascertain whether certain economic activities as such inevitably lead to undeserved windfall gains? There is a school of thought which has long argued that possession of a scarce and valuable resource can yield windfall profits if its supply cannot be increased in response to price changes. An opera singer's voice and rising land values are the textbook examples. As Mark Twain put it, "Buy land, my boy, they're not making any more of it." In this context, the phrase "windfall profits" means any profit that cannot be justified socially as bringing supply and demand into balance.

Yet, taking these textbook examples, it can be shown that there are no goods—not even land itself—in fixed supply. If the price is right, land can be manufactured. Is not much of Holland land reclaimed from the sea? And until environmentalists stymied the pan on behalf of rare geese, the British government was proposing to build the third London airport at Maplin, at present a sandy sea marsh.

Nor is land as such even in short supply. There is enough jungle, desert, arctic waste and malarial swamp in the world to house all humanity, allowing ample elbow-room, several times over.

What people mean when they lament the shortage of land is that land of a certain kind or usage is in short supply in a particular locality. But this problem can be solved easily enough by changing the existing land use. Agricultural land can thus be reclaimed from the desert by irrigation, or agricultural land rezoned for building development.

To illustrate this point, let us again take a hypothetical case. A leafy suburb, far from the madding crowd and so inhabited by Friends of Humanity with Volkswagen beatles and a taste for granola, is surrounded by land zoned for agricultural purposes only. Because people wish to move into this desirable but artificially restricted neighborhood, the price of both land and houses soars to windfall levels. Eventually, permission is sought and obtained for nearby land to be zoned for building.

At once the land values in the suburb fall sharply as more land comes onto the market and reduces the artificial scarcity. Meanwhile, the rezoned farmer's land increases rapidly in price as restrictions are lifted which, until now, have held its value artificially low. What has actually happened in this example? The farmer has been suffering a windfall loss for years—and only now is he able to obtain the true market value for his property. But that is not how the matter appears to the Friends of Humanity. Perhaps irritated by the fall in value of their principal capital asset, they rage that the farmer has been granted an ill-gotten windfall profit, namely the rise in land value "created" by the "community" when it rezoned his land (i.e., when it finally gave him the right to use his own land for his own purposes).

Land is therefore not in fixed supply. And any windfall profits which seem to accrue from its possession are really the result of government restrictions on land use. But before we leave this topic, what of the popular opera singer's voice?

Well, if the price for her kind of sound were set high enough, she could sing more, multiply her performances greatly by the use of films and recordings, and encourage the production of near-substitutes by training proteges to sing as nearly as possible in her distinctive style. Her profits would now be enormously greater than before—but they would not be windfall profits in the sense described above because they would have elicited a cataract of arias to the delight of opera lovers and the irritation of their neighbors.

We are thus led to a series of agnostic, commonsense conclusions. The first is that all profits and all losses contain a windfall element—the windfall usually being an unanticipated consequence of government action. Thus, Chrysler would not be in such dire straits if the government had not added to its costs by imposing extravagant safety and environmental standards for automobiles. Secondly, it would be extremely rare for any profits or loss to be attributed wholly to windfalls. Certainly Chrysler cannot make this claim since American Motors, a company of similar size, actually achieved an economic recovery during the same period of excessive and wrongheaded regulationitis. Finally, we have no way of knowing precisely how big the windfall element is in any particular gain or loss.

The conclusion that all profits of their nature contain a windfall element would be supported by textbook economists on slightly different grounds. For they agree that all profits reflect an element of risk which itself reflects the element we call uncertainty, the unexpected or chance. Were that not so and a very high profit on, say, offshore oil could be absolutely guaranteed, then investors would flock to put their money into it. In so doing, they would greatly increase demand for underwater equipment, oil drilling platforms, divers, skilled geologists and all the factors needed to move the oil from under the sea to the gasoline station.

The price of all these goods and services would therefore rise—the process only stopping at the point where the cost of additional investment capital equalled the return expected on the investment. Therefore, in the absence of uncertainty and windfall chance, there would be little or no profit at all.

All in all, the case for singling out certain profits as unjustifiable windfalls and consequently subjecting them to disproportionately heavy taxation is thin to the point of invisibility. Insofar as it has any substance at all, it implies that the government has a duty to compensate people for windfall losses, notably those resulting from its own misguided interventions, and to restore to the community the windfall gains it has itself made from inflation with taxation.

But the specific argument for a windfall profits tax levied solely on the oil industry is simply a logical vacuum. It has no substance whatever.

If windfall profits exist throughout the economy either in undiluted form or, as I have argued, as an element in almost all incomes, what possible justification is there for singling out a particular class of taxpayer and exacting a levy from them alone? This is discriminatory and unjust—no different in principle from the Administration deciding to levy a higher rate of income tax on labor union members on the grounds that their union-negotiated wages contain a windfall element based on excluding non-union members from the factory.

Indeed, for the analogy to be absolutely precise, the extra tax would have to be limited to members of a particular union, selected merely because of its temporary political unpopularity. Even in such circumstances, a tax of that character would produce an outburst of protest. But, in part because businessmen shrink from political conflict and controversy, there is little concern publicly expressed at this manifest instance of injustice directed at the oil companies.

And what is the likely consequence of this discriminatory tax? At a time when investment in all forms of energy is imperative, potential investors have been warned to stay away from the oil industry. The proposed tax is a declaration that profits from oil will be treated not more favorably, but more harshly, than profits from all other industries and services. Since other industries use more energy than they produce, this amounts to a policy of investment incentives directed to creating and maintaining our energy shortage!

Much of the political momentum behind

the proposed tax, of course, comes from the feeling that it is somehow immoral for the oil companies to make large profits as a direct result of damaging actions by foreign governments and OPEC. Hence the demand that the companies should not "rip off the American people" and so on. But we are here in the presence of great rhetorical and logical confusion.

First, a congressman denounces the oil companies for their wickedness in making vast windfall profits and threatens them with the punishment of nationalization. It soon becomes clear even to him, however, that it is absurd to *blame* a company for the windfall accident of seeing its profits rise because foreign governments increase world oil prices. After all, what is a virtuous oil company to do in these circumstances? Is it supposed to pay a voluntary tax over and above the regular and corporate taxes? And if so, would not all citizens be equally obliged to pay voluntary taxes if they enjoyed some windfall gains—say, at the races? But a congressman at once sees the difficulty of explaining this at election time and so moves on to a new tack.

He denounces the oil companies for deliberate collusion with OPEC and each others in raising prices. Little hard evidence has been produced to support these dark suspicions. Which is not surprising since the oil industry's profits are not out of line with other industrial profits in the U.S. Over the period 1968–78, fully half of which includes the period since OPEC quintupled oil prices in 1973, the oil companies show a rate of return on capital of 13.7 per cent compared to a manufacturing average of 13.5 per cent. Those industries which have enjoyed much larger profits include broadcasting, publishing, soft drinks and cosmetics. And, if there were incontrovertible evidence that the oil giants were colluding with OPEC and each other, the government could take advantage of the laws in existence which prohibit such commercial arrangements. That it does not take this obvious step is surely an eloquent comment on the truth of its rhetorical accusations.

For a windfall profits tax is the worst possible response to a cartel. It amounts to accepting the cartel as a permanent economic fixture and tolerating the "rip-off" it enjoys from artificially high prices on the condition that the government gets a share of the swag.

Of course, *in the short term*, oil profits do rise when OPEC increases its prices. But an increase in profits for the suppliers (and potential suppliers) of a suddenly scarce commodity should be welcomed. Only when profits rise can companies amass the immense amounts of capital necessary for new exploration. Only then will outsiders be given the incentive to undertake the substantial costs of entering the oil business. So, the faster profits rise, the faster new oil will come into the market and the faster OPEC's stranglehold will be removed. A tax will hinder this beneficial process, either slowing down energy independence or making the consumer pay more for it.

In other words, it is Big Government which is ripping us off, not Big Oil.

There is another fundamental problem with the windfall oil profits tax—how is it to be calculated? Presumably it must be based on some estimate of the windfall element in oil profits (which, as we have already seen, is impossible to calculate). Sophisticated defenders of the notion and President Carter argue that it will be a levy on that part of the profits from deregulated oil prices that can be ascribed to OPEC's cartel activities. It will, so to speak, be a levy on the difference between the actual deregulated market price and the Platonic ideal of the market price as if OPEC had never been invented. But that can be no more than a guesstimate, an arbitrary figure plucked from the air, a gleam in President Carter's eye.

So, in practice, as compared to sophisticated theory, the tax will simply be a levy (of 50 per cent in President Carter's proposal, 60 per cent as passed by the House and goodness knows what in the end) on any rise in oil prices since President Carter spoke, without any fussy enquiries into whether the rise is due to cartel activity on market conditions.

In *Forty Centuries of Wage and Price Controls*, Robert Schuettinger and Eamonn Butler have surely exploded the myth that government enjoys a superior wisdom that enables it to second-guess the market successfully. The first results of this policy are shortages, queues and a flourishing black market. In this instance, the first result of holding down oil profits while prices are rising would be to cut the automatic link between higher prices and increases in supply. It would reduce the profits available for exploration and discourage entrepreneurs from embarking on the risky business of discovering new oil fields. New oil would be less profitable and so less likely to come into the market.

The second result would be to make existing known oil fields, which are on the margin of profitability, simply not worth exploiting. In recent years, the British have discovered that OPEC's raising of world oil prices has transformed just such marginal oil fields into handsome investments. By introducing a windfall profits tax on such fields, however, the U.S. government would achieve exactly the reverse. However high oil prices soared, the level of profits would be held down with the result that many oil fields worth developing at the then reigning price would be left pleasantly undisturbed. Thus, "old" oil would also be less likely to come into the market.

Who would benefit from this? Environmentalists would be pleased, of course, and those environmentalists living in warm climates would be pleased long-term. So would OPEC, since alternative oil, now theoretically profitable at prevailing world prices would not actually come into the market and reduce the world oil price by increasing supplies. But the American consumer would be actually worse off. He would be paying higher prices but still sitting in the gas lines which higher prices are usually allowed to banish. Demagogues, however, would flourish—denouncing oil companies for the shortages, caused by misguided government intervention, and demanding more government intervention to cure them.

Then, no doubt, we would have inflicted on us the secondary consequences of intervention in the market—namely, a growing bureaucracy, controls that extend to more and more features of economic life, increasingly severe penalties to enforce them, and, finally, the seizing up of the economic system—at which point the whole apparatus is removed and economic life can begin again. Ironically, President Carter's oil strategy contains some of these disasters built-in from the start—notably new bureaucracies in the form of the Energy Mobilization Corporation, with powers to override the objections of lesser bureaucracies and to disburse vast sums of public money on bright ideas about synthetic fuels and new sources of energy.

The more one examines President Carter's notion of using oil windfall profits to finance a new energy independence, the more illusory, nonsensical and self-destructive it appears. Of course, to advance the argument that two plus two equals four in the vicinity of the White House today is to risk being denounced as a tool of the big oil corporations. But the new McCarthyism of the anti-business culture should not prevent public men from declaring that nonsense is nonsense is nonsense. Nor should the present political unpopularity of the oil companies—an unpopularly based on economic illiteracy and scaremongering—allow us to treat them with manifest injustice. We should remember Chief Justice Jay's dictum: "Justice must always be the same, whether it is due from one man to a million men or from a million men to one man." ●

COMMUNICATOR OF THE YEAR AWARD TO SPEAKER TIP O'NEILL

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. PATTERSON. Mr. Speaker, on Friday, November 9, the Capitol Hill Toastmasters Club No. 1460 honored the Speaker of the House, the Honorable Thomas P. O'Neill, Jr., as its 1979 "Communicator of the Year."

In his gracious acceptance speech, the Speaker admitted he was not a polished public speaker in his early years of public life.

As a leader in the Massachusetts State Legislature at age 35, Tip was in demand to speak at a variety of testimonials around Boston. After accepting a date to speak to a group honoring a fellow Bostonian, he realized he didn't know a thing about the man, really did not care much about him, and approached the dinner with less than an enthusiastic attitude.

Fortunately, the legendary political boss of Boston, the eloquent James Curley, was on the program. When it was over, he took young O'Neill aside and asked him to come to breakfast at his home the next morning.

Tip entered the home, impressed with the elegance of the house, not knowing what was in store. Curley was about to share with him the secrets of his eloquence. He told Tip that there were 10 great poems and essays that were applicable to almost all situations, and if committed to memory, would be valuable aids in all future speeches.

I believe every Member can find both inspiration and practical benefit studying and using these 10 great passages from classical literature:

1. Polonius' famous address to his son, Laertes (from Shakespeare's Hamlet).
2. Selected Phrases by Oliver Goldsmith (book).
3. It Can Be Done by Edgar A. Guest (book).
4. "Abou Ben Adhem" by Leith Hunt (poem).
5. "Around the Corner" by Charles Hanson Towne (poem).
6. "If" by Rudyard Kipling (poem).
7. "Friendship" (from book of Essays by Emerson) by Ralph Waldo Emerson.
8. "Psalm of Life" by Henry Wadsworth Longfellow
9. "The Man in the Glass" (author unknown) (poem).
10. "Rules of the Road" by John Boyle O'Reilly (poem).

Toastmasters International is an organization devoted to improving its members' ability to express themselves clearly and concisely in public speaking; to develop their leadership and executive potential; and to achieve whatever self-development goals they may have set for themselves.

Toastmasters International is a non-profit educational organization with 3,680 clubs and 68,000 members, not only in the United States, but throughout the world.

I am proud of the fact that the headquarters for Toastmasters is located in my hometown, in Santa Ana, Calif. I have been a member of Toastmasters International for many years. The Capitol Hill Toastmasters Club meets twice a month in the Rayburn House Office Building. The meetings are open to guests and new members. For more information please contact Mr. John Pontius, the club's administrative vice president. He can be reached at 225-5425.●

AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS HOLDS FINAL MEETING OF 1979—HONORED BY ADDRESS GIVEN BY HON. NEIL BLANEY OF IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. BIAGGI. Mr. Speaker, as chairman of the 130 Member Ad Hoc Congressional Committee for Irish Affairs it was my distinct privilege and honor to convene our final meeting of 1979. Today at the meeting we had as our guest one of Ireland's most distinguished political leaders the Honorable Neil Blaney. Neil has served with distinction for 31 years as a national legislator in Parliament including 10 years as a Cabinet minister. In addition in 1979 he was elected to the European Parliament by a overwhelming mandate.

At this point in the RECORD, I wish to insert my opening statement as well as the address delivered by Mr. Blaney. I would also acknowledge the presence of my colleagues Mr. HANLEY, Mr. RANGEL, Mr. CONYERS, Ms. OAKAR, Mr. MCHUGH, Mr. SCHEUER, and Mr. GILMAN.

The article is as follows:

STATEMENT OF HON. NEIL BLANEY

Mr. Chairman, Members of Congress, I am pleased to be here today in the Capitol of the United States as a guest of the Irish National Caucus, which has done such great work in making human rights in Ireland an American issue.

I am also honored to appear before the distinguished Members of this Congressional Committee for Irish Affairs.

Speaking for the people of Ireland, I want to commend Chairman Mario Biaggi and all the Members of this Committee for your good work. I believe you can play a vital role in bringing a just peace to Ireland.

I especially want to commend you for your efforts to establish human rights in Ireland—particularly the basic human right of self-determination.

I'm sure there is little need to tell you of the enthusiasm and hope we in Ireland felt in learning of the introduction of House Concurrent Resolution 122 in the House of Representatives. If enacted, this Resolution which instructs the Congress of the United States to call upon the Government of Great Britain to embark upon a new initiative for Ireland that ends all violations of human rights and promotes self-determination, would provide a major break-through in the political stalemate which now exists in the English-Irish conflict.

That conflict has been a long, bitter and often bloody one. The real tragedy of this past decade lies not merely in the cold statistics of the dead and injured, but in the very real human suffering that exists this very day in Northern Ireland—and, sadly, in the refusal or inability of the governments involved to resolve the problem.

I have preached a single policy since the recent trouble first loomed on the horizon in Ireland in 1968—that policy was, and is, that Britain has only one realistic initiative open to her and that is to make a declaration of her intention to seek an honorable withdrawal from Ireland.

Because of that policy I broke in 1970 with the ruling Government Party—in which I had been a Cabinet Minister for 13 years. As a result, I was subjected to a campaign of misrepresentation aimed at discrediting my stand.

Today, after a toll of 2,300 dead, some 14,000 injured, more than 10,000 who have suffered imprisonment, torture and degradation for political offences, and a whole generation of our youth seared by the pain of it all, recent surveys show that my view is, in fact, not a minority one at all. These surveys reveal that 78 percent of the people of the Twenty-Six counties in Ireland and more than 50 percent of the public in Britain agree that British withdrawal is necessary.

Too often when discussing the Irish situation, otherwise intelligent men will talk only of the "violence"—never the "solution". Let there be no mistake. Violence, so long as the British stay, is inevitable. The Partition of Ireland was conceived in violence—under the threat by Britain of "immediate and terrible war" if the unnatural division of our country was not accepted. This Partition has been, is being and, perhaps most importantly, can only be maintained by violence.

I come before you, at the request of the Irish National Caucus, to talk about solutions.

Those who oppose the logicality of British withdrawal invariably do so on the basis that it would result in civil war. Being most logical, the answer to that is that the British should phase their withdrawal in order to allow us time for negotiation—with all Irish parties putting everything on the table for discussion, debate and, of course, concession. You need to remember that the people of Ireland have never been given this opportunity. The British presence has always precluded the convening of any all-Ireland discussion, despite the benefits that might be derived for all the people of our island.

I would see within six months—and certainly not more than one year from such a British declaration—the setting up of a "Central Executive", to which would be reserved control of security—through both the armed forces and police—and of foreign affairs for the whole of Ireland. That "Central Authority", in my opinion, should have an equal number of representatives from the Six and Twenty-Six Counties.

We come now to the crucial question of how Britain can be induced into declaring her intention to withdraw.

America, by reason of her ties with both Britain and Ireland, has an important and historic role to play. First in persuading the Westminster Government to make this morally just decision in regard to her oldest colony and, second, by assisting in the reconstruction that will be necessary once peace has been established.

President Carter has already made a generous offer of financial aid when peace is achieved. This is appreciated, but he must also recognize that America has a duty, because of her stated foreign policy on human rights, to insist on the basic human right of self-determination for the people of Ireland.

Because I believe in that commitment to the protection of human rights, and because I believe in the inherent justice and compassion of the American people, I welcome the invitation of the Irish National Caucus to come to your country to appeal to all Americans of good will to seek a commitment from their government—at every level—up to and including the United States Congress and the Presidency—to press the British Government to make this declaration to quit Ireland.

Others have come to tell the American people to do nothing—and to convince the American Government, indeed many of you present here today, that it is best to sustain and support the political vacuum they have created.

I come, both as an elected representative of a great number of Irish people and at the request, through the Irish National Caucus, of thousands of your constituents, to tell you and all of America that the people of my country do want and do need your support and your help in securing their full human rights.

The facts are clear. The problem in Ireland is political and, as such, demands a political solution. Your Government, by virtue of its posture in the world and its relationship with both Britain and Ireland, is in a unique position to effect positive political action.

I am appealing, in the name of the Irish people, to the United States Congress—to all America—to make 1980 The Year of Ireland. The year in which the people of this land, where the freedom of man was first enunciated, will help bring about an equitable end to the 900 years of conflict—the longest in the history of mankind—between the British and the Irish. In their name, I am asking you to help the people of Ireland share in the freedom you now enjoy.

In closing, I want to thank you again for the opportunity to address this Committee. I hope we can stay in close contact. Indeed it is my hope to be able to explore with Congressman Biaggi the possibility of establishing a formal liaison between the Ad Hoc Committee for Irish Affairs and the Parliamentary Group which I chair in the European Parliament. This group is comprised of eleven Independent Members from Italy, Denmark, Belgium and Ireland. I also hope that Congressman Biaggi will be able to come to Europe to address this group.

STATEMENT OF THE HONORABLE MARIO BIAGGI

Today the Ad Hoc Congressional Committee for Irish Affairs conducts its fourth and final meeting of 1979. In this year, our committee has been addressed by two most distinguished international figures from Ireland—the first was Sean MacBride, and today we will hear from the Honorable Neil Blaney, a noted member of both the Irish and European Parliaments.

As we review this year, we observe that from the Ad Hoc Committee standpoint, it has been a productive year. In the broad sense, we have raised the Irish issue from a position of relative obscurity to one which now enjoys national and international visibility. Also in this year, we have seen the growing influence of the Ad Hoc Committee within Congress as measured by our successful efforts which led to a suspension of United States arms sales to the Royal Ulster Constabulary. Finally, it was my personal honor as Chairman of this Committee to meet privately with President Carter to discuss Ireland.

Yet as we approach 1980, we realize that peace in Ireland remains unachieved. Even the necessary prerequisites for peace, namely the restoration of human and civil rights for all presently deprived and a declaration of intent by the British Government that they will at some point withdraw from Ulster, are only a tad closer to achievement.

We approach the coming year with guarded optimism. Our Committee's strongest efforts will be directed toward gaining House approval of H. Con. Res. 122, legislation which I introduced last May calling on the British Government to embark on a new peace initiative for Ireland. The legislation has 81 cosponsors at this point. We view the legislation as a positive catalyst which could hasten the progress toward a non-violent peace for Northern Ireland.

Today, as I have throughout my tenure as Chairman of this Committee, I restate my total opposition to violence in Ireland. I include not only civilian, but also official violence. Those in the news media who claim I am "soft" on violence make the claim because I refuse to accept the fact that violence in Ireland is one-sided. Official violence committed by the security forces of Great Britain and the Royal Ulster Constabulary was always denied and those of us raising the issue were scorned. Today official violence is no longer in issue. It is a confirmed fact.

The European Commission and Court of Human Rights found Britain guilty of inhumane treatment of prisoners and prison suspects. The British Government pleaded guilty to these charges. In 1978, the Nobel Prize-winning organization, Amnesty International cited the Royal Ulster Constabulary for similar acts of inhumane treatment. Perhaps the most meaningful of finds were those af the Bennett Commission, appointed by the British in an attempt to discredit the findings of Amnesty International. The Bennett Commission in fact confirmed the Amnesty charges.

The fact is, 1979 has seen a resurgence of violence in Ireland. I am most distressed over this development, especially the purely sectarian-based violence which has been at a lull for quite some time. The people of Northern Ireland are weary of violence and are seeking peace. Will their calls be answered?

Prime Minister Thatcher will meet with President Carter in Washington on December 17. We are mildly encouraged by her apparent interest in the Northern Ireland issue and feel a potential exists for real initiatives. Frankly, I do not consider her call for an Ulster peace conference to be particularly novel. I find it lacking on two grounds. The first is the limited scope of the participants. The four major political parties are by no means representative of all political thought in Northern Ireland. I have urged on repeated occasions that Mrs. Thatcher merely duplicate her sterling achievements in the Zimbabwe-Rhodesia peace talks. The key to their success was the inclusion of all parties, including guerilla organizations in the talks. She has emerged with an agreement which will hopefully include a cease fire.

The second major shortcoming of the Ulster peace conference are the topics of discussion. The people of Ireland are yearning for discussions of substantive issues related to the future of all Northern Ireland, not on minute discussions about local Belfast city administration. A number of worthwhile political solutions have been advanced on both sides of Ireland. They deserve discussion. The failure of substantive topics to be placed on the agenda was the precise reason that the important Social Democratic and Labor Party rejected the conference.

We urge the President to raise the Irish issue in his discussions with Prime Minister Thatcher. Specifically, we call on the President to express his concern about past and ongoing violations of human and civil rights and urge that the British Government embark on a new peace initiative for Northern Ireland.

Our Committee is deeply grateful for the support we enjoy in wide segments of the Irish-American community. We believe our cause is sound and rational. We believe that a close and honest examination of our record will find us foursquare in support of a nonviolent political solution in Ireland. The 1980's can and should be a decade of peace and justice for all the people of Ireland.●

MOBILE HOME RESIDENTS WORKSHOP

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. PATTERSON. Mr. Speaker, on Saturday, November 10, more than 250 mobile home residents from Orange County participated in a mobile home resident's workshop which I sponsored at the Westminster Community Center to show how mobile home living can move into the housing mainstream in a positive manner, and as a viable alternative to meet our need for affordable housing.

The workshop moderator was a mobile home advocate, Mr. Gil Hodges of Westminster. Mr. Hodges and other participants, including elected officials, agency representatives, and community leaders, focused on the importance and power of a mobile home resident's association to solve those problems endangering the mobile home lifestyle. The major problems addressed were tax and park fee increases, zoning, financing, and individual ownership rights. Effective resident associations can be formed by holding regular meetings, establishing goals, interacting with elected officials at all levels and utilizing the resources available through the Government and community agencies to keep abreast of current regulations.

In response to the overwhelming need for mobile home financial assistance Congress has already developed several programs to meet the needs of mobile home owners. Funding under the Housing and Urban Development section 8 program will be implemented in the near future. The maximum loan guarantees under both the FHA and VA programs have been increased resulting in 25 percent more loans to mobile homeowners this year. In addition, recently appropriated funding at the State level will make approximately $7.5 million available for housing assistance. As a member of both the Subcommittee on Housing and Community Development and on Financial Institutions, I shall continue my efforts to direct more equitable financial assistance to mobile home residents.

At the State level, legislation recently passed allowing certain mobile homes to be taxed as real property has resulted in significant tax savings. Numerous bills providing for tax savings for senior citizens, increased loans from savings and loan associations, and refunds on property not considered part of the mobile home unit have passed the State legislature.

Highlighting the workshop was the discussion on zoning codes and land use options and how the recent action taken by local government and resident associations can obtain mobile home subdivisions, own your own lots and permanent zoning. Many of the individual problems cited by the workshop attendees can be solved by one of these options if a strong resident's association is formed to actively seek such a solution.

Another major area of concern to the workshop participants deals with the rights of the mobile home owner. Mandatory mobile home improvement, limitations restricting the sale of mobile homes, and unfair eviction practices were the most commonly cited problems expressed by the workshop audience. Under Federal and State law, there is protection guaranteed to the mobile homeowners. In addition, there are a number of agencies which can be contacted for specific problems. Information regarding the basic rights of the mobile homeowner are found in the California Civil Code which is available through my office or that of your State representatives, State Senator Paul Carpenter or Assemblymen Chet Wray or Richard Robinson.

As the workshop concluded, a strong sense of commitment and direction by both the panelists and the audience to work more closely together was evident. Solving the critical problems of the 1,300,000 Californians who live in mobile homes will not be accomplished easily; it will require the organized efforts of these residents to join together and in an informed and unified manner work with Federal, State, and local officials to assure fair and equitable regulations to protect your lifestyle.●

WHO HURT AMERICAN YOUTH?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. MICHEL. Mr. Speaker, the Carnegie Council on Policy Studies in Higher Education has proposed sweeping changes in the way we educate our young people. The council suggests the creation of a National Youth Service Foundation, a National Education Fund and other proposals aimed at helping the 62.3 percent of young Americans not in school or college. It is estimated that the council's proposals, if fully implemented, would cost between $1½ to $2 billion.

The changes, reports the New York Times, "are aimed at making learning more palatable, and at easing the transition between education and work." The plans, one of which is to have compulsory schooling end at age 16, "are intended to help youths become responsible members of society at a time when increasing numbers of those not academically inclined are apparently being alienated."

This all sounds very interesting and I look forward to seeing the full report of the prestigious council. In the meantime, however, judging only by the report in the Times, it seems to me that once again we have what might be called the National Plan Syndrome at work. Whenever there is a problem—real or alleged—the big foundations and councils and other establishment think-tanks do an expensive study, come up with expensive proposals, and tell us there is a crisis. This latest study is in that not-so-grand tradition.

The council has put its finger on a real problem—the fate of American youth who do not go to college, or even finish high school, and are sometimes shuffled off to the side by school administrators. But American youth does not need billion-dollar Government programs. Perhaps innovative academics, former foundation executives looking for a new job or power-hungry Government bureaucrats need such programs. But what American youth needs is to be taken seriously. That is all.

Let us look at what it means to be taken seriously:

Instead of spending $500 million in new support from title I to teach basic skills in high school, we should be finding out why those skills are not being taught in elementary schools. If American children are not learning basic skills in elementary school, you are not doing them a favor by demanding that high-school teachers try to do what trained elementary teachers cannot. It is typical of the educational establishment in this country that, faced with undeniable evidence of their massive failure to do the most important job educators can do, that is, teach basic skills to the young, attention is shifted away from those responsible for the failure—teachers and "innovative" curriculum gurus—to "new directions" in education. Let us look at what is happening in the lower grades before we set up a two-track system of illiteracy.

If the educational establishment really wants to help children not going to college, it can begin by admitting that for the past 20 years or so it has been the establishment that neglected them. You can help these young boys and girls much more by establishing a minimum wage differential than by any number of Government schemes. But when have you ever seen any education group lobbying for such an amendment?

Young people who do not want to go to school need jobs. Jobs are created by a favorable climate for investment, a low inflation rate and a Federal Government which creates an atmosphere in which risk and its rewards are open to the businessman. All of the "youth service foundations" in the world are not going to change anything if Government and self-appointed consumer spokesmen persist in seeing business as evil, profits as the work of the devil and technological growth as bad for people. Yet it is precisely this "business-is bad" attitude that has resulted in the new "lost generation" of American youth.

Do you really want to help young Americans who need jobs? Then get the Government off their backs and let our economic system work. In the meantime, educators had better take care of their own responsibilities instead of telling everyone else how society should run.

At this time I wish to include in the RECORD, "Panel Proposes Broad Changes in Education and Job Preparation," by Gene I. Maeroff, from the New York Times, November 28, 1979:

PANEL PROPOSES BROAD CHANGES IN EDUCATION AND JOB PREPARATION

(By Gene I. Maeroff)

A series of sweeping changes in public education, to give young people, particularly those not bound for college, more options in the critical years from 16 to 21, was proposed yesterday by the Carnegie Council on Policy Studies in Higher Education.

The changes, aimed at making learning more palatable and at easing the transition between education and work, are intended to help youths become responsible members of society at a time when increasing numbers of those not academically inclined are apparently being alienated.

"Young people who are failing to learn how to function effectively in a democratic society present a problem to the entire society," says the 332-page report. "We all pay a price in terms of safety in our streets and our homes; in terms of heavy social costs for unemployment, law enforcement, and prisons; and in terms of the social malaise that stems in part from the recognition that we are not meeting the problems of many of our youth."

The report is filled with a sense of urgency arising out of the Carnegie Council's fear that, without drastic changes in schooling and job preparation, the nation is in danger of creating "a permanent underclass, a self-perpetuating culture of poverty, a substantial 'lumpen proletariat.' "

COUNCIL WILL SOON DISSOLVE

In the last decade, the Carnegie Council and its predecessor, the Carnegie Commission, have issued dozens of reports on higher education. The council, based in Berkeley, Calif., is a research arm of the nonprofit Carnegie Foundation for the Advancement of Teaching. The council, which is preparing to end its existence, is increasingly concerned about the 62.3 percent of youths not in school or college. The report directs interest toward a group that has been largely overlooked in the great period of higher education expansion that the council itself helped promote. These are the main proposals:

The end of compulsory schooling at the age of 16.

A National Youth Service Foundation to give young people who do not go to school or enter the work force or the military a chance to serve their communities.

A National Education Fund from which people could draw financial credits for schooling throughout their lives.

High school-level work-study programs based on the college model.

Federal incentives to move most vocational training out of high schools and into community colleges and job sites.

Increased attention to the teaching of basic skills in high school, with $500 million in new support from Title I of the Elementary and Secondary Education Act, which now is focused mostly on elementary schools.

The recommended changes would cost the Government $1.4 billion to $1.9 billion, but the report said that the cost would be offset by "reduced social costs."

"SERIOUS INEQUITIES" FOUND

The lack of sufficient attention to the needs of young people not bound for college has left them unfulfilled by school and ill-prepared for the job market, according to the report, entitled "Giving Youth a Better Chance: Options for Education and Work," which is being published by Jossey-Bass.

"There are serious inequities between the increasing resources devoted by our society to young people enrolled in higher education and the much less adequate resources allocated to those who do not enroll in college," states the report, which was released at the New York City headquarters of the Carnegie Corporation, the council's sponsor.

If adopted, the recommendations would make it easier for young people to drop out of school but there would be planned programs for them, and the schools would continue to monitor them.

Students who drop out without having shown they have mastered the basic skills would be referred for part-time instruction.

Those who remain in school would find it easier to get jobs, and though they may attend classes as few as three days a week, their schooling would concentrate on reading, writing and mathematics, as well as encouraging work habits that could contribute to long-range success.

FOCUS ON INNER CITIES

"There is more at stake than success in reducing the number of young people whose destiny otherwise is poverty," the report says. "The chronic truants and dropouts, especially in inner-city areas, are truly a 'lost generation.' "

Three-quarters of the nation's youth remain in high school long enough to get their diplomas, and one-half of those who graduate enter college. Statistics gathered by the United States Bureau of the Census showed in 1978 that only 37.7 percent of the 16-to-21 age group were enrolled in school or college.

Young people not wanting to pursue formal education would be able to join a large-scale youth service program similar to the Peace Corps or Vista. While in the youth service, they would get financial credits through a National Education Fund that would help them pay for future educational costs, as the G.I. Bill does for veterans.

Elimination of the "deadly" routine of school is one of the goals of the Carnegie Council, which envisions smaller high schools where young people would be motivated by specialized studies organized around such themes as business, music or aeronautics.

The mission of two-year community colleges would be enlarged to include much of the vocational education now offered in high schools. Furthermore, community colleges would take responsibility for maintaining a liaison with students in the two years after they leave high school, regardless of what the young people do with their lives.

In total, the Carnegie Council proposes a coordinated approach in which high schools, colleges, employers, a national youth service and the military cooperate to let youths shift back and forth, all the while gaining skills and experience to equip them for productive lives.●

1980 ELECTION YEAR MAILING RESTRICTIONS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. UDALL. Mr. Speaker, with the 1980 election year rapidly approaching, the House Commission on Congressional Mailing Standards wishes to remind Members of the House of the franking rules and regulations governing mass mailings by candidates prior to elections.

Generally, Members of the House seeking reelection are prohibited from sending franked mass mailings during the 60-day period immediately before the date of any public election (whether primary, general, special or runoff) in which such Member is a candidate.

Further, any Member who is a candidate for statewide public office may not frank mass mailings outside of the congressional district from which the Member was elected, beginning at the time the Member is certified for candidacy.

Members should insure that staff persons responsible for mass mailings are knowledgeable of State election laws as they affect mailing privileges during the period prior to primary and general election periods. Members' staff seeking advisory opinions from the Commission must certify that, to the best of their knowledge, the frankability of the proposed mailing is not adversely affected by applicable State election laws.

Mr. Speaker, I cannot emphasize strongly enough the importance of compliance with these regulations. I urge my colleagues to assure that their staffs are familiar with the law, rules of the House, and pertinent regulations and guidelines governing the proper use of the franking privilege.

The Commission staff is ready to assist in every possible way.

A detailed explanation of the mass mailing provisions, along with a listing of cutoff dates for the Congressional primaries in the various States, follows.

RULE XLVI—LIMITATIONS ON THE USE OF THE FRANK RULES OF THE HOUSE OF REPRESENTATIVES

Clause 6 provides, in the case of any Member, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is mailed less than 6 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member is a candidate for public office.

Clause 5 provides, in the case of any Representative in the House of Representatives, other than a Representative at Large, who is a candidate for any statewide public office, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is delivered to any address which is not located in the area constituting the congressional district from which any such individual was elected.

Mailings made through the facilities of the House distribution service (folding room) shall be deemed in compliance with this rule if such mailings are delivered to the House Folding Room not less than 62 days before the date of such election, with instructions for immediate dispatch.

DEFINITIONS

Mass mailings are defined by law [39 U.S.C. 3210(a)(5)(D)] as newsletters and other similar mailings of more than 500 pieces in which the content of the matter mailed is substantially identical. Mail matter is deemed to be a mass mailing when the total number of pieces exceeds 500, whether in a single mailing or in cumulative mailings during the 60-day period.

Candidate for election or reelection to the House of Representatives: For purposes of the subject statutes, House Rule XLVI and the regulations, a Member of or a Member-elect to the House of Representatives is deemed to be candidate for public office at any election if his or her name appears anywhere on any official ballot to be used in a public election.

Candidate for statewide public office: For the purpose of House Rule XLVI, "statewide public office" means any State or Federal office, other than a U.S. Representative at Large, for which the candidate would be elected by a majority of votes cast throughout the State. (Examples: President, Governor, U.S. Senator, State supreme court justice, State senator at large, assemblyman at large, et cetera.) "Candidate" means a Member who has qualified, under State law, for the official ballot in a primary, runoff, special, or general election, or who has been certified for candidacy by an appropriate State election official.

EXCEPTIONS

The subject statutes, rules, and regulations provide three exceptions to the mass mail prohibition prior to elections, as follows:

First. Mailings which are in direct response to inquiries or requests from the persons to whom the matter is mailed;

Second. Mailings to colleagues in Congress or to government officials (whether Federal, State, or local); and

Third. Mailings of news releases to the communications media.

The Commission believes the last two exceptions are self-explanatory.

In application of the first exception, the Commission stresses the phrase "direct response to inquiries or requests." Therefore, response to a signed petition with a form or identical letter individually addressed to each of the signers of the petition is frankable. However, a follow-up letter to the same list of petitioners is not frankable under this section in that it would not be in direct response to an inquiry.

Similarly, followup letters to persons who had previously written and had been answered on a particular subject, if such letters by their form and volume constitute a mass mailing, are not frankable during the 60-day period prior to elections. Also, requests for questionnaire results or other material, when solicited by Members on questionnaire forms or newsletters, are not deemed to be in direct response to an inquiry or request.

The above restrictions on mass mailings by candidates do not apply to mass mailings by the chairman of any standing, select, joint or other official committee of the Congress, or subcommittee thereof, and which relate to the normal business of the committee.

TIME OF MAILING

Processing by a postal facility: Mass mailings as defined under clause 6, House Rule XLVI, may not be mailed as franked mail by a Member of or a Member-elect to the House of Representatives when the same is mailed at or delivered to any postal facility other than the Publications Distribution Service of the House of Representatives, hereinafter referred to as the House Folding Room, less than 60 days immediately before the date of any primary or general election, whether regular, special, or runoff, in which such Member or Member-elect is a candidate for any public office.

Processing by the House Folding Room: Such mass mailings, if processed through the House Folding Room, shall be deemed to be in compliance with the subject rule and these regulations, if delivered to the House Folding Room, with instructions for immediate dispatch, not less than 62 days immediately before the date of any such election. In the case of mass mailings delivered to the House Folding Room prior to the 62-day cutoff period, the requirement of instructions for "immediate dispatch" may be modified to the extent that instructions are given for delivery of the mailing to the addressee not later than the 60th day immediately before the date of such election. The House Folding Room shall issue a receipt, which shall specify the date and time of delivery and a brief description of the matter to be processed, to the Member at the time he or she delivers such mass mailings to the House Folding Room.

1980 CONGRESSIONAL PRIMARY DATES

State	Primary date	60-day cutoff (postal facility)	62-day cutoff (folding room)
Illinois	Mar. 18	Jan. 18	Jan. 16.
Pennsylvania	Apr. 22	Feb. 22	Feb. 20.
Texas	May 3	Mar. 4	Mar. 2.
Indiana	May 6	Mar. 7	Mar. 5.
North Carolina	do	do	Do.
Tennessee	do	do	Do.
Washington, D.C	do	do	Do.
Maryland	May 13	Mar. 14	Mar. 12.
Nebraska	do	do	Do.
Oregon	May 20	Mar. 21	Mar. 19.
Arkansas	May 27	Mar. 28	Mar. 26.
Idaho	do	do	Do.
Kentucky	do	do	Do.
California	June 3	Apr. 4	Apr. 2.
Iowa	do	do	Do.
Mississippi	do	do	Do.
Montana	do	do	Do.
New Jersey	do	do	Do.
New Mexico	do	do	Do.
Ohio	do	do	Do.
South Dakota	do	do	Do.
West Virginia	do	do	Do.
Maine	June 10	Apr. 11	Apr. 9.
South Carolina	do	do	Do.
Virginia	do	do	Do.
Kansas	Aug. 5	June 6	June 4.
Michigan	do	do	Do.
Missouri	do	do	Do.
Georgia	Aug. 12	June 13	June 11.
Alaska	Aug. 26	June 27	June 25.
Oklahoma	do	do	Do.
Alabama	Sept. 2	July 4	July 2.
North Dakota	do	do	Do.
Delaware	Sept. 6	July 8	July 6.
Guam	do	do	Do.
Arizona	Sept. 9	July 11	July 9.
Colorado	do	do	Do.
Connecticut	do	do	Do.
Florida	do	do	Do.
Minnesota	do	do	Do.
Nevada	do	do	Do.
New Hampshire	do	do	Do.
New York	do	do	Do.
Rhode Island	do	do	Do.
Utah	do	do	Do.
Vermont	do	do	Do.
Virgin Islands	do	do	Do.
Wisconsin	do	do	Do.
Wyoming	do	do	Do.
Massachusetts	Sept. 16	July 18	July 16.
Washington	do	do	Do.
Hawaii	Sept. 20	July 22	July 20.
Louisiana	do	do	Do.

1980 GENERAL ELECTION

Date	60-day cutoff (postal facility)	62-day cutoff (folding room)
Nov. 4	Sept. 5	Sept. 3

Note: The 60-day and 62-day cutoff regulations also apply to runoff elections in which the Member is a candidate. ●

CARTER'S OPTIONS IN IRAN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. DERWINSKI. Mr. Speaker, the lawless action of the Iranian radicals in occupying the U.S. Embassy in Teheran and the holding of American hostages has been delicately handled by our Government. In dealing with the fanatical group in control of that country, we need national unity, resolve, and the patience to last out the confrontation. After the hoped-for successful end to the hostage situation, at that time we should reappraise the economic and diplomatic moves that must be applied against the radical elements that rule Iran.

Therefore, I was very impressed with an editorial in the Chicago Sun-Times of December 3, which discusses the practical and necessarily prudent actions that the United States must consider in efforts to preserve the safe release of all the hostages. The editorial follows:

CARTER'S OPTIONS IN IRAN

(NOTE.—No act has so galvanized the American public toward unity in the last decade as has the holding of our people as hostages in Iran.—President Carter)

This much is admirable—national unity in the face of danger. But beneath the consensus flows an undercurrent of rage, pumped up by years of U.S. frustrations abroad—a rage that compels some to demand military retaliation against the malevolent Iranians who have trod on our honor. That's emotion, not reason. It can be hazardous to our national health and the well-being of our friends and allies, and it should be contained.

Carter so far is confronting the crisis with measured firmness, aiming for "actions that clarify the real issues, reduce the likelihood of violence, protect our interests and ensure justice." That's the reasoned way.

The idea of a military rescue of the hostages was scrapped because it would threaten their lives. But military assault remains one of Carter's options if the hostages are harmed or, if they are freed, to revalidate international law that protects foreign missions and to dissuade others from attacking our missions in the future.

It could even come to war. At his press conference last week, Carter was asked, "Is war thinkable?" He did not say, "No." Unreasoning hawks might nod approvingly at that. But the rest of us should be struck dumb by the possibility.

Consider oil alone. Iran's means little to us, but it is the lifeblood of our friends. Japan gets 40 percent of its needs from Iran. Sink some ships in the Hormuz Strait, the narrow artery out of the Persian Gulf shared by Iran and the Arabian Peninsula, and the non-Communist world would lose 60 per cent—sixty percent—of its oil, and we would lose 20 per cent of ours.

Beyond oil is the Soviet Union, which has a long common border with Iran. Would the Soviets sit still with U.S. troops there? Did we sit still when a single Soviet combat brigade was detected in Cuba?

Yes, there are options short of an engaged war. Bomb the oil fields? Ridiculous, for the reasons mentioned. Bomb the holy city of Qom? Grotesque. OK then, a naval blockade of Iran. And cut off our allies' oil?

Among the more viable options, we could bomb Iran's airfields and other military installations and/or impose a selective blockade or economic embargo to choke off the flow of food and other necessities to Iran.

But such measures are likely to consolidate the support of Iranians for the despised regime of Ayatollah Ruhollah Khomeini. Worse, they could ignite—on a broadly destructive scale—the anti-Americanism that festers in other Islamic states. The sacking of our embassy in Pakistan and the weekend's Moslem rioting elsewhere were but small samples.

The autocratic sheikhs of the Persian Gulf states—Saudi Arabia, Kuwait, the United Arab Emirates, Qatar, Bahrain and Oman—are nervously praying that the United States will not inflame their subjects into violence that eventually could be turned against them. Khomeini is a hero to many Arabs, and he is exhorting them by radio to rise against "the oppressors of the people" as well as against "the satanic United States."

This is not an argument for appeasing Khomeini and his mobs. It's a simple statement that Carter's options are limited and that each carries risks.

Americans, then, should restrain the impulse to strike out blindly in an effort to retrieve national honor. Honor also lies in a peaceable defense of principle. In that we have the civilized world's respect. Khomeini has its opprobrium.●

DO NOT HOBBLE THE FTC

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. DRINAN. Mr. Speaker, last week the House of Representatives approved H.R. 2313 which reauthorizes the operations of the Federal Trade Commission (FTC). This measure includes a legislative veto provision which would allow either the House or the Senate to reverse the regulatory actions of the FTC.

As I have noted previously, I believe there are serious constitutional objections to the general concept of the "legislative veto." Whatever the merits of that view, there should be little doubt that the imposition of a legislative veto on the FTC would, in the words of the Christian Science Monitor, "make a mockery of the agency's very purpose."

Mr. Speaker, if the legislative veto is retained through conference, I will urge the President to veto this legislation.

For the benefit of my colleagues, I ask that the full text of the Christian Science Monitor's editorial be included at this point in the RECORD:

[From the Christian Science Monitor, Nov. 29, 1979]

DON'T HOBBLE THE FTC

There is little disagreement these days that government regulation of business has in many cases exceeded the bounds of reasonableness. But it would be unfortunate if business groups self-servingly exploited the "anti-big government" mood to undermine those aspects of government rule-making which serve the interests of the American consumer. They threaten to do so now in their assault on the Federal Trade Commission, the independent federal agency charged with combatting unfair and deceptive practices in the marketplace.

The House of Representatives has approved legislation which would allow either the House or the Senate to veto FTC trade rules and impose other restraints on the agency. The measure ought to be resisted. If it is not, the authority of the FTC will be severely hobbled. How is it possible to have an "independent" agency and one acting vigorously if every decision is subject to a legislative veto? That would make a mockery of the agency's very purpose.

This is not to say the FTC is above criticism. Even Michael Pertschuk, chairman of the commission, admits that some of the proposed FTC rules have not been well thought out and that the agency's economic analyses and remedies have fallen short of the mark. Other advocates similarly cite an overzealousness in carrying out the FTC's congressional mandate.

But it is ironic that Congress wants to penalize the FTC for doing what it was ordered to do. Four years ago, in order to eliminate the ineffective practice of piecemeal enforcement, which was unfair to consumers and business alike. Congress gave the FTC new powers to write rules applying not just to one company but to everyone equally within a given industry. The FTC responded with zest.

Stricter congressional oversight of the FTC appears needed in the aftermath of the 1975 legislation granting the agency more authority. Certainly someone ought to be watching out for unenforceable FTC rules or regulations entailing undue record-keeping and expense. But the one-house veto proposal in particular would be a caving in to the over-the-counter drug companies, used car dealers, funeral parlors, and other businesses riding the current wave of "anti-bureaucracy, anti-government" sentiment in the country. It would swing the anti-regulation pendulum too far. In the words of Senator Howard Metzenbaum:

"This action, if successful, will say to the FTC, 'Leave the monopolies alone, forget the price gougers, never mind the misleading advertising . . . go back into your shell and leave the American people to their own devices.' "

The legitimate concern of many is that the one-chamber legislative veto, if adopted, could later be extended to other regulatory agencies, such as the Environmental Protection Agency and the Occupational Safety and Health Administration. We hardly think the American people would elect to weaken these independent federal bodies, which for all their faults continue to make the marketplace safer, fairer, and more honest.●

REAL ESTATE TAX

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. FISHER. Mr. Speaker, a section-by-section analysis of legislation to tax the gain from the sale of U.S. real estate owned by nonresident aliens and foreign corporations:

Section 1. Short Title.

This Act may be referred to as the Foreign Investment in Real Estate Tax Act of 1979.

Section 2. Amendment to the 1954 Code.

Unless otherwise indicated, this Act amends the Internal Revenue Act of 1954.

Section 3. Tax on Nonresident Alien Individuals.

A nonresident alien individual who realizes a gain or loss during a taxable year which is attributable to the disposition of a United States real property interest (as defined in Section 5 of this Act) shall be treated, for tax purposes, as being engaged during that taxable year in a trade or business within the United States. As a result, this nonresident alien individual will be taxed on this U.S. source income in the same manner and at the same rates as U.S. persons.

The gain or loss which is realized as a result of the disposition of a United States real property interest by a nonresident alien shall be treated, for tax purposes, as being effectively connected with the conduct of a trade or business within the United States.

As such, the gain or loss will be treated as gross income for the purpose of determining taxable income.

Section 4. Tax on Foreign Corporations.

A foreign corporation which realizes gain or loss attributable to the disposition of a United States real property interest shall be treated, for tax purposes, as being engaged during the taxable year in a trade or business within the United States.

As such, this corporation will be taxed on this U.S. source income in the same manner and at the same rates as U.S. corporations.

The gain or loss which is realized as a result of disposition of a United States real property interest by a foreign corporation shall be treated, for tax purposes, as being effectively connected with the conduct of a trade or business within the United States.

As such, the gain or loss will be treated as gross income for the purpose of determining taxable income.

Section 5. Definitions Related To United States Real Property Interests.

A United States real property interest is defined as 1) an interest in real property located in the United States ("interest in real property" is defined later on in this section); 2) stock in a corporation which is a United States real property holding organization in a current taxable year or was such an organization in any of the preceding five taxable years ("real property holding organization" is defined later on in this section); 3) an interest in a partnership or trust which is or was a U.S. real property holding organization as described in subsection "2)" above.

An "interest in real property" includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon. However, a United States real property interest does not include an interest in real property which is used in a trade or business, unless the property is used primarily for the production of 1) rentals from real property; or 2) income from farming; or 3) gain from a sale of a United States real property interest.

A "United States Real Property Holding Organization" is defined as a domestic or foreign corporation, partnership, or trust in which for any time during the taxable year a controlling interest is held by a or for ten or fewer persons and of which United States real property interests constituted more than 50 percent of the fair market value of the assets of the organization.

In determining the assets of the United States real property holding organization for the purposes of this section, the following which are in excess of a reasonable amount of working capital are excluded: cash, deposits with persons carrying on the banking business, deposit or withdrawal accounts with savings institutions, amounts held by insurance companies with an agreement to pay interest on them, marketable securities or other assets which are readily marketable.

In determining the assets of the United States real property holding organization for the purposes of this section, when a corporation, partnership or trust is a controlling owner of any controlled organization, then any property (such as stock) which constitutes an equity interest in the organization is not considered an asset. However, the assets of the organization shall include the pro rata share of those assets of the organization which are attributable to this equity interest owned by the controlling owner.

For the purposes of this section, a controlling interest by one corporation, partnership or trust in another such entity is defined as direct or indirect ownership of 50 percent or more of the total combined voting power of all classes of stock if such an entity is a corporation, or 50 percent or more of the fair market value of all classes of stock outstanding, or 50 percent or more of the fair market value of the capital or profits interest if such an entity is a partnership or trust.

For the purpose of determining ownership interests in a United States real property holding company, ownership is defined to include direct and indirect owners, and actual and constructive owners.

For the purpose of this section, outstanding securities convertible into stock shall be considered outstanding stock if that is necessary to make the corporation a United States real property holding organization.

Section 6. Withholding of Tax on Dispositions of United States Real Property Interests.

As a general rule, any person who acquires a U.S. real property interest from a nonresident alien individual or from a foreign corporation, partnership, trust or estate shall deduct from the amount involved in the sale, exchange or other disposition of the interest 28 percent and shall withhold it for tax collection purposes.

Special rules are provided relating to certain partnerships in trusts.

This general withholding rule shall not apply if the person disposing of the U.S. real property interest provides the person acquiring the interest with a certificate stating (a) that the transferor is a United States citizen or resident or a domestic corporation, partnership, trust or estate, or (b) that the Secretary of the Treasury has reached an agreement with the transferor on the payment and collection on any taxes owed by the transferor resulting from the transaction, or (c) that the Secretary has determined that the transferor is exempt from taxation due to a tax treaty. The general withholding rule will also not apply if the acquisition of stock in a corporation is effected through the medium of an organized securities exchange. Finally, the withholding rule will not apply to transactions involving a single family residence where the disposition involves less than $150,000.

This agreement reached by the transferor of the interest and the Secretary as to payment of the tax for the purpose of avoiding the withholding requirement is not a final determination of the seller's tax liability and shall not relieve an individual of the obligation to file a return.

The exemption from withholding provided for in this section is invalid if the buyer is aware that the certificate, which is required for the exemption, is false or fraudulent.

Section 7. Return of United States Real Property Holding Organization.

A United States real property holding organization in which stock or a capital or profits interest is owned by a non-United States person (as the tax code defines "person") for any time during that taxable year must file a return for that taxable year which may include such information as the Secretary may require as to the ownership by all persons of stock or a capital or profits interest in the organization for the taxable year. The Secretary shall publish not less than twice a year the name and place of organization of all corporations, partnerships and trusts which have filed returns under this section for not more than the previous two taxable years.

Section 8. Penalty for Failure of U.S. Real Property Holding Organization to File a Return.

Those organizations which are required to file returns under Section 7 of this Act, and which fail to do so without reasonable cause, shall be subject to a fine not to exceed $25,000 a year.

Section 9. Inclusion for Estate and Gift Tax Purposes.

United States real property interests which are subject to a tax under this legislation, will be so subject, regardless of the tax laws imposing estate and gift taxes.

Section 10. Tax on Dispositions of U.S. Real Property Interests.

Nonresident aliens and foreign corporations shall be allowed tax credits for the amount of the tax imposed by this Act which was withheld at the time of the transaction.

Section 11. Sources Within the United States.

The sale, exchange or other disposition of a United States real property interest shall be treated as income from sources within the United States.

Section 12. Income Exempt Under Treaty.

Tax treaties which would exempt transactions from the tax imposed by this bill would be overridden by this Act for taxable years after December 31, 1984.

Section 13. Amounts Treated As Overpayments.

The tax credit in Section 10 is refundable if it exceeds the amount of taxes owed.

Section 14. Effectively Connected Income. Conforming Amendment.

Section 15. Restrictions on Examination of Taxpayers.

An inspection of the taxpayers books for the purposes of the withholding provision of Section 6 is not considered an inspection for purposes of the section of the tax code which limits the IRS to generally one inspection per taxable year of a taxpayer's books.●

ISRAEL'S MOMENT OF TRUTH

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Ms. HOLTZMAN. Mr. Speaker, international law and commitments between nations are being violated with great impunity these days. So it is especially important to note that Israel, at great risk to its security, has not hesitated to honor its commitment under the Camp David treaty to relinquish the Sinai oil fields to Egypt.

It would have been understandable for Israel to have hesitated. The commitment to give up the Sinai fields, Israel's only domestic source of oil, was made at a time when Israel believed that Iran would continue to be a reliable source. But Iran has since cut off all oil to Israel. Relinquishing the Sinai fields leaves Israel entirely at the mercy of increasingly insecure and increasingly costly foreign oil supplies.

In an editorial on November 29, the Washington Post praised Israel for the courage and deep commitment to peace implicit in its ceding of the Sinai fields. I commend that editorial to my colleagues attention.

The text of the editorial follows:

ISRAEL'S MOMENT OF TRUTH ON OIL

The Israelis have just done something truly amazing and commendable. At a moment when every other nation in the world is going bananas looking for ways to reduce dependence on foreign sources of energy, the Israelis have voluntarily abandoned the one source of oil under their control. The big Alma oil field in the Sinai, which they developed and brought into production to supply 20 percent of their needs, was quietly returned to Egypt as scheduled under the terms of the Israeli-Egyptian peace treaty. A little solar energy aside, Israel is now completely at the mercy of others for its energy supplies. Its debt is already murderous; the new step will raise its energy bill by perhaps a half billion dollars a year.

Israel has never had easy going in energy. It has yet to find significant resources on its own soil. It has never been able to buy oil from Arab producers. The change of regime in Iran cut it off from its longtime principal source. Only one country, Mexico, now openly sells oil to Israel, which must otherwise deal with sources or middlemen that might halt the business—not, after all, a very large business—if it were publicized. Israel has a commitment from Egypt to sell a certain amount of oil at (for the first year only) a certain price, but this commitment can be no firmer than the overall state of Israeli-Egyptian relations and there are high hurdles—specifically, the Polestinian question—just a short distance down the road. The United States has undertaken to be Israel's supplier of last resort for a period of years, but that, too, involves political costs.

Prime Minister Menachem Begin is harshly criticized by some Israelis for accepting a peace treaty requiring the yielding of the oil wells. They say he is inviting an about-face by Cairo once a bit more of the Sinai, including some important passes, is returned. For what are, after all, gestures to Israel that an Egyptian leader could reverse overnight, Israel is giving up elements of the most tangible sort; territory, military bases and position, towns and farm communities housing 10,000 people, and now oil. This criticism, it should be added, reflects anxieties shared in greater or lesser measures by almost every Israeli.

Mr. Begin does not deny there is a risk. He says, correctly and courageously, it's a risk worth taking. Whatever may be said about his approach to the Palestinians, he deserves high respect for making good on his peace treaty with Egypt. The most notable proof of his conviction so far is perhaps that as the moment of truth on oil arrived, he did not flinch.●

MASS TRANSPORTATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. AuCOIN. Mr. Speaker, with the sure future we all face of restricted petroleum supplies, no one can ignore the imperative of mass transit. Now is the time to weigh the choices before us, choices of mass transit systems that will move people and that are cost-efficient, choices of systems that service our mobile populations nationwide.

The following article I am inserting into the RECORD today comes from the November issue of Nation's Business. I urge my colleagues and anyone remotely concerned about transportation to read it carefully. The author, John Jennrich, offers some necessary questions in this discussion of future transportation alternatives: are private and public efforts compatible in fostering the growth of mass transit? What adjustments will we face in adapting to new technologies? What alternatives seem the most efficient and the most preferred for passenger travel, for cargo shipping, and for population changes?

While the answers cannot be contained by one article, I believe this piece can initiate creative solutions—solutions we all need and to which we can all contribute.

The article follows:

TRANSPORTATION 2000: HOW AMERICA WILL MOVE ITS PEOPLE AND PRODUCTS

(By John H. Jennrich)

How will Americans get where they're going in the year 2000?

The federal government has spent $5 million over two years to find out. The answer: Not much differently than they do today.

There will be some changes in the ways America moves its people and its products, but very little of the futuristic transportation found in science fiction novels will materialize. The nation will still run on wheels, wings, tracks, and water. The primary changes will be in fuels—more diesel and synthetic gasoline—and in transportation costs.

The government's report, prepared by the National Transportation Policy Study Commission, forecasts a capital investment of $4 trillion between now and 2000 to keep a growing America moving. Rep. Bud Shuster (R.-Pa.), commission chairman, warns that the "world's best transportation system is in danger" because it may not be able to meet future needs.

"The present level of public and private investment will not preserve the existing system," he says. "The demand for transportation will grow dramatically, outdistancing the rate of population growth by nine times for freight and four times for passengers. Government over-regulation is inhibiting the return on investment necessary to attract capital for future growth."

Rep. Shuster's pessimistic alarm is echoed by Peter G. Koltnow, chairman of the Transportation Research Board, an arm of the National Academy of Sciences. He thinks the nation's highway system is living on borrowed time.

"The gap between highway needs and expenditures will grow substantially by 2000 unless our national transportation priorities are changed," he says. "Federal, state, and local governments are all going to have to deal with deteriorating highways.

"The report of the National Transportation Policy Study Commission shows that if we want a better system or even the status quo in the years ahead, we are already behind schedule in preparing for it," adds Mr. Koltnow, who is also president of the Highway Users Federation. "Although the public has come to expect a good road system, the report clearly shows that we are in danger of losing it."

OPTIMISTIC ABOUT IMPACT

The commission's deputy executive director, John W. Fuller, is optimistic about the report's impact. He says it describes "moderate ways to make incremental changes." One or more congressional bills will result from the report, he predicts. Even with the big aggregate numbers, the cost of transportation as a percentage of family and national budgets is expected to decline.

But, Dr. Fuller adds, even if all the changes sought by Rep. Shuster and the other commissioners do not occur, America's transportation system will still operate. "It just won't be as efficient," he says.

Nevertheless, efficiencies in a system that costs trillions of dollars can amount to real savings, and everyone in the transportation field agrees that there are problems with efficiency.

The report lists about 80 recommendations to make the present system more efficient. These suggestions can be grouped under four themes.

An overall reduction in federal involvement. The commission feels that the government should do less itself and restrain business less. Its conclusion: "For most transportation issues, public interest and private profit are consistent rather than opposed."

Uniform national policy. While the same policy will not work for each transportation issue, "policies should not work at cross-purposes," the commission says.

Economic analysis of proposed federal actions. The government should know what a project will cost before it begins. Also, the cost benefits of alternatives should be available. Economic analysis should be applied to nontransportation goals such as environmental protection, safety, energy conservation, and national defense. For safety and research, federal involvement, including financial assistance, is required.

Support from system users. "Free markets operate on the principle that those who benefit must pay for the costs," says the commission, which excludes urban and rural transit systems and air traffic control. These exceptions benefit the public generally, it says, and should be subsidized through taxes.

Underlying the recommendations is a complex, three-part forecast of trends and demographics that will affect transportation decisions of most businesses in the future.

The commission included low, medium, and high-growth scenarios, but generally used a medium-growth analysis. The report covers urban, rural, and intercity transportation of both freight and passengers. Its base year is 1975.

The transportation system over the next two decades shapes up like this:

Personal travel was 2.6 trillion miles in 1975 and will grow to 4.6 trillion miles in 2000. People will depend primarily on automobiles, although airlines will carry more long-distance travelers and by 2000 burn more fuel than cars. Despite increases in mass transit, traffic jams and urban congestion will survive. Highway fatalities will increase from 46,000 in 1975 to 67,000 in 2000, although the number of deaths per 100 million vehicles miles will go down.

Trucks, railroads, ships, barges, and pipelines will be the freight carriers. Railroads and ships will increase their market share. Freight hauling accounted for 2.4 trillion ton-miles in 1975; by 2000, it should reach 6.3 trillion.

America will still run predominantly on oil, although synthetic and other fuels will be used. The wellhead price of domestic crude oil, assuming deregulation, will rise 59 percent in constant dollars between 1975 and 2000. Domestic production will continue to decline until 1985 and then increase gradually. Demand will exceed domestic supply and until 1990 will be met through increased imports.

By the 1990s, synthetic crude oil will represent 20 percent of all crude oil available to refineries. Of the synthetic crude, 78 percent will be from coal.

Because of increased mining in the West, three times today's volume of coal will be moved twice its average distance, for a sixfold increase in ton-miles. The increase will mean that more energy will be spent in transporting energy.

Sufficient petroleum-based fuels can be made available for transportation only if all domestic energy resources are exploited, including solar, nuclear oil shale, tar sands, and coal liquefaction, the commission says.

Capital investment in transportation will equal $4.2 trillion between 1975 and 2000, with $1.2 trillion of that from various levels of government. While these are big numbers, the cost burden is actually decreasing. In 1975, the total transportation bill was 21.1 percent of gross national product. By 2000, it should decline to 19.8 percent.

In 1975, the cost of passenger transportation as a percentage of disposable income per capita was 17.6 percent. By 2000, with increases in real income, this will have dropped to 13.2 percent.

Gross national product will be nearly $3.6 trillion in 2000, or 2.35 times 1975 GNP. There will be 260 million Americans living in 104 million households, up from 214 million

Americans in 71 million households in 1975. Disposable personal income per capita will grow to $9,826, nearly double that of 1975, leaving more money available for traveling and transportation costs.

GROWTH PREDICTIONS

The commission predicts that average income will rise faster than the cost of owning and operating a car, that demographics will show a shift toward more and smaller households, and that the average age will continue rising, with more people reaching driving age.

In urban areas, where 75 to 80 percent of Americans live, passenger trips will grow steadily from 359.4 million in 1975 to 462.7 million in 2000. These trips account for about one third of all travel miles throughout the country.

About seven percent of the urban trips will be in mass transit vehicles, which will average about the same or slightly below the percentage in 1975. Only in cities with a million-plus people is transit ridership expected to rise.

OPTIMISTIC ESTIMATES

One of the hazards of forecasting transportation trends shows up in the urban mass transit figures. The commission report predicts that from 1975 to 2000 bus seat-miles will grow from 232.6 million to 433.9 million. During the same time, rail (subway, light rail or trolley, and commuter rail) will grow from 172.7 million seat-miles to 437.4 million, more than doubling in 25 years.

Arthur L. Webster II, the commission's director for policy integration, says: "These estimates are probably very optimistic." Although data for the prediction were obtained in June, 1978, rail service was bullish in 1978, he says. Ridership has not kept up with seat-miles, and high expenses tend to favor expansion of bus service over subways, Mr. Webster adds.

Mass transit will play a big role during rush hours, but the dominant vehicle for urban travel will still be the passenger vehicle, whether it be a car, truck, or van. While the number of highways increases moderately, and the number of freeway lanes increases faster, there will also be a big jump in the number of urban passenger vehicles, rising from 53.8 million in 1975 to 100.1 million in 2000.

Fuel consumption in 2000, assuming greater use of diesel-powered vehicles, is expected to drop below 1975 levels.

AUTO AND AIR DOMINATE

Some of the greatest changes will take place in intercity passenger movement. Measured in total passenger-miles, airlines will increase their share tremendously, bus and rail will decline from their already tiny fractions, and autos will decline slightly. Auto travel will still be nearly four times greater than air travel.

The commission report says: "While all modes exhibit absolute growth, auto and air clearly dominate, accounting for more than 97 percent of all intercity travel. The most significant shift is from auto to air, which grows at the highest rate.

"As income rises, the value of time rises, and air travel becomes more desirable because of its speed," the report adds.

Although both aircraft and cars will become more fuel efficient, planes use more energy per passenger-mile than cars. With the shift toward air travel, fuel use is expected to rise. Indeed, says the commission, "by 2000, planes may replace the auto as the dominant user of energy for intercity travel."

INTERSTATE SYSTEM

Cars today travel on 3.87 million miles of roads. Most intercity travel occurs on about 20 percent of that, and about 20 percent of all travel is on one percent of the roads, the nearly completed 42,500-mile Interstate Highway System. In 1975, autos accounted for 1,123 billion intercity passenger-miles, or about 86.3 percent of the total. In 2000, autos will account for 1,830 billion passenger-miles, or about 78.2 percent of the projected total of 2,340 billion. By 1985, smaller autos will lose ground to medium-sized autos, a trend that will continue to 2000.

However, Eugene Bordinat, Jr., vice president-design for the Ford Motor Co., believes that government regulations will force automakers to produce a lightweight, fuel-efficient city car. It won't be an electric.

HYBRID VEHICLE

"I predict that the power plant of the city car will be a small, air-cooled reciprocating engine—an aluminum motorcycle engine, for example," he says. The car would carry a driver and one passenger, weigh 1,000 to 1,200 pounds and get 50 to 60 miles per gallon.

Mr. Bordinat also sees a "practical, multi-passenger, front-wheel-drive vehicle that can be readily converted into a high-volume cargo carrier, a cross between a station wagon and a van, but smaller.

"As we downsize luxury cars," he says, "we will replace pure size through the magic of electronics and new creature-comfort features—at no sacrifice to interior passenger space."

Another sort of vision came from postwar futurists who thought that by 1980 Americans would have a helicopter in every garage. Today, many Americans don't even have a garage.

The day is going to come, says Morris Belzberg, president and chief executive officer of Budget Rent-a-Car Corp., when private cars will be banned from center cities. In their place, along with mass transit, will be fleets of two-seater cars parked in strategic locations and available to anyone.

Activated by special electronics or magnetic credit cards, the autos could be driven to other sites and dropped off. A computer would keep track of how many miles a person had driven, and he would be sent a monthly bill. "Naturally," says Mr. Belzberg, "we'd like to be a part of that system."

OWN SMALL, RENT BIG

Meanwhile, Budget pushes the rental of big or special cars. "People can rent a big station wagon for the once-a-year vacation," says Mr. Belzberg, "and own a small commuter car. That's much more intelligent and prudent."

He flatly disagrees with predictions of an increase in multiple-car families and two-car families going to three cars as vehicles become more specialized. "It simply costs too much for insurance, maintenance, depreciation, and taxes," he says.

Air travel will grow from 148 billion passenger miles, or 11.4 percent of the total, to 472 billion passenger-miles, or 20.2 percent. The surge in ridership already under way, and the ravages of inflation are hitting hard.

"We've boosted our estimate of capital needs through 1990 by 50 percent, from $60 billion to $90 billion," says George W. James, senior vice president for economics and finance at the Air Transport Association.

The commission report says "it is widely agreed that few new large airports will be built by 2000," but existing airports will be expanded. In addition, not all air travel will go to the trunk carriers. As deregulation allows the major airlines to withdraw from marginal operations, regional and commuter airlines will take over.

EVERY PENNY COUNTS

"There's a trend toward more fuel-efficient planes," says Dr. James, "including the Boeing 767, 757, and 727/200, the Airbus A300, and the stretch DC-9s. Carriers are looking to a 30 to 40 percent increase in fuel efficiency."

And well they might. In the first half of 1979, jet fuel prices rose 17 cents to 58 cents a gallon. "Each penny increase costs us $115 million a year," says Dr. James. "That 17 cents translates into nearly $2 billion a year for the same amount of fuel."

Intercity buses are expected to increase their passenger-miles from 25 billion in 1975 to 31 billion in 2000, but this will be a reduction in the bus industry's percentage of the total from 1.9 to 1.3 percent.

Says the commission: "Prospects are not particularly promising for the intercity bus industry, unless fuel availability problems induce shifts from the automobile." It adds that bus industry productivity is limited by the 55 mph speed limit, seating capacity of buses, and a lack of technical improvement in bus equipment.

FIRST CLASS BUS SERVICE

The intercity bus industry is more optimistic. "I foresee a proliferation of bus service of all kinds," says Arthur D. Lewis, president of the American Bus Association. "I think we can expect a substantial increase not only in regular route operations, but also in charter and tour services. Likely innovations will include first class and perhaps even higher classes of service. Already the industry is experimenting with executive coach service seating 15 to 25 passengers in much greater comfort."

Mr. Lewis also sees more terminals in suburbs. Lee Whitehead, director of public relations for Greyhound Lines, Inc., agrees. "That's where the people are," he says.

Greyhound, which accounts for 60 percent of the intercity bus service, is pushing for total deregulation of the industry. "Let economics, not government whim, be the deciding factor," says Mr. Whitehead. He thinks Washington is coming around to that view.

If buses are deregulated, the discount fares used by airlines when they were deregulated will not be much use in attracting more bus riders. "Our prices are not that flexible," he says.

OWN RIGHT OF WAY

Railroads accounted for five billion passenger-miles in 1975 and are expected to grow to six billion in 2000, which is a drop in market share from 0.4 to 0.3 percent. Quasi-public, government-sponsored Amtrak operates passenger railroads over private, freight-hauling tracks—except in the Northeast Corridor where it has its own right of way and 60 percent of its ridership. Congress has allocated $1.75 billion to upgrade the Northeast Corridor for high-speed train service.

While rail is weak in intercity passenger movement, it is and will remain the dominant freight mode in terms of ton-miles. The key to rail's strong position is coal, which the commission predicts will rise from 10.8 percent of total rail traffic in 1975 to between 14 and 20 percent by 2000. Railroads hauled 673 billion ton-miles of all freight for a 28.7 percent share of the market. By 2000, they should carry 1,983 billion ton-miles, up to 31.9 percent of the total, which is projected at 6.3 trillion ton-miles, or 2.6 times the 1975 load.

CRUDE OIL

Water is the only mode other than rail to show a steady increase in share of ton-miles over time, says the commission. As with rail, one commodity is critical—crude oil from Alaska. Because of Alaskan oil, water is expected to succeed pipelines in terms of ton-miles as the primary mover of crude oil by 2000. But this does not mean that oil tonnage will shift from pipelines to ships; the oil ships have long trips to make, which raises the ton-mile figure. Water transport will grow from 428 billion ton-miles in 1975 (18.3 percent of market) to 1,433 billion ton-miles (23.1 percent).

Coal accounts for 22 percent of barge traffic, a figure that will grow as more western coal is mined and transported. Federal Barge Lines, for example, is building a 15-million-ton facility to transfer coal from railcars to barges at Cora, Mo., 80 miles south of St. Louis on the Mississippi River.

John A. Creedy, president of the Water Transport Association, says that with one major exception—Lock and Dam 26 at Alton, Ill., on the Mississippi River—river system capacities far exceed today's traffic. "Of great importance," he says, "is increased coordination between rail and water modes, a continuation of the trend that has been going on quietly for years." Mr. Creedy suggests that railroads, many of which run east-west, can increase profits by greater coordination with barge lines on the Mississippi.

Urban freight movement, the commission notes, is an area in which "little success has been achieved in collecting data." Nevertheless, the trend is toward more frequent deliveries of smaller shipments. The number of truck-miles will increase faster than the number of trucks, reflecting a change in distribution patterns as more truck terminals move out of the central business districts into the suburbs with good access to freeway interchanges. One problem: More delivery trucks on the urban streets will cause more congestion and air pollution.

While both common carrier and private trucking will grow, its share of the market will remain about the same. Again, this is predicated on rail and water carrying the commodities with the highest growth. Intercity trucks accounted for 488 billion ton-miles in 1975 for a 20.8 percent share of the market. By 2000, they will be up to 1,366 billion ton-miles for a 22 percent share.

PIPELINES LOSE SHARE

Pipelines, both oil and gas, are expected to lose market share by the end of the century. Oil pipelines will grow in absolute terms from 437 billion ton-miles, to 1,062 billion ton-miles, but market share will drop from 18.6 to 17.1 percent. Gas pipelines will grow from 312 billion ton-miles to 356 billion ton-miles, with market share dropping from 13.3 to 5.7 percent.

Air freight's share of the market remains constant at 0.2 percent. In absolute terms air freight will grow from four billion to ten billion ton-miles.

Looking at the commission's overall forecasts, Sen. Russell B. Long (D.-La.), a commission member, says: "Two overriding themes emerge. First, our transportation system structure must be upgraded and maintained to enable it to move the domestic energy required to meet our future needs. This will require substantial funding.

"Second, we must strongly develop domestic fuels for transportation, which are vital for economic survival. This means increased domestic production of crude oil and rigorous development of alternative petroleum-based sources such as coal and shale oil and renewable liquid fuels such as alcohols from biomass, solid waste, and coal."

Looking at the challenges over the next 20 years, Mr. Belzberg of Budget Rent-a-Car says the nation cannot wait that long. He calls for a major project like the one that produced the atom bomb to upgrade and expand the nation's transportation system and develop energy self-sufficiency.

"If we have to wait 20 years," he says, "this country will be owned by the Arabs."

THE WAYS OF GETTING THERE

Transportation in America is a jigsaw puzzle with a million pieces—and a billion-dollar price tag.

Last year, the transportation system made up about 20 percent of the gross national product, or more than $415 billion, and involved about 20 percent of the labor force, or about 20.5 million workers.

Today, the parts of the system look like this:

Highways and motor vehicles. There are 3.87 million miles of roads, 81 percent of which are paved. Of the total, which has increased only 20 percent in nearly 60 years, nearly 3.2 million miles are in rural areas and 683,000 are in urban.

The Interstate Highway System, a projected 42,500 miles, is 93 percent completed. However, the system was begun in 1956, and now more than half of what has been built needs to be upgraded.

The total road system includes more than 563,000 bridges, with most travel over the 248,000 bridges on the major federal-aid systems roads. More than 105,000 bridges, including nearly 40,000 major system bridges, are structurally deficient or functionally obsolete. About 72 percent of all the bridges were built before 1935.

Vehicles traveling on these roads and bridges include more than 117 million automobiles, 31 million trucks, five million motorcycles, and 500,000 buses. By 1980, says the National Transportation Policy Study Commission, 90 percent of the eligible population could be registered to drive.

Air. There are 11 domestic trunk air carriers and eight local service airlines. There are about 2,200 commercial aircraft, down in number from 1970 but significantly faster and bigger. There are also 199,000 private aircraft. In 1978, 280 million airline passengers traveled to 620 commercial points of service. Of the 14,574 airports in the nation, 428 have Federal Aviation Administration air traffic control towers. Domestic air freight serves 9,000 U.S. communities.

Pipelines. There are 440,000 miles of oil pipelines, 225,000 miles of gas pipelines, and 400 miles of coal slurry pipeline.

Water. Waterborne commerce travels in three basic types of vessels: Inland vessels, mainly tugs and barges drawing nine feet or less; Great Lakes ships with a maximum draft of 25½ feet; and oceangoing ships, which generally have a draft of 35 feet or more.

There are 25,543 miles of inland waterways, including 170 dams and 255 locks, carrying 4,400 towboats and tugs and 28,700 barges. The Great Lakes fleet numbers 150 bulk carriers and nine tankers. There are about 575 oceangoing ships including 214 flag vessels in the U.S. domestic ocean fleet; their average age is 21 years, double the age of the average international trade vessel.

The United States has 2,401 marine terminals, although only 170 are considered major commercial ports, and 50 get 87 percent of all commerce.

Rail. Amtrak passenger service carries 20 million passengers a year over 24,000 miles of track to 532 locations, using 350 locomotives and 2,000 railcars. Freight, 673 billion ton-miles in 1975, was hauled over 200,000 miles of tracks, using 27,700 locomotives—200 electrics, 11 steam, the rest diesel—and 1.7 million railcars, including 354,000 for coal.

Urban transit. The industry, which has declined significantly since just after World War II, now carries more than six billion passengers a year in 52,000 buses, 11,300 railcars, and 4,340 commuter railcars.●

LESTER H. NULL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. APPLEGATE. Mr. Speaker, one of the leading labor leaders of our time, Lester H. Null, president of the International Brotherhood of Pottery and Allied Workers (IBPAW) will soon be honored by the Consul General of the State of Israel to Ohio at a dinner to be held jointly by labor and industry leaders. I am particularly proud to announce this event because Mr. Null is a constituent of mine and one which the entire 18th Congressional District is very proud of.

The event, which is being held Saturday, December 15, 1979, in Pittsburgh, Pa., will be highlighted by the presentation of the Lion of Judah Award from Israel to Mr. Null in recognition of his notable achievements as a humanitarian and friend of Israel.

Lester Null's involvement with organized labor began when he became a member of Local Union No. 220, IBPAW. His first elected position was as recording secretary to local 220. He later became local president. During that time, he was employed by the American Radiator and Standard Sanitary Corp., New Orleans, La., as a ware hustler. He was appointed as IBPAW international representative in January 1959, and was elected third vice president in 1965. He was elected to his current post as president in 1969.

Mr. Speaker, we are, indeed, fortunate to have people in our community that share the concern for their fellow man to the degree that Lester Null does. His is a genuine concern and one that should serve as an example to all. I am proud to be able to call Lester Null a friend and congratulate him on this very important day of his life.●

THE METROPOLITAN BUSINESS AND PROFESSIONAL WOMEN'S CLUB OF SYRACUSE, N.Y., ANNUAL PRAYER BREAKFAST

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. LEE. Mr. Speaker, for the past 8 years, the Metropolitan Business and Professional Women's Club, of Syracuse, N.Y., has sponsored an annual Community Prayer Breakfast—an event which has become a tradition, looked forward to for its spirit of faith, ecumenism, and thanksgiving.

A number of outstanding Americans have visited Syracuse on these occasions, to share with an eager audience a message of hope and understanding.

As the theme of the eighth annual Community Prayer Breakfast November 14, general chairman Margaret Marra and club president Nancy Ennis chose to salute the youth of central New York. The honored speaker was the Rev. Robert P. Hupp, director of Father Flanagan's Boys' Town in Nebraska, and originator of the idea to designate 1979 as the "International Year of the Child." All other parts of the inspirational program were inspired by, and conducted by, children.

It is a privilege for me to call this outstanding event to your attention, and to extend my congratulations to Miss Marra, Miss Ennis, and the members of the Metropolitan Business and Professional Women's Club of Syracuse, for their continuing effort to develop a "thanksgiving for that which is good and a reaffirmation of faith in our Nation and in our God."●

STATEMENT ON TEAMSTERS' CENTRAL STATES PENSION FUND—(AND MORE TO FOLLOW)

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. PICKLE. Mr. Speaker, the time again has come for a hard and renewed look at the Government cleanup of the Teamsters' Central States Pension Fund. This huge pension fund, with about $2.3 billion in assets, is the source of retirement security for more than 450,000 working Teamsters and their families. The record of the fund indicates that it has also been a major source of funding for individuals who have ties to criminal activities, or who are reported to be the criminals themselves. In recent years, some changes have been forced on the Central States Fund by the Federal Government. What we need to know now is how genuine, and comprehensive, those changes have been; how effective the Government has been in bringing them about; and, perhaps most importantly, how lasting they are likely to be.

The Employee Retirement Income Security Act of 1974 (ERISA) was enacted into law more than 5 years ago. When the Congress included fiduciary responsibility rules in this landmark legislation, we had in mind the history of abuses of those who have controlled and influenced the Teamsters' Central States Pension (and Health and Welfare) Fund. It is clear, therefore, that the effectiveness of the U.S. Department of Labor and the Internal Revenue Service in using this major reform law is both a direct concern of 450,000 Teamsters, and a major test of a law designed to protect the retirement income of 35 million Americans who participate in private-sector pension plans throughout the Nation.

On March 14 and 15, 1977, Secretary of Labor Ray Marshall and IRS Commissioner Jerome Kurtz appeared before the Oversight Subcommittee of the Committee on Ways and Means, of which I am the ranking majority member, and announced a set of out-of-court agreements between their agencies and the trustees of the Central States Pension Fund. Set forth in a press release, included below, the agencies concluded that "certain issues respecting asset management and benefit administration procedures * * * have been resolved in a manner that meets the Government's objectives."

As part of these press-release agreements, the trustees of the Central States Fund had agreed: First, "to delegate to one or more independent investment managers * * * the control of all investment assets of the fund"; second, "to cause an independent review to be made of all loans and related financial transactions * * *"; and third, that certain holdover trustees, including Teamster President Frank Fitzsimmons and Vice President Roy Williams, who had not already been forced to resign, would soon resign as fund trustees. In return for these and several other less fundamental actions, the IRS agreed to restore the tax-exempt status of the fund which it had revoked in June 1976, and the Labor Department agreed to terminate "that portion of its investigation that related to * * * asset management."

Unfortunately, Mr. Speaker, the 1977 Government statement that the issues have been resolved in a manner that meets the Government's objectives now appears to be on shaky ground. Important Government objectives are not being met. For example, the independence of the new independent investment managers has been under constant attack; this attack is being carried out by the reform trustees—appointed by some of the ousted trustees. These reform trustees remind me of my earlier statement that only the names on the letterhead and not the underlying influences have been changed. Likewise, the abovementioned "independent review * * * of all loans" turned out to be an internal review by the fund of its own loans—with predictable results—for its first 18 months. Also, respected actuaries—who determine the crucial funding requirements and supportable benefit levels—have been effectively replaced by a longtime insider because their conclusions did not suit the trustees. Lawsuits to recover damages against the former trustees are hopelessly bogged down, or else woefully moving at a snails pace. The Central States Health and Welfare Plan remains firmly under the wing of another longtime insider and architect of the pension abuses about which I am so concerned.

Mr. Speaker, this is not the end of my list. It goes on and on. Over the next several weeks, in a series of statements, I intend to examine these recent and current developments one by one. The participants of the Central States Pension Fund and the American public deserve to know the status of this key Government reform effort.

As a backdrop, I ask that the 1977 press release be placed in the CONGRESSIONAL RECORD:

> WASHINGTON, D.C.—The U.S. Department of Labor and the Internal Revenue Service announced today that certain issues respecting asset management and benefit administration procedures of the Central States, Southeast and Southwest Areas Pension Fund under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code have been resolved in a manner that meets the Government's objectives.
>
> Specifically, the trustees of the fund have resolved to delegate to one or more independent investment managers (as defined in section 3(38) of ERISA) the control of all investment assets of the fund. The trustees will proceed expeditiously to commence discussions with independent banking firm and a bank of recognized national stature, for the purpose of securing their engagement as co-fiduciary ERISA investment managers. In addition to their responsibility for complete control of the fund's portfolio, the co-fiduciary investment managers will provide to the trustees, at the earliest possible date, recommendations concerning short and long-term investment objectives for the fund.
>
> The fund trustees have further resolved that if discussions with investment manager candidates have not reached agreement in principle as to the hiring of particular candidates satisfactory to the Labor Department and the trustees by April 10, 1977, an Interim Committee will be immediately established to assist the trustees in hiring independent investment managers and in developing the fund's investment objectives.
>
> The Interim Committee will consist of two attorneys, one chosen by the fund and the other by the Department of Labor, and an investment specialist, a mortgage loan specialist and a Taft-Hartley plan expert, chosen jointly by the fund and the Department of Labor.
>
> Further, the fund has agreed to cause an independent review to be made of all loans and related financial transactions entered into by the fund from February 1, 1965 to date with a view to determining what remedial action, if any, must be taken by the fund. The fund shall not be committed, however, to initiating such review until the outstanding issues regarding fund tax years beginning February 1, 1965 through December 31, 1975 are resolved.
>
> The fund has also agreed to adopt all amendments necessary to conform to the Internal Revenue Code and to publish annually in at least one newspaper of general circulation in each state, a statement of the fund's financial condition. To the extent it has not already done so, the fund has agreed to implement fully and expeditiously the benefit history data base presently under development and to rectify any situation in which benefit administration was not in accordance with applicable law and the terms of the Pension Plan, as amended. Also the fund has agreed, to the extent it has not already done so, to establish an internal audit staff, reporting directly to the trustees, to monitor fund operations.
>
> The IRS said that, based upon the foregoing agreements by the fund, the Service shall issue a determination letter requalifying the fund, effective for the plan years beginning on and after January 1, 1976, upon engagement of the professional investment managers or the establishment of the Interim Committee, and adoption of the plan amendments referred to above.
>
> Those present trustees who were trustees prior to October 26, 1976 have advised that they will resign upon requalification by the IRS and engagement of professional investment managers or the establishment of the Interim Committee. The Government contemplates that this will occure not later than April 30, 1977.
>
> The Department of Labor further announced that upon the engagement of professional investment managers or establishment of the Interim Committee, the Department will terminate that portion of its investigation that relates to procedure of the fund respecting asset management. The Department stands ready to offer any and all technical assistance that is authorized under ERISA and other applicable laws to assist the fund in accomplishing the objectives stated above.
>
> Under the arrangements described above, fund matters pertaining to benefit administration, including questions of eligibility and claims review, will remain in the control of the trustees, as appointees of the collective bargaining parties who established the fund.●

REGULATORY KNEECAPPING BY THE FTC

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. ASHBROOK. Mr. Speaker, recently the House wisely voted to limit the runaway authority of the Federal Trade Commission. At the time of the debate a number of horror stories were aired concerning the FTC's role in crippling small businesses and in asserting its own version of brave new world via the Federal Register. I would like to call my colleagues' attention to yet another example of FTC abuse of power. Last week Joseph Sugarman came to Washington to receive this year's Direct Mail Marketing Man of the Year award. Mr. Sugarman also came to this city regarding a $100,000 lawsuit filed against him by the FTC.

The FTC maintains that Sugarman's company, J.S. & A., violated regulations by not funding customers within 30 days of having their orders delayed. What the FTC does not state in its case is that J.S. & A. was one of the hundreds of companies buried under record snowfalls in Chicago this last winter and that Mr. Sugarman's computers broke down because of power outages caused by the snow. It is clearly one thing to find a businessman setting out to deceive or ripoff the public, it is quite another to penalize someone for having a record snowfall knock out his electrical power.

The story continues. Mr. Sugarman was able to clear up the backlog caused by the computer failure in 6 weeks. Some orders were 60 days late, but all orders were delivered. The FTC was not satisfied with J.S. & A.'s efforts to correct the problems brought on by mother nature. The agency wrote all State consumer agencies where J.S. & A. had clients to find everything possible to throw at Sugarman. After going over 8 years of records only 75 complaints could be found, and these were on record of having been resolved to the satisfaction of the client. The FTC pressed its case and demanded payment of the $100,000.

Sugarman's lawyers recommended that he settle with the FTC and chalk the situation up to just one more case of Big Brother holding all the cards in a fixed card game. Instead he went public with his plight and decided to fight the regulatory Goliath. With his own funds he has run ads around the Nation describing his shabby treatment at the hands of the FTC. Thousands of letters have poured into J.S. & A. supporting Sugarman's fight and telling of other stories of the FTC's conceit for the private sector. Sugarman is about to release a booklet describing his case entitled, "Blow Your Kneecaps Off." He says this is what a bully might threaten when he asks a victim for money. "I am not against the FTC as an agency," says Sugarman, "but its powers are almost a dictatorship. I'm for taking away powers and going back to an FTC that encourages the free enterprise system and protects consumers."

Mr. Sugarman joins the growing ranks of American citizens who are fed up with the abuse of power that occurs when bureaucracy gets too big and unbridled. Thankfully Congress is awakening to this growing outrage and has begun to act. However, while some steps have been taken in the 96th Congress there is still a long way to go before the bureaucratic bully's are banished from the private sector.●

NICARAGUA—PART IV: TIES TO CUBA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. HAMILTON. Mr. Speaker, on August 12, less than a month after the cessation of hostilities, Directorate member and Minister of the Interior Tomas Borge held a press conference at which he discussed international support for the Nicaraguan revolution. Part of that day's text is important for what it reveals about the relationship between Nicaragua and Cuba. Mr. Borge said:

> Our Central American brothers have helped us, and those who have helped most have been our Cuban brothers. They have given us enormous support in the social sector, all without much fuss. Our Cuban brothers are never ostentatious about their support. They are generous, and they do not flaunt their generosity (translation mine).

Scores of statements like this one, coming as they do from diverse spokesmen in the Government of National Reconstruction, were cause for deep and justifiable concern among members of the congressional mission to Nicaragua. Time and again in meeting after meeting we asked our Nicaraguan hosts to clarify and amplify such remarks. We carefully questioned our hosts about each aspect of Cuban involvement in the Nicaraguan revolution: moral and material support during the insurgency, ideological affinity, influence in the media, and participation in the literacy program and the health care delivery system were all treated fully and frankly. Moreover, we scrupulously gauged the reactions of our hosts each time the matter of Cuban involvement was broached. Given the facts we collected and the impressions we formed during the mission, my feeling is that Members of Congress can reach satisfactory conclusions about the meaning of the Cuban presence in Nicaragua. That presence is undeniably strong, but there are factors we must attend to if we are to place it in proper perspective.

The Sandinista movement has never attempted to conceal its relationship with Cuba. Along with Costa Rica, Venezuela, Panama, and other nations, Cuba gave the movement first moral encouragement and later material aid and counsel as the civil war entered its final stages. There is, of course, far more than this to Nicaraguan-Cuban ties. Some Sandinista leaders trained in Cuba, so they and others in the movement may feel drawn to the ideology that Cuba has always been quite willing to purvey. Such connections must make us wary, and their potential consequences must be neither underestimated nor ignored. It is at our own peril that we take the Cuban presence in Nicaragua lightly.

Just the same, Cuban involvement in the Nicaraguan revolution does not imply that Cuban-style authoritarianism lies in Nicaragua's future. In the provision of moral encouragement and material aid and counsel to Nicaragua, Cuba was not alone before and it is not alone now. Nicaragua is actively seeking all kinds of help in every quarter where that help might be available, and it is getting a positive response from a broad group of countries and organizations. As concerns the training of Sandinista leaders, Ambassador Lawrence Pezzullo has trenchantly observed that one cannot go to Boston for lessons in the overthrow of tyrants. Although one can go to Havana for such lessons, the gratitude engendered by the opportunity should not be confused with a slavish commitment to political programs developed in another time and context. Mr. Pezzullo has made an equally telling point about ideological affinity: some of the fascination that Cuba holds for the Sandinistas may arise from respect for Cuba's independence of the American colossus, not necessarily from sympathy with Cuba's repressive form of government.

Members of the government of national reconstruction replied openly and vigorously to our general inquiry into the Cuban presence in Nicaragua. Junta member Sergio Ramirez argued that Nicaragua had no intention of becoming a new Cuba, and he added that there was some irritation in the nation at such a suggestion. Noting the segments of public opinion in the United States which already saw Nicaragua in the Soviet orbit, he stated that no one in Nicaragua had given the Soviet Union any thought. Of the admitted Marxists in the Government, he offered the view that they represented one tendency among many and were Nicaraguans first in any case. He said:

> This revolution is based on the reality and history of Nicaragua, because we cannot base it on any other reality or history (translation mine).

Mr. Ramirez' remarks appeared the very next day on the front page of the independent newspaper La Prensa. Directorate members Bayardo Arce and Jaime Wheelock echoed these sentiments in our later conversation with them. Mr. Arce stated flatly that the Nicaraguan revolution would not be patterned after any other model. Mr. Wheelock seconded him, saying that Nicaragua saw no model for itself in the east, west, south, or north.

What should be the position of the United States in the face of Cuban involvement in the Nicaraguan revolution? We can determine that such involvement is too much for us to cope with, or else we can boldly take up the challenge it presents to us. The first course of action fortifies the Cubans without their lifting a finger, while the second serves them notice of our intention to overmatch them in the pursuit of our interests and the interests of the Nicaraguan people. I interpret the Cuban presence as setting a dilemma: the choice is one between withdrawal and competition. I choose competition, and for that reason among others I am in favor of the President's plan of supplemental assistance to Nicaragua.●

TAX EQUITY FOR U.S. INVESTORS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. FISHER. Mr. Speaker, yesterday I introduced revised legislation which is designed to tax the income realized by nonresident aliens and foreign corporations when they sell real estate located within the United States. This bill would allow the tax code to impose on foreign investors the same tax burdens which U.S. residents and domestic corporations already bear. Under current law, it is possible for nonresident aliens and foreign corporations to avoid, through a variety of devices, paying capital gains taxes on this income. U.S. residents and domestic corporations are not able to avail themselves of these tax advantages. Such discrimination against U.S. residents and corporations is simply wrong.

This new legislation, H.R. 6007, takes into account many of the comments and concerns which were expressed when this topic was discussed by the Ways and Means Committee in October of this year. I believe that the result is a bill which goes a long way toward resolving the administrative difficulties inherent in implementing this concept of tax equity. Furthermore, in addition to closing major loopholes in the current law, this bill is designed to close loopholes which are minor now, but which in several years may become the central problem.

H.R. 6007 seeks to impose upon nonresident aliens and foreign corporations a tax on the gain realized on the sale of real estate when the property is used primarily to produce income from farming, rentals and investment. The property interests which would be covered by this legislation are: First, an interest in real estate located within the United States; second, stock in a corporation which is a United States real property holding organization; or third, an interest in a partnership or trust which is a United States real property holding organization. Such an organization would have 50 percent or more of its assets in real property holdings and would have the controlling interest held by 10 or fewer persons.

This tax would be enforced by the purchaser of the real property who would withhold 28 percent from the acquisition price for tax collection purposes. This withholding requirement would not apply to transactions involving a single family residence acquired by an individual for his personal residence where the transaction involves less than $150,000. It would also not apply if the individual or corporation disposing of the property supplies a certificate which states that the transferor is a U.S. citizen or resident or a domestic corporation, or that the Secretary of the Treasury has reached an agreement with the transferor as to the payment of any tax on the gain.

I have also submitted, Mr. Speaker, a section-by-section analysis of this legislation in order to assist my colleagues in their consideration of it. I urge that they look closely at this bill and the need for changing the current tax law.

Now is not the time for tax relief for foreign investors.●

ITAIPU—THE LARGEST HYDROELECTRIC PLANT IN THE WORLD

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. RUDD. Mr. Speaker, on a recent private trip to Paraguay, I was privileged to visit Itaipu Binacional, the largest dam and hydroelectric power project in the world, located on the Parana River which serves as the boundary between Paraguay and Brazil.

The governments of these neighboring countries initiated the Itaipu project by treaty in 1966, and construction actually began in 1975. It is one of the largest engineering and construction ventures ever undertaken, with a total work force of 28,000 employees and 90,000 other associated people.

When completed, the Itaipu hydroelectric powerplant will supply electricity to all of Paraguay, a country of 2.8 million people, as well as to all the southern areas of Brazil. It will be a tremendous economic boon to the entire region.

Just to appreciate the magnitude of this project, the main Itaipu Dam itself will be 610 feet high, 4,640 feet long, with 18 intake gates. Side dikes on both banks of the Parana River will back the water up to an elevation of 726 feet above sea level. The reservoir will store 26.5 million acre-feet of water.

The powerhouse below the dam will be 3,110 feet long, with 18 generating units of 700,000 kilowatts each, for a total output of 12.6 million kilowatts of electricity.

This is almost 3 million kilowatts of electrical production more than our own Grand Coulee hydroelectric plant, which currently stands as the world's largest.

Mr. Speaker, the significance of this project, it seems to me, is the farsighted commitment of government and business in both Latin American countries involved to the development and construction of a tremendous hydroelectric facility to produce inexpensive, clean, and plentiful electrical energy for their respective populations.

This commitment was made 13 years ago. Hydroelectric power production, often referred to as "renewable technology," made possible by harnessing the power of a flowing river, is at its most basic level solar energy.

In my own State of Arizona, we already have eight hydroelectric generating stations, and plans for more.

A hydroelectric dam has been proposed at Bridge Canyon, on the Colorado River, at the southwestern edge of Grand Canyon National Park. Another has been considered at Marble Canyon, on the main stream of the Colorado River.

A hydroelectric site is currently being validated for the proposed Alchesay pump storage project, a 1,000-megawatt facility on the Salt River just below Roosevelt Dam.

None of these facilities come near to the magnitude of Itaipu Binacional. But their importance is similar, in that they will produce plentiful, inexpensive, clean hydroelectric power for the American people during peak periods, thus saving tens of thousands of barrels of fuel oil for other purposes.

The cost of building hydroelectric facilities has been shown to be competitive with anything else we can do to produce electricity.

At a time when the Federal Government is devoting considerable attention to developing "renewable energy technologies" for the future, I believe that Congress should do everything possible to encourage our utility companies to provide significant quantities of additional hydroelectric power, by streamlining licensing procedures and removing other barriers to hydroelectric energy production.●

AMERICAN UNITY IN THE IRANIAN CRISIS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. COUGHLIN. Mr. Speaker, for nearly 5 weeks the American people have presented a strong united response to the Ayatollah Khomeini and the Iranian students holding 50 American hostages at the U.S. Embassy in Tehran. If the ayatollah and others in Iran have paid any attention at all to American media and public opinion, as we are told that they do with great interest, then there can be little question in their minds that the American people are solidly united in their outrage at the takeover of the Embassy and the continuing threats to the lives of the hostages. The issues are clear—the right of our Nation to maintain diplomatic missions under the protection of host governments as prescribed by international law; the right of our Nation to admit individuals we choose for whatever reasons we choose; and the right of our Nation to pursue peaceful diplomatic solutions to disagreements with other nations without resort to violence. The issue is not the nature of the Shah's regime and the American people understand this.

It is very disturbing that a Democratic Presidential candidate does not understand it also and has seized the moment to criticize the past and present foreign policy of the United States. While his statements are sure to give solace to the captors of the American hostages and assure him of page 1 press, he should be aware that they in no way help to gain the hostages' release. Not only do his remarks serve to undermine the unity and resolve which have rightly marked our response to this crisis but they risk inviting the Iranians to continue their outrageous conduct in order to see what further gestures of sympathy they might elicit. There is perhaps much that can and should be said about Iran under the Shah, but now is clearly not the time.●

COMMENTARIES ON THE IRAN CRISIS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. McDONALD. Mr. Speaker, as the crisis between the United States and Iran drags on, certain bits and pieces of information are coming to the fore. Among these are the editorial from the Washington Post of December 4, 1979, entitled "The Senator and the Shah" and a news item from the Richmond Times-Dispatch of December 3, 1979, entitled "Pahlavi Traces Downfall to Halt of Mullahs' Aid." As a Democrat, I am taking no part in the Presidential primary races around the country, but I feel both items tell us something about the state of our Nation and the problems it faces.

The two aforementioned news items follow:

THE SENATOR AND THE SHAH

Senator Kennedy has an interesting sense of history—both the long sweep and the only yesterday kind. You don't have to have been a friend of the deposed shah of Iran or an apologist for the depradations of his secret police to know that Mr. Kennedy's characterization of the shah's regime as "one of the most violent . . . in the history of mankind" doesn't leave any language available at all for the truly special monster regimes of ancient and modern history, those that in fact would qualify as the most violent. If the shah had been the total beast Mr. Kennedy now depicts, right up there in the—let us say—Adolf Hitler and Joseph Stalin class, what on earth was President John F. Kennedy doing receiving him in Washington? What was Senator Edward Kennedy doing paying him a visit in 1975?

Yes, we know—Senator Kennedy has said he did criticize the shah while the shah was in office, and he did also take the occasion of his visit to Iran to question the wisdom of the Iranian arms buildup. But the man he described in his Sunday night attack on the shah was not someone you merely *criticize*, meanwhile paying a call on. Do you think while howdy-and-shaking, as in the accompanying photograph, Mr. Kennedy was saying: You, sir, run one of the most violent regimes in the history of mankind and (the rest of the allegation) are stealing umpteen billion dollars and care only for yourself. Doesn't look like it. If there was a time to say that, surely it was then and not now. The shah's cruel successor has sought to camouflage his own depredations by demanding that the shah be called to account—and Senator Kennedy asserts as simple truth the ayatollah's claims. Yesterday, as the predictable and justifiable uproar was heard, Mr. Kennedy backed off some. Yet the damage in this tense situation was done. It wasn't right, it wasn't responsible, and it wasn't smart.

PAHLAVI TRACES DOWNFALL TO HALT OF MULLAHS' AID

BONN, WEST GERMANY.—The deposed shah of Iran, in an interview published yesterday, acknowledged to mistakes during his 37-year rule but said he does not believe he made as many as the late John F. Kennedy in just three years at the White House.

"I am just a human being and not without my faults," Mohammed Reza Pahlavi said in the mass circulation tabloid Bild Am Sonntag.

"But I believe John F. Kennedy made more mistakes in his three years as president than I did in 37 years."

Questioned about his mistakes, he pinpointed one decision that signaled the beginning of what he called his difficulties.

"My Prime Minister [Jamshid] Amouzegar decided to stop paying various grants to the mullahs, a measure that was necessary to maintain public morals," the shah recalled.

"I know now we never should have stopped paying that money."

The comparison with Kennedy was one of many outspoken remarks in the interview which Bild said was conducted in the New York hospital where the shah received cancer treatment.

He said his illness and stay in New York were only an excuse for the Moslem militants to seize the U.S. Embassy in Tehran.

"According to reliable information, it was not just the American Embassy that was to be seized, but the Soviet, the British and the French embassies as well," he said.

He warned of "inevitable downfall" for the West.

"I ask myself if the West understands where it is going. The world is heading for inevitable downfall."

He said statesmen such as Josef Stalin, Charles de Gaulle and Franklin Roosevelt "would turn in their graves if they saw those who came after them."

"The West's total readiness to give up gets worse each day. When it wakes up, it will be too late."

Asked how he viewed the Islamic government in Iran, the shah again condemned the West for failing to stop the summary trials and executions of those who supported him.

"An entire elite has been shot, without Amnesty International, League of Human Rights or the International Commission of Justice lifting a finger," he said.

"The public is shut out from everything that happens in Iran. There are no open trials because the accused could reveal that Savak [the shah's secret police] bribed mullahs and Shiites for a long time." ●

WRONG BILL AT THE WRONG TIME

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. DERWINSKI. Mr. Speaker, this bill is a gratuitous slap at the Civil Service Reform Act of 1978. It is the wrong bill at the wrong time.

The same forces which tried to gut the landmark reform package in committee now are trying an end run with a bill that actually makes a basic revision in the 1978 Act. It imposes a 2-year authorization at fixed levels of spending for the Office of Personnel Management, the Merit Systems Protection Board, the Federal Labor Relations Authority, and Office of Special Counsel.

It is far too early to be attempting to pass judgment on civil service reform. The act has been in full force less than 1 year, and many parts of it will not be fully operational for another 2½ years. Implementation requires time, and the agencies involved must be allowed some flexibility.

By putting the civil service agencies on short rein, the temptation will exist to supplant executive management decisions with those of a handful of committee members who tried to undermine the 1978 legislation.

While legislative oversight is a proper and valuable tool of the legislative process, we must also be fair in allowing new agencies to perform as the Civil Service Reform Act intended them to perform. It is far too early for this type of tinkering.

Under the guidance of Alan K. "Scotty" Campbell, Director of the Office of Personnel Management, civil service reform is off to a solid start. Instead of throwing roadblocks up in his path we should be encouraging his deliberative efforts to make reform work and, in the process, make Government more responsive and responsible to the public.●

THE TENSAS RIVER NATIONAL WILDLIFE REFUGE

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. HUCKABY. Mr. Speaker, I am today reintroducing the Tensas River National Wildlife Refuge legislation which will preserve approximately 50,000 acres along the Tensas River in Madison, Franklin, and Tensas Parishes of Northeast Louisiana. I felt it was necessary to make a few significant changes in the bill which will address specific concerns of mine and the people of the Fifth District of Louisiana.

The principal objective of this proposal is still to protect the remaining bottomland hardwood forests which constitute an unique ecological, commercial and recreational resource. This wildlife ecosystem provides a variety of beneficial opportunities: makes available a supply of timber for the manufacture of forest products; keeps intact a permanent habitat for a diversity of fish and wildlife; creates an atmosphere conductive to scientific and biological research; and, promotes such recreational activities as hunting, fishing, hiking, boating, and wildlife observation.

My purpose in revising the legislation, however, was to focus some attention on the need to solve our drainage problems in the Tensas Basin. I felt that this bill would be an appropriate vehicle to encourage the completion of certain flood control projects in the area. The acquisition of certain portions of this land will then serve a twofold purpose—halt the rapid rate of forested wetland destruction which causes economic hardships for the surrounding rural communities, and preserve a great hardwood forest, federally managed as a refuge, for the public benefit.

I hope my colleagues see fit to support the legislation.●

LET US MAINTAIN OUR NATIONAL UNITY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. DERWINSKI. Mr. Speaker, as the crisis in Iran continues, it is important for us to maintain our national unity rather than espousing political opinions or taking cheap shots at the President. This crisis is too grave and our options obviously too limited.

In an outstanding column appearing in the November 29 Star Herald Newspaper which serves southwest suburban Cook County, Ill., Dennis Wheeler, editor of that publication, gives his perspective on the broad implications involved in the Iranian situation. I insert Mr. Wheeler's column at this point in my remarks:

LET'S KEEP COOL ABOUT KHOMEINI

(By Dennis Wheeler)

The Ayotollah Khomeini has sounded the call: he wants 20 million Iranians ready to fight the devilish American if it comes to that.

The way the Ayotollah Khomeini talks these days, it sounds like he'd almost like it to come to that.

Meanwhile, as of this writing (Tuesday) our people are in the 24th day behind the gates of the embassy in Tehran, still hostages.

And there is no end to that scene in sight.

Back here in America, we're putting the squeeze on.

The FBI is getting the goods on Iranian students suspected of being in the country illegally or without proper papers.

President Carter told Iran the United States doesn't want its oil anymore, which means we are being ripped off by one fewer Middle East nation now.

We have moved the Sixth fleet, along with a bunch of other military and naval hardware, into the part of the Indian sea that laps up onto Iran.

We have warned that if one hair on one head of one American captive in the embassy is harmed, we will do something about it. Wisely, we have not stipulated what "something" means. Instead, we have left a lot to the imagination.

Now the U.N. is finally getting into the act. After three weeks of silence, which we probably asked for while we worked to free the hostages our own way, the U.N. will hold a Security council meeting to decide what attitude to take toward Iran and the ayotollah.

Around the world, opinion seems to lean in our favor on the main issue, the capture and detention of the embassy people. Realizing its destructiveness to the ambassadorial system of civilized Earth, they agree with us the hostages must be freed without any blackmail being paid.

But much world opinion, one suspects, is arrayed against America for allowing the detested Shah into our country for medical treatment. We should have known better, many around the world are saying or thinking.

An unvocal minority of Americans think the same.

All of this would never have happened—and the world would not be teetering on the edge of crisis—if we had told the Shah to get his cancer treated somewhere else.

On the other side, there is the very vocal, and increasingly so, majority of Americans who are infuriated by the gangster students who took over the embassy and captured our people and desecrated or burned our flag and led the hostages around in blindfolds and supervised around-the-clock chants calling for death to Carter and Satan America.

This majority tacitly supports the incidents of violence that have erupted here and there against Iranian students in America.

This majority definitely approves of solidarity representations in our nation, demonstrations like the daily flying of the American flag and the public burning of the Irainian banner.

Above all, this majority can hardly wait for the hostage crisis to end so the United States can hand the ayotollah his due. You can see this majority rubbing its collective hands, itching for the chance to repay Iran for the basic spit in the eye this small country has aimed at us.

It is very hard not to succumb to such feelings.

But it's my belief we've got to try.

The most difficult aspect of the current crisis, I believe, is not what's happening now, but what may happen later.

And I fear for what may happen, whether the hostages are freed unharmed or not.

If they are hurt or killed, the public outrage will be such that anything short of the fire bombing of Tehran will probably be unacceptable to the public. Which means war would be a very possible outcome of the crisis.

If they are released unharmed, public outrage will still be such that some sort of physical strike inflicting some sort of actual damage will be considered by most justifiable if not necessary.

If the Carter administration demonstrates its current restraint, a restraint of which I as an American am incredibly proud, there will still be the overwhelming demand for hurtful sanctions, economic or worse.

All of these possibilities, I think, must be studied in light of perspective.

We must as a nation place this entire incident in clear perspective. And we must maintain that perspective no matter what comes on.

The situation is this. We are being made to bleed as a nation by a group of unruly, misled, and unpolitical students apparently genuflecting to the maniacal leadership of an unstable, cultist leader who is only one of several people who could eventually emerge as boss of a falling-to-pieces nation.

We are having our senses aroused to a dangerous murderousness not by a foreign nation but by a loose assembly of religious fanatics.

We are being irritated into a black fury by a force that has the potential power of a flea trying to kill an elephant.

I think our nation's leaders are doing the exact right thing as of today.

Carter is cooling it, saying little, issuing a stern warning on only one subject, the safety of the hostages. No other issue is important. Not the Shah, not the future, not our military footing, not our national honor. Just the hostages.

Our government is not talking about reprisals someday down the road. Instead, it is keeping all options open. This ayotollah too will pass, seems to be the realistic attitude, and I am very glad it is. Because this cankerous creature does not deserve to be viewed as spokesman for anything, much less an entire nation historic for its religious and political divisions.

Cutting off oil imports was wise because it turns the economic screw while also showing we are prepared to sacrifice principle for petroleum.

And not cutting off food was also wise because it puts our nation where it ought to be, on the side of humanity in all circumstances.

I say let us retain our sense of perspective and call this thing what it is: a crisis, for sure, but a crisis of measurable dimensions and workable alternatives.

We should continue to take it one day at a time. We should maintain our stance of wise man amid a sea of craziness. We should not tip off our intentions but keep our eye on the key matter, the freeing of our citizens and the maintenance of international law.●

THE PROGRESSIVE DECISION AND ENSUING EVENTS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. McCLOSKEY. Mr. Speaker, the recent Progressive case demonstrated an anomaly in the Atomic Energy Act of 1954.

Under the act, drawing upon public information, a private citizen can generate and publish his/her H-bomb design without penalty.

The individual can, however, be enjoined from such publication in advance.

This is just the reverse of the ordinary situation where a person can be assessed damages for slander but cannot be restrained in advance from committing the slander.

For the reasons set forth in the following letter to Assistant Secretary for Defense Programs of the Department of Energy, Duane Sewell, I have, therefore, introduced today a bill to amend section 227 of the act.

Chairman RICHARDSON PREYER of the House Subcommittee on Government Information and Individual Rights has planned hearings on this issue during the early part of February.

The letter follows:

MR. DUANE SEWELL,
Assistant Secretary for Defense Programs,
Department of Energy,
Washington, D.C.

DEAR MR. SEWELL: Following our discussion of some weeks ago, your Assistant General Counsel, Peter Brush, was kind enough to send me the background documents on the "Born Secret" controversy. Thereafter Mr. Brush and William Grayson met with me on Wednesday, November 28, in response to my request for further advice on whether or not the Atomic Energy Act of 1954 requires amendment as a result of the Progressive decision and ensuing events.

I would like to summarize the present state of the law as I understand it:

(1) Restricted data is defined as any and all data about nuclear weaponry and concepts except data declassified by the government itself.

(2) A government employee or licensee can be held criminally responsible for knowingly communicating Restricted Data to unauthorized persons, knowing or having reason to believe that such data is Restricted Data.

(3) A private citizen can be enjoined by a court from communicating Restricted Data, but he cannot be punished for so doing, unless he thereby intends to injure the United States or aid a foreign power.

(4) The government has legally declassified a great deal of data about nuclear weaponry and concepts; additional classified data has reached the public domain, or has been inferred by inquiring members of the public from answers or non-answers to specific questions to government personnel.

(5) A number of private citizens, by careful study of the totality of information available, are now able to generate concepts, diagrams and information which the government would classify if it had the chance to do so prior to publication. The government claims that, under the law, these concepts, diagrams and information are "Born Secret."

(6) In the Progressive case, the trial court upheld the government's contention, finding that the article did include concepts not previously in the public domain. Relevant excerpts from the court's opinion are attached as Enclosure A.

(7) Thus, there is presently no effective law to prevent private citizens from publishing those concepts, diagrams and information which they may generate from their own studies and inquiries.

The law penalizes the private citizen only if in addition to knowing or having reason to believe the data is still restricted, he communicates or publishes the data "with some intent to injure the United States or with intent to serve an advantage to any foreign nation."

Under this test, presumably none of the private citizens (i.e. Hansen, Moreland, Postol et al) whom the government believes to have privately generated restricted data can be prosecuted, since they clearly had no intent to harm the United States or aid a foreign nation, and apparently believed they were publishing nothing that was not already declassified by the United States or easily ascertainable by a foreign nation.

Thus, while under the Progressive decision, publication of privately-generated data can be restrained in advance, the publisher himself cannot be prosecuted.

(8) This problem was recognized by the Department of Energy's predecessor, the Atomic Energy Commission (AEC) which, in 1967, proposed new regulations to permit civil injunctions against the communication of privately-generated restricted data. In its staff memorandum, the AEC pointed out that the proposed regulation did not include criminal penalties. A number of comments challenging the proposed regulation were received from scientific and legal authorities, including the New York City Bar Association, and the proposed regulations were dropped.

(9) The present law could be amended to place criminal sanctions on individuals who communicate or publish privately-generated restricted data merely by removing from Section 227 of the 1954 Act (42 USC § 2277) the limitation which applies the section only to government employees or licensees. This would put the scientific community on notice that if they had reason to believe their ideas might fall within the restricted range, they would be publishing or communicating under peril of criminal prosecution. Presumably most scientists would then tender their new concepts to the government for review.

(10) Senator John Glenn, after holding hearings on the problem by his Subcommittee on Energy, Nuclear Proliferation and Federal Services, has concluded that there is no reason to amend the present law.

(11) Congressman Richardson Preyer, Chairman of the House Subcommittee on Government Information and Individual Rights, has scheduled hearings on the issue during the week of February 11, 1980, and in order to provide a focus for those hearings, but without final endorsement, I have prepared a bill, a copy of which is enclosed as Enclosure B, which would amend Section 227 of the Atomic Energy Act of 1954 to apply penalties to private citizens who publish privately-generated restricted data knowingly or with reason to believe that it is restricted.

Hopefully at such hearings, the same range of testimony can be adduced from legal scholars and scientists as was adduced in 1967 and 1968 by the AEC's proposed regulations, and the Congress can then decide, with the Progressive decision in mind, whether or not the law should be revised.

In reading the case law on the subject, I find little to add to Justice Holmes famous language in *Schenk* v. *U.S.* 249 U.S. 47:

> The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic . . . It does not even protect a man from an injunction against uttering words that may have all the effect of force. (citation) The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree.

Regardless of which decision the Congress should reach, I think we would be delinquent in our duties if we did not squarely address this issue and resolve it.

Thank you for your courtesies thus far extended. I will advise the other interested parties by copy of this letter.

Respectfully,

PAUL N. MCCLOSKEY, JR.

ENCLOSURE A—Excerpts from the Federal district court's opinion in *U.S.* v. *The Progressive, Inc.*, March 26, 1979

On March 9, 1979, this Court, at the request of the government, but after hearing from both parties, issued a temporary restraining order enjoining defendants, their employees, and agents from publishing or otherwise communicating or disclosing in any manner any restricted data contained in the article: "The H-Bomb Secret: How We Got It, Why We're Telling It."

Under the facts here alleged, the question before this Court involves a clash between allegedly vital security interests of the United States and the competing constitution doctrine against prior restraint in publication.

From the founding days of this nation, the rights to freedom of speech and of the press have held an honored place in our constitutional scheme. The establishment and nuturing of these rights is one of the true achievements of our form of government.

Because of the importance of these rights, any prior restraint on publication comes into court under a heavy presumption against its constitutionality validity. *New York Times* v. *United States*, 403 U.S. 713 (1971).

However, First Amendment rights are not absolute. They are not boundless.

Justice Frankfurter dissenting in *Bridges* v. *California*, 314 U.S. 252, 282 (1941), stated it in this fashion: "Free speech is not so absolute or irrational a conception as to imply paralysis of the means for effective protection of all the freedoms secured by the Bill of Rights."

In *Near* v. *Minnesota*, 283 U.S. 697 (1931), the Supreme Court specifically recognized an extremely narrow area, involving national security, in which interference with First Amendment rights might be tolerated and a prior restraint on publication might be appropriate. The court stated:

> When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right. No one would question but that a government might prevent actual obstruction to its recruiting service or the publication of the sailing dates of transports or the number and location of troops. Id. at 761. (citation omitted).

. . . it is clear that few things, save grave national security concerns, are sufficient to override First Amendment interests. A court is well admonished to approach any requested prior restraint with a great deal of skepticism.

. . . the Court finds concepts within the article that it does not find in the public realm—concepts that are vital to the operation of the bomb.

The Court is of the opinion that the government has shown that the defendants had reason to believe that the data in the article, if published, would injure the United States or give an advantage to a foreign nation.

Furthermore, extensive reading and studying of the documents on file lead to the conclusion that not all the data is available in the public realm in the same fashion, if it is available at all.

What is involved here is information dealing with the most destructive weapon in the history of mankind, information of sufficient destructive potential to nullify the right to free speech and to endanger the right to life itself.

Stripped of its essence then, the question before the Court is a basic confrontation between the First Amendment right to freedom of the press and national security.

While it may be true in the long-run, as Patrick Henry instructs us, that one would prefer death to life without liberty, nonetheless, in the short-run, one cannot enjoy freedom of speech, freedom to worship or freedom of the press unless one first enjoys the freedom to live.

Faced with a stark choice between upholding the right to continued life and the right to freedom of the press, most jurists would have no difficulty in opting for the chance to continue to breathe and function as they work to achieve perfect freedom of expression.

In the *Near* case, the Supreme Court recognized that publication of troop movements in time of war would threaten national security and could therefore be restrained. Times have changed significantly since 1931 when *Near* was decided. Now war by foot soldiers has been replaced in large part by war by machines and bombs. No longer need there be any advance warning or any preparation time before a nuclear war could be commenced.

In light of these factors, this Court concludes that publication of the technical information on the hydrogen bomb contained in the article is analagous to publication of troop movements or locations in time of war and falls within the extremely narrow exception to the rule against prior restraint.●

THE STEALING OF U.S. TECHNOLOGY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. ASHBROOK. Mr. Speaker, when the House considered the export administration reauthorization bill a number of charges surfaced concerning diversion of American technology by the Soviets. Since these allegations first surfaced very little has been done by the Commerce Department or the Carter administration to address them. Considering the ominous implications of having the Soviet war machine fueled by U.S. goods and services I would think it would be a high priority for Mr. Carter to have a full airing of the facts in this matter. Instead we have heard the usual line of rhetoric about how the Soviets mean us no harm and that East-West trade is good for business.

Recently this hesitancy on the part of Mr. Carter to concern himself with Soviet use and misuse of American exports has been undermined by more disclousres. Before the Senate Armed Services Committee Dr. Vorona, of the defense intelligence agency (DIA), provided new evidence that Soviets have been doing everything possible to turn East-West trade into a launching pad for overwhelming military superiority over the United States. Dr. Verona covered a wide range of Soviet military developments that have been aided by U.S. technology:

The Soviets have used American-built precision grinding machines for the development of new, accurate, guidance systems for its SS-18 missile.

Trucks produced at the Kama River Truck Plant, which was constructed by the United States and filled with advanced production technology, are being used by the military while the plant's excess engines are destined for other military vehicles.

Illegally diverted IBM 360 and 370 computers may have been the cornerstone for a computer system that directs Warsaw Pact air defense.

A student-exchange program permitted the Soviets to send one young engineer to the United States to study "fuel-air explosives," a particularly large-blast weapon system. That man, Verona testified, is now involved in the Soviet fuel-air explosive program.

This pattern of abuse calls into the severe question the intensions of the U.S.S.R. As the Senate begins its consideration of the SALT II treaty, it must begin to ask why the Soviets persist in turning every element of East-West cooperation into military exploitation. I have watched one administration after another overlook this obvious point in the quest for coexistence with the Kremlin. Now that America has witnessed its own capability to meet any world situation called into question it is time to ask the tough questions about future Soviet intentions and how technology transfer impacts on this issue. SALT II is an excellent place to begin to draw the line until some more answers are forthcoming.

A recent article in Newsweek magazine further underscores the increased boldness on the part of the Soviets in exploiting America's good faith and increased trade. The military leaders of the Kremlin seem to no longer be content with waiting for U.S. technology to be delivered and diverted. According to the Newsweek article there have been some outright thefts of American material. The matters raised by the article provide another set of questions to go along with Dr. Verona's findings. I recommend it to my colleagues as they pursue their own research on these matters.

The article follows:

SPYING ON U.S. BUSINESS

As in most real-life espionage stories, the details are hazy even now. But sometime in the early 1970s, U.S. intelligence officials say, a train carrying an IBM 370 computer sold to Poland by a European firm mysteriously broke down along the border between Poland and the Soviet Union. When the train began rolling again, the computer was no longer aboard.

In March 1973, officials say, Soviet authorities contacted a European computer firm to buy spare parts for an IBM 370. The parts were available, they were told, but the firm needed to know the serial number of the computer. Sure enough, the serial number turned out to be that of the missing IBM 370—then among the most sophisticated computers in the world.

The computer's apparent diversion into Russian hands is an extreme case—but in many less dramatic ways, U.S. officials believe, the Soviet Union is stepping up its attempts to steal U.S. military and technological secrets by penetrating American industry. "We can lock up everything in the Pentagon," says FBI chief William Webster, "but the same information may be in a safe in a company building" where it is "much more vulnerable."

Safeguarding those secrets is a gargantuan task: some 11,000 firms have access to classified defense information, and about 120,000 of their employees have top-secret clearances. Both the FBI and the Central Intelligence Agency intensified security checks of industrial firms—but CIA director Stansfield Turner termed the CIA's findings "discouraging." Soviet snoops are assumed to monitor communications at major defense plants, and last February six Boeing Co. employees lost their security clearances because they carelessly sent information about the MX missile over an ordinary phone line.

BRIBES

The Soviet-bloc countries employ a wide range of techniques to crib American technological innovations. FBI agents in Chicago, for example, are investigating a case in which the Polish Government apparently set up a dummy corporation to acquire industrial data that had been embargoed for export to Communist countries. And a Reston, Va., computer firm told the FBI in September that one of its executives had been offered a $500,000 bribe by a Soviet agent for a copy of an unclassified bit of software used to program the computers of a number of major corporations, including Gulf Oil and Citibank. Companies in financial trouble are special targets for foreign agents, who offer much-needed contracts, then demand help in circumventing U.S. export regulations. "The implications of the strings attached may not be obvious at first," an FBI official says. "Nevertheless, the businessman is slowly drawn into a foreign intelligence network."

Knowledgeable spies can reap a rich harvest of advanced technical data without resorting to skullduggery. The Soviets, for example, subscribe to a biweekly report on current scientific research published by the government-run National Technical Information Service. It collates only unclassified research, but some of the papers provide valuable technical clues—"a running account of the level of U.S. technology on a very, very timely basis," says one U.S. expert. The Soviet Union has a standing request to receive microfilm copies of all documents relating to such fields as "missile technology" and "optics and lasers." Inevitably, a document or two turns out to have been improperly declassified.

Similarly, participants in scientific meetings that routinely include Soviet experts often seem "lax . . . about the protection of militarily significant technologes," complains J. Fred Bucy, president of Texas Instruments. And Webster is concerned by the influx of visiting scientists and businessmen from the Communist block. One Hungarian physicist was allowed to study magnetic-bubble memories for computers—until a defector revealed the Hungarian had a deadline for delivering a prototype to Moscow.

Controlling the spread of sophisticated American technology becomes more difficult when scientific breakthroughs enter commercial production, as they have in computers, microelectronics, fiber optics and lasers. Federal export regulations restrict the sale of products that could be of military value to the Soviet bloc—but the rules can be difficult to apply, forcing case-by-case evaluations. "We will license [the export of] computers of a certain size," says a U.S. Commerce Department official. "But we will absolutely not license . . . the technology to produce them." Some American firms dodge the regulations in order to make a sale. Last month, two former executives of I.I. Industries pleaded guilty to the illegal sale of semiconductor-manufacturing equipment worth $300,000 *to* East Germany. Similar sales by other firms could total as much as $35 million.

Equipment: The Soviet espionage campaign now aims to copy both the product and the manufacturing process. The CIA has found, for example, that the microcircuitry inside a Soviet electronic calculator duplicated that of an American-made model—a relatively simple bit of "reverse engineering." But U.S. experts were disturbed that the Soviets had also obtained advanced American-made equipment to manufacture the microcircuits, probably through a legal sale to Yugoslavia.

Stemming the steady leakage of American technology poses a series of policy dilemmas for U.S. officials. It is one thing to crack down on espionage or illegal sales. But many American advances are there for the asking. Sophisticated technology is America's most competitive export on the world market, and the free exchange of technical information is highly valued by scientists. The Soviet bloc's access to scientific research can be eliminated only by suppressing scientific debate and business enterprise—and so far no one seems willing to go that far.●

SMALL BUSINESS EXPORT EXPANSION ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. MOAKLEY. Mr. Speaker, at a time when chronic international trade deficits are draining our domestic economy, we must begin to search for aggressive alternatives to compete in the world marketplace. To reverse our balance-of-payments deficit, which was $28.5 billion in 1978, American business must take advantage of increased export opportunities.

Presently, only 25,000 manufacturing firms export regularly, and 85 percent of our total exports can be attributed to 250 firms. We are only scratching the surface of our true export capability for the Department of Commerce estimates there are an additional 20,000 U.S. companies which could join the ranks of exporters.

Small- and medium-sized companies can make significant contributions in the international marketplace, but most lack the resources, time, and know-how necessary to explore trade opportunities.

To assist them in overcoming these difficulties, I am today introducing legislation, which is jointly sponsored in the Senate by GAYLORD NELSON, chairman of the Select Committee on Small Business, designed to work with small businesses in realizing their trade potential.

This bill mandates a grant system for State or local jurisdictions to establish an individualized export-assistance program for small businesses. Grants would not exceed $150,000 annually, and the grant program would terminate after 3 years.

This program will provide, free of charge, assistance in the following areas:

First, analyzing markets to determine the nature of a company's export potential.

Second, training and advising on matters concerning export pricing, shipping, documentation, financing and business customs.

Third, identifying and contacting potential foreign customers and distributors for a company's products.

Fourth, managing and sponsoring foreign-trade missions for participating firms to meet with prescreened buyers, distributors, sales representatives and organizations interested in licensing or joint ventures.

This provision of the bill will give small businesses the direct assistance they need to export successfully. It is modeled after the highly successful international trade program run by the Massachusetts Port Authority and the Smaller Business Association of New England. In 2 years, four trade missions involving 25 manufacturers located throughout New England have gone to Western Europe and created an additional $1.6 million in sales as a direct result.

Title II of the bill would help make the Federal Government more responsive to the problems of small business engaged in international trade. It would organize in the Commerce Department regional offices, one-stop information centers providing companies with all necessary information on Government export programs. These centers would be staffed by a full-time representative of the Commerce Department, the Small Business Administration, the Internal Revenue Service, the Export-Import Bank, and the Overseas Private Investment Corporation. This title would not create any new job positions, but it would mean improved staffing in Commerce's regional offices. In doing this, it will minimize the bureaucratic runaround that the businessman receives when he approaches his Government with questions about export programs.

Title III of the bill amends the Small Business Act by explicitly authorizing the SBA to make loan guarantees to small business exporters under its normal business-loan program and by authorizing the guaranteeing of bridge-financing loans for small businesses with verified contracts for the sale of products overseas. All to frequently, a small businessman needs a working capital loan to help him complete the terms of a contract. Banks are reluctant to make such loans because of the risk involved and because they are short-term loans with low profitability. This title of the bill helps resolve this financing problem by having the SBA guarantee such loans to small business exporters and thus spreading the risk.

Finally, title IV of the bill provides equity financing to new-to-export firms by authorizing the SBA to guarantee a percentage of a loan made by a small business investment company.

This legislation can assist the small businessman to move into the world-trade market. By doing so, we can boost both business growth and employment opportunities while working to reduce our foreign-trade deficits.●

RESOLUTIONS ADOPTED BY THE REPUBLICAN GOVERNORS ASSOCIATION

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. RHODES. Mr. Speaker, on November 20, 1979, the Republican Governors Association met in Austin, Tex., and unanimously adopted five resolutions. I was pleased to see their unity and think that their positions deserve public attention and consideration.

The resolutions follow:

RESOLUTION OF THE REPUBLICAN GOVERNORS ASSOCIATION TO PRESERVE EQUITABLE, DEPENDABLE AND UNIFORM TRANSPORTATION SERVICE FOR AMERICA'S CONSUMERS AND BUSINESSES

(By Governor James A. Rhodes of Ohio)

Whereas, the American economy has benefited from an efficient and safe trucking system, and

Whereas, members of the Republican Governors Association seek to preserve nondiscriminatory rates for all manufacturers and consumers and stable and reliable service to all sections of the nation, including small towns and rural communities, and

Whereas, wholesale disruption of the trucking industry's present regulatory system will bring more unsafe and unregulated vehicles to our streets, expressways, and roads and undermine the nation's economy:

Now, therefore, we, the undersigned Republican governors do hereby urge the United States Congress to evaluate carefully any proposed trucking industry legislation to insure that such legislation seeks to responsibly improve the present regulatory system for the American trucking industry.

Unanimously adopted November 20, 1979 at the Annual Winter Conference in Austin, Texas.

RESOLUTION OF THE REPUBLICAN GOVERNORS ASSOCIATION REGARDING REVENUE SHARING

(By Governor Lamar Alexander of Tennessee)

The Republican Governors have no higher federal grant-in-aid priority than the reauthorization of the General Revenue Sharing Program. No other federal program better recognizes the effectiveness of decentralized program development, has lower overhead costs, or provides some degree of compensation for the unfunded mandates that the federal government imposes on states and localities. The Revenue Sharing Program should serve as a model for future federal-state-local initiatives.

The Republican Governors join with the NGA and other national groups that speak for state and local governments and call for the renewal of General Revenue Sharing according to the following principles:

Preservation of the flexibility of recipients to determine the purposes for which funds shall be spent, reflecting the wide diversity among states and localities;

Allocation of funds to state and local general purpose governments using the existing formula, which measures need using population, per capita income, and tax effort;

Continuation of provisions in the existing law that assure financial accountability, citizen participation, and protection of the civil rights of the nation's citizens;

Authorization of the program on an entitlement basis for four years to guarantee continuity and dependability of funding; and

Commitment of at least the present spending level for the program.

The Republican Governors pledge themselves to work with local governments and interested groups and individuals within their states for reauthorization of the General Revenue Sharing Program consistent with these five principles.

The Republican Governors urge all candidates for the 1980 presidential nomination to endorse re-enactment of the program according to these principles.

Unanimously adopted November 20, 1979 at the Annual Winter Conference in Austin, Texas.

RESOLUTION OF THE REPUBLICAN GOVERNORS ASSOCIATION REGARDING MAXIMIZING DOMESTIC ENERGY PRODUCTION

(By Governor William P. Clements, Jr. of Texas)

Whereas, the national administration and the Congress have failed to respond to the nation's energy crisis with strong programs to boost domestic energy production and to curb bureaucratic regulatory barriers to that production; and,

Whereas, the people of America suffer from crippling inflation and unemployment and a weakened national defense because of our overdependence on imported oil, and there is an urgent need to move forward on a truly comprehensive energy program for the sake of our people; and,

Whereas, the administration has focused almost entirely on energy conservation, which we support, but which is only part of the total answer to the problem; and,

Whereas, our overdependence on oil imports is needless, in view of the fact our nation has potential oil reserves of 143 billion barrels compared to our annual consumption of 6.6 billion barrels, natural gas reserves of 961 trillion cubic feet compared to annual consumption of 20 trillion cubic feet, and coal reserves equal to seven times the total energy reserves of all the Middle Eastern nations; and, Whereas, the federal government is not only ignoring the energy production expertise of the private sector, but also actually inhibiting production through an unreasonable, contradictory, and confusing morass of federal regulations,

Therefore, the Republican Governors Association in assembly in Austin, Texas, recognizing the need to halt the slide in America's standard of living caused by oil imports, believes that it is imperative that the United States reduce oil imports by adopting a policy that calls for: Immediate and maximum production of oil and gas as a vital short-term effort to minimize oil imports, and that this effort should be stimulated by decontrolling prices with a requirement that resulting above-normal revenues be plowed back into domestic energy production of all forms.

RESOLUTION OF THE REPUBLICAN GOVERNORS ASSOCIATION REGARDING CAMBODIA

(By Governor Robert D. Ray of Iowa)

Whereas, as many as two million Cambodians may have perished over the past four years due to the policies of the former Communist government; and

Whereas, another two million face possible starvation from the famine that may result from the fighting between Vietnamese and Cambodian forces; and

Whereas, hundreds of thousands of refugees inside Thailand and along the Thai-Cambodian border are in need of food and medicine; and

Whereas, the authorities in Phnom Penh have refused to open a land route into Cambodia from Thailand over which needed assistance could reach these innocent people who are suffering;

Now, therefore, We the Republican Governors assembled do hereby

Express support for the efforts of our government to provide food, medicine and other assistance to the Cambodian people;

Urge the authorities in Phnom Penh to open a land route from Thailand into Cambodia to allow supplies to move expeditiously to those people most in need;

Commend the government of Thailand for its willingness to admit refugees into its country; and

Encourage the American people to have compassion for the plight of these unfortunate refugees and to give generously to appeals by religious and private organizations in the United States on behalf of them.

Unanimously adopted November 20, 1979 at the Annual Winter Conference in Austin, Texas.

RESOLUTION OF THE REPUBLICAN GOVERNORS ASSOCIATION

(By Governor Otis R. Bowen, M.D.)

Whereas, the Republican Governors Association is completing one of the most successful conferences in its history, and

Whereas, the people of the Great State of Texas and the City of Austin have been gracious hosts for the conference; and

Whereas, each of the Republican governors is grateful for the thoughtfulness of arrangements made by our host state and its governor.

Now, therefore, be it resolved by the Republican Governors Association that the sincere appreciation of its members be expressed to Governor William P. Clements Jr. and his wife, Rita; to members of the host committee, and to all Texans involved in staging the conference.

Be it further resolved that copies of this resolution be made available to those involved in the conference.

Unanimously adopted November 20, 1979 at the Annual Winter Conference in Austin, Texas.●

OIL MINING MAY INCREASE U.S. SUPPLY

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. YOUNG of Florida. Mr. Speaker, yesterday I addressed the major issues involved in adopting and carrying out a realistic national energy policy. The central theme of my remarks was that America must produce more energy within the boundaries of our own country—that we must develop safe and secure energy supplies free from political or economic pressures of any foreign country.

One method of achieving this goal, I suggested, was to place more emphasis on exploration for new oil in this country and exploitation of known but untapped supplies of oil that is either too deep, too dispersed in rock, or too thick to be removed by conventional pumping procedures. After presenting those remarks, I read a very interesting article published Monday in the Washington Post which illustrates the vast potential of such supplies.

The article reported that the Interior Department's Bureau of Mines has concluded that various methods of "mining oil" could increase America's economically exploitable oil reserves tenfold, adding hundreds of billions of barrels to the Nation's usable oil reserves.

"A couple of million barrels a day of production from oil mining is possible, by 1990, no doubt about it," the article quotes one expert as saying. And Sheldon Wimpfen, the Bureau's chief mining engineer, states:

> From a mining standpoint, all of this is proven technology in use worldwide.

That is the kind of thinking and attitude that we need to attack the Nation's energy problem. We need more "can do" people—more people who say: "Let's get on with the job." The people who are continually offering excuses and saying that we cannot do the job should get out of their way. The Washington Post article follows:

OIL MINING MAY INCREASE U.S. SUPPLY DRAMATICALLY

(By J. P. Smith)

Back in the 1920s, a Union Oil geologist told his company he was onto a major oil discovery in central California. Impressed, Union drilled a string of wells and hit—black goo.

The geologist was fired.

Today that black goo is known as heavy crude and—thanks to some new developments in extraction technology—several oil companies are betting a lot of money that they can get it out of the ground and sell it at a tidy profit.

Getty Oil, for one, is opening a $21 million operation outside Bakersfield, Calif., not far from the Union find, to tap a reservoir Getty believes contains 400 million barrels of crude. Other companies are contemplating similar efforts in New Mexico, Utah and other oil-producing states.

In fact, Shell Oil's $3.6 billion purchase of California's Belridge Oil Co. earlier this year may have been predicated on Shell's ability to squeeze a lot more out of Belridge's holdings than could be obtained through conventional drilling.

The key to all this is oil mining, a term that encompasses several processes. In one, the oil-bearing rock is simply mined out of the ground and the crude "cooked" out of it. In others, huge pits are dug down to the oil formation and chemicals applied to loosen the oil. In still others, shafts are drilled underneath the reservoir and holes cut upward so the oil drips out, like sap from a maple tree.

These processes are attractive because they are applicable not only to heavy crude, but also to tar sands, a hydrocarbon-bearing soil called diatomite, and perhaps most importantly, to oil fields of lighter crude where conventional wells have run dry.

Studies for the Interior Department's Bureau of Mines conclude that oil mining could increase America's economically exploitable oil reserves tenfold, adding hundreds of billions of barrels to the nation's current 30 billion barrels of proven reserves.

John Hutchins of Energy Development Consultants, who worked on one of the studies, says: "It's quicker and probably a lot cheaper than oil shale and coal liquefaction. The only thing left is just going out and trying it." And that is what Getty and the others are doing.

The idea of mining for oil is not new. A 1932 Bureau of Mines study by George S. Rice concluded, "Where conditions are favorable, mining methods in depleted oilfields may bring large financial returns and recover oil that might otherwise be lost."

But until recently an important factor has been lacking: price.

In the development of any mineral resource, the first question that must be answered is whether the deposit is "economic"—that is, can the mineral be mined and processed and sold for a profit at the prevailing price?

Oil is no different, and when crude was selling for $2 to $3 a barrel, only the cheapest extraction process could be employed profitably.

Now all that has changed.

Bureau of Mines consultants say that surface-mined oil can be produced at a cost ranging from $12 to $21 a barrel, and that the cost for oil from underground mining operations ranges from as little as $10 a barrel to $60 a barrel.

World oil prices have risen more than 70 percent this year. The Organization of Petroleum Exporting Countries is charging "official" prices averaging $22 a barrel, and also sells much of its oil on a one-time, or spot, basis at prices of up to $40 a barrel.

Richard Dick of the Bureau of Mines' Twin Cities Research Center in Minneapolis says: "A couple of million barrels a day of production from oil mining is possible, by 1990, no doubt about it."

Dick oversaw the studies prepared by Golder Associates and Energy Development Consultants and released to the public earlier this year.

"Under today's economics, many of the oil deposits in this country can be mined economically," he adds.

Sheldon Wimpfen, the bureau's chief mining engineer, also is optimistic.

"From a mining standpoint, all of this is proven technology in use worldwide," Wimpfen says.

Wimpfen became interested in oil mining years ago when he noticed that mining engineers continued to make advances in ore recovery processes, but that oilmen still left 40 percent to 60 percent of the oil they discovered in the ground, even with so-called "enhanced oil recovery" operations.

"We have some mineral operations that typically recover up to 90 percent of the ore, but the oil boys have settled for a lot less," Wimpfen continues.

In the last century, more than 450 billion barrels of oil have been discovered in the United States. But just 115 billion barrels have been produced. Current conventional production technology will allow the oil companies to produce about another 30 billion barrels, leaving some 305 billion barrels out of reach.

Another 26 billion barrels of oil are locked in Utah's tar sands, and billions more elsewhere. Then there are an estimated 30 billion barrels of "heavy" viscous oil in California, and billions more in shallow diatomite formations.

The one million to two million barrels a day of new production from oil mining that supporters say is possible, is equivalent to President Carter's most optimistic forecast of production from synthetic fuels by 1990.

Not everyone familiar with the oil mining concept is quick to embrace it, however, or agrees with the Bureau of Mines studies.

Lee Marchant of the Energy Department's Laramie Energy Research Center is one of the skeptics. He says the optimistic conclusions of the Golder Associates and Energy Development Consultants studies "have to be considered speculative." Further, Marchant says, the firms have a "vested interest" in generating more studies through their encouraging reports.

Until an oil or mining company actually mines oil on a commercial scale, Marchant says, it will be too soon to accept unequivocally the bureau's economic analysis.

As for the priority the Department of Energy assigns to oil mining, Marchant says: "We don't see spending a large portion of our money on this technology. . . . We feel mining is only applicable to a small percentage of our total resource."

Conoco, a major oil company that has tried underground oil mining methods on a limited basis on its Lakota field near Casper, Wyo., is skeptical.

"If reservoir conditions are favorable, we might try this again," says Aurelio Madrazo, Conoco's head of North American production.

Conoco has been operating a 50-barrel-a-day underground mining plant for the last three years, draining oil into a 2,000-foot-long horizontal shaft, 180 feet underground, beneath a shallow oil field.

"It's not something we see as solving the energy crisis," Madrazo says. "It is still a very small contribution."

Getty Oil Co., however, is moving ahead with its $21 million pilot plant at its McKittrick field outside Bakersfield.

Construction will begin early next year, Getty spokesman George Schwarz says, and the company expects to be producing 20,000 barrels a day by the late 1980s.

The McKittrick operation, if it works, is an illustration of oil mining's potential. Discovered in 1896, the McKittrick field produced 15,900 barrels a day at its peak. But by June of this year, production had dropped to 6,000 barrels a day.

Schwarz says Getty is confident that the company will be able to extract nearly 400 million barrels before the field is mined out—largely through digging and processing hydrocarbon-rich diatomite overlying the field. The 400 million barrels Getty hopes to get amount to nearly twice the total production from the field during the 80 years it has been worked.

Most of the oil-soaked diatomite laced through and around the McKittrick field easily can be surface-mined. A few miles away, another company has a surface mining operation to extract diatomite that is free of oil, for use as cat litter.

Getty's pilot plant will produce 150 barrels of oil daily, from 240 tons of surface-mined ore processed at one of two facilities.

The purpose of the test is to determine which of the two methods of separating the oil from the ore is the most profitable. One method will employ a variation of a process devised by the Germans to convert coal to oil. The other will use a solvent from Dravo, a company that is experienced in extracting vegetable oil from soybeans.

"With conventional methods you can't get the oil out, but mining should work," Schwarz says.

Similar plans are under way in Utah to mine and process billions of barrels of oil locked in tar sands deposits.

Dr. Francis Hansen, of the University of Utah, says that maybe 25 percent of the state's tar sands can be surface-mined. While no major oil company has announced plans to go ahead, several are exploring it, Hansen says.

Hansen and other researchers believe it is feasible to construct units that could produce from 50,000 to 150,000 barrels a day by mining the tar sands. They believe the process could yield quality oil that could be sold profitably at $25 a barrel.

"I'm bullish on oil mining," Hansen says, adding, "It is only a year or two away."

The nation's largest gasoline retailer, Shell Oil Co., according to oil industry executives, also has plans for mining-style operations to recover billion of barrels of oil in the 33,000 acres of Kern County, Calif. fields it bought from Belridge Oil Co.

"There is a widespread belief that Shell has the capability to squeeze oil out of those formations," says Bruce Wilson, an energy analyst with the brokerage firm of Smith Barney Harris Upham Co. Inc.

"If you have a process with a higher recovery rate, then you have a larger exploitable resource base," Wilson points out.

This could explain why Shell's purchase of Belridge—the largest merger in U.S. history—called for paying almost $9 a barrel for the little-known California producer's known reserves, compared with the $6 a barrel that industry analysts normally figure in transactions of this type.

Yet another oil mining project is taking shape near Santa Rosa, N.M. There, James Young, president of American Mining and Exploration Co., has obtained the rights to 11,000 acres of tar sands deposits.

Young says his plan to establish a $25 million oil mining operation at the site is "strictly a private venture, not requiring state or federal money."

Young anticipates the tar sands should yield some 250 million barrels of oil that will be mined and processed with solvents. He expects a recovery factor of "about 95 percent."

He is confident that his oil mining project will prove competitive with oil selling for $18 a barrel, once his plant is in operation.

"It sounds simple, and it is," Young insists. "We're combining oil technology with mining technology. When you stand in the quarry and a face of rock 30 feet high, with oil bleeding out in the summer sun, you can't deny that there is oil in that rock."●

TAXES AND THE INDEPENDENT CONTRACTOR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, in the October 30, 1979, Congressional Record, page 30256, I called attention to the fact that the Select Revenues Subcommittee of the Ways and Means Committee, as a result of a 5-to-4 vote rejecting the Duncan amendment to give statutory recognition to blue collar independent contractors, had failed to acknowledge established judicial doctrines. In today's remarks, I will comment on the provision in H.R. 5460 to impose a 10-percent withholding requirement on independent contractors. Unfortunately, the subcommittee refused on a 5-to-4 vote to remove this onerous provision from H.R. 5460.

H.R. 5460 already contains a "no inference" section which applies to the one safe harbor in that bill. The safe harbor in H.R. 5460 sets certain criteria to determine conclusively, without litigation, that a worker is an independent contractor. The "no inference" section allows the worker to prove he is in fact an independent contractor even if he does not fill the sketchy requirements of the H.R. 5460 safe harbor. In other words, there is no inference, if one does not meet the criteria for the white collar safe harbor, that he is an employee. A "no inference" section applying to the 10-percent withholding tax has been excluded from H.R. 5460. Thus, an inference could be drawn that a worker is an employee, not a contractor, simply because he has taxes withheld from his payments.

In my October 30 remarks, I made reference to a 1977 case decided in the 9th Circuit Court of Appeals which found owners of dump trucks to be independent contractors. That decision states:

> Moreover, the contractors do not make any of the normal deductions from the pay of the owner-operators, contrary to the practice commonly employed with respect to true employees.

Thus, withholding is an element used to determine a person's work status.

We can see quite clearly the danger to independent contractors if they are required to submit to withholding absent a provision assuring that withholding does not deprive them of contractor status. Without such a provision, some lawyers undoubtedly would cite H.R. 5460 (if enacted) as containing a withholding deduction which is a "practice commonly employed with respect to true employers." This, coupled with the fact that H.R. 5460 does not give statutory recognition (safe harbor) to blue collar independent contractors, could have a disastrous effect on labor relations and our economy. This might suggest why the IRS is pursuing a tax policy that may be more costly than productive in terms of revenue.

The very able and distingiushed gentleman from Pennsylvania, Richard T. Schulze, was able to foresee the potential problems in this area and offered an amendment to provide that there was no inference in applying the withholding tax that the payor was an employer or the payee was an employee.

Unfortunately, this also was defeated 4 to 5, but Mr. Schulze persisted and was promised report language to clarify the situation. The question then arises, if it is good enough for report language, why not put the provision in the statute?

Mr. Speaker, if these self-employed workers were held to be employees, it would in effect abolish much of the entrepreneurial system in our Nation. An entrepreneur is defined as: "One who organizes, manages, and assumes the risks of a business or enterprise." To go a step further, risk involves "volenti non fit injuria" which means "that to which a person assents is not regarded in law as an injury."

Thus, a payor withholding taxes from an independent contractor not only eliminates that person as an entrepreneur, but also assumes the risk on behalf of another contrary to common law. Once a person assents to become an independent contractor (entrepreneur) he must assume the risks involved with his own tax compliance. The person paying the contractor should not be responsible for paying the contractor's taxes for him.

Mr. Speaker, the GAO report concerning the tax compliance of independent contractors stated in frank and direct terms:

> IRS has not taken the action needed to get a good understanding of how many nonfilers exist, who they are, why they fail to file, and what action will prompt their compliance.

Assistant Secretary of the Treasury, Donald Lubick, testified that a 10-percent withholding tax on independent contractors would result in an additional $600 million in revenues. But let us examine the negative economic impacts of his proposal.

Assistant Secretary Lubick also stated that 20 to 25 percent of the total income from all independent contractors was unreported. Since this 25 percent is around $2 billion, according to Mr. Lubick, we can assume the total income for all independent contractors is around $8 billion.

The tax proposed in H.R. 5460 would result in payors withholding 10 percent of the contractors' operating income, or $800 million, ultimately driving many out of business unless prices are increased by possibly $800 million. Once again, tax policy would be driving inflation up.

Apparently the revenue estimates generated by IRS justify withholding were based on a 10-percent tax across the board. But, in light of the many exemptions in H.R. 5460, the anticipated $600 million in revenues to be produced by withholding must be suspect. I am left wondering why the tax is even proposed at all, unless the IRS strategy is to make all enterpreneurs employees and then work to eliminate the exemption.

Mr. Speaker, I have emphasized that the withholding tax could destroy a basic institution of our society. In addition, I am convinced that payors do not want to serve as tax collectors. The new payroll and personnel expenses associated with the administration of a withholding tax would be enormous for the payor, further increasing the costs of his goods and services.

Mr. Speaker, instead of discouraging small, independent contractors, we should do everything in our power to encourage growth in their numbers. Many present-day businessmen were independent contractors before they established their own major business enterprises. Moreover, many independent contractors are members of minority groups that are being encouraged to start their own businesses by other governmental agencies. If the Government is sincerely interested in bringing a maximum number of small, independent, minority business enterprises into full bloom, it would not be moving toward withholding.

Before Congress adopts a requirement that could force some small businessmen to close shop, it would seem prudent to require a very detailed and reliable review of the problem. That is why, in H.R. 5266, I have proposed a 4-year study to determine if withholding is necessary in the first place. I hope my colleagues on the full committee will support the efforts of the distinguished, fearless foursome on the subcommittee; HOLLAND, DUNCAN, SCHULZE, and VANDER JAGT. Also, I invite all my colleagues to cosponsor H.R. 5266.●

CALIFORNIA FIRE CHIEFS ASSOCIATION SUPPORT THE CIGARETTE SAFETY ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. MOAKLEY. Mr. Speaker, recently, at their 1979 Conference, the California Fire Chiefs Association expressed their support for H.R. 5504, the Cigarette Safety Act.

This expression of support parallels the support of the Federated Fire Fighters of California and the California Furniture Manufacturers Association in calling for legislation which would require cigarettes to self-extinguish within 5 minutes when not being smoked.

I would like to share their letters of support with my colleagues:

CALIFORNIA FIRE CHIEFS ASSOCIATION,
Sacramento, Calif., November 26, 1979.
Congressman JOHN J. MOAKLEY,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN MOAKLEY: On behalf of the California Fire Chiefs Association, I am pleased to express to you our full support of HR 5504 the Cigarette Safety Act.

The enclosed copy of Resolution 10 was unanimously passed by the voting membership of the California Fire Chiefs Association at their 1979 conference which was held in Fresno, California, May 13th through 17th. We also are on record as strong supporters of Assembly Joint Resolution 28 which was authored by Assemblywoman Egeland and signed by Governor Brown on September 12, 1979.

We commend you for your participation in this urgently-needed resolution by your authorship of HR 5504 and wish to extend to you our sincerest offer of whatever help we may provide for its successful passage.

Sincerely,

ANCIL HOFFMAN,
Executive Director.

RESOLUTION NUMBER 10

CALIFORNIA FIRE CHIEFS' ASSOCIATION

23rd Annual Conference
May 13–17, 1979
Fresno, California

Self-extinguishing cigarettes

Whereas, approximately half of all residential fire deaths in the United States are caused by carelessly discarded cigarettes; and

Whereas, most of these fire deaths can be prevented if cigarettes were to self-extinguish rapidly; now, therefore, be it

Resolved, That the California Fire Chiefs' Association at its Annual Conference in the City of Fresno, May 13 through 17, 1979, support and endorse efforts to require that all American produced cigarettes self-extinguish rapidly.

PHIL FAVRO,
State Fire Marshal.
ALLAN R. STONE,
President, California
Fire Chiefs' Association.

FEDERATED FIRE FIGHTERS
OF CALIFORNIA,
Sacramento, Calif., November 19, 1979.
Hon. JOHN JOSEPH MOAKLEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOAKLEY: Thank you for the information regarding your HR 5504 "The Cigarette Safety Act."

Andrew McGuire has contacted us requesting support and we have sent a letter to all California representatives urging them to support and co-sponsor HR 5504. We have also notified all our affiliates asking them to contact their representatives personally. Our publication, the California Fire Fighter, will also carry an appeal to all firefighters in California.

Please be assured that the Federated Fire Fighters will do everything possible to assist you and Mr. McGuire.

Sincerely,

DANIEL A. TERRY.

CALIFORNIA FURNITURE
MANUFACTURERS ASSOCIATION,
Los Angeles, Calif., November 13, 1979.
Hon. JOSEPH MOAKLEY,
House Office Building,
Washington, D.C.

DEAR MR. MOAKLEY: Our trade press has reported your introduction of a bill in the House of Representatives which would direct the Consumer Products Safety Commission to develop standards requiring cigarettes to extinguish themselves within five minutes.

We congratulate you upon this long-overdue action which, if successful, will accomplish immeasurably more than any conceivable standards to reduce ignition originating in upholstered furniture.

As you may know, the California State Legislature approved a resolution which we sponsored urging Congress to adopt legislation similar if not identical to the bill which you have introduced. A transcript of that resolution is enclosed.

Our sincere thanks for your leadership in this area. If there is any way in which we may be of assistance to you, please let us know.

Cordially,

LEE HAHN.●

SALT—THE SOVIET PERSPECTIVE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. McDONALD. Mr. Speaker, in part II of his article on SALT, Dr. Glagolev points out that Soviets carefully evaluated how they should negotiate with the United States in view of our failure of will in Vietnam and other indications that we were now willing to accept being the No. 2 military power in the world. The Soviets further took into account our failure to react in my positive manner to events in Angola and Ethiopia. Therefore, part II of this article should be particularly illuminating for those persons still undecided on the advisability of approving SALT II. For those interested in reading the previous item, it appeared on page 32802 in November 15, 1979, CONGRESSIONAL RECORD.

Part II follows:

PART II

During the period of the SALT negotiations, the U.S.S.R. built somewhat sophisticated anti-aircraft and anti-ballistic missile systems which are at present superior to the comparable American systems. Although technically these systems are defensive, they can be used to limit a retaliatory strike, their main purpose in Soviet strategy.

Anti-aircraft and ABM systems are complementary. The ABM system can also be used against aviation, and some Soviet long-range anti-aircraft missiles can be used against ICBMs and SLBMs.[1] The Soviet anti-aircraft system, which includes missiles and interceptors, could strike down a large number of the American strategic bombers carrying cruise missiles and short-range ballistic missiles.

The Soviet Union has overwhelming superiority in this field, with about 2,700 strategic interceptors as compared to about 330 in the U.S.[2] Interceptors, deployed in forward airfields, can shoot down strategic bombers of the enemy even before these bombers enter the air space of the country they intend to attack—and before the bombers launch their missiles and gravity bombs. Interceptors can double their usual range, if they are used in one-way missions, which is quite possible in a nuclear war and especially if dealing with a militarily inferior opponent. The Soviet interceptors are, as a rule, supersonic whereas the main American strategic bombers are subsonic. The Soviet fighters have air-to-air missiles. The new MIG-29 fighters are, according to some sources, equipped with a look-down, shoot-down system, which makes them effective cruise-missile killers. The American fighters deployed in the U.S. cannot accompany the American bombers into Soviet air space because of the shorter range of the fighters.

The Soviet Union also acquired an overwhelming superiority in strategic anti-aircraft missiles with about 12,000 such missiles, while the U.S. has none![3] The Soviet missiles SA-5 have a slant range of over 200 kilometers. The U.S.S.R. has mobile surface-to-surface missiles as well, which are less vulnerable than stationary ones. In addition, there are about 9,000 anti-aircraft guns in the Soviet arsenal, whereas only 600 such guns exist in the U.S. army. True, the U.S. also has tactical missile-gun systems in the army and some anti-aircraft guns and missiles in the navy and marines.[4] However, these weapons have limited ranges and cannot be used against strategic bombers flying outside the range of the systems and using medium range air-to-surface missiles for an attack against the United States.

In general, hundreds of Soviet strategic bombers would probably be able to use their missiles and gravity bombs in a first nuclear strike against the U.S. while the Soviet anti-aircraft system would be able to prevent the small number of surviving U.S. bombers from hitting the majority of their targets.

The Soviet Union acquired an important qualitative superiority in the defense against ballistic missiles when the U.S. government unilaterally deactivated and dismantled its brand-new ABM system in the mid seventies—after the treaty on the limitation of these systems was signed. The U.S.S.R., on the contrary, developed its ABM system, which defends the most important Moscow region from a possible American retaliatory strike and which has a capability of intercepting some, if not the majority of the U.S. retaliatory missiles A considerable part of Moscow's population would probably be underground in the subway system and other shelters prepared for such an occasion and another part would be evacuated. (The author of this study participated in the training courses for such an evacuation of Moscow.)

An anti-aircraft and ABM system comparable to the Soviet one could protect at least the major population centers in the United States saving millions of lives in case of a massive Soviet nuclear strike. The Kremlin's possession of an effective nationwide civil defense system and the virtual non-existence of a comparable system in the United States gives the Soviets an enormous strategic advantage—an advantage that they will know how to exploit in future confrontations.

During the period of the SALT negotiations, the Soviet Union developed, produced, and successfully tested killer satellites. The author of this study participated in the official discussion of this problem in the U.S.S.R.

The United States unilaterally refrained from the production of such satellites during the same period, although it had the necessary scientific and technological potential. At present, there is reason to believe that the U.S.S.R. has the capability to put out of action a number of the American satellites, which play so important a role in the control of strategic weapons.

The Soviet ability to interfere with the U.S. strategic system of control is based not only on the availability of killer satellites but even more on the Soviet superiority in the aggregate destructive power of its strategic arms. Many warheads of Soviet missiles are aimed at American radar and command centers, including Washington, D.C., the main center of the entire system of defense.

There is a plan to evacuate the President and the chief military commanders from Washington by helicopters and planes in the event of a nuclear attack. However, this plan is not realistic. Washington could be destroyed in less than 10 minutes by one ballistic missile launched from a Soviet submarine close to the shore of Maryland. It may not be possible to detect the incoming warheads in time for evacuation of the Presidential office.

Underground command centers in the U.S. would be vulnerable since their location is either already known or can be discovered by the Soviets. It is very difficult to conceal such large installations. Many radars, radio stations and other means of communication and many navigational instruments in the remaining silos and bombers would be damaged, if not destroyed. Huge explosions would create strong psychological impacts on personnel and such turbulence and other strong changes in the atmosphere over the whole country that radio transmissions and the course of flight of the U.S. missiles would be interfered with. The whole system of telegraph and telephone communication would be seriously damaged.

In other words, the systems of command, control, and navigation in the United States would probably be damaged to such an extent that a centrally organized retaliatory strike could hardly be effected, even if it were ordered.

Realistically thinking, only commanders of a few ICBM silos and captains of the remaining ballistic missile submarines and strategic bombers patrolling far enough from the U.S. and close enough to the U.S.S.R. would be able to retaliate, if they were not prevented from doing so by electronic locks in their weapons.

The Soviet leaders calculate on the lack of will and weakness of the U.S. leadership demonstrated in the surrender of South Vietnam and in its failure to take counter-measures of any kind to prevent or respond to communist seizures in Angola, Ethiopia, Afghanistan and other countries. Obviously, they would prefer to achieve their goal of compelling the capitulation of the Free World, without going to war—and there is a serious possibility that they may be able to do so. But their military theory does not exclude the possibility of nuclear war—and if it should come to this, it is possible that they would keep the U.S. Administration and some of its means of communication intact during the first strike, in order to let the American Government give the order to surrender and to let it prevent the local military commanders from retaliatory strikes.

It is imperative for America to create alternative secret command centers outside the United States and to develop a new, less vulnerable system of communication and control. In an emergency, the President and his chief advisers should be prepared to immediately go to deep underground shelters. Such an arrangement would enhance deterrence by letting the Soviets know that they cannot hope to knock out America's national command center in a single blow.

The new Soviet-American SALT agreement consists of three main parts: the basic treaty, that would remain in force through December 31, 1985; the protocol, which would remain in force through December 31, 1981; and the joint statement of principles. The treaty stipulates that each country would be allowed to have a total of 2,400 land-based intercontinental ballistic missile launchers, submarine ballistic missile launchers and heavy bombers six months after entering into the treaty. This aggregate is to be reduced to 2,250 by the end of 1981. The treaty would also provide:

An equal aggregate limit of 1,320 on the total number of ICBMs and SLBM with multiple warheads, known as MIRVs and heavy bombers equipped with cruise missiles;

A limit of 1,200 on the total number of ICBMs and SLBMs with MIRVs (of that number no more than 820 weapons systems may be ICBMs with MIRVs);

A limit of ten on the number of multiple warheads on a land-based missile and of 14 on the warheads on a submarine-launched missile;

A limit of 28 on the number of cruise missiles carried by a heavy bomber;

A ban on construction of new missile silos on land (spare missiles may not be stored near ICBM sites);

A limit of one on the development of new "light" land-based missiles.

The protocol would allow development and flight-testing of air-launched, ground-launched and sea-launched cruise missiles to unlimited range, but would ban for its duration the deployment of ground and sea-launched cruise missiles capable of a range in excess of 360 miles. The protocol would ban flight testing and deployment, but not development, of missiles for mobile ICBM launchers.

The Carter Administration has decided that it will deploy no MX missiles at least until 1986 and no long-range cruise missiles and Trident submarines at least until August 1981. The Soviet Union, conversely, will, during this period, be allowed to produce powerful ballistic missiles, including SS-18s and medium-range cruise missiles.

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[1] The Military Balance 1976-1977, p. 8.

[2] Ibid. 1978-1979, pp. 5, 9.

[3] DOD Annual Report, FY 1980, p. 71.

[4] The Military Balance 1978-1979, pp. 6, 9.

Even if the U.S.S.R. really reduced its number of ICBMs, SLBMs and long-range bombers to 2,250, retiring its obsolescent weapons, it could easily compensate for this reduction with the production of the Backfire bombers and medium-range ballistic missiles—especially SS–20s, which could be converted into intercontinental missiles simply by reducing their payload. Neither of these weapons are covered by the SALT II treaty.

The Soviet Union has already more than 150 Backfire bombers and it will be allowed to build about 20 more in the next six and a half years (while the U.S. will gradually reduce its strategic aviation).

Senator Henry Jackson has pointed out that the new SALT agreement contains provisions that could not be verified, including the agreed-to limits on the respective range of the Backfire bomber and of cruise missiles. "The loss of our facilities in Iran has done irreparable harm for years to come to our capacity to monitor Soviet strategic weapons development," Jackson said.[5]

In general, the new agreement allows the Soviet Union not only to retain but even to increase substantially its superiority over the U.S. This would be connected, in the first place, with the inevitable retirement of the old American B–52s and Polaris-Poseidon submarines (without a corresponding replacement) and with the simultaneous deployment of modern, more effective Soviet strategic systems.

The agreed figures are only a ceiling—an upper limit with no obligation to maintain any definite number of strategic weapons. The American government in the past has reacted to such limitations by effecting unilateral reductions in its arsenal of strategic arms. Thus, under the 1972 ABM treaty, there was no obligation to abolish America's initial ABM sysem which had been constructed at great cost—but a decision was nevertheless made to dismantle it. The 1972 treaty allowed the U.S.S.R. to have only one ABM site (around Moscow). It is equipped with Galosh missiles. However, the U.S.S.R. built and deployed in other regions SA–5 missiles which also have anti-missile capability.[6]

The Vladivostok accord, which established a limit of 2,400 strategic missiles and long-range bombers for each side, was an agreement of preliminary nature. It was not a treaty obligation for the signatories. Nevertheless, the U.S. government immediately proceeded to reduce its strategic forces to a level which was lower than the agreed ceiling. The Soviet leadership, in complete contrast, increased its strategic arms to a level which was higher than the ceiling agreed upon in Vladivostok.

Such is the very great difference between the impact of treaties and negotiations on the Soviet government, on one hand, and on the U.S. Administration on the other hand. The U.S. government appears to react to its official and unofficial agreements on arms control by immediately embarking on unilateral reductions of its strategic forces, as though such reductions were imperative as tokens of good faith. Even though the new SALT treaty has not yet been ratified, the Administration has already committed itself to delays and reductions in the Trident program. It has also decided to reduce the number of both long-range bombers and strategic missiles to a level much lower than is stipulated by the terms of the new treaty.

The bulk of the American strategic missiles are already MIRVed while many of the Soviet missiles are not. Under the terms of the treaty, the U.S.S.R. would be permitted to replace obsolescent, single warhead missiles with new, more accurate, MIRVed ones. Indeed, an estimated 7,000 Soviet ICBM warheads alone could be deployed by 1985. In brief, within the provisions of SALT II, the U.S.S.R. would be able to deploy ICBM systems with a 7:1 throw weight advantage, with three times as many ICBM warheads, with each Soviet warhead having an average of three times more yield than U.S. ICBM warheads.

The new treaty does not cover several important aspects of strategic defense: the yield of the strategic weapons, the total number of strategic warheads, the range of submarine-launched ballistic missiles, the total numbers of cruise missiles and medium-range ballistic missiles and strategic bombers, the number of strategic anti-aircraft missiles, strategic interceptors and anti-satellite systems and the effectiveness of civil defense. In all these fields, the Soviet Union has a considerable, often an overwhelmingly superiority. If we add these advantages to the advantages of Soviet capacity for nuclear blackmail, its ability for a powerful first strike and its residual ability, in the event of a second American strike, to mount a devastating third strike, it becomes apparent that the Soviet and American statements maintaining that the new treaty is based on or creates an equality of strategic forces have nothing to do with reality. On the American side, statements supporting government policy try to conceal the broad and massive superiority conceded to the Soviets in order to make the new SALT treaty more palatable to the general public and the Congress.

The new SALT treaty would create a political climate of "new detente," permitting and even encouraging the Administration to take further steps along the dangerous path of unilateral reductions in strategic weapons and surrendering of friendly countries to communist and Marxist dictators.

Soviet propaganda systematically seeks to conceal the enormous Soviet armament buildup—at the same time it accuses the United States of pursuing an aggressive and militaristic policy, and in this way provide itself with a pretext for further increases in the production of arms in the U.S.S.R.

During my discussions of SALT problems with staff members of the Central Committee of the CPSU, the Ministry of Foreign Affairs and the General Staff of the Soviet armed forces, I was told many times that the Soviet military strategy is based on the possibility of winning a nuclear war against the United States. The SALT II agreement would allow the Soviet Union to increase its nuclear superiority over the U.S. to such an extent that this possibility would become a probability.

The Soviet leadership has never paid any serious attention to its treaties with Western states and even with its own allies. It broke not only the Helsinki agreement and the 1973 agreement on peace in Vietnam, but even the Warsaw Pact itself. Instead of defending Hungary and Czechoslovakia—the members of the Warsaw Pact—it openly invaded these countries, which have no nuclear defense. Only a credible strategic deterrent can prevent a Soviet attack against the United States.

For the restoration of the strategic balance of power lost by the United States in connection with the first SALT agreements it would be necessary:

To reject the SALT II agreement;

To replace the B-52s with new long-range B-1 bombers;

To build medium-range bombers at the same rate as the U.S.S.R.;

To produce cruise missiles and nuclear bombs at the same rate as the U.S.S.R.;

To replace the old ICBMs with modern, less vulnerable missiles at the same rate as the U.S.S.R.;

To deploy the Trident submarines at the same rate as the U.S.S.R. is deploying comparable submarines;

To build an ABM system in the Washington-New York area;

To produce 12,000 strategic anti-aircraft missiles, some of them with anti-missile capability;

To build about 2,300 additional interceptors;

To deploy an anti-satellite system;

To organize an effective civil defense system.

Perhaps some of this is beyond the scope of reality in a democratic country where consumer demands have priority over defense. But, at the very least, the U.S. government should immediately put an end to its unilateral reduction of offensive and defensive strategic arms and *fully* restore the MX, Trident and B-1 programs.

Even though it is a totalitarian country, the Soviet Union cannot add to its armaments indefinitely. It is already close to the ceiling in military expenditures possible in peace time. The United States, with its enormous economic potential on the other hand, has sufficient reserve productive capacity to be able to eliminate the existing gap between the Soviet and American strategic capabilities. This is the way to make peace more secure.●

THE SAD TRUTH ABOUT WILDERNESS ENACTMENTS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1979

● Mr. SYMMS. Mr. Speaker, the sad truth about wilderness enactments by this body is that they are inexpensive environmental votes for 434 Congressmen. My colleagues will be faced in the upcoming years with many wilderness decisions and they will, for the most part, be individual lockups that affect only one congressional district, or in some cases, one State. It seems ironic that in many instances the congressional delegation, the State legislature, and the preponderance of residents who will be most severely impacted by the wilderness enactment are opposed to that enactment.

Such will be the case when this body considers S. 2009, Senator CHURCH's central Idaho wilderness bill. It is the largest land lockup in the history of the Lower 48 States, and it is opposed by three-fourths of the Idaho congressional delegation, the Idaho legislature, and some 68 percent of the people. They do not object to the continued preservation of what is now the Idaho Primitive Area, and they do not object to extended preservation of some of the peripheral areas. Rather, the opposition stems from those who sought a compromise approach, who saw three bills representing many Idaho interests, and who watched the Senate pass legislation resembling the bill with the greatest land area.

Today, I submit the following letter from the lands committee of the Association of Idaho Citizens, Inc., whose words epitomize the feelings of the many Idahoans who feel that S. 2009 goes too far, to the unnecessary detriment of Idaho jobs and the State's economy.

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[5] The Washington Post, March 9, 1978. The U.S. facilities were used to monitor Soviet missile tests.

[6] The Military Balance 1976–1977, p. 8.

I commend this letter to my colleagues. I will follow it up with detail about specific areas as consideration of the bill accelerates. The letter reads as follows:

ASSOCIATION OF IDAHO CITIZENS, INC.,
November 15, 1979.

To the United States Senators and Congressmen:

We respectfully ask you to vote NO for Senate Bill 95. If we need wilderness legislation at this time, we support the Symms House Bill for the following reasons:

1. Senate Bill 95, with no limit on total acreage, could ultimately saddle Idaho with 10 or more million acres of sterile wilderness, being half the USFS lands. The Symms Bill limits wilderness in Idaho to 3.5 million total and frees the 10 million acres of multiple use Rare II, lands for recreation timber, mineral, and hunting uses as it was previously utilized.

2. Just what do we now have for wilderness? This effectively 3.4 million acres or 5,313 square miles. This area can be visualized as a rectangle 53 miles wide by 100 miles long. In actuality the designated wilderness areas stretch over a length of nearly 200 miles north to south and a width varying between 20 to 50 miles east to west.

It's not how much more wilderness but how much less is needed? U.S. Forest Service surveys reveal that only 4 percent of the recreationists using the national forests enter wilderness areas. Then, the conclusion is entirely reasonable that single-use wilderness lands of Idaho should not exceed a total of 1,000,000 acres, and not anywhere near the 3,400,000 acres now designated.

3. Using Idaho Fish and Game statistics we find less than 25 percent of the Elk harvest of central Idaho in the past several years came from the designated or planned wilderness areas. More than 75 percent of the Elk kills were in the so-called roadless, Rare II lands open to hunters by car and truck.

4. Wilderness advocates have been claiming Rare II lands as wilderness that they wish to lock up, but actually these lands have been multiple use for scores of years. Opened with mining and logging roads these lands have been mined, logged, and enjoyed by recreationists and hunters. Now they want to lock them up. We ask these lands be returned to Idaho as open, multiple-use lands and let the USFS get on with managing them as such.

5. We know now from central Idaho's Middle Fork conflagrations that it is impossible to protect wilderness lands from fires. Without a heavy rainfall they never would have controlled those fires. Bulldozers and chain saws were needed, also, even though illegal in such areas. These man-caused fires burned nearly 300,000 acres and destroyed millions of dollars of timber. The Forest Service admits the costs to fight exceeded 10 million dollars but the really big loss is the timber and wildlife range.

6. The wilderness groups have blocked timber sales in the Rare II lands with appeals and legal delays and have caused two sawmills to fold. In the immediate future two more large mills will close. The timber industry of Idaho is forced to move to the southern states and buy private timber to stay in business.

7. This "no resource industry" goal of these outside Idaho wilderness groups causes a loss to the country and state of Idaho in the way of stumpage, mineral tax, and payroll tax losses as well as community loss, school enrollment drop and general unemployment.

8. The Senate Bill 95 wilderness area of central Idaho will eliminate potential mineral deposits that we need today to help the balance of payments problem, inflation and national defense needs. The U.S. News and World Report for Nov. 12 shows we are now dependent on imports for 99 percent of our cobalt and other important steel alloy metals; chrome, manganese, nickel, and tungsten. Equally critical is our imports of bauxite for aluminum, asbestos, platinum, tin. zinc, gold, and silver. Apparently we have an adequate industry in copper and lead only and these producers are on their knees from EPA and state environmental harassment.

9. Specifically West Panther Creek area contains the west extension of the Nation's single important cobalt mining district and they want to make it the wilderness range for Bighorn sheep. They say they need it as wilderness to control poaching. If the Idaho Fish and Game cannot control poaching there without wilderness, perhaps they should go down along the Colorado River below Hoover Dam and study the bighorn range. A thriving herd of bighorns there seem happy to pose for tourist's cameras and poaching appears to be no problem. Let's have both cobalt and bighorns.

10. Many polls and surveys have shown that the wide majority of Idaho people want some wilderness but not more than 3.5 million acres total. Our governor and senior senator, however, are marching to the beat of a different drummer boy, it would seem.

11. With the Symms house bill 3.5 million acres total provides protection to the Middle Fork and main Salmon River drainages. Further the present regulations of both the state and USFS requires a mining and timber harvest plan in Rare II and multiple use lands which does protect the air, land, and water.

12. The democratic way to settle this problem would be to put it on the ballot here in Idaho and have our people vote on what we think we need and keep these outsiders from pressuring you to give us a wilderness area we do not want, don't need, and one which weakens us nationally.

13. A strong Idaho timber and mining industry can help avoid future Iranian type blackmail. We recall central Idaho's stibnite mining district which provided the nation with its largest producer of tungsten and antimony and another mine there was the nation's second largest producer of mercury, all surely needed by us during WW II. This area has been eyed by environmentalists and they had wilderness almost on top of it. Cobalt metal can become as strategic as oil is today and we could be blackmailed for this metal and others which we short sightedly lock up in wilderness.

14. Our group published a recommendation for acreages of Idaho wilderness to total 3.336 million acres in the April 21, '79 Statesman and we believe Congressman Symms essentially used those areas and acreages in his wilderness bill. We endorse this bill and its provisions.

LESTER KELLY,
President.
MARSHA SHRIVER,
Secretary.
H. FERREL ANDERSON,
ERNEST OBERBILLIG,
Lands Committee.●

SENATE—*Wednesday, December 5, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, we beseech Thee to direct, to control, and guide us through the hours of this new day. Grant that we may never for one moment forget Thy presence. Bind us heart to heart, mind to mind, soul to soul to all persons who serve this Government throughout the world, especially those in bondage or under threat of harm. Be in our minds to keep them clean and sharp. Be in our hearts that they may be warm with love for Thee and for others. In the stress and strain of these troubled times, help us grow strong in the ways of Thy spirit and so set forward Thy kingdom. Grant us peace at evening and the certainty that, in light or in dark, Thou wilt never leave us, nor forsake us; through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 5, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Jour-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

nal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR JAVITS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged against the order for Mr. Javits.

The ACTING PRESIDENT pro tempore. The clerk will call the roll. The time will be so charged.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from New York (Mr. Javits) is recognized for not to exceed 15 minutes, less the amount of time consumed by the quorum call.

THE UNITED NATIONS RESOLUTION CONCERNING IRAN

Mr. JAVITS. Mr. President, it is my purpose this morning to report to the Senate on United Nations actions in the Iranian crisis and where we stand now in view of the United Nations resolution.

Toward that end, I ask unanimous consent to have printed in the Record the United Press dispatch reporting on the United Nations resolution passed by the Security Council yesterday and individual points of that resolution contained in the dispatch.

There being no objection, the dispatch was ordered to be printed in the Record, as follows:

Dispatch

United Nations.—After 10 days of intense diplomatic maneuvering, the U.N. Security Council unanimously called on Iran Tuesday to free immediately the 50 Americans held hostage for a month at the U.S. Embassy in Tehran.

The decision formalized what had become apparent in the preceding four-day debate: world public opinion stands solidly behind the U.S. demand that its diplomats be freed.

Iran, which boycotted the debate, said in advance it would reject any resolution that ordered the hostages released but failed to deal with Iranian demands—the foremost of which is that the United States return deposed Shah Mohammed Reza Pahlavi.

"I certainly hope we will be able to resume direct contacts with the Iranian authorities and work out a negotiated settlement," said U.N. Secretary General Kurt Waldheim after the vote.

"It is clear from this vote and from the debate of the last four days," said U.S. Ambassador Donald McHenry, ". . . that the family of nations speaks with one voice in calling for the immediate release of the hostages. We are deeply appreciative."

McHenry expressed hope that the Council's call "will be heeded and carried out by the government of Iran in a matter of hours."

McHenry said the United States "is fully prepared to cooperate" with the council's call to resolve the remaining issues peacefully. He reiterated U.S. readiness to listen to Iran's grievances.

In a conciliatory gesture, he urged Iran to join in the council's effort.

"Neither the United States nor the other members of the community of nations has a desire to isolate Iran," the U.S. ambassador said.

The resolution was passed by the 15-member council after diplomatic efforts failed to reach Iran's new authorities and involve them in a dialogue on the hostage situation.

It directs a new strong appeal to both Iran and the United States to resolve "the remaining issues" peacefully, implying that the hostages must first be freed.

After the hostages' release, the resolution says, they should be provided protection by Iranian authorities and allowed to leave the country.

Whether Iran will be impressed by the world body's display of unity and heed the council was still anybody's guess.

Chances for negotiations dimmed last week when Iran's Revolutionary Council replaced Foreign Minister Abol Hassan Bani-Sadr, who had agreed in an official note to the United Nations to come to New York and lead the Iranian delegation in the debate.

His successor as foreign minister, Sadeg Qotbzadeh, reversed the decision and announced his government would boycott the council.

However, Waldheim and other diplomats said repeatedly that Iran had indicated its willingness and wish to negotiate. Waldheim managed to keep occasional direct contact with Tehran, but has been unable to negotiate since the change in the Foreign Ministry.

Waldheim said Tuesday he was still willing to go to Tehran to negotiate the release of the hostages, "but I want to be certain that we get something."

Calls on Iran "to release immediately the personnel of the Embassy of the United States being held in Tehran, to provide them protection and to allow them to leave the country";

Calls on Iran and the United States "to resolve peacefully the remaining issues between them to their mutual satisfaction in accordance with the purposes and principles of the United Nations";

Urges Iran and the United States "to exercise the utmost restraint in the prevailing situation";

Requests Waldheim "to lend his good offices for the immediate implementation of this resolution and take all appropriate measures to this end";

Decides the council should continue actively monitoring the crisis and requests Waldheim "to repcrt urgently" to the council "on developments regarding his efforts."

In the resolution's preamble reference is made to a letter from Iran dated Nov. 13 replying to the Council's previous two appeals for the release of the hostages, and to the two Vienna conventions protecting diplomats.

Before Iran announced its boycott of the debate, the council had hoped to work out a resolution acceptable to both the U.S. and Iran within its framework on the release of the hostages.

The idea of an international investigation commission to probe into human rights violations and other illegal actions under the shah's regime was dropped for the time being.

The commission had been suggested by several delegates during the debate in the past three days, but a majority of council members said the move would be interpreted as giving in to the coercion of Iran's threat to try the hostages.

Diplomatic sources said the resolution did not rule out an investigation of Iran's grievances after the hostages are freed. One possibility is that Waldheim could appoint a commission under his own powers to help settle other U.S.-Iranian differences.

Mr. JAVITS. In essence, Mr. President, the United Nations calls upon Iran to release immediately the personnel of the Embassy of the United States being held in Tehran, to provide them protection, and to allow them to leave the country. That is a basic and fundamental condition which must precede anything else.

Second, the resolution calls on Iran and the United States "to resolve peacefully the remaining issues between them to their mutual satisfaction in accordance with the purposes and principles of the United Nations." This is vitally important, Mr. President, because the purposes and principles of the United Nations outlaw the holding of hostages of embassy personnel, which is exactly what is being done today in Iran.

Third, the resolution urges Iran and the United States "to exercise the utmost restraint in the prevailing situation," which is good advice to all concerned, considering the grave danger which is threatening world peace and world order.

And then, very importantly, the resolution requests the Secretary General, Kurt Waldheim, "to lend his good offices for the immediate implementation of this resolution and to take all appropriate measures to this end." This is particularly significant, because several delegates who spoke during the Security Council debate suggested that the Secretary General appoint either a "good will mission" or individual emissaries to try to ameliorate this grave international crisis. Today, the channel the Secretary General offers probably represents the most acceptable and open channel for communication between members of the United Nations, including the United States and the authorities in Iran.

Finally, and also very importantly, the resolution calls on the Security Council to continue actively monitoring the crisis and requests the Secretary General "to report urgently" to the Council "on developments regarding his efforts."

Mr. President, I would like to make one thing clear this morning which, to me, based upon my knowledge of the U.N., is of vital importance. I was a general delegate to the United Nations in 1970. I sponsored the first loan to the United Nations in the 1940's which brought the United Nations to the United States by providing $60 million in loans to build the New York building. I have maintained very close contact with the United Nations ever since. I was able to attend Sunday's Security Council session on Iran and would like to share some of my impressions of that session with my colleagues.

Statements made by the highest ranking U.N. leaders, by all the delegates during the Sunday session that I attended, and by representatives of all the 33 nations that spoke during the Security Council's debates unanimously supported the U.S. position that international law, international custom, and world order require the immediate release of the hostages and that such release must occur before there can be any consideration of Iran's grievances against the Shah or against the United States.

There was a unanimity of views expressed on all sides during the Council's debate and it extended to all the elements on the world scene. Moslem countries such as Kuwait and Egypt, poor developing countries such as Malawi and Jamaica, great industrial nations such as Japan, the Federal Republic of

Germany, the Netherlands, Canada, Australia, and Italy, and nonalined nations such as Yugoslavia, all reiterated the same call for the release of the hostages.

Mr. President, Egypt spoke very glowingly and eloquently through Ambassador Meguid, one of the finest diplomats at the U.N., who suggested a good will mission to Iran. He also referred to the Koran, the holiest book of the Moslem faith, as supporting and sustaining the concept which was being discussed, that is, that no hostages of this kind should be taken.

The one point that I wish to emphasize this morning is the usefulness of the United Nations. Canadian Ambassador Barton rejected the idea that the United Nations itself was on trial. I wish to make that point very clear this morning because we often hear so much about the disappointment which is felt about the United Nations. That disappointment is a reflection more of bloated expectations than a reflection of any real point about the United Nations. Ambassador Barton made that very clear in his reference to the fact that the U.N. was not on trial.

As a U.S. Senator and as the ranking member of the Foreign Relations Committee, I would stress that we must understand that the United Nations has been asked by the Secretary General to do what we, the United States, the greatest and most powerful Nation on Earth, has been unable to do. I do not believe, therefore, that the situation can be called a test for the United Nations. It is, rather, an effective utilization of all the United Nations was established to accomplish. The United Nations, now through the Security Council, is serving the critical purpose of providing the world a forum within which a broad cross section of nations of every background, economic levels, religious and ideological persuasions, including the Soviet Union and the People's Republic of China, can line up to oppose and protest Iran's violation of international law, international practice and morality in the taking and holding of U.S. Embassy personnel as hostages. As I noted a minute ago, Ambassador Meguid of Egypt, a great student of the Koran, made it clear that this action by Iran was a violation of the precepts of the Koran itself which he cited most eloquently.

Furthermore, the statements of two high-ranking U.N. officers on this question should be noted. The President of the General Assembly, Salim A. Salim, reiterated in a statement he issued on November 20:

> The call for the release of the hostages represents the collective concern of the international community who clearly feel strongly that the sanctity of diplomatic premises and diplomatic personnel must be respected, without any exceptions, at all times.

The President of the Security Council during the month of November, Ambassador Palacios of Bolivia, on November 9, made a similar plea on behalf of all Council members when he said:

> I urge in the strongest terms that the diplomatic personnel being held in Iran be released without delay and provided protection.

Mr. President, I wish to emphasize the unanimity of every South American nation behind this position adopted in the United Nations resolution. When Americans say, "Well, Latin America is ungrateful to us after we have sustained and helped it for years," let us not forget this support. Latin America stood absolutely as a single unified bloc with no exceptions whatever when Ambassador Palacios, as the U.N. president for the month, expressed their view.

Mr. President, yesterday the Security Council unanimously, and I emphasize unanimously—every one of those nations with all the differences that I have described—passed a resolution expressing the same point of view, that is, that Iran "release immediately the personnel of the embassy of the United States being held in Tehran, to provide them protection and to allow them to leave the country."

The United Nations is one element, with the International Court of Justice, the freezing of Iranian assets in the United States, and individual protests of many nations which, taken together, the U.S. hopes should persuade the people of Iran and its authorities that to fail to respond to such a unanimity of view on so important a question for world order and world peace could, indeed, make Iran an outlaw nation.

This is not desired by anyone, Mr. President, and I am convinced, as a politician, that the people of the United States are seeking in no way to nullify the Iranian revolution or to change the right, the absolute right, of the people of Iran to determine Iran's own political future.

The United States has attempted throughout this crisis to use every avenue available to resolve the crisis peacefully.

The grievances of the Iranian people and authorities on the international level against the United States or against the Shah can be fully investigated once the hostages have been released.

But no country in the world, Mr. President, can submit to the violation of international rights and law in having its embassy personnel held hostage, and no country in the world can condone the actions of countries which threaten the entire international system of order.

The United Nations has now fully recognized these truths and acted in this case as an instrument for justice and peace.

I know it is the fervent hope of the people of the United States that Iran will now join in this concord of nations by releasing the hostages.

I have every feeling, as I conclude, Mr. President, that once the hostages are released Iran will find the United States to be what it always has been to Iran and to every other country in the world that has gone through a difficult time—a magnanimous and understanding friend.

This is, however, an absolutely impossible situation for us that we simply cannot tolerate or accept. The great restraint being exercised by the people and authorities of the United States, including, on the whole, the Members of the Senate and of the House, Mr. President, is simply a tribute to our belief in the fact that as the most powerful nation on Earth we have the greatest stake and the greatest responsibility for peaceful order in this country and for sustaining international law. We do that in the interests of everyone, particularly the small powers and the powers which are in a state of difficult transition, such as Iran itself.

Mr. President, I fervently hope this crisis will go no further. It is frightfully dangerous to the peace of the world and to the tranquillity of mankind generally, and has grave repercussions in the economic field—on which I will speak another day—as well as in the political and social fields.

I know the American people pray daily that the light may break through to the people and to the authorities of Iran so as not to force this matter to a tragic conclusion. And it will lead to a deep and tragic conclusion unless it is settled in the way that the United Nations has now proposed.

Mr. President, I thank the Chair and I yield the floor.

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3236, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Social Security Disability Amendments of 1979".

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TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 101. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be reduced or further reduced, (before the application of section 224) to the smaller of—

"(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 160 percent of such individual's primary insurance amount.".

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (8)".

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out "section 203(a)(6) and (7)" and inserting in lieu thereof "section 203(a)(7) and (8)".

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1979).".

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after 1979.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

"(2)(A) The number of an individual's benefit computation year equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by 1 year or, if greater, the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years. Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which he attains such age or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.".

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits after 1979.

PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS OF DISABILITY BENEFITS

SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided after June 1980.

CONTINUATION OF MEDICARE ELIGIBILITY

SEC. 104. (a) Section 226(b) of such Act is amended—

(1) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.".

(b) The amendment made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER SSI

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Title XVI of the Social Security Act is amended by adding after section 1618 the following new section:

"BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

"SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability, and would otherwise be denied benefits by reason of section 1611(e)(4), who ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, on the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—

"(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

"(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

"(b) Any individual who would qualify for a monthly benefit under subsection (a) except that his income exceeds the limit set forth in subsection (a)(2), and any blind individual who would qualify for a monthly benefit under section 1611 except that his income exceeds the limit set forth in subsection (a)(2), for purposes of titles XIX and XX of this Act, shall be considered a blind or disabled individual receiving supplemental security income benefits under this title for so long as the Secretary determines under regulations that—

"(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

"(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

"(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

"(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits which would be available to him in the absence of such earnings under this title and titles XIX and XX.".

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.".

(2) Section 212(a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

"(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act, or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).".

(c) The amendments made by this section shall become effective on July 1, 1980, but shall remain in effect only for a period of three years after such effective date.

(d) The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by this section so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) remuneration received for services performed in a sheltered workshop or work activities center; and".

(b) The amendments made by this section shall apply only with respect to remuneration received in months after June 1980.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18".

(b) The amendment made by subsection (a) shall become effective on July 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in June 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(2) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

(b) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(c) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 302. (a) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of big earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for hm to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(b) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(c) The amendments made by this section shall apply with respect to expenses incurred on or after July 1, 1980.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)".

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance

benefits under section 202(e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.".

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out "or the third month following the month in which his disability ceases." at the end of the first sentence and inserting in lieu thereof "or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

(ii) by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof ", or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity),".

(C) Section 202(e)(1) of such Act is amended by striking out "the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(D) Section 202(f)(1) of such Act is amended by striking out "the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).".

(c)(1)(A) Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)".

(2) Section 1611(e) of such Act is amended by adding at the end thereof following new paragraph:

(4) No benefit shall be payable under this title, except as provided in section 1619, with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).".

(d) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

SEC. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows:

"(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month under what conditions) the State may again make disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations:

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt,

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

"(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.".

(b) Section 221(b) of such Act is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

"(2) If a State having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).".

(c) Section 221(c) of such Act is amended to read as follows:

"(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination.

"(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.".

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) The amendments made by this section shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health, Education, and Welfare under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after it is given.

(h) The Secretary of Health, Education, and Welfare shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the report.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

(c) The amendments made by this section shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).".

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;"

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 308. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.".

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after July 1, 1980.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust

Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title.".

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection:

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

(c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.".

(b) The amendment made by this section shall become effective on the first day of the thirteenth month that begins after the date of the enactment of this Act.

SCOPE OF FEDERAL COURT REVIEW

SEC. 312. Section 205(g) of the Social Security Act is amended by striking out "if supported by substantial evidence" and inserting in lieu thereof "unless found to be arbitrary and capricious".

REPORT BY SECRETARY

SEC. 313. The Secretary of Health, Education, and Welfare shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking so much of subparagraph (A) as follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment-related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

(2) in clause (vi) of subparagraph (A), by striking out "under section 433(g)";

(3) by striking out the word "or" after clause (v);

(4) by adding the word "or" after clause (vi); and

(5) by adding after clause (vi) the following new clause:

"(vii) a person who is working not less than 30 hours per week;".

(b) Section 402(a)(19)(B) of such Act is amended by inserting "to families with dependent children" immediately after "that aid".

(c) Section 402(a)(19)(D) of such Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)".

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, in the matter preceding clause (i), "and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))" and inserting in lieu thereof "(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual", and

(2) by inserting "and" at the end of clause (iv), and by striking so much of such subparagraph (F) as follows clause (iv).

(e) Section 402(a)(19)(G) of such Act is amended—

(1) in clause (i), by inserting "(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs, established pursuant to section 432(b) (1), (2), or (3))" immediately after "administrative unit",

(2) by striking out, in clause (ii), "subparagraph (A)," and inserting in lieu thereof "subparagraph (A) of this paragraph, (I)",

(3) by striking out "part C" where it first appears in clause (ii) and inserting in lieu thereof "section 432(b) (1), (2), or (3)", and

(4) by striking out, in clause (ii), "employment or training under part C," and inserting in lieu thereof "employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,".

(f) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b) (1), (2), or (3)".

(g) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.".

(h) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on January 1, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date, and take effect on such date.

SEVENTY-FIVE PERCENT FEDERAL MATCHING FOR CERTAIN EXPENDITURES FOR INVESTIGATING AND PROSECUTING CASES OF FRAUD UNDER STATE AFDC PLANS

SEC. 402. (a) Section 403(a)(3) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by adding after subparagraph (A) the following new subparagraph:

"(B) 75 per centum of so much of such expenditures as are directly attributable to costs incurred (as found necessary by the Secretary) (i) in the establishment and operation of one or more identifiable fraud control units the purpose of which is to investigate and prosecute cases of fraud in the provision and administration of aid provided under the State plan, (ii) in the investigation and prosecution of such cases of fraud by attorneys employed by the State agency or by local agencies administering the State plan in a locality within the State, and (iii) in the investigation and prosecution of such cases of fraud by attorneys retained under contract for that purpose by the State agency or such a local agency, and".

(b) Section 403(a)(3) of the Social Security Act (as amended by subsection (a) of this section) is further amended by inserting immediately before the semicolon at the end thereof the following: ", and no payment shall be made under subparagraph (B) unless the State agrees to pay to any political subdivision thereof, an amount equal to 75 percentum of so much of the administrative expenditures described in such subparagraph as were made by such political subdivision".

(c) The amendments made by this section shall be applicable only with respect to expenditures, referred to in section 403(a)(3)(B) of the Social Security Act (as amended by this section), made on or after April 1, 1980.

USE OF INTERNAL REVENUE SERVICE TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

SEC. 403. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting "(or undertaken to be collected by such State pursuant to section 454(6))" immediately after "assigned to such State".

(b) The amendment made by this section shall take effect January 1, 1980.

SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION UNDER AFDC AND SOCIAL SERVICE PROGRAMS

Sec. 404. (a) Section 402(a)(9) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (B) thereof,

(2) by inserting immediately after "need" at the end of clause (C) thereof the following: ", and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity", and

(3) by inserting "(other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any governmental entity referred to in clause (D) with respect to an activity referred to in such clause)" immediately after "committee or a legislative body".

(b) Section 2003(d)(1)(B) of the Social Security Act is amended—

(1) by striking out "XVI, or" and inserting in lieu thereof "XVI,", and

(2) by inserting immediately after "XIX" the following: ", or any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity".

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY COURT PERSONNEL

Sec. 405. Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter (beginning with the quarter which commences January 1, 1980) for the operation of the plan approved under section 454, so much of the expenditures of courts (including, but not limited to, expenditures for or in connection with judges, or other individuals making judicial determinations, and other support and administrative personnel) of such State (or political subdivisions thereof) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

"(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

"(3) So much of the payment to a State under subsection (a) for any quarter as is payable by reason of the provisions of this subsection may, if the law (or procedures established thereunder) of the State so provides, be made directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.".

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

Sec. 406. (a) Section 455(a) of the Social Security Act is amended by—

(1) striking out "and" at the end of clause (1),

(2) inserting "and" at the end of clause (2), and

(3) adding after and below clause (2) the following new clause:

"(3) equal to 90 percent (rather than the percent specified in clause (1) (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified 454(16);".

(b) Section 454 of such Act is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding after paragraph (15) the following new paragraph:

"(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement.".

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support of, in, or relating to, such system,

"(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) contains an implementation plan and backup procedures to handle possible failures,

"(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

"(G) provides such other information as the Secretary determines under regulation is necessary.

"(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3) with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under section 452(d)(1) and the conditions specified under section 454(16).

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(d) Section 452 of the Social Security Act is further amended by inserting after subsection (d) (as added by subsection (c) of this section) the following new subsection:

"(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3) of this Act.".

(e) The amendments made by this section shall take effect on January 1, 1980, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date.

AFDC MANAGEMENT INFORMATION SYSTEM

Sec. 407. (a) Section 403(a)(3) of the Social Security Act is amended by—

(1) striking out "and" at the end of subparagraph (B) (as added by section 402(a) of this Act);

(2) redesignating subparagraph (C) thereof (as redesignated by section 402(a) of this Act) as subparagraph (E); and

(3) by adding after subparagraph (B) (as redesignated by such section) the following new subparagraphs:

"(C) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX,

"(D) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (C) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(30), and".

(b)(1) Section 402(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of subparagraph (28),

(B) by striking out the period at the end of subparagraph (29) and inserting in lieu of such period the following: "; and", and

(C) by adding after and below subparagraph (29) thereof the following new subparagraph:

"(30) at the option of the State, provide, effective April 1, 1980 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system referred to in section 403(a)(3)(D), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plain containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing description, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

"(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(C), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(C) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Title IV of the Social Security Act is further amended by inserting after section 411 the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"Sec. 412. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(C) of this Act.".

(d) The amendments made by this section shall take effect on April 1, 1980.

EXPENDITURES FOR THE OPERATION OF STATE PLANS FOR CHILD SUPPORT

Sec. 408. (a) Section 455(b)(2) of such Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (d), the Secretary".

(b) Section 455 is further amended by adding after subsection (c) thereof (as added by section 405 of this Act) the following new subsection:

"(d) Notwithstanding any other provisions of law, no amount shall be paid to any State under this section for the quarter commencing July 1, 1980, or for any succeeding quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).".

(c)(1) Section 403(b)(2) of the Social Security Act is amended—

(A) by striking out "and" at the end of clause (A), and

(B) by adding immediately before the semicolon at the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under section 457 out of that portion of child support collections retained by it pursuant to such section".

(2) The amendments made by paragraph (1) shall be effective in the case of calendar quarters commencing after the date of enactment of this Act.

ACCESS TO WAGE INFORMATION FOR PURPOSES OF CARRYING OUT STATE PLANS FOR CHILD SUPPORT

Sec. 409. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ACCESS TO WAGE INFORMATION

"Sec. 463. (a) Notwithstanding any other provision of law, the Secretary shall make available to any State (or political subdivision thereof) wage information (other than returns or return information as defined in section 6103(b) of the Internal Revenue Code of 1954), including amounts earned, period for which it is reported, and name and address of employer, with respect to an individual, contained in the records of the Social Security Administration, which is necessary for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 which has been approved by the Secretary under this part, and which information is specifically requested by such State or political subdivision for such purposes.

"(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is used only for the purposes authorized by this section.

"(c) For disclosure of return information (as defined in section 6103(b) of the Internal Revenue Code of 1954) contained in the records of the Social Security Administration for purposes described in paragraph (a), see section 6103(l)(7) of such Code.".

(b) Section 3304(a) of the Federal Unemployment Tax Act is amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

"(17)(A) wage and other relevant information (including amounts earned, period for which reported, and name and address of employer), with respect to an individual, contained in the records of the agency administering the State law which is necessary (as jointly determined by the Secretary of Labor and the Secretary of Health, Education, and Welfare in regulations) for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 of the Social Security Act which has been approved by such Secretary under part D of title IV of such Act, and which information is specifically requested by such State or political subdivision for such purposes, and

"(B) such safeguards are established as are necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) to insure that such information is used only for the purposes authorized under subparagraph (A);".

(c)(1) Section 6103(l) of the Internal Revenue Code of 1954 is amended by inserting after paragraph (6) the following new paragraph:

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND TO STATE AND LOCAL WELFARE AGENCIES.—

"(A) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Officers and employees of the Social Security Administration shall, upon request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a)) and wages (as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, to other officers and employees of the Department of Health, Education, and

Welfare for a necessary purpose described in section 463(a) of the Social Security Act.

"(B) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION DIRECTLY TO STATE AND LOCAL AGENCIES.—Officers and employees of the Social Security Administration shall, upon written request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a) and wages as defined in section 3121(a), or 3401 (a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 463(a) of the Social Security Act.

"(C) DISCLOSURE BY AGENCY ADMINISTERING STATE UNEMPLOYMENT COMPENSATION LAWS.—Officers and employees of a State agency, body, or commission which is charged under the laws of such State with the responsibility for the administration of State unemployment compensation laws approved by the Secretary of Labor as provided by section 3304 shall, upon written request, disclose return information with respect to wages (as defined in section 3306(b)) which has been disclosed to them as provided by this title directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 3304(a) (16) or (17).".

(2) Section 6103(n) of the Internal Revenue Code of 1954 is amended to read as follows:

"(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary—

"(1) returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programing, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration, and

"(2) return information disclosed to officers or employees of a State or local agency, body, or commission as provided in subsection (l)(7) may be disclosed by such officers or employees to any person to the extent necessary in connection with the processing and utilization of such return information for a necessary purpose described in section 463(a) of the Social Security Act.".

(3) Paragraph (3)(A) of section 6103(p) of the Internal Revenue Code of 1954 is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)".

(4) Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1954 is amended by striking out "agency, body, or commission described in subsection (d) or (l) (3) or (6)" and inserting in lieu thereof "agency, body, or commission described in subsection (d) or (l)(3), (6), or (7)".

(5) Subparagraph (F)(i) of paragraph (4) of section 6103 (p)(4) of the Internal Revenue Code of 1954 is amended by striking out "an agency, body, or commission described in subsection (d) or (l)(6)" and inserting in lieu thereof "an agency, body, or commission described in subsection (d) or (l) (6) or (7)".

(6) The first sentence of paragraph (2) of section 7213(a) of the Internal Revenue Code is amended by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6) or (7), or (m)(4)(B)".

(d) The amendments made by this section shall take effect on January 1, 1980.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"ADJUSTMENT OF RETROACTIVE BENEFIT UNDER TITLE II ON ACCOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 1132. Notwithstanding any other provision of this Act, in any case where an individual—

"(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616 (a) or an administration agreement under section 212 of Public Law 93–66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1132.".

(c) Section 1631(b) of such Act is amended by—

(1) inserting "(1)" immediately after "(b)", and

(2) adding at the end thereof the following new paragraph:

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1132.".

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined after March 31, 1980.

EXTENSION OF NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out "a term of two years" and inserting in lieu thereof "a term which shall end on April 1, 1981".

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof "and the Commission shall cease to exist on April 1, 1981.".

TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT TO COVERED STATE AND LOCAL EMPLOYEES

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and".

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218 (e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980.

(c) The provisions of section 7 of Public Law 94–202 shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which is designed to carry out the purposes of subsection (a) of this section.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(a)(1)(B) of the Social Security Act is amended to read as follows:

"(B) is a resident of the United States, and is either (i) a citizen, or (ii) an alien lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or who has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act) and who has resided in the United States throughout the 3-year period immediately preceding the month in which he applies for benefits under this title. For purposes of clause (ii), an alien shall not be required to meet the 3-year residency requirement if (I) such alien has been lawfully admitted to the United States as a refugee as a result of the application of the provisions of section 203(a)(7) or has been paroled into the United States as a refugee under section 212 (d)(5) of the Immigration and Nationality Act, or has been granted political asylum by the Attorney General, or (II) such alien is blind (as determined under paragraph (2)) or disabled (as determined under paragraph (3)) and the medical condition which caused his blindness or disability arose after the date of his admission to the United States for permanent residence. For purposes of the preceding sentence, the medical condition which caused his blindness or disability shall be presumed to have arisen prior to the date of his admission to the United States for permanent residence if it was reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition existed and would result in blindness or disability within 3 years after such date of admission, and the medical condition which caused his blindness or disability shall be presumed to have arisen after such date of admission to the United States for permanent residence if the existence of such medical condition was not known on or before such date of admission, or, if the existence of such medical condition was known, it was not reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition would result in blindness or disability within 3 years after such date of admission.".

(b) The amendment made by subsection (a) shall apply only with respect to aliens applying for supplemental security income benefits under title XVI of the Social Security Act on or after January 1, 1980.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE TERMINALLY ILL

SEC. 505. (a) The Secretary of Health, Education, and Welfare is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health, Education, and Welfare. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of $2,000,000 for any fiscal year) as may be necessary.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 506. (a)(1) The Secretary of Health, Education, and Welfare shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions application to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary of Health, Education, and Welfare to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) The Secretary of Health, Education, and Welfare shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this section together with any related data and materials which he may consider appropriate.

(5) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

(k) Expenditures made for experiments and demonstration projects under section 506(a) of the Social Security Disability Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

(b) The Secretary of Health, Education, and Welfare is authorized to waive any of the requirements, conditions, or limitations of title XVI of the Social Security Act (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of such Act or any other Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefits) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616 of such Act), or to provide medical assistance under its plan approved under title XIX of such Act, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI of such Act.

(c) Any requirements of title II of Public Law 93-348 otherwise held applicable are hereby waived with respect to conditions of payment of benefits under title II or XVI of the Social Security Act or to coverage, or copayments, deductibles, or other limitations on payment for services (whether of general application or in effect only on a trial or demonstration basis) under programs established under titles XVIII and XIX of such Act. Notwithstanding the first sentence of this subsection, the Secretary of Health, Education, and Welfare in carrying out, approving, or reviewing any application for, any experimental, pilot, or demonstration project pursuant to the Social Security Act or this Act shall apply any appropriate requirements of title II of Public Law 93-348 and any regulations promulgated thereunder in making his decision on whether to approve such application.

(d) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this subsection no later than five years after the date of the enactment of this Act.

INCLUSION IN WAGES OF FICA TAXES PAID BY EMPLOYER

SEC. 507. (a) Section 209(f) of the Social Security Act is amended by striking out all that follows "(without deduction from the remuneration of the employee)" and inserting in lieu thereof "(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 for wages paid for domestic service in a private home of the employers, or (2) of any payment required from an employee under a State unemployment compensation law;".

(b) Section 3121(a)(6)(A) of the Internal Revenue Code of 1954 is amended to read as follows:

"(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic service in a private home of the employer, or".

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1980.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours to be equally divided and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Kansas (Mr. DOLE) with 1 hour on any amendment, except one Wallop amendment dealing with Workmen's Compensation, and one dealing with eliminating disability insurance for students between the ages of 18 and 22, on each of which there shall be 1 hour, and a Percy amendment to the Immigration Act making a sponsor's affidavit an enforceable agreement, on which there shall be 1 hour, and with 20 minutes on any debatable motion, appeal, or point of order.

The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I ask unanimous consent that the following staff members of the Committee on Finance be allowed on the floor during debate and votes on H.R. 3236, the Social Security Disability Amendments of 1979: Michael Stern, Joseph Humphreys, William Galvin, Robert Hoyer, Robert Lighthizer, Roderick DeArment, Linda McMahon, and from the Library of Congress: Dave Koitz and Margaret Malone.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, when the social security program was amended in the 1950's to add benefits for disabled workers and their families, it was estimated that those disability benefits could be permanently financed by a social security tax rate of only two-tenths of 1 percent on employee and employer, each. That is about $5 billion per year at today's payroll levels. In fact the average tax rate now required to support the program is 1.92 percent—nearly a full percent for employer and employee, each. This is the equivalent of $22 billion at today's payroll levels.

While some of this fourfold increase in the costs of the disability program reflects conscious efforts by Congress to improve the adequacy of the program, it is clear that the increase cannot all be justified on that basis. A part of the increased cost of the program can be attributed to problems of benefit structure which perversely discourage disabled individuals from attempting to remain or become independent and to problems of administration. The Finance Committee bill improves the program's benefit structure so as to minimize elements which discourage employment and to emphasize elements which make it easier for disabled workers to return to work. The bill also contains many features which will strengthen the administration of the program.

To tighten up on the loose end, the bill includes a limitation on benefits in certain cases. There are cases where present law produces a benefit level equal to such a large portion of the individual's predisability earnings that it can remove any incentive for him to seek rehabilitation.

To loosen up on the tight end, the bill aims to improve the incentives of those who do seek reemployment. The bill minimizes the risks of returning to work by making it much easier to return to the benefit rolls if the work attempt fails. In the same vein, the bill eliminates the sudden loss of medicare coverage which under present law occurs when cash benefits end. Under the bill, medicare coverage would continue for 2 years after cash benefits are ended.

The bill also modifies the supplemental security income program for needy disabled persons to encourage rehabilitation by limiting the loss of cash, medicaid, and social services benefits when a recipient returns to work. Also included in the bill are numerous other changes in the social security and SSI programs and several amendments to improve the programs of aid to families with dependent children and child support enforcement.

I ask unanimous consent that a more detailed summary of the bill be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 3236: SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

DISABILITY INSURANCE

Present benefit structure.—Social security disability insurance benefits are based on an individual's previous earnings. The formula for determining benefit amounts is the same for disability benefits as for social security retirement benefits. The benefit level is arrived at by applying a formula to the average earnings the individual had over a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by five. The basic benefit amount may be increased if the worker has a dependent spouse or children. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

Limit on family benefits.—A provision of the House bill (H.R. 3236) would limit total DI family benefits to an amount equal to the smaller of 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). (AIME is the basis used under present law for determining benefit amounts.) The committee bill would limit total DI family benefits to an amount equal to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. Under the provision no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only with respect to individuals who first become entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978.

The Secretary would be required to report to the Congress by January 1, 1985 on the effect of the limitation on benefits and of other provisions of the bill.

Reduction in dropout years.—Under current law, workers of all ages are allowed to exclude 5 years of low earnings in averaging their earnings for benefit purposes. The committee bill includes a provision, which would apply to all disabled workers who first become entitled after 1979, that would exclude years of low earnings (or no earnings) in the computation of benefits according to the following schedule:

Worker's age:	*Number of dropout years*
Under 32	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The provision would become effective in January 1980.

Medicare waiting period.—At the present time DI beneficiaries must wait 24 months after becoming entitled to benefits to become eligible for medicare. If a beneficiary returns to work and then becomes disabled again, another 24-month waiting period is required before medicare coverage is resumed. The committee bill eliminates the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. The amendment would apply to workers becoming disabled again within 60 months, and to disabled widows and widowers and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls, but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within those time periods.

Extension of medicare for DI beneficiaries.—Under present law, medicare coverage ceases when an individual loses his disability status. The committee would extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered.

SUPPLEMENTAL SECURITY INCOME

Benefits for SSI recipients who perform substantial gainful activity.—Under present law an individual qualifies for SSI disability payments only if he is "unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of not less than 12 months." The Secretary of Health, Education, and Welfare is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether an individual is engaging in substantial gainful activity is $280 a month. Thus, when an SSI recipient has earnings (following a trial work period) which exceed this amount, he loses eligibility for cash benefits and may also lose eligibility for medicaid and social services.

The committee bill includes an amendment which provides that a disabled individual who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the cash benefits to be reduced to zero ($481 at the present time), the special benefit status would be terminated for purposes of eligibility for medicaid and social services, unless the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to continue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. The provision authorizing continuation of medicaid and social services after a finding by the Secretary would also apply to the blind. The committee provision would be limited to three years to give the committee the opportunity to review the effectiveness of the provision. The committee provision also requires the Social Security Administration to provide for separate accounting of any funds spent under the provision. This will enable both the Administration and the committee to evaluate the magnitude and the effect of the provision. Separate identification of these benefits would also serve to emphasize the intent that the provision not be administered as a change in the overall definition of disability.

Employment in sheltered workshops.—Under present law, earnings from employment in a sheltered workshop that is part of an active rehabilitation program are not considered earned income for purposes of determining the payment under SSI. The committee bill provides that earnings received in sheltered workshops and work activities centers would be considered as earned income, rather than unearned income, for purposes of determining SSI benefits. This would assure that individuals with earnings from these kinds of activities would have the advantage of the earned income disregards provided in law for earnings from regular employment.

Deeming of parents' income to disabled or blind children.—Present law requires that the parents' income and resources be deemed to a blind or disabled child in determining the child's eligibility for SSI. The term "child" is defined to include individuals under 18, or 22 in the case of an individual who is in school or in a training program. The committee bill provides that for purposes of SSI eligibility determination, the "deeming" of parents' income and resources would be limited to disabled or blind children under 18 regardless of student status. Those individuals who on the effective date of the provision are age 18 and over are receiving benefits at that time and would be protected against loss of benefits due to this change.

PROVISIONS RELATING TO THE TITLE II AND TITLE XVI DISABILITY PROGRAMS

Termination of benefits for persons in vocational rehabilitation programs.—Under present law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he has completed the program of vocational rehabilitation in which he has been enrolled in a vocational rehabilitation program. The committee bill provides that disability benefits would not be terminated due to medical recovery if the beneficiary is participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the beneficiary may be permanently removed from the disability rolls.

Deduction of impairment-related work expenses.—The committee bill includes a provision to permit the deduction of costs of impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) from earnings for purposes of determining whether an individual is engaging in substantial gainful activity. This deduction would be made both in the case where the individual pays the costs himself, and where the cost is paid by a third party. The Secretary of HEW would be given authority to specify in regulations the type of care, services, and items that may be considered necessary to enable a disabled person to engage in SGA, and the amount of earnings to be excluded subject to such reasonable limits based on actual, prevailing costs as the Secretary would prescribe.

Reentitlement to benefits.—Under present law, when an individual completes a 9-month trial work period and continues to perform substantial gainful activity, his benefits are terminated. If he later becomes unable to work, the individual must reapply for benefits and go through the adjudication process again. The committee bill provides that for purposes of the DI and SSI programs the present 9-month trial work period would be extended 24 months. In the last 12 months of the 24-month period the individual would not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails. The bill also provides that the same trial work period would be applicable to disabled widow(er)s. (Under present law, when the 9-month trial work period is completed, three additional months of benefits are provided. The committee provision would not alter this aspect of present law.)

Administration by State agencies.—Present law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. The committee bill would require that disability determinations be made by State agencies according to regulations or other written guidelines of the Secretary. It would require the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function "in order to assure effective and uniform administration of the disability insurance program throughout the United States."

The committee bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the provision allows for termination by the State. The State is required to continue to make disability determinations for 180 days after notifving the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Federal review of State agency determinations.—Under current administrative procedures of the Social Security Administration, approximately 5 percent of disability claims approved by the State disability determination units are reviewed by Federal examiners. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. The committee amendment would have the effect, over time, of reinstituting a review procedure used by SSA until 1972 under which most State disability allowances were reviewed prior to the payment of benefits. The committee bill provides for preadjudicative Federal review of at least 15 percent of allowances and denials in fiscal year 1981, 35 percent in 1982, and 65 percent in years thereafter.

Periodic review of disability determinations.—Under current administrative procedures, a disabled beneficiary's continued eligibility for benefits is reexamined only under a limited number of circumstances. The committee bill would require that unless there has been a finding that an individual's disability is permanent, there would have to be a review of the case at least once every 3 years to determine continuing eligibility. The Social Security Administration would continue to be authorized to review the eligibility of permanently disabled individuals.

Other administrative changes.—The committee bill includes a number of other provisions intended to strengthen administrative practices particularly in regard to the handling of initial claims and cases denied which are under appeal. These provisions would:

1. Require that notices of disability denial be provided to claimants expressed in language understandable to the claimant, which include a discussion of the evidence of record and the reasons why the disability claim is denied.

2. Authorize the Secretary to pay all non-Federal providers for costs of supplying medical evidence of record in title II claims as is done in title XVI (SSI) claims.

3. Provide permanent authority for payment of the travel expenses of claimants (and their representatives in the case of reconsiderations and ALJ hearings) resulting from participation in various phases of the adjudication process.

4. Eliminate the provision in present law which requires that cases which have been appealed to the district court be remanded by the court to the Secretary upon motion by the Secretary. Instead, remand would be discretionary with the court, and only on motions by the Secretary where "good cause" was shown.

5. Continue the provision of present law which gives the court discretionary authority to remand cases to the Secretary, but add the requirement that remand for the purpose of taking new evidence be limited to cases in which there is a showing that there is new evidence which is material and that there was good cause for failure to incorporate it into the record in a prior proceeding.

6. Modify present law with respect to court review to provide that the Secretary's determinations with respect to facts would be final unless found to be arbitrary and capricious.

7. Foreclose the introduction of new evidence with respect to an application after the decision is made at the administrative law judge hearing level. At the present time new evidence may be introduced until all levels of administrative review have been exhausted (through the Appeals Council).

8. Require the Secretary to submit a report to Congress by July 1, 1980, recommending appropriate case processing time limits for the various levels of adjudication.

AID TO FAMILIES WITH DEPENDENT CHILDREN AND CHILD SUPPORT PROGRAMS

AFDC work requirement.—Under present law, recipients of AFDC are required to register for manpower training and employment services under the work incentive (WIN) program, unless they are statutorily exempt. Individuals who participate in the WIN program also receive supportive services, including child care, if these services are necessary to enable them to participate. Under the committee amendment AFDC recipients who are not exempt from registration by law would be required, as a condition of continuing eligibility for AFDC, to register for, and participate in, employment search activities, as a part of the WIN program. The amendment would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in activities related to finding employment, and for a period thereafter, as are necessary and reasonable to enable him to retain employment. In addition, it would allow States to match the Federal share for social and supportive services with inkind goods and services, instead of being required to make only a cash contribution. The amendment would provide for locating manpower and supportive services together to the maximum extent feasible, eliminate the requirement for a 60-day counseling period before assistance can be terminated, and authorize the Secretaries of Labor and Health, Education, and Welfare to establish the period of time during which an individual will continue to be ineligible for assistance in the case of a refusal without good cause to participate in a WIN program. The amendment would also clarify the treatment of earned income derived from public service employment.

Matching for AFDC antifraud activities.—Under present law, Federal matching for AFDC administrative costs, including antifraud activities, is limited to 50 percent. The committee amendment would increase the matching rate to 75 percent for State and local antifraud activities for costs incurred (1) by the welfare agencies in the establishment and operation of one or more identifiable fraud control units; (2) by attorneys employed by the State or local welfare agencies (but only for costs identifiable as AFDC antifraud activities); and (3) by attorneys retained under contract (such as the office of the State attorney).

Use of IRS to collect child support for non-AFDC families.—Present law authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the State has made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health, Education, and Welfare, or his designee. The committee amendment would extend IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC.

Safeguarding information.—Present law provides in part that State plans under title IV–A (AFDC) include safeguards which prevent disclosure of the name or address of AFDC applicants or recipients to any committee or a legislative body. HEW regulations include Federal, State, or local committees or legislative bodies under this provision. Under their guidelines, HEW exempts audit committees from this exclusion. Several States, however, do not honor the HEW exemption. The committee bill would modify this section of the act to clarify that any governmental agency (including any legislative body or component or instrumentality thereof) authorized by law to conduct an audit or similar activity in connection with the administration of the AFDC program is not included in the prohibition. The amendment would make similar changes with regard to audits under title XX of the Social Security Act.

Federal matching for child support duties performed by court personnel.—Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. Federal regulations are now written in such a way as to allow States to claim Federal matching for the compensation of district attorneys, attorneys general, and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for expenditures (including compensation) for or in connection with judges or other court officials making judicial decisions, and other supportive and administrative personnel.

The committee bill would allow Federal matching for these administrative expenses of the IV–D program. Matching would cover expenditures (including compensation) for judges or other persons making judicial determinations, and other support and administrative personnel of the courts who perform IV–D functions, but only for those functions specifically identifiable as IV–D functions. Current levels of spending in the State for these newly matched activities would have to be maintained. No matching would be available for expenditures incurred before January 1, 1980.

Child support management information system.—Under present law States and localities that wish to establish and use computerized information systems in the management of their child support programs receive 75 percent Federal matching of their expenditures. The committee amendment would increase the rate of matching to 90 percent for the costs of developing and implementing the systems. The cost of operating such systems would continue at the 75 percent matching rate. Under the amendment, the Office of Child Support Enforcement would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. Continuing review of the State systems would also be required.

AFDC management information system.—States may currently receive 50 percent Federal matching for the cost of computerized management information systems as an element of AFDC administrative costs. The committee amendment would increase the rate of matching to 90 percent for the costs of developing and implementing the computer information systems and to 75 percent for their operation, provided the system meets the requirements imposed by the amendment. Under the amendment, the Department of Health, Education, and Welfare would be required to provide technical assistance to the States and to approve the State system as a condition of Federal matching. (Continuing technical assistance and review of the State systems would also be required.) In approving systems, the Department would have to assure compatibility among the other public assistance, medicaid, and social service systems in the States and among the AFDC systems of different jurisdictions.

Child support reporting and matching procedures.—Present law requires that the Federal Office of Child Support Enforcement (1) maintain adequate records (for both AFDC and non-AFDC families) of all amounts collected and disbursed, and of the costs of collection and disbursement, and (2) publish periodic reports on the operation of the program in the various States and localities and at national and regional levels. Present law also provides that the States will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate reporting system is required.

The committee amendment would prohibit advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. The amendment would also allow the Department of Health, Education, and Welfare to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

Access to wage information for child support program.—Under title IV–D of the Social Security Act, States are required to have separate child support agencies to establish paternity and obtain support for any child who is an applicant for or recipient of AFDC. These State agencies must also provide child support services to non-AFDC families if they apply for child support services. HEW regulations require the State agencies to establish and to periodically review the amount of the support obligation, using the statutes and legal processes of the State.

The committee amendment would provide authority for the States to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies for purposes of the child support program. The Labor Department and the Department of HEW would be authorized to establish necessary safeguards against improper disclosure of the information.

OTHER PROVISIONS AMENDING THE SOCIAL SECURITY ACT

Relationship between social security and SSI benefits.—A substantial portion of SSI recipients are also eligible for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act. Though the two programs are administered by the same agency, it can sometimes happen that an individual's first check under one program will be delayed. If the SSI check is delayed, retroactive entitlement takes into account the amount of income the individual had from social security. However, if the title II check is delayed, a windfall to the individual can occur since it is not possible to retroactively reduce his SSI benefits beyond the beginning of the current quarter. The committee amendment provides that an individual's entitlement under the two titles shall be considered as a totality so that if payment under title II is delayed and therefore results in a higher payment under title XVI, the adjustment made in the case of any individual would be the net difference in total payment. There would be proper accounting adjustments to assure that the appropriate amounts were charged to the general fund and the trust funds respectively. Any appropriate reimbursements would also be made to the States where State supplementary benefits are involved.

Extension of term of the National Commission on Social Security.—The committee bill would extend for three months the expiration date of the National Commission on Social Security and the terms of its members. Under the committee provision, the Commission's work and the terms of its members would end on April 1, 1981.

Frequency of FICA deposits from State and local governments.—Under current regulations, State and local governments are required to deposit their FICA taxes 45 days after the end of each calender quarter. Regulations recently promulgated would increase the frequency of the deposits to a monthly schedule beginning in July 1980. These regulations require that FICA deposits for the first 2 months in a calendar quarter be due 15 days after the end of each month, and that deposits for the third month of the calendar quarter be due 45 days after the end of that month. These regulations were issued in final form on November 20, 1978, and by law cannot become effective until at least 18 months have passed from the date of final publication. The committee bill includes a provision requiring that FICA deposits from State and local governments be due 30 days after the end of each month. The provision would be effective beginning July 1980.

Aliens under SSI.—In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States "under color of law". The latter category refers primary to refugees who enter as conditional entrants or parolees. An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported. However, such assurances are not legally binding on the sponsor of the alien. Under present law, an alien is required to be in the United States for only 30 days before becoming eligible for SSI. The committee amendment would require an alien to reside in the United States for 3 years before he would be eligible for SSI.

Demonstration authority to provide services to the terminally ill.—The committee bill authorizes the Social Security Administration to participate in a demonstration project which has as its purpose to determine how best to provide services needed by persons who are terminally ill. The committee provision authorizes up to $2 million a year to be used by the Social Security Administration for this purpose.

Demonstration projects.—Under present law, the Secretary of Health, Education, and Welfare has no authority to waive requirements under titles II, XVI, and XVIII to conduct experimental or demonstration projects. The committee bill would authorize the waiver of certain benefit requirements of titles II and XVIII (medicare) to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries, with a report to Congress required by January 1, 1983. The bill would also provide demonstration authority to cover other areas of the DI program beyond the purpose of stimulating a return to work (for example, the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation).

In addition, the Secretary would be authorized to conduct experimental, pilot, or demonstration projects which, in his judgment, are likely to promote the objectives or improve the administration of the SSI program.

The committee bill would authorize the Secretary to waive certain requirements of the human experimentation statute, but would require that the Secretary in reviewing any application for any experimental, pilot, or demonstration project pursuant to the Social Security Act must take into consideration the human experimentation law and regulations in making his decision on whether to approve the application. The committee does not intend that this provision modify the requirements of the human experimentation statute as they apply to direct medical experimentation with actual diagnosis or treatment of patients.

Social security tax status of employee social security taxes paid by employers.—In general, employers are required to pay an *employer* social security tax on the wages they pay their employees and to withhold from those wages an equal *employee* social security tax. As an alternative to this procedure, however, present law allows employers to assume responsibility for both the employer and employee taxes instead of withholding the employee's share from his wages. Under this alternative procedure, the payment by the employer of the employee's social security tax represents, in effect, an additional amount of compensation. However, existing law specifically exempts that amount of additional compensation from social security taxes. The net effect is that for a given level of total compensation somewhat lower social security taxes would be payable if the employer pays the employee social security tax instead of withholding it from the employee's wages. Because of the level of social security taxes now in effect, this procedure could significantly lower social security trust fund receipts if the practice became widespread. The committee amendment would include the amount of any employer payment of the employee share of social security taxes in the employee's taxable income for purposes of social security taxation. The amendment would not apply to situations in which the employee share of social security taxes are paid by an employer for an individual who is employed as a domestic.

Voluntary standards for "medi-gap" health insurance.—The Medicare program places certain limitations on the kinds of health services which are covered. In addition, there are deductibles and coinsurance amounts for which the beneficiary is liable. In order to supplement their Medicare coverage, nearly two-thirds of the aged population purchases private supplemental health insurance—the so-called "Medi-Gap" policies. Detailed hearings held by the Senate and House Aging Committees, the House Interstate and Foreign Commerce Committee, and other investigations have identified numerous and widespread abuses in the sale of Medi-Gap policies.

To assist beneficiaries to avoid exploitation, the Committee adopted a provision that would require the Secretary of Health, Education and Welfare to establish a voluntary program for certification of Medi-Gap policies which meet certain minimum standards

Under the proposed amendment, companies could, on a voluntary basis, submit policies to the Secretary to be certified as meeting certain prescribed standards. The Secretary would have until July 1, 1981 to make the certification procedure effective.

The certification standards would require that a policy: supplement both part A and part B of Medicare; be written in understandable language and form; not limit benefits for more than an initial six-month period because of a health condition existing before the policy was effective; prominently display a "no loss cancellation clause" enabling the insured to return the policy within 30 days of the date of sale without financial loss; be expected to pay benefits at least equal to such percentage of the premiums collected as the Secretary finds reasonable (but not less than 75 percent for group policies and 60 percent for individual policies); and contain information that prospective purchasers would need to make an informed evaluation of the policy. In addition, the Secretary would make readily available to Medicare beneficiaries such information as will assist them in evaluation of Medi-Gap policies.

Policies issued in any State which has implemented a regulatory program that requires compliance with minimum standards that are equal to or higher than the Federal standards would be deemed to be certified.

Insurance companies offering policies which meet the minimum standards could include this information in the promotion of their policies.

Penalties would be provided for: Furnishing false or misleading information for the purpose of obtaining certification; misrepresentation as an agent of the Federal Government for the purpose of selling insurance to supplement Medicare; and knowingly selling insurance policies whose benefits (or the benefits of another policy) would be reduced or denied because they duplicate benefits under another policy held by the purchaser.

There would also be penalties for knowingly advertising, soliciting or offering mail order policies which are unapproved by the State Insurance Commissioners.

HEW-certified policies could be deemed to have been approved by a State if the State chooses to have them so treated. An effective date of January 1, 1982 is provided to give the State time to make any changes in their insurance review activities related to mail order policies that they deem appropriate.

Upon conviction of one of these four offenses, which would be classified as felonies, an individual would be subject to a fine of up to $25,000 or imprisonment for up to five years, or both.

The Committee's amendment would direct the Secretary, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing consumers and the aged, to conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of Medicare supplemental policies.

The study would address the States' effectiveness in: limiting marketing and agent abuse; assuring the dissemination of information to Medicare beneficiaries (and to other consumers that is necessary to permit informed choice; providing high value policies for all consumers; reducing the purchase of unnecessary duplicative coverage; and improving price competition.

The study and evaluation would also address the need for standards for accident and sickness policies that are sold to Medicare beneficiaries but that are not designed specifically to help them pay for expenses that are not covered by Medicare because of the program's deductibles, coinsurance amounts and other program limitations.

The Secretary would, no later than July 1, 1981, submit a report to the Congress on the results of the study and evaluation, accompanied by such recommendations as the Secretary finds warranted, including recommendations on the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of Medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

The Secretary would also submit to the Congress on January 1, 1982, and on each January 1 thereafter, an annual report evaluating the effectiveness of the certification procedure established under the committee amendment.

UP AMENDMENT NO. 860

(Purpose: To provide for voluntary certification of medicare supplemental health insurance policies)

Mr. LONG. Mr. President, on behalf of the Committee on Finance I submit to the desk a modification of the committee amendment and ask that the committee amendment be so modified. I do so modify the committee amendment.

The ACTING PRESIDENT pro tempore. The clerk will report the modification.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 860.

The ACTING PRESIDENT pro tempore. The amendment will be so modified.

The amendment is as follows:

At the end of title V add the following new section:

VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

SEC. 508. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

"SEC. 1882. (a) The Secretary shall, no later than January 1, 1981, establish a procedure (to become effective no later than July 1, 1981) whereby medicare supplemental policies (as defined in subsection (g)) may be certified by the Secretary as meeting minimum standards with respect to adequacy of coverage, reasonableness of premium charge, and disclosure of information to the insured. Such procedure shall provide an opportunity for any insurer to submit any such policy to the Secretary for his examination and for his certification thereof as meeting the standards set forth in subsection (b). Such certification shall remain in effect, if the insurer files a statement with the Secretary no later than December 31 of each year stating that the policy continues to meet the standards set forth in subsection (b), and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) the required standards, he shall authorize the insurer to have printed on such policy an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State insurance commissioner with a list of all the policies which have received his certification, and shall encourage the commissioners to facilitate the sale of federally approved policies and discourage the sale of policies which fail to meet Federal minimum standards.

"(b) The Secretary shall not certify under this section any medicare supplemental policy unless he finds that such policy—

"(1) supplements both part A and part B of this title;

"(2) is written in simplified language, and in a form prescribed by the Secretary, which can be understood by purchasers;

"(3) does not limit or preclude liability under the policy for a period longer than six months because of a health condition existing before the policy is effective;

"(4) contains a prominently displayed 'no loss cancellation clause' enabling the insured to return the policy within 30 days of the date of sale without financial loss;

"(5) can be expected (as estimated in accordance with regulations of the Secretary) to return to policyholders in the form of aggregate benefits provided under the policy such percentage of the aggregate amount of premiums collected as the Secretary finds reasonable (taking into account all relevant underwriting and marketing considerations, and other considerations found by the Secretary to be relevant), except that such percentage may not be less than 75 percent with respect to group policies and 60 percent with respect to individual policies; and

"(6) contains a written statement for prospective purchasers of such information as the Secretary shall prescribe relating to (A) the policy's premium, coverage, renewability and coinsurance provisions, and (B) the identification of the insurer and its agents.

"(c) Any medicare supplemental policy issued in any State which has established under State law a regulatory program providing for the application of minimum standards with respect to such policies equal to or more stringent than the standards provided for under subsection (b) shall be deemed (for so long as the Secretary finds such State program continues to require compliance with such standards) to meet the standards set forth in subsection (b).

"(d) (1) Whoever knowingly or willingly makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards set forth in subsection (b) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Secretary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting under the authority of or in association with any Federal agency for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Whoever knowingly sells a health insurance policy to a person eligible to participate in the program of health insurance established by this title, which policy substantially duplicates insurance protection already owned by that person (unless the policy being sold permits valid claims to be made against the policy without regard to similar claims made on previously owned policies), shall be fined not more than $25,000 or imprisoned not more than three years, or both.

"(4) Whoever knowingly advertises, solicits, or offers for sale by mail, or knowingly deposits in the mail or sends or delivers by mail, any medicare supplemental policy into any State in which such policy has not been approved by the State commissioner or superintendent of insurance shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both. For purposes of this paragraph any medicare supplemental policy certified by the Secretary under this section shall, at the option of the State, be deemed to be approved by the State commissioner or superintendent of insurance of such State.

"(e) The Secretary shall make readily available to all individuals entitled to benefits under this title (and to the extent feasible, individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relationship of any such policies to benefits provided under this title.

"(f)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) providing high value policies for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, and (v) improving price competition.

"(B) Such study shall also address the need for standards or certification of health insurance policies sold to individuals eligible for benefits under this title, other than medicare supplemental policies.

"(C) The Secretary shall, no later than July 1, 1981, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B), including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

"(2) The Secretary shall submit to the Congress on January 1, 1982 and on each January 1, thereafter, an annual report evaluating the effectiveness of the certification procedure established under this section, and shall include in such reports an analysis of—

"(A) the impact of such procedure on the types, market share, value, and cost to persons entitled to benefits under this title of medicare supplemental policies which have been certified by the Secretary;

"(B) the need for any changes in the certification procedure to improve its administration or effectiveness; and

"(C) whether the certification program should be continued.

"(g) For purposes of this section, a medicare supplemental policy is a health insurance policy, offered by a private organization to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title.

"(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on January 1, 1982.

On page 33, amend the table of contents by adding at the end of title V the following item:

SEC. 508. VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, the Social Security Disability Amendments of 1979 is one of the most important pieces of legislation the Senate will consider during this Congress.

We have been occupied, and everyone else has been occupied, with all the talk about the so-called windfall profit tax, and the press will focus on that and no one will really focus on this legislation but, nevertheless, the bill before us will have a profound effect on the lives of disabled Americans, a more profound effect than any measure we will consider. It will help many handicapped individuals to move into the mainstream of our economic and social life, where they belong.

The number of beneficiaries under the social security disability insurance (DI) program nearly doubled between 1965 and 1975, and the costs rose more than fivefold from $1.6 to $8.4 billion during that period. Prompted by concern over such dramatic growth, the House Ways and Means Subcommittee on Social Security conducted a long and intensive study of the program which is the basis for some of the provisions in this bill.

Like so many programs which we have established to assist less fortunate citizens, the DI program has grown up piecemeal over the years, and the subcommittee found that the consequence of some of the changes made in the program has been to distort its intent. This bill is designed to correct two particular distortions in the DI program by limiting family benefits and reducing the number of dropout years allowed younger workers.

While the number of DI beneficiaries is evening out now, the annual costs have doubled to almost $16 billion since 1975 and are projected to redouble within 10 years to over $30 billion.

Although the 1977 Social Security Amendments helped to improve the financial status of the once nearly bankrupt disability trust fund, it is still necessary to make these changes in the program to insure its future viability and make it more equitable.

More importantly, the bill includes improvements in both the DI program and the supplemental security income (SSI) program. These improvements will insure a more effective and efficient administration of the two programs and will give disabled individuals the incentives and the ability to go back to work. There are also various provisions in the bill to improve the administration of the aid to families with dependent children (AFDC) and child support programs, as well as miscellaneous provisions relating to the Social Security Act.

FAMILY BENEFIT CAP

In the course of the study on the DI program, it was found that apparently some beneficiaries are receiving more in disability benefits than they earned when they were working. This occurs in cases where an individual is receiving his own benefits as well as benefits for his dependents. Under current law, total DI family benefits are limited to between 150 and 188 percent of the worker's primary insurance amount (PIA), that is, the amount he would have been entitled to if he did not have eligible dependents. According to the Social Security Administration, because of dependent benefits, 6 percent of DI recipients get benefits which exceed 100 percent of their average indexed monthly earnings (AIME), that is, their average lifetime earnings expressed in current dollars. Another 16 percent receive benefits which exceed 80 percent of their AIME.

In order to prevent individuals from receiving excessive benefits, the Ways and Means Subcommittee placed a limit on family benefits equal to the lower of 80 percent of AIME or 150 percent of PIA with no beneficiary to receive less than 100 percent of his primary benefit. The cap was imposed only on a prospective basis so that current recipients will not have their benefits reduced. The Finance Committee agreed to a slightly less stringent cap which is 85 percent of AIME or 160 percent of PIA.

REDUCTION IN DROPOUT YEARS

It was also discovered that the practice of allowing 5 years of low earnings to be excluded by all recipients for purposes of determining the amount of benefits was unfair to older workers who have paid into the system longer. As it now stands, an older worker may be able to exclude only 16 or 20 percent, say 5 of 30 years or 5 of 25 years, of his years of low earnings, while a younger worker may be excluding over 70 percent, say 5 of 7 years. When the disability program was first initiated, only workers aged 50 and over were eligible for benefits, so the 5-year dropout period more or less paralleled the dropout years allowed for retirees. Now that younger workers are eligible, it is inequitable to maintain the 5-year dropout rate across the board. Rather, it is necessary to change the exclusion so that all workers are allowed to exclude about the same percentage of years of low earnings. The House of Representatives provided for the following schedule of dropout years:

Age of recipients:	*Number of dropout years*
Under 27	0
27–31	1
32–36	2
37–41	3
42–46	4
47 and over	5

The Finance Committee decided to give every worker the privilege of excluding at least 1 year, so under the schedule in this bill every worker under 32 is allowed 1 dropout year.

I expressed my concerns about the impact on disabled individuals and their families of the family benefit cap and the reduction in dropout years when the Finance Committee deliberated this measure. I was assured that the Social Security Administration will monitor these changes carefully and report to the Congress on the impact they are having, and language was included in the bill for that purpose. While I continue to be concerned about the effect of these provisions, I am willing to support them as part of a balanced package which is designed to improve the DI program.

WORK INCENTIVES

It is my hope that the controversial provisions which have the effect of reducing disability benefits to some future recipients will not overshadow the work incentive provisions in the bill. I believe the incentive measures are the most important part of the legislation and am extremely pleased that many work incentives which I have supported for several years are included in the bill.

It is ironic that in a nation in which the work ethic is so vital we have created assistance programs which make it impossible for people to choose work over enforced idleness. This is especially true in the case of the handicapped. Society is finally beginning to realize that there are options to a life of confinement for disabled individuals and that with a little imagination and creative thought handicapped persons can lead active lives and find employment suitable to their skills.

Under current law, there is no middle ground for handicapped persons. One must be either completely dependent on public welfare or totally self-sufficient. There is no recognition that a handicapped individual can have severe disabilities, high monthly medical bills, and attendant care expenses, yet still have work potential. This bill, however, is a giant step forward in the effort to make people aware that disabled individuals can and do work, particularly if given the right kind of help.

Unfortunately, it is difficult for many disabled persons to hold low paying jobs and at the same time finance their heavy medical expenses. It is unrealistic to expect that a handicapped worker entering the labor force for the first time can demand an entry level position at a salary high enough to cover his attendant care and medical expenses. It is feasible, though, that this same person could eventually be promoted into a position where the salary would cover these expenses, but it must be done one step at a time. Until now, we have not given the handicapped access to the first step.

This bill meets the needs of those who have severe medical disabilities but who can still hold full-time or part-time employment. There are a number of excellent provisions in the bill which will both allow individuals to continue to receive cash, health benefits, and social services while working at low wages and make it easier to return to the disability rolls if a work attempt fails. It is through the knowledge that they can look forward to such benefits that they will have the courage and the ability to try to work. The work incentive provisions include:

Elimination of the 24-month waiting period for medicare benefits for those who again become disabled;

Extension of medicare coverage for DI beneficiaries for an additional 36 months;

Special cash benefits and medicaid and social services for individuals who lose eligibility for regular SSI benefits due to performance of substantial gainful activity;

Extension of earned income disregards to income earned from employment in sheltered workshops;

Deduction of impairment-related work expenses for purposes of determining if a person receiving SSI is engaging in substantial gainful activity; and

Automatic reentitlement to SSI benefits during a 24-month trial work period if the work attempt fails.

ADMINISTRATIVE CHANGES

I would also suggest that we have made some administrative changes in the DI and SSI programs which are very significant. It is through such administrative improvements that we will be able to insure the efficient and effective management of the programs and to protect the interests of the taxpayers and the beneficiaries alike.

Because these programs are completely federally funded, except in the case of voluntary State supplementation of SSI benefits, and because the most important but most illusory aspect of the program is the determination of disability, it is particularly important to put in place a mechanism for assuring that the program is being administered uniformly in all States. The provisions relating to HEW guidelines and Federal review of cases will assure the proper uniformity of decisions. The other provisions will improve the quality of the decisions being made and tighten up the process of appeal so that taxpayers and beneficiaries will be better served.

AFDC AND CHILD SUPPORT

The provisions concerning the AFDC and child support programs are important to the effort to improve the administration and management of those programs. As long as the AFDC program is funded through an open-ended Federal match, administrative safeguards, fraud control activities, and efforts to enhance child support collection are extremely important and should be vigorously supported.

The medicaid management information system has proven to be a great costsaving device which is helping to eliminate error and fraud in the medicaid program, and applying the same approach to child support and AFDC programs should prove just as successful. It is time to stop giving lip service to efforts to control fraud, abuse and error in public assistance programs and to provide the means to accomplish it. It is also time to require able-bodied individuals who have no obligations which keep them from being able to work to do so. It is not fair to the working poor who struggle to make ends meet to ask them to pay taxes to allow someone else the luxury of leisure.

These provisions have been passed by the Senate before, and it is time to put them into action. We cannot afford to wait for another year or another attempt at long-range welfare reform before we move on these provisions.

MISCELLANEOUS PROVISIONS

Finally, Mr. President, there are a number of miscellaneous provisions that I would suggest are very important.

One would allow adjustment of DI benefits when overpayment occurs in cases where SSI benefits are delayed;

Another would extend the expiration date of the National Commission on Social Security.

Another would provide a more reasonable requirement for more timely social security tax deposits from State and local governments.

Another would require aliens to reside in the United States for 3 years before becoming eligible for SSI benefits; and

Another would authorize the Social Security Administration to participate in a demonstration project to determine how best to provide services needed by persons who are terminally ill.

There is a great deal of interest in this program and the Hospice program and the Hospice movement.

It would authorize HEW demonstration projects to improve the DI and SSI programs and particularly to test ways to stimulate work and improve the rehabilitation of disabled individuals.

It would close a loophole in the law which allows the avoidance of social security tax payments when an employer pays the employee's share of social security taxes in lieu of regular compensation.

This legislation, the Social Security Disability Amendments of 1979, represents a long-term effort to improve the two largest Federal disability programs and make them more equitable as well as more effective. The bill is not necessarily the ultimate answer to problems within the disability programs or to the problems of handicapped individuals. However, the benefit reductions, work incentives, and administrative improvements as a package provide a balanced approach to correcting many of those problems. I urge my colleagues to support the measure in the same spirit of compromise that those of us on the Finance Committee did.

Mr. President, I know there will be amendments offered by a number of Senators. It is my hope that those who may be listening would hurry over here and start offering those amendments, otherwise we will go to third reading and try to wrap this bill up in the next 5 or 10 minutes. If there are those Senators who are within earshot, in their offices or wherever, they may come over and start offering those amendments.

Mr. BAUCUS addressed the Chair.

Mr. DOLE. We have a customer. I yield the floor to the Senator from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. President, I simply wish to thank the Senator from Kansas, as well as the chairman of the committee for their work on this bill. I think it makes several very important improvements.

In addition, however, I am particularly pleased with an amendment I offered and which the committee graciously accepted in committee providing for a problem that affects our senior citizens to attempt to supplement their medicare coverage by purchasing supplemental health insurance policies.

The problem these days in this particular area is that medicare does not sufficiently cover senior citizens from all of their health ills. Particularly, it does not provide sufficient health insurance coverage for them, so they are prompted to purchase additional health insurance coverage.

In so doing, however, regrettably, there are several insurance companies that offer various kinds of policies which, in some cases, do not provide the benefits that are represented to be supplied and in some cases are fraudulent. In many cases, senior citizens purchase 5, 6, 7, and in some cases, up to 20 or 30 supplemental health insurance policies, paying very high premiums and getting, in effect, very low benefits.

To help correct this problem, the amendment, which is a committee amendment adopted in this bill, essentially provides that health insurance companies may voluntarily submit their programs to the Department of Health, Education, and Welfare for certification; that is, the Department of HEW will look at these policies to determine whether or not they meet certain specified standards. If they do, those policies will be so certified.

The point here is to help encourage companies to be more responsible—I think most are; but too many are not—and also to discourage those companies from, to put it bluntly, ripping off senior citizens.

The program is voluntary. However, I think it moves in the right direction. It also provides for penalties against those insurance companies that do misrepresent the policies that they are providing for senior citizens.

Mr. President, I am pleased that the Senate is considering the social security disability amendments. This is broad legislation which fundamentally changes certain provisions of the disability insurance and supplemental security insurance program. Several features serve to strengthen and improve the disability program by creating incentives for beneficiaries to return to work.

The committee bill makes several improvements in medicare coverage for recipients. The legislation revises the conditions under which beneficiaries entitled to disability insurance become eligible for medicare. Present law operates as a strong work disincentive by requiring that recipients who return to work and then become disabled again, must wait 24 months before becoming reentitled to medicare coverage.

For many disabled individuals, this second waiting period discourages them from seeking work. H.R. 3236 responds to this deterrent by removing the requirement that an individual who becomes disabled a second time must wait another 24 months before receiving medicare benefits.

The Finance Committee held 2 days of hearings to consider the legislation. Witnesses testified that the provision of the law terminating medicare coverage when disability insurance benefits end deters disabled individuals from attempting employment. The committee bill removes this obstacle to employment by extending medicare coverage for an additional 36 months after cash benefits cease. The change applies to workers who are gainfully employed but not medically recovered.

These two provisions will ease the psychological burden posed by fear of abrupt loss of medicare coverage. They will encourage beneficiaries to seek gainful employment and make those efforts more attractive. Finally, they will eliminate inherent deficiencies in our current disability insurance program.

The committee agreed to add an amendment establishing a voluntary program for the certification of medicare supplemental insurance policies sold to the elderly. The amendment was originally introduced as a bill in June by myself and Senator CULVER. We were joined by 18 cosponsors and I wish to gratefully express my appreciation for their efforts on behalf of the legislation.

Hearings conducted by House and Senate Select Committees on Aging, newspaper reports, and Federal investigations have documented the existence of significant abuses in the sale of private supplemental health insurance to aged medicare beneficiaries.

These disclosures point to a number of problems. First, senior citizens are receiving confusing information about the extent of insurance coverage provided. Second, unethical sales practices are resulting in tragic situations where senior citizens are purchasing 2, 3, 4, and in one case as many as 30 duplicative and worthless policies in supplementation of medicare. Third, restrictive benefit clauses often make these policies financially unattractive or even worthless. Fourth, complex policy language makes it difficult for these citizens to make informed and intelligent choices about the type and scope of policies they wish to purchase.

The committee bill responds to these problems by establishing a voluntary certification program of the so-called medigap policies. Under the procedure, companies could submit their policy to the Secretary of HEW for certification that the policy meets prescribed standards. The company could then display an emblem of certification on its policy.

Certification will provide a competitive advantage to companies marketing medigap policies. More important, it will assure medicare beneficiaries that the policy they purchase will provide protection against some health care expenses.

This provision also includes a number of penalty provisions which will discourage unethical sales agents from continuing to exploit senior citizens. Penalties would be provided for furnishing false or misleading information for the purpose of obtaining certification; for misrepresentation as an agent of the Federal Government for the purpose of selling medicare supplemental insurance; for deliberately selling duplicative insurance policies; and for advertising, soliciting or offering for sale by mail policies unapproved by the State insurance commissioners.

I want to convey to my colleagues the urgent need to address these medigap abuses without delay. Senior citizens cannot afford to wait. Detailed hearings, dating back to 1977, have shown that abuses are common and widespread. Older Americans are routinely being sold several unneeded duplicative, and therefore, essentially worthless policies. The house aging committee estimates the loss to senior citizens to be roughly $1 billion a year. Even the most ardent critics of this provision concede that there is a serious problem.

Some have maintained that a Federal voluntary certification program is not the answer. I believe, however, that the Federal Government has the responsibility to remedy medigap abuses. The Federal Government created this problem through the enactment of medicare and is, therefore, obligated to take positive steps to eliminate the problems.

Medicare is paying a smaller proportion of escalating health care costs, and more and more older Americans are looking to supplemental policies to cover the gaps in medicare. In 1967 medicare covered 46 percent of the elderly's medical bill. That figure rose to 50 percent in 1969. But in 1977, while the average bill paid by the elderly for medical care was $1,738, medicare absorbed only 38 percent of the bill.

The out-of-pocket expenditures for health care expenses for the elderly have risen an extraordinary 220 percent in the last decade. Motivated out of fear that they will not be able to absorb the expense of an illness, many senior citizens purchase medigap policies.

Some critics of this provision argue that the Federal Government is interfering with the insurance industry. I would maintain however that this legislation does not propose to control the insurance industry. It proposes a voluntary certification program to help consumers in identifying those medicare supplemental policies offered by private insurance companies which meet minimum standards of clarity and value. The voluntary certification standards set by the Secretary will reflect those established by the insurance industry itself. If policies have already met equal or more stringent standards set by the State in which they are issued, those policies would be considered certified by the Secretary. The provision emphatically does not interfere with each State's prerogative to regulate the sale of insurance.

The committee provision recognizes that more aggressive steps are necessary to promote education of the medigap consumer. Informed choices by consumers are vital in combating the documented abuses and confusion in the medicare supplemental field. The provision will facilitate informed choices in several ways.

First, the provision provides for the establishment of a nationwide, easily recognizable symbol issued by the Secretary of HEW to help individuals in identifying those policies that have met minimum standards.

Second, policies certified under the program would be required to contain a written statement of the policy's premiums, coverage, renewability and coinsurance features, and the insurance company and its agents.

Third, policies certified by the Secretary would have to be written in simplified language which can be understood by the purchaser.

Fourth, the bill directs the Secretary to make available to all medicare recipients information that will permit them to evaluate the value of supplementary policies.

We have an opportunity to provide immediate protection to our senior Americans who are being victimized by unethical sales practices and worthless policies. The provision is not a cost measure; it does not create another layer of bureaucracy since the mechanism to administer its provisions are in place in the Department of Health, Education and Welfare; and it does not interfere in each State's prerogative to regulate the sale of insurance.

The establishment of a voluntary program for medigap policies is a small price to pay. I commend my colleagues on the Finance Committee for adopting the amendment and for asking for expeditious consideration.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Florida (Mr. Chiles).

Mr. CHILES. Mr. President, I rise in support of the committee amendment to the bill before us which would establish a voluntary Federal program for certification of medicare supplemental health insurance policies which meet certain minimum standards.

When I chaired hearings, 18 months ago, to explore the extent to which older Americans were being preyed upon and abused by sellers of this "medigap" insurance, I was appalled.

The Committee on Aging was told by older Americans, State insurance commissioners, U.S. postal inspectors, local law enforcement authorities, and the Federal Trade Commission that medicare beneficiaries were literally being bilked out of millions of dollars every year by unscrupulous peddlers of medigap health insurance policies.

The committee found that gross instances of overselling worthless and duplicative insurance policies were a common occurrence. We found that some unscrupulous insurance agents would "roll over" insurance policies, coming back again and again to replace old policies with new ones, and receive a new, higher commission each time. The older consumer was left, however, with higher premiums for no insurance protection.

We found false claims for the benefits of certain policies a common theme. We also found a startling lack of information with which medicare beneficiaries could make informed choices.

There are good insurance policies in this market, valuable supplements to medicare's protection. But, as our hearings amply illustrated, there are also a lot of bad policies.

Early this year I introduced legislation, along with Senator Dole and many of my Committee on Aging colleagues, to remedy some of these abuses. All of the thrusts of this legislation are fully incorporated in the amendment before the Senate, as well as some additional protections proposed by Senator Baucus and Senator Claude Pepper, the able chairman of the House Select Committee on Aging. I also support these provisions.

The chairman and members of the Senate Finance Committee are to be commended for the close and careful attention they have given to this legislation and for the effort they have put into seeing that it receives early consideration by the Senate.

I would also like to note that a substantially similar amendment has been favorably reported by the House Ways and Means Committee, so I am confident that final action will be taken soon.

This provision also recognizes and supports actions taken during the past year by a special medigap task force convened by the National Association of Insurance Commissioners. The national association, working with representatives of the health insurance industry, the Department of Health, Education, and Welfare, the Federal Trade Commission, and consumers, have put a good deal of time and effort into developing minimum standards for medigap insurance policies. The national association has now recommended that these standards be incorporated into State insurance law.

First, the amendment being considered today would require the Secretary to establish a voluntary program for certification of medicare supplemental health insurance policies which meet minimum standards set by the Secretary relating to policy benefits, premium charges, and information disclosure. Participation in the certification program would be purely voluntary on the part of insurance companies, but those policies which meet minimum standards could receive certification and advertise that fact. Strong, but fair, penalties would be provided for misuse or misrepresentation of the certification program.

Second, medigap insurance policies approved by and sold in States which require policy standards equal to or stronger than those proposed by this legislation would automatically receive certification. Since Senate and House hearings on medigap abuses, some States have begun actions to adopt new regulations on medigap sales. This provision would encourage additional State action and insure that policies meeting innovative standards developed by States would be eligible for Federal certification.

Third, a criminal penalty would be provided for any insurance seller who misrepresents an association with the Federal medicare program or any other Federal program of health insurance for the purpose of selling supplemental insurance, or who knowingly duplicates existing insurance coverage. These were two of the most common abuses reported to the committee and this provision will serve as a strong deterrent to such actions.

Penalties would also be provided for mail order insurers who sell policies in a State without prior approval of that State's insurance commissioner. A State may elect to have Federal certification of these policies take the place of separate State approval.

Fourth, the Secretary would be required to provide information to all medicare beneficiaries on the types of medigap policies available for purchase, explaining their relationship to the medicare program. I was especially pleased to see that the Secretary has already begun such an information campaign with the publication and distribution of a medigap buyer's guide, developed jointly with the National Association of Insurance Commissioners.

Fifth, additional study of innovative State approaches to medigap insurance regulation would be required.

This amendment enjoys wide support among organizations representing older Americans and has been developed in consultation with State insurance commissioners and representatives of health insurance companies. It includes and supports recommendations made by the National Association of Insurance Commissioners and provides incentives for further innovative State action to correct medigap abuses.

The Department of Health, Education, and Welfare supports these provisions and is ready to begin implementing the certification program.

Our responsibility to fully carry out the provisions of the medicare program itself extends, I believe, to an assurance of the quality of suitable additional insurance protection against health costs not included within the protections offered by medicare. This amendment recognizes that responsibility and would take minimum steps to prevent continuation of the truly outrageous abuses which have been all too common.

I again commend Senator Dole and the Finance Committee and its able chairman for the work that they have done in this medigap provision, because I think it is a welcome addition.

I urge my colleagues to adopt this amendment.

Mr. DOLE. Mr. President, I wish to commend the distinguished Senator from Florida (Mr. Chiles), who has probably been the leader in this effort, and also the Senator from Montana (Mr. Baucus).

Mr. President, the Senator from Kansas is pleased to indicate his support of this amendment requiring the development of a voluntary certification program for health insurance policies offered by private insurance companies to supplement medicare.

PLIGHT OF THE AGED

Without question, health care costs are a significant expense and of primary concern to those of our citizens who are elderly. At present, medicare pays only 44 percent of the total health care costs of the elderly. In addition to medicare deductibles and coinsurance, the elderly are required to pay for many types of services that are not reimbursable under the medicare program at this time. Examples of such services are out-patient drugs, eye glasses, hearing aids, dental care, and most importantly, certain types of long-term care.

In 1977, the average aged American on medicare had $1,745 in health expenses; of this, these individuals paid one-third ($576) through private sources—either private insurance or directly out-of-pocket. This amount continues to grow and is frightening for the elderly since many are on fixed budgets. The elderly are faced with serious dilemmas: Limited dollars versus escalating health care costs; the increasing risk of illness due to age; and the inability of medicare to finance all services necessary. Because of these dilemmas, many seek out supplementary health care insurance plans to cover the gaps in coverage (and financing) of health care services. These policies are often referred to as "medigap" plans.

SUPPLEMENTARY HEALTH INSURANCE

In 1975, it was estimated that 63 percent of all Americans over 65 had some private health insurance coverage for hospital care alone and that 55 percent of all older Americans had some sort of private health insurance to cover physicians' services. Premiums for this type of insurance coverage cost the elderly approximately $1 billion last year.

This type of private insurance, referred to as medigap or medicare supplemental insurance, is designed to fill the gaps in the benefit structure of the medicare program and pay service rather than indemnity benefits. Additionally, many elderly also purchase indemnity policies which pay a certain number of dollars per day of hospitalization. The third type of insurance frequently purchased by the elderly is a limited policy which is frequently referred to as a dread disease policy. It pays benefits, often indemnity, only in the event the insured individual contracts a certain disease, which is in most instances, cancer.

Some of our elderly citizens hold 15, 20 or even more of these policies in an attempt to cover as many costs and services as possible. An estimated 23 percent of those who buy this private health insurance have some unnecessary duplication in coverage. Many other problems with these insurance plans have also been noted.

PROGRAMS WITH SUPPLEMENTARY HEALTH INSURANCE

In hearings held by the Special Committee on Aging of the U.S. Senate and in investigations by the Federal Trade Commission into the private health insurance market to supplement medicare, many unscrupulous and questionable practices came to light. In a document prepared by the staff of the Federal Trade Commission, the following description of some present insurance company practices can be found:

> Unscrupulous agents selling door-to-door or mail order advertisements often mislead or frighten them (the elderly) into loading up on two or more policies or replacing policies each year—a practice known as "twisting".

When they file claims, many of them find that coverage they thought would fill all the gaps in medicare falls short of their expectations. Most supplemental policies would not pay for pre-existing conditions or the major gaps in medicare, such as nursing home care, excess provider charges, and prescription drugs.

WHERE GOVERNMENT HAD FAILED

It is additionally difficult for senior citizens to make informed and rational decisions about their need for private health insurance because they lack the appropriate amount and type of information about medicare. A great deal of blame for this problem must certainly be placed on the government which has done an inadequate job of informing elderly individuals fully about their medicare benefits. While many individuals may be aware that medicare does not cover everything, they are unsure of what the exact gaps are and how to most rationally fill them with private insurance.

UNITED EFFORT

The Senator from Kansas does not believe all the solutions will fall solely within the appropriate jurisdiction of the Federal Government, nor the insurance industry, nor of the State insurance commissioners. The responsibility for solving the problems with supplementary health insurance must be shared by us all.

The insurance industry itself has begun to address these problems, and they are to be commended for their efforts. Many State insurance commissioners are contributing their thoughts and expertise in helping solve the question of how to prevent abuses in the system while still providing and encouraging the availability of rational and responsive supplementary health insurance.

The legislation we propose today is built upon our belief in this need for a united front. Our legislation provides for a program of voluntary certification for these policies. The program would allow insurance companies to submit policies to the Secretary for certification that the policy meets prescribed standards relating to retention ratios, preexisting conditions, cancellation clauses, simplicity of policy language and disclosure of information to potential purchasers. The legislation also contains penalty provisions for certain sales practices found to be misleading or abusive. One of the most important responsibilities given to the Federal Government. In this legislation will be the development of understandable and complete information on the medicare program for the elderly. The bill contains other penalties which are also designed to assist in our effort to deter those few individuals and companies who have attempted to mislead the public.

We, each of us, have a responsibility to the elderly in our communities to protect them against the type of abusive practices that have come to light with respect to the sale of supplementary health insurance. The Senator from Kansas is hopeful that this legislation will assist us in these efforts.

UP AMENDMENT NO. 861

(Purpose: Relating to Federal review of State agency disability determinations)

Mr. LONG. Mr. President, on behalf of the Senator from Georgia (Mr. TALMADGE), I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. LONG) for the Senator from Georgia (Mr. TALMADGE) proposes an unprinted amendment numbered 861:
>
> On page 55, line 80, insert "and" after "adopt,".
>
> On page 55, line 24, strike out "process, and" and insert in lieu thereof a period.
>
> On page 56, strike out lines 1 through 3.
>
> On page 56, between lines 3 and 4, insert the following: "Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law.' ".

Mr. LONG. Mr. President, the Senator from Georgia is necessarily absent today. He asked that the amendment be offered. I will read his statement.

STATEMENT OF SENATOR TALMADGE

> Mr. President, I do not advocate giving the Secretary of HEW or any other Secretary, the extremely broad authority which he is given in section 304(a)(2)(F). This subsection would give the Secretary the authority to establish any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determination.
>
> This authority, Mr. President, is just too unlimited in scope and places too much regulatory power in the Secretary. It will certainly inflame the Federal-State relations in this area rather than improve them.
>
> Mr. President, Wilbur J. Cohen, a distinguished former Secretary of HEW testified before the Finance Committee in strong opposition to the provision which my amendment would strike from the bill. He said he would not have wanted such authority when he was Secretary.
>
> Many States object to this particular subsection feeling as I do that it gives the Secretary of HEW complete Federal authority over each and every decision that the State disability unit makes.
>
> My amendment which is approved by the Administration would strike the provisions of subsection 304(a)(2)(F) and substitute language to clearly indicate that the Secretary could only issue regulations which are pursuant to law.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. DOLE. Mr. President, I think it is a good amendment. We have no objection to the amendment.

Mr. LONG. Mr. President, I yield back the remainder of my time on the amendment.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 861) was agreed to.

UP AMENDMENT NO. 862

(Purpose: To eliminate the reduction in disability benefits on account of receipt of workmen's compensation)

Mr. WALLOP. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 862.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

> On page 106, after line 24 add the following new section:
>
> REPEAL OF THE WORKMEN'S COMPENSATION OFFSET
>
> SEC. (a) Title II of the Social Security Act is amended by repealing section 224 thereof.
>
> (b) This amndment shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months beginning after the date of enactment of this Act.

Mr. WALLOP. Mr. President, a little over 2 years ago, I brought the case of the disabled worker receiving both social security disability insurance and workmen's compensation benefits before the Senate. Under section 224 of the Social Security Act, in effect since 1965, that worker's disability insurance benefits may be reduced so that the combination of social security disability benefits and State workmen's compensation benefits will not exceed 80 percent of his preinjury earnings. (The reduction in benefits is not made if there is a States' law or plan in effect which provides for the reduction of workmen's compensation payments where social security disability benefits are also payable. Twelve States have total or partial offset provisions.) Senators STEVENS, THURMOND, YOUNG, CRANSTON, and the late Hubert Humphrey joined me in offering an amendment to the Social Security Act amendments of 1977 to repeal section 224 of title II of the Social Security Act on grounds that it was unfair and inconsistent, difficult and costly to administer and distorted the purpose of the State workmen's compensation programs by requiring them to subsidize the Federal disability program, reasons I will elaborate upon in just a moment. The Senate agreed to the amendment which unfortunately did not survive the conference with the House.

Today, I call up an amendment identical to the one adopted by the Senate on November 4, 1977, my purpose in resurrecting this proposal is twofold: First, to focus attention once again upon this discriminatory provision of law in hopes of persuading a majority of my colleagues of the need to correct this inequity, and, second, to share with the Senate the Finance Committee's discussion and decisions with regard to the amendment which I offered in committee. In light of the committee's decision, I will not call for a vote on my amendment at this time. However, given the number of disabled workers in each of our States who are now or who might be affected by any change in the law. I would urge all of my colleagues to give this matter their attention and serious consideration.

My primary interest in seeking the repeal of section 224 of the Social Security Act is to correct the fundamental unfairness created by singling out disabled workers receiving workmen's compensation from the class of all disabled workers for a reduction in social security disability benefits. Disabled workers and their families under workmen's compensation are the only category or social security beneficiaries whose benefits are reduced because of the receipt of nonwork income; the Social Security Act does not require a similar reduction in disability benefits from other Federal or public disability programs. A worker could become disabled and receive payments under the Civil Service Retirement Act, the Railroad Retirement Act Annuity, the Veterans' Administration disability benefits program, the black lung program, and nearly 60 other public disability benefits programs without losing any of his social security disability benefits. Nor do disabled workers who receive lump sum or monthly payments under private disability insurance policies or receive damages in private tort actions have their social security benefits reduced only those workers who through no choice of their own depend on workmen's compensation are subject to a reduction in social security benefits.

In my State and in every other State employees contribute to workmen's compensation funds. They do so to provide a fair protection to cover injured workmen. In most cases the covered workman has no right to civil damages. Compensation awards are based on a contract agreement, if you will, and are paid according to a schedule in exchange for which the worker gives up the right to recover additional damages in court. The workmen's compensation funds were set up solely for the benefit of injured and disabled working men and women and not to create actuarial soundness in the social security trust fund. Their employer's payments are no different from the payments of employers under private contract. Their injuries are no less painful. Their needs are no less real. Yet they are singled out amongst all Americans for special treatment. A treatment which is patently unfair; an injustice which Congress alone has the power to right. This punitive and discriminatory treatment of one category of disabled workers is shamefully unfair and should not be allowed to continue.

While the questions of equity and fairness are central to the argument in support of this amendment, there are administrative reasons as well why the existing offset provision should be repealed. The offset is applicable to only a very small proportion of disability recipients, some 56,000 in 1978, or between 2 and 3 percent of all disabled workers. Yet, the provision generally requires a disproportionate application of administrative resources at great cost. Calculations made in 1977 by the Social Security Administration estimated that if the workmen's compensation provision was eliminated effective with fiscal year 1978, 500 man-years would be eliminated over a 5-year period ending with fiscal year 1982. An additional $7.8 million in administrative costs would be saved on an annual basis. The Social Security Administration advises that savings of the same magnitude could be expected if section 224 were repealed today.

Clearly, much more time and money is expended in administering this section than would seem to be warranted by the small number of beneficiaries subject to the provision. In addition, elimination of the workmen's compensation offset would simplify the social security program. Processing these claims now requires reference to State workmen's compensation laws which, of course, vary widely. Often, social security field offices must contact employers, workmen's compensation agencies. insurance companies, attorneys, and claimants before workmen's compensation offset determinations can be made. A large amount of correspondence, protracted interview time, and program center review contribute to the high cost of handling each case. Also, each case must be handled manually, both initially and when workmen's compensation benefits are increased and when offset redeterminations are made every 3 years. Obtaining the necessary offset information often results in long delays in getting social security disability benefits to entitled individuals and their families.

These arguments are basically the same as those recently presented to the Finance Committee in support of my amendment. There was general agreement in committee that section 224 of the Social Security Act arbitrarily distinguishes between workmen's compensation and other disability payments programs. However, the committee did not agree to the repeal of this discriminatory provision, as I was proposing as the means of doing equity, essentially, it was argued that such action would be expensive to the trust funds (according to administration estimates, the increased outlays to the disability trust fund would increase from $155 million in fiscal year 1981 to $170 million in fiscal year 1984), moreover, the argument was made that the repeal of section 224 would run counter to the philosophy embodied in the family cap provision of H.R. 3236 which seeks to prevent benefits paid to the disabled worker from exceeding predisability income.

Rejecting my original suggestion to simply repeal section 224, the committee asked staff to prepare a proposal which would effect a coordination between the social security disability insurance program and other public disability benefits programs so that combined benefits paid by these public programs would not exceed the worker's predisability earnings. The staff proposal was subsequently abandoned in favor of requesting the General Accounting Office to expand an ongoing study of the relationship between the social security and workers' compensation programs under secction 224 to include a study of the prevalence of multiple receipt of disability benefits from disability and other programs, including workmen's compensation, as well as various approaches to better coordinate the overall benefits provided to an individual to preclude benefits from exceeding predisability earnings.

On the strength of the committee's

express commitment to hold hearings on the GAO study next year, and to take appropriate legislative actions, I did not insist on my amendment in committee and likewise will not insist upon a vote at this time. I believe we may now be making progress toward the desired and—an end in the unfairness in the current law as it applies to disabled workers receiving workmen's compensation. However, should it become necessary, I shall be back before the Senate, undaunted, with my original proposal.

I think, Mr. President, that what we set out to do in the committee, while a reasonable response to the problems I have set forth, is fraught with political peril. Almost immediately following the committee's charge to staff to formulate a proposal to coordinate all public disability benefits, the interest groups were in action urging a laissez-faire with regard to their disability benefits.

If that is still the case when the committee considers GAO's study on this matter, and if the Congress of the United States is unwilling to proceed with a proposal to treat all public disability benefits alike in the face of an intense lobbying effort, then it must do what I am again today suggesting which is provide equity and fairness by repealing section 224 of the act. I cannot believe we will allow or tolerate this situation to go on much longer because, frankly, it is totally unfair to workers who are receiving workers' compensation to have those disability benefits, which they pay for—I will admit, the law says the employer pays them, but make no mistake about it, the employee has that as part of his compensation—reduced as required by present law.

It was a constituent of mine that brought this to my attention in the campaign. He was a worker who had 27 years without a time-loss accident. At the end of that 27 years, he fell off a high wall and broke a leg and was thereafter disabled. He got a lump-sum benefit from the State of Wyoming workmen's compensation fund in the amount of $7,000 for the total loss of use of a leg and because he would be permanently crippled for life. Then he found his disability benefits were reduced by the amount of that $7,000 while he was trying to fund children in college and a number of other things.

It is totally and disgracefully unfair to these workers to have it that way while every other disabled worker is more favorably treated by the law. I will persist in my efforts to restore equity to the system so that all disabled workers are treated the same.

I shall respond to the chairman and the ranking member if they have any comment and then withdraw the amendment.

Mr. LONG. Mr. President, there is no doubt that the Senator's position has a great deal of logic to recommend it. It seems to me that the discrimination should be removed, but I think that, basically, it should be removed by simply not providing double or triple benefits for disability. By doing so, we would help to balance the budget and make funds available to reduce taxes, reduce spending, or provide for national defense or some other essential purpose.

There is great potential for caring for social welfare needs by simply eliminating areas where unnecessary spending is occurring. That is the best answer. If we cannot do that, the second best answer is to do as the Senator is suggesting, to treat all people the same and say that regardless of what the source of disability income may be, if a person is insured under the programs, he may draw money under all of them.

I cannot quarrel with the logic of the Senator's statement. I would only say that, as a practical matter, we ought to be moving in what I think is the best direction, to say that we are not going to be spending Federal funds to try to provide a second or third level of benefits for something that is covered by more than one program. In other words, we ought to try to eliminate overlap rather than increase overlap.

I hope the Senator will pursue the approach of trying to reduce the overlap. There are people who have a vested interest in the present situation, people who are on more than one program who get benefits from two or more different programs. Sometimes it is private insurance, sometimes a State program, sometimes a Federal program, or sometimes it is two Federal programs. To make the best use of taxpayers' resources, we should try to provide only one benefit and, hopefully, one benefit that will be adequate, rather than provide two or three different benefits for the same person.

I appreciate the Senator's bringing this matter up and I hope that in due course we can give it the attention it deserves. I guess what we shall have to do is have certain grandfather rights with regard to those already drawing duplicate benefits and, as those phase out, say that, in the future, this situation will not occur.

Mr. WALLOP. I thank the Senator and I agree with him that that is the appropriate way to go. One way or another, we are just going to have to treat people equally. I am certain that, next year, we shall get into this when the GAO study is out.

Mr. DOLE. Will the Senator from Wyoming yield?

Mr. WALLOP. I am happy to yield.

Mr. DOLE. Mr. President, I associate myself with the remarks of the distinguished Senator from Louisiana, the chairman of the committee. I appreciate the position of the Senator from Wyoming. I think he has the attention of not only the committee but a number of those who might be impacted. We had a productive discussion on the issue in the Finance Committee.

We concluded that it is unfair to treat those who receive workers' compensation benefits any differently from those who receive other public disability benefits. However, we felt we should be moving in the direction of limiting benefits under all such programs to some reasonable percentage of predisability earnings.

It has been discussed that often, when the Congress passes overlapping programs, they individually provide reasonable aid but collectively overcompensate people who are not working and, in some instances, provide disincentives for individuals to become rehabilitated and to return to work. When that happens, we should make adjustments to see that we do not provide more in disability benefits to individuals than they earned when working.

It is the intention of the Finance Committee to look very carefully at ways to correct this problem, but there are too many questions to be answered before we move in that direction. I know the Senator from Wisconsin, the chairman of the Social Security Subcommittee, will hold hearings on this issue as soon as possible after the new year.

Some programs, such as veterans compensation and possibly others, should be exempted from efforts to limit benefits since they compensate individuals for more than just lost wages. I am sure that we will move cautiously but expeditiously next year to make the proper adjustments in the public disability programs and to coordinate them adequately.

If adjustments are made, it will be because of the untiring efforts of the Senator from Wyoming.

Mr. THURMOND. Mr. President, will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. THURMOND. During the consideration of this bill by the Finance Committee, was the area of veterans' benefits, that is compensation and pension, considered? And if so, what is the committee's position on veterans' benefits?

Mr. DOLE. They were mentioned, and I pointed out possible problems with limiting benefits under these programs. That is one reason why the committee is going to hold hearings on this matter early next year.

Mr. THURMOND. I thank the Senator, and would add that before any measure affecting veterans benefits or entitlements is brought to the Senate floor, I would urge the Finance Committee to consider carefully our Nation's historical commitment to veterans, especially those receiving compensation due to an injury incurred while in service to this country. Perhaps it would be wise to receive the input of the various veterans' organizations and the Veterans' Administration before the committee reports such legislation.

Mr. WALLOP. Mr. President, I will, for the time being at least, rest my case. I withdraw my amendment.

I thank the Senator from Kansas and the Senator from Louisiana for their understanding of this matter. It concerns me greatly. I do hope we move in the responsible direction.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is withdrawn.

UP AMENDMENT NO. 863

(Purpose: To eliminate child benefits for children 18 or older who attend postsecondary schools)

Mr. WALLOP. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 863.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of title V add the following new section:

ELIMINATION OF CHILD'S INSURANCE BENEFITS IN THE CASE OF CHILDREN AGE 18 THROUGH 21 WHO ATTEND POSTSECONDARY SCHOOLS

SEC. 508. (a)(1) Section 202(d) of the Social Security Act is amended in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(i), (6)(A)(i), (6)(D)(i), (6)(E)(i), (7)(A), (7)(B), and (7)(D), by striking out "full-time student" each place it appears and inserting in lieu thereof in each instance "full-time elementary or secondary school student".

(2)(A) Section 202(d) of such Act is further amended in paragraphs (7)(A), (7)(B), and (7)(D), by striking out "educational institution" each place it appears and inserting in lieu thereof in each instance "elementary or secondary school".

(B) Section 202(d)(7)(A) of such Act is further amended by striking out "institutions involved" and inserting in lieu thereof "schools involved".

(3) Subparagraph (C) of section 202(d)(7) of such Act is amended to read as follows:

"(C)(i) An 'elementary or secondary school' is a day or residential school that provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located.

"(ii) For the purpose of determining whether a child is a 'full-time elementary or secondary school student' or 'intends to continue to be in full-time attendance at an elementary or secondary school', within the meaning of this subsection, there shall be disregarded any education provided, or to be provided, beyond grade 12.".

(4) Section 202(d)(7)(D) of such Act is further amended by striking out "degree from a four-year college or university" and inserting in lieu thereof "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))".

(b) The amendments made by subsection (a) shall apply with respect to child's insurance benefits for months beginning with September 1982 except in the case of a child who is entitled to child's insurance benefits by reason of his full-time attendance at an educational institution for September 1982 whose benefits shall remain payable under section 202(d) of the Social Security Act as in effect prior to its amendment by this section.

Mr. DOLE. Will the Senator yield for a unanimous-consent request?

Mr. WALLOP. I am happy to yield to the Senator from Kansas for that purpose.

Mr. DOLE. Mr. President, I ask unanimous consent that Sheila Burke of the Committee on Finance be granted privilege of the floor during consideration of H.R. 3236.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, since 1965, the social security system has been paying benefits to unmarried individuals, ages 18 through 21, who are full-time students in postsecondary educational programs. The children's benefits program—which pays benefits to children of retired, disabled, and deceased workers—was created at a time when there was a shortage of Federal higher education aid available.

Mr. President, as an aside, I would be very interested to see if those college students aged 18 to 21 would be willing to identify themselves as children, and be called such.

At any rate, at the time that was created, there was a shortage of Federal higher education aid available.

Today, that shortage no longer exists; there are now six major postsecondary educational aid programs administered by the Office of Education of HEW which can provide financial assistance to college students who need it.

Over the course of this year, there has been renewed interest in eliminating the social security postsecondary benefits program as a responsible means for shifting responsibility for providing educational assistance from the social security system to the Office of Education and for achieving substantial savings to the trust funds without adding significantly to the outlay of general revenues for educational aid for college students. The President's 1980 budget assumed the enactment of legislation to phase out the postsecondary student benefits program over a 4-year period. HEW developed implementing legislation which was circulated as part of a draft bill encompassing many other changes in the Social Security Act.

On February 8, 1979, Congressman SAM GIBBONS, chairman of the House Ways and Means Subcommittee on Oversight, convened a hearing to review the social security student benefits program to determine whether the program was still necessary. Witnesses representing GAO, the Social Security Administration, the Office of Education, and the chamber of commerce testified in support of discontinuing the social security postsecondary education benefit program. On August 30, 1979, the Comptroller General submitted a report to Congress recommending the discontinuance of postsecondary student benefits (report No. HRD–79–108 entitled "Social Securitv Student Benefits for Postsecondary Students Should Be Discontinued"). Let me take a few minutes to read from section 5 of that report the reasons supporting their recommendation:

> The federal government has an interest in assisting people to learn so that they may earn a good living.
>
> It also has an interest in assisting people to prepare for times when loss of earnings works hardship upon former earners and their families.
>
> The first interest—education—seeks to develop human resources. It is the primary concern of the Office of Education.
>
> The second interest—insurance—seeks to secure human resources. It is the primary concern of the Social Security Administration.
>
> Neither interest should stand in opposition to the other. But, as linked in Social Security's Student Benefit program, they do. And the effects are great waste and inequity.
>
> In school year 1977–78, student benefits cost the trust funds, and thus contributors to the trust funds, $1.5 billion. That figure included payments made in excess of reported school costs, payments made where no school costs were reported, payments made without regard to academic progress—or its lack—duplicate payments, and payments made to ineligible persons. Using social security estimates, we calculate that by 1985 student benefits will be costing the trust funds $2.5 billion a year.
>
> The student benefit program contributes to waste of dollars from other federal programs in the form of excess payments and efforts made to detect and prevent excess payments. (One example is evident in the basic grant program, where a better verification procedure could have saved $8.2 million in 1 year.) This waste is at the expense of all taxpayers. Also, other federal programs are vulnerable to—and may now be experiencing—further waste of the same kind.
>
> The student benefit program works inequities upon non-student beneficiaries—those persons, young and old—for whom federal assistance in obtaining some minimum standard of food, shelter, and health care is supposed to be social security's basic purpose. If student benefits were discontinued, social security estimates that an additional $440 million a year would go to nonstudent beneficiaries—at no additional cost to the trust funds.
>
> From the standpoint of a just dispensation of federal education aid, the student benefit program works inequities upon the children of many qualified contributors. Some receive less money than would appear just under a needs-based evaluation, because they come from larger or poorer families. Others, because they choose to marry or attend school part time, get no money whatsoever.
>
> These conditions are ongoing in a time when social security shows no significant surpluses, when there are fewer contributors to bear the costs of each beneficiary, when taxes paid by contributors have been raised dramatically, and when there are real doubts that the system will be able to meet obligations without still further increases.
>
> In the case of postsecondary students, OE says, and we concur, that its programs have the capability of serving the vast majority of those persons who are now, and would be in the future, served by student benefits. Further, we believe OE could provide this service at less cost and with greater equity. There would be some former postsecondary student beneficiaries who would get less money. But since so many student beneficiaries are receiving excess benefits, we do not believe a dollar-for-dollar replacement of benefits by OE is necessary.
>
> It is the purpose of government to provide the best service at the lowest possible cost. Discontinuance of social security's student benefits to postsecondary students—thus requiring those who would have been served by that program to look to OE for most of their supplementary education aid—would serve that purpose well. Specifically, discontinuance could:
>
> 1. Save the trust funds $1.390 billion.
> 2. Save the taxpayers—after subtracting the new expense to the office of education—about $1.102 billion.
> 3. Provide education aid on a far more equitable basis to those persons who need such assistance.
> 4. Provide more assurance that the insurance system into which 9 of every 10 American workers pay will be capable of providing that service for which it was created, now and in the future.

Mr. President, the amendment I am offering essentially carries out the well-reasoned and entirely reasonable recommendation made by GAO. Effective in October 1982, the Social Security Act, which today pays benefits to full-time students attending institutions of higher education (or other postsecondary education programs), will cease to exist except for individuals who are entitled to those benefits for September 1982.

The need for a postponed effective date was expressed by critics of the administration proposal which was basically the same as my amendment, except that it would have phased benefits out over 4 years, thus terminating benefits for any children who reached 18 after August 1979, even if they were already on the rolls. Claims were made that student benefits would be terminated without adequate notice to many students who had been relying upon receiving them. In response to these criticisms, my amendment phases benefits out over a 6-year period. The 2-year delay in the effective date will insure a fair and orderly transition from the old law for students, Congress, the Social Security Administration, the Office of Education and the new Department of Education:

First, students, aged 16 and under, will have 2 years to make alternative plans for financing their college or other postsecondary education programs. For those who oppose the change in the law on the grounds that it is something of a breach of contract between the social security system and its contributors, this 2-year notice period will mitigate, if not eliminate, any damages a student might have, since there is ample time for the student to seek other educational aid. The Social Security Administration estimates that 400,000 individuals will be affected in fiscal year 1983 by this amendment. It is for these people that 2-year notice is provided.

Second, Congress, in conjunction with the Office of Education and the new Department of Education, has 2 years notice to review existing education grant and loan program both to assure their adequacy and sufficiency to meet the needs of students who would have been entitled under the old law to social security student benefits. There will be enough time for Congress to increase the authorizations and appropriations for these programs to accommodate new students and/or increased benefits to students who were receiving both social security and other assistance through the Office of Education, if such increases are needed. While no provision is made by this amendment for increased funding of the Office of Education programs, it is expected that the committees with jurisdiction over these programs will examine their funding needs in light of the change in the Social Security Act made by this amendment.

In addition to giving 2 years notice of the change in the law, subsection (b) of the amendment protects against the disruption of benefits to individuals who are entitled to children's insurance benefits for September 1982 by reason of their full-time attendance at an educational institution. This means that individuals currently on the rolls will continue receiving children's benefits under current law at least through September 1982, and then, if they are entitled to benefits for that month, for as long as they would be entitled under current law. Individuals who are not now entitled to children's benefits but who, through the death, disability or retirement of a parent, are entitled to benefits for September 1982 shall also continue to receive benefits as if the law had not been amended. This amendment has no effect whatsoever on children's benefits for primary and high school students.

Because of the delayed effective date of the amendment, savings to the social security trust funds will not be realized until fiscal year 1983. According to estimates prepared by the Social Security Administration, savings to the old-age, survivors and disability insurance trust funds will be substantial:

Fiscal year 1983: $193 million.
Fiscal year 1984: $761 million.
Fiscal year 1985: $1.312 billion.
Fiscal year 1986: $1.727 billion.

Preliminary estimates prepared by staff of the Congressional Budget Office are roughly the same:

Fiscal year 1983: $193 million.
Fiscal year 1984: $754 million.
Fiscal year 1985: $1.4 billion.

There is some discrepancy between Congressional Budget Office and Office of Education preliminary estimates on the additional costs to the basic educational opportunity grant program resulting from the discontinuance of the social security student benefits program. The CBO preliminary estimates based upon as estimated 56,000 new basic grant recipients, are as follows:

Fiscal year 1983: $15 million.
Fiscal year 1984: $28 million.
Fiscal year 1985: $43 million.

The Office of Education has a 1-year estimate for academic year 1983–84 in which it anticipates an increase of 61,000 recipients, at a cost of $65 million to the BEOG program.

A more precise impact analysis can be formulated in the 2 years before the amendment takes effect and changes can be made in the authorization and/or appropriation levels for the education grant programs to accommodate the additional recipients.

Notwithstanding the gap in these projections (which is attributable to a difference in assumptions used by these offices) the fact remains that savings to the trust funds will far exceed additional outlays of general revenues for financial aid to higher education. According to these CBO preliminary estimates, a net savings to the Federal Government at approximately 2 billion per year beginning with fiscal year 1987.

Director of the Office of Education, Bureau of Student Financial Assistance, Peter Voigt, in testimony presented in February before the Ways and Means Subcommittee on Oversight on the Administration's proposal, indicated that the existing student aid programs would be adequate to meet the needs of almost all of the students who would be affected by the phase out of social security benefits. It was his opinion that all students affected by the phase out would be able to receive assistance through OE's student aid programs in the form of either grants, work, or loans. These programs include the basic educational opportunity grant program (BEOG), the guaranteed student loan program, the college work study program, the national direct student loan program, the State student incentive grant program and the newly Middle Income Student Assistance Act (MISAA) which went into effect for the current academic year. The BEOG program is the foundation for all Federal postsecondary student assistance. It is an entitlement program and awards are made to students based upon financial need. The maximum award under this program is $1,800. MISAA greatly expanded eligibility for basic grants under the BEOG's program by decreasing the percentage of a family's discretionary income from which they are expected to contribute to the student's postsecondary education. This makes it possible for a student from a family of four with $25,000 parental income to receive a basic grant. The National direct student loan, college work study and supplemental educational opportunity grant programs, the "campus-based" programs, are allocated to institutions of higher learning which then distribute the funds to needy students. The guaranteed student loan program allows undergraduate students, regardless of income, to borrow up to $2,500 per year which must be repaid upon graduation. The Federal Government pays the interest on the loans while the student is in postsecondary education.

There is a significant difference—one which is material to my amendment—between these aid programs and the social security postsecondary student benefits program. Unlike the OE programs which are based on need, social security student benefits are paid on the basis of a worker's contributions into the trust funds: The higher a worker's income, the higher his contribution to the trust fund and the higher the benefits to his dependent child attending college. The converse is similarly true. The effect of this benefit formula is to pay higher benefits to students from families with higher incomes and lower benefits to students in families with lower incomes. This is contrary both to logic and our sense of fundamental fairness and is an important reason why the amendment I am proposing should be adopted.

Mr. President, my time is limited under the time agreement. I will bring my remarks to a conclusion at this time so that I may respond to any questions on the amendment. This amendment will move from the social security system—funded by contributions from workers—and into the Office of Education—paid for out of the Treasury—financial aid programs for students enrolled in postsecondary education programs.

The savings to the trust fund will be significant—nearly $1.4 billion in fiscal year 1985. Savings of this magnitude will substantially improve the financial condition of the trust funds and could be put to good use, such as rolling back social security taxes for all Americans.

The total savings to the Federal Government, taking into consideration the increases in the student benefit programs, should be approximately $2 billion per year by fiscal year 1987. The beauty of the proposal is that it will do tremendous good for the social security system without prejudicing students who will have merely to look to the new Department of Education for education aid.

Mr. President, I reserve the remainder of my time. I wish, if we can get enough Senators in the Chamber, to order the yeas and nays on this amendment at some time, but I reserve the remainder of my time.

Mr. LONG. Does the Senator desire to ask for yeas and nays?

Mr. WALLOP. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, the committee will be looking at social security financing early next year when we seek to see whether there are ways to modify the financing of social security benefits to avoid the very large increase in social security taxes scheduled to go into effect in January 1981.

One thing that we should look at is the possible cost savings in the student program as suggested by the Senator from Wyoming. This program should be considered and it should be carefully studied by the committee.

As of now, however, we have had no hearings on this subject and this amendment could affect the lives of a great number of students and their families. Therefore, Mr. President, in my judgment it is premature to enact the amendment at this time.

It may very well be that after we have had a chance to study it and go into the various ramifications of the proposal and the other considerations that are involved we might want to move in this area.

But one thing that has not been adequately considered is the need of setting up some other way of providing for the education of children or young people which would be needed in the event that the Wallop amendment were agreed to. That might be an area where other committees should act, perhaps the Committee on Human Resources or the Appropriations Committee; perhaps it would be the Committee on Finance. But I think that it would not be an area where the Finance Committee would want to act alone. It would be an area where other committees would like to be heard and to offer the Senate the benefit of the advice of those committees.

So, Mr. President, I believe that the amendment should not be agreed to at this time, even though I applaud the Senator for raising the subject, and I would encourage him to continue his interest in this matter until it has had further consideration.

The PRESIDING OFFICER. Who yields time to the Senator from Kansas?

Mr. LONG. I yield the Senator such time as he requires.

Mr. DOLE. Mr. President, I appreciate the position of the Senator from Wyoming and certainly feel this is an issue which must be addressed by the Congress in the near future. We need to look carefully at all the areas in the social security program which might warrant changes because they divert funds from the basic purpose of the program, that is to provide some minimum family income in the event of the taxpayer's retirement, disability, or death.

It is my understanding that the administration, which proposed the elimination of student benefits several months ago, is opposed to this amendment—not on the basis of substance, but on the basis of the vehicle. The Department of HEW still supports the concept but believes the issue is so important and affects so many families that it should have hearings in committee and go through the full legislative process. I believe that request is reasonable.

Furthermore, there is some concern that by attaching this amendment to the disability bill we might jeopardize the bill itself. I think this bill is far too important to take that chance so I will have to oppose the amendment. I would hope that the Senator from Wyoming would agree to let the Finance Committee take up this issue next year because it certainly deserves our full attention.

Mr. President, I again commend the Senator from Wyoming, although I cannot support what he wants to do because, as the chairman has indicated, we have had no hearings. But it is an issue which must be addressed. We are asked from time to time to try to tighten up programs and to save money, and we find that more difficult, very honestly, than we do expanding programs and spending more money. It is easier to say yes if you are in politics than it is to say no. But I think the taxpayers have a right, as the Senator from Wyoming suggested, that at least we take a hard look at some of these programs and we look at all the areas of social security programs which might warrant changes because they divert funds from the basic purpose of the program which is to provide some minimum family income in the event of the taxpayer's retirement, disability, or death.

It is my understanding that the administration, which proposed the elimination of student benefits several months ago, is opposed to this amendment not only on the basis of substance but on the basis of the vehicle. The Department of HEW still supports the concept but believes it should have hearings in the committee and go through the full legislative process, and I believe that request is reasonable. But if in fact that does happen it would save substantial sums of money, as has been pointed out, $193 million in fiscal 1983, $750 million in fiscal 1984, and $1.4 billion in fiscal 1985, so it is a substantial amendment.

Some concern I think has been expressed that by attaching the amendment to this bill it might jeopardize the bill itself. As I indicated in my opening statement, though this bill will receive very little attention from really anyone it probably is one of the most important pieces of legislation to come before Congress this year. It deals with the handicapped and disabled and, therefore, does not stimulate a great deal of interest. It is not something that will catch the eye of the media but will certainly catch the eye and be very helpful to thousands and thousands of disabled Americans.

I know that the yeas and nays have been ordered, and I assume the Senator from Wyoming will want a vote. But I think it is fair to say it may not be successful, and if it is not we will have the hearings and hopefully we can work out some compromise.

Mr. WALLOP. Mr. President, how much time does the Senator from Wyoming have?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. WALLOP. Mr. President, I wish to respond to some of the statements from the chairman and the ranking minority member because by any standard of Senate behavior they have been more than kind to the Senator from Wyoming in listening to his concern.

When they say it is premature to pass this, I wonder if they fully realize that by delaying this a year, we put off by a year the substantial savings in the billions of dollars to the OASDI trust fund even though the amendment does not affect any students that are presently receiving the benefits or who are entitled to benefits for September 1982.

I just do not understand how that puts us in the position of being responsible.

The Senator from Louisiana said that we had not held hearings. True, the Senate has not held hearings, but there were hearings held in the House of Representatives last February.

By passing this now we will be putting on notice all those who will be affected 2 years down the pike that they should begin looking at planning for their higher education. The delay of a year is expensive. If there is a disaster attendant to it, Congress can always go back and reinstate the benefits that are taken out by this amendment because there will be no change in the immediate outyear benefits.

But if we agree to this amendment now, we can go on and get these savings early.

I for one do not see how anyone can lay claim to fiscal responsibility and then say we should put this proposal off for another year.

The Senator from Louisiana says the other committees want to take a look to see if other programs exist for the students. I enumerated the six major Office of Education programs that exist today to provide financial aid. In the hearings in the House of Representatives, the administration testified that these programs are adequate to meet the needs of the students who would be affected by this proposal.

The funding necessary to provide these benefits will be minimal compared to the savings that will accrue to the trust funds.

How much longer do we sit here in the Chamber and complain about the taxes that we raised last year, complain about trying to find some means to roll back that social security tax increase that we laid on the taxpayer, complain about the security of the trust fund, its viability from an actuarial standpoint, and then do nothing about it when we have the opportunity right here and now to do something about it, to be accountable to the taxpayers, at the same time we are being fair to students by giving them 2 years notice and warning?

I mentioned earlier that the program within SSA absolutely confuses the roles of the Office of Education that now exists within HEW, the new Department of Education, and the social security trust fund.

I understand the Senator from Kansas says the administration now opposes this, having supported it earlier, and opposes it not on the basis of logic but on the basis of the coming year.

I think the coming year is a political year, and people are not going to want to have to account to students and their families receiving student benefits. But what happens to all the people who have to pay these taxes? How can we possibly expect them to view this Congress or any other one as accountable when we will not accept a proposal that disadvantages no one and takes care of everybody who has to contribute to this fund?

When are we going to be accountable to the people who pay? When is it responsible not to put off for another year biting a difficult bullet?

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, so far as the Senator from Louisiana is concerned I am ready to vote if the Senator is ready to vote, and we will just yield back the remainder of our time.

Mr. BELLMON. Will the Senator yield to me for a unanimous-consent request?

Mr. PERCY. I am happy to yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senate is not in order.

Mr. BELLMON. Mr. President, I support the Wallop amendment. Since 1965, when student benefits were first enacted, Federal spending for student assistance programs under the Higher Education Act have increased from $400 million to $4.6 billion projected for fiscal year 1980. That is a phenomenal increase, Mr. President, even in view of inflation and rising costs of education.

Next year we will consider Higher Education Act reauthorization, Mr. President. The Wallop amendment is particularly timely, therefore, as we will have an opportunity in the reauthorization process to examine the effects of the Wallop amendment—and if those effects suggest any further compensation in student assistance programs under the Higher Education Act, we will have every opportunity to take appropriate action at that time.

We all talk about duplication and overlap in Federal programs, Mr. President. We all know that Congress has a propensity to enact new programs—frequently without examining older programs to see where duplication and overlap exist. That potential is particularly noticeable where—as is the case with the social security student benefit and student assistance under the Higher Education Act the programs are in the jurisdiction of two different committees. But we have here clear duplication and overlap; and the Wallop amendment gives us an opportunity to correct that situation.

Mr. President, both the Carter administration and President Ford supported the change embodied in the Wallop amendment. There was some concern voiced earlier this year that the Carter administration's proposal to achieve the objective of the Wallop amendment could unfairly take benefits away from people who are already receiving them. The argument then went that, if we were to make this change, we should make it prospectively—so that students now in school would not actually have their benefits reduced.

The Wallop amendment does that, Mr. President. It puts off until September 1982, implementation of the phase out of the student benefit under social security. That gives adequate notice to those who will be entering school after September 1982, that they should seek other forms of student assistance between then and now. And, as I pointed out earlier, there are other sources of assistance available to them.

As a matter of fact, Mr. President, Senator Kennedy and I have introduced S. 1600, which proposes to expand the capital available for student loans. If our bill is adopted, as a part of higher education reauthorization next year, then there will be even greater amounts of money available to students through programs other than social security.

I believe this is a reasonable approach. I support the amendment—and I urge my colleagues to do likewise.

Mr. WALLOP. Mr. President, I will close with one final plea: That we take a look at what is really fiscally accountable right now. We are not doing anything to anybody that cannot be rectified by the immediate next Congress. By doing this, we are putting people on notice and we are getting those savings in a year earlier than we would otherwise, and it just seems to this Senator that that is really the way we ought to go when everybody is talking about all the high new taxes and all the troubles, and whether they are going to be eligible or even whether there is going to be a social security trust fund for them to draw on when they ultimately retire. Here is an opportunity to save billions of dollars without really hurting anybody, and I hope Senators will understand this, even though we have not held hearings, and in spite of the fact that next year is an election year.

Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wyoming. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), the Senator from North Carolina (Mr. Morgan), the Senator from West Virginia (Mr. Randolph), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) and the Senator from North Carolina (Mr. Morgan) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from California (Mr. Hayakawa), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

The PRESIDING OFFICER (Mr. Burdick). The Senate will be in order. Are there any other Senators wishing to vote?

The result was announced—yeas 22, nays 65, as follows:

[Rollcall Vote No. 453 Leg.]

YEAS—22

Armstrong
Bellmon
Boschwitz
Chiles
Cochran
Glenn
Hatfield
Helms
Jepsen
Kassebaum
Lugar
Nunn
Pressler
Proxmire
Roth
Schmitt
Simpson
Stevens
Thurmond
Tower
Wallop
Young

NAYS—65

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Church
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Hart
Hatch
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Levin
Long
McClure
Magnuson
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Stewart
Stone
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—13

Baker
Boren
Goldwater
Gravel
Hayakawa
Kennedy
McGovern
Mathias
Matsunaga
Morgan
Randolph
Stennis
Talmadge

So Mr. Wallop's amendment (UP No. 863) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 731

Mr. PERCY. Mr. President, I rise to call up my amendment No. 731.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. Percy) for himself, Mr. Cranston, Mr. Armstrong, Mr. Burdick, Mr. Harry F. Byrd, Jr., Mr. Cannon, Mr. Ford, Mr. Garn, Mr. Hatch, Mr. Hatfield, Mr. Hayakawa, Mr. Hollings, Mr. Huddleston, Mr. Humphrey, Mr. Laxalt, Mr. Matsunaga, Mr. Nunn, Mr. Randolph, Mr. Roth, Mr. Schweiker, Mr. Thurmond, Mr. Young, and Mr. Zorinsky proposes amendment numbered 731.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 106, after line 24, insert the following:

"TITLE VI—A PROVISION RELATING TO THE IMMIGRATION AND NATIONALITY ACT

"SUPPORT OF ALIENS

"Sec. 601. (a) Chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

" 'Sec. 216. (a) No alien shall be admitted to the United States for permanent residence unless (1) at the time of application for admission an agreement described in subsection (b) with respect to such alien has been submitted to, and approved by, the Attorney General (in the case of an alien applying while in the United States) or the Secretary of State (in the case of an alien applying while outside the United States), or (2) such alien presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he has other means to provide the rate of support described in subsection (b). The provisions of this section shall not apply to any alien who is admitted as a refugee under section 203(a)(7), paroled as a refugee under section 212(d)(5), or granted political asylum by the Attorney General.

" '(b) The agreement referred to in subsection (a) shall be signed by a person (hereinafter in this section referred to as the "immigration sponsor") who presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he will provide to the alien the financial support required by this subsection, and such agreement shall constitute a contract between the United States and the immigration sponsor. Such agreement shall be in such form and contain such information as the Attorney General or Secretary of State (as may be appropriate) may require. In such agreement the immigration sponsor shall agree to provide as a condition for the admission of the alien, for the full three-year period beginning on the date of the alien's admission, such financial support (or equivalent in kind support) as is necessary to maintain the alien's income at a dollar amount equal to the amount such alien would receive in benefits under title XVI of the Social Security Act, including State supplementary benefits payable in the State in which such alien resides under section 1616 of such Act and section 212 of the Act of July 9, 1973 (Public Law 93–66), if such alien were an "aged, blind, or disabled individual" as defined in section 1614(a) of the Social Security Act. A copy of such agreement shall be filed with the Attorney General and shall be available upon request by any party authorized to enforce such agreement under subsection (c).

" '(c)(1) Subject to paragraphs (3) and (4), the agreement described in subsection (b) may be enforced with respect to an alien against his immigration sponsor in a civil action brought by the Attorney General or by the alien. Such action may be brought in the United States district court for the district in which the immigration sponsor resides or in which such alien resides, if the amount in controversy is $10,000 or more (or without regard to the amount in controversy if such action cannot be brought in any State court), or in the State courts for the State in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy.

" '(2) Subject to paragraph (4), for the purpose of assuring the efficient use of funds available for public welfare, the agreement described in subsection (b) may be enforced with respect to an alien against his immigration sponsor in a civil action brought by any State (or the Northern Mariana Islands), or political subdivision thereof, which is making payments to, or on behalf of, such alien under any program based on need. Such action may be brought in the United States district court for the district in which the immigration sponsor resides or in which such alien resides, if the amount in controversy is $10,000 or more (or without regard to the amount in controversy if the action cannot be brought in any State court), or in the State courts for the State in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy.

" '(3) The right granted to an alien under paragraph (1) to bring a civil action to enforce an agreement described in subsection (b) shall terminate upon the commencement of a civil action to enforce such agreement brought by the Attorney General under paragraph (1) or by a State (or political subdivision thereof) under paragraph (2).

" '(4) The agreement described in subsection (b) shall be excused and unenforceable against the immigration sponsor or his estate if—

" '(A) the immigration sponsor dies or is adjudicated as bankrupt under the Bankruptcy Act,

" '(B) the alien is blind or disabled from causes arising after the date of admission for permanent residence (as determined under section 1614(a) of the Social Security Act),

" '(C) the sponsor affirmatively demonstrates to the satisfaction of the Attorney General that his financial resources subsequent to the date of entering into the support agreement have diminished for reasons beyond his control and that he is financially incapable of supporting the alien, or

" '(D) judgment cannot be obtained in court because of circumstances unforeseeable to the alien at the time of the agreement.

" '(d)(1) If an agreement under subsection (b) becomes excused and unenforceable under the provisions of subsection (c)(4)(C) on account of the sponsor's inability to financially support the alien, such agreement shall remain excused and unenforceable only for so long as such sponsor remains unable to support the alien (as determined by the Attorney General), but in no case shall the agreement be enforceable after the expiration of the three-year period designated in the agreement. The sponsor shall not be responsible for support of the alien for the time during which the agreement was excused and unenforceable, except as provided in paragraph (2).

" '(2)(A) If the Attorney General determines that a sponsor intentionally reduced his income or assets for the purpose of excusing a support agreement, and such agreement was excused as a result of such reduction, the sponsor shall be responsible for the support of the alien in the same manner as if such agreement had not been excused, and shall be responsible for repayment of any public assistance provided to such alien during the time such agreement was so excused.

" '(B) For purposes of this paragraph the term "public assistance" means cash benefits based on need, or food stamps.'.

"(b) The table of contents for chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

" 'Sec. 216. Support of aliens.'.

"(c) Section 212(a)(15) of the Immigration and Nationality Act is amended by inserting before the semicolon the following: ', or who fail to meet the requirements of section 216'.

"(d) The amendments made by this section shall apply with respect to aliens applying for immigrant visas or adjustment of status to permanent resident on or after the first day of the fourth month following the date of the enactment of this Act.".

On page 99, line 23, strike out "or (II)" and insert in lieu thereof the following: "(II) the support agreement with respect to such alien under section 216 of the Immigration and Nationality Act is excused and unenforceable pursuant to subsection (c) of such section, or (III)".

On page 33, amend the table of contents by adding at the end thereof the following items:

"TITLE VI—A PROVISION RELATING TO THE IMMIGRATION AND NATIONALITY ACT

"Sec. 601. Support of aliens.".

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois (Mr. Percy) has the floor.

Mr. BAYH. Will the Senator from Illinois yield for 30 seconds?

Mr. PERCY. I am happy to yield to the Senator from Indiana (Mr. Bayh).

Mr. BAYH. Mr. President, I ask unanimous consent that Louise Malone of my staff be permitted access to the floor during the debate and voting on this particular bill and the amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I intend to send to the desk an amendment which the Senator from Indiana will offer after the Senator from Illinois, so that he may go ahead. Obviously, we are not going to be able to consider that today, but I think it should be printed so that everybody can have a chance to study it.

Mr. PERCY. Mr. President, amendment No. 731, cosponsored by 22 of my distinguished colleagues, including Senator Cranston, the principal cosponsor, is designed to curb certain abuses of the supplemental security income program by newly-arrived aliens.

Among my distinguished colleagues who have cosponsored this amendment, none have been more diligent than Senator Hayakawa and I would like to pay a special compliment to my distinguished colleague, whose continuing strong efforts to close this costly loophole have given this amendment great momentum.

I would also compliment Miss Patty White of Senator Hayakawa's staff who has worked closely with my own staff to get this measure passed. I am confident we will join together again to pass similar cost-saving measures.

Mr. President, this amendment was originally contained in S. 1070, which I introduced on May 3, 1979, and is being introduced as an amendment to H.R. 3236, an act designed to remove certain work disincentives for the disabled from the Supplemental Security Income program (SSI). Another portion of S. 1070 has already been added as an amendment to H.R. 3236.

Over 2 years ago, it came to my attention that a loophole in this Nation's immigration and social security laws was costing the American taxpayer many millions of dollars annually in SSI benefits to newly arrived aliens. In a letter dated April 20, 1977, I requested that the General Accounting Office conduct a study of the SSI program to determine how many newly arrived legal aliens (those in the United States for 5 years or less) were receiving SSI benefits and how much these benefits were costing the American taxpayer. As a result of a 6-month study, the GAO issued a report on February 22, 1978, which found that the number of newly arrived aliens receiving SSI needed to be reduced. The GAO concluded that Federal legislation was needed to correct this growing problem. Mr. President, I ask unanimous consent that this GAO report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. The GAO's findings were a startling revelation to me. Specifically, the GAO determined that during 1977, in five States alone (those with the largest number of aliens), about 37,500 newly arrived aliens received close to $72 million in SSI benefits. About $16 million of this amount was paid to refugees. The GAO further found that of the total alien population receiving SSI an estimated 63 percent had enrolled in the program during their first year of residency in this country. All told, 96 percent of those aliens receiving SSI had resided in the United States for 3 years or less at the time they first began receiving benefits.

I would now like to take a few moments to explain the loophole. The Immigration and Nationality Act—the foundation of our Nation's immigration policy—specifically attempts to provide against newly arrived aliens receiving public assistance. In part, the act states that aliens are:

> Ineligible to receive visas and shall be excluded from admission into the United States . . . [if] in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, . . . [they are] likely at any time to become public charges. . . . (8 U.S.C. 1182)

The second provision provides that any alien in the United States:

> Shall, upon the order of the Attorney General, be deported . . . [if] in the opinion of the Attorney General, [he/she] has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry. (8 U.S.C. 1251)

To comply with these provisions, an alien seeking admission to the United States must demonstrate to the Federal Government that if he cannot support himself, he will not become a public charge once in this country. In order to meet this guarantee, an alien often has a sponsor, usually a blood relative or close friend, execute an affidavit declaring his willingness to support the alien if he cannot support himself once in the United States. The Immigration and Naturalization Service affidavit form provided to alien sponsors specifically states that:

> This affidavit is made by me for the purpose of assuring the United States Government that (the sponsored alien) will not become (a) public charge(s) in the United States.

In the affidavit, the sponsor demonstrates his ability to support the alien by listing income and assets.

In spite of this pledge of support, courts have ruled that the affidavit is not an enforceable contract but merely a moral obligation on the part of the sponsor to the Federal Government. In one such case, the Supreme Court of Michigan declared:

> There is no question here of the power of the United States Government, under proper enabling act of Congress, to make or require such contract from sponsors. The question is whether the government has done so. We hold that it has not. There being no such act of Congress empowering Immigration officials to make or require such a contract for the United States government, it can scarcely be concluded that there was an intent on the part of the government to create a contractual obligation. (*State* v. *Binder*, 96 N.W. 2nd 140, 143).

As a result of such court rulings, effective enforcement of the affidavit of support is virtually impossible. Today, a sponsor cannot be held legally accountable for refusing to support a newly-arrived alien, even if the sponsor clearly has the means to do so.

In addition, although U.S. Immigration laws clearly state that an alien is subject to deportation if he receives public assistance within 5 years of entry into the United States, nevertheless, INS has ruled that an alien who receives public assistsance within 5 years after entry is deportable only if:

First, the program from which the alien receives assistance requires repayment:

Second, a demand for repayment has been made;

Third, the alien has refused or is unable to make repayment.

SSI, as a public assistance program, makes no demand for repayment from its alien beneficiaries so long as the individual meets eligibility requirements. An alien, in order to be eligible for SSI benefits, must be lawfully admitted for permanent residency or reside in the United States under color of law. Eligibility is not based upon length of residence. Thus, the Federal Government has created a policy by default—allowing sponsors to disregard their pledges of support no matter how much income or assets they may have and permitting newly arrived aliens to receive public assistance without fear of retribution. Both Social Security Administration and Immigration and Naturalization Service officials are powerless under present law to take any action that will curb this alarming trend. What is the end result? Many recently arrived aliens now receive gifts from the Government—"instant pensions." In the end, the responsibility for financial support of the alien is shifted from the sponsor to the taxpayer.

In numerous cases, sponsors who have reneged on their promises of support had the full financial capability to support the newly-arrived alien but instead chose to take advantage of the loophole. A May 7, 1979, article in the Los Angeles Times provides some choice examples:

> A 64-year-old man in Sunnyvale, California, . . . entered the country under the sponsorship of his daughter, who earns over $25,000 and lists assets worth over $130,000. He applied for and received welfare benefits within four months of his arrival.
>
> Three months after entering the United States, a couple from San Francisco began receiving monthly benefits of $338, despite the fact that their son-in-law had signed an affidavit guaranteeing that they would not become public charges. Once they got on welfare, he discontinued all assistance, whereupon the couple's benefits were increased to $422 per month.
>
> One elderly woman, whose entry was sponsored by her daughter in Illinois, actually applied for welfare two months before she arrived in America. The payments began 15 days after she joined her daughter.

Similar instances of abuse have also been fully documented by the GAO. Moreover, this past week the Social Security Administration delivered to me the results of its own study on alien participation in the SSI program. That study found the proportion of newly-arrived aliens who have been awarded SSI has remained constant since the GAO conducted its study. Manifestly, the alien abuse problem continues unabated and may be increasing in cost. Mr. President, I ask unanimous consent that this recent study of alien participation in the supplemental security income program be inserted in the RECORD at the conclusion of my remarks.

The amendment for which I speak today would make the sponsor's affidavit of support a legally enforceable contract. This measure has received strong bipartisan support. Senator CRANSTON is its principal cosponsor and 22 other Members of this distinguished body have signed on as cosponsors.

On October 26, 1979, during Finance Committee consideration of H.R. 3236, Senator ROTH offered as an amendment that portion of S. 1070 requiring all aliens, with the exception of refugees, to meet a 3-year residency requirement for participation is the SSI program. The committee unanimously approved the amendment which is now included in section 504(a) of H.R. 3236.

Today, in voting on this amendment which is specifically concerned with the affidavit of support, we have an opportunity to eliminate this intolerable loophole. While a 3-year residency requirement for participation in the SSI program is undoubtedly an important step in curbing the abuses now under discussion, a residency requirement alone will not prevent sponsors from reneging on their promises of support to newly-arrived aliens. If the affidavit is not made enforceable, an unwanted hardship could be brought to bear on those aliens whose sponsors refuse to live up to their support agreements. In that event, if the alien does not meet the 3-year residency requirement now incorporated into H.R. 3236, the affected alien could turn to the State for public assistance. In order to avoid this unfair burden to both the alien and the State, it is essential that would-be sponsors be held legally accountable for their promises of support. With the added deterrent of a binding affidavit of support, few would treat their obligations lightly. If the sponsor chooses not to live up to his obligation of support, he may be subject to civil suit in either Federal or State court.

I would like to make very clear that this amendment is not intended to penalize the honest and well-intentioned sponsor. The sponsor can be relieved from his obligation of support if he is able to affirmatively demonstrate that his financial resources subsequent to the execution of the affidavit have diminished for reasons beyond his control and that he is financially incapable of supporting the alien. If such a determination is made, the alien who has lost his means of support would then be eligible for SSI assistance and not be required to meet the 3-year residency requirement.

In order to best effect its cost-saving purpose, an enforceable affidavit of support is an essential element in eliminating the loophole. The time has now come for the responsibility of an alien's support to be squarely placed on the shoulders of the sponsor who promises to do so, and not the American public. My distinguished colleagues, we have before us a real opportunity to enact cost-saving legislation that can be implemented quickly and efficiently. We, the 96th Congress, committed to vigorous oversight, have promised our constituents a close scrutiny of Federal spending and have promised to cut costs wherever it can be justified. Clearly, this amendment will fulfill that mandate. I would, therefore, urge my colleagues to accept this amendment and make the sponsor's affidavit of support a legally binding and enforceable agreement.

Mr. President, yesterday the Comptroller General of the United States, Elmer Staats, achieved 40 years of Government service. I went over to pay tribute to the most diligent of public servants, together with JACK BROOKS, of the House, and FRANK HORTON. I know Senator RIBICOFF would have liked to join us in personally congratulating the Comptroller General because the Governmental Affairs Committee of the Senate, along with the Government Operations Committee of the House have oversight over the Comptroller General's Office.

In talking with the Comptroller General, the watchdog of Congress, I was reminded that last year this important arm of Congress brought savings of $2.9 billion to the American taxpayer through the implementation of their reports and studys. However, I must sadly note that it is a great discouragement to the 5,200 employees in GAO when they issue a report and no action is taken to implement its findings.

Elmer Staats explained his concern and frustration to me—knowing what should be done, having painstakingly accomplished all the work, and remaining powerless to implement the findings. As my distinguished colleagues know, it is our task to take the needed actions.

In this case, we ordered a report, and said: "The law is very clear. A sponsor promises that an alien coming into the country will not be a public charge for 5 years." The sponsor certifies their assets with the presumption that if the alien cannot support himself while here, that the sponsor will provide for his care and support.

But we all know how this agreement has worked. Sponsors all too often do not live up to their promises of support.

We all, in a sense, through our forebearers were aliens at one time, but no one that I know of in this body, parents, grandparents, or great grandparents, came to this country assuming they were going to become public charges the minute they arrived. Yet the report of the Comptroller General has found that thousands of people come into this country and they may come in on Monday and by Wednesday the sponsor who has promised, "You will not be a public charge," takes them right down to the social security office so that they can sign up for supplemental security income benefits.

Let us take a look and see what benefits they receive. These newly arrived aliens have not contributed a penny to this country and yet they are eligible to start receiving $208.20 monthly for individuals and $312.30 monthly for couples.

There is something very wrong in allowing this irresponsible conduct to continue. If we do not close this loophole now it will just continue to expand, costing the American taxpayer many more millions of dollars each year.

Clearly, the sponsor should take full responsibility for the promise of support which he has made.

Well, there is a recourse and that is to make the sponsor's affidavit of support a legally enforceable contract with the Federal Government. We have discussed this matter with the ranking minority member of the Finance Committee, Senator DOLE. He is well aware of this amendment's intent. We have also discussed the need for an enforceable affidavit with Senator LONG, the chairman of the Finance Committee. Both have been extraordinarily sympathetic with our efforts to eliminate this costly loophole now.

If the cost is, as the Comptroller General reported years ago, $72 million per year in 5 States alone, how much is this loophole costing the 50 States of the Union? Certainly, it is more than $72 million each year. No wonder we have such an overburdened budget when loopholes costing $70 million or more each year, are allowed to continue unabated.

We can eliminate this loophole and reduce the taxpayers' burden by passing this amendment. This is what Senator HAYAKAWA, Senator CRANSTON, and the 22 cosponsors of this amendment hope to accomplish today.

EXHIBIT 1

TABLE 1.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, 1ST YR OF U.S. RESIDENCE AND REASON FOR ELIGIBILITY, SEPTEMBER 1978 TO MAY 1979

Citizenship status	Total	Adults			Children	
		Aged	Blind	Disabled	Blind	Disabled
Total	272, 893	105, 159	3, 375	136, 223	888	27, 248
U.S. citizens [1]	247, 872	90, 007	3, 140	127, 770	852	26, 103
Aliens, total	17, 901	12, 846	156	4, 513	19	367
Alien status:						
Conditionally admitted	3, 777	2, 798	36	843	5	95
Indochinese refugees	637	452	16	121	4	44
Other refugees [2]	1, 693	1, 196	11	452	1	33
Attorney General's parole [3]	1, 325	1, 073	8	233		11
Deferred action	122	77	1	37		7
Other lawfully admitted aliens	14, 124	10, 048	120	3, 670	14	272
Status not reported	7, 120	2, 306	79	3, 940	17	778
1st-yr of residence:						
Total	17, 901	12, 846	156	4, 513	19	367
1977–79	7, 842	6, 708	56	948	6	124
1974–76	2, 455	1, 665	26	662	6	96
Prior to 1974	7, 604	4, 473	74	2, 903	7	147
Conditionally admitted	3, 777	2, 798	36	843	5	95

TABLE 1.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, 1ST YR OF U.S. RESIDENCE AND REASON FOR ELIGIBILITY, SEPTEMBER 1978 TO MAY 1979—Continued

Citizenship status	Total	Adults			Children	
		Aged	Blind	Disabled	Blind	Disabled
1977–79	2,411	2,017	21	333	2	38
1974–76	515	317	7	156	2	33
Prior to 1974	851	464	8	354	1	24
Other lawfully admitted aliens	14,124	10,048	120	3,670	14	272
1977–79	5,431	4,691	35	615	4	86
1974–76	1,940	1,348	19	506	4	63
Prior to 1974	6,753	4,009	66	2,549	6	123

[1] Includes persons residing in the United States prior to June 30, 1948.
[2] Sec. 203(a)(7) of the Immigration and Nationality Act.
[3] Sec. 212(d)(5) of the Immigration and Nationality Act.

TABLE 2.—SUPPLEMENTAL SECURITY INCOME: NUMBER AND PERCENTAGE DISTRIBUTION OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, AGE, SEX, AND RACE, SEPTEMBER 1978 TO MAY 1979

Age, sex, and race	All awards [1]	U.S. citizens [2]	Aliens conditionally admitted			Other lawfully admitted aliens		
			Total	1974–79	Prior to 1974	Total	1974–79	Prior to 1974
Total number	272,893	247,872	3,777	2,926	851	14,124	7,371	6,753
Total percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Age: [3]								
Under 18	10.5	11.1	2.5	2.5	2.7	2.0	2.0	1.9
18 to 21	6.2	6.5	1.3	.7	3.3	1.7	1.2	2.3
22 to 29	6.6	7.0	2.1	1.6	3.6	2.4	1.7	3.2
30 to 39	6.3	6.6	1.7	1.4	2.8	2.7	1.9	3.6
40 to 49	7.9	8.2	3.6	2.0	8.9	3.8	1.5	6.3
50 to 59	15.9	16.4	7.5	5.2	15.4	9.4	4.5	14.8
60 to 64	10.5	10.4	12.1	11.7	13.3	12.6	10.6	14.7
65 to 69	15.5	14.1	32.9	34.4	27.4	34.3	38.9	29.3
70 to 74	7.5	6.8	19.1	21.9	9.4	16.4	21.7	10.5
75 to 79	5.4	5.2	9.8	10.8	6.2	8.4	10.4	6.3
80 and over	7.6	7.7	7.5	7.7	6.9	6.3	5.6	7.1
Sex:								
Men	44.2	44.3	43.3	44.4	39.8	41.3	41.9	40.6
Women	55.8	55.7	56.7	55.6	60.2	58.7	58.1	59.4
Race:								
White	64.3	66.0	32.2	21.7	68.2	45.2	23.6	68.8
Black	23.6	24.9	1.4	1.1	2.5	6.3	5.9	6.8
Other	3.5	2.2	19.6	19.6	19.6	21.8	27.8	15.2
Unknown	8.6	6.9	46.8	57.6	9.8	26.7	42.7	9.3

[1] Includes 7,120 awards for which citizenship status was not reported.
[2] Includes persons residing in the United States prior to June 30, 1948.
[3] Age on birthday in 1978.

TABLE 3.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, 1ST YR OF U.S. RESIDENCE, AND STATE, SEPTEMBER 1978 TO MAY 1979

State	All awards [1]	U.S. citizens [2]	Aliens				
				Status		1st yr of residence	
			Total	Conditionally admitted [3]	Other	Prior to 1974	1974–79
Total	272,893	247,872	17,901	3,777	14,124	7,604	10,297
Alabama	7,794	7,581	15	2	13	4	11
Alaska	229	212	11	2	9	4	7
Arizona	2,023	1,858	105	6	99	82	23
Arkansas	3,796	3,562	15	10	5	4	11
California	40,778	33,264	6,265	1,253	5,012	2,746	3,519
Colorado	1,894	1,709	86	50	36	17	69
Connecticut	2,029	1,832	153	28	125	58	95
Delaware	709	673	13	5	8	6	7
District of Columbia	1,220	1,146	38	7	31	18	20
Florida	12,679	10,798	1,546	374	1,172	822	724
Georgia	9,186	8,916	50	18	32	12	38
Hawaii	847	595	243	22	221	62	181
Idaho	580	558	8	----	8	4	4
Illinois	9,270	8,463	645	171	474	179	466
Indiana	3,921	3,825	35	9	26	13	22
Iowa	2,403	2,334	29	15	14	6	23
Kansas	1,576	1,523	29	16	13	8	21
Kentucky	5,801	5,619	22	10	12	1	21
Louisiana	6,311	5,912	111	50	61	38	73
Maine	1,719	1,665	21	3	18	14	7
Maryland	3,795	3,488	240	112	128	41	199
Massachusetts	8,896	8,032	687	92	595	329	358
Michigan	8,320	7,824	306	62	244	108	198
Minnesota	2,143	2,027	64	35	29	7	57
Mississippi	5,299	5,213	7	2	5	1	6
Missouri	5,972	5,770	70	38	32	12	58
Montana	565	535	11	6	5	4	7
Nebraska	1,187	1,147	14	7	7	4	10
Nevada	828	753	48	3	45	22	26
New Hampshire	468	450	11	2	9	5	6
New Jersey	8,689	7,566	896	113	783	330	566
New Mexico	1,404	1,288	48	8	40	32	16
New York	24,913	20,777	3,484	657	2,827	1,353	2,131
North Carolina	9,066	8,867	26	7	19	8	18
North Dakota	371	360	2	1	1	1	1
Ohio	8,443	8,065	190	85	105	33	157
Oklahoma	2,708	2,547	16	11	5	1	15
Oregon	1,774	1,656	80	23	57	25	55
Pennsylvania	12,930	12,389	302	135	167	76	226
Rhode Island	1,078	907	145	13	132	59	86
South Carolina	5,896	5,783	22	5	17	3	19

TABLE 3.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, 1ST YR OF U.S. RESIDENCE, AND STATE SEPTEMBER 1978 TO MAY 1979—Continued

			Aliens				
				Status		1st yr of residence	
State	All awards [1]	U.S. citizens [2]	Total	Conditionally admitted [3]	Other	Prior to 1974	1974–79
South Dakota	655	641	2		2	1	1
Tennessee	7, 332	7, 121	32	16	16	6	26
Texas	16, 240	14, 345	1, 246	152	1, 094	898	348
Utah	504	456	27	12	15	8	19
Vermont	776	766	4		4	4	
Virginia	6, 269	6, 006	174	40	134	24	150
Washington	3, 247	2, 966	203	42	161	71	132
West Virginia	2, 629	2, 571	5	4	1		5
Wisconsin	5, 489	5, 287	94	43	51	37	57
Wyoming	142	136	5		5	3	2
Unknown	4	2					
Other areas: Northern Mariana Islands	96	86					

[1] Includes 7,120 awards for which citizenship status was not reported.

[2] Includes persons residing in the United States prior to June 30, 1948.

[3] Includes Indochinese refugees, other refugees, Attorney General's parole and deferred status aliens.

TABLE 4.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF ALIENS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY COUNTRY OF BIRTH, SEPTEMBER 1978 TO MAY 1979[1]

		Aliens conditionally admitted			Other lawfully admitted aliens		
Country of birth	All aliens	Total	1974–79	Prior to 1974	Total	1974–79	Prior to 1974
Total	17, 901	3, 777	2, 926	851	14, 124	7, 371	6, 753
Country reported	15, 020	3, 429	2, 826	603	11, 591	7, 076	4, 515
China	726	189	173	16	537	475	62
Colombia	252	16	8	8	236	124	112
Cuba	1, 378	387	240	147	991	368	623
Dominican Republic	529	18	8	10	511	260	251
Greece	221	22	12	10	199	122	77
Haiti	250	9	3	6	241	120	121
India	230	38	33	5	192	179	13
Indochina	667	562	549	13	105	101	4
Cambodia	(34)	(30)	(22)	(8)	(4)	(4)	
Laos	(128)	(111)	(111)		(17)	(16)	(1)
Vietnam	(505	(421)	(416)	(5)	(84)	(81)	(3)
Italy	371	25	6	19	346	146	200
Jamaica	321	18	11	7	303	165	138
Korea	737	104	84	20	633	551	82
Mexico	1, 813	189	57	132	1, 624	408	1, 216
Portugal	446	30	17	13	416	250	166
Philippines	1, 752	118	108	10	1, 634	1, 529	105
Turkey	317	116	110	6	201	170	31
China (Taiwan)	408	93	59	34	315	218	97
U.S.S.R.	1, 325	1, 083	1, 070	13	242	189	53
All other	3, 277	412	278	134	2, 865	1, 701	1, 164
Country not reported	2, 881	348	100	248	2, 533	295	2, 238

[1] Separate listing limited to countries with 200 or more aliens.

TABLE 5.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS, SEPTEMBER 1978 TO MAY 1979 AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979

[Percent in concurrent receipt of income and average monthly amount by citizenship status, reason for eligibility, type of income and average monthly amount]

		Percent with income				Average monthly amount			
			Other unearned income				Other unearned income		
Reason for eligibility	All awards	Social security benefits	Total	Support and maintenance in kind	Earned income	Social security benefits	Total	Support and maintenance in kind	Earned income
All awards: [1]									
Aged	91, 440	76. 0	4. 5	2. 5	3. 6	$174. 24	$90. 28	$63. 29	$111. 26
Blind and disabled	126, 177	26. 6	13. 7	5. 6	3. 1	176. 37	78. 13	64. 19	100. 41
Total	217, 617	47. 3	9. 8	4. 4	3. 3	174. 93	80. 47	63. 97	105. 40
U.S. citizens: [2]									
Aged	77, 851	84. 4	3. 5	1. 9	3. 8	174. 30	93. 75	61. 77	99. 03
Blind and disabled	118, 589	26. 7	13. 7	5. 8	3. 1	176. 17	77. 94	64. 29	99. 33
Total	196, 440	49. 6	9. 6	4. 3	3. 4	174. 91	80. 23	63. 84	99. 19
Aliens conditionally admitted:									
Aged	2, 580	8. 6	13. 0	9. 7	. 8	175. 67	95. 92	69. 32	227. 13
Blind and disabled	815	11. 3	19. 8	9. 3	. 7	187. 59	85. 76	65. 76	114. 00
Total	3, 395	9. 2	14. 6	9. 6	. 8	179. 16	92. 63	68. 49	203. 72
1974–79:									
Aged	2, 180	. 8	14. 1	10. 7	. 6	148. 94	95. 67	69. 08	228. 28
Blind and disabled	526	1. 9	20. 2	10. 5	. 6	185. 50	85. 50	67. 16	105. 00
Total	2, 706	1. 0	15. 3	10. 7	. 6	162. 48	93. 06	68. 71	206. 52

TABLE 5.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS, SEPTEMBER 1978 TO MAY 1979 AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979—Continued

[Percent in concurrent receipt of income and average monthly amount by citizenship status, reason for eligibility type of income and average monthly amount]

Reason for eligibility	All awards	Percent with income				Average monthly amount			
			Other unearned income				Other unearned income		
		Social security benefits	Total	Support and maintenance in kind	Earned income	Social security benefits	Total	Support and maintenance in kind	Earned income
Prior to 1974:									
Aged	400	51.3	7.3	4.0	2.3	$177.88	$98.58	$72.87	$225.33
Blind and disabled	289	28.4	19.0	7.3	1.0	187.84	86.27	62.09	123.00
Total	689	41.7	12.2	5.4	1.7	180.73	90.52	66.75	199.75
Other lawfully admitted aliens:									
Aged	9,081	23.0	10.6	5.6	2.8	176.01	79.55	65.21	243.15
Blind and disabled	3,271	21.2	15.9	7.5	1.2	192.69	82.88	66.11	105.87
Total	12,352	22.5	12.0	6.1	2.3	180.17	80.72	65.50	225.03
1974–79:									
Aged	5,538	2.2	12.7	6.7	2.2	151.28	75.72	65.42	282.54
Blind and disabled	1,161	3.4	16.2	8.4	1.0	179.26	89.72	62.10	105.42
Total	6,699	2.4	13.3	7.0	2.0	158.66	78.67	66.19	266.67
Prior to 1974:									
Aged	3,543	55.4	7.4	3.8	3.6	177.54	89.81	64.62	205.60
Blind and disabled	2,111	31.1	15.7	6.9	1.2	193.49	79.02	64.10	106.08
Total	5,564	46.3	10.5	5.0	2.7	181.53	83.78	64.35	188.80

[1] Includes awards for which citizenship status was not available.

[2] Includes persons residing in the United States prior to June 30, 1948.

TABLE 6.—SUPPLEMENTAL SECURITY INCOME: NUMBER AND PERCENTAGE DISTRIBUTION OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS SEPTEMBER 1978 TO MAY 1979, AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979

[By citizenship status and living arrangements]

Living arrangements	All awards[1]	U.S. citizen[2]	Aliens conditionally admitted			Other lawfully admitted aliens		
			Total	1974–79	Prior to 1974	Total	1974–79	Prior to 1974
Total number	217,617	196,440	3,395	2,706	689	12,353	6,699	5,654
Total percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Own household	79.3	81.1	68.8	68.6	69.6	51.4	35.0	70.8
Another's household	16.7	14.7	30.3	30.8	28.2	47.7	64.5	27.9
Institutional care covered by medicaid	4.0	4.2	.9	.6	2.1	.9	.5	1.3

[1] Includes 5,429 awards for which citizenship status was not reported.

[2] Includes persons residing in the United States prior to June 30, 1948.

TABLE 7.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS, SEPTEMBER 1978 TO MAY 1979 AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979

[By citizenship status and average monthly amount]

Type of payment	All awards[1]	U.S. citizens[2]	Aliens conditionally admitted			Other lawfully admitted aliens		
			Total	1974–79	Prior to 1974	Total	1974–79	Prior to 1974
	Number of persons							
Total	217,617	196,440	3,395	2,706	689	12,353	6,699	5,654
Federal SSI payments	198,221	178,084	3,326	2,679	647	11,750	6,611	5,139
Federal SSI payments only	123,738	115,970	1,221	951	270	3,367	1,645	1,722
Federal SSI and State supplementation	74,483	62,114	2,105	1,728	377	8,838	4,966	3,417
State supplementation	93,879	80,470	2,174	1,755	419	8,986	5,054	3,392
State supplementation only	19,396	18,356	69	27	42	603	88	515
	Average monthly amount							
Total	$115.64	$111.40	$185.68	$196.85	$141.84	$160.13	$182.27	$133.89
Federal SSI payments	97.08	95.08	137.27	147.15	96.36	113.54	129.30	93.26
State supplementation	62.87	61.33	79.64	78.54	84.23	71.50	72.29	70.49

[1] Includes 5,429 awards for which citizenship status was not reported.

[2] Includes persons residing in the United States prior to June 30, 1948.

TABLE 8.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF AGED PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS SEPTEMBER 1978–MAY 1979 AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979, BY CITIZENSHIP STATUS AND AVERAGE MONTHLY AMOUNT

Type of payment	All awards[1]	U.S. citizens[2]	Aliens conditionally admitted			Other lawfully admitted aliens		
			Total	1974–79	Prior to 1974	Total	1974–79	Prior to 1974
	Number of aged persons							
Total	91,440	77,851	2,580	2,180	400	9,081	5,538	3,543
Federal SSI payments	78,064	65,195	2,527	2,158	369	8,608	5,464	3,144
Federal SSI payments only	47,516	43,018	939	791	148	2,415	1,342	1,073
Federal SSI and State supplementation	30,548	22,177	1,588	1,367	221	6,193	4,122	2,071
State supplementation	43,924	34,833	1,641	1,389	252	6,666	4,196	2,470
State supplementation only	13,376	12,656	53	22	31	473	74	399
	Average monthly amount							
Total	$85.68	$75.00	$186.31	$196.31	$131.80	$158.20	$182.20	$120.69
Federal SSI payments	65.44	56.55	138.03	147.05	85.28	110.99	127.78	81.81
State supplementation	64.07	61.73	80.07	79.32	84.18	72.06	73.93	68.89

[1] Includes 1,928 awards for which citizenship status was not reported.

[2] Includes persons residing in the United States prior to June 30, 1948.

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., February 22, 1978.

To the President of the Senate and the Speaker of the House of Representatives:

This report discusses administrative and legislative changes needed to reduce expenditures of Supplemental Security Income and other public assistance for newly arrived aliens. Because of anticipated early action on pending legislation concerning this matter, we did not take the additional time needed to obtain written agency comments. The matters covered in the report, however, were informally discussed with agency officials, and their comments are incorporated where appropriate.

We made our review at the request of Senator Charles H. Percy, Ranking Minority Member of the Committee on Governmental Affairs. Also, Congressman Richard A. Gephardt subsequently requested a similar review. We are sending copies of this report to the Acting Director, Office of Management and Budget; the Attorney General; the Secretary of Health, Education, and Welfare; and the Secretary of State.

ELMER B. STAATS,
Comptroller General
of the United States.

NUMBER OF NEWLY ARRIVED ALIENS WHO RECEIVE SUPPLEMENTAL SECURITY INCOME NEEDS TO BE REDUCED

DIGEST

About 37,500 newly arrived aliens (those in the United States for 5 years or less) in five States annually receive about $72 million in Supplemental Security Income benefits. About $16 million of this is paid to refugees.

The Immigrant and Nationality Act provides that aliens likely to require public assistance for their support are to be denied admission into the United States. The act also states that aliens who become public charges within 5 years of entry from causes arising before entry may be subject to deportation. These provisions are generally not applied to refugees.

The Supplemental Security Income program authorized in the Social Security Act does not have a residency requirement for aliens. Newly arrived aliens need only be admitted for permanent residency or be refugees.

The Department of State and the Immigration and Naturalization Service obtain affidavits of support from persons willing to sponsor aliens who lack sufficient means to support themselves when applying for permanent residency in the United States. These are used as evidence that the alien is not likely to become a public charge. State Department and Immigration Service officials do not have information on the number of affidavits accepted. However, one Department official said many aged and disabled aliens appear likely to become public charges and cannot qualify to immigrate without these affidavits.

Most newly arrived aliens identified in our review who received Supplemental Security Income had been sponsored with affidavits of support. Their sponsors, who agreed to provide necessary support and guaranteed that the aliens would not become public charges, did not fulfill their promises.

Sponsors cannot be held liable because courts have ruled their promises are not legally binding.

Newly arrived aliens are seldom deported as public charges even though many receive public assistance for causes that arose before entry. Because of court rulings and Department of Justice decisions, aliens are deportable as public charges only if they fail to repay public assistance upon demand. However, repayment is not required under the Supplemental Security Income program and other public assistance programs.

Better screening of visa applications, use of more stringent income criteria for judging sponsors' ability to provide support, and increased coordination between the Immigration Service and Social Security on aliens' overseas assets may prevent some newly arrived aliens from receiving Supplemental Security Income. Social Security is reviewing whether the asset information should be routinely obtained from the Immigration Service.

GAO believes legislation is needed before any significant reduction in public assistance to newly arrived aliens will be realized. Several bills introduced in the 95th Congress would strengthen the Government's ability to prevent many newly arrived aliens from receiving public assistance.

RECOMMENDATIONS TO THE SECRETARIES OF STATE AND HEALTH, EDUCATION, AND WELFARE

GAO recommends that the Secretary of State:

In cooperation with the Secretary of Health, Education, and Welfare, develop more stringent income criteria for judging the ability of a sponsor to support a visa applicant.

Emphasize to consular officers the importance of screening aliens who may apply for public assistance.

GAO recommends that the Secretary of Health, Education, and Welfare direct the Commissioner of Social Security to report to the Congress the results of its review on obtaining aliens' overseas asset information from the Immigration Service for reducing aliens' eligibility for Supplementary Security Income benefits.

RECOMMENDATIONS TO THE CONGRESS

GAO recommends that the Congress:

Establish a residency requirement to prevent assistance payments to newly arrived aliens, if the condition upon which eligibility is established existed before entry.

Make the affidavit of support legally binding on the sponsor.

Make aliens subject to deportation if they receive Federal, State, or local public assistance because of conditions existing before entering the United States.

CHAPTER 1: INTRODUCTION

Members of Congress, the public, and the news media have recently expressed concern about aliens who receive public assistance soon after arriving in the United States. On April 20, 1977, Senator Charles H. Percy, Ranking Minority Member of the Committee on Governmental Affairs, asked us to:

Determine how many newly arrived legal aliens (those in the United States 5 years or less) were receiving Supplemental Security Income (SSI) benefits and how much they were receiving.

Review the effectiveness of the Social Security Administration's (SSA's), the Department of State's, and the Immigration and Naturalization Service's (INS') handling of aliens receiving these benefits.

Identify legislative and administrative improvements needed to reduce Federal public assistance expenditures in this area.

On May 20, 1977, Congressman Richard A. Gephardt requested similar information.

Immigration and Nationality Act

The Immigration and Nationality Act (8 U.S.C. 1101) prescribes the conditions for admission and stay of aliens in the United States. The act defines aliens as persons who are not U.S. citizens or nationals.

The act states that aliens likely to require public assistance for their support are to be denied admission into the United States. Aliens can prove they are not likely to receive public assistance by demonstrating that permanent employment providing adequate income is available upon their arrival, that they have adequate funds to support themselves, or that someone in the United States promises to provide necessary support. If these conditions cannot be met, a bond, commonly called a public charge bond, must be posted to reimburse public funds spent if the alien becomes a public charge. Aliens who become public charges during the first 5 years of residence in the United States from causes arising before entry may be subject to deportation.

The Secretary of State and the Attorney General—INS—are responsible for administering and enforcing the act.

Supplemental security income

The SSI program was established under title XVI of the Social Security Act (42 U.S.C. 1381) to provide cash assistance to the needy aged, blind, and disabled. The program, which became effective on January 1, 1974, replaced former grant-in-aid programs to the States for assisting the aged, blind, and permanently and totally disabled.

In 1976 the highest Federal basic monthly benefit was $167.80 for one person and $251.80 for a couple. Presently, the maximum Federal benefits are $177.80 and $266.70, respectively. Larger monthly payments are made in States that supplement SSI payments. Many State supplements are administered for the States by SSA.

SSA administers the SSI program at its headquarters in Baltimore, at 10 regional offices, and at over 1,300 district and branch offices throughout the Nation. SSI funds are appropriated from general revenues. For fiscal year 1977, $4.7 billion was appropriated for payments to recipients. SSA estimates that federally administered State supplemental payments totaled about $1.5 billion for the same period. About 4 million persons presently receive SSI benefits.

Other federally funded public assistance

Newly arrived aliens also receive benefits under other public assistance programs, including the Medicaid and Aid to Families with Dependent Children (AFDC) programs. Although our review focused on the SSI program, chapter 2 discusses the impact of newly arrived aliens on the Medicaid and AFDC programs in California.

Medicaid (title XIX of the Social Security Act) is a program designed to provide medical assistance to SSI and AFDC recipients and other medically needy persons. The AFDC program (title IV of the Social Security Act) was established to enable States to furnish cash assistance and other services to needy dependent children and their parents or relatives with whom they are living. Both programs are State administered, with funding shared by the Federal and State governments.

Residence requirements for aliens

Length of residence is normally not a prerequisite for aliens to receive public assistance. In a 1971 case, the Supreme Court ruled that provisions of State law conditioning benefits on citizenship and imposing residency requirements for aliens violated the equal protection clause of the Constitution. The Court concluded that State residency requirements for aliens encroached upon the exclusive Federal power over aliens.

In June 1976 the Supreme Court in *Matthews v. Diaz*, 426 U.S. 67 (1976) decided that the Congress could make duration of residency a prerequisite for an alien's eligibility for public assistance. The Court, in upholding a 5-year residency requirement in the Medicare program—which provides health insurance for the aged—reasoned that the Congress has no constitutional duty to provide all aliens the benefits provided to citizens. The Court added that:

> "The decision to share * * * [the] bounty with our guests may take into account the character of the relationship between the alien and this country. Congress may decide that as the alien's tie grows stronger, so does the strength of his claim to an equal share of that munificence."

In its decision, the Court pointed out many ways in which citizens and aliens are treated differently.

There is no residency requirement in the SSI legislation specifically for aliens. An alien need only be lawfully admitted for permanent residency or residing under color of law.[1] SSI payments to aliens and citizens who are outside the United States for more than 30 days are stopped and are not resumed until they have been back in this country for 30 consecutive days. Consequently, aliens are not considered eligible for SSI until they have been in the United States for 30 days.

Previous GAO work

From 1973 through 1977 we reviewed a wide range of immigration matters. A series of reports based on this work (see app. I) pointed out the need for the Congress and executive branch agencies to totally reassess U.S. immigration policy to adequately cope with all immigration problems. One of these reports—issued in July 1975—discusses the need for curbing the adverse economic impact of newly arrived aliens receiving public assistance. In this report, we recommend that INS and the Department of State improve immigrant screening procedures and increase the use of public charge bonds. We also recommended that the Congress clearly define the term "public charge" and make sponsors' promises to support aliens legally binding.

Scope of review

We reviewed the Immigration and Nationality Act and the Social Security Act as they pertain to aliens who receive public assistance, and we examined the policies and procedures implementing the acts. We also interviewed State Department and INS officials responsible for immigration and SSA officials responsible for the SSI program.

We visited SSA and INS district offices in Illinois, California, and New York to obtain information on newly arrived alien SSI recipients and to review coordination between the two agencies in the field. SSA and INS helped us to estimate the number of newly arrived aliens and the magnitude of SSI benefits paid to them. We were able to make estimates in California, Florida, Illinois, New Jersey and New York.

CHAPTER 2: ALIENS RECEIVE PUBLIC ASSISTANCE NOTWITHSTANDING OBJECTIVE OF U.S. IMMIGRATION LAW

Although the Immigration and Nationality Act has provisions directed at preventing newly arrived aliens from receiving public assistance, including SSI, many receive assistance. We estimate that about 37,500 newly arrived aliens in five States receive about $72 million in SSI benefits annually. About $16 million of this is paid to refugees who are exempt from the act's public charge provisions.

Provisions against paying public assistance to aliens

Two Immigration and Nationality Act provisions are aimed at preventing newly arrived aliens from receiving public assistance. The first states that aliens are:

> "* * * ineligible to receive visas and shall be excluded from admission into the United States * * * [if] in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, * * * [they are] likely at any time to become public charges * * *." (8 U.S.C. 1182)

The second provision provides that any alien in the United States:

> "* * * shall, upon the order of the Attorney General, be deported * * * [if] in the opinion of the Attorney General, [he/she] has within five years after entry become a public charge from causes not affirmative shown to have arisen after entry * * *." (8 U.S.C. 1251)

Neither provision has successfully prevented newly arrived aliens from receiving SSI and other public assistance.

How many newly arrived aliens receive SSI benefits?

To determine the number of newly arrived aliens receiving SSI benefits, we asked SSA to review and give us selected information on aliens in its SSI quality assurance files for July 1 through December 31, 1976. These files represent a statistical sample of about 23,000 recipients selected randomly from about 4.2 million receiving benefits during this period. Of the recipients in the sample, 1,084 were aliens. It was determined from information at INS that 885 aliens had been in the United States more than 5 years and 199 were newly arrived. Based on this information, we estimate that about 214,000 aliens receive SSI, of which about 42,000 are newly arrived.

The newly arrived aliens in the sample resided in 25 of the 50 States. (See app. II.) However, a statistically reliable projection of the number of newly arrived aliens receiving SSI could only be made for California, Florida, Illinois, New Jersey, and New York, where 148 of the 199 aliens resided. The estimated annual SSI benefits paid, as shown in the following table, were projected based on the actual benefits paid to the 148 newly arrived aliens in these States.

State	Estimated number of newly arrived aliens receiving SSI	Estimated amount paid annually to newly arrived aliens (millions)
California	12,027	$31.6
Florida	12,342	19.5
Illinois	2,980	4.5
New Jersey	3,718	5.4
New York	6,444	11.3
Total	[1] 37,511	[1][2] 72.3

[1] We estimate that our statistics on the total number of newly arrived aliens in these States receiving SSI are accurate within plus or minus 6,787 and that the total amount of benefits paid aliens during this period is accurate within plus or minus $14,900,000 at the 95-percent level of confidence. These amounts include Federal SSI benefits and federally administered State supplementation.

[2] The public charge provisions of the Immigration and Nationality Act generally are not applied to refugees. Refugees currently residing in the United States are from Cuba, Vietnam, Russia, and other countries. We estimate that of the $72,000,000 in SSI benefits paid annually to newly arrived aliens, $16,000,000 (or about 22 percent) was provided to refugees.

How soon after arrival do they apply?

The brief period between when aliens enter the United States and when they apply for SSI further demonstrates that the act's public charge provisions are not effective. We estimate that 63 percent[2] of the newly arrived aliens receiving SSI in the five States mentioned above were in the United States for 1 year or less when they applied for SSI. The following table shows how soon after arrival these aliens applied for SSI benefits.

Length of time	Estimated number of newly arrived aliens receiving SSI between July 1 and Dec 31, 1976	Percent of total	Cumulative percent of total
Less than 1 mo	3,035	8	8
1 to 6 mo	12,399	33	41
6 mo to 1 yr	8,169	22	63
1 to 3 yr	12,409	33	96
3 to 5 yr	1,499	4	100
Total	37,511	100	

How many aged aliens entering the United States apply for SSI soon after arrival?

The public charge provisions of the Immigration and Nationality Act are ineffective in screening out aged (age 65 or older) aliens who may need SSI assistance soon after arrival in the United States. We estimate that 34 percent of the aged aliens who entered the United States during fiscal years 1973–75 were receiving SSI at the end of December 1976.

To determine how many of these aliens applied for SSI soon after entry, we compared INS figures on the number of aged aliens entering the United States with the estimated number receiving SSI. The estimates shown in the following table are based on the sample discussed on page 6.

Entry dates [1]	Aged aliens who entered the United States [2]	Estimated number receiving SSI [3]	Percent receiving SSI
July 1, 1972 to June 30, 1973	11,228	3,323	29.6
July 1, 1973 to June 30, 1974	11,042	5,025	45.5
July 1, 1974 to June 30, 1975	12,051	3,451	28.6
Total	34,321	11,799	34.4

[1] The information for this analysis was available only for these periods.

[2] Based on 1975 Annual Report: Immigration and Naturalization Service, p. 53.

[3] We did not determine the statistical reliability of these estimates.

Impact of newly arrived aliens on other public assistance programs

Our review was not directed at public assistance programs other than the SSI program. However, we reported to the Congress in July 1975[3] that newly arrived aliens received AFDC benefits. Also, because SSI and AFDC recipients are often eligible for Medicaid benefits, we believe that substantial Medicaid benefits are paid to newly arrived aliens receiving SSI and AFDC payments.

In our July 1975 report, we pointed out that newly arrived aliens were receiving AFDC, Old Age Assistance, and Aid to the Totally Disabled benefits. For example, of a randomly selected sample of alien welfare cases in Los Angeles County, 44 percent had applied for assistance within 5 years of entry into the United States. Sixty percent of them were AFDC recipients. We estimated that newly arrived aliens and their families were paid $19.6 million annually under these three programs in this county.

We did not review Medicaid benefits provided SSI and AFDC recipients nationally. However, we estimate that in California in fiscal year 1976, newly arrived aliens on SSI received about $10 million in Medicaid benefits. This estimate is based on the average Medicaid cost for all SSI recipients in California.

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[1] Aliens residing under color of law include those who entered the United States before July 1948 and refugees granted conditional entry after fleeing Communist countries because of persecution or fear of persecution due to race, religion, or political opinion or granted temporary residence for emergency reasons.

[2] This estimate is subject to an 8.8-percent sampling error at the 95-percent confidence level.

[3] "Need To Reduce Public Expenditures for Newly Arrived Immigrants and Correct Inequity in Current Immigration Law" (GGD-75-107, July 15, 1975).

CHAPTER 3: FAILURE TO HONOR SUPPORT AGREEMENTS IS PRIMARY CAUSE OF NEWLY ARRIVED ALIENS RECEIVING SSI

Most newly arrived aliens receiving SSI apply because their sponsors, who agreed in affidavits to provide necessary support and guaranteed that the aliens would not become public charges, do not fulfill their promises. Sponsors cannot be held liable because the courts have ruled that the support agreements are not legally binding.

Affidavits of support

Affidavits of support have been used since 1931 for aliens who wish to immigrate to the United States but lack sufficient means to support themselves here. The Department of State consular offices and INS obtain affidavits of support from persons willing to sponsor aliens applying for permanent residency in the United States. In the affidavit, the sponsor states his reasons for sponsoring the alien and provides asset and income information to demonstrate that he can fully support the alien. Affidavits are used as evidence that the alien is not likely to become a public charge.

Department of State and INS officials do not have information on the number of affidavits accepted. However, one State Department official indicated that most aged and disabled aliens, such as those on SSI, are sponsored. He added that many could not qualify to immigrate without affidavits of support.

A review of INS files showed that most newly arrived aliens in the sample of SSI recipients required affidavits of support to qualify for permanent residency in the United States. Of the 199 newly arrived aliens in the sample, 37 were refugees who did not need affidavits of support. INS could not locate the files on 25 others. Of the remaining 137, 113 (about 82 percent) had affidavits on file at INS. Of the affidavits, 70 had been submitted by relatives, including aliens' children.

The affidavits of support are not being honored by sponsors of aliens on SSI. Various courts have ruled that the affidavits are unenforceable as contracts between the sponsor and the Government and are only moral obligations. These rulings were based on the fact that the Immigration and Nationality Act does not authorize any Federal executive or administrative official to require a contract of support. One court stated that, for the affidavit to be made legally binding, a statute would have to be enacted giving the sponsor notice that he is undertaking a legal obligation. In this court's opinion the statute would need well-defined limits on the amount, duration, and other conditions to be legally enforceable. Despite this, however, the State Department and INS continue to request affidavits of support.

The following are examples of newly arrived alien SSI recipients whose affidavits of support are not being honored.

A 76-year-old alien entered the United States in March 1977 and applied and became eligible for SSI benefits in April. Before she immigrated, her daughter and son-in-law had signed an affidavit of support promising she would not become a public charge. They cited a combined annual income of about $17,100 and a net worth of about $62,000 as evidence of their ability to provide support. The alien indicated on her SSI application that the daughter did not provide any financial assistance.

A 72-year-old alien and his 70-year-old spouse entered in November 1976. Their daughter and son-in-law signed an affidavit of support in October insuring the alien couple would not become a public charge. The couple applied for SSI less than 3 months after their arrival and began receiving monthly benefits of $338.08 in February 1977. The son-in-law stated at the time the couple applied for SSI that he had been supporting them but would stop doing so when they began receiving SSI benefits. The son-in-law discontinued assistance in March 1977, and as a result, the couple's SSI benefits were increased to $522 per month.

In July 1976 a 64-year-old alien entered the United States. His daughter signed an affidavit of support in which she cited an annual salary of $25,000 and assets valued at about $130,000. The alien applied for SSI in November 1976—four months after his arrival and 17 days before his 65th birthday. As of July 1977 the alien and his wife, who had immigrated earlier, were receiving SSI benefits of $557 per month.

Few newly arrived aliens are deported as public charges

Aliens are seldom deported as public charges even though many receive public assistance. Between 1971 and 1975, only 17 of the 93,009 aliens deported were deported as public charges.

In our July 1975 report, we stated that aliens were usually granted public assistance because of physical disabilities and inadequate resources existing before entry or because sponsors failed to honor their support agreements. We note that newly arrived aliens continue to receive public assistance for causes arising before entry. Of the 199 newly arrived aliens in the sample, 38 were disabled. We received medical information for 17 of the 38.[1] Twelve were receiving benefits because of disabilities arising before entry and five became disabled after entry.

In 1948 the Department of Justice's Board of Immigration Appeals, in accordance with court decisions, established that before deporting an alien who receives public assistance, a determination must be made by the Government that the assistance program requires repayment, a demand for repayment was made, and there was a failure to repay. Since the SSI program and other public assistance programs do not require a recipient to repay the Government for assistance provided, aliens are not deportable for receiving benefits under these programs.

CHAPTER 4: LEGISLATION RATHER THAN ADMINISTRATIVE IMPROVEMENTS NEEDED TO REDUCE ALIEN ELIGIBILITY FOR PUBLIC ASSISTANCE

Present legislation and applicable Department of State and INS procedures established to prevent newly arrived aliens from receiving public assistance are not effective. In addition, SSA's eligibility determinations for SSI do not fully consider all resources that an alien may own. Although certain administrative improvements may reduce the number of aliens receiving SSI, legislation is needed before any significant reduction can be realized.

Administrative improvements may reduce the number of newly arrived aliens receiving SSI

Administrative improvements—better screening of visa applications, more stringent income criteria for judging sponsors' ability to provide support, and more comprehensive SSI eligibility reviews—could prevent some newly arrived aliens from receiving SSI.

Improved Screening

In our 1975 report (see p. 8), we concluded that better screening of aliens' visa applications could help reduce the number of aliens likely to need public support. In our opinion, improvements in the application screening process are still needed. Newly arrived aliens continue to apply for SSI because of conditions existing before they enter the United States.

The following are examples of newly arrived aliens who appeared likely to become public charges when applying for entry.

In August 1976, a naturalized citizen requested and was granted approval to have her mother, father, 6 brothers, and 2 sisters admitted to the United States. A sister and a brother, aged 29 and 36, respectively, indicated that they did not work, and a 16-year-old brother said he was a student. These three underwent medical examinations before entry and were found to have a progressive spinal disease which paralyzes the lower extremities and limits the use of the upper extremities. The younger brother entered the United States in September 1976; his brother and sister entered in November. In December all three applied for SSI as disabled individuals, stating that they never worked; had no cash, income, or resources; and were living with their father, mother, and other brothers and sisters. From February through July 1977 the three received SSI payments totaling $3,086.71, and currently they are receiving $349.17 monthly.

A 68-year-old alien entered in June 1976. She applied for SSI 9 days after her arrival and began receiving benefits of $220.07 a month in July. Her monthly benefits were later increased to $257.07, retroactive to July, when a medical examination verified that she was legally blind.

Deciding whether an applicant is likely to be supported at public expense is difficult and involves considerable subjective judgment. The consular officer must consider many factors other than the alien's potential earning capacity, including the intent of the alien and his sponsor. Despite these difficulties, we believe improved screening can reduce the number of newly arrived aliens receiving SSI.

A State Department official said that making management improvements that reduced consular officers' routine administrative workload and increasing the number of consular officers have helped improve screening. While agreeing that there is still room for improvement, the official believed most aliens who receive SSI do so because sponsors fail to provide support. In his opinion, improved screening would not solve this problem.

More Stringent Income Criteria Needed

The criteria used by the State Department and INS to evaluate a sponsor's ability to provide financial support do not exclude some sponsors who have limited income and probably cannot provide adequate support. The State Department and INS use the Department of Health, Education, and Welfare's Community Services Administration "Income Poverty Guidelines" as criteria for evaluating a sponsor's ability to provide support. These guidelines provide national income levels below which families are considered in poverty.

The following are examples of sponsors the State Department judged capable of providing support using the guidelines but whose income does not appear sufficient to provide adequate support.

A 65-year-old alien entered in March 1976. The alien's 35-year-old daughter, a legal permanent resident, had previously signed an affidavit of support indicating that she had two dependents, earned $100 per week as a housekeeper, and had a savings account balance of $639.46. According to then-current guidelines, a non-farm family of four (including the alien mother) should have an annual income of $5,050 in the continental United States. The alien applied for SSI less than 3 months after arrival and began receiving monthly benefits of $206.44 effective May 1976. If the daughter had provided equivalent support, she would have had $227 a month for supporting herself and her two dependents, which is $126 a month below the income poverty level for a nonfarm family of three.

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[1] Of the other 21 cases, 12 were converted from State grant-in-aid programs when the SSI program began in 1974 and sufficient medical information was not on file at SSA to determine when the disability arose, 6 could not be found, 1 lacked sufficient information to make a determination, and 2 were not traced.

A 66-year-old alien and his 69-year-old spouse entered in July 1976. An affidavit of support signed in November 1975 by their immigrant daughter stated that she had an annual salary of $7,654 and a savings account balance of $1,027. The affidavit also indicated that she had four children who depended on her as their sole or principal means of support. According to then-current guidelines, a nonfarm family of seven (including the alien couple) should have an annual income of $7,510 in the continental United States. The alien couple applied for SSI about 4 months after their arrival and began receiving monthly benefits of $514.50 effective November 1976. If the daughter had provided equivalent support, she would have had $123 per month for herself and her four children, which is $366 a month below the income poverty level for an onfarm family of five.

If the State Department and INS used more stringent income criteria that took public assistance benefit levels into account, we believe aliens in such circumstances would be judged likely to become public charges and would be denied entry. This would reduce the number of newly arrived aliens that need public assistance, but it would not solve the problem of sponsors with adequate resources who fail to honor their support agreements.

State Department officials admitted that more stringent income criteria were needed. However, they said that attempts to develop such criteria have been complicated by the varied amounts of public assistance provided by Federal, State, and local governments.

Failure To Disclose Overseas Assets

In several cases aliens had failed to disclose to SSA overseas assets that might have disqualified them for SSI. Individuals with more than $1,500 (and couples with more than $2,250) of countable resources are ineligible for SSI. The following are examples of aliens receiving SSI who had assets exceeding those standards.

A 68-year-old alien entered the United States in March 1976. He applied for SSI benefits and began receiving monthly payments of $206.44 effective May 1976. In March, in a sworn statement on his visa application to the American embassy, he indicated that he had real estate overseas worth about $13,000. When applying for SSI benefits less than 2 months later, however, he stated that he did not have any property and had not sold property to any person during the previous 12 months.

A 71-year-old alien entered in December 1976 and applied for SSI in February 1977. She received $226 per month in February and March and began receiving benefits of $276 per month in April. In a written statement made in conjunction with her SSI application, she indicated that she had come to this country with only $800 and had $400 left. She also said that she had not given away any money or sold any property during the previous 12 months. However, about 5 months earlier she had submitted a sworn statement to an American consul indicating she had overseas bank deposits of approximately $8,200.

Information on overseas assets of aliens is contained in INS files. Although the Social Security Act authorizes access to these files for verification purposes, SSA district offices do not routinely request overseas asset information. As a result, aliens with overseas assets exceeding the SSI resource standards may be receiving SSI benefits.

We could not statistically estimate how much in SSI benefits is paid to newly arrived aliens who have assets exceeding the SSI resource standards. However, after we brought this matter to SSA's attention, it began including resource information from INS on selected alien SSI recipients as part of its ongoing review of the SSI program. An SSA official told us that if the results indicate overseas assets are significant, INS files would be reviewed routinely for newly arrived aliens who apply for SSI.

Limited use of public charge bonds

When a question exists about the likelihood of a visa applicant becoming a public charge, admission to the United States may be granted if a bond is posted. The bond can be used to reimburse public funds spent if the alien becomes a public charge. In our July 1975 report, we pointed out that consular and INS officers rarely required bonds because they were (1) viewed as an undue hardship for many aliens and their sponsors, (2) seldom collected, and (3) administratively time consuming. We recommended that the Attorney General and Secretary of State require bonds for every visa applicant for whom a reasonable doubt existed about whether he or she would become a public charge.

According to INS officials, public charge bonds still are not frequently used because they are difficult to administer. They believed that using bonds was a much less desirable alternative than making the affidavit of support a legally enforceable contract. INS and State Department officials recognize that bonds could be useful when an affidavit of support or an applicant's planned employment in the United States may not be sufficient to fully protect the Government's interest; however, they believed the use of bonds should be the exception rather than the rule.

Bonds may still serve a useful purpose in cases in which reasonable doubt exists about the likelihood of a visa applicant becoming a public charge. We believe, however, that legislation of the type discussed below is needed before any significant impact will be made in preventing newly arrived aliens from becoming eligible for public assistance.

Legislative proposals for reducing the number of aliens receiving SSI

Several bills have been introduced in the 95th Congress to reduce newly arrived aliens' eligibility for public assistance. For purpose of discussion these legislative proposals can be grouped as follows:

Establish residency requirements for SSI and other federally funded assistance programs except when eligibility results from causes arising after entry.

Make the sponsor's affidavit of support a legally enforceable contract and define "public charge" in the Immigration and Nationality Act as a recipient of public assistance.

Consider sponsors' income and resources in determining an alien's SSI eligibility.

Establishing Residency Requirements

There is no residency requirement for aliens to be eligible for SSI. Aliens can receive SSI benefits within 30 days of arrival. In our view a residency requirement would be the best way of preventing large expenditures of SSI funds for newly arrived aliens.

Several bills would require 1 to 5 years residency in the United States before an alien could qualify for SSI benefits. The residency requirements, however, generally would not be applicable if the alien became eligible for SSI from causes arising after entry.

The only program authorized under the Social Security Act that has an alien residency requirement is the Medicare Supplemental Medical Insurance program. Under this program lawfully admitted aliens who are 65 years of age or older would be denied benefits unless they had been in the United States for at least 5 years. According to SSA, it could enforce a similar 5-year residency requirement for the SSI program without an increase in administrative costs. However, some added cost may result because of the need to determine whether an alien was eligible for SSI based on causes arising after entry.

Legalizing the Affidavit of Support and Defining a Public Charge

Pending legislation would make the affidavit of support legally binding on the alien's sponsor and would define a public charge as an alien who receives public assistance. The affidavit would be enforceable as if it were a contract between the United States and the sponsor, and the Federal, State, and local governments could recover any public assistance provided to an alien. In addition, the present repayment test for a public charge, which precludes deportation for receipt of most forms of public assistance, would no longer be applicable. We, INS, SSA, and the Department of State believe that these two legislative changes are necessary to reduce the likelihood of newly arrived aliens receiving public assistance.

Considering sponsors' income in determining SSI eligibility

The Social Security Act requires that:

Income and resources of an applicant's spouse living in the same household be considered when determining SSI eligibility and benefits for a married applicant.

Income and resources of an applicant's parents living in the same household be considered when determining SSI eligibility and benefits for an applicant under age 21.

Proposed legislation contains a smiliar provision which would require that a sponsor's income and resources be considered when determining an alien's SSI eligibility.

SSA believes that the proposed provision will cause administrative difficulties. According to SSA:

> "The provisions of present law which require the deeming of income from one person to another apply only in certain cases where the SSI recipient lives with the person from whom income is deemed (usually a spouse or parent). This would not necessarily be the case for the alien and the sponsor. We would have to consider the income and resources of a sponsor who could live very distant from the alien. Also, if the sponsor refused to furnish information concerning his income and resources, the alien could be disadvantaged for actions beyond his control."

We believe that considering a sponsor's income and resources would not be an effective method of reducing public assistance payments to newly arrived aliens. Imposing a residency requirement, making the affidavit of support enforceable, and defining public charge would more effectively resolve the problem.

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

Conclusions

Restrictions in the Immigration and Nationality Act and the Social Security Act are not preventing newly arrived aliens from receiving public assistance. This is evidenced by the large sums of money paid to newly arrived aliens under the SSI and other public assistance programs.

In most cases, aliens apply for SSI because their sponsors, who promised in affidavits of support to keep them off public assistance, do not keep their promises. The sponsors cannot be forced to pay for assistance because the courts have ruled that the affidavits are unenforceable moral commitments.

Newly arrived aliens are seldom deported as public charges even though many receive public assistance for causes that arose before entry. Because of court rulings and Department of Justice decisions, aliens are deportable as public charges only if such assistance is not repaid on demand. However, repayment is not required under the SSI program and other assistance programs.

Better screening of visa applicants, stricter income criteria for judging the ability of the sponsor to support the alien, and increased coordination between INS and SSA on aliens' overseas assets may reduce the number of newly arrived aliens receiving SSI. SSA is obtaining and reviewing asset information from INS on selected cases in which aliens receive SSI to determine the practicality of routinely obtaining this information for all aliens applying for SSI.

Several bills have been introduced in the 95th Congress that would strengthen the Government's ability to prevent many newly arrived aliens from receiving public assistance, including SSI benefits. We believe legislation is needed before any significant reduction in public assistance to newly arrived aliens can be achieved.

Recommendations to the Secretaries of State and Health, Education, and Welfare

We recommend that the Secretary of State:

In cooperation with the Secretary of Health, Education, and Welfare, develop more stringent income criteria for judging the ability of a sponsor to support a visa applicant. These criteria should take into consideration established welfare benefit payment levels as well as the Community Services Administration income poverty guidelines.

Emphasize to consular officers the importance of screening aliens who may apply for public assistance.

We recommend that the Secretary of Health, Education, and Welfare direct the Commissioner of Social Security to report to the Congress the results of its review on obtaining aliens' overseas asset information from INS and the future application of this mechanism for reducing aliens' eligibility for SSI benefits.

Recommendations to the Congress

We recommend that the Congress enact legislation:

Establishing a residency requirement to prevent assistance payments to newly arrived aliens, if the condition upon which eligibility is established existed before entry.

Making the affidavit of support legally binding on the sponsor.

Making aliens subject to deportation if they receive Federal, State, or local public assistance because of conditions existing before entry by defining public charge to include receiving any public assistance, regardless of whether repayment is required.

APPENDIX I: GAO REPORTS TO THE CONGRESS ON IMMIGRATION MATTERS

Title, reference number, date:

Impact of Illegal Aliens on Public Assistance Programs: Too Little Is Known, GGD-78-20, December 1, 1977.

Domestic Resettlement of Indochinese Refugees—Struggle for Self-Reliance, HRD-77-35, May 10, 1977.

Immigration—Need to Reassess U.S. Policy, GGD-76-101, October 19, 1976.

Smugglers, Illicit Documents and Schemes Are Undermining U.S. Controls over Immigration, GGD-76-38, August 30, 1976.

Evacuation and Temporary Care Afforded Indochinese Refugees—Operation New Life, ID-76-63, June 1, 1976.

Need to Reduce Public Expenditures for Newly Arrived Immigrants and Correct Inequity in Current Immigration Law, GGD-75-107, July 15, 1975.

U.S. Provides Safe Haven for Indochinese Refugees, ID-75-71, June 16, 1975.

Review of Preliminary Estimates of Evacuation Costs, Temporary Care and Resettlement Costs of Vietnamese and Cambodian Refugees, ID-75-68, May 27, 1975.

Better Controls Needed to Prevent Foreign Students from Violating the Conditions of Their Entry and Stay While in the United States, GGD-75-9, February 4, 1975.

More Needs to Be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States, B-125051, July 31, 1973.

APPENDIX II: STATE OF RESIDENCE FOR NEWLY ARRIVED ALIEN SSI RECIPIENTS IDENTIFIED IN QUALITY ASSURANCE SAMPLE

California (note a), Massachusetts, Oregon, Delaware, Michigan, Pennsylvania, Florida (note a), Minnesota, Rhode Island, Hawaii, Missouri, Virginia, Iowa, North Dakota, Vermont, Illinois (note a), New Jersey (note a), Washington, Indiana, Nevada, Wisconsin, Kansas, New York (note a), Louisiana, Ohio.

APPENDIX III: PRINCIPAL OFFICIALS RESPONSIBLE FOR ADMINISTERING ACTIVITIES DISCUSSED IN THIS REPORT

(Tenure of office)

Department of Justice

Attorney General of the United States:

Griffin B. Bell, from Jan. 1977 to present.

Richard L. Thornburgh (acting) from Jan. 1977 to Jan. 1977.

Edward H. Levi, from Feb. 1975 to Jan. 1977.

William B. Saxbe, from Jan. 1974 to Feb. 1975.

Commissioner, Immigration and Naturalization service:

Leonel Castillo, from Nov. 1976 to present.

Leonard F. Chapman, Jr. from Nov. 1973 to Nov. 1976.

Department of State

Secretary of State:

Cyrus Vance, from Jan. 1977 to present.

Henry A. Kissinger, from Sept. 1973 to Jan. 1977.

Department of Health, Education, and Welfare

Secretary of Health, Education, and Welfare:

Joseph A. Califano, Jr., from Jan. 1977 to present.

David Mathews, from Aug. 1975 to Jan. 1977.

Caspar W. Weinberger, from Feb. 1973 to Aug. 1975.

Commissioner of Social Security:

Donald I. Wortman (acting), from Dec. 1977 to present.

James B. Cardwell, from Sept. 1973 to Dec. 1977.

Mr. MAGNUSON. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. MAGNUSON. The Senator is on the right track. The Appropriations Committee cannot do anything about this. It is an entitlement and therefore subject to legislative review.

Mr. PERCY. Absolutely.

Mr. MAGNUSON. We cannot do anything about it. It is there. It is an entitlement.

Mr. PERCY. I can well remember when the Senator from Illinois served on the Appropriations Committee. Constituents would say, "Why don't you do something about this?" I can sympathize with the distinguished Senator from Washington. To the chairman of the Appropriations Committee, one of the most powerful positions in the Government, President pro tempore of the U.S. Senate, I would direct the question: How much power does the Senator have to change a program to right a wrong, if it is an entitlement program? By law, it cannot be changed. Those who have taken full advantage of the loophole are eligible to receive benefits and HEW must comply.

Mr. DOLE. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. DOLE. The Senator from Illinois knows that at 11 o'clock we go to other business. It is almost 11 o'clock.

Mr. President, this amendment, in conjunction with the provision in the bill which requires aliens to reside in the United States for 3 years before becoming eligible for SSI benefits, will correct a situation which has outraged the American public for several years. It assures that the financial responsibility for the alien remains on the shoulders of the sponsor where it belongs rather than being allowed to be transferred to the backs of the taxpayers.

There is no reason for American taxpayers to have to provide a tax-free, 100 percent Government-funded pension to aliens who have been in this country for only 30 days and contributed little or nothing to the economy. The burden of Government programs, in terms of inflation and taxation, on our own citizens is nearing the unbearable. So, if we are going to spend these dollars, they should not be spent on short-term aliens. Better still, we should save these dollars and give our taxpayers a break.

There are ample protections provided in the amendment for aliens and sponsors alike to preclude undue hardships, and I urge my colleagues to support the amendment.

Mr. President, I support the amendment. I think there will be a question of adding it to this provision because of jurisdictional problems. I know that Senator METZENBAUM, of the Judiciary Committee, has a problem with that. On the other hand, I do not believe it is out of order to offer it. It seems to me it is a step in the right direction. It goes a little further than what we may have to consider in the Finance Committee.

I commend the Senator from Illinois for his efforts.

Mr. PERCY. I thank the Senator.

Mr. METZENBAUM. Will the Senator yield?

Mr. PERCY. Before yielding, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAYH. Will the Senator yield?

Mr. PERCY. I yield to the distinguished Senator from Indiana.

Mr. BAYH. We are very short of time here. I know the Senator feels very strongly about this. I concur with the goal he is trying to accomplish.

There have been no hearings on this, I understand. It is a matter in the jurisdiction of the Committee on the Judiciary which, as the Senator from Kansas points out, does not preclude the Senator from Illinois, as a Member of this body, from introducing it or pursuing it.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished

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[a] The number of newly arrived aliens receiving SSI was projected for these States.

business, H.R. 3119, which the clerk will state.

Mr. BAYH. Mr. President, may the Senator from Indiana ask unanimous consent to have 2 minutes so we can resolve this so that, perhaps, when we come back, we can have something that we can work with?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Will my distinguished colleague yield for one comment, because I know he has an amendment he would like to offer?

Mr. BAYH. Yes; I yield.

Mr. PERCY. Would it be possible for him to find out from the manager of the bill when this bill will next be on the floor, so that both our amendments can be taken up at that time?

Mr. DOLE. I hope on Friday. Maybe we can find another little window somewhere along the line if there should be an extended debate on the so-called windfall tax.

Mr. PERCY. Could it be the pending business, at the opening of business? Could we check with the majority and minority leaders to find out if that is possible? I know we would like to have some idea as to when we will come back to this amendment. I deeply appreciate the Senator's letting my amendment go ahead.

Mr. DOLE. I think the pending business would be the Percy amendment, but I am not certain. I shall be happy to check with the chairman of the committee. We would like to finish it up on Friday, if we have a couple of hours on Friday.

Mr. PERCY. Would it be possible to have unanimous consent that, following the disposition of the Percy amendment, the Bayh amendment would be in order?

Mr. BAYH. That is fine. I am not insisting on that. Why do we not, off the record, find out what is behind the scenes and how long the new pending business is going to take and find some time that will be convenient to everybody involved?

I salute the Senator from Illinois. I hope we can give a little attention between now and when it comes up again to one of the concerns I have as to whether this is really going to be enforceable, because a person makes an affidavit and then they are subject to liability, under the Senator's amendment. But if they do not have any money in the first place, then it seems to me they are on the same grounds as the alien is and, in the meantime, the alien continues in the country. Maybe there is nothing we can do about that, but could we just give a little attention to it?

I think the problem pointed out by the Senator from Illinois is a real problem and I would like to help resolve it.

CUT SOCIAL SECURITY PROTECTION

● Mr. KENNEDY. Mr. President, the social security disability amendments which the Senate is now considering have many important and worthwhile provisions. But I believe that it is important for my colleagues to focus on the highly controversial provisions of the bill as well—provisions which will take away social security protection which workers have built up over the years through their past earnings and contributions. According to the Congressional Budget Office, the bill cuts social security benefits for disabled workers with eligible dependents by an average of 10 to 15 percent.

Let us look at the impact of this bill on, for example, a young family consisting of a worker aged 40, two young children, and a mother. Assume that the worker has been earning average wages—now about $250 a week—throughout his career under social security and that he became totally disabled last October in an automobile accident. Under present law, this family would receive social security benefits beginning for the month of April 1980 of about $184 a week. This is hardly an excessive amount for this family of four to live on. But under H.R. 3236, as recommended by the Senate Finance Committee, the benefits to this family would be cut to about $161 a week. Had this same worker been unfortunate enough to have been unemployed for 5 years out of the last 20, his benefits would have been cut from $184 to about $146 a week by this bill. A worker in this situation may very well have already been told that he would be getting the $184 rate next spring, that he could count on these payments as long as his total disability continued. But if this bill passes, the Government will be telling this family: "Oh no, the Congress of the United States and the President have changed their minds. They thought that this amount was too much and they just passed a law reducing the benefits that you paid for and expected to get."

Mr. President, social security is a contributory social insurance system. Millions of workers like the one I have described have been building protection for themselves and their families with their payments into the system and with the matching payments of their employers. If we cut social security benefits in this fashion—if we change the rules in the middle of the game, we will be undermining the people's faith in our entire social security system and in the promises of Government itself.

Cutbacks in social security benefits for disabled people, along the lines of this bill, were recommended by the Carter administration in the budget submission earlier this year. I criticized that proposal at the time, and in April, Senator CHILES and I joined in an effort to restore social security program outlays for the next 3 fiscal years. I said then, and I repeat now, that "we are talking about the most vulnerable groups in our society. We are talking about the disabled, we are talking about the elderly, we are talking about the orphans who are covered by the social security system."

Although the Senate Finance Committee bill is in some respects more generous than the administration's proposal and in some respects less so, this is basically a bill to carry out the President's recommendations to cut social security protection. Those recommendations were in part an attempt to reduce the deficit in the unified budget, even though social security is self-financed by the contributions of workers and their employers.

Mr. President, this is no way to try to balance the budget. We are dealing with a self-financed system. According to the latest report of the board of trustees, the disability insurance portion has more than adequate funding for the next 75 years, the period over which actuarial estimates are made. In other words, the contribution rates scheduled in the law are more than enough to pay fully for the benefits in present law and for all administrative expenses.

Proposals to reduce social security protection are, to say the least, highly controversial. The provisions in this bill which would cut social security protection are strongly opposed by a large number of individuals and national organizations who feel strongly that when people have paid for protection under social security, it is not fair or equitable to suddenly reduce that protection. A partial listing of those opposing this bill follows:

PARTIAL LISTING OF ORGANIZATIONS AND INDIVIDUALS OPPOSING H.R. 3236

Wilbur D. Mills, Honorary Chairman, SOS Coalition.

Wilbur J. Cohen, Chairman, SOS Coalition, Former Secretary, DHEW.

Robert Ball, Former Social Security Commissioner, Kennedy, Johnson, Nixon Administrations.

William Mitchell, Former Social Security Commissioner, Eisenhower, Kennedy Administrations.

Charles Schottland, Former Social Security Commissioner, Eisenhower Administration.

John J. Corson, Former Director, Social Security Bureau of Old Age and Survivors Insurance, Roosevelt Administration.

Samuel Crouch, Former Director, Social Security Bureau of Disability Insurance, Eisenhower, Kennedy, Johnson, Nixon and Carter Administrations.

Elizabeth Wickenden, Consultant on Social Policy.

Merton Bernstein, Walter D. Coles, Professor of Law, Washington University.

Lane Kirkland, President, AFL–CIO.

Douglas Fraser, President, United Automobile Workers.

William Winpisinger, President, International Association of Machinists.

Jerry Wurf, President, American Federation of State, County and Municipal Employees.

American Coalition of Citizens with Disabilities.

American Association of Workers for the Blind.

Blinded Veterans Association.

National Association for Retarded Citizens.

Multiple Sclerosis Society.

Disabled American Veterans.

National Conference of Catholic Charities.

Ad Hoc Coalition of Aging Organizations.

American Association of Retired Persons.

National Retired Teachers Association.

Asociacion Nacional Pro personas Mayores.

Concerned Seniors for Better Government.

National Council of Senior Citizens.

Gerontological Society.

Gray Panthers.

National Student Lobby.

Legal Research and Services for the Elderly.

National Urban League.

National Association of Area Agencies on Aging.

Paralyzed Veterans of America.

National Association of Mature People.

National Education Association.

National Association of Retired Federal Employees.

National Federation of Settlements and Neighborhood Centers.

National Association of State Units on Aging.

National Consumers League.

National Caucus on the Black Aged.

National Association for Public Continuing and Adult Education.

National Council on Aging.

National Council of Negro Women.

National Association for the Advancement of Colored People.

A. Phillip Randolph Institute.

National Center for Community Action.

American Association of Community and Junior Colleges.

Lutheran Council in the United States.

American Cancer Society.

Mental Health Law Project.

Environmentalists for Full Employment.

Americans for Indian Opportunity.

Food Research Action Center.

International Center for Social Gerontology.

Consumer Federation of America.

William D. Bechill, Ph.D., Professor of Social Work.

Clavin Fields.

Center for Community Change.

Center for Economic Alternatives.

U.S. Catholic Conference.

Coalition for Labor Union Women.

Women's Equity Action League.

American Nurses Association.

Workmen's Circle.

Americans for Democratic Action.

United Methodist Church.

American Foundation for the Blind, Inc.

Board of Church and Society.

Rural America.

American Jewish Committee.

Service Employees International Union, AFL–CIO.

American Association of Homes for the Aging.

National Organization for Women.

Metropolitan New York Council on Jewish Poverty.

National Indian Council on Aging.

National Senior Citizens Law Center.

United Auto Workers Retired Members Department.

Urban Elderly Coalition.

Western Gerontological Society.

Older Women's League Educational Fund.

Senior Citizens Task Force of Washington, D.C.

National Farmers Union.

United Cerebral Palsy Associations.

Mr. KENNEDY. I am sure more groups would be opposed to these cuts in social security if more knew about them. And there certainly would be millions of Americans opposed if they knew about them. They will know when this bill passes.

Additionally, the new cap or maximum family benefit in this bill is opposed by the statutory Advisory Council on Social Security, which will issue its final report on December 7. The reductions are also opposed by many distinguished social security experts including Wilbur J. Cohen, former Secretary of Health, Education, and Welfare; former Commissioner of Social Security Robert Ball; former Commissioner of Social Security Charles Schottland; former Commissioner of Social Security William Mitchell; and one of the first directors of our national social insurance system, John Corson.

My point is not, Mr. President, that there is no support for this bill. There is. The Carter administration supports it; the House of Representatives passed a similar measure; and the distinguished Senate Committee on Finance is recommending it to you. My point is simply that those provisions in the bill which cut social security protection are highly controversial; I believe that they are not necessary and they are not desirable. They are also opposed by many organizations and individuals, and should not be so quickly embraced by the whole Senate.

This is watershed legislation. If social security protection toward which people have paid can be so suddenly taken away, what protections are safe? What about other reductions in social security benefits that the President has recommended? Or others that he has not yet recommended but might in the future? what about reductions in civil service benefits? What about veterans' benefits? It is a very serious matter when the Congress of the United States votes to take away protection which people have considered to be theirs as a matter of right—a right which they have paid for out of their own wages.

The Senate Finance Committee has combined these highly controversial provisions with some good things. A liberalizing bill on the supplemental security income program for the needy came from the House as a separate measure, and it should be passed. There is nothing about the supplemental security income bill that requires that it be combined with the measures reducing social security protection. We should separate the supplemental security income provisions from the social security cuts and pass them.

Even the social security bill which came from the House has some good features in it, involving various changes which would have the effect of encouraging some people now drawing benefits to try to obtain work. I support these provisions, but recognize that in reality they will apply to relatively few people. Most social security beneficiaries are so disabled that it is extremely unlikely they will ever work again. One-half the social security beneficiaries receiving disability benefits are over 55 years old, and three-fourths are over 50 years old. They have all been found to be totally disabled for any substantial gainful activity.

We are not dealing here with the liberal disability provisions that come to your attention in newsstories and letters about people who have been found disabled for a particular occupation such as policemen or firemen, or an officer in the military, or a civil servant. We are dealing with people totally disabled for any substantial gainful activity.

Although most social security disabled beneficiaries will not return to work because they are unable to work, it is nevertheless highly desirable that all those who can be rehabilitated, and for whom jobs can be found, be encouraged to work. That is why I support those features of the bill which reduce the risks inherent in a beneficiary's decision to attempt to return to work. For example, the bill provides that the cost of necessary care by an attendant and other necessary work expenses relating to the impairment should be deductible from the earnings used to determine whether a person is engaging in substantial gainful activity. This is a highly desirable change.

The bill provides that disabled persons whose benefits are terminated because they have earnings in excess of the substantial gainful activity level, nevertheless would have their benefits automatically reinstated if their earnings fall below the substantial gainful activity level within the next 12 months. The bill provides further that a disabled worker who stops receiving cash disability benefits because of a return to work would continue to get medicare benefits for 3 full years as long as he continued to have the same degree of physical or mental impairment. These are good changes and there are others. However, we should not be misled. Removing penalties for taking jobs will not make it possible for most disabled beneficiaries to work, and it will not produce jobs. For the overwhelming majority of these disabled social security beneficiaries, those who will not be able to work, it is of first importance that benefits for them and their families be adequate.

There is one of the kinds of incentive for return to work in this bill that I do not support. Part of the reasoning behind the benefit cuts in H.R. 3236 is that if totally disabled people are given lower benefits, they will try harder to get work. This is using buckshot to kill a mosquito. I say it is inhumane to cut the benefits of the great majority of the disabled and their families who cannot work—to make benefits even less adequate than they are today—in the hope of increasing the motivation of a few who might be driven to greater work-seeking effort.

One reason that has been given for cutting back on this social security protection is that there has been an increase in the number of disability benefits awarded. This may have been true in the early 1970's. It is not today. Without any cut in the protection furnished by the program, the number of disability applications approved peaked in the year 1975 and has decreased ever since. And the decreases are not small. In 1975 the number of approved claims was just under 600,000. In 1978, the number was under 460,000, a 23-percent decrease. It now appears that the number approved for 1979 will be even lower, around 420,000. So it can hardly be argued that it is necessary to cut the amount of disability benefits because of increases in the number of awards.

The 1979 trustees' report greatly lowered their long-range estimates of the incidence of disability. It thus appears that in making these recommendations for disability cuts, the administration and the Finance Committee were addressing a problem, if it really was a problem, that has already been solved.

There is one other result of this bill which I would like to call to the attention of the Senate. A reduction in benefits for social security recipients will put more people on the supplemental security income rolls and will require States that make supplemental payments to supplemental security income to spend more money than they now do. There will also be an increase in State medicaid costs as a result of cutting social security.

In other words, the bill provides for a shift from Federal funding to State funding. I think this, too, is unwise.

We may be told that we cannot have the good parts of this bill without the benefit cuts. We may be told that the good parts cost money, and to get the money you have to cut benefits. But this is strange reasoning in a self-financed social insurance system which has a surplus under the contribution schedule in the present law. According to the best estimates available, there is plenty of room to allow the relatively minor costs of the good provisions of the bill without accepting benefit cuts. The removal of the disincentive to work is estimated to cost 0.02 percent of payroll in the long run, and the disability program is estimated to have a surplus of 0.21 percent of payroll over the long run—a surplus more than 10 times the cost of the improvements in this bill.

We get into a line of reasoning about the need to cut benefits in order to afford the improvements only when we choose to forget that the social security system is an independently financed program. And a solvent one, at that. It is protection for which workers and their employers pay.

The proposals to cut back on social security protection embodied in this bill have been underrated in both scope and importance. I believe they are entirely unjustified.

Mr. President, I would urge that sections 101 and 102 of title 1 be deleted from H.R. 3236. Unless these sections are dropped, the entire bill should not be enacted.●

● Mr. BELLMON. Mr. President, I have some serious reservations about H.R. 3236, the Social Security Disability Amendments of 1979, which the Senate began to consider this morning. My concern, Mr. President, is that the Finance Committee's reported version of H.R. 3236 would save only $0.9 billion over the next 5 years, which is less than one-half of the $2.1 billion savings which would be achieved by the corresponding House-passed bills (H.R. 3236 and H.R. 3464). If we pass H.R. 3236 as it now stands, we will miss a chance to bring about greater reforms and more dollar savings. Mr. President, the committee's bill simply does not go far enough in achieving the reforms this program badly needs.

The disability insurance component of social security now costs more than 10 times as much as was estimated when the program began in the 1950's. The program has nearly doubled in costs since 1975. Opportunities exist for achieving significant savings, by tightening administration and adjusting benefits so that windfalls do not occur and work disincentives are lessened.

The House-passed bills reflect a very moderate, restrained approach to controlling costs in disability programs. During the House debate on H.R. 3236, proponents admitted that there existed opportunities for even greater savings in the disability insurance program without harming those who are in real need of disability benefits. The House bill was reported out of the Ways and Means Committee unanimously, Mr. President, even though amendments which would have saved substantially more money were defeated in the committee by only one and two vote margins.

The Finance Committee has decided, unfortunately in my view, that more than half of the modest savings achieved in the House bill will be foregone. Specifically, the Finance Committee has raised the cap on family benefits and thereby eliminated savings of about $600 million over the next 5 years. This change, together with other smaller ones, result in the committee's bill saving a cumulative total of about $1.2 billion less than the House bill during the fiscal year 1980 to fiscal year 1984 period.

Mr. President, I feel the Senate bill should save at least as much as the House bill. I therefore plan to offer a motion to recommit this bill to the Finance Committee with instructions to report back to the Senate by February 15, 1980 a revised bill that will produce savings at least as great as those the House-passed bills would provide.

In the event my motion to recommit fails, I plan to offer four amendments making specific changes in the reported bill. These amendments will increase the level of savings, provide better work incentives, and make administrative improvements.

My first amendment will provide a cap on family benefits at the lower of 80 percent of averaged indexed monthly earnings (AIME) or 130 percent of the worker's primary insurance amount (PIA). (The committee's bill would put the cap at 85 percent of AIME or 160 percent of PIA). This change will save about $2 billion more than the Finance Committee's proposal over the next 5 years. The 130 percent of PIA instead of the committee's 160 percent cap will not affect those at the lower end of the income scale but rather those whose predisability earnings were in the higher income brackets.

The Finance Committee has published data showing that 60 percent of families with children who receive disability insurance have other income. Many of these families also receive other benefits such as food stamps, AFDC, SSI, housing subsidies and medicaid.

This amendment was offered in the Ways and Means Committee and lost by only two votes. It is a fair and reasonable amendment to provide disabled benefits while helping to insure they do not receive more income than when they were working. This amendment would not cut benefits of people already on the disability rolls, it would affect only persons whose claims are approved in the future.

My second amendment provides for the consideration of vocational factors in determining an individual's disability status only for applicants who are over age 55. This amendment will affect only those applying for benefits in the future, and will have no impact on those cases which have already been decided. The inclusion of vocational factors in disability determination was not in the original disability insurance program. It was one of the liberalizations of the program which led to the rapid growth of program costs. The use of vocational factors produces ambiguity in determining who should become a beneficiary. It seems to me unnecessary to consider these factors for applicants under age 55 since these persons are still young enough to be retrained or relocate to areas where there are jobs for which they can qualify.

This amendment was also offered in the House Ways and Means Committee and lost by one vote. According to CBO estimates, the amendment would achieve a total savings of about $988 million by 1984. The administration of the program would also be improved because of the reduction in the number of appeals in which vocational factors have to be considered.

The third amendment I will offer relates to the hearings and appeals process in the program. Currently, a claimant may include new evidence on his disability until all stages of administrative review have been appealed. This is the so-called "floating application" process. A person can keep building on his case beyond the point at which he has introduced it. The person is granted disability status retroactive to the date of initial filing even though the disabling conditions might not have been documented until the final appeal stage. My amendment cuts off the introduction of new evidence at the point at which a State agency makes a final decision on the application. I want to emphasize, Mr. President, that the applicant will be able to supplement his documentation during the State reconsideration process as well as during the initial determination. My amendment will result in simpler administration of the appeals process and help restore the integrity of the appeals system, which has been questioned due to the floating application process.

My last amendment, Mr. President, has to do with section 304 in the bill, which would greatly expand Federal control over State disability determinations. In the name of uniformity and standardization, the bill would provide for back-door federalization of the disability determination process which the States now administer. It would give the Federal Government almost total control of the State agencies—reaching even such things as office locations and pay levels for employees. My amendment will simply eliminate the section of the bill giving the Social Security Administration almost total control over State agencies.

Mr. President, I believe these amendments that I intend to offer will improve the work incentives and promote the efficient administration of the social security disability program. I invite the support of my colleagues.●

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. The time has now arrived for consideration of the unfinished business, H.R. 3919, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 739

Mr. LEAHY. Mr. President, let me briefly highlight a few points I made last night. I yield myself such time as I may need for that purpose.

It has been contended by the distinguished Senator from Texas, my good friend, that a vote for my amendment would somehow take away what the Senate so generously provided for independent oil producers last week. It will not. That $22 billion exemption would not be affected by my amendment at all.

It has further been charged by the distinguished senior Senator from Kansas that my amendment somehow seeks to punish the oil industry. Mr. President, if providing a $22 billion exemption on top of the estimated $350 billion in windfall revenues independents will receive over the next 10 years is punishment, I think I could stand a little of that kind of punishment myself.

I ask my colleagues to consider the punishment of the American taxpayer, the person we are always standing on the floor to defend. In a year when we have had to say no to so many worthy causes, a year in which inflation has pushed the tax bills of American workers to record high levels. I agree that an unnecessary, unjustifiable, $14.6 billion tax subsidy to oil producers is punishment. It is punishment to American taxpayers.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. BRADLEY). The Senate will be in order. The Senate will suspend until there is order.

Mr. ROBERT C. BYRD. Mr. President, we have a Senator addressing the Senate on his own amendment and I think he should be heard by those who care to listen. Those who do not should leave the Chamber.

The PRESIDING OFFICER. The Senator may proceed.

Mr. LEAHY. Mr. President, I appreciate the courtesy of the majority leader.

Mr. President, opponents of my amendment also charge that it would rob independents of the cash flow they need to expand exploration and production of domestic oil.

I return to the point I made last night: Just how much more cash flow do the independents need?

As the charts I submitted in the RECORD last night showed, even if my amendment passes, independent producers will be left with anywhere from two to six times the after tax earnings they had before decontrol. Two to six times.

Mr. President, they will receive some $350 billion in windfall revenues in the next decade alone, and they will pay no windfall tax on the lion's share of that revenue.

It has also been charged that my amendment would thwart desperately needed exploration for oil.

The Senator from Texas makes a strong case for the valuable role independent producers have played, and must continue to play, in the search for this Nation's energy supplies. I could not agree more with the Senator on this point. Their record for exploration has been exemplary.

But Mr. President, when the Senator contends that my amendment would greatly inhibit their exploration activities, I must take strong exception.

The percentage depletion subsidy simply is not an exploration incentive, it is a production incentive. The subsidy is received only when oil is actually sold.

Indeed, if anything, the percentage depletion subsidy discourages exploration and encourages overdrilling in known oil fields. Since the depletion allowance is based solely on production and sales, oil companies prefer to spend money drilling in existing fields to be certain of receiving the subsidy.

The major incentive for exploration is provided by the generous deductions allowed for intangible drilling costs. Permitting those costs, and the costs of "dry-holes," to be written off as current production costs, rather than requiring that they be capitalized, provides a tremendous incentive for exploration.

This favorable tax treatment of intangible drilling costs will result in an estimated $2 billion subsidy for independents in 1980 alone, and my amendment in no way reduces or restricts that amount.

I can assure my colleagues that independents will continue to expand their search for new oil at a rapid pace regardless of whether my amendment is adopted.

Mr. President, let me conclude by saying that no just case can be made that this amendment unfairly punishes the independent producer.

The independent, even if my amendment passes, will still have in excess of $22 billion in special tax treatment in this bill. The independent will still have the full benefit of the 1,000 barrel per day exemption.

But, Mr. President, enough is enough. Let us draw the line at $22 billion. Let us not heap subsidy on top of windfall and exemption. I urge my colleagues to support my amendment and thus prevent the squandering of $14.6 billion in hard-earned tax dollars.

Mr. President, we are quite rapidly reaching the point where what was supposed to be a windfall profit tax is a windfall giveaway. I really hope the Senate of the United States will not succumb to the temptation to pass something that is called one thing, but is so blatantly something else. At a time when the Christmas season approaches, let us give Christmas to the American taxpayers and not to just a handful of producers.

Mr. President, I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, as part of the effort to encourage the development of America's domestic energy assets the Senate recently passed the Bentsen amendment which exempts from the windfall profit tax the first 1,000 barrels of daily production from independent operators.

At first blush it might appear that the Leahy amendment is simply a back door attempt to repeal the independent producer exemption—to gut the Bentsen amendment—by denying much of the percentage depletion allowance to those who find most of the oil and gas in this country.

In fact, the Senator from Vermont goes far beyond repeal of the Bentsen amendment. He would take away the carrot of incentives for domestic energy production and then wield the stick of taxation to impose a brand new, $4.7 billion levy directed exclusively at the independent producers. Instead of the $9.9 billion of incentives approved by the Senate, the Senator offers us $14.6 billion in new taxation.

Mr. President, this amendment makes no sense and should be rejected by the Senate. It is intended to punish 12,000 independent producers in this country, but its effect will be to guarantee that we spend $15 billion less on the quest for energy self-sufficiency over the next decade—at a time we desperately need every drop of oil we can produce in this country. Its effect will be to guarantee that more than 1 billion barrels of American oil will remain underground. Its effect will be to push us further—a billion barrels or more further—into the crushing embrace of the OPEC cartel.

When it comes to the question of providing greater incentives for domestic energy production at this critical time, the Senate has spoken by voting 53 to 41 in favor of the Bentsen amendment.

We have recognized that the $9.9 billion in so-called revenue loss that would result from my amendment was in fact more than $10 billion invested in America's energy future; 15,000 new wells, 300,000 barrels a day of new domestic production.

The Senator from Vermont now proposes to take not $9.9 billion but $14.6 billion away from the independents who do most of the exploration in this country—who find most of the new oil and gas in America—who reinvest their gross wellhead revenues dollar for dollar and then some in activities that contribute directly to America's domestic energy potential.

Mr. President, in all the debate about new and old oil, tiers, pricing curves, new recovery techniques, and tax revenues we tend to overlook some basic facts about energy development. We tend to forget that you do not find oil in America with a divining rod and a shovel. It costs money—vast sums of money—to locate oil and bring it to the surface; $1 million a well is not an uncommon figure.

We also tend to forget, with all the talk about windfall profit, that drilling, especially by the independents, is an extremely risky business. If you are drilling an exploratory well, you have one chance in nine—about 11 percent—of finding anything. Even in developmental wells, there is a 20-percent rate of failure. The business is so risky that private foundations and trust funds for widows and orphans are prohibited by Federal law from investing in this activity.

We tend to forget that the independent producer is not a major integrated company. He is generally unincorporated; he has no overseas operations; he is not engaged in refining or distribution. He has only one job, one source of income, and that is the risky, expensive business of searching for new oil and gas in America. To the extent he succeeds in this effort he is rewarded with profit and we are rewarded with greater energy independence.

The independent operator has three sources of drilling capital: Internally generated funds, the intangible drilling deduction, and the percentage depletion, which will be phased down to 15 percent by 1984. You just do not go to a bank and borrow money to sink a wildcat well.

Now, if you savage the percentage depletion allowance, as Senator LEAHY proposes, you have knocked one pillar out of the financing picture. By the Senator's own estimate, you have taken almost $15 billion out of the capital available for future exploration and drilling in America.

The logic and the economics, Mr. President, are simple. The push of the tax code and the pull of the profit motive combine to produce a unique situation in which independent producers reinvest 105 percent of gross wellhead revenues in new exploration and drilling. If you take $15 billion away from the revenues available to independents that means they will be able to invest $15.75 billion less in the search for American energy.

We can debate at great length, how much new energy will be found with a $15 billion investment. I am prepared to make a convincing case for a billion barrels of new oil from a $10 billion investment; I must assume the benefits would be even higher at $15 billion.

But I would defy anyone in this Chamber to seriously suggest that we are going to produce more domestic energy with $15 billion less available for investment. That proposition simply flies in the face of everything we know about oil and gas exploration.

If you want to inhibit our ability to produce more oil and gas in America—an additional billion barrels and more over the next decade—then the Leahy amendment will do the trick. If you want to assure that America will go hat in hand to OPEC, to the Khomeinis of the future for that billion barrels and pay $40 or $50 billion or more for it—assuming it is available—then the Leahy amendment will do the trick. It will guarantee that billions of dollars will be taken out of domestic energy production.

It will assure that the Exxons and Mobils of this world will have an additional competitive advantage over the independents who have traditionally been the driving force in finding new energy assets in America.

Mr. President, I do not claim to be an expert on the State of Vermont, but I have long admired its natural beauty and the rugged independence of its people—attributes that are embodied by the author of this amendment. If memory serves me correctly, Calvin Coolidge was also a Vermonter.

Mention Vermont, and many people picture high quality marble and maple syrup. They fail to realize, Mr. President, that according to the CBS Almanac, 90 percent of the asbestos produced in this country comes from the Hyde Park region of Vermont. That is a lot of asbestos, and I can only assume that it is a significant factor in the Vermont economy.

Asbestos, Vermont asbestos, is eligible for a 22 percent depletion allowance—the very same allowance the Senator seeks to curtail for the independent oil producers of this country. Perhaps we need an amendment to do away with the depletion allowance for asbestos which, after all, causes cancer.

And perhaps we should also include sulphur, clay, bauxite, graphite, mica, quartz crystals, cobalt, lead, lithium, manganese, mercury, nickel, tin, tungsten, and zinc which also benefit from the 22 percent depletion allowance. Why, even the marble for which Vermont is so justly renowned is eligible for a 14 percent depletion allowance. The marble of Vermont is often used for tombstones, and that is what we ought to do with this amendment—bury it.

In arguing the case for his amendment, the Senator from Vermont states that he "is all for providing incentives for increased domestic production."

"But enough is enough." To demonstrate what he means by "enough is enough" he proposes to take away the $9.9 billion in incentives agreed to by the Senate and impose $14.6 billion in new taxation on that segment of the industry most inclined to produce. With so-called incentives like that, Mr. President, we might as well forget about greater domestic energy production in America. At a time when it is becoming increasingly risky and expensive to develop our energy assets, we are simply not going to produce more with less.

What the Senator from Vermont is proposing is first a repeal of the Bentsen amendment and then an additional $5 billion raid on the resources that would otherwise be available for domestic exploration and drilling.

Mr. President, I hope this fact will not be lost on my colleagues and I urge the defeat of this amendment.

Mr. LONG. Will the Senator yield?

Mr. BENTSEN. I am glad to yield to the Senator.

Mr. LONG. Is that not the testimony of the independent producers, backed up by records they offered to make available to anyone who wanted to examine them. They testified that they were putting more than 100 percent of their gross—not their net—more than 100 percent of their gross revenue back into drilling, leases, and into the essential costs of producing energy.

Mr. BENTSEN. I say to the distinguished chairman that they did testify to that. Those are the Census Bureau figures. That is what they show.

Mr. LONG. When the Senator moved to exempt the independents, he proposed that, by exempting them, we free up some of this cash flow so that they could use it for drilling more wells. In light of the testimony of the independent producers, we had every reason to think that this money would go, dollar for dollar, into producing more energy. Is that not correct?

Mr. BENTSEN. That is correct.

Mr. LONG. When the Senate voted for that exemption. The Senate is now asked to vote for this amendment. How much money would this amendment take away from the independent producers compared with what the Bentsen amendment made available to them?

Mr. BENTSEN. This would take away, according to the figures of the Senator from Vermont, about $14.6 billion.

So what the Senate agreed to earlier when it passed the Bentsen amendment is that we would allow $9.9 billion in additional cash flow to the independents. What the Senator from Vermont is now proposing is not just to take away $9.9 billion, but to take away $14.6 billion.

Mr. LONG. Assuming that the Senate was correct in voting to provide an exemption for the independents, would not this amendment be just exactly the opposite, with a vengeance?

Mr. BENTSEN. Absolutely.

Mr. LONG. So that the net effect would be to take away from them a great deal more than the Senate voted to make available to the independents by voting to exempt them from the tax.

Mr. BENTSEN. Sometimes you get fellows who want to get on both sides of an issue, but I do not think Members of the Senate should do that. I think they should be consistent. They are either for encouraging the independent to be able to compete with the majors and drill 90 percent of the exploratory wells in this country, or they are not. They should not say, on one side, "We are going to vote for the Bentsen amendment," and then take it away on a different vote.

Mr. LONG. Take more away.

Mr. BENTSEN. Take more away. I do not believe you can do that, in good conscience.

Mr. LONG. In fairness to the Senator from Vermont, we understand that he did not vote for the Bentsen amendment, to begin with, and he favored higher taxes.

Mr. BENTSEN. Absolutely. He voted for the increase in taxes, and he was consistent in that, and he has continued to do that.

I told my distinguished friend that I would yield to him, and I yield to him on his time.

Mr. LEAHY. Mr. President, I have enjoyed listening to the Senators. I used to cut college classes to listen to the distinguished Senator from Texas and the distinguished Senator from Louisiana debate in the past, and I enjoy the chance to be on the floor and listen to them. I would not want anything to cut into that enjoyment. There was a time when I would pay admission to listen to them, and I suspect that perhaps that is what is going to happen today.

The Senator from Texas has raised the question of asbestos with respect to a depletion allowance. I am almost afraid to discuss the asbestos plant in Hyde Park because of the number of times the distinguished chairman of the Finance Committee has praised that plant on the floor of the Senate, has praised the way it is set up, and so forth. I do not want to say anything that may put the two allies, the Senator from Texas and the Senator from Louisiana, in any way against one another.

However, if the Senator from Texas is suggesting that somehow there is a cartel, an asbestos cartel, which is able to create a windfall profit for the asbestos industry, one that would increase its profits several times over, then we should have a similar amendment for asbestos. If the Senator from Texas will support my amendment which is pending today, I will be glad to support a similar amendment with respect to any other industry. Certainly, any industry that is going to get huge windfall profits based on the action of price decontrol and a foreign cartel should be subject to the same kind of legislation.

The distinguished Senator from Louisiana has referred many times to the asbestos operation at Hyde Park, and I can assure him that that operation is not looking at $350 billion worth of increased revenues during the next decade.

I do share the concern of my distinguished colleagues as to the need to expand domestic oil production to its limits. My amendment is not going to have any dampening effect on domestic production. No real argument has been made, on the floor or off the floor, that it will do so.

Cash flow is not the only means of financing independent oil production, and I do not think anyone could seriously contend that it is. Even if it were, I do not believe my amendment would hinder domestic production in any way.

Even if my amendment is adopted, even if we deny percentage depletion on the windfall element of oil receipts, independents will have anywhere from two to six times the aftertax earnings they had before decontrol, assuming a world oil price of $30 per barrel. Because of the generous tax deductions permitted for drilling costs, these increased aftertax earnings would result in 4 to 12 times as much drilling as would have occurred absent decontrol.

Mr. President, a number of Senators wish to address themselves to this matter, so I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield such time to the Senator from Kansas as he desires.

How much time does the Senator desire?

Mr. DOLE. Ten minutes.

Mr. BENTSEN. I yield 10 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, the amendment introduced by the Senator from Vermont, like many amendments that have been discussed on the Senate floor, is misguided. The amendment is an attack on a longstanding principle in our tax law for oil and other hard minerals. If the Senate adopts the Leahy amendment, the Nation stands to lose precious oil production. The amendment is punitive, and in the opinion of this Senator, should be defeated.

Mr. President, percentage depletion has helped to establish the United States as a great producer of its natural resources. A further reduction or elimination of the effectiveness of this time tested tax provision would stall any attempts to decrease the Nation's dependence on unstable foreign oil.

Mr. President, since 1913 when our income tax system was adopted, Congress has distinguished between capital and income and has provided mineral producers a reasonable allowance for depletion of natural deposits. Although depletion has changed at various times, the principle is the same. Currently, depletion is allowed on a variety of minerals. There is a 22-percent rate of depletion on asbestos—which is produced in Vermont—sulfur, uranium, lead, nickel, zinc, and many others. The tax law allows a 15-percent rate of depletion on gold, silver, copper, iron ore, and oil shale. There is a 10-percent rate on coal lignite and even salt. The list is virtually endless.

Mr. President, it is important to understand that only independent oil producers and royalty owners not involved in downstream activities of the oil business are entitled to percentage depletion.

Clearly, there is a correlation between percentage depletion and the exploration for oil. In the Tax Reform Act of 1969, the rate of percentage depletion on oil and gas was reduced from 27½ percent to 22 percent. The reduction in depletion together with other changes in the tax burden on domestic producers increased revenues by about $600 million. However, in 1970—the next year—exploratory drilling in the United States dropped by 2,000 wells or a 21-percent decline from 1969. This was the biggest drop in exploratory drilling in a single year in the history of the oil industry. Further cuts were made in percentage depletion in the 1970's. The rate of percentage depletion is currently at 22 percent of gross income, but this is scheduled to phase down to 15 percent between 1980 and 1984.

Mr. President, it has been estimated that if full percentage depletion was denied on gross revenue there would be an additional $160 million in taxes in 1980. This represents only a small percent of the net windfall profit tax that was derived by the Finance Committee. However, because the cost of drilling a new well in 1980 will be somewhere in the neighborhood of $286,000, if the amendment by the Senator from Vermont is adopted, there will be about 560 fewer wells drilled in the United States. This is action which this country can ill afford.

Mr. President, the Senate has already decided that independent producers should not be subject to the windfall profit tax on their first 1,000 barrels of oil production. The Leahy amendment undermines the Senate's decision. I point out to the other Senators that it is inconsistent to support the independent exemption from the windfall profit tax and also support the Leahy amendment.

Mr. President, there is a misconception that may have appeared in this debate. There are those who may think that percentage depletion is not needed because the increase in the price of oil provides a strong incentive to develop additional reserves. While it is true increased prices are a powerful incentive, reduction of percentage depletion is the equivalent of reducing the higher price and hence reducing the incentive effect of the price increase.

If a barrel of oil sells for $30 coupled with an adjusted base price of $16 per barrel, as in the case of some tier 3 oil, the reduction of the percentage depletion will reduce a producer's cash flow by 46 percent. The price increase to offset this reduction in depletion would be $3.08 per barrel to make up for the producer's cash flow loss. From the point of view from the producer, cutting back the percentage depletion at any level of prices is equivalent to cutting the price and that can only mean less petroleum exploration and development.

Mr. President, since its inception, percentage depletion has served the Nation well by encouraging new investments in oil and gas and by providing sources of funds for a large and diversified domestic industry. There is no question the potential financial contributions of percentage depletion have been partially offset by price controls. As we now move toward the replacement cost for energy, it is important not to diminish the effect of percentage depletion. The action taken by the Senate has gone far enough in reducing incentives on production. Further erosion and retardation of energy supplies as envisioned by this amendment are unacceptable.

Mr. President, I have listened with interest here for several days, and for several weeks in the committee, and I understand that any Senator has a right to offer an amendment.

As I read about the debate on the windfall profit tax, all the headlines about taxes being increased, that is good news, but I am not certain that anybody really cares about the energy problem in this country. I think we are all looking for politics, which is the best politics, and how we can zap the oil industry. Particularly if you come from a nonproducing State, you really zap the oil companies, and that seems to be the popular thing today. One way to make the nightly news and get attention in the Washington Post is to offer to raise the tax. The time should come in this Chamber when we start talking about the problem, not the tax.

I do not know where the limit is. I say very honestly, in the kindest way I can, that there is a limit to those of us who come from oil producing States. This is not a tax bill. It never was intended to be a tax bill. It has turned out to be a tax bill. People from some nonproducing States are running around trying to figure out some kind of tax to put on the oil industry.

I do not know how many more amendments there will be, but there is a limit. At 1 p.m. the Senator from Kansas and the Senator from Texas will make a motion to table this amendment. I hope we prevail.

It seems to me that we have to at least once in a while in the Chamber focus on the energy problem and how do we address it.

The Senator from Vermont wants to address it by just knocking the independents in the head, taking away $15 billion from the industry. If that is a solution, it may be good for headlines in Vermont but it does not do a great deal to solve the energy problem.

So it seems to this Senator we may have reached a point here where if we are just going to continue layer after layer of new tax and new tax, which is going to be paid finally by the consumer, and all those who stand up and advocate higher taxes on the industry to help the American consumer are not going to fool the American consumer.

The consumer knows that sooner or later he or she will pay the tax, particularly if we strangle the industry and strangle the independents and strangle the little oil companies who go out and find the oil and gas because the Leahy amendment does not even touch the big oil companies. It goes after the small oil companies. It lets the big oil companies escape. We are going to tax the little oil companies such as we have in the State of Kansas. The average well in my State produces 3.4 barrels of oil per day, not very much. We wish it were more for the sake of the American people. It is a total annual production of 56 billion barrels. It is about 1 week of imports of oil into this country. And now we want to cripple that little bit, we want to take that little advantage they have, and I just think it is a grave mistake and I hope it is not perpetuated on the Senate or on the American people.

As the Senator from Texas has pointed out, last evening I heard the Senator from Texas read into the RECORD how the depletion applies to other minerals and, of course, I think that should be considered. Since 1913 when our income tax system was adopted, Congress has distinguished between capital and income and has provided mineral producers a reasonable allowance for depletion of natural deposits. It has been changed at various times. It was changed in 1969. I will not go through the percentage. That has already been done by the Senator from Texas.

But there is a correlation between percentage depletion and the exploration of oil. All we have to do is look at the record. I remember in 1969 in this Chamber it took about seven or eight votes to save what little depletion we have. But in that act the rate of percentage depletion on oil and gas was reduced from 27.5 to 22 percent. The reduction in the depletion together with other changes in the tax burden on domestic producers increased revenues by about $600 million.

There was a debate in the Chamber at that time. I think as I recall, the amendment was offered by the then distinguished Senator from New Hampshire, Senator McIntyre.

However, in 1970, the next year, exploratory drilling in the United States dropped by 2,000 wells, or a 21 percent decline.

So we may have picked up revenue and there may have been a few headlines that we are zapping the oil industry, but in the long run the American consumer was the one who was damaged. This was the biggest drop in exploratory drilling in a single year in the history of the oil industry.

Further cuts were made in percentage depletion in the 1970's. The rate of percentage depletion is currently at 22 percent of gross income, but this is scheduled to phase down to 15 percent between 1980 and 1984.

It has been estimated that had a full percentage depletion been denied on gross revenue there would be an additional $160 million in taxes in 1980. This does not represent much of the net windfall profit tax deprived by the Finance Committee. But because the cost of drilling has increased to somewhere in the neighborhood of $286,000 on a new well if the amendment by the Senator from Vermont is adopted there will be about 560 fewer wells drilled in the United States and maybe less.

As I have said many times, any of us who come from producing States are suspect. If we produced one drop of oil in our State we are suspect—somehow we are covered with oil. So that is why I always put the disclaimer in about the little State of Kansas and the little production we have because you could almost carry around in your coffee cup what we produce per well in the State of Kansas.

The Senator from Kansas is going to do all he can on this side and the other side to table this motion not because I have any quarrel with my friend from Vermont. Certainly he has every right to offer the amendment. I do not quarrel with that. One does not have to understand the oil industry to offer amendments on this bill. But we should understand the energy problem. We should understand what our goal is. As I understood, we went through 7 weeks of hearings and 85 hours of markup. The goal was to try to figure out some balance so we produce more energy in this country and still provide a tax. And some of us voted for taxes that we do not want.

The Senator from Kansas does not want any tax, but I am going to vote for a tax because I think if there is going to be a tax, there should be a reasonable tax, but if we are simply standing here mouthing what the industry would like, there will be no tax.

This Senator went around the country during the August recess and met in six different places in this country with oil producers and others concerned about energy. I can say very honestly the reception was rather cool because I was suggesting to producers and others alined with the industry there would be a tax, they better get ready for a tax, and there probably should be a tax. But I never indicated to them that we were going to try to punish anyone or drive them out of business.

We would try to find a balance that would produce some revenue. We are not going to know what happened to all that revenue, but now they want more.

Some say there is greed on the part of the industry. Maybe there is greed on the part of Congress. An opportunity is here to just tax and tax and tax. I am not certain where the end is.

Now they say if we have this then we want a minimum tax. Just in case anyone escaped more taxes we will toss on another tax and call that a minimum tax.

The Senator from Texas pointed out this is a crippling tax, this is a devastating tax on the very people who can least afford it.

I hope that the motion to table is adopted. If not, the Senator from Kansas will only say that there is going to be a long debate before this ever comes to final passage.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. DOLE. Will the Senator yield 2 additional minutes?

Mr. BENTSEN. I yield an additional 2 minutes to the Senator from Kansas.

Mr. DOLE. Again not because anyone wants to extend the debate, but perhaps in an extended discussion there would be a realization that we have to deal with the problem of energy.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. DOLE. Yes.

Mr. LONG. Why would this not be true: If the Senate would not be inclined to table the amendment, there would be every reason to assume there should be a rather lengthy debate on the matter because it would look like the Senate has intellectual schizophrenia.

It would look as though the Senate voted one day, by a vote 53 to 41, to exempt the independents. Now, the whole argument for that is that that money would be put back into producing more oil and gas and that that would have an effect of increasing supply.

If the Senate should turn around and indicate that it wanted to put a tax on the producers, the same independent producers it voted to exempt, it would increase taxes by more than it had voted to spare them. If this were the case, obviously the Senators would not know what they want to do. They would not be able to make up their own minds from day to day. They want to do just exactly the opposite one day from what they proceeded to indicate they wanted to do the other day. Such a situation would indicate that they ought to come out here fill these empty seats, listen, and then help to resolve their doubts by letting people explain to them what is involved.

This Senator looks around to see whom we have here, and thinks we wasted our time because there is not one person on the floor at this moment who has not made up his mind as to how to vote on this amendment. One could argue that the absent Senators ought to be required to be strapped down in their seats, be made to hear the debate, hear both sides of the argument.

Mr. DOLE. I am not certain that would be intellectual schizophrenia, but it would be schizophrenia, and I agree with the Senator, in the 30 seconds I have remaining, that it would just seem to me we have gone up the hill and now we want to go down the hill, and if, in fact—and it is not just said as a matter of what will probably happen, because I visited with Senators from oil-producing States and others who are looking at some way to solve the problem, particularly in view of all the crises around the world, whether it be Libya, whether it be Iran, or wherever it may be—we are trying to do in the domestic industry when we are not even certain what is going to happen overseas, I cannot think of any poorer timing for an amendment like this. So we may want to talk to see what finally happens in that troubled part of the world.

There is no rush to judgment on this legislation. I would like to accommodate the majority leader and everyone else, but there comes a point when you have to decide maybe we ought to take a stand. We permitted votes yesterday, we want to move the bill, we want to finish the bill, and we would like to do it next week, and I am certain that suggesting we might talk for sometime will not change any votes.

But I would not want anybody to be deceived into thinking that, well, if it is not tabled, then we will go to an immediate vote. I just want to announce that will not happen. I hope we will have a time between now and 1 o'clock to persuade our colleagues that this is not a good amendment.

I do not question the motives of the person who offered the amendment. It just seems to me that one way to really make progress would be to have it withdrawn.

Mr. BENTSEN. I understand one of the tactics being offered is, "Well, let us not vote to table it and then we will trade this for something else."

I really think that is a serious mistake. This issue ought to be judged on its own merits. They should not be saying "Let us leave them slowly turning in the wind," and "Well, we will go on and trade them out of this and trade them out of that." What we are really trying to do is to pass good legislation, and we are trying to encourage the finding of more oil and gas in this country. You are finding the Senate meeting itself coming back, and those Senators who voted for the Bentsen amendment are going to have a problem in trying to explain all of a sudden why they took it away. I do not think it makes any sense.

How much time do we have left?

The PRESIDING OFFICER. The Senator has 27 minutes and 52 seconds.

Mr. BENTSEN. And the opposition?

The PRESIDING OFFICER. The opposition has 48 minutes and 31 seconds.

Who yields time?

Mr. WALLOP. Mr. President, will the Senator from Vermont yield to the Senator from Wyoming for a question?

Mr. LEAHY. On the time of the Senator from Texas, is that what the Senator is asking?

Mr. WALLOP. I am asking the Senator from Vermont to yield on his own time to explain his amendment. I wonder if the Senator understands exactly how it works.

Mr. LEAHY. I have explained the amendment here earlier, and I am reserving my time because of my promise of some time to other Senators who wish to speak on the amendment.

I will be willing to repeat what I said earlier on the time of the Senator from Texas.

Mr. WALLOP. Mr. President, will the Senator from Texas yield to the Senator from Wyoming 2 minutes?

Mr. BENTSEN. I would be very pleased to yield to the Senator from Wyoming, and then I ask the proponent of this amendment to use up some of his time in fairness so that we can have some balance in the debate—not on the merits, but balance on the time. [Laughter.]

Mr. WALLOP. Mr. President, during the consideration of the windfall profit tax bill, the Senate Finance Committee considered and rejected a provision contained in the President's proposal which would deny to independent producers percentage depletion on any increase in price above the present controlled prices.

The Senator from Vermont has offered an amendment that would not only restore the House language on percentage depletion, but would also deny percentage depletion on the price increase of the exempted categories of oil. This amendment totally ignores the purpose of percentage depletion and the uses made of the cash flow resulting from the independent depletion allowance. I have not seen or heard of any arguments from the Senator from Vermont which would explain how this amendment would help increase petroleum supplies or how it would assist independent producers in discovering more domestic oil.

Mr. President, it is important to keep in mind that we are talking about the independent producer depletion allowance—Congress has already taken percentage depletion away from the integrated oil companies—and has reduced the rate on the depletion allowance available for independents. I am sure that the major oil companies welcome the amendment by the Senator from Vermont.

The independent producer exemption adopted by the Senate represents some $10 billion in revenues that the independents will be able to reinvest in new exploration and development. I do not think anyone in this Chamber can refute the track record of the independent producers who drill over 90 percent of the exploratory wells. They have demonstrated their commitment to aggressive exploration by going into debt to finance more drilling and exploration.

If the pending amendment is passed by the Senate today, we will be wiping out the benefits that would accrue to the independent producers through the 1,000-barrel-a-day exemption. The amendment would create an additional $4.6 billion in tax liability on the independent producers. The Senate is being asked not only to reverse its position in favor of encouraging new exploration by the independents, but it is also considering an additional increase in their tax burden. I hope the Senate remains steadfast in its commitment to allow the independents the financial wherewithal to find new oil. I urge that this amendment be tabled.

Second, it makes no sense to justify an attack on percentage depletion based on the fact that we have exempted many independents from the windfall profit tax. We have voted to exempt the first 1,000 barrels per day of oil produced by independents because of their proven track record of exploration, reinvestment and discovery. The Senate has decided it is in the best interest of our national energy policy to exempt independents from the windfall profit tax. The same cash flow problems and production arguments apply to this provision.

The contention that the Leahy proposal is not a departure from present law should be examined with careful scrutiny. The contention is that the law will remain the same, even if this amendment is adopted. Mr. President, I submit that this provision would, in effect, place a freeze on percentage depletion. Under the Senator from Vermont's amendment, the base price for computing depletion would be frozen, with adjustments allowed only for inflation. In other words, as we decontrol oil prices, the benefits of percentage depletion will remain frozen as if decontrol had never taken place. Unfortunately, this is similar to the other provisions and the overall results of this tax. Many people think that we are decontrolling oil, but in fact we are transferring the price control authority of the Department of Energy to a profit control system, through the mechanism of the Tax Code.

The enactment of this provision would require producers to retain the tiresome recordkeeping requirements and burdens of the existing price control system.

It is clear that punitive action to restrict and reduce percentage depletion would shake the very foundations of the independent sector of the domestic industry. It would force many producers to significantly reduce the level of exploration and drilling they would otherwise attain.

The Congress enacted percentage depletion in 1926 in recognition of a basic economic principle that was embedded in the 1913 law enacting the income tax. That principle is simply that when a Government taxes capital, the Government will soon own all of the capital. Rather, the Government should only tax income. This basic principle is followed in other industries through depreciation allowances on capital investments.

Congress has already done away with the depletion allowance for integrated oil producers. Depletion is available only for independent producers and this amendment would only hurt the independents.

Independents traditionally have relied heavily on internally generated capital and outside venture capital for financing their oil and gas operations. Percentage depletion has been a primary incentive for investors to share in such high risk ventures.

Independent producers, since they have no refineries, no pipelines, and no service stations, are almost totally dependent on the cash flow from their wellhead sales of crude oil and natural gas and outside investment capital to finance their operations and are, consequently, much more directly affected by changes in tax treatment than are major integrated companies.

Mr. President, we have repeatedly heard statements from the administration and Members of Congress to the effect that higher prices for newly discovered oil are all the incentive needed to stimulate exploration and drilling activity and consequently, there is no justification for permitting producers to benefit from price increases on previously discovered oil. This completely ignores the high-risk nature of petroleum exploration activities. Unlike other industries, independent producers cannot rely on borrowed capital but must have capital in hand. The price of the commodity, must provide not only the incentive to invest, but it must also provide the cash flow. Consequently, the price and tax burden on existing production is vital to generate this investment capital.

Many people seem to have forgotten the high-risk nature of the operation conducted by wildcatters. We have spent so much time talking about windfall profits, we have forgotten about the reality of windfall losses.

A study by the American Association of Petroleum Geologists for the years 1969–73 revealed that of some 25,562 exploratory wells drilled only 1 in 9 produced anything, and only 1 in 50 was a significant discovery of as much as 1 million barrels of reserve. In 1978, of some 48,500 wells drilled in the United States including both exploratory and development wells, some 16,200, or more than one-third of the total, were dry holes. Even many of the wells which were completed as producing wells will never repay the full cost of drilling and completion. The producer's proceeds from the sale of the crude oil from successful wells must not only pay the full cost of those successful wells, but it must also pay the cost of drilling the dry holes. Otherwise, the exploration activity will come to a halt.

DEPLETION AND EXPLORATION ACTIVITY

That percentage depletion has a direct effect on exploratory activity was demonstrated following the reduction in the rate of percentage depletion from 27½ to 22 percent in October 1969. The following year, 1970, there was a drop of 21 percent in the number of wildcat wells drilled in the United States. This is the largest single year decline in exploratory drilling in the history of the domestic petroleum industry. Exploratory activity did not recover to the 1969 level until 1977, even though oil and gas prices began to increase significantly after the 1973 OPEC embargo.

The Senator from Vermont has estimated that denial of percentage depletion would result in increased taxes by producers of $14.6 billion in the period 1980–90. IPAA has estimated that based on the historic relationship between expenditures for drilling and the success ratio and average production of successful new wells, that each $1 billion expended in finding and developing new crude oil and natural gas would result in the development of an additional 30,000 barrels of daily production of crude oil and equivalent in the period 1980–90.

Consequently, the effect of the Leahy proposal would be to deny consumers over 420,000 barrels of daily production. Surely this cannot be considered to be in the best interest of our economy or our national security.

It is projected that the loss of these wells would result in 2.4 billion barrels of proved oil equivalent reserves. The cost of replacing these reserves with imports over the next 10 years would be $65.7 billion.

Mr. President, let me briefly review this situation. Independent producers are the only ones that would be affected by this proposal of the administration. Independent producers by the nature of their operation are almost totally dependent upon the proceeds of the wellhead sales of crude oil and natural gas for their internally generated capital. Independent producers account for the great bulk of wildcat exploratory drilling which results in the finding of roughly 75 percent of the new fields found in the United States. While independent producers receive approximately 26 percent of total wellhead revenues and the major integrated companies 74 percent, their expenditures for exploration and drilling activity are almost equal to those of the majors. Confronted with this situation, it is evident beyond refutation that any action which decreases the ability of independent producers to generate cash flow and capital formation will negatively impact on their exploration and drilling activity. This has been previously demonstrated in actual experience and there is nothing which would indicate any other result at this time. Consequently, it is absolutely imperative that the Leahy amendment against independent producers be rejected.

Mr. President, the reason I asked the Senator from Vermont to explain his amendment was because of the point he put in the RECORD yesterday. There was nothing in the RECORD to explain the amendment. What we have here are the circumstances under which the Senator from Vermont is engaging in a game of political machoism allowing him to go home and say, "We kicked big oil."

He is not going to kick big oil, but he is creating the circumstances under which he is going to accelerate the expansion in the size of big oil. What this amendment does is to put independent producers out of business, and their production will be assumed by major oil companies.

What he does not understand as a possibility are windfall losses.

We have in our State a small company which pooled its resources, the production of four or five people. They went off to explore with the revenues from that pooled production in the State of North Dakota. They found some new production and were quite successful.

They came back to Wyoming with the money they made, and they drilled the deepest well that had ever been drilled in the Rocky Mountain area, in fact the deepest test well that had ever been drilled in the West, almost 27,000 feet. The well turned out to be a dry hole at the cost of $17 million.

That is a windfall loss that the Senator from Vermont does not know about. What he is doing is to reestablish all the intricacies of controls. One of the purposes of decontrol was to eliminate the numerous categories of oil.

Instead of providing the relief we provided in that amendment to exempt the first 1,000 barrels a day from all that recordkeeping and administrative burden, what this amendment will do is reestablish the recordkeeping and complexity of controls.

The PRESIDING OFFICER. The Senator has used his 2 minutes.

Mr. WALLOP. Mr. President, will the Senator yield 1 more minute?

Mr. BENTSEN. I want to hold some time. I yield 1 more minute.

Mr. WALLOP. I thank the Senator.

All of this is nothing but an exercise in symbolism. Everybody has forgotten about the energy needs of this country; everybody has in mind that they want a certain dollar figure. Everybody has gotten down to arguing the dollar figure so that this is the sole justification for this tax, and on the face of it, it is absurd and it is unfair to the American people.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I will ignore the personal references, the unfortunate personal references, made by the Senator from Wyoming. They are not consistent with the traditions of this body, and I suspect that, perhaps, this matter is so close to him that it may have been cause for a temporary lapse, which is not consistent——

Mr. WALLOP. Mr. President, the Senator meant no personal reference to the Senator from Vermont, and I think the RECORD will display no personal reference was made.

I referred only to the whole circumstances which surrounded the debate on this bill, and I think the American public is not getting a full answer. It is unfortunate, the way that this bill has been considered. I made no personal references with respect to the Senator from Vermont, whom I hold in great esteem.

Mr. LEAHY. Mr. President, my good friend from Kansas, who is off the floor at the moment, made reference to my amendment being aimed at the press. I will point out to him that in Vermont, nobody reads the local daily. It seems to be of interest only to Presidential candidates and Washingtonians, but the Senator from Vermont is very concerned about what is happening here. He is very concerned about what is being called a windfall profit tax.

Indeed, a strong windfall profit tax is supported by a majority of the people in this country, the majority of the people who have to pay the energy bills throughout this country. This so-called windfall profit tax is really becoming a windfall giveaway; and as such, the passage of it would mean a sham to the American people. If this bill passes with all the loopholes that have been and may yet be added to it, it would be a discredit to the Senate, that is unless we change the title of the bill and call it a windfall giveaway. At least then we would be honest in what we are doing.

Mr. President, this is not an issue which pits consuming States against producing States. Some 200 years ago we began a process whereby we combined the States of this country into one Union, interdependent, and intersupportive.

Mr. President, the Senator from Texas says that we have a case where the Senate giveth and the Senate taketh away; that we give with the one hand in one week, and take away with the other.

I have heard that argument made, Mr. President, and that is not so. It is not so at all.

A vote for my amendment is not inconsistent with a vote for the independent exemption. My amendment concerns itself only with the percentage depletion allowance.

The windfall profit tax debate has centered about the discussion of decontrol, what it means in terms of increased oil revenues, and how much of those increased revenues should be recaptured through the windfall profit tax.

The debate on the independent producer exemption amendment centered about the same issues. The argument in favor of the exemption was that independent producers needed the additional revenues resulting from decontrol to reinvest in oil exploration and production. A majority of the Senate agreed with that argument, and voted to exempt the first 1,000 barrels of production by independent producers from the windfall profits tax.

My amendment in no way does away with that exemption. Independent producers would still benefit from increases in world oil prices, and would still receive an exemption from the windfall tax on the first 1,000 barrels of production.

All my amendment does is prevent a depletion allowance subsidy beyond a certain dollar amount. It will have no effect whatsoever on the $22 billion exemption already provided for independents; I am merely trying to prevent the percentage depletion subsidy—a subsidy which is separate from this whole question of decontrol and windfall profits—from increasing by some $14.6 billion at the very time it is needed least.

Mr. President, what those who oppose my amendment are saying is that they want it all for the independents, little mama and papa operations like Superior Oil Co., which had an increase in profits of $88.9 million in the first quarter of 1978. I must admit that the scale of things in Vermont is different. A $88.9 million profit does not constitute a mama and papa operation in Vermont.

In the debate on the independent producers exemption, no mention was ever made that, separate from the consideration of the windfall profit tax, independent producers would receive an increase in tax subsidies of some $14.6 billion over the next 10 years. This subsidy was never mentioned in connection with their increased cash flow.

As it turns out now, unless my amendment is passed, independent producers will receive $350 billion in increased revenues resulting from decontrol, an exemption from the tax on those revenues worth some $22 billion, and I repeat, and, a $14.6 billion increase in the tax subsidy they receive for percentage depletion.

Let us repeat that, Mr. President, so that everyone understands: Unless my amendment is passed, independent producers will receive $350 billion in increased revenues resulting from decontrol, an exemption from tax on those revenues worth some $22 billion, and then an increase of $14.6 billion, which is no more than a tax subsidy.

At a time when we are trying to move toward a balanced budget, and at the same time provide a small amount of relief for the American taxpayer, it is unconscionable that we would consider a $14.6 billion tax subsidy for independent producers on top of the decontrol revenues they will receive.

Again, I wish to point out that my amendment will not repeal percentage depletion. It will not impose a new tax on oil producers. In fact, it will actually permit significant increases in the percentage depletion subsidy.

It will still permit percentage depletion on $15.30 per barrel of oil receipts, and that amount is well above the highest permissible amount at any time in the past.

My amendment simply will not reduce production. What it will do is prevent nearly $15 billion from being squandered on an unnecessary, undeserved tax subsidy.

The distinguished Senator from Texas has raised the question whether, if he is not successful, there may well be discussion, let us say, as to where we go next. He feels this is too important an item not to be faced directly. I agree with him. I would have absolutely no objection, if the distinguished Senator from Texas wished to make a unanimous-consent request to that effect, that we change the planned order for 1 o'clock and have an up-or-down vote on this legislation, rather than a motion to lay it on the table. If he truly wants the issue faced directly, there is no better way to do it.

Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, will the Senator from Vermont yield?

Mr. LEAHY. I reserve the remainder of my time, and yield the floor.

Mr. BENTSEN. How much time does the Senator require?

Mr. TOWER. May I have 1 minute right now?

Mr. BENTSEN. I yield 1 minute to the senior Senator from Texas.

Mr. TOWER. I just want to ask the distinguished Senator from Vermont if he would accept an amendment or modify his amendment to include repealing the depletion allowance for asbestos and marble, for any company that might make, say, in excess of 20 percent on equity profits. Would he be prepared to consider such an amendment? We are talking about products which are building materials, used for insulation and energy conservation purposes in small and medium priced homes.

Mr. LEAHY. Mr. President, if the Senator from Texas is suggesting that he and his colleague are eager to support my amendment with a similar provision included for marble and asbestos, a provision which generously retains the present depletion allowance, and just denies depletion on windfall revenues, then I would be delighted to accept such an amendment.

Mr. TOWER. Will my colleague from Texas yield to me 3 more mintues?

Mr. BENTSEN. I am delighted to yield 3 minutes to the senior Senator from Texas.

Mr. TOWER. I would not accept that proposition, because I do not believe we should abolish the depletion allowance for any minerals and materials to which the depletion allowance applies. I think to be totally fair, you should make it completely applicable to everything that currently enjoys a depletion allowance. I would still vote against it if you did, but it seems to me that the opponents are not in a very consistent position here.

Mr. President, what appalls me is that most of the opponents of this tax measure seem to be little concerned with what they are doing to the future for oil exploration and production in this country. The principal focus now is on revenues: "Let's get revenues, let's take all these revenues out of one industry. Let's create these huge spending engines and take all the money from one industry."

In fact, what they are doing is providing disincentives, and the proponents of this bill and this amendment are actually contributing to the dependency of the United States on external sources. What they are doing with this bill and what this amendment would do would be to reduce production even still further, to the extent that we would have to buy more oil from OPEC.

The desire to punish the industry seems to be greater than the desire to achieve energy self-sufficiency in this body. And I think that is too bad.

The Congressional Budget Office has already predicted that at least 550,000 barrels a day will not be produced as a result of this bill. Now, that is a shortfall.

What does that mean in terms of OPEC oil prices? It means that OPEC will probably raise the price of the oil that will meet the shortfall by $2.50 a barrel. So what we are doing with this bill is passing legislation to fund a huge spending engine that we have created out of the very industry that we should be encouraging capital recovery and capital formation in at the expense of production, which is going to make OPEC oil cost more.

We are not only going to buy more from the OPEC cartel, we are going to pay more because of this bill. Now, I am aware of the highly politicized climate that has been created because the oil companies are convenient scapegoats. They have produced a surfeit of cheap energy in this country for years, but still they are a handy scapegoat. We still pay half as much for gasoline as they do in Western Europe.

We are going to hit this industry whose overall profitability is slightly below the industrial average in this country—not above it, but below it.

What the amendment of the Senator from Vermont (Mr. LEAHY) will do will be to discourage capital formation in the oil business. In fact, the oil business now has to compete with far more attractive capital investments involving far less risk. Without the depletion allowance, I predict that we will see more shortfall in capital investment and in the business of exploring and producing oil.

I think the percentage depletion has been an effective incentive. I know that it has been, because I know the economics of the industry well enough. The depletion allowance was passed back in the twenties—not in modern context, but back in the twenties—to encourage the development in this vital national resource.

When you consider that when a man sells a barrel of oil, he is selling a capital asset, then you have to consider the necessity for making it attractive to investment capital in that industry, particularly given the high risk involved.

So the amendment of the Senator from Vermont (Mr. LEAHY) would be a devastating blow to the industry. It would be another step toward reducing us to an even greater state of dependency on the OPEC cartel.

Indeed, if the amendment of the Senator from Vermont passes, there will probably be dancing in the streets of the OPEC country capitals, because it means that they have got us even tighter now than ever before.

It seems incredible to me, at a time when Iran is using the leverage of its oil production to influence the foreign policy of nations throughout the world, that we are going to pass a bill saying: "We are going to reduce ourselves to an even greater status of dependency on you, because we feel it is necessary to punish the oil industry."

Mr. BENTSEN. Mr. President, the time allotted the Senator from Texas (Mr. TOWER) was 2 to 3 minutes. How much time has been taken? The Chair did not call it to the Senator's attention.

The PRESIDING OFFICER. The Senator used 4½ minutes.

Mr. BENTSEN. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 17 minutes and 43 seconds remaining.

Mr. BENTSEN. And the proponents of the amendment?

The PRESIDING OFFICER. Thirty-nine minutes and 14 seconds.

Mr. BENTSEN. Mr. President, we would withhold further comment, then, at this time.

The PRESIDING OFFICER. If no one uses time, it will be charged equally to both sides.

The Chair recognizes the Senator from Vermont (Mr. LEAHY).

Mr. LEAHY. Mr. President, there have been many points raised, most of which have been covered in earlier statements, and I will not try to go back and rebut each one of them.

But one point that concerns me, and one that I do not think we have discussed adequately, is the contention that investment in oil production is related solely to cash flow. That would make no more sense in the oil industry than it would in any other industry. Very, very few industries generate investment capital solely on cash flow.

I will read part of a letter from the Department of the Treasury endorsing my amendment. In that letter, Assistant Secretary Lubick stated:

> Additional investment in existing fields or in exploration for new oil is determined not by the cash flow in the hands of producers but by the investor's assessment of the potential return of his investment, and that will depend upon the price the investor receives for his oil. If the return on investment is attractive, the capital to develop more oil will appear. Cash flow only relates to the question of who will make the investment. Nevertheless, because of the extraordinary increase in the price of oil, producers will realize significant increases in cash flow and, generally, they will continue to be the major investors in the oil industry.

Assuming that investment opportunities in oil appear attractive, external funds will be raised if cash flow is not adequate.

The myth that independent producers rely solely on internal funding is just that—a myth. Again, data on this subject is scarce, but that which is available suggests that, if anything, independent producers rely more on external funds than the major oil companies. They depend less on cash flow than the majors.

In testimony before the Senate Finance Committee on May 7, Deputy Assistant Secretary of Treasury Emil Sunley pointed out that, in 1977, major oil companies funded 81 percent of their capital investments with cash flow. The corresponding figure for non-integrated companies was only 69 percent. The independents relied less on cash flow than the majors.

I might point out that the ability of independents to raise external funds has never been greater than it is today. As a result of decontrol and OPEC price increases the value of oil in the ground—which is, after all, their collateral—is three and four times greater today than just a year ago.

Finally, I might point out that the figure of $1.05 investment for every dollar of oil receipts varies greatly from year to year depending on the attractiveness of investment opportunities in oil. In fact, in 1974, when the first OPEC embargo produced huge windfall oil revenues, that figure dropped well below one dollar of investment for one dollar of revenues.

Mr. President, the amount of cash available for new drilling and production will be more than adequate even if my amendment passes.

My amendment, I reiterate, as I have over and over again, does not reduce the present depletion allowance.

In fact, it would permit a larger depletion subsidy than has been allowed in the past. What it does, however, is say that if the OPEC cartel and decontrol are going to raise oil revenues by 200, 300, and 400 percent, for God's sake, let us not steal another $15 billion out of the Treasury to increase the percentage depletion allowance proportionately.

Mr. President, I reserve the remainder of my time.

Mr. BUMPERS. Mr. President, will the Senator from Vermont yield to me for just 3 or 4 minutes to explain a chart?

Mr. LEAHY. Mr. President, I am delighted to yield to my distinguished colleague from Arkansas.

Mr. BUMPERS. Mr. President, this is something we just did in the office. It is too small to see from any distance, so I will just state the figures for the record.

This first chart deals with lower tier oil. The Senator from Vermont's amendment provides that depletion by independents will not be permitted on the total sale price, but on the first $16 only. That applies to both upper tier and lower tier.

So, taking lower tier first, I have three categories here. One is without the Bentsen amendment, one is with the Bentsen amendment but without the Leahy amendment, and one is with the Bentsen amendment and with the Leahy amendment.

The calculations are all based on the assumption that oil will be $30 a barrel.

Without the Bentsen amendment, producers would pay an $18 tax, and, adding the value of 22-percent depletion, their net is $18.60. They have to pay income tax on that net, but only after they deduct all of their drilling expenses.

With the Bentsen amendment, exempting 1,000 barrel a day for independents, but without the Leahy amendment, it is still $30 for a barrel of oil; they get the full $30 without paying any windfall profit tax, and, in addition to that, a 22-percent depletion on that full value of $30. So, effectively, they realize $36.60, and, in effect, the Government is subsidizing them by the amount of $6.60, the amount exceeding the selling price of $30 a barrel.

Finally, the third case is with the Bentsen amendment and with the Leahy amendment, still assuming oil at $30 a barrel.

Their depletion allowance of 22 percent on $16 is $3.52, so they still keep, in effect, $33.52. So what we are debating about on lower tier oil is whether or not independent producers under the Bentsen amendment and under the Leahy amendment shall keep $36.60 or $33.52, for a net difference of $3.08.

That is what this argument is all about.

Mr. President, I also have a chart here showing upper tier oil. The figures come out identical because the Leahy amendment only allows the depletion to be figured on the first $16 and not the selling price.

Mr. President, you can see that either on upper tier oil or lower tier oil we are debating here about the differences of $3.08. I have studied these figures carefully, because I have a lot of independent producers in my State—as a matter of fact, everybody in my State is an independent producer—and I cannot believe that it is really completely fair to allow these independents to calculate depletion upon whatever they can get for oil.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. I yield an additional 2 minutes to the Senator from Arkansas.

Mr. BUMPERS. My point is we are going to give each of them $11 million a year free of the windfall profit tax if they can sell their oil. The exemption of 1,000 barrels a day, or $30,000 a day, translates into $11 million a year, and it is free of the windfall profit tax.

I voted for that amendment, and I voted for it for a number of reasons, not the least of which was that, if we are going to give the oil industry of this country a trillion dollars over the next 10 years, it seemed to me eminently fair to give the independents that exemption. They find about 75 percent of the oil, and they reinvest their money to find oil. Those are the people we ought to be giving the incentive to. But there has to be some limit to how much incentive we can in all fairness provide.

As I say, I cannot believe that $3.08 difference on a barrel of oil that is selling for $30 is not going to determine whether somebody stays or leaves this business.

Mr. STEVENS. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. STEVENS. Is the Senator taking into account the Federal income tax, the State income tax, the royalties paid, the severance paid, and the increased cost of doing business? Most of this oil is produced on Federal lands with a one-eighth royalty minimum. Some of those royalties are increasing now, up to about 40 percent, I understand. Is the Senator going to assume that and see how much an independent has left? Let me assure the Senator, there are no independents in my State.

Mr. BUMPERS. This same oil 4 years ago was bringing that same person $6 a barrel. He was getting a 22-percent depletion allowance on that, and that was sufficient.

Mr. STEVENS. The price of gold 4 years ago was $35 an ounce. What does the Senator think it is now in the international market?

Mr. BUMPERS. I am not in the market.

Mr. STEVENS. Three years ago, a cord of wood went into the back yard for $35 or $37. We now pay $100 for it. How about that?

Mr. BUMPERS. Do not buy it.

Mr. STEVENS. The thing is we have to realize that prices have gone up all over. They are related to the OPEC problem.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. Who has control of the time?

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will be charged equally to both sides. If neither side yields time, the time will be charged equally against both sides under the precedents.

Mr. BENTSEN. The problem we run into on that, as the Senator from Vermont knows, is the Senator from Vermont has a great deal of time left and we have used our time. If we took this fully, obviously we would run out of time and he would still have time left. I am sure he does not want to play that kind of a game.

Mr. BUMPERS. Will the Senator yield 2 additional minutes?

Mr. LEAHY. I yield.

Mr. BUMPERS. Let me continue the dialog with the Senator from Alaska.

This chart is not designed to mislead or distort. I know that people who look for oil have expenses. I know that the cost of drilling for oil has been going up at an incredible rate.

However, I just want to make this point: Under the Bentsen amendment they get $30 a barrel for oil. Before they pay any tax on that, they are entitled to take 22 percent off of it. In another way of looking at it from the one I have here, let us look at the tax figure. Even if their costs are $23.40, that $6.60 depletion is their profit. They can put it in their pocket.

If their cost does exceed $23.40 a barrel to find it, then I feel sorry for everybody in this country who is looking for oil who is not an independent producer, because that simply means they cannot make it. They are not going to drill a well because their cost will exceed their revenues.

Mr. STEVENS. Will the Senator allow me some of that 2 minutes?

Mr. BUMPERS. I yield.

Mr. STEVENS. Let me say again independents are not in my State. They cannot afford to operate in Alaska. They do not have any money left with these advantages the Senator is talking about to finance a well that will cost up to $42 million. The last dry hole drilled in my State cost $42 million. The difference is that these independents are finding the bulk of the oil discovered in this country. There has not been a major discovery of oil in this country since 1968 and that was in my State. There have not been any really major discoveries.

I see my friend from Texas saying that is not so. There has not been a Prudhoe Bay since that time.

Mr. BENTSEN. Did the Senator say $42 million?

Mr. STEVENS. $42 million was the cost of the well that was drilled.

You start talking about places where independents can work, they have to have some money left.

I hope the Senator will continue to yield me time so I may answer this.

Mr. LEAHY. I am reserving time for others who have asked to speak. I think the Senator from Texas may wish to yield.

Mr. BENTSEN. How much time do we both have?

The PRESIDING OFFICER. The Senator from Texas has 17 minutes and 27 seconds. The Senator from Vermont has 22 minutes and 51 seconds.

Mr. BENTSEN. Having just been advised that I could use up my time by just sitting here, and we have already discussed it at length, I certainly think that we should try to even up the time here.

Mr. LEAHY. It appears, I say to my friend, that the time is coming out quite even. We are within about 4 minutes of one another. We shall now be within 3 minutes, because I yield 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to make this point: the independent producers in this country deserve the applause of this body and of the Congress and of the country, because they have made use of the incentives which we have given them. They are entitled to them. But I think many of them would not want totally inequitable incentives. They should be willing to pay some share of the cost over the next 10 years.

I have consistently supported proposals which give incentives to independent producers. In 1976, the Senator from Oklahoma, Dewey Bartlett, and I sponsored an amendment to exempt stripper oil from all controls. I did that because I thought it would increase production. That has been a real godsend to this country, because stripper oil constitutes a much bigger share of domestic production now than it did then. My State produces about 55,000 barrels a day and 85 percent of that is stripper wells. There are a lot of them staying in production and some of them even coming onstream as a result of that.

My point is I do not take a back seat to anybody in promoting incentives for the independents and giving them the incentives to do what they do well. But it occurs to me that, in this case, where we exempt 1,000 barrels a day, $11 million a year, it is fair to add to that the restriction of the depletion allowance, which cannot possibly be that big an item for them.

The PRESIDING OFFICER. The Senator's minute has expired.

Mr. BUMPERS. We might say the Lord giveth and the Lord taketh away. I voted with Senator BENTSEN the other day to give them that 1,000-barrel-a-day exemption from the windfall profit tax and I am not sorry I did. But all things have to have a limit.

Remember, we are not talking about the removal of depletion. The Leahy amendment does not remove all the depletion allowance. They will still be entitled to a depletion on $16, but not on $50.

Allowing the depletion allowance on the selling price of oil, which, in my humble opinion, will be at least $50 within 2 years, would produce a real windfall. As long as they are entitled to percentage depletion on their first $16 of sale, and the amendment of the Senator from Vermont provides that, even on lower tier oil, which might otherwise qualify for a depletion allowance only on $6 it is absolutely fair. It gives the independents the incentive they need, and it is still fair.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time? Time is now being charged equally against both sides.

Mr. BENTSEN. Was the Senator from Wyoming seeking recognition?

Mr. SIMPSON. Yes.

Mr. BENTSEN. I yield 3 minutes.

Mr. SIMPSON. I shall limit my remarks to that extent.

I thank the Senator from Texas.

Mr. President, I rise to oppose the amendment offered by the capable Senator from Vermont (Mr. LEAHY). My opposition is based on two important factors. Depletion on domestic crude oil production is limited to independent producers. We know that, through this debate. Even then, the depletion deduction on gross income cannot exceed 65 percent of taxable income.

We know also that independent oil producers are responsible for 80 to 90 percent of current drilling activity. Certainly, this is a segment of the oil industry where the maximum incentive for further exploration must be encouraged.

The critical and successful features of any on-going business activity are the rate of return on investment and the availability of risk capital, with the former often attracting the latter. It is a fair statement to note that a driller has a 1 to 10 shot at producing a successful well. That figure of $42 million is startling indeed. Some of the toughest drilling in my State comes in the overthrust belt in the State of Wyoming, where the cost will run $1 million per well. Those are staggering sums.

I have fully supported the committee exemptions on newly discovered oil. I firmly backed the President's action to decontrol the wellhead price of domestic petroleum. But I cannot accept the argument that these factors alone will, in and of themselves, sufficiently stimulate new oil discovery operations.

Mr. President, I ask unanimous consent to have printed in the RECORD a report prepared by Price, Waterhouse Co., on the most alarming correlation between the decision of Congress to cut the depletion allowance and what happened to drilling activity after that decision.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

OIL PRODUCERS WILL FEEL A DOLLAR DEPLETION BITE SOON

(By R. B. Hoover)

In a little less than two years most independent oil producers will find cash available for exploration beginning to diminish. This unpleasant surprise will result from a well-publicized-at-the-time, but in most cases now-forgotten, provision of the percentage depletion legislation enacted by the Tax Reduction Act of 1975.

Among other things, this legislation provided that the amount of production eligible for the tax return percentage depletion deduction would be limited to 2,000 barrels of oil (or its equivalent in gas) per day in 1975 declining to 1,000 barrels per day (BPD) allowable for 1980 and thereafter. Through 1980 this production would be depletable at a rate of 22 percent of gross income (the rate in effect since 1970).

This scale-down in quantities eligible for depletion has not had significant effect on the majority of producers. A review of various industry production information suggests that no more than 200 of the approximately 10,000 oil producers in the United States have average daily production in excess of 1,000 barrels.

Commencing in 1981 however, even the smallest oil producer will feel the next series of depletion reductions specified by the 1975 legislation. Although the quantity of oil and gas available for depletion will remain constant at 1,000 barrels (or natural gas equivalent barrels) per day, the percentage depletion rate will be gradually reduced as follows:

Percentage depletion rate

Year:	
1980	22
1981	20
1982	18
1983	16
1984 and thereafter	15

When the rate scale-down is fully effective in 1984, every producer eligible for percentage depletion will find that it is entitled to approximately 32 percent less depletion than it was in 1980.

The tax dollars saved by percentage depletion frequently are significant to a producer's cash flow and thus its ability to engage in exploration and development activities. Although there is no way to accurately predict the effect on the industry of this future reduction in cash flow, some indication can be gained by looking at the effects of the most recent prior percentage depletion rate reduction.

In 1970 the percentage depletion rate was cut from 27½ percent to 22 percent. According to Independent Petroleum Association of America data there were 2,008 fewer wildcat wells drilled in 1970 than in 1969, a drop of 21 percent—the largest decline in exploratory drilling in a single year in the history of the domestic industry. Exploration activity did not recover to the 1969 level until 1977, even though oil and gas prices began to rise dramatically after the 1973 Arab embargo.

The 1981 to 1984 rate reduction, however, may be of even greater impact than that of 1970. The reduction from a 22 percent depletion rate to a 15 percent depletion rate represents a cut in a producer's depletion deduction of as much as 32 percent compared to the 20 percent reduction when the rate dropped from 27½ percent in 1969 to 22 percent in 1970. Thus the upcoming dip in the percentage depletion rate will be more than 1½ times as great as that in 1970.

It may be remembered that the 1975 percentage depletion legislation stemmed to a great extent from a public and Congressional backlash against the oil industry. This negative sentiment was aroused by the erroneous impression on the part of much of the public and the Congress that the oil industry had "caused" the 1973 Arab embargo shortage and the subsequent dramatic increase in prices. Although ill-conceived and based on an unsupportable presumption, the motivation for the punitive legislation in 1975 is at least understandable. However, the potential adverse effect of the 1975 legislation should be re-evaluated in the light of today's energy uncertainties.

Since the Arab embargo our domestic crude oil production has declined from 9.2 million BPD in 1973 to 8.7 million BPD in 1978 (including the 1.2 million BPD from Alaska's North Slope). During that same period our imports of crude oil have moved from 3.2 million BPD to 6.3 million BPD. More significantly, OPEC's share of our imports has increased from 48 percent of total petroleum imports in 1973 to 68 percent in 1978. As a result, we are almost twice as dependent upon OPEC for our domestic energy supply now than we were in 1973. A future embargo or other major supply disruption could make the 1973 version look like a very minor inconvenience.

It seems patently inconsistent with our National Energy Plan and future national security and economic stability to allow the scheduled percentage depletion rate reductions to take effect. With the knowledge of the substantial decrease in exploratory drilling caused by the 1970 depletion rate reduction, it seems almost suicidal in today's energy environment to inflict a potentially greater reduction on the nation's oil industry.

Given today's political climate, it seems highly unlikely that the percentage depletion rate would be increased (even though such an increase could stimulate domestic exploration and production). However, both the administration and Congress should at least very thoughtfully reflect on the advisability of legislation to eliminate the scheduled reduction in percentage depletion rates. If the punitive 1975 legislation is not revoked, one more economic incentive to explore for and produce domestic oil and gas will be significantly eroded. If history is any precedent, this erosion will provoke an increase in the rate of decline of our domestic oil and gas production and heighten our dependency on insecure foreign oil sources.

Mr. SIMPSON. My second reason for opposing this amendment is that this amendment would have a severely adverse effect on these independent producers and the addition to the Federal Treasury would be minor indeed. Under present law, we have this 1,000 barrels per day of production being eligible for depletion. We assume an example of wellhead price of $30 for a 360-day production period, gross income then amounting to nearly $11 million, applicable percentage depletion allowance 20 percent for 1981. At the time the windfall profit tax will take effect, we arrive at a figure of just over $2 million as the percentage depletion allowance that could be taken.

Then taking the rate of the corporate taxation into account, by continued use of the percentage depletion allowance, the Federal Treasury would be receiving $1 million less in revenue.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMPSON. May I ask 1 additional minute of the sponsor?

Mr. BENTSEN. I yield the Senator 1 additional minute.

Mr. SIMPSON. Mr. President, even with this figure multiplied by the number of eligible independent producers, this revenue deficiency pales beside the amount generated by the windfall profit tax—being $138 billion under the Finance Committee version plus existing corporate and personal income taxes which would provide a total of $173 billion.

As I mentioned earlier, with the heavy cost of drilling in these deeper formations, sometimes running from $1 million to $42 million per hole, where there are known oil-bearing sands, this amounts to a severe loss of venture capital sufficient to stop the drilling of one additional well per independent.

With those odds facing these independent producers, how can we intelligently chop away the amount of risk capital available to the very producers we shall have to rely upon? That is the very thing this depletion allowance amendment will do. It dries up risk capital. Mr. President, this is no time to do that. I urge defeat of the amendment.

Mr. President, I have a question of the sponsor of the amendment, if I may at this time.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. SIMPSON. I just wish to address a question. I ask the sponsor to yield the time for that purpose.

Mr. LEAHY. I yield a minute for that purpose.

Mr. SIMPSON. I understand, from my research into the depletion allowance, that in the Senator's State alone, there is a depletion allowance on the product asbestos, which has to do with a figure of 22 percent. I note no attempt there to reduce that depletion allowance, nor an attempt to place upon that product a windfall profit tax.

Mr. LEAHY. If the Senator will let me respond, I have been pleased by the great attention to the State of Vermont today. Virtually everybody who has spoken in behalf of the oil companies, the independents, in this matter has told me about asbestos in Vermont. I assume that what they meant by that is that they would join in this amendment of mine and would strongly support it, rather than opposing it, if I would add asbestos. Certainly, if all of the opponents of this amendment who brought up the matter of asbestos would strongly join the amendment. I would be glad to add asbestos or anything else. I have not heard that offer made.

I yield myself 30 seconds more, Mr. President.

I point out that we are really comparing apples and oranges. We do not have in this country an asbestos cartel, or a marble cartel, or anything like one. We do not have skyrocketing windfall profits on asbestos. We do not have a $350 billion bonus from decontrol coming down the pike.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Time is now being charged equally to both sides.

Mr. BOREN. Will the Senator from Texas yield me 30 seconds?

Mr. BENTSEN. I yield 1 minute to the Senator.

Mr. BOREN. Mr. President, a few days ago, the Senate had the good judgment to provide an exemption for the independent producers of oil from the first 1,000 barrels per day of production. This action made sense. At that time, I argued that if we really wanted to produce more energy for this country, we should give incentives to the independent producers.

In the last several years they have reinvested 105 percent of their wellhead revenues back into more exploration and development. In no area, in the short run, could we encourage more energy production. Independents drill 89 percent of the exploratory wells and find 75 percent of the new fields. I also pointed out that if we wanted to encourage more diversification within the oil industry we should provide incentives for the independent producers. A few years ago there were 20,000 independents, today there are only about 12,000.

Finally, I argued then, that we needed to provide these incentives to be fair to the independent producers. They are somewhat like the bystander who gets hit when one person tries to hit another in the crowded room and the intended target moves or ducks. Many have complained on this floor about the profits of major international oil companies. It is well known that the greatest part of the increase in their profits has come from overseas activities and from areas other than domestic production.

The independents have no overseas operations. They have no refining, or distribution, or marketing.

But when the Congress strikes out, which target gets hit. It is not the overseas profits of the major companies. Not one penny of tax is proposed before us on profits of any kind. This bill is not a tax on profits; it is an excise tax on oil. Is overseas oil production being taxed? No, not one penny. Only oil produced here in the United States is being taxed.

The independent exemption previously passed was therefore equitable. It was an attempt to keep the small domestic producer from being penalized for the alleged faults of companies operating overseas. It was an attempt to produce more energy here at home. It was a vote in favor of more diversity in the oil industry.

Now, with the amendment of the Senator from Vermont, we are debating whether or not to undue the good which we have previously done. I have a high regard for the Senator from Vermont. He is sincere and able. He has been a real leader in the Senate in many fields including rural development.

In this case, however, I sincerely believe that his amendment would take us down the wrong path. By taking away with one hand what we just gave with the other, by drying up the sources of capital which we sought to encourage a few days ago, we will discourage energy production in this country just when we need it most.

Other nations of the world are watching us to see if we have the maturity and courage to stop discouraging production and stop encouraging consumption. We all know the economies, a tax discourages while a subsidy encourages. If we want more production, why then are we taxing it while indirectly continuing to subsidize consumption.

In the long run the best politics is to do what is right. Let us do what makes sense economically and what makes sense for our national security. Some are saying that our energy crisis is not caused by a shortage of resources but by a shortage of political will and wisdom. Let us prove them wrong by defeating this amendment.

The PRESIDING OFFICER. Who yields time?

Time is now being charged equally to both sides.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum. I understand that is charged equally to both sides.

The PRESIDING OFFICER. Did the Senator ask unanimous consent that it be so charged?

Mr. LEAHY. I will make no objection to such request.

Mr. BENSTEN. Yes.

The Senator is very magnanimous since he has more time than I have.

Mr. LEAHY. With the understanding it can be called off at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

ORDER FOR RECESS FROM 2 P.M. TO 2:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 1 minute, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in order to permit Senators to attend a briefing that will occur at 2 p.m. today in room 207, I ask unanimous consent that the Senate stand in recess from 2 p.m. until 2:45 p.m.

Obviously, the briefing will last longer, because of questions that Senators may wish to ask. But 45 minutes will accommodate Senators as to the briefing and would allow those who are involved in amendments on the floor to get back to the floor and to begin discussing them.

Mr. STEVENS. I thank the Senator from West Virginia, the majority leader. That will afford an opportunity for all of us to be at the briefing for some period of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, time will be charged equally. We do not need a quorum call, and we do not need a recess, because time will be charged equally, in any event. I suggest that we let the time run.

Mr. BENTSEN. Mr. President, the Leahy amendment really poses a very simple question: Do we want to keep America's 12,000 independent producers in the business of finding oil and gas in this country at the time we most need it, or do we instead prefer to limit their activities by providing disincentives to production?

No matter how you look at it, no matter how you argue the case, the net effect of the Leahy amendment is indisputable: it will take $14.6 billion in revenues—not profit, but gross revenues—away from the independent producers who find most of the oil and gas in this country. Last week the Senate recognized the importance of providing incentives for domestic production by approving the Bentsen amendment. Today the Senator from Vermont proposes to take those incentives away and hobble the independents with a new tax burden.

What does $14.6 billion in revenue mean for domestic energy production? It means 22,400 new wells drilled in this country—not in Saudi Arabia, not in Iran, but right here in America. It means an increase of 2.5 billion barrels to our domestic reserves. It means that an additional 1.4 billion barrels of American oil will be produced by 1990—oil that will remain under the ground if the Leahy amendment is adopted.

It means our potential domestic production will be reduced by 440,000 barrels a day. If this oil is not produced domestically—and it will not be if the Senator's amendment is adopted—we will have to buy it from OPEC at a cost of $15 million a day.

Mr. President, it simply makes no sense to suggest that adoption of the Leahy amendment will not result in diminished domestic energy production.

We have seen that, year in and year out, the independent producers reinvest 105 percent of gross wellhead revenues in new exploration and new drilling in America. Take $15 billion away from the independent producer, and you take $15 billion away from activities with but one objective: Greater energy self-sufficiency for this Nation in our hour of greatest need.

It is also important to understand that Senator Leahy's amendment is targeted exclusively at the independents; it has no impact whatsoever on the major integrated companies. The Senator proposes to use not the pending legislation, but the income tax, to punish the independents by gutting the percentage depletion allowance.

When it comes to income tax treatment, the independents are already disadvantaged. The vast majority of them do not benefit from the 46-percent corporate tax rate. The independent is liable for a maximum Federal tax of 70 percent on income. Testifying before the Finance Committee, Secretary Schlesinger made the point very clearly that to the extent we place an additional tax burden on the independents we destroy incentives for new production. We leave them with 7 or 8 percent at the margin.

Mr. President, you really cannot have it both ways. You cannot suggest that by gutting the percentage depletion allowance, at a cost of $15 billion to the independent producers, you are somehow maintaining incentives for increased domestic energy production. You are, in fact, destroying incentives to a very substantial degree. You are insuring that over the next decade we will spend $15 billion less to develop America's energy potential.

I believe, and the Senate has agreed, that we should make every effort to increase domestic production of oil and gas. The independent producer will be the driving force in this effort. We can either encourage his efforts to achieve greater energy self-sufficiency by upholding the Bentsen amendment, or we can substitute new taxation for incentives as proposed by the Senator from Vermont.

Mr. President, I want to see America produce an additional 1.4 billion barrels of domestic energy by the year 1990. I want to encourage our independent producers to go out and take the risk—the expensive risks—to find every drop of oil they can in this country. Those who share my concern for greater energy self-sufficiency will join me in voting to table the Leahy amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BENTSEN. I am delighted to yield to my distinguished friend.

Mr. DOLE. How much time remains?

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 34 seconds remaining.

Mr. BENTSEN. I yield it all to the Senator.

Mr. DOLE. I thank the Senator very much. I wish to yield part of that to my colleague from Kansas.

Mr. LEAHY. Mr. President, I also yield 2 minutes to the Senator from Kansas.

Mr. DOLE. I appreciate that.

Mr. President, there is no justification for removing such a longstanding, sound economic principle, especially in view of the worsening energy supply position confronting our country.

In evaluating the benefits of this longstanding tax policy, the late President John F. Kennedy said:

> The depletion allowances which affect over 100 items should be considered primarily as a matter of resources policy and only secondarily as a tax issue. Its purpose and its value are first of all to provide a rate of exploration, development and production adequate to our national security and the requirements of our economy . . . The oil depletion allowance has served us well by this test.

If our Government is serious about reducing dependence on foreign oil and restoring a maximum degree of self-sufficiency in energy supplies, then we believe these goals should have priority far above increasing tax revenues. In the long term, the adequacy of secure energy supplies will be a vital element in resolving the major problems afflicting our economy today—inflation, recession, and unemployment.

The Senator from Kansas will just emphasize that which has been emphasized by others. This is a very serious amendment. The Senator from Kansas comes from a little oil producing State, not very much by some standards, but we are proud of it. This would in effect cripple that independent industry in my State.

If there is a minute or a minute-and-a-half remaining, I yield to my distinguished colleague from Kansas, Senator Kassebaum, because this is important to our State. We are talking about 10,000 to 15,000 to 20,000 jobs and an industry that we are very proud of and I think it helps and does serve the national interest.

Mrs. KASSEBAUM. Mr. President, I thank Senator Dole.

I am concerned because what we have started out here to do seemingly has been lost by the side of the road. What we are trying to do is craft energy legislation, and I feel that a very important part of trying to meet our energy needs in the next 5 years is to encourage independent production.

We did this last week, by exempting the independent stripper from the windfall profit tax. The depletion allowance should not be something that would even be considered under the windfall profit tax because as has been pointed out here the stripper has not even been included in the windfall profit from the very beginning.

It is going to mean depletion of capital that will be available at the wellhead and for independent producers their figures showed 105 percent reinvestment of capital by independent producers.

This is where we need to enhance our production. Until we can get alternate energy sources in place, we have to rely on the exploration of our domestic production and it can best be done by the independents who are out working with the capital available to them for the small wells, and we certainly are very cognizant of this in Kansas.

I feel it is absolutely essential to us in meeting our energy needs to continue to allow the depletion allowance.

I thank the Chair.

Mr. LEAHY. Mr. President, we are about to wind this down.

I ask unanimous consent that Senator Hollings be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the House of Representatives has passed a bill, which, when compared with the Senate bill, has some $35 billion less in tax exemptions and subsidies for independent oil producers.

If my amendment were agreed to, and I believe it should be, the Senate bill would still contain approximately $22 billion more for independents than the House bill.

My good friends in the Senate today who have risen in opposition to the Leahy amendment have talked as though it would somehow impose a crushing, overburdening tax on an industry that is so fragile, an industry that is so beset by problems, an industry that has such a low profit margin, that it is poised near collapse.

Mr. President, we have been accused of living in a different world in the Senate Chamber than the world in which 220 million Americans live. I think that must be so.

My amendment does not impose an additional tax on the oil industry by any means. We have given them a very generous tax exemption in the guise of providing a production incentive. By all standards, it is far more generous than is necessary to maximize production.

What I am saying is, having given them that exemption, having given them an exemption which I feel most people in this country would not accept if it were voted on a nationwide referendum, for

God's sake let us not add a subsidy on top of it. It is bad enough that with decontrol, and the pricing policies of the OPEC cartel, oil companies are going to earn enormous windfall profits.

Let us not add insult to injury by dipping our hands into the Treasury of the United States for another $15 billion tossed out in the form of another subsidy. They have gotten decontrol. They will receive tremendous windfall revenues as a result of what the OPEC cartel has done. Apparently they want it all. Can we not leave just a little bit for the taxpayers of this country?

Mr. President, there are a lot of things in this bill that I do not like. There are a lot of areas where I would have set the tax at a different level. But those are questions of taxing policy.

Here we are talking about an out-and-out gift, an out-and-out subsidy. Having given that subsidy, unless my amendment is adopted, every time the market price of oil rises, for whatever reason, the situation in Iran that my friend from Texas has talked about, or whatever, the depletion subsidy will also rise. And we will nail the American taxpayers again. Nail them at the gas pumps, nail them when they heat their homes, nail them when they buy products. Nail the small business people of this country, nail them when they have to pay their energy bills, their lighting bills, and the heating costs. How many small businesses no longer have a profit margin because of their energy costs, and yet, on top of that, we would nail them one more time with a tax to pay this subsidy.

Mr. President, in summation, my amendment will not repeal percentage depletion; it will not impose a new tax on our producers. It will still permit percentage depletion of $15.30 per barrel of oil produced.

It will not reduce production. What it will do is prevent $15 billion from being squandered on an unnecessary, undeserved tax subsidy.

● Mr. HART. Mr. President, I would like to state my views concerning the proposed amendment by Senator Leahy. As my colleagues know, the oil depletion allowance is now available only to the independent producers. As a consequence of the deregulation of oil for the independent producers without any windfall profit tax, the independents will receive greater revenues with which to qualify for the oil depletion allowance. I strongly support economic incentives to help the independent producers expand their position in the domestic oil and gas market vis-a-vis the majors.

Just a few days ago, a majority in the Senate voted to exempt the independent producers from the windfall profit tax. I believe that this vote signified a recognition that, with proper economic incentives, the independents could provide more competition in the domestic oil market. The independent producers exemption, which I cosponsored, would provide the equivalent of an additional $10 billion to independents as a group.

Based on their past behavior, I expect that the independents as a group will increase their spending for exploration and development of new oil and gas in this country by more than the $10 billion which this exemption provided.

This issue before the Senate now is a proposal by Senator Leahy to remove the qualification of the depletion allowance from revenues which are attributable to selling oil at prices above $16 per barrel. Although I am sure Senator Leahy did not intend it, the impact of Senator Leahy's amendment in economic terms would effectively repeal the independent producers exemption.

The effect of the amendment on the oil depletion allowance would be to reduce revenues for the independent producers by about $15 billion. The combined impact of the independent producers exemption and then the amendment to adjust the oil depletion allowance would be to reduce revenues to the independent producers by $5 billion.

Within the context of the need to provide incentives for the independent producers to compete with the major oil companies, I oppose the amendment by Senator Leahy to adjust the depletion allowance. I urge my colleagues to oppose this amendment.●

Mr. LEAHY. Mr. President, I see we have reached the hour of 1 o'clock. Am I correct in my understanding that the parliamentary procedure is that at 1 o'clock there will be a motion to table on which the yeas and nays have already been ordered?

Mr. BENTSEN. Mr. President, I join in the Senator from Kansas' motion to table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table Mr. Leahy's amendment No. 739. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(During the call of the roll Mr. Exon assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. Inouye) and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 57, nays 37, as follows:

[Rollcall Vote No. 454 Leg.]

YEAS—57

Armstrong
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Burdick
Chiles
Church
Cochran
Cranston
Dole
Domenici
Durenberger
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher
Morgan
Nunn
Pressler
Pryor
Randolph
Roth
Sasser
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—37

Bayh
Biden
Bradley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cohen
Culver
Danforth
DeConcini
Durkin
Eagleton
Hollings
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Matsunaga
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Tsongas
Williams

NOT VOTING—6

Baker
Goldwater
Inouye
Mathias
McGovern
Talmadge

So the motion to lay on the table amendment No. 739 was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware (Mr. Roth) is to be recognized. The Senator from Delaware.

AMENDMENT NO. 738

(Purpose: To limit total tax revenues to certain percentages of the gross national product)

Mr. ROTH. Mr. President, I call up my amendment No. 738 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. Roth), for himself, Mr. Domenici, Mr. Danforth, Mr. Dole, Mr. Armstrong, Mr. Boren, Mr. Chafee, Mr. Cochran, Mr. Durenberger, Mr. Jepsen, Mr. Simpson, Mr. Stevens, Mr. Thurmond, Mr. Wallop, Mr. McClure, Mr. Garn, Mr. Schmitt, Mr. Cohen, Mr. Humphrey, Mr. Lugar, Mr. Hatch, Mr. Helms, Mr. Laxalt, Mr. Warner, Mr. Tower, Mr. Melcher, Mr. Heinz, Mr. Hayakawa, and Mr. Percy proposes an amendment numbered 738.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The amendment is as follows:

At the appropriate place in the substitute add the following new section:

Sec. . Limitation on Tax Receipts.

For each fiscal year ending after September 30, 1980, the total budget receipts of the Federal Government shall not exceed an amount equal to the following percent of the estimated gross national product for such fiscal year: 20.5 percent in fiscal year 1981; 20.0 percent in fiscal year 1982; 19.5 percent in fiscal year 1983 and thereafter.

The PRESIDING OFFICER. Will the Senator withhold for a moment? The Senate is not in order. Will the Senate please be in order? The Chair has recognized the Senator from Delaware, and he is entitled to be heard.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Delaware is not automatically recognized to call up his amendment.

The PRESIDING OFFICER. The Chair had recognized the Senator from Delaware. Does the majority leader seek recognition?

Mr. ROBERT C. BYRD. Mr. President, we have to have some way of letting a

Senator get in to make a request. The acting Republican leader is seeking recognition. The order was that the Senator from Delaware be recognized to call up an amendment, but that does not mean to the exclusion of everything else. There has to be a little colloquy about a Saturday session here.

Mr. STEVENS. It is controlled time; will the Senator from Delaware yield me 2 minutes?

Mr. ROTH. I will be happy to yield to the Senator from Alaska, but I would not like it to be charged to my time.

Mr. STEVENS. I ask that this time not be charged against the Senator from Delaware (Mr. Roth).

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Alaska (Mr. Stevens).

LEGISLATIVE SCHEDULE

Mr. STEVENS. Mr. President, may I inquire of the majority leader what the plan is now? We do have the Roth amendment and a series of amendments that are to be taken up and we are trying to work out time agreements.

Can the majority leader tell us if there is a possibility that we could avoid a Saturday session?

Mr. ROBERT C. BYRD. Mr. President, I had hoped that the Senate would be able to proceed on Saturday with this bill. There are only 2 weeks remaining after this week before the Christmas holidays.

But we cannot proceed with the bill unless we have managers on both sides. The distinguished chairman of the committee has indicated he would be very willing to stay here Saturday and manage the bill. The distinguished ranking member, for good reasons, could not be here Saturday. And that is where we stand.

I would not want us to come in and not make progress. We do have several amendments lined up now, although I do not believe we have time agreements on any after the Roth amendment.

Mr. STEVENS. That was my point, Mr. President. I would like to inquire, if we are able to work out some time agreement now so that the amendments that are listed in order may be disposed of in a reasonable period of time, if we can start working out some time agreement which would end at a reasonable period on Friday evening, if we could avoid a Saturday session.

Mr. ROBERT C. BYRD. I would like very much to proceed in that manner. I would hope we could get some time agreements on those several amendments that are sequentially ordered in.

Mr. STEVENS. So far as I know, no Member has indicated, as far as the amendments that are listed in order, that there is no chance of a time agreement on any one of those. Could we seek a time agreement on each of them so that we could sequence them with the time agreement now?

Mr. ROBERT C. BYRD. Yes, following the amendment by Mr. Roth.

Mr. STEVENS. The next amendment is the Bellmon-Dole amendment.

Mr. ROBERT C. BYRD. We go into the plowback amendments.

Mr. DOLE. Right.

The PRESIDING OFFICER. There are a series of amendments that could be in order.

Mr. ROBERT C. BYRD. There is a series of plowback amendments is there not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Beginning with the Bellmon-Dole plowback, could we get an agreement limiting it to not more than 1 hour on each of those, to be equally divided?

Mr. DOLE. The Senator from Kansas may not even take an hour. The Senator from Kansas is trying to work out, maybe, an overall plowback amendment so that we would not have four or five. We are in the process of doing that now. Maybe we could raise it later. Not that I am not willing to enter into an agreement. Maybe we will not have to do that. Maybe we can put two in one and save some time.

Mr. STEVENS. Will the majority leader, in asking the sponsors, meet with the chairman and the ranking minority member during the period of the Roth time so that before the Roth time has expired we can see if we can enter an agreement?

Mr. ROBERT C. BYRD. Let us do that.

Mr. LONG. Mr. President, I am willing to enter into a time agreement when it is something that Senators understand, when they know what the merits are and are ready to vote on them. Not only am I ready to do that, but I am ready to make agreements with Senators to take care of absentees, to pair absent Senators, if need be, so that if somebody must be absent it need not change the result of the vote.

At this point, I suppose I am willing to agree to anything within reason. But there are some things that are very controversial; some are not necessarily germane to the bill and some are very controversial and might be germane. Obviously, some of those things will require discussion.

Mr. ROBERT C. BYRD. All right. Let us attempt to get some agreement, then.

UNANIMOUS CONSENT AGREEMENT—S. 2076

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning at 10 a.m., the Senate proceed, for not to exceed 1 hour overall, to S. 2076. I would ask the time be divided between Mr. Church and Mr. Javits. This is an agreement, as I understand it, with Senator Helms. Am I correct?

Mr. STEVENS. The Senator is correct.

Mr. ROBERT C. BYRD. I have discussed the matter with Mr. Church and it is agreeable with him. This is Calendar Order No. 480. It can be found on page 21 of the General Orders Calendar. It is a bill to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances. I think all parties are agreed that we could proceed for not to exceed over 1 hour, overall.

After disposition of that measure, then the Senate would resume consideration of the windfall profits tax.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators, and I thank the Chair.

The text of the agreement follows:

Ordered, That on Thursday, December 6, 1979, at the hour of 10:00 a.m., the Senate proceed to the consideration of S. 2076 (Order No. 480), a bill to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances, and that there be a total of 1 hour debate on the consideration of the said bill.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

The PRESIDING OFFICER. The Chair now recognizes, with apologies, the Senator from Delaware (Mr. Roth).

AMENDMENT NO. 738

Mr. ROTH. Mr. President, I am calling up my amendment to place a cap on the total amount of taxes the Federal Government may collect.

Mr. President, this amendment is sponsored by Senators Domenici, Danforth, Dole, Armstrong, Boren, Boschwitz, Chafee, Cochran, Durenberger, Jepsen, Kassebaum, Simpson, Stevens, Thurmond, Wallop, McClure, Garn, Schmitt, Cohen, Humphrey, Lugar, Hatch, Helms, Laxalt, Warner, Tower, Melcher, Heinz, Hayakawa, and Percy.

Mr. President, may we have order in the Chamber.

The PRESIDING OFFICER. The Senator is correct. The Senate will please be in order.

The Senator from Delaware may proceed.

Mr. ROTH. Mr. President, our amendment will limit total Government tax receipts to 20.5 percent of GNP in 1981, 20 percent of GNP in 1982, and 19.5 percent of GNP in 1983 and beyond. These tax limitation numbers are consistent with the limits on Federal spending established as national policy under the Revenue Act of 1978, thus providing a balanced budget in fiscal 1981 and beyond.

In the 25-year period prior to fiscal 1979, taxes as a percent of GNP averaged less than 19 percent. Prior to last year, taxes as a percent of GNP had exceeded 20 percent only twice—during the 1969-70 Vietnam war surcharge—and taxes as a percent of GNP have never exceeded 21 percent of GNP.

Yet unless action is taken to limit Federal taxes, the tax burden will increase next year to nearly 22 percent of GNP—the highest level in our country's history.

This amendment is needed to prevent the massive tax increases facing the economy. According to Treasury and Joint Committee on Taxation estimates, total Federal taxes are scheduled to increase an estimated $1.5 trillion—not billions, not millions, but it is $1.5 trillion—over the next 10 years.

These percentage limits on Federal taxes are not unreasonable or irresponsible. It will not result in massive or drastic tax cuts. A 20.5-percent limit on Federal tax revenues in 1981 will merely prevent the Federal tax burden from soaring to unprecedented levels.

By allowing taxes to soar to nearly 22 percent of GNP, Congress will be attempting to balance the budget by allowing taxes to increase on the American people.

If taxes are allowed to reach the projected level of 21.9 percent, every taxpayer in this country faces substantial tax increases.

According to the Joint Committee on Taxation, the average family of four faces $926 in higher taxes between now and 1981.

A $926 tax increase on the working people of this country will not reduce inflation or balance the budget. This tax increase, however, will further reduce take-home pay, productivity, and savings, resulting in more inflation, a deeper recession, and higher levels of unemployment.

Under the current projections, Federal taxes will increase by 11 percent in fiscal 1980 and nearly 19 percent in fiscal 1981. In these 2 years alone, Federal taxes will increase an incredible $148 billion—$50 billion in 1980 and $98 billion in 1981.

Mr. President, limits on Federal taxes are needed to prevent the big steal facing the American people.

As I mentioned earlier, total Federal taxes are scheduled to increase $1.5 trillion over the next 10 years.

Inflation-induced tax increases will amount to nearly $600 million, social security tax increases amount to $300 billion the windfall profit tax will raise between $150 and $200 billion, and increased taxes from decontrol will amount to nearly $400 billion.

Mr. President, last week on the Senate floor the distinguished chairman of the Budget Committee said all of these revenues and more are needed to finance an expansion of big government.

That is exactly why this amendment is needed. I believe we must place a cap on Government tax revenues in order to stop the growth of Government expansion.

Mr. President, we cannot balance the budget by imposing enormous tax increases on the American economy. The only way to balance the budget is to reduce the tax drag on the economy to produce the economic growth that will produce the tax revenues to provide the money for necessary spending programs.

Mr. President, there are those who have argued that the only way to balance the budget is to allow Federal taxes to increase substantially. There are those who will claim that the Federal Government's budget needs are so great that we have to keep pushing up Federal taxes to unprecedented levels.

The chairman of the Budget Committee has said that the only way to continue our present spending policies and to balance the budget is to enact massive new tax increases.

But instead of worrying so much about the demands for more Federal spending programs I believe we must must redirect our thinking and start worrying about the needs of the private economy.

Rather than allowing spending to increase unchecked every year, we must examine and eliminate inefficient and duplicative Federal spending programs.

And rather than spending billions of dollars a year on unemployment and welfare programs, we must increase economic growth to create enough real jobs to reduce the need for these spending programs.

If we allow taxes to continue to increase, the economy will be thrown into a recession, millions of people will lose their jobs and the Federal budget deficits will increase.

Mr. President, by limiting taxes to 20.5 percent of GNP, taxes can be reduced by approximately $40 billion next year. The specific shape of the tax cut would be determined by Congress, and could include general across-the-board tax reductions, social security tax cuts, savings incentives, and capital formation measures.

This tax relief is needed merely to offset the inflation-induced tax increases facing the American people.

Mr. President, there are two paths we can follow.

We can try to fight inflation by thowing people out of work through an austerity program of allowing the tax burden to reach its highest level in history.

Or we can reduce inflation by increasing productivity and real economic growth through lower tax rates and less Government spending.

The high tax rates now imposed on the economy are choking off initiative, savings and investments—resulting in reduced production, higher prices, and increasing unemployment.

As I have already mentioned, unless taxes are reduced, average taxpayers will be paying almost $1,000 more in total taxes in the next 2 years than they are today.

The American people now pay more in taxes than they do on food, clothing, and shelter combined, and it is inconceivable the Federal Government would take even more.

Yet unless we act now, the Federal tax burden will increase to the highest level in this country's history next year.

Mr. President, I urge my colleagues to support this amendment.

Mr. President, at this time I yield such time as he desires to the Senator from New Mexico.

The **PRESIDING OFFICER**. The Senator from New Mexico.

Mr. **DOMENICI**. I thank my good friend from Delaware not only for yielding at this point but for the leadership he has shown and the understanding that he obviously has. He has consistently sought to impose some significant kind of discipline on the otherwise insatiable appetite of the National Government.

Let me say before I start with my prepared remarks, there are those who see the National Government and its programs as the great problem solvers for the American people, for our social problems, for our unemployment, for various and sundry things that we as a society feel ought to de done.

At the outset, I want to clearly indicate that I am one who feels the Federal Government has a very significant role in helping make this the best possible society for the American people. But I am not one who believes that we can continue to take from productive people, working men and women, small business, American industry, that we can keep taking from them the fruits of their productivity and respond by saying, "We are going to take care of things up here. We are going to find the problem and we are going to solve it."

The thesis of our approach is that for too long we have been trying just that, and we have ignored the reality that for the overwhelming number of Americans, for the long-term good of America and its freedom and its people, the work of the average American engaged in enterprise or working for others, that it is the productivity of those kinds of acts, the enthusiasm and incentives and ingenuity of that kind of activity which we choose to call the free enterprise system that gives us real opportunity to advance and cope with social problems and provide jobs.

We must come to the realization that it is time in American history to say enough is enough: Enough of that productivity of our people collectively being taken from them and brought to Government for it to redistribute and program to solve problems. Enough is enough and we have reached the point where, if we do not put a lid, put a cap, put a ceiling on that insatiable desire to take from our people and spend through Government, we shall destroy the very system that produces the benefits and fruits of growth, of earnings, of vitality that is the American people's present entitlement and the dream for generations to come.

I rise today because I think unless we do that, unless we assume that this is the moment to say to Congress, to Presidents, now and in the future and, yes, to the American people, we are going to mandate a limit to that; the rest of it, we are going to leave out there for you, you who produce it, in this accumulation called the gross national product.

I hope everyone will understand when my good friend from Delaware and I and others today refer to a percent of GNP, because that is a very precise commodity, something measurable. I hope that they will not misunderstand what it is. On today's productivity level, every time we speak about 1 percent GNP, let it be known that we are talking about $28 billion. So every time we talk about a half percent of GNP being available up here for us in Congress, rather than out there with the people, we are speaking of $14 billion; so that when we, later in the day, debate where we will be in 1984 without a limit based upon this bill before us and existing taxes that are going to increase, when we say we will be at 24.7 percent, what we are saying is that roughly 25 percent of the fruits of all America's productivity is being taken to Government. And if the right amount is 20 instead of 25, we are taking from our people and bringing up here to the Government five times $28 billion; in rough figures, $150 billion.

Suffice it to say that the good Senator from Delaware has clearly indicated our historic average. Even without trying to understand the effect of Government on growth, we have had the kind of accidental good judgment of keeping it around 19 to 19.5.

The reason we are here today is that we want everyone to know that, when we are finished with this new tax revenue-raising measure, the largest single tax-raising bill in history, coupled with deregulation and its flow through corporate liability, we are talking about $600 billion coming to the American National Government. That is without the social security tax increases that are built in. It is without the devastating effect of increased inflation on the tax structure, which is not indexed. So you get a pay raise, you move into a new bracket, pay more taxes, you have less left. Why? Because we take it away from you, the American people.

We thought it opportune to come to the floor with an amendment that clearly and explicitly says the budget process is an excellent one. A balanced budget is more than a dream. It should happen, it might happen. But we want to assure that, for those who have dreams of spending, those who have dreams that it is the Government that will solve America's problems and not a vital people, filled with energy and incentive and enthusiasm because we leave them with the fruits of their effort, we want to send a message that you cannot have more than the limits we are setting in this bill as a mandated ceiling on the percentage of GNP—that is, the productivity of our people.

Only a percentage of that prescribed in this mandate today will be available for problem-solving and social concerns and programs of the National Government.

As a coauthor of this amendment that would impose this statutory limitation on the percentage of the GNP that the Federal revenues could comprise, I am very pleased to be part of it. I take this extraordinary step because of three unalterable facts that have been becoming more and more clear, I lament that they are becoming more and more clear during this session of Congress.

First, this Congress failed to abide by the Nunn-Bellmon-Chiles-Roth amendment to the 1978 Revenue Act that calls upon us to achieve a spending level in fiscal 1981 that amounts to 20.5 percent of the gross national product for that year.

We went through a big exercise here, saying that is what it is going to be. And we are not there. Projected expenditures are going to exceed it.

Second, Congress has failed to achieve savings, reform, and legislative changes in the present programs that would allow us to reverse the spending rates of the seventies, the so-called reconciliation, which the good Senator from Nebraska, who sits in the chair, was such an advocate of—not because it is an instant cure, but, rather, is a prescription for maintaining the levels prescribed in the first concurrent resolution. It was saying, if you are going to be there, prove it and prove it by reconciling your actions with that declaration. We did not do that.

Third and most important, I have coauthored this amendment because I believe that it is the only way to limit the appetite of a Federal Government that has an insatiable lust for tax dollars. It is far more difficult to restrict specifically this appetite than it is occasionally to limit it generally. So we are going to limit it generally in the hope that all will agree that it is reasonable and necessary and that, when we come to our specific pets that we do not want, that we do not like, we shall have this limitation of a general nature, which I believe is the will of the compelling majority of the American people, to give us the backbone to act specifically and do what we must.

Let me now proceed with the time available to examine closer the details of these three reasons.

In 1978, the Senate approved, as an amendment to the 1978 Revenue Act, a historic amendment called the Nunn-Bellmon-Chiles-Roth amendment by our institution. That proposal would have imposed a limitation on the proportion of gross national product that the Federal Government spending could compromise. After conference with the House of Representatives, these percentages were set at 20.5 in 1981, 20 in 1982, and 19.5 percent in 1983 and thereafter.

For those who would argue that we should not tie our hands in advance, I merely ask, did we not tie our hands in advance on the spending side?

The Senate Budget Committee, working on a historic approach in the spring of this year, submitted a budget recommendation to the Senate that contained spending patterns that would have met, and indeed exceeded, the mandate of the Nunn-Bellmon amendment.

If we did not, why did we go through the exercise? Why did we herald the breakthrough I have just described of limiting the expenditures in the out years?

The Senate Budget Committee, working on a historic approach in the spring of this year, submitted a budget recommendation to the Senate that contained spending patterns that would have met and, indeed, exceeded the mandate of that amendment.

The Budget Committee also submitted an alternative budget that would have allowed us to forego balancing the budget for one year, while providing for a tax cut in fiscal year 1981 and still meeting the mandate of the Nunn-Bellmon amendment of 1978. However, in conference with the House of Representatives, we slipped from these spending levels. I called the first concurrent resolution historic, because the Senate-reported version actually cut spending below current policy.

For the first time, we said that business as usual is not good enough, and we came in below it.

That is, we had devised a spending path that kept overall Federal spending below the anticipated rate of inflation and below the traditional rate of increases that we had come to expect during this decade.

However, in the course of this year, despite the diligent efforts of the Budget Committee, we lost the fiscal restraint of the first resolution. Spending for fiscal year 1981, under the second concurrent budget resolution passed by the Congress, will reach 21 percent of the anticipated gross national product. While a balanced budget will be achieved in that year, the balanced budget will be reached by a higher level of taxation than many of us think is healthy for our economy.

As stated by the principal author of this amendment, we need to return more to the hands and pockets of working men and women. To have a balanced budget at a level of take that is too high is, indeed, a sham. We must give the American people part of what they deserve and are clamoring for, and not take away what they are entitled to, and need, and should have, if we are to keep alive their enthusiasm, and enterprise, and desire to get ahead, to work, and to produce. It is a sad fact, but a fact nevertheless, that we will not reach the 20.5 percent of GNP limitation on Federal spending in fiscal year 1981 that the Senate and the Congress as a whole have endorsed as Government policy under the 1978 Revenue Act, that so eloquently and with such unanimity in 1978, by Senators NUNN, BELLMON, ROTH, and CHILES, and others, so prescribed.

I must point out that our failure comes despite the effort of the Senate Budget Committee, under the leadership of Chairman ED MUSKIE. His has been a strong voice for fiscal restraint, but one which the Senate has too often chosen to ignore. The amendment we offer today in no way is to be construed as an attack on the efforts of the Budget Committee, of which I am a member, nor a repudiation of the work of Chairman MUSKIE nor ranking minority member (Mr. BELLMON). Our amendment is a rebuke, if it must be called that, to the Congress. It is our way of saying: "you have shown an inability to control your appetite for tax dollars, you have shown that you will not take the steps needed to cut Federal spending, and you now force us to mandate through statute a limitation on your appetite."

This brings me to an expansion of my second reason for coauthoring this amendment at this time. The Senate Budget Committee, in its first concurrent budget resolution, asked for a number of savings initiatives from individual committees of the Congress. Many of those savings, which are detailed in the report of our committee on the second concurrent budget resolution for fiscal year 1980, have not been achieved. The unprecedented turmoil surrounding final enactment of the second concurrent budget resolution for 1980 persuades me those savings will be achieved in the future only if real, statutory pressure is exerted on the Congress.

As Congress has shown, in my opinion, an unwillingness to face up to this task, itself willing to ignore the spending limitations of the Nunn-Bellmon amendment, so it has shown itself unwilling to reform legislation, institute savings, and truly crack down on fraud and abuse. We have testimony from Elmer Staats, Comptroller General of the United States, that as much as $50 billion could be saved through an aggressive savings and reform program. Yet, our efforts in this area have been paltry. We can expect reform, change of basic legislation, and real efforts to end waste only if we force priorities to be made—in short, only if we limit the resources available to the Government and its agencies.

We come now to my third point, hinted at in the remarks I have just made. It is apparent that Congress will ignore spending limitations, if resources are there to be spent. It is apparent that Congress will wink at waste, if the resources to cover such waste exist. Thus, the fundamental fiscal tool in our battle for restraint must become a tax limitation, such as the one Senator ROTH, myself, and others, advocate today.

As the chairman of the Budget Committee so eloquently pointed out last week, if we cannot restrain Federal spending in the next decade, we will need not only the vast proceeds from the windfall profit tax and related taxes to cover the bill, but we will need even more revenue-raising measures to meet the demands of this gargantuan Government. Despite the valiant efforts of the Senate Budget Committee, it appears that the Congress is unwilling to cut the growth of Federal spending below the inflation rate. As Senator MUSKIE noted, if we fail to do that, we will not achieve the balanced budget we wish until 1987 or 1988.

Also, we are unwilling to cut the growth, to make tough decisions addressing the basic issues of Federal spending. We are not even willing to cut it below inflation rates, current policy.

And, if we continue the spending increase rates of the 1970's, we will not achieve balance at any time in the 1980's. Thus, we must reluctantly conclude that the failure to exercise spending restraint—our pervasive inability to say "no"—requires that we limit the resources we have at our disposal to spend. If we cannot get the patient to lose weight on his own, then we will have to make his clothes smaller and leave to the patient the decision on whether to lose weight and wear clothes, or go without.

As we debate this bill, the largest tax bill in the history of the Republic, let us keep in mind what history tells us. Every time we have had a huge influx of revenues, to fight a war, for example, we have set in motion the perpetuation of a larger and larger Federal Government. We have never gone back to the spending and revenue levels that prevailed before the war. We have always found a way to spend those revenues. And, we will find a way to spend all of the revenues from this tax bill.

Under the Roth-Domenici amendment, we would provide for a tax cut of about $40 billion in fiscal year 1981. This would, I think we will hear it argued, bring about a deficit in that year. That is probably true, even using dynamic economic analysis. However, it is only true if we refuse to cut Government spending by that amount. If we were to cut Government spending, dollar for dollar, to match the tax cut, we would have the balanced budget we all wish, and we would fulfill the mandate of the Nunn-Bellmon amendment. I believe that such cuts in spending are needed and that adopting our amendment today is the only real chance we have to reach the lower levels of Government spending that Congress has said is the fiscal policy of this Government. It is a Draconian amendment, some might say. I respond that it is always painful to keep commitments that you have made when competing interests abound. But, we must take this painful first step toward fiscal restraint; we must accept the medicine we have prescribed.

Why is this the time we must begin this difficult process of cutting spending and taxes? Because we are nearing an intolerable level of taxation this year, and we will increase that level by an order of magnitude during the next decade. For example, estimates from the Joint Committee on Taxation show that more than $1.4 trillion in new taxes will be imposed on the American economy during the next decade. Included in this total is almost $600 billion in what I have called the inflation tax—the bonus in taxes that government gets by allowing inflation to run rampant. Another $300 billion will come from new social security taxes, and the rest from a combination of decontrol and windfall profit taxes.

My calculations indicate that under current tax law, as of August 1 of this year, we will have a level of taxation that represents 21.2 percent of estimated gross national product in fiscal year 1981; 21.9 percent of GNP in fiscal year 1982; between 22.5 and 23 percent of GNP in fiscal year 1983; and between 22.5 and 23 percent of GNP in fiscal year 1984. These levels of taxation far exceed the less than 19 percent proportion of GNP that taxes have comprised during the past 20 years. We are increasing the role of government in our economy, despite all of the advice of economists that such a large government presence is counterproductive and accounts for the stagflation that afflicts us now.

Under our amendment, we would mandate that the percentage of GNP that taxes could comprise in fiscal year 1981 would be 20.5 percent, 20 percent in fiscal year 1982, and 19.5 percent in fiscal year 1983 and beyond. These percentages precisely mirror the percentages of GNP that spending can comprise for those years under the final version of the Nunn-Bellmon spending limitation amendment. We would achieve a balanced budget, cuts in the overall level of government in our society, and be able to have a substantial return of money to the taxpayers. Our estimates are that we could anticipate approximately $89 billion in tax cuts in fiscal year 1982, between $120 and $140 billion in fiscal year 1983, and about $150 billion in fiscal year 1984. Precise numbers are, of course, difficult to devise because we don't know with certainty what the GNP growth rate will be and what rate inflation will reach. That is why we have chosen the percentage route, rather than a series of specific tax cut numbers, although we could have easily devised the latter and developed an amendment mandating cuts of those magnitudes.

The people want less government, not more; they want less spending, not more; they want less taxes, not more. We have a chance to give the people what they wish, and at the same time to take the advice that so many economists have given us. We can free the economy from the shackles of ever-growing taxation and begin to allow our system to produce the goods and services we need for the future. Or we can enact this new tax bill—a tax bill that will raise as much money as the government raised and spent for all of the years 1789 through 1939, cumulatively—and add another burden to the American taxpayer. To those who believe that we will fuel inflation by a tax cut in fiscal year 1981, I would like to note the remarks of General Electric chairman, Reginald H. Jones, yesterday to a tax conference in Chicago. Jones is chairman of the tax issues committee of the Business Roundtable and a leading economic thinker among the Nation's business community. He stated that a tax cut was needed, according to press accounts, to give taxpayers relief from inflation and to spur business productivity. He suggested a tax cut in the range of $25 billion in 1980. Under the amendment we suggest, we would have a tax cut of $40 billion in fiscal year 1981, which begins October 1 of next year.

And, to those who believe that such an overall taxation limitation as that we suggest would cause irrevocable harm to the budget process, I must make two points First, the situation has deteriorated so bady that yesterday the House Budget Committee Chairman, BOB GIAIMO, moved for a spending limitation statute. Citing his frustration at the budget-busting antics of the Congress, Chairman GIAIMO has concluded that an overall spending limitation would strengthen the budget process, not weaken it. Thus, the House is belatedly adopting the tack that the Senate took 2 years ago with the Nunn-Bellmon amendment. And, leading the fight for the limitation is the Budget Committee itself.

Second, I must respond that the jurisdiction and the duties of the Budget Committee, or of other committees within the Senate—to set policy, to make priority decisions, to pursue social goals—will not be hampered by our amendment. Growth will still occur within the Federal budget, but growth at a lower rate. Revenues will still grow, but at a slower rate. Indeed, by imposing such a tax limitation the power of the committees to make priority decisions, and to say "no" to requests that are out of line, will be enhanced. I conclude that our amendment will be a boon to the budget-conscious elements in this Senate and a boon to the committees concerned about spending and taxation.

I ask unanimous consent at this time, Mr. President, that the entire article on Chairman Giaimo's spending limitation proposal, which appeared in the Washington Post this morning, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Spending Limits Supported

(By Art Pine)

The chairman of the House Budget Committee, frustrated over congressional budget-busting, threw his weight behind legislation that would limit federal spending and tax-break programs to a percentage of the gross national product.

The move by Rep. Robert N. Giaimo (D-Conn.) was expected to give added impetus to the legislation, which is scheduled for consideration later this week by the House Rules Committee. Sponsors say a floor vote now is likely early next year.

Giaimo's action in embracing the legislation was aimed at repairing the crippled congressional budget process and at heading off a possible constitutional amendment that would require Congress flatly to balance the budget.

The chairman's proposal parallels a bill by Rep. James R. Jones (D-Okla.), which would force the lawmakers to hold outlays each year to a specified percentage of GNP, which is the market value of all goods and services the nation produces.

However, Giaimo's bill also would impose a similar percentage limitation on tax expenditures and federal loans and loan guarantees, which have been proliferating in recent years in part as a device to get around spending ceilings.

A tax expenditure is a tax credit or other tax break aimed at a particular industry or group rather than all individuals or businesses. Examples include the deduction for home mortgage interest and the business investment credit.

House Budget Committee estimates show tax expenditures now are draining $169.8 billion a year in revenues that otherwise would be available for other programs, while loans and guarantees now total $391 billion—both up from last year.

Giaimo's legislation would limit the combination of overall spending and tax expenditures to 28.5 percent of GNP in fiscal 1981, 28 percent in fiscal 1982 and 27.5 percent in fiscal 1983.

The specific limit for federal loans and loan guarantees would be established separately by Congress as part of its annual budget resolution, which now sets targets for spending and tax receipts. The procedure would begin in fiscal 1982.

The portion of Giaimo's bill dealing with tax expenditures and loan guarantees was drafted by Rep. Norman Mineta (D-Calif.), who heads a Budget Committee task force that has recommended similar legislation.

Jones, whose spending-limit measure now has 50 cosponsors in the House, yesterday endorsed Giaimo's version of the measure in principle, but withheld comment on the specifics until he has studied them further.

In announcing his proposal yesterday, Giaimo told reporters he had been frustrated by the failure of House members to hold spending down tightly enough in the last budget resolution, and was convinced the process needed strengthening.

Giaimo's sponsorship of the Jones and Mineta proposals yesterday marked the first time that the Democratic congressional leadership has shown support for such a move. House leaders want to head off a flat constitutional amendment.

However, it was not clear immediately whether the bill would win the support of other key congressional figures, including Sen. Edmund S. Muskie (D-Maine), Senate Budget Committee chairman, and Sen. Russell B. Long (D-La.) of the Finance Committee.

Giaimo said the ceiling set by his legislation limiting outlays and tax expenditures to 28.5 percent of GNP in fiscal 1981 compared to 28.4 percent, for fiscal 1980. Federal outlays totaled less than 19 percent of GNP in the 1950s and early 1960s.

Although Muskie was not available for comment yesterday, he has opposed in past years any measures that employed a formula to decide limits on spending. And Long has complained that the budget process already is impinging on his committee.

Giaimo said he decided to support the Jones-Mineta approach after the budget resolution became embroiled in a stalemate this summer and autumn between liberals and conservatives who were fighting over defense spending.

The two sides finally worked out their differences, but only after delays that held the fiscal 1980 budget resolution some two months past its Sept. 15 deadline. The fracas was regarded as a setback for the budget process.

Giaimo, Jones and Mineta were joined yesterday in their support of the legislation by Reps. Leon Panetta (D-Calif.) and Ralph Regula (R-Ohio). Regula said he expected strong Republican support for the measure.

Mr. DOMENICI. Mr. President, it seems to me that we can make economic arguments justifying return of dollars to the American economy, to people, to private sector, instead of references to the Federal appetite and to the budget. I hope in the course of the day we will have an opportunity to do that.

Mr. President, I thank Senator Roth for yielding.

RECESS UNTIL 2:45 P.M.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, by previous order, the Senate is in recess.

The Senate, at 2 p.m., recessed until 2:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Bayh).

RECESS UNTIL 3 P.M.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate stand in recess until 3 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 2:45 p.m., the Senate recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Long).

The PRESIDING OFFICER. As the Senator from Louisiana, the Chair suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Stewart). Without objection, it is so ordered.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the amendment No. 738, offered by the Senator from Delaware.

Who yields time?

Mr. DOLE. Mr. President, I yield myself time.

I understand that there will be a point of order raised against the amendment. I shall not get into that at this point.

The PRESIDING OFFICER. The Chair advises the Senator that the time will be taken from the time of the proponents.

Mr. DOLE. Mr. President, my distinguished colleague from Delaware (Mr. Roth), deserves credit for again focusing our attention on the mounting tax burden faced by our citizens, and I am pleased to be a cosponsor of this amendment. The Roth amendment would limit total Government tax receipts to a declining percentage of gross national product over a period of 3 fiscal years. The percentage limitation would be 20.5 percent of GNP in 1981, 20 percent in 1982, and 19.5 percent in 1983. The limitation would apply to all tax receipts of the Federal Government, so that we would have ample flexibility in choosing where to reduce the tax burden.

This is certainly not a drastic measure—not nearly so drastic as taxing $185 billion out of a single industry if, in fact, that is the final figure agreed to by the Senate.

I am convinced now that the final figure will be much lower than $185 billion because, having put to rest the efforts of the distinguished Senator from Vermont (Mr. Leahy), in the opinion of this Senator, the majority of the Senators probably feel we imposed enough or too much or, at least, an adequate tax on the oil industry. As I am informed, I think the tax now, the Senate Finance Committee tax, plus additions on the Senate floor, are in the neighborhood of $156 billion. There may be other efforts to increase the tax through a minimum tax. The Senator from Kansas would suggest that imposing a minimum tax on categories which have been exempted on the floor and in the committee would, in effect, undo what we have done in an effort to increase production in this country.

The Roth-Domenici-Danforth amendment is not of a drastic nature compared to what we are doing with reference to increasing revenues.

Until 1979, taxes in the postwar period averaged less than 19 percent of GNP. With this amendment, we would control the overall growth of taxes and limit them to a figure that approximates the historical average. That is a perfectly reasonable and achievable goal, and a necessary one. In fact, it is difficult to argue with it.

There can be little doubt that rising taxes are stymying efforts to increase productivity, encouraging the growth of an underground economy, and discouraging individual savings and investment. Slowly but surely, the consensus appears to be growing in Congress that spending restraint is essential to our long-term economic well-being. We must also recognize that limiting taxes is a vital necessity if we want real, stable economic growth. Reducing the size of the Government sector—the percentage of our gross national product absorbed each year by the Government—must be our highest priority.

I also suggest that in connection with this amendment and with the following amendments that deal with either production tax credits or so-called plowback amendments, that there is a difference of opinion in the Senate, particularly with reference to how much the industry should be taxed and what is an appropriate tax.

Some would say there should be no tax at all, others of us would say there should be some balance between the amount of tax and, hopefully, leaving enough incentive for those engaged in the business to go out and find more oil and gas, and other alternate sources.

We are concerned now with the proposal by Senator ROTH, which would impose a cap on the level of Federal taxation for fiscal years 1981, 1982, and 1983. By limiting tax revenues to 19½ percent of gross national product, the Roth amendment would begin to reverse the tendency of the Federal Government to grow continually at the expense of the private sector. There is no reason not to plan now for tax relief for the American people; particularly when we are experiencing both record-high inflation and the prospect of an economic downturn. We have ample time to prepare to meet the 20.5-percent goal for fiscal 1981.

I suggest that Senator ROTH and others calling attention to these problems through this effort at least focus some debate on what we might do for the American taxpayer.

There has been, I think, a difference of opinion on what finally happens, who will finally pay the $500 billion probably raised by the so-called windfall profit tax, through windfall profit taxes, increased revenues from increased income taxes, and Federal royalty payments.

There has been no discussion on how we will spend the greatest part of that money. It seems to me that many of us believe if we tax the company, they will find some way to pass the tax on to the consumer. So many of us are not so certain it is a $500 billion tax on the industry, though it should work that way, but some of it may find its way as an additional burden on the American taxpayers.

But, in any event, in the proposal of the Senator from Delaware, in the Senator's continuing fight to be of some assistance to the downtrodden American taxpayer, perhaps we can properly debate and discuss what will happen if, in fact, we are correct and the revenues do reach $500 billion over the next 10 years, and some indicate that is a very conservative estimate.

So I hope in the discussion of this amendment, and even some of the others, that we keep in mind what Senator ROTH has been trying to do, not only in this amendment, but a number of efforts throughout the years.

I support the approach of limiting taxation as a percentage of GNP—I myself have introduced legislation, S. 13, that employs the same concept. I have also proposed a constitutional amendment, Senate Joint Resolution 5, that would limit Federal taxing and spending to 18 percent of gross national product by reducing the Federal Government's share of GNP over a 3-year period.

Limitations such as these are not being proposed in order to punish the Government, or to win easy political points with a public that is weary of the burden of taxes and inflation. These restrictions are being suggested because Congress has demonstrated its unwillingness to take the long view and restrain the growth of Government. Our day-to-day spending decisions continue to add up to a deficit that no one professes to want, even though tax revenues rise automatically each year because of inflation. The size of Government continues to grow, surely and steadily, year after year. Yet no one wants to take credit for this growth—we all lament it, but we do not come to grips with it.

That is why the distinguished Senator from Delaware (Mr. ROTH) is proposing this amendment, and that is why many of us in Congress have proposed similar measures. We have two goals in mind. One is to cut back on the growing tax burden, or at least to bring it under control. By doing so, we can once again have productive and stable economic growth. When people keep more of the fruits of their labor, they will have more reason to be productive themselves. They can save or invest or spend as they choose, and the economy will be responsive to their decisions. The trend until now has been all the other way, and that trend must be stopped, if not reversed.

The second goal we are aiming at is to limit the growth of Government and force the Congress to set priorities in making spending decisions. By controlling the total tax revenues available to the Government, we will need to choose among conflicting demands for spending public money. Once we must make hard choices, the unending expansion of every Government program or department cannot continue. The people want the Government to get off their backs, and this is an excellent way to begin to meet that demand.

Mr. President, we do not suggest that the Roth amendment is the whole answer. It is a beginning. We must also work to make a balanced budget the preferred fiscal position of the Federal Government. Otherwise, the hidden tax of inflation, set in perpetual motion by rounds of deficit spending, will undermine the good work that we can do through tax limitations. We may need to act through the Constitution in order to provide the necessary restraint on the budget. But we cannot and need not wait for constitutional action in order to begin moving in the right direction. The Roth amendment shows us the path we must follow, and it is time to act.

Mr. President, one of the principal reasons we need a limitation on taxes is that inflation pushes people into higher tax brackets. Everyone pavs a higher rate of tax whether or not they have made real income gains. These hidden, automatic tax increases are unfair and represent the failure of Government to take responsibility for setting tax policy. They also account for the study growth of the governmental sector at the expense of the private sector. Senator ROTH deserves great credit for proposing an amendment that focuses our attention on the ever-rising level of taxation, and I support him for that reason. But we cannot wait much longer before addressing the underlying problem, which is the failure of the tax system to take account of inflation.

Together with the distinguished Senator from Colorado, Mr. ARMSTRONG, I will introduce an amendment to reform the income tax so that its progressive feature would not cause automatic tax increases. The amendment is based on the Tax Equalization Act, S. 12. It would adjust the tax brackets, the zero bracket amount, and the personal exemption according to the rise in the Consumer Price Index. I expect a vote on the Dole-Armstrong amendment during the course of floor debate on the windfall profit tax.

Mr. President, the income tax brackets were designed to measure real income, and the Tax Equalization Act would restore their ability to do so. I take this opportunity to remind my colleagues of this issue because it is an issue that will not go away. Inflation threatens to destroy the progressive structure of the income tax unless we act to correct the system. We cannot lessen our resolve to halt inflation, but we cannot continue to allow our taxpayers to pay a tax penalty because of our failure to control inflation. I will address this issue in more detail when the Dole-Armstrong amendment is brought up.

The amendment offered by the distinguished Senator from Delaware is an essential and appropriate step in the right direction, and I applaud him for it. I strongly support the amendment, but I know the Senator would agree that it is the beginning of the long-term effort we must make to provide a solution to the problem of inflation and taxes. We should support Senator ROTH's worthy suggestion, and then implement it by moving for real, long-term tax reform. We should act now to limit the level of taxation. I hope that the limit will, in part, take the form of bringing a halt to the inflation tax penalty in the personal income tax.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Does the Senator wish the time to be divided equally between both sides?

Mr. ROTH. Yes. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. ROTH. I yield the Senator 5 minutes.

Mr. PERCY. Mr. President, last year I cosponsored the Kemp-Roth bill—Roth-Kempt on this side of Congress—and I commend my distinguished colleague for what he has done to mobilize Congress to arrest one of the most dangerous trends I have seen in America, one which endangers our whole future. For several years we have needed a program to consciously try to reduce the burden of debt. We need to reduce the trend of an ever-increasing share of our national wealth going into government coffers, because as we go, so go the States and local communities.

In the past 15 years—with the exception of fiscal years 1969 and 1970, when a tax surcharge was imposed to pay for the Vietnam war, and in fiscal year 1980—taxes have not risen above 20 percent of GNP. Mr. President, I ask unanimous consent that a chart showing the recent tax levels be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Budget receipts as percent of gross national product

Fiscal year:	*Percent of GNP*
1965	17.8
1966	18.1
1967	19.3
1968	18.5
1969	20.8
1970	20.2
1971	18.5
1972	18.8
1973	18.8
1974	19.5
1975	19.3
1976	18.5
1977	19.5
1978	19.7
1979 (estimate)	19.9
1980 (estimate)	20.6

Mr. PERCY. As taxes have gone up steadily in the last 5 years, so has Federal spending. In addition, spending by communities and the States has gone up, to the point now that we are spending a third or slightly more just on Government. Is that correct?

Mr. ROTH. Yes, that is correct.

I am concerned—as is the distinguished Senator from Illinois, who has been very helpful in this effort to do something about spending and revenue—that, in a sense, it seems that the Senate is Alice in Wonderland. We have been talking about how much revenue we can raise, at the very time we are on the verge of probably the most serious recession of the 1970's. I am very concerned that very little attention is being paid, during this debate on windfall profit tax, as to the direction in which this country is going.

I commend Senator PERCY for the interest he has shown in this problem and his insistence that we try to bring the Federal budget under control.

Mr. PERCY. I thank my distinguished colleague. As he knows, earlier this year I joined him in an attempt to reduce taxes specifically, and I am pleased to be a cosponsor of the pending amendment.

The most rational approach we can take is to look at the gross national product and simply say that we are going to mandate a limit on taxes, because this is the way to control spending.

I have supported a lid on spending, also. We are aiming toward a balanced budget, and that is what the budget process has helped move us toward. The distinguished Senator from Delaware and I have worked on budget reform for a long time. His distinguished predecessor from Delaware, Mr. Williams, and I had the privilege of working on this many times, and we enacted a bill mandating that President Johnson should cut the Federal budget by $6 billion. That was one of the first real attempts to say to the executive branch that we would mandate a ceiling. That principle now has been adopted in the budget control process that came out of our Committee on Governmental Affairs.

The amendment before us enables us to look ahead, to put a percentage figure on the amount of revenue the Federal Government will take out of the gross national product. It will limit tax revenues to 20.5 percent of GNP in 1981, 20 percent in 1982, and 19.5 percent in 1983. It will set an example for State and local communities which have for too long followed the Federal example of more taxes and more spending.

In effect, this is proposition 13, so far as we are concerned. This is our answer to proposition 13, and we had better listen to what the voters of California, Illinois, and many other States are saying. This is our answer; this is our way of doing it. This is a way that can and will work. It is a conservative, gradual approach. It is not a meat-ax approach. It enables us to look forward, for as the gross national product increases, the amendment will allow the dollars spent on the Federal budget to increase, to take into account a larger economy.

However, we should hold to a percentage.

Under the Finance Committee's windfall profit tax bill, for example, the percentage of GNP taken for taxes will jump to 21.7 percent in fiscal year 1981 and then decline to 20.8 percent by fiscal year 1984. What are we telling American taxpayers then? We are telling them that in 5 years, their tax burden may decline to a point that is still more than they have ever paid in the last two decades.

To this trend, I say no.

I think that any time we have over 20 percent coming out of our gross national product for Federal taxes, we are in trouble. That is why we have been in trouble, for so many years—deeper trouble every year, as we live beyond our means and put more and more into the public sector. The Roth amendment puts us back on the right track.

As a Republican not known for conservative principles when it comes to human rights and human needs, for example, I say to those who are in need that the cruelest enemy of all is inflation. The thing we can do about inflation is to bring down Federal spending on a gradual basis.

Take a look at what has happened to Great Britain. The whole nature of that society and other societies that moved toward socialism has changed because of one factor—the high percentage of gross national product earmarked to the central government against the private sector. When that approached 40 percent in Great Britain, that broke the economy's back, and put them on an irreversible trend that the Thatcher government now is attempting to reverse. But they find it extremely difficult, once they have become used to this.

We can see beyond the U.K. another country that has gone all the way—Sweden, where there is a disincentive to accomplish anything and where there is no real inclination by any political party to seriously roll back the tremendous tax burden. This is the road we could go, the same road that Great Britain and Sweden have trod. Is that the kind of country we want to have? Where there is a disincentive for accomplishment and a welfare state where apparently everything is free but in the end you realize you pay for it in the nature of the very society you have? The dynamism is taken out of life and the economy. What we have to have, to fight inflation and remain internationally competitive, is a dynamic economy.

So really what my distinguished colleague, Senator ROTH of Delaware, is trying to accomplish here is to put dynamism back in the American economy and do so on a gradual basis. His amendment would just simply say we are going to find a way to do privately many of the things that we are trying to do publicly today because we can do them at much less cost.

If we agree to this amendment and it is accepted by the House of Representatives, we will have taken a giant step forward just as we did last year in reducing the capital gains tax from 49.1 percent to 28 percent at the top levels. What has happened? In less than 1 year common stock equity financing increased 500 percent, responding to that tax incentive.

If we can limit tax revenues we can increase amortization and depreciation, we can have real incentive for productivity, and we can take a giant step forward in revitalizing the American economy.

The tax cuts I will support to reduce the burden of taxation on U.S. taxpayers are quite specific. Let me just mention a few of the cuts we need and will have a chance to vote on in the days ahead.

In a short while we will vote on the modified Bentsen-Percy small savers amendment, which will provide small savers and investors with an exclusion for up to $200 in interest or dividend income.

All 41 Republicans have joined in support of the Capital Cost Recovery Act that would change the depreciation rules for business and encourage faster write-offs and installation of more modern and efficient equipment.

I am also a cosponsor of Senator DOLE's indexing amendment, which will be offered to this tax bill today or tomorrow. It will eliminate "bracket creep" for individuals and will reduce the most inflationary item in the average taxpayer's budget: Federal taxes.

Senator ROTH's amendment will move us in the direction of less taxes and a healthier economy.

I commend my distinguished colleague. I trust that our other colleagues in the Senate will see the light and will move in this direction. If they do so I think they will have gotten the message. The people of Illinois have sent a clear signal this is what they want. I am supporting it and backing it. I am simply fulfilling a pledge that I made to my constituency last year. I think that same desire exists on the part of every other constituency represented in the Senate.

I am proud indeed to associate myself with my colleague in this amendment.

Mr. ROTH. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be equally divided between both sides.

The PRESIDING OFFICER. Is there objection?

Mr. MOYNIHAN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I yield 10 minutes to the distinguished Senator from Missouri.

Mr. DANFORTH. Mr. President, I have to say to the Senate that I have a sinking feeling that in our deliberations on the windfall profit tax we are straining at gnats and swallowing camels. I have a feeling that we are concentrating on matters that relatively speaking are details, matters which are of concern to some people but which in terms of major economic consequences are less significant than other matters which should be of real concern to our country and certainly to the Senate.

We go on for literally a week debating what the tax rate should be on tier 2 oil. We go on at amazing lengths arguing among ourselves on precisely what the formula should be for phasing out the windfall profit tax.

We debate the details of this specific bill looking toward a bill which will probably produce somewhere in the neighborhood of $185 billion over a decade.

Mr. President, in this fixation on the windfall profit tax we have lost our ability to look at the big picture. We have lost our ability to look at the economic consequences of what is going to happen to the United States as a result of economic policy and tax policy as a whole.

It is well known that for every percentage point inflation goes up Federal revenues go up a percentage and a half. This is the so-called ratcheting effect of inflation on tax rates. It is also well known that we have already legislated a substantial increase in social security taxes. What is less well recognized is the fact that by virtue of the decontrol of oil prices the Federal and State revenues will increase substantially beyond the amount of $183 billion which is the probable amount that we will come out with in the Senate on the windfall profit tax bill.

Federal revenues will be increased by two ways: Federal revenues will be increased because decontrol of oil will increase the royalty receipts for the Federal Government for oil produced on Federal lands. Federal receipts will also increase by the fact that the increased revenue for the private sector produced by the decontrol of oil will be subject to Federal income taxation. So the combination of increased Federal revenues from income taxation and from royalty income will be, according to the Treasury Department, $358 billion between now and 1990, $358 billion of additional Federal revenue resulting from decontrol over and above the $185 billion which the Senate will probably have in its windfall profit tax bill.

Mr. President, these computations, $185 billion from the windfall tax, $358 billion from income tax and royalty income, are made on the assumption that oil prices will increase beginning with a base of $30 at a rate of 2 percent more than the rate of inflation. That is a very conservative assumption. But even on the basis of this very conservative assumption, Federal revenues will increase by $183 billion plus $358 billion.

One point that has gone almost totally ignored in our discussions of the windfall bill are that in addition to the increased revenues for the Federal Government, State revenues will go up by an estimated $128 billion over this same period of time. Again the $128 billion estimate for increased State revenues is based on the assumption of oil prices going up at 2 percent over the rate of inflation, a very conservative assumption.

So, when we add up the Federal windfall profit tax, the Federal revenues from income taxes and royalties, and the increased State and local revenues by virtue of decontrol, we come out with a total of $671 billion additional governmental revenues between now and 1990.

That, I would suggest, Mr. President, is a very substantial increase in the total tax burden, Federal and State, on the American people.

Now, if the subject of economics and economic growth is at least in part—and I think in large part—an analysis of the relative sizes of the private sector and the governmental sector, I would suggest that the increased revenues for the public sector by virtue of decontrol alone of $671 billion over this decade are something to be reckoned with, and if we ignore this situation, then we are looking for the possibility of what I would consider to be a truly wrenching situation for the American economy, and by a wrenching situation I mean a situation in which growth will be virtually impossible, and in which people's standard of living and child opportunities will be reduced very, very significantly.

Mr. President, this is especially the case, most particularly the case, with the Northeast and the north-central part of our country. These are the areas which are going to be very, very hard hit. The $128 billion of increased State and local revenue is concentrated in the oil-producing States. Eighty-three percent of that increase will go to but four States, Alaska, Texas, Louisiana, and California, 83 percent of the $128 billion.

So my concern is not only with the increased weight of taxation on the private sector of America, but the fact that you will have this tremendous geographical movement in America, this acceleration of the movement of economic opportunity from the Northeast and north-central part of our country to other parts of the country.

I believe this is going to be a matter—what we are seeing being done here is a matter—that is going to be of real economic concern to most of the United States.

I am pleased to be a cosponsor of the amendment offered by the Senator from Delaware. I think it is a very important step forward in viewing the windfall tax not in splendid isolation but as a portion of a total economic picture, which picture, I would suggest, Mr. President, is very, very dark.

Mr. ROTH. Mr. President, will the Senator yield? I commend the distinguished Senator for his extraordinarily perceptive statement. I think the one thing that is passing unnoticed is the fact that we are having the largest grab of additional taxes during the next 10 years that has been witnessed at any time in the history of this country.

I think it is important for the American people to understand that roughly $1.5 trillion additional dollars are going to be taken by the Federal and State Governments from the private sector. I want to emphasize that. $1.5 trillion are going to be secured in additional taxes during the next 10 years.

Why is that important? Mr. President, that is important because what it really means is if we permit this policy to go unchecked, there is going to be no growth in the private sector, that the American people do, indeed, face a downward slide in their standard of living.

I would just like to point out that in addition to the windfall taxes, whether they are $145 billion or $185 billion or whatever figure it is—and I have been supporting such a tax, in fact the distinguished Senator from Missouri and I have supported in the Finance Committee a higher tax on windfall profits, for example, in the first and second tiers than proposed by the President of the United States, so it is not a question that we are opposed to a windfall profits tax—what we are concerned with is how this revenue is going to be used.

The distinguished chairman of the Budget Committee last week made a very eloquent case that indeed this was a revenue-raising measure, that this revenue should be raised to support existing Federal programs, to support new programs. But nowhere, practically nowhere, in that discussion did anyone center on the point of how we are going to get the economy to grow.

I happen to think the American people are at a crossroad. Yes, we can go the route that was proposed last week by the chairman of the Budget Committee, taking billions of dollars more out of the private sector, out of the private sector for public spending, but that is not going to do anything about stagflation, that is not going to do anything about productivity. In fact, it is going to make certain that this country goes downward instead of upward.

In the next 10 years, because of inflation alone, the working people of America are going to be paying roughly $600 billion additional taxes over what they are paying. We have already built into the social security tax increase a sum of $307 billion. I have already mentioned the windfall profit tax, how much that is going to amount to. I do not know whether it is going to be $185 billion, $145 billion, or something above $200 billion, but it is going to be very substantial.

It is also a fact that the Federal Government is going to fall heir to a major windfall of $300 to $400 billion because of oil decontrol.

Finally, as my distinguished colleague from Missouri points out, it is going to be roughly $145 billion in additional revenue for State and local governments.

So all told we are taking out of the private sector an additional $1.5 trillion. You can argue $100 million more or less either way, but that is the amount of money that is going to be taken from the private sector.

(Mr. BRADLEY assumed the chair.)

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. ROTH. I would be happy to yield.

Mr. DANFORTH. Mr. President, I would just like to point out, and I think the Senator from Delaware would agree with this, that this adverse impact on the economy will not be equally experienced by all Americans. It will be very unequally experienced, that the burden will fall quite heavily on some geographic areas in America much more than others.

Some areas are going to be quite well off, some parts of the economy are going to be quite well off. But I ask the Senator from Delaware what is the economic future of the State of Missouri or the State of Delaware or the State of New York or the State of New Jersey or the State of Pennsylvania or the State of Ohio or the State of Michigan, when steel mills are being closed down, when automobile plants are being threatened, when jobs are being threatened throughout most of the country, what is the future of the rest of the country, particularly if we have a situation where the country is being constantly stifled by the tremendous weight of additional energy prices, followed by the weight of additional taxes imposed on the American people, followed by the fact that this tremendous flow of economic power is going to but four States?

Mr. ROTH. I will say to the distinguished Senator from Missouri that there is no question but that the extraction of these billions of dollars not only by those four States but by the Federal Government means a decline in productivity in the future.

It is hard to talk about such big numbers because it is very difficult for any of us to really understand what we are saying. But the fact of the matter is that the total plant and equipment of this country is worth something like $1.6 trillion.

In order to add enough plant and equipment for the young people and other unemployed to come into meaningful jobs, we have to add $46 billion a year in new equipment and plant. The fact of the matter is that we are not doing that. The fact of the matter is that by taking $1.5 trillion out of the private economy during the next 10 years, that means it is not going to be available for productivity.

As I said earlier, it seems to me in a sense that we here in the Senate are living like Alice in Wonderland. I say that because of the point that the Senator from Missouri brought out so cogently: Right now steel plants are closing down; 13,000 employees are being laid off. I would point out that Chrysler is near bankruptcy. I would point out that General Motors is announcing thousands of people being laid off by its plants.

And what is the Senate talking about? Is the Senate concerned about how we are going to change the direction of this country, how we are going to grapple with the problem of the recession?

The answer is "No." The entire—not the entire, but a basic part of the debate has been, "Are we going to raise $185 billion, $145 billion, or $230 billion?"

That is important. I agree that it should be debated, and is important. But the real question is, What are we going to do with this revenue to do something about productivity?

I am a member of the Joint Economic Committee, and I was pleased recently, earlier in the year, when it issued a report saying that productivity lag menaces the U.S. standard of living. It pointed out in particular—this is a report of the Joint Economic Committee, headed by the distinguished Senator from Texas (Mr. Bentsen), a Democrat, and Clarence Brown, a distinguished Republican Member of the House of Representatives—that productivity has virtually stopped improving in this country, whereas it is growing in most other countries.

This report points out that it took seven Japanese workers to produce as much as one American in 1950; now it takes only two. Mr. President, I think it is about time that we begin to debate what steps we are going to take to do something about productivity. And if we are going to do something about productivity, that means we have to have capital formation; and if we are going to have capital formation, it means that we have to let the American people keep more of what they earn, so that there are some incentives to save.

We have the lowest rate of savings of any industrialized country in the world. In Japan it is 25 percent; in Western Germany it is roughly 15 percent; ours is dropping behind to less than 4 percent.

If we do not do something about this, if we do not stop taking more money from the private sector and provide some incentive for saving and investment and for productivity, we are facing a bleak future; and I think it is about time that we recognize that a windfall profit tax on energy cannot be separated from the state of the economy.

If we do not debate this today and try to take a constructive attitude in approaching this problem in the months ahead, we are going to regret it.

Mr. DOMENICI. Mr. President, will the Senator yield me 3 minutes?

Mr. ROTH. I yield 3 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. (Mr. Stewart). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think probably there are some who are asking the question, "Why now? Why on this bill? Why at this point in time?"

I am not going to try to answer the issue procedurally, but let me just say this: This bill is a commitment on the part of the U.S. Government to deregulate domestic crude oil between now and 1981. That episode, this bill either at the $128 billion level that came out of the Finance Committee or the $277 billion level that came out of the House, whichever you choose, the episode that deregulation and a windfall profit tax will impose on the American people—and I say to my good friend Bill Roth I know that when he says the private sector he means the people of this country—the people in their earning capacity, their wages. You take it from them, you take it from those who are on taxable pensions, you take it from the small businessman who is working to grow, you take it from American private industry at large, and you are taking it from the people. So when we speak of the private sector, we are speaking of America.

Why now? Because this episode will yield more money by the stroke of a pen decision than all the taxing authority, cumulatively, of the American Government from 1789 through the Second World War in 1945.

Now, I want to be more precise. If we use the House figure of $277 billion, that is the historic reality. The First World War, the Second World War, throughout all of America's growth and what we thought we needed as the American people for our National Government, from 1789 through World War II.

What more appropriate episode in terms of deciding on a limitation to this appetite of the American Government to take from its people unto the Government for insatiable programs that are aimed at solving problems which seem to be never-ending, and the problems grow, and the economy dwindles, and people begin to have less and less incentive and less confidence in the free enterprise system? What better episode or more significant episode in the evolution of the American confrontation of the people versus the Government, since 1789, than this one?

This revenue is not frosting on the cake. This is half the cake. This represents over half the taxes that will come from a new social security incremental increase that is incredibly large.

We never contemplated 11-percent inflation as a part of this bracket creep which keeps pushing people into the next higher bracket, with no real money in their pockets. Need we ask ourselves why Americans think this system will no longer work? Why do they have to have four or five people working in a household to make ends meet?

The vibrancy of the American economy as it inures to individuals is dependent upon what they make out of it in real terms, not in terms of the benevolence of the Government, not in terms of the programs that might help, but rather the vast, vast majority in the middle, the tremendous number of small businesses that are vibrant and innovative, and cause us to grow and keep our expectations alive.

That is where we are, and that is where we are giving the American dream of the future not one black eye, but two.

So for those who want to argue, later in the day, the procedural propriety of this approach, we will handle that in due course. We may have a difference of opinion; but let me say there should be no doubt that in terms of an event that should prompt us to stop, look, and not to think, but to stop, look, and do something, this is the one. This is the hour to send the message. If you want to build in more government, do not do what we are asking today, because it will be there, ready. The grabbag for the decade is here for everything that people can dream up, with little or no real positive effect on the American people in terms of dollar for dollar.

I was amazed when someone suggested, "You know, if we do what you are suggesting, we will not have any money around to pay the unemployed."

That is precisely the reason for what has been occurring in this country for the last two decades. What we need to put our people to work is to let the American economy grow and turn loose the energy of free enterprise, small and large, and the ingenuity of the American people, labor and management alike, to divide up this productivity.

That is what we need, and that is why it is timely that we bring this notion to the U.S. Senate and to the Congress of the United States, and that we send a forthright message, as the Senator from Delaware and others today have so eloquently stated, this year.

Once again I commend the Senator for his leadership and for bringing the exact appropriate bill at the exact right time for this Senate and the American people.

Mr. ROTH. Mr. President, I would point out to the distinguished Senator from New Mexico that the impact is falling extraordinarily hard on the American family. I mentioned a few minutes ago that U.S. Steel, a number of the automobile plants and others are talking about layoffs. It is predicted that layoffs will increase up to roughly 8.25 percent by the end of 1980. That means over an additional million people are going to be unemployed.

The problem with this country is that we are doing two things to try to work out a stagflation: Rely on unemployment, unemployment of millions of Americans; and, second, doing nothing about trying to increase productivity.

I point out that those that are working are also suffering. The average American family income is today below that of 1973. In the last 10 years, despite the fact, as the Senator points out, that wives are working, that children are working, the total income of the family and its purchasing power has gone down.

In the sixties, the average family income was increased 32 percent over 10 years. That was in the sixties. In the seventies, the median family income grew less than 10 percent.

Now, in the early seventies, we saw the real spendable earnings were rising sharply. There was opportunity for minorities and the poor to build a better life. But since the early seventies, the average real spendable earnings have fallen. They are now down below levels of 1964—1964, which is 15 years ago.

The problem is that we have been living off of our capital of the past. We have saved a little, but we consumed a lot. We have frittered away our savings on Government deficits, instead of productive investments.

I agree with the distinguished Senator that the time for action is now if we are going to reverse this trend. Because, as the Joint Economics Committee said, the only way we can work our way out of stagflation is through productivity, by increasing production, putting more articles on the shelf at less cost. At the same time that everybody knows this to be true, this Congress is permitting productivity to go down and for Federal spending to increase.

I yield the floor and reserve the balance of my time.

The PRESIDING OFFICER (Mr. Baucus). Who yields time?

Mr. DOMENICI. Will the Senator yield me an additional minute?

Mr. ROTH. Yes.

Mr. DOMENICI. I know the Senator wants to reserve his time. But I just want to say that there is an option. I have heard the Senator's most eloquent explanation that the families of America in real dollars are worse off now than they were in the decade of the sixties. I think there is an option.

There is an option to conclude that that is the way it is going to be. There is an option to conclude that, with more government, we are, nonetheless, better off and that there is no dream, there is no real future; that somehow or other, with this fantastic capacity that we have in this country, we have seen our better days. The only problem with that is that an awful lot of us do not believe it.

The second problem with it is that we really have not committed ourselves to try another approach. We have constantly refused to acknowledge that leaving more money in the hands of individual producers of America, to provide money for the productivity kinds of investments that are necessary, which everyone acknowledges we must do, that that will not work. I, for one, believe that before we give up we ought to try what is commonsense and give them back what is theirs and see if they cannot make it go again.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana (Mr. Long).

Mr. LONG. Mr. President, I yield myself 5 minutes.

I want to respond to the statement made by the Senator from Missouri today about his proposal to tax State governments.

Mr. President, it has been recognized that where a State goes into a commercial business, that business can be taxed just like any other business can be taxed.

The U.S. Supreme Court has held—where the State of New York was bottling mineral water and selling the bottled water as a commercial enterprise—that the State was subject to the same Federal excise tax that was levied on all soft drinks. That was a tax that the State could pass on to the consumer, and I am not here to challenge that.

I am here to challenge a suggestion that a tax should not be levied on the State government itself. Basically, that is what the Senator from Missouri seeks to do. He seeks to tax a State government just as though that State government were a corporation or some private enterprise in a commercial business of trying to make money.

Let us keep in mind that the windfall profit tax is not a tax on the consumer. It is not like a tax on gasoline which is passed on to the consumer. It is not a tax on gas consumption. This tax is a tax on the oil producer.

I have discussed with the administration the question of imposing the tax on both imported oil and oil that is produced in this country, which would impact on the consumer. The administration's answer is: "No, this administration does not want to do business that way. It prefers to advocate a tax which is borne by the producer." And that is what this is.

In view of the fact that the windfall tax is on the producer, the traditionally tax-exempt groups are exempt: the universities are exempt, the charitable institutions are exempt, the various groups traditionally exempt from the income tax under the Internal Revenue Code are exempt. Furthermore, the Senate has voted to exempt the independent producers from the tax.

Now, having exempted all those categories, the Senator now suggests that we proceed to tax a State government just as though that State government were a corporation.

Well, Mr. President, in the beginning, we started with a proposal that would tax 10,000 independent producers and would tax a very substantial number of people who own land from which oil is being produced. Also, it would tax the major oil corporations which, in the last analysis, were a surrogate for their shareholders. And so we would be taxing, perhaps, 10 million people.

The Senator from Missouri wants to

add to that group the States themselves. The States are mere agents for their citizens, about another 100 million people to be taxed by this bill.

Mr. President, constitutionally, if the Federal Government has the right to tax a State government just as though that State were a corporation, then it follows that it has the same right to tax any instrumentality of that State.

Surely, it would have the right to tax someone who is holding a State or municipal bond. The courts have held that that cannot be done, that the Federal Government cannot tax the interest income on State and municipal bonds, on the theory that such a tax would be an unconstitutional burden on the State government and that there is an implied immunity under the Constituton from the taxation of State governments by the Federal Government.

Chief Justice Marshall made the statement in the case of McCulloch against Maryland that "The power to tax is the power to destroy." It is the power for the Federal to destroy a State government that my colleague from Missouri seeks to assert here.

Mr. President, in my judgment, that would be a mistake. What little sovereignty still resides in those States should not be stripped away from them.

The Senator would suggest that four States are principal oil producers. Mr. President, I know what it is to be held up to opprobrium and scorn, because I come from a State that produces oil and gas. We produce about four times or five times as much as we consume.

All I can say to those who seem to hate us because we do produce it is that they would be in one heck of a fix without us. Where would they be if they did not have Louisiana, Alaska, Texas, and California, States which are producing energy to help with this energy problem? Where would they be without those States that export energy to other States,

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. LONG. I yield myself 5 additional minutes, Mr. President.

These four are not the only States that produce energy.

The Senator then proceeds to raise this image that there is to be some great unjust enrichment here because the Federal Government passed up its chance to destroy State governments and strip them of what little element of sovereignty remains in those States.

Mr. President, the Senator need not worry about that. Louisiana, Texas, Oklahoma, California, Montana, and any State that produces minerals, could have been taxing their minerals and using that money to build an industrial base had they wanted to for all these many years, they have not been doing it.

I have had businessmen suggest to me that we ought to do that. The State legislatures of Louisiana, Texas, and these other States have not seen fit to do it.

Quite the contrary, Mr. President, other States which do not have the same natural advantages in terms of oil and gas as Louisiana and Texas, have been doing more to offer incentives for business and industry to locate in those States than have the States of Louisiana and Texas.

Mississippi, for example, with only a fraction of the oil and gas income that Louisiana has, makes far more tempting offers in terms of tax incentives than does the State of Louisiana.

Alabama has been outstripping us in attracting jobs in terms of industries that have a large labor comment and, therefore, involve a lot of jobs.

The only industries that we have been attracting our way are, in the main, industries which would have an advantage in terms of transportation of natural resources. We have not complained about the fact that we have not produced a great deal of chemicals. A plant at Lake Charles, La., put 50 people to work in a plant producing styrene. Then they put that styrene on a ship and sent it up to New England where 30 to 50 times as many people are involved in making plastic hose.

We do not complain about other people in a plant on the Mississippi producing a product that is shipped North where a plant with 50 times that number of people are engaged in making eyeglass frames, or whatever. The State taxes whatever they have to tax.

Here is a list, Mr. President, of what would happen if this bill were passed. It is estimated that the Federal royalties would increase by $18 billion. Federal income taxes would increase by $340 billion. The tax we are discussing here would increase Federal revenues by $158.8 billion. That is a total tax take of $513 billion.

Now, State royalties would increase by $33 billion over a 10-year period. State income and severance taxes would increase by $103 billion over a 10-year period. It is a total of $136.8 billion.

Mr. President, there are just as many citizens in the 50 States as there are citizens of the United States. Is that not a sad thing to talk about? All Uncle Sam has hogged up here is $513 billion while the States would get $136 billion. Do you not know, Mr. President, that is a case of somebody really shedding tears? About one-quarter—is that not sad—about one-quarter of the total possible governmental take seems to be in the State and local governments rather than the Federal Government taking it all. All the Federal Government takes is 80 percent. The Senator suggests, therefore, that it is unjust enrichment, that the Federal Government should have more.

The PRESIDING OFFICER. The Senators' time has expired.

Mr. LONG. I yield myself an additional 5 minutes.

Mr. President, the Senator has said nothing whatever about the land policy of the United States that is relevant here. This country started out with 13 Colonies who fought the War of Independence and won independence for this Nation. There was no Federal Government at that point to own any land in those 13 States. Insofar as public land is concerned, the land was owned by those States.

As subsequent States were brought into the Union—Tennessee, Kentucky, Louisiana, and others—they were brought in on "equal footing," just as if those States were brought in originally. The same general attitude about land that existed in the original 13 was adopted toward those States. Those States were vested with that land and they proceeded to sell it off to people who would develop it. In due course, most of the land became privately owned.

But as the Western States were brought into the Union later on, the Federal Government began to take more and more of the attitude that the population was sparse, that there were some doubts of the degree to which those governments could manage the land in those States, and so it might be better for the great white father here in Washington to retain title to those public lands and for the Federal Government to keep those lands and pass Federal laws for homesteading or development in whatever way the Federal Government thought it appropriate to develop.

So those States were not permitted to come in on the same basis as Louisiana, Tennessee, and others.

For example, when the great State of Montana, so ably represented by our Presiding Officer, entered the Union, it was not permitted to have all of its land the way Missouri was permitted to have it. It was not permitted to have all of its land the way Mississippi was permitted to have it. In was not permitted to have all of its land the way Arkansas was permitted to have it. No, the Federal Government set aside large blocks that the Federal Government here in Washington, the great white father, would administer for the benefit of "all the people."

Those who ably represented those States made the point that that just was not fair. The original 13 States had the benefit of all their land. They could tax it; they could develop it. They could get something out of it for the benefit of their people, to pay for education, highways, whatever they needed. But these Western States were denied that same right. They argued the case year after year very eloquently and it led to a Federal land policy which said, "You will use the income from those lands for the benefit of the people in those States."

The last time I looked at it, about 37.5 percent of that income went directly to the State governments. About 10 percent was used for administration. All the rest of it went into the reclamation fund to help develop that dry land. That was one reason Senators from Western States all wanted to be on the Interior Committee in those days, because the Secretary of the Interior had the authority to say how that money was used, and they wanted to see that their States got their share of it.

But the Federal Government was not trying to finance the Federal Government by taxing the land that it denied those States the right to own.

It let that money be used to help develop those States and that region. Then, later on, we brought in Alaska.

When Alaska came into the Union, there were strong arguments made against the bill to permit statehood. It was argued that Alaska could not afford statehood. They would never be able to carry the burdens of State government financially.

One of our Senators from Oklahoma told us, "Don't worry about that, Alaska will be able to pay those expenses. They will be able to care for the needs of their people because they will have a lot of oil up there, and that oil will help Alaska to develop."

So we set aside large amounts of land knowing we expected them to find oil under some of it and that oil would help them finance their State government where many predicted they could not succeed.

Here is the Senator from Missouri saying that we made a big mistake, let us be Indian givers and take it back.

Yes, we could take every bit back with Federal taxing power because we all know the laws of this Central Government are the supreme law of the land.

This Federal Government can strike down the laws of other States as far as taxing power is concerned.

We can tax all the revenues from those lands away from those States, take it all. We have the power to tax it all away from them.

So the Senator would send the word to the people in Alaska that Uncle Sam made a mistake. He was too generous with the people. Anybody who moved up there expecting the State to finance itself on that land we gave it had better come back to the old 48 because Uncle Sam has decided to be an Indian giver. He will take the lands back by way of tax laws.

So this tax would be applied to the State of Alaska and Uncle Sam will then take whatever he wants or thinks he should take, and leave the State of Alaska what he thinks they should be permitted to keep.

Mr. President, before the Senator from Missouri came here, we had a big fight over the tidelands. All our coastal States felt it was an attribute of sovereignty that we owned land off our shore. The States originally had sovereignty. They did not give up the right of that 3-mile limit or, for that matter, indefinitely out into the sea. The States claimed it was theirs. The Federal Government claimed it was not.

We fought that battle for many years. Eventually, a decision was reached that, generally speaking, the States could have a 3-mile limit unless they could prove they had title to something more than that at one point. They got 3 miles.

So, in Louisiana, we got 3 miles out into the Gulf of Mexico.

The Federal Government takes about 150 miles, all the way out to the end of the Continental Shelf.

They take 98 percent. They leave us 2 percent. Now, our 2 percent is far more productive than their 98 percent. On the average, I would say it is about four or five times as productive. Why? Because the State needs the income. So the State seeks to lease out anything somebody will develop and the State rides herd on those leases. It presses those people to produce on them and produce as much as can be produced.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. LONG. I yield myself an additional 5 minutes.

Mr. President, the Federal Government, instead of getting $18 billion a year for its minerals, on its royalties, it could be getting $36 billion more than we are getting. It could be getting $45 billion more. It could be getting $60 billion more. But it will not get that for the simple reason it will not take the same interest in producing minerals as the State because the Federal Government has so many other sources of revenue available than just developing those offshore leases.

So, the Federal Government takes 98 percent, leaves the State about 2 percent, and then under this program, we would tax the 2 percent back away from those States and play Indian giver with all the coastal States.

That seems a pretty ridiculous thing to do.

Why would the Federal Government have wanted to give the States their 3 miles out into the sea if they planned to go back and take it away? It does not make much sense.

Would it not make better sense to do what the State of Louisiana is doing and, instead, develop the leases and quit having policies where it takes 5 years to develop a field that should have been developed in 2 years? Get on with development, as the States are doing, and we would have a great deal more production.

Finally, Mr. President, the Senator suggests that someone seeks a great redistribution of wealth between the States. Nothing could be further from the truth. If the Senator is interested in attracting industry to his State, he does not need to deny Louisiana its income. He does not need to tax the money away from our schools. He does not need to tax the money away from the University of Texas, away from something tax exempt.

One thing his State could do is the same thing other States have done, pass a right to work law.

Reluctantly, some years ago, this Senator concluded he could not any longer oppose that law. We borrowed from a State to the east of us, which was Mississippi. We borrowed from a State to the west of us, which was Texas. We borrowed from a State to the north, which was Arkansas. They all had right to work laws.

If we wanted to attract some industry and payrolls, it looked like we would have to have the right to work law, too. The State legislature looked at it and concluded we had no choice. That is what I concluded. For years, I had been favorable to the labor side of the issue.

But we concluded that if we wanted our share of the payrolls, we would have to have a right to work law also. So, the legislataure passed it, even though no one ever expected that would happen. They felt they needed to provide more incentive to attract new industry, not by giving them a tax advantage, but simply making it more attractive from the competitive point of view, insofar as labor relations were concerned.

That accounted, more than anything else, for the attraction in those sunbelt States.

When the Senator seeks to start a war between the Sun Belt and the Frost Belt, I must say that this is a poor issue to start it on. The State hit the hardest with his tax on the State governments is Alaska. Alaska does not seem quite like a sunbelt State to me. In some parts of Alaska, they do not see the Sun for 3 months running. Some points are frozen all the time.

So, I hardly see this as a "frost belt against the sunbelt" issue.

Furthermore, there is oil produced in Michigan, oil produced in Montana, oil produced in North Dakota. A lot of States produce oil other than some of these Southern States.

Furthermore, Mr. President, oil is not the only mineral we will produce in this country. We have more coal than the nation of Saudi Arabia has oil, and that coal will have to be developed.

We in Louisiana do not have much of that. Others have it.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. LONG. I yield myself 1 more minute.

So, Mr. President, when we turn to developing shale, it will be the great State of Colorado that will lead the way because of the tremendous amount of it out there in Colorado. Montana and Wyoming also will be great producers of shale.

Mr. President, if we start a land policy by saying, "Let's go back and reconsider, let's be Indian givers and take from the Western States, take from the Southern States, take from the Northern States, anything that the Federal Government can take, throw it in the pot and redistribute it." we will find a great deal we can lay hands on and redistribute.

But I submit, Mr. President, these beggar-thy-neighbor policies—tax that other guy, put the tax on State governments to try to wipe out the Federal deficit, tax the other State because they have one resource and we do not have that particular resource—will be self-defeating and the States should not engage in it.

Mr. President, the States that have some natural resources, we ought to commend them on the floor. They do have good fortune. We should help them develop those resources. If we want them to develop their resources, we ought to let them keep some of it.

The Senator said that there is no production response from failing to tax State governments. That shows the kind of advice he is getting—pitiful, misinformed advice.

Look at what is happening in lands being administered by the Federal Government. They are not getting one-half or one-quarter the production out of their lands that the States are getting on the State-controlled lands. They know so little about production response because they get so little production. So they advised the Senator from Missouri that the State will not yield to the temptation to make money to produce more.

Mr. President, in Louisiana, if you want to lease land, all you have to do is apply and say that you would like that piece of land put up for leasing. They advertise the fact that everyone who wants to bid on it will be able to do so, and if you make the high bid, you get the lease. You can get the drilling permit the same day you get the lease.

It is only the Federal Government that has such a great number of impediments that make it hard to comply.

Why would a State be anxious to develop these minerals? Because $1 of income from a State the size of Louisiana means 50 times as much to that State government, which has only 2 percent of the people, as it means to the Federal Government.

The Federal Government does not care whether you drill or not. They can take all the time in the world. The State is looking for some revenue out of it, so they are pushing it. They expedite the procedure to let you make your bid and give you a permit in short order, and then they push you to drill. They constantly review their leases.

The Senator would remove that incentive. I suppose he would get us back to the Federal-type situation, where they could sit around and think forever as to whether they should be leasing.

I was with the President of the United States when he visited a drilling rig in the Gulf of Mexico. The rig he visited was in the process of drilling a dry hole. They did not want to drill a dry hole. They were well convinced that it was likely to be a dry hole, for a simple reason: The Federal Government would not let any more leases. So they had drilled on the side of the fault where they thought the oil was to be found. They found nothing. They decided to try the other side, where they did not think oil would be found, but thought they might get lucky and find something.

Why were they not drilling where they felt they would find oil? Because the Federal Government would not lease it.

Recently, the Federal Government decided to put some of that land up for leasing and invited everybody to bid. There was so much interest that they had to move the bidding ceremony over to the Louisiana Superdome Stadium, so that everybody could show up who wanted to bid and so that everybody who wanted to observe could do so. People bid almost $5 billion for leases.

That money could have been had all the time. The Federal Government would not put it up for leasing. So they had to go out and drill dry holes, where they did not think the prospect was very good, because the Federal Government would not let them lease. Thank the merciful Lord, they are finally in the process of letting more leases, and we will have more drilling out there.

When one thinks of the problem and looks at a State that is producing four times as much as it is consuming, one would think our Government would try to encourage oil producing, rather than discourage them.

Mr. ROTH. Mr. President, I yield the Senator from Missouri 5 minutes.

Mr. DANFORTH. Mr. President, it is not my intention now to debate my amendment. That will come on another day. My intention is to support the Roth amendment; and in doing so, I just want to raise one fundamental question which I think we are ignoring in the Senate, and that question is this: What is the economic future of the State of New York? What is the economic future of the State of Nebraska? What is the economic future of the State of Maine? Of the State of Delaware? Of the State of Missouri? What is the economic future of most of this country, when these States are facing the following situation:

One, rapidly increasing energy costs in an economy which was built on cheap energy; and energy costs, particularly in the Northeast and north-central parts of the country, are going through the roof.

Two, rapidly increasing total tax burdens on the American people, and that is what Senator Roth has been debating and has been pointing out with this amendment.

The total tax burden in the next decade will increase by $1.5 trillion on the American economy, on top of the cost of energy. Add to that, from the standpoint of the State of New York, the State of Delaware, the State of Missouri, the State of Utah, and others, the fact that a handful of States are going to receive an increased State revenue which is out of this world.

The State of Texas will have an increased State revenue of $33 billion, assuming a very modest oil price increase. What is it going to do with that revenue? It does not have any income tax now. It has a substantial surplus in its budget now. What is it going to do?

My concern, very simply, is that we are giving a handful of States—not giving them; they are going to have it, regardless of what happens to my amendment—a substantial fund of money which can be used to conduct what amounts to economic warfare against the rest of the country.

They will package plant building operations, tax incentives, loans with nominal interests, leases with nominal rentals, which will provide a very attractive package to the rest of the country; and they will begin doing exactly what the OPEC countries are doing—building up their economic base at the expense of the rest of the country.

What I am saying is that this three-pronged problem—energy price increases; tax burden increases; and the fact that a portion of the country, four States, will get 83 percent of this increased revenue—is going to create a wrenching economic problem for most of America.

Senator Roth's amendment is aimed at a very substantial part of that wrenching—that is, to offset the constantly growing tax burden on the American economy. That is the amendment before the Senate today.

My amendment deals with another portion of the problem. It is an important matter to debate, but I am not going to debate it today. What I am going to raise is the fact that our country—particularly certain geographical regions of our country—are facing economic calamity, and we are letting it happen.

Mr. LONG. I yield myself 3 minutes.

Mr. President, I am not speaking for or against the Roth amendment. I will decide later how I am going to vote on that matter, and I will be glad to yield time to others.

I want to address myself again to the comments of the Senator from Missouri.

It is estimated that the State governments will receive $103.7 billion as a result of their income taxes and as a result of their severance taxes between 1980 and 1990. Mr. Danforth's amendment would not affect that. He is not proposing to strip the States of their taxing power right now, just their land.

If the Senator's amendment should be adopted, it would not affect that $103 billion; and if the States wanted to use that to bid for industries, they would be able to do so. They are not going to do it, because they have not found it worthwhile with the income they have received up to this point.

With regard to the royalties, the States would receive $33 billion. Yes, they could take some of that money, if they wanted to do so, and bid on industry. But that is not what they have been doing with their money, and it is not likely that they are going to do it with this money.

The States that are doing the most to get industry, one would think, are the States that need it the most. Pennsylvania has very little oil and gas; but the things they did to get the Volkswagen Co., to put a plant in Pennsylvania, Louisiana would never have dreamed of doing, even though it does have some mineral income, and a lot of it.

Alaska was not interested in doing that kind of thing, even though they do have a great deal of mineral income. Alaska, with all their mineral income, did not see fit to do that to attract the Volkswagen plant. That is not what States are doing to attract industry.

Maybe the Senator thinks it is a good idea. Perhaps, with his experience and his background, that would seem like the logical thing to do. But when you are talking about that type of thing, you will find that the State legislatures are aware of what people are thinking in their States. They have to get elected, just as we do.

They take a poll with respect to voter interest: "What do you think is the most important thing we should do about attracting new industry, about schools, about various and sundry other things?"

What are the priorities?

I tell the Senator that in Louisiana we come down overwhelmingly on the side of education. About 5 percent of the people would say that we should attract new jobs, that that is the big issue that we should consider. Those would be the Chamber of Commerce types. But where do 60 or 70 percent of the people come down in Louisiana? They say: "What is the big issue? What should we do in this State?" They say: "Give our children a better education." That is what the mothers and fathers will say, and that is what the State legislature does with the money. They just do not think the way the Senator from Missouri thinks.

The average State legislator thinks about the people in his district. When one really gets down to it in terms of what makes Peter run, what makes voters vote the way they vote, those legislators are close to the people, and they know what the people are concerned about far more than industrial development, that is a good education for their children.

Oftentimes when we educate the children, they promptly go off to some other State and help develop that State rather than our own, but education is a duty we owe to our young people. So we are all very responsive to that.

The people who are really interested in attracting new industry tend to be the folks who have some land in that area. They hope to sell someone a plant site or hope it might lead to some new insurance business if they are in the insurance business, and so forth, or someone who does not have a job. Now if a guy does not have a job, one can get him excited about the idea of bringing new jobs down there. He might get one of them. If someone has a good job, he is not overly excited about the idea of bringing new industry to the State. It is just not the kind of issue that is all that exciting as far as a State legislator is concerned.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nebraska?

Mr. MOYNIHAN. Mr. President, does the Senator from Nebraska wish to speak for or against the bill?

Mr. EXON. Mr. President, I wish to ask some questions to inform myself as a possible voter whenever we come to vote.

Mr. MOYNIHAN. I am happy to yield 5 minutes to the Senator from Nebraska.

Mr. EXON. I wish to enter into a colloquy with my colleague on the Budget Committee, who knows I have some concerns, and since we serve on the Budget Committee I was wondering if the Senator from New Mexico would enter into a colloquy to try and answer some questions that I have on this matter.

I first state that I thought that we were discussing the Roth amendment which I thought basically was a budget amendment. Since I have been in the Chamber, I find that we are talking about oil. I am new here. I still do not understand, of course, why on a windfall profit tax we get back to budget matters, but after I am here for a while I suppose I will be able to understand it.

My friend from New Mexico has agreed to enter into a colloquy. Maybe we can do it in 5 minutes.

How does the Roth amendment that is cosponsored by several others differ in actual effects from the previous Roth proposals to have a basically $20 billion slash in the budget in 1981 and at the same time have a tax cut?

I ask that question in this context. The Senator from New Mexico knows full well that I for one feel that we must balance the Federal budget, and I have never been able to see how we are going to balance the Federal budget on one hand while we are talking about a tax cut on the other. In that context perhaps my friend who is standing can answer that question.

Mr. DOMENICI. Let me just say to my good friend from Nebraska that in terms of the specifics of previous efforts by the good Senator from Delaware I cannot answer specifically. Maybe he can. But in terms of the budget and the budget process let me say that we have a process going that we generally have been calling the Nunn-Roth-Bellmon-Chiles proposal which addressed the level of expenditures of the Federal Government based upon a percentage of GNP. This Roth-Domenici-Danforth one comes from the other end and puts a limit on the amount of revenue that the Federal Government can have to use for its program in 1981, 1982, 1983, and 1984.

And in that context it does not mandate anything other than that shall be the level of revenues available so that if one looks at a comparison he would have something like the following. If he wanted to use the 1981, 1982, 1983, and 1984 budget estimates, he would have to cut the expenditure level as follows: 3.1 percent in 1981; 1.2 percent in 1982; less than 1 percent in 1983; and three-tenths of 1 percent in 1984, if he assumed all the basic economic facts as the 4-year budget projections.

But all we are doing is saying that all we are going to have to spend is 20.5, 20, 19.5, and 19.5 percent of GNP.

But the point is a much bigger point because with the taxes that are going to flow from this activity on windfall and deregulation and the taxes in place for the years 1981, 1982, 1983, and 1984, if we do not mandate a level as we are talking about then here is what the Federal Treasury will have left over that we do not provide for, and that is not the subject of a tax cut at this point nor any mandate of any type that it be cut. New taxes, $73.3 billion in 1981, $93.4 billion in 1982, $103 billion in 1983, and $114.4 billion in 1984.

Mr. EXON. Mr. President, will the Senator yield right there?

Mr. DOMENICI. Let me just finish the sentence.

Mr. EXON. Yes.

Mr. DOMENICI. The Senate budget resolution contemplates with $73.3 billion in new revenue for 1981 no tax cut; for 1982, $93.4 billion new, proposed cut $55 billion; 1983, $103 billion new, proposed cut $75 billion.

So that what we are saying is that this is the time to set the level so it will not be there and be available for the appetite which everyone knows exists.

Mr. EXON. I thank the Senator for that explanation.

Let me see if I can understand it a little better by maybe asking this question.

Assume that we agree to the Roth bill. That says we cannot collect any more money from the taxpayer, No. 1; is that correct?

Mr. DOMENICI. Yes, 20.5 percent of GNP in 1981.

Mr. EXON. I am very much attracted to that. Maybe that is a worthy suggestion.

What happens, though, on the other hand, since the Senator and I know in budgeting only one part of the equation is the amount of money that we tax and take in but the other part is the amount of money that we spend? What happens, then, I say, if we accept this and we have a cap and then in the collective wisdom of Congress, over which the Senator and I do not have veto power, spends more money than——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. Mr. President, will the Senator yield me an additional 3 minutes?

The PRESIDING OFFICER. Does the Senator from New York wish to yield additional time?

Mr. MOYNIHAN. I am happy to yield another 5 minutes.

Mr. EXON. Continuing my question, then, if in the collective wisdom in Congress they decide to spend more money than we can take in, would not that force deficit spending?

Mr. DOMENICI. Would it not what—force them to spend it?

Mr. EXON. Deficit spending.

Mr. DOMENICI. There is no question that if we want to accept the 1981 tax revenue limitation as provided here and conduct business as projected in the second budget resolution, as a result of the conference, we would have to have a balanced budget cut of 3.1 percent on the expenditure side. We are here in a general sense mandating that we have no more available to spend than this amount. But, I say to the Senator, we have spoken in the Chamber relative to 1981 which, since that is our dialog, we have said expenditures that year should be 20.5 percent of GNP. That was the famous Nunn-Bellmon-Chiles-Roth amendment.

If we follow it in 1981 we are balanced precisely. Our 20.5 percent in revenue is exactly what it mandated and indicated we should shoot at as a goal for economic prosperity and the right kind of program size.

Mr. EXON. And there will not be a tax cut in 1981 if the scenario that the Senator just outlined is followed; is that correct?

Mr. DOMENICI. There would be a significant tax cut.

Mr. EXON. In 1981?

Mr. DOMENICI. Based upon the new revenues projected that were not contemplated in the budget, there would be money available at 20.5 percent and 20.5 percent is about $40 billion.

So you might say we have two goals: one, to see that that extra money which is going to be there is never used, because we are saying you cannot use it; and then in 1981, because the level of expenditure would be consistent with the Nunn-Bellmon approach, you will only have the same amount of taxes to spend.

Mr. EXON. I thank the Senator and I thank my friend from New York for yielding time.

Mr. ROTH. Mr. President, I yield 3 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator from Delaware for yielding this time.

I think the Senator from Nebraska asked the question that demands an answer, and I take this time only because I think the question is so fundamental that it must also have a rather fundamental answer.

First of all, there has grown up around all of the economic projections a kind of deity worship of the computer. The econometric model spews out results which then become absolutely sacrosanct that we should follow. I am not talking about garbage in and garbage out. I am talking about the fact that current econometric models simply do not tell us the truth about what is going to happen. They are built upon past history. They assume that what has happened in the past is exactly the same as what will happen in the future and, therefore, we can predict the future on the basis of the models built upon historic precedent.

They leave out some factors and, therefore, the result has been that the econometric projections have proven to be faulty. The Joint Economic Committee has appropriated money to help create new econometric models that may more accurately predict future response than the current econometric models do.

So the Senator from Nebraska asked if you cut revenues without cutting spending, will you not inevitably increase the size of the deficit?

Of course. But what we are talking about in basic terms in economics is what do we do with tax revenues, what is the economic response to Government policies in taxation, and what will that do to future revenues.

One of the things that must be recognized is that the econometric models of today have been demand-side oriented, and they have not looked at the supply-side response of supply-side initiatives.

In more ordinary terms, what are we talking about? We could pursue a cheap food policy in this country by subsidizing the consumer to eat more food. We could pay the consumer to eat more food and thereby have more consumption of more food at a lower cost to the consumer by talking about stimulating, by taxing policy, the demand side of the equation, by subsidizing consumers.

We have today the cheapest food in the world. The Senator from Nebraska knows how productive our farmers are and what a bargain food is on the table of the consumers. We have the best food variety, the most wholesome food at the lowest proportion of disposal income of any society in the world today.

That is not the result of demand side stimulus, but Government policy. It is the result of productivity on the supply side, of investment and work and ingenuity by American farmers. That is what we are talking about in the taxing system.

When we talk about supply side and demand side econometric models, by saying that if we will begin to pay attention as to what it is that produces, we think we will have more wealth produced, and therefore produce more tax revenues to the Government, even at lower rates of taxation.

That is a little different than the present subject with regard to putting a limitation on expenditures or limitations on revenues, where we are talking percentages of the gross national product; but it does relate to what happens when we do things with the tax system that will reduce the amount of taxation and the rate of taxation, and immediately people assume, "Now you have cut the rate of taxation, you have cut revenues, therefore there will be a major deficit."

As was said in Porgy and Bess, "It ain't necessarily so."

I thank the Senator from Delaware for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I would like to ask some more questions if someone will be good enough to yield me some time. Who is managing the time on this side of the aisle, Mr. President?

Mr. McCLURE. You are.

Mr. EXON. The Senator from Nebraska yields himself 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I would like to ask this question of the sponsor of the amendment: The Senator from Delaware knows that I have not previously gone with the famous Kemp-Roth proposal because I feel it is bad economics. Despite the explanations that I have received so far, I am fearful that the proposal that is now before us is simply once again the Kemp-Roth proposal dressed up in a brand new pair of overalls.

I would traditionally fear that if this is the case, then I cannot support the measure we are presently considering. I therefore would like to ask the Senator from Delaware whether or not he agrees with my suspicion that the measure before us is Kemp-Roth dressed up in a new set of overalls, based on percentages rather than specific dollar figures, as previously.

Mr. ROTH. Mr. President, I would say to the distinguished Senator, first of all, that on the Senate side we call that piece of legislation the Roth-Kemp bill.

Mr. EXON. I stand corrected.

Mr. ROTH. But seriously, this is in no way a warmed over or dressed up Roth-Kemp. What we are basically proposing, I say to the distinguished Senator from Nebraska, is a cap on revenue. Now, to reach that cap, whatever the excess amount would be would have to be determined by Congress itself. That would initially come up on the House side, be considered by the Ways and Means Committee, have action taken on that side, and then have it come over here, be referred to the Senate Finance Committee, and have the Senate work its will. But it can deal with a number of factors—capital formation, depreciation, many of us feel something should be done about the social security tax, others believe something should be done about the marginal rate of taxation—but the important point I make to the distinguished Senator from Nebraska is that this in no way is prejudiced in favor of any type of tax cut. Congress itself would have to work its will in the future.

Mr. EXON. I would ask one more question of the Senator from Delaware: Has he taken into consideration in his projection what he and I and others have supported and I think most of the sponsors of the amendment have supported and have indicated that we will in the future support, significant increases in military spending? I come back to the situation that my concern is that if this passes, are we not going to be locking ourselves into more and more deficit spending, and a tax cut without any guarantee and without a budget?

Mr. ROTH. I would say that we are not locking ourselves into such deficits. What we are actually proposing under this format are the same limitations that were adopted last year by the so-called Nunn-Chiles-Bellmon-Roth amendment. I happen to be a supporter of strenghening our defenses, but there is plenty of room for that purpose

Let me point out that what I am particularly worried about from the standpoint of the 1980's is that in the report of the Joint Economic Committee which is headed up by Senator BENTSEN, it is pointed out very clearly that if we do not do something about productivity, then—and I am quoting from the opening summary of our 1979 midyear report—it says:

> The average American is likely to see his standard of living drastically decline in the 1980's, unless the United States accelerates its rate of productivity growth.

That is the stark message of the Joint Economic Committee. And they predict that the slow growth policies of our economy will especially result in hardship for disadvantaged Americans.

What we are trying to propose here is that we meet the goals established by the Nunn-Chiles-Bellmon-Roth amendment, and return any additional funds to the private sector, so that we get some real growth in productivity. How we do that is something that can be debated.

The PRESIDING OFFICER (Mr. TSONGAS). The Senator's 5 minutes have expired. Who yields time?

Mr. McCLURE. Mr. President, will the Senator from Delaware yield me 3 minutes to respond to the Senator from Nebraska?

Mr. ROTH. I yield the Senator 3 minutes.

Mr. McCLURE. I thank the Senator.

Mr. President, this is not the time to debate Roth-Kemp. As I tried to explain a few minutes ago, what we are using is the old econometric model, but it is not presenting a true picture. If we begin to deal with supply policies that will increase productivity, rather than just with policies that increase demand, I believe it will present a more accurate picture.

This amendment does not really attempt to talk about rates of taxation, as Roth-Kemp does. It attempts to match what the Senate has already done with respect to the expenditure side with Nunn-Chiles-Bellmon-Roth, by matching it on the revenue side with an equal amount of revenue.

If we follow both that amendment and this one, we will have a balanced budget, by definition. But if Congress fails to follow either that amendment or this one, the budget would be out of balance. This is perfectly in sync with the action on the expenditure side, and will result in a balanced budget if we pursue that goal.

Mr. EXON. I thank my friend.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the Senator from Utah.

Mr. HATCH. I thank my friend from Delaware.

Mr. President, I support the motion to waive the Budget Act under section 904 (b) of the Budget Act for consideration of the Roth amendment.

I must start off by saying that I do not like to have to support such a motion. I have great respect for the budget process—so much so that I jumped at an opportunity to become a member of the committee this year. Although I have not been satisfied with the results of the budget process over the past few years, I sincerely hope that the budget process will be successful in helping us to regain control of the budget and will likewise help bring spending and taxes under control. That is what we are trying to do with the Roth amendment today. We are doing nothing that violates the intent or spirit of the budget process. Indeed, I do not believe that technically the point of order lies.

It is interesting, Mr. President, that many Members on this side of the aisle have been accused frequently in the past of using technicalities to slow down or stop measures which the American people really want.

Yet I know of no proposals that the American people support so overwhelmingly than that the Congress balance the Federal budget and reduce the tax burden. Now we find Members from the other side of the aisle stretching the interpretation of technicalities in the Budget Act—an act which was designed and implemented to achieve what we are trying to achieve today—to prevent us from working the will of the American people.

I wish this were not so. I wish we were using the budget process to accomplish the desires of the American people rather than to frustrate and block them. But since the budget process went into effect in fiscal year 1976, the Budget Committee has allowed revenues to increase as a percent of GNP by 2 percentage points, from 19.3 percent of GNP in fiscal year 1975, the last year before the budget process, to a projected 21.5 percent in fiscal year 1981. This level of taxation in fiscal year 1981 will be an all-time high for the postwar period. Indeed, even during World War II, when we had to finance a massive military effort, the tax burden never exceeded 21.3 percent of GNP. Except for the 2 years of the Vietnam surtax, the postwar tax burden never exceeded 19.5 percent of GNP before the congressional budget process began. The Budget Committee has allowed the tax burden.

It is obvious, Mr. President, that it is not the will of the Budget Committee to reduce the tax burden on the American people. If that is their approach, then those of us who do want to reduce the tax burden must take the only action left to us under the rules. And I would point out, Mr. President, that what we are proposing is part of the rules. Section 904(b) was designed for just such purposes. We would be ignoring the intent of the Budget Act if we were not to use this escape clause to avoid minor technicalities in the Budget Act which can be used to frustrate the true purpose of the Budget Act. I therefore believe that the Senate should suspend the Budget Act to consider the Roth amendment.

Mr. President, there is precedent for the Senate to successfully use section 904(b). Indeed, in April 1976, the Senate voted to suspend section 401 of the Budget Act to consider food stamp legislation. At the time, the distinguished chairman of the Budget Committee (Mr. MUSKIE) supported the suspension of the Budget Act. I would like to remind my colleague from Maine of what he had to say at that time.

> The Dole proposed amendment also would be subject to a point of order under that interpretation of the act. Nonetheless, I consider it inappropriate for the Committee on the Budget to make that point of order, and I should like to say why, briefly, if I may. In the first place, the need for food stamp reform is urgent in the public mind. (S 4936)

I would remind my colleagues that the so-called reform being considered was to expand the food stamp program greatly and create new entitlement authority for the program. I certainly believe that a reduced tax burden is much more urgently on the minds of the American people.

The distinguished Senator from Maine stated further:

> The Parliamentarian advises me that this motion is contemplated by the Budget Act as a procedure open to the Senate in order that it not be frustrated in exercising its will. (S 4937)

The distinguished chairman of the Budget Committee was referring to section 904(b) of the Budget Act. I propose to use section 904(b) today so that the Senate will not be frustrated in working its will and the American people's will on reducing the tax burden.

The chairman of the Budget Committee went on to say:

> I do so (support the motion to suspend the budget act) because this motion is consistent with the purposes of the Budget Act and the presently binding second concurrent resolution on the budget for fiscal year 1976. Section 401(b) is a technical provision of the Budget Act. . . . We would also be saying to the country that needed, urgent, and publicly demanded reforms in the food stamp program must wait because of a technicality in the Budget Act. (S 5238)

Section 306 is also a technicality in the Budget Act. I do not want to say to the American public that their desire for a reduced tax burden cannot be accommodated because of a technicality in the Budget Act.

Mr. President, I believe that the Senate has an obligation to respond to the overwhelming desire of the American people to reduce their oppressive tax burden. Not only do the people demand it, but it also makes good sense. I therefore ask my colleagues to act within the rules and procedures of the Senate to suspend section 306 of the Budget Act to consider this amendment.

Mr. President, I reserve the balance of my time and yield it back to the distinguished Senator from Delaware (Mr. ROTH).

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. There are 80 minutes remaining on Mr. ROTH's side; 121 minutes remaining on the side of Mr. LONG.

Mr. McCLURE. I thank the Chair.

Mr. MOYNIHAN. Mr. President, in an effort to keep the record straight with respect to personal income and the general state of the American economy, I would like to present a few statistics at this point from the all-purpose compendium of economic indicators which is published by the Joint Economic Committee and by the Council of Economic Advisers.

Mr. President, I believe it was earlier stated—and if I am mistaken, I will be pleased to be corrected—that there had been no increase in American family income since 1973.

This, sir, to my knowledge is not the case. To the contrary. Despite a decade in which inflation became a permanent feature of the economy, a decade which showed the sharpest decline in economic activity since the Great Depression itself, real per capita disposable personal income in this country continues to grow at a very considerable rate, even as the base shows a similar increase.

In 1970, using 1972 dollars, since these comparisons are constant, the per capita disposable income in the United States was $3,619 per person. In the third quarter of 1979, a point at which, we might say, we are wrapping up the decade, it was approximately $4,501 per person.

That means that real personal per capita disposable income increased by a quarter in only one decade. At that rate, the average American would see his income doubled every 40 years. No, it would be faster than that, would it not.

because of the cumulative base? Rather, about every 30 years real income would double.

That is not a low rate of growth. It may not be as much as we would want, but to grow on a sustained basis and at these levels would be something certainly without precedent in our history and, indeed, without precedent in the history of all but a tiny handful of nations that have truly been blessed.

Mr. President, I would like to state that no New Yorker needs instruction as to the costs of high taxation. I represent a state which is devastatingly overtaxed, with only slightly more than the national average in tax capacity. We are 50 percent above the national average in tax effort. Our State ranks first in total taxes per capita. No State is anywhere near us in the index which Selma Mushkin and Alice Rivlin developed in the early 1960's. We are devastatingly overtaxed.

At the same time, I would make the point for States such as my own, the older industrial States, that one of the absolute necessities for economic success in the decades ahead is going to be a change in the political economics of the United States. The public administration and public financing mode of the New Deal, which let the Federal Government establish national policies and programs but let the States set levels of benefits, may have been an acceptable way of obtaining a national consensus on such programs as social security and unemployment in the 1930's, but it will not work today.

We are going to have to raise these levels of responsibilities to the Federal level. This does not mean an increase in the public sector. It means changing the relative impact of taxation from State and local to the national level.

If we do not do this, there is going to be a yet more precipitous decline in the economies of the regions already in decline. And if we adopt a policy such as the Nunn-Chiles-Bellmon ceiling on Federal expenditures of the last Congress, or the Roth-Domenici ceiling on Federal revenues, we are going to preclude that transfer of fiscal responsibility for Federal programs from the State and local level to the Federal level.

These are federally mandated programs and, incidentally, they grow. If we adopt these policies, we will preclude that change in our political economy and we will settle the fate of, for example, the industrial States of the Northeast. There will be a precipitous flight of capital, as indeed there is already, in the decline of population, a flight of capital.

My State, for example, lost 1 million persons in the 1970's. This is the most palpable flight of capital you could imagine, Mr. President.

I would ask my friends on all sides of this matter to consider one more element. In this Congress we are in the process of reaching a consensus that defense expenditures must be increased, and even now the President is preparing a 5-year budget which will add, in real terms, an increase in Federal spending for the first half of the coming decade.

President Carter, who arrived in Washington announcing great social policies, has succeeded in making only one distinctive change in the pattern of expenditures of the Federal Government. He has increased the defense budget every year. No President has ever done that in peacetime, to my knowledge. His national security adviser and others have to take some credit for this.

This is certainly an event to be remarked upon: a President who said he would reduce spending on defense by $7 to $9 billion a year, for an indefinite period, increased the defense budget, with the fiscal year 1981 budget, by 43 percent in only 4 years.

This means, if we combine—and please allow me to use the images of ceiling and floor—a declining ceiling of Federal expenditure as a proportion of GNP, as is contemplated by the Nunn-Chiles-Bellmon amendment, with a rising floor of military spending, we will simply crush the social programs in between. It is not really a very complicated matter; yet in the end, those who think they can do both those things without protest are making a mistake.

If our friends who have asked for these sustained increases in military spending above the inflation levels want to be the authors of those policies and, simultaneously, the authors of policies that cut the overall levels of Federal expenditures, then the pattern the Senator from Missouri was talking about earlier will surely take effect.

The great transfers of wealth associated with the price changes of energy will be accelerated, and we will see a permanent two-generation crisis in the economics of the Northeast brought about by fiscal decisions in Washington, the happy accidents of geology for those who have the oil, and the impotence of the United States itself in the hands of an international cartel.

We have the makings of a shift in the regional economic bases of our Nation comparable to that which happened after the Civil War. I do not recall that this was a happy event for any of the regions involved then, but it is happening right here. It is happening right here on the floor of the Senate.

Those, such as myself, who support the increase in military spending, are not going to do it, if it harms the future prospects of our States. We will not support it if it means crushing the prospects of a sufficient change in our political economy to allow an industrial State, such as my own to continue to be viable and not decimated in its resources because it chose to follow the lead of the national Government and provided a decent measure of provision in Federal programs. This would be an irony verging upon the irresponsible, and I, for one, would not wish to take part of it.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. DOMENICI. It seems to me I recall my good friend from New York on a number of occasions since he has been in the Senate specifically and generally contend that under the existing programs national in nature, his State, the State of New York, does not get its fair share. Is that correct? Is that a fair statement?

Mr. MOYNIHAN. I will not say what fair is. I am not much disposed to that kind of talk when we are talking about political economy. New York pays 12 percent of the Federal taxes and gets back about 8 percent of the Federal outlays. In those Federal outlays there is a peculiar mix. We tend to get software, while other regions of the country get hardware, if you will. I have used the phrase that we get food stamps and others get infrastructure. The disparity in economic product hastens.

Mr. DOMENICI. That is precisely what I thought the Senator had said.

I merely ask my good friend from New York if, as a result of a windfall profit tax and deregulation of crude oil, the U.S. Treasury becomes the windfall beneficiary of $600 billion, and if under our tax limitation, because of that windfall, an across-the-board tax cut at the national level, hypothetically, of 10 percent was to occur, would it be fair to say that New York would be the significant beneficiary of such a tax cut if they paid 12 percent of the tax—I assume they would get the most significant tax rebate in the hands of individuals in the private sector of any other State—is that a fair assumption?

Mr. MOYNIHAN. That is a fair assumption. Yes.

Mr. DOMENICI. The very point the Senator makes, that the redistribution of wealth will occur here to the detriment of New York and similar States appears to this Senator to be based on the fact that they would be better off if we took that new money, held it in reserve, and spent it for the kind of programs we have heretofore been spending that the Senator has been complaining about on the basis of 12 percent of the taxes, but not getting back nearly what is paid in.

I ask if it sounds anywhere reasonable that the best thing we could do for New Yorkers, individuals, average people, those who own businesses, in terms of making sure they get their fair share, is to cut their taxes?

Mr. MOYNIHAN. I cannot imagine anything that would be better for the State of New York than to have the State taxes reduced.

It is the disparity between State and local taxes that is our major problem.

But I would like to make the point in the RECORD, where somebody may read it 1 day and wonder what happened to the rearmament in the United States, that there is no one aspect of the Federal budget in which my State—and there are many like my State, Illinois is even more disadvantaged—receives a lower rate in Federal spending than defense expenditure. Apart from water projects, on which the Senator from New Mexico and I are allies, happily—to have him on one's side is to be influential indeed, in this body—it is with regard to defense expenditure that we find ourselves in a piteous condition, paying 12 percent of the Federal budget and receiving only 5 percent of the Nation's defense expenditure.

Every time I stand here and vote for defense expenditures, I stand and vote to drain more resources from my State. I have done it with serious reservations; but I have done it nonetheless. We are all Americans here.

But when the same people who demand more defense expenditure also demand the kind of rigid limitation on the use of Federal funds that might impose a readjustment between State and national levels, I find myself disassociating myself from this effort.

Mr. DOMENICI. Let me pose another question to the Senator by way of an observation of mine and see if he would agree.

If the windfall profit tax, in terms of the windfall tax and the new corporate liability, is going to yield—and I will pick a figure—over 10 years $600 billion, it has been my thesis that what we are doing is raising the price of energy to every one of the Senator's consumers in New York, his people, because the commitment is to raise the price of oil and its derivatives to world markets. So that the people in New York are going to be paying more for petroleum in the national interest because we want that price to get up to the world market.

Mr. MOYNIHAN. The Senator has a view, which I know, but cannot share, which is that somehow American producers will sell their energy at lower than world prices.

Mr. DOMENICI. That is right. In fact, I am saying that is probably one of the most commonsense reasons for deregulating because we really will not get national production while the world sets it at one level——

Mr. MOYNIHAN. Then I withdraw my statement. But I have heard that view expressed.

Mr. DOMENICI. I am not saying that in a short supply market there will be anything different in the world for a long time. But let me make my point.

What we will do is take from the energy consumers of the Senator's State, since we are talking about it, and redistribute, take them and make them pay an added price for energy, then the energy companies will pay that significant portion over to the Federal Government by virtue of our tax structure and the windfall.

Now, I say to my good friend, it appears to me that since the programs of this Federal Government, upon which we might spend that money, which I submit, roughly, might be out of the $600 billion, as much as $5 billion or $6 billion from New Yorkers, I submit the Senator from New York——

Mr. MOYNIHAN. Would the Senator mind—$600 billion——

Mr. DOMENICI. In energy, how much does the Senator think we would be paying?

Mr. MOYNIHAN. In increase?

Mr. DOMENICI. Yes.

Mr. MOYNIHAN. Well, 22 percent——

Mr. DOMENICI. So that figure, how many billion am I using?

Mr. MOYNIHAN. A lot——

Mr. DOMENICI. $30 billion.

Let me make my last point to see if the Senator agrees.

Mr. McCLURE. Will the Senator yield on that point?

Mr. DOMENICI. In a second.

Does the Senator believe that New York would be better off if we pay that money in the Federal Treasury to spend for Federal programs, or are they apt to be made more individually and collectively whole if we cut their taxes?

Mr. MOYNIHAN. New York, I reply with great confidence, will be better off if the Federal Government finally fulfilled the responsibility it undertook in the 1930's to pay the full cost of national programs in welfare and health, and other similar programs. If this responsibility had been met, a State such as my own would not face the wholly disproportionate level of local taxation that it does today. This imbalance was caused by opting for levels of benefits which were higher than we needed, but certainly not higher than those the Federal Government contemplated.

Mr. DOMENICI. I thank the Senator.

Mr. McCLURE. If the Senator will yield on a couple of points, first of all, if I understand what the Senator from New Mexico has been saying, it is that if New York, indeed, does pay a disproportionate share of the national revenues now, that a windfall profit tax generated from energy that then goes to Government, that would be paid back to the taxpayers of this country by reduction in their general tax rate, would benefit the taxpayers of New York more than it would the average State?

Mr. MOYNIHAN. That is right.

Mr. McCLURE. So that we would, in effect, have generated a tax shift of $600 billion over the period of years from the consuming States onto the producing States?

Mr. MOYNIHAN. I would like to consult the Joint Committee on Taxation on that point.

Mr. McCLURE. I think it is more complex than that. I agree.

Mr. MOYNIHAN. New York's proportion would remain the same.

Mr. McCLURE. That of the general tax revenue, aside from the windfall tax, might remain the same if all tax cuts were equal.

Mr. MOYNIHAN. Right.

Mr. McCLURE. And affected New York equally, but because a higher proportion of the Federal budget would be funded by windfall——

Mr. MOYNIHAN. Then I think we shift away from a State like New York.

Mr. McCLURE. So that 12 percent might well be reduced to the order of the 8 percent which was received back——

Mr. MOYNIHAN. Alas, if the Senator could put that in his bill, I would ask him to sign me up.

Mr. McCLURE. Let me say, without being able to assure the Senator from New York that it would have that precise effect, that surely the Senator from New York will agree that it would tend in the other direction.

Mr. DOMENICI. Absolutely.

Mr. MOYNIHAN. The windfall is going to represent about 2 percent of all taxation.

These numbers are staggering. Backward reels the mind when you see them. But it helps us to cheer up once in a while.

Granted, inflation is a chunk of it; but we now project that by 1984 we will have a GNP of $4 trillion. From 1978, which was last year, to 1984, which is just a few years ahead of us, our GNP will have gone up from $2 trillion to $4 trillion.

Mr. McCLURE. The Senator knows the rule of 72, as everyone here does, I am sure: At the rate of 12 percent a year inflation, it takes only 6 years for income to double. So inflation itself would drive a doubling from 2 to 4 in just 6 years.

Mr. MOYNIHAN. There is a real growth in this.

To go to the point I was making earlier: We have concerns, very serious ones, but let us not suppose there has not been real growth in this country. We have seen a one-quarter increase in per capita income in this decade.

Mr. McCLURE. One other thing needs to be placed in context. These figures become so large that, as the Senator says, the mind reels backward from the sheer size of the numbers.

Let us look at another matter, from perspective: We are talking about taxation on increased profits to producing countries over a period of years. During the same period of time, if we are going to meet the energy needs, at a modest growth rate, in our society, in the United States, in Europe, and in Japan, our allies in the free world, the capital investment in energy production must be $1.6 trillion.

Even if it were an average rate, that is $160 billion a year in new capital investment alone, to meet one need of our society, and that is energy.

I think the Senator is familiar with those figures. They come from Chase Bank, which I think has perhaps the most responsible projections and the most accurate projections as to capital needs. Does the Senator agree with those figures?

Mr. MOYNIHAN. I certainly recognize them, and indeed it would be presumptuous to disagree with them. The idea of disagreeing with a Chase Econometrics study would be a form of hubris that would bring personal bankruptcy as a minimum.

Mr. McCLURE. It certainly would be a local heresy in New York.

Mr. MOYNIHAN. Checks will bounce.

Mr. DOMENICI. And the mere recognition of them by the distinguished Senator from New York adds tremendous credibility to them.

Mr. MOYNIHAN. My checking account has little enough credibility. I do not want to weaken it further. I believe anything I hear from Chase Econometrics.

Mr. McCLURE. I take this time only because I think it is important for us to recognize in context what we are talking about in terms of revenues generated by the sale of energy, even at today's world prices, and the profits generated by those sales as compared to the investment requirement to meet our minimal needs.

Mr. MOYNIHAN. I say to the Senator that what he and his colleagues have been saying on that side of the aisle has been listened to over here, because they are talking about real issues and are talking about them with data and with a responsible concern about the issue of capital formation.

We wish this were not so partisan a measure. I have to say to the Senators that I do not want to be in any way disputatious, but it does seem to me alarmingly close to the Roth-Domenici permanent deficit amendment rather than balanced budgeting. By limiting revenues, we may do nothing more than insure that deficits become permanent—the Roth-Domenici definite deficit amendment.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. McCLURE. I think we must make the point again that the Senate already has adopted the Nunn-Chiles-Bellmon-Roth limitation on expenditures as a percentage of GNP, which is identical to the pending measure on limitation of revenues. If, as a matter of fact, we follow that limitation on expenditures, which we already have voted, and follow the limitations on revenues that we are suggesting here, the budget necessarily must be exactly in balance—not permanently in deficit; exactly in balance.

Mr. MOYNIHAN. That is something we all could desire. We adopted, as a sense of Congress, this other matter. The budget resolutions, however, we adopted as a matter of law.

Mr. McCLURE. Is the Senator suggesting that the adoption of the Nunn-Chiles-Bellmon-Roth sense of the Senate limitation on expenditures was just something to delude ourselves or the country?

Mr. MOYNIHAN. On the contrary.

Unfortunately, I must depart at this moment to a caucus at which this side of the aisle is trying desperately to devise a strategy for eluding this devastating assault upon the windfall profit tax, a diversion, in fact, which we had not anticipated——

Mr. McCLURE. I thank the Senator for yielding. I want him to participate in that caucus.

Mr. MOYNIHAN. Because I take that ceiling seriously and take the rising floor seriously, I do not want to get the things that matter a lot to us in this country crushed in between.

Mr. DOMENICI. If the Senator is going to give us the very distinguished handle he just decided we should bear, let me say, without even consulting our cosponsors, that we will be glad to accept it as a challenge.

If the other side will let us spend the money, we will guarantee that there will be no deficit. The taxes we collect will equal exactly what we will spend. So it seems that something else happens between the collection of taxes under Roth-Domenici and who spends it.

Mr. MOYNIHAN. I can only say that as you pick up another 10 seats in this body, you will be spending the money.

Mr. DOMENICI. The Senator hit it right on the head.

Mr. ROTH. Mr. President, I yield 3 minutes to the Senator from Iowa.

Mr. JEPSEN. Mr. President, I support the Roth amendment to hold Federal Government tax receipts to 20.5 percent of GNP in 1981, 20 percent in 1982, and 19.5 percent thereafter. I think that it is extremely important to adopt such an amendment in order to insure that the additional revenues from the windfall profit tax are not used to expand the size of Government and to insure that sufficient tax reductions are passed in future years to keep the tax burden from rising above its historical level.

As we all know, the tax rate does not remain constant. It rises automatically when inflation pushes people into higher tax brackets, overstates corporate profits, and produces illusory capital gains. The Congress has thus far refused to adopt indexing to automatically adjust tax rates for inflation. The least we can do alternatively is to guarantee that we will enact future tax reductions sufficient to prevent the tax rate from rising.

In my opinion, the tax rate is already too high. There seems to be a feeling that this is a good thing in the fight against inflation. I take the opposite view. High taxes do not restrain inflation, they make it worse. The reason is simple. Inflation is caused by too many dollars chasing too few goods. Increasing taxes does not reduce the quantity of dollars; it merely transfers them from the private sector to the public sector. Unfortunately, at the same time high tax rates reduce the incentive to work and produce. Thus we are left with the same amount of dollars and fewer goods, meaning that the price of remaining goods will rise. Conversely, a tax reduction will not be inflationary if it is aimed at increasing production, savings, and investment. By encouraging the production of more goods prices will decline.

I ask unanimous consent to have printed in the RECORD a table prepared by the Joint Committee on Taxation showing the magnitude of tax increases which can be expected in coming years based on current law plus the windfall profit tax. The figures indicate that between 1980 and 1990 taxes will increase by more than $1 trillion.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TAX INCREASES EXPECTED IN 1980 AND 1981

[In billions of dollars]

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1980–90
Inflation-induced income tax	15.6	32.9	36.8	41.1	46.2	51.7	57.9	64.8	72.5	81.3	91.1	591.9
Social security [1]	0.6	13.8	19.8	22.2	24.8	27.8	31.2	34.5	39.1	43.8	49.0	307.0
Income tax from decontrol (net) [2]	1.3	3.3	4.5	5.1	5.6	6.2	6.8	7.4	8.1	8.7	9.4	66.4
Net windfall profit tax [3]	2.2	6.2	8.0	7.5	6.9	6.5	6.2	5.8	5.4	5.2	5.0	64.9
Total	19.7	56.2	69.1	75.9	83.5	92.2	102.1	112.9	125.1	139.0	154.5	1,030.2

[1] Tax cut which would result from rolling back increase in tax rate scheduled for 1981 and increase in wage base from 1979 to 1981 in excess of inflation.

[2] Additional income tax on oil producers from decontrol minus reduced income taxes in other sectors.

[3] Finance Committee decision as of Oct. 10, 1979.

Mr. JEPSEN. Mr. President, I think it is appropriate to act at this time to stop the creeping increase in taxation which will accelerate in future years. We are in the midst of approving one of the largest tax increases in American history. This tax increase is being justified on the basis that a small group—the oil companies—are the beneficiaries of windfall profits of such magnitude as to be unconscionable. I doubt seriously whether such a tax increase would have ever been considered if it were in the form of a general tax increase on the American people.

The PRESIDING OFFICER. The Chair will inform the Senator his time has expired.

Mr. JEPSEN. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Yet is this not in fact what we are doing? All taxes are ultimately paid for by the people. Corporations do not pay taxes, people pay taxes.

It is important, therefore, to make sure that the taxes we are about to impose on the oil companies do not result in a higher overall tax burden. This is the point of the Roth amendment, and frankly I do not see how anyone can oppose it. Those who vote against the Roth amendment are saying in the clearest possible terms that they are in favor of raising taxes on the American people. If they can justify this then they must certainly represent constituents far different from my own, because I know that the people of Iowa are fed up with high taxes and they want them cut, not raised.

I point out that we are not specifying the kind of tax cuts which will be enacted. The Roth amendment only says that taxes must be cut enough to keep the overall tax burden down to 19.5 percent of GNP. I cannot conceive that the Federal Government will need more revenue than this to accomplish its legitimate functions and, moreover, any further increase in taxes will probably be counterproductive by destroying the incentive to work, save, and invest.

I am informed that the Budget Committee will raise an objection to this amendment on the grounds that it violates the Budget Act. If this is so then it only confirms the view that many people now have that the purpose of the Budget Act is to justify high levels of spending and to frustrate efforts to cut taxes. Every time we try to do something for the American taxpayer it is the Budget Committee which raises an objection. But it appears to me that very little of the same effort goes into cutting spending. I know that the Budget Committee made an effort and they worked hard to hold down spending during consideration of the latest budget resolution, but we still ended up with a deficit $7 billion larger than it was in the first budget resolution.

I urge my colleagues to support the Roth amendment and if a challenge is made to it by the Budget Committee I urge that this objection be overruled.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield myself 1 minute.

I do wish to make the point that the average American family's real income is less today than it was 10 years ago. The fact is that when one takes inflation and tax it is recognized that the American family, despite the fact the wife and children are working, actual purchasing power is less.

Mr. President, I make a point that a quorum is not present and I ask unanimous consent that the time count not against either side.

Mr. MOYNIHAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. MOYNIHAN. Mr. President, if the distinguished Senator from Delaware wishes to have a quorum call on his time I am happy to do it, but I cannot accept that the time be charged to both sides.

Mr. STEVENS. Mr. President, will the Senator yield a minute?

The PRESIDING OFFICER. The Chair informs the Senate that if there be no speaker the time will run against both sides.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield to the Senator.

Mr. STEVENS. Mr. President, it is very unreasonable, in my opinion, to have one party in caucus and the other party forced to take its time because that party is going in caucus.

I ask unanimous consent that there be a quorum call and that it not be charged to anyone, and if this is not going to be recognized there will not be any more time agreements on this bill. We have gone through this once before today. We are not going to do it any more.

Mr. MOYNIHAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The time will not be counted against both sides.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum, and it is going live.

The PRESIDING OFFICER. On whose time?

Mr. STEVENS. It will be charged equally, but it is going to go live.

The PRESIDING OFFICER. The Chair will inform the Senator it will be charged to the side suggesting the absence of a quorum.

Mr. STEVENS. The Senator has already agreed that it be charged equally.

The PRESIDING OFFICER. Is there objection to that?

Mr. MOYNIHAN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. How much time remains to each side?

The PRESIDING OFFICER. 71 minutes and 40 seconds on the part of Mr. Roth and 89 minutes and 55 seconds on the part of Mr. Long.

Mr. McCLURE. Mr. President, I ask unanimous consent that the time for a quorum call be charged proportionately according to the amount of time that remains to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. MOYNIHAN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I understand that the distinguished Senator from New York during my absence used the time available to me. Am I correct?

Mr. MOYNIHAN. The Senator is entirely correct.

Mr. MUSKIE. So I do not understand this indignation. He was using our time. He was using his time. The fact I was not personally speaking is the cause of the concern?

Mr. MOYNIHAN. I cannot answer for them.

Mr. MUSKIE. I do not understand the indignation. We had 6 hours of debate to be equally divided. I have been sitting here listening to the Senator's side. I think I listened to just about everything he had to say. It was not very persuasive, but he said it and I listened. And Senator Moynihan used some of my time.

Mr. McCLURE. Mr. President, will the Senator yield briefly in response to that?

Mr. MUSKIE. Yes.

Mr. McCLURE. I am sorry the Senator did not find it very persuasive. We wish to use a little of the Senator's time and we do not expect to find him very persuasive either.

Mr. MUSKIE. I did not want to use 3 hours. Does the Senator wish to force me to use 3 hours? I can get by on less than a half hour. Does the Senator insist that I use 3 hours? Does the Senator think he should be able to mandate when I use that 30 minutes?

Mr. ROBERT C. BYRD. Mr. President, how much time is involved? I do not think it is worth our fussing about. How much time is involved?

The PRESIDING OFFICER. There are approximately 70 minutes on one side and 89 minutes on the other.

Mr. ROBERT C. BYRD. What is involved? I was out of the Chamber. What is the problem as to time?

Mr. STEVENS. Now that we are here, none. There was not anyone here at the time.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that whatever time the Senator will allow on the quorum call be——

Mr. STEVENS. Mr. President, if my friend will yield, there was not any time. We are just seeking time for Senators to come back but they are back. We are happy to have them here and continue the debate.

It is my opinion when one party is not here out of courtesy in the past we let the time run without charging to either side. I do not see any reason why that should not be granted. I do not see why it should not be granted to me as the acting leader. It should have been granted as a matter of courtesy. I grant it to the majority leader at any time.

Mr. MOYNIHAN. Mr. President, may I say that under no circumstances would I wish to have been the occasion of any discourtesy to the acting leader. I think the acting leader will find that there was—during the period that our side was in caucus—a debate continuing in the Chamber, and at the time the quorum was requested by the Senator from Delaware that caucus had broken up and was concluded, and the Democratic Members were in the Chamber prepared to continue the debate. But in any event I hope he understands that no discourtesy was intended and I hope he will not feel one was in fact.

Mr. DOMENICI. May I say to the leader and my good friend, Senator Muskie, that Senator Stevens was not in the Chamber either when the Senator was here for however long or when we were here. When we left the Chamber to advise our acting leader of the situation there was at that moment no one in the Chamber on the Democratic side and we did not know——

Mr. MOYNIHAN. With respect, the Senator from Montana was here, I believe, at all times.

Mr. DOMENICI. Had he arrived? When I left the Chamber the Senator from New York was leaving and I was wondering where we were going to be and our acting leader was advised of that situation. The disparity is not too great. I think Senator Muskie has persuaded us. Perhaps we should go ahead, and it only took him 3 or 4 or 5 seconds.

Mr. MOYNIHAN. Listen to Senator Muskie. He will inform you and enlarge your spirits and widen your vision and deepen your understanding.

Mr. DOMENICI. Everything was going all right until the Senator from New York chipped in, I might say to my friend. We were talking about the Senator from Maine having been very convincing.

I would kind of like to repeat that.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, will the Senator from New York yield me 15 minutes?

Mr. MOYNIHAN. I yield such time as

the Senator desires within the 79 minutes remaining.

Mr. MUSKIE. Mr. President, at the outset I would like to alert the Senate to the fact that the amendment offered by the distinguished Senator from Delaware and the distinguished Senator from New Mexico is subject to a point of order under section 306 of the Budget Act. I think that ought to be made a matter of record.

Section 306 reads as follows:

> No bill or resolution and no amendment to any bill or resolution dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

Under that section of the Budget Act, Mr. President, the Roth-Domenici amendment is clearly subject to a point of order.

I understand that the distinguished Senator from Delaware has said he would seek to have the Budget Act suspended under section 904 of the Budget Act. He is choosing that procedure because his amendment is concedely subject to a point of order.

So what he chooses to do is what he has sought to do before, whenever he finds the constraints of the Budget Act uncomfortable or restrictive, he seeks to suspend it.

Now, Mr. President, there have been resources to section 904 before. The interesting thing is that not once has it been proposed to suspend section 904 in order to reduce spending. Always section 904 has been invoked either for the purpose of increasing spending or cutting taxes—whatever the budgetary impact of cutting taxes would be which, in this case, would be to create deficits.

There are two ways to create deficits: increasing spending or reducing taxes.

The chart I have just put on the easel indicates how the Roth amendment, in the red, relates to the budget resolution which this Congress approved just 2 weeks ago. That budget resolution, as all Members of the Senate will recall, was designed to achieve balance in 1981, permit a tax cut of $55 billion in 1982, and more thereafter, and to follow the policy line laid down by Nunn-Chiles-Bellmon in a sense-of-the-Congress resolution which was part of the tax law of 1978.

In my statement on the windfall profit tax bill last week, I put before the Senate a chart which projected the budget demands of the eighties, taking into account those policies which I have just described briefly.

Mr. President, I have listened to the debate, and I am not sure that at this point the substance of the amendment is that important since we are caught up with the prospect of one of two, or both, procedural motions. But I think it is important to devote some observations to the substance.

In the first place, the Roth amendment is not a tax-cutting amendment. Indeed, it is framed in the language of a budget resolution, and that is why it is subject to a point of order—because it says:

> For each fiscal year ending after September 30, 1980, the total budget receipts of the Federal Government shall not exceed an amount equal to the following percent of the estimated gross national product for such fiscal year: 20.5 percent in fiscal year '81; 20 percent in fiscal year '82; 19.5 percent in fiscal year '83, and thereafter.

Mr. President, if we should adopt this amendment and if the House should adopt it and it became law, the taxes of the taxpayers of this country would not be reduced by a single nickel, not by a single nickel. It would have to be implemented—unless we were to suspend the Budget Act permanently—first by a revision of the congressional budget which covers fiscal years 1980, 1981, and 1982; and, second by the tax-writing committees developing the tax legislation which would reduce revenues to the policy line mandated by the Roth amendment. So this does not cut a nickel of taxes for anybody.

If Senator ROTH wishes to modify the budget floor for revenues, the congressional budget resolution which covers the 3 fiscal years 1980, 1981, and 1982, is the place for him to offer this budget amendment; that is all this amendment amounts to.

If we adopt it, Mr. President, what then do we do about the budget resolution we adopted last week? Let it stand? Is that what we do? Or do we bring it back to amend it in accordance with this mandate?

I mean, obviously, since the revenue implications of the budget resolution are different from the revenue implications of this amendment, if this amendment became law we would have to find a way to resolve the inconsistency—that is, unless we adopt this thing in utter cynicism or for political expediency. So we would have to bring the second budget resolution back.

Mr. President, I do not look forward to opening up that can of worms. Senator DOMENICI knows, because he was a member of the conference between the House and the Senate, the difficulties we faced in producing a second budget resolution. To go through the exercise again could find us moving into calendar year 1980 without a congressional budget, and maybe that is the way the sponsors of this amendment would like it. Let me repeat, maybe that is the way they would like it.

Now, there is another alternative, Mr. President.

Let us say we are going to be expedient and cynical, so we leave the second budget resolution with its revenue assumptions, and we adopt the Roth amendment as the law of the land, allowing both of these inconsistent revenue policies to stay on the books. All right. Now we come to the budget markup next spring. Which revenue assumption does the Budget Committee follow: The second budget resolution, which was the product of the regular budget process, or the Roth amendment? Which one?

I can envision the debate in the Budget Committee over which of those two options should be chosen.

But let us say the Budget Committee decides that the Roth amendment, being the most recent expression of congressional intent, "We will follow that."

Now, what will that require us to do, because the tax-writing committees cannot implement this tax reduction unless it is reflected in the budget resolution for the year to which it applies, unless you want to suspend the Budget Act permanently?

If, then, the Budget Committee says, "The Roth revenue line is the one we will implement," what would that require us to do?

Mr. President, if we were to balance the budget in fiscal year 1981, Senator ROTH's revenue amendment would require a cut of at least $18 billion in outlays below the level in the second budget resolution. Where could we get that $18 billion? I assume that there are few, including the sponsors of this amendment, who would wish to take the cuts in defense or energy programs, so we cannot get it there. The total increase in outlays between fiscal year 1980 and fiscal year 1981 is $52.9 billion. If we remove defense and energy programs, the increase is $35.8 billion.

Apart from defense and energy, there are very few new programs assumed in the budget. Moreover, the second budget resolution estimates, other than defense and energy, assume almost no allowance for inflation except where mandated by law.

Furthermore, the budget resolution totals assume substantial savings through legislation to reduce the cost of existing programs. Senator DOMENICI knows this. I assume all Senators do. Virtually all of the $35.8 billion of nondefense, nonenergy increases between fiscal year 1980 and fiscal year 1981 is required to cover growth in programs that are indexed to inflation by law, and outlays that result from commitments made in prior years.

So the only way, Mr. President, that we could achieve the savings of at least $18 billion that would be required is to make cuts in existing programs above and beyond those already mandated by the second budget resolution.

Surely I do not need to remind any Senator just how hard that would be. We have not yet achieved most of the savings assumed in the second budget resolution, much less $18 billion more. The prospects for achieving savings already mandated are clouded at best. We will simply not get the savings already mandated for fiscal year 1981 if we do not start now to achieve savings in fiscal year 1980.

Mr. President, while I hope Congress will work hard to achieve the savings mandated in the resolution, I see little prospect of achieving savings of at least $18 billion more than planned. So the bottom line of the Roth amendment is a substantial budget deficit in fiscal year 1981. Let no one misunderstand that.

Oh, I have listened to the general rhetoric here this afternoon about "All we need is the will to reduce that appetite for spending; all we need is the determination."

Mr. President, I have been involved in the budget process as Budget Committee chairman for 5 years now, and I have tested that will over and over again. I remember when the Senate Budget Committee this year brought a budget resolution to this floor which was wholly in line with Nunn-Chiles-Bellmon—wholly in line, wholly consistent with that policy just laid out in 1978—the Senate blew the whole thing by increasing defense spending by 3 percent in 1980, 5 percent in 1981, and 5 percent in 1982.

Now, was that increase in defense spending the reflection of that rapacious appetite for spending to which Senator Domenici likes to make reference from time to time? No. Of course not. He voted for that as a necessary increase.

I do not challenge that. But let me say to my good friend that what is necessary to him could be excess to somebody else, and what he regards as excessive spending on the part of others could be essential spending to them. That is the lesson that anyone who is a student of the budget process ought to understand—that we are not talking about thieves, but we are talking about our colleagues in the House of Representatives and the Senate who pursue their priorities. We are talking about people, by and large, who are deeply committed to their priorities. And where 2 or 3 years ago people were supporting cuts in the defense budget, times and circumstances have changed the attitudes to the point where 72 Senators against 19 voted for the increase in defense spending to which I have referred.

But, no, we are going to forget all that sort of thing in the future with this pending amendment. Never again, for good reasons or bad, are we going to be faced with the necessity to increase spending or to require additional revenues beyond some level that some Senator magically established 2 or 3 years before. That is never again going to happen.

Yet here already we are talking about a change that is being proposed within 2 weeks—within 2 weeks—of the adoption of a budget resolution which has been in process since last March 15th. That budget resolution was just voted 2 weeks ago. Every Senator and every Member of Congress made a contribution to that resolution. The Budget Committees of both Houses devoted their attention to this resolution in conference for practically 2 months, brought it back to the floor, had to go back to the Senate Budget Committee in order to produce a new original resolution with a chance of passage, finally got it adopted by the House of Representatives, and now, within 2 weeks, we are going to change it.

Well, if things can change within 2 weeks, by what magic of vision do the sponsors of this amendment assert that they can predict what our revenue needs will be in 1981, 1982, and 1983?

We might be in war. There are no exceptions for that made here. We might be in deep recession next year, when revenues are going to drop automatically. Every 1 percent increase in unemployment results in a $12 billion reduction in revenues and a $3½ billion increase in recession expenditures. This could happen within the next few months. It took us almost 4 years to come out of the last recession, and we did not do it completely; we came down to 5.8 percent unemployment, but we are back up to 13 percent inflation, which threatens another recession.

If we follow these revenue policies set years in advance, we mandate a tax cut at a time of raging inflation and a national boom. Is that the right policy?

Is that the right policy? No, of course not. We should be wise enough not to mandate that kind of horrendous result.

Mr. President, my opposition to this amendment is, first, that it violates all the procedures that we have established under the Budget Act; second, it has the effect of undercutting the Congressional Budget Resolution which we adopted 2 weeks ago, after months of labor and effort; third, it puts in place the risky and dangerous public policy intended to hold come hell or high water; fourth, there is the bland assumption on the part of the sponsors that somehow, in defiance of all precedents and practices of the Congress, that we can cut $18 billion or more in outlays below the level of the second budget resolution for this year. I just do not see that being done. I do not see how it is possible.

Mr. President, it seeks to persuade us to abandon a policy that we thought was sound this year: A balanced budget beginning in 1981, with a big tax cut in 1982, and successive tax cuts and reduction in spending thereafter as permitted under flexible policy adjustment to evolving situations.

Mr. President, I believe that completes my comments on the amendment.

I would say, Mr. President, that I would make the point of order at this time, but I cannot because it cannot be made until all time has been used or yielded back. The motion to suspend can be made at any time. The sponsors of this amendment apparently are not interested in testing the procedural safeguards of the Budget Act. They prefer to make an end-run around them. That is their prerogative.

One could even propose to suspend the rules of the Senate. But the interesting thing is that in that case a two-thirds vote would be required. In the case of suspending the Budget Act, any willful majority can suspend the Budget Act for whatever politically appealing proposition may tempt them to do so. And the sponsors of this amendment obviously regard this amendment as appealing. It is the beginning of an election year and that is part of the American system, too.

So we are going to get a motion to suspend the Budget Act in due course, and that would be the first procedural motion. But I want the Senate to know that, as one who is charged with safeguarding the Budget Act, its procedures and its mechanisms, if I have the opportunity I will make the point of order.

The language of the act is so clear that I would expect it to be sustained. Then the sponsors of this amendment would face the task of appealing the ruling of the Chair. They, apparently, do not want to run that gauntlet. So we are going to move to suspend the Budget Act as though it is some routine kind of thing, without any serious policy implications.

Mr. President, I have been presiding over the Budget Act in the Senate since the act was passed in 1974. It is still very fragile. Despite the hold which it has on the habits and practices of this body, this body and the other body have broken loose from that discipline from time to time in ways which are truly disturbing. And every time that impulse arises it arises in response to what is perceived as an appealing, grassroots proposal—whether it is for spending or tax cuts or whatever.

Mr. President, the Budget Act is not strong enough to turn back the tide of an emotional public opinion, however unsound the proposition is. We saw it with respect to farm legislation. We saw it with respect to disaster legislation. We see it with respect to legislation impacting on any power constituency in the country.

There is no way for the Budget Act to resist that kind of emotional tide. And if we, ourselves, are the first to abandon procedural safeguards and expose the budget discipline to that kind of emotional public opinion, then we, ourselves, are contributing to the ultimate destruction of the budget process.

May I say to my good friends that if they set a pattern of routinely resorting to section 904 suspension, and it becomes routine, as far as I am concerned, the Budget Act is dead and I will want no further part of it.

Either a safeguard is a safeguard or it is not. There are ways for this kind of legislation to be properly considered and reported and reflected in the budget. This is not that way.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from New Mexico (Mr. Domenici).

Mr. DOMENICI. Mr. President, I thank my good friend from Delaware.

Let me say to my distinguished colleague from Maine (Mr. Muskie), that I believe he knows that there are few Senators who have more respect for the budget process as an instrument and who have voted for its conclusions, when they have been contrary to my own philosophy and ideology, than this Senator.

As the Senator knows, I voted for the first concurrent and I voted for the second out of conference and they were not consistent with what I thought was the policy that we should be following. So I have the same genuine respect for some discipline that the budget process has brought.

And the Senator need not have me remind him publicly of the tremendous respect I have for him, knowing that he has done the same; maybe for different reasons, with different philosophies and ideals about our National Government.

Well, let me say this: I do not believe it is fair to say that the Roth-Domenici mandate on this windfall tax bill will require that we call back the second concurrent resolution and start over. I have asked the legal question on that before I got involved here. I was told that, beyond 1980, those are targets.

Mr. MUSKIE. Will the Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. MUSKIE. I did not make it as a legal argument, nor did I make it as a parliamentary argument. I am just saying it does not make any sense.

Mr. DOMENICI. All right. Fine.

Mr. MUSKIE. It does not make any sense to have two different policy lines on the revenue target for 1981 on the books.

Mr. DOMENICI. I misunderstood.

Mr. MUSKIE. That does not make for a rational budget process.

Mr. DOMENICI. I misunderstood the Senator. I thought the Senator said that by this act we were going to require going through this process.

Mr. MUSKIE. If the Senator will yield, I said we would have to do that unless you are absolutely cynical about the budget process. I mean, what commonsense does it make for the Congress to have adopted a revenue line in the second budget resolution 2 weeks ago and for the Congress now to adopt a different one for the same fiscal year? If we have no respect for the budget process, then, no, we do not have to call back the second budget resolution. There is no legal requirement.

Mr. DOMENICI. That is correct.

Mr. MUSKIE. But there ought to be some requirement in the mandate that the people be clear as to which we mean.

Mr. DOMENICI. Well, let me just add one point, and then I want to yield to Senator ROTH, who will express the economic concerns that back up this proposal which is, in our opinion, equally as significant as any process, because it has to do with where the American economy is going to go.

Everyone knows that the 1981 out year target figures proposed by the conference of the budget members says we are going to have a balanced budget in 1981. But I remind everyone that it has another very significant fact. It says we are not going to have a tax cut.

Now, I do not believe that is true. I do not believe we are going to go through the whole of next year without a tax cut.

And I do not believe that when the proposal is made, be it by President Carter in February or March, or someone else, that we have a significant tax cut, that the argument is going to be made that for 1981 anyone who would propose to change that before we go back through our budget process is violating the budget process in any manner at that time. I think it is going to happen.

Mr. MUSKIE. Will the Senator yield?

Mr. DOMENICI. Just let me finish and then I will yield for whatever remarks the Senator has.

As a matter of fact, everyone should know that the target year of 1981, which is not binding on anyone but which is living up to a commitment that we produce a balanced budget at some point in time, is outdated once we have passed this bill and once deregulation of crude oil is in effect, because on no one's chart does the revenue appear that is going to be generated in 1981, 1982, 1983, or 1984 from the episode of deregulation and this windfall bill. It is for that very reason that we were motivated to say that if there is going to be any discipline, we ought not leave that out there for people to look at in terms of a balanced budget and yet a higher level because we have more revenue than we expected.

I will acknowledge that at 20.5 percent of GNP in 1981 we are picking up a little more revenue than the new money that is expected to be generated from the windfall tax and the episode of deregulation.

I will also say that if there ever was an event that prompted us to do something different than we did 2 or 3 months ago, it is the full realization that for the next 10 years we shall expect well over $400 billion—some estimate $600 billion—in new corporate liability that will show up in taxes and the windfall. I submit that is an episode that has occurred that properly requires some instructions to the institution about levels of taxation.

I close by saying while it is not an event occurring on the floor of the House, the truth of the matter is that even those who are struggling with the Budget Act in the House—and its chairman—are coming to the conclusion that the only way to keep expenditures under control is to relate them to a percentage of GNP. He is proposing that it become firm and binding and part of the budget. That is the proposal he is hearing and exposing in the House of Representatives.

It seems to some of us that that is exactly the way we are going to get the kind of collective discipline that we so much need, the kind of tool to aid the Budget Committee to make the kind of judgments that we cannot make when everybody is bent on their program with the kind of enthusiasm that the Senator from Maine has said others have for their programs and I might have for military expenditures.

I might say to my friend, the Senator from Delaware, I truly compliment him for the service he performs in bringing this to the Senate. Whether it happens here tonight or in the not too distant future, the manner to respond to the American people will still be the same. Not for us to set them as part of the constitutional conventions or the people clamoring for it, but we will do it. I submit there will be a surplus if we do not do something about it, excepting that surplus will disappear in the enthusiasm for more Government.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I say to my good friend from New Mexico that whether or not either of us supports the budget process is a question better answered by what we do than by what we say. We adopted a budget resolution 2 weeks ago and the Senate voted for it. I assume this amendment was at least in the incubation stage at that time. Now, 2 weeks later, we see an amendment that will wreck that budget resolution.

Second, the balanced budget in 1981 was mandated by the Congress. Have we all forgotten the special legislation and the amendment that was offered to the debt ceiling bill in the spring when we were being pressed from that side of the aisle and from this side of the aisle to pay attention to the public demand for budgetary discipline?

In response to that, this Senate initiated the policy of a balanced budget in 1981. It did not come out of the Budget Committee. We were told to produce balanced budget alternatives for 1981 and 1982. The two options were that the balance would be first achieved in 1981 or, alternatively, first achieved in 1982.

We could have had a tax cut in 1981 if we had chosen the 1982 balance, and that option was presented in the Budget Committee—to have a tax cut in 1981. It was rejected in the Budget Committee in favor of balance in 1981.

When the Senator from New Mexico tells me that balance in 1981 is some illusion, some ephemeral ghost that came out of nowhere, I must respond that it is a policy of this Senate which rejected a 1981 tax cut. The vote of 11 to 3 in the Budget Committee is a fact. So balance in 1981 is a goal to which the Budget Committees of both Houses have committed themselves ever since.

Nobody in the Budget Committee since that time has challenged it. We have accepted it as the policy of the Congress and it was finally enshrined in the budget resolution of 2 weeks ago, to which Senator DOMENICI has told us he was committed and which he supported, only to abandon it 2 weeks later.

The Senator says, "Well, I do not believe there will not be a tax cut in 1981."

Well, there certainly will be if we abandon the budget process. It is an election year and by traditional standards we could expect a tax cut. But I have been listening to Senator DOMENICI and Senator ROTH and they tell us they are offering this amendment in order to change traditional practices, to make them more prudent, budgetwise.

How does the Senator manage to summon enough confidence in the implications of his amendment if he discards his confidence so easily with respect to the budget process which has had at least 5 years trial run? That has to be the pinnacle of cynicism, to expect that.

Mr. President, as far as I am concerned, nobody knows better than I the uncertainties that can face a budget maker and the changes that time and circumstances require. But I believed, and I thought the Senate believed, that the only way you could achieve discipline in this undisciplined body was to have a plan for doing so to which people of divergent views, philosophies, values, and priorities could make their fair contribution, and then accept the results.

The Senator says he has been voting for things that he was against. Does he think I have not?

I have from the beginning and I find myself standing almost alone in the process from time to time.

That is what is required of each of us, may I say to the Senator, not just the Senator from New Mexico and the Senator from Maine.

This process is not going to work just because I vote against my convictions and against a popular proposal. There has to be a majority of this body voting in that way, exercising restraint, in the overall interests of a balanced budget, budgetary prudence, and public confidence in this body. But if each of us yields in response to a current wave or tide of support for a popular idea, whatever it costs, we can forget about the budget process. We can forget about it.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I have read the release by the distinguished Senator from Maine and I have listened carefully to his remarks about the Roth-Domenici amendment.

Mr. President, I must confess I am surprised that I have not been accused of being responsible for the Three-Mile Island accident and the bubonic plague.

It is charged that the the Roth-Domenici amendment, if accepted, singlehandedly would wreak havoc on the budget process, plunge us into irretrievable deficits, cause fiscal disruptions, erode investment confidence, and, God forbid, create widespread public disillusionment.

I am almost afraid to return to Delaware for fear of being charged with crossing State lines to incite a riot.

Mr. President, I could not more strongly disagree with the distinguished Senator from Maine. I point out that the whole budgetary process originally resulted from an effort of mine many years ago to cap the growth of Federal Government. I am a strong believer in it.

But I must also say that those of us who are not on the committee have the right to attempt to influence the budgetary process and are not required merely to accept on the Senate floor the recommendations of that committee any more than we are required to accept those of the Finance Committee, or others.

I point out that the chairman of the Budget Committee is really trying to balance the budget by allowing taxes to increase to the highest levels in this country's interests. The chairman of the Budget Committee has claimed that the current congressional budget contains the lowest level of spending in the last 5 years. But he did not mention that spending is going to be 21.9 percent of gross national product the fifth highest level in our history and substantially—substantially—above the historical average of 19.9 percent.

It has been claimed that our amendment would violate the Nunn-Chiles-Bellmon-Roth amendment adopted last year. I point out that the current second budget resolution already violates that.

I wonder if it is recognized that the Nunn-Bellmon-Roth amendment sets limits on Federal spending of 20.5 percent for 1981, 20 percent in 1982, 19.5 in 1983.

The same limitations we would set on revenue under our amendment.

As I pointed out, the second budget resolution has already violated the Nunn-Bellmon-Roth-Chiles amendment by providing spending levels of 21.9 percent, the fifth highest level in the country's history.

Mr. MUSKIE. Will the Senator yield?

Mr. ROTH. No. I would prefer to complete my statement.

The Senator also claims that the Senate rules require him to raise a point of order against this amendment.

If that is so, then why did the Senator not raise a point of order against the Nunn amendment last year, which set the same limits on spending?

What this amounts to is a parliamentary maneuver to prevent the Senator from having the opportunity of voting tax relief for the American people and to attempt to insure by that maneuver that there will be massive tax increases to finance the expansion of Government spending.

Mr. President, I applaud the fact that the distinguished chairman of the Budget Committee last week took to the floor to discuss revenue-raising measures. He pointed out correctly that this windfall profit tax involved more profit raising than almost collected in the original over 100 years.

I think he made a point that I would hope the American people fully understand, that this Federal Government is going to take another $1.5 trillion into its coffers and, if I understand what the distinguished chairman was saying, that these funds are needed for Federal spending programs.

Mr. President, many of us are greatly concerned about the plight of our economy. There is not a paper, magazine, or publication, that does not discuss the serious problems of this economy and that we are moving into a deep and serious recession.

We have seen article after article pointing out, among other things, that United States Steel is closing down plants, laying off 13,000 employees. We have seen that over 100,000 employees are being laid off in the automobile industry. We face the fact that the Chrysler industry may be going into bankruptcy unless the Congress acts. We are told we are not supposed to consider steps to correct this problem because of the procedures of the Senate.

What is happening? What is happening is that we are balancing the budget by raising taxes, exactly what was done 50 years ago. It did not work then and it will not work now.

It is predicted by the CBO that by the end of next year we are going to have over 8 percent unemployed. That means over another million men and women without jobs, and that is not going to achieve or end stagflation.

What we need to do, Mr. President, is listen to the advice and counsel of the Joint Economic Committee which has pointed out correctly, in my judgment, and headed up by a distinguished member of the majority party (Mr. BENTSEN), that the only way we can work out of our problem of stagflation is by doing something about productivity, that we have to have more savings, more capital investments, so that we can produce more without inflation and create jobs in the private sector for those without jobs today.

I think this is a legitimate debate on the Senate floor. It is important that we recognize that we cannot discuss an energy bill that will bring $600 billion additional revenue into the Federal Government and not discuss what that is going to do to our economy.

The fact is that if we permit more of this revenue to go into capital formation in the private sector, the Joint Economic Committee—as I pointed out, headed by a distinguished member of the majority party—states that we face a declining economy, that the American people will have to do with less.

Maybe in the next several months, when we are facing these long lines of unemployment and we see stagflation continuing, when we recognize that the average American family is paying something like $926 additional taxes in 1980 and 1981, we will be glad that at least we had the courage to debate in what direction this economy should go.

Maybe it is only 2 weeks since we handled the second resolution. The procedures are not important. What is important is what happens to the American economy, what happens to the American working people, to their opportunity, to jobs.

I want to see this country a country where there is hope and promise, not the idea that we have to bring as much revenue as we can into the Federal Government and redistribute it, which adds nothing to productivity or meaningful jobs for the individuals who now are going without.

Mr. President, I understand, from what the Senator from Maine has said, that he would raise a point of order against the Roth-Domenici amendment. I intend, as is permitted under the Budget Act, to move for a waiver.

I move, in accordance with section 904 (b) of the Congressional Budget Act of 1974, to waive the provisions of titles III and IV of that act with respect to the pending amendment.

I point out, Mr. President, that what I am doing is in accord with and consistent with the budget procedures.

I point out that some time ago, in another waiver debate, the distinguished Senator from Maine stated that the waiver motion was "contemplated by the Budget Act as a procedure open to the Senate in order that it not be frustrated in exercising its will. It is not a waiver of the procedures. It is an exercise of rights that the Senate has under the procedures."

With that statement, I strongly agree. I have the right, as well as any other Senator, including those serving on the Budget Committee, to ask that a waiver be voted, so that we have the opportunity of determining in what direction this country is going to move.

I hope that Members of the majority side and the minority side will vote in support of this waiver, because I think one of the most critical decisions we are going to make on the Senate floor is how we try to move this economy upward.

Mr. DOMENICI. Mr. President, will the Senator yield 1 minute?

Mr. ROTH. I yield.

Mr. DOMENICI. As Senators contemplate the significance of this measure, or what it is we are and are not doing, I remind the Senate of two things.

The Senate adopted the Nunn-Chiles-Bellmon amendment as part of a tax bill on this floor. It told the Budget Committee the collective judgment of this institution, the U.S. Senate, and it told them what the Budget Committee should do with reference to limitations on expenditures by Congress. That was readily accepted and heralded across this country as a tool, something that would aid us to accomplish what we had to accomplish.

Second, I repeat the words of the chairman of the Budget Committee when he told us here today that the reason why the 1981 budget came in in balance is that the Senate of the United States, agreed to by the House of Representatives, mandated in a debt limitation bill that in 1981 and 1982, with some options—told us what the collective judgment of Congress was.

Those are contemplated as collective aids to reach good goals. That is all we are doing here today—asking that, collectively, for 1981 and 3 years thereafter, we set goals which will assure that excess taxes that are coming to our Government will find their way back to our people.

● Mr. DOLE. Mr. President, I support the effort by the Senator from Delaware to obtain a waiver under section 904 from the Budget Act.

It was precisely because of situations like this that section 904 was put in the act. The Budget Act was never intended to stop efforts like this one by the Senator from Delaware to interject fiscal restraint into the budgetary process in the Congress. Indeed, it is ironic that the Budget Act is being used to impede the very restraint that the act itself was intended to foster.

Mr. President, the Senate should be permitted to work its will. To allow this to happen I strongly urge my colleagues to support this section 904 waiver of the Budget Act.

As interpreted by the Chair, section 306 of the Budget Act prevents the Senate from considering vital budgetary matters. If this is to be the Chair's position it should apply across the board. In fact, the Budget Committee has been selective in deciding which amendments may be out of order. Last year the Nunn amendment, which set limits on spending, was not subjected to a point of order and the merits of that matter were reached.

Finally, Mr. President, it must be repeated—a vote against this waiver request is a vote against the Roth amendment and the tax relief that it represents. We should not try to fool ourselves into thinking otherwise.●

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from New York yield me 3 minutes?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I intend to move to table the motion by the Senator from Delaware, and I do it with apology.

Section 306 of the Budget Control Act reads as follows:

> No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration cf which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

Obviously, this amendment does not qualify, because it does deal "with any matter which is within the jurisdiction of the Committee on the Budget" of the Senate and it has not been "reported by the Committee on the Budget of the Senate." The Senate Budget Committee was not discharged from the consideration of such an amendment, because the amendment was not before the committee, in any event.

Now Mr. ROTH has moved, under section 904(b), to waive or suspend this provision.

Mr. President, the distinguished Senator from Maine already has explained very clearly the budget implications of the amendment and the impact it will have on the budget and on the economy, and I am prepared to move to table the amendment by Mr. ROTH.

Does the Senator from Maine wish to address the comments of Mr. ROTH with respect to the Nunn-Chiles-Bellmon resolution, before I move to table?

Mr. MUSKIE. Yes; I covered that earlier.

Mr. MOYNIHAN. I am happy to yield to the Senator from Maine or the majority leader.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from New York allow me 5 minutes?

Mr. MOYNIHAN. Yes.

Mr. ROBERT C. BYRD. I would like to yield to the distinguished Senator from Maine, with the understanding that I then be recognized to move to table, by unanimous consent.

Mr. DOMENICI. Does the Senator seek unanimous consent?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. I do not think we want additional time. I am delighted to see the Senator from Maine have 5 or 10 minutes, but I object to it being handled in this manner.

Mr. ROBERT C. BYRD. Mr. President, I move to table the motion, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. PRYOR). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion made by the Senator from Delaware to waive titles 3 and 4 of the Budget Control Act with respect to the pending amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 44, as follows:

[Rollcall Vote No. 455 Leg.]

YEAS—49

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Long
Magnuson
Matsunaga
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Tsongas
Williams

NAYS—44

Armstrong
Bellmon
Boren
Boschwitz
Byrd,
Harry F., Jr.
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
Mathias
McClure
Melcher
Packwood
Percy
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—7

Baker
Goldwater
Hayakawa
Kennedy
McGovern
Metzenbaum
Talmadge

So the motion to lay on the table the motion to waive the provisions of titles 3 and 4 of the Budget Act with respect to the pending amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, our side is prepared to yield back the remainder of our time, if that is agreeable to the proponents of the amendment. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate is not in order. The Senator will not proceed until order is restored. Senators will clear the aisles and retire to their seats.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. ROTH. Yes.

Mr. ROBERT C. BYRD. I hope Senators will not leave, because Senator Muskie will make a point of order when the time has been yielded back or has expired, and once that point of order is disposed of, that will be the last vote or action tonight, if it is disposed of.

Mr. ROTH. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROTH. Mr. President, I am deeply concerned that the Senate, by a vote of——

Mr. NELSON. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Delaware will please suspend momentarily. The Senate will come to order.

Mr. ROTH. Mr. President, I am deeply concerned that the Senate would resort to parliamentary tactics to block a vote on tax relief for the American people. I am concerned that this vote means that the average American family is facing tax increases of nearly a thousand dollars, and the Senate is not even willing to vote up or down on such a tax cut bill.

What concerns me the most, Mr. President, is that we are just on the verge of a major recession. As I said before this vote was taken, every day there are new reports of new unemployment, of more plants being closed down, of the fact that during the next several years the American people face a decline in their standard of living. I am distressed by the fact that, by our failure to wrestle with these problems of recession and declining productivity, we are dooming at least another 1 million people to unemployment. By this vote of a slim majority of five, we are saying to the American people that we cannot do anything to reverse the trend, to move this Nation into a new direction of opportunity, growth, and increased employment.

Much has been said about this amendment—Mr. President, may we have order in the Senate Chamber?

The PRESIDING OFFICER. The Senate will be in order. The Senator may proceed.

Mr. ROTH. Mr. President, I intend not to seek further votes on this issue, but I do intend to yield some time to my colleagues who have done such a superb job of defending and expressing their support for this legislation. I wish to say that we shall bring this matter up again. The state of the American economy is too important to be defeated by a vote of 49 to 44. I will seek, time and again, to follow through on the recommendations of the Joint Economic Committee that we take steps, important steps, to promote productivity, to produce more products without inflation, and to create jobs in the private sector.

Mr. MOYNIHAN. Mr. President, we do not have order.

The PRESIDING OFFICER. If the Senator will suspend for a moment, the Senate is not in order.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. ROTH. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from New Mexico may proceed.

Mr. DOMENICI. Mr. President, I join with my distinguished friend from Delaware in his remarks, and sincerely indicate to the Senate that I believe——

Mr. MOYNIHAN. Mr. President, the Senator from New Mexico is making an important statement, and he cannot be heard. He is entitled to the attention of the Senate.

The PRESIDING OFFICER. The Senate will be in order. Senators will please clear the aisles. The Senator may proceed.

Mr. DOMENICI. Mr. President, I can only assume that everyone in this body who voted to table this important issue—because that is what you did—understands what has happened here today.

Basically, we have broken faith, in my opinion, with the American people. With a great deal of ceremony, at an appropriate time, the United States Senate voted in an amendment to a tax bill stating that we intended, in the future, including 1981, 1982, 1983, and 1984—the years that are the subject matter of this amendment—that we intended to limit the expenditures of the Federal Government.

We very precisely pointed out the present. And then we all went home for an election.

And here today, in the absolute middle of the imposition of the largest single tax-raising measure in American history, we are breaking faith by refusing to even let this body vote on whether that is an important enough issue to come within the waiver provisions contemplated by the Budget Act. We are saying: "Table that. That is not important enough to vote on a waiver, the process for which is prescribed in the Budget Act."

I ask: When will there be an important enough issue? When will we have an opportunity to keep faith and to send a message to the Budget Committee, not only here but also the Budget Committees of the House and the Senate, that we intend that our law, which says these percentages will bind us on expenditures, likewise bind us as to what we will take from the American people in taxes? We do not even do that under current law. We would not have done it.

But today we will not even do it when we can expect $600 billion in new taxes over the next 10 years that we can contemplate in the budget that is before us in the 1981, 1982, 1983, and 1984 projections.

I say that we just do not want to face up to acknowledging that the people are entitled to this money, not us. I only wish we could have voted up or down, rather than table it, because I believe the very prescription in the process said if it is important enough, seek a waiver and let the body collectively vote on it.

I believe, indeed, this was as important an opportunity to seek a waiver as we will ever find for years to come.

I thank the Senator from Delaware for yielding.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the U.S. Senate has just voted to maintain the integrity of the Budget Act of the United States which is designed to produce a responsible and balanced budget in an orderly way. We have rejected an amendment that would provide a permanent deficit throughout the 1980's. This was a vote to have a deficit every year—more inflation, more irresponsibility in Government.

The Senate did its duty and it did so in response to the clear exposition of the chairman of the Budget Committee who wrote that bill and has defended that process come what may. This Senate and the American people should be proud of him. This Senator, a member of his committee, wishes to stand here and say so and hope that he will now respond to the remarkable observations that have just been made.

Mr. MUSKIE. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. MUSKIE. Mr. President, I did not really see the need for further talk after the vote was taken. I am more inclined not to talk than to talk. But I simply cannot let stand on the record—presumably as a summary of a debate that has taken all afternoon—the observations made by my good friends from Delaware (Mr. Roth) and New Mexico (Mr. Domenici) and all of this indignation about promises we made that are unkept.

Mr. President, we made a promise in the debt ceiling bill early this spring that we would balance the budget. And we wanted it balanced either first in 1981 or for the first time or 1982. The Budget Committees were mandated to produce those two options. We did.

The 1982 option would have permitted a tax cut in 1981. This Senate rejected that option. The other option mandated a balance in 1981. This Senate resoundingly approved that option.

The Roth amendment, according to the best figures that are available to us, would have changed that balanced budget in 1981 to a deficit in 1981. And the Senator from New Mexico (Mr. Domenici) talks about breaking our word. We gave our word that we would seek to balance the budget in 1981.

Secondly, Nunn-Chiles-Bellmon: The Budget Committee produced a budget resolution which met the requirements of Nunn-Chiles-Bellmon.

I said that earlier this afternoon and I have since heard either Senator Roth or Senator Domenici cite the facts otherwise. We produced a budget resolution that kept our word on Nunn-Chiles-Bellmon. And what broke it? An overwhelming vote in this Senate on the second budget resolution, joined in by Senators Roth and Domenici, to increase defense spending by 3 percent, 5 percent, and 5 percent. That threw Nunn-Chiles-Bellmon out the window. That is the Senate's prerogative.

But to blame the breaching of Nunn-Chiles-Bellmon on the budget process and the Budget Committee when it was the Senate itself by a vote of 72 to 18 that did it, to me, is the ultimate in rhetorical cynicism.

We have done our best to meet the commitments this body has made in the name of the budget process all this year. We produced a budget resolution that this Senate and the House both approved within the past 2 weeks, and that budget rejected the commitments that you had mandated us to meet. And now in the name of keeping our word, we break that word.

We approved the budget resolution within the past 2 weeks. This Roth amendment was surely in the incubation stage in that period. I did not hear the subject raised at the time the second budget resolution was on the floor or any proposal to amend it. I did not hear a word about that.

And then I come in here today and I am belabored with distortions of the record, with abuse of the budget process—a vote that came close to setting a precedent which, if followed, if it becomes routine, can destroy this process. No, one precedent does not, I recognize that. So the precedent is minimized by those who want to establish it.

But the motion to suspend the Budget Act has never been made in the name of decreasing the deficit or reducing spending. It has always been made in the name of increasing spending or increasing the deficit by such means as this. And that is the danger.

Once it becomes easy to get a suspension of the Budget Act, once it becomes easy—all of us know how the pressures to increase spending originate. They originate at the grassroots, among the farmers, among the veterans, among taxpayers who would like a tax cut; among taxpayers who see that an increase in social security tax is coming.

Suspending the Budget Act can become as routine as unanimous-consent agreements, which have the effect of suspending rule XXII. And we do it every legislative day in the year.

Once the budget process becomes subject to that kind of temptation, it is gone. That is why I fight for procedural things like this.

Do you think I do not like to vote for tax cuts? What are you, nuts?

There are obviously reasons why a majority voted this procedural vote against a tax cut. Do you think you fellows over there are the only ones who understand that a tax cut in an election year is a popular thing to do? Do you think we do not realize that, too?

But there is such a thing as the integrity of the procedures we establish to convince the American public of something they are seriously in doubt about now—our commitment to budgetary integrity. Every time there is an opportunity to take the politically attractive and expedient proposition, the Budget Act trembles on its foundations. And one of these days, it is going to collapse because of that temptation. That is why I oppose the Roth amendment.

There is a proper procedural way for trying to do what Senator Roth tried to do by suspending the Budget Act today. He has not pursued that route. Where was he when the budget resolution was up for consideration in the spring? He has got another opportunity next spring if he wants to do it the right way. I cannot guarantee him majority support. But there is a way to do it that does not violate the budget process—that does not undo the budgetary task that we finished this year. Why do you not use it and not force your colleagues in the Senate to resort to procedural votes in order to prevent an improper use of the Budget Act?

May I say to the Senators I have no desire to continue. I am sorry I have continued as long as I have. I cannot make the point of order until time has expired or has been yielded back. I am ready to make the point of order as soon as that parliamentary situation exists.

ROTH AMENDMENT LIKELY TO CAUSE BUDGET DEFICIT IN 1981

● Mr. HART. Mr. President, I would like to express my views concerning the amendment by Senator Roth. While the goal of Senator Roth is to reduce taxes and presumably also reduce Federal spending and balance the Federal budget, I must oppose the Roth amendment because it is likely to result in a high budget deficit in 1981.

Last fall I developed a proposal to restrain the growth of Federal spending and to provide tax cuts as soon as feasible i.e., at a time when the budget also can be balanced. This proposal was adopted as a proposal by myself, Senator Chiles, and Senator Bellmon in the Budget Committee this spring. I urge my colleagues to continue to try to reduce Federal spending so that the budget can indeed be balanced in 1981 and tax cuts can be granted thereafter.

The proposal by Senator Roth would require that total tax revenues as a percentage of GNP not exceed 20.5 percent in 1981. Compared to revenues that would be received under existing tax law and the likely windfall profit tax bill, Senator Roth's amendment would provide for $39 billion tax cut in 1981.

Mr. President, it is just not realistic to provide a $39 billion tax cut in 1981 and also balance the budget. People want their taxes cut, but they want to see Federal restraint and Federal budgetary balance even more. Therefore, I will have to oppose Senator Roth's amendment.

Senator Roth's amendment would require that Federal spending in 1981 not exceed $575 billion. I remind my colleagues that the second budget resolution which the Senate has just passed would have Federal spending at $588 billon in 1981. Achieving the $588 billion spending limit will be very difficult. To achieve the $588 billion spending limit, the Senate and the House will have to pass legislation to achieve significant legislative savings. I will strongly support efforts by the Senate committees to achieve the savings that were suggested in the reconciliation instructions in the Senate budget resolution.

Because it is going to be difficult even to achieve the $588 billion spending limit in 1981, it is unlikely that the Senate could achieve a $575 billion spending limit in 1981. Therefore, I believe that the Roth amendment, which would imply a tax cut of $39 billion in 1981, would result in an unacceptably large budget deficit in 1981.

Mr. President, I believe that the true goal of Senator Roth is not only to reduce Federal revenues as a percentage of GNP, but also to reduce Federal spending to allow tax cuts and a balanced budget at the same time. Acting only to reduce revenues is unwise, as it will likely result in large Federal deficits.

In conjunction with my opposition to Senator Roth's amendment, I urge my colleagues to redouble their efforts to work on the appropriate committees in the Senate to report the bills needed to achieve legislative savings which are assumed in the Senate budget resolution. It is only by achieving these legislative savings that we will achieve the spending targets which will allow the budget to be balanced in 1981.●

Mr. MAGNUSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is the amendment offered by the Senator from Delaware. Who yields time?

Mr. McCLURE. Mr. President, will the Senator from Illinois yield me 5 minutes?

Mr. ROTH. I yield 5 minutes to the Senator.

Mr. MAGNUSON. Mr. President, I have been waiting very patiently to bring up a very important bill. Is this going to go on all evening? I thought we had voted on this.

Mr. McCLURE. Mr. President, I thank the Senator from Delaware for yielding time to me. I will be very brief, I say to the distinguished Senator from Washington.

I cannot help but note that the Senator from New York earlier in the debate today said that to vote for this was to vote for deficits. If he indeed wanted to say that we voted for deficits in this, then he is saying that those who voted for the Nunn-Bellmon-Chiles-Roth amendment did not mean what they said because that amendment called for a limitation on spending as a percentage of GNP which is exactly the same as the limitation on revenues as a percentage of GNP under this proposed amendment.

So the only way there could be a deficit is if the Senator is saying to us that they do not intend to keep faith with the Nunn-Chiles-Bellmon-Roth measure that was passed.

It is urged here today that this has to be a procedural question to validate the budget process. I would remind you, Mr. President, that no such objection was raised when the Nunn-Roth-Bellmon-Chiles amendment was offered. It was subject to the same procedural objection as is met here today. The point of order was not threatened, the waiver was not required, the amendment was voted on by the Senate, and the amendment was agreed to by the Senate.

Yes, I understand that my good friend from Maine does not yield to people on this side in their concern for a tax cut. I am certain that he understands the political appeal of a tax cut as well as anybody in this body. He is an intelligent and able Representative of the people of his State. And he understands politics at least as well as the junior Senator from

Idaho; probably far better. He has been around longer and his proven track record indicates that he does understand the political process.

But I would submit to you, Mr. President, that there is in this body and elsewhere a greater political appeal, and that is spending the taxpayers' money. That is why we are in trouble. We turned our backs on the opportunity to give a tax cut in favor of the political opportunities to spend more money. That is the entire issue involved in this particular debate here today. It has nothing to do with the budget process. It has nothing to do with the integrity of that process. It has to do with whether you want to spend more taxpayers' money or whether you want to spend less of the taxpayers' money, Mr. President.

There are some of us who believe that the political appeal of reducing the size of Government, reducing the drag upon the financial resources of the private sector, reducing the grip of the Federal Government on the average taxpayer's pocketbook ought to be and is now a politically better motivation than promising people greater goodies at the expense of the U.S. Treasury, which can get only that which they have first taken away from some of the taxpayers.

That is what the issue was, and the Senate has voted.

Certainly, I agree with the Senator from Washington, that that vote was determinative of the issue. I had suggested over here that when the time is yielded back and the Senator from Maine makes a point of order against the amendment that the Senate having in its wisdom, or lack thereof, voted against the waiver, that the waiver now having been turned down, the point of order is valid. The Senate has worked its will on that issue When the Senator makes his point of order, it is my expectation that the Chair will sustain the point of order. I think the Chair should sustain the point of order. It is not my disposition to suggest that we ought to contest that matter further by taking the time of our colleagues for any kind of a procedural vote with respect to that point of order.

Mr. President, I thank the Senator from Delaware for yielding me time.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON addressed the Chair.

Mr. MAGNUSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is the amendment offered by the Senator from Delaware.

Mr. MAGNUSON. I ask unanimous consent that the pending business be temporarily laid aside so that I may present a motion.

Mr. STEVENS. How much time is required?

Mr. MAGNUSON. Five minutes.

Mr. MOYNIHAN. Would it be satisfactory to the Senator if I yielded him 5 minutes?

Mr. MAGNUSON. Yes. Well, there are some others. The Senator from Virginia is also interested in this.

Mr. MOYNIHAN. Mr. President, I am happy to yield 5 minutes to the Senator from Washington and 1 minute within the 5 minutes to the Senator from Virginia.

Mr. MAGNUSON. And 2 minutes to the Senator from Alaska.

Mr. MOYNIHAN. Within the 5.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator be allowed to call up the bill to which he has reference.

The PRESIDING OFFICER. Is there objection?

Mr. MATSUNAGA. Mr. President, I object.

Mr. MAGNUSON. Who objected?

Mr. MATSUNAGA. I did. I have a request from the majority leader. He is on his way over.

Mr. MAGNUSON. The majority leader has cleared this.

Mr. MATSUNAGA. The majority leader has cleared it?

Mr. MAGNUSON. And the minority leader has cleared it. Everybody cleared it.

Mr. MATSUNAGA. The majority leader has cleared it?

Mr. MAGNUSON. Yes.

Mr. MATSUNAGA. He is on his way now.

Here he is.

Mr. ROTH. If it will expedite things, we are willing to yield back the remainder of our time.

Mr. MOYNIHAN. Mr. President, we are willing to yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. MOYNIHAN. The Senator from Maine?

Mr. MUSKIE. Mr. President, I raise a point of order under section 306 of the Budget Act.

The PRESIDING OFFICER. The pending point of order having been raised subject to section 306 of the Budget Act, since the amendment in question clearly contains matter that is within the jurisdiction of the Budget Committee, the point of order is hereby sustained.

Mr. MUSKIE. I thank the Chair.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The majority leader is recognized.

Mr. STEVENS. Mr. President, will the majority leader state whether there will be any further votes.

Mr. MAGNUSON and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, has the point of order been upheld?

The PRESIDING OFFICER. The point of order has been sustained.

Mr. ROBERT C. BYRD. Then, Mr. President, there will be no more rollcall votes today.

NATIONAL FISHERY DEVELOPMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent on behalf of Mr. MAGNUSON that the Senate proceed for 2 minutes to the consideration of Calendar Order No. 459.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (S. 1656) to provide for a national program of fisheries research and development, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 2, beginning with line 1, insert the following:

Sec. 2. It is the intention of Congress in enacting this Act that the moneys provided hereunder shall be made available for the development of all fisheries of the United States, including coastal and distant water fisheries.

On page 2, line 5, strike "2" and insert "3";

On page 2, line 12, strike "per centum" and insert "percent";

On page 2, line 19, after "projects," insert "including any biological, technological or other research pertaining to American fisheries,";

On page 3, line 1, after "person," insert "public or private institution,";

On page 3, line 1, strike "regional";

On page 3, line 2, after "or" insert "other";

On page 3, line 2, strike "involved with the commercial fishing industry,";

On page 3, line 4, strike "facilitating" and insert "planning or implementing";

On page 3, line 7, after the period, insert the following:

For the purposes of this section, the term "person" means any individual who is a citizen or national of the United States or any corporation, partnership or other association organized under the laws of any State of the United States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, or any other Commonwealth, territory or possession of the United States.

On page 3, line 19, strike "The" and insert "Prior to approval of funding, the";

On page 3, line 20, after "to" insert "(A)";

On page 3, line 21, after "design," insert "(B)";

On page 3, line 22, strike "and other criteria which" and insert "(C) minimization of duplication among fishery development projects, (D) the organization and management of the project, (E) methods proposed for monitoring and evaluating the success or failure of the project, and (F) such other criteria as";

On page 4, line 2, strike "prior to approval of funding";

On page 4, line 9, strike "six" and insert "6";

On page 4, line 10, strike "six" and insert "6";

On page 4, line 10, strike "date of" and insert "deadline established for";

On page 4, line 15, strike "including as part of" and insert "submit to Congress along with";

On page 4, line 16, strike "of the National Marine Fisheries Service" and insert "required by section 9(a) of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742(a)), a report containing";

On page 4, line 23, after the comma, insert "and";

On page 4, line 24, strike "funding, and the reasons therefor" and insert "funding";

On page 5, line 8, strike "of Commerce";

On page 5, line 14, after "biological," insert "marketing,";

On page 5, line 16, strike "sixty" and insert "60";

On page 5, line 20, strike "list of projects which are proposed under this subsection, together with a budget for each one of the proposed projects" and insert "plan containing fisheries development goals and funding priorities for the approaching fiscal year";

On page 6, line 4, strike "per centum" and insert "percent";

On page 6, beginning with line 11, insert the following:

"(3) Moneys not obligated pursuant to paragraph (1) of this subsection shall remain in the fund without fiscal year limitation and shall be made available by the Secretary to fund projects or programs proposed under subsection (c) of this section.

On page 6, line 15, strike "paragraphs (1) and (2)" and insert "paragraph (2)";

On page 6, line 18, strike "3" and insert "4";

On page 6, line 18, strike "the";

On page 6, line 19, strike "international" and insert "fishery development";

On page 6, line 19, strike "under the amendment made by the first section of this Act,";

On page 6, line 21, strike "of Commerce";

On page 6, line 24, strike "regional fisheries attaches," and insert "Regional Fisheries Attaches";

On page 7, line 4, strike "of Commerce";

On page 7, line 15, strike "of Commerce";

On page 7, line 18, strike "4" and insert "5";

On page 8, line 5, strike "such" and insert "that";

On page 8, line 7, strike "such";

On page 8, beginning with line 10, insert the following:

SEC. 6. For the purposes of this Act, the term "Secretary" means the Secretary of Commerce.

SEC. 7. (a) Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(a)), is amended to read as follows:

"(a) AGREEMENT RULES.—Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more fisheries facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fisheries facilities. Any agreement entered into under this section shall be for the purpose of providing—

"(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; or

"(2) replacement, additional, or reconstructed fisheries facilities and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund and all withdrawals from the fund whether qualified or nonqualified shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A)) which is attributable to the operation of the agreement vessels or fisheries facilities or from the sale or marketing of fish or fish products (as defined in paragraphs (11) and (12) of subsection (k)).".

(b) Subsection (b) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (b)) is amended—

(1) in subparagraph (A) of paragraph (1), by inserting "or which is attributable to the operation of the agreement fisheries facilities or from the sale or marketing of fish or fish products" before the comma at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or fisheries facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or fisheries facility" after "vessel" each place it appears.

(c) Subsection (f)(1) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(f) is amended—

(1) in subparagraph (A) by inserting "or a fisheries facility" after "vessel"; and

(2) in subparagraph (C) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

(d) Subsection (g) of section 607 of the Merchant Marine Act 1936 (46 U.S.C. 1177 (g)) is amended—

(1) in paragraphs (2) and (3) by inserting "fisheries facility," after "vessel," each place it appears; and

(2) in paragraph (4) by inserting "fisheries facilities," after "vessels,".

(e) Subsection (k) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (k)) is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products, and includes any associated land, equipment, or machinery.

"(10) The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means any species of living aquatic resources excluding aquatic mammals and birds.

"(12) The term 'fish products' means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary.".

SEC. 8. Section 1104(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)) is amended by—

(1) redesignating paragraph (4) as paragraph (5);

(2) striking "or" at the end of paragraph (3), and adding immediately after such paragraph the following new paragraph:

"(4) financing or refinancing fisheries facilities; or"; and

(3) inserting after paragraph (5) (as redesignated by this section) the following: "For the purpose of paragraph (4) of this subsection, the term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designted or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products, and includes any associated land, equipment, or machinery.".

SEC. 9. Nothwithstanding any other provisions of law, the Secretary of Commerce is authorized, within 3 years after the date of enactment of this Act, to sell, after due advertisement on a competitive-bidding basis subject to such conditions as he deems are appropriate in the national interest, the five obsolete vessels, Arcturus, Hyades, Pictor, Procyon, and Zelima, for the purpose of conversion and operation in the fisheries of the United States, and the two obsolete vessels, Private George Peters and Resolute, for the purpose of conversion and operation in the fisheries of the United States or in the domestic commerce of the United States, for not less than their scrap value in the domestic market as of the date of sale: *Provided*, That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) the vessels shall be operated in conformity with all international fishery conventions to which the United States is a signatory; and (4) when the vessels are scrapped, they shall be scrapped in the domestic market.

SEC. 10. Section 10(c)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980 (c)(1)) is amended by inserting immediately before the semicolon at the end thereof the following: ", *Provided, however*, That no application shall be due under this provision prior to January 24, 1980".

So as to make the bill read:

S. 1656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Fishery Development Act".

SEC. 2. It is the intention of Congress in enacting this Act that the moneys provided hereunder shall be made available for the development of all fisheries of the United States, including coastal and distant water fisheries.

SEC. 3. Section 2 of the Act of August 11, 1939, is amended to read as follows:

"SEC. 2. (a) The Secretary of Agriculture shall transfer to the Secretary of Commerce each fiscal year, beginning with the fiscal year commencing October 1, 1979, from moneys made available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), an amount equal to 30 percent of the gross receipts from duties collected under the customs laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals, and any products thereof, including processed and manufactured products), which shall be maintained in a separate fund and used by the Secretary of Commerce for—

"(1) financial assistance for the purpose of carrying out fisheries development projects, including any biological, technological or other research pertaining to American fisheries, approved under subsection (c) of this section; and

"(2) implementation of the national fisheries research and development program approved under subsection (d) of this section.

"(b) Any person, public or private institution, fishery development foundation, or other organization may, for the purpose of planning or implementing a fishery development project or projects, make application for moneys made available under the provisions of subsection (a) of this section. For the purposes of this section, the term "person" means any individual who is a citizen or national of the United States or any corporation, partnership or other association organized under the laws of any State of the United States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, or any other Commonwealth, territory or possession of the United States.

"(c)(1) The Secretary shall specify the information to be contained in any application for funds made available under the provisions of this section to ensure compliance with applicable Federal law and to provide for the full and proper evaluation of such applications. Prior to approval for funding, the Secretary shall evaluate each proposed project as to (A) soundness of design, (B) possibilities of securing productive results, (C) minimization of duplication among fishery development projects, (D) the organization and management of the project, (E) methods proposed for monitoring and evaluating the success or failure of the project, and (F) such other criteria as the Secretary may require.

"(2) The Secretary shall obligate funds for applications submitted under the provisions of this section pursuant to regulations adopted hereunder. Applications shall be submitted to the Secretary at such times and manner as is set forth in such regulations: *Provided*, That in no event shall the dates for submission and approval of applications be less often than every 6 months, and all applications must be approved or rejected within 6 months of the deadline established for their receipt by the Secretary.

"(3) The Secretary shall require the person or organization obtaining funds under the provisions of this Act to submit periodic project status reports.

"(4) The Secretary shall submit to Congress along with the annual report required by section 9(a) of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742h(a)), a report containing an analysis and evaluation of all programs funded under this Act. Such report shall include, but not be limited to—

"(A) a list of those applications funded under this section, the amount of funding provided, and a list of those applications not approved for funding;

"(B) an assessment of the extent to which the objectives of the funded project have been obtained and the information obtained from the project;

"(C) the extent to which the funded projects have contributed to fishery development; and

"(D) the programs funded under subsection (d) of this section and the levels of such funding.

"(d)(1) The Secretary is hereby authorized to carry out a national program of fisheries research and development. The Secretary may use moneys made available under subsection (a) of this section to promote the free flow of domestically produced fishery products in domestic and international commerce by conducting fishery educational programs and fishery technological, biological, marketing, and related research programs.

"(2) The Secretary shall, 60 days in advance of the fiscal year in question, transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Merchant Marine and Fisheries a plan containing fisheries development goals and funding priorities for the approaching fiscal year. In addition, the Secretary shall submit to such committees interim status reports on each of the projects funded hereunder and an annual report on the status of each project funded hereunder, including the amount of money actually expended on each such project.

"(e)(1) Not less than 50 percent of the moneys made available under subsection (a) of this section shall annually be made available by the Secretary to fund projects or programs proposed under subsection (c) of this section.

"(2) The remainder of such moneys shall be available to implement the national fisheries research and development program established under subsection (d) of this section.

"(3) Moneys not obligated pursuant to paragraph (1) of this subsection shall remain in the fund without fiscal year limitation and shall be made available by the Secretary to fund projects or programs proposed under subsection (c) of this section. Moneys not obligated pursuant to paragraph (2) of this subsection shall remain in the fund without fiscal year limitation.".

Sec. 4. (a) To carry out export promotion and other fishery development responsibilities the Secretary shall appoint not fewer than six officers who shall, with the concurrence of the Secretary of State, serve abroad to promote United States fishing interests. Such officers shall have the designation of Regional Fisheries Attachés and shall be accorded the same status and privileges as those of other attachés in United States Embassies. Such attachés will be employees of the Department of Commerce.

(b) Upon the request of the Secretary, the Secretary of State shall officially assign the officers to the diplomatic mission of the United States in the country in which such officers or employees are placed by the Secretary of Commerce, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

(c) The Secretary of State shall provide office space, equipment, facilities, clerical services, and such other administrative support as may be required for the officers and their families affected by this section.

(d) The Secretary may make such rules and regulations as may be necessary to carry out the purposes of this section.

Sec. 5. Any balance of funds remaining in, or other assets of, the fisheries loan fund created by section 4(c) of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742(c)), as of September 30, 1980, shall at the close of that date be transferred to the Federal Ship Financing Fund established under title XI of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1271–1279b), to be used for the purposes hereafter set forth. In addition to continuing to provide the normal activities specified in such title for fishing vessels, the Secretary shall thereafter also provide for the guarantee of obligations relating to fishing vessels engaged in developing fisheries which might not otherwise meet the normal economic soundness criteria of that title. The Secretary shall amend the rules and regulations relating to the fishing vessel portion of title XI to specify the conditions under which fishing vessels engaged in developing fisheries will qualify for the guarantee of obligations.

Sec. 6. For the purposes of this Act, the term "Secretary" means the Secretary of Commerce.

Sec. 7. (a) Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(a)), is amended to read as follows:

"(a) Agreement Rules.—Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more fisheries facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fisheries facilities. Any agreement entered into under this section shall be for the purpose of providing—

"(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; or

"(2) replacement, additional, or reconstructed fisheries facilities and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund and all withdrawals from the fund whether qualified or nonqualified shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A)) which is attributable to the operation of the agreement vessels or fisheries facilities or from the sale or marketing of fish or fish products (as defined in paragraphs (11) and (12) of subsection (k)).".

(b) Subsection (b) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (b)) is amended—

(1) in subparagraph (A) of paragraph (1), by inserting "or which is attributable to the operation of the agreement fisheries facilities or from the sale or marketing of fish or fish products" before the comma at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or fisheries facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or fisheries facility" after "vessel" each place it appears.

(c) Subsection (f)(1) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (f) is amended—

(1) in subparagraph (A) by inserting "or a fisheries facility" after "vessel"; and

(2) in subparagraph (C) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

(d) Subsection (g) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (g)) is amended—

(1) in paragraphs (2) and (3) by inserting "fisheries facility," after "vessel," each place it appears; and

(2) in paragraph (4) by inserting "fisheries facilities," after "vessels,".

(e) Subsection (k) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (k)) is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products, and includes any associated land, equipment, or machinery.

"(10) The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means any species of living aquatic resources excluding aquatic mammals and birds.

"(12) The term 'fish products' means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary.".

Sec. 8. Section 1104(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)) is amended by—

(1) redesignating paragraph (4) as paragraph (5);

(2) striking "or" at the end of paragraph (3), and adding immediately after such paragraph the following new paragraph:

"(4) financing or refinancing fisheries facilities; or"; and

(3) inserting after paragraph (5) (as redesignated by this section) the following: "For the purpose of paragraph (4) of this subsection, the term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other

Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products, and includes any associated land, equipment, or machinery.".

SEC. 9. Notwithstanding any other provisions of law, the Secretary of Commerce is authorized, within 3 years after the date of enactment of this Act, to sell, after due advertisement on a competitive-bidding basis subject to such conditions as he deems are appropriate in the national interest, the five obsolete vessels, Arcturus, Hyades, Pictor, Procyon, and Zelima, for the purpose of conversion and operation in the fisheries of the United States, and the two obsolete vessels, Private George Peters and Resolute, for the purpose of conversion and operation in the fisheries of the United States or in the domestic commerce of the United States, for not less than their scrap value in the domestic market as of the date of sale: *Provided,* That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) the vessels shall be operated in conformity with all international fishery conventions to which the United States is a signatory; and (4) when the vessels are scrapped, they shall be scrapped in the domestic market.

SEC. 10. Section 10(c)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980 (c)(1)) is amended by inserting immediately before the semicolon at the end thereof the following: ": *Provided, however,* That no application shall be due under this provision prior to January 24, 1980".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MAGNUSON. Mr. President, S. 1656—the National Fishery Development Act—is an important expression of support and commitment to the development of this Nation's fishing industry.

The Fishery Conservation and Management Act gave the United States exclusive fishery management authority over more than 2 million square miles of marine fishery resources. The act also gives U.S. fishermen and processors a preferential right to all fishery resources in that area. Even though our fishing industry contributes $7 billion to our gross national product and creates direct employment for more than one-quarter million Americans, we still have a balance-of-payments deficit in fishery products of over $2.1 billion, and foreign fishermen are still taking between one-third and one-half of the fish out of our waters. For example, the United States still lands an insignificant percentage of the estimated 1.5 million tons of available Alaska bottomfish. Some of the fish we import is caught by foreigners in our waters, processed abroad, and then sent back to us.

The bill before us, S. 1656, contains four major objectives. First, it reaffirms the commitment Congress expressed in the Saltonstall-Kennedy Act to provide for projects designed to facilitate the development of the United States' fisheries. The wide range of development projects that take place pursuant to the Saltonstall-Kennedy Act can have a major impact in assisting our industry realize the full benefits of the FCMA. These projects require no new appropriations—the S–K Act provides a permanent transfer of 30 percent of the duties on imported fish products into the S–K fund in order to help finance this coordinated approach to fisheries development. It is worth pointing out, Mr. President, that these S–K moneys are not intended to be used to finance projects that the industry, itself, should be doing itself. The industry also needs to be aware that the S–K moneys are not necessarily a permanent source of funding. When we are successful in taking full advantage of the fishery resources within our 200-mile zone, the level of fishery imports should decline and so should the corresponding level of S–K funds.

Second, the bill provides that the Secretary of Commerce shall appoint not fewer than six foreign fishery attachés in U.S. embassies abroad. These officers will be instrumental in our efforts to promote fishery exports and assist the industry in being able to fully utilize foreign-market opportunities. In this regard, the breaking down of foreign tariff and nontariff trade barriers must be a top priority.

Third, the bill extends existing merchant marine programs regarding fishing-vessel construction to onshore fishery-facility construction. The two programs that are extended by this bill are the title XI loan guarantee program and the capital construction fund program. The loan-guarantee program has been successful to date, and has operated with virtually no cost to the Government. Economic viability of the proposed project is a key factor in determining whether a guarantee of an obligation will be granted, and this operating principle should help ensure similar success of the program as applied to shoreside fishery facilities. The capital construction fund extension has been long-sought, and the need for this incentive has been well documented. It will certainly be an important incentive to the U.S. industry.

Fourth, the bill provides for open, competitive-bidding on those vessels in the Government's obsolete fleet which are reasonably amenable to conversion for use in the fisheries. There are seven such vessels in the mothball fleet. With the support and endorsement of the administration, the bill provides that these seven vessels shall be available for purchase by the U.S. industry on an equitable, open, and even basis. The committee considered, but rejected, the idea of specially earmarking any of these vessels for purchase by a single, designated person.

Mr. President, unless we develop our capacity and intent to utilize our fisheries for our industry, the foreign fleets will stay off our shores harvesting and processing our fish, and we will be letting a golden opportunity for major industry expansion lie dormant. We are beginning to see signals of the beginning of the end for these foreign fleets in our 200-mile zone. It is an appropriate time to provide encouragement and incentives needed to facilitate expeditious development of our American industry. The provisions of this bill provide this encouragement and incentive. I strongly urge my colleagues to join me in strong support of this legislation.

Mr. President, I also commend at this time the Senator from Massachusetts, Mr. KENNEDY, for his longstanding support and involvement in both this legislation and in the Nation's fishing industry.

Mr. President, I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I am honored to join my distinguished colleague, the Senator from Washington, as a cosponsor of this bill.

I am proud to voice my support for the National Fisheries Development Act of 1979. I have been a cosponsor of this bill from the beginning, and am pleased that it has emerged as an even stronger bill following deliberations in our Senate Commerce Committee.

This legislation is exactly what the American fishing industry needs now. It will lead to development of new opportunities for the fishing industry, and will spur private investment in desperately needed new fishing facilities.

The United States has the fourth largest coastline in the world, and almost 20 percent of the world's fishery resources within 200 miles of our coastline. Under the Fishery Conservation and Management Act of 1976, United States jurisdiction over fisheries was extended over all marine fisheries within that zone. The American fishing industry, under the act, now has the legal right to harvest all available fish within the 200-mile fisheries zone. However, the Nation's fishing industry does not have the capacity to catch and process the fish it is legally entitled to. As a result, in the 3 years since the act was passed, foreign boats, with the permission of the United States, and after paying a small license fee, continue to fish in U.S. waters catching enormous amounts of fish. Those foreign vessels are taking the lion's share of the harvest off our coast. In fact, foreign fishing enterprises, often backed with foreign government financing, are still harvesting over 70 percent of the fish in U.S. waters. Ironically, a substantial amount of the fish caught in U.S. waters by these foreign boats is processed and exported back to the United States. These practices have contributed to the United States' staggering deficit in its international balance of payments of the projected U.S. total 1980 deficit, approximately 2.5 billion will come from fish imports.

Unless we develop the U.S. fishing capacity and expand our fisheries industry, the foreign fleet will stay off our shores harvesting and processing our fish. A golden opportunity for a major U.S. industry expansion will slip away.

Now is the time to provide the necessary encouragement and incentives to facilitate expeditious development of our American fishing industry. This is the purpose of this bill.

I firmly believe that S. 1656, the National Fisheries Development Act of 1979 will provide the needed impetus and aid to revitalize this country's fishing fleet.

The intent of this proposed legislation is to promote the development of a strong U.S. fishing industry, to reaffirm the congressional commitment to provide funding for fishery development projects, and to create attractive new incentives for private capital investment in shoreside fishery facilities. More specifically, there are four essential provisions of this bill.

The Saltonstall-Kennedy Act of 1956 earmarked customs revenues on imported fish products for joint Government-industry fisheries development projects. S. 1656 strengthens this program by assuring that the private sector will have available to it at least one-half of these funds in order to conduct critical fisheries development projects. In the past, the Federal Government has withheld the funds, and used them for its own personnel and overhead costs. Enactment of this bill will assure that money which was previously diverted to pay salaries and office supplies for bureaucrats will now be spent on specific projects designed to spur development of the American fishing industry.

In an effort to reach and aid all segments of the fishing industry, the bill broadly defines those eligible to apply for development moneys and includes those eligible private institutions, fishery development foundations, and other fisherman's groups.

This definition will allow all coastal fishing interests, including my own State of Virginia, to receive these funds and expand their industry.

The bill provides that fishery experts (attachés) will be assigned overseas in U.S. embassies. These diplomatic officers will be responsible for promoting our new national effort on fishery exports and for assisting the American industry in being able to utilize foreign market opportunities.

The bill also transfers funds that presently exist in the fisheries loan fund, established by the Fish and Wildlife Act of 1956 and which are not being used, to the fishing vessel loan-guarantee program under title XI of the Merchant Marine Act. This will allow roughly $6 million to be used to guarantee obligations incurred by purchasers of new fishing vessels. This will benefit not only fishermen, but boatyards which will construct those vessels.

Finally this bill is designed to increase private capital investment in shoreside fisheries facilities. The primary reason for the U.S. fishing industry's inability to reach its potential has been identified by the Fisheries Development Task Force and the Conservation Foundation:

> The major problem of expanding fisheries in many ports is a lack of shoreside facilities, especially processing. The lack of adequate port and harbor facilities is an impediment to development of every major nontraditional species off the U.S. Coast. Most new and expanded fisheries need new, improved, or expanded dock space, freezing capacity, storage and refrigerated warehouse facilities, vessel repair facilities, or support services.

These inadequate facilities have kept the domestic fishing industry from reaching its full economic potential and from displacing foreign fishing in our waters.

Fortunately, there have long existed two programs which encourage private investment in commercial vessels, including fishing boats. The Merchant Marine Act of 1936 provides for obligational loan guarantees of up to 87.5 percent of the cost of a vessel. In addition, it allows private investors to create a capital construction fund, which is a Federal income tax deferral mechanism, to stimulate capital accumulation for replacement vessels. This bill would make both programs available to investors in moorage, ship repair and fish storage, processing and distribution facilities.

I believe the provisions of this bill will act as a stimulus for industry development of under-utilized fish species such as squid. Also, these provisions will stimulate renovation of facilities and expansion of traditional fisheries such as menhaden and scallops.

I believe that S. 1656, the National Fisheries Development Act of 1979, will be a cornerstone in our efforts to inject new life into the American fishing industry. Passage of this bill will result in increased U.S. employment in the seafood industry and a reduced balance-of-payments deficit in seafood products. The bill, in revitalizing this Nation's fishing industry will help to produce much-needed protein for this Nation's consumers and for the world market.

This legislation will dramatically increase the ability of the private fishing industry sector to raise the capital it needs to send the foreign fishing fleets back home.

Mr. President, I enthusiastically support this bill, and urge unanimous passage.

The PRESIDING OFFICER. Does the Senator from Alaska seek recognition?

Mr. STEVENS. Yes, Mr. President.

Mr. President, it is indeed a pleasure for me to join with my good friend Mr. MAGNUSON in urging the Senate to pass S. 1656, the National Fisheries Development Act. This act will serve to expand and improve the fishing industries on both the east and west coasts of the United States. It is an excellent example of work that can be accomplished on a bipartisan basis.

In 1977 Senator KENNEDY and I introduced S. 187 which was the predecessor of this bill. S. 187 was the first legislation introduced in the Senate which provided for programs to help develop the U.S. domestic processing industry. That concept has been embodied in the legislation now before us.

The pending legislation expands the capital construction fund program and the fishing vessel obligation guarantee program to domestic processors. The expansion of U.S.-owned processing facilities in my State as well as in other parts of the United States is critical to the future development of our fishing industries.

In Alaska, the foreign fishermen still catch 80 percent of our fish by volume. We have by far the greatest foreign fishing presence in the country, off my home State. The key to displacing those foreign fishermen is to improve our processing efficiency and capability. When American processors are able to produce ground fish products at world market price we will finally displace the foreign fleets. This legislation is specifically oriented toward helping domestic processors improve their efficiency and ultimately reach world market price for underutilized species.

Mr. President, benefits would apply not only to processors, but for the first time would allow programs to include fishermen's cooperatives. Under the provisions of this bill, fishermen could place their capital construction fund earnings into a fishermen's cooperative for the express purpose of building an onshore processing plant. I am sure that Senator MAGNUSON would agree that such facilities are highly desirable in the Pacific Northwest, particularly in light of the strong Japanese ownership in onshore facilities there.

Mr. MAGNUSON. Yes, I would certainly agree with that. I believe that the provisions allowing fishermen's cooperatives to participate in capital construction fund fishing vessel obligation guarantee programs will be of substantial long-range benefits to those of us from the Pacific Northwest.

Mr. STEVENS. In closing, Mr. President, let me reiterate my support for this legislation. It is the product of many years' work, and I urge the Senate to give it speedy passage. I understand Mr. President that Senator KENNEDY will in his statement posthumously commend the late Mary Murtagh for the role she played in the development of this legislation. I wish to be associated with that portion of the Senator's remarks.

● Mr. GRAVEL. Mr. President, I am very pleased to urge passage today of S. 1656, "the National Fishery Development Act." This legislation will provide important and much needed legislative impetus for the full utilization of America's fishery resources—something which will be of particularly great benefit to my State of Alaska.

This legislation is in many ways a logical followup to the passage of Senate Resolution 50 which put the Senate on record in February of this year of strongly favoring fisheries development in the United States 200-mile fishery zone. I was very happy to be a cosponsor and a strong supporter of that resolution.

S. 1656 will serve as another strong indicator of the interest of Congress in encouraging the expansion and development of the American fishing industry. It is intended to reaffirm the message of Senate Resolution 50 in a general way and go beyond in some ways which are more specific. The legislation has five major parts—three which were part of the original bill and two more which were added in the Commerce Committee.

First, the bill insures the continued existence of the Saltonstall/Kennedy Fisheries Development Fund and mandates that at least one-half of the money which annually goes to the Saltonstall/Kennedy Fund will go for private fisheries development projects. I fully support this approach for use of the Saltonstall/Kennedy Fund. In the past there has been much confusion as to the nature and purpose of the Fund. It has been obscured in the overall National Marine Fisheries Service budget and it has been difficult to identify its actual use on strict "fisheries development" projects. This legislation will set out with greater certainty the parameters for use of Saltonstall/Kennedy moneys, it will require periodic congressional oversight, and it specifically earmarks 50 percent of the annual total amount of the Fund for local industry development projects.

The second feature of the bill requires the creation of at least six new fisheries attachés to be stationed around the world in order to locate new markets for American fisheries products. There are presently only two worldwide. Most Americans are well aware of the impact which U.S. agriculture has on the world food market and the balance-of-trade of the United States.

With a serious effort on the part of both the Federal Government and private industry, the U.S. fishing industry could also have an important impact on world food markets. A good first step in insuring that American fisheries products find their way into foreign markets is to have full-time commerical fisheries attachés stationed abroad like USDA has had for years for their agricultural products in order to deveolp the export markets which are vital to the continued growth of the underutilized species fisheries.

The third proposal contained in S. 1656 would authorize the transfer of moneys from the Federal Fisheries Loan Fund to the Federal Ship Financing Fund and make that money available for loans for boats being used in newly developing fisheries as opposed to the traditional fisheries. This newly available funding for fishing boat financing would be especially timely in light of the current accelerated interest in the acquisition of vessels for use in the Alaskan bottomfishery. This aspect of the bill will be of great benefit to the citizens of Alaska.

In addition to these three provisions, two additional sections were added which are of particular interest to those who wish to construct or refurbish shoreside fish processing facilities. For years the Capital Construction Fund (CCF) and the Federal vessel obligation guarantee program (FVOG) have existed to help Americans finance fishing vessels. The final two provisions of S. 1656 will extend these financing arrangements to those who wish to construct or renovate processing facilities. Both provisions should serve as worthwhile incentives to the processing industry to encourage them to build the processing capacity required for the emergency fisheries of the 200-mile zone.

Mr. President, the development of the American fishing industry has been the subject of increasing attention these past few years and I believe this legislation will help to accelerate that development even further. The State of Alaska has an incredible stake in the development of the United States 200-mile fishery zone. Activities directed at getting Americans catching, processing and selling the commercially marketable fish products off the Alaskan coast have grown greater with each passing day over the past few years with no decrease in activity in sight. New boats are being built, new processing facilities are being constructed, new fish companies are being formed.

The passage of the Fishery Conservation and Management Act of 1976 set the stage for serious fisheries development in the United States. It created the opportunities which Senate Resolution 50 in February and this legislation today seeks to take advantage of. The passage of the National Fisheries Development Act will serve as yet another substantial step in the long process of full utilization of the resources of the U.S. fishery conservation zone. I am proud to be a strong supporter of this legislation and I urge my colleagues to also support the passage of S. 1656, the National Fishery Development Act.●

● Mr. KENNEDY. Mr. President, the passage today by the Senate of S. 1656, the National Fishery Development Act, brings us one step closer to providing our American fishing industry with the encouragement and support which it needs for its rebirth and expansion. It means that we are closer to the day when our boats will no longer be passive observers as foreign vessels make off with the riches of our coastal waters. It means that we are closer to making the commitment as a government, to work as a partner with the domestic fishing industry in achieving these goals.

This objective lies at the heart of the National Fishery Development Act. The growth of our domestic fishing industry depends on our providing it with the tools necessary to accomplish that task.

The bill which we have enacted today builds on one such tool which has been in existence since 1954. The Saltonstall-Kennedy (S–K) Fund, established in that year and maintained through the transfer of 30 percent of the duties collected on imported fish products, was created to fund fisheries development and demonstration programs. By supporting research, education, and market development, the S–K Fund was to have given new life to our domestic fishing industry. Unfortunately, those efforts were frustrated. Rather than directly funding these initiatives, the fund became part of the National Marine Fisheries Service base budget soon after its establishment.

During the past year, these goals were further frustrated when the Office of Management and Budget moved to defer $12 million from the S–K Fund in fiscal year 1979. I introduced a resolution which was later enacted disapproving this deferral and resulting in a number of industry projects being funded across the country.

Now, with Senate passage of S. 1656, we have recommitted ourselves to fisheries development through better industry-government cooperation. The National Fishery Development Act will assure that at least one-half of the available moneys in the S–K Fund will be used to fund local industry projects. It assures that those funds will be obligated on a timely basis, and it provides the necessary congressional oversight to assure that all parties follow through on commitments.

The bill also provides for the appointment of fisheries attachés to serve abroad in U.S. Embassies. These officials will actively promote U.S. fishery exports while providing assistance to our domestic industry in penetrating foreign markets.

In addition, the legislation authorizes the transfer of funds from the Fisheries Loan Fund established by the Fish and Wildlife Act of 1956, to the Federal Ship Financing Fund created under title XI of the Merchant Marine Act. This will permit the use of some $6 million in unobligated funds for assistance to fishing vessels engaged in fisheries development.

Section 7 of the bill will provide incentives for onshore facility construction by extending the Capital Construction Fund of section 607 of the Merchant Marine Act.

Finally, the bill extends to shoreside facilities the vessel loan guarantee program of section 1104 of the Merchant Marine Act.

Mr. President, I want to commend my colleagues today for enacting this bill. Among them, Senators MAGNUSON, CANNON, PACKWOOD, and STEVENS have provided particularly strong leadership in moving this bill toward passage.

I would also like to mention the work of the late Mary Murtagh who played a major role in drafting the original fishery development bill while serving on my Senate staff. I ask that, in recognition of her efforts, we posthumously commend her by sending a copy of the Senate-passed bill to her parents.

We can no longer afford not to build a strong and competitive fishing industry. We need the 38,000 jobs and the $1 billion boost to our economy that the National Marine Fisheries Service estimates will result from the development of just six fisheries off New England, Alaska, the west coast, the Gulf of Mexico and the mid-Atlantic. We desperately need the $1.5 billion reduction in our fisheries trade deficit estimated to result from this program.

When Congress enacted the Fishery Management and Conservation Act 3 years ago, establishing the 200-mile zone, we created new hope that the U.S. fishing industry would someday emerge second to none. Since that time our progress in reaching that goal has been delayed. It is my hope that the Senate's action today signals that the delay is over.●

● Mr. PACKWOOD. Mr. President, I am joining Senator MAGNUSON in supporting the National Fisheries Development Act of 1979. I think the reason this bill has progressed as rapidly as it has is the realization on the part of all Senators acquainted with the fisheries industry, that this piece of legislation is exactly what is needed now. Several years ago, we enacted the 200-mile fishery zone. The American fishing industry was given first opportunity to harvest and process the fish found within that zone. Today, Russian, Japanese, and Polish ships continue to fish off our coast, take the catch home, and often export the processed product back to the United States. Our fisheries trade deficit will be almost $2.5 billion this year. This is an appalling situation, made even more so by the fact given our abundant resources, it is so unnecessary.

S. 1656 addresses these concerns. We worked hard on this bill in the Commerce Committee, and I was pleased that this bill was reported favorably. The National Fisheries Development Act is primarily designed to increase the role that private fishing industry can play in conducting projects aimed at increasing American fishing capacity. Passage of this bill will also mean better representation for U.S. fishing interests when we negotiate fishing treaties with other countries.

Perahaps most importantly, S. 1656 contains three amendments added during Commerce Committee deliberations. The aim of these amendments is precisely the same as the original bill; that is, to assist the U.S. fishing industry in its effort to displace foreign fishing activity in U.S. waters.

The first amendment was offered by Senators MAGNUSON, LONG, and myself. It will extend the existing tax-deferral mechanism available to ship owners to investors in shoreside fisheries facilities such as docks and fish processing, storage, and distribution facilities.

The second amendment, also introduced by the three of us, would extend an existing loan guarantee program for ship purchasers to purchasers of shoreside fisheries facilities.

The third amendment, which I offered just recently, amends the Fishermen's Protective Act so that it will better meet the intent of Congress. It will allow payment to fishermen who were deprived of the opportunity to make timely claims due to Federal administrative delays.

I believe that this bill, together with our amendment, will result in increased U.S. employment in the seafood industry and a reduced balance-of-payments deficit in seafood products. It will dramatically increase the ability of the private sector to raise the capital it needs to displace foreign fishermen within our 200-mile fishing zone. I join with Senator MAGNUSON in urging unanimous approval of S. 1656.●

The PRESIDING OFFICER. The question is on agreeing to the committee amendments, en bloc.

The committee amendments were agreed to en bloc.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Fishery Development Act".

SEC. 2. It is the intention of Congress in enacting this Act that the moneys provided hereunder shall be made available for the development of all fisheries of the United States, including coastal and distant water fisheries.

SEC. 3. Section 2 of the Act of August 11, 1939 is amended to read as follows:

"SEC. 2. (a) The Secretary of Agriculture shall transfer to the Secretary of Commerce each fiscal year, beginning with the fiscal year commencing October 1, 1979, from moneys made available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), an amount equal to 30 percent of the gross receipts from duties collected under the customs laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals, and any products thereof, including processed and manufactured products), which shall be maintained in a separate fund and used by the Secretary of Commerce for—

"(1) financial assistance for the purpose of carrying out fisheries development projects, including any biological, technological or other research pertaining to American fisheries, approved under subsection (c) of this section; and

"(2) implementation of the national fisheries research and development program approved under subsection (d) of this section.

"(b) Any person, public or private institution, fishery development foundation, or other organization may, for the purpose of planning or implementing a fishery development project or projects, make application for moneys made available under the provisions of subsection (a) of this section. For the purposes of this section, the term "person" means any individual who is a citizen or national of the United States or any corporation, partnership or other association organized under the laws of any State of the United States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, or any other Commonwealth, territory or possession of the United States.

"(c) (1) The Secretary shall specify the information to be contained in any application for funds made available under the provisions of this section to ensure compliance with applicable Federal law and to provide for the full and proper evaluation of such applications. Prior to approval for funding, the Secretary shall evaluate each proposed project as to (A) soundness of design, (B) possibilities of securing productive results, (C) minimization of duplication among fishery development projects, (D) the organization and management of the project, (E) methods proposed for monitoring and evaluating the success or failure of the project, and (F) such other criteria as the Secretary may require.

"(2) The Secretary shall obligate funds for applications submitted under the provisions of this section pursuant to regulations adopted hereunder. Applications shall be submitted to the Secretary at such times and manner as is set forth in such regulations: *Provided*, That in no event shall the dates for submission and approval of applications be less often than every 6 months, and all applications must be approved or rejected within 6 months of the deadline established for their receipt by the Secretary.

"(3) The Secretary shall require the person or organization obtaining funds under the provisions of this Act to submit periodic project status reports.

"(4) The Secretary shall submit to Congress along with the annual report required by section 9(a) of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742h(a)), a report containing an analysis and evaluation of all programs funded under this Act. Such report shall include, but not be limited to—

"(A) a list of those applications funded under this section, the amount of funding provided, and a list of those applications not approved for funding;

"(B) an assessment of the extent to which the objectives of the funded project have been obtained and the information obtained from the project;

"(C) the extent to which the funded projects have contributed to fishery development; and

"(D) the programs funded under subsection (d) of this section and the levels of such funding.

"(d) (1) The Secretary is hereby authorized to carry out a national program of fisheries research and development. The Secretary may use moneys made available under subsection (a) of this section to promote the free flow of domestically produced fishery products in domestic and international commerce by conducting fishery educational programs and fishery technological, biological, marketing, and related research programs.

"(2) The Secretary shall, 60 days in advance of the fiscal year in question, transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Merchant Marine and Fisheries a plan containing fisheries development goals and funding priorities for the approaching fiscal year. In addition, the Secretary shall submit to such committees interim status reports on each of the projects funded hereunder and an annual report on the status of each project funded hereunder, including the amount of money actually expended on each such project.

"(e) (1) Not less than 50 percent of the moneys made available under subsection (a) of this section shall annually be made available by the Secretary to fund projects or programs proposed under subsection (c) of this section.

"(2) The remainder of such moneys shall be available to implement the national fisheries research and development program established under subsection (d) of this section.

"(3) Moneys not obligated pursuant to paragraph (1) of this subsection shall remain in the fund without fiscal year limitation and shall be made available by the Secretary to fund projects or programs proposed under subsection (c) of this section. Moneys not obligated pursuant to paragraph (2) of this subsection shall remain in the fund without fiscal year limitation.".

SEC. 4. (a) To carry out export promotion and other fishery development responsibilities the Secretary shall appoint not fewer than six officers who shall, with the concurrence of the Secretary of State, serve abroad to promote United States fishing interests. Such officers shall have the designation of Regional Fisheries Attachés and shall be accorded the same status and privileges as those of other attachés in United States Embassies. Such attachés will be employees of the Department of Commerce.

(b) Upon the request of the Secretary the Secretary of State shall officially assign the officers to the diplomatic mission of the United States in the country in which such officers or employees are placed by the Secretary of Commerce, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

(c) The Secretary of State shall provide office space, equipment, facilities, clerical services, and such other administrative support as may be required for the officers and their families affected by this section.

(d) The Secretary may make such rules and regulations as may be necessary to carry out the purposes of this section.

SEC. 5. Any balance of funds remaining in, or other assets of, the fisheries loan fund created by section 4(c) of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c (c)), as of September 30, 1980, shall at the close of that date be transferred to the Federal Ship Financing Fund established under title XI of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1271–1279b), to be used for the purposes hereafter set forth. In addition to continuing to provide the normal activities specified in such title for fishing vessels, the Secretary shall thereafter also provide for the guarantee of obligations relating to fishing vessels engaged in developing fisheries which might not otherwise meet the normal economic soundness criteria of that title. The Secretary shall amend the rules and regulations relating to the fishing vessel portion of title XI to specify the conditions under which fishing vessels engaged in developing fisheries will qualify for the guarantee of obligations.

Sec. 6. For the purposes of this Act, the term "Secretary" means the Secretary of Commerce.

Sec. 7. (a) Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(a)), is amended to read as follows:

"(a) Agreement Rules.—Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k) (1)), or one or more fisheries facilities (as defined in subsection (k) (9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fisheries facilities. Any agreement entered into under this section shall be for the purpose of providing—

"(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; or

"(2) replacement, additional, or reconstructed fisheries facilities and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund and all withdrawals from the fund whether qualified or nonqualified shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b) (1) (A)) which is attributable to the operation of the agreement vessels or fisheries facilities or from the sale or marketing of fish or fish products (as defined in paragraphs (11) and (12) of subsection (k)).".

(b) Subsection (b) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (b)) is amended—

(1) in subparagraph (A) of paragraph (1), by inserting "or which is attributable to the operation of the agreement fisheries facilities or from the sale or marketing of fish or fish products" before the comma at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or fisheries facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or fisheries facility" after "vessel" each place it appears.

(c) Subsection (f) (1) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(f)) is amended—

(1) in subparagraph (A) by inserting "or a fisheries facility" after "vessel"; and

(2) in subparagraph (C) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

(d) Subsection (g) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (g)) is amended—

(1) in paragraphs (2) and (3) by inserting "fisheries facility," after "vessel," each place it appears; and

(2) in paragraph (4) by inserting "fisheries facilities," after "vessels,".

(e) Subsection (k) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177 (k)) is amended by adding at the end thereof of the following new paragraphs:

"(9) The term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products, and includes any associated land, equipment, or machinery.

"(10) The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means any species of living aquatic resources excluding aquatic mammals and birds.

"(12) The term 'fish products' means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary.".

Sec. 8. Section 1104(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)) is amended by—

(1) redesignating paragraph (4) as paragraph (5);

(2) striking "or" at the end of paragraph (3), and adding immediately after such paragraph the following new paragraph:

"(4) financing or refinancing fisheries facilities; or"; and

(3) inserting after paragraph (5) (as redesignated by this section) the following: "For the purpose of paragraph (4) of this subsection, the term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products, and includes any associated land, equipment, or machinery.".

Sec. 9. Notwithstanding any other provisions of law, the Secretary of Commerce is authorized, within 3 years after the date of enactment of this Act, to sell, after due advertisement on a competitive-bidding basis subject to such conditions as he deems are appropriate in the national interest, the five obsolete vessels, Arcturus, Hyades, Pictor, Procyon, and Zelima, for the purposes of conversion and operation in the fisheries of the United States, and the two obsolete vessels, Private George Peters and Resolute, for the purpose of conversion and operation in the fisheries of the United States or in the domestic commerce of the United States, for not less than their scrap value in the domestic market as of the date of sale: *Provided*, That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) the vessels shall be operated in conformity with all international fishery conventions to which the United States is a signatory; and (4) when the vessels are scrapped, they shall be scrapped in the domestic market.

Sec. 10. Section 10(c) (1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980 (c) (1)) is amended by inserting immediately before the semicolon at the end thereof the following: ": *Provided, however*, That no application shall be due under this provision prior to January 24, 1980".

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to exceed 30 minutes and that Senators may speak therein up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEW ARGUMENTS REMAIN AGAINST GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, the Genocide Convention of 1949 still awaits Senate ratification more than a quarter-century after it was first introduced. Why? When the American Bar Association, the last stronghold of the treaty's opponents, finally reversed its stand and recommended U.S. ratification, there was renewed hope that the treaty could receive favorable action.

The conclusion of the ABA's resolution and supporting report of the treaty reads:

> Statements made in the past and raised in the Senate and the ABA House of Delegates are no longer pertinent. . . . Acceding to the Convention at this time is a positive step in the national interest of our country. The American Bar Association should come forward and place on record its positive support.

Mr. President, each argument against ratifying the treaty has been entertained and answered. Supreme Court decisions have proven that genocide is indeed a proper subject for treatymaking, and that such a treaty would not violate the Constitution by depriving the States of a field of criminal jurisprudence. The recommended understandings have resolved the questions raised by unclear wording.

Mr. President, no other barriers to ratification should remain. On these grounds I urge all of my Senate colleagues to join me in supporting the Genocide Convention of 1949, and I ask unanimous consent that the discussion and conclusion sections of the ABA's February 17, 1976 resolution and supporting report of the treaty be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

DISCUSSION

The purpose of the Convention is to make Genocide an international crime whether committed during peace or war. It seeks to prevent and punish when it occurs the destruction, in whole or in part, of a national, ethnical, racial or religious group as such. The Convention defines Genocide, specifies the acts which constitute Genocide, sets forth the obligations of the parties, the place of trial of the accused, and provides for submission of disputes relating to interpretation, application or fulfillment to the International Court of Justice.

The first Understanding makes it clear that where the words "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such" are used in the definition of the crime of Genocide that it means an intent to destroy by such acts in such a way as to affect a "substantial" part of the group concerned.

The second Understanding states that where the word "mental harm" is used to define a punishable act, it means a "permanent impairment of mental faculties." It does not include violent expressions of prejudice against individual members of groups. It also would discourage any frivolous allegations of mental harm.

The third Understanding is to take care of the situation where a national of the United States committed an act outside of the state. Pursuant to this understanding the U.S. will have the right to bring to trial before its own tribunals any of its nationals for acts committed. There has been considerable discussion regarding the Convention from the viewpoint of extradition. It should be understood that the Convention itself is not an extradition treaty.

The Convention is not self-executing but requires necessary implementing legislation. The recommended Declaration makes it clear that we must enact necessary federal legislation pursuant to our constitutional procedure prior to depositing our instrument of ratification.

Attached hereto as Appendix A is a copy of Senate Executive Report 93–5, 93rd Cong. 1st Sess., (1973). This Report lists the pertinent provisions of the Convention and gives an interpretation of each provision based upon the testimony offered at the earlier hearings. A copy of the Convention will also be made available to any interested party.

CONCLUSION

Eighty-two nations to date have ratified and/or acceded to the Genocide Convention. The world community has, therefore, defined Genocide as "a crime against the laws of nations". The United States is a party to other treaties that define and establish an international crime. (The Geneva Conventions On Protection Of War Victims, 1949, TIAS 3362–3365; The Conventions For The Regulation of Whaling, 1935, TS 880, 1946, TIAS 1849; the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, TIAS 4900 and the Single Convention On Narcotic Drugs, 1961, TIAS 6298.) Statements made in the past and raised in the Senate and the ABA House of Delegates are no longer pertinent. The passage of time has confirmed that Genocide is a matter of "international concern" which should be regulated as an international crime. Acceding to the Convention at this time is a positive step in the national interest of our country. The American Bar Association should come forward and place on record its positive support.

This resolution was overwhelmingly approved by the Council of the Section of International Law at its Mid-Winter Meeting on December 5–7, 1975.

Respectfully submitted,
RICHARD P. BROWN, Jr..
Chairman, Section of International Law.
FEBRUARY, 1976.

ATTITUDE OF EUROPEANS ON SALT II

Mr. THURMOND. Mr. President, the impression that key people throughout Europe are solidly behind the SALT agreement is challenged in an article by the distinguished columnist William F. Buckley, Jr.

Mr. Buckley, in an article entitled "Europeans on SALT" in the November 30, 1979 issue of the Washington Star, points out that a wide body of public and private opinion in Europe sees great dangers in approval of SALT II.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EUROPEANS ON SALT

(By William F. Buckley Jr.)

An enterprising American of European background and cosmopolitan experience has been alarmed for several months at the suggestion that Europeans are united in desiring the consummation of SALT II. Because he spends months of every year in Europe and knows the strategic, intellectual and political aristocracy, he recently went there expressly for the purpose of generating a few letters from thoughtful men and women to help counteract in the Senate the impact of our vast international diplomatic enterprise.

The whole of our foreign service has apparently been turned into an evangelical movement designed to persuade Europeans to use their influence on the Senate and on U.S. public opinion to push SALT. Our ambassadors have become overnight specialists in SALT; and they have been expected to conduct seminars and deliver speeches as impassioned as anything Daniel Webster ever said to the Devil. And indeed the confluence of pressure from the United States and the Soviet Union has been greatly effective. The official position of official Europe is: Go on SALT.

There are those who believe that if Mrs. Thatcher and Giscard d'Estaing and Helmut Schmidt were given polygraph tests, they would reveal deep misgivings about SALT. But Common Cause and Ralph Nader have not yet institutionalized lie-detection tests for our leaders, so we are left to surmise.

Otto von Habsburg, who would today be the emperor of Austria-Hungary if the other side had won World War I, is a brilliant scholar and statesman and member of the European Parliament, who has written to Sen. Claiborne Pell of the Foreign Relations Committee, "I hope that you will not consider it presumptuous if I inform you that, as far as I can find out, there is a very sizable body of opinion here in Europe, which has grave misgivings over SALT II and fears that its ratification would have very detrimental effects on the security of the free world."

Former Prime Minister Antoine Pinay of France, the surviving elder statesman of the post-war age, writes that ratification would be a "catastrophe for the Western world," while Air Vice Marshal S.W.B. Menaul, in a letter to Sen. Henry Jackson and other influential members of the Senate committee, is very specific:

"No one," he writes, "not even the (Carter) administration, disputes that the 308 SS–18 heavy missiles, each armed with 10 MIRVed warheads, could, in a surprise attack, destroy the whole of the United States Minuteman force and still have enough left to mount a devastating second strike against the United States." Understandably, he is concerned for Europe. "In any future arms control negotiations the voice of Europe must be heard. The SALT II treaty in its present form favors the Soviet Union and will encourage her to demand more concessions in any future arms control negotiations."

And Winston S. Churchill (grandson), himself an M.P., has reminded us that "the Soviets have built a tank army 20 times greater than Hitler's." And—get this—"In the space of the past 18 months alone the Soviet Union has deployed against Britain and the other nations of Western Europe a force of more than 100 SS–20 mobile IRBMs with a combined destructive potential equal to 10,000 Hiroshima bombs. In addition, an equal number of Backfire nuclear strike bombers armed with cruise missiles with a range greater than 600 kms. and with a destructive potential at least as great have been targeted against Western Europe.

"These grave developments represent a clear and defiant breach by the Soviet Union of the spirit of detente and the Helsinki agreement. . . ."

There is a great deal more, and one wishes that students of the Finlandization of Europe, which has been long since predicted, would pause to ask themselves the question: If indeed Finlandization is on its way, are we not hearing from heads of state of Europe exactly the kind of thing one would hear from the head of state of Finland? And for the same reason?

PROFIT IN OUR AMERICAN ECONOMY

Mr. THURMOND. Mr. President, as we continue to face both inflationary and recessionary forces in our Nation's economy, we hear many voices from various corners espousing all manner of remedies for these very serious economic problems. Unfortunately, most of the proposed remedies are not only unrealistic and unworkable, but many would, in fact, create even more severe problems for our American people.

There appears to be an almost unbelievable lack of understanding and realization, especially by much of the news media and by many administrators and policymakers in Government, that the critical element required to keep this Nation viable and strong is profits. I am referring, Mr. President, to a reasonable and acceptable level of profits for our Nation's individual entrepreneurs and for our Nation's businesses of all types and sizes. Profits, as always in an economy such as ours, are the lifeblood for the Nation's survival. We must be ever mindful of this fact.

Mr. President, Dr. Hugh Macaulay of Clemson University, in my native State of South Carolina, has recently prepared a uniquely probing and reflective article titled, "How Big Are the Profits?" In the article he addresses this subject in a most thought provoking, but enlightening, manner.

Dr. Macaulay is an outstanding economist and educator. This particular article, published in the November 28, 1979, issue of the Messenger, Clemson, S.C., further attests to his excellent professional qualifications and also to his practical approach and insight toward clarifying some of the misconceptions about these complex economic matters. He presents a perspective that, in my opinion, will add much to the understanding of all who read his article.

Mr. President, in order to share this outstanding article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

HOW BIG ARE THE PROFITS?

(By Hugh Macaulay)

The silly season is upon us. Another calendar quarter has ended and business firms are reporting their profits for the last three months. News broadcasters and politicians have been driven into fits of righteous wrath and indignation.

There is imminent danger that sane people may believe some of these pronouncements that are parading around in sheep's clothing under the guise of truth and right. More appropriately the comments should be classified as bah and humbug. In this case, the little learning we have about profits is indeed a dangerous thing.

First, a word about what profits are and then another word about how big they are.

We usually think of profits as the gravy we get from a deal. If I would be willing to sell my car for $1,000, but someone offers me $1,200 for it, I say I have made $200 profit. It is more than is necessary to get me to sell. Some people think the buyer has been ripped off. If I am now able to eat high on the hog, such high cuisine is thought to be good for neither the body politic nor the realm economic.

The $200 is truly profit, but it is not often that a barefoot pilgrim comes along and casts such cake on our waters. Profit is much more than this unforeseen bounty from our fellowman.

Profit is also what we pay to get someone to part with his hard earned money and risk it in the production of cars, cakes, and cabinets that we want. It is, in this sense, just like wages. We must pay a worker for his time spent working if we want him to give up fishing and fun and instead produce figs and fans. Wages are not a sin or a rip-off—except for maybe the wages of sin.

Likewise, we must pay a person for his money spent to buy the factories, machines, and raw materials needed to produce the goods we want. Otherwise he will take his money and spend it on cars, cakes, and cabinets. Although we call this payment "profits" and think bad thoughts about it, the payment is as necessary to get factories as wages are to get workers.

If a person has money, puts it in a savings bank where it is loaned to someone else to buy a house, and the borrower pays interest on his mortgage, we heap praise upon the lender's head for helping put a roof over his neighbor's head.

But how is it different if another person, who has money, puts it in Georgia Pacific, where it is used to buy machinery to produce lumber to build the same neighbor's house? From the money paid by the home buyer, a small payment goes to the person who parted, hesitantly, reluctantly, and questioningly, with his cash to buy the sawmill and the planer. Are such profits less justified than payments for interest and wages? But if profits are justifiable, there is a second question: How much profit is necessary? We could also ask: How high should wages be?

As everyone knows, wages range all over the lot, from minimum wages or lower, to a million dollars a year or higher. But dollars of investment don't differ from each other as much as workers do, so profits don't differ as much as wages do. For last year, 1978, the average rate of profits was 15 percent on each dollar invested in manufacturing corporations, and the range of profits was much narrower. Still, some profits were negative, though nobody in the UAW is reported to have worked for negative wages.

However, the news broadcasters never, no never, report profits as a rate of return on money invested. Instead they tell us with disbelief and a smirk that profits for Exxon in 1978 were $2.8 billion; we gasp. It would be just as informative to report that McDonald's paid wages of $352 million last year. That may be a lot of money, but most of this went to the kids behind the counters who were paid the minimum wage.

For the record, Exxon's shareholders in 1978 had $20.2 billion of their money invested in the company and got 13.7 percent on their investment—which was less than the average rate made by all companies. And that was one of the better records for an oil company. Shell earned 13.3 percent, Gulf 10.2 percent, and Texaco only 9 percent; all made less than the average. That is one reason why oil companies are putting their money in retail, packing, and electronics firms—where the returns, or profits, are higher.

If anyone believes that profits are high, opportunity knocks! He can share in the good times. Over 5,000 companies are traded on U.S. Stock exchanges, and anyone—that's right, anyone—can buy one or more shares of these companies. If people don't buy these shares, then they are making more "profit" or getting more good from their money by spending it elsewhere. So what is the complaint against profits?

The word "profits" has been saddled with an unsavory and unjustified reputation. Profits are no different from, nor worse than, wages. If we think they are worse and throw them out, we will wind up with neither profits nor wages. Then we will have plenty of time to sit and learn about profits, although it may be rather cold and dark.

"I LOVE AMERICA" RALLY IN VIRGINIA BEACH

Mr. WARNER. Mr. President, these are grim times for Americans. Fanatics have seized 50 American hostages in our embassy in Tehran. They threaten and mistreat the hostages while their government condones these acts. All the world waits. But out of this tragedy has come a resurgence of patriotism.

At home, Americans are standing up and showing their support for their country, and their outrage at the violations shown our Nation. Flags are being flown, arm bands are being worn, bells are being rung. Americans are showing that our country needs to remain strong, and that there is no better way to secure this objective than through nurturing the spirit of patriotism in America.

Mr. President, I am proud to tell my colleagues what Virginians are doing to remind all of us of our great Nation. Today is "I Love America Day" in Virginia Beach, at the request of Virginia Beach Councilman Buddy Riggs. Councilman Riggs chartered an airplane that towed a patriotic banner and an American flag over the Tidewater area at noon today. In addition, students throughout the area were asked to observe a patriotic moment of silence. The Princess Anne High School band played patriotic songs at a local tidewater mall.

I am proud of Buddy Riggs, and proud of what he has done. Though I believe that certain factors beyond the average American's control have contributed to these current crises, I must at the same time look to the history of our great Nation and recognize that through hard work, perseverance, faith in ourselves and in our Nation, we have always been able to overcome adversities.

I am confident that, with strong leadership and with individual determination to improve our lives, we shall also surmount our present difficulties.

ALASKA LANDS ISSUE PROBLEMS

Mr. STEVENS. Mr. President, from time to time, Members of the Senate are honored and they are necessarily proud of such honor.

I want to share with the Senate an honor that has been bestowed on me which I am not pleased with, which I think demonstrates some of the problems for those of us who are trying to find a balance on in the Alaska lands issue.

This is the story from the News-Miner in Fairbanks, Alaska, on December 3, and an accompanying resolution of the Alaskans for Independence, which, at their recent convention, their resolution, S. 13, has bestowed upon me the honorary title of "Benedict Arnold of Alaska."

Mr. President, I ask unanimous consent to have printed in the RECORD the newspaper article and the resolution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STEVENS 'HONORED'

Sen. Ted Stevens, R-Alaska, hasn't earned many friends in the Alaska independence movement with his work for a compromise on the Alaska lands bill. At the recent Alaskans for Independence convention in Anchorage, the body adopted Resolution S–13, which reads:

"Alaskans have noted Ted Stevens hard work on and for passage of the S. 9d–2 bill in the U.S. Senate. Therefore be it resolved that Ted Stevens be given the honorary title of "The Benedict Arnold of Alaska'."

Copies of the resolution were sent to all newspapers in the state, as well as Sen. Howard Baker (Stevens' boss as Senate minority leader) and President Carter.

RESOLUTION S–13

Alaskans have noted Ted Stevens hard work for passage of the S. 9 D–2 Bill in the U.S. Senate. Therefore be it resolved that Ted Stevens be given the honorary title of "The Benedict Arnold of Alaska".

NATIONAL ECONOMIC DEVELOPMENT AND PUBLIC WORKS ACT OF 1979

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 914.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 914) to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation.

(The amendment of the House is printed in the RECORD of November 14, 1979, p. 32440.)

Mr. RANDOLPH. Mr. President, I move that the Senate disagree to the amendment of the House to S. 914 and request a conference with the House on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. PRYOR) appointed the following Senators conferees on the part of the Senate:

For section 103 of the Senate-passed bill and comparable matter in the House amendment: Mr. PROXMIRE, Mr. WILLIAMS, Mr. CRANSTON, Mr. STEVENSON, Mr. GARN, Mr. HEINZ, and Mr. ARMSTRONG.

For sections 109, 112, 116 and 117 of the Senate-passed bill and comparable matter in the House amendment: Mr. Randolph, Mr. Muskie, Mr. Gravel, Mr. Burdick, Mr. Proxmire, Mr. Williams, Mr. Cranston, Mr. Stevenson, Mr. Stafford, Mr. Domenici, Mr. Chafee, Mr. Garn, Mr. Heinz, and Mr. Armstrong.

For all other portions of the bill: Mr. Randolph, Mr. Muskie, Mr. Gravel, Mr. Burdick, Mr. Stafford, Mr. Domenici, and Mr. Chafee.

Mr. RANDOLPH. Mr. President, I appreciate the attention given to this matter. It is a very important conference we shall have in reference to the Economic Development Administration, the ARC, and other regional commissions of the United States. I appreciate the opportunity that has been given to me to proceed with this matter, and it is hoped that we can move forward to convening at an early date.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 2 minutes to proceed with nominations on the Executive Calendar beginning on page 2 under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting leader has no objection, I ask unanimous consent that the aforementioned nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. All nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

Ambassador

Sol M. Linowitz, of the District of Columbia, to be Ambassador.

United Nations

Gerald Bernard Helman, of Michigan, to be the Representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

The Judiciary

Juan M. Perez-Gimenez, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

Horace T. Ward, of Georgia, to be U.S. district judge for the northern district of Georgia.

Jose A. Cabranes, of Connecticut, to be U.S. district judge for the district of Connecticut.

Robert J. McNichols, of Washington, to be U.S. district judge for the eastern district of Washington.

Department of Justice

Charles Frederick Carson Ruff, of the District of Columbia, to be U.S. attorney for the District of Columbia for the term of 4 years.

● Mr. DOLE. Mr. President, the Senator from Kansas supports the confirmation of Charles Ruff to be United States attorney for the District of Columbia, but I do have some reservations that I would like to share with the Senate.

During the 1976 Presidential campaign, Mr. Ruff, as the last Watergate Special Prosecutor, initiated an investigation of President Ford's congressional campaign finances.

There are still several aspects of this incident I find deeply disturbing, in large part, because I was personally involved. The investigation itself could not have come at a worse time. The unfavorable publicity that it created came during the closing days of the campaign. The period of time to which the investigation was directed was long before President Ford became President. He was forced to provide Mr. Ruff with records of events that took place as early as 1948. The charges were never supported by evidence. Even so, the mere existence of these charges had a significant impact on who was elected President. It has been estimated that the Ford-Dole campaign lost 3 or 4 percentage points because of Mr. Ruff's decision, and, of course, a much smaller difference ultimately determined the outcome. I know myself that Mr. Ruff's decision had a significant impact on the campaign. From the time that news of the investigation leaked to the time that Mr. Ruff finally announced that the charges were unsupported, the constant question of the public to those of us campaigning was whether Mr. Ruff's allegations were true. This question deflected our attention from the real issues to what turned out to be a false issue. I know that it had a very real consequence.

In our political system, decisions of this consequence are normally subject to some sort of review process to make sure that the power of those who make these decisions is not abused. This has not been the case with Mr. Ruff's decision to investigate President Ford. Citing principles of confidentiality, Mr. Ruff now refuses to say who it was who made the allegations against President Ford, whether there was any evidence beyond the allegations made by this unnamed person, and what the political motives of this unnamed person might have been. Under these circumstances, no one is in a position to say whether Mr. Ruff's decision, even though erroneous based on what was subsequently learned, was justifiable on the basis of the facts that Mr. Ruff had at the time the investigation was initiated.

In this kind of situation, there is a large opportunity for abuse. If he had wished to do so, Mr. Ruff was able to advance the fortunes of his political party. I wish to emphasize that I am not alleging that Mr. Ruff was motivated in this partisan way or by any hope of personal gain. I am simply saying that there was a tremendous opportunity for abuse.

My own view is that in our democratic system no single person should ever again have the unreviewable power to influence an election in the way Mr. Ruff did in 1976. Even so, as U.S. attorney, it will be Mr. Ruff's responsibility to investigate future allegations of violations of the Federal Election Campaign Act, and it would be easily possible for him to have the same unreviewable power to influence elections that he had in 1976. This fact gives me serious reservations.

I do not wish to impute any bad faith to Mr. Ruff. Certainly this would not be fair, because all the facts are not known. But, I would ask him, as he assumes his new responsibilities, to understand that the decisions that he will be making can have a tremendous impact, not just on individual candidates, but on the integrity of our basic political institutions. We do not delegate unreviewable power lightly, and, when we do, we must depend on the absolute good faith of those who wield it.

I know that Mr. Ruff is a highly competent attorney, and there is no evidence of any kind against his nomination. The Senator from Kansas will vote for his confirmation. Beyond this, I would like to put aside the feelings of the past and wish him well in his new job.●

VITIATION OF ACTION ON EXECUTIVE CALENDAR NO. 496—AMBASSADOR

Mr. ROBERT C. BYRD. Mr. President, I understand there are some holds on Calendar Order No. 496 on the Executive Calendar, the nomination of Sol M. Linowitz to be Ambassador.

I ask unanimous consent that the action on that calendar number be vitiated for the time being.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. And the nomination is back on the calendar. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominees were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President of the United States be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE BILL HELD AT DESK

The Committee on Environment and Public Works was discharged from the further consideration of H.R. 5794, an act to designate the building known as the Federal Building in Evansville, Ind., as the "Winfield K. Denton Building," and the bill was held at the desk pending further consideration.

HOUSE BILL REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5580, relating to NATO, now being held at the desk, be referred to the Committee on Armed Services: that if and when that committee reports the measure, the measure then be referred to the Committee on Foreign Relations for 30 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2591. A communication from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize the awarding of the degree of Master of Science of Strategic Intelligence by the Defense Intelligence School; to the Committee on Armed Services.

EC–2592. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on the activities of the Export-Import Bank during the quarter ended September 30, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–2593. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a progress report on the study of residential energy efficiency standards; to the Committee on Energy and Natural Resources.

EC–2594. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the Board's report on relocation alternatives for Radio Free Europe/Radio Liberty; to the Committee on Foreign Relations.

EC–2595. A communication from the Secretary of Defense, transmitting, pursuant to law, the semiannual report on the activities of the audit, inspection, and investigative units of the Department of Defense for the period ending September 30, 1979; to the Committee on Governmental Affairs.

EC–2596. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–2597. A communication from the Deputy Assistant Secretary of Defense for Administration, transmitting, pursuant to law, reports on eight altered systems of records under the Privacy Act; to the Committee on Governmental Affairs.

EC–2598. A communication from the Under Secretary of the Treasury, transmitting, pursuant to law, a summary report of the investigation requested by the Special Counsel to the Merit Protection Board; to the Committee on Governmental Affairs.

EC–2599. A communication from the Director of the United States Office of Personnel Management, transmitting, pursuant to law, a report on an allegation of abuse of authority or violations of law, rule, or regulation on the part of a retired employee of the Office of Personnel Management to the Committee on Governmental Affairs.

EC–2600. A communication from the Administrator of the Veterans Administration, transmitting, pursuant to law, the semiannual report of the Veterans' Administration's Inspector General for the period April 1 through September 30, 1979; to the Committee on Governmental Affairs.

EC–2601. A communication from the Director of the United States Office of Personnel Management, transmitting, pursuant to law, a proposed demonstration project entitled "An Integrated Approach to Pay, Performance Appraisal, and Position Classification for More Effective Operation of Government Organizations"; to the Committee on Governmental Affairs.

EC–2602. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the temporary admission of certain aliens under section 212(d) (3) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–510. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Armed Services:

"RESOLUTION No. 432

"Whereas, the national defense of the United States is dependent on having strong armed forces, especially a naval fleet capable of protecting our nation's interests on the world's oceans; and

"Whereas, the U.S. Navy has a limited number of warships in its fleet and must make the most effective use of its combat resources by locating ships in the most strategic locations throughout the world; and

"Whereas, the Pacific Fleet has increasing responsibilities in Southeast Asia and the Indian Ocean which makes relocation of the Fleet's ships from the U.S. West Coast a logical and practical action; and

"Whereas, Guam's Apra Harbor, one of the largest and best developed harbors in the Pacific with improved infrastructure and required naval support facilities currently underutilized, could easily serve additional ships; and

"Whereas, the Navy has spent $835 Million on Guam since World War II on construction of military facilities and the total military investment plant on Guam is estimated at $3 Billion in current value; and

"Whereas, the Ship Repair Facility on Guam has a skilled force of workers that are available for major repair work; and

"Whereas, manpower costs on Guam compare favorably to the West Coast and Hawaii; and

"Whereas, the U.S. Territory of Guam is one of the most ideal and stable locations in the Pacific for homeporting of U.S. ships, having been a U.S. territory since 1898; having a loyal American population of approximately one hundred and twenty thousand persons; possessing an educational system and having cultural and commercial activities comparable to any U.S. community; now, therefore, be it

"Resolved, that in view of the current world political and military climate, the Fifteenth Guam Legislature requests that the President, the Congress and the Department of Defense reconsider the distribution of the Pacific Fleet and locate naval resources in the logical location, Apra Harbor in Guam; and be it further

"Resolved, that the Commander in Chief, U.S. Pacific Fleet, is urged to consider Guam for homeporting of additional ships in the naval facilities available but currently underutilized; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest to the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the Speaker of the House; to the President of the Senate; to the Secretaries of the Interior, Defense, State and Navy; to Guam's Representative, Antonio B. Won Pat; to the Commander in Chief, U.S. Pacific Fleet; to the Commander in Chief, Pacific; to the Chief of Naval Operations; to the Chairman, Joint Chiefs of Staff; to the Commander, Naval Forces Marianas; and to the Governor of Guam."

POM–511. A resolution adopted by the International Association of Chiefs of Police, in Dallas, Tex., relating to reimbursement for requested secret service assistance; to the Committee on Finance.

POM–512. A resolution adopted by the International Association of Chiefs of Police, in Dallas, Tex., relating to marihuana; to the Committee on the Judiciary.

POM–513. A resolution adopted by the International Association of Chiefs of Police, in Dallas, Tex., relating to addition of detection and identification taggants to commercial explosives; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MELCHER, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment:

S. 837. A bill to amend the Water Bank Act for the purpose of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes (Rept. No. 96–449).

By Mr. BAYH, from the Committee on the Judiciary, without amendment:

S. 1874. A bill to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein (Rept. No. 96–450).

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 328. A bill for the relief of Mr. Oliver O. Ratajczek and his wife, Christine Diane Ratajczek (Rept. No. 95–451).

S. 883. A bill for the relief of Ezekiel Trail Clemons (Rept. No. 96–452).

S. 1227. A bill for the relief of Munir P. Benjenk (Rept. No. 96–453).

H.R. 887. An act for the relief of Elizabeth Berwick and Alexander Berwick, her husband (Rept. No. 96–454).

H.R. 1283. An act for the relief of Pang Chong Ae (Rept. No. 96–455).

H.R. 1616. An act for the relief of Caroline M. Babcock (Rept. No. 96–456).

H.R. 1888. An act for the relief of Kenneth and Jacqueline Traylar (Rept. No. 96–457).

H.R. 1889. An act for the relief of Naomi Chen (Rept. No. 96–458).

H.R. 2477. An act for the relief of Jesus Reveles y Rivera (Rept. No. 96–459).

H.R. 2531. An act for the relief of Russell W. Allen (Rept. No. 96–460).

H.R. 2532. An act for the relief of Gail Williamson (Rept. No. 96–461).

H.R. 2594. An act for the relief of Lunette Joyce Clarke (Rept. No. 96–462).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Carolyn L. Attneave, of Washington, to be a Member of the National Advisory Council on Women's Educational Programs.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN:

S. 2078. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments, and for other purposes; to the Committee on Finance.

By Mr. BAYH (for himself, Mr. Danforth, and Mr. Nelson):

S. 2079. A bill to improve the administration of the patent and trademark laws by establishing the Patent and Trademark Office as an independent agency, and for other purposes; to the Committee on Governmental Affairs and when and if reported, then to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. Randolph, Mr. Stafford, Mr. Chafee, Mr. Baker, Mr. Bentsen, Mr. Burdick, Mr. Culver, Mr. Domenici, Mr. Gravel, Mr. Hart, Mr. Muskie, Mr. Simpson, and Mr. Pressler):

S. 2080. A bill to establish public buildings policies for the Federal Government, to establish the Public Buildings Services in the General Services Administration, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TSONGAS (for himself, Mr. Weicker, and Mr. Moynihan):

S. 2081. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

By Mr. ZORINSKY:

S. 2082. A bill to amend title 17 of the United States Code to exempt nonprofit veterans' organizations and nonprofit fraternal organizations from the requirement that certain performance royalties be paid to copyright holders; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. Dole):

S. 2083. A bill to amend title II of the Social Security Act to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test; to the Committee on Finance.

By Mr. SIMPSON (for himself, Mr. Harry F. Byrd, Jr., Mr. Morgan, Mr. Boren, and Mr. Humphrey):

S. 2084. A bill to deny eligibility for unemployment compensation benefits to certain members of the armed forces who are discharged from active duty before completion of at least five-sixths of their initial enlistment obligations; to the Committee on Finance.

By Mr. INOUYE:

S. 2085. A bill for the relief of Mr. Donald Shrope and Mrs. Guadalupe L. Shrope; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 2078. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments, and for other purposes; to the Committee on Finance.

ANTI-INFLATION TAX ACT OF 1979

Mr. HEFLIN. Mr. President, I am introducing today a bill which I have entitled the "Anti-Inflation Tax Act of 1979." I ask unanimous consent that the bill be printed in the Record at the conclusion of my remarks.

Mr. President, I think we all recognize and acknowledge the fact that the American people feel that inflation is the No. 1 problem facing this country today. This has been verified and reverified in opinion polls and surveys around the country and, of course, each of us on our trips back to our home State obtain input directly from our constituents which, I am sure, have persuaded all of us that this is the chief problem on the minds of the American people today.

Mr. President, many Members of this Senate have already expressed an interest in bringing inflation under control by means of a constitutional amendment which would require the Congress to balance the Federal budget. A number of my colleagues and I who are members of the Constitution Subcommittee of the Senate Judiciary Committee have been working very hard trying to come up with a consensus measure which we can report to the full Judiciary Committee which in turn can be reported to this body which would meet this goal. We expect to have a consensus measure reported before the end of this year, one which the Senate and the American people can rally behind and which I feel will be ratified with the support of an overwhelming majority of the American people.

Nevertheless, Mr. President, inflation continues to rage out of control and it is realized that a balance-the-budget provision may take a substantial amount of time to gain approval even after it is approved by this Congress.

Thus, Mr. President, in the meantime I think we must turn our attention to providing immediate relief from inflation for the citizens of this country.

Mr. President, one of the insidious aspects of the overall problem of inflation is the hidden tax which I have called the inflation tax which impacts on the taxpayers of this country.

The basic problem inflation poses for the individual taxpayer is that the progressive tax system treats changes in nominal income as if these were changes in real income. The result is that adjustments in wages and prices which merely compensate for inflation and represent no real change in income lead to higher taxes. These changes in the tax base would be a problem even if the income tax were proportional. But Federal income tax rates are progressive. As an individual's income increases, additional income is taxed at a higher rate. In a period of inflation most individuals will experience some increases in their nominal income.

As measured in dollars, incomes will be rising and consequently the fraction of income devoted to taxes will be rising. At the same time, real incomes measured in constant dollars are rising less rapidly if at all. The result is that many taxpayers will find their real income after taxes actually declining.

For example, consider an individual whose income rises from $10,000 to $11,000 in a period when the price level due to inflation is increasing by 10 percent. The individual's real income before taxes is constant since his gain in income merely keeps him even with the inflation rate. But suppose this person pays an income tax of 20 percent on the first $10,000 of income and 40 percent on the next $1,000.

The person's real income after taxes is initially $8,000 and on the income of $11,000 the after tax income is $8,600. But in real terms, the $8,600 is worth only $7,818.

Thus, in effect the person actually experiences a decline in income as a result of the tax increase caused by inflation. Inflation has the same effect as a general increase in tax rates. This problem affects all taxpayers and it is likely to be severe for individuals whose incomes would have been low enough not to pay income taxes before the inflation occurred.

Inflation is a serious problem not only for wage earners but also for persons who experience capital gains as well. When inflation has occurred, a portion of every capital gain is merely an adjustment for the changing price level. If this portion of the gain is taxed at the same rate as the remainder of the gain, then the real tax rate on capital gains will rise with inflation. Again, for an example. Suppose a person purchased unimproved real estate in 1950 for $20,000 and sold it in 1974 for $50,000. Under present law the taxable gain is $30,000. However, the total inflation between 1950 and 1974 was 217 percent. Therefore, the real gain is measured by adjusting the cost of $20,000 by 217 percent which reflects an adjusted cost basis of $43,400. This is the amount necessary in 1974 to restore the taxpayer the purchasing power equivalent to the original cost of the real estate which was purchased in 1950 for $20,000. Therefore, the sale in 1974 for $50,000 reflects a real income gain of only $6,000 rather than $30,000. The tax on the $30,000 is really not a tax on the gain but a tax on the capital itself which our present tax law purports not to tax.

Even taking into consideration the special treatment of capital gains and the exclusion of a portion of capital gains from taxation, it is readily apparent that in many cases the amount of tax to be paid will actually be more than the real gain so that, in effect, a portion of the capital is being turned over to the Treasury in the guise of a tax on income.

In 1978 the staff of the Joint Committee on Taxation prepared for the use of the Finance Committee a description of a measure similar to the one I am introducing today. In the discussion of the indexing of the income tax laws, the committee report contained the following language:

> The net result of the way income is defined under current law is that inflation acts as a personal wealth tax in which each person's wealth tax rate equals his effective marginal income tax rate multiplied by the rate of inflation. (A direct wealth tax would be unconstitutional because the Constitution prohibits direct federal taxes except for an income tax, unless the tax revenues derived from each state are proportional to that state's population.)

Mr. President, it seems to me that in situations where inflation causes the tax rate structure to eat up not only a person's real gain but a portion of his capital, then certainly we have an unconstitutional direct tax on capital which cannot be tolerated. In my judgment the Congress has a constitutional obligation to prevent both active and passive direct taxes on wealth and property which are not apportioned according to the constitutional mandate. I would hope that the Finance Committee in holding hearings on this measure would focus on the constitutional aspect of this problem, or perhaps the measure could be referred to the Senate Judiciary Committee so that the Subcommittee on the Constitution could examine the problem of the potentially unconstitutional effect of the Tax Code on the taxation of capital gains.

Mr. President, the bill that I am introducing today would alleviate many if not most of the problems that are caused by the impact of inflation on the tax burden of the American taxpayers. Under my bill annual adjustments would be made in the tax tables so that inflation would not result in tax increases for the American taxpayers. Not later than December 15 of each calendar year the Secretary of the Treasury will update the tables taking into consideration the inflation fired cost-of-living adjustment for each calendar year.

Mr. President, my bill would adjust the personal exemptions upward each year as inflation debases the value of the dollar so that proportionally the personal exemption would be in line with the inflation rate. It would adjust the basis of property, held by taxpayers to take into account the inflation rate to prevent the kind of situation I described previously where a person could sell property and actually have a portion of the property taken as an inflation tax. Furthermore, Mr. President, my bill would provide that persons who hold savings bonds and certificates of the U.S. Government would be treated fairly in that the rate of interest on those bonds or certificates would be adjusted annually according to the inflation rate. Moreover, the redemption value of the bond would also be indexed so that as inflation increases, the value of the bond would increase proportionally thus keeping up with the inflation rate.

Mr. President, in addition to making certain other technical conforming amendments in the Code my bill also makes revisions concerning the income levels at which a person would be required to file a return eliminating many of the low-income earners from having to undergo the burdens of filing a return on an annual basis.

Mr. President, I think it is generally acknowledged that the current high rates of inflation have increased the effective tax rates for most Americans and that no end to this situation is in sight. In the past, Congress has enacted periodic "tax cuts" in an effort to ease the burden of inflation on the Tax Code. These "tax cuts" are merely nothing other than inflation adjustments. In my judgment, such an ad hoc method of adjusting the Tax Code is inappropriate. The tax cuts are often not shared equitably; often a disproportioned share goes to one segment of our society at the expense of another. Moreover, it is possible that in addition to indexing the Tax Code, other adjustments also need to be made from time to time to relieve American taxpayers from the burgeoning tax burden.

Mr. President, what we are wielding is a two-edged sword. We must strive on one hand to move forward expeditiously with efforts to bring Federal spending under control. We must eliminate the wasteful Federal programs and we must eliminate spending that is not absolutely necessary. In short we must balance the Federal budget and at the same time we need to reverse the trend of piling more and more taxes upon the American taxpayers. A carefully designed system of indexing can be an important structural improvement in the Federal tax system. In my judgment, the most significant reason for indexing the tax system would be to restore the equity of the system. Americans do not mind paying their fair share of taxes; what Americans are opposed to are paying a disproportionate share of taxes because of inflation and other factors and then seeing this money wasted.

Mr. President, although some might argue that indexing adds complexity to the Code, I would disagree with this argument. Indexing does not have to be complex and the results of the indexing certainly could be handled on a fairly simple basis. Other countries around the world, to include our neighbor to the immediate north, Canada, have indexed their tax codes and are functioning smoothly under an index system. We should certainly look to these countries for guidance and ideas and I think if we do, we will see that indexing is a practical and workable system which should be adopted.

Mr. President, over the upcoming Christmas recess I urge each and every Member of this Senate to go back to their home States and talk to the people about the problem of inflation and some solutions for bringing it under control. I think the American people will demand that a measure such as I am introducing today must be adopted in order to restore fairness to our tax laws. I think that after the Members of this body meet with and absorb the views of their constituents, there will be a groundswell in the Senate which will push this measure inexorably forward into law. We must rescue the low- and middle-income taxpayers especially from the ravages of inflation and I think my bill goes a long way toward meeting that goal.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section. 1. Short Title.

This Act may be cited as the "Anti-Inflation Tax Act of 1979".

Sec. 2. Adjustment to Individual Tax Rates So That Inflation Will Not Result In Tax Increases.

(a) General Rule.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(f) Adjustments In Tax Tables So That Inflation Will Not Result In Tax Increases.—

"(1) In general.—Not later than December 15 of each calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

"(2) Method of prescribing tables.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing—

"(i) the maximum dollar amount on which no tax is imposed under such table, and

"(ii) the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table.

by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A)(ii), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the nearest multiple of $10).

"(3) Cost-of-living adjustment.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1978.

"(4) CPI for any calendar year.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index for the months ending in the 12-month period ending on September 30 of such calendar year.

"(5) Consumer price index.—For purposes of paragraph (4), the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers (all items—United States city average) published by the Department of Labor.".

(b) Definition of Zero Bracket Amount.—Subsection (d) of section 63 of such Code (defining zero bracket amount) is amended to read as follows:

"(d) Zero Bracket Amount.—For purposes of this subtitle, the term 'zero bracket amount' means—

"(1) in the case of an individual to whom subsection (a), (b), (c), or (d) of section 1 applies, the maximum amount of taxable income on which no tax is imposed by the applicable subsection of section 1, or

"(2) zero in any other case.".

Sec. 3. Cost-of-Living Adjustments in Amount of Personal Exemptions.

(a) General Rule.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(b) Exemption Amount.—Section 151 of such Code is amended by adding at the end thereof the following new subsection:

"(f) Exemption Amount.—For purposes of this section, the term 'exemption amount' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1(f)(3)) for the calendar year in which the taxable year begins. If the amount determined under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or if such amount is a multiple of $5, such amount shall be increased to the nearest multiple of $10).".

Sec. 4. Adjusted Basis of Property.

Section 1016 of the Internal Revenue Code of 1954 (relating to adjustments to basis) is amended—

(1) in subsection (a)—

(A) by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and the word "and", and

(B) by adding at the end thereof the following new paragraph:

"(24) in the case of property sold or otherwise disposed of after December 31, 1978, to the extent provided in subsection (e); and

(2) by redesignating subsection (e) as (f) and by adding after subsection (d) the following new subsection:

"(e) Inflation Adjustment.—With respect to any period after December 31, 1978, the basis of any property, before making any other adjustments of basis under this subsection, shall be increased by an amount which is equal to the excess of—

"(1) the basis of the property, as determined under section 1011 before adjustment under this section, multiplied by the ratio which the price index (average over the calendar year of the Consumer Price Index for All Urban Consumers (all items—United States city average)) for the calendar year in which the property is sold or otherwise disposed of bears to the price index for the calendar year in which the property was acquired, or for the calendar year 1978, whichever is later, over

"(2) the basis of the property as determined under section 1011 before adjustment under this section.".

Sec. 5. Cost-of-Living Adjustment for Certain Obligations of the United States.

(a) Savings Bonds and Certificates.—Section 22(b) of the Second Liberty Bond Act (31 U.S.C. 757v (b)) is amended—

(1) by striking out the colon and "*Provided,* That" in paragraph (1) and inserting in lieu thereof a period and "Except as provided in paragraphs (4) and (5), the"; and

(2) by adding at the end thereof the following new paragraphs:

"(4) In the case of a savings bonds or savings certificate on which interest is paid and which is issued after the date of enactment of the Anti-Inflation Tax Act of 1979, the rate of interest on that bond or certificate shall be multiplied by the ratio which the price index for the calendar year in which the bond or certificate is issued bears to the price index for the calendar year preceding the year in which any amount of interest accrues. Whenever interest accrues on such a bond or certificate, the amount of interest which accrues shall be equal to the amount determined by applying the interest rate as multiplied under this paragraph. For purposes of this paragraph, the term 'price index' means the average over a calendar year of the Consumer Price Index for All Urban Consumers (all items—United States city average).

"(5) In the case of a savings bond or certificate issued after the date of the enactment of the Anti-Inflation Tax Act of 1979, the redemption value of that bond or certificate shall be multiplied by the ratio which the price index for the calendar year in which the bond or certificate is issued bears to the price index for the calendar year preceding the year in which the bond or certificate is redeemed. The amount for which such a bond is redeemed shall be equal to the amount of the redemption value as multiplied under this paragraph. For purposes of this paragraph, the term 'price index' means the average over a calendar year of the Consumer Price Index for All Urban Consumers (all items—United States city average).".

(b) Other Obligations of the United States Having a Maturity of 1 Year or More.—

(1) Rate of interest.—Notwithstanding any other provision of law, the rate of interest on any interest-bearing obligation of the United States having a maturly of 1 year or more issued after the date of enactment of this Act shall be multiplied in accordance with the provisions of section 22(b)(4) of the Second Liberty Bond Act as if that obligation were a savings bond or certificate. The Secretary of the Treasury shall promulgate such regulations as may be necessary to carry out the provisions of this paragraph.

(2) Redemption value.—Notwithstanding any other provision of law, the face value of any obligation of the United States issued after the date of enactment of this Act having a maturity of 1 year or more, without regard to whether that obligation is interest bearing or not, shall be multiplied, on the maturity date of that obligation, in accordance with the provisions of section 22(b)(5) of the Second Liberty Bond Act as if that obligation were a savings bond or certificate. The Secretary of the Treasury shall promulgate such regulations as may be necessary to carry out the provisions of this paragraph.

Sec. 6. Adjustments In Withholding.

(a) In General.—Subsection (a) of section 3402 of the Internal Revenue Code of 1954 (relating to requirement of withholding) is amended by inserting after the second sentence the following new sentence: "The Secretary shall, not later than December 15 of each calendar year, prescribe tables which shall apply in lieu of the tables prescribed above to wages paid during the succeeding calendar year and which shall be based on the tables prescribed under section 1(f) which apply with respect to taxable years beginning in such succeeding calendar year.".

(b) Percentage Method of Withholding.—Paragraph (1) of section 3402(b) of such Code (relating to the percentage method of withholding) is amended by adding at the end thereof the following new sentence: "The Secretary shall, not later than December 15 of each calendar year, prescribe a table which shall apply in lieu of the above table to wages paid during the succeeding calendar year and which shall be based on the exemption amount (as defined in section 151(f)) which applies to taxable years beginning in the succeeding calendar year.".

(c) Withholding Allowances Based on Itemized Deductions.—Paragraph (1) of section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(1) by striking out "$1,000" and inserting in lieu thereof "the exemption amount (as determined under section 151(f) for taxable years beginning in the calendar year)"; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) an amount equal to the maximum amount of taxable income for taxable years beginning in the calendar year on which no tax is imposed by section 1(a) (or section 1(b) in the case of an individual who is not married, within the meaning of section 143, and who is not a surviving spouse, as defined in section 2(a)).".

Sec. 7. Return Requirements.

(a) Clause (i) of section 6012(a)(1)(A) of the Internal Revenue Code of 1954 is amended by striking out "$3,300" and inserting in lieu thereof "the sum of the exemption amount and the zero bracket amount applicable to such an individual".

(b) Clause (ii) of section 6012 (a)(1)(A) of such Code is amended by striking out "$40,000" and inserting in lieu thereof "the sum of the exemption amount plus the zero bracket amount applicable to such an individual".

(c) Clause (iii) of section 6012 (a)(1)(A) of such Code is amended by striking out "$5,400" and inserting in lieu thereof "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return".

(d) Paragraph (1) of section 6012(a) of such Code is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(e) Paragraph (1) of section 6012(a) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) For purposes of this paragraph—

"(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

"(ii) The term 'exemption amount' has the meaning given to such term of section 151(f).".

(f) Subparagraph (A) of section 6013(b)(3) of such Code is amended—

(1) by striking out "1,000" each place it appears and inserting in lieu thereof "the exemption amount",

(2) by striking out "$2,000" each place it appears and inserting in lieu thereof "twice the exemption amount", and

(3) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'exemption amount' has the meaning given to such term by section 151(f).".

Sec. 8. Effective Dates.

(a) Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after December 31, 1979.

(b)(1) The amendments made by sections 4 and 5 of this Act shall apply to obligations issued after the date of the enactment of this Act.

(2) The amendments made by section 6 of this Act shall apply to remuneration paid after December 31, 1979.

By Mr. BAYH (for himself, Mr. Danforth, and Mr. Nelson):

S. 2079. A bill to improve the administration of the patent and trademark laws by establishing the Patent and Trademark Office as an independent agency, and for other purposes; to the Committee on Governmental Affairs and when and if reported, then to the Committee on the Judiciary.

INDEPENDENT PATENT AND TRADEMARK OFFICE ACT

● Mr. BAYH. Mr. President, today I am introducing the Independent Patent and Trademark Office Act. This bill will remove the Patent and Trademark Office from within the Commerce Department and establish it as an independent agency. The bill also creates a 6-year term of office for the Commissioner of Patents and Trademarks. The Independent Patent and Trademark Office Act will not be creating any new bureaucratic entity, but will help the Patent and Trademark Office to function more efficiently than is now possible.

There has been a great deal of discussion and concern recently about what has gone wrong with our patent and trademark system. I have been told by independent inventors, small business owners, and the largest corporations in America that the present confusion in the patent and trademark system is a heavy millstone around their necks as they attempt to deliver new products to the American public. The patent system was originated to protect the interests of inventors in exchange for the disclosure to the public of new discoveries. Our Government is becoming unable to uphold its end of this bargain. When there is increasing doubt about the worth of a U.S. patent, when it takes longer and longer to get a patent or trademark issued, when it is learned that from 2 to

28 percent of the patents are missing from every subclass in the Patent Office files—and that one of these missing patents can be used in court to challenge the validity of an issued patent—and when the Patent and Trademark Office cannot even hire to fill present vacancies but must try to process more and more applications with less and less staff, a clear message is sent to our inventors that the Government does not take them very seriously despite all of the rhetoric about lagging innovation and productivity.

We are all familiar with the statistics indicating the present sorry state of American ingenuity. Statistics like the 47 percent decline in our patent balance between 1965 and 1975 (while Japan's patents have increased nearly 100 percent in every major industrial category) and the fact that 35 percent of all patents issued in this country are going to foreign inventors, are pretty good indications that something has gone wrong. There are many explanations for this disturbing trend, yet virtually every expert that I have talked with has mentioned the crisis in the Patent and Trademark Office as a significant contributing factor to our decline in innovation and productivity.

In his speech to the American Bar Association, Mr. Donald W. Banner, our most recent Patent and Trademark Commissioner, summed up the situation like this:

> In my view we are faced with a slowly but steadily declining Patent and Trademark Office. Not only are we failing to make the PTO a model office, we are failing to provide the necessary maintenance. If we do not promptly reverse this direction of movement, it shall soon be infected with an administrative dry rot condition, rendering it moribund.

This is not an idle warning from someone who is speculating about something that he does not really understand, but the thoughtful statement of a man who has actually tried to update and reform the patent and trademark system from within and has been frustrated in his attempts.

The problem quite simply is that the Patent and Trademark Office is never able to directly make its needs known, but must communicate with the Congress and the Office of Management through the Commerce Department which has not shown much sensitivity to its needs. The Patent and Trademark Office budget as it is presented to the Congress does not reflect the opinions of the people who are actually running the system. The Patent and Trademark Office has been seriously underfunded for years, yet this simple fact has never been clearly stated in the budget requests that we consider. The real needs of the Office became evident to me when I received replies to the written questions that I had submitted during the presentation of the fiscal year 1980 Commerce Department authorization about the situation in the Patent and Trademark Office.

The answers that I received were shocking. I discovered that not only are a large number of patents missing from the files, but that only a small percentage of the files are covered by a security system to prevent theft and misfilings. The Patent and Trademark Office is not able to hire the needed personnel to fill existing vacancies—the number of trademark examiners in 1980 will be the same as in the mid-1970's yet they are expected to process 65 percent more applications. Patent examiners have 20 percent to 30 percent less time to spend on patent applications than 30 years ago which means that all too often a patent holder is shocked to find his patent struck down by the courts because of data that was not considered by the patent examiner in his hurried search of previous patents and related materials. Inventors and businesses must also wait longer and longer for their patent and trademark applications to be processed. These are extremely serious matters to the inventor or business which is competing with increasingly strong foreign competitors who have dependable patent systems to insure the protection of their inventions.

The answer is not to blindly throw more money into the Patent and Trademark Office and hope for the best, but to undertake a fundamental reform which will insure that the Office will be able to carry out its mission as effectively as possible. The Congress must be able to find out directly what the real needs are and to consult directly with the people who are actually carrying out the day-to-day duties of the Office without any intermediaries. As long as any communication from the Patent and Trademark Office has to filter through the Commerce Department bureaucracy this will be impossible. As former Commissioner Banner said recently:

> The PTO has nothing to hide and would welcome close scrutiny by the Congress and OMB. It would thrive in the bright sunshine of such scrutiny, out of the shadow of the Department of Commerce. The mission of the Patent and Trademark Office is clearly set by the statutes under which it performs. The Department of Commerce cannot and does not assist the PTO in carrying out its functions under those statutes in any way which cannot be better done by the PTO itself. The added cost of the PTO as an independent agency would be minimal, estimated at about $150,000 a year, but this would be well spent in achieving a much more efficient operation than we have today.

This view has been seconded by former Patent and Trade Commissioners Ooms, Kingsland, Marzall, Watson, Gottschalk, and Dann.

During its history the Patent and Trademark Office has been under the auspices of the Departments of State, Interior, and Commerce. Its technical function quite clearly does not fall within the mission of any of these agencies. My bill will not create any new bureaucracy, but will insure that the Patent and Trademark Office will be able to improve its efficiency and give American inventors and businesses the services that they deserve. I urge my colleagues to carefully study this legislation and to join in restoring confidence in our patent and trademark system which was once the envy of the world.

We should remember the words of Abraham Lincoln—a patent holder—who said that "the patent system adds the fuel of interest to the fires of genius." If we stand idly by and permit that fuel to run out we will suffer serious economic consequences that are even now becoming apparent. Even more seriously we will be cheating our children and grandchildren of the rich heritage that we ourselves have been enjoying. To a great extent we are all still living "on Grandfather's money," because the high standard of living that we have is the direct result of the unprecedented wave of inventiveness of the last 80 years. If we are not to squander this inheritance we must act forcefully to shore up our patent and trademark system which has served us so well in the past as an incentive to American inventiveness.

I ask unanimous consent that the text of the Independent Patent and Trademark Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. Title 35 of the United States Code is hereby amended as follows:

SEC. 102. Section 1 is repealed and the following is inserted in lieu thereof:

"SECTION 1. Establishment.

"The Patent and Trademark Office, referred to in this chapter as the 'Office', shall be an independent agency, where records, books, drawings, specifications, and other papers and things pertaining to patents and to trademark registrations shall be kept and preserved, except as otherwise provided by law."

SEC. 103. Section 3(a) is amended by striking out the last sentence and inserting in lieu thereof the following:

"The Commissioner shall be the Chief Officer of the Office and shall be a person of substantial experience in patent and trademark matters. The Commissioner shall be appointed for a fixed term of six years and shall be removable from office by the President with the consent of the Senate, only for good cause. The Commissioner shall appoint all other officers and employees of the Office."

SEC. 104(a). Section 3(b) is repealed.

(b). In Section 3(c) the word "Secretary of Commerce" are struck out and the word "Commissioner" inserted in lieu thereof, and Section 3(c) is redesignated as Section 3(b).

(c). In Section 6, the words "under the direction of the Secretary of Commerce" and "subject to the approval of the Secretary of Commerce" are struck out wherever found.

(d). In Section 7, strike out "Secretary of Commerce" and insert in lieu thereof "Commissioner".

(e). In Section 31, strike out, "subject to the approval of the Secretary of Commerce".

(f). In Section 181, the third paragraph, in the last sentence strike out "appeal to the Secretary of Commerce" and insert in lieu thereof "a right to appeal from the order under rules prescribed by the Commissioner".

(g). In Section 188, strike out "Secretary of Commerce" and insert in lieu thereof "Commissioner of Patents and Trademarks".

SEC. 201. Section 1511(e) of Title 15 United States Code is repealed.●

● Mr. DANFORTH. Mr. President, on March 21 I introduced S. 700, a bill to provide American businesses a 10-percent tax credit for research and development expenditures. The purpose of that measure is to help U.S. businesses retain the competitive edge in technology that they have historically held in the world marketplace. It also should help to turn around the disturbingly sluggish rate of productivity gains in our economy—a major problem which hampers our ability to increase living standards and which contributes to high rates of inflation.

On May 3, consistent with that effort, I introduced S. 1065, a bill to provide a tax credit to corporations which give to colleges and universities grants earmarked for basic research, the search for fundamental knowledge. The tax credit would be equal to 25-percent of the gift.

Both bills are intended to help the sorry state of American technology by encouraging spending for technological research and development.

Yet there is another serious impediment to technological progress—the bureaucratic morass we call the U.S. Patent and Trademark Office. Overworked and undermanned, the U.S. Patent and Trademark Office has not kept pace with the growth of technology. Security is laughable. Administration is an embarrassment. Noting the failure of the U.S. Government to provide even the necessary maintenance to keep the Patent Office in its current state of stagnation, former Commissioner Donald Banner warned recently that the office is slowly but steadily declining.

> If we do not promptly reverse this direction of movement," he observed, "it shall soon be infected with an administrative dry rot condition, rendering it moribund.

Therefore, today, Senator BAYH and I, joined by Senator NELSON, are introducing S. 2079, the Independent Patent and Trademark Office Act. It is a simple bill, but—in my view—it holds great promise. First, we propose to remove the Patent and Trademark Office from the Commerce Department and establish it as an independent agency. Second, we propose to create a 6-year statutory office for the Commissioner of Patents and Trademarks. By so doing, we hope to rescue the Patent and Trademark Office from the doldrums in which it currently languishes at the Department of Commerce and give it the stature and independence it deserves.

We are not creating a new costly bureaucracy. There is nothing new about the Patent and Trademark Office. And the cost of establishing the Patent and Trademark Office as an independent agency is minimal—the additional cost amounts to approximately $150,000 each year. What is new is the emphasis we hope to give to the Patent and Trademark Office, which heretofore has been treated as an unwanted stepchild of the Federal bureaucracy, bouncing among the Departments of State, Interior, and Commerce in its long history.

In so doing, we will give the Office an opportunity to deal directly with the Congress, providing enhanced opportunities for liaison and oversight.

Currently, the Patent and Trademark Office must communicate its needs to the Congress and to the Office of Management and Budget through the Commerce Department, which has shown little interest in the office. Trademark and patent examiners are woefully overworked, and the attendant delays in processing patents and trademarks are taking a serious toll on American business. If we are to correct this situation, we must have an agency that can deal directly with the Congress and that is directly answerable to the Congress. This bill would achieve that result.

Mr. President, I am pleased to join with Senators BAYH and NELSON in this effort. As a member of the Senate Governmental Affairs Committee, I intend to work for early consideration and favorable action on this legislation.●

● Mr. NELSON. Mr. President, I am pleased to join with Senator BAYH in introducing the Independent Patent and Trademark Office Act. This measure would create an independent Patent and Trademark Office and provide for a fixed 6-year term of office for the Commissioner of Patents and Trademarks.

Management of our patent and trademark system has become an acute issue as far as the small business sector is concerned. I recently introduced together with Senator BAYH and 18 other Senators S. 1860, the Small Business Innovation Act of 1979. Title II of that bill incorporates two measures which would enable smaller enterprises to obtain exclusive patent rights to inventions discovered while undertaking Government sponsored research and development. I am gratified that the Judiciary Committee favorably reported subtitle A of title II last week in the form of S. 414.

Subtitle B of title II would authorize the Patent and Trademark Office to verify the validity of a patent and thereby eliminate the necessity of litigating a patent dispute in U.S. District Court at an average cost of $250,000. Enactment of subchapter B or S. 1679 would expedite the patent review process and reduce the cost of such a procedure to about $1,000.

Successful implementation of both subchapters, however, is dependent upon an efficient and responsive Patent and Trademark Office. All seven of the last Patent and Trademark Commissioners have urged that the Patent and Trademark Office be made an independent agency because it is presently unable to effectively administer and properly carry out its statutory responsibilities. It is estimated that as many as 28 percent of all patents are missing from every subclass on file in the Patent Office. Furthermore, authorized personnel positions are not being filled even though patent applications have increased by 65 percent during the last 5 years.

Mr. Eric Schellin addresses the patent problem in the current issue of Newsweek (December 3, 1979). He states:

> The U.S. patent system, intended to spur invention by protecting intellectual property and by spreading new knowledge, is not working. Information in the Patent and Trademark Office (PTO) is grossly incomplete. Thus, patents, when issued, are often unreliable.

Mr. Donald Banner, immediate past Patent and Trademark Commissioner, recently made the following observation:

> In my view we are faced with a slowly but steadily declining Patent and Trademark Office. Not only are we failing to make the PTO a model office, we are failing to provide the necessary maintenance. If we do not promptly reverse this direction of movement, it shall soon be infected with an administrative dry rot condition, rendering it moribund.

The key issue is that the PTO must be directly responsive and accountable to the Congress and the President. It is at the forefront in dealing with the Nation's entrepreneurs and inventors and thereby should be playing a major role in our efforts to stimulate increased innovation. Currently, the office reports through a bureaucratic chain of command at the Department of Commerce. Since the Patent and Trademark Office is not considered to be a high priority within the department, its needs and requirements are often given short shrift.

An independent PTO is needed so it can directly make its case to OMB and the Congress. I wish to make clear, however, that by urging independence I am not supporting either the establishment of a massive new bureaucracy or a significantly increased budget. Neither situation is contemplated in this measure. Instead, the Patent and Trademark Office should become much more cost-effective and more sensitive to the needs of the small business and inventing communities.

At a recent Small Business Committee hearing on innovation, the small business members who served on the Domestic Policy Review's Industrial Innovation Advisory Committee reinforçed the need to strengthen the role of PTO. The following paragraph was included in a statement filed for the RECORD:

> It must be recognized that the reliability of patents is the keystone in the commitment of funds to carry out the commercialization of a patented (or potentially patentable) invention. Few entrepreneurs and investors are willing to risk time, energy and funds in the commercialization of an invention in a free market economy knowing that the path they are pioneering may soon be trod upon by others, including large firms with greater resources and with preferential access to the market for the new invention. As a result, the only legal method to protect newly pioneered technology is by maintaining new technology as a trade secret. Typing up significant discoveries and inventions in trade secrets is not in the public interest since knowledge transfer does not occur for others to use.

In effect, what these experts are saying is that our patent laws and their administration and implementation have become archaic forcing many entrepreneurs and inventors to either resort to trade secrets or risk no protection at all. In other instances, smaller concerns simply elect not to introduce a new product into the marketplace because they have no assurance that their patents have been thoroughly and comprehensively expanded by the Patent Office. All of these situations are intolerable from a public policy point of view because they discourage companies and individuals from becoming engaged in the innovative process.

This bill together with title II of S. 1860 will lay the basis for rectifying these problems by overhauling our patent system and thereby stimulating increased innovations.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Mr. BAYH, to improve the administration of the patent and trademark laws by establishing the Patent and Trademark Office as an independent agency, and for other purposes, be referred to the Committee on Governmental Affairs and when and if reported, then to the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is to ordered.

By Mr. MOYNIHAN (for himself, Mr. Randolph, Mr. Stafford, Mr. Chafee, Mr. Baker, Mr. Bentsen, Mr. Burdick, Mr. Culver, Mr. Domenici, Mr. Gravel, Mr. Hart, Mr. Muskie, Mr. Simpson, and Mr. Pressler):

S. 2080. A bill to establish public buildings policies for the Federal Government, to establish the Public Buildings Services in the General Services Administration, and for other purposes; to the Committee on Environment and Public Works.

PUBLIC BUILDINGS ACT OF 1979

Mr. MOYNIHAN. Mr. President, on behalf of myself and the entire membership of the Committee on Environment and Public Works, I am introducing a bill to reform and reorganize the General Services Administration's public building program. This bill, the Public Buildings Act of 1979, would make three profound changes in a program so troubled that, earlier this year, the Committee on Environment and Public Works imposed a moratorium on new projects proposed under its auspices.

The bill would—

First, require GSA once each year to submit an annual plan for building construction and maintenance that conforms to legislative guidelines;

Second, establish a long-range building program with the object of placing no more than 20 percent of the Government work force in leased offices and placing the rest in Government-owned buildings; and

Third, create a purchase contract program to enable the GSA to finance building construction with funds borrowed from the Treasury at interest and repaid over a term of years in the manner of paying off a mortgage.

This bill is the result of hearings held by the Committee on Environment and Public Works to look into the GSA public buildings program which this year had a budget of $1.4 billion. I am honored and gratified that the bill has attracted as its initial cosponsors Senator Randolph, the distinguished chairman of the committee, Senator Stafford, the distinguished ranking minority member, Senator Chafee, who shares responsibility with me for the committee's oversight of public buildings matters, Senator Burdick, who immediately preceded me as the majority member with public buildings responsibility, and Senators Baker, Bentsen, Culver, Domenici, Gravel, Hart, and Simpson, all members of the committee.

All of us experienced in this matter agree that a thorough overhaul of the program is needed and that this bill provides us the tools with which to set it aright. At the same time, we recognize that we are breaking some new ground in this legislation, and we look forward to receiving comments, from the GSA leadership and the private construction industry, that will help us improve it.

Under our current public buildings program, the Committee on Environment and Public Works receives prospectuses one at a time, throughout the year, that propose various construction, renovation, and leasing actions to be undertaken by the GSA on behalf of the agencies of the Government. Other than a pro forma declaration asserting the importance of each to the efficient functioning of the Government, we have no idea of the relative priorities among the proposals, nor do I believe that the GSA itself has any notion of the priorities. We can—and do—authorize projects without knowing whether there will later be an appropriation sufficient to undertake them. Some authorized projects languish unfunded for years, and some are never carried out at all.

The parade of prospectuses shows remarkable inconsistencies. Construction standards for Federal buildings result in sturdily built, if sometimes grandoise edifices, while no qualitative standards whatever seem to guide decisions over leasing space in private buildings, with the result that Government offices are sometimes placed in jerry-built, out-of-the-way buildings that no self-respecting private firm will occupy.

Guidelines on how to select locations for Federal offices so as to promote Government efficiency or provide convenient service to the public also seem not to exist. One former GSA official confided that such policies as there were could be manipulated in any given situation to justify equally placing Federal offices in the heart of downtown or on an island in the middle of a river.

How is one to measure performance or identify impropriety in an agency like the GSA when the policies supposedly governing it are so ambiguous or conflicting that they can be invoked to rationalize nearly every action? How is Congress to exercise its oversight functions in the light of this jumble of priorities and practices?

While we in the Congress and officials of the GSA have been caught up in this situation, the Office of Management and Budget in successive Presidential administrations over the past dozen years have emasculated the public buildings program. In the shortsighted pursuit of budget trimming, the OMB has enforced a drastic curtailment of Federal construction and a concomitant increase in leasing to provide Federal office space.

According to an excellent recent report of the General Accounting Office, from fiscal year 1966 to fiscal year 1979, there was no appreciable increase in Government-owned space acquired through direct construction, while leased space increased by over 100 percent, from 44.6 million to 93.3 million square feet. Annual lease payments by the GSA in the same period increased from $131 million to $520 million, to the point where lease payments in fiscal year 1980 will account for over 39 percent of the public buildings budget. Construction funds make up just over 1 percent of the same budget. The annual rental budget will exceed $1 billion within 3 years at its current pace.

In other words, our Public Buildings Service is fast becoming a "private buildings service." Half of all civilian employees housed by the GSA now work in leased space. Our committee has discovered that even the most sensitive national security activities of the Government have been provided space in private buildings that were constructed without the slightest regard for physical or communications security requirements. It should also come as no shock that we have uncovered situations in which the competition in bidding for Government leases appears to have been unnaturally and unnecessarily restricted.

Leasing has the immediate budgetary advantage in any one year of requiring less of an outlay of funds than building a building. This is, of course, why leasing so appeals to the OMB. But the GAO, itself not noted for advocating budgetary profligacy, reports than when one compares construction expenditures, leasing costs, and the payments Federal agencies make into the Federal buildings fund of the GSA as rent for their office space over a period equivalent to the expected life of a Federal building, construction looks much more favorable on Federal accounting sheets.

The GAO charts show that a Federal building recovers the cost of its construction by the 14th year and provides a surplus to our Federal buildings fund every year thereafter, a surplus that can be used to finance other Federal buildings. After all, at some point in any building's life, you have paid off its capital cost and have only to pay thereafter its maintenance. In the 14th year of a lease, you have nothing to show but 14 years of rent receipt stubs, and the sure expectation that the next year you will have to pay full rent—at somewhat inflated rates, of course—again.

The National Bureau of Standards estimates that, over 40 years in the life of an office building, design and construction costs account for only 5 percent of the cost of conducting business within it; employee wages account for almost all of the rest. If we spend that 5 percent for high quality design and construction, we can produce a Federal building tailored to Federal needs that will enhance employee productivity and thus effect significant economies in the other 90-plus percent of the Government's administrative expenses.

We now have a large inventory of unmet building needs. In February of this year, the GSA reported that there were $281 million of building projects approved or pending and an additional $383 million in "potential" projects. This means that, even in the absence of comprehensive planning, the GSA has identified a backlog of $664 million in projects.

We must do something about this situation. The Public Buildings Act of 1979 would set limits on leasing, establish criteria that would let GSA officials know when and when not to lease, and enforce procedural safeguards in lease negotiations. It would encourage innovation and research in building design to insure functional efficiency and architectural excellence in Federal buildings.

Nevertheless, we cannot hope to find sufficient funds this year, or in the next several years, to reduce significantly the leased inventory or to put a dent in the building backlog, if we have to rely on direct construction funding. The bill I am proposing today would allow us to make a significant start by authorizing the GSA to borrow construction funds from the Treasury. The mechanism is similar to a mortgage on a home: GSA would pay back principal plus interest over a period of years, taking advantage of the favorable interest rates available to the Treasury Department.

The GAO has endorsed such a system. Although this method of borrowing does not produce as favorable a balance for the Federal buildings fund as direct construction funding, GAO reports that it is only slightly less favorable, and much preferable to long term leasing.

In the first 150 years of our country's history, we built substantial buildings to house the permanent functions of the Government; buildings, many of which still stand, that symbolized to local townspeople the cooperative interest of the Government in the well-being of their communities, and that promoted the dignified and expeditious conduct of Government functions. These buildings were among the most architecturally distinguished buildings of their day, and they were a source of pride to the citizenry.

This bill would establish the structures, policies, and fiscal wherewithal in the General Services Administration to return the public buildings program to its earlier success and stature—and provide the Congress with the information and timely opportunities to make certain that the program attains and maintains that level of excellence and propriety.

I have prepared a section-by-section analysis of this bill that explains its provisions in detail and I ask unanimous consent that it, together with the text of the bill, be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Public Buildings Act of 1979.

Sec. 2. It is hereby declared to be the policy of the Congress that the public buildings of the United States Government shall be located, designed, furnished and maintained so as to insure the highest productivity and efficiency of Federal agencies and their employees and, further, to provide Government services throughout the United States in locations convenient to the people, to preserve and advance the nation's legacy of architectural excellence, and to enhance commercial and cultural conditions in the vicinity of public buildings.

TITLE I—GENERAL AUTHORITIES

Sec. 101. The Administrator of General Services, acting through the Public Buildings Service, in conformance with the policies and provisions of this Act, shall acquire, design, construct, lease, manage, maintain, repair, renovate and assign and reassign space in, buildings and sites to meet the public buildings needs of the Government.

Sec. 102. There is hereby established in the General Services Administration a Public Buildings Service. There shall be at the head of the Public Buildings Service a Superintendent of Public Buildings who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for Level IV of the Federal Executive Salary Schedule.

Sec. 103. There shall be within the Public Buildings Service a Supervising Architect who shall be appointed by the Administrator of General Services and shall be compensated at the rate provided for Level V of the Federal Executive Salary Schedule. The Supervising Architect shall supervise all design activities of the Public Buildings Service and shall perform such other duties as the Superintendent of Public Buildings may designate.

Sec. 104. Any authorities described in section 101 of this Act that have been delegated by the Administrator to another Federal Agency prior to the date of enactment of this Act shall be revoked and vested in the Administrator on the one hundred and twentieth day after the effective date of this Act unless, prior to said day, the Administrator has delegated such authority in accordance with section 105 of this Act.

Sec. 105. Notwithstanding the provisions of section 205 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator may delegate all or a portion of his authorities under this Act to the head of another Federal agency, but only with respect to the public buildings needs of that agency, and only after having submitted, sixty calendar days in advance of the proposed effective date of the delegation, a statement explaining the scope of and reasons for the delegation, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.,The proposed delegation shall become effective only if, during the first period of thirty calendar days of continuous session of Congress after the date such statement is submitted, the proposed delegation is not barred in whole or in part by resolution of both Committees.

Sec. 106. Notwithstanding the provisions of section 205 of the Federal Property and Administrative Services Act of 1949, as amended, any authorities exercised by the Administrator pursuant to this Act may be delegated, and any authorities delegated by the Administrator to another agency may be restored to him or reassigned to the head of another agency by resolutions approved by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

Sec. 107. The head of any Federal agency delegated or reassigned authorities pursuant to sections 105 or 106 of this Act, shall exercise those authorities in conformance with the provisions of this Act; however, the head of any agency shall not submit the report required in section 109 but shall submit the information required in section 109 to the Administrator for inclusion in his report.

Sec. 108. (a) The Administrator shall keep the Congress fully and currently informed of policies and activities of the General Services Administration within the purview of this Act. In addition, he shall make available to the Committee on Environment and Public Works of the Senate and the Committee on House of Representatives on request, and in such manner as may be necessary to safeguard individual rights or the conduct of criminal investigations, any document, material, or report under his jurisdiction.

(b) Such reports as are required to be transmitted to appropriate committees of the Congress by the Administrator in accordance with sections 5(b) and 5(d) of Public Law 95–452 that pertain to problems, abuses, or deficiencies arising under this Act, shall be transmitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

Sec. 109. (a) The Administrator shall conduct systematic evaluation and research, and is authorized to undertake demonstration projects, to determine the effectiveness of existing and planned public buildings in providing productive, safe, economical, conveniently located, energy efficient, and architecturally distinguished accommodations for Federal agency offices.

(b) In complying with the provisions of subsection (a), the Administrator shall consult from time to time with the Office of Personnel Management, the National Bureau of Standards, National Science Foundation, Department of Energy, National Endowment for the Arts, and with other private individuals and organizations having suitable expertise.

Sec. 110. The Administrator shall submit a report to the Congress on or before February 1 of each year describing activities undertaken, directly by him, or under authorities delegated pursuant to sections 105 and 106 of this Act, to meet the public buildings needs of Federal agencies in the preceding fiscal year. Such report shall include at least—

(1) a list of all public buildings, to include for each: its location, the amount of space and number of employees assigned to each Federal agency, the amount of space leased under section 210(a) (16) of the Federal Property and Administrative Services Act of 1949, as amended, buildings operations costs, income derived for the Federal Building Fund, energy consumed, and whether it is fully accessible to handicapped persons;

(2) a list of all locations of Federal agency offices in leased buildings, to include for each: its location, the amount of space and number of employees assigned to each Federal agency, the percent of the building leased by the Government, leasing costs, the term of the lease and its expiration date, any additional operations costs, income derived for the Federal Building Fund, the total amount of money the Government has expended in improvements or alterations to the building, energy conservation measures utilized and whether it is fully accessible to handicapped persons;

(3) a list of all construction and renovation projects completed and in progress and the degree of progress toward the completion of each;

(4) a list of all leases and lease renewals executed;

(5) a list of construction and renovation projects the cost of which have exceeded, or are expected to exceed, the maximum cost set forth in any annual authorization act, whether or not such projects meet the criteria established in section 803 of this Act;

(6) a list of all term contracts issued for protective, maintenance, design or related building services, including for each the name of the contractor, the services performed, and contract term and price;

(7) a list of all architectural, engineering, and construction contracts awarded with respect to specific projects, including for each the name of the contractor, services to be performed, and contract price;

(8) a report on activities undertaken pursuant to—

(A) section 109 of this Act;

(B) Title IV of this Act;

(C) Title V of this Act;

(D) section 210(a) (6) of the Federal Property and Administrative Services Act of 1979, as amended;

(9) a discussion of problems encountered in carrying out provisions of this Act and in meeting the public buildings needs of the Government.

Sec. 111. As used in this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Federal agency" means any department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation, and any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and activities under his direction).

(3) The term "office" means any organizational component of a Federal agency or

other public or private enterprise and also means the physical space in which the work of the component is conducted, including, but not limited to clerical offices, laboratories, warehouses, industrial plants, and garages.

(4) The term "headquarters office" means the central administrative offices of a Federal agency.

(5) The term "officers and employees of the Government" means all persons included under sections 2104 and 2105 of Title 5 of the United States Code.

(6) The term "locality" means a city, town, or other similar populated area and its environs.

(7) The term "acquire" or "acquisition" includes purchase, condemnation, donation, and exchanges of real property.

(8) The term "renovation" means alteration, addition, partial demolition, and other such actions that significantly enhance or change the architectural design of a public building.

(9) The term "historic, architectural, or cultural significance" includes, but is not limited to buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(10) The term "handicapped person" includes any individual with a physical impairment that precludes such person's use of a building to the same extent as an individual with unimpaired mobility.

(11) The term "fully accessible" means the absence or elimination of physical and communications barriers to the ingress, egress, movement thoroughout, and use of a building by handicapped persons and the incorporation of the most scientifically advanced research, technology and equipment to assure access to a building by handicapped persons and, in a building of historic, architectural or cultural significance, the elimination of such barriers and the incorporation of such research, technology and equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.

(12) The term "public building" means any building along with its grounds, approaches, and appurtenances, owned by the United States Government or the subject of a contractual or other agreement under which it will be owned by the United States Government at some certain date in the future, that accommodates, used to accommodate, or is intended to accommodate Federal agency offices, and includes, but is not limited to office buildings, courthouses, research and academic centers, border stations, garages and warehouses, and any other building or construction project the inclusion of which the President may deem to be in the public interest, but does not include buildings or installations of the United States Postal Service, except where such installations are merged in public buildings, or buildings on the public domain (including that reserved for national forests and other purposes), on properties of the United States in foreign countries, on Indian and native Eskimo properties held in trust by the United States, on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, on or used in connection with river, harbor, flood control, reclamation or power projects, chemical manufacturing or developing projects, or for nuclear production, research, or development projects, on military installations (including any fort, post, airbase, proving ground, supply depot, school or similar facility of the Department of Defense), on Veterans' Administration installations used for hospital, nursing home, or domiciliary purposes, or on or used in connection with housing and residential projects.

(13) The term "public buildings needs" means the requirements of Federal agencies for suitable space in which to carry out their responsibilities.

SEC. 112. The Public Buildings Act of 1959, as amended, is repealed.

TITLE II—LOCATIONS FOR FEDERAL AGENCY OFFICES

SEC. 201. Federal agency offices shall be located in reasonable proximity to other governmental and private offices or to specific residential populations with which they must maintain continuing and frequent physical communication, provided that, Federal agency offices in a locality may be consolidated to the extent justified by the need for immediate physical proximity—

First, within and among the offices of a single Federal agency, and

Second, within and among the offices of Federal agencies carrying out related functions, and generally so that resulting public buildings needs may be met by buildings similar in scale to buildings predominating or planned for their surroundings, by existing public buildings, or by acquiring two or more reasonably proximate buildings, particularly buildings of historic, architectural, or cultural significance.

SEC. 202. In conforming to section 201, and prior to acquiring, constructing, or leasing space in any other building, the Administrator shall locate Federal agency offices—

(a) in existing public buildings, giving first priority to utilizing fully those public buildings of historic, architectural, or cultural significance; and if public building space is not available, then,

(b) in buildings of historic, architectural, or cultural significance acquired by the Administrator, and renovated if need be, unless use of such space would not prove feasible and prudent compared with construction of a public building.

SEC. 203. In conformance with sections 201 and 202, the Administrator shall locate—

(a) the headquarters offices of each Federal agency in the metropolitan Washington, D.C., area, unless otherwise specified by Act of Congress;

(b) other Federal agency offices, designated by the head of the agency to be located outside of Washington, D.C., so as generally to distribute Federal offices evenly in proportion to the geographic distribution of the nation's population; provided that, in so doing, the Administrator shall give due regard to agency requirements to establish regional or local administrative offices or to serve segments of the population concentrated in particular geographic areas.

SEC. 204. In conforming with sections 201, 202, and 203, the Administrator shall locate Federal agency offices in accordance with the following priorities—

(a) first, in the case of any office located in a standard metropolitan statistical area, in the central business district of a city within that area, unless the office—

(1) undertakes hazardous activities,

(2) requires a campus setting or a large amount of land, or

(3) falls under the provisions of section 203(a);

(b) second, near existing or planned public transportation facilities; and

(c) third, within a reasonable distance of public amenities and commercial activities.

SEC. 205. In the event that the head of a Federal agency determines that the location assigned to any office of fifty or more employees of that agency by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the agency head may appeal the decision of the Administrator to the Director of the Office of Management and Budget. The Director shall review the Administrator's decision within 30 days in accordance with the provisions of this Title, and shall nullify the decision only if the Director finds the Administrator's decision not reasonably supported by the facts. The Director shall report the findings of any review undertaken pursuant to this section within ten days to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

TITLE III—DESIGN AND MANAGEMENT OF PUBLIC BUILDINGS

SEC. 301. The Administrator shall design and maintain public buildings in such manner that they bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

SEC. 302. (a) One of the public buildings in a locality shall be of such design and construction as to have an expected functional life of at least one hundred years and to symbolize the nobility of the American system of government through the quality or scale of all or a part of its architectural details, internal and external materials, public entrances, corridors, meeting rooms, lobbies, and courtyards.

(b) One additional building conforming to the provisions of subsection (a) of this section may be provided in a locality for primary use by the United States Courts and related Federal agency offices.

(c) Those Federal agency offices that have most frequent contact with members of the general public shall be accorded priority in assignments of space in buildings conforming to the provisions of subsection (a) of this section.

(d) In any locality with more than one public building, at least one public building conforming to the provisions of subsection (a) shall bear no designation other than one denoting geographic location and the functions carried out within.

(e) None of the provisions of this section shall be construed so as to affect the continuing use or maintenance, or to change the existing designation of any public building in existence or under construction on the effective date of this Act.

SEC. 303. Public buildings in a locality, other than those conforming to the provisions of section 302(a) of this Act, shall be of such design and construction as to have an expected functional life of at least fifty years and to approximate commercial buildings of the first quality that serve the same purposes.

SEC. 304. (a) Public buildings shall conform in scale to those buildings existing in or planned for their immediate surroundings, shall conform to local zoning law, shall not encroach on parkland, and shall, in a historic district, conform to the general architectural style and materials of the district.

(b) Special attention shall be given to the energy-saving potential of alternative orientations of a building to its site, use of natural light and ventilation, and the placement and design of windows and other fixed or movable architectural elements.

(c) The Administrator shall assure that architectural details and hardware that are an integral part of the structure or fixtures of each new public building shall be designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions. Artisans and craftsmen expert in the creative use of such materials as stone, brick, metal, wood, and stained glass shall be employed wherever possible to carry out the purposes of this paragraph.

(d) Special attention shall be given to the design and furnishing of efficient, attractive, and inviting public reception and meeting rooms and to the provision of information and attractive interior and exterior building and room signs.

(e) Offices shall be provided with functional and attractive furnishings designed to produce a cheerful appearance and to contribute to the efficient accomplishment of individual and agency responsibilities, provided that, all such furnishings shall be selected from furnishings produced and sold on the general market by private manufacturers.

(f) Parking space shall be provided in or appurtenant to a public building—

(1) for government motor vehicles assigned to Federal agency officers or employees, provided that such parking space shall be placed underground wherever possible;

(2) for private motor vehicles taking into consideration the agency of nearby public transportation and commercial parking facilites, but only to the extent needed to accommodate employee carpools and visitors, and then only upon payment of parking fees comparable to commercial rates in the vicinity, provided that, parking space for handicapped persons shall be provided notwithstanding the provisions of this paragraph;

(3) for bicycles of employees and visitors in easily accessible, secure locations furnished with devices that minimize the risk of theft of the bicycles, provided that, a fee shall be charged for the use of any device more elaborate than a simple metal rack.

(9) Shower and dressing rooms shall be provided in public buildings for the use of Federal agency employees provided that a fee shall be charged for their use.

Sec. 305. (a) Public buildings shall be maintained at all times at a high level of appearance, cleanliness, and mechanical and structural fitness so as to maintain the dignified appearance of Federal offices and the safety, comfort, and efficiency of Federal employees, and to minimize major repair and replacement expenditures.

(b) Each public building shall be maintained and renovated so as to accommodate Federal agency office requirements and to retain and enhance, as much as possible, those features that most contribute to the building's historic, architectural, or cultural significance.

Sec. 306. (a) Not later than 180 days after the effective date of this Act, the Administrator shall establish and publish, in consultation with the Architectural and Transportation Barriers Compliance Board, design and construction standards on making buildings fully accessible to handicapped persons. The Board shall review such standards annually and recommend such revisions to the Administrator as may be necessary to assure that the standards continue to reflect use of the most advanced research, technology, and equipment.

(b) Following publication of the standards required by subsection (a) of this section, the Administrator shall prescribe such regulations as may be necessary regarding design, construction, and contracting to assure that all construction, acquisition, and renovation projects carried out pursuant to this Act conform to such standards. The Administrator, in the list of completed projects required in section 110(3) of this Act shall include a certification that each such project has been carried out in accordance with these standards.

(c) The annual plan submitted to Congress by the Administrator in accordance with section 801 of this Act shall include a schedule for making all existing public buildings fully accessible to handicapped persons. Such schedule shall estimate the cost of carrying out the plan and shall include a list, in priority order, of recommended projects to be undertaken in the year for which the annual plan is submitted.

TITLE IV—MIXED USE AND ADAPTIVE USE IN PUBLIC BUILDINGS

Sec. 401. This Title may be cited as the "Public Buildings Cooperative Use Act of 1979."

Sec. 402. Section 102 of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

"Sec. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational activities as tenants primarily on major pedestrian access levels, courtyards, and rooftops of public buildings, and design, construct and lease out space suitable for such activities, provided that the amount of space so leased out in any public building—

(A) shall be determined by the Administrator after undertaking studies to determine the market or need for such activities in the interest of promoting commercial or cultural vitality in the surrounding locality or serving the employees in the public building, and

(B) shall not exceed twenty-five percent of the space in the public building, or fifty percent of the space in a public building fifty or more years old so long as any amount over twenty-five percent of the space in the building is occupied by a non-profit cultural or educational institution and that at least one-third of the space occupied by such an institution is used for exhibits, performances, libraries, or other activities intended primarily for the general public;

(3) provide and maintain space, facilities and activities, to the extent practicable, which encourage public access to and stimulates public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for occasional cultural, educational, and recreational activities and design, construct, and maintain space and equipment in public buildings suitable for such activities.

"(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.".

Sec. 403. Section 103 of the Public Buildings Cooperative Use Act of 1976 is repealed.

Sec. 404. Section 104(a) of the Public Buildings Cooperative Use Act of 1976 and the Federal Property and Administrative Services Act of 1949 are amended by amending section 210(a)(16) of the Federal Property and Administrative Services Act of 1949 to read as follows:

"(16) to enter into leases of space in public buildings, in accordance with section 102 (a)(2) of the Public Buildings Cooperative Use Act of 1976, as amended, with persons, firms or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976, as amended). The Administrator shall establish rental rates for such leased space equivalent to the prevailing commercial rates for comparable space devoted to similar purposes in the vicinity of a public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator deems necessary to promote competition and to protect the public interest;".

Sec. 405. Section 105 of the Public Buildings Cooperative Use Act of 1976 is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The term 'public building' and 'Federal agency' have the same meaning as is given them in the Public Buildings Act of 1979.".

TITLE V—EXHIBITIONS AND WORKS OF ART

Sec. 501. This Title may be cited as the "Federal Buildings Enhancement Act of 1979."

Sec. 502. (a) The Congress hereby finds and declares that—

(1) the efficient use of Federal buildings can be increased, and public satisfaction with Federal buildings will be improved, by insuring that such buildings not only provide a congenial work environment but also function attractively for public service;

(2) Federal buildings should enrich the social, commercial, and cultural resources of the communities they serve; and

(3) the utility and ambience of Federal buildings will be enhanced by temporary exhibitions of American art works and of the Nation's cultural heritage, as well as by suitable permanent works of art incorporated as an integral part of the architectural style and form of Federal buildings.

(b) It is, therefore, the policy of the Congress to encourage and secure Federal building design which is distinguished, which expresses the dignity, enterprise, and stability of the American government, and which enriches the quality of life in the communities served by such buildings. It is the purpose of this Act to contribute to such design by incorporating permanent installations of suitable works of art into new Federal buildings. It is the further purpose of this Act to enhance the utility and ambience of existing Federal buildings by providing for temporary exhibitions of art and history to be circulated among Federal buildings.

Sec. 503. (a)(1) The Administrator, with the advice and assistance of the Chairman of the National Endowment for the Arts, shall acquire by loan, or by lease at nominal fees, works of art by living American artists. Works of art acquired under this subsection shall be organized into exhibitions and circulated on a rotating basis by the Administrator among Federal buildings throughout the United States. Such works of art shall be selected from artists representative of the different regions of the United States and its territories, and shall include diverse media.

(2) The Administrator, in conjunction with the Secretary of the Smithsonian Institution, shall develop exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States or illustrate the continuing development of the Nation's art, culture, society, science, and industry.

(3) The Administrator shall circulate and show exhibitions developed under this subsection in Federal buildings throughout the United States. Preference shall be given to Federal buildings in communities that otherwise do not have convenient access to museums of art and history.

(4) The Administrator shall reimburse the Smithsonian Institution an amount not less than the cost to the Institution of carrying out the provisions of this subsection.

(b)(1) the Administrator, with the advice and assistance of the Chairman acting in cooperation with the appropriate State arts councils, shall commission suitable works of art by American artists to be purchased and installed in Federal buildings or temporarily installed in leased buildings. The preliminary planning and design of each such new Federal building shall include planning for such specific commissions, which may include a variety of compatible works for each such new building. The Administrator shall insure that Federal buildings selected for the installation of such commissioned works of art are equitably distributed within the United States and its territories, and shall consider a diversity of artistic media in commissioning such works of art. The Administrator shall provide for necessary services to keep and preserve such works of art in a state of high quality.

(2) Whenever the Administrator commissions a suitable work of art pursuant to paragraph (1) of this subsection, he shall instruct that such work shall enhance the architectural design of any new such Federal building. In the case of an existing public or leased building, such work shall be appropriate to the setting and space available. The Administrator shall also instruct that such work shall express a vital element of contemporary American life, embody a common heritage or unique characteristic of the region, symbolize a principal mission of the Federal offices housed, or depict the character of the work to be performed in such building.

(3) In carrying out the provisions of this subsection, the Administrator, with the advice and assistance of the Chairman acting in consultation with the appropriate State arts councils, shall establish such procedures as may be necessary to commission suitable works of art, with or without competition, and to encourage the participation of local artists.

(c) (1) For the purpose of this section, the Administrator is authorized to utilize one-half of 1 per centum of the total sums available in fiscal year 1980 and each fiscal year thereafter for the design, construction, repair, renovation, alteration, and acquisition of public buildings, and one-twentieth of 1 per centum of the sums available for the lease of public buildings.

(2) Funds available under this subsection shall be available, without fiscal years limitation, to the Administrator for the purposes set forth in subsections (a) and (b) of this section: *Provided*, That not to exceed 15 per centum of such funds shall be expended for purposes set forth in paragraph (1) of subsection (a), not to exceed 10 per centum shall be expended for purposes set forth in paragraph (2) of subsection (a), and not to exceed 75 per centum of such funds shall be expended for purposes set forth in subsection (b).

(d) For the purpose of this Title—

"(1) the term 'Federal buildings' means Federal courthouses and office buildings owned by or leased to the Federal Government that are under the jurisdiction of the Administrator of General Services; and

"(2) the term 'Chairman' means the Chairman of the National Endowment for the Arts; and

"(3) the term 'work of art' includes, but is not limited to, paintings, sculptures, mosaics, tapestries, crafts, ceramics, and photographs.".

TITLE VI—ARCHITECTURAL SERVICES

SEC. 601. The Superintendent of Public Buildings shall employ professionally trained architects, landscape architects, interior and graphic designers, and urban planners to prepare, under the supervision of the Supervising Architect, plans, drawings, and specifications for such public building construction and renovation projects as the Superintendent may designate, but in no case fewer than 25 percent of the dollar value of such projects each year.

SEC. 602. (a) Those architectural designs not prepared pursuant to section 601 shall be procured in accordance with Title IX of the Federal Property and Administrative Services Act of 1949, as amended, and—

(1) with respect to each public building construction and renovation project expected to cost no less than $2,500,000 but no more than $25,000,000, the Administrator shall conduct a design competition among no fewer than three and no more than ten qualified architectural firms. Such competition shall be conducted so as to give particular opportunities to firms that have not received design commissions from the Federal government and to last no longer than sixty days from the date the Administrator provides the firms with a competition program and to elicit from each firm preliminary design concepts only. The Administrator shall negotiate first with the firm judged at the conclusion of the competition, to have demonstrated the best design approach to the project. The Administrator shall compensate the firms that take part in any one competition under this provision a total of no more than $50,000, and shall conduct each competition so that travel expenses and fair compensation for the work required does not exceed this amount;

(2) with respect to each construction and renovation project expected to cost more than $25,000,000, the Administrator shall use such methods, including design competition, as he may deem appropriate to select the best qualified architectural firm from among those expressing interest in the project, provided that such selection shall take into account design approaches proposed by no fewer than three firms. The Administrator is authorized to compensate firms taking part in any one competition under this provision, no more than a total of $250,000 for expenses and stipends.

(b) The Administrator is authorized to acquire the services of privately-employed architects, engineers, and other citizens on a temporary basis to serve on panels to assist in selecting and judging architectural firms under the provisions of subsection (a) of this section. Persons so employed shall not be considered special Government employees under the provisions of section 201(a) of the Ethics in Government Act of 1968.

(c) The Administrator shall make public and provide to competing firms at the same time as a selection is announced under any of the provisions of this section, a brief report describing the criteria used to evaluate competing firms and the reasons for the selection made.

TITLE VII—LEASING

SEC. 701. The Administrator shall lease space only to the extent necessary to accommodate the emergency or temporary requirements of the Government, or to provide space in locations where the size of Government activities does not warrant providing a public building.

SEC. 702. Any other provision of this Act notwithstanding, the annual plan submitted to Congress by the Administrator in accordance with section 801 of this Act, shall assure that—

(1) within five years of the date of enactment of this Act, no fewer than sixty percent of the officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

(2) within ten years of the date of enactment of this Act, no fewer than eighty percent of the officers and employees of the Government whose offices are provided under this Act shall have their principal offices in public buildings;

(3) to the maximum extent possible, the percentage of officers and employees of the Government whose offices are provided under this Act having their principal offices in public buildings is maintained uniformly throughout the nation, and that priority is accorded to construction, acquisition, and renovation of such public buildings as may be necessary to achieve such uniformity.

SEC. 703. Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator shall not make any agreement or undertake any commitment to lease more than twenty-five percent of the space in any building unless and until the building is within ninety days of being completely constructed and ready for occupancy.

SEC. 704. No space shall be leased to accommodate—

(1) major computer operations,

(2) offices that conduct secure or sensitive activities related to the national defense or security,

(3) offices, the nature of which would require major alterations in the structure or mechanical systems of the building to be leased, or

(4) courtrooms, judicial chambers, or administrative offices for any United States court.

SEC. 705. (a) For the purposes of this Act, sections 321 and 322 of the Act entitled "An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes," approved June 30, 1932, shall not apply.

(b) No lease may be negotiated for a rental exceeding one hundred and five percent of the average commercial rates and charges for space and services of nearest comparable quality.

SEC. 706. (a) The Administrator shall publicly solicit competitive bids to procure space by lease for the Government. Each such solicitation shall specify any special requirements of building design, configuration, or location.

(b) In evaluating competing bids, the Administrator shall take equally into account proposed rental costs, overall quality of the buildings, energy efficiency, and their relative conformity to the requirements of Titles II and III of this Act.

SEC. 707. The Administrator shall provide to the highest ranking official of each Federal agency occupying space in a leased building a copy of the lease agreement between the Government and the owner of the building and shall provide such official with any later additions or revisions to the lease.

SEC. 708. The Administrator shall provide along with the list of lease and lease renewal actions proposed for authorization under section 802(b)(4) required to be submitted to the Congress in accordance with section 801 (a) of this Act, the name of each principal owner of each building or other space and biographical information concerning each such owner, including—

(1) a summary description of any lease, sublease, contract, or subcontract with the United States to which such owner was a party and the status of each such lease, sublease, contract, or subcontract;

(2) a description of any business relationship, dealing, or financial transaction by such owner, on his own behalf, on the behalf of a client, or acting as an agent, which in any way might constitute or result in a conflict of interest for such owner as a lessor of a building or space to the United States;

(3) a statement as to whether such owner is or has been employed by the United States in any capacity;

(4) a statement as to whether such owner is or has been a member of any Federal committee or commission, including any advisory committee or any panel for the selection of recipients of Federal contracts;

(5) a statement as to whether such owner has ever held public office, including a description of the offices involved, whether such owner was elected or appointed to each such office, and the length of service in each such office;

(6) a statement as to whether such owner has ever held a major position or has played

a major role in a political campaign, including an identification of the candidate, the dates of the campaign, and the title of such owner, and a description of the responsibilities of such owner;

(7) a statement of any criminal convictions of such owner; and

(8) such other information as the Administrator finds appropriate.

In carrying out the provisions of this section, in any case in which the Administrator does not know the name of any principal owner of a building or space to be leased at the time the list required under section 801(a) is submitted to the Congress, the Administrator shall transmit to the Congress the information required by this section at least thirty days prior to the date on which the Administrator intends to approve the lease on behalf of the Government.

TITLE VIII—CONGRESSIONAL AUTHORIZATION

SEC. 801. (a) The Administrator shall submit to the Congress, not later than the fifteenth day after Congress convenes each year, a program for the next succeeding fiscal year of projects and actions which the Administrator deems necessary in carrying out his duties under this Act. Such program shall include at least—

(1) a five-year plan for accommodating the public building needs of the Government,

(2) a list, in priority order, of construction, renovation, and acquisition projects proposed for authorization under subsections 802(b)(1), 802(b)(2) and 802(b)(3),

(3) a list, in priority order, of lease and lease renewal actions proposed for authorization under subsection 802(b)(4),

(4) a list of all public buildings proposed to be vacated in whole or in part or to be disposed of,

(5) a proposed budget for the repair and maintenance of public buildings,

(6) a description of how the projects and leases included in the program, separately and together, conform to the provisions of this Act and the estimated annual and total cost of each project and lease.

(b)(1) The Administrator shall certify in the annual program submitted in accordance with subsection (a) that he has held a public hearing, or afforded the opportunity for such hearing, in the locality or proposed locality of each construction, renovation, or acquisition project included in the annual program. Such hearing shall consider the economic and social effects of the project, its impact on the environment, its consistency with the goals and objectives of such urban planning as has been promulgated by the community, and its conformance with sections 202, 204, and Titles III and IV of this Act, provided that, only such facts and issues as can reasonably be adduced during the planning and preliminary design of a project shall be considered at such hearing.

(2) The Administrator shall provide, along with each certification, the final environmental impact statement prepared pursuant to the National Environmental Policy Act, and a report which indicates the consideration given to facts and issues concerning the project and various alternatives which were raised during the hearing or which were otherwise considered.

SEC. 802. (a) No appropriation shall be obligated for any public building construction, renovation or acquisition project, or for any lease or lease renewal, unless it has been authorized by the Congress in accordance with this Title.

(b)(1) The Administrator is authorized to carry out the following public building construction projects of buildings of 25,000 gross square feet or more in fiscal year 1981, and the authorization for any such project shall remain available until the end of fiscal year 1985.

(2) The Administrator is authorized to carry out the following public building renovation projects with a total estimated cost of $1 million or more each in fiscal year 1981, and the authorization for any such project shall remain available until the end of fiscal year 1982.

(3) The Administrator is authorized to carry out the following public building acquisition projects of buildings of 25,000 gross square feet or more, or of sites of a value of $1 million or more in fiscal year 1981, and the authorization for any such project shall remain available until the end of fiscal year 1982.

(4) The Administrator is authorized to execute the following lease agreements or lease renewals of blocks of space of 50,000 or more square feet in fiscal year 1981.

(5) The Administrator is authorized to issue obligations to the Treasury under section 903 of this Act for the following projects in fiscal year 1981.

(6) There is hereby authorized for the purpose of carrying out public building construction projects in fiscal year 1981 other than those projects authorized under subsection (b)(1), the sum of $———, and such sum shall remain available until the end of fiscal year 1985.

(7) There is hereby authorized for the purpose of carrying out public building renovation projects in fiscal year 1981, other than those projects authorized under subsection (b)(2), the sum of $———, and such sum shall remain available until the end of fiscal year 1982.

(8) There is hereby authorized for the purpose of carrying out public building acquisition projects in fiscal year 1981, other than those projects authorized under subsection (b)(3), the sum of $———, and such sum shall remain available until the end of fiscal year 1982.

(9) The Administrator is authorized for the purpose of executing lease agreements or renewing leases in fiscal year 1981, other than those authorized under subsection (b)(4), the sum of $———.

(10) There is hereby authorized, for making alterations to leased buildings in fiscal year 1981, the sum of $———, and such sum shall remain available until the end of fiscal year 1982.

(11) There is hereby authorized for the purpose of making payments on leases in fiscal year 1981, other than those authorized under subsection (b)(4) and (b)(9), the sum of $———.

(12) There is hereby authorized for cleaning, maintenance, repair, and real property operations in public buildings in fiscal year 1981, the sum of $———.

(13) The Administrator is authorized in fiscal year 1981 for the purpose of carrying out planning and to procure preliminary designs for public building construction, renovation and acquisition projects, the sum of $———.

(14) There is hereby authorized for the administration and direction of the Public Buildings Service in fiscal year 1981, the sum of $———.

SEC. 803. (a) When the cost of a project exceeds the estimated maximum cost authorized under Section 802 of this Act, the Administrator is authorized to either (A) increase expenditures by an amount equal to the percentage increase in the cost of the project, or (B) decrease the number of gross square feet to be constructed in the project. In no event shall the total increase in expenditures authorized by clause (A) of this paragraph exceed 10 per centum of the estimated maximum cost of the project. In no event shall the total decrease in square feet authorized under clause (B) of this paragraph exceed more than 10 per centum of the gross square feet stated in the approved authorization.

(b) If the Administrator determines that the cost of a project exceeds the estimated maximum cost authorized under section 802 of this Act to such an extent that action under paragraph (1) is not sufficient to meet such excess cost the Administrator shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives concerning the project. Such report shall include recommendations by the Administrator as to appropriate action to enable the continuance of the project. The Administrator may not take any action to continue the project, other than the action authorized by paragraph (1), unless such action has been authorized by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

TITLE IX—PUBLIC BUILDING FINANCING

SEC. 901. Section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, is amended by deleting the existing second sentence thereof and inserting the following sentence:

"Such rates and charges shall be established for each public building, and for each building containing space leased by the Administrator on behalf of the United States, no more frequently than once each year at a level equivalent to the anticipated costs of providing space and services (including amortized construction costs or leasing costs), unless such level of rates and charges would exceed commercial rates and charges for space and services of nearest comparable quality, in which case the rates and charges established by the Administrator shall not exceed such commercial rates and charges."

SEC. 902. Section 210(a)(18) of the Federal Property and Administrative Services Act of 1949, as amended, is amended to read as follows:

"(18) to deposit into the fund established by subsection (f) of this section all sums received under leases or rentals executed pursuant to paragraphs (16) and (17) of this subsection, all proceeds from the disposal parking or dressing room fees under subsections 304(f) and 304(g) of the Public Buildings Act of 1979, and each sum shall be credited to the appropriation made for such fund applicable to the operation of such building; and".

SEC. 903. (a) The Administrator is authorized to issue obligations to the Secretary of the Treasury, to the extent and in such amounts as are provided in annual appropriation Acts, in order to obtain funds necessary to finance the acquisition, construction or renovation of any public building when he determines the best interest of the United States will be served. The Secretary of the Treasury is authorized to purchase such obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. The repayment of loans made under this section shall be for terms up to thirty years and on such conditions as may be prescribed by the Secretary of the Treasury. In prescribing such terms and conditions, the Secretary of the Treasury shall take into account the useful life of the building for which funds are to be borrowed and shall not require that repayment begin until the building is ready for occupancy. Such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities.

(b) An obligation may be issued under subsection (a) to acquire, construct, or renovate a public building, only if such acquisition, construction, or renovation has been authorized by the Congress, pursuant to Title VIII of this Act.

(c) The payment of principal and interest on such obligation issued under subsection (a) shall be payable from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949. There are authorized to be appropriated from the fund such amounts as may be necessary to carry out the purposes of this section.

Section 904. Section 210(f)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(2)) is amended by inserting immediately after "activities" a comma and the following: "and for payments in connection with the financing of the acquisition, construction, or renovation of public buildings as authorized by section 903 of the Public Buildings Act of 1979."

Section-by-Section Analysis and Summary of the Public Buildings Act of 1979

Section 101 establishes the basic authority of the Administrator of GSA to satisfy the building requirements of the Government.

Section 102 establishes in law the Public Buildings Service of GSA and provides for the head of the PBS to be appointed by the President and confirmed by the Senate.

At present, PBS is not established by statute and its administrative chief is not subject to confirmation.

Section 103 establishes the position of Supervising Architect to oversee design activities of the PBS.

This position existed in the Government from the 1840's until 1939 and its incumbents were chiefly responsible for the maintenance of high standards of quality in Federal architecture during that period.

Sections 104, 105, 106, and 107 withdraw current delegations of building authority from GSA to other agencies, provide that such delegations must be approved in advance by the Congressional authorizing committees, and require agencies exercising delegated authorities to conform to the policies and procedures of this Act.

In the past, GSA Administrators have delegated authority without the knowledge of these committees. The agencies that received such delegations have thus been allowed to act independently in this area, without conforming to consistent Government policies or submitting to oversight by the Congressional committees charged with overseeing the Government's building activities.

Section 108 requires GSA to keep the Congress and its oversight committees fully and currently informed of GSA activities under this Act, to include reports of the GSA Inspector General concerning building activities.

In the recent past, the Environment and Public Works Committee has had difficulty getting the GSA to respond even to direct requests for information on its policies and activities.

Section 109 encourages GSA to undertake research and evaluation to improve public buildings and offices.

The GSA has a huge building inventory but has conducted only sporadic studies to improve the functioning and efficiency of existing and planned buildings. Even small improvements could yield huge savings in building operating costs and increases in the productivity of Federal employees for decades to come.

Section 110 requires GSA to submit an annual report on activities undertaken under this Act. It requires, among other things, a full accounting of public buildings and leased space, to include a revenue and expense statement for each building or leased location.

The report is designed to furnish the Congress with essential oversight information on the status of the buildings program and is timed so that its data can be used by Congress in evaluating the proposed annual buildings program to be submitted a few weeks earlier under Title 8 of the Act. The revenue and expense statements are stipulated to encourage GSA to manage its buildings in a business-like manner and have been suggested by GAO in past reports. The report would also provide information on contractors, cost over-runs, and GSA activities undertaken at the behest of and for reimbursement by other Federal agencies under section 210(a)(6) of the Federal Property and Administrative Services Act.

Section 111 contains definitions of significant terms.

The definition of "public buildings" is relatively unchanged from that in the Public Buildings Act of 1959 and defines those buildings for which GSA is responsible and those under the jurisdiction of other agencies. The latter are most notably buildings on defense installations and parklands and VA hospitals, nuclear and other power projects, and postal buildings.

Section 112 repeals the Public Buildings Act of 1959.

Section 201 sets out basic considerations to be followed in locating Federal offices. The offices are to be placed reasonably close to other public or private activities, or to residential areas with which they must be in frequent contact. The section sets out criteria and priorities for consolidating Federal offices.

Agency offices appear to be moved around at present without conscientious regard to where they could best carry out their responsibilities. Offices of Federal agencies that have little or nothing to do with each other are often consolidated into one building on the unproven assumption that such consolidation effects administrative economies. The building space requirements that follow upon these mass consolidations often impel the Government to restrict competitive bidding for leases to a few large buildings, to reject the option of purchasing sound, smaller buildings, or to build Federal buildings so large that they disrupt their surroundings and local development plans.

Section 202 establishes priorities of using existing Government-owned buildings first and acquiring historic buildings second in finding space for Federal agency offices.

This section meshes the traditional policy of maximizing the use of Federal building space with the historic preservation mandates of the Public Buildings Cooperative Use Act of 1976.

Sections 203 and 204 establish geographic priorities in locating Federal buildings. Headquarters of Federal agencies are to be in the Washington, D.C. area, unless otherwise specified in law. Other agency offices, except for designated regional or area offices, are to be distributed across the country in proportion to population. In urbanized areas, offices are to be located in a central business district, near public transportation, and close to public and commercial services.

Placing headquarters offices in and around Washington conforms to the vision of the Founding Fathers in establishing a National Capital. A priority for downtown locations reflects the fact that Federal offices are, and ought to be, central aspects of community life and need to be in the heart of an urban area. Locations reachable by public transportation will best serve both visitors and Federal employees and will minimize traffic congestion and energy consumption. Locating offices near parks, stores, and the like can help make Federal employment attractive to well-qualified individuals.

These criteria for making siting decisions are intended to rectify the confusion apparent in project recommendations in which sometimes one and sometimes another factor is given precedence in justifying the lease or construction of particular buildings.

Section 205 affords an agency head an appeal to the Office of Management and Budget on the grounds that a GSA site decision would hamper agency efficiency. OMB would send a report of any such appeal to the oversight committees in Congress.

This establishes in law a procedure similar to one already in use informally in the executive branch, and adds a notification to the Congress of the resolution of any such dispute.

Section 301 is a statement of principles of architectural excellence for public buildings.

They borrow from the Guiding Principles for Federal Architecture, prepared in 1962 at President Kennedy's request.

Sections 302 and 303 provide that in any city or town one Federal building and an additional Federal courthouse shall be of monumental design and other Federal buildings shall be designed to the same standards as first class private buildings. In a city or town with two or more existing monumental Federal buildings, they would continue to be maintained as monumental buildings, but any further Federal construction would be designed to the first class private standard.

It is entirely appropriate to provide Federal office buildings and courthouses that reflect in their quality the significance of the national government. However, current Federal design standards provide only for monumental construction, and these standards account for the high cost of Federal buildings compared to those in the private sector. These sections would rectify this.

Section 304 calls for design attention to suitable scale in public buildings, conformance to local zoning, energy-saving features, architectural details and creating functional and attractive interior work areas. It also establishes criteria for providing automobile and bicycle parking and employee shower rooms.

Too often, Federal buildings are out of scale with their surroundings and ignore inexpensive, natural means of saving energy. Federal offices and waiting areas are notoriously poorly designed, contributing not only to a poor image of Government service but also to inefficiency of the Federal workforce and inconvenience to the public. One provision of the section encourages GSA to purchase furniture on the open market. This would eliminate the current questionable practice of contracting with firms that produce inferior items solely for Government use. Parking would be provided primarily for carpools and only for a fee to minimize automobile commuting. Showers and dressing rooms would be provided chiefly for the benefit of bicyclists and would also entail a fee.

Section 305 requires high standards of cleanliness and maintenance for Federal buildings and mandates repair and renovation of historic buildings in such manner as to balance functional needs with the retention of historic features.

GAO reports a nearly one billion backlog of maintenance expenditures on public buildings. Neglect of maintenance can only result in large replacement expenditures in the future. Cleaning services in Federal buildings are not up to commercial standards. Some Federal buildings have been renovated in ways that indicate a lack of sensitivity to their historic architectural qualities.

Section 306 requires all new or renovated public buildings to be fully accessible to the handicapped, sets a deadline for GSA to publish accessibility standards, and requires GSA to include in its annual program a plan for making all existing public buildings accessible.

The accessibility standards referred to have been in preparation for several years. This section requires their promulgation.

Sections 401, 402, 403, 404, and 405 make conforming amendments to the Public Buildings Cooperative Use Act of 1976.

Section 402 further amends the Cooperative Use Act by clarifying the amount of space in a public building that can be leased out to commercial or cultural enterprises and by requiring the Administrator to study the type or amount of such activities needed to serve the surrounding locality or the building's employees.

Despite legislative history that indicated that the amount of space to be out-leased in Federal buildings should be determined on the facts peculiar to each building, GSA and OMB arbitrarily agreed on a limit of 10 percent of the space of any building. This inflexible and often inappropriate limit would be eliminated and a rule of thumb of 25 percent, commensurate with private sector practice, substituted. Up to fifty percent of an old Federal building, which frequently has particularly large public spaces unamenable to modern office uses, could be leased to cultural or educational institutions.

Sections 501 and 502 introduce a separate title to be cited as the "Federal Buildings Enhancement Act of 1979." This title is essentially identical to S. 1791, introduced by Senators Chafee, Moynihan, Randolph, Stafford, Baker, Burdick, Pressler, Pell, and Gravel.

Section 503 establishes a program for circulating exhibits of art, culture, society, science, and industry in Federal buildings. GSA would consult with the Smithsonian Institution in assembling the exhibits. The section further provides that, in consultation with the National Endowment for the Arts and official state arts councils, GSA may commission or acquire works of art to be installed in and around Federal buildings. For these purposes, ½ of 1 percent of the annual GSA construction, renovation, acquisition and maintenance budget and one-twentieth of 1 percent of the leasing budget would be available.

The circulating exhibits would help GSA carry out the intent of the Public Buildings Cooperative Use Act in making Federal buildings, particularly those in localities without major cultural facilities, dynamic community centers. The provisions for "art-in-architecture" would place this program on a statutory basis for the first time and would establish standards of local participation and subject (though not stylistic) matter.

Section 601 requires the use of in-house GSA staff to design at least 25 percent of the construction and renovation projects each year.

In order to attract and retain talented designers, GSA must begin to allow its design staff to take responsibility for some significant projects. When this staff is not designing, it reviews the designs of private architects and establishes the criteria for public buildings' designs. For these tasks, too, GSA needs talented individuals with up-to-the-minute design knowledge and experience.

Section 602 requires GSA to use design competitions to select private architects for its buildings. The section establishes broad guidelines and monetary award limits for the competitions.

Design competitions were used to select architects for the Capitol, White House, Smithsonian, and other important buildings early in the nation's history. They are used routinely by European governments. They have the advantage of emphasizing selection on the basis of imagination and skills rather than past reputation and they help identify previously unknown, but talented individuals. The section encourages GSA to experiment with procedures pioneered in England, that limit the time and expense involved in running competitions.

Sections 701 and 702 limit leasing to emergency or temporary situations, or where Federal agency needs do not warrant a Federal building, and establish guidelines on the percentage of the Federal workforce that may be accommodated in leased space.

Sections 703 and 704 establish criteria under which leasing may not be used. Section 703 would eliminate so-called "lease construct" projects, in which the Government pledges to lease, usually on a long-term, a building to be built by private interests.

These sections would curb the dramatically escalating amount of space, in both absolute and proportional terms, being leased by the Government to house its permanent functions. Over half of the Federal workforce provided space by the GSA is now in leased space. The bill for such leasing will be close to $700 million in fiscal year 1981 and will reach $1 billion soon thereafter. For such amounts, the Government often eases space inadequate in location and design, and, of course, never acquires any equity in that huge inventory of real property.

The lease construct projects are most prone to abuse, offering private developers a firm commitment with little or no Government say in the soundness, functionality, or appearance of the resulting building.

Computer operations, courtrooms, and national defense activities require special mechanical systems and equipment. In the past, the Government has sometimes made large expenditures to improve leased space in privately-owned buildings. This investment cannot be recovered when the lease term ends. Security considerations further argue against placing these functions in private buildings.

Section 705 substitutes, for provisions in effect since 1932 allowing no more than 15 percent of a building's market value to be paid in annual rent, a stipulation that rentals paid may not exceed by more than five percent average nearby rental rates.

The old provision has forced GSA to maintain a large staff to appraise the value of buildings it proposes to lease. While the concept of placing a ceiling on Government rentals is a good one, it is market forces that establish rental rates and keep them fair and competitive. This section would hold the Government to market rates, with some leeway to account for variations from the average and for inflation between computations of the average.

Section 706 requires GSA to advertise its specific needs when soliciting offers of leased space and requires that offers be evaluated with regard to qualities such as optimum location, energy efficiency, handicapped access, and interior and exterior design as well as with regard to rental cost.

GSA has occasionally established criteria for leased space so stringent as to eliminate all but a few bidders in a locality. This section would require all such criteria to be published so that competitors would have the opportunity to judge whether they can meet them or to propose to GSA less restrictive ways of meeting Federal agency needs. GSA lease solicitations rarely address the concerns of location and design described in titles 2 and 3 of this legislation, with the result that GSA leases inferior quality buildings—sometimes buildings so inferior that private lessees refuse to rent space in them.

Section 707 requires GSA to provide to agencies it houses in leased space copies of the lease between the Government and the building owner.

Current GSA policies do not allow agency representatives to see leases covering the buildings they occupy. This fosters poor GSA-client agency relations and does not permit agency employees who are on the scene to monitor the level and kind of services required of the building owner by the lease agreement.

Section 708 requires GSA to provide the Congress with biographical information on the owners of buildings in which GSA proposes to lease significant amounts of space or to renew major leases. This section is essentially identical to S. 1321 introduced by Senator Simpson.

These provisions provide information needed to detect political favoritism, criminal influence and other potential irregularities in the leasing program.

Section 801 requires GSA to submit to Congress at the same time the President's budget is submitted, a program for construction, renovation, acquisition, maintenance, and leasing in the succeeding fiscal year, and a five-year plan for housing Federal agencies. Major projects proposed for commencement would have to be accompanied by a certification that opportunity was afforded for public hearing and by the final environmental impact statement, if applicable.

Section 802 is an annual authorization section, providing separate authorizations for major projects (including leases), lump sum authorizations for minor projects, and funds to conduct planning and preliminary design.

These sections establish a system roughly comparable to the military construction authorization process. Once a year, GSA would submit to Congress a program for meeting agencies' needs, a program based on prior planning. Under the current system, proposed projects are referred to the Public Works committees one by one, throughout the year, without regard to the availability of appropriations, and without any logical explanation of the priorities of needs represented by the proposals. Followed a few weeks later by the annual report required in Title I, the program would allow Congress to compare the current status of the public buildings program with proposals for improvements in succeeding years.

The system proposed here would allow the Congress to evaluate major projects when preliminary planning has been completed. Under the current system, project proposals are forwarded when details of specific site, building functions and tenant agencies, and budget are still unformed.

Finally, by tying the annual program submission to the Congressional budget process, the proposed system would conform the GSA public building program, and Congressional authorizations, to budget and appropriation limits.

Section 803 permits GSA, within its overall annual budget authorization, to meet cost increases on individual projects of up to ten percent. Actions to meet increases above this amount would have to be approved by the Public Works committees.

Section 901 amends the criteria under which GSA assesses annual rental charges to Federal agencies to make clear that those charges should recover the costs of financing and operating or leasing each building and should, to the maximum extent, underwrite the Public Buildings Service budget. A buildings rental charge could not exceed the charge for comparable commercial rates.

This section encourages GSA to run its buildings on a business-like basis, and reinforces the intent of Congress, expressed in the establishment of the Federal Buildings Fund in the Public Buildings Amendments of 1972, to make the public buildings program self-sustaining. At the present time, GSA rate-setting is not accomplished with this end in mind.

Section 902 is a conforming amendment to allow the deposit of fees established in section 304 into the Federal Buildings Fund.

Sections 903 and 904 authorize GSA to borrow funds from the Treasury to finance acquisition, construction, or renovation of public buildings. Repayments would be made annually out of the Federal Building Fund.

These sections are essentially identical to section 6 of S. 494, introduced by Senators Stafford, Randolph, Chafee and Moynihan.

These sections establish a permanent financing mechanism under which GSA would borrow money to undertake major building projects and then pay the money back at interest. Unlike previous "purchase contract" arrangements that have been authorized to GSA, this system would not involve the GSA in floating issues in the private money market. It would, rather, take advantage of existing Treasury borrowing devices and experience. The advantage of a financing system over direct funding of a project is that expenditures and budgetary impact are spread over many years, and more projects can be started at once with a given expenditure. The Treasury borrowing rate also gives GSA a realistic interest rate to take into account when analyzing the real costs (present discounted value) of undertaking a project.

It would be anticipated that projects each year would be undertaken using both this borrowing and direct funding authority.

● Mr. RANDOPLH. Mr. President, I am pleased to join in the introduction of the Public Buildings Act of 1979 as legislation to create a firm and positive policy under which the Federal Government will provide facilities to house its operations.

This measure is a result of more than 8 months of effort in the Committee on Environment and Public Works.

Development of this bill began last March immediately after the committee imposed a moratorium on the approval of nonemergency building and leasing proposals of the General Services Administration. This action was the outgrowth of years of frustration in trying to carry out a public buildings program without the guides of a clear and concise policy and with an agency whose performance in the past was uneven. It has been 20 years since the Congress addressed the total public buildings program. There have been many changes in Government since then and we have learned much about how buildings operations should be carried out.

Mr. President, the Public Buildings Act of 1979 addresses in a comprehensive manner all of the components we believe necessary to give direction to the General Services Administration to implement its mandate and housekeeping agency of the Federal Government. It was developed following extensive hearings in recent months and consultations with individuals and organizations representing a wide variety of interests.

The purpose of this legislation is stated succinctly at the outset:

> It is hereby declared to be the policy of the Congress that the public buildings of the U.S. Government shall be located, designed, furnished and maintained so as to insure the highest productivity and efficiency of Federal agencies and their employees and, further, to provide Government services throughout the United States in locations convenient to the people, to preserve and advance the Nation's legacy of architectural excellence, and to enhance commercial and cultural conditions in the vicinity of public buildings.

Mr. President, while the basic and overriding buildings function of the General Services Administration is to provide accommodations for the activities of the Federal Government, the way in which it does so can have a significant impact not only on the operational efficiency of the Government but in other areas. Our buildings, for instance, should set standards of architectural excellence for the Nation. We must point the way in vigorously carrying out our commitment to make public facilities available to the physically handicapped. Public buildings also must not be considered in isolation from the rest of the communities in which they are located.

All of these issues are addressed in the legislation which we introduce today.

This proposal has been carefully developed and I believe that it provides the basis for a public buildings program that responds to the needs of the Government and the American society. It is the intention of the committee to give priority attention to this bill early in 1980. We will seek comments and suggestions from many sources so that we can make any changes that may be necessary. It is my desire that this legislation be enacted as soon as possible so that its provisions can be implemented. I also hope that the committee will be able to relax its moratorium on new construction and leasing in the near future. Such a decision by the committee, however, will be based on our appraisal of the operation of the General Services Administration under its new administrative leadership as well as progress toward enactment of the legislation which we present today.

Mr. President, I am greatly appreciative of the time and effort expended in the development of the bill by the Senator from New York (Mr. Moynihan) and the Senator from Rhode Island (Mr. Chafee) who have been assigned primary responsibility for buildings matters in our committee. Senator Moynihan has long been concerned with issues relating to buildings and urban design. In 1962, at the request of President Kennedy, he wrote "Guilding Principles for Federal Architecture," a document that contains sound and lasting advice and which was a source of ideas for this bill.

Senator Chafee has been deeply involved in building questions since he came to the Senate and made many contributions to the writing of this bill.

I am also appreciative of the participation of the knowledgeable Senator from Vermont (Mr. Stafford), the ranking minority member of our committee. Over the years he has introduced a number of worthwhile legislative proposals in this area and he continues to follow buildings matters on a daily basis.

Mr. President, the Public Buildings Act of 1979 deserves the attention of every Member of this body. I hope that our colleagues will examine it carefully, and I invite Senators to become cosponsors of this timely and important measure.●

● Mr. STAFFORD. Mr. President, I am pleased to cosponsor the Public Buildings Act of 1979, introduced today by Senator Moynihan. The bill would repeal one of the General Services Administration's major legislative authorities—the Public Buildings Act of 1959—and it provides an almost complete rewrite of basic law of the multibillion-dollar Public Buildings Service. In addition to numerous changes in existing statutes, it also includes new provisions not heretofore in law.

The bill is designed to provide a national buildings policy, to revamp the congressional oversight and authorization process, to encourage GSA to better administer and control its own affairs, and to establish new programs and procedures. It is indeed major and comprehensive legislation.

Senator Moynihan is to be commended for his hard work and leadership in the important area of public buildings—an area that has received too little attention, if not neglect, at times in the past. The assignment of public buildings has sometimes been looked upon as tedious and without much reward. Senator Moynihan's diligent and dedicated efforts are selfless, but I believe enactment of this new, major legislation would be a credit, and thereby reward to him.

I am also appreciative of the excellent work of the committee staff that has worked on this bill over many months. Among majority and minority staffs, the drafting of this bill has been a cooperative and unified effort throughout. As Senator Moynihan has said about our staff, "The unanimity in which they work exemplifies the skills with which they work."

Finally, I want to thank Senator Moynihan and show to him my appreciation for including in his bill substantive and verbatim language from three bills introduced earlier by me (S. 494, S. 460, and S. 461), from two bills authored by Senator Simpson (S. 1321 and S. 1324), and from Senator Chafee's bill (S. 1791). He has also adopted numerous suggestions and recommendations not previously covered in introduced bills. I especially appreciate his work with my staff to include new language for handicapped facilities.

Mr. President, this bill would establish a national buildings policy and program within GSA. There has not been, so far as I have observed, a coherent Federal policy on buildings. As I have stated before, the policies that do exist appear to be in a state of continual change, if not increasing disarray and advanced deterioration. It is painfully clear to me that a policy must now be developed and adopted, logically defined and clearly enunciated.

To protect its integrity, safeguards must be provided to assure that the chosen policy and program is carried out and firmly adhered to. This bill addresses numerous issues designed to assure safeguards, proper procedures, and competent management in the very important field of building construction, leasing, alteration, and repair.

Disclosures of improprieties and management failures illustrate the need for and urgency of actions by the Congress and the executive branch. In the long run, only a coherent policy, clearly defined programs, and firm execution of those decisions backed by consistent authority, will fill the policy vacuum which otherwise attracts confusion and influence, if not exorbitant waste, favoritism, and scandal.

Mr. President, also very important are

the changes made in the congressional authorization and review process. As the ranking minority member of the Environment and Public Works Committee, I have long believed that the prospectus process may no longer be adequate or appropriate. I have been equally concerned over the proper congressional role in building programs.

Title VIII constitutes a major change in the congressional authorization procedure, designed to strengthen congressional oversight and control and enabling greater policy direction instead of brick and mortar decisions such as specific repairs, maintenance, or leasing. The current prospectus process leads to piecemeal approvals without program review or oversight of the policies and procedures inherent in project proposals. Prospectuses, in effect, are almost "blank checks."

Mr. President, I have been concerned also about the accelerating trend in leasing. For example, in the past 10 years, Federal office space under lease has increased 117 percent. In the same period, Government-owned space under GSA management has declined. The budget in this fiscal year for leasing alone exceeds a half-billion dollars. I believe a policy of ever greater leasing and little or no Federal construction is, in the long run, more costly and not otherwise in the best interest of the Government.

I am especially concerned about the accelerating trend toward the so-called lease-construct method of acquiring space for Government employees, whereby a private speculator receives a guarantee from GSA to lease a building yet to be constructed. Such guarantees are used as vehicles to obtain financing. I am concerned that these oftentimes very lucrative guarantees could lead to a climate of favoritism, if not fraud and corruption.

I am glad that this bill would greatly dampen, if not eliminate, this questionable method of financing. I am also glad that title IX of the bill contains authority for the so-called purchase contract method of financing which was a part of my bill S. 494. Utilization of this authority could greatly alleviate the ever-increasing trend toward leasing.

Mr. President, earlier this year the committee unanimously adopted a moratorium—sponsored by Senator MOYNIHAN and myself—on approvals of all nonemergency projects of GSA. I, for one, do not believe that the introduction of this bill is, in itself, justification for lifting the moratorium. It should, I believe, remain in place until the committee has assurances that reforms are in place and that projects which it approves are in fact carried out with integrity and void of waste or mismanagement.

Mr. President, I will not take the time of the Senate to discuss at this time the details of this large and comprehensive legislation, encompassing nine titles. But I do endorse its thrust and commend it to all my colleagues. I believe and expect the committee will pursue its concerns expeditiously, and I hope it will receive the prompt and close attention also of the executive branch.●

● Mr. CHAFEE. Mr. President, I am pleased to join as a cosponsor of the Public Buildings Act of 1979 introduced today by the distinguished Senator from New York (Mr. MOYNIHAN) and I look forward to working closely with him to report legislation, hopefully early in the second session of this Congress.

Mr. President, this bill represents the work—extending over many months—by the Committee on Environment and Public Works to provide greater order, policy direction and congressional oversight to the Nation's public buildings program.

Under the leadership in the public buildings area of Senator MOYNIHAN—with whom I am pleased to serve as the minority counterpart—a number of important hearings have been held. On June 6, the committee held a hearing on buildings location policies, and on June 15, the General Services Administration's leasing practices were examined. On September 18, the important area of building financing was heard, and on September 19, GSA testified about the Federal buildings fund and the "user charges" assessed to other Federal agencies occupying GSA-managed buildings. This bill reflects much of the information acquired through this hearing process, as well as the committee's experience with the Public Buildings Service of GSA.

The bill is comprehensive legislation that would repeal the Public Buildings Act of 1959—which contains most of the major authorities of the multibillion-dollar Public Buildings Service—and start from scratch. It contains a number of new authorities as well as reshaping many existing authorities.

The proposed legislation would, I believe, assist the agency in getting better organized and would change the congressional authorization procedures and practices. Unlike most all other multibillion dollar programs of the Government, building projects for construction, acquisition, alteration and repair, and leasing are now authorized one-by-one by separate resolutions adopted by the Environment and Public Works Committee of the Senate and the Public Works and Transportation Committee of the House. In few other programs has the Congress granted full authorization to a single committee in each House and without the reconciliation process of conference.

Lost in this piecemeal process is the overall picture or program of the public buildings service. The committee becomes caught up in the necessity to approve specific leases or repair projects without the benefit of shaping the overall policies, priorities, procedures or practices that end in the submittal of particular building projects. To the contrary, I believe it is the role of the Congress to develop policies and oversee programs rather than to decide when a specific building should be painted, a roof repaired or a lease renewed.

The "Public Buildings Act of 1979" would require GSA to submit two extensive reports annually—one by February 1, containing its program for the preceding fiscal year; and one concurrent with the President's budget, containing a proposed program for the coming fiscal year. This information—giving a program review and proposal—would serve as the basis for policy review and annual program authorizations by the full Congress much like military construction is now authorized. If implemented in good faith by the agency, I believe this procedure could do much to facilitate greater congressional, constructive interest in the agency and to restore congressional confidence in the public buildings service.

At present, I am concerned for example about GSA's practice of spending millions of dollars to alter leased buildings and to exchange valuable Federal real property without committee sanction. These are among the numerous issues addressed in this bill which should improve GSA's practices and procedures and the congressional authorization process and oversight.

Mr. President, I am pleased that the bill contains a number of ideas and legislative initiatives first put forward by minority members of the Committee on Environment and Public Works. The drafting of this legislation has been a cooperative effort. Senator MOYNIHAN and his very able staff are to be commended for their hard work and insightful understanding which this product represents.

In particular, I am pleased that title V of the bill is the Federal Buildings Enhancement Act of 1979 which I introduced, first during the last Congress (S. 2739) and again this year (S. 1791). It provides statutory authority for GSA's "art-in-architecture" program and two new programs of exhibitions in public buildings.

One-half of 1 percent of the total funds used for design, construction, alteration, repair, renovation and acquisition of public buildings would be set aside to provide installation of works of art as integral parts of the architecture of public buildings and for public exhibitions in Federal buildings throughout the country. Permanent works of art as a part of the architecture would improve the design and working environment of public buildings, as well as increase our cultural assets and insure that the American public will always have a substantial body of public art. The Federal Buildings Enhancement Act provides also the avenue for better communication among artists, architects and the American public to enrich the lives of everyone.

In addition to providing permanent works of art as integral parts of the architecture in public buildings, the innovative or wholly new programs which would be authorized would enable GSA to acquire with the help of the National Endowment for the Arts, by loan or lease, works of art by living American artists and circulate them for a time in Federal buildings throughout the country. This provision would provide the foundation to tap the hidden artistic resources by exhibiting the works of lesser known American artists—as well as well-known artists—from all regions of the United States who work in a multitude of media.

In addition, GSA could show on a rotating basis exhibits of the Nation's culture, art, society, science, and industry put together by the Smithsonian Institution. Emphasis would be put on these exhibitions being circulated to communities without convenient access to cultural resources. Citizens would be given the opportunity to enjoy the Smithsonian's many treasures in their own communities. It would enhance the "Living Buildings" programs of GSA and utilize the very accessible and vital community space in cities and towns—large and small—throughout the country. It would provide a foundation to make use of all potential exhibition space in the many vacant lobbies and corridors in Federal buildings, especially reaching communities that have little access to museums of history and art.

Mr. President, I am also appreciative that Senator MOYNIHAN has adopted my suggestions to encourage incorporation of energy efficiency and conservation in the Government's public buildings program.

One provision of this legislation concerns me, however. Section 703 states that the GSA Administrator shall not make any commitment to lease more than 25 percent of the space in any building until the building is within 90 days of being finished and ready for occupancy.

In other words, the GSA would no longer be able to enter into lease construction projects, whereby the Government contracts with the private sector to build a building and lease it back for Government use, thus avoiding the spending of large initial years' Federal construction dollars. I understand the desire of many of my colleagues to have Federal ownership for Federal dollars. But I do not agree at this time that lease construction should be removed as a tool to provide needed Government space. It should remain as one option among many. Also, not allowing the Government to contract for space until it is almost finished, risks that the Government will indeed be left out in the cold in highly competitive areas where lease space is at a premium.

In addition, administration requests for direct Federal construction of public buildings have been notoriously meager in the last several years—barely enough to build half a Federal building during a whole year for the entire country. With such a situation, I do not consider it wise to abolish an alternative method of providing agency space.

It should be noted that our legislation today does authorize once again the purchase contract approach for Government buildings, whereby the Government is the ultimate owner at the end of a 30-year period. I think this is a good option to provide to the GSA.

Mr. President, I am sure that additional hearings and comments from the agency may identify needed changes in the legislation or additions to it. I have noted one of my own reservations. However, this is a good bill which I have agreed to cosponsor. I look forward to working with Senator MOYNIHAN in ironing out any revisions which may occur as we work to report legislation to the Senate.

Mr. President, I ask unanimous consent that a statement on this bill by the distinguished Senator from Tennessee (Mr. BAKER) be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BAKER

I am glad to cosponsor the "Public Buildings Act of 1979", and I applaud the efforts of the Committee on Environment and Public Works to clean up the work of those parts of the General Services Administration under its jurisdiction.

I know that individuals of integrity have conscientiously sought reform within GSA, and that the agency contains dedicated individuals and officials of competence and good will. But from my perspective as a Member of the Committee, GSA's performance has continued to be far from adequate for a number of years, extending over several administrations. For too long, this agency has been an open sore. Conscientious reform is absolutely fundamental to restoring confidence and faith in the agency.

It has now been a year and a half since reports of fraud, corruption and mismanagement in GSA were widely reported in the press. Supposedly the agency is now investigating itself and the Department of Justice is conducting, I am told, criminal investigations. But, as headlines fade, even though a few GSA employees have been convicted of crimes related to their officials activities, GSA appears to be operating in a "business as usual" manner.

Therefore, I am glad to see the Congress taking positive action to reform the agency, and to provide some safeguards against the possibility that abuses will continue within the agency.

Several years ago, when I served as Ranking Republican Member of the Committee, I became concerned at the ad hoc system of project authorization. From time to time a prospectus is delivered to the Committee—without priority and unrelated to any overall program. Moreover, the proposal the Committee is expected to approve is prior to site selection and building design—almost a blank check presented for signature. I proposed at that time a staged approval process—in order to provide early policy direction and later an opportunity for the Committee to approve a specific building—as any client might with an architect. I had also urged examination and investigation of GSA's entire building operation. Since this bill provides for annual program and policy review, as well as later project oversight, it meets my purposes.

I have also been keenly interested in architectural excellence and improved architectural design of the Nation's public buildings. I am delighted that the bill strongly addresses this issue, and I am hopeful that, as GSA is straightened out, much can be accomplished in this area.

I am also pleased that Title V of the legislation incorporates the bill—which I cosponsored—introduced earlier this year by Senator Chafee, S. 1791, the "Federal Building Enhancement Act of 1979."

Finally this is comprehensive legislation covering a variety of issues, and I am glad that the Committee is aggressively pursuing them.●

By Mr. TSONGAS (for himself, Mr. WEICKER and Mr. MOYNIHAN):

S. 2081. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Labor and Human Resources.

Mr. TSONGAS. Mr. President, I rise today on behalf of myself, Senator WEICKER and Senator MOYNIHAN, to introduce legislation that will amend title VII of the Civil Rights Act of 1964 to prohibit employment discrimination on the basis of sexual orientation. The Civil Rights Act already bans job discrimination based on gender, race, religion, creed, or national origin. As a matter of consistency and simple justice, we should not allow discrimination in employment based on sexual orientation.

I recognize that this is an emotional issue, and that the legislation introduced today will be denounced and distorted. To me it is primarily a matter of equal rights and privacy. Most employees do not allow their sexual orientation to interfere with their work. My bill simply provides a legal recourse for persons fired or denied jobs because of this aspect of their private lives. While my bill prohibits employment discrimination, it does not require nor suggest affirmative action programs for homosexuals.

Employment discrimination against homosexual persons generally occurs after the individual has been hired. Typically, the supervisor discovers that an individual is gay, and has the employee dismissed on that ground alone. In the absence of legal protection, the accused person's livelihood is jeopardized for a lifetime, causing undue mental anxiety, and robbing the community of that individual's talents and productivity. This is wasteful and unjust.

In October of 1969 the National Institute of Mental Health released the final report of its task force on homosexuality. This task force was appointed in September of 1967 by Dr. Stanley F. Yolles, then director of the National Institute of Mental Health. The 15 members of the task force were outstanding behavioral, medical, social, and legal scientists. The mandate of the task force was to review carefully the current state of knowledge regarding homosexuality in its mental health aspects, and to make recommendations.

Some of the task force's conclusions about legal changes and employment policies and practices follow:

> Although many people continue to regard homosexual activities with repugnance, there is evidence that public attitudes are changing. Discrete homosexuality, together with many other aspects of human sexual behavior, is being recognized more and more as the private business of the individual rather than a subject for public regulation through statute. . . . To be sure, full equality in employment, full security, and full acceptance by the society for homosexuals will not be achieved by changes in the law alone, but such changes may help to facilitate the recasting of public attitudes that are ultimately needed.
>
> "Employment Policies and Practices. It is recommended that there be a reassessment

of current employment practices and policy relating to the employment of homosexual individuals with a view toward making needed changes. Discrimination in employment can lead to economic disenfranchisement, thus engendering anxiety and frustrating legitimate achievement motivation.

Present employment policies generally deal with the homosexual individual as if homosexuality were a specific and homogeneous category of behavior, and tends to ignore the wide range of variation that exists. We recognize that some homosexuals, like some heterosexuals, may be unsuitable employees in some situations because they do not exercise reasonable control over their sexual tendencies of activities.

The issue is simple. Every American must have an equal right to a job based on his or her ability. Sexual orientation is essentially a private matter that should have nothing to do with job performance. This legislation is consistent with strong public disapproval of Government intrusion in the private lives of Americans. Despite the issue's sensitivity, it is fundamentally a matter of equal rights under the law.

Mr. President, over the next year I will request the privilege of the floor to discuss further issues raised by this legislation. I invite my colleagues to join Senators Weicker, Moynihan, and myself in our efforts to end discrimination.

Mr. President, I ask unanimous consent that letters of support for nondiscrimination on the basis of sexual orientation, a Congressional Research Service analysis of the issue, and the text of S. 2081 be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

EQUAL EMPLOYMENT OPPORTUNITIES

Sec. 1. (a) Section 703(a), 703(b), 703(c), 703(d), 703(e), 703(j), 704(b), 706(g), and 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2, –3, –5, –15) are amended by inserting after "sex" each place it appears the following: "sexual orientation."

(b) Section 717(c) of such Act (42 U.S.C. 2000e–16) is amended by inserting "sexual orientation" after "sex."

(c)(1) Section 703(h) of such Act (42 U.S.C. 2000e–2) is amended by inserting after "sex" the first place it appears the following: "sexual orientation."

(2) Such section 703(h) is further amended by inserting "sexual orientation" after "sex" the second place it appears.

DEFINITION

Sec. 2. As used in amendments made by this Act, the term "sexual orientation" means male or female homosexuality, heterosexuality, and bisexuality by orientation or practice.

TO PREVENT MISINTERPRETATION

Sec. 3. No amendment made by this Act shall be construed to permit or require—

(1) the determination that discrimination exists to be based on any statistical differences in the incidence of persons of a particular sexual orientation in the general population as opposed to in the activity wherein such discrimination is alleged; or

(2) the fashioning of any remedy requiring any sort of quota for the activity wherein such discrimination is alleged for persons of any particular sexual orientation.

American Pyschiatric Association,
Washington, D.C., August 14, 1978.

Rev. William E. Hibbs,
Chairman-Coexecutive Director, National Ecumenical Coalition, Inc., Washington, D.C.

Dear Reverend Hibbs: I would like to reaffirm the fact that the APA has gone on record as strongly advocating the elimination of all discrimination against homosexual men and women that is based solely on the fact that they are homosexual. On December 15, 1973, the Board of Trustees of the APA adopted the following resolution:

"Whereas homosexuality per se implies no impairment in judgment, stability, reliability or general social or vocational capabilities, therefore, be it resolved that the APA deplores all public and private discrimination against homosexuals in such areas as employment, housing, public accommodation and licensing, and declares that no burden of proof of such judgment, capacity or reliability shall be placed upon homosexuals greater than that imposed on any other persons. Further, the APA supports and urges the enactment of civil rights legislation at the local, state and federal level that would offer homosexual citizens the same protections now guaranteed to others on the basis of race, creed, color, etc. Further, the APA supports and urges the repeal of all discriminatory legislation singling out homosexual acts by consenting adults in private."

In the reasoned judgment of most American psychiatrists today, homosexuality per se does not constitute any form of mental disorder and is no longer listed as such on the current revision of the official nomenclature of mental disorders published by this association. We believe that any steps you can take toward achieving the objectives outlined in the resolution on civil rights for homosexuals will be most beneficial in achieving what I perceive to be a shared goal—improved mental health for all Americans.

Sincerely,
Melvin Sabshin, M.D.,
Medical Director.

Bank of America,
March 6, 1975.

Dr. Bruce Voeller,
Executive Director,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller: Your letter of February 21, 1975 addressed to Mr. Medberry has been referred to me for a reply.

Please be advised that it is not now nor has it ever been the policy or practice of this Bank to discriminate in employment on the basis of sexual orientation. The Bank of America looks for competence in the performance of its employes, and does not concern itself with or make decisions based upon their private lifestyles. Further, this Bank respects the rights of privacy of both applicants and employes by not making inquiries or assumptions as to private lifestyles.

In pursuit of its commitment to comply with both the spirit and letter of all employment laws, it is the policy and practice of this Bank to exercise equal opportunity in all terms and conditions of employment.

Our Bank is well aware of the San Francisco City Ordinance barring discrimination based on sexual orientation which ordinance is mentioned in your letter, and of all the other State and Federal laws regarding discrimination in employment on other prohibited bases.

Thank you for writing the Bank of America.

Very truly yours,
William J. A. Weir,
Vice President.

American Telephone &
Telegraph Co.,
New York, N.Y., March 4, 1975.

Dr. Bruce Voeller,
Executive Director,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller: The American Telephone and Telegraph Company's publicly enunciated policy barring discrimination against homosexuals in hiring and employment is as follows:

An individual's sexual preferences are not criteria either for becoming an employee or remaining an employee of the Bell System. Job retention and promotability are based upon demonstrable job performance and behavior. An individual's sexual tendencies or preferences are strictly personal and information about these matters should not be sought out by company personnel.

Our policy position indicates both our ongoing effort to end discrimination in employment of all types and society's new attitude towards its members. I believe it is straightforward and indicates our effort to respect the human rights of our employees or prospective employees.

I appreciate your taking the time to elicit our position in this matter and I hope this response will cover any questions you may have.

Sincerely,
John D. deButts,
Chairman of the Board.

CBS, Inc.,
New York, N.Y., June 24, 1975.

Ms. Loretta Lotman,
National Gay Task Force,
New York, N.Y.

Dear Loretta: I am happy to reaffirm to you—as I had done verbally some time ago—CBS's long-standing policy against discrimination because of sexual preference.

CBS continues to recruit, select, train, assign, promote, transfer, remunerate and administer personnel policies for employees without regard to race, color, sex, religion, sexual preference, national origin or age.

As pertinent formal policy statements are printed in the future, reflecting existing policies, copies will be made available to you.

Sincerely,
Drew O. Brinckerhoff,
Vice President.

Armonk, N.Y., March 5, 1975.

Dr. Bruce Voeller,
Executive Director,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller: Mr. Frank T. Cary has asked me to respond to your recent letter since I am responsible for IBM's employment programs.

In answer to your inquiry, IBM does not discriminate on the basis of sexual orientation in either hiring or in the advancement of its employees. Our long standing belief, which we continue to support, has been that an employee's off the job behavior is not a concern to the company unless it is detrimental to work performance expected of all employees.

Sincerely,
Jerry G. Anderson,
Director of Employment.

Merck & Co., Inc.,
Rahway, N.J., September 6, 1978.

Dr. Bruce Voeller,
Ms. Jean O'Leary,
National Gay Task Force,
New York, N.Y.

Dear Co-Executive Directors: Mr. Horan has asked me to respond to your letter of

August 12th to him inquiring as to our Company's policy on employment practices.

Merck & Co., Inc., has long recognized its obligation to actively promote equal opportunity, and we have pledged ourselves to a continuing program of affirmative action in support of such beliefs. A person's sexual preferences are not criteria for becoming an employee. Job retention is based only on demonstrated performance and promotion is based only on prior performance and ability to assume the responsibilities of the new position.

It is our belief that an individual's sexual preferences are strictly personal and information about these matters should not be and is not sought out by the Company personnel.

Sincerely,

Walter R. Trosin,
Vice President.

E. I. du Pont de Nemours & Co.,
Wilmington, Del., March 3, 1975.

Dr. Bruce Voeller,
Executive Director,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller: This is in response to your February 25 letter to Mr. I. S. Shapiro requesting information on our employment policy in connection with homosexual men and women.

Du Pont employs more than 100,000 employees throughout the United States. We operate more than 100 plants in 30 states. It is our policy to comply with all laws and regulations in those states.

We do not have a specific policy for homosexual men and women, but we have employment policies that assure nondiscrimination for all job candidates and for all employees.

For example, the company's basic employment policy is to obtain qualified candidates for available openings in a nondiscriminatory manner. All candidates are considered without prejudice. Too, it is company policy to give all employees fair and equitable treatment on an individual basis, particularly in the areas of pay, benefits and advancement opportunities. Advancement is based solely on merit and ability, and opportunities are provided for all employees to realize their maximum potential.

We believe that sexual preferences are a personal matter and they are treated as such.

Sincerely,

J. C. Breckenridge,
Manager.

September 22, 1978.

Dr. Bruce Voeller,
Ms. Jean O'Leary,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller and Ms. O'Leary: Mr. Garvin has asked me to reply to your letter of August 12, 1978.

Our written policy on equal employment opportunity does not refer to sexual preferences. The policy does provide for equal opportunity in all aspects of the employment relationship, including hiring, to individuals who are qualified to perform the job requirements.

In all aspects of our employment relationship, there is no effort to determine a person's sexual orientation or preference. The basis for employment is qualifications to perform the available jobs. Once employed, performance on the job is the sole criteria. Personal behavior off the job of the type you are describing has no bearing on the employment relationship of any given individual.

Very truly yours,

G. B. McCullough,
Manager.

Levi Strauss & Co.,
San Francisco, Calif., August 31, 1978.

Dr. Bruce Voeller,
Ms. Jane O'Leary,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller and Ms. O'Leary: Walter Haas has asked the Equal Employment Opportunity Department to reply to your letter inquiring as to Levi Strauss & Co.'s policy regarding inclusion of homosexuals in our workforce. That this company has a commitment to equal opportunity for all people is evidenced by the very existence of this Department.

Levi Strauss & Co. has had a longstanding commitment to seeing that an employee is judged on the bases of his or her qualifications and work performance. We recognize the importance of complying with the spirit as well as the letter of County, State and Federal laws prohibiting discrimination on the basis of race, color, sex, religion, national origin, handicap, age or sexual preference.

Thank you for your interest in Levi Strauss & Co.

Very truly yours,

Brenda B. Schofield,
Director, EEO Dept.

Weyerhaeuser Co.,
Tacoma, Wash., October 17, 1978.

Ms. Jean O'Leary,
Dr. Bruce Voeller,
National Gay Task Force,
New York, N.Y.

Dear Ms. O'Leary/Dr. Voeller: Mr. Weyerhaeuser has asked me to respond to your letter of August 12, 1978.

Our company's policies on nondiscrimination apply to all employment practices, including hiring, placement, advancement, benefits, etc., and are based totally upon an individual's ability to perform their job safely and efficiently. These policies reflect our efforts to end discrimination of all types and respect the human dignity and rights of all our current and prospective employees.

In concert with these policies, we do not inquire into the sexual preference of applicants and employees. Further, we do not believe that an individual's sexual preference, which is unrelated to job performance, should affect their employability or advancement.

Sincerely,

W. R. Maki,
Director, EEO Programs.

Western Electric,
Greensboro, N.C., September 14, 1978.

Dr. Bruce Voeller,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller: Your August 12th letter to Mr. Procknow has been referred to me for reply.

For a number of years Western Electric has enjoyed a position of national corporate leadership toward ending all forms of discrimination in employment. Our hiring and promotion criteria are based on qualifications and demonstrated performance skills. Individual lifestyles, sexual preferences or social attitudes are personal matters; we respect the privacy rights of our employees and we do not require or seek such information.

I appreciate the opportunity you have given us to provide an affirmation of our position on this subject.

Sincerely,

W. L. Opdyke,
Vice President,
Personnel and Labor Relations.

Warner Communications, Inc.,
New York, N.Y., August 21, 1978.

Dr. Bruce Voeller,
Ms. Jean O'Leary,
Co-Executive Directors, National Gay Task Force, New York, N.Y.

Dear Dr. Voeller and Ms. O'Leary: Your letter of August 12 enquiring as to whether Warner Communications Inc. maintains a policy of forbidding discrimination based on sexual orientation which was addressed to Steven J. Ross, has been referred to me.

Please be advised that Warner Communications Inc. makes all employment decisions without regard to sexual orientation. Decisions concerning employment are based on the individual's qualifications as they relate to the requirements of the position under consideration. WCI neither concerns itself with nor makes decisions based upon the sexual orientation of either applicants or employees.

Sincerely,

Norman K. Samnick,
Vice President,
Industrial and Labor Relations.

General Foods Corp.,
White Plains, N.Y., August 30, 1978.

Dr. Bruce Voeller,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller: Mr. J. L. Ferguson asked me to respond to your recent inquiry regarding our employment and promotion policies.

General Foods has long had a policy of non-discrimination in its employment and promotion practices. Decisions are based on the individual's qualifications and on demonstrated performance.

We respect the individual's right to privacy and do not concern ourselves with the private life styles of applicants or our employees except when such off-the-job behavior is detrimental to the performance expected.

Sincerely,

C. Richard Blundell,
Vice President, Personnel.

General Electric Co.,
Fairfield, Conn., August 29, 1978.

Dr. Bruce Voeller,
Ms. Jean O'Leary,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller and Ms. O'Leary: Your letter of August 12th, addressed to Mr. R. H. Jones, has been referred to me for reply.

General Electric's policy makes it very clear that employment, job training, compensation, promotion and other conditions of employment are based on *qualification* only. Sexual preference is not a basis for selection within the Company and we plan to continue to assure that only job-related criteria are applied in making our employment decisions.

We appreciate your interest and the opportunity to express our continuing non-discrimination policy.

Sincerely,

David J. Dillon.

Mobil Oil Corp.,
New York, N.Y., September 8, 1978.

Dr. Bruce Voeller,
Co-Executive Director,
National Gay Task Force,
New York, N.Y.

Dear Dr. Voeller: Mr. Warner has asked me to reply to your letter of August 12.

In response to your question, please be advised that Mobil complies with all applicable laws prohibiting private employers and government contractors from discriminating against persons on the basis of non-job related criteria. It is Mobil's policy to consider applicants for employment and employees for advancement in employment only on the basis of merit. It has never been the Company's policy to place any preference, limitation or restrictions on its applicants or employees because of their off-the-job views or activities so long as such views or activities do not prevent them from performing satisfactory work for Mobil.

I trust that this is a satisfactory response to your letter.

Sincerely,

Peter C. Krist,
Employee Relations.

Court Cases Dealing With the Rights of Homosexuals to Federal Employment

Traditionally, discharges of government employees who were found to have engaged in homosexual conduct had been routinely upheld even in cases in which the employee's conduct was not found to interfere with the performance of his official duties on the ground that such conduct created a national security risk, or could threaten the morals of other employees, or could interfere with the "efficiency of the service."[1] The court of appeals in *Norton* v. *Macy*, 417 F. 2d 1161 (D.C. Cir. 1969), however, formulated a basic rule that has since reshaped the law in this area. According to *Norton*, a public employee can be dismissed for homosexuality only if the government can show his or her conduct has "some ascertainable deleterious effect on the efficiency of the service." Since *Norton*, Federal employment cases involving homosexuals have been of two types: (1) those dealing with regular civil service employment, and (2) cases on military employment or jobs involving national security. The remainder of this memorandum will consider the major cases in each of these contexts.

CIVIL SERVICE

Until 1973, the United States Civil Service Commission maintained the position that "persons about whom there is evidence that they have engaged in or solicited others to engage in homosexual or sexually perverted acts . . . , without evidence of rehabilitation, are not suitable for federal employment."[2] *Norton* v. *Macy* (*supra*) severely curtailed this policy by holding it overboard and a denial of due process.

The *Norton* case, decided by a 2–1 margin, involved the dismissal of a budget analyst in the National Aeronautics and Space Administration (NASA) who had been questioned by the D.C. Morals Squad on suspicion of having attempted to solicit another man away from the office and after office hours. The employee denied that he had made an improper advance or was a homosexual although he admitted that during high school and college he might have engaged in homosexual activity. The court of appeals concluded that there was no rational basis for NASA's conclusion that the discharge would promote the efficiency of the agency, that the Civil Service had "neither the expertise nor the requisite annointment to make or enforce absolute moral judgments" and that it was not "an appropriate function of the federal bureaucracy to enforce the majority's codes of conduct in the private lives of its employees . . . [which would] be at war with elementary concepts of liberty, privacy, and diversity." 417 F. 2d at 1165.

Norton was found to have been judged by his supervisors to be a "competent employee" doing "very good work," had duties which did not bring him into contact with the public, and worked with others unaware of his "immorality." Upon a finding that he was "an extremely infrequent offender, who neither openly flaunts nor carelessly displays his unorthodox sexual conduct in public" and thus minimized the potential for embarrassment of his agency, the court held his dismissal was arbitrary and ordered the appellant to be reinstated. The court stressed that sexual conduct could be a ground for dismissal and that potential embarrassment from an employee's conduct could affect the efficiency of an agency but that the appellant's dismissal here had not been adequately supported by the record in this case.

In *Society for Individual Rights, Inc.*, v. *Hampton*, 63 F.R.D. 399 (N.D. Cal. 1973), *aff'd* 528 F. 2d 905 (9th Cir. 1975) the district court enjoined enforcement of the Civil Service Commission policy as applied to current and prospective employees but declined to apply its ruling retroactively to employees previously discharged for homosexual conduct. The district court rejected the government's bald assertion that employment of such persons would bring the government service into "public contempt." Following *Norton*, the court found that the Commission could discharge a person for immoral conduct only if his behavior "actually impairs" the efficiency of the service, and that the Commission had not met, or even tried to meet this standard. Although the overboard rule stated in the *Federal Personnel Manual* could not be enforced, this did not mean that the Commission could not determine what particular circumstances might justify dismissing an employee for homosexual conduct. The court recognized that granting this relief will not interfere with the power of the Commission to dismiss a person for homosexual conduct in those circumstances where more is involved than the Commission's unparticularized and unsubstantiated conclusion that possible embarrassment about an employee's homosexual conduct threatens the quality of the government's performance. 63 F.R.D. at 401.

Pending appeal of the district court's ruling, the Civil Service Commission reconsidered its position and in December, 1973 issued a bulletin advising Federal agencies that homosexuals would be found unsuitable for Federal service only where it was established that such a person's conducts affects job fitness.[3] Unsubstantiated conclusions as to possible embarrassment of the Federal service were to be excluded from consideration, but suitability judgments were nevertheless to be based on then current guidelines. Subsequently, the Civil Service regulations were amended to reflect the *Norton* approach by deleting "immoral moral conduct" from the list of specific factors for disqualification from employment.[4]

The "rational nexus" test of *Norton* was recently adopted by the Ninth Circuit in *Singer* v. *United States Civil Service Commission*, 530 F. 2d 247 (9th Cir. 1976), *vacated and remanded* 429 U.S. 1034 (1977) which upheld the dismissal of a homosexual clerk-typist employed by the Equal Employment Opportunity Commission. The employees had on several occasions publicly disclosed his sexual proclivities while identifying himself as an employee of the Federal government. Furthermore, he had, with full media coverage, applied for a license to marry another male. The court of appeals found, however, that neither of the cited cases "involved the open and public flaunting or advocacy of homosexual conduct." 530 F. 2d at 256. He was also active with a gay organization which used his name and place of employment in connection with a symposium sponsored by the Seattle Gay Community. Distinguishing *Norton*, in which the dismissed employee had not sought to publicize his status, the court of appeals concluded that the Civil Service Commission had established a rational connection between the employee's deliberately public homosexual involvement, and detriment to the efficiency of the Federal service. The Commission was not obliged to sponsor homosexual activity, the court noted, and was properly concerned about public confidence in the Commission and the Federal Civil Service.[5]

The *Singer* court also addressed the employee's claim that he had been denied freedom of expression under the First Amendment. The employee relied on two cases, the first of which had struck down a regulation prohibiting homosexual organizations from holding social activities on a university campus. *Gay Students Organization* v. *Bonner*, 509 F. 2d 652 (1st Cir. 1974). The second case offered as support for the First Amendment argument, *Acanford* v. *Board of Education*, 491 F. 2d 498 (4th Cir. 1974), involved a teacher whose public statements on applying the balancing test of *Pickering* v. *Board of Education*, 391 U.S. 563 (1968), the court concluded that the government's interest in promoting the efficiency of the public service outweighed Mr. Singer's interest in exercising his right to advocate the homosexual cause while publicizing his connection with a government agency.

However, in the case of a civil servant dismissed from a job because of signs of instability while holding a probationary appointment, the district court in *Richardson* v. *Hampton*, 345 F. Supp. 600 (D.D.C. 1972), ruled that the employee was required to provide all information relevant to his suitability before the rational nexus between his job efficiency and his conduct must be shown by the Civil Service Commission. In that case, the plaintiff had been employed in a substitute position by the Post Office Department. After he had disclosed to fellow employees that he was homosexual, and was twice observed to have emotional outbursts on the job, he was discharged. Upon applying again for Federal employment he was asked to admit or deny homosexual conduct but refused on the ground that his private sexual life bore no relation to his suitability. The Civil Service Commission made no finding that his conduct interfered with his job performance or with the efficiency of other Federal employees but barred him from consideration for Federal employment for three years. A later application, which was the subject of the suit, was rejected in the absence of affirmative evidence of rehabilitation.

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[1] See, *Vigil* v. *Post Office Dep't of United States*, 406 F. 2d 921 (10th Cir. 1969); *Anonymous* v. *Macy*, 398 F. 2d 317 (5th Cir. 1968), *cert. denied*, 393 U.S. 1041 (1969), *rehearing denied*, 396 U.S. 937 (1969); *Taylor* v. *United States Civil Serv. Comm'n*, 374 Fd 2d 466 (9th Cir. 1967).

[2] *Federal Personnel Manual Supplement* (*Int.*) 731–71.

[3] United States Civil Service Commission Bulletin No. 731–3 (Dec. 21, 1973).

[4] The revised regulation, 5 C.F.R. § 731.202 (1977), permits Federal agencies to hire and retain persons with homosexual preference so long as they do not engage in "criminal, dishonest, infamous or notoriously disgraceful conduct," have not made fraudulent or intentionally false statements in connection with their employment, have not engaged in misconduct in previous employment, are not disloyal to the United States Government, have not refused to furnish testimony required by law, are not drug abusers or alcoholics, and are not otherwise statutorily mining suitability, the Civil Service Commission was for the first time required to deter- unfit to hold Federal employment. In determining suitability, the Civil Service Commission was for the first time required to determine the extent to which "disgraceful conduct" or other factors that could be cause for dismissal or denial of employment was actually "pertinent" to the position, including the "sensitivity" of the position which the person holds or for which he is applying. Although the revised regulations do not require the Federal Government to hire homosexuals, they appear to permit their disqualification only after consideration of the circumstances in which they engaged in "criminal, dishonest, infamous or notoriously disgraceful conduct" or are otherwise disqualified and such other factors as the sensitivity of the job and the recency of the offensive conduct.

[5] Because the employee was dismissed prior to the issuance of the Commission bulletin in 1973 and the amendment to its regulations, the court did not rely on them in deciding the case. 530 F. 2d at 254–55. On appeal to the Supreme Court, however, the Commission, by the Solicitor General, took the position that the case should be governed by the new regulations and guidelines, and the Court remanded for reconsideration in light thereof. 429 U.S. 1034 (1977).

The court upheld the right of the Commission to ask questions pertaining to the plaintiff's sex life in view of his past history, including his dismissal from a Post Office job because of instability. The decision recognized that the government does not have "an unfettered license to interrogate an applicant concerning his private sex habits" and limited inquiries to one "reasonably calculated to elicit information concerning an applicant's private sex life which bears directly on his suitability for federal employment," a standard met in this case, 345 F. Supp. at 609. Only when the relevant questions are answered is the burden placed on the government to make a specific finding as to whether or not plaintiff's homosexual tendencies, if they are found, would interfere with the performance of his duties or the performance by others of their duties. 345 F. Supp. at 609.

Anonymous v. *Kissinger*, 449 F. 2d 1103 (D.C. Cir. 1974) reflects the rationale of *Richardson* in circumstances more extreme than the earlier case. The plaintiff was dismissed as a temporary employee in a sensitive Peace Corps position after admitting on a questionnaire that he had consulted psychiatrists with minor complaints relating to anxiety. His perforance at the job, unlike Richardson's, had been satisfactory and his loyalty was not questioned. As a result of his answer, however, he was required to submit to interrogation principally on his sex life and admitted two isolated homosexual experiences in adolescence and that his wife and he had lived together prior to marriage. When the Peace Corps advised the plaintiff that he would be dismissed if he did not submit to questioning by a government psychiatrist and release his medical records, he brought suit for an injunction and other relief.

The action was dismissed by the district court which ruled the information plaintiff had provided raised questions as to his suitability for a "non-critical sensitive" position which could not be resolved because of his failure to "cooperate." The court of appeals likewise found that the agency decision to dismiss based on the employee's refusal to answer questions relevant to the emotional stability of a person holding a sensitive position was not "patently arbitrary" and therefore met constitutional standards. The facts admitted were seen as providing the agency with justification for inquiring further into the emotional stability of the employee.

Mr. MOYNIHAN. Mr. President, I am pleased to join Senator Tsongas in introducing a bill to prohibit employment discrimination against gay people. As I said in my campaign for the Senate over 3 years ago, I have always opposed discrimination of any kind. I see no reason why the Federal Government should treat gay men and women differently from anyone else; guarantees against employment discrimination accorded other citizens should protect all citizens.

My opinions on this matter are longheld ones. I must add, however, my debt to the insights of an old friend and sometime staff member of mine, Mr. Robert Livingston. He was a most persuasive proponent of ridding the law of any bias against sexual orientation. I ask unanimous consent to have printed in the Record my 1976 letter to Mr. Livingston on this subject. To the sadness of many, he died last May. He would have been pleased to see the introduction of this bill, and I am glad to honor his memory by being among the first Senators to urge its adoption.

There being no objection, the letter was ordered to be printed in the Record, as follows:

New York, N.Y., *October 12, 1979.*

Robert L. Livingston, Esq.,
The National Gay Task Force,
New York, N.Y.

Dear Mr. Livingston: I strongly oppose and have always opposed discrimination of all sorts, including discrimination against gay men and women. That means first that the Federal Government should treat gay people no differently from anyone else; both in its employment practices and in the guarantees extended to other citizens by Federal law. And it means that the right to privacy of all American citizens must be upheld.

Feeling as I do, I therefore endorse the aims of H.R. 5452 and will, at the appropriate time, co-sponsor a Senate equivalent which endorses legislation at the Federal level which would prohibit discrimination on the basis of sexual or affectional preference in the areas of employment, housing, public accommodation and all publicly-funded programs.

Sincerely yours,
Daniel Patrick Moynihan.

By Mr. THURMOND (for himself and Mr. Dole):

S. 2083. A bill to amend title II of the Social Security Act to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test; to the Committee on Finance.

Mr. THURMOND. Mr. President, I am submitting a bill to remedy a problem that has arisen with the 1977 Amendments to the Social Security Act in regard to the application of the "earnings test" to recipients of social security retirement benefits. This legislation would provide relief to certain retired, formerly self-employed persons who are having their social security retirement benefits reduced because of the receipt of deferred payments for services rendered prior to retirement.

Some examples of the types of deferred income received by various categories of retired self-employed persons are as follows: Many insurance agents depend on renewal commissions on insurance policies which they originally sold for a substantial portion of their retirement income. Inventors and authors frequently receive deferred income after retirement from patents and copyrights. Lawyers, doctors, accountants, and other professionals receive deferred income from work in progress at retirement and return of capital invested in a business partnership. Farmers often sell crops in the year they begin receiving social security which were raised during or prior to their retirement year.

Essentially what the 1977 amendments did was to substitute an "annual earnings" test for a combined "annual-monthly earnings" and "substantial services" test. Under pre-1978 law, this type of deferred income earned prior to entitlement to retirement benefits was not counted, because the recipients generally would not be deemed to have engaged in "substantial serivces defined principally as working over 45 hours per month in self employment. As long as this substantial services test was not breached, self-employed beneficiaries receiving deferred income for services performed prior to retirement could receive the full amount of their social security benefits each month. However, with the elimination of the monthly substantial services test in the 1977 amendments, the unintended result was that these deferred payments were treated by the Social Security Administration as earned income and counted against the maximum that can be received without suffering a reduction in social security benefits.

The unfortunate result, Mr. President, is that many of these formerly self-employed, now retired persons are suffering a severe reduction in their retirement income. It is also my understanding that some insurance agents, and perhaps other persons, are postponing retirement, hoping that Congress will change the law. These persons have planned their retirement on the expectation that they would receive the full amount of their social security benefits plus renewal commissions on insurance policies sold by them.

Mr. President, what makes this situation so frustrating for the affected persons is that it is clear that Congress never intended this to result from the 1977 changes to the Social Security Act. In fact, in August 1978, the Senate adopted an amendment jointly sponsored by the distinguished chairman and then ranking member of the Senate Finance Committee, Senators Long and Curtis, to correct this problem, but the legislation died in the House. No similar proposal has come before the Senate in this Congress, but the House Ways and Means Committee has reported a bill, H.R. 5295, to take care of this problem and several others related to the change in the earnings test made by the 1977 act.

It is my understanding that passage of this House bill has been delayed primarily because of the budgetary impact in the current fiscal year. The Congressional Budget Office has estimated that total outlays in fiscal year 1980 under H.R. 5295 would be about $311 million, of which only $67 million is attributable to the exclusion from earnings of all self-employment deferred income earned prior to entitlement—the provision which is the subject of this bill I am introducing.

Mr. President, while there is some cost to the social security trust fund associated with this legislation, I would like to emphasize that this cost would have had to have been borne any way, had it not been for the unintended effects of the 1977 amendments. Thus, what we are really talking about is a "false savings" to the trust fund that is coming out of the pockets of retired persons who were fully expecting to receive this money in the form of social security retirement benefits.

Furthermore, since there appears to be strong sentiment in Congress both for passage of legislation to correct these unintended effects of the 1977 amendments and for making the remedial legislation retroactive to the beginning of 1978 when the new law became operative, the initial budgetary impact will be less the quicker this corrective legislation is enacted. Thus, Mr. President, the fair and responsible course appears for Congress to enact remedial legislation as promptly as possible. It is in an effort to expedite action in the Senate that I am introducing this bill today. Out of a sense of simple fairness to self-employed persons who were counting on both deferred income payments and their full social security benefits, and in order to alleviate the unintended harsh effects of the 1977 amendments to the Social Security Act, I urge prompt approval of this bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of—

"(i) an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary that he or she is receiving royalties attributable to a copyright or patent obtained bfore the taxable year in which he or she attained such age and that the property to which the copyright or patent relates was created by his or her own personal efforts, or

"(ii) an individual who has become entitled to old-age insurance benefits, and who shows to the satisfaction of the Secretary that he or she is receiving any other income attributable to services performed before the month in which he or she initially became entitled to such benefits,

there shall be excluded from gross income any such royalties or other income.".

(b) The amendment made by subsection (a) shall apply with respect to months after December 1977.

By Mr. SIMPSON (for himself, Mr. HARRY F. BYRD, JR., Mr. MORGAN, Mr. BOREN, and Mr. HUMPHREY):

S. 2084. A bill to deny eligibility for unemployment compensation benefits to certain members of the armed forces who are discharged from active duty before completion of at least five-sixths of their initial enlistment obligations; to the Committee on Finance.

Mr. SIMPSON. Mr. President, today I feel privileged to introduce a bill originally offered by Representative BEARD of Tennessee which will amend chapter 85, title V, dealing with unemployment compensation for Federal employees.

This bill would deny eligibility for unemployment compensation to certain ex-service members who are discharged "for the good of the service" before completion of five-sixths of their initial enlistment.

Present law defining the eligibility criteria for unemployment compensation creates an unwanted incentive for members of the Armed Forces serving their initial enlistments to simply quit the armed service should they become disenchanted with military life. I know that my colleagues are fully aware that the separation policies of each of the armed services have dramatically changed in the past 10 years, military personnel are no longer required to complete their initial enlistments. Rather a service person's contractual obligation is virtually terminable at will. This is one of the out-growths of the all-volunteer system.

At present, the attrition rate in the Army is over 40 percent for individuals in their initial enlistment. A recent GAO report, requested by the distinguished senior Senator from Virginia, BYRD, reveals that the total cost associated with early attrition from the armed services—or the 4-year period from 1974 through 1977—totaled over $4 billion. Whereas a majority of these costs may have been properly expended by the Department of Defense, a not insignificant percentage of waste of taxpayer dollars can be attributed to defects in the present unemployment compensation law which this bill is designed to correct.

Mr. President, the GAO estimated that in their 4-year sample, 147,115 early attritions received $167.3 million in unemployment compensation. Considering the size of the Armed Forces and the prevailing rate of attrition, it is not unreasonable to project that individuals who voluntarily terminate their initial enlistments account for approximately $50 million a year in unncessary Federal expenditures for unemployment compensation.

The irony of such expenditures is that they encourage early attrition from each of the armed services. Indeed, it is not unusual for service recruiters to actively encourage enlistments on the basis that if the individual does not like military life, the services will allow him to default on his contractual obligation without adverse consequences and with the bonus of unemployment compensation if they will just try to "tough it out" for the first 90 days. We are all quite aware of the recent irregularities in recruitment practices that have startled us all.

The drain of Federal dollars for this unnecessary unemployment compensation was never intended by the Congress. It occurs today only because of being lax in correcting the United States Code, sections that apply to this situation. These laws have not been up-dated with the changing times. When this benefit was extended to ex-service persons after the Korean war, the Armed Forces were releasing a large number of career military personnel in a massive reduction-in-force. Unfortunately, many of these individuals found themselves on the streets with no jobs and no source of income. Congress responded to this situation by extending to these individuals the same benefits for which they would have been eligible had they been working in private industry. In the consideration of this original legislation, it was never intended—or even contemplated—that service members would ever be allowed to voluntarily terminate their initial enlistments and thus qualify for eligibility.

In reviewing the history of the original legislation, I think it can be understood that the legislation that I propose is a technical perfecting amendment. Service members could not—even after the Korean war—terminate their initial enlistments, but today they can. That was never the intent of Congress. I feel it is incumbent upon this Congress to close this unfortunate gap in the law and to realign the present statutes with the original intent of Congress.

Mr. President, I encourage and will indeed welcome the support of my colleagues in the enactment of this bill, and I am most honored and pleased to announce that Senator BYRD of Virginia, and Senators BOREN, HUMPHREY, and MORGAN are joining me as cosponsors.●

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 123, a bill to amend the Social Security Act to provide for the payment under medicare of services by psychologists.

S. 1681

At the request of Mr. PRYOR, the Senator from Oklahoma (Mr. BOREN) and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 1681, a bill to reduce paperwork in the administration of certain construction contract provisions of law relating to wage rates.

S. 1693

At the request of Mr. MELCHER, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1693, a bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

S. 1703

At the request of Mr. CHAFEE, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income earned abroad attributable to certain charitable services.

S. 1829

At the request of Mr. TSONGAS, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1829, the Community Energy Efficiency Act of 1979.

S. 1977

At the request of Mr. PACKWOOD, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1977, a bill to amend the Social Security Act regarding title XVIII, medicare home health programs.

AMENDMENT NO. 735

At the request of Mr. BENTSEN, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of amendment No. 735 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 301—SUBMISSION OF A RESOLUTION WITH RESPECT TO SANCTIONS AGAINST RHODESIA

Mr. TSONGAS submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 301

Whereas all the conferees at the Rhodesian Settlement Conference in London have reached agreement on all issues;

Whereas it is in the national interests of the United States to encourage a successful transition to independence in Rhodesia;

And whereas Rhodesia will return to legality under Great Britain upon the arrival of a British governor in Salisbury;

Now, therefore, be it

Resolved it is the sense of the Senate that President Carter should remove the economic sanctions imposed on Rhodesia, and that such action should become effective on the date the British governor of Rhodesia arrives in Salisbury.

II. The Secretary of the Senate is directed to transmit a copy of this Resolution to the President of the United States.

RHODESIA SANCTIONS

Mr. TSONGAS. Mr. President, I bring good news. I have just received a report from London that all the participants in the Rhodesia negotiations have agreed on cease-fire terms. The negotiations which began months ago with so little hope for peace have now concluded with a brilliant success. The new British Governor of Rhodesia will depart shortly for Salisbury. The transition process is about to begin with all, I repeat all, of the parties on board.

This is good news, Mr. President. It means that the war will come to an end. It means that fair, internationally monitored elections will replace the bitter armed conflict which has tortured Rhodesia for 7 long years. An independent Zimbabwe, based on genuine majority rule, and created by an impartial democratic process, will soon come into being. The threats of outside intervention and superpower confrontation in Rhodesia have greatly receded. The future of Zimbabwe, dimmed by a brutal war for so long, is now briefly illuminated by the light of cooperation, negotiation, and peace.

Historians will debate for many years as to how the agreement was attained in London. Some will point to the unfavorable military positions of the combatants; others will focus on the pressure applied by the frontline states and Nigeria; none will ignore the creative role of the Commonwealth nations and the pivotal conference last summer in Zambia; and many will point to the departure of Ian Smith in favor of the new internal settlement government of Bishop Muzorewa as the key change which made negotiations possible.

Historians will debate all of those theories, but on one point there will be complete accord: Prime Minister Thatcher and Foreign Secretary Carrington engineered one of the most innovative and daring negotiation strategies ever seen in the history of diplomacy. It succeeded beyond the hopes of the most optimistic among us. The British-sponsored conference is a triumph for Mrs. Thatcher and her new government. I salute her and her cabinet. I applaud their achievement.

I speak from long experience with this issue, Mr. President. As a Congressman I followed Rhodesia developments closely. Over the course of this year, I have spoken on Rhodesia many times, both here in the Senate and elsewhere. From the beginning, Mr. President, it was my firm conviction that Rhodesia represented a major test of American foreign policy.

The worn and outdated tenets of the cold war dictated that we oppose black African nationalism and support a repressive and racist regime in the name of anti-Communism. A second approach called for effective distance between the United States and Rhodesia and the encouragement of a negotiated settlement involving all parties. At stake was the specter of direct U.S. involvement in a Third World conflict. Hanging in the balance was the stature of the United States in the world community.

This foreign policy debate has played on the stage of the U.S. Senate for many years. The vehicle has been the issue of U.N. economic sanctions against Rhodesia. The Senate has voted on this issue many times, causing U.S. policy to vacillate badly. I need not describe those many votes by which sanctions were imposed, partially lifted, and imposed once again. In the last 2 years, the Senate once again changed course with a series of votes which supported the removal of sanctions. Due to the opposition of the House and the executive, the will of the Senate did not prevail. Sanctions remain in force.

Today, as we commend the negotiators in London for bringing peace to Rhodesia, I think that the Senate membership should think back to those many votes in favor of lifting sanctions. Impatience, pessimism, and an emotional reading of events moved this distinguished body to reject negotiation and embrace a belligerent, partisan approach. I am not proud of that record. The London Conference has shown us in dramatic fashion how imprudent our decisions were.

But those were mistakes of the past. They should not cloud our present judgment. This great deliberative body faces a transformed situation in Rhodesia. The London Conference has decisively altered the political landscape. The question now before the Senate is how to respond. The British have asked that we remove economic sanctions when the British Governor arrives in Salisbury. President Carter has stated that he will lift economic sanctions at some point during the transition process. This is an issue of timing, not direction.

In my mind, the timing of U.S. action on sanctions is important. It is essential that we demonstrate our full support for the settlement in London. We must acknowledge that the original objectives of the U.N.-mandated sanctions have been met. We must not permit the indiscriminate use of these economic sanctions for inappropriate purposes. I believe that the President should remove economic sanctions the day the British Governor arrives in Salisbury.

My eminent colleagues will recall that I have actively opposed the lifting of sanctions by this Chamber. I have spoken frequently and fervently on this issue. It is probably fair to say that I have become identified as the major advocate in the Senate of leaving sanctions in force. I think I should explain why I am changing my position.

I have already alluded to the U.N. Security Council resolutions which mandated economic sanctions against the rebel colony of southern Rhodesia. The purpose of sanctions, as spelled out in those resolutions, was to force an end to the rebellion and permit the people of Rhodesia to self determine their future. They were not intended as a means to supervise a cease-fire or monitor elections. To maintain sanctions through the transition process is to preserve an anachronism.

If one or more of the parties to the settlement disrupt the transition or cause its failure, clearly measures other than sanctions would be in order. In any event, the British will occupy the frontline of responsibility, and it is on their capable shoulders that the burden of managing the transition should fall.

The British face a formidable task. They deserve our full support. We should remove sanctions in compliance with their request. The continuance of sanctions will convey a lack of faith in British intentions and capabilities. If we jealously guard the sanctions lever, we will be saying to all the parties of the settlement that we doubt their sincerity and integrity. This is poor diplomacy based on the wrong assumptions.

The future of Zimbabwe depends on peace and economic progress. The Conference has brought peace. The economic problems remain. Sanctions were imposed to disrupt the Rhodesian economy. I submit that we need reconstruction, not disruption. We must open the doors to American investment and expertise in Zimbabwe. The longer we delay, the more we retard the critical process of economic reconstruction and development in Zimbabwe.

We must also recognize that the perpetuation of sanctions after the Governor's arrival will place the United States in the unusual position of enforcing economic sanctions against the British. This is a technical point, but it reflects, I think, the overall inconsistency of preserving sanctions after the Governor's arrival.

Mr. President, all the parties to the Rhodesian conflict have accepted the terms of the London Conference Agreement. When the British Governor steps on to the tarmack at the Salisbury Airport, the rebellion and Ian Smith's defiance will be no more. Sanctions will become a troublesome relic of the past. I believe they should be removed.

SENATE RESOLUTION 302—SUBMISSION OF A RESOLUTION REFERRING S. 2085 TO THE COMMISSIONER OF THE COURT OF CLAIMS

Mr. INOUYE submitted the following resolution, which was referred to the Committee on the Judiciary:

S. Res. 302

Resolved, That the bill (S. 2085) entitled "A bill for the relief of Mr. Donald Shrope and Mrs. Guadalupe L. Shrope" now pending in the Senate, together with al lthe accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform the Congress of the amount, if any, legally or equitably due from the United States to the claimants.

SENATE CONCURRENT RESOLUTION 59—SUBMISSION OF A CONCURRENT RESOLUTION CALLING FOR AN INTERNATIONAL CONFERENCE ON CAMBODIA

Mr. KENNEDY (for himself, Mr. Baucus, Mr. Danforth, Mr. McGovern and Mr. Dole) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 59

Whereas a protracted conflict in Cambodia presents a serious threat to the peace and stability of Southeast Asia;

Whereas the American people are deeply concerned about the survival of the Khmer people, now threatened by war, disease, and hunger;

Whereas it is in the interest of all governments to support a peaceful resolution of the Cambodian conflict;

Whereas the Cambodian people endured four years of terror and deprivation during which untold numbers of Cambodians lost their lives due to the brutality of one of the world's worst violators of human rights;

Whereas the continued conflict in Cambodia has hampered the international relief effort to prevent the destruction of the Cambodian people; and

Whereas the recent vote in the United Nations General Assembly indicated widespread support for an international conference on Cambodia: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress calls upon the President to work with the Secretary General of the United Nations and the concerned nations of the world to convene, as soon as possible, an internatioal conference on Cambodia which would bring together all those claiming to represent the people of Cambodia, as well as those nations which have a special interest in the Cambodian situation, and which would have as its purposes—

(1) to consider all elements essential to ending the conflict in Southeast Asia;

(2) to work for a political situation that would ensure the survival of the Khmer race and the Khmer nation;

(3) to strive to bring about an end to the fighting in Cambodia and the withdrawal of all foreign troops from that nation;

(4) to work for internationally supervised elections that would allow the Khmer people to choose freey their leadership;

(5) to promote the establishment of a neutral, non-aligned Cambodia that would present no threat to any other nation; and

(6) to devise means of meeting the urgent needs of the Khmer people for humanitarian relief and reconstruction.

INTERNATIONAL CONFERENCE ON CAMBODIAN CRISIS

Mr. KENNEDY. Mr. President, I am pleased today to join with Congressman Stephen Solarz, in submitting a concurrent resolution calling for the convening of an international conference to deal with the continuing political and humanitarian crisis in Cambodia.

Cosponsoring this resolution in the Senate are Senators Baucus and Danforth, who recently returned from a visit to Cambodia, and Senators McGovern and Dole.

Mr. President, the world stands today on the precipice of one of the worst human disasters of this century—mass starvation in Cambodia, and tens of thousands of refugees fleeing civil warfare. We are seeing a repetition of some of the most tragic events of the past—of desperate, homeless refugees being carted off to their deaths—of countless thousands languishing in squalid camps without adequate food or medicine—and millions more facing certain famine.

Unless something is done, and done now, to deal with the root causes behind the Cambodian tragedy, not only will millions of men, women and children perish, but perhaps the Cambodian nation as well.

It is for this reason, Mr. President, that I have for many months called for an international conference on Cambodia.

Last April, when the warning signs were already completely clear, I first urged the United States, together with Japan and the ASEAN countries, to jointly support an international conference to help Cambodia, before conditions deteriorated beyond recall and an overwhelming refugee crisis developed. Other countries joined in similar calls, especially Prime Minister Thatcher of Great Britain. But the voice of the United States was notable by its silence.

In June, I met with Secretary General Waldheim at the United Nations to express my sense of urgency about the crisis. And on June 18th, I called again for an international effort to deal with the mounting refugee problem and the growing threat of famine inside Cambodia.

In July, in Geneva, an international conference was convened, under Secretary Waldheim's auspices, but the question of Cambodia was dropped from the agenda. The meeting responded to the plight of the "boat people," but left Cambodia out.

We must rectify that omission. It is still not too late to marshall international action to deal with both the political and human crisis in Cambodia.

It is not too late for all concerned nations to do for Cambodia what last July's Geneva conference did for the "boat people"—to catalyze international action, and to prevent vast new deaths from starvation, disease, and the bayonets of conflicting forces.

We should use every possible diplomatic means to achieve a military ceasefire in Cambodia. We should seek peace, neutrality, and independence for Cambodia, with effective international guarantees. Without a political solution of this kind, the unending flow of refugees will go on.

No one can minimize the difficulty of this effort, but it should receive the highest priority of American diplomacy, and it should involve the highest leaders of this Nation.

That is what the concurrent resolution we are introducing today calls for: a sense of priority and concern for the continuing tragedy called Cambodia.

The gaunt faces of famished children have gone from the front pages of our newspapers—replaced by problems and crises elsewhere. But the death toll continues, as does our need to act.

As my distinguished colleague, Senator Sasser, testified before a hearing I chaired some days ago—after returning from his visit to the field—he said he found a terrible silence in the Cambodian refugee camps. A silence caused by weakened, starving people, unable to move, much less speak out.

It is our job to speak out for them—to cry out for help and for urgent action.

We must be able to tell our children that we did not look the other way to the Cambodian holocaust, as we did to another holocaust a generation ago. We must be able to say that our diplomats did everything humanly possible to avert mass starvation.

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979—H.R. 3236

AMENDMENT NO. 740

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted an amendment intended to be proposed to H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

AMENDMENTS NOS. 741 THROUGH 744

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted four amendments intended to be proposed by him to H.R. 3236, supra.

AMENDMENT NO 745

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself and Mr. Huddleston) submitted an amendment intended to be proposed by them, jointly to H.R. 3236, supra.

● Mr. NELSON. Mr. President, today Senator Huddleston and I are submitting for printing an amendment to H.R. 3236 to provide employment protections for State employees who currently administer the disability insurance program. I have prepared a memorandum explaining the amendment and the need for it, and I ask unanimous consent that the text of the amendment and the memorandum be printed in the Record

There being no objection, the amendment and memorandum were ordered to be printed in the Record, as follows:

Amendment No. 745

On page 56, line 11, after the comma insert the following: "and after he has complied with the requirements of paragraph (3),".

On page 56, line 19, before the period insert the following: ", or (if later) until the Secretary has complied with the requirements of paragraph (3)".

On page 56, line 20, strike out the quotation marks and the second period.

On page 56, between lines 20 and 21, insert the following:

"(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency).

"(B) The Secretary shall not undertake such assumption of the disability determination function until such time as the Secretary determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include, without being limited to, such provisions as are provided under all applicable Federal, State and local statutes for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (2) the continuation of collective-bargaining rights; (3) the assignment of affected employee to other jobs or to retraining programs; (4) the protection of individual employees against a worsening of their positions with respect to their employment; (5) the protection of health benefits and other fringe benefits; and (6) the provision of severance pay, as may be necessary. In determining that the State has made fair and equitable arrangements as provided for in the preceding sentence, the Secretary shall consult with the Secretary of Labor.".

On page 59, line 19, before the period insert the following: ", and how he intends to meet the requirements of section 221 (b) (3) of the Social Security Act".

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

BACKGROUND

H.R. 3236, as approved by the House and by the Finance Committee, would eliminate the provision in present law which provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. Instead, the bill would provide for disability determinations to be made by State agencies in accordance with standards and criteria contained in regulations or other written guidelines of the Secretary. It would require the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function in order to assure effective and uniform administration of the disability insurance program throughout the United States."

The bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his finding, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the bill provides for termination by the State. The State is required to continue to make disability determinations for 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

IMPACT OF H.R. 3236 ON STATE AGENCIES AND STATE EMPLOYEES

In the Ways and Means Committee Report accompanying H.R. 3236, it was acknowledged that if the bill is enacted, ". . . there is more likelihood that some states may decide not to participate under the program or the Secretary may determine that a State is not complying with the regulation requirements promulgated under this legislation."

In the past, certain states have seriously considered withdrawing from the program, and several states and state employee unions believe that H.R. 3236 will make such an option even more attractive for many states.

If the federal government does indeed take over state disability determination agencies, the employment status of many state employees will be uncertain. Because there are no assurances in H.R. 3236 that these State employees will be reemployed by the Federal government, many of these State employees could lose their jobs permanently even though it is generally recognized that state agencies have the "greatest reservoir of talent in the disability program."

NELSON-HUDDLESTON AMENDMENT

This amendment provides that (1) whenever a state chooses to terminate its administration of the disability program or (2) whenever the Secretary of HEW terminates the administration of the disability program by a given state, a specific plan must be developed (and all appropriate procedures initiated to implement the plan) before the federal government can assume the responsibilities of the state disability determination unit. The plan must provide a procedure to ensure that affected state employees will be given preference in any positions created by the federal government and to protect the existing rights of state employees under all applicable federal, state and local laws.

More specifically, the amendment requires the Secretary of HEW to establish a procedure to give employees of the affected state agency who are capable of performing duties in the disability determination process for the federal government a preference over any other individual in filling an appropriate employment position with the federal government. In order to accomplish this objective, the Secretary would have to establish a hiring priority procedure among the employees of the state agency.

For those persons who choose not to be employed by the federal government, or for whom federal employment is not offered, the Secretary of HEW is required to consult with the Secretary of Labor to ensure that the State has made fair and equitable arrangements to protect the interests of employees who are displaced. Such protective arrangements shall include, without being limited to, such provisions as are provided under all applicable federal, state and local statutes for (1) the preservation of rights, privileges, and benefits, including continuation of pension rights and benefits) under existing collective-bargaining agreements; (2) the continuation of collective-bargaining rights; (3) the assignment of affected employees to other jobs or to retraining programs; (4) the protection of individual employees against a worsening of their positions with respect to their employment; (5) the protection of health benefits and other fringe benefits; and (6) the provision of severance pay, as may be necessary.●

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 746

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

● Mr. PACKWOOD. Mr. President, I am submitting an amendment today to eliminate an unintended flaw in the cogeneration provision of H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1979. The Senate Finance Committee approved the proposal (contained in S. 1760) to create a 10-percent energy tax credit for cogeneration property. A similar provision was passed by both the House and Senate in 1977, but was dropped in conference. This 10-percent energy tax credit for cogeneration does not apply for boilers and burners using oil. The amendment I am introducing today would make it available for a boiler or burner deriving up to 25 percent of its energy from oil.

In its consideration of H.R. 3919, the Senate Committee on Finance wisely decided that some of the revenue from the windfall profit tax should be used to stimulate alternative energy sources and new energy technologies. One of the new energy technologies the Finance Committee bill would stimulate is cogeneration—the simultaneous production of electricity and thermal energy such as heat, steam, or gas. The book "Energy Future," a study recently published by several professors at the Harvard Business School, calls cogeneration "industry's North Slope." The Finance Committee bill would make businesses eligible, through 1982, for a 10 percent nonrefundable energy tax credit for cogeneration equipment.

My amendment, Mr. President, would correct what I believe was an oversight in this cogeneration tax credit provision. Here is the problem. The combustion of wood and other nonoil fuels to produce energy usually requires small amounts of oil or natural gas. For example, in the forest products industry wood wastes often contain more than 50-percent moisture. To be effectively burned to produce power, a small quantity of oil must be added to provide flame stabilization and backup. So that the full energy potential of wood waste and other nonoil fuels can be fully utilized, my amendment would not deny the cogeneration credit to a business using these fuels simply because their use requires the addition of small amounts of oil. The Joint Committee on Taxation estimates that this amendment has no revenue effect for fiscal year 1980.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD:

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 746

On page 114, strike beginning with line 15, down through line 19, page 114, and insert in lieu thereof the following:

"Equipment installed in connection with a boiler or burner which uses oil or natural gas as a fuel in significant quantities, other than a boiler or burner (or a replacement for such a boiler or burner) which as of January 1, 1980, used natural gas as a fuel in significant quantities, shall not be treated as cogneration equipment for purposes of this paragraph. For purposes of this paragraph, the term 'significant quantities' means more than 25 percent, determined for the basis of annual Btu input of fuel from all sources." ●

AMENDMENT NO. 747

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD (for himself and Mr. HATFIELD) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

● Mr. PACKWOOD. Mr. President, today Senator HATFIELD and I are submitting an amendment to H.R. 3919, the crude oil windfall profit tax, to assure that bonds issued by the State of Oregon to finance loans for renewable energy projects will qualify for tax-exempt status under section 103 of the Internal Revenue Code of 1954. The State legislative assembly has approved a program to provide low-interest loans for solar, wind, geothermal, biomass, waste heat, and hydroelectric energy projects. Recipients of these loans will be individuals, small businesses with fewer than 100 employees, nonprofit organizations, and local governments. This program will be implemented if approved by the Oregon electorate next May 27, 1980.

Our amendment would make an addition to the section 103 rules so Oregon's alternative energy bond program will be eligible for industrial development bond financing, provided that three conditions are met. First, the bonds must be general revenue bonds. Second, the legal authority for the program must require that taxes be levied in sufficient amount to repay the bonds. Third, the program must provide financial assistance—such as loans or grants—to encourage the development of alternative energy, such as wind, solar, geothermal, biomass, waste heat, or hydroelectric energy.

Mr. President, in my travels around the State of Oregon I have been deeply impressed with the enthusiasm of my fellow Oregonians for developing alternative sources of energy. Oregonians are ready to go with these energy sources. We are ready to use the wind to generate electricity. We are ready to tap Oregon's great geothermal energy potential. We are ready to harness the sun to heat our homes and businesses. In short, Oregonians are willing and able to reduce our dependence on oil and they want to emphasize clean, renewable energy sources in their planning for their energy future.

The Joint Committee on Taxation estimates that the fiscal year 1980 impact of this amendment is negligible. For Oregon, however, the impact of this amendment is substantial. The Oregon Legislature has cleared for voter approval an excellent State program to help encourage development of these energy sources. Approval of this amendment will help remove an impediment to implementation of this program.●

AMENDMENT NO. 748

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, I wish to announce that the Agriculture Subcommittee on Agricultural Research and General Legislation has scheduled a hearing on S. 2043, introduced recently by Senator JOHN MELCHER. The bill provides for research in the diagnosis, prevention, and control of cancer in animals.

The hearing will be held on Monday, December 10, beginning at 9:30 a.m. in room 324, Russell. The subcommittee will hear from invited witnesses only, but statements submitted for the record are welcome.

Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.●

ADDITIONAL STATEMENTS

CALIFORNIA LEGISLATURE RESOLUTION COMMENDS CONGRESSMAN JOHN BRADEMAS

● Mr. CRANSTON. Mr. President, I am pleased to note that the California State Legislature recently passed a resolution commending our distinguished colleague in the House of Representatives, the majority whip JOHN BRADEMAS of Indiana.

Mr. President, I submit for the RECORD the text of the following resolution:

RESOLUTION

Whereas, John Brademas, majority whip of of the U.S. House of Representatives from Indiana's Third District for over 20 years, and third-ranking member of the majority leadership, has contributed extensively to his constituents and all Americans through his leadership, commitment, and responsibility to duty, and, in recognition thereof, is deserving of special honor and highest commendations; and

Whereas, Born in Mishawaka, Indiana, Mr. Brademas served in the United States Navy; was a Veterans National Scholar at Harvard University, where he graduated with a B.A., magna cum laude, in 1949, and was elected to Phi Beta Kappa; from 1950 to 1953 studied as a Rhodes Scholar at Oxford University, England, receiving the degree of Doctor of Philosophy in Social Studies in 1954; and, in 1972, was elected as Hononary Fellow of Brasenose College, his college at Oxford; and

Whereas, He has appointed whip for the 95th Congress and reappointed to a second term at the beginning of the 96th Congress; has been a member of the Education and Labor Committee and its Subcommittees on Post Secondary Education and Select Education; has earned a particular reputation for his leadership in education and in the arts; and, during his years of service on the Education and Labor Committee, he has played a principal role in helping write most major legislation concerning elementary and secondary education, higher education, vocational education, services for the elderly and handicapped, and federal support for libraries, museums, and the arts and humanities; and

Whereas, He has also distinguished himself as chief House sponsor of the Education for All Handicapped Children Act; the Arts, Humanities and Cultural Affairs Act; Arts and Artifacts Indemnity Act; Museum Services Act; and the Older Americans Comprehensive Services Amendments of 1975; and

Whereas, In addition, he has been in the forefront in the House of Representatives in pressing for a just resolution of the crisis in Cyprus before any further military grants are made to the Government of Turkey; and

Whereas, The recipient of numerous honorary degrees from colleges and universities, Congressman Brademas has been a member of numerous boards, committees, and councils, such as the Board of Overseers of Harvard, the Overseers' Committee to Visit the Graduate School of Education, the Advisory Council to the College of Arts and Letters at the University of Notre Dame, the boards of the Dumbarton Oaks Research Library and Collection and the Woodrow Wilson International Centers for Scholars, and the Central Committee of the World Council of Churches, and he was a delegate from the United Methodist Church to the Fifth Assembly of the WWC held in Nairobi; and

Whereas, The impressive list of accomplishments which he has made during his tenure in the House of Representatives has earned for him a place of great respect amongst his fellow politicians, the support of his constituents, and the high esteem of his fellow Americans; now, therefore, be it

Resolved by the Joint Rules Committee of the Senate and the Assembly, That the Members take great pride in honoring and commending Congressman John Brademas, Representative of the Third District in Indiana, on his exemplary display of personal, civic, and professional contributions to his fellow Americans, and extend best wishes for continued success in his future endeavors; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to Congressman John Brademas.●

THE WHITE HOUSE DEFENSE CONTRACTORS AND SALT II

● Mr. HUMPHREY. Mr. President, I would like to share with my distinguished colleagues an article by George C. Wilson which appeared in the Washington Post of December 4, 1979 concerning White House efforts to pressure defense contractors to lobby on behalf of SALT II. I request that Mr. Wilson's article be printed in the RECORD.

According to Mr. Wilson, the White House contends that no quid pro quos are involved between a firm's support for SALT and the granting of future defense contracts. Whether this is true or not, such linkage will inevitably be drawn in the minds of defense contractors, and I fear that firms who oppose SALT will, therefore, be more timid about speaking out openly against the treaty. In this respect, the White House, by asking for support, may be seeking to discourage criticism from that sector of American industry which, by nature, should have inate misgivings about the treaty. The White House argues that there is nothing "improper" about soliciting the support of defense contracting to sell SALT II. In my opinion, Mr. President, while the White House may not be doing anything illegal, its latest effort to sell SALT II by implicitly threatening defense contractors is a shameful breach of ethics.

The article follows:

WHITE HOUSE ASKING ARMS FIRMS TO LOBBY FOR SALT II

(By George C. Wilson)

The White House is asking defense contractors to give President Carter an assist in persuading the Senate to approve the strategic arms limitations treaty (SALT II).

Several executives of firms that produce weapons for the government told the Washington Post they had been called over the last few weeks by White House staff members.

Anne Wexler, head of the White House public liaison office, confirmed that defense contractors are among the businesses her staff had called on behalf of SALT II.

She termed the calls "very routine." She answered "absolutely not" when asked if there was any White House implication that future defense contracts would be linked to SALT II support.

Wexler said the calls being made to defense contractors and other businesses are in the "survey" stage to be followed later by White House briefings on the arms treaty.

Most executives contacted about SALT II, Wexler said, told the White House staffer who called them that they would have to check with their top management before giving the firm's stand on the treaty.

One aerospace executive said he was called by Judy Mercado, a White House fellow working for Wexler, and asked if his firm, which is one of the nation's top defense contractors, would get behind the treaty.

"They want us to contact our congressional delegation," he said. "I told them I would have to check with my top management and report back. They do this kind of thing all the time. I considered it routine."

Mercado said she called defense contractors, as well as others, on behalf of SALT II. She replied, "I would rather not comment" when asked what she had requested defense contractors to do.

"Of course the intent is to help us with SALT," Wexler said of the phone conversations with defense contractors. Mercado was "doing nothing improper" in making those calls.

Some defense executives told The Post that the calls seemed to be White House pressure to support the treaty.

"They really shouldn't feel that way," Wexler replied when told about this interpretation. Some business executives will be for the treaty, some will be against it, she said.

She put the Carter administration's SALT II lobbying in the same category as the earlier effort to make the case to the business community for the Panama Canal treaties.●

THE AMERICAN TELEVISION AND COMMUNICATIONS CORPORATION

● Mr. HART. Mr. President, with increasing assurance commentators have been signaling a coming communications revolution. We see a proliferation of communications satellites aloft and thousands upon thousands of mass-produced Earth stations below. Cable television is finally expanding into urban areas, and dozens of specialized programing services offer the realistic prospect of diversity and abundance on the home television screen. Even "interactive" telecommunications capacity—that is, the capability of the viewer to talk back to his television set by expressing his opinions electronically—is now operational.

All these developments testify to the extraordinary chances affecting our national communications. Changes which will have a profound impact on our society. The Senate and House Communications Subcommittees, the Federal Communications Commission and the National Telecommunications Information Administration are therefore reviewing the public policy implications attendent to these developments.

The cable television industry is playing a significant role in the telecommunications revolution. Only a decade ago, cable functioned as a reception service, bringing improved television signal reception to people in remote, mountainous, and rural communities. Today, the industry enriches the lives of millions of Americans in major cities, small villages and points in between, by providing a broader choice of informational, educational, and entertainment programing than would otherwise be available.

Mr. President, on December 5 a leader in the cable industry, American Television and Communications Corp., will celebrate the addition of the 1 millionth subscriber to its services. I congratulate the company, the Nation's second largest, its chairman and president, Monroe M. Rifkin, and its more than 1,200 employees who have been responsible not only for impressive growth but also for innovative experimentation with new technologies and services.

For example, ATC's Reading, Pa., cable system was selected by the National Science Foundation as the site of a major sociological experiment designed to use cable to meet the special needs of senior citizens. This project brought to the elderly a variety of community, public health and informational services which were extremely well received, and ultimately resulted in the turning over of equipment and facilities to a community board of directors to provide permanent innovative programing specifically designed to meet the particular needs of this group. This is but one example of community access television by which ATC has promoted the use of the cable medium by various segments of local communities, including the general public, and government and educational institutions to achieve locally determined communications objectives.

More recently, ATC has been a leader in promoting and disseminating throughout its systems the innovative, gavel-to-gavel coverage of the House of Representatives as produced and distributed by the Cable-Satellite Public Affairs Network (C-SPAN). Mr. Rifkin and his company were also the first to announce their full support for the recently foremd Black Entertainment Television (BET) organization. This is a specialized satellite programing network which will distribute to cable homes nationally a programing service featuring the cultural and creative achievements of black entertainers and performers.

ATC is also looking to the future. It is exploring a multiplicity of new cable services, including computer and data services of all kinds, medical diagnostic and energy management services, home security systems and shopping in the home. I commend Mr. Rifkin and his colleagues at ATC as they continue through the innovative use of technology to bring a wider and more diverse range of video services to the American consumer.●

BRYCE HARLOW—CONFIDANT OF PRESIDENTS

● Mr. BELLMON. Mr. President, one of the most highly respected individuals ever to serve in high office in Washington is Bryce Harlow, of Oklahoma.

Five years ago, he closed out a brilliant career during which he served as confidant to three Presidents: Dwight D. Eisenhower, Richard Nixon, and Gerald Ford. After a lifetime of being directly involved in the Nation's affairs, he was forced by illness to retire to private life last year.

Now he makes his home on a scenic acreage near Harpers Ferry, W. Va. He still keeps in close touch with political events in Washington and elsewhere.

In a recent interview with Allan Cromley of the Dailey Oklahoman, Harlow had some interesting observations about his career and particularly about the relationship between Congress and the Presidency.

Mr. President, in order to share this illuminating profile with my colleagues, I ask that it be printed in the RECORD.

The article follows:

CONFIDANT OF PRESIDENTS

(By Allan Cromley)

From Bryce N. Harlow's spacious flagstone patio it is about 100 yards across a well-kept lawn to the Potomac River. Five miles upstream is the point where Robert E. Lee crossed the river enroute to the battles of Antietam and Gettysburg.

Harlow takes in the spendid view from a chair on the patio. Nearby is a red flowering hibiscus from Oklahoma. And on the table beside him is the ever-present telephone which claims his attention frequently. He can carry the phone into the adjacent sun room and other parts of the house, using a 30-foot extension. It connects him with the outside world like an umbillical cord.

As a visitor arrives, Harlow is on the phone. He's talking to Gen. Alexander M. Haig, Jr., the recently-retired commander of NATO and former chief of staff to Richard M. Nixon. Haig and Harlow were among the few top aides to Nixon who survived Watergate with their good names intact.

Haig is one of the lesser aspirants to Republican presidential nomination next year, and big or small, they check in with Harlow, the former Oklahoma Cityan who served Presidents Eisenhower, Nixon and Ford. On any given day, Harlow is apt to get a call from most any famous Republican you can name: Nixon, Ford, Ronald Reagan, Bob Dole, and staff members for virtually all the other prospective GOP Presidential candidates.

One gets the feeling that the telephone is at least as important to Harlow as the cortisone he takes for the asthmatic bronchitis that forced his retirement in April last year as vice-president (for national government relations) of the Procter & Gamble Company.

Asthmatic bronchitis is a cousin to emphysema. The first symptoms came in June, 1977. He quit smoking that August, after 37 years of cigarettes. In a characteristic aside, Harlow quips, "I had already killed myself by then." Heavy doses of cortisone caused the disintegration of a vertebra, and Harlow has nearly constant back pain.

Although he is still a consultant to P&G, the ailment curtailed a career during which Harlow spent a total of almost 11 years as a top White House staff member in the Eisenhower and Nixon administrations, was a member of Gerald R. Ford's unofficial inner circle, and became the pre-eminent power broker of the Republican Party.

At 63, he now spends most of his time at his 4-acre river spread near Harpers Ferry, W.Va., yearning for more face-to-face contact with the political world, devouring the major newspapers, and processing so much mail that he had to enlarge his rural route mail box.

His indispensable wife, Betty (the former Betty Larimore of Oklahoma City) makes a daily 40-mile round trip to Charlestown, W.Va. for the Washington Post, New York Times, Wall Street Journal, and local newspaper.

During Harlow's White House years, he used to say that momentous national issues become insignificant, or even unknown, when you get 50 miles away from the District of Columbia. Harlow is 65 miles northwest now, but his perspective is unique.

For the first six months of the Carter administration, Harlow received an occasional call from the President's advisers, but no more. What he thinks of Carter's performance is couched in colorful language which he manages to keep off the record most of the time. He speaks with unchallenged authority, particularly in matters relating to the President's relations with Congress: he was the top White House lobbyist in both the Eisenhower and Nixon administrations—a Republican dealing with a Democratic Congress.

"It's all cyclical," he says. "There's nothing new under the sun. It's a wheel. It turns, and the first thing you know, you're on the same issue as 25 years ago.

"There's nothing novel about the Carter situation (on Capitol Hill). I get so tired of hearing whimpers: 'Mr. Carter inherited so much difficulty!'

"He didn't inherit anything. He went and got it. The problem of a White House staff closing in around a president is not new . . . no president is poorly served by his staff. He's served by the staff he wants. After all, he chose them."

It is a subject to which Harlow warms easily. Quickly he gets to his point: "Politicians work a great deal by osmosis. If you are a president or his chief adviser and you think congressmen are toads, they will sense it.

"Carter and (Hamilton) Jordan (the President's chief of staff) thought Congress was a bunch of toads, and Congress responded. Now look at things today. It is what happened to Jack (President John F.) Kennedy. He and his advisers thought that congressmen were cheap ward politicians and ward heelers."

Kenneth O'Donnell, Kennedy's principal political adviser in the White House, came to see Harlow, his predecessor and counterpart in the Eisenhower administration, soon after Kennedy's 1960 election victory. O'Donnell made clear his low opinion of congressmen.

Harlow warned him of trouble ahead. He told him that "you can use black snake whips, cajolery, threats, flattery, blackmail, and, yes, women" but you won't get votes out of Congress if they sense your contempt for them.

Kennedy came in with the aura of Camelot. "I warned Kenny (O'Donnell) that the weather will change and you will get rained on . . . by the time Kennedy was shot, he couldn't pass a mother-love resolution on the Hill.

"It was the worst congressional deadlock in 40 years." Then came Lyndon B. Johnson and a new attitude toward congressmen in the White House. After all, Johnson had been one.

"Larry (Lawrence J. O'Brien, LBJ's chief lobbyist) couldn't miss," declares Harlow. "The Great Society was born. It was pretty much Kennedy's program, but it couldn't be passed by Kennedy . . . he thought congressmen were toads, and they knew it."

Congressmen had a different feeling about Harlow, and to a considerable extent, the men he worked for. Harlow remembers, during the Eisenhower days, the secret visits to the White House, arranged by Harlow, of Johnson, then the Democratic leader of the Senate, Sam Rayburn, the Democratic Speaker of the House, and others.

"We'd take them to the second floor (living quarters) of the White House and give them bourbon and branch water, and we'd have a ball—all under cover of darkness," Harlow recalls, chuckling.

"They and Ike would spend most of the time talking about—guess who—Jack Kennedy." Harlow also remembers Eisenhower's frequently repeated saying that "there's those people who confuse leadership with tub-thumping—don't ever follow the tub-thumpers."

In one of his few complimentary remarks about Carter, Harlow says that the President is not instinctively a "tub-thumper." Quite the opposite. "But he has been Rafshooned into it. I always think that is bad politics. People aren't that dumb." (Gerald Rafshoon, an Atlanta advertising executive, was brought into the White House to improve Carter's public image.)

Harlow brought Stephen Hess, an author, to the Eisenhower staff. Hess later served in the Nixon White House and is now a senior fellow at the Brookings Institution in Washington. Hess relates an incident that illustrates Harlow's unique perspective of the presidency.

It was November, 1968, at New York City's Hotel Pierre, headquarters of President-elect Nixon, who had just summoned Harlow from P&G to help plan the administration that was to take office in January. As related by Hess and recently confirmed by Harlow, the picture was this:

Harlow says, "I'm there in this room, phones ringing, jumping off the walls. Suddenly over runs a little twinkle-eyed secretary. She says, "Mr. Harlow, President Johnson's calling.' I cut off who I was talking to and said, 'Yes, Mr. President . . . yuppity up, yuppity yup, yes, sir . . .'

"And over runs the little twinkle-eyed secretary. I put my hand to the receiver. 'Yes, what do you want?'

"She says, 'President Eisenhower is calling.'

"Tell him I'm talking to the President and I'll call him right back, or if he prefers, we'll put him on hold. Now I've got the President (Johnson) on the line, and I've got the former President (Eisenhower) waiting.

"In runs Larry Higby (Nixon aide) and he says, 'Mr. Harlow, Mr. Harlow,' very imperiously. 'The President-elect wants you in his office immediately.'

"I told him that I had a President and a former Vice President on the line and the President-elect would have to wait his turn."

As an "insider's insider" with the kind of experience that puts you in contact with an Eisenhower, Johnson and Nixon simultaneously, Harlow would seem to be a certain author of a best seller. That is not likely to happen. He has a contempt, almost a loathing, for "kiss and tell" literature that has become an epidemic in recent years.

He has taken shorthand notes of countless momentous meetings in three administrations. And at one point he began dictating into a tape-recorder his fresh recollections, often from his own notes, of things that happened at the White House.

"I carried this thing home," he once told a reporter, "and for 10 days or two weeks I tried to do it, but I couldn't continue. I just couldn't. I was dictating personal conversations. I cut it off. There's no way of maintaining secrecy." It was a remarkable observation in light of the Watergate tapes that surfaced about a year later.

Harlow was Nixon's first major staff appointee after his election in 1968. He served until December, 1970, and was P&G's Washington lobbyist at the time of the Watergate burglary. He assented to help shore up Nixon's crumbling presidency in July, 1973, but left for good in April, 1974, four months before Nixon's resignation.

Were a visitor to approach Harlow, sitting on his patio, telephone to ear, gazing out at the beautiful river, it is not inconceivable that the party at the other end of the line would be Richard M. Nixon. The former President calls Harlow now and then.

Harlow does not condone Nixon's Watergate coverup, which led to his resignation in disgrace, but he makes a more charitable judgment than most public figures of that time. In a letter to the Washington Post on June 15, 1977, he said that the Founding Fathers would have approved of the "disciplines" applied to Nixon by Congress and the courts.

But, he said, the presidency itself—the office of the president—had become too powerful, in fact, "grotesque after four decades of imperializing."

"Not until a journalistic-Congressional complex coalesced in the 1970s did a power larger than the Presidency develop. Had it developed pre-Nixon, an equivalent of Watergate would have come earlier. Had it been only the press or only the Congress outraged in Nixon's time, the corralling of the Presidency would have been deferred still longer."

That is vintage Harlow, a man who can verbalize both a condemnation and explanation of Richard M. Nixon and Watergate in only a few lines of type.

Thus, Harlow has volumes in his head, and in material accessible to him, that may never be written. Instead, he will talk to Republican powers, advise P&G about the government, and observe the wildlife around his home. (Recently he saw, just outside his dining room window, a prothonotary warbler—the rare bird that was made famous in those Alger Hiss hearings of the early '50s.)

Harlow is probably Oklahoma's most illustrious alumnus of the executive branch of the government. He was the principal writer, editor and policy director of the Republican platforms of 1956, '64, '68 and '72.

He now has time to reminisce with those who have had their day in the sun and advise those who are seeking theirs.

So he dotes on his three children and nine grandchildren, who live in the Washington, D.C. area, makes occasional excursions in his boat on the Potomac, and of course, sends Betty to Charlestown every day for the newspapers.●

AMENDMENTS TO THE RULES OF PROCEDURE OF THE COMMITTEE ON VETERANS' AFFAIRS

● Mr. CRANSTON. Mr. President, section 133B of the Legislative Reorganization Act of 1970, as amended, requires each standing, select, or special committee of the Senate to publish in the CONGRESSIONAL RECORD any amendments that such committee makes to its rules of procedures. The Committee on Veterans' Affairs amended its rules on May 3, but due to an oversight the amendments were not printed in the RECORD more promptly. I regret this.

Pursuant to the requirement, I now ask that the May 3 amendments to the rules of the Committee on Veterans' Affairs be printed in the RECORD, together with the rules as so amended.

The material follows:

AMENDMENTS MADE ON MAY 3, 1979

The Rules of Procedure of the Senate Committee on Veterans' Affairs are amended by—

(1) striking out "five" in Rule II(a) and inserting in lieu thereof "six";

(2) inserting after "to file" in Rule V(c) "40 copies of";

(3) inserting after Rule VI the following new rule: "VII. Presidential Nominations"

"Each Presidential nominee whose nomination is subject to Senate confirmation and referred to this Committee shall submit a statement of his or her background and financial interests, including the financial interests of his or her spouse and of children living in the nominee's household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts—

"(A) information concerning employment, education, and background of the nominee which generally relates to the position to which the individual is nominated, and which is to be made public; and

"(B) information concerning financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

"Committee action on a nomination, including hearings or a meeting to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the Ranking Minority Member, waives this waiting period."; and

(4) redesignating Rule VII as Rule VIII.

COMMITTEE RULES AS AMENDED

I. MEETINGS

(a) Unless otherwise ordered, the committee shall meet on the first Wednesday of each month. The chairman may, upon proper notice, call such additional meetings as he deems necessary.

(b) Meetings of the committee or a subcommittee shall be open to the public except that, subject to the provisions of paragraphs (b) and (d) of rule 25.7 of the Standing Rules of the Senate, a portion or portions of any such meeting may be closed to the public if the committee so elects by a record vote of a majority of the members of the committee present.

(c) The chairman of the committee or of a subcommittee, or the vice chairman in the absence of the chairman, or the ranking majority member present in the absence of the vice chairman, shall preside at all meetings.

(d) No meeting of the committee or any subcommittee shall be scheduled except by majority vote of the committee or by authorization of the chairman of the committee.

(e) The committee shall notify the office designated by the Committee on Rules and Administration of the time, place, and purpose of each meeting. In the event such meeting is canceled, the committee shall immediately notify such designated office.

II. QUORUMS

(a) Subject to the provisions of paragraph (b), six members of the committee and four members of a subcommittee shall constitute a quorum for the reporting of legislative matters. Three members of the committee or a subcomittee shall constitute a quorum for purposes of transacting any other business.

(b) In order to transact any business at a committee or subcommittee meeting, at least one member of the minority shall be present. If, at any meeting, business cannot be transacted because of the absence of such a member, the matter shall lay over for a calendar day. If the presence of a minority member is not then obtained, business may be transacted by the appropriate quorum.

(c) One member shall constitute a quorum for the purpose of receiving testimony.

III. VOTING

(a) Votes may be cast by proxy. A proxy may be written or oral, and may be conditioned by personal instructions. A proxy shall be valid only for the day given except that a written proxy may be valid for the period specified therein.

(b) There shall be a complete record kept of all committee action. Such record shall contain the vote cast by each member of the committee on any question on which a "yea" and "nay" vote is requested.

IV. SUBCOMMITTEES

(a) No member of the committee may serve on more than two subcommittees. No member of the committee shall receive assignment to a second subcommittee until all members of the committee, in order of seniority, have chosen assignments to one subcommittee.

(b) The committee chairman and the ranking minority member shall be ex officio nonvoting members of each subcommittee of the committee.

(c) Subcommittees shall be considered de novo whenever there is a change in committee chairmanship and, in such event, subcommittee seniority shall not necessarily apply

(d) Should a subcommittee fail to report back to the committee on any measure within a reasonable time, the chairman may withdraw the measure from such subcommittee and so notify the committee for its disposition.

V. HEARINGS AND HEARING PROCEDURES

(a) Except as specifically otherwise provided, the rules governing meetings shall govern hearings.

(b) At least 1 week in advance of the date of any hearing, the committee or a subcommittee shall undertake, consistent with the provisions of section 133A of the Legislative Reorganization Act of 1946, as amended, to make public announcement of the date, place, time, and subject matter of such hearing.

(c) The committee or a subcommittee shall require each witness who is scheduled to testify at any hearing to file 40 copies of such witness' testimony with the committee not later than 24 hours prior to the witness' scheduled appearance unless the chairman and ranking minority member determine there is good cause for failure to do so.

(d) The presiding officer at any hearing is authorized to limit the time allotted to each witness appearing before the committee or subcommittee.

VI. GENERAL

All applicable requirements of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the committee and its subcommittees.

VII. PRESIDENTIAL NOMINATIONS

Each Presidential nominee whose nomination is subject to Senate confirmation and referred to this committee shall submit a statement of his or her background and financial interests, including the financial interests of his or her spouse and of children living in the nominee's household, on a form approved by the committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts—

(A) information concerning employment, education, and background of the nominee which generally relates to the position to which the individual is nominated, and which is to be made public; and

(B) information concerning financial and other background of the nominee, to be made public when the committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Committee action on a nomination, including hearings or a meeting to consider a motion to recommend confirmation, shall not be initiated until at least 5 days after the nominee submits the form required by this rule unless the chairman, with the concurrence of the ranking minority member, waives this waiting period.

VIII. AMENDMENTS TO THE RULES

The rules of the committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose. The rules governing quorums for reporting legislative matters shall govern rules changes, modifications, amendments, or suspension.●

NATO AND SALT II

● Mr. GARN. Mr. President, we have all heard the Carter administration's pronouncements of gloom and doom if the SALT II treaty is not ratified by the Senate. We are told that the stability and the potential survival of NATO, one of the fundamental elements of United States post-World War II foreign and defense policy, would be threatened by the failure of the Senate to ratify this treaty.

Former British Ambassador to the United States Peter Jay recently did an excellent job of parroting this latest piece of conventional wisdom disseminated from the White House on this issue. In his New York Times article, "SALT's Wrong Foes," Jay also manages to take a swipe at the critics of SALT II, who have focused their attention on the terms of the treaty and offered amendments to correct the inequities it contains.

Yet, the fact of the matter is that our European allies find themselves in an unenviable position of having to pacify both the United States and the Soviet Union at the same time. They can give their support in public for SALT II while privately voicing their concerns about the implications of this treaty for their security. Or, they can speak their minds freely, thereby openly defying both their most powerful ally, the United States, and their most powerful foe, the Soviet Union. One can understand their decision to pursue the former course of action.

Therefore, let us not be misled by this well-orchestrated effort to sell SALT II. If the Europeans fear anything it is the fact that the United States has allowed its land-based ICBM force to become highly vulnerable to a first strike Soviet attack, and that we have effectively undermined the military value of ground- and sea-launched cruise missiles through the range restrictions of the SALT II protocol. With respect to the question of U.S. leadership, I think the Wall Street Journal hit the nail on the head when it remarked that the failure to ratify SALT II "would not be the end of American leadership but the beginning of its reassertion."

Mr. President, I submit for the RECORD Mr. Jay's article from the New York Times together with the Wall Street Journal editorial comment, "The Vituperative Left."

The material follows:

SALT'S WRONG FOES

(By Peter Jay)

WASHINGTON.—The propensity of the "stupid right" to damage the very causes in which they profess to, and doubtless do, believe is well exemplified in the activities of the anti-SALT lobby.

It is possible to follow the logic, if not to extol the comon sense, of those who challenge the SALT II treaty on the grounds that it does not go far enough in the desirable direction of controlling intercontinental nuclear weaponry and that too high a price for ratification is being paid in commitments to future defense spending. Idealists commonly make the best the enemy of the good.

But those more numerous opponents of the strategic arms limitation treaty who base their attitude on their—quite legitimate—fear of Soviet intentions and capabilities do not even have that degree of Alice in Wonderland logic on their side. They profess concern for the security of the West and then do the one thing most likely to weaken the Atlantic alliance.

The attitude of European leaders toward SALT ratification has been made abundantly clear with almost monotonous regularity ever since President Carter's meeting in Guadalupe in January with the British, West German and French heads of government.

Only last month, the West German Chancellor Helmut Schmidt was asked by The Economist: "Is SALT II vital to maintaining the nuclear strategic balance?" He replied: "Yes . . . if after such a long period of negotiation and agreement, in the end parliaments refused to ratify that sort of treaty, the world becomes rather incalculable. How could you in the future depend on a policy carried out by an American President? It would be a disastrous blow to the necessary leadership of the United States as regards the West as a whole. I rule out amendments which would require renegotiation."

Britain's Foreign Secretary, Lord Carrington, was equally trenchant, when interviewed on the B.B.C. on June 24: "The British Government has on several occasions welcomed the signing of the SALT II pact and the Prime Minister went out of her way to hope that it would be ratified in the U.S. Congress, and there is no doubt that anybody who doesn't want arms limitations and want to see a genuine détente, to put it in slang, needs their head examined . . . I think it would be a very bad thing indeed if it were not ratified in the U.S."

President Valéry Giscard d'Estaing has made his view equally clear, most recently at the conclusion of the Franco-German summit meeting with Mr. Schmidt in Bonn on Oct. 2: "We have confirmed our judgment of the value of the ratification of this agreement."

On Oct. 31 in the Senate Foreign Relations Committee, SALT opponents tried to dilute these clear judgments by quoting Britain's Prime Minister, Mrs. Margaret Thatcher. She had said in Parliament the previous day that she did not believe that failure to ratify SALT II "would lead to the disintegration of NATO."

But, of course, no responsible European leader is going to predict "the disintegration of NATO" from an event that, however deplorable, could happen within a few weeks. British politicians are well-trained in not giving this kind of hostage to fortune.

The only significant body of opinion in Western Europe that would really like to see SALT II rejected by the Senate is the anti-American lobby, precisely because, as Chancellor Schmidt has pointed out, it would deal such a savage blow to American credibility and leadership. Mercifully, this is still a narrow group, though it has recently drawn some strength from the crazier fringe of Euro-fanaticism that regards Atlantic relations and European integration as a zero-sum game in which by definition whatever damages one benefits the other.

Henry A. Kissinger wrote in 1968 that "Atlantic relations, for all their seeming normalcy, face a profound crisis." And he accurately diagnosed—and repeats more vividly in his book "The White House Years"—the perennial European schizophrenia, fearing alternately a United States-Soviet condominium of superpowers, when détente was working, and a return to the cold war, when tensions increased.

That is but one example of the broader political and economic strains that are slowly fracturing the indispensible cohesion of the West.

The rejection of SALT II, superimposed on these other deep tensions in Atlantic relations while it would not cause the immediate collapse of the North Atlantic Treaty Organization would leave its political foundations weaker than ever. And the fact that Soviet leaders are so keen to have SALT proves not that SALT is bad for the West but that East-West relations, like United States-European relations, are not a zero-sum trade, whatever the zealots on each side may choose to believe.

The Vituperative Left

With the proposed strategic arms treaty failing to get a two-thirds majority even in the Senate Foreign Relations Committee, and with support for it plunging in the public opinion polls, proponents of its ratification have obviously not been able to make much headway arguing on the merits. As the debate moves into its final stages, they will be tempted to open a campaign of vituperation.

At least so to judge from a New York Times column by Peter Jay, long-time British journalist, and former British ambassador to the U.S. and current inmate of the Brookings Institution. In tones not usually associated with Her Majesty's foreign service, he rails against the "stupid right," lacking even a "degree of Alice in Wonderland logic." He manages all this without ever uttering a word about the provisions of the treaty.

Mr. Jay's only argument is that European governments would be upset if the Senate rejected a treaty negotiated by the American government, that this would "deal a savage blow to American credibility and leadership" and thus weaken the Atlantic alliance and, presumably, pave the way for Soviet domination of Europe. He bolsters this case with all of the usual quotes from the usual heads of European governments.

European support for SALT has been carefully orchestrated by the Carter administration. After all, both the U.S. and the Soviet Union are pressuring the Europeans to back the treaty; what are they to do, take on both super powers at once? So they have devised a little ritual for backing the treaty without backing its provisions. Good or not, the line goes, rejecting it would be unsettling.

Senate rejection of SALT, we're asked to believe, would be a flash of light in which Europeans would recognize that American leadership and credibility are in sorry shape. So far Giscard d'Estaing hasn't noticed, we suppose. If SALT were rejected, Helmut Schmidt's opinion of Jimmy Carter would go down, if that's possible.

So we are to ratify a one-sided treaty because rejecting it would show a lack of leadership. The argument is silly. Or "grotesque," as it's described by Count Franz von Stauffenberg, a German parliamentarian whose father made the famous attempt to assassinate Hitler. He recently visited Washington, saying that depicting European support for NATO as so fragile and capricious is itself a disservice to the alliance.

So whatever vituperation we may face in the final weeks of the SALT debate, we will stick to a few basics. The provisions of a treaty do matter. The division of powers between branches of government may be hard for European prime ministers to understand, but it has served this nation well. There is no obligation for the Senate to rubber-stamp a treaty, let alone one negotiated by an administration that lacks the wit to secure an embassy after it has already been overrun once. And that if the Senate feels that on the merits the treaty should not be ratified, its rejection would not be the end of American leadership but the beginning of its reassertion.●

SOVIET FORGERIES AND IRAN

● Mr. HUMPHREY. Mr. President, for some time now I have been bringing to the attention of my distinguished colleagues examples of Soviet attempts to sow anti-American sentiment by distributing to our allies and friends forgeries of purported inflamatory remarks by U.S. officials. I have presented documented evidence that the Soviets have gone as far as to forge statements by President Carter and Vice President MONDALE. I have yet to receive an answer from the Carter administration whether or not it has protested Soviet forgeries or why it has not brought this matter to the attention of the American public. It is only fair, Mr. President, that the American public be given answers to these questions, particularly since the SALT II treaty will soon be before the Senate for a vote on ratification.

Soviet forgeries, however, transcend the basic question of SALT and deep seated Soviet motives toward the West. Yesterday, for example, I raised the question whether the volatile documents which are starting to surface in connection with the sacking of American embassies in Middle Eastern countries may very well be forgeries of the type which have surfaced in Greece, Rome, and elsewhere. It is known, that in the past the Soviets have resorted to forging documents purported to originate from our Embassy in Tehran. In August 1977, for example, the Egyptian Embassy in Belgrade, Yugoslavia received a forged dispatch from the U.S. Embassy in Iran suggesting that Iran and Saudi Arabia were plotting the overthrow of Sadat and that the United States intended to take a noncommital stand if Iran and Saudi Arabia decided to act.

Mr. President, if the Soviets were capable of this type of activity when Iran still possessed some semblance of order, why should we put it past the Soviets to forge some of the documents that the students holding the hostages in Tehran claim prove conclusively that many of our diplomats in Iran are spies. We know, for example, that the Soviets have used radio broadcasts to egg on anti-American feeling in Tehran and to keep the Embassy crisis alive. Forging U.S. documents and planting them in Tehran seems a logical followup. Rowland Evans and Robert Novak raise this possibility in the Washington Post today. I request that the Evans and Novak article be printed in the RECORD.

Mr. President, I think that it is time that the Carter administration reveal the full story about the extent of Soviet forgery activities.

The article follows:

The Soviet Forgery Offensive

The decision by Iranian militants to show the world an alleged "secret" document that they said had been purloined from files in the occupied U.S. Embassy adds an ominous new factor in the battle of American intelligence against Soviet forgeries aimed at discrediting the United States.

Whether the militants have what they claim to have or whether the alleged CIA assignments for the two new staffers at the U.S. Embassy in Tehran are bogus, the surfacing of the document compounds the problem of identifying and exposing proliferating Soviet forgeries. These forgeries are now known to have drawn both President Carter and Vice President Walter Mondale into their worldwide operations.

The Soviet forgery game was analyzed early this year in a classified government document called "the forgery offensive," which opened with this flat assertion: the dangerous Soviet game of lying about the United States in the struggle between the two superpowers is undergoing "an appreciable upsurge."

"The political purpose of these forgeries, their technical sophistication and intelligence reporting all point to the Soviet Union, its various East European allies and Cuba as being the responsible parties," the document said.

The study containing that charge against Moscow was followed in late summer by a second analysis, limited to "official use only" and published by the Defense Intelligence Agency—a major branch of the U.S. intelligence community. It proclaimed that Moscow has "continually employed forged documents to implement foreign policy, support political objectives and to lend substance, credibility and authenticity to their propaganda claims."

The United States has never played the forgeries game against Russia or any other country. One reason could be that in an open society forgeries would almost surely be exposed by those opposing the practice—by politicians, for example, who in the past have taken pride in exposing undercover operations by the CIA, regardless of foreign policy objectives.

The Soviets have a closed society and no known scruples against dirty tricks of any kind. But the efforts—described as being "of suspected Soviet origin"—to put false words in the mouths of the president and the vice president of the United States touched a new low. The falsification of Jimmy Carters' spoken word came in December 1977, in the form of a bogus press release from the United States Information Agency (now the International Communications Agency). It purported to be a verbatim report on a speech Carter gave in the "American perspective series."

Newspapers in Greece—and almost certainly in other countries where the forgery never surfaced—received the phony Carter speech in the mail. Two newspapers in Athens published it. In his "speech," Carter flayed the Greeks for letting down NATO, demanded far higher defense spending by Greece and made demeaning remarks about this major Mediterranean ally.

The forgery involving Mondale came just over a year ago when Xeroxed copies of an interview he allegedly gave to a European newspaperman named "Karl Douglas" were mailed to Paris-based correspondents of several newspapers..

In the "interview," the vice president cast aspersions on Egyptian President Anwar Sadat and Israeli Prime Minister Menachem Begin. Mondale, according to the bogus "interview," called Sadat not the master of his own house (implying the then-pending treaty with Israel would not be adhered to) and claimed that Begin was suffering from a "terminal illness."

Both these efforts were crude, and neither one did American policy much, if any, damage. But they illustrate this point: there is no limit to the Soviet effort to "disinform" governments and peoples of the world about the perfidy of the United States by exploiting all techniques of forgery and black propaganda. Moreover, other attempts to undermine the United States have had conspicuous success.

In 1978, in an altered version of a genuine State Department document known as "Airgram A8950," dated Dec. 3, 1974, U.S. embassies in Europe were ordered to collect information "on ways to bribe European officials and to develop other covert means by which to damage or eliminate foreign trade competition" with the United States. The timing was calculated to cash in on the uproar in the United States over bribery accusations against U.S. corporations.

This forgery, American intelligence now believes, was "an eminent Soviet forgery success" despite some sloppy discrepancies, such as bad punctuation in the covering letter that came with fuzzy copies of the alleged airgram.

With superpower competition now heating up, partly under the stress of the Iran crisis, top intelligence officials have ordered the anti-forgery watch put on overtime duty. But for every forgery discovered, there probably are half a dozen that go undiscovered. The whole world is a forgery market and it is inconceivable that the United States will not be damaged in the days of heated rivalry that lie ahead with an adversary who plays by only one rule: the rule to win.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of December 1, 1979, is 221,722,132. This represents an increase of 152,750 in the past month. It is also an increase of 1,980,848 since December 1 of last year.

During the past month, we have added enough additional people to fill Fort Lauderdale, Fla. And over the past year, our population has grown enough to fill Memphis. Tenn., three times.●

ARREST OF SALAMAT ALI IN PAKISTAN

● Mr. DOLE. Mr. President, while all true democracies are governed by similar principles, all tyrannies operate under the common premise that problems need only be silenced in order to vanish.

Thus it is that, when Salamat Ali wrote that tribal leaders in Baluchistan wanted independence from Pakistan, he was arrested. The Pakistan correspondent of the Hong Kong-based Far East Economic Review faces a year's imprisonment at hard labor. Only his age saved him from being flogged, a punishment generally reserved for younger "culprits."

The belief that dissent can be turned to loyalty, simply by punishing a journalist for doing his job of reporting current events and thinking, is to us a continuing source of puzzlement. We are all familiar with the example of Galileo Galilei who, while imprisoned for his "heretic" beliefs, could nevertheless not be prevented from reaffirming his theory that indeed, the Earth revolves around the Sun.

Living as we do in a world where freedom of expression and of thought are insured to all citizens, the arrest of Mr. Ali can provoke nothing short of outrage and revulsion. There is more at stake however. This latest in a series of unpredictable events raises other points, not unrelated to the situation that we have been following in Iran over the past few weeks. I have become increasingly concerned by the broad implications of the erosion in international law, and wrote to President Carter on December 4. I should like to have the full text of this letter printed in the RECORD as follows:

> DEAR MR. PRESIDENT: I should like to share with you my concern over the trial of Salamat Ali in Rawalpindi, Pakistan, Mr. Ali, the Pakistan correspondent of the Hong-Kong based Far Eastern Economic Review, was charged of promoting separatism, after writing an article in which he reported that tribal leaders in the province of Baluchistan want independehce from Pakistan.
>
> Mr. Ali's arrest sets a dangerous precedent for other foreign journalists around the world, in particular for those based in areas where political instability is endemic.
>
> The situation we are witnessing is analogous to that taking place in Iran. Both countries are ruled by men who have assumed the power to intimidate and suppress. The result is an undeniable sign that a continuing erosion of international law is taking place. The implication is that we can no longer take for granted that the protection of diplomats, the sovereignty of diplomatic enclaves, and the safety of foreign journalists are ensured.
>
> Unless immediate action is taken by the international community, universal chaos can only escalate as a result of situations in which individual governments are permitted arbitrary acts that are in direct violation of the body of laws controlling the rights of nations in their relations with each other.
>
> This letter is to respectfully request that all necessary steps be taken in calling for Mr. Ali's release in unequivocal terms.
>
> Sincerely yours,
>
> BOB DOLE,
> *U.S. Senator.*●

BROWN'S BEWILDERING BALANCE: STRATEGIC FORCES THROUGH THE LOOKING GLASS

● Mr. GARN. Mr. President, I call my colleagues' attention to Bridget Gail's article "Brown's Bewildering Balance: Strategic Forces Through the Looking Glass," in the Armed Forces Journal International, December 1979 and request that it be printed in the RECORD. Unfortunately the charts appearing in this article, which tell the story far better than words, are not reproducible in the RECORD. Let me state, however, that they clearly illustrate a basic inconsistency between Secretary Brown's prior statements to Congress and what has been produced to sell the SALT II Treaty that cannot be explained by any changes in the Soviet threat or in the pacing of U.S. strategic forces. Indeed there has only been an increase in the threat and a slow down in the introduction of U.S. forces during the Carter administration.

The large measure of Soviet strategic superiority projected for the late 1980's by Secretary Brown in January 1978 had become parity in his January 1979 report to Congress. By his July 1979 testimony to the Senate Foreign Relations Committee on SALT II, suddenly a large U.S. strategic advantage was projected in the last 1980's. To repeat, the only developments that occurred in this year and a half period that would have altered Secretary Brown's 1978 project was a slow down in the U.S. Trident submarine construction program and in the development program for a potential cruise missile carrier and upward revisions in U.S. intelligence estimates for the Soviet threat.

Bridget Gail observes that "it is virtually impossible to believe that changes between his fiscal year 1980 annual report (issued last January) and July 11 estimates of the balance after a Soviet first strike can be made to square with the data available. * * * What Brown has done is not just good clean political fund. He is not simply a SALT II advocate, he is the Secretary of Defense, the senior U.S. spokesman to the world on U.S. military capabilities."

What makes this situation more serious is that Secretary Brown's previous estimates, as Congressman ROBIN BEARD has so ably pointed out, were clearly biased in that they ignored the Soviet advantage in hardening strategic forces. In his latest estimates Secretary Brown has simultaneously managed to analyze away the differences between U.S. and Soviet strategic forces—the massive Soviet advantage in megatonnage—and the very large and increasing Soviet advantage in target numbers and hardness.

The article by Bridget Gail follows:

BROWN'S BEWILDERING BALANCES: STRATEGIC FORCES THROUGH THE LOOKING GLASS

(By Bridget Gail)

James Schlesinger, when he was being a somewhat more successful Secretary of Defense than he became of Energy, used to constantly remind his staff that "Everyone is entitled to his own opinions, but no one is entitled to his own facts." That comment hits home comparing Harold Brown's January view of the US/USSR strategic balance with his July 11th testimony on SALT II to the Senate Foreign Relations Committee. That testimony all too clearly shows that the Secretary does feel he is entitled to his own facts regarding the strategic balance, or at least to changing them whenever it suits his political needs.

HAROLD BROWN'S AMAZING MAGICAL MYSTERY TOUR

The Secretary used the opportunity of his SALT II testimony to provide his third major estimate of the trends in the strategic balance since he came to office, and in doing so he provided a whole new way of estimating the balance. This new estimate makes the balance look far more favorable to the US, and "corrects" the shifts in favor of the Soviet Union which occurred between his first two estimates in his fiscal year 1979 and fiscal year 1980 Annual Reports (April 1978, May 1979 AFJs). This "magical" improvement may be good for SALT II, but it is scarcely good for the Secretary's credibility.

The difference between the Secretary's three estimates are shown in the charts opposite (just as he presented them albeit each set separately). It is clear that Secretary Brown found the shifts in the balance in favor of the USSR between his fiscal year 1979 and fiscal year 1980 Annual Reports to be a political embarrassment. He has now chosen to present a totally different set of "facts". He has shifted from his "relative force size" measure, a method of comparison he has never satisfactorily explained, to "warheads," which he fails to explain now. In the process, he virtually eliminates the entire counterforce gap, restoring US superiority by 1983, when his already optimistic assumptions in his fiscal year 1980 Annual Report indicated it would take until 1986 to do so.

The problem with this wonderful solution to our problems is that he accomplishes this literally incredible improvement in the balance without any explanation or reference to his own past estimates. Further, it simply does not stand up to examination:

PROBLEMS IN THE NEW "WARHEAD" MEASURE OF FORCE STRENGTH

The new "warhead" measure quite obviously lumps together intercontinental ballistic missiles (ICBMs) and sea-launched ballistic missiles (SLBMs), cruise missiles, and bombs. This is an "apples and oranges" comparison of the first magnitude. Prompt retaliatory systems with counterforce accuracy, such as ICBMs, are combined with prompt retaliatory systems such as SLBMs that have no such accuracy. Cruise missiles with counterforce accuracy, but ten hour flight times, are also added into the mess, and then short range air-to-surface missiles and bombs are added on top. Treating all warheads alike in a dynamic model not only makes it impossible to evaluate capability before and after a realistic exchange, it makes it impossible to relate the resulting curve to war fighting capability and deterrence.

Secretary Brown's SALT II testimony fails to provide any details on the nature of the "warheads" counted on each side that illustrate this "apples and oranges" nature of the force mix. However, data released since Brown's testimony by Defense Under Secretary Dr. William Perry show the extent to which the Secretary's total "warhead" count must be dependent upon SLBMs without counterforce accuracy and upon slow arriving bomber-launched weapons. Perry's data show that Brown's total warhead count for on "line forces" in FY80 really means the USSR has a 2:1 advantage in prompt retaliatory ICBM warheads with prompt counterforce capability. However, this key measure of warhead capability to conduct a counterforce exchange is buried in Secretary Brown's figures by combining the ICBM totals with an assumed 4:1 US advantage in SLBM warheads—and by an 8:1 lead in bomber warheads—which evidently includes large numbers of free fall bombs and possible short range missiles like SRAM. In short, Secretary Brown's new methodology thoroughly disguises major differences in the capability of the forces counted.

This is equally true of the factors that cause a return to U.S. superiority in the early 1980s, according to Brown's new figures. Dr. Perry says that the first squadron of M–X will not be operational before 1986. It is obvious, therefore, that Secretary Brown's new curves showing a return to U.S. superiority after a Soviet first strike or U.S. retaliation beginning in 1983 cannot be based on prompt retaliatory capability. Since the Trident deployment has only minimal impact on Soviet force size after an exchange, the only "explanation" of the "get well" has to be the cruise missile and the upgrading of Minuteman III. Yet, this depends on the Soviets being willing to wait roughly half a day for U.S. cruise missiles to arrive once they are launched—a "ride out" and refusal to launch-on-warning totally different from the risks the U.S. faces in reacting to a Soviet ICBM attack in the 15–20 minutes available. The postulated effectiveness of the cruise missiles further seems to depend on U.S. targeting capabilities and C^3 systems which—as September's Journal pointed out—may not exist during that period.

It is also obvious from Perry's data that the only improvement in Soviet warhead strength and capability that is implicit in the Secretary's new estimates is the upgrading of the accuracy and reliability of the SS–18 and SS–19 ICBMs to improve their counterforce capabilities. Even this upgrading seems to understate potential improvements in Soviet guidance systems. More importantly, however, it makes no allowance for deployment of a fifth generation Soviet ICBM before 1986 (even though one is allowed by SALT II) or for any major Soviet effort to improve the number of reentry vehicles on their SLBMs or their counterforce capability. The latter assumption seems particularly unrealistic given the fact that SALT II permits the Soviets 14 re-entry vehicles per SLBM and they have rarely failed to upgrade their forces to the permitted level.

It also is apparent from Brown's new "warhead" curves that the reliability and survivability of all elements of the U.S. Triad are assumed to be extraordinarily high given their current lack of readiness and uncertain exercise performance, the aging Minuteman force, the still somewhat experimental nature of M–X, the problems in the Trident and Poseidon force, the problems in the B–52, and the unproved character of the cruise missile. These factors are critical because the Secretary is comparing largely existing Soviet systems to largely potential U.S. systems in terms of their ultimate ability to deliver warheads.

Further, warheads are a poor measure of residual capability on both sides after Soviet first strike and US counterforce retaliation. The only thing it can measure is the potential ability to cover a given number of small cluster targets at the moment of time when the initial counterforce exchange stops. Yet after a Soviet first strike and US retaliation, the US will be highly dependent upon the survival of bombers over a long period of time. This not only seems unrealistic given the highly finite nature of tanker and bomber dispersal and endurance, it ignores the lack of survivable targeting, C^3, and damage assessment systems.

It disguises the fact that there are many large soft targets, as well as many "semi-hard" targets, where yield on both sides is as important as the number of warheads in measuring total destructiveness. The Soviet post-exchange "warheads" will have far greater yield and effective megatonnage against large and semi-hard targets than those of the US, and be able to inflict far larger total damage against the West, than the US can inflict on the USSR and other Warsaw Pact nations. In fact, this superiority would be understated even if Brown had also shown megatonnage or effective megatonnage because of the vastly superior thermal damage capabilities of the weapons in the Soviet force. While this superiority may not be important to the advocates of "assured destruction," it does significantly affect war fighting capability and would leave the US with far less effective residual forces than Brown's curves imply.

Finally, it also is unclear how Secretary Brown is defining initial count "on line" warheads in his new portrayal of the balance. Dr. Perry recently referred to US strategic force loading in FY79 as being over 9,000 warheads (the usually quoted figure is 9,200). Neither the US or Soviet on-line warhead curves for 1979 onwards seem to match this reference point, however, and this raises the question of what the reference point is. It is also difficult to relate the rate of assumed build-up in Soviet warheads to most prior testimony. These curves imply a faster build-up after 1979 than previous reports.

RELATING DR. BROWN'S STATISTICAL CURE OF THE STRATEGIC BALANCE TO HIS PAST NOSTRUMS

There has long been a serious uncertainty in the national security community as to just what inputs and methods the Secretary used to calculate his "relative force size" comparison. The broad trends in his *Annual Report* did, however, at least seem possible. But it is virtually impossible to believe that the changes between his FY80 *Annual Report* (issued last January) and 11 July estimates of the balance after a Soviet first strike can be made to square with the data available. Virtually everything changes: the period in which Soviet superiority occurs, the size of that superiority, the slope in the curves in past and out years, and the number of data points used for estimation. Unless something was massively wrong with the FY80 *Annual*

Report, this change simply does not seem statistically possible. It would require a sudden and amazing change in both the US and Soviet data used, and in the scale used to compare each side.

The same is equally true of the shift between Brown's January and July estimates of the balance after both a Soviet first strike and US retaliation. Here, moreover, the results are even more confusing. Soviet superiority suddenly becomes so low as to be unimportant, and only lasts from FY81 to FY83. This, however, is the result of a dynamic model, and the obvious question is what changes between FY81 and FY83 in war fighting capability that is so totally different from the trends before a Soviet attack, or after a Soviet first strike. Soviets superiority in the latter warhead balance begins in FY81 and lasts until FY85, vs. FY81–83 for the full counterforce exchange.

At the same time, there can be no question that in all his comparisons Secretary Brown has made totally incredible assumptions about future Soviet capabilities. Again, the Secretary has never provided the key details on his assumptions regarding the rate of Soviet improvements for any of his three estimates, but the comparisons virtually must assume no new Soviet bomber, no new Soviet ICBMs, no improvements in Soviet targeting capability, no major improvement in SLBM fractionation and accuracy, and no changes in Soviet bomber or ICBM basing. Such assumptions are far more effective than the SALT II Treaty in limiting Soviet capabilities. Secretary Brown has, in effect, always compared the unexplained to the unplainable, but now, if he is not trafficking in black magic, he is certainly trafficking in illicit statistics.

Unfortunately, however, Brown cannot afford incredible comparisons. What Brown has done is not just good clean political fun. He is not simply a SALT II advocate, he is the Secretary of Defense, the senior US spokesman to the world on US military capabilities. He has a far more serious responsibility than helping the President get Senate votes for SALT, and that responsibility is to present American defense programs with sufficient credibility and integrity to both obtain bi-partisan domestic support and the support of our Allies.

By this standard, his latest version of the strategic balance is dangerous. It does nothing to reassure either Americans or European Allies who also are worried by the debate over the balance. It deprives the senior American official dealing with defense of the special status he should enjoy, and lowers him to the level of anyone else who rigs his data for momentary convenience without back-up or explanation.

In its July issue, the Journal published an editorial calling for a series of regular and comprehensive net assessments of the strategic balance. One of the main reasons for this editorial was the inability to get meaningful official data on the balance which were honestly explained, and which had the credibility to allow meaningful comment and review.

It was nice, three years ago, to hear candidate Carter's call for openness and integrity in government on major policy issues. It was hopeful to hear him come down from Camp David and admit he had made at least a few mistakes. From a practical point of view, however, it would be even nicer to see his Secretary of Defense return to being a Secretary of Defense, and cease being a political apologist who is anything but open, and whose failure to portray the balance in meaningful terms is a clear case of propaganda over professional integrity.

The tragedy of this failure is that if the Secretary did provide the depth of data and analysis necessary to support an objective view of the balance, he might have far more supporters for SALT II who actually believe what he says, he might get much better Congressional backing for a balanced force improvement program, he might offset a great deal of the doomsaying about American power, and he might allay many of the current Allied concerns with US strength. The worst aspect of Harold Brown's effort to replace overkill with oversell is that he could probably get far better results if he made a proper effort to tell the truth.●

LEGISLATION TO PROHIBIT EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION

● Mr. WEICKER. Mr. President, I am pleased to join with Senators TSONGAS and MOYNIHAN in introducing legislation which would make it an unlawful employment practice to discriminate against any individual on the basis of sexual orientation. I offer my full support to this important civil rights legislation. Specifically, this bill would amend title VII of the Civil Rights Act of 1964 to protect homosexual men and women from job discrimination in both public and private sector employment. I commend Senator TSONGAS for this legislative initiative.

By passing the Civil Rights Act of 1964, the Congress put itself and the Nation on notice that discrimination based on race, color, sex, religion, or national origin would not be tolerated. This action brought our laws into line with our beliefs of equal opportunity and social dignity for all Americans. Many of the minority groups covered by that landmark legislation have made significant progress in achieving equal opportunity in housing, employment, and education. Unfortunately, the struggle is not over—the war is not over. There is always a lull after any great battle and the struggle for civil rights has been one of the greatest in our Nation's history. What happens now?

This is the time for the real testing of our commitment to social and economic justice in this Nation. We, in the Congress, must see to it that the spirit and the letter of the Civil Rights Act is carried out; that the minority groups presently protected by that law are truly being protected from the insensitivity and prejudicial attitudes which may persist in our society. Furthermore, we must be cognizant of other minority groups which have been and are being discriminated against and are, therefore, in need of protection under the law. Adding homosexuals to those groups already protected from employment discrimination by title VII of the Civil Rights Act is the first step that would guarantee the same protection afforded to other minority groups because it is through employment opportunities that all Americans derive a sense of self-worth and dignity.

Mr. President, I have always been a strong supporter of civil rights for all groups of Americans which make this country their home. For the last 5 years, I have introduced legislation to prohibit employment discrimination based on an individual's physical handicap. This year, I reintroduced this legislation, S. 346, and cosponsored S. 446, which would make it an unlawful employment practice to discriminate against any mentally or physically handicapped individual. Thanks to the leadership of Senator WILLIAMS, chairman of the Senate Labor and Human Resources Committee, S. 446 has been reported and is awaiting full Senate action. I hereby urge the Senate and the Congress to adopt S. 446 when it is considered so that we can continue to show our support for a uniform and comprehensive national policy of equal employment opportunity for all.

On October 10, 1969, the National Institute of Mental Health Task Force on Homosexuality issued its final report. Concerning employment policies and practices, the task force recommended the following:

> That there be a reassessment of current employment practices and policy relating to the employment of homosexual individuals with a view toward making needed changes. Discrimination in employment can lead to economic disenfranchisement, thus engendering anxiety and frustrating legitimate achievement motivation.
>
> Present employment policies generally deal with the homosexual individual as if homosexuality were a specific and homogeneous category of behavior, and tends to ignore the wide range of variation that exists. We recognize that some homosexuals, like some heterosexuals, may be unsuitable employees in some situations because they do not exercise reasonable control over their sexual tendencies or activities.
>
> Second, in highly sensitive positions, the possibility that a homosexual may be subject to blackmail or undue influence may affect the suitability of a homosexual individual for such employment, although changes in our present laws concerning homosexuality may ultimately eliminate this.

Mr. President, not until the late 1960's because of the anti-Vietnam, civil rights and women's rights movements in this country, did the gays begin to think that they, too, could make a claim on society for recognition of their basic rights and points of view. Unfortunately, 10 years after the task force on homosexuality made its recommendations, the gay campaign to live openly and freely is still far from won. Gay people still encounter suspicion and hostility, and occasionally violence. Over 20 million gays in this country still encounter employment discrimination, and are, therefore, denied the opportunity to make their contribution to society, due to the insensitivity and prejudicial attitudes of many persons who have the responsibility for employment decisions.

In his 1977 article on "Antidiscrimination Regarding Sexual Orientation" Dr. John Money, professor of medical psychology at Johns Hopkins University and Hospital, concluded that:

> Today it is still fashionable to punish homosexual (and bisexual) people, as in job discrimination. The punishment is ineffectual, for it is not possible to force a change from homosexuality to bisexuality, any more than it is possible to force a heterosexual person into becoming a homosexual. Homosexual and bisexual people are not a danger to society any more than are heterosexuals. The vast majority lead useful, productive lives, practicing their personal sexual preference as privately as heterosexuals do theirs. The protection of their privacy should be legal. The nobility of the law requires it.

Mr. President, I feel very strongly about this subject, and truly hope, in a day and age when we seem to have withdrawn within ourselves, that once again we give the broadest possible meaning to what it is we stand for in the sense of constitutional rights.

In closing, I would say this, when people ask, "Is this legislation necessary?" Well, I wish it were not necessary. But it is. Like anything else where a minority is involved, it takes a prod. And specifically, that prod is the law: The Civil Rights Act. I do not think that we are going to address ourselves to the problem or even approach the solution to the problem unless there is law on the books. I, therefore, urge my colleagues to support this legislation that would prohibit job discrimination based on sexual orientation.●

RESULTS ON HANDGUNS IN MASSACHUSETTS

● Mr. TSONGAS. Mr. President, handguns now kill nearly 10,000 people in this Nation each year. They represent a relentless threat to individual citizens and to society as a whole. Thus we must take prudent measures in our common defense that do not violate the constitutional right to bear arms.

The Handgun Crime Control Act of 1979 is just such a prudent measure. It is balanced, limited legislation to help protect Americans imperiled by the proliferation of handguns. Among its provisions the bill provides incentives for States to bar the carrying of handguns in public without a license. In Massachusetts the Bartley-Fox law has already demonstrated that such an approach works.

Yesterday the Christian Science Monitor published an article by Donald C. McKay, Jr., about the positive results of the Bartley-Fox law in Massachusetts. Mr. President, the information it contains will be helpful to my colleagues in their deliberations on the Handgun Crime Control Act of 1979, and so I request that the following article be printed in the Record.

The State Gun Law Kennedy Urges All To Copy

(By Donald C. McKay, Jr.)

Senator Kennedy has proposed federal legislation encouraging all other states to adopt gun laws modeled on the one in his home state of Massachusetts. What is this law and how effective has it been?

Known as the Bartley-Fox law, the Massachusetts statute mandates a one-year prison term for anyone convicted of carrying a gun without a license outside his home or place of business. Because the private possession of guns is not restricted, the law enjoys the support of the gun lobby and sportsmen's organizations. The gun lobby has successfully thwarted legislation to restrict or prohibit such possession at both the state and federal level, despite polls showing overwhelming public support for strong gun-control measures. In Massachusetts itself a ban on the sale or private possession of handguns was defeated by a 3-1 margin in a 1976 referendum.

Nonetheless, since the Bartley-Fox law took effect in April, 1975, gun-related crimes have declined substantially more in Massachusetts than in the nation as a whole. For example, between 1974 and 1976, gun homicides in Boston dropped 43 percent compared to 11.1 percent for other cities of similar size, according to a federally funded Northeastern University study. Armed (gun) robberies in Boston declined by 35.5 percent as against no decline at all in similar-sized cities in the North Central States.

Massachusetts gun-related armed robberies declined 35.1 percent whereas, nationally, gun-related armed robberies declined 11.7 percent; in the other five New England states they actually increased 6.2 percent. The overall Massachusetts rate for gun assaults declined 19 percent from 1974 to 1976, as against a 2 percent decline for the nation as a whole.

It was such statistics that led Senator Kennedy to include in his Handgun Control Bill of 1979 a provision encouraging all states to adopt laws similar to Bartley-Fox.

Retired Judge J. John Fox, who co-authored the law with former Speaker David Bartley of the Massachusetts House of Representatives, contends that the secret of the law's success in preventing gun-related crimes can be laid to three factors:

Widespread knowledge of the law,

Speedy trials required by the law,

The certainty of punishment under the law's mandatory sentence if one is caught carrying a gun illegally.

"Fidelity to the law is not a matter of alternative choices," Judge Fox argues, adding that without the mandatory sentence there would be no certainty of punishment.

Opponents of mandatory sentences contend that judges should be allowed some discretion in imposing a sentence and that judges and juries may be reluctant to convict under Bartley-Fox when they know that the defendant will have to serve a year in prison.

One district attorney claimed to know of at least 10 people arrested for the illegal possession of handguns who had not been found guilty, because obvious criminal intent was lacking. Middlesex district attorney John Droney commented that if a person does not have a criminal record and has any sort of excuse for carrying a gun, he probably will be exempted by the courts. He added that he knew of some criminals who do not carry guns because of the law and concluded: "I think everyone who has gone to jail has gone because there was no question they had a gun and knew the law."

Some 200 million guns, including 60 million to 80 million handguns, are currently in circulation in this country, according to FBI figures. This works out to just under a gun for every one of America's roughly 220,000,000 people. With crime again on the upswing, effective laws to deter the use of guns are more badly needed than ever.

Nearly half the 20,000 murders in America in 1978 were committed with pistols. Until the powerful opposition of the gun lobby to strong federal gun-control measures is overridden, state laws like Bartley-Fox may be the best weapons available against gun-related crime.●

PRESIDENT'S REPORT ON CYPRUS

● Mr. CHURCH. Mr. President, under the provisions of the International Security Assistance Act, the President submits a report on the Cyprus problem every 60 days to the Committee on Foreign Relations. I believe that this brief account of the situation on Cyprus and of U.S. support for efforts to resolve the problem through resumption of the intercommunal talks will be of interest to many Members of the Senate and I ask that it be printed in the Record.

The report is as follows:

The White House,
Washington, D.C., November 21, 1979.

Dear Mr. Chairman: In accordance with the provisions of Public Law 95-384, I am submitting the following report on progress made during the past 60 days toward the conclusion of a negotiated solution of the Cyprus problem.

In my last Cyprus report to the Congress, dated September 25, I noted that the recess in the intercommunal talks continues despite persistent and intensive efforts by UN Secretary General Waldheim and his staff to bring the two parties back to the conference table. I regret to report that in the intervening 60 days these efforts have still not borne fruit.

The United States shares the view that only sustained intercommunal talks can lead to a just and lasting settlement of the Cyprus problem. We believe that the continuing good-offices efforts of the Secretary General are the most promising way to achieve a serious negotiation. I am pleased that our November 1978 proposals provided impetus for the current UN initiative. We have strongly supported that initiative since it began, and we shall continue to do so. In part due to our support, the Secretary General and his staff are making progress toward finding a formula on the basis of which the talks might resume.

The current session of the UN General Assembly is creating opportunities to explore avenues of progress on the Cyprus question. Secretary Vance had meetings with President Kyprianou in New York on September 26 and October 4. Other U.S. officials are in contact with principals in the Cyprus dispute, and with interested third parties, to prepare for the General Assembly debate on Cyprus. We hope that after the General Assembly completes its discussion of Cyprus, both sides will find it possible to resume the intercommunal negotiations. It is essential that they not allow the quest for short-term advantage to erode their mutual objective of finding a settlement which meets the basic needs of all people on the island.

The long and tortuous history of the Cyprus problem demonstrates that peaceful progress has never been easy. The obstacles, while formidable, are not insurmountable. We continue to believe that progress is achievable, and we are vigorously seeking it. Toward that end, we remain in close touch with all parties to the Cyprus dispute, the United Nations, our European allies, and other states which have a legitimate role to play and which desire to contribute to the achievement of our common goal.

Sincerely,

Jimmy Carter.

JUDGE HAROLD LEVENTHAL

● Mr. LEVIN. Mr. President, I have read with great sorrow about the death of U.S. Circuit Court Judge Harold Leventhal. His brilliant, dedicated and very human service as a citizen, lawyer, and Federal judge touched all our lives.

He cared deeply about human and democratic values, as reflected by the issues in which he became involved: The seating of the Mississippi Freedom Delegation in the 1964 Democratic Convention; free transcripts for indigent defendants; speedy trials for incarcerated persons; freedom of political expression; and, an area which is presently of concern to me, the role of the judiciary and legislature in reviewing agency conduct. I recently read Judge Leventhal's thoughtful remarks on regulatory reform. His wealth of experience in reviewing the decisions of various Executive

Departments and independent regulatory agencies during his tenure with the Circuit Court of Appeals for the District of Columbia has been an invaluable tool in evaluating the adequacy of administrative practice and procedure.

Judge Leventhal represented the rare convergence of great intellect, compassion and reason in one human being. We are thankful for the benefits of his rich life as we grieve his passing.●

THEATER NUCLEAR FORCES IN EUROPE

● Mr. KENNEDY. Mr. President, ministers from the North Atlantic Alliance will be meeting next week to discuss the future course of European security. They will decide how best to pursue an integrated strategy of defense and arms control, including: First, the deployment by 1983 of nearly 600 extended-range Pershing II missiles and ground-launched cruise missiles in Europe; and second, proposals for arms control negotiations on theater nuclear forces. The decisions they reach will be of vital importance to the future of NATO.

In a recent speech before the Social-Democratic Party's Bundestag faction, West German Chancellor Helmut Schmidt carefully and thoroughly analyzed the issues that the North Atlantic ministers will be confronting next week. Chancellor Schmidt concluded that, while arms control initiatives should be vigorously pursued to help restore an overall European military balance, it is also necessary to press ahead with the upgrading and modernization of NATO's theater forces. I strongly support his conclusions.

The modernization of Soviet theater nuclear forces, in the form of the SS–20 and Backfire bomber, has caused understandable concern among our NATO allies. For example, the SS–20—a mobile intermediate-range ballistic missile carrying three MIRVed warheads—can strike targets deep inside Western Europe. As Chancellor Schmidt points out, this has resulted in a qualitative Soviet leap during the past 2 years "with respect to range, reloading capability and accuracy, and above all with respect to mobility * * *." These capabilities could pose a threat to NATO unless the United States and its allies follow the appropriate course of action.

I believe we must modernize and expand both our conventional and our theater nuclear forces. We must leave no doubt in the minds of Soviet leaders that we have the will and the capability to respond to growing Warsaw Pact forces.

At the same time, we should seek opportunities to achieve equitable reductions in the theater nuclear arsenals of the Soviet Union and NATO. Such measures would help to lessen tensions in Europe and reduce the risk of the outbreak of war.

In this regard, I join Chancellor Schmidt in welcoming President Brezhnev's general statement that the Soviet Union will reduce its forces in East Germany. We should follow up on this offer by challenging the Soviets to agree to more substantial reductions in the future.

Finally, Mr. President, I believe it is imperative that we make further progress in MBFR negotiations. Chancellor Schmidt has outlined a number of constructive proposals for MBFR, and I urge my colleagues to give these careful consideration. I ask that the following thoughtful and informative speech be printed in the RECORD.

SPEECH BY CHANCELLOR HELMUT SCHMIDT

Through discussion in its own ranks and through publications, the Central Committee of the German Catholics has given new impetus to the public discussion on the question concerning the taxation of pensions. If I may offer some advice: I do not consider such theoretical discussions of narrow aspects of the pension reform very helpful.

I would like to express my gratitude to the mediation committee colleagues and to the faction who, through their efforts, have managed to prevent, on the occasion of an amendment to a law, a concept of inland from prevailing in the turnover tax legislation which the CSU [Christian Social Union] and Mr. Strauss had wanted and which boiled down to designating as German inland the territory that was located within the German borders in 1937. This was unrealistic and nonsensical. We cannot accept this, for reasons of our own political morals and for foreign policy reasons. We were prepared indeed to forget the whole law, if necessary. I am satisfied that it has been possible to achieve this [designation of the concept of inland] in a decent way.

I have read that there are some people who either want to suggest that Antje Huber is contemplating resignation or who want to insinuate that I was considering her dismissal from her ministerial post. Let me say only two sentences in that context: This rumor-mongering is an incredible baseness. Antje Huber enjoys my confidence.

Let me say a word about the failure of the negotiations on the Norddeutscher Rundfunk Network. We must not forget that the negotiations were triggered by someone who obviously is not very happy about the result, namely, by the prime minister of Schleswig-Holstein. I expressly regret the result. In my judgment, Mayor Klose, in advancing his mediation proposal on Tuesday of last week, has gone to the limit of what a Social Democrat could justify. He displayed extreme readiness for concessions. The fact that Mr. Albrecht himself did not take up this far-reaching proposal makes it plain that what matters to him is not the preservation of this institution.

What he is after is something entirely different. I place this into an historical perspective with the Adenaur television project of the late fifties and early sixties. As far as I am concerned, there is a straight line from Adenauer's attempt to set up a private television company for political ends to the present moment when Mr. Albrecht, as the executor of the will of others and under the pretext of creating more freedom, wants to create an instrument for exerting more political influence by specific views.

The diplomatic representatives of the nine states of the European Community have expressed to the foreign minister of Iran the most profound concern of their governments about the violation of diplomatic immunity and urged an early return to the normal observance of international law.

Prime Minister Mrs. Thatcher has explained with great emphasis the difficulties into which the British Government will be plunged by the high British net contribution to EC finances next year—meaning the balance from the payments which Great Britain has to make and the payments which Great Britain receives from the European Community. According to the calculations which we, too, recognize, this would amount to 1.5 billion accounting units next year. (paragraph continues)

This really is a highly difficult problem, yet it is not insoluble. Late this month there will be a meeting of the European Council in Dublin. Not much time is left before then. We have manifested our understanding to Mrs. Thatcher. Yet at the same time, we had to point out quite clearly that the problem cannot be solved between two countries. We, at any rate, cannot be answerable for 1.5 billion accounting units. If anyone expects to have their position improved by 1.5 billion accounting units, then this means that others are bound to become worse off by at least 1.5 billion accounting units.

If simultaneously other countries come up and say: If the British are put into a better position, why should we not achieve a better position at this opportunity as well, then the amount on the whole would increase, on the one hand, and the number of those participating in the raising of such an amount would decrease, on the other. Hence it can be seen that the amount cannot be reached. I suppose that the British Government has the relatively greatest measure of understanding on our part. We do not, however, have any intention of assuming a sort of mediator role in Dublin between Great Britain and the rest of the European Community.

The exchange of views with Prime Minister Hua Guofeng was comprehensive. I personally talked with him for 8 or 10 hours. This was time well invested. It yielded new information. The Chinese premier, by the way, departed in these talks from the thesis of the inevitability of another world war. We stressed that as far as Southeast Asia is concerned, we agree with the ASEAN states' political assessment. We expounded in detail to the Chinese delegation our detente policy, its bases in military balance, but also the elements of our Ostpolitik; the situation of Berlin; and our relationship with the GDR.

I gained the impression that we met with understanding there. There are no bilateral problems between the People's Republic of China and our country. There was, by the way, no exertion of Soviet influence on the visit. During the visit and thereafter, the Soviet press and the East European press reacted with relative reserve.

A final and somewhat longer remark about the development in the relationship between the two alliances, the Warsaw Pact and the North Atlantic pact:

To begin with, I would like to note with satisfaction that the statements made on both sides leave no doubt about the fact that both sides avow the necessity of maintaining the military balance. Both sides have stated that they do not aspire to military superiority.

It is very important to me to emphasize this fundamental attitude toward the problem, for this fundamental conformity is a prerequisite—though in itself not yet adequate, it is necessary nevertheless—for the continuation of arms control policy, for the continuation of detente policy, for the continuation of the policy of cooperation between East and West, especially cooperation in Europe.

If we adopt on principle the position just outlined, then there have always been problems of balance, of course, in individual sectors. Balance does not prevail everywhere: It does not, for example, prevail in the field of conventional troops, and this will continue to be true in the future; nor does it exist, for example, in the case of continental strategic nuclear weapons.

In the case of the latter, the continental strategic nuclear weapons, a qualitative leap has taken place on the Eastern side in the past 2 years, a qualitative leap as a result of the first use of MIRV's for continental strategic missiles; a qualitative leap with respect to range, reloading capability and accuracy, and above all with respect to mobility, which means invulnerability.

Beyond that, qualitative changes must be noted as well. For 2 years now, the new Soviet medium-range SS–20 missile has been introduced—or deployed, as it is termed nowadays—to the Soviet troops at a very swift pace.

What also plays a role in this specific balance problem is the fact that in the intercontinental strategic sector, parity has been fixed by SALT II, so that there is no longer any U.S. "surplus" in that respect, which formerly covered the deficit in continental strategic balance and which could have compensated for this deficit now.

It is absolutely clear that the Western leading power and the Eastern leading power are prepared to negotiate with each other on this politically, militarily and psychologically difficult problem of the continental strategic nuclear weapons and their limitation. I do not doubt this readiness. Last May we succeeded in inducing General Secretary Brezhnev, in general terms, to adopt a general readiness for negotiations which included this sphere of continental strategic weapons in his and in my interpretation.

This spring we succeeded in inducing the Western alliance to be concrete about its readiness for such negotiations, relying on the Brezhnev readiness of last May. The decision that the West would be prepared to propose that this be made the subject of negotiations had already been made at the Guadeloupe meeting. I made hints to that effect at the time here before the faction. Since then I have discussed this another time here.

In his Berlin speech of 6 October, General Secretary Brezhnev clearly and unequivocally came out for negotiations in this field. In addition, he has written a letter. Beyond that he has granted an interview to PRAVDA which one has to read, too. In my reply to the letter which he wrote me—he also wrote letters to other heads of government in the West—I will underscore and expressly welcome the fact that both sides are receptive to negotiations; I shall do that in my reply, which will be sent soon. I shall express my view that negotiations should begin as soon as possible between the Soviet Union and the United States of America.

The idea that Germany would have any part in these negotiations is well-meant, I think, but I consider it adventurous. We must not allow the impression that we want or have to have a say at the table of the nuclear powers. But we must acknowledge that we are affected by the balance or imbalance between the nuclear powers, that we are affected by these negotiations.

We must acknowledge, furthermore, that the enhancement of the Soviet lead in the medium-range sphere is going on without any changes in the continental strategic field. Each year another 50 SS–20 missiles are added, each carrying three warheads, and each year 30 Backfire bombers are added.

Under the leadership of the United States of America, the alliance wants in this situation to create the option of restoring the balance in the continental strategic field by closing the arms gap. In this connection, the alliance does not fail to see—at any rate we, the Federal Government, do not fail to see—that the Soviet Union has legitimate security interests. But neither do we fail to see that the unilateral renunciations made by the United States of America in the course of the past 3 years—for instance, the renunciation of the construction of the B–1 bomber that had been in preparation, or the unilateral shelving of a specific missile development—have so far failed to move the matter. It is necessary to keep this in mind.

In a related decision, the North Atlantic alliance will decide in December first how the balance in the medium-range sector can be restored through the closure of the arms gap and, second, how it can be restored through arms control negotiations and limitations agreements.

Let me repeat a statement I made to the Bundestag on 4 July: Concrete measures for closing the arms gap can be kept limited to the extent we succeed in achieving an effective mutual limitation of the continental strategic systems of the East and West through the SALT II control negotiations. Ideally, in the theoretical case, the outcome may even be that it will not be necessary for the Western side to close the arms gap. This ideal, optimal case requires, however, that the Soviet Union scrap much of what it has produced.

Obviously, the Soviet Union would greatly facilitate these negotiations between the two great powers if it would, in view of the lead in the field of the most modern continental weapons it has achieved by now, as an initial concrete step discontinue further armament with new medium-range missiles or announce that it intends to discontinue it. Obviously, this would be an important contribution toward stabilizing the power ratio in the medium-range field in the negotiations then beginning.

I want to mention in this connection that the position worked out weeks ago by the cabinet in the presence of the two faction chairmen for the December decision of the North Atlantic alliance—first, establishing the balance through closing the arms gap; second, establishing the balance through mutual limitations in the East and in the West—that this position has been outlined to both committees of the Bundestag, the Foreign Policy Committee and the Defense Committee. Both of them agreed.

In addition, several statements were made by Apel, Genscher and myself a couple of weeks ago over Hessischer Rundfunk Network expressing the public stance of the Federal Government in line with the decisions. Perhaps I may say here that it is not helpful for the atmosphere of these forthcoming negotiations if propagandistically active forces below the level of the Soviet leadership, for example, try to construe contrasting opinions within the Federal Government. Such contrasts do not exist. When attacks against Federal Minister Genscher are made, for example they hurt the Federal Government. I reject such attacks.

I welcome expressly the fact that the Federal Government will have an opportunity next week on the occasion of an extensive visit by Foreign Minister Gromyko to discuss these important problems again with the Soviet Government. It was in early July in Moscow that I discussed this with the Soviet Government. My discussion partners on the other side were Prime Minister Kosygin and Foreign Minister Gromyko.

We considered it important throughout the whole year, as we have for some years now, and also during the visit of Brezhnev in May last year, to point out clearly our concern to our Soviet discussion partners and our treaty partners about the imbalances that are coming about. So when Foreign Minister Gromyko comes here next week, it will be a continuation of talks which began long ago.

I do not need to repeat what we have said publicly on Brezhnev's speech. We expressly welcomed some of the ideas that were contained in it. At any rate, one can say that the disarmament discussion as a whole has been given considerable impetus, which ought to be welcomed. It also has led to the fact that we are examining together with our Western alliance partners what initiatives can be taken in other fields of arms control policy in order to positively exploit the momentum that has been created here in the sense of detente policy.

That brings me to MBFR, in connection with which we presented a concrete proposal to the alliance last week, an initiative that intends to bring the long-lasting Vienna MBFR negotiations to an interim result that will be agreed on by East and West—not to conclude the negotiations, but to agree on an initial step that would be put down in writing and become a point from which negotiations can proceed and which hopefully would lead to a second step and to agreements

The most important elements of our proposal are:

First: Contractual agreement on an initial reduction of U.S. soldiers by about 12,000 and Soviet soldiers by about 30,000.

Second: The mapping out of certain points that are planned for the final agreement on which agreement and a joint attitude exists already—namely, a common ceiling for both sides and participation of all states to a considerable extent in further reductions in a second stage.

Third: Contractual agreement on accompanying measures dealing with verification—that is examination—which creates confidence: confidence-building measures such as inspections, the announcement of movements of troops and so on.

Fourth: A declaration of intent by all states participating in MBFR negotiations that these negotiations will be continued with the aim of achieving further far-reaching reductions in a second step.

I want to add that the suggestion we have made to the alliance can naturally be changed in internal discussions in the alliance within the next 3 or 4 weeks. We are not alone in the alliance. It can also be enriched. Having mentioned this I would like to say that I will follow up an idea with regard to the two points I just mentioned, an idea I outlined lately in one of the recent Bundestag debates.

It seems sensible that the East and the West, in outlining common ceilings, should also agree that no state in the Eastern or Western side of the reduction area should maintain more than 50 percent of the troops stationed there. This means in practice that after such an agreement the Soviet Union—that is, the army that we in the West consider the most important factor for us—cannot be stronger than all the other states together in the Eastern reduction area.

Fifty percent of the total means not stronger than all the others together. It would also mean that the Bundeswehr, which is the most important element for the Soviet Union in assessing its security, cannot be stronger than all the others together who are stationed in the Western part of the reduction area.

Reservations exist with regard to this on the Western side. I assume that there are also reservations on the Eastern side. If somebody can think of something better, I do not have the pride of authorship.

We want to give impetus to the whole MBFR matter through the MBFR initiative, through an initial agreement. I must say, however, that we are unable to eliminate one point of this matter which so far has turned out to be an obstacle: It is the lack of agreement on the actual numerical strength of the troops really stationed there. Our timetable envisages that we will introduce our suggestions to the Vienna negotiations before the end of this year.

Maybe I can stress in this connection, speaking for myself, that my personal engagement in what is called MBFR today has not decreased in 20 years, but my detailed knowledge has increased, and more things have penetrated deeply into my brain; basically I am of the same opinion as on November 5, 1959—that is almost exactly 20 years ago—when, speaking for this faction in the Bundestag in a 1-hour speech, I pointed out in detail the considerations of a balance, considerations that—as before—motivate me on principle in what I have pointed out here this afternoon.

In this connection, I want to get back to a passage of Secretary General Brezhnev's speech, where he announced that the Soviet Union will unilaterally withdraw up to 20,000 men and 1,000 tanks from the reduction area. We welcome that. One should know that this is a part of the Western negotiation offers made in Vienna under the label "option 3." It has been suggested to the Soviet Union that it withdraw not 20,000 but 68,000 men, and not 1,000 but 1,700 tanks. Then the Americans would be prepared, in the framework of the overall concept, to withdraw nuclear armed forces from Western Europe.

We are presently engaged in making a new proposal for a unilateral Western announcer ment, namely, to withdraw unilaterally 1,000 Western nuclear warheads from Europe. It is clear that this would also alleviate the FRG. I expressly promoted this suggestion in a talk with President Carter 2 weeks ago. President Carter made a note of it. The alliance is presently dealing with it.

The West would make two things clear with such a step: First, the decision to close the arms gap, which must be made in December by the NATO Council, must not lead to the further amassing of nuclear warheads in Europe. On the contrary, the nuclear potential as a whole must be decreased. Second, such a unilateral Western action ought to represent a proper reaction to the unilateral Soviet gesture, which we welcomed particularly, regarding the reduction in their land forces and tanks that we consider particularly threatening. Such a unilateral reduction of Western nuclear potential would, I believe, contribute to the creation of a positive and promising atmosphere for the forthcoming negotiations on continental strategic arms and their bilateral limitations.

At least 3 if not 4 years will be available for that because it is not technically possible for the Americans to modernize these weapons before 1983. I say most clearly:

Everything that is printed in the papers about the forthcoming Western decisions contains a period of 4 years within which nothing can be done in Europe because it is technically impossible. Once this period has passed—1980, 81, 82 and 83—and if negotiations have not produced anything in that time, one could figure on implementing decisions in 1983 that are taken now in 1979.

In summary: We are facing important decisions. I am inwardly at ease, because the experiences we have gathered jointly, and which I have gathered myself in the course of the past 10 or 20 years, indicate that there is no reason to doubt that the leadership of the Soviet Union and leading politicians in the United States will not abandon the insight that a balance is necessary, because abandoning it would entail enormous dangers for both.

I feel at ease because I assume that the insight into the necessity to maintain the balance will not be called into question despite all the excitement of the day. Part of the balance is that the East and the West recognize and take into consideration their mutual security interests, the legitimate security interests of the other partner. The West must consider those of the Soviet Union and the Soviet Union those of the west.

I think that a difficult situation has come about here, but simultaneously it offers a chance to make a great and important step forward in the efforts to achieve a contractual basis, a basis under international law, for maintaining a balance through arms reductions. If this can be introduced in this way in the coming year, and if success can be achieved in 1981, 82 and 83, it would be an impulse one could hardly overrate with regard to the further development of East-West relations in the world as a whole and in Europe in particular, that says less than cooperation [as published]. It would be a significant impulse one could hardly overrate for the further development of cooperation between the East and the West.

SAVING CAMBODIA, SAVING CAMBODIANS

● Mr. INOUYE. Mr. President, Frank Valeo is well known to this body as the former Secretary of the Senate. He is also well known among those who have a deep interest in Asian affairs as an outstanding Asian scholar and foreign policy advisor.

The November 7 Baltimore Sun carried an article by Frank Valeo on the subject of Cambodia, calling attention not only to the needs of the starving inhabitants of that war-ravaged area but also to the importance of saving Cambodia to secure the political stability of Southeast Asia.

Because of the importance of this issue and of Frank Valeo's statement, I wish to bring the statement to the attention of my colleagues and, therefore, ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SAVING CAMBODIANS, SAVING CAMBODIA

(By Frank Valeo)

What is left of international decency has spurred a relief effort to save the lives of thousands of starving Cambodians. Of necessity, this effort is being directed initially to the refugees who have fled Cambodia and are huddled in collective misery in camps just across the Thai border. The Red Cross, the U.N. agencies, church and other organizations are participating in this humanitarian endeavor. Along with others, the U.S. government has pledged millions of dollars for the relief work.

Thanks to this effort, most of the Cambodians who reach the refugee camps in Thailand can now be expected to survive. As a nation, however, Cambodia may not be so fortunate.

While the situation remains obscure, the few foreigners, including three U.S. senators, who have made the trip to Phnom Penh indicate that the human suffering inside the country is appalling. Nevertheless, the Heng Samrin government in Phnom Penh rejects all relief aid which it cannot control. Heng Samrin's Vietnamese backers refuse even to recognize the existence of a problem.

Meanwhile, guerrilla groups under Pol Pot show little concern for anything other than the war against the hated Vietnamese; those who cannot contribute either fall by the wayside or straggle into the Thai refugee camps.

Steadily, what remains of the Cambodian nation is being ground into non-existence. Before Cambodia was pushed into the Vietnamese conflict, the population exceeded 7 million. Years of air-bombing, revolution and then the harsh reprisals and mismanagement of Pol Pot's brief sway in Phnom Penh are believed to have halved that figure. Inevintably, each wave of dry-season fighting will shrink the number even further while casting up still another wave of refugees. The end is nowhere in sight.

It is not inconveivable that, in time, the Cambodians could be reduced to a tribal vestige. These descendants of the ancient Khmer civilization whose greatness is suggested in the ruins of Angkor Wat could become a kind of endangered human species seeking survival in remote and inaccessible jungles.

The rice terraces, rubber lands and other lush resources of Cambodia which already have been largely abandoned will be left to exploitation by more powerful neighbors. The pattern is not an unfamiliar one in Southeast Asia. Remnants of other once powerful peoples are to be found throughout the highlands and jungles of the region.

Cambodia, in fact, is already well on the way to dissolution as a political entity. Unless the process is checked, the final collapse will give rise to problems even more serious than that of the refugees.

An independent, viable and neutral Cambodia could be a stabilizing factor in the rivalry between China and Vietnam. Cambodia's disappearance would destroy the regional balance, affecting such states as Thailand. The region could become a breeding ground for war for generations.

What hope remains of forestalling this sequence depends in great part on the prompt unification of the Cambodian factions in an effort to save the nation. Only as a unified force will the Cambodians stand a chance of reasserting their battered national identity.

The essential symbol of that unity is not to be found in the present regime in Phnom Penh. The fact that the regime has an abject dependency on Vietnamese forces denies it acceptability among Cambodians at home or in exile.

Nor does Pol Pot represent the symbol of unity. His claim to national leadership has been severely compromised by the cruelty and the ineptitude of his interregnum in Phnom Penh.

That leaves Prince Norodum Sihanouk. His nationalism remains unquestioned. His claim to the loyalty of the Cambodian people is supported by his past contributions. It was Prince Sihanouk who led the country in winning independence from France, in building a brief "golden age" of well-being in Cambodia. It was his diplomacy which fended off the Indochina War for years and won respect for Cambodia's integrity from most of the governments of the world. Most significantly, Prince Sihanouk has held the confidence of both Peking and wartime Hanoi.

Alone among the Cambodians, Prince Sihanouk could serve as a rallying point for the surviving Khmers of all political persuasions. Indeed, he is working with the meager resources that are available to him to assume that role.

His efforts will be of little avail, however, unless there is a readiness by the interested powers, including the United States, to accept him as a key to the rescue of Cambodia and, hence, a significant element in maintaining stability in Southeast Asia. There is reason to believe China is now prepared to see Prince Sihanouk in that light. What of Vietnam and other nations?

It remains to be seen whether the worldwide humanitarian impulse to save the lives of Cambodian refugees can be matched by the diplomatic wisdom capable of saving the Cambodian nation and peace in Southeast Asia.●

OAS RESOLUTION ON IRAN

● Mr. CHURCH. Mr. President, the continuing crisis in Iran has riveted the world's attention for nearly 1 month now. Unfortunately, it has developed into one of the most dangerous moments in the entire post-war period.

In this situation President Carter has proceeded with deliberate caution, great prudence, and immense patience. But he has held fast to one central truth: The release of the hostages held in the U.S. Embassy in Tehran is nonnegotiable. Americans are unanimously united behind him as the actions by the Iranians violate every canon of civilized international behavior and of established international diplomatic law.

At this moment of world peril it is essential that every friend of international law and civility stand up and be counted. The security and freedom of the entire diplomatic community, as well as the honor of the United States, is at stake.

In recognition of these universally accepted truths, the member governments of the Organization of American States have adopted a resolution which calls for the immediate release of the hostages in Iran, and the termination of the occupation of the U.S. Embassy in Tehran.

This resolution was initiated by the Government of Honduras, which communicated to Secretary General Orfila of the OAS, its grave concern over the developments in Iran and asked that the Organization of American States, an organization dedicated to the principles of peace and international security, call upon the Iranian Government to order the immediate release of the U.S. hostages and assure their security.

Ambassador Orfila immediately brought this Honduran initiative to the attention of the Chairman of the Permanent Council, Ambassador Alfred Rattray of Jamaica.

The resolution is in accord with the high principles and singular respect for international law which has invariably characterized the actions of the OAS. I bring this resolution to the attention of the Senate so that its Members may know firsthand that in this hour of grave international danger our friends and neighbors once again stand shoulder-to-shoulder with us, through our common forum—the OAS, in defense of the principles of universally recognized law and practice.

Mr. President, I ask that a copy of the OAS resolution be printed in the Record.

The resolution is as follows:

Declaration of the Permanent Council of the Organization of American States Regarding the Occupation of the United States Embassy in Iran and the Holding of Members of Its Staff as Hostages

The Permanent Council of the Organization of American States,

Profoundly concerned about the situation that has arisen as a result of the occupation of the United States Embassy in Iran and the holding of members of its staff as hostages,

Reaffirms:

That the inviolability of diplomatic agents and premises, and the protection of the immunities and rights of all the members of the diplomatic mission, constitute essential norms of international law designed to guarantee the independence and normal performance of diplomatic functions,

That the duty of every State to respect the rights enjoyed by the other States is a fundamental basis of international law and coexistence among nations;

Declares:

That the occupation of the United States Embassy in Iran and the detention of members of its staff as hostages constitute actions which clearly violate the principles and rules of international law and may also constitute a factor disrupting harmonious international coexistence;

Appeals:

To the Government of Iran that, in compliance with universally recognized international law and practice, it terminate the occupation of the United States Embassy in Tehran, secure the release of all the hostages and provide them with adequate security and appropriate guarantees, and

Entrusts:

The Chairman of the Permanent Council of the Organization to transmit this Declaration to the Government of Iran, the President of the General Assembly of the United Nations, and the Chairman of the Security Council of the United Nations.●

REFUGEE CRISIS IN SOMALIA

○ Mr. KENNEDY. Mr. President, the world's attention has been understandably preoccupied in recent weeks by the growing human crisis in Cambodia, the threat of mass starvation and the virtual destruction of the Cambodian nation.

But as the international community attempts to marshal its resources to deal with the crisis in Cambodia, we and other countries must also be mindful of other humanitarian emergencies that are equally pressing, but are less visible and largely neglected.

Last week I spoke of one such crisis on the tiny island of East Timor—where many months of civil war and bloody repression have combined to produce famine conditions as severe as those in Cambodia today.

Another area facing an equally serious humanitarian crisis, but which has received little attention or concern by the international community—is in Somalia, where the escalating fighting in the Ogaden has produced a massive new tide of refugees.

Yesterday, the plight of the some 360,000 Somalian refugees was graphically reported by Dr. Kevin Cahill, chief health adviser to Gov. Hugh Carey of New York, and an expert on Somalia. I know of Dr. Cahill's deep concern from an earlier report he prepared on the 1975 drought and famine in Somalia, which was extraordinarily helpful to my Refugee Subcommittee in focusing attention on that grave humanitarian emergency.

But his report today on Somalia is even more desperate in its findings, and more compelling in its plea for help.

Hopefully, through such efforts as his, and those of the voluntary agencies, the Somalian refugee problem will receive the attention it deserves. I am encouraged that a special U.N. Commissioner for Refugees team, headed by the Deputy High Commissioner Dale deHaan, is now traveling to the region to report on what more the international community can and must do to help the Somalian Government cope with an escalating flow of refugees.

Mr. President, I stand ready, as I know many of my colleagues do, in supporting efforts to bring peace and relief to tens of thousands of Somalian refugees, and to support the anticipated appeal of the U.N. High Commissioner for Refugees. But it is time we focus attention on what more our Government needs to do if a tragedy similar to Cambodia—perhaps worse than Cambodia—is to be avoided in Somalia.

I commend Dr. Cahill's article to the attention of the Senate, and ask that it be printed at this point in the Record.

[From the New York Daily News, Dec. 4, 1979]

Somalia: A Tragedy Beyond Cambodia's

(By Kevin M. Cahill, M.D.)

The call of death is common today along the Ogaden-Somali border, and it is the children who are summoned most often—the innocent young who bear the overwhelming burden of poverty, illness and the violence of war in the largest refugee population in the world today.

There are now more refugees in Africa than in Southeast Asia, according to the United Nations High Commissioner for Refugees. And in Somalia, there are more refugees than in all the Cambodian and Vietnamese camps combined, though few in our nation are even aware of the problem. Africa, in fact, is being penalized for generously accepting refugees; whereas the obscene practice of expelling refugees in Southeast Asia brings the matter to America's attention and touches our hearts.

The amount of American aid committed to alleviate the current tragedy of Cambodian refugees is many times greater than that even being considered by our government for all of Africa. Possibly the plight of the desperate dying children of Somalia does not touch the complex guilt feelings of America regarding Cambodia and Vietnam, but the Somali child is dying just as rapidly and with the same permanence. To complicate matters even more, the 1980 budget of UNHCR allocates almost three times more funds to Southeast Asia than it does for Africa. To use a diplomatic euphemism, the response of both the United States and the UN refugee organization is "restrained."

For the past 15 years I have worked annually among the Somalis, trekking with the nomads for weeks on end while tracing their diseases. They are a tough, proud people who eke out an existence herding camels and goats over a lunar-like landscape. Survival in such an area, where daily temperatures frequently reach 100 degrees and life is an endless search for water, has earned the Somalis the designation as the "Irish of Africa." They have learned to endure drought and to expect periodic famine. The loyalty of the clan usually sustains the needy, and an intense national pride prevents them from easily seeking or readily acccepting outside assistance.

Four years ago, when the great Sahelian drought moved eastward and enveloped Somalia, I also worked in their relief camps. At one time, nomadic families were recycled for settlement on arable land or along the vast Horn of Africa's Indian Ocean coastline and transformed into farmers and fishermen. Today Somalia is in the throes of a far greater crisis, caught up in a refugee problem without parallel in modern times.

Cambodian and Vietnamese refugees have been turned away at gunpoint from neighboring shores or forced back across borders to certain death. By contrast, Somalia has quietly and steadily accepted the refugees of the Ogaden, for the majority are ethnic brothers and sisters. Nevertheless, this admirable and fraternal national feeling is rapidly reaching the breaking point, for there are now over one million refugees in a total population of five million. Furthermore, women and children account for 90 percent of the refugees in the camps.

The men in these families are gone; some have been killed in the sputtering Ogaden war, many in bombing and strafing raids that have characterized Cuba's and Russia's contribution to the overt Ethiopian effort at permanently depopulating the contested area; other men continue to fight in one of the Somali Liberation Front units, while a few remain in the bush with their dying livestock.

In mid-1978 there were 88,000 refugees in Somali camps, but by mid-1979 the number had risen to 220,000. In the past three months the flight has become a flood tide, with over 1,000 new refugees arriving daily, most in far worse physical condition than those who elected to return to Somalia in 1978. There are now over 360,000 refugees in makeshift camps, and American refugee experts in Africa forecast that a million homeless will be in Somali camps within the year.

I have made medical rounds in the emergency camps in the past week. In most, a single young Somali doctor strives to serve up to 50,000 sick, frightened, homeless people. He works with almost no laboratory or surgical equipment, few nurses and grossly inadequate drugs and medical supplies in one of the five transit and 21 permanent camps. The huts, constructed from mud and thatch, are infested with disease-carrying insects. There are no latrines in any of the camps that I visited, and the only water comes from nearly parched beds of neighboring rivers or stagnant pools that serve the animals as well as the humans.

I have visited the transit camps near the border, where new arrivals are received and three of the large "permanent" settlements where surivivors toil at modest farming projects—growing corn and papayas. I have revisited hospitals in Mogadiscio and Hargeisa to see the meager health service of Somalia begin to collapse under the new pressures.

Infectious diseases—malaria, tuberculosis, hepatitis, dysentery, bronchitis—are rife and the potential for truly decimating epidemics of cholera, for example, is frighteningly predictable. The death rate is astronomic; in one camp of 41,000 women and children, there had been 2,000 deaths in the last two weeks, last year only 28 pregnant women died from dysentery during the week I visited the camp. Contrast that with New York State, where all last year only 28 pregnant women died from any cause, and only one was due to an infection, following an abortion.

Even as I write this article, I cannot eradicate the image and smell of a bullet-shattered limb on a woman who had to be carried by camel over 70 miles to the safety of the border before any medical attention could be provided; I cannot forget the vacant stare and bloated bellies of babies—by the dozen—dying from starvation.

Today Africa looks to America to acknowledge its brotherhood with the vast horde of homeless, displaced persons who have no hold on our conscience—as do the Vietnamese and Cambodians—except for the overriding fact that they are human and starving. Is it too much to hope, for example, that at least the Black Caucus in Congress might agitate for a greater awareness of the problems of Africa? Is it not right to ask that the media help to educate the American public by stressing the scope of the Somali disaster rather than focusing solely on the refugee problem in Southeast Asia? Time is rapidly running out on Somalia, and since that nation can no longer cope alone with the largest refugee population in the world today, the specter of massive famine and death haunts all of us in the human family.●

PUBLIC TRANSPORTATION

● Mr. PELL. Mr. President, one of the most encouraging signs that increasing numbers of Americans are voluntarily conserving energy has been the renaissance of public transportation in 1979. In city after city, and in suburban and outlying areas, transit ridership has increased dramatically this year. Unquestionably, the high gas prices and uncertain supplies have contributed to the ridership gains, but the longest period of sustained growth in patronage since World War II suggests that public transportation has entered a new age in this country.

The irony of this rediscovery of public transportation is that it comes at a time when the ability of our transit systems to meet the increased demand has reached the critical stage. Simply keeping the 52,000 buses in the United States running is becoming a monumental task. Many of the buses are old and break down with increasing frequency. In fact, nearly one third of the buses in service currently are over 12 years old, which is considered to be the maximum life expectancy of a bus. The American Public Transit Association has estimated that over 35,000 new buses will be needed by 1983 to meet the new demand and to replace older vehicles.

An excellent article recently appeared in the Providence Evening-Bulletin on the problems experienced by the Rhode Island Public Transit Authority, which has carried 20 percent more passengers in 1979 than it did a year ago, entitled, "RIPTA Staggering Beneath Success." The article demonstrates the critical problems local transit authorities are already facing because of the lack of new equipment to meet increased demand. Because the article so effectively portrays what is becoming a serious national problem, I would like to share it with my colleagues.

I request that the following article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

RIPTA Staggering Beneath Success

(By Bruce Butterfield)

Providence.—Upstairs, Eileen Cloe ladles out the good news. "We're running to the hilt right now," says the general manager of the Rhode Island Public Transit Authority (RIPTA). "I've lived here all my life, and we've never been a mass transit area. But we're getting to the point where we might become one."

Downstairs, in the huge garage below Miss Cloe's office, mechanics cope with the bad news. They haul out a tired relic of the old ABC Bus Co. to "throw on the line." With 239 buses in service, Miss Cloe says, "we need every piece of equipment we have."

Says marketing chief Joseph M. Varneke, RIPTA is suffering from an embarrassment of riches. "Right now, we're walking on egg shells. If this system generates a 20 percent increase, and I think it could, we're going to have a hell of a time meeting demand."

RIPTA has suddenly become as popular as four-cylinder engines, and there is nothing to indicate it is a passing fancy.

Currently, the state's fleet of old and new buses is moving 71,000 people a day across Rhode Island, more than in any other sustained period of time since World War II. In the last three months, ridership has jumped more than 17 percent over the same period last year.

By the end of the year, RIPTA officials are predicting they will have carried more than 22 million riders—a ridership boost of about 20 percent over last year.

Officials are saying that a permanent rebirth of public transportation—bus transportation—is under way in Rhode Island. Miss Chloe throws out figures to support that claim. And so do the people who drive the buses.

"The difference when I started working here six years ago and now is incredible," says Scott Molloy, a RIPTA bus driver and official of the drivers union. "Even on the old, established city runs where you might pick up 10 people, now you're picking up 30 and 40. It's almost like rush hour all the time and constant, day in and day out," he says.

The new surge of bus-hungry people in Rhode Island began last June amid the summer's energy crisis. And it came at a time when bus use was already on the rise.

In the year before last June's gas lines, ridership jumped 10 percent on RIPTA buses. The year before that saw a 5 percent permanent ridership boost. It was an upward trend carefully promoted and planned for by RIPTA. But now, a combination of dollar-a-gallon gasoline and the sagging economy has sent the figures rocketing beyond anyone's expectations.

However, just when RIPTA's mass transit dreams could all come true, the agency is not in the best of positions to take advantage of it.

Quite simply, RIPTA is beginning to stagger under its success. In fact, the agency is approaching the point where it can't handle any more huge increases in ridership—despite in recent expansion of its fleet, route service and manpower.

During the peak commuter hours now, many of the transit authority's buses are running with standing room only. None is running with an abundance of empty seats. On foul weather days, the rush hour crush on the buses this winter is expected to fill them to the stairwells. Indeed, there have already been scattered cases where buses have been unable to pick up people because they were too full.

The obvious answer to the problem in an era of conservation and high gas prices is for RIPTA to buy more buses. But, its officials say, they can't. The reason? RIPTA, just finishing a major expansion program, has laid no plans for a further expansion for at least two more years.

The dramatic effect of the energy crisis, Varneke admits, caught RIPTA officials by surprise. "We were looking for a 5 or perhaps a 10 percent increase annually. We didn't expect this," he said.

It has also caught them without money to buy any new buses until the end 1980, when a $5-million state transportation bond issue goes before the voters.

That money, which would bring $15 million in additional federal funds, would be for the purchase of 100 new buses over a four-year period. But even if the bond issue is approved by the voters, it will be late 1981 before any of those buses are delivered.

In the meantime, the size of the RIPTA fleet is at a virtual standstill because nobody thought the agency would need additional buses four years ago when today's requirements were mapped out.

"The fact that there is no more money in the pot is of great concern to us. We may get to a point where we have to cut back frequency of service on some lines," Miss Cloe concedes.

Eileen Cloe, who took over as head of RIPTA just last summer, insists the transit authority had no way of knowing four years ago that ridership figures would skyrocket.

Last year, she noted, RIPTA took delivery on 77 new buses that at the time were believed to be more than sufficient to meet transportation demands through 1981. Thirty additional drivers and 12 mechanics were hired as part of the expansion.

RIPTA was hoping for a gradual increase in bus use because of its additional equipment and staff. And to that end, it was aggressively promoting bus ridership through advertisements, new suburban routes, and what turned out to be a highly successful "Park-N-Ride" campaign aimed at bringing commuters in from suburban locations around the state.

As ridership increased at a steady rate last year, Miss Cloe said, RIPTA held onto 45 of the old buses it had planned to turn in, to be "on the safe side."

When this summer's energy crisis hit and sent people rushing to buses in record numbers each day, it was those 45 additional buses that enabled RIPTA to handle the immediate crunch, she said.

But if the rush continues, she and other RIPTA officials admit they may come up short at what could be a critical time for mass transportation in the state.

"More people are saying, 'We want to ride your buses,' but we don't have any more buses for them to ride," she says.

But while Miss Cloe and other RIPTA officials agree that a bus shortfall in the midst of a ridership boom is a very real possibility, they are confident that a major cutback in service can be avoided over the next two years.

Currently, Miss Cloe said, RIPTA is reevaluating it's entire bus system to determine what lines should be given additional buses and what lines can be cut back.

As long as it's carrying regular passengers, she said, no bus line will be eliminated. But she said frequency of service on some lines not heavily used may be cut back. "It may be that instead of a five-minute headway between buses, we'll go to seven minutes or 10 minutes. But we won't eliminate any route," she said.

Slowing service, she admitted, would undoubtedly affect ridership on those lines. But she said the impact would "not be great."

While bus ridership is expected to jump 20 percent or more during the current fiscal year, it is expected to level off somewhat after that, Miss Cloe said.

This year, she noted, the transit authority took over operations of the ABC Bus Co. in western Rhode Island and the popular Newport run of Bonanza Bus Co.—two acquisitions that have contributed greatly to RIPTA ridership figures.

Also, she said, RIPTA added or expanded runs this year in other areas of the state such as Westerly, Little Compton and Foster. No such expansion of routes is planned next year unless major new demands are proven, she said.

Still, Miss Cloe and other bus officials concede that a mass move to buses and new demands for bus service may continue through the next few years if the energy situation worsens, as it is showing signs of doing.

If that happens, things are going to get "quite a bit crowded" on RIPTA buses, Miss Cloe concedes.

The solution: "People have to learn that when they take a bus during peak times in the morning or afternoon, they may have to stand. And they should move to the back of the bus so that there is room for others to get on," she said.

Varneke agrees. "Our motto in the future should be 'Move to the back of the bus,'" he says.●

TESTIMONY OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON THE SALT II TREATY

● Mr. CHURCH. Mr. President, the Foreign Relations Committee has now reported favorably the SALT II Treaty to the full Senate. During the more than 4 months of intensive hearings and markup of the treaty, the committee heard from about 100 witnesses and compiled a hearing record of several thousand pages of testimony. The committee's report, including majority and minority views, comprises more than 500 pages.

One of the most persuasive witnesses before the committee was the Chairman of the Joint Chiefs of Staff, Gen. David C. Jones, who has since testified before the House Armed Services Committee on SALT II. In his House testimony, General Jones reiterated that the Joint Chiefs of Staff, after long and full debate, have concluded that the SALT II Treaty "makes a modest but useful contribution to national security." His assessment remains that given the construction of certain new weapons systems necessary to maintain the nuclear balance—systems that are permitted by the treaty—the United States would be better served with the treaty than without it.

Mr. President, because I share the conclusion of the testimony of General Jones, I ask that his full statement of October 25, 1979, before the House Armed Services Committee be printed in the RECORD.

The statement is as follows:

STATEMENT OF GEN. DAVID C. JONES

Mr. Chairman, members of the Panel: I believe that an important result of the national attention to the SALT II debate has been an increasing recognition throughout the country of the very adverse trends in the military balance with the Soviet Union. There is now a general awareness that for many years the Soviets have been systematically devoting large and increasing shares of their annual budgets to building up their military capability, while until recently, we have been reducing our defense spending to the extent that, in real terms, we are devoting less to defense than at the time of the Cuban missile crisis. This disparity in investment—on the order of 75 percent—has been proceeding across the board for at least a decade, but has been especially prominent in the area of strategic nuclear forces, where for many years the Soviets have been outspending us by a factor of nearly three to one.

There is also a gathering recognition that the 1980s will be a period of international turmoil and instability under the best of circumstances. The prospects for tension are seriously compounded by the growth in Soviet military power and their propensity to fish in troubled waters. We face a decade in which the Soviet leadership's options for projecting power and influence into areas of major interest to the United States will grow and there is no question in my mind that we must take the necessary actions to reduce the risks of encroachment and confrontation.

One of the central questions we must face in preparing to deal with this future—and the question of major concern to this Panel—is what role arms control should play in the perilous days ahead.

In my personal opinion, there is a substantial role for arms control, so long as it is viewed realistically in the larger perspective of our overall national security requirements. A recurring theme in US history, particularly in this century, has been the hope that arms control agreements can somehow serve as the source for enhanced security. In my judgment, the repeated disappointments on this score are due to the mistaken belief that armaments themselves—rather than fundamental clashes of national interest—are the roots of conflict. I believe that, at best, arms control can serve as a framework for enhancing security and promoting stability and ought to be pursued in that light, not as an abstract end in itself.

In short, we should neither expect too much nor strive too little in our continuing efforts to reduce the nuclear arsenals of both sides. In the context of SALT II, some proponents of the Agreement tended to claim that it accomplished too much, although such exaggeration has been muted as the debate has progressed. On the other hand, some opponents of the Agreement criticize it on the grounds that it doesn't solve our fundamental security problems and advocate its rejection for that reason. In reaching our judgment on SALT II, the Joint Chiefs of Staff have based our assessment on what we consider realistic and reasonable criteria which avoid both overgenerous appraisals and unrealistic expectations.

We have been intimately involved in every phase of the negotiations, addressed all the negotiating issues individually, and have fought hard for acceptance of our recommendations. Our objective in all cases was to restrict the Soviets to the greatest extent possible while providing maximum flexibility for U.S. programs.

As with all agencies of the Government which provide advice to the President, some of our recommendations were accepted and some were not. The final Agreement clearly does not accomplish all we would have wished and there are individual provisions we would have preferred to see more restrictive on the Soviets. SALT II will not solve the MINUTEMAN vulnerability problem and the destructive power of their nuclear forces will continue to increase during the Treaty period. At best SALT II is half a loaf.

After the terms of the final Agreement were agreed upon between the two sides, the Chiefs deliberated intensively on the total package. After serious soul-searching, and under no pressure except the recognition of our obligation to recommend what was in our nation's best security interests, we concluded and testified that the Agreement made a modest but useful contribution to national security, provided it was recognized as but a single step in a long range process which must include the programs needed for our defense.

I have pointed out repeatedly during the course of my testimony before Senate Committees that the Agreement clearly restricts the Soviets more than the U.S. I have expressed my concerns about certain provisions but even these are mitigated by partial restraints. For example, although the BACKFIRE is not counted in the aggregate totals, there are restrictions on its production rate. The Treaty does not eliminate the 308 Soviet modern large ballistic missiles, but the ten warhead limit we insisted upon and won achieves an important restraint on the system's potential.

The Treaty also prohibits interference with our means for monitoring compliance with the Agreement. Most important from our standpoint, Treaty restraints on U.S. programs is quite nominal. In fact, the only major restrictions on modernization of our forces are those we might impose on ourselves unilaterally.

We have the right to produce an MX system with the capability and survivability we need and at a pace which is technically and economically feasible. We can build a new bomber aircraft if we desire. We can build and deploy cruise missiles—air, ground, and sea-launched versions—with the performance characteristics we determine are necessary and on a program schedule which we can set. We can modernize our missile carrying submarine force and our sub-launched ballistic missiles in accordance with the program we have set for ourselves. In sum, the Agreement essentially preserves flexibility for US modernization requirements while restricting some—but not all—of the most threatening aspects of Soviet strategic momentum.

Therefore, the key question is, "Should we accept the advantages of the half loaf or lose even these modest restrictions on the Soviet threat by rejecting the Agreement, either directly or by attaching crippling amendments which would require renegotiation?" (Regarding this latter point, I do not favor reopening negotiations with the Soviets on SALT II. I see no circumstances in which we could address issues which bother us without losing ground and limiting flexibility in areas which are now to our advantage.) What I have stated in my testimony is that the nation needs to get on with the ratification of SALT II, the initiation of SALT III, and the strategic, theater nuclear and conventional program necessary to deal with the progressive shift in the military balance in the days ahead. This view remains my deep personal conviction.

To put the question in context, I have suggested that if I were to rate ratification vs rejection on a scale from zero to plus and minus ten, I would place the consequences of ratification at about plus three—a modest but useful step, not a total solution to our security problems for we would like to have achieved more, but a framework for continued progress with our own programs and with future arms control initiatives. However, I would place rejection at about minus seven or eight—a loss of the modest advantages of the Agreement, itself, as well as the consequences of other nations (and our own people) questioning the ability of the United States to exercise a leadership role in the control of weapons of devastation.

Regarding SALT III, expect the negotiations in the days ahead to be a difficult and painstaking process. I would not look for sudden, major breakthroughs in the absence of a more fundamental change in the relations between our two countries. Our goals should continue to be to promote greater stability in the military balance while pressing for reciprocal reductions in the numbers of weapons in the arsenals of both sides. I would emphasize that, although I have never favored the use of systems as "bargaining chips", the fact remains that we would have been in a stronger position for SALT II—and could likely have achieved a more favorable Agreement—if we had had more extensive programs underway during the negotiations. It follows, then, that both our security and our negotiating leverage will be enhanced in the days ahead if we proceed with both the strategic and non-strategic programs which are needed to arrest the very adverse trends in the military balance.

At this time, Mr. Chairman, I am prepared to respond to questions from members of the Panel.●

AUTHORITY FOR COMMITTEES TO MEET

PERMANENT INVESTIGATIONS SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Permanent Investigations Subcommittee of the Committee on Governmental Affairs be authorized to meet during the sessions of the Senate on Friday, December 7, 1979; Tuesday, December 11, 1979; Wednesday, December 12, 1979; Thursday, December 13, 1979, and Friday December 14, 1979, to hold hearings on the law enforcement inpediments with reference to narcotic profits.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be deemed to have been authorized to meet during the session of the Senate today to discus Egypt and the Bellmon resolution (S. Res. 235).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be deemed to have been authorized to meet during the session of the Senate today to hold a hearing on military medical programs and proposed revisions of military medical pay.

Mr. STEVENS. Reserving the right to object, and I shall not object, I do hope we will be able to have these matters presented to us in advance. I understand the circumstances that developed in these two instances and I am happy to cooperate with my good friend from West Virginia.

But we have had some comment made concerning that ex post facto waiver of the rules. I would hope the chairman and ranking members would attempt to convey their request to the leadership on time so that we might handle them properly.

Mr. ROBERT C. BYRD. Mr. President, the distinguished acting Republican leader makes a very pertinent and good point.

However, it is not the fault of the chairman and ranking members.

It is entirely my fault, and simply because of the mad rush in which we find ourselves at this time.

Mr. STEVENS. There is no objection. I appreciate the majority leader's position.

Mr. ROBERT C. BYRD. But the able acting Republican leader is right.

These last few days have just been almost unbearable from the standpoint of finding time for even a spoonful of soup. I shall try to do better.

Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be deemed to have been authorized to meet during the session of the Senate today to hold a hearing on military medical programs and proposed revisions of military medical pay.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Resources and Materials Production Subcommittee of the Committee on Energy and Natural Resources be deemed to have been authorized to meet during the session of the Senate today to hold a hearing on the Campeche Bay-Mexico oil spill and its implications for oil and gas development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be deemed to have been authorized to meet during the session of the Senate today to consider proposed revision of the Senate committee budget system and other legislative and administrative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, again, I thank the distinguished acting Republican leader. These matters will be disposed of in a more timely fashion in the future.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3919

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—subject to the approval of Mr. Long, the distinguished chairman of the Finance Committee—that instead of proceeding with the various plowback amendments, as agreed to in the order previously entered, the Senate on tomorrow, when the Senate resumes the unfinished business, proceed to the consideration of the amendment by Mr. Armstrong.

Mr. STEVENS. The Armstrong-Dole amendment on indexing.

Mr. ROBERT C. BYRD. On indexing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. Armstrong, the Senate then proceed to the consideration of the amendment by Mr. Weicker. I make this request subject again to the approval of the distinguished chairman of the Finance Committee, Mr. Long.

Mr. STEVENS. Mr. President, there is a time agreement on that item of Senator Weicker, by a prior agreement. There is no objection. I am pleased to see that order established.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, because of a personal consideration, I must return to my State tomorrow. The order previously agreed to showed two amendments of mine, one a plowback amendment and one dealing with Cook Inlet. Senator McClure notified me that he must return to Idaho on Friday.

If those amendments are to come up in our absence, will the majority leader consent to carry them over until the first of the week?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that the amendments by Mr. Stevens and Mr. McClure be carried over until Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I am pleased to have the order, and any time limit that the managers of the bill can agree to is acceptable to me on either of my amendments.

Mr. ROBERT C. BYRD. Mr. President, there is no time agreement on the Armstrong amendment; so, as of now, it will be subject to a tabling motion or any other motions that are within a Senator's rights under the rule, and it is also subject to amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I say to the Senator that it was my understanding that that amendment was not subject to a tabling motion at the time. Is that correct?

The Senator from Colorado wanted at least 3 hours on his amendment. I will not be here in the morning, and I hope we can establish some procedure whereby he will be accorded enough time to deal with his amendment prior to any motion to table.

I may be mistaken about the agreement, that a tabling motion would not be in order prior to the expiration of the time limit. He did seek 6 hours.

Can the majority leader protect the Senator from Colorado in that regard?

Mr. ROBERT C. BYRD. Yes. There was no time limit agreed to, and consequently a motion to table would be in order. But I will seek to protect him, and I am sure Senator LONG will be agreeable.

Mr. STEVENS. I thank the majority leader.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. HATCH ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. HATCH be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9:30 tomorrow morning.

After the two leaders or their designees have been recognized under the standing order, Mr. HATCH will be recognized for not to exceed 15 minutes. If there is any time remaining at that point, between that point of time and 10 a.m., I will handle that, either by having morning business or recessing.

In any event, the Senate will proceed at 10 a.m. on S. 2076, Calendar No. 480, a bill to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances. That bill is under a time agreement of 1 hour.

Upon the disposition of that matter, the Senate will resume consideration of the unfinished business, at which time the Senate will proceed to the consideration of the Armstrong amendment on indexing, subject to the consent and approval of Mr. LONG.

There will be rollcall votes throughout the day tomorrow and again conceivably there could be a reasonably late session.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 8:20 p.m., the Senate recessed until Thursday, December 6, 1979, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 5, 1979:

UNITED NATIONS

Gerald Bernard Helman, of Michigan, a Foreign Service officer of class 1, to be the Representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

DEPARTMENT OF JUSTICE

Charles Frederick Carson Ruff, of the District of Columbia, to be U.S. attorney for the District of Columbia for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Juan M. Perez-Gimenez, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

Horace T. Ward, of Georgia, to be U.S. district judge for the northern district of Georgia.

Jose A. Cabranes, of Connecticut, to be U.S. district judge for the district of Connecticut.

Robert J. McNichols, of Washington, to be U.S. district judge for the eastern district of Washington.

HOUSE OF REPRESENTATIVES—*Wednesday, December 5, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
December 3, 1979.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Wednesday, December 5, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Rev. Arthur Martin, associate minister, Eastminster Presbyterian Church, Columbia, S.C., offered the following prayer:

O Lord, our God, Thou who dost preside over the destinies of men and nations, at the start of this day's session of Congress, we pray for Thy guidance and blessing upon these chosen representatives of our Nation. By the indwelling of Thy spirit, sanctify the gifts of mind, body, and spirit with which Thou has endowed each of them. Make them instruments of Thy peace, both in the lives of their colleagues and constituents, and in the life of our Nation and the nations of our world, all entrusted to us by Thee. This our morning prayer we offer to Thee, each in his own way, and many of us in the name of Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BAUMAN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 12, answered "present" 3, not voting 65, as follows:

[Roll No. 699]

YEAS—353

Abdnor
Addabbo
Akaka
Alexander
Anderson, Calif.
Annunzio
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
de la Garza
Derrick
Devine
Dicks
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or inserti ons which are not spoken by the Member on the floor.

Ginn
Glickman
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—12

Deckard
Derwinski
Dickinson
Erlenborn
Jacobs
Lloyd
Mitchell, Md.
Quayle
Sabo
Schroeder
Walker
Wilson, Bob

ANSWERED "PRESENT"—3

Davis, Mich.
Forsythe
Neal

NOT VOTING—65

Albosta
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Ashley
Barnard
Bedell
Beilenson
Biaggi
Buchanan
Burton, John
Byron
Cavanaugh
Chisholm
Coughlin
Crane, Philip
Danielson
Davis, S.C.
Dellums
Diggs
Dingell
Dixon
Dornan
Dougherty
Eckhardt
Edwards, Calif.
Flood
Frost
Garcia
Goldwater
Gonzalez
Goodling
Guyer
Hall, Ohio
Hall, Tex.
Heckler
Hinson
Jenrette
Leland
Lujan
McDade
Madigan
Michel
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Nolan
Price
Ritter
Rose
Rostenkowski
Russo
Santini
Slack
Spellman
Stark
Steed
Treen
Waxman
Wilson, C. H.
Winn
Wylie

☐ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and a joint resolution of the House of the following titles:

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross; and

H.J. Res. 448. Joint Resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1535. An act to name a certain Federal building in Rochester, N.Y., the Kenneth B. Keating Building.

The message also announced that the Senate insists upon its amendments to the amendments of the House to the bill (S. 932) entitled "An act to extend the Defense Production Act of 1950, as amended," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints as conferees to all titles Mr. JACKSON, Mr. CHURCH, Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. DURKIN, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. MELCHER, Mr. TSONGAS, Mr. BRADLEY, Mr. HATFIELD, Mr. McCLURE, Mr. WEICKER, Mr. DOMENICI, Mr. STEVENS, Mr. BELLMON, and Mr. WALLOP and that the Senate appointed further conferees for specific titles are as follows:

Title I, Senators PROXMIRE, WILLIAMS, CRANSTON, STEVENSON, MORGAN, RIEGLE, SARBANES, STEWART, GARN, TOWER, HEINZ, ARMSTRONG, KASSEBAUM, and LUGAR;

Title II, Senators TALMADGE, McGOVERN, HELMS, PROXMIRE, STEWART, and LUGAR;

Title III, Senators PROXMIRE, STEWART, and LUGAR;

Title V, Senators PROXMIRE, WILLIAMS, CRANSTON, STEVENSON, MORGAN, RIEGLE, SARBANES, STEWART, GARN, TOWER, HEINZ, ARMSTRONG, KASSEBAUM, and LUGAR;

Title IX, Senators PROXMIRE, WILLIAMS, CRANSTON, STEVENSON, MORGAN, RIEGLE, SARBANES, STEWART, GARN, TOWER, HEINZ, ARMSTRONG, KASSEBAUM, and LUGAR;

Title XI, Senators PROXMIRE, WILLIAMS, CRANSTON, STEVENSON, MORGAN, RIEGLE, SARBANES, STEWART, GARN, TOWER, HEINZ, ARMSTRONG, KASSEBAUM, and LUGAR to be conferees on the part of the Senate.

The message also announced that the Senate has passed bills of the following titles, in which the concurrence of the House is requested:

S. 68. An act for the relief of Dr. Jesus Tan, his wife, Margaret Pearl Liyao Tan, and their son, Jesse William Liyao Tan; and

S. 1918. An act to amend title 10, United States Code, to revise and make uniform the provisions of law relating to appointment, promotion, separation, and retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the grade of commodore admiral in the Navy, to equalize the treatment of male and female commissioned officers, and for other purposes.

☐ 1020

REV. ARTHUR M. MARTIN

(Mr. SPENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SPENCE. Mr. Speaker, our opening prayer today was led by the Reverend Arthur M. Martin of Columbia, S.C. Reverend Martin is the father of one of our colleagues, JIM MARTIN, who represents the Ninth Congressional District of North Carolina.

A native of Savannah, Ga., and a graduate of Davidson College and Louisville Theological Seminary, Dr. Martin has served as minister of the Sion Presbyterian Church in Winnsboro, S.C., and for 19 years as executive secretary of the Presbyterian Synod of South Carolina.

He and Mrs. Martin have three other sons, in addition to our colleague, and they presently serve the Eastminster Presbyterian Church in Columbia, which is in my congressional district.

We are pleased to welcome Dr. Martin with members of his family to be with us this morning and to serve us in this very special way.

INFLAMMATORY RADIO BROADCASTS FROM RUSSIA BEAMED INTO IRAN

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, prior to the November 4 takeover of our U.S. Embassy in Tehran and the bizarre capture of Americans by Iranian terrorists, there were many inflammatory, anti-American radio broadcasts from Russia beamed into Iran. These October Russian broadcasts no doubt added to the growing friction between America and Iran.

The Soviet Communist Party newspaper Pravda today now claims the United States is using "crude military and political pressure against Iran." Pravda adds:

> Washington has decided to intensify the crisis and turn it into one of the most serious international conflicts of the post-war era.

Hopefully, advocates of Senate approval of the strategic arms limitation talks will now take a new look at SALT II and realize that we cannot trust the Russians, even when world opinion is almost unanimous that the United States is acting responsibly as to the Iranian crisis.

CAMBODIA FAMINE RELIEF

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLFF. Mr. Speaker, on October 25, the House voted to join the administration in an international relief effort for the people of Cambodia. As I noted at that time, the issue was a matter of life and death for 3 million Cambodians.

Yet, as reported in yesterday's Washington Post, international food aid is failing to reach the famine stricken areas of Cambodia. And increasingly, we have heard reports that the Cambodian authorities, backed by the Vietnamese, are using food as a political weapon, thus subverting the humanitarian purposes of the international relief effort.

Mr. Speaker, the Congress must insist and join with the administration and the international community to bring unrelenting pressure on the Government of Vietnam and the authorities in Phnom Penh to insure that food supplied for humanitarian purposes be used as intended. The use of food as a political weapon is, I submit, an affront to the entire civilized world. It cannot be allowed.

WELFARE OF HOSTAGES IN IRAN

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, I have a complaint which everyone in this body and across the Nation should bear.

It appears that politics or personal pride are standing in the way of the welfare of the hostages and their families.

It is obviously easier to get past the radical government of Khomeini to see American hostages than to get important information back to the right people in my own Government.

My colleagues here have listened well—but 1 week has passed since my return from Tehran and I find that worried families and the hostages themselves continue to suffer because of a stonewalling the people downtown are giving to me and others in Congress regarding the crisis in Iran.

I am today taking a 1-hour special order at the close of business to tell the story of Iran and about the neglect of hostages and their families and ask any and all of my colleagues to participate.

□ 1030

VIRGINIA BEACH, VA., SALUTES OUR FLAG TODAY

(Mr. WHITEHURST asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. WHITEHURST. Mr. Speaker, at noon today in Virginia Beach, thousands of citizens are going to take a moment to salute our flag. Aware of the plight of our countrymen, they want to demonstrate their support for our Government and their determination to stand firm in the face of an unconscionable act of terrorism against all rules of civilized conduct.

Mr. Speaker, the initiative for this move was taken by a member of the city council of Virginia Beach, Mr. R. L. (Buddy) Riggs, and it has the support of local naval authorities, the schools, and countless others. If there is a silver lining in the cloud of the Iranian crisis, it is the patriotic spirit that has been reawakened in our land. The world should see Americans standing shoulder to shoulder, and the world should know that the inspiration of our forefathers is undiminished.

I encourage my colleagues to promote similar activities in their own districts. In Virginia Beach, there will be patriotic displays, salutes to our flag, observances in the schools, and many other such efforts to show support for our leaders in these trying times. Planes will fly over displaying banners with patriotic slogans, and I hope that church bells will be ringing. Let us make this a national effort, and make sure that the world gets the message.

Thank you, Mr. Speaker.

NAVAL ORDER OF THE UNITED STATES OFFERS PRESIDENT ADVICE ON DEFENSE

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, I would like to bring to the attention of my colleagues two resolutions adopted recently by the Naval Order of the United States during their biennial meeting in Buffalo, N.Y.

The Naval Order of the United States was founded in 1890 and is composed of naval officers and their descendants.

This organization has a long tradition of support for a strong Navy and for an overall strong national defense—traditions which have furnished our Nation with years of security and peace.

The Naval Order opposes the SALT II treaty as undermining the military strength of the United States, and urges an increase in spending for the Navy and other defense priorities.

Following are the two resolutions:

Resolved, That the Naval Order of the United States hereby expresses to the President and the Congress its opposition to ratification of the SALT II agreement in its present form.

Resolved by the Naval Order of the United States that Congress give stronger support to increasing the strength of the United States Navy and a larger budget for defense.

I concur with the Naval Order's resolutions and urge my colleagues in the Congress to give careful attention to these views.

EXPERIENCED PILOTS ACT OF 1979

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 455 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 455

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3948) to amend the Federal Aviation Act of 1958 to eliminate the age limitation presently imposed on certain pilots of aircraft, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. LATTA), and to myself such time as I shall consume.

Mr. Speaker, this is an open rule, with the time to be divided in the usual manner between the chairman and the ranking minority member of the Committee on Public Works and Transportation. The rule does provide that an amendment in the nature of a substitute may be offered as an original bill for purposes of amendment. The rule also waives certain pertinent provisions of the Budget Control Act because the legislation as reported authorized an expenditure of $600,000 for a study. But, since the requirements of the Budget Act have not been met, that provision was subject to a point of order. The chairman of the Aviation Subcommittee of the Committee on Public Works and Transportation, will offer an amendment which will strike the $600,000 authorization, so that there will be no violation of the Budget Act when the bill comes before the House for consideration.

Mr. Speaker, this is a very significant measure that we are going to consider under this rule. It is going to indicate whether this House, which has taken such a commendable position in the past 2 years in recognizing the rights of the elderly, will allow the older people of this country to keep on working when they are qualified to do so. Today's deliberation will determine whether we are going to continue to progress in the recognition of those basic rights of Americans who are qualified and competent to keep on working at the tasks to which they are accustomed; or whether we are going to retrogress in our attitude toward the recognition of that fundamental right of Americans to work when they are qualified and competent to do so.

The bill which will be under consideration when the rule is adopted modifies the present regulation of the Federal Aviation Administration pertaining to the age at which individuals may continue to work as pilots of commercial air liners. The regulation now in effect limits the right of a pilot to work to the age of 60. When he reaches the 1st second of his 60th birthday, under the present regulation, a pilot is absolutely forbidden to fly for another second. Now, that outdated and arbitrary regulation was promulgated under General Quesada 20 years ago, at a time when the average rate of longevity in the United States, was 6 years below what it is today.

That is the change that has come over the character of the American population. This rule, therefore, is an anachronism. It belongs to an older day rather than the present, when older people in America are living longer. Only 3 weeks ago, our Committee on Aging held a hearing on longevity. We had eight witnesses, all of whom were over 100 years old. There are over 13,000 people in the United States over 100 years old today. Ten years ago, there were only 3,200. So, people are growing older, and today we do not think of a man 60 years old as being an old man. He is a vital, meaningful person in our society.

Today, one of the outstanding pilots piloting commercial airliners in this country, who has been flying for 35 years—his name is Capt. Jack Young, and many Members have met him because he has been around to see them advocating the passage of this bill—today that man becomes 60 years old. He is in vigorous health. He has passed two physical examinations this year, the 59th year of his life. He passed another proficiency examination given by the FAA. He has met the requirements of his employer airline. He is in good health.

Yet today, because the calendar clicks 60, that man is forbidden to go back in that cockpit. Is that a reasonable or rational regulation?

Now, this bill would permit him to continue to fly for 18 months only. The bill originally provided for age 65 as the age limit to which they could fly, but the Committee on Public Works and Transportation finally agreed on an extension of 18 months only. Now what is to happen during that 18-month period? Now he takes two physical examinations a year given by FAA in his 59th year. In his 61st year under this bill he will have to take four physical examinations and one proficiency examination, and then in addition to that any other requirements that his employing airline may impose.

□ 1040

It seems to me that every protection, every safeguard, every precaution that would be required to give him that additional 18-month right to fly—the job that he has been performing adequately for a long time—is provided in this bill. So we are asking the House to take account of the fact that the regulation limiting his right to fly to age 60 was promulgated 20 years ago, and to take into account that last year the Congress, with the approval of the President, provided that to deny anybody a right to work on account of age, except in a situation which is exempt by law, is a violation of that American's civil right. That law was passed last year by this Congress. In addition to that, last year this Congress, with the approval of the President, passed landmark legislation which has received the approval of the country as well as the Congress, forbidding any person working for the Federal Government to be mandatorily retired at any age on account of age alone, leaving only qualification and competence as the criteria by which a person could be prevented from carrying on his or her work.

We also provided last year, with the approval of the President, that anybody in non-Federal employment not exempted cannot be mandatorily retired until age 70. That is a change from the past because we have the different character of population today from what we have had in the past. So all we have done in this bill—we call it the Experienced Pilots Act of 1979—is to allow an 18-month extension of the right to work when that individual meets four tests of physical competence in the first year, that is the 61st year, and half of that, of course, in the 6 months into his 62d year; and when that individual meets the proficiency test of the FAA; and when that individual also meets any test that may be imposed by the airline for which he works. So we feel that bill is a modest and reasonable request for an extension of this fundamental right to work on the part of these vital and competent people. We think every safeguard has been provided by the provisions of this bill, so we hope that this rule will be adopted and the House will be permitted to consider this very meaningful legislation and that this measure shall have, as this kind of thing has had in the past, the overwhelming approval of this House which has a proud record of innovation for the cause of older people of this country.

At this time, Mr. Speaker, I yield such time as he may consume to the able gentleman from California (Mr. ANDERSON), the chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation.

Mr. ANDERSON of California. I thank the gentleman for yielding.

Mr. Speaker, I stand in support of the rule as proposed. H.R. 3948 is urgently needed legislation which will end one of the last vestiges of age discrimination by the Federal Government. In addition to the relief from arbitrary age discrimination which pilots will obtain by passage of this bill, the bill is important because it demonstrates that Congress is committed to removing all remnants of age discrimination from our society.

The current Federal aviation regulation which requires airline pilots to retire at age 60 is a classic case of age discrimination under which individuals are judged on the basis of age, not ability. This regulation deprives individuals of the right to continue working solely because they reach a certain age. The effect of this arbitrary rule is also to deprive the traveling public of the services of some of the safest and most experienced, motivated pilots employed by the airlines.

The original age 60 rule, established in 1959, has been justified by some on grounds of safety. However, this rationale is completely contrary to current scientific knowledge. Current scientific knowledge indicates that individuals age at different rates and that generalizations about any specific age are meaningless. We know that most people can remain very active in their occupations well past age 60. The same is true for qualified airline pilots, but they are prevented by Federal rules from doing so.

In testimony before the Subcommittee on Aviation and the Select Committee on Aging, we heard from medical experts and experts on aging. No evidence could be found that justified a mandatory retirement age of 60 on safety grounds. In fact, evidence indicated that if a pilot was still flying at age 60 he was probably one of society's healthiest human beings. The safety issue is a smokescreen for selfish economic considerations and should be laid to rest.

Despite the fact that no evidence was presented that justified an age 60 rule, the testimony did indicate that a comprehensive study of the whole issue of aging and pilots is needed, since very little is known about the specific effects of aging on pilots. A study is also needed to analyze the entire medical evaluation procedure for airline pilots. Evidence at the hearings indicated that there may be problems with the type of examinations which are required and the procedures for authorizing private physicians to conduct these examinations.

H.R. 3948 has two purposes: First, it would provide immediate relief from age discrimination for pilots approaching age 60; second, it would authorize a thorough study of the issues surrounding pilots' age and medical evaluation. To accomplish this, H.R. 3948 raises the mandatory retirement age for pilots to 61½ for a temporary period of 18 months and provides for a year-long National Institutes of Health study of the effects of aging on pilots and pilot medical evaluation procedures.

This is admittedly a very conservative approach to a very serious problem, but we believe it will provide the immediate temporary relief from age discrimination to those pilots who will need it in the very near future, as well as provide Congress with the information needed in order to undertake more comprehensive legislation in the future.

Mr. Speaker, I ask for support of the rule and this important piece of legislation.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding. I was interested in the comments of my subcommittee chairman indicating that there is no evidence that there was any increase of health problems as one got old amongst the pilots.

The gentleman will remember that the expert witness used by those who favor the gentleman's position was Dr. Moeller, and in Aerospace Medicine, September 1973, he wrote an article and put a chart in it which I will be glad to show the gentlemen—I have got some copies of it—that indicates that amongst the pilots the incidence of heart attack increased substantially in the categories when you go from 40 to 50, and then in the 56 to 60 age bracket almost four times what you have between 40 and 44. When you get to 50 to 59 in the airline pilots who lose their licenses by virtue of this, per 1,000, it increased seven times in the 4 years from 55 to 59—eight times, as a matter of fact, as opposed to the 4-year period 40 to 44 who lose their licenses per 1,000 because of heart problems.

This goes contrary to the gentleman's statement. As he knows, of course, the NTSB records indicate that those older pilots have an accident rate almost two times greater than younger pilots. That is only airline pilots, that is not all pilots. I just want to bring that to the gentleman's attention because it does not square with what he has stated.

Mr. ANDERSON of California. The tests that the gentleman refers to are tests taken of all people, not just commercial airline pilots. I think, as I pointed out in my remarks, commercial airline pilots are probably the healthiest people really.

Mr. SNYDER. The gentleman is in error. The gentleman is in error.

Mr. ANDERSON of California. Let me finish. I would like to give the gentleman something a little more definite. I tried to find out a little bit about accidents with pilots, and I do have the breakdown of accident by captain age of certified route air carriers on scheduled domestic passenger service. Of course, it shows that one of the safest groups is that from 55 to 59, but it is not a totally fair representation because it indicates the number of accidents by age group and not by percentage. But I was able to get a more exact study that covers 1977 accidents in general aviation involving pilots-in-command with commercial certificates. It shows here on this chart that the ones that have the highest risk, the ones that are perhaps the most dangerous to fly with, are pilots from ages 16 to 19. Obviously, they would be the least experienced.

☐ 1050

They have 23.74-percent accidents per thousand.

The next group, the 20 to 24 age is 16.58. The next is 25 to 29, 12.11, and so on down and the safest group percentage is the age 55 to 59. They only have 6 percent of the accidents per 1,000 pilots.

Mr. Speaker, this shows that the experienced pilot who has been a pilot for years and who maintains the health standards that you have to to be a pilot are by far the best and safest to fly with.

Mr. SNYDER. Mr. Speaker, I have no figures on general aviation pilots. I refer only to U.S. air carrier pilots based upon statistics from the National Transportation Safety Board and it shows the accident rate for older pilots is almost two times greater than for younger pilots and Dr. Moeller's article shows the heart-attack incidents in the age group of airline pilots goes up four times when you get to the last 4 years as opposed to the 40- to 44-year bracket. That is air carrier pilots and that is the subject which is germane to this bill. We are not talking about general aviation pilots.

Mr. ANDERSON of California. I have the air carrier pilots here, too, and it shows that one of the lowest ones is the group age 55 to 59 and probably the highest risk were some of the other ages, 26, 22, 48, and so on. I said this was probably not a fair one because it indicates the percent of commercial accidents by age and not by percentage as it should be. However, even in that case it shows the safest is the older group. Again, this is given to us by the air carriers themselves.

Mr. SNYDER. My figures are from NTSB statistics.

Mr. PEPPER. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, let me pay my respects to the gentleman from Florida (Mr. PEPPER). I know of no one who has worked more diligently over the years for our senior citizens than the gentleman from Florida. I wish to take this opportunity to compliment him for his work.

However, in this instance, Mr. Speaker, I think the gentleman's enthusiasm has gotten out of hand. Here we are dealing with the safety of the traveling public. I think people who travel by air are more concerned about their safety than anything else. Certainly here is a piece of legislation that will compromise, if it becomes law, that safety, and there is no mistake about it.

Let me say, Mr. Speaker, this matter should not be on the floor today. It should not be being considered at all. It had a budget problem. The Committee on the Budget voted 13 to 4 against granting a waiver but then they came back and took out the authorization for 1980 to get around the budget problem. The legislation provides for a study. However, during the time the study is taking place, Mr. Speaker, the pilot's age limit would have been increased by 1½ years, from 60 to 61½.

Mr. Speaker, it would appear they have the cart before the horse. They are going to have the study and then determine whether or not the Congress acted properly by extending it from 60 to 61½. That kind of logic should not prevail in this House.

Mr. Speaker, what happens if during the course of this study, hundreds of people die in air crashes? Does the Congress say, we made a mistake and we are sorry.

It seems to me if we are going to act prudently we would have the study first and then act. However, this is not the way this legislation comes before us today.

Mr. Speaker, it has already been pointed out in a colloquy here today about the increased incidents of heart attacks among people getting along in years.

Mr. Speaker, they call this bill the Experienced Pilots Act. It probably ought to be appropriately referred to as the Older Pilots Act. I do not think we ought to pay much attention to these titles. I have long advocated we should do away with titles to bills because they are misleading. We ought to refer to bills by numbers alone, and this is good evidence right here as to why we ought to follow such a course of action. This does not prevail in this House because many want to attract attention and some people only read the title and not the fine print. They always stick a title on like the Experienced Pilots Act without saying anything about the age of these experienced pilots.

Mr. Speaker, who is more concerned about safety than the traveling public? I have not had one letter, I have not had one phone call from a person riding commercial airlines in support of this legislation. We have had communications from the special interests, a few pilots who might be benefited by this legislation but I have not heard from anybody in my district who rides the airlines saying that we ought to have this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to my friend from Alaska as I understand he has peculiar problems in Alaska.

Mr. YOUNG of Alaska. May I inquire did the gentleman receive letters in opposition from the general public?

Mr. LATTA. We have had a lot of letters in opposition.

Mr. YOUNG of Alaska. From the general public?

Mr. LATTA. Yes.

Mr. YOUNG of Alaska. I am very interested. I have not received one during the whole time we have been considering this legislation.

Mr. LATTA. Mr. Speaker, H.R. 3948 is opposed by virtually every segment of the aviation community knowledgeable in air traffic operations.

Now, Mr. Speaker, understand this: The FAA opposes this legislation. The Airline Pilots Association representing 37,000 airline pilots is opposed to this legislation. The Air Transport Association which represents almost all of the Nation's airlines is opposed to this legislation. In addition, this legislation is opposed by the Aerospace Medical Association and the American Medical Association, both of which urge this committee to retain the age 60 at least until the NIH study is completed and submitted to the Congress.

Now, Mr. Speaker, I am advised that the gentleman from New Jersey (Mr. HOWARD) during the 5-minute rule will offer an amendment to provide only for a study. Hopefully, we will pay attention to his arguments when he presents this amendment, which is a proper substitute to this bill. Hopefully, it will prevail.

Mr. Speaker, let me say we heard comments earlier here during the debate on the rule that if this legislation is passed it will wipe out the last vestages of age discrimination. Well, that is not true. If you raise the age limit to 61½ how about the discrimination against that person who is age 62?

☐ 1100

You do not eliminate age discrimination in this bill. Most of the same individuals who are sponsoring this legislation today voted a few years ago to put a mandatory age retirement of 56 on the air traffic controllers and 55 on Federal law enforcement officers and firefighters.

Now, I ask my friends to consider this and to consider the safety of the American traveling public when you vote on this matter, because safety should be uppermost in your minds.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McCLORY).

(Mr. McCLORY asked and was given permission to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, I rise in strong support of the rule providing for our consideration of the bill (H.R. 3948), the Experienced Pilots Act of 1979. This measure, if enacted, would call for a prompt moratorium on one of the most flagrant types of age discrimination being practiced in our Nation today. To arbitrarily cast aside and mandate a forced retirement of airline pilots at age 60 can be one of the cruelest and most inequitable forms of discrimination which is permitted in our Nation today.

Mr. Speaker, let me say first of all that I believe that I have the largest number of airline pilots in my congressional district of any congressional district in the country. With O'Hare Airport located nearby and with United Airlines, the largest airline in our country, having its home office between the boundaries of my district and O'Hare Airport, I find that a very large number of pilots and other airline personnel are indeed my constituents.

With regard to the debate on the legislation which this rule would authorize, I have spoken personally with a fairly large number of airline pilots who, as I say, are also my constituents. Some appear to be approaching the arbitrary 60-year cutoff of their active service. Many others are younger and regard this legislation in an entirely unselfish manner. Indeed, the only special interest view which has been expressed to me was one which came by telephone from one of the younger airline pilots who expressed opposition to the measure because it would thwart his expectation that 60-year-old pilots would be moved out of their jobs—and benefit him.

However, in the course of time, the discriminatory 60-year age limit would eventually catch up with that constituent and move him out of a job—arbitrarily—notwithstanding the fact that he might be fully qualified—physically and mentally—for many more years of useful service.

Mr. Speaker, my information is that age 60 is not the age at which heart failure or other sudden fatal diseases are most likely to occur. Indeed, persons at younger ages appear to be far more vulnerable from the standpoint of fatal diseases arising from physical or mental stress and strain. The subject of safety has come up in the course of our discussion of this rule. However, I am reminded that the greatest airline tragedy in our history—when a DC-10 lost one of its engines and crashed near O'Hare Airport—had nothing whatever to do with airline pilot action and certainly nothing whatever to do with the age of the pilot or other airline personnel involved in that tragedy.

Mr. Speaker, another persuasive communication which I have received is from the Airline Passengers Association, Inc., purporting to be representative of over 50,000 members who are frequent airline travelers—such as I am myself. This organization supports the Experienced Pilots Act of 1979—as I do also.

Mr. Speaker, in the interest of airline safety, as well as on behalf of the civil rights of those against whom discrimination is practiced, I urge the adoption of the rule and, thereafter, enactment of the Experienced Pilots Act of 1979. The major effect of this legislation will be to defer arbitrary discrimination against those airline pilots who reach age 60 during the next year and a half—during which period a study by the National Institutes of Health would confirm what I feel, namely, that there is no logical or justifiable basis for declaring physical disability of airline pilots at age 60.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I intend to vote for the rule on this legislation so that it can be debated; but I rise in opposition to this legislation because of its temporary nature and the effects it would have on labor-management relations at each of this Nation's airlines. I have long been a strong opponent of age discrimination and have supported legislation to fight it. I am also chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor, and chairman of the pension task force. Mr. Chairman, I have then, a very personal interest in H.R. 3948—because of the problem it claims to resolve and because of the actual ramifications were this legislation enacted.

I oppose the bill because it does virtually nothing about age discrimination. And I oppose the bill because of the damage it would inflict on labor-management relations in the airline industry. Unlike the Age Discrimination Act there is not—or could there be—a delayed effective date for current collective-bargaining agreements. By raising the retirement age for pilots from age 60 to 61½, this bill does not strike a blow against age discrimination; it merely makes a small adjustment in the mandatory retirement age for a relatively small group of employees for a very brief period of time. In fact, for many pilots, such as those who fly for commuter airlines or who fly helicopters, this bill would be a major step backward because it would force them to retire at age 61½. These pilots are not now subject to any forced retirement and I question how some of these healthy, able employees would feel if this legislation were enacted and they were suddenly without their profession. Does H.R. 3948 combat age discrimination in employment? I hardly think so.

Because pilot pension and welfare benefit plans are based on the retirement age of 60, this bill also affects labor-management relations at almost every airline. Changing the mandatory retirement age will make imperative the renegotiation of contract provisions governing retirement and health and disability insurance at each carrier. But when we change the retirement age for only 18 months, we complicate, confuse, and make impractical this process.

These negotiations under the Railway Labor Act would most likely be very time consuming because the act was designed to prevent strikes and resulting disruptions in service. It is very possible that these negotiations would not be completed during the 18 months the bill would be in effect. One likely result would be that pilots flying past 60 would receive no additional pension credits for the extra 18 months of work since most pilot pension plans contain no provisions for added benefits for working beyond 60. We also subject the pensions and benefits of all pilots to jeopardy during this uncertain renegotiation.

There are a number of unanswered questions posed by this temporary age increase that have a tremendous impact on negotiations and would be of great significance for the administration of pension and health insurance plans in the course of the 18 months the bill would be in effect.

For instance:

If death occurs after age 60 but before retirement at age 61½, is it treated as preretirement death or postretirement death?

If disability arises after 60 while the pilot is still flying, does he get a disability benefit or normal retirement benefit?

Does a pilot's service after age 60 count toward his benefits?

Do a pilot's earnings after age 60 apply toward benefit calculations, especially in plans based on final earnings?

These are questions that have not even been finally answered by the Equal Employment Opportunity Commission which is charged with implementing and administering the Age Discrimination in Employment Act. These are not easy questions to answer; they involve tremendous amounts of time and money; and yet we are being asked to pass this bill knowing the complications it presents during the 18-month period and knowing that after that 18-month period these labor-management negotiations may have to begin all over.

And what of the costs to smaller airlines when long negotiations that require significant amounts of time from both management and pilots tie up all company employees? These small airlines, with few reserves in management and pilot ranks are going to suffer at the hands of this legislation. And I question again, when after the airline and labor has finished this negotiation, can they afford to renegotiate again after the 18-month period has elapsed?

What we are doing with this bill is exactly what we have been accused of by employer and employee alike—passing legislation without permitting orderly adjustments by pension plans. By passing this legislation this Congress would be creating problems—problems for the business community, problems for the airline industry, and problems for the pilot and his family. And we create all these problems with absolutely little, if any, benefit to the very people this legislation claims to help.

In my judgment, there is a far better way for this Congress to proceed than by passing H.R. 3948. This issue is a complicated one; it involves many subissues and questions like those I have just raised. It deserves more than the hasty approach this bill provides. I believe we should comprehensively study the validity of the retirement age, determine what the age should be and then, if needed, make that change permanently.

It is my understanding that my good friend and fellow member of the delegation from the great State of New Jersey, Congressman HOWARD, plans to offer an amendment that would call for such a study before the retirement age is changed. In light of the numerous deficiencies and problems this bill presents, Congressman HOWARD's approach is far more reasonable and I will support the gentleman's amendment.

☐ 1110

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this rule, and I rise in support of this bill.

This bill is one more piece of legislation to strike from the laws, to strike from the regulations, and to strike from the public policy of this country the use of an arbitrary age limit. All those age limits tend to be very discriminatory. Each person in America ought to be judged as nearly as possible on his own capabilities and on his own individuality.

We ought to ask: What is magic about the age limit of 60 years, the age at which airline pilots are presently forced into retirement? That age limit is about as outdated as the age limit of 65 that was put in the social security law in 1935, when people only lived to be 61½ years of age. That was like saying that everybody ought to be allowed to work until they die, and the law is the same today.

Mr. Speaker, as the capabilities of judging people's individuality are perfected in this country, the public policy of this country ought to follow and in this case the medical capability has advanced to a point where we can better tell people's health; hence the public policy ought to follow and be brought up to date.

These arbitrary age determinations are nothing more than a copout for the bureaucrats, the unelected bureaucrats who show an unwillingness to make tough management decisions.

The SPEAKER pro tempore. The Chair will state that the gentleman from Ohio (Mr. LATTA) has 13 minutes remaining, and the gentleman from Florida (Mr. PEPPER) has 12 minutes remaining.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I was not going to speak on the rule because it is a good rule. I rise in support of the rule and in strong support of this legislation.

I would also at this time like to clarify some statements that were made. The question of safety, as presented by those who oppose this legislation, is a red herring. The facts are that the safest pilots are those with the experience and those beyond the ages of 55 and 60 and, hopefully, beyond that time. These are the facts. Experience is the crucial factor in the piloting of an aircraft.

Second, it is unfortunate that the Airline Pilots Association, the union which represents a large majority of the pilots of America, supported this legislation up until this year but not this year. They were misleading their members, trying to make everybody happy, and I am trying to tell that union that that is not the way to run their shop. If it was right last year, it is right this year.

Third, I have an amendment that will rectify the worries of the gentleman from New Jersey (Mr. THOMPSON) about this legislation. That amendment would say honestly that we should raise the age limit not to 61½ but to 65 and make a 30-month study instead of a year-and-a-half study. Then, after that we will come down with the facts.

The gentleman from New Jersey (Mr. HOWARD) has an amendment that says very frankly, "Let us have the study first, and then we will decide."

But I ask my colleagues, "Who are they going to study?" There will be no one flying who is past the age of 60. Who are they going to study, and what are they going to report back to this Congress?

So let us not get caught in that trap. Let us take this artificial age limit out and judge their capabilities on their physical capability and their mental capability and not on their chronological age. When we do that, we will have the proper people and we will have safe pilots who should be flying the airlines of this Nation.

Mr. Speaker, I have one last thing to say. Let me remind my colleagues that there is only one other Member—possibly two—on the floor of this House who flies more than I do, who flies longer distances and possibly with more risk. I urge the Members to support the passage of this legislation.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. LLOYD).

Mr. LLOYD. Mr. Speaker, I am sure that everyone knows what my position is with regard to this bill. I have worked long and hard on this legislation. I have spent a great deal of time on it. I worked for what I believe is right.

First of all, let us not fool ourselves about this bill. It is clearly a bill that deals with discrimination. The issue is not safety.

I probably know more about aviation than most of the Members on this floor, and I would say to the Members who are against this bill, "Don't be fooled on it. The issue is not safety."

The pilots who are flying today are the safest pilots that we have ever had. Aviation has continually improved in its capability of getting pilots to fly aircraft safely, certainly since the days when I first started flying 39 years ago. Safety has drastically improved.

Let us not be fooled that this is an issue that deals strictly with labor and labor relations. This is a bill that deals with age discrimination. We are saying to those people who wish to continue their own selected profession, "You can't continue that profession past the age of 60."

I know very well that there would be some very disappointed people who serve in this Congress if we would impose the same age limitations right here. This thing is really all out of proportion. Age discrimination is what we are really dealing with, and the whole thing has somehow gotten blown up out of proportion.

Really what should have happened is that FAA should have done the studies as it has indicated that it would. They should have taken the rulemaking processes over there in the FAA and not here on the floor of Congress, because most of us are not competent to make that kind of decision. We really do not know the facts, and we are kind of fishing in the dark.

On that basis, Mr. Speaker, I am asking the Members who know me and who know my feelings on this to go with me on the bill. I think the bill is right, and I ask the Members to vote for the rule and the bill with no weakening amendments.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. LLOYD. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I thank the gentleman for yielding.

Let me state that I have great respect for the gentleman's experience and background as an aviator and in aviation. The gentleman's position has been stated in favor of the bill, and I would simply ask the gentleman from California this question:

Is it the gentleman's further position that more frequent attention to physical condition and medical examinations will resolve the question of age and age discrimination?

Mr. LLOYD. Mr. Speaker, I think that it really does, and the gentleman is absolutely correct. The issue is not a chronological age but an ability age.

How does experience work in this thing? Do our psychometric skills that is our ability to coordinate mind and body fail at a certain specified chronological age? The answer is "No."

We all know that the aging process is different for every human being in the land. Actually there are people who are

70 years old who could clearly fly an airplane, and there are people at 50, as evidenced by the history of people who have had heart attacks and other conditions, who should not be flying an airplane.

Mr. Speaker, let us deal with that. We do that in this bill by putting matters of physical condition and ability before age.

Mr. RUDD. Mr. Speaker, I would also note that I understand we have quadriplegics flying airplanes.

Mr. LLOYD. Yes, that is true.

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. LLOYD. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman from California (Mr. LLOYD). I think he has done excellent work. This is good legislation, and I think the bill is a matter of equity. It is long overdue, and I congratulate the gentleman from California (Mr. LLOYD) for his efforts.

Mr. LLOYD. Mr. Speaker, I thank the gentleman from Washington (Mr. PRITCHARD) for making that statement, because he has brought out a salient point.

This is indeed a function of equity. How could we on this floor, after all the things we have dealt with in the past, deprive some of our citizens. We have talked about race discrimination, we have talked about sex discrimination, and we have had bills with regard to child laws. But here, if a man or woman arrives at the age of 60, he or she is absolutely disenfranchised from doing what they want to do, fly.

Let us not be fooled on this thing. This is not a function of economics for the pilots. The pilots want to fly. They want to pursue what is in their hearts. Flying is a love of theirs. I can understand that because I share that love with them.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. LLOYD. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, one of the previous speakers mentioned that the FAA was opposed to people flying past the age of 60. I believe that has been brought out before.

Is it not true that FAA allows its own pilots who are over 60 to fly?

Mr. LLOYD. Absolutely. And the gentleman also knows that in the FAA they have a proviso which says that if they wish, they can give a waiver on this. So it is clearly provided for already.

Mr. Speaker, I thank the gentleman, and I yield back the balance of my time.

☐ 1120

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I rise in opposition to the rule, and I rise in opposition to the bill.

I think the gentleman from California (Mr. LLOYD) made a good point, that we have a great record of safety in American scheduled airlines today, and I think the issue is whether we want to keep that record or whether we want to experiment in some way that could perhaps jeopardize it.

Let me say, in commenting on this legislation, that I am 63 years of age. So I am one of the old duffers. And, conceivably, I ought to be appealed to by legislation that would not put someone of my age on the retired list. As a Member of this Congress, I do not feel any less able to perform my duties than when I came here at the age of 42. In fact I figure I am good for another 20 years.

This is also appealing legislation, because we politicians recognize that those over 60 vote more frequently and in much greater percentage than those between the ages of 18 and 25. That is why a good many of us spend a lot of time when we campaign at the senior citizen centers.

I also recognize that the gentleman from Florida (Mr. PEPPER) has done an outstanding job in removing age barriers in those employment areas where age is not relevant. But I think we also recognize that, regardless of what the various medical experts in this House have been telling us from the floor, whether we like it or not, our physical capacities do diminish as we get older. And there are certain areas of employment where this factor is very relevant. We in Washington remember the over-the-hill gang which did succeed in getting to the Super Bowl; but eventually they did wear out and the current Redskins are much younger. And we remember our good friend, Muhammad Ali, who stayed in as champion longer than any other champion; but at the age of 34—to me an incredibly youthful age—his physical capabilities and his reflexes were simply no longer good enough to stand up against the more youthful opposition except in exhibition matches.

So we do have to recognize that physical capabilities do decline with the increasing years, and we have frequently recognized that fact in a number of occupations where physical capabilities are the essence of doing the job properly. For example, in U.S. military forces you cannot fly planes virtually after the age of 40. Admirals and generals were specifically banned from flying when our bill went into effect several years ago to provide flight pay for senior officers. We also insist on early retirement, as has already been pointed out, for those in the police services and in the fire services. In fact in Israel the generals have to retire at 45.

You may still feel great at 63, as I do, but you cannot run the 100-yard dash just as fast as when you were 20. As a policeman, and as a fireman you cannot hit as hard and you cannot spend as much time in a smoke-filled room as you did at 20. This is essentially the same thing that is involved in being a professional airline pilot.

The important issue as a pilot is the pilot's reflexes. And a man's reflexes simply are not as good when he gets older as they were when he was younger. We have a great safety record in our airlines. We have required our pilots to retire at age 60. Why should we push the limit out further simply because it is possible for a Member of the House of Representatives to serve effectively and with great distinction until the age of 79? Flying is different from service in Congress. I am not a pilot myself, but I have taken over the controls in the air. They say that flying is a profession in which you are required to endure hours of sheer boredom interspersed by a few moments of sheer terror. Well, when you get into those moments of sheer terror, it is then those reflexes really count. And if we recognize this we must also recognize that an age line has to be drawn somewhere between those who are younger and more capable of responding to those moments of crises, and those who are older and whose reflexes, like Muhammad Ali's, are in decline and thus less able to handle those moments of crises that are involved in aviation.

So, we ought to put aside the political temptation to vote for this legislation and vote instead to preserve the safety record that we now have in America's airline system, and not tamper with it until we have the facts.

Mr. PEPPER. Mr. Speaker, I reserve the remainder of my time.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say to my distinguished friend, the gentleman from New York, that he may remember that in the recent world series the man who won the outstanding player award was Willie Stargell, 38 years of age, the oldest man on either team. So the old sometimes do come to the front, according to their qualifications.

Furthermore, I am not asking the House for every person to play football or carry half a ton up a big hill. We are simply asking to have them continue flying an airplane when they are physically found to be qualified four times a year by the FAA and found to meet the requirement of a proficiency test.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I will yield briefly to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I simply want to say that we are all aware of the fact that individuals can still go down to the doctor and have an EKG and be pronounced sound, and 2 minutes later drop dead.

Mr. PEPPER. Yes, at any age, young or old.

Mr. STRATTON. That is right. But my point is that there is no possible way in which you can take a physical examination and have the doctor guarantee that you are not going to drop dead from a heart attack or be ill from some other cause.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. RATCHFORD. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I rise in support of the position taken by my chairman.

Mr. RATCHFORD. Mr. Speaker, I rise

in support of the rule and strong support of this legislation, which I helped author, and implore my colleagues to join in eliminating one of the last vestiges of age-based discrimination in our society—the FAA's age 60 retirement rule for commercial airline pilots, first promulgated in 1959.

I am every bit as interested in taking all necessary steps to secure the safety of the flying public, but as my colleagues here have submitted, we are absolutely convinced that the sensible approach of this legislation in no way endangers that safety. Surely, what we must recognize, is that the continued application of the ill-conceived, and now outdated rule, amounts to the most reprehensible form of age-based discrimination.

We can in no way continue to accept this policy, which is as repugnant to our moral values as ethnic, race, religious, or sex-based discrimination. Last session, in a most decisive manner, the House approved a measure eliminating mandatory retirement for Federal employees, and raised the mandatory retirement age for the private sector. This action grew specifically from the spirit of the Age Discrimination Act of 1975, but, more importantly, from dramatically changing public attitudes toward retirement.

PUBLIC ATTITUDES ARE CHANGING

In a recently published public opinion survey, the noted pollster Lou Harris found that 88 percent of those employees questioned indicated opposition to mandatory retirement, in any sector.

Mr. Speaker, our collective constituency is changing dramatically—by the year 2000, the number of persons age 55 or older will increase by some 19 percent to more than 55 million people. Our constituents have delivered us a clear mandate. Their changing perceptions on old age, coupled with convincing new medical data, force us to consider this new phenomenon of aging, and longer lives, and their impact on our society. This newly emerging force ask that they not be cast away by society, but rather considered a vibrant and valuable resource.

New and more rational definitions of "old age," and "retirement," are being forged. I ask you, are we to consider the person who reaches age 60 any less capable or competent on the basis of a birth date alone? People want to be judged as individuals, not on the basis of stereotypes, or outdated medical evidence, which strike a hard blow to one's self-dignity and sense of worth. Those opposed to this legislation today will suggest that reasoning capabilities, and the speed with which judgment can be applied to new or changing situations, deteriorate to a hazardous degree upon reaching age 60. I submit that chronological age can no longer be considered as a factor in one's ability to perform. Indeed, reaction time and cognitive abilities are critical to the high performance standards that we demand from commercial airline pilots. However, new and reliable medical testing techniques allow us to more accurately, and fairly, test these factors on an individual basis.

Presently, the FAA requires a pilot to pass two physicals, and two flight simulator tests a year, which evaluate one's on-the-job capability. In addition, most airlines also require rigorous company physicals of their own. This bill, Mr. Speaker, requires even further that those pilots over the age of 60 take four physicals a year, and be tested in a more comprehensive manner at the Secretary of Transportation's discretion. I am absolutely convinced that through the continued and expanded use of standard testing techniques, and the introduction of available new methods, we can assure the flying public that even the most subtle deteriorations in a pilot's mental or physical condition can be detected with great certainty. Further, we can assuredly maintain a fine record of not one accident having occurred as a result of in-flight incapacitation.

Finally, and most importantly Mr. Speaker, we can tell the thousands of pilots approaching the age of 60 that their retirement will not be predicated on any arbitrary and generalized standard, but rather based on an individual assessment of one's ability to work. Our charge here is not to perpetuate discriminatory practices which place any person out to pasture regardless of their physical or psychological condition. Our charge is not to single out any one profession as lacking the reasoning capabilities to perform a function effectively based merely on chronological age. We do not tell the President of the United States, the Justices of the Supreme Court, Senators and Representatives, or our mayors that at age 60 you are too old. Our charge here today is to apply the law, and emerging new social standards, equally. I for one, am not prepared to place this or any group of people out to pasture at age 60 if, as in this instance, they are able to meet perhaps the most rigorous physical psychological, and stress examinations in the world. No, Mr. Speaker, we must continue in the work we began in 1967, and eliminate yet another form of absolutely intolerable age-based discrimination.

☐ 1130

Mr. **PEPPER**. Mr. Speaker, I add only that I hope this rule will be adopted, and the House may consider H.R. 3948, striking down unfair and unreasonable discrimination to the right to work by honorable, qualified, and competent American citizens.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **STRATTON**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 2, not voting 32, as follows:

[Roll No. 700]

YEAS—399

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson,
Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-
schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead,
Calif.
Moorhead, Pa
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula

Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—2

Stark
Stratton

NOT VOTING—32

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashley
Barnard
Bedell
Brooks
Burton, John
Crane, Philip
Dingell
Dixon
Dornan
Flood
Frost
Goodling
Guyer
Kelly
Leach, Iowa
Madigan
Michel
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Price
Railsback
Rostenkowski
Russo
Steed
Treen
Waxman
Wilson, C. H.
Winn

☐ 1140

The Clerk announced the following pairs:

Mr. Ambro with Mr. Guyer.
Mr. Rostenkowski with Mr. Winn.
Mr. Murphy of New York with Mr. Railsback.
Mr. John L. Burton with Mr. Dornan.
Mr. Brooks with Mr. Anderson of Illinois.
Mr. Murphy of Illinois with Mr. Madigan.
Mr. Charles H. Wilson of California with Mr. Kelly.
Mr. Price with Mr. Goodling.
Mr. Russo with Mr. Andrews of North Dakota.
Mr. Steed with Mr. Michel.
Mr. Barnard with Mr. Leach of Iowa.
Mr. Dingell with Mr. Philip M. Crane.
Mr. Ashley with Mr. Dixon.
Mr. Myers of Indiana with Mr. Bedell.
Mr. Waxman with Mr. Frost.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1150

Mr. ANDERSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3948) to amend the Federal Aviation Act of 1958 to eliminate the age limitation presently imposed on certain pilots of aircraft, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3948, with Mr. SKELTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3948 will abolish one of the last vestiges of age discrimination, the regulation of the Federal Aviation Administration which prohibits persons over 60 years of age from serving as airline pilots.

Comprehensive hearings on the "age 60" rule were held by the Select Committee on Aging and by the Aviation Subcommittee of Public Works. The hearings established that the age 60 rule is arbitrary and that it discriminates on the basis of age. The rule does not permit persons over age 60 to demonstrate that their health, skill and judgment are unimpaired and that they have the physical and mental ability to continue flying safely. Unquestionably, there are individuals who can fly safely after age 60. The FAA itself recognizes this, since it allows its own pilots to fly past age 60. The FAA also allows pilots over age 60 to engage in a variety of passenger carrying operations, including commuter airline operations in which there is only one qualified pilot.

At our hearings, we also received extensive medical testimony demonstrating that medical technology is now adequate to the task of identifying these individuals who are free from disabling conditions and who can fly safely after age 60.

On the basis of the evidence presented, the committee concluded that the age 60 rule represents a classic case of age discrimination, judging individuals by age, not ability. The rule deprives qualified individuals of the right to continue in their occupation. It also deprives the airlines of the services of some of their most qualified and highly motivated employees. This arbitrary age discrimination, which is not justified on safety grounds, is completely contrary to the national policy established in the Age Discrimination in Employment Act.

Although the compelling evidence against the age 60 rule has been presented to the FAA, the agency appears to be unwilling to change the rule. In these circumstances, the Public Works Committee concluded that legislation was required. The objectives of our bill are to obtain a definitive study of the problem by impartial medical experts, and to protect pilots against further age discrimination while the study is being conducted, to the extent that this can be accomplished without danger to the public safety. To accomplish these objectives, the reported bill takes three major steps:

First, the bill authorizes a study by the National Institutes of Health to determine whether any mandatory age limitation for pilots is needed and whether the current physical examination requirements for pilots of all ages are adequate. The committee received considerable testimony that the existing requirements for pilot physical examinations are minimal and that some private physicians who are designated to perform physicals for FAA are noted for giving easy exams. The entire system is in need of investigation.

Second, to insure equivalent standards for all segments of the traveling public, the reported bill applies to commuter airlines the same age rules which govern certificated airlines. Currently there are no FAA requirements for retirement of commuter pilots, even though these pilots, unlike airline pilots, may fly without a copilot.

Third, to protect pilots reaching age 60 after the date of enactment against further arbitrary age discrimination, the reported bill grants a limited extension of the age 60 rule. The extension allows currently employed pilots who reach age 60 to continue flying for up to 18 months, subject to appropriate safeguards to assure that only qualified individuals continue to fly. The committee has concluded that safety will not be jeopardized by this limited extension of the age 60 rule.

None of the evidence and medical studies discussed at our hearing demonstrated that pilots age 61½ are more of a safety risk than pilots aged 59½. To overcome any increased risk that might conceivably exist, the reported bill requires that individuals flying past age 60 must take four physicals a year, compared to the two a year now required. The reported bill also authorizes FAA to require pilots over 60 to take more comprehensive physicals than pilots under 60 and, if necessary, FAA may require more than four physicals a year.

Of course, medical testing can never furnish 100 percent certainty, either for pilots under age 60 or pilots over age 60. However, the committee believes that medical knowledge has now advanced to a point where we can have a strong degree of confidence that we can select those individuals who can fly safely for 18 months after age 60.

Another factor insuring the safety of allowing pilots over age 60 to continue flying for up to 18 months is that aircraft flight crews have a "fail-safe" capability. In the unlikely event that a pilot in command of a certificated air-carrier aircraft is incapacitated, the copilot is able to take full control of the flight. These procedures have been used successfully on the extremely rare occasions when pilots in command on scheduled passenger airlines have been incapacitated.

Mr. Chairman, the Public Works Committee has reported a conservative, responsible bill which prevents further age discrimination, while protecting the public safety. I urge passage of this important legislation.

Mrs. CHISHOLM. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentlewoman from New York.

● Mrs. CHISHOLM. Mr. Chairman, I rise

in support of H.R. 3948 as reported by the Committee on Public Works and Transportation. For too long, certain groups within our country have been hampered from maximum use of their full potential by operation of generally accepted assumptions. In many instances, these broad generalizations, although not based upon fact or scientific evidence, have gone unchallenged; and eventually, these outdated, stereotyped notions which unfairly categorize and pigeonhole groups of individuals gain wide acceptance as truth. Those individuals whose behavior does not conform to these unfounded stereotypes are often treated unfairly, because our societal viewpoints do not allow for the unique characteristics and diversity evident among individual persons.

In recent years, we have been gradually moving in the direction of identifying and eliminating old fashioned notions which deny to any person the right and opportunity to participate in activities on the basis of any criteria other than his or her own individual abilities. For those of us who have been active in this movement, we understand the difficulties of reeducating our citizens about traditionally held views. Nevertheless, we have come to appreciate the great rewards that have accrued to all of us following elimination of outmoded thinking which has served to disable women, blacks, and members of other groups from making full contributions in the workplace and in other aspects of their lives. The Supreme Court once ruled that women were unfit to practice law. Now we are discussing the realistic possibility of the first woman member as an appointee to that same Supreme Court in the very near future. Indeed, we have progressed in our thinking in certain areas.

Today, this House has the opportunity to lay to rest yet another of these stereotyped concepts which impacts on older workers in the airline industry. H.R. 3948 is a compromise which will establish a process to fairly and decisively resolve the "over 60" manditory retirement rule. I have devoted considerable attention to the hearing records produced by the Aviation Subcommittee and the Select Committee on Aging, and I am convinced that the age 60 rule is unnecessary. Medical technology has advanced in a way that physicians are able to direct and monitor incapacitating illnesses of workers—young and old alike. Procedures such as periodic medical examinations and flight similator tests are designed to uncover any deteriorating conditions associated with aging.

Let me emphasize that if the safety of airline passengers were placed at greater risk under the bill, I would be be one of the first to strongly oppose the measure. While we cannot expect that H.R. 3948 will identify flight craft which pose real life threatening situations for passengers due to defective equipment, this bill will enhance the safety of passengers in so far as the medical conditions of pilots—including commuter pilots—will be more closely scrutinized under H.R. 3948.

I support the provisions of this bill which authorize a comprehensive study of the FAA age-based retirement rule. But make no mistake about it, the issue is not a matter which must await the release of a study. Aging is an individual process. H.R. 3948 as reported out of committee reaffirms this concept, and that is why I intend to vote for the bill and I urge all my colleagues to also support this legislation.●

□ 1200

Mr. ANDERSON of California. Mr. Speaker, at this time I yield as much time as he may consume to the distinguished chairman of the full Committee on Public Works and Transportation, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I want at this time to commend the chairman of our subcommittee the gentleman from California (Mr. ANDERSON) the manager of the bill on the floor here today, for his very thorough and complete job that he has done on this bill as far as the hearings were concerned, the markup in the subcommittee, and handling the bill in our full committee. I know of no time when more expertise and work was put in on a bill than that of the chairman of our subcommittee, the gentleman from California (Mr. ANDERSON), and the minority ranking member, the gentleman from Kentucky (Mr. SNYDER), on this bill. While the gentleman from Kentucky (Mr. SNYDER) does not agree with the contents of our bill that we wound up with, nevertheless, the gentleman from California (Mr. ANDERSON) did a very fine job.

Mr. Chairman, I rise in support of the reported bill. H.R. 3948 is urgently needed legislation which will demonstrate that Congress is committed to removing all remnants of age discrimination from our society.

The current Federal aviation regulation which requires airline pilots to retire at age 60 is a classic case of age discrimination under which individuals are judged on the basis of age, not ability. This regulation deprives individuals of the right to continue working solely because they reach a certain age. The effect of this arbitrary rule is also to deprive the traveling public of the services of some of the safest and most experienced pilots employed by the airlines.

The original age 60 rule established in 1959, has been justified by some on grounds of safety. However, this rationale is completely contrary to current scientific knowledge. Current scientific knowledge indicates that individuals age at different rates and that generalizations about any specific age are meaningless. We know that most people can remain very active in their occupations well past age 60. The same is true for qualified airline pilots, but they are prevented by Federal rules from continuing to fly.

In testimony before the Subcommittee on Aviation and the Select Committee on Aging, we heard from medical experts and experts on aging. No evidence could be found that justified a mandatory retirement age of 60 on safety grounds. In fact, evidence indicated that if a pilot was still flying at age 60 he was probably one of society's healthiest human beings. The safety issue is a smokescreen for selfish economic considerations and should be laid to rest.

Despite the fact that no evidence was presented that justified an age 60 rule, the testimony did indicate that a comprehensive study of the whole issue of aging and pilots is needed since very little is known about the specific effects of aging on pilots. A study is also needed to analyze the entire medical evaluation procedure for airline pilots. Evidence at the hearings indicated that there may be problems with the type of examinations which are required and the procedures for authorizing private physicians to conduct these examinations.

H.R. 3948 has two purposes. First, it would provide immediate relief from age discrimination for pilots approaching age 60; second, it would authorize a thorough study of the issues surrounding pilots' age and medical evaluation. To accomplish this, H.R. 3948 raises the mandatory retirement age for pilots to 61½ for a temporary period of 18 months and provides for a year-long National Institutes of Health study of the effects of aging on pilots and pilot medical evaluation procedures.

This is admittedly a very conservative approach to a very serious problem, but we believe it will provide the immediate temporary relief from age discrimination to those pilots who will need it in the very near future, as well as provide Congress with the information needed in order to under take more comprehensive legislation in the future.

Mr. Chairman, I urge support for this important legislation.

Mr. SNYDER. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I commend the chairman of our committee, the gentleman from California (Mr. JOHNSON), and the chairman of the Subcommittee on Aviation, the gentleman from California (Mr. ANDERSON), for bringing this bill to the floor, and also certainly our distinguished colleague, the gentleman from Florida (Mr. PEPPER), who is the chairman of the Select Committee on Aging, because he has been a strong, driving force on this issue. I also, of course, appreciate very much the leadership always given us by our distinguished ranking member, the gentleman from Ohio (Mr. HARSHA), and the expertise of our ranking member on the Subcommittee on Aviation, the gentleman from Kentucky (Mr. SNYDER), even though we are in disagreement on this particular bill.

Mr. Chairman, as a member of both the Aviation Subcommittee and the Select Committee on Aging, I would like to take this opportunity to present some of my thoughts on the Experienced Pilots Act of 1979.

One and a half years ago Congress overwhelmingly passed tide-turning legislation, the Age Discrimination in Employment Act Amendments of 1978. Explicitly, that bill ended mandatory retirement in the Federal sector and added 5 more years of working life to employees in the private sector. But, that bill contained an implicit message that went far beyond the mandates contained in the legislation. It reformed a national policy that did violence to our sense of dignity, the exclusion of capable men and women from the work force based on an arbitrary factor—age. Today, we are really considering an extension of that bill, raising the age of retirement for airline pilots from 60 to 61½.

Our own personal experiences force us to reject the thought that a person's judgment, intelligence, and productivity decline on some date on a calendar. Research confirms that viewpoint. Studies undertaken by the Department of Labor and the National Council on Aging demonstrate that older workers can produce a quality and quantity of work equal or superior to younger workers. Studies also reveal that older workers have as good, and frequently better, attendance records than younger employees.

It can reasonably be argued that unlike most employees airline pilots are routinely responsible for the lives of hundreds of people and therefore should be subject to the more narrow, stringent interpretation of the Age Discrimination in Employment Act, which exempts those in high-risk jobs. Therefore, to determine whether or not there is any medically valid reason for pilots to retire at age 60, or any other age, section 3 of the bill authorizes the Director of the National Institutes of Health, in consultation with the Secretary of Transportation, to conduct a 1-year study on the relationship between age, safety, and health.

As the bill now stands, if the Director of the National Institutes of Health determines on the basis of comprehensive medical research that persons 60 years of age or over are unqualified to fly, the maximum age for pilots will revert back to age 60.

There are many decisions that are appropriate for a deliberative body, such as ourselves to make. In this case, both the flying public and the pilots themselves are better served by allowing specialists in the relevant fields of medicine and science to research and evaluate the issue. I believe that in H.R. 3948 we have found the most equitable short-term solution within the constraints of our authority and knowledge. When we meet again to consider this legislation, we will have the results of the study and be better prepared to make a final determination. I hope my colleagues will agree and will join me in support of H.R. 3948.

☐ 1210

Mr. SNYDER. Mr. Chairman, I yield 9 minutes to the ranking minority member of our full committee, the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I rise in opposition to this legislation in its present form because I believe that the legislation would create serious and unnecessary risks to the flying public without any corresponding benefits except to those few airline pilots who want to continue flying beyond age 60.

Now these pilots who are in the great minority of the pilots who serve in the air transportation system knew when they got into the piloting business about the rule age 60 because it has been on the books for a number of years. With this knowledge, they negotiate their contracts and receive much higher pay than you would normally expect a pilot to get, simply because that pilot only works—until the age of 60—the pilot in most instances works an average of 60 to 65 hours a month, but gets paid for 80 hours in recognition of the fact that he will have to retire at age 60. This is done in recognition of the age 60 rule and the fact that their flying years are limited—they are also paid accordingly.

As we have heard, H.R. 3948 would raise the FAA-imposed mandatory retirement age for airline pilots from age 60 to age 61½. This legislation would overturn the 20-year-old FAA retirement regulation, but for only a period of 18 months.

During this time the National Institutes of Health would be required to conduct a study of the medical and performance implications of pilot aging and whether safety would be adversely affected by changing the retirement age.

At the conclusion of this 18-month period, the retirement age would automatically go back to age 60 unless Congress enacts further legislation to reextend the age.

While the bill was reported out of the committee by a 27-to-19 vote, an amendment introduced at markup to retain the age 60 rule until the NIH study was completed failed by only a 25-to-21 vote. Additionally, the Committee on the Budget refused to support granting a budget waiver for the funds to conduct the NIH study.

Mr. Chairman, in the name of antidiscrimination, the reported bill merely substitutes a new arbitrary age of 61½ and imposes a retirement age on commuter and helicopter pilots who are not currently subject to any mandatory age limit.

Mr. Chairman, it seems rather ironic that age 60 would be discriminatory to the air carrier aviation pilot and would not be discriminatory to commuter and helicopter pilots. However, that is what the committee did. They said, on the one hand, you are discriminating with the age 60 rule, and on the other hand they said, we are going to discriminate some more and take away the right of helicopter and commuter pilots to fly beyond the age of 60.

Mr. Chairman, my desire to see solid, substantive legislation that studies and reacts to pilot age discrimination has been perverted by this legislation. H.R. 3948 is a hastily drawn bill, more concerned with the enactment of any change at the expense of thoughtful and truly responsive inquiry and modification.

Mr. Chairman, I am sensitive to and keenly aware of our public obligation to investigate and respond to oppressive age discrimination. However, it is for this same reason that I oppose any halfhearted and precipitous effort to solve an issue that deserves more careful attention than that provided by H.R. 3948.

Mr. Chairman, I will grant that age 60 or age 61½ or whatever age is an arbitrary age limit but it is not discriminatory when it is based upon the safety and welfare of the traveling public and that is the foremost issue here, not whether a pilot cannot fly beyond age 60 or age 61½, age 65 or whatever age. The real issue is, can he fly at any age with a reasonable degree of safety for the traveling public.

Mr. Chairman, it is also important to note that while H.R. 3948 as reported still has the backing of a small minority of airline pilots, opposition to the legislation is now overwhelming. The Airline Pilots Association, the 30,000-member pilots union, the Air Transportation Association, the FAA, the American Medical Association which traditionally supports efforts to overturn age discrimination, and the Cleveland Clinic, are all in vigorous opposition to this legislation.

Mr. Chairman, let me just read to you a few comments by Dr. William H. Hark, who is with the FAA's Office of the Federal Air Surgeon:

> The big danger lies in the insidious incapacitation, the diminished abilities that occur with age in everyone.

Each function of the human body deteriorates at different rates in different people. This has been established by lab tests. Captains are the final power on flight decks. Some go out of their way to impress upon subordinate crewmembers where that power lies. Dr. Hark is concerned that subtle incapacitation can overtake an older captain in a way a second officer might not detect until it is too late.

Mr. Chairman, we are not talking about only heart attacks or some severe stroke or some outstanding incapacitation. We are now talking about serious, insidious deterioration that goes on in all of us by virtue of age. Deterioration that is not readily detectable.

Mr. Chairman, there are a number of so-called athletes in this body and I would say you could not get one of them to fail to admit that the older he gets the less his reflexes work, the more difficult it is for him to engage in physical activity, the slower his reaction time is. That is all a part of this insidious deterioration by virtue of age. Where you have a captain in control of a crew and some of these insidious things take place, the crew who is subordinated to that captain cannot often detect it. As a matter of fact, several accidents that have been reported by the National Transportation Safety Board that Board has gone so far as to blame the flight crewmembers for their failure to not question actions of their captain that led to an accident.

Mr. Chairman, because of these various flaws in this legislation, the gentleman from New Jersey (Mr. HOWARD) will offer an amendment that would drop all provisions of the bill except that section ordering the NIH study, a study designed to determine the medical and performance implications of pilot aging.

Mr. Chairman, while we are most anxious to see a more serious and substantive approach to the pilot retirement issue, we cannot support a bill the likes of H.R. 3948 and we believe the amendment of the gentleman from New Jersey (Mr. Howard) is the only warranted action that the House should take. I urge support for the Howard amendment. By doing so we will be responding to age discrimination while at the same time insuring that the highest degree of safety in air transportation will be maintained. If we are going to err let us err on the side of safety because we are dealing with the lives of millions and millions of the traveling public.

□ 1220

Certainly we should not take this venture until we know with a certain degree of assurance and certainty, that we have the medical knowhow to treat this issue.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Harsha) has expired.

Mr. SNYDER. Mr. Chairman, I reluctantly yield the gentleman 1 more minute. We are in a bind here.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. LLOYD. Mr. Chairman, I thank the gentleman for yielding.

I did want to clarify one thing. The gentleman was talking about the commuter pilots and the helicopter pilots. That peaked my interest, since I believe I am probably the only commercial helicopter pilot here on the floor.

I would remind the gentleman that I think, it is my opinion, anyhow, and would the gentleman agree with the fact that all pilots who are carrying passengers for hire should have the same standards; does the gentleman not think that is true? I mean, the gentleman talks about safety. Does not the gentleman think that is true?

Mr. HARSHA. Mr. Chairman, I think that all pilots that are engaged in heavy commercial traffic——

Mr. LLOYD. I think a life is a life, does the gentleman not agree with that?

Mr. HARSHA. Well, is the gentleman concerned that a pilot over age 60 is endangering the lives of passengers?

Mr. LLOYD. I do not agree with that. We are in disagreement with that; but I think that there is a similarity, I think the helicopter pilots who carry passengers for hire and the commuter pilots who carry passengers for hire should have the same standards as anyone else who carries passengers for hire.

Mr. HARSHA. I disagree with the gentleman to this extent. There are some air taxi pilots who should be permitted to fly beyond age 60.

Mr. SNYDER. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. Goldwater).

Mr. ROYER. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from California.

Mr. ROYER. Mr. Chairman, I rise in support of the Howard amendment which calls for the NIH study before the retirement age for pilots is changed. As a member of the Public Works and Transportation Committee, I saw first hand the heated dialog on this issue. At the conclusion of the hearings, I was and am unconvinced that the retirement rule should be changed before the study has taken place. This is clearly a case of putting the cart before the horse.

I expressed this view in the committee report, and I also expressed my concern that the effects on older pilots of "jet lag" must be considered in any study that takes place.

In this regard, I recently read an article by six German scientists which appeared in the Journal of Aviation Space and Environmental Medicine. The article concluded that operating on transmeridian routes should be restricted in pilots older than 45 or 50 years.

Obviously, there is a serious difference of opinion in the medical community on this issue, and that we are wholly unsuited to make this judgment.

The impartial study must come first. I urge an affirmative vote for the Howard amendment.

Mr. GOLDWATER. Mr. Chairman, I rise and urge support for the Howard amendment. If that fails, I would request a no vote on final passage.

Mr. Chairman, I do so reluctantly, because at what age does a person cease to be productive? I think that is an individual matter and a very difficult one to legislate on.

Mr. Chairman, those pilots who are reaching the age of retirement are pilots who have made a significant, in fact a great contribution to aviation. The experienced pilots who are the subject of this legislation are a fine group of aviators, and a fine group of Americans.

They are the pilots who won World War II, and then went on to establish our current airline system. It was these pilots who built the airlines into what they are today. These are the pilots who started with the DC–3's, the DC–4's, moved on to the DC–6's, DC–7's, DC–8's, DC–9's, and now the DC–10's.

These are pilots who started with the Lockheed Constellations and moved on to the Super Connie, the Electra, and the L–1011.

They flew the old Boeing Strato-Cruiser and moved into the jet age in the 707, the 727, the 737, and the 747.

They have taken aviation from the days when a trans-Atlantic trip was a big deal with several fuel stops to today's effortless nonstops from New York to Tokyo.

They have seen the growth of airports from lazy pea-patches to today's superbusy beehives.

These are men like Capt. Jack Young, who happens to turn 60 today, and we wish him well in his retirement; like Capt. Sam Enfield and Capt. Don McBain, who are already retired, who have lobbied very strenuously, and I might say in a professional manner on this legislation.

They have seen it all, and now they are being forced to retire at what they feel to be their prime.

Mr. Chairman, these individuals are to be applauded, admired, and respected for their contribution to aviation; yet, Mr. Chairman, I must oppose this legislation, because again I think it is something that we are doing in an arbitrary fashion.

It does not make sense to change the rules first and then do a study.

It does not make sense to replace one arbitrary age restriction with another.

It does not make sense to ignore the cautious advice of ATA, ALPA, FAA, AMA, the Aerospace Medical Association. All these organizations advocate a study before a rule change.

Mr. Chairman, I yield back the balance of my time.

Mr. ANDERSON of California. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. Mineta).

Mr. MINETA. Mr. Chairman, H.R. 3948 is a thoughtful, conservative bill that seeks to eliminate age discrimination against airline pilots while at the same time preserving the safety of the public. Extensive hearings were held on this bill by the House Select Committee on Aging and the Subcommittee on Aviation of Public Works and Transportation, at which an overwhelming amount of medical testimony was presented. It was never demonstrated that an age 61½ rule would be less safe than an age 60 rule, so there is no reason to continue age discrimination during the 18 months needed to conduct and assess the study.

Opposition to the bill appears to center on the need to maintain air safety. I believe that this concern for air safety is fully protected in the bill by several provisions.

First of all, the extension ends 18 months after enactment. If there is any indication during the course of study that a blanket age 60 rule is, in fact, needed for safety, the age limit would revert to age 60 immediately. Second, pilots over age 60 must submit to examinations four times annually, rather than twice annually. Third, the Secretary of Transportation is authorized to require more comprehensive examinations for those over 60 than those under 60. Finally, safety is likely to be improved, not impaired by passage of this legislation as the National Institutes of Health study could aid significantly in refinement of the Federal Aviation Administration's present rules for physical examinations. Previous testimony has pointed out that experience of an airline pilot is one of the most important factors in maintaining a good safety record, and further that pilots as a group are much healthier than the general population. The arguments that safety will be jeopardized are ungrounded.

By a margin of 359 to 4, the House approved a measure last year eliminating mandatory retirement for Federal civil servants and raised the age for mandatory retirement in the private sector. This action came as a result of a greater recognition that individuals age differently and that all citizens, regardless of age, should be able to serve so long as they are fit and able. In light of the fact that it has not been demonstrated in hearings, despite extensive testimony, that an age 61½ rule would be less safe than an age 60 rule, there appears to be no justification to continue age discrimination against this segment of the population during the 18 months of study and assessment of study findings. I therefore urge you to oppose the Howard amendment and support the bill as it stands.

Mr. ANDERSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. FARY).

Mr. FARY. Mr. Chairman, I thank my subcommittee chairman for yielding to me.

Mr. Chairman, I wish to associate myself with the remarks of the two gentlemen from California speaking in favor of the bill H.R. 3948 as it was reported by the Public Works Committee.

H.R. 3948 is meant to correct an injustice done to both pilots who have reached age 60 and are still willing and able to fly and the flying public which since 1960 has been deprived of the most experienced commercial pilots. I say "correct an injustice" because when the rule was first put in place the FAA, as the Airline Pilots Association has stated, did so at the behest of the airlines without any solid scientific evidence.

The Airline Pilots Association is in a bind because it has to worry about what effect letting these pilots fly past 60 will have on the careers and benefits of the younger pilots who are the bulk of its membership.

I have talked to a lot of airline pilots about this issue and I would like to relate one incident which typified the response of pilots.

The day before the full committee was going to mark up H.R. 3948, I was flying back from Chicago. Circulars were distributed on board announcing that this flight would be the captain's last because he would be retiring. Everyone aboard applauded. All were invited to congratulate the pilot on deplanement. I sent a note to him telling him I was a Congressman on the Aviation Subcommittee and I asked him four questions: Are you happy you are retiring? Are you retiring voluntarily? Are you aware of the bill to raise the age limit? Do you favor it?

When the captain's answer came back, it was clear that, even though the airline had handed out an announcement saying that he was glad to be retiring, the pilot himself did not want to retire. He was retiring because he was forced to. He also stated that he knew about the bill to raise the age limit and favored it.

When I had a chance to talk to the younger crew members, they felt differently. They would not say so in front of the retiring pilot but when I got them alone they told another story. They wanted to move ahead in their careers and were afraid that if the older guys stayed around they would never get the position. They were afraid the FAA would tighten up everyone's physicals rather than the physicals for the senior pilots. They wanted an automatic system so that they would not have to be the ones to tell the captain that he did not have the faculties to fly any more.

Not once did they say that the older pilots were a menace to the public.

The reasons they gave for forced retirement are not good enough to deprive even a few healthy individuals of the chance to continue earning a living at what they do best. We let them fly cattle and cargo. We let them fly commuter aircraft. I think we should let them continue to fly what they fly best, passengers in commercial jets.

□ 1230

Mr. SNYDER. Mr. Chairman, in hopes that the gentleman's mail may have arrived, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I will assure my good friend, the gentleman from Kentucky (Mr. SNYDER), that we do have good service in Alaska by air mail, by dog team, by boat, and sometimes by the post office, which is a little slow.

Mr. Chairman, I am happy to rise today in favor of a bill which would do away with one of the last remaining Government-supported bastions of age discrimination. H.R. 3948, the Experienced Pilots Act, recognizes that a pilot's health and experience, and not his chronological age, are the most important human factors in air transportation safety. This bill allows a healthy, able pilot, to continue his chosen occupation, rather than sending him out to pasture upon reaching the age of 60.

Being from Alaska, where travel by airplanes is as common as travel by automobile in the lower 48, I have a deep respect for experience. I do not jest when I say that the most treacherous flight conditions in the world exist in Alaska; my able predecessor's death was directly attributed to that fact. And anyone from Alaska will tell you that the most experienced pilots are irrefutably the best pilots.

But I am not here to tell you about Alaska, for, unlike most legislation, this bill is as true for the lower 48 as it is for Alaska. The bottom line is that the older a pilot is, the more experience he necessarily accumulates. And one has only to look at the record to see that experience is the greatest single factor in airline safety. Earlier this month, in the well-publicized case of Murnane against American Airlines, His Honor Charles Richey, U.S. District Court judge for the District of Columbia, stated that:

> All parties agree that experience is the key to continued or increased safety as a pilot advances in age.

He continued:

> There is credible and persuasive evidence that the incidence of aviation accidents decreases as the age of the pilot increases. The court finds that this phenomenon of reduced accidents with increase in pilot age is clearly a function of the amount of experience acquired by the pilot. As an active airline pilot advances in age, he necessarily acquires increased flying experience. Indeed, as demonstrated by credible and persuasive evidence, older pilots have fewer accidents than younger pilots.

Mr. Chairman, I think it is time we synchronize our known facts with our governmental practices. The fact is, the best pilots are the most experienced ones. By retiring our best pilots when they are perfectly healthy, with not even a cursory review by the FAA, we have been doing the flying public a great disservice for the last 20 years. I would urge that we increase air safety and do away with age discrimination in one fell swoop. The two great public goods to be found in H.R. 3948 are going to move me to support it. I hope that in the sake of justice and safety, you will, also. Thank you, Mr. Chairman.

Mr. ANDERSON of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Chairman, if the essence of the political process is compromised, then the legislation before us today should be used to teach students about the process.

Briefly, legislation to raise the mandatory retirement age for commercial airline pilots was presented to the Subcommittee on Aviation in several forms. Many members believed, and testimony before both the subcommittee and the Select Committee on Aging of which I am a member, revealed that there were compelling reasons to raise the age limit far beyond the 61½ contained in this bill. Other members and other witnesses contended that we were putting the cart before the horse by raising the limit prior to receipt of a comprehensive study of the issue by the National Institutes of Health.

From that situation, the 1-year study with an 18-month moratorium on enforcement of the age 60 rule evolved as a compromise.

The current age 60 rule is arbitrary and discriminatory. And, in some respects H.R. 3948 is also arbitrary and discriminatory. But, while it does not eliminate the problem entirely, the important point is that it does set in motion the mechanism for equitable treatment of pilots in a manner which respects both their needs and those of the flying public.

First, the NIH study is a comprehensive one which will answer questions regarding the adequacy of current certification procedures and the need for age-based mandatory retirement. If NIH says—and I do not think it will—that age 60 is the correct cut-off date for pilots, then the authority for the suspension of the rule will terminate immediately.

But, while those pilots over age 60 are flying as a result of this legislation, they will be subjected to more frequent, and if Secretary Goldschmidt determines it is advisable, more extensive physical examinations. These provisions insure that there will be methods of carefully checking older pilots to determine whether they are capable of flying safe airplanes.

It is ironic that the opponents of this legislation—those who prefer just a study with no extension in the age limit, argue that we must thoroughly study the issue. I wonder how they are going to study the capabilities of pilots over age 60, if they deny us the opportunity to have that group by eliminating that provision of the bill. We will simply have no older pilots to study.

This legislation provides immediate relief for the pilots who are subjected to among the harshest mandatory retirement laws left in this country. We are merely giving them just a bit of the consideration that we give ourselves, all Federal workers, and most of the private sector. I do not find that consideration—in light of the evidence and the sophistication of current medical technology—to be anything less than well deserved.

Opponents of this legislation have raised the spectre of planes falling from the sky. Of senior citizens hobbling into cockpits. Of flight attendants having to be nursing home aides, as well. That vision is not only unwarranted, not only false, it is a disgrace. I wonder how many of us would be offended if we were told that our abilities should be judged merely on our chronological age?

Further, H.R. 3948 does not sacrifice safety. It is a safety-oriented bill. Those who say that when they vote against this bill they are doing so because they prefer to err on the side of safety are misguided. Pilots with large commercial airlines must retire at age 60. Commuter and charter pilots, and we have more and more of these since deregulation, retire subject only to the general private sector provisions of the Age Discrimination in Employment Act of age 70.

A 727 or 707 or DC–9 is equipped with several crewmen. It has sophisticated equipment that almost flies the plane by itself. The commuter planes are not as sophisticated, and they are often piloted by a single pilot. Yet, we are willing—and the FAA has been willing—to allow the commuters to fly forever. The result is: "Older pilots never die * * * they just go on to fly commuters." H.R. 3948 addresses that glaring inconsistency by subjecting commuter pilots to the same rules as commercial pilots.

So, what we have before us today is a bill that alleviates discrimination. A bill that sets in motion a change in attitude that will lead to case-by-case evaluations of an individual's ability to continue in his or her career. A bill which strengthens safety provisions in current aviation law. A bill which carefully balances the needs of all interested parties. A bill which has been championed by a few, who made their arguments cogently, while the powerful opposition argued with inaccuracies, and tried to inject discriminatory stereotyping and false fears into the debate.

The bill is a good one, the cause is right, and I urge my colleagues to join me in supporting it.

Mr. SNYDER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Chairman, the primary issue before the committee regarding this legislation is safety. It is not age discrimination. It is not the arbitrary nature of the age 60 rule. It is the safety of the American flying public. If H.R. 3948 is passed without the Howard amendment, the presumed safety of airline passengers will be diminished.

The bill before us today defies logic like no other legislation I have seen. It raises the retirement age for pilots to 61½ while the National Institute of Health completes a study on the medical feasibility of the age 60 rule. It makes no sense to change the rule before an authoritative study has been completed which would justify such a change.

Admittedly, the age 60 rule is arbitrary, although no less so than age 61½. The rule was adopted by the FAA in 1959 for safety reasons. It was then, and is now, impossible to determine, on a case-by-case basis, a pilot's chances of suffering sudden incapacitation while in flight. It is a fact that a pilot's ability to resist fatigue and to react quickly deteriorate with age, possibly to the point of adversely affecting the safety of the flight. What the FAA was telling us in 1959, and is still telling us today, is that we do not know how to determine each pilot's physical and mental capacity to the degree necessary to meet these stringent tests.

Beyond the safety issue lies another problem. If this bill is passed without the Howard amendment, it will have the effect of casting a certain degree of uncertainty into the careers of all airline pilots. Enactment of H.R. 3948, as reported, would require a renegotiation of pilot pension plans and benefit programs which are based on the normal retirement age of 60, even though the age change called for may only be temporary.

The bill before us today is premature. The consequences of the type of precipitous action called for could be devastating. If the mandatory retirement age of airline pilots is to be raised, it should be raised only after valid medical studies which show justification for a change can be completed. I do not believe the safety of the airline passengers should be compromised to make a point about age discrimination or the arbitrary nature of the age 60 rule.

If ever there was an amendment which permits Members to express their support for reason and commonsense, this is it. I urge my colleagues to support the Howard amendment.

□ 1240

Mr. SNYDER. Mr. Chairman, I yield to myself such time as I may consume.

Mr. Chairman, before going to my prepared remarks, I wish to make a couple of observations about some of the things that have been said here. My dear friend and chairman of the subcommittee went to great lengths to indicate how easy it was for a copilot to take over in the event of the incapacitation of the pilot. I would like to remind my chairman of the fact that there have been three deaths within the past year by pilots in command on scheduled U.S. carriers, and in two of those instances the copilot was not able to take over. That was brought out in our hearings. One of those times, an FAA inspector had to take over in a 747 coming from Hawaii because the copilot was not really capable and was shaken up too badly, and one up around Chicago, there was a company inspector who took over. In the third case, my chairman is correct.

I would also like to point out that of those three heart attacks, two were 59 years of age. I think this is important.

There have been some observations made here that there have been no deaths, and they are very careful to say, by incapacitation of pilots in "U.S. scheduled air carriers." And they are right. Do you want to talk about foreign scheduled air carriers? Do you want to talk about charters? Do you want to talk about other carriers? We have just been lucky.

I think it tends to show, perhaps, the validness of the rule that the FAA has.

I have here and will insert in my remarks, and under the unanimous consent that I received earlier in the House, a list of all of the fatalities that have occurred in commercial air carriers by virtue of the incapacitation of the pilot. I will file that. Maybe the Members want to see it. It is available over here. I would like the Members to come over and take a look at it.

(The list of fatalities will appear in a later edition of the RECORD.)

Mr. Chairman, I hope those who are not here are watching on our closed TV circuit, because this is an important bill. It is not complicated. It is one of the least complicated bills we have had out of the Subcommittee on Aviation, but it is controversial.

The Howard amendment, which I will be supporting—and I hope the Members will support it—was defeated in committee 25 to 21. Three switches would have turned it around.

Obviously, I rise in opposition to the bill. It is clear to me and to many of my colleagues that this bill should not be passed in its present form. It has been hastily conceived; it has the potential of doing great harm, and no chance of accomplishing any worthwhile goal.

I would like to point out some of the major deficiencies of the bill, but before I do, I think we should pause a minute and consider some of the underlying issues that have often been overlooked during our previous discussion.

First, this bill involves much more than possible age discrimination against a relatively small group of workers. It deals with aviation safety. We cannot overlook either that fact or our responsibilities in that area. The FAA promulgated the rule requiring airline pilots to retire at age 60 for safety reasons 20 years ago. The agency says those reasons are still valid today. While we may, on occasion, disagree with the FAA, it is important to bear in mind that if we are going to overturn a decision of the Federal agency with special expertise and responsibility for the safety of millions of air passengers, we better be sure of what we are doing. I do not see any evidence that we are sure of what we are doing.

This bill rests on the assumption that it is possible today to determine scientifically whether a person over age 60 will suffer a sudden incapacitating event and whether he can perform adequately in every respect to fly an airliner. If you do not accept those assumptions, you can possibly support the bill.

The Subcommittee on Aviation has heard conflicting testimony about the assumptions underlying the age 60 rule. Some specialists believe that they can now determine this on a case-by-case basis and that the FAA rule is no longer valid. The Federal Air Surgeon and the top physician for the Nation's largest airline, on the other hand, testified that it is not possible to make this determination with sufficient accuracy to justify modification of the age 60 rule. They believe that while medical technology has undoubtedly made great strides in the 20 years since the adoption of the rule, most of the gain has been associated with advances in the treatment of disease, such as coronary artery disease, rather than in predicting the extent to which a person is suffering from that disease without resorting to more invasive testing with a correspondingly higher percentage of risk. All of us have certainly heard stories of people who were pronounced fit by their physicians, walked out, and had a heart attack and died. The medical literature is replete with studies showing that the stress EKG, the test the older pilots point to as evidence of medicine's ability to diagnose heart disease, has numerous false negative results. In other words, many people who take the test with negative results actually have serious heart disease.

Many of the Members who have been here for a while remember the gentleman from North Dakota, Hjalmar Nygaard, who was feeling bad one day on the floor. He walked down to the doctor's office. They put the EKG on him, and it was reading perfectly until it went to a straight line.

□ 1250

Similarly, we have not been able to come up with a battery of tests which will accurately measure a pilot's psychophysiological functioning—such as his reaction time, ability to process new information, ability to resist fatigue, and the other abilities which are important in flying an airplane and which unmistakably decline with age. Since the majority of all airline accidents have as their primary cause pilot error associated wtih poor judgment, it is obvious that any marked decline of a pilot's psychophysiological functioning can have disastrous consequences.

I would like to point out, too, as has been said before, that the opposition to this is unanimous except for the Pilots Rights Association, which was formed to lobby for this bill. It has been pointed out here that the airlines are opposed to it, the union is opposed to it, the FAA is opposed to it, the American Medical Association, the Aerospace Medical Association, and the Cleveland Clinic.

I support the Howard amendment, we ought to have the study. It is very interesting the Journal of the Aerospace Medical Association in an article entitled "Air Operations and Circadian Performance Rhythms," written by five doctors and medical researchers concluded, and I quote:

> In addition, since adjustment to time cue shifts becomes more difficult with increasing age, operating on transmeridian routes should be restricted in pilots older than 45–50 years.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I would be happy to yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, the distinguished gentleman from Florida spoke previously and stated in the well the way to find out the answers to pilot aging would be to let these pilots fly from age 60 to 61½. I submit to the gentleman and Members of this House, I do not want to experiment with the lives of 250 to 300 passengers and let pilots fly beyond age 60.

If we are going to let them fly, let them fly an empty plane, but not be flying planes with 250 passengers.

Mr. SNYDER. The gentleman is correct. The gentleman from California in his remarks under the rule said, "Would you like it if they put an age limit on serving in this body?"

The truth of the matter is if we have a heart attack and die on the job, nobody is hurt but us. It is not an analogous situation. All of us who have spoken on both the rule and the general debate on this bill who were here present on October 4, 1971, voted in favor of mandatory retirement for air traffic controllers at age 56 and Federal firefighters at age 55, including the gentleman from Florida, the principal sponsor of the bill, the two gentlemen from California, that is, the chairman of this full committee, the chairman of the subcommittee, and my dear colleague from Arkansas, who I accosted on this in committee and who had a delightful answer.

Mr. ANDERSON of California. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I thank the gentleman from the majority party for yielding to me. I appreciate that very much.

Mr. Chairman, every time that some unelected bureaucrat or anybody else in a position of authority wants to avoid making a responsible decision, he always comes up with some arbitrary age limit.

Now, that is what is at stake here, not just whether or not pilots over 60 ought to have the right to fly. We are speaking to the point of having decisions made on something other than an arbitrary age.

Now, 20 years ago, when this rule was put in, they said it was necessary, the FAA did, because there was not medical technology and all the other sorts of medical information you need to make a finite determination if people at this age should be allowed to fly.

Twenty years later, with a lot of advancement in medical research, they are still using the same argument.

So this rule is nothing more than an unwillingness on the part of the FAA, which has the capability and the authority to determine if the health of pilots is good to fly after age 60, to use those other determinations, but the FAA will not do it because they do not want to bear the responsibility.

So then what are we left to? We are left to the Congress of the United States in its oversight capacity to point out this wrong and to point out the fact that medical technology has advanced to a point where there is some other determination that ought to be used other than an arbitrary age. That is why we ought to vote for this bill.

Mr. Chairman, I rise in support of H.R. 3948, the Experienced Pilots Act of 1979. As the ranking minority member of the Select Committee on Aging and as a primary author of the original legislation which suggested the NIH study, let me say that we may have committed a tactical and technical error in not titling the bill properly. Instead of merely the Experienced Pilots Act of 1979, we should have entitled the bill "The Experienced Pilots Safety Act of 1979." For safety is a major provision of this bill and the controversy that surrounds it.

Opponents of this bill have clearly indicated that their primary objection to the legislation is that it endangers the lives of the millions of Americans who fly every year as commercial airline passengers. One member has suggested that if we enact this legislation and a plane crashes with a pilot over 60 at the controls, the American people will blame the Congress even if it was not the pilot that was at fault. I submit that if we do not act to pass this legislation, we are endangering the lives of hundreds of thousands of commuter and helicopter passengers who fly with pilots over 60 who do not receive proper medical certification. I think if we are going to make threats of retribution from our constituents we ought to consider the safety of all passengers.

I have also heard the argument that the FAA is going to include commuter and helicopter pilots under a new FAA rule. I wonder why it is that it took the amendment by Mrs. FERRARO to get the FAA to act. What if a commuter plane crashes with an over-60 pilot with a medical disorder that would have been discovered by the more comprehensive examinations required by H.R. 3948. Can we afford not to pass this bill if we are trying to avoid blame for a crash?

I note the galleries of the House have some spectators wearing a badge stating "I am opposed to H.R. 3948." The Members should note that these constituents do not have gray hairs and have some financial interest in the defeat of this legislation. For if the gray eagles are promptly retired at age 60, the younger pilots can move into more lucrative positions of responsibility at a faster rate. However, I am sure that the financial considerations of this legislation are not their sole concern.

One of the requirements of the NIH study is to determine whether or not more comprehensive medical examinations should be required. Let me say at this point that the airline industry agrees on the need for a study in the interests of greater safety. However, a more comprehensive and possibly more frequent medical certification to a younger pilot means that his chances of being found medically unfit are greatly increased. So my colleagues when you hear the horror stories that the younger pilots are carrying the older pilots until they reach age 60, you may or may not believe it. But you can be certain that if more comprehensive examinations are required, even the more experienced pilots will not have to cover for the medical infirmities of the younger pilots. I contend that more comprehensive medical exams will eliminate the potential coverups of medical problems for both young and old pilots.

You will no doubt hear today that it is ridiculous to allow pilots to fly while the study is being conducted by NIH and that this is like putting the cart before the horse. The reason for doing this is quite simple. Mandatory retirement is clearly a classic case of age discrimination and I am fundamentally opposed to age discrimination wherever it exists. Let there be no mistake—H.R. 3948 still discriminates by setting an age limitation of 61½. However, it is my hope that after the study is completed, pilots will be allowed to fly on the sound basis of their physical and mental capabilities rather than an arbitrary age limit which eliminates the most competent pilots. It is also necessary to have these pilots flying during the study so that their health, skill, and judgment can be accurately measured under actual conditions. This practice is important because there are no medical studies of commercial pilots who are still flying over age 60.

The opponents will no doubt contend that this makes commercial aviation passengers in effect a guinea pig for the 1-year test. They will also state that the critical moments of the flight are the 10 seconds before landings and after takeoffs, that a mistake at this critical point could cost the lives of over 500 people. What they do not mention is that a pilot is more likely to have a heart attack between the ages of 40 and 50 and that after age 50, the incidence of heart problems dramatically drops. Furthermore, they might fail to mention that because of the fail-safe procedure of having two or more individuals in the cockpit capable of landing the aircraft, there has never been an airplane crash on account of pilot incapacitation.

However, that will not stop the opponents of the bill from telling the unconfirmed story of the 59-year-old pilot who had a fatal heart attack and the copilot was so upset that a FAA observer had to take over the controls to land the plane. We are then left to draw our conclusions as to what might happen if the pilot, copilot, and engineer were all above 60 and the excitement of the captain having a heart attack caused the other two flight-certified pilots to have simultaneous heart attacks or become otherwise incapacitated. The answer to these wild hypotheticals is simply to strengthen the testing procedures so that a sick pilot cannot fly. In fact, the FAA recently promulgated a rule which requires pilots not to fly if they are sick. This will no doubt prevent many of the inflight incapacitations.

Mr. Chairman, the American people deserve stringent testing of airline pilots to determine those individuals who are free of disabling conditions, and airline pilots over 60 in good mental and physical condition should be protected from age discrimination. Opponents of this bill want medical evidence to show that pilots over 60 are 100 percent safe. That can not now nor will it ever happen. I urge my colleagues to support this bill in the interests of increased safety and the right to work determined on an individual basis irregardless of age.

Mr. ANDERSON of California. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. Weiss).

Mr. WEISS. Mr. Chairman, I rise in strong support of the Experienced Pilots Act of 1979, H.R. 3948. This legislation would reverse the arbitrary age provision in the Federal Aviation Administration's regulations mandating that commercial airline pilots retire at age 60 regardless of their health status or abilities, the so-called age 60 rule.

In the last Congress as a member of the Employment Opportunities Subcommittee of the Education and Labor Committee, I played an active role in the drafting and passage of the Age Discrimination in Employment Act (Public Law 95–256). This legislation instituted a dramatic change in the previous concepts of retirement age. It eliminated mandatory retirement at any age for Federal employees and raised the age for mandatory retirement in the private sector to 70 years. However, the age 60 rule is an exception to this newly established national policy.

The age 60 rule is arbitrary and discriminatory. It denies qualified individuals the right to continue in their profession, and at the same time deprives the airlines of some of the most experienced employees. This rule was established by the FAA two decades ago based on the best medical data and technology available at that time. Since then, medical research has advanced to the point where we have a high degree of confidence which enables us to select those individuals who can fly safely after age 60. The FAA emphasized the possibility that a pilot over age 60 could suffer an incapacitating heart attack during a flight. Testing procedures recently developed by Dr. Robert Bruce, a leading cardiologist, confirm that pilots who are 61½ years old present no greater safety risk to the public than pilots who are 59½ years old.

Dr. Bruce's test considers five risk factors for coronary heart disease: A family history of cardiovascular disease; high blood pressure; high cholesterol level; cigarette smoking; and unsatisfactory performance on a treadmill exercise. The reliability of testing for these factor was demonstrated by Dr. Bruce's Seattle Heart Watch Study in which he tested 2,400 healthy men ages 25–69. The FAA admitted that if a 60-year-old tested well on the Bruce protocol, his chances of developing an incapacitating heart attack during a flight would be "extremely remote."

To absolutely insure the public safety, H.R. 3948 mandates that pilots older than age 60 take four physicals a year, instead of the two now required. Finally, the bill provides that the National Institutes of Health conduct a study to address the adequacy of tests given to pilots of all ages.

I am strongly opposed to any effort to delete mandatory retirement provisions, and leave only the requirement for the National Institutes of Health study. Deleting these provisions would be unfair to pilots who may later be judged competent by the study to continue working. Furthermore, forced retirement at age 60 would interfere with the NIH research because there would be no working pilots over age 60 who could participate as subjects.

I view the Experienced Pilots Act as a vital step in our Nation's effort to eliminate age discrimination. It is necessary that the criteria by which we judge people are individual ability and qualifications, rather than chronological age. Congress recognized this principle last year by enacting the Age Discrimination in Employment Act. I urge my colleagues to reaffirm that principle today by approving the Experienced Pilots Act of 1979.

Mr. ANDERSON of California. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from California (Mr. Lloyd).

The CHAIRMAN. The gentleman from California (Mr. Lloyd) is recognized for 2½ minutes.

Mr. LLOYD. Mr. Chairman, I would like to tell the Members just a bit of history about how we got the age 60 rule.

In 1959 we had an administrator who had a relative in one of the airline companies who had a little problem with four pilots. As a result of that, the pilots were dismissed because they were too old.

They appealed, and the courts found in the pilots' favor. One of those pilots was 69 years old. As soon as that occurred, the FAA Administrator issued the rule that it would be 60, and I would point out that that Administrator later worked as a president of that airline and indeed served on the board of directors of that airline.

I do not know if there was any connection, but I have a suspicion on how that came to pass.

Let us talk about redundancy in safety. Safety is redundancy of systems. It is redundancy of pilots. In every aircraft today, we have three pilots, or in the large aircraft. So we have that kind of safety.

We heard that there was a debilitation this year wherein we had three deaths in the cockpit and that one of the pilots or copilots was unable to meet the demands of the situation, but that they had an FAA inspector there.

I would ask the question: Just how old was that inspector, because the FAA does not require that a man be under the age of 60, so the odds are very strong that the inspector who did take over was over the age of 60.

Lastly, I would like to point out to this body, and I know my time is short; but I think the living proof of what we are talking about is my good friend and colleague, the gentleman from Florida, Mr. Claude Pepper. That man, if we had applied the same standards that we are trying to apply to other people, we would have been denied the services of a man who has given so greatly to his country and to this House. I think that it would be terribly unfair to do that kind of a thing.

Let us talk about one other thing. Benjamin Franklin could not have served his country if we had applied the same rules.

I think it is time that we took this thing out of the Dark Ages. It is time that we roll back discrimination, and it is time that we pass this bill in its present form.

Thank you.

● Mr. WOLFF. Mr. Chairman, I rise in support of this legislation with the greatest sense of confidence in our experienced pilots and in the airlines' ability to provide the proper medical examinations to determine that our pilots are healthy and capable.

We live in a remarkable period in American history. Finally, the aged are being given the respect and attention that they have earned. Certainly, the work of Congressman CLAUDE PEPPER, chairman of the Select Committee on Aging, has been instrumental in providing for the future of our country by providing the proper high place of honor for our elderly Americans. Our Nation can only benefit and grow when the aged are allowed to share their experience, energy and commitment with our society.

Mr. Chairman, I have stood on this floor on many occasions in opposition to discrimination on every level, clearly none is more insidious than age discrimination. One clear and simple example of what I am referring to involves the case of Capt. Scott J. Devine of United Airlines. As Captain Devine was approaching Hawaii, his engines ceased functioning. There was no procedure in the manual to deal with this type of emergency but his experience and professionalism enabled him to bring the plane down safely and save the 399 passengers and crew from an extremely dangerous accident that could have resulted in a great loss of life. This demonstration of leadership and courage occurred 3 months before Captain Devine's 60th birthday. Three months later, he was notified that due to age and in spite of his flying ability, Captain Devine was required to stop being an airline pilot.

I congratulate Chairman PEPPER for his continued leadership in the fight to ban age discrimination and I proudly join him in supporting this compromise legislation which allows airline pilots to fly until 61½ years of age and which calls for a study on the effects of aging pilots. As a pilot myself, I believe that the strict medical examinations required of pilots 60 years of age or older should be required of pilots of all ages.●

● Mr. HOLLENBECK. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from New Jersey (Mr. HOWARD). H.R. 3948 includes provisions which in effect will raise the present 60 year age limit to 61½ years but only for an 18-month period. During this period, the National Institute of Health (NIH) will conduct a study to determine safety implications of pilot aging and whether safety would be adversely affected by changing the retirement age. At the end of this period the retirement age would automatically revert back to 60, unless Congress enacts further legislation to extend the age.

Because of my grave concern over potentially adverse safety implications and over legislation which allows a change to be made while the study which would support or oppose such change is still underway, I support the Howard amendment. The amendment would delete all the provisions of the bill pertaining to age extension with the exception of the NIH study. If adopted, this amendment would retain the age 60 rule until after the study is completed. I think this is eminently fair and practical.

I firmly believe it would be more prudent for Congress to decide whether to retain or modify the age 60 rule after reviewing the conclusions of the NIH study. In doing so, the issue of safety will not be clouded by the age discrimination issue. In not doing so we are putting the cart before the horse. I might point out in passing that over the past year, two examples of 59 year old pilots dying while in flight raise argument in favor of keeping the age 60 rule until after the results of the study are completed.

In my opinion, this is a consumer and safety issue rather than a question of age discrimination. And I would also point out that pilots who are forced to retire at age 60 are still able to financially support themselves. I will not deny that their income does drop. However, their pension plans generally provide more than adequate benefits when compared against other senior citizens living on fixed incomes. I personally have worked hard as a Member of Congress to alleviate many of the problems the aging face particularly discrimination and arbitrary retirements and will continue to do so in the future. However, in this case the practical considerations brought out by Mr. Howard and the practical alternatives offered by the Howard amendment far outweigh the arguments in support of the original bill.

I will be most pleased if NIH determines that medical technology can verify accurately an older pilot's ability to function in a manner so as to allow them to fly beyond age 60 in the future but in the interest of the overwhelming majority of users, owners and others affected I urge my colleagues to adopt the Howard amendment.●

● Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 3948, The Experienced Pilots Act of 1979. This is a modest proposal. It will raise the age limit for retirement of airline pilots from 60 to 61½ years, it will require more frequent medical examinations for pilots over age 60 and it directs the National Institute of Health to conduct a study and recommend medical standards for all pilots.

Despite this extremely cautious approach to raising the retirement age for airline pilots, this measure has met with emotional and unsubstantiated charges that it will in some way endanger the public safety. Two factors make for pilot safety: freedom from impairing illness and performance capability. Age of pilot, per se, has no direct bearing on safety.

It would be useful to review when and how age 60 retirement was set. On December 5, 1959, the Federal Aviation Administration, reportedly without the benefit of any hearing or scientific data, announced that it has established age 60 as the retirement age of airline pilots. Dr. Stanley R. Mohler, a professor of aerospace medicine at Wright University, who served as Chief of the Air Medical Applications Division of the FAA from 1965 to 1978, described the decisionmaking process in the following way:

> The FAA Act provides that the administrator will provide the very highest level for the scheduled airline operations, and that in the conduct of this he'll assure that the pilots to these planes are in the highest possible physical condition. Therefore, we require them to have the highest medical standard. And since we can't require these extra tests, we had to have some type of arbitrary cutoff on the actuarial basis for pilots over a certain age. And they said where shall we place this age, sixty-five, fifty-five, fifty, sixty. And there were a variety of viewpoints. And the general feeling seemed to center around the sixty zone. * * *

Much has changed in the ensuing 20 years. Americans are living longer, there has been dramatic progress in airplane technology and in the prevention, diagnosis and treatment of disease. Most importantly we have started to move away from the blatantly ageist view that older workers are less capable. Much evidence has already been accumulated which overturns widely held fallacies about job performance and age. In 1974, the American Medical Association, a cautious organization, took the position that age has nothing to do with ability of a person to perform capably on a job.

Both the House Select Committee on Aging, on which I serve, and the Public Works Subcommittee on Aviation, have held extensive hearings on this matter. Expert testimony before both committees indicated there is no rational or medical basis for retention of the age 60 rule. By enacting this legislation we will be removing another vestige of age discrimination in our society. It can be said, moreover, that we will be strengthening the public safety, since the legislation mandates a vital study of health requirements for all pilots. As I noted earlier, the pilots who benefit from this legislation will be subject to medical qualifying examinations twice as frequently as the two-a-year now required and the Secretary of Transportation can require that these tests be more extensive than those given younger pilots.

I urge adoption of this proposal.●

● Mr. DODD. Mr. Chairman, I rise in support of H.R. 3948, the Experienced Pilots Act of 1979. This bill, as amended by the Aviation Subcommittee of the Public Works Committee, will raise the age limit presently imposed on certain pilots to 61½ years, require more frequent medical examinations for pilots over the age of 60, and require that the Director of the National Institute of Health conduct a study and recommend medical standards for all pilots.

H.R. 3948 is a compromise measure created out of a need to end arbitrary age discrimination and determine whether or not there are more conclusive medical tests that can be used to determine pilot health.

This important legislation would remove one of the last vestiges of age discrimination by protecting commercial airline pilots from arbitrary and discriminatory retirement policies. The bill will temporarily protect some of the Nation's safest, most experienced pilots from forced retirement at age 60.

The original "age 60 rule" for pilots was promulgated by the FAA in 1959. Since that time medical science has progressed rapidly and great strides have been made in predicting and preventing many illnesses. Physical tests now exist which adequately measure functional capabilities. Despite this progress in medical testing, the FAA has done little to examine the current medical evidence relating to the rule.

Therefore, H.R. 3948 would require that the NIH conduct a study to determine the reliability of pilot testing.

Opponents of this bill have stated that passage of this legislation would endanger the safety of airline passengers. I do not believe that this is the case. Airline pilots must undergo an FAA physical every 6 months as well as two proficiency checks per year. In addition, most airline companies require company physicals which are even more stringent than the FAA tests. Should a pilot fail to clear any one of these hurdles, he would be grounded immediately.

Furthermore, in the event of pilot incapacitation an extra margin of safety is provided by the "fail-safe crew" which consists of three persons who are pilot-qualified in the cockpit. The record shows that this mechanism has insured that there never has been an accident in scheduled commercial passenger service due to the incapacitation of a pilot of any age from any cause. The FAA and the airline industry have developed clear procedures for pilot incapacitation and they have worked.

Another objection to H.R. 3948 is that the proposed NIH study be done before raising the age limitation to 61½. The FAA established the arbitrary retirement age of 60 in 1959. The FAA has had 20 years to do a study and has yet to prove that there is a correlation between age and pilot performance. If the age limitation is not raised during the NIH study, there will be no pilots over age 60 to examine.

The FAA has argued that heart attacks and strokes increase with age and that mental and psychological functions decline as a result of the aging process. Medical experts recognize that disease, not aging, is responsible for any deterioration in the health of a pilot of any age. Cardiovascular disease and mental and psychological impairment are now detectible through modern scientific testing procedures not available in 1959.

Why should a pilot be forced to retire because of his age when he is still physically and mentally capable—by FAA standards—of handling the responsibilities of his job? To deny a person the right to continue his gainful occupation at age 60 without evidence of an inability to perform his job is simple discrimination.

This Chamber has traditionally fought discrimination and injustice whenever it has been revealed. It would be totally inconsistent for this body to approve age discrimination against pilots in the absence of conclusive evidence which indicates that they lack the necessary proficiency for carrying out the responsibilities of their jobs. Therefore, I ask my colleagues to support H.R. 3948.●

● Mr. OTTINGER. Mr. Chairman, traditionally, I have supported all efforts to eliminate mandatory retirement based on age. I was an early sponsor of the legislation passed in 1977 to raise the upper age limit of the Age Discrimination in Employment Act from 65 to 70. This was an important step toward eliminating mandatory retirement and I want to reaffirm my strong commitment to the right to employment based on ability and the right to retirement based on choice.

However, after reviewing the information available on the legislation under consideration today, H.R. 3948, the Experienced Pilots Act of 1979, I have reluctantly decided not to support passage of H.R. 3948 as reported by the Public Works Committee.

H.R. 3948 would raise the maximum age for airline pilots from age 60 to age 61½ for a period of 18 months. During this 18 month period, the National Institutes of Health would be directed to conduct a study to determine whether age limits on pilots are medically warranted and whether current medical examination procedures are adequate. If the study concludes that the age-60 rule is medically warranted, the 18-month extension would terminate immediately.

I fully support the NIH study called for in H.R. 3948. I am confident that the study will determine that medical technology has advanced to the point that we can evaluate an older pilot's physiological and psychological capacity with sufficient accuracy to justify allowing certain pilots to fly past age 60. But I cannot support changing the age limit before we have the results to the study. It doesn't make sense to me to replace one arbitrary retirement age with another.

This bill is not simply a matter of age discrimination. With reference to airline pilots, I believe a number of special considerations are present. First, airline pilots are responsible for the safety of millions of people. Clearly, their safety is paramount. Second, airline passengers do not have the same degree of freedom of choice as other consumers. For example, you or I may choose a doctor or attorney over 60, but airline passengers generally do not choose their own pilot. If we are to err in setting a retirement age of pilots, we owe it to airline passengers to err on the side of safety.

After the NIH study is completed, Congress can utilize the report's research data and recommendations to decide on a permanent policy for airline pilots and we can achieve our goal of allowing each individual to be evaluated based on his or her ability to do the job.●

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Experienced Pilots Act of 1979".

Sec. 2. (a) Notwithstanding any other provision of law or any rule, regulation, or order issued pursuant thereto, during the period which begins on the date of enactment of this Act and ends eighteen months after such date of enactment—

(1) no officer or employee of the United States shall—

(A) refuse to issue any airman certificate to, refuse to renew any airman certificate for, or limit any airman certificate of, any individual applying for the issuance or renewal of such certificate in order to serve or continue to serve as a pilot; or

(B) require any certificate holder to terminate such individual, or otherwise discriminate against such individual with respect to compensation, terms, conditions, or privileges of employment, as a pilot; and

(2) no certificate holder shall terminate an individual, or otherwise discriminate against such individual with respect to compensation, terms, conditions, or privileges of employment, as a pilot,

solely by reason of the age of such individual, if such individual is less than sixty-one years and six months of age.

(b) During the period which begins ninety days after the date of enactment of this Act and ends eighteen months after such date of enactment, no certificate holder may use the services of any individual as a pilot if such individual is sixty-one years and six months of age older.

(c) Any violation of paragraph (2) of subsection (a) shall be deemed to be a violation of the Age Discrimination in Employment Act (29 U.S.C. 621 et seq.).

Sec. 3. The Director of the National Institutes of Health, in consultation with the Secretary of Transportation, shall conduct a study to determine—

(1) whether an age limitation which prohibits all individuals who are sixty years of age or older from serving as pilots is medically warranted;

(2) whether an age limitation which prohibits all individuals who are older than a particular age from serving as pilots is medically warranted;

(3) whether rules governing eligibility for first- and second-class medical certification, as set forth in part 67 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to determine an individual's physical condition in light of existing medical technology;

(4) whether rules governing the frequency of first- and second-class medical examinations, as set forth in part 67 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to assure that an individual's physical condition is being satisfactorily monitored; and

(5) the effect of aging on the ability of individuals to perform the duties of pilots with the highest level of safety.

The Director shall complete such study and submit a report of the results thereof to Congress within one year after the date of enactment of this Act. In conducting such study the Director shall utilize all available studies and data which are relevant to such study. If the Director determines that a prohibition against individuals who are sixty years of age or older from serving as pilots is medically warranted, then the authority of section 2 shall terminate immediately, and the Secretary of Transportation shall immediately prohibit certificate holders from using the services of individuals sixty years of age or older as pilots in operations to which any of the parts of the Code of Federal

Regulations referred to in section 5(2) applies.

Sec. 4. (a) The Secretary of Transportation shall require that any individual who is sixty years of age or older and who is employed by a certificate holder as a pilot pass a medical examination not less frequently than four times a year.

(b) If the Secretary of Transportation determines that in the interest of safety individuals who are sixty years of age or older and are employed by certificate holders as pilots should be required—

(1) to pass more frequent medical examinations than required by subsection (a), or

(2) to pass more comprehensive medical examinations than individuals who are less than sixty years of age and employed as pilots,

the Secretary of Transportation shall, by regulation, require such individuals who are sixty years of age or older to pass more frequent or more comprehensive medical examinations, or both, in order to continue to serve as pilots.

Sec. 5. For purposes of this Act—

(1) the term "airman certificate" means an airman certificate issued under section 602 of the Federal Aviation Act of 1958; and

(2) the term "certificate holder" means a person holding a certificate to which part 121, 123, or 127 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act) applies and a person operating as a commuter air carrier under part 298 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act) with respect to passenger operations conducted by such person.

Sec. 6. Nothing in this Act shall be construed to abrogate or diminish any of the rights or entitlements of pilots provided for in collective bargaining agreements, pension plans, or other sources.

Sec. 7. There are authorized to be appropriated $600,000 for the purpose of conducting the study required by section 3.

Amend the title so as to read: "A bill to raise the age limitations presently imposed on certain pilots, and for other purposes.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of California: Page 8, strike out lines 14, 15, and 16 and insert in lieu thereof the following:

Sec. 7. No funds are authorized to be appropriated for the fiscal year commencing October 1, 1979, in addition to funds otherwise available to carry out the study described in section 3 of this Act.

□ 1300

Mr. SNYDER. Mr. Chairman, I reserve a point of order, pending receipt of a copy of the amendment.

The CHAIRMAN. A point of order is reserved.

Mr. SNYDER. Mr. Chairman, I withdraw my point of order and, as a matter of fact, I accept the amendment on this side.

Mr. ANDERSON of California. Mr. Chairman, this amendment is designed to overcome problems which the Budget Committee originally had with the bill.

The bill, as reported, includes a $600,000 authorization for the NIH study on the effects of aging on pilots. This authorization created Budget Act problems because it was not reported on or before May 15. To overcome the problem, the amendment provides that no funds are authorized for the NIH study for fiscal 1980. However, the amendment does not preclude the NIH from using otherwise available funds to conduct the study, and we have been advised that such funds are, in fact, available. For this reason, the amendment will not interfere with the prompt completion of the NIH study. The amendment does not make any substantive changes in the law and I urge its adoption.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I understand, now that I have seen the amendment, what it is and, in the interest of time, it was what the Rules Committee provided in order to make it comply with the objections of the Budget Committee, and we have no objection to it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Anderson).

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Howard: Strike everything after the enacting clause and insert in lieu thereof the following:

That the Director of the National Institutes of Health, in consultation with the Secretary of Transportation, shall conduct a study to determine—

(1) whether an age limitation which prohibits all individuals who are sixty years of age or older from serving as pilots is medically warranted;

(2) whether an age limitation which prohibits all individuals who are older than a particular age from serving as pilots is medically warranted;

(3) whether rules governing eligibility for first- and second-class medical certification, as set forth in part 67 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to determine an individual's physical condition in light of existing medical technology;

(4) whether rules governing the frequency of first- and second-class medical examinations, as set forth in part 67 of title 14 of the Code of Federal Regulations (as in effect on the date of enactment of this Act), are adequate to assure that an individual's physical condition is being satisfactorily monitored; and

(5) the effect of aging on the ability of individual's to perform the duties of pilots with the highest level of safety.

The Director shall complete such study and submit a report of the results thereof to Congress within one year after the date of enactment of this Act. In conducting such study the Director shall utilize all available studies and data which are relevant to such study.

Sec. 2. There are authorized to be appropriated $600,000 for the purpose of conducting the study required by the first section of this Act.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Chairman, what the amendment does is simply, as the bill itself does, have the NIH do a study concerning what ought to or ought not to be either age or conditions under which commercial pilots may fly in the United States.

What the amendment also does is say pending that study, which is a 1-year study rather than 18 months, as in the bill, is to say that the present age of 60 for retirement be maintained pending a report to the Congress at the end of that study.

One thing I would like to make clear, Mr. Chairman, is that this amendment has nothing to do with age discrimination. People who support this amendment, and the person who offers the amendment, would like to state that our past records will show that we have records against age discrimination, in behalf of senior citizens, in behalf of the elderly, that can match up with any other Member of the House, including the venerable chairman of the Select Committee on Aging, the gentleman from Florida (Mr. Pepper). I might state he may say "Up to now," but I disagree on that point.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am happy to yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to support the gentleman's amendment and urge our colleagues to adopt it.

Mr. HOWARD. I thank the gentleman for his support.

Mr. Chairman, in fact, to show that we are not opposed to age discrimination, many Members of the House, including this Member, had originally cosponsored a bill that would permit the age of the pilots up to age 70, provided we can get some substantial medical justification for it. However, during the hearings, we found that we could not have, and there is not available enough medical information on which to base any decision on age or conditions of pilots either older than 60 or below 60.

So what the bill does now is call for the study but, at the same time, it arbitrarily raises the age limit. If they are going to do that, why have the study? What is the purpose of the study?

A study is supposed to be in order to provide this Congress with a real basis on which to make a decision. We have an arbitrary age limit now.

It has been mentioned many times, some 20 years ago they were considering what the age limit ought to be and they considered age 50, 55, 60, and 65. They determined at that time that they would go with an age 60, two-thirds on the high side. At the present time, without any justification, we are going to raise it even more. I think that is unwise.

We know that there have been age limits sets before. We know that recently the men and women who work in the towers in our airports have been told that activity must cease at age 56, not 60, not 61½. There has been no great objection to it.

Some have mentioned that there have been pilots in the past year or so who have died of a heart attack at age 48. But, of course, we also have had pilots at age 59¾, within months of the 60 retirement age, who also have died, which may prove there ought not to be an age requirement at all, but there ought to be some physical test.

Of course, some people say we have age 60 now, everything is fine, everything is perfect. So what the intent of that seems to be, since everything is perfect at age 60, is let us bring in the Peter principle, let us raise it up to 61½ and after everything is perfect then let us raise it higher, and higher, until finally, by trial and error, mostly by error, we find we have gone too far. I do not think that is the way to adjust the age limit at all.

It has been mentioned also that pilots have it easy now. To fly from Los Angeles to Washington a pilot only has to do eight things. Of course, the point is at least six of those things have to do with the pilot safely getting the plane off the ground, and then later safely getting it back on the ground.

So I do not think there is a valid argument for saying it is such a very, very simple job.

One point in the bill before us, without the amendment, is there is no retroactive provision. What we are doing for our senior pilots, a pilot who may become 60 years old today, should the bill be passed into law and signed tomorrow, that pilot who becomes 60 today, yesterday, or the day before, is out.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent Mr. Howard was allowed to proceed for 2 additional minutes.)

Mr. HOWARD. I believe what we should do very sensibly is have NIH do the study. When they come back to us in 1 year they may have no age limit at all and they may say there are certain tests that must be passed, that those who can pass those tests can fly at whatever age, and those who cannot pass cannot be captains on our airlines.

People have said how can we do the tests if we are going to stop them at age 60? We are not going to have pilots over 60 flying planes to do the testing. There is $600,000 in this bill. They could provide for pilots over the age of 60 years to be tested without passengers. Let us not pass this bill saying that we can have them over 60, we can look and see how they fly with 250 or 300 passengers in the back while we are testing these previously untested pilots.

People who support this amendment are the AFL-CIO, the Aerospace Medical Association, the Airline Pilots Association, the Air Transport Association, the American Medical Association, and the Department of Transportation.

If we pass this amendment we will be doing the responsible thing. Let us change or not change the conditions of our airline pilots based on solid medical evidence, not on emotion. I urge the adoption of my amendment so that we can pass this bill and next year come back with a program, and a program that is retroactive so that our senior pilots may come back if they can pass the test. That is the sensible thing to do.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I am glad to yield to the gentleman.

Mr. YOUNG of Alaska. I am glad the gentleman has partially clarified his position about the study. But, again, I can see it coming back, if the gentleman's amendment is adopted, and people saying, well, this study was not in reality because these were pilots who were really not carrying passengers, thus, the stress load was not the same. We cannot have a study unless we have something to study.

Mr. HOWARD. I would just say to the gentleman that I would rather see a simulation as much as possible, or in the actual planes in the air, but I do not want to have 300 guinea pigs go along for the ride.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(At the request of Mr. Snyder and by unanimous consent, Mr. Howard was allowed to proceed for 1 additional minute.)

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Kentucky.

Mr. SNYDER. The gentleman from Alaska has said he was confused, and that is obvious or he would be supporting the gentleman's amendment.

But NIH, in a letter, said:

> It would be possible, however, for the National Institute on Aging to conduct an evaluation of existing data on the effects of aging, on certain physiological and psychophysiological functions which may be of assistance to the FAA in determining whether or not to retain mandatory retirement for pilots at age 60.

□ 1310

This is in a letter addressed to the gentleman from Florida (Mr. Pepper), chairman of the Select Committee on Aging. They indicate that they have the ability to do that from existing data. I think that handles it.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield further?

Mr. HOWARD. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I just say that you cannot apply a formula to the real realities of life. A study would mean nothing. There would be no clarification of the position. You know and I know that would be the argument on the floor of this House next year by the same forces for or against this legislation.

Mr. HOWARD. As a former educator, I would say that I disagree with the gentleman.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(At the request of Mr. Carr and by unanimous consent, Mr. Howard was allowed to proceed for 1 additional minute.)

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Chairman, I know the gentleman has given this matter a lot of thought and study, and I listened to his arguments very carefully. But, as I indicated to him privately before the debate, I really hope he would not advertise this amendment as being preferable to the bill in that it has a retroactivity feature.

The reason is, if the study determines that over 60 is a good thing to do, and it determines that 4 years from now or 3 years from now, it is not an advantage to public safety to suddenly pull pilots out of retirement back to the airlines. While they would be qualified to be captains and first officers in aircraft had they maintained their proficiency, they will have lost their proficiency and there is no amount of testing and recycling that can safely be done if you have already terminated a pilot's career. This is a definite layoff.

The CHAIRMAN. The time of the gentleman from New Jersey has again expired.

(By unanimous consent Mr. Howard was allowed to proceed for 1 additional minute.)

Mr. HOWARD. I would just like to say to the gentleman from Michigan that I had extensive conversations with the expert gentleman from California (Mr. Lloyd) on this, and agreed that there would have to be some cooperation by the airlines and some cooperation along the line, but it can be done. It will not be easy, but it can be done. But, it is certainly better to say age 65 with certain tests should qualify people, to have some mechanism where, if they are 61 or 62, they can come back rather than the bill itself now, which has no retroactivity. Anybody who became 60 today or before the bill is signed into law is o-u-t, out.

Mr. CARR. I just have to say on the point of proficiency, the expert from Michigan disagrees with the expert from California.

Mr. HOWARD. Fine. Maybe we can get extra time. I hope so.

Mr. ANDERSON of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want my colleagues to clearly understand what is going on here—a vote for the Howard amendment is a vote to gut the committee bill—It is not a compromise. Everyone who supports the committee bill, everyone who opposes age discrimination, knows what you are doing when you vote for this amendment.

The Howard amendment is an attack on the committee process because it says, in effect, that you need to study the issue before you raise the retirement age. The truth is, we have studied this issue carefully. Both the Select Committee on Aging and the Subcommittee on Aviation conducted comprehensive, open hearings, examining the issue from all sides. We determined, based on substantial evidence from the whole record, that it is safe to allow senior pilots to continue to fly with proper physicals past age 60 to age 63 or 65. Demonstrating an abundance of caution, and in the interest of compromise, we settled on age 61½.

Now the gentleman's amendment proposes to allow only for the NIH study and would not allow for an 18-month extension to the present retirement limit of age 60. The amendment would continue the FAA's discriminatory age 60 rule when there is no medical or scientific basis for it. The adoption of this amendment would tell the citizens of our country that Congress believes it is all right to push one group of people out of their jobs because of their age so that their younger colleagues can advance and be promoted more rapidly. It would tell our citizens that we do not mind removing our most experienced pilots from our airline system—even though statistics clearly show that the more experienced, older pilots are involved in much fewer accidents than the less experienced younger ones.

The gentleman's amendment also serves to allow commuter pilots to fly virtually forever. This is somewhat confusing. Does this reflect an intention not to discriminate against commuter airline pilots regardless of age, or does it reflect an intention to discriminate between air carrier pilots and commuter pilots? It is difficult to understand why one advocates discriminating against senior pilots of air carriers—when there is a fail-safe system available—that being a fully qualified copilot and sometimes a fully qualified second officer serving as backup—but at the same time not setting a mandatory retirement age for commuter pilots when they often pilot the aircraft alone, with no backup crew. This is especially troublesome with the increasing number of commuter aircraft operations in the deregulated environment. This is absolutely contrary to the interest of the safety of the public.

I urge you to vote against this amendment. In so doing you are casting your vote for improved aviation safety. You are casting your vote against one of the last remnants of age discrimination.

Mr. ERTEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this legislation represents a Rube Goldberg approach to age discrimination. It takes a few pilots who will reach age 60 in the next 18 months and permits them to continue working. In the meantime, we authorize a study to determine whether letting them do so is dangerous.

Some may think we have struck another blow for equality. But, do not be surprised if the commuter and helicopter pilots fail to celebrate. This bill places an age limitation on them for the first time.

Do not be surprised if pilots over age 60, but under 61½, do not fully appreciate what we have done. This legislation will not do a thing for them. And, do not be surprised if the air traffic controllers are not enthusiastic about this bill. They are now required to retire at the age of 55, and this legislation does nothing for them.

Why is this bill so narrow in its focus? Why does this bill protect one aviation group from a mandatory retirement age, while placing a limitation on another group and altogether ignoring still others? The answer is simple. During this and previous Congresses, a small group of preretirement pilots has lobbied vigorously against the age limitation for pilots on certificated air carriers. They have done what any group has a right to do, but we have failed them.

Instead of taking them seriously, we bought them off. We have given them an extension on their retirement in return for getting them out of our offices. We have taken a serious issue and made light of it, and in the process we have done absolute harm to commuter and helicopter pilots.

We have ignored pilots who have been forced to retire already. We have disregarded the related claims of air traffic controllers, and we may be endangering the traveling public.

The issue of performance as it relates to age is an important and serious one. It deserves serious study and deliberation, and that is why I support the Howard amendment.

The study proposed by the gentleman from New Jersey is a necessary first step for us to face up to our responsibilities across the spectrum. It may not be the easiest way out, but it is the best way to make policy.

I thank the chairman.

□ 1320

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 3948, the Experienced Pilots Act of 1979, which raises the age limitations presently imposed on certain pilots. I wish to commend the gentlemen from California (Mr. JOHNSON and Mr. ANDERSON) and the gentleman from Florida (Mr. PEPPER) for their dedicated efforts in bringing this legislation forth. I want to commend the gentleman from Ohio (Mr. HARSHA) and the gentleman from Kentucky (Mr. SNYDER) for raising important questions to clarify various aspects of the legislation. Let me say, Mr. Chairman, that I share some of the concerns the gentlemen from Kentucky (Mr. SNYDER) and Ohio (Mr. HARSHA) have expressed. However, we have before us today, a rational and prudent compromise, that is responsive to many of the questions and concerns that surfaced during the hearings and deliberations that have preceded the reporting of H.R. 3948 to the floor.

Comprehensive hearings on the issue of pilot aging have been conducted by the Select Committee on Aging, on which I serve, and by the Aviation Subcommittee of the Public Works and Transportation Committee. The hearings established that the 20-year-old age 60 retirement policy for commercial pilots is arbitrary and discriminatory. Medical testimony demonstrated that the state of the art in aviation medicine is sufficient to identify pilots who are free from disabling conditions and able to fly beyond the age of 60.

On the basis of the Aging Committee hearings, conducted in April, I joined the genleman from Florida (Mr. PEPPER) and 14 of my colleagues in introducing H.R. 3948 on May 4. The original bill would have eliminated age discrimination against pilots of less than 70. The bill as reported by the Committee on Public Works and Transportation with amendments on September 25, requires a definitive study by medical experts and protects pilots until the age of 61½ from further discrimination while the study is being conducted by the National Institutes of Health. I am supportive of this compromise, as the provisions of H.R. 3948 reflect the findings of both committees based upon testimony from congressional witnesses, the FAA, medical and gerontological experts, the industry and pilots of all ages.

This legislation provides some measure of equity to pilots who are forced from the workforce at ages far lower than other highly skilled professionals, while in no way compromising the safety of the flying public. In the interests of aviation safety, the bill requires more frequent testing of pilots age 60 and older as well as evaluating the medical testing procedure through the 1-year study.

Last year Congress responded to the public outcry against age discrimination through the Age Discrimination in Employment Act amendments. While most Americans can look forward to employment based upon their ability and retirement based upon choice, our most experienced and well trained pilots are arbitrarily severed from their profession on their 60th birthday. Revision of the age 60 rule is consistent with spirit of the ADEA and the Civil Rights Act, as well as the social and economic realities that have evolved since the age 60 rule was promulgated two decades ago.

Transcending the principle of equity achieved in the legislation, aviation safety is also served through the provisions for a study of retirement policies and testing procedures, more frequent testing of older pilots, and inclusion of commuter pilots under the same regulations. The National Institute of Health will conduct a 1-year study to determine whether any age limitation for airline pilots is medically warranted, and whether the age 60 rule is necessary. The age 60 rule will be restored if the NIH study affirms its validity. If NIH finds no medical reason for a retirement age for pilots, Congress will have 6 months to change or eliminate the age 60 rule, as the 61½ year extension expires 18 months after enactment.

Testimony before the Aviation Subcommittee suggested that the existing requirements for medical examinations are inadequate and the committee concluded that "the entire system warrants investigation."

It is unconscionable that advances in

geriatric medicine and aerospace medicine have not been utilized to yield a more viable indicator of individual functional ability. I trust that the reported inadequacies in medical testing will be rectified through the new NIH study which will evaluate the rules governing the frequency and criteria of pilot medical examinations.

The study will also assess the effect of aging on the ability of individual pilots to function at the highest level of safety. I am optimistic that the study will add precision to the procedures for measuring individual functional capacity independently of age. Specific medical criteria and job requirements, rather than age, will allow individual ability to be the determinants for pilot certification at any age. While some disabling conditions increase with age, medical technology makes it possible to identify those individuals who are free of disabling conditions and functionally able to fly past the age of 60. The development of more precise testing procedures for functional ability would benefit other segments of the workforce as well as making contributions to aviation safety.

The principles of equity would be negated if the age 60 rule was arbitrarily applied to pilots reaching age 60 between the date of enactment and the deadline for completion of the NIH study. The legislation extends the retirement age to 61½ to avert further discrimination during the study. While the most noble legislative proposals would have extended the retirement age to 70, this legislation offers a conservative compromise. Neither committee concluded that pilots age 61½ are a greater safety risk than pilots age 59½. However, to better serve the interest of safety, the frequency of physicals for pilots beyond age 60 is doubled and the authority for more comprehensive physicals is granted.

Mr. Chairman, I urge passage of H.R. 3948, as a long-overdue step toward eradication of one of the last vestiges of age discrimination in employment.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words and I rise to oppose the amendment.

Mr. Chairman, I appreciate the kind reference to me by the distinguished gentleman from New Jersey (Mr. Howard) and the sincerity with which he offers this amendment. I regret, however, that he only approves one part of the salutary provisions of this bill and rejects the other part. I submit that what my distinguished friend proposes to do, that is, to have an examination of this subject by NIH over a period of a year, does not justify or require that we not confer the advantages of the other part of this bill upon nearly 1,500 examined and qualified and certified airline pilots in this country who will become 60 years of age within the next 18 months.

It is desirable, I think that we have the kind of thorough medical examination of this subject which this bill provides for in NIH. We have not had enough of those. The FAA did not have anything like that when it promulgated this arbitrary rule mandatorily requiring the abandonment of his profession by every commercial airline pilot the second he gets to be 60 years of age, no matter what his qualifications or his competence.

But I would like to ask this question: What better criteria or codification or confidence can be found than four medical examinations given in the period of a year, six in the period of 18 months, as provided for in this bill, by FAA, and in addition to that a proficiency examination given by the FAA each year, and in addition to that, any further test that the employer airline wishes to impose on that commercial pilot?

I regret to say that there are those who have indicated in the data they have been sending out to us in dear colleague letters that these 61½-year-old men are doddering old dotards who can hardly get up the steps of the plane. Is that the criterion that they put upon one being 60 and one being 61½ years old? Can that kind of a person pass four physical examinations and one proficiency examination given by the FAA? If your answer is in the affirmative, you must not think much of the examinations given by the FAA.

So we are not talking about dotards We are not saying that even physical qualifications and competence as judged by the FAA examination should let a person 100 years old fly; we are saying 61½.

But getting back to the study by NIH, what could the study reveal except that people age at different rates. You saw in the papers a little bit ago a little girl 5 years old dying of old age. That little girl was aging at the rate of 12 or 15 years every 12 months. What was the matter? There was some disorder in the acceleration of the aging process in that little girl's body. That occurs in all of us, but at a different rate of acceleration. That is my point. What could the study reveal except people show their age at different ages? People lose their capacity of vitality, vigor, and mental alertness at different ages. As George Bernard Shaw said, "Some people are old at 17, and some are young at 70." Some pilots are not capable of flying at 30 and 40 and 50, and others are qualified at 60 and 61 and even 65. This distinguished committee, which has done such a marvelous job in the thoroughness with which they have gone into this subject, is not asking you to let anybody fly who has not had four physical examinations and one proficiency examination given by the FAA and such additional tests as may be imposed by the employer airline.

So with all respect to my distinguished friend, the gentleman from New Jersey (Mr. Howard), let us go ahead with that, but let us not deny those 1,500 men the right to work when they are qualified to work at their honorable profession, to which they have dedicated their lives.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Howard amendment and in support of the committee bill. When I first introduced a bill years ago to outlaw completely discrimination in employment based on age, the first question tossed my way was, "How would you like to get aboard an airliner piloted by a 70-year-old man?" I did not hesitate a bit. I said, "I would feel fine. I would feel entirely comfortable, provided that man had gone through the checks and tests that every pilot should have, regardless of age."

I know people who, indeed, are able and skillful and intelligent, even brilliant, at a very advanced age. One such man we have just heard from, the gentleman from Florida (Mr. Pepper). When I get on the plane, I would like to know for sure that the people in the cockpit have gone through rigorous testing of recent date, no matter what their ages are. I am here to declare that the policy which still persists in the employment of airline pilots under which certain people are barred from flying commercial airliners beyond a certain age is actually a substitute for good personnel management, and that has been true throughout the economy. We have had this tradition of forcing the retirement of people from the working force at the age of 65 just arbitrarily. It does not mean that a person 65 is not able to handle a job. It is a convenience to personnel management. That is the easy way to decide whether a person is competent to hold a job or not. I do not think it makes any sense regarding workers in a factory or pilots of aircraft to say that just because they have attained a certain age, they are, therefore, disqualified and unable to perform properly in the cockpit.

But at the same time it does not mean that those who are below that age are competent to perform either. I dare say that the testing, the examination that has been carried forward, of pilots below the age of 60 up to now has been inadequate, and I think one of the great virtues of passing this bill intact without the Howard amendment is to hasten the proper management of personnel engaged in flying planes. We will be doing a great service to the cause of airline safety by rejecting the Howard amendment and by supporting this bill in its committee form.

Personally I wish that the bill were not as restrictive as it is. It seems to me so modest for us to be raising the level of eligibility from 60 to 61½. We ought to be going at least to 65 or 70, but I will take this modest step rather than no step at all. If this body should see fit to reject this very modest step that the committee has recommended, this will, in my view, be a step backward in our long battle to outlaw discrimination in employment based on age, and we will live to regret this day. It will be seen as an anticivil rights vote by this Chamber, a Chamber that has seen so many advances in the cause of civil rights.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

I would just like to commend the gentleman on his statement and to commend the gentleman from Florida (Mr. Pepper) on his statement before that. I agree with them and will be voting for the bill and against the amendment.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

□ 1330

You have heard a lot about safety here, today. That is one of those motherhood and apple pie things that you just cannot oppose. What is safety in the context of a cockpit? What is safety in the context of an entire airline system? Safety is equipment. Surely we have had a lot of discourse here about DC-10s and other aircraft and we will into the future and that is a major component of safety.

Safety is also the system and the doctrine, the checks, the cross-checks, the redundancy, ground controllers, airborne systems. Safety is also physical health. A person who is not in good physical health is probably not a safe pilot.

However, safety, Mr. Chairman, is fundamentally—in the context of a pilot—it is fundamentally judgment. It is a mental activity and safety in judgmental terms is not only short term, recent, current experience and proficiency but judgment is also long term experience and these arbitrary age limits arbitrarily limit one of the most important functions of judgment in the cockpit. When you are reading all those dials, those altimeters, those rate-of-change indicators, the heading indicators, the NAV equipment and you are trying to synthesize all that information in your brain and make a coordinated response to conduct a safe flight, you need judgment. You need mental acuity. That comes from a healthy brain. Physical health supports the mental acuity of the pilot.

Now, physical health can be a long term matter, it can be a process of aging perhaps, but it can also be as recent as the food you ate at your last meal. We all know that pilots can suffer some hyperglycemic reactions causing temporary nausea and blackouts at any age.

Mr. Chairman, I might tell the people in this House that one is probably more prone to risk as a passenger in an airliner today from the fact that the pilot may have had a bad meal, may have been under some emotional stress, may have been under some financial difficulty, as you are that pilot is going to drop dead from a heart attack. Indeed, you are probably more at risk because the pilot may have had a glass of quinine water which has been recently disclosed as a potential chemical in the body causing disorientation in flight.

Mr. Chairman, let us get this thing in perspective. The fact of the matter is that any arbitrary age limit, as the gentleman from Illinois has so eloquently explained, is a matter of political convenience, not safety. Groups opposed to this legislation are opposed because a 60 age limit or any age limit is to the convenience of labor-management relations, affords convenience to cockpit politics, affords convenience to medical qualification determination, affords convenience to mental acuity determination. The public interest and safety, in fact, is submerged in the interest of convenience, interest of convenience by labor organizations, airlines and bureaucrats, as the gentleman from Iowa has said, and, indeed, the Congress of the United States here today.

Mr. Chairman, this affection for a simplistic, arbitrary and very convenient criteria is, in fact, insuring on some airline flights, today, that unqualified people, both physically and mentally, are in the command of aircraft aloft carrying passengers at this very minute.

Mr. Chairman, one of the advocates against this bill told me very ably in my office, "Bob, we have pilots we cannot get out of the left seat and we need to get rid of this bill to preserve the 60 limit, to get them out of the left seat."

What is wrong with getting them out of the left seat right now?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. LLOYD and by unanimous consent, Mr. CARR was allowed to proceed for 3 additional minutes.)

Mr. CARR. There is nothing in this bill which would prevent the airline companies from saying, "OK, if you are a pilot and you are over 60, we want you to sit in the right seat."

There is nothing in this bill which prevents the airline company from altering the chain of command in the cockpit at any age, be it 60, 55, or 45. There is nothing in this bill which would prevent the airline company as a company rule from preventing two people over the age of 60 to be left seat and right seat in the cockpit at the same time. Those are reasonable rules that the airline can make to protect itself but we have to pass this bill to avoid having the airline companies, the labor organizations, the FAA and, indeed, this Congress to get rid of the convenience and throwing good experienced judgment out, judgment that can mean safety for the American flying public.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from California.

Mr. LLOYD. Mr. Chairman, I thank my colleague. I would like to commend my colleague for one of the absolute best statements I have heard on the floor of this House. It was outstanding.

Mr. Chairman, I would also like to remind this body that probably as an instrument pilot the gentleman in the well is the most qualified pilot in Congress. I hate to admit that because I see myself as one of the leaders in this area. Perhaps the gentleman could tell us how many hours has the gentleman amassed in the last 3 months, has he amassed flying the airways? I want the people to understand clearly that the gentleman is indeed qualified to make the observations that he has. Would the gentleman address that?

Mr. CARR. Mr. Chairman, as the gentleman knows I have some experience but I think the basis of my statement is in logic. I wish more people could fly in the cockpit of an aircraft. I think we ought to modify some of our FAA rules to allow Members of Congress, particularly those of the relevant committees, to get more time in the cockpit to understand how safety is determined by the judgment of the pilot far more than it is by any age or physical ability to move levers.

Mr. Chairman, the gentleman from New York (Mr. STRATTON) pointed out some limitations in military flying that have nothing to do with what we are talking about here today. Jet fighter pilots need physical stamina to maintain high G turns in fighter aircraft. That is far more physical than airline transport or even military transport training.

(At the request of Mr. CLAUSEN and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, the question of the so-called age 60 rule of the FAA relating to airline pilots has, regrettably, become extremely controversial. Frankly, I regret that we find ourselves in the position of having to address a matter legislatively that should and could be dealt with administratively.

The FAA has the discretion to address the concerns both in terms of pilot proficiency and physical condition.

They have chosen not to do so and left the pilots approaching age 60 with no other alternative but to seek a legislative solution.

The one thing that has come out of this exercise is the general agreement to a comprehensive study by the National Institutes of Health. So no matter what happens, both the Howard amendment and the pending legislation address this point.

Then, the issue narrows itself down to fairness and equality.

There is great concern in the country about the question of age discrimination and we have attempted to address it here in the Congress in other legislation as well as in this bill.

I have discussed this matter in depth with pilots of all age groups as well as FAA medical examiners. They are divided on this legislation regarding some points and united on others.

But, one thing is certain and that is the fact that each person should be considered on an individual basis whether it be flight proficiency or physical condition.

Over and above the key issue of waiving the age 60 rule, there is the question of equity and fairness to the copilots and engineers who would also be affected and clearly the need for uniformity.

In carrying out the study on the effects of aging on pilots, NIH must consider all relevant factors with emphasis on the individual's ability to perform the duties of pilots with the highest degree of safety. The public demands this and I am sure the pilots desire this.

And, finally, I believe the time has come to consider establishing an Independent Medical Review Board with an appropriate appeals procedure for all pilots.

In this way we could minimize the arbitrary control the FAA now has over the medical decisions associated with pilots—be they airline, commercial, or private.

The careers and livelihoods of many of the pilots are at stake and it is vital to their interests that a fair and just solution be attained at the earliest possible time.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words and will speak in opposition to the amendment.

Mr. Chairman, this bill does not do all that we would want it to do but it is a step in the right direction and I think we have to lay it on the line. What we are here dealing with is very subtle and insidious. We are dealing with age discrimination and blatant prejudice. If we do not think that is true—and I do not want to personalize this—I cannot even remember who sent that "Dear Colleague" letter out, but I want to call the attention of the Members of this House to that "Dear Colleague" poster which is a reproduction of a "Dear Colleague" letter.

☐ 1340

Look at the cartoon that is portrayed in this particular reproduction. It is of an elderly person, so-called elderly person, who is the stereotype, the caricature that people who display this kind of subtle and insidious prejudice usually have, the person with no teeth, the person who is hard of hearing, the person with arthritic hands, the person who appears confused, the person who appears to be senile; that is what we are dealing with, stereotyping our older Americans.

I look around this room and I looked in the gallery before, the pilots over 60 are not here now, but none of the people who are over 60 resemble that caricature. That is what we are dealing with, blatant prejudice. Let us lay it on the line.

It is about time that if we are going to forge ahead in the field of civil rights against racism and against the prejudice against women, that we also think of our older Americans and we think of people who are 60 who are more experienced, who are the wisest, and who are the brightest.

This is the manner in which the people of Africa regard their elderly, the people of Asia regard their elderly and the people of Europe regard their elderly. It is about time Americans regard older people in the same manner.

Mr. HOWARD. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I would be happy to yield.

Mr. HOWARD. Mr. Chairman, I just want to state, since I did not send out this "Dear Colleague" letter or anything relating to cartoons, I just deeply regret that the gentlewoman from Ohio has labeled my amendment as subtle, insidious age discrimination.

Ms. OAKAR. I did not label it. Let me just say I did not label the gentleman's amendment in that regard at all.

Mr. HOWARD. Or the people who offered it.

Ms. OAKAR. But I do label the whole concept of opposing issues that relate to older people, when that is the use of persuasion. I do not believe, I would hope, that the gentleman sent that "Dear Colleague" material out; but if that is the mode of persuasion that we are trying to use in the Congress, then there is nothing else to call it but blatant prejudice.

Mr. HOWARD. Mr. Chairman, if the gentlewoman would yield further, then I would merely want to say that I would be willing to match my record against that of the gentlewoman on age, sex discrimination or any other kind of discrimination based on the gentlewoman's years of service in this body and mine.

I thank the gentlewoman for yielding.

Ms. OAKAR. Well, I certainly welcome any kind of comparison although that is not the issue we are discussing.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, Members have heard me on a previous occasion speak in support of this bill. The main purpose of this bill, as I see it, is to jar loose from the bureaucratic control of the decision-making of who ought to be allowed to fly or who should not be allowed to fly.

Along this line, the bill serves that purpose, even though it may carry with it, because of congressional compromise and the necessity for that, some additional discrimination because the age of 61½ years is in it. That ought to be out as well.

But in the meantime, the Howard amendment comes along and completely guts the bill. The main purpose of the bill is to see that as a result of people getting hearings before the Congress that they could not get before the FAA, that there is justice brought about. That is what we have to keep in our minds as the main purpose of this bill.

Well, the FAA is given an opportunity within this year and a half to make a determination if, in fact, their study shows that after 3 months or after 6 months or any time up until that year that the medical research indicates that people over 60 should not be allowed to fly, the FAA Director can negate this bill.

The language on page 6 gives the authority to the Director of the FAA to make that determination. It says if during this year and a half—

> The Director determines that a prohibition against individuals who are 60 years of age or older from serving as pilots is medically warranted, then the authority of section 2 shall terminate immediately, and the Secretary of Transportation shall immediately prohibit certificate holders from using the services of individuals 60 years of age or older * * *.

Now, what that is saying is that because of some of the doubts that some Members may have, including the committee, that if the year and a half is too long and there is evidence that has shown up that people 60 years of age should not fly, then he can step in. Now, that is probably even a little more authority than I would want to give the Director of the FAA, because he uses his authority so arbitrarily. He has had the authority for the last 20 years to give exceptions to the rule of 60 if he wanted to when medical evidence would indicate.

Somewhere in America there is medical evidence that would be conducted on some individual that would show at least one individual 60 years of age or older should be allowed to fly; but, no, the Director has been very arbitrary in his use of that authority.

We are giving him an opportunity in this legislation to exercise that jurisdiction; but I am afraid that he would be the sort of a person that does not want to be faced with that, because at stake here is the inability or unwillingness of the FAA Director to make a decision.

We are giving him adequate opportunity to make decisions. We are saying that you ought to make those decisions and if in the final analysis, Mr. Director, you come to the conclusion that it is unsafe for people over 60 to fly, then you can stop the authority given to you by this bill; but, in the meantime, we ought to move ahead, because we do not know what the situation is unless we conduct a thorough study, and this bill provides for that thorough study and that is why I am opposed to the Howard amendment and in support of the bill.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a pilot myself and as chairman of the Subcommittee on Transportation, Aviation and Communication, of the Committee on Science and Technology, I have listened with particular interest to the debate here today on the Experienced Pilot Act of 1979, to the arguments made by both the proponents and the opponents of this bill.

I hope that I can in my remarks try to take it out of the realm of talking about age discrimination and whether we are for the elderly or whether we are against the elderly and whether or not we have insidious types of cartoons here which I do not approve of, either, but I would like to talk about two aspects of the bill that greatly trouble me.

The first is that we are being asked to change a Federal regulation and at the same time to commission a study to determine whether changing the rule is prudent.

The second is that there is great disagreement in the medical community over whether tests can determine if an older person is healthy enough to pilot an aircraft with 200, 300, or 400 people on board.

Now, let me elaborate on that. The Federal Aviation Administration regulation that we are being asked to overturn has been in effect, as has been pointed out, for about 20 years and it has survived several challenges in the courts.

The FAA continues to support mandatory retirement for airline pilots at age 60. If we overturn that rule by passing this bill, we are acting contrary to the clear judgment of the agency that the Congress set up to write and enforce the rules for aviation safety.

Do we here in this body want to take it upon ourselves again as we do I think in probably a lot of other areas to tell those agencies what we want to do, or are we going to set up the agency with that kind of expertise to go ahead and handle it?

Therefore, I think we have a special responsibility to act prudently on this legislation.

□ 1350

Mr. Chairman, in addition to raising the retirement age to 61½ for 18 months, the bill also directs the National Institutes of Health to study whether any mandatory age for pilots is medically warranted.

Together, I would argue that these two provisions are contradictory. If we were to pass this bill, we would be saying in effect that we are raising the pilot retirement age, but because we are not sure that that is the thing to do, we are only going to do it for 18 months and we are also going to have a study on whether it should be done at all.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I will not yield right now.

Mr. Chairman, because I believe this bill is so illogical, I am concerned that passage of the bill may be an embarrassment to this House. I think it could also be embarrassing for us to try to second-guess the medical experts—and that is my second point—and say we do not believe their current testing methods could reliably determine when a pilot becomes unsafe to fly in terms of that pilot's age.

I am quite aware that there are equally qualified experts who hold different views. Once again, we have the situation where competent experts disagree, and disagree completely.

In my view, the only prudent course to follow is to have a comprehensive study as called for in the amendment offered by the gentleman from New Jersey (Mr. HOWARD) to determine what the pilot retirement age, if any, ought to be.

Mr. Chairman, I would just add, incidentally, that the proponents of the bill itself do not seem to have considered the possibility that a study might conclude that the retirement age ought to be lowered, that it should not be 60 but it ought to be lowered. I would point out that countries such as Great Britain, West Germany, and Australia all require their airline pilots to retire at the age of 55, not 60.

Now, how would we look in the eyes of the public if we passed a bill to raise the retirement age, commissioned this study, and then were told that the age ought to be lowered? I hope that the Members will keep that in mind when they are voting on this bill.

Again let me say that I want to take this out of the realm of the argument of whether or not we are for the elderly or opposed to the elderly. I do not think that is a point to be argued here. We ought to look to the agency we set up to administer this area and see what they are doing. We should have a comprehensive study to determine what ought to be done in the future.

Mr. Chairman, that is why I support the amendment offered by the gentleman from New Jersey (Mr. HOWARD) that would call for this comprehensive study before the retirement age has been changed. I support the amendment, and I urge my colleagues to vote for it.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I am happy now to yield to the gentleman from California.

Mr. LLOYD. Mr. Chairman, I thank the gentleman for yielding.

Let me ask, does the gentleman realize that when this rule was put in 20 years ago, it was as a function of convenience to accommodate a Mr. Smith of American Airlines?

Mr. HARKIN. Mr. Chairman, I am not certain that is factual, and I do not think the gentleman can unequivocally state that that is the only reason that age limit requirement was passed at that time.

Mr. LLOYD. We know it is true.

Mr. HARKIN. I do not know it is factual.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(On request of Mr. LLOYD, and by unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. LLOYD. Mr. Chairman, will the gentleman yield further?

Mr. HARKIN. Yes, I yield to the gentleman from California.

Mr. LLOYD. Mr. Chairman, I thank the gentleman for yielding.

We know that it is true because we have reviewed it, and we also know it is true that the FAA Administrator in turn then went to work for that airline as soon as he left FAA. We also know that it is true that that gentleman became a member of the board of directors.

Mr. HARKIN. I do know that, but it may not be the true state of the facts.

Mr. LLOYD. Those are the facts. There is no question of that. And I say at this point that we are dealing with a matter of convenience to get rid of somebody, and I think the gentleman should review that, particularly in his chairmanship.

Mr. HARKIN. I do not think so. I will reclaim my time Mr. Chairman.

Again, Mr. Chairman, I would ask the gentleman if he agrees that the countries of Great Britain, West Germany, and Australia have had similar types of decisions and if he can tell us why their required age retirement was set at 55.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from California.

Mr. LLOYD. I thank the gentleman for yielding.

Mr. CHAIRMAN. I would remind the gentleman that the rules which other countries have made are entirely up to them. They do not operate their airlines or their businesses according to the standards of the United States.

Mr. HARKIN. Again, Mr. Chairman, I am responding to a remark made earlier that other countries, specifically European countries, treat their elderly better than we do. Again I am emphasizing this to point out that it is not an argument on whether we treat our elderly well or not.

I am using this as an example to point out that other countries, Great Britain, West Germany, and Australia, who have been said to treat their elderly much better than we do, have a mandatory retirement age of 55.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, this is the first time I have heard any allegation that this rule was promulgated to take care of the president of some airline.

I want to point out that this was affirmed nine times by Federal courts, and I cannot believe by the figment of any imagination that the courts would have upheld it nine times if it could be proved that it was done as a favor to some airline president.

Mr. HARKIN. Mr. Chairman, I thank the gentleman from Kentucky (Mr. SNYDER).

Again, let me say that I hope the Members, when they vote on the amendment offered by the gentleman from New Jersey (Mr. HOWARD), will consider the two aspects I have talked about and not decide the issue on the basis of whether they are voting for the elderly or against the elderly.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, as a member of this committee, and as one who originally leaned very heavily in favor of the position taken by the pilots who are pushing this bill and who are opposing this amendment, I would like to say that some of the arguments that I have heard here today really astound me.

I do not think the issue is discrimination at all. I do not think that the reason the courts approved of this FAA ruling—and they approved of this ruling nine times—had anything to do with discrimination. I do not think that that is the issue before us one bit.

It has been said that this amendment would gut the bill. Actually it does not do that at all. All it does is preserve the status quo. Until we can study the facts, this amendment maintains in order a rule that simply says, "When you reach a certain age in a vital industry in which you might have control over the lives and welfare of hundreds and thousands of human beings, there is a time to step aside and let a younger generation come up and take over."

Maybe that is well-intentioned, maybe it is not, but we can go ahead and study the issue without disrupting the status quo. If the study proves that this old rule that has been in existence is wrong, nothing has been lost; a few people will have lost their jobs, and I feel sorry for them. But beyond that, there is no risks.

On the other hand, if the study, as the gentleman who preceded me pointed out, shows that in fact that age should be lowered, if in fact that age should be 55 or 50 or some age lower than 60, we might have saved the lives of some human beings.

The main factor which came into my mind when I voted on this in committee and supported this amendment was the fact that all we have to do is be wrong once. All we have to do is have one crash caused presumably by pilot error in which the crashed plane was piloted by a man in excess of 60 years of age. That would be tragic, and if we go ahead with this bill without this amendment, we could 1 day face that problem. Whether that man caused the crash or not, we could one day face accusations from the media which would be abhorrent to every Member of this body, that we acted under pressure to adopt an unsafe provision without proper study; that our hasty action caused the death of a large number of human beings.

I do not think that we can take that chance. I think we should preserve the status quo for a few more months. I think we should study this issue carefully, and if the studies show, as the pilots contend, that there is no difference between the age capability of a 60-year-old man and of a 65-year-old man for the purpose of flying airplanes, we should extend it; we should extend it to whatever age is determined to be safe. And if no extension is warranted, then we should not change the rule.

If studied numbers of health examinations and mental examinations determine that pilots are capable of flying at 65, I would personally support that proposition. But this is not the time to take that step. We do not have the facts, and we should not act to extend the rule until we do.

Mr. Chairman, I think the gentleman's amendment is in order, and, therefore, I intend to support it.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman has made a very good point with regard to the fact that if we would have an incident arise in which lives would be lost, people would come back and evaluate the decision we are about to make today. We would certainly hope that no such incident takes place but let me ask the gentleman this: Would the gentleman not evaluate it in this way: That the chances are that in that event it could be said that we had passed a blatantly special-interest piece of legislation? It could be said that we had singled out a very narrow group which is interested in this matter and passed special-interest legislation that resulted in lives being lost?

Is that not an interpretation that can be added to this debate?

Mr. LIVINGSTON. Mr. Chairman, the gentleman is absolutely correct. And what would be worse is that it could be easily said that we passed the legislation without having the facts at hand, without even knowing whether this is the right thing to do. I for one do not want that resting on my conscience or on my soul.

I hope that no event such as the gentleman has described and I have described comes about, and this is one way we can be sure that it does not occur. We can accept the Howard amendment and make sure the issue is studied before future action is taken.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

□ 1400

Mr. Chairman, like many of the Members, I have been following this bill intently. Also, I must admit to the Members that I was somewhat surprised, in listening to the debate on the rule, that it turned into a debate on the bill. Frankly, the intensity of the debate intrigued me.

One thing that did intrigue me, as time went on, was that there was much more emotion and less fact in the statements made on both sides, and I thought, for what it was worth, I would like to make one or two polite comments.

Personally, I am opposed to any age discrimination. I do not believe in compulsory retirement at age 65. I think if anyone has the spirit and the ability to be employed, they should continue to do so. It does not bother me, when I board an airline, if they ask what the age of the pilot is. Whether he is 50 or 65 does not make a darn bit of difference to me, as long as we land where I am going on time so I can stay on my schedule. But I am not so convinced that the issue here, which is basically 18 months, constitutes such an awesome adjustment from what has been the policy over the years.

But I am convinced, especially after listening to the debate today, that much of what has been said has been irrelevant, and that is because we really do not have enough information. When we find two distinguished Members on that side of the aisle arguing about their nobility in support of civil rights and human rights causes, when we find Members on this side of the aisle raising the specter of a possible disasterous crash, with all of the burden to be on our shoulders if the pilot happened to be over 60, I really wonder how equipped we are to debate this bill. It seems to me, then, that the Howard amendment is the logical position to follow. A 1-year study is not an eternity. A 1-year study would provide all of us, regardless of our doubts, regardless of our predetermined position, with the information we need. If that study shows that 60 is an arbitrary, artificial age, and they want to establish it at 62 or 63 or whatever, I would be the first to acquiesce to it. If the figures or statistics that are developed in that year sustain 60 as a prudent age to provide for retirement of airline pilots, then I would accept the findings, if that is the practical position reached on the situation called for under the study. But I do think we would all be better off if we adopted the Howard amendment, permitted this study to take place, and then on the basis of updated, thorough information, finally resolve this issue.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. LLOYD. I thank the gentleman for yielding.

As a matter of fact, I thought the gentleman's observations regarding the bill are absolutely correct. There seems to be more steam than what it really should have, and I have to agree with that.

But I would point out to my colleague, if I may, that, with regard to the Howard amendment, we are studying an age group which is denied the right to fly in the first place.

There are those of us, myself included, who clearly believe that there should be no age limitation.

I would also remind the gentleman that when we got into this thing we accepted the compromise down from 70 to 65, finally to 61½, because we could not get the bill out of that committee. We solved that by doing this. Then, all of a sudden, the committee or members of that committee said they do not want anything at all.

I would remind the gentleman that one of the problems we face is currency. Even if we said, "Hey, no age limit," no airline is going to allow any pilot to ever come back who is not current, simply because the airlines know, and I know, having been involved in aviation, you must keep your hand in at all times.

So what we are asking—I think it is very little, and I would ask the Members to reflect on that—is: Will you just let us have this 1 year? Let us have the study. I can assure you we are not endangering the lives of people, I can assure you we are not going to destroy the transportation system.

I will tell you what we will be doing: We will be affording some real fine people in the world a chance to continue what they wish to do.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(By unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. DERWINSKI. Mr. Chairman, the gentleman and I are not that far apart on this. I hope, as the gentleman does, that this study would prove that pilots over 60 should and can fly. But I would rather reach that conclusion on the basis of the study rather than reach a conclusion and then have the study go on and perhaps fly in the face of a premature conclusion. I think that is the only difference of opinion we have.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, the problem I have seen in this whole Howard amendment, how in the world, regardless of what he says or anyone else says, how can you have a study unless you have the species to study? You cannot go with data in the background. You have to have the ongoing activity.

We are just kidding ourselves, if you think the study is going to have any validity at all, if you are studying previously gathered data. If that data is available, they could give the answer to us today. So let us study an actual reality life-type situation and not something that is abstract.

Mr. DERWINSKI. The gentleman's solution then is to put forward a practice in which you do not have a study on which to base the safety impact.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the distinguished chairman of the subcommittee in his remarks stated, in effect—and I do not want to misquote him; I will try to state as nearly as I can accurately what he said—that the committee made a determination that it was safe to fly at age 61½. The committee did not make any such determination at all. If the committee had made such a determination that it was safe to fly at age 61½, why have the NIH study, then? If the committee has that expertise and knowledge to make that determination, you do not need the NIH study. But because the committee did not have that expertise and knowledge, it did try to secondguess itself and provide for that particular study.

There was a lot of conflicting medical testimony on this issue, not only in the record, but in letters addressed to Members. If this expertise was available to the Committee now, if it was possible to make a determination now as to the ability of pilots beyond the age 60 to fly, why does the AMA oppose this legislation? Why does the Medical Aerospace Association oppose this legislation? Why does such a renowned institute as the Cleveland Medical Clinic oppose this legislation? Well, the answer is obvious. The medical experts do not know in their own minds what the answers to these questions are. The medical experts do not know. And we sit down here and propose to provide the answers before even the experts know them. I think that is very dangerous in this particular legislation.

Mr. Chairman, let me read—and I think this expresses the situation far better than any words that I might utter—a letter I received from a Thomas G. Foxworth, who is a pilot. He says:

> DEAR CONGRESSMAN: This letter refers to H.R. 3948, the Experienced Pilots Act of 1979. I am using this means to contact as many Congressmen as I can since I am so deeply concerned about this bill.
>
> As a means of brief introduction, I am a 42-year-old airline pilot flying for a major U.S. scheduled flag airline. I have been with this airline for 15 years and I have 11,000 flying hours.

I dare say he has had more experience than any of us with these problems and with this issue.

He says:

> I am totally and unalterably opposed to H.R. 3948, for several reasons.

Here are the reasons he gives:

> The issue of how aging impacts on safety is not whether a man will suddenly slump over the controls dead. The probability of this putting an airplane in jeopardy is extremely remote. The real issue is the day-to-day ability of a man to continue to perform up to the standard expected, indeed demanded in civil air transportation. The degradations in human performance are often insidious—the missed clearances, the diminished response to rapid windshear encounter, the quickened fatigue due to jet lag, the frequent alteration of psychological attitudes toward himself, toward his crew thus breaking down crew concept, the other gradual loss of faculties too numerous to mention. As a 707 training captain and check pilot I observed the aging pilot. I don't want him in the cockpit of any plane carrying my wife and children.
>
> As yet there are no suitable tests to identify the critical factors having to do with this gradual deterioration; not even the NASA astronaut program developed suitable standards of measure. Maybe some day there will be; maybe they'll be fair and objective and even non-bureaucratic in their administration so as not to unfairly and unnecessarily eliminate any normally qualified pilot from his means of livelihood.

□ 1410

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HARSHA) has expired.

(By unanimous consent, Mr. HARSHA was allowed to proceed for 3 additional minutes.)

Mr. HARSHA. Mr. Chairman, to continue quoting:

> But any prudent pilot would say it is certainly more logical to develop the medical yardstick FIRST; then, IF suitable monitoring methods amenable to fair, unbiased enforcement are developed, change or abolish the age limit accordingly. But don't put the tail before the dog.
>
> If this bill passes, my airline will have several crews in which all three cockpit crewmembers will be over 60. I'm not prepared to accept that that's what you really want. Most jobs—not just airline pilots—have some form of mandatory retirement age. So ours is 60 and we've lived with it and developed our contracts to accommodate it for 20 years.

That is the point I made earlier. They have negotiated their contracts on the knowledge of this age 60 rule. They are limited as to the hours they fly, but they are paid for more than they fly in recognition that they will have to retire at age 60. They are the highest paid probably personnel in the aviation industry, that is, not in a corporate position in that industry.

He goes on to say:

> Many European airlines impose a mandatory retirement age for pilots of 55. Many would say the U.S. Congress is going the wrong way!
>
> There are other, more immediate and pragmatic issues involved. On my airline, passage of this bill would rob several jobs from extremely experienced airmen, further disrupting their careers. I would respectfully remind you, they are your constituents too.

These are just some of the reasons why an individual who is confronted with the problems daily, who has had 15 years' experience, who has had 11,000 hours of flying, and who has been a training pilot, an instructor, if you will, opposes this legislation without the Howard-Hursha amendment.

I think that the only prudent way to go is to go with the amendment.

At this point, we do not know what the results of the medical study or the NIH study will be.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HARSHA) has again expired.

(By unanimous consent, Mr. HARSHA was allowed to proceed for 30 additional seconds.)

Mr. HARSHA. We do know that the Aerospace Medical Association and the Cleveland Medical Clinic oppose this legislation, and for valid reasons. The American Medical Association has a history of opposing age discrimination, but they are fearful of this legislation without the necessary expertise and medical knowledge to show us that we are proceeding on the right track. The medical experts do not want the cart before the horse and neither do I.

I do not want to second guess the medical experts. If I am to err, I want to err on the side of safety.

I want to urge the adoption of the amendment.

Ms. FERRARO. Mr. Chairman, I rise in opposition to the amendment.

We have heard a lot of debate, and I think we have gotten a lot of feeling that perhaps this bill is just based upon an antidiscriminatory measure, based only upon emotional feelings. It is based only upon private interests in the legislation.

I would just like to point out two things with reference to this amendment. The first is that if we go along with just a study by the National Institutes of Health, we are effectively eliminating the study control group. As has already been pointed out by our colleague from Alaska (Mr. YOUNG), without the control group to study, we will have no older pilots to determine whether or not there is any deterioration in their health, so as to make them ineligible to fly after the age 60 cut-off date.

The second point I want to make is that if we go along with just a study, we are effectively eliminating any discussion at all of commuter pilots, and they are a very, very large part of our flying force. We have more commuter traffic since airline deregulation than we have ever had before, and these people are flying to age 70.

Now truly if we are concerned about safety, we should be concerned about every single airline passenger who is flying in the skies of this country, and there are very, very many people who are flying in commuter planes. So I would ask my colleagues if we take just a study and eliminate the commuters, we are in effect placing those people in jeopardy, if we truly believe that there is a valid reason for age limit. So pointing to those two facets: No. 1, elimination of an age group if we go along with the NIH study; and No. 2, the fact we will not be subjecting the commuter pilots to the same medical requirements as the commercial pilots, I urge defeat of the amendment.

Ms. OAKAR. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Some Members have said that the subject has nothing to do with age discrimination.

What are we talking about? We are talking about an arbitrary age of 60 being a standard of forced retirement. We are not evaluating people on their mental or physical capacities. We are talking about an arbitrary age. Also, we have heard from certain individuals about all the individuals who became incapacitated when manning flights. How old were these people? Were they in their fifties? Indeed, they were in their thirties and forties also when they had some physical incapacitation.

Let us discuss this specifically. We are dealing with an arbitrary age. We are dealing with a form of discrimination, and we have not had any degree of statistical information that says that men or women in their forties are not more prone to heart attacks at times than people in their sixties, for example.

I want to reiterate, in my judgment, we are talking about age. We are talking about an arbitrary age. We are not talking about mental or physical capacities in any way, shape or form. There is no way to ignore what the reality is of the subject of this discussion.

Mr. LLOYD. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentleman from California.

Mr. LLOYD. I thank the gentlewoman for yielding. I certainly commend her on her remarks.

There was a statement presented here that the courts had upheld this rule. The courts did not uphold this rule. What it really did was uphold the right of FAA to make the rule, which is all they did. They say any rule the FAA makes is going to stick. That is why I point out how this rule was originally brought forth by the FAA.

I think that it is time that we reviewed the rule, and I think clearly—and I would like to state this one more time—this ought not to be an instrument of solving personnel problems, just as my colleague from Michigan (Mr. CARR) has already stated.

I thank the gentlewoman.

Ms. FERRARO. Mr. Chairman, I yield back the balance of my time

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Howard amendment.

I will try not to be too repetitious because I know that we have covered some of the issues, but it strikes me as has been alluded hereto that without the Howard amendment we have got the cart before the horse.

We are sitting here as 435 Members of this body—some two, I believe are M.D.'s, perhaps I am wrong. There may be more. I believe that is right. But we are omnipotent. We are going to set our judgment up ahead of the American Medical Association, the Aerospace Medical Association. We are omniponent above the prestigious Cleveland Clinic. We know more about medicine than all of the experts who have testified save and except one, and he switched his position. That was Dr. Stanley Mohler.

☐ 1420

He was the primary M.D. that testified in favor of raising the age limitation.

In a recent case decided October 30, 1979, upholding the right of airline carriers to require flight engineers to retire at 60—now, that is a company rule, not a FAA rule—the court stated, and I quote:

> Mohler's affidavit informs this court of no additions to our wealth of scientific knowledge in the area of aerospace medicine that have been made since the FAA declined to abolish the age 60 rule in 1977. In fact, his article indicates that pilots over age 59 at all levels of flying experience had sharply higher accident rates than their younger associates.

We have heard the litany of those who oppose this legislation, who are affected directly by it, from the Air Line Pilots Association to the airline companies, to the medical authorities that I have recited. The only body that is in favor of it is the newly founded Pilots' Rights Association, which was formed for the specific purpose of this legislation.

I have been watching the papers that have been going around looking for editorial comment. There may be some in favor of it, but I have not found it. I have here, and I will insert in more complete form in my extension of remarks, under permission earlier obtained in the House, but let me read a few. There are a dozen or so here. We have the San Diego Evening Tribune and I quote:

> Has medical science produced ways of determining pilot fitness with sufficient accuracy to warrant raising the retirement age? Without an answer, Congress must be wary.
>
> No change should be authorized prior to the study.

From the Cleveland Press:

> * * * the bill would raise the age of mandatory retirement to 61. This is unwarranted and unwise.
>
> * * * leave the pilot retirement age where it is until we have more facts to go on.

From the San Jose Mercury:

> The study makes sense; changing the Federal Aviation Administration's Age 60 Rule before the evidence is in doesn't.
>
> Until the NIH can assure us on this point, we think the FAA should stick with its Age 60 Rule.

From Bridgeport, Conn., the Post:

> It seems incredible that Congress should cave in to dangerous political pressure by upsetting this vital safety rule that is backed by those who bear air safety responsibility and know the most about flying.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I am happy to yield.

Mr. DUNCAN of Oregon. Mr. Chairman, I would just like to suggest to those of us who are supporting the committee position that we do not intend to disregard those medical experts the gentleman is quoting. All we simply want them to do is to bring their medical expertise to bear on this problem on a case-by-case basis.

I am just as apprehensive of a 40-year-old pilot or a 35-year-old pilot having a heart attack as I am a 60-year-old pilot. I do not think we are disagreeing at all that the decision ought to be made medically. All we are saying is it ought to be made medically on a case-by-case basis.

Mr. SNYDER. Let me suggest to the gentleman that when the FAA promulgated the rule in 1959 they did that because they concluded then that it was not possible to determine on a case-by-case basis a pilot's chances of suffering a sudden incapacitation while in flight. They further determined that other psychophysiological parameters such as ability to resist fatigue and to react quickly, deteriorate with age and such a diminution could adversely affect flight safety. That was their opinion then, and it is still their opinion. It has been 20 years that have passed, and the study may show that they are now wrong. If the study does show that it is wrong, if the study shows that it ought to be age 55, then I am going to support it. If the study shows it ought to be 65, then I will support that.

Mr. DUNCAN of Oregon. If the gentleman will yield further, the gentleman will concede that there are some guys at age 60 who are fully capable and competent, physically, psychologically, and in every other way at age 60?

Mr. SNYDER. There is no question that different individuals are different with age.

The CHAIRMAN. Time of the gentleman from Kentucky has expired.

(By unanimous consent Mr. SNYDER was allowed to proceed for 2 additional minutes.)

Mr. SNYDER. I have to say, quite frankly, that I do not believe that I am as sharp today at age 51 as I was 10 years ago.

Mr. DUNCAN of Oregon. I will concede that to the gentleman.

Mr. SNYDER. I suspect the gentleman would, and I think he is accurate. I think the gentleman is accurate.

Ms. FERRARO. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I am happy to yield to the gentlewoman.

Ms. FERRARO. Mr. Chairman, I just wanted to ask the gentleman, he made comment that tests were determined in 1959 and the FAA made the decision based upon medical tests in 1959. But the gentleman will concede that since 1959, to 1979, the medical profession has gone a long way in determining deterioration in age and various tests with reference to one's capabilities?

Mr. SNYDER. I do not think there is any question. Most of their advances have not been in how to correct those problems, but more in treatment.

Ms. FERRARO. And to pick them out.

Mr. SNYDER. And treatment, yes.

Ms. FERRARO. A further concern I have is not only have the tests changed so that we are much more capable at this point in time, after 20 years, to determine whether someone is capable or not of flying, but further, to get back to the bill itself, we are not changing the age; we are merely waiving the requirement for 1 year. It is a waiver for 1 year of enforcement of the rule. We are not changing the age at this point; we are merely waiving that requirement and enforcement of it for 1 year during the pendency of this study.

Mr. SNYDER. I understand what the bill does. I have not deteriorated to that point with age.

Ms. FERRARO. I thank the gentleman.

Mr. SNYDER. I would suggest to the gentlewoman that we ought to know the facts, and we ought to have the study first so that we know what the true facts are. If a change is justified, I am willing to support it. But I do not want to support it without knowing what the facts are, and I do not think any of us here in our younger, more alert days, or in our older, more deteriorating days, are so omnipotent as to overrule all of the medical evidence of any substance.

Ms. FERRARO. If the gentleman will yield further, would he address the commuter issue that I raised before?

Mr. SNYDER. Surely. I raised that issue myself, I think, probably first in the hearings with Quentin Taylor, the deputy FAA Administrator, and he said, "You are right, we have to deal with it," and that they would promulgate regulations in regard to it. I think they should.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to the amendment.

Mr. Chairman, I take this time only to try and say what happened in the Committee on Public Works and Transportation, your committee. When this legislation was introduced it had come to our committee and it had a number of cosponsors to it originally. When it came into the committee, why, a good many more joined in as cosponsors, running the figure up to 54 Members of this House who cosponsored this legislation.

After the hearings were held by the subcommittee, and we got into consideration for markup in the subcommittee, we went into the record very thoroughly. It was decided at that time that we should have an understanding amongst ourselves as to just how far to go with the age limit and the study. We argued it all the way from 70 down to 62 at one time. We almost had agreement on age 62.

Then in a second meeting we reduced it down to 61½ and provided for a 1-year study by NIH. That was finally agreed upon and we moved the bill from the subcommittee to the full committee.

In the full committee this amendment pending here today was offered. After thorough consideration in the full committee, the amendment was voted down. It reminds me of the remarks that were made earlier today by the gentleman from Alaska (Mr. Young). When the committee agreed to go to 61½, it was to give experienced pilots an opportunity to be retained by the airlines flying aircraft while this consideration and study was being carried on by NIH under their supervision. It was thought best to have these people in service so that we would have an actual experience taking place by those who were flying the airlines of our country.

I would say these people are probably the most experienced airline personnel that we have. They are doing a good job today right up to age 60. I see nothing wrong with extending this for that short period of time and allowing this study to be made, and then taking action on whatever it shows.

□ 1430

But, I agree with the action that was taken in the full committee. That action is, and was, opposition to the Howard amendment. Congressman Howard from New Jersey is one of our finest committee members. He serves as a subcommittee chairman on Transportation, and does a very good job. I am very sorry to have to come here and take opposition to his position and his amendment. It was the decision of the full committee. I believe it was a just one. I think it should be rejected on the floor today.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment offered by my colleague from New Jersey (Mr. Howard). I do so with a great deal of concern, because I see very strong and viable arguments on both sides of this question. Many older pilots have come into my office, and they have made an excellent case against this discrimination—and in fact it is discrimination.

I realize the current rule is unfair and arbitrary, and I know that some pilots over the age of 60 are far better pilots than some under the age of 60. I also realize that the FAA has not truly been responsive to this concern and to this question. I agree with these points made by many of these fine individuals.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to my colleague from California.

Mr. CLAUSEN. Mr. Chairman, I think the gentleman has put his finger on what I think is the key issue; that is, whether or not the FAA has been responsive to this problem under the administering of this rule. It has been for that reason that I made the point earlier that I think we ought to give serious consideration to establishing an independent medical review board so that all concerned in that kind of controversy could actually go before that board and make their case, be it the pilot and his medical representation, and/or the company, if they have that kind of information.

Mr. GOLDWATER. I think the gentleman has touched upon a point that I want to speak on in just a moment. And that is, the quality of medical examinations that we are relying upon to pass judgment on the qualifications of a pilot.

But, getting back to the arguments that have been raised on the other side. Many respected individuals as well as organizations make the opposite case, and do so very forcefully—that changing the rule prior to study may very well endanger airline safety. Now, I have often myself criticizing the FAA for being a little bit lax in safety, of not doing enough about the safety of air travel. I happen to feel that the tables are turned. The FAA is telling me that if this bill passes they can no longer guarantee the level of safety.

I am not about to go and tell the FAA that they are being too cautious, that they are too strict on aviation safety. Am I now going to be required to tell the FAA that they should relax their strong beliefs on aviation safety in order to remedy a possible problem of age discrimination? Well, I am not ready to tell the FAA or the airlines that they are too cautious on airline safety, not until a group of experts, unbiased experts, study the problem and report their findings back to Congress.

If they say that the FAA and the airlines are wrong, that safety will not be reduced by relaxing the rules, then I will be the first to go out and correct that situation. However, until that time comes I must cast my vote to put the safety of millions of airline passengers ahead of the careers of 1,000 or 2,000 experienced airline pilots.

Mr. Chairman, there has been some reference to the fact that pilots are required to take medical exams to qualify as pilots. That is true with all pilots. Airline pilots are held to a stricter standard and are required to take more than one exam a year, and in some cases they are examined by their company doctors and medical departments.

Mr. Chairman, I have been greatly concerned over the years with the quality of medical examinations that have been made, or are required, by the FAA. They have a system of what they call "airman medical examiners," or designated examiners—regular doctors, private doctors, who are appointed by the FAA to pass on the physical capabilities of a pilot. The problem that I have observed over the years, is that pilots who questioned their medical health have been able to find doctors who look the other way.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Goldwater was allowed to proceed for 1 additional minute.)

Mr. GOLDWATER. Pilots with failing health are able to seek out easy examiners, and I for one would not like to see us taking four, perhaps four shoddy medical examinations per year, and say that that qualifies an individual.

Great strides have been made in medical testing over the past 20 years. But new diagnostic techniques are not generally used in airman medical examinations. There are no blood tests, no stress EKG, no reaction tests, no mental or psychological testing that have been done in order to qualify.

Mr. Chairman, the FAA has a duty to upgrade the examination, enforce or oversee the airman medical examination in order to promote safety.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. Howard).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LLOYD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 240, noes 165, not voting 28, as follows:

[Roll No. 701]

AYES—240

Akaka
Albosta
Alexander
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bevill
Blanchard
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brown, Ohio
Broyhill
Buchanan
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carter
Cavanaugh
Chappell
Cheney
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Daniel, R. W.
Daschle
Davis, Mich.
Davis, S.C.
de la Garza

Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fazio
Fenwick
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harsha
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard

Hubbard
Huckaby
Hughes
Hyde
Ireland
Jeffries
Jenkins
Jenrette
Kazen
Kemp
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Latta
Leach, Iowa
Lederer
Lee
Lent
Lewis
Livingston
Lott
Lowry
Lujan
Luken
Lundine
McDade
McDonald
McEwen
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Myers, Pa.
Neal
Nedzi
Nichols
Nowak
Obey
Ottinger
Patterson
Paul
Pease
Perkins
Petri
Peyser

Preyer
Pursell
Quayle
Quillen
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Rose
Rosenthal
Rousselot
Royer
Sawyer
Schulze
Sebelius
Seiberling
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Snyder
Solarz
Solomon
Spellman
Stanton
Stark
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Traxler
Trible
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Fla.

NOES—165

Abdnor
Addabbo
Anderson, Calif.
Atkinson
AuCoin
Badham
Beilenson
Bethune
Biaggi
Bingham
Boggs
Bolling
Bouquard
Broomfield
Brown, Calif.
Burgener
Burlison
Campbell
Carr
Chisholm
Clausen
Collins, Tex.
Corman
Cotter
Crane, Daniel
D'Amours
Daniel, Dan
Danielson
Dannemeyer
Deckard
Dellums
Derrick
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Edwards, Okla.
Emery

English
Erdahl
Evans, Del.
Fary
Fascell
Ferraro
Findley
Flippo
Ford, Tenn.
Fowler
Gephardt
Grassley
Grisham
Gudger
Hammerschmidt
Hanley
Hansen
Harris
Hawkins
Heckler
Hillis
Hopkins
Hutto
Ichord
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Lagomarsino
Leach, La.
Leath, Tex.
Lehman
Leland
Levitas
Lloyd
Loeffler
Long, La.

Long, Md.
Lungren
McClory
McCloskey
McCormack
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Mica
Mineta
Moffett
Mollohan
Moorhead, Calif.
Murtha
Natcher
Nelson
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patten
Pepper
Pickle
Pritchard
Rahall
Railsback
Ratchford
Richmond
Roberts
Rodino
Roe
Roth
Roybal
Rudd
Runnels

Sabo
Santini
Satterfield
Scheuer
Schroeder
Sensenbrenner
Shannon
Shumway
Smith, Nebr.
Snowe
Spence
St Germain
Stack

Staggers
Stangeland
Stenholm
Stewart
Stockman
Swift
Synar
Tauke
Thomas
Ullman
Van Deerlin
Wampler
Watkins

Weaver
Weiss
Whitehurst
Williams, Mont.
Wilson, Bob
Wirth
Wolff
Wolpe
Yates
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—28

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashley
Barnard
Bedell
Brooks
Crane, Philip
Dornan

Flood
Frost
Goodling
Guyer
Kelly
Madigan
Michel
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.

Nolan
Price
Rangel
Rostenkowski
Russo
Steed
Treen
Waxman
Winn

☐ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Ambro against.

Messrs. HINSON, ROSE, and DAVIS of Michigan changed their votes from "no" to "aye."

Messrs. SABO, D'AMOURS, and HANSEN changed their votes from "aye" to "no."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose and the Speaker pro tempore (Mr. KAZEN) having assumed the chair, Mr. SKELTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3948) to amend the Federal Aviation Act of 1958 to eliminate the age limitation presently imposed on certain pilots of aircraft, and for other purposes, pursuant to House Resolution 455, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to raise the age limitations presently imposed on certain pilots, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill, H.R. 3948.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1500

TABLING OF HOUSE RESOLUTION 308 AND HOUSE RESOLUTION 330

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the following resolutions, which were reported from the Committee on Rules and are now pending in the House Calendar, be laid on the table:

House Resolution 308, providing for consideration of H.R. 3509, Extending the Safe Drinking Water Act authorizations through 1982, and

House Resolution 330, providing for consideration of H.R. 3641, Extending the Public Health Service Act, health information programs, for 3 fiscal years.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. LATTA. Mr. Speaker, I reserve the right to object. I do so to ask the gentleman to explain what the resolutions are.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I would be happy to yield.

Mr. BOLLING. Mr. Speaker, these resolutions are no longer of any use, because the bills they brought up passed under suspension in each case.

Mr. LATTA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DESIGNATION OF THE BIRTHDAY OF MARTIN LUTHER KING, JR., AS A LEGAL HOLIDAY

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 497 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 497

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5461) to designate the birthday of Martin Luther King, Junior, a legal public holiday, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA). Pending that I yield myself such time as I may consume.

Mr. Speaker, the consideration of this rule should take virtually no time because I cannot see any controversy in it. So far as I know, everybody is in favor of passing the rule and considering the matter that it will bring up.

I would like to say that I had the privilege of working with Martin Luther King, Jr., and I strongly support the bill in its present form. I intend to oppose any of the hostile amendments that are offered.

On the other hand, I did not see any justification either in the interest of the resolution or objectivity for having a modified closed rule. Therefore, the rule is an open rule, I am happy to report, and I see no reason why it should be controversial.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me echo what the gentleman from Missouri has said and to compliment him on his leadership in seeing to it that an open rule was reported out of the Committee on Rules.

I agree with the gentleman that we would be setting a bad precedent to have taken a rule of this nature and closed it or to have had a modified closed rule or a modified open rule, as some were requesting.

There were several amendments that were considered in the Committee on Rules that will certainly be discussed at the time this matter is being discussed on the floor.

I would like to point out something that disturbs me about the creation of another legal holiday. There is not any question about it, the United States is lagging in productivity.

As a matter of fact, I have in my hand an article out of the Wall Street Journal of October 30, 1979, which says:

> Federal Reserve Chairman Paul Volcker said in a television interview Sunday that the decade-long slowdown in productivity is one of the root causes of the current economic woes. When productivity is declining, when energy prices are increasing, there isn't any way you can increase your standard of living in the nation as a whole just by asking for higher wages or prices. He said on ABC's "Issues and Answers": "You can try to outrace the other guy, but collectively we can't possibly consume more than we are producing."

I have in my hand another article which appeared in a UPI release on this matter after the Department of Labor reported on our Nation's productivity. Let me read just a couple of lines from this report:

> The productivity of private business in the United States grew at an annual rate of 0.1 percent in the July-September quarter of this year, the Labor Department reported today. Productivity, the economy's output per hour of work, had been declining sharply in the previous two quarters. It dropped 3 percent during January and March and another 2.2 percent during April and June.

The Labor Department subsequently revised the 0.1 percent downward and we ended up on the negative side for the last quarter as well.

Now, why is this important to what we are discussing today?

It is important because we are talking about shutting down for 1 day the productivity of this country. Now, a lot of people say, well, it is not going to cost anything as far as the Federal Government is concerned. Well, they are talking nonsense, because there is over $20 million that will have to be paid for premium rates or wages for people who work for the Federal Government during a legal holiday; you will have to pay the Federal employees who do not work something over $200 million. This would be a cost to the Federal taxpayers of this country at a time when they say you are spending too much already.

Now, what else is involved? State and local employees across this country will immediately say, "You have a national holiday and we should be off during that day."

According to the Heritage Foundation, this would cost $579 million—I repeat, $579 million.

Now, in the private sector, labor contracts usually call for days off on legal holidays, so we are putting in another paid holiday for them. In the private sector, and if you only consider the average wage to be $5.95 an hour, and that is far too low, we have a figure of $3.8 billion—that is $3.8 billion to be paid for not working, for not producing, for not increasing the productivity of this Nation.

As I pointed out before the Committee on Rules, it would seem that if Martin Luther King were to speak out on this issue today, he would probably say we ought to do everything possible to raise the productivity of America.

Why? Because by increasing productivity, we can reduce inflation, which is hurting the poor people that he was most concerned about.

□ 1510

Mr. Speaker, perhaps we ought to be saying that we should work an additional day rather than not doing anything on his birthday. Maybe working on Saturday would be the best way to celebrate his birthday thereby increasing productivity and helping lift the plight of the downtrodden by reducing inflation. This would be paying real honor to Doctor King and helping America at the same time.

One of the amendments that will be proposed today by the gentleman from Missouri (Mr. TAYLOR) will make this a commemorative day. We would then have a proclamation by the President with appropriate ceremonies across the country, but still America would continue to work. Hopefully, when this matter comes before the House under the 5-minute rule, the House will give favorable consideration to this amendment so that we can honor this individual without reducing the productivity of America.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise in support of this most unusual rule. It is unusual because it is completely open and it protects all Members of the House and their right to offer amendments.

I agree with the distinguished chairman of the Committee on Rules, the gentleman from Missouri (Mr. BOLLING), in his support of this rule. I think that his stand was very important in the committee, and the gentleman has restated that support today.

Regardless of the merits of the legislation itself, a request was made by the chairmen of the Committee on Post Office and Civil Service, and the subcommittee that this bill be given a closed rule allowing only one amendment. A similar request for a closed rule was supported in various forms before our committee by several other members.

The gentleman from Missouri (Mr. BOLLING), at the close of our discussion, before we voted on the rule, made the point that if this rule, a rule on legislation of this sort, legislation of such a simple nature as that involving the creation of a national holiday, was subjected to a closed rule, the temptation would be for the majority to request closed rules on almost any legislation. I agree.

This is not a complicated issue. Obviously the desire was to protect the legislation from amendments that in some way or other might weaken or damage or change its terms. That is what we were sent here under article I of the Constitution to do, legislate, on this and all other issues.

We have seen repeatedly in recent months a pattern on the part of the majority leadership, first enunciated by the Speaker during the August recess, to adopt many closed rules. You in the majority have done this on important matters such as the so-called welfare reform, a $2 billion bill, and a succession of other important bills.

I commend this nearly imperceptible or, I should say, nearly perceptible softening on the part of the majority leadership to allow the House to work its will. I think it will profit the House if they allow such openness on other legislation relating to even more important subjects.

I would only say that the remarks of the gentleman from Ohio (Mr. LATTA) are very important and in tune with the need for changes in the bill which amendments will offer. It will be possible to have a commemorative holiday if that is the will of the House and the gentleman from Missouri (Mr. TAYLOR) will offer that amendment.

I would urge opposition to the amendment offered by the gentleman from Illinois (Mr. MCCLORY) creating a Monday holiday, with all the attendant costs involved.

With that, Mr. Speaker, let me say that I thank the gentleman from Ohio (Mr. LATTA) for yielding this time to me.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Speaker, I will be very brief.

Yesterday, at the meeting of the Committee on Rules I asked for a modified closed rule because it was my theory and my belief, after I had talked to the membership of the House on both sides of the aisle, that the issue here was one of a fiscal nature; that the issue was one wherein very few Members opposed the creation of a commemoration for Martin Luther King. The question was only in terms of the dollars.

So, Mr. Speaker, I would say to the Members that I am supporting this open rule. After 10 years that this bill has been locked up in committee, I am glad to see it is finally on the floor before the people of America to decide the merits of a great American and whether, in fact, a holiday should be designated. Many of us on both sides of the aisle think that he should.

So, Mr. Speaker, I support this open rule, and I suggest that we adopt the rule and get on with the debate.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GARCIA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5461) to designate the birthday of Martin Luther King, Jr., a legal public holiday.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GARCIA).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from New Jersey (Mr. HOWARD) as Chairman of the Committee of the Whole and requests the gentleman from New York (Mr. MCHUGH) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5461, with Mr. MCHUGH, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New York (Mr. GARCIA) will be recognized for 30 minutes, and the gentleman from Missouri (Mr. TAYLOR) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Chairman, I yield myself such time as I may consume.

Mr. GARCIA. Mr. Chairman, we are once again before the House to argue the case for the establishment of a new Federal holiday in memory of the late Dr. Martin Luther King, Jr.

On November 13, the House narrowly defeated this measure under suspension of the rules even though an overwhelming majority favored this proposal.

Eleven short years have passed since Dr. King's death. And yet, his memory as well as his legacy continue to inspire millions of his contemporaries in this country and around the world. What is more is his contribution to American society which are reflected in the passage of landmark civil rights legislation will stand as a perpetual reminder to future generations that a man called Martin Luther King, Jr., did, indeed, live and challenge century-old traditions that denied basic rights to individuals in this country.

Dr. King was a distinguished American who achieved worldwide acclaim as the leader of a movement that struggled against poverty and racism. His dream was a dream for all Americans that suffered injustice and inequality.

His moral vision, his uncommon courage, his quest for social justice, his stalwart commitment to nonviolence, and his deep and abiding love and concern for the poor and the oppressed exemplified the best of this country's rich and proud heritage.

He stirred the conscience of the Nation and spoke out in ringing tones for the disenfranchished and thereby rekindled the flame of hope and progress during one of the gravest periods in our Nation's history.

Mr. Chairman, H.R. 5461 designates January 15, the anniversary of Dr. Martin Luther King, Jr.'s birthday, as a national Federal holiday each year. This bill commemorates his life and legacy, as well as this man's unique contribution to our Nation which are virtually unparalleled.

The enactment of H.R. 5461 would serve as an appropriate testimonial to an extraordinary individual who dedicated his life to the cause of human rights. Moreover, the bill would underscore the Nation's continuing commitment to elleviate the persistent and continuing effects of discrimination and poverty which Dr. King struggled to eliminate.

Mr. Chairman, a new holiday does not come cheaply, I recognize that. The overtime and premium pay for Federal employees who report to work on a holiday is a significant amount. Yet, we must not overlook the other side of the equation. Some have argued that it would be too expensive to create another Federal holiday. This is, indeed, a concern. But when weighed against the need to honor all that Dr. King struggled for, prayed for, dreamed about, symbolized, and sought throughout his life, I find that the scales of justice tilt decidely in favor of a new Federal holiday to honor Dr. King.

I believe that the people of this Nation understand the relationship between Dr. King's inspirational legacy, his dream, his hopes, and the values and traditions of this country, and I therefore, support this measure.

This issue today is not only whether America is prepared to honor this hero, but whether we, as a nation, will send a signal that we value and esteem the contributions, accomplishments, and vision of an American who sought to advance the cause of human rights in his own land.

Mr. Chairman, I urge the house to approve this measure and I reserve the balance of my time.

□ 1520

Mr. TAYLOR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly oppose the designation of the Reverend Martin Luther King, Jr.'s birthday as a legal public holiday because I do not believe our present economic situation affords us the luxury of another $212 million Federal holiday.

At the appropriate time, I intend to offer an amendment that will designate Reverend King's birthday as a national commemorative day and will save us the cost to the Federal Government of creating a 10th paid day off from work for Federal employees.

There will be other amendments offered before mine, I understand, and I want to take this time during the general debate to discuss the implications of creating any new Federal holiday—whether it comes on the calendar date, a Sunday, or a Monday.

A legal public holiday will entitle 2.8 million Federal employees to a day off from work with pay. There is no difference In cost to the Federal Government whether this holiday falls on a Monday or any other weekday.

The costs of any new holiday will run at least $212 million to the Federal Government alone, because of our $185 million daily payroll and the additional cost of $27 million in premium or overtime pay for those who would be required to work. This is seven times the cost of the combined salaries of Members of the House and Senate.

The costs of a legal public holiday for Federal employees will not stop at the Federal level, because thousands of State and local governments and private sector workers will soon be asking for—and, in all probability, receiving—another holiday, thus adding to the Federal deficit and lowering this Nation's already declining productivity, the two main causes of the unparalleled inflation the people of this Nation are now experiencing.

The House should weigh carefully the expense involved in creating any new Federal holiday—regardless of what day of the week it will fall on—not only in terms of the Federal budget, but also the expense that will surely follow for State and local governments and the private sector.

I urge my colleagues to listen carefully to the debate and amendments that are to be offered—but to keep in mind that a commemorative day for Martin Luther King is the most appropriate way for us to honor him and I will be offering this as an alternative to the bill.

Mr. GARCIA. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, the Members of this body have already heard the telling arguments in support of designating a national public holiday to celebrate the life and the contributions of Dr. Martin Luther King, Jr., to this Nation. I believe that no man in the history of this country has done more to arouse the conscience of this Nation to live up to its great ideals and its great goals. This Nation was dedicated by men and women who believed in justice, equality, and freedom; who have set as a goal that this Nation become one Nation indivisible, with liberty and justice for all. This Nation is now the kind of ideal that Martin Luther King, Jr., envisioned when he called upon all of us to come together to overcome the differences, the prejudices and, as one people, celebrate a nation that looks to the human spirit as a brother in each other.

I believe that the life of Martin Luther King, Jr., is replete with his commitment to the realization of those goals. I think it is timely that we recognize those contributions. I think we are living in an era at a time when human rights are just not two words that should be emptily spoken; but human rights should be the guiding spirit that should motivate us all. We should be encouraged by the great sacrifices that were made by Dr. Martin Luther King, Jr.

Some time ago the gentleman from Illinois (Mr. McCLORY) joined with me in adding another holiday to the list of national holidays to be celebrated on a Monday. This was done so that there would be no tremendous cost to the Government and to insure there would be no break in efficiency on the part of governmental services. At the appropriate time I will, following the initiative of the gentleman from Illinois, support the amendment to designate the third Monday in January as a Federal holiday in honor of Dr. Martin Luther King, Jr. I believe that this would then deflate the argument of all of those who believe that there would be some kind of a hiatus if the holiday should occur in the middle of the week. I believe it will put to rest those arguments about the great cost of a holiday in the middle of the week. As the Civil Service Commission and the National Association of Manufacturers have already testified on previous holiday bills that there is a valid reason for making any holiday occur on Monday, and I believe that none deserves it more than Martin Luther King, Jr.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from New Jersey (Mr. RODINO). I think we should remember this man. He told us that people should be judged not by the color of their skin but by the content of their character and that was an important statement for this country. But he spoke also to a present and very terrible danger in the whole world: violence.

He knew the terrible force of unleashed violence. The nonviolent nature of the revolution of which he was a key figure in this country is a tribute to him and important for these troubled and difficult days.

Mr. RODINO. Mr. Chairman, I thank the gentlewoman from New Jersey for her remarks.

Mr. Chairman, it takes a rare person or an extraordinary event to justify a new national holiday.

Dr. Martin Luther King, Jr., was much more than a rare person. He was unique in American history—as a man, as a leader, as an advocate for freedom.

The events closely related to his leadership of the civil rights movement were more than extraordinary. They had and will continue to have a wholesome impact on American society.

The unique combination of characteristics in Martin Luther King, Jr., equipped him with the personal power to pursue the causes of justice and freedom against all odds.

He was totally committed to those causes, but he was never ruthless.

He was a dreamer, but he was never impractical.

He was tough, but he was never unjust.

He could recognize malice, but he was guided by love.

He never feared to engage in a necessary fight or confrontation, but he remained always a man of peace.

Four years ago, in accepting the Martin Luther King Award from the Southern Christian Leadership Conference, I said this:

> They shot down the man—and they snuffed out his life—and the man died. But they could not shoot down his dream. For his dream was stronger than life—and the dream lives on.

Martin Luther King, Jr.'s dream lives on today, but we must nurture it with our attention, our respect and our faith.

He sacrificed his life for his dream of a fully just America.

Surely we can give 1 day a year to sustain the life of that dream.

In a spirit of respect for his unique life and leadership and a faith in the future of this land of freedom, let us now officially designate a national public holiday to celebrate the great contributions of Martin Luther King, Jr.

Mr. TAYLOR. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. McCLORY), the distinguished ranking minority member of the Committee on the Judiciary.

Mr. McCLORY. Mr. Chairman, I appreciate the statement just made by the distinguished chairman of the Committee on the Judiciary, my colleague, the gentleman from New Jersey (Mr. RODINO) and also as supplemented by the gentlewoman from New Jersey (Mrs. FENWICK). I concur in what the gentleman from New Jersey and the gentlewoman from New Jersey have said.

The American public and the vast majority of the Members of this House are responding to a desire in this country to recognize the service of the Reverend Martin Luther King, Jr., and what he stands for and what he represents.

In view of that, it seems to me that we are determined and that our vote will reflect a determination to honor this man and what he represents in our Nation by designating his birthday as a national legal holiday.

Since the subject of economics has been raised and the subject of the productivity of the American worker has been involved, it seems to me very appropriate that we should give earnest consideration to designating the third Monday in January a holiday so that on a fixed day each year, a time each year, this national holiday can be observed. It will, as the gentleman from New Jersey has indicated, provide substantial savings to industry, and to business, and to the working men and women of our country as well, as was demonstrated when we passed the Monday holiday legislation back in 1968.

In addition to that, by designating a holiday on a Monday, it can be more appropriately observed at that time.

☐ 1530

There is more time for the preparation for the observance. People know when it is going to occur when a holiday is observed on a designated Monday.

When a holiday is designated on a particular calendar date and it falls on a Sunday, for instance, there is great confusion as to whether to observe it on Friday, Saturday, Sunday, or Monday. Just this year, with regard to Veterans' Day, that was precisely the situation. Different communities observed Veterans' Day on four different days, Friday, Saturday, Sunday, and Monday because November 11 fell on a Sunday. But with the third Monday of January of each year being observed as Martin Luther King Day, we can appropriately observe it then.

As I indicated, there are going to be great savings. There are going to be tremendous advantages for the working men and women, less confusion, less closing down of businesses before and after a midweek holiday, a reduction in absenteeism which occurs when we have midweek holidays. There are many, many logical reasons, it seems to me, that the amendment that I will be offering should be supported.

I appreciate very much having the strong support of the gentleman from New Jersey (Mr. RODINO) in support of this amendment.

Mr. TAYLOR. Mr. Chairman, I yield 5 minutes to a member of the committee, the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 5461, legislation designating the birthday of Dr. Martin Luther King, Jr., as a legal public holiday.

Designating a holiday in memory of Dr. King is an appropriate means of honoring the contributions of this distinguished American, who, during an extremely critical and volatile period in our Nation's history, sparked a peaceful, determined drive for a national commitment providing all of our Nation's citizens with basic civil rights and with equality of opportunity.

As a cosponsor of this measure during this and past sessions of Congress, I was pleased to join with my colleagues on the Committee on Post Office and Civil Service in favorably reporting this legislation to the House.

The legacy of Martin Luther King lives today in the contributions to our Nation of those who through his efforts were afforded the opportunity for equality in education and equality in employment, opportunities that have resulted in significant contributions to our Nation's commerce, medicine, law, education, and in the arts.

The Martin Luther King, Jr., legacy lives in the pride of all Americans witnessing a confirmation of the earlier dream upon which our Nation was founded: Justice, equality, and the recognition of basic human rights and dignities.

Accordingly, Mr. Chairman, I urge my colleagues to support this legislation honoring the memory of Dr. Martin Luther King, Jr., and thereby honoring our Nation's basic ideals of liberty, justice, and equality, to which he was so fully committed.

Mr. GARCIA. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Richmond).

Mr. RICHMOND. Mr. Chairman, I rise in strong support of this legislation to designate the birthday of Dr. Martin Luther King, Jr., as a legal public holiday, and in support on an amendment fixing this holiday on the third Monday of January.

Few Americans in this century have made so great an impact on the lives, the values, and the aspirations of all Americans as Dr. King. Through his vision and his dynamic, effective leadership of the civil rights movement, Dr. King compelled our Nation to examine its prejudices and the inequalities that generations had taken for granted.

At the forefront of the struggle for nonviolent social change, Dr. Martin Luther King led the way to breakthroughs for the poor and the downtrodden members of our society in housing, jobs, education, community development, and in assuring equal opportunity for all Americans in every aspect of daily life.

By designating the third Monday in January as a legal holiday, we will be giving recognition to the outstanding contributions of a unique individual to our society. In addition, an annual observance of this day will provide all Americans the opportunity to reflect upon the achievements of Dr. King and to rededicate themselves to the goals to which he dedicated his life.

I urge my colleagues to approve this important legislation.

Mr. GARCIA. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. Conyers).

Mr. CONYERS. Mr. Chairman, this is a great day in the 96th session of the Congress. Today we consider making a national legal holiday of the birthday of Dr. Martin Luther King. Public holidays are rightly reserved for honoring great traditions, our highest ideals, and individuals who have uniquely shaped our Nation's destiny; and Rev. Dr. Martin Luther King has been that man in this century who has brought America back to its roots as a free people.

I am pleased that the leadership of this Congress, that the bipartisan comingtogether of more than 125 Members to cosponsor this legislation, by the untiring work of the Committee on Post Office and Civil Service, led by the distinguished chairman of the subcommittee, the gentleman from New York (Mr. Garcia), the collective efforts over a decade of the Congressional Black Caucus, and individual efforts on the part of Members too numerous to mention, have all combined to make this a very important day in the life of many Americans.

The widow of Rev. Dr. Martin Luther King joins us here again today as we consider this legislation. I endorse the amendment that will soon be offered by my colleagues from both Illinois and New Jersey, that would make the day celebrated on a Monday consistent with other Monday legislation.

What did this great man teach us? What did he contribute that deserves to memorialize him forever in the American history?

To me, my colleagues, he taught that the freedom to effect social and individual changes in our lives are within the ability of each and every one of us and can be accomplished without violence. In this he changed the moral and political direction of this Nation. We do more than just celebrate Dr. King's birthday, to honor one man, however extraordinary.

A national public holiday honoring Rev. Dr. Martin Luther King, Jr., would commemorate the profound and positive turning in our history that he helped create.

In approving this legislation, I do not think that this Congress can make a more positive statement that the sectional and racial chapter in our history is closed forever and that a giant step would be made forward in reconciling the hopes of all of the peoples who compose this great Nation. It would be the one day in the year to reflect on the sources of our freedom and on the basic interdependency of our lives, on our common destiny as a free people.

This is a great day for many of us here in the Congress and in the Nation.

□ 1540

The tremendous expression of support that we elicited only 2 weeks ago, four Members short of a two-thirds majority, was important and encouraging to me.

So I say to my colleagues there are no substitutes for the decision and the action that we must take today. We should answer the question: does Dr. King's stature and his impact on American history deserve to be honored in this measure today? The answer, I think, we have already made in many ways, and we are now called upon to make that final ratification today.

Mr. TAYLOR. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. Beard).

Mr. BEARD of Tennessee. Mr. Chairman, I will not take the 3 minutes. I stand here just to inform the House of my intention to introduce an amendment or a substitute changing or designating the celebration of Martin Luther King's birthday on the third Sunday of every January.

I endorse the thrust of this legislation. I endorse the thrust of the remarks that have been made by the preceding speakers. I look at it as a situation of celebrating a national holiday, but also being sensitive to tremendous costs in productivity.

I do take serious reservation and questions with the statements made as to the fact that by holding it on a Monday it would cut these costs. Still, the basic, fundamental costs would be there, and so I do not think that would be a corrective amendment on Mr. Rodino's or Mr. McClory's part. But that will be debated under the 5-minute rule and I will be introducing this to call for the celebration of Martin Luther King's birthday to be held on the third Sunday of every January.

Mr. GARCIA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois (Mrs. Collins).

Mrs. COLLINS of Illinois. Mr. Chairman, I am proud to rise in support of the bill to make the birthday of Dr. Martin Luther King, Jr., a full national holiday—a full national, public holiday. We have seen a strong show of support for this legislation when nearly two-thirds, as John Conyers has said, of this body voted in favor of the King holiday, narrowly missing passage under the suspension of the rules.

I urge, and all of my colleagues in the Congressional Black Caucus urge, that there be defeat of any amendments such as the ones we are going to consider today that might merely make this a holiday in name only. We all know that many commemorative days and weeks have little meaning to the public. We all know that a holiday designated to fall on the day of rest is no holiday at all, and we do not need to have a congressional act to do that.

I wonder how many of my colleagues celebrate such commemorative days and weeks as National Safe Boating Week, National Poison Prevention Week, Pan-American Aviation Day and so on, or how many Americans know that there is a Stephen Foster Memorial Day or a Leif Ericson Day. I submit that very few, indeed, would.

With crippling amendments such as those we will consider today and have been mentioned already so far, this is what will happen to the National Martin Luther King Holiday bill.

The opponents of making a Dr. Martin Luther King's birthday a full national holiday have come up with only one argument, and that is that another holiday is too costly. I submit to my colleagues that the contributions to this Nation of Dr. Martin Luther King cannot be measured in dollars. I do not believe that the symbolic and real importance of making Dr. King's birthday a holiday as a commitment to racial equality can itself be measured in dollars.

Enactment of this legislation will mean that for 1 day each year, this Nation will reflect upon the contributions of Dr. King, will reflect upon the greatest peaceful social revolution since this Nation's founding. No. The benefits of that commitment for the Nation's future can never be measured in bucks.

We now have nine national holidays. I have heard no suggestion that we eliminate those holidays and save money. The Nation would not stand for that. In economic terms, the merchants and the manufacturers, and all of those who benefit from increased sales on holidays would not stand for that.

A holiday recognized in 14 States and many cities deserves designation as a full national, public holiday. I urge all of my colleagues to vote against the commemorative day or the Sunday amendments and to vote to make Dr. Martin Luther King Jr.'s birthday a full national, public holiday, not just for minorities, but for all of us who live in this great country called the United States of America.

Mr. WOLPE. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I am happy to yield to the gentleman.

Mr. WOLPE. Mr. Chairman, I want to associate myself fully with the remarks of the gentlewoman from Illinois.

I rise in support of the Conyers bill and in opposition to those amendments that would diminish the status and significance of the tribute that is intended by the proposed national holiday. I want to associate myself fully with the remarks of the gentlewoman from Illinois.

In establishing a Martin Luther King national holiday, we will not only be giving recognition to the life and accomplishments of a truly great American, but we will be providing a living memorial that can serve to inspire both present and future generations of Americans to a renewed dedication to the principle upon which this Nation was founded.

Surely no contemporary American better exemplified—in his words and in his actions—American values and traditions. For Americans everywhere—black and white, young and old, North and South—Dr. King symbolized the best in the Nation: the continuing struggle to achieve a truly open society, in which all Americans will have an equal opportunity to achieve their full human potential; the commitment to an ultimately integrated society in which racial and ethnic and religious prejudice and discrimination will not limit the ability of Americans to learn from and to enjoy one another; the advocacy of nonviolent social change; the historical affirmation by Americans of the value and importance of the individual citizen.

I want to give particular emphasis to this last point, because in this period of public cynicism about politics and government, there is heard throughout our land the constant refrain that the individual citizen no longer counts in our country, that there is no way an individual can have impact on the economic and political decisions that affect all of our lives, that events are effectively out of control. Dr. Martin Luther King recognized, as have few other contemporary Americans, the ways in which such feelings of powerlessness can become their own self-fulfilling prophecy. His life was a direct and eloquent refutation of the alleged impotence of the individual citizen. It was a statement, by actual deeds, of the tremendous power available to a single individual who refuses to acquiesce to the established power, who refuses to accept social injustice in any form, and who is prepared to assume the risks that are inevitably associated with efforts to change the status quo.

There is a tendency to endow Martin Luther King with superhuman characteristics, but I suspect that Dr. King would far prefer to be remembered not for his extraordinary qualities, but his ordinary qualities; not for his strength but for his vulnerability; not for his courage, but for his fears. Because what Dr. King recognized, as few others have, is the revolutionary potential of a single individual's action and commitment.

He recognized, and showed us by his own personal example, that a single individual can make a difference—and that perfectly ordinary people, possessed of little more than a belief in themselves and in the rightness of their cause, and a willingness to accept risk, can turn our country around.

The establishment of a national holiday to pay tribute to the life of Dr. Martin Luther King is the least that can be done to assure that this message of commitment and inspiration will be forever before the American people.

Mr. TAYLOR. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I will keep my remarks brief at this point in the debate. My feelings on this matter are no secret. I have absolutely no reservations about strongly opposing this ill-advised legislation.

It is a rather strange paradox we face today. The American news media has given M. L. King a free pass while continually rewriting the life stories of so many other public figures. The late President Kennedy has been branded as a lover. President Johnson and President Nixon have been maligned by the historians. Even Eleanor Roosevelt has not escaped the clutches of the media. But M. L. King is a different story. If this same standard of journalistic digging were applied to Reverend King, those who advocate a national holiday would be laughed out of this Chamber. I have no doubt about that.

Mr. Chairman, I will address some of my concerns when the bill is opened for amendment. My only hope is that Members will rise above this plateau of emotionalism and will listen to his true message. It is far different from what his modern day promoters indicate. I am certain that history will be on my side if the accurate record of Dr. King is ever made available to the public.

In case my colleagues have forgotten some of M. L. King's choice anti-American statements delivered in the sixties, I will include in the RECORD at this point a Washington Post editorial from 1967, which roundly condemned King for his April 1967 speech at the Riverside Church in New York City. It was there that he delivered the most vicious, ruthless, dishonest speech in modern times. He did everything from accusing the United States of germ warfare in Vietnam to being "the greatest purveyor of violence in the world today." He accused us of testing new medicine and new tortures in Vietnam which were similar to Hitler's torture in the concentration camps of Europe. Even the ultra-liberal Washington Post was compelled to attack him for that.

I include the article be included at this point in the RECORD.

Mr. Chairman, I urge defeat of this legislation. To forgive and forget is one thing. To not even honestly address the real record of a man is something else. The editorial follows:

A TRAGEDY

Dr. Martin Luther King's Vietnam speech was not a sober and responsible comment on the war but a reflection of his disappointment at the slow progress of civil rights and the war on poverty.

It was filled with bitter and damaging allegations and inferences that he did not and could not document. He flatly charged the Government with sending Negroes to fight and die in extraordinarily high proportions relative to the rest of the population. But Negro troops constitute 11 per cent of the enlisted personnel in Vietnam (10.5 per cent of the population was Negro in 1960). Negro casualties are higher than this (22.5 per cent of killed in action) because of higher Negro enlistment for elite corps and higher rate of Negro re-enlistment. No doubt these figures reflect in part the fact that civilian employment opportunities are not as great for the Negro. But they also reflect, in part, the zeal and courage of Negro soldiers. And they reflect the fact that in this war the Negro in uniform is not limited to work battalions.

Dr. King says the United States may have caused a million civilian casualties in Vietnam—mostly children—but he did not give any supporting authority for this statement.

He stated flatly that "our officials know" that less than 25 percent of the members of the National Liberation Front are Communist—but he neglected to say what officials or where they said it.

He contends that Ho Chi Minh knows that the bombing and shelling we are doing is "part of traditional preinvasion strategy," but gives no credence to our express declaration that no invasion is intended.

He has no doubts that we have no honorable intentions in Vietnam and thinks it will become clear that our "minimal expectation is to occupy it as an American colony." He feels that men will "not refrain from thinking" that our "maximum hope is to goad China into a war so that we may bomb her nuclear installations." It is one thing to reproach a government for what it has done and said; it is quite another to attribute to it policies it has never avowed and purposes it has never entertained and then to rebuke it for these sheer inventions of unsupported fantasy.

He has even conjured up an American napalm war in Peru so that he could denounce it.

Dr. King is right to reproach America for not ending discrimination and poverty. But these are failures for which every Administration in the history of the United States deserves more reproach than this one. It is strange irony indeed that the Government which has labored the hardest to right these ancient wrongs is the object of the most savage denunciation, the most unreserved criticism and the most unfair blame.

Dr. King has done a grave injury to those who are his natural allies in a great struggle to remove ancient abuses from our public life; and he has done an even graver injury to himself. Many who have listened to him with respect will never again accord him the same confidence He has diminished his usefulness to his cause, to his country and to his people. And that is a great tragedy.

□ 1550

Mr. GARCIA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, today is a very important day in this House. I think we have to recognize that when Dr. King came along, he came along at a time when there was great distress, great turbulance going on across this land, and when, if we look back in retrospect, he was the only individual who was able in some way to bring across and bring together diverse segments of the American community—blacks, whites, poor, old, young, middle class, upper class, lower class. His was the voice in a century that was able to move out and to bring together various segments of the American community at a very, very disturbing and perturbing time.

I think we have to recognize that, like everybody else, Dr. King ,was a human being. Like all of us, he had his strengths and he had his weaknesses. But, we must say, if we look at the record very carefully, that the strengths of this great leader emanating in this century far outweighed any of the weaknesses that are being brought forth here today. Dr. King was not just any human being. Dr. King was a man who possessed tremendous courage, tremendous concern, tremendous commitment, tremendous compassion.

As this man wandered across the land talking about the doctrine of nonviolence even in spite of what was happening to his own people in this country, never was he bitter. He always said that we must not rise up in terms of an armed struggle, that we have to deal in the area of persuasion, compromise, understanding, and reasoning together. There is no other man in this century who was able to really do this kind of thing, which was particularly difficult during the years that this country was going through at the time of Dr. King's life on this planet called Earth.

We know that there are all kinds of reasons being brought forward here today as to why we should use weakening amendments in order to prevent having a Dr. Martin Luther King national holiday. For many people in this country, the fact that we should have Dr. Martin Luther King's birthday as a national holiday is most important. We are not just asking for any man or any individual, and if we can just look beyond some of our own subjective thoughts and some of the attitudes that we may have we will say, "Yes, this is one man in this century in terms of what he did while he lived that we should give some kind of consideration to."

I know that there are going to be other people coming here in the well and bringing out all kinds of negativism and all kinds of negative reports, but I hope that if certain people do this kind of thing, they would also recognize where some of these reports were coming from and what happened to Dr. Martin Luther King while he was alive, and some of these reports have now been proven to be false and a deliberate attempt to discredit this man while he lived.

So, I say to you this afternoon, see if in the depths of your heart you can understand, for thousands of people across this land, regardless of race, creed, color, or sex, the importance of a man called Dr. Martin Luther King and what it means to thousands of them in America to really move forward and to make his birthday a national holiday.

My friends, please realize finally that we are not speaking about any man. We are speaking about a man that made a unique contribution to America in spite of some of his faults, which he may have, but every one of us in this room has faults. Every one of us, I dare say has done certain things which we would want to have left in the closet, given the opportunity to do so. So, let us not belittle this afternoon what this man has meant in the history of this great Nation. I ask the Members to vote against crippling amendments, small amendments.

Dr. King was not just any man; he was a very particular kind of individual in these United States of America. Find it within your heart to make this a national holiday on his birthday, and to really do away with the crippling kinds of amendments.

Mr. GRAY. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Pennsylvania.

Mr. GRAY. Mr. Chairman, I would like to associate myself with the gentlewoman's remarks.

Mr. TAYLOR. Mr. Chairman, I yield 5 minutes to the illustrious and distinguished ranking minority member of the Post Office and Civil Service Committee, the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, looking at this legislation from a practical point of view, two things immediately come to mind. First, the cost of enacting another legal public holiday is astronomical; and second, only two men—Christopher Columbus and George Washington—have been honored with a Federal legal holiday. One is recognized as the discoverer of America, and the other is considered the Founding Father of our country. Adding another holiday to the already existing nine legal public holidays would only add to our existing fiscal problems.

Dr. King was truly dynamic and charismatic figure of our time, and I feel that a reasonable alternative to the legislation before us today would be a commemorative day—a day of observance. This would set aside January 15 of each year to memorialize Dr. King and his achievements and would avoid the many problems such as cost which are created when establishing another Federal legal public holiday.

According to the Office of Personnel Management, the personnel cost of a holiday to the Federal Government alone is estimated to be $185 million, with an additional $27 million for premium pay. This totals to approximately $212 million for one holiday.

While the Federal Government has no jurisdiction to propose national holidays for other than the District of Columbia and Federal employees, individual States usually follow its lead. The added personnel cost of such action would result in 10 to 20 times the $212 million estimated for the Federal Government. Given the facts enacting this legislation could cost in excess of $3 billion.

In a time when Americans are becoming increasingly concerned about how their tax dollars are being spent and at a time in our history when we are faced with runaway inflation, it is beyond my comprehension—given all the facts—how we can add an additional burden on the American taxpayers. I feel that if Dr. King were here today, he would agree that this money could be put to better use.

Mr. Chairman, I recognize the legitimate desire of many of my colleagues who wish to honor Dr. King with a legal holiday. I feel the answer to this legislation is to honor Dr. King with a commemorative day each year on January 15, allowing all Americans to honor his contributions and achievements with no cost to the taxpayers.

I ask my colleagues to join me in supporting a commemorative day, a day of observance, to honor this man who contributed so much to our American society.

☐ 1600

Mr. TAYLOR. Mr. Chairman, I would just say in closing debate that it has been my position on this bill that we wanted to discuss it fully, and that it has not been my position that I wanted to cast aspersions on Dr. Martin Luther King. In fact, I have said I am willing to sponsor an amendment that will in fact give the Members of this body an opportunity to set aside a day, a commemorative day, that will be called to the attention of the American people so that those who wish may pay proper respect to this American who has made a significant contribution to so many people in this land. I would simply say that when the time comes, I will offer such an amendment. I believe that the amendment is well studied. I think it gives us an opportunity to walk a sane and sensible road to say to the American people, we want to call to your attention the life of Dr. Martin Luther King and what he has done, and give them an opportunity to pay tribute to him on that day. But I think it is ill-advised and wrong and not in keeping with the philosophy of Dr. Martin Luther King for us to slow down productivity at a time in this country when production is such a necessity, and which also would add to the deficit spending which fans the fires of inflation and hurts most those who can least afford it, those whose cause Dr. King championed in his lifetime. So at the proper time, Mr. Chairman, I will offer an amendment that will give the Members of this House an opportunity to pay tribute to Dr. King in a commemorative way that will not cost the taxpayers and the private sector of our country $3 billion.

Mr. GARCIA. Mr. Chairman, before I close, I would just like to say to the gentleman from Missouri (Mr. TAYLOR), the ranking minority member, that I am grateful because I think that we have handled this in a joint effort and the debate has been one of quality and of substance. I just want to express my appreciation to the gentleman, the ranking minority Member.

Mr. Chairman, the key in terms of how we analyze and how we look upon ourselves as a nation has really been faced over these past 6 or 7 weeks. We are being looked upon all across this world as one country, one society, of one group. I have no quarrel with some of the arguments of the gentlemen on the other side who talk about the costs, but I really believe that we have reached a point in the history of this Nation where we had better start looking at ourselves spiritually as well. America is a great country.

It is a country in which many but not all people participate, Mr. Chairman. I believe in terms of Dr. Martin Luther King, as one who held an elective office as a State legislator in the early 1960's, what he meant to so many of us in terms of the streets and in terms of turmoil. Believe me when I tell you that Dr. Martin Luther King made a big difference in terms of making sure that people understood that violence was not the path that we should take, that violence was negative. It was contrary to everything that we would hope to achieve. So I say to my colleagues on the other side, I believe that this is a great Nation. I believe very strongly that in terms of our cause and our direction, by honoring Dr. Martin Luther King, we will let the young people as well as all those people who were referred to by the gentlewoman from New York (Mrs. CHISHOLM) understand and realize that all of us are in this together.

I would say to the ranking Member, the gentleman from Missouri (Mr. TAYLOR) that I will oppose his amendment. I said that during the course of our debates in committee. I will also oppose the amendment offered by the gentleman from Tennessee. I believe if we are to honor, then let us honor, and there is no person in our lifetime who deserves that honor more than the late Dr. Martin Luther King.

I urge, Mr. Chairman, the defeat of those amendments which will make the Martin Luther King holiday bill less than it should be.

● Mr. RANGEL. Mr. Chairman, I fully support the bill before us, H.R. 5461, and I oppose the amendments that are being offered by those individuals who do not recognize the true greatness of this martyr for human rights. I support this bill because it is my belief that Dr. King represented the American soul at its absolute best, and even under the pressure of an unending struggle, threats on his life, setbacks, the onerous oppression that was visited upon him for his entire life, he was able to keep the very integrity that we expect in all of our leaders, but which so very few exhibit for all their lives. Dr. King lived and breathed his commitment to human dignity, more so than even the greatest Americans of the 19th and 18th century, and certainly more so than any of his peers. His accomplishments, notably the foundation and nurturance of the American civil rights movement stands as a monument to his principles of nonviolence and social change through dedicated, but peaceful action by the people most affected by injustice. Unfortunately, I was unable to vote on this bill because I had agreed to accompany the Vice President, and his wife, and the wife of the President to my home district this afternoon. I regret that I was unable to cast my vote in favor of this bill, however, I would like to make it clear that I think this is of utmost importance to me, and I only wish that I could have witnessed its success.●

● Mr. CLAY. Mr. Chairman, I rise to add my voice to the others who are supporting the passage of this bill making the birthday of Dr. Martin Luther King a national holiday. I will support the amendment naming the third Monday in January as the day of celebration. First, let me commend my colleague, JOHN CONYERS of Michigan, for his untiring efforts and unyielding persistence in forcing the issue. Second, let me extend congratulations and thanks to my colleague, BOB GARCIA of New York who skillfully guided this legislation through his Committee on Post Office and Civil Service. This bill has been introduced and reintroduced into this body for the last four congresses only to linger, languish, and die in committee. Today, we will finally have the opportunity to vote on it.

Mr. Chairman, I am sure that the thoughts of those of us in this Chamber immediately go back to that tragic day in Memphis 11 years ago when the apostle of nonviolence was violently shot down; that day when the moral leader of the world became the victim of an immoral world conspiracy.

The tragic act perpetrated by one James Earl Ray was the culmination of years of hatred, bigotry, racism, and all other evils that created an atmosphere in which insane men such as James Ray would view such a dastardly act as heroic. The crime of Ray must be shared by each who at sometime and in some way advanced the idiotic notion that others by virtue of skin pigmentation, sex, or national origin were somehow less in his or her humanity.

Mr. Chairman, that day was a sad loss for black Americans. But it was an even sadder loss for America and the world at large. That one fatal shot, Mr. Chairman, I contend without fear of contradiction, cut down the greatest crusader for freedom, justice, and equality in the history of our Nation. Martin Luther King with a relevancy that was refreshing, though personally dangerous, assaulted the bastions of structured evil pervasive in our society. With pathos and passion, he verbalized the exploitations of the poor, of the denied of the designated, and with his voice raised in indignation, articulated the hypocrisy of American society and led a massive movement to give meaning to concepts embodied in the Declaration of Independence and the Bill of Rights. The victims of adject poverty in Appalachia, the impoverished residents of the barrios and slums, the youth dying in the trenches of a far off land became the only concern of Dr. King and subsequently the basis of his dream. With sweat, tears, and eventually his blood, Dr. King showed them the dawning of a new day. They looked out over the horizon and saw the bright, glistening Sun of salvation symbolizing a system that could afford racial harmony and economic parity for all God's children. Without question, Martin Luther King was the greatest social prophet in the short history of this Nation. From the mining towns of Appalachia to the backwoods of Mississippi, to the dilapidated tenements of Chicago, he stayed on the firing line with the genius and the tenacity of a master painter; painting the darkness of Western culture and majestically pointing out the clouds of ill-fated omens which hung so ominously over our society.

Mr. Chairman, who else is so deserving of a national holiday in his name? Who else, I ask, Mr. Chairman wore his mantle of leadership with such courage, conviction, dignity, and integrity? ●

● Mr. FINDLEY. Mr. Chairman, I support the Beard amendment. With this amendment the bill is an appropriate memorial to a great citizen, Martin Luther King, Jr. Of all blacks in history, Reverend King's memory is most deserving of recognition in a significant national way. I rejoice in the fact that I had the privilege to attend the memorial services for Reverend King in Atlanta shortly after his untimely tragic death. He contributed much to the advancement of our national life.

Nevertheless I oppose a paid Federal holiday in his memory. This type of recognition is reserved for only one personality in our history as a nation, George Washington. Our greatest of all Presidents, Abraham Lincoln, is not memorialized in this way, and I do not suggest that he be so recognized. There are other adequate ways to memorialize great citizens.

If enacted without this amendment, the bill will amount to another paid day off for Federal employees and little more. Does anyone seriously suggest that any appreciable number of Federal employees will spend this day in memorial tribute to Reverend King? Of course not. It will be just another paid day off.

I say this with full appreciation of Reverend King's contributions to civil rights advancement in our Nation. In fact, I have proudly voted for every civil rights bill and amendment throughout my 19-year career. I was voting for civil rights measures long before they were popular on either side of the political aisle in this Chamber. I do not feel that mv vote on this measure is in any way a blemish on my record as a civil rights advocate.●

● Mr. BEREUTER. Mr. Chairman, earlier todav I supported the amendment offered to H.R. 5461 by my colleague from Tennessee (Mr. BEARD).

I was among the 133 Members of Congress who voted against H.R. 5461 when it was initially offered because I could not support the idea of adding another Federal holiday to the books. My negative vote was not a reflection on the man the legislation was attempting to honor. Truthfully, I would not vote for an additional Federal holiday for any American—living or dead, if that holiday results in giving Federal employees another paid vacation day.

It is estimated that it costs approximately $212 million to give Federal employees a paid holiday and necessitates the closing of all Federal Government offices, including post offices, social security offices, and veterans hospital offices. Given declining productivity and the gasoline Americans use on extended weekends, the last thing this Nation needs is another holiday.

I believe it was truly unfortunate that the leadership originally tried to bring this bill to the floor under a parliamentary procedure that permitted no amendments from being offered to it. That was a shame, for when it went down in defeat, the wrong signals were sent and prejudices reinforced.

That is why I am pleased that we had an additional opportunity to debate the bill and in a manner that allowed us to consider alternatives.

I supported the Beard amendment because it provides recognition of the accomplishments of Dr. Martin Luther King to our society by designating the third Sunday in January as a national legal holiday in honor of Dr. King. However, by celebrating this holiday on a Sunday, we will not be incurring any costs to the Federal Treasury. This is a reasonable alternative which will allow all Members of Congress to support recognition of the achievements of Dr. King.

At a time when we are facing grim projections on our Nation's economic health and a large Federal deficit, it seems unwise to exacerbate the problem by creating another holiday that results in a further outflow of Federal funds.●

● Mr. STOKES. Mr. Chairman, a couple of weeks ago, I entered my remarks in support of H.R. 5461 which would have designated the birthday of Dr. Martin Luther King, Jr. as a public holiday. Unfortunately, on that day, the bill did not receive the two-thirds vote necessary under the special suspension procedure.

Again, today, I would like to express my support for establishing a Federal holiday in honor of the work and contributions of Dr. King to this country and the world. He was the most significant catalyst for civil and humans rights in America in the past 25 years. Moreover, he was at the helm of one of the greatest social movements in this country's history.

Unfortunately, many of my colleagues choose to pose the argument that the Federal Government would lose money as a result of making Dr. King's birthday or another designated workday a Federal holiday. Others contend that Dr. King is not worthy of such an honor and cast grossly unjust dispersions on his character that are reminiscent of the McCarthy era. Still others try to mask their true feelings about this issue by suggesting that we merely set aside a commemorative day for Dr. King on a Sunday without any official observance which would, in effect, put Dr. King's birthday on a par with such days as the National Peanut Day.

I submit to you, Mr. Chairman, that these are unacceptable alternatives. Dr. King gave his life for this country. That cannot be measured in terms of dollars and cents.

He was an extraordinary man who believed that the "American Dream" should be shared by everyone, regardless of race, color or economic status. No matter how much some of my colleagues refuse to admit it, Dr. King exposed the venomous racism in this country and tried to eradicate it through peaceful means.

His actions were met with opposition not only by the white majority in this country, but also by the Federal Government. As chairman of the House Select Committee on Assassinations, I received first-hand knowledge of how Government agencies tried to discredit Dr. King because he was feared to be the "Black Messiah" to the oppressed people in this country. But, he was not just a "Black Messiah." Rather, he was the shepherd of a righteous civil and human rights movement of all people, the likes of which this country had never seen. I feel disappointment in my colleagues who refuse to accept Dr. King's work and honor him justly.

In conclusion, Mr. Chairman, I would like to reiterate that Dr. King gave his life for the American principles and the application of those principles to all people.

For someone who gave us so much, the designation of a public holiday is the least we can do to honor him.●

● Mr. GRAY. Mr. Chairman, public holidays in this country are reserved for celebrating traditions in this Nation's history and leaders who have shaped our common destiny. Legislation before this body to designate the birthday of Dr. Martin Luther King, Jr., as a legal public holiday will do more than simply honor a man; we would honor the profound spirit of love and concern for social injustice that guided and inspired this Nation's destiny. A spirit, I might add, that even opponents of this legislation find noble. A spirit that Dr. King's biographer, the historian Lerone Bennett, has written:

> Beyond our civil rights and religion, King must be confronted finally as a man who bypassed cerebral centers and attached the archetypical roots of man. His grace like Ghandi's, grows out of a complicated relation not to oppression, but to ancient sources of man, to pain, to suffering, to death. Men who conquer the fear of these things in themselves acquire extraordinary power over themselves and others.

Opponents of this legislation argue that the financial burden of a legal holiday for Dr. King is too heavy to bear. However, I would like to point out that not one, but two studies have been prepared that illustrate the economic side of national holidays. The Congressional Budget Office and the Office of Personnel Management, both have completed studies clearly indicating that the losses to the Federal Government are offset by consumer and leisure-time spending. For example, national retailers indicate that holiday spending is three times that of nonholidays. These moneys help to stimulate local economies, and there is in the end a return to the Government in the form of taxes. In addition, at least some other savings are realized by the Federal Government due to decreased use of utilities and other related service costs on holidays.

These facts reveal that the economic considerations are erroneous and, thus, this body should continue in our wisdom to pass H.R. 5461 to honor a man who gave his life to improve the lives of us all. A national holiday in his honor would not be merely the observance of the life of a single man. It would be a powerful recognition of the moral force of Dr. King's character and the enormous impression it left not only on this country but on the entire world's history.

I urge my colleagues to pass this legislation without any weakening amendments and, thus, take another step toward reconciling the lives and aspirations of all people who compose our great Nation.●

The CHAIRMAN. All time has expired. The Clerk will read section 1.

The Clerk read as follows:

H.R. 5461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 6103 of title 5, United States Code, is amended by inserting immediately below

"January 1, New Year's Day."

the following:

"January 15, the birthday of Martin Luther King, Junior.".

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 5, strike out "January 1," and insert ", January 1" immediately after "Day".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 2, strike out "January 15, the" and insert in lieu thereof "The".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 3, insert ", January 15" immediately after "Junior".

AMENDMENT OFFERED BY MR. M'CLORY TO THE COMMITTEE AMENDMENT

Mr. McCLORY. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY to the committee amendment: In the committee amendment, strike out "January 15" and insert in lieu thereof "the third Monday in January".

Mr. McCLORY. Mr. Chairman, this amendment to the committee amendment would change the date for the observance of the Reverend Martin Luther King, Jr., national legal holiday from January 15 to the third Monday in January of each year. As we have heard in the general debate, and as we recognize, a very serious question arises with regard to establishing a new national legal holiday. The question of cost, the economic effect which this would have on the Federal Government for which this proposed new national legal holiday would be established should be answered. American industry and business which is likewise bound to be affected by the action that we are taking here in the House today is also of prime importance. We know that 13 States have already established a State holiday for the Rev. Martin Luther King, Jr., and a number of cities have established his birthday as city holidays. Even without any legislation, the observance of Martin Luther King's birthday seems to be carried out generally throughout our country.

Many of us here on the floor can recall the Monday holiday legislation which we enacted in 1968, and when we undertook with respect to George Washington's birthday to designate the third Monday in February of each year for the purpose of observing George Washington's birthday. I know that we want to accord great respect and honor to Rev. Martin Luther King by this legislation, but at the same time we want to minimize the adverse economic effect which such an additional legal holiday would have.

The evidence was overwhelming at the time we enacted the Monday holiday legislation that the closing down of businesses on a Tuesday to observe a legal holiday caused great economic detriment on the Monday preceding the holiday and likewise the day following the holiday. As a matter of fact, in some union contracts there are special penalties imposed against those who fail to appear for work on the day preceding or following a national legal holiday. But where the holiday is observed on a Monday and there is a 3-day-long weekend, the workers come back to their jobs refreshed, the plant has not had to close down the day before, and the economic detriment is greatly reduced. This way the testimony which was presented to the House Committee on the Judiciary, at the time the Monday holiday legislation was enacted, testimony presented by a Deputy Secretary of the Department of Commerce.

□ 1610

The record is replete with evidence that business and industry is greatly benefited by a Monday holiday in lieu of a midweek holiday. The absenteeism is tremendous on the days preceding and following holidays, for instance, if the holiday is observed on a Tuesday, Wednesday or Thursday is a day on which a great many workers stay off the job.

Mr. Chairman, when we think of the economic situation, when we think of the subject of the productivity which is going to occur when a person returns from a long weekend and is ready to go to work and handle the job, we must recognize that the subject of the economy, productivity, the question of inflation are answered substantially or could be answered substantially by the adoption of this amendment and by the designation of Martin Luther King's birthday as a Monday holiday.

May I just say finally, the observance on a Monday provides a better opportunity for the observance than when it occurs in the middle of the week. Not only the preparation for the holiday, but the knowledge that the holiday is going to occur on a certain specified day each year.

Mr. Chairman, the opportunity to travel to sites which are associated with the person are also enhanced. The opportunities to come here to Washington and be at the Lincoln Memorial where the Reverend Martin Luther King uttered his great speech which electrified the entire country and which hundreds of thousands observed as well as the millions who observed it on television. So we can commemorate the memory of the Reverend Martin Luther King through this national holiday better by having it as a Monday holiday.

Mr. Chairman, I am pleased, indeed, that my colleague from New Jersey (Mr. Rodino), the chairman of the Committee on the Judiciary, joins in this. I understand the author of the legislation also concurs.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding and I rise in support of the gentleman's amendment. The initiative and foresight of the gentleman some years ago authored, along with others, the Monday holiday bill.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. McClory was allowed to proceed for 2 additional minutes.)

Mr. RODINO. Will the gentleman yield further?

Mr. McCLORY. I yield further to the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I urge my colleagues to join with me and my distinguished colleague from Illinois (Mr. McClory) in voting for this amendment to designate the third Sunday in January in every year as a national legal public holiday in memory of Dr. Martin Luther King, Jr.

It is important to take this action now to express annually our Nation's commitment to justice, equality, freedom and peace. While I certainly would prefer the day chosen to be January 15, I believe there is an overriding need to approve this day of dedication and its celebration on a Monday near to January 15 would accomplish our purpose.

As my colleagues know, when I first came to Congress in 1949 I introduced legislation to authorize October 12 as a national legal public holiday in honor of Christopher Columbus. In each succeeding Congress I introduced similar legislation, but it was not until 1968 that Columbus Day was authorized as a public holiday—to be commemorated on the second Monday in every October.

At the hearing on the Columbus Day legislation in 1967, our colleague, Mr. McClory, asked me my opinion on "whether the holiday should fall on October 12 or whether it should occur on a Monday which might be close to October 12." I replied:

> I might answer the distinguished gentleman in this way: My main concern is that Columbus Day be recognized as a national holiday. Whether it be observed on a Monday or whether it be observed on a Tuesday is totally immaterial to me. I believe that it is high time that we recognize the significance of this day and October 12 is the day, of course, which we focus upon, because this is the day which has come to our attention and on which all of these observances have been held.
>
> However, I would not at all be opposed to the setting of the observance of it on any other day. As I stated before, at the expense of being repetitious, it is my interest that Columbus Day be recognized and observed appropriately, because I believe it is deserving of that recognition.

Mr. Chairman, I believe my words then, that the important matter is to have the day "recognized and observed appropriately," apply equally to the day we propose to honor Dr. Martin Luther King, Jr. I urge adoption of this amendment.

Mr. McCLORY. Mr. Chairman, I thank the gentleman.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. McCLORY. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, as I understand your amendment, as it differs from the bill before us, it merely moves a Federal legal holiday from January 15 to the third Monday in January.

Mr. McCLORY. The gentleman is correct.

Mr. BAUMAN. In the course of the gentleman's remarks I thought the gentleman said this would obviate the problem many of the Members of the House have had about the cost stemming from any Federal holiday. How does one avoid the cost of the Federal Government employees or the private economic sector if we still have the Federal holiday as opposed to a commemorative day?

Mr. McCLORY. What I intended to say was the cost of observing a holiday on a Monday is far less than the observance of the holiday in midweek. There was overwhelming evidence in support of that at the time we considered the Monday holiday legislation where we changed the designation of George Washington's Birthday and Memorial Day.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Bauman and by unanimous consent, Mr. McClory was allowed to proceed for 1 additional minute.)

Mr. BAUMAN. Will the gentleman yield further?

Mr. McCLORY. I do yield to the gentleman from Maryland.

Mr. BAUMAN. Can the gentleman tell me how much less? We have heard figures that are up to $3 billion if the private-sector cost is included. It seems to me the total cost to the Federal Government employees would still be there.

Mr. McCLORY. I cannot tell percentagewise nor could I tell in terms of dollars but I would say it is somewhere in the nature of 20-percent or 25-percent reduction. I would say that would be a modest estimate as to what it would be but it is still substantial.

Mr. Chairman, the National Association of Manufacturers, the U.S. Chamber of Commerce, labor organizations, many others, and, as I indicated the representative of the Department of Commerce, all testified to the fact that observing a holiday on a Monday was far less costly than to observe it midweek.

Mr. BAUMAN. It still could be $2 billion?

Mr. McCLORY. I do not doubt it is going to be expensive, yes, but I think we are recognizing here we are going to designate Martin Luther King's birthday, I think, as a national legal holiday and we had better designate it as a Monday holiday to have the economic effect minimal, and the adverse effect on inflation as small as possible.

The CHAIRMAN. The time of the gentleman has again expired.

(At the request of Mr. Taylor and by unanimous consent, Mr. McClory was allowed to proceed for 1 additional minute.)

Mr. TAYLOR. Mr. Chairman, would the gentleman yield to me?

Mr. McCLORY. I do yield to the gentleman from Missouri.

Mr. TAYLOR. Would the gentleman from Illinois agree it would be far less expensive to have a commemorative day rather than a legal holiday even though you have it on Monday, which somehow I assume the gentleman thinks has less hours in it than Tuesday. I do not get the logic.

Mr. McCLORY. I would not disagree with the gentleman.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I support the amendment offered by the gentleman from New Jersey (Mr. Rodino) and the gentleman from Illinois (Mr. McClory).

The gentlemen's amendment would designate the third Monday of each January as a legal public holiday in honor of Dr. King.

The effect of this amendment would be to bring the new holiday into accord with the other Monday holidays already designated by Congress.

Additionally, by observing the new holiday on a Monday savings may be realized.

Ten years ago, when the Committee on the Judiciary exercised jurisdiction over holidays, the committee reported and Congress enacted what was commonly known as the Monday Holiday Act. One of the primary justifications for switching several holidays to a specified Monday was that it was more economical for the Government as well as private businesses to shut down for a long weekend than to stop in mid-week. Absenteeism is likely to go down and productivity up during the weeks preceding and immediately following the Monday holiday. Accordingly, Mr. Chairman, I urge my colleagues to support this amendment.

Mr. BEARD of Tennessee. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1630

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

AMENDMENT OFFERED BY MR. BEARD OF TENNESSEE AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENT

Mr. BEARD of Tennessee. Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Beard of Tennessee as a substitute for the committee amendment: Strike "January 15." and insert the following: "third Sunday in January." Add the following new section.

Sec. 2. Section 6103 of title 5, United States Code, is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) For the purpose of statutes and Executive orders relating to pay and leave of employees, the birthday of Martin Luther King, Junior, the third Sunday in January, shall not be considered a legal public holiday."."

Redesignate the following section accordingly.

Mr. BEARD of Tennessee. Mr. Chairman, this substitute designates the third Sunday in January as a legal national holiday for Dr. King. It further states that Federal employees will not receive any pay or leave associated with this holiday.

Currently, under Executive order, when a holiday falls on a Sunday, it is celebrated on the following Monday. According to the Office of Personnel Management, the Federal payroll cost alone is estimated to be over $194 million. While the Federal Government has no jurisdiction to propose national holidays for other than the District of Columbia and Federal employees, individual States usually follow its lead. The added personnel costs of such action could result in 10 to 20 times the $194 million estimated for the Federal Government. The total cost of this bill, when we include collective-bargaining contracts in the private sector, would be or could be up to a staggering $3 billion to $5 billion.

I think that the pending proposal to commemorate Dr. King's birthday is laudable. My amendment would not detract from the merits of this proposed holiday in any way. Rather, by requiring that this holiday fall on a Sunday, we would simply be aborting a terrible cost to our Nation. At a time in our Nation when we are facing grim prospects for the economic health of this country and a larger Federal deficit, it would be unwise for us to exacerbate the problem.

In addition to the direct costs associated with this bill, I think it is important to recognize that the closure of Federal offices for even 1 day would have an unnecessarily adverse impact on the public. I am sure that we all have constituents with a variety of claims from Federal agencies such as social security, workmen's compensation, and veterans' benefits. There are so many different programs that the people of this country are involved in, and 1 more day of closed doors for Federal employees would be, I think, absolutely unacceptable to the people in need.

I would like to emphasize that I am not singling out Dr. King's birthday for any type of special treatment.

Mr. Chairman, I would say once again that I introduced a bill almost a year ago stating that all future national holidays would be honored on a nonworking day. Today I think there are pending national holiday proposals for a Susan B. Anthony day, for a St. Elizabeth Seton day, for a flag day, and for a Thomas Jefferson day. All these different holidays have been proposed, and they are all worthwhile.

But where are we going to draw the line? It infuriates me when I hear people say that we have found the acceptable compromise in the McClory amendment to say that we will hold the celebration on a Monday because this is a businessman's amendment or this is a businessman's compromise and this is a cheaper way to honor Dr. Martin Luther King's birthday is totally inaccurate.

Mr. Chairman, the only people who really get to celebrate the holiday, the only people who get off, are Federal employees. I know how my constituency feels about this, and I know how they feel when I have to tell them, "I am sorry, but because of the backlog of cases you won't get your social security check for another couple of weeks."

I know how they feel when we call Jacksonville, Fla., on workmen's compensation benefits and get a busy line. They are weeks and months and months behind, and we are trying to service people who are dependent totally on that check coming from the Federal Government.

I think it is an insult for us to come out and try to confuse the issue by saying that this would not honor the man totally. Well, it would. We would have Sunday to honor this man. It would be an honor, and it would be a national holiday.

I think it is time that we draw a line, because the next holiday would be one to honor a lady who was very active in the women's liberation movement, which is a fine thrust. But then there would be another holiday set, and there would be other delayed social security checks and other delayed veterans' benefit checks.

So, Mr. Chairman, I just think it is time that we start being a little bit sensitive, while we are honoring people who deserve to be honored, to the taxpayers and to the productivity of this country.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I think the gentleman is raising a fascinating point.

Mr. BEARD of Tennessee. I appreciate that.

Mr. DOWNEY. It is a fascinating point the gentleman makes to honor Dr. King on Sunday. Possibly on Mondays we could have former Presidents honored, and on Tuesdays we could have saints honored, and God knows what else we could have.

Mr. BEARD of Tennessee. In other words, the gentleman is saying he is against the proposal of the gentleman from New Jersey (Mr. RODINO) and the gentleman from Illinois (Mr. MCCLORY)?

Mr. DOWNEY. No. I am just congratulating the gentleman on raising an issue I had not thought about. This gives us a different day for a different class of people and different holidays for each period.

Mr. BEARD of Tennessee. Mr. Chairman, I do not understand the gentleman's point. Would the gentleman explain his point?

Mr. DOWNEY. I think it is altogether fascinating that the gentleman is suggesting Dr. Martin Luther King's day should be Sunday, and all I am suggesting is that for each different day of the week we can provide for other holidays.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. BEARD) has expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. BEARD of Tennessee was allowed to proceed for 2 additional minutes.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield further?

Mr. BEARD of Tennessee. I yield to the gentleman from New York.

□ 1640

Mr. DOWNEY. The point I am making is that the gentleman has designated Dr. King or people of his ilk for Sunday.

Mr. BEARD of Tennessee. The gentleman says "of his ilk." I never classified Dr. King as being one "of his ilk." I look at him as an American who should be honored. So I reject the gentleman's description.

Mr. DOWNEY. I think he should be honored. But what I am concerned about, if the gentleman will yield further, is that if we are going to honor Dr. King and raise him to the level that I believe he deserves to be raised to, to reconcile him to a Sunday or a Saturday sends a message to people. Maybe the gentleman does not believe that.

Mr. BEARD of Tennessee. Would the gentleman be willing to offer an amendment to designate Christmas to be honored on Monday, too?

Mr. DOWNEY. I think, in keeping with the gentleman's thrust, that George Washington and Abraham Lincoln should be Mondays, and that other saints possibly be Tuesdays. I mean we should designate a different day.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Missouri.

Mr. TAYLOR. Is it not true that we celebrate Easter on Sunday? How do you rise any higher than that?

Mr. BEARD of Tennessee. I really did not understand the thrust of the remarks of the gentleman from New York (Mr. DOWNEY).

I think the gentleman from Missouri has made a very interesting point.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I walked in while the gentleman was talking, and I am not taking issue with his amendment, but I want to make sure I understand it. Did the gentleman say that this would be a national holiday, although, a Sunday, but that it would have no effect on anybody working? Did I hear the gentleman say something like that?

Mr. BEARD of Tennessee. No. As far as the Federal Government, the Federal employees.

Mr. FORD of Michigan. What about the Federal employees who work a 7-day week on the swing shift, like firemen?

Mr. BEARD of Tennessee. That probably represents maybe 2 percent. I am sure there might be a very small percentage.

Mr. FORD of Michigan. I want to make clear, as a member of the Committee on Post Office and Civil Service, the gentleman does make this a national holiday and the gentleman would recognize that people who would otherwise be on duty that day would be given whatever credit they are allowed for working on a holiday?

Mr. BEARD of Tennessee. No.

Mr. FORD of Michigan. No?

Mr. BEARD of Tennessee. "For the purpose of statutes and Executive orders relating to pay and leave of employees, the birthday of Martin Luther King, Jr., the third Sunday in January, shall not be considered a legal public holiday," in regard to statutes on pay.

Mr. FORD of Michigan. If the gentleman will yield, I think that that kind of prejudice against our firefighters and against our military guards, and others, makes the gentleman's amendment unacceptable.

Mr. BEARD of Tennessee. I think it is time we stopped showing prejudice against taxpayers of this country. I think it is time we start showing some sensitivity toward them.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. BEARD) has expired.

(On request of Mr. SENSENBRENNER and by unanimous consent, Mr. BEARD of Tennessee was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Wisconsin.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, it has come to my attention that a lot of people, most recently the gentleman from New York, have been referring to holidays for President Lincoln, holidays for President Washington, and similar other Americans.

It was my understanding that several years ago the Congress had eliminated those holidays for Mr. Washington and for Mr. Lincoln and had established what is known as Presidents' Day now and that we do no longer have a holiday for either Lincoln or Washington. Does the gentleman know if this is correct?

Mr. BEARD of Tennessee. Yes; as far as I know it is correct. The members of the committee might be able to address that more accurately, but that is my understanding.

Mr. TAUKE. That is also my understanding. So I think it is quite clear that we would not be in some way underrating the accomplishments of Dr. King or in some way casting aspersions on those accomplishments by designating a Sunday as a day for him. In fact, as I understand it, he would be the only individual, other than Columbus, who would have a day designated as a holiday in his or her honor. I think that the fact that there would be only two individuals who have days so designated would be a very remarkable recognition on the part of Congress.

Mr. BEARD of Tennessee. I thank the gentleman.

Mr. Chairman, I would just like to say, in the remaining time, that if any Member thinks that the McClory-Rodino amendment is a taxpayers' saving amendment to the committee's amendment, that is totally wrong. It still will fall under the collective bargaining in the private sector. It will still affect all Federal employees, closing social security offices, closing workmen's compensation offices, closing all of the Federal offices for 1 more day. I would hope that the Members would remember that.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from New York.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. BEARD) has again expired.

(On request of Mr. STRATTON and by unanimous consent, Mr. BEARD of Tennessee was allowed to proceed for 1 additional minute.)

Mr. STRATTON. Mr. Chairman, I think the point the gentleman from Illinois (Mr. MCCLORY) was making—and I might point out to my good friend that I was the original author of this idea, the gentleman from Illinois (Mr. MCCLORY) was on the committee that handled it and he and the gentleman from New Jersey (Mr. RODINO) got it through—his point was that the cost of a holiday not to the taxpayers but to the business community generally is much greater if it occurs in the middle of the week, because you have the cost of shutting down, you have the cost of starting up, you have the cost of absenteeism. Therefore, if we are going to have a holiday, we would save the business community a lot of money by putting it on Monday.

Mr. BEARD of Tennessee. I thank the gentleman for supporting the thrust of my amendment. I could not have said it better, because for someone who is concerned about the cost, the gentleman from New York has just given a good case for why, if we are going to be concerned about cost, we should not go ahead and have it on Sunday when the cost is dramatically decreased.

Mr. STRATTON. I think that is the virtue of the McClory amendment, and I support it.

Mr. BEARD of Tennessee. I thank the gentleman for the support of my substitute amendment.

Mr. FORD of Tennessee. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute amendment.

Mr. Chairman, I rise in strong opposition to the substitute offered by my colleague, the gentleman from Tennessee, and remind him of the fact that Dr. King met his untimely death in our home town, the town that the gentleman represents, and the town that I have the honor to represent as well.

The gentleman's amendment would set aside the third Sunday in January as a holiday in honor to Dr. King. I use the word "holiday" advisedly because it is really no holiday at all, as the amendment specifically precludes this observance to be treated as any of the other nine existing holidays. That I understand and appreciate, consistent with the gentleman's no-cost philosophy toward this bill. But the fact is that we cannot have it both ways today in this Congress. Either the day is a holiday that is similar in all respects to the existing Federal holidays, or it is not. And we would be lying to our constituents if the Beard of Tennessee amendment passes and we go home and tell them that we established a new holiday, because we did not. A holiday is meant to be special. It is a break in the national daily routine, and it is meant for us to pause and reflect upon the individual, of the event that we are celebrating.

Mr. Chairman, if this bill is enacted with the substitute that the gentleman from Tennessee (Mr. BEARD) has offered, it is obvious that we would not honor Dr. Martin Luther King. History has produced only a few of those rare, goldenthroated warriors and great warriors like Dr. King.

Mr. Chairman, I would say that, representing a portion of that city that the gentleman represents, I think it is ill-timed and ill-advised for the gentleman to come to this body and try to convince our colleagues that it would not be the appropriate thing for this Congress to act on today, and for the gentleman to offer his substitute and talk about a legal holiday on a Sunday, when the gentleman says, in section (c) of his amendment, the third Sunday in January shall not be considered a legal public holiday.

We are discussing and we are debating today a bill that would call for a national holiday in honor of Dr. Martin Luther King, Jr. I would hope that my colleague would withdraw his amendment and support the substitute that has been offered by the gentleman's colleague on his side.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. FORD of Tennessee. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, I think the point involved here is just this: The House has demonstrated its determination to establish a national legal holiday for the Reverend Martin Luther King, Jr. I think this is consistent with the sentiment throughout the country.

The only question involved, then, is whether or not we want to reduce the economic impact of a national legal holiday by designating the third Monday in January instead of the calendar date, which might fall in midweek. We can indeed honor this great man and his timeless contributions to our national life by so designating the third Monday in January as the date on which the Nation remembers Dr. King.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. FORD of Tennessee. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Chairman, if the issue is giving 2.8 million Federal workers a day off, then I submit that the gentleman from Tennessee (Mr. CLAY) is totally correct. If the issue is honoring Dr. King, then I think the gentleman is incorrect.

I can think of no other place more legitimate to reflect on the greatness and the great contributions submitted by this man in the churches of this country. So I cannot accept the fact that it is a dishonor to honor Dr. King on a Sunday, a day of worship in this country, reflecting Dr. King's ministerial and church background.

So I take issue with anyone trying to say I am degrading the honoring of this man. I am not. I have introduced a bill, whether it be Susan B. Anthony or any future national holiday. Where do we draw the line? I am saying, what is wrong with honoring Dr. King on a Sunday? Or is the major thrust giving 2.8 million Federal employees off? Is that it?

Mr. FORD of Tennessee. I think we ought to redefine the issue. I think it is obvious that the gentleman would like to go back to his district and tell some people that he has supported a new holiday for Dr. King and at the same time tell them, "We are not going to treat it like other national holidays."

□ 1650

I would like to close by saying, if we intend to preserve the dignity and honor of future holidays, then we have no other choice but to vote against the amendment that is offered by my colleague from Tennessee (Mr. BEARD).

Thank you.

Mr. EVANS of the Virgin Islands. Mr. Chairman, I rise in opposition to the amendment and in support of the McClory amendment.

My colleagues, I think it has been very well established that the work done by the Reverend Dr. Martin Luther King and the impact of his life on our society demands a holiday.

To begin with, I am opposed to the present suggested amendment, because I think they are making a mistake between a holiday and a holy day. We are not asking for a holy day for Dr. King. That is all right to have a Sunday for Easter. We are asking for a holiday. But the question, even though much has been said about honoring him, and that is right, the entire issue goes far beyond that. It has been said that eternal vigilance is the price of liberty. Eternal reminding and eternal rededication to the principles for which this man stood is what this annual holiday would do every year.

Otherwise, we find these freedoms, this progress, this liberty, being eroded.

Now, as far as whether it should be on a Sunday, whether you talk about the cost, it seems to me if we are going to consider cost effectiveness the only factor, it might be well for us to eliminate all holidays except on Sundays, or what will happen when labor, as it now does, is beginning to demand a 36-hour week and a 32-hour week?

Ladies and gentlemen, I think that speaks for itself.

I am not going to take my full 5 minutes, but the last remark I would like to make is this: If we are to follow the Washington Post editorial that was quoted earlier, I must confess that I was not aware that the Washington Post editorial policy had become that of this Congress.

Thank you very much.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

I hope the Members, regardless of their emotional attitude, would allow me to inject a practical analysis to the scene.

First of all, let me address myself to the Beard substitute. The Beard substitute is the only way we are going to have at this point to go on record to save the economy of the country at least $3 billion. If we do not at this point support the Beard amendment, regardless of the motivation for voting the other way, the issue is shall we save the economy of the country $3 billion?

The way we do it is to have the holiday on a nonworking day. That is the virtue of the Beard substitute. Now, let me discuss that 3 weeks ago when this bill came up under suspension, neither the gentleman from Illinois, nor the gentleman from New Jersey were heard from. They had no particular interest in establishing a new Monday holiday. In fact, they both voted to suspend the rules. They did not want the bill amended. They did not want any alternatives.

Now at the 11th hour, their amendment is used to totally divert the Members attention from the issue.

Let me for a moment give the Members the history of Monday holidays. We have 10 national holidays. Only three are on a Monday: Columbus Day, which has been deemphasized because of the application of a Monday instead of the traditional date; Washington's Birthday, which is now Presidents Day, which dilutes it; and Memorial Day, which General Logan and the original DAR would shudder if they knew how it had diminished in its observance.

The gentleman from Illinois (Mr. McClory) established a Monday as Veterans' Day. For the next 5 or 6 years every time he went to a VFW or American Legion Post, he encountered adverse commentary. He then retreated. Veterans' Day is now November 11. Why? Because Monday was unacceptable to our veterans.

The only difference between the original bill brought to the floor and the McClory amendment is that theoretically the McClory amendment saves a minute amount of money. The Beard substitute is the only moneysaver.

If we are concerned with the taxpayer, if we are concerned with the economy of the country, if we are concerned with the productivity of the country, we will support the Beard substitute.

Now, let me make just one other point. I realize that to some of our Members this issue is more than dollars and cents. I respect that. I respect their spirit. I respect their motivation.

I suggest now a vote in support of the Beard substitute.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. I thank the gentleman for yielding.

I will not add to the remarks. I just want to take this opportunity to express a very serious and sincere disappointment that my colleague from Tennessee would question my motives as to the presentation of this amendment, because I think he would have to admit it is consistent with my philosophical approach to Government spending in many lines. I just want to take this opportunity, because I must say it took me aback somewhat; therefore, I was not able to respond.

I do on the record want to show a very sincere bit of disappointment that my integrity or my motives were questioned like that.

Mr. DERWINSKI. Mr. Chairman, may I point out that as an impartial arbitrator, I respect the motives of both gentlemen. I know they both spoke from conviction and spirit. I respect the motives of the gentleman from Illinois (Mr. McClory), especially when he restored the sanctity of Veterans' Day.

Mr. TAYLOR. Mr. Chairman, I rise in support of the Beard amendment.

As I said at the beginning of this debate, Mr. Chairman, I think that this is an emotional issue and one about which many people in this Chamber and in this Nation are concerned.

I have no remarks of aspersion against Dr. Martin Luther King. I think we have all recognized, the majority of the Members, that he had made a great contribution to America, but I further believe very firmly that the vast majority of the people of this country would like to, in a voluntary way, pay tribute to Dr. Martin Luther King on a day in which the entire cost of Government would not skyrocket and half of the businesses of this country be closed down.

If we want to vote for recognition of Dr. Martin Luther King and his work and contribution and also for fiscal responsibility, which is so important to this Nation today, I would urge support of the Beard amendment.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Beard substitute.

Mr. Chairman, I think we have heard just about all the arguments for and against this substitute. I think that it is patently clear that if we are to follow the precepts of this legislation that has been in the House for 11 years, we can in no way assume that we will be passing a legal holiday for Martin Luther King with an amendment that specifically says this will not be a legal holiday.

Now, with regard to the economics which have become so important in this measure, let us face it. The question of productivity in America cannot be realized by eliminating the only nine national legal holidays. Japan has more. We have researched it. Germany has more. It is the rate of productivity, not how many hours we have our people working. It is time that we laid aside this question of cost.

□ 1700

If there was some way we could bring about a cost-free holiday, I would be delighted to do so. Previously 252 of our colleagues have said we will pass a legal holiday, that we are willing to absorb the $23 million, not billions of dollars, that may be involved.

Sunday is not a proper day for designation as a legal holiday. A commemorative day is similarly inappropriate. Presently we have everything from Peanut Week to "honor your local astrologist." That is no way to do it.

We could leave it on his birthday, but following the traditions already established by this House we have moved this to a Monday amendment consistent with the will of this House as it has operated on both Washington's birthday and Columbus' birthday. There are savings, and admittedly they are minimal. We are not trying to make this a no-cost holiday, but it is consistent with the will of this Congress over the last half-dozen years.

So I would urge my colleagues to set aside these specious arguments. We are either going to honor Martin King in the 96th session of Congress or we are not.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I appreciate my colleague from Michigan yielding.

I want to make a point on this Monday holiday bill. When the Monday holiday bill was originally enacted, and the chief sponsor was Mr. McClory of Illinois, one of the factors that the House did take into consideration was the fact that by passing a Monday holiday bill, by designating Monday as a national, legal holiday, both for Columbus Day and Washington's Birthday, we aided and assisted the business community. There are Washington's Birthday sales and Columbus Day sales in all of the department stores, and that has brought about extra money for the retail merchants of the country. It also has aided and assisted tourism in America, which we need so badly, because it gives people an opportunity to have a long weekend; Saturday, Sunday, and Monday, and return to work on Tuesday.

So I associate myself with the remarks of the gentleman from Michigan, and I urge serious consideration be given by the Members of the House in adding another Monday holiday bill to the calendar. I urge its passage.

Mr. CONYERS. I thank my colleague for his comments.

Mr. FORD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to my colleague and brother from Tennessee.

Mr. FORD of Tennessee. Mr. Chairman, I would like to respond to a statement made by my colleague from Tennessee and just say I certainly had no intentions of questioning his motives personally. I did, in fact, question the amendment to the substitute that was offered by my colleague, because at the beginning of the substitute it said we were going to change the King holiday to the third Sunday of January, and in the last section, section C, the last sentence, it says the third Sunday in January shall not be considered a legal public holiday. I was really questioning the amendment that was offered by my colleague from Tennessee. I would say I have the utmost respect for him, and he is a very distinguished colleague of ours.

The CHAIRMAN. Time of the gentleman from Michigan has expired.

(At the request of Mr. Downey and by unanimous consent, Mr. Conyers was allowed to proceed for 1 additional minute.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman.

Mr. DOWNEY. Mr. Chairman, I do not think there is any question but that the arguments over here on the right side of the aisle make some sense with respect to costs. Has the gentleman given any thought possibly for other holidays, to double up on the holidays and have a Jefferson-Jackson Day, a Martin Luther King-Howard Jarvis Day, for instance, maybe on a Monday? That would save a lot of money and it would seem to me we could reduce the nine possibly to four holidays and really save the country a great deal of money. We could just designate with a hyphen the two holidays. Has the gentleman given any thought to that?

Mr. CONYERS. Not for the slightest or the remotest moment.

Mr. DOWNEY. I would appreciate it if the committee in the future would think about doubling up on the holidays, having half as many, and spending less and possibly have a Howard Jarvis Day.

Mr. CONYERS. We thank our colleague for his contribution and we hope that the membership will vote down the Beard substitute so that we may pass this legislation.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Beard substitute.

Mr. Chairman, I really take this time to respond to some of the statements that have been made, particularly statements made by my distinguished colleague from Illinois (Mr. DERWINSKI).

My colleagues should know, first of all, that we would not have any Columbus Day legal holiday if it were not for the fact that the House, working its will, designated the second Monday in October as the day for celebrating or honoring Christopher Columbus. It was on the basis of it being designated as a holiday on a Monday that we agreed and undertook to honor Christopher Columbus.

George Washington, of course, was born on February the 12th under the old calendar. Following the adoption of the Gregorian calendar, his birthday was moved to the 22d of February. But when we undertook to honor him on the third Monday in February, what we were doing was providing an appropriate time for honoring George Washington, the Father of our Country.

With regard to Memorial Day, Memorial Day was merely picked out of the blue by General Logan because it was a time when the wild flowers were in bloom. So we decided that it could happen just as easily the last Monday in May as the 30th of May, and these days have been very successful.

I just would like to make one more point. It is estimated that the savings effected by the Monday holiday legislation is $3 billion per year over what the costs would have been if we had observed these holidays as midweek holidays.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. McCLORY. I am happy to yield to the gentleman from New York, who was a coauthor of the Memorial Day legislation.

Mr. STRATTON. Mr. Chairman, I just want to commend the gentleman for his point. He is making a very good point.

As a matter of fact, with respect to Memorial Day, I am sure the Members of the House are not aware that among the monumental pieces of legislation that I have succeeded in getting enacted into law in my 21 years in this body was one that designated Waterloo, N.Y., as the home of Memorial Day. That is because they began to celebrate Memorial Day on the 5th of May. So anybody who thinks that the 30th of May is the beginning of Memorial Day is just completely wrong.

Mr. McCLORY. I thank the gentleman. I think it is clear that we are going to honor Martin Luther King by designating a national legal holiday, and I want to point out that if we are going to do that it is far wiser for us to designate the third Monday in January in lieu of January 15.

May I say with regard to the Memorial Day legislation which was enacted, and I have the complete record here, the principal proponents of this legislation were the U.S. Chamber of Commerce, a business organization.

Let me tell my colleagues that if they want to vote in support of business interests with regard to the designation of this national legal holiday, vote for my amendment and vote against the Beard substitute.

In my view, the arguments made by the gentleman from Tennessee (Mr. BEARD) in support of his substitute are arguments against this entire legislation. If we want to vote against the legislation, after adopting the McClory amendment, then my colleagues can do so and they will be voting consistent with the arguments that I have heard from the gentleman from Tennessee (Mr. BEARD).

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think there is a strong consensus here, although it is not unanimous, that this body and this Congress ought to do something to honor Dr. Martin Luther King, a distinguished American.

However, it seems to me that it is entirely inappropriate to think that the only honor we can give an American citizen is to give a highly privileged class of American citizens a day off with pay.

□ 1710

I am not sure that that is a very appropriate way to render honor to anyone. I do not think that it is necessary that we charge the taxpayers of the United States the $200 million annually, or whatever it may accrue, and then load on to our economy the $3 billion referred to by the distinguished gentleman from Illinois (Mr. DERWINSKI) in order to honor Dr. King.

I think there are many ways we can do this. I believe the gentleman from Tennessee (Mr. BEARD) has presented one alternative to a way in which we can do honor to Dr. King; perhaps not enough. Perhaps there are other things we will want to do in addition to that statue in the Capitol, which we all hope will be erected soon. But, I do not think that those who do not want to give another paid holiday to the Federal employees need be embarrassed about voting against that holiday for any reason at all.

I think we give great honor to Dr. King, and I think the addition of giving this special privileged class another special holiday has nothing to do with our feelings for this great and distinguished American.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY) to the committee amendment.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GARCIA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 291, noes 106, not voting 36, as follows:

[Roll No. 702]

AYES—291

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Bennett
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corman
Courter
D'Amours
Danielson
Davis, Mich.
Davis, S.C.
Deckard
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Grassley
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Marriott
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Pritchard
Pursell
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Roybal
Royer
Sabo
Santini
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Mo.
Zeferetti

NOES—106

Abdnor
Anthony
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Brinkley
Broyhill
Burgener
Butler
Campbell
Carney
Chappell
Cheney
Collins, Tex.
Conable
Corcoran
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
de la Garza
Devine
Dickinson
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Findley
Fountain
Frenzel

Gaydos
Gibbons
Gingrich
Goldwater
Gradison
Gramm
Grisham
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hinson
Holland
Holt
Hutto
Ichord
Jeffries
Johnson, Colo.
Kindness
Kramer
Latta
Leath, Tex.
Lee
Lewis
Loeffler
Lott
Lungren
McDonald
McEwen
McKay
Marlenee
Martin
Montgomery
Moorhead, Calif.
Mottl
Nedzi
Nelson
Nichols
O'Brien
Pashayan
Petri
Quayle
Quillen
Roberts
Robinson
Roth
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Sensenbrenner
Shumway
Smith, Nebr.
Solomon
Spence
Stangeland
Stenholm
Stump
Symms
Taylor
Wampler
Watkins
Wydler
Wylie
Young, Fla.
Zablocki

NOT VOTING—36

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashley
Barnard
Bedell
Biaggi
Bonker
Brooks
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Dornan
Ferraro
Flood
Frost
Goodling
Guyer
Harkin
Kelly
Madigan
Michel
Murphy, Ill.
Myers, Ind.
Price
Rangel
Rosenthal
Rostenkowski
Russo
Schulze
Steed
Treen
Waxman
Whitten
Winn

☐ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Russo for, with Mr. Cotter against.
Mr. Barnard for, with Mr. Frost against.

Mr. SHELBY changed his vote from "no" to "aye."

So the amendment to the committee amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1730

Mr. WRIGHT. Mr. Chairman, I take this time to observe that the House has made good progress today. This is the last bill that we will consider today. We intend to finish this bill. So far as I know there are but two other amendments that have been noted. If we can expedite their consideration it will hasten our departure this evening. If we finish this bill in the next 30 minutes we will be able to adjourn by about 6 o'clock this evening.

Mr. BEARD of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the entire 5 minutes. I do think it would be appropriate at this time to explain the parliamentary procedure and the legislative situation.

My substitute is pending and the next vote will be on the Beard substitute. My substitute calls for the celebration of the Martin Luther King birthday on the third Sunday of every January. This is in contrast to the amendment to the committee amendment just passed submitted by the gentleman from New Jersey (Mr. Rodino) and the gentleman from Illinois (Mr. McClory) that calls for the celebration of the Martin Luther King birthday on the third Monday of every year.

Mr. Chairman, the one significant difference between my substitute and the amendment presented by the other two gentlemen, a vote for my substitute would be a vote for Martin Luther King in establishing a national holiday. My substitute would also be a vote for the taxpayers of this country to the tune of over $200 million in just Federal employee's salaries alone.

Mr. Chairman, I think if my colleagues check with their business community and with their constituencies, they will say all right. Honoring people as we will in the future is a legitimate request but to allow 2.3 million Federal employees, that special few, to have those days off at the cost to the taxpayer—and let me also say that the cost to the people who need help from the Federal Government more than any, for those who need help from social security, for those who need help from workmen's compensation, and I know every single one of us in our congressional offices—and I will repeat this because there were not this many people on the floor when I said it at first—everyone of us have backlogs because we were not able to get through to the workmen's compensation people in Jacksonville, Fla.; because we were not able to get through to social security because they have a 4- to 6-month backlog; because we were not able to get to those people who were issuing food stamps or issuing any type of medical help.

Mr. Chairman, the people who would suffer the most would be the people who need it the most, and I do not think this is an appropriate way to honor Dr. Martin Luther King. I feel Sunday would be an entirely appropriate day and I would hope that my substitute would be accepted.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield to me?

Mr. BEARD of Tennessee. I do yield to the gentleman from Illinois.

Mr. DERWINSKI. At the risk of oversimplification, would the gentleman agree with me if I describe the situation in this fashion, that a vote for the Beard substitute is a vote to save the Federal taxpayers $220 million and to save the entire economy the adverse affect of about $3 billion in lost production?

Mr. BEARD of Tennessee. An estimated $3 billion to $5 billion.

Mr. DERWINSKI. When we vote for the Beard amendment we are saving our national economy $3 billion and still honoring Dr. Martin Luther King.

Mr. BEARD of Tennessee. A vote for my substitute is a vote to honor Dr. Martin Luther King.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?.

Mr. BEARD of Tennessee. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I think it is easier explained by saying if you do not vote for the Beard substitute you are voting to tax a lot of wage earners at $10,000 to pay another paid holiday for some $20,000-a-year Federal employees.

Mr. BEARD of Tennessee. Also, you are voting against another day of delay to the recipients of benefits from programs who need it the most.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in opposition to the Beard substitute. I will not take the 5 minutes. As a matter of fact, I will not take more than 30 seconds. We have just overwhelmingly passed the McClory amendment which designates Martin Luther King's birthday on a Monday. I believe it is in the best interests of all of us in this Chamber who have supported the McClory amendment to now vote no on the Beard amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. Beard) as a substitute for the committee amendment, as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TAYLOR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 207, noes 191, not voting 35, as follows:

[Roll No. 703]

AYES—207

Abdnor
Albosta
Andrews, N.C.
Anthony
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Beilenson
Bennett
Bereuter
Bethune
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Courter
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Derwinski
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Findley
Fithian
Forsythe
Fountain
Frenzel
Gaydos
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lundine
Lungren
McCormack
McDade
McDonald
McEwen
Marlenee
Marriott
Martin
Mathis
Mica
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Pashayan
Paul
Petri
Preyer
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Sebelius
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Ullman
Vander Jagt
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.

Wydler
Wylie
Young, Fla.
Zablocki
Zeferetti

NOES—191

Addabbo
Akaka
Alexander
Anderson, Calif.
Annunzio
Ashbrook
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Benjamin
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Brademas
Brodhead
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Corman
D'Amours
Danielson
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fuqua
Garcia
Gephardt
Giaimo
Gilman
Gonzalez
Gore
Gray
Green
Hall, Ohio
Hall, Tex.
Hanley
Harkin
Harris
Hawkins
Heckler
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jenrette
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
Lederer
Lehman
Leland
Lloyd
Long, La.
Lowry
Luken
McClory
McCloskey
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Natcher
Nolan
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Pursell
Rahall
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Roybal
Sabo
Santini
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Volkmer
Weaver
Weiss
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Mo.

NOT VOTING—35

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashley
Barnard
Bedell
Biaggi
Bonker
Brooks
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Dornan
Ferraro
Flippo
Flood
Frost
Goodling
Kelly
Madigan
Michel
Murphy, Ill.
Murtha
Myers, Ind.
Price
Rangel
Rosenthal
Rostenkowski
Russo
Schulze
Steed
Treen
Waxman
Winn

☐ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Russo for, with Mr. Cotter against.

Mr. Myers of Indiana for, with Mr. Rangel against.

Mr. Michel for, with Mr. Frost against.

Mr. Winn for, with Mr. Barnard against.

Messrs. FLORIO, HUGHES, HOLLENBECK, and MINISH changed their votes from "aye" to "no."

So the amendment offered as a substitute for the committee amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. GARCIA. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York (Mr. GARCIA).

PARLIAMENTARY INQUIRY

Mr. RHODES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RHODES. Mr. Chairman, is a motion to rise and report of a higher degree than a motion to rise?

The CHAIRMAN. The Chair will state to the gentleman that a motion to rise and report is not in order at all on this bill. The bill has not been completely read for amendment. The motion to rise is in order. If and when the amendment stage is completed, the Committee will rise automatically under the rule.

Mr. RHODES. I thank the Chair.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York (Mr. GARCIA).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 231, noes 164, not voting 38, as follows:

[Roll No. 704]

AYES—231

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Aspin
Atkinson
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Heckler
Holtzman
Horton
Howard
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
McClory
McCloskey
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Pursell
Rahall
Railsback
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Roybal
Sabo
Santini
Scheuer
Schroeder
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Weaver
Weiss
Whitley
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—164

Abdnor
Anthony
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derwinski
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Findley
Forsythe
Frenzel
Gibbons
Gingrich
Ginn
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Huckaby
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lundine
Lungren
McCormack
McDonald
McEwen
Marlenee
Marriott
Martin
Mathis
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Nichols
O'Brien
Paul
Petri
Pritchard
Quayle
Quillen
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—38

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashley
AuCoin
Barnard
Bedell
Biaggi
Bonker
Brooks
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Dornan
Ferraro
Flippo
Flood
Frost
Goldwater
Goodling
Kelly
Madigan
Michel
Murphy, Ill.
Myers, Ind.
Price
Rangel
Rosenthal
Rostenkowski
Russo
Schulze
Seiberling
Steed
Treen
Waxman
Williams, Mont.
Winn

□ 1810

Messrs. **JONES** of Tennessee, **GUDGER**, and **DOUGHERTY** changed their votes from "no" to "aye."

Mr. **COLLINS** of Texas changed his vote from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Murtha) having assumed the chair, Mr. Howard, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5461) to designate the birthday of Martin Luther King, Jr., a legal public holiday, had come to no resolution thereon.

GENERAL LEAVE

Mr. **GARCIA**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill H.R. 5461.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. **RHODES**. Mr. Speaker, reserving the right to object, it is my understanding that the gentleman from New York (Mr. Garcia) does not intend to proceed further with the legislation which was in the Committee of the Whole tonight; is that a correct assumption?

Mr. **GARCIA**. Mr. Speaker, will the gentleman yield?

Mr. **RHODES**. I yield to the gentleman from New York.

Mr. **GARCIA**. At this particular moment, if the gentleman is talking about today, we have no intentions. This will be the end of the activity for today. Whether we intend to bring the bill back again, I do not know at this point.

Mr. **RHODES**. Further reserving the right to object, I really am somewhat appalled at the action of the majority in taking this bill down. It was within a very few minutes of being ready for final passage. It would have been a national holiday in memory of a great American on a day, a Sunday, and certainly the fact that he was a minister of the Gospel would indicate that that would be a very propitious day upon which to have that holiday.

I am certainly in hopes that we will proceed to pass this bill. I can assure the gentleman from New York and others that it would be the intention of the minority to cooperate in every way possible to proceed to passage of the bill and to actually set forth a national holiday in commemoration of this great American.

There is actually only one other holiday that I know of, and that is Columbus Day, that is a national holiday by statute. It seems to me that the opportunity which we have now to make the second national holiday by statute in honor of Dr. Martin Luther King, Jr., is an opportunity that should not have been passed by.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York (Mr. Garcia)?

Mr. **BAUMAN**. Reserving the right to object, Mr. Speaker, the gentleman has asked unanimous consent for all Members to have the right to revise their remarks. Does that include the majority leader, who told us about 20 minutes ago that we would finish this legislation tonight and then adjourn, and that we would stay here until we finish.

Mr. **GARCIA**. Mr. Speaker, will the gentleman yield?

Mr. **BAUMAN**. I yield to the gentleman from New York.

Mr. **GARCIA**. I must tell the gentleman from Maryland I cannot speak for the majority leader. I cannot respond to that.

Mr. **BAUMAN**. I think it does include him. I look forward tomorrow to see what his remarks say.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York (Mr. Garcia)?

Mr. **LONG** of Maryland. Mr. Speaker, reserving the right to object, this whole thing has puzzled me. I voted for the holiday when it came under suspension of the rules, but I had to vote for the amendment to put this on a nonworking day, because I think we all have to recognize that this country is in desperate condition to produce the amount of goods we need to run this country.

I do not know why we cannot honor a great man without spending hundreds of millions of dollars to do it. I am fully conscious also that most people when they take a day off never think even for 10 seconds of the person whom that day is honoring. So it is usually an empty farce. It is just to create a whole bunch of leisure, nonwork, and in a country that is increasingly moving in the nonwork direction.

That is why I had to vote to keep this off a regular working day.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York (Mr. Garcia)?

Mr. **MITCHELL** of Maryland. Reserving the right to object, Mr. Speaker, I shall take the time to commend my distinguished colleague for the action that he did take. We cannot have a holiday that is not a holiday, an absolute contradiction of terms.

What we voted on last was to establish a holiday that was not a holiday. I cannot speak for other Members of the Congressional Black Caucus. I am certain that the gentlewoman from Illinois (Mrs. Collins), our chairperson, would speak for us at some time in the future.

It was my firm intention, had we moved on to final passage with the bill in the shape that it was, to have voted against it because I do not think we can sell duplicity to black people or white people of goodwill who wanted a holiday.

What we did was duplicitous. Therefore, I would have voted against the bill on final passage as it was constructed.

I commend the gentleman for his action.

Mr. **McCLORY**. Mr. Speaker, will the gentleman yield?

Mr. **MITCHELL** of Maryland. I yield to the gentleman from Illinois.

Mr. **McCLORY**. I thank the gentleman for yielding.

It seems for us to try to address the vast subject of productivity with this piece of legislation is simply beyond the proper scope of our debate; it is patently absurd to attempt to do so at this juncture.

I submit that those who feel that we can appreciably enhance our national productivity by voting against establishing the Martin Luther King Day as a full national legal holiday, should come forward and say so.

The subject of productivity should be addressed in another forum, in connection with other legislation specifically encompassing that far-reaching issue.

The solution to the productivity problem will not turn on whether this bill is enacted; rather, productivity gains will only be realized when working men and women marshal the will to achieve that goal. Such a gathering of collective wills must occur each and every day, holiday or not.

The productivity question is a separate and distinct challenge which should not be the focus of our debate today. To discuss it in connection with the Martin Luther King holiday, is to my mind, a multifarious joining of issues.

Finally, I have a request of my colleagues who support the Beard substitute and who believe that America's productivity can be significantly braced by amending our holiday legislation: Those who support the Beard substitute should take up the fight for legislation requiring that the observance of all national legal holidays be on designated Sundays. Carry the productivity principle to its logical extension.

Mr. **ASHBROOK**. Mr. Speaker, I demand regular order.

The **SPEAKER** pro tempore. Regular order is called for. The Chair will not entertain any reservations to object since regular order was called for.

Mr. **MITCHELL** of Maryland. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York (Mr. Garcia)?

There was no objection.

MARTIN LUTHER KING, JR., HOLIDAY BILL

(Mr. **TAYLOR** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **TAYLOR**. Mr. Speaker, I think this all started out to take place in an orderly and fair manner. I would say that the chairman of the subcommittee and I had a very good relationship during the time that this was in committee and the time that it has been on the floor.

I think that the House did work its will. I think it is superfluous to stand here today and say we think it should have been this way or that way or those who thought it should have been on Sunday should take a hard look at it.

The House worked its will. The majority leader stood in the well 15 minutes before the vote and said, "We are going to resolve this legislation tonight. We are going to finish it."

He did not say, "Depending on how it comes out." I think this is a wash. I think it is a terrible thing. I would ask my good friend, the chairman of the subcommittee, when does the gentleman anticipate bringing this legislation back?

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from New York.

Mr. GARCIA. I would bring this bill back as the manager of this bill when we have enough votes on this floor to truly honor a man with the dignity and the manner in which he should be honored. That is when the bill will be brought up.

Mr. TAYLOR. Are we in a democracy where the majority rules? That is the question? The House has spoken.

I thank the gentleman for his concise and at least candid remarks.

MARTIN LUTHER KING, JR., HOLIDAY BILL

(Mr. BOLLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLLING. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Maryland. Mr. Parren Mitchell. I think there is a difference between a holiday on Monday and an observation on Sunday. But I do not attribute bad motives to anybody.

I think the gentleman from New York was precisely correct in what he did. He manages the bill to win. The vote was very close. A delay is not a new tactic, and I hope that when the bill comes back to the floor it will have the votes to be a real holiday and not a fraudulent holiday.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding.

I am sure the gentleman from Missouri would agree with me that if the Congress of the United States says a day is a holiday, it is a holiday, whether it is on Sunday or any other time.

□ 1820

I assure the gentleman that it is not my idea or my motive to do anything other than commemorate the memory of Dr. Martin Luther King. But I think the gentleman from Maryland, Dr. Long, made some very important points that the House needs to consider.

Mr. BOLLING. I think if the gentleman insists on raising that point, anybody that knows anything about what productivity means knows that it has nothing to do with the question of whether we work a day or not. It has to do with a relationship, a relationship between the amount of work produced by an individual in a given time, and if the Members on the other side do not know that it is a pity.

AMENDING NATIONAL CONSUMER COOPERATIVE BANK ACT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1788) to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I reserve the right to object, and I do not intend to object, so that the gentleman from Rhode Island may explain what we are doing here and the purpose of this bill.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, S. 1788 is a relatively minor amendment to the National Consumer Cooperative Bank Act designed to meet the original intent of both Houses.

The legislation would simply expand the Board of Directors from 13 to 15 and would specifically provide for a director with small business experience. In addition to the small businessman, the legislation would add another director from the Government, assuring that the Federal Government maintained a majority on the Board.

Mr. Speaker, the original 13-member Board of Directors was confirmed on September 21 and has already met in the organizational phase of the Bank.

During the confirmation of these 13 members, Senator Lugar raised a question about additional small business representation on the Board. The Senator felt that it had been the original intent of the sponsors in the Senate to have a small businessman included on the Board and in keeping with this intent, Senator Lugar sponsored the bill before us today. Prior to the introduction of this legislation, Senator Lugar discussed this with sponsors of the National Consumer Cooperative Bank on the House side and there was a general agreement that increasing the size of the Board in this manner would be consistent with the overall intent of the act. The bill passed the Senate on September 27.

Throughout the consideration of this act, we have argued that cooperatives, small businesses, and big businesses could operate successfully together. We feel that the cooperatives nurtured by the Bank and the Self-Help Development Fund can complement economic activity.

The addition of a small businessman who supports cooperatives and the objectives of the Bank will help add expertise to the Bank and will help it make solid decisions on markets and other economic questions involved in the loanmaking process.

If we adopt this legislation today, I hope the White House will move speedily to submit the name of a small businessman and a Government representative to the Senate for confirmation to the Board of Directors of the Bank. The Bank is now underway and is scheduled to select a president in the near future and to start the loanmaking process.

Mr. Speaker, I urge that we adopt S. 1788.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding because, as one who has followed this very closely, I think our colleagues are to be commended.

I did not happen to agree at the particular time this particular piece of legislation passed, but I would say the persistence of my colleague from Ohio and our colleague from Rhode Island, and the cooperation, let us be honest, the cooperation of the President of the United States is going to make sure that a small businessman is represented on this Board. I think he should be commended and certainly I support it. I think all of the Members ought to recognize the hard work that was done by the gentleman from Ohio (Mr. Wylie) and our colleague from Rhode Island on the other side of the Chamber.

Mr. WYLIE. I thank the gentleman for his complimentary observations. It was, indeed, the original intent of this legislation to provide a place on the Board for a small businessman. A small businessman who is expert on cooperatives and the purposes of the Bank will enhance the Board and give it more expertise in evaluating loans and other operations. I urge my colleagues to adopt the legislation and for the President to take immediate steps to fill the two new vacancies.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore (Mr. Fary). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(a) of the National Consumer Cooperative Bank Act is amended—

(1) by striking out "thirteen" in the first sentence and inserting in lieu thereof "fifteen";

(2) by striking out "seven" in the third sentence and inserting in lieu thereof "eight";

(3) by inserting after the third sentence the following: "The President shall appoint one member of the Board from among proprietors of small business concerns, as defined under section 3 of the Small Business Act, which are manufacturers or retailers. The member of the Board appointed in accordance with the preceding sentence shall not be subject to the resignation and termination provisions of subsection (b)."; and

(4) by striking out "104" in the last sentence. (b) Section 103(b) is amended—

(1) by striking out the third sentence thereof and inserting in lieu thereof the following: "Two additional members of the Board designated by the President (who shall be members who had been appointed by the President) shall resign at the annual meeting occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds eight-fifteenths of the total amount of paid-in capital of the Bank. An additional member of the Board designated by the President (who shall be a member who had been appointed by the President) shall resign at the annual meeting occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds three-fifths of the total amount of paid-in capital of the Bank.";

(2) by inserting after "Five" in the next to the last sentence "of the".

(c) Section 103(d) of such Act is amended by striking "all" in the first sentence and inserting after "five" the words "of the";

(d) The second sentence of section 103(h) of such Act is amended by striking out "Until" and inserting in lieu thereof "The member of the Board appointed from among proprietors of small business and, until".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONDOMINIUM CONVERSION

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEDERER. Mr. Speaker, I would like to share with my colleagues in the House testimony which I gave before the Philadelphia City Council in support of a local moratorium on condominium conversion. I offer this testimony here because "condomania" is not merely a local problem but one of national dimension as well, affecting the existence of private rental housing in the United States.

Clearly, action on the Federal level is also in order. One reason for this is that moratorium bills such as the one recently enacted by Philadelphia City Council may be open to legal challenge on a local level unless Federal legislation is enacted to preempt such suits.

Condominium conversion is clearly not only a Philadelphia problem, but a national one as well. Between 1970 and 1975 over 100,000 rental units were converted to condominiums nationwide; 50,000 conversions took place in 1977, over 100,000 in 1978, and projections for 1979 range from 130,000 to 250,000. This spiralling rush toward conversion could well mean the virtual disappearance of private rental housing in the United States.

To meet this danger, I urge the passage of H.R. 5175, the condominium cooperative conversion moratorium of 1979, introduced by Congressman ROSENTHAL which would:

First, set a 3-year moratorium on condominium or on cooperative conversions;

Second, establish a Presidential commission on problems relating to condominium cooperative conversions;

Third, require developers to provide relocation assistance (up to $400) to displaced tenants;

Fourth, prohibit Federal community development block grants from going to localities that do not either restrict conversions or guarantee adequate housing; and

Fifth, change the U.S. tax code to treat the developer's profit from conversion as ordinary income, not capital gains.

I urge this body to take action on this bill so important for the protection of the beleaguered renter and would-be apartment dweller in the United States.

The testimony follows:

STATEMENT OF CONGRESSMAN RAYMOND F. LEDERER

Good morning, Mr. President and members of Council. I am here to speak in support of Councilman Tayoun's bill. I believe it is vital that City Council now enact legislation concerning the conversion of rental buildings to condominiums and the protection of tenants therein, before the condominium boom engulfs the city.

Condominium conversions in Philadelphia have increased from 0 units in 1977, 500 in 1978, to 2700 so far this year. As you can see, though condominium conversions are just beginning, they are booming. Senator Harrison A. Williams, Jr. of New Jersey and Philip Kozloff, President of Citicorp Real Estate, Inc. have characterized the condominium conversion in other cities—New York, California, Chicago—as "mass hysteria". Today, while Philadelphia's condomania is still in its infancy, is the time to head off this "mass hysteria" in our city.

Picture a renter in Philadelphia today. He is already troubled by inflation, monthly or yearly rent increases, and all the other costs associated with living in a city. Now, picture the same renter faced with the immediate prospect of conversion of his apartment into a condominium unit. He can either move out, wait to be evicted or pay $40,000, $50,000, or more and buy his apartment. To say the least, times are now even harder.

This is the squeeze which will shortly face many apartment dwellers in Philadelphia. And their problems are the city's problems. Condominiums add to the inflationary pressures of city living. Condominium converters used to advertise a monthly payment no higher than the rent; now it's 30, 40, 50 percent higher, and sometimes even more, according to Citicorp Real Estate, Inc. And as conversions increase, taking desirable rental units off the market, the rental vacancy rate drops and the diminishing supply of desirable units causes rents to increase.

Without question, conversions hit senior citizens on fixed incomes and low-income families the hardest. But we need to ask ourselves, how will all this affect people who depend on the supply of rental housing: young marrieds, young professionals, business trainees, and transient executives, students, and other upwardly mobile people? Young people and their families are a major source of Philadelphia's economic vitality. Our future lies in their making their futures in Philadelphia. And, Philadelphia is a city of colleges and universities. The contributions of tens of thousands of students is a major factor in our city's life. Rapid, unchanneled and runaway condominium conversions can only make the choice of a Philadelphia residence less appealing to these important groups of people.

Councilman Tayoun's bill is a sound first step towards the promotion of orderly condominium conversions. But more, much more, will be needed if Philadelphia is to avoid the mass hysteria and social upheavals that have afflicted other cities. We need to plan and prepare carefully for the trial ahead. Mass condominium conversions, wherever they may occur, pose a serious threat of mass tenant displacement. Most tenants in a building scheduled for conversion will not remain. They must find alternative housing. The Tayoun bill provides much needed protection for displaced tenants.

But we must also plan to preserve and protect our neighborhoods, the foundations of Philadelphia's character. Mass tenant displacement means an immediate and prolonged upheaval of neighborhoods and communities. We should insure that "flip-sellers", what New York's Assistant Attorney General identified as a speculator who buys an apartment building for fast resale, do not destroy our neighborhoods for quick, easy profit, money that, most likely, will leave the city anyway. Both HUD and officials in New York State, which has experienced more conversions than any other state, have warned about the adverse effects of condomania on neighborhoods and people with deep roots in their communities.

I believe that this Council and the people of the City of Philadelphia have the wisdom to accommodate the interests of the developers and tenants and neighborhoods. But I believe that a comprehensive, in-depth study is first necessary in order to strike this balance. As we are facing a potential of mass condominium conversions in this city, I urge Council to undertake such a study without delay.

TEAMSTERS CENTRAL STATES PENSION FUND—SECOND INSTALLMENT

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, the key reform brought about by the U.S. Department of Labor and the Internal Revenue Service in the case of the Teamsters' Central States Pension Fund was the placement of the investment assets of that fund in the hands of qualified independent investment managers. See my RECORD statement of December 4, 1979, page 34571. In October 1977, the Equitable Life Assurance Society of the United States ("Equitable") and Victor Palmieri & Co. ("VPCo") formally assumed control of the investment assets of the then $1.7 billion and now $2.3 billion fund. A group of securities managers under the supervision of Equitable assumed control of the securities assets at the same time.

Conceived by the Labor Department and the IRS as a substitute for a direct Federal takeover of the Central States Fund, the theory of the independent management requirement was that the more than 20 years of insider deals, conflicts of interest, impudence, and financing of organized crime activities could be and would in fact be ended by removing the fund trustees' power of the purse. As I noted in my remarks of December 4, the trustees' voluntary agreement to forgo this direct power was not secured without giving up something: In return, the Labor Department agreed to terminate a part of its then ongoing investigation and the IRS agreed to restore the fund's tax exemption.

Unfortunately, the current trustees have blatantly and repeatedly sought to undermine the crucial independence of Equitable and VPCo. They have done this despite the facts that they and even their immediate predecessors had agreed and contracted to pay millions of dollars of fund assets each year—for the highest quality independent professional asset management services. And despite the fact that these managers have made important strides in improving the mix or diversification of the fund assets, improving the terms of certain of the outstanding real estate loans, and, most importantly, in improving the investment return of those assets.

The lengths to which the current trustees would go in their efforts to destroy the independent asset management process became painfully clear only 6 months after those trustees entered into the elaborate contracts turning the control of the investment assets over to Equitable, VPCo, and the securities managers supervised by Equitable. In March 1978, the trustees passed a series of resolutions. The first resolution removed from the Labor Department the power to veto the firing for cause of the independent managers over the 5-year period following the effective date of the October 1977 investment management contracts. The second resolution required the independent managers to report all their proposed transactions involving more than $10,000 in plan assets to the trustees at least 30 days prior to the proposed transaction—an incredible distortion of the notion of "independence." A third resolution ordered the independent managers to withhold information from the Federal Government—expressly including the Congress—unless formally compelled by subpena to provide such information.

Mr. Speaker, these resolutions were simply outrageous. Individually and together, they were and remain completely inconsistent with the letter and the spirit of the key independent management reform and the Federal law which underlies it. These resolutions were apparently intended by the trustees to warn the independent asset managers not to step out of line if they wanted to continue providing their highly compensated services. They were clearly intended to set the stage for further attacks on the managers and their independence—and to test the resolve of the Government to defend the integrity of the reforms.

Unfortunately, the only Government response to the March 1978 resolutions was a Labor Department letter telling the trustees that the Government considered the resolutions to be legally ineffective. As former Assistant Secretary of Labor Francis Burkhardt put it, in answer to my questioning at a June 6, 1973, hearing of the Oversight Subcommittee of the Committee on Ways and Means:

> They (the trustees) did not take any action. All they did was write a letter to us and we wrote a letter back to them. We answered one action with another action.

At the same hearing, my colleague Representative RICHARD GEPHARDT of Missouri responded appropriately, in my judgment, to the Labor Department's complacent attitude, as follows:

> I have also read the letter that Mr. Burkhardt wrote, in response to those resolutions * * * but I question whether or not the very writing and enactment of those resolutions does not constitute a violation of an existing agreement with the Government * * * you (Mr. Burkhardt) may not think a resolution of trustees is a legal act. I think it is. I think that is a clear indication of how they intend to act, and I would say to you that you are setting up a situation by not acting now to correct this situation in which the trustees are going to act under their clear intention. Then you are going to be in a position of having to go into court to try and undo something that I think you ought to try to undo right now.

Mr. Speaker, I submit to you that the Labor Department failed that particular test of resolve and now faces precisely the type of situation foreseen by myself and by Mr. GEPHARDT 18 months ago. In my next statement, I will describe the present situation in detail.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I just wanted to suggest in regard to the Martin Luther King legislation that Easter Sunday is the greatest holiday in Christendom and it is always observed on Sunday. I think we are demeaning Sunday in some of the things we are saying. I thank the gentleman for yielding.

INDEPENDENT INSURANCE AGENTS OPPOSE FEDERAL TAMPERING

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, one of the positive trends in recent months has been the growing awareness of Members of this Congress, even the most liberal Members, that the traditional answer of more Federal Government regulation and involvement, their stock and trade for the past three decades, has growing resistance at home. People are frankly waking up to the regulators and the interventionists. Their message comes through in many ways.

That trend is long past due. In my years in Congress I have consistently opposed this unnecessary and burdensome regulatory intervention. Nonproductive costs attributable to overregulation appeared in every product and service the consumer gets. This is a part of our inflationary spiral.

The Independent Insurance Agents Association of Ohio held its 82d annual convention in Dayton, Ohio on October 22. One of the resolutions passed at the business meeting called on Congress and one of our Ohio Senators in particular to not go forward with proposals which would materially amend the McCarran-Ferguson Act. This resolution indicates a growing awareness back home of the perils of Federal interventionism. Just a few weeks ago, the House turned back the Federal Trade Commission's efforts to intervene in local funeral homes and other broad initiatives.

Insurance agents everywhere know that their industry is one of the sitting ducks for the Ralph Nader-type legislators who see everything bad in American business and press their overregulation and interventionists policies on a professed concern for the consumer. I include this fine resolution at this point.

RESOLUTION

Whereas, United States Senator Howard Metzenbaum is considering proposed legislation which would materially amend the McCarran-Ferguson Act, and

Whereas, the implications of the proposed law would have far-reaching implications to the insurance-buying public, the insurance industry, and particularly the insurance agents of Ohio, and

Whereas, the net effect of such a proposal will be anti-competitive, and

Whereas, the implementation of such a far-reaching proopsal will be an onerous burden on an already heavily regulated industry, and

Whereas, it is deemed the net effect of this proposed legislation would have the end result of either driving the cost of insurance up for the consumer or driving many companies out of lines of insurance they presently write, and

Whereas, the proposal abrogates the time-tested concept that government closest to people serves best by superimposing federal authority as supreme,

Now, therefore, be it resolved that the Independent Insurance Agents Association of Ohio, Inc., representing 10,000 insurance agents in Ohio and supported by over 350,000 agents country-wide, call upon Senator Metzenbaum to abandon his proposed Amendment of the McCarran-Ferguson Act.

SAVING THE U.S. STEEL INDUSTRY?

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RITTER. Mr. Speaker, I took to the floor earlier this week to urge Members to focus their attention on the threat to U.S. domestic steel producers from foreign-subsidized steel imports and a number of other factors endangering jobs and productivity in this critical national industry.

The job loss and cutbacks announced by United States Steel may be the tip of the iceberg lurking on the horizon before the domestic steel industry; unless Government, labor, management, and investment sources steer together, a disastrous collision is imminent similar to those encountered by foreign steel-producing countries in recent years.

The lead editorial in today's Wall Street Journal details some of the problems facing key steel-producing countries in the industrialized world and examines the thrust of the international competition rising in the developing countries—Brazil, South Korea, Taiwan, and certain East bloc countries in particular.

Overzealous environmental regulation, lengthy depreciation schedules, lack of capital, and market controls are among the critical problems barring a necessary modernization of the American steel industry. The time for combined action in these areas to enhance our international competitive position is now. I urge Members to study the attached editorial:

SAVING STEEL?

U.S. Steel and Jones & Laughlin have announced they'll be closing down 16 mills and fabrication plants. Antiquated, inefficiently small and bedeviled by high transport costs, the facilities have only been marginally profitable in the best of recent times. With the current downturn in automotive, appliance and other important steel markets, they would be a drain on beleaguered companies. It would be fruitless to try to save them.

But should, or can, anything be done to help the American steel industry as a whole? With world-wide overcapacity and ferocious international competition, steel industries are in trouble in almost all the developed countries. British Steel has been perennially depleting the Exchequer. Problems at the Lorraine steelworks threaten to undermine Prime Minister Barre's bold gamble to introduce economic liberalism in France. Even the formidable Japanese are operating at only two-thirds of capacity, and the land of "permanent employment" has had to countenance substantial layoffs.

In the coming years, international competition should become even more vigorous. The upper level of developing countries—Brazil, South Korea, and Taiwan in particular—are building up steel industries that will combine low wages with the latest technology. And American steelmakers face several problems that make them poorly prepared to meet the new challenge.

For one thing, U.S. labor costs have gotten out of hand. In a talk before the Japan Society a few days ago, Congresman Sam Gibbons pointed out that in 1957 wages for U.S. steelworkers were 18 percent higher than those of the average industrial worker. By 1977 they were 67 percent higher, without comparable advances in productivity or quality control.

For another, the U.S. industry is technologically behind its counterparts, overseas. By a historical misfortune, American steelmakers built up most of their capacity in the 1940s, before the emergence of major innovations—basic oxygen furnaces, continuous casting and computerization—that substantially lower production costs. Later starters, especially the Japanese, were able to incorporate more sophisticated technologies in their expansion plans.

In recent years, American companies have been shelling out some $2–3 billion annually for modernization. But Father William Hogan of Fordham University argues that only 75 percent–80 percent of American steel facilities are technologically up-to-date and competitive by world standards. To modernize the remaining 20 percent–25 percent, he contends, would require expenditures of some $6 billion a year, and the steel industry doesn't seem able to raise that kind of money.

The steelmen have been proposing some sensible government policies that would make it easier for them to muster the capital they need. An end both to "voluntary" price controls and to "jawboning" would allow steel companies to benefit from favorable market conditions that warrant price rises. Shortening U.S. depreciation schedules (the longest in the industrial world) would make it easier to generate internal cash flows. And a relaxation of environmental regulations—especially those that lock companies into rigid payments, regardless of business conditions—would lessen the financial burdens of recessions.

The steel industry is also calling for "fair trade," more specifically for stricter enforcement of the trigger price mechanism and perhaps for the adoption of more restrictive protectionist devices. But here it has to be remembered that steel isn't the only American industry buffeted by tough international competition. Machine tools, construction equipment, automobiles, home appliances—hundreds of American industries must buy steel for their own production. If such manufacturers don't have the opportunity to shop on world steel markets, both for the best prices and the most reliable delivery and service, foreign competitors will gain a major advantage.

We sympathize with the 14,500 steelworkers who will lose their jobs as a result of the latest closings. Both their families and their communities will have to make some painful adjustments. But the closings will help the steel industry prepare for its increasingly tough competition. And unless they're accompanied by rashes of new protectionism, they'll help protect the jobs of workers in industries that use steel. Steel is too vital to our economy to be produced inefficiently.

HANSEN'S IRAN TRIP

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Idaho (Mr. HANSEN) is recognized for 60 minutes.

Mr. HANSEN. Mr. Speaker, 32 days have now elapsed since the Americans in the Embassy in Tehran were taken hostage, something which has caused a national crisis and international circumstances leading to the doorstep of war. There is a vacuum in Tehran where there is no free American with any authority whatsoever, official or unofficial, able to look in on the hostages. The State Department is locked up there, and unfortunately they also seem to be locked up here.

I have had, on two occasions, mid-level employees of the State Department at my office for some debriefing. However, I can tell my colleagues that even though many Members of Congress, including some in the leadership, have been asking that certain people in the policymaking area of the administration agree to a meeting so I can share with them a perspective regarding Iran that they have not been able to otherwise receive. Unfortunately, it seems it is easier to get past the radical Khomeini government to see the hostages than it is to get important information to the right people in our own Government.

This is not a partisan issue. Our foreign policy at a time of crisis, has generally been to avoid partisanship and unite behind the President before the world. However this crisis goes beyond partisanship. It goes to the survival of people in our own Nation, in other nations, those who are held hostage, and many other American still living in Iran.

I saw Americans in Iran bound and isolated; I saw Americans in Iran barefooted and under guard; I saw American officials in Iran held prisoner; I saw our President reviled. But, there are also things that I did not see. I did not see any representative of the U.S. Government able to get into Iran. I did not see any official of the U.S. Government able to establish contact or dialog with the officials of Iran.

I did not see any American official able to see the hostages, or even get into our own Embassy; and I did not even see the International Red Cross or the United Nations able to see these hostages.

The State Department came to me and asked, "How in the world do you get in?" That is interesting after all the political reviling in the press about my interfering or being an amateur. It is interesting to find the professionals asking me, the amateur, "How did you get into this country, how did you get in to see the officials, how did you get in to see the hostages?"

Mr. MONDALE, our Vice President, said today that no outside observers have been allowed to see the hostages for 10 days, that neither have there been international observers allowed in. In fact, there has been no one except Iranians to see the hostages besides myself since the first 4 days when four Ambassadors gained access.

This is why I went: Someone had to do something. I went through normal channels, and I got there. It can be done. For a Government innovative enough to establish a nongovernmental or unofficial relationship with the Government of Taiwan, it seems we have not been very imaginative in establishing a relationship to begin a dialog with the Government of Iran.

For those of you who wonder what I accomplished, I would like to lay it out.

First, my visit gave comfort to the hostages and to their families, and certainly I have not had any complaints from them for what I did.

Second, I did gain useful intelligence, things learned about the hostages, the Government, and the conditions in Iran which our Government does not know and should know.

Third, my visit provided that the country and its officials are accessible if someone would take the necessary initiative.

Fourth, my visit showed the world that we care about our people and are willing to sacrifice for their welfare.

Fifth, my journey focused the world's attention on the hostages as people rather than as international chess pieces which gave the United States needed support in our fight to free them.

Sixth, a new dimension was introduced into a polarized confrontation which demonstrated that there may yet be a peaceful solution which could return the hostages without harm, safely home.

Despite all of this, I have taken much ridicule, much criticism; not from the people of the Nation, not from the hostages, not from their families, but from certain political elements of this Government who are apparently embarrassed by their ineptness and lack of action, and who would rather condemn than unite for the benefit of the Nation and the victims. These are the people who would have told us that the Wright brothers could not fly.

Sometimes, it is not the professionals and the orthodox who succeed. It is those who care enough to try, to really try. I have now been back for 1 full week, 10 days from the time I saw the hostages in the American Embassy in Tehran. In that week, I have held favorable sessions with key people in the academic community, involved in foreign affairs and Arabic studies.

They are very much in support of doing something to peacefully resolve this problem and bring the hostages home safely. They are very much looking toward helping the Congress accumulate facts and information as it looks into the matter of charges against the Shah and other issues as was done in the Korean situation and like problems.

Also, my dialog with my fellow Congressmen, both in general bipartisan meetings and also in structured meetings, has been favorable. There is good understanding. I have generally received nothing but enthusiasm for my mission of mercy to see the American hostages, and at least demonstrate that somebody could and would do something.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. HANSEN. I yield to my colleague from Idaho.

Mr. SYMMS. Mr. Speaker, I thank my colleague from Idaho for yielding. I would like to commend the gentleman for his courage, and tell him that I welcome his return, and I am happy that he returned safely here to be back in this Chamber to work with me in the future.

I would also like to ask the gentleman one question, and then I would like to ask to include some extraneous material in the RECORD at this point.

I would like to ask the gentleman if the administration, since the gentleman returned, made any efforts to find out what the gentleman might have seen, or debriefed him in any way.

Mr. HANSEN. I have initiated all contacts with the administration, all contacts with the White House, all contacts with the State Department. There has been some response, but not a response at a level where I think it would be very beneficial regarding the sharing of intelligence and information which I consider very important, very vital to the decisionmaking process of this Government with respect to this crisis.

I can tell the gentleman that it has not just been my efforts. Many Members of Congress have also made an attempt to get a response, including certain Members of the leadership. I feel it is about time, if these people want a unified foreign policy, that they start responding. Every Cuban who comes in on a rowboat gets a debriefing by an intelligence agency, by the State Department, whatever. It seems to me that if our Government really wants to solve this problem, they had better make more effort to get the facts.

Mr. SYMMS. I thank the gentleman. I might say to the gentleman that although he has, and I know he has had some criticism from many quarters, most certainly in the State of Idaho the gentleman has been received with the thought that he has a great deal of courage. I share that admiration for the gentleman's courage in my State, not only on his efforts to make the trip to Tehran, but also on many other issues where he has put up a tremendous fight here in this Congress for the people of the United States.

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Mr. Speaker, at this time I ask unanimous consent to include in the RECORD the report from the Paris Le Monde in France on November 27, 1979. This is an article by Eric Rouleau, who is the top correspondent for the Paris Le Monde newspaper from the Middle East on his reporting on how Congressman HANSEN's trip was received in Europe. I think it might be very interesting for the benefit of our colleagues and for those people downtown to read what the response was to Congessman HANSEN's trip in Europe, because I found it most enlightening to read through this. I ask unanimous consent to include this in the RECORD at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

The article is as follows:

[From the Paris Le Monde, Nov. 27, 1979]

THE UNITED NATIONS AND THE IRANIAN CRISIS: CONGRESSMAN HANSEN'S RECEPTION

(By Eric Rouleau)

TEHRAN.—In less than 3 days one American has won fame and even popularity in Iran. In a country which is expecting a U.S. "attack" at any time, Republican Congressman George Hansen has succeeded in painting a different picture of the United States—so widely reviled—without ever making a concession on the fundamental elements of the conflict between his country and the Islamic Republic.

His photograph has been printed on the front pages of the newspapers, which devote columns to interviews he has given. The television is broadcasting his statements translated into Persian at peak viewing times. The demonstrators acclaim him as he passes. The Islamic students have opened the locked doors of his embassy to allow him to visit his imprisoned compatriots. He is the first American in 3 weeks to have crossed the threshold of this "den of spies" turned "bastion of the revolution" and come out a free man.

This 49-year old giant, 1.9 meters tall and a practicing Mormon—a religion which, like Islam, bans the consumption of alcohol—has impressed and seduced the Iranians. He treats them like a U.S. politician on an election campaign. Everywhere he goes he shakes hands, including those of the Islamic militia, forcing them to place their rifles on the other shoulder, and of vociferous demonstrators who drop their menacing fists in confusion. "I am George Hansen, I am an American; what is your name?" He invariably begins, before listening attentively to a mixture of accusations and complaints. "Yes, yes," he comments, "there must be an inquiry to verify your statements on the shah and on my government's policy. . . ." The Iranian's face relaxed, the game was won.

Some time on Saturday night/Sunday morning the U.S. Congressman received a telephone call from Mr. Bani Sadr. "The Revolution Council, Iman Khomeyni and the Islamic students invite you to go to the U.S. Embassy at 0800 tomorrow," the chief of the Iranian diplomacy told him. Mr. Hansen appeared at the embassy gates at the appointed time accompanied by his "witnesses"—Mr. Lee Roderick, head of a Washington newspaper chain called the Scripps Leagues Newspapers, UPI correspondent Edwin Smith (a Canadian), and Le Monde's special envoy. Since France is regarded as "outside the conflict," we alone were allowed to attend the interview which Mr. Hansen was to have with his hosts.

A FASCINATING DIALOG

The American sat behind a table beside one of the Islamic student leaders, whose struggle name is Ebrahim. The two young women acting as interpreters formed a strange contrast. One, who studied in the United States, looked like a nun. She was dressed in the traditional way with a broad scarf covering her head and surrounding her face. The other, a former pupil at Tehran's American school, could have been the "cover girl" on an American fashion magazine. She was tall and elegant, wearing a stylish red suit with cowboy boots.

The U.S. Congressman looked round at the walls. Posters declare in English that the Iranians "distinguish between the honest and just American people and their corrupt government" and that they fear "neither military intervention nor economic blockade." Suddenly, floodlights installed in the room were switched on and two cameras started to turn. An Iranian television team was filming.

Mr. Hansen protested, pointing out to his Iranian interlocutor that, to be fruitful, the conversation should be confidential. "No," Ebrahim replied, "The Iranian Revolution has nothing to hide from the people; everything that is said should be reported to the public." "In the name of merciful God you have before you, ladies and gentleman, a representative of the American people who is trying to find out the truth," Ebrahim began, addressing the viewers. "Mr. Hansen, you will find the truth in the poverty of our rural districts and on the tombs of our martyrs," the student continued grimly.

The ensuing dialog was fascinating. The American representative was very dignified and pleaded for friendship between the two peoples. "I would like you to know, sir, that the Americans have a deep sense of justice and compassion. For my part, I am determined to start an inquiry in the United States on the behavior of our leaders, in the interests of my people and yours, in the interests of the hostages you are holding and in the interests of world peace."

Ebrahim's grim face relaxed. He took away the recording of the conversation and went to play it to the student leadership committee assembled in a neighboring room. He came back a little later and told Mr. Hansen that he "deserved" to visit the hostages. We had apparently not deserved such a visit and we [apparent line drop] of the embassy where several thousand people continuously decry American imperialism.

THE AMERICAN PEOPLE ARE NOT GUILTY

It was then that a significant scene took place. A group of demonstrators unfolded an American flag and prepared to burn it. A voice speaking through a loudspeaker shouted: "Brothers, don't do that! No American flag must ever be burned on our territory again. We must respect the emblem of the American people, who are not guilty." The stars and stripes then vanished amid the wave of demonstrators. . . .

Then Mr. George Hansen emerged from the embassy gates The crowd surged forward with their fists raised shouting "Yankee go home!" The mysterious voice rang out again: "The (American) people yes! Carter no!" The slogan was taken up by the chorus and chanted rhythmically, swelling and exploding in the face of the representative from Idaho. The mass of people broke the police cordon and surged toward Mr. Hansen, who was jostled, borne off and swallowed up by the wild crowd.

The American representatives was stopped a few dozen meters further and challenged by a young man whom, with a flushed face and in a voice thick with emotion, said in halting English: "My brother and sister were assassinated by the shah. You are protecting that criminal!" Mr. Hansen, deathly white and with clouded eyes, took his hands and held them for a long time.

Suddenly, within a few seconds, the demonstrators sat down on the sidewalk at the American's feet, surrounding him on all sides. They demanded explanations. A young man offered to act as interpreter, and a microphone appeared out of thin air. There followed a lively but friendly dialog between the poor people of Tehran and the representative of opulent America. The latter won applause and ovations for his statements.

Mr. Hansen, who was due to return to Washington Monday morning, has decided to delay his departure for a few days to try

> to achieve a political "opening." Another American, former Senator Jim Abourezk, of Lebanese origin, arrived in Tehran Sunday morning with similar ambitions. He was received that same evening by Mr. Bani Sadr, to whom he described the "wave of fury" which is sweeping America.
>
> "Americans," Mr. Abourezk told us, "are crying for vengence and demanding military intervention by President Carter. Nobody rules out a war which would be catastrophic both for the Iranians and for us. It is vital to build a bridge between the two peoples."
>
> The gap is probably as much cultural and psychological as it is political. Will there be time to bridge it?

Mr. HANSEN. I thank the gentleman from Idaho, my colleague, for his kind remarks. He has been most constructive in his efforts during this crisis.

I would like to point out that the first question I was asked in my efforts to see the hostages was, "Whose representative are you? Are you the representative of the people? And what is your goal in coming here?" This was right out of the dialog as reported in the Tehran newspaper. I said, "I am only a representative of myself as a citizen of the United States and as an American without Government credentials. I might say I came with only my wife knowing that I am here, and one staff member. I came at my own expense because I thought that the people of Iran and the people of the United States have had a long friendship which should not be destroyed because we do not understand each other and because of some actions of governments which may have created problems."

I was asked again later in a similar vein this question:

"Our reporters say that you come here for negotiation, but considering that the people of Iran have already stated their position toward any sort of compromise in negotiations, do you accept what they have said?"

My answer was, "I am not here for negotiations. I have no power for negotiations. I am here for conversation, and I do not know what the press may have said, but this must be absolutely clear, that any negotiations have to be conducted by the executive department of the U.S. Government. I think it is well for us to understand that our Government is not simple, such as your government is not simple."

We went on to discuss the fact that they have many facets to their government. In this case it is a revolutionary government which is badly fragmented. In our own case we have three parts to our Government, which although better structured, often cause people not to understand how we operate at times, particularly in foreign affairs. But I think it is important for people to know that I did not go there to negotiate; I went there on a mission of mercy. I went there to converse to see if there were places we could open doors and build bridges.

I might mention I found things of great concern when I was there. The very fact that the Iranian people seem to feel that the Shah was imposed by us on them in the 1950's and ran roughshod over them. When they finally threw him out, our efforts to bring him back into this country were looked upon as possibly another attempt to place the Shah back upon them.

Many people feel very strongly that the Shah abused the people of Iran in terms of absconding with finances and in terms of human rights, so the feelings run high. This is not certainly to condone the actions that Iranians took in attacking this American Embassy and taking hostages, because that, of course, is a crime. It is a violation of international law, and no one can tolerate it.

But I think someone has to ask the question in this country: Why, in the face of overwhelming evidence, particularly at the intelligence level in the Department of State, when it was known that if the Shah were to come to the United States there would be riots in Iran and attack on our Embassy and hostage-taking, why did we bring the Shah into this country? That question has to be answered. Especially when we sent the Mayo brothers to the Soviet Union to take care of a high-level medical problem there, it seems there could have been another way to handle the Shah to avoid this confrontation. And if we did not want to be intimated by the Iranians and still wanted to bring the Shah in, then to protect our people why did we not close the Embassy and bring them home, or send a force in that could protect them?

It seems to me that those who made the arbitrary decision, in the face of all the intelligence that existed, to bring the Shah into this country without protecting our employees in that area of the world, and also our other citizens, committed a very grievous error and they ought to be called to accountability. That, I think, is something that has to be answered to no matter whether there is a crisis on or not.

Beyond this, I think we need to do what we can to gain release of the hostages. I am here today to very severely criticize what has been happening, because before I left, I felt there was not enough being done to resolve the problem, not enough being done to take care of the hostages. And now that I am back, I find things have not changed very much. I have been here a week.

It has been 10 days since I saw the hostages. The Vice President himself has said that no one has seen them since I was there. Yet who is making an effort to get in on the ground floor in Iran?

When I went there, it was very interesting because many people in the press, among the private citizenry, and even among the Iranians themselves, said, "We are glad somebody is finally here, official or unofficial." There was a vacuum when I went there; there is a vacuum there now; and the Department of State is still trying to figure out how to get in. There is no magic about it. If they can do what they did in Taiwan, if they can work an unofficial relationship with that Government, they can do it here.

The reason I went over is because the Iranians had two things going. They were opposed to our Government—to President Carter, not the American people. They are friendly to the people of the United States. Under these circumstances I thought, well, maybe the people can go in and talk, or someone who talks for the people as an individual can get in and see what can be done. This is what I did.

Since I have returned, in a week's period, I have seen no action to give relief to the families of the hostages, no real helpful action. When I saw the hostages, I was able to do something that had not been done before, because I was followed by TV cameras from the Iranian television network. They took pictures of the 19 or so hostages I saw. The cameras were rolling. When I came back, I assumed that if our intelligence people were on the ball, they would then get it from the TV networks who got it from the Iranian network, get the pictures so that the families could identify those loved ones that I had the opportunity to see. But no, nothing apparently has been done. I cannot find that anything has been done in this regard.

To protect and help the hostages and assist the State Department, something of this nature needs to be done. They need to know what these people look like so they can better understand the problems, whether they are mistreated or not, or what their health is. Certainly it would be of value to the families themselves.

This kind of dereliction of responsibility, to me, is inexcusable, and that is just one example of what has been going on or not going on. It has taken several days to even get a list put together so you could sit down and look at a list and the pictures and where people come from, so that we can identify people with certainty, and see what the circumstances are with them so that concerned relatives can be notified.

More than that, there are a number of things that I have learned about how the Government of Iran operates, and I had to learn this in order to get in to see the hostages—the fact that there are three or four more or less independent entities, and that the students themselves are so very independent, there is not always good reason to believe they will mind Khomeini when he speaks if they do not happen to believe it is the thing they want to do.

These are matters which need to be given to the people directing our own policymaking processes. If they will not sit down and learn from someone who has been there and dealt directly with this new government, how can they expect to make effective policy. Secondhand information from oblique sources thousands of miles away can put us on a dangerous course and we need the most direct input possible.

I do not know if there are people in this country who really want to provoke this crisis to a point of war, but I must caution you that what we are talking about is confrontation with a fairly large nation having vast resources, with a lot of military given to them by our own Government—a country in an area where there are many other nations with elements hostile to the United States.

Embassies are being attacked almost daily and people are being killed. There are combined hundreds of millions of people and a threat to a considerable amount of resources that would be most disruptive to us and to Western Europe. And this is all on the doorstep of the Soviet Union.

This is Armageddon territory. It has World War III possibilities, and it seems that if we do not want to find ourselves in a fight of this proportion over an argument of where a deposed ruler, the Shah, gets his medical treatment—something so flimsy as that—we had better start talking. It seems that somebody had better start getting better intelligence. If some of our key officials are as reluctant to talk to others as they have been to me, then we are in for trouble, because we are operating dangerously in the dark.

I challenge Members of this body, and the administration to insist that they get the intelligence that is available from people who have been there, and even American citizens who are still there, even people in the news media who are concerned enough about the problems of peace to give their observations.

There are a number of sources where they could get information and I have no reason to believe that there is an adequate collection going on.

There is obviously a lot to do that is not yet being done. I would like to hope that we can give more comfort to the hostages and to their families to the effect that the State Department, that the administration, the Congress of the United States, and the people of the United States really care. This is important, and the only way they can have that comfort is if we act like we care and if we demonstrate we care by those things that we do. I plan to continue to make every effort to fill in where things are not being done. It may cost you and me money; it may cost you and me time; but, believe me, when I walked into that American compound and saw the first face as it turned around from a look of dejection and despair into an expression of joy, with the eyes lighting up, I can tell you it was worth every dime and every minute that was spent, and a lot more.

□ 1850

And I felt the same way when I saw each of the others as I went through. Believe me, there is a lot to be gained just from the heart, just from the human interest of it all but more importantly for the confidence of fellow Americans who are serving not only in Iran but in future times in any other part of the world. We have got to do our job better or who in the world are we going to get to serve this great Nation in our foreign affairs?

THE PRESIDENT'S VIEW OF OUR NATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 10 minutes.

● Mr. **TAUKE**. Mr. Speaker, those of us in public life sometimes find ourselves torn between two equally compelling duties. I recognize the duty of every American to rally behind the President of the United States during the crisis in Iran. But at the same time I also recognize the duty I have to set the record straight when the President has created false impressions.

I refer to one of the answers he gave at his November 28, 1979, news conference to a question concerning declining American prestige and power.

The President began by referring to our Nation as "the strongest militarily, politically, economically. * * *"

I do not know what the President intended when he said we were strong "politically," so I will not attempt to deal with that claim. But when his own Secretary of Defense and every other military expert admits the Soviet Union has the capability to eliminate our land-based missiles and when we face unquestionable Soviet superiority in conventional forces, both in number of troops and quality of weapons in Europe, what can the President be thinking of when he says we are the "strongest" militarily?

When it comes to economic strength we are behind almost every major industrial power in terms of rates of savings and productivity and funds devoted to research and development. Inflation is eating away at our economy. Do the President's economic advisers really believe we are the strongest economically? If they do, this might go far to explain why we are in such an economic mess today.

Not content to leave it at that, the President went on:

> NATO now has a new spirit, a new confidence, a new cohesion, improving its capabilities, much more able to withstand any threat from the East. . . .

The facts are much less optimistic. Our Army is the heart of NATO. And what condition is it in? Senator SAM NUNN has said:

> [The Army] has only one-third of the ammunition and equipment it needs to . . . sustain simultaneously a war in Europe and a minor contingency in the Middle East or outside of Europe . . . In the category of tank ammunition designed specifically to destroy other tanks, the Army has on hand about one-fourth the requirement postulated by the Department of Defense.

That does not sound to me like the kind of Army that can "withstand any threat from the East." New York Times military expert Drew Middleton recently wrote:

> In NATO's 31st year, criticisms of its military inadequacies . . . are growing in volume and severity.

Middleton quoted Thomas A. Callaghan, Jr., of the Center for Strategic and International Studies at Georgetown University:

> Today's NATO conventional forces are collectively so weak that allied government and military officials argue only over the number of days that they might resist before resorting to nuclear war. . . .

What can the President possibly be thinking of when he presents such a demonstrably false view of NATO to the American people? Experts all over the world—and specifically in the Soviet Union—know that NATO is not ready for any kind of threat. Why did the President say it is?

The President then said that his administration has made us "admired around the world, raising the banner of human rights."

Admired? Is the President aware of what is happening to our embassies abroad? Is he aware that three of our ambassadors have been murdered? The Christian Science Monitor recently reported that one of the reasons—the other is oil—European nations have not been more forceful coming to our aid in the Iranian crisis is that the President is held in such low esteem abroad. Indeed, I believe it can be said that no American administration in our time has ever been looked upon with such skepticism and dismay by foreign powers as this one. Can the President really believe his administration is admired so much by foreign powers? Is the administration getting faulty intelligence estimates? Or is it getting accurate assessments but disregarding them?

He then said:

> We have opened up avnues of communication, understanding, trade with people that formerly were our enemies or excluded us—several countries in Africa, the vast people and the vast country of the People's Republic of China.

This is a rewriting of history in its most blatant form. The Carter administration had nothing to do with the "opening of avenues" to the PRC. President Nixon did this and President Ford solidified those ties. The President knows this. Why then did he make this claim? And insofar as our Africa policies are concerned, when before have we witnessed the turmoil and strife and the Soviet adventurism we are now witnessing in Africa?

Finally, he said that there "is not an embarrassment about our Government which did exist in a few instances in years gone by."

I think both the President and the American people would have been better served if he had resisted the temptation to drag in this extraneous domestic political issue in order to indulge in self-glorification. But now that he has raised it, let me say that the Carter administration has taken us beyond embarrassment. Since 1932 no American President has ever received a lower popularity rating from members of his own party than Carter and only one—Truman—has received a lower national approval rating. This administration has proven to be so inept and so incompetent in so many areas that it has long since ceased to be an embarrassment and is now a tragedy.

I wish the President had not made these remarks. They are factually incorrect on almost every point. They showed the tendency of his administration to see the Nation and the world as it wishes it to be and not as it is.

It is my hope he will not publicly indulge in such fantasies again, especially at such a critical time in our Nation's history. The safety of the hostages and our national honor depends to a great degree on how the Iranians and the rest of the world see us. If we are seen as being confused and mistaken about world realities—the kind of confusion and error shown by the President in the above quoted remarks—such a perception will put the hostages and the Nation into grave danger.●

OUR NATION'S TRAINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. COELHO) is recognized for 5 minutes.

● **Mr. COELHO.** Mr. Speaker, as this Nation prepares to move into a new decade, we are faced with the problem of reversing a trend toward higher and higher energy consumption because that is no longer practical, feasible, or even possible.

One way we can save energy is through more efficient means of transportation. And one way to improve efficiency in transportation is to look to both the past and the future—to look at our Nation's trains.

Passenger trains used to be the backbone of America's transportation network. Over the years, with the advent of better cars, improved highways and relatively inexpensive airline service, use of trains fell into decline. Many famous passenger trains, long noted for their superior service and timeliness, fell into disrepair and disuse, and finally were discontinued.

Because Congress had the foresight and wisdom to provide additional authority and funding for Amtrak this year, I am confident that the day for train travel is not yet past—instead we are once again approaching it.

As further illustration, I would like to insert in the RECORD at this point the text of a speech given recently by the President of Amtrak, Mr. Alan S. Boyd, as reprinted in the Sacramento, Calif., Bee:

FOR TRAVEL THERE'S NOTHING QUITE LIKE A GOOD TRAIN

(The 1980s no doubt will be a time of continued expansion of railroad passenger travel. As one of its series of articles on The 1980s, Forum today presents the following excerpts from a recent speech by Alan S. Boyd, president of the National Railroad Passenger Corp. (Amtrak).)

(By Alan S. Boyd)

I noticed a line in a recent newspaper which said, "Filling the tank of a standard-sized American car would cost $58 in France today." There are several countries now where gasoline prices have passed $3 per gallon; many more are rapidly approaching the same level and France may reach that level very soon. This begins to change our ideas about the automobile.

What will $3 gasoline do to tourism or to business travel and to our own daily lives? We live in an automobile world with 302 million automobiles in service—about 115 million of these cars are in the United States. This global fleet now consumes about one-fifth of every barrel of oil produced in the world.

A 1979 study by the International Energy Agency concludes "that world oil production is likely to level off sometime between 1985 and 1995." Is this to be the end of the life span of easy, cheap and available travel? And while we look at the travel business as one part of our automobile society, what about others? Automobiles have made a major impact on personal finances as well. It has been estimated that 30 million people around the world depend on automobiles or trucks for jobs. Close to half of these are in the U.S.

These are big questions about big problems. All of us are in the travel business. We all know the situation in transportation today. We aren't going to find all the answers today, but we may be able to address a part of the problem.

The way I would like to approach our subject is to explore alternatives. We are going to have to make changes in our way of life and in our way of doing business. I hope these changes will be gradual, that they will be well planned and that they will be for the good. One of these changes is going to have to be a return to efficient rail passenger transport.

The passenger train is efficient. Nothing surpasses the economy and efficiency of rolling a steel wheel on a steel rail. Just to cite a figure, about 15 percent more work is required to roll a rubber-tired wheel on concrete pavement than a steel wheel on rail. That is quite a difference to load on top of a high fuel dollar.

Added to this, there are functional efficiencies built into the technology of the railroad. It takes two lanes to move 40,000 people per hour across a bridge, if they travel by trains; four lanes to move them on buses and 12 lanes to move their cars. Because of functional savings such as these, it is possible to move 21 million riders per day on Tokyo's public trains, subways and buses. Three million-six-hundred-thousand of these passengers move on the Japan National Railways' trains during one hour at peak time each morning.

No other medium of transport could perform that task within the time and space limitations of a vast metropolis. Passenger trains save space. There is more than twice as much acreage in New York City's Kennedy International Airport as in the entire right of way of Amtrak's 450 mile Northeast Corridor from Boston to Washington.

Furthermore, passenger trains can be much more fuel efficient than the automobile and they are not dependent upon portable liquid fuel. A recent (Sept. 1979) *Worldwatch Paper* credits passenger trains with a capability of "close to 400 passenger miles per gallon." That is the rate for an eight-car train, and it can be exceeded significantly by a longer train.

In the coming age of petroleum depletion, these attributes of the passenger train are going to drive up the demand for the railroad alternative. During Amtrak's brief span of eight years, we have seen this surge back to rail travel on two occasions—during the "Arab embargo" of the winter of 1973–74 and during the fuel crunch months this spring. During both of these tidal waves of demand, rail passenger ridership reached new peaks. But all through these eight years of Amtrak's existence the Congress never really came to grips with rail passenger service and never signaled its firm determination to support Amtrak into the future. This has changed.

After the year-long debates on the budget proposals which originated with the administration, we have now stabilized the Amtrak situation. We have lost a few routes from the original basic network; we have added a new route or two and we have strengthened the overall system. For the first time since its inception in 1971, we can say we are here to stay and that Congress has faced the issue and has given Amtrak its support for the long pull. It is up to us to deliver the improved service which the public demands.

The timing could not have worked out better. Just as these changes are going into effect, we have received some new cars. The Superliners—those Pullman-built, bi-level, all new passenger cars—have just completed their first demonstration and training journey from Chicago to Seattle and will enter revenue service soon. These cars will make up the finest new trains to see service on our long-distance Western routes. This is a major step forward for rail passenger service and will permit thousands of travelers, vacationers and tourists to leave their automobiles at home and enjoy a comfortable, scenic and safe trip across some of the most beautiful regions of this country.

The Superliners will help the rest of the Amtrak network. Their arrival in the Western fleet will release cars there now to add capacity to the entire system. We have needed to augment our trains in the more heavily traveled East to meet strong demands there and we need to cycle our aging cars through the shops to completely overhaul them and to eliminate some of the delays caused by the frequent maintenance failures of old equipment.

I am committed to a program of improved passenger service. We have fewer trains now. We have the new Superliners. We can devote our limited time and money to better performance. With improved performance, we shall be better able to satisfy the executive traveler.

Within reasonable distances, travel by train is ideal for business travel. There is time to read, time to think, to write, to use dictation recorders . . . and time to relax. Passenger cars are much more spacious than other forms of commercial travel. You can get up and walk around. Almost all of our trains have club cars and on many trains there are rooms, suites and roomettes for those who request privacy. Our trains provide food, dining cars and lounge cars. All of these features can make each trip pleasurable, and a night on the train is generally much less costly than a night in a downtown hotel or motel.

We have given this task of providing improved passenger services our highest priority. To achieve this, there are some things which are going to take a long time and we are putting them on the target list right now. The first of these involves the replacement and phasing out of our old equipment. It is just not possible to get reliability out of a 30- or 40-year-old car, and it is very costly. Our objective is to replace these antiques with new equipment.

All of this planning and realignment leads up to better service in the Northeast Corridor. During the past year we have been modifying and upgrading the Metroliners. We need to extend the life of those cars until they can be replaced by a new generation of high-speed trains. As these reconditioned Metroliners return to service, they will be joined by a new Swedish-designed AEM–7 electric locomotive. These locomotives will come from a General Motors production line where they are being manufactured under a joint agreement with the Swedish designer and builder.

The AEM–7s, hauling trains of Amfleet cars, and the refurbished Metroliners will give us an improved corridor capability. About 50 percent of our annual passenger movement is in the Northeast Corridor.

This is a brief summary of current activity at Amtrak. We have been having 2,000,000 passenger months—the highest levels in a decade. At the same time, we have had to turn down millions of prospective passengers because we do not have the space to carry them. We have space in many instances, but it is on a train running through Kansas or Nebraska at 2 or 3 o'clock in the morning. That is not salable at that hour and in that place, but that is where those long-distance trains happen to be as a function of their more than two-day trips from Chicago to the Pacific Ocean.

At the same time, we are leaving thousands of people behind each week in places like Los Angeles, Chicago and New York during peak hours because the trains are jammed then. Our nationwide network, designed before this corporation was created, requires us to spread our limited assets so thinly that we cannot cover all peak demand.

This situation requires that we get back to basics. We are not selling nostaligia. We have a much bigger job to do. Travel by train used to be a way of life. Trains were scheduled frequently so that a salesman could make a business trip each day and return or proceed on to another destination without long delays. Trains served business travel and all travelers knew they could reach destinations on a train without regard to the weather, time of the year, highway congestion, airways crowding and all the rest that befalls today's busy traveler. Trains were available and reliable. It is our responsibility to rebuild that capability and that image.

The National Transportation Policy Study Commission, after a very detailed two-year study, has said there is a crisis in transportation. Highways are jammed; airways and airports are crowded and costs are high. The train offers an excellent alternative to that scenario. In the preface to the NTPSC's monumental report it is stated that this government and the traveling public are going to have to spend no less than $4 trillion on transportation between now and the year 2000. We face a crisis on cost alone if for no other reason and this crisis is compounded by energy realities.

Railroad passenger service in this country has bottomed out. The decline has turned upward. Now it is here to stay. It is on the way back. It is on the way to improvement and before long, we hope to be able to close the gap between what we do today—because we have no other alternatives—and what the public demands. This is absolutely essential. We have got to give the pubic what they are paying for, and we must do that on a coast-to-coast basis. There is no reason at all why the United States of America should not have the finest rail passenger service in the world and we are working hard; we are dedicated toward that objective.

MEXICAN MIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, the following is from a timely, well-informed, and cogent report by Wayne A. Cornelius, professor of political science and director of a program in United States-Mexican Studies at the University of California, San Diego, which discusses the impact of burgeoning Mexican migration on public opinion and policy. The problem of managing the Mexican immigration phenomenon is growing and it is imperative that policy makers have an historical perspective on this process and a greater understanding of its implications for American employment and economic prosperity.

This article, entitled "Building the Cactus Curtain: Mexican Immigration and U.S. Response," speaks to a dangerous, but growing school of thought that views immigration patterns as a source of new and unacceptable burdens on our economy and our people. We must be prepared, if as the author anticipates, our nation is vulnerable to periodic anti-Mexican "nativist" swings of opinion. The most effective weapon to combat this threat is knowledge of the problem, its history and our options for action. I am submitting this excerpt for the RECORD as one excellent source of this arming knowledge:

MEXICAN IMMIGRATION: PUBLIC PERCEPTIONS AND EMPIRICAL REALITIES

Even now, there is abundant evidence that Mexican migrants—legal and illegal—more than pay their own way in our economy and society.[1] The vast majority of them pay income taxes, social security, and other kinds of taxes, while making very few demands on tax-supported social services; and they are among the most highly productive and reliable members of our work force. In many ways they subsidize the living standards of the U.S. middle class, and they do no demonstrable harm to the U.S. poor, whose problems are essentially unrelated to immigration.

Nevertheless, it is clear that the post-1970 wave of Mexican migration to the U.S. has aroused deep-seated anxieties among the general public in this country. A large majority of Americans seems to view the Mexican migrant as an intolerable burden (someone who, upon entering the U.S., heads straight for the welfare lines), as a threat to their personal economic interests, or as a racial/cultural contaminant. Such perceptions on the part of the general public and an array of special interest groups produce an incessant clamor for a more restrictive, punitive policy toward undocumented immigration. How does this public clamor arise?

In historical perspective, this is nothing new for the United States. "Nativist," anti-immigrant sentiment has bubbled just beneath the surface during much of our history, dating back at least to the Know-Nothing Party of the pre-Civil War era. Three times during the past 58 years (in 1920–21, 1930–35, and 1953–54), anti-immigrant hysteria among the U.S. public has culminated in mass round-up and deportation campaigns aimed specifically at Mexican workers. Viewing our anti-Mexican, nativist movements as a cyclical phenomenon—i.e., something that seems to happen at least once in a generation—it could be argued that the U.S. is now overdue for another such spasm.

As the current decade draws to a close, however, there are some new elements in the American mood which make it even more likely that the 1980s will be a decade of rising public agitation about Mexican immigration. The politics of immigration in the U.S. today is also very much the politics of inflation, of resource scarcity, of the high cost of government. We are manifestly in the "era of limits." There is a pervasive sense of constraints on our resources; of constraints on the ability of the U.S. economy to provide jobs for all who seek them; a sense that our capacity to integrate poorly educated, low-skilled, culturally "different" people into meaningful and productive roles in our society has already been exceeded.

There is generalized anxiety and frustration over the country's high rate of inflation—the worst since the immediate post-World War II period, and undoubtedly a less transitory phenomenon. Real, after-tax incomes for most citizens are declining. Pay checks that don't go nearly as far as they once did are blamed increasingly on runaway government spending, which in turn is blamed on "give-away" programs (welfare, foreign aid, etc.) that are of benefit mostly to blacks, Chicanos, Puerto Ricans, illegal immigrants, and foreigners still living in their own countries. In this sense, today's anti-immigrant sentiment forms part of the public backlash against the expansion of the "social welfare economy" in the United States since the 1960s. It is evident that many Americans are looking for someone to beat up on for double-digit inflation, high taxes, and other vexing problems; foreign migrants fit the bill very nicely.

Historically, public concern about immigration has risen and fallen in rather close correspondence to the rate of unemployment in the United States. Today, however, it seems that anti-immigrant sentiment is more closely indexed to the rate of inflation, and the attendant concern with government spending is a principal contributing factor. As long as the rate of job creation in the U.S. remains high (as it has during the latter half of this decade), and as long as "structural unemployment remains concentrated among young blacks and other minorities, the average American who worries about immigration is not likely to be afraid of losing his job to a migrant, but rather of having to pay higher taxes.

Perhaps the single most consistent theme in public opinion surveys, letters to newspapers, and constituent letters to U.S. Congressmen is the notion that undocumented migrants are a burden on the U.S. economy and society. These workers are not seen as contributing anything desirable or necessary to the U.S.; rather, they are viewed as superfluous, free-loading, and potentially disruptive. They are believed to consume lots of costly social services, to demand bilingual education for their children, and to be generally dysfunctional to American society—as well as costly to the individual taxpayer. There is virtually no awareness among the general public that the vast majority of undocumented migrants from Mexico pay federal and state income taxes, Social Security taxes, sales and even property taxes, the total amount of which greatly exceeds the cost of the social services they use. Nevertheless, they are seen as draining the public system, rather than contributing to it.

The employment consequences of Mexican immigration are still of concern to some segments of the U.S. population, particularly inner-city blacks and Chicanos, and to some special-interest groups like organized labor. For example, 55% of the blacks interviewed in January, 1979, in a national New York Times/CBS News survey thought away from American citizens, as compared with 34% of the whites interviewed.[2] There were also some striking regional differences in the answers to this question about job displacement. Forty-five percent of the interviewees living in the Northeast believed that most illegal migrants take jobs away from Americans, but only 28% of the respondents living in the West perceived this kind of job displacement effect. The South and the Mid-West fell between these two extremes, with the Midwestern respondents more closely resembling the Westerners, who saw little job displacement effect.

These regional differences may reflect in part, a kind of "personal unfamiliarity" gradient, or a "relative-dependence-on-Mexican-labor gradient. As one moves across the country from East to West, you encounter more people who have some personal familiarity with Mexicans in their own community, and greater awareness of the extent to which their local economy is dependent on Mexican labor for certain kinds of services. Another factor may be the relative strength of labor unions in different parts of the country. For generations, the American Federation of Labor and subsequently the AFL-CIO has been the most vociferous proponent of a restrictive immigration policy, among the major special-interest groups in the United States; and unions are strongest in the industrialized states of the Northeast.

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[1] The relevant empirical evidence, from more than 500 academic and governmental reports, is summarized in my forthcoming book, *Building the Cactus Curtain: Mexican Immigration and U.S. Responses, from Wilson to Carter* (Berkeley, Calif.: University of California Press, April, 1980).

[2] *New York Times*/CBS News National Survey, January, 1979. The data from this survey cited here and elsewhere in this paper were provided to the author by the Director of Special Projects, *The New York Times*. Some of these data are reported in William K. Stevens, "Million of Mexicans View Illegal Entry to U.S. as Door to Opportunity," *The New York Times*, February 12, 1979, pp 1A and B10.

To some degree, the controversy over illegal immigration from Mexico is another facet of the more generalized conflict among regions of the U.S.: conflict over government resources, employment opportunities, energy, representation in Congress, and a dozen other dimensions of regional competition. In particular, the "illegal alien" issue pits the Northeast against the Southwest, or the Snowbelt against the Sunbelt states. Congressmen from the Northeast can please their constituents by proposing draconian schemes for reducing immigration, the costs of which would fall most heavily upon the constituents of Congressmen from the Southwest. It is probably no coincidence that some of the strongest supporters of restrictionist legislation in recent decades have tended to be legislators from the Northeast.[3] In other words, the "illegal alien" issue seems to play well in Newark or Philadelphia or perhaps even in Peoria, but perhaps not so well in Albuquerque or Houston or San Diego.

It is clear that much of the anti-immigrant hostility about in the land today is racially motivated. It would be reasonable to expect that if the majority of foreigners entering the U.S. today were not brown or black-skinned, there would be considerably less public concern about it. But this goes beyond simple racism. Mexican migrants still suffer from the negative stereotype of Mexicans as a nationality which became embedded in the U.S. consciousness during the 19th Century: the image of the docile, indolent, backward, undisciplined, thieving, spend-thrift, "mañana-minded," altogether inferior specimen who cannot appreciate the Protestant work ethic and who is only interested in a "free ride." We should not forget that, as recently as 1926, it was both socially and politically acceptable—even advantageous—to talk about Mexican immigrants on the floor of the U.S. Congress in terms depicting them as a truly sub-human species of being, capable only of the most animalistic functions and responses. The residue of this negative stereotype is still evident, especially in public perceptions of the Mexican migrant as a "welfare cheat" or a common criminal, who is likely to "breed like a rabbit" upon arrival in the U.S.

Mexican migrants entering the U.S. in the late 1970s have also been stigmatized by their association with the Chicano population and racial/ethnic minorities in general. Most Americans seem to feel that there should be no more "special privileges" for ethnic minorities of any kind, whether immigrant or non-immigrant. Egalitarianism is out; "reverse discrimination" suits are in. It is believed that without extraordinary and unacceptable intervention by government, ethnic minorities "just can't make it anymore" in the United States. This allegedly applies with particular force to Hispanics, who are late-arrivals in the scramble for upward mobility. Thus Mexican immigrants are viewed negatively today in part because they are seen as enlarging what is seen as a "problematic", "dysfunctional" minority group, unwanted and rejected by the dominant society—i.e., the Chicanos.

Such racially-based hostility is also related to the so-called "separatist issue," which seems to underlie much of the public and governmental uneasiness about the volume of Mexican immigration in recent years. The notion of cultural pluralism is under fire—if not in disrepute—in the United States today.[4] Cultural pluralism is seen as leading to political separatism—a "Spanish-speaking Quebec in the Southwest."[5] It is feared that, for some reason, the current generation of Mexican immigrants and those which will follow it will not replicate the assimilation patterns of previous immigrant groups; they will refuse to jump into the American "melting pot" and instead adopt a militantly separatist stance. As federalism in Canada continues to break down, with a Quebec secession attempt increasingly likely, more and more Americans become concerned about the potential for social and political disruptions stemming from Mexican immigration. If Quebec does secede from the Canadian union, the inevitable backlash within the U.S. will increase public hostility toward the Mexican/Chicano population.

Public concern about overpopulation of the United States in general is also closely related to the new American nativism. Most Americans continue to believe that the population explosion in Mexico is completely out of control; that Mexico cannot or will not restrain its own population growth; and that most of Mexico's excess population will spill across the border unless the U.S. contains it by closing the border. Again, there is no public awareness in the U.S. of the sharp drop in the rate of natural population increase in Mexico since the late 1960s (see Cornelius, 1979: 154–156). Moreover, it is usually assumed that virtually all Mexicans who come to the U.S. to work end up settling here permanently, and maintain very high fertility patterns, thereby overburdening U.S. schools, crowding parks and other recreational facilities, using up scarce energy supplies, and so forth. Most members of the general public assume that if the Immigration Service apprehends nearly a million Mexican illegal migrants annually, several million more must have gotten away undetected and taken up permanent residence in the U.S. In the past, Americans have tended to view Mexico as a labor reserve to be dipped into periodically whenever we had manpower shortages. Now, people fear that the U.S. is being "overwhelmed" and "overrun" by this former "reserve army," which now refuses to be drawn upon sporadically and selectively. Most people are totally unaware of the heavy return flow of migrants to Mexico, after short-term employment in the United States. They do not see the migration as a two-way flow: only a one-way flow, from Mexico to the United States. Many would no doubt be shocked to learn that a large majority of Mexicans who come to the U.S. for work do not want to settle permanently here (Cornelius, 1979: 115–117), and most would also be surprised to find that the new generation of Mexican migrants who do end up living in the U.S. on a long-term basis have no more children than the average American couple today (Cornelius, 1979: 215–220).

For other Americans, migration from Mexico is a problem primarily because of its contribution to crime and disregard for the law in the U.S. People living in areas near the southern border often blame Mexican migrants for increased crime rates—especially for theft—in their communities. A number of scholars have looked into this (see Carter, 1978; Martinez, 1979), and I also delved into the matter during my fieldwork in California and Illinois. It turns out that most Americans make no distinction between Mexican migrants and U.S.-born Mexican-Americans living in poverty neighborhoods. In fact, undocumented migrants from Mexico are rarely involved in street crime; it is simply too risky for them to expose themselves to detection by local law officers, who often collaborate closely with the U.S. Immigration Service. Nevertheless, Mexican "illegals" are commonly believed to be responsible for rising crime rates and law enforcement costs in many southwestern cities. Others criticize the migrants for "making a mockery of our legal system," through illegal entry into the U.S. on a massive scale. And while the vast majority of violent crime in the immediate border area consists of robberies and assaults perpetrated by Mexican nationals *upon* Mexican migrants attempting to cross the border clandestinely, the average member of the general public is more likely to believe that borderlands violence consists primarily of acts committed *by* Mexican illegal migrants upon Border Patrolmen and other U.S. citizens.

Many of the people who are angry about Mexican migrants are also angry at their own governmental system. They tend to be persons who have some kind of "beef" with the federal government bureaucracy, which they feel has been unresponsive to their needs or has abused them or cheated them out of some benefit to which they were supposedly entitled. Accordingly, they resent illegal immigrants because the mere presence of these migrants in the U.S. is believed to give them access to valuable benefits to which they (the migrants) have no right, while the average U.S. citizen who *is* entitled to receive such benefits often finds it difficult to obtain them. Thus, in an important though roundabout way, citizens' perceptions that "the system" simply isn't working anymore, at least to their personal benefit, fuel anti-immigrant hostility.

Recent immigration from Mexico has also coincided with a period of rising protectionism and isolationism among the U.S. public and its representatives in Congress. Such sentiments are partly an after-effect of the Vietnam War, partly a response to adverse economic trends (persistently large U.S. balance-of-payments deficits, the decline of the dollar in international money markets, the loss of U.S. jobs in "runaway industries" that relocate their labor-intensive production operations in foreign countries, etc.). The new isolationism and protectionism impacts on the immigration issue in a variety of ways. Recent survey data show that Americans today are far more concerned about protecting American jobs from "foreign competition" of any sort, than about such altruistic goals as combating world hunger, helping to raise the standard of living in less developed countries, or promoting and defending human rights in other countries (see, for example, Rielly, 1979: 78). They strongly believe that first priority must go to dealing with U.S. domestic problems; and doing this means either getting rid of illegal immigrants or at least not worrying about them.

The average citizen sees all the benefits of the migratory movement accruing to Mexico and all the costs being borne by the United States. He believes that Mexico as a country is profiting unfairly from the migration, by being allowed to dump its problems of overpopulation, poverty and unemployment upon the U.S. These problems, they feel, are of Mexico's own making; so the solutions must come from Mexico. Very few Americans have any historical perspective on the Mexican immigration phenomenon. They are unaware of the extent to which the U.S. itself—both the government and the private sector—has affected the development of Mexico in ways that have exacerbated that country's employment problems, while intermittently encouraging the entry of Mexican workers into the U.S. labor market through public and private recruitment efforts. Nor is there much concern about the material hardships that would be inflicted upon millions of Mexico's most impoverished people if they or their breadwinners are denied access to income-earning opportunities in the U.S. The opinion that "we can't even take care of our own poor" seems to absolve any sense of responsibility for the survival of Mexico's poor. In short, there does not appear to be much of a constituency in the U.S. today for international equity, or even for the human rights of foreigners, defined in economic-welfare terms. As one angry New Yorker recently complained in a long letter to the New York Times, "America does not owe Mexico anything."[6]

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[3] This is not to say that Congressional delegations from the Southwest do not contain any "restrictionists." However, Congressmen and Senators from the border states have generally been more cautious about embracing restrictionist "solutions," often in deference to Chicano groups and to private-sector interests which favor continued immigration.

[4] A 1979 national survey by Louis Harris found evidence of an increase in public tolerance for cultural diversity, compared with previous samplings. However, responses to questions on this sensitive issue may partly reflect "social desirability response set"—i.e., a desire on the part of the survey respondent to conform to what he perceives to be socially acceptable norms of thought in the presence of an interviewer unfamiliar to him.

[5] While this viewpoint is not widely shared among academic specialists, it does have its proponents. See especially Corwin (1978: 353–354 *et passim*).

Moreover, many members of the U.S. public believe that, with so much oil and natural gas, Mexico already possesses all the resources it needs to create jobs for its people and stop illegal entry into the U.S.—so why hasn't it done so? This leads many people to conclude that illegal immigration from Mexico is a problem that the U.S. must "solve" by itself, through unilateral, police-type measures: higher and stronger fences along the border, more Border Patrolmen, fines or criminal penalties for U.S. employers who hire illegal migrants. They believe that if enough resources are allocated for effective law enforcement, the U.S. can wall itself off from Mexico's excess population and unemployment problems. Indeed, data from several surveys show that there is broad public support for the "law enforcement" approach (employer sanctions, stepped-up border patrol activities), and one poll even found majority (57 percent) support for a mass round-up and deportation campaign to rid the country of illegal aliens (Gallup Organization, 1976: 18; Cf. Jasso, 1979). While most scholars who have studied the Mexican migration phenomenon through first-hand field investigation regard this approach as doomed to failure (for a variety of reasons relating both to the nature of the immigration phenomenon and the difficulty of enforcement on the U.S. side), the general public still has considerable confidence in it.

CONCLUSION

Public perceptions of Mexican immigration and its consequences—however erroneous—are nonetheless politically significant. They have the effects of reducing the degrees of policy space within which the U.S. and the Mexican governments can maneuver. They especially reduce the prospects for a gradualist, cooperative approach to the illegal immigration issue, and generate pressure for a narrow, punitive response by the U.S. Government.

The historical record in this country gives little cause for optimism that incremental immigration reform will be possible in this kind of public opinion climate. In the U.S. Congress, long periods of inattention to immigration issues have been followed by sudden lurches toward draconian restrictive measures. If the 1980s are likely to be characterized by what has been termed a "malaise economy" in the U.S.—little or no growth, double-digit inflation, chronic and deepening energy shortages—the chances are that this scenario will eventually be repeated, unless a major effort is made to build informed understanding of the Mexican immigration phenomenon in Congress and the general public.

If there is to be some room for a rational and humane approach to the Mexican immigration issue, the U.S. public and its elected representatives must be convinced that this is not a problem that can be "solved" in the short term, without intolerable costs for both the United States and Mexico. The terms of the debate must be shifted from questions like "What can we do to keep the migrants out?" to "What can be done to maximize the benefits and minimize the costs of the migration, to all parties involved?" Only in this way will the U.S. be able to rise above scapegoating, political expedience and racial prejudice to design an immigration policy which will serve its own long-term national interests as well as those of Mexico.

REFERENCES CITED IN TEXT

Carter, Marshall (1978) "The Political Economy of Crime in the U.S.-Mexican Borderlands: A Preliminary Essay and Investigation from El Paso-Cd. Juárez." Revised version of a paper presented at the North American Economics Association Meeting, Washington, D.C. (November).

Cornelius, Wayne A. (1979) "Mexican Migration to the United States: The State of Current Knowledge and Recommendations for Future Research," La Jolla, Calif.: Center for U.S.-Mexican Studies, University of California, San Diego; Working Paper No. 2 (May).

Corwin, Arthur F., ed. (1978) "Immigrants—and Immigrants: Perspectives on Mexican Labor Migration to the United States." Westport, Conn.; Greenwood Press.

Gallup Organization (1976) "The Gallup Study of Attitudes Toward Illegal Aliens." Conducted for the U.S. Immigration and Naturalization Service. Princeton, N.J.: Gallup Organization, Inc. (June).

Jasso, Guillermina (1979) "Attitudes Toward International Migration Among Texans: Advance Report." Office of the Commissioner, U.S. Immigration and Naturalization Service (unpublished draft, 14 February).

Martinez, Oscar J. (1979) "The 'Tortilla Curtain': Results of an Opinion Survey in South El Paso and Comments on the Fence's Implications." Unpublished paper, Institute of Oral History, University of Texas at El Paso (March 7).

Rielly, John E. (1979) "The American Mood: A Foreign Policy of Self-Interest," "Foreign Policy," No. 34 (Spring): 74–86.●

CURBING DRUG TRAFFICKING

(Mr. LaFALCE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. LaFALCE. Mr. Speaker, drug abuse in this country has reached astounding proportions. One of the reasons that drug abuse continues, and that the supply of illegal drugs is so prevalent, is because of a few unintentional loopholes in the Bank Secrecy Act which curtail law enforcement efforts to use financial investigations as a means to fight international drug trafficking. I have introduced an omnibus bill, H.R. 5961 (formerly H.R. 4071, H.R. 4072, and H.R. 4073) which has received strong endorsement and clearance from the administration—to help in the fight against international drug trafficking.

In testimony before the House Banking Subcommittee on General Oversight, Assistant Secretary of the Treasury Richard J. Davis noted that certain changes in the administration of the Bank Secrecy Act were needed and that my bill "would accomplish these changes." Furthermore, he stated that the problems that the Department is currently facing to enforce the act would be "greatly alleviated" if my bill was enacted into law. During the same hearing, Mr. Marion W. Hambrick, Assistant Administrator for Enforcement, Drug Enforcement Administration, remarked that the legislative remedies provided by my bill "would be most welcome by the law enforcement community."

I would like to share with my colleagues the testimony given by the Department of the Treasury and the Drug Enforcement Administration. The testimony follows:

STATEMENT OF HON. RICHARD J. DAVIS, ASSISTANT SECRETARY OF THE TREASURY

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify concerning currency transactions and their relationship to the narcotics traffic and to describe some of the things that the Treasury Department is doing in this area. As the Subcommittee suggested. I plan to review our proposal to amend the Treasury regulations (31 CFR Part 103) requiring the reporting of large currency transactions, to discuss our recent report on the currency transactions in the Federal Reserve System, and to comment on other actions that we believe would improve the effectiveness of the regulations and be helpful in drug enforcement efforts.

THE BANK SECRECY ACT

Since our official interest in currency flows and currency transactions stems from our responsibility for the implementation of the Bank Secrecy Act which was passed as part of Public Law 91–508, I would like to begin this statement with a few remarks about the background of the Act and its purpose. The Congressional hearings which preceded the passage of the Act in 1970 documented the need for this legislation. Representatives of major Federal law enforcement agencies testified concerning the problems they encountered in investigating the financial activities of criminals especially when foreign transactions were involved. Witnesses described how foreign accounts are used in tax evasion, bribery, securities violations, black marketing, and smuggling. One of the more sensational cases cited was a drug violation. It involved heroin smuggled into the United States from Europe disguised as canned food and a circuitous method of payment. The payment, amounting to $950,000, which was intended to be deposited in a European bank account of a Latin American shell company known as the "Me Too Corporation", required several financial transactions. Couriers delivered $800,000 in currency to two foreign exchange firms in New York. From there, the funds were transferred to the European bank account. The other $150,000 in currency was deposited with a large New York bank for the account of a South American brokerage firm. Those funds were later transferred by check to the same European bank.

The purpose of the Bank Secrecy Act was to make such transactions easier to detect and document. The Act contains two types of provisions to help Federal law enforcement officials investigate the financial aspects of crime. First, it calls for recordkeeping requirements for a wide variety of financial institutions. Congress recognized that many criminals use legitimate financial institutions to carry on their activities and included the recordkeeping provisions to ensure the maintenance of records for criminal, tax, and regulatory investigations. Second, it requires reports by financial institutions and others of certain types of financial transactions. The reporting provisions include reports of foreign financial accounts, of the international transportation of monetary instruments, and of "unusual" currency transactions.

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[6] Letter to the Editor from Steve Teitelbaum, appearing in *The New York Times*, 25 February 1979, p. 16E.

The reporting requirements authorized by the Act are interrelated. This is especially true of the requirement that banks report currency transactions and travellers report the international transportation of currency. They complement each other. For example, if banks were not required to report currency transactions, there would be little need for criminals to smuggle money out of the country. Currency simply could be taken into a bank and the funds transferred abroad to a secret bank account without disclosing the identities of the persons directing the transfer or receiving the funds. Conversely, without reports of the import or export of currency, the requirement that banks report large currency transactions would be much less meaningful.

CASH FLOW PATTERNS

The Treasury Department recently released a study of the currency transactions in the Federal Reserve bank offices. This study was undertaken "to gather information which would be useful in assessing the effectiveness of the existing reporting requirements and in identifying areas that appear to merit further study or investigation." It was based mainly on statistics related to the amount of Federal Reserve notes placed into circulation or withdrawn from circulation by each Federal Reserve office. The data covered the period 1970 through 1978 and showed a constantly increasing supply of currency in circulation. In 1978, for example, an additional $10.2 billion was put into circulation. In our review of the available statistics, we detected at least two patterns which we believe merit additional investigation. The first related to the Federal Reserve offices in Florida. In 1970, when the Jacksonville office served the entire state, it received $1.6 billion and paid out $1 billion. Its net receipts were about $600 million. In 1971, the Federal Reserve opened an office in Miami; and in 1978, the two offices in Florida received $6.1 billion in depcsits and paid out $2.9 billion, their net receipts amounted to almost $3.3 billion, which was more than six times the surplus in 1970. The most startling change has occurred since the end of 1974. The net receipts (surplus) has grown during that period from $921 million in 1974 to $3.3 billion in 1978. It has already exceeded $4 billion this year.

While certainly, a variety of factors contribute to this surplus, it is clear that a substantial amount is related to the trafficking of marijuana and other narcotics in Florida. We have determined that a large number of the currency transaction reports filed in Florida appear to be related to drug trafficking. In Fiscal Year 1979, alone, we provided the Drug Enforcement Administration (DEA) with 2,135 reports (IRS Form 4789) reflecting $228 million in transactions. The vast majority of them pertain to transactions in Florida. In addition, either information stemming from a variety of sources, including the Customs Service, DEA, and Congressional hearings also indicates that there has been a tremendous influx of drug related money in Florida.

A second pattern warranting more attention involves the increase of $100 bills in circulation. During the 1970 to 1978, period, $100 bills have acccunted for an increasingly large part of the annual increase in the nation's supply of currency. In 1978, $5.4 billion, more than 50 percent of the additional currency in circulation, was in $100s. This represents a 410 percent increase over the $1 billion added to circulation in 1970. Our analysis shows that the New York Federal Reserve office has accounted for a large part of the additional $100s that are being put into circulation. This has been particularly noticeable since 1974. In 1978, for example, when the increase in $100s was about $5.5 billion, New York was responsible for almost half of it, $2.6 billion. These figures are especially significant because some analysts believe that the increase in $100s may be related to the growth of the subterranean economy.

The report on the currency flows, which has been made available to the Subcommittee, points out other patterns and figures that may be of interest to you. For example, the Federal Reserve bank offices in San Antonio and El Paso also reported sizeable surpluses of receipts while Chicago and Detroit reported relatively large net pay outs of currency.

One reason that the patterns of currency transactions in Florida and New York are of particular interest to us is that the analysis of the currency transaction reports required to be filed with the Treasury Department under the provisions of the Bank Secrecy Act do not appear, in themselves, to account for the large amounts of currency flowing in and out of those offices.

The Department has already taken steps to gather additional information about the New York and Florida activities. Aside from working with the Federal Reserve officials to obtain more detailed information concerning the transactions in those areas, we will also conduct appropriate follow-up investigations.

REGULATORY PROPOSALS

An analysis of the results of the cash flow study also contributed to our decision to propose modifications to existing regulations under the Bank Secrecy Act. The current Treasury regulations require financial institutions to report currency transactions in excess of $10,000 unless the transaction is with other financial institutions. They may, however, exempt the transactions of established depositors if the transactions do not exceed amounts which the bank may reasonably conclude are commensurate with the customary conduct of the customer's business. Obviously, this provision was intended to eliminate the reporting of legitimate business transactions that would be of little or no interest to law enforcement officials. Banks were given this authority because it was thought that due to their knowledge of their customers' financial activities, they would be able to identify such transactions without difficulty. The regulations provide, however, that the Treasury Department can request a bank to supply us with a list of the depositors it has exempted from the reporting requirement.

We have already asked approximately 600 banks in Florida to provide us with such a list. In addition, requests for lists have also been sent to banks in New York, California, and Illinois. Our review of the lists of exempted customers that we have received from those banks confirm our previous view that there has been a great lack of understanding of the purpose of the exemption provision and of how it should be used. Bank officials have exempted foreign nationals and other individuals from the reporting requirements solely on the basis that they have customarily brought in large amounts of currency. The bankers frequently had no knowledge of how that currency was accumulated. This situation made it apparent that the governing regulations need to be amended.

The proposed amendments to the currency reporting requirements, which were published in September, would:

(1) Require that the report be filed within 15 days after the day on which a transaction occurred instead of 45 days under the currency regulations—financial institutions are expected to have little difficulty in meeting this deadline, and the increased promptness should substantially increase the value of the information to law enforcement agencies.

(2) Require financial institutions to retain a copy of each Currency Transaction Report for a period of five years—while it is our understanding that many banks routinely retain copies of the reports, the requirement would ensure that copies would be available for the use of the bank supervisory agencies that have the responsibility for examining financial institutions for compliance with the reporting requirement.

(3) Refine the requirements for the identification of a customer for whose account currency transaction is to be effected, and of his agent in such transactions, to specify the documents that will be acceptable for identification of aliens and citizens and require that the method of identification used be included in the report.

(4) Require banks to report transactions with, or originated by, financial institutions or foreign banks—such transactions are currently exempt from the reporting requirement. The revision would limit this exemption to transactions with other domestic banks. Banks would be required to report large currency transactions with securities dealers, foreign banks, and miscellaneous financial institutions, such as exchange dealers, persons in the business of transferring funds for others, and money order issuers. The additional information concerning the currency transactions with foreign banks and non-bank financial institutions will substantially improve the Treasury Department's ability to obtain overall compliance with the regulations and alert the Department to unusual transnational movements of currency.

Since Treasury presently does not receive reports of currency transactions between domestic and foreign banks, it is not possible to develop information concerning normal international flows or to identify unusual movements of currency involving particular institutions or classes of institutions which might provide insights into possible criminal activities. The proposed requirement would correct this deficiency.

The proposed requirement that banks report transactions with securities brokers/dealers and other miscellaneous financial institutions would provide an effective and badly needed check on the compliance of such institutions with the regulations. Such institutions are much more difficult to recognize and catalogue than are banks. Therefore, it is not surprising that there are indications that many of them have not been identified or inspected for compliance. By requiring banks to report large currency transactions with such firms, the opportunity to identify those that are dealing in significant amounts of currency will be greatly increased. Once identified, they can be scheduled for compliance checks.

(5) Formalize the procedure for exempting other transactions from the reporting requirements—banks are exempted from the reporting of currency transactions with an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry or profession of the customer concerned. This requires the bank to exercise its professional judgment in determining whether or not a currency transaction report should be filed. The proposed revision would require a record of the exemption to be made at the time it is granted and would limit the exemption to an established customer who operates a re-

tail type of establishment within the United States. If the customer is located in a contiguous or neighboring country, or if the business is not a retail establishment, a currency transaction report would be required.

The exemption would be limited to businesses, that would normally generate large amounts of currency, such as a finance company, a race track, a department store, a theater, a supermarket, sports arena, etc.

(6) Provide additional assurance that this exemption is judiciously employed by the bank—a report listing the customers whose currency transactions are not reported because of the exemption is now required to be made to the Secretary of the Treasury or his delegate upon demand. The revision would: (1) specify that such report shall include the name, street address, nature of the business, taxpayer identification number, and deposit account number of the customer whose transactions have been exempted under this provision; (2) elaborate on the Secretary's authority to require the filing of the Form 4789 reports for any customer listed and (3) require the report to be submitted within 15 days following receipt of the demand for the report. These proposed amendments would provide the information Treasury needs in order to review the exemptions to ensure that they are appropriate.

We believe that the proposed changes, possibly with some modifications that have been suggested by the public, will greatly improve the usefulness of the currency transaction reporting requirement.

We recognize that in addition to drafting sound reporting regulations it is essential to have an effective means of assuring compliance with them, and we believe that we have made significant progress in this area. Early this year, after consulting with the Federal Reserve System, the Federal Deposit Insurance Corporation, we recommended a uniform examination procedure which would result in a more rigorous review of the banking industry's compliance with the reporting requirements. Our recommendation currently is being reviewed by the Federal Financial Institutions Examination Council, and we hope that it will be adopted in the near future. We have also conducted a review of the training given to bank examiners, which we expect will bring about a substantial improvement in bank examiners' knowledge of the regulations.

STATUTORY AMENDMENTS

Certain needed improvements in our administration of the Bank Secrecy Act require statutory changes. Three bills, already introduced—H.R. 4071, 4072, and 4073, would accomplish these changes H.R. 4071 would add a new section to the Act to permit the payment to an informant of a 25 percent share of any recovery realized by the United States, when the actual recovery by the Government exceeds $50,000. The informant's share would in any event be limited to a maximum of $250,000. H.R. 4072 would amend Section 231(a) of the Act by making it illegal to attempt to transport currency into or out of the United States without filing the required report. H R. 4073 would amend Section 235 of the Act to authorize a Customs officer to search for currency at the border when he has a reasonable cause to suspect (the same search standard that Customs officers presently have to enforce the Customs laws) that an amount in excess of $5,000 is being transported into or out of the United States.

Although we have good reason to believe that, at a minimum, hundreds of millions of dollars were carried or shipped out of the United States during Fiscal Year 1979 to purchase illegal drugs, our records indicate that only $46 million has been reported to us as the amount of currency that left the United States in that same period. While one can never expect that all who are transporting currency will file reports, it is obvious that we are not receiving all the reports that should be filed. These amendments are needed to deal with this problem.

The best way to illustrate the problems we encounter in enforcing this aspect of the Act is to compare the situation we face when an individual enters the United States to the situation when he leaves.

Imagine an individual arriving by plane from abroad with $10,000 in cash in his luggage. As he approaches the U.S. Customs inspector for routine inspection and clearance, he is notified of his legal obligation to file the Customs Form 4790 (Report of the International Transportation of Currency and Other Monetary Instruments) because a specific question concerning this obligation appears on the baggage declaration form given to him on the airplane. In addition, signs notifying travellers of this requirement are posted at ports of entry and verbal notice of the requirement may also be given by Customs personnel. Should he attempt to avoid filing this form, it is conceivable that the currency would be discovered by the Customs inspector in the course of the routine inspection. If the individual declines to file the report after being specifically advised of his obligation to do so, and the currency is discovered, there is no question that a violation of the Act has occurred. The individual has clearly transported the currency into the United States without filing a report, and the Customs inspector clearly had the authority to search his baggage. This violation can easily be expanded through investigation by Customs agents to determine whether the funds were transported in furtherance of a violation of another Federal law. This is the easy case.

Imagine, however, a private airstrip in Florida, where a small private jet has taxied out on the runway as an impeccably dressed man, carrying an attache case, walks out to meet the plane. A Customs officer, on the scene only because he had just received an anonymous phone call that someone was leaving for South America from that airport with $250,000 in cash, stops the well-dressed man and asks where he is going. After the man indicates that he is going to Colombia, the Customs officer asks if he is carrying more than $5,000 in currency or monetary instruments, and if so, states that a report must be filed. The man responds in the negative, at which time the Customs officer opens the attache case and discovers that it is filled with $50 bills. This individual could very well escape prosecution.

In this situation, the individual had not yet departed from the United States when the Customs officer stopped him. Although there is little doubt that within the next five minutes he would have been airborne, on a southerly course, transporting the $250,000 without having filed the required report, and beyond the reach of Federal law enforcement authorities, some courts have held that it is not a violation of the Act *to attempt* to transport currency out of the United States without filing the report and/or the actual violation does not occur until the individual has left the United States and is therefore beyond our jurisdiction.

This incident also dramatizes the limitation on the scope of the Customs authority to verify the individual's negative response by opening the attache case. In this instance, the facts leading to the search very likely do not constitute probable cause, the search standard in the Act. Thus, even if there is a violation of the Act, the evidence may be suppressed. It is evident that under existing statutes the Customs inspector has much greater authority to examine an incoming individual's luggage, which gives him a good opportunity to discover a violation of the reporting requirement. Customs is, however, virtually powerless to enforce the Act with respect to departing travellers.

Another problem is providing coverage at the place of departure. Customs personnel are not generally stationed at smaller airports or even major departure ports, as they are at points of entry. There is no routine screening of individuals as they leave the United States. Therefore, to a very large degree we must rely on prior information to alert us to future departures. In this case, the officer had received a phone call which proved to be reliable. However, with our present resources, we must be selective and thus may not always be able to respond to every anonymous tip. We must develop sources of information concerning the financial operations of organized narcotics traffickers. To encourage people who have this sensitive information to contact the law enforcement community, it is, unfortunately, necessary to offer something valuable in return. Without this, the potential informant will have little motivation to come forward, particularly considering the dangers involved for those who do. The reward provisions in H.R. 4071 would be valuable in meeting this need.

In sum, we believe that the problems we are currently facing in enforcing the Act with respect to departing travellers would be greatly alleviated if H.R. 4071, 4072 and 4073 were enacted.

CASE EXAMPLES

I would also like to take this opportunity to tell you about some of the successes we have recently achieved in the implementation of the Act. Beginning in 1977, the Treasury Department began to collect and correlate the reports required under the Act in a systematized way. Initially, the Customs Service entered the data from the Forms 4790 into the Treasury Enforcement Communications System (TECS). In 1978, Customs was formally delegated the responsibility to consolidate the data from all three reports into one center—the Reports Analysis Unit. During 1978 and 1979, the program design was completed and the system was built; and by September, the mammoth task of computerizing all three forms was completed.

Treasury has established three methods to be used by the Reports Analysis Unit in disseminating the financial reports to interested Federal law enforcement and regulatory agencies. First, the data is analyzed together with other computerized indices such as TECS and NADDIS to discern what particular pieces of information would be of value to the Federal law enforcement community for use in their investigations of narcotics trafficking, tax evasion, corruption, and organized crime. Second, the Unit prepares responses to specific requests from these agencies. Finally, the Unit cooperates with these agencies to develop criteria to be used in selecting reports for referral to them.

We have also formally alerted all interested Federal agencies of the Reports Analysis Unit's capabilities and its potential for assisting them with their enforcement or regulatory functions. As a result, the Narcotics Section of the Department of Justice has begun holding seminars for U.S. Attorneys to educate them not only about the Act and how it may be utilized in narcotics investigations, but also to advise them of the services and information which the Reports Analysis Unit can provide. In Fiscal Year 1979, 64 specific requests involving 2,650 names were processed. These requests have come from DEA, FBI, Justice, SEC, Secret Service, and the Office of Foreign Assets Control.

As one example of how the Bank Secrecy Act and the information it generates can be extremely useful to a successful and broad-ranging Federal investigation and prosecution, I would like to briefly discuss a recent case involving a large Mexican heroin smuggling organization.

The case was initiated by a Customs Investigations field office in Southern California following the receipt and analysis of a number of IRS Forms 4789 in 1977 which reflected frequent cash deposits between $200,000 and $800,000 each in a local bank. The investigation quickly revealed that a bank account in a fictitious name was being used to conceal the true depositors. The account served as a conduit to funnel proceeds from the sale of narcotics to secret bank accounts in Mexico. The key figures were ultimately identified as Mexican nationals residing in the United States and Mexico. It is believed that the organization, headed by Jaime Araujo-Avila, was responsible for the importation and distribution of approximately 300 pounds of heroin per month with monthly proceeds of approximately $1 million.

The organization used two methods to transmit their narcotics proceeds, each involving the conversion of the currency to monetary instruments and the use of one domestic and two foreign banks. By the first method, a bank account was opened in a fictitious name at a domestic bank close to the Mexican border. A courier then retrieved the currency from the storage location and made deposits into the domestic account. On the date of the deposit, prior to the next retrieval, the courier entered the United States from Mexico with personal checks drawn against the domestic account. These checks were normally in excess of $100,000 and, in a further effort to conceal identities of members, the checks were made payable to "Cash" or "Bearer". The courier presented these checks to the domestic bank and used them to purchase cashier's checks which were then transported back to Mexico and deposited into accounts maintained under the control of the violators. By way of illustration, 39 currency deposits were made to the U.S. bank account during a 19-month period totaling approximately $15.5 million.

By the second method, the group would transport the funds by vehicle from Los Angeles across the international border and into the Mexican bank accounts controlled by the violator. An additional $16 million was deposited directly to the Mexican bank accounts during a 3-year period. Thus, over this 3-year period, transactions involving a total of $31.5 million occurred.

Based on this 2-year investigation, a Federal Grand Jury indicted 21 members of the criminal enterprise. Of these violators, 16, including the 5 key ranking members, were charged with felony currency conspiracy (31 U.S.C. 1059 and 18 U.S.C. 371). Other charges included narcotics trafficking (21 U.S.C. 846), RICO (18 U.S.C. 1962) and tax evasion (26 U.S.C. 7201).

Just last week, the organization's leader Jaime Araujo-Avila, was sentenced to 35 years' imprisonment for currency and income tax violations as well as a concurrent 15-year sentence for narcotic violations, and assessed $1.2 million in fines. Six other individuals have been sentenced already, and two other are scheduled for sentencing next week. Forfeiture actions against various properties and businesses purchased with the proceeds are pending.

This investigation and prosecution is an exemplary illustration of the results that can be achieved from the proper utilization of the Bank Secrecy Act and a combined Federal law enforcement effort.

Statement of Mr. Marion W. Hambrick, Assistant Administrator for Enforcement, Drug Enforcement Administration

Good morning, Mr. Chairman, Members of the Subcommittee on General Oversight and Renegotiation. It is a pleasure to appear here on behalf of the Drug Enforcement Administration (DEA) to give you our perspective of the Treasury Department's report, "Currency Flows in the United States in 1978", and the Treasury Department's proposed regulations regarding currency transactions.

At first glance one may wonder what possible interest DEA would have in the promulgation of new regulations by the Treasury Department. I can assure you that our interest is very simple and basic. A substantial portion of the large volumes of currency referred to in the Treasury report are, in some fashion, probably tied to the distribution of illicit drugs. Thus, we have a real concern about any activity that will have an impact on drug trafficking.

Before specifically commenting on the Treasury Department's findings and recommendations, I think it important to establish the fiscal scope of the narcotics problem. Incidentally, all of this data has been prepared by the National Narcotics Intelligence Consumers Committee (NNICC—an interagency group chaired by DEA), and thus represents estimates sanctioned by the entire U.S. Government narcotics intelligence community.

What we are talking about is $45 billion a year (retail) for drugs imported into the United States in 1977. These untaxed proceeds are derived from the sale of heroin, cocaine, marihuana and other dangerous drugs. I do not mean to minimize the significance of heroin or dangerous drugs, but by looking more closely at cocaine and marihuana, I can best illustrate for you the magnitude of the problem. According to the most recent (1977) NNICC data available, there are 19–23 metric tons of cocaine and 10–15,000 metric tons of marihuana available for distribution in the United States.

Unfortunately, there is ample supply to meet demand, so the retail price is not rising. The cocaine trade has a retail value of between $12 and $14.7 billion; the bulk of this amount is illicit income retained by U.S. distributors. In total, marihuana traffic in the U.S. has a retail value of between $13.5 and $20.5 billion, of which between $8.9 and $13.6 billion represents the value of Colombian trade. Of that amount, only between $480 and $730 million was paid out to Colombian traffickers—the remainder entered the U.S. economy.

As you can see, profits are realized throughout the drug distribution chain—from the drug source nation to the streets in the United States. And at each stage, the profit margin increases. However, unlike business enterprises which have books and ledgers, the drug business is primarily cash—which does not leave the normal paper trail for our agents and analysts to work from.

The volume of cash is such that we have seen instances where, for expediency's sake, traffickers weigh their cash rather than count it. Often, the traffickers do not even pretend to be discreet, carrying their money in stuffed, over-flowing brown grocery bags.

For many reasons, Florida has the dubious distinction of being the primary focal point for cocaine and marihuana transactions in the United States. The number one business in the State is drugs. And the money keeps coming in—quite literally by the boatload, by wire transfers, and by other "laundering" schemes. According to a recent DEA estimate, over $7 billion in drug-related transactions takes place in Florida annually.

This is consistent with the Treasury Department's findings that unusually large volumes of currency from other states, and perhaps other countries, are flowing into Florida. It is not surprising to learn that this surplus of currency in Florida was more than $3.2 billion in 1978 and is expected to increase this year, perhaps to as much as $4.5 billion.

The Treasury report also notes that during the 1970–78 period, $100 notes accounted for an unusually large part of the annual additions of the supply of currency. This trend was noted most dramatically in New York, a major cocaine center. Similarly, in Florida $100 bills were significant in the currency flow there and, interestingly, over one-half of the currency surplus in Florida was in $20 bills. This substantiates a trend we have seen wherein traffickers use $20 bills and smaller denominations in conducting their business.

In his State of the Union address this year, President Carter reaffirmed our nation's commitment to prosecute the upper-echelon drug trafficker, particularly based on financial investigations. Our goal is to immobilize drug trafficking organizations by seizing assets derived from, traceable to, or intended to be used for illicit narcotics trafficking, and to develop evidence leading to conviction and, hopefully, long-term incarceration of major violators.

The Drug Enforcement Administration has been and intends to continue emphasizing the money-flow aspect of drug investigations. DEA is working with new statutory jurisdictons, civil forfeiture, and old criminal statutory jurisdiction that was not used to its potential: the Racketeering Influenced and Corrupt Organization (RICO) Statute and the Continuing Criminal Enterprise Statute. Another major weapon is the criminal fraud statute of the Internal Revenue Code. We are now using these provisions to a greater extent than anytime in the past.

As I mentioned a moment ago, drug traffickers do not leave a readily accessible financial trail. We are increasingly becoming more proficient in conducting financial investigations. In an investigation that is known as Operation BANCO, the DEA and FBI began a joint investigation reviewing large currency deposts in Miami banks in order to identify and correlate illicitly gained monies and sophisticated financial manipulations with drug smuggling activity. DEA and FBI Special Agents, DEA Intelligence Analysts, Department of Justice Attorneys, and computer specialists all worked closely together. The U.S. Customs Miami Currency Flow Unit also participated in this endeavor.

This multi-agency conspiracy, money-flow investigation led the U.S. Government to seek forfeiture of three houses valued at approximately $1 million, several luxury yachts, a used car auction and three aircraft. Fourteen significant violators were indicted and charged on 40 counts—violations included bringing over 500 tons of Colombian marihuana into the United States.

The stimulus and subsequent foundation for this Operation was:

1. Treasury Forms 4789 and to some extent Form 4790;

2. Grand Jury investigations; and

3. DEA–FBI investigative backgrounds—narcotics and financial.

Based on criteria established jointly by DEA and the Treasury Department, DEA automatically receives select Forms 4789 and 4790's on a regular basis from the U.S. Customs Service and Internal Revenue Service. These forms are transmitted to DEA's Headquarters Financial Investigation Section for further dissemination to our field offices as warranted. Additionally, when needed in the course of our investigation, DEA can make specific requests for Forms 4789 and 4790.

Operation BANCO's financial analysis was able to correlate bank and Treasury forms data with narcotic case file information, current surveillance, and intelligence reports to illustrate the mechanics by which U.S. currency is moved without detection to and from the Colombian drug supplier.

Because of ongoing investigations and judicial proceedings, I won't go into detail regarding the findings of the Operation BANCO Task Force with respect to bank institutions personnel and practices and the use of Form 4789. In short, the Treasury Department's recommendations to tighten regulations governing currency transactions, as outlined in the Federal Register, address the problem areas and loopholes encountered by our investigative personnel.

A loophole in the present law also diminishes the impact of the requirement to file Form 4790 when moving in excess of $5,000 in currency or monetary instruments out of the United States. The Bank Secrecy Act neglected to include "attempt to leave the country" without having filed the report as part of the offense. Thus, present law makes it illegal to leave the country with more than $5,000 without having filed a Form 4790, but the courts have held that a person cannot be arrested until actually out of the country—and thus out of U.S. jurisdiction. Furthermore, U.S. Customs' warrantless search authority is limited in these instances. Legislative remedies to address this problem, such as H.R. 4072, H.R. 4073, and H.R. 4071 as amended, would be most welcomed by the law enforcement community.

In summary, although the regulations proposed by the Treasury Department would in no way alter our enforcement responsibilities, DEA would benefit considerably from the increased intelligence regarding money flow that would be available to us. I would be pleased to further discuss the implications of the recommendations or to answer any questions that you may have. Thank you for this opportunity to present DEA's views on this significant problem.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Frost (at the request of Mr. Wright), after 2 p.m. on December 4 and for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Carney) to revise and extend their remarks and include extraneous material:)

Mr. Hansen, for 60 minutes, today.
Mr. Tauke, for 10 minutes, today.
Mr. Ritter, for 5 minutes, today.
Mr. Erlenborn, for 30 minutes, December 6, 1979.

(The following Members (at the request of Mr. Lowry) to revise and extend their remarks and include extraneous material:)

Mr. Coelho, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. LaFalce, for 30 minutes, today.
Mr. Wirth, for 5 minutes, today.
Mr. Vanik, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LaFalce, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,544.

Mr. Snyder, and to include extraneous material, on the bill H.R. 3948 in the Committee of the Whole today.

(The following Members (at the request of Mr. Carney), and to include extraneous matter:)

Mr. Evans of Delaware.
Mr. Moorhead of California.
Mr. Daniel B. Crane.
Mr. Young of Florida in five instances.
Mr. Archer.
Mr. Pursell.
Mr. Paul in two instances.
Mr. Ritter.
Mr. Ashbrook in three instances.
Mr. Derwinski.
Mr. Fish.
Mr. Duncan of Tennessee in two instances.
Mr. Collins of Texas in three instances.
Mr. Coleman.
Mr. Bereuter.

(The following Members (at the request of Mr. Lowry), and to include extraneous matter:)

Mr. Zablocki.
Mr. Giaimo.
Mr. Guarini in five instances.
Mr. Dodd in two instances.
Mr. Mazzoli.
Mr. Bonker in two instances.
Mr. Walgren in two instances.
Mr. Hamilton.
Mr. Skelton.
Mr. Simon in two instances.
Mr. Peyser in three instances.
Mr. Jenrette.
Mr. Hubbard.
Mr. Fisher.
Mr. Solarz in two instances.
Mr. Chappell.
Mr. Maguire in two instances.
Mr. Pickle in 10 instances.
Mr. Edwards of California.
Mr. Vanik.
Mr. Edgar in two instances.
Mr. AuCoin.
Mr. Bevill.
Mr. Moakley.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 68. An act for the relief of Dr. Jesus Tan, his wife, Margaret Pearl Liyao Tan, and their son, Jesse William Liyao Tan; to the Committee on the Judiciary; and

S. 1918. An act to amend title 10, United States Code, to revise and make uniform the provisions of law relating to appointment, promotion, separation, and retirement of Regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the grade of commodore admiral in the Navy, to equalize the treatment of male and female commissioned officers, and for other purposes; to the Committee on Armed Services.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on December 4, 1979, present to the President, for his approval, bills of the House of the following titles:

H.R. 3407. To waive the time limitation on the award of certain military decorations to members of the intelligence and reconnaissance platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; and

H.R. 5871. To authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes.

ADJOURNMENT

Mr. JENRETTE. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Thursday, December 6, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2959. A letter from the Chairman, Board for International Broadcasting, transmitting a report on relocation alternatives for Radio Free Europe/Radio Liberty, pursuant to section 10 of the Board for International Broadcasting Act of 1973, as amended (93 Stat. 402); to the Committee on Foreign Affairs.

2960. A letter from the Deputy Secretary of Defense, transmitting the semiannual report on the activities of the audit, inspection, and investigative units of the Defense Department for the period ended September 30, 1979, pursuant to section 8(a)(1) of Public Law 95–452; to the Committee on Government Operations.

2961. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of proposed changes in eight existing records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2962. A letter from the Administrator of Veterans' Affairs, transmitting the semiannual report of the Veterans' Administration's Inspector General for the period ended September 30, 1979, pursuant to section 5(b) of Public Law 95–452; to the Committee on Government Operations.

2963. A letter from the Secretary of Health, Education, and Welfare, transmitting the third annual report of the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases on activities conducted under the arthritis plan, pursuant to section 434(f) of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

2964. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of delays in the preparation of the annual reports for fiscal years 1978 and 1979 on the extent to which Federal programs and departments are concerned with and are dealing effectively with alcohol abuse and alcoholism, required by section 102(5) of Public Law 91–616, as amended; to the Committee on Interstate and Foreign Commerce.

2965. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

2966. A letter from the Director, Office of Personnel Management, transmitting a report on the investigation of an allegation of abuse of authority or violation of law, rule, or regulation on the part of a retired employee of the Office of Personnel Management, pursuant to 5 U.S.C. 1206(b)(3); to the Committee on Post Office and Civil Service.

2967. A letter from the Director, Office of Personnel Management, transmitting notice of a proposed demonstration project entitled "An Integrated Approach to Pay, Performance Appraisal, and Position Classification for More Effective Operation of Government Organizations," pursuant to 5 U.S.C. 4703 (b)(4); to the Committee on Post Office and Civil Service.

2968. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the Commandant. Defense Intelligence School, to award the degree of master of Science of strategic intelligence; jointly, to the Committee on Armed Services and the Permanent Select Committee on Intelligence.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. Supplemental report on H.R. 3990 (Rept. No. 96–588, pt. 2). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. Report submitted pursuant to section 302(b) of the Congressional Budget Act (Rept. No. 96–687). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 5523. A bill to establish an improved program for Extra Long Staple cotton; with amendment (Rept. No. 96–688). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5973. A bill to amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes (Rept. No. 96–689). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRINKLEY:

H.R. 6032. A bill to amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income; to the Committee on Ways and Means.

By Mr. BROYHILL (for himself and Mr. Hall of Texas):

H.R. 6033. A bill to amend the Federal Trade Commission Act to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under such act and under the Federal antitrust laws; jointly, to the Committees on Interstate and Foreign Commerce and the Judiciary.

By Mr. EDWARDS of California (for himself and Mr. McKinney):

H.R. 6034. A bill to protect the rights of individuals guaranteed by the Constitution of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of polygraph equipment for certain purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. FISH:

H.R. 6035. A bill to amend title 38, United States Code, to provide for judicial review of administrative decisions by the Administrator of the Veterans' Administration; to make the due process requirements of the Administrative Procedure Act applicable to the rules, regulations, and orders of the Veterans' Administration; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HANLEY:

H.R. 6036. A bill to provide medicare benefits with respect to services furnished to medicare beneficiaries who require enterally or parenterally administered chemically defined elemental formula diets; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. LaFALCE:

H.R. 6037. A bill to amend title II of the Social Security Act to provide that a beneficiary who dies shall (if otherwise qualified) be entitled to a prorated benefit for the month of his death; to the Committee on Ways and Means.

By Mr. LEDERER:

H.R. 6038. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for qualified fire detector expenses; to the Committee on Ways and Means.

H.R. 6039. A bill to provide that annuity contracts purchased by the Uniformed Services University of the Health Sciences shall be entitled to the benefits of section 403(b) of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. MOORHEAD of California (for himself, Mr. McClory, Mr. Kindness, Mr. Kemp, and Mr. Lent):

H.R. 6040. A bill to amend the Administrative Procedure Act to require Federal agencies to analyze the benefits, costs, and other adverse effects of proposed rules, to provide for judicial review of any such analysis, to increase public participation in agency policy determinations and interpretations, and for other purposes; to the Committee on the Judiciary.

By Mr. PRITCHARD (for himself and Mr. Dicks):

H.R. 6041. A bill to amend the Revenue Act of 1978 to continue the existing tax treatment of deferred compensation plans of tax-exempt organizations; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 6042. A bill to authorize the Secretary of the Interior and the Secretary of the Army to plan, design, construct, rehabilitate, operate, and maintain hydroelectric power facilities not specifically authorized by the Congress at existing projects under the jurisdiction of their respective departments; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Mr. ADDABBO:

H.J. Res. 455. Joint resolution to authorize and request the President to issue a proclamation designating May 4, 1980, as "National Songwriters' Day"; to the Committee on Post Office and Civil Service.

By Mr. BRINKLEY:

H.J. Res. 456. Joint resolution to designate the week following Christmas each year as "Blood Donor Week"; to the Committee on Post Office and Civil Service.

By Mr. GUARINI:

H.J. Res. 457. Joint resolution designating January 6, 1980, as "Haym Salomon Remembrance Day"; to the Committee on Post Office and Civil Service.

By Mr. RINALDO (for himself, Mr. Duncan of Tennessee, Mr. Carney, Mr. Evans of Delaware, Mr. Horton, Mr. Skelton, Mr. Flood, and Mr. Florio):

H.J. Res. 458. Joint resolution to authorize and request the President to issue a proclamation designating December 7, 1979, "National Unity Day"; to the Committee on Post Office and Civil Service.

By Mr. SOLARZ (for himself and Mr. Peyser):

H. Con. Res. 219. Concurrent resolution calling for an international conference on Cambodia; to the Committee on Foreign Affairs.

By Mr. LEACH of Iowa (for himself, Mr. Pritchard, Mr. Derwinski, Mr. Dodd, Mr. Beilenson, Mr. Stark, Mr. Whitehurst, Mr. Bedell, Mr. McDonald, Mr. Barnes, Mr. Bonior of Michigan, Mr. McCloskey, Mr. Scheuer, Mr. Hughes, Mr. Dougherty, Mr. Lagomarsino, Mr. AuCoin, Mr. Gilman, Mr. Neal, Mr. Whittaker, Mr. Edwards of Oklahoma, Mr. Pease, Mrs. Fenwick, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Green, Mr. Dicks, Mr. Panetta, Mr. Tauke, Mr. Kramer, Mr. Thompson, Mr. Daschle, Mr. Frenzel, Mr. Albosta, Mr. Fazio, Mr. Bingham, Mr. Solarz, Mr. Pepper, Mr. Ottinger, Mr. Carney, and Mr. Lowry):

H. Res. 501. Resolution condemning the use of chemical agents in Indochina; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 6043. A bill for the relief of Sgt. Garland Conner; to the Committee on the Judiciary.

By Mr. DOWNEY:

H.R. 6044. A bill for the relief of Woo Jung He; to the Committee on the Judiciary.

By Mr. PRITCHARD:

H.R. 6045. A bill for the relief of Jiri Batlik; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 262: Mr. Chappell, Mr. Cleveland, Mr. Duncan of Tennessee, Mr. Forsythe, Mr. Hollenbeck, Mr. Horton, Mr. Kramer, Mr. Moffett, Mr. Oberstar, Mr. Ottinger, Mr. Roe, Mr. Scheuer, and Mr. Weiss.

H.R. 598: Mr. Lott.

H.R. 996: Mr. Hutto.

H.R. 2812: Mr. Anderson of Illinois.

H.R. 3408: Mr. Lott.

H.R. 3480: Mr. Shumway.

H.R. 3635: Mr. Cavanaugh, Mr. D'Amours, Mr. Emery, Mr. Fuqua, Mr. Garcia, Mr. Harris, Mr. Jacobs, Mr. Jeffords, Mr. LaFalce, Mr. Nowak, Mr. Seiberling, Mr. Simon, Mr. Udall, Mr. Volkmer, Mr. Young of Alaska, Mr. Stockman, Mr. Leach of Louisiana, Mr. Synar, Mr. Bailey, Mr. Loeffler, Mr. Van Deerlin, Mr. Wirth, Mr. Moffett, Mr. Maguire, Mr. Luken, Mr. Walgren, Ms. Mikulski, Mr. Carter, Mr. Marks, Mr. Corcoran, Mr. Philip Burton, Mr. John L. Burton, Mr. Bingham, Mr. AuCoin, Mr. Stenholm, Mrs. Collins of Illinois, Mr. Hyde, Mr. Eckhardt, Mr. Leath of Texas, Mr. Sharp, Mr. Santini, Mr. Staggers, Mr. Duncan of Oregon, Mr. Kostmayer, Mrs. Snowe, Mr. Thompson, Mr. Dellums, Mr. Florio, Mr. Peyser, Mrs. Schroeder, and Mr. Gore.

H.R. 3991: Mr. Gilman.

H.R. 4435: Mr. Fish.

H.R. 4679: Mr. Mitchell of New York, Mr. Heftel, Mr. Beilenson, Mr. Pashayan, Mr. Beard of Rhode Island, Mr. Vento, Mr. Blanchard, Mr. Young of Alaska, Mr. Lehman, Mr. Benjamin, Mr. Barnes, Mr. Charles

Wilson of Texas, Mr. Burgener, and Mr. Roe.

H.R. 4843: Mr. Oberstar and Mrs. Spellman.

H.R. 5033: Mr. Gray, Mr. Howard, and Mr. Downey.

H.R. 5076: Mr. Downey, Mr. Frenzel, Mr. Gibbons, Mr. Gradison, and Mr. Martin.

H.R. 5151: Mr. Ford of Michigan, Mr. Clay, Mrs. Schroeder, Mr. Harris, Mr. Garcia, Mr. Albosta, Mr. Leland, Ms. Oakar, Mr. Gilman, Mr. Jeffords, Mr. Murphy of Pennsylvania, Mr. Wolff, Mr. Miller of California, Mr. Barnes, Mr. Young of Alaska, Mr. Pepper, Mr. Won Pat, Mr. Addabbo, Mr. Conte, Mr. Davis of South Carolina, Mr. Perkins, Mr. Beard of Rhode Island, Mr. Lederer, Mr. Gonzalez, Mr. Fauntroy, Mrs. Collins of Illinois, Mr. Stokes, Mr. Kildee, Mr. Evans of the Virgin Islands, Mr. Patten, Mr. Erdahl, Mr. Price, Mrs. Chisholm, Mr. Myers of Pennsylvania, Mr. Weiss, Mr. Fisher, Mr. Kogovsek, Mr. Nedzi, Mr. Fazio, Mr. Guyer, Mr. Coelho, Mr. Ottinger, Mr. Hall of Texas, Mr. Roybal, Mr. Bonior of Michigan, Mr. Nolan, Mr. Gray, Mr. Dicks, Mr. Corrada, Mr. Richmond, and Mr. Cavanaugh.

H.R. 5296: Mr. Albosta, Mr. Heftel, and Mr. Leach of Iowa.

H.R. 5426: Mr. Bereuter, Mr. Hillis, and Mr. Roth.

H.R. 5466: Mr. Bailey, Mr. Bauman, Mr. Bonior of Michigan, Mr. Corcoran, Mr. Dougherty, Mr. Ertel, Mr. Guyer, Mr. Hansen, Mr. Miller of Ohio, Mr. Moorhead of Pennsylvania, Mr. Myers of Indiana, Mr. Pepper, Mr. Sharp, and Mr. Young of Alaska.

H.R. 5477: Mr. Daschle and Mr. Davis of South Carolina.

H.R. 5496: Mr. Udall, Mr. Weaver, Mr. Kogovsek, Mr. Williams of Montana, Mr. Vanik, Mr. Stark, Mr. Long of Louisiana, and Mr. Simon.

H.R. 5610: Mr. Trible.

H.R. 5666: Mr. Aspin, Mr. Courter, Mr. Ginn, Mr. Gudger, Mr. Hefner, Mr. Hughes, Mr. Jeffords, Mr. Marriott, Mr. McClory, Mr. Robinson, Mr. Roe, Mr. Rudd, and Mr. Simon.

H.R. 5694: Mr. Brown of California, Mr. Carr, Mr. Fazio, Mr. Lungren, Mr. Kildee, Mr Kindness, Mr. Lagomarsino, Mr. Patten, Mr. Sabo, and Mr. Weaver.

H.R. 5700: Mr. AuCoin and Mr. Shumway.

H.R. 5730: Mr. Treen and Mr. Whitehurst.

H.R. 5759: Mr. Bedell, Mr. Goodling, and Mr. Lungren.

H.R. 5846: Mr. Mitchell of New York.

H.R. 5847: Mr. Young of Florida and Mr. Bafalis.

H.R. 5858: Mr. Akaka, Mr. Albosta, Mr. Annunzio, Mr. Anthony, Mr. Barnard, Mr. Bedell, Mr. Bonior of Michigan, Mrs. Bouquard, Mr. Buchanan, Mr. Carr, Mr. Clinger; Mr. Corcoran, Mr. Cotter, Mr. D'Amours, Mr. Dornan, Mr. Downey, Mr. Duncan of Tennessee, Mr. Duncan of Oregon, Mr. Edgar, Mr. Emery, Mr. Erdahl, Mr. Ertel, Mr. Evans of Indiana, Mr. Fazio, Mr. Fowler, Mr. Glickman, Mr. Gore, Mr. Gradison, Mr. Guarini, Mr. Guyer, Mr. Hightower, Mr. Holland, Mr. Hughes, Mr. Hyde, Mr. Jacobs, Mr. Jenkins, Mr. Jenrette, Mr. Kemp, Mr. Kogovsek, Mr. Leath of Texas, and Mr. Lehman, Mr. Lent, Mr. Lloyd, Mr. Markey, Mr. Marks, Mr. Marriott, Mr. Mazzoli, Mr. McHugh, Mr. McKinney, Mr. Mica, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Nelson, Mr. Nichols, Mr. Ottinger, Mr. Pashayan, Mr. Patterson, Mr. Pease, Mr. Price, Mr. Pritchard, Mr. Pursell, Mr. Rahall, Mr. Ratchford, Mr. Regula, Mr. Rinaldo, Mr. Runnels, Mr. Santini, Mr. Scheuer, Mr. Simon, Mr. Skelton, Mr. Stangeland, Mr. Stump, Mr. Swift, Mr. Vento, Mr. Whitehurst, Mr. Whitley, Mr. Whittaker, Mr. Winn, Mr. Wolff, Mr. Wolpe, Mr. Won Pat, Mr. Wyatt, Mr. Yatron, and Mr. Young of Missouri.

H.J. Res. 395: Mr. Brinkley, Mr. Badham, Mr. Flippo, Mr. Buchanan, Mr. Ireland, Mr. Duncan of Tennessee, Mr. Levitas, Mr. Kindness, Mr. Gramm, Mr. Robert W. Daniel, Jr., Mr. Rose, Mr. Mitchell of New York, Mr. Watkins, Mr. Lungren, Mr. Huckaby, Mr. Sawyer, Mr. Holland, Mr. Rousselot, Mr. Neal, Mr. Goodling, Mr. Campbell, Mr. Devine, Mr. Hansen, Mr. Leach of Iowa, Mr. Myers of Indiana, Mr. Regula, Mr. Collins of Texas, Mr. Edwards of Oklahoma, Mr. Ritter, Mr. Taylor, Mr. Derrick, Mr. Jones of Tennessee, Mr. Thomas, Mr. Young of Florida, Mr. Edwards of Alabama, Mr. Grassley, Mr. Lewis, Mr. Latta, Mr. Michel, Mr. Miller of Ohio, Mr. Rudd, Mr. Tauke, Mr. Butler, Mr. Carney, Mr. Lott, Mr. Petri, Mr. Quillen, Mrs. Snowe, Mr. Spence, Mr. Cleveland, and Mr. Corcoran.

H.J. Res. 409: Mr. Roe.

H.J. Res. 445: Mr. Rangel, Mr. Moffett, Mr. Scheuer, Mr. Young of Alaska, Mr. Walgren, Mr. Flood, Mr. Moakley, Mr. Fazio, Mr. Donnelly, Mr. Lott, Mr. Davis of Michigan, Mr. Corrada, Mr. Lehman, Mr. Bedell, Mr. Guarini, Mr. Burgener, Mr. Roe, Mr. Garcia, Mr. Stack, Mr. Florio, Mr. Vento, Mr. Rahall, Mr. LaFalce, Mr. Gray, Mr. Simon, Ms. Mikulski, Mr. Whitehurst, Mr. Corman, Mr. Hughes, Mr. Tauke, Mr. Kildee, and Mr. Wolff.

H.J. Res. 449: Mr. Bethune, Mr. Courter, Mr. Grassley, and Mr. Green.

H. Con. Res. 180: Mr. Symms, Mr. Pepper, Mr. Lungren, Mr. Whitehurst, Mr. Markey, Mr. Archer, Mr. Derwinski, Mr. Kogovsek, Mr. Hyde, Mr. Lent, Mr. Lehman, Mr. Stark, Mr. McDonald, Mr. Broomfield, Mr. Evans of the Virgin Islands, Mr. Gingrich, Mr. Rinaldo, Mr. Green, Mr. Hughes, Mr. Mottl, Mr. Richmond, Mr. Drinan, Mr. Lagomarsino, Mr. Wolff, Mr. Ottinger, Mr. Frenzel, Mr. Courter, Ms. Mikulski, Mr. Tauke, Mr. McDade, Mr. Robert W. Daniel, Jr., Mr. Evans of Delaware, Mr. Murphy of New York, Mr. Coughlin, Mr. Dornan, Mr. Glickman, Mr. Kramer, Mr. Albosta, and Mr. Solarz.

H. Con. Res. 215: Mr. Robinson, Mr. Winn, Mr. Devine, Mr. Stangeland, Mr. Whitehurst, Mr. Gramm, Mr. Kindness, Mr. Miller of Ohio, Mr. Stratton, Mr. Gradison, Mr. Bevill, Mr. McDonald, Mr. Ichord, Mr. Burgener, Mr. Kramer, Mr. Cleveland, Mr. Hyde, Mr. Jeffries, Mr. Carney, Mr. Lungren, Mr. Lent, Mr. Satterfield, Mr. Quayle, and Mr. Robert W. Daniel, Jr.

PETITIONS, ETC.

Under clause 1 of rule XII,

243. The SPEAKER presented a petition of the city council, New York, N.Y., relative to the Susan B. Anthony coin, which was referred to the Committee on Banking, Finance and Urban Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2977

By Mr. KRAMER:

—Page 32, after line 24 insert the following new section (and redesignate the following sections, and any references to such sections, accordingly):

VETO OF GRANTS BY STATE LEGISLATURE

Sec. 5. (a) In any case in which the Secretary—

(1) approves an application submitted to the Secretary by a State for a grant under section 4(a) or section 4(d);

the Secretary shall submit written notice of such approval as soon as practicable after the date of such approval to the State legislature for the State involved for review by such legislature in accordance with this section. Such notice shall include such information as the Secretary considers appropriate describing the nature of activities which are proposed in such application and the reasons of the Secretary for approving such application.

(b)(1) If a State legislature, after receiving written notice from the Secretary under subsection (a), disapproves any further disbursement of funds under the grant involved, then the Secretary shall not have any authority to disburse any additional funds after the Secretary is notified by the State legislature that it has voted to cut off funding.

(2) In any case in which a State legislature disapproves any disbursement of funds by the Secretary under this section, the State legislature shall notify the Secretary of such action as soon as practicable after such action is taken.

(3) Any action of disapproval by a State legislature under this section shall be carried out in accordance with such rules and procedures as the State legislature may establish.

(c)(1) If the State legislature for any State disapproves any further disbursement of funds by the Secretary to such State under a grant approved by the Secretary under section 4(a) or section 4(d), then the Secretary shall reallot the funds involved in accordance with section 5(b).

EXTENSIONS OF REMARKS

LITERATURE AND THE MYSTERY NOVEL

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. ZABLOCKI. Mr. Speaker, seldom do we find a serious writer and professor of philosophy, especially one who focuses on Medieval Studies, who also has the capacity to write fiction of high literary quality, while still being suspensefully entertaining to the average reader.

Dr. Ralph McInerney, of Notre Dame, displays his Irish wit and humor with a tone of irreverent reverence in his Father Dowling mystery series. His unique talent has earned for him a reputation as one of the finest writers on the American scene today. He fulfilled all expectations in an autobiographical way when speaking to the Capitol Hill First Friday Club recently about "Literature and the Mystery Novel." Based on his significant contributions to the world of good reading and to the arts, his remarks on this occasion will be of interest to many of my colleagues, and I am pleased to take this opportunity to share his words with them.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

"Literature and the Mystery Novel" follows:

LITERATURE AND THE MYSTERY NOVEL

(By Ralph McInerney)

Just about everybody I know who reads at all reads mysteries. If the term 'mystery' is understood broadly—and why shouldn't it be?—to include the various kinds of thriller and spy story, along with those stories in which someone attempts to solve the puzzle of who committed the murder, it would probably account for the reading of most.

My colleagues in the English Department, of their reading, usually say: (1) I haven't read anything for enjoyment in years, or (2) I've been reading some trash, that is, some mysteries. Perhaps you yourself would be a little sheepish about telling an English professor that you have read seven mysteries already this month. We deprecate them. We say they are not serious. We say they are only fun.

Well, surely there are many worse things than being lots of fun and not serious. Why is it that readers apologize for the sort of thing they read most of the time? There is, as C. S. Lewis has suggested, an unexamined snobbery at work here, and a good deal of self-deception. Worse, literature comes to be thought of as a chore. Maybe it has to be for professors of English, but I can't see any more basic reason to read fiction than because it is enjoyable to do so. There is a distinction between non-literature and literature, but it is doubtful in the extreme that this lies in the one being fun and the other not. Perhaps trash, mysteries, that is, are only fun, while literature is fun and something else besides.

This sounds more promising. Perhaps we could say that works of fiction fall on a sort of spectrum or scale and that they rank higher insofar as they include more of the elements of greatness. What would the elements of great imaginative writing be? Well, story, character, style, significance, a vision of the world, etc. Once we lay hold of this, we can rank works perhaps, on the basis of their giving us more or fewer of the elements we expect of good or great fiction.

Very well, then we can say that most of what we read falls short of greatness, that, while a novel may have a great characterization or dialogue or style or vision, etc., it does not have all of these. Doubtless very few novels would exemplify to a high degree all the elements of fiction. We know that there are great novels that are poorly written (Dreiser) or poorly plotted (War & Peace) or in which the characters are not fully alive (Utopia?). Given this, it becomes very easy to admit that the mystery novel, as a genre, does not aim to fulfill all our expectations of fiction.

If there is an element that is most prominent in the mystery genre, it is of course plot. Plot has fallen on bad days, at least in the minds of some critics, and there have been questionable instances of plot. The sort of O. Henry contrivance—delightful enough in itself, and certainly not such that it vitiates the work of the indefatigable Porter—that wraps everything neatly up has fallen into disfavor. This is partly a matter of fashion; I doubt that it is evidence of some inexorable advance in our aestethic sensibility. We are used to almost plotless sequences in "serious" fiction. Even novelists, like E. M. Forster, in Aspects of the Novel lament the need for plot. Plot, he feels, is a concession to the ruder reader, the reader who is forever anxious to know: what happened next? What then? How did it turn out? If nothing else, Forster thinks otherwise than did Aristotle.

Aristotle's Poetics is said to be the oldest work of criticism. It is sometimes called a handbook of playwriting. It surely is a most interesting analysis of the Greek tragic play. And the heart and soul of tragedy, of drama, perhaps of fiction according to Aristotle, is plot. Mythos. "It is the structure or logic of the events. It is what makes the sequence of episodes meaningful, significant. Any narrative will have at least the logic that the telling of it begins at one time and ends at a later time. Perhaps the same is true of what the narrative tells us about. We are used to, we look forward to, hearing from our spouse at day's end what she has done. "Tell me about your day." There follows a sequence of events, tied together (1) by the clock, the before and after, then I did this and then that . . . (2) more importantly by the fact that these are things that happened in our absence to one we love. It is not necessary that the narrative have any significance beyond that.

There are some who manage artfully to arrange the story of what happened to them—or of what they have done—the yarn spinner who holds the party in thrall as he recounts past deeds. We sense a difference between a mere account and a story. There is suspense, surprise, a satisfactory resolution of the uncertainty that was the burden of the tale. Will he catch the plane to Cleveland? Is the lady in the next seat really Tallulah Bankhead?

The raccounteur artfully grips our interest, he makes us want to know how things turned out. His narrative states a problem and then recounts a series of efforts to solve it with the result that it becomes more and more insoluble until suddenly, yet plausibly, to our surprise and delight, he does something that extricates him from his difficulties. The unfolding of events, the sequence that is more than a merely temporal one, not only does this happen after that, this results from that.

That is what is meant by plot. For Aristotle it is the most important element of fiction. It is what distinguishes fiction from mere narration, the chronicling of events. History tells us of the deeds of singular persons; but the character in fiction is both concrete and universal, himself, and somehow, each of the readers as well.

Very well. Plot is one ingredient of fiction. It is the most prominent ingredient in mystery fiction. It is not the only ingredient of fiction. It is not the only ingredient in mystery fiction. But it is closer to the skin of the narrative in the mystery; the skeletal grin beneath the flesh.

I have come late in my writing career to the writing of mysteries. My apprenticeship was served doing stories for the so-called slick magazines: Ladies Home Journal, Good Housekeeping, Redbook. This was good for me. My academic field is medieval philosophy. In philosophy, whether in the classroom or in one's professional writing, one moves at a level of high abstraction. Ideas, Arguments. Conceptual schemes. Consistency. These and other qualities are what we look for in philosophical discourse. One gets used to it and forgets what a strange occupation it is. But each time one confronts a class of undergraduates who have never before done philosophy one has the sense of being an instructor in a foreign, exotic language.

When I began to write fiction, my temptation was to write either highly cerebral pieces, where the idea was everything, or, by way of reaction, mood pieces, evocations of the murkier emotions, foggy with ambiguity, painfully poetic and lyrical. As these things came back to me, returned, as Thurber put it, like a serve in tennis, it dawned on me (1) that people do not go to fiction in order to confront ideas bare, and (2) that my turgid emotions, no matter how elegant the language in which they were hidden, were of little interest to strangers.

One becomes a writer when he realizes that nobody owes him a reading, that the reader must be wooed and won and retained on every page, in every paragraph, in almost every line. He might go away. He might put down the book. Now what is the chief device for grabbing the reader? Plot. Commercial stories thus demand of one that he hook the reader immediately and hold his attention by the unfolding of story, of a sequence of events, of a causally related series of actions.

I first truly appreciated my initiation into writing by way of the commercial slick story when I taught creative writing for the first (and I hope, the last) time. The novice writes for himself and that is a reader notoriously easy to please. What is put on the page is indistinguishable from the self. To criticize it is to insult the author. It is meant for a reader to whom anything written by this writer is interesting because it is written by this writer. Now, to the degree that this includes anyone other than oneself, it will remain a very small group: a girlfriend, one's mother . . . When a novice of this kind is told that he must earn a reading, that the reader must be interested and his interest held, he sometimes reacts with moral shock. The shock can be increased by speaking of the time honored devices for interesting the reader as tricks. But art is a trick, a skill, and I think Aristotle was right to put plot at the very center of the art.

It is the skill of the trade, that can be taught. The beginner is right to react against any suggestion that technique is all of art, or sufficient to make a writer. There are all the other things that E. M. Forster wishes to emphasize. Isn't it true that, when we rank the writers we really like, it is in terms of their vision of life, their outlook that colors the events of which they tell and casts a light on them that is ever so much more important than the denouncement of the plot? No one can be taught his singular outlook on life. This is what the French mean when they say the style is the man. It is only when one writes out of his own peculiarities and unique experiences that he truly writes. And it is when one's writing is thus most singular that it becomes most shareable by the reader.

When we speak of ranking the books we really like, we are speaking of books we not only read but reread. I find that the older I get the more inclined I am to reread the tried and true, although, like most writers, I suspect, I have an insatiable and indiscriminating appetite for any and all fiction. But there are books we reread. Now unless we are particularly thoughtless, we do not reread a book to find out how it comes out. We know the story in the sense of the plot. If the only interest of fiction were plot, therefore, we would never reread, unless of course we are gifted with amnesia. This is what Forster had in mind when he deplored plot. But, if Aristotle is right, the only way the more, the other ingredients of fiction, can be served up to us is on the plate of plot. Even when we reread, our interest is carried along by the unfolding, purposeful sequence. Forster's suggestion that we can somehow have the something more of fiction without the skeleton of plot seems to me wrong. I don't say that it has not been tried. Only that it has not been remarkably successful.

There is a tendency to rank fiction in terms of the absence of plot, in terms of the lack of features that appeal to and interest the reader. There are little magazines containing fiction that no one could wish to read. Sex is the great substitute for plot. It is a curious fact that writers who seem to disdain plot as an appeal to a vulgar and coarse-grained reader lard their stories with vivid frantic sexual scenes which may be the only reason, such is the perversity of human nature, their works are read.

It was about four years ago, after I had published half a dozen straight novels, that my agent suggested that I try a mystery novel making use of a priest. He had been reading the Rabbi Small series and, since I had written about Catholic priests, he thought, in the manner of agents, if a rabbi, why not a priest? My first reaction was negative. I read lots of mysteries but I didn't think I could write one. The thought grew in me that I was wrong. I decided to try it. The result is my Father Dowling series.

What is the attraction of the mystery to the straight novelist? I can speak only for myself, of course, but you doubtless know that all kinds of novelists have written mysteries. It is a most attractive genre. When Vanguard bought the first Roger Dowling novel it was presented to them under a pen name. I later learned that an editor had lifted a sheet of the manuscript to the light, seen the Notre Dame watermark, checked my agent's list of clients, and guessed that I was the author. A little detective work. So I was persuaded to publish them under my own name. But what, apart from responding to a suggestion of my agent, was I doing when I wrote my first mystery?

I was conscious of entering into a quite different sort of contract with the reader. Not only did he expect, first and foremost, the excitement of plot; he wanted to be fairly fooled for almost the full course of the story. The indicated outcome had to be set aside in favor of another, surprising but, on reflection, perfectly plausible explanation of the events. In the mystery, call it the classical mystery, a plot is present in an exaggerated form.

I do not mean to suggest that my mysteries are the classical deductive kind. Like many being written today, my mysteries are really not wholly different in technique from my novels. The differences lie in emphasis. My basic cast of characters is Roger Dowling, Phil Keegan, Mrs. Murkin the housekeeper, Lieutenant Horvath. There are other recurrent characters of a minor sort. The gimmick of the series is that Phil Keegan, Chief of Detectives in Fox River, Illinois, a widower, in his youth a classmate of Dowling's in the seminary, discusses his cases with the priest. Keegan represents justice, Dowling mercy. Dowling's sacerdotal concern invariably provides the means whereby the killer is discovered. An attraction of a series is that this basic cast and thematic note awaits one each time he sets out to add to the series. Ideas come as ideas do, from anywhere at anytime, and I have learned to recognize a Dowling idea when I see one.

In the Dowling novels, I use a multiple viewpoint technique, the one I prefer in any case. That is, unlike say the Nero Wolfe stories where Archie Goodwin is the narrator, I move from character to character, seeing the events from a variety of points of view. This technique adds pace as well as variety to the narrative. And, from my point of view, has the attraction that, when writing, I can always switch points of view when I don't know what is going to happen next.

I don't know the outcome when I start a mystery. Whether rightly or wrongly, I possess only one conception of an essential ingredient of the mystery, one I abstracted from Rex Stout. It had always seemed to me that, as Archie told the tale, any number of the suspects could equally well be the murderer. The trick was to put off the selection as long as possible, while providing more and more reasons why it might be A or B or C until, at the end, D is revealed as the culprit and one realizes that all along one had been provided evidence of this fact. So, when I started my first mystery, I resolved to have a wide selection of posible murderers and to put off the identification as long as I could. And, basically, that is how I proceed now, in writing the fifth Dowling.

I suggested earlier a way in which we might explain the fact that, however sheepishly, most readers will admit that they read mostly mysteries, or something they would not call literature. My suggestion was that it is not the case that thrillers or adventure stories or mysteries have none of the ingredients of literature, but that they have few. Thus, a spectrum suggested itself. At one extreme we would have works of fiction that concentrate all but exclusively on plot; as we move toward the other extreme more ingredients would be found developed to an excellent degree, sometimes at the expense of plot but never to its total exclusion. Thus we can say that, in reading mysteries, we get some but not all of the ingredients of literature.

That looks like a modest defense of mystery fiction and since I am nothing if not immodest I cannot stop here. First, there is the obvious fact that most novels that strive to be literature, with many or all the ingredients of fictions, fail most often in sheer readability. Too often a novel is pretentious and self-indulgent, making little or no effort to interest the reader. It lacks story. But if it exemplifies other aspects of fiction, it does not do so well.

That is an obvious point, but one worth making explicit. If most mysteries are not literature it should be said that most novels are not literature. The denial is a denial of excellence.

A second obvious point is that books we rank highly may be excellent in only a few aspects of fiction. But my Aristotelian hunch is that no book that ranks as literature will be lacking in plot.

A third point. The sign of literature is rereadability. Literature is whatever we want to read again.

And now for the immodesty. I think there are lots of mysteries (there need only be some) that we read again. Certainly I myself reread mysteries. This suggests that some mysteries count as literature: they embody a good deal more than plot. They present their own world. They enable us to see what we would otherwise miss.

I suspect that one of the attractions of the mystery for the straight novelist is that, in this genre, the techniques which enable us to catch and hold the reader's interest are not disparaged but recognized as essential. It's as if, by writing mystery or thriller novels, one can unabashedly do the thing that will have the result he wanted to do from the outset of his career; lots of readers.

That is the passion that grips the novelist. Whether he is lucky or not in his straight novels, he sees in the mystery an opportunity of reaching millions of readers. He is as aware as you and I that the bulk of paperbacks are mysteries. At first he may think that the price he must pay is to write trash. It comes as a delight to learn that mysteries do not preclude excellent writing. It is sometimes said that some of the best writing being done is found in mysteries. I am not sure what that means. But I am not surprised that, in a time when fiction is defined increasingly by the more récherché critics as an assault on the reader, that most readers—and many writers—seek relief elsewhere.

That I am sure was, is, will be one of my main motives. I want readers, lots of them. Late in life, the English poet Hilaire Belloc took to amusing himself by writing epitaphs. Of the dozens he wrote my favorite is this:

> When I am gone, may it be said,
> His sins were as scarlet, but his books were read.●

RULEMAKING IMPROVEMENTS ACT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. MOORHEAD of California. Mr. Speaker, Government regulation is an accepted fact in our complex, technological society. No one questions the necessity of regulation—only its scope. Today, the reality we face is overregulation. Increasingly, Americans are recognizing this as a problem and are urging Congress to do away with unnecessary governmental interference in their lives. There is a need to streamline regulatory procedures and reduce the seemingly interminable delays associated with the administrative process. Most important, we must focus on the adverse economic effects of regulation—that is, inflation, business stagnation, loss of jobs. We need a mechanism so that regulators will be required to balance dollar costs against social goals, and make performed policy judgments based upon that data.

Today I am introducing the Rulemaking Improvements Act for myself, and on behalf of Congressman ROBERT McCLORY, Congressman THOMAS N. KINDNESS, Congressman JACK F. KEMP, and Congressman NORMAN F. LENT. This bill was authored and first introduced as S. 1969 by Senator ROBERT DOLE. Like the distinguished Senator from Kansas, we are concerned about achieving genuine regulatory reform. Unfortunately, none of the regulatory reform measures previously introduced in the House of Representatives takes the fundamental approach contained in this bill—mandating that agencies promulgate new regulations only where they can demonstrate the benefits will outweigh the costs. The aim is to restructure the quality of decisionmaking of Federal regulatory agencies in a rational manner. However, this procedure would not be an administrative straitjacket. While requiring an agency to perform a type of cost-benefit analysis, the legislation nevertheless recognizes that many costs and benefits cannot be quantified. Our bill does not assume or require that the agency analysis be compiled solely on a mathematical basis.

Currently the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee is engaged in a series of hearings reviewing the Federal regulatory process and how it works. Along with Congressman McCLORY and Congressman KIND-

NESS, I serve on this subcommittee. The hearings involve a comprehensive look at the Administrative Procedure Act and the various reform measures that have been put forth. While the administration's bill (H.R. 3263) was the initial point of departure for these hearings, our inquiry has not been confined to that proposal. Among the other items under consideration are: the legislative veto, the regulatory budget and the Bumpers amendment. Now, with the introduction of the Rulemaking Improvements Act, the Administrative Law Subcommittee can expand its considerations to include regulatory cost-benefit analysis.●

THE RECREATIONAL BOATING FUND ACT OF 1979

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. EVANS of Delaware. Mr. Speaker, I am pleased that the House passed H.R. 4310, the Recreational Boating Fund Act of 1979.

As a member of the Merchant Marine and Fisheries Subcommittee on Coast Guard and Navigation, I have followed closely in the 95th and 96th Congresses the Federal role in recreational boating programs. The subcommittee, under the capable leadership of Chairman BIAGGI, has evaluated Federal boating programs to date and concluded that we should maintain an active Federal role as proposed in H.R. 4310.

The Recreational Boating Fund Act, which I cosponsored, continues a boating safety program which has proved to be a model of Federal-State cooperation resulting in the saving of many lives. Since passage of the original Boating Safety Act in 1971, most States have implemented boating safety programs. While the numbers of boats and boaters have increased dramatically, the total number as well as the rate of boating-related fatalities have both declined.

In testimony before the Subcommittee on Coast Guard and Navigation, the National Association of State Boating Law Administrators, and others, repeatedly warned that without continued Federal contributions to boating programs, the States would be forced to curtail their own boating safety and enforcement efforts. These State programs include essential safety patrols, education programs, and equipment purchases such as radar units.

I am one who believes an ounce of prevention is worth a pound of cure. Money spent to prevent boating accidents is money we do not have to spend for costly and traumatic search and rescue missions.

The Recreational Boating Fund Act of 1979 also provides for the contributions of Federal funds to State programs for the construction of boating facilities needed to relieve congestion and improve safety conditions at boat-launching areas. The money provided by the Boating Fund is generated by the "users"—namely the boating public—in that it is derived from the existing tax on motorboat fuels. Thus, H.R. 4310 is not a matter of new Federal spending; rather, it is a means of providing more direct services to the segment of the public bearing the motorboat fuels tax.

Additionally, let me note that in the Subcommittee on Coast Guard and Navigation, I offered several amendments, which were adopted, to promote fiscal responsibility in the administration of the Boating Fund, particularly the facilities aspect. For Federal funds as a State's matching share and by disallowing State matching funds as a credit against other Federal programs.

Mr. Speaker, this legislation will be of great benefit to the boating public, and I am pleased that the House has ratified the judgment of those of us who want to see a strong boating safety program in place.●

BILL SIMON FAVORS LESS TAXES

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. COLLINS of Texas. Mr. Speaker, former Secretary of the Treasury, Bill Simon, has come out with a published statement entitled "Tilting at Windfall Profits." This article in the December issue of Policy Review magazine nails down the weaknesses of the windfall tax before Congress.

Simon has worked closely with the Heritage Foundation, which is a nonpartisan, public policy, research institute. Let me give you some of the basic comments out of this factual clean-cut analysis:

STATEMENT OF BILL SIMON

"Illusory, nonsensical and self-destructive" is the way Bill Simon, the nation's first energy czar, says that President Carter's so-called "windfall profits" tax program would reduce money available for domestic exploration making it less likely that new supplies will come into the market, thus making the U.S. even more dependent on OPEC, increasing the price of gasoline to the consumer and inevitably creating a growing bureaucracy that will control more and more features of every American's economic life.

The "windfall profits" tax, the former Treasury secretary says, "amounts to a policy of investment incentives directed to creating and maintaining our energy shortages." He stresses that "the faster profits rise, the faster the oil will come into the market and the faster OPEC's stranglehold will be removed. A tax will hinder this beneficial process, either slowing down energy independence or making the consumer pay more for it. In other words, it is big government which is ripping us off, not big oil."

In the article, Simon says that Carter's "windfall tax" program would make "new oil less profitable, so less likely to come into the market," and "existing oil fields, which are on the margin of profitability, simply not worth exploiting . . . thus old oil would also be less likely to come into the market

"The American consumer would be actually worse off. He would be paying higher prices but still sitting in the gas lines which higher prices are usually allowed to banish. Demagogues, however, would flourish—denouncing oil companies for the shortages, caused by misguided government intervention, and demanding more government intervention to cure them."

Simon concludes by saying, "The more one examines President Carter's notion of using oil windfall profits to finance a new energy independence, the more illusory, nonsensical and self-destructive it appears. Of course, to advance the argument that two plus two equals four in the vicinity of the White House today is to risk being denounced as a tool of the big oil corporations. But the new McCarthyism of the anti-business culture should not prevent public men from declaring that nonsense is nonsense is nonsense. Nor should the present political unpopularity of the oil companies—an unpopularity often based on economic illiteracy and scare-mongering—allow us to treat them with manifest injustice. We should remember Chief Justice Jay's dictim: 'Justice must always be the same, whether it is due from one man to a million men or from a million to one man.' "●

CROSSROADS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. MAGUIRE. Mr. Speaker, contrary to the hopes raised by agreements reached last April, the government of South Africa stills seems intent on brutally enforcing its racist policy of apartheid by uprooting the black residents of the self-created squatter town of Crossroads, just outside Cape Town. From the Episcopal Churchmen for South Africa, I learn that the South African Ministry for Cooperation and Development has renewed plans to remove at least three-quarters of the 24,000 residents of Crossroads to the far-distant bantustans of Transkei and Ciskei; places with no jobs, no homes, and no chance of families remaining together, as they are now able to do at Crossroads. This and other actions by the government indicate that recent statements by Prime Minister Pieter Botha, which have raised hopes for fundamental changes in the system of apartheid, merely represent a self-serving attempt to put a more humane face on what is a cruel and inhumane society.

I insert the latest report from the Churchmen:

CROSSROADS

The agony of the people of Crossroads is far from being over. Contrary to an agreement between the residents of the self-created squatter settlement outside Cape Town and the South African Minister of Cooperation and Development, Dr Piet Koornhof, the machinery of the apartheid state is aimed at uprooting and scattering the gallant people of Crossroads.

Dr. George Morrison, a deupty minister of Cooperation and Development (the department—once known as Bantu Affairs—which governs the lives and misfortunes of the country's 16 million Black Africans) stated that most of the community's inhabitants would be removed to the far-away

Transkei and Ciskei bantustans. The remaining minority would be permitted to live in a not-yet-built township elsewhere in the Cape area.

South African journalist John Kane-Berman, long-time authority on black and labor affairs, reports in London's Guardian that Morrison 'has now made it clear, however, that only about one-quarter of the camp's 24,000 people will be re-housed in an official black township. The other 18,000 people in 3,600 families will have to go to the Bantustans.' Morrison said the condemned Africans 'were "totally and unacceptably illegally" living in the Cape Peninsula, engaged in "scrounging" jobs like "gardeners and caddies", and undermining jobs of legitimate work-seekers.' Morrison later averred that no one would be sent to the bantustans if he or she qualified to remain. 'I would like to emphasise that I did not intend to suggest anything in conflict with the undertakings given by Dr. Koornhof to the Crossroads committee.'

Koornhof announced in April—after long 'negotiations' with representatives of the community and their supporters—that four categories of people at Crossroads could stay in the area and be housed in the new township:

Those men (and their wives and families) who were 'legal' in terms of Section 10 of the Bantu (Urban Areas) Consolidation Act, i.e., those who were born and have lived continuously in one area and those who have 'lawfully' resided there for 15 years or worked for one employer at one address for 10 years;

Migrant workers in legal employment, and their families;

Self-employed people and their families; and

'Hard luck' cases, i.e., people in the area for a long time.

Not included were 'parasites'—described as those with no jobs or engaged in 'illegal' activities; 'criminals'—people with criminal records sentenced to 6 months jail or 100 Rand fines; and, those who could be 'persuaded' to go to the Bantustans.

The agreement was oral and its specifics are interpreted by Koornhof, his staff and the whites-only regional board, one of the 22 countrywide which determines day-to-day affairs of the African people in South Africa. Note Morrison's emphasis on 'illegally' and on Crossroads residents 'undermining jobs of legitimate work-seekers', pressing the exceptions in Koornhof's agreement and also attempting to exploit Pretoria's differentiation of blacks between Africans and the so-called Coloured people who under apartheid laws are 'entitled' to live and be employed in the Cape area. Though Koornhof last year in an emotional statement averred 'I want to deal with the thing (Crossroads) in a humane way, not with bloody bulldozers', though Pretoria is worried about its image that a Crossroads confrontation would damage, the intent and scheme of the apartheid regime has not altered. One way or another Pretoria aims to rid itself of Crossroads.●

ROLLCALL VOTE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House on Thursday, November 29, 1979. Had I been present, I would have voted: "Aye" on rollcall No. 694, agreement to the conference report on S. 239, authorizing appropriations for programs under the Domestic Violence Services Act of 1973 and to amend such act to facilitate the improvement of programs thereunder.●

DOMESTIC VIOLENCE LEGISLATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. SIMON. Mr. Speaker, yesterday the Committee on Rules cleared for House consideration H.R. 2977, the Domestic Violence Prevention and Services Act.

This legislation has received thorough consideration by the Subcommittee on Select Education, and the Committee on Education and Labor. Hearings were held by the subcommittee on H.R. 2977 at which testimony was presented by witnesses from a variety of Federal, State, and local agencies and organizations serving the victims of domestic violence or concerned about the plight of families beset by violence. The witnesses agreed that Federal funds should be used to stimulate State and local solutions to the problems of battered spouses, and toward enabling communities to establish and maintain neighborhood shelters which provide services to the victims of domestic violence. Although the alarming incidence and serious nature of family violence has been reported, witnesses testified that relatively few resources have been developed for the prevention of domestic violence or to aid its victims.

Mr. Speaker, H.R. 2977 enjoys wide bipartisan support in the House with 105 cosponsors. The list of organizations supporting the bill is a long one, with such diverse groups as the General Federation of Women's Clubs, the YWCA, the American Jewish Congress, the National Council of Churches, the National Conference of Catholic Charities, Rural America, the National Organization of Women, the International Brotherhood of Police Officers, the National Urban League, the American Nurses Association, and the American Bar Association.

Mr. Speaker, H.R. 2977 is a good piece of legislation. It reflects many of the recommendations to perfect the bill made by the witnesses at our hearings and concerns raised by subcommittee members. At our mark-up of the legislation, Mr. MILLER, the principal sponsor of H.R. 2977, offered a substitute amendment for the bill incorporating changes to address these recommendations and concerns. Other amendments offered by Republican members of the subcommittee were incorporated into the bill we reported to the full committee. During consideration by the Education and Labor Committee, an additional Republican amendment was attached to the bill with full bipartisan support before the bill was reported by the committee.

Mr. Speaker, I would also draw attention to similar legislation—S. 1843—that was introduced in the Senate on September 28, 1979.

Mr. Speaker, at this point, I would like to insert in the RECORD, for the benefit of my colleagues in the House and those interested in this legislation, a series of questions and answers about H.R. 2977 and a section-by-section explanation of the bill.

H.R. 2977—DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

QUESTIONS AND ANSWERS

Definition

Q. What is domestic violence?

A. H.R. 2977 defines domestic violence as a violent act, or threat of violence, that injures or may result in injury. The violence may occur between spouses, or former spouses, or between people who are or have been living together.

Funding

Q. What are the authorizations in H.R. 2977?

A. FY 1981, $15 million; FY 1982, $20 million; and FY 1983, $30 million.

Q. How will that money be used?

A. Half the appropriations will be used for grants to states for services, 25 percent in the funds will go directly to local projects in domestic violence, 15 percent will be for administrative grants to the states and 10 percent will remain at HEW for administration.

Q. How are the state grants allocated?

A. Funds will be divided among the states on the basis of population.

Q. Is there a minimum grant per state for domestic violence services?

A. Yes, each state would be allowed a grant of at least $50,000 for projects in prevention and treatment services.

Q. Is there a minimum state grant for administrative costs?

A. Yes, $7,000.

Q. Is there a limit on the size of grants to local programs?

A. Yes, no local program, either by grant from the state or directly from HEW, can receive a grant not exceeding the lesser of $50,000 or 25 percent of its annual budget. Furthermore, no grants can be made to a program for more than three years.

Q. Are there any exceptions to the limit on the size of grants to local programs?

A. Yes, if a program has been in existence for less than a year and can demonstrate community support, it can qualify for a grant of up to 50 percent of its budget, though not in excess of $50,000.

Q. May funds be paid directly to domestic violence victims?

A. No.

Q. Is there an income eligibility criterion for services?

A. No.

HEW Administration

Q. Does H.R. 2977 establish an Office on Domestic Violence in HEW?

A. No, the bill simply requires the Secretary of HEW to appoint an individual to coordinate domestic violence programs in the Department.

Q. What kinds of programs does the bill authorize HEW to establish?

A. H.R. 2977 requires the Secretary to establish an information clearinghouse on domestic violence, to make legislative recommendations for modifying programs affecting domestic violence victims, and to identify research in domestic violence.

Grants Program

Q. Does H.R. 2977 authorize grants for prevention and services in domestic violence?

A. Yes, HEW is authorized to make grants to states for prevention and services.

Q. How may the states use their money?

A. All funds received in a state grant must be distributed by the state in grants to local programs, both public and private. Moreover, at least three-fourths of the state grant has to go to private nonprofit programs.

Q. May states use their services grant money to help pay expenses in administering domestic violence programs?

A. No, states must apply for a second grant to help pay the costs of administration, including development of a domestic violence program with citizen participation and a program of technical assistance to local projects.

Federal coordination

Q. How does the bill encourage the coordination of federal programs in domestic violence?

A. H.R. 2977 establishes a Federal Interagency Council on Domestic Violence to coordinate activities for domestic violence prevention and services. The Council is required to identify those programs within the various federal agencies which could help victims of domestic violence and to encourage the use of federal funds under those programs for prevention and services. The Council is also required to recommend legislative changes to Congress to serve victims more adequately and to eliminate the duplication of programs.

Q. Who are the members of the Interagency Council?

A. The Secretary of HEW is to appoint the Council members, including representatives of the Departments of Agriculture, Defense, Justice and HUD; ACTION; CSA; Legal Services; the Alcohol, Drug Abuse and Mental Health Administration; state and local governments; and at least five public members who have been vicitims of domestic violence or worked with victims.

Q. Who chairs the Council?

A. The Secretary of HEW will be the chairman.

Q. Does the bill make specific reference to the activities in domestic violence of other federal agencies?

A. Yes, in addition to the agencies composing the Interagency Council, H.R. 2977 requires that particular attention be given to the coordination of ACTION programs in placing VISTA volunteers with domestic violence projects.

Q. Does the bill require specific coordination with programs within HEW that deal with family violence?

A. Yes, H.R. 2977 requires that the clearinghouse established under the legislation be run in coordination with the information clearinghouse under the National Center on Child Abuse and Neglect.

Q. Are there reporting requirements that would help the coordination of the programs?

A. Yes. The states must report annually to HEW on their domestic violence activities, and HEW is required to submit an annual report to Congress to assist in its oversight responsibilities.

State and local control

Q. How does H.R. 2977 ensure a state and local focus for the domestic violence program?

A. The bill provides a number of mechanisms to give control of the program to state and local governments:

Ninety (90) percent of the appropriated funds go to states for services (75 percent) and state activities in support of domestic violence (15 percent);

Each state must designate an agency responsible for domestic violence activities;

States are required to include local participation in developing state domestic violence activities; and

State and local representatives are included on the Federal Interagency Council on Domestic Violence.

Future program funding

Q. How does H.R. 2977 ensure domestic violence programs will not become dependent on federal funds?

A. There are several means by which the bill encourages diverse funding for programs:

No local agency may receive a grant of more than 25 percent of its annual budget;

States are required to give to local agencies reasonable assurances of future support from the states;

States must give technical assistance to local programs in obtaining funds from other sources;

Priority for state grants is to community programs of demonstrated effectiveness (i.e. ones that have shown expertise and some degree of fiscal capability);

The Interagency Council is required to identify programs in federal agencies which might also assist domestic violence activities and to work to make those program funds available;

Local programs must try to recover fees for services from clients, based on the ability to pay; and

States must submit to their state legislatures an annual report on domestic violence activities to prepare better for state funding.

SECTION-BY-SECTION EXPLANATION

SHORT TITLE

Section 1 of the bill (H.R. 2977) provides that the bill may be cited as the "Domestic Violence Prevention and Services Act".

FINDINGS AND PURPOSE

Section 2 states the findings of the bill to be the high incidence of assault in the home; the danger to police officers intervening; the occurrence of violence in families regardless of social and economic status; and the questionable effectiveness of existing state and local programs to prevent family violence or assist victims. The purpose of the Act is stated to encourage state and local efforts in domestic violence; to establish an interagency council; to coordinate federal programs in domestic violence; to provide technical assistance and training in domestic violence programs, and to provide information.

DESIGNATION OF COORDINATOR: ESTABLISHMENT OF PROGRAMS

Section 3 requires the Secretary of Health, Education, and Welfare to appoint an individual to coordinate domestic violence programs administered by the Department. The Secretary is required to establish an information clearinghouse in coordination with the child abuse clearinghouse, to make legislative recommendations to Congress on the modification of programs for victims of domestic violence, and to obtain information on research relating to domestic violence.

GRANT PROGRAMS

Section 4(a) authorizes the Secretary of HEW to make grants to states to assist in the prevention of domestic violence and services to the victims of domestic violence.

Section 4(b) provides that states applying for funds under this program must distribute all such funds in grants to local public agencies and non-profit organizations for programs of prevention and services in domestic violence; distribute at least seventy-five percent of those funds to private nonprofit organizations; give reasonable assurances of the level of state support in the future for domestic violence programs; designate a state agency to administer programs in domestic violence; set forth procedures to assure active citizen participation within the state; provide technical assistance to local programs to help organizations obtain adequate funding; and submit an annual report to the state legislature on domestic violence activities within the state.

Section 4(c) provides for approval or disapproval of state applications by the Secretary with provisions for notice of and opportunity for a hearing.

Section 4(d) authorizes the Secretary to make grants to states for paying the costs of administering domestic violence activities, developing domestic violence programs, assuring citizen participation, and developing a media campaign to increase public awareness.

Section 4(e) limits the amount of grants to local agencies to $50,000 or twenty-five percent of an agency's annual budget. An exception may be made to any private nonprofit organization which has been in existence for less than a year and has received assurances of community support. However, such grant may not equal more than 50 percent of the organization's annual budget. Grants to any local program may not be awarded for more than three years. The total amount of grants to any local program may not exceed $150,000.

Section 4(f) provides that no funds may be used as direct payment to victims of domestic violence.

Section 4(g) states that no eligibility standard may be imposed for services in domestic violence programs.

Section 4(h) provides procedures for the Secretary to withhold funds from a state which has not complied with the provisions of the Act.

Section 4(i) provides procedures for a state to appeal grievances under the Act.

Section 4(j) requires local domestic violence programs to attempt to recover fees for services based on the ability to pay.

ALLOTMENT OF FUNDS

Section 5 allots appropriations to the states on the basis of population. However, each state will be allotted no less than $50,000 for grants under Section 4(a) and no less than $7,000 for grants under Section 4(d). Funds which have not been disbursed because of a state's failure to qualify for grants may be reallotted to eligible states.

STATE REPORTS

Section 6 requires each state receiving a grant under the Act to submit a detailed annual report to the Secretary of Health, Education, and Welfare on the implementation of programs and projects under the Act.

REPORTS AND EVALUATIONS BY SECRETARY

Section 7 requires the Secretary to prepare and submit to Congress, for the purpose of furnishing information to aid in oversight activities, a report providing specific information relating to the programs authorized under the Act. The Secretary is also required to review, evaluate, and report to Congress the effectiveness of the programs operated under this Act three years after funds have first been granted under the Act.

CONFIDENTIALITY OF RECORDS

Section 8 guarantees confidentiality to individuals assisted under the Act.

AUDITS

Section 9 provides the authority for programs assisted under the Act to be audited.

ESTABLISHMENT OF FEDERAL INTERAGENCY COUNCIL ON DOMESTIC VIOLENCE: COORDINATION OF FEDERAL PROGRAMS

Section 10 provides for the establishment of a Federal Interagency Council on Domestic Violence. The Council will be composed of representatives of the Departments of Agriculture, Defense, HUD, and Justice; ACTION; Community Services Administration; the Legal Services Corporation; the Alcohol, Drug Abuse and Mental Health Administration; representatives of state and local governments; and at least five members of the general public who have been victims of domestic violence or have worked with victims. The Secretary of HEW shall chair the Council. The Council will be responsible for coordinating programs administered under this Act with similar programs administered by other federal agencies. The Council will also identify federal programs to assist services to the victims of domestic violence and to encourage the expansion of federal support for such programs. The Council is charged with the responsibility of making recommendations to the President and to Congress to eliminate the duplication of federal domestic violence programs and develop priorities in domestic violence.

DEFINITIONS

Section 11 defines terms used in the Act.

AUTHORIZATION OF APPROPRIATIONS

Section 12 authorizes appropriations of $15 million for fiscal 1981, $20 million for fiscal 1982, and $30 million for fiscal 1983. Of the sums appropriated, seventy-five percent will be used for grants to states under Section 4(a), fifteen percent will be used for grants to states under Section 4(d), and ten percent will be used by the Secretary of HEW for the operation and coordination of programs and policies under Section 3.●

CONGRESSMAN DRINAN OPPOSES TAXATION OF SOCIAL SECURITY BENEFITS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. DRINAN. Mr. Speaker, it has been widely reported that the Advisory Council on Social Security, in its upcoming quadrennial report to the Congress, will recommend the Federal income taxation of one-half of an individual's social security payment. These reports have caused great concern among the older citizens of this Nation who are struggling to make ends meet on a constantly shrinking income. It is projected that the rate of inflation for this year will exceed 11 percent and despite social security cost-of-living increases, about 70 percent of the retired population is barely getting by.

The most a worker retiring right now at age 65, can expect is $503.40 a month, or $6,040.80 a year. Most retired workers are not receiving the highest payment and their social security income is substantially less. Even a low cost budget for a retired couple will run more than $5,000 according to the Bureau of Labor Statistics. An intermediate budget is put at $7,200 and a high one at $10,700. Older Americans are not faring well. Only a minority of older workers have income from private pensions and as Prof. James Schulz, a noted economist from Brandeis University, has observed:

> In a very short time, people can go from a comfortable life to the ranks of the near poor.

In the face of all of these devastating economic conditions, another blow is threatened—the taxation of social security benefits. Although the report of the Advisory Council contains only recommendations for changes in the social security program, I have today cosponsored legislation which would prevent the taxation of social security payments. Older citizens of this Nation need an assurance that the little which has been given will not be taken away.

Over the last few years Congress has been enmeshed in a debate over how to best preserve the financial integrity of the social security program in ways other than increases in the payroll tax. The taxation of actual benefits is not the solution. The social security program has been in disrepute with the American people. We will not enhance public trust in social security, if we act at this time to alter the social security program in such a drastic manner.

I am sympathetic to the need for certain changes in the financing of the social security program, but as long as our older citizens must rely on this program as the cornerstone of their incomes, I will oppose any chipping away at their benefits.●

UNITED STATES—WORST VOTER RECORD

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. BONKER. Mr. Speaker, our political system has faced serious threats over the years, but none so grave and subtle as the sharp decline of voter participation. As the issues become more intense and complex, political campaigns more volatile and costly, the number of people who actually go to the polls declines. Today the United States, the oldest and most tried of all Western democracies, has the worst record of voter activity in the world.

In Washington State a county elections official is attempting to do something about the problem; he administers elections, knows of the multiple obstacles that face the voters and believes voting is not just a privilege, but a right. Ron Dotzauer recently penned an article for the Vancouver Columbian (November 11, 1979) that should be brought to the attention of all the Members of the House.

The article follows:

DON'T ALLOW THE FEW TO MAKE DECISIONS FOR THE MANY

(By Ron Dotzauer)

Thomas Jefferson was quoted as saying, "That government is strongest which every man feels himself a part." If he is right then our government is weakening, or at least that part that involves all of us voting.

A recent study found that over 90 million Americans did not vote in 1978 making this the sharpest decline in voter turnout since 1942. For every state which showed an increase in voter turnout in 1978, two states decreased.

The United States ranks lowest among the world's democratic nations in actual voter participation. The number of non-voters in the United States now is greater than that total electorate of such democracies as France, England, Italy, West Germany, Canada and Australia.

In the 1976 presidential election, Washington state had one million eligible voters who did not vote.

In 1861, the Englishman John Bright said this about our presidential elections: "We know what an election is in the U.S. for president . . . to my mind there is nothing more worthy of reverence and obedience . . . than the authority of the freely chosen magistrate of a great and free people."

Next year will mark the 30th time that Americans will have gone to the polls to elect a president since Bright wrote those words. Neither civil wars, nor other wars, or any other historical upheavals have interfered with this ritual. I wonder what Bright would say now when barely 50 percent of the electorate vote in a Presidential election. How many of us have to fail to vote before the validity of the election process itself is in doubt?

There is no clear cut solution to the lack of voter participation. The director of the American Electorate Study Committee, Curtis B. Gans, claims that there is no voter motivation due to "the growing impotence felt by the citizen in the face of large public and private institutions; the role that the mass media, especially television, has in creating confusion in the minds of some and the degree to which our public dialogue reflects none of the central public questions of the day."

An important thing to remember is that without voter participation government becomes the private possession of large conglomerates or interests who act without regard to your needs and welfare. Special interests are eager to make decisions voters are abdicating. Special interest groups, relatively small compared to the whole electorate, have had a disproportionate impact on elections in recent years. You cannot compete with those economic forces. Your only response is to register and vote.

In our society we hear much talk about the values of participatory democracy and community involvement. Our actual voting behavior is very much at odds with our professed values. I think that when our political behavior gets to be totally unrelated to our political ideals we are risking the long term integrity of our political system.

The fact is that there is a great deal that successfully competes for the voter's attention and care on election days. We are a busy people, busy with families, work, personal problems, recreation, and material consumption. Every one of these dimensions of modern life competes for the citizen's attention and time. Particularly in the area of material consumption we are continually bombarded with messages and appeals. It is small wonder that political participation loses the race more often than we would like.

In an effort to try to stimulate interest in this fall's general election and encourage more voter participation, I tried to place a presidential straw poll on the ballot. Some felt the idea was gimmickry and that low voter trurnout was a sign of citizen's contentment. I see it as it is, apathy. You can call any attempt to break the growing momentum of American political apathy a gimmick if you wish. Within bounds, if anything works to increase citizen interest in the political process, I am willing to try it.

People who vote believe in the system. They participate, they feel they have a stake in government. Non-voters evidently are not sure whether they have a stake in government. Their alienation from the system is harmful not only in their own lives, but it threatens the survival of democracy itself.

You can be sure that between every election government at every level is doing things to affect all of our interests. Next Tuesday you're going to have another opportunity to exercise your franchise by voting. Don't allow the few to make the important decisions for the many. Your vote does count!

As county auditor, Ron Dotzauer is responsible for the conduct of elections in Clark County.●

POST-GAZETTE HAILS GEORGE MEANY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. MOAKLEY. Mr. Speaker, last week this Nation witnessed the retirement of perhaps the greatest single personality the organized labor union movement has ever produced. George Meany, in his half-century of labor leadership, became the spokesman for millions of Americans seeking a larger voice in the American economy. Mr. Meany's candor, courage, and accessibility became a hallmark in the annals of the American union movement.

I would like to share with my colleagues an editorial praising Mr. Meany that recently appeared in the Post Gazette, the Italian-American voice in New England.

HAIL GEORGE MEANY

The Post-Gazette joins millions of Americans in grateful acknowledgement of the achievements of a great labor leader George Meany.

George Meany has stepped down as President of the AFL-CIO and will go down as one of the leading figures in the American Labor movement.

Mr. Meany a plumber by trade has served labor for well over 25 years. One can say fiery and tempestuous years but they brought results.

Who will ever forget that he was responsible for the creating of the alliance of two of the Nation's largest rival unions and AFL and the CIO and led them until his retirement with a super human strength.

There is no question in anyones mind that Meany was a great patriot both here and abroad. With Meany it was always America first.

He is a man of great integrity and a fighter against corruption. His word was his bond and his life was the labor movement.

President Carter and his economic policies were a great disappointment to him and he pulled no bones about it.

Yet, when Carter did take a stand like the Iranian issue and Meany approved, he did not hide it, he so stated.

Mr. Meany is one of a kind person. His outspoken ways and his brilliant counsel will be sorely missed. His shoes will be difficult to fill.

We only hope that the AFL-CIO will continue on the road that George Meany has put them on.

All Hail George Meany King of the American Labor movement.●

THE NATURAL GAS INDUSTRY AND THE INTERNATIONAL SCENE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. ARCHER. Mr. Speaker, I would like to call to the attention of my colleagues in the House of Representatives a presentation made here in Washington, yesterday, by Robert R. Herring, chairman of the board and chief executive officer of Houston Natural Gas Corp., before the Gas Industry Bankers Conference of the American Gas Association.

The points he raises concerning our Nation's future energy supplies are most worthy of the careful attention of every person in this chamber.

The presentation follows:

How do you plan an industry's future when basic economics are ignored and the rules change day by day? It is difficult.

Two years ago we, in the gas industry, were ordered to stop selling gas to large boiler installations. We were to conserve for high-priority users such as homes, schools, and hospitals. The Fuels Use Act of 1978 includes a law that natural gas will not be used in large electric or steam generating facilities after 1990; only 10 years from now.

But today, we are being encouraged to sell as much gas as possible to such installations in an effort to offset oil imports. In June of this year, the electric power industry in the U.S. consumed 10 billion cu ft of gas per day, or almost 20 percent of all gas sold. If we add large industrial steam boilers, the total would exceed 30 percent of all gas sold.

Some reduction in oil consumption has occurred, but the electric power industry is still burning an average of 1,750,000 barrels of oil per day.

If we add the oil consumption of industrial steam boilers, the total would exceed 2,500,000 barrels per day.

This supply of residual, or No. 6, oil is in jeopardy. In addition to the precarious Middle East situation, most large U.S. refiners are modifying their processing units to enable them to recover more gasoline, jet fuel, and diesel from each crude barrel. In the past, about 25 percent of each barrel came out as residual or No. 6. With these modifications, this can be reduced to below 5 percent.

This enables the refiner to produce the same volume of light products out of 20 percent less oil, but the supply of No. 6 almost disappears. One major refiner has already notified his customers on the Gulf Coast that they will not be able to supply No. 6 oil after 1984.

Thus, the fuel supply for almost 30 percent of our electric generating capacity under existing conditions will begin to disappear between 1984 and 1990.

Unless we address this problem immediately, major brown-outs are ahead of us.

Some moderation in the Clean Air Act to permit the burning of coal is required. We now have surplus coal producing capacity of 170 million tons per year (equivalent to 1,800,000 barrels of oil per day), and we are selling the coal at a price which is less than 20 percent of the spot price of crude oil on a BTU equivalent basis.

Think of the impact on the American consumer, on the inflationary spiral, on world oil prices, and on the security of our Nation if we would put this valuable resource into the U.S. market in place of foreign oil.

In addition, it is essential that we continue to burn gas in these installations beyond 1990. There will probably be some moderation as plants are phased out, due to supply problems, or to save money by burning coal.

But, when many of our electric generating plants were built for natural gas firing only, the cost was as low as $85 per kilowatt of capacity. This compares with the latest coal-fired generating plant with scrubber units at a cost of $1,440 per kilowatt.

These plants must not be abandoned while they have economic life. The cost of service to the American consumer requires that we have an orderly transition in this gas service.

We believe that a medium BTU gas from coal may be the most economic fuel to extend the life of these gas-fired units.

In the meantime, the trend toward a more seasonal marketplace for the natural gas industry in this country will require substantial investments in gas storage, propane air machines and propone storage, and small LNG plants for pipeline gas conversions.

The huge capital demands for the industry in the years ahead will command the wisest of management decisionmaking.●

DOMESTIC VIOLENCE PREVENTION ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. PURSELL. Mr. Speaker, earlier this fall, I held a series of meetings with women community leaders—representing all facets of career and issue orientation—to discuss women's legislation. The focal point of the meetings was to obtain a reading on viewpoints with regard to such issues as social security, rape laws, and the displaced homemaker.

Not surprisingly, extensive disappointment was voiced on the failure to enact the proposed Domestic Violence Assistance Act, the 95th Congress predecessor to H.R. 2977, the Domestic Violence Prevention and Service Act, last year. As one who supported this legislation in the 95th Congress, and supports it now, I urge my colleagues to make a constructive contribution to treating and preventing the family ill and epidemic of domestic violence.

The informal testimony I received at the grassroots level further convinces me of the need for new shelters, public awareness of the domestic violence problem, and legal/emotional counseling for victims.●

THE PATTERNS OF STARVATION

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. MAGUIRE. Mr. Speaker, each day before the House begins its legislative business, I and several of my colleagues have taken to this well to discuss the famine in Cambodia. We are doing so to remind the world that the U.S. Congress is committed to the essential human right to be fed, regardless of the form of government under which each individual lives. These speeches, specifically intended to bring attention to the hunger in Southeast Asia, form an introduction to a broader discussion which will take place in a special order of the House on December 10, International Human Rights Day.

Colman McCarthy recently pointed out in an article in the Washington Post that starvation is an issue which did not begin with Cambodia. We all know that hunger is an illness which has seized the world before. More importantly, the article demonstrates that it is likely to be an issue of continuing importance. Like oil, it will set the tenor of many world policy and political decisions for the next two decades. If we treat the starvation in Cambodia like one illness instead of a symptom of a broader disease we will set the stage for continual, and perhaps more critical, patterns of starvation in the future.

With these thoughts in mind, I insert this important article into the RECORD for my colleagues to review:

[From the Washington Post, Nov. 4, 1979]

PATTERNS OF STARVATION: THE CRISIS IS THAT IT'S CONTINUING

(By Colman McCarthy)

How many will have starved to death in Cambodia?

Even to raise the question is to create the illusion that the issues of starvation and malnutrition are fresh in themselves. It is to cast Cambodia as "a crisis," as though the country was just wheeled into the world's emergency room and the fever chart began ascending in a straight line.

We know better. In the 1970s alone, the West looked on while starvation created death camps in Biafra, Bangladesh and the Sahel. The vastness of the misery meant that even the accounting systems to record the deaths broke down. In America, where overeating is so rampant that millions of citizens spend more money in weight-loss programs in a month than most people in the Third World earn in a year, it is enough merely to remember dimly the standard (and conservative) figure: 500 million of the earth's poor are starving or severely malnourished.

In looking at Cambodia, then, it is crucial to get it straight at the beginning: The current suffering there is part of a long-recognized global pattern, and not a quirky disaster.

If anything, Cambodia might have been the one country that was secure from famine. In 1974, six countries—Guinea, Sudan, Sri Lanka, Pakistan, Bangladesh and Cambodia—received one-third of the $748 million budget of an American food commodity program. Cambodia received a major share—$194 million—of that third.

The country, though, as the National Council of Churches has pointed out, was "one of our major military and political clients" in Southeast Asia. The humanitarian impulse to aid the hungry was less on the minds of American policy-makers than feeding the emaciated political and military schemes that saw Cambodia as crucial to America's "national interest."

In a few months, perhaps sooner, world attention to starvation in Cambodia will have vanished. In time, another famine—perhaps in Haiti, Indonesia or Madhya Pradesh—will again push the death rate so high that the consciences of the wealthy must pay heed.

To say this is not to heap guilt on the rich nations, which is the one-shot tactic that every speechmaker from the Pope to Fidel Castro has been offering of late. Countless Americans who send checks to Oxfam or support worthy groups like Bread for the World or the Overseas Development Council don't feel guilty, as they shouldn't.

Instead, they feel frustrated and angry. In Washington, no one public figure in the Carter administration has been given—or has sought—high-level responsibility for dealing with world starvation. Instead of a person, we have a process: It is kept in motion by representatives from Food for Peace, the State Department, Treasury Department, Agriculture Department, Office of Management and Budget and congressional groups. These are intelligent and often compassionate officials but unwittingly they are forced to play one of the government's oldest games: The job doesn't get done if everyone is asked to do it.

With no single public official held accountable and with no comprehensive nutrition policy for itself or the world the Carter admnistration could reach out to the starving Cambodians with nothing better than a last-minute pledge of $70 million. This was belated conscience money.

In 1975 not long after the world food conference in Rome was supposed to put an end to the Biafras Sahels and what afflicts Cambodian families today Kenneth Schlossberg of the McGovern hunger committee in the Senate stated the obvious: "Food and nutrition policy are the waifs of national policy matters. Decisions that affect the very existence of millions and comprise the most pressing problem confronting America in the next several decades are left to a policy-making process more reflective of the last century than this one."

Even if our government came alive the victimization of millions would continue. Other rich nations—including the oil countries—are doing little. Developing countries themselves are often run by men who put military development first and agricultural development last. Half the world lives on rice yet rice requires three times as much water—in water-scarce countries—as wheat. And hovering above it all is the specter of overpopulation.

For the West to agonize over the pictures of starving Cambodians but not act to reverse the economic and political causes of world hunger is to assure that next year or the year after another country will be host to mass death.●

JOHN J. EXLER—A REMARKABLE PUBLIC SERVANT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. WALGREN. Mr. Speaker, I want to take this opportunity to pay special tribute to Mr. John J. Exler—a dedicated public servant and citizen who has served the people of Allegheny County as recorder of deeds. John Exler will soon close a public career of 32 years that included courageous military service, and exemplary service as a public official.

All of us who worked with John Exler have been enriched by his example. We will always remember his marvelous contribution to America, Allegheny County, and the Democratic Party.

Mr. Speaker, the following is the text of a certificate of recognition I gave to John Exler on November 25, 1979:

> To John J. Exler in recogition of his lifelong contribution to the people of Allegheny County as exemplified by his 32 years of service as recorder of deeds, his outstanding record of military service to the United States of America, and his dedication to the Democratic Party of this Commonwealth. Those who have been privileged to know John J. Exler have learned much by his example of public service, courage, and decency. There is no greater legacy to leave than that.●

SOVIET PROPAGANDA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. DERWINSKI. Mr. Speaker, the attention of the world is naturally focused on the American hostages in Iran, but the diabolical role of the Soviet Union in this situation must not be overlooked.

At this point, I wish to insert a hard-hitting but accurate editorial regarding the Soviet inaction in the Iranian crisis which appeared in the November 30 Southtown Economist Newspapers, serving the south suburbs of Chicago:

SOVIET PROPAGANDA

Some days following seizure of the American Embassy in Tehran, the State Department got around to lodging a relatively mild protest with the Soviet Union for what it termed "unacceptable" broadcasts to Iran.

Overshadowed as it was by the Iranian crisis, the news about this development was more or less lost in the shuffle and didn't attract much attention. Therefore, the Wall Street Journal has performed an unusually useful service in employing its considerable resources to discover what this was all about.

Extracts of Moscow's Persian language broadcasts into Iran were printed by the Journal, and reprinted by other newspapers throughout the country.

A study of these transcripts gives a better insight into: 1—The Soviet Union's incendiary role in the Iranian crisis—an example of the unceasing hate campaign being waged against the United States throughout the world, and 2—a partial explanation, although certainly not an excuse, for the irrational Iranian hostility toward Americans.

The Soviet propaganda is spiced with enough half-truths to lend plausibility to trumped-up charges of U.S. imperialism and interference in Iranian internal affairs, counter-revoluntionary activities and CIA espionage.

So much for detente.

The Journal makes a telling point in analyzing the Carter administration's soft answer to the Soviets despite their serious aggravation of a dangerous crisis involving U.S. lives and national honor: The administration, having staked its political prestige on ratification of the SALT II treaty, does not wish to raise public fears about Soviet duplicity lest this raise fresh questions about the treaty. In other words, the Soviet Union holds a hostage of its own.●

A NEEDLESS 1,500-MILE DITCH

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. BONKER. Mr. Speaker, I would like to draw your attention and the attention of my colleagues to the excellent editorial which appeared yesterday morning in the New York Times.

The Secretary of the Interior has recommended that the President select the Northern Tier pipeline project for expedited Federal approval as a new west-to-east crude oil pipeline.

As the editorial points out, this pipeline is simply not needed. There are alternative means of bringing oil to the Midwest that are less expensive both in terms of the environment and the economy.

I recommend the editorial to the attention of my colleagues.

A NEEDLESS 1,500-MILE DITCH

Last year, Congress asked the President to decide which, if any, proposed pipeline should be built to bring Alaskan oil east. Mr. Carter is now being lobbied to approve the Northern Tier Pipeline, a 1,500-mile, billion-dollar project that would link the state of Washington to Minnesota. We doubt the need for any pipeline. But if one is built, there are better proposals and routes.

The pipeline became an issue in the wake of major shifts in American oil supplies. Five years ago, Canada decided to cut exports from Alberta's rich oil fields. The loss to the United States has been made up with oil from Alaska, but that is inconveniently located. West Coast refineries are not equipped to process all the heavy, high-sulfur Alaskan crude. So about 400,000 barrels a day go by ship through the Panama Canal to the Gulf Coast and then by pipeline to the Midwest.

The proposed Northern Tier Pipeline would be a short cut. Its supporters, including Interior Secretary Andrus, say the connection would mean cheaper oil and less environmental danger than the tanker route. And the Northern Tier route lies entirely within American territory, safe from terrorists and such.

But these justifications work only if one thinks that the present imbalance between oil supplies and refining capacity has to last. It does not. The cheapest fastest, environmentally soundest solution to the imbalance would be to send excess Alaskan oil to Japan, in exchange for Mexican oil it now buys. Such a swap would be secure: if Japan failed to deliver, the Alaskan oil would simply be diverted to American refineries. Unfortunately, this swap is bitterly opposed by some Congressmen, who see it as a plot to enrich Big Oil.

Their ability to block a swap, though, does not justify a new pipeline; the West Coast glut will probably disappear within a few years as refining capacities are altered. New Federal incentive make it profitable to modify Western refineries to process more sulfurous Alaskan oil. And a Department of Energy study says the whole problem could be a mirage: oil supplies in the Northern Tier states may be adequate for decades.

In the end, the decision to build a pipeline will have less to do with energy than with jobs and profits. The Northern Tier Pipeline would be the largest steel construction project in American history, employing 4,400 laborers.

But even if these political considerations were compelling, there is no strong reason to prefer the Northern Tier route. Three other routes have been proposed—all across Canada. The Council on Environmental Quality sees advantages in two. A direct link between Alaska and Edmonton, Alberta, following the route of the already approved Alaska natural gas pipeline, would eliminate tanker spills. The shorter, cheaper route between Washington and Edmonton would also be less risky.

Northern Tier's promoters, including Westinghouse, U.S. Steel and two railroads, depict the all-American route as critical to security. But they do not explain why Canada would want to block a pipeline supplying American oil to American customers. And if location did matter for security, there is still a cheaper alternative: Sohio's proposed pipeline from California to Texas, using an existing natural gas pipeline.

The Northern Tier Pipeline is make-work masquerading as energy security. There is no economic, environmental or defense justification for digging a 1,500-mile ditch across five unspoiled states and then filling it with 8 million feet of expensive steel pipe. Ideally, the President will kill the project. At the least, he needs to find a cheaper and environmentally sounder route.●

JACK C. JONES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. SKELTON. Mr. Speaker, it is with great sadness that I inform my colleagues of the recent death of a good friend of mine, Jack C. Jones of Blue Springs, Mo.

Mr. Jones was born in Carrollton, Mo., in 1918. He was a graduate of Washington and Lee University in Lexington, Va., and he received his law degree from the University of Missouri. Following his service in the Army Air Force during World War II, he became a law clerk for Judge John Caskie Collett, who was the legal consultant for the Office of War Mobilization Recovery. Mr. Jones was also the assistant prosecuting attorney for Carroll County, and he practiced law in the city of Carrollton for 20 years.

From 1955 to 1965, he served as a State Senator for Missouri's 16th district. During that time, he was a member of the judiciary committee, and he served as chairman of the special House-Senate committee on industrial development in 1961. He was appointed as a commissioner for the Federal Bankruptcy Court in 1964, and he was sworn in as a referee in bankruptcy for the western district in 1965.

He was also a member of the Missouri Bar Association, the Masonic Lodge, and the First Baptist Church of Carrollton.

Jack Jones was a judicious lawyer, a conscientious legislator, a dedicated public servant, and a great friend. He will certainly be missed by his many friends and all the members of his community. I extend my sympathy to his widow, Mrs. Virginia R. Jones.●

THE AFL-CIO ADOPTS AN IMPORTANT RESOLUTION IN SUPPORT OF PEACE IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. BIAGGI. Mr. Speaker, as chairman of the 130 Member Ad Hoc Congressional Committee for Irish Affairs it gives me great pleasure to place into the RECORD the text of resolution 209 adopted by the AFL-CIO at their recently completed national convention.

The resolution calls on President Carter to make a genuine effort to bring about a peaceful resolution of the difficult problems in Northern Ireland. The resolution was introduced by the new president of the AFL-CIO, Mr. Lane Kirkland as well as other distinguished leaders of organized labor, Mr. Thomas W. Gleason, Sr., Harry R. Hasselgren, John Bowers, Anthony Scotto, and Robert Lowen of the International Longshoremen's Association.

The resolution is a strong and definitive statement about the problems of Ulster. It points to the well publicized problems of terrorism but also discusses what is considered to be a main provocation of terrorism—violations of human rights by the security forces of Great Britain and the Royal Ulster Constabulary. The resolution points out the serious social problem and economic discrimination against the Catholic minority in the north.

The situation in Ireland is an extremely fluid one. Just today we have learned of the impending resignation of Prime Minister Jack Lynch of the Republic of Ireland.

Further on December 17, President Carter will meet with Prime Minister Thatcher of Great Britain. We again urge that Northern Ireland receive priority attention. Specifically we call on the President to urge Prime Minister Thatcher to employ the same successful techniques she used in the Zimbabwe Rhodesia peace talks which have made great progress. Of course, the key ingredient was the fact that she invited and actively involved all parties in the discussions. This is precisely the same process that should be used in Ulster.

I wish at this time to insert the AFL-CIO resolution into the RECORD and pay tribute to the new leadership for their involvement in this important matter. We look forward to working closely together in pursuit of peace and justice.

PEACE IN NORTHERN IRELAND

Resolution No. 209.—By Delegates Lane Kirkland, Thomas W. Gleason, Sr., Harry R. Hasselgren, John Bowers, Anthony Scotto, Robert Lowen; International Longshoremen's Association.

Whereas, Incidents of violence continue to unfold daily in Northern Ireland afflicting Protestant and Catholic alike, while reports of denial of fair trials, torture, and unjust and unwarranted imprisonment of Long Kesh continue to filter across the seas—all largely neglected by the media, by the governments of the nations involved and by most of the world. And so, the "neglected war" and the continued denials of human rights go on, and

Whereas, There has been ample documentation of violations of human rights in Ulster, especially in its detention centers. That evidence has come not only from the oppressed themselves but from Amnesty International, The European Court of Human Rights, Protestant prison physicians, and even an occasional British government report, and

Whereas, The Catholic minority in the North exists under an historical burden of social and economic discriminations and still is denied any effective political power. The majority Unionist party adamantly refuses to consider any suggestion of power-sharing. And the British government continues to garrison troops in Northern Ireland, to try to put down violence, but does nothing about moving toward the eventual political solution which must be achieved, and

Whereas, We do not believe that the government of the United States can any longer neglect the cause of peace in Northern Ireland merely because the numbers of the people involved are small or because the struggle of the people is embarrassing to England, a nation with whom we have been a willing ally in wars and a desired friend in peace, and

Whereas, We do not believe that the government of the United States, which has stood so staunchly for peace and for human rights in so many nations of the world, and which today actively pursues efforts to mediate disputes in several nations, can any longer avoid its obligation to press the British government for a solution in Northern Ireland to avoid its obligation to offer the mediatory assistance of the United States to promptly achieve that end; therefore, be it

Resolved: We urge President Carter to make a genuine effort to bring about a peaceful resolution of the difficult problems in Northern Ireland and thus bring an end to violence and terrorism. We call upon the United States government to encourage the British to plan conscientiously and act decisively now for what is inevitable to most outside observers—a future in which the island of Ireland will be governed only by the Irish.

Referred to Committee on Resolutions.●

THE VOLUNTARY SECTOR

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 5, 1979, into the CONGRESSIONAL RECORD:

THE VOLUNTARY SECTOR

What do Benjamin Franklin, Martin Luther King, Jr., Andrew Carnegie, and Ralph Nader have in common? They have all worked through voluntary organizations to further the public interest. What do Harvard University, the Grey Panthers, the Audubon Society, and the Indianapolis Museum of Art have in common? They are all organizations which depend to some degree on voluntary aid and private contributions. What do the abolition of slavery, women's rights, prison reform, and the fight against world hunger have in common? They are all social movements whose achievements have flowed from the efforts of volunteers.

The answers to these three questions tell an important story. Since the founding of our nation, the voluntary sector has been an essential part of American life. Time and again from colonial days to the present, selfless men and women have played a vital role in solving all manner of problems. There are many ways to explain how the United States became a great nation, but one of the best explanations is this: America is the land of voluntary effort undertaken for the public good. Although such a tradition is no reason to feel smug or superior, it is an effective antidote to the feelings of despair we may have when we survey our past mistakes or take account of our current troubles.

A glance at the statistics is enough to convince anyone that there is a powerful third sector, beyond the commercial and governmental sectors, in our society. Estimates indicate that some 45 million to 70 million Americans perform some kind of voluntary service every year, and a recent poll showed that one of every four persons aged 14 years or more is at least a part-time volunteer. The services rendered in this third sector had a value of approximately $68 billion in 1977, enough to operate all of America's largest cities without any red ink. Volunteers raised $26 billion in contributions in the same year. It is obvious that the voluntary sector is big in terms of both people and money.

Just like businessmen and public officials, leaders of voluntary organizations have begun to feel the pinch of inflation. The enormous amount of time spent and the huge sum of money collected in the voluntary sector have not been keeping pace with the growing need for human services. Especially disturbing is the evidence that traditional voluntary groups are losing ground. Leaders in all parts of the country report difficulty recruiting new members, getting them actively involved in programs, and motivating them to become leaders themselves. There are other signs of decline as well. The Peace Corps is less than half the size it was in the mid-1960s. VISTA has fallen on hard times. The talk on college campuses is of business or professional careers, not of helping the sick or teaching the poor. The list of unmet needs is long, and it may be lengthening. Facilities in parks are in disrepair, and there is not enough money to hire the repairs out. Some educators, alarmed at present rates of illiteracy, attribute those rates to a lack of volunteer teachers and tutors. With today's exploding costs, hospitals and nursing homes have had to rely more than ever on a limited pool of volunteers.

If there is evidence of a decline in volunteer activity, it may be useful to ask what the causes are. Voluntary services and charitable contributions are often church-related, so lower church attendance may account for some of the decline. Then, too, times are tougher now than they were a few years ago. People who would have otherwise donated time or money may have come to believe that they can no longer afford it. Yet another cause may be the presence of government in so many areas of social concern. Government programs may make people think that only the public sector should be working for the public good. The very magnitude of social problems has itself been described as a problem for the voluntary sector. It may often seem that the efforts of individuals and small groups are dwarfed by the tasks that must be accomplished. Finally, the so-called "me generation," with its zeal for self-fulfillment and self-improvement, may have something to do with weakness in the voluntary sector.

The voluntary sector is far too important to be taken for granted. My personal view is that we should address its problems by making a fresh and searching examination of voluntary initiative in the whole range of American life. Such an examination could turn up problems we never knew we had, or it could give us a cleaner bill of health than we had hoped for.

Perhaps one of the most critical things for the voluntary sector is how each one of us perceives it. In fact, a clearer perception may be exactly what is needed to reverse any decline. First and foremost, voluntary effort should not be considered an onerous duty or a lifetime commitment. If the word "volunteer" calls to mind only images of Dr. Schweitzer in Africa or Mother Teresa in India, there will never be more than a handful of volunteers. In addition to the saints, who are always in short supply, we need ordinary people who will give small amounts of time or money regularly as they move through life. Second, we must dispel the idea that voluntary effort is the special prerogative of youth. Youthful exuberance is helpful, to be sure, but just as helpful is the seasoned judgment that comes with age. The best of both worlds is to be had when youth and age get together in voluntary effort. To sum up, we need to return to the notion that voluntary effort is "the thing to do." This just means we stress the fact that our history, our culture, and our ideals demand the sacrifice of voluntary effort on occasion.●

INTERDEPENDENCE, A SIGN OF THE FUTURE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. BINGHAM. Mr. Speaker, as the nightmare in Iran continues and we suffer from our seeming inability to resolve the crisis, it is not too early to ponder the long-range significance of recent events in Iran and other Islamic countries. To this end, I commend to my colleagues a perceptive and provocative article by Robert J. Samuelson, which originally appeared in the National Journal and was reprinted in the Washington Post for December 5, 1979:

INTERDEPENDENCE, A SIGN OF THE FUTURE

(By Robert J. Samuelson)

We are fooling ourselves if we view the Iranian crisis as some freak accident. Better to recognize it as a painful illustration of the dilemmas we face in a world where the worn cliche has acquired a horrifying reality: As nations become increasingly interdependent economically, the cultural and political bonds that link them seem to grow weaker.

Iran and the United States aren't behaving as differently as we would like to believe. Both countries are groping after a past that is forever gone: the United States after its once-clear economic and political dominance; Iran after a traditional, preindustrial society in which religious leaders and values reigned supreme.

That is the modern paradox. As countries become more subject to outside influence, they seek to deny the intrusion by resurrecting history. If Americans are learning the impossibility of this, so is Iran. The urbanization and population growth of the past 20 years have made Iran heavily dependent on food imports and industrial employment. Change has trapped the Ayatollah Khomeini as much as it has President Carter.

We haven't become weaker so much as other nations have become stronger. All our advantages have eroded: the overwhelming military dominance, the unquestioned economic stability, the unsurpassed technological superiority, the boundless natural resources. We confront a world in which nations still aren't equal, but are less unequal.

Consequently more and more events slip beyond our control. It is easy to say that we aligned ourselves too closely with the shah but, even in retrospect, it isn't clear whether another policy would have made much difference. Other nations were eager to sell the shah any arms that we wouldn't.

And in guns, as in almost everything else, the market is broadening. Technology and wealth are spreading. According to the U.S. Arms Control and Disarmament Agency, 12 "developing" countries exported arms in 1977. Brazil is beginning to ship armored cars and jet trainer aircraft; Israel sells guided missiles and transport planes.

Don't think that we can shut ourselves off from these changes. They have gone too far. Even without our critical dependence on energy imports, too many powerful constituencies have a sizable stake in internationalism. About one-third of America's grain goes abroad, and about half of our production of commercial jets. At last count, U.S. banks had $125 billion outstanding in foreign loans. In 1977, 8.3 million Americans journeyed overseas and 6.5 million foreigners came here. Vested interests protect all these flows.

Moreover, if many of our problems originate abroad, their solutions also may lie—at least partially—abroad. In a recent speech, Donald E. Stingel, a director of the Export-Import Bank of the United States persuasively argued that one way to lessen energy scarcity here is to import more energy-intensive products such as fertilizer and aluminum from countries with abundant natural gas or hydroelectric power. Environmental hazards—atmospheric and oceanic pollution, control of nuclear and chemical wastes—increasingly demand international policing.

In short, there seems to be an historic drift toward global community, even of the most turbulent sort. Nations that traditionally sought isolation and self-sufficiency have succumbed progressively to the suction of world commerce: most conspicuously China and the Soviet Union. Money increasingly flows across national borders, as do workers, even when countries (such as the United States) impose official restrictions. According to one estimate cited in a recent report by the Worldwatch Institute, such "economic refugees" now may total 20 million.

By temperament and training, Americans aren't well equipped to deal with this world. We are being thrown into contact and conflict with peoples whose histories and motivations we hardly understand at all.

On the simplest level, few of us speak anyone else's language: A presidential commission recently reported that only 8 percent of American colleges and universities have a foreign language entrance requirement against 34 percent in 1966. It is naive to see language training as the path to brotherhood, but it is essential if Americans are to shed the burden they carry overseas: dread of the unfamiliar and dependence on translators.

Our language inadequacies betray a sense of moral superiority that sends U.S. foreign policy swinging between extremes of altruism and violence. We like to assume that all good things are compatible. Democracy and economic development go hand in hand; prosperity means peace and, probably, friendship. Life would be easier if these things were true but, unfortunately, they aren't.

A central dilemma today revolves around this question: How do we deal with governments whose friendship or resources or trade we value when we disapprove of the regime's politics?

To say, for example, that American support for the shah prostituted our commitment to democracy is an easy judgement, but one that smacks of moral absolutism. The shah's torture was not pretty, but neither is the anarchy and religious tyranny of Khomeini. Repression in Chile may not be appealing, but neither was the economic and political chaos of Salvador Allende. And what about South Korea?

It is also too simplistic to argue that our self-interest lies in supporting regimes friendly to the United States no matter what their other vices. As the case of Iran demonstrates, excessively close ties to unpopular governments ultimately may boomerang.

But where do American interests lie?

The foreign policy establishment—too preoccupied with superpower politics—has few answers. At home and abroad we are suffering the after effects of our reduced power. Others take us as a symbol of their frustrations, and we are frustrated by our apparent impotence. We dislike uncertainty and instability, but they are inevitable. The impulse to retreat from this unpleasantness is as understandable as it is inadvisable. Perhaps our refuge is to deal more with others but to expect less: to limit our risks by spreading them.●

PROBLEMS WITH SALT II

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, the Paris, Ill., Beacon-News, published by a good friend of mine, and former Member of this body, Ed Jenison, consistently demonstrates clarity of thought founded upon the principles that guided our Founding Fathers.

Nowhere are these qualities more apparent than in a November 10, 1979 editorial on SALT II. It is my pleasure to offer this dose of wisdom to my colleagues and the American people.

The editorial follows:

LOOPHOLES SOUR SALT II

The SALT II treaty is supposed to establish a stable nuclear equilibrium by limiting the United States and the Soviet Union to 2,250 strategic weapons launchers each. But, in fact, this seeming parity is mostly cosmetic. Treaty loopholes allow the Soviets an additional and unregulated arsenal that already exceeds 2,000 nuclear missiles and delivery systems, all capable of reaching the United States.

It doesn't require a special grasp of nuclear strategy to imagine what this strategic bonus does to a Soviet-American military balance already shifting in Moscow's favor.

The most celebrated of these loopholes is the exemption from treaty limits granted the Soviets' supersonic Backfire bomber. By the time SALT II expires in 1985, this concession alone will have provided the Soviets the equivalent of a strategic air command—375–400 Backfires armed with nuclear missiles and bombs, all outside treaty ceilings.

Menacing as the Backfire threat is, however, it may be less destabilizing to the strategic balance than the stockpiling of intercontinental ballistic missiles, a critical issue ignored by the treaty. This loophole goes to the heart of SALT II's failure as an alleged "arms-control" treaty.

In general, the treaty limits the numbers of missile launchers and not the missiles themselves. Yet one searches the treaty in vain for a comprehensive definition of a missile "launcher." A mere technicality? Hardly.

For treaty purposes, ICBM launchers are considered to be fixed, underground silos utilized by both sides for intercontinental-range missiles.

But no law of physics requires that ICBMs be launched from concrete holes in the ground. The U.S. Air Force has successfully test fired a Minuteman ICBM from a simple concrete pad with nothing more than a transportable erector and a portable electric power source. The technology is elementary and certainly within Soviet capabilities.

What makes this significant is the fact that the Soviets have already replaced some 1,500 of their older ICBMs with more modern missiles. By 1985, an estimated 2,200 Soviet ICBMs will have been withdrawn from their silos in favor of more accurate, lethal versions.

Nothing in the 1972 SALT I agreements or in the SALT II treaty requires that these "surplus" missiles be dismantled. So, no one should have been surprised last April when a new U.S. intelligence study of Soviet strategic forces concluded that the Soviet Union possesses at least 1,000 stockpiled ICBMs in addition to the 1,398 housed in fixed launchers.

It would be sheer folly to assume that the Soviets might not suddenly deploy these missiles on easily concealable launching pads at the critical moment of some future international crisis. Why else would they retain such large numbers of supposedly superfluous missiles?

Moreover, about one-fourth of the Soviet Union's ICBM silos employ the so-called "cold launch" technique that permits rapid reload and launch of additional missiles, a capability U.S. silos lack. Inasmuch as the cold-launch feature is useless without a supply of stockpiled missiles, Soviet intentions are as ominous as they are apparent.

Other treaty loopholes permit the Soviets to maintain up to 300 ICBM launchers not counted toward SALT II ceilings. U.S. negotiators agreed to exempt 150 Soviet silos as "test and training" launchers although the United States manages to get by with only 14. Another 150 Soviet silos are exempted because, say the Russians, they are "command and control" facilities, not launchers.

Finally, the SALT II treaty inexplicably exempts 69 Soviet submarines armed with a total of 454 nuclear-tipped cruise missiles and 26 additional Soviet submarines carrying an aggregate of 78 ballistic nuclear missiles.

While it is true that many of these submarines are older models equipped with relatively short-range missiles, every one of these weapons could reach U.S. targets from offshore stations along the Atlantic, Gulf and Pacific coasts. The SALT II treaty's arbitrary definitions of what does and does not constitute a strategic weapon cannot obviate the threat these weapons pose nor lessen their impact on the actual military balance.

The Carter administration, and the Kremlin, insist that any attempt by the U.S. Senate to close these loopholes would effectively kill the entire treaty and rekindle the Cold War. But unless these and the treaty's other manifest flaws are corrected, SALT II will stand as a cruel, dangerous betrayal of the legitimate hopes for equitable arms control.●

BASIC TO COMMUNICATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. SIMON. Mr. Speaker, one of the most widely circulated columns in the

United States is the Newspaper Enterprise Association's "In Washington" column written by Robert Walters, and formerly coauthored by his wife, Martha Angle.

Recently, the column stressed the importance of foreign language study, quoting the final report of the President's Commission on Foreign Languages and International Studies released in November.

I thought my colleagues would be interested in seeing this perceptive column.

The column follows:

Basic to Communication

(By Robert Walters)

Washington.—A top-notch Senate staffer who attended a five-day Soviet-American "youth leadership" conference last month at Middlebury College in Vermont came home exhilarated but badly shaken.

She was excited because the exchange had been a fascinating experience; she was rattled because she felt the American delegation had been in many respects outclassed. The Soviets simply knew infinitely more about every aspect of American life than our representatives knew about their country.

"It was especially obvious at the language level," the Senate aide reported over lunch recently. "We were struggling to learn the Russian words for 'hello' and 'goodbye' and they were saying things like 'hang loose'! In fact, the leader of their delegation was repeatedly mistaken for an American by people at the college.

The woman's embarrassment was understandable—and justified. As a presidential commission has concluded after a yearlong study, Americans suffer from "a scandalous incompetence in foreign languages" that contributes to "our dangerously inadequate understanding of world affairs."

This is no academic concern, the commission added. "Our lack of foreign-language competence diminishes our capabilities in diplomacy, in foreign trade and in citizen comprehension of the world in which we live and compete."

One example: The Japanese have 10,000 English-speaking businessmen on assignment in this country compared with fewer than 900 American counterparts at work in Japan, only a handful of whom speak Japanese. Is it any wonder we have a balance-of-trade problem with Japan?

Or consider what is happening in Iran these days. It seems reasonable to suggest that some of the virulent anti-American fever now raging may have had its incubation during the years when thousands upon thousands of Americans worked and lived in Iran without ever bothering to learn its language.

"Americans' unwillingness to learn foreign languages is often viewed by others, not without cause, as arrogance," the president's commission notes. "Our vital interests are impaired by the fatuous notion that our competence in other languages is irrelevant."

In a world where ethnic pride and national sensibilities are becoming more pronounced every day, we can no longer assume that anyone worth dealing with will speak English. The sun has set on the British empire, and on America's era of supremacy as well.

In other nations, language training is a routine (and mandatory) part of the curriculum at every level of schooling. It is perfectly common to find ordinary citizens in most European countries—shop clerks, office workers, laborers—speaking two or three languages in addition to their own.

But in the United States, language training has declined sharply over the past 15 years—and it was never much to begin with. Instruction in foreign languages and cultures has all but disappeared from elementary schools. Only 15 percent of our high-school students now study another language, down from 24 percent in 1965. And just over half of all colleges still require at least some language study for graduation, down from nearly 90 percent in the mid-60s.

This is a trend that must be reversed, and quickly. Corrective action is needed at every level of education, from Kindergarten to graduate school. As the president's commission recommends, the federal government can help with financial support and incentives. But it cannot do the job alone, and should not.

The "back to basics" movement, a thoroughly welcome trend in the public school systems across the country, needs to be expanded just a bit to include foreign-language training. For in a world where other cultures are seconds away by satellite or minutes away by jet, there is absolutely nothing more basic than communication.●

CAMBODIA—A TORN NATION

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. PEYSER. Mr. Speaker, today, Congressman Solarz and Senator Kennedy are introducing legislation calling for an international conference on Cambodia. This concurrent resolution will have a far-reaching impact in alleviating some of the suffering in that part of the world by bringing together all nations and people claiming to represent the people of Cambodia, as well as those who have a special interest in the Cambodian situation.

I am pleased to be a cosponsor of this legislation and would like to provide my colleagues with a brief synopsis of what is occurring in Cambodia today.

At this very moment, over 3 million people are starving to death in Cambodia.

Famine and epidemic have begun their own sweep throughout the country. According to the Indochina Refugee Action Center, it is estimated that of the "8 million Cambodians in 1970, only 4.7 million survived the decade of war and the Pol Pot holocaust." Of those remaining, as many as 2 to 3 million are dying of starvation. There are reports that as many as 200,000 people are dying monthly, with hundreds of thousands suffering from malnutrition and diseases such as malaria. Children do not have the energy to cry. In Phnom Penh, officials of the Heng Samrin regime reluctantly conceeded that Cambodians faced "extreme hunger." In testimony given to the House Committee on Foreign Affairs by the American Friends Service, it was stated that—

> Over 5 years ago, there were 500 doctors, now only 58 have been identified, mostly old, who have not practiced for 4 years. If they seek books, they find the medical school library ransacked and useless.

With the proper food and medical care, it is possible for some of the adults in the refugee camps to recover. However, with the infrastructure of transport and communication destroyed, most relief efforts have been hampered up to this time and it is hoped that this situation will change for the better. Even if all food and medicine were readily available, most Cambodians are so weak that they are unable to load and unload relief shipments.

Political turmoil and unrest in Cambodia have greatly contributed to the present situation in that country today. In April 1975, the Khmer Rouge, headed by Pol Pot, successfully ousted the Lon Nol government.

Pol Pot was determined to build a self-sufficient and classless society in Cambodia and renamed it Democratic Kampuchea. Citizens were forced to leave the cities and town and work the fields of agricultural cooperatives. Foreigners, intellectuals, and professionals all became targets of repression. Some fled the country, many others were executed by the regime. According to officials from UNICEF and the International Committee of the Red Cross fact-finding mission in Cambodia, hospitals, schools, water, and sanitation facilities were destroyed. Shortages of food and medical supplies resulted in the deaths of many due to malnutrition, malaria, and other diseases. No other nation on Earth has seen so much destruction and suffering.

The helpless Cambodian civilians are the ones that suffer the most. During the invasion last December, many were forced to leave their homes and villages. As a result, most of Cambodia's crops were destroyed or left unharvested. After the assault, some of the people returned to the dry and empty fields without food. Faced with starvation, many of the people ate the rice intended for cultivation resulting in a loss of most of the rice crop. It is estimated, by the State Department, that only 10 percent of the arable land was planted for the August harvest and yields from the main harvest this month will probably be even lower. Moreover, Pol Pot systematically destroyed farm implements, fishing boats, nets, and the tools for making these nets. The money economy was destroyed by the Khmer Rouge regime and rice is the medium of exchange or gold for those few who may have some.

It is obvious that the situation on Cambodia is a desperate one. To quote the Indochina Refuge Action Center, "The current plight of famine, disease, and destruction in Cambodia can be likened to the holocaust in the enormity of human suffering delivered on a nation of people." We must take the only humanitarian steps possible to restore this broken nation.

I urge my colleagues to cosponsor this legislation that will insure a lasting and peaceful resolution to the Cambodian conflict.●

BANKING ON THE SHAH'S MONEY

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. HANSEN. Mr. Speaker, there has been a great deal of speculation about the circumstances behind this current crisis. Perhaps this version supplied by "The Ruff Times" of December 1, 1979, is closest to this popular understanding. Certainly it is food for thought pending any better explanation. The article originally by W. S. Gilbert from "H.M.S. Pinafore" follows:

Ayatollah You So

(A Fable)

Once upon a time, a Shah of Iran was deposed by religious fanatics led by a vengeful leader, who even looked like the wrath of God. The Shah fled to Mexico, but not before he had transferred between $10 and $25 billion to foreign countries. Most of the funds were administered by the Chase Manhattan Bank, an institution controlled by David Rockefeller, the same fellow who organized the Trilateral Commission to make the world safe for international banking.

Some years prior to this, the President of Coca-Cola had introduced a lame duck Georgia Governor, better known as a peanut farmer, to Mr. Rockefeller. For reasons best known to himself, Rockefeller invited Governor Jimmy to become a member of the Trilateral Commission, an elite group of the multinational powers that be, including politicians, multinational corporation heads and bankers, and they made him a star. They gave him his foreign policy training, and by sheer coincidence, he suddenly became President of the United States. The Trilateralists provided all the advisors that he needed to assist the Trilateral Commission in making the world safe for international banking. From their ranks came Brzezinski, Blumenthal, Vance and a lot of other interesting people.

But back to the present. When the Shah became sick, Rockefeller, the Trilateralist John J. McCloy, and the Trilateralist Henry Kissinger, a $125,000-a-year Rockefeller employee, petitioned Mr. Vance, now Secretary of State under the aforementioned peanut farmer, to admit the Shah to the United States for treatment. The charge d'affaires of the Tehran embassy warned all concerned that this could result in retaliatory moves against embassy personnel, but the Shah was brought here anyway—for "humanitarian reasons."

Why would they do such a stupid thing? Well, at stake were $10 to $25 billion being managed by the Chase Manhattan Bank. There might be complications if we had a dead Shah. Also, Chase Manhattan Bank had made large loans to Iran when the Shah was calling the shots, and the Ayatollah had threatened to renege on those loans.

Sure enough, the Shah's U.S. trip precipitated the expected attack on the embassy and the seizure of American personnel as hostages, so Jimmy froze the funds of the Iran government, and allowed the banks, including Chase Manhattan, to "offset" the Iranian loans. Some banks didn't get in on this gravy train, however, because they were not on the inside. They had loans to Iran also, but no offsetting CDs and, of course, the freeze will probably trigger the loan default that was feared in the first place. Now, do you understand the relationship between Mr. Carter, the banks, the Shah, and the Shah's money, to say nothing of all that wonderful Iranian light crude?

After all, what are the lives of sixty-two embassy employees compared to $25 billion? It's only a fable. When the fanatic shoots some hostages (an act of war), we have all the justification we need to seize the Iranian oil fields, which, of course, benefits the Rockefeller oil interests also.

The moral to this story? "Things are seldom what they seem, skim milk masquerades as cream." (W. S. Gilbert, "H. M. S. Pinafore") ●

NEED FOR AN INTERNATIONAL CONFERENCE TO FIND POLITICAL SOLUTION FOR CAMBODIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. SOLARZ. Mr. Speaker, today Senator Kennedy and I have introduced a concurrent resolution calling on the President to work with other world leaders to convene an international conference on Cambodia that would work to prevent the destruction of the Cambodian people and the establishment of a neutral Cambodian state.

As press reports have indicated, the continuing conflict between the Vietnamese-backed Heng Samrin forces, the remaining Pol Pot troops still politically supported by China, and the various free Khmer groups, has severely hampered the international relief effort which is valiantly attempting to prevent the death by starvation and disease of the remaining Cambodian people.

Despite the increased willingness of the Heng Samrin regime in Phnom Penh to allow relief supplies into the country, thousands of hungry and disease-wracked refugees continue to cross over each day into Thailand fleeing the war, famine, and disorder which has continued to plague their suffering homeland.

While more needs to be done to insure that the needed food and medical supplies reach those desperate people, and we commend our colleagues who have continued their efforts to improve the humanitarian relief operation, and particularly those who have personally interceded with the authorities in Phnom Penh, we are convinced that only a political solution will insure the survival of the Khmer race and the existence of a Khmer nation. Despite the presence of between 150,000 and 200,000 Vietnamese troops in Cambodia, the prospects for a protracted guerrilla war seem certain, particularly with China and other nations continuing to support Pol Pot. And while such a war proceeds, the suffering of the Khmer people will continue, and the threat to the peace and stability of the entire region is magnified.

To seek a permanent peaceful solution to the fighting and suffering in Cambodia, our resolution urges the convening, as soon as possible, of an international conference, which could be held under the auspices of the United Nations, to bring together all of the various parties claiming to represent the Cambodian people with other concerned nations to examine the various factors which are increasing tensions and threatening the peace in Southeast Asia. Such a conference would work to develop a political solution that would lead to the establishment of a neutral, nonalined Cambodian state that posed no threat to the security of any other nation in the region, and also provide the people of Cambodia an opportunity to freely determine their own future.

Ten months ago in February, eight of my colleagues, Messrs. Seiberling, Bedell, Pease, Dodd, Barnes, Wolpe, Lagomarsino, and Hyde, joined me then in writing to the President to urge U.S. support for the convening of an international conference to seek a political solution in Cambodia.

The road to a peaceful solution of the Cambodian conflict and the effort to ease the underlying regional tensions will not be an easy one. But unless a serious attempt is made soon by world leaders to arrive at such a solution, hundreds of thousands of additional Cambodian refugees will pour into Thailand while thousands of others will perish in the fighting and continued famine. And the ancient Khmer race and nation may perish.

No responsible government can refuse to participate in such an international diplomatic effort to reach a negotiated settlement that might prevent the ultimate destruction of the Cambodian people and even prevent another conflagration between Vietnam and China.

The generous response of the American people to the international Cambodian relief effort, and the strong support of U.S. participation in this effort by the Congress indicates, to me, our deep commitment to all reasonable efforts to prevent the destruction of this tiny nation.

I hope that other Members of the House will join me in cosponsoring this resolution as an indication of our strong support for the convening of an international conference on Cambodia.

Mr. Speaker, I submit the text of the resolution and that it be printed in the Record.

Text of Concurrent Resolution Calling for an International Conference on Cambodia

Whereas a protracted conflict in Cambodia presents a serious threat to the peace and stability of Southeast Asia;

Whereas the American people are deeply concerned about the survival of the Khmer people, now threatened by war, disease, and hunger;

Whereas it is in the interest of all governments to support a peaceful resolution of the Cambodian conflict;

Whereas the Cambodian people endured four years of terror and deprivation during which untold numbers of Cambodians lost their lives due to the brutality of one of the world's worse violators of human rights;

Whereas the continued conflict in Cambodia has hampered the international relief effort to prevent the destruction of the Cambodian people; and

Whereas the recent vote in the United Nations General Assembly indicated widespread support for an international conference on Cambodia: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress calls upon the President to work with the Secretary General of the United Nations and the concerned nations of the world to convene, as soon as possible, an international conference on Cambodia which would bring together all those claiming to represent the people of Cambodia, as well as those nations which have a special interest in the Cambodian situation, and which would have as its purposes—

(1) to consider all elements essential to ending the conflict in Southeast Asia;

(2) to work for a political situation that would ensure the survival of the Khmer race and the Khmer nation;

(3) to strive to bring about an end to the

fighting in Cambodia and the withdrawal of all foreign troops from that nation;

(4) to work for internationally supervised elections that would allow the Khmer people to choose freely their leadership;

(5) to promote the establishment of a neutral, non-aligned Cambodia that would present no threat to any other nation; and

(6) to devise means of meeting the urgent needs of the Khmer people for humanitarian relief and reconstruction.●

DIANE SMITH REPORTS ON HER HILL EXPERIENCE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. SIMON. Mr. Speaker, recently the Subcommittee on Select Education, which I have the opportunity to chair, asked Diane Smith of Carmi, Ill., to come to Washington for a 1-month period to work—among other things—on the problems of handicapped housing availability in the Capitol Hill area.

Diane, a victim of a severe case of polio early in her life, had never before worked in a conventional work situation. She agreed to come for this 1-month period and has started some work which we believe can be significant in the long run for the handicapped community.

Recently she sent the staff director of the subcommittee, Judith Wagner, a report on her impressions for that month. I thought my colleagues might be interested in reading it, and I am inserting it in the RECORD at this point:

REPORT ON MY IMPRESSIONS OF WASHINGTON, D.C.

As I resume my smalltown, busy, people-filled lifestyle, I have thought about the past month I spent in the Select Education Subcommittee office in Washington, D.C. and I realize it was a significant experience in my life.

Having been a handicapped person for thirty years I have adapted and function independently in my home and hometown setting. However when I was offered the opportunity to be in the Subcommittee on Select Education office, as a trial, dreams and fantasies became part of my life. Before telling anyone of Paul Simon's offer, I thought, wondered, and hoped I could tackle such a challenge. Knowing my limitations better than anyone else, doubts began filling my thoughts. The physical barriers were clearly evident. Then I mentioned the possibility to a few people and their doubts and apprehensions were very clear though not always expressed. Also knowing my capabilities better than anyone else this flared my stubborness, and because a few doubted I could do it, I knew I could and must try every way to convince them. So with tremendous help and support from my father and great support from many others, I decided to meet this new challenge and head east for D.C.

An apartment had been secured in Arlington by the Select Education office for my Dad and me and it turned out perfectly suitable to our needs and quite accessible for me except for curbs. I had been warned that city people are different and not as friendly as I'd been used to. This was only one of many warnings which proved to be wrong. The people I met were friendly, courteous, helpful, and kind—and they were not all Boy Scouts. Clerks, waiters, cab drivers, blacks, Asians, Lebanese, Afghanis, Jews, Moslems, and even WASPs were nice to me. It is sad but I feel I must apologize here—at least explain—that in this cynical, jaded world and time in which we live I am not being a Pollyanna reporting only the good parts. I know there are bad people but I truly have to say I didn't meet any of them in my month in D.C. I was most fortunate.

My own prior apprehensions were not limited to my physical inabilities. I also wondered if I could live up to Paul's confidence in me to be able to handle a job such as this with full responsibility. Never having worked out in the world I wasn't certain I would be mentally disciplined to a real work situation. My analysis of the work aspect are mixed but very satisfying to myself. I feel I adequately handled the work that was assigned to me, and I honestly think with time and experience I could learn enough to become a viable subcommittee staff member. However, it also takes tremendous energy and stamina to be an effective member and I found myself very tired at the end of my abbreviated workdays. I used so much energy moving books, writing, using the phone, and walking the long distances required, I sensed there would be much frustration at wanting and needing to do more and being fatigued. These are practical matters that are simply part of me and ones I cannot change. My life in Carmi is a happy, active one, and perhaps in less dramatic, less intense ways I can contribute something here.

The work in the Select Ed. office was fascinating and if I had an able bodied choice of jobs this would be my top priority. That is, if I could be assured the same staff would be there. I had never experienced being surrounded by bright, sensitive, articulate people all day every day and I found it stimulating and elevating to my own abilities. Attitudes towards me were wholly positive and more equalizing than I've ever encountered. I was expected to do all I could do—run my own errands, handle my own lunch arrangements, find my own way, etc. They allowed me to be as independent as I could be, and yet I knew any one of them was ready to help if I asked. My self confidence grew considerably. Because of unplanned circumstances I was forced to handle a meeting in the Rayburn Bldg. alone. Though I was a bit concerned, not really scared, I managed fine and was then pleased and self satisfied that I did it on my own.

So much was packed into that significant month it was enriching beyond expectation. From a marriage proposal in a cab, to talking at length with Ivan Barnes, an editorial writer for the London Times, to being a nearby (TV) spectator of Pope John Paul II on his historic D.C. visit, to sharing a meal with the Simons at a Greek restaurant and getting the Congressman's views on inflation, government policies, world leaders, and southern Illinois news—it all was an incredible experience.

I not only learned a great deal about myself, I also learned from the trash recycling people, the parking garage crew, the security guards, the elevator people, the Snack Bar people who helped me every day, and the congressmen I met in the corridors and elevators. I even learned a bit about the legislative process. I learned from the subcommittee staff, Judy, Tom, Allen, Sylvia, and Diane what important work is being done by the Select Ed. Subcommittee in helping handicapped young people get an education and in the many other equally important areas in which they are involved. I learned this subcommittee works long, hard hours and that there are many frustrations as well as victories. They are dedicated to their jobs and are certainly not taking advantage of the taxpayers as we sometimes may think.

My gratitude goes to all the people who contributed to my being there. My Dad deserves much credit. I couldn't have done it without him. I'm especially grateful to Paul for giving me the opportunity to try my wings. I'll always have this experience with me.●

TRADE PROBLEMS: RECOMMENDATIONS FOR ACTION—PART 1

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. ROUSSELOT. Mr. Speaker, on November 30, I had the pleasure of participating in hearings in Los Angeles and San Jose held by the Subcommittee on Trade, under the chairmanship of Representative CHARLES VANIK. The hearings dealt, first, with the problems facing the Western steel industry and, second, the competitive factors influencing trade in semiconductors. These are serious problems facing not only the Western United States, but also the entire Nation. I wish to commend my colleague, Mr. VANIK, for his continuing interest in this field and the initiative he has taken to seek resolution of our trade crisis.

For the next few days it is my intention to bring to the attention of my colleagues testimony presented at the afternoon hearing in San Jose dealing with competition in the integrated circuits, or semiconductor, industry. The most recent Business Week, as well as Forbes magazine, have highlighted the problems facing our severely threatened semiconductor industry. Business Week accurately described the extent of the crisis in its December 3 article:

> Any significant loss of U.S. leadership in semiconductors would be disastrous. At stake is not just the soaring world market for semiconductor components, although that alone is expected to reach $10 billion this year and to pass the $20 billion mark in the mid-1980's. What makes semiconductor technology crucial is its growing importance in a wide range of high-growth equipment markets. . . . Real proof of the extent to which U.S. leadership has already been challenged came this year, when Japanese producers grabbed nearly half of the U.S. market for the best-selling integrated circuit.

The witnesses at the San Jose hearing presented concrete, reasonable suggestions for improving the position of the United States. I am including those recommendations along with the testimony of Mr. Charles Harwood, president, Signetics Corp. I urge my colleagues to read this testimony and the testimony which will be presented throughout the week. The points made in each statement are important to our consideration of legislation which affects U.S. business and its competitive position in world markets.

The testimony follows:

RECOMMENDATIONS FOR ACTION BY THE U.S. CONGRESS

(Presented by the Semiconductor Industry Association)

RECOMMENDATIONS

Our suggested remedies for the trade problems outlined here today fall into four basic categories:

(1) Meaningful remedies for disruptive imports and artificial pricing by the Japanese.

(2) Tax and financial incentives designed to keep the U.S. industry on a parity with the Japanese firms.

(3) Improved access to the Japanese market.

(4) Guidelines for investments by the Japanese firms in the United States.

(1) Japanese Imports: The key issue is artificial pricing. If the Japanese firms persist in disrupting free market forces in the U.S. market, our government must take steps to resolve the artificial pricing effects which will injure the U.S. industry by diluting our capital formation potential and learning curve benefits.

(2) Tax Incentives: Congress should establish a policy for the United States which provides incentives and other stimuli for those industrial sectors which we can reasonably expect to contribute disproportionately to the poductivity, research strength, and trade strength of the national economy. Integrated circuits and computers would place high in this list. The incentives would relate to such parameters as innovation, exports, value added, employment (both qualitative and quantitative) and would stimulate intensified R&D and capital investment in the leading industries.

Specifically, we recommend the following:

Tax credits for year-to-year increases in research expenditures by fast growth, high technology firms;

Rollover provisions—capital gains tax deferral for reinvestment in new securities issues;

Liberalized depreciation, the net effect of which would be a three year write-off of equipment with a commensurate investment tax credit period;

Jointly funded cooperative research on university campuses in high technology areas; and

Tax credits for corporate contributions to universities, not to exceed 10 percent of total R&D expenditures by the corporation.

(3) Access to Japanese Market:

Our government should negotiate with Japan for immediate implementation of the MTN tariff cuts, inclusion of Nippon Telephone and Telegraph under the Government Procurement Code, and strict enforcement of the other non-tariff barrier codes.

Japan must immediately eliminate all discrimination against foreign-owned companies with respect to equal access to financing, research and customers.

The Japanese government must also cease all restrictive patent practices and allow foreign-owned companies to acquire Japanese semiconductor patents as freely and openly as the Japanese firms acquire American patents.

(4) Japanese Investments in the U.S.: Congress should consider legislation which would tax U.S. operations of foreign-owned firms in an amount necessary to offset the structural advantages which they derive from foreign government target industry programs. If Japanese trade practices conducted from plants within our borders disrupt our markets or threaten the U.S.-based industry, appropriate steps must be taken to correct the situation.

Statement of Mr. Charles Harwood, President, Signetics Corp.

Mr. Chairman, my name is Charles Harwood. I am President of Signetics Corporation, a manufacturer of semiconductors. I would like to explain the impact on the U.S. market of low-priced Japanese imports and how the Japanese government finances these low prices.

Perhaps the most revealing evidence submitted by the U.S. industry to the International Trade Commission was the evidence of the rampant two-tier pricing by the Japanese of the standard high density memory product (the "16K RAM") which is widely used by the computer industry. The free market capital formation process in the United States has arguably funneled insufficient funds to the semiconductor industry to meet the demand for this product—which was developed by the U.S. companies and copied by the Japanese once it became standardized. In addition to their capital advantages, the Japanese recently offered a standard 16K RAM for sale in the U.S. market at prices far below the price for the same product in Japan. The two-tier pricing was characterized by Dr. Robert Noyce, an SIA witness before the ITC and Vice Chairman of of Intel, as "quite surprising."

"Because the Japanese could have sold the units in Japan at a higher price;" and

"Because the Japanese could not have been as far along the learning curve as the United States firms and hence probably had much higher production costs."

Even more surprising, the Japanese product is sold at 20 percent to 30 percent below the U.S. market price at a time when demand is admittedly very strong and the Japanese could sell substantial volumes of the product at the higher U.S. market price. The only explanation for these erratic Japanese pricing decisions, we submit, is predatory market penetration—an all-out effort by the Japanese to "buy a share" of the U.S. semiconductor market and to weaken the U.S. industry. If forced to meet these prices, the U.S. firms will not be able to form capital in our free capital markets. Initially, U.S. companies were forced to drop their prices to meet the Japanese price but, as demand remained strong in late 1978 and early 1979, a two-tier price structure began to develop with the Japanese products typically selling in the United States at 20 percent or more below the prices charged by U.S. companies. Nonetheless, the low Japanese prices forced the U.S. companies to keep 16K RAM prices lower than normal. In recent testimony before the Joint Economic Committee, Mr. L. J. Sevin, Chairman of Mostek, computed the cost to the Japanese of selling in the United States at very low, artificial prices.

The Japanese pricing strategy worked during 1978 and 1979. At the time of the ITC hearing in May, 1979, the Japanese-owned semiconductor firms had captured approximately 35 percent of the 16K RAM market in the United States; the market share for calendar 1979 is now estimated at 42 percent.

One might argue that U.S. consumers benefit from these bargain prices. But we must realistically ask how long such bargain prices last. Middle Eastern oil was a bargain until the United States became dependent upon it, then the prices escalated. Similarly, sooner or later the Japanese losses on high density memory products will be recouped. We respectfully submit that it is foolish to assume that the Japanese semiconductor companies plan to confer any long run benefits on consumers in the United States.

In 1978, faced with low priced Japanese imports, several American semiconductor companies substantially reduced 16K RAM production and shifted their plants to products which the Japanese did not manufacture. However, having driven several companies away from the market, the Japanese now argue that the U.S. semiconductor firms cannot meet domestic demand. The Japanese are the cause, not the solution, of the problem. Further, the Japanese have accused the U.S. semiconductor manufacturers of causing the increase in 16K RAM imports. In response to a cross examination question during the hearing before the ITC, Dr. Robert Noyce of Intel explained that his company was buying 16K RAMs from the Japanese. However, at the same time Intel was selling its RAMs in Japan at higher prices.

How do the Japanese price so low and why can't the U.S. firms duplicate the Japanese practices? The answer is that the U.S. firms simply do not have captive sources of capital such as the Bank of Japan and the Japan Development Bank and must maintain current earnings in order to expand capacity and finance research. Funding is simply unavailable to U.S. semiconductor firms to finance a prolonged, Japanese style, price war.

Let us examine one further implication of the sudden surge of 16K RAM imports. High density memory products such as the 16K RAM serve a high volume mass market. The other leading integrated circuit product, the microprocessor, a high density logic circuit, is produced in relatively small quantities to the custom design of specific customers. The RAM volume finances the supporting research required for development of further integrated circuit products and permits amortization of the R&D expense over the high volume. If the 16K RAM market, or the successor 64K RAM market, were lost to predatory Japanese competition, the American semiconductor industry would suffer not only in RAMs, but in all integrated circuit product lines. Without the cash flow from the high volume products, the U.S. firms would be hard pressed to remain competitive technologically and the United States could become a net importer of state-of-the-art circuits. The Japanese threat is thus backed by a very lethal punch. As George Scalise explained, a semiconductor plant is unlike a steel plant in that a semiconductor plant cannot be closed and reopened several years later. The technology changes too rapidly. Today's plants will be obsolete in a few years.

The foregoing surge in imports did not occur as a result of free market forces. Instead, it was carefully planned as part of Japan's high priority export goals. Almost two years ago an executive of Nippon Electric Company—one of the largest Japanese semiconductor manufacturers and the largest Japanese exporter of the 16K RAM to the United States—announced as a Japanese target an approximately 25 percent share of the U.S. high density memory market. Nippon Electric has almost doubled its target goal.

The economic planning function is widely recognized by the Japanese themselves, as the following quotation by a MITI official indicates:

"American business must realize and accept that Japan is not really a free economy. It is a highly planned economy. . . ."

Even Japanese government publications admit these predatory discount and rebate practices:

"Japanese executives formulate plans and objectives with a view to long-run payoff and gain. Time and again they show their willingness to sacrifice present returns in order to have a chance at greater rewards in the future. . . . [T]he inducement to buy Japanese products has been enhanced by offering temporary price reductions or rebates."

The extremely low semiconductor prices set by the Japanese companies in the United States will impair or destroy the earning power which is key to survival and success in a free market economy:

First, lacking support from a government bank, the U.S. companies will be even more hindered in their efforts to match the capital growth of the Japanese firms, resulting in a greater competitive imbalance, and a weakened and more vulnerable U.S. semiconductor industry; and

Second, U.S. research and development efforts required to develop the next generation of semiconductor products will decline, permitting the Japanese to preempt the field, with their collective activities apparently beyond the reach of our antitrust laws.

By capturing an important share of the present high density memory market, the

Japanese are in a position to weaken our companies and dictate the U.S. price structure for future generations of products now on the drawing boards. If history teaches anything, it is that the prices will be so low that the U.S. firms cannot effectively form capital to remain competitive.

Thank you, Mr. Chairman.●

ALL-VOLUNTEER FORCE HAS SHORTCOMINGS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. HUBBARD. Mr. Speaker, in the December 2 issue of the Courier-Journal, the Pulitzer prize-winning newspaper in Louisville, Ky., the lead editorial analyzes very perceptively the shortcomings of our current all-voluntary military force.

The current situation in Iran, as mentioned in the editorial, makes clear the need for a conventional military force that can be rapidly mobilized.

The editorial follows:

CAN U.S. PROTECT INTERESTS WITH AN ALL-VOLUNTEER FORCE?

Even before the seizure of U.S. hostages in Iran, it was likely that Americans were going to spend more for defense over the next few years. New weapons programs and a bigger Pentagon budget were seen as the price of the SALT II treaty and as an inescapable response to the steady Soviet military buildup.

But nuclear missiles alone can't ensure U.S. security at home and protect U.S. interests abroad. The Iranian crisis, and its threat to political stability in the entire Persian Gulf region, won't be neutralized by rattling rockets. Our diplomacy ultimately must be backed by non-nuclear forces that can react, or threaten to react, with appropriate measures. The same goes for our commitment to Western Europe.

Defending our interests and our allies requires manpower, as well as ships, planes and tanks. Yet more and more evidence suggests that the all-volunteer approach isn't meeting this need.

The recently disclosed Army recruiting scandal is but the latest sign of failure. Army investigators believe as many as 12,700 soldiers have been fraudulently enlisted, and 427 recruiters—including 11 in Louisville—have been suspended. The most common irregularity involved falsifying enlistees' educational records.

There's no excuse for such abuses, but there's an explanation. All of the armed services have failed to meet their enlistment goals this year. So recruiters are under heavy pressure to meet their quotas. In some cases, the pressure evidently got the better of honesty.

With the arrival of the long-awaited recession, the recruiters' job may ease a bit. Young men, and women, unable to find jobs in the marketplace presumably will begin finding the Army more appealing than standing in line for unemployment checks. And, if the recession doesn't work, the services can always lower their educational requirements, as the Army did in October. But that's a risky path, since sophisticated new weapons require more training, and intelligence on the part of operating and maintenance crews.

Better pay would help, of course, especially in encouraging re-enlistment by men and women with needed technical skills. But any pay increase substantial enough to encourage new enlistments would be an enormous expense at a time when the services already are facing big bills for new weapons.

There is, of course, another alternative: the draft. But it's one that most lawmakers and presidential candidates would just as soon not talk about. In the six years since President Nixon ended draft calls, sentiment against conscription seems, if anything, to have grown even stronger. In September, the House, by a 3-to-2 margin, rejected a bill that would have merely renewed selective service registration—not the draft itself.

Significantly, the bill was beaten not just by liberals but by a surprising number of conservatives who usually can be counted on to support a bigger military establishment. Even congressional hawks, of course, have to worry about the folks back home, and there's no reason to think most American voters would welcome a return of the draft. Moreover, President Carter said he opposed the registration measure, and the Pentagon's top civilian and military brass were careful not to undercut that position. So House members who may have been inclined toward the draft, or at least registration, found no support among the active-duty generals.

But Senator Sam Nunn of Georgia, a leading supporter of the draft, believes the Pentagon itself made a pretty effective case for conscription last year in a massive mobilization exercise called "Nifty Nugget." The findings of that exercise were the subject recently of an unusual closed Senate hearing. While the complete report on Nifty Nugget isn't available to the public, what has been disclosed suggests there's little that's nifty in our preparedness for a conventional war in Europe.

According to a summary released by Senator Nunn, casualties would be extremely heavy and there would be substantial delays in replacing those wounded or killed in combat. Moreover, because of a shortage of Army surgeons and nurses, many of the wounded could be expected to die from lack of medical attention.

Several other senators who attended the hearing objected that the exercise was an unduly alarming "worst case" scenario. And perhaps this criticism is valid.

But "worst cases" can't be entirely ignored. A year ago, when Iran was still ruled, however uneasily, by the Shah, who could have imagined that the U.S. embassy in Tehran would be stormed and Americans taken hostage? That's far from the worst possible case in the Middle East, but it's plenty bad enough.●

SMALL BUSINESSES GENERATE JOBS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. EDGAR. Mr. Speaker, sometime in 1980, the House of Representatives will consider the administration's Work Training and Opportunities Act (H.R. 4425). This legislation would provide more than 60,000 jobs for persons on or eligible for public assistance. Emphasis would be placed on private sector jobs, but public jobs would also be provided under an expanded CETA program.

While this legislation represents a positive step toward finding jobs for everyone who is able to work, renewed efforts should be made to encourage permanent employment in the private sector instead of temporary CETA jobs. CETA can accomplish only so much; in fact, evidence indicates that CETA has more to do now than it can handle efficiently without the creation of 40,000 new jobs under the administration's jobs package.

Before we legislate a work training and opportunities program, we need to explore all avenues for encouraging the creation of new jobs in the private sector, especially in small businesses where the majority of Americans are employed. The following article by David L. Birch explores this task of efficient job generation in the private sector and I recommend that my colleagues study it:

[From the New York Times, Dec. 3, 1979]

CREATING JOBS: THINK SMALL

(By David L. Birch)

CAMBRIDGE, MASS.—The threat of large-scale unemployment after World War II prompted a Congressional declaration that "all Americans able to work and seeking work have the right to useful, renumerative, regular, and full-time employment." It is clear that we have taken that right to heart. We now employ a greater share of our adult population in the work force than ever before in history and have about doubled the size of our job base since 1945 to do it.

We can by no means rest on our laurels, though. Each year a greater share of a growing population wants to work. This competition for jobs is squeezing many of the groups that need employment most, and a recession will only make matters worse. To meet the challenge, jobs must be generated at a faster rate. To foster job-generation efficiently, there must be understanding of how jobs are created. To this end, the program on neighborhood and regional change. at the Massachusetts Institute of Technology, assembled a sample of 5.6 million business establishments and examined how each one contributed to job growth. This study has uncovered some fascinating things about the job-generation process.

First, there is tremendous turnover in our system. We lose almost half of our job base every five years through businesses folding or contracting. But we make up for those losses by an even greater generation of new replacement jobs. Although many of these jobs will themselves vanish before long, the gains more than outweigh the losses each year.

If the nation is to encourage job replacement, it must understand who does it. Job-creating firms tend to have distinct characteristics. For one thing, they are more likely to be small. Almost two-thirds of the net new jobs generated between 1969 and 1976 in our sample were generated by firms with 20 or fewer employees. Job-generating establishments tend to be young. About 80 percent of all replacement jobs are generated by establishments four years old or younger. And with youth comes volatility. The job generators in our sample tended to be unstable, expanding after periods of retrenchment and contracting after periods of growth. The stable, plodding firms are much more likely to go out of business than their more volatile counterparts. Finally, job generators tend to be in the trade and service sectors, not in manufacturing. Of the 6.7 million jobs generated by firms in our sample during the 1969–76 period, five million of them were in trade or service while manufacturers produced virtually none. We must clearly abandon our habit, based on Industrial Revolution thinking, of viewing trade and service firms as "soft" parasitic enterprises. They now form the backbone of our job growth in a world economy.

This is not a comfortable set of discoveries for those who must devise Government programs to stimulate job creation. Small, volatile young firms make awkward bedfollows for institutional sources of help like banks and Government agencies and pension funds. Small businesses are very difficult for large institutions to throw money at. "How do you find and back the big winner that is buried in every 10, or is it 100, small starts?," they ask. "How do you explain the failing majority to relevant Senators or to your board of directors?" "How do you deliver and protect relatively small amounts of funds at a reasonable transactions cost?" "How do you base a loan on 'soft' assets, since most trade and service companies own few buildings or lathes?"

These questions are being pondered in the halls and hearing rooms of Congress. European governments are thinking about them. And they constitute one of the major challenges to the White House Conference on Small Business, to be held in January.

In the midst of all this discussion, we must ask: "How have small businesses managed to do so well thus far?" Sketchy evidence suggests what must already be obvious: Small businesses do not always turn to established institutions for funds, preferring (or being forced to prefer) more private sources—mostly uncles, grandparents, wealthy doctors and lawyers—as well as their own retained earnings.

This choice between small-scale private vs. large-scale public and quasi-public encouragement of entrepreneurship and job creation has deep ideological roots. The issue has shaken Britain to its political foundations, is being hotly debated in the Netherlands, and will surely emerge as an issue in a Presidential election year in this country. However we come out, it will have to reflect the realities of who creates jobs, and it will come to grips with the issue of how to reach the job creators.●

DONNA McNEILY

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. DUNCAN of Tennessee. Mr. Speaker, on November 28, 1979, there appeared in the Washington Star a feature article about a young lady who I am proud to say is from my hometown. Miss Donna McNeily was the subject of this article which told of how she became the first young lady to ever play on the Capitol Page School's varsity basketball team, a team which had up until November 27, 1979, been an all-male organization. For your information, Mr. Speaker, Miss McNeily is currently serving with distinction as a page in the Republican Cloakroom. I would therefore like to bring additional recognition to this fine young lady by having the text of the Washington Star story reprinted in the RECORD, this in order to permanently preserve her accomplishment. I ask that the article from the Star be inserted at this point:

A CAPITOL PAGE PERSON PLAYS AGAINST THE BOYS

(By Mike Fanning)

The score stood at 21–10 at the end of the first quarter when Capitol Page Coach Joe McGrath motioned for his first substitution of the evening, choosing a 5-foot-4 guard. After checking in with the official scorer, Donna McNeily then became the first girl ever to play in a boys' basketball game in the Washington area.

Playing and proving you belong are two different things, but it took the plucky junior only 22 seconds to begin to silence any smirking onlookers by driving to the right side of the free throw lane and pulling up to hit a six-foot jumper. It was her first shot in varsity competition.

Capitol Page went on to beat Capital Lutheran, 84–55, last night at St. Cecelia's in a non-league game. It was the season opener for both schools.

"I played girls' basketball last year for Powell High School in Knoxville, Tenn., but they played the six-man game up until this year," McNeily said. "I was a guard and that meant I didn't get to play any offense, but the state decided to go with the new five-man game for girls' basketball this year. It was necessary for me to play up here or else I would fall behind when I go back home next year."

There are 60 boys and 30 girls at Capitol Page, a high school run by the Library of Congress for the pages, who are appointed by their elected congressional representatives and run errands to assist their patrons.

The young Congressional employees must attend school each morning from 6 a.m. until 11 and then work a full day. Such a rigorous schedule leaves little time for extracurricular activities like basketball.

For years, Capitol Page has fielded a boys basketball squad, and there was talk this year of beginning a girls counterpart. But only five female pages voiced interest in the innovation and the idea of a Capitol Page girls basketball team quietly died, leaving McNeily out in the cold.

"Donna wasn't sure what to do when the idea for a girls team fell through," explained John Harris, formerly of Gonzaga, and now a student at Capitol Page. "I told her to go ahead and try out for the boys team."

And she did.

"We were a little surprised at first, but she's proven herself. Donna's no token; she's an integral part of our team now."

Described as the second substitute on the 11-person squad, McGrath was all smiles when asked to describe his new female player.

"Donna plays just like a boy. She has a great sense for the ball and plays some excellent defense," said the three-year coach. "I also appreciate the way she keeps the rest of us acting gentlemanly out on the practice floor."

Her baptism of fire last night was just that. The scrappy visitors gave no quarter to McNeily, but the new kid fared pretty well. The 16-year-old guard made a few turnovers, but also dished off several assists to 6-7 center Shawn Moore, who finished as the game's leading scorer with 26 points. Twice her shots were rejected by the pesky Capitol Lutheran defense, but McNeily still made three of her five other attempts for six points in the game.

With 2:24 left in the lopsided game, Capitol Page was resting comfortably with a 73-48 bulge, when McNeily stepped in front of a driving Lutheran player. The defensive effort was rewarded with a quick trip to the deck, but the aggressive dribbler was assessed an offensive foul. Moore leaned down to help up his new teammate and that moment more than other confirmed that McNeily now truly belonged to and on the Capitol Page boys basketball team.●

THEY HEAR THE RUMBLING

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. YOUNG of Florida. Mr. Speaker, in the days following House passage of H.R. 2626, the Hospital Cost Containment Act of 1979, some newspapers have printed editorials critical of Members of this House who supported the Gephardt amendment to that legislation.

I supported the Gephardt amendment because it continues a voluntary hospital cost control program that has already proven itself to be successful and because I opposed the creation of a large, complicated bureaucracy that would create tremendous added costs for hospitals just to comply with new regulations. These added costs would, of course, be passed on to patients.

Although some newspapers have failed to understand this issue, I am pleased to report that one large, responsible newspaper has seen the issue clearly. The newspaper is the Tampa Tribune, which on Sunday, November 24 printed a lead editorial headlined: "In Washington, They Hear the Rumbling."

The editorial cited the House action as an encouraging sign of a growing rebellion by Americans against expanding Government regulation.

"From a practical standpoint, it is impossible to impose cost controls on one segment of the economy, especially one involving such a variety of skills and technology as hospitals," the editorial noted. Hospitals have made progress in a voluntary reduction of the rise in costs. In 1977, the overall increase was at a rate of 15.6 percent; now it is estimated at 13.3 percent, just a fraction below the Nation's general inflation rate.

It is with pleasure that I share this editorial with my colleagues. The editorial follows:

IN WASHINGTON, THEY HEAR THE RUMBLING

There are encouraging signs of a growing rebellion by Americans against expanding government regulation.

Jay VanAndel, chairman of the board of the U.S. Chamber of Commerce, noted the trend in a speech in Tampa last week.

"For the first time in our recent history", he said, "there is a consensus that we have delegated to government more power than is wise, to do things for which it is ill-suited".

One evidence of the "consensus" came in the decisive rejection by the House of Representatives of President Carter's bill to contain hospital costs.

Reducing hospital costs is a popular issue. The bill was Mr. Carter's top-priority anti-inflation measure this year. Speaker Tip O'Neill made an emotional appeal for it, telling House members that a vote for it was a vote "for the common man and woman".

Yet 99 Democrats went against the President and Speaker and the bill was beaten by 234-to-166. It was a humiliating defeat for the administration.

Carter loyalists blamed the loss on heavy lobbying by medical and hospital associations. They did what they could to beat the bill, true, but an analysis by the New York Times reported this significant conclusion:

"Capitol Hill analysts generally agree that the House vote reflects a deep revulsion against any idea that smacks of government regulation. . . ."

Opponents stressed that the bill would, in the words of Rep. James H. Quillen, Tennessee Republican, be a "bureaucratic nightmare".

And so it would. It was a tangle of exemptions (labor costs, for example), revenue limits adjusted for a hospital's "service intensity" and "efficiency", tax penalties for hospitals which overcharge patients, and an "anti-dumping" provision to prevent hospitals from refusing to accept high-cost, low-pay indigent patients.

From a practical standpoint, it is impossible to impose cost controls on one segment of the economy, especially one involving such a variety of skills and technology as hospitals.

Hospitals have made progress in a voluntary reduction of the rise in costs. In 1977, the overall increase was at a rate of 15.6 percent; now it is estimated at 13.3 percent, just a fraction below the nation's general inflation rate.

What the House did approve was a bill to create a presidential commission to monitor hospital cost-cutting efforts and report to Congress in a year.

The Senate may or may not accept this compromise. But there is every evidence that the Senate won't approve the Carter mandatory control bill. Senators, too, have heard out there where the votes are the rumble of rebellion against government regulation.●

EDUCATION DEPARTMENT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

Mr. PAUL. Mr. Speaker, my good friend Mr. John McClaughry of Concord, Vt. a leading exponent of the freedom philosophy; recently wrote two short essays. One concerns the Department of Education and the other business support for socialism.

I would like to call these two excellent articles to my colleagues attention.

The articles follow:

EDUCATION DEPARTMENT

On September 27 the House of Representatives approved the conference report on the bill to create a new federal Department of Education, and sent it to the President for his signature. Creating this new department was one of President Carter's top legislative priorities. He argued that the present federal administration of education programs was fragmented and inefficient. By bringing all of these programs together under one roof, he claimed, cost savings would be achieved. Thus, the bill took the present education division out of the Department of Health, Education and Welfare and set it up as a new Department of its own.

As the measure passed through Congress, however, the argument for administrative efficiency began to fade. Supporters of education programs located outside of HEW were not eager to see their programs swallowed up in the new department. So when the smoke had cleared, it turned out that 95% of the budget authority for the new department was former HEW money. The purpose of the bill was no longer efficiency, but something else.

The man who made dramatically clear the real purpose behind the new Department of Education was Speaker of the House Thomas P. O'Neill. Just before the final, crucial vote on the conference report, the Speaker left the rostrum to urge passage from the floor.

Speaker O'Neill recited the familiar problems in education: lack of public confidence in the schools, dropping test scores, functional illiteracy even among high school graduates, lack of discipline, vandalism. He professed his continued support for local control of education. But then he came to the point: "The Department of Health, Education and Welfare," he said, "is an inefficient structure to manage the educational needs of the nation. Educational needs," he continued, "must be placed under one management."

Speaker O'Neill can be taken as excellent authority for the true intention of the backers of this measure. Their intention is to make a new federal bureaucracy the manager of the nation's schools.

Although the Speaker can lamely observe that this "single management"—his words—should be responsive to local school districts and parents, anyone who knows anything about the federal government knows full well that local school boards and parents will have nothing to say whatever about the new Department of Education.

This new "single management" of education will consume a lot of tax dollars. But worse, it will work incessantly to extend its domination over more and more of our local education. It will issue orders, edicts, and regulations. It will create dependent bureaucracies in our local communities by handing out tax dollars to support various educational theories, which may have little or no local support. In short, as Speaker O'Neill has candidly admitted, the new department will be a massive engine of centralization for American education.

Those who believe that education of our children must remain a responsibility of parents, local school boards, and locally accountable endücators have cause for real alarm. For if Speaker O'Neill's goal "of single management" of our schools becomes a reality, something vital to the spirit of America will have been extinguished.

KIRKLAND ON SOCIALISM

Recently the Executive Council of the nation's largest labor organization, the AFL-CIO, made news by suggesting that the possibility of nationalizing the energy companies ought to be considered. Naturally that thought drew a lot of flak. Business leaders accused the AFL-CIO of promoting socialism, which of course such a proposal would be. But Lane Kirkland, then Secretary Treasurer of the AFL-CIO and now President of that organization, had a very interesting and thoughtful response.

He observed that despite a lot of free market rhetoric, it is business itself which is often guilty of nudging us down the road to socialism. "If socialism ever comes to this country," said Mr. Kirkland, "it's going to come under the auspices of American corporations at the hands of conservative politicians interested in bailing out companies that are in trouble, with the public purse."

Well, he certainly has a point there, although he might have added that the labor unions in those troubled companies are usually equally vocal about government bailouts. When the Lockheed Corporation was in financial trouble back in 1970, it made a desperate appeal to Washington to become its banker long enough for it to get back on the road to profitability. Happily, the rescue operation was successful—Lockheed has paid off all its government guaranteed debt and is now back on a sound footing. Then it was the Penn Central Corporation, seeking government money to prevent an inevitable bankruptcy. Most recently the Chrysler Corporation is in the news, asking the government to agree to a complicated support scheme to keep it alive long enough for the management to undo the effects of past mistakes.

Businessmen who are concerned about the erosion of the free market and the advance of socialism need to bear in mind that, as Mr. Kirkland says, their fellow businessmen can be a large part of the problem. And they should also heed Mr. Kirkland's additional point. He notes that a lot of American businesses have been willing and eager to go into joint ventures with state owned enterprises—even in the Communist countries—where the workers are denied the basic human right to organize to protect and advance their interests.

I share the revulsion of Mr. Lane Kirkland at those companies whose leaders rail about socialism, and then enter into production agreements abroad with socialist regimes which deny their working people their human rights. Then the products made by this forced foreign labor floods back into the United States, threatening the jobs of free American workers here at home. Free trade is one thing, and a good thing, but the use of forced labor by socialist enterprises abroad is not free trade. Much of the AFL-CIO's program will naturally be resisted by American business, but American business would be wise to pay heed to these particular remarks of the new head of America's labor movement.●

THE SECOND CONCURRENT BUDGET RESOLUTION

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. FISHER. Mr. Speaker, last week we completed consideration of the second concurrent budget resolution for fiscal year 1980. Unfortunately, these deliberations showed once again that the Congress has yet to set reasonable limits on its spending policies. We must still learn how to find the middle ground between making no progress in reducing the deficit and mandating unrealistic cuts in Government spending. I thought the budget finally agreed to was too high in outlays and deficit. I thought the motion to recommit contained cuts that were too great.

I opposed the recommittal motion, which was defeated, because I believe that this proposed cut of $8 billion in spending in 1 year (2 percent in all budget categories except defense and veterans programs) would have exceeded the reasonable expectations of what could have been saved through greater efficiency and productivity in Government programs. Furthermore, it would have increased to some degree the risk that deep cuts in Federal spending would have combined with the predicted economic slowdown to produce a severe recession. Such a recession, with its attendant decrease in tax revenues and increase in social service payments, would be certain to reduce the likelihood of our achieving the goal which we all favor—a balanced budget by the early 1980's. In other words, while the quickest way to get to the lobby from the 10th floor is to jump, I believe that an elevator down offers the more prudent approach.

After the motion to recommit was defeated, I voted against the second budget resolution itself. Whereas the motion to recommit was too drastic, the resolution itself erred on the side of excessive spending. It did not represent any reduction in the fiscal year 1980 deficit below the deficit for fiscal year 1979. At a time when a concerned, yet responsible, effort is called for to reduce expenditures and the deficit in the name of combating inflation, we cannot be satisfied with making no progress from one year to the next. My vote against the budget resolution registers my protest to this standstill, cease-fire in the battle against inflation.●

DOMESTIC VIOLENCE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. SOLARZ. Mr. Speaker, we have all become aware of the seriousness of domestic violence, a problem with far-reaching consequences for American society, and which some experts believe is on the rise. With over 6 million reported cases of violence in American families in 1978, the need for Federal attention to efforts to alleviate this problem is clear.

This week, H.R. 2977, the Domestic Prevention and Services Act introduced by Representative MILLER of California is scheduled to come to the floor. This legislation would provide a first step in an overall effort to reduce domestic violence by providing for Federal support of State, local, and community activities to prevent domestic violence and assist the victims of spouse abuse.

This legislation provides for the establishment of a national clearinghouse on domestic violence, an improved information system on research relating to domestic violence, and authorization for the Secretary of HEW to make grants to States to assist in preventing domestic violence and provide services to victims of this abuse.

Some estimate that last year over 5 percent of American families reported an incident of domestic violence, a statistic which clearly indicates the need for passage of legislation to allow States and local governments to help those who may have nowhere to turn. H.R. 2977 allocates $15 million in fiscal year 1981 for preventive services whose cost is minimal when compared to expenditures for foster care, hospitalization, institutionalization, and other programs necessary to aid the victims of continuing domestic violence.

I urge my colleagues to join me in voting for pasage of this essential legislation, which has won the support of a wide range of religious, social welfare, and civic organizations, including the Family Services Association, the Child Welfare League of America, the National Council of Catholic Charities, and the American Jewish Congress, as well as the American Bar Association and the International Association of Chiefs of Police.●

THE WHITE HOUSE PRESERVATION FUND

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. PEYSER. Mr. Speaker, I have been informed of the creation of an organization entitled "The White House Preservation Fund". I think this will be of interest to people throughout the country, and therefore, I am inserting a copy of the letter I have received from the organization:

THE WHITE HOUSE PRESERVATION FUND,
Washington, D.C., November 30, 1979.

Hon. PETER A. PEYSER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PEYSER: I would like to inform you of the recently established White House Preservation Fund. Working in cooperation with the Committee for the Preservation of the White House and the White House Historical Association, The Fund is a private, nonpartisan, nonprofit organization with a singular purpose: to raise the necessary resources for the acquisition, care and growth of a permanent and historically significant collection of Americana for the White House.

Since it was first occupied by President and Mrs. Adams in 1800, the White House—its building and grounds—has been maintained with taxpayer dollars. Most people believe that its contents—the historic paintings, furniture and decorative objects—are similarly secured. As you know, this is not the case and never has been.

Today, in fact, more than 200 items most visible in the public areas of the White House are merely on loan. Moreover, much of the existing collection of fine art and antiques is not truly reflective of America's rich cultural heritage.

This great home belongs to all Americans—past, present, and future—and the contents of the White House should represent the history of our republic. To secure such a collection for the White House, The White House Preservation Fund seeks to established a $25 million endowment. We are calling upon the committed support of countless individuals, corporations, organized labor, foundations and other public-spirited institutions in order to reach this ambitious goal.

As our program proceeds in the coming year, we may visit your home state for presentation events on behalf of The Fund. We would welcome your participation and we will notify you when specific dates are established. Meanwhile, The Fund office in Washington can provide current information about our progress.

It is my belief that The Fund program is worthy of the broadest national support. I would hope that you and your colleagues in the Congress might give it your strong endorsement and, at the same time, convey to your constituents the purpose and goals of The Fund.

Please take a moment to read the enclosed literature which explains The White House Preservation Fund in greater detail. I believe you will agree that The Fund is in our nation's highest civic interest.

Sincerely,
WALTER H. SHORENSTEIN,
Chairman.●

RAYMOND VOWELL: PUBLIC SERVANT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. PICKLE. Mr. Speaker, the State of Texas on Monday lost a dedicated public servant, who gave over three decades of service to his fellow man. As commissioner of the Texas Department of Public Welfare from July 1971 through his retirement in 1977, Raymond Vowell was the acknowledged expert on the workings of the welfare system. But his knowledge and depth transcended Texas.

Mr. Vowell was almost as much a fixture of House and Senate Committee hearings in Washington, as he was in the State capitol in Austin. He almost literally camped out on our office doorstep, whenever a major welfare bill or hospital bill was being considered in the House.

During his years as head of Texas' welfare programs, Vowell was an advocate of stronger Federal and State funding of welfare assistance. He saw the need to expand programs, not for the sake of adding fat to the system, but simply to provide a more humane, equitable standard of care to people in need. While advocating more Federal funding, Vowell believed the State should maintain control over the management and distribution of projects.

Raymond Vowell was an innovative leader. During his tenure as commissioner, he expanded the medicaid program, extended the food stamp program to all 254 Texas counties, instituted a program to report and prevent child abuse and increased investigations into welfare fraud.

Sometimes, people stay in government because they find a comfortable place to hang their hats, bring in their salaries and conduct business as usual. Raymond Vowell was a public servant for 31 years, but he never lost his zeal for change, his interest in improving services and his capacity to stay on top of things.

His decisions changed the pace of social services in Texas. His valuable advise similarly played a role in the formulation of Federal policy in Washington, especially as carried out by States.

Raymond Vowell will be missed by his family—and his friendship and expertise will never be fully replaced. My wife and I have lost a dear, dear friend. I am sure the Pearly Gates opened wide last Monday and St. Peter said "welcome home, thy good and faithful servant."●

MARCEL ROGER FUETTE—45-YEAR VETERAN OF MARITIME INDUSTRY RETIRES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. ANDERSON of California. Mr. Speaker, on the evening of December 11, 1979, representatives from over 100 shipping companies of the Los Angeles-Long Beach harbor area will join in paying tribute to Mr. Marcel Roger Fuette for his 45 years of service to the maritime industry. I take great pride in sharing this news with my colleagues today with the knowledge that the retirement celebration to be held in Mr. Fuette's honor on this night is one he richly deserves. And I take this moment to tell you of this man's lifelong commitment to his community and to the vital maritime industry.

Mr. Fuette, known as "PeeWee" by his friends, is a longtime resident of California. It was in 1923 that he moved from Canada to Wilmington, where he graduated from Banning High School in 1934. That same year, he joined the Wilmington Transportation Company to begin an association that would last for many years.

His career with the Wilmington Transportation Company has been one marked by steady growth and advancement. In 1942 he was promoted from his original position as clerk to become dispatcher of tugs. The very next year he was named chief dispatcher. His broad talents, demonstrated by his able performance, earned him greater rewards and added responsibility. In 1965 he was appointed assistant manager, then in 1967, he was promoted to the position he will retire from in December, company vice president.

This man's work over the years has helped maintain the Wilmington Transportation Co.'s long established reputation as one of the most dependable and efficient tug boat companies in the Los Angeles-Long Beach Harbor. As a union contract negotiator, he played an instrumental role in the successful settlement of union-management disagreements. In addition, he has left his mark on the local community by his generosity toward worthy civic activities. He has always been one willing to give both his time and money to a worthy cause. The companionship and loyalty he developed as a member of the San Pedro Elks Club No. 966 will also be long remembered and appreciated.

A well-deserved and relaxing retirement now awaits Marcel Fuette. After formal retirement, he and his family are planning a move to Calimesa, Calif., in the high desert of Yucaipa Valley, Riverside County.

My wife, Lee, joins me in congratulating this man on his outstanding career in the maritime industry and his contributions to civic affairs. We also send our very best wishes for a happy and prosperous future to his wife, Lula, and their children, Terry and Donna.●

HONORING DR. KING

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. DODD. Mr. Speaker, today the House is considering legislation to designate January 15, the birth date of Martin Luther King, Jr., as a national legal holiday. Commemoration of Dr. King's birthday as a public holiday would appropriately recognize the extraordinary moral, social, and political contributions of a man who transformed not only the laws, but also the attitudes of our Nation.

By combining aspects of his religious faith, principles of nonviolent civil disobedience, and the fundamental rights expressed in the U.S. Constitution, Martin Luther King created a movement that proved how one man's vision can profoundly affect every person's life.

In April of 1963, Martin Luther King wrote a letter from his cell in the Birmingham city jail in response to statements by other clergymen that the boycotts, sit-ins, and marches he led were "unwise and untimely." Dr. King answered their criticisms in this way:

> Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality tied in a single garment of destiny. Whatever affects one directly affects all indirectly.

Sixteen years have passed since 250,000 people, 60,000 of them white, marched on Washington to advocate equal rights for black people. The years have not diminished the eloquent power of the words that Martin Luther King spoke before the Lincoln Memorial. He said:

> I have a dream today . . . It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up and live out the true meaning of its creed, "We hold these truths to be self-evident, that all men are created equal."

The civil rights and voting acts gave legal credence to the ideals and moral convictions of Dr. King's movement. But the dream he held to so faithfully and the hope he preached to the thousands who came to hear him speak transcends the laws that men and women can make and the politics of government.

Celebrating the birthday of Martin Luther King as a national holiday will allow Americans to remember the democratic principles of liberty, justice, and equality that he challenged each of us to pursue. Martin Luther King's dream of a future where "the dark clouds of racial prejudice will soon pass away * * * and the radiant stars of brotherhood will shine over our great Nation," has yet to be completely realized. His birthday can be a day to reaffirm that our destiny as a nation is one of peace and not conflict, honor and not indignity, and hope instead of disillusionment.

I would urge my colleagues in the House to honor Dr. King's memory and the legacy of promise he has left to us, by designating his birthday as a national holiday.●

AIR-FUELED CAR

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. WALGREN. Mr. Speaker, during this era of energy shortage and overdependence on unreliable foreign sources of energy we must develop new domestic sources. One of America's greatest sources of new energy is the creativity of its people. Through new inventions in the fields of transportation, energy development, and conservation we will someday increase our domestic supply of energy as well as reduce the amount of energy consumption.

I would like to draw the attention of my colleagues to a news article that recently appeared in the Valley News Dispatch—a daily publication that serves a major portion of my district. This article describes the invention of an air-powered automobile by a constituent of mine from McKees Rocks, Pa. This invention is typical of the creativity our Nation possesses and will need if we are to overcome our energy dilemma.

The article follows:

McKees Rocks Man Invents Air-Fueled Car

(By John Hillkirk)

A McKees Rocks man has invented an automobile engine which runs on air.

Though it sounds strange, Bill Truitt has patented a car which uses no gasoline or electricity or any other fuel besides the air we breathe.

Truitt secretly built and operated two full-sized automobiles for several years and more than 8,000 miles using nothing besides air for fuel.

Much like a car battery, the motion of the car replenishes the engine's power.

Small pistons built into the wheels or central ring gear force air into a patented compressor which drives the engine.

Others have tried the "air car" design but always failed to build a compressor which could keep a full-size car moving.

Truitt's car will reportedly travel up to 140 mph for any distance without a stop. The only oil in the car is for lubrication of the wheels.

Two 12-volt batteries are built in to heat the car and provide power for several special gauges in the "air car."

The engine includes only the compressor (13½ inches square), and three air tanks which can hold a total of 6,000 pounds of pressurized air (2,000 pounds each.)

The invention cost the 76-year-old auto mechanic between $6,000 and $7,000.

But he's been battling Detroit and the oil companies to manufacture air cars nationwide.

"I want every fifth car coming off the line to be an air car," Truitt said. "The gasoline engine would go out gradually like the horse."

After a radio interview, Truitt received more than a million orders for the new air car.

But he's not selling because he's protecting his patent, which he turned over for study to the U.S. Army.

"The oil companies are dirty people," Truitt said. "They'd break you before you crossed the street."

To keep his secret, Truitt refrained from interviews and kept the air car at different locations for experimentation.

He said a representative from a major oil company recently tried to tape record a telephone interview about the air car and the new engine design.

However, the oil man discovered what many other automobile dealers and mechanics already learned. That is, Bill Truitt is not telling anybody about his air car engine.

He would explain that the pressurized car runs from air supplied by pistons on the differential drive hydraulic pumps.

It takes only 14 minutes of driving for the car to fill a 2,000-pound air tank.

When the car is stopped, the engine is not running, much like an electric golf cart. But he said the car has immediate and powerful pick up even on hills and in heavy traffic.

Truitt proves the car is pollution-free by breathing the exhaust. He emphasizes that there would never be a winter start-up problem since there is no burning involved.

And he also offers a personal guarantee that the air tanks will never need to be replaced even after an accident.

"A train could run over the car (a 1955 Chevrolet Belair) and would derail because the tanks wouldn't break," Truitt said. "I guarantee that you'd never replace the tanks."

In the early models, air was supplied by pistons on the cars' wheels. But Truitt changed the pumps to the car's ring gear because the wheel pumps collected dust.

The only engine noise is a slight hiss.

Walt Krzyczewski of West Leechburg is one mechanic who met with Truitt on the idea and considers it feasible.●

THAILAND VOLUNTEERS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. FISH. Mr. Speaker, I have recently learned about a program organized by Father Harold Bradley of Georgetown University involving volunteer teams of doctors, nurses, and medical students who will go to Thailand for a 6-week period to provide medical care for Indochinese refugees. Father Bradley is hopeful that he will be able to recruit others so that two teams will always be present at refugee camps in the foreseeable future. I feel that this is a most commendable effort and wish to insert in the RECORD a copy of a letter which I wrote to Father Bradley congratulating him on his efforts in this regard.

The letter is as follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., November 27, 1979.

Rev. HAROLD BRADLEY,
Georgetown University,
Washington, D.C.

DEAR FATHER BRADLEY: I understand that you have successfully organized an effort to take two teams of doctors, nurses, and medical students to Thailand to assist the refugees. I want to offer you my sincere congratulations on your great initiative in bringing assistance to these most unfortunate people. I understand that one team of doctors, nurses, and fourth-year medical students will go to Kamput refugee camp and another team will be going to Mai-rut refugee camp for six weeks to be followed by other teams you will recruit. I also understand that the International Catholic Migration Commission in Geneva, in cooperation with ICEM (Intergovernmental Commission on European Migration), will fund the transportation for this effort.

If there is anything that I can do as a member of the Subcommittee on Immigration, Refugees, and International Law, please do not hesitate to contact me. Your efforts are most worthy, and I hope you will gain all the recognition and support you deserve for this great effort.

Very truly yours,

HAMILTON FISH, Jr.,
Member of Congress.●

WOMAN OF THE YEAR

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. CHAPPELL. Mr. Speaker, I rise today in recognition of the special achievement of an outstanding citizen and Floridian, Mrs. Mary Jo Stansfield, of Daytona Beach, Fla. Acknowledged by all who know her as one of the most dynamic and effectively energetic personalities in Florida, Mary Jo Stansfield has accrued a remarkable record of public service, volunteerism, and civic activity in all manner of community affairs. Her many outstanding efforts on behalf of her community were formally recognized a few days ago when she was named "Halifax Area Woman of the Year" by the Palmetto Club. She was selected from a group of eight community leaders, each of whom has made significant contributions to enhancing the quality of life for residents in the Halifax area.

Mary Jo Stansfield's activities within the community are literally too numerous to itemize. Among the most significant is her able and energetic leadership as chairman of the board of commissioners for the Halifax Medical Center in Daytona Beach. She serves, as well, on the board of directors of the Daytona Beach Area Chamber of Commerce and has been an active worker in the cancer crusade and the League of Women Voters, among many other worthwhile organizations.

Her vital interest in government and political issues has been manifested in many years' dedicated work for the Democratic Party at the local and State levels. Currently, she serves as Volusia County State Committeewoman of the Democratic Executive Committee, vice chairman of the Volusia County Democratic Executive Committee, and secretary of the Fourth Congressional District Democratic Party of Florida.

Mr. Speaker, I am particularly proud of Mary Jo's most recent accolade, but I cannot say that I am surprised. First hand, I have had the privilege of observing this remarkable lady's energy and tirelessness in her capacity as my district office director in charge of our Daytona Beach office. As any area resident who has taken a problem to Mary Jo will attest, she is virtually unrelenting in pursuing solutions to the bureaucratic problems that plague so many Americans. Unintimidated by high-sounding titles and utterly immune to the excuses of apathetic long-distance bureaucrats, Mary Jo has an amply deserved reputation as a sure-fire troubleshooter for any and all kinds of government-related difficulties. In that role, she has proven invaluable to me on far too many occasions for me to remember—and, more importantly, her efforts have resulted in case after case of timely assistance and direct relief to Floridians in need.

Mary Jo's many achievements are well known, and only time deprives us of the opportunity of enumerating them. I join the many friends and associates, her husband, children, and grandchildren of this singular public servant, citizen, outstanding Floridian and lady in paying special tribute to her most well-earned title of "Woman of the Year." ●

OUTSTANDING VA HOSPITAL TREATMENT

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. PEYSER. Mr. Speaker, for the most part, we in the Congress hear of complaints and problems that our constituents face; and this is as it should be. Our job is to respond and try to right many wrongs. I have, however, just received a letter that I would like to insert in the RECORD from a veteran who felt that the treatment he received in the Veterans Hospital in Northport, Long Island, N.Y., was outstanding, and in effect saved his life.

The letter follows:

MALVERNE, N.Y.,
December 1, 1979.

Hon. PETER PEYSER,
House of Representatives,
Washington, D.C.

DEAR PETE: I sure appreciate your phoning me and further to our conversation would appreciate your writing a letter of thanks to the Director of the Northport Veterans Hospital at Northport, Long Island, New York, 11768. Please express my particular thanks to Mrs. Elaine Berg, RN, Administrator of Unit 9A and her entire staff of dedicated people, including the therapists to whom she sent me for treatment. The care, help, and encouragement I received from them made it possible for me to be rehabilitated to a point where I was able to be discharged from the hospital on October 5th and come home to my family without feeling that I would be an impossible burden to them. (Although discharged, I am now considered an out-patient and as such go back for periodic examinations, my first appointment is December 6, 1979.) Since I have been home things seem to be working out very well and I am most grateful for what the hospital has done for me. It has been a long haul but well worth it. I am proud of the government which provides such excellent care to veterans and has such wonderful people to provide the care, making me feel that I was a loved member of their family whose improvement was very important to them.

You might point out that we have been friends for about forty years and that you know that I am most sincere in my thanks and appreciation to the hospital and the people who cared for me.

I want to wish you and your family a Merry Christmas and a Happy and Successful New Year.

Keep in touch—I really enjoy hearing from you.

Sincerely,

WILLIAM K. CAIRNS, III.●

COMMUNITY LEVEL CONSERVATION EFFORTS PAY OFF

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. EDGAR. Mr. Speaker, I would like to urge my colleagues to read this recently published article from the Philadelphia Inquirer which stresses the benefits of local energy conservation initiatives. The article focuses on the potential for conservation when ingenuity is stimulated at the community level with limited regulation from the Federal Government.

Since residents of a specific community have a first-hand knowledge of their energy needs, and have experience in dealing with these and other community problems, encouragement at the local level will more effectively stimulate citizen participation than will overregulation by the Federal Government. Local incentives will yield a more personal response than will Federal regulation, and will contribute to a comprehensive civic reaction with the realization that by conserving energy in the home and in the community, individual citizens will be contributing to the achievement of our national goal to reduce our dependence on foreign energy supplies.

Practically every day we hear complaints that the Federal Government is becoming more expensive and less efficient. While we must maintain certain regulations and must provide some incentives at a national level, we should make it a primary task to encourage local creativity, initiative, and participation so that we can reach our national goal to conserve energy more rapidly and more effectively. I have sent an energy conservation newsletter to my constituents explaining specific methods of conserving energy in their homes, and thus significantly cutting their energy expenses. The validity of this article is confirmed in my mind by the positive feedback I have received from my constituents as a result of the conservation tips I offered to them.

CONSERVATION: A BIG TEST FOR FEDERALISM

(By Neal Peirce)

The nation's ability to conserve energy—and thus weather the severe energy shortages which loom in the 1980s—will be a key test of American federalism.

From President Carter on down, there's a growing consensus that the cumulative benefits from conservation—in weatherization, better building design, in mass transit, carpools, vanpools, in more compact land use—could be enormous.

But while Americans wait for some grand presidential gesture or congressional enactment to set a course, it's actually in the nation's individual states, counties and cities, in individual homes and workplaces and communities, that the conservation battle must be won.

Washington may be able to help some—with bigger tax breaks for weatherization, for instance. But states and localities have the real power to regulate utilities' rates and practices, to control zoning and land use, to regulate highway patterns, to build and control transit systems, to enact building codes, dispose of waste, to decide on siting of parks and schools and community centers. All these decisions have profound effect on the patterns of daily life, work and movement, and thus on the amount of energy Americans actually use.

Washington's familiar 1960s and 1970s response to national domestic problems—major funding programs, replete with an infinite array of rules and conditions—simply won't work on the conservation front. Imagine the federal Energy Department, given its already stellar record of bureaucratic incompetence, attempting to fund and regulate energy conservation programs in tens of thousands of localities. One shudders at the very prospect.

Given the dominance of the federal income tax as a revenue raiser, some forms of national assistance may be necessary to help local conservation plans along. But the help should be light, the conditions virtually nonexistent. Overregulation can kill local initiative and imagination.

There are ample reasons for states and localities to develop thorough conservation plans whether they get any outside help or not. Every dollar a city or its citizens and businesses "exports" to utilities or oil companies for energy reduces the money available for economic activity and job creation within.

For example, Portland, Ore., which this summer adopted what is probably the nation's most comprehensive local energy plan, estimates that by 1995 it can be saving $162 million annually by cutting back citywide energy use by 30 percent.

The Portland plan illustrates both the marketing and "teeth" required in a truly significant local plan. After 1983, any Portland homeowner who hasn't weatherized his house to energy "cost efficiency"—all improvements, from storm windows to insulation, that will pay themselves back in reduced heating and cooling costs within 10 years—simply won't be allowed to resell his house. Apartment-house owners and businesses will face similarly stiff requirements.

To sweeten the pill, Portland plans a door-to-door marketing campaign to explain the new rules, plus "one-stop" weatherization centers to help homeowners arrange for energy audits, get financing, arrange for contractors, and review federal and state tax credits due them. (Poorer families may receive subsidized loans, financed through either federal grants or a local bond issue to creat a revolving loan pool.)

Portland's plan goes beyond weatherization. There's a major land use component, encouraging more dense housing (attached and multi-family units) and concentrated developments of housing, retailing and offices, all accessible by mass transit. The goal is to save energy by reducing the number and length of trips.

Portland did receive a federal grant to conduct a detailed city energy audit. But the crucial process was all local. A broadly representative energy steering committee—people from business, labor, neighborhoods, environmentalists, bankers, utilities—worked on the plan for eight months, weeded out politically impractical elements, and created a master plan with impressive community credibility.

Several big national bills to aid local energy efforts are now pending. One written by the cities' lobby and introduced by Sen. Paul Tsongas (D., Mass.) would hand out $5 billion in direct federal grants to localities for everything from local energy planning to actual capital for district heating plants.

There are dangers to that approach. First, with so much money pending, localities might put off their own initiatives. Federal paternalism could undercut the strong local consensus needed for energy conservation.

The second danger is bypassing the states. The states are constitutionally responsible for their localities. They have vast regulatory powers; they expend vast amounts for local capital and operating expenses.

Some say federalism is a quaint, outmoded doctrine, irrelevant for times of stress. But in this vast nation, quite the opposite may be true. Federalism respects real power, it can tailor policies for a thousand and one special local circumstances. By being locally democratic, it can evince responsiveness and creativity and effectiveness. It would be hard to conceive a more appropriate system to attack the energy conservation challenge of the '80s.●

CUBAN TRADE: THE HANGMAN COURTS THE ROPE MERCHANTS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. ASHBROOK. Mr. Speaker, one of the reasons America finds itself increasingly outmaneuvered by the Communist powers in the world is the ability of our enemies to turn increased trade to their own advantage. This Congress has seen many examples this year of how technology has been diverted to supply the Soviet war machine, and how plans exist to provide the Communist Chinese with similar opportunities.

Aside from direct diversion of technology for military applications there is the more ongoing effort to utilize U.S. goods and services to cover-up the failure of communism as a mode of production and supply. American grain sales bolster Soviet domestic food supplies and solve the problems caused by collective farms. U.S. manufacturing equipment aids the Soviets in their meeting consumer demands thereby placating the populace and making it easier to continue communist rule.

The examples go on and on. Today the strain of oppressing entire nations and implementing the morally bankrupt and economically outdated system of communism on freedom loving people is beginning to show in the henchman States of the U.S.S.R. Cuba is an example of watching a thriving economy of the Fifties turned into an agrarian state reminiscent of the 19th century.

The U.S.S.R. has sunk billions of dollars into bolstering Cuba's inefficient and ineffective domestic system. Manpower under the guise of "education camps" is shipped in from the African conquests to expand production. After years of subsidy the Soviets are finding out how much of a drain Cuban economic stagnation is becoming. In order to meet its own domestic situation and still stay ahead of the U.S. militarily the Kremlin has had to find some other means to cover itself.

Turning to history the Soviets have found easy marks in the U.S. business community. The desire for trade in new markets many times clouds the fact that the United States is once again being played for a sucker by communism. The U.S. State Department and Commerce Department are unwilling or unable to prevent U.S. firms from aiding the enemy and in no time at all American companies are enjoying short-term profits while the Communists enjoy long-term strategic advantage.

Such is the case in Cuba. While a trade ban technically is in effect between the United States and Cuba close to a million dollars in goods are exchanged each year. Cuba is doing all it can to lure more U.S. business to its economy. Although Cuba is on the march against the United States and its allies around the world and is pledged to drive America out of the Caribbean the courting of U.S. business to keep Castro afloat is going on in earnest.

One example came across my desk the other day. A company in Washington, D.C., has been organizing trade missions to Cuba for 4 years. Its latest promotional piece speaks of the great friendship and hospitality shown by Cuba to American businessmen. It trumpets such lines as, "the place to be these days is on a trade mission to Cuba." The pamphlet goes on to say that—

> The selling point for the trips is to put the businessmen in touch with Cuban purchasing and sales officials so when Carter lifts the blockade the businessmen will have a contact while their competitors are still trying to figure out who to talk to.

They cite personal accounts like the Minnesota businessman who had the Cubans, assure him that his firm has first crack at doing business if and when the embargo is lifted. Finally, the promotional piece raves about having a face-to-face business talk with "Fidel, El Supremo himself," and goes on to talk about the unprecedented show of hospitality when Fidel Castro threw a farewell party for a delegation of U.S. businessmen that seemed designed to convey a message of friendship.

Americans should realize what is going on here. The con artist's main tool is the show of being magnanimous while promising quick riches. Castro is one of the master conmen in the world. He conned the CIA and the United States into aiding his revolt in 1959, and he lulled Americans to sleep in the sixties and early seventies as he plotted his adventures in Africa and his blitzkrieg in Nicaragua. Like his idealogical ancestors, who pulled a collapsing Russian economy out of a tailspin in the 1920's through short-term capitalistic investment, Castro finds himself in need of the West in order for him to aid the Kremlin in destroying the West. If our Nation is to meet the threat Cuba poses in the Caribbean and elsewhere we cannot afford to let short-term profits or State Department rhetoric sway us into ignoring the danger signs that are already manifesting themselves. The sirens' song may have been sweet but the jagged rocks and swirling waters onto which they lured the weary traveler only meant him harm. Until Cuba renounces its aggression and displays independence from the Kremlin we should not listen to his rhetoric of business opportunity and we should be ever vigilant of the jagged outlines of the weapons and Soviet personnel that are present on his island.●

FIRST LADY ROSALYNN CARTER'S REPORT ON HER TRIP TO THAILAND, NOVEMBER 8–10

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. BIAGGI. Mr. Speaker, we are all familiar with the tragic scenes which have occupied the front pages of this Nation's newspapers and magazines of late depicting the starving and sickly people of Cambodia. Many of our colleagues here have spoken out against this human outrage and we have also pledged U.S. assistance for $69 million. It should be noted that in response to United Nations Secretary Kurt Waldheim's call for contributions, a generous response from many nations of the world for over $200 million has already been promised.

I recently contacted Secretary of State Vance to ascertain whether U.S. assistance, in light of apparent Cambodian resistance, would be a wise action for this Government to take. His response was heartening, for it detailed our advocacy of land, sea, river and air to bring supplies into Kampuchea. Our Government has also been in contact with the Soviet Union and Vietnam to encourage them to encourage Phnom Penh to be more cooperative with the international relief effort.

In addition to this relief effort, our First Lady, Rosalynn Carter traveled to Thailand from November 8 through 10 to personally convey the sympathy and concern of all Americans for the Cambodian people and to meet with the Thai Government to encourage them to continue their relief efforts which have been most important in helping to alleviate the problems of the Indochinese refugees.

I wish to insert the report which Mrs. Carter made upon her return for the benefit of my colleagues. I commend her for her actions on behalf of this Nation and feel sure that with the sizable amount of commitment from the international community, the tragedy that is Cambodia will soon become a legend of the past, and a lesson to us all for the future.

REPORT OF MRS. ROSALYNN CARTER ON CAMBODIAN RELIEF NOVEMBER 8–10, 1979

I visited Thailand November 8–10 to express the concern of all Americans over the tragedy unfolding in Cambodia, to pay tribute to the Thai government for the actions it has taken to alleviate the plight of Indochinese refugees, and to consider what additional steps the United States and other nations might take to provide food and medical care to those who have fled Cambodia as well as those who remain there.

At the refugee camps in Thailand, I witnessed incredible starvation, disease, dislocation and suffering. At the Sako Holding Center for Cambodians I saw many children separated from their parents, afflicted with malaria and malnutrition. In the Lao Refugee Camp at Ubon, conditions were substantially better, yet many of the camp's inhabitants have waited three or four years for approval to resettle abroad. They wait, hoping not to be forgotten by the world. At the Refugee Transit Center in Bangkok, I observed overcrowded and humiliating conditions which refugees awaiting final processing for emigration must endure. These were emotionally wrenching scenes, and I shall never forget them.

As bleak as these conditions were, however, they pale in horror by comparison to those which must be experienced by those still living in Cambodia. In particular, I was informed that nearly a quarter of a million people gathered near Sisophon close to the Thai border face the most desperate situation. Intensified fighting—anticipated in the coming weeks—will probably send them into Thailand where they may overwhelm existing capabilities to provide relief.

The plight of the children is particularly distressing. Indeed, a generation of Cambodian children is in danger of being lost. We saw few children under five at Sakeo, and there were virtually no toddlers. I held one infant who had survived despite malnourishment because aid was available. We must not allow others to die because our assistance was either too little or too late.

The Thai government is dealing with the massive influx of refugees with compassion. They have opened their borders to fleeing Lao and Cambodians as well as Vietnamese boat people. And they are now establishing holding centers to handle these displaced people away from the border areas where fighting threatens.

These decisions pose risks and pressures for the government of Prime Minister Kriangsak. Failure by the international community to provide visible and demonstrable political, economic, and security support to the Thais could undercut their current humanitarian approach. We must give Thailand our support and understanding.

The relief efforts of international agencies and voluntary groups in Bangkok is impressive. They have performed heroic services under the most trying circumstances. Yet I return with the conviction that coordination of such efforts in Thailand must be improved to assure maximum use of limited financial and human resources.

The most urgent issue is to get more food and medical supplies into Cambodia and to see that they are more widely distributed. UN Agency representatives have stated that the authorities in Phnom Penh may be willing to increase the amount of international relief reaching Cambodia. The Phnom Penh authorities have said they will permit delivery of food and medicines up the Mekong River, as well as expanded air and sea deliveries. These are vitally important. However, implementation is bogged down by political bottlenecks, and proposals for essential land deliveries into Cambodia from Thailand remain stymied.

RECOMMENDATIONS

With these circumstances in mind, I believe the United States must act urgently to stimulate and contribute to expanded international efforts to relieve the suffering of refugees in Thailand and to find additional ways of delivering food and medicine to people in Cambodia. To this end we should consider the following actions:

(1) The United States is fully committed to the principle that food should reach all the people of Cambodia. Right now, the overwhelming problem facing the relief effort is how to deliver food to the people who remain in Cambodia. During my visit, I dis-

cussed the problem of approval by the authorities in Phnom Penh with Congresswoman Holtzman's delegation before their departure for Cambodia. I raised the issue of land deliveries with Prime Minister Kriangsak who affirmed his approval of the delivery of food from Thailand with the approval of the appropriate authorities. The continued delivery of food to the Thai-Cambodian border area is essential. Finally, the relief effort based in Phnom Penh should be commensurate with the task at hand. The international agency presence there—currently thirteen people—is clearly inadequate.

(2) While commodities and services are essential, so is cash. We must disburse available funds immediately to permit the procurement of goods and services urgently needed in Cambodia and in the Thai holding centers. We should immediately provide $2 million from our refugee funds to cover the U.S. share of World Food Program requirements through the end of 1979, and we must tap the generosity of the American people to supplement through private charity those programs to which we are contributing government funds. In this connection, the United States Commission on the International Year of the Child has already launched an appeal for Americans to give a special offering this Thanksgiving to "Children Without." High on the priority is the refugee child. Contributions are to be donated to the charity of one's choice with a list of relief organizations available. We must help to save the children of Cambodia by urging all Americans to participate in this fund-raising effort.

(3) To meet urgent requirements in Thailand we should initiate immediately an airlift to provide, in full cooperation with pertinent international agencies, vegetable oils and special foods needed for infants and small children, mobile equipment to provide water to refugee holding camps, and communications equipment to improve coordination between the refugee camps and support agencies in Bangkok. Subject to the concurrence of authorities in Phnom Penh, we should also be prepared to transport by air such equipment as fork lifts and cranes to facilitate handling and distribution of food and medical supplies arriving at the seaport of Kompong Son and the river port at Phnom Penh.

(4) We need to work with the international relief agencies and voluntary groups in Thailand to develop integrated contingency plans for coping with a massive influx of additional Cambodian refugees across the Thai border during the weeks immediately ahead. The identification of sites for additional holding centers should be expedited, construction materials for hospitals identified and earmarked, and plans initiated for providing food, water and medical services.

(5) In the light of additional heavy burdens anticipated by the Thai, we should earmark more of the monthly refugee entry allocations to Thailand during the next quarter. This would help offset large numbers of new arrivals from Cambodia and offer more equitable resettlement possibilities in other camps such as Ubon. Thailand's need is so great that it demands special attention and support.

(6) We must also urge the UNHCR to construct new facilities for refugees transiting Bangkok. For our part we must accelerate the paperwork involved in processing requests for resettlement abroad.

(7) We must increase the numbers of American volunteers participating in the relief effort. I was proud of the contributions being made by Americans. More can be done. The UNHCR in particular needs assistance, and I believe the Peace Corps should be asked to make volunteers available to the UNHCR at once.

(8) Because malnutrition complicates and intensifies other disease problems, all efforts should be made to provide adequate food supplies to the populations of the refugee camps, in the border areas and in Cambodia. And for purposes of extending medical services to these people, the Surgeon General of the United States Public Health Service should work with the voluntary health organizations to assure that a national clearing house and response capacity for the refugee health volunteer effort is established.

(9) In view of the desperate situation in Western Cambodia, some of the representatives of voluntary agencies with whom I spoke in Bangkok proposed initiating unilateral early truck deliveries from Thailand. While there are practical difficulties and risks associated with this proposal, I believe that it should be given serious consideration as a last resort measure.

(10) We must renew our efforts to increase the contributions of other countries as we increase ours. When I stopped in Japan, for example, I discussed this matter with the new Foreign Minister by telephone and with the Japanese press.

(11) We must swiftly appoint a new Coordinator for Refugee Affairs who can relate larger U.S. contributions—including initiatives stemming from my mission—to a broader international relief and refugee resettlement effort.●

ABIGAIL McCARTHYS REFLECTIONS ON MINNESOTA

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. OBERSTAR. Mr. Speaker, in a recent issue of Commonweal, Abigail McCarthy brought her gifts as a writer to an eloquent expression of the influence of the "Minnesota experience" in her life.

She wrote:

> Minnesota has surely shaped us.
>
> For good or ill it is for us forever the measure of all other places. I know that my sense of being a woman, of being Catholic, of being American, are conditioned by the Minnesota experience, as those of others are by New England or California or Alabama. My understanding of community, of education, of political order and process, grew out of the Minnesota experience.

Her essay reprinted in the Minneapolis Star, Wednesday, November 28, 1979, is a loving tribute to our home State. It is also testimony to the sensitivity, the insight, the honesty, and the ability of one of the Nation's most gifted contemporary writers.

BEING CATHOLIC, FEMALE AND ALSO A MINNESOTAN

(By Abigail McCarthy)

John Paul II has a gift for the symbolic gesture. It is one reason that his communication with us seems to be on a deeper level than any we could establish with words. The gestures speak to the universal, to that which is common in our experience as children of God. Yet there is one of his gestures which I feel has little resonance in American hearts—that of kissing the soil when he arrives in a new land.

It is not that it is not a deeply felt gesture. Country and land are sacred to the man whose ancestors for more than a thousand years have lain in consecrated Polish earth. For him one owes one's personhood to a native land as one does to father and mother. Separation from that land is tragic. On the deepest level he can conceive it only in that way as was apparent in his consoling remarks to the Poles in Chicago—this, despite his almost lyric description of our "new unity," an idea which certainly appeals to him intellectually. But the mystical pull of native soil remains strong in him. It is a very Slavic trait (think of "Mother Russia" like a refrain in 19th century literature) and one which has proved providential for Poland. And it is a beautiful trait. But not ours.

I was preparing a talk on my Minnesota heritage when the pope touched ground in Boston and the speculation aroused in me by his gesture—which had not seemed so strange to me when he arrived in Ireland and Mexico—colored my thinking from then on. Was Minnesota my native land in this rather mystical sense?

It is quite literally in my bones, nourished by Minnesota air and food and water, as were those of my parents and grandparents and great-grandparents, too. But it was not so much the land from which we have sprung as the land to which we came—our promised land.

Like most 19th century first-generation immigrants, my great-grandparents seemed to spend very little time yearning for that which they had left behind. There was a strong oral tradition in our family but I am struck now by the fact that the stories passed down to me were all about the journey down the Great Lakes and the rivers of Wisconsin and then up the Mississippi, and of homesteading on the bluffs overlooking the Mississippi. It was as if they began life with the journey and the adventure and the new home. It was left for those of us in the succeeding generations to search out the heritage "beyond the water" and the far-flung family spread here and there.

Minnesota has surely shaped us.

For good or ill it is for us forever the measure of all other places. I know that my sense of being a woman, of being Catholic, of being American, are conditioned by the Minnesota experience, as those of others are by New England or California or Alabama. My understanding of community, of education, of political order and process, grew out of the Minnesota experience.

To generalize about Minnesota—or any homeland—is risky. The reflections of any one writer need the correction of others—not in the sense of denying my reality, but of offering their own.

Minnesota, it seems to me, more than many other states is a geographic entity. It is bounded on almost all sides by rivers—by the St. Croix, and the Mississippi on the east, the Pigeon, the Rainy (and the border lakes) on the north, the Red River to the west. Its southern quarter is formed by the Minnesota and its tributaries.

Its early settlement took place during two centuries when rivers were at once barriers and paths of travel. As the effusions of many 19th century eastern writers bear witness, its natural beauty was legendary during the years of exploration and settlement. Longfellow provided it with a mythology; folk balladeers sang, "Come to Minnesota, the glory of the West!"

California may be an idea; Minnesota is definitely a place.

Minnesota evokes strong reactions.

I have been told by one of those whose business it is to comment on the national scene that, outside of Texas, it is the most chauvinistic of states; by another that it is the most pleasure-loving. A Boston reporter fled the scene some years ago insisting that he could not be comfortable in a place where huge men clad in sheepskin-lined coats (Oh yes, Minnesota winters are cold), drank "dishpan sized" martinis and ate platter-sized steaks.

Yet Wolf von Eckhardt, Washington-based

critic of urban art, writes that Minnesota has learned to make its cities beautiful (they were always clean), and that it has a great variety and high level of theater, music and all the performing arts available to almost all of its citizens.

It is the tradition in Minnesota that "culture" belongs to the many, not to an elite, as T. S. Eliot discovered when he came to read his difficult poetry and 13,000 turned out to hear him.

Minnesotans tend to take educational opportunity for granted; it has always been available. The woman's struggle, although not essentially different, does not seem so dire; there seems to be more attention to practical change. In the history of many Minnesota families the women were better educated than the men, since it was they who became schoolteachers while the men carried on with the family farm or business.

And yet Minnesota's best known writers do not give a good report of it. In "Main Street" and "Babbit," Sinclair Lewis made its small towns a byword for bigotry, narrowness, materialism and hypocrisy. F. Scott Fitzgerald's sensibility was always flawed by the superficial values of the Minnesota rich, heirs to the plunderers of a continent. His assent to, and dissent from, those values set up his disastrous inner conflict.

Minnesota's most talented achievers, like Fitzgerald, do not seem to transplant well. They are given to brilliant starts, and great effects, but they seem to diminish with time. One can document this in lives as various as those of Stassen (once a white knight), Judy Garland and Bob Dylan. They come from a matrix of simplicity and dreams—where social change has been rapid and where all things seem possible.

I think of all these things and think that Minnesota is part of me—but only a part. I love it, but I do not hold it sacred, except as all things are sacred. And I extend that to America. It seems to me that this is a pre-condition for the kind of unity of which the pope spoke to us—"a demanding unity" which forms a country from the many not united by blood, and the unity which forms a universal church.●

MR. PRESIDENT——MAKE IT WORK

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. JENRETTE. Mr. Speaker, President Carter's Reorganization Plan No. 3, submitted to Congress on September 25 (and effective 60 days later) establishes a new—and hopefully—successful organizational structure for the handling of international trade matters, including the administration of the antidumping and countervailing duty laws which Congress recently amended in the Trade Agreements Act of 1979 following successful negotiation of the Multilateral Trade Agreements. Timely and effective enforcement of these laws and the MTN codes is extremely important to the industries of this country because they provide a remedy against the sale in our markets of imported products that have been either subsidized by the producing country or which are sold at less than fair value.

For too long the administration of the countervailing duty and antidumping laws to the Commerce Department where a much larger and more senior staff is planned. Given the proper support, the enforcement of those laws should now enter into a new period of effective administration which should provide American industry meaningful recourse to the remedies Congress has devised to insure fair compeition in the domestic markets.

When the reorganization plan was presented to Congress, I was contacted by Korf Industries, a steelmaker located in my State of South Carolina, about two possible deficiencies in the plan that could make the Commerce Department's administration of the antidumping and countervailing duty laws less effective. Specifically, Korf was concerned that the Commerce Department would not have the final legal authority in such cases and also that the plan did not require the Customs Service to maintain or develop records essential to the successful implementation of programs pursuant to the trade laws, such as the trigger price mechanism.

I shared those concerns with OMB Director McIntyre and asked him to clarify the intention of the administration in submitting Reorganization Plan No. 3. In response to my request, Mr. McIntyre, by letter, replied that the administration agrees with the concerns expressed by Korf. His letter spelled out the OMB interpretation of the relative roles of the Commerce Department and the U.S. Trade Representative under the reorganization plan. He indicated that the anticipated agreement between Commerce and Treasury would require the Customs service to provide timely data to Commerce in furtherance of its duties under the Trade Agreements Act.

I would hope that the Commerce Department will negotiate an effective arrangement with the Treasury for the development of the data needed to implement programs such as the trigger price mechanism. I anticipate that the Commerce Department will utilize the legal authority, as interpreted in Budget Director McIntyre's letter, to the fullest extent so as to insure the fair, efficient and orderly administration of the antidumping and countervailing laws. Such administration in my judgment is the only way to avoid pressure for protectionist measures and to prevent injury to our domestic industries.

At this point I include copies of my letter to Mr. McIntyre as well as his reply:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 23, 1979.

Mr. JAMES B. MCINTYRE,
Director, Office of Management and Budget, Old Executive Office Building, Washington, D.C.

DEAR MR. MCINTYRE: I am writing to express my concern about one aspect of the Trade Reorganization Plan submitted by the President on September 24. I do so at the request of Korf Industries, Inc., Charlotte, N.C., operators of major steel production facilities in my district in South Carolina as well as in Beaumont, Texas.

Korf is concerned about the administration of antidumping and countervailing duty laws under the reorganization—specifically about the transfer of antidumping responsibility from the Treasury to the Commerce Department, and the proposal that the President's Trade Representative will "exercise policy oversight of the application of import remedies." I am seeking your assurance that this creation of a two-headed administrative authority will not undermine the enforcement of statutory import remedies. I do not believe that the cause of equitable enforcement of these laws will be furthered by using legitimate private claims under them as "bargaining chips" in broader trade negotiations aimed at larger objectives.

I am enclosing a copy of a memorandum which sets forth the views of Korf Industries, Inc., on this issue in greater detail. It spells out language changes in the reorganization plan which we feel are essential to ensure that the new role of the Trade Representative will support, rather than inhibit, the enforcement of the antidumping and countervailing duty laws, and assure the primacy of the Department of Commerce in this process. I would appreciate having your response to this proposal at your earliest convenience.

Sincerely yours,
JOHN W. JENRETTE, Jr.,
Member of Congress.

KORF INDUSTRIES, INC.,
Charlotte, N.C., October 12, 1979.

Hon. JOHN W. JENRETTE, Jr.,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN JENRETTE: Enclosed is a copy of the memorandum of Korf Industries setting forth our position in respect of the proposed Plan of Reorganization submitted by the President to Congress on September 24, 1979, 125 Cong. Rec. H8462 (daily ed. September 25, 1979), pursuant to which the President has proposed to move certain trade functions to the Commerce Department and to a newly designated Office of the United States Trade Representative.

Korf Industries is a diversified producer of steel products and steel related technology with principal manufacturing plants in Georgetown, South Carolina and Beaumont, Texas. Our aggregate steel production capacity is approximately 1.3 million tons per year and our primary product line is steel wire rod used in the production of most basic forms of finished wire products. We employ approximately 3,500 persons.

We are in general agreement with the proposed reorganization, except to the extent that the administration of our unfair trade laws may become subject to external bargaining pressure. We believe the attached memorandum offers constructive recommendations for improvement of the proposed reorganization without changing its objectives. We believe, however, that the adoption of language clarifying the issues we have raised is critical for the effective enforcement of our antidumping and countervailing duties statutes. And these statutes are, in turn, critical to the health of our industry.

I will give testimony in support of our position at the forthcoming Congressional hearings on October 16th and 18th. As you know a final disposition of the reorganization plan must be adopted within a very limited time frame. Because the President's reorganization plan was only recently made available, we have had only a short time to prepare a response. Your early consideration and support of our recommendations would be much appreciated. If you can support our position, we urge you to contact: Mr. James B. McIntyre, Director, Office of Management and Budget, Room 252, Old Executive Office Building, 17th and Pennsylvania Avenue NW, Washington, D.C. 20503, as soon as possible. If you have questions as to our position please don't hesitate to call me or Scott R. Lowden, our Vice President and General Counsel.

Very truly yours,
ROGER R. REGELBRUGGE,
President.

Enclosure.

Office of Management and Budget,
Washington, D.C., November 17, 1979.
Hon. John W. Jenrette, Jr.,
House of Representatives,
Washington, D.C.

Dear Mr. Jenrette: Thank you for your letter of October 23, 1979, regarding the President's trade reorganization proposal.

You express particular concern about the relative roles of the U.S. Trade Representative and the Department of Commerce in the administration of the antidumping and countervailing duty laws, and about the Commerce Department's access to Customs information necessary to its administration of those laws. I want to assure you that your concerns are met fully by the President's proposal.

Specifically with regard to the USTR–Commerce relationship, Commerce will be the "administering authority" for all purposes under section 303 and title VII of the Tariff Act of 1930. USTR will be responsible for negotiating assurances, but the final decision on whether to accept such assurances will rest solely with the Secretary of Commerce. Decisions of the Commerce Department in individual antidumping and countervailing duty cases will not be subject to reversal by either the Trade Representative or the Trade Policy Committee.

Section 1(b) (3) (D) of Reorganization Plan No. 3 is not intended to give the Trade Representative authority to intervene in the consideration or disposition of individual complaints of unfair trade practices. The authority of the Trade Representative under this provision is limited to "the extent necessary to assure the coordination of international trade policy," and will focus upon general matters of interpretation, applying across-the-board, rather than upon the resolution of individual cases. (The only exception will be instances in which negotiations seeking assurances are conducted; even here, the Commerce Department will have the final say on whether to accept assurances.)

As for the relationship between the Department of Commerce and the Customs Service, all case initiation, investigations, verifications and analyses will take place in Commerce. This will include the responsibility to provide such data as are necessary to enable the Customs Service to liquidate entries subject to Commerce findings or orders. The relationship between Commerce's antidumping and countervailing duty personnel and the import specialists in the Customs Service will differ little from the interagency arrangements that already exist concerning trade statistics, quantitative restraints, collection of internal revenues, etc. All discretionary functions relating to antidumping and countervailing duties will be transferred from Treasury to Commerce.

We expect no difficulty in having Commerce obtain any necesary information from Customs. Section 5(a) (1) (C) of the reorganization plan requires the Secretary of the Treasury to furnish relevant records requested by the Secretary of Commerce. In addition, we expect that an agreement will be reached shortly between Treasury and Commerce spelling out the specifics of Commerce access to all documents and data received or generated by the Customs Service that may be necessary or useful in administering the antidumping and countervailing duty laws.

In summary, the Administration agrees with the concerns expressed by Korf Industries and passed on to us by you. We believe that the trade reorganization proposal satisfies those concerns and hope that you will support it.

Please let me know if you have any additional questions on this matter.

Sincerely,

James T. McIntyre, Jr.,
Director.●

THE LEADING QUESTION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to insert in the Record a most thoughtful article by David S. Broder entitled, "The Leading Question," published on November 28, 1979, in the Washington Post.

The article, which discusses the nature of political "leadership," follows:

[From the Washington Post, Nov. 28, 1979]

The Leading Question

(By David S. Broder)

At breakfast the other morning, two of the wise men of American political journalism, Roscoe Drummond and Theodore H. White, were enlightening a group of lesser intellects about the practice of their trade. White quoted an aphorism of Drummond's, which he suggested ought to be stenciled on our brains as the 1980 campaign begins: "You can't get the right answers unless you know the questions to ask."

What are the questions that need to be asked of the men and women running for office in the coming campaign? Dozens of possibilities suggest themselves: "What will you do about inflation? About our energy vulnerability? About the growing doubts about America's capacity and will to protect our vital interests in the world?"

There are scores of personal questions, ranging from Chappaquiddick to the source of campaign contributions. And there are the hundreds of questions reflecting an individual's or group's particular concern, be it abortions or busing, chiropractic or consumer protection, nuclear power or nutrition programs.

But in the time that has elapsed since I sat at the feet of Drummond and White, the question that has come back to the top of my own list for the 1980 candidates is of a different character.

What is critical to know of people running for office at every level from president down to state legislature, I think, is this: "What are you prepared and equipped to do to contribute to the reconstitution of effective government in this country?"

That is, in my judgment, the operative translation of that "search for leadership" that has become the cliché theme of 1980 politics.

It suggests an understanding that what has been most conspicuously lacking at the federal level, and in most of the states as well, during the past decade has not been conscientious and capable performance by individual officeholders, but a government capable of delivering on its threats and promises.

Putting the question in that particular form cuts off candidates from their most convenient and least convincing answer—the pledge that, by their personal skills, they will mobilize public opinion to prod the government to do what is needed.

That is a favorite answer of charismatic presidential candidates, who would have us believe that because of their personal integrity, sincerity or artistry with words, they would charm the birds from the trees and will good policies into existence. History—expensive history—says otherwise.

To go on electing people on the promise that each of them will create his or her own majority for his or her own program by his or her own communion with the people is to guarantee a continuation of the babel and confusion that have served unsatisfactorily as a substitute for government these past 10 years.

What we need instead are people in the presidency and Congress, in state and local government as well, who understand the need for coalition-building. We need people who have demonstrated the skills of negotiation and compromise, the insights, the articulateness and the boldness to overcome the centrifugal forces tugging at government in this hyper-pluralistic age.

Because these are rare skills, the best proof of their existence in any individual obviously lies in his or her demonstration of those skills in previous public office. Amateurs and outsiders, however well motivated, are not likely to possess these qualities or to have honed them to any degree.

Because the political parties are weak reeds on which to rest one's hopes for building a coalition capable of governing, posing this question does not automatically favor the election of Republicans or Democrats. But it does imply for Republicans that they be people with a capacity for reaching beyond the confines of their own party and its constituent groups and for working with and mobilizing other elements in the society.

For Democrats, it implies that they must be people who are at ease with all elements of their party's historic constituencies—who serve to unite those constituencies rather than align them against each other.

Most of all, it implies that the candidates who deserve support are men and women who are political in the fullest sense of that word—who are fully engaged, with all of the resources at their command, in resolving great questions that concern their communities, their states and the nation.

They need to be people who draw enjoyment, moral sustenance and energy from the political process itself, and who see their essential contribution as forwarding that process rather than achieving a particular place in history for themselves or enacting every paragraph of their own program without amendment.

If we can find enough such people in this coming election, we can have much greater hope of solving the substantive problems that confront this country. For we might then have a government—something we have lacked for far too long.●

MRS. SANTA DE GROSS RECEIVES GOLDEN DOOR AWARD

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. GUARINI. Mr. Speaker, it is my pleasure to call to the attention of my colleagues in the House an award which was presented to a constituent of mine—one who has been a voluntary leader in the field of mental health—one who always lends a helping hand to her fellow man—Mrs. Santa De Gross.

The International Institute in Jersey City has been operating in Hudson County for 60 years.

Their purpose has been to assist the immigrants making transitions to the American way of life. Their record of service is outstanding. Individuals assisted by them have gone on to high public office and have entered the fields of medicine, law, nursing, and other professions.

Their thrust is through programs of immigration assistance, refugee resettlement, interpretor services, foreign student services, and ethnic and cultural awareness.

As a volunteer organization, it is necessary for them to gain the support of many individuals. It has been my privilege over the years to assist, on occasion.

In order to recognize the great work the volunteers have rendered, the institute has established the Ethel Jones Golden Door Award, named for one of the founders of the institute in Jersey City. The award is presented annually to a foreign-born person who has contributed to the betterment of the community at large. The award specifies that the recipient must not only have gained opportunities for themselves, but have taken the opportunity of being an American to help others.

The award was inspired by the famous poem of Emma Lazarus who wrote "The New Colossus." This sonnet is engraved on the base of the Bartholdi Statute of Liberty, America's first lady, which lights up New York harbor as a symbol of hope for the millions of immigrants who have come to our shores.

I am pleased, as the Representative of the 14th Congressional District to have the Statue of Liberty but 200 yards from Jersey City. It is for this reason that the district has become known as the Statue of Liberty District.

The "golden door' referred to in this award is contained in Emma Lazarus' poem as follows:

THE NEW COLOSSUS

Not lie the brazen giant of Greek fame,
With conquering limbs astride from land to land,
Here at our sea-washed, sunset gates shall stand
A mighty woman with a torch, whose flame
Is the imprisoned lightning, and her name
Mother of Exiles. From her beacon-hand
Glows world-wide welcome her mild eyes command
The air-bridged harbor that twin cities frame,
"Keep, ancient lands, your storied pomp."
With silent lips, "Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost
I lift my lamp beside the golden door."

This year my dear friend, Mrs. Santa De Gross, received the coveted award at a luncheon held November 18 at St. Peter's College in Jersey City, N.J. She has been volunteer director of the Hudson County Mental Health Association for many years. She has indeed lighted the candle of our understanding of so many problems in this area, almost singlehandedly. She has been a pioneer in programs aimed at the prevention of institutionalizing of so many individuals. One of her brightest accomplishments has been the implementation, planning, and direction of Academy House, a facility in the heart of Jersey City, which has provided day-care programing to those in need. Her activities have indeed been a forerunner in deinstitutionalization programs, helping to restore the personal dignity of many individuals.

Santa De Gross has spent a lifetime in service to others. Born in Tunis, North Africa, of Italian, French, and Jewish ancestry, Santa came to the United States as a young girl from a French- and Italian-speaking family. Santa learned English on the streets of New York and at St. James Parochial School in Queens. A woman of unusual abilities, Santa impressed her teachers with her seriousness of purpose and passion for learning. Admitted to Cooper Union, Santa decided to pursue a career in applied designing, a field that was to occupy her time for many years to come.

Her interest in psychiatry was stimulated by a personal incident that occurred after her marriage in 1924 to Joseph De Gross. The second of their three children, Lonnie, was seriously injured in an automobile accident at the age of 12. For 2 years the family underwent a terrible ordeal, caring for a child who, they felt, had suffered permanent brain damage. Two years of tender-loving care finally helped the child to recover fully, and Santa vowed to dedicate her life to helping others in gratitude for the great blessing that she had received.

Mrs. De Gross' achievements are well known to those who have worked with her over the years and admired her stamina and idealism. Through the PTA of Hudson County, of which she served as an officer, she worked to sensitize parents to the mental health needs of their children. She helped to establish special classes for emotionally disturbed children in the schools of the county. She established a "concern line" for people needing help in emergency situations. Operating out of her home, she was on call to provide a word of reassurance to those in crisis, or to refer the caller to an appropriate community resource. In 1954, she began attending meetings of the Hudson County Mental Health Association. Her efforts on behalf of the association were tireless. She organized parties for patients at various hospitals, encouraged high school students to pursue careers in the mental health field, and championed the cause of the mentally ill in various public and private forums. Later, she was asked to serve as volunteer executive director of the association, a post she has held until this year. She has received numerous awards and citations, including the Jersey Journal Woman of Achievement Award, and the National Katherine Hamilton Volunteer of the Year Award for work in mental health.

I am proud to have known Santa De Gross for so many years, and was pleased to be asked to make this Golden Door Award. She indeed exemplifies the spirit of "service above self." ●

THE CARRYOVER BASIS TAX: THE TIME FOR CHANGE IS NOW

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. COLEMAN. Mr. Speaker, I would like to share with my colleagues a statement which I recently presented to the House Ways and Means Committee dealing with the carryover basis provision in the Tax Reform Act of 1976. The scheduled implementation on Jan. 1, 1980, demands that Congress take prompt action if this provision is to be eliminated and its harmful effects avoided. In particular, I am very concerned about the potential impact of this provision on the family farm. Our Nation's farmers have voiced near unanimous opposition to this unwieldly and inequitable provision.

The statement follows:

STATEMENT BY HON. E. THOMAS COLEMAN ON THE CARRYOVER BASIS PROVISION BEFORE HOUSE WAYS AND MEANS COMMITTEE

Mr. Chairman, certainly the most controversial and pervasive income tax change contained in the Tax Reform Act of 1976 was the adoption of the carry-over basis rule. This provision has been the focal point of vocal opposition since its passage as part of the 1976 Tax Reform Act. The support given to the 1978 Revenue Act provision postponing the effective date of the carry-over basis reflects this widespread opposition.

Many experts in the tax field readily acknowledge that the carry-over basis law as written is unworkable. These experts cite numerous reasons for repeal or major modification of this provision, ranging from high administrative costs to inequitable taxing of heirs.

One of the primary objections to the carry-over basis provision is the incredible administrative cost which will be created by it. The carry-over provision will require the compilation of extensive and detailed information about the income tax basis of each asset owned by a decedent. For example, when this procedure is applied to a farmer who might have acquired his property in the 1930's or 40's, this problem becomes even more difficult, if not impossible.

Still another problem associated with the carry-over basis tax is the additional tax burden it creates. Some experts allege that there will be a pyramiding of federal taxes because of the interplay of federal estate and income taxes under the carry-over basis provision. This problem will be particularly acute in determining the taxes of farmers and ranchers.

In most farm and ranch estates, there are few liquid assets available to pay death taxes and administration expenses on the death of a farmer or rancher, largely because the bulk of the estate consists of farm or ranch land and other non-liquid assets owned by the decedent. Thus the heir may be required to sell some of the assets in order to pay death taxes. Such a sale will increase the tax liability of the estate, since the estate will have a capital gains tax to pay on the appreciation built into the assets sold in order to pay the inheritance tax. When this tax burden is added to the others which our overtaxed society is already forced to pay, one wonders if many Americans won't be forced to sell their inherited property just to pay Uncle Sam.

Conversely, some heirs, while able to pay the initial taxes on inheritance, will experience the so-called "lock-in effect." This means that some heirs, confronted by the heavy burden of taxes presented by the carry-over basis, may opt to freeze their assets because they are unable or unwilling to pay the resulting taxes. This certainly impedes the free enterprise system, and will have an adverse effect on the structure of our economic system. There are many reasons why heirs may not be able or willing to operate the farm which they have inherited. In such cases the carry-over basis provision may thus be taking prime farmland or business property out of use.

Finally, there is one important argument against the carry-over provision which can neither be refuted nor ignored—that is, much of the appreciation in land value that is later taxed under the carry-over basis provision is an artificial gain caused by inflation, not increased productivity. Today, with inflation at the dangerous level of 13 percent, this problem is incredibly magnified. How can an heir be expected to pay taxes on everyday inflation?

In conclusion, I would ask the members of the House Ways and Means Committee to take into consideration the problems which this provision presents to rural America. It is obvious to me that this provision must either be repealed in its entirety, or at least subjected to major modifications. I trust that the members of the committee will give this issue careful consideration and come up with a workable solution eliminating the negative impact this provision will have.

E. Thomas Coleman, M.C.●

THE PASSING OF ALAN BARTH

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. EDWARDS of California. Mr. Speaker, commenting on the passing of Alan Barth, the New York Times described him as "a master of advocacy, with hundreds of pupils, because he observed all events with one abiding conviction: That the 'Price of Liberty' as he put it in a book by that name, is always 'vigilance against duly constituted authority—against the forces of order'."

Mr. Speaker, I understand well what the Times meant by these descriptive words, because I was one of Alan Barth's pupils. It was one of the most rewarding privileges of my life.

I ask that the New York Times editorial of November 23, 1979 be inserted in the Congressional Record and also Colman McCarthy's article from the November 3, 1979 Washington Post.

[From the New York Times, Nov. 23, 1979]

Masterful Advocacy; Politics as Usual

Alan Barth was a quiet man who slew dragons, a man of reason driven by passion. He never confused fairness with equivocation, nor civility with deference. For 30 years his editorials in The Washington Post were the scourge of McCarthyists, racists, gun lobbyists, censors, privacy invaders—all the enemies of civil rights and civil liberties. They were also an inspiration to polemicists of every kind, demonstrating that scorn, and social theory, need be neither shrill nor pompous.

Alan Barth, who died Tuesday at the age of 73, was a master of advocacy, with hundreds of pupils, because he observed all events with one abiding conviction: that the "Price of Liberty," as he put it in a book by that name, is always "vigilance against duly constituted authority—against the forces of order." He thus made America a safer place, for all except his competitors.

[From the Washington Post, Nov. 30, 1979]

A Crusading Nature

(By Colman McCarthy)

Editorial writers, who can be the fiber and bran of a newspaper if they choose to be, lost a treasured colleague last week when Alan Barth died at 73. For 30 years, from the early 1940s to 1972, his editorials in The Washington Post were the hard energy supplying the power of reason and justice to such causes as civil liberties, civil rights and gun control.

Alan's death might have remained a matter of private mourning for his friends at The Post. But in an unusual display of respect and fraternity, two competing newspapers—The New York Times and The Washington Star—ran editorials in praise of him. When I asked some of Washington's senior journalists if other editorial writers have received this kind of bipartisan tribute, they said no, the homage to Alan Barth was unique.

It was well deserved. Unlike many editorial writers, Alan had the gift of spillover vigor. What he wrote as an institutional voice for his newspaper, he expanded and developed in several books, regular lectures and teaching stints at universities.

One outlet wasn't enough. Cover all the bases, or else why play the game?

Because of this breadth, Alan earned a national reputation. One part of his audience, the reading public, valued him as a writer who insisted that a citizen's right to be wrong shouldn't cancel his right to speak. The other part, the editorial writers of the nation's 1,700 daily newspapers, cherished him as a man who understood the carpentry of the effective editorial: building to a conclusion based more on the hammer and nails of the facts than on a sweeping architecture of the grand vision.

The seeming racket that came from the Barth woodwork shop was merely the sound of consistency being shaped by passion. He wrote in "The Loyalty of Free Men," his first book, that "tolerance, of diversity is imperative." The theme was alive in his fifth and final book, "Prophets With Honor": "People who pride themselves on being patriots often seem prone to question the patriotism of others who may disagree with them. They tend also to be extravagantly skeptical of the loyalty and good sense of nearly all their fellow citizens. Thus they seem almost invariably convinced that alien propaganda will subvert not themselves, but nearly everybody else, and that the political gospel according to Karl Marx will prove far more appealing than the gospel according to, say, Thomas Jefferson."

Alan's first editorials were written in the late 1930s for a small Texas daily, the Beaumont Journal. Often he wrote two or three pieces a day, as though firing from a duck blind in rapid-shot aim at whatever issues were flying past. This kept him a part of the working press, not the elite thinking press, as editorial writers, if undelivered from temptation, may see themselves.

As a journalist seasoned by four decades in the profession, Alan understood that no dispute is ever finally settled nor any issue ever fully defended. Forget the last word, he believed; seek the persuasive word. Persistent pursuit was better than the flash of hot pursuit. One obituary of Alan told of his writing more than 1,000 editorials in favor of gun control, with 77 appearing on consecutive days.

This has been a monumentally lost cause, the monument in question being the gun lobby's power to keep Congress in its deep pocket. The defeat of gun control is worrisome enough, but in American journalism another effect has been felt: writers of a crusading nature are often undervalued by publishers and editors who prefer the respectable editorial posture over the vehement moral stance.

"Let's not get carried away" is the unwritten motto on many mastheads. Happily, publishers remain who know that without an Alan Barth or two defending causes that are seemingly lost or lonely, the editorial page becomes the place where readers yawn while on their way to sports and comics.

Alan Barth's books and editorials have long been studied in the nation's law schools. This is a moment for the journalism schools to begin using them, too. The country is not so brimming with writers who can combine conviction with civility that it can let its young not be exposed to the best of them.●

H.R. 5881

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. VANIK. Mr. Speaker, on November 14, I introduced H.R. 5881, the Basic Research Revitalization Act, to provide a tax incentive for research and development.

Today our Nation has substantially exhausted the reservoir of research and development which was stimulated by World War II, Vietnam, Korea, and the space program.

More than anything else, American enterprise needs a peacetime stimulant to generate new ideas, new products, and new technology. Our domestic and export business must be restored to its former competitive position. These are new domestic markets—if we can reach them with new ideas or better ideas. Our potential for new export business is an exciting challenge.

My bill will provide for the development of technology in the academic setting with research paid for and directed by the business sponsor. This would insure that technology will produce usable and salable items. The use of academic facilities will provide research and development at the lowest possible cost and provide an exciting higher level of utilizing educational resources. The sponsoring enterprise would receive a business deduction and a tax credit for these outlays. For a little tax incentive, we will put into motion a huge job-creating system for domestic and export goods. This legislation may help restore America's traditional role as world leader in technology development.

At this time, I am inserting into the Record, the Basic Research Revitalization Act, H.R. 5881:

H.R. 5881

A bill to amend the Internal Revenue Code of 1954 to provide taxpayers engaged in a trade or business a credit against income tax for amounts contributed to a reserve the payments from which must be used for basic research by institutions of higher education and to provide a deduction for such payments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Basic Research Revitalization Act of 1979".

Sec. 2. Tax Incentives for Basic Research.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"Sec. 44D. Contributions to Reserve for Basic Research by Institutions of Higher Education.

"(a) Allowance of Credit.—In the case of a taxpayer engaged in a trade or business, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the amount contributed in cash during the taxable year by the taxpayer to the basic research reserve of the taxpayer.

"(b) Maximum Credit.—The credit allowed by subsection (a) to the taxpayer for the taxable year shall not exceed an amount equal to 5 percent of the taxable income of the taxpayer for such year which is properly allocable to the taxpayer's trade or business. For purposes of the preceding sentence, taxable income shall be computed without regard to the deduction under subsection (c)(2).

"(c) Basic Research Reserve.—

"(1) Exemption from tax.—Any basic research reserve shall be exempt from taxation under this title except that such reserve shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

"(2) Deduction for payments from reserve.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate qualified basic research expenses paid out of the basic research reserve of the taxpayer during the taxable year.

"(3) Qualified basic research expenses.—

"(A) In general.—For purposes of this section, the term 'qualified basic research expenses' means expenses for basic research to be performed by any institution of higher education.

"(B) Basic research.—For purposes of subparagraph (A), the term 'basic research' means research which, under regulations prescribed by the Secretary—

"(i) consists of original experimental or theoretical investigation which advances human knowledge in scientific or engineering fields, or

"(ii) which generates or focuses knowledge to provide a concept and an information base for a new development program in scientific or engineering fields.

"(4) Institution of higher education.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on Januray 1, 1978).

"(5) Research results must be published.—The deduction provided by this subsection shall be allowed only if the institution of higher education publishes, not later than 1 year after the date the research results are made available to the taxpayer, in a publicly available document the results of such research.

"(6) Denial of double benefit.—Any amount allowable as a deduction under this subsection shall not be allowed as a deduction under any other provision of this chapter.

"(d) Special Rules.—For purposes of this section.—

"(1) Use of reserve amounts for other than payment of qualified basic research expenses.—

"(A) In general.—If any amount in a basic research reserve is, during a taxable year, used for any purpose other than for the payment of qualified basic research expenses—

"(i) an amount equal to the amount so used shall be included as taxable income (without regard to other income or deductions) to the taxpayer for the taxable year in which such use commences, and

"(ii) the liability of the taxpayer for the tax imposed by this chapter for such taxable year shall be increased by an amount equal to 300 percent of the amount so used.

"(B) Exception.—Subparagraph (A) shall not apply to any payment from any basic research reserve within 90 days after the last day prescribed by law (including extensions thereof) for filing the return of the tax imposed by this chapter for the taxable year if the amount of such payment is not more than the excess of—

"(i) the aggregate amount of contributions by the taxpayer to such reserve during the taxable year, over

"(ii) the maximum amount of contributions necessary to allow the taxpayer the maximum amount of credit allowable under subsection (a).

"(C) Excess contributions due to recomputations.—If, after the close of the 90th day under subparagraph (B), there is a recomputation of the maximum credit allowable to the taxpayer under subsection (b)(1) for a taxable year, subparagraph (A) shall not apply to any payment from any basic research reserve of the taxpayer if—

"(i) the amount of such payment does not exceed the sum of the excess described in subparagraph (B) with respect to such taxable year, plus the income on such excess,

"(ii) such recomputation was due to reasonable cause and not to willful neglect on the part of the taxpayer, and

"(iii) such payment is made at the time prescribed by regulations by the Secretary.

"(2) Contributions must be spent within 4 years.—

"(A) In general.—If any amount remains in a basic research reserve for more than 4 years after the date such amount was contributed to the reserve (or, in the case of income of the reserve, the date such income was received by the reserve)—

"(i) an amount equal to such amount shall be included as taxable income (without regard to other income or deductions) to the taxpayer for the taxable year in which the last day of the 4th year occurs, and

"(ii) the liability of the taxpayer for the tax imposed by this chapter shall be increased by an amount equal to 300 percent of the amount included in income under clause (i).

"(B) Certain amounts treated as paid.—For purposes of subparagraph (A), an amount shall not be treated as remaining in a basic research reserve on any day if there is a binding commitment on such day to pay such amount from such reserve not later than 1 year after such day. The preceding sentence shall not apply to any amount which is not paid from such reserve during such 1 year.

"(C) FIFO accounting required for certain purposes.—For purposes of determining whether an account has been held in the basic research reserve for more than 4 years, under regulations prescribed by the Secretary, the taxpayer shall allocate payments to contributions on a first-in first-out basis.

"(3) Unused research funds may be redeposited in reserve.—

"(A) In general.—Nothing in this section shall be construed to prevent amounts which have been paid from a basic research reserve and which have not been spent by the recipient from being returned to such reserve.

"(B) Returned amounts included in income.—Any such amount returned to the basic research reserve of the taxpayer during the taxable year shall be included in the income of the taxpayer for such year.

"(4) Application with other credits.—

"(A) In general.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(B) Tax imposed by chapter.—Any tax which is not treated under section 46(a)(4) as imposed by this chapter shall not be treated as imposed by this chapter for purposes of subparagraph (A).

"(e) Basic Research Reserve Defined.—For purposes of this section, the term 'basic research reserve' means any trust—

"(1) which is created or organized under the laws of the United States or of any State (including the District of Columbia) for the taxpayer.

"(2) the exclusive purpose of which is the payment of qualified basic research expenses of the taxpayer,

"(3) contributions to which may be made only in cash,

"(4) no amount may be contributed to the trust in excess of the amount necessary to allow the taxpayer the maximum amount of credit allowable to the taxpayer under subsection (a),

"(5) the trustee of which is a bank (as defined in section 401(d)(1)), or any person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with such purpose, and

"(6) the assets of which will not be commingled with any other property other than in a common trust fund.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) Technical Amendment.—Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Contributions to reserve for basic research by institutions of higher education."

(d) Effective Date.—The amendments made by this section shall apply to contributions made after December 31, 1979.●

CHRISTMAS AT CHRYSLER

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. AuCOIN. Mr. Speaker, when I was young, I was told that to get presents on Christmas Day I had to be good all year long. If I was bad, my only reward would be coal in my stocking and disappointment on Christmas Day. So I tried to be good—at least most of the time.

That system of penalties and rewards for little boys and girls is not unlike the incentives that operate in our free market system. Companies that operate efficiently and produce goods and services demanded in the marketplace are rewarded with profits. Those that are inefficient, or misjudge the market for their product, are penalized with losses. It is the opportunity for profit and the risk of loss that drives our economy, encouraging innovation and productivity. Without those incentives, our system will not work.

Most adults stopped believing in Santa Claus some time ago. But Chrysler has discovered that Santa is alive and well and living on Capitol Hill. He has changed his methods, too. He has decided that there is no reason why everyone's stocking should not be filled to overflowing. In fact the bigger you are, the more you get. It does not matter whether you have done the right thing in the past—he is confident that you will behave properly in the future.

Even the most ardent supporters of

the Chrysler bailout must find some truth in this analogy. But the comparison does not end here. In the Chrysler story we have the equivalent of a modern day version of Dickens' classic tale—"A Christmas Carol."

Chrysler's president, Lee Iacocca, freely admits the root of Chrysler's problem is that it has been producing cars in the last few years that were out of tune with consumer preferences. But he holds that it was not management error that caused problems for Chrysler so much as a series of exogenous factors that nobody fully anticipated—the Arab oil embargo, rapid inflation, and government safety and air pollution regulations. The tenor of his comments is that Chrysler's problems, while admittedly severe, are short term—a mere blip in an otherwise solid record of performance.

Like Ebeneezer Scrooge, perhaps it is time for Iacocca to reflect on his company's past. The other day, during my preparation for the Banking Committee's markup of the Chrysler bill, I came across an interesting article from a Barrons of February 1954—25 years ago. The article, entitled "The Big Two-and-a-Half, talked about prospective 1954 gains in market share for GM (No. 1) and Ford (No. 2) and a decline in car production for Chrysler. In part it said:

> The truth would seem to be that GM and Ford have styled their cars to catch an increasing share of any market, whether small or big. The Chrysler company, on the other hand, has gone into 1954 with cars that are generally spoken of in automobile circles as "out of fashion" . . . a check of machine tool companies indicates that Chrysler faces a tall order to rectify its styling mistakes in time to get ahead of GM and Ford for 1955.

The ghost of Christmas past? Certainly seems that way. But is the ghost of Christmas present any different? Not much. Chrysler's problem now is the same as it was 25 years ago.

For example, Chrysler failed to launch a subcompact car to compete with GM's Vega and Ford's Pinto, opting instead to redesign its big cars. These new big cars came out in the fall of 1973, just months before the Arab oil embargo destroyed the market for big cars. As if that was not enough, Chrysler reacted not by starting a massive overhaul of its facilities, as GM did, but by laying off hundreds of engineers and designers at precisely the time they were needed most.

Will the ghost of Christmas future be any different? For Chrysler the answer is unequivocally no. Despite all of Mr. Iacocca's assurances, Chrysler's pattern of mismanagement is so deeply entrenched that I have seen little evidence of any substantive change in the future.

Worse, the possibility of change will be even bleaker if Congress bails Chrysler out. At that point there will be nothing to fear. Chrysler can sit back comfortably on Christmas day, gloating over a stocking overflowing—not with coal, but with goodies. It will know, as will most other big companies, that though it may be inefficient, though it may misjudge the market and though consumers may reject its products, there still is a sugar plum fairy—the U.S. Government.●

ATTALLA MOURNS DEATH OF "BUD" O'REAR

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. BEVILL. Mr. Speaker, on October 27, 1979, Mr. Charles Jones (Bud) O'Rear of Attalla, Ala., passed away. Mr. O'Rear was one of Attalla's most respected citizens. I would like to share with my colleagues two articles that appeared in the Etowah News Journal. They point out the high esteem in which Mr. O'Rear was regarded by his fellow citizens.

I was fortunate to be able to count Mr. O'Rear as one of my close friends, and I can only concur in the comment written in the Etowah News Journal.

[From the Etowah (Ala.) News-Journal, Nov. 8, 1979]

ATTALLA MOURNS DEATH OF "BUD" O'REAR

The citizens of Attalla will long remember Charles Jones (Bud) O'Rear, Sr. for his many contributions to his town, his church, and his family. He died Saturday, October 27 at a local hospital following a long illness.

Funeral services were held last Monday at the First United Methodist Church in Attalla with Rev. William F. Fears officiating. Burial was in Forrest Cemetery.

Charles O'Rear was born on July 3, 1907 in the home in which he resided at the time of his death.

He was the son of the late Mr. and Mrs. B. C. O'Rear. His mother was Alma Rose Neeley, daughter of Rev. James Adam Neely, a circuit rider with the Alabama Methodist Conference in the 1800's. Neely joined the conference at Eutaw in December, 1855.

On May 16, 1942 "Bud" O'Rear married Joanna Griffey in the Attalla Methodist Church. He was the father of five children: Alma Joanna O'Rear Sisson, Charles J. O'Rear, Jr., James M., Conley Lewis, and Susan Elizabeth Ruth.

Below are comments about the life of Bud O'Rear made by his wife and children.

JOANNA O'REAR

(Wife)

Bud loved his family and was so proud of his children. When we were having our children he would say, "Joanna you have such pretty children." He was never too busy that he couldn't listen to all of us as well as his friends. He was a very patient person.

Bud would care for the children as well as I. He gave them all he could in material things and love. The one thing he most wanted was for his children to have education and that was achieved. When our daughter graduated from Auburn University this past June he said to me, "Well Joanna, we can lay down and die now for we have the children educated." At the time I told him that I was not ready to die. He just smiled.

Bud was a good story teller, and would keep the children by telling of his childhood and of his fathers'. He was always pulling jokes on his family.

Once I went out of town and he bought artificial hyacinths and put them in my hyacinths bed. Arriving home late I saw the hyacinth blooming, but did not take the time to pick any. During the night we had a hard rain. At breakfast I ask Charles to go pick some before he went to school for the rain would beat them down. Charles came back in and said, "Mama, they are not real."

Before we were married I was working with the Credit Bureau, and he sent me a singing telegram on my birthday. The boy went to hand me the telegram and he burst into singing. The office was full and we all had fun.

I loved him with all my heart and was proud to introduce him as my husband, not only a husband but he was my friend. Bud had courage and a smile and helping hand for every one.

We had our ups and downs, but we had more love. He has often told me, "I fear no one but God, and love no one but you."

CONLEY O'REAR

The following is a eulogy delivered by Conley O'Rear at his father's funeral.

"He never" met a man that he didn't like. That was said by a famous American. I don't believe anybody here today ever knew Will but, I do believe all of you knew my father—Charles (Bud) O'Rear.

The month was May and the year was nineteen hundred and forty. That day my father stood before a congregation very much like these gathered here today. I'm definitely sure there are some here today, were present 39 years ago.

I know now and understand the exceedingly love that poured from my father's heart thanking those precious, precious friends who shed their genuine love, their kindness, unsurpassed generosity and their wonderful friendship that was bestowed upon my father's father and to his family.

My friends, I stand here, my heart is also heavy with the same identical overflowing love. I find myself and my family finds itself with the same sense of duty 39 years later.

My father loved his church, his God and cherished the church family and his many devoted friends in this community and beyond.

My friends and my father's friends, you came today to pay last tribute to him, but my friends, if I knew my father, some of you knew him better than I. In his unselfish ways you are the ones to receive the passionate demonstration of feeling, not him.

I know my father would like very, very much for me to stand before you to give blessed thanks for the thoughtfulness, your sincere love and warm friendship to him and to his family throughout all these years. My family is truly indebted to you always.

JAMIE

Summing up my father's life through my eyes is an impossibility. An impossibility for the bitterness of death has caused an intermingling of faces and moments of love, pain, and joy that may forever remain locked deep within my soul and escaping to the surface from time to time as thoughts often do.

It may be best to describe my father by what he left behind within his immediate descendents. None of the descendants have ever strayed from the truth, justice or the law. They all know "great joy by experiencing great sorrow" and conversely know "great sorrow by experiencing great joy."

They all know humor, love, pity, hatred, loyalty, pride, anger, humility, and kindness; all human emotions. They all know to strive to succeed in a manner befitting Christ. They all have a love for God, Country, family, and fellowman. They all know these qualities and many more, be they deemed devine, evil or a compound of both because these qualities are not inate but rather acquired.

I shall love my father until eternity and miss him until we again reunite in Heaven.

SUSAN

My father; the husband, the pop, the Papa, as his grand-children called him; or just Daddy, was one of the best loved men by his family, his friends, and by his community.

To write something about Daddy was really an ordeal. But, then I began to think about some of the happier times we had, as a family, together. Such as the way he never failed to keep us in stitches at the table by telling some of his jokes and things that happened to him as a child.

Daddy made for sure we knew the difference between right and wrong although sometimes we did not want to listen but of course he said it anyway.

I consider my father as one of the most wisest men I have ever known. I guess you could say he was a modern day philosopher. Daddy use to tell us a lot of little sayings. Two of the sayings has really stuck in my mind. One of them went like this, "Willful waste makes woeful want," or in other words please eat everything on your plate.

The other saying dealt with the morals of the people in this world that we live in today. He would say, "Susan, it's the good morals of the women that makes a country what it is." But as a youngster, this went into one ear and out the other. But as years passed, I thought about what he had said and I began to realize that he really knew what he was talking about.

Daddy was the kind of man that kept on smiling and kept on with his sense of humor even though he was in very much pain with arthritis or what he called, "Ole Arthur." He would hardly ever let us know just how much pain he was in.

One last thing I would like to say on behalf of my father is that he was a very good man that had a very good wife by his side that loved and cherished him and helped to guide him throughout their marriage. Between both my father's and mother's love and guidance, I think they did a pretty good job of raising five children.

CHARLES JR.

I am sure almost everyone will say that a father is one who loves his family, works hard to provide daily comforts, and spends time developing character and moral strength in his children.

It's hard to single out a certain trait in my father that stands above the rest, but the one most prominent to me is his genuine love for those less fortunate than himself. People suffering from the lack of daily necessities touched him most dearly, especially children. Many times people would come to the store seeking donations for families who had lost their possessions in a fire or other tragic event. Daddy would help any way he could, and he would always include something special for the children involved.

My father endured many setbacks during his life, some that might have prevented others from going on, but he had a very simple philosophy of life. He felt that events that happened in his life were all part of a master plan of life, and it was up to him to learn from and make the most of these events. This is done by having faith in God.

Learning, charity, and understanding were very important to my father. They form the roots of wisdom.

He will be missed so much.

ALMA JOANNA

I will always remember daddy for his advice down through the years.

He told us that no one will ever love you like your parents and to always come home no matter how bad the trouble we may be in.

Daddy was a family man going for rides on Sunday and trying to instill in us the beauty and magnificence of nature. He always helped decorate the house for Christmas and taught us to pray and to remember that God is Almighty and awesome.

He also taught us to love sports such as hunting, etc.

He taught us to always be ladies and gentlemen and to know the difference in being nice and letting someone take advantage of us. He often said that cheap women are a dime a dozen and to always do what's right.

Daddy taught us to love story telling, to laugh, to cry. He didn't like for us to fuss or fight. He always told us to have a good time but not to get hurt and to watch out for the other guy.

COMMENTS FROM LOCAL CITIZENS

Local citizens of Attalla have known and loved Bud O'Rear for many years and will miss him very much. Below is a sampling of comments from some of his fellowmen: Dewey Stansell (Southern Hardware Co.) "I remember him most for being a genuinely family man—a good American—and extremely patriotic." Johnny Butler (member Attalla City Council) "Losing Charles O'Rear was like losing an arm and a leg. He was like a permanent fixture in Attalla. Everybody loved him." Berma Hunt (Attalla Taxi Company) "I thought he was the sweetest, cutest little man I have ever known. He had so much grit." Clarence Rhea (Attalla City Attorney) "He was such a likeable guy. I remember him for his love of history, of his family, and his feeling for his community, and his loyalty to his friends and neighbors. He had a very profound impact on those who knew him in his church and civic endeavors. He will be greatly missed as a very warm and kind person." Marie McGee (Elmore's) "When I went to see him about a donation for some sort of promotion for Attalla, he was more than happy to contribute and go along with promoting Attalla. He was always interested in Attalla."

[From the Etowah (Ala.) News Journal, Nov. 8, 1979]

LETTER TO THE EDITOR

DEAR EDITOR: My heart was saddened upon receiving the news of the passing of "Bud" O'Rear of Attalla.

However, the initial shock and hurt of it gave way to some memories that I would share with the people of Attalla now. Being former editor of this newspaper (The Etowah News Journal) and having spent a number of years ministering in the streets of this town, I had several excellent opportunities to reach inside the delightful Bud O'Rear.

I am not being disrespectful to call Mr. O'Rear, "Bud." He was my friend. Many are the hours—literally—that he and I spent together either in The Jesus Way Coffeehouse on Main Street, or in my office at the Journal or his comfortable furniture at his store. Bud loved to talk . . . to reminisce . . . to smile and laugh. I loved him.

I met Bud when I was a jack-legged street preacher bent on saving the world of young people from the hell of drug culture in Attalla years back. I had a small one room place called The Jesus Way, and we decorated it to bring in the youth. Bud came by, visited, liked what he saw going on . . . and donated a bright blue bean bag for the floor. He said then, it wasn't much, but he wanted to be a part. Believe me, Bud O'Rear was a part. Many young people sat in that bean bag chair and received Jesus Christ as their personal Saviour . . . I dub each one a crown in Bud O'Rear's heavenly crown.

Bud told me, lifting his precious but twisted arthritic hands, that he had given his life to Christ early and, upon what he thought to be a deathbed years and years ago, had made certain promises that he had never kept. He blamed his disobedience for the hands—saying that he would tell all young people that it would be better never to promise God something than to promise and not do. Wise counsel . . . even now; however, Bud had a renewed love for God in his latter years. He smiled a lot, spoke of God and love and the home beyond the sky. We laughed together . . . we even cried together on occasion. He told me his life story—quite unique—and how that Christ had made a difference.

As in days of old with the Youth Afire ministry, I will now make no qualms about it. Bud O'Rear had given his heart to Christ and left it there. No mortal man can do anything else—I mean absolutely nothing else—to insure the eternal home that Bud yearned for, and now awaits against that day.

I look forward to stepping on heaven's shore and shaking the perfect hand of my good friend and confident, Bud O'Rear.

Faithfully in Christ,

"BRO. JIM" ADAMS,
Gadsden, Ala.●

THE DRAFT DEBATE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. PAUL. Mr. Speaker, in a recent issue of Policy Report, which is published by the Cato Institute, Christopher Jehn wrote an excellent article about the draft debate. Mr. Jehn, an economist, is Director of the Institute for Naval Studies at the Center for Naval Analyses in Alexandria, Va.

The draft cannot be justified on military, economic, constitutional, political, moral, or practical grounds. I would like to call this article to my colleagues' attention, as I know the whole subject will be coming up again and again, despite the fact that, as Robert Taft pointed out, it is "essentially totalitarian."

The article follows:

THE DRAFT DEBATE

(By Christopher Jehn)

The current debate about the success of the All-Volunteer Armed Force (AVF) and the necessity of resuming peacetime conscription is remarkably uninformed. Many relevant facts are often ignored or misrepresented.[1]

The argument for a volunteer military begins with the contention that conscription is inconsistent with our country's history and principles.[1] Peacetime conscription was first used in 1940. Though a draft was tried during the Civil War, conscription was not an important factor in wartime until World War I. Further, during the post-World War II period of peacetime conscription, about three-fourths of the military personnel on active duty were true volunteers.[2] Conscripts and conscription, then, not volunteers and volunteers and voluntarism, are the exception in American history.

The most persuasive argument against conscription, however, is that it is immoral and inefficient. First, there can be no mistake that conscription is coercion, a serious and significant infringement of individual freedom. Second, conscription is a tax. Draftees and draft-induced volunteers are forced to serve at wages below what would be necessary to induce them to volunteer. This underpayment is a form of taxation that shifts some of the burden of national defense from the general population to draft-age men and women. Benjamin Franklin recognized these arguments while commenting on a judicial opinion concerning the impressment of American merchant seamen:

> But it may be said, to give the kings seamen merchants wages would cost the nation too much, and call for more taxes. The question then will amount to this; whether it be just in a community, that the richer part

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[1] John L. Rafuse, "United States Experience with Volunteer and Conscript Forces," *Studies Prepared for the President's Commission on an All-Volunteer Armed Force,* Vol. II (Washington, D.C.: U.S. Government Printing Office, 1970).

[2] *Report of the President's Commission on an All-Volunteer Armed Force* (Washington, D.C.: U.S. Government Printing Office, 1970), p. 48 ff.

should compel the poorer to fight for them and their properties for such wages as they think fit to allow, and punish them if they refuse? Our author tells us it is legal. I have not law enough to dispute his authority, but I cannot persuade myself it is equitable.[3]

Third, because the conscription tax is hidden (and hence the true costs of manpower are understated), conscription invites inefficient use of resources in the Defense Department. Finally, conscription imposes social costs on the nation, costs associated with draft avoidance (and enforcement) and the disruption of careers and educations, for example.

Despite these arguments, we might be willing to accept conscription if it were the only workable means of providing for the nation's defense. But it is not. The draft ended nearly seven years ago, and, criticisms in the press notwithstanding, the AVF has been a success. Most of the "problems" attributed to the AVF are not problems at all.

The AVF is said to cost too much, but this argument is specious. Careerists have always been volunteers, so only the cost of recruiting, training, and paying first-term personnel is at issue. If military pay is kept comparable to civilian pay, a return to conscription would save only about $250 million in recruiting costs. Cutting pay of first-term personnel could increase the savings by as much as $2.5 billion (or about 2 percent of the defense budget) if pay for junior personnel were lowered to the relative levels of the 1960s.[4] Such a pay cut is not likely, however, even with a return to conscription. Finally, while a return to conscription might reduce the cost of manpower to the Defense Department, it cannot reduce the cost to the nation. It merely redistributes the burden of that cost.

It is widely believed that the AVF is not attracting personnel in sufficient numbers or of sufficient quality. This argument, too, is largely groundless. Monthly recruiting shortfalls are undeniable and the source of many frontpage headlines. But for the last four years, reduced losses from the active force have offset those shortfalls so that the size of the total force has never fallen below 99 percent of the size authorized by Congress.

Quality is harder to measure than quantity. A complete quality measure would include not only such dimensions as mental ability, education, training, and experience, but others like motivation and morale. We do not have this ideal measure, but in terms of dimensions we can measure, the AVF compares favorably with its counterpart during the draft years of the 1960s and early 1970s. Today's recruits score as well or better on entrance exams and are just as likely to be high school graduates as were recruits during the draft era. (Recruits of "below average" intelligence totaled 13 percent of enlistments in fiscal year 1965, but only 5 percent in 1978. In 1968, 68 percent of enlistees were high school graduates; in 1978, 77 percent were.) Perhaps most important, the enlisted force today has a higher percentage of high school graduates (88 percent) than at any other time in history.

The picture is not so rosy for the reserve forces, a fact that has become part of the basis for another criticism of the AVF: It cannot meet mobilization requirements in the event of a major conventional war in Europe. Reinforcements and replacements for the active force must come from the reserves (including the National Guard) and from untrained individuals. Many critics of the AVF believe conscription is necessary to man the reserves and provide a source of untrained personnel at the start of a war.

Since the end of conscription in 1973, the selected reserve (personnel drilling regularly in reserve and National Guard units) has declined 12 percent, and the Individual Ready Reserve (the IRR, personnel serving the remainder of an initial six-year military obligation after a period of active duty) has declined almost 70 percent. On the surface these figures seem alarming, but they are only part of the story. For example, although it has declined in numbers, the selected reserve has steadily grown more experienced: In 1977, 68 percent of accessions to the selected reserve came from the active force, compared to only 32 percent in 1970. Though the IRR now numbers less than 400,000, there are other sources of trained personnel: Studies for the Department of Defense estimate that about 250,000 recent military retirees would be suitable for recall, as would over 1 million recently discharged individuals.

How serious the reserve situation is depends greatly on how sensible the requirements for reserve forces are. Reserve "requirements" are not immutable; they are a function of assumptions about how active and reserve forces will be used.

In any event, there is no necessary connection between a volunteer military and inadequate reserve forces. Only recently have the reserve forces begun to receive the management attention given the active force. (The Army Reserve and Army National Guard did not begin using full-time recruiters until fiscal years 1977 and 1978, respectively.) Recruitment problems in the reserve forces have also been worsened by institutional discouragements to enlistment and reenlistment. Chief among these are an outmoded pay system and traditional training schedules that require new enlistees to leave their primary jobs months to take basic and initial skills training. The Defense Department has now recognized these defects and is studying ways to correct them. But doing so may require some new legislation. If Congress wants the AVF to fail in this area, it has the power to ensure that outcome.

Advocates of conscription argue that a functioning draft system is necessary both to provide enough enlistments in the early stages of a major war and to fill reserve units. This argument, although it has surface appeal, assumes that any war in which we would engage would be no increase in enlistments at the outbreak of the war. In fact, an increase in enlistments has accompanied major crises (like Berlin in 1961) and the beginning of every war this country has entered (even Vietnam). Indeed, conscription in World War I was justified on the ground that valuable civilian laborers might otherwise volunteer, and during both world wars voluntary enlistments were eventually banned. Also, a draft, by itself, does not guarantee "quick response." Draftees, after all, take just as long to train as volunteers.

There are other alleged problems with the AVF. These include a "high" rate of turnover among first term personnel (though turnover in the military is less than among similarly aged people in the civilian sector), a "shortage" of physicians (though there are relatively more physicians in the services today than during the draft years, despite military physicians' pay considerably lower than in the civilian sector), and a lack of representativeness. This last criticism is pernicious not only because it is largely untrue, but because a "representative" force seems intuitively desirable to many.

Contrary to popular belief, the AVF is at least as representative of the total population as was its draft-era counterpart. In terms of both geography and family income, today's enlisted recruit population faithfully mirrors the general population from which it is drawn.[5] The distribution of enlistments by geographical area and by family income is virtually identical to the distribution of the sixteen- to twenty-one-year-old male population. That is, neither the poor nor people from any specific geographic area are overrepresented. The highest income brackets are underrepresented, but that was true of the drafted forces, and for essentially the same reasons: The wealthy do not serve because they face opportunities that are more attractive than the military or because they are able to evade conscription.

Blacks are overrepresented in the enlisted force, as they were during the last years of the draft. (In fiscal year 1971, 13 percent of all enlistees were black. By 1978 blacks accounted for 23 percent of all first-term enlistments.) The difference now is that blacks are volunteers paid a competitive wage. Blacks find the military attractive (compared to whites, they *reenlist* at an even higher rate than they enlist) because racial discrimination is virtually nonexistent in the military. If this leads to a racially "unrepresentative" force, then the blame rests with the civilian sector, not with the AVF. The large number of blacks in the military represents progress on the part of the military, not the opposite. For most of our history, blacks have been underrepresented in the military. As late as 1940 the Army had only two black combat officers. It is hard to see how society (or blacks) would be better off if black access to the military were reduced.

The charge of lack of representativeness is still more irksome since it is never accompanied by a description of the consequences of underrepresentation. Will a more representative force fight better? Critics of the AVF do not address that question.

The military has never been representative of the general population. The very young, the old, the illiterate, the highly educated, the very wealthy, the women, and, until recently, the blacks have always been underrepresented. Those arguing for "better" representation do so in a very selective fashion. They first define the (unrepresentative) group they think should serve, and then complain if that group is not serving.

Most criticisms of the AVF, then, simply do not hold up under close scrutiny. That is not to say there are no problems. There are, but they are more accurately termed problems of the military manpower system than problems of a volunteer military. As such, they can be solved with means, other than conscription. It would be especially tragic if an institution as alien to this country's history and principles as conscription is were adopted on the basis of erroneous premises.●

LIMITING FUTURE FEDERAL SPENDING AND TAX EXPENDITURE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 5, 1979

● Mr. GIAIMO. Mr. Speaker, yesterday, I introduced legislation to bring Federal spending and tax expenditures under stricter and stronger congressional control.

At the outset, I want to acknowledge my debt in developing this legislation to two of my colleagues on the Budget Committee, Congressman JIM JONES of Oklahoma, and NORMAN MINETA of California.

Congressman JONES, after careful study and extensive research, already has introduced legislation that would limit outlays to a percentage of GNP. My bill differs from his in that it would include tax expenditures—which, after all, are payments made by the Federal Government through a reduction of taxes rather than through a direct grant—as well as outlays.

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[3] Ibid., p. 24.

[4] For an excellent collection and analysis of facts about the current AVF see *America's Volunteers: A Report on the All-Volunteer Armed Forces* (Washington, D.C.: Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, 1978).

[5] Richard V. L. Cooper, Military Manpower and the All-Volunteer Force (Santa Monica, Calif.: The Rand Corporation, 1978), chap. 10.

My proposal on Federal credit activities, title II of the bill, is based on the valuable work of Congressman MINETA, who has explored this complex issue comprehensively in a series of hearings held by his task force on budget process and who has already introduced similar legislation.

In addition, I want to encourage bipartisan support of this bill which seeks to address one of the most important issues facing our Nation today: Putting a lid on the growth in Government spending and the tax burden. In essence, the bill which I have introduced provides a statutory basis to accomplish this end by limiting future Federal spending and tax expenditures.

My bill, the Federal Spending and Tax Control Act of 1979, has two principal features:

First, it would limit Federal spending—both directly through outlays, and indirectly through tax expenditures—to a percentage of the gross national product.

Second, it would impose a ceiling on Federal credit activities, specifically Federal loans and loan guarantees.

As many of you know, I have long been troubled by the gap between congressional rhetoric on the need to exercise fiscal restraint and congressional performance in voting on specific spending bills.

While there is widespread agreement that we must exercise greater spending discipline and slow the growth of the Federal budget, we too often fail to meet the test of discipline when considering legislation for new spending programs or expanded authorizations.

Because I believe we urgently need to stem the spending tide and reduce the Federal deficit, I have opposed a range of such legislation in recent years and months. I have done so not because I felt there was no merit to the new or expanded programs, but because I believe there must be a limit on what the Federal Government can and should do and because I have felt that, in many cases, State and local governments (which continue to experience treasury surpluses at a time of continuing Federal deficits) should more properly bear the burden.

More often than not, I have found myself on the losing side in such battles—those, for example, over the Emergency Highway and Transportation Repair Act or so-called "pothole bill' last year, expanded disaster loan legislation, the emergency fuel assistance appropriations bill, and hospital cost-containment legislation.

I have become convinced that unless we devise stricter controls, we will not get a firm grip on Federal spending. Incremental increases in spending and high deficits will continue, with all their powerful consequences for the inflation rate.

My legislation would provide needed controls.

It would require that beginning in fiscal year 1981, the combination of Federal outlays and tax expenditures (revenue losses arising from tax code provisions giving special or selective tax relief to certain groups of taxpayers) could not exceed a certain percentage of the estimated gross national product.

For fiscal year 1981, the percentage would be 28.5. It would drop to 28 percent in fiscal year 1982, and to 27.5 percent in fiscal year 1983.

These are not arbitrary percentages. Were they in effect now, they would roughly approximate the combined outlays and tax expenditures in the second budget resolution for fiscal year 1980, which for the most part, except for defense, energy and for increases compelled by inflation, is a no-growth budget.

The percentages in the legislation for fiscal year 1982 and subsequent years similarly would require tight, restrained budgets. They do not mean, however, that the Nation cannot respond to urgent needs. New or expanded programs could be enacted to the extent that we are willing to eliminate, curtail or reform marginal programs and those which no longer meet the need for which they were originally intended.

Nor would my bill impose a rigid straitjacket that would paralyze congressional action in case of war, economic emergency, or other unusual circumstances.

It provides that a majority of both Houses can suspend the spending limitation if such emergency conditions warrant.

As you know, it has been my goal to move as rapidly and prudently as possible toward a balanced Federal budget. But I have consistently opposed suggestions to mandate a balanced budget through an amendment to the constitution.

Such a mechanism, it seems to me, would be arbitrary, inflexible, and unwise. The spending limitation approach, I believe, would accelerate our progress toward a balanced budget. But it would permit flexibility. It would strengthen, not scrap, the congressional budget process. And it would relate spending in the Federal sector and Federal fiscal policy to total national fiscal activity, public and private.

Title II of the legislation provides a statutory basis for a Federal credit program control system by establishing procedures within the congressional budget process to set targets and ceilings for the gross amount of direct loans and loan guarantees which the Federal Government may make or may enter into during each fiscal year.

Federal loans and loan guarantees that will be outstanding at the beginning of 1981 are estimated at $391 billion. The estimated volume of Federal credit activities will have increased by 30 percent from 1978 to 1980.

Yet despite this rapid growth, there has been no systematic mechanism in either the Congress or the executive branch for reviewing the volume of these loans, the reasonableness of their level, or their impact on the economy.

My legislation would establish procedures within the budget process for improved review and control. It provides that beginning with the fiscal year 1981 budget new Federal credit activities would be subject to the appropriations process. For fiscal year 1982 and subsequent years, the Congress would set target ceilings for credit activities in the first budget resolution. And for fiscal year 1983 and subsequent years, it would also set a binding ceiling in the second budget resolution. Legislation that would breach the ceiling would be subject, as outlays now are, to a point of order.

Recognizing the importance of this issue, I think this bill is a step in the right direction and I would urgently seek your support.

I would also like to submit for the RECORD a general summary and section-by-section analysis of the bill:

FEDERAL SPENDING AND TAX CONTROL ACT OF 1979 INTRODUCED BY CONGRESSMAN ROBERT N. GIAIMO

GENERAL SUMMARY

The bill is divided into two titles.

Title I provides a statutory basis for limiting future Federal spending and tax expenditures. It does so by amending the Congressional Budget Act of 1974 to provide that the sum of total budget outlays and total tax expenditures contained in the various resolutions (first, second as well as permissible revisions) on the budget shall not exceed, for FY 1981, 28.5 percent of the estimated Gross National Product (GNP) for such fiscal year; 28 percent of the estimated GNP for FY 1982; and 27.5 percent of the estimated GNP for FY 1983 and for each fiscal year thereafter. No distinction is made within the total fiscal year percentage limitation figures between a fixed percentage for outlays and one for tax expenditures.

For purposes of the bill, the GNP shall be determined by the Budget Committee and shall be as included in the report accompanying consideration of a budget resolution.

A process is also included for suspension of the limitation. This can be initiated by the President by filing an explanatory report with Congress or by the Budget Committees with a requirement for adoption by both Houses in either case of a motion to suspend. The motion to suspend will be in order only after general debate on the resolution is completed; will be highly privileged; must be passed by both Houses; and would apply to conference reports on resolutions as well as to resolutions themselves.

A provision is also included that should the limitation be waived with respect to the first resolution, such waiver will also apply to all succeeding resolutions for the remainder of that fiscal year. Further, a section is included which bars consideration of any amendment offered during consideration of the budget resolutions which would cause the limitation ceilings contained in this bill, absent a waiver, to be violated.

Title II provides a statutory basis for a Federal credit program control system by establishing procedures within the congressional budget process to set targets and ceilings for the gross amount of direct loans and loan guarantees which the Federal government may make or may enter into during each fiscal year.

For purposes of "phasing in" congressional control, the appropriation limitation language (i.e., making new loans and loan guarantees subject to appropriations in advance) and the May 15 reporting requirement (i.e., for bills authorizing new loan guarantees) would be first effective for FY 1981; the inclusion of Federal credit activities in the first resolution (or as targets), effective for FY 1982; and the inclusion in the second resolution (or as ceilings), scorekeeping processes, etc., effective for FY 1983 and each fiscal year thereafter.

SECTION-BY-SECTION ANALYSIS

Section 101. Short Title. Section 101 provides that title I of the bill may be cited as the Federal Spending and Tax Expenditure Control Act of 1979.

Section 102. Findings and Purpose. Section 102 declares it to be the policy of the Congress and the purpose of this title to provide a statutory basis for limiting future Federal spending and tax expenditures to a fixed percentage of the Nation's GNP.

Section 103. Limitation in First Concurrent Resolution on the Budget. Section 103 provides that the sum of total budget outlays and total tax expenditures contained in the first concurrent resolution on the budget shall not exceed for FY 1981, 28.5 percent of the estimated GNP for such fiscal year; 28 percent of the estimated GNP for FY 1982; and 27.5 percent of the estimated GNP for FY 1983 and each fiscal year thereafter. Section 103 does not distinguish within the total percentage figure a separate percent limitation for outlays and tax expenditures. Section 103 further provides for a suspension of the limitation either through initiation by the President by filing an explanatory report with Congress or by action of the Budget Committee with a requirement for adoption by both Houses in either case of a motion to suspend.

The motion to suspend will be in order only after general debate on the resolution is completed; will be highly privileged; must be passed by both Houses; and would apply to conference reports on resolutions as well as to resolutions themselves.

A subsection is also included that would provide for inclusion in the report accompanying the budget resolutions an estimate of the Gross National Product most appropriate for that fiscal year, as determined by the Committee, taking into consideration most recent economic conditions.

Section 104. Limitation in Revisions of Concurrent Resolutions on the Budget. Section 104 provides the same limitation and suspension process as contained in section 103 but as applied to permissible revisions of concurrent resolutions on the budget for such fiscal year.

Section 105. Limitation in Second Concurrent Resolutions on the Budget. Section 105 provides the same limitation and suspension process as contained in section 103 but as applied to the second concurrent resolution on the budget for the fiscal year.

Section 106. Amendments Must Be Within Appropriate Levels. Section 106 bars consideration of amendments, regarding adoption of the budget resolution, that would cause the limitation ceilings applicable thereto, absent a suspension of that requirement, to be violated.

Section 107. Gross National Product. Section 107 provides that for purposes of this title, the Gross National Product will be the Gross National Product as estimated by the Committee and as stated in the report accompanying consideration of the budget resolutions.

Title II

Section 201. Short Title. Section 201 provides that title II of the bill may be cited as the Federal Credit Program Control Act of 1979.

Section 202. Findings and Purpose. Section 202 declares it to be the policy of the Congress and the purpose of this title to provide a statutory basis for a Federal credit program control system by establishing procedures within the congressional budget process to set targets and ceilings for the gross amount of direct loans and loan guarantees which the Federal government may make or may enter into during each fiscal year.

Section 203. Inclusion in First Concurrent Resolution. Section 203 provides for inclusion in the first concurrent resolution on the budget of the appropriate and estimated levels of direct loans and loan guarantees which the Federal government may make or may enter into for the fiscal year to which the resolution applies. Section 203 further requires the Banking Committees of both Houses to submit to the Budget Committees their recommendations as to the appropriate levels of total gross obligations for the principal amount of direct loans, and of total commitments to guarantee loan principal.

Section 204. Allocation of Totals. Section 204 requires that the joint explanatory statement accompanying a conference report allocate to the standing committees of the House and Senate having jurisdiction over credit programs the appropriate levels of gross obligations for direct loans and of commitments to guarantee loan principal. Section 302(b) of the Budget Act would be amended to require that the Appropriations Committees subdivide their allocations among their subcommittees, as they presently subdivide their allocations of budget authority and outlays.

Section 205. Committee Action on Appropriation Bills. Section 205 adds to the summary report by the House Committee on Appropriations, which compares its action on regular appropriation bills with the appropriate levels of budget authority and outlays as set forth in the budget resolution, a comparison of the Committee's recommendations on gross obligations on direct loans and total commitments to guarantee loan principal to the levels set forth in the concurrent budget resolution.

Section 206. Scorekeeping Procedures. Section 206 establishes the scorekeeping procedures by requiring that the statement in reports accompanying a bill providing new budget authority state how the limitations on credit programs in the bill compare to the overall totals in the budget resolutions and to the allocations to the Committee under section 302 of the Budget Act.

In addition, section 206 expands the scorekeeping responsibilities assigned to the Congressional Budget Office by section 308(b) by requiring an up-to-date tabulation in the periodic scorekeeping reports of the limitations on gross lending and new commitments compared with the targets in the budget resolutions and the allocations under section 302.

Section 207. Completion of Action on Certain Bills. Section 207 requires that action on bills providing limitations on credit programs shall be completed not later than the seventh day after Labor Day, as is required of all bills providing new budget authority.

Section 208. The Second Budget Resolution: Ceilings on Credit Program Limitations. Incorporating ceilings on credit program limitations into the second required concurrent resolution on the budget is accomplished by amending section 310 of the Budget Act. Section 208 of the bill adds a new subsection to section 310(a) to state that the Committees on the Budget shall, at the time they report in a second resolution any revisions to the expenditure aggregates in the first resolution, revise as necessary the limitations on total obligations for direct loans and for new commitments for guaranteed loan principal. The Committees are also to direct the committees which have jurisdiction to recommend such changes.

Section 209. Appropriate Levels. The ceilings on limitations for credit programs set in the second concurrent resolution on the budget are given force by an amendment to section 311 of the Budget Act. This amendment extends the point-of-order coverage of that section to bills increasing the limitations on obligations for direct loans of commitments to guarantee loan principal above the second resolution levels.

Section 210. Bills Providing New Loans. Section 210 sets up a two-state process for loan guarantee authority. A new section 405 would require that authorizations for guarantee authority state that such guarantee authority would be effective for any fiscal year only as approved in appropriation acts. This requirement is enforced by the fact that legislation authorizing guarantees without such a proviso could be ruled out of order on the floor of either House.

As drafted, this section would apply only to new guarantee authority or to reauthorizations of existing loan guarantee programs.

Section 211. Reporting of Certain Authorizing Legislation. Section 211 makes the May 15th deadline for the reporting of authorization bills to either House effective also for bills authorizing loan guarantees.

Section 212. Definitions. Section 212 defines, for purposes of this title, direct loans.

Section 213. Effective Dates. For purposes of phasing Federal credit activities into the congressional budget process, section 213, in essence, makes the appropriation limitation section and May 15 reporting requirement effective for FY 1981; the inclusion of loans and loan guarantees in the first resolution effective for FY 1982; and, the inclusion in the second resolution, scorekeeping process, etc., effective for FY 1983 and each fiscal year thereafter.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 6, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 7

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.
3302 Dirksen Building

9:30 a.m.
Foreign Relations
To continue hearings on S. 2012, proposed Special Central American and Caribbean Security Assistance Act.
4221 Dirksen Building

Judiciary
To hold hearings on the nomination of John H. Shenefield, of Virginia, to be Associate Attorney General.
2228 Dirksen Building

10:00 a.m.
Joint Economic
To resume hearings on the employment-unemployment situation and price data information for November.
5110 Dirksen Building

DECEMBER 10

9:30 a.m.

*Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To hold hearings on S. 2002, to restrict the use of the "Rule of 78's"—a lending practice used in the computation of rebates of unearned interest in long-term consumer loans.

5302 Dirksen Building

10:00 a.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

2:00 p.m.

Environment and Public Works

Water Resources Subcommittee

To resume markup of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.

4200 Dirksen Building

*Select on Indian Affairs

To hold hearings on S. 1464, to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.

5110 Dirksen Building

DECEMBER 11

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.

6226 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of Richard J. Green, of New Jersey, to be an Associate Director of the Federal Emergency Management Agency; William J. Beckham, Jr., of Michigan, to be Deputy Secretary of Transportation; Susan J. Williams and William B. Johnston, both of Virginia, each to be an Assistant Secretary of Transportation.

235 Russell Building

Energy and Natural Resources

To hold hearings on the nominations of Hazel R. Rollins, of the District of Columbia, to be Administrator of the Economic Regulatory Administration; Edward A. Frieman, of New Jersey, to be Director of the Office of Energy Research; George Fumich, Jr., of Virginia, to be an Assistant Secretary of Energy (Fossil Energy); George W. Cunningham, of Tennessee, to be an Assistant Secretary of Energy (Nuclear Energy); and Leslie J. Goldman, of Illinois, to be an Assistant Secretary of Energy (International Affairs).

3110 Dirksen Building

Environment and Public Works

Nuclear Regulation Subcommittee

To resume hearings on S. 1521, to provide a comprehensive approach to the regulation of nuclear waste disposal.

4200 Dirksen Building

Judiciary

Business meeting, to consider pending nominations and legislation.

2228 Dirksen Building

Select on Small Business

To hold hearings on the structure of the solar energy industry.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue hearings on S. 2002, to restrict the use of the "Rule of 78's"—a lending practice used in the computation of rebates of unearned interest in long-term consumer loans.

5302 Dirksen Building

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 1452, to provide war risk insurance for American vessels.

457 Russell Building

2:00 p.m.

Environment and Public Works

Water Resources Subcommittee

To continue markup of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the United States and trust territories.

4200 Dirksen Building

DECEMBER 12

9:00 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.

235 Russell Building

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.

3302 Dirksen Building

9:30 a.m.

Judiciary

Limitations of Contracted and Delegated Authority Subcommittee

To resume oversight hearings on Title III, providing assistance for specific academic, administrative, and student service programs, of the Higher Education Act.

1202 Dirksen Building

Select on Small Business

To continue hearings on the structure of the solar energy industry.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To hold oversight hearings to review international monetary policy relative to the Eurodollar currency.

5302 Dirksen Building

Conferees

On H.R. 2440, to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and to provide assistance to aircraft operators to aid them in complying with noise standards.

Room to be announced

Environment and Public Works

Water Resources Subcommittee

To continue markup of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.

4200 Dirksen Building

Rules and Administration

Business meeting, to consider administrative and legislative business.

301 Russell Building

DECEMBER 13

8:00 a.m.

Appropriations

District of Columbia Subcommittee

To resume oversight hearings to review the District of Columbia 1979 Summer Youth Program.

1114 Dirksen Building

8:30 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold closed hearings to review the current status of the strategic petroleum reserve program.

S-407, Capitol

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.

6226 Dirksen Building

10:00 a.m.

Labor and Human Resources

Business meeting, to markup S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts. National Endowment for the Humanities, and the Institute for Museum Services, and S. 1429, authorizing funds through fiscal year 1982 for programs under the Museum Services Act.

4232 Dirksen Building

DECEMBER 14

9:00 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.

235 Russell Building

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.

3302 Dirksen Building

9:30 a.m.

Labor and Human Resources

To hold hearings on the nomination of William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume oversight hearings to review international monetary policy relative to the Eurodollar currency.

5302 Dirksen Building

2:30 p.m.

Labor and Human Resources

Business meeting, to consider the nomination of William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.

4232 Dirksen Building

DECEMBER 17

10:00 a.m.

*Energy and Natural Resources

Energy Regulation Subcommittee

To receive testimony on the current price and supply situation for petroleum fuels.

3110 Dirksen Building

Select on Indian Affairs

To hold hearings to determine whether the April 1, 1980, statute of limitations deadline should be extended for commencing actions on behalf of an Indian tribe, band or group by the Federal Government.

1202 Dirksen Building

JANUARY 15, 1980

10:00 a.m.

Banking, Housing, and Urban Affairs.

International Finance Subcommittee

To hold hearings to examine U.S. trade and technological competitiveness

with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.
5302 Dirksen Building

CANCELLATIONS

DECEMBER 7

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to insure equitable mortgage lending practices.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, December 6, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
December 3, 1979.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Thursday, December 6, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Reverend Carl Nissen, Magnolia Presbyterian Church, Seattle, Wash., offered the following prayer:

Almighty God, Creator:

We humbly stand before You knowing Your loving concern both for us and for all others across every human border.

Give us and our leaders wisdom, patience, and courage to find our way through the current complex crisis in Iran. Sustain the hostages in Iran and their families at home. Protect Iranians here. Deliver both from those who would justify harming others to achieve their own deluded and selfish ends.

You know the powers of and pressures upon this legislative body. Make their greatest resource values centered in the common welfare. Enlighten, broaden, and sustain them by Your spirit. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 914) entitled "An act to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multi-State regional development commissions to promote balanced development in the regions of the Nation," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appointed the following Senators:

For section 103 of the Senate bill and comparable House amendment, Mr. PROXMIRE, Mr. WILLIAMS, Mr. CRANSTON, Mr. STEVENSON, Mr. GARN, Mr. HEINZ, and Mr. ARMSTRONG, and for sections 109, 112, 116, 117 of the Senate bill and comparable House amendments, Mr. RANDOLPH, Mr. MUSKIE, Mr. GRAVEL, Mr. BURDICK, Mr. PROXMIRE, Mr. WILLIAMS, Mr. CRANSTON, Mr. STEVENSON, Mr. STAFFORD, Mr. DOMENICI, Mr. CHAFEE, Mr. GARN, Mr. HEINZ, and Mr. ARMSTRONG, and for all other portions of the bill, Mr. RANDOLPH, Mr. MUSKIE, Mr. GRAVEL, Mr. BURDICK, Mr. STAFFORD, Mr. DOMENICI, and Mr. CHAFEE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1656. An act to provide for a national program of fisheries research and development, and for other purposes.

AMERICAN MILITARY LEADERS SUPPORT THE PROPOSED SALT II AGREEMENT

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, as one of the Members of Congress for Peace Through Law who serves on the MCPL SALT II Task Force I wish to call attention to American military support for the SALT II treaty. Opponents of the treaty have suggested that former and present military leaders oppose ratification of the pact.

In fact this is not the case. The Secretary of Defense and the five highest ranking members of our Armed Forces, the Joint Chiefs of Staff, have endorsed the treaty. Their sentiments have been echoed by every NATO head of state and defense minister. The Commander in Chief of the Strategic Air Command has also declared his support.

To explain away the pro-SALT positions of those who are charged with maintaining the security of our country, the opposition argues that they have been coerced by the administration. But that fanciful idea cannot explain away the endorsements which have come from the impressive ranks of former high ranking officials of the military establishment, some of whom have never been known to espouse dovish positions in defense matters.

These former officials have nothing to gain from the administration for their endorsement, nor would their retirement be adversely affected by anything the administration could do if they voiced their opposition to the proposed treaty. They speak out as citizens who have not put aside the habits of defense planners, individuals whose lives have been closely bound over the years to the successful defense of our country and the effective deterrence of its enemies.

The list is a long one. For the benefit of my colleagues I will insert in the Extensions of Remarks today the names of a few principal retired military figures and former National Security officials whose endorsement of the modest benefits to be gained by ratification of SALT II may serve as highly qualified advice and a reassurance to the American public so that calm judgment may prevail over alarmist rhetoric.

CONGRESSMAN PEYSER AND CONGRESSMAN MOFFETT INTRODUCE RESOLUTION URGING SENATE TO ACT PROMPTLY ON PENDING WINDFALL PROFIT TAX

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, the gentleman from Connecticut, Mr. TOBY MOFFETT, and myself today are introducing a resolution urging the Senate to act promptly on its consideration of the pending windfall profit tax, a strong windfall profit tax. The delay, Mr. Speaker, is costing the Federal Government billions of dollars. It is delaying the development of energy programs. It is letting our allies feel that we are not taking the kind of steps necessary to bring about conservation and also the American people themselves will feel betrayed if this tax is not passed.

Mr. Speaker, since Monday we have added over 35 additional cosponsors on this resolution. We urge Members to rally on this particular issue so we can get the Senate to act and act in time.

THE CURRENT SITUATION IN CAMBODIA

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. CLINGER. Mr. Speaker, like Auschwitz or Dachau, the current situation in Cambodia is inexpressibly horrible. It is virtually impossible to describe the extent of human suffering and misery in Southeast Asia.

At a State Department briefing last month, a congressional delegation was informed that thousands—perhaps even tens of thousands—of Cambodian men, women, and children are dying of starvation and malnutrition each week. As each day goes by, it becomes increasingly urgent that more fortunate nations do whatever they can to alleviate Cambodia's plight.

So far, the United States has pledged a total of $800 million over the next 2 fiscal years for Indochinese relief assistance. International humanitarian organizations like the Red Cross and UNICEF are dependent upon private donations. I urge all of my colleagues to lend a helping hand to the International Red Cross and UNICEF by publicizing the way in which an individual can make a contribution to these worthy organizations.

UNICEF, for example, has set up a toll-free nationwide telephone number to enable Americans to donate funds and services to the people of Cambodia. That telephone number is (800) 221-2870, and I should emphasize that it is open 24 hours a day. I implore my colleagues in the House to please advertise this number through their press releases, weekly columns, newsletters, radio and television programs, and other means of constituent communications.

Thank you very much.

NAVY BUS ATTACKED IN PUERTO RICO

(Mr. EVANS of the Virgin Islands asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EVANS of the Virgin Islands. Mr. Speaker, on Thanksgiving Day, Emil E. White, 20 years old, of Charlotte Amalie, St. Thomas, V.I., was home with his parents on leave from the Navy. During a discussion of the Iranian situation, young Emil remarked that it was necessary to show Iran that "We won't yield, be weak, or be knocked around." Said he, "If I had to die tomorrow, I'd gladly die for my country." These were prophetic words. Eleven days later, Emil was dead, shot from ambush in a dastardly, senseless, shocking, outrageous attack on a Navy bus in Puerto Rico, in which 2 were killed and 10 wounded, 2 seriously. Among those injured critically was Monique Ritter, 19 years old, from Frederiksted, St. Croix, V.I. Monique is still in critical condition in the Veterans Hospital in San Juan, Puerto Rico.

In times of peace, we so often fail to recognize and appreciate the real risks which our military men and women take in the service of their country. This ignominious deed brings home forcefully the point that no one in the uniform of his or her country is safe from terrorist attack.

The courage and heroism of these men and women serving their country in what is considered peacetime, and without the glamour of wartime coverage, often pass unnoticed.

Monique is fighting for her life, also imperiled in the service of her country.

We owe these young Americans a tremendous debt of gratitude.

We offer our condolences and sympathy to the family and relatives of Emil. Our country, which he has served so well, expresses its appreciation for his service and sacrifice.

We offer our prayers for Monique that she might recover completely. America appreciates her service and sacrifice also.

To the family and relatives of the other young man killed and those wounded, we express appreciation for their service and offer the best wishes of our country.

NICARAGUAN LEADERS SHOULD BE TOLD UNITED STATES DEMANDS IMMEDIATE FREE SUPERVISED ELECTIONS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, three leaders of the pro-Marxist Sandinista National Directorate of Nicaragua are in the United States today and will visit Capitol Hill in an attempt to arrange $75 million in further U.S. aid to the revolutionary junta.

The 1-week visit of Sandinista Commanders Jaime Wheelock, Victor Manuel Tirado Lopez, and Rene Nunez has been arranged by the State Department.

I have just received undocumented information but from a source in a position to know that Fidel Castro of Cuba is transshipping tons of arms and materiel through Nicaragua to El Salvador to aid the Communist-Marxist guerrilla-terrorists there in establishing a Communist regime there.

It is unfortunate that our Government is supporting this visit without first having insisted on immediate free supervised elections in Nicaragua.

The pro-Marxist regime claims that it is establishing "democracy" in Nicaragua.

Yet the junta has fired 5,000 teachers who do not favor the new regime, and has imported 1,200 Cuban teachers sent by Fidel Castro to conduct political brainwashing of Nicaraguan youth.

Plans have been announced to hold political trials of thousands of Nicaraguans who served the former elected government.

One commander of the Sandinista National directorate, Jose Benito, has openly stated that there will only be democracy in Nicaragua for those who fought against the former elected government.

The new regime has threatened to confiscate U.S. companies in Nicaragua, including Sears, if they do not accept government controls.

These are not the actions of a free democratic state.

The United States should insist on immediate free supervised elections in Nicaragua as a condition for any further dealings with the new government.

☐ 1010

SPECIAL MARINE CORPS FORCE WOULD RESPOND IN CRISES

Mr. COUGHLIN. Mr. Speaker, on November 29, 1979, Congressman JOHN P. MURTHA and I wrote to President Carter and Speaker O'NEILL to propose that the U.S. Marine Corps be directed to develop specific proposals for a large, highly mobile, rapid deployment force that could be used to protect American lives and property abroad and, when necessary, to rescue Americans from trouble spots. Such a force, we argued, would give the President the option—and the capability—to respond to emergencies like those which have developed in Iran, Pakistan, and other areas in recent weeks.

I am greatly heartened by a report which appeared today in the Washington Post in which Marine Corps leaders disclose publicly for the first time that President Carter had ordered the creation of just such a force. As envisioned by Mr. MURTHA and myself, the Defense Department's plans for a rapid deployment force include substantial air- and sea-lift capabilities.

Although a request for additional funding to support the force will apparently be submitted to the Congress next month as part of the President's fiscal year 1981 budget, I am concerned that current planning for the rapid deployment force does not envision it becoming operational until 1983. The continuing crisis in Iran and the mounting sporadic violence against American personnel and facilities in other countries requires that the President have this option and capability as soon as possible. I urge that the administration's budget request reflect the urgency of this need and that its timetable be accelerated. I further urge that Congress provide quickly whatever funding and support may be necessary to have an effective, operational rapid deployment force at the earliest possible date.

A TRIBUTE TO THE LATE LLEWELLYN BIXBY IV

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, last week, Llewellyn Bixby IV, a descendant of the family that founded Long Beach, Calif., died of cancer. He was a very young man—44.

His great grandfather bought a 27,000-acre ranch in California in 1866. He sold part of that ranch in 1882—a tract which eventually became Long Beach.

Llewellyn's family history made him a natural community leader. He was active in all sorts of charities and civic pursuits—including the Boy Scouts, the United Crusade, the Memorial Hospital, and the Museum of the Sea.

He was also an avid sportsman.

I had the honor of knowing Bix for some years, but the thing that impressed me most about him was the way he attempted to make the last 11 months of his life—as he battled cancer—as normal as possible for his family.

He went on a skiing vacation with his family, even though he was ill. He continued to jog—he was a great fan of running. And he went to work every day he was not in the hospital receiving treatment.

His public spirit and generosity were a great asset to the Long Beach community; but the way he conducted his personal life for the past 11 months gained the admiration and respect of all who knew him.

RON LASCH CELEBRATES BIRTHDAY TOMORROW

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker—

"The time has come," the Walrus said,
"To talk of many things:
Of shoes—and ships—and sealing-wax—
Of cabbages—and kings—"

Mary Poppins asked me, "How are you?"
I said, "Fine."
I said, "How are you?"
And Mary Poppins said, "Practically perfect
in every way."

Mr. Speaker, I am here to salute a staff member of this House, the Mary Poppins of the Walrus set, who has helped me significantly. He was born in Philadelphia, he tenured in New Jersey, and he was educated in the House of Representatives. Please join me in celebrating Ron Lasch's birthday, which is tomorrow, December 7, now more than ever a day of infamy.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the subject of Ron Lasch's birthday tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A PRESIDENTIAL BRIEFING

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, last night about one-fourth of the Members of the House accepted the gracious hospitality of the President, and he addressed the group informally and more or less off the record on the subjects of both Iran and the energy crisis.

I would like to address my remarks primarily to the latter subject. The President said that he felt it was urgent that the House and the Senate both enact the Energy Mobilization Board legislation, the Energy Security Corporation legislation, and the synfuels conference report, as well as the windfall profit tax bill.

The President said there was one encouraging note, and that is that the consumption of gasoline in America was down 12 percent during the month of November, as compared to November a year ago. He said that we are going to have a problem pretty soon with a shortage in this country; that the OPEC nations will undoubtedly increase their oil prices in the foreseeable future, as well as reduce production.

We are receiving today from the Department of Energy a notification of the proposed regulations for gasoline rationing authority that they may want enacted. They say there is a likelihood in February particularly of long gas lines here.

Mr. Speaker, I merely want to alert the Members that when they go home this weekend, this news will probably break and they will have to answer to their consituencies. To those of us on this side, the Republican Members of the House, we are going to try to get a digest of this information out and in the hands of the Members before we recess for the weekend.

HAPPY BIRTHDAY, RON LASCH

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, I, too, would like to take this opportunity to wish happy birthday to one of our floor staff people, Ronald Werner Lasch.

We all have occasion to come on the floor of the House of Representatives and seek directions from the staff people who are there, and I know many of the Members on both sides of the aisle have stopped to speak a word to Ron Lasch as we have come on the floor of the House of Representatives.

Mr. Speaker, I want to take this occasion to pay tribute to Ron on his birthday for the good job he has done. We have some tremendous staff people both on the floor of the House and on the staffs of Members of Congress, and I think we owe a debt of gratitude to Ron Lasch and in general to all of the fine staff people.

POLITICAL OBSTACLES PLAGUE STARVING CAMBODIANS

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, a generation of Cambodians is being killed by a weapon as powerful as any we have ever known—starvation. And this particular weapon is not indiscriminate in choosing its victims. It is going to kill the children, the elderly, and the weak first.

Now we are told that the food we have helped supply $200 million worth along with other nations is not feeding starving people; 25,000 tons of grain have been unloaded by international agencies at the Cambodian Port of Kompong Som during the past 2 months. In December, plans have been made to ship 30,000 tons of grain. Despite this, refugees have reported receiving only a "tiny bit of corn." The food is not reaching those people in the Cambodian interior. People are still starving because food is being used as a "political lever."

Cambodians in search of food are shot at the Thai border by Vietnamese troops backing the Heng Semrim government. Refugees also believe that the Vietnamese are holding back rice to starve the Cambodians into extinction. Rumors are that soldiers and civilians are being rewarded or punished according to their political loyalties. Political obstacles and delivery problems remain.

We as a people have responded to the need of the Cambodian people and we will continue to respond. We as a legislative body need to respond also by whatever means necessary to dissolve these political obstacles.

PRINTING AS A HOUSE DOCUMENT OF STUDY ENTITLED "SOVIET DIPLOMACY AND NEGOTIATING BEHAVIOR: EMERGING NEW CONTEXT FOR UNITED STATES DIPLOMACY"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution, House Resolution 469, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 469

Resolved, That there shall be printed as a House document the volume entitled "Soviet Diplomacy and Negotiating Behavior: Emerging New Context for United States Diplomacy", a study prepared at the request of the Committee on Foreign Affairs by the Congressional Research Service of the Library of Congress. In addition to the usual number, there shall be printed for the use of the Committee on Foreign Affairs such number of copies of the study as does not exceed a cost of $1,200.

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 469 provides for the printing as a House document of the study entitled "Soviet Diplomacy and Negotiating Behavior: Emerging New Context for United States Diplomacy." The cost of the printing of the resolution is $10,516.18.

The resolution was unanimously reported by the Committee on House Administration and is unanimously supported both by the majority and minority members of the Committee on Foreign Affairs. I know of no opposition to the resolution, and I ask for its adoption.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 423, DISPUTE RESOLUTION ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 488 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 488

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 423) to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in italic in the bill. it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in boldface roman in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

☐ 1020

The SPEAKER pro tempore (Mr. Peyser). The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 488 is the rule providing for the consideration of the bill S. 423, Dispute Resolution Act. It is an open rule, providing 1 hour of general debate, with the general debate to be equally divided between the two committees—Judiciary and Interstate and Foreign Commerce—who reported this bill.

Both committees reported committee substitutes which are very similar to each other, Mr. Speaker, and both committees agree that the substitute reported from the Judiciary Committee should be the vehicle for floor consideration.

As a result, the rule further provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary will be considered as the original text for the purposes of amendment under the 5-minute rule.

Finally, Mr. Speaker, the rule provides one waiver of points of order under section 402(a) of the Budget Act. Section 402(a) stipulates that it will not be in order to consider any bill authorizing new budget authority during a fiscal year unless the bill was reported out of committee by May 15 preceding the beginning of the fiscal year. In this instance, the bill should have been reported out of committee by last May 15 and it was not.

However, the Budget Committee has indicated support for the waiver of section 402(a) based on a number of factors. In his letter to the chairman of the Rules Committee, the chairman of the Budget Committee pointed out, for instance, that funds have already been appropriated to the Justice Department that could be used to carry out the purposes of this bill, that the proposed authorization was included in the committee's March 15 report to the Budget Committee, and that the May 15 reporting deadline was missed due to late action taken by the Senate on this matter and because of the necessity for joint hearings in the House.

The Rules Committee agreed with the Budget Committee on this matter, and granted the waiver.

Mr. Speaker, S. 423 is an important piece of legislation. It sets up a program in the Department of Justice to encourage and assist States and localities in developing inexpensive, fair, and easy-to-use mechanisms for resolving minor disputes. It will help provide alternatives to the courts for settling everyday disputes between neighbors, customers, tenants, and family members.

Several experimental programs have already been tried in cities around the country and have been very successful. We are all aware of the serious problems in our court system today—the overcrowded dockets, the delays, and the expense. This bill will help to move out of that clogged system the relatively minor kinds of matters that could be much better handled in a different, less formal, and less cumbersome system.

This bill is supported by the American Bar Association, and by groups as far apart on the spectrum as the Chamber of Commerce and the Consumers Union. It is good legislation, Mr. Speaker, that should have been passed long ago. I support it, and urge the adoption of this rule in order that we might consider it.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of S. 423, the Dispute Resolution Act.

This bill includes fiscal year 1980 authorizations, but it was not reported by May 15, 1979, as required under section 402(a) of the Budget Act, and therefore a Budget Act waiver is required in order to allow consideration of this bill.

The chairman of the Budget Committee wrote to the chairman of the Rules Committee saying that he had no objection to this waiver, based on a poll of the members of the Budget Committee which showed that a majority supported a waiver. Therefore the rule includes a waiver of section 402(a) of the Budget Act.

Mr. Speaker, the bill made in order by this rule was reported by two committees. The rule provides that in lieu of the Interstate and Foreign Commerce Committee substitute, it will be in order to consider the Judiciary Committee substitute. The Judiciary substitute is made in order as an original bill for the purpose of amendment.

Mr. Speaker, the purpose of S. 423 is to assist the States and other interested parties in providing convenient access to dispute resolution mechanisms which are inexpensive and expeditious.

In the closing days of the 95th Congress, similar legislation, S. 957, failed to receive the two-thirds vote necessary to pass under suspension of the rules. The vote was 224 ayes to 166 nays.

This bill provides for a new program—this time a national clearinghouse for information and technical assistance, as well as incentive grants for the development of new approaches to resolving disputes.

The Attorney General is authorized to establish a dispute resolution program that will include a dispute resolution resource center and a dispute resolution advisory board. The bill authorizes $3 million in each of fiscal years 1980 through 1984 for this program.

In addition, the Attorney General is authorized to provide financial assistance to improve existing dispute resolution mechanisms or establish new dispute resolution mechanisms. The bill authorizes the appropriation of $15 million in each of fiscal years 1981, 1982, 1983, and 1984 for this purpose.

In total, $75 million is authorized to be spent through 1984 for a totally new program. This is just another example of how we escalate the spending of the Federal Government year after year. No need for this legislation. It failed under suspension in the 95th Congress. We somehow have struggled along without it.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2977, DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

Mrs. CHISHOLM. Mr. Speaker, by direction of the Commitee on Rules, I call up House Resolution 498 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 498

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary

> notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2977) to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 498 makes in order the consideration of the bill, H.R. 2977 to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence.

This is an open rule granting 1 hour of general debate with the time equally divided and controlled by the chairman and the ranking minority member of the Committee on Education and Labor.

This bill is to be read for amendments under the 5-minute rule. The rule provides for 1 motion to recommit with or without instructions.

The rule also makes in order the consideration of an amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule.

The rule also provides a Budget Act waiver so that the bill might be considered. This waiver refers specifically to section 402(a) of the Budget Act.

Section 402(a) of the Budget Act prohibits consideration of any bill which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless the bill was reported by May 15, preceding the beginning of the fiscal year. Since section 12 of the bill would authorize the enactment of new budget authority to carry out the provisions of the act, since the bill would become effective for fiscal year 1980, and since the bill was not reported on or before May 15, 1979, it would be subject to a point of order under section 402(a) of the Budget Act. The Budget Committee has no objection to granting a waiver of section 402(a) to permit consideration of this bill.

Mr. Speaker, H.R. 2977, the Domestic Violence Prevention and Services Act, is a modest effort toward alleviating the problem of domestic violence. In 1978, hearings before the House and the Senate established the extensive impact of domestic violence—including child abuse, spouse assault, the abuse and neglect of elderly grandparents, police deaths, and other homicides. In fact, intervention in domestic disputes is a leading cause of police deaths nationwide.

State and local governments must become involved with this problem. This bill provides that 75 percent of the $65 million authorized over the next 3 fiscal years is distributed to the States to go directly to community-based programs that give direct assistance to the victims of domestic violence.

Throughout the Nation—and probably in many of the Members' own districts—small community-based volunteer groups have been trying to help the men, women, and children caught in the web of domestic violence. The House Education and Labor Committee heard testimony from many witnesses who agreed that the lack of sufficient funding is the major obstacle to the establishment and maintenance of programs necessary to serve the estimated one out of six families affected by family violence.

In proclaiming the week of November 18, 1979, as National Family Week, President Carter stated:

> Families are the most universal and enduring element in human existence. A family is a reservoir of shared experiences, shared joys and sorrows and, most of all, shared love that spans generations and distances.

He further stated:

> We must nurture the family as it has nurtured us.

Nothing can be more threatening to the existence of the American family than family violence today. H.R. 2977 is a modest but essential effort toward stemming the tide of domestic violence. In light of this effort, I would urge my colleagues to adopt House Resolution 498 so that we might proceed to the consideration of said bill.

□ 1030

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on Fridays or Saturdays, I usually go to the grocery store to do the shopping. I take my children with me, because they are very helpful.

It is a very dangerous occupation for a Member of Congress to go to the grocery store any more. I can assure those Members who do not partake of this kind of domestic activity that one is accosted regularly by good people who complain bitterly about the prices of the commodities on the shelves and what inflation is doing to them. They demand to know why something cannot be done about it. They constantly say, "What is going on over there in Washington? Why doesn't Congress do something?"

Since I live on the Eastern Shore, Washington is "over there." It is only 75 miles away, but it is light years away from the thinking of the constituents that I represent.

Now, I agree with the gentlewoman from New York about the sanctity of the family and its role as the basic unit of our society. But the legislation that this rule makes in order is one of the classic examples of why the Federal Government has done more to destroy the American family than probably any other influence in our society in recent years.

The greatest destruction has been economic, where husbands and wives are now both forced to work, because they must pay their taxes and try to beat inflation, and where family members at an early age have to go out and work because they need money to go to school. And most of this, of course, is caused by inflation.

Now, it is no mystery where inflation comes from. It comes from bills like this; $65 million to be spent over several years. Now a million dollars is incomprehensible to my constituents. The average person I represent makes about $8,000 to $10,000 a year. If the husband and wife both work, they might make $15,000, and they have a very hard time making ends meet. It is not surprising that we have domestic violence, because I am sure that many times tempers grow very short, particularly when bills are due and there is no money to pay them.

So we have before us today a legislative proposal that is very meritorious in its aim. But, it seeks to hand out money that the Federal Government does not have, to States, many of which have surpluses, in order to prevent domestic violence.

Who could object to that, except that this very bill was before the House last year, and it was defeated on a suspension where not even a majority voted for it after an extensive debate. Why was it defeated? It was defeated because there are 19 funded Federal programs right now that already deal with domestic violence.

Last August the Congressional Research Service pointed out in a lengthy report—and I hope the Members will read this before we vote on this bill next week—very thorough, dated August 23, 1979, entitled, "Domestic Violence, the Federal Response."

It says there are nine different Federal departments and agencies already providing the same or similar services in the last fiscal year at a cost of $11½ million. That does not take into account many of the Federal programs that go to other agencies of the States that similarly deal with domestic violence indirectly.

I had one of my constituents call my office the other day and say:

> Please vote for this bill, because we are getting our domestic violence program in this county funded under the LEAA from the Justice Department. We don't like to have to apply for a grant every year. It is a real problem to have to apply for an annual grant. This will give us a continuing flow of dollars, and we don't have to worry about our funding any more.

Can the Members imagine having to apply for an annual grant? That must be a real difficult thing for a bureaucrat to do.

Let me point out to the Members the Center for Women Policy Studies, in a booklet entitled "Programs Providing Services to Battered Women," indicates there are 460 different types of programs of this nature currently available in the States. Forty-three different States already either have, or are considering legislation dealing with domestic violence, including civil remedies, shelter services, data collection, police training, and changes in criminal statutes and proceedings.

The Carter administration has already established the Office for Domestic Violence, funded last year at $360,000, and with a projected budget for the coming year of $1.2 million. It serves as a national clearinghouse for all of the programs in the Federal Government.

This bill is going to supposedly establish yet another Federal clearinghouse. There is also an Interdepartmental Committee on Domestic Violence formed of 10 Federal agencies, everything from ACTION to the Department of Agriculture.

Now, why would I take all this time on a rule to talk about this bill? It is just that under the guise of very well-meaning legislative objectives, such as preventing domestic violence, you are producing more problems for the average family, the average individual, and one has to question how much good it does. I do not question the motives of the sponsors. I think if we could pass a law and end domestic violence, and a great many other problems we face in this society, we would be in session all the time passing laws; but the laws do not work. The money is not there. The country is bankrupt, and we continue spending as though our resources are unlimited.

If anybody wants to know why our country is in trouble, read this legislation; look at this Congress.

Mrs. CHISHOLM. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Speaker, and my colleagues of the House, let me respond to the distinguished gentlemen from Maryland (Mr. Bauman) and just point out a few things.

First, this measure, after careful consideration by the subcommittee, came out by voice vote, and was approved by voice vote by the full committee.

☐ 1040

I perhaps would have been in the same posture as the gentleman from Maryland thinking, "Why do this?"—until we held hearings. Then I saw that the bill, whose chief sponsors are the gentleman from California (Mr. Miller), the gentlewoman from Maryland (Ms. Mikulski), and the gentlewoman from Louisiana (Mrs. Boggs), really is a needed thing.

I would point out to the gentleman from Maryland, if I may have his attention for just a moment here, that there is, in this measure, a maximum of 3 years of funding. We are primarily talking about local and State funding. We are not setting up some massive new Federal program. What we are trying to do is coordinate efforts already present.

As the gentleman from Maryland has pointed out, that coordinated effort is needed. This whole problem is a relatively new thing, relatively new in the sense that we recognize it. The oldest of the facilities are fairly new, one of which happens to be in my district, founded in 1972.

I would finally point out—and I regret that the gentleman from Maryland was not there when the Rules Committee voted on this—but not only did it come out of the Education and Labor Committee by a voice vote, it came out of the Rules Committee by a voice vote, with no votes in opposition.

We are simply asking for an open rule to deal in a sensible way with a very fundamental problem that we have in this Nation. I hope the Members of the House will approve the rule.

Mrs. CHISHOLM. Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Speaker, I am one of the coauthors of this legislation to deal with the problems of domestic violence, spousal abuse, and child abuse in this country. I do not think there is any question that the greatest resource we have in this country is the American family. I do not think there is any question that the successes in our own personal lives and those of our children and other children in this country are related to the successes and failures of that family.

This legislation, in many ways, is neutral on the American family because this legislation does not require that the American family do anything to qualify. What this legislation does is say that we will try to make a very limited and somewhat inadequate effort to try and address that problem that is growing in this country, that is spreading throughout the families of this country, and that is the problem of violence. If someone has been so badly beaten, so badly maligned, and fears for their own life, they make their own individual decision to leave the home, then there ought to be some place that is safe, that is sanitary, where that person can go, male or female, with or without children, to try to find some sanctuary, to get themselves collected, to think about how they are going to approach this problem.

I want to remind my colleagues that nothing in this bill takes effect until some poor individual makes the decision that they can no longer stand whatever the abuse is that is going on inside of their home. That is a very, very tragic situation.

I have personally spent hours, and hours, and hours inside of these shelters, riding with police departments in every part of this country, visiting shelters, talking to the victims of abuse in every part of this country. Let me tell my colleagues something. The decision to leave one's own home, maybe with or without your children, to leave your husband, or to leave your wife, is not one that is done lightly. I have talked to victim after victim who had continually been beaten, abused for 5 years, for 10 years, for 13 years, some of whom were middle-class citizens, some who were wealthy, some who were poor, but somehow it became so untenable that in the middle of the night they fled, they fled to a pay phone with an emergency number to try and find out if they could have a shelter. In areas of population of a half a million to a million people, yes, there was a shelter with 10 beds, or 15 beds, but there was no vacancy.

So what are we saying in this legislation? We are saying that if a local organization can raise 75 percent of the money to support a shelter from the local level, from volunteers, from donations, from county government, from State government, if they can raise 75 percent of their operating and maintenance costs, we will help them with the other 25 percent. We will only help them for 3 years.

Now, there are clearly other Federal programs. CETA can assign VISTA volunteers to a local shelter to help. HUD will help renovate an older house to make it safe for these people to live in, but if they cannot operate it and maintain it, why would they spend the HUD money to renovate it? LEAA maybe will help get legal advice for these people so that they do not get all mixed up in our legal system.

The real question is who is going to keep the rain off of these people; who is going to patch up the wounds; where are their children going to sleep?

Go to their neighbors, you say. One of the things we found out in our investigation, and in my talking to these people, they have been to their neighbors. In many cases the person who was abusing them, that caused them to leave their home, followed them right to their neighbors and even beat up their neighbors. So what we need is an anonymous place where a woman and her children, a man and his children, or by themselves, can go and try to think through their problems.

We are not talking about intervention in the family. We are talking about a safety net when the situation has become so untenable that somehow that family cannot hold together. But maybe, if they can have this support, maybe they can think about how they can change it so that they can hold it together.

The problem in this country is that not many families under this kind of stress are able to rebuild themselves. But we know time and again where support services are provided, many of those families can be reunified. That should be the goal of this program. That should be the goal of others.

But, in many ways there are many Federal programs on the books that, in fact, as I have charged before, and I know the gentleman from California and I have worked on welfare, the child foster care and the adoption bill, that in fact are subsidizing the breakup of the American family. It was Federal policy that the further the child was away from the home, the more money we would pay to keep that child, but we would not pay the child's grandmother $40 a week. Now, there is something wrong with that policy, and there is something wrong in many of our policies that put this strain on the American family.

I happen to believe this bill, after years of investigation, of personal interviews with hundreds of victims, after spending night after night with these people, listening to their stories, that this bill is a support vehicle for some people who, beyond their own control, find themselves in the most untenable situation. When their life, in fact, may be threatened, their children may be, after months of viewing violence in that family, watching husband and wife fight, be there when they decide that they got to get out of that situation. Can we find it in our hearts to try to help people maintain shelters so that there is a safe harbor in the middle of that domestic storm for these unfortunate people?

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Speaker, I rise in opposition to a rule being granted on this piece of legislation. As I indicated to the Members of the Rules Committee, and will state again for the record, I think the bill is in better shape than it was when it first was introduced into the House and referred to the committee. I think some improvements have been made to the bill that allow it to be more localized than it was before in terms of its impact.

☐ 1050

Also, I think that in terms of its ability to provide percentages of Federal assistance, there is going to have to be some local support. But, I do not think we necessarily, by improving a bad piece of legislation, create a mandate for its passage. If the legislative is fatally defective in it philosophical scope to begin with, an improvement on it ought not to dictate its passage. In that spirit, I think we ought to defeat this rule for a variety of reasons, which I will just briefly enumerate.

One, I think, as other speakers have pointed out, the bill is tremendously duplicative. There are already 19 federally funded programs that deal with one variety or another of domestic violence. Indeed, the President has created in the Office of HEW an Office of Domestic Violence. So, I think at this point in time the bill certainly can be considered nothing other than Federal overkill. To the statement that there is no Federal assistance for shelters per se, I think that is not quite correct. LEAA already provides discretionary block grant money that the States can use for that purpose. There are already 27 shelter projects that are being funded under HUD, which gets involved in the operation of shelter facilities. Perhaps most important of all, there is legislation that is presently pending in the House which would change title XX under the Social Security Act to allow for the first time those funds to be used for temporary emergency shelter facilities. One version has passed both bodies and the matter is presently pending conference, but both Houses are at least unanimous on that point, that those moneys can be used for that purpose.

Second, I think the bill is jurisdictionally unwise. Traditionally, we have allowed the family, to the extent that it is going to be controlled by law, to be a matter of State jurisdiction. I think to enter the Federal Government by an initiative into this area of domestic violence simply invites more Federal participation on how we run family affairs in this country. I think that from some of our past experiences, we ought to proceed very cautiously when we interject the Federal Government in yet another area.

Third, the bill is inflationary. They say there is only a $65 million authorization, and I suppose by Federal funding standards that is a drop in the bucket. But, we have seen small programs, notably food stamps and others, grow from relatively small beginnings to billions and billions of dollars over a period of a decade or less. I suspect that if this legislation is authorized, that we will not see a termination in 3 years, but we will see, on the contrary, a gigantic explosion.

I suggest that when we have a $830 billion deficit, closing in on a $1 trillion figure by the next election, where we are going to add somewhere between $40 to $50 billion in deficit to our budget this year, where we are already sustaining a 14-percent inflation rate as a result of this kind of fiscal policy, now is not the time to begin on a new spending initiative. I think it is certainly ill-timed.

Fourth, and I think perhaps most importantly, the President is very aware of some very serious duplication in the area of domestic violence. He has asked for reports, and he is going to come up with a plan early next year to consolidate a lot of these domestic violence programs. It seems to me much better to wait until we have the results of the President's suggestions before going on our own way, on our own path, creating more confusion in an area that needs to be centralized and needs to be made more efficient.

For those reasons, Mr. Speaker, I feel that it is premature and unwise, and jurisdictionally improper at this time to proceed with an initiation of a new domestic violence program.

Mrs. CHISHOLM. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I thank the gentlewoman very much.

Mr. Speaker, I wish to confine my remarks not to the merits of the legislation, but whether or not the legislation should come before the House for public debate and congressional decision. My colleague from Maryland very accurately outlined the fact that this legislation, or similar legislation, was defeated a term ago on suspension. The reason it was defeated was that it was a 5-year funding program that took us to $100 million. Many Members of the House who were supportive of the concept did not feel that we should spend $100 million under a suspension of the rules.

The second reason it was defeated was that we used the term "domestic violence", and many of our colleagues, upon survey, thought it was some type of domestic antiterrorist legislation, and therefore did not support it. We have since modified the bill. We have trimmed our sails, and in the closing hours of the last session were ready to bring the bill to the floor, but ran out of time.

Now, we come before the House with 105 cosponsors on both sides of the aisle, with varying ideological thoughts. I think that when a legislation has 105 sponsors, it ought to at least come up for congressional consideration.

What this legislation would do is, one, maximize those resources by more efficient coordination; and, two, provide statutory continuity of the steps taken by HEW rather than be subject to the whim of the executive branch. Whether one is pro or con regarding this legislation is not the subject of the discussion now. It is whether this legislation has an opportunity to come up before the House. It now has 105 cosponsors, it can come up in an open forum with no limitations of any kind. I think it certainly warrants the rule, and then leave it to the Members in their own consciences to decide whether they want to support this legislation. So, for that reason, I urge the adoption of this 1-hour open rule.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken, and on a division (demanded by Mr. BAUMAN) there were—yeas 15; nays 12.

Mr. KRAMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 32, not voting 43, as follows:

[Roll No. 705]

YEAS—358

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bevill

Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quavle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Rudd
Sabo
Sawyer
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Svnar
Tauke
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—32

Badham
Bauman
Bethune
Butler
Collins, Tex.
Daniel, R. W.
Dannemeyer
Devine
Hansen
Harsha
Ichord
Jeffries
Kramer
Latta
Leath, Tex.
Lott
McDonald
Moorhead, Calif.
Paul
Robinson
Rousselot
Runnels
Satterfield
Shumway
Shuster
Stenholm
Stump
Symms
Taylor
Trible
Walker
Whitley

NOT VOTING—43

Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Ashley
Baldus
Bedell
Beilenson
Bonker
Brooks
Cheney
Coelho
Conyers
Crane, Philip
Daniel, Dan
Davis, Mich.
Diggs
Dixon
Dornan
Erlenborn
Flippo
Flood
Fowler
Gramm
Jones, Okla.
Leach, Iowa
McKinney
Madigan
Murphy, Ill.
Myers, Ind.
Price
Rosenthal
Roth
Russo
Santini
Schulze
Sebelius
St Germain
Steed
Treen
Winn
Young, Alaska

□ 1110

The Clerk announced the following pairs:

On this vote:

Mr. Dixon for, with Mr. Gramm against.

Mr. St Germain for, with Mr. Dan Daniel against.

Until further notice:

Mr. Steed with Mr. Myers of Indiana.

Mr. Russo with Mr. Schulze.

Mr. Fowler with Mr. Roth.

Mr. Murphy of Illinois with Mr. Young of Alaska.

Mr. Conyers with Mr. McKinney.

Mr. Brooks with Mr. Madigan.

Mr. Ambro with Mr. Winn.

Mr. Ashley with Mr. Leach of Iowa.

Mr. Baldus with Mr. Dornan.

Mr. Coelho with Mr. Erlenborn.

Mr. Beilenson with Mr. Davis of Michigan.

Mr. Flippo with Mr. Andrews of North Dakota.

Mr. Jones of Oklahoma with Mr. Ashbrook.

Mr. Price with Mr. Cheney.

Mr. Santini with Mr. Philip M. Crane.

Mr. Rosenthal with Mr. Sebelius.

Mr. Bonker with Mr. Bedell.

Mr. Alexander with Mr. Anderson of Illinois.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON MARITIME EDUCATION AND TRAINING OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT TODAY WHEN HOUSE IS IN COMMITTEE OF THE WHOLE

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Maritime Education and Training of the Committee on Merchant Marine and Fisheries be allowed to sit today when the House goes into the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Oregon repeat his request?

Mr. AuCOIN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield.

Mr. AuCOIN. I appreciate the gentleman yielding.

The Subcommittee on Maritime Education and Training, which is a subcommittee of the Committee on Merchant Marine and Fisheries, is holding hearings today, the first of 2 days' of hearings on legislation to recodify the laws dealing with State maritime academies in the U.S. Merchant Marine Academy. We would like to have the opportunity to proceed under the 5-minute rule.

Mr. ROUSSELOT. Can the gentleman assure us there will be no markup of any bill, that this, there will be hearings only?

Mr. AuCOIN. The gentleman has that assurance.

Mr. ROUSSELOT. I appreciate the gentleman's assurance.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

□ 1120

CHILD HEALTH ASSURANCE ACT OF 1979

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 357, nays 18, not voting 58, as follows:

[Roll No. 706]

YEAS—357

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Conte
Corcoran
Cotter
Coughlin
Courter
D'Amours
Daniel, R. W.
Danielson
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—18

Badham
Collins, Tex.
Conable
Crane, Daniel
Dannemeyer
Jeffries
Lewis
Lloyd
McDonald
McEwen
Mitchell, Md.
Paul
Rousselot
Shuster
Symms
Taylor
Wilson, Bob
Wydler

NOT VOTING—58

Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Ashley
Baldus
Bedell
Beilenson
Bonker
Brooks
Burton, John
Burton, Phillip
Cheney
Coelho
Conyers
Corman
Crane, Philip
Daniel, Dan
Davis, Mich.
Davis, S.C.
Diggs
Dixon
Dornan
Erlenborn
Fenwick
Flippo
Flood
Fowler
Goodling
Gramm
Harsha
Hinson
Johnson, Colo.
Jones, Okla.
Kindness
Lundine
McCloskey
McKinney
Moorhead, Calif.
Murphy, Ill.
Myers, Ind.
Nedzi
Price
Rosenthal
Roth
Runnels
Russo
Santini
Schulze
Sebelius
Seiberling
St Germain
Steed
Treen
Ullman
Wilson, C. H.
Winn

☐ 1130

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4962, with Mr. VENTO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, December 4, 1979, the gentleman from California (Mr. WAXMAN) had consumed 22 minutes of general debate and had 8 minutes remaining, and the gentleman from Kentucky (Mr. CARTER) had consumed 14 minutes of general debate and had 16 minutes remaining.

The Chair recognizes the gentleman from Kentuky (Mr. CARTER).

☐ 1140

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as an original sponsor of this "CHAP" bill, I urge your strong support for this very vital legislation to improve health care for poor children and needy pregnant women.

Far too often we find that children are the forgotten citizens of this Nation—and that the most neglected of all are the children of the poor.

Yet we know that the children of today and tomorrow hold the key to our Nation's future.

One dollar spent to aid a child today will multiply its benefits many times in the future.

And there is no greater potential benefit for our society than an effective health care program for children and pregnant women.

Mr. Chairman, I would like to share with you some of the reasons I feel this legislation is so important and should be enacted.

Mr. Chairman, many many developmental defects go untreated even today in my district and in poor areas throughout the country.

For example, I remember in school a young man with a harelip and a cleft palate which were never corrected.

This young man was called "Turkey" Conkin by his classmates and all who knew him—because he had a serious speech defect.

I have often thought what a disastrous psychological effect this condition had on this fine young man.

And he was a fine young man.

Mr. Chairman, I should say, if we fail to take care of poor youngsters such as this one then may God have pity on us.

Mr. Chairman, someone has mentioned "kiddicaid" and "kiddicare" in a facetious manner. I believe I know the gentleman who is the originator of this slogan, which really is an insult to those poor children and those black children who are poor in our country. It is insulting and revolting.

I would say, in response to this, that the hands are the hands of Esau but the voice is the voice of Jacob.

Another example comes to mind—when I was in a country music hall in Campbellsville, Ky.

One of the musicians there had what appeared to be a congential dislocation of the hip.

As I saw him walk with difficulty I thought of what the CHAP program might have done for him if it had been enacted at his birth.

Mr. Chairman, it is our duty to prevent such young children from going through life being so marked and disabled, especially when we have the ability to prevent so many conditions and correct so many others. The CHAP legislation would provide such preventive and corrective services for poor children and needy pregnant women.

I remember when I taught school—many years ago—there was a little girl named Ruthie West.

She also had a congenital hip dislocation.

Ruthie limped through life because her father did not have sufficient funds to correct this deformity.

I also think of the many poor children I have seen with club feet who have been forced to go through life with this correctable defect.

I think of how this disability must have affected them mentally as well as physically.

I trust that this house will have pity and mercy upon the poor children, both black and white, throughout this country and that my colleagues will vote against the Stockman amendment—and for the CHAP bill.

Mr. Chairman, this legislation provides preventive and necessary medical services for poor children.

Under CHAP, poor children would be periodically assessed and examined physically for conditions that they may have ranging from eye and ear problems, to club feet, to other congenital malformations or whatever health problems they may have.

Under the CHAP bill these conditions which are identified can be corrected or treated. In this way the CHAP bill will help to reduce future health spending through preventive measures.

Mr. Chairman, the cost of this program is minimal compared to its value in actual dollars over a period of years.

But the value of helping these poor youngsters, both physically and psychologically, and the happiness it would create for them to be normal healthy human beings is worth so much more than the money that would be spent for prevention and correction of these conditions.

And CHAP emphasizes preventive measures such as immunizations.

We know that 50 percent of the poor children of this country are inadequately immunized against polio, measles, diphtheria, tetanus, whooping cough, typhoid, and small pox.

Yet since preventive measures have been available to immunize children against these diseases smallpox has been banished from this Earth.

This was one of our most dangerous and disfiguring diseases.

Rarely do we see a case of typhoid today because many people have been immunized and because our sanitary conditions have improved. Except for an outbreak of diphtheria in San Antonio, Tex., in 1971—we rarely see this disease in which membranes are formed in the throat and choke the child to death.

Nevertheless we have been lax in seeing that all poor children are properly immunized.

And there have been outbreaks of several of these preventable diseases such as measles and whooping cough.

Mr. Chairman, this CHAP legislation would insure that all eligible poor children would receive immunizations against these diseases.

This legislation would permit our poor youngsters to grow up stronger, healthier, and to live more productive lives.

The payoff in dollars would be tremendous.

But the payoff to the individual in personal confidence and improved health care would mean a great deal more.

I urge strong support of this legislation and opposition to the crippling, gutting Stockman amendment.

Mr. Chairman, in the years since I have been in the Congress I am convinced that there has never been a piece of legislation that would have been of more benefit than this CHAP bill would be to the poor people of this country.

Again I ask you to search your hearts, your souls, and your minds, and remember what Christ said:

Suffer little children to come unto me and
forbid them not
For such is the Kingdom of God.

EXCERPTS FROM "ELEGY WRITTEN IN A COUNTRY CHURCHYARD"

(By Thomas Gray, 1716–71)

Let not ambition mock their useful toil,
Their homely joys, and destiny obscure;
Nor grandeur hear with a disdainful smile
The short and simple annals of the poor.

Full many a gem of purest ray serene
The dark unfathomed caves of ocean bear:
Full many a flower is born to blush unseen
And waste its sweetness on the desert air.

Mr. Chairman, let me say that I share my colleagues' concern about rising health costs and about the state of our economy in general. But in spite of the current economic climate the need for enactment of CHAP remains clear. In my view enactment of CHAP in one of the best investments we can make in the future health of our Nation.

Mr. Chairman, I would like to take a few moments to discuss why I feel this Child Health Assurance Act is so important.

First, CHAP would improve the availability of quality health care for poor children and low-income women.

Under CHAP children from low-income families will be eligible to receive preventive and primary health care, including periodic health exams, immunizations, and preventive dental care.

If one doubts the value or the need for this kind of preventive program he or she should see just one example of the benefits that can occur. For example, just consider a child who is brought to the emergency room at the age of 15 months in congestive heart failure because he was not diagnosed a few months earlier as iron deficient. We know that a simple routine blood test, called a hematocrit, would have identified this child as anemic when the disease was still asymptomatic. Relatively simple dietary treatment and the administration of therapeutic doses of iron would have prevented a life-threatening illness, family heartbreak, and an expensive hospitalization.

Yet, it is precisely these kinds of simple, routine, preventive procedures which CHAP would insure—and which would help to reduce health costs in the long run.

In addition to providing important health benefits for poor children under medicaid—CHAP would also extend eligibility to additional low-income pregnant women.

These pregnant women as well as those already covered by medicaid would be eligible for prenatal and postnatal services which are so essential to the proper development of healthy babies and children.

As a physician I can assure you that these services are very important and that they hold the promise of future savings in health costs in addition to their proven medical value.

For example, adequate prenatal care can significantly reduce the possibility that a woman will develop an infection or systemic illness which could result in the child being born with a lifelong neurological impairment such as cerebral palsy, epilepsy, or mental retardation.

We also know that good postpartum care can also prevent or reduce the severity of a disabling condition.

For example, the availability of neonatal intensive care and followup services to low-income, high-risk newborns has reduced the incidence of spastic diplegia (a severe manifestation of cerebral palsy) from 80 cases per 100 to 10 cases per 100 within the past few years.

In addition, seizures occurring in newborns as a result of alterations of blood, vitamin deficiencies or changes in the balance of certain minerals which can lead to death or lifelong disability are quickly reversable with proper treatment.

Clearly, Mr. Chairman, it has been well documented that early intervention and appropriate treatment can dramatically reduce, if not prevent, various disabilities which would otherwise severely handicap many, many children for a lifetime.

And in addition prompt treatment can help reduce Federal expenditures in areas other than health. A study cited in the report of the commission for the control of epilepsy stated that 80 to 90 percent of all children with epilepsy could attend regular school in lieu of more costly special education classes if given early treatment.

Thus through CHAP's emphasis on prevention and early intervention, we can effectively address the physical and mental health needs of our Nation's poor children and pregnant women.

Second, this CHAP legislation contains provisions to improve the existing medicaid program for children, the early and periodic screening, diagnosis, and treatment program known as EPSDT.

Although EPSDT was enacted in 1967 and was intended to provide health screening and treatment services for poor children, various problems have undermined effective implementation of the program.

Serious administrative delays, lack of effective outreach and followup, wide variation in eligibility standards, and lack of incentives to States are some of the major reasons why the EPSDT program has failed to fulfill its mandate of serving poor children.

Various groups have reviewed the deficiencies of this program, including our own Commerce Committee's Oversight and Investigations Subcommitte, and the Children's Defense Fund, a national public charity created to improve the lives of children.

And although these evaluation were critical of the EPSDT program's performance—both recognized the tremendous potential of this program for being the most important long-term cost effective health care program currently in existence.

According to a recent statement of the Children's Defense Fund:

> We believe it is essential and wise to improve the existing EPSDT program, despite its failure to realize the promise which many believed it held for poor children when it was enacted in 1967. Its promise is still there and its fulfillment is crucial still to the well-being of millions of poor children who now suffer needless and costly pain.

Thus, the CHAP legislation builds upon and strengthens medicaid's existing program for poor children—and specifically addresses the major deficiencies of the EPSDT program.

For example, under current law some States discriminate against two-parent families so that a poor child in an intact family is not eligible for health care.

In contrast to this discriminatory policy the CHAP bill would extend medicaid eligibility to all children who are determined to be needy regardless of whether the child is alone, or is in a broken family, is in a family with an unemployed parent, or is part of an intact family.

A similar change is included in the legislation for low-income pregnant women.

In this way medicaid coverage will be extended to many additional poor children and pregnant women who have been arbitrarily excluded from the program.

CHAP makes other needed changes to improve administration of the program as well. For example, increased Federal matching rates are provided for Outreach and Followup services so that children who are entitled to care will actually receive it. The lack of appropriate outreach services in particular was a major failure of the EPSDT program—and the provisions in the CHAP bill are designed specifically to correct that problem.

There is also an important incentive provision in the bill to encourage States to improve their performance under CHAP. For States that perform especially well—there is a bonus available and for States that perform below the minimum level—penalties will be assessed.

In addition, the bill requires States to develop and make available for public comment their plans for implementing the child health assurance program. It is our committee's intent that each State plan clearly address how families will be informed of the program—what arrangements will be made to assist them in arranging appointments with qualified providers, how followup will be assured, and how necessary transportation will be arranged.

All of these elements are essential to an effective CHAP program—and this legislation is designed to assure the accountability that is needed both at the State and Federal level.

Still another program reform contained in this legislation concerns the inequities in eligibility standards that exist from State to State at the present time.

As a result of the substantial variation in income eligibility standards millions of poor children and pregnant women are not covered under medicaid.

For example, one State covers four-person families only if their income does not exceed $2,400 a year—while another State allows an annual income of nearly $7,000 for a family of four.

The CHAP legislation would overcome the major inequities that exist as a result of such substantial variation in medicaid eligibility standards.

As a result CHAP will be of particular assistance to poor children and pregnant women in rural areas.

According to a recent analysis by the national rural center—the 15 States with the largest numbers of nonmetropolitan poor would account for 75 percent of all new recipient children—and about 65 percent of all new recipient pregnant women. Or in other words approximately 615,000 children and 61,000 women would become eligible under this legislation from the States with large rural poor populations. As a Representative of a rural area, I know this assistance is sorely needed.

Those 15 States with the most nonmetropolitan poor which would benefit greatly by enactment of CHAP are: Texas, Georgia, North Carolina, Mississippi, Kentucky, Florida, Louisiana, Tennessee, South Carolina, Alabama, Virginia, Arkansas, Ohio, California, and Missouri.

Mr. Chairman, there are many other improvements in current law that are contained in this legislation, but time does not permit me to discuss them all. I would just like to mention that there are provisions to provide coverage of hard-to-place adopted children at the State's option, provisions for certain extensions of medicaid eligibility for children who have a health condition that can be controlled or corrected, provisions to encourage participation of a wide range of health care providers, including schools and rural health clinics, and provisions to clarify medicaid eligibility of certain more transient populations, such as migrant workers. All of these changes are designed to correct the inequities in existing medicaid law and to improve overall effectiveness of the program.

At this point I would like to mention one issue raised by CHAP which is of particular concern to me as a physician. And that is the need to assure the confidentiality of the medical records of children who are assessed, diagnosed, and treated under this program.

Although the need to assure confidentiality is of concern with regard to all types of medical care it can pose a unique problem when not observed for children who have been diagnosed as mentally ill, mentally retarded, or developmentally disabled.

Tragically, even today, such medical diagnoses become labels that are stigmatizing and may serve to brand a child for life.

I recognize that our effort to insure that children are screened, diagnosed, and treated in a timely fashion may impinge upon the confidentiality of medical records.

However, I sincerely hope that in developing regulations to implement CHAP that the Department will seek to assure to the maximum extent possible, that the confidentiality of individual medical records will be observed.

Finally, Mr. Chairman, I want to emphasize that CHAP is a worthy investment—that is consistent with congressional concern for containing health care costs.

CHAP's emphasis on preventive and primary care is the very essence of cost containment. We know that preventive services do work.

The timely diagnosis and proper treatment of diseases saves money in the long run. Various studies have shown savings of roughly 40 percent in health bills for children who receive preventive and primary care.

For example, in North Dakota, total medicaid expenditures per child were 36 to 44 percent lower for children who were screened than for those who were not.

Expenditures for inpatient hospital services were 46 to 57 percent lower for those who had been screened.

Or just consider the cost-effectiveness of one particular preventive service, immunizations, which would be provided under the CHAP legislation. Our national measles immunization program cost about $108 million between 1966 and 1974. Yet it has yielded more than a billion dollars in savings—according to HEW estimates—and that savings is in addition to the incalculable value of the relief of human suffering.

There are many other examples of the value of preventive health care including the benefits from effective prenatal and postnatal care that can influence the course of an entire life.

Clearly CHAP's assurance of preventive care can mean the difference between a life of suffering and costly disability and a life in which every child has the opportunity to realize his or her fullest potential.

By enacting CHAP we will be making a relatively small investment in improved health care that will be repaid many times over in reduced future health spending and in generations of healthy, productive Americans.

In conclusion, Mr. Chairman, it would be most fitting during this International Year of the Child for this Congress to demonstrate its commitment to improved child health care in this country, as part of our efforts to join other nations in recognition of our most precious human resource.

I strongly urge my distinguished colleagues to vote for this CHAP legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. WALKER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1200

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from California (Mr. WAXMAN) has 8 minutes remaining; and the gentleman from Kentucky (Mr. CARTER) has 8 minutes remaining.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Chairman, I would like to at this time associate myself with the remarks made by my colleague and friend, Dr. CARTER.

I rise to speak on behalf of H.R. 4962, CHAP, the committee bill from the Commerce Committee.

Children do not vote. Children do not call Congressmen. Children do not have economic leverage. Children have no voice here. Child health care in the United States reflects our failure to act on behalf of those who cannot request our help—children born into poverty in America.

We do have programs for child health care. We have medicaid's EPSDT or early and periodic screening, diagnosis, and treatment program. The intent of Congress in requiring EPSDT was not just to detect disease but to provide necessary medical services for children of poor families. Congress gave the States the option to limit EPSDT to services provided under the State medicaid plan. And, to be sure, "limit" is just what most States have done to EPSDT.

Many States have failed to establish adequate screening programs. In one State, only 5 percent of the screenings required by the American Academy of Pediatrics were done. In States which have screening programs, more than half of the children who were screened had two or more medically treatable conditions. However, many programs are so poorly designed that children who are screened, who are found to have medical conditions which should be treated, cannot obtain such treatment. This is an inept way to spend the taxpayers' money; this is an inhumane system of medical care for our children.

Our committee bill is designed to make EPSDT work for the millions of medically needy children who receive no medical care at all. CHAP will expand care to include millions of children whose parents' income fluctuates around the poverty level. CHAP will also insure that the "T" in EPSDT, treatment, will be provided to these children, and, that followup services will be available.

CHAP also insures care for pregnant women. Maternal and infant mortality and morbidity are preventable, with adequate prenatal care. Right now, one of the most serious high-risk categories of expectant mothers, pregnant teenagers under 17, are not eligible, in most cases, for medicaid. We know that an infant born to such a mother has a high chance of suffering from serious, but preventable, health problems, if the infant survives. The infant and maternal mortality for these young mothers is twice that of women over 20. Yet, without CHAP, we will continue to condemn babies to death or to lives marred by preventable health defects, because medical care is not available.

CHAP will provide the preventive health care needed by these mothers. CHAP will make existing programs, like EPSDT, effective, and will ultimately save this country millions of dollars in health care expenses. I urge you to vote for CHAP.

☐ 1210

Mr. WAXMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

● Mr. EDGAR. Mr. Chairman, during the recent House debate regarding hospital cost containment, one of the points of agreement was that the cost of inpatient medical care is rising rapidly. A logical means of avoiding these costs is to reduce the need for acute care services by promoting the health of American people, especially our Nation's children.

Opponents of H.R. 4962 have said a great deal about the high costs associated with the child health assurance program. They say we cannot afford the services mandated by this legislation. I say we cannot afford not to promote child health. Let me give you a few indications of the cost effectiveness of CHAP.

In a recent study, total medicaid expenditures were compared for children who participated in preventive health programs and those who did not. Per capita medical expenditures were actually 40 percent lower among children who received preventive health services such as CHAP would provide.

In 1976, the cost of caring for almost 16,000 low birth weight infants in the United States was a staggering $387 million. The child health assurance program would expand prenatal medical care services in order to reduce the number of low birth weight infants by an estimated 66 percent. Thus, hundreds of millions of dollars—as well as thousands of young lives—could be saved if CHAP is enacted.

Many childhood diseases which are often regarded as nonserious may actually cause permanent physical and mental handicaps. For example, frequent complications associated with measles include pneumonia, ear infections, and deafness. Encephalitis may also occur. Diseases such as these are not only dangerous but also expensive to treat. Since 20 million children are not adequately immunized, a child health assurance program which encourages immunization would be cost effective in terms of avoiding expensive medical treatment of preventable diseases.

Let us also look at the long-term cost effectiveness of the child health assurance program. It has been estimated that if the health of all people working in the private sector were improved so as to increase effective productivity by 1 day per worker per year, the annual saving would be several billion dollars. Raising healthier children today may thus contribute to a more productive work force, and a healthier American economy, in the future.

While I wish to emphasize the cost savings associated with preventing rather than treating disease among children, I cannot ignore those aspects of child health upon which no price tag can be placed—such things as the absence of pain and suffering, or the avoidance of traumatic hospitalization. Clearly, prevention is an idea whose time has come. It saves lives. It improves the quality of life. And prevention of disease saves dollars in the longrun. The child health assurance program does not represent a handout to those who do not want to pay their own medical bills. Rather, CHAP is an excellent strategy to avoid runaway health care expenditures through cost-effective preventive action now. I strongly urge my colleagues to join with me in supporting passage of this important legislation.●

● Ms. MIKULSKI. Mr. Chairman, we have a choice today—whether to vote for a cost-effective, comprehensive, preventive health care program for needy children and pregnant women proposed by H.R. 4962 (CHAP) or to vote against it by opposing it in its entirety or crippling its effectiveness by restrictive amendments.

We all know that there are millions of poor children in need of basic health care services and pregnant women in need of prenatal and postnatal services. The early and periodic screening, diagnosis, and treatment (EPSCT) program operated by medicaid is not doing the job:

Nationally, of the 13 million children eligible for services, only about a quarter are being served. About 40 percent of the health care problems being picked up are not being treated.

In 10 States, youngsters from families earning as little as $3,000 are ineligible.

CHAP will do the job. By establishing national minimum standards for eligibility and allowing needy children in intact families to receive services, 5 million additional needy children will be eligible for services. CHAP will also expand services to 220,000 poor women seeking prenatal and postnatal services for their first child.

The Child Health Assurance Act (CHAP) is a fiscally sound program for providing desperately needed services. States will receive a higher federally matching rate on ambulatory expenditures for children—thus encouraging cost-effective outpatient care rather than more expensive inpatient care. Studies show that children who receive the kinds of preventive care CHAP will make available spend 40 percent less time in hospitals than those who do not. That represents a 40-percent savings in the most expensive kind of health care.

CHAP, as proposed in H.R. 4962, deserves your vote. Shortsighted modifications will only reduce its effectiveness. Placing a Federal funding limit on CHAP, as Representative STOCKMAN proposes, is counterproductive. Limiting Federal funds will reduce the incentive for States to provide the preventive screening and treatment services. Allowing States to drop essential child health care services, such as dental, vision and hearing services, defeats the purpose of CHAP—offering preventive services to reduce human suffering and prevent expensive inpatient hospital treatment services. Creating additional bookkeeping requirements only increases the cost of administration and reduces the amount of funds available for services.

I urge my colleagues to support the committee bill for CHAP and to oppose any efforts to amend it.●

● Mr. MURPHY of New York. Mr. Chairman, I rise in support of the Child Health Assurance Act of 1979. As a member of the Health and Environment Subcommittee, I have heard and read testimony on virtually every major health issue from national health insurance to immunization programs; from improvement of laboratory testing standards to budgeting of federally funded research programs but nowhere have I seen a more worthy program than the CHAP program.

I am convinced that this program will significantly improve the preventive and continuing health care for low-income children and pregnant women throughout the Nation. This is a vitally needed preventive health care program.

In the past, the Congress created the early and periodic screening, diagnosis and treatment program to provide checkups and follow-up care for young people eligible for medicaid. The various State agencies, which presently administer the program, have divided the job of screening children for lead poisoning, sickle cell anemia, and other ailments among local health departments, community clinics, and private practitioners. The program has done much good. Yet, it is estimated that the program reaches fewer than one in every four eligible children.

In approximately 10 States youngsters from families of four earning only $3,000 are barred. Many States deny prenatal care to low-income women during their first pregnancy and nearly half of the medical problems diagnosed by screening go untreated.

The Children's Health Assurance Act is not the creation of a new program but, hopefully, the elimination of gaps and flaws in the existing one. The act would, for instance, expand medicaid to cover children from families clearly too poor to pay for private medical care. Prenatal coverage would be assured for pregnant women and routine dental care for poor children. The bill would also allow the program's administrators to publicize the availability of services.

Recent research and testimony on this bill revealed an unmistakable link between poor health and failures in the classroom and misconduct on the street. Infant mortality rates are unusually high in poor areas; so are the rates of absenteeism from school among poor sick children.

Nowhere do we stand a better opportunity of improving the health of the American people than through the delivery of comprehensive preventive health care to low-income children and pregnant women. Our children are our most precious human resource. Through them, their safe and healthy birth and upbringing and their knowledge, adoption and life-long pursuit of good health practices, we are presented with the best possible chance of realizing our cherished goals of health betterment.

By investing in CHAP we are investing in the youth of our Nation. Society has a major stake in these lives and Government, as society's instrument, must take the lead in protecting its future and preserving its past.

I strongly urge my colleagues to vote for CHAP.●

● Mr. RANGEL. Mr. Chairman, today we will consider a bill of prime importance, the Child Health Assurance Act of 1979, H.R. 4962. The bill, commonly known as CHAP, is designed to strengthen and improve medical services for low-income children and pregnant women. It is a necessary piece of legislation, both from the obvious aspect of providing services to those in need, but also if we wish to hold down the cost of health care in this country.

The bill provides assistance for low-income pregnant women during and after pregnancy, helping to insure a healthy environment for the newborn. Proper prenatal care is essential to the health of our children and for the preparation of motherhood. The bill also extends and strengthens the EPSDT program (early and periodic screening, diagnosis, and treatment) that was enacted in 1967 to provide medicaid health checkups and treatment for low-income children. EPSDT is a successful existing program; it is the best program on which to build a comprehensive CHAP.

CHAP provides assistance to those who would not otherwise receive health care. Pregnant women receiving benefits from the program would not otherwise be able to afford medical attention during the term of their pregnancy. Low-income children, too, are in need of the most basic health care. Of the roughly 2 million children screened in the EPSDT program each year, over 50 percent require referral for multiple health problems. The same percentage have not been adequately immunized and large numbers have dental, hearing, and vision problems.

The people who qualify for the CHAP program will not receive the necessary health care elsewhere. The EPSDT demonstration projects found that fewer than 10 percent of the almost 7,500 children screened had undergone a previous medical examination comparable to what is called for by the program; 60 to 85 percent of the health problems found in these children were previously unknown and untreated, even though 30 percent were chronic.

It is essential that we help to provide these services for our youth. Our country's disadvantaged young people cannot hope to "make it" in our society if they do not receive primary health services. Correlations between academic and social performance with nutrition and general state of health are well known. Long-term effects of deficient health care on children are stifling; the disadvantaged youth covered by CHAP need the passage of this bill to insure a healthy foundation for their future.

This bill is consistent with our concern for containing health care costs. Its emphasis on preventative and primary care is the essence of cost containment. Studies show savings of roughly 40 percent in health bills for children who receive this type of care. For example, in title V maternal and child health projects, the days children spent in the hospital decreased up to 40 percent as comprehensive preventive health care was provided. Undoubtedly an ongoing program and basic prevention health care is less expensive and medically more desirable than one that waits for imminent treatment.

As we all know, 1979 has been the "International Year of the Child." The year has succeeded in focusing attention on the unmet needs of our children. The symbolic gains of the "Year of the Child" need to be carried through in the following years with concrete action taken on our children's behalf. CHAP is the bill to kick off the end of the IYC.

If Congress is serious about containing medical costs and insuring the health of our children, CHAP must be passed today. It is a vital piece of legislation.●

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend the distinguished gentleman from Texas for his speech here today, and say that he is absolutely correct. We have overlooked the children of our country. The infant mortality rate of our country ranks far below many of the civilized nations in this world. The poor suffer more than any other group of people. In particular the rate of death for black babies during the first 7 days after birth was 87 percent higher than for white babies.

Mr. Chairman, I want to thank the chairman of the subcommittee for his leadership and for his kindness throughout consideration of this legislation.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Child Health Assurance Act of 1979".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, with all deference to the gentleman from California, there are a great many amendments to this bill, some of them of a very controversial nature. The bill is lengthy. I would certainly have no objection to an appropriate suspending of the reading section by section, but of course if permission such as the gentleman requests is granted, time can be limited and the rights of the Members can be curtailed.

The CHAIRMAN. Does the gentleman object?

Mr. BAUMAN. I just suggest to the gentleman that he may wish to ask to suspend the reading of the first section.

The CHAIRMAN. Does the gentleman withdraw his unanimous-consent request?

Mr. WAXMAN. Mr. Chairman, I have a unanimous-consent request pending.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk read the remainder of section 1 as follows:

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that this section be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will read section 2.

The Clerk read as follows:

PURPOSE

Sec. 2. The purpose of this Act is to modify the early and periodic screening, diagnosis, and treatment program and broaden medicaid eligibility—

(1) to increase the number of needy children and pregnant women eligible for medicaid coverage;

(2) to facilitate the entry of needy children into a health care system within their community that will provide comprehensive, ongoing primary and preventive health care;

(3) to assure the continuity of care for a period after a child would on account of income become ineligible for medical care under the medicaid program;

(4) to encourage participation in the medicaid program of providers willing to assume responsibility for comprehensive, continuing primary and preventive health care of individual children;

(5) to require more comprehensive medicaid coverage of needed health services for eligible children;

(6) to assure that appropriate prenatal and postpartum care is made available for needy pregnant women;

(7) to increase immunization levels of children; and

(8) to provide further incentives to States to arrange for and encourage quality health care for children.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any amendments to section 2? If not, the Clerk will read.

The Clerk read as follows:

MEDICAID ELIGIBILITY OF POOR CHILDREN, PREGNANT WOMEN, AND HARD-TO-PLACE ADOPTED CHILDREN

Sec. 3. (a)(1) Section 1902(a)(10) is amended—

(A) by inserting "(i)" after "(A)" in subparagraph (A);

(B) by striking out "clause (A)" and inserting in lieu thereof "subparagraph (A)" each place it appears; and

(C) by inserting after subparagraph (A) the following new clauses:

"(ii) for making medical assistance available to any individual who is under the age of 18 (and, at the option of the State, to any individual over the age of 17 and under the age of 19, 20, or 21 or to any individual who is within a reasonable classification of such individuals)—

"(I) if the resources of such individual (including the resources of the family of which he is a member) meet the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and

"(II) if the income of such individual (including the income of the family of which he is a member) does not exceed the higher of the income test for a family with dependent children to be eligible for medical assistance under the State plan or the national child health assurance program income standard established under section 1902(d);

"(iii) for making medical assistance available to any woman for a period of her pregnancy and 60 days following the date of the termination of her pregnancy and for making medical assistance available, for 60 days following such date, to any child born as the result of such pregnancy—

"(I) if the resources of such woman (including the resources of the family of which she is a member) meet the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and

"(II) if the income of such woman (including the income of the family of which she is a member) does not exceed the higher of the income standard for such a woman to be eligible for any medical assistance under the State plan or the national maternal income standard established under section 1902(d);".

(2) Section 1902(f) is amended (A) by striking out "clause (10)(C)" and inserting in lieu thereof "paragraph (10)(C)" each place it appears, and (B) by striking out "clause (10)(A)" and inserting in lieu thereof "paragraph (10)(A)(i)" each place it appears.

(3) Sections 1903(a)(1), 1903(f)(4)(C), and 1905(a) are each amended by striking out "section 1902(a)(10)(A)" and inserting in lieu thereof "section 1902(a)(10)(A)(i)" each place it appears.

(b)(1) Section 1905(a) is amended—

(A) by striking out ", except for section 406(a)(2)," in clause (ii);

(B) by striking out "or" at the end of clause (vi);

(C) by inserting "or" at the end of clause (vii);

(D) by inserting after and below clause (vii) the following new clause:

"(viii) women during pregnancy and during the 60 days following the date of termination of pregnancy and during such 60 days any child born as the result and such pregnancy,";

(E) by striking out "all of such cost—" in the matter before paragraph (1) and inserting in lieu thereof "all of such cost, or for individuals who are adopted children with special needs (as defined in subsection (m))—"; and

(F) by adding at the end thereof the following sentence: "An individual described in clause (i) of this subsection shall be considered to have income insufficient to meet all of the cost of the care and services described in this subsection if the income of his family does not exceed the national child health assurance program income standard established under section 1902(d), and an individual described in clause (viii) of this subsection shall be considered to have income insufficient to meet all of the cost of the care and services described in this subsection if the income of the individual (and of the family of which the individual is a member) does not exceed the national maternal income standard established under section 1902(d),"

(2) Section 1902(b) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) Section 1902 is amended by inserting after subsection (c) the following new subsection:

"(d)(1) For the purpose of establishing the eligibility of and extent of medical assistance provided to certain children and pregnant women, the Secretary shall establish by regulation a national child health assurance program income standard and a national maternal income standard.

"(2)(A) The national child health assurance program income standard shall be established for individuals and for each of the family sizes for which a nonfarm income official poverty line, as defined by the Office of Management and Budget, revised annually in accordance with section 624 of the Economic Opportunity Act of 1964, has been established, and the standard for individuals and for family sizes shall be two-thirds of the applicable nonfarm income official poverty line.

"(B) The national maternal income standard shall be established for individuals and for each of the family sizes for which a nonfarm income official poverty line, as defined by the Office of Management and Budget, revised annually in accordance with section 624 of the Economic Opportunity Act of 1964, has been established, and the standard for individuals and for family sizes shall be 80 percent of the applicable nonfarm income official poverty line.

"(3) In applying the income standards established under paragraph (2), each State shall take into consideration the same income and expenses (including work-related expenses) and disregard the same items of income in the same manner as they would be taken into consideration or disregarded under the State's plan under part A of title IV.".

(d)(1) Section 1905 is amended by adding after subsection (l) the following new subsection:

"(m) The term 'adopted child with special needs' means an individual who—

"(1)(A) is under the age of 18, and (B) (at the option of the State) is over the age of 17 and under the age of 19, 20, or 21 or is within a reasonable classification of such individuals;

"(2) has been placed for adoption;

"(3) was living in foster care immediately before the date of his placement for adoption; and

"(4) on the date of the individual's placement for adoption suffered from a condition requiring continuing medical care and services which condition the State determines was a contributing factor to the difficulty of placing the individual for adoption,

but only during the period beginning on the date of the individual's placement for adoption and ending on the date the individual reaches the age specified in paragraph (1) or, at the State's option and if earlier, the date the State determines that the individual no longer requires the continuing care and services described in paragraph (4).".

(2) Section 1902(a)(10) is amended in the matter following subparagraph (C) by striking out "and (III)" and inserting in lieu thereof "(III)" and by inserting before the semicolon at the end a comma and the following: "and (IV) in the case of adopted children with special needs, a State may limit medical assistance to such children to medical assistance for a condition described in section 1905(m)(4)".

(e)(1) Section 1905 (as amended by subsection (d)) is amended by adding after subsection (m) the following new subsection:

"(n) The term 'outreach' means (1) the identification and location of families of children eligible for medical assistance under a State plan approved under this title and informing them of the services available under the child health assurance program described in section 1913 and such other actions as the Secretary may prescribe to facilitate the provision of medical assistance to such children, and (2) the identification and location of pregnant women who are eligible for medical assistance and informing them of the prenatal and postnatal and other services available to them and such other actions as the Secretary may prescribe to facilitate the provision of medical assistance for pregnant women.".

(2) Section 1902(a) is amended—

(A) by striking out "and" at the end of paragraph (39);

(B) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(41) assure (through the allocation of a reasonable percentage of program funds and through the use, whenever possible and in accordance with regulations of the Secretary, of nonprofit community-based organizations) the provision of outreach to pregnant women eligible for medical assistance.".

(f)(1) Section 1902(a)(17) is amended by inserting ", except as provided under section 1902(d)," after "include reasonable standards (which".

(2) Section 1902(a)(17)(B) is amended by inserting "or family composition" immediately after "except for income and resources".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, that they be considered as read and printed in the RECORD, with the exception of committee amendments numbered 2, 3, and 10.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The committee amendments read as follows:

Committee amendments: Page 3, insert "and" at the end of line 18.

Page 11, line 9, strike out "(a)" and insert in lieu thereof "(A)".

Page 11, line 11, insert after "individual" the following: "described in paragraph (10)(A) and".

Page 11, line 14, strike out "section 1092(a)" and insert in lieu thereof "paragraph".

Page 13, line 8, strike out "physiological" and insert in lieu thereof "psychological".

Page 13, line 12, strike out "of following" and insert in lieu thereof "the following".

Page 22, line 20, insert after "ineligible" the following: or, in the case of any such individual with a condition which cannot be corrected through treatment but which can be controlled or stabilized through treatment, until the end of the 12-calendar-month period beginning with the month in which the individual became ineligible.

Page 34, line 7, strike out "1902(b)(3)" and insert in lieu thereof "1902(b)(3) (as amended by section 3(b)(2) of this Act)".

Page 34, line 12, strike out "1902(b)(4)" and insert in lieu thereof "1902(b)(3) (as amended by section 3(b)(2) of this Act)".

Page 33, insert a close quotation mark at the end of line 22.

Page 36, insert after line 22 the following:

This section does not authorize the enactment of new budget authority.

Page 38, beginning in line 7, strike out "after the date of the enactment of this Act" and insert in lieu thereof "after the effective date prescribed by section 16(a)(1)".

Page 38, beginning in line 20, strike out "The Secretary shall obligate for purposes of subsection (a)" and insert in lieu thereof "For the fiscal year ending September 30, 1981, and for each fiscal year thereafter there are authorized to be appropriated for purposes of carrying out subsection (a) an amount equal to" and at the end of line 16 on that page insert "in the preceding fiscal year"

Page 42, beginning in line 2, strike out "and 13 (relating to continuing medical eligibility for certain individuals by disregarding certain involuntary increases in income)".

The committee amendments were agreed to.

COMMITTEE AMENDMENTS

The CHAIRMAN. The clerk will report committee amendments 2, 3, and 10.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that committee amendments 2, 3, and 10 be considered en bloc, that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The committee amendments read as follows:

Committee amendments: Page 4, line 21, insert "if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest" after "pregnancy".

Page 6, line 9, insert "if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest" after "pregnancy".

Page 23, beginning in line 21, strike out "until the end of the 60-day period beginning on the date of the termination of her pregnancy" and insert in lieu thereof: "until the end of her pregnancy or if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest until the end of the 60-day period beginning on the date of the termination of her pregnancy.".

AMENDMENTS OFFERED BY MR. VOLKMER AS SUBSTITUTES FOR COMMITTEE AMENDMENTS 2, 3, AND 10

Mr. VOLKMER. Mr. Chairman, I offer amendments as substitutes for the three committee amendments, and I ask unanimous consent that my three substitute amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the amendments offered as substitutes for the committee amendments as follows:

Amendments offered by Mr. VOLKMER as substitutes for the committee amendments: On page 4, strike lines 18 through 24 and insert in lieu thereof:

"(iii) for making medical assistance available to any woman for the period of her pregnancy excluding however medical assistance for abortion which are not necessary to save the life of the mother, and

"(iv) for making medical assistance available to any woman for 60 days following the date of termination of her pregnancy if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother".

On page 6, strike lines 8 through 14 and insert in lieu thereof:

"(viii) women during the period of her pregnancy except that medical assistance shall not include terminating a pregnancy by abortion except when such termination by abortion is necessary to save the life of the mother, and

"(ix) women, during the 60 days following date of termination of a pregnancy if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother, and during such 60 days, any child born as the result of such pregnancy."

On page 6, line 19, strike "and".

On page 6, following line 19, insert the following:

"(F) (1) by striking out the period at the end of subdivision (B) and inserting in lieu thereof "; or"; and

(2) by inserting after subdivision (B) the following:

"(C) any such payment with respect to care or services relating to termination of a pregnancy by abortion except when such termination by abortion is necessary to save the life of the mother."

On page 6, line 20, strike "(F)" and insert "(G)".

On page 23, strike line 22 and all that follows through the word "pregnancy" on page 24, line 2, and insert in lieu thereof the following:

"(a) until the end of her pregnancy except that such medical assistance shall not include procedures for terminating a pregnancy by abortion except when such termination is necessary to save the life of the mother, and (b) until the end of a 60 day period beginning on the date of termination of her pregnancy is the pregnancy terminated as a result of a birth, miscarriage or an abortion performed to save the life of the mother."

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, I wish to emphasize that other than the one point that these amendments address, that one issue, I wholeheartedly support the concept of the bill now before us. I feel very strongly that many of the corrective measures that are provided for in the bill are much needed in our society.

However, the amendments that I have proposed here will provide language restricting the eligibility and the funding for abortions, for all abortions except to save the life of the mother, which is generally known as the Hyde language.

As many of us know, in the 3 years I have been here, every year when the HEW appropriation bill comes before us, every year we have what is known as a constant fight. One year, I think over 30 votes were taken on this one issue alone. Many of us, during that debate pro and con on this issue, have repeatedly said that the abortion issue should be done in an authorization bill and not on the appropriation bill; that the proper place to make a policy decision is in the authorization bill.

That is the purpose of these amendments, to provide within the title XIX medicaid provisions, the provisions that some of us in this House—and so far in the past a majority—have believed that funding for abortions should be restricted to only those that are necessary to save the life of the mother. That is the purpose of these amendments.

I would like to emphasize that I feel very strongly, individually, personally, on this issue. I think many Members here do. I disagree, as one of those who said so way back in January, 1973, I disagree strongly with that Supreme Court decision of January 22, 1973.

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I can well remember where I was at the time and what action I took at the time. At that time I was a member of the State legislature in the city of Jefferson in the State of Missouri. I can well remember that very morning. I was in my office in Hannibal, Mo., when I first learned about it. As chairman of the judiciary committee of Missouri, my first action was to call to get a copy of that opinion. My second was to call my vice chairman of my committee and my minority member. The next steps that we took were to draft legislation to do what we could to further the life of the child. As a result, that legislation, which we feel is monumental, was passed in the State of Missouri in 1973 and in 1974, some of which was restricted and knocked down by the Supreme Court, the very Supreme Court that gave the 1973 decision.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the distinguished gentleman for yielding. Certainly I opposed and still oppose the Supreme Court decision which the gentleman has mentioned. As we read in a passage of the Bible, "Jesus wept." Actually when I look at the Supreme Court decision, I, too, wept. I thank the distinguished gentleman.

Mr. VOLKMER. I thank the gentleman.

I continue this fight for what I believe is life for children, just as the gentlemen now before us bring this bill in which they wish to improve the lives of the poor children and mothers in this country. I, too, wish to do so. I feel that the taking of a life even at its earliest time is still the taking of a life. That life will never come and will never be enjoyed for whatever length of time, whether it be 6 months, a year, 10 years, 30 years, 50 years, or 75 years on this Earth. I do not think that it is incumbent upon us to say that we should provide for the taking of that life. I am more than willing to require that life to continue, and I am more than willing to pay for it out of taxpayers' money, if necessary, to provide that that person who enjoys the life on this Earth will not have to do so in destitute conditions and will have more than the bare necessities of life that he will be able to enjoy. I feel very strongly on this issue, and I feel very strongly on the bill that the gentleman brings before us because I believe it, too, is aimed at preserving life only after it is born. I believe that we should encourage people in birth.

I have disagreement with those who provide or who say that we should curtail life. I do not believe in listening to one of the persons who testified before my committee back in the State capital in Missouri that it is necessary in order to have a good life that we have to rid this Earth of those who are handicapped, of those who are poor, of those who have low IQ's. I was very appalled to hear a noted psychologist testify back in those days that in order to have a better life for everyone, we should not have those types of people, those types of children, and we should not have to spend as much money as the country has to spend in tax money and otherwise to take care of those children. If we did not have to, he said that everybody would have the boats and the cars, and everybody would have the vacations, and everybody would have the college education, and we would have a kind of utopia. But who makes the decision when that occurs? Who makes the decision who has the lowest IQ? Who makes the decision whether a person is going to be sufficiently handicapped to live or to die? I say that all of us should live, and we should care for those people and provide for them.

AMENDMENT OFFERED BY MR. WAXMAN TO THE AMENDMENTS OFFERED BY MR. VOLKMER AS SUBSTITUTES FOR THE COMMITTEE AMENDMENTS

Mr. WAXMAN. Mr. Chairman, I offer an amendment to the amendments offered as substitutes for the committee amendments.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN to the amendments offered by Mr. VOLKMER as substitutes for the committee amendments:

In lieu of the matter proposed to be inserted on page 4, lines 18 through 24, insert the following:

"(iii) for making medical assistance available to any woman for a period of her pregnancy and 60 days following the date of the termination of her pregnancy if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest."

In lieu of the matter proposed to be inserted on page 6, lines 8 through 14, insert the following:

"(viii) women during pregnancy and during the 60 days following the date of termination of pregnancy if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest and during such 60 days any child born as the result of such pregnancy,";

In lieu of the matter proposed to be inserted on page 6 following line 19, insert the following:

(f) by striking out the period at the end of subdivision (B) and insert in lieu thereof a period, and insert after such subdivision the following new subdivision:

"(C) any such payment with respect to care or services relating to performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term, (ii) except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service, and (iii) except that this shall not apply to payments for drugs or devices to prevent implantation of the fertilized ovum or for medical procedures necessary for the termination of an ectopic pregnancy.";

In lieu of the matter proposed to be inserted on page 23, line 22, through page 24, line 2, insert the following: "until the end of her pregnancy or if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest until the end of the 60-day period beginning on the date of the termination of her pregnancy".

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Chairman, could we hear what the amendment is? What does the gentleman's amendment do?

Mr. WAXMAN. The amendment, if the gentleman will yield to me, is an amendment to the amendments offered by the gentleman from Missouri (Mr. VOLKMER) as substitutes for the committee amendments. My amendment would restore payments for abortions to terminate pregnancies resulting from rape or incest under the medicaid program make the section that would apply to the authorization the section would then be the same as what is now in the law on the appropriations regarding payments for abortion.

Mr. ROUSSELOT. And that is all it does regarding the gentleman's amendments?

Mr. WAXMAN. That is all it does.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, what this amendment does is to make the amendments offered by the gentleman from Missouri (Mr. VOLKMER) the same as and identical to the language that governs payments for abortions which has been adopted in the continuing resolution. Basically, this would add two additional conditions when abortions could be paid for. One, when the abortion is to terminate a pregnancy which is the result of rape or incest and, two, to terminate an ectopic pregnancy.

The reason I am offering this amendment, even though it is not consistent with my views on the subject of abortion, is to have this bill consistent with what is in the appropriations bills in order to avoid the possibility of having this whole legislation tied up in conference the way the resolutions on appropriations have been tied up in conferences with the Senate over this very issue. It seems to me that the House has spoken on the issue and has included within the purview of the law the right to an abortion under these additional circumstances. I think it is consistent with what the House has done in the past, and I would urge that we adopt this amendment.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. I thank the gentleman for yielding. I do not have a copy of the gentleman's amendment. Does he put a time restriction on how late the abortion could be held after the reported rape or incest?

Mr. WAXMAN. It is the same language as is now in the appropriations act; it requires prompt reporting to a law enforcement agency or public health agency.

Mr. DOUGHERTY. If the gentleman will yield further, will the gentleman define for the record the definition of the word "promptly"?

Mr. WAXMAN. The definition, and any regulations that would define it further, would be the same as those in effect for the limitation we now have under the appropriations act.

Mr. DOUGHERTY. Is the gentleman saying that the Secretary of HEW would define "promptly"?

Mr. WAXMAN. Yes. "Promptly" would be defined by regulations promulgated by the Secretary.

Mr. DOUGHERTY. It is conceivable the Secretary could define "promptly" as being 3 months?

Mr. WAXMAN. I would think that the limitations placed would be the same as we now have under the appropriations bill.

Mr. DOUGHERTY. What are the current regulations as they define "promptly" today under the current legislation?

Mr. WAXMAN. I am sorry; I do not know.

Mr. DOUGHERTY. I think that is something we ought to know.

Mr. WAXMAN. May I inquire if the gentleman agrees with limitations under the law now under the appropriations bill?

Mr. DOUGHERTY. I do not agree with the word "promptly." That is why I am trying to determine for the record what we mean when we say "promptly." Some people may say "promptly" means within 72 hours. It has been defined in some places where I come from as being 6 months. I think to adequately consider the gentleman's amendment, we certainly should have his interpretation on the record as to what he believes the word "promptly" means.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. May I suggest that my colleague, the gentleman from Illinois (Mr. Hyde), who is seeking recognition, who is very familiar with this whole issue, and who I think even offered this amendment, would be qualified to give us an answer to the gentleman's question. I yield to the gentleman from Illinois.

□ 1230

Mr. HYDE. I thank the gentleman for yielding.

The difficulty with the term "prompt reporting" is simply the regulation that HEW issued. They have held "prompt" to mean 60 days. They cut the difference between the 30 days that the gentleman from Illinois (Mr. Michel) originally suggested as "prompt" in the House and the 90 days that some gentleman in the other body suggested, feeling that the better part of wisdom, if not mathematics, made 60 days the appropriate time interval for "prompt reporting" and that creates the real difficulty with this rape and incest exception. After 60 days there is definitely a pregnancy present and the operation, the medical procedures performed are definitely an abortion.

Mr. Chairman, an abortion to save the life of the mother is one thing, where the claim to life is equal and the operation is not directly an abortion.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Hyde and by unanimous consent, Mr. Waxman was allowed to proceed for 5 additional minutes.)

Mr. HYDE. Will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. HYDE. An operation that saves the life of the mother, though it may be called an abortion and abortion may result, the abortion is not the direct intention of the surgery, it is the removal of a cancerous uterus or a fallopian tube where an implantation has occurred. Abortion results but it is not an intended abortion, it is the removal of an ectopic pregnancy or cancerous uterus.

Mr. Chairman, in an abortion to save the mother's life the claim to life is equal. For myself I do not have a great philosophical problem with that or a legal problem. However, when you start trading a human life for another value, whether it is a kidney or whether it is the tragic criminal circumstances of rape or incest, that is where I do have difficulty.

Now, if prompt reporting could really mean prompt reporting, then I do not believe an abortion is what really occurs in any philosophic or legal sense. I think that before a pregnancy is determined, medical treatment really prevents the pregnancy. It cleans up the possibility of venereal disease, it develops evidence that a rape has occurred and perhaps helps catch the rapist. So prompt reporting should be encouraged.

Mr. Chairman, when we have regulations that say 60 days later the rape may be reported, then you are, in fact, having an abortion and I can see the cultural, emotional rationale for justifying that and it is a very difficult situation but you are still giving an innocent victim death as a result of a criminal act.

Mr. Chairman, the Supreme Court has held it to be unconstitutional to execute a rapist. Some States made that a capital offense. The Supreme Court said it was cruel and unusual punishment.

I must ask, why is it not equally cruel and unusual punishment to execute the second innocent victim of a rape, the unborn child?

Mr. Chairman, if the gentleman from California, whose amendment it is and whose language is being offered, could specify that prompt means, prompt in the dictionary sense of the word; very prompt, not 6 months, not even 30 days but let us have it a matter of a very few days. Prompt reporting. Then in my judgment we are really not performing an abortion, we are performing medical procedures that prevent pregnancy and really effectuate catching the rapist plus protecting the health of the initial victim.

Mr. Chairman, I would solicit from the gentleman his expression of legislative intent that he is talking about a matter of days when he says prompt reporting. That would make this much more acceptable.

Mr. WAXMAN. If I might reclaim my time, I know that the gentleman has been thoroughly involved in this issue and I must admit I have not engaged in the many debates we have had on the House floor on this question. However, it seems to me that rape and incest pose unusual problems. Having the courage to report a rape may be difficult in itself. However, to report incest may well require tremendous amounts of supportive counseling.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I agree completely. You have terribly serious psychic problems involved with prompt reporting, involving factors of fear and intimidation, but I submit to the gentleman that statistically those incidents are very few where pregnancy results. They happen but they are very few.

Mr. Chairman, we are standing for a principle here, that we want to get the Government out of the business of paying for abortions. For those few times that happens, it would seem to me some other agency might find it in their charitable pocketbook to pay for those, but we want to get the Government out of paying for abortion.

Mr. WAXMAN. I would like to reclaim my time.

Mr. Chairman, I know the gentleman is familiar with the issue. What we are suggesting in this amendment is the same language that is now law. I think that makes sense. We have debated it. It has been a decision of the House to come to that conclusion and that is the purpose of my amendment. I think it is a reasonable one and we will probably have to fight it out in conference as we have fought this issue in so many other conferences.

Mr. HYDE. Mr. Chairman, would the gentleman yield.

Mr. WAXMAN. I do yield.

Mr. HYDE. Would the gentleman concede that the word "prompt" ought to mean a matter of a few days—weeks at the most? Not get it into months?

Mr. WAXMAN. I would not concede that. I would not concede that it ought to be a matter of a few days. One might expect it but I would not want to put such a time limit on someone who is suffering the trauma of a rape or incest and might not respond in a 2-day period.

The CHAIRMAN. The gentleman's time has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 5 additional minutes.)

Ms. FERRARO. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentlewoman from New York.

Ms. FERRARO. Mr. Chairman, I would ask the gentleman from Illinois if he would define for me what he means by immediate medical procedure.

Mr. HYDE. Will the gentleman yield to me, Mr. Chairman?

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. HYDE. What happens in every hospital in the country where a woman is brought in or brings herself in and says she has been raped? A D. & C., estrogen shots, whatever the medical procedures are, but it is not an abortion at that point if she is promptly brought in because you cannot abort where there is no pregnancy.

Ms. FERRARO. Mr. Chairman, let me inform the gentleman the immediate medical procedure in the State of New York does not in any way include a D. & C. or any of the other procedures the gentleman describes. When a woman is brought in as a rape victim in New York City the only thing done is that she is examined, and a specimen of sperm is taken and sent out to a laboratory. That is it.

Mr. HYDE. Does the gentlewoman mean to indicate they give her no medication for venereal disease?

Ms. FERRARO. There is none.

Mr. HYDE. That is a shame.

Ms. FERRARO. I am afraid it is. Perhaps we should appropriate more funds for the hospitals to treat rape victims. We might be able to proceed in the fashion the gentleman suggests. However, we do not now have the funds to do it. And when we bring that type of legislation up to get additional funding for rape victims we cannot get that through the House either.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield to me?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Chairman, I would suggest that the procedure the gentlewoman suggests would be appropriate. That would be to provide support for facilities for rape victims where they can have that kind of medical care. I agree completely with the gentleman from Illinois (Mr. HYDE). If the gentleman would like to sponsor an amendment to this bill to do that, I think we would all be most supportive.

Mr. WAXMAN. If I might reclaim my time, I will leave it to others to talk about other amendments. I want to have the language in this bill the same as that which the House has already passed. I think it is reasonable. Where there is rape or an incestuous relationship, there is no knowledge that pregnancy will be the result; therefore, there is not going to be prompt reporting. Women do not know in a 2-day time frame that, in fact, a pregnancy has resulted.

Mr. Chairman, I think this is a reasonable proposal. It is one that the House has adopted in the past.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

Mr. Chairman, there is one part of this amendment which has been entirely overlooked and that is incest. This event is frequently not mentioned for weeks or perhaps even months after it occurs. This is a very common occurrence. For this reason, I support the language of the distinguished gentleman from California.

Another thing, Mr. Chairman, pursuing what my distinguished friend from Illinois has said, actually conception occurs when the sperm enters the ovum.

□ 1240

That would be within the 24 hours immediately following the rape, if it did occur. As I understand it, the usual procedure at such times is not only to treat the patient for a venereal disease, but also to use a saline solution to remove the fertilized ovum that might be in the womb.

I think because of the fact that incest is concealed the majority of the time, that we should support the amendment of the distinguished gentleman from California.

I regretfully oppose the amendment of the gentleman from Missouri, but would seek to amend it in this way.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment offered as an amendment to my amendment by the gentleman from California.

I will not take the total 5 minutes, because this House on numerous occasions, at least since I have been here in the last 3 years, has heard these arguments over and over, repeatedly; but for the reasons stated by previous speakers, I, too, oppose the language of the gentleman from California which would include the provisions that are presently in the concurrent resolution and ask the House to defeat that amendment to the substitute and then to adopt my substitute amendment and we can proceed with the matter on the authorization bill, rather than on the appropriation bill.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I think it is worth noting this is the first time that I know of in several years, that the House has had the occasion to address on an authorization or legislative bill, rather than on appropriation, the issue of Federal funding of abortions. Repeatedly in the history of appropriations bills, as the gentleman from Missouri well knows because the gentleman has participated intimately in the debate, we have adopted the Hyde amendment, in which the only exception is the life of the mother. The legislative history has been that the other body has broadened those exceptions. From a purely tactical viewpoint, I would suggest that we should not go to conference on this bill which will, in fact, cover all Federal funding on abortions, unless we are in the strongest possible position.

The amendment of the gentleman from Missouri should be supported and the amendment of the gentleman from California opposed for no other reason than that this House a few months ago by an overwhelming majority voted for the position of the gentleman from Missouri, as opposed to the gentleman from California.

This is a very important pro-life vote. I would urge my colleagues to defeat the amendment of the gentleman from California and support the amendment of the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I thank the gentleman from Maryland for those words.

I would hope that the Members do realize that, of course, title 19 was enacted long before the January 1973, decision on abortion by the Supreme Court. Since I have been here, in the few years I have been here, this bill is the only vehicle, an authorization bill, that has been brought up so that we could address the matter within the title 19 medicaid authorization bill. If the matter can be resolved, and it is hoped by many of us that this is the proper way, that this is the proper place and it can be resolved here, that it would not be necessary to have the annual repeated fight in the appropriations bill; however, if the matter is not resolved, then it may be necessary for that to continue. Some of us feel it would be better to do it in this fashion. That is the reason I offer my substitute amendment and I do oppose the amendment of the gentleman from California.

Mr. DOUGHERTY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise briefly to just make a couple of observations, if I could, in response to the comment of the gentleman from California that we want to put the authorization bill in line with the appropriation bill. All we heard during the whole discussion on the appropriation bill is, "Wait until there is an authorization bill, that it is inappropriate to amend an appropriation bill, that you are going to stop the funding of the Government. This really should not be discussed in an appropriation bill. It should be discussed in an authorization bill."

So today we have an authorization bill and the gentleman says, well, this is an authorization bill and we want to put it in conformity with the appropriation bill.

I think that sort of begs the question. I think this authorization bill is an opportunity for those of us who are seriously concerned with this issue to address it. I think the issue should be addressed on its merits and not under the guise of trying to put something in conformity with something that passed previously.

The other observation I would make, Mr. Chairman, is that, indeed, rape and incest are horrible and horrendous experiences. We have been involved in doing counseling with people who have had situations that tragic.

I think the point, though, that we have to realize is that in 60 days there is a pregnancy. For the overwhelming majority of the Members of this House who supported the original Hyde language, there is a human life and what we are talking about by the amendment of the gentleman from Missouri (Mr. VOLKMER) and the amendment of the gentleman from California (Mr. WAXMAN) is really a question of value. Do we place the value of the unborn child above or below the trauma that has been set to the young woman who has been raped or a victim of incest, the trauma that has been imposed upon her and would be through the continuation of the pregnancy.

It is a very difficult choice, certainly, but for those of us who have been advocating the position of the gentleman from Missouri (Mr. VOLKMER), it is very clear. There is a pregnancy. There is a human life at stake. The abortion will destroy that human life. God willing, hopefully there are other support services. I have been involved in counseling, and so I am favoring counseling and support services to help the woman through the term of her pregnancy; but that is really what the issue is, no matter how emotional we get or how we approach the subject, what it really comes down to is we have to choose between two very, very difficult values; on the one hand, the value of the life, and on the other hand the value of a very severe traumatic experience. That is why I think, Mr. Chairman, we must reject the amendment of the committee chairman. We must support the Volkmer amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask the gentleman from California a question, if the gentleman will. I would ask the gentleman if he would accept an amendment to his amendment to add the word "forcible" before the word "rape."

The reason, of course, being it would eliminate abortions for many teenage pregnancies, which is a statutory rape situation. If the gentleman would accept the word "forcible," the amendment becomes more acceptable, even though it compromises my strong belief that we are legislating payment for abortions; but because I think it is a significant compromise and because we are dealing with a Senate that is intransigent on this issue, I personally would view this as more acceptable, and work for another day to eliminate rape and abortion altogther, as they ought to be.

If the gentleman would accept that, then my objections to this amendment would be lessened.

Ms. MIKULSKI. Mr. Chairman, if the gentleman would yield and would withhold a moment, I think we are stunned and will caucus.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, may I explain my position on this issue.

My position is to oppose all the amendments. I do not believe that any procedure that is medically legal and permissible ought to be denied poor women. I have offered my amendment, nevertheless, to avoid a confrontation that I think would be detrimental to the passage of this legislation in negotiations with the Senate.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. DOUGHERTY) has expired.

(At the request of Mr. WAXMAN and by unanimous consent, Mr. DOUGHERTY was allowed to proceed for 5 additional minutes.)

□ 1250

Mr. WAXMAN. Mr. Chairman, in order to avoid that kind of confrontation with the Senate when this bill gets to conference, in the hope that we do not let this issue prevent poor children from getting health care, I would accept the suggestion of the gentleman from Illinois (Mr. HYDE) and ask unanimous consent to amend my substitute to add that word. However, I want then to speak against the whole amendment.

I do realize the practical reality that this House, despite my personal feelings, which are very sincere and quite strong on this issue, has voted the other way and would vote the other way.

Mr. HYDE. Mr. Chairman, if the gentleman will yield further, I understand perfectly the position of the gentleman from California (Mr. WAXMAN).

I want my position to be crystal clear that I oppose all abortions for every reason except to save the life of the mother.

We are dealing with this issue in a political context. I think there are a lot of people who have strongly held views on this issue. My position is that I would like to see us adopt the best and strongest possible language to eliminate the maximum number of abortions.

So it is only in that context, Mr. Chairman, that I make that suggestion, and I appreciate the gentleman's willingness to compromise what is essentially uncompromisable.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I will be glad to yield to the subcommittee chairman.

Mr. WAXMAN. Mr. Chairman, in light of this conversation, I ask unanimous consent that my amendment be modified to add the word, "forcible."

The CHAIRMAN. The Chair will ask that the Clerk have the change noted in the Waxman amendment to the Volkmer substitute.

Is there objection to the request of the gentleman from California?

Ms. FERRARO. Mr. Chairman, reserving the right to object, I have a question to ask.

I would ask the subcommittee chairman if he would further, rather than have "rape" defined as "forcible," do it as an exclusionary measure, excluding "statutory." I would ask that he reserve the language, because a definition of "forcible" is an extremely difficult definition to come up with. I think excluding "statutory," which is the gentleman's intent, might make the amendment clearer.

Mr. HYDE. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, it is my hope and intention to eliminate the statutory rape situation, and whatever language effects that, that would be my aim.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. WAXMAN) to modify his amendment?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DOUGHERTY. Mr. Chairman, do I still have time remaining?

The CHAIRMAN. The gentleman still has time remaining.

Mr. DOUGHERTY. Mr. Chairman, may I ask that the amendment as originally suggested by the gentleman from California be read back to us?

The CHAIRMAN. Without objection, the Clerk will read the amendment.

There was no objection.

The CHAIRMAN. The Clerk is requested to read the amendment language as originally submitted by the gentleman from California (Mr. WAXMAN).

The Clerk will read.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN to the amendments offered by Mr. VOLKMER as substitutes for the committee amendments:

In lieu of the matter proposed to be inserted on page 4, lines 18 through 24, insert the following:

"(iii) for working medical assistance available to any woman for a period of her pregnancy and 60 days following the date of the termination of her pregnancy if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother as to terminate a pregnancy resulting from rape or incest";

In lieu of the matter proposed to be inserted on page 6, lines 8 through 14, insert the following:

"(viii) women during pregnancy and during the 60 days following the date of termination of pregnancy if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest and during such 60 days any child born as the result of such pregnancy,";

In lieu of the matter proposed to be inserted on page 6 following line 19, insert the following:

(f) by striking out the period at the end of subdivision (B) and insert in lieu thereof a period, and insert after such subdivision the following new subdivision:

"(c) any such payment with respect to care or services relating to performance of abortions (i) except where the life of the mother would be endangered if the fetus were carried to term, (ii) except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service, and (iii) except that this shall not apply to payments for drugs or devices to prevent implantation of the fertilized ovum or for medical procedures necessary for the termination of an ectopic pregnancy.";

In lieu of the matter proposed to be inserted on page 23, line 22 through page 24, line 2, insert the following: "until the end of her pregnancy or if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest until the end of the 60-day period beginning on the date of the termination of her pregnancy".

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Mr. Chairman, may I ask the gentleman a question first and then yield for an answer?

I understand the gentleman objects to all of these amendments on this subject matter. But if the House adopts this amendment, could we have the gentleman's assurance that he would fight for this amendment in conference, it being the will of the House?

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me?

Mr. HYDE. Yes, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, as a conferee representing the House, I would be bound by the House position and would be bound to do what I could in the negotiations with the Senate to have the House position prevail.

Mr. HYDE. But would the gentleman be very serious in doing that? I mean this simply to make an inquiry, not in any pejorative sense.

Mr. WAXMAN. I understand.

Mr. HYDE. Frankly, we would want the gentleman to be very enthusiastic in supporting the House position on this particular amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me?

Mr. HYDE. Yes, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, as a conferee supporting the House-passed bill, I would be bound to fight for the House position and do the best I could as a member of the conference committee.

Mr. HYDE. Mr. Chairman, I thank the gentleman.

Mr. WAXMAN. Mr. Chairman, would the gentleman yield further to me?

Mr. HYDE. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I would agree to accept what the gentleman has suggested to us. I would change my amendment to exclude what is known as statutory rape, which is rape that is determined solely on the basis of the age of the victim.

However, I would not want that to mean, and I do not think the gentleman would intend that to mean, that an abortion for a teenager, who has undergone a forcible rape would not be covered. I want to clarify that the change in the amendment would not exclude that teenager from the same rights as any other woman who has been forcibly raped.

Mr. HYDE. Mr. Chairman, I understand what the gentleman is saying. My purpose is to eliminate the statutory rape situation. My ultimate purpose is to eliminate all rape and incest as grounds for abortion.

But under the language the gentleman proposed, statutory rape would not make any difference. If the woman was under age, she would get her abortion as having been raped. I assume we are talking about the forcible rapes as the ones for which abortions would be warranted, under the gentleman's language.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further to me?

Mr. HYDE. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, to clairfy what I think we both understand, when the gentleman says he would not want funding for abortions to terminate pregnancies resulting from statutory rape covered, he is referring to rapes that are considered as rapes under the law solely because of the age of the woman?

Mr. HYDE. That is correct, and that is the sort of abortion I mean.

Mr. WAXMAN. After having sexual intercourse with her consent?

Mr. HYDE. Yes.

Mr. WAXMAN. I would, then, if the gentleman will yield further to me, renew my unanimous-consent request that the amendment that I had offered be amended to exclude statutory rape as we have discussed it in the purview of the proposal. I would stress again, however, that this limit is not a desirable one from my personal point of view. I agree to it because I hope with your support and others, we can salvage at least some medicaid funding for abortions other than those only to save the life of the mother.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank my distinguished friend for yielding.

Let me state that it seems at certain times we must face up to the propositions that confront us. Statutory rape, as I understand it, pertains to the age of the child, and in the State of Kentucky I believe it is 14 years or younger.

Women have been known—or young girls have been known—to conceive at the age of 11. In such cases I cannot condone going on with such a pregnancy. I think that we must make some concession. I think it is only humanitarian that we take care of the youngsters who are raped or who are the victims of incest.

□ 1300

Mr. Chairman, I want to say that I have much feeling for human life, as a physician. I just did not engage in abortion. I do not want them. I do not like them. But there are certain times when we have to face situations such as an 11-year-old child being raped.

Mr. HYDE. Mr. Chairman, if I may reclaim my time, I understand the emotional trauma, but I do not know of any time where an innocent life ought to be eliminated or executed because of the crime of another person. That is what the gentleman is suggesting.

Mr. WAXMAN. Mr. Chairman, I have specific language that I send to the Clerk's desk to have read, and after that I will ask unanimous consent that it be accepted as part of the amendment.

The CHAIRMAN. Without objection, the Clerk will read the modification.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Mr. Chairman, is this a modification to the substitute?

The CHAIRMAN. It is a proposed modification to the Waxman amendment.

The Clerk will read.

The Clerk read as follows:

Add at the end of the amendment the following: Page 6, insert before "An individual" on line 19 the following: "For purposes of this subsection, the term 'statutory rape' means rape which is only unlawful because of the age of the victim."

And in the amendment, insert "(other than statutory rape)" after "rape" each place it appears.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that my amendment to the substitute amendments offered by the gentleman from Missouri (Mr. VOLKMER) be modified by the language as read by the Clerk.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I understand, having heard all of the discussion that preceded this request, the effort to bring together here language that would achieve the objectives that have been described. But I do think we are dealing in a sensitive area of legislation that has been the subject of extended debate here and in the other body for 6 years or more.

I do not think that the proposed language necessarily accomplishes the objectives sought. Therefore, I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentleman from California (Mr. WAXMAN) to the amendments offered by the gentleman from Missouri (Mr. VOLKMER) as substitutes for the committee amendments.

The question was taken; and on a division (demanded by Mr. WAXMAN) there were—ayes 15, noes 10.

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 707]

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Fuqua
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore

Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Runnels
Sabo
Santini
Satterfield
Sawyer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1310

The CHAIRMAN. Three hundred and seventy-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Missouri (Mr. VOLKMER) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 180, noes 209, not voting 44, as follows:

[Roll No. 708]

AYES—180

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Anthony
AuCoin
Barnes
Beilenson
Bingham
Blanchard
Bolling
Brademas
Brodhead
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Carr
Carter
Chisholm
Clay
Cleveland
Collins, Ill.
Conable
Conyers
Corman
Coughlin
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dickinson
Dicks
Diggs
Dingell
Dixon
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Evans, Del.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Ford, Tenn.
Forsythe
Fountain
Frenzel
Fuqua
Garcia
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hutto
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McKinney
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Neal
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Pritchard
Pursell
Railsback
Rangel
Ratchford
Reuss
Richmond
Ritter
Rose
Roybal
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Stark
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Udall
Ullman
Van Deerlin
Vanik
Walgren
Waxman
Weaver
Weiss
Whitley
Whittaker
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates

NOES—209

Abdnor
Albosta
Annunzio
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Burgener
Byron
Campbell
Carney
Cavanaugh
Chappell
Clausen
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Donnelly
Dougherty
Duncan, Tenn.
Early
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fithian
Florio
Foley
Gaydos
Gephardt
Gibbons
Gingrich
Goldwater
Goodling
Gore
Gradison
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McHugh
Madigan
Marlenee
Marriott
Mathis
Mavroules
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Pashayan
Patten
Paul
Perkins
Petri
Quillen
Rahall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitten
Williams, Ohio
Wilson, Bob
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—44

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Ashley
Baldus
Barnard
Bedell
Bonker
Brooks
Cheney

Coelho
Crane, Philip
Daniel, Dan
Davis, Mich.
Dodd
Dornan
Fish
Flippo
Flood
Ford, Mich.
Fowler
Frost
Gramm
Huckaby
Jones, Okla.
McKay
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Nolan
Price
Quayle
Rosenthal
Roth
Russo
Schulze
Sebelius
St Germain
Steed
Thompson
Treen
Winn
Young, Alaska

☐ 1320

So the amendment to the amendments offered as substitutes for the committee amendments was rejected.

The result of the vote was announced as above recorded.

☐ 1330

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, Members have asked me why we are dealing with abortion on a children's health program, and perhaps some explanation would be in order. This bill provides prenatal care for poor women who would be eligible under the program. Most of the women eligible under the program are eligible because they are already eligible for medicaid. This gives an opportunity for those who want to deal with the abortion issue to offer the amendment that is now pending to the basic legislation to prohibit the payment of money under medicaid for abortions.

The House has spoken on this issue on numerous occasions in the appropriations bills. This will be the first time that we put into the basic law itself a prohibition against medicaid abortions. Just so Members understand what the Volkmer amendment would do, it would prevent abortions except in order to save the life of the mother, and only for that purpose.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield briefly?

Mr. WAXMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, it would not prevent abortions. It would prevent the payment for abortions.

Mr. WAXMAN. The gentleman is correct, it would prevent the payment for abortions under the medicaid program except for the purpose of saving the life of the mother. What we had hoped to do was say that if we are going to write an antiabortion section into the medicaid law, it ought to be at least as broad as the limitation we have provided for under the appropriations bill. The House has rejected that position. We now have before us a choice: Do we want to put into the law a prohibition against medicaid paying for abortions except under this very limited system?

I can only share my point of view, which I believe is probably the minority viewpoint in this House, and that is that the medicaid program ought not to be used to deny a woman a procedure that is legal, legitimate, and that is basically a decision for her and her physician to decide. There are diagnostic procedures that can detect certain congenital defects or mental retardation early in the pregnancy. The choice of carrying the pregnancy to term, I believe, should be that of the mother, the father, and the physician according to their own beliefs and dictates.

Poor women should not be denied the same choice available to others simply because they are poor. I will vote against the Volkmer amendment. I will not ask for a rollcall vote; I do not believe it is necessary for the House to have the umpteenth vote or rollcall on the abortion question. I do not know whether others might seek to have a recorded vote, but I would hope that we would vote against the Volkmer amendment. But, I am realistic enough to understand that the House has not favored the position I am advocating when we have had votes before on the appropriations bill.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Volkmer amendment for several reasons. It does not permit payment under medicaid for abortion in case of incest or rape. As many of us know, incest is kept secret within families for many days. I do not see how anyone could support forcing a young child, an 11-year-old child, to bear a youngster that she did not want because she was forcibly impregnated.

Mr. Chairman, the Volkmer amendment would also prevent Federal payment for ectopic pregnancy, which would have been covered by the amendment of the distinguished gentleman from California. I want the Members to know that this problem occurs, and perhaps has occurred in the wives of many Members right here in this House today. The Volkmer amendment would deny Federal payment to correct this. In this case, a woman has a pregnancy within a tube, and quite often when the tube ruptures she bleeds and goes into shock. How can we—how can we—vote for such an amendment that would prevent Federal payment for an operation for an ectopic pregnancy, and which would prevent payment under medicaid for abortion in case of incest or in case of rape of a young child?

I think it is something that we have got to face. Really, we ought to stand up for what we feel is right. It is the law of the land today. This is the present law, and we would be voting that down if we vote for the Volkmer amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. I would like to again clarify: The amendment does not prevent the abortions that the gentleman has enumerated. The amendment merely goes to the medicaid program, which means that those types are not paid for.

Mr. CARTER. It certainly goes that far, and that is too far. I refuse to yield further.

Mr. Chairman, I urge strong opposition to the Volkmer amendment.

☐ 1340

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, I shall be very brief. I just cannot let stand unrebutted some of the statements made by my dear friend, the gentleman from Kentucky (Mr. CARTER). He talks about the law of the land. Dred Scott was the law of the land for a long time established by the great august other branch of Government. Because something is the law of the land does not mean it is chiseled in stone or it ranks with the Decalogue, because this body of Government over here has the right and opportunity to use the political process to try and change the law. The Volkmer amendment does not stop payment by medicaid funds for an ectopic pregnancy, that is life-threatening—that is life-threatening—and, therefore, funds could be utilized to remove the ectopic pregnancy, which, incidentally, results in an abortion. That is perfectly covered by the Volkmer amendments. These amendments are to get Government out of funding abortions. It is that simple.

It is grotesque that a snail darter is protected under the law but an unborn child is helpless and has no protection. Biology ought to tell the gentleman and tell all of us that we are talking about a human life with its own circulatory system, its own brain waves, and its own life. To throw that away like a piece of used Kleenex—why? Not to cure any disease but because the unborn child is inconvenient.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank my loquacious and eloquent friend, the gentleman from Illinois, for yielding. I want to read the language of the Volkmer amendment to the gentleman. This is what it says:

> Termination of a pregnancy by abortion, except when such termination by abortion is necessary to save the life of the mother.

We all know that an operation for abortion is not for an ectopic pregnancy. The abdomen has to be entered and the ectopic pregnancy terminated, I will say to my good friend, and this would bar the payment by medicaid since this termination is tantamount to an abortion, as I see it. That option was lost when the last amendment, offered by the distinguished gentleman from California was defeated.

Mr. HYDE. If I can get back my time, may I ask the gentleman, an ectopic pregnancy, as I understand it, is where implantation has occurred in the Fallopian tube; is that not correct?

Mr. CARTER. That is exactly right.

Mr. HYDE. Then the treatment is to remove the Fallopian tube where the implantation has occurred?

Mr. CARTER. That is exactly right.

Mr. HYDE. That is life-threatening; is it not?

Mr. CARTER. It is life-threatening, but it is not an abortion.

Mr. HYDE. An abortion results in separating the implanted fertilized egg from the mother.

Mr. CARTER. From the uterus.

Mr. HYDE. Pardon?

Mr. CARTER. From the uterus.

Mr. HYDE. Not from the uterus, from the mother.

Mr. CARTER. From the Fallopian tube. It is entirely different.

Mr. HYDE. I do not yield any further.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding. I would just like to comment that the gentleman from Kentucky (Mr. CARTER) just stated that when you go through this ectopic procedure medically, that is not an abortion. That medical procedure is not an abortion, and truly it is not because it is not going into the womb and, therefore, it is not prohibited by what we are doing here.

Mr. HYDE. I thank the gentleman for his contribution. I just want to say one more thing, and then let us vote. I suggest that a lot of babies die by chance; no baby should die by choice.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I just want to call to the House's attention, in case anyone may have forgotten it, this is the same language of the Hyde amendment that we have voted on repeatedly. It happens to be offered by the gentleman from Missouri (Mr. VOLKMER). This House passed this same language a few months ago by a 71-vote margin. The issue is no different today than it was then, and I urge adoption of the amendment.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Just briefly, it seems to me we have been listening to the gentleman from Kentucky, who certainly has a vast amount of knowledge and know-how in an area in which some of my colleagues have been speaking very freely with very little background. I am impressed by what the gentleman from Kentucky (Mr. CARTER) has had to say on this issue.

But what I am also wondering about is it seems to me that the House in the appropriation bill just a few weeks ago passed language, if I am correct, calling for the availability of moneys for rape and incest as well as saving the life of the mother. I do not understand how 2 or 3 weeks ago the House acted to support this and today we are acting to defeat it. Someone might be cynical and say, "Well, the reason we supported it before was because there was not any recorded vote." I would like to think that is not the thing that guides the Members on the floor one way or the other. We express support for this bill, the very same language, less than 2 weeks ago, and the gentlemen who today are offering amendments in opposition were right here on the floor at that time.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding. I would like to shed some light on this question of why the voice vote of 2 or 3 weeks ago. There were not that many Members here because most of you eastern seaboard types were on your Tuesday-to-Thursday-week schedule.

Mr. PEYSER. I thank the gentleman from Illinois for his comment. I did happen to be here.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the distinguished gentleman for yielding. I would like to ask each one of you, what would you do if your daughter were raped? What would you do if you had a relative who was a victim of incest? What would you do if you had an 11-year-old daughter who was raped and became pregnant? Would you let that continue? You know that you would not. You would do something about it, and you would do something about it immediately. Let us not fool ourselves. Let us face up to the proposition. Let us have a little grit and a little backbone.

Mr. PEYSER. I thank the gentleman.

I would just like to say that I, too, agree with the gentleman. I think the House does have the courage to vote on the record as to what they did without the recorded vote just 2 weeks ago, and I hope we defeat this amendment.

● Mr. MAZZOLI. Mr. Chairman, I rise in support of the Volkmer amendment.

Since the 1973 Supreme Court decision that legalized abortion in this country, there has been a grassroots effort of nearly unprecedented proportions to overturn this decision.

However, the effort to directly reverse this decision with a human life amendment to the Constitution, has not yet been successful, and the movement has turned to other devices to limit abortions.

Nowhere has that effort become more determined and more difficult than during each year's debate on the so-called Hyde amendment to ban Federal funding of abortions under the medicaid program.

I oppose abortion and I do not believe that the law of the land should allow abortion other than in the most extreme circumstance: to save the life of the mother. Until this can be written into the Constitution, I have supported and will continue to support restrictions on Federal funding of medicaid abortions.

However, in joining this annual debate, I have not been unmindful of the problems that have been caused by the disruption of the normal flow of legislation and the consequent disruption of many important Federal programs. Now we have before us a way to end once and for all this annual struggle and yet to protect the unborn.

The bill before us, the Child Health Assurance Act of 1979, H.R. 4962, makes amendments to title 19 of the Social Security Act. This is the title which authorizes the medicaid program, and creates entitlements to medical care subsidies for the poor.

By writing the Hyde language into title 19, no one would be entitled to medicaid abortions—except when necessary to save the life of the mother. Thus by writing this appropriate limitation on the expenditure of taxpayer funds directly into the statute which authorizes the medicaid program the House and Senate would no longer have to lock horns each year over the nature of the antiabortion language to be placed in the medicaid appropriations bill.

We are not raising a new issue here today. Instead, we are trying to lay an old issue to rest. And, we are doing so in a way that is consistent with the intent of the bill before us.

The purpose section of H.R. 4962 lists eight specific goals, but all have one common theme: to provide thorough and compassionate medical care for needy children. To this end, the bill makes available a variety of life sustaining and life improving services for pregnant women, babies, and children.

I strongly believe that it is most appropriate to extend this compassion and concern to unborn children, and to provide them with life-sustaining and life-improving services.

This program along with child nutrition programs, counseling programs, programs to support adoption service, and programs to support unmarried or poor women who wish to carry a baby to term are providing an infrastructure of social services that will make it possible not only to ban abortions, but to make abortion an unnecessary consideration for any woman.

I urge my colleagues to support the amendment, and to support the bill as amended.●

The CHAIRMAN. The question is on the amendments offered by the gentleman from Missouri (Mr. VOLKMER) as substitutes for the committee amendments.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Mr. WEISS. Mr. Chairman, I withdraw the point of order of no quorum and demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 169, not voting 47, as follows:

[Roll No. 709]

AYES—217

Abdnor
Albosta
Annunzio
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Burgener
Burlison
Byron
Campbell
Carney
Cavanaugh
Chappell
Clausen
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Donnelly
Dougherty
Duncan, Tenn.
Early
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Ga.
Evans, Ind.
Fary
Fithian
Florio
Foley
Fountain
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Goldwater
Goodling
Gore
Gradison
Grassley
Grisham
Gudger
Guyer

Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McClory
McDade
McDonald
McHugh
McKay
Madigan
Markey
Marlenee
Marriott
Mathis
Mavroules
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Pashayan
Patten
Paul
Perkins
Petri
Rahall
Regula
Rhodes
Rinaldo
Robinson
Rodino
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Williams, Ohio
Wilson, Bob
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—169

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Anthony
AuCoin
Barnes
Beilenson
Bingham
Blanchard
Bolling
Brademas
Brodhead
Brown, Calif.
Broyhill
Buchanan
Burton, John
Burton, Phillip
Butler
Carr
Carter
Chisholm
Clay
Cleveland
Coelho
Collins, Ill.
Conable
Conyers
Corman
Coughlin
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Evans, Del.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Ford, Tenn.
Forsythe
Frenzel
Frost
Garcia
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gray
Green
Guarini
Hall, Ohio
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McKinney
Maguire
Marks
Martin
Matsui
Mattox
Mica
Mikulski
Miller, Calif.
Mineta
Moffett
Mollohan
Moorhead, Pa.
Neal
Nolan
Ottinger
Panetta
Pease
Pepper
Peyser
Pickle
Preyer
Pritchard
Pursell
Railsback
Rangel
Ratchford
Reuss
Richmond
Ritter
Roberts
Rose
Roybal
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Slack
Smith, Iowa
Snowe
Solarz
Stack
Staggers
Stark
Stewart
Stockman
Stokes
Studds
Swift
Synar
Udall
Ullman
Van Deerlin
Vanik
Walgren
Waxman
Weaver
Weiss
Whitley
Whittaker
Whitten
Williams, Mont.
Wirth
Wolff
Wolpe
Yates

NOT VOTING—47

Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Ashley
Baldus
Bedell
Bonker
Brooks
Cheney
Crane, Philip
Daniel, Dan
Davis, Mich.
Dornan
Ertel
Fish
Flippo
Flood
Ford, Mich.
Fowler
Gramm
Huckaby
Jones, Okla.
McEwen
Mitchell, Md.
Murphy, Ill.
Myers, Ind.
Obey
Patterson
Price
Quayle
Quillen
Roe
Rosenthal
Roth
Russo
Schulze
Sebelius
Spellman
St Germain
Steed
Thompson
Treen
Wilson, C. H.
Wilson, Tex.
Winn
Young, Alaska

□ 1400

The Clerk announced the following pairs:

On this vote:

Mr. St Germain for, with Mr. Mitchell of Maryland against.

Mr. GUDGER changed his vote from "no" to "aye."

Mr. ALEXANDER changed his vote from "aye" to "no."

So the amendments offered as substitutes for the committee amendments were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

The CHAIRMAN. Are there further amendments to section 3? If not, the Clerk will read.

The Clerk read as follows:

REQUIRED SERVICES

SEC. 4. (a)(1) Section 1902(a)(13) is amended—

(A) by inserting at the end of subparagraph (a) the following new clause:

"(iii) in the case of any individual under the age of 18 (and where the State exercises the option under section 1092(a)(10)(A)(ii), to individuals under the age of 19, 20, or 21) for inclusion of the care and services listed in paragraphs (1) through (5) of section 1905(a) without limitation on the amount, duration, or scope of medical assistance, and";

(B) by amending subparagraph (B) to read as follows:

"(B) in the case of any individual described in clause (i) or (iii) of paragraph (10)(A), for the inclusion of at least the care and services listed in paragraphs (1) through (5) of section 1905(a), and";

(C) by striking out "clauses" in subparagraph (C)(i) and inserting in lieu thereof "paragraphs"; and

(D) by striking out "Clauses numbered" in paragraph (C)(ii)(I) and inserting in lieu thereof "paragraphs".

(2) Section 1902(a)(14)(A)(i) is amended by striking out "clauses" and inserting in lieu thereof "paragraphs".

(b) The clause (I) after subparagraph (C) of section 1902(a)(10) is amended by inserting "or services described in paragraph (13)(A)(iii)" after "section 1905(a)".

(c)(1) Section 1905(a)(4) is amended by adding a semicolon at the end of clause (A) and by amending clause (B) to read as follows: "(B) the following services for individuals under the age of 18 (and where the State exercises the option under section 1902(a)(10)(A)(ii), to individuals under the age of 19, 20, or 21): (i) child health assessment services and continuing care services provided in accordance with section 1913, (ii) immunizations, clinic services, diagnosis and treatment of vision and hearing problems, including hearing aids and eyeglasses (whether prescribed by a physician skilled in the diseases of the eye or by an optometrist), prescribed drugs and insulin, prosthetic devices, home health services, physical therapy, and rehabilitative services, (iii) ambulatory mental health services delivered in centers funded under the Community Mental Health Centers Act or meeting standards established by the Secretary in regulations, (iv) emergency crisis intervention inpatient mental health services provided in an accredited psychiatric institution or an institution for mental diseases, and (v) routine dental care (which shall include only diagnostic, preventive, restorative, and emergency dental services and only such orthodontics as the Secretary determines by regulation to be appropriate for different age groups for conditions causing major physical or physiological handicaps);".

(2) Section 1905(a)(4) is amended (A) by striking out "and" before "(C)", and (B) by inserting before the semicolon at the end of following: "; and (D) prenatal and postnatal services".

(d) Section 1903(i) is amended—

(1) by striking out the period at the end and inserting in lieu thereof "; or", and

(2) by adding at the end thereof the following new paragraph:

"(5) with respect to any amount expended for dental screening apart from the provision of other routine dental care (as defined in section 1905(a)(4)(B)(v))."

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk continued to read.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that this section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California.

There was no objection.

AMENDMENTS OFFERED BY MR. STOCKMAN

Mr. STOCKMAN. Mr. Chairman, I offer amendments, and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan.

Mr. WAXMAN. Mr. Chairman, reserving the right to object, I assume the gentleman from Michigan wishes to offer his amendments en bloc because they touch a number of different sections and we are proceeding section by section.

Mr. STOCKMAN. That is correct.

Mr. WAXMAN. Mr. Chairman, I think that is a reasonable request; however, I also think it reasonable that we consider the bill as read and open to amendment at any point, which would allow an orderly procedure to allow all amendments.

I point this out because I think the Members ought to understand that we are being prevented from pursuing the bill in a way which would allow the gentleman's amendment, which covers a number of sections, from being considered in a way that would allow us to see what the issue is and how best to deal with it.

Having pointed that out and indicating

that I feel quite disappointed that we are being forced to proceed in a way that will not allow us to consider policy in the best light, I will not object to the gentleman's request. I think the gentleman's amendment which covers a number of sections ought to be considered in its entirety so that the Members see its total impact, and then dispose of the policy issue under consideration.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I would be pleased to yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, I appreciate the gentleman's forbearance in this instance. I would agree that it would be more reasonable and more orderly to proceed to this bill on an open basis so that complete amendments could be offered.

I would remind the gentleman that I certainly have not objected, but there are others who feel differently on this matter.

Mr. WAXMAN. Mr. Chairman, in light of that discussion, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan (Mr. STOCKMAN)?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. STOCKMAN: Page 11, line 19, insert "(except as waived under section 1903(t)(4))" after "sistance".

Page 12, line 13, insert "except as waived under section 1903(t)(4)," after "(B)".

Page 14, line 8, insert "except as waived under section 1903(t)(4)," after "(2)".

Page 16, line 9, insert "unless provision of such care is waived under section 1903(t)(4)" before the comma.

Page 18, line 12, insert ", except as waived under section 1903(t)(4)," after "and".

Page 26, line 4, strike out "The" and insert in lieu thereof "Subject to subsection (t), the".

Page 30, line 7, strike out the quotation marks and the period that follows them.

Page 30, insert after line 7 the following new subsection:

"(t)(1) Notwithstanding any other provision of this title, the amount of funds which the Secretary is otherwise obligated to pay a State under this section with respect to CHAP expenditures (as defined in paragraph (5)(A)) in a fiscal year may not exceed the amount of the CHAP allotment specified in paragraph (2) for the State for the fiscal year.

"(2)(A) The Secretary, at least 120 days before the beginning of each fiscal year (beginning with fiscal year 1981), shall estimate—

"(i) the number of CHAP-eligible individuals (as defined in paragraph (5)(C)) in each State with a plan approved under this title, and

"(ii) the total amount of funds that will be appropriated for allotments for CHAP expenditures for the fiscal year.

"(B) Based on such estimates, the Secretary shall initially establish a CHAP allotment for each State for the fiscal year equal to the amount determined under subparagraph (A)(ii) multiplied by the ratio of the number determined under subparagraph (A)(i) for that State for the year to the sum of the numbers determined under such subparagraph for all the States for the year.

"(C) The Secretary shall from time to time provide for appropriate adjustments of such estimates and allotments for States to accurately reflect changes in the total amount of funds appropriated for CHAP allotments for the fiscal year.

"(D) If, for a fiscal year, the Secretary determines that—

"(i) one or more States will be (or have been) obligating for CHAP expenditures (other than CHAP excess match expenditures, as defined in paragraph (5)(B)) an amount less than the CHAP allotment for that State or States for that year, and

"(ii) one or more States have applied, and meet the requirements, for a waiver under paragraph (4) of certain CHAP requirements, the Secretary may provide for the reallotment of the amount of such excess allotments from the State or States described in clause (i) to particular State or States described in clause (ii) in proportion to the need of such particular State or States for additional allotments, as determined by the Secretary.

"(E) Each State shall report regularly to the Secretary on the portion of its CHAP allotment for any fiscal year which it has, or is expected to, obligate for CHAP expenditures (other than for CHAP excess match expenditures).

"(3) The amount authorized to be appropriated to provide for CHAP allotments to States is—

"(A) $600,000,000 for the fiscal year ending September 30, 1981,

"(B) $1,050,000,000 for the fiscal year ending September 30, 1982, and

"(C) $1,500,000,000 for the fiscal year ending September 30, 1983.

"(4)(A) A State may apply to the Secretary for a waiver, in whole or in part, of the requirements of this title which—

"(i) prohibit any limitation on the amount, duration, or scope of medical assistance, with respect to care and services listed in paragraphs (1) through (5) of section 1905(a), furnished to individuals under the age of 18 (and where the State exercises the option under section 1902(a)(10)(A)(ii), to individuals under the age of 19, 20, or 21) and to individuals described in section 1902(a)(10)(A)(iii), or

"(ii) require the provision of medical assistance for those services described in section 1905(a)(4)(B) for which such assistance was not required to be provided under the base State plan (as defined in paragraph (5)(D)).

"(B) The Secretary may grant such a waiver for a year (notwithstanding any other provision of this title), upon the application of a State, but only if—

"(i) the State can establish to the Secretary's satisfaction that the State would be required, but for such waiver, to make payments in such amounts under its State plan that the CHAP expenditures (other than CHAP excess match expenditures) for the year would exceed the full amount of its CHAP allotment (under paragraph (2)) for the year, and

"(ii) the amount, duration, and scope of medical assistance provided under the State plan for the year with such proposed waiver is not less than the amount, duration, and scope of medical assistance provided under its base State plan.

"(5) For purposes of this subsection:

"(A) The term 'CHAP expenditure' means, for a fiscal year for a State, an expenditure which is within one or more of the following types of expenditures:

"(i) The Federal share of medical assistance provided under the State plan in the fiscal year to CHAP-eligible individuals (as defined in subparagraph (C)) who do not meet the standards for eligibility for medical assistance under the base State plan (as defined in subparagraph (D)).

"(ii) The additional amount of Federal payment provided under subsection (a)(1) to the State because the Federal medical assistance percentage is higher, under paragraph (2) of section 1905(b), for certain child health assessments and ambulatory services described in such paragraph than is otherwise provided under paragraph (1) of such section for other care and services.

"(iii) One-third of the amount of those Federal payments to the State that would be provided under subsection (a)(7).

"(iv) The Federal share of medical assistance provided under the State plan in the fiscal year to CHAP-eligible individuals who meet the standards for eligibility for medical assistance under the base State plan, to the extent this assistance is for—

"(I) care and services for which medical assistance is not available for such individuals under the base State plan, or

"(II) care and services in an amount, duration, or scope in excess of the amount for which medical assistance would be provided for such individuals under the base State plan,

except for new care and services, or care and services of an extended amount, duration, or scope, to the extent these are made available to all individuals eligible for medical assistance under the State plan.

"(v) The amount of any additions to Federal payments to the State made in the year because of subsection (r)(1).

"(B) The term 'CHAP excess match expenditure' means the CHAP expenditure described in subparagraph (A)(ii) as it applies to care and services provided to individuals, to the extent that medical assistance was available for such care and services to such individuals under the base State plan.

"(C) The term 'CHAP-eligible individual' includes—

"(i) an individual living in a State who is under the age of 18 (or, where the State exercises the option under section 1902(a)(10)(A)(ii), under the age of 19, 20, or 21)—

"(I) if the resources of the individual (including the resources of the family of which the individual is a member) meet the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and

"(II) if the income of such individual (including the income of the family of which the individual is a member) does not exceed the higher of the income test for a family with dependent children to be eligible for medical assistance under the State plan or the national child health assurance program income standard established under section 1902(d); and

"(ii) a pregnant woman (living in a State) for a period of her pregnancy and 60 days following the date of the termination of her pregnancy if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest, and any child born as the result of such pregnancy during the 60 day period following birth—

"(I) if the resources of such woman (including the resources of the family of which she is a member) meet the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and

"(II) if the income of such woman (including the income of the family of which she is a member) does not exceed the higher of the income standard for such a woman to be eligible for any medical assistance under the State plan or the national maternal income standard established under section 1902(d).

"(D) The term 'base State plan' means, with respect to a State, the State's plan for medical assistance under this title as such plan is in effect under statutes enacted before the date of the enactment of the Child Health Assurance Act of 1979.".

Page 32, lines 13 and 16, strike out "(t)" and insert in lieu thereof "(u)".

Page 32, line 14, strike out "(s)" and insert in lieu thereof "(t)".

Mr. STOCKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STOCKMAN. Mr. Chairman, the first thing that I want to say about this amendment is that I am somewhat mystified and puzzled that in an amendment I am offering, which does not argue in any way with the basic objective or purpose of the bill, which does not alter in any degree whatsoever the substantive provisions and features of this bill regarding eligibility, regarding new services, regarding matching payments or any of the other programmatic features of the bill, an amendment that leaves totally intact the funding levels that were estimated by CBO that would be required to finance this program over the next 3 years.

Mr. Chairman, I will yield to the gentleman as soon as I am able to present the basic outlines of my amendment.

What I am suggesting is that I have an amendment that does not argue with the program or with the policy. Nevertheless, this amendment seems to have generated a great deal of controversy and a great deal of emotional denunciation; yet the fact remains that the sole change, the single effect, the important but limited purpose of this amendment, is to convert the financing mechanism, not change the program, but to convert the financing mechanism from an open-ended permanent entitlement to a fixed authorization, subject to the annual appropriations process.

Now, I think, quite frankly, that this is a modest change that is in order after a year in which we have seen the budget process practically break down and collapse because of our inability to deal with the mandated or uncontrollable spending in that budget process.

It seems to me that after a year that we have gone through in which we finally did enact the budget resolution for fiscal year 1980, that by nearly universal admission of every Member of this body had an outlay growth of 11 percent, which is far too high, had a deficit of $30 billion, which is far too large given the double digit inflation that we have raging in this country today, and under those circumstances and after hearing in the numerous debates that we had on this floor on various parts of the budget cycle and budget resolution over the last 6 months, after hearing the laments day after day by the chairman of the Budget Committee and responsible members from both sides of the aisle on the Budget Committee, that yes, we should do better, but we cannot because our hands are tied.

☐ 1410

Seventy-five percent of the budget is uncontrollable, and as a result we have more spending and bigger deficits than we can really stand or afford in this country today. The argument was continually made that if we were to try to cut any more out of this "barebones" budget, we are going to put the entire burden of reductions and cuts on those small islands of remaining funds and programs that do not have entitlement protection or backdoor protection or that were not obligated in previous years. So, therefore, to get even a modest cut in the overall aggregate in the budget, we would have to make very deep and possibly irresponsible cuts in those few areas that are left that we can control during the current year in the apprropriation process, and that includes defense, education, mental health, and elderly nutrition programs. It includes jobs and poverty programs and the whole array of items that are left in that 25 percent.

So it seems to me the bottom line we should have learned in the whole budget debate this year is that over the last decade or so we have created a perpetual motion machine; we have created a self-propelled, half-trillion-dollar spending machine that is simply out of control. And that has reduced fiscal policy to an annual exercise in futility and impotence and has reduced the role of the Budget Committee and the Committee on Appropriations and indeed of the Congress itself to that of a green, eye-shaded disbursement officer who totes up the bill, writes the check, and then trundles off to the chapel to mourn after the process is all over.

Mr. Chairman, I think we can do better than that. I think that every Member of this body recognizes that if we are to get some kind of discipline and some kind of control on the budget process and the fiscal policy of this country, then the place to start has to be this entitlement system and the array of programs we have created in that area.

I think all the Members know that 55 percent of the entire Federal budget today consists of entitlements that we cannot control in the current year, and that indeed two-thirds of the entire 75 percent of the budget that is uncontrollable is accounted for by 20 or 30 major entitlement programs that we have created.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 5 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, I think that most Members recognize that over the last decade it has been the entitlement sector of the budget that has been the driving force in this overall spending increase that we have been unable to contain.

Between 1970 and 1980, in the overall budget, the total increased by 170 percent, but that portion of it consisting of entitlements grew by 300 percent, meaning that the remainder, that part over which we still do have some control, grew by only 120 percent.

In fact, entitlements grew three times faster than those programs that we did subject to the annual appropriations process and to some measure of discipline and assessment by this Congress.

I think the Members also know that if we take that whole array of entitlement programs, that 55-percent portion of the budget that we are talking about, within that is found the medical entitlements that are the most troublesome area in terms of any kind of fiscal control. In 1970 we were spending $9.9 billion for medical entitlements medicare and medicaid, and by 1980, one decade later, we are spending $46.2 billion—a 366-percent increase during the course of this decade.

I think most of the Members, especially those who were here during the early seventies, will recall that last experience we had with a comparable entitlement program to the one that is being proposed in this CHAP program here today was title 4, the so-called social services program. I think the Members remember that in 1969 that was a very modest program. We were spending $300 million or so a year on it, by 1971, 2 years later, it was up to $900 million, and by 1973, 2 years later, it was up to $2 billion, and was heading for $5 billion. We had to step in finally and put a cap on it, and since we have transformed it into a grant program because the entitlement mechanism indeed had simply gotten out of control.

I think the reason that happened in the case of the social services program and some of the other entitlement programs is, very simply, that the driving force lifting the level of spending and the total cost to the Federal Government is not from any action or any decision that is taken here on the floor of the House, but it is from actions and decisions that are made everywhere else in the country. It was from decisions made by case workers when they consider eligibility and certification for services. There are decisions driving up the spending that are made by State agencies when they implement the programs. There are decisions made by HEW when they write the regulations specifying the services that have to be provided.

They are driven up by court decisions that change the eligibility for services and that improve social services in many cases.

There are many forces that drive up the spending in the entitlement program, but none of them originate here in the Congress where we have to pay the bill.

So, Mr. Chairman, I would suggest that, given that history and given the obvious problem we have, it would really be imprudent to take a new program that blends the worst of both a medical services entitlement and a social services entitlement and put the two together. That would mandate coverage for 20 million people and mandate coverage for services that range from A to Z, all the way from physical examinations to outpatient mental care, denying the right to put in any kind of copayment or any kind of State control on those services. It simply writes a permanent blank check to be filled in by HEW, by the States, by the courts, by the case workers, and by the doctors, who will really drive up the spending outlays in this program.

I think that would be a mistake, and the only effort I am making in this amendment here is to simply convert the spending mechanism from that kind of entitlement, which is an unworkable, irresponsible financing approach for this kind of program, into a fixed authorization. It would provide 100 percent of the funds estimated, and it would give the Committee on Appropriations at least some handle on the money.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I am happy to yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, I congratulate the gentleman from Michigan for his total new program.

However, when we come to new programs, when we represent a big State, as I do, a State like Michigan, when we come to appropriate the funds, we should have some very thoughtful and careful deliberations on setting up the new program, principally from the standpoint of delivery services and an administrative program, at the State level in respect to counties, in the administration of this bill.

What concerns me with this amendment is that we have not had that kind of time to have these things carefully thought out.

Even though I generally do support the Committee on Appropriations, even though I have previously supported the Michel amendment in a previous debate here some time ago, we should have time to consider this abrupt change that affects so many of us. I am not on the committee, but I would guess that about 5 percent of the bill is for such a new program that I think we should consider carefully what we would appropriate and should have legislative debate on today.

But to ask the House to make that kind of abrupt change without consultation with States and Governors and administrators of programs and in fact set up a new delivery program, whether we give the Secretary too much in discretionary programs or not, I have some serious concerns about that, since we have not had a good analysis of this bill.

Mr. Chairman, we have seen the language in the amendment, but we have not really carefully thought out the implications of this bill, regardless of the pluses and minuses on either side.

Mr. STOCKMAN. Mr. Chairman, I appreciate the gentleman's comments.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. STOCKMAN) has again expired.

(On request of Mr. PURSELL, and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, I appreciate the concern of the gentleman from Michigan (Mr. PURSELL), but let me remind him that this is a new program itself, and that what we are attempting to do is to graft on to a system of 50 State medicaid programs—and those are all different in terms of eligibility for services they provide and the degree of availability of various services—we are trying to graft on top of that in the program before us a uniform CHAP program that would apply to children of low-income households, and pregnant women. When we try to graft a uniform program onto a system, a State system of very different programs, we have all kinds of problems of integration.

□ 1420

I agree with that. But that is built into this bill.

The argument has been made that I create administrative complexities, I create some unknowns we should consider more carefully. I would suggest to the gentleman that none of those arise from my amendment; they arise from the interaction of the existing medicaid system and the program that is in the bill before you, and that any kinds of determinations that would have to be made administratively in order to implement my amendment will have to be made also simply to run the program that is pending before us.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman makes an important point, that we are, in fact, talking about a new program with new spending at this point. I think I am right that for every billion dollars we spend, we go to the American people and ask for about $11 more per taxpayer. So we are really going into the pockets of the American people for an additional $60 for this program.

If I interpret the gentleman's amendment correctly, what he is saying is that we ought to have some kind of controls as a Congress over the spending of those new tax dollars that we are going to take away from the American people. Is that correct?

Mr. STOCKMAN. The gentleman is precisely right. In my amendment we provide $3.2 billion over 3 years. So we are not being stingy. We are adequately financing the new services that are necessary, but we are not writing a blank check. It is as simple as that.

It seems to me that, in light of the budget difficulties we have, that is the only prudent method we have.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, this CHAP bill has certain goals in mind. It seeks to give incentives to States to reach out to poor children, some of whom are now eligible for medicaid and some of whom will be qualified under the CHAP legislation even though they would not otherwise be on medicaid, to screen the children to see what health problems they may have, and then to provide followup treatment and care for children who need that treatment and care.

It is not only a humanitarian thing to do; it is a cost effective thing to do, to treat children to avoid all of the problems that could come about if they are not treated at an early age.

If you want to talk about cost effectiveness, if we later have to treat an illness that becomes exacerbated because the child's problem was not handled at an early stage, we may well be talking about a long hospitalization, more expensive treatment, more expensive therapy.

So what we do is give incentives to the States by offering them a higher Federal contribution, because the medicaid program is run by the States with Federal money to share in the cost of that program.

What the Stockman amendment would do is to take an existing program, the medicaid program, which is already an entitlement program, and which will continue to be an entitlement program, and say that for those children who are eligible for medicaid because of the CHAP program, whose family income is less than two-thirds of poverty level, there would have a ceiling on the amount of Federal money to be spent for screening and treatment for those children. A State, rather than having an incentive to reach out and bring children in to be treated, would have an incentive to do just the opposite, because the State would not know how much money they are going to receive from the Federal Government to help them meet the cost until the Secretary of HEW made that determination after the fiscal year was completed.

The amendment before us today has been changed from the one of 2 days ago, and the amendment has been changed, I think, four or five times since it first surfaced in the Committee on Interstate and Foreign Commerce. The latest change would allow a tremendous amount of discretion with the Secretary of HEW to allocate moneys that would go to States to handle the program, allocating moneys from one State to another, if supposedly a State did not need all their funds—or did not need them as much as another State did—and the Secretary would decide that.

I believe every State that is doing its job under the medicaid program would need the funds to run that program.

If we put a limit on these funds, in effect what we are doing is not going to hurt the large States that have broad, current programs that offer the highest level of services—except that they may not get the incentives we are trying to give them—but States that need to come up to where the large States are at the present time would desperately need the extra funds and would be severely disadvantaged. If we say they have to draw from one pot, those States that need the most money, the rural States, the States that are not the populous States like California and New York, those States that need the most money would be competing with the larger States for the same pot of money and would have tremendous uncertainty whether they would ever get those funds to carry on their programs.

It would be as if we said to the medicare recipients in this country that we are going to cover them for 80 percent of their physician fees and hospitalization if we have enough money to do it, but if we do not have enough money, they are going to have to come up with an extra amount of money out of their own pocket. In effect, we are telling the States, "We are going to give you a match to give you an incentive to reach out to these children and treat them, but if we run out of money you are going to have to do it out of your own treasury."

This mandates the States do all that we would want them to do under CHAP, but after it mandates that they do that, we pull the rug out from under them and say, "We are not going to commit to you that you will have the money to do that at all."

Those who would cap entitlement programs for medical care should recognize that this could only be feasible if we are willing to say that the Federal Government has no responsibility to set standards on who should be covered and how adequately.

If we are worried about entitlements—and it is a legitimate fear because we have an open-ended commitment—then we ought to deal with the whole way entitlement programs are handled, but not take an existing entitlement program and piece off that part of it which is for children and to say that part is going to be covered by an appropriation and a limited amount of funds and the rest of the program will be an entitlement. It is piecemeal approach, it is not constructive to the goals of the CHAP proposal, and I think it defeats everything we are trying to do in this bill, which is to give incentives and finances to States to screen poor children and to treat them when they need that treatment.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 4 additional minutes.)

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, I just want to raise the point about the last statement the gentleman made, because the gentleman indicated we are going to put a cap on services for children but no one else under the existing entitlement structure. Is it not the case that right today there are 12 million children in this country who are covered by medicaid who are receiving $4 million worth of services a year already and that my amendment would not touch the existing medicaid program, those covered and the services that they are receiving today?

Mr. WAXMAN. Mr. Chairman, let me reclaim my time and explain what this program would do under the Stockman amendment.

A State would have to, first of all, decide if a child would have been eligible under medicaid and then he or she could be treated in a certain way and Federal dollars claimed for those services in a certain way. But we would have this dual program where if the child is added onto the program because he or she is qualified because of the higher income standard established as a percentage of poverty in this bill, those children—and the Federal dollars to pay for services to them would be treated in another way. There would have to be dual sets of books for the States to keep because they would not want to charge off a service to a child who would be currently eligible against the CHAP "pot" of funds which is subject to a ceiling, but for other children or other services, they would have to treat them in another way. The State would have to hire so many bureaucrats to keep that in order that probably the funds that would be in this CHAP pot would be used as much for that as for the incentives that we would have wanted to be resulting from the program.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I think the really interesting point to make to the gentleman from Michigan is that, yes, there are 11 million kids presently under medicaid and we are paying a lot of dollars to take care of those kids in hospitals now as the result of serious illnesses that develop which would not necessarily develop otherwise, and the kids would not necessarily then be in a hospital at an enormous cost to the taxpayers if we brought those children into this preventive health program at the outset. All of the data show that when we do that, we save dollars. That is the fundamental problem with the Stockman amendment, that he does not joint with us to reach more children to get those savings.

Mr. WAXMAN. I would think that, to give credit to the gentleman from Michigan (Mr. STOCKMAN), he would have the States obligated to do the things that it was the purpose of the act to have them do. But he wants to say that now we are going to put a limit on the Federal funds for this particular program, the CHAP program, to help the States pay for it. It would set up two medicaid child health programs in each State, one for the current eligibles and one for the new eligibles. States would have to set up a whole new bureaucracy to track this second class of children so they could cut off their services if they reached the limit.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, I think the gentleman is getting at the heart of the argument about this amendment, but the fact is that under the committee program, under the bill before us, you have to keep two sets of books, as well; because you have some families where there are going to be children eligible for CHAP, but their parents would not be eligible for the State medicaid program. There will be some instances where the mother will be eligible for the CHAP services but not for ordinary medical services. There are going to be some instances where part of the family would be eligible for the higher CHAP matching rate but other parts of the family would be eligible only for the normal medicaid matching rate.

Is it not the case that a dual set of books will have to be created even under the program as it exists before us at the present time?

Mr. WAXMAN. I would disagree, insofar as under your amendment we are talking about children who would qualify for the CHAP program because they are eligible under the State's current medicaid program on the one hand, and children who become eligible because of the provisions of this bill.

□ 1430

Mr. PREYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the Stockman amendment.

My opposition to the amendment is based on my fear that it would put us back right where we were before the CHAP bill was ever considered. I think it is interesting to note that the CHAP program has been viewed by the administration as its only domestic initiative in this time of general restraint and cutbacks. The reason why CHAP has been given such a high priority is because it is a program which is badly needed.

The previous alphabet soup method, in the form of EPSDT, has left millions of poor children and pregnant women without decent health care and with little opportunity to get it. CHAP's desirability is based on the simple fact that society and taxpayers will pay a much greater cost if these people are left unattended, and curative measures, as the gentleman from New Jersey (Mr. MAGUIRE), was just pointing out, if we had to resort to curative measures as a substitute for preventive measures.

Now, one of the real problems with the current approach for caring for poor children, and this is the point I want to emphasize in my statement, is that there is no uniformity in State coverage. Some States have used their medicaid moneys more successfully than others, but if nothing else is gained from this bill, it is absolutely vital that equity be established in each State, so that a poor child in one State is not at a disadvantage compared to a similar child in another State.

Now, this bill makes changes which would have significant implications for rural children, many of whom are presently excluded from medicaid participation because of the current eligibility requirements. Since eligibility for medicaid is tied to eligibilty for cash welfare programs, that is, the AFDC program, and the SSI, most two-parent, poor families do not qualify for medicaid.

Now, approximately 60 percent of poor families in rural areas are two-parent households, compared to 38 percent in urban areas. In most States, those are automatically excluded from coverage. All those States do have the option of covering all financially eligible children under the age of 21 whose families meet the State financial eligibility standard and other welfare requirements. There are only 16 States with such coverage.

The majority of the rural poor live in the South, where the State-set income cutoffs for welfare eligibility are particularly low. By establishing a national income floor, CHAP would significantly increase the number of eligible children and pregnant women in States with low-income eligibility levels.

The impact of the administration proposal is especially significant on Southern States and States which contain the largest numbers of the nonmetropolitan poor population.

For example, the 15 States with the largest number of nonmetropolitan poor account for 74 percent of all new recipient children and 62 percent of all new recipient pregnant women. The 13 Southern States, all with large numbers of nonmetropolitan poor, account for 64 percent of all recipient children and 60 percent of all recipient pregnant women.

Let me repeat, it is vital that there be uniformity in State coverage so that a poor child in one State is not disadvantaged compared to a similar child in another State; so that a child from a rural area has the same health care benefits which are available to children who live in more urban States.

The committee bill does equalize these services for all children, and the Stockman amendment would disadvantage rural States.

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Michigan.

Mr. BRODHEAD. I congratulate the gentleman on his statement. I think that he point out here very accurately that this amendment really is pennywise and pound-foolish. That is, we are attempting to try to save a few dollars here, but in the end it is the Federal Government and State governments that are going to have to pay the bill.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Preyer) has expired.

(At the request of Mr. Brodhead and by unanimous consent, Mr. Preyer was allowed to proceed for 2 additional minutes.)

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Michigan.

Mr. BRODHEAD. We are talking about an entitlement program for medicaid, which we are willing to pick up the whole cost, and it seems to me that there is sort of a thing that an entitlement program is a program of irresponsible spending. This is the most responsible kind of spending the Federal Government can do.

As the gentleman points out in his statement, we are reaching a population here that is not reached by other kinds of programs and to say that because a bill goes through the appropriations process that somehow the authorization and appropriations process, that somehow that is a responsible form of spending, we know full well there are many programs we just automatically come in and appropriate whatever is necessary. We do it very frequently. We have a supplemental resolution, a third budget resolution all the time. Yes, this problem of fiscal responsibility is one that must be addressed.

I think the gentleman points out very correctly and very accurately, if we are going to begin the process, it really does not make much sense to begin with a program that saves us money in the long run and also a program that reaches the poorest and most neglected part of our population, particularly in the Southern States and in the rural areas.

I thank the gentleman for yielding.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, I rise in opposition to the Stockman amendment which would cap expenditures for the child health assurance program.

While I have the greatest respect for the gentleman from Michigan (Mr. Stockman), I do not believe that capping expenditures for a program of preventative and comprehensive health care for children and pregnant women is either an appropriate or an effective way to economize.

It is clear that the existing early and periodic screening diagnosis and treatment program has not been reaching all of the children it was intended to serve. That is why, after 3 years of careful study and deliberation, H.R. 4962 was developed—to provide a workable, effective, comprehensive program of health assessments and followup services to the needy.

The purpose of the CHAP legislation before us is to insure that poor children, children from low-income families, and pregnant women receive necessary medical and preventive health services. Obviously, by focusing on prevention in our health care system, we will have the greatest potential for reducing the future costs of health problems, a cost that must be measured not only in dollars, but in lives.

If we impose arbitrary spending limitations on this program, we run the risk that needy children and pregnant women will not have access to or will not receive basic health care services. Capping these expenditures now will mean that in years to come we, as a nation, will be confronted with higher infant mortality rates, excessive and costly hospitalizations, increases in debilitating illnesses, increases in social problems, and reductions in productivity.

I urge a "no" vote on this amendment.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Michigan.

Mr. STOCKMAN. The gentleman eloquently described the gaps in the medicaid program. I agree they need to be filled. The gentleman indicated this is somehow biased against and would disadvantage the Southern rural States. I have to insist to the House the opposite is true, because the money appropriated under my approach would be distributed or allocated to the States on the basis of eligible population.

Given the fact that income levels are lower in the South, a much higher proportion of the States will be eligible, and the money will flow to where the eligible people are based on the national income standards.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Preyer) has expired.

(By unanimous consent, Mr. Preyer was allowed to proceed for 1 additional minute.)

Mr. PREYER. I appreciate the gentleman has made some recent changes in his amendment, and I know that with some of the new changes the Secretary does have more discretion to deal with the kind of situation I am talking about, but I think those changes put the Secretary in a position of making the decision of taking from one State and giving to another State. It insures court tests of his decisions and of delay.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Michigan.

Mr. STOCKMAN. It is not the Secretary who makes this decision. There is a formula in the amendment that says you take a total number of national eligibles, and each State gets a proportion of the funds based on their share of the national eligibles. That is in the statute. The Secretary does not decide that. That is going to advantage enormously the lower-income Southern States, and it will reduce the funding to New York and California. I think that is appropriately so.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Preyer) has again expired.

(At the request of Mr. Maguire and by unanimous consent, Mr. Preyer was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

I thank the gentleman from North Carolina (Mr. Preyer) for his excellent statement.

I would like to say to the gentleman from Michigan that the statement he keeps making that the money will be the same and will be equitably distributed is absolutely and totally false to the degree that appropriations fall short of authorizations. The fact of the matter is that there will be less per child for those States which have, as the gentleman from North Carolina has pointed out, significant increases in the number of children actually served under the program.

I might add that the gentleman's umpteenth revision of his amendment, which now calls for the Secretary to provide for the reallotment of amounts between States, as opposed to the earlier more blatantly inequitable versions of the gentleman's amendment, reminds me of the entitlements program in our national energy policy which the gentleman from Michigan has always opposed.

□ 1440

So, I think irony is added upon irony here. The gentleman's umpteenth version is just as bad as the earlier ones.

Mr. PREYER. If I might reclaim my last few moments, I would like to conclude on a less parochial note than the rest of my statement, and I want to emphasize that this is a good bill for all States, and happily it is a bill that not only is a practical bill, but is also a humane bill. Sometimes I think today we think if a bill has a humane aspect to it that somehow it must be impractical and otherworldly, and not an effective bill.

I think this is an outstanding bill. I join with that great gentleman, Dr. TIM LEE CARTER, who has done just a great job on the committee, in urging its passage.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word, and I rise to speak against the amendments.

Mr. Chairman, the really critical question that is before this body is whether or not we are going to take an existing program—not start a new program, not figure out some new-fangled way to deal with yet another problem—but take an existing program and tune it and make it work.

We are always telling ourselves and the country that that is what we ought to be doing around here. This is an opportunity to do it, after 3 solid years of work by the Health and the Environment Subcommittee. Three or more years of analysis has been done outside of Government as well as inside Government as to what changes need to be made to stimulate physicians to participate in the program, to stimulate States to reach out for kids and to track those kids through the process so that they do not fall by the wayside. Then we can achieve enormous cost savings that result from getting someone taken care of early in a preventive fashion rather than paying the enormous hospital bills that come later, after the health care of a person has been ignored at earlier stages.

Let me give my colleagues some data. The Community Health Foundation of Evanston, Ill., did a cost impact study in North Dakota on what kinds of results actually occur when you have a CHAP-like approach to health care of children. What they found is that screened persons participating in this kind of preventive health care program use 21 to 39 percent fewer inpatient hospital services. With respect to costs, total per capita expenditures were 36 to 44 percent lower for screened persons, persons under the CHAP-type program. Per capita expenditures for inpatient hospital services were 47 to 58 percent lower for screened persons. Per capita expenditures for pharamaceuticals were 18 to 21 percent lower for screened persons. Overall it amounts to a savings of 40 percent of the health dollar.

Some estimates that have been made are that when this program is operating effectively with the incentives and the fine tuning the committee has developed for the programs, that we will be saving as much as a billion dollars a year in State and Federal expenditures.

Mr. STOCKMAN talks about the medicaid dollars already being spent. Yes, we are spending $3.4 billion. We are spending it on 11 million children, but only 2 million of them are being screened, and we could cut those dollars back by as much as 40 percent if we reach out and get the additional children. What the Stockman amendment does, regardless of what the intention of its author may be, is to turn incentives upside down, to give the most incentive where the least is needed, and the least incentive where it is most needed. This is because in States where there are many new families, and children to be added into the program as the gentleman from North Carolina pointed out, they will be operating under a cap or under some all too arbitrary allotment power that the Secretary might have. They will be told, in effect, the more people you enroll in the program, the fewer dollars per child you are going to have. Moreover, we will not even be able to tell you whether next year there is even going to be a program, whether there will be any appropriations, whether the Congress will see fit to act.

I have example after example of how there have been delays in services for disabled children under SSI, under Child Welfare Services, under community mental health programs, in the appropriations process; so even assuming that all of the dollars would eventually be there, which is highly dubious, we are still going to be dealing with real life situations where kids who need help, and taxpayers who need relief, are going to be left short, because we do not act to take care of health problems early.

Let me give my colleagues an example I discussed the other day in my general debate statement. Let us take a bright, attractive, talkative 3-year-old child that has asthma. The family is first told, Oh, she will grow out of it, it is OK. Then she has a crisis. She goes into the hospital, waits around. Ultimately oxygen is not going to her brain. She ends up partially paralyzed and cannot now walk, and has been costing the taxpayers a lot of money for 2½ years.

She is now 5½ years old. Everyone agrees that if the child had been enrolled in a comprehensive care program, and the family had been worked with, and people familiar with her condition had been brought into the picture early, this never would have happened in the first place. It would not be costing this child nearly her life, her family this unnecessary disaster, and costing us the dollars it is now costing us.

The Stockman amendment simply must be defeated if we are going to be serious about either the health of our children in this country or saving the taxpayers money.

I am reminded with this amendment of a statement by Edmund Burke:

> The age of chivalry is gone. That of sophisters, economists, and calculators, has succeeded.

Let us not let that prove true in this House today. Let us not be sophists; let us be truly caring about the lives and health of our children and let us be sensible about saving billions of tax dollars by keeping people out of hospitals by using cost-effective preventive care strategies.

Ms. MIKULSKI. Mr. Chairman, I move to strike the last word, and I rise to speak against the Stockman amendment for several reasons.

One, I feel that the Stockman amendment would not assure that States are provided the incentives to correct the deficiencies of the early preventive and detection program, otherwise known as EPSDT. One of the whole reasons behind the CHAP program was to correct the deficiencies of what the Congress had passed in terms of prevention and screening programs.

What happened under the earlier detection act was, No. 1, lots of kids were not enrolled because there was no "good guy bonuses" to bring States into it. In other words, there were no financial incentives to do the kind of outreach effort to enroll the eligible children and thus achieve some of the benefits discussed by the gentleman from New Jersey.

Our CHAP bill would provide those incentives. The Stockman amendment would work against that.

Second, it would not assure that adequate Federal funding to support the needed health care services for children, especially in the area of preventive care, would be achieved. Such new services, as hearing, vision services and others would be eliminated.

As someone who worked as a social worker in Baltimore for a number of years, I can only tell my colleagues that very often early detection and proper treatment of physical illness can result in enormous, not only savings in terms of heartbreak, but to the taxpayer.

I was somewhat of an expert in juvenile delinquency, and one of the things that we learned was that so many of the kids who ended up in our training schools as preadolescents were undetected dyslexics when they were in second and third grade. Because they could not read, they started to hook school, which then led to truancy and a variety of other problems.

But I also want to make a point about the State incentives. Under the Stockman amendment what we, in effect, would do, is place the States in a type of uncertainty because they would never know how much money they were going to get under this program. So, therefore, this would have tremendous negative impact, on the types of programmatic services that they would provide; and, in their efforts to enroll eligible children.

Let me elaborate, a detailed analysis of the Stockman amendment by the Children's Defense Fund shows:

WHY OPPOSE THE STOCKMAN AMENDMENT TO H.R. 4962

1. ALTHOUGH BILLED AS STRICTLY A BUDGET-REDUCING AMENDMENT, THE STOCKMAN AMENDMENT WOULD MAKE MAJOR POLICY CHANGES WHICH WILL RENDER CHAP INEFFECTIVE

While H.R. 4962 includes provisions which actually put an effective program in place, under the Stockman amendment CHAP would simply pay doctors' bills. The Stockman proposal would do nothing to deal with programmatic shortcomings in EPSDT. It would not address the problem of getting providers (including clinics, doctors, and dentists) to participate in the program. Nor would it give states necessary incentives to reach out to eligible children and make sure they receive the program's services. It ignores altogether the lessons learned from EPSDT which show conclusively that more than financing is needed to reach low income children with necessary care.

While H.R. 4962 builds in minimum specifications regarding who is eligible and what services are covered, the Stockman amendment would strip CHAP of most of these standards. As such it would allow a two-class system by which near poor children and children in intact families will receive more limited benefits than AFDC children. And, children of different ages in the same family will also be eligible for different services.

2. ALTHOUGH PUT FORTH IN THE NAME OF FISCAL RESPONSIBILITY, THE STOCKMAN AMENDMENT LACKS THE BARE ESSENTIALS TO GUARANTEE FINANCIAL ACCOUNTABILITY IN CHAP

The minimum required services go little further than the requirements in EPSDT, yet states will receive considerably more funding through CHAP.

The bill contains no standards for assuring that new funds are spent judiciously to extend new services to needy children.

The proposal lacks any means to assure that funds are spent consistent with a state's CHAP plan. Nor does it provide any recourse when, because of inadequate programs, children are unable to receive the services to which CHAP entitles them.

3. THE STOCKMAN AMENDMENT WILL MAKE ONLY INSUBSTANTIAL REDUCTIONS IN THE BUDGET, WHILE DISTRIBUTING THE NEW FUNDS IN UNACCOUNTABLE WAYS AND DENYING CHILDREN THE VERY SERVICES H.R. 4962 IS CAREFULLY DESIGNED TO PROVIDE

The Stockman amendment assumes that 90 percent of the new funding required to implement H.R. 4962 will be appropriated each year. These funds will be distributed through a new program with minimal program standards and virtually no mechanism to insure fiscal accountability.

Because it lacks provisions which assure CHAP funds are spent effectively, new federal funds through the Stockman amendment might simply replace state funds now being spent and do little or nothing to extend new services to needy children.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not believe anyone can differ with my colleagues who have spoken earlier about the value of attention to the health of our children.

What I would like to stress to the Members today is that we as a Congress, in my judgment, must return to an annual review of governmental spending. It is not that this program will not have the same appeal, the same need as it has at present. However, we must remember that a former Secretary of HEW said that there is about $7 billion a year wasted in that Department. I would guess that is probably on the low side when you look at the facts, but that does not necessarily apply in this type of program.

(By unanimous consent Mr. WHITTEN was allowed to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, my purpose here is to call the Members' attention to some facts that exist. I do not know anything we could do that would be more disastrous to children and to adults than to have our economy fail. Nothing would be worse for us than to have our economy break down. If you study history, you will find that has happened before. It has happened not only in foreign countries, but in this country.

CURRENT ECONOMIC SITUATION

Upon becoming the chairman of the Appropriations Committee of the U.S. House of Representatives, I had a study made to review the economic condition of our country. This is what I found. The dollar has depreciated 50 percent since 1967. We have continued to buy more from abroad than we have sold. We have taken the gold from behind our currency and the silver out of our coinage. There is virtually nothing behind our money today except a promise to pay. Our public debt has reached nearly $800 billion and from present commitments is estimated to increase to $900 billion by 1980.

Due to the higher cost of money, interest on the public debt will increase by $5.9 billion in 1980 to a total of nearly $60 billion. Only 57 percent of the Federal budget—budget authority—is handled by the Appropriations Committee through the annual budget process, and 24 percent of this is virtually uncontrollable. Under present laws, Congress has effective control over only 38 percent of the budget authority proposed for 1980. About 58 percent of the funds in the budget are indexed by basic law to guarantee increases to meet inflation, regardless of appropriation ceilings. Adding funds to offset inflation merely brings on additional inflation. It is like trying to put out a fire with gasoline.

We see that the prime rate has gone above 15 percent. The last sale of Government securities brought about 13-percent interest, the highest in the history of our country.

We see the Government making loans to U.S. corporations because they are in trouble. The Government is trying to shore up business through guaranteeing loans.

Guaranteed loans are kind of like a fellow saying, "Oh, sign my note, it will not cost you anything." We are doing that right and left.

Now, we have Chrysler, which is a serious problem for the whole country, not only for the employees, but for the industry. Before that, we had Lockheed. I could go on and on and mention many, many others. I could mention loans made by the Farmers Home Administration, or the Small Business Administration. When money gets to where it is bringing 15-percent interest we are already risking our economy.

Some Members say, "It cannot happen to us." I say, it is happening to us. Already we are reading the paper where the oil-producing countries are saying, "We will not take dollars for our oil."

INFLATION IN GERMANY

I see us today in a situation which approaches that of Germany after World War I. All of us have heard tales of the rampant inflation that destroyed the working class and led to eventual takeover by Hitler. Yet, few people are actually aware of how that inflation progressed.

In July 1914 the mark was valued at 4.2 to the American dollar. In July 1921 it was valued at 76.7 to the dollar. In January 1922 the value had dropped to 191.8 to the dollar. Inflation was steady but gradual for eight years until July 1921 when it exploded into a classic currency inflation that led to the collapse of the entire German financial system in 1923. On November 15, 1923, the mark was valued at 4,200,000,000,000.0 to the dollar.

All the marks that existed in the world in the summer of 1922—190 billion—were not worth enough by November 1923 to buy a newspaper. Legal interest rates reached 22 percent per day.

I tell you that the change in the value of the American dollar for the first half of this period has kept up with what happened to the German mark, and we are reaching the point now where there is no dollar, and no gold and no silver behind it.

We are sponsoring these programs and they will be paid. Somebody said, "Do you think the American people would ever repudiate that debt?"

I said, "No, not as long as you pay it with paper. They will just print paper."

What they finally had to do in Germany was set aside the old money and set up a new money and start all over again.

NEED FOR ANNUAL REVIEW

So, what I am saying is that I agree with every word that has been said about the value of this program. I am saying, please keep the right to review it every year, because we soon will be to the point where the dollar is valueless and there will not be anything left other than the Government. If the Government breaks down we can have all the hospitals in the world, but if they are not operating it is no good. If we cannot get the gasoline to get to the hospitals, it is no good. If we are going to deal with these problems, we are going to have to stop entitlements now. I am saying that whether you want to or not, you are going to have to deal with entitlements.

I repeat, I strongly support the child health assurance program, but I have consistently opposed entitlements. Let me read from my floor remarks of last May 3 on the budget resolution:

> If the Congress is ever going to exercise adequate control over the spending side of the budget, we are going to have to come to grips with what we call entitlements.
>
> Entitlement authority is defined in the Congressional Budget Act as spending authority—
>
> "* * * to make payments, including loans and grants, the budget authority for which is not provided for in advance by appropriation acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law."
>
> Involving primarily payments for individuals, entitlement programs have escalated in the past decade to the point where this year they constitute over 75 percent of the uncontrollable outlays and 55 percent of the total gross budget outlays. The growth in

entitlement programs is evidenced when compared with 10 years ago when they constituted 64 percent of the uncontrollable outlays and only 40 percent of the total budget.

Mr. Chairman, this trend should be alarming to Members of this House, and others concerned with problems of budget control.

INDEXED PRICE INCREASES

Mr. Chairman, another extremely serious problem which must be reviewed in connection with controllability involves escalator or price-increase provisions. In recent years, the enactment of legislative provisions providing for benefits under entitlement programs to increase automatically has had an enormous adverse impact on the ability to control the budget.

With the exception of Federal pay, all such adjustments become effective automatically without the requirement of any current action by Congress. All major entitlement programs involving payments for individuals are now affected by price indexes. About 58 percent of the budget authority this year involve programs which are adjusted automatically by price indexes.

The impact of these adjustments in any one fiscal year differs by program because of variances in effective dates and escalation percentages. However, if it is assumed, for example, that a 7-percent adjustment was in effect for all the subject programs uniformally over a 12-month period, the increased cost would be in excess of $20 billion. In other words, through these escalator clauses, additional inflation is added to match inflation—or double inflation—and one can see that is worse than no cure.

It should be obvious to nearly everyone concerned that we cannot ever hope to beat inflation simply by keeping up with it, by increasing expenditures. You do not beat inflation by simply adding to it.

We must have annual review of all spending if we are ever going to bring spending under control.

RECONSTRUCTION FINANCE CORPORATION

I recently introduced a bill (H.R. 5920) to restore the Reconstruction Finance Corporation. Conditions are now exactly like they were preceding what happened to us before in the 1930's. Let us not speed the matter up.

So, if we really want to help our children and middle-aged and old people and future generations, let us turn back this refusal to let the Congress review spending programs every year. I do not know of any committee that tries harder to meet our country's needs than our HEW subcommittee under the present chairman and under the preceding chairman, but please protect all of us by allowing an annual review. It is essential if we are going to save the country.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I have tremendous respect for the chairman of this subcommittee, for my distinguished colleague from North Carolina who is on this committee, for the gentleman from Kentucky and others who are interested in our children. I do not believe any other person is any more concerned about the welfare of our children from wherever they come, or whatever their situation in life, than I am. But, I want to ask the gentleman, is an entitlement program not a signed blank check?

Mr. WHITTEN. Well, I do not know.

Mr. FOUNTAIN. Because they just fill it in with whatever the needs are not according to an authorization bill and an appropriations bill, but as an automatic demand for funds.

Mr. WHITTEN. It is an unreviewable commitment. We cannot tell what the amount will be. There is no review of the amounts.

That is my complaint. I too support the program.

Mr. FOUNTAIN. The point I am trying to make is, we sign the check and later it is filled in for whatever amount is needed. It can go up and up and up. In other words, it is not subject to normal appropriation controls. In other words, when the Congress acts, its decision amounts to both authorization and appropriation, at the same time.

Mr. WHITTEN. That is right, but the point is that we are paying it by further inflation, where we are running $70 billion behind every year. By putting these new programs in as entitlements we are paying for them by inflation and adding to the process of collapse of the economy.

Mr. FOUNTAIN. Would the gentleman also agree that it is about time for us, in this time of recession and its impact on the economy, with other attacks on this country and in view of the needs and general welfare of all our people, to take a look at the approximately $900 billion national debt, and the approximately $40 billion interest we are paying on that debt, and the fact that all the expansion put in this program is going to have to be borrowed and paid for at an interest rate of from 10 to 13 percent? In otherwords, we are expanding this program with money we must borrow.

Mr. WHITTEN. The point is, we are reaching the point where the other fellow will not take our money. If we do not stop entitlements by operating in an even worse situation than the gentleman describes.

Mr. FOUNTAIN. Would the gentleman argue that to continue this kind and manner of spending and expanding Federal programs amounts to fiscal irresponsibility?

Mr. WHITTEN. We could have a crackup in the economy. It has happened in other countries, and we are headed down that road.

Mr. FOUNTAIN. I thank the gentleman for yielding and for his responses to my questions.

□ 1500

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

As chairman of the Budget Committee, I rise to offer a budgetary perspective on H.R. 4962, the Child Health Assurance Act of 1979.

I strongly urge you to support this bill as it was reported by the Committee on Interstate and Foreign Commerce. You should reject the amendment proposed by Mr. STOCKMAN of Michigan. This amendment would undermine the basic purpose of the Child Health Assurance Program (CHAP); impose financial hardship on State governments; and result in considerable administrative problems, unnecessary expenses and additional employees at the Federal and State levels.

The second budget resolution, which we recently passed, assumes enactment of this legislation and contains sufficient funds to support it.

The second budget resolution provides a total of $54.450 billion in outlays for health programs under function 550, which include medicaid. The bill now before us will use $131 million of this amount to expand services to low-income children and pregnant women.

However, program costs will increase in the outyears as additional eligible children are served. By 1984, program costs will total almost $2 billion, a figure which was assumed in the budget totals that have been projected for fiscal year 1984 as part of the second budget resolution. This cost may seem high. However, we must weigh the direct program costs against the long term savings to be derived from providing additional primary care services which this bill requires.

As reported by the Interstate and Foreign Commerce Committee, CHAP is designed to emphasize preventive health care, including immunizations and early prenatal care. Such services are far less costly than the episodic and curative care which we now are supporting in the absence of a program such as CHAP. CHAP also will assure that health problems are treated once they are diagnosed. These areas of emphasis in CHAP are intended to correct failures of the medicaid early periodic screening, diagnosis, and treatment program, which currently is the vehicle for providing health services to low-income children.

In developing the 1980 budget, we were, as you well know, very concerned about holding down the deficit. At the same time, however, we in the House thought it essential to maintain and improve some domestic programs designed to provide assistance to youth and the poor. CHAP is such a program.

Mr. Chairman, I strongly urge the members of the committee to support this bill as it was reported by the Committee on Interstate and Foreign Commerce, and we should reject the amendment proposed by the gentleman from Michigan (Mr. STOCKMAN). This amendment, as the Members have been told, would undermine the basic purpose of the child health insurance program, impose financial hardship on State governments, and result in considerable administrative problems, unnecessary expenses, and additional employees at the Federal and State levels. Other speakers have explained these problems to you in a better manner and in greater detail than I can.

I would like to address myself here to the basic issue which is involved here as to whether or not this program should be capped with appropriations or should continue in the normal entitling fashion as the rest of the medicaid program does. You know that when we in the Congress adopted the second budget resolution just recently, we assumed enactment of this program. This is a very worthwhile program, and it is one of the keystone programs of the Federal Government's new initiatives in the area of health, health for young people, for children and young people.

I will not take a back seat to anyone in this Chamber in efforts to curtail Federal spending. You have heard me stand in this well time and time again and argue that we have got to get better control over the taxpayers' dollars, which we are spending with increasing frequency in the Congress, and which, in my opinion, on occasions we fritter away in foolish and wasteful fashions.

You know that I have been trying my best to get control over Federal spending. You may also know that I have just introduced a bill, the Federal Spending and Tax Control Act, which will be a very strong effort by the Congress to get better control over Federal spending.

I ask you all to look at that bill, which was filed and which is in yesterday's Record, and to join with us in cosponsoring it. That bill will limit spending by the Federal Government to a percentage of the gross national product. It will also limit tax expenditure, which is another big area of Federal spending, to a percentage of the gross national product.

It will make provisions whereby within several years we will bring loan guarantees, the credit functions of the Federal Government, and direct loans under control. That is the way in which we can get better control over Federal spending and make greater certainty that our money, the taxpayers money, is spent wisely.

That leaves another big area that we have got to address ourselves to, the area of Federal spending which is not the subject of my legislation because I think it is an area that has to be addressed separately. That is the whole question of entitlement.

The gentleman from Mississippi (Mr. Whitten), the chairman of the Committee on Appropriations, on which I also have the privilege to serve, knows that I also am terribly concerned about the growth of entitlement programs and the need and the necessity to get better control over entitlements. We can do it, and we will do it. We must do it, but not in this fashion—not in this fashion. Let us not start with one of the highest priority issues of the Federal Government: health. I cannot think of any priority in the domestic area higher than health.

You have heard me argue against programs that I thought did not have a higher priority and, therefore, should belong at the State level, and you may remember at the time that I said I would much prefer to see a high Federal national priority given to the area of health. I mean that, and it is a very real national priority and a Federal responsibility.

Here we come along now with a new program, a Federal program. What is it designed to do? It is designed to help young children and to prevent illnesses; to help those people on medicaid who cannot afford to take care of themselves, or who are not fortunate enough to have parents such as ourselves who can take care of our children.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Giaimo was allowed to proceed for 5 additional minutes.)

Mr. GIAIMO. We are making an exciting new start by expanding a program, bringing in more children and trying to screen and prevent illness. I do not think there is a finer thing that a national government can do than that. We are saying, fine, but let us start by crimping them moneywise, by seeing to it that they cannot properly function and do the job. I say that is a mistake. If you want to look at all the entitlements of this Nation, let us do it; but, for heaven's sake, we are talking about medicaid. We are talking about a program that involves $13 billion of Federal money, let alone another $10 billion of State money. We are bettering that program by bringing on this new CHAP program. And you are going to say here that we are going to hamstring it? We are going to make it very difficult, extremely difficult, for the proper application of this program, and we are going to make it questionable whether or not we can reach all of the young children that we want to bring in on this program? I say this is not the wise place to start our reform movement. Let us attack the problems that we have with entitlements. We are not going to abolish entitlements; we are going to try to reform them. We are going to try to make them work better.

I will say to my dear friend and chairman, the gentleman from Mississippi (Mr. Whitten), we can get an annual oversight over them—whether or not they are subject to appropriations or not. If we did more oversight in this Congress rather than more spending, we could get a better picture of how programs are working, how effectively they are working. I think this program holds out promise for better health for young children in America and, for heaven's sake, it is the last place where I want to initiate a reform movement of subjecting it to something other than the general entitlement program which applies to the rest of medicaid. So I say let us not adopt this amendment today. Let us look at the totality of the medicaid program at the proper time, see how that works, see whether that should be changed. There are entitlements that should be eliminated in this country. I am not so sure that the social security one should be eliminated as an entitlement, or that medicaid should be, but let us look at them all and study them in an oversight fashion. But let us not curtail and crimp this new, exciting program which holds out promise for the health of more young people who are presently not getting that help.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield first to the gentleman from California (Mr. Panetta), and then I will yield to the gentleman from Michigan (Mr. Stockman).

Mr. PANETTA. I thank the gentleman for yielding. As a member of the committee, we have targeted in the area of entitlements because this is 75 percent of the budget that we feel we do not have a handle on. But how do we do that? We do not do that necessarily by just eliminating entitlements. We are not going to eliminate entitlements. We are not going to eliminate medicaid. We are not going to eliminate medicare. We are not going to eliminate social security, or veterans' programs, or unemployment compensation. We recognize that. That is a political reality.

The target is how do we reform those programs? How do we reform them so they are better administered, so they will hit the people where they should be hit? That is the target. We did not get rid of the disability program; we reformed it. And we did not get rid of hospital care; we tried to control the costs in that program. It did not happen. We are not trying to eliminate those programs, but we are trying to target reforms. That is where the effort ought to be. It seems to me that is where the gentleman's efforts ought to be with regard to this program if he feels it is wasting money. Let us not turn this program into an annual authorization. Look at the food stamp program. We developed a cap, and when we ran into the cap on the Food Stamp program, everybody increased it because they were afraid of cutting off food for people. The same thing will happen here. We are going to automatically increase the cap because we do not want to cut off health care for children. That is the reality.

If the gentleman is really concerned, the area to target is in reforms.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Michigan.

Mr. STOCKMAN. I appreciate the gentleman's yielding. I have heard the words a number of times "cut, crimp, gut, eliminate, scale back," but the fact keeps getting lost that the $3 billion that I authorized in my amendment is taken from the numbers estimated by the CBO. We are fully funding the program. How can one conclude that that is somehow the effort that is being made here?

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Giaimo) has expired.

(By unanimous consent, Mr. Giaimo was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. If the gentleman will yield further, I am merely suggesting to the gentleman that we start a new effort. We expand services that are there today. It is estimated that will cost $3 billion. We are permitting that to be authorized and appropriated, but at least it gives some midpoint check 3 years down the road to see where we go from there. How is that gutting a program?

☐ 1510

Mr. GIAIMO. You will have the opportunity to have oversight on the program. The gentleman has indicated he is using CBO estimates and he wants to make sure there are sufficient amounts of money there to fund the program.

We mentioned earlier today the administrative difficulties that would be involved in having a huge medicaid program which is not subject to appropriations and then having a new portion of it which would be. There would be great administrative upheaval, conflict and difficulty.

The fact is that what you are really trying to do—I agree with you and I will join with you—you are trying to find ways to save money. We can do that. There are many ways. We can look at the whole question of entitlements in general. We can look at the whole medicaid program. We can look at many of these things.

All I am saying is, let us do it in an orderly fashion. Let us not select this small, new program that has such a high, high priority as a national purpose, and small only in relationship to other programs. It certainly is large and will grow larger. It is not going to accomplish that type of saving because as the gentleman from California indicates, as happened with food stamps, the moment you hit that ceiling they will be falling over themselves to come down here and get an emergency appropriation to raise the cap. So what is the purpose of it?

Mr. Chairman, the purpose of it in my opinion, is and, what I am afraid of is, if you go this route, you are going to hamstring the administrators of this program and make it difficult for them to administer the program but more importantly make it difficult for them to reach the total number of children who are out there who need the help.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. It addresses the real issue in this debate today. That issue is not the child health assurance plan—practically all of us on this floor support the plan.

The issue is the entitlements. This bill is an entitlement and it should not be.

Uncontrollable spending presently constitutes 76 percent of all Federal outlays, and three-fourths of them are entitlements. Just 10 years ago this latter figure was only 64 percent. As a percentage of total budget outlays, entitlements have gone up from 40 percent 10 years ago to 55 percent today. You know that the more entitlement programs we have, the less discretion we have over Federal spending. You may as well admit that we are doing nothing more than teasing and tickling the American taxpayers with our talk of balanced budgets, tax cuts and reduced spending, when we refuse to face the entitlement issue. You know the budget process is a sham if we do not back it up.

This body has acknowledged as much. The House took unprecedented action last August and prevented the child welfare program from joining the entitlement rolls.

The Budget Committee and its chairman have acknowledged this, by embracing a full review of entitlements by the various standing committees which have jurisdiction over them.

Let us not reverse this pioneering progress we have made thus far.

The additional entitlement under the CHAP bill flies in the face of both the Budget Committee effort and the concern expressed by the House on August 2. It will increase uncontrollable expenditures by nearly $2 billion annually by 1984, according to CBO estimates. With no cap on the program, and in view of the history of sharp increases in medicaid expenditures, it is quite likely that the increases will be even higher than that.

This amendment will simply change the new CHAP program from an entitlement program to one subject to annual appropriations. This will enable us to determine the annual funding levels for the program, rather than having them in effect imposed on us through the entitlement process.

One of the arguments against this amendment is that CHAP is not really a new entitlement program, but simply expansion of an existing entitlement, and therefore, we should continue with the same entitlement funding method.

However, CHAP is, indeed, a new program, which simply relies on medicaid as the authorizing framework. It establishes different eligibility standards than the regular medicaid program. It requires different services. It establishes different Federal matching criteria, and it is limited to just two groups of people. It is, in other words, different in almost every respect from the existing medicaid program, and will have to be administered independently of that program.

Consequently, since the program structure is not the same, it is not essential that the funding mechanism be the same.

Since a separate administrative mechanism will have to be established anyway, it will not take much more to incorporate into it the annual appropriations method of funding.

With this being a new program, it is particularly important that we review it each year to make sure that it is operating as we intended and that it is being administered properly. If the program administrators are aware that such a review will be undertaken annually, with funding dependent on the outcome, it is amazing how much more diligent they can become.

It is no accident that most of the waste, fraud, and abuse at HEW has taken place in the entitlement programs. When the money is automatically funneled out, there is simply no effective oversight, and the administrators know it. If you do not make this program subject to annual appropriations, you are going to open the door to the same amounts of waste, fraud, and abuse that we have had in the AFDC, medicaid, and SSI programs.

The Stockman amendment will enable us to maintain some semblance of control over this program and thus hopefully avoid the 10 to 15 percent yearly losses that have been taking place under medicaid. We will be able to base funding on the record of accomplishment. If the program is not doing what it ought to be doing, then we should not be throwing large sums of Federal dollars into it until it is straightened out. If it proves successful, then we can act to increase funds accordingly.

I should emphasize that the amendment does not change the basic structure of the program as developed by the committee. In that respect, it may not go as far as this Member would prefer, because I would like to see some structural changes. The amendment, however, is concerned solely with the funding process, which means that those of you who support the program as developed by the committee need not fear that support for this amendment will in any way undermine that program.

It should also be kept in mind that the authorization levels provided by the amendment are equal to the amounts which CBO estimates it would take to fund the program as an entitlement, so the amendment does not provide any cutback in the funding levels or scope of the program.

This amendment is practically identical to the motion I offered on August 2 to the child welfare bill. This amendment, like that motion, simply changes the program from an entitlement program to one subject to annual appropriations. Two hundred and four of you voted for that motion, in an effort to stem the rising tide of uncontrollable expenditures.

A similar stand is necessary here, and even more so, because while that child welfare program involved $266 million, this CHAP program involves nearly 10 times the amount.

It is essential to act when new or expanded entitlement programs are initially proposed, because once enacted it becomes very difficult to shift back. This is the day of reckoning, in other words, and it does no good to refuse to act here and then later on wring our hands in agony over the rise in uncontrollables.

This amendment is a must if we are to regain any decent semblance of control over Federal expenditures, and I strongly urge its adoption.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. MICHEL was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding.

Mr. Chairman, I am really surprised, as I am sure the gentleman is, that our good colleague from Connecticut (Mr. GIAIMO), the chairman of the Committee on the Budget, who has talked many times about the runaway entitlement programs, in this Chamber and in the Committee on the Budget, would object to a cap on this new program, basically a new program—some elements have been tried in medicare—that the gentleman would object to a ceiling that is basically beyond what was originally contemplated and is what the Congressional Budget Office has said would be a reasonable ceiling, $3 billion.

Now, the gentleman mentioned a moment ago that that did not sound like very much, or something like that, and I am sure he did not mean to infer that it was that, but he kind of downplayed it like it was not much. That is a lot of money, as I am sure the gentleman knows as he adds up all of the billions in those budgets.

Mr. Chairman, we have heard the gentleman talk many times here about the necessity of beginning to control the entitlement programs.

Mr. Chairman, this is a control that, frankly, is beyond in its ceiling where many people thought it should be even in the committee. That was indicated in the committee report. So it is not a stingy ceiling, is it?

Mr. MICHEL. Absolutely not. The gentleman from Michigan (Mr. STOCKMAN), the author of the amendment, has pointed out frequently that he is not really tinkering at all with that funding.

Mr. ROUSSELOT. Is it not a real problem for the Committee on Appropriations to always have to be the bad guys, to begin to look at these entitlement programs, because too many times the authorizing committees tend to be very liberal in their approach to spending the taxpayers' money and it then comes to the Committee on Appropriations.

□ 1520

Mr. MICHEL. Well, it is very frustrating for this gentleman to be listening hopefully that there will be some good testimony before our committee and knowing before we even get started that there is absolutely nothing you can do about it, because you are going to be faced with the fact that it is an entitlement and we will be required to fund it in full.

Mr. ROUSSELOT. And is it not true that the people who say the place to attack that is in the authorizing legislation?

Mr. MICHEL. Yes.

Mr. ROUSSELOT. Put the ceilings there, they say.

Mr. MICHEL. Yes.

Mr. ROUSSELOT. Well, I agree with the gentleman that this is the place to do it.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to my friend, the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I will go along with the gentleman in his efforts to eliminate waste and abuse in the programs. I have helped the gentleman in his efforts to do that.

Waste appears in our entitlement programs. It also appears in our discretionary programs. The gentleman and I could look into the Defense Department and find an awful lot of waste and that is a discretionary area of spending; but all that I am saying is that we are talking about a mammoth job here of looking at the entitlements of this country. I insist that we are going to have to do it and look at them.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

(At the request of Mr. GIAIMO, and by unanimous consent, Mr. MICHEL was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. Yes.

Mr. GIAIMO. Mr. Chairman, all I am saying is that when you are talking about entitlements, remember, you are talking abou social security benefits. You are talking about veterans benefits. You are talking about many of the HEW programs. You are talking about crop insurance. You are talking about revenue sharing. You are talking about food stamps, all these multi-, multi-multi-billion-dollar programs. Let us look at them and we can save money. Here we come to a program for young children and that is the only place where you want to cut.

Mr. MICHEL. Mr. Chairman, let me tell the gentleman, that is exactly my point. We have gotten so overburdened with them, that once given an opportunity now to call a halt, at least temporarily so we can take a look, why do we go ahead and plunge more into that abyss that we have already agreed needs to be corrected.

Mr. GIAIMO. Let us join together and look at the entitlement programs.

Mr. MICHEL. That is the second step. Why should we expand or create new entitlements before we review them?

Mr. GIAIMO. In the meantime, do not hamstring a new program that is presently before us and that is the purpose of the cap, make no mistake about it. That is the purpose of a cap.

You can run this program well; you can have oversight of this program and make sure it runs well. You do not have to have the hammer of an annual appropriation.

Mr. MICHEL. Well, I do not want the record to indicate that this gentleman is opposed to the real purpose of the measure. As has been pointed out so many times by the gentleman from Michigan (Mr. STOCKMAN) and by other Members, we are all in favor of the CHAP proposal but we want to make absolutely certain, however, that the levels of spending do not go on unchecked, and that the Congress have the opportunity to review this program to guarantee that we are getting our money's worth.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I think what the gentleman from Connecticut is saying in a nutshell is that we will sober up tomorrow, but meanwhile pass the bottle.

Mr. MICHEL. Well, that is the gentleman's own interpretation of what he said. I would not put words in the gentleman's mouth, except to say that we have an opportunity here now to build one little additional step on that which we took on August 2 and do not add to the already excessive amount of uncontrollables in our budget.

I think the right approach is to support the amendment of the gentleman from Michigan.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat amused to hear the different causes of inflation in this country, when most of us know that the $60 billion to $90 billion we will spend this year and next on oil imported from the OPEC nations is the basic cause of inflation in this country today.

Not only that, the interest rate we have at the present time, 15½ percent, by the largest banks in our country adds to the fire of inflation.

No one mentioned the Trident submarine, which is under construction today. It will cost more than $1 billion and most of my friends voted for that bill. They say they are against spending. This is only one of seven Trident submarines that will be constructed, each at a cost of more than $1 billion, perhaps $2 billion. Such spending will make this CHAP program look really small.

Now, my friends I would like to put this amendment in proper perspective. Although 45 percent of the medicaid population is children, only 16.6 percent of medicaid expenditures are for children.

Further, when you consider medicaid and medicare expenditures together, our two major health entitlement programs, Federal spending for children is only about 5 percent.

The Stockman amendment would put a cap on part of medicaid expenditures for children, namely the CHAP program. Thus, the amendment of the gentleman from Michigan (Mr. STOCKMAN) would control less than 2 percent of the Federal medicaid and medicare spending.

> The mountain labored and brought forth a mouse.

Now, my friends, I strongly oppose this amendment offered by the gentleman from Michigan to impose a spending cap on health services for poor children. As an original sponsor of this legislation, I can assure you that this amendment represents a major retreat from the goals of the programs we have developed.

I oppose the amendment for several reasons. First, the amendment fails to guarantee preventive and basic health care to all eligible low-income people. By subjecting the CHAP program to the uncertainty of the authorization and appropriation process, there would be no guarantee that sufficient funds would be available to pay for needed medical care for poor children. You can authorize anything in the world, but when it comes to the appropriation process, it is entirely different. Under the amendment a child might receive a health examination which uncovers a serious, but correctable medical condition, only to learn that there are not enough funds to pay for the needed treatment. In other words, "There is no room at the Inn" for that particular child.

Because there would be a cap imposed on Federal CHAP expenditures, the States would have every incentive to cut corners and not seek out needy children, to minimize rather than maximize services, because of the uncertainty of receiving sufficient payment from the Federal Government. All the positive incentives that we included in this legislation to insure that poor children would receive needed health services are reversed under this amendment.

In addition, this amendment discriminates, as I said, against poor children.

While the rest of medicaid would remain an entitlement program for adults and certain groups of children, this amendment would put a spending cap on health expenditures for CHAP services for other poor children. These are the very children who are in the greatest need of health services and who have the most to gain from preventive measures. To incorporate such an inequitable provision in this program would be irresponsible and inhumane.

Also, this amendment will be ineffective in controlling Federal health expenditures, because it would put a spending cap on less than 2 percent of Federal health entitlement spending under medicare and medicaid; 2 percent, my friends.

You say you are doing things, that you are controlling budget expenditures. But you are referring only to 2 percent of Federal medicare and medicaid dollars. And yet you support funding to build the Trident and the MX missile which will cost billions of dollars, much more than this legislation which is before us today.

Now, my friends, the gentleman from Michigan is really a fine gentleman and I reluctantly oppose him.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. CARTER) has expired.

(By unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. CARTER. Mr. Chairman, the gentleman is a graduate of that great eastern seaboard school of Harvard, a graduate in divinity, and I guess in many other areas, perhaps, and really a nice man; but I think the gentleman is deluded in this.

Authorizations can be anything; but when it comes down to appropriations, only then will we know how much funding or how little would be available for this CHAP program.

As far as I am concerned, I want to see the poor children of our country receive the eyeglasses and the hearingaids which they need. I want to see them get the prostheses which they need. I want to see that their buck teeth are repaired. This legislation will take care of that. It will take care of the harelip and the cleft palate as well, my friends.

I regret to say that the gentleman's amendment would not insure that all needed services would be provided, since it is an authorization and not an appropriation.

In addition this amendment creates tremendous administrative complexity at the State and Federal levels.

Under this amendment—States will have to set up complicated management systems to separate spending under medicaid for currently eligible children from spending under CHAP for newly eligible children and pregnant women. This will create tremendous administrative difficulties for State officials and for providers in the program.

Also under this amendment a State is required to provide all the required services under CHAP even though it may not have sufficient funds unless it can get a waiver from HEW. Yet it is up to the Secretary's discretion whether or not to grant the waiver. Thus more uncertainty for the States.

And in addition to the complicated management systems that would be needed at the State level this amendment would necessitate a new bureaucracy at the Federal level for HEW to administer the waiver and the reallocation of funds. Under this amendment the Secretary is likely to receive many requests from States requesting additional funds and the Secretary will have to determine from which States to reclaim Federal dollars.

Under this amendment—HEW will be put in the midst of a fiscal battle between the States. In addition to the costs of the bureaucracy that will be required to manage this amendment—we can expect to pay the costs of countless lawsuits and legal battles between HEW and the States. Is this really worth putting a cap on less than 2 percent of Federal medicaid and medicare dollars?

Finally, this amendment represents false economy:

By putting a cap on preventive health services for children we will be foregoing an important opportunity to save the taxpayers of this Nation a great deal of money through early diagnosis and prompt treatment of many correctable health conditions. Many studies have confirmed that preventive measures help reduce health spending in the longrun in addition to their value in improving health status. Moreover, this amendment represents a false economy because it will merely shift costs to the entitlement part of the program, for example when a child whose disability could have been prevented finds that as an adult he must be institutionalized at a significantly greater cost to the program.

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The CHAIRMAN. The time of the gentleman from Kentucky (Mr. CARTER) has expired.

(On request of Mr. MAGUIRE, and by unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I just want to underline what the gentleman from Kentucky (Mr. CARTER) just said. The gentleman from Michigan (Mr. STOCKMAN) has constantly been saying in this debate that under his proposal this program would be fully funded. Nothing could be further from the truth.

The gentleman from Kentucky is absolutely right when he says we are only talking about authorizations. We can point to program after program which would keep children out of institutions and provide for their receiving benefits, and I refer only to title B of social security, for example, an appropriation of $56 million against an authorization of $266 million.

So kids would not be served under the gentleman's amendment, and he should stop making statements which are erroneous. I applaud the gentleman from Kentucky (Mr. CARTER) for his statement.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Kentucky (Mr. CARTER) in support of the legislation and in opposition to the Stockman amendment.

I think the gentleman has well explained this piece of legislation which does address an important component of our Nation's health care system. It is fundamentally good legislation, and I think it will result in good cost savings down the line.

The legislation currently being considered by the House addresses another important component of health care in the United States. This country has always viewed quality health care as an important aspect of each of our lives. I believe we now have the opportunity to further improve the quality of care in this Nation by adopting H.R. 4962. And we take an important step in the field of preventative medicine and, needless to say, molding, of a program aimed at ultimately reducing medical care costs.

The child health assurance program (CHAP) contains essential provisions to improve access and eligibility into a health care system for low-income children and pregnant women. This program would replace medicaid's early and periodic screening, diagnosis, and treatment (EPSDT) program by expanding benefits as well as continuing the entitlement program. In addition, the bill would create a uniform package of preventive medical and ambulatory benefits for all eligible children and, more importantly, it would commit the Federal Government to providing higher reimbursement to States which increase their enrollment of eligible individuals. For example, estimates show that New Jersey would save over $2 million in medicaid costs while receiving an additional $16.4 million in Federal funds. This is true of almost every Northeastern and Midwestern State.

The Stockman amendment if I read it correctly, as it has been revised several times, would result in subjecting the program to annual appropriations with a spending ceiling. It removes incentives in the bill for States and providers of care to continuously find and get into the program needy children and pregnant women. In fact, a cap on expenditures is a disincentive to expand services and coverage. Although a cap may have small impact in the beginning, in later years—as a State's performance level gets higher and higher—the State's coverage of needy children will exceed the amount of Federal funds provided.

Mr. STOCKMAN also contends that his amendment would control costs. However, the amendment would affect less than 2 percent of Federal medicare-medicaid dollars and those most vulnerable would have to bear the expense—needy children and poor pregnant women. With reduced access to Federal dollars, States with limited medicaid programs would incur the greatest burden of new costs. The amendment would also result in additional managerial and administrative complexities for States claiming obtainable Federal funds. Finally, assistance would be allocated on the basis of imprecise estimates of those eligible under CHAP. The Stockman amendment would result in leaving the system of care for needy children and low-income pregnant women in almost the same state it is now in—confusing, inadequate, and unfair.

In short, the committee bill builds upon existing services and resources to significantly improve the delivery and access of health care to needy children and pregnant women. The link between proper primary and preventative care and child health is well-established. A vote for this bill would assure that needy children and mothers receive the basic health care services to which all should be entitled but currently not afford. It is a fair approach, one putting emphasis on two important areas, quality, evenly distributed preventive health care and ultimate cost savings for that care. For the sake of future generations, I urge my colleagues to reject the Stockman amendment and support H.R. 4962 as reported by the Commerce Committee.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. CARTER) has again expired.

(By unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. CARTER. Mr. Chairman, I just want to take this time to applaud the young gentleman from New Jersey, CAP HOLLENBECK, who just responded to me.

In the South we had a saying: "Elect them young and keep them there." This gentleman is one who has the ability, and I say, "Keep him here."

Mr. Chairman, I strongly oppose the Stockman amendment, and I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there seems to be a considerable misunderstanding about entitlements and how much control we have over our entitlement programs.

This House controls entitlements; the Committee on Appropriations does not. So when members of the Committee on Appropriations say, "We have no control over entitlements," the "we" refers to the jurisdiction of the Appropriations Committee. The full House controls the scope and cost of such programs, and as Members of the House all committee members participate in that control.

Let us look at something that the Federal Government does pretty well, a program that is fairly popular on both sides of the aisle. We have a Marine Corps, and we decide each year through authorizations and appropriations how much money we will spend, how many marines we will hire. We also do something else. We make an agreement with each marine that, if he does certain things, he will become entitled to a pension. That agreement is not between us and the Marine Corps, but between us and the individual marine. When he retires, he is entitled to that pension. That is, when he fulfills his part of the agreement we must fulfill our part.

We cannot legislate how long he will live. He may live a long time, and he is entitled to that pension for as long as he lives.

Is there anything wrong with that? We decided, when we voted on the amount of pensions for marines, how much we wanted to spend for that particular purpose. We could have decided to spend a lower amount by voting for lower pensions or by making it more difficult to qualify for a pension. That is how we control entitlements, by limiting the amount of the entitlement and eligible persons. And the House makes those decisions.

Unfortunately, some entitlement programs are not as popular as Marine pensions, namely those that assist the Nation's poor by assuring them some minimum amount of food, clothing, and shelter. Our concern always seems to be that we are helping the poor too much.

Let us take a woman with children in Mississippi. In Mississippi, to be entitled to assistance she has to be taking care of her children without the assistance of a father. In California, on the other hand, the father can be at home and the family can still get some aid. In Mississippi, if she has three kids, we give her $120 a month to live on. Is that too much? We provide Mississippi with Federal matching funds to assist that family through an entitlement program called aid to families with dependent children.

Mr. Chairman, there is an entirely different kind of entitlement, a closed end entitlement. This is not the AFDC kind of entitlement. It is open-ended and entitles individuals or families to certain benefits. There are closed-end entitlements that generally provide grants to States.

Let me tell the Members one reason why the Committee on Ways and Means presented a new closed-end entitlement to the House several weeks ago. It was because the Committee on Appropriations has not yet adopted procedures which make it possible for it to legislate in a timely manner.

When we have matching fund programs, States have to know well in advance the amount of Federal funds that will be available to them. For example, the social services programs, that have been devised to keep people off of welfare, have to be acted on early so the States know how much money they are going to have each fiscal year from the Federal Government to set up and run their programs. It is difficult for the States to run these programs because of the delay in Federal appropriations legislation. For example, in fiscal 1978 an HEW appropriations bill was never signed, in fiscal 1979 it was signed on October 18, 1978—18 days after the fiscal year started. We still don't have a fiscal 1980 appropriations for HEW.

We are looking at the moment at whether or not we want to provide some health care for poor children. What are the necessary and controlling decisions? How poor should the child be? How much health care should he or she have? These decisions will control the scope and amount of the entitlement. They will determine how much we are going to spend. But if we approach it as proposed in the amendment we say, "We are making a commitment to those children, but only for a certain number of dollars." Then, each year, at some time during the year, the Committee on Appropriations will decide how much money will be divided up among poor children.

Mr. Chairman, I prefer the committee's approach. It says that if a child is poor, we will provide him or her this much health care. That is a commitment to the child that he and his parents can be assured of.

Mr. Chairman, I urge defeat of the Stockman amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, rather than debating the health care of children in this country, which is the subject of this legislation, we are off into a debate of entitlements versus annual appropriations, and we have been absorbed by statements from various Members who said we cannot control 75 percent of our budget and we cannot control entitlements.

That simply is not so. Just as this House may do almost anything it wants by unanimous consent, it can also control entitlements.

Somebody said earlier in this debate that entitlements are a blank check, and in this case that is so. This entitlement is a blank check, a check that will be filled in based upon the condition of children in this country.

How many of them have crippling diseases? How many of them have dental problems? How many of them have the flu? How many of them need operations?

Then we will total it up, and we will write in the sum that is necessary.

A lot of concern has been raised about fraud and abuse. We want to know what the mother gets when she drives across town to sit in a doctor's office with her child who is sick. When the child comes in to the doctor's office an extra time to get an extra shot in the rear end, I do not know what the child got out of it.

I do not think any of that exists. I think the doctors have taken more money out of the back door than the patients ever took out of the front door in these entitlement programs.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I will yield later.

Mr. Chairman, my concern is this: The rights and the services that these children are eligible for with the passage of this legislation are apparently agreed upon by the minority side of the Committee and the majority side of the Committee. The Republicans and the Democrats basically agree that children who are in the classification of medicaid-eligible children should be entitled to the list of services provided in this bill.

If that is so and that is what we want to do, all right, but it costs money to deliver those services. If the program becomes too expensive, if the program does not work, we can scale it back, we can tighten it up.

There was a great furor in this Congress about the food stamp program. It is an entitlement program because it says, "If you are hungry, we are going to see to it that you get fed even if you don't have the money to pay for it."

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So we did not like a lot of students being on it. They cut the students off. They did not like other groups of people on the program; they cut those off. That is what the authorizing committee's job is to do, and in that case, it was the Committee on Agriculture. If this program is too expensive or you think we are giving too many services to these poor children, this Committee will scale it back. If we find out that it is very successful, we may even want to expand it. So the entitlement is not, in fact, locked in. The entitlement is in the bill that is due to this Government as a result of the services claimed by people who are in need of those services, whether it is surgery or whether it is health care. That is what the entitlement really is. In this case, this Committee has made a determination that some people in this country, namely, poor children, are entitled to decent, first-class health care.

And even if the gentleman from Michigan (Mr. Stockman) is correct and the CBO is correct, then that is what the entitlement will be for that year. If they are incorrect, it will be more or it will be less, based upon services delivered.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, the gentleman has put his finger right on the problem with entitlements and health care. The gentleman gave the theory that we are entitling children to have diseases and conditions and medical needs met. But in the real world we are entitling physicians and providers to send bills to the Federal Government, whether they provide the right service or not, whether they provide it too frequently or not. That is the problem with the entitlement.

Mr. MILLER of California. That is fraud, that is a criminal violation, and that is subject to prosecution. But do not deny the service to the child who is ill because the doctor is unethical.

Mr. STOCKMAN. I am not denying services to the child who is ill.

Mr. MILLER of California. That is exactly my point, that we so often fight the battles and the issues on the backs of those who, in fact, need the services.

This Congress is going to have the guts to redesign programs, to trim their sails where necessary, to expand the sails where necessary, because when you look at the entitlement programs you are talking about fundamental rights to people. Health care is an entitlement under this program. Food stamps are an entitlement under this program. SSI is an entitlement under this program.

The CHAIRMAN. The time of the gentleman from California (Mr. Miller) has expired.

(By unanimous consent, Mr. Miller of California was allowed to proceed for 1 additional minute.)

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I want to congratulate the gentleman from California (Mr. Miller) on his splendid comments, even as I want to commend the gentleman from California (Mr. Corman), the gentleman from Connecticut (Mr. Giaimo), and in particular our colleague, the gentleman on the minority side, the gentleman from Kentucky (Mr. Carter), for these splendid statements that I have heard them make in opposition to the amendment offered by the gentleman from Michigan and in support of the Child Health Assurance Act of 1979.

I just want to say, for the benefit of the gentleman from Kentucky, Dr. Carter, that there are some graduates of Harvard in the place who support the bill and who oppose the amendment offered by the gentleman from Michigan.

Mr. Chairman, I rise in strong support of the Child Health Assurance Act of 1979 and in opposition to attempts to reduce its coverage or somehow qualify our commitment to the children of America in need of health care.

There is an old proverb, Mr. Chairman, that declares that "Children are poor men's riches." The children, I submit, are our Nation's most precious resource, the real wealth of this Nation.

So, the goals for our children must be high and our commitment in Congress must be no less.

No infant in America should die Mr. Chairman, because of a lack of prenatal or postnatal care or other medical services.

Yet, Mr. Chairman, recent figures indicate 14 of every 1,000 infants born in America die. The rate for nonwhites—many of them the poorest of our citizens is an appalling 21 deaths of 1,000 births.

No child in America should die or be malformed or disabled for life because he or she failed to be immunized against diseases. Our medical profession has advanced in many areas and is equipped to eliminate or sharply reduce the incidents of many diseases.

Yet, Mr. Chairman, in 1977, 40 percent of children between the ages of one and four were not properly immunized against rubella, diphtheria, measles and polio. Nearly 60 percent of nonwhite children were not protected against polio, alone.

No child in America should be denied proper medical treatment because of the economic condition of his or her family or of the failure of Congress to address the problem.

Yet the children's defense fund reports that in the 1 year in which this legislation has been pending, 2 million children who could have been helped have gone without care for vision and hearing impairments; 3 million have gone without immunizations; and another 2 million without needed treatment for anemia.

Mr. Chairman, the provisions of H.R. 4962—the Child Health Assurance Act of 1979—would meet the needs I have outlined and many more.

H.R. 4962 would allow an additional 5 million of our Nation's children to become eligible for health care and services under medicaid, and it would extend medicaid prenatal and postnatal care to an estimated 220,000 women and their infants.

Mr. Chairman, I strongly oppose proposals to limit the coverage of this legislation solely to very young children in need. I, for one, am not prepared to say that it is more compelling to help a child at age 5 than it is at age 8, particularly when so many techniques are available to correct health deficiencies throughout the formative years of our young.

Second, Mr. Chairman, I strongly oppose efforts to limit our commitment to the program by requiring establishment of funding for the program on an annual basis. Children's health expenditures would constitute less than 1 percent of so-called entitlement Federal health expenditures, a small price to pay for the future health of our children.

In the long run, Mr. Chairman, a solid commitment of our resources to assure the health of our needy children will result in countless savings in terms of human suffering, and in terms of services now required by needy adults whose medical problems were neglected when they were children.

Mr. Chairman, I strongly support H.R. 4962 and urge its adoption by the House.

Mr. MILLER of California. I thank the gentleman for his comments.

Mr. Chairman, I would just like to conclude by saying this: The gentleman from North Carolina (Mr. Preyer) made a statement earlier. He said this is a humane bill. He is so correct.

Mr. Chairman, I sit on the Committee on Education and Labor, and so very often we are asked to authorize the additional expenditures of money to make up for problems, health problems, that occurred 17 years ago in that child's life, to make up for the problems of that mother delivering a low-birth-weight baby. We are asked to authorize money for the handicapped that could have been corrected for $20 a month in additional food stamps.

All the time they come to our committee for handicapped children, for poor children, for children who cannot read. So many of these problems come back to the subject of this bill. When the gentleman said this is a humane bill, the Members know that we will later have a bill on domestic violence, and you see the web, you see the quilt that is here, because you see mothers who cannot take care of the health needs of their families because they cannot afford the attention. But what if the mother, by right, can take the child and have the health needs attended to? Maybe the mother and the child's relationship changes and it becomes a loving relationship rather than one of stress and strain in that family. But if it does not work, they will be back to our committee asking for additional millions of dollars to take corrective action because we failed in dealing with the early health care of young children. They will want remedial teachers; they will want title XX money; they will want teaching assistance and teaching aid; they will want all kinds of special materials because of this child needing glasses, but we did not find out about it until the fifth grade, or because we did not find out that another child needed a hearing aid.

So, Mr. Chairman, this is an entitlement program. It is an entitlement whose sum will be written by, hopefully, a lesser amount each year as the health of our young children in this country gets better and better. I ardently urge the Members to oppose the Stockman amendment.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that all debate on these amendments and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous consent request was agreed to will be recognized for 1¼ minutes.

The Chair recognizes the gentleman from Hawaii (Mr. Heftel).

Mr. HEFTEL. Mr. Chairman, I would like to address a question to both the chairman of the committee and to the author of the amendment, the gentleman from Michigan (Mr. Stockman), to hear their views about the usual and customary fee schedule that is used in terms of deciding what we are going to pay for the medical services that are utilized by these youngsters and all of those under the medicaid and medicare proposals, whether it has been abused and whether they think that we have a problem that we should be addressing.

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield, the fee schedule is set by the State. The medicaid program is run by the State. The fee cannot exceed the fee set under medicare, which is the usual and customary fee. However, a State could adopt a lesser fee or some other fee schedule if it so determined.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Mr. Chairman, it is not merely a matter of the fee amount. It is a matter of the frequency of utilization, the number of treatments, the number of services provided. That is the problem under this bill, because it is an open-ended authority to run up the number of services whether it is providing effective health care or not. That is why I think we need some kind of cap to encourage the States to run these programs in an efficient way so that only needed services will be given and not all of the extras.

(By unanimous consent, Mr. Carney yielded his time to Mr. Stockman.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Stockman).

Mr. STOCKMAN. Mr. Chairman, I have listened very carefully. I have to say that we have heard a number of very eloquent and excellent arguments all afternoon in behalf of the committee bill, in behalf of the CHAP approach, in behalf of the notion of preventive health care, especially for children, and I do not take exception with any of that, except the problem with this debate is that nobody has made specific arguments against my amendment.

All the arguments have been in behalf of the main purpose of the bill.

I would stress again that I am supporting this bill and that I am providing $3 billion over the next 3 years to provide for preventive services so that we do not have to run up larger bills in future years, in order to provide the services that will fill the gaps that the gentleman from North Carolina pointed out in the existing medicaid program where there are poor children who are not covered, in order to provide the services that the gentleman from California talked about in terms of the eyeglasses and in terms of all of the other treatment that could come early in life and make a more productive life for that child in the future and save the taxpayers' money as well.

I am not arguing with that. This is an argument over the funding mechanism, and it is a question of whether or not, on something as elastic and indefinite as health services, we can afford to create an entitlement for a longer list of services and then simply leave the Congress in the position of paying the bills when they are run up. I do not think so.

I think we should give the States a fixed allotment of money, a generous allotment, and then let them find those eligible children and women out there in their States, provide the services on a cost-effective basis, and I think that we will make some progress in dealing with the health care problems of this country and at the same time we will put some kind of a limit, some kind of an upper cap on the liability that we might face under this program.

We have had more examples that need to be recounted here of open-ended entitlement programs that have exploded in terms of their cost, and then we had to come back in at a later time and slap on a cap and send the whole program into disarray. That is what we did with title IV, and I would suggest to the committee today that that is the danger we are running here if you do not follow this approach of an appropriation and of a limit, and of allocating the money to the States so they can use it in a cost-effective way to carry out a cost-effective program.

(By unanimous consent, Mr. Maguire and Mr. Waxman yielded their time to Mr. Fisher.)

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. Fisher).

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Mr. FISHER. Mr. Chairman, I rise in opposition to the Stockman amendment and in favor of this bill. I want to speak briefly on it.

The medicaid has been an entitlement program right along, and the existing health screening program has been an entitlement right along, and it does seem to me that this CHAP program that would replace the existing activities should also be an entitlement program and not be separated out.

If this is not done, then persons, children in low-income families, pregnant women and so forth, could not rely on receiving the help they need and will believe they have been promised.

It disturbs me, for example, that a pregnant teenager who may be thinking of obtaining an abortion may go ahead and have that abortion because she is not sure that she will have the help and support that CHAP aims to provide.

I believe the best way to reduce the number of abortions in this country, specifically among frightened teenagers and low-income women, is to make certain that they can rely on this kind of help that would be provided in this new CHAP program. This will lead some of them—I hope many of them—to decide to have their babies and not to have an abortion.

Now, if a Member thinks the amount of money that would be spent under the proposed program as an entitlement program is too much, then he or she will want to vote against this bill; but if the Member wants a child health assurance program that will provide its benefits for all who qualify, he or she will want to vote against the amendment and for the bill.

Budget discipline of course is important and it should be sought in ways other than through this amendment, for example, within the confines of this program, by reducing the number of children covered or by restricting the services or something like that and not by taking it out of the entitlement category along with where it is with the rest of medicaid and dealing with it in a different way, or if you like, budget restraint could be sought through the budget process, through appropriate votes or perhaps even through some kind of limitation on spending to a percentage of national product or national income.

I do believe quite strongly that we should not rip this particular program out of its entitlement context with the rest of medicaid and try to deal with it in this other way. It would be as much as to say to children, their parents, pregnant women, perhaps thinking of having an abortion, "No; you cannot count on this program. You may get it if Congress gets around to appropriating enough to cover you." Otherwise, the entitlement, they will have to conclude, is a possible empty promise, and we will have defeated one of the most important purposes that this bill aims to serve.

I urge most strongly a vote aginst the amendment and for the bill.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Dannemeyer).

Mr. DANNEMEYER. Mr. Chairman, in listening to the debate on this amendment, it causes me to conclude that if one believes philosophically in the Federal Government nationalizing health services in this country, one should be against the Stockman amendment, because that is just where we are going if we reject it.

One of the undeniable maxims of economics is that services will expand to fill the funds available to be expended. If we do not have the good judgment to put a maximum on the funds to be expended, it is predictable they will expand to a dimension not now contemplated. At that point the hue and cry will come up, "We must do something about these excessive costs," and the answer will then come from the folks in the chamber, "Why, if we take it over, we can control it and bring some sense of responsibility to these people charging for these services, and then we will finally get them. That is, we will get medical care at the cost we all can afford."

If we do that, we will have as much respect for that system as we do for the passenger railroads and the post office, both of which are operated by this Government. If we want to preserve private medicine and good services for people, we should support this amendment, and that includes my good friend from San Francisco, the gentleman from California (Mr. JOHN L. BURTON).

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Chairman, I rise to strike the last word.

In respect for my colleague from Michigan, I have to say very honestly, I oppose his amendment. I think those of us who have had legislative background experience would feel very strongly that State government ought to run these programs, that we ought to let the programs and delivery services be at home.

In my case in Michigan, they have not had an opportunity to look at the impact of this particular major new program. So, without congressional hearings, without a deliberate approach, I think it is very unfair to give the Secretary in Washington enormous powers to change and transfer formula money from one State to the other through the waiver process even though we have not seen a good analysis of this amendment, which has not been published up to this date simply because there have been several revisions.

I think, because we are tampering and touching only one small part of this program, that we ought to be very careful that we do not set up a double administrative track in the various States throughout the Nation.

The CHAIRMAN. All time has expired.

The question is on the amendments offered by the gentleman from Michigan (Mr. STOCKMAN).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STOCKMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 226, not voting 55, as follows:

[Roll No. 710]

AYES—152

Abdnor
Anthony
Archer
Badham
Bafalis
Bauman
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Carney
Chappell
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Dickinson
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ind.
Findley
Forsythe
Fountain
Frenzel
Gibbons
Gingrich
Goldwater
Goodling
Gradison
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammer-schmidt
Hance
Harsha
Hillis
Holt
Hopkins
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Johnson, Colo.
Jones, N.C.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Nichols
O'Brien
Pashayan
Paul
Regula
Rhodes
Ritter
Robinson
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Snowe
Solomon
Spence
Stangeland
Stanton
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Trible
Walker
Wampler
Watkins
White
Whitehurst
Wilson, Bob
Wyatt
Wydler
Wylie
Young, Alaska

NOES—226

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Bailey
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Brademas
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Corman
Cotter
D'Amours
Danielson
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hinson
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roe
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Stack
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—55

Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Ashley
Baldus
Bedell
Blanchard
Bonker
Bouquard
Brooks
Campbell
Cheney
Crane, Philip
Daniel, Dan
Daschle
Davis, Mich.
Devine
Dornan
Fish
Fithian
Flippo
Flood
Fowler
Garcia
Gramm
Hansen
Hightower
Jones, Okla.
Jones, Tenn
Moakley
Murphy, Ill.
Myers, Ind.
Nelson
Pepper
Price
Quayle
Quillen
Roberts
Rodino
Rose
Rosenthal
Roth
Russo
Schulze
Sebelius
Smith, Nebr.
St Germain
Steed
Stewart
Treen
Vander Jagt
Whitten
Winn

☐ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Gramm for, with Mr. St Germain against.

Mr. Dan Daniel for, with Mr. Jones of Tennessee against.

Mr. Quillen for, with Mr. Garcia against.

Mr. Myers of Indiana for, with Mr. Pepper against.

Mr. Smith of Nebraska for, with Mr. Nelson against.

Mr. Ashbrook for, wih Mr. Rodino against.

Mr. Campbell for, with Mr. Davis of Michigan against.

Mr. Cheney for, with Mr. Stewart against.

Mr. Andrews of North Dakota for, with Mr. Baldus against.

Mr. NICHOLS and Mr. SYNAR changed their votes from "no" to "aye."

Mr. DUNCAN of Tennessee changed his vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: On page 13, after line 9, insert the following new subsection:

"(2) Section 1905(a)(4)(C) is amended by adding at the end thereof the following: '*Provided*, That, such services and supplies made available to minors pursuant to this subsection shall only be provided upon the consent of the parent or legal guardian of said minor;' ".

On page 13, line 10, strike "(2)" and insert in lieu thereof "(3)".

Mr. DANNEMEYER. Mr. Chairman, with increasing frequency in recent years, Congress has been confronted with proposals that, in one way or another have substituted government for family as a provider of goods and services for children. No one doubts the good intentions behind these proposals but all too often little, if any, thought is given to what such a process does to the traditional American concept of parental responsibility and parental authority. Indeed, it can be argued that, as government takes on the role of intermediary between parents and children, the respect for parents on the part of children is weakened with all that portends for the family as the basic organizational unit of American society.

Mr. Chairman, what we have before us today is just such a proposal. The child health assurance program (CHAP) presently under consideration goes far beyond helping poor parents pay for necessary medical treatment for their children that they could not otherwise afford. Instead, it envisions an expansion of Federal aid to, and control over, a wide range of health screening, testing and follow-up services for poor children and it even goes so far as to attempt to ward off child health problems almost before they start by providing extensive pregnancy and post pregnancy care.

In short, while the motives are good, what we have here in H.R. 4962 is federally controlled kiddicaid and, to make matters worse, there is not even any language in the bill requiring written parental consent for certain controversial services. Specifically, I am referring to the new provisions relative to pregnancy and post pregnancy care as well as to those parts of the existing program (that are to be retained) calling for the provision of family planning services and supplies to live-at-home minors of child bearing age.

However, there is one small ray of sunshine in all this and that is, for the first time in a long time, consideration of this measure gives us an opportunity to address at least some of these parental consent questions so near and dear to the hearts of so many American families. The amendment I am offering today simply states that, for family planning services and supplies to be provided to an otherwise eligible minor, the consent of the parent or guardian must first be obtained. From the standpoint of parental responsibility, this amendment is entirely reasonable. With it, American youth will know that it is their parents to whom they must answer; without it, they are little more than wards of the State.

Now I know what the counterargument will be; that requiring minors to get parental consent for such services, will lead to unwanted pregnancies and worse problems later on. But there are several other sides to the question. First of all, the embarrassment factor may help offset the temptation facing many youngsters to engage in activities that might require such services. Second, the provisions by Government of such services without any discomfiture to those seeking them cannot help but contribute to the decline of moral values about which there has been so much concern in recent years. Finally, requiring parental consent is in no way inconsistent with educational efforts to resolve the problem in question.

In fact, by coupling educational efforts with parental consent the need for some of these so-called family planning benefits can be reduced while, at the same time the family, and the values upon which it is based, can be strengthened.

Mr. Chairman, in conclusion I would just like to say that, to hear proponents of H.R. 4962, a vote against this bill is a vote against motherhood, apple pie, and healthy children. In response, it might be added that, without parental consent language, this bill could just as easily be construed as an attack on the family as well as a blow to fiscal responsibility. Therefore, I urge adoption of this amendment.

☐ 1620

Mr. WAXMAN. Mr. Chairman, I rise in strong opposition to this amendment. This is a matter that is now left to State government discretion and decisionmaking. Different States have decided to emancipate minors at different age levels and under different circumstances. I think it is presumptuous of us here in Washington to tell each State what they ought to have as the age of emancipation for a minor.

But, more importantly, if we require parental notification for medicaid funded family planning services, as this amendment would have us do, it would only apply to children who get medicaid services; other children under State law would not be required to get parental consent to receive the same services. In other words, a child from a poor family, under Washington's directive, would have to get parental consent for family planning services, whereas a middle-income child in the same State, under the State's law, would not have to get parental consent. Let us face the reality of the situation that many children, teenagers, are sexually active without parental consent, and that they are going to be discouraged from going to family planning clinics if in fact there is this requirement of parental consent. Having said that, I realize that some States have parental consent requirements and other States do not. My own State of California does not require it. But that is the State's decision. Let us not decide everything here in Washington about the family.

I think this is an unnecessary amendment. I think it interferes too much in matters that do not belong in the Federal purview, and I think it is destructive to the basic idea of family planning clinics. I urge defeat of the amendment.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak against the amendment.

The amendment does not take account, it seems to me, Mr. Chairman, the fact that we are already talking about a voluntary program. We are talking about a program in which parents are going to be taking the children to a physician, or they are going to be reached at schools or through other clinics where they are already going to be present as a result of decisions made by parents. The parents are going to be given the opportunity at every stage along the way, given that this is a voluntary program, to either have their children participate or not. I cannot imagine why we would want to add a lot of paperwork and bureaucratic difficulties in the implementation of this program when parents are already going to be so clearly involved. If you take a child and then you find, if you are a parent, that you have to fill out a lot of forms, perhaps that might be a deterrent. At school, parents do have the opportunity to exempt your child if you wish to, and of course wherever surgery is involved there has to be parental consent.

So I do not think the amendment is necessary or helpful, Mr. Chairman. It just adds redundant steps in a process where adequate consent already exists. In fact, if we do not reach the children this way, they are going to be subject to emergency care later on in which the practitioner is not going to know either the child or the parents. So really the CHAP bill now provides for reaching families and for involving families and for informed participation far beyond what we have now. This amendment really is superfluous, redundant, adds unnecessary paperwork into the process, and would detract from the program. I hope it will be defeated.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words, and I oppose this amendment. This proposal would have a harmful and far-reaching effect on the whole effort to provide needed family planning services. It would deter those very children who are most in need of these services from seeking them. I regret to say, Mr. Chairman, that one out of five children under 15 years of age, it is said, is sexually active. These children are active, of course, sexually without parental consent, I would think. Nevertheless, in order to prevent pregnancies, and unwanted abortions, I think it is extremely necessary that they have devices necessary to keep them from becoming pregnant. I strongly oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER).

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—ayes 19, noes 20.

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. A quorum is not present. The Chair announces that pursuant to the provisions of clause 2 of rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1640

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from California (Mr. DANNEMEYER) for a recorded vote.

Does the gentleman insist upon his demand?

Mr. DANNEMEYER. Yes, I do, Mr. Chairman.

A recorded vote was refused.

So the amendment was rejected.

Mr. WAXMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. VENTO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes, had come to no resolution thereon.

EXTENDING VETERANS HEALTH CARE PROGRAMS

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3892) to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to contract for the furnishing of private health care to veterans when such health care is authorized by a Veterans' Administration physician as necessary for the treatment of medical emergency, to authorize the Administrator of Veterans' Affairs to provide outpatient medical services for any disability of a veteran of World War I as if such disability were service-connected, to extend the authorization for certain expiring health care programs of the Veterans' Administration, and for other purposes; with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendments and the House amendments to the Senate amendments.

The Clerk read the Senate amendments and the House amendments to the Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Veterans' Administration Health Resources and Programs Extension Act of 1979."

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EXTENSION AND IMPROVEMENT OF CERTAIN VETERANS' ADMINISTRATION HEALTH PROGRAMS

SEC. 101. (a) Section 5033(a) is amended by striking out "the succeeding fiscal year" and inserting in lieu thereof "each of the four succeeding fiscal years".

(b) Section 5035(d)(2) is amended by inserting before the period at the end thereof "or $3,000,000, whichever is greater".

SEC. 102. (a) Section 5054 is amended by adding at the end thereof the following new subsection:

"(c) The Administrator is authorized to enter into agreements with public or nonprofit private institutions, organizations, corporations, or entities in order to participate in cooperative health-care personnel education programs within the geographical areas of Veterans' Administration health-care facilities located in areas remote from major academic health centers.".

(b) Section 5055(c)(1) is amended by inserting "and for each of the three succeeding fiscal years" after "fiscal year 1979".

SEC. 103. (a) Section 641(a) is amended by striking out "$5.50", "$10.50", and "$11.50" and inserting in lieu thereof "$6.35", "$12.10", and "$13.25", respectively.

(b) The amendments made by subsection (a) of this section shall take effect on October 1, 1979.

TITLE II—REALIGNMENT OF VETERANS HEALTH CARE AND RELATED BENEFITS

SEC. 201. (a) Section 111(e)(2) is amended to read as follows:

"(2)(A) Except with respect to a person receiving benefits for or in connection with a service-connected disability under this title, no payment shall be provided under this section except—

"(i) when travel is by a special vehicular mode of transportation that (I) is required for medical reasons, and (II) has been authorized by the Administrator prior to such travel except to the extent that the Administrator provides, under regulations which the Administrator shall prescribe, for reimbursement for the costs of travel by such mode in a medical emergency of such nature that the delay incident to obtaining prior authorization would have been hazardous to life or health; or

"(ii) when the person claiming reimbursement is a person receiving or eligible to receive pension under section 521 of this title and, with respect to any trip to or from a facility or place described in subsection (a) of this section, only in the amount by which the payment otherwise authorized by this section for such trip exceeds $4 unless such person, in any fiscal year, has already incurred $100 in travel expenses otherwise allowable under this section for which payment has not been provided pursuant to this subparagraph.

For the purposes of this subparagraph, a person shall be considered to be a person receiving pension under section 521 of this title if such person would be eligible to receive such pension except for the fact that such person does not meet eligiblity requirements with respect to disability, age, or service during a period of war.

"(B) In no event shall payment be provided under this section—

"(i) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation, unless (I) public transportation is not reasonably accessible or would be medically inadvisable, or (II) the cost of such travel is not greater than the cost of public transportation; and

"(ii) in excess of the actual expense incurred by such person as certified in writing by such person.".

(b) Section 601 is amended by—

(1) striking out "transportation" in subclause (ii) of paragraph (5)(A) and inserting in lieu thereof "travel";

(2) striking out subclause (ii) of paragraph (5)(C) and inserting in lieu thereof "(ii) travel and incidental expenses for such dependent or survivor under the terms and conditions set forth in section 111 of this title."; and

(3) striking out "necessary expenses of travel and subsistence" in the parenthetical phrase in clause (B) of paragraph (6) and inserting in lieu thereof "travel and incidental expenses".

(c) Section 614 is amended by—

(1) striking out "necessary travel expenses" in subsection (a) and inserting in lieu thereof "travel and incidental expenses, pursuant to the provisions of section 111 of this title,"; and

(2) striking out "all necessary travel expenses" in subsection (b) and inserting in lieu thereof "travel and incidental expenses, pursuant to the provisions of section 111 of this title,".

(d) Section 628(a) is amended by striking out "the necessary travel" and inserting in lieu thereof "travel and incidental expenses pursuant to the provisions of section 111 of this title".

SEC. 202. (a) Section 601 is amended by adding at the end thereof the following new paragraph:

"(9) The term 'chiropractic services' means the manual manipulation of the spine performed by a chiropractor (who is licensed as such by the State in which he or she performs such services and who meets the uniform minimum standards promulgated for chiropractors under section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5))) to correct a subluxation of the spine. For the purposes of this paragraph, such term does not include physical examinations, laboratory tests, radiologic services, or other tests or services determined by the Administrator to be excluded.".

(b)(1) Subchapter III of chapter 17 is amended by adding at the end thereof the following new section:

"§ 629. Chiropractic services

"(a) The Administrator may, under regulations which the Administrator shall prescribe, reimburse a veteran eligible for medical services under this chapter for the reasonable charge for chiropractic services, for which such veteran has made payment, if—

"(1) such chiropractic services were for the treatment of a service-connected neuromusculoskeletal condition of the spine,

"(2) the veteran is a veteran who has been furnished hospital care by the Veterans' Administration for a neuromusculoskeletal condition of the spine within a twelve-month period prior to the provision of such chiropractic services, or

"(3) the veteran is a veteran described in section 612(f)(2) of this title who has been furnished hospital care or medical services by the Veterans' Administration for a neuromusculoskeletal condition of the spine,

to the extent that such veteran is not entitled to such chiropractic services or reimbursement for the expenses of such services under an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement for the purpose of providing, paying for, or reimbursing expenses for such services.

"(b) In any case in which reimbursement may be made under this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable charge for such chiropractic services directly to the chiropractor.

"(c)(1) In determining the reasonable charge for chiropractic services under this section, the Administrator shall, in consultation with appropriate public and nonprofit private organizations and other Federal departments and agencies that provide reimbursement for chiropractic services, establish a schedule of allowances for such services, which schedule shall be consistent with the reasonable charges allowed under title XVIII of the Social Security Act (42 U.S.C. ch. 7).

"(2) The amount payable by the Administrator for chiropractic services furnished under this section shall not exceed $200 in any twelve-month period in the case of any veteran.

"(d) Notwithstanding any other provision of this title, total expenditures for chiropractic services reimbursed under this section shall not exceed $4 million in any fiscal year and no reimbursement or payment may be made under this section for chiropractic services furnished after September 30, 1983.".

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 628 the following new item:

"629. Chiropractic services.".

(c) Not later than December 31, 1980, and not later than December 31 of each of the next three years, the Administrator shall prepare and submit to the Committee on Veterans' Affairs of the House of Representatives and the Committee on Veterans' Affairs of the Senate reports on the use made of the authorities provided for in the amendments made by subsection (b)(1) of this section. Each such report shall include—

(1) the number of requests by eligible veterans for reimbursement or payment for chiropractic services in the most recent fiscal year under section 629 (as added by subsection (b)(1) of this section) and the number of such veterans who made such requests;

(2) the number of reimbursements or payments made by the Administrator under such section in such fiscal year and the number of veterans to or for whom such reimbursements or payments were made; and

(3) the total amounts of expenditures by the Administrator for such reimbursements and payments under such section in such fiscal year.

SEC. 203. Section 612 (b) is amended by—

(1) amending clause (2) by—

(A) striking out "active military, naval, or air service and" in subclause (A) and inserting in lieu thereof "a period of active military, naval, or air service of not less than 180 days,";

(B) striking out "within one year" in subclause (B) both places it appears and inserting in lieu thereof "within six months"; and

(C) inserting before the semicolon at the end thereof a comma and "and (C) if the Secretary concerned has not certified, in writing, that the veteran was provided by such Secretary, during the ninety days immediately prior to such veteran's discharge or release from such service, a complete dental examination (including X-rays) and all appropriate dental services and treatment indicated by such examination"; and

(2) inserting at the end thereof below the last clause the following new sentence:

"The Administrator may not furnish outpatient dental services, treatment, or related dental appliances, under this section through private facilities for which the Administrator contracts pursuant to the provisions of section 601(4)(C)(i), (ii), or (v) of this title to a veteran at a cost to the Veterans' Administration of more than $500 during any twelve-month period, unless the Administrator has determined, prior to the furnishing of such services, treatment, or appliances, based on an examination by a dentist employed by the Veterans' Administration, that the furnishing of such services, treatment, or appliances at such cost is reasonably necessary.".

SEC. 204. Section 612(f) is amended by inserting before the semicolon at the end of clause (1) a comma and "but any such veteran (other than a veteran receiving or eligible to receive compensation under chapter 11 of this title) being furnished services under this clause shall not be furnished drugs, medicines, or medical supplies which may be purchased without a physician's prescription, unless (i) such veteran is a veteran receiving or eligible to receive pension under section 521 of this title (including a veteran who would be eligible to receive such pension except for the fact that such veteran does not meet eligibility requirements with respect to disability, age, or service during a period of war), or (ii) the Administrator, under regulations which the Administrator shall prescribe, authorizes the furnishing to such veteran of such drugs, medicines, or medical supplies in order to avoid substantial hardship that would otherwise result from the extraordinary cost thereof to a veteran.".

SEC. 205. Section 612(g) is amended by inserting at the end thereof the following new sentence: "The Administrator may also furnish to any such veteran home health services under the terms and conditions set forth in subsection (f) of this section.".

SEC. 206. Section 613 is amended by—

(1) amending subsection (a) by—

(A) striking out "and" at the end of clause (1);

(B) inserting "and" after the comma at the end of clause (2);

(C) inserting immediately below clause (2) the following new clause:

"(3) the surviving spouse or child of a person who dies in the active military, naval, or air service in the line of duty and not due to misconduct,"; and

(D) adding at the end thereof the following new sentence: "The term 'person' as used in clause (3) of this subsection shall mean 'veteran' for the purposes of section 103(d) of this title."; and

(2) adding at the end thereof the following new subsection:

"(c) For the purposes of this section, any child described in subsection (a) of this section who, while pursuing a full-time course of instruction (including any period between terms, semesters, or quarters, or during vacation or holiday periods) at an approved educational institution, becomes unable to continue such child's chosen program of education because of a mental or physical disability which was not the result of such child's own willful misconduct shall remain eligible for benefits under this section until six months after the disability is removed, until two years after the date of onset of such disability, or until such child's twenty-third birthday, whichever occurs first.".

SEC. 207. (a) Except as provided in subsections (b) and (c) of this section, the amendments made by this title shall take effect on October 1, 1979.

(b)(1) Except as otherwise provided in paragraph (5) of this subsection and in subsection (c) of this section, the amendments made by sections 201(a), 203, and 204 of this Act shall take effect at such time as there are provided to the Veterans' Administration for fiscal year 1980 the required personnel ceiling defined in the second sentence of this paragraph. For purposes of this paragraph, "the required personnel ceiling" means the authorization by the Director of the Office of Management and Budget to employ, under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses, not less than the number of employees for the employment of which appropriations have been made for fiscal year 1980 and for which funding is provided under such accounts.

(2)(A) Not later than thirty days after the date of enactment of the first law making appropriations for the Veterans' Administration for fiscal year 1980, the Administrator of Veterans' Affairs shall submit to the appropriate committees of the Congress and to the Comptroller General of the United States a report providing complete information on the personnel ceiling that the Office of Management and Budget has provided to the Veterans' Administration for the employees described in the second sentence of paragraph (1) of this subsection.

(B) Not later than forty-five days after the date of the enactment of the law described in subparagraph (A) of this paragraph, the Comptroller General shall submit to the appropriate committees of Congress a report stating the Comptroller General's opinion as to whether, pursuant to the provisions of paragraph (1) of this subsection, the amendments made by sections 201(a), 203, and 204 of this Act have entered into effect.

(3)(A) If, pursuant to the provisions of paragraph (1) of this subsection, the amendments made by sections 201(a), 203, and 204 of this Act become effective, such amendments shall continue to have effect, on and after the thirtieth day after the date of the enactment of each law making appropriations for the Veterans' Administration that is enacted subsequent to the law described in subparagraph (A) of paragraph (2) of this subsection and that includes appropriations for employees described in the second sentence of paragraph (1) of this subsection, only if, by each such day, the required personnel ceiling defined in the second sentence of this subparagraph has been provided to the Veterans' Administration. For the purposes of this subparagraph, "the required personnel ceiling" means the authorization by the Director of the Office of Management and Budget to employ under the appropriation accounts described in the second sentence of paragraph (1) of this subsection not less than the number of employees for the employment of which appropriations have been made by the applicable law described in the first sentence of this subparagraph and for which funding is provided under such appropriation accounts.

(B) Not later than thirty days after the date of the enactment of any law described in subparagraph (A) of this paragraph, the Administrator of Veterans' Affairs shall submit to the appropriate committees of the Congress and to the Comptroller General of the United States a report providing complete information on the personnel ceiling that the Office of Management and Budget has provided to the Veterans' Administration for the employees described in the second sentence of paragraph (1) of this subsection.

(C) Not later than forty-five days after the date of the enactment of each law described in subparagraph (A) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether, pursuant to the provisions of this paragraph, such amendments remained in effect on the thirtieth day following the date of the enactment of such law.

(4) If, pursuant to the provisions of this paragraph, the amendments made by sections 201(a), 203, and 204 of this Act lose effect at any time, such loss of effect shall be permanent.

(5) Notwithstanding any other provision of this subsection, the amendments made by sections 201(a), 203, and 204 of this Act and the provisions of this subsection shall cease to be effective on and after October 1, 1983.

(c) The amendments made by section 203 (1)(B) of this Act shall not apply in the case of any veteran whose discharge or release from active military, naval, or air service occurred during the twelve months immediately prior to the date of the enactment of this Act.

SEC. 208. Section 612(i) is amended by inserting at the end thereof the following new clause:

"(5) To any veteran of World War I.".

TITLE III—VETERANS' ADMINISTRATION MEDICAL PERSONNEL AND MISCELLANEOUS AMENDMENTS

SEC. 301. (a) Section 4104(2) is amended by inserting "psychologists," after "Pharmacists,".

(b) Section 4105 is amended by—

(1)(A) striking out the period at the end of clause (9) and inserting in lieu thereof a semicolon; and

(B) adding at the end of subsection (a) the following new clause:

"(10) Psychologist—

"hold a doctoral degree is psychology from a college or university approved by the Administrator, have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Administrator, and be licensed or certified as a psychologist in a State, except that the Administrator may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified."; and

(2) inserting "podiatrist, optometrist," in subsection (b) after "dentist,".

(c) The amendment made by subsection (b)(1) of this section to require that a psychologist appointed to a position in the Department of Medicine and Surgery of the Veterans' Administration be licensed or certified as a psychologist in a State shall not apply to any person employed as a psychologist by the Veterans' Administration on or before May 1, 1979.

Sec. 302. Section 4106(b) is amended by striking out "three" and inserting in lieu thereof "two".

Sec. 303. Section 5053(a) is amended by inserting a comma and "or organ banks, blood banks, or similar institutions" after "facilities".

Sec. 304. (a) The Secretary of Health, Education, and Welfare, in consultation with the heads of other appropriate Federal departments and agencies, shall conduct a scientific, epidemiological study of various populations to determine if there may be long-term health effects in humans from exposure to the class of chemicals known as "the dioxins", especially those dioxins produced during the manufacture of the various phenoxy herbicides including those used during the period of the Vietnam conflict.

(b) The report of the study shall include (1) a comprehensive review and professional anaysis of the literature covering other such studies conducted or underway of such long-term health effects, and (2) a description of the results of epidemiological studies conducted by the Secretary of populations of chemical workers, agricultural workers, Service personnel and veterans, and others exposed in connection with the production or use of such phenoxy herbicides. Such report, together with such comments and recommendations as the Secretary and such department and agency heads may deem appropriate, shall be submitted to the appropriate Committees of the Congress not later than 30 months after the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend title 38, United States Code, to extend the authorizations of appropriations for the program of grants to State homes for veterans and the program of exchange of medical information and to revise certain provisions regarding such programs, to revise and clarify eligibility for certain health-care benefits, to provide for the payment for chiropractic services for certain veterans, and to revise certain provisions relating to the personnel system of the Department of Medicine and Surgery; and to assure that savings realized from certain revisions of health-care benefits are used to maintain adequate staffing within such Department; and for other purposes.".

House amendments to Senate amendments: In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That (a) this Act may be cited as the "Veterans Health Programs Extension and Improvement Act of 1979".

(b) Whenever in this Act (except in section 306) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EXTENSION AND IMPROVEMENT OF CERTAIN EXPIRING VETERANS' ADMINISTRATION HEALTH PROGRAMS

GRANTS TO STATE HOME FACILITIES

Sec. 101. (a) Section 5033(a) is amended by striking out "and a like sum for the succeeding fiscal year" and inserting in lieu thereof "a like sum for each of the two succeeding fiscal years, and such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982".

(b)(1) Section 641(a) is amended by striking out "$5.50", "$10.50", and "$11.50" and inserting in lieu thereof "$6.35", "$12.10", and "$13.25", respectively.

(2) The amendments made by paragraph (1) shall take effect on January 1, 1980, but, with respect to fiscal year 1980, shall take effect only to such extent and in such amounts as may be specifically provided for such purpose in appropriation Acts.

EXCHANGE OF MEDICAL INFORMATION

Sec. 102. (a) Section 5054 is amended by adding at the end the following new subsection:

"(c) The Administrator is authorized to enter into agreements with public and nonprofit private institutions, organizations, corporations, and other entities in order to participate in cooperative health-care personnel education programs within the geographical area of any Veterans' Administration health-care facility located in an area remote from major academic health centers.".

(b) Section 5055(c)(1) is amended by inserting "and for each of the three succeeding fiscal years" after "fiscal year 1979".

ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

Sec. 103. (a) Subsection (b) of section 5070 is amended to read as follows:

"(b) The Administrator may not enter into any agreement under subchapter I of this chapter after September 30, 1979.".

(b)(1) Subsection (a) of section 5082 is amended to read as follows:

"(a) There is authorized to be appropriated for carrying out programs authorized under this chapter $50,000,000 for the fiscal year ending June 30, 1973; a like sum for each of the six succeeding fiscal years; $15 million for the fiscal year ending September 30, 1980; $25 million for the fiscal year ending September 30, 1981; and $30 million for the fiscal year ending September 30, 1982.".

(2) Clause (1) of section 5083(b) is amended by striking out "and will result" and all that follows in such clause through "at such school".

TITLE II—MODIFICATION OF VETERANS HEALTH CARE AND RELATED BENEFITS

BENEFICIARY TRAVEL REIMBURSEMENT

Sec. 201. (a) Section 111(e)(2)(A) is amended by—

(1) striking out "based on an annual declaration and certification by such person" and inserting in lieu thereof "pursuant to regulations which the Administrator shall prescribe"; and

(2) striking out "a veteran" and all that follows through "title" and inserting in lieu thereof "a person receiving benefits for or in connection with a service-connected disability under this title, a veteran receiving or eligible to receive pension under section 521 of this title, or a person whose annual income, determined in accordance with section 503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 521 of this title".

(b) Section 601 is amended by—

(1) striking out "transportation" in paragraph (5)(A) and inserting in lieu thereof "travel";

(2) striking out subclause (ii) of paragraph (5)(C) and inserting in lieu thereof "(ii) travel and incidental expenses for such dependent or survivor under the terms and conditions set forth in section 111 of this title"; and

(3) striking out "necessary expenses of travel and subsistence" in paragraph (6)(B) and inserting in lieu thereof "travel and incidental expenses".

(c) Section 614 is amended by—

(1) striking out "necessary travel expenses" in subsection (a) and inserting in lieu thereof "travel and incidental expenses (under the terms and conditions set forth in section 111 of this title)"; and

(2) striking out "all necessary travel expenses" in subsection (b) and inserting in lieu thereof "travel and incidental expenses (under the terms and conditions set forth in section 111 of this title)".

(d) Section 628(a) is amended by striking out "the necessary travel" and inserting in lieu thereof "travel and incidental expenses under the terms and conditions set forth in section 111 of this title".

CONTRACT HOSPITAL CARE

Sec. 202. Section 601(4)(C)(iii) is amended by—

(1) striking out "hospital care" the second place it appears and inserting in lieu thereof "medical services"; and

(2) inserting "until such time as the veteran can be safely transferred to any such facility" after "of this paragraph".

LIMITATION ON FURNISHING CONTRACT CARE DENTAL TREATMENT

Sec. 203. Section 612(b) is amended by adding at the end below the last clause the following new sentence:

"The total amount which the Administrator may expend for furnishing, during any twelve-month period, outpatient dental services, treatment, or related dental appliances to a veteran under this section through private facilities for which the Administrator has contracted under clause (i), (ii), or (v) of section 601(4)(C) of this title may not exceed $500 unless the Administrator determines, prior to the furnishing of such services, treatment, or appliances and based on an examination of the veteran by a dentist employed by the Veterans' Administration (or, in an area where no such dentist is available, by a dentist conducting such examination under a contract or fee arrangement), that the furnishing of such services, treatment, or appliances at such cost is reasonably necessary.".

HEALTH BENEFITS FOR VETERANS OF MEXICAN BORDER PERIOD AND WORLD WAR I AND FOR CERTAIN SEVERELY DISABLED VETERANS

Sec. 204. Section 612(g) is amended by—

(1) striking out "Where any veteran" and inserting in lieu thereof "In the case of any veteran who is a veteran of the Mexican border period or of World War I or who"; and

(2) adding at the end thereof the following new sentence: "The Administrator may also furnish to any such veteran home health services under the terms and conditions set forth in subsection (f) of this section.".

AMENDMENTS TO CHAMPVA PROGRAM

Sec. 205. (a)(1) Section 613(a) is amended by—

(A) striking out "wife" in clause (1) and inserting in lieu thereof "spouse";

(B) striking out "and" at the end of clause (1);

(C) striking out "widow" in clause (2) and inserting in lieu thereof "surviving spouse";

(D) inserting "and" at the end of clause

(2); and (E) inserting after clause (2) the following new clause:

"(3) the surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct,".

(2) Section 613 is further amended by adding at the end the following new subsection:

"(c) For the purposes of this section, a child between the ages of eighteen and twenty-three (1) who is eligible for benefits under subsection (a) of this section, (2) who is pursuing a full-time course of instruction at an educational institution approved under chapter 36 of this title, and (3) who, while pursuing such course of instruction, incurs a disabling illness or injury (including a disability illness or injury incurred between terms, semesters, or quarters or during a vacation or holiday period) which is not the result of such child's own willful misconduct and which results in such child's inability to continue or resume such child's chosen program of education at an approved educational institution shall remain eligible for benefits under this section until the end of the six-month period beginning on the date the disability is removed, the end of the two-year period beginning on the date of the onset of the disability, or the twenty-third birthday of the child, whichever occurs first.".

(b) The amendments made by subsection (a) shall take effect with respect to fiscal year 1980 only to such extent and for such amounts as may be specifically provided for such purpose in appropriation Acts.

EFFECTIVE DATE

SEC. 206. Except as otherwise provided in section 205(b), the amendments made by this title shall take effect on January 1, 1980.

TITLE III—VETERANS' ADMINISTRATION MEDICAL PERSONNEL AMENDMENTS AND MISCELLANEOUS PROVISIONS

MEDICAL PERSONNEL STAFFING LEVELS

SEC. 301. (a) Section 5010(a) is amended by adding at the end the following new paragraph:

"(4)(A) With respect to each law making appropriations for the Veterans' Administration, there shall be provided to the Veterans' Administration the funded personnel ceiling defined in subparagraph (D) of this paragraph and the funds appropriated therefor.

"(B) In order to carry out the provisions of subparagraph (A) of this paragraph, the Director of the Office of Management and Budget shall, with respect to each such law (i) provide to the Veterans' Administration for the fiscal year concerned such funded personnel ceiling and the funds necessary to achieve such ceiling, and (ii) submit to the appropriate committees of the Congress and to the Comptroller General of the United States certification that the Director has so provided such ceiling. Not later than the thirtieth day after the enactment of such a law or, in the event of the enactment of such a law more than thirty days prior to the fiscal year for which such law makes such appropriations, not later than the tenth day of such fiscal year, the certification required in the first sentence of this subparagraph shall be submitted, together with a report containing complete information on the personnel ceiling that the Director has provided to the Veterans' Administration for the employees described in subparagraph (D) of this paragraph.

"(C) Not later than the forty-fifth day after the enactment of each such law, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director of the Office of Management and Budget has complied with the requirements of such subparagraph in providing to the Veterans' Administration such funded personnel ceiling.

"(D) For the purposes of this paragraph, the term 'funded personnel ceiling' means, with respect to any fiscal year, the authorization by the Director of the Office of Management and Budget to employ (under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses) not less than the number of employees for the employment of which appropriations have been made for such fiscal year.".

(b) The amendment made by subsection (a) shall take effect with respect to Public Law 96-103, but, with respect to such Public Law, the certification and report required by subparagraph (B) of paragraph (4) of section 5010 of title 38, United States Code (as added by such amendment), and the report required by subparagraph (C) of such paragraph (as added by such amendment) shall be submitted to the appropriate committees of the Congress not later than January 15, 1980, and February 1, 1980, respectively.

QUALIFICATIONS OF CERTAIN HEALTH PROFESSIONALS EMPLOYED IN THE DEPARTMENT OF MEDICINE AND SURGERY

SEC. 302. (a) Section 4104(2) is amended by inserting "psychologists," after "Pharmacists,".

(b)(1) Subsection (a) of section 4105 is amended by—

(A) striking out the period at the end of clause (9) and inserting in lieu thereof a semicolon; and

(B) adding at the end the following new clause:

"(10) Psychologist—

"hold a doctoral degree in psychology from a college or university approved by the Administrator, have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Administrator, and be licensed or certified as a psychologist in a State, except that the Administrator may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.".

(2) Subsection (b) of such section is amended by inserting "podiatrist, optometrist," after "dentist,".

(c) The amendment made by subsection (b)(1) to require that a psychologist appointed to a position in the Department of Medicine and Surgery of the Veterans' Administration be licensed or certified as a psychologist in a State shall not apply to any person employed as a psychologist by the Veterans' Administration on or before December 31, 1979.

REDUCTION OF PROBATIONARY PERIOD FOR CERTAIN HEALTH PROFESSIONALS EMPLOYED IN THE DEPARTMENT OF MEDICINE AND SURGERY

SEC. 303. Section 4106(b) is amended by striking out "three years" and inserting in lieu thereof "two years".

COOPERATIVE USE AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES

SEC. 304. Section 5053(a) is amended by inserting "or organ banks, blood banks, or similar institutions" after "facilities".

SPECIAL MEDICAL ADVISORY GROUP AMENDMENTS

SEC. 305. Section 4112(a) is amended by—

(1) inserting in the first sentence "and a disabled veteran" after "professions"; and

(2) inserting in the second sentence "and, not later than February 1 of each year, shall submit to the Administrator and the Congress a report on its activities during the preceding fiscal year" after "Administrator".

TECHNICAL AMENDMENT

SEC. 306. (a) Section 601(a)(2) of the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (Public Law 96-128) is amended by striking out "clause (i)" and inserting in lieu thereof "clause (ii)".

(b) The amendment made by subsection (a) shall take effect as of November 28, 1979.

AGENT ORANGE STUDY

SEC. 307. (a)(1) The Administrator of Veterans' Affairs shall design a protocol for and conduct an epidemiological study of persons who, while serving in the Armed Forces of the United States during the period of the Vietnam conflict, were exposed to any of the class of chemicals known as "the dioxins" produced during the manufacture of the various phenoxy herbicides (including the herbicide known as "Agent Orange") to determine if there may be long-term adverse health effects in such persons from such exposure. The Administrator shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to such dioxins or other dioxins.

(2)(A)(i) The study conducted pursuant to paragraph (1) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(ii) The Director shall monitor the conduct of such study in order to assure compliance with such protocol.

(B)(i) Concurrent with the approval or disapproval of any protocol under subparagraph (A)(i), the Director of the Office of Technology Assessment shall submit to the appropriate committees of the Congress a report explaining the basis for the Director's action in approving or disapproving such protocol and providing the Director's conclusions regarding the scientific validity and objectivity of such protocol.

(ii) In the event that the Director has not approved such protocol during the 180 days following the date of the enactment of this Act, the Director shall (I) submit to the appropriate committees of the Congress a report describing the reasons why the Director has not given such approval, and (II) submit an update report on such initial report each 60 days thereafter until such protocol is approved.

(C) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in the second sentence of this subparagraph, a report on the Director's monitoring of the conduct of such study pursuant to subparagraph (A)(ii). A report under the preceding sentence shall be submitted before the end of the six-month period beginning on the date of the approval of such protocol by the Director, before the end of the twelve-month period beginning on such date, and annually thereafter until such study is completed or terminated.

(3) The study conducted pursuant to paragraph (1) shall be continued for as long after the submission of the report under subsection (b)(2) as the Administrator may determine reasonable in light of the possibility of developing through such study significant new information on the long-term adverse health effects of exposure to dioxins.

(b)(1) Not later than 12 months after the date of the enactment of this Act, the Administrator shall submit to the appropriate committees of the Congress a report on the literature review and analysis conducted under subsection (a)(1).

(2) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (a)(2)(A)(i) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress

a report containing (A) a description of the results thus far obtained under the study conducted pursuant to such subsection, and (B) such comments and recommendations as the Administrator considers appropriate in light of such results.

(c) For the purpose of assuring that any study carried out by the Federal Government with respect to the adverse health effects in humans of exposure to dioxins is scientifically valid and is conducted with efficiency and objectivity, the President shall assure that—

(1) the study conducted pursuant to subsection (a) is fully coordinated with studies which are planned, are being conducted, or have been completed by other departments, agencies, and instrumentalities of the Federal Government and which pertain to the adverse health effects in humans of exposure to dioxins; and

(2) all appropriate coordination and consultation is accomplished between and among the Administrator and the heads of such departments, agencies, and instrumentalities that may be engaged, during the conduct of the study carried out pursuant to subsection (a), in the design, conduct, monitoring, or evaluation of such dioxin-exposure studies.

(d) There are authorized to be appropriated such sums as may be necessary for the conduct of the study required by subsection (a).

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert the following: "An Act to amend title 38, United States Code, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise and clarify eligibility for certain health-care benefits, to revise certain provisions relating to the personnel system of the Department of Medicine and Surgery, and to assure that personnel ceilings are allocated to the Veterans' Administration to employ the health-care staff for which funds are appropriated; to require the Veterans' Administration to conduct an epidemiological study regarding veterans exposed to Agent Orange; and for other purposes.".

Mr. SATTERFIELD (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the proposed House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

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Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not plan to object, under my reservation I would ask the distinguished chairman of the subcommittee to explain to us what the amendments are that we are proposing to the Senate amendments and sending back to the other body.

Mr. SATTERFIELD. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Virginia for that purpose.

Mr. SATTERFIELD. Mr. Speaker, we have before us today the proposed compromise amendments to H.R. 3892, the Veterans Programs Extension and Improvement Act of 1979.

I am pleased to inform my colleagues that the proposed compromise amendments which I have reason to believe will be accepted by the other body, retain the major provisions of H.R. 3892 as passed by the House on May 21 of this year.

Included is a provision to authorize VA outpatient medical care for veterans of World War I, as well as for veterans of the Mexican border war, on the same basis as is available for housebound veterans or veterans in need of aid and attendance. The average age of a veteran of World War I is 83 years, and I consider their need for this new eligibility to be of the highest priority.

You will recall that the House passed bill contained a provision which mandated the staffing level of the Veterans' Administration medical care and research personnel. The proposed compromise amendment provides for required medical personnel staff for the Veterans' Administration by requiring the Director of the Office of Management and Budget to provide to the Veterans' Administration the personnel ceiling for VA health care staffing for which appropriations are made. While this provision does not tie this requirement to any VA program or authority or fixed numerical ceiling, it does provide a mechanism for certification by the OMB and the Comptroller General of compliance with the personnel requirements contained in appropriation measures. The committees believe it is essential that, when Congress appropriates funds specifically designated for VA personnel levels, the Office of Management and Budget should not thwart the will of Congress by requiring the VA to use the funds for other purposes.

Lastly, the proposed compromise amendments will provide for an epidemiological study by the administrator of Veterans' Affairs on the long-term health effects on veterans exposed to the herbicide agent orange and one of its components, dioxin. The Administrator shall draft the study protocol and be responsible for the conduct of the study. The Director of the Office of Technology Assessment will review and approve the protocol and will monitor the conduct of the study to assure compliance with the protocol. The amendment also requires periodic reports to the Congress on the progress and status of the study by the Administrator of Veterans' Affairs and on compliance with the protocols by the Director of the Office of Technology Assessment.

The estimated cost of H.R. 3892 as passed by the House is $95 million. The estimated cost of this compromise agreement is $69 million, which is a saving of approximately $26 million.

A detailed explanation of the proposed compromise amendments follows:

EXPLANATORY STATEMENT OF H.R. 3892, THE VETERANS PROGRAMS EXTENSION AND IMPROVEMENT ACT OF 1979

TITLE I.—EXTENSION AND IMPROVEMENT OF CERTAIN VETERANS' ADMINISTRATION HEALTH PROGRAMS

State veterans' home construction grant assistance program and increase in per diem payments to State homes

Both the Senate amendment (in section 101) and the House bill (in section 3(a)) would extend the authorizations of appropriations for the VA's program of Federal-State matching fund grants to States for the construction, expansion, remodeling or alteration of State veterans homes and both would authorize the appropriation of $15 million annually.

Under the Senate amendment, this grant program would be extended through fiscal year 1982; the House bill would extend the program through fiscal year 1984. The Senate amendment, but not the House bill, also would amend the present limit on the amount any one State may receive in any one fiscal year—one-third of the total amount appropriated for the grant program for that fiscal year—so as to allow a State to receive not more than $3 million or one-third of the amount appropriated, whichever is greater.

On the length of the extension, the House recedes with an amendment authorizing the appropriation of such sums as may be necessary for fiscal years 1981 and 1982. The Senate recedes on the amendment to the limitation on the amount any one State may receive.

In adopting "such sums" authorizations for fiscal years 1981 and 1982, the Committees stress their view that they are not suggesting that an appropriation of less than $15 million is required for this very cost-effective program; indeed, in view of the backlog of $33.3 million in approvable projects, it is the Committees' view that at least $15 million is required, and the "such sums" provision is included to allow the Administrator to seek appropriation levels in excess of $15 million.

The Senate amendment (in section 103), but not the House bill, would provide for a 15-percent increase in per diem payments to State veterans' homes.

The House recedes with an amendment providing that the increase in per diem rates shall take effect on January 1, 1980, but for fiscal year 1980 only to the extent and for such amount as is specifically provided for in an appropriation Act.

With respect to the State homes programs under subchapter V of chapter 17 and subchapter III of chapter 81 of title 38, the Committees are not in agreement with the September 20, 1977, opinion of the General Counsel of the Veterans' Administration regarding the eligibility for such programs of the Commonwealth of Puerto Rico, which, in the Committee's view, is presently so eligible. It is the Committees' understanding that, in light of this expression of congressional intent, the General Counsel will issue an opinion confirming the eligibility of Puerto Rico.

Exchange of medical information program

Section 102

Both the Senate amendment (in section 102) and the House bill (in section 3(b)) would extend the authorizations of appropriations for the VA's Exchange of Medical Information (EMI) program—the Senate amendment through fiscal year 1982 and the House bill through fiscal year 1984—and both would authorize the appropriation of $4 million annually. The Senate amendment, but not the House bill, would provide clear authority for the Administrator to enter into agreements with public and nonprofit private organizations for cooperative health-care personnel education programs within the geographic areas served by VA health-care personnel facilities located in areas remote from major academic medical centers.

The House recedes.

Assistance to health manpower training institutions

Section 103

The House bill (in section 3(d)), but not the Senate amendment, would make permanent the annual $50 million appropriation authorization for the VA program of grants for physician and other health-personnel training institutions under chapter 82 (the authorizations of appropriations for which expired at the end of fiscal year 1979), would specify a termination date of December 31, 1979, for the Administrator's authority to enter into agreements under subchapter I to assist in the establishment of new State medical schools, and would delete the requirement that, for grants to affiliated medical schools and grants for the training of nonphysician health-care personnel to be approved, such grants must result in the expansion of the number of physicians or other health-care personnel, respectively, being trained by the grant recipient.

The Senate recedes with amendments limiting the extension to three years with annual authorizations of appropriations of $15 million, $25 million, and $30 million for fiscal years 1980, 1981, and 1982, respectively, and terminating the authority for new subchapter I grants on September 30, 1979, rather than December 31, 1979.

The House bill's provision for a termination date of December 31, 1979, for the Administrator's authority to enter into agreements under subchapter I corresponded with the existing calendar-year basis of the authorities to enter into agreements under the chapter. Since the proposed extensions of authorizations of appropriations are on a fiscal-year basis and the VA has indicated that it has no plans to enter into any new agreements under subchapter I to assist in the establishment of additional State medical schools, the compromise agreement provides a September 30, 1979, termination date for this subchapter I authority.

In this connection, the Committees note that it is their intention that this expiration of the authority to enter into new agreements not be considered to preclude the Administrator and a State medical school developed with subchapter I assistance from subsequently entering into one or more supplemental agreements amending the existing agreement and that existing agreements may be amended after September 30, 1979, for any of the same kinds of purposes that are currently permissible, for example, for the purpose of increasing VA support for construction—to offset the effects of inflation on construction costs or for other appropriate reasons—in order to make it possible for the originally intended purpose of the agreement to be fulfilled.

TITLE II.—MODIFICATIONS OF VETERANS HEALTH CARE AND RELATED BENEFITS

Beneficiary travel reimbursement

Section 201

The Senate amendment (in section 201), but not the House bill, would limit beneficiary travel reimbursement (except for travel by special vehicles such as ambulance or air ambulance) for persons other than veterans or persons receiving title 38 benefits in connection with a service-connected disability to those who are receiving or are eligible to receive pension (or who meet the income standard for the receipt of pension) under section 521 of title 38 and, in such cases, would limit reimbursement for any one trip to or from a VA facility to the excess over $4 until the veteran had absorbed $100 of unreimbursed travel expense during the year.

The compromise agreement repeals a provision in existing law that requires a person claiming travel reimbursement—except for travel with respect to a veteran receiving VA benefits for or in connection with a service-connected disability—to be determined, on the basis of an annual declaration and certification, to be unable to defray the cost of such travel and requires, instead, that the Administrator prescribe regulations pursuant to which certain individuals' abilities to defray the cost of travel may be determined and also exempts persons who meet the applicable income standards for pension eligibility under section 521 from any such determination requirement. The compromise agreement also incorporates the Administration's proposal from the Senate amendment to expand—from "veterans" to "persons"—the category of beneficiaries eligible for travel reimbursement without demonstrating inability to defray the costs of travel.

By eliminating the requirement of determinations of inability to defray such costs on the basis of "annual" declarations and requiring the Administrator to develop a regulatory scheme for evaluating the ability of needy, non-service-connected veterans to defray the cost of travel to VA facilities, the Committees intend that the VA tighten controls over the administration of such non-service-connected beneficiary travel reimbursement. The effect of the change from "veterans" to "persons" would be to include beneficiaries—certain dependents and survivors of certain service-connected disabled veterans—eligible for education and training benefits under chapter 35, as well as certain household members of certain veterans receiving chapter 17 health care.

The Senate bill (in section 201(b)), but not the House amendment, would make technical amendments to various subsections of chapter 17 to substitute a standard phrase, "travel and incidental expenses", for various forms of references to beneficiary travel benefits.

The House recedes with technical amendments.

Emergency contract hospital care

Section 202

The House bill (in section 1), but not the Senate amendment, would expand the current law provision for hospital care or medical services for a non-service-connected disability of a veteran receiving VA hospital care (or hospital care at a non-VA Federal government facility with which the VA has contracted) when the VA (or such other Federal government) facility is unable to provide the care required, by authorizing contract care or services for a non-service-connected disability whenever in the opinion of a VA-employed physician such emergency exists—regardless of whether the veteran is receiving VA hospital care.

The Senate recedes with amendments making technical changes and specifying that the furnishing of contract care and treatment is to continue only until the emergency no longer exists and the veteran can be safely transferred to a VA (or other Federal) facility.

The Committees intend that this provision be strictly construed so as to avoid any possibility of its misuse to pay for contract care in community facilities in situations that are not truly of an emergency nature or for such care for a period of time longer than necessary to stabilize the emergency condition sufficiently to allow the veteran to be transferred in safety to a VA (or other Federal) facility.

Chiropractic services

The Senate amendment (in section 202), but not the House bill, would provide for the reimbursement (or direct payment) of reasonable charges for chiropractic services, not otherwise covered by available health insurance or other reimbursement, furnished (prior to September 30, 1983) to certain veterans with neuromusculoskeletal conditions of the spine; and would limit the amount payable for such services furnished an individual veteran to $200 per year and total VA expenditures for chiropractic services to $4 million in any fiscal year.

The Senate recedes.

It is the understanding of both Committees that the VA generally has authority, which it has to date chosen not to use, to provide chiropractic services directly, through chiropractors whom it may employ, as part of hospital care as defined in section 601(5)(A)(i) of title 38 and medical services as defined in section 601(6), to any veteran eligible to receive such care or services who is in need of chiropractic services, and to provide such chiropractic services on a contract basis under the general criteria prescribed in section 601(4)(C) for the provision of care and treatment on a contract basis. Although the House Committee is opposed to the provision in the Senate amendment allowing the veteran to obtain chiropractic services at VA expense without any advance VA approval or authorization of the services, both Committees disagree with the VA's position that it should refuse to provide chiropractic services to veterans in every case and believe that chiropractic services for the treatment of musculoskeletal conditions of the spine may be beneficial and necessary in some cases. Therefore, the Committees urge the VA's Department of Medicine and Surgery to reevaluate its position and to use its existing authorities to provide, at least on a pilot basis, chiropractic services in appropriate cases as part of the hospital care or medical services furnished to veterans.

Outpatient eligibility for dental benefits for certain service-connected noncompensable conditions

The Senate amendment (in section 203), but not the House bill, would limit the furnishing of outpatient dental services, dental treatment, and related dental appliances to a veteran with a service-connected, noncompensable (zero-rated) dental condition or disability to only those veterans who have served on active duty for a period of at least 180 days and made application for such treatment within 6 months after discharge and as to whom the Department of Defense has not certified, in writing, that the veteran was provided, during the 90 days immediately prior to such veteran's discharge, a complete dental examination (including x-rays) and all appropriate dental services and treatment indicated by such examination.

The Senate recedes.

The House Committee was not convinced that there was sufficient evidence to indicate that the one-year period following discharge or release for making application for care for a service-connected, noncompensable dental condition or disability is excessive. Thus, the provision proposed in the Senate amendment to reduce that period to six months was deleted from the compromise agreement.

With respect to the proposed 180-day minimum-service requirement, the House Committee recognized that the proposal may have some merit as a reasonable precondition to eligibility for the dental-care benefit concerned, but took the position that, rather than impose such a minimum service requirement on a piecemeal basis with respect to one particular benefit, it would be preferable to consider such a requirement on a broader scale after a comprehensive review is made of the minimum service requirements for veterans' benefits generally for former members of the all-volunteer Armed Forces. In this connection, the Committees note that neither has yet had the opportunity to evaluate fully the implications of various bills generally dealing with these issues.

The Committees are in agreement that the dental services concerned should more properly be the primary responsibility of the Department of Defense to be furnished during the individual's period of active-duty service. However, the House Committee believes that, in light of the Department's current inability to furnish such services to the majority of service personnel and its apparent lack of intention to do so in the foreseeable future, it would be premature to enact the provision that would make ineligible for the VA services concerned an individual to whom the Department had certified that it had provided a complete dental examination and all indicated treatment within the last 90 days prior to the individual's discharge or release.

The Committees strongly urge the Administration to include in the Defense Department's budget for fiscal year 1981 and subsequent years provision for sufficient staff and funds to meet the dental care needs of active-duty personnel—at least to the extent of providing, as part of end-of-tour or separation physical examinations, adequate examinations (with x-rays) and treatment for conditions detected as a result thereof. If this were accomplished in a way deemed adequate by the Committees, they would reconsider—as the VA has urged—the need for continuing this post-service VA dental care benefit.

Section 203

The Senate amendment (in section 203), but not the House bill, would require the VA, before an individual veteran could receive dental care on a contract basis costing over $500 in any twelve-month period, to conduct an examination to determine if the furnishing of such services is reasonably necessary.

The House recedes with an amendment permitting the examination to be made by a dentist under contract to the VA where no VA dentist is available to do so (such as is the case with respect to contracting for a physician examination under present sections 601(4)(C)(ii) and 620(d) of title 38 and physician and psychological examinations in present section 612A(b)(1)), and clarifying that the $500-limitation applies to the cost of the care provided in any twelve-month period—not to expenditures within such period.

Nonprescription drugs, medicines, and supplies

The Senate amendment (in section 204), but not the House bill, would limit the furnishing of nonprescription drugs, medicines, and medical supplies in connection with non-service-connected outpatient care generally to those veterans with a service-connected disability, regardless of whether or not the condition for which the veteran is receiving care is service-connected, and to those veterans who are receiving or are eligible to receive pension (or who meet the income standard for receipt of pension) under section 521 of title 38; and would require the Administrator to promulgate regulations authorizing the furnishing of nonprescription drugs, medicines, and supplies as part of non-service-connected outpatient care in order to avoid substantial hardship that would result from the extraordinary cost to the veteran of obtaining such products commercially.

The Senate recedes.

Although the House Committee is opposed to any statutory prohibition on the furnishing of a medicine, drug, or supply that a VA physician orders, both Committees note that the Administrator has considerable discretion under present section 601(6)(A)(i) of title 38 to determine whether it is "reasonable or necessary" to provide any such item and to assure that such items are provided in reasonable, minimum quantities. In this connection, however, the Committees do not believe that any medicine, drug, or supply that a physician or dentist appropriately orders for use in connection with the treatment of a service-connected condition or disability or any disability of a veteran with a 50-percent or more service-connected rating may reasonably be determined not to be either reasonable or necessary to be provided. With this caveat, the Committees believe that the VA presently has ample statutory authority to place administrative limitations on the provision of non-prescription items (such as aspirins, linaments, dressings, and cough syrups) and that, in the interest of more economical operation of VA health-care programs, the Department of Medicine and Surgery should establish system-wide guidelines aimed at providing reasonable limitations on the extent of the provision of such items.

Health benefits for veterans of Mexican Border Period and World War I

Section 204(a)(1)

Both the Senate amendment (in section 208) and the House bill (in section 2) include provisions to address the non-service-connected, outpatient medical needs of veterans of World War I. Under the House bill, such veterans would have been made eligible to receive outpatient and contract care for non-service-connected disabilities on the same basis as such care is authorized for service-connected disabilities, but with an annual statutory limit of $26 million on expenditures for the care provided on the basis of the new eligibility. The Senate amendment would have established the category of non-service-connected World War I veterans as a new, fifth priority for VA outpatient care.

The compromise agreement authorizes VA outpatient care for veterans of World War I, as well as for veterans of the Mexican border period, on the same basis as is available under present section 612(g) of title 38 for housebound veterans or veterans in need of aid and attendance. Under this provision, which will become effective on January 1, 1980, a veteran of either of these two periods of war would have full eligibility for outpatient care for a non-service-connected disability in VA facilities and would be eligible for contract out patient care when the general conditions for the provision of contract care under section 601 are satisfied—that VA facilities (or other Federal facilities with which the Administrator contracts) are incapable of providing care economically because of geographical inaccessibility or are unable to provide the required care—and it is determined, on the basis of a physical examination, that the medical condition of the veteran precludes appropriate treatment in a VA (or other Federal) facility.

Home health services for veterans who are housebound or in need of regular aid and attendance

Section 204(a)(2)

The Senate amendment (in section 205), but not the House bill, would authorize the VA to furnish home health services (with a $600 limit) to housebound veterans or veterans in need of aid and attendance.

The House recedes.

Amendments to CHAMPVA program

Section 205

The Senate amendment (in section 206), but not the House bill, would make consistent the medical care benefits for surviving spouses and children provided under the VA's CHAMPVA program and the Department of Defense's CHAMPUS program. Under present law, an eligible surviving spouse of a deceased veteran who remarries and whose subsequent marriage is terminated regains general title 38 benefits eligibility including CHAMPVA eligibility. However, an eligible surviving spouse of a person who dies on active duty does not regain CHAMPUS eligibility when he or she remarries and the remarriage is terminated. The Senate amendment would remove this anomaly by making the surviving spouse in the latter case eligible for CHAMPVA benefits.

A similar anomaly exists in the case of eligibility for an eligible child pursuing full-time studies. A CHAMPUS-eligible child retains eligibility for such benefits if he or she incurs a physical or mental breakdown that causes a break in the studies, whereas a CHAMPVA-eligible child loses eligibility if there is a break in the course of studies. The Senate amendment would remove this disparity by providing that a CHAMPVA-eligible child would retain his or her eligibility on the same terms as a CHAMPUS-eligible child.

The House recedes with amendments making technical changes and providing that these new eligibilities for medical care benefits shall take effect on January 1, 1980, but, for fiscal year 1980, only to the extent and for such amount as is specifically provided for in an appropriations act.

TITLE III.—VETERANS' ADMINISTRATION MEDICAL PERSONNEL AMENDMENTS AND MISCELLANEOUS PROVISIONS

Medical personnel staffing levels

Section 301

Both the Senate amendment (in section 207) and the House bill (in section 4) contain provisions related to staffing levels for the VA health-care system. Under the Senate amendment, before the cost-saving provisions included in the Senate amendment could take and remain in effect, the Director of the Office of Management and Budget (OMB) would be required to have provided the VA with the health-care staffing levels for which Congressional appropriations were made. Provisions were also included for the Comptroller General to evaluate OMB's action in allocating the ceiling and to advise the Congress whether the appropriate personnel ceilings were provided. The House bill would have mandated not less than 191,513 FTE medical care and research personnel for fiscal year 1980, subject to the availability of appropriations, and would have mandated that personnel for any new VA health-care facility or program would be in addition to this level.

The compromise agreement requires the Director of OMB to provide to the VA the personnel ceiling for VA health-care staffing for which appropriations are made, but does not tie this requirement to any other VA program or authority or fixed ceiling. The compromise agreement also sets forth specific time frames, including specific deadlines with respect to appropriations action for fiscal year 1980, within which OMB must certify to the Congress that the funded personnel ceilings have been provided to the VA and the Comptroller General must advise the Congress on OMB's compliance with the law.

The Committees believe that it is essential that, when the Congress appropriates funds specifically designated for VA personnel levels, OMB not thwart the will of Congress by requiring the VA to use the funds so appropriated for other purposes (as occurred in fiscal year 1979 when funds appropriated for additional personnel were diverted, at OMB's direction, to cover in part the VA's cost of the Federal government pay raise).

The term "for which appropriations have been made for . . . [a particular] fiscal year" in subparagraph (D) of new paragraph (4) of section 5010(a), as used with respect to an appropriation Act, means the appropriations amount that is identified unequivocally in the legislative history of such Act (including the President's budget submissions for the appropriations account involved) as intended to support a specified employment level.

Qualifications of certain health professionals employed in Department of Medicine and Surgery

Section 302

The Senate amendment (in section 301, but not the House bill, would require that VA psychologists be licensed or certified by a State but would allow the VA a waiver authority not to exceed two years for any psychologist, and would exempt psychologists employed by the VA as of May 1, 1979;

and would require VA podiatrists and optometrists to be U.S. citizens.

The House recedes with an amendment to change the exemption date to December 31, 1979.

Reduction of probationary period for certain health professionals employed in Department of Medicine and Surgery

Section 303

The Senate amendment (in section 302), but not the House bill, would reduce the probationary period of VA title 38 medical employees from 3 years to 2 years.

The House recedes.

Sharing agreements for specialized medical resources

Section 304

The Senate amendment (in section 303), but not the House bill, would expand the authority of the VA to enter into sharing agreements to include sharing between VA hospitals and blood banks, organ banks and similar institutions.

The House recedes but, in so doing, notes the concern that the VA must be judicious in entering into sharing agreements with institutions such as blood banks and organ banks to assure that the Federal government receives appropriate benefit from such arrangements and to avoid situations similar to that experienced in 1978 by the Kansas City VA Medical Center where the VA was put to great expense to support establishment of a private organ bank with no apparent benefit to the Federal government and appropriated funds were thus misused to support a private enterprise.

Special medical advisory group

Section 305

The compromise agreement includes a provision which amends the statutory authority of the Special Medical Advisory Group (SMAG—established pursuant to section 4112 of title 38) to require the inclusion on such group of a disabled veteran (intended to be a service-connected veteran) and to mandate as part of the continuing duties of SMAG the submission to the Administrator and the Congress of an annual report on its activities.

Technical amendment

Section 306

The compromise agreement includes a technical amendment to the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (Public Law 96-128) to correct a clerical error in an effective date provision.

Agent orange study

Section 307

The Senate amendment (in section 304), but not the House bill, would mandate the Secretary of Health, Education, and Welfare, in consultation with other Federal departments and agencies, to conduct a scientific, epidemiological study of various populations, including individuals who served in the Armed Forces in Vietnam, to determine if there may be long-term health effects in humans from exposure to the class of chemicals known as "the dioxins" including exposure to the herbicide known as "Agent Orange".

The House recedes with an amendment directing that the study be restricted to individuals who served in the Armed Forces of the United States during the Vietnam conflict and that the study be designed and conducted by the Administrator of Veterans' Affairs pursuant to a protocol approved by the Director of the Office of Technology Assessment, who is also assigned responsibility for monitoring the VA's compliance with the protocol and reporting to the Congress at specified intervals on the execution of his responsibilities.

The study provision also directs the President to assure that the VA study is fully coordinated with other Federal studies (past, on-going, or planned) and that all Federal efforts in the area of dioxin research be fully coordinated; and authorizes the appropriation of such sums as may be necessary for the conduct of the mandated study.

The Committees made these changes in the study provisions because of the VA's responsibility for veterans' programs, access to the records of the veterans population, and extensive system of medical facilities. In addition, the Committees note their view that the VA, by virtue of its traditional mandate to provide services and benefits for veterans and their survivors is the Federal agency most likely to carry out the needed study with the requisite sympathy and understanding for the individuals concerned. The Committees also note that the VA has authority, pursuant to section 213 of Title 38, to enter into contracts with private or public agencies or persons for any necessary services for or in connection with any portion of the mandated study. With reference to the subsection providing an authorization of appropriations "for the conduct of the study", the Committees note that it is their intention that this provision relate specifically to the actual conduct of the study, not to the design of the protocol. It is the opinion of the Committees that the VA has the existing resources within the funds previously appropriated by Congress for VA health-care research activities for the current fiscal year to fund the design of the protocol and that, therefore, activities to prepare the protocol should begin immediately following enactment of the Act with no delay to seek an appropriation for such purpose.

The Committees also stress the importance of the provision directing the President to assure (preferably through an interagency task force) that the mandated study be fully coordinated with other on-going or future governmental studies on possible adverse health effects related to exposure to dioxin so that all such studies will be scientifically valid and accomplished with maximum objectivity and efficiency.

Changes made in existing law

The following materials show the changes made in existing law by the compromise agreement.

Changes in existing law made by the compromise agreement are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

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PART I—GENERAL PROVISIONS

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CHAPTER 1—GENERAL

* * * * *

§ 111. Travel expenses

(a) Under regulations prescribed by the President pursuant to the provisions of this section, the Administrator may pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Veterans' Administration facility or other place in connection with vocational rehabilitation, counseling required by the Administrator pursuant to chapter 34 or 35 of this title, or for the purpose of examination, treatment, or care. In addition to the mileage allowance authorized by this section, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

(b) Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

(1) the mileage allowance authorized by subsection (a) hereof;

(2) actual local travel expenses;

(3) the expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

(c) When any person entitled to mileage under this section requires an attendant (other than an employee of the Veterans' Administration) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

(d) The Administrator may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Veterans' Administration facility.

(e)(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

(2) In no event shall payment be provided under this section—

(A) unless the person claiming reimbursement has been determined, [based on an annual declaration and certification by such person] *pursuant to regulations which the Administrator shall prescribe*, to be unable to defray the expenses of such travel (except with respect to a [veteran] *person* receiving benefits for or in connection with a service-connected disability under *this title, a veteran receiving or eligible to receive pension under section 521 of this title, or a person whose annual income, determined in accordance with section 503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 521 of* this title);

(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

(C) in excess of the actual expense incurred by such person as certified in writing by such person.

(3) In conducting investigations and determining rates under this section, the Administrator shall review and analyze, among other factors, the following factors:

(A)(i) Depreciation of original vehicle costs;

(ii) gasoline and oil costs;

(iii) maintenance, accessories, parts, and tire costs;

(iv) insurance costs; and

(v) State and Federal taxes.

(B) The availability of and time required for public transportation.

(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

(4) Before determining rates under this section, and not later than sixty days after the effective date of this subsection, and thereafter not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates the Administrator proposes to establish or continue with a full justification therefore in terms of each of the limitations and factors set forth in this section.

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PART II—GENERAL BENEFITS

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

621. Power to make rules and regulations.
622. Statement under oath.
623. Furnishing of clothing.
624. Hospital care, medical services and nursing home care abroad.
626. Reimbursement for loss of personal effects by natural disaster.
627. Persons eligible under prior law.
628. Reimbursement of certain medical expenses.

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Subchapter I—General

§ 601. Definitions.

For the purposes of this chapter—

(1) The term "disability" means a disease, injury, or other physical or mental defect.

(2) The term "veteran of any war" includes any veteran of the Indian Wars, or any veteran awarded the Medal of Honor.

(3) The term "period of war" includes each of the Indian Wars.

(4) The term "Veterans' Administration facilities" means—

(A) facilities over which the Administrator has direct jurisdiction;

(B) Government facilities for which the Administrator contracts; and

(C) private facilities for which the Administrator contracts when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide (i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of section 612(f) of this title; (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving [hospital care] *medical services* in a facility described in clause (A) or (B) of this paragraph *until such time as the veteran can be safely transferred to any such facility*; (iv) hospital care for women veterans; or (v) hospital care, or medical services that will oviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and private facilities in each such noncontiguous States shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but the authority of the Administrator under this subclause (except with respect to Alaska and Hawaii) shall expire on December 31, 1981, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico and to the Virgin Islands of the restrictions in this subclause with respect to hospital patient loads and incidence of provision of medical services.

(5) the term "hospital care" includes—

(A)(i) medical services rendered in the course of the hospitalization of any veteran, and (ii) [transportation] *travel* and incidental expenses pursuant to the provisions of section 111 of this title;

(B) such mental health services, consultation, professional counseling, and training for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and

(C)(i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, and (ii) [transportation] *travel* and incidental expenses for such dependent or survivor [of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation.] *under the terms and conditions set forth in section 111 of this title.*

(6) The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services—

(A)(i) surgical services, dental services and appliances as authorized in section 612 (b), (c), (d), and (e) of this title, optometric and podiatric services, and (except under the conditions described in section 612(f)(1)(A) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

(B) such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

(i) of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

(ii) in the discretion of the Administrator, of the nonservice-connected disability of a veteran eligible for treatment under section 612(f)(1)(B) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital,

for the the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, [necessary expenses of travel and subsistence] *travel and incidental expenses* of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613 (b) of this title shall be eligible for the same medical services as a veteran.

(7) The term "domiciliary care" includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title.

(8) The term "rehabilitative services" means such professional counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provided under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physicial, mental, and psychological functioning of an ill or disabled person.

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Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

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§ 612. Eligibility for medical treatment

(a) Except as provided in subsection (b), the Administrator, within the limits of Veterans' Administration facilities, may furnish such medical services as the Administrator finds to be reasonably necessary to any veteran for a service-connected disability. The Administrator may also furnish to any such veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities. In the case of any veteran discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, such services may be so furnished for that disability, whether or not service-connected for the purposes of this chapter.

(b) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(1) which is service-connected and compensable in degree;

(2) which is service-connected, but not compensable in degree, but only (A) if it is shown to have been in existence at time of discharge or release from active military, naval, or air service and (B) if application for treatment is made within one year after such discharge or release, except that if a disqualifying discharge or release has been corrected by competent authority, application may be made within one year after the date of correction or the date of enactment of this exception, whichever is later;

(3) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(4) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

(6) from which a veteran of the Spanish-American War or Indian Wars is suffering;

(7) from which any veteran of World War I, World War II, the Korean conflict, or the Vietnam era who was held as a prisoner of war for a period of not less than six months is suffering; or

(8) from which a veteran who has a service-connected disability rated as total is suffering.

In any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of subsections (a) and (f) of this section and section 601(4)(C) of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Administrator shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 601(4)(C) of this title for contracting with private facilities and in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Administrator determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Administrator shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this subsection shall include a comment by the Administrator on the effect of the application of the criteria prescribed in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans.

(c) Dental services and related appliances for a dental condition of disability described in clause (2) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

(d) Dental appliances, wheelchairs, artificial limbs, trusses, special clothing, and similar appliances to be furnished by the Administrator under this section may be procured by the Administrator either by purchase or by manufacture, whichever the Administrator determines may be advantageous and reasonably necessary.

(e) Any disability of a veteran of the Spanish-American War or Indian Wars, upon application for the benefits of this section or out-patient medical services under section 624 of this title, shall be considered for the purposes thereof to be a service-connected disability incurred or aggravated in a period of war.

(f) The Administrator, within the limits of Veterans' Administration facilities, may furnish medical services for any disability on an outpatient or ambulatory basis—

(1) to any veteran eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or to the extent that facilities are available) to obviate the need of, hospital admission, or (B) where such a veteran has been furnished hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care (for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated); and

(2) to any veteran who has a service-connected disability rated at 50 per centum or more.

The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities).

(g) [Where any veteran] *In the case of any veteran who is a veteran of the Mexican border period or of World War I or who* is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound, or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance, the Administrator, within the limits of Veterans' Administration facilities, may furnish the veteran such medical services as the Administrator finds to be reasonably necessary. *The Administrator may also furnish to any such veteran home health services under the terms and conditions set forth in subsection (f) of this section.*

(h) The Administrator shall furnish to each veteran who is receiving additional compensation or allowance under chapter 11, or increased pension as a veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran. The Administrator shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

(i) Not later than ninety days after the effective date of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

(1) To any veteran for a service-connected disability.

(2) To any veteran described in subsection (f)(2) of this section.

(3) To any veteran with a disability rated as service-connected.

(4) To any veteran being furnished medical services under subsection (g) of this section.

(j) In order to assist the Secretary of Health, Education, and Welfare in carrying out national immunization programs pursuant to other provisions of law, the Administrator may authorize the administration of immunizations to eligible veterans (voluntarily requesting such immunizations) in connection with the provision of care for a disability under this chapter in any Veterans' Administration health care facility, utilizing vaccine furnished by the Secretary at no cost to the Veterans' Administration, and for such purpose, notwithstanding any other provision of law, the Secretary is authorized to provide such vaccine to the Veterans' Administration at no cost and the provisions of section 4116 of this title shall apply to claims alleging negligence or malpractice on the part of Veterans' Administration personnel granted immunity under such section.

§ 613. Medical care for survivors and dependents of certain veterans

(a) The Administrator is authorized to provide medical care, in accordance with the provisions of subsection (b) of this section, for—

(1) the [wife] *spouse* or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, [and]

(2) the [widow] *surviving spouse* or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability, *and*

(3) the surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct.

who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS)

(b) In order to accomplish the purposes of subsection (a) of this section, the Administrator shall provide for medical care in the same or similar manner and subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 (CHAMPUS), by—

(1) entering into an agreement with the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, the Secretary enters into to carry out such chapter 55, and under which the Administrator shall fully reimbuse the Secretary for all costs and expenditures made for the purposes of affording the medical care authorized pursuant to this section; or

(2) contracting in accordance with such regulations as the Administrator shall prescribe for such insurance, medical service, or health plans as the Administrator deems appropriate.

In cases in which Veterans' Administration medical facilities are particularly equipped to provide the most effective care and treatment, the Administrator is also authorized to carry out such purposes through the use of such facilities not being utilized for the care of eligible veterans.

(c) For the purposes of this section, a child between the ages of eighteen and twenty-three (1) who is eligible for benefits under subsection (a) of this section, (2) who is pursuing a full-time course of instruction at an educational institution approved under chapter 36 of this title, and (3) who, while pursuing such course of instruction, incurs a disabling illness or injury (including a disabling illness or injury incurred between terms, semesters, or quarters or during a vacation or holiday period) which is not the result of such child's own willful misconduct and which results in such child's inability to continue or resume such child's chosen program of education at an approved educational institution shall remain eligible for benefits under this action until the end of the six-month period beginning on the date the disability is removed, the end of the two-year period beginning on the date of the onset of the disability, or the twenty-third birthday of the child, whichever occurs first.

§ 614. Fitting and training in use of prosthetic appliances; seeing-eye dogs

(a) Any veteran who is entitled to a prosthetic appliance shall be furnished such fitting and training, including institutional training, on the use of such appliance as may be necessary, whether in a Veterans' Administration facility or other training institution, or by outpatient treatment, including such service under contract, and including [necessary travel expenses] *travel and incidental expenses (under the terms and conditions set forth in section 111 of* *this title*) to and from such veteran's home to such hospital or training institution.

(b) The Administrator may provide seeing-eye or guide dogs trained for the aid of the blind to veterans who are entitled to disability compensation, and may pay [all necessary] travel *and incidental* expenses (*under the terms and conditions set forth in section 111 of this title*) to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs. The Administrator may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the handicap of blindness.

* * * * *

Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

* * * * *

§ 628. Reimbursement of certain medical expenses

(a) The Administrator may, under such regulations as the Administrator shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including [the necessary] travel *and incidental expenses under the terms and conditions set forth in section 111 of this title*), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible such veteran's entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

(3) Veterans' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

(b) In any case where reimbursement would be in order under subsection (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

(1) to the hospital or other health facility furnishing the care or services; or

(2) to the person or organization making such expenditure on behalf of such veteran.

* * * * *

Subchapter V—Payments to State Homes

§ 641. Criteria for payment

(a) The Administrator shall pay each State at the per diem rate of—

(1) [$5.50] *$6.35* for domiciliary care,

(2) [$10.50] *$12.10* for nursing home care, and

(3) [$11.50] *$13.25* for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veteran's care in such State home.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

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Subchapter I—Organization; General

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§ 4104. Additional appointments

There shall be appointed by the Administrator additional personnel as the Administrator may find necessary for the medical care of veterans, as follows:

(1) Physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries;

(2) Pharmacists, *psychologists*, physical therapists, occupational therapists, dietitians, and other scientific and professional personnel, such as bacteriologists, chemists, biostatisticians, and medical and dental technologists.

§ 4105. Qualifications of appointees

(a) Any person to be eligible for appointment to the following positions in the Department of Medicine and Surgery must have the applicable qualifications:

(1) Physicians—

hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Administrator, have completed an internship satisfactory to the Administrator, and be licensed to practice medicine, surgery, or osteopathy in a State;

(2) Dentist—

hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Administrator, and be licensed to practice dentistry in a State;

(3) Nurse—

have successfully completed a full course of nursing in a recognized school of nursing, approved by the Administrator, and be registered as a graduate nurse in a State;

(4) Director of a hospital, domiciliary, center or outpatient clinic—

have such business and administrative experience and qualifications as the Administrator shall prescribe;

(5) Podiatrist—

hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;

(6) Optometrist—

hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and be licensed to practice optometry in a State;

(7) Pharmacist—

hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Administrator, and be registered as a pharmacist in a State;

(8) Physical therapist, occupational therapist, dietitians, and other personnel shall have such scientific or technical qualifications as the Administrator shall prescribe;

(9) Physician assistants and expanded-function dental auxiliaries shall have such medical or dental and technical qualifications and experience as the Administrator shall prescribe[.]*;*

(10) Psychologist—

hold a doctoral degree in psychology from a college or university approved by the Administrator, have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Administrator, and be licensed or certified as a psychologist in a State, except that the Administrator may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.

(b) Except as provided in section 4114 of this title, no person may be appointed in the Department of Medicine and Surgery as physician, dentist, *podiatrist, optometrist,* nurse, physician assistant, or expanded-function dental auxiliary unless such person is a citizen of the United States.

(c) Notwithstanding any other provision of law, no person may be appointed under section 4104(1) of this title after the effective date of this subsection to serve in the Department of Medicine and Surgery in any direct patient-care capacity unless the Chief Medical Director determines, in accordance with regulations which the Administrator shall prescribe, that such person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such person to carry out such person's health-care responsibilities satisfactorily.

§ 4106. Period of appointments; promotions

(a) Appointments of physicians, dentists, podiatrists, optometrists, and nurses shall be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Administrator, without regard to civil-service requirements.

(b) Such appointments as described in subsection (a) of this section shall be for a probationary period of [three] *two* years and the record of each person serving under such appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Administrator, and if said board shall find him not fully qualified and satisfactory he shall be separated from the service.

* * * * *

§ 4112. Special medical advisory group and other advisory bodies

(a) The Administrator shall establish a special medical advisory group composed of members of the medical, dental, podiatric optometric, and allied scientific professions *and a disabled veteran* nominated by the Chief Medical Director, whose duties shall be to advise the Administrator, through the Chief Medical Director, and the Chief Medical Director direct, relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery. The special medical advisory group shall meet on a regular basis as prescribed by the Administrator and, not *later than February 1 of each year shall submit to the Administrator and the Congress a report on its activities during the preceding fiscal year*. The number, terms of service, pay, and allowances to members of such advisory group shall be in accord with existing law and regulations.

(b) In each case where the Administrator has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization, for the training or education of health service personnel, the Administrator shall establish an advisory committee (that is, deans committee, medical advisory committee, or the like). Such advisory committee shall advise the Administrator and the Chief Medical Director with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed and may be established on an institution-wide, multidisciplinary basis or on a regional basis whenever such is found to be feasible. Members of each such advisory committee shall be appointed by the Administrator and shall include personnel of the Veterans' Administration and the entity with which the Administrator has entered into such contract or agreement. The number of members and terms of members of each advisory committee shall be prescribed by the Administrator.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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Subchapter I—Acquisition and Operation of Medical Facilities

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§ 5010. Operation of medical facilities

(a) (1) The Administrator, subject to the approval of the President, is authorized to establish and operate not less than one hundred and twenty-five thousand hospital beds in medical facilities over which the Administrator has direct jurisdiction for the care and treatment of eligible veterans. The Administrator shall staff and maintain, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services.

(2) The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration medical facilities so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of hospital, nursing home, and domiciliary care, and of medical services furnished pursuant to section 612 of this title.

(3) The Chief Medical Director shall periodically analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and the Administration shall annually advise each committee of the results of such analysis and the number of any additional beds and treatment capacities and the appropriate staffing and funds therefor found necessary to meet the needs of such veterans for such necessary care and services.

(4) (A) With respect to each law making appropriations for the Veterans' Administration, there shall be provided to the Veterans' Administration the funded personnel ceiling defined in subparagraph (D) of this paragraph and the funds appropriated therefor.

(B) In order to carry out the provisions of subparagraph (A) of this paragraph, the Director of the Office of Management and Budget shall, with respect to each such law (i) provide to the Veterans' Administration for the fiscal year concerned such funded personnel ceiling and the funds necessary to achieve such ceiling, and (ii) submit to the appropriate committees of the Congress and to the Comptroller General of the United States certification that the Director has so provided such ceiling. Not later than the thirtieth day after the enactment of such a law or, in event of the enactment of such a law more than thirty days prior to the fiscal year for which such law makes such appropriations, not later than the tenth day of such fiscal year, the certification required in the first sentence of this subparagraph shall be submitted, together with a report containing complete information on the personnel ceiling that the Director has provided to the Veterans' Administration for the employees described in subparagraph (D) of this paragraph.

(C) Not later than the forty-fifth day after the enactment of each such law, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director of the Office of Management and Budget has complied with the requirements of such subparagraph in providing to the Veterans' Administration such funded personnel ceiling.

(D) For the purposes of this paragraph, the term "funded personnel ceiling" means with respect to any fiscal year, the authorization by the Director of the Office of Management and Budget to employ, (under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses) not less than the number of employees for the employment of which appropriations have ben made for such fiscal year.

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Subchapter III—State Home Facilities for Furnishing Nursing Home Care

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§ 5033. Authorization of appropriations

(a) There is hereby authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1978, [and a like sum for the succeeding fiscal year] *a like sum for each of the two succeeding fiscal years, and such sums as may be necessary for the fiscal years ending September 30 1981, and September 30, 1982.* Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes and meeting the requirements of this subchapter.

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Subchapter IV—Sharing of Medical Facilities, Equipment, and Information

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§ 5053. Specialized medical resources

(a) To secure certain specialized medical resources which otherwise might not be feasibly available, or to effectively utilize certain other medical resources, the Amerministrator may, when the Administrator determines it to be in the best interest of the prevailing standards of the Veterans' Administration medical care program, make arrangements, by contract or other form of agreement, as set forth in clauses (1) and (2) below, between Veterans' Administration hospitals and other hospitals (or other medical installations having hospital facilities, *or organ banks, blood banks, or similar institutions*) or medical schools or clinics in the medical community:

(1) for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a similar resource to be provided in a Veterans' Administration health care facility; or

(2) for the mutual use, or exchange of use, of specialized medical resources in a Veterans' Administration health care facility, which have been justified on the basis of veterans' care, but which are not utilized to their maximum effective capacity.

The Administrator may determine the geographical limitations of a medical community as used in this section.

* * * * *

§ 5054. Exchange of medical information

(a) The Administrator is authorized to enter into agreements with medical schools, hospitals, research centers, and individual members of the medical profession under which medical information and techniques will be freely exchanged and the medical information services of all parties to the agreement will be available for use by any party to the agreement under conditions specified in the agreement. In carrying out the purposes of this section, the Administrator shall utilize recent developments in electronic equipment to provide a close educational, scientific, and professional link between Veterans' Administration hospitals and major medical centers. Such agreements shall be utilized by the Administrator to the maximum extent practicable to create, at each Veterans' Administration hospital which is a part of any such agreement, an environment of academic medicine which will help such hospital attract and retain highly trained and qualified members of the medical profession.

(b) In order to bring about utilization of all medical information in the surrounding medical community, particularly in remote areas, and to foster and encourage the widest possible cooperation and consultation among all members of the medical profession in such community, the educational facilities and programs established at Veterans' Administration hospitals and the electronic link to medical centers shall be made available for use by the surrounding medical community. The Administrator may charge a fee for such services (or annual or like basis) at rates which the Administrator determines, after appropriate study, to be fair and equitable. The financial status of any user of such services shall be taken into consideration by the Administrator in establishing the amount of the fee to be paid. Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

(c) *The Administrator is authorized to enter into agreements with public and nonprofit private institutions, organizations, corporations, and other entities in order to participate in cooperative health-care personnel education programs within the geographical area of any Veterans' Administration health-care facility located in an area remote from major academic health centers.*

§ 5055. Pilot programs; grants to medical schools

(a) The Administrator may establish an Advisory Subcommittee on Programs for Exchange of Medical Information, of the Special Medical Advisory Group, established under section 4112 of this title, to advise the Administrator on matters regarding the administration of this section and to coordinate these functions with other research and education programs in the Department of Medicine and Surgery. The Assistant Chief Medical Director charged with administration of the Department of Medicine and Surgery medical research program shall be an ex officio member of this Subcommittee.

(b) The Administrator, upon the recommendation of the Subcommittee, is authorized to make grants to medical schools, hospitals, and research centers to assist such medical schools, hospitals, and research centers in planning and carrying out agreements authorized by section 5054 of this title. Such grants may be used for the employment of personnel, the construction of facilities, the purchasing of equipment when necessary to implement such programs, and for such other purposes as will facilitate the administration of this section.

(c) (1) There is hereby authorized to be appropriated an amount not to exceed $3,500,000 for fiscal year 1976; $1,700,000 for the period beginning July 1, 1976, and ending September 30, 1976; $4,000,000 for fiscal year 1977; $4,000,000 for fiscal year 1978; and $4,000,000 for fiscal year 1979 *and for each of the three succeeding fiscal years,* for the purpose of developing and carrying out medical information programs under this section on a pilot program basis and for the grants authority in subsection (b) of this section. Pilot programs authorized by this subsection shall be carried out at Veterans' Administration hospitals in geographically dispersed areas of the United States.

(2) Funds authorized under this section shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent that such cost is determined by the Administrator to be incident to

research, training, or demonstration activities carried out under this section.

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CHAPTER 82—ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

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§ 5070. Coordination with public health programs; administration

(a) The Administrator and the Secretary of Health, Education, and Welfare shall, to the maximum extent practicable, coordinate the programs carried out under this chapter and the programs carried our under section 309 and titles VII, VIII, and IX of the Public Health Service Act.

(b) The Administrator may not enter into any agreement under subchapter I of this chapter [or make any grant or provide other assistance under subchapter II or III of this chapter after the end of the seventh calendar year] after [the calendar year in which this chapter takes effect] *September 30, 1979*.

* * * * *

Subchapter II—Grants to Affiliated Medical Schools

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§ 5082. Authorization of appropriations

[(a) There is further authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and a like sum for each of the six succeeding fiscal years, for carrying out programs authorized under this chapter.]

* * * * *

(a) There is authorized to be appropriated for carrying out programs authorized under this chapter $50,000,000 for the fiscal year ending June 30, 1973; a like sum for each of the six succeeding fiscal years; $15 million for the fiscal year ending September 30, 1980; $25 million for the fiscal year ending September 30, 1981; and $30 million for the fiscal year ending September 30, 1982.

* * * * *

§ 5083. Grants

(a) Any medical school which is affiliated with the Veterans' Administration under an agreement entered into pursuant to this title may apply to the Administrator for a grant under this subchapter to assist such school, in part, to carry out, through the Veterans' Administration medical facility with which it is affiliated, projects and programs in furtherance of the purposes of this subchapter, except that no grant shall be made for the construction of any building which will not be located on land under the jurisdiction of the Administrator. Any such application shall contain such information in such detail as the Administrator deems necessary and appropriate.

(b) An application for a grant under this section may be approved by the Administrator only upon the Administrator's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the medical education (including continuing education) program of the school [and will result in a substantial increase in the number of medical students attending such school, provided there is reasonable assurance from a recognized accredited body or bodies approved for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare that the increase in the number of students will not threaten any existing accreditation or otherwise compromise the quality of the training at such school];

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out the Administrator's functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

PUBLIC LAW 96-128—NOV. 28, 1979

* * * * *

TITLE VI—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 601. (a) (1) Except as provided in paragraph (2) of this subsection, the amendments made by titles I and II and the provisions of section 101(b) shall take effect as of October 1, 1979.

(2) With respect to the amendment made by clause [(1)](*12*) of section 101(a), that portion of the amendment amending subsection (k) of section 314 to increase certain monthly rates of compensation shall take effect as of September 1, 1980, and that portion of the amendment amending such subsection to increase certain maximum monthly amounts of compensation shall take effect as of October 1, 1979.

(b) The amendments made by titles III, IV, and V shall take effect on the date of the enactment of this Act.

In conclusion, Mr. Speaker, I want to especially acknowledge the leadership of our chairman of the Committee on Veterans' Affairs, the gentleman from Texas, the Honorable RAY ROBERTS, and the distinguished ranking minority member of the committee, the Honorable JOHN PAUL HAMMERSCHMIDT of Arkansas, as well as all the members of the committee for their outstanding efforts to bring about this important legislation which will enhance the quality and quantity of the health care provided to our Nation's veterans.

I also wish to express my deepest appreciation to the chairman of the Senate Committee on Veterans' Affairs, the Honorable ALAN CRANSTON, and all of the members of his committee for their willing, thoughtful, and productive effort in perfecting this extensive veterans' legislation.

Mr. Speaker, I consider the proposed compromise to be a fair and equitable agreement, and urge that the amendments be adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I wish to associate myself with the explanation of the distinguished subcommittee chairman.

Mr. Speaker, there are many excellent provisions in the measure before us. Among its beneficiaries are World War I veterans who have been made to feel, in many cases, like poor relations when generous benefits were extended to veterans of later American wars.

I refer to the section of the bill that authorizes outpatient medical care in either a VA clinic or a private health facility where the nearest VA clinic is distant from the veteran's residence and his medical condition inhibits his ability to travel. The average age of World War I veterans has reached 81 years and many are sick and infirm—physically unable to travel to a VA hospital. This provision of the bill will be a boon to them.

Another provision is aimed at preventing the recurrence of a situation that generated widespread outrage earlier this year. The Office of Management and Budget directed the Veterans' Administration to use funds appropriated by Congress to prevent the planned closing of hospital beds within the VA medical system for another purpose. The appropriated funds were used, instead, to absorb the Federal pay raise for VA employees and the bed closings went ahead as planned.

The Director of OMB is required by the bill before us to allocate funds to the VA for the health care staffing Congress intends. It also requires the Comptroller General to monitor OMB's compliance with this provision of the law and report to Congress.

The provisions of this measure extending the program of Federal-State matching fund grants for the construction, expansion, remodeling or alteration of State veteran's homes should attract the support of every Member of this body. A companion section raises the per diem payments to State homes for the care of veterans by 15 percent. Even with the increase, this is one of the best bargains ever struck by the Federal Government when the per diem cost in State homes is compared with the cost per patient in VA facilities.

Mr. Speaker, I have touched only on the highlights of H.R. 3892 as amended by the Senate. It is my understanding the other body has informally agreed to changes made by the House. In its present form, I support the bill and urge its adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the RECORD?

There was no objection.

● Mr. MURPHY of New York. Mr. Speaker, I rise in opposition to the Stockman amendment. It would seem to me that my good colleague, Mr. STOCKMAN, would undermine the whole intent of this very important bill. He wants to tie the number of children eligible for services to an annual appropriation. This bill, on the other hand, establishes certain criteria for eligibility under this program but with the imposition of a "cap" on Federal spending, it cuts down the number of people the program will reach. This amendment would, by necessity, cause the local agencies to set up some rather complicated structure to separate those children who are served under CHAP and those served by the medicaid programs.

Overall, I believe that the anticipated savings in public expenditures simply will not be achieved. On the contrary, there is a very good possibility that this amendment will force expenditures up in the long run.

I believe that nowhere do we stand a better opportunity of improving the health of the American people than through the delivery of comprehensive preventive health care to low-income children and pregnant women. Our children are our most precious human resource. Through them, their safe and healthy birth and upbringing, and their knowledge, adoption and life-long pursuit of good health practices, we are presented with the best possible chance of realizing our cherished goals of health betterment.

New York has built within a medicaid a CHAP program which offers a full range of child health services, including preventive measures. Our CHAP program covers all medicaid eligible children in the public assistance and home relief categories. The New York child health assurance program has consistently promoted high pediatric standards and extended a wide range of benefits and services to its clients. We now offer an extensive range of preventive, primary and continuing health-care services.

If this amendment is passed, a number of very needed programs in my State will be drastically affected. Just two of these programs is the CHAP outreach and the expectation of bringing the CHAP program into the schools. Presently there are approximately 929,000 children eligible in the State of New York.

By allowing States to opt not to offer CHAP's preventive services to certain groups of low-income children or pregnant women, or not to cover certain preventive benefits, the proposal will simply divert increased costs to other parts of medicaid. For the children or pregnant women forced to go without preventive care by States' decisions to limit eligibility or benefits, more State and Federal expenditures will be needed to treat acute and costly illnesses which could have been prevented.

This proposal would allow welfare administrators to pick and choose which preventive services to cover and who should be entitled to them. CHAP was specifically designed to establish uniform policies regarding who is eligible and the services covered. This amendment would nullify CHAP's goal of assuring minimum quality standards.

The funding formula in this amendment would result in limited allocation to rural, sparsely populated States because it is based on the number of low-income children and pregnant women in the State. Faced with this problem, rural States will have to opt between setting up a severely limited program or funding a more expanded program entirely through State funds once the CHAP cap is exceeded.

This budget cap creates severe difficulties for both large and small States alike. It is conceivable that some States will suddenly find themselves responsible for a much larger part of the children's health bills than was anticipated because the States will pay 100 percent once the cap is exceeded.

By investing in CHAP we are investing in the youth, all of the youth of our Nation. Society has a major stake in these lives, and Government, as society's instrument, must take the lead in protecting its future and preserving its past. The amendment now before us will necessarily limit who is to be covered. I strongly urge my colleagues to reject the Stockman amendment.●

● Mr. ROBERTS. Mr. Speaker, I want to thank the distinguished chairman of the Subcommittee on Medical Facilities and Benefits (Mr. SATTERFIELD) for his tremendous efforts in bringing about a resolution of the differences between the House and Senate on this bill. Many hours have been devoted to resolving such differences. I think the proposed House amendments to the amendments added by the Senate are worthy of consideration by the House and I hope they are adopted. I am aware that the resolution of these differences would not have come about without the splendid work and cooperation of the ranking minority member of the committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

The very able gentleman from Virginia (Mr. SATTERFIELD) has already explained in great detail the compromise agreement. Therefore, I shall not take the time to go into the specific issues other than to say, in my opinion, we have accomplished three most important things with the bill.

First, we have made it clear to the Office of Management and Budget that in any future appropriation act the medical personnel ceiling and the amount of funding for the employment of such personnel contained in such act shall be used for that purpose. In the past, the Office of Management and Budget has elected to ignore the wishes of the Congress in allocating personnel for the VA health care program. We think the mechanism contained in the proposed House amendments would resolve that issue in the future.

Second, the proposed Hosue amendments will accomplish the main legislative proposal of the Veterans of World War I of America, Inc., for this year. The agreement we have reached would provide that any World War I veteran needing treatment on an outpatient basis in a VA hospital will get such treatment. In addition, it will allow the Veterans' Administration to contract for such care under certain conditions. This is a major benefit for World War I veterans. This provision was not contained in the bill passed by the other body.

Finally, Mr. Speaker, the compromise agreement will increase the per diem rate currently authorized for veterans receiving care in State veterans' hospitals, nursing homes, and domiciliaries. Due to the rapid rate of inflation in the past few years, the increase is totally justified. In addition, the measure would authorize such sums as may be necessary to be appropriated in fiscal years 1981 and 1982 for grants to States who may want to establish new facilities or to renovate or expand existing facilities. There is more than 33.3 million of State applications approved by the agency and awaiting funding. This exists because the level of appropriations requested by the Office of Management and Budget has not been sufficient to fund all of the projects that have been approved. The agreement we have reached will allow the Office of Management and Budget to seek a higher level of appropriations for this program and the Appropriations Committee can determine, based on VA justification, the amount to be appropriated. We think this will enhance the program.

Again, Mr. Speaker, I appreciate the work that has gone into resolving the differences between the House- and Senate-passed bills. The chairman of the Senate Veterans' Affairs Committee, the Honorable ALAN CRANSTON, has been most helpful and cooperative in attempting to resolve some very complex issues included in this proposal. I appreciate his sincere concern for our Nation's veterans and his willingness to work with us in bringing about a bill this year. He has long advocated that there be a study to determine the adverse long term health effects, if any, on veterans who were exposed to "Agent Orange" in Vietnam. Senator CRANSTON, Mr. SATTERFIELD, and Mr. HAMMERSCHMIDT have worked closely in order to bring this about.

As amended, this is a good bill, and I urge that the proposed amendments be adopted.●

● Mr. MONTGOMERY. Mr. Speaker, I rise in support of the House amendments to the Senate amendments to the bill H.R. 3892, the Veterans Programs Extension and Improvement Act of 1979.

First, I feel compelled to tell you of my appreciation and admiration of the fine leadership provided by the chairman of the Medical Facilities and Benefits Subcommittee, DAVE SATTERFIELD, and, of course, that of our distinguished chairman, the gentleman from Texas, Mr. ROBERTS, and the ranking minority member of both the full committee and of the subcommittee, the Honorable JOHN PAUL HAMMERSCHMIDT of Arkansas.

Medical benefits have been under fire from the administration for several years. This bill provides improvements and not curtailments as it well could have.

Of particular importance to me is the provision which extends full medical care to World War I veterans on about the same basis the Congress in years earlier extended those benefits to the valiant soldiers of the Spanish-American War. This benefit is more important to these World War I veterans and to the members of their families than any compensation or pension bill that we could have pushed forward since it does assure them the best in medical treatment and care. These veterans would also be eligible for contract outpatient care under certain conditions. Inasmuch as the majority of these veterans are in their eighties, the need for such assurances has become imperative and I am most glad we have met it.

Also important is the provision to extend the VA's program of Federal-State matching fund grants to States for the construction, expansion, remodeling, or alteration of State veterans homes.

In addition, the bill expands the category of beneficiaries eligible for travel reimbursement; authorizes the VA to furnish home health services up to $600 to housebound veterans or veterans in need of aid and attendance; extends CHAMPVA benefits; and requires the Director of OMB to comply with the appropriations for funded personnel ceilings. We have had problems in the past with OMB requiring that these appropriated funds be used for other purposes.

A study dealing with the long-range effects of dioxin exposure will be conducted by the Veterans' Administration in conjunction with Office of Technology and Assessment protocol and in coordination with other Federal studies. The Veterans' Administration is the best agency to conduct such a study inasmuch as they have access to all veterans records. In particular, they will be carefully looking at the records of veterans who served in Vietnam and who were exposed to "agent orange."

The committee has labored diligently and has withstood pressures to work economies at expense of vital, much-needed and well administered programs for veterans. I can tell you that this bill has many benefits yet it is a modest bill and well within our resources at $69 million.

I urge your support.●

● Mr. CORRADA. Mr. Speaker, it is with great statisfaction that I rise in support of H.R. 3892, which extends and revises the authority of the Veterans' Administration for the extended-care facilities program, commonly known as the State homes program for veterans.

On September 20, 1977 the Veterans' Administration assistant general counsel issued an opinion in which he concluded that, under existing legislation, Puerto Rico was not eligible for VA financial assistance for construction of a State home facility. At my request the Congressional Research Service made an analysis of subsections 101(19) and 101 (20) of title 38, United States Code. CRS' opinion concluded that Puerto Rico was, in fact, included as a State for the purposes of subsection 101(20). This opinion also demonstrated that the legislative intention has always been to include Puerto Rico.

The House and Senate Committees on Veterans' Affairs have also concluded that the VA's assistant general counsel's opinion, issued on September 20, 1977, is incorrect. Both committees have agreed that Puerto Rico is presently included in the participation of this program, and that another opinion should be issued by the VA correcting their misunderstanding of what has been the real legislative intention.

I knew that both committees would be doing justice to the veterans of Puerto Rico by clarifying, once and for all, this problem. A series of efforts were made by the government of Puerto Rico to start the construction of a State home, but they were frustrated by the VA's interpretation on the participating rights Puerto Rico. With the passage of this bill, and its corresponding conference report, the high expectancies of the veterans of Puerto Rico in having their own State home will become once more a reality.

I wish to commend the members of the Senate and the House Committees on Veterans' Affairs as well as their dedicated staff for their interest and diligence in making justice to Puerto Rico. My 165,000 veteran constituents are more than happy knowing that this impediment has been removed, and I share their feelings.

I urge my colleagues to support and vote favorably for this bill. My effort in this endeavor have not been in vain, and I feel a real sense of accomplishment. The source of my stimulus is, and will continue to be, the long history of the Puerto Rican contribution to the United States war efforts and their readiness to serve when duty calls.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Virginia?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on the measure just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I have asked to proceed for 1 minute in order to ask the acting majority leader what the program is for the remainder of the week and for next week.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I am delighted to answer the inquiry of the gentleman from Maryland (Mr. BAUMAN).

The program for the House of Representatives for the week of December 10, 1979, is as follows:

On Monday, December 10, the House will meet at noon. On the District Calendar, there are no bills scheduled. Under suspension of the rules, there are eight bills listed, and all recorded votes will be postponed until Tuesday, December 11, 1979.

The bills are as follows:

First. H.R. 4887, San Francisco Bay National Wildlife Refuge authorizations;

Second. H.R. 4889, Great Dismal Swamp National Wildlife Refuge authorizations;

Third. H.R. 4084, Suisun Marsh Preservation and Restoration Act of 1979;

Fourth. H.R. 2757, Yakima River Basin water enhancement project study authorization;

Fifth. H.R. 5487, Colorado National Wilderness Preservation System;

Sixth. H.R. 5926, Biscayne National Park;

Seventh. H.R. 5015, Federal Physician Comparability Allowance Amendments of 1979; and

Eighth. H.R. 5870, air traffic controllers training amendments.

Then, after those bills under suspension, we will take up S. 423, the Dispute Resolution Act. That will be considered under an open rule, with 1 hour of debate. The rule has already been adopted. There will be general debate only.

Then we will consider H.R. 2977, the Domestic Violence Prevention and Services Act, under an open rule, with 1 hour of debate. The rule has already been adopted. We will have general debate only.

On Tuesday, December 11, the House meets at noon. There will be no bills under suspension. Recorded votes on suspensions debated Monday, December 10, 1979, will be taken.

Then there will be consideration of the following bills:

H.R. 4962, Child Health Assurance Act of 1979, and we will complete consideration;

S. 423, the Dispute Resolution Act, votes on amendments and the bill;

H.R. 2977, Domestic Violence Prevention and Services Act, votes on amendments and the bill; and

H.R. 2816, the Refugee Act of 1979, under an open rule, with 1 hour of debate.

On Wednesday and the balance of the week, December 12, 13, and 14, the House meets at 10 a.m. on Wednesday and Thursday and at 9 a.m. on Friday. We will have bills taken up in the following order:

H.R. 5860, loan guarantee for Chrysler Corp., subject to a rule being granted;

H.R. 5980, the antirecession fiscal assistance, subject to a rule being granted;

H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979, and we will complete consideration;

H.R. 2585, the National Traffic and Motor Vehicle Information and Cost Savings Act, under an open rule, with 1 hour of debate; and

H.R. 5295, the earnings test for certain social security beneficiaries, subject to a rule being granted.

The House will adjourn by 2 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time, and any further program will be announced later by the leadership.

Mr. BAUMAN. Mr. Speaker, I wonder, since the gentleman has announced a rather ambitious program for next week, if the Members can expect that we will be in session on next Friday, although we have not been in session on the last two Fridays?

Mr. DICKS. Mr. Speaker, the gentleman is correct. The plan at this time is to have the House in session on Friday. Of course, if there is any change, there will be every effort made to notify the gentleman and the minority before that time.

Mr. BAUMAN. Mr. Speaker, may I also state that apparently the program presupposes that we will be here until at least December 21. Do we have any particular date set other than December 21 involving a recess of the House?

Mr. DICKS. No. The gentleman again is correct.

Mr. Speaker, the plan at this time is to remain in session until December 21. That is, of course, as the gentleman knows, subject to change if some unforeseen circumstance occurs, but there is no further indication of any date other than December 21 at this time.

Mr. BAUMAN. Mr. Speaker, is the gentleman able to comment on the rumor the gentleman from Maryland heard today that we may stay in session until the end of the year and perhaps over the Christmas period, with 3-day pro forma sessions, rather than recessing?

Mr. DICKS. Really, Mr. Speaker, I cannot give the gentleman a full elaboration, but I can tell him that, based on the best available information at this time, there is no such plan.

Mr. BAUMAN. Mr. Speaker, that is welcome news, I will say to the gentleman.

Mr. DICKS. That is as of this time.

Mr. BAUMAN. Mr. Speaker, I understand what that means also.

HOUR OF MEETING ON FRIDAY, DECEMBER 14, 1979

Mr. DICKS. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday, December 14, 1979, it convene at 9 a.m.

The SPEAKER pro tempore. (Mr. WRIGHT). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DICKS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO MONDAY, DECEMBER 10, 1979

Mr. DICKS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. DICKS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, December 10, 1979, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 218

Mr. DICKS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE REPORTS ON H.R. 5929, BISCAYNE NATIONAL PARK, AND H.R. 4370, COAL SLURRY PIPELINE

Mr. BENNETT. Mr. Chairman, on behalf of the chairman on the Committee on Interior and Insular Affairs, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tomorrow, Friday, December 7, 1979, to file a report on H.R. 5929, a bill relating to the establishment of the Biscayne National Park, and a report on H.R. 4370, a bill involving the coal slurry pipeline.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1700

RESIGNATION OF CONFEREE AND APPOINTMENT AS CONFEREE ON H.R. 4985, PRIORITY ENERGY PROJECT ACT OF 1979

The SPEAKER pro tempore laid before the House the following resignation as a conferee:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 28, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I respectfully resign as a member of the conference on the part of the House on H.R. 4985, the Priority Energy Project Act.

Sincerely,
JOHN F. SEIBERLING.

The SPEAKER pro tempore (Mr. WRIGHT). Without objection, the resignation is accepted.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints as a member of the committee of conference on S. 1308, Priority Energy Project Act of 1979, the gentleman from Texas (Mr. ECKHARDT) to fill the existing vacancy.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

APPOINTMENT OF CONFEREES ON S. 914, NATIONAL PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1979

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 914) to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none and, without objection, appoints the following conferees: Messrs. JOHNSON of California, ROE, OBERSTAR, and NOWAK, Mrs. BOUQUARD, Messrs. EVANS of Georgia, HARSHA, HAMMERSCHMIDT, and CLINGER.

As an additional conferee for consideration only of the following provisions of the House amendment and Senate modifications relating thereto committed to conference: In section 103 of the House amendment, the following provisions added to title II of the Public Works and Economic Act of 1965: Section 202(f); in section 203(a), the 10-year limitation on partial payment of interest by the Secretary; in section 203(c), the 4 per centum minimum rate payable by the Secretary; in section 205(4), the provision following the comma in the second sentence, exempting the extension of maturity of a loan or guarantee from the restrictions on maturities; and section 205(7), paragraphs A through E: Mr. MOORHEAD of Pennsylvania.

There was no objection.

THE RETIREMENT INCOME INCENTIVES AND ADMINISTRATIVE SIMPLIFICATION ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ERLENBORN) is recognized for 30 minutes.

Mr. ERLENBORN. Mr. Speaker, the bill I am introducing today with my colleague, Mr. CONABLE, the ranking minority member of the Committee on Ways and Means, provides for the consolidation and simplification of the laws and administration relating to employee benefit plans, and also provides new incentives to increase retirement savings and to renew the growth and expansion of benefits and coverage under private pension plans. This bill, the Retirement Income Incentives and Administrative Simplification Act of 1979, sets a new course whereby private pension and other employee benefit plans may grow to meet the retirement income challenges of this Nation in the 1980's and beyond.

With a new decade upon us, our national pension system is at a crossroads. The present means of delivering retirement income will be faced with far greater demands in the 1980's. Barring significant changes in our national pension policy, each of the three major components in the delivery of retirement income—employer-sponsored pension plans, social security, and individual savings and investment—will be hard pressed to meet the retirement income needs of our Nation's working men and women.

The expansion of private pension coverage and benefit levels has ceased for the moment, due to uncontrolled inflation, slower economic growth, and to a lesser extent, the effects of ERISA, the Employee Retirement Income Security Act of 1974. Technological obsolescence, changing patterns of consumption and foreign competition threaten the pension benefits provided by multiemployer and other plans.

The demographics of the future cast doubt on the health of the social security system. It is difficult to foresee how current levels of support can be maintained, yet far too many workers already depend on social security benefits as their sole source of retirement earnings.

On the other hand, individual incentives for personal retirement savings and investment are not emphasized enough. New inducements will be necessary to encourage individual retirement initiatives, particularly during this era of shrinking disposable income, when this aspect of retirement planning is the first to be dismissed.

To meet the challenges the 1980's pose to our national retirement income policy, reasoned solutions will be required. It is within the following framework of the Retirement Income Incentives and Administrative Simplification Act of 1979 that such reasoned solutions may be accomplished.

Title I of the bill establishes the Employee Benefit Administration (EBA), a single independent agency to consolidate Federal regulation with respect to employee pension and welfare benefit plans.

Title II permits Federal income tax deductions for employees who supplement their employer-sponsored pension with individual contributions to their plan or an individual retirement account (IRA).

Title III clarifies, corrects, and simplifies current ERISA provisions in order to eliminate unnecessary plan expense and paperwork and to remove existing obstacles to orderly growth and plan formation.

Title IV amends the Internal Revenue Code to conform it with title III and to solve problems certain employees and plans have experienced with respect to lump-sum distributions, rollovers, and trusts created outside the United States.

Title V provides for voluntary IRA payroll withholding arrangements for employees who are not covered by employer-sponsored pension plans.

TITLE I—EMPLOYEE BENEFIT ADMINISTRATION

The key to the successful implementation of a rational retirement income policy is the consolidation of Federal pension regulation under a single agency to be known as the Employee Benefit Administration (EBA). If the principal objective of ERISA, namely assuring that workers receive entitled benefits, is to be fully realized, a single agency must administer the law. Evidence shows that the unnecessary expense, confusion, and delay under ERISA's multiple administration have caused an alarming number of employers to terminate existing employee benefit plans or refrain from establishing new ones. In this respect, multiple administration has thwarted the principal intent of ERISA.

During the development of ERISA, four legislative committees agreed, after considerable effort, to a complex arrangement by which agencies and departments would administer various parts of the law. Regulatory responsibilities in the areas of reporting, disclosure, vesting, funding, and plan termination insurance were divided among the Department of Labor, the Internal Revenue Service, including the Treasury Department, and the Pension Benefit Guaranty Corporation. Although a good faith effort was made to set forth the exact boundaries of each agency's responsibilities, many of us who were most closely involved in ERISA's development expected problems to arise.

After 5 years of ERISA oversight experience, it is quite clear that this administrative design has not worked. ERISA has been repeatedly included in a list of government programs known for excessive bureaucracy. It earned this reputation through well documented examples of duplication and waste, confusion and delay, complexity and lack of inter- and intra-agency coordination. Each of ERISA's three administrative agencies has pursued its own individual and distinct policy, leaving ERISA without a consistent comprehensive policy of its own.

The bill would correct these shortcomings by consolidating all of ERISA's functions under the Employee Benefit Administration whose charter would be "to foster the orderly growth and maintenance of employee benefit plans."

The EBA would be headed by a full-time five member Board of Directors consisting of a liaison officer from both the Labor and Treasury Departments, the Executive Director of the EBA, who would serve as Chairman, and two additional Presidential appointees. The PBGC would retain its present corporate character within the EBA with the membership of the EBA and the PBGC Board of Directors being identical (to prevent any future conflict in EBA and PBGC policies or operations).

By also serving as the Executive Director, the EBA Chairman of the Board would be able to implement the policies set by the Board both efficiently and expeditiously.

The representation on the Board of the Department of Labor and of the Treasury by their liaison officers provides assurance that pertinent labor law and tax law policies will be given due consideration. The remaining two members would also be chosen by the President with the approval of the Senate from among a list of nominees submitted by the Secretaries of Labor and the Treasury.

The ERISA functions of the Secretaries of Labor and the Treasury would be transferred to the EBA, as would the functions of all other agencies and departments relating to employee benefit plans, subject to the discretion of the President. All regulations and rulings previously issued by the Treasury, IRS, DOL, and the PBGC would remain in effect. Any other Federal agency or department issuing regulations affecting employee benefit plans would be required to consult with the EBA to avoid duplication and inconsistency.

The functions and duties of the Secretary of the Treasury transferred are those under titles I, II, and IV of ERISA; and those under Internal Revenue Code sections 401, 406 (a) and (b), 407 (a) and (b), 409A, 410, 411, 412, 413, 414, 415, 4971, 4975, 6057, 6058, 6059, 6690, 6692, and 7476; and those under other provisions of the Internal Revenue Code which relate to the formulation of retirement income policy or to plan qualification and disqualification.

The enforcement functions under both title I and title II of ERISA would be transferred to the EBA. As a result, the enforcement remedies under title II (for example, plan disqualification, excise taxes, and other penalties) would be exercised solely by the EBA in a coordinated fashion with the other civil remedies under title I of ERISA. The conflicting or duplicative enforcement activities under present law would be eliminated. Importantly, any action by the EBA leading to the disqualification of a plan would be taken as a last resort only after all other remedies authorized under ERISA or the Internal Revenue Code have been exhausted.

Such officers and employees would be transferred to the EBA as may be necessary to maintain and improve administration of the functions transferred and to assure a competent and qualified field force. In order that the present level of effort and expertise not be diminished, the President is directed to transfer officers and employees in the national and field offices of the Department of Labor, the Department of the Treasury (including the Internal Revenue Service) as may be necessary to accomplish this purpose. The President and the Board are granted the authority needed to accomplish the reorganization without causing disruption to the present level of effort or to employees' careers.

The existing Advisory Council on Employee Welfare and Benefit Plans would be transferred to advise the Administration. As the terms of existing members expire, the President would appoint new members to the Council.

The Joint Board for the Enrollment of Actuaries would become the Board for the Enrollment of Actuaries.

The EBA would be established not later than 3 years after the date of enactment, although the President could delay the transfer of any function which may be necessary to provide for a smooth transition.

The EBA will provide the necessary framework to deal, in a timely fashion, with emerging pension issues, such as legislation covering State and local pension plans.

The creation of the EBA will finally give proper recognition to the vast significance of this Nation's 1.8 million private pension and welfare plans and their 55 million-plus participants.

The President's ERISA Reorganization Plan No. 4 of 1978, originally characterized as an interim measure, is currently being evaluated. By the end of January 1980, the President is required to propose his recommendation for a long term legislative solution. A truly independent and unbiased evaluation has already endorsed the desirability of a single agency. This conclusion was reached in a recent Duke University study headed by a former staff assistant on the Federal Office of Management and Budget Task Force on the Administration of ERISA. I have encouraged President Carter to look beyond jurisdictional disputes and election year politics in making his legislative recommendations. The fact that the President has created a Commission on Pension Policy is in itself convincing evidence of the need for a single agency to bring a rational approach to the formulation and implementation of pension policy.

TITLE II—DEDUCTIONS FOR RETIREMENT SAVINGS

Currently, individuals who are active participants in a retirement plan cannot establish an individual retirement account and cannot receive a tax deduction for their own plan contributions whether such contributions are voluntary or mandatory.

By providing certain tax deductions to plan participants, title II of the bill will solve several problems which have manifested themselves under the current law. When an employee already participating in a plan desires to establish an IRA but is precluded from doing so, pressure is created for the employee to withdraw from the plan. On a collective scale, this pressure could jeopardize the plan's qualified tax status. The bill will eliminate the current pressure for employees to withdraw from plans. The current law prohibiting participants from setting up an IRA works as a particular hardship on mobile employees such as engineers. Under the bill, employees who participate in the plan but terminate before they are vested would not receive any plan benefits, but they would at least have their IRA to fall back on. Finally, under the bill those who participate in inadequate plans (for example, profit sharing arrangement when there is minimal profit) will have the freedom to set up their own IRAs or contribute to their own plans (if permitted) and receive a tax deduction.

Under the bill, employees participating in pension plans will be permitted a tax deduction of up to the lesser of $1,000 or 15 percent of earned income for any combination of contributions to an IRA or to their plan (but only where the plan permits such contributions). In addition, the participating employee would be permitted to apportion one-half of the total deductible amount to establish a "spousal IRA" in a manner similar to the current rules.

The provisions of title II do not apply to participants in retirement plans established by the Federal Government, the States, or their political subdivisions, or international organizations.

The bill gives the Secretary of the Treasury authority to issue regulations concerning the filing of reports in connection with this new deduction.

Current IRA rules are made applicable to IRA's established under the bill. For example, a deduction is not allowed in the case of contributions made after an individual has attained age 70½. However, contributions may be made for a taxable year until the date the Federal income tax return for that year must be filed.

Conforming estate and gift tax amendments are also made by the bill.

TITLE III—ERISA CORRECTIONS, CLARIFICATION, AND SIMPLIFICATION

After more than 5 years of congressional oversight of the Employee Retirement Income Security Act of 1974, it is high time for the Congress to make the necessary corrections to the law where shortcomings persist despite the best efforts of the agencies to make such corrections administratively. The establishment of the Employee Benefit Administration under title I of the bill will automatically correct the severe and more vexing problems related to multiple agency administration.

ERISA's burdensome reporting requirements and bureaucratic redtape have frustrated the operation of existing plans and discouraged the establishment of new ones. A number of revisions can be made without adversely affecting participant protections, but which will make ERISA a more reasonable law and one that strengthens the private pension system.

PART 1—AMENDMENTS TO DEFINITIONS

The bill exempts certain severance pay and supplemental retirement income arrangements from the provisions of ERISA relating to pension plans. In many cases, employers have ceased their pre-ERISA practices of supplementing retiree pensions through ad hoc payments made only from the employer's general assets. The bill removes disincentives for employers to make such payments by exempting such practices from ERISA's pension plan requirements. The exemption contains a safe harbor rule for certain arrangements where the supplementary payments are limited to no more than the increase in the Consumer Price Index. The Secretary of Labor may define the parameters of other arrangements to be exempted.

The definition of normal retirement age is clarified to permit benefit payments to commence at the beginning of calendar months.

The ERISA Title I definitions of "governmental plan" and "party in interest" are amended to conform with such definitions under the Internal Revenue Code. A technical omission in the definition of "relative" is corrected.

PART 2—REPORTING AND DISCLOSURE

The bill eliminates unnecessary plan costs related to duplicative work in which accountants and actuaries may now be engaged with respect to plan reporting. The definition concerning the opinions of actuaries and accountants is changed so that the language reads that they "shall" rely on one another's opinions instead of that they "may."

The bill cuts down on unnecessary auditing of the assets and liabilities of common or collective trusts, separate accounts or separate trusts of financial institutions such as banks or insurance companies which are regulated and subject to periodic examination by State or Federal agencies. Participants, of course, receive greater protection from a full audit which covers assets in such pooled trusts or accounts, but the cost of doing such an audit may not be justified where the institution is already subject to periodic examination by a governmental agency.

The bill eliminates unnecessary costs connected with the annual reporting regulations for plans having "master trusts." The amendment provides for adequate reporting of plan financial information, but more appropriately with respect to all assets of the master trust.

The bill recognizes the recent action taken by the Department of Labor to revise schedule B of the annual report and, thus, eliminates section 103(d)(6) from the law (the requirements of which have been permanently waived by the Department).

The bill modifies the following requirement which has been determined not to be cost-justified. The summary annual report, which must be distributed to participants each year and which must disclose, among other things, the plan's assets and liabilities as well as its annual receipts and disbursements, is no longer required to be furnished individually. However, a summary annual report containing more meaningful information would have to be posted at employee work sites or published in company or union newsletters. Participants who are interested in the fiscal condition of their plans can request a copy of the full annual report which must be provided by the administrator. To assure that this report is practically available, the bill provides that an administrator can charge no more than $10 for a copy of the full annual report.

The notice to interested parties currently required under ERISA section 3001 and section 7476 of the Internal Revenue Code is simplified to require posting (or alternative means of publication under regulation) and notification of collective bargaining agents within 60 days before and 15 days after the request for a determination is filed.

Under the bill, if an employee is interested in the amount of his own accrued benefit or account balance, he can request such information from the administrator who, under newly combined ERISA sections 105 and 209, must provide such information. Upon the separation from service and incurrence of a 1-year break in service by an employee, a plan administrator will be required to automatically disclose to the former participant his accrued benefit only if the benefit is vested. There is little point of requiring an administrator to bear the cost of notifying a former employee that he has no vested benefit. It is intended, however, that such an employee will have the right to request information on his accrued benefit, whether vested or not, before the occurrence of a 1-year break in service.

The bill seeks to preserve individual privacy and eliminate the harassment of employers and others connected with plans by requiring that any information provided individuals by the Department of Labor in computer-compatible form (such as tapes) not be utilized for the mass mailing of solicitations for any commercial purpose.

The bill amends section 110 of ERISA to clarify that alternative methods of compliance with the act's reporting requirements may be extended to welfare plans as well as pension plans. Subject to certain safeguards, the reporting of 3 percent transactions is curtailed, as well as the filing of certain information relating to insured welfare and pension plans which is already filed with other regulatory bodies or available from other sources.

The bill provides for alternative methods for distributing information to participants in multiemployer plans subject to certain safeguards and regulations.

PART 3—PARTICIPATION AND VESTING

The bill permits the determination of pension plan eligibility on a plan-year basis, thus reducing plan administrative costs by allowing a single entry date each year to be used for such purposes.

The bill amends the multiemployer suspension of benefit upon reemployment rules. Multiemployer plans will be permitted to suspend the payment of benefits while an employee is reemployed in the same industry, trade, or craft, and the same geographic area covered by the plan, as when such benefits commenced. The rule eliminates "industry" as an element separate from "trade or craft" to avoid problems which have arisen in the application of the existing rule.

The bill eliminates unnecessary confusion and administrative expense by clarifying that the employee notification and election requirement (section 203(c)(1)(13)), triggered when vesting schedules are changed, is only applicable to employees who might be adversely affected by the change.

The bill clarifies that 125 days of service in any maritime industry shall be equivalent to 1,000 hours of service.

Under the bill, a multiemployer plan will be able to provide that a participant's accrued benefit upon his separation from the service is the sum of different rates of benefit accrual for different periods of participation as defined by one or more fixed calendar dates or by employment in different bargaining units. For purposes of the 3-percent accrual method or the fractional method, the accrued benefit may be determined by projecting the normal retirement benefit to which a participant would be entitled if he continued to accrue benefits at the average of the rates applicable to this period of actual participation.

The bill makes several changes with respect to the calculation of optional forms of benefits which will reduce plan legal and other administrative costs. A new paragraphs (23) is added to section 401(a) of the Internal Revenue Code to exempt a plan from a current IRS requirement that a plan be amended each time a change is made in the actuarial assumptions used to compute the actuarial equivalence of optional benefit forms (but only if an enrolled actuary certifies that any such change in actuarial assumption was not inappropriate at the time such change was made). Also, a plan offering optional benefit forms would not be treated as altering a participants' accrued benefits by reason of a change in the actuarial assumptions used to compute such benefits as long as an enrolled actuary makes a certification as described above.

The current ERISA year of service, year of participation, and break-in-service rules relating to seasonal industries have proven to be inexplicable. Neither the Department of Labor nor the Department of the Treasury (which has assumed jurisdiction over such rules under Reorganization Plan No. 4) has been able to make any headway in developing regulations with respect to these provisions. Neither should they attempt to do so given the present unworkability of such provisions. The bill includes the following new definitions with the intent being only to elicit comments as to their workability and not necessarily to suggest they offer a final solution to the problem. The concepts of "seasonal employee" (one who works less than 1,000 hours in a year) and "seasonal establishment" (one at which employment is limited by regular and recurring climatic conditions directly affecting the ability of the establishment to engage in its normal functions) are introduced, and plans in which a majority of the employees are seasonal employees would be required to use 500 hours, rather than 1,000 hours, for purposes of defining a year of service.

The bill clarifies and improves the provisions relating to joint and survivor annuities. Most defined contribution plans have eliminated all optional annuity forms from their plans in order to avoid the current joint and survivor annuity requirements. The bill removes the disincentive for such plans to offer annuity options to their participants by exempting them from the J. & S. requirements (so long as the plan provides for 100 percent vesting upon death). In addition, the bill clarifies that a J. & S. option must be provided to a disability retiree only when the disability begins after the qualified early retirement age. Also, the bill clarifies that a plan need not offer a preretirement survivor annuity option if the preretirement death benefit is automatic and is at least the actuarial equivalent of the survivor annuity, and the plan allows the participant to elect to have the death benefit paid in the form of a survivor annuity. Also, the bill clarifies that the right of a participant to revoke an election of an annuity option is not to extend beyond the later of the participant's annuity starting date, or the date on which the participant first applies for benefits. Finally, the bill clarifies that a person other than the spouse may be designated as beneficiary under a qualified joint and survivor annuity, provided the spouse gives written consent (this provision does not require such written consent for other optional annuity forms which a plan may provide).

Currently, courts are ignoring ERISA's preemption of State law with respect to community property laws and alimony and support decrees. Plans which obey court orders to pay benefits in violation of ERISA's prohibitions against assignment and alienation are placed in tax jeopardy. The bill ends this confusion by making the prohibition of benefit assignment and alienation specific in Federal law, with an exemption allowing plans to pay certain benefits pursuant to state court decrees of divorce, annulment, legal separation, or family support. The applicable decree must provide that the payment is required and specify the amount, and that the obligation is the participant's. In addition, the decree could not require a plan to alter its terms of payment. A plan would have to be notified of the court decree to be obligated for future payments. Both the plan and the other party would be required to give certain notification to each other before payments could be made.

The bill would codify the Department of Labor regulations pertaining to the elapsed time method of determining length of service.

PART 4—FUNDING PROVISIONS

The bill clarifies that the amortization (funding) period connected with changes in actuarial methods is the same as the period connected with changes in actuarial assumptions.

The alternative funding method is made workable for the well funded plans using this method by permitting such plans to amortize unfunded past service liabilities over 30 years when the plan switches back to entry-age-normal funding (which usually occurs at the time benefits are increased substantially).

The bill amends the law to require the approval of changes in funding method or plan year only when such changes are made more than once in a 3-year period. This provision eliminates delays and unnecessary plan and government costs.

PART 5—FIDUCIARY PROVISIONS

In order to make more types of insurance available to plans, the bill provides with respect to a plan which is funded by a contract, or policy of insurance, including, but not limited to guaranteed benefit policies, that such a plan's assets shall include such policies, but not the insurer's general account assets.

The bill provides, retroactive to January 1, 1975, that collectively bargained plans maintained by more than one employer may return an employer contribution within 1 year after the plan administrator knows that the contribution was made by a mistake of fact or that holding the contribution would contravene section 302 of the Labor-Management Relations Act. The present rule requires the return of the mistaken contribution within 1 year after the payment of such contribution.

The bill modifies ERISA's cofiduciary rule which holds one fiduciary responsible for a breach of a duty by a second fiduciary if the first fiduciary knows of the breach and does not make reasonable efforts to remedy it. In large financial institutions, for example, it is very difficult to assure that such knowledge by one employee is communicated to the appropriate employee of that institution who could take appropriate action. Consequently, the amendment provides that with respect to a fiduciary who is not a natural person, "knowledge" means knowledge actually communicated—or knowledge which, in the normal course of business, should have been communicated—to the fiduciary's employee who is authorized to carry out the fiduciary's responsibilities regarding the matter to which the knowledge relates.

With respect to the definition of "qualifying employer real property," the bill clarifies that "a substantial number of the parcels must be dispersed geographically" only when three or more parcels are involved.

The bill clarifies that not only plan fiduciaries but also parties-in-interest may receive plan benefits they are due or reasonable compensation for services they may render to the plan. This provision eliminates any unintentional construction that plan participants, because they are included in the definition of party-in-interest, cannot be paid their benefits without causing the plan to violate the prohibited transaction rules under section 406.

The bill makes a correction to section 408(d) of ERISA which inadvertently makes the exemption procedure relating to prohibited transactions currently unavailable to persons who are "owner-employees."

The bill establishes a special exemption procedure with respect to transactions currently prohibited under section 406(a) (1) (A)–(D). To expedite the processing of exemption applications which do not involve self-dealing, the bill provides that with respect to an application that has been "completed" for 90 days (individual exemptions) or 180 days (class exemptions) and for which a final administrative determination has not been made, the exemption would be considered granted, but only if the applicant can prove that the transaction meets a test of "adequate consideration" in the event the transaction is later challenged. The need for this reasonable rule to expedite the processing of exemptions for legitimate and beneficial transactions is as apparent today as it was shortly after ERISA was enacted when a rush of exemption requests were merely logged in and then permitted to accumulate into a backlog of many hundreds. The Department of Labor is commended for its recent stepped-up effort to reduce the backlog of exemption requests. However, exemption requests 2 and 3 years old still plague the Department's best efforts to process them. Also, it is more than likely that a new surge of exemption requests will begin to flow when applicants perceive that their chances for getting a more timely response are improved as a result of backlog reductions. This serves to point out the pentup demand for relief from the prohibited transaction rules which exists across the spectrum of the plan universe. Without the expedited process in the bill, legitimate plan transactions will continue to be frustrated or, as is assurely the situation in numerous cases, transactions otherwise prohibited will not be disclosed as such, but will be entered into nonetheless because they are known to be prudent and beneficial to the plans and their participants.

The bill provides clarification (consonant with currently applicable regulations) that ERISA's ban on plan exculpatory provisions is not intended to prevent indemnification of fiduciaries by parties related to the plan. The bill also makes it clear that, among the various indemnification practices permitted under ERISA, a multiemployer plan may in certain situations pay the cost of defending plan trustees and may indemnify them subject to a determination that the trustees acted in good faith. The intent is to better enable plans to retain competent trustees by permitting honest fiduciaries to carry out their responsibilities without fear of personal liability for the large potential costs of defending challenges to plan decisions. The provision will also minimize the dependency of plans on costly insurance, thus creating cost savings which will inure to, to benefit of plan participants.

PART 6—AMENDMENT TO ERISA, TITLE I, PART 5

To improve administration, the bill provides that amounts collected by the Department of Labor from persons requesting information are to inure to the Department.

In order to assure small plan sponsors of an adequate voice on the Advisory Council on Employee Welfare and Pension Benefit Plans, the bill requires that at least one member of the Council shall be representative of employers maintaining small plans.

The Department of Labor and the Department of the Treasury have been totally unresponsive to repeated requests by the Congress for information currently reported by plans to the Departments. The bill requires the Secretary of Labor to publish a report at least annually showing the number of plans and plan participants, plan assets, and other plan information by type and size of plan.

Increasingly the courts are challenging the preemption language under ERISA section 514. The bill affirms the broad Federal preemption of State laws as was the original intent of ERISA. First, the bill provides that a State insurance law which requires that a specific benefit be provided or made available by a contract or policy of insurance issued to an employee benefit plan is preempted and is not saved under the existing insurance exception. The proposal is intended to overrule the decision in Wadsworth against Whaland in which the first circuit held that ERISA did not preempt a State insurance statute requiring insurers to provide coverage in group health insurance policies for treatment of certain illnesses and disorders. If left uncorrected, Wadsworth would permit indirect State regulation of employee benefit plans and would encourage plans to avoid such regulation through self-insurance. Secondly, the bill amends the preemption section to make it a matter of Federal law that benefits provided under an ERISA-covered pension plan may not be assigned or alienated. The purpose of the one exception to this rule is to reserve for the States their traditional control over marital and family matters and to aid plan administrators who are faced with the conflicting duties of obeying State court decrees to pay benefits to plan participants' former spouses and also of complying with the existing anti-alienation rule under penalty of plan disqualification. The particulars of this exception are contained in the amendment to the antiassignment and alienation provision described earlier under part 3.

PART 7—PLAN TERMINATION LIABILITY

The bill clarifies the original intent of ERISA that in the case in which two or more plans covered under title IV of ERISA are terminated simultaneously by any employer, the employer's liability is limited to 30 percent of net worth. In addition, the bill reduces the 30-percent net worth limitation with respect to an employer at the time of any subsequent plan termination by an amount equal to the actual payments made on account of a previously incurred liability. It is not intended that these provisions in any way conflict with the consideration of amendments to title IV of ERISA in connection with the PBGC's proposal for multiemployer plan insolvency insurance (H.R. 3904). This does, however, point up the interrelationship of the amendments of this bill with other ERISA measures, principally H.R. 3904, and the need to consider these amendments simultaneously in an omnibus fashion.

PART 8—RECOMMENDATIONS BY THE AGENCIES

Consonant with the policy of the bill to simplify ERISA and to reduce complexity and unnecessary paperwork, the Secretary of Labor and the Secretary of the Treasury are directed to make a joint recommendation as to how ERISA report requirements may be changed to take into account the different types and sizes of plans. For example, administrators of welfare plans should not have to struggle with the more complex instructions and requirements pertaining to pension plans. This provision of the bill also states that no regulation or form relating to cyclical reporting requirements for small plans (pursuant to the proposal on June 26, 1979 in 44 FR 37366) shall become effective prior to the implementation of this section of the bill.

To encourage the growth of pension plan sponsorship, the bill makes provision for the eventual establishment of "special master plans." Within 1 year after the date of enactment, the Secretary of Labor and the Secretary of the Treasury are to jointly recommend legislation to enable certain institutions, such as registered investment advisers, banks, savings and loan associations, and insurance companies to develop special master plans for adoption by employers. It is anticipated that many employers who would otherwise be reluctant to establish plans will do so when the sponsoring institution assumes the major administrative and fiduciary burdens under such special master plans.

TITLE IV—INTERNAL REVENUE CODE AMENDMENTS

Subtitle A of title IV of the bill conforms the Internal Revenue Code of 1954 to the amendments made to ERISA under title III. Subtitle B contains the following substantive tax amendments.

Code section 402 is amended to clarify that employee participation in predecessor plans or other plans or related employers is to be counted toward the eligibility requirement for lump sum distribution treatment.

Under the Internal Revenue Code certain defined contribution plans and defined benefit plans of an employer are treated separately for purposes of determining whether an employee has received a "lump sum distribution." However, the code does not contain similar rules for multiemployer plans and plans established by tax-exempt organizations. The bill provides that in the case of multiemployer plans and plans maintained by organizations described in section 501(c)(3) (relating to charitable and educational organizations) or section 501(c)(5) (relating to labor, etc. organizations) this separate treatment will also apply. Thus, the bill makes clear that plans established by these organizations can be classified as defined benefit and defined contribution plans and that separate distribution from the plans can receive lump sum distribution treatment.

Because multiemployer plans provide portability of pension credits among the various employers maintaining the plans, and because such plans exist in industries where changes of employment are frequent, difficulty has arisen in some cases in determining when a "separation from the service" occurs in the context of a multiemployer plan for purposes of determining qualification for favored tax treatment of certain lump sum distributions under section 402(e) of the Internal Revenue Code. In order to resolve this issue, the amendment to section 402(e)(4) made by the bill specifies that a separation from service shall be deemed to have occurred in the case of a multiemployer plan if any employee has not worked in service covered by the plan for a period of 6 consecutive months.

The bill incorporates the provisions of H.R. 4289 under which an employee, who receives a total distribution from a "money purchase pension plan," may rollover the distribution, tax-free, into an IRA or other qualified plan, despite the fact the employee also participates in a defined benefit pension plan. The bill does not amend current law to allow these distributions to be taxed as "lump sum distributions." Currently, the tax-free rollover treatment would not be permitted since the employee's continued participation in the defined benefit pension plan would prevent the distribution from qualifying as a lump sum distribution.

The bill amends section 404(a)(4) of the Internal Revenue Code to conform it with the ERISA title I exemption for plans "maintained outside of the United States primarily for the benefit of persons substantially all of whom are nonresident aliens." Subject to an antireversion rule, the amendment exempts the trusts of such plans from taxation and permits U.S. employers to deduct amounts contributed to such plans without regard to the qualification requirements for U.S. plans (which might otherwise conflict with the requirements such plans have to meet under foreign law).

TITLE V—INDIVIDUAL RETIREMENT PAYROLL DEDUCTION ARRANGEMENTS FOR EMPLOYEES NOT COVERED BY PENSION PLANS

The last title of the bill focuses on individual retirement incentives for employees who do not participate in employer-sponsored plans. In this case, employees would be allowed to participate in an IRA through a payroll withholding mechanism.

All employees not currently or ultimately eligible to be covered under a pension plan would be eligible for IRA withholding. Employers would not have to withhold unless 10 percent or more of the employees sign up for payroll withholding. Once the withholding began, employers would be obligated to forward individual contributions to one or more IRA sponsors of the employer's choosing.

IRA withholding would not be required of all employers. Employers who have not been in business for 5 years and small employers (those having fewer than 20 employees) are encouraged but not required to withhold.

IRA withholding will provide a viable mechanism for individual retirement savings within the workplace to employees who currently lack such a device. Even though the same incentives are currently available under the conventional IRA, voluntary withholding will provide many employees with the discipline to save which they now lack on their own.

To assist employees, the amount withheld under an arrangement established pursuant to title V would be shown on the employees' W-2 wage form. The Employee Benefit Administration established under title I will administer the provisions of title V.

SUMMARY

Mr. Speaker, there are numerous critics of the Nation's present three-legged stool approach to providing working men and women and their families with retirement income security through social security, private pensions, and individual savings.

Commonsense must prevail in answering such criticisms. The enactment of the Erlenborn-Conable bill I have just described sets forth the necessary blueprint for building on the strengths and correcting the weaknesses of our present sytsem of providing retirement income. By preserving our private pension system and strengthening it through tax incentives and other means, the bill sets the stage for expanded capital formation and increased productivity in the 1980's and beyond which will lead to greater retirement income security for all of America's workers and their families.

The cornerstone of this program is the establishment of a single independent agency, the Employee Benefit Administration, to administer all Federal regulatory functions affecting employee benefit plans and to carry out in a coordinated fashion the national retirement income policies in the bill. The single agency is a necessary step in the implementation of other legislative proposals high on the national agenda such as mandatory termination insurance for multiemployer pension plans and the extension of reporting, disclosure, and fiduciary standards to State and local government pension plans.

The bill removes current disincentives and provides new incentives for plan formation, the expansion of coverage, and increased retirement savings, first, by allowing employee plan participants Federal income tax deductions for their contributions to IRAs, spousal IRAs, or their employer-sponsored plan; second, by allowing employees not covered by employer-sponsored plans to make withholding arrangements for IRAs with their employers; and third, by cutting down on plan costs and redtape through significant paperwork reductions and the elimination of other unnecessary burdens under ERISA.

I appeal to my colleagues in the Congress, and President Carter as well, to begin the 1980's on a positive note by quickly enacting the Retirement Income Incentives and Administrative Simplification Act of 1979.

SCANDAL IN COTTON RESEARCH AND PROMOTION PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, in response to a set of 19 questions I gave him on October 30, Assistant Agriculture Secretary P. R. "Bobby" Smith has responded:

> I do not believe it is appropriate for selected individuals or cotton firms to receive inside tips on potential cotton sales.

This declaration by Smith surely dooms the nomination of L. Don Anderson for reappointment to the Cotton Board. Anderson's firm, Texas Cotton Marketing Corp., has been the beneficiary of numerous inside tips and special favors from Cotton Inc. resulting in the sale of 15,140 bales of cotton worth millions of dollars. All of this has occurred while he has been a member of the Cotton Board, as well as its chairman, and responsible for supervision of scandal-plagued Cotton Inc.

What is shocking is that the Department of Agriculture has known of Anderson's secret dealings and his conflict of interest for well over 6 months and done nothing to remove him from office. It seems clear to me that if any Federal employee at the Department of Agriculture had been involved in a similar conflict of interest he would have been fired immediately. Why Don Anderson has not been removed from the Cotton Board is incomprehensible.

The person who should recommend removal, Assistant Secretary Smith, is the same person who recommended the appointment of Dan Davis to the Cotton Board. Just 6 months prior to his selection by USDA, Davis was finishing up a 1-year suspension from trading on all commodities futures markets in the United States. In July 1978 the Commodities Futures Trading Commission ordered Davis suspended because he was found to have manipulated cotton prices.

The CFTC described Davis' violation as "willful" and said it is "among the most serious activities proscribed by the act. Manipulation not only erodes public confidence in the markets by preying upon unsuspecting buyers and sellers of futures," the CFTC said, "but also undermines the economic functions of the markets by disrupting the free forces of supply and demand. When a matter involving manipulative activity is proven after a hearing, the remedial sanctions imposed will normally be the most severe available under the act."

A man who the Federal Government has found guilty of manipulating cotton prices should not be appointed to the Cotton Board. He obviously does not have a keen enough sense of what is right and wrong to be given responsibility for overseeing Dukes Wooters and the research and promotion program for cotton.

Can either Anderson or Davis—one with an enormous conflict of interest and the other fresh from serving a Federal suspension for price manipulation—be expected to help clean up the mess at Cotton Inc.? I asked Secretary Smith that very question, and he provided no answer.

Nor did Secretary Smith answer fully the two most important questions I asked, both of which seek to determine whether USDA will follow the advice of its own Inspector General. Those two questions and Mr. Smith's responses follow:

> No. 1. Will a formal committee be appointed within the Agricultural Marketing Service to review Cotton, Inc. budgets as occurred prior to 1978 and as recommended by the Inspector General in his report?
>
> Answer. In response to the OIG recommendation, AMS is studying reestablishment of a formal budget review committee as well as other options for budget review. In reviewing the proposed 1980 program and budget, USDA has enlisted the assistance of technical experts in the Science and Education Administration; Economic, Statistics, and Cooperatives Service; Agricultural Marketing Service; and the Foreign Agricultural Service.
>
> No. 2. Will the Department insist that Cotton, Inc. combine its "own funds" with producers check-off funds in one account with all expenditures from that account subject to the approval of the Department of Agriculture?
>
> Answer. At its November 1-2 annual meeting, the Cotton Board acted on the so-called "own funds" issue by requiring (1) that CI provide the Cotton Board with an annual audit of this fund and (2) that each expenditure from these funds in excess of $10,000 be subject to prior Cotton Board approval. CI agreed to these requirements at its Board meeting held November 16. This action by the Cotton Board and CI is being reviewed closely by USDA to determine whether it is sufficient.

The first question is important because the No. 1 finding of the USDA Inspector General was:

> The Department of Agriculture has not effectively carried out its oversight responsibilities under the Cotton Research and Promotion Act. Departmental involvement in the affairs of Cotton, Inc. was reduced in 1976 with the transfer of major oversight responsibilities to the Cotton Board and the discontinuance of Departmental budget review committees.

As a result, there has been—

Widespread conflict of interest and profiteering on inside information

Contribution of funds to the National Cotton Council in violation of law

Use of check-off funds to hire private detectives to harass Cotton, Inc. employees and order them to take lie detector and fingerprint tests

Use of checkoff funds for frivolous and unnecessary purposes, such as taking a trip to the Olympics, football games, airfare on the Concorde, and dozens of similar things.

The No. 1 recommendation of the Inspector General to the Secretary was:

> Reestablish the Budget Review Committee. Staff the Committee with expertise in marketing; production, processing and textile research; and administration.

USDA should not diffuse the supervisory power within the Department—and thereby diffuse responsibility for continuing abuses. A worse alternative—but unfortunately one being seriously considered—is to give full supervisory responsibility to the Cotton Board, which has proved over the past 4 years to have been utterly unable to control Cotton Inc.

In 1975 the Inspector General concluded:

> The Cotton Board needed to exercise additional oversight of Cotton Incorporated activities.

In 1976 an independent study of Cotton Inc. authorized by USDA concluded:

> During the years which the Cotton Board has administered the cotton research and promotion order it has not exercised sufficient control, in our judgment, over the activities and expendtures of Cotton Inc.

In 1979 the Inspector General again concluded:

> Departmental involvement in the affairs of Cotton Inc. was reduced in 1976 with the transfer of major oversight responsibilities to the Cotton Board and the discontinuance of departmental budget review committees. However, the Cotton Board has not effectively carried out these added responsibilities.

The Inspector General proves beyond a doubt that it is time to reestablish the Budget Review Committee in USDA and give it responsibility for establishing guidelines governing expenditure of checkoff funds.

The second question, which Mr. Smith virtually ignored is important because since its inception, Cotton Inc. has maintained a $1.5 million slush fund which, according to the Inspector General, has "often been used in a manner that reflects adversely on the Department." According to the Inspector General, the origin of these funds is very unclear, and "there is no meaningful way to differentiate * * * as to the source of financing."

Regardless of the origin of the funds, for the past 11 years they have been administered by Cotton Inc. employees who are paid by checkoff funds raised under authority of law. And they have been constantly supplemented with checkoff derived funds. Nevertheless, this slush fund has never been subject to USDA budgeting, auditing, or control as has the rest of Cotton Inc.'s budget.

The fund has often been used for questionable purposes, and at least in one instance for a purpose which violated a law passed by Congress. In 1977, Cotton Inc. contributed $124,000 to the National Cotton Council to help it secure passage of the referendum raising the checkoff from $1 to $2 per bale, despite the fact that Federal law states that no funds "may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this chapter."

According to the Inspector General's report, "The position of the Cotton Division, AMS, and the USDA/OGC was that the Department not approve the transfer of funds, received from any source, from Cotton Inc. to the NCC." Nevertheless, Cotton Inc. still arrogantly took money from its slush fund and contributed it to the National Cotton Council for its referendum.

Cotton Inc. has also used its slush fund to pay for trips to the Olympics, to buy lavish new furnishings for its offices, and for countless other purposes when USDA has rejected its request to use checkoff funds for those same purposes.

That is why the Inspector General in his report says:

> As long as Cotton Incorporated's "own funds" continue to be a source of cash for Cotton Incorporated, then the Department of Agriculture will be unable to fully exercise its responsibility to insure the integrity of the producers' assessment activities.... Therefore, we recommend that action be initiated to eliminate the dual program structure. Such action could include the commingling of check-off and Cotton In-

corporated's funds or expenditure of Cotton Incorporated's funds prior to use of additional check-off funds.

The Cotton Board's weak response to Cotton Inc.'s abuse of its slush fund is to suggest that it will audit the slush fund at the end of each year, long after any questionable expenditures have already been made. And, in magnanimous gesture, Cotton Inc. has agreed to seek prior approval of individual items bought from the slush fund which cost more than $10,000. One has visions of a series of unapproved expenditures for $9,999.99.

This arrangement is wholly unsatisfactory and is entirely at variance with the recommendation of the USDA Inspector General. USDA should not approve it, but instead should insist that its own Inspector General's recommendation be followed to the letter.

Nor did Secretary Smith respond fully to other questions. For example, he failed to state what if any action the Department took to enforce its own General Counsel's opinion that Cotton Inc. should not be permitted to contribute $124,000 to the National Cotton Council because it would be improper to do so.

Nor did he provide the requested list of the National Cotton Council fieldmen who were, in violation of law, given the names of cotton producers requesting refunds. The fieldmen then visited these cotton farmers and tried to "educate" them so that they would not request refunds in the future. The minutes of Cotton Inc. and the Cotton Board brag about the success of this "producer education program" which comes straight out of George Orwell's "1984."

Yet, despite the inadequacies of Mr. Smith's responses, at least I have them. Over a month ago, at the same time that I gave Mr. Smith the list of 19 questions, I also gave L. Don Anderson a list of 9 questions.

Mr. Anderson admits that he has not yet put one word on paper. An appointee of the Secretary of Agriculture, he questions my legal authority for asking him to answer. Perhaps part of the reason for his reluctance to answer the questions is that he is enmeshed in such an enormous conflict of interest that he does not know how to respond. The questions I gave him dealt specifically with that conflict. Hopefully he will not be reappointed to the Cotton Board.

The scandal in the cotton research and promotion program continues to grow, and I regret to report that there is more to tell.

Following is the full set of questions and answers as prepared by P. R. "Bobby" Smith, Assistant Secretary of Agriculture for Marketing and Transportation.

Questions and answers follow:

1. You are aware of the sale by Mr. Anderson's company of more than 15,000 bales of cotton as a result of inside tips from Cotton, Inc.

Mr. Anderson has more than just an appearance of a conflict of interest—he has actually had the opportunity to line his pocket based upon inside tips given to his firm by Cotton Inc., information which instead should have been shared with all cotton producers.

You have been quoted in the press as stating, "Certainly, on the surface, this would indicate there could be a conflict of interest on Anderson's part." Will you recommend to the Secretary that Mr. Anderson be removed from the Cotton Board? Is Mr. Anderson being considered for reappointment to the Cotton Board? Wouldn't any employee of the Department of Agriculture who has even the appearance of such a flagrant conflict of interest be summarily dismissed?

2. Can you expect Congress, cotton producers, or the American people to believe that you are committed to cleaning up the mess at Cotton, Inc. when the man you put in charge of that task has such a flagrant conflict of interest as has Mr. Anderson?

Answer 1 and 2. Review of nominees for appointment to five positions on the Cotton Board beginning January 1, 1980, is still under consideration by USDA. After we have had opportunity to thoroughly evaluate referral allegations made against Mr. Anderson, appropriate appointments will be made.

The Secretary makes appointments to the Cotton Board from nominations submitted by cotton producer associations certified for this purpose. Under this process, certified producer organizations in each state have a voice in selection of their representatives on the Cotton Board. All Texas certified producer organizations supported Mr. Anderson's nomination for a new 3-year term of office to begin January 1, 1980.

The Secretary is responsible only for appointing Cotton Board members. The members select their own officers for 1-year terms. Mr. Anderson asked that his name be removed from consideration as Board Chairman for a second term.

3. On January 22, 1979 Dan Davis was appointed to the Cotton Board, presumably at your recommendation. Less than six months previously Mr. Davis was suspended from trading on the commodity futures market by the Commodity Futures Trading Commission because he was found to have manipulated cotton prices. Can you expect a man like that to help clean up the mess at Cotton, Inc.?

Answer. Mr. Davis was first appointed to the Cotton Board for a 3-year term beginning January 1, 1976. He was renominated for a second term of office by all 15 Texas certified producer organizations. Since, under the consent order, Mr. Davis' suspension from trading by the Commodity Futures Trading Commission expired on July 15, 1978, he was reappointed for a 3-year term beginning January 1, 1979.

4. You were on the Cotton, Inc. board of directors when the board worked out its arrangement with the Boswell Company to supplement Wooters income above the statutory limit by using refunds of the cotton check-off program. Were you aware at any time that such an arrangement was under consideration?

Answer. I was on the CI board of directors from its beginning until I resigned to take my current position. I was not aware that such an arrangement was under consideration.

5. The Inspector General reports that "in August, 1977 the Department significantly reduced its budget review process" of Cotton, Inc. Did you or anyone else at USDA participate in that decision? Who? Why was it made?

Answer. I was not personally involved in the 1977 decision to change the budget review process in the Department. On August 23, 1977, the attached letter was written to Sam Seitz, then Chairman of the Cotton Board, by Robert H. Meyer, Assistant Secretary for Marketing Services, relative to the Department's role in the program approval process.

6. The Inspector General quotes the General Counsel of USDA as follows: "Whether these particular projects (in the 1978 budget) are proper or suitable projects for the program . . . are matters for initial administrative determination." Did you or anyone else at USDA participate in the decision to approve the 1978 budget for Cotton, Inc.?

Answer. I personally did not participate in the review of CI's 1978 program and budget proposal. However, a USDA representative attended the annual budget meeting held in August 1977. At this meeting, CI management presented its proposed 1978 budget, explaining major planned program activity and its rationale. In October 1977, CI made a 2-hour presentation to seven USDA officials in Washington.

7. Did you participate in the change in regulations which gave Cotton, Inc. and Cotton Board members the right to participate in activities of the National Cotton Council as it attempted to drum up support for the cotton referendum?

Answer. I began my service with USDA in early 1977. "Guidelines for participation in Activities Related to the Amendment of the Cotton Research and Promotion Order" were issued by the Department on August 4, 1976.

8. When did you begin work at the Department and when did you finally relinquish your seat on the Board of Directors of Cotton, Inc.?

Wasn't there approximately a six-month overlap? If so, did that present you with a conflict of interest? Were any of the decisions in questions 5–7 made during that period?

Answer. I came to USDA in February, 1977 as a special advisor to the Secretary of Agriculture. Although I resigned from the Cotton Incorporated Board of Directors on August 24, 1977, I did not attend meetings nor participate in any way in Cotton Incorporated matters after February, 1977. My appointment as Assistant Secretary of Agriculture was confirmed by the Senate on February 24, 1978, and I began work as Assistant Secretary on March 9, 1978.

There was a period of about 6 months during which I served as advisor to the Secretary and remained on the Board of Directors of CI. There was no conflict of interest on my part during this period of time. I was not personally involved in any of the decisions referred to in questions 5–7.

9. In 1975 the Inspector General concluded: "The Cotton Board needed to exercise additional oversight of Cotton, Inc. activities."

In 1976 an independent study of Cotton, Inc., authorized by USDA concluded: "During the years which the Cotton Board has administered the cotton research and promotion order it has not exercised sufficient control, in our judgment, over the activities and expenditures of Cotton, Inc."

In 1979 the Inspector General concluded: "Departmental involement in the affairs of Cotton, Inc. was reduced in 1976 with the transfer of major oversight responsibilities to the Cotton Board and the discontinuance of departmental budget review committees. However, the Cotton Board has not effectively carried out these added responsibilities."

The Inspector General also concluded that the Cotton Board "may not have the expertise in certain areas to adequately rule on the propriety of Cotton, Inc.'s research and promotion projects."

With such an abysmal record concerning oversight, and with leadership that has such a checkered past, how can you justify giving the Cotton Board responsibility for cleaning up the mess at Cotton, Inc.?

Answer. Because the Cotton Research and Promotion Act establishes the Cotton Board as the agent of the Secretary in administering the research and promotion program, USDA has worked with the Board to deal with the issues raised in the OIG report. USDA has met with Cotton Board officials and participated in committee meetings and full Board meetings. The Cotton Board has taken measures to strengthen its supervision of CI and to broaden communication and dissemination of information among USDA, the Cotton Board, and CI.

The "Procedures for Administration by Cotton Board," and "Reporting and Administrative Procedures for CI" will serve to keep USDA and Cotton Board members better informed of developing programs, progress of ongoing programs, administrative, and other program matters.

At its November 1–2, 1979 annual meeting, the Cotton Board addressed each OIG recommendation and has submitted to USDA a response to each issue. In addition, at this meeting it was agreed that a committee shall be appointed (to be composed of Cotton Board members, USDA, and CI representatives) to study the feasibility of (1) development of review teams to monitor ongoing CI programs and (2) development of an expert program and budget advisory committee to participate in the Cotton Boards evaluation process of CI's proposed programs.

10. Will a formal committee be appointed within the Agricultural Marketing Service to review Cotton, Inc. budgets as occurred prior to 1978 and as recommended by the Inspector General in his report?

Answer. In response to the OIG recommendation, AMS is studying reestablishment of a formal budget review committee as well as other options for budget review. In reviewing the proposed 1980 program and budget, USDA has enlisted the assistance of technical experts in the Science and Education Administration; Economic, Statistics, and Cooperatives Service; Agricultural Marketing Service; and the Foreign Agricultural Service.

11. Will the Department insist that Cotton, Inc. combine its "own funds" with producers check-off funds in one account with all expenditures from that account subject to the approval of the Department of Agriculture.

Answer. At its November 1–2 annual meeting, the Cotton Board acted on the so-called "own funds" issue by requiring (1) that CI provide the Cotton Board with an annual audit of this fund and (2) that each expenditure from these funds in excess of $10,000 be subject to prior Cotton Board approval. CI agreed to these requirements at its Board meeting held November 16. This action by the Cotton Board and CI is being reviewed closely by USDA to determine whether it is sufficient.

12. Did Cotton, Inc. violate the law (7 USC 2106) when it gave funds to the National Cotton Council for supporting the cotton referendum in 1977? The General Counsel of USDA issued an opinion recommending that Cotton, Inc. not contribute its funds to the National Cotton Council. What steps did USDA take to insure that Cotton, Inc. abided by the General Counsel's opinion and did not violate the law?

Answer. Public Law 94–366 (7 USC 2106) amended the Cotton Research and Promotion Act of 1966 and includes the following provisions: "No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act." This refers to funds collected under the Cotton Research and Promotion Act. The funds paid to the National Cotton Council relative to the referendum in 1977 were not funds collected under the Act.

The Cotton Board in responding to the OIG recommendation on this issue has provided for use of a review board to receive and act on any complaint concerning the activities of the Cotton Board and Cotton Incorporated. This action, in conjunction with the action taken to require budget approval of "own funds" covered under question 11, should effectively deter similar situations in future referendums.

13. Did the fact that the Cotton Board divulged names of those requesting refunds to non-employees of the Cotton Board constitute a violation of law? Please provide me with the names of the part-time Cotton Board employees and any others who received this confidential information.

Answer. During 1977, 14 National Cotton Council fieldmen were employed by the Cotton Board on an intermittent basis, not to exceed 3 weeks each, to assist in program compliance and educational efforts. Three of the 14 NCC fieldmen were provided refund information for the purpose of (1) soliciting attendance at educational meetings held by the Cotton Board and (2) providing such growers an opportunity to ask questions about the research and promotion program. There were apparent improprieties with respect to the timing that some refund information was revealed. This situation will not occur again since refund information will not be made available to these part-time employees.

The Cotton Board has also taken steps to provide control and security of refund information in its office. An "on line" data processing system with a "printer hook up" will allow for the printing of all refund checks in the Cotton Board office. Security codes built into the system will permit only designated Cotton Board employees accessibility to refund information.

No complaint of coercion or harassment has ever been received by the Department from any grower relative to the activities of the Cotton Board staff regarding refunds.

14. Did the Joint Producer Information Committee, formed in February, 1978, have access to names of those cotton producers requesting refunds?

Answer. The Cotton Board has reported to USDA that the joint Cotton Board/CI Producer Information Committee did not have access to names of cotton producers requesting refunds.

15. The Cotton Board set aside 25% of its 1979 budget for the purpose of reducing refund requests. If that money were instead used to supervise Cotton, Inc. so that it did not generate so much bad publicity, refunds would automatically go down. Should the Cotton Board be permitted to use its funds for the purpose of reducing refund requests? The Inspector General recommends that Cotton, Inc. not use its budget for disseminating information or trying to reduce refund requests. Will the Department insist that Cotton, Inc. abide by this recommendation?

Answer. At the November 1–2 meeting, the Cotton Board Producer Information Committee recommended to the full Cotton Board the establishment of one budget for Program Education (including funds approved by CI expenditures) with the Cotton Board assuming responsibility for operation of the overall program. The Cotton Board agreed and will administer the program through the joint Cotton Board/CI Producer Information Committee. Information distributed under this program will be educational (rather than service-oriented) and will pertain to program progress and achievements. The Board agreed that the education program should be directed at a cross-section of producers without regard to, or knowledge of, refund information, and that no special effort be made solely to reduce refunds by zeroing in on refund areas or refund growers.

Since the programs are financed by producer contributions it is common practice for other commodity groups to expend funds to provide producers information with regard to the programs activities. In relation to the overall research and promotion budget, we feel the Cotton Board's expenditure of funds for program education is reasonable and appropriate.

16. Will the Department take whatever steps are required, including initiating or recommending the initiation of a lawsuit, to establish ownership of the Vapor-Phase Process, as the Inspector General recommends?

Answer. Cotton Incorporated has agreed to the consolidation of all patents, including the vapor-phase process, under the cotton research and promotion program, and the contract between the Cotton Board and CI is in the process of being amended to reflect this action.

17. The Inspector General reports that Cotton, Inc. provided "five items of information to the J. G. Boswell Company (which) resulted in one sale of 12,000 bales of cotton and a commitment of 12,000 additional bales." James Fisher, Boswell's Executive Vice President, is a member of the Executive Committee of Cotton, Inc. Do you believe it is appropriate for Fisher/Boswell to receive these inside tips, which result in the sale of millions of dollars worth of cotton, when the knowledge of these foreign sales opportunities is derived through the expenditure of cotton check-off funds provided by all cotton farmers?

18. The Inspector General reports that Cotton, Inc. also provided inside tips to Keith Walden, a former member of CPI and a member of the Board of Directors of Cotton, Inc. until 1972. The Inspector General states "12 referrals resulted in 30 shipments or commitments for a total of 13,941 bales of cotton between 1/77 and 4/79." Do you believe this kind of inside dealing is appropriate?

Answer 17 and 18. I do not believe it is appropriate for selected individuals or cotton firms to receive inside tips on potential cotton sales. At its November 1–2 meeting, the Cotton Board adopted the recommendation of its International Marketing Committee that "any organization involved in the promotion of U.S. exports through research and development should refrain from any activities involved with the actual selling of cotton such as channeling inquiries, suggesting possible suppliers or any related activities concerned with selling the actual cotton. . . ."

The Cotton Board will require CI to prepare written guidelines to assure that management and all staff personnel are properly informed of such policy and requirements.

19. Was the issue of any conflict of interest that you may have had as a result of your membership on the Cotton, Inc. Board discussed in any internal memoranda? Please provide copies to me.

Answer. I have no recollection of any internal USDA memoranda suggesting a conflict of interest issue that might have resulted from my being on the CI Board of Directors.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 23, 1977.

Mr. SAM SEITZ,
President, Cotton Board,
Bakersfield, Calif.

DEAR SAM: We have reviewed the procedures used in the past by the Department of Agriculture to approve the Cotton Board's recommendations on Cotton Incorporated's budget. We feel the procedures in the past have been cumbersome, expensive, and basically ineffective. We are altering the procedures as follows:

The Cotton Board is appointed by the Secretary of Agriculture and is charged directly by the Secretary "to review and make recommendations regarding research, advertising, and sales promotion projects together with a budget." We are charging the Cotton Board with this responsibility and upon the completion of the budget process between Cotton Incorporated and the Cotton Board, we will expect the Cotton Board or its representatives to come to the Department of Agriculture in Washington for a meeting and presentation of its recommendations for the Secretary's approval.

We would anticipate that such a meeting would last about two hours and should be programed within that time frame. These people who would be present from the Department include myself, Barbara Schlei, Administrator, Agricultural Marketing Service, Jessore Moore, Director Cotton, Division, and Howard Hijort, Director, Economics, Policy Review and Budget, and possibly one or two others.

We feel confident that this will improve the working relationship between the Cotton Board and the Department of Agriculture.

Sincerely,

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

RETIREMENT INCOME INCENTIVES AND ADMINISTRATIVE SIMPLIFICATION ACT OF 1979

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 5 minutes.

● Mr. CONABLE. Mr. Speaker, today I am introducing with my colleague from Illinois (Mr. ERLENBORN) a bill, the Retirement Income Incentives and Administrative Simplification Act of 1979. The bill resolves numerous technical and administrative problems that have developed since the passage of the Employee Retirement Income Security Act of 1974. While the attached analysis will explain the bill in greater detail. I would like to briefly summarize some of the bill's more significant provisions.

Many of ERISA's problems are attributed to the fact that the administration of our pension laws is divided between the Departments of Treasury and Labor. The bill consolidates the administration of our pension laws into one agency, the Employee Benefit Administration (the "EBA"). In addition to transferring specific responsibilities and duties of the Departments of Labor and Treasury to the EBA, the Pension Benefit Guaranty Corporation is placed under the EBA's jurisdiction. Under the bill this consolidation is carried out in an orderly manner so as not to disrupt the retirement income system or the activities of the affected agencies and their employees.

ERISA expanded the retirement income options available to employees by establishing "individual retirement accounts" to which tax deductible contributions could be made. However, in practice it has been shown that many employees, who could establish IRA's, particularly those earning salaries below $12,000, have not. The bill would expand IRA participation by allowing employees to have IRA contributions periodically withheld from their wages and paid into an IRA. This is the first time such a procedure would be allowed by statute and is in addition to the procedures currently available for IRA participation.

The bill would also allow participants in certain qualified retirement plans to establish an individual retirement account and make tax deductible contributions to the IRA or plan. The amount that could be contributed to the IRA or the plan would be the lesser of $1,000 or 15 percent of "compensation." Contributions may also be made to "spousal IRA's." The bill thus allows most participants in qualified retirement plans to establish an IRA, something they cannot currently do.

The bills' extension of IRA benefits to plan participants is a continuation of the efforts I made in the 95th Congress to have this achieved. The extension will allow those who participate in plans that do not provide adequate retirement benefits to supplement these benefits.

Another provision of ERISA that has caused a number of technical and administrative problems are the joint and survivor annuity rules. The bill streamlines these rules by simplifying certain election procedures and reducing the kinds of plans that must offer this type of annuity. However, the effectiveness of these annuities is not diminished.

Currently it is not clear when a retirement plan may pay benefits to satisfy a court order relating to the alimony or child support obligations of a plan participant. This uncertainty has resulted in the qualified status of many plans being questioned. Judicial decisions on this subject have not been consistent and this has added to the current uncertainty.

The bill establishes specific rules for determining if a retirement plan may pay out benefits in satisfaction of a participant's alimony or child support obligations without jeopardizing its tax-exempt status.

The bill also amends the code to expand the situations in which "lump sum distributions" may be received and tax-free rollovers made.

I hope the bill will be promptly scheduled for hearings by the Committees on Ways and Means and Education and Labor.

ANALYSIS OF THE RETIREMENT INCOME INCENTIVES AND ADMINISTRATIVE SIMPLIFICATION ACT OF 1979

TITLE I—EMPLOYEE BENEFIT ADMINISTRATION

The bill establishes a new, separate agency to administer the pension laws, the Employee Benefit Administration (the "EBA").

Under the bill specific functions and duties of the Secretary of Treasury and the Secretary of Labor are transferred to the EBA. In addition the Pension Benefit Guaranty Corporation is placed under the EBA's jurisdiction. Technically, the functions and duties are transferred to the EBA's Board of Directors (the "Board") which is described below. Thus, the bill states:

"The Board is authorized to prescribe such policies, standards, criteria, procedures, rules and regulations as it deems necessary or appropriate to perform functions now or hereafter vested in it."

Among the functions and duties of the Secretary of Treasury transferred are those under titles I, II and IV of the Employee Retirement Income Security Act of 1974 (ERISA) and under Internal Revenue Code sections 401, 406(a) and (b), 407(a) and (b), 409A, 410, 411, 412, 413, 414, 415, 4971, 4975, 6057, 6058, 6059, 6690, 6692 and 7476, among others.

However, the EBA will not be responsible for the collection of taxes. Thus, the collection of any excise tax or penalty relating to an employee benefit plan will be done by the Department of Treasury, although the amount will be determined by the EBA.

In the case of the Secretary of Labor there is transferred the functions and duties of the Secretary under ERISA and certain functions under the Welfare and Pension Plans Disclosure Act. The functions and duties transferred can be summarized as follows:

". . . the functions and duties transferred shall include, but shall not be limited to, all functions and duties relating to the qualification and disqualification of employee benefit plans."

While it is contemplated that most of the EBA's employees will be transferred from the Departments of Treasury and Labor, the bill allows the President to transfer to the EBA employees of other departments and agencies.

The bill provides detailed rules for transferring existing functions to the EBA and continuing in effect existing administrative determinations. This will allow the transfer to be accomplished without disrupting the retirement income system.

The EBA is guided by the Board which consists of a special liaison for the Department of Labor, the executive director of the EBA, and two Presidential appointees, who must be confirmed by the Senate. Board members will generally serve for 6 years.

The bill limits to 3 the number of Board members that may be from the same political party.

The Board is directed to consolidate the reports that retirement plans must file so as to simplify compliance and administrative duties.

Although most of the Department of Treasury's retirement plan responsibilities are transferred to the EBA, it still retains certain functions. Because of this, the bill provides special procedures that allow coordination of activities between the EBA and the Department of Treasury. These procedures are intended to facilitate exchanges of information, while maintaining confidentiality, and provide for a more effective administration of our retirement income laws, particularly in the area of eliminating duplication of reporting and compliance requirements.

TITLE II—TAX DEDUCTION FOR RETIREMENT PLAN PARTICIPANTS

Currently, individuals who are active participants in a retirement plan cannot establish an Individual Retirement Account and do not receive a tax deduction for plan contributions whether these contributions are voluntary or mandatory.

The bill amends current law and allows most plan participants a tax deduction for amounts contributed to the retirement plan or an IRA equal to the lesser of 15 percent of "compensation" or $1,000. To the extent an employee contributes to his retirement plan, the amount that can be contributed to an IRA is reduced.

The deduction is not available to an individual who claims a deduction under Code section 219 or 220.

The bill does not apply to participants in retirement plans established by the Federal Government or a State or its political subdivision or an international organization.

The bill contains a special election that allows tax deductible contributions to be made to a "Spousal IRA." As under current law, the amount deducted cannot exceed twice the amount contributed to the husband or wife's IRA, whichever is less.

The bill gives the Secretary of Treasury authority to issue regulations concerning the filing of reports in connection with this new deduction.

Current IRA rules are made applicable to IRAs established under the bill. For example, a deduction is not allowed in the case of contributions made after an individual has attained age 70½. However, contributions may be made for a taxable year until the date the Federal income tax return for that year must be filed.

Conforming estate and gift tax amendments are also made by the bill.

TITLE V—WITHHOLDING OF INDIVIDUAL RETIREMENT ACCOUNT CONTRIBUTIONS

The bill establishes the first statutory procedure for the periodic withholding of individual retirement account contributions. In general, the bill requires employers to establish a withholding procedure and to payover the withheld amounts to the individual retirement account. Penalties are provided for employers who are required to, but do not (1) establish the withholding procedure, (2) withhold amounts from wages, or (3) payover the withheld amounts.

In general, the bill requires employers who have at least 20 employees and have been engaged in business at least 5 years to establish the withholding procedure which is referred to in the bill as an individual retirement payroll deduction plan. This is not a plan for purposes of Title I of ERISA. It is contemplated that regulations will indicate how the five-year rule will apply in the case of predecessor employers and acquisitions.

Employers who are not required to establish the withholding procedure include Federal, state and local governments, and those that hold an election in which less than 10 or 10 percent of their "eligible employees", whichever is greater, vote not to establish the withholding procedure.

The term "eligible employee" is generally defined to mean an employee who is not an active participant in, a qualified retirement plan, an individual retirement account, an annuity described in section 403(b) or a simplified employee pension. The term does not include any employee who can participate in a retirement plan established by his employer but chooses not to.

The employer is given the authority to choose the investment vehicle available to its employees. Where more than one vehicle is offered the employer cannot endorse any of the plans.

Amounts withheld under Title V must be paid over in 10 business days. This period will not place an administrative burden on employers and will allow employees to have their funds promptly invested.

The employer that is required to withhold but fails to is subject to a civil penalty of up to $5,000. Additional penalties are also provided where amounts are required to be withheld or paid over to the investment vehicles, but are not. The Employee Benefit Administration, established under Title I of the bill, will administer the provisions of Title V and is given the authority to waive any penalty where it determines that a particular failure is due to reasonable cause and not to intentional disregard of rules and regulations.

To assist employees, the amount withheld under Title V would be shown on the employees' W–2 form.

TITLES III AND IV

ERISA and the Internal Revenue Code of 1954 contain many comparable requirements that a retirement plan must satisfy. Because of this, certain of the bill's amendments are found in titles III and IV. Among the more important of these "dual title" amendments are the ones affecting joint and survivor annuities and alienation of benefits.

Currently, it is not clear when a retirement plan may pay benefits in satisfaction of a participant's marital or child support obligations without losing its tax-exempt status. The bill clarifies the situation by establishing specific rules which, if met, will allow a plan to satisfy these obligations of a participant and retain its tax-exempt status. First, the applicable decree of a state court must provide:

1. The payment is required and specify the amount.

2. The obligation is the participant's.

In addition, the decree cannot require a plan to alter its terms as to payment. Further, the plan must be notified of the court decree and the plan must give notification of the payments.

Under the current joint and survivor annuity rules several technical and administrative problems have arisen which have made it difficult for plans to be certain that their tax-exempt status will not be questioned. The bill seeks to correct these problems by providing that:

1. Profit sharing plans that vest at death do not have to provide a special joint and survivor annuity.

2. Defined benefit plans that have a joint and survivor requirement do not have to meet statutory rules on election and payments.

3. A survivor annuity can be paid to a party other than the participants' spouse, if the spouse consents in writing to it. Other joint and survivor amendments are provided.

TITLE III

(a) It is not uncommon for employers to have severance pay or other types of supplemental retirement income arrangements. Technically, a problem has arisen under ERISA since these arrangements may have the characteristics of both a pension and welfare benefit plan. The bill gives the Secretary of Labor the authority to issue regulations exempting these arrangements from pension plan status under ERISA. In the case of supplemental retirement income arrangements, the bill specifies which of these arrangements shall be considered welfare plans. The bill also gives the Secretary the authority to treat as a pension plan any supplemental retirement income arrangement whose purpose is the evasion of ERISA's pension plan requirements.

(b) The bill seeks to streamline the procedures for obtaining an exemption from the prohibited transaction rules by generally providing that in the case of specified types of transactions an exemption will be considered granted if (1) in the case of an individual exemption more than 90 days has elapsed and (2) in the case of a class exemption more than 180 days has elapsed, since the request for exemption has been completed and a final administrative determination on the application has not been made.

(c) Title III contains several provisions that improve the reporting and disclosure requirements of ERISA. As a group these amendments will make it easier for employers and plan administrators to meet their reporting obligations while providing employees and the Government with more useful information. In addition, the bill requires the Secretaries of Labor and Treasury to conduct a detailed study of the form and reporting requirements for employee benefit plans and to recommend methods of improving them. The recommendations are to be submitted to the President and both Houses of Congress.

(d) The bill also requires the Secretaries of Labor and Treasury to study means of encouraging the development of master and prototype plans by various financial institutions. The results of this study and recommendations are to be submitted to the President and both Houses of Congress.

(e) The bill contains other important substantive amendments, as well as clerical and conforming amendments.

TITLE IV

(a) Under the Internal Revenue Code the defined contribution plans and defined benefit plans of an employer are treated separately and combined for purposes of determining if an employee has received a "Lump Sum Distribution." However, the Code does not contain similar rules for multiemployer plans and plans established by tax-exempt organizations.

The bill provides that in the case of multiemployer plans and plans maintained by organizations described in section 501(c)(3) (relating to charitable and educational organizations) or section 501(c)(5) (relating to labor etc. organizations) this separate treatment will also apply. Thus, the bill makes clear that plans established by these organizations can be classified as defined benefit and defined contribution plans and that distributions from these plans can receive lump sum distribution treatment.

(b) The bill incorporates the provisions of H.R. 4289 under which an employee, who receives a total distribution from a "Money Purchase Pension Plan", may rollover the distribution, tax-free, into an IRA or other qualified plan despite the fact the employee also participates in a defined benefit pension plan. The bill does not amend current law to allow these distributions to be taxed as "Lump Sum Distributions".

Currently the tax-free rollover treatment would not be permitted since the employee's continued participation in the defined benefit pension plan would prevent the distribution from qualifying as a lump sum distribution.

(c) The bill also establishes substantive rules concerning trusts created outside the U.S. and the refunding of certain contributions.●

LOAN GUARANTEES FOR THE WHEELING-PITTSBURGH BAIL-OUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. RITTER) is recognized for 5 minutes.

● Mr. RITTER. Mr. Speaker, earlier this year, I expressed my opposition to Banking, Finance and Urban Affairs Committee colleagues to proposed EDA and Farmers Home Administration Federal loan guarantees totaling $150 million for construction of a new steel mill at Monessen, Pa., to produce steel rails, structural shapes, and piling.

The American steel industry may need and deserve Federal assistance to assist the industry in meeting government-mandated costs such as new environmental protection equipment. But there is no justification for taxpayers' money to be spent to build new steel mills to provide excess production capacity where domestic steel producers already are equipped to meet the demands of the marketplace.

In July I wrote to the Administrators of both the EDA and the Farmers Home Administration to express my opposition to the loan guarantees for Wheeling-Pittsburgh on the grounds that agency regulations precluded the proposed use of Federal credits, and that Federal financial assistance to Wheeling-Pittsburgh to construct the new Monessen mill "would constitute a serious Federal economic and financial policy error."

Both loans were subsequently granted to Wheeling-Pittsburgh, totaling $150 million, on the grounds that Federal loan guarantees were sorely needed to insure the company's future.

I now note that a Wheeling-Pittsburgh press release, dated November 28, advises that the company has declared a special year-end dividend of $1 per share of common stock. This means a total payout of $3.8 million on 3,792,000 shares outstanding from a corporation pleading financial distress and accepting $150 million in taxpayers' money to build the new Monessen steel rail mill.

I have opposed the unrestricted use of taxpayers' money for loan guarantees which are off-budget expenditures with unclear implications for Federal fiscal policy, and which dry up money markets for more vital investment needs in private industry and Government. To this end, I have acted to cosponsor H.R. 5683, The Federal Credit Program Control Act of 1979, to establish new procedures making direct loans and loan guarantees an integral part of the congressional budget process. I urge my colleagues to support this necessary legislation to protect the integrity of Federal credit programs and make them accountable.

As for the Wheeling-Pittsburgh loan guarantees totaling $150 million, I believe the House of Representatives should seriously question the granting of taxpayer dollars under such circumstances when Wheeling-Pittsburgh, by its own statement, earned in excess of $41 million for the first 9 months of 1979. Something is wrong somewhere, and the appropriate House committees should inquire why and where.●

MARITIME EDUCATION AND TRAINING ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 15 minutes.

● Mr. WOLFF. Mr. Speaker, I rise to extend my support for H.R. 5451, the Maritime Education and Training Act of 1979.

The United States has always prided itself and has depended heavily upon commerce of the high seas. Today the United States is in great need to maintain merchant marine training which is so vital in meeting the demand of U.S. commerce. There is a patent necessity for this country to become self-sufficient in all activities, and maritime training is certainly one of them.

I find it disgraceful that the United States must suffer the degradation of its merchant fleet to the advantage of foreign carriers. One has only to look at the growing number of foreign passenger lines that grace our American harbors to understand this malaise. Private industry is increasingly subject to dealings with foreign lines because the United States does not provide the services so vitally needed. Foreign oil tankers spill oil onto our shores. This could be avoided if the foreign carriers had the high standards of regulation already established by American maritime law.

We have the know-how and the resources—where is the manpower? Mr. Speaker, manpower is found in the training of prospective officers at the U.S. Merchant Marine Academy. The merchant marine officers of tomorrow must be well versed in all aspects of maritime commerce. It is necessary for the Academy to engage in a well rounded curriculum in order to insure successful competition with the foreign carriers. Areas of containerization, intermodal, chemical transportation, and environmental concerns are highly advanced technical aspects of maritime commerce. The Academy assumes responsibility for the dissemination of such information to the future officers of maritime commerce. Education in the area of onshore posts as well as offshore duties is essential. Moreover, the education and experience of Academy graduates is crucial to the effective management of private shipping of the merchant marine.

The Academy also assumes responsibility for an integral part of the defense of our country. Upon graduation, cadets are designated officers in the Merchant Marine/Naval Reserve Officer Training Corps. In the event of war, officers will be present on board our merchant ships.

H.R. 5451 addresses the need to continue an effective structure for maritime education and training. It is necessary that the U.S. merchant marine programs be maintained for the continued essential training of our future maritime officers. This training must be carried out at the Federal and State merchant marine academies.

The legislation gives a congressional mandate to direct the Secretary of the Navy to work closely with the Assistant Secretary of Commerce for Maritime Affairs and the various directors of the several merchant marine academies to assure that the Academy curriculum is appropriate to the standards and needs of the merchant marine.

As Congressman of the Sixth Congressional District of New York State, I am fortunate to have within my district the U.S. Merchant Marine Academy at Kings Point. The Academy is a permanent institution and has been authorized by the Congress to award the bachelor of science degree. It is an accredited college, military in character, and prepares selected young men and women to become officers in the U.S. merchant marine, with corollary qualifications for commission in the U.S. Naval Reserve. Entrance requirements are similar to those of the four other Federal academies.

The Academy offers to young men and women from every State and territory the opportunity to secure the education and training to qualify them as deck or engineer officers in the U.S. merchant marine.

There are three major curriculums of study at the Academy: Nautical science for the preparation of deck officers, marine engineering for engineering officers, and a dual license which provides certification in both nautical science and maritime engineering. The education of outstanding individuals in these areas of science and engineering is crucial for the United States. After all, these men and women will become key elements of a healthy maritime industry. Shipbuilding and ship-operating industries must meet the demand of successful competition with their foreign counterparts both in the public and private sector. The U.S. Merchant Marine Academy has met these demands laudably since its inception in 1943 under the Maritime Administration of the Department of Commerce.

A board of visitors, consisting of two Senators and three Members of the House of Representatives visit the Academy annually. As a member of this board, I have had the opportunity to observe firsthand the work that is done at Kings Point. Such observation is necessary in making legislative recommendations in regard to the Academy. In addition, the Secretary appoints a seven-man advisory board "for the purpose of examining the course of instruction and the management of the Academy." Such professional assistance is necessary to supplement the military training. As a result, the Academy has successfully provided a rounded and thorough knowledge of maritime operations for our future merchant marine officers.

Recently, the Academy has been criticized for failure to uphold the standards maintained by the other U.S. military academies. For example, methods of selection and service obligation have been questioned. H.R. 5451 addresses and corrects these issues.

As mandated by H.R. 5451, the Secretary is required to set up a system of evaluation and testing for the selection of prospective candidates. Academic history, in addition to entrance examination and extracurricular activities must be considered. It is necessary for the selection to be as impartial as possible in order to insure the highest caliber of student potential at the Academy.

Nominations for acceptance to the Academy must be conducted likewise, using methods that will insure a national demographic balance at the Academy. The number of vacancies allotted to each State will be given on the basis of their representation in Congress. If vacancies remain from that State, the Secretary will decide who are the more worthy candidates from the other States. This decision is based on the order of merit established by the proposed competitive system.

Provisions for service obligation have been included in the legislation to insure the commitment of candidates to national service. Graduates of the Academy are required to obtain and maintain an officer's license in the U.S. merchant marine for at least 6 years after graduation. The license can be obtained in three areas: First, as a merchant marine officer on a U.S.-documented vessel; second, as an employee in private or public U.S. maritime-related industries; third, as a commissioned officer on active duty in an Armed Force of the United States or in the National Oceanic and Atmospheric Administration. I believe that such requirements will once and for all settle the ongoing dispute regarding service obligation at Kings Point. H.R. 5451 explicitly states how the maritime cadet must serve his country at the time of graduation. As a result, taxpayer money is invested wisely into the seapower forces of this Nation at the Academy.

In conclusion, I wish to point out that the Merchant Marine Academy offers a comprehensive examination to evaluate the professional competence of its senior students before they are graduated and commissioned. Of the four other Federal service academies, only the Naval Academy offers a similar method of evaluation.

The graduates of the U.S. Military Academy are quite capable of taking their places in the demanding profession of merchant marine officer. Studies pursued in the classroom are reinforced by the actual experience at sea. The U.S. Merchant Marine Academy at Kings Point makes this realization possible. I wish to extend my support for H.R. 5451.●

PLAQUE HONORING FRED W. DEDELOW AT HESSVILLE POST OFFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 5 minutes.

● Mr. BENJAMIN. Mr. Speaker, I rise today to urge my colleagues to support legislation I am introducing to provide for the placement of a plaque at the Hessville Post Office Building in honor of the late Fred W. Dedelow.

Fred W. Dedelow was the oldest resident of Hessville when he passed away in 1975 at the age of 93. During his lifetime Mr. Dedelow did much to serve his community in his role as a councilman, school board official, and member of the Hammond Planning Commission. It was largely through his untiring efforts that realtors turned over a portion of land that is now the Hessville Park, an area enjoyed by many residents of Hessville.

Fred W. Dedelow was also one of the early pupils of the little red schoolhouse, now an honored monument in Hessville. He was also a fine historian in his own right and active member of the Hessville and Hammond Historical Society.

I urge my colleagues to honor a man whose devotion to his community reflected his strong leadership by supporting this legislation to establish a plaque in the name of Fred W. Dedelow at the Hessville Post Office Building in Hammond. The bestowing of this honor on Mr. Dedelow will be met with heartfelt appreciation by the countless benefactors of his good will and progressive leadership.●

CHILD HEALTH ASSURANCE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

● Mr. DODD. Mr. Speaker, I rise in support of H.R. 4962, the child health assurance program. I believe the merits of CHAP over the existing medicaid coverage for low-income children and pregnant women have been admirably outlined by Representative WAXMAN and other of my colleagues.

I would only like to add, in urging my colleagues to support the adoption of this bill without any weakening amendments, that this Congress will have few opportunities equal to the one we have today to take positive, legislative action in the name of the Nation's children—the leaders of the future—in this the Year of the Child.

With the culmination of the Year of the Child, we also find ourselves in the advent of the eighties. Whatever the eighties may bring will depend significantly on the health and well being of our children. It is important to note, too, that in addressing the shortcomings of the existing program and providing for extended eligibility and benefits for preventive health care, we are also addressing the increasingly pressing need to contain health care costs. We know that the dollars spent for preventive care can save dollars spent for expensive treatments and care otherwise needed later in a youngster's life.

The investment we make in this bill is an investment in our children's future and in our country's. I strongly urge you to support H.R. 4962.●

REPRESSIVE MOVES ON HUMAN RIGHTS POLICIES IN PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

● Ms. HOLTZMAN. Mr. Speaker, we have for the past year heard promising reports from the People's Republic of China on the liberalization of human rights policies there. In the last month, however, such reports have given way to signs of increasing repression, including a crackdown on dissidents.

On October 16, 1979, Wei Jingsheng, the most prominent member of the small but vocal dissident movement in China, was sentenced to 15 years in jail for engaging in "counterrevolutionary activities" and for providing military secrets to a foreigner. Mr. Wei, who had written an exposé of conditions in a prison near Peking where high-level political prisoners are held, first came to public attention last winter when he put up a wall poster demanding that China's leaders add "a fifth modernization," democracy, to their campaigns in agriculture, industry, science, and defense.

The extraordinary severity of Mr. Wei's punishment is one of a number of repressive steps taken recently by the Chinese Government. Arrested on the same day as Mr. Wei was a 34-year-old woman, Fu Yuehua, charged with organizing a peasant demonstration in Peking and with falsely accusing a party official of raping her. Miss Fu's trial has been adjourned following testimony which supported her claim that she was raped.

In addition, a student leader, who last month helped organize a strike at People's University protesting an army unit's presence on the campus, is reported to have been expelled, along with a deputy party secretary also involved in organizing the strike.

Finally, the country's only established forum for free expression, the Democracy Wall, is under attack by authorities for "jeopardizing the democracy and freedom of the whole nation."

Repressive moves such as these disturb all people concerned with safeguarding human rights throughout the world. We must not allow our interest in developing closer relations with the Chinese people to blind us to their significance.●

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT—FINANCIAL DISCLOSURE INTERPRETATIVE RULING NO. 1

(Mr. BENNETT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. BENNETT. Mr. Speaker, I submit for printing in the Record at this point a formal interpretative ruling approved by the Committee on Standards of Official Conduct on December 5, 1979. The committee's ruling concerns the designation of principal assistants by Members of the House for purposes of filing a financial disclosure statement pursuant to the Ethics in Government Act of 1978 (2 U.S.C. 701–709).

The Ethics in Government Act requires each Member who does not have an employee compensated at a rate equal to or in excess of the GS–16 salary level to designate at least one principal assistant to file a disclosure statement. Because of certain ambiguities in the statute, as amended on June 13, 1979, an interpretative ruling was necessary to implement the designation requirement in a manner consistent with the legislative intent.

Copies of the opinion will be sent to the offices of all Members.

FINANCIAL DISCLOSURE INTERPRETATIVE RULING No. 1. (ISSUED DECEMBER 5, 1979)

SUBJECT

Designation of principal assistants by Members of the House of Representatives for purposes of filing a Financial Disclosure Statement pursuant to the Ethics in Government Act of 1978 (2 U.S.C. 701–709).

DISCUSSION

The Ethics in Government Act applies financial disclosure requirements to each employee of the Legislative Branch who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS–16 of the General Schedule. Any Member who does not have an employee compensated at the GS–16 salary level is required to designate at least one principal assistant for purposes of the Act. Any such individual who performs the duties of his or her position for more than 60 days in a calendar year must file a Financial Disclosure Statement by May 15 of the succeeding calendar year if the individual continues to be such an employee on that date. Thus, employees who otherwise meet the statutory filing requirements are exempted if they leave their position prior to the May 15 filling date.

The purpose of the requirement that certain Members designate a principal assistant is to ensure that at least one employee in each Member's office files a Financial Disclosure Statement, (see H. Rep. 95–574 Select Committee on Ethics). Since the Act has been amended to specifically exempt former employees from the filing requirements (R.L. 96–19), an interpretative ruling is necessary to implement the designation requirement in a manner consistent with the legislative intent.

The Act is ambiguous concerning when a Member's obligation to designate a principal assistant takes effect, when that designation must occur, and if the designation requirement applicable to a Member may subsequently be nullified under certain circumstances. For example, it is unclear whether or not the designation requirement is applicable to a Member only during the preceding calendar year for purposes of the May 15 annual filing. The statute is also ambiguous as to whether or not the designation must precede the employee's period of service. This ambiguity concerning the designation of principal assistants is compounded by the provision exempting former employees. For example, it is unclear whether a principal assistant designated by a Member who subsequently hires a "GS–16 employee" would be required to file a Disclosure Statement on May 15 in addition to the GS–16 employee.

While most principal assistants will be designated by Members early in a calendar year for purposes of filing a Disclosure Statement in the succeeding year, there are many circumstances under which a covered employee might leave a Member's office prior to the May 15 filing date. Consequently, Members who do not have an employee required to file a Disclosure Statement on May 15 should have the authority under the statute to designate a principal assistant any time prior to May 15 for purposes of filing a Financial Disclosure Statement by that date. Such an interpretation of the designation requirement would ensure that at least one employee in each Member's office will file a Disclosure Statement in each calendar year, consistent with the intent of the statute.

As stated above, an employee subject to the Act is not required to file a Disclosure Statement unless the individual continues to be such an employee on May 15. Thus, an employee who is subject to the Act by virtue of being compensated at the GS–16 salary level meets the statutory filing requirements if the individual continues to be compensated at that salary level on May 15, whether or not he or she continues to be employed in the same office. However, a principal assistant designated by a Member who does not have a GS–16 employee would be required to file a Disclosure Statement only if: 1) the individual continues to be employed by that Member on May 15; and 2) that Member does not have a GS–16 employee required to file a Disclosure Statement on or before May 15. Thus, any principal assistant, not a GS–16 employee, designated by a Member who subsequently has an employee compensated at the GS–16 salary level would not be required to file a Disclosure Statement if the GS–16 employee meets the statutory filing requirements on or before May 15 of the succeeding calendar year.

Any employee designated as a principal assistant need not report information with respect to gifts and reimbursements received in a period when the individual was not designated as a principal assistant for purposes of the Act. This interpretation is consistent with the statutory provision exempting gifts and reimbursements received when the reporting individual was not a government employee, since the individual may not have kept records of such items.

A further interpretative issue concerns the application of the designation requirement to Members serving their first term, and the circumstances under which a new employee designated as a principal assistant would be required to file the abbreviated Disclosure Statement applicable to new employees. If a first-term Member does not hire a new employee compensated at the GS–16 salary level, there would be no employee of that Member required to file a Disclosure Statement for a period of almost seventeen months. Again, the intent of the statute is that at least one employee in each Member's office files a Disclosure Statement in each calendar year. Accordingly, any Member first taking office on January 3 who does not have a GS–16 employee required to file a Disclosure Statement on or before May 15 of that calendar year should designate at least one principal assistant to file a Disclosure Statement by that date. Any such designated principal assistant would be required to file a Financial Disclosure Statement (Form B) as a new employee, even though the individual may previously have been employed in the Legislative Branch.

SUMMARY RULING

The Committee issues the following interpretative ruling concerning the designation of principal assistants under the requirements of the Ethics in Government Act. The purpose of this ruling is to ensure that at least one employee in each Member's office files a Disclosure Statement, consistent with the intent of the designation requirement. The ruling is based on two specific provisions of the statute: 1) at least one principal assistant must be designated by each Member who does not have an employee compensated at a rate equal to or in excess of the GS–16 salary level; and 2) an employee in a position subject to the Act is required to file a Financial Disclosure Statement for the preceding calendar year only if he or she continues in that position on May 15 of the succeeding calendar year.

"Any Member who does not or will not have an employee required to file a Financial Disclosure Statement on or before May 15 in a calendar year must designate at least one principal assistant to file a Disclosure Statement by that date. The designation of a principal assistant may occur anytime prior to the May 15 filing date. Any such designated principal assistant must meet the statutory filing requirements on May 15: 1) the individual performed the duties of his or her position for that Member for more than 60 days in the preceding calendar year; and 2) the individual continues to be a principal assistant to that Member on May 15.

"Any new employee designated as a principal assistant in accordance with this ruling by a Member first taking office on January 3 must file the Financial Disclosure Statement required of new employees on or before May 15 of that calendar year.

"Any employee designated as a principal assistant need not report information with respect to gifts and reimbursements received in a period when the individual was not designated as a principal assistant for purposes of the Act."

This interpretative ruling takes effect immediately upon adoption by the Committee. Effective May 16, 1980, Members required to designate a principal assistant pursuant to the statute and this ruling must do so in accordance with procedures established by the Committee.●

DISCOUNTING RHETORIC ON "THE FAMILY FARM"

(Mr. WAMPLER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. WAMPLER. Mr. Speaker, I wish to insert in the Record a copy of a speech made by Dr. Don Paarlberg, professor emeritus, Purdue University, and a former Assistant Secretary of Agriculture, which recently was reprinted in the Southern States Cooperative Farmer, November/December 1979 issue.

The Department of Agriculture is currently conducting hearings nationwide concerning the "Structure Issues of American Agriculture," which is stated to be designed to "protect a place for family farming in the fabric of rural society."

Dr. Paarlberg has a talent for reducing technical jargon and high-blown rhetoric to commonsense, plain language we can all understand. I urge all of my colleagues to read this brief but incisive statement regarding "the Family Farm."

DISCOUNTING RHETORIC ON "THE FAMILY FARM"

"No doubt the 1980s will see much debate on the future of the family farm. There will be a general deploring of the trends toward larger and fewer farms, farming corporations, vertical integration and contract farming. Increased off-farm earnings will be cited as evidence that farmers are in financial difficulty.

"Public policy will continue to encourage increased farm size and politicians will continue to deplore the results. Faced with alternative policies which on the one hand would check the trends they lament, and on the other hand add to what they allege is the problem, the Congress will choose the latter.

"It may appear inconsistent for the politician to take actions helpful to the large farmers and at the same time to speak out in favor of the small farmers. But from the politician's standpoint these two actions are consistent; they consistently contribute to his re-election. The important thing is that the observer not take the rhetoric at face value. My conclusion that public policy favors the large farm operators comes from watching what happens, not from listening to what is said.

"Perhaps this debate is unnecessarily overheated. Agriculture need not be, nor is it likely to become, monolithic. We are a pluralistic nation, socially, politically and economically. The fact that the trend has been in the direction of the large-scale units does not mean that the trend will automatically extend itself until it embraces all of agriculture. Nor does it mean that large-scale farming units should be abolished.

"In New England is the tradition of the small-holder. In the Midwest we have the heritage of the Homestead Act. In the South there is the legacy of the plantation system. The Southwest reflects the history of the Spanish hacienda. In the Northwest is family farming, brought by covered wagon over the Oregon Trail. Why try to obliterate all these differences and homogenize this heritage? Perhaps our present mix of large farms, small farms and part-time farms has considerable justification. Those who believe in market competition should also believe in the appropriateness of competing institutional forms. . . .

"The thing that could kill the family farm is an attempt to hold it in the mold of the past, a past that is invalidated by the technological changes of the 20th century.

"Can the family farm survive? It can, if:

"It is permitted the flexibility that will allow efficient use of modern technology and management;

"It is provided with good research, education and credit;

"It has ready access to the market;

"There is opportunity to supplement farm income with income from off the farm;

"It continues to enjoy the good will of the public, and

"It makes wise use of the principles of cooperation." ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Davis of Michigan (at the request of Mr. Rhodes), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Carney) to revise and extend their remarks and include extraneous material:)

Mr. Findley, for 5 minutes, today.
Mr. Conable, for 10 minutes, today.
Mr. Ritter, for 5 minutes, today.

(The following Members (at the request of Mr. Synar) to revise and extend their remarks and include extraneous material:)

Mr. Wolff, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Benjamin, for 5 minutes, today.
Mr. Dodd, for 5 minutes, today.
Mr. LaFalce, for 30 minutes, today.
Ms. Holtzman, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Ms. Holtzman, to extend her remarks in support of House Resolution 498.

(The following Members (at the request of Mr. Carney) and to include extraneous matter:)

Mr. Coughlin.
Mr. Daniel B. Crane.
Mr. Coleman.
Mr. Quayle.
Mr. Whitehurst.
Mr. Paul in four instances.
Mr. Conable.
Mr. Marlenee in two instances.
Mr. Kemp.
Mr. Wydler.
Mr. Rousselot in two instances.
Mr. Grassley in two instances.
Mr. Wampler.
Mr. Ritter.

(The following Members (at the request of Mr. Synar) and to include extraneous material:)

Mr. McHugh.
Mr. Wolff.
Mr. Albosta.
Mr. Garcia in two instances.
Mr. Aspin in two instances.
Mr. Rangel.
Mr. Gephardt in two instances.
Mr. Waxman.
Mr. Benjamin.
Mr. Shelby in two instances.
Mr. Lehman.
Mr. Vanik in three instances.
Mr. Solarz.
Mr. LaFalce.
Mr. Dodd in two instances.
Mr. Luken.
Mr. Edwards of California.
Ms. Byron.
Mr. Corrada.
Mr. McDonald.
Mr. Conyers.
Mr. Stark.
Mr. Gore.
Mr. Obey.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1656. An act to provide for a national program of fisheries research and developments, and for other purposes; to the Committee on Merchant Marine and Fisheries.

ADJOURNMENT

Mr. SYNAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Monday, December 10, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2969. A letter from the Vice Chairman, Temporary Commission on Financial Oversight of the District of Columbia, transmitting the 1979 progress report of the Commission; to the Committee on the District of Columbia.

2970. A letter from the President of the United States, transmitting a report on progress toward the conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 96–236); to the Committee on Foreign Affairs and ordered to be printed.

2971. A letter from the Director, Defense Security Assistance Agency, transmitting the quarterly report on foreign military sales as of September 30, 1979, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2972. A letter from the Director, Defense Security Assistance Agency, transmitting addenda to the quarterly report on foreign military sales as of September 30, 1979, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2973. A letter from the Director, Office of Administration, U.S. Nuclear Regulatory Commission, transmitting notice of a proposed new records system, pursuant to 5 USC 552a(o); to the Committee on Government Operations.

2974. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

2975. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(2) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

2976. A letter from the Assistant Secretary of the Army (Civil Works), transmitting the annual report covering calendar year 1978 on the Army's administration of title I of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, pursuant to section 112 of the act; to the Committee on Merchant Marine and Fisheries.

2977. A letter from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting the semiannual report on the effectiveness of the Civil Aviation Security program, covering the period ended June 30, 1979, pursuant to section 315(a) of the Federal Aviation Act, as amended; to the Committee on Public Works and Transportation.

2978. A letter from the Administrator of General Services, transmitting a prospectus proposing the acquisition of space by lease in Philadelphia, Pa., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2979. A letter from the Administrator of Veterans' Affairs, transmitting the annual report for fiscal year 1979 on the Veterans' Administration's exchange of medical information program, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 5860. A bill to authorize loan guarantees to the Chrysler Corp.; with an amendment (Rept. No. 96–690). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANLEY: Committee on Post Office and Civil Service. H.R. 5870. A bill to amend title 5 of the United States Code to improve the second career training program for air traffic controllers; with an amendment (Rept. No. 96–691). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. APPLEGATE (for himself, Mr. Mottl, Mr. Young of Florida, Mr. Pepper, Mr. Spence, Mr. Panetta, Mr. Rudd, Mr. Zablocki, Mr. Lagomarsino, and Mr. Mavroules):

H.R. 6046. A bill to amend the Immigration and Nationality Act of 1952 (8 U.S.C. 1251), relating to the general classes of deportable aliens; to the Committee on the Judiciary.

By Mr. ASPIN (for himself, Mr. AuCoin, Mr. Bedell, Mr. Bevill, Mr. Boland, Mr. Bonior of Michigan, Mr.

Brodhead, Mr. Carr, Mr. Clay, Mr. Conyers, Mr. Corrada, Mr. Donnelly, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Ertel, Mr. Fisher, Mr. Ford of Michigan, Mr. Gephardt, Mr. Gore, Mr. Hanley, Mr. Hughes, Mr. Jacobs, Mr. Jenrette, Mr. Kastenmeier, Mr. Kildee, Mr. Kostmayer, Mr. LaFalce, Mr. Lederer, Mr. Lehman, Mr. Luken, Mr. McCormack, Mr. McHugh, Mr. McKay, Mr. Maguire, Mr. Markey, Mr. Mazzoli, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Mollohan, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Nedzi, Mr. Nolan, Mr. Oberstar, Mr. Ottinger, Mr. Panetta, Mr. Pease, Mr. Price, Mr. Rangel, Mr. Russo, Mr. Simon, Mr. Scheuer, Mr. Solarz, Mrs. Spellman, Mr. Stark, Mr. Stokes, Mr. Stump, Mr. Udall, Mr. Vento, Mr. Walgren, Mr. Waxman, Mr. Weiss, Mr. Whitley, Mr. Charles Wilson of Texas, Mr. Wolff, Mr. Young of Missouri, Mr. Beard of Tennessee, Mr. Buchanan, Mr. Corcoran, Mrs. Fenwick, Mr. Goldwater, Mr. Green, Mr. Guyer, Mr. Horton, Mr. Hyde, Mr. Leach of Iowa, Mr. Lent, Mr. McKinney, Mr. Miller of Ohio, Mr. Walker, and Mr. Winn):

H.R. 6047. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. BENJAMIN:

H.R. 6048. A bill to provide for the placement of a plaque in the Hessville Post Office, Hammond, Indiana, in memory of the late Fred W. Dedelow; to the Committee on Post Office and Civil Service.

By Mr. CONABLE (for himself and Mr. Erlenborn):

H.R. 6049. A bill to amend the Internal Revenue Code of 1954 to allow certain employees covered by employer retirement plans a deduction for contributions to such plans or to individual retirement plans; to the Committee on Ways and Means.

By Mr. DASCHLE (for himself, Mr. Bonior of Michigan, Mr. Aspin, Mr. Bailey, Mr. Barnes, Mr. Bereuter, Mr. Cavanaugh, Mr. Dodd, Mr. Ertel, Mr. Frost, Mr. Gore, Mr. Harkin, Mr. LaFalce, Mr. Murtha, Mr. Panetta, and Mr. Roth):

H.R. 6050. A bill to amend title 38, United States Code, to provide expanded readjustment benefits for Vietnam-era veterans by promoting employment of such veterans through a program of career development, advancement, and training, by providing increased funding and improved programs for health and psychological care for such veterans, by improving educational assistance under the GI Bill for such veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DUNCAN of Tennessee:

H.R. 6051. A bill to modify the boundaries of the Big South Fork National River and Recreation Area to exclude an area known as the Lick Branch Oil Fields; to the Committee on Public Works and Transportation.

By Mr. ECKHARDT (for himself, Mr. Charles Wilson of Texas, Mr. Phillip Burton, Mr. Udall, and Mr. Kazen):

H.R. 6052. A bill to amend the act establishing the Big Thicket National Preserve in the State of Texas; to the Committee on Interior and Insular Affairs.

By Mr. ERLENBORN (for himself and Mr. Conable):

H.R. 6053. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to consolidate and simplify the administration of the provisions of law relating to retirement income arrangements, to provide for incentives for pension plan coverage and increased retirement savings, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. GEPHARDT:

H.R. 6054. A bill to provide compensation to investors of U.S. Treasury securities for delays in payment; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. GRASSLEY:

H.R. 6055. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 6056. A bill to amend the Congressional Budget Act of 1974 to limit the levels of total budget outlays contained in certain concurrent resolutions of the budget; and to establish procedures for making loans and loan guarantees under Federal credit programs subject to the congressional budget process; to the Committee on Rules.

By Mr. LUKEN:

H.R. 6057. A bill to provide for the protection of the public health and safety from unnecessary exposure to radiation; to the Committee on Interstate and Foreign Commerce.

By Mr. McDADE:

H.R. 6058. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. O'BRIEN:

H.R. 6059. A bill to amend title XI of the Social Security Act to provide that a Professional Standards Review Organization shall not be considered an agency of the Federal Government; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. PATTERSON (for himself, Mr. Danielson, Mr. Edwards of California, and Mr. Moorhead of California):

H.R. 6060. A bill to provide that the United States District Court for the Central District of California shall be held at Santa Ana, California, in addition to the place currently provided by law; to the Committee on the Judiciary.

By Mr. PRITCHARD:

H.R. 6061. A bill to extend for 2 years the authority to employ certain foreign citizens on the vessel *Arctic Trawler* (formerly the *Seafreeze Atlantic*); to the Committee on Merchant Marine and Fisheries.

By Mr. SHELBY:

H.R. 6062. A bill to amend the Immigration and Nationality Act to provide for the deportation of any alien in the United States on a nonimmigrant visa who knowingly participates in a political demonstration, and for other purposes; to the Committee on the Judiciary.

H.R. 6063. A bill to amend title 18, United States Code, to increase the penalties for desecrating the flag of the United States; to the Committee on the Judiciary.

By Mrs. SNOWE:

H.R. 6064. A bill to provide that at least one third of the revenues from the windfall profit tax shall be payable to States for mass transit, business and residential energy conservation incentives, and incentives for the development and use of alternative sources of energy; jointly to the Committees on Public Works and Transportation, Interstate and Foreign Commerce, Banking, Finance and Urban Affairs, and Science and Technology.

By Mrs. SPELLMAN:

H.R. 6065. A bill to amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST:

H.R. 6066. A bill to provide coverage for influenza and pneumococcal vaccines under medicare; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska:

H.R. 6067. A bill to amend title II of the Social Security Act to make it clear that social security benefits are and will continue to be exempt from all taxation; to the Committee on Ways and Means.

By Mr. APPLEGATE (for himself and Mr. Hubbard):

H.J. Res. 459. Joint resolution proposing that a Presidential commission be established to study full implications of compliance with the Clean Air Act, as amended, and adjusting the criteria that is used in monitoring air quality; to the Committee on Interstate and Foreign Commerce.

By Mr. RICHMOND:

H.J. Res. 460. Joint resolution to conduct nutrition surveillance; to the Committee on Agriculture.

By Mr. ROE (for himself, Mr. Patten, Mr. Minish, Mr. Rinaldo, Mr. Guarini, Mr. Broyhill, and Mr. Staggers):

H.J. Res. 461. Joint resolution directing the President to prohibit the exportation of all agricultural commodities to Iran; to the Committee on Foreign Affairs.

By Mr. WALKER (for himself, Mr. Abdnor, Mr. Gradison, Mr. Grassley, Mr. Grisham, Mr. Pashayan, Mr. Rousselot, Mr. Lott, Mr. Lagomarsino, Mr. Dougherty, and Mr. Mottl):

H. Con. Res. 220. Concurrent resolution expressing the sense of the Congress that the President should establish a Federal strike force and a program in each U.S. judicial district to investigate and prosecute crimes committed by members of outlaw motorcycle gangs; to the Committee on the Judiciary.

By Mr. PEYSER (for himself, Mr. Moffett, Mr. Weiss, Mr. Weaver, Mr. Lehman, Mr. Markey, Mr. Conyers, Mr. Beard of Rhode Island, Mr. D'Amours, Mr. Wolpe, Mr. Oberstar, Mr. Kogovsek, Mr. Panetta, Mr. Vento, Mr. Bingham, Mr. Cotter, Mr. Conte, Mr. Murphy of Pennsylvania, Mr. Nolan, Mr. Mineta, Mr. Harris, Mr. Matsui, Mr. Gibbons, Mr. Slack, Mr. Fary, Mr. Scheuer, Mr. Satterfield, Mr. Mitchell of Maryland, Mr. Minish, Mr. Ratchford, Mr. Edgar, Mr. Kastenmeier, Mr. Brodhead, Mr. Solarz, Mr. Stratton, Mr. Stack, Mr. Bonior of Michigan, Mr. Pease, Mr. Lederer, Mr. Kildee, Mr. Biaggi, and Mr. Marks):

H. Res. 502. Resolution urging the Senate to act promptly in its consideration of the pending legislation to impose a strong windfall profits tax; to the Committee on Ways and Means.

MEMORIAL

Under clause 4 of rule XX,

326. The SPEAKER presented a memorial of the Senate of the Commonwealth of

Pennsylvania, relative to Iran; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FORSYTHE:

H.R. 6068. A bill for the relief of Jane McNicoll Boyd; to the Committee on the Judiciary.

By Mr. REGULA:

H.R. 6069. A bill for the relief of I Wen Wang Chen; to the Committee on the Judiciary.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 218: Mr. Dicks.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 527: Mr. Addabbo, Mr. Cavanaugh, Mr. Corrada, Mr. Guarini, Mr. Heftel, Mr. LaFalce, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Pepper, Mr. Roe, Mr. Thompson, Mr. Vento, and Mr. Whitehurst.

H.R. 1918: Mr. Pepper and Mr. Fish.

H.R. 1984: Mr. Campbell, Mr. Kemp, Mr. Brinkley, Mr. Butler, Mr. Charles Wilson of Texas, Mr. White, Mr. Guyer, Mr. Mottl, and Mr. Blanchard.

H.R. 2967: Mr. Hutto and Mr. Davis of Michigan.

H.R. 3245: Mr. Goldwater, Mr. Grassley, Mr. Hagedorn, and Mr. Dornan.

H.R. 3720: Mr. Akaka, Mr. Hall of Texas, Mr. Robinson, Mr. Jenrette, Mr. Walker, Mr. Montgomery, Mr. Leach of Louisiana, and Mr. Long of Louisiana.

H.R. 3999: Mr. Mitchell of Maryland.

H.R. 4027: Mr. Patterson.

H.R. 4631: Mr. Swift.

H.R. 4990: Mr. Kramer.

H.R. 5038: Mr. Pepper and Mr. Guarini.

H.R. 5099: Mr. Pepper, Mr. Stokes, Mr. Gilman, Mr. McKinney, Mr. Forsythe, Mr. Long of Maryland, Mr. Bingham, Mr. Oberstar, Mr. Neal, Mr. Hughes, Mr. Gray, Mr. Leach of Iowa, Mr. LaFalce, Mr. Edwards of California, Mr. Guarini, Mr. Murphy of Pennsylvania, Mr. Lederer, Mrs. Fenwick, Mr. Gaydos, Mr. Addabbo, Mr. Ginn, Mr. Kostmayer, Mr. Lent, Mr. Rahall, Mr. Corman, Mr. Moffett, Mr. Frenzel, Mr. Mitchell of Maryland, Mr. Harris, Mr. Lehman, Mr. Diggs, Mr. Patten, Mr. Hollenbeck, Mr. Sabo, Mr. Maguire, Mr. Brinkley, Mr. Weiss, Mr. Rodino, Mr. Carr, Mr. Evans of Indiana, Mr. Vento, Mrs. Spellman, Mr. Gudger, Mr. Howard, Ms. Mikulski, Mr. Walgren, Mr. Hyde, Mr. Thompson, Mr. Richmond, Mr. Drinan, Mr. Bonior of Michigan, Mrs. Schroeder, Mr. Garcia, Mr. Dougherty, Mr. Peyser, Mr. Wolff, Mr. Zeferetti, Mr. Roe, Mr. Fowler, and Mr. Wydler.

H.R. 5140: Mr. Edwards of Alabama, Mr. Flippo, Mr. Shelby, Mr. Rudd, Mr. Badham, Mr. Dixon, Mr. Hawkins, Mr. Lagomarsino, Mr. Lungren, Mr. Kramer, Mr. Kogovsek, Mr. Fuqua, Mr. Corcoran, Mr. Michel, Mr. Murphy of Illinois, Mr. O'Brien, Mrs. Collins of Illinois, Mr. Hamilton, Mr. Tauke, Mr. Winn, Mr. Albosta, Mr. Blanchard, Mr. Brodhead, Mr. Broomfield, Mr. Carr, Mr. Conyers, Mr. Davis of Michigan, Mr. Diggs, Mr. Ford of Michigan, Mr. Kildee, Mr. Nedzi, Mr. Pursell, Mr. Sawyer, Mr. Stockman, Mr. Traxler, Mr. Vander Jagt, Mr. Erdahl, Mr. Hagedorn, Mr. Vento, Mr. Frenzel, Mr. Clay, Mr. Coleman, Mr. Taylor, Mr. Young of Missouri, Mr. Cleveland, Mr. Forsythe, Mr. Hanley, Mr. Kemp, Mr. Solomon, Mr. Ashley, Mr. Brown of Ohio, Mr. Devine, Mr. Gradison, Mr. Guyer, Mr. Kindness, Mr. Luken, Ms. Oakar, Mr. Regula, Mr. Williams of Ohio, Mr. Shuster, Mr. Abdnor, Mr. Duncan of Tennessee, Mr. Quillen, Mr. Gramm, Mr. Leland, Mr. Loeffler, Mr. Charles Wilson of Texas, Mr. Whitehurst, and Mr. Pritchard.

H.R. 5281: Mr. Edwards of Oklahoma.

H.R. 5304: Mr. Leach of Iowa and Mr. Barnes.

H.R. 5327: Mr. Markey, Mr. Walgren, and Mr. Lundine.

H.R. 5444: Mr. McDonald, Mr. Hughes, Mr. Burgener, Mr. Roe, Mr. Marks, Mr. Erdahl, Mr. Conte, Mrs. Fenwick, Mr. Horton, Mr. Livingston, Mr. Price, Mr. Robinson, Mr. Rudd, Mr. Shumway, Mr. Solomon, Mr. Tauke, Mr. Madigan, Mr. D'Amours, Mr. Panetta, Mr. Rinaldo, Mr. Broomfield, Mr. Long of Louisiana, Mr. Bauman, Mr. Campbell, Mr. Johnson of California, Mr. Kindness, Mr. Lewis, Mr. Lloyd, Mr. Lott, Mr. Lungren, Mr. Mineta, Mr. Montgomery, Mr. Walker, Mr. Grisham, Mr. Cheney, Mr. Badham, and Mr. Jacobs.

H.R. 5548: Mr. Solarz, Mr. Ottinger, and Mr. Findley.

H.R. 5635: Mr. Marriott, Mr. Hopkins, and Mr. Lungren.

H.R. 5813: Mr. Jenrette and Mr. Whitley.

H.R. 5839: Mr. Bedell, Mr. Corrada, Mr. Dellums, Mr. Dougherty, Mr. Fish, Mr. Guarini, Mr. Miller of California, Mr. Moakley, Mr. Peyser, Mr. Vento, and Mr. Weiss.

H.R. 5865: Mr. Jenrette and Mr. Albosta.

H.R. 6012: Mr. Winn, Mr. Weaver, Mr. Wampler, Mr. Pritchard, Mr. Price, Mr. Pepper, Mr. Mollohan, Mr. Moakley, Mr. Minish, Mr. Miller of Ohio, Mr. Harsha, Mr. Goldwater, Mr. Dougherty, Mr. Davis of Michigan, Mr. Whitehurst, Mr. Drinan, Mr. Hall of Ohio, Mr. White, Mr. Lehman, Mr. Ottinger, and Mr. Ertel.

H.R. 6021: Mr. Hightower, Mr. Broyhill, Mr. Heftel, Mr. Maguire, Mr. Guarini, Mr. Minish, Mr. Vento, Mr. Gephardt, Mr. Whitley, Mr. Duncan of Tennessee, and Mr. Rose.

H.J. Res. 321: Mr. Duncan of Oregon, Mr. Weaver, Mr. Thomas, and Mr. Gore.

H.J. Res. 389: Mr. Corrada, Mr. Mottl, Mr. Ottinger, Mr. Symms, Mr. Markey, and Mr. Simon.

H.J. Res. 458: Mr. Abdnor, Mr. Albosta, Mr. Alexander, Mr. Ambro, Mr. Anderson of California, Mr. Annunzio, Mr. Applegate, Mr. Archer, Mr. Ashbrook, Mr. Badham, Mr. Bafalis, Mr. Bailey, Mr. Barnard, Mr. Bauman, Mr. Beard of Tennessee, Mr. Benjamin, Mr. Bereuter, Mr. Biaggi, Mr. Bingham, Mr. Blanchard, Mr. Boland, Mrs. Bouquard, Mr. Bowen, Mr. Brinkley, Mr. Broomfield, Mr. Brown of Ohio, Mr. Broyhill, Mr. Burgener, Mrs. Byron, Mr. Campbell, Mr. Carter, Mr. Chappell, Mr. Cheney, Mr. Clausen, Mr. Cleveland, Mr. Clinger, Mrs. Collins of Illinois, Mr. Conte, Mr. Corcoran, Mr. Corman, Mr. Cotter, Mr. Coughlin, Mr. Philip M. Crane, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. Daschle, Mr. Deckard, Mr. Devine, Mr. Dickinson, Mr. Dicks, Mr. Dingell, Mr. Dodd, Mr. Dornan, Mr. Dougherty, Mr. Duncan of Oregon, Mr. Edwards of California, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. Emery, Mr. Erdahl, Mr. Evans of Georgia, Mr. Evans of the Virgin Islands, Mr. Fary, Mrs. Fenwick, Ms. Ferraro, Mr. Findley. Mr. Fish, Mr. Fisher, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Forsythe, Mr. Fountain, Mr. Gaydos, Mr. Gilman, Mr. Ginn, Mr. Goldwater, Mr. Goodling, Mr. Gore, Mr. Gradison, Mr. Grisham, Mr. Guyer, Mr. Hall of Texas, Mr. Hammerschmidt, Mr. Hansen, Mrs. Heckler, Mr. Hillis, Mr. Holland, Mr. Hollenbeck, Mrs. Holt, Mr. Hopkins, Mr. Howard, Mr. Hubbard, Mr. Huckaby, Mr. Hutto, Mr. Hyde, Mr. Ichord, Mr. Ireland, Mr. Jacobs, Mr. Johnson of Colorado, Mr. Jones of North Carolina, Mr. Kelly, Mr. Kemp, Mr. Kostmayer, Mr. Kramer, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Leath of Texas, Mr. Lederer, Mr. Lee, Mr. Lehman, Mr. Lent, Mr. Livingston, Mr. Loeffler, Mr. Long of Louisiana, Mr. Madigan, Mr. Markey, Mr. Marks, Mr. Marriott, Mr. Mathis, Mr. Mattox, Mr. Mavroules, Mr. Mazzoli, Mr. McClory, Mr. McCormack, Mr. McDade, Mr. McDonald, Mr. McEwen, Mr. McHugh, Mr. McKinney, Mr. Mica, Mr. Michel, Mr. Mineta, Mr. Mitchell of New York, Mr. Mollohan, Mr. Montgomery, Mr. Moore, Mr. Moorhead of California, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Murtha, Mr. Myers of Pennsylvania, Mr. Neal, Mr. Nichols, Mr. Nolan, Ms. Oakar, Mr. Oberstar, Mr. Pashayan, Mr. Patten, Mr. Peyser, Mr. Pickle, Mr. Preyer, Mr. Pritchard, Mr. Pursell, Mr. Quayle, Mr. Quillen, Mr. Rahall, Mr. Railsback, Mr. Ratchford, Mr. Regula, Mr. Richmond, Mr. Ritter, Mr. Rodino, Mr. Roe, Mr. Roth, Mr. Rousselot, Mr. Royer, Mr. Rudd, Mr. Russo, Mr. Santini, Mr. Satterfield, Mr. Sawyer, Mr. Scheuer, Mr. Seiberling, Mr. Sharp, Mr. Shumway, Mr. Simon, Mr. Solomon, Mrs. Spellman, Mr. Spence, Mr. Staggers, Mr. Stangeland, Mr. Stanton, Mr. Stenholm, Mr. Stewart, Mr. Stockman, Mr. Stratton, Mr. Symms, Mr. Synar, Mr. Thomas, Mr. Traxler, Mr. Treen, Mr. Trible, Mr. Udall, Mr. Van Deerlin, Mr. Vento, Mr. Volkmer, Mr. Walker, Mr. White, Mr. Whitehurst, Mr. Whittaker, Mr. Williams of Ohio, Mr. Winn, Mr. Wolpe, Mr. Won Pat, Mr. Wylie, Mr. Yatron, Mr. Young of Florida, Mr. Young of Alaska, Mr. Young of Missouri, Mr. Courter, Mr. Grassley, Mr. Bethune, Mr. Green, and Mr. Donnelly.

H. Con. Res. 106: Mr. Long of Maryland.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were presented and referred as follows:

244. By the SPEAKER: Petition of the International Executive Council and Board of the Transport Workers Union of America AFL–CIO, New York, N.Y., relative to Iran; to the Committee on Foreign Affairs.

245. By the SPEAKER: Petition of the Township Council, Township of Brick, N.J. relative to Iran; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2816

By Mr. DANIELSON:

—Page 48, line 19, strike out "1980" and insert in lieu thereof "1981".

SENATE—*Thursday, December 6, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the acting President pro tempore (Mr. HEFLIN).

PRAYER

The Reverend Henry L. H. Myers, D. Min., rector, Christ Church, Washington Parish on Capitol Hill, offered the following prayer:

Let us pray.

O Lord our Governor, bless the leaders of our land, that we may be a people at peace among ourselves and a blessing to other nations of the Earth.

Lord, keep this Nation under Your care.

We thank You for the natural majesty and beauty of this land. They restore us, though we often destroy them.

Heal us, good Lord.

We thank You for the great resources of this Nation. They make us rich, though we often exploit them.

Forgive us, good Lord.

We thank You for the men and women who have made this country strong. They are models for us, though we often fall short of them.

Inspire us, good Lord.

We thank You for the torch of liberty which has been lit in this land. It has drawn people from every nation, though we have often hidden from its light.

Enlighten us, good Lord.

We thank You for the faith we have inherited in all its rich variety. It sustains our life, though we have been faithless again and again.

Renew us, good Lord.

Help us to finish the good work here begun. Strengthen our efforts to blot out ignorance and prejudice, to abolish poverty and crime.

Finally, O Judge of the nations, we remember before You with gratitude the men and women of our country who in the day of decision ventured much for the liberties we now enjoy. Grant that we may not rest until all the people of this land share the benefits of true freedom and gladly accept its disciplines.

And hasten the day, good Lord, when all our people in one united chorus will glorify Your holy name.

Amen.

—COMMON PRAYER.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. TOWER. Mr. President, I reserve the remainder of my time.

RECOGNITION OF SENATOR HATCH

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Utah (Mr. HATCH) is recognized for not to exceed 15 minutes.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask that the time be charged against the order for 15 minutes for Mr. HATCH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 2086 AND S. 2087—THE LAW ENFORCEMENT AND PUBLIC SECURITY ACT AND THE PRIVACY ACT OF 1974

Mr. HATCH. Mr. President, I introduce and send to the desk for reference to the appropriate committees two bills, one entitled the "Law Enforcement and Public Security Act," and the other to amend the Privacy Act of 1974. The purpose of these bills is to amend the Freedom of Information Act, and the Privacy Act and to effect other changes in the law for the purpose of increasing the ability of law enforcement agencies to protect the public security.

I want to say a few words about the background of these bills.

Over the course of 1977 and 1978, I participated in a series of hearings dealing with the erosion of law enforcement intelligence and the impact this erosion has had on all aspects of public security—from the physical security of the patient in a hospital to the security of nuclear powerplants. The hearings were held under the auspices of, first, the Senate Subcommittee on Internal Security, and after July of 1978, under the auspices of the Subcommittee on Criminal Laws and Procedures. In these hearings we took the testimony of scores of law enforcement officials at the Federal, State, and local levels. A good deal of the testimony had to do with the impact of the Freedom of Information Act and the Privacy Act.

I want to emphasize that I strongly support the basic purposes of the Freedom of Information Act and Privacy Act. But it is in the nature of new legislation that it is frequently impossible to predict its precise consequences and that it may be as much as 4 or 5 years before a reasonably accurate assessment can be made of its pluses and minuses. As often as not, new legislation has to be amended after such a trial period. I believe that the time has come for a reexamination of the privacy legislation now on the books and of the entire question of security in our society.

The law enforcement witnesses whose testimony we took agreed on the point that the Freedom of Information Act and Privacy Act had brought some genuine benefits. Among other things they said that this legislation had assisted in the restoration of public confidence in Government and in criminal justice law enforcement. Witness after witness, however, testified that the FOIA and the Privacy Act, as they are written and as they are currently administered, have crippled law enforcement intelligence and hobbled law enforcement in general. They all recommended that these laws be amended with a view to striking a a better balance between the right of privacy and the needs of law enforcement. Only several months ago, FBI Director Webster formally submitted a carefully drawn set of amendments which, he felt, were essential to more effective law enforcement.

No one proposes the abolition of the FOIA or Privacy Act. As Prof. Charles Rice of the University of Notre Dame Law School told the subcommittee:

> What is necessary now is not a dismantling of those statutes but rather corrective surgery to bring them more into line with their original and laudable purpose.

Mr. President, in the paragraphs that follow, I intend to describe the major provisions of my legislation, in each case stating the justification for the provision and the purpose it is intended to accomplish.

TITLE I, SECTION 101

As matters now stand, Government agencies are required to respond within 10 days to freedom of information requests. It is universally recognized that this time limit is arbitrary and unachievable with the best of intent. Government agencies today will in most in-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

stances acknowledge the receipt of a request within 10 days of its arrival. In the very great majority of cases, however, requests take substantially more than 10 days to process. In part, this is because of the serious backlog of requests in most Government agencies; in part, it is due to the fact that those responsible for writing the laws simply failed to take into account the enormous amount of time that would be required to go through files containing sensitive information on a page-by-page, paragraph-by-paragraph, word-by-word basis.

All of the witnesses from Government agencies who testified before the Senate Subcommittee on Internal Security, later the Subcommittee on Criminal Laws and Procedures, agreed on the point that the 10-day time limit was completely unworkable. The amendment to FOIA suggested in section 101—which closely parallels the recommendations of the FBI on this point—is designed to provide agencies with more realistic time limits in which to respond. The time limit in the case of each request would be prorated against the number of record pages encompassed by the request.

Section 103: FOIA exempts certain categories of information from the requirement of release. The purpose of section 103 of the Law Enforcement and Public Security Act is to expand the list of exemptions to cover areas not now exempted by FOIA.

Testimony taken by the Subcommittee on Internal Security established that the U.S. Customs had been obliged to release a roster of women custom inspectors, in response to a request from the women's division of the ACLU. DEA also testified that they were concerned that they might have to release rosters of law enforcement personnel—although they said that they would bitterly resist such a release.

The proposed amendment would put a blanket exemption on the release of rosters of law enforcement personnel and the personnel of national intelligence agencies.

Witnesses before the subcommittee also testified that they would favor a blanket prohibition on the release of confidential law enforcement training manuals, investigative handbooks, and manuals dealing with confidential investigative technologies. This is an area where FOIA is ambiguous and subject to varying interpretations. DEA, for example, testified that they had been obliged to release to a felon, serving time in prison on a drug offense, a copy of a confidential DEA manual dealing with methods used by drug traffickers to manufacture liquid hashish.

The proposed amendment provides for a blanket exemption covering all confidential law enforcement training manuals, investigative handbooks, and manuals dealing with confidential investigative technologies.

The subcommittee took much testimony relating to the increasing reluctance of State and local government agencies and of foreign governments to share law enforcement intelligence with the U.S. agencies because of the fear that this information might be disclosed pursuant to a Freedom of Information or Privacy Act request. The proposed amendment (para. (12), page 4) seeks to deal with this situation by exempting from disclosure all information received from foreign governments or from State and local government agencies on a confidential basis.

Section 104: Under FOIA, requests for information from foreign nationals have precisely the same status as requests for information from U.S. citizens. It was pointed out in the course of the subcommittee's hearings that not only could criminal elements in other countries conducting operations in the United States, or tied in with criminal operations in the United States, discover how much Federal law enforcement agencies knew about their activities, but that this provision of the law could also be used to good advantage by members of foreign intelligence agencies. The proposed amendment establishes that "the provision of information to foreign nationals, other than those admitted for legal residence to the United States, shall not be mandatory, but each agency may, at its discretion, promulgate regulations that provide for access to records and the availability of information to foreign nationals and corporate entities."

Section 105: Law enforcement agencies have complained that when applicants under FOIA bring court challenges against decisions by law enforcement or intelligence agencies to withhold records on the basis of exemptions specified in FOIA, the court procedure itself has sometimes brought about de facto release of the information they sought to protect. Section 105 seeks to remedy this situation by specifying, first, that in all such cases the court examination of the material for which an exemption is claimed shall take place in camera, and second, that the court shall maintain under seal any affidavits submitted to the court by a law enforcement or intelligence agency requesting an in camera examination. This parallels one of the basic recommendations of the FBI.

Section 106: Point 7 of this section is motivated by the need to protect law enforcement intelligence and to protect informants against the possibility of identification as the result of the release of information under FOIA. As testimony before the subcommittee established, informants have become a nearly extinct species in consequence of the growing apprehensions about the jeopardy in which they have been placed by FOIA and the Privacy Act. The proposed amendment closely follows the provisions of one of the amendments by FBI Director Webster. It calls for a blanket ban on the release of records maintained, collected, or used for law enforcement purposes, for a period of 10 years after termination of an investigation without prosecution, or for a period of 10 years after the disposition of a case, or, where a prison sentence was imposed, for a period of 10 years after the termination of the sentence.

This provision will make it much more difficult for criminal elements to utilize FOIA for their own purposes, and will at the same time, when coupled with the other restrictions on the release of information, provide a much higher degree of protection for informants.

Section 107: Witnesses before the subcommittee complained that their agencies are in many cases plagued by requests for records that consist primarily of newspaper clippings, magazine articles, court records, and other items which are publicly available, but which now have to be xeroxed and copies sent to the requesting parties. They also complained about the burden of repetitive requests from the same parties, each request requiring not just an updating of the previous response but the copying of all the file material which was not subject to exemption. Finally, they thought it would be better, even where agency records contain no confidential information obtained from other agencies, that the burden of disclosure be imposed on the originating agency.

To deal with these criticisms of FOIA as it operates today, the proposed amendments, paragraphs 7, 8, and 9 stipulate that:

First. In cases in which a portion of a record requested, consists of newspaper clippings, magazine articles, court records, or any other item which is public record. The agency shall not be required to copy that portion of the record but shall identify such portions by date and source.

Second. Any person making a request to an agency for records under FOIA shall be required to state in the request the number of previous requests that he or she has made and the date of each such request. No person shall make more than one request per year per agency on any one subject. In any case in which a person makes more than one request on the same subject in consecutive years, the agency shall not be required to copy any portion of the record previously submitted to the requestor. It shall only be required to update the request with information, if any, which has been added to the record since the previous request. Each agency head may promulgate regulations which provide for exceptions to these requirements.

Third. In any case in which the records requested contain information which has been received on a non-confidential basis from another agency, the agency to which the request is addressed may notify the person seeking access to the records that the information requested is available with the original agency, and the burden of disclosure shall be with originating agency.

These three provisions are repeated in

title II of the proposed bill, which deals with amendments to the Privacy Act of 1974.

Section 109: This section, which is to be added to FOIA, has to do with access to criminal background information of prospective employees. Witnesses for the American Society for Industrial Security testified that there is nothing illegal about doing a criminal background check on a prospective employee—but while such information is publicly available at the county courthouse and district court level, it becomes unavailable when the bits and pieces are brought together under Federal control from all over the country. This makes it possible to lose a criminal background record simply by moving from one part of the country to another. The result of this is that hospitals have no way of knowing whether they are employing applicants who have prior convictions for rape, arson, or drug offenses; insurance companies have no way of knowing whether an applicant has a prior conviction for conspiracy to commit fraud; nuclear powerplants have no way of knowing whether applicants have records as terrorists. Frequently employers will discover that employees have prior criminal background records only at the point where these employees are apprehended and indicted in connection with the commission of some new crime.

The proposed amendment stipulates that Federal law enforcement agencies shall be required, upon request under FOIA, to release criminal background information to prospective employers—subject to two important limitations:

First. Such information shall be available only to prospective employers who are engaged in work which relates to the national security in the cases of hospitals or nursing homes, gives employees access to drugs or physical access to residents.

Second. The second qualification has to do with the nature of the information that is to be released. In the interest of protecting young people who may be picked up for pot smoking, shoplifting, or other misdemeanors, all information relating to misdemeanors, under the terms of this provision, are barred from release. With this across-the-board exception, Federal law enforcement agencies shall be required to release the criminal history record of a prospective employee reflecting convictions, reflecting arrests for charges that have not resulted in convictions, but only where there have been three or more such arrests.

It frequently happens that criminal elements are arrested and indicted a number of times—even many times—for similar or related crimes before they are finally convicted. While one or even two arrests without conviction may signify nothing, at the point where there has been three or more such arrests, prudence suggests that there is serious reason for concern. Again it is to be emphasized that this provision talks about arrests other than for misdemeanors.

Under this section, but in the case only of business related to the national security—the FBI and other law enforcement agencies, if they have intelligence on file which gives serious reason for believing that an applicant for employment is or has been involved in terrorist or terrorist support activities, or in espionage, or that he is a knowing, active and purposive member of a group about which the FBI maintains intelligence for national security purposes, shall be authorized, upon the approval of the Attorney General or his designee, to release such information to a prospective employer, even in the absence of an arrest or conviction.

This section contains a strong stipulation of confidentiality. It provides that criminal background information shall be released to prospective employers on the strict understanding that it is for the use of the employer, and that the release of this information to any third party shall be a violation of the law punishable by a fine of up to $10,000.

Section 203: Under the FOIA and Privacy Acts, requesters can be charged for the costs of copying the records for which they have requested access, but not for the other labor involved—which generally far exceeds the cost of copying. Agencies receive numerous frivolous requests or repetitive requests from the same citizen, all of which have to be accorded precisely the same treatment as serious requests. In order to discourage frivolous or repetitive requests, it is proposed in this section that, in addition to the cost of duplication, applicants be charged a flat fee of $10 for processing their request. This will not eliminate all abuses of FOIA—but it will eliminate a significant volume of them.

This same section is repeated in the amendments to the Privacy Act.

Section 204: Under the Privacy Act of 1974 and under FOIA, applicants may be denied access to the information contained in their files if they are the subject of current investigations. The trouble is that, in invoking this exclusion, responding Government agencies must, in effect, let the applicants know that they are under current investigation. The release of such information to criminal elements obviously undermines the hand of law enforcement.

The proposed amendment stipulates that "in the interests of not alerting applicants to the fact that they are under criminal investigation, responding law enforcement agencies shall be required to develop a standard form response, applicable both to applicants about whom there is no information and applicants who are the subject of current investigations."

Mr. President, I earnestly hope that the Senators will give this legislation the careful attention which it merits. I note that it incorporates all of the major amendments recommended by FBI Director Webster—but to these are added a number of amendments recommended by the various law enforcement witnesses who testified, and several other provisions that have been developed in the course of discussions with my staff.

In connection with this legislation I would strongly urge the Senators to carefully examine the report on "The Erosion of Law Enforcement Intelligence and Its Impact on the Public Security" which was distributed to them in January of this year.

Mr. President, I ask unanimous consent that the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Law Enforcement and Public Security Act".

AMENDMENTS TO THE FREEDOM OF INFORMATION ACT

SEC. 2. Section 552(a)(6)(A) of title 5, United States Code, is amended—

(1) by striking out clause (i) and inserting in lieu thereof the following:

"(i) within 30 days after receipt of the request, notify the person making the request of such receipt, the number of pages encompassed by the request, and the time limits imposed upon the agency under clause (ii) for responding to the request;

"(ii) determine whether to comply with the request and notify the person making the request of such determination and the reasons therefor, within 60 days from receipt of the request (excepting Saturdays, Sundays, and legal public holidays) if the request encompasses less than 200 pages of records, with an additional 60 days (excepting Saturdays, Sundays, and legal public holidays) permitted for each additional 200 pages of records encompassed by the request, up to a maximum period of one year;

"(iii) notify the person making the request of the right of such person to appeal to the head of the agency any adverse determination; and"; and

(2) by redesignating clause (ii) as clause (iv).

SEC. 3. The first and second sentences of section 552(a)(6)(B) of title 5, United States Code, are amended to read as follows: "Any person making a request to any agency for records under paragraphs (1), (2) or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the agency can show that exceptional circumstances exist and that the agency is exercising due diligence in attempting to respond to the request, the court shall allow the agency additional time to complete its review of the records.".

SEC. 4. Section 552 (b) of title 5, United States Code, is amended—

(1) in paragraph (8), by striking out "or" at the end thereof;

(2) in paragraph (9), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"rosters of law enforcement personnel or of the personnel of any national intelligence agency;

"(11) confidential law enforcement training manuals, investigative handbooks, and manuals dealing with investigative technologies, developed by the department or agency, or developed through research contracts entered into by the department or agency; or

"(12) any information received on a confidential basis from a foreign government or from a State or local government agency.".

SEC. 5. (a) Section 552(e) of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(e)"; and

(2) by adding at the end thereof the following:

"(2) For the purposes of this section, the term 'person' means a 'United States person' as defined by the Foreign Intelligence Surveillance Act of 1978.".

(b) Section 552 of that title is amended by adding at the end thereof the following:

"(f) The head of each agency may promulgate regulations which provide for access to records by, and the availability of information to, foreign nationals and foreign corporate entities under the provisions of this section. This section does not require the provision of information or access to records to foreign nationals or to foreign corporate entities.".

Sec. 6. Section 552(a)(4)(B) of title 5, United States Code, is amended by inserting the following immediately after the second sentence: "If the court examines the contents of any records of a law enforcement or intelligence agency withheld by the agency under any of the exemptions set forth in subsection (b)(1), (b)(3), or (b)(7), the examination shall be in camera. The court shall maintain under seal any affidavit submitted to the court by a law enforcement or intelligence agency to examine in camera.".

Sec. 7. (a) Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) subject to the provisions of subsection (f), records maintained, collected, or used for law enforcement purposes, but only to the extent that the production of such law enforcement records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy or the privacy of a natural person who has been deceased for less than 25 years, (D) tend to disclose the identity of a confidential source, including a State or local government agency or foreign government which furnished information on a confidential basis, and in the case of a record maintained, collected, or used by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished by the confidential source, (E) disclose investigative techniques and procedures, (F) endanger the life or physical safety of any natural person, or (G) disclose information relating to any investigation of organized crime, espionage, or any conspiratorial activity specified by the Attorney General;".

(b) Section 552 of such title is amended by adding at the end thereof the following:

"(f) A law enforcement agency shall not make available any records maintained, collected, or used for law enforcement purposes which pertain to a law enforcement investigation until the date which is—

"(1) 10 years after the termination of any investigation not resulting in prosecution;

"(2) if the person who is the subject of the record has been the subject of two or more investigations not resulting in prosecution, 10 years after the termination of the last investigation; or

"(3) if the person who is the subject of the record has, as a result of an investigation, been convicted and subject to probation or a sentence of imprisonment or fine, 10 years after the termination of probation, the term of imprisonment, or the imposition of the fine, as the case may be.

Sec. 8. Section 552(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(7) In any case in which a portion of a record requested under this subsection consists of newspaper clippings, magazine articles, court records, or any other item which is public record or otherwise available, the agency shall not be required to copy that portion of the record but shall identify such portions by date and source.

"(8) Any person making a request to an agency for records under this section shall be required to state in the request the number of previous requests that he or she has made and the date of each such request. No person may make more than one request per year per agency on any general subject. In any case in which a person makes more than one request on the same general subject in consecutive years, the agency shall not be required to copy any portion of the record previously submitted to the requestor but shall only be required to update the request with information, if any, which has been added to the record since the previous request. Each agency head may promulgate regulations which provide for exceptions to the requirements of this paragraph.

"(9) In any case in which the record requested contains information which has been received from another agency and such information has not been received on a confidential basis, the agency may notify the person requesting the record that such information is available with the originating agency and the burden of disclosure under this section shall be with the originating agency.".

Sec. 9. Section 552(a)(4)(A) of title 5, United States Code, is amended to read as follows:

"(4)(A) Each person requesting a record under this section shall be charged a fee of $10 plus the costs of duplication. Documents shall be furnished without charge or at a reduced charge in any case in which the agency determines that a waiver or reduction of the fee is justified upon a showing of financial hardship.".

Sec. 10. (a) Section 552(b) of title 5, United States Code, is amended by striking out "This section does not" and inserting in lieu thereof "Subject to the provisions of subsection (g), this section does not".

(b) Section 552 of such title is amended by adding at the end thereof the following:

"(g)(1) Notwithstanding any provision of subsection (b), upon a written request which otherwise meets the requirements of this section from a prospective employer engaged in (A) production, distribution, research, special studies or other activities related to the national security, or (B) in the case of a hospital or other health care facility, a business which provides employees access to drugs or physical access to patients or residents, a law enforcement agency shall furnish the prospective employer the following criminal history information with respect to a prospective employee:

"(i) Prior convictions other than for misdemeanors, including the date, location, charge, and sentence imposed for each conviction.

(ii) Prior arrests which have not resulted in conviction, other than for misdemeanors, including date, location, charge, and disposition, if three or more such arrests are reflected in the records.

"(2)(A) If a law enforcement agency has serious reason to believe that a prospective employee is engaging or has been engaged in espionage, terrorist or terrorist support activities, or that such prospective employee is a knowing, active, and purposive member of a group about which the Federal Bureau of Investigation maintains intelligence for national security purposes, the agency, upon a written request which otherwise meets the requirements of this section by any prospective employer, engaged in production, distribution, research, special studies, or other activities related to the national security, shall so inform such prospective employer unless the release of such information might prejudice the national security.

"(B) No information may be released under subparagraph (A) without the approval of the Attorney General or his designee.

"(3) Any information provided to a prospective employer in accordance with this subsection shall be used only by such employer, and the release of such information to any third party by an employer shall be an offense punishable by a fine of not to exceed $10,000.".

Sec. 11. Section 552(b) of title 5, United States Code, is amended by adding at the end thereof the following: "Each agency which carries out law enforcement functions shall prepare and furnish the same general standardized written response for issuance to any person making a request for records under this section to be used both in cases where the agency does not have the records requested and in cases where the records are protected from disclosure because disclosure would reveal that a criminal investigation concerning the person is in progress.".

S. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 552a of title 5, United States Code, is amended by adding at the end thereof the following:

"(r) Public Record.—In any case in which a portion of a record requested under this subsection consists of newspaper clippings, magazine articles, court records or any other item which is public record or otherwise available, the agency shall not be required to copy that portion of the record but shall identify such portions by date and source.

"(s) Request History.—Any person making a request to an agency for records under this section shall be required to state in the request the number of previous requests that he or she has made and the date of each such request. No person may make more than one request per year per agency on any general subject. In any case in which a person makes more than one request on the same general subject in consecutive years, the agency shall not be required to copy any portion of the record previously submitted to the requestor but shall only be required to update the request with information, if any, which has been added to the record since the previous request. Each agency head may promulgate regulations which provide for exceptions to the requirements of this paragraph.

"(t) Information From Other Agencies.—In any case in which the record requested contains information which has been received from another agency and such information has not been received on a confidential basis, the agency may notify the person requesting the record that such information is available with the originating agency and the burden of disclosure under this section shall be with the originating agency.".

Sec. 2. (a) Section 552a(k)(2) of title 5, United States Code, is amended to read as follows:

"(2) subject to the provisions of subsection (u), records maintained, collected, or used for law enforcement purposes, but only to the extent that the production of such law enforcement records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy or the privacy of a natural person who has been deceased for less than 25 years, (D) tend to disclose the identity of a confidential source, including a State or local government agency or foreign government which furnished information on a confidential basis, and in the case of a record maintained, collected, or used by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished by the confidential source, (E) discloses investigative techniques and procedures, (F) endanger the life or physical safety of any natural person, or (G) disclose information relating to any investigation of organized crime, racketeering, espionage, or any conspiratorial activity specified by the Attorney General;".

(b) Section 552a of such title is amended by adding at the end thereof the following:

"(u) LAW ENFORCEMENT RECORDS.—A law enforcement agency shall not make available any records maintained, collected, or used for law enforcement purposes which pertain to a law enforcement investigation until the date which is—

"(1) 10 years after the termination of any investigation not resulting in prosecution;

"(2) if the person who is the subject of the record has been the subject of two or more investigations not resulting in prosecution, 10 years after the termination of the last investigation; or

"(3) if the person who is the subject of the record has, as a result of an investigation, been convicted and subject to probation or a sentence of imprisonment or fine, 10 years after the termination of probation, the term of imprisonment, or the imposition of the fine, as the case may be.".

SEC. 3. Section 552(f)(5) of title 5, United States Code, is amended to read as follows:

"(5) provide that each person requesting a record under this section shall be charged a fee of $10 plus the cost of duplication, except that documents shall be furnished without charge or at a reduced charge in any case in which the agency determines that a waiver or reduction of the fee is justified upon a showing of financial hardship.".

SEC. 4. Section 552a(e) of title 5, United States Code, is amended by adding at the end thereof the following: "Each agency which carries out law enforcement functions shall prepare and furnish the same general standardized written response to a person making a request for records under this section both in cases where the agency does not have the records requested and in cases where the records are protected from disclosure because disclosure would reveal that a criminal investigation concerning the person is in progress.".

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will begin at 10 o'clock on legislation with respect to Rhodesia. Until then, I know of no Senator who wishes to speak. I think I might take this occasion to say that it is going to be necessary to find some way to speed up the action on the windfall profit tax bill. The Senate began its consideration of that bill 3 weeks ago today, November 15, on a Thursday, 3 weeks ago today.

We have 2 weeks remaining before Christmas week, and in that 2 weeks the Senate should complete action on the windfall profit tax bill and on the Chrysler legislation. I have not made any decision pro or con on the Chrysler legislation itself; I prefer to wait until such time as it comes before the Senate. But I think that the Senate has a duty to discuss it and work its will on the legislation, and time is just running out.

Early in the year, I knew that we would find ourselves in a time bind when we neared the end of the session, but even though I knew that, I said we would have no Friday sessions through June. We had only two Friday sessions during the first 6 months of this year. That gave committees an opportunity to meet and do their work on important legislation. I think the Senate has done very well. It has acted on a great number of important bills this year.

But I urge all Senators to think about the problem that confronts us. Today is the beginning of the fourth week on this bill. We still have the Chrysler bill ahead of us. If the Senate does not complete action on these two measures by the 21st, which is Friday 2 weeks from tomorrow, whereas I had hoped that the Senate could go out for a month and come back in late January, I do not think that the Members of the Senate could, under these circumstances, go home for Christmas and stay out a month.

I just do not think that we could do that. I think that the Senate would subject itself to public obloquy and opprobrium and justified criticism.

I still hope that we can be out a month. After all, we need to make some preparations for the next session, which is going to be a grueling one. Now, with cooperation and understanding and a strong effort on the part of all Senators, the Senate can complete floor action on this bill and can complete action on the Chrysler legislation before the Christmas break.

Now, keep in mind that the Chrysler legislation also needs to go to conference. Time is of the essence, I am told, in connection with Chrysler, although there are those who are opposed to the legislation who would not be moved by that statement.

But, as far as I am concerned, the Senate ought to act on the legislation one way or the other, up or down. Simply because we are caught in a time vise at this point does not mean that we will not be able to come back immediately after New Year's Day and continue our work if these two bills are not passed beforehand.

This is not a threat. I am simply attempting to lay out for the record the problem that confronts us.

Senator LONG is willing to manage the excess profits tax bill this Saturday. Senator DOLE, who is the ranking member, for good reason, cannot be here Saturday. I had hoped that we could have a day of business on Saturday, because we do not have many days left.

This is the 6th of December. We have today and tomorrow. That is 2 days. And then, if we are in session next Saturday, the 15th, that is 6 days. Then if we are in session through the 21st, that is 5 additional days, or a total of 13 days. That is all the time we have before Christmas, unless we should also be in session on Saturday the 22d, and that would be 14 days. So time is running out.

I am merely calling this to the attention of Senators. I know they are busy. But we need to take occasion to reflect on the job that is still ahead of us.

Now, if there is any disposition on the part of any Senators to delay action on the windfall profit tax bill or on Chrysler, hoping, thereby, to avoid any debate on the SALT treaty this year, they might just as well disabuse themselves of the thought, because there just is not any time left this year to proceed with SALT. We have our platter full with the two bills that I have mentioned.

How is the Senate going to look if it goes home for Christmas and stays out a month and has not passed the excess profits tax bill? How is the Senate going to look if it goes out for Christmas and does not come back until the latter part of January and has not acted upon the Chrysler legislation?

I hope that during the day we can discuss these matters among ourselves and determine if we can find a way to dispose of these two matters and then go home for Christmas and come back in the latter part of January; obviously we cannot now take up the SALT treaty this year, if that is a factor in delaying the action on the pending measure.

Mr. TOWER. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. Mr. President, may I say that there is no disposition on the Republican side of the aisle to delay action on the measure that we are currently engaged in debating and amending, the so-called windfall profit tax bill.

There are some strong feelings about Chrysler. But I believe that we can probably get agreements that would permit us to take up and dispose of Chrysler in an expeditious manner.

I agree with the distinguished majority leader that it is incumbent on us to act on Chrysler one way or the other and dispose of the matter, because I think delay does not work to anyone's particular benefit. I hope, along with the majority leader, that we can dispose of that matter and, if necessary, even set aside the tax bill for such time as we may require to dispose of Chrysler, because it is a matter of the greatest urgency.

A little delay probably would not be fatal to anybody, in terms of the so-called windfall profit tax bill. But Chrysler certainly should be dealt with in a very timely fashion, because time is running out for Chrysler.

So I would suggest that we are prepared to cooperate on this side of the aisle in trying to seek agreements that would result in expeditious disposition of the Chrysler legislation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader. We will be talking about this as we proceed later on today.

Mr. TOWER. Will the distinguished majority leader yield again?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. The Senator from Minnesota (Mr. DURENBERGER), has a little morning business that he wanted to dispose of. Is it possible that we could have a brief morning business session now?

Mr. ROBERT C. BYRD. Yes.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that it close in accordance with the order previously entered, and that Senators may speak during that period.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Minnesota (Mr. DURENBERGER) is recognized.

(The remarks of Mr. DURENBERGER at this point in connection with the introduction of legislation, are printed under Statements on Introduced Bills and Joint Resolutions.)

COMMUNITY EDUCATION, 10TH ANNIVERSARY

Mr. DURENBERGER. Mr. President, I wish to call to the attention of my colleagues in the Senate and of the Nation the 10th anniversary of community education in the State of Minnesota.

Ten years ago this week, then Gov. Harold LeVander, whom I was privileged to serve as executive assistant, opened the Nation's first "Governor's Conference on the Lighted School"—an event which recognized our need and ability to expand the use of facilities and other resources already committed to elementary and secondary education in each community, by using them for providing educational opportunities to older citizens.

Following that commitment of support by one of our State's great Governors, the legislature, under the leadership of Senator Jerry Hughes, authorized formation of what was to become the Nation's first statewide advisory council on continuing and community education.

With funding assistance from the Mott Foundation of Flint, Mich., and staff and program development initiatives by St. Thomas College in St. Paul, 320 school districts during the ensuing decade developed evening and weekend program, tailor made to the needs and interests of adults and senior citizens who wish to pursue a program of personal enrichment.

The objective of the developing statewide network of local and regional education programs in Minnesota is to provide every individual with an opportunity for lifelong learning—continuing their education not in areas directly related to job or profession, but relating to leisure or academic or personal development interests.

Continuing and community education works in Minnesota. This year the State had more school districts with lifelong education programs than any other State in the Nation. Nearly 2 million adults, including about 180,000 senior citizens, enrolled.

Today it is the fastest growing program for which the State department of education has responsibility.

The people of Minnesota are confident that community education is worthwhile enough to voluntarily spend their tax dollars on local programs that have wide popular acceptance and respect. Currently, participating school districts levy from $1 to $2.50 for every adult and child within the community while the State contributes 75 cents per individual to assist the programs which thereafter become largely self-supporting.

Mr. President, for Members of the Senate and others who have an interest in becoming more familiar with the Nation's finest community education programs, I recommend that they request the loan of two films entitled "To Touch a Child" and "Sense of Community" available through the State Department of Education in St. Paul, Minnesota.

It is with much pride, Mr. President, that I congratulate my State on its 10th anniversary of the "Lighted School" and that I broadcast this event to my colleagues in the Senate and to the Nation which, every year, is looking more to Minnesota as a model for continuing/community education.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERMINATION OF SANCTIONS AGAINST ZIMBABWE-RHODESIA

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed to the consideration of S. 2076, which the clerk will state by title. The time for consideration of this bill is limited to a total of 1 hour.

The legislative clerk read as follows:

> A bill (S. 2076) to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The time is equally divided between the Senator from Delaware and the Senator from New York.

Mr. JAVITS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, when Senator HELMS arrives in the Chamber, or his designee, I will yield the time which has been allocated to me to him or to his designee. In the meantime, Mr. President, I yield the floor and reserve my time.

Mr. BIDEN. Mr. President, I would like to begin by presenting a very noncontroversial request. I would like unanimous consent to have Pauline Baker and David Johnson, of the Foreign Relations Committee staff, be admitted to the floor during the consideration and debate on this issue.

Mr. JAVITS. And will the Senator add Esther Kirk, of my staff?

Mr. BIDEN. And Esther Kirk, of Senator JAVITS' staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, at a time when events elsewhere seem particularly grim, we are greeted this morning with happy news from London: A settlement has finally been reached on every major issue of the Rhodesian conflict. As you know, Mr. President, the Committee on Foreign Relations has been considering the question of Rhodesian sanctions over the past few weeks, and we have always worked in the hope that the London Conference on Rhodesia would succeed. It appears that our hopes have been met. It is in the spirit of compromise and cooperation that I am pleased to introduce, on behalf of the Foreign Relations Committee, an original bill S. 2076 requiring the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances.

Mr. President, under the terms of the State Department Authorization Act for 1980 and 1981, which the Senate passed last summer, the President was required to lift sanctions against Rhodesia by November 15, 1979, unless he determined that doing so would not be in the best interests of the United States.

As the date approached, it became clear that the November 15 deadline was an unfortunate one. In London, all parties to the Rhodesian Conference had already agreed upon a new constitution and even upon transition arrangements for a new government. Only the details of the cease-fire remained to be worked out. After 14 years of frustrated attempts to reach agreement on a settlement for Rhodesia, this conference had nearly achieved an astounding success. But not quite. As long as a new final issue remained, the British Government—which has primary responsibility for Rhodesia—decided to leave the bulk of sanctions in force. Other countries also left sanctions in place.

Thus, if the President had acted to lift sanctions on November 15, the United States would have been the first country in the world to take such a significant step. Since events in London had reached a critical stage, a striking move by the United States could well have disrupted the final phase of delicate negotiations. The President determined that he would not presently lift sanctions but would do so "once a British governor assumes authority in Salisbury and a process leading to impartial elections" had begun.

This Presidential determination placed the Congress in a difficult situation. Under the terms of the State Department Authorization Act, Congress had 30 days to override the President's decision by a concurrent resolution. If it did not act within 30 days, the President's decision would stand and Congress would lose the opportunity under the act for direct control over the decision on Rhodesian sanctions. Seeking to exercise congressional authority, my distinguished colleagues, Senator HELMS and Senator HAYAKAWA, introduced resolutions to reject the President's determination, and these were referred to the Foreign Relations Committee.

The committee has now met over three long sessions to work out a proper and prudent course. In the course of our deliberations, the members of the committee have sought to achieve several objectives. First, the committee believes it is important for the United States to coordinate its policy with that of Great Britain without taking steps that would compromise the integrity and the independence that the United States must have in its actions abroad.

Second, the committee seeks to give serious attention to the administration's concerns over the potentially negative impact which Senate action on sanctions could have on the London settlement.

Third, we want to respect the full range of congressional views, including the strong affirmation so well articulated by Senator JAVITS that the executive and legislative branches should maintain a spirit of equal partnership in arriving at a final decision.

I should not parenthetically that, as usual, whenever any difficult impasse is reached on a touchy question requiring timing and diplomacy, in my 5 years on that committee it is always Senator JAVITS who finds us a way out which is both honorable and makes sense. Once again he brought to bear his not inconsequential powers on the resolution of a legislative impasse on this matter.

By avoiding prejudice to any Senator's rights, we believe that the Senate can take effective action on Rhodesia without needing to exercise our present power to overturn the President's determination.

The committee unanimously agrees that the present bill, S. 2076, meets all of the demanding goals for effective action in Rhodesia at this time. The administration also fully supports the position we have reached.

The bill is directly responsive to current, important events. Rather than conditioning the lifting of sanctions upon a single, future date, the bill sets January 31 as an outside deadline for a Presidential determination and then directs the President to terminate sanctions against Rhodesia at an earlier time if a British governor arrives in Salisbury and assumes his duties. With the remarkable progress now being made, there is every indication that this new condition for a Presidential lifting of sanctions will come much quicker than January 31—perhaps as soon as a few days or a week from now.

The bill also gives the President and the Congress the crucial flexibility to gear U.S. actions on sanctions with those taken by other Members of the international community. Great Britain and several other countries have indicated that they will lift all sanctions against Rhodesia when a British governor arrives in Salisbury. This bill recognizes that event as one of signal importance. The President has indicated that he will lift sanctions when the British governor arrives and assumes his duties. However, if unanticipated circumstances arise which prevent him from doing so, the Congress will have the opportunity to override the President's determination, if it so chooses. By this formula, we recognize the importance of the resumption of British authority in Rhodesia—without losing sight of our right to make our own foreign policy judgments.

Finally, in passing this bill, Congress remains a full partner in the sanctions determination process. The President is given the authority to make the initial determination on sanctions. Through the Secretary of State, the President has already indicated to members of the Foreign Relations Committee that "when the British governor arrives in Salisbury to implement an agreed Lancaster House settlement and the electoral process begins," he will then "take prompt action to lift sanctions" and the administrative details of ending the embargo will be complete "within 1 month after the governor's arrival." The Secretary of State goes on to promise that if an agreed settlement is not reached in London—which now scarcely seems possible—the administration will "consult with the respective committees of the Senate and House regarding the course of action which best serves the national interest." If—after all this—the President still issues a determination on Rhodesian sanctions which the Congress does not like, then we can overrule the President by concurrent resolution within 30 days.

So, by voting for this bill, we are giving away nothing. Yet we are gaining a great deal. We are helping the United States to coordinate efforts and to join in one of the few real successes which the West has recently had in the Third World. We are sending a timely, clear signal that this body and this Nation prize peaceful, negotiated solutions and reject chaotic reactions in crises abroad. We are voting for a triumph in London of statesmanship and diplomacy. And so, by voting for S. 2076, we are voting for peace.

At this point Mr. President, I ask unanimous consent that the two newspaper articles published this morning, one in the New York Times and the other in the Washington Post, be printed in the RECORD following my statement.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIDEN. I also point out that back in August, a few of my colleagues and I met privately for a few hours with Lord Carrington in his chambers and discussed the matter, among other things. At that time, Lord Carrington and the British had just initiated this action. They were not overly optimistic but, in the fine British tradition, committed to be tenacious on this point.

I should like to extend publicly what I have done privately in a letter, my congratulations to Lord Carrington on what I believe to be a very, very statesmanlike solution that the British have reached in the best traditions of the British and Lord Carrington in particular.

[From the New York Times, Dec. 6, 1979]

EXHIBIT 1

BRITISH AND REBELS AGREE ON CEASE-FIRE IN THE RHODESIA WAR

(By R. W. Apple, Jr.)

LONDON, December 5.—Tentative agreement was reached tonight on a cease-fire in the guerrilla struggle in Zimbabwe Rhodesia, raising hopes for a peaceful conclusion to 14 years of bitter racial conflict in a strategically significant part of southern Africa.

Lord Carrington, the British Foreign Secretary, said that the Patriotic Front guerrilla alliance had accepted the broad outlines of Britain's cease-fire proposals in the final major phase of the 13-week-old Lancaster House negotiations on the future of Zimbabwe Rhodesia. A new constitution and arrangements for the transition from war to all-party elections was agreed upon earlier.

"What we have got to do now is to tie up the details, and they oughtn't to take very long," Lord Carrington said "With good will, and I am sure that after today there is good will, we ought to be able to tie up the details in a few days. Then all the mechanics and all the opportunities for a lasting peace will be there."

WAR'S END SEEN ONLY DAYS AWAY

The Foreign Secretary was evidently jubilant at having reached an objective toward which his predecessors had vainly striven. His associates seemed genuinely convinced that an end to the war, which has taken 21,000 lives, was only a matter of days away.

But the details of which Lord Carrington spoke are matters of grave concern not only to the Patriotic Front but also to the Government of Prime Minister Abel T. Muzorewa in Salisbury. They could affect the outcome of the elections and their aftermath, and therefore a hitch is still possible. Among the central issues are the timing of the cease-fire and the number of "assembly points" where the guerrillas will be required to gather before the voting.

MUGABE SPEAKS OPTIMISTICALLY

Eddison Zvobgo, a senior Patriotic Front spokesman, emphasizing that the front could not permit arrangements whereby the military strength of the guerrillas was neutralized while the Zimbabwe Rhodesian Army remained in its forward operational bases, said that "red flags" lay ahead.

Robert Mugabe, one of the co-leaders of the front, declared that tonight's breakthrough "provides the basis for an agreement and for moving on quickly to settle the details of the implementation." But even if his optimism and that of Lord Carrington prove justified, and the conference does not dive rapidly once again from euphoria into gloom, enormously difficult problems will remain.

Because there will be no armed force to step between the combatants if a ceasefire breaks down, all parties to any ultimate agreement will have to muster not only the will to prevent a renewal of hostilities but also a degree of control over their forces that they have not often exercised in the past. There are frictions between the guerrilla armies of Mr. Mugabe and those of his co-leader, Joshua Nkomo, that are paralleled by similar rivalries between black and white elements of the Zimbabwe Rhodesian armed forces.

And no one can be sure, of course, that the losers in the elections will give up their arms and readily agree to accept the verdict of the voters.

ENABLING LEGISLATION EXPECTED

Nonetheless, British officials predicted tonight that a British Governor, probably Lord Soames, the Conservative leader in the House of Lords and a son-in-law of Sir Winston Churchill, would leave for Salisbury over the weekend, and that a formal agreement would be signed early next week. Enabling legislation, which will mention no specific date for the elections or for independence, is to be introduced in the House of Commons tomorrow.

Today's dramatic developments began after lunch when Mr. Mugabe and Mr. Nkomo called unexpectedly on Lord Carrington at the Foreign Office in Whitehall, a few blocks from the Houses of Parliament. More than 14 hours of intense, carefully concealed diplomacy, including an important mediation effort by Shriadath Ramphal, Secretary General of the Commonwealth, were about to bear fruit.

To break a deadlock that had lasted for a week and had seemed likely at one point to undo all the progress that had come before, the Foreign Secretary provided "clarifications" to the Patriotic Front leaders on two key points. He told them they need not worry about intervention by either the South African Army or the air force of the Salisbury Government.

A 15-minute plenary session of the conference followed, at which the front signified its tentative agreement. Bishop Muzorewa's delegation agreed on Nov. 19.

1,200-MEMBER FORCE ENVISIONED

"There will be no external involvement in Rhodesia under the British Governor," Lord Carrington said. "The position has been made clear to all the governments involved, including South Africa. The Rhodesian Air Force will be monitored effectively, and we have in mind a monitoring force adequate to the overall task, in the vicinity of about 1,200 men."

That is four times as many monitors as the British originally envisioned. They gave way on the numbers, but refused to yield to the front's demands that the monitoring organization be changed to one empowered to intervene if the need arises. The organization will be composed of troops from Britain, which will supply the largest contingent, Kenya, Fiji, Australia and New Zealand.

According to authoritative sources, Lord Carrington came to acknowledge during the last 24 hours that the front's concerns over intervention by the South Africans or the Zimbabwe Rhodesian Air Force were real and not merely delaying tactics. Although he went so far as to suggest on Monday that a Governor might be sent to Salisbury, and the election process set in motion, even without Patriotic Front agreement to a cease-fire, he reportedly also came to believe that such a maneuver might involve Britain in a shooting war.

If all the details are wrapped up in the days ahead, the British expect to take control over Zimbabwe Rhodesia sometime next week.

[From the Washington Post, Dec. 6, 1979]

RHODESIAN CEASE-FIRE NEGOTIATED

(By Leonard Downie Jr.)

LONDON, December 5—Britain and the Patriotic Front guerrillas reached agreement tonight on a cease-fire plan to end the civil war in Zimbabwe-Rhodesia.

While significant details of the plan's implementation must now be worked out in negotiations involving the commanding generals of the opposing forces, tonight's agreement is regarded here as the key breakthrough in the three-month-old peace talks.

"I don't think anybody will turn back now," said British Foreign Secretary Lord Carrington, the conference chairman. "With good will," he said, "and I'm sure after today there is good will, I think we can tie up the details in a few days."

A formal cease-fire document is to be presented by the British Thursday to Patriotic Front guerrilla leaders Robert Mugabe and Joshua Nkomo and to the delegation of the present Salisbury government of Prime Minister Abel Muzorewa.

Once the two warring sides agree on a cease-fire date and precisely how their forces will disengage, this document is to become the final peace agreement. It will be signed by the two sides and by the British at a formal ceremony here, ending the long war and making possible new elections under a British governor to produce a legally independent Zimbabwe with a black majority government.

British and diplomatic sources here still expect tough bargaining by the Patriotic Front leaders on the cease-fire date and the positioning of the rival forces after the cease-fire. The Front is trying to gain as much time as possible for its supporters to continue infiltrating back into Zimbabwe-Rhodesia from exile in neighboring African nations.

But everyone today, including Front spokesmen, predicted the cease-fire agreement would be signed sometime next week at the latest. "I don't think there is now anyone who doesn't believe we are now going to have a final settlement," said one well-placed British source. "A political process has begun that cannot be reversed."

The British government already is promulgating the independence constitution agreed on earlier here and is making arrangements for the British governor to go to Salisbury "in the next few days," possibly before the final peace agreement is signed.

This process was begun this week to push the Patriotic Front into accepting the British cease-fire plan after nearly a week of deadlock and ignored ultimatums.

The British also made significant concessions to gain tonight's agreement. A compromise was negotiated in intensive behind-the-scenes negotiations by Shridath Ramphal, the London based secretary general of the British Commonwealth, which includes African countries who back the Patriotic Front.

Through Ramphal, the British and the Patriotic Front agreed to carry over into the negotiations on the details of implementing the cease-fire the Front's objection to having its forces rounded up into 15 assembly places while Muzorewa's forces remain in far more numerous bases.

The British also agreed to enlarge the force of British and Commonwealth troops monitoring the cease-fire to about 1,200 men to reassure Mugabe and Nkomo that their forces will be safe.

Commonwealth sources indicated tonight that the monitoring force may be enlarged still further and include troops from a Commonwealth country in Asia along with those already allocated by Britain, Australia, New Zealand, Fiji and Kenya.

Finally, Carrington agreed to make a public promise that South African troops now in Zimbabwe Rhodesia will be withdrawn when the British government goes to Salisbury. This was the last point to be settled when tonight's deal was sealed at a meeting Carrington called with Mugabe and Nkomo.

Mugabe had been reluctant all along to agree to the compromise being negotiated through Ramphal, according to informed sources. They said he now objected that Carrington's proposed statement would not name South Africa, whose prime minister, Pieter Botha, publicly acknowledged last week that its troops had been "actively protecting" trade routes inside Zimbabwe-Rhodesia.

Carrington had intended to state only that "I can assure you again that there will be no external involvement in Rhodesia under the British governor. The position has been made clear to all the governments concerned."

With Mugabe still not satisfied and Carrington committed to reporting to Parliament within minutes on the progress of the negotiations, Carrington agreed to add "including South Africa" at the end of the statement.

Ramphal, whom Carrington commended for his role in reaching tonight's agreement also met recently with Prime Minister Margaret Thatcher. She told him, according to informed sources, that she was determined to achieve a final peace settlement and to make it work through the interim British governor in Salisbury.

The silent partner in today's agreement was the Salisbury delegation currently led by Deputy Prime Minister Silas Mundawarara, who had accepted the British cease-fire plan 10 days ago. Mundawarara had become impatient with the Patriotic Front's delaying tactics and yesterday he threatened to take his delegation home.

Tonight, Mundawarara said it was his pleasure to "compliment our brothers" in the Patriotic Front for "this real progress."

Carrington, who has played the heavy during the tense negotiations of the past few days, said the word "brothers" was encouraging. "Nobody had called me their brother," he told the two delegations at the brief formal conference session at which agreement was announced tonight "but perhaps that is the fate of the chair."

Mr. BIDEN. Mr. President, I yield to my distinguished colleague from New York.

Mr. JAVITS. Mr. President, does Senator Tsongas wish to speak on this matter?

Mr. TSONGAS. I wish to speak, but I can wait until the Senator has finished.

Mr. JAVITS. Will the Senator from Delaware yield me 5 minutes, then?

Mr. BIDEN. Surely.

Mr. JAVITS. First, Mr. President, I should like to yield to Senator Helms the half-hour which has been assigned to me in this debate and ask that it be put under his control. I ask unanimous consent for that purpose.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. HELMS. I thank my friend from New York. Now I wish to yield to him for his remarks. I thank him for his courtesy.

Mr. JAVITS. Mr. President, I thank Senator Biden very much for his kind comments about me. I hope that all of this may be crowned with success. Relatively speaking, what we do here on the issue is really minor, but it is gratifying when we work our way out of a legislative thicket, which we do by the proceedings this morning which, hopefully, will be successful. I thank him for his cooperation, and the chairman of our committee, our committee counsel, Pauline Baker, who is sitting with Senator Biden, and my own staff, Miss Kurz and others, who have helped in this matter.

The Senator from Delaware has properly described our situation, except for one point. The procedure developed, which is now the law in this particular matter, gave Congress the last word on whether or not sanctions would be lifted. That is contained in section 408(a) of Public Law 96–60 of August 15, 1979, the State Department authorization bill, representing concurrence in the Senate-House conference between the leader on this issue on this side (Mr. Helms) and the leader on this issue on the House side, Representative Solarz.

It is a great tribute to our colleagues' statesmanship. Senator Helms' persistence, I think, made a contribution to the resolution of this matter in London. Hopefully, the issue is resolved and continues to keep Congress in, as it were, the driver's seat.

When the President, pursuant to the law I have just referred to, notified us that he wished sanctions to continue, we had the power to overrule him. That decision would have been final and sanctions would have been lifted. But it was recognized in our committee by Senator HELMS and the other members that this would be inadvisable in view of the progress which was being made under the brilliant—and I call it brilliant advisedly—leadership and direction of Lord Carrington, the British chairman in these negotiations. So we had to contrive a way which would, at one and the same time, preserve the Senate's and the House's rights to say the final word and yet give the necessary time to allow an agreement to be consummated if it were possible. We could not do that under the procedure of the law under which we functioned. There we either had to accept or reject the President's findings. So a concurrent resolution was introduced by Senator HELMS, also one by Senator HAYAKAWA, which would have overridden the President's determination.

We did not wish to act on those resolutions, so—and this is the one missing point—they will remain on the Calendar. They may be acted on if anything untoward happens, I think by the 19th of December; is that correct?

Mr. BIDEN. The 14th, I advise the Senator.

Mr. JAVITS. I correct that, the 14th of December. So it is essential that this matter move to the House promptly and that the House concur in the bill, because the law should be one which preserves our jurisdiction and continues to give us the last word in this matter. Hence, the importance of passing S. 2076.

Senate Concurrent Resolution 151 will continue on the calendar as I indicated. But the bill should be passed and sent right over to the House so it can go to the President promptly and we can meet this date of the 14th, which we should meet.

The critical point about the bill is that the President has agreed to sign it. That would not have been necessary with a concurrent resolution of rejection under the original law. But this is a bill which extends the power which we have in Congress and, hence, it must be signed by the President.

A letter was written to the chairman of the Foreign Relations Committee and also sent to me as the ranking minority Member by the Secretary of State, which says, "In this regard"—that is, in regard to the legislation necessary to extend the congressional power—"Senator JAVITS requested that the committee be assured that the President would not disapprove this legislation if it is passed by the Congress. I have been authorized to give you that assurance on behalf of the President."

So we now have an agreement between the Senate Committee on Foreign Relations, the Senate hopefully, now shortly, and the President, hopefully also—and we have every reason to suppose that it is all entrained, a concurrence by the House in the bill, S. 2076, dispatching it on to the President promptly.

Mr. President, at a time of grave crisis for our country respecting Iran, when things seem to be going wrong everywhere, it is an enormous triumph of the free world and of democracy that we have arrived this far, within sight of our goal of democratic elections in Rhodesia, with participation of all parties in choosing a government. That was the original plan laid out by Senator Case and myself in the original legislation which determined Rhodesian policy. It is now being brought to fruition.

I pay great tribute to my colleague, who is no longer here, Senator Case, for devising that plan with me. It is a great tribute to the processes of democratic societies, and I hope very much that it may be consummated successfully. It will be a fine example of how, when matters are settled in a democratic way, they are settled peaceably and equitably. There is now hope for a long future stretching ahead of relief from war and peril for the people of Rhodesia. This is a triumph for their right to determine how they should live, under what government and under what form of society.

Mr. President, I yield the floor and thank my colleague for yielding.

Mr. BIDEN. Mr. President, before I yield to the Senator from Massachusetts (Mr. TSONGAS), I thank him for not moving forward in introducing a resolution along the same lines as the one we are discussing at this time. He had planned to introduce it.

Senator TSONGAS is one of the few Members of this body who has actual experience on the Continent of Africa. Although he is not a member of the Foreign Relations Committee, he has followed this matter very closely and is very informed on foreign policy issues with relation to this country.

I yield 8 minutes to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I say to Senator JAVITS that I do not know how he judges his career in the Senate, but nothing else he has done surpasses his legislative skill and foresight on this issue. Literally, there are thousands of Zimbabweans who will be alive in the future because of what he has done. He should be very proud of his accomplishment in this endeavor.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield.

Mr. JAVITS. The Senator has moved me deeply by that statement.

Mr. TSONGAS. Mr. President, I rise to speak in favor of this bill. I am well aware of how hard the committee has worked to prepare a measure which would meet the objectives of all concerned. I include myself among those who see in this bill a sensible and fair resolution of the sanctions issue.

I spoke in this Chamber yesterday on the subject of Rhodesia and economic sanctions. The reason I spoke yesterday was to register my admiration and gratitude to Prime Minister Thatcher for her masterful management of the Rhodesia Conference in London. Yesterday morning that conference concluded with a brilliant success. All parties to the Rhodesia conflict agreed on cease-fire terms, thus clearing the last obstacle in the way of a comprehensive agreement.

In my statement yesterday, I also said that the issue before the Senate was one of timing, not direction. The success of the London Conference leaves little choice in the matter. The President should remove economic sanctions. The only question is when. In my view, Mr. President, sanctions should be lifted as soon as the British Governor arrives in Rhodesia. The British have requested that we remove sanctions to coincide with the Governor's arrival. I can think of no valid reason to delay beyond that point. I introduced a resolution to that effect yesterday. In the interests of a united approach to this important issue, I am withdrawing that resolution No. 301 from Senate consideration. The bill before us today includes instructions to the President to remove sanctions when the British Governor arrives. I regard that provision as crucial and worthy of support.

Sanctions should be removed for many reasons.

The terms of the U.N. Security Council resolutions will have been satisfied. The rebel colony of Southern Rhodesia will have returned to legality and a process of self-determination set in motion. I feel that the U.N. has demonstrated great consistency of judgment on this question, and I am sure that member nations also will support a prompt removal of the economic sanctions imposed some 11 years ago.

Great Britain deserves our full support in return for the remarkable success achieved in London. To perpetuate sanctions beyond the arrival of the British Governor conveys a lack of faith in the conference settlement, and might be construed as a slight to the integrity and sincerity of the conference participants.

As Rhodesia moves into the transition process which will bring genuine independence to that war ravaged land, we in the U.S. Congress must take stock of the new situation in Rhodesia. With all parties in agreement on the political foundation of a new Zimbabwe, we must look closely at the economic foundation. The war has destroyed much of Rhodesia's agricultural resources. A long history of white privilege has thwarted black African economic development. The new leaders of Zimbabwe will face a formidable task of reconstruction and development. America can be of great assistance in this effort.

The first step is to remove the legal obstacles to American trade and communication with Zimbabwe. This means lifting economic sanctions as soon as is practically possible. The second step is to organize a significant foreign assistance program for the new government of Zimbabwe, including a program of refugee relocation. We must insure that the democratically elected leaders of Zimbabwe turn to the United States for assistance and friendship. As the peaceful process unfolds in Zimbabwe, the United States is in a position to compete very effectively with the Soviet Union. I remind my colleagues that the Soviet Union is a reliable supplier of arms and munitions to the Third World, but when it comes to reconstruction and economic development, the United States leaves the Soviet Union far behind.

I believe that we are now presented with a ripe opportunity to advance our interests and to serve humane purposes at the same time. I deeply hope that Congress and the Executive will not waste this rich opportunity.

Mr. President, I have been an active participant on this issue for some time. Over this past year, I have been unable to persuade my distinguished colleagues to exercise caution, restraint, and cool judgment on the sanctions issue. As a result, the Senate has voted on several occassions to lift sanctions.

I hate to think of what would have happened had that gone through the House. Now that the time has arrived for such action—now, not before but now—I support the removal of sanctions. I feel certain that President Carter will do all he can to expedite action on this matter. I am confident that he, too, knows it is time to end the debate on this issue. I think it is appropriate at this moment to give credit where credit is due. President Carter has exercised excellent judgment and considerable courage on this issue. He has consistently opposed the precipitate lifting of sanctions, and I commend him. His patience and judgment have been vindicated. I also recognize the wisdom and leadership of Representative Stephen Solarz, whose cool-headedness saved the U.S. Senate from its own folly. If the House had done what we did and lifted sanctions, we would not have peace today in Rhodesia. There would be war. There is an agreement not because of what we did but because of what Steve Solarz and his committee did to save us from our own actions. I hope we remember that.

Mr. President, as news of mob terrorism and crumbling governments bombard our senses, I think that many of us are tempted to see an age of anarchy replacing the rule of reason and law in the world. Today, however, we can be reassured that the ayatollah and his like are not the sole actors on the world stage. In Rhodesia, we are about to see the end of a bitter, brutal conflict by means of an impartial and free democratic process.

Mr. HELMS. Mr. President, will the Senator yield so that I may request the yeas and nays?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HELMS. I will be glad to yield some of my time to the Senator.

Mr. TSONGAS. I yield so that the Senator may request the yeas and nays.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield the Senator such time as he may need, from my time.

Mr. TSONGAS. I thank the Senator from North Carolina.

I am not saying that the transition to independence will be trouble free, but I feel strongly that we should be encouraged and uplifted by the success of the London talks.

I think it also should indicate to us, if we are going to get past the next few decades in dealing with the Third World, that we have to deal with it in terms of a kind of realism and not in terms of ideology. I hope that the success of Rhodesia will give us some hope that we can deal not in symbols, not in slogans, not in rhetoric, but rather in how the world indeed operates.

Finally, Mr. President, I think it is appropriate to mention that there is another African conflict in need of a negotiated solution. I refer to the war in Namibia where South African troops have battled nationalist guerrillas for several years. Since 1976 the U.N. has worked diligently to bring all parties together for a negotiated settlement and a peaceful transition to independence. South Africa, in particular, should respond to the inspiring precedent set in London yesterday. I look forward to the cooperation of South Africa and the nationalist guerrilla group, SWAPO, in the speedy implementation of the U.N. plan.

I will be over there the latter part of this month and hope to make that point there as well.

I also add, finally, that I hope the President indicates the same kind of judgment and wisdom on the issue of recognition of Angola so we may have peace not only in Zimbabwe but in southern Africa generally.

Mr. President, the number of individuals who have labored on this issue are many and I hope that in an era of a lot of very unhappy news they can take some comfort in knowing that it is possible for the Senate working with Congress and the administration to do something that in the long term we can be quite proud of.

I thank the Senator from North Carolina and the Senator from Delaware for their time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me.

The Senator from North Carolina sees little point in rehashing the history of the sanctions imposed by our Government against a friend and ally in Africa. In this matter we have, and have had, two distinctly opposing viewpoints. There have been some who felt that we should keep the sanctions on and on and on, like Tennyson's brook. There have been some of us, demonstrably the majority, in vote after vote, who have felt the sanctions should be lifted. The Senator from North Carolina is in the latter category.

As a matter of fact, this Senator believes that it was enormously ill-advised to have applied sanctions in the first place.

But what we have in Africa is a posture of the United States, as perceived by many of our allies and our adversaries around the world, a posture of having put every possible roadblock against the Muzorewa government, a posture which, of course, worked to the advantage of the so-called Patriotic Front which has been supported with arms and materiel from the Soviet Union from the outset.

As my friend from New York has often said, we are not children around here; we know what the Soviet Union is up to in Africa. The Soviet Union's goal is to take over Africa and to destroy and demolish any government that is friendly to the United States and the rest of the free world.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. HELMS. I yield, gladly.

Mr. JAVITS. I wish to make one observation on that point.

Mr. HELMS. Yes, I am delighted to yield to my friend.

Mr. JAVITS. I know the Senator will agree with me, but it is important to cement it for the record. He said we had different points of view, which we did. I agree with the Senator that the Soviet Union's purpose is "to take over." By that we mean control Africa. But that is not our purpose. That is the one point I wanted to make clear which all Africans should understand. We consider it antithetical to our interests to take over Africa.

Mr. HELMS. That is correct.

Mr. JAVITS. We want Africa to take itself over and live in peace and in accord with us and every other nation on earth.

It is the difference between day and night.

Mr. HELMS. The Senator is absolutely correct and if he inferred that I intended even to imply that the United States wanted to take over Africa, I want to disabuse his mind of that.

But the fact remains that what we have in Africa, as well as other parts of the world, is a confrontation between tyranny and freedom. This Senator has never been able to see how or why we could advance the cause of freedom and those who are trying to achieve it by placing roadblocks in the pathway of our friends.

We have been up and down the road in this Chamber long before I came to the Senate, Mr. President, on the question of chrome. The distinguished senior Senator from Virginia (Mr. Harry F. Byrd, Jr.) has fought that battle valiantly and successfully for many years.

I remember as a private citizen watching with regret and puzzlement the actions of this Government of ours in refusing to buy chrome from Rhodesia, chrome which we need for our national defense and for other important purposes. So what happened? We ended up buying our chrome from the Soviet Union. The Soviet Union was buying chrome from Rhodesia and then selling it to us at a big markup in price.

As my friend Chub Seawell down in North Carolina says so often, "That does not even make good nonsense."

But all of that, Mr. President, is, to use the cliche, water over the dam.

I wish to say for the Record that I have spent a great deal of time with the Prime Minister of Rhodesia, a Methodist bishop, Abel Muzorewa, and I think I know as well as any Member of this Senate the motivations of this man and the instincts that guide him.

I have related in this Chamber once before a little episode that occurred last year when Bishop Muzorewa came to the

United States. While I was visiting him he told me about the little lady missionary who converted him to Christianity and who taught him English. He mentioned that this little lady is now in a Methodist home in Asheville, N.C. Very quietly I arranged for a plane to take Bishop Muzorewa and me to Asheville. We went to that Methodist home. I saw the reunion of Bishop Muzorewa and that lovely little lady. I will tell you, Mr. President, that was one of the most touching scenes that I have ever observed.

We hear so often, "What can I do, what can one person do," and then I think the life of that little missionary in Asheville pretty well answers that question for us. It may well be that she—one person—has had far more impact in Africa than any Senator or any President or any Secretary of State, or anyone in the Soviet Union, because she instilled in what was then that black African lad the qualities of decency and honor.

Sure, I am a supporter of Bishop Muzorewa, and I think it can be fairly said that the Muzorewa government has made every concession it can possibly make to achieve accord in the London Conference. As a matter of fact, the Muzorewa government had nothing else to concede.

So nobody can ever say that the Muzorewa government has not done all it could to achieve harmony and peace in Zimbabwe-Rhodesia.

What Zimbabwe-Rhodesia needs now and has needed all along is simply a chance to develop its schools, its commerce, its industries, its business, in fact, its civilization. The sanctions that have been imposed since 1965 have restrained and retarded that development and have given false hope to the guerrillas of the Patriotic Front who have been killing and maiming thousands upon thousands of innocent civilians in Zimbabwe-Rhodesia.

So I do not tip my hat to anybody, Mr. President, who has played a role in maintaining and retaining sanctions against Zimbabwe-Rhodesia. I hope I never hear anybody boast again that he had a role in it, because what the United States has done, by meddling in the internal affairs of a friend, an ally, borders on being reprehensible.

But, as I say, that is water over the dam, and now we have reached an accord—far too late to satisfy this Senator—but an accord has been reached. Assurances have been given to me by the Secretary of State and others that these sanctions will be lifted, and that is why I am not going to push Senate Concurrent Resolution 51 at this time. I do not want to cause the President of the United States any further international problems. He has a plateful of problems already.

So in good faith I have accepted the assurances of the State Department about the early lifting of sanctions, and I expect the State Department and the President to operate in equally good faith with this Senator, and I am sure they will.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield.

Mr. JAVITS. I think what the Senator has said is eminently fair, makes good sense, and represents the good faith with which he has handled this matter throughout.

Mr. HELMS. I thank the Senator.

Mr. JAVITS. He could have made it very complicated and very difficult, but he chose not to, thus redeeming his own view of the high public interest involved in not complicating the national life at this moment.

I would like to, therefore, in that same spirit clarify one thing.

Mr. HELMS. I am happy to yield to the Senator.

Mr. JAVITS. It will be noted that in Secretary Vance's letter to you, Senator HELMS, respecting the initiation of the process of terminating sanctions, that is, when the earlier of two conditions has been satisfied; either on January 31, 1980, or, the words in Vance's letter are:

> When the British Governor arrives in Salisbury to implement an agreed Lancaster House settlement and the electoral process begins, the President will take prompt action to lift sanctions.

It will be noted that the bill says—

> * * * a date by which a British Governor has been appointed, has arrived in Zimbabwe-Rhodesia, and has assumed his duties.

Now, do we agree, Senator HELMS, that although the words are different the intention is the same, that is "assumed his duties" and "starting the electoral process" are the same thing, because that is what he is there for and those are his duties?

Mr. HELMS. I will say to my friend from New York that we do agree if he will include the private assurances that I have had, and that I am sure that he also has had. I do not feel that the President or the State Department has any taste for continuing sanctions——

Mr. JAVITS. Right.

Mr. HELMS (continuing). Any longer than may be absolutely necessary under the circumstances. With that assurance, privately and publicly, you and I and others worked out this agreement in the committee.

Mr. JAVITS. Agreed.

Mr. HELMS. I was happy to do so.

Mr. JAVITS. I thank the Senator.

Mr. HELMS. Mr. President, I believe at least two of my colleagues desire some time for comments.

I want to pay my respects to the distinguished Senator from California (Mr. HAYAKAWA) for the persistent way in which he has pursued this issue. No man in this Senate has done more to try to be of assistance to Zimbabwe-Rhodesia than he. I want to commend him publicly and to thank him. If he desires time, I will be glad to yield to him.

Mr. HAYAKAWA. I thank my distinguished colleague and friend from North Carolina.

Mr. HELMS. Mr. President, if the Senator will yield, did the Senator from New York place Secretary Vance's letter in the RECORD?

Mr. JAVITS. I would be happy to do so, but I think the Senator should do so.

Mr. HELMS. I simply wanted to avoid putting it in twice. Mr. President, I ask unanimous consent that a letter I received on December 3, 1979, from Secretary Vance be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., December 3, 1979.
Hon. JESSE HELMS,
U.S. Senate.

DEAR SENATOR HELMS: During the hearings before the Foreign Relations Committee this week, I understand that you reiterated your desire, expressed to me earlier in the week, for an explicit statement of the President's position with respect to when he would lift sanctions against Zimbabwe-Rhodesia. Assistant Secretary Moose has reported to me that a clarification of this point would make possible a consensus within the Committee in support of the pending legislative proposal, a copy of which is enclosed.

I have discussed this matter with the President and wish to assure you, on his behalf, that when the British Governor arrives in Salisbury to implement an agreed Lancaster House settlement and the electoral process begins, the President will take prompt action to lift sanctions. This will be done no later than one month after the Governor's arrival. If an agreed settlement is not reached at the conference, we will consult with the respective committees of the Senate and the House regarding the course of action which best serves the national interest.

The pending legislative proposal would require the President to terminate sanctions either (a) after the arrival of a British Governor, or (b) on January 31, 1980, whichever is earlier, unless the President were to determine that it would not be in our national interest to do so. Any such determination by the President would be subject to review by the Congress, which could reject the determination within thirty days after it is reported to the Congress, thereby terminating sanctions.

Thus, the pending legislative proposal would be compatible with the President's position on the lifting of sanctions as set forth above. Accordingly, as Mr. Moose testified on November 30, this proposal would be acceptable to the Administration.

Sincerely,

CYRUS VANCE.

Mr. JAVITS. Mr. President, if the Senator will yield to me for that purpose, I ask unanimous consent to put in the RECORD the letter of Secretary Vance to Chairman CHURCH in which the President agreed to sign this bill, which letter is dated December 3, 1979.

Mr. HELMS. Yes, of course.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washingon, D.C., December 3, 1979.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
U.S. Senate

DEAR MR. CHAIRMAN: I am pleased to enclose a copy of my letter to Senator Helms outlining the President's position with respect to sanctions on Zimbabwe-Rhodesia. I understand this should provide the basis for a consensus within the Committee in support of the legislation which Assistant Secretary Moose testified would be acceptable to the Administration.

In this regard, Senator Javits requested that the Committee be assured that the

President would not disapprove this legislation if it is passed by the Congress. I have been authorized to give you that assurance on behalf of the President.

I am sending a copy of this letter and the enclosure to Senator Javits, in view of his deep interest in this important matter.

Sincerely,

Cyrus Vance.

Mr. HELMS. I thank the Senator from California for his patience.

Mr. HAYAKAWA. Mr. President, if the distinguished Senator from North Carolina will yield me 10 minutes, I would be grateful for the opportunity to make a few remarks.

Mr. HELMS. Certainly.

Mr. HAYAKAWA. I would like to look beyond the lifting of sanctions, which I never felt to be an unfriendly act toward the frontline states, and I would like to think of southern Africa, including Rhodesia, including the frontline states, as a unit, as a southern Africa.

It seems to me that a solution to the longrun problems, as we look beyond lifting sanctions by the United States, of an emergent Zimbabwe-Rhodesia must be sought by rising above tribal rivalries, rising even above national politics, and thinking of Zimbabwe-Rhodesia as part of a great and potentially rich and powerful region. The region of southern Africa, excluding the Republic of South Africa, covers an area almost equal in size to all of Europe. It includes Botswana, Lesotho, Swaziland, Zambia, Malawi, Zimbabwe, Mozambique, Angola, and Namibia. Only the last three have direct outlets to the sea. The climate ranges from the almost total aridity of great areas of Namibia and Botswana to the tropical rain forests of Angola and Mozambique. Seventy percent of the region consists of marginally arable grassland, which ranges in use from animal husbandry in central Malawi to crop production in Zimbabwe, Zambia, and Lesotho. The region is characterized by a small number of large rivers, so that there is a great unexploited potential for power and irrigation in the major basins. The natural resources of the region suggest the possibility of self-financed, rapid, socioeconomic growth and development. The region is so incredibly rich potentially if they would only stop their political squabbling.

Angola, Botswana, Mozambique, Namibia, Zimbabwe, and Zambia are known to have deposits of petroleum, coal, diamonds, copper, iron ore, chrome, bauxite, tungsten, and uranium.

At the present time these resources produce little or no income because of political turmoil, transportation difficulties, energy shortages and the lack of investment capital. Zimbabwe, Angola, Lesotho, and Mozambique have the potential to develop low-cost hydroelectric power in excess of their present installations. Reduction of energy costs in the region would encourage overall development, improve the quality of life, and provide thousands and thousands of jobs. It is all there to be exploited.

The U.S. Agency for International Development indicated that "there is reason for optimism about the future social and economic development of southern Africa." According to the Agency the region is sufficiently well endowed so that once political and institutional constraints are dealt with and an adequate infrastructure is provided, these countries should be able to finance their own development.

Undoubtedly the economy of Rhodesia is the most advanced of any of the countries in southern Africa except for the Republic of South Africa. In Zimbabwe the industrial sector has remained strong in spite of the difficulties caused by sanctions. By contrast the industrial sector of neighboring Zambia requires constant government subsidies and protection. Zambia is an economic disaster area, as is Mozambique. It is clear that sanctions, despite the problems they presented, have had the beneficial effect on Zimbabwe-Rhodesia or forcing industrial innovation and diversification, thereby contributing to the longrun strength of Rhodesia's economy. I think that Rhodesia now manufacturers more than 1,000 different products that they did not manufacture before the sanctions were imposed. Diversification has enhanced self-sufficiency and pride.

In an open regional economy, an independent Zimbabwe will be the most convenient and probably the least expensive source of many industrial products, especially manufactured goods, for most of the countries in the region. If Mrs. Thatcher and Lord Carrington should succeed in ending the guerrilla war—and it looks to me as if that guerrilla war is being brought to an end—and if a solution can be found that is acceptable to all, Zimbabwe will be the central force in the region's economy. The competitive edge that the country has had in the past will make itself felt again; exports will increase and thereby stimulate the overall economy. As the U.S. Agency for International Development recently pointed out, prosperity in Zimbabwe will spill over into the rest of the region. Rising incomes in Zimbabwe will create a growing market for its neighbors' products and auxiliary industries will appear in surrounding countries. The opening of the border will give Zambia easier access to the rest of the world, raising its income, which in turn will benefit its neighbors.

Therefore, as I see it, the lifting of the sanctions, Mr. President, means that if a regional pattern of economic cooperation can also be developed, along with the lifting of sanctions, an independent pacified Zimbabwe would give the entire region a forward push in which growth in one country will generate growth in others.

This means that if tribes, political factions and nations in southern Africa can bury the hatchet, there is a shining future ahead for Zimbabwe-Rhodesia and all her neighbor nations.

I have often thought, I say to the Senator from New York (Mr. Javits), that if these nations would stop their political rivalry, stop squabbling among themselves, and get down to the serious business of making money, they could lift the standard of living of the entire population. Goodness knows the entire population needs lifting up, and there is a shining future for that. The fact that we are on the verge of seeing pacification there means that there is a definite hope for the future, and I wish to express that hope, Mr. President, and put that into the Record as my hope for the future of the region.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HAYAKAWA. I am happy to yield to the Senator from New York.

Mr. JAVITS. The Senator from California always—sometimes we agree and sometimes we do not—endeavors to play a role which I admire greatly, a role which endeavors not to miss the forest for the trees, and which looks toward the ultimate vindication of our way of approaching problems in our society, which is the way of volunteerism. I thank the Senator very much for his remarks and his general attitude in this matter, and for his high-minded willingness to cooperate in the solution which we have sought to contrive and which is before us today.

Mr. HAYAKAWA. I thank the Senator from New York.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that a statement by the Senator from Idaho (Mr. Church), the chairman of the full committee, be printed in the Record. He is on the House side in a very important conference, and that is why he is not here.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement of Senator Church

I am pleased to join my colleagues today in support of S. 2076, an original bill on Rhodesian sanctions from the Foreign Relations Committee. The timing of today's debate could not be better. From London, we hear the truly good news that, in a period of unrest and turmoil around the world, peace is on the way to Rhodesia. A settlement has been reached that will bring a stable and majority-ruled government to a country which has sparked international controversy for the past fourteen years. Many nations, including the United States, have tried to join in working out a Rhodesian peace. Until now, all those efforts had failed.

It is good to have news of such a positive event—and it is good that we here today can do something to lend our support to this remarkable achievement. S. 2076 focuses directly upon the new situation in Rhodesia. The bill requires the President to lift all sanctions by January 31 or when a British governor arrives and assumes his duties in Salisbury—whichever is earlier. From all the signs today, it appears that the British governor will arrive in Salisbury far earlier than January 31—perhaps as soon as next week.

This bill represents a compromise which we reached in the Foreign Relations Committee after many hours of hard work. We reported it out unanimously. We can also state that this bill has the full backing of the Administration.

All of us anticipate that the cease-fire will soon be implemented and that, around the world, nations including the United States will end the long embargo on Rhodesia. However, even if, at the last minute, something should go wrong with the Rhodesian peace, the President has made it clear that he regards the Congress as a full working partner on the Rhodesia issue. He has pledged to consult directly with the Congress if unforeseen circumstances arise. Furthermore, if we do not like the President's final decision on sanctions, then we can override his determination by a concurrent resolution, within thirty days.

It is appropriate that the Senate conclude its long series of debates on Rhodesian sanctions on a note of victory. We offer here today a proposal on sanctions which has the support of senators representing a wide range of political viewpoints. This is a proposal which the Administration has endorsed. It is also a measure which co-ordinates U.S. actions on sanctions with the policies of Great Britain and other nations. By voting for S. 2076, we will both recognize and advance the important achievement of a badly needed Rhodesian peace.

Mr. BIDEN. Mr. President, I would like once again to express thanks to Pauline Baker of the committee staff for her efforts in this area extending over the last couple of years.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. BIDEN. I am happy to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I rise simply to express gratification over the action of the Senate Foreign Relations Committee.

The matter of U.S. policy toward Rhodesia has been a subject of debate for 14 years. Though I have not been in Zimbabwe-Rhodesia, I have been in many areas in Africa where efforts to solve problems have had tragic results, leading to the exodus of white citizens and much turmoil and tragedy. In this case we have a situation where reason appears to be winning out, and people are going to benefit as a result. Certainly reason has prevailed in the Foreign Relations Committee and in the Senate, and I pay great tribute to Senator HELMS and Senator HAYAKAWA for their magnificent contributions. They have helped create policy, which is exactly what the Founding Fathers expected that the Senate would do with respect to foreign relations. We are not just spectators or rubber stamps; we are expected to make a mark. I think the Senate has made a mark on what has been an extraordinarily important matter.

I also wish to acknowledge the outstanding job which Senator JAVITS has done.

Mr. President, I will be introducing later a resolution commending the British Government for their achievement with regard to Zimbabwe-Rhodesia, and I would welcome the cosponsorship of my colleagues.

Mr. HELMS. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. HELMS. I yield that time to the distinguished Senator from Iowa (Mr. JEPSEN).

The PRESIDING OFFICER. The Senator from Iowa is recognized for 3 minutes.

Mr. JEPSEN. Mr. President, I rise to commend and congratulate the individuals who, after 14 years, have finally brought about what appears at this time to be a sensible and long overdue resolvement regarding the lifting of the sanctions against Zimbabwe-Rhodesia by the United States.

It is my hope that the history of the last 14 years, particularly the last 5 years, regarding the lives of innocent men, women, and children, that have been lost as a result of terrorist and government activity, will serve as a guide and point of reference as we approach the very frustrating and seemingly impossible situation that this Nation is now experiencing in Iran and, to some greater or lesser degree, in other parts of the world.

We as a people must learn to deal with compassion and understanding in trying to resolve global problems in order to continue working with our neighbors throughout the world. We must especially seek that understanding if Third World and nonalined nations feel so strongly about us that they must resort to terrorism as a form of communication. Mr. President, we cannot, and we must never, never, never yield an inch or one iota to any act of terrorism of any kind, at any place. Our heritage, our prestige, and our faith in each other as a nation dictate that we maintain our freedom to exist free from terrorism or coercion.

Mr. President, due to circumstances, last year, including my campaign for election to the U.S. Senate, I was confronted with the necessity of becoming informed on Africa and the U.S. policy toward Africa. My opponent was one of the leaders and spokesperson in the Senate regarding much of the activities over the years that have taken place. to which I disagreed. In preparing myself to speak on the U.S. role in Africa, I took whatever opportunity I had to present the facts to the people of my State and, to some extent, once they knew the facts, they also shared in my disagreement. This is one of the reasons why I am here and my opponent is not.

It is my hope that now Zimbabwe-Rhodesia can work together in peace and economic harmony for the benefit of everyone concerned. It would certainly be to our benefit if we as a nation would apply the understanding and knowledge we have arrived at through these years in Zimbabwe-Rhodesia, to resolving other problems that exist in other parts of South Africa.

I believe we should work with the people that are there. I hope that the Senate will continue to pursue a course that make this body a full partner in the making of U.S. foreign policy.

The PRESIDING OFFICER. The Chair is sorry to interrupt the Senator, but the time for consideration of this matter has expired.

Mr. ROBERT C. BYRD. Mr. President, ask unanimous consent that the Senator may proceed for another 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mr. JEPSEN. The Senator thanks the majority leader.

I think I have said enough. I will just congratulate the people who have put this legislation together. I am hopeful that the Senate will be unanimous in their support. I especially commend Senator JAVITS, Senator HELMS, Senator BIDEN, Senator PERCY, and Senator HAYAKAWA.

Mr. GLENN. Mr. President, we will shortly vote, as I understand it, at noon on S. 2076, a bill to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances.

As I am sure that we all have heard, last night Joshua Nkomo and Robert Mugabe, leaders of the Patriotic Front, informed the British Foreign Secretary, Lord Carrington, that they will essentially agree to the cease-fire proposal offered by Britain at the Lancaster House Conference on Rhodesia. At last, after paying the price of 20,000 lives over many years of armed struggle, it seems that we are indeed close to (in Lord Carrington's words) "the breakthrough for which we have all been working." There remain only a few details which must be worked out in order to "cement" the final agreement.

It has been U.S. policy, and one which I whole heartedly endorse, to support the British in what most observers have called, the absolutely last chance to gain a peaceful settlement in Rhodesia. Lord Carrington has shown himself to be a masterful chairman of the Lancaster House Conference. His well orchestrated, step-by-step approach has made it clear to both sides that they will pay a tremendous price if they allow the talks to collapse. Despite the rhetoric and theatrics which accompany all negotiations of this sort, Lord Carrington has been able to prod both sides into a methodical resolution of the conflict.

Moreover, the leaders of the other affected countries, most notably President Kaunda of Zambia, have played an extremely helpful role in showing both sides the utility of a negotiated settlement. They should share with Lord Carrington the congratulations of the American people for achieving this important breakthrough. With their support, Lord Carrington has been successful in operating in the framework provided by the Commonwealth conference in Lusaka, Zambia last August, to resolve the central issue in the Rhodesian conflict—the inequities in the so-called internal settlement and the inordinate institutional powers retained by the 4-percent white minority.

While there is good reason for optimism regarding the peace agreement, we should remember that there have been a number of attempts—all of them fruitless—to restore Rhodesia to legal status, and to end institutionalized racism there. After each failure, the rhetoric has become harsher, the adversaries more combative, and the cycle of violence has escalated, inflicting great hardship on all people of the region. Therefore, we must proceed carefully on what appear to be the last few steps on the long road to peace.

The question before the Senate today is, When is the best time for the United States to lift sanctions against Rhodesia? I believe that S. 2076 provides the most reasonable vehicle for the lifting of U.S. sanctions against Rhodesia. One must certainly hope that the sanctions, imposed under a United Nations order making Rhodesia an outcast nation, played some role in making the parties there realize that there is a tremendous advantage to a peaceful settlement.

So much progress has been made, that everyone concerned should exercise caution that no obstacle is encountered which could slow the momentum of the peace process. Both sides must be made to feel that they have a continuing stake in maintaining that momentum, until it culminates in a normalized, peaceful, and prosperous life for all people of the region.

A vote by the Senate for unilateral lifting of sanctions by the United States at this time could be seen as an impediment to the peace process. What kind of signal would that send to our allies, the British, who have worked with such care and tenacity to construct an enduring peace in Rhodesia? They have seen fit to lift only about 15 percent of their sanctions to date, with the promise of full removal when a British Governor has assumed his duties in Salisbury. They have used this as a bargaining tool to indicate to both sides that they are, indeed, serious about building a lasting peace in Rhodesia. Would the British view our early lifting of sanctions as an attempt to undercut their negotiation efforts—an attempt to stall the peace process?

What kind of signal would our unilateral lifting of sanctions send to the rest of Africa? The frontline states and the Nigerians (our second largest oil supplier) have played a very positive role at the Lancaster House talks. Would our unilateral lifting of sanctions now—with so much progress behind us—signal to the rest of Africa that the United States is abandoning its commitment to the peace process, abandoning its commitment to equity and majority rule in Rhodesia?

Although all of them applaud the breakthroughs at the Lancaster House conference, none of our major allies has moved to lift sanctions before the British do. We must consider what kind of signal our premature lifting of sanctions would send to the rest of the world. The United States imposed sanctions pursuant to a United Nations resolution designed to emphasize the illegal status of Rhodesia, and to impose the order of international law and justice.

On December 1, we went to the United Nations in an attempt to impose the order of international law and diplomatic custom on the terrorist actions of Iran. Virtually every nation has joined us in condemning these actions; the United Nations has presented a unified front in calling for the release of our diplomats; if we move to lift sanctions now, what kind of signal would we send to the rest of the world? Would the United States place itself in the hypocritical position of telling the world we support the United Nations' rulings and international law only when it is convenient?

In talking of the Rhodesian peace process, we must realize that we are involved in one of our own. Can we realistically ask other nations to join in the Camp David peace process, in our search for a framework of peace in the Middle East, if we are seen as showing cavalier disregard for the momentum of the peace process in Rhodesia, if we are seen as undercutting successful British diplomacy?

We are very close to a true settlement in Rhodesia. But, we must remember that many long years of battle, and the cost of thousands of lives have engendered deep suspicions and hatred on all sides in the conflict. As an interested party, the United States must say to all those involved that we stand foursquare behind the Lancaster House agreements, and that we will not tolerate any obstacles being thrown into the path of peace. The situation in Rhodesia is still very fluid. Among the details yet to be resolved are the date of the cease-fire and the positioning of the adversary forces. Both sides must continue to feel that they will gain no advantage by protracting these final negotiations.

The President has promised to move to lift sanctions against Rhodesia when the British Governor arrives in Salisbury to implement the Lancaster House settlement, and the electoral process has begun, thus returning Rhodesia to international legal status. S. 2076 supports this position, while maintaining the requirement that the President consult with the Senate on his decision. This is the most reasonable approach we can take. This approach will show that we recognize and respect that peace comes about through a process, and that we will accept no interference in that process. This will state to all parties concerned that we are firmly committed to a peaceful transition to true majority rule in the new Zimbabwe.

Mr. ROBERT C. BYRD. Mr. President, the chairman and the members of the Foreign Relations Committee are to be commended for bringing to the Senate this compromise bill on Zimbabwe-Rhodesia.

The bill is the result of many hours of discussion, in an attempt to balance the competing concerns regarding our trade relationship with Zimbabwe-Rhodesia. There are those who feel that there should be no barriers to our trade relationship with Zimbabwe-Rhodesia. Other Senators feel that any action to lift trade barriers should be delayed until all aspects of the London talks have been completed, or until the compromise agreed to at London has been put into effect.

This bill strikes a middle course. It recognizes that substantial progress is being made in the London talks. And the bill recognizes that regardless of the progress in London, our own decision regarding trade sanctions should not be left open ended, but should be regularly reviewed.

The bill also continues the partnership between Congress and the executive branch that has been a very appropriate part of our national policy on Rhodesia. This bill states that the decision on trade sanctions should be made jointly by the two branches, in consultation with one another, and not unilaterally by either branch.

The relationship of this Nation to the Zimbabwe-Rhodesian negotiations has been a complex one. This year alone, the Senate has had three separate votes involving Zimbabwe-Rhodesia. These occurred in May, during consideration of the State Department authorization bill; in June, during consideration of the defense procurement bill; and in July, during consideration of the conference report on the State Department authorization bill. In various forms, these votes attempted to fashion a satisfactory balance between executive and legislative determination of the sanctions policy.

During all of these months, the situation in Zambabwe-Rhodesia shifted constantly. The tug-of-war between the governments of Ian Smith and Bishop Muzorewa and the Patriotic Front has been a painful and costly one. Parts of the struggle go back at least 14 years, when Rhodesia broke away from the British Commonwealth. Over these years, the problems in Zimbabwe-Rhodesia became part of the problems of the wider sphere of countries in southern Africa.

Even our own country did not escape the confusion. In 1968, President Johnson suspended our trade with Rhodesia, in keeping with a U.N. Security Council mandate. In 1971, the effect of the Presidential order was suspended for chrome and other strategic materials. In 1977, the Congress repealed even that exception, and full sanctions were again applied.

It was only recently, in London, that the bold strokes of negotiation and compromise have begun to yield results. The final touches on a cease-fire are now being discussed, and there is every hope that the peaceful transition to a new Government under a new Constitution will begin soon.

This new bill is timely and compatible with the course of peaceful compromise going on in London and Salisbury. The bill provides that the President shall terminate sanctions against Rhodesia at the earlier of the following two dates: First, a date by which a British Governor has assumed his duties as head of the transitional Government in Rhodesia; or second, January 31, 1980. If the President determines that it would not be in the national interest to lift sanctions at the earlier of these two dates, the President may decline to do so. Congress then has 30 days to overturn the President's decision by a concurrent resolution.

The policy invoked by this bill is one that contributes to a constructive policy on the part of our Nation toward Africa.

I extend to Senator HELMS and Senator HAYAKAWA the gratitude of the Senate for the role they played in working with the other members of the committee, and with the administration, on this legislation. They have exercised their prerogatives as Senators in the spirit of compromise.

I also would like to thank the chairman of the committee, Senator CHURCH, and the ranking minority member and minority floor manager, Senator JAVITS; and Senator MCGOVERN, as chairman of the African Affairs Subcommittee; and Senator BIDEN, as majority floor manager of the bill.

This bill is the product of the efforts of many Senators, and they all have the gratitude of the Senate and of the Nation.

Mr. ROBERT C. BYRD. I have cleared this with the distinguished manager, Mr. BIDEN, the distinguished ranking manager, Mr. JAVITS, and with the distinguished Senator from North Carolina (Mr. HELMS).

I ask unanimous consent that the vote occur on the passage of S. 2076 today at 12 o'clock noon, with paragraph 3, rule XII, being waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators. This will accommodate committees that are meeting.

Mr. BIDEN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for transaction of routine morning business for not to exceed 15 minutes and that Senators may speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMBASSADOR DONALD McHENRY

Mr. JEPSEN. Mr. President, on behalf of myself and the junior Senator from Virginia, Senator WARNER, I rise to recognize the steady poise and quiet strength that our U.S. Ambassador to the United Nations, Ambassador Donald McHenry, has displayed since becoming Ambassador.

Ambassador McHenry has best exemplified the American character of poise and strength in a time of national crisis.

Like it or not, we do live in times of danger and uncertainty. Times which trouble not only the souls of man, but of nations as well. These are stormy days for America, and like most storms, the peace is often upset before the calm returns. Nevertheless, though the days may be stormy, and the peaceful calm is yet beyond our reach, the storm does not really matter until the storm begins to get us—the United States—down.

Mr. President, the danger that we as a Nation face throughout the world during this period of turmoil, is yet another test of our will, our strength, and our vigor as a nation to meet the challenges of change.

The United Nations is and will continue to be the theater for discussion and debate among nations. As such, the U.S. Ambassador is literally at center stage as one of the principal actors of the cast.

Mr. President, the United States is fortunate to be well represented by a veteran diplomat. This is the kind of leadership that this country must continue to display if we are to retain any measure of respect around the world.

I hope that our colleagues here in Congress and the entire Nation will join us in recognizing the talents of our United Nations Ambassador and will continue to support his efforts at the United Nations.

Mr. President, I ask unanimous consent that the text of the Ambassador's remarks before the United Nations Security Council's special session on Iran, as printed in the Sunday Washington Star of December 2, 1979, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 2, 1979]

MCHENRY: IRAN BREAKS "MOST BASIC OBLIGATION"

UNITED NATIONS.—Twenty-seven days ago, 63 Americans as well as personnel of other nationalities were seized when an armed, disciplined group of demonstrators invaded the United States Embassy in Tehran. Eighteen of those captured have been released. At least 50 Americans remain captive.

As with diplomats everywhere, the individuals who were taken hostage are entitled to the protection of the government of Iran by the most solemn commitment nations can give—the sovereign pledge of governments by treaty and international obligation.

Governments retain the right to require that foreign diplomatic personnel leave their soil. But every standard of international behavior, whether established by practice, by ethics, by treaty or by common humanity, supports the principle that the personnel of a diplomatic mission and diplomatic property are inviolate. Even in the darkest moments of relationships between countries, the security and well-being of diplomatic personnel have been respected.

Iran asks that its grievances be heard and acted upon. Yet, Iran, and the authorities who speak for it, are violating the most basic obligation of nations. They hold hostage the very people who facilitate those communications that can resolve differences and lead to understanding and agreement among nations.

None of us, whatever our differences on other issues, can ignore the implications for all of us of this event.

Nor can the world ignore that these diplomatic representatives are being held under degrading conditions. They are threatened, kept bound, isolated, not allowed to speak, denied mail. Even their whereabouts are uncertain. All of us at this table are also diplomatic representatives of our countries, charged with the same duties and protected by the same laws and rules of conduct as those now held captive in Iran. It is for all of us to speak up to demand their release and to insist upon basic conditions of humanity for their care pending that release, including daily visitation by impartial observers.

Many members of the United Nations, including members of this council, have had ambassadors murdered, diplomatic personnel injured, embassy facilities destroyed.

On each occasion the delicate framework of our international community has been harmed, but efforts were made to repair the wounds. The situation in Tehran has a feature unlike other assaults on the diplomatic ties that bind our world. In Iran, the government itself defends the violence which holds diplomats hostage. Such a position is intolerable.

The United States insists that its diplomatic personnel be released and its diplomatic premises restored. These are not negotiable matters. The United States will hold the authorities in Iran fully responsible for the safety of the American hostages held captive.

I speak today for hostages who are endangered by the frenzy and uncertainty of events, by the inhumane conditions under which they are held; and by the threat of the authorities in Iran to compound unjust acts through trials.

Around the world, nations of east and west, north and south, in individual and collective statements, have expressed their opposition to this violation of international law and called for the immediate release of the hostages. We express our appreciation for this overwhelming expression of international concern and support in behalf of principles that lie at the heart of civilized international behavior.

In this spirit, we appreciate the fact that the president of the Security Council, speaking for the members of this body, has twice urgently appealed for the release of the hostages.

The president of the General Assembly has twice spoken eloquently in support of this plea.

The Secretary General of the United Nations has worked unceasingly to resolve this crisis.

There has not been a satisfactory response and the hostages are still not free.

We gather here to determine what more can be done.

None of us is deaf to the passionate voices that speak of injustice, that cry out against past wrongs and that ask for understanding. There is not a single grievance alleged or spoken in this situation that could not be heard in an appropriate forum.

In addition, as we have said from the beginning, the United States remains ready, upon the release of the hostages, to discuss with the Iranian authorities the differences which exist between us and to seek their resolution.

But no country can call for justice while at the same time denying it to the defenseless. No country can breach the most fundamental rules of the community of nations and at the same time expect that community to be helpful in the problems which it perceives for itself.

In the simplest terms, no country can break and ignore the law while seeking its benefits.

What is it that the world can agree upon if not the protection and respect for those whom we appoint to represent our sovereignty and resolve our differences?

How tragic for Iran, how tragic for the world that threats to peace are being driven to a new crescendo. The most powerful voices in Iran have encouraged violence in neighboring countries and condoned bloodshed rather than condemn it. In addition, totally unfounded charges which can only inflame the situation have been made against the United States with respect to the current crisis.

The United States in all the years of its history has had as a fundamental principle the freedom of all people to worship as they choose. Out of this history and long association, we honor and respect the leaders and the nation of Islam.

The principle of non-interference in the internal affairs of other nations is both a tenet of the United Nations and of the foreign policy of the United States, and that includes, of course, respect for the territorial integrity, political independence and sovereignty of Iran. We respect the right of the people of Iran to determine their own future through institutions of their own choosing. And all of us must accept their decisions.

The President of the United States, speaking for a unified and determined nation, has made it clear that we are seeking a peaceful resolution to this conflict so that the wounds of the past can be healed. In this spirit, the United States has turned to the Security Council and the secretary general in the search for a peaceful solution. In this spirit, the United States has begun proceedings in the International Court of Justice.

There is in the United States a unity of purpose, a disciplined sensitivity to the needs of peace, a determination to search out all peaceful means to bring this dispute to a just conclusion, and also a determination to do what must be done to protect our fellow citizens and the rule of law. That unity of purpose is shared by all Americans. But make no mistake. Beneath that discipline is a seething anger which Americans properly feel as they witness on daily television new threats and outrages against their fellow citizens.

Mr. President, the hostages must be freed.

Mr. JAVITS. Will the Senator yield?

Mr. JEPSEN. The Senator will be pleased to yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I was at the United Nations and had the privilege of observing Ambassador McHenry as he performed his duties. I would like to join the distinguished Senator from Iowa in complimenting him in the common pride which we share when an American public servant performs so well.

The greatest compliment that we can pay to Donald McHenry is that he is a thorough-going professional. That is what he likes best. He is low-keyed; he is intelligent; he is restrained, but very decisive.

I think Senator Jepsen has done a very nice thing today in recognizing his work in this particular direction. I look forward to comparable performances and many others. And if they are forthcoming, as I am quite sure they will be, it will do a great deal for the acceptability of the United Nations as a useful institution, not able to solve everything, but a useful institution in the United States.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President. what is the pending business?

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The Senate will now proceed to the consideration of the Armstrong-Dole amendment.

Mr. ROBERT C. BYRD. Subject to the approval of Mr. Long.

The PRESIDING OFFICER. Subject to the consent and approval of Mr. Long.

Mr. LONG. Mr. President, I do not object. It is all right with me. They can start talking. I will be glad to listen.

Mr. ROBERT C. BYRD. Mr. President, while Senators who will want to speak on the pending amendment are coming to the Chamber, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ATTENTION: SECRETARY OF EDUCATION

Mr. HAYAKAWA. Mr. President, in view of the fact that, this afternoon, Judge Hufstedler is to be sworn in as Secretary of the Department of Education, there are two or three little matters about education that I would like to have printed in the Record to call to her attention.

First of all, I want to call attention to an article in the San Francisco Examiner by the columnist Guy Wright, that appeared on September 19, 1979, entitled, "Why Educators Can't Teach." It is an interesting analysis of the way in which education is dominated, overdominated, by Ph. D.'s in education, schools of education, and people who are trained only in courses in education rather than in subject matter. This does seriously affect the quality of education.

As I have argued on the floor before, there have to be more than educators in education; there have to be scientists, there have to be poets, there have to be historians, political scientists, and so on. I should like, therefore, to call this to the attention of my colleagues and Judge Hufstedler. In order to do so, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the San Francisco Examiner, Sept. 19, 1979]

Why Educators Can't Teach

Striking San Francisco teacher Charles M. Frye has the inner satisfaction of knowing that he blasted the school brass in a national magazine.

In fact, when word of his Newsweek broadside gets around, he may have to go into hiding even from his fellow teachers.

"Who runs the schools?" he asked himself and Newsweek's several million readers.

His answer: "The explosive growth of the education Establishment has been, and is being, drawn from among the weakest of our college graduates."

As a math teacher with 21 years in the classroom, he backs up his charge with statistical evidence.

First he points out that the nation's public schools are run by an interlocking hierarchy of state, local and federal education administrators, and that there is only one way to rise in that hierarchy—not by being a superior teacher but by taking "lots and lots of graduate courses" at colleges of education.

What kind of people take those courses? Frye's answer is devastating.

Of the 4,365 applicants to graduate schools of education in 1963–64 (an age group now moving into upper administration) 81 percent were below average in the verbal section of the standard Graduate Record Examination, he said, and 84 percent were below average in the quantitative score.

"Only home economics and physical education candidates did worse," he observed, adding:

"It is, therefore, entirely consistent that they should attack or drop IQ testing ability grouping and objective tests for teachers and administrators.

"If NASA had been staffed as selectively as the education Establishment, it would have been lucky to hit Tallahassee."

While the quality of public school education has declined and enrollment has dropped, the education Establishment has flourished. It has enjoyed "an explosive growth in the nonteaching school bureaucracy (and) over-all cost increases vastly exceeding inflation."

In fact, said Frye, the paper chase for advanced degrees in education increased about 300 per cent in 13 years, "despite a steady drop in the school population and an embarrassing surplus of teachers and administrators."

How come? It is mainly a case of specialization ad infinitum.

"The schools of education of the California State University system, for example, have accomplished this by offering 28 *different* master's degrees, among them some virtually indistinguishable specialties, such as "communication handicapped," "learning handicapped" and "physically handicapped."

Bilingual education has opened another happy hunting ground for specialists in specialization, and California now requires a special credential to teach "gifted" children—at the same time the definition of "gifted" is being watered down.

"Clearly," said Frye, ". . . . this Establishment should be dismantled with all deliberate speed." But he predicted that a new federal Department of Education will only "calcify its inanities" by providing it with more jobs, funds and authority.

"The ultimate irony," he said, "is that the fundamental responsibility for this state of affairs lies precisely with those institutions now most vociferously bemoaning the education product of the schools; that is, with the colleges and universities that have permitted their graduate schools of education to grant vapid master's degrees and doctorates in education to ever-increasing numbers of people they would not have deigned to consider for admission to any of their academic or professional schools."

Mr. HAYAKAWA. I also submit for the Record a column by William Raspberry entitled "Miracle on Chicago's West Side," which appeared in the Washington Post on December 3. It talks about a young lady by the name of Erica McCoy, a little girl who is enrolled in Marva Collins' School in Chicago. It is a school in the urban ghetto of the West Side. This lady, Marva Collins, is producing, at the third grade level, children who are capable of reading Chaucer, Dostoevsky, Goethe, Flaubert, Dante, and Plutarch through a remarkable experiment going on in her Chicago school. Mr. William Raspberry called attention to this. I ask unanimous consent that this be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 3, 1979]

Miracle on Chicago's West Side

(By William Raspberry)

"I brought Erica here when she was not quite 6 years old, because I knew something had to be done," Ella McCoy told me. "The teachers at [a private Chicago school] had told me she wasn't reading and that she might not learn to read."

That was four years ago. Erica, now in the 5th grade, is using "the same literature book that seniors at St. Ignatius High School use," her mother said. "Last year, she was reading at the 10.2 grade level. Her math was a little lower than that, but still well above grade level."

Erica McCoy is one of 30 children enrolled at Marva Collins' Westside Preparatory School in Chicago, the academic miracle featured on CBS' "60 Minutes" a couple of Sundays ago.

It was sheer accident that I talked to Erica's mother. I had called the school to make an appointment to talk to the miracle worker herself, but the hundreds of calls triggered by the television broadcast had forced her to have all her telephone calls diverted to her home. Ella McCoy, herself a 6th-grade teacher in the Chicago public school system, had taken the day off to help Collins at the house. That is how she happened to answer when I called.

She was thrilled, she told me, about Erica's progress. And not just in reading and math. She is also more self-assured than she had been. "And she loves to read," Erica's mother said. "Last year at camp she read 23 books."

What books?

"Let's see, there was 'Jane Eyr,"I remember that very well. I also remember she read 'A Tale of Two Cities' and part of Plato's 'Republic' . . ."

That's as far as we got, for at that point Marva Collins herself came on the line, munching on a noon-time hamburger. Between bites, she tried to help me understand how she accomplishes her routine miracle.

Since our recent publicity, everyone in America thinks that all they have to do is get a list of classics from me and their children will read them, she said. "They don't realize that what I do is hard work. You have to get the children interested in books—the covers are not conducive, you know. You can't draw knowledge out of a child the way you draw milk out of a cow."

One of her tricks is to avoid introducing her children to "childish" books in the first place, "We never deal with "See the big red ball. See the ball roll down the hill." They don't realize such junk exists."

Instead, she starts her 4-year-olds with fables, which they find inherently interesting. By 3rd grade, they are introduced to Latin. ("It's easy for them to understand about parallel lines or parallelograms if they know that the Latin *parallelus* means 'side by side'. They have no trouble with 'quadrangle' when they know that the prefix *quadr* means 'four.' ")

While her 3rd-graders are reading Chaucer, Dostoevsky, Flaubert, Goethe, Dante and Plutarch, the 4- and 5-year-olds are enjoying such easier fare as the fables of Aesop, da Vinci and Sophocles. They all memorize one poem and write one composition each week, and they have to read at least one book every two weeks.

"We teach our children to speak and write in standard English," Marva Collins says, "and we worry more about getting it 'right' than about getting it 'written.' "

And all with nothing more sophisticated than dog-eared books, dusty chalkboards and scratched-up desks.

"If you gave us $20,000 worth of audiovisual equipment, we'd leave it on the sidewalk," she says, although her use of the word "we" may be stretching a point. She does it all herself, with a single teacher's aide and practically no money.

And she achieves her almost unbelievable results with children who come mostly from the black, economically depressed West Garfield Park section of Chicago, where she lives and runs her school in an old 22-room brownstone. Many of her students come to her with psychiatric problems or diagnosed "learning disabilities."

If there is a secret to her phenomenal success (she denies that there is), it would be her constant attention to building her children's self-esteem.

"Speak up, darling; you're brilliant," she'll tell a reticent pupil. "If you let someone else steal your thunder, you'll always be just a little raindrop."

Mr. HAYAKAWA. Mr. President, I also call attention to an article by Kevin Starr in the San Francisco Examiner of October 29, 1979. Mr. Starr discusses the teachers' strike in San Francisco and the consequences this has for the education profession. This, too, says quite a few things about the present condition of education and what teachers and parents may want to do in the future that is different from what they did in the past. I ask unanimous consent that the article be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

After the Strike

The school strike, thank God, is over. The following remarks are not intended to be bitter or divisive. Good people found themselves on both sides of the issue. I do think, however, that the strike has disrupted profoundly the educational progress of our students. It also will go a long way towards convincing many parents to vote for a tuition voucher system.

Can students realistically be expected to settle down after the events of the past six weeks? Can teachers who yelled at students not to cross picket lines, who verbally harassed substitutes who did cross, who in certain cases actually invaded schools, demonstrating noisily in the corridors—can they now reverse their roles and maintain order in the classroom?

Can teachers who defied a court order now teach lawfulness to their civics classes?

Can seniors, moverover, ever recoup the momentum they have lost in this most vital year when they are applying to colleges? Will not every college and university of any worth look slightly askance at a graduate of the San Francisco school system, knowing that nearly two months were lost at the opening of the term in the most bitter sort of internecine strike?

No one won anything in this strike. The teachers did not obliterate the larger reality that taxpayer support for public education is eroding, especially here in San Francisco, where fewer and fewer residents are rearing children. Whatever immediate gains they have made, the long-range prospects for teachers here are not bright—and this a very sad thing for those men and women who have dedicated themselves to a noble calling.

The teachers won an immediate pay raise, funded by monies saved by the strike itself. They did not win a long-range commitment to a higher standard of living. Does this mean that they will strike every time they want a raise—strike so that the money saved from the closed down system can be transferred to wages?

Our teachers for some time now have been legitimately complaining about misbehaving students. I think that such students will be running more wild than before. The disruption of the past six weeks have eroded whatever minimal social controls were there in the first place.

Parents feel more hopeless than ever. The middle classes who still send children to public school will once again think very seriously of pulling them out or even leaving San Francisco itself. Parents I've talked to are truly angry. The school system, they feel, like most government, has gotten out of the immediate control of citizens. The system seems to be some remorseless engine functioning for its own purposes.

This frustration, most obviously, will translate into votes for the tuition voucher system. Under this plan, councils of parents would have substantive authority in the decision-making process of the schools their children are attending. One suspects the strike would not have gone on so long had parents had some authority in the negotiations. Protagonists on both sides would have been urged to a speedy settlement by parents anxious to have their children return to the classroom.

This is not a time for cheap shots. I sympathize with the frustrations of teachers faced with a most difficult inner-city generation of students. I sympathize with their efforts to survive in this inflationary economy. I sympathize with the school board and the administration, faced with the necessity of keeping the system afloat in an age when there is less and less financial support for programs that are more and more expensive.

Above all, however, I sympathize with students and their parents. They have gained nothing from this strike—except the conviction that something is wrong, terribly wrong, with public education as it is currently structured, funded, and administered. Because of this frustration, San Francisco and the entire state of California are poised on the brink of a major breakthrough. Within the next year, the voters will authorize a radically new approach to public education—a tuition voucher system. As in the case of Proposition 13, California will lead the way in wrestling back to private control that which should never have been surrendered to government. The idea that government should administer education is not in the Constitution. It is a creation of the late 19th century. President Carter's creation of a separate Department of Education on the cabinet level proves once again the historical truism that bureaucracies have a ghoulish taste for dead ideas.

RETURN OF TINKERS AND JITNEYS

Mr. HAYAKAWA. Mr. President, I want to speak of the fact that I am very, very much interested in the liberation of licensing requirements for taxis and jitneys as a supplement to public transportation systems and as a way of opening up career opportunities for those of limited training and limited education for whom driving cabs and jitneys and so on will be a good way of making a living and also a public service. William Hines, in the Chicago Sun-Times, has written an article which has been reprinted in the Los Angeles Times of December 5, 1979, on the return of tinkers and jitneys and other forms of modest private enterprise by means of which people get into meaningful occupations. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Return of Tinkers, Jitneys Foreseen

(By William Hines)

Washington.—The resurgence of two almost-forgotten occupations is one of the more predictable developments in the highly uncertain future of an America squeezed by inflation and increasing energy costs, two students of the U.S. economy believe.

The occupations are those of tinker and jitney operator, the former a handyman specializing in quick and cheap repairs of things that up to now have been thrown away when broken, and the latter a small-time operator in the transit busines filling a void left by subways, buses and taxis.

The resurgent tinker is already with us in small towns where people who want to do a little marginal business are not hassled by government officials, Milton Russell said in a recent interview here. And Joel Darmstadter added that jitney routes are likely to spring up in outlying suburban areas as gasoline prices continue to soar.

Russell and Darmstadter are colleagues at Resources for the Future, a nonprofit Washington think tank concerned with natural resources and their conservation. They contributed to a recent RFF report entitled "Energy in America's Future: the Choices Before Us."

Both tinkers and jitney drivers were in plentiful supply in the less affluent early days of the century, when fewer families had cars and when appliances were more expensive to buy and cheaper to fix than they are now.

The jitney driver perhaps needs an additional word of explanation.

In many large cities in the United States after World War I, jitneys filled a definite void left by fixed-rail trolley cars, which were the mainstay of transportation in most places. The jitney was a private auto—not a taxi—that plied a definite route and hauled passengers for a flat fee, usually close to that charged by the trolley car.

Chicago had them; so did San Francisco, and travelers who have been to Mexico City may recognize them by another name, *pesero*.

Among the many life-style adjustments that will have to be made by suburbanites, Darmstadter said, is in transportation. As fuel prices climb, incentives to leave the private car at home will increase, but in many cases no practical alternative now exists.

Darmstadter cited as an example his own Washington suburb of Glen Echo, Md., which is connected to the central city by adequate bus service but lacks cross-town routes to other parts of the northwestern suburbs.

"I'm surrounded, in Glen Echo, by neighbors who are professional people who work at the National Institutes of Health (about seven miles away in the suburb of Bethesda)," Darmstradter said. "There's no way to get from Glen Echo to NIH by public transportation except in the most tortuous, circuitous fashion. People have to drive to work.

"But suppose there were a bunch of people—say retired people in good health—who really don't want to work but would like to earn a little bit of money. Suppose they elect to become entrepreneurial and run two or three shuttles, morning and evening, between Glen Echo shopping center and the main campus of NIH.

"I think with a setup like that, with virtually no capital investment, we could very quickly effect dramatic energy savings."

Russell, foreseeing the end to a "throw-away" economy as inflation and increased production costs push replacement-goods' prices up, said the tinker is on the way back and in some places is already here to stay.

"I have a summer place out in the Shenandoah Valley of Virginia at the little town of Strasburg (about 85 miles from Washington)," Russell said. "There is a guy there called 'the Village Tinker,' and what he does is fix for a buck and a half or two dollars all the things that in the city you throw away when they break.

"We have a Crock-Pot. It cost about $12 in the first place, and would cost more than that to fix in the city. There was something wrong with it, and I spent an hour and a half and banged my knuckles. Then I took it into the Village Tinker. He put a new switch in, and it was a buck and a half."

The Village Tinker of Strasburg, it turns out, is a retired man with manual skills who—in Russell's words—"doesn't want to sit around the house watching soap operas all day." He has neither high income requirements nor high overhead expenses.

"You walk in there and you see carpet sweepers and irons and waffle makers and all kinds of things that most of us end up throwing away," Russell said.

Village tinkers can flourish only in a benign, permissive regulatory climate—typically nowadays a small town where officialdom tends to live and let live and where entrenched business and labor interests do not move quickly and ruthlessly to deal with what they regard as competition. At least, this is Russell's view.

Darmstadter agrees but adds that in the era of change ahead, more populous jurisdictions have to start watching out for the little fellow, too. Rather than try to convince the local taxicab monopoly that jitney drivers won't ruin business, Darmstadter said, "What you have to do is convince the people of the United States that taxicab companies don't have a God-given right to make more money."

Some regulation is necessary, both men acknowledge, but the line between necessary and repressive regulations can be easily crossed. Capricious work rules or rigid governmental paper-work requirements imposed on a one-man or "mom-and-pop" operation can often make the difference between a profitable public-service enterprise and a financial fizzle.

Another possibility in the coming years, not explored by Russell and Darmstadter, is the growth of a "barter economy," with specialists in one field swapping their expertise with specialists in other fields, with no money changing hands. This is apparently still in its infancy in the United States, but is widely employed in Sweden—principally as a way to evade taxes, which are higher than here.

AN "INTERVIEW" THAT WAS NOT AN INTERVIEW

Mr. HAYAKAWA. Mr. President, I have been thinking a lot about the Shah of Iran.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield just for a request?

Mr. HAYAKAWA. I am glad to yield.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator may speak out of order, notwithstanding the Pastore rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. I thank the distinguished majority leader.

Mr. President, there is an item I want to introduce into the Record. Ayatollah Khomeini is remarkable in the skill with which he has manipulated the media, especially television. He has managed to place all public attention upon the crimes and alleged crimes of the deposed Shah of Iran and deflected from himself all criticism of his own crimes.

Bernard Kaplan, in the San Francisco Examiner, has written an article about this particular skill in manipulating the media that the ayatollah has shown. The title of that article is "Lobbing Up the Soft Ones." It appeared on November 23, 1979. It tells how the ayatollah asked that questions by the networks be submitted to him in advance and he would cross out the questions he refused to answer. President Carter, Ronald Reagan, Ted Kennedy, none of those people can get such favorable conditions for a network interview. But under the circumstances, the ayatollah was given completely his own way and his own choice as to what questions he would answer and what subjects he would talk about. This successful manipulation of the media is discussed by Bernard Kaplan. I ask unanimous consent to have that article printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Lobbing Up the Soft Ones

Washington.—America's TV networks deny that they stumbled into a propaganda trap when they stood in line last weekend to "interview" the Ayatollah Ruhollah Khomeini. But, as any viewer could tell, Mike Wallace and the rest were putty in his hands.

The ayatollah may not be everybody's idea of a prime-time personality. But he was thoroughly in charge during his TV appearances.

He used the air time to expound his view that the current U.S.-Iranian crisis is a consequence solely of America's "criminal" activities. He labeled President Carter an international outlaw. And none of the TV reporters tried to refute him, however timidly.

ABC's Peter Jennings, John Hart of NBC and even the usually inquisitorial Wallace seemed to be there merely to lob up the soft ones for him to smash back.

They were unable to pose hard questions of their own for an elementary reason. They had been warned beforehand that they would not be allowed to. If they so much as tried, their interview was off.

Network viewers were told of the restraints placed on the interviewers. Whether that mitigated the effect of the interviews is debatable.

The network reporters meekly submitted their questions in advance. They let the ayatollah's advisers strike off those—more than half, all told—deemed unacceptable.

No Western leader would be conceded that kind of powder-puff treatment. The American networks, as well as many other news organizations, have a rule against submitting questions ahead of time and allowing public figures to determine which ones they will answer.

In Khomeni's case, the rule was scrapped and the game played his way. Why? Because nowadays, everything boils down to being a "media event."

Whatever explanations the networks have offered, the true reason they bowed to Khomeini's conditions was that he is a "hot" item. Each network wanted to insure that it got him on the air. Even more, each wanted to make certain that it was not left out while its rivals snared him.

Under those circumstances, Wallace and Jennings never stood a chance.

"I was ashamed of my network for running that junk," a well-known Washington TV correspondent said. "If it had been up to me, I wouldn't have put a second of it on the air or, at least, not called it an interview."

Oddly enough, the network news chiefs were reasonably sure from the start that interviewing Khomeini was extremely unlikely to produce real news.

In the first place, the strait-jacketed method required to question him practically guaranteed a non-news event. Nor did they have the excuse of not knowing what to expect. They had already run through a comparable experience last year during Khomeini's exile in France.

Then, too, the tempestuous priest had rejected genuine interviews, insisting on a prewrapped format that allowed him to get his spiel across without worrying about the type of question he might find hard to answer. The TV interviewers and their electronics cameras obediently queued up, anyway.

That was probably Khomeini's first and most instructive lesson in how easy it could be to manipulate Western news media.

The people who run American TV networks are modern men with all the foibles of their kind. The ayatollah is not. That's his edge.

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill (H.R. 3919).

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate? And what is the pending question before the Senate?

The PRESIDING OFFICER. The pending business is H.R. 3919. The pending question was to be the amendment proposed by the Senator from Colorado which is not yet offered.

Mr. ROBERT C. BYRD. Mr. President, I hope Senators who are involved in amendments will come to the Chamber and call them up and address their remarks to them because the Senate is just wasting everyone's time. We are getting nothing done. It was agreed last night that when the Senate went back on this bill, the amendment by Mr. Armstrong would be up before the Senate today. The managers of the bill are here and they have been waiting. Is the amendment up? The amendment is not up, is it?

The PRESIDING OFFICER. The amendment is not up. The Senator is correct.

Mr. ROBERT C. BYRD. It can be called up by any other Senator, can it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. In other words, I could call it up.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. But I will not do that.

I know how busy Senators are. I know they have a dozen demands occupying their attention at any given moment. I sometimes wonder how a person can be a Senator and cope with the demands that are upon us. So what I say is not critical of anyone. But if anyone understands around here how many demands can be occupying a Senator's attention at any given minute, I should know. So I am not going to be critical of others just now. But I do plead with Senators to please get to the Chamber and call up their amendments and let us get started on the business of today.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ROTH. I say we are trying to reach Senator Armstrong to get him down here as rapidly as possible.

Mr. ROBERT C. BYRD. I was told that 15 minutes ago, that he was on his way.

I thank the distinguished Senator. I know he is trying to get business going.

I yield the floor.

VISIT TO THE SENATE BY MEMBERS OF THE GERMAN BUNDESTAG

Mr. JAVITS. Mr. President, with the permission of the majority leader, I have the honor to introduce to the Senate two guests from the German Bundestag brought to us by our former colleague, Carl Curtis, who is here with them today. One is Mr. Elmar Pieroth, a member of the Bundestag, chairman of the Christian Democratic Union's Economic Policy Committee, and a member of that same political party's parliamentary party executive. He is very deeply involved in international economic, trade policy, and development aid affairs as well as small business, and he has been a member for some years of German Bundestag, and is a distinguished businessman in Germany in his own right.

Also Mr. Richard von Weizsacker, who is a lawyer by profession, former president of the German Evangelical Conference; vice president of the German Bundestag, also of the Christian Democratic Party; very well known to me and to many other Members of Congress, and very well known in this country for his fine efforts in respect to United States-German relations.

Mr. President, I have the honor to introduce both of these gentlemen to the Senate.

[Applause, Members rising.]

RECESS FOR 3 MINUTES

Mr. JAVITS. Mr. President, if Members wish to greet our guests, I ask unanimous consent that we stand in recess for 3 minutes.

There being no objection, the Senate, at 11:55 a.m. recessed until 11:58 a.m. whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Pryor).

TERMINATION OF SANCTIONS AGAINST ZIMBABWE-RHODESIA

The Senate continued with the consideration of S. 2076.

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy), the Senator from Maryland (Mr. Sarbanes), and the Senator from Alaska (Mr. Gravel) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Hatfield), the Senator from Idaho (Mr. McClure), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

I further announce that, if present and voting, the Senator from Tennessee (Mr. Baker), the Senator from Oregon (Mr. Hatfield), and the Senator from Alaska (Mr. Stevens) would each vote "yea."

The PRESIDING OFFICER (Mr. Culver). Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—90

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—10

Baker
Dole
Goldwater
Gravel
Hatfield
Kennedy
McClure
McGovern
Sarbanes
Stevens

So the bill (S. 2076) was passed, as follows:

S. 2076

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President shall terminate sanctions of the United States against Zimbabwe-Rhodesia the earlier of—

(1) a date by which a British Governor has been appointed, has arrived in Zimbabwe-Rhodesia, and has assumed his duties, or

(2) January 31, 1980,

unless the President determines it would not be in the national interest of the United States to do so and so reports to the Congress.

(b) If the President so reports to the Congress, then sanctions shall be terminated if the Congress, within thirty calendar days after receiving the report under subsection (a), adopts a concurrent resolution stating in substance that it rejects the determination of the President. A concurrent resolution under the preceding sentence shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill H.R. 3919.

The PRESIDING OFFICER. The Senator from Louisiana.

The Senator will suspend until we have order in the Chamber. If Senators want to carry on conversations, will they please do so in the cloakrooms?

The Senator from Louisiana.

AUTHORITY FOR COMMITTEE TO MEET

Mr. LONG. Mr. President, I ask unanimous consent that the Committee on Finance may be permitted to meet during the session of the Senate today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, the Senate has spun its wheels between 11:05 today and noon, 55 minutes. Every minute has 60 diamond seconds. On the amendment before the Senate, or which should be before the Senate at this time, by Mr. ARMSTRONG, the time is passing. The Senate needs to get on with its business. We just cannot go on and on and on just to suit every individual Senator's convenience. We have arrived at the point now where to suit one Senator's convenience, inconveniences all other Senators and inconveniences the Senate.

The manager of the bill is here and Mr. ROTH is here as acting manager. We just cannot continue to inconvenience the Senate and 99 Members for 1 Member. It is one Member on one occasion and another Member on another occasion. We just cannot continue to do that and get this bill finished.

We have only a few days left until the Christmas holidays. Everybody expects to be off for Christmas. We are going to go home for Christmas for a few days. But the Senate cannot go out on the 21st or 22d of this month and stay out until the 22d or 23d of January if the Senate still has before it the windfall profit tax bill or the Chrysler bill.

The manager is doing all he can, and the ranking manager is doing all he can. I would just ask for the cooperation of Senators. I have been in this Senate 22 years. I have never asked the Senate to hold up a vote for me. I have never asked the Senate to hold up an amendment for me, to wait on me for an amendment. If I cannot be here to offer an amendment, then I will ask somebody else to offer it for me. We have to get this work done. I try to yield to the convenience of every Senator—99 Senators. I try to help them all.

I try to accommodate them all. I just insisted a moment ago that this rollcall be held up 10 additional minutes to accommodate a Senator and I have done that time and time again. There is not a Senator in this body that I have not accommodated at one time or another. The time has come, I say to my friends, when we need to accommodate the Senate.

I hope, Mr. President, that we can get on with this bill. If we cannot get on with this amendment, let us get up another amendment. There are Senators who have amendments that they can call up, but, under the order, we are stuck with a certain routine by which amendments are to be ordered up at a given time. Last night, we got consent that the Armstrong amendment would be run ahead of the Bellmon amendment and the other plowback amendments.

Let me plead with the Senate that now is the time to get moving if we expect to finish this bill and get off for Christmas and have a reasonable length of time for the Christmas holidays.

Mr. TOWER. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. Let me note that, on many occasions, the business of the Senate has been delayed for individual Members, but that that has occurred in behalf of Members on both sides of the aisle. This is not——

Mr. ROBERT C. BYRD. May I say to my friend——

Mr. TOWER. I want to emphasize that point.

Mr. ROBERT C. BYRD. The point does not need to be emphasized. I am the first around here, I think, to try to help to accommodate the Members of the minority. I was not pointing the finger at anybody. It just so happened that on that particular rollcall, it was a Republican. There have been rollcalls that I have tried to hold for Democrats, too. This is not a tit-for-tat partisan talk I am having here. I am just asking that the Senate get on with its business.

Mr. TOWER. I agree with the distinguished majority leader. I believe that Senator ARMSTRONG is prepared to agree to a controlled time situation on his amendment. That would enable us to get that amendment up and proceed to consider it. I should like to explore the possibility of there being a controlled time agreement on that amendment, which would give us a clear idea about when we can bring it to a vote.

Mr. LONG. Mr. President, if the Senator wants to have controlled time on the amendment, he ought to come here. He ought to come to the Senate. Unanimous consent was given last night.

Mr. ROBERT C. BYRD. I understand his problem. I know he is busy elsewhere in the Senate.

Mr. TOWER. He has been sent for. I think, without getting into the business of who is to blame for what, we could go ahead now and try to dispose of the matter by getting a controlled time agreement on it. Senator ARMSTRONG is on his way to the floor. We can arrive at something, a reasonable period of time, so it will not delay the Senate too long.

It is my guess that he will be prepared to agree, perhaps, to 2½ or 3 hours. I cannot say with certainty, but I believe that is probably the case.

Mr. LONG. Well, Mr. President, I know it is frustrating to the leader and I know it is frustrating to everybody to try to get the Senate's work done when some Senator leaves town and leaves word that nothing must happen until he comes back, especially when we are trying to get our business done and to adjourn before Christmas and we have a lot of business to do. Then someone leaves town and leaves word that nothing must happen until he returns.

That sounds like olden days, when we did not have so much work to be done, somebody would leave town and leave word that nothing should happen until he returns. The Nation has too much business to stand still like that and Senators, if they want to offer amendments, ought to offer them; otherwise, we should just go to third reading and get on with what we are trying to do here.

Mr. TOWER. Did the Senator move for third reading?

Mr. ROBERT C. BYRD. No.

Mr. TOWER. Would the distinguished majority leader consent to a quorum call so we can try to work something out here? I think we shall be able to work it out.

Mr. ROBERT C. BYRD. All right; the distinguished Senator (Mr. ARMSTRONG), who will call up the amendment, is here and I think we can work out something whereby we can proceed with the amendment.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT

Mr. LONG. Mr. President, I ask unanimous consent that time on the amendment by Mr. ARMSTRONG be limited to 2½ hours, to be equally divided in accordance with the usual rule.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, may I inquire of the distinguished floor manager, in the event that I should use my time before—let us say I should use it in the next hour, and I have no desire to delay once I have accommodated those on our side who wish to speak. I am concerned that, in any event, no vote or tabling motion take place prior to 2:30 in order to give an opportunity for the Senator from Kansas (Mr. Dole) to speak. Would the Senator be willing to add that?

Mr. LONG. Yes, I am willing to include that, that there be no vote or tabling motion before 2:30 p.m.

Mr. ARMSTRONG. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent further that the time be equally divided between the Senator from Colorado and the manager on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized to call up his amendment.

AMENDMENT NO. 695

(Purpose: To provide cost-of-living adjustments in the individual income tax rates and in the amount of personal exemptions.)

Mr. ARMSTRONG. Mr. President, on behalf of the Senator from Kansas (Mr. Dole) and myself, I call up our amendment No. 695.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. Armstrong), for himself and Mr. Dole, proposes an amendment numbered 695:

At the appropriate point, insert the following:

Sec. . Tax Equalization.

(a) Adjustment to Individual Tax Rates So That Inflation Will Not Result in Tax Increases.

(1) General rule.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(f) Adjustments in Tax Tables So That Inflation Will Not Result in Tax Increases.—

"(1) In general.—

"(A) Taxable years before 1985.—Not later than December 15 of each calendar year before 1984, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

"(B) Taxable years after 1984.—The tables prescribed under subparagraph (A) for taxable years beginning in 1984 shall also apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning after 1984.

"(2) Method of prescribing tables.—The table which under paragraph (1)(A) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing—

"(i) the maximum dollar amount on which no tax is imposed under such table, and

"(ii) the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table, by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under a subparagraph (A)(ii), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets. If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the nearest multiple of $10).

"(3) Cost-of-living adjustment.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year exceeds

"(B) the CPI for the calendar year 1979.

"(4) CPI for any calendar year.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index for the months ending in the 12-month period ending on September 30 of such calendar year.

"(5) Consumer price index.—For purposes of paragraph (4), the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor."

(2) Definition of zero bracket amount.—Subsection (d) of section 63 of such Code (defining zero bracket amount) is amended to read as follows:

"(d) Zero Bracket Amount.—For purposes of this subtitle, the term 'zero bracket amount' means—

"(1) in the case of an individual to whom subsection (a), (b), (c), or (d) of section 1 applies, the maximum amount of taxable income on which no tax is imposed by the applicable subsection 1, or

"(2) zero in any other case."

(b) Cost-of-Living Adjustments in Amount of Personal Exemptions.—

(1) General rule.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions from personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(2) Exemption amount.—Section 151 of such Code is amended by adding at the end thereof the following new subsection:

"(f) Exemption Amount.—For purposes of this section, the term 'exemption amount' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1(f)(3))—

"(1) for the calendar year in which the taxable year begins, or

"(2) in the case of a taxable year beginning after December 31, 1983, for calendar year 1984.

If the amount determined under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or if such amount is a multiple of $5, such amount shall be increased to the nearest multiple of $10)."

(c) Adjustments in Withholding.—

(1) In general.—Subsection (a) of section 3402 of the Internal Revenue Code of 1954 (relating to requirement of withholding) is amended by inserting after the third sentence the following new sentence: "The Secretary shall, not later than December 15 of each calendar year before 1984, prescribe tables which shall apply in lieu of the tables prescribed above to wages paid during the succeeding calendar year and which shall be based on the tables prescribed under section 1(f) which apply with respect to taxable years beginning in such succeeding calender year. The tables prescribed under the preceding sentence for 1984 shall also apply with respect to wages paid after 1984."

(2) Percentage method of withholding.—Paragraph (1) of section 3402(b) of such Code (relating to the percentage method of withholding) is amended by adding at the end thereof the following new sentence: "The Secretary shall, not later than December 15 of each calendar year before 1984, prescribe a table which shall apply in lieu of the above table to wages paid during the succeeding calendar year and which shall be based on the exemption amount (as defined in section 151(f) which applies to taxable years beginning in the succeeding calendar year. The table prescribed under the preceding sentence for 1984 shall also apply to wages paid after 1984."

(3) Withholding allowances based on itemized deductions.—Paragraph (1) of section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$1,000" and inserting in lieu thereof "the exemption amount (as determined under section 151(f) for taxable years beginning in the calendar year) '; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) an amount equal to the maximum amount of taxable income for taxable years beginning in the calendar year on which no tax is imposed by section 1(a) (or section 1(b) in the case of an individual who is not married, within the meaning of section 143, and who is not a surviving spouse, as defined in section 2(a))."

(d) Return Requirements.—

(1) Clause (i) of section 6012(a)(1)(A) of the Internal Revenue Code of 1954 is amended by striking out "$3,300" and inserting in lieu thereof "the sum of the exemption amount and the zero bracket amount applicable to such an individual".

(2) Clause (ii) of section 6012(a)(1)(A) of such Code is amended by striking out "$4,400" and inserting in lieu thereof "the sum of the exemption amount plus the zero bracket amount applicable to such an individual".

(3) Clause (iii) of section 6012(a)(1)(A) of such Code is amended by striking out "$5,400" and inserting in lieu thereof "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return".

(4) Paragraph (1) of section 6012(a) of such Code is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(5) Paragraph (1) of section 6012(a) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) For purposes of this paragraph—

"(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

"(ii) The term 'exemption amount' has the meaning given to such term by section 151(f)."

(6) Subparagraph (A) of section 6013(b)(3) of such Code is amended—

(A) by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount",

(B) by striking out "$2,000" each place it appears and inserting in lieu thereof "twice the exemption amount", and

(C) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'exemption amount' has the meaning given to such term by section 151(f)."

(e) Effective Dates.—

(1) The amendments made by subsections (a) and (c) of this section shall apply to taxable years beginning after December 31, 1980.

(2) The amendments made by subsection (b) of this section shall apply to remuneration paid after December 31, 1980.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, the

Senate, for several days, has been considering the issue of windfall gains. For the bulk of the time that this issue has been under debate, we have been concerned about the windfall gains which are actually or, at least, allegedly accruing to the oil companies.

Mr. President, I ask unanimous consent that the names of Senator HAYAKAWA, Senator ROTH, Senator DURENBERGER, and Senator PERCY be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, it is my purpose, as well as that of Mr. DOLE and the other cosponsors of the amendment, to call the attention of the Senate to another kind of windfall that is occurring, a windfall which is accruing to the Government of the United States, unintended by the taxpayers of the Nation. Silently, a little every day, a windfall is accruing to the tax coffers of the United States, at the expense of the Nation's wage earners and consumers. In a very real sense, it is a far more sinister, far more unfair and dangerous economically harmful windfall than any other windfall that has been under discussion during the course of this bill.

I am referring to the windfall tax revenues that accrue to the Federal Treasury as a result of the interaction of inflation and the graduated Federal income tax. This inflation has caused American taxpayers and consumers more than $15 billion within the last 2 years.

Taxflation—that is, inflation pushing taxpayers into higher graduated brackets—is silent and insidious. Prices go up. Working men and women get wage increases—if they are fortunate enough to hold jobs in industries that permit them to get cost-of-living increases—in the hope of keeping pace with rising prices. Unfortunately, they are then pushed into higher tax brackets. Immediately, a greater proportion of their income goes to taxes, even though their real income has stayed the same, or, in many instances, actually has declined.

As a result of taxflation, most Americans today are paying taxes at rates which originally were expected to apply only to the very rich. Nearly 44 percent of the typical family budget now goes to pay taxes—44 percent for taxes in a typical family. We are not talking about the upper crust. We are not talking about the privileged few. We are not talking about the wealthy. We are talking about everyday, typical, normal, average taxpayers. They are spending today more for taxes than for food, clothing, or shelter. Indeed, they are spending more for taxes than all these items combined.

A recent article in the Wall Street Journal pointed out the case well. It cited the example of a median income family of four in 1964 earning $8,132. That family was in the 18-percent-tax bracket. While the median income of a family of four has risen in the years since 1964 from $8,132 to $18,815 in 1979, that family is now in the 21-percent-tax bracket.

As the article notes—

> Because the 1979 family is in a higher tax bracket than its 1964 counterpart, and pays more for social security, its after-tax income, adjusted for inflation, is worth far less. Precisely, its purchasing power is $1,056 less, in terms of the dollar's 1979 value, than that of the 1964 family.

I suggest that in a nation where rising expectations have been the norm for two centuries—indeed, for more than two centuries, even predating the formation of our National Government—when we have thought in terms of rising expectations, of hard work, of thrift, of increasing productivity and a spiraling cycle of prosperity, this kind of trend is almost unthinkable. Indeed, it is almost un-American to force the Nation's working men and women to work harder and harder year after year, not just to stay even but, as if they were on a treadmill, actually to slide backward.

Taxflation—the interaction of the graduated income tax and inflation rates—is likely to be even worse in the years ahead, precisely because inflation is getting worse. Every time inflation goes up 1 point, taxes go up 1½ points. If the present rate of inflation persists and tax brackets stay the same, the median income family in this country will be in the 50-percent bracket 10 years from now.

According to the Joint Taxation Committee, if the current rates of taxation remain the same, taxflation will cost the American people $172.6 billion during the next 5 years.

I note in passing, without wanting to get wrapped around the action with respect to the oil companies at this point, that it is more than 2½ times the combined profits for the 10 largest oil companies since 1973, and nearly 4 times larger than the combined assets of the 5 largest oil companies. I mention that as a point of reference, because one of the key features of the measure now under consideration is the profits of oil companies and the attempts of Senators to tax the windfall.

This brings into perspective the true extent of the windfall which accrues to the Government as a result of taxflation. It is my belief, and I think it is backed up by the evidence, that taxflation is one of the main reasons why inflation itself seems to be accelerating. The effect of this tax phenomenon of the income tax and inflation interreacting is to transfer wealth from the productive sector to the Government sector.

This diversion of wealth from productive to unproductive uses is the principal reason why the productivity of the American economy has plunged in recent years. Once the entire world looked to us for leadership in the economic area. Today, we rank dead last among all industrialized nations in the rate of capital formation, and we are scraping the bottom of the barrel in the rate of productivity growth as well.

Inflation, as we know, is literally too many dollars chasing too few goods. Taxflation, by inhibiting the economic growth of the Nation, cuts down on the number of goods and services for dollars to chase and thus is a direct contributor to the inflation rate.

I think we need to put an end to this unfair tax system, as a matter of justice as well as a matter of sound economic policy. There is a simple, straightforward way we can do so. We can put an end to taxflation once and for all by adopting the amendment which Senator DOLE and I have brought before the Senate today.

This amendment would index the Tax Code so that tax brackets, credits, and deductions would automatically be adjusted each year to keep pace with inflation.

It cannot be argued that this concept of indexing is just a theory that needs to be tested and studied further before it can be put into practice. In my State of Colorado, the State legislature recently adopted this sound principle, and I understand that five other States have done the same, with good results. Indexing is also in practice in Canada, France, West Germany, Brazil, and Denmark. In each of these countries, the indexing concept is working, and working well.

Nor can we in the Senate claim to be strangers to this concept. I think that, at one time or another, virtually every Member of the Senate has voted for indexing some of the money we spend. As a matter of fact, $5 of every $8 of the Federal budget is automatically adjusted for changes in the price level.

What we are suggesting in this amendment is that if it makes sense to index the spending side, would it not be a good idea to hold harmless the Nation's taxpayers by indexing the tax rates as well?

Indexing is fair and sensible. It is economically wise. It is a tested concept. It is easy to do. So far as I can see, there is no good reason not to act on it today.

In a few moments, I will discuss the impact of tax indexing on individuals within each State. It seems to me that when we discuss economic policy, there is a great temptation to talk in terms of macroeconomics and to think in terms of billions and hundreds of billions. I hope that some time during the course of the debate, I will have an opportunity to relate it in a more personal way to individual taxpaying families.

I will yield the floor at this time, for the comments of others. First, I ask unanimous consent to have printed in the RECORD the article from the Wall Street Journal to which I referred, and I reserve the remainder of my time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AS SALARIES CLIMB WITH PRICES, PEOPLE PAY MORE OF INCOME IN TAXES DESPITE RATE CUTS

(By Alfred L. Malabre Jr.)

What goes up as it comes down?

The chart at the right contains the answer: the rate at which the average taxpayer hands over income to Uncle Sam.

As the chart indicates, taxpayers in 1964 shelled out just over 12 percent of their earnings, on the average, in federal taxes. Now, the rate is close to 18 percent.

But the rise has come during a period of repeated tax-rate *reductions*.

Federal income-tax rates were cut in 1964 and again in 1965. The reductions during the two years averaged about 25 percent. In 1964, for example, the top-bracket rate was chopped to 77 percent from 91 percent and the bottom-bracket rate to 16 percent from 20 percent. In 1965, the top rate was trimmed further to 70 percent and the bottom rate to 14 percent. These remain the top and bottom rates.

What amounts to another rate cut for most taxpayers, however, went into effect this year. Personal exemptions were increased to $1,000 from $750 and various tax brackets were widened so as to trim many rates slightly. A family earning $18,000, for instance, now pays a top rate of 21 percent in federal taxes, a percentage point less than a year ago.

ACCELERATING INFLATION

This paradox of climbing *actual* rates of taxation and falling *official* tax rates has developed, by no coincidence, during 15 years of sharply worsening inflation. In 1964, where the chart begins, the consumer price index rose only 1.2 percent. In 1969, the index increased about 6 percent. Now, the index regularly rises at annual rates that extend into double-digit territory.

As prices have increased more and more rapidly, so has income. Altogether since 1964, the consumer price index has climbed some 137 percent, and income has risen at roughly the same pace. For example, a congressional study shows that in 1964 the median income of a family of four was $8,132, and it now stands at $18,815. That amounts to a gain of some 131 percent, or just slightly less than the 15-year price climb.

At first glance, such numbers suggest that the family's wherewithal has kept up reasonably well with inflation. However, the income figure of $18,815 puts the 1979 family in a tax bracket where its last dollar earned is taxed at a rate of 21 percent. The comparable rate for the 1964 family, with its income of $8,132, works out to 18 percent.

Because the 1979 family is in a higher tax bracket than its 1964 counterpart, and pays more for Social Security, its after-tax income, adjusted for inflation, is worth far less. Precisely, its purchasing power is $1,056 less, in terms of the dollar's 1979 value, than that of the 1964 family.

The study also looks ahead several years. It assumes, perhaps with too much optimism, that the consumer price index will climb 8.5 percent next year and then 8 percent annually through 1983. Under present tax regulations, the family earning a median income of $25,717 in 1983 would pay at a top federal tax rate of 24 percent. And, in terms of the dollar's 1979 value, its purchasing power would be $1,561 less than that of the comparable 1964 family and $505 less than today's counterpart.

"A good rule of thumb," says Lacy H. Hunt, chief economist of Philadelphia's Fidelity Bank, "is that a 10 percent increase in income will raise a family's federal income taxes by about 16 percent." Mr. Hunt, among other analysts, has worked out estimates of the federal tax bite in the years just ahead. "Continuing inflation," he says, "virtually guarantees a continuation of the trend" evident in the chart. He reckons that the average amount of income paid in federal taxes will cross 18 percent in the current quarter, reach 19.1 percent in the last quarter of 1980, and surpass the 20 percent level soon thereafter.

During much of this period, the economist adds, business will probably be in a recession. He looks for declining economic activity in the current quarter and through the first three quarters of next year.

The picture is even bleaker than such estimates indicate, many analysts contend. "It's very hard to get a firm handle on the extent to which the state and local tax bite aggravates the situation, but there can be no question that it makes matters even worse," says Spencer S. Reibman, a congressional staff economist who specializes in tax questions.

His view is supported by data from the Tax Foundation, which conducts research in the area of taxation. In 1964, according to the nonprofit organization, state and local tax payments amounted to some 9 percent of the value of the economy's output. The comparable figure now is about 12 percent. On account of such tax-cutting measures as California's much-publicized Proposition 13, this rate has recently held at about the 12 percent level. However, Elliott Dubin, a Tax Foundation analyst, feels that the long-term climb will probably resume. Among the reasons: a growing need to finance the soaring costs of state and local employe pension programs.

THE INDEXING IDEA

One way to prevent the expanding tax bite that inflation brings, of course, would be tax indexing. In fact, several bills are pending in Congress that, in one fashion or another, would offset any movement into a higher bracket caused simply by inflation. Under such plans, generally, the family earning $18,815 this year would be in no higher a tax bracket than the equivalent family earning $8,132 in 1964.

Tax indexing is already practiced elsewhere. For several years, for instance, Canadian tax rates have been automatically lowered to offset increases in the country's consumer price index.

It remains doubtful that any such program will be adopted in the U.S. soon. Opposition to the idea is widespread in Washington. Some officials contend that tax indexing, by merely treating one effect of inflation, would tend to weaken governmental resolve in curbing the overall price spiral. In the short term, moreover, indexing would probably reduce federal tax revenues. Understandably, a considerable fraction of the federal bureaucracy, as well as many legislators, takes an unenthusiastic view of that eventuality.

Many analysts, nonetheless, are convinced that in light of today's intractable inflation, some form of indexing must soon be instituted. Fidelity Bank's Mr. Hunt, for example, favors passage of a "taxpayers' protection amendment" sponsored by Congressman John H. Rousselot of California and Sen. William L. Armstrong of Colorado. It would require, among other things, that federal tax rates be reduced each year "to offset the effects of inflation." Among the proposal's "desirable features," Mr. Hunt says, is that "Congress, not being able to rely on inflation to raise taxes, would be forced to design a more efficient tax system."

A RANGE OF USES

It can be argued, of course, that a rising tax bite is an economic plus. After all, this theory holds, the tax money that the federal government collects can be put to many important uses, from defense projects to assisting the poor to helping balance the federal budget.

Many economists contend, on the other hand, that the overriding effect of an ever-larger tax bite is highly detrimental. They maintain that the trend serves to restrict growth within the economy's private sector, and they add that in any event much of the tax money collected by Uncle Sam tends to be spent wastefully.

The pattern shown in the chart, it should be added, raises a serious question about the value of various employe retirement programs. In such plans, typically, employes are allowed to defer taxes on a portion of their earnings set aside yearly with a trustee and invested to build up a retirement nest egg. Taxes on such money are due only after retirement. The idea is that the tax rate then would be far lower because retirement income will doubtless be much skimpier than income received on the job.

However, if inflation continues at anything like the recent rate, it is likely that a worker's retirement income will exceed income earned during much of his working life. One study shows, for example, that a 35-year-old employe earning $10,000 a year and, in an inflationary economy, receiving 8% annual raises will arrive at the $100,000 pay level within 30 years. If he then retires at a retirement income of, say, half that figure, under current tax rules he would be in a much higher bracket than in many on-the-job years. Dollars set aside years before, supposedly to enjoy a lower tax rate after retirement, would actually be taxed more heavily. And, of course, their purchasing power would be severely reduced by 30 years of inflation.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, will the able Senator yield?

Mr. ARMSTRONG. I am pleased to yield to the distinguished Senator.

Mr. HELMS. I thank the Senator from Colorado.

Mr. President, I strongly support the pending amendment, just as I always have supported any effort to provide for the indexing of personal income taxes.

This Senator has cosponsored legislation to accomplish this goal because of the basic inequity of the present tax system, which has constantly increased taxes through and by inflation.

Mr. President, the Senate on a number of occasions has acted to restrict the Internal Revenue Service when the IRS has extended its interpretation of the tax code to effectively increase taxes. In other words, when inventive bureaucrats in the IRS have written regulations making certain groups of people subject to a tax not previously levied by this Congress, then Congress on many occasions has reversed such regulations and properly so.

Often the good offices of the able chairman of the Finance Committee have been used to make clear to officials of the administration, specifically the Internal Revenue Service, that the imposition of new taxes is the prerogative of Congress and not within the purview of anyone in the IRS.

So, what we are talking about here is the concept of the rights of Congress and the responsibility of Congress to take and keep charge of the imposition of taxes. The question is whether Congress shall refuse to allow bureaucrats to increase taxes, or to allow any set of circumstances to have that effect.

As the Senator from Colorado has so ably said, what we are talking about is fair play to the taxpayers of this country. They are being snookered day after day, week after week, month after month, by deficit spending authorized by this Congress: Defict spending which fuels inflation and thereby results in what amounts to additional taxes on the people.

But, speaking of the IRS, if Congress has in the past stopped the Internal Revenue Service bureaucrats from reinterpreting the Tax Code and thus raising taxes, why do we let other forces or other bureaucrats or a combination of the two to do the same and get by with it?

The bureaucracy in question in this case is the Federal Reserve System because the Fed is the bureaucracy which determines the money supply of this Nation. When the Federal Reserve System bureaucrats decide, for whatever reason satisfactory to them, that this country should have a greater money supply, the tools of monetary policy are used to pump up the supply of dollars and credit. When the money supply grows faster than the real needs of the economy, and when it grows faster than the productivity of the economy, obviously prices will go up. That is precisely what has happened.

That is the fix we are in in this country today, and that is the reason, Mr. President, that this amendment is absolutely essential if we are to play fair with the American people. We constantly assure them that we have their interest in mind. Let us prove it. Let us prove it. Let us prove it by adopting this amendment.

Congress is an accessory if not the principal culprit in the rampant inflation plaguing this country. After all, it is Congress which year after year has been voting massive deficits requiring the floating of massive Government bonds. The Federal Reserve officers, all the while, have felt obliged to buy those bonds in order to minimize the short-term impact of the Federal deficit.

So the dog chases its tail. When that happens the money supply goes up, the productivity, at best, stays where it is or drops, as is the case right now in this country. And when that happens prices go up and wages go up, not because of any productivity increase, but simply to maintain a real and constant level of purchasing power. At least that has been the hope. The American people now realize that this has been an exercise in futility.

Mr. President, a citizen whose salary goes up by 10 percent in a year, when the cost of living goes up 10 percent, is not receiving a wage increase—not a real one. He is playing an arithmetical game with funny money but scarcely more than that.

An increase in salary equal to the increase in the cost of living is in reality a reduction in real pay, Mr. President. Why? It is a reduction in real income because the worker's taxes go up by more than 10 percent.

We have a progressive income tax structure, as the Senator from Colorado has so eloquently said. That means that higher income levels mean higher tax rates, and that, in turn, means that inflation effectively increases tax rates with no real increase in income in terms of the purchasing power of the dollar.

So the inflation plaguing the American people, a curse tolerated and rationalized by long-outmoded Keynesian economics, is not a simple economic phenomenon with no side effects other than rising price levels. Inflation hits people. It hits families. And it hits the average workingman and his family harder than anyone else. It robs the people of their savings. It destroys the efficiency of the marketplace. It encourages even more debt, and it discourages thrift.

Mr. President, inflation also increases revenue to the Federal Government, as the Senator from Colorado has said, because it effectively raises taxes by 1½ percent for every 1 percent of inflation. That is the new kind of "windfall profit tax" that the Senator from Colorado was talking about a moment ago.

Perhaps worst of all, Mr. President, it allows Congress to participate in and perpetuate a charade, a charade of shirking one of its most important responsibilities—the levying of taxes fairly and equitably upon the American people.

Inflation is now the principal tax-writing authority in this country, not Congress. Inflation decides how hard the working people are going to be hit, not Congress. Inflation allows Congress to increase taxes and penalize people for working without ever a vote by Congress on these new, higher, and confiscatory taxes.

So, Mr. President, the amendment before the Senate would shift the responsibility back to Congress. This amendment would force Congress to vote on tax increases and take the responsibility for it. At the very minimum it would remove a terrible economic incentive for the Government to impose more inflation on the people.

Mr. President, I thank the Senator from Colorado for yielding to me. I want him to know that I support his amendment vigorously, and I commend him for offering it.

Mr. ARMSTRONG. Mr. President, I am very grateful to the distinguished Senator from North Carolina for his participation, for his leadership, in this issue.

I think there is, perhaps, no Member of the Senate now or at any time in the history of our country who has so fully exemplified the concept of trustee relationship between a Senator and the people he serves, particularly over financial matters entrusted to the Senator. His voting record reflects that; his leadership in speaking out and in proposing amendments over the years reflect that, and I congratulate him and welcome his support.

Mr. HELMS. I thank the Senator.

Mr. ARMSTRONG. I would like to observe that by saying what he has the Senator from North Carolina has endorsed an amendment which will save, if it were in effect now would save, $92.96 for every taxpayer in his State in 1979, and an estimated $154.66 per taxpayer were this amendment in effect in 1980. So it is a matter that really does come down to individual citizens and individual taxpayers.

I would like to yield, if I might, to the distinguished Senator who really is the father of tax cutting in this body, my friend Bill Roth.

Mr. ROTH. I thank the distinguished Senator from Colorado who, in his short time in the Senate, has already made a record for his interest in fiscal integrity in Government.

Mr. President, I can think of no reform more important than the indexing of the Federal income tax. I am a sponsor of this amendment. I originally proposed such legislation in 1974, and the reason I call this one of the greatest reforms before the Congress is that this game of inflation, higher taxes, has been the greatest game in Washington for the last 25 or 30 years.

Make no mistake, the reason why Government has grown so fast, the reason why there has been such a proliferation of new programs and new spending is that the big spenders have found an approach that has enabled them to constantly raise taxes but not have to vote for higher taxes.

Inflation has worked against the interests of everyone but government. Down through the years inflation has been the sparkplug of government growth because each year it has provided more and more purchasing power to the Federal Government.

We all know that inflation is harmful to the individual, to the working people of America, who are less able to meet the cost of living. We know that it has had a negative impact in the private sector on business, making it very difficult, for example, for businesses to replace plants and equipment, which is the primary cause of our being unable to compete with the Japanese and West Germans, who have the most up-to-date plants in the world. To replace a plant today at today's costs is out of range when compared to what it probably cost to build that same plant 15 or 20 years ago.

But contrary to the working people of America, contrary to the impact on the private sector, business in particular, inflation has appeared to be the friend of the bureaucrat, and by bureaucrat I mean Congress as well, because with inflation the workers get cost-of-living increases because of the progressivity of our income tax which pushes individuals into higher rates of taxation.

Each year this means the Federal Government is receiving more dollars, more revenue, not only inflated dollars but actual purchasing power. As a result, each year Congress has been able to vote for more and more spending programs without having to vote for the taxes to finance them.

So I say this has been the greatest game in town because what has happened is by having inflation the Federal Government gets a greater income, Congress is able to vote for more and more spending programs and, oh, yes, every once in a while, every 2 years, they go back home with some small, moderate tax cut. But those tax cuts never put the American people back where they were before inflation.

That is happening today. The average American family of four, with a median income of roughly $18,000 to $20,000, will be paying an additional $927 in taxes between 1980 and 1981. Roughly $600 of that $900 is due to inflation.

Now, until we make it unprofitable for the bureaucrats, unprofitable for the Members of Congress to have inflation, we are in a serious plight.

What the distinguished Senator from Colorado and his colleague, Senator Dole, from Kansas, who has been such a strong fighter for indexing, are saying is, "Let us take the incentive of inflation out by removing the additional taxes that would fall to the Federal Government as a result of inflation."

What we are saying is that each year the income tax rates would move upward to offset the impact of inflation, and in that way the Government gets no additional income, no additional revenues. So we take out the incentive or desire for inflation that has been too typical in the past.

For that reason, as I say, I think this is one of the most important reforms we can have in Washington because I know there is no problem bothering the American people more than inflation and the state of our economy, and I hope the Senate will have the courage today to vote affirmatively on this amendment of Senator ARMSTRONG, which I am happy to support and, I believe, is essential to Government reform.

I yield back the floor.

The PRESIDING OFFICER (Mr. FORD). Who yields time?

Mr. ARMSTRONG. I appreciate very much the comments of the Senator from Delaware.

I would point out the Senator from Delaware, who has shown such tremendous creative and reflective leadership on tax policy in the last several years, that the effect of taxflation, that is, of the inflation operating on the graduated income tax, is estimated in the chart which appears in the back of the Chamber at $15 billion.

The reason why I direct his attention to it is really twofold: First, because after the chart was prepared the estimate had to be revised. We could not even get our chart up to date. The current estimate, I am now told, is $19 billion as the total cost of taxflation in 1980.

Mr. ROTH. I would just like to add this point, because I want to underscore what the distinguished Senator is saying. I think it is shocking when one stops and recognizes that by 1990 it is estimated that an additional $600 billion will be taken out of the private economy because of inflation, $600 billion, which is a tremendous amount of money that is needed back in the private sector if we are going to be competitive with the Japanese and the German. So the Senator's point is well-taken. It is taxflation that really is destroying our economy.

Mr. ARMSTRONG. The Senator is entirely correct. I wanted to relate that directly to his own State of Delaware.

The minority staff of the Senate Finance Committee has prepared some very interesting statistics which relate to the national taxflation windfall for the Government for the years 1979 and 1980 back to taxpayers in the various States.

In the Senator's State of Delaware, the tax windfall to the Federal Government for 1979 is estimated to be $34,500,000, and for 1980 $57,400,000. This comes to $115 per taxpayer in his State this year, and $192 per taxpayer in his State next year.

The reason why I wanted to relate this directly to individual taxpayers is that, as the Senator knows so well, we are not talking about blips on some economist's chart; we are talking about human hardships, people who will not be able to put away money for their children's education, or be able to buy their children's shoes. We are talking about young couples priced out of the housing market. We are talking about a human tragedy of very great proportions.

I stress, Mr. President, that when I talk about $115 this year and $192 estimated next year, I am not talking about the total taxes paid. I am talking about just the portion of the total Federal tax bill that bears on each individual taxpayer as a result of the taxflation. Of course, you double that if there are two taxpayers in the family.

The Senator's point is very well taken, and although it is not now the pending business, I can say I was greatly disappointed that we did not have just three more Senators who were ready to stand up and vote for his amendment last night, because the world would have been changed if it had been adopted, as it surely will be in the near future.

As a taxpayer, I thank the Senator for his interest and support of this amendment, and his leadership on this issue.

Mr. HART. Mr. President, will the Senator from Colorado yield for a question?

Mr. ARMSTRONG. Mr. President, I am happy to yield to my distinguished colleague from Colorado for a question or whatever business he may have.

Mr. HART. Mr. President, as the Senator knows, I support this amendment and have for 3 years. I intend to offer a perfecting amendment to it which has been discussed with his staff, which would bring it into line with an almost identical amendment that the former Senator from Michigan, Mr. Griffin, and I offered a couple of years ago, in October 1978.

Given the agreement which exists on time, it would require unanimous consent for that perfecting amendment to be in order. I wonder if the Senator from Colorado will agree to such unanimous-consent request, in order that that amendment may be brought up.

Mr. ARMSTRONG. Mr. President, I am happy to agree to that. I have looked at the amendment. In fact, after the Senator has had a chance to explain his amendment, I might wish to comment on it myself.

Before I yield to the Senator for that purpose, may I say I appreciate the leadership he has shown. Not only today, but on many occasions in the past, he has stood for the principle of tax indexing, and I appreciate his coming to the floor to bring this amendment before us.

Mr. HART. I thank my colleague.

Mr. President, I ask unanimous consent that it be in order to offer a perfecting amendment to the pending amendment, notwithstanding the unanimous-consent agreement which otherwise prevents it.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, will the Senator from Colorado indicate again what his unanimous-consent request is?

Mr. HART. The request is that it be in order to offer a perfecting amendment to the pending amendment, notwithstanding the time agreement which presently prevails. The sponsors of the amendment are agreeable, I think, to accepting this perfecting amendment. In brief, it adds one section to provide a study by the Joint Committee on Taxation on the effect of tax indexing.

Mr. HARRY F. BYRD, JR. May I ask the Senator from Colorado, it is a study by——

Mr. HART. The Joint Committee on Taxation.

Mr. HARRY F. BYRD, JR. The Joint Committee on Taxation?

Mr. HART. Yes, of all of the effects. We will send the distinguished floor manager a copy of this perfecting amendment. It is simply a page and a half amendment to provide for a study by the Joint Committee on Taxation.

The PRESIDING OFFICER. If the Senator from Colorado will yield, the only reason the Senator from Colorado needs unanimous consent is that the time has not expired on the amendment of the Senator from Colorado (Mr. ARMSTRONG), or all remaining time been yielded back. Otherwise, the Senator could offer the amendment at any time.

Mr. HARRY F. BYRD, JR. Will the Senator from Colorado withhold his unanimous-consent request temporarily, so that we may have an opportunity to examine the amendment?

Mr. HART. The request is withdrawn.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. HARRY F. BYRD, JR. First, Mr. President, let me say, in connection with the amendment offered by the Senator from Colorado (Mr. ARMSTRONG), that I feel that Senator ARMSTRONG is a Senator of great ability. I feel that he has represented the people of Colorado and the people of the United States in an outstanding way.

Senator ARMSTRONG is taking a very important leadership role in attempting to fashion a constitutional amendment which would mandate a balanced budget and put a ceiling on Government spending. I am pleased to have worked closely with Senator ARMSTRONG in this endeavor, I think it is a vitally important effort, and I hope that such a constitutional amendment will eventually be adopted by the Congress and ultimately by the individual States.

However, when it comes to this particular amendment offered by the Senator from Colorado to the pending legislation, namely, the indexing of individual income taxes, I have some difficulty with that amendment.

I would like to support it. As the able Senator from Colorado has pointed out, the Senator from Delaware has pointed out, and the Senator from North Carolina has pointed out, inflation has been a windfall to the Federal Government. The Federal Government is just about the only beneficiary of inflation. The Government gains from inflation; maybe that is one reason why inflation is so difficult to get under control.

The reason why I have hesitancy in supporting the Armstrong amendment to index the individual income tax is that I am not yet convinced that it would not have the effect of stimulating inflation.

As I see it, if we are to get inflation under control, we must do it first by getting Federal spending under control. Some progress is being made in that regard. The Senator from Colorado has helped immensely in bringing about that progress.

If further progress is to be made, it must be made by the American people bringing pressure on their representatives in the Senate and the House of Representatives to get Federal spending under control and to bring about a balanced budget. One reason why the American people have become aroused, as I see it, at the extent of Government spending, is that it is being felt so severely by all citizens in the amount of taxes which are being required to pay.

My hesitancy in supporting an indexing of the tax is that it seems to me it would tend to perpetuate inflation, rather than to control inflation.

I may be wrong in that view and I may at some subsequent time support an indexing. But at the moment, I am not convinced that it will work in the manner in which those who advocate it hope and feel that it will work.

I would be inclined to support, I believe, an indexing of the capital gains tax because I think that is in a different category. And I will mention why in a moment. But, insofar as an indexing of the income tax is concerned, I am not yet persuaded that it would be wise.

When we come to the capital gains tax, a great deal of the increase in value is brought about by inflation. Homes that were worth, just to take a figure, $20,000 a few years ago are now bringing $80,000. The bulk of that increase results from inflation.

So I would be inclined to support an indexing of the capital gains tax, but at the moment, I would find it difficult to support indexing of the income tax.

Nevertheless, I do commend the able Senator from Colorado (Mr. ARMSTRONG) for focusing attention on this problem of inflation. It is the most serious problem facing our Nation today—the most serious problem facing the individual citizen—and Congress has an obligation and the executive branch of Government has an obligation to get inflation under control.

My only concern about the pending amendment is that it will not accomplish that need.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado (Mr. HART).

Mr. HART. Mr. President, I ask unanimous consent that it be in order to offer at this time a perfecting amendment to the pending amendment, notwithstanding the consent agreement which presently prevails.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator may proceed.

UP AMENDMENT NO. 864

Mr. HART. I thank the Chair and I thank the distinguished floor manager.

Mr. President, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 864 as a perfecting amendment to the Armstrong amendment numbered 695.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following:

"SEC. . STUDY OF EFFECTS OF INDEXING.—

"(1) STUDY.—The Joint Committee on taxation, in cooperation with Department of the Treasury, shall—

"(A) conduct a study and investigation with respect to changes in the distribution of Federal individual income tax returns and income reported on such returns across marginal brackets during calendar years 1960 through the latest calendar year for which information is available before the completion of such study, including an estimate of the effects which making adjustments for cost-of-living increases would have had following the Revenue Act of 1964 on—

"(i) the gross national product,

"(ii) employment and unemployment,

"(iii) wages and the personal disposable income of individuals,

"(iv) individual income tax liability,

"(v) personal or individual savings,

"(vi) interest rates,

"(vii) prices,

"(viii) Federal revenues,

"(ix) tax shelters, and

"(x) such other economic statistics which the Joint Committee on Taxation determines appropriate; and

"(B) conduct a study and investigation with respect to the estimated effect of the amendments made by the provisions of this section during the first two taxable years for which it is in effect on the items referred to in clauses (i) through (x) of subparagraph (A).

"(2) RECORDS.—The Joint Committee on Taxation shall report to the Congress—

"(A) with respect to its findings under the study conducted under paragraph (1) (A) no later than January 1, 1983 and

"(B) with respect to its findings under the study conducted under paragraph (1) (B) no later than January 1, 1984.

The PRESIDING OFFICER. Who yields time to the Senator from Colorado (Mr. HART)?

Mr. HART. Will the Senator from Colorado (Mr. ARMSTRONG) yield 5 minutes to me?

Mr. ARMSTRONG. Mr. President, I am glad to yield that time to my colleague from Colorado.

May I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 38 minutes.

Mr. ARMSTRONG. Mr. President, my colleague asked for 5 minutes, but let me yield him 10 minutes.

Mr. HART. I thank my colleague. I will not need that much time.

The PRESIDING OFFICER. The Senator may proceed for not to exceed 10 minutes.

Mr. HART. Mr. President, as my colleagues know, I have had a longstanding interest in legislation to index the Tax Code to the rate of inflation. In the last Congress, I introduced a bill to do just this, and in October of 1978, during the consideration of the 1978 Revenue Act, I joined with Senator Griffin to form a bipartisan coalition which proposed an indexing amendment. I am pleased to say that the amendment we offered at that time to index the individual income tax brackets, the zero bracket deduction, and the personal exemption received more support than any other similar indexing legislation to come before the U.S. Congress in recent years.

Because the amendment offered by Senators DOLE and ARMSTRONG is nearly identical to last year's Griffin-Hart amendment, I am pleased to join them as a cosponsor. And I would ask my colleague from Colorado to add my name as a cosponsor of this amendment.

There is one difference, however, which I consider important and I know Senator Griffin did as well. Our amendment provided for a study to be conducted by the Council on Wage and Price Stability to analyze the effects of indexing on our tax structure and economy. This analysis would be available before the indexing provisions expires at the end of 4 years. I believe such an analysis is essential if Congress is to make a sound judgment at that time on whether or not to continue indexing. Accordingly, I offer this perfecting amendment to the Dole-Armstrong amendment to provide for this important study. The only difference in this case being that the study would be conducted by the Joint Committee on Taxation, instead of by the Council on Wage and Price Stability. I hope my colleagues and particularly the sponsors of the pending amendment will accept this amendment. If so, it will eliminate virtually all differences between the bipartisan proposal which I authored last year and the amendment now pending.

Mr. President, this amendment is more important now than ever before. Inflation continues to push people into higher and higher tax brackets, even though they may have no increase in their real income. Their average tax rate rises, that is, their tax burden grows faster than the rate of inflation. The result is that they have less to spend, and even worse, less to save and invest. The most effective way to remedy this situation is to adjust the Tax Code for inflation. Inflation adjustments, or indexing as this procedure is sometimes called, automatically correct the income tax system to prevent inflation from pushing taxpayers into higher and higher tax brackets.

Ironically, the big winner in times of high inflation is the Government. The Government has had a vested interest in maintaining inflation since the current system permits the Government a windfall tax profit of about $6 billion a year. Indexing would end Washington's inflation bonus.

More importantly, it would encourage fiscal responsibility since an indexed tax system would require Congress to reduce and control spending or take the necessary action to acquire additional funds. What we have now is taxation without legislation. The question, quite simply, is one of accountability. The question is whether Congress should continue to use the unlegislated tax of inflation to subsidize new legislative initiatives. I believe it is fundamentally wrong for the U.S. Treasury to be reaping a windfall in increased revenues each year, without the Congress ever having to enact a tax bill that the President must sign. The Federal Government will continue to take advantage of this destructive economic phenomenon unless Congress acts now.

Of course, indexing personal income taxes cannot be a correction for all the inequities of the current income tax law, nor need it be the final determining factor about the size of income tax revenues. Adoption of tax indexing does not preclude any other changes the President wishes to propose or the Congress wishes to enact. With indexation, the Congress could, of course, still change the degree of income tax progression or the amount of income tax collections. Income tax indexation simply guarantees that taxpayers will not be subject to nonlegislated tax increases.

Mr. President, indexing is truly an idea whose time has come. I urge my colleagues to support both the perfecting amendment, which is at the desk, and the Dole-Armstrong amendment.

I add a word of congratulations to the sponsors of that amendment for bringing it before the Senate once again. I think it is an extremely important piece of equity legislation.

I thank my colleague.

Mr. ARMSTRONG. Mr. President, I think my colleague's amendment is a good amendment. As I have said before, it is my intention to support it. I hope the amendment will be accepted. I think the perfecting amendment is not controversial. I think it adds greatly to the amendment which is pending. I appreciate my colleague's participation, and I emphasize again not only his participation here on the floor today, but on many occasions when he has spoken out in behalf of the concept of the Dole-Armstrong amendment.

The PRESIDING OFFICER. The question now is on agreeing to the perfecting amendment by the senior Senator from Colorado (Mr. HART).

The amendment was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendmotion on the table.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, at this time I yield 10 minutes to my distinguished colleague from Minnesota (Mr. DURENBERGER).

Mr. DURENBERGER. Mr. President, my colleagues Senators DOLE and ARMSTRONG are to be commended for calling up their amendment to index the personal income tax. I strongly support the amendment and, in fact, would go much further and index other provisions of the Internal Revenue Code. I recently introduced S. 1974, a bill that would eliminate inflation from the individual income tax rates, the corporate tax rates, capital gains, and the depreciation deduction.

Each year, as incomes rise to keep up with the cost of living, millions of workers find themselves in higher tax brackets. The increased tax burden often robs the worker of any real increase in spendable earnings. In fact, today's average worker has had no real increase in real spendable earnings after taxes and inflation since 1965. That is 14 years of stagnant real spendable income even though nominal wages have more than doubled.

We can all agree that inflation pushes people into higher tax brackets. Our socalled tax cuts of recent years have not kept pace with inflation, especially if we include social security taxes. The marginal taxes taken out of each cost-of-living raise have reached amazing levels. Even middle-income taxpayers now face tax rates of 40 to 50 percent on each additional dollar earned.

What we do not agree on is what the Congress should do about the problem.

Mr. President, my colleagues have clearly laid out the economic and equitable rationale for the pending amendment, and I would like to comment on the primary objections that have been made to tax indexing.

The charge is made that if the tax structure were to be indexed, the taxpayers might gain since they would not suffer inflationary tax increases, but the Government would lose since there would be a reduction in income for the Federal Government. The major refutation of this objection is that the indexing does not cause a loss of revenues, but it merely prevents automatic real increases. We can only say that the increase is "loss" if it is assumed that the Federal Government has a right to inflation-induced increases in tax revenues in the absence of specific legislation raising taxes. Tax indexing does not prevent increases in taxes, but it does prevent automatic increases.

For example, inflation does not increase tax revenues in proportion to the price level. It increases revenues faster, because it pushes people into higher tax brackets. The Joint Economic Committee has released a study showing that revenue rises 1.5 percent for each 1 percent increase in prices. At current rates of inflation, taxpayers earning $10,000 in 1978 will be earning $50,000 around the year 2000. Indexing would hold Government revenues to a 10-percent increase when prices rose 10 percent. Thus, it does not deny the Government the revenues needed to keep up with prices. It simply denies the Government its automatic windfall from inflation. If the Congress feels that present revenue is not adequate to meet what they see as the needs of public policy in the Federal budget and they wish to eliminate or reduce the deficit, they have the power to enact further increases.

A second argument made is that Congress does make periodic tax reductions and thus rebates the so-called fiscal dividend.

Tax cuts are widely publicized, but in reality are these so-called tax cuts really tax cuts? If recent tax cuts do nothing more than try to make up the harm resulting from automatic tax increases, would not it be better to have Congress devote its time to more substantial issues than to work on a process which could be completed automatically? Opponents argue that if inflation has caused exceptional problems, Congress could take care of the problem and it should not be by a system of automatic indexing. The political reason becomes obvious: Legislated tax cuts are visible and widely publicized; inflationary tax increases are less visible and less publicized. Even with the limited publicity on inflationary-induced tax increases it seems that the magnitude and the distorting effects of the increases for the entire economy are not widely recognized.

It was generally recognized that several billions of dollars of taxes on 1978 income were rebated, but it was not generally recognized that inflation during that year had increased taxes by roughly the same amount. A distorted picture of congressional tax policy is presented when the tax cuts are publicized, but the constant inflation-induced increases are minimized by virtual nonrecognition. Tax indexing offers the advantage of accountability—only legislated tax increases may occur, any tax cuts or rebates or reduction would be real reductions in taxes, and credit will be given to Congress only for real and actual decreases in the tax burden.

For example, Congress has widely taken credit for tax reduction in 1975, 1976, 1977, and 1978, yet the average taxpayer has not benefited from a real reduction in income tax liability.

Mr. President, I can only conclude that indexing has been opposed by Congress because we get credit only once.

Mr. President, a third argument made by the opponents of indexation is that the automatic stabilization of inflation that is incorporated in the progressive tax system will be lost.

The progressive tax system is supposed to act as an automatic stabilizer. Booms are supposed to be accompanied by inflation. During booms, real income rises, and, coupled with inflation, pushes people into higher tax brackets. The Government taxes away a bigger slice of income, dampening the boom and restraining the inflation. Recessions are supposedly marked by declining real incomes and either little inflation or actual deflation. Declining income brings people down into lower tax brackets, the tax burden falls, and the economy is automatically stimulated.

This theory has broken down in our high inflation environment. We began the last recession with 10 to 12 percent inflation. Although the recession slowed this to 6 percent, this is still far higher than the normal postrecession rate of inflation. In fact, inflation was pushing wages and prices up faster than real incomes were falling throughout the recession. This meant that nominal incomes rose in spite of the recession, and that, in spite of falling real income, people were driven into higher tax brackets. They paid a rising share of a falling income to the Government. Automatic stabilization became automatic destabilization, and helped to prolong the recession.

Mr. President, I believe the income tax should be made inflation neutral. I believe the Congress should handle all real tax changes in a deliberate manner after analysis and debate. The current tax code, coupled with inflation, changes taxes by stealth, and without our attention. This amendment should be adopted for the sake of fairness, openness in Government, economic stability, and rational policymaking.

I thank the Senator from Colorado for yielding.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I am pleased to yield to the Senator from Illinois, but let me respond to my colleague from Minnesota and say how much I appreciate his thoughtful and concise remarks. How much time have I remaining, Mr. President?

The PRESIDING OFFICER. Twenty-three minutes and thirty-five seconds.

Mr. ARMSTRONG. I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. PERCY. Mr. President, I was cosponsor of the Tax Equalization Act of 1979 introduced by Senator DOLE which is identical to the present amendment. I am very pleased now to be a cosponsor of the Dole-Armstrong amendment which is now pending, and I commend my distinguished colleagues from Kansas and Colorado for their perception of what is troubling Americans today more than almost anything else.

Inflation is hurting Americans, but inflation in taxes is probably the harshest penalty that they are paying.

Some months ago a young woman stopped me in an elevator in the First National Bank building in Chicago. She said, "Senator PERCY, it is just absolutely unjust, this tax system that we have. I received a wage increase. I earn $13,000 a year. I received a wage increase of $1,040 that was supposed to fully compensate me for the increased inflation. As a result, however, I move into another tax bracket and I do not have sufficient income to compensate for inflation at all."

It is the bracket creep that people agonize over. They get increases for inflation and it simply does not show up in the real income they are able to keep and spend.

This amendment will eliminate the bracket creep for individuals and reduce the most inflationary item in the average family's budget, Federal taxation. The Dole-Armstrong amendment, by indexing individual tax rates and personal exemption tax rates, will correspond to real income as they are meant to. Further, the progressive tax structure will be stabilized and will be certain.

The real effective rate of tax, as a percentage of real income, rises steadily.

The Federal Government gets the resulting windfall in tax revenues without having to make a single change in tax policy. For a 10-percent rate of inflation, the Treasury reaps a 16.5-percent increase in revenues. Inflation therefore creates a hidden tax. Taxpayers who receive modest cost-of-living pay increases, like this woman in Chicago, who just received a presumed inflationary wage increase, are pushed into higher tax brackets where our progressive tax rate takes a bigger bite of income without the worker having retained increased purchasing power.

I am pleased, therefore, to cosponsor this amendment. I again commend my distinguished colleagues for offering it and trust that we shall be joined by a majority of our colleagues on the vote.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I very much appreciate the contribution of the Senator from Illinois. I appreciate his statesmanship and leadership on this issue as on so many others.

Mr. President, I now yield 5 minutes to my distinguished colleague from Kansas (Mrs. KASSEBAUM).

The PRESIDING OFFICER. The Senator from Kansas has not more than 5 minutes.

Mrs. KASSEBAUM. Mr. President, I am delighted to speak for a few minutes in favor of this amendment because it is an amendment that has been guided and shepherded and fathered by my distinguished colleague from Kansas (Mr. DOLE).

The concept of the Tax Equalization Act which is embodied in the present amendment should be understood as providing taxpayers with some relief from inflation. It is not a cure for inflation. Opponents of indexation have claimed that indexation does nothing to stop inflation.

It is a concern that I have had as I have thought about this issue for the past couple of years. Perhaps this may be so. But if we do not delude ourselves that it is a cure, then it does offer some relief from inflated taxes. This is what I think is very important. It is not futhering inflation.

Indexing may help keep wage increases down. Without indexing, a worker realizes that a wage increase that just keeps pace with inflation will push him into a higher tax bracket. In order for him to achieve a real gain, his wages must rise faster than the cost of living. The inflation penalty inherent in the present tax structure is one of the basic causes for inflationary wage demands, since workers must receive inflationary wage increases in excess of the cost-of-living increase. Simply to maintain the actual value of their take-home pay.

What this amendment does is shift some of the burden of inflation off the shoulders of the taxpayers. It requires that government, the principal inflation generator, assume a greater share of that burden.

To me, this is one of the most important aspects of this amendment.

Indexing will have a positive effect in controlling inflation in two respects. First, the Federal Government will no longer be in a position of profiting from inflation. Second, indexing will enable workers to moderate their wage demands, because they will not need raises in excess of the cost of living just to keep up with taxes.

I think, as we consider this important issue, as has been done over the past few years, we should not think that it will be, as I say, a cure for inflation but only something that will help us address inflation and be better able to meet it. Then we shall have to get on with the work here on how to cure inflation.

I thank the Chair. I appreciate the Senator's yielding time.

Mr. ARMSTRONG. Mr. President, the Senator from Kansas, as usual, has summed up the situation in a way which is impossible, it seems to me, to differ with. I very much appreciate her comments.

I especially appreciate her pointing out the leadership role her colleague from Kansas (Mr. DOLE) has had on this issue over a long period of time.

Somebody said earlier this afternoon that this is an idea whose time has come. I think that could be right, that we are going to pass this amendment. If not, we shall pass it soon, because it is so evidently needed by the country. When that time comes, much of the credit will go to BOB DOLE, who has led the fight day after day, year after year, to bring an end to this public plight.

Mr. President, I am going to reserve the remainder of my time. In fact, it is my intention that the remainder of my time, with the exception of 1 minute, be allocated to Mr. DOLE. He is traveling here and I think he should have the opportunity to use the time in support of his amendment.

Mr. DECONCINI. If the Senator from Colorado will yield, I should like to have 3 or 4 minutes in support of the Senator's amendment.

Mr. ARMSTRONG. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER (Mr. BURDICK). The Senator has 15 minutes and 15 seconds.

Mr. JACKSON. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. 67.5 minutes.

Mr. JACKSON. How many minutes does the Senator need?

Mr. DECONCINI. Four minutes.

Mr. JACKSON. I yield 4 minutes to the Senator from New Mexico.

Mr. DECONCINI. I thank the Senator from Washington and the Senator from Colorado.

Mr. President, I rise in support of the amendment. The debate continues over whether the United States has entered a recession, and indeed it has not yet come to everyone, but the inflation that has come upon all Americans in many, many cases is a recession to the particular people who can no longer afford the standard of living they are used to and that they want for their families.

The drop in unemployment during the last quarter indicates that there is some steam left in the prolonged recovery from the 1974–75 recession. At the same time, it is generally acknowledged that the monetary and fiscal restraint needed now to bring down the inflation rate make a visible downturn in the economy likely. Hopefully, the economy will straighten out and inflation will come under control. The question now becomes, how will we deal with recession without dropping our guard against inflation? Our danger is that we will again run into the economic phenomenon of the 70's known as stagflation—high unemployment and high inflation occurring simultaneously. There are no easy answers, but surely we can agree that it is foolish to permit the continuation of policies that aggravate the situation. One such policy demands our immediate attention.

The income tax system allows taxes to rise automatically in periods of inflation. When income rises to keep up with the price increases, a higher rate of tax is imposed under our progressive income tax system. Thus taxes go up even though real income has not grown, and we have an effective across-the-board tax increase. Congress need do nothing for the Government to receive this revenue windfall, other than decline to follow effective antiinflationary policies.

There have been efforts to stem the tide of continuous Government overspending. The budget resolution passed by both Houses now will bring forward a balanced budget, hopefully, in 1981, but that is always iffy on a number of things, including the nature and the health of our economy.

This system has been defended on the ground that automatic tax increases help stabilize the economy in times of high inflation. This automatic stabilizer theory assumes that inflation is caused by excess demand, and that an increased tax bite will cut demand and moderate inflation. This theory ignores the cost-push factor in inflation, and overstates the impact a tax increase can have on panic buying, when people are so convinced that inflation will continue at a high rate that they are determined to buy today rather than wait to see what the price will be tomorrow. But the automatic stabilizer theory has an even more serious drawback.

In times of stagflation, the automatic stabilizer becomes a destabilizer. During periods of high unemployment the "automatic stabilizer" has a destabilizing effect, draining off income and reducing purchasing power. That purchasing power might otherwise be used for consumption or for investment that could help build a period of stable growth. The last recession, in 1974 and 1975, would have been less severe had taxflation—the automatic tax increase from inflation—been eliminated. Taxflation cuts back the important marginal income that otherwise helps ameliorate the problems of stagflation.

We should not make the same mistake again. The tax equalization amendment would eliminate taxflation by requiring modification of the tax brackets, zero bracket amount, and personal exemption to compensate for the effects of inflation. The adjustments would mean that tax rates would correspond to constant levels of real income unless Congress acted to change the rates. The danger of aggravating stagflation would be reduced.

In this time of economic uncertainty, it would be wise for the Congress to address itself to the issue of tax equalization.

Mr. President, I ask unanimous consent that my name be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield 4 minutes to the junior Senator from Rhode Island and 5 minutes to the junior Senator from New Hampshire, in that order.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the Senator from Washington very much for yielding this time.

Mr. President, I congratulate the junior Senator from Colorado, the junior Senator from Kansas, and the Senator from Arizona for their very eloquent remarks.

Directing my concerns to the Senator from Colorado, I am deeply worried about this amendment, which has great attraction and really would accomplish something that we all want to accomplish; namely increased take-home pay of our citizens. However, the danger in it, as I see it, is that it is insulating a group from the ravages of inflation, from the evils of inflation.

Harsh though it may sound, I do not think we are going to get the whole country's energies concentrated upon licking inflation until all of us feel the effects of it.

There are now certain groups in our society that are insulated—not completely, and I do not want any misunderstanding of my remarks—but certain groups are insulated to a great degree from the ravages of inflation. I am speaking in particular of military Federal Government retirees.

Their pensions are indexed. While this does not compensate entirely—and I do not want to be misunderstood—for what inflation is doing, to a substantial degree it does insulate them, compared to the rest of our citizens, from inflation.

Therefore, I cannot help assume that inflation is less of a concern for that group than it is for the others in our Nation.

This proposal is another step to insulate a group; namely, wage earners, and all of us who are making our living from working. It would keep us from having our earnings diminished by our being pushed into high brackets, as is currently the case. If this kind of insulation takes place, it will help them; that is fine. But, they will have less concern about licking this vicious evil—namely, inflation.

Many groups in our society are not going to be protected; and the ones we think of most readily are the elderly who are trying to live on their savings; the elderly who have set aside money during their working days and followed the American ethic of saving. We were taught that in school, through school savings, and saved throughout our working years. Now these savings are being eroded every year. They will have less voice, and a substantial part of this society will be insulated from this vicious phenomenon we call inflation.

It seems to me that if we are going to lick this thing, it will require that all of us feel the pain and all of us get the dedication to do something about it. The only way inflation is going to be licked is to bring the Federal Government budget into balance. That is the principal cause of inflation. I do not think any economist will argue with that.

So, harsh as the effects of this current system are, and although many object to the Government benefiting, if the Government benefits to the extent that the deficit incurred by the Federal Government is overcome, maybe that will help us solve this terrible problem.

I find great eloquence in what the Senator from Colorado and the Senator from Kansas are saying, but I raise with them my concerns.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I strongly support this tax equalization amendment to prevent the continuation of nonlegislated tax increases.

I am sure that all Senators receive letters daily, as I do, from constituents who are crying out for relief from inflation and who are, in particular, asking for the ability to keep more of their hard earned dollars.

The taxpayer is suffering from inflation, while the U.S. Treasury is benefiting from it at the taxpayers expense. According to the Joint Committee on Taxation, in 1978 taxes were increased by nearly $9 billion. The rise in tax liability in recent years is further demonstrated by a Census Bureau report. The report states that taxes collected by all levels of government in the United States increased by 59.5 percent between 1971 and 1977. Over a 6-year period the tax burden became half again as large as it had been. Revenues from corporate and individual income taxes grew by 70.6 percent. The rise in income tax revenues came from the rise in personal and corporate income and from the fact that people moved into higher tax brackets, paying a larger share of their rising income in taxes. These figures clearly show why our citizens are looking for tax relief and why the rate of U.S. productivity and savings are alarmingly low.

Major tax reform is urgently needed to stimulate real economic growth. Unless this amendment is passed, Federal taxes will increase to record levels—Federal taxes as a percent of gross national product will exceed 20 percent for the first time in 10 years; business investment and consumer spending will continue to decline; there will be continued inflation.

We are all aware that the present progressive income tax rates are designed to distribute the tax burden toward those citizens who are best able to pay. Thus, it is expected that a rise in real income will increase the rate of tax that the taxpayer must pay.

But what is actually happening? The effective tax rate is increasing even though the taxpayer's real income is not. This phenomenon occurs when inflation raises the nominal income level, although the taxpayer's purchasing power has not risen. Our progressive income tax structure does not differentiate between growth in real income and growth in nominal income.

It is easy to see that the tax burden is too high, but it is not as easy for all of us to agree on how to moderate that burden in ways that will allow for the equitable treatment of the individual taxpayer and at the same time encourage greater rates of savings, investment and productivity. How can we meet this challenge responsibly? Where should we reduce taxes, and to what degree?

Mr. President, this tax equalization amendment is fair, responsible, and necessary. We must not delay any further in undertaking tax reform. We must begin now by adjusting taxes to eliminate the penalty on taxpayers for keeping up with inflation. The reason is that the inflation tax penalty—taxflation—destroys the advantage of marginal income gains, thereby discouraging productivity gains. Taxflation also discourages savings by reducing disposable income. Finally, the inflation tax penalty hurts people in proportion to their position on the scale of progressive taxation. It hits the lower and middle income levels hardest because the width of the tax brackets is much less at the bottom of the scale. The case for eliminating taxation is compelling. A tax indexing system is desperately needed to avoid future automatic tax increases caused by inflation.

The remedy is today before us. The tax equalization amendment would end the inflation tax penalty. It would do so by requiring annual adjustment of the tax brackets, zero bracket amount, and personal exemption according to the rise in the Consumer Price Index for the previous fiscal year. By adopting this procedure, we can guarantee that the progressive income tax will be fairly and predictably geared to levels of real income. The progressive income tax will then operate as intended. Alternative approaches to eliminating taxflation do not have the same benefits. Periodic tax cuts are often hostage to political haggling, and they do not benefit all taxpayers in proportion to the taxflation penalty they suffer. The problem is built in to the tax system, and it requires a structural reform for its correction.

Under our present progressive tax system, even if an individual's wages increase to keep up with the rate of inflation, that taxpayers will lose purchasing power. The wage increase will push the individual up into a higher tax bracket and increase that person's tax bill. The taxpayer ends up behind, not ahead.

This nonlegislated tax increase, caused in inflation, increases the tax burden to all taxpayers. A refusal to vote for this amendment is a vote to deal with our excessive government spending problems by increasing our constituents' tax burden.

Increased taxes drain money from the private sector and slows economic growth. In an effort to ease inflationary pressures, to increase saving and investment, to expand productivity and to create new jobs in the private sector, I urge Senators to give their constituents the substantial tax relief they deserve. I urge Senators to vote "yes" on the Dole-Armstrong tax equalization amendment.

Mr. President, in plain English, the American people are being cheated by their Government. They are being cheated by being taxed on income which they do not enjoy. They are bein taxed on minimal increases in their income, even though they enjoy no greater purchasing power, no higher standard of living.

Is it any wonder that there is a spirit of malaise in this country, when our people are being cheated by their own Government?

Here is a way to put an end to that cheating. It is about time some good economic news emanated from Washington.

This is a bipartisan issue. I am delighted to see Senators on both sides of the aisle supporting this, both parties, across lines of philosophy. It is a nonpartisan issue. It is one whose time has come.

I hope this is a Christmas present we can give to our long-suffering taxpayers who so badly deserve it.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield 5 minutes to the junior Senator from Iowa (Mr. JEPSEN).

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I rise in support of the Armstrong-Dole amendment to index individual income tax rates to inflation.

Mr. President, this is not a new issue; it has been around for a long time. The question is very simple: Are we going to allow inflation to push people into higher tax brackets year after year, or are we going to stop letting inflation do our dirty work for us and index the tax system for inflation? Those on the other side of the aisle have been most vocal in opposing indexation, just as they oppose virtually all efforts to reduce the tax burden on the American people—as yesterday's vote on the Roth amendment clearly shows. They are going to tell us that we cannot afford the massive tax cut implied by indexation. They will tell us that it will mean continued budget deficits, inflation, and massive cuts in necessary programs like defense. These points are demonstrably incorrect and I feel certain that the American people will make their displeasure with rising Federal tax rates next November.

The fact is that the tax increase, which takes place daily, caused by inflation is enormous. And this tax increase, resulting from bracket creep, comes on top of legislated social security tax increases and the windfall profits tax which, contrary to what most people seem to believe, is ultimately going to be paid for by the people. As I said yesterday, corporations do not pay taxes, people pay taxes. And calling this a windfall profits tax on oil companies does not change this fact. Ultimately all taxes on corporations are paid by their stockholders, employees and consumers of its products. I think that if this fact were more widely recognized that this tax would never have gotten off the ground.

Recently, the Joint Committee on Taxation estimated the magnitude of the tax increase for individuals resulting from inflation and social security. Assuming an inflation rate of 10.6 percent in 1980 and 9.3 percent in 1981, income taxes will increase $15.6 billion in 1980 and $32.9 billion in 1981. Thus, the total tax increase amounts to $16.2 billion next year and $47.6 billion in 1981.

I should point out that this inflation tax increase of which I speak is not just a current phenomenon. It has been going on for years and Congress has not adequately adjusted for it. Although taxes have been cut frequently they were illusory, because they barely compensated for tax increases in dollar terms, and because these tax cuts have been shaped in such a way that people in the lower end of the income scale have benefited at the expense of upper income taxpayers. Unfortunately, because of inflation, last year's high income has become today's median income, and thus many people now find themselves affected by high marginal tax rates to be reserved only for the "rich."

I am including at the end of my statement two tables which illustrate my point. The first shows the effective Federal tax rate for a family of four earning the median income from 1965 to 1981. In 1965 the median family earned approximately $8,272 per year and paid $789 in social security and Federal income taxes. This came to 9.5 percent of that family's income. By 1981, on the other hand, the median income will be $22,456. Keep in mind that the buying power of $22,456 in 1981 is no greater than $8,272 was in 1965. Nevertheless, the median family will pay $3,924 in Federal taxes in 1981 and this will consume 17.5 percent of its income.

Along with this massive tax increase in effective tax rates there has been a massive erosion of incentive. Not only are individuals paying more total taxes, they are paying significantly more out of each additional dollar they earn today than they were in 1965. The second table shows that the number of taxpayers affected by high marginal tax rates is increasing dramatically. In 1965 a mere 1.3 percent of taxpayers were affected by tax rates above 30 percent. In the most recent year available—1976—more than eight times as many taxpayers were affected by such rates. In 1965 only 4.9 percent of taxpayers were affected by tax rates above 25 percent. By 1976 this number had increased to more than a third of all taxpayers. In 1965 only 12.7 percent of taxpayers were affected by tax rates above 20 percent. In 1976 over half of all taxpayers were affected.

Mr. President, I believe that these massive tax increases are responsible for many of our Nation's economic problems. High tax rates reduce the tradeoff between savings and consumption, and the tradeoff between work and leisure. As a result we have less work and less savings. It is no surprise, therefore, that the United States has the lowest rate of savings and the lowest rate of productivity growth of any industrialized nation. And things are going to continue to get worse unless we do something to stop the increase in taxes.

I assume, as happened yesterday, that the Budget Committee will raise strong objections to this amendment. And, as I said yesterday, this only proves that the function of the budget process is to balance the budget on the backs of the taxpayers. The budget process has been an absolute failure in terms of reducing spending. The Budget Committee could not even hold the 1980 budget deficit below the level for 1979, and we do not have a recession or any other legitimate excuse for this except for the lack of will to control spending.

But the failure to control spending does not justify higher taxes. I favor a balanced budget as much as anyone, but I do not want to see the budget balanced with increased taxes. I want to see it balanced with reduced spending. Fortunately for the Budget Committee inflation raises taxes automatically. Individual incomes tax revenues rise approximately two-thirds faster than the rate of inflation. Thus, to get more revenue it is only necessary to not cut taxes and allow people to be pushed into higher tax brackets.

The 1979 Joint Economic report makes clear that the way to stop inflation is by increasing productivity. Increasing taxes works against this goal, by reducing savings, investment, and production. Thus, allowing taxes to rise will actually make inflation worse, not better.

I think this is an extremely important vote and I urge all my colleagues to support the Armstrong-Dole indexing amendment.

Mr. President, I ask unanimous consent that the tables to which I have made reference be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—FEDERAL INCOME AND SOCIAL SECURITY TAXES FOR A FAMILY OF 4 WITH $17,105 IN INCOME[1]

Year	Income	Federal income tax	Effective income tax rate	Social security tax	Federal income and social security taxes	Effective Federal tax rate
1965	$8,272	$615	7.4	$174	$789	9.5
1966	8,509	649	7.6	277	926	10.9
1967	8,754	685	7.8	290	975	11.1
1968	9,122	[2] 794	8.7	343	1,137	12.5
1969	9,612	[3] 891	9.3	374	1,265	13.2
1970	10,181	[4] 896	8.8	374	1,270	12.5
1971	10,618	919	8.7	406	1,325	12.5
1972	10,969	933	8.5	468	1,401	12.8
1973	11,651	995	8.5	632	1,627	14.0
1974	$12,929	[5] $1,063	8.2	$756	$1,819	14.1
1975	14,111	1,234	8.7	825	2,059	14.6
1976	14,925	1,308	8.8	873	2,181	14.6
1977	15,888	1,471	9.3	929	2,400	15.1
1978	17,105	1,678	9.8	1,035	2,713	15.9
1979	18,918	1,838	9.7	1,160	2,998	15.8
1980	20,678	2,123	10.3	1,268	3,391	16.4
1981	22,456	2,431	10.8	1,493	3,924	17.5

[1] Assuming that income changes as does the consumer price index and that deductible expenses are 23 percent of income. The CPI is assumed to rise by 10.6 percent in 1979, by 9.3 percent in 1980, and by 8.6 percent in 1981.

[2] Including a $55 surcharge.

[3] Including a $81 surcharge.

[4] Including a $22 surcharge

[5] Including a $118 tax rebate paid in May 1975.

Source: Joint Committee on Taxation.

TABLE II.—PERCENT OF TAXABLE RETURNS CLASSIFIED BY HIGHEST MARGINAL RATE AT WHICH TAX WAS COMPUTED

Marginal tax bracket	1965		1975		1976	
	Percent of taxable returns	Cumulative percent	Percent of taxable returns	Cumulative percent	Percent of taxable returns	Cumulative percent
60 to 70	0.1	0.1	0.2	0.2	0.3	0.3
50 to 59	.3	.4	.9	1.1	1.0	1.3
40 to 49	.4	.7	1.3	2.4	1.6	2.9
30 to 39	1.3	2.0	6.3	8.7	8.1	11.0
25 to 29	4.9	7.0	20.3	29.0	22.6	33.6
20 to 24	12.7	19.6	24.2	53.3	23.9	57.6
14 to 19	80.4	100.0	46.7	100.0	42.4	100.0

Source: Internal Revenue Service, "Statistics of Income, Individual Income Tax Returns."

Mr. JEPSEN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, this amendment is premature; it does not provide any tax advantage to any citizen until the year 1981.

Even without this amendment, we are going to have to make a major fiscal decision next year. The question is, do we pursue our effort to balance the budget or are we going to take the view that tax reduction claims a higher priority?

It is not likely that we can both balance the budget and index the Tax Code at the same time.

The President said that he was going to submit a balanced budget for 1981. We in the Senate took him at his word, and, last March, we amended the debt limit bill so that a balanced budget must be submitted by the President and also the Budget Committees must propose a balanced budget, even though they might propose an alternative budget that would be unbalanced, when that fiscal proposal might be the better part of wisdom.

But Congress should look at that choice when the time is appropriate to see what our current fiscal situation is and to consider these problems and the prospects for the next year, which then will be 1981, against the pressures for inflation and recession on the economy at that time.

This amendment would prejudge that choice. It would commit us to a major tax reduction to adjust for inflation which would greatly reduce Government revenues and might very well make it impossible to balance the budget.

I really believe that most Senators would like to vote for a balanced budget. They would also like to vote to reduce spending. They would also like to vote to reduce taxes.

But when faced with a hard choice when they cannot do all of them at the same time, and they have to work out a mix which has to take into account the national priorities, and also what is possible and what is not possible, they are usually better able to see what is best in the national interest when they are nearer the point where the decision has to be executed than they are voting several years before they will take effect.

Now, under the circumstances, Mr. President, before we try to decide how big a tax cut we can afford, it would be wise if Congress would defer this decision until we have had the benefit of the studies that will be made available by the administration, the Treasury, and the other departments of Government, and it would be best if we would have the budget proposals of the President and the Office of Management and Budget, and if we have the thoughtful recommendations of the legislative committees of Congress, including the coordinating considerations by the Budget Committees, and the review in the budget process.

Now, we have peridically voted to reduce taxes to take into account the increase in the cost of living. We have also voted to reduce taxes usually by even more than the inflationary impact as far as the low-income and lowest part of the middle-income parts of our economy are concerned.

Some of those who are the strongest advocates for the indexing procedure are those in the higher tax brackets because some of the so-called tax reform bills have given the biggest tax cuts, in relative terms, at the lower income levels, to the low-income people and the lower middle-income people, feeling that they needed the tax cut more, that they had a greater need for the money than those who were in the higher tax brackets.

It can be contended that those who are the most successful people in America, who make a big contribution when thev start the new businesses and start new payrolls, have not had their share of tax cuts, and the people interested in trying to encourage capital accumulation and investments that lead to newer jobs and more productivity have not had their fair share.

But one cannot say that, Mr. President, when you look at the 1978 tax cut bill. It was my privilege to manage that bill, and the business community, the most successful people of this country, got the best of it. They got a substantial tax cut, even in relative terms, greater than any segment of the American economv at that point. It was long overdue, and it was justified because in other bills in 1976, 1975, and in previous years that group had been slighted. In many cases, they had taken a tax increase, when, all things considered, they had a right to expect that they also should share in the tax cut that was being voted across the board for others.

But one can no longer contend that Congress does not have the ability, the inclination, or the will to vote tax reductions for business and for successful people when the case can be made. I know that is so because that is why we were able to make those changes in 1978. The side that did not feel that way about it, that wanted to heap a great deal more taxes on the business community were defeated at the polls, so that it has been proved you can vote to reduce taxes for all segments of the economy, including the business community, and be reelected.

So I have no doubt that when Congress looks at this matter next year it will make wise decisions and do justice with regard to all, and it will probably make wiser decisions when considering the cuts in the budget process than it could now by trying to cut taxes across the board now without considering the budget outlook at the same time.

Mr. President, some years ago various groups for various reasons argued that we ought to index the social security system. We did. Bankruptcy has been predicted for that system ever since that day. Prior to that time we would pass a law from time to time to adjust social security taxes to the circumstances. We would usually increase the benefits, and we kept the program sound all through those years. Since we started automatic indexing, we have been facing a prospect of bankruptcy of that fund time and again.

Mr. President, indexing does not solve inflation. It tends to contribute to inflation. When there is a big pay raise as a result of a strike, or negotiations between management and labor, or some other major change, one segment of the economy moves up its price or its wages, and it moves everything else up with it. In that respect indexing tends to contribute to inflation. It moves people who would be fighting against inflation, the taxpayers in this case, over to the ranks of those who do not really care because they will have their inflation problem adjusted for and taken care of by automatic tax rate changes as suggested by this amendment, and as is the case with the social security program.

Therefore, Mr. President, this is something that ought to be studied not just by the Finance Committee, but all committees ought to look at the parts of it that involve the activities and responsibilities of those committees, whether the Appropriations Committee, the Budget Committee, the Banking Committee, the Commerce Committee, all of them, and they should make their contribution to the deliberation of a tax cut as well as the contribution they can make toward achieving a balanced budget.

Therefore, Mr. President, it is my judgment that the amendment should not be approved here as an amendment to a windfall profit tax bill. This matter ought to be considered next year and, at that point, I believe Congress could much better decide who should have a tax cut next year—that is, for 1981—and how much.

We may very well decide then that having a balanced budget ought to claim a higher priority, and if so, looking at all the circumstances, we ought to have the chance to consider that choice.

There are a lot of people who are very much upset about the fact that this Nation has not achieved a balanced budget in many years, and there are a lot of people concerned about the fact that we have not adequately provided for national defense.

Those are all things, Mr. President, that should be taken into account, and we can do it better in the decisions on the budget resolution and in the regular legislative process. We could do much better at that time than we can with an amendment offered here and debated during an hour or two with very scant attendance on the Senate floor; we cannot try to solve all of the problems before we have a chance to see what happens to the economy, wherein we will have increases in spending, wherein we will have reductions in Government income, and without hearing the proposals that will be made to provide more carefully and with greater specific consideration for all segments of the American economy.

Therefore I urge that the Senate not agree to the amendment at this point and that this matter be reserved for consideration next year.

I am prepared to yield the floor, Mr. President, or, unless someone cares to speak, I will suggest the absence of a quorum.

Mr. ARMSTRONG. Mr. President, how much time have we remaining on my side?

The PRESIDING OFFICER (Mr. BRADLEY). The Senator has 15 minutes.

Mr. ARMSTRONG. I would like to yield myself 3 minutes, and then it would be my intention to reserve the remaining 12 minutes for the Senator from Kansas who will arrive very shortly and will be prepared to sum up the arguments on our side.

First, to dispose of some housekeeping items, Mr. President, I ask unanimous consent that the following Senators be added to the amendment as cosponsors: Senators HEFLIN, THURMOND, JEPSEN, HART, SCHMITT, and PERCY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the Senator from Idaho (Mr. McCLURE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. I would like to dispose very quickly of a number of red herrings which have been brought to the floor in the last hour or so. First of all, this is not a tax cut. This is an attempt to head off the scheduled tax increase. Even if this was a tax cut, it would be well justified. Certainly it would not raise the question of the unbalanced budget that the distinguished chairman of the Finance Committee has brought up because, after all, we are raising in this bill at least $185 billion in taxes that are going to be extracted from the private sector and being pumped into the Government programs.

I am a budget balancer, and every Member of the Senate knows it, but I do not favor balancing the budget on the backs of the taxpayers by raising taxes. Even if I did, and any Senator who thinks we ought to raise taxes, and there are some who have expressed themselves in that way, and they are saying it is so important to balance the budget and that we ought to balance the budget, those who feel that way can vote for this Dole-Armstrong amendment in good conscience because all we are talking about is giving back a portion, Mr. President, of the tax increase in this bill to the individual income-tax payers.

So we can clearly have a balanced budget and this modest tax reduction for individual income-tax payers.

May I point out to the distinguished Senator from Louisiana, the chairman of the Finance Committee, that the

Budget Committee itself in its projections for the years in question has built in the assumption of tax reductions and, in fact, larger tax reductions than suggested by this amendment.

This is only the first step toward moderating the tax increases built into the system at the present time.

Last but not least, I point out that indexing, which has been disparaged here during the last few minutes, is not something new. In fact, indexing is the very issue involved in the windfall profits tax legislation which is now before the Senate. It is not such a brand new idea that we cannot do it for the oil companies. It is not such a brand new idea that we cannot do it for social security, that we cannot do it for SSI, that we cannot do it for food stamps, or that we cannot do it for Senators.

Everybody on the receiving end, I would point out, with a handful of exceptions, is indexed. All the tax receivers, with few exceptions, are indexed for inflation. This is just fair play. Let us give a break to the people who are paying the bill.

Mr. President, I note that the father of this idea——

The PRESIDING OFFICER. The Senator from Colorado has used his 3 minutes.

Mr. ARMSTRONG. I yield myself 30 seconds more.

I note that the father of tax indexing, the Senator from Kansas (Mr. DOLE) has arrived, and I am going to yield to him in a moment.

As I pointed out before his arrival, indexing is an idea he has championed. He brought it to the floor of the Senate before it was popular; and if today it passes, as I hope and believe it will, the credit is due to him and others who fought the battle long ago and raised the public consciousness of the importance of this issue.

With that, Mr. President, I yield all remaining time on our side to the Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, may I inquire how much time remains? Is the Senator from Louisiana going to move to table at 2:30?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. DOLE. Mr. President, I appreciate the kind words of my friend from Colorado, and I apologize for being tardy today. Let me say at the outset, this idea has been kicking around Congress for some time. As I look back over the past few years, I remember this matter being discussed at a breakfast meeting probably 8, 9, or 10 years ago, when Senator Buckley was presiding at that breakfast with Milton Friedman.

Then when Senator Buckley left Congress, I believe it was Bob Taft of Ohio who took on the responsibility of promoting indexing, and then when Bob Taft left the Senate, he passed it on to Ed Brooke and Bob Griffin, and when they left the Senate—they did not leave because of indexing, but when they left the Senate, the Senator from Kansas became more active. So it has been an idea that has been around for a long time. It has been the opinion of this Senator that it enjoys bipartisan support. We now have six States which, in some degree, index: the States of Iowa, Wisconsin, California, Arizona, and a couple of others; and so, sooner or later, I believe we will index the Federal tax system.

More than 60 percent of Federal programs are indexed. The House, a couple of years ago, voted to index capital gains. That was deleted in conference, but I think it was a good idea, and some day it will be enacted.

Indexing is not an accommodation to inflation—inflation is burden enough. Furthermore, ending taxflation eliminates an automatic Government bonus from inflation.

The Senator from Kansas points out to those who are looking for an issue that the American people understand, that people do understand taxflation. If people are making $15,000 a year, and the inflation is only 8 percent, so that they receive a cost of living adjustment of 8 percent, which then gives that worker $16,200 just to keep up with inflation, all the way home that man or woman might believe they have kept up with inflation. But then they are told by their neighbor, "You are in a higher tax bracket, and you are going to pay $258 more in Federal taxes. You are going to pay taxes on inflation. You are not keeping up with inflation in the cost of living, because you are in a higher tax bracket."

Mr. President, that is something American working men and women understand. It is what this amendment addresses.

Mr. President, polls may not mean a great deal. Polls measure certain things. The last poll that I know of on indexing was taken by the Roper organization, and the Finance Committee had the benefit of that poll in July of 1978. 57 percent of the American people at that time preferred inflation adjustments built into the tax system as opposed to periodic tax cuts the Government makes to offset inflation. That is another matter that has previously been discussed by the Senator from Colorado (Mr. ARMSTRONG), who has been a leader in this effort.

So we have proposed an amendment to equalize taxes with respect to inflation. Many of my colleagues will recognize my amendment as the Tax Equalization Act, S. 12, which I introduced in January of this year. My amendment would end automatic tax increases caused by inflation. The tax brackets, zero bracket amount, and personal exemption would be adjusted each year. The adjustment would correspond to the percentage rise in the Consumer Price Index for the previous fiscal year. Withholding tables that take account of inflation can then be prepared. No one would get an automatic tax increase just because of inflation, or would the Government get a revenue windfall. The automatic adjustments would be made through 1984, at which point Congress could review them and determine whether to continue indexing.

We are talking about tax cuts, and we ought to be. It is a healthy development when the question is how tax cuts can be structured to help the economy grow at a steady pace without inflation. There is general agreement that some sort of tax relief will be needed, and the debate is over timing and substance. I say this is a healthy thing because it means we realize that it is time to rethink our tax policies in a major way.

We want to reduce and redirect taxes without busting the budget. We will need to consider spending cuts in some areas, or we can set aside some of the revenues brought in by the windfall profit tax. But we are also learning that tax cuts do not always reduce revenues. Last year's capital gains tax reduction may prove to bear that out. In any event, the emphasis is shifting toward tax reduction that brings stable economic growth. We want to roll taxes back to the point where people are encouraged to work, and businesses to expand, without fearing that they will gain nothing because of increased taxes. We need to find that point at which the rising tax burden is a net drag on the economy. The distinguished Senator from Delaware (Mr. ROTH) deserves the greatest credit for bringing us to focus on this aspect of tax policy.

Mr. President, there can be little doubt that, with the personal income tax, we have passed the point where rate increases are productive for the Nation. They are not productive. They are harmful, and the growth of the personal tax burden is a major cause of our sluggish economic performance. Increasing the income tax burden is bad policy. Rather, it could be called bad policy, if it were the result of conscious decision, conscientiously made by this Congress. But it is not policy at all. It is the consequence of an abdication of responsibility by this Congress with regard to tax policy.

Congress likes to cut taxes. Congress likes to cut taxes on even-numbered years, and Presidents like to propose tax cuts on even-numbered years; so we can look forward to a tax cut in 1980. Congress likes to try to make people believe that, through our beneficence, we give them a tax cut, giving them back some of their money. But we find out that in most instances it is not really a tax cut; it is just sort of an inflation adjustment, to make them think they are keeping up with inflation. So indexing is more honest.

Indexing has been tried, and it has worked. Canada began indexing in 1974, and they adjust their tax system by the rise in the consumer price index for the last fiscal year. Other countries, including France, Luxembourg, Denmark, Israel, Brazil, the Netherlands, and Australia have indexing features in their tax laws. I mentioned the States of California, Arizona, Iowa, Colorado, but I neglected to mention Minnesota and Wisconsin also have indexed income taxes.

It just seems to me that we have an opportunity here, in the $500 billion we will raise through this so-called windfall profit tax, to apply the additional revenues that make it possible to index the tax system. We need to find a point at which the rising tax burden is not a drag on the economy.

There can be little doubt that, with the personal income tax, we have passed the point where rate increases are productive for the Nation. They are not productive, as the Senator from Delaware pointed very effectively yesterday afternoon. They are harmful, and the growth of the personal tax burden is the major cause of our sluggish economic performance.

Increasing the income tax burden is bad policy; it is so bad that some have stated we ought to have another form of tax called a value-added tax, so that we could tell people, "We are going to take the value-added tax and reduce your income tax and your social security tax," and that that would make a good deal of sense. The Senator from Kansas is not certain about that, but I assume we will have many hearings on that subject in the next few years.

We all applaud the discussion of tax cuts. The American people applaud the discussion of tax cuts if they are real tax cuts. I hope the debate over taxes will shed more light than heat. Tax policy has been made in the dark for too long. I hope that my colleagues who favor tax reduction, as I do, have also given consideration to this question: How can you speak of tax cuts, when you allow taxes to rise automatically each year? You may talk of tax control, or tax readjustment. But do not talk of tax cuts or tax reduction, because that is not what you are offering. You cannot cut taxes effectively so long as you continue to allow inflation to distort the income tax rate structure.

Mr. President, this is not a technical issue. It is a pocketbook issue and a philosophical issue. The question is, is it fair to allow tax rates to climb automatically each year, without advice or notice to the taxpayer?

If you believe that it is fair, how do you square that belief with a commitment to a democratic, representative form of government? How do you square it with the Founding Fathers' opposition to taxation without representation?

I do not use this analogy lightly. Allowing inflation to increase tax rates is tantamount to levying a tax without resort to the legislative process. It bypasses the representative system. This may be convenient for many of my colleagues, who have many responsibilities to attend to. I sympathize with them. It saves time not to reexamine the tax rates each year. What I do not understand is how this Congress can proceed periodically to adjust tax rates, and claim that it has cut taxes.

It has not cut taxes. As I indicated, this always occurs in even-numbered years, election years, if you please. Everyone is sympathetic for those who want to take credit for tax reductions. Many candidates are proposing tax reductions for next year. But I think the American people understand that we are not really cutting taxes. All we are doing is adjusting the rates for inflation.

Again, I am sympathetic with the desire of my colleagues to take credit for tax reduction. I am not sympathetic to the way they go about it.

We are not so naive as to believe that periodic rate adjustments are real tax cuts. Everyone knows the effect of inflation on a progressive tax structure. Income rises and tax rates rise, but purchasing power stays the same. That is all there is to it. The real rate of tax rises because the tax tables do not measure real income. They measure nominal income.

When inflation ambles along at a few percent a year, the effect on taxes is noticeable but not drastic. When inflation is at double digits several times in a decade, you have real trouble. Trouble, that is, for the taxpayer—less trouble for a Government that can find only too many ways to spend the increased revenues. Periodic tax cuts are no solution because they do not compensate in proportion to the inflation tax penalty. Besides, over time the effective tax rate rises despite cuts. The simple answer, of course, is to adjust the tax tables to take account of the inflation factor. My amendment would accomplish this, and it has been proposed before.

This issue has won the total dedication of Members of the Congress.

As I have indicated, the distinguished former Senator from New York, Mr. Buckley, devoted considerable time and energy to ending the inflation tax penalty. The distinguished former minority leader, Mr. Griffin, supported legislation to end inflation-induced tax increases. The Senator from Kansas introduced such legislation last year, and it was brought to a vote in this Chamber. But the issue is still with us.

I remember the Senator from Kansas trying to convince then President Ford to endorse indexing the tax system. I can understand the reluctance of anybody in the executive branch to advocate indexing, because the executive branch and the Government profits from taxing inflation.

The issue remains because it is a matter of principle, and because its resolution is inevitable. People favor tax table adjustments for inflation. As I have stated, the Roper organization determined this last year, when they found 57 percent of the people prefer automatic adjustment for inflation to periodic "tax cuts." They should prefer it, because it is the only way to compensate them fairly and equitably for the effects of inflation. The inflation tax penalty comes out of their pockets, and they have a right to be disturbed by the failure of Congress to address this issue.

Mr. President, inflation adjustments in the tax tables would be in effect now if it were up to the people. Who, then, opposes this legislation? Let me identify some of the arguments that I have been faced with.

First, Congress prefers to make periodic tax cuts. This is true, but it is not an argument. Congress can still cut taxes, but they would be real tax cuts. This is a matter on which Congress should defer to the will of the people, as a matter of principle and as a matter of fairness.

Second. The Federal Government would lose substantial revenues. This is the customary argument of the Treasury Department against any real tax reform. Two points should be made. Once the inflation adjustments are in effect, Congress can always raise the rates if that is deemed necessary. But it will have to accept the political responsibility for doing so. The growth of Government at the expense of the private sector might be slowed—an effect that many of us would welcome.

Second, the notion that you are "losing" revenues implies that you had a right to them to begin with. We, the Congress, and the U.S. Government, have no right to revenues that are not raised in accord with the taxing power set forth in the Constitution. Revenues generated by inflation are not an inherent right of our Government. This goes to the heart of the principle involved here, and it leads me to the last argument.

And I would ask, finally, we ask who opposes this legislation? The American people? The American people do not oppose this legislation. The American people support this legislation. The Congress opposes or has opposed this legislation because Congress wants to pass illusory tax cuts. It helps Members of Congress get reelected.

Well, Congress, can still cut taxes, but if we adjust for inflation, then when there is a tax cut it is really a tax cut. It is not a tax adjustment.

The Federal Government is opposed to indexing a tax system. They claim revenues will be lost. This is a customary argument of the Treasury Department against any real tax reform. But two points ought to be made. Once the inflation adjustments are in effect, Congress can always raise the rates if that is deemed necessary. It will have to accept the political responsibility for doing so.

The growth of the Government at the expense of the private sector might be slowed, and many of us would welcome that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. Does the Senator from New York (Mr. MOYNIHAN) have any time left?

Mr. MOYNIHAN. The Senator has 37 minutes, if I am correct. I am happy to yield 7 minutes to the Senator from Kansas.

Mr. DOLE. I appreciate that. I do not suggest that in 7 minutes I will convert the Senator from New York, but I will make it as painless as possible.

Some suggest that automatic adjustments are somehow an accommodation to inflation. This is the most pernicious argument, because it draws support from those most philosophically attuned to tax reduction and the battle for physical integrity and political accountability. Some have real concerns and they have been expressed, I understand, today by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.). And I have the highest regard for his integrity and dedication to the principles of representative government. I would like to have him as an ally on this issue, but he really believes and truly believes that indexing for inflation would make people complacent about inflation.

Well, let me address his concerns,

First, no working man or woman struggling to keep up with double-digit inflation will feel that he or she can live with inflation just because he or she is not also penalized in taxes. We do not need to make inflation more painful than it already is.

Second, the failure to make adjustments for inflation helps to maintain the momentum for inflation. Government is the engine of inflation, and it is Government that is accommodated by the failure to index. Take away the inflation tax revenues, and the rate of growth of Government will slow, because the revenue base will not be expanding automatically from inflation. It may expand from real economic growth, and that would be a good sign. Ending the inflation bonus to Government gives Government an incentive to be fiscally responsible.

Third, and most importantly, this is a question of principle. I know the Senators in this Chamber would not vote to delegate the taxing authority to IRS, if they were faced with the issue. If we had a vote on this floor and said, "All right. We will give up that authority and we will get the IRS to adjust the tax rates."

Yet they are willing to delegate some of that authority because they allow IRS to collect tax revenues generated by inflation. It is a question of the accountability of Congress to the people, and I know the Senators are deeply conscious of their responsibility to the people of their States.

This, then, is the case that the Senator from Kansas would make. The tax reduction movement has gained momentum, but the drive for fundamental tax reform has just begun. With my amendment, I propose a reform, a reform grounded in political principle and sound economics. Until we regain control over tax policy, we have failed in our responsibilities. Tax Equalization would restore some of the control by removing the automatic escalator clause from our contract with the taxpayers. The taxpayer did not bargain for that and ought not to pay the price. Every working man and woman in this country will pay an unlegislated inflation tax penalty this year. The total will exceed $19 billion. That cannot be tolerated. I do not tolerate it.

Mr. President, I thank my colleagues for their attention to my remarks. I have raised this issue frequently in recent months, and will continue to do so. It is because I feel the matter is urgent and because the question goes to the heart of relations between the Government and the governed. We have broken faith with our citizens in the past, and they are disillusioned with us. There is no better way to restore faith and confidence in Government than by restoring political accountability for taxes.

It is said that the inflation tax penalty is an issue without a constituency because no one group stands to benefit from its elimination. I say the issue has a constituency, and it is here in this Chamber. It is also in the House of Representatives. That is because together we represent every man, woman, and child in this Nation—we have no other function than that. For some of us, that duty is a reward in itself. Let us, therefore, speak for all the people, not just some, and reform our tax system. When the occasion demands, legislation must reflect broad principles rather than particular interests. This has happened before, as it did in response to the civil rights movement. For tax reform, the time is now. It is up to us to pick up the challenge and take the lead by adopting my amendment.

In conclusion, it seems to this Senator that we have an opportunity here that must be grasped. There is strong bipartisan support for this proposal.

I again wish to thank my distinguished colleague from Colorado (Mr. ARMSTRONG) for making the case in the absence of the Senator from Kansas.

Mr. President, I ask unanimous consent that the talking points on tax indexing, along with a table showing the rise in tax rates over time, be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TALKING POINTS ON TAX INDEXING

Taxflation increases the tax burden tremendously. The personal income tax will increase by $11.5 billion in 1979 and over $19 billion in 1980 (given 7.7 percent inflation in 1978 and assuming 13 percent in 1979). Assuming "modest" inflation of 9.3 percent in 1980, the bill for 1981 will be $32.9 billion. If inflation continues to moderate and there are not tax cuts, taxflation will cost $52.7 billion in 1982 (1981 inflation at 8.6) and $75 billion in 1983 (1982 inflation at 7.8).

Indexing is not an accommodation to inflation. Inflation bites hard enough that people will not become complacent about it just because the inflation tax penalty is removed. Furthermore, ending taxflation eliminates the automatic revenue bonus to the Government from inflation. Because Government will benefit less from inflation, it will have more incentive to bring inflation under control.

Indexing may help to eliminate the inflationary psychology. While indexing won't cause or cure inflation, it may reduce inflationary pressures by helping to keep wage increases down. With taxflation, workers realize their wages must rise faster than the cost of living so they can just stay even. Remove taxflation, and workers won't need to receive inflationary wage increases simply to maintain the real value of their take-home pay.

The public favors indexing. A Roper poll released to Finance Committee in July 1978 indicated that 57 percent prefers inflation adjustments built into the tax system, as opposed to periodic tax cuts the Government makes to offset inflation.

Indexing is more honest. When Congress claims it is making a tax cut, it is really (at best) restoring to the taxpayers revenues raised by inflation. With indexing, tax cuts will be real tax cuts, and tax increases will have to be made through the legislative process.

Taxflation destabilizes the economy. In the 1970's we have high inflation accompanied by high unemployment. In this situation taxflation reduces purchasing power that might go to savings, investment, or consumption. For example, these automatic tax increases made the 1974–75 recession more severe than it would have been.

Indexing has been tried, and it works. Canada began indexing in 1974, and they adjust their tax system by the rise in the Consumer Price Index for the last fiscal year. Other countries with some form of indexing are France, Luxembourg, Denmark, Israel, Brazil, the Netherlands, and Australia.

State income taxes in Colorado, California, Arizona, Iowa, Minnesota, and Wisconsin include indexing features.

Indexing would not unbalance the budget. Congress can cut spending, and with indexing it can still change the tax rates. But any changes will need to be enacted by legislation, not automatically induced by inflation. Congress will have an incentive to be fiscally responsible, so that it won't need to raise taxes. Besides, it is unfair to balance the budget on the backs of taxpayers through a hidden tax increase.

Periodic tax cuts do not compensate for inflation. Tax cuts are structured differently for different income groups, and do not compensate equitably for all income groups in proportion to the inflation tax penalty. Besides, over time the effective rate of tax rises anyway. The attached table, prepared by the Joint Committee on Taxation, shows the effective tax rate on an average family rising from 8.1 percent in 1964 to a projected 10.8 percent in 1981. That does not even take account of the rise in social security taxes. This trend tends to destroy the progressivity of the tax system.

FEDERAL INCOME TAXES FOR A FAMILY OF 4 WITH $17,105 IN 1978 [1]

Year	Income	Federal income tax	Effective income tax rate (percent)
1964	$8,132	$655	8.1
1965	8,272	615	7.4
1966	8,509	649	7.6
1967	8,754	685	7.8
1968	9,122	[2] 794	8.7
1969	9,612	[3] 891	9.3
1970	10,181	[4] 896	8.8
1971	10,618	919	8.7
1972	10,969	933	8.5
1973	11,651	995	8.5
1974	12,929	[5] 1,063	8.2
1975	14,111	1,234	8.7
1976	14,925	1,308	8.8
1977	15,888	1,471	9.3
1978	17,105	1,678	9.8
1979	18,918	1,838	9.7
1980	20,678	2,123	10.3
1981	22,456	2,431	10.8

[1] Assuming that income changes as does the consumer price index and that deductible expenses are 23 percent of income. The CPI is assumed to rise by 10.6 percent in 1979, by 9.3 percent in 1980, and by 8.6 percent in 1981.

[2] Including a $55 surcharge.

[3] Including a $81 surcharge.

[4] Including a $22 surcharge.

[5] Including a $118 tax rebate paid in May 1975.

Source: Joint Committee on Taxation, Aug. 2, 1979.

Low-income taxpayers are most likely to suffer from taxflation. That is because the lower tax brackets are narrower, so a rise in nominal income is more likely to jump the taxpayer into a higher bracket, or subject more of his income to the higher marginal rate.

Support for indexing is growing. With continuing high inflation, more attention is being focused on the effects of inflation on taxes. The American Bar Association has endorsed indexing, and in September the New York Times endorsed it. U.S. News and Harper's have featured articles highlighting the problem of taxflation. Columnists George Will and Michael Killian have argued for indexing, as has the National Taxpayers Union. In the House, Congressman Bill Gradison's indexing bill has over 135 cosponsors.

Indexing is a real tax reform, not a "tax cut". While indexing will tend to reduce people's tax liabilities, it is basically a reform of the tax system to take account of inflation. It would be the most fundamental and far-reaching tax reform undertaken in years.

Indexing will remove a disincentive to productivity gains. When people know that marginal income gains are more than eaten up by inflation and taxes, they have little incentive to be more productive. Indexing would remove that disincentive with respect to taxes.

Every taxpayer suffers from taxflation. Every taxpayer with actual tax liability experiences taxflation, regardless of whether they have income gains. This is because the zero bracket amount (standard deduction) and personal exemption decline in real value every year, just as the tax brackets are distorted. Deductions and exemptions that are stated in fixed dollar terms are worth less each year. Taxflation affects nearly 100 million taxpayers.

When the Government is preaching austerity, it should be willing to set an example by ending taxflation. Taxflation is an automatic windfall in revenues to the Government. When the Government asks the people to accept austerity to stop inflation, it can a least forego this revenue windfall as a measure of good faith.

Taxflation wiped out last year's tax cut. The Revenue Act of 1978 reduced personal income taxes by $12.4 billion, but taxflation raised them again by $11.5 billion, leaving only $900 million in tax reduction. In 1980 taxflation will add more than $19 billion to the tax bill, putting everyone even further behind.

Taxflation discourages savings. People have less marginal income to save and invest, after necessities. Indexing would restore some of that marginal income, so that people would be better able to invest. More money could be available for capital formation.

Ending taxflation is the least Congress can do for the taxpayer. The Government has failed to control inflation. Until inflation is controlled, it is adding insult to injury for the Government also to extract an inflation tax penalty from our citizens.

Indexing is needed as a measure of equity. Taxflation makes people uncertain of their tax liabilities, and phony 'tax cuts' further confuse the situation. If we end taxflation, people will know Congress is playing fair. They may be less inclined to evade taxes by resorting to the 'underground economy', where income is unreported.

Indexing helps to restrain the growth of Government. Canada, which indexed in 1974, had federal expenditures growing at a rate of 15.9 percent in 1974. The rate declined to 10.24 percent in 1975, 2.7 percent in 1976, and 2.1 percent in 1977. This is a major achievement in controlling growth of government.

Mr. DOLE. Mr. President, I would also note, that support for indexing is growing. In September, the New York Times endorsed it; U.S. News & World Report and Harper's have featured articles highlighting the problem of taxflation; columnists George Will and Michael Killian have argued for indexing, as has the National Taxpayers Union. In the House, Congressman BILL GRADISON's indexing bill has over 135 cosponsors.

Indexing is a real tax reform, not a tax cut. When the Government is preaching austerity, it should be willing to set an example by ending taxflation, by stopping tax on inflation. Taxflation discourages savings and people have less marginal income to save and invest after necessities. Indexing would restore some of that marginal income so people would be better able to invest.

Finally, ending taxflation is the least Congress can do for the taxpayer. Everyone talks about the taxpayer. This is a chance to do something for the taxpayer. We talk about the burdens of taxation, how they are being increased, and how much they will be increased with this $500 billion tax bill now before the Senate.

One way to show good faith with the people as we work on this gigantic tax bill is to have this amendment adopted.

I believe that indexing helps restrain the growth of Government, contrary to what some have indicated. Canada, for example, which indexed in 1974, had Federal expenditures growing at a rate of 15.9 percent. The rate declined to 10.24 percent in 1975; 2.7 percent in 1976; and 2.1 percent in 1977, which seems to this Senator to be a rather significant achievement in controlling growth of Government.

So the case has been made. It would be fair to say that maybe no one is for this amendment but the people. That is not quite true. There are a number of Members of this body who support the amendment. But if it could be—as it will be—articulated this year and the next year—until it is understood by all the American people; and it will be better understood in the months ahead; then I think the growing support for indexing will prove irresistible.

As I have said, we now have indexing in six States. It is time for it. It is coming in the Federal level. It may not come today. If it does not come today, maybe it will come a year from today. If it does not come then, it will come 2 years from today or 3 years from today. But it is coming. So all those who want to do something for the taxpayers—and this is the season to do it—this is the opportunity to say to the taxpayers, "We are going to end taxes on inflation." Then, when we have a tax cut, it will be a true tax cut.

I know the argument that the Federal Government would lose revenue. But the biggest windfall in America is being reaped by the Federal Government by taxing inflation. That is why I think we ought to address this issue on the so-called windfall bill because we are talking about windfalls, and the Federal Government is the beneficiary of a massive windfall by taxing inflation in the incomes of American men and women. I suggest the opportunity is here. I understand there may be a motion to table. If so, I hope that motion fails. We will see what happens.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, let me first offer congratulations to the Senator from Kansas. Not for the first time has he presented to this body a careful, a reasoned, and a moderately assertive proposal, and not for the first time do the Members on this side of the aisle rise to ask how can such a large proposition have come about suddenly, without preparation, out of the context of the basic revenue structure of the Federal Government, of the Federal fisc, of which it is a necessary part?

Mr. President, we went through this matter yesterday when we had to deal with a proposal that would guarantee a permanent deficit in the Federal budget for the coming decade.

That was rejected, as it ought to have been.

Back today comes a second proposal to guarantee yet another permanent deficit for the 1980's.

This is remarkable if in nothing but the consistency of the illogical.

Mr. President, the Senator from Kansas, who knows the respect in which he is held in this body and by the Senator from New York, has said that the issue is the growth of Government.

That is not the case. Government is not growing in the United States. The public sector has settled at a level that has been steady for some time. There is only one proposal in this body that gains any support to increase the level of governmental activity and that is to increase the military expenditure of the Government. The Senate voted consistently this year to increase defense spending above the rate of inflation by 3 full percent, which in fact comes out to be more than 3 percent when you bring in the rate of inflation, and to do so at 5 percent in the years to follow. Having voted that increase, and none other, we are stable and declining in Federal expenditures as a proportion of GNP.

We have written into our budget decisions of this last year a declining proportion of GNP.

Suddenly we come along with these matters which do not go to the question of growth in the Government but rather to the growth in the deficit. We had assumed that concern in the growth in Government was at least as much fiscal as it was in any specific sense political, that its purpose was to put an end to the deficits that have plagued this economy for two decades now. In two decades I think we have only had 2 years when there has been a Federal surplus, and deficits have been what we have been concerned with. Here is a proposal to guarantee a decade of deficits.

I ask the Chair to bear with details which are not the most absorbing reading but make the most absorbing impact. Assuming an inflation rate of 10.4 percent next year, 9.6 percent in 1981, 9.5 percent in 1982, and 8.4 percent in 1983, the revenue loss in those years would be $17 billion in calendar 1981, $36 billion in calendar 1982, $66 billion in calendar 1983, and $92 billion in calendar 1984.

How are we going to balance a budget with such revenue losses? We cannot. We cannot, save as we make one of two choices: We forgo the increase in defense spending, which would imperil this Nation's already sufficiently insecure position in the world; or we commence to roll back the social programs of the 1960's and 1950's and 1930's.

Mr. President, one of the remarkable judgments this Congress has made in recent years is to say that with respect to certain social programs—providing assistance to dependent persons, aged persons, and retired persons—inflation changes in cost indexes would not reduce standards of living. We have indexed the social security program, the basic source of income for 20 percent of our people. We have indexed the railroad retirement program, medicare and medicaid, food stamps, child nutrition, the supplemental security income program. All these programs are indexed to make them immune from the effects of inflation.

If we take away the income that makes that indexing possible, we produce either horrible deficits and huge inflation rates, or we abandon this indexation pattern.

Let me tell you, Mr. President—and again I apologize for bringing such a long array of data to the floor of the Senate, where hyperbole is so frequently a substitute for fact, but there are facts here—in the budget for fiscal 1980 now in place, we have $9.3 billion to provide for indexation of these programs. Next year, $31 billion; the year after, $54 billion. In the years fiscal 1980 to 1984, over $250 billion is provided to index these programs, food stamps, medicaid, social security—social security where 20 percent of the American people live on it and depend on a promise made. And that promise will be broken if we adopt this permanent deficit proposal.

We have here a proposal which will see the U.S. budget, contrary to the sworn assertions of this body not 4 months ago, now lurch deeper into the red and stay there.

There is no Member of this body who has spoken to the integrity of the budget process more often and with more effect than the Senator from Maine. He has made it his purpose to maintain its integrity. He was on the floor of this body yesterday afternoon insisting that the deficit proposal that was before us then not be adopted. I cannot suppose that he will fail in that self-imposed duty today. It would be presumptuous for me to expect Members to listen to me on this matter, a person new to this Chamber and new to the budget, although a member of the committee. But I ask Members to listen to the Senator from Maine. He knows what a permanent deficit will do to the economy of the United States.

He has never hesitated to speak to just that point.

The Senator from Maine is on the floor. I know the strength of his feelings in this matter. The fervor of his facts will make its impression, I do not doubt.

I am happy to yield to the Senator from Maine such time as he may require to rebut this wholly unanticipated and wholly nongermane amendment to a windfall profits tax dealing with the oil industry.

Here, we are asked to change the whole structure of the political economy of the United States on a bill to deal with the OPEC ripoff tax. I am appalled, but I cannot imagine that my umbrage will equal that of the chairman's. I am happy to yield to him such time as he may require or as remains unto him.

Mr. MUSKIE. Mr. President, I am happy to assume the burden but I doubt that anything I could say could match the peroration of the distinguished Senator from New York. It is rather like getting my conclusions stated before I have marshalled my arguments.

In any case, this amendment is a more complicated amendment than the one we dealt with last night. It, nevertheless, opens up troublesome problems for the future.

Basically, what this amendment proposes is that we index personal income taxes so that they are automatically reduced to respond to the impact of inflation. When one talks about indexing in response to inflation, one must, on the revenue side of the budget, think not only of personal income taxes but corporate income taxes as well. If indexing as a principle is justified by inequities generated by inflation, then surely, the principle ought to apply to corporate income taxes as well as to personal. This amendment does not touch that aspect of the problem. Here are three aspects of corporate taxes which undoubtedly we would be asked to consider or should consider indexing for inflation if Congress adopts the pending amendment.

First, there is the question of inventory profits, inventory profits which are generated by the impact of inflation on the value of inventory. That is a complicated question, as the distinguished chairman of the Committee on Finance could point out to the Senate. Because it is complicated, the Senator from Colorado has not addressed it in his amendment, but businessmen are pressing for that kind of indexing in order to avoid taxes on inventory profits which are generated by inflation. That is not touched by the pending amendment. One can be sure that it would be suggested by the proponents of this amendment if this principle were established.

Second, there is the question of the impact of inflation on business interest. The interest that business must pay on loans rises with inflation and the corresponding rise in interest rates but the real value of the loan repayments declines with inflation. It can legitimately be asked whether business tax liability should be indexed in some fashion for all of these effects.

Third, there is the biggest and most complicated problem of the adjustment of depreciation for inflation. I need only mention the popularity of the so-called "10–5–3" accelerated depreciation proposal to illustrate this point.

Those are issues, Mr. President, that ought to be addressed thoughtfully and carefully by the Committee on Finance, as should the issues raised by the pending amendment. Mr. President, I ask unanimous consent to insert in the RECORD at this point some supplementary material on these points.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The following table shows that and personal income taxes under current law, the gross tax cost of the Armstrong-Dole amendment, the tax cuts assumed in the Budget Resolution and the margin for other tax cuts.

[In billions of dollars; fiscal years]

	1980	1981	1982	1983	1984
Total revenues, current law	515.4	600.0	706.6	812.8	927.6
Personal income taxes, current law	236.9	279.3	334.0	397.4	471.7
Armstrong-Dole		10.7	28.7	54.5	82.4
General tax cut in budget resolution			55.0	75.0	100.0
Margin for other tax cuts: Budget resolution tax cut less Armstrong-Dole		−10.7	+26.3	+20.5	+17.6

	1980	1981	1982	1983	1984
Cost of other tax cuts:					
10–5–3 accelerated depreciation	−.9	−4.1	−10.9	−19.9	−30.4
Social security (freeze rate and index base from 1980)		−9.9	−18.1	−21.1	−23.7

The table shows that by 1984 the Armstrong-Dole amendment would not leave adequate room in the tax cuts projected from the budget Resolution to accommodate the revenue cost of the popular "10–5–3" accelerated depreciation proposal for business. Yet pressures will certainly persist—and possibly be increased by the Armstrong-Dole amendment—for some form of adjustment of business taxes for inflation. By 1983, the Armstrong-Dole amendment does not leave adequate room for any significant cut in Social Security taxes yet that is clearly a very popular issue.

For the last half of the decade the tax cuts projected in the Budget demands for the 80's analysis are generous—they grow to $150 billion in 1985 and $432 billion by 1990. But after Armstrong-Dole the margin for other tax cuts would be only $100 billion or less in 1990. The cost of accelerated depreciation grows very fast as more and more of business capital becomes eligible. Social Security tax cuts would also impose a growing burden, if the trust funds are to be kept sound by infusing general revenues and the benefits are not to be reduced. The problem of budget margin will not go away.

Some response of revenues to inflation is necessary to cover the added budgetary costs of index programs. These programs include social security and railroad retirement, Medicare and Medicaid, food stamps, child nutrition, Federal pay raises and supplemental security income. The amount in the budget for inflation adjustments in these programs is $9.3 billion in FY 1980, $31 billion in FY 1981, $54 billion in FY 1982, and over $250 billion cumulative for the 5-years FY 1980–84.

Mr. MUSKIE. On the spending side of the budget, Mr. President, we have indexed by law programs such as social security benefits, railroad retirement and other pensions. We have indexed by law, or as a practical effect, medicare and medicaid, food stamps, child nutrition, Federal pay raises, supplemental security income.

Mr. President, if we are going to index revenues for inflation, the effect of which would be to reduce revenues, then surely we cannot do that without addressing, at the same time, the action we have taken to index large chunks of the spending side of the budget.

Otherwise, what we shall have in the Federal budget, as a result of inflation, is revenues going down and expenditures going up. That is a nonsensical result and it is surely not a prudent budgetary result to anybody who contemplates the consequences.

Look, for example, on the spending side of the budget, at the implications of inflation. In 1981, indexing on the spending side represents $31 billion additional spending, $54 billion in 1982; and for the 5 years, 1980–1984, over $250 billion.

Mr. President, over that 5-year period, this amendment would eliminate $10.7 billion in fiscal year 1981; $28.7 billion in fiscal year 1982; $54.5 billion in fiscal year 1983; $82.4 billion in fiscal year 1984. The figures I have just given add up to a $176.3 billion loss in revenue. Inflation adds, at the same time, $250 billion increase in expenditures.

That does not include defense. And, Mr. President, in this year's budget resolution so far as defense is concerned, this Senate has mandated 3-percent increase over inflation in 1980, 5-percent increase over inflation in 1981, and 5-percent increase over inflation in 1982.

Mr. President, what kind of nonsense is it that we, here, seriously contemplate, or at least some of our colleagues seriously contemplate reducing revenues over a 4-year period by $176 billion because of inflation in the face of the facts that $250 billion and more in extra spending is generated by inflation at the same time? Add those two together and the spread is over $420 billion over a 4-year period.

Some in this body may call that prudent budgetary policy. I call it irresponsible budgetary policy.

Let me add this one point, Mr. President. The issue raised by the Armstrong amendment is an issue that deserves to be seriously studied. But it cannot be studied in isolation, and it surely should not be acted upon in isolation from these other consequences of inflation. Down that road lies budgetary deficits of tremendous size and budgetary irresponsibility.

So, Mr. President, I join the distinguished chairman of the Finance Committee and the distinguished Senator from New York in opposing this amendment. I trust that we will reserve this issue for study by the Finance Committee.

● Mr. LEVIN. Mr. President, I share the belief of the sponsors of this amendment that the time for indexing our tax system is coming—but I do not believe the Senate is prepared to judge the full implications of the proposal before us. I agree with the sponsors of this amendment that it is unfair for people to be pushed into higher tax brackets simply because inflation increases their nominal income. Real income does not necessarily increase and the resulting increase in Federal taxes has the insidious effect of reducing a family's standard of living.

The time for careful evaluation of tax indexing and its impact on the economy is now. The results of various studies on tax indexing which are now underway should be considered by the Senate as soon as they are completed. I have discussed this with the chairman of the Finance Committee and he has assured me that he will look favorably toward holding of hearings on the proposal to index our tax system when the requisite studies are completed.

I oppose this amendment only because hearings have not been conducted on this substantive proposal. With the assurances of the chairman, I am confident that a tax indexing proposal will be before his committee in the very near future. After such hearings, Senators will have the benefit of exhaustive hearings and expert testimony on this subject thus have a sound basis for determining the impact and wisdom of various indexing plans.●

Mr. LONG. Mr. President, I yield back the remainder of the time in opposition.

The PRESIDING OFFICER. All time has been yielded back.

Mr. LONG. The yeas and nays have been ordered, have they not?

The PRESIDING OFFICER (Mr. BOREN). The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 41, nays 47, as follows:

[Rollcall Vote No. 457 Leg.]

YEAS—41

Armstrong
Boschwitz
Cochran
Cohen
Danforth
DeConcini
Dole
Durenberger
Durkin
Garn
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Kassebaum
Laxalt
Leahy
Lugar
McClure
Magnuson
Packwood
Percy
Pressler
Proxmire
Riegle
Roth
Schmitt
Schweiker
Simpson
Stafford
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Young
Zorinsky

NAYS—47

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
Eagleton
Exon
Ford
Glenn
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Levin
Long
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Pryor
Randolph
Ribicoff
Sarbanes
Stennis
Stevenson
Stewart
Weicker
Williams

NOT VOTING—12

Baker
Church
Domenici
Goldwater
Gravel
Hatfield
Jepsen
Kennedy
McGovern
Sasser
Stevens
Talmadge

So Mr. ARMSTRONG's amendment (No. 695) was rejected.

(Later the following occurred:)

Mr. NUNN. Mr. President, on the Armstrong amendment, voted on earlier today, I intended to be recorded as voting "nay," and I was recorded as voting "yea." I ask unanimous consent that my vote be recorded correctly in the RECORD.

Mr. ROBERT C. BYRD. Reserving the right to object, and I shall not, but for the RECORD, would it change the outcome?

The PRESIDING OFFICER. It will not change the outcome.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

Several Senators addressed the Chair.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

Several Senators addressed the Chair.

Mr. DOLE. Has the motion to reconsider been made?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Has a motion to reconsider been made?

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Does the Senator qualify?

Mr. MATHIAS. Yes.

Mr. ROBERT C. BYRD. He does?

Mr. DOLE. Unfortunately.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LONG. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the amendment was rejected.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the

Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Alaska (Mr. STEVENS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The PRESIDING OFFICER. Are there other Senators in the Chamber who desire to vote and have not done so?

The result was announced—yeas 49, nays 38, as follows:

[Rollcall Vote No. 458 Leg.]

YEAS—49

Baucus
Bellmon
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
Eagleton
Exon
Ford
Glenn
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Levin
Long
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stennis
Stevenson
Stewart
Tsongas
Weicker
Williams
Zorinsky

NAYS—38

Armstrong
Boschwitz
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Garn
Hart
Hatch
Heflin
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Lugar
Magnuson
McClure
Packwood
Percy
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stafford
Stone
Tower
Wallop
Warner
Young

NOT VOTING—13

Baker
Bayh
Church
Goldwater
Gravel
Hatfield
Hayakawa
Kennedy
McGovern
Sasser
Stevens
Talmadge
Thurmond

So the motion to lay on the table the motion to reconsider was agreed to.

● Mr. MUSKIE. Mr. President, the Armstrong amendment the Senate defeated today proved the old saying that for every difficult problem there is a solution which is simple, easy, and wrong. It was politically attractive and easy to vote for that amendment. It took more than a little courage to vote against it.

The Armstrong amendment addressed a very important goal: How to keep Federal taxes from eroding American taxpayers' real purchasing power. Surely, that is a goal we all agree upon.

Congress has regularly reduced rates to avoid taxing the part of Americans' income which results from inflationary rather than real income increases. In fact, Congress cut taxes last year and has cut taxes 3 of the 5 years since 1974, when we rejected a tax increase proposed by President Ford.

The Armstrong amendment was the wrong answer to the problem of taxes and inflation. Congress voted just 1 week ago for a congressional budget which provides for tax cuts much larger than those in the Armstrong amendment, after the budget is balanced in 1981. The Armstrong amendment would have reduced taxes by $176 billion through 1984. The congressional budget will reduce them by at least $230 billion during the same period.

The Armstrong amendment proposed cutting taxes in the wrong way. It uses a rigid formula known as indexing which is so controversial, even among conservative economists, that it was rejected by President Ford, as Senator DOLE, one of the Armstrong amendments chief spokesmen, told us this afternoon.

The congressional budget tax cuts will be shaped to meet the precise needs and circumstances of the economy and our fellow taxpayers. The Armstrong amendment was not.

For example, the Armstrong amendment provided none of the tax cuts we need to encourage job creation and inflation-reducing productivity growth in American industry.

The Armstrong amendment provided no spending limits to assure that it did not lead to deep deficits in the future.

Of course, on the surface, the Armstrong amendment was politically attractive, as any proposed tax cut always is. It is always easy to vote for a tax cut.

It is much harder to patiently analyze all the needs of our citizens and the economy and come up with a sound, multiyear budget plan which cuts taxes and—most importantly—also controls spending. But that is why we established the congressional budget process.

That budget establishes as the first priority a balanced budget in 1981.

That budget process has produced the multiyear $230 billion tax cut and spending limit plan Congress adopted just a week ago.

It would have been politically useful for Senators to have voted today for the Armstrong tax cut, even though it is smaller than the cuts planned in the congressional budget. It was tempting to kick over the congressional budget plan by impulsive action now.

It would have been easy.

It would have been wrong.

So I commend the Senators who put the long-term welfare of our fellow taxpayers ahead of attractive but short-term political gain. The larger tax cuts provided by the congressional budget will, in the near future, vindicate their vision and their courage here today.●

The PRESIDING OFFICER. Under a previous order, the Senator from Connecticut is recognized.

AMENDMENT NO. 701

(Purpose: To add a new title establishing a mandatory conservation program to reduce consumption of petroleum products by no less than 5 percent)

Mr. WEICKER. Mr. President, I call up my amendment No. 701.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 701:

On page 179, after line—

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE V—PETROLEUM CONSERVATION

SEC. 501. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) serious disruptions have recently occurred in the petroleum product markets of the United States;

(2) it is likely that such disruptions will continue to exist;

(3) the general welfare of the United States, and interstate commerce in particular, are significantly affected by these market disruptions; and

(4) an urgent need exists to provide for conservation and other measures with respect to petroleum products in order to cope with market disruptions and provide for the general welfare of the United States and protect interstate commerce; and

(b) PURPOSES.—The purposes of this legislation are to—

(1) provide a means for the Federal Government, States, and units of local government to establish conservation measures with respect to petroleum products;

(2) provide for the general welfare of the United States; and

(3) protect interstate commerce.

SEC. 502. DEFINITIONS.

For purposes of this title—

(1) The term "petroleum" includes oil and oil products in all forms, including, but not limited to, crude oil, lease condensate, unfinished oil, natural gas liquids, and gasoline, diesel fuel, home heating oil, kerosene, and other refined petroleum products.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the Government or any agency of the United States or any State or political subdivision thereof.

(3) The term "vehicle" means any vehicle propelled by motor fuel and manufactured primarily for use on public streets, roads, and highways.

(4) The term "Secretary" means the Secretary of Energy.

(5) The term "Governor" means the chief executive officer of a State.

(6) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

SEC. 511. NATIONAL AND STATE PETROLEUM CONSERVATION TARGETS.

(a) TARGETS.—(1) The President shall establish monthly conservation targets of not less than 5 percent for petroleum products for the Nation generally and for each State

(2)(A) The State conservation target for petroleum products shall be equal to (i) the State base period consumption reduced by (ii) a uniform national percentage of no less than 5 percent.

(B) For the purposes of this subsection, the term "State base period consumption" means, for any month, the product of the following factors. as determined by the President:

(i) the consumption of petroleum products during the corresponding month in the 12-month period prior to November 1, 1979; and

(ii) a growth adjustment factor, which shall be determined on the basis of the trends in the use in that State of petroleum products during the 36-month period prior to November 1, 1979.

(C) (i) The President shall adjust, to the extent he determines necessary, any State base period consumption to insure that achievement of a target established for that State under this subsection will not impair the attainment of the objectives of section 4(b) (1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(b) (1)).

(ii) The President may, to the extent he determines appropriate, further adjust any State base period consumption to reflect—

(I) reduction in petroleum consumption already achieved by petroleum conservation programs;

(II) petroleum shortages which may affect petroleum consumption; and

(III) variations in weather from seasonal norms.

(b) Notification and Publication of Targets.—The President shall notify the Governor of each State of the target established under subsection (a) for that State, and shall publish in the Federal Register, the targets, the base period consumption for each State and the factors considered under subsection (a) (2).

(c) Establishment of Targets for Federal Agencies.—In connection with the establishment of the target under subsection (a) the President shall make effective a petroleum conservation plan for the Federal Government, which plan shall be designed to achieve a reduction equal to or greater than the 5 percent minimum reduction in use of petroleum products. Such plan shall contain measures which the President will implement, in accordance with other applicable provisions of law, to reduce the use of petroleum by the Federal Government. In developing such plan the President shall consider the potential for reductions in petroleum use—

(1) by buildings, facilities, and equipment owned, leased, of under contract by the Federal Government, and

(2) by Federal employees and officials through increased use of car and van pooling, preferential parking for multipassenger vehicles, and greater use of mass transit.

(d) Determination and Publication of Actual Consumption Nationally and State-by-State.—Each month the Secretary shall determine and publish in the Federal Register (1) the level of consumption of petroleum products for the most recent month for which the President determines accurate data is available, nationally and for each State, and (2) whether the target under subsection (a) has been met or is likely to be met.

(e) Presidential Authority Not To Be Delegated.—Notwithstanding any other provision of law, the authority vested in the President under this section may not be delegated.

Sec. 512. State Conservation Plan.

(a) State Conservation Plans.—(1) (A) Not later than 45 days after the date of the publication of the petroleum conservation target for a State under section 511(b), the Governor of that State shall submit to the Secretary a State conservation plan designed to meet or exceed the conservation target in effect for that State under section 511(a). Such plan shall contain such information as the Secretary may reasonably require. At any time, the Governor may, with the approval of the Secretary, amend a plan established under this section.

(B) The Secretary may, for good cause shown, extend to a specific date the period for the submission of any State's plan under subparagraph (A) if the Secretary publishes in the Federal Register notice of that extension together with the reasons therefor.

(2) Each State is encouraged to submit to the Secretary a State conservation plan as soon as possible after the date of the enactment of this Act and in advance of such publication of any such target. The Secretary may tentatively approve such a plan in accordance with the provisions of this section. For the purposes of this part such tentative approval shall not be construed to result in a delegation of Federal authority to administer or enforce any measure contained in a State plan.

(b) Conservation Measures Under State Plans.—(1) Each State conservation plan under this section shall provide for reduction in the public and private use of petroleum products. Such State plan shall contain adequate assurances that measures contained therein will be effectively implemented in that State. Such plan may provide for reduced use of petroleum products through voluntary programs or through the application of one or more of the following measures described in such plan:

(A) measures which are authorized under the laws of that State and which will be administered and enforced by officers and employees of the State (or political subdivisions of the State) pursuant to the laws of such State (or political subdivision); and

(B) measures—

(i) which the Governor requests, and agrees to assume, the responsibility for administration and enforcement in accordance with subsection (d);

(ii) which the attorney general of that State has found that (I) absent a delegation of authority under Federal law, the Governor lacks the authority under the laws of the State to invoke, (II) under applicable State law, the Governor and other appropriate State officers and employees are not prevented from administering and enforcing under a delegation of authority pursuant to Federal law; and (III) if implemented, would not be contrary to State law; and

(iii) which either the Secretary determines are contained in the standby Federal conservation plan established under section 513 or are approved by the Secretary, in his discretion.

(2) In the preparation of such plan (and any amendment to the plan) the Governor shall, to the maximum extent practicable, provide for consultation with representatives of affected businesses and local governments and provide an opportunity for public comment.

(3) Any State plan submitted to the Secretary under this section may permit persons affected by any measure in such plan to use alternative means of conserving at least as much petroleum as would be conserved by such measure. Such plan shall provide an effective procedure, as determined by the Secretary, for the approval and enforcement of such alternative means by such State or by any political subdivision of such State.

(c) Approval of State Plans.—(1) As soon as practicable after the date of the receipt of any State plan, but in no event later than 30 days after such date, the Secretary shall review such plan and shall approve it unless the Secretary finds—

(A) that, taken as a whole, the plan is not likely to achieve the conservation target established for that State under section 511(a),

(B) that, taken as a whole, the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of petroleum use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof,

(C) that the requirements of this part regarding the plan have not been met, or

(D) that a measure described in subsection (b) (1) is—

(i) inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

(ii) an undue burden on interstate commerce, or

(iii) a tax, tariff, or user fee not authorized by State law.

(2) Any measure contained in a State plan shall become effective in that State on the date the Secretary approves the plan under this subsection or such later date as may be prescribed in, or pursuant to, the plan.

(d) State Administration and Enforcement.—(1) The authority to administer and enforce any measure described in subsection (b) (1) (B) which is in a State plan approved under this section is hereby delegated to the Governor of the State and the other State and local officers and employees designated by the Governor. Such authority includes the authority to institute actions on behalf of the United States for the imposition and collection of civil penalties under subsection (e).

(2) All delegation of authority under paragraph (1) with respect to any State shall be considered revoked effective upon a determination by the President that such delegation should be revoked, but only to the extent of that determination.

(3) If at any time the conditions of subsection (b) (1) (B) (ii) are no longer satisfied in any State with respect to any measure for which a delegation has been made under paragraph (1), the attorney general of that State shall transmit a written statement to that effect to the Governor of that Sate and to the President. Such delegation shall be considered revoked effective upon receipt by the President of such written statement and a determination by the President that such conditions are no longer satisfied, but only to the extent of that determination and consistent with such attorney general's statement.

(4) Any revocation under paragraph (2) or (3) shall not affect any action or pending proceedings, administrative or civil, not finally determined on the date of such revocation, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such revocation.

(e) Civil Penalty.—(1) Whoever violates the requirements of any measure described in subsection (b) (1) (B) which is in a State plan in effect under this section shall be subject to a civil penalty of not to exceed $1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided in paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of measures the authority for which is delegated under subsection (d).

Sec. 513. Standby Federal Conservation Plan.

(a) Establishment of Standby Conservation Plan.—(1) Within 90 days after the date of the enactment of this legislation the Secretary, in accordance with section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), shall establish a standby Federal conservation plan. The Secretary may amend such plan at any time, and shall make such amendments public upon their adoption.

(2) The plan under this section shall be consistent with the attainment of the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(b)(1)), and shall provide for the emergency reduction in the public and private use of petroleum products.

(b) Implementation of Standby Conservation Plan.—(1) If the President finds after a reasonable period of operation, but not less than 90 days, that a State conservation plan approved and implemented under section 512 is not substantially meeting a conservation target established under section 511(a) for such State and it is likely that such target will continue to be unmet, then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) for such period or periods as the President determines appropriate to achieve the target in that State.

(2) If the President finds after a reasonable period of time, that the conservation target established under section 511(a) is not being substantially met and it is likely that such target will continue to be unmet in a State which—

(A) has no conservation plan approved under section 512; or

(B) the President finds has substantially failed to carry out the assurances regarding implementation set forth in the plan approved under section 512,

then the President shall, after consultation with the Governor of such State, make effective in such State all or any part of the standby Federal conservation plan established under subsection (a) for such period or periods as the President determines appropriate to achieve the target in that State.

(c) Basis for Findings.—Any finding under subsection (b) shall be accompanied by such information and analysis as is necessary to provide a basis therefor and shall be available to the Congress and the public.

(d) Submission of State Conservation Plan.—(1) The Governor of a State in which all or any portion of the standby Federal conservation plan is or will be in effect may submit at any time a State conservation plan, and if it is approved under section 512(c), all or such portion of the standby Federal conservation plan shall cease to be effective in that State. Nothing in this paragraph shall affect any action or pending proceedings, administrative or civil, not finally determined on such date, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such cessation of effectiveness.

(e) State Substitute Conservation Measures.—(1) After the President makes all or any part of the standby Federal conservation plan effective in any State or political subdivision under subsection (b), the Secretary shall provide procedures whereby such State or political subdivision thereof may submit to the Secretary for approval one or more measures under authority of State or local law to be implemented by such State or political subdivision and to be substituted for any Federal measure in the Federal plan. The measures may include provisions whereby persons affected by such Federal measure are permitted to use alternative means of conserving at least as much petroleum as would be conserved by such Federal measure. Such measures shall provide effective procedures, as determined by the Secretary, for the approval and enforcement of such alternative means by such State or by any political subdivision thereof.

(2) The Secretary may approve the measures under paragraph (1) if he finds—

(A) that such measures when in effect will conserve at least as much petroleum as would be conserved by such Federal measure which would have otherwise been in effect in such State or political subdivision;

(B) such measures otherwise meet the requirements of this paragraph; and

(C) such measures would be approved under section 512(c)(1) (B), (C), and (D).

(3) If the Secretary approves measures under this subsection such Federal measure shall cease to be effective in that State or political subdivision. Nothing in this paragraph shall affect any action or pending proceedings, administrative or civil, not finally determined on the date the Federal measure ceases to be effective in that State or political subdivision, nor any administrative or civil action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such cessation of effectiveness.

If the Secretary finds after a reasonable period of time that the requirements of this subsection are not being met under the measures in effect under this subsection he may reimpose the Federal measure referred to in paragraph (1).

(f) State Authority To Administer Plan.—At the request of the Governor of any State, the President may provide that the administration and enforcement of all or a portion of the standby Federal conservation plan made effective in that State under subsection (b) be in accordance with section 512(d)(1), (2), and (4).

(g) Presidential Authority Not To Be Delegated.—Notwithstanding any other provision of law (other than subsection (f)), the authority vested in the President under this section may be delegated.

(h) Requirements of Plan.—The plan established under subsection (a) shall—

(1) taken as a whole, be designed so that the plan, if implemented, would be likely to achieve the conservation target under section 511 for which it would be implemented,

(2) taken as a whole, be designed so as not to impose an unreasonably disproportionate share of the burden of restrictions on petroleum use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof, and

(3) not contain any measure which the Secretary finds—

(A) is inconsistent with any otherwise applicable Federal law (including any rule or regulation under such law),

(B) is an undue burden on interstate commerce,

(C) is a tax, tariff, or user fee, or

(D) is a program for the assignment of rights for end-user purchases of gasoline or diesel fuel, as described in section 103(a)(1) (A) and (B) of the Energy Policy and Conservation Act (42 U.S.C. 6263).

(i) Plan May Not Authorize Weekend Closings of Retail Gasoline Stations.—(1) Except as provided in paragraph (2), the plan established under subsection (a) may not provide for the restriction of hours of sale of motor fuel at retail at any time between Friday noon and Sunday midnight.

(2) Paragraph (1) shall not preclude the restriction on such hours of sale if that restriction occurs in connection with a program for restricting hours of sale of motor fuel each day of the week on a rotating basis.

(j) Civil Penalties.—(1) Whoever violates the requirements of such a plan implemented under subsection (b) shall be subject to a civil penalty not to exceed $1,000 for each violation.

(2) Any penalty under paragraph (1) may be assessed by the court in any action brought in any appropriate United States district court or any other court of competent jurisdiction. Except to the extent provided under paragraph (3), any such penalty collected shall be deposited into the general fund of the United States Treasury as miscellaneous receipts.

(3) The Secretary may enter into an agreement with the Governor of any State under which amounts collected pursuant to this subsection may be collected and retained by the State to the extent necessary to cover costs incurred by that State in connection with the administration and enforcement of that portion of the standby Federal conservation plan for which authority is delegated to that State under subsection (f).

Sec. 514. Judicial Review.

(a) State Actions.—(1) Any State may institute an action in the appropriate district court of the United States, including actions for declaratory judgment, for judicial review of—

(A) any finding by the President under section 513(b)(1)(A), relating to the achievement of the petroleum conservation target of such State, or 513(b)(2), relating to the achievement of the petroleum conservation target of such State or the failure to carry out the assurances regarding implementation contained in an approved plan of such State; or

(B) any determination by the Secretary disapproving a State plan under section 512 (c), including any determination by the Secretary under section 512(c)(1)(B) that the plan is likely to impose an unreasonably disproportionate share of the burden of restrictions of petroleum use on any specific class of industry, business, or commercial enterprise, or any individual segment thereof.

Such action shall be barred unless it is instituted within 30 calendar days after the date of publication of the establishment of a target referred to in subparagraph (A), the finding by the President referred to in subparagraph (B), or the determination by the Secretary referred to in subparagraph (C), as the case may be.

(2) The district court shall determine the questions of law and upon such determination certify such questions immediately to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(3) Any decision by such court of appeals on a matter certified under paragraph (2) shall be reviewable by the Supreme Court upon attainment of a writ of certiorari. Any petition for such a writ shall be filed no later than twenty days after the decision of the court of appeals.

(b) Court of Appeals Docket.—It shall be the duty of the court of appeals to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a)(2).

(c) Injunctive Relief.—With respect to judicial review under subsection (a)(1)(A), the court shall not have jurisdiction to grant any injunctive relief except in conjunction with a final judgment entered in the case.

Sec. 515. Reports.

(a) Monitoring.—The Secretary shall monitor the implementation of State conservation plans and of the standby Federal conservation plan and make such recommendations to the Governor of each affected State as he deems appropriate for modification to such plans.

(b) Annual Report.—The President shall report annually to the Congress on activities undertaken pursuant to this part and include in such report his estimate of the petroleum saved in each State and the performance of such State in relation to this part. Such report shall contain such recommendations as the President considers appropriate.

The PRESIDING OFFICER. The time for debate on this amendment is limited to 2 hours, to be equally divided between and controlled by the Senator from Connecticut (Mr. WEICKER) and the manager of the bill, with only an amendment by the Senator from New York (Mr. JAVITS) to be in order thereto.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the names of Senators JAVITS, HART, PERCY, and RIBICOFF be added as cosponsors of the amendment.

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WEICKER. I yield to the distinguished Senator from New York.

Mr. JAVITS. As I understand it, the amendment which I have the privilege of offering is necessary or desirable, I cannot tell which, to perfect the amendment which has been submitted by the Senator from Connecticut.

May I ask the Senator, therefore, whether it would be better for the presentation of his thesis if I submitted that amendment now, so that he may, when he presents his case, present the whole case, including the amendment?

Mr. WEICKER. I yield to the distinguished Senator from New York for that purpose.

The PRESIDING OFFICER. It will take a unanimous-consent request to submit the amendment.

Mr. JAVITS. I ask unanimous consent that I may at this time submit the amendment which I have the privilege of submitting to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 865

(Purpose: To modify amendment No. 701)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 865 to amendment numbered 701.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 13, after the word "establish" and before the word "monthly" on page 3, line 14, add the phrase "within 45 days after enactment of this Title".

On page 3, line 14, strike the phrase "of not less than 5 percent".

On page 3, line 19, strike the phrase "of no less than 5 percent.".

On page 4, line 3, strike the word "November" and insert in lieu thereof the word "January".

On page 4, line 7, strike the word "November" and insert in lieu thereof the word "January".

On page 4, line 21, after the phrase "from seasonal norms," and before the subsection "(b) Notification and Publication of Targets" on line 22, insert the following:

"(D) For the purposes of the subsection, the uniform national percentage shall be designed by the President taking into account such factors as the President considers important".

On page 5, line 8, strike the phrase "5 percent minimum reduction in" and insert in lieu thereof the phrase "conservation target established in subsection (a) for the".

On page 18, line 7 after the word "Secretary", add the following.", to the extent or in such amounts as are provided in advance in appropriation acts".

On page 18, after line 19 and before line 20, add the following:

"(A) any state petroleum conservation target established by the President under section 511(a);".

On page 18, line 20, strike "(A)" and insert in lieu thereof "(B)".

On page 19, line 3, strike "(B)" and insert in lieu thereof "(C)".

On page 20, after line 20, add the following sections:

"SEC. 516. APPLICABILITY OF OTHER PROVISIONS OF LAW.

The President may, in his discretion, invoke the provisions of section 221 of the Emergency Energy Conservation Act of 1979 (Public Law 96–102).

SEC. 517. ADMINISTRATION.

(a) Information.—(1) The Secretary shall use the authority provided under section 11 of the Energy Supply and Environmental Coordination Act of 1974 for the collection of such information as may be necessary for the enforcement of this title.

(2) In carrying out his responsibilities under this title, the Secretary shall insure that timely and adequate information concerning the supplies, pricing and distribution of petroleum products is obtained, analyzed, and made available to the public. Any Federal agency having responsibility for collection of such information under any other authority shall cooperate fully in facilitating the collection of such information.

(b) Effect on Other Laws.—No State law or State program in effect on the date of the enactment of this title, or which may become effective thereafter, shall be superseded by any provision of this title, or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with any such provision of section 513 (or any rule, regulation, or order under this part relating thereto) in any case in which measures have been implemented in that State under the authority of section 513.

SEC. 518. FUNDING FOR FISCAL YEAR 1980.

For purposes of any law relating to appropriations or authorizations for appropriations as such law relates to the fiscal year ending September 30, 1980, the provisions of this Title (including amendments made by this Title) shall be treated as if it were a contingency plan under section 202 or 203 of the Energy Policy and Conservation Act which was approved in accordance with the procedures under that Act or as otherwise provided by law, and funds made available pursuant to such appropriations shall be available to carry out the provisions of this Act and the amendments made by this Act. For purposes of this title, States are required to use existing State energy conservation funds as appropriated pursuant to PL 96–126.

SEC. 519. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of the enactment of this Title.".

Mr. JAVITS. Mr. President, Senator WEICKER will undoubtedly cover the details of his amendment as well as my amendment. I shall follow him in the time left. Anything that is omitted or needs to be commented on I will do at that time, without interfering with the Senator's presentation.

Mr. WEICKER. I thank the distinguished Senator from New York.

As I understand the amendment which Mr. JAVITS has proposed to my amendment, it would delete the 5-percent mandatory conservation target, allowing the President to establish an appropriate target, and would change the base date for computation of the national and State monthly conservation targets from November 1, 1979 to January 1, 1979. In addition, certain technical and administrative changes would be made.

I accept the changes made by the amendment of Senator JAVITS.

Mr. JAVITS. Mr. President, I thank my colleague.

Mr. President, since the Senator accepts my amendment would it be in order to ask unanimous consent to have it acted on so he may argue the whole case?

The PRESIDING OFFICER. By a unanimous-consent request.

Mr. JAVITS. Mr. President, I ask unanimous consent that my amendment now be voted on.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

The amendment was agreed to.

Mr. JAVITS. I thank the distinguished Senator from Connecticut.

Mr. WEICKER. Mr. President, the events which have transpired in Iran have alarmed and aroused the American people. As President Carter accurately noted in his speech last Wednesday night, the Iranian hostage situation has engendered a unity of national spirit in this country which is unprecedented in recent times.

As this grim affair has unfolded, the attention of the American people has been dramatically focused upon our energy situation and what it means. We as a nation are realizing that Iran is only the first fruit of the bitter harvest which has grown and will continue to grow out of our energy dependence.

Something must be done or this Nation, which today is every bit as hostage in the economic sense as those in the Tehran compound are in the physical sense, will proceed from crisis to crisis until we are blackmailed into bankruptcy or compromised to death.

I have loudly applauded the President for his decision to cut off American purchases of Iranian oil. That is the first time in memory this Government has had the guts to say "No!" to OPEC. After the President's action was announced, I heard all sorts of speculation about how we could make up for the resultant shortfall in supply on the spot market, or from extra Saudi production, or through Iranian oil channeled to us by our friends in Europe. Others said the cut-off really does not amount to anything. They couldn't be more wrong.

The time has come to demonstrate the firmness and intelligence of America's resolve. The time is right to put the American spiritual unity to work to unhook ourselves from the addiction to

Mideast oil. I propose on this floor today that the United States commit itself to make up the Iranian supply shortage in no other way but conservation, through a national mandatory energy conservation plan.

The amendment directs the President to establish a conservation goal for all petroleum products. My amendment, as initially offered, mandated a 5-percent conservation target, to approximate the percentage Iranian oil imports have represented in relation to total U.S. oil consumption. The target was established to alleviate anticipated shortage by conservation, rather than through resort to the spot market to make up the loss, which would defeat the spirit, if not the purpose, of the embargo.

The amendment offered by Mr. JAVITS does not mandate a specific target, but instead requires the President to establish a goal. This change would give the President flexibility in establishing a target.

I noticed a few minutes ago that targets have been suggested for the various States on a voluntary basis and they vary anywhere from 10-percent cutbacks to no cutbacks at all. But, I repeat, this is in a voluntary sense.

Time magazine recently made a persuasive argument for conservation of petroluem.

> Though the immediate crisis facing the world is the direct responsibility of the Ayatollah Khomeini and his pseudogovernment in Iran, the danger would not be nearly so grave if the U.S. had not allowed itself to become so dependent on foreign oil. Under the circumstances, there is no guarantee that economic disruption can be avoided no matter what steps the nation takes. But the best hope for avoiding real trauma is to cut consumption, conserve supplies, and, at the very least, make do with 700,000 bbl. less of crude each day. Such an effort would put some slack in worldwide petroluem supplies and help restrain prices. More important, it would also show Iran and the world that the U.S. can start breaking its addiction to the demon oil.

The conservation program which this amendment proposes is adapted from title II of the Emergency Energy Conservation Act of 1979 (Public Law 96-102; enacted November 5, 1979). Title II of the act provides for an emergency energy conservation program whereby the President is authorized to establish conservation targets for each State, and each State is required to implement an approved State conservation plan. If the State plan does not meet the conservation target, then a standby Federal plan could be imposed. This standby Federal conservation plan is not related to the standby motor fuel rationing plan mandated by title I of the Emergency Energy Conservation Act.

My amendment as modified by the amendment of Senator JAVITS would incorporate the provisions of parts A and E of title II of the Emergency Energy Conservation Act of 1979 (Public Law 96-102) into a mandatory plan for the conservation of the use of petroleum products.

The President would be required to establish, within 45 days after enactment of this legislation, monthly conservation targets for the use of petroleum products for the Nation generally and for each State. These targets are to be computed by applying the conservation target to a base period consumption of petroleum products. The base period consumption would be calculated by determining the State's petroleum consumption in the 12-month period prior to January 1, 1979, as modified to reflect the trends in the State's use of petroleum products during the 3-year period prior to January 1, 1979. The President would be able to adjust the base period consumption figure to insure that the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, thereby protecting, to the maximum extent practicable, of public health, safety, welfare and the national defense. In addition, adjustment may be made to take into account reduction of petroleum consumption already achieved by States due to voluntary conservation measures already undertaken by the States. Thus, these States will not be penalized by the legislation.

A petroleum conservation program, designed to achieve a reduction in petroleum use, would be established by the President for the Federal Government and for its employees in connection with their employment.

The Governor of each State would be required to submit a State petroleum conservation plan no later than 45 days after publication in the Federal Register of the conservation target for that State. Each State plan must provide for a reduction in the public and private use of petroleum products. The plan may permit those affected by it to use alternative means of conserving at least as much petroleum as would be conserved under the State's program, provided the Secretary of Energy approves of the State's procedures for the approval and enforcement of the alternative. The plan must contain adequate assurances that the provisions contained in it will be effectively implemented, either by measures authorized under State law or by measures for which the Governor seeks a delegation of Federal authority to administer and enforce. The Secretary of Energy must affirmatively approve each State plan, and may withhold approval if the plan is not likely to achieve the conservation target or for other specified reasons.

The Secretary of Energy would be required to establish a standby Federal conservation plan which would provide for the reduction mandated by the conservation target established by the President in the public and private use of petroleum products. The Federal plan would serve as a guide to the States for conservation measures deemed to be most effective in achieving the desired reduction in petroleum use. If the President finds that the State plan has been in operation for a reasonable period of time, not to be less than 90 days, and the conservation target is not being met and it is likely it will continue to be unmet, he could impose all or part of the Federal plan in the State. These prerequisites to Federal intervention are designed to encourage States to come up with their own plans in recognition of the fact that conservation can be most effectively achieved if local officials are responsible for planning, administration and enforcement. In addition, even when the Federal plan has become effective in a State, the State is afforded a series of options to enable it to assume responsibility for the mandatory conservation program. These options include the submission of another State plan or a substitute on a measure-by-measure basis for elements of the Federal plan.

The amendment provides that a State may seek judicial review, in the appropriate Federal district court, of: the conservation target established for the State; any determination by the President that an approved State plan is not achieving its assigned target; or any determination by the Secretary of Energy disapproving a State conservation plan.

The Secretary of Energy would be required to monitor implementation of State conservation plans and of the standby Federal conservation plan, and to make recommendations for modifications to the States. The President would report annually, and make recommendations, to Congress on the petroleum savings achieved under this legislation.

In summary, then, my amendment would require the President to establish a conservation target for the reduction of petroleum products consumption. The mandated conservation targets would then be implemented in precisely the manner prescribed by title II of the Emergency Energy Conservation Act. The act itself would not be amended by my measure, but its provisions would be incorporated into a mandatory conservation program.

The reasons for a mandatory conservation program are twofold: First, there is no need to delay for the President to make a finding that a "severe energy supply interruption exists or is imminent," as the implementation of the Iranian embargo establishes this fact, and second, action now, under procedures approved by Congress, is imperative.

Mr. President, a voluntary conservation plan is simply insufficient. Although I applaud President Carter for his effort in requesting States to conserve energy, I am afraid that his solicitations will fall on deaf ears. For any State to comply, all the States will have to be willing to conserve.

The problem with asking, as opposed to requiring a State to devise a conservation plan was made clear in an article concerning the White House proposal which appeared in yesterday's New York Times:

> Governors of half a dozen states expressed unhappiness with federal energy policies last week when they attended a White House meeting aimed at promoting conservation. Some governors said their states had already made significant savings in energy, yet had been asked to conserve further.
>
> Some federal energy officials have expressed their own misgivings about the seriousness of some states in drafting conservation plans. As of last February, 19 had no plans and, according to one Congressional report, "with respect to the 31 states who do have

> some emergency statutory authority to reduce energy consumption, there is a wide variation among the states in the extent of those authorities."

Indeed, the conferees in their report on the Emergency Energy Conservation Act recognized the importance of a mandatory program:

> The conferees believe it is very important for a coherent national response to acute energy shortages. Nothing can do more to destroy such a response than the perception that the citizens of some states are not reducing consumption while others are sacrificing to meet a target set for them by the federal government. The legislation therefore must contain effective authority for the President to act if it appears that a state plan is not being implemented according to the provisions of that plan. It is even more important that states not be permitted to avoid participation altogether by failing to submit a plan the Secretary of Energy can approve. In each of these instances the conference substitute directs the President to make all or any part of the federal plan effective in the state for such period or periods the President finds appropriate to achieve the target in effect in that state.

Petroleum consumption in the United States was at an all time high in 1978. Last year we consumed on the average 18.8 million barrels of oil per day. Of that amount 7.4 million barrels were gasoline.

This year the United States reduced its consumption of petroleum by 2 percent and gasoline by 4.2 percent from last year's record high level of consumption.

This conservation effort is commendable, but in my opinion it is not enough.

Compared to 1977, our Nation has only reduced its gasoline consumption this year by 1 percent and we have remained even in total petroleum products consumed. Moreover, this year's conservation effort may only be temporary.

In fact, according to recent press releases, the administration's forecast for gasoline consumption next year indicates an increase of about 1.4 percent above this year's level. The administration expects the Nation to consume on the average 7.2 million barrels of gasoline per day in 1980.

It has also been reported that the administration plans to establish a voluntary goal for gasoline consumption of 7.0 million barrels per day for 1980. This would only reduce consumption of gasoline by 2.7 percent from the projected forecast and 1.4 percent from the actual consumption level in 1979.

I feel we should reduce our consumption of gasoline next year by an even greater amount. I am afraid that if compliance with the administration's target is voluntary it will be meaningless.

Voluntary targets simply do not work. For example, this past spring a number of Western States indicated their unwillingness to comply with the 55-mile-per-hour speed limit. So far this year the burden of gasoline conservation has not been borne equitably. According to a New York Times article yesterday, the State of New York has reduced its consumption of gasoline by 6.1 percent from last year; New Jersey 3.9 percent; and Connecticut 3.6 percent. Looking at the data for PAD V (Petroleum Administration for Defense District V: Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington) you find a slight rise in gasoline consumption for the first 7 months of this year.

Mr. President, this amendment provides for the Government to anticipate an energy shortfall, rather than simply engage in a knee-jerk reaction to a problem. Six OPEC nations have already announced that they will cut back their production of petroleum. This amendment would give the President the tools to implement an effective conservation program, which he may design, without having to wait until there is a crisis or near crisis situation.

I urge my colleagues to carefully consider this mandatory conservation program which is directly tied to the Iranian oil embargo. The resolve of Congress on this issue can only be viewed as a reflection of the resolve of the Nation at this critical time.

The real question here is what are we going to do, as a nation, to respond to the threat posed on the Nation by the Government and the people of Iran?

I have heard much breast beating, much name calling, much grieving in this country over the 50 Americans held hostage in that compound in Tehran. But aside from that breast beating and aside from that grieving, and aside from those political statements, I have not seen one single action taken which brings closer the day of freedom for those people.

The other question that one hears, is, What can we do? What can we do?

I think we all realize our options are severely limited, precisely because we place a value on human life. But always when the question is asked, people expect the answer to involve what it is that somebody else is going to do for us rather than what we ourselves can do.

I realize that I have been a ridiculous figure on this floor for 6 years in the cause of conservation. I have lost 83 to 7, I have lost 79 to 10, and I understand that there is a probability I will lose out here again this afternoon. But finally, events are catching up with our inability to respond as the leadership of this Nation.

I was offered the opportunity as a substitute for this piece of legislation to offer a sense-of-the-Senate resolution. I do not know why I was even offered that opportunity. In light of where the votes have been in the past, I do not think my chances are too good here this afternoon. But I was offered that as a substitute. Something, in other words, that would take just a little less political courage, but, I might add, commensurately, would also be received as less than an act of self-discipline in Tehran and elsewhere.

How can a nation be expected to defend 50 people in a compound in Iran, or take any action on their behalf, when its people are not even willing to drive their cars one less day a week here in the United States?

What we suggest in this amendment is that we follow the guidelines set forth in legislation already passed by the Congress and signed into law by the President. What we are doing is saying that those events in Iran have indeed triggered a crisis, and are triggering a shortfall, or will. So let us put the plan into operation.

I note this afternoon the Department of Energy suggested voluntary targets. Mind you, after 6 or 7 years of voluntarism not having worked, the Department of Energy has made a suggestion that each State cut back voluntarily. Do you want to know how well we are doing on conservation? There are two States that do not have to cut back. They have conserved. Those two are Alaska and Colorado. But then the list starts, and this indicates, in other words, how much higher the consumption was in the first quarter than a year ago: Alabama, 7 percent; Arizona, 7 percent; Arkansas, 7 percent; California, 7 percent; Connecticut, 10 percent; Delaware, 8 percent, and so on down the list.

There you have a good example as to how well voluntarism has worked in the past year.

Cynicism abounds in this Nation. When the President made his speech on the cutback of Iranian oil, immediately people said, "Oh, we will get that on the spot market, we will get that from Saudi Arabia, we'll even get it from Iran through our allies who will transship it to us."

Do you not think this is readily understandable to the captors in Tehran? Do you not think they have read us accurately for 6 years and know that we are not willing to discipline ourselves to the point where we can make a meaningful response?

We can fool ourselves here on the Senate floor, I say to the lady and gentlemen of the Senate. We can fool ourselves even within the Nation. But we are not fooling the world and we are certainly not fooling Iran.

Mr. PERCY. Will the distinguished Senator yield at some appropriate point for some comments?

Mr. WEICKER. In 1 minute I shall be through. I am anxious to hear the comments of the distinguished Senator from Illinois.

So, Mr. President, I hope that when we ask the question of what can we do on behalf of those 50 people in the compound in Tehran, the answer will be that we can pass this amendment on the floor of the U.S. Senate. That would send a message that has never been sent from this Nation, and certainly has never been heard around the world. It would be as important a step toward their freedom as any of the braggadocio or boasting or arms-waving that has gone on up to this point, and which has produced no result. I hope my amendment will pass.

I yield to the distinguished Senator from New York.

Mr. JAVITS. I thank my colleague.

Mr. President, I have cosponsored this amendment because I believe mandatory controls are demanded by the existing crisis. If it is a crisis, then the way to meet it is the way Americans traditionally meet crises, by equality of sacrifice. Nobody should get special breaks. I have heard of black markets and other problems, but they are a natural and small part of the difficulties we run into. But the law should be equal and strict if we are really going to save, and if we are really going to meet this crisis, we have to save. We have to do it. We have to save for ourselves, and if we want the cooperation of other nations, we have to have something which we can share with them as well.

It is because I believe in the Weicker amendment that I am joining with him. I am extremely pleased that I have been able to make a contribution by the arrangements we made so that he can present a full and strong case.

May I say, too, because one never knows what will happen around here, that whatever may happen on this amendment, I believe deeply that its acceptance is in the highest national interest. The conferees can iron out any rough spots, if there are any, when they get into conference.

I do hope that whatever happens, the Senate will express itself clearly on this issue of conservation. That is the least thing that this Congress and the Senate ought to do in the highest national interest, in the interest of national security, national honor, and national viability. That is why I joined with the Senator, and I hope very much his amendment will be agreed to.

Mr. WEICKER. I thank the distinguished Senator from New York. Most particularly, I appreciate the support of one of my colleagues on an unpleasant issue—one that gains no votes in New York, Connecticut, or anywhere else in this country.

Up to this point, Iran has not misread the United States. It has read us very accurately, and no place more so than on the floor of the U.S. Senate. Until men of courage, such as the distinguished Senator from New York arise and insist on measures of self-discipline and self-sacrifice, believe me, our words are empty words indeed in that part of the world. So I thank my distinguished colleague from New York.

(Mr. EXON assumed the chair.)

Mr. PERCY. Mr. President, I commend my distinguished colleague for his amendment. I am very pleased to cosponsor it.

This is not an impetuous decision, by any means. Some 3 years ago, as my colleagues know, I walked into the office of Hubert Humphrey and talked over the future of America's need for energy, and our need to cut our terribly conspicuous, wasteful consumption of it.

I asked him that day to found an organization with me in the private sector. Government cannot do everything. In fact, the Government's voice is not always a credible voice.

And together we did establish in the private sector the alliance to save energy—an alliance of businessmen, private citizens, consumers, and producers. All kinds of people in America were brought together in the alliance to study the nature of our energy problem and work to solve it.

It was our judgment at that time that conservation was the quickest, most equitable, and best approach to the energy crisis we faced, because it would return to energy the reputation for efficiency that the United States has long had in almost every other area of production.

Our economy is an efficient economy. We are efficient, hardworking people. But we are wasteful and squandering in our energy habits. This is because energy has always been so utterly cheap, it has never had to be regarded as an element of cost. We never, mistakenly, have thought about whether our supplies would run out.

Those days are over. We have no choice but to think about it now. Now, 3 years after my original conversation with Hubert Humphrey, the United States of America and its people realize that we probably have as much crude oil as we shall ever have. Our oil is running out. In 30 years, it may be totally exhausted. Our prices today, high as they are, are the cheapest prices we shall ever have.

There is only one direction energy costs can go, and that is up. In light of this, Mr. President, we must reaffirm our dedication to conservation—immediately.

Mr. President, I remember saying to Hubert Humphrey, in the conversation I have just recalled, "No one has the right to ask you at this stage in your life to do anything more. But would you be willing to establish a national alliance to save energy with me?" He thought only 30 seconds, and came to a decision "Of course I will," he said. "It could be the most important single thing I do in my lifetime."

The Alliance to Save Energy today continues to work toward making Americans realize that precious energy resources are running out. As one organization, affiliated with well over 150 Members of Congress and many organizations, it has helped immeasurably. But there is a great deal more that has to be done, through private efforts and through the federal system.

The genius of this is in how well it utilizes our federal system of government. We have 50 States. Each can play a key role in solving our national problem. Our national goal can be solved by letting States work for themselves to determine what conservation plan best suits their particular needs.

It is the heart of the federal system to ask the States, to enact and develop a plan which will enable them to move forward toward tangible, substantive energy savings. Yet we need to mandate, now, that States fulfill their obligation to our national objective.

The President of the United States pledged in a recent speech that we would never use one drop more of imported oil than we did in 1977. That pledge will simply not be met unless we conserve. What the distinguished Senator from Connecticut is giving us her is a chance to realize the President's pledge.

Let us not fool ourselves. If we had left our speed limit to anyone's judgment, let everyone decide what speed they were going to travel at, what speed was best for them and best for their fellow travelers, we know what the consequences would have been. But we decided that there was a national need for safety on the highway, and so we mandated a Federal 55 miles an hour limit. It has saved millions of barrels of oil already and thousands of lives.

The need for mandatory State consumption reductions is every bit as great.

The amount the President will ask Americans to conserve is minimal. But in a sense, it has tremendous symbolic importance, in light of the crisis in Iran. It has been estimated that the United States could cut consumption by 5 percent were everyone to drive 2 miles less per week. It is far better to impose a mandatory conservation plan now, in response to our cutoff of Iranian oil than to have to resort to the spot market to make up the loss of oil. This would defeat not only the spirit but also the purpose of the embargo.

Mr. President, figures came out today on food price increases. They have jumped 2.6 percent, and we are shocked. But we are no longer shocked when energy costs keep going up, up, and up.

Well, there is only one way that we are going to reduce costs, and that way is to conserve and reduce consumption. We have to do it, and we have to do it now.

By passing the Emergency Energy Conservation Act earlier this year, Congress showed that it favors mandatory conservation in emergency situations. We certainly have an emergency situation today—far more drastic than we had when that bill was passed. This amendment is an appendix to that. It says, "the crisis we are preparing for has come."

When Secretary Miller went several weeks ago to a group of Gulf States, including Saudi Arabia, what they were most interested in was, "What are you doing to conserve?" This was the first question put by Sheik Yamani. "What action is being taken to conserve energy?"

Earlier this year, Sheik Yamani responded to the Alliance to Save Energy's invitation, and came from Saudi Arabia to address the conference at Dumbarton Oaks. He got his message across: "If you do not cut energy consumption, we have no alternative but to raise prices."

This comes from one of the most distinguished spokesmen for world energy supply, a man who has really stood the ground and fought to hold down energy costs.

A mandatory plan can lead America to show the world that it can be done. We can demonstrate to ourselves, and the world, that we intend to do something about energy consumption. Never have Americans better understood the need for, nor have they ever been more prepared to, sacrifice on behalf of national security. We cannot lose this opportunity.

Once again, I commend my distinguished colleague for giving us a plan we can vote on, a plan that will enable States to make real energy consumption cuts—cuts that are needed to hold to the President's pledge about limiting our consumption of imported oil.

If we do not do this, we are just talking in rhetoric, and it will fall on dead ears, except for those of the leaders of oil supplying countries, who will cut our consumption eventually by jacking up the price even more. There is no limit to where they can go if we continue the unreasonable and insatiable demands we now have for imported oil.

I strongly support the amendment by the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Illinois for his comments. As one who has led in the fight over the past several years, I hope his comment is not prophetic, when he says that unless we do something, it is going to fall on deaf ears. It is going to fall on 50 dead bodies, unless people understand that what we say, we are willing to back up. So far, there has been no indication of that. This is as good a place to start as any.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, this is a good amendment, and I would support the amendment, but for two reasons:

First, it is a nongermane amendment. We are considering a windfall profit tax bill, and this is an amendment which should have been offered to the energy conservation bill we considered a month ago. Certainly, the Committee on Energy and Natural Resources would object to this being offered as an amendment to a tax bill, without the proper exercise of the Energy Committee's jurisdiction.

Second, I oppose the amendment for the reason that the objectives as outlined in the amendment have been accomplished by virtue of passage of S. 1030, which has been signed into law by the President. I do not know whether the Senator is cognizant of the recent action taken by the President. As a matter of fact, I believe it was today that the President took action in line with the mandates of S. 1030.

Mr. WEICKER. Mr. President, will the Senator yield on that point?

Mr. MATSUNAGA. I yield.

Mr. WEICKER. No, he did not. All he did was suggest what could be done, but he did not officially trigger that.

Mr. MATSUNAGA. Under S. 1030, as was announced in a release issued today by the Department of Energy—I do not know whether the Senator is familiar with it—the Department of Energy has set a target of 7 million barrels a day for average national gasoline consumption during 1980, with a 7-percent reduction during the first 3 months, compared to 1979—not 5 percent, as the Senator had proposed. As I understand, by acceptance of the amendment by Senator JAVITS, no percentage is set forth. The President has set forth a target of 7 percent, which is 2 percent greater than that proposed by the Senator, and 7 percent, at least is a definite figure, compared to none by the amendment offered by the Senator from New York.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I yield.

Mr. WEICKER. On a technical point: This was strictly on gasoline consumption, and I am talking about total petroleum usage.

The answer is that the action of the Department of Energy is not in pursuance of the legislation which was passed. This was a unilateral effort requesting voluntary compliance. It was not in conformity with the measure we passed, which provides that a finding has to be made and then appropriate action taken.

Mr. MATSUNAGA. On this point, I will yield to the Senator from Louisiana. I think he is more familiar with the facts than I am. I yield to the Senator from Louisiana.

Mr. JOHNSTON. I thank the distinguished floor manager.

Mr. President, there is not the slightest disagreement about the need to conserve in this country, with the criticality of our present situation. It is very grave. The Nation needs to conserve. The proposal as put forth by the Senator from Connecticut and the Senator from New York has some good points. Indeed, the amendment of the Senator from Connecticut takes most of S. 1030 verbatim and makes some changes in it. However, we oppose this amendment, for a number of very practical and very cogent reasons.

First, in my judgment, this amendment actually would have the effect—unintended though it may be—of delaying this country in getting on the road to a conservation plan.

Why do I say that? First of all, the amendment of the distinguished Senator from Connecticut provides that the energy targets shall be set by the President within 90 days after the enactment of this measure—this measure, of course, being the windfall profits tax bill. When is a windfall profits tax bill finally going to matriculate its way through the conference committee and be signed by the President? No one knows. But if past history is any guide, it will take a matter of some weeks; indeed, it could take some months, although I pray that it will not be too many months. I hope this is not a replay of the natural gas bill, which took well over a year.

This is the largest revenue bill dealing with one industry ever enacted by Congress, one of the largest in the history of the country. It promises to take many weeks. So what we would have would be a 90-day delay before the targets even would be announced, before we could come up with a plan.

Compare that to the present situation. At present, we are operating under a bill signed into law just last month, November 5. The conference report was adopted by the Senate by a vote of 77 to 18.

It is not fair to style the present law as totally a voluntary plan, because there is a very strong club in the closet with respect to the present program. Under the present program, if there is a shortage—and a shortage is defined under a very broad grant of discretion to the President—what is a shortage? It is the difference between what we are receiving over some base line. Under S. 1030, that base line can be interpreted very broadly by the President as meaning, for example—as the floor debate on S. 1030 will indicate—that which we would have had there been no shortage—in other words, a desired consumption level at previous prices.

Under that kind of discretion, the President really has authority to define the shortage almost at will. Instead I think it would be perfectly proper and possible for the President under today's consumption and import levels to declare an 8-percent shortfall because we are operating right now under a shortfall compared to an extrapolation of consumption levels that would be 8 percent less than it would have been had there been no cutoff from Iran, no cutback from OPEC countries, and no shortage of petroleum in the world.

So the President has a very broad discretion as to how to define that shortfall.

Under S. 1030, the President can declare a shortfall and upon making that shortfall declaration can submit energy targets based upon that shortfall to each State. If it is less than an 8-percent shortfall then each State must come up with a conservation plan, and they must come up with assurances. If they fail to come up with a conservation plan or the assurances, or if they come up with a plan and assurances and those are approved and the State does not deliver on its assurances, then the President may invoke under S. 1030, the present bill, a mandatory Federal plan, which is what the Senator from Connecticut wishes to accomplish by his bill.

So, Mr. President, it is not a voluntary plan at all. It is a plan with real teeth. If there is a shortage of above 8 percent, then the mandatory program may be invoked under similar circumstances in the State, that is, if they fail to submit a plan or if they fail to deliver on their assurances, with one additional element, that is, if they do not reach the 8-percent target then the mandatory Federal plan can be invoked.

So what we have under existing law is very broad and strong authority.

Mr. President, there is not the slightest indication that the White House is being remiss, that this administration is being remiss in proposing their plan. Indeed, just today, the President through the Department of Energy has set forth for each Governor a goal of 7 percent reduction with each State having its particular gasoline targets defined. For my State of Louisiana, for example, there is an 11,000-barrel-a-day target for the first quarter of 1980.

Mr. President, coming up with targets, measuring petroleum usage and consumption, sounds like it is easy to do. The fact of the matter is we do not have the data base at this time. We do not have the experience to be able to set arbitrary targets at 5 percent or anything else and to be assured that the machinery will work and will measure properly.

But we are assured that the President is proceeding as fast as possible, announcing his plan today for his targets. The Federal mandatory plan, so-called club in closet, will be announced February 4, and that announcement of the Federal plan is really a necessary predicate for the States to come up with their plan, because in order for a State to come up with its plan, if it wants to use any Federal powers, those powers, must in turn be set forth in the Federal plan.

If a State is to pick and choose among various remedies we want that State to have the ability to have the option of picking the various elements that would be in the Federal plan. And that plan will not be announced until February 4, which I think is monumental speed, considering the gargantuan size of the task.

Mr. President, the administration does oppose this amendment, and let me just very briefly give the points by which as stated by the administration in a memorandum set forth on December 4 as follows:

> The administration opposes enactment of the Weicker amendment. It is not feasible to comply with the provisions of the amendment for the following reasons: First, the amount of the reduction in consumption proposed is unnecessarily large.

That has been amended by the Javits amendment. I ask the Senator from Connecticut, is that correct?

Mr. WEICKER. That is correct.

Mr. JOHNSTON. So that at present those targets could be set anywhere from zero to 100 percent, is that correct?

Mr. WEICKER. That is correct.

Mr. JOHNSTON. Is it not then correct to say that the Weicker amendment is also a voluntary plan since the President need not set any particular target at all? Is that correct?

Mr. WEICKER. No, it is not. It, in effect, goes ahead and takes the present law and pulls the trigger. The President has cocked the gun. If we pass this amendment the trigger is pulled.

Mr. JOHNSTON. If the President can set it anywhere from 0 to 100 percent, where is the compulsion to tell him where to set it?

Mr. WEICKER. What the President is going to do, first of all, is wait and find out if the States act. It is not a mandatory Federal plan. It is mandatory upon the States to enact their conservation plans.

Mr. JOHNSTON. I know, but we have to have the Federal target.

Mr. WEICKER. That is correct. Hopefully they will go ahead and do that, and hopefully they will go ahead and meet that target. In any event, it sets all the apparatus in motion so expertly devised by the distinguished Senator from Louisiana in the passage of that act. But as the Senator himself has said, and I do not want to impinge on his time, the shortfall has already been established. But the President has not chosen to act. What I am saying is, we are going to force that action. Insofar as the Senator is concerned, I will try to restrict myself to answering his question. I tried to answer it, and I will reserve my comments for my time.

Mr. JOHNSTON. I understand what the Senator from Connecticut is trying to do and with that goal I very much agree. The Senator from Connecticut has been a leader in the whole realm of conservation. So it is not as if I am here trying to oppose conservation. I am simply saying that the machinery in place now is more workable and is more feasible than this amendment.

This amendment has very many good points. Indeed, as I pointed out, much of it the machinery from S. 1030 is contained. But I think as the administration points out, and let me mention the other two points, they say:

> Second. Data is not now available to set targets for total petroleum use on a state-by-state basis.
>
> DOE does not have state data on total petroleum consumption. The only product for which valid and complete end use consumption data is now available is gasoline. DOE is developing a data series on all middle distillate end use consumption for every state. This data could be available for use in about a year. Individual states do not maintain petroleum consumption data that would be comprehensive enough to develop state targets or monitor progress on the conservation plans discussed in the Amendment.

If I may just expand on that very briefly, under the amendment of the Senator from Connecticut those targets must include all petroleum products even though we do not now have data on which to set a target. So if the President should follow through with a target for all petroleum products, without being based upon adequate data, then one of two or three things would happen. Either, first, the target would be meaningless because it could not be measured, or, second, it would impinge improperly upon individual States because the consumption allocated to individual States would not be properly allocated since there is no data base on which to do it. Or, third, it would be totally meaningless.

What the administration says is let us proceed with gasoline, a product for which we have data, and for which targets, goals, and which Federal plans are feasible and enforceable.

I think one of the worst things we could do is come up with a target and a goal and an enforcement mechanism that would not be measurable, therefore not be enforceable and, therefore, be meaningless.

To proceed with the third point of the administration's opposition, they state:

> The States and Federal Government do not have the capability to develop conservation plans to obtain oil consumption reductions of this magnitude in the near term.

That refers, of course, to the 5 percent. They go on to say:

> The States and the Federal Government do not have the capability to develop conservation plans in the near term which could achieve the level of savings required.
>
> For example, a "sticker" plan to require a still day for each vehicle one day per week is expected to save only 200,000 to 300,000 barrels per day and cause serious economic impacts. Much further work and implementation lead time is required to develop conservation plans that might achieve this level of savings without causing very severe economic losses.

So, Mr. President, there are many ways to save energy which we have debated here on the floor of this Senate. One of those measures which is being seriously considered now, as I understand it, by the administration is a gasoline tax, unpopular in many quarters but, nevertheless, effective.

But to require any target from unmeasured petroleum sources and to require energy savings, for example, in electric powerplants which may not be susceptible to saving middle distillates or residuals, except at the risk of loss of reliability, I think is totally impracticable.

Mr. President, in closing, I would say that the intent of the Senator from Connecticut is excellent. The need to conserve could not be more clearly demonstrated by the events in Iran. But the present law, enacted November 5, just last month, upon which implementation is proceeding at almost breakneck speed, and certainly I think all that most of us on the Energy Committee and in this Congress could expect in terms of speed, that is proceeding, and we ought to give that a chance to work.

In any event, Mr. President, we could not put into place, first of all, a delay in that machinery because there would be a delay if the Senate enacted this bill, and we would, therefore, stymie any efforts under the present bill and simply delay the whole process. Second, it would be under unworkable machinery.

So, for those reasons, Mr. President, we would oppose this amendment, not its intent, not the need to conserve, but because of the machinery by which it would be made manifest.

I thank the distinguished Senator from Hawaii for yielding.

Mr. MATSUNAGA. Mr. President, I would be happy to yield now to the Senator from Washington.

Mr. JACKSON. Mr. President, I want to thank the distinguished Senator from Hawaii for yielding.

First, Mr. President, I want to associate myself with the remarks of the distinguished Senator from Louisiana (Mr. JOHNSTON). I have the highest regard for the efforts that the Senator from Connecticut (Mr. WEICKER) has made in the area of conservation. But I must say that the amendment before us, as has already been pointed out, contains essentially the provisions, with some modifications, of S. 1030, which was enacted into law on November 5 to deal with the very situation that the Senator is talking about.

I oppose the Weicker amendment for the following reasons:

It is not germane to H.R. 3919 and, therefore, as a provision of law, binding on the President, it has an extremely unlikely future.

More to the point, the President is engaged in the very delicate business of responding to the crisis in Iran. He is doing a good job. I do not think we should—even by implication—be detracting from the unity the vast majority of Americans feel in our desire to stand up to the irrational and unconscionable demands of the Ayatollah Khomeini.

The President today set targets for gasoline consumption on a State-by-State basis and has begun the process of designing the Federal emergency conservation plan which will guide the States efforts. These actions are entirely consistent with S. 1030, the bill enacted on November 5, 1979, to deal with just this kind of situation.

We have a workable law on the books which vests in the President the necessary authority to respond to this situation. He is responding. It is hardly appropriate for the Senate to be heckling him by adding hastily considered, nongermane amendments to whatever bill happens to be on the Senate floor.

I hope the Senate will reject the amendment.

Mr. MATSUNAGA. I thank the Senator from Washington, the chairman of the Energy and Natural Resources Committee, and I thank the Senator from Louisiana for clarifying the matter as it stands today.

I might point out to the Senator from Connecticut that the target as set forth by the President in his announcement today through the Department of Energy sets a quarterly target for the first quarter of 1980 at 82,700 barrels of gasoline per day as compared to the average of 91,500 barrels per day actually used in the State of Connecticut during the first quarter of 1979. This, I believe, would be a tremendous target conservation for the State of Connecticut to meet.

I also note in the table set forth for my State of Hawaii a target of 20,600 barrels per day for the first quarter of 1980, which is a reduction from 22,500 barrels per day for the first quarter of 1979.

So our target insofar as Hawaii is concerned would not be a difficult one to meet as compared to that which is set forth for the State of Connecticut.

I suggest to the Senator from Connecticut that the people of Connecticut are thrown a real challenge by this target. In the event they are unable to meet this target, then, of course, as was pointed out by the Senator from Louisiana, the President is authorized to impose Federal standards on the State of Connecticut. We are hoping that the State of Connecticut will take the leadership of the Senator from Connecticut and voluntarily comply with the target set forth.

If the Senator will look at the table, he will find that this is a target which is acceptable, one which sets forth a goal of 6.8 million barrels per day as the national first quarter target, as compared to 7.1 million barrels per day consumed the first quarter of 1979.

So I would strongly urge my colleagues to vote down this amendment. It is a good amendment, but it is already taken care of by existing law, and the adoption of the amendment would not only tend to confuse the issue, but even to delay the implementation of the law already on our books.

I reserve the remainder of my time.

Mr. WEICKER. Mr. President, first of all I want to make one point clear: This delays absolutely nothing. The President is free to go ahead tomorrow and implement the provisions of the law. My amendment delays nothing.

I hear a statement made here on the floor as to the fact that we can wait until February. Does everyone on this floor want to face the issue and make that statement relative to the hostages, that we can wait until February?

This place sits insulated by those doors and these walls as if nothing had changed since the initial passage of the legislation in June. It is very much like when we had the Presidential plan on Amtrak, and I asked the question of Senator CANNON, when they wanted to cut 40 percent, "What is your data base?" That was in July of this year. Their data base was 1977.

Do Senators think nothing has changed since 1977 insofar as Amtrak is concerned? Do not Senators think that maybe we can use as a data base the public experience in July of 1979? Do Senators not think we can go ahead and use as a basis for our action what has transpired in November and December of 1979, rather than what the condition of the world was in May and June of 1979?

February; is that a convenient date for everybody here? As you watch your television screen, are you thinking in terms of February for the hostages? Or is everyone of the view of everyone on the streets of America, that this ought to be resolved tomorrow?

It is not going to be resolved by coughing up the Shah. It is not going to be resolved by acceding to the demands of the terrorists in that compound. It is not going to be resolved by the 7th Fleet U.S. Marines and the 82d Airborne Division. It is not going to be resolved by jeopardizing—or indeed by losing—those lives.

It is going to be resolved by all of us right here at home, on the Senate floor and outside, showing we are willing to go ahead and make a sacrifice ourselves for our fellow Americans.

I have lived through the last 7 years. First, we said, "Oh, let's go ahead and relax the auto pollution standards, and sacrifice the elderly." Then it was "Let's continue the rationing by price, and so sacrifice the poor in order to maintain our supplies of energy." Now we have gotten to the point where we say, "Oh, let's sacrifice 50 lives to keep it going as it always was."

I understand the legislation that we passed back in June, that became law in November. I understand that the President can trigger that anytime he wants to. But the point is, he has not.

Two things happened. He asked for volunteerism, and he has had a release by the Department of Energy urging conservation by States.

If you want the point made to you, let me read you the release that announces the targets:

> The Department of Energy has set a target of 7 million barrels a day for average national gasoline consumption during 1980, with a 7 percent reduction during the first three months, compared to 1979.
>
> The 7 million barrels a day average is about the same level as 1979. The first quarter reduction, to an average of 6.8 million barrels a day, is sharper because the first quarter of 1979 was a higher than usual gasoline consuming period.

So they tell you they have to impose it because the volunteerism is not working. Why, then, do they ask for more volunteerism? What nonsense! Volunteerism has not worked since the volunteerism began, and so it is not working now.

I understand it is a drastic step to ask for mandatory conservation, but is anyone willing to risk a few votes in exchange for a few lives?

The Senator from Louisiana indicated to us—and there could not have been a better brief for my argument—that we have a shortfall of 8 percent. And, indeed, that was, in his own words, sufficient to have the President go ahead and trigger the law. Why has it not been triggered?

All my amendment does is set the time certain out there. I grant you it will take some time to pass this and have it go through conference, but at least there will be a definite time when it goes into being. As we have it now, there is no end of this. No one wants to take the responsibility, including the President. Now we have an impasse between Congress and the President.

I say we will take on ourselves, 100 strong, that nasty job of saying mandatory conservation is here. Let us let the President off the hook, instead of trying to put him on one.

I would hope—and I have little left to say, Mr. President, on this point—that this step will be taken by my colleagues. It certainly will not change much in the United States tomorrow. But I think it may change the perception of the United States of America by the rest of the world, and most importantly, the perception of this Nation by those students in the compound in Tehran.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WEICKER. I yield to the distinguished Senator from New York.

Mr. JAVITS. First, again I would like to reiterate my support for the Senator in what he is trying to do, and to say that I do not think that Members are going to be deterred here from voting for this mandatory law because they are afraid of losing some votes. With all respect to the Senator, we lose votes no matter what we do, and no matter how we vote. It is just a matter of degree.

I do understand the reserve with which Senators approach rationing, no matter how we may explain it, it does take a certain process of education, but even more of experience.

I think what the Senator is doing is very important for this reason: I do not see this crisis improving. Right now it pinches very hard on the American people held in Iran; and the Senator is right about the fact that if we gave this demonstration of support, it would have a very profound effect upon our allies in the world, upon the members of the United Nations, and upon thoughtful people—I do not know that it will necessarily upon those called students in the compound—but upon thoughtful people in Iran.

It will show a purposefulness which will be a great demonstration of American resolve. And I believe the people are ready for it. The people would accept this fact of life, they feel so deeply about the ayatollah.

I think our duty—mine, yours, and that of the other cosponsors—is to lay this question before our colleagues, and, I would add, to keep laying it before our colleagues, because I think we believe that our responsibility does not end with a vote on this amendment.

I believe our responsibility is a continuing one, to persuade the public and our colleagues their representatives—that we mean business. I have been at the U.N., and I think I know a little about the world situation. The idea of military action is very appalling to the world community, not that they do not believe it will take place, or that it may, if this situation really deteriorates to the point where it must, but simply that they are appalled at its consequences. Nobody knows where it leads, what it triggers, what costs it may have.

This amendment is an action which is not military action, which takes sacrifice out of ourselves, which is an eloquent way of showing our determination. So I hope that Senators will understand, at least in my case—I cannot speak for the Senator from Connecticut—the purpose in pressing this issue. This is something real, tangible, and effective in terms of the kind of efforts we need to make, and I admire the Senator for having authored it.

That is what really takes the kind of courage that he speaks of.

But I would not say what he says about my colleagues. They have their reasons. We have had difficult experiences with price control and with rationing, and there have been injustices and leakages and national difficulties.

But we are right, and, therefore, being right, without being overly critical of anyone else, let us keep pressing the issue.

THE URGENT NEED FOR INTERNATIONAL ENERGY CONSERVATION

● **Mr. BIDEN.** Mr. President, I support the amendment now before us offered by the distinguished Senator from Connecticut (Mr. WEICKER). This amendment would trigger within 45 days after enactment a mandatory energy conservation program in order to reduce U.S. consumption of petroleum products.

Mr. President, on November 5 President Carter signed into law the Emergency Conservation Act of 1979, containing measures to provide for a means for the Federal Government, States, and units of local government to establish emergency conservation measures with respect to gasoline, diesel fuel, home heating oil, and other energy sources.

These measures would be triggered whenever the President finds, with respect to any energy source for which the President determines a severe supply interruption exists or is imminent. The act further defines a severe energy supply interruption as a national energy supply shortage of significant scope or duration, which may cause major adverse impact on national security or the national economy.

Mr. President, we are in the midst of such a supply interruption today, prompted in part by the reprehensible behavior of the Ayatollah Khomeini in seizing the U.S. Embassy in Iran and holding hostage American citizens and officials of our Government. In order to help insulate our country from Khomeini's attempt at international blackmail, the President has suspended U.S. importation of Iranian crude oil—an action which could curtail U.S. oil supplies by about 700,000 barrels a day—or about 4 percent of American consumption. Mr. President, I strongly support the President's decision to sever our reliance on Iranian oil. We, therefore, take every measure necessary to insure that the President's decision is meaningfully implemented by reducing our domestic oil consumption accordingly.

We must also, Mr. President, thwart Iran's effort to gain economically from the suspension of U.S. exports, by doing everything we can to dampen demand on the world spot oil market where Iranian crude previously bound for the United States under contract is now sold to the highest bidder—commanding prices far in excess of already excessive official OPEC prices.

Mr. President, some very fundamental changes have taken place in world oil markets in the last year. Increasing amounts of the world's oil available for trade has been shifted onto the spot market, prompting real oil price increases significantly above the more than 60 percent spiral in official OPEC prices. Whereas last January less than 5 percent of the non-Communist world's oil was traded on the spot market, today the amount exceeds 20 percent. Mr. President, this dramatic change in world oil commerce alone demands a concerted U.S. response of oil consumption restraints.

We are also warned, Mr. President, of impending official price hikes by OPEC at its December meeting in Caracas, as well as probable reductions in the oil production rates of various OPEC member states.

Should such reductions be effected, Mr. President, the world oil market will witness substantially more tightening with the expected follow-on of upward pricing pressures.

Mr. President, we cannot afford further delays in reducing U.S. demand for petrolum products. We must do everything possible to insure that the countermeasures invoked by President Carter against the ayatollah's outrageous demands are fully effective. Of necessity, Mr. President, this means we must reduce our consumption of foreign oil.

I am encouraged, Mr. President, by recent indications that our allies are also attempting to moderate their reliance on the oil spot market. I strongly support the effort expected to be made this weekend at the International Energy Agency. The United States will be urging the IEA to put some teeth into the Tokyo Summit Agreement on oil consumption restraints, agreed to by our Western allies and Japan earlier this year. But we cannot expect our friends to exercise restraint when we, ourselves, who are much less dependent on foreign oil then they, refuse to tighten our own belts. As the respected oil weekly, the Lundbug Letter, recently stated:

> It is no exaggeration to say that U.S. oil consumption overwhelms world supplies. If dependence on OPEC oil is ever to be reduced significantly, the only meaningful action would have to come from the United States.

The United States consumes nearly 40 percent of all petroleum produced in the non-Communist world—two out of every five barrels. Our consumption of crude oil produced outside the United States has escalated from 9.5 percent share of all non-Communist world production in 1973 to 16.8 percent in first quarter of 1979. We import more of the world's crude oil than any other country on Earth—with foreign oil feeding nearly 44 percent of our domestic oil habit.

This excessive dependence on foreign oil not only threatens our very security and ability to work our will in the world, it also saps our economic might like a national hemorrhage. Pending the outcome of the next OPEC meeting, our oil import bill next year could run more than $80 billion, a figure nearly double 1978's drain on our economy of $43 billion. The cost of foreign oil to the United States has escalated 868 percent since 1972, fueling domestic inflation and destabilizing the country's economic position in the world.

Mr. President, there is no way we can put our domestic house in order as long as nearly half of our double-digit inflation rate is attributable to galloping energy costs. I say to my colleagues in this distinguished body, we must firmly regain control of this country's future. We have allowed it to slip by ever so slowly over the years as we have become increasingly dependent on a dwindling world resource. We must begin today, Mr. President, by adopting the amendment now before us which will mandate a reduction of our consumption of petroleum products.

We must do this, Mr. President, in addition to what we have already done to provide for reductions in U.S. energy demand, and increases in our supplies. We must do this even though industrial energy efficiency increased by 17 percent between 1973 and 1978. We must do this despite the fact that half the homeowners in this country have reinsulated their homes in some way since 1973.

We must do this even though our gasoline consumption this year is actually lower than it was in 1977 or 1978. The American people have responded to our national need to conserve fuel, and for that they must be commended. But now, Mr. President, we must appeal to the patriotism of all Americans to more aggressively reduce our energy use.

Mr. President, in the last few months the Senate has taken great strides to chart a new energy course to direct this country through the perilous waters of a future of increasing oil scarcity. We have undertaken a massive synthetic fuels development program, helping to unlock the remaining hydrocarbon resources of this vast country. We have sought to eliminate the bureaucratic impediments to quick energy development by providing for an energy mobilization board.

We have authorized billions of additional Federal dollars to encourage voluntary conservation, and our only long term hope—the development of renewable energy resources. But all of these measures, Mr. President, will take time to have their desired effect.

We, therefore, a brief time ago passed "the Emergency Energy Conservation Act" to give the President the authority to invoke mandatory conservation measures in the event of urgent need.

I say to my fellow Senators, we are today faced with just such an urgent need. That is why we seek support of the amendment before us now.

This amendment, Mr. President, is a simple one. It is one essentially already approved by this body and enacted for emergency use. It would implement the conservation plan provided for in title II of the Emergency Energy Conservation Act.

The conservation program itself instructs the President to establish, within 45 days after enactment, monthly conservation targets for petroleum products for the Nation generally and for each State. Each State is required to implement an approved State conservation plan. If the State plan does not meet the conservation target, then a standby Federal plan could be imposed. A petroleum conservation program to achieve the same target would also be established by the President for the Federal Government and its employees in connection with their employment.

The Governor of each State would be required to submit a State conservation plan within 45 days of the determination of the conservation target for that State. The plan must contain adequate assurances that its provisions will be effectively implemented, either by measures authorized by State law or by measures for which the Governor seeks a delegation of Federal authority to administer and enforce. The State plans, like the Federal plan, must be consistent with the protection of public health, safety and welfare (including the maintenance of residential heating), the national defense and maintaining public services.

The State is entrusted with the administration and enforcement of the State plan.

Mr. President, this conservation plan is necessary. We must wean ourselves off of foreign sources of crude oil, and we must begin now in light of the threat posed by the suspension of Iranian oil exports. Mr. President, this plan is fair. By allowing the States to develop their own plans, responsive to each State's individual characteristics, this plan avoids the charge of Federal insensitivity to local needs or imposition of disproportionate harm on any one State.

Mr. President, I believe the American people are eager to demonstrate to the rest of the world that we do not lack the will to do whatever is necessary to reassert the free and independent spirit which has characterized this great country of ours since its founding.

I urge my colleagues to lead the way for our people to do just that by passing this amendment.●

IN SUPPORT OF WEICKER AMENDMENT ON ENERGY CONSERVATION

● Mr. HART. Mr. President, I urge my colleagues to support this amendment by Senator WEICKER to establish conservation plans in all 50 States. The President will shortly announce a plan which could allow State Governors to establish 5 percent conservation of petroleum usage. I believe the President's plan is in the right direction, but is not strong enough. Therefore, Senator WEICKER's amendment is necessary.

It is not enough for this country to cease importing oil directly from Iran's oil exporting company. American importers can buy oil from third parties which has been produced in Iran. To effectively reduce our oil imports from Iran, we must reduce our oil imports by the equivalent of what we used to import from Iran.

This means we must reduce our oil consumption by 5 percent. Some time ago, the President met with the State Governors to discuss implementing the new legislation which allows the President to initiate State conservation plans. The President has announced a plan which will allow the State Governors, if they wish, to implement 5 percent petroleum conservation.

A voluntary plan of this nature will not work effectively. Basic human nature tells us this is so. It would be extremely difficult for an individual to conserve energy if that individual knew that a neighbor was not conserving, and indeed may be using more energy which was made available because of the first person's conservation.

The President will put the States in such a situation. The Governor in an energy-conscious State may try to institute a State conservation plan which could contain economic and other incentives for substantial conservation. Such a plan could work, especially in a State like Colorado, if nearby States were also conserving energy. However, such a plan would not work if States nearby did not also have such plans. It just would not seem fair for one State's residents to be making sacrifices to achieve energy savings which would free gasoline for residents of nearby States to consume.

On this basis, I support the amendment by Senator WEICKER to make the President's State conservation plans mandatory for all States in this country. This does not mean that the eventual plans that are developed by the States to achieve the conservation targets will require mandatory conservation. Indeed, most States will adopt a system of incentives for carpooling and use of public transportation and incentives to lower the use of energy for heating businesses and residences. Most of these incentives will be economic in nature and will be developed as a sensitivity to the patterns of energy use unique to the particular State.

Mr. President, as a cosponsor of Senator WEICKER's amendment, I urge my colleagues to support this necessary strengthening of the action which the President is about to take. Efforts to induce conservation must be made so that individuals will know that their individual conservation efforts will be matched by those of their neighbors.●

● Mr. DOMENICI. Mr. President, we start with the fact that a clear violation of international law took place when the Iranian students, with the blessing of the ruling government in Iran took nearly 50 American Embassy personnel as hostages. The terms for release of the hostages were returning the Shah of Iran for prosecution. There is no question that the Khomeini government acted illegally and in violation of every principle of diplomatic law and custom. Debate in the U.N. is ample evidence that we are right on this issue. Whether the Iranian people feel strongly about the Shah or not is irrelevant. Taking diplomats on official business as hostages has deeply offended and angered the American people and this Senator.

America has been portrayed recently as a giant tied down by strings with the ayatollah dancing on its chest. Since the United States hasn't taken any direct military action or show of force to release the hostages, some may feel that this portrayal is accurate. However, I do not. We are a strong nation and the people of this great land know that.

The American people do not want a needless show of force to result in the loss of any American. And so we wait. But at the same time we are giving the students every opportunity to release all the hostages into American hands.

One of the most important actions we can take is to make ourselves invulnerable to Iranian oil by not using any at all. The President has banned importation of such oil in any form and I support that decision. But, we can go further. And based on the possible flow of events in the near future, we must. Since the early spring of this year, gasoline consumption has varied between 5 and 10 percent below last year's levels. Last week it was 7.7 percent. Total demand for petroleum products is down a little more than 4 percent. This shows clearly that Americans have responded to a call to conserve. They should be congratulated; they have done a magnificent job. But unless we start now to develop a strategy for a further reduction in demand for all petroleum products, we will be unable to respond in a timely manner to any deterioration in the worldwide petroleum situation. Serious harm to our economy and way of life will result.

The Emergency Energy Conservation Act of 1979 was signed into law by the President on November 5, 1979. That act grants sweeping powers to the President to act in the face of energy shortages and to command the cooperation of the States in reducing energy consumption. Under the Emergency Energy Conservation Act, the President is authorized to establish State-by-State conservation targets and to develop a Federal energy conservation plan. Those targets and the Federal plan are intended to serve as guidance to the States as they set about to develop conservation strategies which best meet the consumption patterns and priorities in their States. The Congress was firm in its commitment to the States to allow their ingenuity and innovation to be tapped before any Federal bureaucrats impose a Federal plan on the State. In view of the petroleum situation worldwide, it is critical that the President and the Governors act together to develop these conservation strategies for possible use in the very near future.

I was pleased to be informed just this

morning that the President through the Secretary of Energy has announced such State conservation targets. And he is in the process of setting up meetings with the Governors to review the targets and to encourage the Governors to submit those gasoline conservation plans which will assure that the targets are met in each State.

So far the operation of this program is entirely voluntary. The Governors have indicated in the past their interest in being cooperative in a national conservation effort and as we approach a very serious time in American history, I think the Governors should be given every opportunity to respond in the interest of their States and in the overall interest of the Nation.

Some may feel that unless mandatory conservation programs are put in place we will simply be deceiving ourselves and the American people that anything is being done to reduce energy demand and reduce our dependence on insecure energy supplies. I maintain that such arguments are demonstrably false and our experience during the last 11 months are ample proof. Last year at this time gasoline demand was at all-time highs and projections indicated that near record growth in gasoline demand would take place. Since the world price of oil has been declining in real terms for many months, the price of gasoline was also declining in real terms and more and more people were returning to the highways of America.

The revolution in Iran changed all that. Gasoline prices have nearly doubled in the last year. In addition, supplies in the aftermath of the Iranian cutoff were seriously reduced and measures had to be undertaken in the United States to reduce demand. Based on our experience, it is my view that the most effective means of reducing demand for gasoline fortunately happened to be the only one available and that a number of ideas for reducing demand by mandatory conservation programs simply never got off the ground because of political and technical difficulties.

Let me explain. The only means we had for dealing with shortages of gasoline last year were to allow the companies to handle the situation by allocating gasoline to their own dealers on a basis that was proportionate to prior use. The companies set their own allocation fractions using their best judgment about how far to stretch supplies, and how much of a stock they needed. They only put so much on the street for sale and that amount was clearly less than the American people wanted and as a result long gas lines resulted. At that time individual States, at the encouragement of the Federal Government instituted some gasoline purchase ordering schemes and from all indications, they appear to have had a positive effect in reordering the gasoline market.

If one thinks back to the previous year, gasoline lines disappeared after a couple of months everywhere in the country, to the surprise of nearly everyone. The most efficient system for reducing demand was minimum involvement by the Federal Government and maximum use of individual initiative and reaction by all Americans. There is no easy way to reduce demand for gasoline. But the method of this past year has proven to be far more effective than expected and worthy of use in the future.

Because of the very tenuous situation in world oil supplies, it is possible that much more substantial reductions will be required. In that event, the States and the Federal Government must debate extensive efforts to advance planning and how best to handle the shortages in their States. That is really what is contemplated under the bill which the Senate and House sent to the President early last month and which he signed into law.

At the appropriate time, that is the process that he should and can use and it is a process which will allow the orderly development of mandatory conservation plans. It is bad policy to more prematurely develop mandatory conservation plans without the support of the States and the people of this country.

And if it is at all possible, the use of mandatory conservation authority should not be used if market mechanisms free of the decisions of Federal bureaucrats can work. Our experience of this past year is ample evidence that market mechanisms can work with the assistance of State plans to order gas lines. I suggest that such will be the case until we hit really more substantial shortages. And for that reason I oppose the amendment.●

Mr. WEICKER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. MATSUNAGA. Mr. President, I am happy to yield back the remainder of my time.

But, in closing, let me say this: we are opposed to the amendment because it is a nongermane amendment, because the objectives of the amendment are already accomplished under existing law.

Mr. WEICKER. In closing, Mr. President, when the Iranians took over the compound, that was nongermane to world order and world law. But it happened. It happened. And I suggest that we start becoming germane in response to that on the floor of the U.S. Senate.

Mr. President, I yield back the remainder of my time.

Mr. MATSUNAGA. Mr. President, I yield back the remainder of my time and ask for a vote.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Connecticut (Mr. Weicker). The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Tennessee (Mr. Sasser), the Senator from Georgia (Mr. Talmadge), the Senator from Arkansas (Mr. Bumpers), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. Bumpers) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oregon (Mr. Hatfield), the Senator from Alaska (Mr. Stevens) and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

On this vote, the Senator from Oregon (Mr. Hatfield) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Oregon, would vote "yea" and the Senator from South Carolina would vote "nay."

The PRESIDING OFFICER (Mr. Baucus). Are there any other Senators wishing to vote?

The result was announced—yeas, 26, nays 60, as follows:

[Rollcall Vote No. 459 Leg.]

YEAS—26

Biden
Chafee
Cohen
DeConcini
Dole
Durkin
Exon
Hart
Javits
Jepsen
Levin
Mathias
McClure
Metzenbaum
Nelson
Packwood
Pell
Percy
Pressler
Ribicoff
Riegle
Sarbanes
Stafford
Stone
Tsongas
Weicker

NAYS—60

Armstrong
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
Culver
Danforth
Domenici
Durenberger
Eagleton
Ford
Garn
Glenn
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Magnuson
Matsunaga
Melcher
Morgan
Moynihan
Muskie
Nunn
Proxmire
Pryor
Randolph
Roth
Schmitt
Schweiker
Simpson
Stevenson
Stewart
Tower
Wallop
Warner
Williams
Young
Zorinsky

NOT VOTING—14

Baker
Bayh
Bumpers
Church
Goldwater
Gravel
Hatfield
Kennedy
McGovern
Sasser
Stennis
Stevens
Talmadge
Thurmond

So Mr. Weicker's amendment (No. 701) was rejected.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 692

(Purpose: To provide a credit against the tax based upon increased production)

Mr. BELLMON. Mr. President, I call up my amendment No. 692 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon), for himself, Mr. Boschwitz, Mr. Goldwater, Mr. Lugar, and Mr. Armstrong, proposes an amendment numbered 692:

On page 40, between lines 12 and 13, insert the following new section:

"Sec. 4987A. Production Credit Against Tax.

"(a) General Rule.—There is allowed as a credit against the tax imposed by this chapter for any taxable period an amount equal to the product of—

"(1) 25 percent of the tax liability for that taxable period, multiplied by

"(2) the number of whole percentage points (but not more than 3) by which the taxpayer's production of taxable crude oil for the taxable period exceeds the greater of—

"(A) the taxpayer's average quarterly production for 1979, or

"(B) the taxpayer's production for the most recently ended taxable period.

"(b) Carryback and Carryover of Excess Credit.—If the amount of the credit allowed by subsection (a) for any taxable period exceeds the taxpayer's liability for tax under this chapter for that taxable period (hereinafter in this subsection referred to as the 'unused credit period'), such excess shall be a production credit carryback to each of the 28 taxable periods preceding the unused credit period and a production credit carryover to each of the 12 taxable periods following the unused credit period, and shall be added to the amount allowed as a credit by subsection (a) for the taxable period to which such excess is carried. The entire amount of the unused credit for an unused credit period shall be carried to the earliest of the 40 taxable periods to which such credit may be carried and then to each of the other 39 taxable periods to the extent such unused credit may not be taken into account for a prior taxable period to which the unused credit may be carried.

"(c) Taxpayer May Elect Application of Section on an Overall or Property-by-Property Basis.—

"(1) In general.—For purposes of determining the amount of the credit allowable under subsection (a) for any taxable period, the taxpayer, at such time and in such manner as the Secretary may prescribe, may elect to have the tax imposed by section 4986 and the credit allowed by subsection (a) applied on a property-by-property basis.

"(2) Synthetic crude oil production.—In the case of a producer of synthetic crude oil (as defined by the Secretary after consultation with the Secretary of Energy) who does not make the election provided by paragraph (1), the taxpayer's production of taxable crude oil for any taxable period shall be increased, only for the purpose of determining the amount of the credit allowable under subsection (a) for that taxable period, by the amount of synthetic crude oil produced by the taxpayer during that period.

"(d) Newly Acquired Property.—For purposes of this section, production from any property acquired by the taxpayer after December 31, 1979, shall be disregarded for purposes of determining increases in production over production for a quarter ending before acquistion of the property, unless the taxpayer establishes to the satisfaction of the Secretary the average quarterly production from that property for 1979 and treats such amount as if it were his average quarterly production from the property for that year.".

On page 39, in the matter between lines 9 and 10, immediately after the item relating to section 4987 insert the following new item:

"Sec. 4987A. Production credit against tax.".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. BELLMON. Yes.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the distinguished author of the amendment would be agreeable to a 1½-hour time limitation equally divided. Am I correct?

Mr. BELLMON. The leader is correct.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield so I may make that request?

Mr. BELLMON. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I have cleared this with Senator Ribicoff who is presently managing the bill. I make the request that time on this amendment be limited to 1½ hours, to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. Will the Senator permit a question to be asked of the Senator from Oklahoma to identify the amendment?

Mr. ROBERT C. BYRD. Yes.

Mr. NELSON. Will the Senator explain which amendment this is?

Mr. BELLMON. Mr. President, this is amendment No. 692, dealing with production tax credits. I shall explain it in full in a moment. It provides that producers who actually bring on up to 15 percent increased production would be entitled to a tax credit against the revenues otherwise owed.

Mr. NELSON. Is that the one the Senator discussed the other day, that could offset only against the increased production?

Mr. BELLMON. The Senator is correct.

Mr. NELSON. I thank the Senator.

Mr. BELLMON. The amendment has been modified by making it so that the provisions become effective only after September 30, 1980. It puts it into the 1981 tax year.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BELLMON. Mr. President, I call up this amendment in behalf of myself and Senators Boschwitz, Goldwater, Lugar, and Armstrong. I ask unanimous consent that Mr. Bob Boyd and Ms. Gail Shelp of the committee staff be granted the privilege of the floor during debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, it is plain now, I believe, that there is one common position upon which virtually every Member of the Senate agrees—namely, that the country needs to produce more oil and import less while conserving every drop we can.

Our problem is that some Members are concerned that increased income to oil producers may not translate into more domestic production. This amendment is designed to assure that more domestic oil production will result from increased income resulting from decontrol. This amendment can accurately be called the produce-or-pay amendment; either producers increase their production over the base year 1979 or they pay the taxes this bill imposes. It guarantees that consumers will get more oil production from the higher prices they pay.

Consumers need more domestic oil production. Producers say they need more capital to develop our abundant energy resources. This amendment makes the capital available to producers who succeed in bringing more oil into production each year over the next 10 years.

Mr. President, aside from this amendment, I feel the Senate is finally headed in the right direction so far as energy is concerned. After years of floundering, we are passing legislation aimed at gaining more domestic production and less reliance on imports.

Within the last month, Mr. President, the Senate has acted affirmatively on major legislation aimed at accomplishing this goal of increased domestic production. We have passed the synthetic fuels bill and the Energy Mobilization Board legislation. These bills, if they produce expected results, will have a significant benefit in future years, but only in future years—but only in future years. The country will be fortunate if synthetic crude production reaches 500,000 barrels per day by 1990. In the interim, increased quantities of domestically produced oil and natural gas will be of vital importance.

In other words, what we have done with the synthetic fuels bill and the Energy Mobilization Board is set the stage for major increases in domestic production in the decade of the 1990's and beyond. But between now and 1990, increased quantities of domestically produced oil and gas will be of growing and vital importance, because synthetic fuel does not offer much hope for the next decade.

Mr. President, the record is clear that the oil and gas industry regularly reinvests more money in exploration and development than is realized in profits. The record further shows that these investments are successful in bringing on more production. The U.S. decline rate for domestic crude oil production, excluding North Slope oil, has been halted in recent years. More funds for investment in exploration and production will be needed to bring increased supplies to the market and to turn the production trend upward.

This amendment is designed to provide the incentive and the means for producers to increase oil production. What this amendment does, Mr. President, is allow a 25-percent credit against the excise tax created in this bill for each 1 percent of increased production above the base period. This credit would only be applicable to the first 3 percentage points of increased production, thereby ensuring that at the very minimum, one-fourth of the excise tax will be paid irrespective of how much production increases. This credit of 25 percent for each 1 percent of increased production up to 3 percent would remain in effect for 10 years and provide for a carryback of any excess credit over 7 years and a carryover of any excess credit for 3 years. In addition, Mr. President, this amendment specifically includes synthetic crude oil production for purposes of determining the allowable credit. Finally, a producer may elect to apply this credit on an overall company basis or on a property by property basis.

To insure that production is actually increased before any credit may be taken, a taxpayer's production of taxable crude oil for the various taxable period must exceed the taxpayer's average quarterly production for 1979 or the taxpayer's production for the most recently ended quarter—whichever is greater. In other words, the amendment provides for a floating base period, but with a floor—that being the average quarterly production for 1979. So, in no case, would the credit come into play should production drop below 1979 levels.

To fully understand the impact of this amendment, it must be remembered that oil production declines at an average rate of 12 percent per year. Consequently, before a producer can realize any benefits under this amendment, the producer must increase production 12 percent to overcome the normal decline rate. So it would require 13 percent of new production to qualify for the first 25 percent reduction of the crude oil excise tax and 15 percent of additional production to qualify for the 75 percent tax credits.

Mr. President, some have called this amendment a modified plowback. While it is conceptually similar to a plowback, it is not a credit applicable to simply plowing back money into the ground with the hopes of producing more oil. Instead, it is a credit applicable only when increased production is realized. There is no credit for failure. Only increased production qualifies. This amendment does not merely justify expenditures as energy related, but looks instead to the output or production which results from energy related expenditures. This is what we all are after, Mr. President—increased domestic production to help back out imported foreign oil.

Now, Mr. President, I bring myself to the apparently all-encompassing issue which has surrounded every debate associated with this legislation. That is the supply response associated with this amendment and the growing misnomer of the so-called public cost to the Treasury of this amendment. As regards the public cost side of this issue, I must confess that I have no figures to reveal to my colleagues. It is virtually impossible to estimate how much revenue will be lost under this credit. Whatever the cost, it must be remembered that we are realizing increased production in its place—or there will be no public cost from this credit. In fact, this amendment will produce only public benefits in that sense.

In other words, if there is no increased production, the taxes will be paid and no credits can be claimed. It is a fact, then, that this amendment will produce only public benefits when looked at in that sense.

Mr. President, I have a chart that has been put together by a member of my staff. I cannot credit it to CBO or OMB or Treasury. It has been done in good faith, and it demonstrates as well as possible what the effects of this amendment would be in the unlikely event we were able to claim all the credits and to get the maximum production which the tax credits anticipate.

The chart shows that if oil production increased in each of the next 11 years, from 1980 through 1990, by 3 percent, the amount of increased production during the first year would be 93 million barrels and during the last year would be an increase of 125 million barrels, for a total of almost 1.2 billion barrels for the 11-year period.

Using the price assumptions already in the bill, starting with $30 oil and increasing at the rate of inflation of 2 percent a year, the gross revenues that would be generated to the U.S. Treasury by the increased production would be $57.8 billion.

Obviously, there will be some revenue losses because of the credits. But as best we can figure, after taking into account the cost of the tax credits and the amount of increased revenues resulting from the larger production, the U.S. Treasury still would net approximately $26 billion from corporate taxes alone, in addition to other billions that would be paid by those whose personal incomes had gone up as a result of the increased production.

This chart, as I say, has been prepared by my staff, in an effort to try to compute the revenue results of this bill. I offer it only as an example of what would happen. I am not saying this is what would happen. If the tax credits brought on the amount of production that is anticipated and if our assumptions in the bill are correct, these figures will not be too far wrong.

I ask unanimous consent to have the table printed in the Record.

There being no objection, the table was ordered to be printed in the Record. as follows:

BELLMON PRODUCTION TAX CREDIT—CASE A: FEDERAL INCOME FROM 3-PERCENT GROWTH

[Revenue amounts in billions]

	Per year—1980 to 1990			
	Increased production		Average price per barrel	Gross revenue (Before costs and taxes)
	Barrels per day	Per year millions		
1980	255,000	93.1	$33	$3.1
1981	263,000	96.7	35	3.4
1982	270,000	98.5	39	3.8
1983	279,000	101.8	42	4.3
1984	287,000	104.8	46	4.8
1985	296,000	108.0	49	5.3
1986	304,000	111.0	54	6.0
1987	313,000	114.2	58	6.6
1988	323,000	117.9	64	7.5
1989	333,000	121.5	69	8.4
1990	343,000	125.2	75	9.4
Total		[1] 1.193		57.8

[1] Billion barrels.

Note: Federal income equals 45 percent of gross revenue, equals $26 billion plus personal income tax inc.

Mr. **BELLMON**. Mr. President, with respect to the supply response, we can do only what we have done in the chart I have submitted for the Record; but there is some simple arithmetic that can explain it a little further. I find these prospective results to be somewhat astounding as well as highly encouraging.

Using the average daily quarterly production of 1979 to date as the base period, let us assume the maximum amount of increased production which would be applicable to the credit—3 percent. For example, the average daily quarterly production in 1979 is 8,555,000 barrels a day. If production were to increase 3 percent in 1980, an additional 256,000 barrels a day would be realized. Utilizing 8,811,000 barrels a day in 1980 as the new base, again assuming a 3-percent increase in production in 1981, an additional 264,000 barrels a day would be realized. Carrying this progression out to 1990 would mean an additional 3.3 million barrels a day of additional production over 1979.

I believe every Member will agree that this is a dramatic increase to bring our daily average at that time up to 11.8 million barrels a day, compared to the 8.55 million barrels a day we are producing now. This would be an extremely significant supply response which would be of enormous importance to the country; and unless it were to happen, the tax credits could not be claimed, or they could be claimed only to the extent that it happened.

So what the situation is here, as I said earlier, is that the industry would have to produce or pay the tax. There is no cost unless we get increased production.

Increased production will mean that we spend less of our national wealth for importing crude oil and increased production, as I have already said, means more income for the U.S. Treasury through the corporate taxes and income taxes that are already in place.

If the supply response is high, the credits are high. If the response is less the credits are low.

I feel that any increased response is greatly in the national interest, and this in the main reason I feel so strongly about this production tax credit which I am proposing.

Mr. President, as I have said previously, any revenues lost will be directly attributable to increased crude oil production. Every increased barrel of domestic production backs out a barrel of insecure, costly imported oil. This is a real bargain. Further, since there is no way for a producer to escape total tax liability under this amendment, and in view of the fact that from decontrol alone increased revenues from the corporate income tax will be $197.4 billion. Over the 1980–90 period, we should have more than sufficient revenue available to meet the cost of government-mandated programs and the synthetic fuels program as well.

Mr. President, I have two articles that bear on this subject. One is a special report published on November 12 by the Oil & Gas Journal, a very highly respected industrial publication published in my State, in Tulsa, Okla. It is sort of a bible of the industry. I have read it for years, and I find it to be normally very accurate and very reliable.

Mr. President, I ask unanimous consent that this article entitled "U.S. Petroleum Will Face a Monumental Task in the Next Decade" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Oil in the Eighties: Tight Supply, Soaring Capital Outlays

The oil and gas industry, supplier of more than 70 percent of the world's energy, is about to enter a decade of unprecedented challenge and opportunity.

During the next 10 years, non-Communist energy demand will continue to rise, if only at half the pre-embargo rate.

Despite the slowing effects of conservation and sluggish economies, staggered by a 70 percent increase in oil prices this year, energy consumption is forecast to grow 3-3.5 percent per year in non-Communist countries as a group and 1.5-2 percent in the U.S. Nevertheless, energy supply will have to strain to keep pace with even this more modest growth in demand.

Production of crude oil will be restrained by mounting reluctance of key members of the Organization of Petroleum Exporting Countries to expand production. If OPEC flow plateaus, and if significant new supplies aren't brought on production elsewhere, non-Communist crude output could peak during the 1980s—as early as 1985, according to some projections. In fact, there are warnings from British Petroleum and the U.S. Central Intelligence Agency of even earlier peaks.

On top of this, major importers will soon have to compete with Communist nations for a portion of non-Communist supply. The Soviet bloc, a net exporter of 1 million b/d, is expected to become an importer early in the decade. The U.S.S.R. disputes CIA predictions that its production will peak this year or next. But the Soviets have notified eastern European customers that any increased demand must be met from other sources.

CIA believes the Soviet position is more serious than that. From an exporter of 3 million b/d, CIA predicts in a new assessment that the Soviet Union will slip rapidly into deficit and will be forced to import 700,000 b/d by 1982.

Most forecasters are not so pessimistic. But they do foresee a decade of chronic tight supply, in spite of prospects for shrinking demand growth. Non-oil energy supplies, they fear, can't come on stream fast enough and in sufficient quantities to make up the difference during the 1980s.

Coal and nuclear power are the only petroleum alternatives with technologies advanced enough to make any significant contributions.

But each of those options is mired in political and environmental problems that will limit expansion in the next decade.

It will be up to oil and natural gas, therefore, to continue to carry the main energy load and fuel at least part of world economic growth until alternate sources are able to take up more of the slack.

Long-term economic growth at an acceptable level, 3–4 percent, undoubtedly will require additional OPEC production. If OPEC should hold oil output at its present level, it is unlikely that the rest of the non-Communist countries could expand production fast enough to sustain this level of economic growth.

The challenge is awesome. W. J. Levy Consultants Corp. says cumulative crude production during 1978–90 must total 250 billion bbl to satisfy demand. To replace those volumes, industry would have to discover about 19 billion bbl/year, including 3 billion bbl in the U.S.

And that exploration effort must take place in increasingly remote and hostile areas, where drilling and production costs dwarf those of earlier days. Most discoveries, furthermore, will be small compared with the giants of the past. That will require more wells.

Thus, in the 1980s, industry will be called upon to invest enormous sums in exploration and development. If industry is to expand production at all or even sustain present levels, it must have access to prospective acreage and capital resources needed to finance the effort.

The challenge, according to Shell U.K. Ltd. chief executive J. M. Raisman, is for "governments to set the climate by means of sensible and stable licensing, taxation, and depletion policies . . ."

And if that happens, "It is up to us in the oil industry to put our money where our mouth is and thereby to insure that our case for fair treatment continues to command public support."

In the U.S. the surge in capital outlays has already begun. The barriers to exploration and development are still significant. But with the phasing out of price controls on natural gas and oil, even after the impending excise tax on oil revenues, producers have a new opportunity. There is new incentive for drilling and the capital to make it possible.

Most of the 1980s talk may be of alternate sources, but most of the investment will still go into development of new supplies of oil and gas. The Age of Petroleum will extend through the decade ahead, and the one after that, too.

Energy demand. The next decade will be a period of what one forecaster calls "uneasy equilibrium," another "heightened sensitivities" in energy supply and demand.

Energy surpluses will be rare, as production stabilizes and demand continues to grow. As a result, importing nations will be increasingly vulnerable to supply interruptions that translate into immediate shortages. Major industrial countries may be able to fulfill pledges not to increase oil imports above existing levels because increased volumes may not be available.

Projections of total energy demand vary widely. Last year, for example, Exxon Corp. estimated non-Communist total energy demand at 104 million b/d of oil equivalent in 1980 and 148 million b/d of oil equivalent in 1990. That assessment was made before the 70 percent increase in the price of oil this year rendered all demand forecasts obsolete.

More recently, W. J. Levy Consultants projected 1990 non-Communist energy demand at 131.6 million b/d of oil equivalent.

Key factors in demand projections are economic growth and relationships of energy and economic growth rates, which reflect efficiency of energy use.

Until the 1973–74 Arab oil embargo, energy demand and economic growth rates about matched in industrialized countries. According to Levy Consultants, during 1951–73 energy consumption among Organizations for Economic Cooperation and Development (OECD) nations increased an average 4.9 percent/year, and real gross domestic product (GDP) increased an average 4.5 percent/year. The resulting energy/GDP coefficient was 1.09.

"These relatively high energy coefficients typically reflected both unusually rapid levels of economic expansion and relatively low, and in some cases declining, real energy prices," Levy Consultants say.

But the situation is changing as energy prices climb and conservation measures take effect. During 1974–77, the firm says, OECD energy/GDP coefficient was 0.33. And it projects an average coefficient of 0.74 during 1978–90, with energy consumption growth of 2.3 percent/year and GDP growth of 3.1 percent/year.

In its 1978 study, Exxon predicted a similar trend, although its projections were slightly higher for energy and economic growth.

"The trend toward a lower energy-to-economic-growth ratio is projected to persist in the future as old less-energy-efficient equipment is replaced, as other steps are taken to reduce energy use, and as the mix of economic activity becomes less energy intensive.

"As a result, the long-term energy growth rate in the 1980s is projected to be considerably below the rate of economic growth."

OIL'S SUPPLY ROLE

Energy surpluses are expected to occur only infrequently during the 1980s and only as the result of reconcession-induced demand slums. Thus, most forecasts peg demand at projected available supply.

And oil will continue to account for nearly one-half of all energy supplies through 1990, although its share will decline slightly.

Exxon predicts oil's share at 48 percent of total non-Communist energy supply in 1990, compared with 54 percent last year. Levy Consultants also predicts a 48 percent share for oil in 1990, although its projected non-Communist energy supply is lower—131.6 million b/d of oil equivalent.

The firm is more optimistic than Exxon about the role of natural gas in the total energy spectrum of 1990, predicting gas will account for 23.5 percent of total non-Communist supply. Exxon estimates the gas share at 15 percent.

Crude-oil production rates, therefore, remain critical to the energy supply outlook for the 1980s. Until recently, the energy consuming world has turned to OPEC when it needed production boosts.

Those days probably are over. OPEC is stressing conservation, which means members probably will enforce production controls more strictly in the next decade.

During the third quarter this year, OPEC produced 31.2 million b/d of the 52.4-million-b/d output of non-Communist countries, according to the Petroleum Industry Research Foundation Inc. (Pirinc.). And that included the above-ceiling production of Saudi Arabia and others that came in response to last winter's Iranian production decline.

Most industry analysts expect OPEC production to remain about 30 million b/d at least through 1985. British Petroleum Co. Ltd. explains why.

"The supply of oil for any significant growth in demand will be at the discretion of a few oil-producing countries throughout the 1980s. The export of this discretionary oil would increase its producers' external financial assets rather than their domestic economic growth.

The experience of 1979 suggests that demand for increases in these discretionary supplies may well go unsatisfied—at least during the next 5 years—with the result that prices escalate rapidly.

"The more they escalate, the less incentive there will be for the key producers to expand discretionary production, because the export revenue from nondiscretionary production would increase with the price.

"The net effect for the exporters would be merely to exchange oil in the ground for financial assets abroad."

PRODUCTION OUTLOOK

Projections of non-Communist production have become more and more pessimistic recently, notes the International Energy Agency (IEA).

An IEA monograph by John R. Broadman and Richard E. Hamilton compares 78 studies conducted during 1969-June 1978 and says production outlooks jumped after the price hikes following the 1973-74 embargo. But they've declined since then, reflecting forecasters' uneasiness over exploration disappointments or government policies.

In line with that trend, Exxon's 1978 production forecast is more optimistic than some later projections. Exxon predicted non-Communist oil flow of about 57 million b/d in 1980 and 72 million b/d in 1990. And it assumed OPEC production of more than 40 million b/d by 1990.

But that outlook predated the Iranian crisis.

The numbers are lower in later projections.

Last June, the late Shell Transport & Trading Co. Ltd. Chairman C. C. Pocock predicted a supply/demand balance at about 51 million b/d in 1980.

After that, he said, non-Communist crude and natural-gas-liquids output will depend on economic growth, OPEC output, real oil prices, and actions by consumer countries to reduce oil dependence.

If those factors favor business expansion, he said, production will reach 70 million b/d in 1990 and 74 million b/d in 2000. If expansion is stymied, production could reach 60 million b/d in 1990 and 66 million b/d in 2000.

In a short-term outlook, Standard Oil Co. (Ind.) chief economist Ted Eck describes a "base case" in which non-Communist crude production would be 53.8 million b/d in 1980—300,000 b/d less than desired supplies—and 59.1 million b/d in 1985, matching desired volume.

But Eck foresees serious trouble if OPEC holds production at 30 million b/d, Communist countries become substantial net importers, U.S. output is less than expected, and consumption is higher than anticipated.

In that case, production would be 52.5 million b/d in 1980—1.3 million b/d less than desired—and 55.1 million b/d in 1985, 4 million b/d less than desired.

One of the most-pessimistic projections of non-Communist crude production comes from British Petroleum. (see chart). BP sees output peaking in 1985 at about 55 million b/d if OPEC countries maintain current production, and at 64 million b/d if they produce at maximum rates. However, non-Communist production may already have peaked, a BP analyst speculates.

CHALLENGES, OPPORTUNITIES

If BP is correct, the consuming world is due some drastic belt-tightening. The firm predicts maximum non-Communist crude production of 62 million b/d in 1990, 52 million b/d if OPEC doesn't produce its discretionary oil.

At the lower figure, assuming oil makes up 48 percent of 1990 energy supplies, total energy supply at the end of the coming decade would be only 108 million b/d of oil equivalent, far below anyone's projected needs.

The challenge for consuming nations, therefore, is to insure pessimistic crude-production forecasts don't come true and to improve energy efficiency in all consumption sectors.

And the key, Shell's Pocock said, is allowing oil prices to play an honest economic role.

"Higher energy prices not only dampen demand, they encourage all the desirable things. They encourage the search for oil and gas in new places. They allow experimenters to press forward with the development of alternative energies. They encourage the switch from oil to coal and nuclear. . . ."

INDUSTRY'S OPPORTUNITY

If the oil industry—particularly in the U.S.—is chary about prospects for uncontrolled crude prices in the 1980's, that's understandable.

As the IEA points out, price jumps following the Arab embargo of 1973–74 sparked a flurry of optimistic production forecasts based on producers everywhere being allowed to collect market crude prices.

In the U.S., always a key variable in production and consumption forecasts, producers are still waiting for world market prices.

President Carter's phaseout of crude price controls breathed life into U.S. energy prospects. But uncertainty remains over how much benefit will accrue to energy production, because Congress still is working on an excise tax Carter insists must accompany decontrol.

The tax that ultimately emerges will determine how much U.S. firms can invest in the energy effort, but it won't curb rising world prices.

Gulf Oil Corp., in a study it conducted with Stamford Research Institute, assumed prices would remain constant in real terms until 1985. Then demand would stretch supplies, forcing prices up.

Gulf expects prices during 1985–2000 to reach $30/bbl in 1975 dollars. In the U.S., that would make synthetic fuels competitive with conventional fuels, Gulf says.

For U.S. oil companies, Carter's decontrol plan would allow oil firms just a piece of that increasing revenue. R. M. Bressler, Atlantic Richfield Co. executive vice-president, cites government projections that decontrol would add $16 billion to oil company revenues by the end of 1981.

A Standard of Indiana study projects added net income under decontrol of at least $96 billion during 1979–90. This is based on provisions of the excise tax as passed by the House, whose bill will be reconciled with a more favorable Senate bill to produce the final legislation.

CAPITAL REQUIREMENTS

The capital boost that decontrol with an excise tax would give U.S. producers is pale compared to the requirements, some forecasters say.

Bressler says the $6–7 billion/year boost would expand available capital by 15–20 percent. Yet H. Andrew Thornburg, senior vice-president of Security Pacific National Bank, says investment must increase by 2–2.5 times the annual rate of the past 5 years if the U.S. is to have energy growth of 3 percent/year during the 1980s (OGJ, Oct. 15, p. 106).

Throughout the non-Communist oil industry, capital requirements will grow from $20 billion (1978 dollars) in 1980 to more than $70 billion in 2000, D. de Bruyne, president of Royal Dutch Petroleum Co., told the World Petroleum Congress in September (OGJ, Sept. 17, p. 55). Those projections are just for development of oil productive capacity. Nothing is included for downstream investment or for natural gas.

Investment requirements will increase, De Bruyne says, because increasing shares of the capital outlay will go for more expensive types of oil.

He described three categories of production: low-cost conventional oil that requires investment averaging $2,000/daily bbl of capacity (1978 dollars); medium-cost oil requiring investment of about $8,000/daily bbl of capacity; and high-cost oil that could require investment of $20,000–33,000/daily bbl of capacity by 2000.

De Bruyne says low-cost production could increase by 15 million b/d before it begins to decline, and medium-cost production could climb to 10 million b/d by the late 1990s.

Most production will be in the two less-costly categories until "well into the next century," he says. But investments in high-cost oil already are heavy, accounting for about $10 billion/year of industry's outlay.

"Whereas total volumes of oil are expected to begin declining within the next 20 years, projections for total exploration and production expenditure keep on rising—and fairly steeply, at that," he says.

EXPLORATION, PRODUCTION EFFORT

Higher prices and investments in oil exploration and production should produce record drilling rates worldwide and in the U.S. during the 1980s.

"Higher oil prices and greater uncertainty about future OPEC behavior are a great stimulus to the search for and the development of oil and gas wherever they can be found—but especially in politically safer areas, if, indeed, there are such places," says Shell U.K.'s Raisman.

Drilling-rate forecasts are optimistic. Rotan Mose Inc., Dallas investment firm, predicts 75 percent expansion of oil-related drilling activity during the next 6 years in the U.S. The firm also sees expansion in worldwide drilling (OGJ, Sept. 24, p. 82).

"We believe the stage has been set by the events of this year for long-term growth of worldwide oil-field activity at rates of 10–12 percent in real terms and 19–21 percent in current dollars," says Frederick Z. Mills, vice-president.

"We see this growth rather balanced among domestic and foreign; onshore and offshore; exploration, development, and production."

U.S. drilling. In the U.S., explorationists must drill 388,514 new field wildcats during 1978–90, totaling 2.6 billion ft of hole, to maintain discovery rates of 2 billion bbl/year, says John D. Haun, president of the American Association of Petroleum Geologists.

That would require drilling and completion investments of $179 billion, he says (OGJ, Oct. 15, p. 94).

The high footage requirement results from a decline in the rate of discovery per foot or per well.

Haun predicts drilling costs will be $600,000/well in 1990, compared with an estimated $260,000/well last year. And he says that to maintain the discovery rate at 2 billion bbl/year, the number of wildcats drilled would have to total 23,606 in 1979, rising to 42,571 in 1990.

Indiana Standard's Eck predicts an average increase of 5.2 percent/year in the number of wells completed in the U.S. during 1980–90.

He estimates well completions and footages of 54,000 wells and 270 million ft. in 1980, 70,000 wells and 360 million ft. in 1985, and 82,000 wells and 440 million ft. in 1990.

The increase will slow after 1990. Eck predicts 1995 drilling of 85,000 wells and 480 million ft. and 2000 activity of 86,000 wells and 500 million ft.—double the estimated footage for 1979.

The prospects. Regardless of the size of the exploration effort undertaken worldwide, crude production will begin to decline before 1993, says the U.S. Geological Survey.

David H. Root and Emil D. Attanasi of USGS say the decline will result from physical limitations alone. And their reasoning highlights some of the challenges that will confront explorationists in the coming decade.

"The decline in the worldwide petroleum discovery rate is a consequence of the fact that most of the world's crude oil is in a few very large fields, and that in the exploration of a petroleum province the large fields are usually discovered early.

"Because exploration of frontier areas has moved almost exclusively offshore, we can reasonably conclude that prospects in accessible onshore areas are significantly poorer than prospects offshore.

"The existence and durability of the oil cartel (OPEC) is evidence that crude oil is found in large quantities in only a few places."

Root and Attanasi base their prediction of a production decline before 1993 on the discovery-rate decline, increasing production trends relative to reserves, and the assumption that the crude reserves-to-production ratio never drops below 10.

They say the primary factor in the discovery rate decline is the ever-decreasing size of fields being discovered. In short, small fields are harder to find than large ones, and their payoff obviously is smaller.

But that will be the exploration arena of the 1980s, a development the USGS officials interpret as a bad sign for the industry.

"The fact that explorationists have accepted the higher costs of moving into physically hostile areas is evidence that the world's petroleum industry is in difficulty.

"The increase in the discovery rates in Western Europe and the Far East are a result of this movement to new provinces offshore. Relatively few unexplored or lightly explored basins remain, so areas that have improved their discovery rates are unlikely to do so for long."

DEEPWATER DRILLING

One exploration frontier already may be closing off.

According to a study by Pace Co. Consultants & Engineers Inc., Houston, exploration may peak within the next 2–3 years in waters more than 600 ft deep unless a large number of giant fields are discovered in deep water.

Throughout the 1980s, Pace says, there will be a surplus of rigs capable of drilling in waters more than 600 ft deep. Last year, 185 rigs were rated by owners as capable of drilling at such depths, but only 32 were in use in deep water.

Industry has spent $5.4 billion on deepwater activity since the first deepwater well was drilled in 1965, Pace says. Of 281 deepwater wells drilled since then, only two discoveries—Exxon's Hondo and Shell's Cognac—have undergone development drilling.

In most cases, deepwater discoveries must indicate giant fields in order to be commercial.

Pace predicts, nevertheless, that deepwater expenditures will total about 10 percent of total offshore outlays during the 1980s.

OVERCOMING OBSTACLES

The USGS and Pace projections are downbeat, but there can be little question the oil industry thinks the obstacles they cite can be overcome. And industry is willing to put money on it.

The investment will come in the 1980s, and if the effort is successful, the non-Communist world will be able to bring unconventional fuels on stream as oil production fades.

Royal Dutch Petroleum's DeBruyne gives this assessment of the long-term picture: "A projection of the volumes we can realistically expect to be available over the next few decades—from both conventional and unconventional sources, such as tar sands—might rise gradually to a peak of almost 70 million b/d toward the end of the 1980s, which could then be sustained at this level for over a decade.

"However, at some time toward the end of this century, we must expect the production curve to start falling. Opinions differ as to how quickly new oil will come on stream to arrest the decline.

"But current evidence suggests the total could drop to around 50 million b/d before the curve flattens out into an extended plateau in the second decade of the next century."

That type of oil production would see the energy-consuming world through the transition to alternate fuels with little difficulty. But it depends on the oil industry taking the huge risks and making the enormous investments required to keep the oil flowing.

It also depends on governments allowing oil men to do so. Most analysts believe economic imperatives will force consuming-nation policy makers into the decisions they sidestepped during the illusory oil gluts and witchhunts of the 1970s.

And industry is counting on those decisions being aimed at a return to market economics.

"The energy crisis," BP says, "is here. We have to choose between foregoing economic growth or starting to grow without more oil."

U.S. PETROLEUM INDUSTRY WILL FACE MONUMENTAL TASK IN NEXT DECADE

The 1980s will be a pivotal decade for the U.S. petroleum industry.

That's the consensus of industry leaders facing a host of uncertainties as they lay plans to cope with persistent oil-supply problems.

Foremost among the uncertainties are government policies and how much foreign oil will be available.

Industry executives fear that U.S. government actions on prices and taxes won't yield sufficient capital for the massive buildup in exploration and development required to boost domestic oil and gas supply—or even to arrest the decline.

The task facing the U.S. industry in the 80s is a monumental one indeed. Most forecasts for the coming decade, including those by the government, assume domestic production of oil and gas at about present levels. But that alone would be a tremendous accomplishment.

The U.S. currently is producing allout at the rate of some 3 billion bbl of oil and 20 trillion cu ft of gas annually. If production is to be maintained at these levels, the U.S. during the next decade would produce roughly 30 billion bbl of oil and 200 trillion cu ft of gas. Those volumes exceed present U.S. reserves of oil (27.8 billion bbl as of Jan. 1, 1979) and equal present gas reserves (200.3 trillion cu ft).

Thus, to hold production at current levels until 1990, the industry will have to find and develop reserves in this one decade at least equal to total current proved reserves of both oil and gas.

Assuming a constant for reserves added per well drilled, U.S. operators would have to drill about twice as many wells as they are now drilling to add reserves of this magnitude.

That would be nearly 100,000 wells/year.

The U.S. industry drilled 48,513 wells in 1978. Reserves meanwhile dropped 1.7 billion bbl for oil and 8 trillion cu ft for gas. Reserves added, thus, replaced less than half the domestic oil produced and three-fifths of the gas.

The most optimistic of recent drilling forecasts is for a 75 percent increase in U.S. drilling over the next 6 years.

Along with the obvious requirement for a very sharp increase in domestic drilling, there is the vital need for places to drill all these wells—the continuing problem of access to acreage with potential for large additions to reserves. Where is the prospective acreage? Much of it is lands owned by the federal government in such highly promising areas as the Overthrust Belt of the Rockies, the Alaskan North Slope, and the offshore frontiers—especially those off Alaska. Therein lies another major uncertainty.

So far the Congress and those in the administration charged with administering the federal lands—up to and including the President himself—still show more concern for pristine environment than for leasing in these areas. A prime example: The Beaufort Sea north of Alaska is perhaps the country's brightest hope for very large additions of oil and gas reserves—witness the Dome group's significant finds across the median line in Canadian waters and the wealth of very large structures. Yet the Interior Department is only now beginning to take the first tentative steps toward leasing in the open sea. A lease sale will not be held until 1983 at the earliest.

Present policy, or lack of it, explains the industry's second concern over oil imports. If government policies frustrate the tremendous outlay of capital required to increase or maintain domestic production, will the U.S. be able to obtain sufficient oil from abroad in competition with other oil-importing countries during an assured period of tight—possibly deficient—world supply? If the answer is yes, will U.S. government policy, which now limits imports to 1977 volume, be amended to permit imports over that level?

If not, the result will be a continuation of supply shortages which jolted the country twice during the 1970s.

It's quite likely now that the next decade will see the beginning of a U.S. synthetic-fuels industry spawned by government incentives, industry efforts, and a vast storehouse of alternate fuel sources. But synfuels production, even with the most optimistic set of conditions, can fill only a small fraction of U.S. demand by the end of the 80s.

Amid all the uncertainties, thus, there is this certainty: Conventional oil and gas will continue to dominate the U.S. energy-supply mix throughout the next decade and into the next century as well.

Further, government price policy for oil and gas—either already in place or to be put in place within the next few months—assures that the industry will have substantially more capital available for exploration and development than at present. Increased drilling is virtually assured in the 80s. And expanded U.S. rig-building capacity assures the rigs can be had to accommodate the increase.

TOTAL ENERGY SUPPLY

The latest revisions of forecasts by Shell Oil Co. and Standard Oil Co. of California are in close agreement on the dominant role oil and gas will play in U.S. energy supply during the next decade.

Shell foresees total primary energy supply of 49.93 million b/d of crude oil equivalent in 1990, with oil and gas accounting for 30.06 million b/d or 60.2 percent.

Socal pegs total supply in 1990 at 47.6 million b/d of oil equivalent, with oil and gas accounting for 30 million b/d or 63 percent.

Both companies acknowledge that the combined oil and gas share of the total energy market will decline.

Socal figures that oil and gas amounted to 15.8 million b/d of oil equivalent in 1960, claiming 73.8 percent of the total market. And Shell's study shows that oil and gas amounted to 18.58 million b/d of oil equivalent in 1965, accounting for 71.9 percent of the total market.

But Shell insists oil and gas will continue to meet the bulk of total energy requirements because each market has special fuel needs which aren't easily substituted—at least in the short term. For oil, an example is the transportation market.

Other markets—residential/commercial and chemical feedstocks among them—have some flexibility for substitution. But time and economics will prevent rapid change.

Shell believes that energy supply from coal and nuclear power will grow rapidly, but other sources such as hydropower, geothermal, and solar will remain small. Sites for expansion of major hydropower complexes are limited, and the geothermal resource base is small.

Solar power has great potential, Shell feels. Some will appear by 1990. But technological and economic problems will delay any major contribution from this source until later in the century.

Gulf Oil Corp. chairman Jerry McAfee emphasizes the further long-range importance of oil and gas in U.S. total energy supply.

He says, "Oil and gas are an absolute necessity and the backbone of the intermediate stage in our energy transition (to synthetic fuels).

"By 2000, we'll still be depending on oil and gas for half of our energy needs."

U.S. OIL AND GAS

The most recent forecasts peg U.S. production of crude oil and natural-gas liquids at 8.5-10 million b/d in 1990—some 15 percent less to about even with today's production.

Natural-gas production is seen declining from the 19.7 trillion cu. ft. in 1978 to 17-19.4 trillion cu. ft. in 1990.

Gulf's forecast of crude and NGL production involves a range reflecting the uncertainties involved in government policy.

Says McAfee, "Given ideal circumstances and some measures of enhanced recovery, the

U.S. could increase its oil (plus NGL) output by about one-fifth—to a maximum of 12 million b/d by 1990. Under the most adverse circumstances, production would decline by one-fifth—to 8 million b/d."

All things considered, the most probable future production rate will be about that at present—10 million b/d.

"In other words," says McAfee, "we'll do well just to stay level in domestic oil output during the next decade."

Socal agrees with the outlook for 10 million b/d of crude and NGL, but its forecasts includes 50,000 b/d of shale oil in 1985 and 500,000 b/d in 1990.

A study by Arthur D. Little Inc. (ADL) foresees a decline to 8.8 million b/d in 1985 and 8.5 million b/d in 1990 for total U.S. liquids production.

ADL economists don't expect the sharp decline of crude oil production from the Lower 48 in the next 10 years to be offset by additional oil from enhanced recovery methods, increased Alaskan North Slope production, and new offshore fields. They also expect a decline in NGL supply from forecast lower natural-gas production.

What's more, because of technological and regulatory uncertainties, ADL forecasts for 1990 a total synthetic and unconventional fuels production of only 1 million b/d of oil equivalent. That includes coal liquids and gas, liquid biomass fuels, shale oil, and unconventional gas.

The volume is less than half of the Carter administration's goal of 2.5 million b/d of oil equivalent from such sources by the end of the 1980s (see p. 189).

Shell's forecast anticipates crude and NGL production of 9.4 million b/d in 1980, falling off to 8.04 million b/d in 1985, and rebounding to 9.32 million b/d on the strength of increased production from the Alaskan Arctic and from synthetics.

During 1980–90, Shell says, Lower 48 and South Alaska production will fall sharply to 5.82 million b/d from 7.85 million. Alaskan Arctic production will rise to 3 million b/d from 1.55 million. Synthetic crude will rise to 500,000 b/d from zero.

For U.S. natural-gas production, Gulf says the most likely prospect is a slow decline to about 17 trillion cu ft by 1990.

Given circumstances encouraging maximum output, gas production would at best remain level at about 20 trillion cu ft. And under the worst assumptions for government policy, production could decline by almost half—to a minimum of about 12 trillion cu ft by 1990.

ADL predicts that natural gas production will remain at 19.7 trillion cu ft in 1985 and decline to 19.4 trillion cu ft in 1990. And although production in the Lower 48 will decline sharply, it still will exceed expected reserve additions.

Production of about 1.5 trillion cu ft is forecast for 1990 from unconventional sources—eastern Devonian shales, western tight sands, and coal gasification.

ADL expects LNG imports to rise "significantly" to 1.2 trillion cu ft by 1990. And imports of natural gas via pipeline from Mexico should reach 700 billion cu ft by the same year. But imports from Canada could decline at the same time. The resulting 2.2 trillion cu ft of net imports in 1990 would be insufficient to offset ADL's predicted decline in U.S. production.

OIL IMPORTS

Despite President Carter's vow last summer to hold net U.S. oil imports to 8.5 million b/d, industry analysts insist that imports must top that level if the country is to maintain its economic growth. There simply won't be enough conventional and synthetic oil and gas and other fuels to fill the U.S. supply/demand gap in energy unless imports increase beyond the President's ceiling.

The result, analysts feel, will be a continuing spiral in U.S. outlays for imports of crude and products. And that supply chain will become increasingly vulnerable to disruptions during the 1980s.

Socal's oil supply/demand study sees net imports of 8.1 million b/d of crude and products during 1979 rising to 8.4 million b/d next year. Shortly thereafter, they will pierce Carter's ceiling and climb to 10.1 million b/d in 1985 before slipping to 9.7 million b/d in 1990—if the ceiling is lifted and oil is available.

Gulf pegs 1990 gross imports at 10 million b/d.

And Shell sees an even higher level—12.84 million b/d of total liquids imports in 1990, accounting for 57.95 percent of total U.S. oil supply that year compared with 50.09 percent anticipated for the beginning of the 1980s.

A compilation of government figures by the Institute of Gas Technology (IGT) underscores the country's rising dependence on imports, along with the price exacted from the U.S. economy.

During the 1970s, U.S. oil imports rose to 8.5 million b/d from 3 million b/d. And the cost rocketed to $60 billion/year from $2.8 billion, requiring 24.6 percent of U.S. exports of goods and services to pay for oil imports (Table 1).

TABLE 1.—U.S. OIL IMPORTS

Year	Volume[1] (Millions of barrels per day)	Cost (billions)	Cost as percentage of exports[2]
1970	3.0	$2.8	4.3
1971	3.8	3.3	4.8
1972	4.7	4.3	5.6
1973	6.3	7.6	6.9
1974	6.1	24.3	16.6
1975	6.0	24.8	15.9
1976	7.3	31.8	18.6
1977	8.7	41.5	22.7
1978	8.2	39.1	17.9
1979[3]	8.5	60.0	24.6

[1] Crude oil and refined products.
[2] Total U.S. exports of goods and services.
[3] Preliminary.

Source: Institute of Gas Technology from Department of Energy and Department of Commerce data.

IGT says, "Despite a slower rate of growth in total energy demand, these large oil imports have been needed because some energy prices have been kept below market-clearing levels, U.S. oil and natural gas production has decreased, nuclear and the direct use of coal have encountered environmental delays and costs, and the cost of new energy technologies have been higher than the short-term direct cost of oil imports."

SUPPLY DISRUPTIONS

Warnings of import supply disruptions come from many industry executives, among them Samuel Schwartz, senior vice-president of Conoco Inc., and John E. Swearingen, chairman of Standard Oil Co. (Ind.).

"The world will remain highly vulnerable to disruptions in oil supplies throughout the next decade," Schwartz declares.

He urges resumption of purchases for the U.S. Strategic Petroleum Reserve, with a buildup to about 500 million bbl.

The SPR held a little more than 90 million bbl last summer, with the last supply bought under existing contracts trickling in (OGJ, Aug. 6, p. 49).

New contracts haven't been signed for a number of reasons: high global prices, government reluctance to put added pressure on world supplies in the wake of the Iranian shutdown last December, and sentiment among OPEC members against selling to SPR.

The U.S. also should develop an emergency response system to cope with supply dislocations, Schwartz says. The system should signal when the SPR should be tapped, and it should define in advance the mandatory conservation and allocation measures to be taken.

What's more, Schwartz says, the U.S. should develop better relations with OPEC "to increase the attractiveness of producing oil now instead of holding it in the ground."

While focusing on the security of supplies in the near term, the U.S. must stress the adequacy of supplies in the long term, Schwartz says.

Swearingen warns that continued heavy reliance on Middle East oil means continued inflation, continued distortion in the U.S. balance of payments, and, eventually, economic chaos and compromised national security.

Unrest in Iran, uncertainty over actions by governments in Iraq and Libya, and Saudi unease over being singled out as "the staunchest friend of the West in the Middle East" cast a shadow over the security of oil supplies from that part of the world.

"I believe that the revolution in Iran isn't over," Swearingen says. "It is unreasonable to assume that the Iranian political situation can be resolved without some further interruption of Iran's oil production."

Full-scale civil war in Iran could remove the country's oil exports from world supplies "for as little as 3 months or as long as several years."

For their part, the Saudis "no longer feel they should increase production substantially and invest the proceeds in monetary instruments of doubtful value."

The Saudis "must feel that their own national self-interest dictates building bridges to their more militant Arab neighbors."

To the current unrest must be added the question of Soviet activities and intentions in the Middle East.

Citing the military disparity between the forces of the Soviet Union and the U.S. in that region, Swearingen quotes ex-Energy Sec. James Schlesinger's warning: "Soviet control of the oil tap in the Middle East would mean the end of the world as we have known it since 1945 and of the association of free nations."

Therefore, Swearingen says, "The only sensible solution is to decide to make ourselves less reliant on unstable sources of supply."

Certain steps should be taken by all oil-consuming countries of the non-Communist world. These include cutting consumption "as much as is realistically possible," increasing domestic production of every energy source available, and stepping up development of all new types of alternative energy sources that the countries' resources and economies will allow.

While these alternate sources are being developed, oil and gas production from conventional sources in the U.S. and other non-Communist countries must be increased, "whether it be from existing fields or from new fields in remote and hostile regions of the globe."

"Failure to recognize this fact is the fatal fault in President Carter's current energy plan," Swearingen says.

WHAT'S LEFT TO FIND?

Consensus of industry estimates is that the U.S. still has a large exploration target for reliance on the secure supply sources that Swearingen and other industry executives urge.

The Potential Gas Committee tops most estimates. It places 820 trillion cu ft of gas resources in possible and speculative categories—those that might be tapped outside of existing fields in productive areas and in frontier regions (OGJ, Apr. 9, p. 82).

Most companies place the resource base at a somewhat lower level.

Shell, for example, estimates that 30-100 billion bbl and 150-500 trillion cu ft remain to be found and produced in Alaska and the Lower 48, with most of those volumes offshore for oil and onshore for gas (Table 2).

TABLE 2.—SHELL'S FORECAST OF FUTURE DISCOVERIES

Area	Oil[1] (billion barrels)	Gas (trillion cubic feet)
Onshore:		
Lower 48	15	150
Alaska	10	50
Total	25	200
Offshore:		
Lower 48	10	70
Alaska	25	45
Total	35	115
Total United States	60	315
Range	30-100	150-500

[1] Excludes natural-gas liquids.

Source: Shell Oil Co.

The top of the range for oil is equal to the amount the U.S. has produced to date.

There's no question that finding that oil will be costly.

Says Gulf's McAfee, "Most of the remaining domestic oil and gas to be found is in frontier areas only slightly explored—the Alaskan North Slope, Atlantic offshore, and deep waters of the Gulf of Mexico.

"This oil and gas will be expensive to find and produce, but we know how to find and produce it. However, our resources still need strengthening in that regard."

John D. Haun, president of the American Association of Petroleum Geologists, estimates that maintaining the present discovery level of 2 billion bbl/year of oil equivalent will require the drilling of 388,514 new field wildcats with 2.6 billion ft of hole and an outlay of $179 billion during the next decade (OGJ, Oct. 15, p. 94). That would mean wildcatting at a rate 3½ times the 1979 level.

Despite the technological challenges and high costs, an intense exploration effort is absolutely required if the U.S. is to maintain or bolster its domestic production.

An analysis by Atlantic Richfield Co. shows that nearly half of the country's 1990 oil production must come from future discoveries (Fig. 3).

The biggest potential lies in frontier regions of the Outer Continental Shelf, says R. M. Bressler, ARCO executive vice-president.

Some "10–15 major untested OCS provinces hold the only real (production) trend-reversing potential for the U.S.," Bressler contends.

Alaska will claim a great deal of ARCO's efforts during the 1980s. During the next 5 years the company will spend two-thirds of a $10.5-billion capital program on conventional oil and gas exploration/development. And more than $2 billion of that amount will be spent in Alaska.

Elsewhere, smaller "but still major" reserves remain to be found onshore, Bressler says. Giant fields of 100 million bbl or more will continue to be found onshore, but they will be scattered in time and distance.

This leads ARCO to conclude that smaller discoveries and extensions will contribute more to new reserves than will major finds during the next decade.

"Our confidence in this projection is based on the continued improvement in seismic technology, which is opening many more opportunities than were formerly estimated."

He cites as an example the Overthrust Belt of the Rocky Mountains, a complex geological area, much of it covered with volcanic rock that formerly stymied the best efforts of geophysicists.

"Thanks to seismological advances," Bressler says, "the industry is forecasting reserves in this area ranging from 1.5 billion to 8.8 billion bbl of oil and 6 trillion cu ft of gas."

He believes the Gulf of Mexico still holds good opportunities for discovery of small to medium-sized fields "and possibly a few giants as well."

"Here again, the decline in the number of larger, more obvious prospects will tend to be offset by the increasing capability of new seismic technology to look deeper into the earth and detect more subtle geological anomalies where oil and gas may be trapped.

"We feel that improved prices will allow these smaller, more risky prospects to be drilled, enabling the industry to play this province heavily for the next several years."

WILL IT BE FOUND?

Petroleum economists attack Carter's excise tax on decontrolled U.S. crude. The danger, they charge, is that the levy will drain so much money out of the oil industry that the required exploratory campaign can't be mounted.

Typical criticism of the tax comes from E. Anthony Copp and Ronald M. Freeman, vice-presidents of Salamon Bros., New York.

They told a Senate finance committee hearing, "In this country, we always have managed to solve our energy problems by enhancing domestic output.

"Because lead times for petroleum and other natural-resource developments are long, we need to combine a sensible, national conservation effort with an effort to maximize near and long-term domestic energy supply.

"President Carter's program does not fully exploit this nation's domestic potential for exploring and rapidly developing hydrocarbons.

"The administration appears to have settled for a lower than possible effort at exploration in this country in favor of more capital-intensive, long-term, uncertain technologies.

"The so-called windfall profits tax is the Achilles heel of this country's mobilization effort on energy."

Mr. BELLMON. Mr. President, I wish to quote from it briefly.

The article states that:

> The U.S. currently is producing allout at the rate of some 3 billion bbl of oil and 20 trillion cu ft of gas annually. If production is to be maintained at these levels, the U.S. during the next decade would produce roughly 30 billion bbl of oil and 200 trillion cu ft of gas. Those volumes exceed present U.S. reserves of oil (27.8 billion bbl as of Jan. 1, 1979) and equal present gas reserves (200.3 trillion cu ft).

In other words, over the next 10 years we are going to produce more oil than we now have proven as reserves in the ground and they would equal to the present gas reserves.

> Thus, to hold production at current levels until 1990, the industry will have to find and develop reserves in this one decade at least equal to total current proved reserves for both oil and gas.

One can see what a monumental job is going to be for the industry to find this much new oil and gas in the United States where there are already many. many wells that have drilled and yet where the industry continues to find new oil, although it is more difficult now and more expensive than it was when the prospects had not been so thoroughly picked over.

Further down in the article this statement appears:

> Amid all the uncertainties, thus, there is this certainty: Conventional oil and gas will continue to dominate the U.S. energy-supply mix throughout the next decade and into the next century as well.

The article quotes the chairman of Gulf Oil, Mr. McAfee who says:

> Given ideal circumstances and some measure of enhanced recovery, the U.S. could increase its oil (plus NGL) output by about one-fifth—to a maximum of 12 million b/d by 1990.

Mr. President, I quote that statement because there are some who claim there is no hope for finding oil and gas and that the money we spend will not produce results. Here is the chairman of one of the major oil companies who feels that given ideal conditions it is possible to increase this country's oil production by up to 12 million barrels per day by 1990.

It says further that most of the remaining domestic oil and gas to be found is in frontier areas only slightly explored, the Alaska North Slope, the Atlantic offshore, the deep waters of the Gulf of Mexico. This oil and gas will be expensive to find and produce, but we know how to find and produce it. However, our resources still need strengthening in that regard.

And then there is a quote by Mr. John D. Hahn, president of the American Association of Petroleum Geologists, who estimates that if U.S. explorationists maintain the present discovery level of 2 billion barrels per year of oil equivalent they will require the drilling of 388,514 new field wildcats with 2.6 billion feet of hole with an outlay of $179 billion through the next decade. This will mean wildcatting at a rate of 3½ times the 1979 level despite the technological changes and high cost and intense exploration efforts absolutely required if the United States is to maintain or bolster domestic production.

Mr. President, the point of this whole exercise is that the United States still has the resource base to make dramatically increased oil production possible. The problem is that there is a dramatic increase in the need for capital to drill these hundreds of thousands of wells and to bring the resources into production.

The Senate Budget Committee under the direction of the distinguished Senator from Colorado, Senator HART, caused a study to be made by a company here in Washington called ICF, Inc., and that company was charged with looking into the synthetic fuels prospects and gave us its report on September 5. I wish to read from the bottom of page 3 of that report which says:

> Under current policy, oil imports would be about 11.3 million barrels per day (mmb/d) in 1990.

Then they say:

> Although we have not considered all of the possible alternatives, we identified 7.7 mmb/d of import savings.

They feel that we can reduce our import level from 11.5 million barrels downward by 7.7 million barrels per day. They say:

> These do not include synfuels, and each would achieve the import savings at a cost of per barrel saved of $30 or less.

And then they list the actions that would make that savings possible.

The first action they list is conservation, and they feel that by 1990 we can be saving up to 3.1 million barrels per day by an effective conservation program.

The next is substitution. They feel that by 1990 we can be saving 2.2 million barrels a day by substituting other types of fuel for oil.

But the figure that attracted my attention is the last one they listed, which is production. Their calculation is that by increased production we can be producing 2.4 million barrels per day of oil and saving that amount which would otherwise have to be imported.

Mr. President, I ask unanimous consent that this full report and statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF C. HOFF STAUFFER AND WILLIAM STITT

Mr. Chairman, it appears this Nation's energy problem has come into focus in the last few months for many Americans. Simply stated, the problem is that the United States does not have sufficient domestic resources to meet all of its demands for conventional oil and natural gas, with or without the production incentives provided by decontrolled prices. There have always been three ways to resolve this problem: import more petroleum, use less petroleum, or substitute coal and other domestic energy resources. In the last five years, the Nation has tried doses of all three remedies, but we have chosen thus far to rely primarily on increased imports of petroleum. As a result, oil imports have risen substantially since 1973.

In recent months, Americans have also been reminded of the two, heavy costs of oil imports. The first comes in the form of today's high price of foreign oil. On top of the four-fold price hike of 1974, OPEC has added another large increase in just this last year. The second cost of imports is in the form of risks to our economy, national security, and our freedom of action in matters of foreign policy and international trade. At this juncture, the probabilities for abatement soon of the oil circumstances in which we now find ourselves appear, as they say, to be "slim and none." There is an ever present threat of another embargo or permanent production cutback by a wealthy OPEC nation displeased by U.S. foreign policy.

As noted, the Nation has actually adopted some tough measures to reduce oil imports. Hundreds more have been proposed. This spring, a well publicized surge of interest in synthetic fuels occurred. The President's most recent energy initiative reflected that interest.

On July 15 of this year, the President set the goals of never again using more foreign oil than we did in 1977 and, further, of cutting the Nation's dependence in half by 1990. The long-term goal was to be met with a variety of actions. The first, actually announced on April 5th, was to allow the decontrol of oil prices as prescribed by law, but to tax away some of what the President called windfall profits. The revenue from that tax would then be used to finance other actions to cut imports, primarily the production in 1990 of 2.5 million barrels per day of synthetic fuels. The proposal for synfuels triggered the creation of this Task Force.

The purpose of our report to the Task Force is to provide information with which a choice can be made between two well-publicized approaches to creating a synthetic fuels industry in the United States. The first alternative is to immediately establish a production commitment by announcing a bold program for significant, commercial scale synfuel production by 1990. The second can be termed a two-stage approach in which demonstration plants are first built and operated and then, based on what was learned, a commitment is made to a particular amount and type of synfuel production.

A choice between the two aproaches can be based, in large part, on three factors. The desired oil import goal, the economic cost and other consequences of import reduction measures other than synfuel production, and the pace of technological development considered appropriate for these new processes. President Carter's import goal has already been stated. There remain a great number of alternative proposals regarding appropriate levels of future imports, but this report does not choose among them.

It's important at the outset to list the full range of ways to cut imports. First there are production options; these include both production of synthetic fuels and increased production of conventional and unconventional oil and natural gas. Second, there are conservation options for each of the major oil consuming sectors such as transportation, residential, and industry. Finally, there are substitution options, which include both switches from oil and gas to coal in some sectors and from oil to gas in others.

This statement first discusses our findings on the possible magnitude and cost of alternative means of import reduction. A second section presents our findings on issues in the design of a synfuel development program. We regret that only three weeks were available for our consideration of these key questions, and we hope the limitations imposed by that time constraint will be appreciated by those who read our report. But we also believe the Task Force will find the information provided to be useful. The Executive Summary of our report is attached to this statement.

Alternative means of import reduction

The highlights in our study of methods of cutting imports are as follows:

Under current policy, oil imports would be about 11.3 million barrels per day (mmb/d) in 1990.

Although we have not considered all of the possible alternatives, we identified 7.7 mmb/d of import savings. These do not include synfuels, and each would achieve the import savings at a cost per barrel saved of $30 or less. The actions and their results can be summarized as follows:

Action:	*Savings in 1990*
Conservation	3.1 mmb/d
Substitution	2.2 mmb/d
Production	2.4 mmb/d

In general, all three methods of import reduction would have similar economic efficiency and national security benefits.

The cost of these alternatives appear to be less than that for most synfuels.

However, the nation cannot "fine tune" import reduction in terms of either level or method. For this reason, the Congress may wish to develop a package of measures which, if they all worked perfectly, would overshoot the chosen import target. That package, to minimize risk of failure, should also be diversified to include all potentially attractive approaches, including synfuels.

In this context, we believe, the question is not whether to have synfuels at all. Instead, it is what pace of development is most appropriate for introducing these new technologies.

Pace of synfuel development

This analysis has found:

Experience has shown that time constraints and political visibility consistently limit the ability of federally supported pioneer projects to promote the commercialization of new technologies. The President's proposal clearly would achieve the important objectives of obtaining significant import reductions and providing a convincing symbol of America's resolve to decrease oil imports. Given previous experience, however, the plan appears less likely to result eventually in a commercially viable synfuels industry.

A program incorporating an aggressive first phase of synfuels production capacity development and a deferred decision about the magnitude and timing of future synfuel deployment provides an attractive alternative to the Persident's proopsal. Such as approach allows (i) effective action to demonstrate U.S. resolve, (ii) opportunities for follow-on synfuels deployment and the option to adopt more cost-effective import reduction measures, and (iii) the project-by-project flexibility found to be critical to the commercial maturation of technology innovations.

Of the wide array of policy mechanisms available to simulate private sector innovative activities, the President selected a specific set of tools for use in promoting synfuels. Of this set, two subsidy devices deserve special attention. Price guarantees offered through competitive bidding offer significant economic and commercialization advantages. Loan guarantees appear to present serious budgetary and commericalization difficulties.

EXECUTIVE SUMMARY

The purpose of this report is to provide information with which a choice can be made between two well-publicized approaches to creating a synthetic fuels industry in the United States. The first alternative is to immediately establish a production commitment by announcing a bold program for significant, commercial scale synfuel production by 1990. The second can be termed a two-stage approach in which demonstration plants are first built and operated and then, based on what was learned, a commitment is made to a particular amount and type of synfuel production.

A choice between the two approaches can be based, in large part, on three factors: the desired oil import goal, the economic cost and other consequences of import reduction measures other than synfuel production, and the pace of technological development considered appropriate for these new processes. President Carter's goal is that imports, however defined, may never again exceed their 1977 level and by 1990 will be out 50 percent below what they would have been. But there are a great number of alternative proposals and this report does not choose among them.

Under current policy, it is estimated oil imports will be about 11.3 million barrels per day in 1990. That estimate reflects an assumption that the world oil price will be maintained at its current level of about $20 per barrel except for annual adjustments for U.S. inflation. A variety of other assumptions specific to particular energy producing and consuming sectors are detailed in the text and appendices.

One action to cut imports is assumed to be in effect since at least some of the necessary steps have already been taken. That action is the decontrol of domestic oil prices. The Administration's windfall profits tax is also assumed to be approved. By this one step, imports are estimated to be cut to 8.9 million barrels per day (mmb/d) by 1990.

This summary first presents the findings of recent research on the appropriate pace for introducing new technologies. A second section presents estimates of the possible magnitude and cost of cutting imports below 8.9 mmb/d in 1990 through actions other than synfuel production; that is through conservation and coal substitution. A final section presents the specific findings of the report.

Policy options for synfuel development

A decision on the level and pace of a program to create a U.S. synfuels industry depends, obviously, on the purpose of such an endeavor. The Administration emphasizes two purposes or goals for its ambitious synfuels plan: to demonstrate U.S. resolve to reduce the Nation's import dependence; and to actually decrease U.S. imports by half over the next decade. To these two explicitly stated goals a third should be added: to create eventually a commercially viable synfuels industry.

It is important and fair to ask whether an approach other than the Administration's would be more likely to achieve the three goals. This analysis formulates two alternatives based on the phased approach mentioned above. Briefly, the Administration's plan as well as the two alternatives can be defined as follows:

The President's proposal creates the Energy Security Corporation which, by 1981, would sign contracts with six full scale synfuels plants. Approximately, another twenty contracts would be signed by 1984 so that subsidized synfuel capacity would be 1.75 mmb/d in 1990. Tax credits for oil shale and unconventional gas would add another .75 mmb/d of capacity in that year.

An alternative two-phase plan would quickly contract for six plants, but it would not automatically proceed with more on an accelerated schedule. Based on what was learned in Phase I, a decision would be made on whether to aim for 2.5 mmb/d of capacity in 1990 or 1995 and on what type of synfuels would be included.

A third hypothetical plan would also have two phases, but, based on what was learned, a decision could be made on whether to proceed at all with further synfuel development or to reduce imports through other more cost-effective measures.

The administration's plan, by definition, achieves the goals of demonstrating U.S. resolve and cutting imports. But, for several reasons, the fast pace approach to development could do harm to the ultimate, commercial prospects for synfuel technologies. Experience with other demonstration programs shows that technologies tested under severe time constraints seldom are adopted widely by the private sector. This is primarily because the uncertainties associated with the technologies simply are not explored thoroughly and credibly.

Either of the hypothetical alternatives could lessen the time pressure and thereby enhance commercial prospects. The question is whether they do less than the President's plan with respect to the import goals? The phased programs would not compromise these other goals if the world is convinced that they will inevitably result in production. Indeed, there are those who believe a phased approach might be viewed as a more credible attack on import dependence simply because a slower pace could enhance the Nation's chance of developing reliable production processes with reasonably priced products.

A variety of policy tools are available for any of the synfuel programs: government ownership; loan guarantees, market guarantees, etc. The challenge for the government is to find tools that minimally distort normal business decisionmaking and generate useful information for other potential synfuel producers. Price and purchase guarantees seem best suited to these purposes. Loan guarantees could distort decisionmaking and obscure important information.

Other means of import reduction

The last of potential approaches to cutting oil imports is limited only by the will of 200 million Americans. This report does not pretend to exhaust the possibilities, but rather to explore a sample of major actions which could add to, complement or substitute for synfuels production in the 1990 timeframe. Furthermore, we do not mean to imply that the result of any import savings action is certain. For this reason, the Congress may want to develop a package of measures which if they all worked perfectly, would overshoot the chosen import goal. The actions discussed here include three general types:

Conservation investments such as increased insulation in houses and improved automobile fuel efficiency.

Direct substitution of coal for oil and natural gas in utility and industrial boilers.

Increased production of conventional oil and natural gas through enhanced recovery methods.

Each of the representative ways to reduce imports is discussed more thoroughly in one of several appendices. Summary Table 1 presents the results which might be obtained through a conservation and substitution program pursued with an urgency equal to the Administration's proposed synfuels program. It displays the cost of cutting imports. Cost is defined as the oil price at which a particular action would be economically justified. For example, at somewhere around $30 per barrel it would be economically justified to have an average, EPA rating of 52 miles per gallon for all new cars. This action would reduce imports by about .7 mmb/d in 1990 and, for the purposes of Table 1, that level import saving would be said to cost between $20 and $30 per barrel.

SUMMARY TABLE 1.—SOME REDUCTIONS IN OIL AND GAS CONSUMPTION IN 1990 POTENTIALLY ACHIEVABLE THROUGH INVESTMENTS IN CONSERVATION AND FUEL SUBSTITUTION [1]

[In quadrillion Btu's]

Federal action	Cost per barrel saved					
	Up to $20			Up to $30		
	Oil	Gas	Total	Oil	Gas	Total
Increase auto MPG standards	1.3		1.3			1.5
Conserve residential building energy [2]	1.6	.7	2.3	1.7	1.5	3.2
Conserve commercial building energy	.4	.2	.6	.5	.4	.9
Use asphalt substitutes	.5		.5	.9		.9
Reconvert coal-capable utility boilers [3]			.4			.9
Accelerate replacement of oil- and gas-fired utility boilers						2.1
Prohibit oil and gas use in new industrial boilers						1.7
Total (mmb/d)			5.1 (2.4)			11.2 (5.3)

[1] Two general points are key to understanding the table. First, the base case estimate of oil imports in 1990, adjusted for decontrol, already reflects the supply of considerable quantities of oil and gas produced with enhanced recovery methods; this amounts to 1.3 mmb/d of oil and 0.4 mmb/d of gas. Second, the table does not list all possible import saving actions. It does not include industrial oil and gas conservation and it does not include measures requiring lifestyle changes, e.g., a requirement that only compact cars be sold.

[2] Solar measures are not listed in this table because widespread use is not expected until after 1990. Moreover, solar technologies would usually supplant electricity which would by then be generated using little oil and gas.

[3] Split between oil and gas depends on regulations developed in the future. We assume that conserved natural gas replaces oil elsewhere.

Although Table 1 cannot be considered precise, it can be used to compare the cost of import reduction through synfuels and other means. For example, before paying $30 per barrel for a synthetic fuel, it might be cost-effective to exhaust all the actions that have a lower cost for import reduction; those actions sum to over 5 mmb/d of import reduction in 1990. Of course, effects in addition to cost would have to be considered before making a choice among alternative energy policies. Key among these may be the multitude of individual actions required to implement conservation measures throughout our diverse economy.

At least one other point should be made in order that Table 1 can be interpreted properly. Almost half of the actions to reduce imports are said to be economically justified at $20 per barrel, which is the assumed oil price in our base case. One must then ask why the actions would not be taken voluntarily, without Federal programs. For a variety of reasons, including consumer preferences for lower initial costs over later savings, lack of information, and failure of energy conservation investments to be incorporated into the value of capital goods, individuals often make energy decisions that are inappropriate on purely economic criteria.

Findings

This analysis has found:

Experience has shown that time constraints and political visibility consistently limit the ability of federal supported pioneer projects to promote the commercialization of new technologies. The President's proposal clearly would achieve the important objectives of obtaining significant import reductions and providing a convincing symbol of America's resolve to decrease oil imports. Given previous experience, however, the plan appears less likely to result eventually in a commercially viable synfuels industry.

A program incorporating an aggressive first phase of synfuels production capacity development and a deferred decision about the magnitude and timing of future synfuel deployment provides an attractive alternative to the President's proposal. Such an approach allows (i) effective action to demonstrate U.S. resolve, (ii) opportunities for follow-on synfuels deployment and the option to adopt more cost-effective import reduction measures, and (iii) the project-by-project flexibility found to be critical to the commercial maturation of technology innovations.

Of the wide array of policy mechanisms available to stimulate private sector innovative activities, the President selected a specific set of tools for use in promoting synfuels. Of this set, two subsidy devices deserve special attention. Price guarantees offered through competitive bidding offer significant economic and commercialization advantages. Loan guarantees appear to present serious budgetary and commercialization difficulties.

Provided that new sources of domestic production become available in the year 2000 timeframe to effectively put a cap on foreign oil prices, the national security and economic benefits of import reductions in 1990 would be the same whether that reduction is achieved through conservation or production. The choice between the two approaches should be based on a comparison of their economic, environmental, and equity effects.

There appear to be a significant number of opportunities to cut oil imports through energy conservation and coal substitution at a cost of less than $30 per barrel saved. Import reduction with such actions could reach 5.3 Mbpd in 1990.

An energy policy relying on conservation and substitution approaches to import reduction would not, however, be free of uncertainty and risk. There would be serious obstacles to reaching a political consensus on how to conserve and substitute. Moreover, there would be institutional problems with implementing any such programs.

Mr. BELLMON. Mr. President, here we have the oil companies saying that they can increase production up to 12 million barrels a day and here we have an absolutely independent think-tank organization here in Washington saying virtually the same thing. The only thing that seems to be needed is an incentive in the capital to make this kind of development possible, and that is the purpose of this amendment.

This amendment says to the industry "put up or shut up." We are saying our Nation has the energy resource base. We are saying the country needs the increased production. We are saying we know the industry needs hundreds of billions of dollars of new capital to invest to bring on this increased production. And then we are saying if the oil industry can deliver this increased production through the use of production tax credit, it will be a wise investment for consumers, for producers, and for the country.

Mr. President, as I said at the beginning, this is an amendment which I feel every Member can agree upon. It guarantees the consumers will get more energy and not more Government for the extra money they pay.

I urge the favorable consideration of this amendment.

I reserve the remainder of my time.

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. I am glad to yield to my friend from Minnesota.

Mr. BOSCHWITZ. Mr. President, I am a cosponsor of this amendment, and I rise to speak in its support.

I believe that this is the only amendment that has been offered that ties a tax incentive to increased production. This is not exactly a plowback amendment, as my distinguished colleague from Oklahoma said. This amendment provides that the producers have to produce the goods in order to get any type of credit against the tax that we are now debating. It stipulates that they not only have to produce more oil, but they also have to return the normal depletion that an oil well goes down each year; and I believe that is approximately 12 percent. This amendment also addresses itself to the very basic question of demand and supply. Unless we are able to supply ourselves, unless we are able to get the elements of the marketplace into our own hands, we are going to be unable to impact, in any way, the price of oil. It is simply going to continue rising at the whim of the OPEC nations.

So I support this amendment. In order to get a 25-percent credit against the windfall profit tax, producers have to increase production by not only the 1 percent that is mandated in this amendment, but they also have to return the 12-percent depletion that would otherwise take place in an average property.

As my distinguished colleague from Oklahoma pointed out, these 3-percent increases, as they are compounded over the years, will mean a 3.3-million-barrels-per-day increase over present production 10 years from now. That is just presuming, Mr. President, that this incentive will bring about an additional 3-percent production.

I think, Mr. President, that we could look forward to a production increase in excess of that 3 percent. I think that we could, if we are going to seek energy independence, look forward to a significant production contribution. However, production alone will not be enough. As the Senator from Oklahoma pointed out, conservation is also very important.

I repeat, Mr. President, that if this 3 percent is taken and compounded over a 10-year period, we can expect at least 3.3 million additional barrels of additional production.

Yet, if there is a true incentive, probably greater increases can take place. And, as the distinguished Senator from Oklahoma pointed out, can indeed take place.

Not only that, but it would halt some things that may develop under this bill. For instance, allowing producing wells to become less productive in order to get them into the stripper category in an attempt to obtain a higher price for oil.

Hence, this amendment will encourage production, Mr. President, for many years to come. It will provide the producer with the capital that is necessary to put his equipment into meaningful productive use.

Mr. President, I believe, as the Senator from Oklahoma said, that this amendment is a put-up or shut-up type of amendment. No other such amendment has been offered to the windfall profits tax. All kinds of amendments have cut a corner or excluded this or included that or raised the tax or decreased the tax. But no amendment has specifically stipulated that there must be more production before you can indeed get the credit that will accompany that new production. This is a credit on the tax that is paid on the production that would otherwise be taxed at a rather confiscatory rate.

It is a put-up or shut-up amendment, Mr. President, and I encourage all the other Members to vote with us and bring it about.

Mr. BELLMON. Mr. President, I thank my friend from Minnesota. He is a cosponsor of the amendment.

I might say, in all candor, that it was in a discussion that he and I had some weeks ago that led to the development of this amendment. I wish to thank him for his input, and also for his support. He comes not from an oil-producing State but a consumer State, and I believe it shows there is support for this kind of approach pretty well across the board.

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. BELLMON. I am happy to yield.

Mr. BOSCHWITZ. Again, Senator, the principal point is that as you compound that 3-percent increase it would lead to 3.3 million barrels over the next decade. This is compared to, for instance, synthetic fuels where the goal by 1990 is half that. So indeed I think we can produce more than that. I think this incentive will not be limited to 3 percent compounded.

Mr. BELLMON. The Senator is correct. It is my hope that it will go far beyond the 3 percent, although I must admit that reaching that level is going to require a maximum effort.

So we are talking about, we say, 3 percent, and that is the effect, but we realize that to get that 3 percent we have to overcome each year the 12-percent normal decline curve, so we are talking far more than 3 percent from the current base.

I might say to the Senator the studies I have seen on the prospect for synthetic crude production give practically no hope for realizing 1½ million barrels of synthetic crude by 1990, whereas a realistic amount is 500,000 barrels per day.

Over the next 10 years we are going to have to depend almost entirely on crude oil to meet that demand, and this amendment is intended to accelerate the development of our crude oil reserves and our resources in this country to get us through the next decade and into the 1990's when synthetic fuels may be able to make a greater contribution.

I reserve the remainder of my time, Mr. President.

Mr. RIBICOFF. Mr. President, I rise to oppose the amendment. The amendment of the distinguished Senator from Oklahoma would virtually eliminate the tax for many producers. On the average, oil-producing properties decline at a rate of about 12 percent a year. The distinguished Senator from Oklahoma says if the property increases production at the rate of 3 percent a year you can eliminate 75 percent of the windfall tax.

The problem is that this argument sounds good, that it will bring us more production. But 30 percent of all oil-producing properties do not decline in a particluar year because they are in a development stage or are in a secondary recovery stage. As a result, even if the credit does not cause any change in production, it still loses revenue on 30 percent of the properties, and that is why it leads to a $30 billion revenue loss over a 10-year period.

Yesterday in the Bradley amendment we voted by a large margin to increase revenues by $22 billion. This proposal would lead over a period of 10 years to a revenue loss of $30 billion.

The ironic part of this proposal is that the oil industry itself has consistently testified before the committee that they oppose a plowback amendment. They like the idea but they do not know how it will actually work out, and this causes a great deal of concern.

Now, the following oil associations and oil companies have testified before the Finance Committee on plowbacks because they do not feel it will work: The American Petroleum Institute, the Independent Petroleum Association of America, Mid-Continent Oil and Gas Association, Rocky Mountain Oil and Gas Association, Western Oil and Gas Association, Sohio, Exxon, Arco, Gulf, Marathon, and Louisiana Land and Exploration.

Generally, it is ironic to find myself on the side of these particular organizations on any part of oil or energy legislation. But in this case they recognize, and the committee staff has recognized, and what has worried the members of the Finance Committee, the complications with the plowback and the difficulties involved.

We have been trying for 3 days to work out a proposal to bring us in increased revenues, and that has been the subject of very serious negotiations.

I am afraid if we had adopted the Bellmon amendment we would find ourselves in a position that in no way could we get back the $30 billion without substantially increasing the windfall profit tax in many instances, which would cause a hue and cry from those Members who are now advocating the plowback provision. Consequently, I hope the Senate will reject the Bellmon proposal.

I yield as much time as the distinguished Senator from New Jersey would like to take.

Mr. BRADLEY. I thank the distinguished Senator from Connecticut.

I think it should be clear to the Senate that this is the first of a series of amendments to reverse the action the Senate took the day before yesterday in voting a 75-percent tax on tier 2 oil.

We have had a great deal of debate about that 75-percent tax on tier 2 oil, and 58 Members of this body thought it should be 75 percent. The vote was taken, the will of the Senate was registered, and now we have the beginning of a whole series of amendments to take the tax out the back door and to gut the tax on tier 2 oil by providing credits against the tax.

Mr. President, I would suggest that the Senate spoke very clearly on this matter just a short time ago. I would also suggest that on yesterday's amendment dealing with the depletion allowance, the distinguished chairman of the Finance Committee and the Senator from Texas said that the Senate had voted to exempt independents, and that if support was given to the depletion allowance, the Senate would be guilty of intellectual schizophrenia—that was the word used by the opponents of the depletion allowance amendment.

Mr. President, the same case can be made for this whole series of plowback amendments. We went up the hill with the 75-percent vote on tier 2 oil, and now we are about to come down the hill with the series of plowback amendments to take revenues away from the U.S. Government and its people.

Mr. President, I would suggest that the purpose of this bill is to produce more energy and to produce new energy. I would also suggest that the Finance Committee structured its actions accordingly, exempting new oil because we felt there would be a supply response if there was no tax.

But, Mr. President, this is clearly not the case in this particular amendment. I suggest that what we have here is diminishing marginal efficiency.

How do we want to use the $22 billion that the Senate approved by increasing the rate on tier 2 to 75 percent? Mr. President, I would suggest that the way to use that revenue is in producing new energy and new forms of energy. We will get no more new energy from oil production by cutting that tax.

One only has to look at how this tax would work to clearly see the problem. For example, producer X has several oil fields, or several producing wells, some of which are in tier 2. However, because he sees the world oil price going to $30 or $40 or $50, and sees that he can obtain a very substantial return on his investment because of that world oil price, he decides to invest in new oil production. If he is successful, his total production increases. Under this amendment, that producer is rewarded doubly, first by getting the world oil price; second by getting a tax credit that he can then write off against the tax he would have paid on the tier 2 oil.

Mr. President, I would suggest that there are much better ways to spend this money. There are alternate sources for producing more natural energy. For example, there is more energy production potential in coal, in solar, in cogeneration, and, for that matter, in urban waste and conservation. If we were to tax new oil at 50 percent or 60 percent, there might be some logic to this tax credit applied to a net increase in production; but by exempting new oil, we have eliminated the argument for this tax credit.

Mr. President, do we want a tax credit for energy sources and technologies with the most production potential? That is indeed what we want. We can generate energy from coal and coal gasification at about $45 a barrel nowadays. We can produce solar energy at about $25 a barrel, biomass at about $15 to $21 a barrel. cogeneration at about $16, hydro at about $6—Mr. President, a net production tax credit might make sense if it was for garbage, if it was for solar, or, most importantly, Mr. President, if it was for conservation. But that is not what this tax credit applies to.

However, I would call attention to one provision in this amendment to the effect that if a company not only has oil production, but also produces oil shale, and that if as a result of that synthetic crude production its total production increases, it receives a credit against the tax on oil in tier 2 that was in production before it ever started producing synthetic crude.

Mr. President, I would hope that the Senate would look very carefully at this amendment, because what it amounts to is subsidized capital. When we are in the business of providing subsidized capital for a particular enterprise, whether it is the production of oil or solar or a gas pipeline or a garbage-to-energy system, I think we need a careful cost-benefit analysis of each one of these enterprises. However, this credit is limited to oil production and no cost-benefit analysis has yet been made.

So, Mr. President, I ask that the Senate review this amendment, because it is clearly an attempt to negate the action that was accomplished but 2 days ago by increasing the tax on tier 2 oil to 75 percent.

Mr. RIBICOFF. Mr. President, I yield to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to have a brief colloquy, if I might, with the distinguished sponsor of the amendment, because I have some problems here.

It seems to me we have taken care of the independents, or at least a very substantial portion of them, with the 1,000-barrel-a-day exemption. Before the Finance Committee, as the acting floor leader just said, the testimony was that the majors were not interested in the plow-back provision because of the difficulties in calculating it.

But setting all that aside, here is the difficulty I have: You have a well that is producing a large amount. All wells do not decline at a rate of 12 percent a year. I think that is accepted; some relatively new wells are pumping along at a relatively even amount. There is the type of well one could easily jump up to get the increased production for this tax credit. You have another set of wells that are declining very rapidly. So would not the logical thing be, in order to get these tax credits, which are very substantial—as I understand it, each 1 percent above the level amounts to 25 percent of credit, up to 3 percent, which amounts to 75 percent, and then there is a cutoff; is that correct?

Mr. BELLMON. That is correct.

Mr. CHAFEE. It seems to me there would be a large inclination—correct me if I am wrong—for the producer to say, "Forget the well that is not doing very well, and concentrate on the ones that are producing the large amounts, that I can easily kick up into the higher brackets, that is, at the 1 percent, 2 percent, or 3 percent, and there is where I am going to get my money." Yet in the overall energy picture, there is not the production we would like to see. The owner says to himself, "I am not interested in that upper tier production from these declining wells that are not going to do much; I will concentrate on the ones that will give me the world price." I wonder if the Senator from Oklahoma would be good enough to help me on that.

Mr. BELLMON. Mr. President, first let me say that under this amendment, independents not paying the tax would not be eligible for this tax credit. Only those paying the tax would be covered by the amendment.

The Senator may have a point, and if he would like, we could probably change the amendment to take care of it.

The figure we use is 12 percent. There is no way to write an amendment to cover every situation, and we use the figure generally accepted by the authorities. That 12 percent is the average decline curve for the industry, nationwide

We made this amendment apply either on a company-by-company or field-by-field basis. We could drop the field-by-field. Our purpose was to not inhibit production. Everything we have done so far by putting on taxes tends to make producers feel that the longer they wait, the more they will get for their oil. We are trying to turn it around and make it go the other way.

If the Senator would like, we could remove the field-by-field basis and make the figures company-wide, or for every well the producer had. I think on that basis, you would find the 12 percent decline curve is realistic. I frankly do not think the problem the Senator raises is that great.

Mr. CHAFEE. Mr. President, this is an incredibly complicated situation, and I do not feel I have the expertise, at this late hour, with the time limit, to come in with an amendment. I stand shoulder-to-shoulder with the Senator from Oklahoma in opposing the tax on new oil. I will vote against it. But I have great reservations as to this proposal we have before us, because of the incredible difficulties presented to us in hearings.

Mr. BELLMON. Will the Senator yield on that point?

Mr. CHAFEE. I yield.

Mr. BELLMON. I do not believe this amendment ought to be thought of as a plowback amendment. It is not a plowback amendment. A plowback amendment says that if the company spends money in oil and gas-related activities, those moneys are not taxed. There is no connection between production and expenditures in that kind of situation.

Here we are saying either produce or pay. It is as simple as that. If the company spends money and does not get any additional production, then there is no tax credit.

I cannot see that it is that complicated. But it is vastly different from a so-called plowback amendment, where there is no connection between expenditures and results.

Mr. CHAFEE. I recognize the difference, and I appreciate the Senator pointing out the difference between this production credit and the plowback.

But in the illustration that I gave, based on my limited knowledge of this particular subject, it seems to me there are real difficulties with it. I just point that out. I am not in a position to present an amendment to cure the difficulties that I saw.

Several Senators addressed the Chair.

Mr. CHAFEE. Mr. President, I suspect my time is up.

Mr. BELLMON. I am not sure the difficulties are as real as the Senator feels, although there are some wells that decline more rapidly than others. But we have chosen what is the accepted decline rate.

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. BELLMON. I am happy to yield to the Senator from Minnesota.

Mr. BOSCHWITZ. Is this correct: that under this amendment, if a field production would go up, then there would be a production tax credit that would apply to the oil producer in that field?

Mr. BELLMON. The Senator is correct.

Mr. BOSCHWITZ. And not in the oil overall. So if there was another area going down, I do not understand how that would impact or why there would be an incentive to discontinue that production.

Mr. BRADLEY. Mr. President, will the Senator yield on that point?

Mr. BELLMON. Mr. President, before I yield, let me comment that the declining wells that the Senator from Rhode Island has mentioned would probably be likely prospects for secondary tertiary recovery. Under this amendment, that sort of activity would be greatly encouraged and capital would be available to undertake specific projects.

Mr. President, I yield to the Senator from New Jersey (Mr. BRADLEY).

Mr. BRADLEY. I just wanted to ask the proponent of the amendment: Is it not true that if the amount of revenue loss is correct—about $30 billion—would not that be directly applicable to the tax liability incurred under the tier 2 tax the Senate passed just 2 days ago?

Mr. BELLMON. I say to my friend from New Jersey, there is a direct connection between this amendment and the tier 2 tax. This amendment applies to all the taxes that a producer would owe under the terms of this bill. As we figured it, if the bill actually produced the 3 percent per year increase in production, it would not be in a revenue loser. It would be a very substantial revenue gainer, because of the fact that the additional 9.4 billion barrels of oil produced in 1990, and all of the other increment in the years between, would generate almost $60 billion of additional revenues to the Treasury from the corporate tax alone, to say nothing of the individual personal income tax.

So to say it is a revenue loser, I think, is to overlook the fact that there would be very significant revenue gains from the taxes that are already in place.

Mr. BRADLEY. But it would be a tax credit against the windfall profit tax, is that correct?

Mr. BELLMON. Increased production would be eligible for a tax credit and also eligible to pay corporate tax and corporate income tax.

Mr. BRADLEY. So that the effect would be, even assuming increasing corporate taxes, that there would be a decrease in windfall profit tax revenues as a result of this amendment.

Mr. BELLMON. Well, as far as I am concerned, revenues are revenues. If it is in the Treasury from the corporate tax or personal income tax, it is there. And whether it comes from one source or another is not noticeable, once the money has been collected.

But the point is that this amendment, if it is going to produce tax credits, is also going to produce increased oil. And that is what we are after.

Mr. BRADLEY. Has the Senator cited any figures about the relative efficiency of a tax credit for oil production and a tax credit for—well, let us say a tax credit for conservation, or a tax credit for solar energy, or a tax credit for cogeneration? If the Senator has cited those, I did not hear them. Why is this tax credit better than other tax credits that can obtain oil equivalencies at lower costs?

Mr. BELLMON. Perhaps the Senator was not in the Chamber when I read from the report by ICF Inc., which is a Washington think tank that was engaged by Senator HART's task force on synthetic fuels, which issued its report on September 5. I will read it again.

They say that it is possible, through conservation, to reduce oil consumption by 1990 by 3.1 million barrels a day. That is the conservation savings possible.

Mr. BRADLEY. At what cost?

Mr. BELLMON. Just a minute.

With substitution, it is possible to save 2.2 million barrels a day. The increased production is 2.4 million barrels a day. And then they say each of these would achieve a savings at a cost per barrel saved of $30 or less.

I think that answers the question the Senator raises.

Mr. BRADLEY. Well, your figure for conservation of $30 a barrel is much higher than the Harvard Business School study has stated, much higher than DOE has stated, much higher than any number of other bodies that have determined what it would cost to save a barrel of oil equivalent through conservation is.

Mr. BELLMON. Mr. President, this says $30 or less. It does not say $30 exactly.

I agree with the Senator, any oil we can save through conservation or through substitution, let us do it. But we also have to do all we can to bring on additional production. And that is the purpose of this amendment.

Mr. BRADLEY. Mr. President, I would like to reiterate that it is my understanding—and the Senator said nothing to change that understanding—that this tax credit would offset windfall profit tax liabilities and that the tax credit would decrease revenues by $30 billion and would be a decrease in revenues against windfall profit tax revenues, thereby reversing the Senate's decision yesterday to increase revenues by $22 billion through an increase in the tier 2 tax.

● Mr. DOLE. Mr. President, I strongly support the concept of a plowback. Indeed, at an appropriate point later in the consideration of this bill, I intend to propose my own version of a plowback or production incentive credit.

For the Senator from Kansas the attractiveness of the plowback concept is quite simple—it will insure that oil company revenues will be put back into new petroleum exploration and development. If the additional revenues from decontrol are not put back into the ground, the oil companies will get nothing. A plowback credit, however, will insure that there will be additional capital available to allow oil companies to step up their domestic drilling programs.

The plowback proposal offered by the Senators from Oklahoma, Colorado, and Minnesota is somewhat unique. Rather than tying the plowback credit to expenditures for exploration or development, the Bellmon credit is keyed to increases in oil production. As I understand it, the amendment would allow a 25-percent credit against windfall profit tax liability for each percentage point by which a company's current production exceeds the taxpayer's average quarterly production during 1979 or the most recently ended calendar quarter. Under the Bellmon amendment up to a maximum of 75 percent of a taxpayer's windfall profit tax liability can be eliminated if a taxpayer's current oil production is increased by 3 percent over 1979 production. The plowback credit could be carried forward for 3 years and carried back 7 years. Also, the credit could be computed on an overall basis or a property-by-property basis.

The amendment of the Senator from Oklahoma has the advantage that it rewards increases in oil production.

Thus, it encourages results. Additional oil production is what this country needs.

Even though the Senator from Kansas is attracted by the concept of rewarding results, he has some concerns about the pending amendment. Let me take a moment to review some of these concerns.

First, the pending proposal might allow some producers to largely escape the windfall profit tax. Under this amendment a producer can avoid up to 75 percent of his windfall excise tax liability. Consequently, this amendment might have a significant impact on the revenues yielded by this bill. Although it may come as a surprise to some, particularly those in the press, I have consistently supported the concept of having a real windfall profit tax—that is, a tax which actually raises a substantial amount of revenue. In my judgment, the Finance Committee did an outstanding job in reporting out such a tax. In general, I believe the Finance Committee bill strikes the proper balance between needed revenues and production incentives.

Nevertheless, the Bellman amendment may be worth its cost. It would seemingly produce more oil, or it would have no cost. Furthermore, even if the Bellmon amendment has a significant cost, it may simply restore the balance of the Finance Committee bill by offsetting the tax increases added on the floor of the Senate.

I am also concerned that this amendment might penalize the producer who makes a bona fide effort to find new oil but proves to be unlucky. For example, a producer might undertake an expensive drilling program and find that he hits a number of dry holes. Even though this individual has valiantly attempted to increase American oil production, he will be nonetheless socked with a tax on his existing production. Unfortunately, this may merely be the cost of a credit which rewards results. Those who do not produce get no credit.

Despite these concerns, I support the Bellmon proposal as a worthwhile approach to stimulating production. I commend the sponsors for developing and presenting to the Senate a truly novel approach to increasing America's petroleum production and alleviating our energy shortage.

Mr. RIBICOFF. Mr. President, I have no more requests. I am willing to yield back the remainder of my time.

Mr. BELLMON. Mr. President, unless there is a request for time on this side, I am willing to yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified, of the Senator from Oklahoma (Mr. Bellmon).

Mr. RIBICOFF. Mr. President, I move to table the amendment of the distinguished Senator from Oklahoma (Mr. Bellmon).

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

The question is on agreeing to the motion of the Senator from Connecticut (Mr. Ribicoff) to table the amendment, as modified, of the Senator from Oklahoma (Mr. Bellmon). The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Tennessee (Mr. Sasser), the Senator from Florida (Mr. Stone), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oregon (Mr. Hatfield), the Senator from Delaware (Mr. Roth), the Senator from Alaska (Mr. Stevens), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

On this vote, the Senator from Oregon (Mr. Hatfield) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Oregon would vote "yea" and the Senator from South Carolina would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 50, nays 35, as follows:

[Rollcall Vote No. 460 Leg.]

YEAS—50

Baucus
Bentsen
Biden
Bradley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stennis
Stevenson
Stewart
Tsongas
Williams

NAYS—35

Armstrong
Bellmon
Boren
Boschwitz
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Mathias
McClure
Morgan
Nunn
Pressler
Schmitt
Schweiker
Simpson
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—15

Baker
Bayh
Bumpers
Church
Goldwater
Gravel
Hatfield
Kennedy
McGovern
Roth
Sasser
Stevens
Stone
Talmadge
Thurmond

So the motion to lay on the table Mr. Bellmon's amendment (No. 692), as modified, was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas (Mr. Dole) and the Senator from Washington (Mr. Jackson) are recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield? Who has the floor?

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, there is some interest at this point in substituting for the moment an amendment by Mr. Helms, letting Mr. Helms go with his amendment this evening. I understand he will be agreeable to a half-hour equally divided on that.

Mr. HELMS. No more than that.

Mr. ROBERT C. BYRD. Will the Senator state what his amendment is?

Mr. HELMS. It is the gasoline tax amendment.

Mr. ROBERT C. BYRD. What does it do?

Mr. HELMS. It renews the exemption after next year, I say to the Senator, so it will not impact on the budget.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order for Mr. Helms to call up his amendment at this time, and that there be a half-hour time limitation, the time to be equally divided between Mr. Long and Mr. Helms.

Mr. PERCY. Reserving the right to object, will Senator Helms advise if he is going to use all his time? Does he think he will take the half-hour?

Mr. HELMS. Indeed, I shall not. I shall only use 15 minutes myself and there may be other Senators who wish to speak.

Mr. PERCY. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

Once the amendment by Mr. Helms is disposed of, the amendment by Mr. Dole would then be pending. Is that correct?

Mr. DOLE. The Senator is correct. I may want to shift it or not offer it at this time. We are not required to offer them in sequence.

Mr. ROBERT C. BYRD. The Senator has not offered it?

Mr. DOLE. No.

Mr. ROBERT C. BYRD. Then, I am not mistaken.

AMENDMENT NO. 632

(Purpose: To amend the Internal Revenue Code of 1954 to reinstate the nonbusiness deduction for State and local taxes on gasoline and other motor fuels)

The PRESIDING OFFICER (Mr. Bradley). The Senator from North Carolina is recognized to call up his amendment.

Mr. HELMS. Mr. President, I call up my amendment No. 632.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms), for himself and Mr. Dole, Mr. Hatch, Mr. Tower, Mr. Melcher, Mr. Riegle, Mr. Ford, Mr. Stevens, Mr. Schmitt, Mr. Garn, Mr. Humphrey, Mr. Stone, and Mr. Morgan, proposes an amendment numbered 632.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

"Section 164(a) of the Internal Revenue Code of 1954 (relating to taxes) is amended by adding at the end thereof the following new paragraph:

"(5) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels".

Sec. 2. (a) The heading of paragraph (5) of section 164(b) of such Code (relating to separately stated general sales taxes) is amended by adding "and gasoline taxes" after "general sales taxes".

(b) Paragraph (5) of section 164(b) of such Code (relating to separately stated general sales taxes) is amended by adding "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel" after "any general sales tax".

Sec. 3. The amendments made by the Act shall apply to taxable years beginning after December 31, 1980.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I yield myself such time as I may require.

Mr. President, this amendment would restore the itemized deduction for State and local nonbusiness gasoline and motor fuel taxes. This deduction was deleted from the Tax Code by the Revenue Act of 1978, which was enacted into law during the frenzy of the final hours of the 95th Congress. The language of my amendment is identical to that of S. 79 which was introduced at the beginning of this session. Cosponsors of S. 79 include Senators Dole, Hatch, Tower, Melcher, Riegle, Ford, Stevens, Schmitt, Garn, Humphrey, Stone, and Morgan.

We believe that Congress should restore the deduction for the following reasons:

First. The absence of this reduction will be felt most severely by middle-income taxpayers.

Second. Its elimination will help undermine the incentive for taxpayers to make use of itemized deductions.

Third. Its reenactment will have no perceptible effect on energy consumption.

Fourth. It was deleted without adequate deliberation by Congress.

Beginning this year, individuals who itemize will no longer be allowed to deduct State and local excise taxes imposed on gasoline, diesel, and other motor fuels which are not used for business purposes. If Congress fails to restore this deduction, the middle-income taxpayer will bear the greatest burden in additional taxes. According to U.S. Treasury Department figures, over 70 percent of the revenue raised from the repeal of this deduction will come from taxpayers making less than $30,000 a year. In 1983 alone, the elimination of this deduction will, according to the Treasury, take an additional $2.2 billion from the pockets of the American taxpayer who must also face spiraling fuel prices.

Concern about the conservation of energy and the reduction of oil imports has been one argument advanced to support the deletion of the gasoline deduction. In our opinion, the elimination of this deduction will have little effect in assisting our Nation achieve its energy goals. Instead, it will create an unfair tax burden not just for taxpayers in western and rural States who must drive greater distances, but also for suburban commuters who must drive their automobiles to work. We promised our constituents a tax cut and then turned right around and deleted a meaningful deduction. We disguise our actions by claiming that it will somehow help cure our energy crisis. If this measure is designed to save fuel, how can Congress allow business to maintain its fuel deductions? Or will business be next?

When the elimination of this deduction was considered by the Finance Committee last fall, it was added to the tax bill during the final hours of markup. When the tax bill reached the floor of the Senate, an amendment to restore the deduction was ruled "out of order" because it would have lowered projected revenues below the legal limit set by the budget resolution. The Senate, as a whole, was not allowed to vote on the measure. Because of this parliamentary technicality, the Finance Committee's supposed "recommendation" became law without adequate review by the Senate.

In 1977, an amendment to delete this deduction was soundly defeated by a vote of 65 to 12. We believe the outcome last session would have been much the same—had the Senate been allowed to vote. H.R. 3919 presents a convenient opportunity to reinstate the deduction (to take effect in 1981), and I urge support for the amendment.

Mr. President, I reserve the remainder of my time.

Mr. LONG. I yield myself such time as I require.

Mr. President, there are reasons why the deduction for the State gasoline tax should have been repealed, and they remain as good now as they were previously when Congress acted to repeal it.

In the first place, the repeal provides for simplification of the tax code. Everybody has State gasoline tax expenses. But when you simply adjust the general tax rates, knowing you have to raise a certain amount of revenue from all the taxpayers, leaving the deduction puts them to needless bookkeeping expense to arrive at the same amount of tax. In other words, you can draw your tax bills one of two ways. You can provide a great deal of deductions, which require a great deal more bookkeeping and a great deal more itemization, and then have a higher tax rate on the amount of income left to be taxed; or you can provide less tax deductions and have a lower tax rate.

By having less tax deductions, you have a simplified tax law, less bookkeeping in filling out one's tax return, and paying whatever one owes Uncle Sam.

Reinstating the deduction would require additional bookkeeping for every taxpayer who itemizes. The proposed deduction would not benefit the great majority of taxpayers who do not itemize. Rather than moving toward making more people itemize on their tax returns, we should be moving toward simplification, making less people itemize, and generally reducing the rates.

In terms of energy conservation, there is no reason to have a special tax advantage to encourage people to use more energy. Insofar as it encourages them to expend more energy, it is a move in the wrong direction.

We have had thoughtful editorials in newspapers such as the Washington Post and the New York Times, saying that we should have a high tax on gasoline so that people will be discouraged from using more energy, rather than encouraging them to use it by a policy of trying to keep the price low in the United States. There is logic in that.

In fact, I am told that the administration is thinking about suggesting to us that we put a 50-cent tax on gasoline and use that tax to reduce other taxes, such as health insurance taxes or some of the social security taxes people would pay otherwise, so as to discourage the use of energy in a way that would not cause any increased burden on the taxpayer when you look at his overall tax burdens.

Furthermore, if this amendment were agreed to, it would cost $1.2 billion in the first year, but it would reduce the revenue in this bill by $34 billion. Senators who feel that we have put too much tax on the oil industry already should take into consideration that if this amendment is agreed to and we reduce the revenue in this bill by another $34 billion, that will put a great deal more pressure on the House conferees to insist that the taxes on this industry be made much higher in conference than the House would insist on otherwise.

So if one feels kindly toward the energy producers and wants to encourage them, he should vote against this amendment; because it would set the stage for the House to insist that we either make back this $34 billion, or a substantial portion of it, by putting on more taxes, or more than the House would have insisted on otherwise.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question.

Mr. MUSKIE. I appreciate the comments made by the distinguished Senator from Louisiana, and I associate myself with them.

I ask the Senator this question: He mentioned the proposal that is floating around, to add a 50-cent gasoline tax for conservation purposes as well as associated revenue purposes. What would be the loss in revenue if this amendment were to become law and that gasoline tax would be voted?

Mr. LONG. Under this proposal, we would lose $1.2 billion a year, at first, I assume that in the average year, in full operation, it would cost us $3.5 billion, because over a 10-year period, it would cause us to lose $34 billion.

Mr. MUSKIE. And that is with the tax rate at what figure?

Mr. LONG. That would be like about a 3½-cent tax on a gallon of gasoline.

Mr. MUSKIE. So if the gasoline tax went up 50 cents, the 10-year loss in revenues would be astronomical.

Mr. LONG. We are talking about a deduction. This amendment proposes simply to provide a deduction against the income tax what one has paid in gasoline taxes to the State government.

Mr. MUSKIE. I see. All right.

Mr. LONG. But in any event, Mr. President, we hope that next year we can postpone or call off or find some way not to have the big social security tax increase go into effect in 1981. This would make it more difficult to do that. We are committed to try to have a balanced budget. This would make it more difficult to do that. We would like to consider a tax cut for people in all walks of life, an income tax cut, and we would like to try to do something to encourage capital investment. This would make it more difficult to do that.

If this is to be considered, Mr. President, at a minimum it should be considered in connection with some revenue measure next year and not added on this bill at the last moment. As I say, this could only lead to a determination on the part of the House conferees to insist on even higher taxes on energy producers than the House of Representatives would otherwise hold out and require and insist on when we go to conference and try to settle our differences on this bill.

So for those reasons, Mr. President, I hope the amendment will not be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield to the able Senator from Kansas such time as he may require.

Mr. DOLE. Mr. President, I remember when this matter was first brought to the attention of the Senate on June 5, 1979. It was the Senator's feeling then that we had not adequately considered this on the Senate side before the deduction was deleted from the Internal Revenue Code. It really turned out to be a backdoor tax increase for millions of persons. Again we are talking about the working people. Restoration of this deduction will not increase consumption. It restores a tax deduction that a taxpayer gets at the end of the year. If a taxpayer drives his car and goes to work as most people do, he will be benefited by this amendment.

The chairman mentioned the windfall tax and relief of scheduled social security tax increase; however, there are a lot of other things we are thinking about doing with all this $500 billion in revenue. I am not certain what the full cost of this amendment will be when fully implemented. The revenue loss is about a billion dollars. But this money would help the working people, people who drive their cars to work to make a living and pay taxes. The Senate increased their taxes last year without even adequate hearing. We just dropped a little amendment in the bill and because we are under a budget constraint we had to adopt the amendment.

This is a chance for an up-or-down vote.

The Senator from Kansas has been listening here for several days and several weeks in the Finance Committee about how big the oil tax should be. Last year it was shown the gas tax does not impact on consumption. The gas tax deduction means at the end of the year a taxpayer might have a few dollars.

I would point out, in this very piece of legislation we are now considering there is $70 billion over the next 10-year period for low-income assistance. That encourages consumption. To be consistent in the argument we should eliminate the low-income assistance to reduce consumption. If we did not give them any money, they would not buy the gas to heat their home.

The distinguished Senator from North Carolina has properly raised this issue. I support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I am willing to yield back the remainder of my time if the distinguished chairman wishes to do so.

Mr. LONG. I yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from North Carolina.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Tennessee (Mr. SASSER), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

And I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yes."

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there other Senators wishing to vote?

The result was announced—yeas 39, nays 40, as follows:

[Rollcall Vote No. 461 Leg.]

YEAS—39

Armstrong
Baucus
Boschwitz
Byrd,
  Harry F., Jr.
Chiles
Cochran
Cranston
DeConcini
Dole
Domenici
Durenberger
Durkin
Ford
Garn
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
Mathias
McClure
Melcher
Morgan
Nelson
Packwood
Riegle
Schmitt
Schweiker
Simpson
Tower
Wallop
Warner
Zorinsky

NAYS—40

Bellmon
Biden
Boren
Bradley
Burdick
Byrd, Robert C.
Cannon
Chafee
Culver
Danforth
Eagleton
Exon
Glenn
Hart
Huddleston
Inouye
Jackson
Javits
Johnston
Levin
Long
Magnuson
Matsunaga
Metzenbaum
Moynihan
Muskie
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Sarbanes
Stafford
Stennis
Stevenson
Stewart
Tsongas
Weicker

NOT VOTING—21

Baker
Bayh
Bentsen
Bumpers
Church
Cohen
Goldwater
Gravel
Hatfield
Kennedy
Leahy
McGovern
Pressler
Roth
Sasser
Stevens
Stone
Talmadge
Thurmond
Williams
Young

So Mr. HELMS' amendment (No. 632) was rejected.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, we have said there would be no more rollcall votes tonight. If there is a motion to reconsider, if someone wants to make it now, the vote will go over until tomorrow, because we have stated this would be the last vote.

If not, I ask unanimous consent that there now be a brief period for the transaction of routine morning business of not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED FOR LEADERSHIP IN HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, to date 83 nations have ratified the International Convention on the Prevention and Punishment of the Crime of Genocide, one of the major post-war human rights documents. The nations are extremely diverse, encompassing countries of different sizes, political beliefs and economic development. The nations approving the Genocide Convention vary—from members of NATO to members of the Warsaw Pact, from African nations to nations of the industrialized West. The nations that have agreed to the treaty outlawing genocide include every developed country in the world with one thundering exception.

Mr. President, one country's absence from the list of ratifying nations to the Genocide Treaty is conspicuous. That country, I am sorry to say, is the United States. For too many years now we have balked at the opportunity to add our name to the list of ratifying nations.

At the same time, instances of human rights violations continue to occur, drawing attention and condemnation—but not action—from the world.

As in any cause, there is a need for leadership. So it is with the human rights movement. That movement needs a leader that is both powerful and respected, and the country should have a strong human rights record.

Mr. President, I know of no better candidate than the United States. We are a country both powerful and respected. We have a President who has given human rights top priority in our foreign policy. We have a fine domestic record of protecting human rights. We do not hesitate to condemn atrocities wherever they occur. We support aid to victimized nations. And we make every effort to insure that violations do not occur in our own land.

Mr. President, it is time for the United States to assume leadership in the worldwide struggle for human rights. Is there any better place to start than by ratifying the Genocide Convention of 1949? I take this opportunity to urge all my colleagues to join me in supporting this treaty.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further morning business?

THE UNITED NATIONS SECURITY COUNCIL AND IRAN

Mr. CRANSTON. Mr. President, last week the Senate and the House unanimously passed a resolution calling for the immediate, safe, and unconditional release of all U.S. personnel held hostage in Iran and called upon the Security Council of the United Nations to take all measures necessary to secure that release of the American personnel.

Now the United Nations Security Council has passed unanimously the following resolution:

> The Security Council
>
> Having considered the letter dated 25 November 1979 from the Secretary General (S/13546),
>
> Deeply concerned at the dangerous level of tension between Iran and the United States of America, which could have grave consequences for international peace and security,
>
> Recalling the appeal made by the President of the Security Council on 9 November 1979 (S/13616), which was reiterated on 27 November 1979 (S/13652),
>
> Taking note of the letter dated 13 November 1979 from the Foreign Minister of Iran (S/13626) relative to the grievances of Iran,
>
> Mindful of the obligation of States to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered,
>
> Conscious of the responsibility of States to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,
>
> Reaffirming the solemn obligation of all States Parties to both the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1962 to respect the inviolability of diplomatic personnel and the premises of their missions.
>
> 1. Urgently calls on the Government of Iran to release immediately the personnel of the Embassy of the United States of America being held in Teheran, to provide them protection and allow them to leave the country;
>
> 2. Further calls on the Governments of Iran and of the United States to take steps to resolve peacefully the remaining issues between them to their mutual satisfaction in accordance with the purposes and principles of the United Nations;
>
> 3. Urges the Governments of Iran and the United States to exercise the utmost restraint in the prevailing situation;
>
> 4. Requests the Secretary General to lend his good offices for the immediate implementation of this resolution and to take all appropriate measures to this end;
>
> 5. Decides that the Council will remain actively seized of the matter and requests the Secretary General to report urgently to it on developments regarding his efforts.

Mr. President, the action of the Security Council is very significant: it is a unanimous recognition of the illegality of the action taken by the Government of Iran.

The worldwide disapproval of Iran is reflected in the 15 nation membership of the Security Council. That membership, of course, includes traditional American allies such as Britain and France. But it also includes the two major Communist powers, U.S.S.R. and the People's Republic of China, as well as Czechoslovakia. Africa is represented by Gabon, Nigeria, and Zambia, the rest of Europe by Norway and Portugal. The Western Hemisphere is represented by Jamaica and Bolivia, in addition to the United States. And finally, the Middle East and the rest of Asia are represented by the Muslim nations of Kuwait and Bangladesh, respectively.

The Security Council resolution also calls upon the Secretary General "to lend his good offices for the immediate implementation" of the resolution and "to take all appropriate measures to this end," that is, the safe release of the U.S. Embassy personnel. The United States will expect strong actions from the Secretary General to effect this release.

Rarely, Mr. President, has the United Nations spoken so unanimously in support of an American position in a dispute with a "third world" country. The United Nations is as unanimous in its view of the illegal action of the Iranian Government as the people of the United States are.

The Iranian crisis, Mr. President, remains complicated and difficult on the one hand, and simple on the other.

It is complicated and difficult because many Iranians feel that the issue is not the holding of hostages as blackmail, but the Shah, the record of the Shah's government, and the U.S. relationship with the Shah. It is complicated and difficult because many Americans cannot understand why we should hesitate to use—and do not fully appreciate the consequencies of using—military force to free the hostages in Iran. It is complicated and difficult for numerous other reasons, including emerging nationalism, oil, religious fervor, and balance of power.

But, Mr. President, the problem is also very simple, because there is one and only one issue of import now, and that is the call issued by the United Nations Security Council to Iran:

> To release immediately the personnel of the Embassy of the United States of America being held in Teheran, . . . to provide them protection and allow them to leave the country.

Mr. President, the Senate and the House have spoken unanimously on this issue and we must continue to do so. I believe the American people are prepared for a full review and discussion of our relations with Iran but that full review and discussion can never begin until after all our people in Iran are set free. The Iranian people and the Iranian Government must become convinced that no matter how just they believe their grievances against the Shah may be, these grievances will never be redressed by holding a gun at the head of innocent hostages in violation of every principle of international law. The Iranians defeat their own effort to win "justice" by the criminal actions which they have taken. These criminal actions, as President Carter has noted, violate "not only the most fundamental precepts of international law but the common ethical and religious heritage of humanity."

The United Nations Security Council, and the U.N. Secretary General, now offer the best hope for securing the safe release of the U.S. Embassy personnel. If the Iranian Government is foolish enough to rebuke their efforts and the resolution of the Security Council, it is clear that Iran, and Iran alone, will bear full responsibility for the consequences to Iran that will follow.

If the Security Council and the Secretary General cannot achieve the release of U.S. Embassy personnel with due dispatch, then the United States will inevitably pursue other options.

For there can be no misunderstanding to Iran—and there can be no misunderstanding to the world—the American people and their representatives in Government are united in their determination and in their efforts to achieve the immediate, safe and unconditional release of all U.S. personnel.

THE ECONOMIC CHALLENGE OF THE IRAN CRISIS

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a speech I delivered today before the International Conference on "Critical Economic and Work Force Issues Facing Western Countries."

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Economic Challenge of the Iran Crisis "Critical Economic and Work Force Issues Facing Western Countries"

I am delighted to have this opportunity to be here today to extend a warm welcome to our friends from Europe and to commend the Work in America Institute—in particular its Chairman, Dr. Clark Kerr, and its President Jerry Rosow—for their initiative in convening this conference on the economic and workforce issues facing Western Industrial Countries.

That the International Institute for Labour Studies (Geneva, Switzerland) and the Work in America Institute should join in co-sponsoring this important conference is indicative of the vision of these two organizations and their leaders, and of the commonality of the problems our countries face now and will continue to face in the coming decade.

THE NEED FOR CONTINUED INTERNATIONAL COLLABORATION

One thing I have learned in nearly 35 years of service to the people of my state and nation is that the U.S. and its trading partners cannot think or act as if we were islands; that we cannot isolate ourselves in the naive belief that we can be insulated from each other's problems, or that we can ameliorate our problems at each other's expense. We know from bitter experience that the economics of isolationism are a blueprint for economic disaster; they are a prescription for building chasms of separation between us.

I hope you will remember as vividly as I do the international economic debacle that was precipitated by the wave of retaliatory tariffs initiated in the early 1930's. That a business downturn, spawned in part by the speculation of the late 1920's, was transformed into a worldwide economic cataclysm can be attributed, in large measure, to the beggar-thy-neighbor policies of that period—and we hope and pray we will not have to relive that nightmare.

But, there is nothing automatic about the spirit of cooperation among our countries and we must assume that the economic and energy-related perils we are certain to face in the decade ahead will greatly strain our alliances and understandings. We know only too well that the spectre of isolationism can loom very large on the economic horizon at any time.

We must remain alert; we must redouble our efforts aimed at preserving and also strengthening the economic partnership we have forged in the post-War era.

However, the present crisis in Iran is being viewed by some or perhaps many of our allies—including some supporting the U.S. in the U.N. Security Council—as purely a bilateral issue between the United States and Iran. Such a view is wrong; and if they fail to see the mutlilateral dimension of this crisis and act accordingly, we all may very well live to regret our inability to understand what may be the most serious long-term implication of the crisis. For, the effects of this crisis have already been felt internationally in the relations between the United States and its allies; and we must insist that we have the same degree of inter-allied economic cooperation that we found in the United Nations Security Council when that body called for immediate release of our hostages.

I am specifically concerned with the vital areas of one, energy and two, the international monetary system on which we and our allies cannot be seen to be in disarray and weak. While I fully recognize that our allies face a different situation in terms of their even greater dependence on Middle East oil and that any cutoff of such oil would lead to major economic dislocations in Europe, we must take, in unanimity, some very tough decisions about limiting energy imports into our respective countries.

Next week our allies will have the opportunity to take collective obligations on oil when the 20 member International Energy Agency meets at our request in Paris to consider a series of proposals aimed at restricting oil imports and possibly at better controlling the oil spot markets—responsible for runaway oil prices. The importance of this meeting transcends the technical determination of new import levels or the development of a process to adjust energy demand to oil supply. Next week's meeting will have a far-reaching political importance which should not be underestimated. Progress in restraining oil consumption, imports, and purchases on the oil spot markets would be a clear signal to the Iranians that, with respect to the energy implications of this crisis, the allies are united and that we will not continue "busines as usual" and make deals behind each others' backs to gain access to vitally needed, but exorbitantly-priced oil.

The same can be said about the adequacy of inter-allied cooperation in the monetary field. While the political imperative of our action of two weeks ago to freeze Iranian assets must be recognized, we also realized at the time that such a freeze would have a long-term destabilizing effect on the international monetary system. Iran's announced intention to refuse to deal in dollars has exacerbated a situation already created by the uneasiness of other OPEC surplus countries about the safety of their reserves in US banks both here and abroad. Here again how our allies respond to the situation is as paramount as the substance of their response. While we can understand that our European allies may have serious reservations about the freeze of Iranian assets in branches and subsidiaries of US banks in their countries or about the attachments by US-based banks of Iranian assets in some of their industries, these are matters that should be settled in the courts and not in the press. The Iranians can only see a weak industrialized world when the German Government lets its concern be publicly known that the move by Morgan Guaranty against the Iranian share in Krupp and Deutsche Babcock-Wilcox may draw them into a bilateral confrontation which would hurt their relations with Iran.

The pressure on the dollar, which has sent the price of gold back over $400 an ounce and has sent the dollar to all-time lows against the Deutsche Mark, must be countered by cooperation among the central banks to bring back stability to the foreign exchange markets and cooperation in other economic areas of trade and international banking.

We are confronted today with acid tests which will measure the solidarity of the allies in the face of a common danger—not a bilateral problem between the United States and Iran—but a danger to the international economic system. We can either work together or hang separately. If we hang separately and the American people begin to believe that our allies are only willing to back us with resolutions in the Security Council, then we could well see a reaction by the American people who could disavow international cooperation and begin to consider actions predicated on the fact that the US can look after itself economically, politically, and militarily as it well can.

This is the critical aspect of the present situation in Iran, one which we may very well have to live with for a long time after the hostage situation is dealt with.

On this, the fiftieth anniversary year of the Great crash, (and next year is the fiftieth anniversary of the Hawley-Smoot Tariff), we must rededicate ourselves to a new decade of cooperation and understanding; we must not in the decade to come permit a new economic archipelage—a world of islands—to come into being.

And that is precisely why we are here today: because we understand the commonality of our many problems and we appreciate the necessity of our continuing to be open to teaching and learning from each other in the days and years to come.

THE EIGHTIES: A DECADE OF CRISIS AND OF OPPORTUNITY

As the decade of the 1970's draws to a close this month, our Western countries find themselves, individually and collectively, at a fork in the economic road: on one way there is new opportunity for economic well being, stability and success in the war on world poverty, on the other is divisiveness, jungle competition and instability—and that would be the road to the war peril as well.

THE PRODUCTIVITY CRISIS—THE KEY TO U.S. ECONOMIC PROBLEMS

Among the many domestic and international perils we may have to face in the coming decade, perhaps none is so profound or so consequential for the U.S. than the now-endemic stagnation of productivity; a problem that is for us a vestige of the present decade. U.S. productivity is the Achilles Heel of our current national economic order. It is the most important measure of the efficiency and vitality of our economy, and its growth has stagnated in recent years, precipitating a new and potentially destructive inflationary spiral. That the so-called underlying inflation rate in the U.S.—that is, the non-food, non-energy sources of inflation—now exceeds 10 percent per year in the U.S. is due largely to the failure in recent years of productivity growth to absorb higher compensation and other costs, as it has done in the past.

From 1948 to 1955 U.S. productivity in the private business economy grew at an average annual rate of 3.4 percent; and from 1955 to 1965, productivity grew by 3.1 percent per year; and from 1965 to 1973 productivity grew by 2.3 percent per year. But, beginning in 1973, the average annual rate of productivity growth began to decline sharply, to only 1 percent annually through 1977. Indeed, by 1977 productivity stood only 6½ percent higher than it did in 1972, 5 years earlier! And the stagnation in U.S. productivity became even more ingrained in 1978, as productivity grew by only one-half of one percent for the year as a whole. Indeed, in the first three quarters of this year productivity in the private business sector declined at annual rates of 3 percent, 2.2 percent and 0.7 percent respectively, making it likely that this Nation will post a decline in productivity for the year as a whole for only the second time (1974) since these records have been kept beginning in 1947.

The collapse of U.S. productivity in this decade has coincided with—and I believe helped bring about—a roller coaster experience for the U.S. economy, in which we have alternated repeatedly between galloping inflation and severe recession. Clearly, the failure of the U.S. to initiate a bold productivity improvement program aimed at reversing the decade-long stagnation we have had is the single most decisive reason for the inflation in which we now find ourselves. There can be little doubt that runaway inflation and intermittent recession has been related to U.S. productivity stagnation; and there can be little doubt that absent a major productivity improvement, double digit inflation will not abate soon; the U.S. standard of living will be eroded steadily; and, I am sorry to say, the leadership position in the world community still currently enjoyed by the U.S. will be challenged and possibly lost forever.

INTERNATIONAL IMPLICATIONS

There is an even more ominous dimension to the failure to reverse the decline of productivity: and that is that the decade-long productivity stagnation may be suggestive of something much more malignant than many of us may yet realize. The now-endemic quality of this problem may be indicative of a more fundamental economic malaise, which could have profound consequences in the decade to come. Some observers believe the persistent U.S. productivity decline proves that a more pervasive stagnation grips the U.S.; and that we are in danger of becoming ineffectual if we do not act soon to revive our energies. Concern is expressed in some quarters that the productivity problem betrays the fact that in recent years the U.S. morale has slipped materially; and that in the eyes of the world we have lost some of the vigor and some of the dynamism which made us great. In the period from 1960 to 1966 the U.S. ranked among the world's leaders in manufacturing productivity growth, averaging 4 percent per year. In the present decade, however, the U.S. has fallen into the cellar, to last place among the major industrialized nations. During the period since 1966, U.S. productivity growth declined by 45 percent, the steepest decline among any of our major trading partners.

Little wonder then that the rest of the world has begun to question whether the U.S. may have lost some of its vitality and, in our failure aggressively to reverse these trends, questions are raised about our resolve to deal with so fundamental an indicator of our economic health. Many wonder whether the U.S. can summon the strength necessary to pull itself together and in view of the possibly debilitated economic condition in which we may soon find ourselves if the present trends are not corrected we could end up a second rate industrial power before the year 2000.

There is an unfortunate tendency in the free world, because of their momentum in military armament, to consider the Soviets somewhat larger than life. The fact is that their industrial machine is markedly inferior to that of the industrialized free world nations; that their productivity is low, especially in the agricultural sector where they continue to be heavily dependent upon the world grain supplies, especially from the United States; that even in oil they are likely soon to become importers; and that their state trading ability does not avail them much in world trade, except within the closed Communist East European bloc. They are, of course, strong in productivity of military material, but the price they pay for it in terms of other production is very great; a price unnecessary to the industrialized nations in the free world, even in matching the Soviet military production.

Accordingly, the problems of economic superiority in the world are solely problems we in the industrialized countries of the free world make for ourselves. It is our failure to coordinate our economies, and to harmonize our policy (even in so elementary a matter as credit and credit terms to the Soviet bloc) which reduces our effectiveness in the economic competition with the Soviet bloc, reduces our effectiveness in development for the developing countries in the free world and reduces our ability to stabilize our economic situation.

If we of the industrialized nations of the free world really work together the Soviet Union would assume its proper size based on its real economic capabilities; to wit, it would be four not seven feet tall.

ECONOMIC COMPACT

It is my firm conviction, however, that the U.S. has not lost its competitive edge; that it is still every bit as vital and dynamic as it has always been. But we have to undertake a major restructuring of our economy: to promote investment and modernization; to encourage more savings and less consumption; and, most importantly, to stimulate an era of improved productivity.

We must act, and soon, to prepare and launch a new economic policy for the decade ahead—one which is based fundamentally upon a "new economic compact" between business, labor and government to improve U.S. productivity, increase real wages and make jobs more secure.

We must, and very early on in the new decade, begin to marshal the resources and creativity of business, labor and government, and concentrate all our energies upon the achievement of an economic renaissance in the eighties—the restoration of a progress in which we can all share.

For this reason I call upon the leaders of U.S. business and labor and upon our government to enlist in a new enterprise for the eighties; an historic new economic compact based upon the fundamental proposition that we are unlikely to stabilize prices, restore and sustain full employment, increase real wages or secure our leadership position in the community of nations absent a firm commitment to significantly increase U.S. capital investment and productivity growth as the top national economic priority of the new decade.

The terms of this compact must provide explicitly that: (1) workers will be assured that the gains of any productivity improvements will be shared equitably and that their jobs will not be sacrificed on the altar of productivity gains; and (2) U.S. business will be offered the tax incentives—accelerated depreciation, R.&D. tax credits, etc.—necessary to encourage needed capital investment and modernization, particularly in the older cities.

In short, the "economic compact" of which I speak would be based upon the essential principle of all such contracts, to wit: that there is something to be gained for each of the parties to it—labor, management and investors and government. That is why I would be inclined to condition the extension of significant new tax credits and other incentives to U.S. business upon its expressed willingness to secure the jobs and real wages of its workers.

And it is my most fervent hope and prayer that U.S. workers will come to understand how critically at stake their own futures are in this compact. For if the productivity problem continues for too much longer, inflation could go out of control, U.S. exports and the dollar could really plunge, and real U.S. wages and profits could collapse. And if we continue as we have been, with business pitted against labor in fighting for larger relative shares in a slower growth economy—and each often lined up against a government that treats the symptoms of inflation instead of its causes—I believe that sometime soon a major economic reverse—a depression—could ensue.

This is why I hope we will act in time to establish a new collaborative endeavor to reverse the trends of this decade. This is why I urge that we install this economic compact without delay, as the binding principle upon which we can chart an economic and social renaissance in the eighties.

FEDERAL GOVERNMENT ROLE

In this connection, the Federal Government can do much to be the catalytic force that marshals business and labor support and participation. In addition to enacting important capital investment and R&D incentives, the U.S. Government could sponsor the establishment of regional productivity councils, to deal with regional productivity problems and recommend necessary improvements. Such councils are found throughout Europe and could be resource centers available to local business to help in ameliorating unique regional productivity problems.

Our country is already beginning to take the initial steps toward a new era of collaboration between business, labor and government. Last year, in the Comprehensive Employment and Training Amendments Act (P.L. 95–524) Congress provided for two new programs of which I am pleased to be a co-author.

The first, the Labor-Management Cooperation Act, authorizes the Federal Mediation and Conciliation Service (FMCS) to undertake a program to encourage the establishment of plant, area and industry-wide labor-management committees. $10 million has been authorized to fund such committees, which would deal with a broad array of noncollective bargaining matters, such as planning for the introduction of new machinery; training for new hires; reducing equipment breakdowns; reducing absenteeism and tardiness; developing alcohol and drug abuse prevention and rehabilitation programs; conserving energy; improving safety and health; and involving workers in decision-making affecting their jobs.

Genuine cooperation and understanding, based upon a commonality of interests between management and workers, can help enormously to stabilize the labor relations climate, improve worker morale and effectiveness and, ultimately, help stimulate workers productivity on the job.

For the benefit of our European guests, I want to emphasize that the claims I make for these committees are substantiated by the facts: in my home State of New York labor-management committees in Jamestown and Buffalo have had enormously salutary effects on the local labor relations situation. Also, we have had micro-economic compacts in New York and they have worked—to harmonize the labor climate, stabilize employment and stimulate local economic development.

In Buffalo, under the able leadership of Dan Roblin and George Wessel, the Erie County Labor-Management Committee has had great success and is a model of participatory democracy for the whole country. What was once a disastrous labor situation has been turned around and the key to the turn-around has been the area wide labor-management committee.

This is why I have called upon the President to give a high priority to making some funds available for the labor-management committee program which is under the aegis of the Federal Mediation and Conciliation Service (FMCS). When he established the new Pay Board in August, which he labeled as a "new accord between business and labor," I urged him to extend that accord all the way down to the plant floor level, so workers in the plants themselves could have an opportunity to be participants in the implementation of that accord.

A hopeful sign is that OMB, FMCS and the Labor Department have agreed tentatively to propose that up to $3 million be included in the President's budget for FY 1981 for initiating the program of local labor-management committees authorized in the Labor-Management Cooperation Act.

Furthermore, I have urged the Senate Banking Committee to make provision in the Chrysler Loan Guarantee Bill for sufficient funding to enable FMCS to establish labor-management committees in Chrysler plants, a move I consider essential to the implementation of any rescue package for Chrysler.

The second major initiative that encourages me to believe we can deal with our structural economic problems in the 80's is the enactment last year of the new CETA Private Sector Initiatives Program. Under this new law, $400 million is being made available to 480 local government units in the U.S. to support the establishment of local Private Industry Councils (PICs). These Councils, composed of local business, labor, education and community organizations, are committed to working together to help place and train the unemployed in private business. The local PICs will be models of local collaboration and enterprise, and job security for thousands of Americans could be the principal result.

This is where the American business community ought to dig in its heels. This is where we have to resolve this question of whether our country is going to be growing or whether it will stagnate and deteriorate into a second rate power, as it undoubtedly will if we do not act effectively to deal with this cancer in the American body politic: to wit, the stagnation of the productivity of our economy.

Our Nation has faced crises before and has always emerged from them undaunted. But we have never before faced the prospect of debilitating, feckless stagnation, as we do right now. I pray we will have the vision, the wisdom and the national and local leadership to rededicate ourselves to economic cooperation and to marshal our energies for new decades of economic vitality.

ZIMBABWE-RHODESIA

Mr. THURMOND. Mr. President, I rise today in support of the compromise offered by the Foreign Relations Committee to terminate sanctions against Zimbabwe-Rhodesia.

It is my feeling that the economic impact of the sanctions on Zimbabwe-Rhodesia has been devastating. Furthermore, evidence of the Government of Rhodesia's willingness to negotiate in good faith at an all-parties conference and evidence of its installation of a new government elected fairly and freely, should mandate the immediate lifting of economic sanctions.

While I would prefer an immediate lifting of sanctions, I believe that this bill offers a fair compromise. The bill does provide for the lifting of sanctions in the near future, while also preserving for the President an opportunty to coordinate U.S. policy with recent initiatives by Great Britain. Therefore, I hope the Senate will see fit to pass this legislation.

CERTAIN CIRCUMSTANCES ALLOW LIFTING OF RHODESIAN SANCTIONS

● Mr. DOLE. Mr. President, today the Senate is asked to consider legislation entitled "A Bill to Terminate Sanctions Against Zimbabwe-Rhodesia Under Certain Circumstances." It has been a long time, well over a year, since the Senate determined what those obliquely referred to "circumstances" ought to be.

Last year the Congress passed the International Security Assistance Act which directed that sanctions against Zimbabwe-Rhodesia be suspended upon a Presidential determination that the present government there had made a good faith attempt to negotiate at an all-parties conference and that a freely elected government had been installed with the participation of all political and population groups. The interim government did agree to meet with all parties at a conference, however, the Soviet-supplied, Marxist-dominated guerilla groups known as the Patriotic Front declined to participate.

RHODESIA MET PRECONDITIONS

As a result the white minority government moved ahead on its own in its plans for a transition to black majority rule. In January a new constitutional blueprint was ratified for the establishment of a new democratic government—a government which for the first time would allow all popualtion groups an opportunity to vote and hold office. This historic election occurred on April 20, 1979, thus meeting the preconditions we in this body required for the lifting of economic sanctions.

Quite a few critics claimed that this election was a sham, that it would change nothing. The Senator from Kansas and others in this country, and in Rhodesia's former ruler Great Britain, were convinced, however, that the white minority in Rhodesia had at last seen the futility of its racist, bigoted programs. We saw this transition to a full-participation, majority rule government as a meaningful change, a real, first step of progress—a clear signal that Rhodesians wanted to end the bloodshed of civil war and the hatred of racism.

The Carter administration would have us wait, however, refusing to accept this compliance in good faith with our preconditions, refusing to see that Rhodesians were trying to come together in an accommodation that would peacefully insure both black majority rule and a viable, prosperous economy. For nearly a full year since calls were first made in this Chamber to end the sanctions, we have had to wait. Finally, after a new, conservative government recognized that the people and Government of Zimbabwe-Rhodesia were indeed sending signs of compromise and good faith, a determined and evidently wholly successful series of negotiations was launched by Great Britain to end the war. This result might have been achieved much earlier if the United States had acted sooner. Many lives and much economic damage might have been saved if this administration had not been so inflexible in these past months.

There were claims that because the April constitution reserved 28 percent of the seats in parliament for the white minority we must reject the entire process of change. Mr. President, there are many countries we recognize today in Africa that are not known for their attention to democratic freedom, due process, and human rights. This by no means exculpated Rhodesia. But there is a ferment of change regarding attitudes toward race relations, in detectable amounts in Rhodesia and South Africa, of which we must work to take advantage.

Utilizing white minority representation to enhance the smooth transition to a majority rule Government has ample precedent among some of Rhodesia's strongest critics. In Tanzania, Kenya, and Zambia provision was made to avoid economic and technological disaster by allowing disproportionate minority participation in the post-Colonial Governments. I ask unanimous consent that this information sheet on such previous examples be printed in the RECORD at this point.

There being no objection, the material is ordered to be printed in the RECORD as follows:

MINORITY REPRESENTATION IN POST-COLONIAL CONSTITUTIONS OF TANZANIA, KENYA AND ZAMBIA

TANZANIA

1958 Constitution

Legislative Council of 30 members—one African, one Asian, and one European from each of ten constituencies.

Population:—

African, 8.6 million.

Asian, 70,000.

European, 20,000.

Nyerere's TANU contested the elections on this basis and won ten African seats, seven Asian seats and four European seats.

1960 Constitution

Parliament of 71 members—50 open seats, eleven Asian and ten European. I.e. 30 percent of the seats were reserved for minority groups which together represented one percent of the population.

KENYA

1960 Constitution

Legislative Council of 65 members—45 open, 10 European, 8 Asian and 2 Arab.

Population:—

African, 6,000,000.

European, 62,000.

Asian, 161,000.

Others, 40,000.

Thus 30 percent of the seats in the legislature went to minority groups totalling 4 percent of the population.

ZAMBIA

1962 Constitution

A complex arrangement of dual voting rolls which in effect gave 15 seats to 84,000 Europeans and 15 seats to 3.5 million Africans.

PATRIOTIC FRONT ACCEPTS WHITE PARTICIPATION

Even now, in this new compromise agreement, we still see constitutional guarantees being made and accepted by all parties to insure disproportionate, white minority participation in the Government. The black moderates within Zimbabwe-Rhodesia warmly embrace this compromise opportunity for a peaceful transition. They did not want to see the massive white flight that would come about if the Patriotic Front's original demands were met. It would take decades to recover from the damage to the economy and technology such a flight would cause. Instead, they hoped to see the orderly transition of power that accompanied the change from colonial status in Kenya.

The administration, in the inflamed rhetoric of former Ambassador Young, denied any formula that did not include the Marxist terrorists. But when the Patriotic Front saw that Muzorewa's moderate government was undercutting its claims that the white minority would never allow real, black majority rule, it was forced to join negotiations in earnest before it lost power.

We must encourage the moderate governments of Africa. We must give every opportunity for the new Government in Zimbabwe-Rhodesia to succeed. Our embargoes and sanctions during the last 12 months served only to drive the white minority into a circle of covered wagons, and to lengthen the time of dying and hatred. Our constructive involvement now, after the success of the British efforts, can improve the conditions for success or failure for this desperate last chance experiment.

I would hope that in the future the United States would show a greater willingness to work for progress and democracy with those truly representative, legitimate parties who are pro-Western, not only in Africa, but in all the Third World. We cannot remain aloof from those crises that threaten our global strategic interests. We must commit ourselves to an involvement in compliance with our traditional principles of freedom and democracy, and aware concern for national self-interests.●

MEETING OUR FUTURE TIMBER NEEDS—AN ASSESSMENT BY SENATOR TALMADGE

Mr. HELMS. Mr. President, the able Senator from Georgia (Mr. TALMADGE) has long been dedicated to protecting our natural resources while meeting the important needs of American consumers and the economy. As chairman of the Senate Committee on Agriculture, Nutrition, and Forestry he is a recognized national leader in this balanced approach to resource utilization.

I ask unanimous consent that his remarks, made recently at the Southeastern Building Products Exposition, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HERMAN E. TALMADGE

MEETING OUR FUTURE TIMBER NEEDS

In January of this year, my committee on Agriculture, Nutrition and Forestry sponsored with the Department of Agriculture, a conference on the future of renewable resources.

Its main purpose was to increase general understanding within the Department about potential problems and possibilities in the next half century. The conference was also intended to enhance USDA's capacity to meet the legislative requirements of six significant Natural Resources Acts that emerged from the committe since 1974.

Generally speaking, these laws force the Department to look down the road with respect to the country's renewable resources and to plan programs of Federal action to assume that our national resource needs will be met.

Crystal-ball-gazing is a chancey business at best. We have been wrong about some of our assumptions in the past. Even so, it does seem to make more sense to plan ahead than to just muddle through.

In attempting to plan for resource protection and use, we must examine some of the driving forces to which the United States must adapt but over which we have little control.

The United States and many other industrialized nations are nearing zero population growth, but the so-called third world, or poorer nations, have exploding populations that will mean billions of additional people in the next 50 years. . . . Unless there is some sort of cataclysm that we cannot anticipate.

These additional people will add to the already increasing tensions between rich and poor nations. And they will put incredible strains on the world's food and fiber-producing systems.

The world is on the verge of shortages in many vital nonrenewable resources.

While it may be possible to obtain enough resources for a long time into the future, costs will undoubtedly be much higher and upheavals will develop.

And further, because of inflation and public demands to reduce Government spending, it is becoming increasingly difficult to make capital investments in major projects in both the public and private sectors.

At the same time, the demands on our forest and rangelands—and their products—have risen rapidly.

Timber consumption has increased from a level of around 11.5 billion cubic feet in the sixties to 13.6 billion cubic feet in 1977.

Projections based on expected increases in population, economic activity and income show that the demands for forest and rangeland products—outdoor recreation, wildlife, forage, timber and water—will continue to grow rapidly in the decade ahead.

However, if current investments in these lands remains constant, the capacity of the Nation to meet these demands is highly questionable.

For timber, this means that we are faced with the prospect of rapidly increasing prices for stumpage relative to general price levels . . . and to the price of competing materials. In turn, this means that the United States must increasingly rely on imported wood products and on alternative materials such as steel and plastics, which are energy intensive.

You asked me to speak to you about Federal timber. But as you are well aware, the great bulk of the Nation's forestland is under private ownership.

In Georgia, for instance, only 8 percent of the timber cut is from the national forests. Nationally, approximately 351 million acres—or 71 percent of the Nation's commercial timberland—is in private hands. Nearly half of these lands are in the South.

It is clear that production of timber on all types of forestlands is below potential. The average net timber growth in 1976 was 49 cubic feet per acre per year. This is only three-fifths of what can be attained in fully stocked natural stands, and far below what could be achieved with intensive management. This is particularly true in the South.

In the Pacific Northwest, our 50-year projection shows a sharp decline in the supply of old-growth timber.

Many large timber companies are hedging their bets by acquiring lands in the South. It is significant that Georgia-Pacific is returning its headquarters to Georgia. It is also significant that Southern Pine now has 60 percent of the plywood market while the share of Douglas Fir continues to decline.

Notwithstanding the opportunities for more timber production in the South . . . and the conventional wisdom that the southern forests will compensate for the decline in the Northwest production . . . I see some serious problems ahead.

Dr. Stephen Boyce of the U.S. Forest Service research staff probably understands the capacity and trends of the southern forests better than anyone.

He predicts a tailing off in southern availability that will coincide with the reduction of Douglas Fir supplies. If he is right, this has enormous regional and national implications.

We must look ahead in forestry if we are going to have the wood needed for the future.

Here in the South, there is 1.8 billion cubic feet of growth in excess of the present cut.

That glowing figure hides the fact that we have deficiency in softwood regeneration for smaller size softwood materials. A million acres of harvested lands in the South are reverting to natural hardwood each year.

Right now, we have a 2.4 billion cubic feet of annual surplus of hardwood growth over the cut.

Therefore our efforts must concentrate on both increased hardwood utilization and pine reforestation.

Private effort and public policy must encourage the use of more hardwoods for papermaking, energy, and construction where practical. Forest Service research has developed a press-drying system for making paper which permits greater use of hardwood pulp with less energy and processing cost.

Another joint Forest Service-industry effort involves the manufacture of large boards from small pieces of higher value hardwoods.

The Forest Service also has developed hardwood roof decking and a compressed hardwood product called "com-ply", both of which could free up significant volumes of pine.

Over the past several years there has been tremendous propaganda from some groups that want to reduce timber harvesting on the national forests. They claim that softwood monoculture was the rule both in public and private forest management.

That simply is not true.

Recently, I had an analysis done of Forest Service data on private and public forests. According to this analysis the growth and the cut for softwoods in 1952 was even, around 7.8 billion cubic feet annually.

However, for hardwoods, growth exceeded cut by 50 percent.

By 1977, softwood growth had jumped to 12.3 billion cubic feet, while cut was up to 10.5 billion feet. However, hardwood growth in 1977 had more than doubled—to 9.5 billion cubic feet—while the harvest remained at about the 1952 level of 4 billion. In short our hardwood surplus had grown by more than five billion feet.

The analysis showed that in every region, and on every class of land ownership we are growing more hardwoods but are not using appreciably more. And while we are growing more softwoods, we are also using 35 percent more than in 1952.

Some increases can be expected from the national forests. But these will be constrained by demands for uses other than timber harvesting and by the expected withdrawals for wilderness areas.

As a result of the divergent supply pictures by region, increased softwood supplies from the South will be largely offset by declines of similar magnitude from the west coast, leaving only a moderate gain in net supplies. By 2030, only 27 percent of the softwood supply will come from the Pacific Northwest.

Consumption of softwood is expected to rise from 49.9 billion-board-feet in 1976 to 67.6 billion in the year 2000, and to 78.7 billion by 2030.

It is evident from these statistics that a substantial rise in the relative prices of softwood stumpage will occur as the market attempts to balance supply and demand. And the Forest Service projects that the greatest increases in price will occur in the South.

Ordinarily one would expect sharp price increases to drive people engaged in your industry to other products. And that has been happening. No doubt you have noticed the sharp increase in the use of aluminum for cabinets and other products normally produced by the wood milling industry.

However, it may not be possible to make these substitutions much longer.

Imports of timber products from Canada can be expected to increase, along with increased imports of substitutes for wood. Increased domestic production of energy-demanding substitutes for wood will lead to further reliance on imported oil.

To help meet future needs, the timber industry can be expected to improve and reforest its own lands out of self interest. Hopefully, private non-industrial landowners will be encouraged to do likewise through a combination of Government incentives and increased stumpage prices.

While the public lands will play an important balancing role in the marketplace, the task of providing increased wood supplies will fall primarily on private lands.

It is also important to understand that while the national forest system comprises 180 million acres, only about 60 million of those acres are capable of growing more than 50 cubic feet per acre per year. While we could double the supply of wood coming from the national forests, there is serious doubt in my mind whether the investments will be made by Government to obtain that additional productivity.

You may say that is foolish not to make the appropriate investments in the public lands, given the timber supply situation that we see coming.

However, President Carter is rightly committed to balancing the Federal budget. And many of my free-spending colleagues are now finally convinced that the country is demanding frugality in government.

For my part, I believe that our national priorities must recognize the importance of protecting and enhancing our natural resources—soil, water, forest, crops, and rangelands.

If we allow the resources of the land to deteriorate and die, so too will our nation deteriorate and die.

There are urgent steps to be taken in protecting and improving the output of our timber resources.

The Forest Service has developed genetically improved trees with fast growth characteristics. There are enormous opportunities for timber stand improvement and conversion, particularly on private lands.

Timber yields can be increased 5 to 20 percent by the use of fertilizer. And we can reduce waste on the forest floor and at the saw mill.

The saw mill improvement program of the Forest Service has demonstrated that enormous conservation gains can be made through computerized milling.

While we have reduced forest fire loss from 40 million acres a year at the beginning of the century to about 5 million acres a year, we can cut those losses still further through improved fire detection systems and better control techniques.

Through research we also can do a better job of controlling insects. As you can imagine, I am particularly interested in the control of the pine beetle, which has caused untold damage in Georgia this year.

With appropriate treatment of these lands, net annual timber growth could be increased by 11.5 billion cubic feet—an amount about equal to the total net annual growth in 1976.

And again, the greatest opportunilites for improvement are on the private lands. I have asked the society of American Foresters, the American Forestry Association, the National Forest Products Association and others to help me determine what the Federal Government can do to encourage more intensive management on these private lands. While we have made some progress in this regard, I suspect that the greatest motivator of all will be higher stumpage prices.

And as we move toward better conservation and utilization, public and private policy makers must decide now to make the investments needed to put more trees into the ground in order to assure adequate wood supplies in the future.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on December 5, 1979, he had approved and signed the following acts:

S. 132. An act for the relief of Dirk Vierkant;

S. 151. An act for the relief of Jerry W. Manandic and Ceferino W. Manandic;

S. 170. An act for the relief of Janet Abraham, also known as Janet Susan Abraham; and

S. 1686. An act to designate the building known as the Federal Building in Washington, Del., as the "J. Caleb Boggs Building."

MESSAGES FROM THE HOUSE

At 10:20 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 918. An act for the relief of Maryrose and Rosemary Evangelista;

H.R. 2743. An act to provide for a national policy for materials research and development and to strengthen the materials research and development capability and performance of the United States;

H.R. 3873. An act for the relief of Jan Kutina; and

H.R. 5892. An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies.

At 11:23 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed, without amendment, the following bill:

S. 1788. An act to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board.

The message also announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 562. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The message further announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 3948. An act to require a study of the desirability of mandatory age retirement for certain pilots, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 5:48 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 901. An act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery;

S. 1491. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building";

S. 1535. An act to designate the Federal Building in Rochester, N.Y., the "Kenneth B. Keating Building";

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building";

S. 1788. An act to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board;

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross;

H.R. 4732. An act to fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol; and

H.J. Res. 448. A joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. MAGNUSON), with the exception of S. 1655 which was signed by Mr. LEVIN by unanimous consent.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3892) to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to contract for the furnishing of private health care to veterans when such health care is authorized by a Veterans' Administration physician as necessary for the treatment of medical emergency, to authorize the Administrator of Veterans' Affairs to provide outpatient medical services for any disability of a veteran of World War I as if such disability were service-connected, to extend the authorization for certain expiring health care programs of the Veterans' Administration, and for other purposes, with amendments in which it requests the concurrence of the Senate.

HOUSE BILLS REFERRED

The following bills were each read by their titles and referred as indicated:

H.R. 918. An act for the relief of Maryrose and Rosemary Evangelista; to the Committee on the Judiciary.

H.R. 2743. An act to provide for a national policy for materials research and development and to strengthen the materials research and development capability and performance of the United States; to the Committee on Commerce, Science, and Transportation.

H.R. 3873. An act for the relief of Jan Kutina; to the Committee on the Judiciary.

H.R. 3948. An act to require a study of the desirability of mandatory age retirement for certain pilots, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5892. An act to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee

on Banking, Housing, and Urban Affairs, without amendment:

S. 2094. An original bill to authorize loan guarantees for the benefit of the Chrysler Corp. (together with additional views) (Rept. No. 95–463).

CHRYSLER CORP. LOAN GUARANTEE ACT OF 1979

Mr. PROXMIRE. Mr. President, from the Committee on Banking, Housing, and Urban Affairs, I wish to report the bill, S. 2094, to authorize loan guarantees for the benefit of the Chrysler Corp.

I ask unanimous consent that the balance for the copy of the report be delivered to the Government Printing Office by midnight tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 303. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2094. Referred to the Committee on the Budget.

BUDGET ACT WAIVER

Mr. PROXMIRE. Mr. President, as the bill reported by the Committee on Banking, Housing, and Urban Affairs contains new authorizations involving budget authority for fiscal year 1980 and is being reported after the May 15, 1979, deadline required by section 402(a) of the Congressional Budget Act, I report a resolution waiving section 402(a) ordered reported by the committee with respect to this bill.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Special Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–464).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL (for Mr. Church), from the Committee on Foreign Relations:

"Nomination of Sol M. Linowitz" (together with minority views) (Ex. Rept. No. 96–26)

ORDER FOR STAR PRINT—S. 2057

Mr. DURENBERGER. Mr. President, I ask unanimous consent that my bill, (S. 2057), the Investment Income Incentive Act of 1979, be star printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I also ask unanimous consent that the text of the star print be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) Dividend exclusion

Subsection (a) of section 116 of the Internal Revenue Code of 1954 (realting to partial exclusion of dividends received by individuals) is amended by striking out "$100" and inserting in lieu thereof the following table:

Year	Dividend exclusion	Dividend exclusion for a married couple filing a joint return under sec. 6013
1981	$100	$200
1982	200	400
1983	300	600
1984	400	800
1985 and after	500	1,000

(b) Savings exclusion

In General.—Part III of Subchapter B of Chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as 129, and by inserting after section 127 the following new section:

Sec. 128. Interest.

(a) In General.—In the case of an individual, gross income does not include any amount received as interest or dividends on a time or demand deposit with—

(1) a commercial or mutual savings bank the deposits and accounts of which are insured by the Federal Deposit Insurance Corporation or which are otherwise insured in accordance with the requirements of the law of the State in which the bank is located,

(2) a savings and loan association, building and loan association, or similar association, the deposits and accounts of which are insured by the Federal Savings and Loan Insurance Corporation or which are otherwise insured in accordance with the requirements of the law of the State in which the association is located, or

(3) a credit union, the deposits and accounts of which are insured by the National Credit Union Administration Share Insurance Fund or which are otherwise insured in accordance with the requirements of the law of the State in which the credit union is located.

(b) Limitation.—The amount of interest excluded under subsection (a) for the taxable year shall not exceed $500 ($1,000 in the case of a husband and wife who make a joint return under section 6013)."

(c) Transitional Interest Exclusion.—The amount of interest excluded under subsection (a) during the transition period shall not exceed the following amounts:

Year	Interest exclusion	Interest exclusion for a husband and wife who make a joint return under sec. 6013
1981	$100	$200
1982	200	400
1983	300	600
1984	400	800

(c) Cross Reference.—The table of Sections for Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by striking out the last item and inserting in lieu thereof the following items:

Sec. 128. Interest.

Sec. 129. Cross references to other acts."

(d) Limitation.—Any exclusion of investment income (either savings interest or dividends) permitted by this Act shall be limited to an aggregate of $200 per individual or $400 per joint return.

(e) Effective Date.—The amendments made by these sections apply to taxable years beginning after December 31, 1980.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 2086. A bill to amend the Freedom of Information Act, and to effect other changes in the law for the purpose of increasing the ability of law enforcement agencies to protect the public security; to the Committee on the Judiciary.

S. 2087. A bill to amend the Privacy Act of 1974; to the Committee on Governmental Affairs.

By Mr. DURENBERGER:

S. 2088. A bill to amend the Internal Revenue Code of 1954 to allow the targeted jobs tax credit for certain wages paid to individuals who are participating in work experience and career exploration programs; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. Helms, and Mr. Talmadge):

S. 2089. A bill to amend the Revenue Act of 1978 to provide that, with respect to the amendments allowing the investment tax credit for single purpose agricultural or horticultural structures, credit or refund shall be allowed without regard to the statute of limitations for certain taxable years to which such amendments apply; to the Committee on Finance.

By Mr. ROTH:

S. 2090. A bill to amend the Congressional Budget Act of 1974 to limit the levels of total budget outlays contained in certain concurrent resolutions on the budget; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to order of August 4, 1977, and if reported, the second committee must report within 30 days of continuous session.

By Mr. CRANSTON:

S. 2091. A bill for the relief of Frank Fabian; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S. 2092. A bill for the relief of Mr. Francis S. Suarez and his wife, Maria E. Suarez, M.D.; to the Committee on the Judiciary.

S. 2093. A bill for the relief of Maria Luna Tan, M.D.; to the Committee on the Judiciary.

By Mr. PROXMIRE (from the Committee on Banking, Housing, and Urban Affairs):

S. 2094. A bill to authorize loan guarantees for the benefit of the Chrysler Corporation. Original bill reported and placed on the calendar.

By Mr. WILLIAMS (for himself and Mr. Tsongas):

S. 2095. A bill to amend the Housing and Community Development Act of 1974 to provide for grants to be made by the Secretary of Housing and Urban Development to local governmental units and Indian tribes for the development of energy conservation plans and programs; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. Simpson):

S. 2096. A bill to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure to dioxins; which was considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 2086. A bill to amend the Freedom of Information Act, and to effect other changes in the law for the purpose of increasing the ability of law enforcement agencies to protect the public security; to the Committee on the Judiciary.

S. 2087. A bill to amend the Privacy Act of 1974; to the Committee on Governmental Affairs.

(The statement of Mr. Hatch when he

introduced the bills appears earlier in today's proceedings.)

By Mr. DURENBERGER:

S. 2088. A bill to amend the Internal Revenue Code of 1954 to allow the targeted jobs tax credit for certain wages paid to individuals who are participating in work experience and career exploration programs; to the Committee on Finance.

JOB TAX CREDIT FOR YOUTH IN COOPERATIVE EDUCATION PROGRAMS

Mr. DURENBERGER. Mr. President, I am introducing a bill to expand one of the few Federal incentives for the employment of youth. Last year, the Congress provided a targeted jobs tax credit as part of the Revenue Act of 1978. At that time, it was decided to include youth participating in cooperative education programs as one group eligible for the credit.

The inclusion of participants in cooperative education programs was a major improvement in our effort to overcome the problem of youth unemployment. However, the final version scaled down the original proposal, excluding many youths in cooperative education programs only because they did not fall within the narrow age limit established by the act. Indeed, only young people between the ages of 16 and 18 in cooperative education programs are eligible. To be more effective, the age brackets should be expanded. My bill would lower the age bracket to 14 years of age and increase the bracket to 21.

I should point out that another provision in the Revenue Act of 1978 allows the job tax credit for disadvantaged youth between the ages of 18 and 24. Raising the age to 21 in the cooperative education programs would not be unreasonable. Likewise, lowering the age to 14 would be an incentive to youth to stay in school and participate in cooperative education programs.

The National Commission for Employment Policy recently released a report on youth employment in the 1980's. The paper points out that while the older population has an unemployment rate of less than 5 percent, the rate among youth is more than 10 percent. And, regrettably, minority group youth have even higher rates. Indeed, the unemployment rate for intercity youth exceeds a staggering 30 percent, with no signs that this abhorrent trend is abating. It is not an exaggeration to state that youth unemployment is and will continue to be the most serious employment problem in the next decade. One of the policy options suggested by the Commission is an expansion of wage subsidies or tax credits for employers targeted on youth. That is exactly what my proposal does.

Cooperative education programs allow youth to receive on-the-job experiences while in school. It is a means by which youth can improve basic and vocational skills, work habits, and experiences. Furthermore the Commission points out that noncollege youth who are employed while in school have a lower probability of unemployment once they are out of school.

Mr. President, this legislation would provide further encouragement for the private sector to participate in our public policy of creating productive jobs for the youth of America. I urge my colleagues to expeditiously consider and pass this necessary measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (8) of section 51(d) of the Internal Revenue Code of 1954 (relating to targeted jobs credit) is amended by striking out "16" and "19" in subparagraph (A)(i) and inserting in lieu thereof "14" "22", respectively.

SEC. 2. The amendment made by the first section of this Act shall apply in the same manner as if it had been made by section 321 of the Revenue Act of 1978.

By Mr. ROTH (for himself, Mr. HELMS, and Mr. TALMADGE):

S. 2089. A bill to amend the Revenue Act of 1978 to provide that, with respect to the amendments allowing the investment tax credit for single purpose agricultural or horticultural structures, credit or refund shall be allowed without regard to the statute of limitations for certain taxable years to which such amendments apply; to the Committee on Finance.

● Mr. ROTH. Mr. President, I am today introducing legislation to further clarify congressional intent to allow poultry producers to use the investment tax credit.

Last year's tax bill, the Revenue Act of 1978 (Public Law 95–600; H.R. 13511), contained a provision clarifying congressional intent to allow poultry producers to take advantage of the investment tax credit in the construction of structures specifically designed and used for the housing, raising, or feeding of poultry and their produce.

Congress enacted this provision to clarify the intent of Congress and end years of costly court battles. In 1971, the Senate Finance Committee, as expressed in its report on the Revenue Act of 1971, said the restored investment tax credit was to be allowed for the construction of special purpose agricultural structures. Despite this expression of intent, the Internal Revenue Service continued to deny the investment tax credit to poultry producers, even though recent court decisions have ruled in favor of poultry producers.

Because Congress felt the credit had been unfairly denied to poultry farmers by the IRS contrary to congressional intent, the provision enacted in 1978 was made retroactive to August 15, 1971.

However, the IRS is now taking the position the investment tax credit will only be allowed retroactively to taxpayers who disputed the original IRS regulations. In other words, taxpayers who could not afford to fight the IRS and who filed returns according to the service's interpretation of the 1971 law are now being penalized for following the laws and regulations.

I believe this recent IRS ruling is yet another example of law-abiding working Americans being denied equity by the system. The legislative intent of Congress is clear. According to the Senate Finance Committee report (Rept. No. 95–1263, p. 117), the new provision allowing poultry farmers to use the investment tax credit is to "be effective for taxable years which end on or after August 15, 1971."

Despite this clear congressional intent, the Internal Revenue Service claims a technicality is preventing them from allowing the investment tax credit to those taxpayers who did not dispute the original IRS regulations. According to the IRS, Internal Revenue Code prevents the IRS from granting tax credit refunds if 3 years have passed since the tax return was filed. Therefore, the IRS cannot allow the tax credit for returns filed before 1976, despite congressional intent.

Therefore, I am today introducing a technical amendment to clarify once and for all the intent of Congress with respect to the investment tax credit and poultry producers.●

By Mr. WILLIAMS (for himself and Mr. TSONGAS):

S. 2095. A bill to amend the Housing and Community Development Act of 1974 to provide for grants to be made by the Secretary of Housing and Urban Development to local governmental units and Indian tribes for the development of energy conservation plans and programs; to the Committee on Energy and Natural Resources.

COMPREHENSIVE LOCAL ENERGY CONSERVATION BLOCK GRANT ACT OF 1980

● Mr. WILLIAMS. Mr. President, over the last month, the Nation has been forced to endure the continuing outrage that Iran has inflicted on American diplomatic personnel stationed there. The scenes and stories coming out of Iran have gripped all of our people, and reveal, once again, in the starkest terms, the instability and unreliability of regimes we depend upon for a sure and steady flow of oil. With imported oil comprising more than 50 percent of our oil consumption, it is clear that our overseas energy sources are becoming more fragile even as our own dependence on these sources grows more profound with each passing day. Unless we pursue with the utmost vigor realistic and effective energy policies and programs, we shall continue to be at the mercy of governments determined to use their energy resources as an international weapon.

A cornerstone of this Nation's response to our foreign oil dependence must be conservation. Programs already enacted indicate that we have recognized the potential of energy conservation, but we have a long way to go to realize that potential. A large part of the problem lies in our failure to date to harness the enormous influence that local governments can wield in advancing conservation as part of a comprehensive national energy strategy. The legislation I am introducing today would provide communities the assistance they need to participate effectively in this endeavor. I am delighted to be joined by my distinguished colleague on the Senate Banking Committee, the Senator from Massachusetts (Mr. TSONGAS).

According to the Department of Housing and Urban Development, nearly 60 percent of this Nation's energy is consumed in cities, but the amount and manner of each locality's consumption varies according to its own distinct behavior. The relative energy use of the different components of each community—its residences, its public facilities, its commercial and industrial enterprises, and its transportation patterns, to name a few—will vary from one jurisdiction to another.

The relationships of these components to one another also differ among communities, and play a fundamental role in establishing local patterns of energy use. Unfortunately, the contribution of local governments to reduced energy consumption remains largely unexplored. The Federal Government has not applied its own resources to make local governments full partners in a national conservation program. Overwhelmingly, local governments do not even begin to have the capacity to determine their fuel consumption behavior, and then develop and implement programs to reduce their overall energy use. Few cities, for example, can tell what percentage of their fossil fuel goes for water and sewer services, as opposed to industrial lighting. Almost no community has the ability to assess the energy impact of a proposed parking lot, or a zoning change, or a revision in building codes, or a planned housing development.

There are a tiny handful of exceptions to this rule. The city of Portland, Oreg., after in-depth local analyses of its energy use, has embarked on an ambitious conservation program that would revamp local development policies to make them more energy conscious. One feature of Portland's program calls for the retrofitting of any residential dwelling prior to its sale. That most other communities have not followed Portland's example. stems more from a lack of national guidance and encouragement than from lack of individual community initiative. Energy expertise and technical know-how are primitive at best in many communities, particularly smaller ones, and many other cities are too financially hard-pressed to divert funds from critical immediate demands to longer range requirements.

The legislation I am introducing today corresponds to legislation introduced in the House by Congressman LES AUCOIN. a Member of that body who has has exhibited a sensitive respect for national and local needs and the impact on families of proposed Federal initiatives. The bill is based on the principle that local governments should bring an energy perspective to the decisions that they make on a day to day as well as a long range basis. It is designed to provide a Federal framework for assisting local governments to design full scale conservation plans and programs tailored to meet their own specific needs.

Rather than establish a new. untried mechanism, my legislation would achieve its purpose through an existing Federal program—the community development block grant program.

This program was enacted by Congress in 1974 to assist local governments in meeting their housing and community development needs through locally developed strategies. In making future plans, localities must acknowledge the critical importance of energy consumption, not just for ongoing business and neighborhood revitalization programs, but for all elements of local enterprise. New Decisions on housing rehabilitation, building codes, transportation, and zoning should all be made in the context of their impact on total local energy consumption in a manner that promotes the greatest fossil fuel energy savings. Moreover, their development decisions should be made with an eye toward how a particular program or enterprise under consideration will relate to existing activities and the long-term comprehensive needs of the community. Programs cannot be developed in a void. Their relation to one another is of paramount importance.

Under my legislation, communities would receive an allocation based on the existing community development block grant program's dual formula, plus energy related factors such as per capita reduction in the use of fossil fuels.

It would be up to the Secretary to determine the proper weight that would be accorded the dual formula factors and the energy-related factors in distributing energy conservation block grants. Use of the existing formulas will assure that cities which suffer the greatest economic and financial difficulties, and most need development assistance, receive the fullest attention, whether their needs arise from the problems of growth or decline. Application of energy factors would make certain that communities experiencing heavy consumption of energy not just because of their population size, but also because of their physical features and development patterns, will be accorded special emphasis in the distribution of grants.

In conformance with the present block grant program, large metropolitan cities and urban counties would receive entitlements, while smaller metropolitan cities and rural communities would receive funds by secretarial discretion.

A community seeking an energy conservation grant would be required to submit information, as part of its standard community development block grant application, describing the shape of its energy conservation plan, and the steps it will take to implement it. Among the actions that communities would be expected to take are the assessment of local energy uses, development of an energy conservation plan, improvements in public facilities to make them more energy efficient, establishment of assistance programs to effect energy conserving improvements in residential structures primarily occupied by low and moderate income people, and modification of existing planning and zoning ordinances to make them more consistent with energy conservation goals. Communities would be required to set forth timetables to meet the objectives of their energy conservation plans, and would have to project the amount of energy savings that these plans could achieve.

The communities would be expected to develop appropriate provisions for energy emergencies, as well as specific proposals for meeting low-income family and elderly needs. All such programs and plans would be expected to conform with any existing State energy plans. As with the existing block grant program, the energy conservation grant program would provide ample opportunity for local citizens to participate in the development of applications for assistance.

The Secretary would monitor the use of the block grants, measuring the actual performance of a community against the plans it sets forth in its application. A locality that fails to make progress toward developing or implementing its plans could expect some part or all of its energy conservation grant to be withheld. While it is not expected that the assistance under this legislation will allow communities to achieve all of their goals at one time, it is anticipated that the grants will allow them to make substantial and consistent progress toward the eventual accomplishment of these goals.

I want to emphasize that although communities must adhere to broad national guidelines, the methods they choose to meet their energy conservation objectives will be locally determined. Communities will have the freedom to fashion programs that respond to unique local conditions.

The legislation would authorize $600 million a year for fiscal years 1981 through 1983. The investment of these sums could reap enormous dollar savings through reduced energy consumption. The city of Portland projects that the comprehensive energy conservation program it has developed will reduce its projected energy use by 25 to 35 percent by 1995. This amounts to between 9 and 13 million barrels a year, or a dollar savings of $225–$325 million annually at today's market prices, or as much as $650 million at prices quoted in the spot market. Even if only a portion of these projected savings is actually realized, the contribution to energy conservation will be significant. And there is every reason to believe that other communities, through their own conservation programs, could make equally important contributions.

To a large extent, the economic and social future of the country hinges on our ability to control our use of energy. Energy conservation is one of the most critical challenges we face as a people. Our success will depend on whether or not we can bring together in a community of effort all segments of our society—government at all levels, private enterprise, and individual citizens. The legislation I have introduced is meant to make local governments full working partners in the achievement of a more energy conscious, more energy efficient America, an America more confident of its own future course.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103 of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) There is authorized to be appropriated a sum not in excess of $600,000,000 for energy conservation block grants under section 121 for the fiscal year 1980, and such sums as may be necessary are authorized to be appropriated for such grants for each of the fiscal years 1981, 1982, and 1983.".

SEC. 2. The Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new section:

"ENERGY CONSERVATION BLOCK GRANTS

"SEC. 121. (a) In order to encourage units of general local government and Indian tribes to adopt and implement community energy conservation plans and programs designed to achieve significant energy savings within their jurisdictions, the Secretary is authorized to make energy conservation block grants as provided in this section.

"(b) No grant may be made pursuant to this section unless the applicant is eligible for a grant under section 106, has met the application requirements set forth in section 104 for the period for which assistance is sought under this section, and has submitted an application which—

"(1) describes an energy conservation program which sets forth the applicant's energy needs and objectives and which shall provide for, but need not be limited to (A) the development and implementation of a local energy conservation plan which details energy use by sector; (B) the enactment or modification of local ordinances to encourage or mandate energy conservation or renewable energy resource utilization; (C) the adoption and enforcement, where appropriate, of a local energy conservation code; (D) the encouragement of energy conserving improvements in public buildings; (E) financial or other assistance to effect energy conserving improvements of residential structures, primarily for the benefit of low- and moderate-income tenants and homeowners; (F) appropriate provisions for energy emergencies; (G) specific proposals for meeting the needs of the elderly and of persons of low income; (H) such other energy conservation-related activities described by the Secretary; and (I) a schedule for implementation of each element provided for in the energy conservation program;

"(2) projects the timing and amount of (A) savings in scarce fossil fuel consumption, and (B) savings through development and use of renewable energy resources that will result from implementation of the program described in paragraph (1);

"(3) describes how its energy conservation program will be administered;

"(4) specifies the activities to be undertaken with the energy conservation block grant funds applied for in furtherance of the program, together with the estimated costs and general locations of such activities;

"(5) provides satisfactory assurances that the citizen participation requirements of section 104(a)(6) have been met with regard to the development of its application for assistance under this section;

"(6) provides satisfactory assurances that the program will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Act entitled 'An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes', approved April 11, 1968; and

"(7) certifies to the satisfaction of the Secretary that the program is consistent with any applicable State energy conservation plan.

"(c) In addition to activities authorized under subsection (b)(1), grants under this section may be expended for such other activities as the Secretary, in consultation with the Secretary of Transportation and the Secretary of Energy, may determine to be consistent with the purposes of this section.

"(d) The Secretary shall not approve an application for an amount determined in accordance with subsection (h) unless—

"(1) on the basis of comprehensive data pertaining to local needs and objectives, and consistent with and in cooperation with any applicable State energy plan, the Secretary determines that the applicant's description of such needs and objectives will lead to a per capita reduction in fossil fuel consumption. Such estimates of 'energy saved' may be expressed as a yearly estimate or for an average of 5 years as a result of the conservation or renewable resource activity;

"(2) on the basis of the application, the Secretary determines that the applicant has given equitable consideration and analysis to the impacts of such actions on income groups in the applicant's jurisdiction; and

"(3) the Secretary determines that the application complies with the requirements of this section and that the applicant is effectively carrying out its energy conservation program as proposed under subsection (b).

"(e) Each grantee under this section shall submit to the Secretary each year a performance report concerning the activities carried out pursuant to this section, together with an assessment by the grantee of the relationship of those activities to the needs and objectives identified in the grantee's application submitted pursuant to subsection (b). The performance report shall include any citizen comments submitted pursuant to subsection (b) and the Secretary shall consider such comments, together with the views of other citizens and such other information as may be available, in carrying out the provisions of this subsection. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether the grantee has carried out a program substantially as described in its application, whether that program conformed to the requirements of this section and other applicable laws, and whether the applicant has a continuing capacity to carry out in a timely manner the approved energy conservation program. The Secretary may make appropriate adjustment in the amount of the annual grants in accordance with the Secretary's findings pursuant to this subsection. With respect to grants made pursuant to this section, the Secretary may adjust, reduce or withdraw grant funds, or take other action as appropriate in accordance with such reviews and audits, except that funds already expanded on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

"(f) An application subject to subsection (b), submitted on or before the date established by the Secretary for consideration of applications which shall be the same as the date specified pursuant to section 106(k), shall be deemed approved within seventy-five days after receipt unless the Secretary informs the applicant of specific reasons for disapproval. Subsequent to approval of the application, the amount of the grant may be adjusted in accordance with the provisions of this section.

"(g) Of the amount approved in an appropriation Act under section 103(d) for grants in any year, 80 per centum shall be allocated by the Secretary to metropolitan areas. Except as otherwise provided, each metropolitan city and urban county shall, subject to the provisions of subsection (b) and except as otherwise specifically authorized, be entitled to annual grants from such allocation in an aggregate amount not exceeding its basic amount computed pursuant to this section.

"(h)(1) The Secretary shall determine the amount to be allocated to each metropolitan city and urban county by applying the formula contained in section 106(b) to the amount allocated by subsection (g), except that such energy requirements as may be determined by the Secretary shall be included as factors in determining such amounts.

"(2) Any portion of the amount allocated to metropolitan areas which remains after the allocation of grants to metropolitan cities and urban counties in accordance with paragraph (1) shall be allocated by the Secretary in accordance with section 106(d)(2), except that such energy requirements as may be determined by the Secretary shall be included as factors in determining such amounts and paragraph (3) of section 106(d) shall not apply to grants under this paragraph.

"(3) Of the amount approved in an appropriation Act under section 103(d) for grants in any year, 20 per centum shall be allocated by the Secretary in accordance with section 106(f)(1)(B), except that such energy requirements as may be determine by the Secretary shall be included as factors in determining such amounts and paragraph (2) of section 106(f) shall not apply to grants under this paragraph.

"(4) Factors pertaining to energy requirements shall be weighted as determined by the Secretary and shall be applied uniformly in the computations provided for in this subsection.

"(1) The Secretary may set aside up to 5 per centum of the amount approved in an appropriation Act under section 103(d) for (1) the provision of technical and other assistance to eligible jurisdictions; (2) the publication of studies, technical manuals, and other materials which the Secretary deems helpful to further the purposes of this Act; (3) evaluations, research, planning, and other studies; (4) activities authorized under the Intergovernmental Personnel Act; (5) orientation and training of local and other officials and private parties under this Act; (6) assistance to neighborhood and community groups; (7) such information exchange and service activities as he deems necessary to further the purposes of this Act; and (8) other activities designed to further the purposes of this Act and to provide aid and assistance to eligible agenices.

"(j) The Secretary is authorized to utilize voluntary assistance from qualified individuals and nonprofit groups and to pay necessary travel and other expenses thereof in the attainment of the objectives of this Act, and in furtherance of activities set for in subsection (1).

"(k) In carrying out the provisions of this section, the Secretary shall consult with the Secretary of Energy and the Secretary of Transportation.

"(l) The provisions of this title shall apply to this section except to the extent that the Secretary determines the application of any provision would be inconsistent with this section or would frustrate achievement of the objectives of this section.".●

ADDITIONAL COSPONSORS

S. 208

At the request of Mr. WALLOP, the Senator from Delaware (Mr. ROTH), the

Senator from Rhode Island (Mr. CHAFEE), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) were added as cosponsors of S. 208, a bill to amend the Internal Revenue Code of 1954 to subject foreign investors to the capital gains tax on gain from the sale of real property situated in the United States.

S. 523

At the request of Mr. HART, the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 523, the Uniformed Services Health Professionals Special Act of 1979.

S. 1203

At the request of Mr. BAYH, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1610

At the request of Mr. SCHWEIKER, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1610, the Blood Assurance Act of 1979.

AMENDMENT NO. 692

At the request of Mr. BELLMON, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 692 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 724

At the request of Mr. NELSON, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was added as a cosponsor of amendment No. 724 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 735

At the request of Mr. BENTSEN, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of amendment No. 735 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 303—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 303

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2094. Such waiver is necessary because S. 2094 authorizes the enactment of new budget authority which would first become available in fiscal year 1980, and such bill was not reported on or before May 15, 1979, as required by Section 402(a) of the Congressional Budget Act of 1974 for such authorizations. Compliance with Section 402(a) of the Congressional Budget Act of 1974 was not possible in this instance because the Committee could not anticipate that the Chrysler Corp. would request Federal financial assistance this year, since such request was made after May 15, 1979. Failure to consider this legislation in the Senate this year would preclude the timely commitment and issuance of guaranteed loans to the Chrysler Corp. as part of the financing plan provided pursuant to this legislation. Such financial assistance is needed to enable the corporation to continue to furnish goods or services, and failure to meet such need could adversely and seriously affect the economy of, or employment in, the United States or a region thereof.

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979—H.R. 3236

AMENDMENT NO. 749

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted an amendment intended to be proposed by him to H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 750

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

TRADE EMBARGO AGAINST IRAN

● Mr. DOLE. Mr. President, the Senator from Kansas has been heavily involved in the windfall profit tax bill for a long time, since it first came before the Senate Finance Committee. It seems to me, as we work on this problem in order to resolve our energy crisis, that it would not hurt to remind ourselves that we are debating this tax largely because of the unconscionable actions of OPEC in increasing their oil prices. Yet while we have been here on the Senate floor attacking our own companies it is quite possible we have let the real culprit escape condemnation—the OPEC states.

Mr. President, it has been almost 33 days since our embassy in Iran was overthrown by revolutionaries and the prospects of a satisfactory solution seem as elusive as ever. The Senator from Kansas wonders how the United States allowed itself to get into this mess to begin with? I also must ask whether there is any inherent connection between the Iranian hostage situation and the oil weapon they control, because if there is we ought to address it here and now at the same time the Senate takes final "punitive" action against our own domestic companies. In order to insure that other irresponsible nations will not use these terrorist tactics, the U.S. Government must show that we are not going to be shoved around simply because someone, somewhere threatens to shut off our crude oil faucet.

If we do not address this issue now, it is not going to matter what we do on the windfall profit tax, because even greater oil crises will loom in our future, making much more radical action necessary. President Carter realized the necessity to exhibit such strength when he ordered that no Iranian oil be imported into this country. I support that action 100 percent. However, I must add that it is the opinion of this Senator that we as a nation, the strongest nation in the world, have not brought as much pressure to bear on them as we are capable of to secure the release of the American hostages.

Mr. President, we can look directly at our seeming unwillingness to take such action as the catalyst that has perhaps contributed to the decision and encouraged other terrorists to attempt Embassy takeovers in Libya and Pakistan. We now witness the spectacle of our State Department being forced to direct all nonessential Embassy personnel to leave other Islamic OPEC states because we can no longer guarantee their safety. The United States is faced with a trying time ahead in world affairs. Once again I want to state my full support for the President in this evacuation, but I feel he has been shouldering the burden alone for too long, reacting to the actions of the Khomeini regime. I believe the Senate should take a firm and implacable stand. In view of this I am offering an amendment which would ban any and all trade with Iran: Or any other country that in the future seizes U.S. diplomatic personnel or their families as hostages.

The Dole amendment would prohibit any trade in commerce, any agricultural imports or exports including Public Law 480 commodities, machinery, services, military parts, or technology. If they do not understand reason or justice at least these fanatics in Tehran may understand a deprivation that will immediately begin to hit them where it hurts. Mr. President, the American people are desperately beginning to think of solutions to this crisis which involve the massive use of military force while they wait for decisive action to resolve this issue once and for all. I am proud to be able to announce that the farmers in my own State of Kansas as well as the National Farm Bureau support an all-out agricultural boycott of Iran. This very day longshoremen remain adamant in their refusal to load goods on ships bound for Iran, yet there has been no boycott directive issued by the U.S. Government. Individual citizens are leading the way and we must do all we can to support, shape, and lead constructive approaches to force the release of the hostages.

Mr. President, there is sufficient precedent for taking the action proposed by the Senator from Kansas. Under the irrational regime of Idi Amin, the U.S. Congress banned trade with Uganda. Previously, the Congress banned trade with Castro's Cuba and with Rhodesia, as well as other nations in violation of established principles of international law and basic human rights. How can we in good conscience and in all fairness continue to ban trade with these countries while allowing Khomeini and his followers the privilege of U.S. trade while they continue to hold our citizens hostage?

The amendment I submit today would

only confirm the reality of the voluntary boycott which our longshoremen had the courage to impose. I think it is no secret that Iran is already beginning to feel the pinch from this informal boycott. They produce very little wheat and need U.S. exports badly. The point is that unless we make the boycott official and all-inclusive the Iranian Government, such as it is, will continue to believe that in the United States, an anti-shah majority will form and agree to their demands.

We can by adoption of this amendment exhibit the resolve of the American people to support the President and negate those feelings in Iran that we are a Nation divided over the crisis. Separate voices recently raised in opposition to each other will not contribute to the solution but only add to the problem. It is the responsibility of the U.S. Senate to show our solidarity behind the President. This amendment will show just that.

The boycott of agricultural commodities in particular can and will hurt the Khomeini regime. This regime is already weakened by its incompetence and inability to create jobs for its hordes of unemployed "students," and I believe that Khomeini cynically and hypocritically seized our Embassy in order to give his unemployed masses a foreign scapegoat to blame for the ills which the mad cult leader has created himself.

Given this internal instability, by boycotting Iran on wheat sales, and other sales, we will soon see how long the students continue to shout anti-American slogans and hold our hostages. They will learn the lesson of "biting the hand that feeds them," and will think twice about taking a mad journey back to the dark ages with Khomeini and his barbarians.

The Senator from Kansas understands that 70 percent of Iran's wheat, vegetable oil, and rice and 100 percent of their soybean meal requirement is exported from the United States. It is also estimated that approximately 25 percent of their feed grain is supplied by the United States.

Mr. President, it is safe to assume that if the United States were to withhold rice and feed grains, the most vital U.S. agricultural exports to Iran, the net effect on Iran would cause severe shortrun economic dislocations in large cities, and cripple the Iranian poultry industry which has suffered substantial losses already this year. Moreover, these commodities are especially vital to Iran at this time because there are no other apparent alternative suppliers of soybean meal, and there is presently a shortage of supply on the world rice market.

Finally, it is interesting to note that while U.S. nonagricultural exports to Iran since Khomeini's rise to power have dropped off by about two-thirds in this fiscal year, U.S. food exports have stayed the same or risen slightly (8–10 percent) over the same period.

We are in a position to seriously hurt Iran on the economic battleground. To those who say that such a boycott "won't work" because other nations will sell their wheat and commodities to Iran, I would respond by saying that our resolve to boycott Iran may very well influence these nations to join with us in this endeavor. Certainly we should urge them to. In addition to the fact that other nations such as Canada and Australia do not possess a grain reserve sufficient to meet the added demands by a U.S. boycott it is inconceivable they would so openly undercut our attempts to secure the safe release of our citizens, since world public opinion and even the United Nations are calling for the release of the hostages daily.

FUTURE IMPLICATIONS

My amendment is designed to affect not only Iran but all countries which might think of taking our diplomatic personnel hostages in the future, because it would put them on notice that we will boycott them if they do so. Unstable regimes who fear the wrath of their own starving masses will not dare to take hostages, if they know that we will boycott them. No regime can survive if its own masses are starving.

To those who would say that this amendment is not "humanitarian," I would only say that it is designed to prevent one of the most unhumanitarian acts of all by criminal governments, namely, the taking of innocent people as hostages.

The Khomeini regime has returned to the Dark Ages where there was no international law, nor domestic law, but only the mad and arbitrary rule of the despot who poses as a religious leader while in fact violating every tenent of his own Koran. The Khomeini regime's so-called constitution which gives the ayatollah dictatorial power only shows the cynical extent to which he has subverted and deceived his own people.

The fact is that Khomeini is by far the most dangerous leader in the world today. His flagrant violation of international law, his open call for "holy war" and for OPEC states to jack up the price of oil and curtail production, and not accept the dollar in payment for oil, reveals the extent of his danger. His open willingness to be "martyred" by imaginary enemies reminds us all too clearly of another religious leader, who slaughtered his own people in Jonestown a year ago.

Resolve is the key to unified action when there is a threat to our Nation or our citizens. Temporizing lays the groundwork for defeat. When any nation takes our citizens unjustly it volunters to become our enemy, and we must respond as forcefully as the threat to the lives of our citizens is forceful. I urge my colleagues to join in speaking to the rogue nations of the world with the clear voice of American resolve.●

AMENDMENT NO. 751

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. CULVER. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure will hold a business meeting on Thursday, December 13, 1979, to mark up proposed regulatory reform legislation. The meeting will begin at 9:30 a.m. in room 4200, Dirksen Senate Office Building.●

SUBCOMMITTEE ON NUTRITION

● Mr. McGOVERN. Mr. President, I wish to announce that the Agriculture Subcommittee on Nutrition has scheduled a hearing on S. 605, the Food and Nutrition Program Optional Consolidation and Reorganization Act of 1979 introduced by Senator BELLMON. The bill would permit the States to consolidate and reorganize food and nutrition programs administered by USDA.

The hearing will be held on Tuesday, December 11, beginning at 10 a.m. in room 324 Russell. The subcommittee will hear from invited witnesses only, but written statements submitted for the record are welcome.

Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, a hearing by the Select Committee on Small Business, jointly with the Senate Agriculture Committee, and scheduled for tomorrow in Little Rock, Ark, has been cancelled. It will be rescheduled, but no date has been established.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today for a discussion of the staff working draft amendments to title II of the Communications Act of 1934, to consider S. 1798, the Household Goods Act, and S. 1930, the Commercial Motor Vehicle Safety Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a mark-up session on the Nuclear Waste Policy Act and other pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Research and General Legislation Subcommittee of the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the session of the Senate on Monday, December 10, 1979, to hold a hearing on S. 2043, legislation on research for the prevention of cancer in animals.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUTRITION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Nutrition Subcommittee of the Committee on Agriculture, Nutrition and Forestry be authorized to meet during the session of the Senate on Tuesday, December 11, 1979, to hold a hearing on S. 605, legislation to allow States to consolidate and reorganize feeding programs administered by USDA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate today and Friday, December 7, 1979, to hold hearings on the Nicaraguan aid package.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Near Eastern and South Asian Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate today beginning at 2 p.m. to hear administration officials on the situation in Yemen.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GOLDWATER AND JAVITS, THE SOUGHT-AFTER POLITICAL TEAM

● Mr. HEINZ. Mr. President, Barry Goldwater and Jack Javits command enormous respect and affection in this Chamber, their home States, and the Nation and world. My Republican colleagues recently urged Barry and Jack to seek reelection in 1980 and this call prompted one of our Nation's most distinguished journalists, Nick Thimmesch, to write a column on the remarkable careers of these two great men. I ask that this column be printed in the Record.

The article follows:

Goldwater and Javits, the Sought-After Political Team

(By Nick Thimmesch)

Washington.—It was rather nice that, with one exception, all Republican colleagues of Senators Barry Goldwater and Jacob Javits recently urged them to seek reelection next year. Both of these senior, but ideologically dissimilar, gentlemen haven't made up their minds yet about trying for a fifth term.

North Dakota's senior legislator, Milton Young, 81, in the Senate 34 years, says he can't recall his fellow Republicans ever writing a letter of this sort before.

Initiated by Republican Senatorial Committee Chairman John Heinz, the letter said: "For more than a quarter of a century you have been two of America's most respected and most influential leaders . . . you have helped shape many of the most crucial decisions of our time. . . . You certainly have earned the right to step down from the Senate's demanding pace. But we need you. . . . A Senate without Barry Goldwater or Jack Javits is almost impossible to imagine."

Now Goldwater, 70, and Javits, 75, have always seemed to be opposites. Javits was born poor on New York's lower East Side in what he once called "an urban counterpart to a log cabin." His immigrant father didn't earn enough as a pants presser, so he moonlighted as a janitor. Father and son resented the heavy-handed corruption of Tammany Democrats. From boyhood on, Javits was a Republican, an interesting sort of dissident in Manhattan.

Javits worked his way through school, excelled in the law and made himself a nest egg before running for office for the first time at the relatively late age of 42. He became a record vote-getter and for years was kept at an arm's length by many Senate Republicans because of his consistent liberalism.

In 1964, Javits refused to support the GOP nominee, Barry Goldwater, a defiant act that hardly won him plaudits West of the Hudson River. His older brother, Benjamin, an ardent Goldwater fan, irked Jacob Javits by having Goldwater picked up in his limousine whenever he arrived in New York.

Goldwater was born in the Territory of Arizona. His uncle helped found the Jeffersonian-flavored Democratic Party in those parts. It wasn't until after World War II that Barry turned Republican. Moreover, Goldwater, was born into a wealthy family, attended private schools, married an industrialist's daughter and, while always a hearty outdoorsman, knew nothing of the rough and tumble of growing up in an ethnic (Jewish) neighborhood.

Since Goldwater was reared in his mother's Episcopalian faith, he was sheltered from anti-Semitism. There is a story that he was once turned away from a country club because of his name and that he asked the manager if he could play nine holes, "because I'm only half-Jewish."

Later in life, after he learned that his Jewish relatives in Poznan, Poland, had been exterminated by the Nazis, he became more sensitive to his background. Goldwater became very angry in 1964 when Daniel Schorr, then a CBS correspondent, did a report suggesting that Goldwater was linking himself with neo-Fascist elements in West Germany, a falsehood which Schorr came to regret.

Javits, living in the ethnic turmoil of New York City, was always keenly aware of who he was. In one of his books, Javits wrote that had his father come to the United States earlier, he might have gone West as a Jewish "Yankee peddlar" on the frontier and, "with his wagonful of pots and pans," come to rest in a small Western town. Thus Javits' father might have eventually opened a dry-goods store which would become a department store."

"It amuses me to think that he might have come to rest in Phoenix, where he could have met a man like himself named Goldwater," Javits wrote. "Perhaps the pair might have even become fang-and-claw competitors." Javits then mused that they might have even become partners, and then "the great department store of Goldwater and Javits."

That entrepreneurial partnership was never formed, and even today there is only a limited political partnership of Goldwater & Javits. The two men are friends and speak very well of each other.

Javits remains the hard-headed liberal, respected by his Republican colleagues. No one is more impressive in Senate floor debate for skill or command of facts than Javits. He is also the ranking Republican on the Senate Foreign Relations Committee and an expert on SALT II. Republicans gave him the chief role in forming their alternative economic package, and he is saluted for his longtime campaign for pushing for greater productivity in our economy through capital formation.

Goldwater is more low-key but is an important and respected figure in deliberations on the armed services, SALT II, intelligence and the pending communications act. No Republican gets more affection from his colleagues than Goldwater, and he is holding up well in polls in Arizona. His wife's health and his own are major considerations as he makes his decision whether to run again.

North Carolina's Sen. Jesse Helms is the only Senate Republican who didn't sign the letter. His spokesman explained that Helms: Wasn't consulted; feels that he should't tell Republicans in Arizona and New York whom to nominate; is a friend of New York's Rep. Jack Kemp whom he might favor in a primary over "Jake" Javits.●

ORSON HYDE MEMORIAL GARDEN ON THE MOUNT OF OLIVES

● Mr. CHURCH. Mr. President, the Orson Hyde Memorial Gardens on the slopes of the Mount of Olives in Jerusalem was dedicated on October 24 by Spencer W. Kimball, president of the Church of Jesus Christ of Latter-day Saints.

Orson Hyde was a 19th century apostle of the LDS Church. He visited Jerusalem in 1841, and on October 24 of that year he offered a dedicatory prayer on the Mount of Olives in which he called for the rebuilding of Jerusalem.

The Orson Hyde Memorial Gardens, which commemorate that event, are located on several acres east of the old city of Jerusalem on the Mount of Olives and form part of the Jerusalem Gardens National Park.

The Jerusalem Gardens National Park is an outgrowth of efforts to preserve the beauty and heritage of the old city of Jerusalem and prevent its being despoiled. The Orson Hyde Memorial Gardens will be the largest single tract in the Jerusalem Gardens National Park which will be a green belt area of more than 600 acres surrounding the old walled city of Jerusalem.

Mr. President, I ask that articles from the Church News and the Jerusalem Post reporting on the dedication ceremonies be printed in the Record.

The articles follow:

[From Church News, Nov. 3, 1979]

Orson Hyde Garden Is on Vantage Seat of Biblical History

(By Dell Van Orden)

Jerusalem.—Located on one of the most prominent sites in Jerusalem, the Orson Hyde Memorial Garden stands as a monument to the importance of the gathering of the children of Abraham to this sacred land.

The garden, which was dedicated Oct. 24 by President Spencer W. Kimball, is on the Mount of Olives overlooking the walled city of Old Jerusalem across the Kidron Valley and just above and north of the Garden of Gethsemane.

From the slopes of the memorial garden can be seen the famed Dome of the Rock, a Moslem shrine and perhaps the most noted landmark in Jerusalem.

"My heart leaps and then is subdued as I think of some of the momentous events that have occurred on this historical mount," said President Kimball as he addressed some 2,000 persons. The audience was seated on the slopes of the newly created garden, which commemorates the 1841 visit to Jerusalem of Orson Hyde, an early apostle sent by Joseph Smith to dedicate and consecrate the land for the gathering. President Kimball was one of several speakers who addressed the huge audience, nearly all of whom were members of the Church who had come to Jerusalem for the dedication with various tour groups.

Other speakers were Teddy Kollek, Jerusalem mayor; Israel Lippel, director general of the ministry of Religious Affairs for Israel; Orson Hyde White, chairman of the Orson Hyde Foundation; President N. Eldon Tanner, first counselor in the First Presidency; and President Ezra Taft Benson and Elder LeGrand Richards of the Council of the Twelve. Elder Richards is president of the foundation.

Most of the speakers paid tribute to Orson Hyde and quoted from his prayer of dedication.

The dedication services were conducted by Elder Howard W. Hunter of the Council of the Twelve, and were also attended by Elder Marvin J. Ashton of the Council of the Twelve, and Elder Eldred G. Smith, patriarch emeritus to the Church.

"If a person could have had a vantage seat on this mount down through the ages, what scenes his eyes would have beheld," said President Kimball in his address.

"Before us, across the Kidron Valley, is the famed Mount Moriah, the traditional place where Father Abraham went to offer his son as a sacrifice, and the location of the temples of Solomon and Herod," President Kimball related.

"From this mount, with the city of Jerusalem before him, a spectator throughout the centuries could have witnessed the caravans of traders and merchants and the processions of armies and common folk from many nations and empires, including Assyria, Babylonia, Persia, Egypt, Greece, Rome, and in more recent times, Turkey and Great Britain."

President Kimball continued, "In Old Testament times, David ascended this mount, weeping as he went because of the unfaithfulness of some of his people, including his son Absalom.

"In New Testament times, Jesus Christ traversed this mount on several occasions while traveling between Jerusalem and Bethany. He wept as He looked over Jerusalem and yearned that the people might be gathered in righteousness.

"On this mount the Savior gave some of the greatest teachings ever recorded in holy writ as He privately taught Peter, James, John and Andrew concerning His future mission.

"In a garden called Gethsemane, just below us, He fulfilled that part of His atonement which enables us to return to our Heavenly Father if we but repent of our sins and keep His commandments," the president emphasized.

In his dedicatory prayer, President Kimball prayed that the Lord would accept the garden "as a special memorial to the prophetic prayer of Orson Hyde."

The Church leader said much of what the early apostle prayed for has already come to pass.

"The land has become abundantly fruitful again," he said, "with flocks and orchards and fields. The scattered children of Abraham have returned in great numbers to build up this land as a refuge and the city of Jerusalem has flourished."

Before the dedication, the Church leaders and officers of the Orson Hyde Foundation were hosted by Mayor Kollek at a reception in the Jerusalem Council Chambers.

Mayor Kollek, who appeared in open collar as is often his custom, said, "Everybody who knows the history of Jerusalem in modern times knows the prophecy of Orson Hyde.

"We're doing everything we can to bring out the beauty of Jerusalem by our own efforts and we thank you for adding olives again to the Mount of Olives," the mayor commented as he informally spoke to the some 100 guests.

At the reception, Elder Richards gave Mayor Kollek a check for $225,000, the last payment of a $1 million commitment to the memorial garden. The money has been raised through private donations to the Orson Hyde Foundation.

Before Mayor Kollek was given the check, Elder Hunter told him, "We haven't finished paying the $1 million for the garden."

The mayor drew laughter from the guests in the chamber when he replied, "We trust you."

"We don't like to dedicate anything that isn't paid for," continued Elder Hunter, "and Elder Richards has the last installment of the money."

Some 30,000 donors contributed money to the memorial garden and their names are placed in a capsule sealed behind a heroic-size plaque at the top of the garden. The plaque has written in English and Hebrew excerpts from Orson Hyde's prayer of dedication. The dedication of the garden by President Kimball marked to the date the 138th anniversary of Apostle Hyde's prayer.

The 5½-acre memorial garden is the largest single tract of Jerusalem Gardens National Park, a green belt which will eventually encompass more than 600 acres surrounding the city.

The parks are an outgrowth of the Jerusalem Foundation's efforts to preserve the beauty and heritage of the old city and prevent its being spoiled by haphazard planning and unsightly structures.

The Jerusalem Gardens National Park will preserve such sites as Mount Zion, the City of David, the valleys of Kidron and Hinnon, the Garden of Gethsemane, and the slopes of the Mount of Olives and Mount Scopus.

The city of Jerusalem will provide care for the Orson Hyde garden for 999 years.

[From the Jerusalem Post, Oct. 28/
Nov. 3, 1979]

MORMONS DEDICATE PARK ON MOUNT OF OLIVES

(By Abraham Rabinovich)

More than 2,000 Mormons from the U.S. lined the slopes of the Mount of Olives last week to dedicate a park in the memory of a church apostle who had prophesied on that site more than a century ago the revival of a Jewish state with Jerusalem as its capital.

Participating in the dedication of the Orson Hyde Memorial Garden was the church's president, Spencer Kimball, regarded as a prophet in the line of Abraham and Moses. Former American secretary of agriculture Ezra Taft Benson was among the church elders present. The visitors came by chartered planes and on an ocean liner.

The 20-dunam park overlooking the Kidron Valley and Old City was developed with a $1m. gift by the church to the Jerusalem Foundation. The land was leased to the foundation by the Luigi Gedda Foundation of Italy, which is developing a genetics institute on an adjoining plot. The Hyde garden is party of a 2,000-dunam national park being developed as a green belt around the Old City.

Orson Hyde, one of the first apostles of the Mormon Church, was dispatched to the Holy Land in 1841. In his writings, he describes leaving the Old City as soon as the gates were opened on the morning of October 24, 1841 to climb the Mount of Olives and offer a prayer, in keeping with a vision he had had, for the restoration of Israel "as a distinct nation and government" with Jerusalem as its capital. Hyde's grandson and great-grandson were among those participating in the ceremony.

Mayor Teddy Kollek told the Mormons assembled on the hillside that the return of Israel was "not only fulfilment of ancient prophecy but an indication of what a determined people can do if they don't lose their ideals through the generations." He noted that the Mormons are now in their eighth generation and expressed the wish for cooperation in future generations. "Together we will make both Jerusalems very beautiful," he said, a reference to the New Jerusalem envisioned by the Mormons in the U.S.

Former agricultural secretary Benson said he regarded as a miracle the revival of Israel and the flowering of what had been a barren land.

The Mormon Church has about 200 members in Israel, including 90 American students on a study programme. A new church branch is planned for Beersheba to serve Americans coming to work on the Negey airbase project. There are branches in Jerusalem, Herzliya and Galilee.●

AMERICAN POLITICAL FOUNDATION

● Mr. LUGAR. Mr. President, Bill Brock, chairman of the Republican National Committee, and Charles T. Manatt, finance chairman of the Democratic National Committee, have jointly announced the formation of the bipartisan American Political Foundation. Mr. Brock is chairman of the foundation; Mr. Manatt is vice chairman.

This unprecedented joint venture reflects their "serious concern about the parties' responsibilities in a time of both domestic political fragmentation and increasing salience of international issues in all democratic countries."

The American Political Foundation will work "in appropriate and feasible ways to fill the gaps in communication and information occasioned by the American parties not having their own international departments or party foundations" as is the general rule in other democracies.

In a period when all democratic countries face increasing international difficulty, with important economic and political consequences for our people, the potential benefit of such communication and understanding may be very great.

The Liberal International, including parties such as the Liberal Parties of Canada and Great Britain, and the Free Democratic Party of Germany, invited Mr. George E. Agree, president of the APF, to address its annual Congress in Ottawa on October 5. I request that his address be printed in the RECORD.

The text of Mr. Agree's remarks follows:

SPEECH BY GEORGE E. AGREE

Mr. Chairman, I am very grateful to the Liberal International for its invitation to attend your Congress as an Observer, to all of you for your thoughtful and stimulating discussion of so many important issues, and for the honor of addressing you tonight.

The American Political Foundation, of which I am President, is a brand new institution, not yet fully organized, and not expecting to open offices for several weeks. We were created by joint action of leaders of both of our major American parties. Our Chairman is William E. Brock III, Chairman of the Republican National Committee, and our Vice Chairman is Charles T. Manatt, Finance Chairman of the Democratic National Committee. So, you see, we are quite ecumenical.

We have embarked upon this joint venture for a number of reasons. Both our parties have people you would characterize as liberals. Both contain conservations, both have members who in other countries would be Christian Democrats, and at least one of the two has active social democrats.

Most important among our motivations are the growing appreciation among politicians in my country that we need to know much more about you and other democratic political forces in the world, and the feeling that it would be mutually advantageous for you to know more about us. Our Foundation is an educational institution which will promote the flow of such knowledge, and we hope to be observers at many meetings of this kind by all democratic internationals.

As another North American, I want to join our Canadian friends in welcoming the Liberal International to what used to be called the New World. If you have an opportunity to look around a bit on this continent, you will find that it is not so new any more. Moreover, we, with the rest of the world, are in mid-process of what Professor William McNeill has called the closing of the ecumene—the increasingly rapid linkage into a unitary world of all our respective diversities. Mankind's future frontiers will no longer be geographical on this planet, but within and among ourselves.

It is in this perspective that I would like to comment on our subject this evening.

As I am an observer here by invitation of your organization, I also am an observer by mandate of mine. Therefore, my remarks will not represent an official position of the APF or of either American party. They will be entirely personal.

Our species has come a very long way in a very short time. The fact that we, who 500 years ago did not even know the shape of our planet, can now circle it in 90 minutes and even walk on others, is but one illustration of the many revolutionary changes that have taken place in our knowledge of the physical world and how to shape it to our purposes, in our knowledge of each other, of ourselves, and of the meaning and potential of the human estate.

All of these great changes have been both the product and the cause of the emergence of modern liberal civilization. I use the adjective liberal in its broadest sense, a sense that encompasses values now shared by conservatives and social democrats as well as by delegates to this Congress—even if, as you may believe, the others do not understand these values as well as they should.

This liberal civilization is more than mere technological accomplishments, more than our arrangements for political and social decency. It is an irreversible transformation in the perception of themselves by all men and women who partake of it—wherever they may be, and whether or not they live in countries where such values are officially stultified, oppressed, or even exterminated.

Our subject, the liberal challenge, may be addressed either as the challenge liberal civilization presents to the world or the challenge to civilization by other, darker forces in the world.

Our challenge to the world is the challenge of whether to accept our possibilities of growth and progress, of whether to explore, and keep open the opportunity for posterity to explore, the full potential of our species.

Almost every recent change that is counted as an advance even in the communist and third worlds is either a product of or derivative from liberal civilization. So, I must add, are most of the newer problems such as population growth and energy shortage. It is important for all of us to understand that the health of this civilization is essential to the future not only of the peoples in whose countries it presently flourishes, but to all our brothers and sisters everywhere.

The many problems that engage this Congress, and that preoccupy so many other organizations in our respective countries, are serious and difficult. But they are no more difficult than others faced in our lifetimes, and no more hopeless of solution if we understand where we have come from and remember what we have learned.

One of the greatest threats challenging liberal civilization is that we may lose this understanding. As some of the hardest lessons of the past recede into history books, they tend to be forgotten by those young people whose passions outrun their personal experience. What disasters this kind of anemia produced in liberal and emerging liberal societies during the twenties and thirties must not be allowed to recur, however severe our near-term difficulties may become.

The other great challenge to liberal civilization is the threat of obliteration by external force. Here, too, the living memory of people in this room should be instructive. In how many of our countries did we ourselves see liberalism blotted out by unconcerned invading armies? How much risk do we dare to take, or to impose on our children and grandchildren, that it may happen again? If liberals can give a confident answer to this question, I have no doubt that liberalism will have both the time and the moral and intellectual strength to meet all its other challenges.

Thank you again for allowing me to be with you.●

THE MOBILE HOME INDUSTRY DOES NOT NEED FURTHER REGULATION

● **Mr. BAYH.** Mr. President, today I would like to announce my intention to offer an amendment to S. 1991, the FTC authorization bill, as soon as it is reported from the Senate Commerce Committee. My amendment will prohibit the FTC from developing any trade regulation rule concerning mobile home sales and service. I am doing this because the mobile home industry is already thoroughly and well regulated by the Department of Housing and Urban Development. For the FTC to step in now and announce its rulemaking authority over the industry represents one of the most glaring examples I know of overregulation, duplicative regulation, and harmful regulation. It would prove a great disservice to an industry composed primarily of small businesses—both manufacturers and dealers—and to the people who buy their products.

Mr. President, let me go back and give a little history on this subject. In the early seventies it became clear that there were product difficulties with mobile homes. The FTC began a proceeding to investigate the problems in 1973, but in 1974 the Congress responded to complaints from consumers by passing the National Mobile Home Construction and Safety Standards Act of 1974.

At that time the Congress decided that mobile homes were part of the housing industry, and gave authority to HUD to regulate all aspects of the manufacture and design of mobile homes in order to insure their quality and soundness. At about the same time the Congress also enacted the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Public Law 93-637, 88 Stat. 2183) which was aimed at promoting the full and complete disclosure of the terms and conditions of warranties, and setting standards for classifications of "full" or "limited" warranties.

With these acts there were established policies that more than substantially resolved the areas of concern of the FTC, yet the inertia of Commission procedures carried it forward through some 500,000 pages of testimony—including consumer complaints which predated the Mobile Home Act—to the conclusion that it, too, was needed to regulate the industry.

Mr. President, I have always considered Congress action in regard to the mobile home business as one of the most successful resolutions of a consumer product problem. The present arrangement works. HUD has carried out its mandate vigorously and the industry has responded responsibly and cooperatively. It has proved to be a workable and beneficial program for all parties concerned. Today the buyer of a mobile home can probably be more sure of the quality and safety of his new purchase than any other homeowner in America.

Since 1976, all mobile homes built in the United States have complied with the HUD code—a volume of hundreds of pages that dictates how a mobile home will be constructed. As a result of the act, agents of the Department, professional inspectors, are stationed in every mobile home plant in the United States. If the mobile home passes muster, it receives a HUD seal of approval. If it does not pass muster, it does not leave the manufacturing plant.

The system which operates to enforce the code is extensive. First, HUD or its agents must approve the design and construction of each manufacturing plant. After that, the blueprints and specifications for every mobile home are approved by an entity known as a Design Approval Inspection Agency. Then the actual construction of every mobile home is approved by professional inspectors in every plant; these inspectors operate under an In-Plant Inspection Agency. Periodically, the performance of these inspectors is audited by yet another group. All of this is in addition to the manufacturer's own quality control and inspection system and it means that there are at least four formal opportunities to find defects before the home even leaves the factory.

Another extremely significant requirement of HUD's regulations is that each purchaser must receive a complete consumers manual telling him or her the State agencies who are responsible under HUD to receive any complaints they may have, and providing all warranties, including those of appliances or fixtures within the home, as well as that of the manufacturer of the home. The mobile home itself also contains wiring diagrams and other technical information relating to all the major components of the unit. What other homebuyer is provided such a service?

It is evident that this process produces high quality control and consumer protection. However, the system goes even further. HUD has the power to order manufacturers to recall, repair, or replace mobile homes in which there are discovered imminent safety hazards or major construction defects anytime during the lifetime of the product. This protection, of course, is in addition to the manufacturer's own warranty.

Finally, there is the National Mobile Home Advisory Council. The Council is composed of 24 members: 8 from State and local government, 8 from the consumer sector, and 8 manufacturers. The council is established by law and provides HUD with information and input concerning possible changes to the HUD code or other mobile home-related regulations. There is no other system like HUD's operating anywhere else in the construction industry in the United States. As a result, the Veterans' Administration reports it receives almost no complaints from homeowners who purchase mobile homes with VA loans. And it is very important to point out, Mr. President, that the number of consumer complaints reaching HUD represented about 1 percent of the 280,000 mobile homes sold in 1977. Of this small number, naturally very few dealt with major construction defects, which under the Mobile Home Act, the manufacturer has guaranteed to the purchaser will be corrected within 60 days.

Given the success of the present regulatory program, what would be the effect of the proposed trade regulation rule? Industry economists estimate that the proposed rule would add $700 to $1,200 to the cost of the average mobile home. The average mobile home costs about $10,000. Thus, the FTC rule may add from 7 to 12 percent to the purchase price of a unit. It is important, Mr. President, to recognize both the nature of the buyer and the nature of the manufacturer of mobile homes in this country before completely appreciating the cost of the Commission's action.

The American family that purchases a mobile home can least afford an added burden of expense. The median income of the mobile home buyer is about $11,000. An extra $700 is not a small consideration to this family. Yet a mobile home is very likely the only option available to a young family that wants to buy a home but is faced with a median price of $72,000 for a site-constructed home. This rule, then, would have the effect of putting homeownership out of the reach of even more Americans.

Further, the Commission's proposed actions are a real threat to the survival of many of the small manufacturing firms and the dealers to whom they sell their products. The Mobile Home Act imposed strict construction and reporting requirements on these small businessmen. There is little doubt in my mind, Mr. President, that the immediate effect of the proposed trade regulation rule would be to drive the smallest companies to the wall as being economically unable to compete, and the larger companies—the 10 percent of the firms that produce 70 percent of the mobile homes—would begin to swallow them up. This is hardly the anticompetitive effect that the FTC is supposed to foster. The Senate should know that the Small Business Administration has made known its strong opposition to the proposed rulemaking in written comments filed with the Commission.

With all these considerations in mind, Mr. President, I offer this amendment to curtail the authority of the FTC in regard to the mobile home industry. I view this action as a legitimate exercise of congressional oversight. The Congress in 1974 acted to correct problems within the industry and determined that the Department of Housing and Urban Development was to have jurisdiction in the area. For the FTC to act now would be something like having a second set of referees appear on the basketball floor midway through the game. They would only frustrate and confuse players and spectators. They could also ruin the game.

I have had great respect for the FTC in many of the actions they have taken over the years. In this instance, however, they are not protecting the consumer, and they would be harming many small businesses. I call upon the Senate to draw the line for the Commission in the mobile home industry, and allow HUD to carry out its responsibilities as intended by the Congress in 1974.

I urge my colleagues to support my amendment to S. 1991, the FTC authorization bill.●

CONFUSION IN FEDERAL MARIHUANA POLICY

● Mr. HUMPHREY. Mr. President, I am very concerned that the American public, especially our children, may have a confused notion about the health effects of marihuana. In part, this confusion is a result of conflicting information coming from the Federal Government itself. This confusion is disturbing and dangerous—and unnecessary.

The National Institute on Drug Abuse (NIDA), the arm of the Government responsible for Federal efforts for prevention programs, research into the effects of various drugs, and education aimed at the general public is partly responsible for the confusion because of some of its publications. Many of these publications are circulated to guidance counselors and schools throughout the Nation. One of these publications "Let's Talk About Drug Abuse: Some questions and Answers (1979)," recently came to my attention. This document is an example of the Federal Government's responsibility for confusion on the health hazards of marihuana.

While much of the information contained in the booklet is helpful to children, teachers, and parents in learning about the health hazards of marihuana and other drugs, the "Suggested Reading" in the booklet recommends as a source of information the Do It Now Foundation, based in Phoenix, Ariz. The reading list contained in the NIDA booklet includes Do It Now's publication "Drug Abuse: A Realistic Primer for Parents" The inclusion of the Do It Now information sends a dangerous signal to America's young people about the Federal Government's attitude toward marihuana use.

How can we expect young people to be properly informed about the hazards of marihuana use, especially for young people, when the Federal Government, through NIDA, apparently endorses conflicting views on marihuana use?

Let me outline examples of this dangerous dichotomy in Federal attitudes toward marihuana Do It Now's publication, recommended by NIDA, states that "Marihuana, to date, has not been proven physically harmful, even in remote ways."

Yet, Dr. William Pollin, Director of NIDA, testified before the House Select Committee on Narcotics Abuse and Control on July 19, 1979, that:

> While much remains to be learned about the health implications of marijuana, I would like to emphasize that our present evidence clearly indicates that it is not a "safe" substance. As a psychiatrist, I would also like to stress that virtually all clinicians working with children and adolescents agree that regular use of marijuana by youngsters is highly undesirable. Although experimental evidence concerning the implications of use in this group is not easily obtained, there is little serious question that regular use of an intoxicant that blurs reality and encourages a kind of psychological escapism makes growing up more difficult. While there is controversy over the implications of present research concerning adult use, few would argue that every effort should be made to actively discourage use by children and adolescents.

Dr. Pollin clearly does not endorse the ambiguity discussed in the booklet recommended by his agency, NIDA. Such conflicting views certainly damage NIDA's education efforts.

Other misleading information conveyed by Do It Now's Primer includes advice to parents that they should "Remember that marihuana is not addicting." Yet Dr. Pollin's recent congressional testimony flatly contradicts this rosy view of marihuana's health hazards by stating that "some percentage of regular heavy users do develop a psychological dependence on marihuana to the extent that it interferes with functioning."

In light of these serious contradictions seemingly endorsed by NIDA, it is no wonder there might be confusion about marihuana among parents, educators and the children themselves.

Mr. President, I call on NIDA to review the literature endorsed by them. Dr. Pollin's view of marihuana as a dangerous drug harmful to children and adolescents must not be undermined by publications such as Do It Now's "A Realistic Primer for Parents," endorsed by NIDA. Such "Suggested Reading" is misleading and downright dangerous. Our Nations Federal drug abuse effort should not reflect such carelessness.●

EXPORTING ANTI-SEMITISM

● Mr. JACKSON. Mr. President, our distinguished colleague, Senator DANIEL PATRICK MOYNIHAN, has written a timely and thoughtful article on the Soviet-sponsored effort to export anti-Semitism. His interpretation, which appeared in the New Leader on November 5, 1979, deserves the attention of all the Members of Congress.

Speaking of the Soviet-promoted anti-Semitism campaign, Senator MOYNIHAN warns:

> It would be tempting to see in this propaganda nothing more than bigotry of a quite traditional sort that can, sooner or later, be overcome. But the anti-Israel, anti-Zionist campaign is not uninformed bigotry, it is conscious politics. We are dealing here not with the primitive but with the sophisticated, with the world's most powerful propaganda apparatus—that of the Soviet Union

and the dozens of governments which echo it. Further, this fact of world politics creates altogether new problems for those interested in the fate of democracies in the world, and of Israel in the Middle East. It is not merely that our adversaries have commenced an effort to destroy the legitimacy of a kindred democracy through the incessant repetition of the Zionist-racist lie. It is that others can come to believe it also. Americans among them.

We need to take seriously Senator MOYNIHAN's analysis and warning. I request that the full text of his article be printed in the RECORD.

The article follows:

EXPORTING ANTI-SEMITISM

(By DANIEL P. MOYNIHAN)

I would like to discuss one aspect of Israel's present role in the world. It is an important as well as difficult point that I shall attempt to make, for it must inevitably engage long-standing sensitivities and, accordingly, is more likely to be misunderstood than otherwise. I shall deal simply and plainly with ideology, in the full knowledge that this is not necessarily congenial to the American temperament. And I shall have to report on troubles of the kind that many people would understandably prefer not to consider.

Last May 30, in a lecture at the Weizman Institute in London, I offered the view that anti-Semitism has become a unifying global ideology of the totalitarian Left. An intense propaganda campaign, begun in the Soviet Union in the early 1970s and embraced and echoed by radical regimes the world around, had long been discernible. It was designed to undermine the legitimacy of the State of Israel, I contended, and the Soviets had grounded it in a perverted variant of Marxist analysis: They argued that "imperialism," the supposed enemy of the new states of the world, was a creature of an international Zionist conspiracy, so to speak, with the clear implication that Jews played a special role in perpetuating the alleged injustices of international capitalism.

The sensitivity I mentioned has to do with the fact that from the outset the campaign explicitly compared Zionism with Nazism. The first articles in Pravda launching it, for example, charged that the mass murder at Babi Yar was a collaboration of Zionists and Nazis. I think that Bernard Lewis of Princeton University has located the historic origin of this identification, and it is not perhaps as diabolically, fiendishly clever as it might seem. Nonetheless, the charge was so outrageous that many could not—would not—believe it was being made. Given the history of such propaganda, and given our own instinctive response to it as palpably absurd—"no person of education could possibly believe such a charge," that sort of thing—we were inclined to dismiss this Soviet-sponsored effort as mere boorishness, hopelessly unsophisticated.

Yet, the campaign has drawn response not merely from places one might expect—those states which, for instance, have an ongoing battle with Israel—but from cultures as diverse as the Sinitic and the African, which have no experience either of Jews or of traditional Euorpean anti-Semitism. Thus Chinese Deputy Premier Deng Xiaoping could speak to the UN General Assembly in April 1974 and include "Zionism" in his list of the world's evils. And when the notorious UN resolution equating Zionism and racism was introduced in 1975, one could find African states among its most vocal backers.

On September 7, this campaign reached a grotesque culmination when the so-called nonaligned states met in Havana. The Final Declaration of that meeting went further than any of its textual predecessors, labeling Zionism as one of several "crimes against humanity": "The Heads of State or Government reaffirmed that racism, including Zionism, racial discrimination, and especially apartheid constituted crimes against humanity and represented violations of the United Nations Charter and of the Universal Declaration of Human Rights." This phrase, drawn from the Nuremberg indictment of the Nazi war criminals, derives from the worst in the anti-Israeli international propaganda effort, for it seeks the equation of Israel with Nazi Germany. Eighty-nine governments endorsed this formulation. Not one state represented dissented from this obscenity.

On September 17, I spoke on the floor of the United States Senate and said:

"I would ask Americans to try to understand what has happened. A long propaganda campaign emanating from the Soviet Union has now culminated. Zionism has been declared a crime against humanity. This is of course precisely the charge leveled against Nazism at the Nuremberg trials. To be a Zionist is to be a criminal under international law according to the declaration of almost two-thirds of the nations of the world, a declaration wholly supported by the Soviet bloc.

"These governments have come near to declaring that it is a crime to be a Jew.

"Our Government remains silent."

Neither the meeting in Havana, nor its precursors, have drawn any special response from our political institutions or culture. There is a history to this avoidance, too, which I first stumbled upon when I assumed my duties as Permanent Representative at the United Nations in 1975. In truth, I anticipated none of this. I had been sent there to represent an American government interested in working with the new nations, advancing what we thought might be mutual interests. But, out of nowhere, or so it seemed, there appeared that resolution equating Zionism with racism. I was startled by it, by both its audacity and its untruth. And also by the great reluctance of Americans to face the fact that this was happening.

It was necessary to learn the history of something that seemed to come from nowhere, to discover the "somewhere" from whence it had come. I wrote of this history in Commentary in August 1977:

"A long-established propaganda technique of the Soviet government has been to identify those it would destroy with Nazism, especially with the racial doctrines of the Nazis. Following World War II, for example, pan-Turkish, Iranian and Islamic movements appeared in the southern regions of the Soviet Union. They were promptly accused of Nazi connections and branded as racist. Jews escaped this treatment until the Six-day War of 1967. The event, however, aroused the Soviet Union to evoke the by now almost bureaucratic response. Bernard Lewis writes: 'The results were immediately visible in a vehement campaign of abuse, particularly in the attempt to equate the Israelis with the Nazis as aggressors, invaders, occupiers, racists, oppressors, and murderers.'

"Within the short period of time, and coincidentally with the introduction of 'racist' into currency as a general term of abuse, Soviet propagandists began to equate Zionism per se with racism. In a statement released to the press on March 4, 1970, a 'group of Soviet citizens of Jewish nationality'—making use of the facilities of the Soviet Foreign Ministry—attacked 'the aggression of the Israeli ruling circles,' and said that 'Zionism has always expressed the chauvinistic views and *racist* [my emphasis] ravings of the Jewish bourgeoisie.' This may well be the first official Soviet reference to Zionism as racism in the fashionable connotation of the term.

"Steadily and predictably, these charges moved into international forums. In 1973 Israel was excluded from the regional bodies of UNESCO. In 1974 the International Labor Conference adopted a 'Resolution Concerning the Policy of Discrimination, Racism, and Violation of Trade Union Freedoms and Rights Practiced by the Israeli Authorities in Palestine and Other Occupied Arab Territories.' The charge of racism was now pressed. In June 1975 it appeared at the Mexico City Conference of the International Women's Year. . . .

"The Zionism resolution was adopted by the General Assembly in November 1975. The following February, the United Nations Commission of Human Rights found Israel guilty of 'war crimes' in the occupied Arab territories. The counts read as if they could have come from the Nurenberg verdicts:

" 'Annexation of parts of the occupied territories.'

" 'Destruction and demolition.'

" 'Confiscation and expropriation. Evacuation, deportation, expulsion, displacement and transfer of inhabitants.'

" 'Mass arrests, administrative detention, and ill-treatment.'

" 'Pillaging of archaeological and cultural property.'

" 'Interference with religious freedoms and affront to humanity.'

"In April 1976, in the Security Council, a representative of the Palestine Liberation Organization spoke of the 'Pretoria-Tel Aviv Axis,' making an explicit reference to the 'axis' between Nazi Germany and Fascist Italy in the 1930's. In May, in the same body, the Soviet Union acused Israel of 'racial genocide' in putting down unrest on the occupied West Bank of the Jordan River. The same month, in a General Assembly committee, a PLO document likened Israeli measures to Nazi atrocities during World War II."

The idea has traveled through world politics since then, arriving in Havana and reaching its culmination there. But it is necessary to repeat again that to those proceedings of September there has been neither public nor private reaction of any scale. It seems not to be an "issue," as they say.

I am pleased that on September 25, President Carter denounced the Zionism charge at a town meeting in Queens College. Yet I must note that such a denunciation was not the result, would not have been the result, of any "decisionmaking process" of our government. It was a result, rather, of the random workings of the political process and the happy coincidence that the President was our guest in New York City. It would never have been proposed by the Department of State.

Thus, I am driven to return to a theme I have stressed for some years now, and to couple it with an additional observation. It would be tempting to see in this propaganda nothing more than bigotry of a quite traditional sort that can, sooner or later, be overcome. But the anti-Israel, anti-Zionist campaign is not uninformed bigotry, it is conscious politics. We are dealing here not with the primitive but with the sophisticated, with the world's most powerful propaganda apparatus—that of the Soviet Union and the dozens of governments which echo it. Further, this fact of world politics creates altogether new problems for those interested in the fate of democracies in the world, and of Israel in the Middle East. It is not merely that our adversaries have commenced an effort to destroy the legitimacy of a kindred democracy through the incessant repetition of the Zionist-racist lie. It is that others can come to believe it also. Americans among them.

The events I have described can no longer be dismissed as other than they are. They require our attention and our energy, and above all our intelligence.

If I have described anything these past years, it is the twin phenomena of an ignorance of past history and an avoidance of present reality. Our century has dealt very harshly with such lapses. Our enemies today encourage their repetition.●

THE 25TH ANNIVERSARY OF SENATE SERVICE BY SENATOR THURMOND

● Mr. LAXALT. Mr. President, it has been 25 years this month since our distinguished colleague, Senator STROM THURMOND of South Carolina, took the oath of office as a Member of this body. On such an occasion, we who have served with him during any portion of this quarter century can be grateful for his dedication to our great country and to its cherished institution of liberty, as well as his willingness to work and share with each of us his knowledge and expertise.

The people of South Carolina are truly fortunate to have the services of this man who not only has a firm grasp of history and national purpose but the vision to see America's needs for the future in the continuing framework of constitutional law and maximum freedom for the individual citizen. He is, indeed, one who has devoted his life to public service, having been sworn into his first elective office—superintendent of education for Edgefield County, S.C.—50 years ago. Since that time, his record of service is legendary. Following his first elective office, he served as a State senator from his home county in South Carolina and 5 years later was elected by the South Carolina General Assembly to be a circuit judge. When World War II came along, he could have remained at home secure in the judgeship to which he had been named. But characteristic of this courageous man, STROM THURMOND volunteered for active military service the day war was declared on Germany. Throughout the war, he remained in uniform, serving in both the European and Pacific Theaters of Operation, and landed in Normandy on D-Day with the 82d Airborne Division.

When STROM THURMOND returned home in 1946, he ran for Governor and was elected over 10 other candidates. His term which ran from January 1947 to January 1951 was marked by a long series of reforms and progressive innovations that greatly enhanced the general welfare of his State and its citizens. It was in furtherance of his constitutional view that States can engage in any activity not prohibited by the Constitution or reserved by that document to the Federal Government. Conversely, he has always felt that the Federal Government can only legitimately enter those fields which are delegated to it by the Constitution.

Indeed, his 1948 race for the Presidency on the States Right Democratic ticket was in furtherance of his constitutional philosophy that the Federal Government was entering fields of endeavor where it had no authority. Although many of the goals being sought by congressional and administrative actions of that era had noble goals, then Governor Thurmond saw them as lacking basic authority from our national charter which is the foundation of freedom for all Americans.

After leaving the Governor's office, he returned to the private practice of law while serving as a city attorney until 1954 when the death of U.S. Senator Burnet R. Maybank opened a vacancy in this Chamber. A special set of circumstances in his State prevented a primary election, so STROM THURMOND ran as a write-in candidate against the only candidate whose name appeared on the November ballot. The fact that THURMOND won is history, and, incidentally, he won by a substantial margin. In winning his seat by write-in votes, he became the first, and still only, person ever elected to this body in that way. Since then, he has been reelected to the Senate five times—twice as a Democrat and three times as a Republican—attesting to the strength of his service and the power of his representative leadership.

It was 25 years ago this month that our colleague, Senator THURMOND, started his service in this Chamber. I wish to commend him for all his good work during this eventful period in our history and extend to him all best wishes for his continuing work in the Senate.

Mr. President, several recent editorials have appeared recognizing and congratulating Senator THURMOND for his eminent public service. I ask that two such representative editorials be printed in the RECORD.

The editorials follow:

ANNIVERSARY YEAR

So far as we know, Sen. Strom Thurmond is not planning anything special for November 1979, but the month does hold a special significance for the S.C. political veteran.

It was a quarter-century ago, come Nov. 2, that he was elected to the U.S. Senate by write-in ballot, becoming the first man in history to gain that sort of entry to the U.S. Senate. His victory was at the expense of the late state Sen. Edgar A. Brown of Barnwell, who had been chosen by the State Democratic Executive Committee as "the party's nominee in lieu of Sen. Burnet R. Maybank, who had died in early September.

But 1979 has an additional significance for Senator Thurmond: It marks a half-century of his service in public office. It was in 1929 that he began his political career as county superintendent of education in his native Edgefield County. Except for a brief spell between the end of his term as governor in 1951 and his election to the Senate in 1954, he has been serving his country, state or nation—in and out of military uniform.

And at age 76, he is still going strong.

STROM'S MILESTONE

Although we haven't heard about anything official being planned, South Carolinians should pause and reflect that this month hold special significance for the Palmetto State's senior senator, Strom Thurmond.

It was in November, 1954—25 years ago—that Strom Thurmond was first elected to the U.S. Senate. And he did it on a write-in vote at the expense of the late Sen. Edgar A. Brown of Barnwell, who had been chosed by the state Democratic Party executive committee as the party's nominee in lieu of Sen. Burnet A. Maybank, who had died in early September. The Edgefield County native, incidentally, is the first and only man in U.S. history to gain that sort of entry to the U.S. Senate.

This month also marks another special anniversary for the 76-year-old Republican senator and one-time Dixiecrat candidate for president. It marks 50 years of public service to the people of South Carolina. It was in 1929 that Thurmond began his public life as Edgefield County Superintendent of Education. Except for a short interlude between the end of his term as governor in 1951 and his 1954 Senate victory, he has been serving his county, state and nation, both in and out of military uniform.

Would that we only had more dedicated, patriotic Strom Thurmonds in the halls of government.—The Augusta Chronicle.●

MRS. CATHERINE MOLLIS

● Mr. PELL. Mr. President, in terms of size, my home State of Rhode Island may be the smallest in the Nation. However, in terms of courage, determination, and will, her people are very, very strong.

Last month, there was a striking example of the unique Rhode Island strength of character. One of our citizens, Mrs. Catherine Mollis, was able to fend off a prowler who had entered her house armed with a blackjack. Mrs. Mollis had as her defense weapon a tennis racket. The amazing fact in this incident is that Mrs. Mollis is 85 years old. The prowler was a young man.

Catherine Mollis is an incredible woman. The spunk she displayed is the type of spirit that has made our country great. She is a proud woman who has every reason in the world to be proud. I know I represent the sentiments of all Rhode Islanders when I congratulate Mrs. Mollis on her courage, her determination, and her true grit. I think all of us in my home State are tremendously proud of this incredible woman.

Mr. President, I ask that the Providence Journal account of this incident be printed in the RECORD.

WOMAN, 85, PROVES TOO TOUGH FOR THIEF

(By John F. Fitzgerald)

PROVIDENCE.—Maybe nothing scares a mother of 11. Or maybe 85-year-old Catherine Mollis is just a take-charge type.

At any rate, when she discovered someone was in her house Thursday morning, she gave the prowler fair warning, then went after him with a tennis racket.

"I know there's somebody here," she called out, "and I'm going to find him."

Mrs. Mollis had just seen her son Joe off to Triggs Memorial Golf Course, where he's the pro. It was about 9:40. She went upstairs for a moment, and when she came back down, she saw that the door was open.

"I said to myself that door was closed," she recalled yesterday. Walking through the first floor, she saw that her bedroom had been ransacked, and so had Joe's. So she warned the bandit she was after him, and grabbed a tennis racket in Joe's room.

"I wasn't afraid, not at all," she remembers. "The only thing I could think of was going after him and hitting him." Now armed, she went into her room. "Everything was on the bed and on the floor." Her wallet, taken from a drawer, had been tossed on a chair. She checked the closet and leaned over to look under the bed. Nothing.

Then she tried Joe's room. First the closet, then the bed. But Joe's bed is lower than her own, and she couldn't see under it. So she went back out into the kitchen and waited.

Did she think of calling the police? No. Of leaving? No. "I know there is someone here," she yelled. "Where are you?"

He was lying between Joe's bed and the wall, a blond man about 19 years old. Now he came through the door, a blackjack in his hand. "I said, 'You're not going to hit me with that—because you're not.' "

"I don't know where I got the courage," she remembers, "I'm 85 years old. I can't compete with a young fellow."

But compete she did. Knowing he was going to use his weapon, she used hers first. She swung and he turned, catching three sharp blows on his back. When he turned around again, she could tell by the look in his face he was afraid of her, but he had a trick of his own.

"He knew I was getting the best of him, so he pushed me down." Mrs. Mollis landed on her left leg and could not get up again. He stood over her, his arm up ready to strike.

"Where's the billfold?" he demanded.

"You took the billfold out of the drawer in my room," she told him. "Did you get anything?"

"No."

"Well, that's all I've got."

She sensed he was going to strike, so she reached up and held his hand back with her own. She also sensed the intruder was more afraid than she was, so she played on his indecision.

"You're not going to hit me with that stick," she said. "My son is coming home and he's going to let you have it." Her 16-year-old son, the only other person who lives in the house, was out for the day. But her threat gave the bandit a reason—perhaps an excuse—to retreat. He ran out the door.

Mrs. Mollis' leg still hurts, and she was shaken by the attack. She is recuperating at Rhode Island Hospital. "Kids. You know what I mean?" she says. "They're after your money. At least I tried. I'd do it again, I guess. I hope not.

"He was a bad kid. But I feel sorry for him for getting into such a predicament. I've had young sons, but they never got into that trouble." ●

WHAT CAN BE DONE ABOUT CHILD ABUSE

● Mr. WALLOP. Mr. President, the Senate has taken a positive step this month in dealing with the horrifying crime of child abuse by proclaiming December as "Child Abuse Prevention Month."

In 1977 alone, a total of 512,494 cases of child abuse and neglect were reported and recorded by the American Humane Association. If this figure startles you, the association is quick to point out that their data is derived from reported cases only, and, if inaccurate, is likely to err by underestimating.

Child abuse is a crime which has been largely overlooked and ignored partially because it is so abhorrent. Many people find the statistics and the factual reporting of child abuse cases very hard to believe. For several reasons the Federal Government and the courts have been reluctant to get involved in the problem of family relationships. Our Government's close association with English common law supports the right of the father to absolute custody and control of his children, even when this was at odds with the welfare of the child. It is significant to note that one of the earliest campaigns for child protection was launched by the American Society for the Prevention of Cruelty to Animals. In 1874 there were laws which protected animals but no local, State, or Federal laws to protect chlidren.

Who are the "child abusers?" Studies point out that parents who abuse their children are usually ordinary people caught in life situations beyond their control. In most cases, parents who abuse their children were abused as children themselves and because this is the only kind of parenting they have known, they repeat it with their own children.

Child abusers cross all lines of economic station, race, ethnic heritage, and religious faith. Some studies tend to place the blame of child abuse on the poor, however as awareness and reporting of child abuse by private physicians increases, statistics are beginning to show a growing number of cases in the middle-class socio-economic range. Child abusers can be either men or women.

Why does child abuse occur?

There is no easy answer to the question of why child abuse occurs. Several separate factors usually are found in any list of reasons.

First. Stress, conflict, or crisis in a home situation;

Second. Abuser views the child as "special" or different;

Third. Parent was him or herself a victim of child abuse.

A combination of any of these factors plus the important fact that the child is close at hand and unable to protect himself can all result in abuse. One fact is clear: Children seldom trigger the abuse. They are victims of problems which are not necessarily related to them.

Historically Federal legislative activity in the area of child abuse has concentrated on financial assistance to the States for social services and child welfare. An increasing awareness of the growing incidence of child abuse in the past few years culminated in the passage in 1974 of the Child Abuse Prevention and Treatment Act (Public Law 93-247).

With funding now available it is our responsibility as elected representatives, and most of us as parents, to educate our constituents on the laws relating to child abuse and the resources available to deal with the problem. Child abuse is against the law. Every State has a law which requires persons who suspect a child is being, or has been neglected or abused, to report it to their local law enforcement agency or social service agency. Reporters of suspected child abuse are protected by law from civil or criminal liability.

Throughout the country, toll-free hot lines for families and children in trouble are being established. Parents Anonymous, a self-help organization for parents with problems related to all types of child abuse and neglect has established 450 chapters in 3,000 cities around the country. Resources for helping potential child abusers are now available and it is our responsibility to publicize not only the problem but the programs that exist to deal with the problem. If we can successfully eliminate just one potential child abuse case by providing information to parents that may need help, we have begun to solve this tragedy.

There are two victims of child abuse and neglect. The child, and the parent. Both need help.●

SALT II TREATY

● Mr. BAUCUS. Mr. President, now that the Foreign Relations Committee has completed its consideration of the SALT II treaty, I expect the debate to commence in the full Senate soon.

I intend to observe and participate in the debate fully. I am concerned that close scrutiny be paid to all facets of the treaty, and that my colleagues fully appreciate the implications both of the treaty's possible passage and possible failure on the Senate floor.

I have taken this obligation seriously, keeping in mind the basic question—is SALT in the best interest of the United States or is it not? If it is, it should be ratified.

Over the past months, I have studied long and hard to determine the answer to this fundamental question. During my consideration, I have been continually impressed with Secretary Vance's succinct and thoughtful testimony in favor of SALT II. And so, Mr. President, I would like to submit for printing in the RECORD Mr. Vance's testimony before the Foreign Relations Committee this past July.

The testimony follows:

SALT II: SECRETARY VANCE'S TESTIMONY

We proceed today with the second step in a fateful joint responsibility. The President has completed a negotiation in the process launched by President Nixon with the first strategic arms limitation treaty—SALT I—and continued by President Ford at Vladivostok. The Senate is now called to perform its equally important function of advice and consent on the second strategic arms limitation treaty—SALT II.

President Carter has taken a further step along the path marked out by his predecessors. I am sure that the Senate will perform its high duties in a totally nonpartisan manner. For the course our country takes, through this ratification process, will have a profound effect on our nation's security, now and for years to come.

I know we all understand what is at stake. And thus we share a common purpose in this undertaking: to do what we believe is best for the security of our country. As it has been throughout the negotiations, this remains a cooperative undertaking of the executive branch and the Senate. In the weeks ahead, we will do all that we can to assist the Senate in addressing the treaty's relationship to the central issues of security and peace.

When the United States and the Soviet Union each have the capacity to destroy the other regardless of who strikes first, national security takes on new dimensions.

First and foremost, we must preserve a stable military balance with the Soviet Union. That is the surest guarantee of peace.

Second, we must have the best possible knowledge of the military capabilities and programs of the Soviet Union. We must know the potential threats we face so that we can deal with them effectively. And we cannot rely upon trust to verify that strategic arms control obligations are being fulfilled. We must be able to determine that for ourselves, through our own monitoring capabilities.

Third, we must sustain the process of placing increasingly more effective restraints on the growth of nuclear arsenals.

Fourth and finally, we must take actions that will strengthen our alliances and enhance our leadership in the world.

As I will describe today, the treaty that is before you serves each of these imperatives of our national security. Tomorrow, I will focus more particularly on the treaty's bearing on our broader international interests:

Secretary [of Defense] Brown and the Joint Chiefs of Staff will discuss in greater detail the strategic balance and the treaty's relationship to it.

Secretary Brown and CIA [Central Intelligence Agency] Director Turner will focus on the relationship among SALT verification, monitoring, and our intelligence on Soviet strategic forces.

ACDA [Arms Control and Disarmament Agency] Director Seignious and Ambassador Earle [chairman of the U.S. delegation to SALT] will concentrate on the impact of the treaty in restraining the nuclear arms competition.

Let me now turn to the treaty and how it serves the four national security imperatives that must guide us in a nuclear armed world.

MAINTAINING A STABLE BALANCE

First, the SALT II treaty will greatly assist us in maintaining a stable balance of nuclear forces. It fully protects a strong American defense. Our national defense requires nuclear arms that are sufficiently numerous, powerful, and flexible to deter the full range of potential threats. As an essential part of this, our strategic forces must be—and must be seen as—equivalent to those of the Soviet Union.

The SALT II treaty helps us maintain this balance in two fundamental ways:

It will permit, and in fact aid, the necessary modernization of our strategic forces.

And it will slow the momentum of Soviet strategic programs, thus reducing the threats we would otherwise face.

As members of the committee know, our strategic nuclear forces are securely diversified among three separate delivery systems—land-based missiles, submarine-based missiles, and long-range bombers. Each of the three serves a unique and vital role in our defense. This diversity is in contrast to the Soviet's heavy reliance on increasingly vulnerable land-based missiles.

SALT II will permit the necessary modernization of each of these three forces:

This fall we will begin fitting our Poseidon submarines with the longer range Trident I missile. By the middle of 1981, the first of our new Trident submarines, the U.S.S. *Ohio*, will be deployed. Together, these new systems will assure that our submarine-based missiles will continue to be invulnerable.

We are enhancing the effectiveness of our B–52 bombers with air-launched cruise missiles. This will enable our B–52's to overcome Soviet air defenses for the foreseeable future. We expect the first squadron of B–52's equipped with air-launched cruise missiles (ALCM's) to be in operation by the end of 1982. Because of our technological lead, this is an area which only the United States will be able to exploit fully during the term of the treaty.

The President has decided to proceed with a new land-based missile, the M–X, which will deliver more warheads with greater accuracy than our existing Minutemen missiles. The M–X will be mobile, so that it can survive a surprise attack. Each of the mobile systems that the President is considering would be verifiable by the Soviet Union's own monitoring capabilities. With that standard met, the M–X is clearly permitted under SALT II as our one new land-based intercontinental missile.

Indeed, SALT II allows us to move ahead with each of these necessary modernization programs.

The treaty will also assist us in planning our future forces. The M–X missile is a case in point. It is designed to deal with the growing vulnerability to a surprise attack of land-based missiles in fixed silos. Without some limit on the number of warheads that could be sent to attack it, an effective mobile system would be far more difficult to deploy, for it would require many more launch sites—and much greater cost. SALT II makes the mobile M–X more survivable by limiting the number of warheads on Soviet land-based strategic missiles through 1985 and by providing the basis for negotiating such limits beyond that period under SALT III.

In this and other ways, the treaty contributes to more certain defense planning and thus provides a major benefit to us.

As Secretary Brown will develop in more detail, the treaty will permit the modernization of our strategic forces and aid our defense planning and will also assist in maintaining the strategic balance through the mid-1980's by restraining Soviet growth.

For more than 15 years, Soviet investments in nuclear arms have risen steadily. Today the overall strength of the two sides is roughly equal. What concerns us is not the present balance but the trend. SALT II limits the number of missile launchers and long-range bombers and therefore constrains the future threats we will face.

Since the Soviets are well above the 2,250 limit on strategic missiles and bombers permitted each side under the treaty, they will have to destroy or dismantle over 250 of these systems—about 10 percent of their total. Undoubtedly, some of their older systems will be discarded but with nuclear weapons "old" should never be mistaken for "frail." Most of the systems that would be given up have been built since 1965. Many have the same destructive power as our existing Minuteman II and Polaris missiles. Each could destroy an American city.

Beyond these reductions, the fact is that in the absence of the SALT II treaty, the Soviets would not only keep these weapons, they could add far more new and modern systems. Based on their past practices, they could be expected to acquire several entirely new types of strategic land-based missiles by 1985; the treaty holds them to one. Our best estimates are that they could have 3,000 launchers by 1985—750 more than they will be permitted with the treaty. And they could have several thousand more individual weapons than the treaty would allow.

We, of course, would do whatever is necessary to counter an increased threat. But it would be at far greater risk and far greater cost than by limiting that threat under the treaty.

The treaty limits Soviet potential in another important way—by denying them the ability to exploit fully the greater lifting power of their bigger missiles, their throw-weight advantage. The main practical value of this greater throw-weight is that it allows each missile to carry more warheads which can be independently directed at separate targets. In the absence of restraints, the Soviets could load up their bigger missiles to gain a lead in the number of nuclear warheads. However, under the provisions of the treaty which limit missile improvements, no land-based strategic missile can be fitted with more warheads than have already been tested on that type of missile.

Both the Soviet SS–17 land-based missile and the larger SS–19 are big enough to carry a considerably greater number of warheads than they now have. Under the treaty they will be limited to their present number—four for the SS–17 and six for the SS–19. The biggest Soviet missile, the SS–18, has the potential to carry at least 30 warheads. The treaty holds it to 10. Ten warheads is the same number that will be permitted on our new ICBM, the M–X.

The net effect is that SALT II goes a long way to blunt the Soviet throw-weight advantage. Both Soviet and U.S. warheads will be accurate enough and powerful enough to destroy the most hardened military targets. Beyond that, neither greater size nor greater accuracy is of much additional value. SALT II thus helps us retain a balance not only in the bombers and missiles that carry nuclear weapons but also in the weapons themselves.

This, then, is the first contribution of the SALT II treaty to the security requirements of the United States. It will serve as a brake on Soviet military expansion and on the Soviet improvements we could otherwise expect. And it will permit us to move ahead with the improvement of our own strategic forces. On this basis, it is clear that ratification of SALT II will materially enhance our ability to maintain the strategic balance through the 1980's and beyond.

ASSURING VERIFICATION

A second way that SALT II serves our national security is by improving our ability to monitor and evaluate Soviet strategic forces and programs. Verification has been a central concern in every aspect of these negotiations. At every stage we put the treaty to this test: Can we have confidence in its verification—that is, can we determine for ourselves that the Soviets are complying.

The verification terms of SALT II build upon the proven principles of earlier agreements—prohibitions on concealing strategic forces and prohibitions on interfering with the monitoring systems of the other side. And the treaty continues the Joint Commission (Standing Consultative Commission) for resolving doubts or disputes. As with SALT I, verification will be based upon our own observation and our own technical systems, not on faith.

But SALT II goes much further in facilitating our ability to watch Soviet strategic forces and our ability to determine for ourserves whether they are complying with their treaty obligations. Let me cite some of these significant new steps:

For the first time, there is explicit agreement not to encrypt telemetric information—that is, to disguise the electronic signals which are sent from missile tests—when doing so would impede verification of compliance with the provisions of the treaty. We would quickly know if the Soviets were encrypting relevant information. This would be a violation of the treaty.

We have agreed that we will regularly exchange information on the size and composition of our strategic forces. This is by no means a substitute for our ability to count for ourselves. But the exchanged data will help us confirm that both parties are interpreting their obligations in a like manner.

We have agreed to rules which simplify the job of counting weapon systems limited under the treaty. For example, every missile or missile launcher of the type that has ever been tested with more than one independently aimed warhead will automatically count against the multiple warhead ceiling—even though some may, in fact, have only a single warhead.

The Soviet SS–16 long-range mobile missile would have presented us with particular verification problems, because its first two stages cannot be distinguished from the intermediate range SS–20. To avoid that potential difficulty, the SS–16 has been banned entirely.

In the days ahead, Secretary Brown and others will provide, in closed session, the detailed classified information that is required for Senators to make an informed judgment on verification. I know this issue will be central to your consideration. It has been central to ours. Let me state very clearly that I am convinced we will be able adequately to verify this treaty—that we will be able to detect any Soviet violations before they could affect the strategic balance.

Let me emphasize that with or without SALT, we must havet the best possible information about Soviet strtaegic programs. Our security depends on it. Without SALT, there would be nothing to prevent the Soviets from concealing their strategic programs. Thus the treaty's verification provisions have an independent value for our national security, quite apart from their role in enforcement of the treaty.

Thus far I have discussed the impact of the treaty on the strategic balance and the treaty's contribution to our intelligence capabilities. Both elements illustrate a critical point. Arms control is not an alternative to defense; it is complementary to sound defense planning.

CONTINUING ARMS CONTROL NEGOTIATIONS

Let me now turn to the third reason for supporting this treaty. It not only imposes effective limits on imporant caegories of current strategic arms; it also opens the way to negotiating further limits in SALT III.

Arms control must be seen as a continuing process. Each agreement builds on the last and paves the way for the next. There have been significant achievements over the 10-year period in which we have been engaged in this evolving process:

The Anti-Ballistic Missile Treaty of 1972 closed off an entire area of potential competition—one which could have damaged the very foundations of deterrence. It increased stability, and it enabled us to proceed with limits on offensive weapons.

The first agreement on offensive arms—the SALT I Interim Agreement of 1972—froze the race to build more missile launchers on each site at a time when the Soviets were building up in this area and we were not.

The SALT II negotiations began immediately thereafter. In 1974, in Vladivostok, President Ford and President Brezhnev moved to another vital stage in the process. They agreed that restraints should cover all strategic delivery systems. They agreed to the central principle of equal limits.

SALT II now secures that Vladivostok formula. The treaty had to be carefully structured to balance the differences between our forces and theirs. But for both sides, the numerical ceilings and subceilings are the same.

Beyond this achievement, the SALT II treaty begins to tighten the limits. There will be actual reductions in nuclear forces. There will be significant limits on qualitative improvements—on the race to build new weapons and make existing weapons more deadly.

The promotion of an essential balance may prove to be this treaty's single greatest contribution to long-term arms stability and to further arms control progress. With the principle of equivalence established in SALT II, we have laid a solid foundation—and set a clear direction—for further reductions and tighter restraints in SALT III.

We would of course have preferred deeper cuts in SALT II. But it is nevertheless clear that this treaty takes us further down the road toward greater restraint. Surely the way to achieve more is to secure the gains we have made and move one. For this treaty represents a step on the road of arms control, not the end of the journey.

The issue we face is not whether this treaty does everything we would like it to do—either from an arms control or security perspective. The issue is whether we are better served with this treaty or without it. I think the answer to that is clear.

We should build on the progress we have made. The alternative is to return to an unrestrained arms competition—with the suspicions and fears of an earlier time—but with the ever more devastating arms of today and tomorrow.

STRENGTHENING U.S. ALLIANCES

The fourth broad reason for supporting the SALT II treaty is its importance to our allies and its effect on our position of leadership in the world.

I will discuss these issues in greater detail tomorrow. Let me simply stress one major point this morning. Our allies and friends have made clear to us, publicly as well as privately, that they have a vital interest in the ratification of this treaty:

Our NATO allies want to prevent the Soviet Union from achieving superiority; they would be the first to feel the pressure. They know this treaty helps preserve a stable and equal strategic balance.

Our allies want to maintain a stable strategic situation so that together we can continue our cooperative efforts to improve the conventional balance in Europe. They know this treaty makes a major contribution in this respect.

And they want to avoid the political tensions and pressures that would accompany rejection of the treaty.

We consulted with our NATO partners continuously during the negotiations of SALT II. We have made clear to them, and to the Soviets, that the treaty will not interfere with existing patterns of defense cooperation with NATO. SALT II leaves us free to take needed measures to modernize and strengthen European-based nuclear forces. At the same time, we are consulting now with our allies on the possibilities for future negotiations which could include limits on Soviet as well as U.S. intermediate range systems in Europe.

These are among the reasons why our allies have welcomed SALT II and have urged its ratification. Defeat of the treaty would be a profound blow to our closest friends. Its approval will benefit our most valued alliances. It will signal continued American leadership for peace.

In Europe and beyond, all of our friends and allies have a stake in international stability. They expect us to manage our relationship with the Soviet Union in ways that will reduce its risks while protecting our interests. They look to the United States for both decisive leadership and sound judgment. They understand that if SALT were rejected, the entire fabric of East-West relations would be strained, and that the world could easily become a more hazardous place for us all.

COOPERATION WITH THE SENATE

In the days ahead, we will work closely and cooperatively with you in your consideration of this treaty. The Senate has had, and will continue to have, a major role in shaping our policy on strategic arms. Indeed, SALT II as presented significantly reflects the influence of the Senate.

Throughout these negotiations, we have consulted closely with this committee and with individual Members of the Senate at every stage. Twenty-seven Senators traveled to Geneva to observe the negotiations firsthand. We have strongly encouraged that process. Secretary Brown, General Seignious, his predecessor Ambassador Warnke, and I have discussed SALT issues in nearly 50 separate congressional hearings since January of 1977. Most of those have been in the Senate. In the same period there have been over 140 individual SALT briefings of Senators by responsible officials of the Administration, and another 100 briefings of members of Senators' staffs. The consultation and cooperation between the executive and the Congress on this treaty have been extensive.

Those sessions have been held to receive your advice as well as to report on our progress. Time and again, issues raised by Members of the Senate have been taken up directly in the negotiations. Our negotiators were conscious of the need to meet a number of specific objectives of the Senate:

The principal of equality was initiated in the Senate and mandated by the Congress in 1972, when the SALT I agreement was approved. The basic elements of equality were agreed by President Ford and President Brezhnev at Vladivostok. Those elements are embodied in this treaty.

The Senate was clearly intent on closing loopholes and ambiguities. The definitions and understandings contained in this treaty are exhaustive and precise.

Many specific provisions on verification—including those on the data base and on telemetry encryption—were shaped by concerns and views expressed to us by Members of the Senate.

EVALUATING THE TREATY

We now seek your consent to ratification of a treaty we negotiated with these concerns in mind. We have worked together throughout the negotiations. I believe that we must continue to do so through the ratification process.

The SALT II treaty is the product of almost 7 years of hard bargaining, on both sides. As members of the committee know, these have been extraordinarily complex negotiations—discussions to limit arms not by imposition of a victor over the vanquished but by voluntary agreement between two powerful nations. To achieve such an agreement, compromises were required by both sides.

In far-reaching negotiations such as these, agreements on one provision inexitably becomes intertwined with agreement on others. Terms that seem entirely unrelated often depend on each other. Thus to be evaluated fairly, the treaty is best judged as a whole. Taken as a whole, it is a balanced agreement. Taken as a whole, it clearly serves our national interests.

That is the basis for my belief that we cannot realistically expect to shift the bargain more in our favor now through a process of amendment and reservation.

Even if it were possible to reopen the negotiations, certainly they would be reopened to both sides. This could lead to the reopening of points that are now resolved in a manner favorable to our interests.

As we move ahead, I urge you not to make premature judgments. Let us first carefully consider the treaty as it now stands. Let us see if your questions do not, in fact, have satisfactory answers. And let us all avoid emotional rhetoric—which can only obscure the real issues.

This treaty is complex. It bears on a difficult and complex relationship. Before reaching a final decision, we—the Senate and the Administration together—have an opportunity for a discussion and debate that will illuminate our common national goals as well as clarify the terms of the treaty itself.

Finally, as we proceed with a debate which will often be technical, let me express the hope that the nature of our subject will be kept clearly in sight—the terrible power of nuclear weapons. Together, the arsenals of the United States and the Soviet Union already hold more than 14,000 strategic nuclear warheads and bombs. The smallest of these are several times as powerful as the bomb that destroyed Hiroshima. If a fraction of those weapons were ever fired, tens of millions of our people and tens of millions of the Soviet people would perish. Nuclear war would be a catastrophe beyond our imagination—for the aggressor as much as the victim.

This, in the end, is what this debate is about—not pieces on a chessboard or chips on a table but instruments of mass destruction even as they are instruments of deterrence.

This will be an historic debate. It can be a healthy one for our country—a unique opportunity to focus our collective attention on the requirements for peace in today's world and to reassert a broad consensus on these obligations.

I believe that most Americans, and most

Members of the Senate, agree that the security of the United States requires us to maintain an effective deterrent and forces that are equivalent to those of the Soviet Union—to prevent them from gaining a military or political advantage.

And I believe that most Americans and most Members of the Senate also agree that the safety of our people requires that the major nuclear powers continue the process of step-by-step agreement to limit, and reduce, the size and destructiveness of each side's strategic forces.

Undoubtedly, some believe more strongly in one of these propositions than the other. It will be very difficult to forge a national consensus around either by itself. But a strong national consensus can be built for both of these propositions together.

I have spent most of the past 20 years of my professional career dealing with the requirements of our national security. I have faced these issues from a military perspective during 6 years in the Department of Defense and from the perspective of Secretary of State. I know from this experience that neither arms control nor military preparedness alone can assure our security. We must pursue both simultaneously. For that is the only rational path to secure our nation's safety in a nuclear world.

In seeking your approval of the SALT II treaty, we are recommending that we strengthen America's security—and build a broad national consensus—through a sensible combination of a strengthened defense and arms limitation.

SALT II AND OUR GLOBAL INTERESTS, JULY 10, 1979

Today I want to discuss how the decision of the Senate will affect our broader international interests.

Let me begin by repeating one thought from yesterday's testimony: first and foremost, SALT II must be judged by its impact upon our national security. That is its transcendent purpose.

We believe the treaty meets that test. It makes an important contribution to maintaining a stable strategic balance now and in the future.

SALT II is not a substitute for a strong defense. It complements and reinforces our defense efforts. Together, SALT II and our defense modernization programs will give us the security we need as we meet other critical challenges to America's future.

Beyond its direct contribution to our security, the SALT II treaty must also be seen in the context of the larger fabric of international relations. Approval of the treaty will help us meet several essential objectives of our foreign policy:

It will help us to defend our interests and promote our values in the world from a position of strength. For a strategic imbalance could lead some of our friends and allies to question our ability to protect our interests and theirs.

It will help us to fashion a balanced relationship with the Soviet Union in which we build on areas of mutual interest but do not let the benefits of cooperative measures blind us to the reality of our continuing competition.

It will reinforce the confidence of our allies and help strengthen the alliances through which our own security is enhanced.

And it will enable us to broaden the work of arms control, so we can encourage the further transfer of attention and resources to steps which will lift the human condition.

SALT will also meet the expectations of the American people. Our people look to both the Administration and the Congress to shape a sound and sensible national security policy. They know that America's leadership in the world depends upon wisdom as well as strength. They want us to search for peace and cooperation even as we maintain a strong defense. They wisely reject a euphoric view of detente, but they do not want a return to the undiluted hostility of the Cold War.

We do not suggest that SALT II will by itself carry us to a new world of prosperity and peace. Even with this treaty there will be continued tests of our political will. Substantial new investments will be required to keep our defenses strong and ready.

Nor do we suggest that if SALT is not approved, we could not survive. We could.

The issue is whether we would be in a better or worse position, whether our national security and foreign policy would be enhanced and strengthened or hurt and weakened, as some suggest, by the approval of this treaty.

U.S.-SOVIET RELATIONS

The decision on SALT II will have a direct and important impact on our relationship with the Soviet Union.

The growth of nuclear arms has altered that relationship in fundamental ways. We continue to have sharply different values and different views on many issues. Yet, in a nuclear age, each nation understands the importance of seeking agreement where our interests coincide.

For the foreseeable future, our relationship with the Soviet Union will continue to have two strands. One is the steady pursuit of measures of cooperation and restraint. There is no reason why we cannot benefit from carefully negotiated arms control, economic, or cultural agreements just because the Soviet Union also benefits.

At the same time, the process of seeking restraint and broadening areas of cooperation cannot be allowed for a moment to divert our attention and determination from the fact of continuing competition with the Soviets in many areas.

It is imperative, in an era of continuing competition, that we not allow a military imbalance which could offer the Soviets either political or military advantages. During the 1940's and 50's, and into the 60's, the United States enjoyed an extraordinary advantage in nuclear weapons. Given the Soviets' industrial power and the destructive nature of nuclear weapons, our monopoly could not last. It was inevitable that the Soviets would develop a nuclear arsenal of their own. Since then we have come to a condition of strategic parity which must be preserved. So long as it is preserved, neither side can expect to use its weapons for unilateral advantage.

We cannot hope to turn back the clock and recapture our earlier wide advantage. All we could expect from the attempt would be a spiraling arms race that would be costly, dangerous and futile. Secretary Brown summed up the situation last April in Chicago when he said ". . . equivalence and deterrence are at one and the same time our maximum feasible, and our minimum tolerable, objectives."

The challenge of the 1980's and 90's is to maintain both deterrence and equivalence, for both military and political reasons. The Soviet Union must never be able to use any edge in military weapons to shape the course of world events.

Perceptions of our strength and resolve are crucial. If there were doubts about the credibility of our deterrent, third countries could feel more vulnerable to Soviet pressure. The result could be a lessening of American influence and a more dangerous world.

We have no way to measure precisely how large a military discrepancy would have to be to cause political harm. We also have no interest in experimentation. The surest way to prevent political harm is to preserve an essential equivalence between our forces and those of the Soviet Union. As Secretary Brown and I discussed in detail yesterday, that is precisely what SALT II will help us to do. Indeed, equivalence is the premise of this treaty. With the future strategic balance more secure, we can most effectively compete wherever necessary.

What would happen to the U.S.-Soviet relationship if SALT II were rejected? We cannot know entirely. But it is clear that we would be entering a period of greater uncertainty.

I see no reasonable basis for believing that if SALT II is not ratified, the Soviet Union will be induced to moderate its defense spending or become more cooperative in the Third World. In the absence of SALT, however, we face unlimited nuclear competition and a serious increase in U.S.-Soviet tensions. In such an atmosphere, each crisis and each confrontation could become far more dangerous.

We do not negotiate arms control on the basis of friendship. We do not see it as a reward for Soviet behavior. As President Carter has stated, it is precisely because of our fundamental differences that we must bring the most dangerous dimension of our military competition under control.

We must be clear about the message we want to convey, both to current Soviet leaders and to the next generation:

That we are committed to the building of a stable and peaceful world in which fundamental human rights are universally respected;

That we will firmly oppose any effort that threatens the peace and security of this nation and its friends;

But that we are also prepared to move ahead in those areas where cooperation can bring gains for both sides, particularly in lightening the burdens and lessening the dangers of nuclear arms.

Both the competitive and the cooperative strands of our policy must be pursued. SALT II contributes to both. Its rejection, by diminishing the possibilities for future cooperation, could make the competition more dangerous and difficult.

U.S. ALLIANCES

Let me turn to the relationship of this treaty to NATO and our other alliances.

America's allies fully support the SALT II treaty. Just as our partners look to us for leadership in strengthening the military position of our alliances—which we are doing—they also expect and want us to lead in the quest for greater security and stability through arms control.

In particular, our NATO allies see their security enhanced by the agreement in three ways:

A destabilizing and unregulated competition in strategic forces between the United States and the Soviet Union could create new tensions, and thus military dangers, in Europe;

Increasing the U.S. resources devoted to such a strategic competition could divert from our efforts, together with our NATO partners, to strengthen NATO's conventional and theater nuclear forces; and

The possibility of improving western security through other arms control efforts—especially MBFR [mutual and balanced force reductions] and possible future negotiations involving theater nuclear forces—depends heavily on securing a SALT II treaty.

Our allies also see their political well-being served by the agreement. To them, improved relations with the U.S.S.R. means families re-united, contacts with their fellow Europeans in the East expanded, and hopes for a more tranquil continent advanced. They know that failure to agree on SALT II could cast a chilling shadow over the whole range of East-West relations.

Our allies had specific interests and concerns in connection with SALT II. The questions they raised were related to specific points, not to the enterprise as a whole. And in each case we have developed mutually acceptable solutions. Because we have no more important international priority than political and military solidarity with our allies, I want to describe these solutions in some detail.

In the North Atlantic Council on June 29th, we addressed two issues of central importance to our allies' concerns, on which we consulted closely.

First, to make clear that SALT II does not foreclose future options with regard to either arms control or modernization of theater nuclear weapons, we stated that any future limitations on U.S. systems principally designed for theater missions should be accompanied by appropriate limitations on Soviet theater systems.

Second, to make clear that nothing in the treaty would prevent continued cooperation in weapons technology and systems, we stated in detail our views on the effect of the treaty on alliance cooperation and modernization. We stressed that in the treaty we have undertaken no obligation on noncircumvention beyond the basic tenets of international law, and that the treaty will not affect existing patterns of collaboration and cooperation with our allies. Nor will it preclude cooperation on modernization. We also recalled that in the SALT II negotiations, we rejected a provision on nontransfer of weapons and technology. And we defined in detail our policy on such transfers. The text of our statement is a part of my prepared testimony so that it can be examined in full.

At this same meeting on June 29th, our NATO allies issued a formal joint statement which read in part:

"The Allies have concluded that the new agreement is in harmony with the determination of the Alliance to pursue meaningful arms control measures in the search for a more stable relationship between the East and West. The Allies therefore hope that the agreement will soon enter into force. This treaty responds to the hope of the Allies for a reduction in nuclear arsenals and thus offers a broader prospect for detente. The Allies note that the treaty fully maintains the U.S. strategic deterrent, an essential element for the security of Europe and of North America."

Thus, the NATO allies have endorsed the SALT II treaty on two levels:

They are convinced that it preserves all essential defense options, to sustain deterrence in Europe; and

They believe the treaty serves a necessary role in the overall East-West political and strategic relationship.

Beyond Europe, this treaty is supported by our other friends and allies around the world.

I have just returned from a 2-week trip throughout the Pacific region. In Tokyo, in Korea, at the meeting of the ASEAN [Association of South East Asian Nations] Foreign Ministers, and at the ANZUS [Australia, New Zealand, United States pact] meeting in Australia, our friends and allies emphasized to me that they view this treaty as contributing to stability and peace in the world and to the ability of the United States to continue to meet its regional commitments.

OTHER ARMS CONTROL

Beyond its effects on East-West relations and the interests of our allies, SALT II is important to all of our other efforts toward arms restraint. The accumulation and spread of modern arms—including conventional arms—is a burden on the world and a central challenge to our leadership. The global arms buildup conflicts with every one of our international aims—peace; human development; and greater attention to such issues as energy, the environment, population, and all other common needs of the human family.

This challenge calls for an unrelenting commitment to restrain the growth of arms, so that scarce resources in all nations can be used in better ways. Yet our prospects for success in other key arms control efforts could turn on the fate of SALT II.

We have other serious arms control talks underway with the Soviet Union. We are negotiating, for example, to limit antisatellite weapons, in order to protect the observation and communications vehicles which are vital in times of calm and indispensable in times of crisis. We are negotiating with the Soviet Union and Britain toward a potential ban on nuclear testing which could be a significant restraint on the arms race. Failure of the SALT treaty could jeopardize these endeavors.

The outlook for arms control elsewhere would also be dimmed. For our arguments in favor of restraint by others will be judged in large part by our commitment to SALT.

More than a dozen nations have the capacity to develop a nuclear weapon within 2 years of making such a decision. In a world of intense regional disputes, the risk this poses to peace—and to our own safety—is evident. These nations will be less likely to exercise restraint if they see the two nuclear superpowers unable to agree about nuclear restraint.

The nonproliferation treaty itself specifically provides that the nuclear-weapons states will pursue effective arms control measures. Our progress in fulfilling that obligation will undoubtedly be a major focus of next year's review conference on the nonproliferation treaty. Without the SALT II treaty, the authority of our efforts to halt the worldwide spread of nuclear weapons would be undermined.

Failure of SALT II could also damage our efforts to limit transfers of conventional weapons—both with major suppliers like the Soviet Union and with Third World arms consumers. Even under the best of circumstances this is a difficult task. Yet we must be committed to the effort, for the flow of arms depletes precious resources and heightens the potential danger and destructiveness of volatile regional tensions.

Let us therefore demonstrate that our commitment to the control of arms is genuine. By acting in our own self-interest, we can also help create a world environment which promotes the interests of people elsewhere.

Finally, beyond using SALT to advance our foreign policy goals, we should assure that our actions on this issue fairly reflect the values and the hopes of the American people. I believe the American people have a sound understanding of our security needs. They have supported the increased defense effort this Administration has proposed.

Certainly this country possesses the technology and the funds to achieve effective deterrence and essential equivalence at any level that unlimited competition brings about. But the higher the level, the greater the sacrifice from our own citizens—and with less assurance of achieving these objectives.

If we engage in a needless arms race, I believe we would part company with the American people. They support a strong defense. But they have other priorities as well, including urgent needs in the areas of energy and inflation. And they understand that such an arms race would not enhance our security.

CONCLUSION

In sum, the SALT II treaty and the commitments we have made to strengthen our strategic forces will have a profound influence on the character of American leadership in the world. Obviously, with or without this treaty, we will face an imposing array of challenges and problems. But if we are to meet them, SALT II is an important and necessary first step:

The treaty will promote our security by helping us maintain a strong position of strategic equivalence and manage our most dangerous relationship.

It will help keep our alliances secure and united.

It will serve our interests throughout the world.

In all of these ways, approval of SALT II will reflect what I believe to be the basic posture of the American people—not a pointless belligerence but a sensible determination to defend our nation and our interests, to advance our ideals, and to preserve the peace and safety of the entire human race.●

JOYCE AMENTA RECEIVES CERTIFICATE IN DATA PROCESSING (CDP)

● Mr. PELL. Mr. President, I was recently notified by Mr. Coleman Furr, chairman of the CDP certification council of the Institute for Certification of Computer Professionals that Joyce Amenta, a member of the Rules Committee staff, has distinguished herself by successful completion of the certificate in data processing examination. She joins two members of the Senate computer center staff, Richard B. Reed and Joseph R. (Dick) Langley, and John K. Swearingen of the Rules Committee staff, who also hold the certificate in data processing. This certificate is awarded to candidates who have achieved a high level of professional competence in data processing, who subscribe to a code of ethics and good practice, and who have demonstrated their willingness to work toward standards of excellence in this emerging field. The fact that four employees of the Senate have achieved this high professional recognition speaks well for the level of technical competence among our employees. I extend my congratulations to all of them, and ask that Mr. Furr's letter be printed in the Record at the end of my remarks.

John K. Swearingen, director of technical services for the Rules Committee, developed the certificate in data processing in 1961. He was elected the first president of the Institute for Certification of Computer Professionals in 1973, an organization established by several of the major data processing associations to administer the certification program.

Joyce Amenta serves the Rules Committee as a senior systems analyst in computer technology with primary areas of responsibility in computer-assisted text processing, electronic photocomposition, micrographic systems, automated indexing, and related systems. Prior to her employment with the Senate, she served both private industry and the executive branch. She is an active member of the Data Processing Management Association, Association for Computing Machinery, and a former member of the National Computer Conference Steering Committee.

Joyce Amenta, Dick Reed, Dick Langley, and John Swearingen deserve special recognition for their professional achievement. I ask that the Code of Ethics, and Codes of Conduct and Good Practice for Certified Computer Professionals be printed in the Record.

The material follows:

OCTOBER 18, 1979.

Hon. CLAIBORNE PELL,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

MY DEAR SENATOR: We are pleased to announce that the Institute for Certification of Computer Professionals (ICCP) has awarded the "Certificate in Data Processing" (CDP) to Joyce Amenta.

This certificate is awarded to candidates who have successfully passed the annual CDP Examination and represents a significant achievement by a member of your staff.

Having earned the CDP designation, recipients subscribe to a Code of Ethics and Codes of Conduct and Good Practice for Certified Computer Professionals. Adherence to these Codes is considered to be an integral part of professional activities and a copy is enclosed for your perusal.

Persons sitting for the annual CDP Examination demonstrate their willingness to work toward the establishment of new standards of excellence in this emerging field.

It would be a personal privilege to respond with any further information concerning our activities that your office may deem helpful.

Sincerely,

COLEMAN FURR,
CDP, Chairman.

CODE OF ETHICS FOR CERTIFIED COMPUTER PROFESSIONALS

Certified computer professionals, consistent with their obligation to the public at large, should promote the understanding of data processing methods and procedures using every resource at their command.

Certified computer professionals have an obligation to their profession to uphold the high ideals and the level of personal knowledge certified by the Certificate held. They should also encourage the dissemination of knowledge pertaining to the development of the computer profession.

Certified computer professionals have an obligation to serve the interests of their employers and clients loyally, diligently, and honestly.

Certified computer professionals must not engage in any conduct or commit any act which is discreditable to the reputation or integrity of the computer profession.

Certified computer professionals must not imply that the Certificates which they hold are their sole claim to professional competence.

CODES OF CONDUCT AND GOOD PRACTICE FOR CERTIFIED COMPUTER PROFESSIONALS

The essential elements relating to conduct that identify a professional activity are:

A high standard of skill and knowledge.

A confidential relationship with people served.

Public reliance upon the standards of conduct and established practice.

The observance of an ethical code.

Therefore, these Codes have been formulated to strengthen the professional status of certified computer professionals.

1. Preamble:

1.1: The basic issue, which may arise in connection with any ethical proceedings before a Certification Council, is whether a holder of a Certificate administered by that Council has acted in a manner which violates the Code of Ethics for certified computer professionals.

1.2: Therefore, the ICCP has elaborated the existing Code of Ethics by means of a Code of Conduct, which defines more specifically an individuals' professional responsibility. This step was taken in recognition of questions and concerns as to what constitutes professional and ethical conduct in the computer profession.

1.3: The ICCP has reserved for and delegated to each Certification Council the right to revoke any Certificate which has been issued under its administration in the event that the recipient violates the Code of Ethics, as amplified by the Code of Conduct. The revocation proceedings are specified by rules governing the business of the Certification Council and provide for protection of the rights of any individual who may be subject to revocation of a Certificate held.

1.4: Insofar as violation of the Code of Conduct may be difficult to adjudicate, the ICCP has also promulgated a Code of Good Practice, the violation of which does not in itself constitute a reason to revoke a Certificate. However, any evidence concerning a serious and consistent breach of the Code of Good Practice may be considered as additional circumstantial evidence in any ethical proceedings before a Certification Council.

1.5: Whereas the Code of Conduct is of a fundamental nature, the Code of Good Practice is expected to be amended from time to time to accommodate changes in the social environment and to keep up with the development of the computer profession.

1.6: A Certification Council will not consider a complaint where the holder's conduct is already subject to legal proceedings. Any complaint will only be considered when the legal action is completed, or it is established that no legal proceedings will take place.

1.7: Recognizing that the language contained in all sections of either the Code of Conduct or the Code of Good Practice is subject to interpretations beyond those intended, the ICCP intends to confine all Codes to matters pertaining to personal actions of individual certified computer professionals in situations for which they can be held directly accountable without reasonable doubt.

2. Code of Conduct:

2.1: Disclosure: Subject to the confidential relationships between oneself and one's employer or client, one is expected not to transmit information which one acquires during the practice of one's profession in any situation which may harm or seriously affect a third party.

2.2: Social Responsibility: One is expected to combat ignorance about information processing technology in those public areas where one's application can be expected to have an adverse social impact.

2.3: Conclusions and Opinions: One is expected to state a conclusion on a subject in one's field only when it can be demonstrated that it has been founded on adequate knowledge. One will state a qualified opinion when expressing a view in an area within one's professional competence but not supported by relevant facts.

2.4: Identification: One shall properly qualify oneself when expressing an opinion outside of one's professional competence in the event that such an opinion could be identified by a third party as expert testimony, or if by inference the opinion can be expected to be used improperly.

2.5: Integrity: One will not knowingly lay claims to competence one does not demonstrably possess.

2.6: Conflict of Interest: One shall act with strict impartiality when purporting to give independent advice. In the event that the advice given is currently or potentially influential to one's personal benefit, full and detailed disclosure of all relevant interests will be made at the time the advice is provided. One will not denigrate the honesty or competence of a fellow professional or a competitor, with intent to gain an unfair advantage.

2.7: Accountability: The degree of professional accountability for results will be dependent on the position held and the type of work performed. For instance:

A senior executive is accountable for the quality of work performed by all individuals the person supervises and for ensuring that recipients of information are fully aware of known limitations in the results provided.

The personal accountability of consultants and technical experts is especially important because of the positions of unique trust inherent in their advisory roles. Consequently, they are accountable for seeing to it that known limitations of their work are fully disclosed, documented, and explained.

2.8: Protection of Privacy: One shall have special regard for the potential effects of computer-based systems on the right of privacy of individuals whether this is within one's own organization, among customers or suppliers, or in relation to the general public.

Because of the privileged capability of computer professionals to gain access to computerized files, especially strong strictures will be applied to those who have used their positions of trust to obtain information from computerized files for their personal gain.

Where it is possible that decisions can be made within a computer-based system which could adversely affect the personal security, work, or career of an individual, the system design shall specifically provide for decision review by a responsible executive who will thus remain accountable and identifiable for that decision.

3. Code of Good Practice:

3.1: Education: One has a special responsibility to keep oneself fully aware of developments in information processing technology relevant to one's current professional occupation. One will contribute to the interchange of technical and professional information by encouraging and participating in education activities directed both to fellow professionals and to the public at large. One will do all in one's power to further public understanding of computer systems. One will contribute to the growth of knowledge in the field to the extent that one's expertise, time, and position allow.

3.2: Personal Conduct: Insofar as one's personal and professional activities interact visibly to the same public, one is expected to apply the same high standards of behavior in one's personel life as are demanded in one's professional activities.

3.3: Competence: One shall at all times exercise technical and professional competence at least to the level one claims. One shall not deliberately withhold information in one's possession unless disclosure of that information could harm or seriously affect another party, or unless one is bound by a proper, clearly defined confidential relationship. One shall not deliberately destroy or diminish the value or effectiveness of a computer-based system through acts of commission or omission.

3.4: Statements: One shall not make false or exaggerated statements as to the state of affairs existing or expected regarding any aspect of information technology or the use of computers.

In communicating with lay persons, one shall use general language whenever possible and shall not use technical terms or expressions unless there exist no adequate equivalents in the general language.

3.5: Discretion: One shall exercise maximum discretion in disclosing, or permitting to be disclosed, or using to one's own advantage, any information relating to the affairs of one's present or previous employers or clients.

3.6: Conflict of Interest: One shall not hold, assume, or consciously accept a position in which one's interests conflict or are likely to conflict with one's current duties unless that interest has been disclosed in advance to all parties involved.

3.7: Violations: One is expected to report violations of the Code, testify in ethical proceedings where one has expert or first-hand knowledge, and serve on panels to judge complaints of violations of ethical conduct.●

SOVIET FORGERIES AND ANTI-AMERICAN SENTIMENT IN THE MIDDLE EAST

● **Mr. HUMPHREY.** Mr. President, yesterday, I brought yet another example of Soviet forgeries of official U.S. documents to the attention of my distinguished colleagues: A 1976 dispatch, purportedly from our Embassy in Iran, which expressed U.S. complacency about alleged Saudi and Iranian plans to overthrow Egypt's Anwar Sadat. The discovery of this forgery heightens speculation that the Soviets may be using forgeries once more to fire anti-American sentiment in the Middle East, and in particular to intensify the on-going crisis in Iran. In this respect, I would like to share two more examples of Soviet attempts to raise havoc in the Middle East through the distribution of forged U.S. documents.

An unclassified DIA study on the Soviet Union's forgery offensive states the following:

> In mid-March 1977, prints from a film negative of a forged letter to the Saudi Arabian Ambassador in Cairo turned up in an envelope found stuck in the door at the Sudanese Embassy in Beirut. The letter was purportedly signed by U.S. Ambassador to Egypt, Hermann F. Eilts, and "revealed" plotting by both Sadat and the U.S. to gain influence in Sudan. There was no covering note attached.
>
> Three months later, the signature of Ambassador Eilts was again forged, this time to a bogus "TOP SECRET" U.S. State Department "operations memorandum" attacking President Sadat for his lack of leadership, foresight and political acuity. The final paragraph of the forgery included a statement that the CIA Station Chief in Cairo shared the Ambassador's assessment of Sadat. Ten Egyptian newspapers and magazines received photocopies of the forgery by mail. There was no covering letter but the language and style of the document suggested that its writer was not a native American. The thrust and political impact of both this and the preceding Eilts forgery certainly suggested Soviet implication.

It is generally believed by our intelligence community that Soviet forgeries of U.S. documents are initiated by the Soviet Politburo, the same body which President Carter contends we can depend upon to abide by the provisions of the SALT II treaty. Mr. President, again, I ask that the Carter administration give the Congress and the American people a full report on the Soviet Union's forgery activities.●

THE CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

● **Mr. RIEGLE.** Mr. President, the Banking Committee is today reporting the "Chrysler Corporation Loan Guarantee Act of 1979." I believe the Senate should promptly enact a sound and workable response to the important national problem created by Chrysler's financial crisis.

However, the bill reported by the committee would impose a rigid 3-year freeze on Chrysler workers before Federal guarantees could be issued.

Today, the Washington Post published an editorial that strongly opposes the wage freeze as a provision that would damage the competitive efficiency of the company.

Although I disagree with the Washington Post's opposition to financial aid and employee stock ownership, the editorial makes some excellent points relating to the wage freeze, and I want to share it with my colleagues.

I ask that a copy of the article be printed in the RECORD.

The article follows:

[From the Washington Post, Dec. 6, 1979]

CHRYSLER AND THE WAGE FREEZE

> The United Auto Workers declares that it will not accept a three-year wage freeze at Chrysler, even as a condition of the federal rescue of the company. It is right. A wage freeze would have a crippling effect on the company. It would mean that, toward the end of the period, Chrysler's employees would be making perhaps one-fourth less than people doing the same work, with a much better prospect of future security, at the other automobile companies. Many employees—among the most skilled, productive and mobile—would depart. That could only diminish further the company's chance of survival.
>
> Bailing out Chrysler sets a bad precedent, and Congress shouldn't do it. But if Congress goes ahead with the rescue, it has an obligation to both the company and the taxpayers to drop the kind of hampering political conditions that the House and Senate committees have been enthusiastically stitching into it. One good reason for opposing the bail-out (there are more than one) is the fear of creating an industrial invalid that would require continual transfusions of public aid. A wage freeze would make that prospect self-fulfilling.
>
> Chrysler argues that if it can stay in business until next fall, its position will improve suddenly and sharply. The new models going into production then, the company says, will be attractive, lighter than most of their competitors, and very high in fuel mileage. As for labor costs, the company's new contract with the UAW defers wage increases for two years and returns to parity with the other manufacturers in the third year, when, Chrysler calculates, it should be earning a profit again. A two-year deferral is enough to expect from the work force in a time of high inflation.
>
> If Congress decides to enact this bill—and the decision will have to be made within the next several weeks—it should at least impose two rules on itself. It should cross out any amendments that would damage the comparative efficiency of the company. Along with the requirement of substandard wages, that means dropping the attempt to use Chrysler as a guinea pig for Sen. Russell Long's theories about employee stock options. It also means dropping the misguided language in the House bill that would try to keep Chrysler's oldest and most obsolete plants in operation.
>
> Beyond that, if Congress proceeds with this dubious experiment, it should make it explicit that federal aid would be extended only once. Chrysler says that the present crisis is unique, will last only a few months and will not recur. Congress would do well to take the company at its word. To forbid any renewals or extensions would at least acknowledge the concern that Congress might be establishing a permanent welfare case of a very expensive kind.●

A CURE FOR THE ILLS OF MILITARY MEDICINE

● **Mr. WARNER.** Mr. President, yesterday the Armed Services Committee began its deliberations on several bills concerned with military medicine. I wish to call this matter to the attention of my colleagues as I believe it deserves our close and careful consideration.

As a former enlisted man in the Navy and a former Marine Corps officer, and a former Secretary of the Navy, I am most keenly aware of the importance of maintaining the finest possible medical corps in our armed services. I am increasingly concerned, however, that the capabilities of our military medical corps have been compromised. The peacetime medical needs of active duty personnel are not now adequately being met. A recent survey revealed that 21 percent of active duty people seeking medical care at a random sampling of several Army, Navy, and Air Force facilities were unable to receive treatment and had to be referred to other facilities. In addition, serious questions have been raised about the adequacy of military medicine to meet our needs should our Nation become involved in hostilities.

I am equally concerned that the dependents of our military personnel, along with retirees and their eligible dependents, are not receiving adequate care. Although DOD is not required, by law, to provide direct medical care to these individuals or to dependents of deceased members of our armed services, I feel that our Nation has made a promise—a commitment to provide such medical care. Access to quality medical care has been available in the past and has become, in fact, one of the most prized benefits of a military career. Yet, the same survey which I previously cited found that 35 percent of active duty dependents were unable to obtain medical care at the facility closest to their home. There is also widespread dissatisfaction with the CHAMPUS program, which was initially designed as a civilian backup to the overburdened military medical system.

I am very concerned about these matters.

The basic problem appears to be an overall doctor shortage in the Armed Forces and specific shortages in certain crucial medical specialties such a radiology. Since the physician draft ended in 1973, the gap has widened in spite of scholarship programs, variable incentive pay (VIP) for physicians, and other efforts at recruitment and retention.

The Army, Navy, and Air Force medical departments project that the supply of physicians will not reach the fiscal year 1979 authorized level until 1984. Even this estimate is suspect. For example, 47 percent of a group of military physicians recently interviewed as part of a GAO survey reported that they were planning on leaving the service when their present tours are completed. They can cite as the reasons: Low pay, broken promises, poor administrative support, frequent moves, emergency room duty for specialists, and a host of other complaints.

The morale of military medics is at a low ebb. A young Navy medical officer in the news lately is a sign of the times: He has risked a court martial rather than accept sea duty, an assignment for which he contends he has not been properly trained by the Navy. Because of the manpower shortage he had to be called from a civilian training program in surgery before completing the entire residency program.

My preliminary study of these matters also points to uneven administrative support and possible shortages among nurses and trained technicians. Military medicine uses a team approach. We must see to it that the entire team is healthy.

I pledge my continued attention to these matters and I urge my colleagues to do the same. For some time now we have been applying bandaids to the body of military medicine. While I am not yet suggesting that major surgery is in order, I believe the Congress has an obligation to review the problem and then take action to provide the cure.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record the following notification I have just received:

Defense Security
Assistance Agency,
Washington, D.C.

Hon. Frank Church,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–20, concerning the Department of the Army's proposed Letter of Offer to Switzerland for defense articles and services estimated to cost $22.3 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director,
Defense Security Assistance Agency.

[Transmittal No. 80–20]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Switzerland.

(ii) Total Estimated Value: Major Defense Equipment,[1] $21.6 million; other, .7 million; Total, $22.3 million.

(iii) Description of Articles or Services Offered: Six thousand two hundred (6200) M223 DRAGON Practice Missiles.

(iv) Military Department: Army (VAJ).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology: This sale does not include any classified item and is not considered sensitive.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Data Report Delivered to Congress: 29 November 1979.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I am hoping that we might be able to get an amendment laid down tonight, so that we will have something to go on in the morning.

I yield the floor if any Senator wishes to talk about further morning business.

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS HEALTH PROGRAMS EXTENSION AND IMPROVEMENT ACT OF 1979

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3892.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3892) entitled "An Act to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to contract for the furnishing of private health care to veterans when such health care is authorized by a Veterans' Administration physician as necessary for the treatment of medical emergency, to authorize the Administrator of Veterans' Affairs to provide outpatient medical services for any disability of a veteran of World War I as if such disability were service-connected, to extend the authorization for certain expiring health care programs of the Veterans' Administration, and for other purposes", with the following amendments.

In lieu of the matter inserted by the amendment of the Senate to the text of the bill, insert:

That (a) this Act may be cited as the "Veterans Health Programs Extension and Improvement Act of 1979".

(b) Whenever in this Act (except in section 306) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EXTENSION AND IMPROVEMENT OF CERTAIN EXPIRING VETERANS' ADMINISTRATION HEALTH PROGRAMS

GRANTS TO STATE HOME FACILITIES

Sec. 101. (a) Section 5033(a) is amended by striking out "and a like sum for the succeeding fiscal year" and inserting in lieu thereof "a like sum for each of the two succeeding fiscal years, and such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982".

(b)(1) Section 641(a) is amended by striking out "$5.50", "$10.50", and "$11.50" and inserting in lieu thereof "$6.35", "$12.10", and "$13.25", respectively.

(2) The amendments made by paragraph (1) shall take effect on January 1, 1980, but, with respect to fiscal year 1980, shall take effect only to such extent and in such amounts as may be specifically provided for such purpose in appropriation Acts.

EXCHANGE OF MEDICAL INFORMATION

Sec. 102. (a) Section 5054 is amended by adding at the end the following new subsection:

"(c) The Administrator is authorized to enter into agreements with public and nonprofit private institutions, organizations, corporations, and other entities in order to participate in cooperative health-care personnel education programs within the geographical area of any Veterans' Administration health-care facility located in an area remote from major academic health centers.".

(b) Section 5055(c)(1) is amended by inserting "and for each of the three succeeding fiscal years" after "fiscal year 1979".

ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

Sec. 103. (a) Subsection (b) of section 5070 is amended to read as follows:

"(b) The Administrator may not enter into any agreement under subchapter I of this chapter after September 30, 1979.".

(b)(1) Subsection (a) of section 5082 is amended to read as follows:

"(a) There is authorized to be appropriated for carrying out programs authorized under this chapter $50,000,000 for the fiscal year ending June 30, 1973; a like sum for each of the six succeeding fiscal years; $15 million for the fiscal year ending September 30, 1980; $25 million for the fiscal year ending September 30, 1981; and $30 million for the fiscal year ending September 30, 1932.".

(2) Clause (1) of section 5083(b) is amended by striking out "and will result" and all that follows in such clause through "at such school".

TITLE II—MODIFICATION OF VETERANS HEALTH CARE AND RELATED BENEFITS

BENEFICIARY TRAVEL REIMBURSEMENT

Sec. 201. (a) Section 111(e)(2)(A) is amended by—

(1) striking out "based on an annual declaration and certification by such person" and inserting in lieu thereof "pursuant to regulations which the Administrator shall prescribe"; and

(2) striking out "a veteran" and all that follows through "title" and inserting in lieu thereof "a person receiving benefits for or in connection with a service-connected disability under this title, a veteran receiving or eligible to receive pension under section 521 of this title, or a person whose annual income, determined in accordance with section 503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 521 of this title".

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[1] As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(b) Section 601 is amended by—

(1) striking out "transportation" in paragraph (5)(A) and inserting in lieu thereof "travel";

(2) striking out subclause (ii) of paragraph (5)(C) and inserting in lieu thereof "(ii) travel and incidental expenses for such dependent or survivor under the terms and conditions set forth in section 111 of this title"; and

(3) striking out "necessary expenses of travel and subsistence" in paragraph (6)(B) and inserting in lieu thereof "travel and incidental expenses".

(c) Section 614 is amended by—

(1) striking out "necessary travel expenses" in subsection (a) and inserting in lieu thereof "travel and incidental expenses (under the terms and conditions set forth in section 111 of this title)"; and

(2) striking out "all necessary travel expenses" in subsection (b) and inserting in lieu thereof "travel and incidental expenses (under the terms and conditions set forth in section 111 of this title)".

(d) Section 628(a) is amended by striking out "the necessary travel" and inserting in lieu thereof "travel and incidental expenses under the terms and conditions set forth in section 111 of this title".

CONTRACT HOSPITAL CARE

SEC. 202. Section 601(4)(C)(iii) is amended by—

(1) striking out "hospital care" the second place it appears and inserting in lieu thereof "medical services"; and

(2) inserting "until such time as the veteran can be safely transferred to any such facility" after "of the paragraph".

LIMITATION ON FURNISHING CONTRACT CARE DENTAL TREATMENT

SEC. 203. Section 612(b) is amended by adding at the end below the last clause the following new sentence: "The total amount which the Administrator may expend for furnishing, during any twelve-month period, outpatient dental services, treatment, or related dental appliances to a veteran under this section through private facilities for which the Administrator has contracted under clause (i), (ii), or (v) of section 601 (4)(C) of this title may not exceed $500 unless the Administrator determines, prior to the furnishing of such services, treatment, or appliances and based on an examination of the veteran by a dentist employed by the Veterans' Administration (or, in an area where no such dentist is available, by a dentist conducting such examination under a contract or fee arrangement), that the furnishing of such services, treatment, or appliances at such cost is reasonably necessary.".

HEALTH BENEFITS FOR VETERANS OF MEXICAN BORDER PERIOD AND WORLD WAR I AND FOR CERTAIN SEVERELY DISABLED VETERANS

SEC. 204. Section 612(g) is amended by—

(1) striking out "Where any veteran" and inserting in lieu thereof "In the case of any veteran who is a veteran of the Mexican border period or of World War I or who"; and

(2) adding at the end thereof the following new sentence: "The Administrator may also furnish to any such veteran home health services under the terms and conditions set forth in subsection (f) of this section.".

AMENDMENTS TO CHAMPVA PROGRAM

SEC. 205. (a)(1) Section 613(a) is amended by—

(A) striking out "wife" in clause (1) and inserting in lieu thereof "spouse";

(B) striking out "and" at the end of clause (1);

(C) striking out "widow" in clause (2) and inserting in lieu thereof "surviving spouse";

(D) inserting "and" at the end of clause (2); and

(E) inserting after clause (2) the following new clause:

"(3) the surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct,".

(2) Section 613 is further amended by adding at the end the following new subsection:

"(c) For the purposes of this section, a child between the ages of eighteen and twenty-three (1) who is eligible for benefits under subsection (a) of this section, (2) who is pursuing a full-time course of instruction at an educational institution approved under chapter 36 of this title, and (3) who, while pursuing such course of instruction, incurs a disabling illness or injury (including a disabling illness or injury incurred between terms, semesters, or quarters or during a vacation or holiday period) which is not the result of such child's own willful misconduct and which results in such child's inability to continue or resume such child's chosen program of education at an approved educational institution shall remain eligible for benefits under this section until the end of the six-month period beginning on the date the disability is removed, the end of the two-year period beginning on the date of the onset of the disability, or the twenty-third birthday of the child, whichever occurs first.".

(b) The amendments made by subsection (a) shall take effect with respect to fiscal year 1980 only to such extent and for such amounts as may be specifically provided for such purpose in appropriation Acts.

EFFECTIVE DATE

SEC. 206. Except as otherwise provided in section 205(b), the amendments made by this title shall take effect on January 1, 1980.

TITLE III—VETERANS' ADMINISTRATION MEDICAL PERSONNEL AMENDMENTS AND MISCELLANEOUS PROVISIONS

MEDICAL PERSONNEL STAFFING LEVELS

SEC. 301. (a) Section 5010(a) is amended by adding at the end the following new paragraph:

"(4)(A) With respect to each law making appropriations for the Veterans' Administration, there shall be provided to the Veterans' Administration the funded personnel ceiling defined in subparagraph (D) of this paragraph and the funds appropriated therefor.

"(B) In order to carry out the provisions of subparagraph (A) of this paragraph, the Director of the Office of Management and Budget shall, with respect to each such law (i) provide to the Veterans' Administration for the fiscal year concerned such funded personnel ceiling and the funds necessary to achieve such ceiling, and (ii) submit to the appropriate committees of the Congress and to the Comptroller General of the United States certification that the Director has so provided such ceiling. Not later than the thirtieth day after the enactment of such a law or, in the event of the enactment of such a law more than thirty days prior to the fiscal year for which such law makes such appropriations, not later than the tenth day of such fiscal year, the certification required in the first sentence of this subparagraph shall be submitted, together with a report containing complete information on the personnel ceiling that the Director has provided to the Veterans' Administration for the employees described in subparagraph (D) of this paragraph.

"(C) Not later than the forty-fifth day after the enactment of each such law, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director of the Office of Management and Budget has complied with the requirements of such subparagraph in providing to the Veterans' Administration such funded personnel ceiling.

"(D) For the purposes of this paragraph, the term 'funded personnel ceiling' means, with respect to any fiscal year, the authorization by the Director of the Office of Management and Budget to employ (under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses) not less than the number of employees for the employment of which appropriations have been made for such fiscal year.".

(b) The amendment made by subsection (a) shall take effect with respect to Public Law 96–103, but, with respect to such Public Law, the certification and report required by subparagraph (B) of paragraph (4) of section 5010 of title 38, United States Code (as added by such amendment), and the report required by subparagraph (C) of such paragraph (as added by such amendment) shall be submitted to the appropriate committees of the Congress not later than January 15, 1980, and February 1, 1980, respectively.

QUALIFICATIONS OF CERTAIN HEALTH PROFESSIONALS EMPLOYED IN THE DEPARTMENT OF MEDICINE AND SURGERY

SEC. 302. (a) Section 4104(2) is amended by inserting "psychologists," after "Pharmacists,".

(b)(1) Subsection (a) of section 4105 is amended by—

(A) striking out the period at the end of clause (9) and inserting in lieu thereof a semicolon; and

(B) adding at the end the following new clause:

"(10) Psychologist—

"hold a doctoral degree in psychology from a college or university approved by the Administrator, have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Administrator, and be licensed or certified as a psychologist in a State, except that the Administrator may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.".

(2) Subsection (b) of such section is amended by inserting "podiatrist, optometrist," after "dentist,".

(c) The amendment made by subsection (b)(1) to require that a psychologist appointed to a position in the Department of Medicine and Surgery of the Veterans' Administration be licensed or certified as a psychologist in a State shall not apply to any person employed as a psychologist by the Veterans' Administration on or before December 31, 1979.

REDUCTION OF PROBATIONARY PERIOD FOR CERTAIN HEALTH PROFESSIONALS EMPLOYED IN THE DEPARTMENT OF MEDICINE AND SURGERY

SEC. 303. Section 4106(b) is amended by striking out "three years" and inserting in lieu thereof "two years".

COOPERATIVE USE AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES

SEC. 304. Section 5053(a) is amended by inserting "or organ banks, blood banks, or similar institutions" after "facilities".

SPECIAL MEDICAL ADVISORY GROUP AMENDMENTS

SEC. 305. Section 4112(a) is amended by—

(1) inserting in the first sentence "and a disabled veteran" after "professions"; and

(2) inserting in the second sentence "and, not later than February 1 of each year, shall submit to the Administrator and the Congress a report on its activities during the preceding fiscal year" after "Administrator".

TECHNICAL AMENDMENT

SEC. 306. (a) Section 601(a)(2) of the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (Public Law 96–128) is amended by striking out "clause (1)" and inserting in lieu thereof "clause (11)".

(b) The amendment made by subsection (a) shall take effect as of November 28, 1979.

AGENT ORANGE STUDY

SEC. 307. (a)(1) The Administrator of Veterans' Affairs shall design a protocol for and conduct an epidemiological study of persons who, while serving in the Armed Forces of the United States during the period of the Vietnam conflict, were exposed to any of the class of chemicals known as "the dioxins" produced during the manufacture of the various phenoxy herbicides (including the herbicide known as "Agent Orange") to determine if there may be long-term adverse health effects in such persons from such exposure. The Administrator shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to such dioxins or other dioxins.

(2)(A)(i) The study conducted pursuant to paragraph (1) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(ii) The Director shall monitor the conduct of such study in order to assure compliance with such protocol.

(B)(i) Concurrent with the approval or disapproval of any protocol under subparagraph (A)(i), the Director of the Office of Technology Assessment shall submit to the appropriate committees of the Congress a report explaining the basis for the Director's action in approving or disapproving such protocol and providing the Director's conclusions regarding the scientific validity and objectivity of such protocol.

(ii) In the event that the Director has not approved such protocol during the 180 days following the date of the enactment of this Act, the Director shall (I) submit to the appropriate committees of the Congress a report describing the reasons why the Director has not given such approval, and (II) submit an update report on such initial report each 60 days thereafter until such protocol is approved.

(C) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in the second sentence of this subparagraph, a report on the Director's monitoring of the conduct of such study pursuant to subparagraph (A)(ii). A report under the preceding sentence shall be submitted before the end of the six-month period beginning on the date of the approval of such protocol by the Director, before the end of the twelve-month period beginning on such date, and annually thereafter until such study is completed or terminated.

(3) The study conducted pursuant to paragraph (1) shall be continued for as long after the submission of the report under subsection (b)(2) as the Administrator may determine reasonable in light of the possibility of developing through such study significant new information on the long-term adverse health effects of exposure to dioxins.

(b)(1) Not later than 12 months after the date of the enactment of this Act, the Administrator shall submit to the appropriate committees of the Congress a report on the literature review and analysis conducted under subsection (a)(1).

(2) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (a)(2)(A)(i) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report containing (A) a description of the results thus far obtained under the study conducted pursuant to such subsection, and (B) such comments and recommendations as the Administrator considers appropriate in light of such results.

(c) For the purpose of assuring that any study carried out by the Federal Government with respect to the adverse health effects in humans of exposure to dioxins is scientifically valid and is conducted with efficiency and objectivity, the President shall assure that—

(1) the study conducted pursuant to subsection (a) is fully coordinated with studies which are planned, are being conducted, or have been completed by other departments, agencies, and instrumentalities of the Federal Government and which pertain to the adverse health effects in humans of exposure to dioxins; and

(2) all appropriate coordination and consultation is accomplished between and among the Administrator and the heads of such departments, agencies, and instrumentalities that may be engaged, during the conduct of the study carried out pursuant to subsection (a), in the design, conduct, monitoring, or evaluation of such dioxin-exposure studies.

(d) There are authorized to be appropriated such sums as may be necessary for the conduct of the study required by subsection (a).

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend title 38, United States Code, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise and clarify eligibility for certain health-care benefits, to revise certain provisions relating to the personnel system of the Department of Medicine and Surgery, and to assure that personnel ceilings are allocated to the Veterans' Administration to employ the health-care staff for which funds are appropriated; to require the Veterans' Administration to conduct an epidemiological study regarding veterans exposed to Agent Orange; and for other purposes."

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee I will urge the concurrence in the House amendments to the Senate amendments to the bill, the House amendments being a compromise agreed to between the two Veterans' Affairs Committees after extensive discussion. The matter has been cleared on all sides. I see the ranking minority member of the Veterans' Affairs Committee, Senator SIMPSON, on the floor.

Mr. SIMPSON. Mr. President, I do concur in the remarks of the Senator from California on H.R. 3892 and the accompanying report. It is acceptable to those on this side of the aisle.

Mr. CRANSTON. I thank my friend and colleague.

Mr. President, in order that all Senators and the public may fully understand the provisions of the compromise agreement, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks a document, entitled "Explanatory Statement on H.R. 3892, the Veterans Program Extension and Improvement Act of 1979," also inserted during consideration earlier today in the other body—accompanied by a Cordon print showing the changes that would be made in existing law by the compromise agreement—which will serve in lieu of a joint explanatory statement accompanying a conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I urge the Senate to support the pending amendment to H.R. 3892, the Veterans Health Programs Extension and Improvement Act of 1979.

The bill was originally passed by the House of Representatives on May 21, 1979. On June 18, the Senate considered S. 1039 as it had been reported favorably by the Committee on Veterans' Affairs on May 15. Following Senate debate on and amendments to S. 1039 as reported, the provisions of that measure were substituted in lieu of the provisions of H.R. 3892 as originally passed by the House, and as so amended H.R. 3892 was passed by the Senate.

The bill as it comes before the Senate today is a compromise agreed to by the two Veterans' Affairs Committees and passed by the House of Representatives earlier today.

Mr. President, this compromise represents an equitable resolution of the differences between the two Houses and, I believe, fairly vindicates the position of the Senate.

BASIC PURPOSE

The basic purpose of H.R. 3892, as it is before the Senate today, which I will refer to as "the compromise agreement," is to maintain and improve the quality, scope, and efficiency of health-care services provided the Nation's veterans by making a number of improvements to various health-care provisions in title 38 and by authorizing extensions of expiring VA health-care authorities. The measure consists of three titles: Extension and improvement of certain expiring Veterans' Administration health programs; Modifications of veterans health care and related benefits; and Veterans' Administration medical personnel amendments and miscellaneous provisions.

Mr. President, I want to explain, in summary fashion, the provisions of the compromise agreement which are described in detail in an explanatory statement that I will insert in the RECORD at the conclusion of my remarks.

TITLE I—EXTENSION AND IMPROVEMENT OF CERTAIN EXPIRING VETERANS' ADMINISTRATION HEALTH PROGRAMS

The provisions of title I would revise and extend the authorizations of appropriations in title 38, United States Code, for the program of matching-fund construction grants to State veterans' home facilities, for the exchange of medical information—EMI—program, and for the assistance to health manpower training institutions program, and would increase by 15 percent the rates of per diem paid to State veterans' homes for the provision of care to eligible veterans. Included in title I are provisions that would:

First, extend the authorizations of annual appropriations—at the present $15 million level for fiscal year 1980 and for "such sums as may be necessary" for fiscal years 1981 and 1982—for the program of matching grants to the States for the construction, remodeling, and renovation of State veterans' home hospital, nursing, and domiciliary facilities.

Second, increase the rate of per diem payments to State veterans' homes by 15 percent—to $6.35 for domiciliary care, $12.10 for nursing home care, and $13.25 for hospital care.

Third, extend through fiscal year 1982 the authorizations of annual appropriations for the EMI program at the present $4 million level.

Fourth, authorize the Administrator of Veterans' Affairs to enter into agreements under the EMI program with public or nonprofit private institutions, organizations, corporations, or entities in order to participate in cooperative health-care personnel education within the geographical area of any VA health-care facility located in an area remote from major academic health centers.

Fifth, provide a September 30, 1979, termination date for the VA's authority to enter into new agreements under subchapter I of chapter 82 of title 38 to assist in the establishment of new State medical schools.

Sixth, extend through fiscal year 1982 the authorizations of appropriations for the Administrator to provide grants to physician and other health personnel training institutions under chapter 82 at the level of $15 million for fiscal year 1980, $25 million for fiscal year 1981, and $30 million for fiscal year 1982.

Seventh, delete the requirement that, for grants to affiliated medical schools and grants for the training of nonphysician health-care personnel to be approved, such grants must result in the expansion of the number of physicians or other health-care personnel, respectively, being trained by the grant recipient.

TITLE II—MODIFICATIONS OF VETERANS HEALTH CARE AND RELATED BENEFITS

Title II of the compromise agreement would amend title 38, United States Code, to revise, clarify, limit, and expand various health-care benefits for veterans.

First, repeal a provision in existing law that requires the inability to defray travel expenses of a person claiming beneficiary travel reimbursement—except for travel with respect to a veteran receiving VA benefits for or in connection with a service-connected disability—to be determined on the basis of an annual declaration and certification, and require, instead, that the Administrator prescribe regulations to govern the determination of certain individuals' abilities to defray such travel costs; and would exempt from the necessity for such a determination, in addition to the existing exemption for service-connected veterans, other persons receiving VA benefits in connection with a service-connected disability and persons who meet the applicable income standards for VA pension eligibility.

Second, expand the current law provision for contract hospital care or medical services for a non-service-connected disability of a veteran receiving VA hospital care when the VA facility is unable to provide the care required, by authorizing contract care or services for a non-service-connected disability whenever, in the opinion of a VA-employed physician, such an emergency exists in the case of a veteran receiving VA treatment on either an inpatient or outpatient basis and by requiring that the furnishing of such care is to continue only until the veteran can be safely transferred to a VA facility.

Third, require, prior to furnishing fee-basis dental care within any 12-month period to a veteran at a cost of more than $500, that the Administrator make a determination, based on the results of an examination by a VA-employed dentist, that the furnishing of such treatment at such cost is reasonably necessary.

Fourth, authorize direct and contract outpatient care for veterans of the Mexican border period and World War I on the same basis as such care is available under present section 612(g) of title 38 for veterans who, as a result of non-service-connected disabilities, are housebound or in need of aid and attendance.

Fifth, clarify that a veteran who, as a result of a non-service-connected disability, is in need of regular aid and attendance or is housebound is eligible for home health services at a cost of no more than $600.

Sixth, provide that the surviving spouse of a person whose death during active duty service was the result of a service-connected cause would be eligible for benefits under the civilian health and medical program of the Veterans' Administration—CHAMPVA—if such surviving spouse remarried and the subsequent marriage is terminated by death, divorce, or annulment.

Seventh, provide that a CHAMPVA-eligible child between the ages of 18 and 23 who is pursuing full-time study at an approved educational institution and who suffers a mental or physical disability that prevents the child from continuing his or her study at an approved educational institution and who suffers a mental or physical disability that prevents the child from continuing his or her studies would remain eligible for benefits until 6 months after the mental or physical condition is no longer so disabling, until 2 years after the date of the onset of the disability, or until the student's 23d birthday, whichever comes first.

Eighth, provide that, except for the amendments relating to CHAMPVA—which take effect in fiscal year 1980 only to the extent and for such amount as is specifically provided for in an appropriations act for that fiscal year—the effective date of the amendments made by title II of the compromise agreement is January 1, 1980.

TITLE III—VETERANS' ADMINISTRATION MEDICAL PERSONNEL AMENDMENTS AND MISCELLANEOUS PROVISIONS

Title III would amend title 38 to assure appropriate staffing in the VA's Department of Medicine and Surgery, revise certain requirements pertaining to DM&S personnel, mandate a VA study of long-term adverse health effects of exposure during service in the Armed Forces to dioxins as contained in Agent Orange, and make other miscellaneous changes. Included in title III are provisions that would:

First, require the Director of the Office of Management and Budget to provide to the VA the personnel ceiling for VA health-care staffing for which appropriations are made and require the Director of OMB and the Comptroller General to report periodically to the Congress on compliance with this requirement.

Second, specify that psychologists are among those health professionals who may be appointed to positions in the VA's Department of Medicine and Surgery—DM&S—personnel system under title 38 and establish qualification standards, including a general requirement for licensure or certification by a State, for psychologists in DM&S who are hired after December 31, 1979.

Third, add a United States citizenship requirement for appointment of podiatrists and optometrists in DM&S.

Fourth, shorten from 3 to 2 years the probationary period for DM&S title 38 employees.

Fifth, expand the Administrator's authority to enter into sharing agreements to include agreements between VA facilities and blood banks, organ banks, and similar institutions.

Sixth, require that the membership of the Special Medical Advisory Group (SMAG) include a disabled veteran and mandate as part of the continuing duties of SMAG the submission to the Administrator and the Congress of an annual report on its activities.

Seventh, make a technical amendment to the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (Public Law 96-128) to correct a clerical error.

Eighth, direct the Administrator of Veterans' Affairs to conduct, pursuant to a protocol approved by the Director of the Office of Technology Assessment (OTA) and ongoing monitoring by the OTA Director, an epidemiological study of persons who served in the United States Armed Forces during the Vietnam conflict to determine if they have suffered long-term adverse health effects, resulting from exposure to the dioxin found in Agent Orange, a herbicide used as a defoliant in Vietnam.

Mr. President, the Congressional Budget Office is in the process of preparing a cost estimate on the compromise agreement, but has not yet completed it. I will insert that estimate into the Record, for the information of my colleagues and the public, as soon as it is available, but I assure my colleagues that this a fiscally prudent and sound measure.

COST SAVINGS PROVISIONS

Mr. President, I want particularly to highlight the provisions of the compromise agreement designed to produce cost savings for the VA.

Mr. President, when this legislation was before the Senate on June 18, there was extensive debate about certain provisions—described collectively as cost-savings provisions—in S. 1039 as reported by the committee. Those provisions dealt with three matters relating to VA health care services: Furnishing as part of outpatient care nonprescription drugs, medicines, and supplies to veterans who have no service-connected disabilities, beneficiary travel reimbursement for such veterans, and outpatient dental care for certain noncompensable service-connected conditions.

Mr. President, these provisions, which as passed were significantly modified by the committee from the form in which the administration proposed them as part of S. 741 so as to target them on ancillary services provided to non-service-connected veterans and also so as to eliminate the harshness of their impact on any truly needy individual, were tied to specific provisions relating to the maintenance of appropriate staffing levels in the VA's Department of Medicine and Surgery—DM&S. It was the committee's view that—as a result of VA health care staffing reductions imposed by the administration, contrary to the clear congressional intent behind the appropriation act providing funds for adequate staffing in fiscal year 1979, Public Law 95-392—the staffing situation in DM&S had reached such a critical stage that it was necessary to take dramatic action to demonstrate the Congress commitment to reversing the situation. The formula proposed by the committee and passed by the Senate was to refocus VA resources away from relatively less important areas into the high priority area of health-care personnel.

Mr. President, the Senate action adopting those cost-savings provisions created a great storm of opposition from veterans' organizations, which saw the Senate's action as a step toward dismantling the VA health-care system and eroding the entire range of VA benefits and services. Many of those who commented on the Senate action strongly urged that the final form of the legislation not contain these provisions, and modifications have been made in the compromise agreement as it is before the Senate today. However, as I will discuss shortly, the spirit of those provisions—a willingness to recognize that we are in a time of diminishing resources and that all Federal programs must undergo great scrutiny so as to reduce unnecessary, low-priority spending and to assure that our tax dollars are well used, and the Senate's action has been vindicated by this compromise agreement.

More importantly, Mr. President, I believe that events since the Senate first considered and passed the cost-savings provisions more clearly demonstrate the merit of that action. As I mentioned earlier, the cost-savings provisions as passed by the Senate in June were tied directly to a provision mandating the Director of OMB to provide an adequate personnel ceiling—as defined in the legislation—to DM&S. If OMB failed to provide or maintain the requisite personnel ceiling, then, under the Senate-passed bill, the cost-savings provisions would not have become effective or would have lost effect as though repealed by an act of Congress. This action by the Senate demonstrated a strong commitment to take appropriate action to restore, in part, administration-imposed staffing reductions in the VA health-care system and, I believe, had a direct influence on the action of the Congress in consideration and passage of the HUD-Independent Agencies Appropriation Act for fiscal year 1980, which was signed into law as Public Law 96-103 on November 5, 1979.

That measure included funds specifically to restore 3,800 full-time equivalent employees to the VA health-care system. Following passage of the appropriation act, I worked very hard to assure that OMB actually provided the necessary ceiling for these personnel to the VA and did not force the agency, as it had in fiscal year 1979, to use the funds for purposes other than hiring additional personnel. I am confident that the Senate's action in June in passing the cost-savings provisions with a tie-in to specific staffing levels was a major factor in leading the Congress to vote the funds for the additional personnel and OMB to release the ceiling and release it immediately upon the enactment of the appropriation act so that the VA could begin to hire the needed personnel as quickly as possible.

In that regard, I ask unanimous consent that there be printed in the Record at this point the exchange of correspondence I had with OMB Director Jim McIntyre on this staffing question.

There being no objection, the material was ordered to be printed in the Record, as follows:

Committee on Veterans' Affairs,
Washington, D.C., August 23, 1979.
Hon. James T. McIntyre, Jr.,
Director, Office of Management and Budget, Washington, D.C.

Dear Jim: I am writing to add my full support to the views expressed by Representative Ray Roberts, Chairman of the House Committee on Veterans' Affairs, in his August 3, 1979, letter to you concerning Administration plans to provide additional staff to the Veterans' Administration's Department of Medicine and Surgery (DM&S), especially as Chairman Roberts addressed the need for additional personnel to implement the Veterans' Health Care Amendments of 1979, Public Law 96-22. I am vitally concerned that the Administration provide full support to the VA, including authorizing an additional 450 full time equivalent employees (FTEEs), to carry out the full intent of Congress when P.L. 96-22 becomes effective on October 1, 1979.

As you know, the Senate, during consideration of H.R. 4394, the HUD-Independent Agencies Appropriations Act for fiscal year 1980, accepted my amendment to add $25.1 million to the VA medical care appropriation to assure the funding necessary to implement P.L. 96-22, including funds sufficient to hire 450 additional FTEEs (346 to staff the readjustment counseling program for Vietnam-era veterans and 104 to support the pilot preventive health program). However, the conferees on H.R. 4394, in the Conference Report now pending, reduced the $25.1 million add-on to $12.5 million while continuing to include $76.4 million over the President's budget specifically to fund an additional 3,800 FTEEs "only for existing programs."

It is clear that the Congress intends these 3,800 additional personnel, ceilings for which I trust will be released as soon as the Act is enacted, to offset losses previously experienced throughout the VA health care system, especially those losses resulting from the Administration's refusal to release funds appropriated last year for additional DM&S staffing, and does not intend any part of the 3,800 FTEEs to be used to implement P.L. 96-22. To provide personnel support for the new programs authorized by that law by withdrawing it from other VA functions would also be totally inconsistent with Congressional intent.

I was pleased, therefore, to note Chairman Robert's statement that Mrs. Woolsey of your staff reaffirmed to House Veterans' Affairs Committee staff members the Administration's commitment to allocate to the VA the necessary funding to support "increased medical care and medical research personnel" as required by new Congressional enactments. Clearly, the Veterans' Health Care Amendments of 1979 establishes new programs and entitlements that require such increased support. The President's strong commitment to the readjustment counseling program has been most reassuring to me, and it would be inexplicable if the additional staffing and funds were not forthcoming to implement this mandatory program fully and effectively. Similarly, I believe that the pilot preventive health care program established by the legislation may lead to important improvements in the provision of VA health care services and should be given all support necessary to assure a prompt start and meaningful evaluation.

I urge you to allocate 450 additional FTEEs to the VA and to take all other steps necessary (such as approving submission of a reprogramming notice to provide the remaining $12.6 million) to assure full and expeditious implementation of P.L. 96-22.

With warm regards,
Cordially,
Alan Cranston,
Chairman.

Committee on Veterans' Affairs,
Washington, D.C., October 10, 1979.
Hon. James T. McIntyre, Jr.,
Director, Office of Management and Budget, Washington, D.C.

Dear Jim: As you will recall, I wrote to you on August 23 regarding the Administration's plans to provide support to the Veterans' Administration, including allocating 450 additional FTEEs to the VA, for the full and expeditious implementation of the Veterans' Health Care Amendments of 1979, Public Law 96-22. In that letter, I expressed my concern that it was vital that the VA receive, as soon as possible, the necessary staffing and funds to implement fully and effectively the various programs provided for by that public law, most especially the long-overdue readjustment counseling program for veterans of the Vietnam era, so as to carry out the clear intent of Congress as reflected by the enactment of that legislation.

To date, I have not received a reply to my letter, and I would like to take this opportunity to note the colloquy (copy enclosed) that took place during Senate debate on the conference report on the HUD-Independent

Agencies Appropriations Act for Fiscal Year 1980, H.R. 4394, between Senator Proxmire, the floor manager of the bill, and me regarding the intent of the conferees on the issue of providing funds and staff to implement Public Law 96–22 (Cong. Rec., September 28, 1979, S13653–54 (daily ed.)). Specifically, I want to stress Senator Proxmire's statement that "[t]he conferees intended for Public Law 96–22 to be implemented fully" and his clear agreement that this implementation includes hiring "the needed staff" for the various programs "as intended by the Senate action in agreeing [initially] to my amendment." As I stated on July 27, 1979, when my amendment was adopted (Cong. Rec., July 27, 1979, S10745 (daily ed.)), and in the colloquy on September 28 (id. at S13654), the needed staff is 450 full-time equivalent employees (FTEEs) (346 FTEEs for the readjustment counseling program and 104 FTEEs for the pilot preventive health-care program).

Moreover, with reference to the 3,800 additional health-care personnel for the VA for which funds were specifically earmarked by the conferees, I would also stress Senator Proxmire's statement that the conferees intended that these positions "are only to support existing programs so as to remedy staffing shortfalls throughout the VA health care system and clearly are not intended for new statutory programs such as those authorized by Public Law 96–22." (Ibid.)

I believe that the foregoing debate, which was in no way contradicted in the House debate on the conference report, makes clear that the VA must have the support of OMB, including your allocation of a sufficient staff ceiling and approval of a reprogramming notice, to implement fully the public law, and I hope such support will be forthcoming immediately after enactment of H.R. 4394, the HUD-Independent Agencies Appropriations Act for FY 1980, which is expected to clear Congress the week of October 8.

I would appreciate a response to my letter of August 23 and this letter as soon as possible, and certainly prior to October 25, 1979, when the Senate and House Committees on Veterans' Affairs will undertake a joint oversight inquiry into various VA health care policies and practices.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.

Enclosure.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., October 16, 1979.

Hon. JAMES T. McINTYRE, Jr.,
Director, Office of Management and Budget, Washington, D.C.

DEAR MR. DIRECTOR: We are writing in follow-up to our letters of August 3, 1979, and August 23, 1979, which requested you to describe the Administration's plans to provide additional staff, as provided for in the pending appropriations legislation, H.R. 4394, to the Veterans' Administration's Department of Medicine and Surgery (DM&S) and Senator Cranston's recent letter of October 10, 1979, on the same subject. Specifically, we are writing, in light of the concerns we have expressed to you in those earlier letters, to invite you to testify before a very important joint oversight Senate and House Veterans' Affairs Committee hearing on October 25, 1979.

This joint hearing will focus on current VA policies for providing health care to our Nation's veterans, and specifically, current VA health-care facility admissions policies, especially with regard to veterans with non-service-connected disabilities, in light of budget and personnel restrictions applied to the VA by your office during the past year.

Although we have not received a response to our prior letters addressing our concerns about Administration plans to provide staffing ceiling to the VA, we have received information that OMB may be planning to direct the VA to absorb, out of regularly appropriated funds, 40 percent of the cost of the October 1979 federal pay raise and to submit a supplemental appropriations request for the remaining 60 percent of that pay raise. (Forty percent of the cost of the pay raise cost for employees being paid from the medical care account would amount to approximately $82.3 million). This information causes us the greatest concern since we believe that any such action would seriously impair the VA's ability to provide medical care at the level contemplated by the Congress, in direct contravention of the clear intention of both Houses of Congress. We believe that it is important that this issue be fully and authoritatively aired at the joint hearing and very much hope that you will be able to appear at that time.

Please let us have your reply at your earliest convenience.

Sincerely,

ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate.

RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C. October 24, 1979.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to the October 16 letter from you and Chairman Ray Roberts of the House Committee on Veterans' Affairs. In that letter you ask that I testify at a joint hearing of the Senate and House Veterans' Affairs Committees to address several issues relating to the fiscal year 1980 budget of the Veterans Administration.

The first of those issues concerns inclusion in the 1980 HUD-Independent Agencies Appropriation Act of funds to staff the Veterans Administration's medical care programs at a level 3,800 FTE above the President's original request. Earlier this year the President proposed funding for 2,000 of that 3,800 FTE and the personnel ceiling of the Veterans Administration was increased by 2,000 FTE at that time. This week I have advised Max Cleland, the Administrator of Veterans Affairs that upon enactment of the 1980 Appropriation Act I intend to increase his agency's ceiling by the remaining 1,800 FTE.

The second issue you have raised concerns the Administration's plans for financing the recently implemented pay raise for Federal employees. The Administration has not yet completed a full analysis of the cost of the pay raise and I am not in a position to tell you now how it will be financed in the Veterans' Administration or elsewhere. I can however assure you that I will not reduce the personnel ceiling of the Veterans' Administration in order to pay for the raise.

The third issue concerns the provision of 346 FTE to staff the recently enacted readjustment counseling program. As you know, the Administration urged enactment of this program and upon its enactment requested funds to staff it at the 346 FTE level. The Veterans' Administration's ceiling includes this 346 FTE above the level in the President's budget, and in addition to the 3,800 FTE discussed above.

Finally, you have expressed concern about our intentions regarding the 104 FTE included in the 1980 Appropriations Act for the recently enacted preventive health care program. As you know, the Administration did not support the creation of this new program. I am awaiting development of a plan for implementing the program before making any decision regarding staffing for that activity.

I hope that this response satisfactorily addresses all of your concerns. Max Cleland will be a witness at the joint hearing on October 25. As the President's principal officer responsible for veterans programs he, of course, has authority to speak for the Administration on these issues. I hope that you will understand and accede to my request that I not appear as a witness on a matter of this kind in accordance with long standing policy of the Office of Management and Budget.

Sincerely,

JAMES T. McINTYRE, Jr.,
Director.

Mr. CRANSTON. Mr. President, this result alone, I believe, vindicates the Senate's original action on this legislation. Moreover, as I mentioned earlier, the Senate's action is further vindicated by provisions that are included in the compromise agreement and by statements in the Explanatory Statement, agreed to by the two committees, that accompanies the compromise agreement today. Two specific cost-savings provisions remain, with modifications, in the compromise agreement—an amendment to the beneficiary travel reimbursement provision in title 38 and an amendment to the provision authorizing the VA to provide outpatient dental care by contract.

BENEFICIARY TRAVEL REIMBURSEMENT

Mr. President, under the first such provision—that affecting beneficiary travel reimbursement—the compromise agreement would repeal the requirement that the VA determine certain beneficiaries' inability to defray the cost of travel to a VA facility on the basis of an "annual declaration and certification" and instead require the Administrator to prescribe regulations pursuant to which an individual's inability to defray the travel cost may be determined. This change, together with an amendment excluding individuals who meet the applicable income standard for VA pension eligibility—which effectively makes truly needy individuals eligible for appropriate reimbursement for their travel to VA facilities—should enable the Administrator to tighten controls over the administration of the non-service-connected beneficiary travel reimbursement along the lines envisioned in the administration-proposed S. 741. In this way, the administration should be able to recover many of the savings—estimated at between $21.3 million, by the VA, and $28 million, by the Congressional Budget Office, under the provision passed by the Senate in June—without the need for more rigid statutory restrictions that could, as some suggested following the earlier Senate action, result in some unintended hardships.

CONTRACT DENTAL CARE

The second cost-savings provision—that related to VA contracting for outpatient dental care—Mr. President, is one part of the cost-savings proposals related to VA dental care passed by the Senate when this measure was before this body earlier this year. This amendment, which is intended to help guard against abuses of the VA's contract authority pursuant to which an individual receives dental care from a private provider at VA expense, would require the VA, before paying for such contract care furnished to an individual in any 12-month period and costing over $500, to conduct an examination to determine if the furnishing and the cost of such services is reasonably necessary. This requirement of a VA dentist conducting an exam should lead VA dentists to provide directly some, if not all, of the indicated, care that otherwise would be furnished on a fee basis, thereby leading to significant cost savings.

In addition to this dental cost-savings provision that is included in the compromise agreement, the two other dental cost-savings provisions are both discussed in the explanatory statement accompanying the compromise agreement. Although the House committee did not agree that the two other legislative changes passed by the Senate—one requiring future service persons to serve a minimum of 180 days on active duty before gaining eligibility for VA outpatient dental care for noncompensable, service-connected conditions, and the other reducing the time period following discharge within which an individual may apply for such care—are necessary at this time. The House committee did agree that the issues related to such care deserve further attention with a view toward reducing VA expenditures in this area.

One particular area discussed in the explanatory statement that the committees believe may prove meritorious in this regard concerns the responsibility of the Department of Defense to conduct comprehensive end-of-service dental exams and to correct any dental problems identified through such exams. If DOD were to accept and become capable of fully discharging this responsibility, the explanatory statement indicates the committees' belief that it might then be appropriate to remove the obligation for the VA to provide postservice dental care for noncompensable conditions. With reference to the 180-day minimum service requirement, the House committee indicated its desire to consider this requirement in a broader context of eligibility for veterans' benefits generally for former members of the All-Volunteer Armed Forces.

NONPRESCRIPTION DRUGS AND SUPPLIES

Mr. President, the explanatory statement also includes a detailed discussion on the subject matter of the third cost-savings provision passed by the Senate—which would limit the VA's furnishing of nonprescription drugs, medicines, and supplies in connection with the outpatient care of a veteran with no service-connected disability. Although the House committee opposed any statutory prohibition, such as was passed by the Senate, on the furnishing of a medicine, drug, or supply, the committees recognized that there were nonprescription items that could be subject to greater administrative limitations in the interest of achieving more economical operation of VA health-care programs and, further, that the Administrator has existing authority under present section 601(6)(A)(i) of title 38 to determine whether it is "reasonable or necessary" to provide any such item in connection with non-service-connected outpatient care. I believe that this statement by the two committees will serve as a message to the administration that the Congress expects action from within the agency to limit, by effective management, unnecessary spending and that the thrust of the administration's justification for its rather ill-defined statutory proposal in S. 741 could be effectuated administratively.

In summary, Mr. President, I believe that the Senate's action in adopting the various cost-savings proposals earlier this year is well vindicated by the compromise agreement. Not only are there specific statutory provisions that are designed to yield savings, but there is now a clear statement by the two legislative committees that there is an expectation of appropriate, cost-effective, administrative action.

AGENT ORANGE STUDY

Mr. President, the matter of the possible adverse health effects of exposure to the herbicide Agent Orange is of great concern to Vietnam veterans, their families, and the public. Veterans who served in Vietnam have voiced complaints of many very serious problems—including cancer, birth defects, miscarriages, and nervousness—that they believe are caused by exposure to Agent Orange, the herbicide that was used for defoliation in Vietnam.

As chairman of the Committee on Veterans' Affairs, I am intensely interested in the adverse health effects of exposure to Agent Orange, more specifically to dioxin—the toxic element in that herbicide, because of the widespread use of Agent Orange by U.S. military forces in Vietnam between 1965 and 1970. I have strongly urged the Federal Government to act quickly in response to the concerns of these veterans. I spoke at length about this subject on November 15 when the Senate acted on H.R. 2282, the veterans' compensation measure.

Mr. President, nearly 5,000 Vietnam veterans have presented themselves at VA health-care facilities and some 750 have filed claims for disability compensation for what they believe are Agent Orange-related health problems. So far, the VA has approved only 2 of the 750 disability compensation claims it has received over the period from late fall 1977, to September 30, 1979, and both have involved a skin condition, chloracne, about which the VA believes there is credible evidence to relate it to dioxin exposure. Resolution of the rest of these disability claims has been hampered because of the lack of validated scientific evidence connecting exposure to Agent Orange with other specific symptoms.

Mr. President, some Vietnam veterans maintain that the Federal Government is deliberately hiding the truth about Agent Orange by refusing to address responsibly the possibility that exposure to it may cause various disabilities. I regret this situation, Mr. President, and I know our Government can do better by these veterans. I strongly believe that the possibility of existing harm from the exposure of our troops in Vietnam to Agent Orange and the magnitude of public concern about this matter require the Federal Government to do all it can, without delay, to reassure these veterans and their families that their concerns are being addressed.

Mr. President, on two occasions this summer—during consideration, on June 18, of the bill before us today and, on August 3, during consideration of H.R. 2282, the Veterans' Disability Compensation and Survivor Benefits Amendments of 1979—the Senate passed a dioxin study provision, which I offered with Senators JAVITS, SIMPSON, PERCY, and MOYNIHAN, to mandate HEW to carry out a comprehensive epidemiological study of all individuals—including Vietnam veterans—exposed to dioxin in order to determine the adverse long-term health effects in humans of such exposure. That provision was deleted from the final compromise on the Veterans' Disability Compensation and Survivor Benefits Amendments of 1979, now Public Law 96-128, because the House Committee on Veterans' Affairs preferred to deal with the study provision in the context of the pending bill, H.R. 3892.

My colleagues will note, however, that the compromise agreement on the bill does not contain the Senate-passed provision. Instead, the compromise agreement contains a provision—section 307—requiring the Administrator of Veterans' Affairs to design and conduct—with ongoing monitoring by the congressional scientific agency—an epidemiological study of veterans who were exposed to Agent Orange in Vietnam. Mr. President, this is not the provision that I wanted or that I believe would be the best way to proceed. However, I believe the compromise on this provision represents the very best one possible under the circumstances, given the very strong objection of the other body to an HEW study of the veterans part of this problem.

Mr. President, the House Committee on Veterans' Affairs did not want to mandate HEW to develop and carry out a study including veterans. The very able chairman of the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits (Mr. SATTERFIELD) stressed that jurisdiction over the Department of HEW resides not with the Committee on Veterans' Affairs but the Committee on Interstate and Foreign Commerce and that he thus felt constrained—and I can understand his concerns in this regard—not to invade the jurisdiction of that other committee. Moreover, he insisted that the VA, by virtue of its mandate to provide benefits and services for veterans and their survivors, its system of records pertaining to veterans, and its extensive system of medical facilities was the most appropriate entity to conduct a study on the long-term adverse health effects on Vietnam veterans of exposure to Agent Orange.

Mr. President, on November 16, the General Accounting Office (GAO) issued a report, in response to a request made by the Senator from Illinois (Mr. PERCY) that, contrary to Defense Department statements that U.S. ground forces generally did not enter areas sprayed with Agent Orange until 4 to 6 weeks after the spraying missions occurred, those ground troops were often in the immediate vicinity of areas sprayed with the herbicide on the same day the missions occurred. This GAO report raises two major concerns. First, that U.S. ground troops actually may have been exposed to Agent Orange and its high toxic contaminant—dioxin, second, that for over 1½ years DOD apparently may not have leveled with Vietnam veterans, their families, and the public about the conduct of the herbicide spraying missions in Vietnam, the so-called ranch hand project.

Regrettably, the implication at this time is that DOD has not been forthcoming about the facts of this matter, and I have expressed these concerns to Defense Secretary Brown and urged him to make his response to the GAO report as quickly as possible. Clouding this issue further is the fact that DOD's own ranch hand study into the long-term adverse health effects on Vietnam veterans of exposure to Agent Orange has been challenged in terms of its scientific validity and objectivity. Regarding the Veterans' Administration, some also assert that because it has approved just 2 of the nearly 750 disability compensation claims based on exposure to Agent Orange, it is not concerned about the problem of exposure of Vietnam veterans of this highly toxic contaminant. I have communicated these contentions to Secretary Brown, VA Administrator Cleland, and HEW Secretary Harris and requested their responses.

I would like to note, Mr. President, that HEW, in particular the Center for Disease Control—CDC—in Atlanta, is presently doing some very fine work on a study with respect to the long-term adverse health effects on veterans who were exposed to low-level radiation during the atmospheric nuclear weapons test called Smoky.

CDC has already made substantial progress on the Smoky study, and I very much hope that, when complete, the CDC study will be a great value to the VA in adjudicating veterans' disability claims based on radiation exposure at nuclear tests. Thus, I am convinced—and so have pursued the provision for the Agent Orange study as passed by the Senate this summer—that, in terms of scientific validity, objectivity, and, most important, responsiveness to the concerns of Vietnam veterans, their families, and the public, HEW is the best equipped agency to conduct the necessary epidemiological study or studies on the long-term adverse health effects on various populations, including veterans, that were exposed to various dioxins.

Mr. President, the situation I have outlined above bears heavily on the credibility of the Federal Government in its dealings with individual citizens. I strongly believe that it is incumbent upon the Federal Government to move, without further delay, on a study of the long-term adverse health effects on veterans of exposure to Agency Orange in a manner that will be scientifically valid, objective, and credible.

Although the compromise agreement does not include the provision I had wanted and thought best, it is my view that the provision now before us will adequately meet these criteria when coupled with the general dioxin-exposure study to be carried out by HEW pursuant to the original bill—which will fall within the jurisdiction of the Committee on Interstate and Foreign Commerce in the other body—I will be submitting immediately after the Senate disposes of the pending measure. I consider prompt congressional action to enact this companion measure part and parcel of the compromise now before us and call upon the other body to act with dispatch in considering it.

Here is what the compromise agreement in H.R. 3892 would do:

First, require the Administrator of Veterans' Affairs to design a protocol for and conduct an epidemiological study to determine the long-term adverse health effects of Agent Orange in Vietnam veterans who were exposed to it.

Second, require that the Director of the Congressional Office of Technology Assessment—OTA—must approve the protocol for the study before the study can be initiated and must monitor the VA's conduct of the study and report to the appropriate committees of the Congress at various specified times regarding the design of the protocol and the VA's conduct of the study to assure that the VA study is moving expeditiously, validly, and objectively according to the OTA-approved protocol.

Third, require the President to assure—which will be able to be accomplished through the Federal interagency task force which, as I indicated in my November 15 floor statement, the President will shortly establish—that the design and conduct of the VA study is fully coordinated with other Federal studies—past, ongoing, or planned—through active consultation by the Administrator with the other Federal agencies concerned and, further, assure that all Federal efforts in the area of dioxin-exposure research are fully coordinated and that there is wide and ongoing consultation among all the agencies involved.

Mr. President, under the conditions in the compromise agreement, I expect—and fully intend to do my utmost to assure—that the VA will conduct a study that is scientifically valid and objective. The explanatory statement that accompanies the compromise agreement makes special note of the VA's authority to enter contracts for any necessary services for or in connection with any portion of this study. I urge the VA to make full use of this authority, if necessary. I believe that, utilizing the contract authority and the vast resources available in the Department of Medicine and Surgery, the VA can do a creditable and credible job to make meaningful contributions to current scientific knowledge about the long-term effects of exposure to dioxin.

Mr. President, I call upon all of those concerned about this very serious problem to give the VA a chance to do the job. I am confident that Max Cleland will do his very best to see that it is done.

I therefore urge my colleagues to give their support to this very significant and long-awaited step toward finding answers to this very serious problem.

Mr. President, I would also note that section 502 of Public Law 96-128, the Compensation Act signed into law on November 28, requires the Director of the National Institute of Occupational Safety and Health—NIOSH—upon the request of another Federal agency and under section 6103(m)(3) of the Internal Revenue Code, to request from the Internal Revenue Service—IRS—current mailing-address information on persons certified as possibly having been exposed to occupational health hazards during military service and to supply that information to the requesting agency for medical followup and benefits notification purposes. This new authority should greatly facilitate the identification and location of the individuals who may have been exposed to Agent Orange. I urge the VA, HEW, and the IRS to use it fully and promptly in carrying out this study and the HEW study I am about to discuss.

Mr. President, as I indicated earlier, a crucial part of the compromise agreement with respect to the Agent Orange study provision is a commitment I received from the chairman of the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits who also serves as the ranking majority member of the Subcommittee on Health and the Environment of the House Committee on Interstate and Foreign Commerce (Mr. SATTERFIELD) to move ahead with separate legislation to mandate the Secretary of HEW to design and conduct an epidemiological study on populations—including chemical workers, agricultural workers, Forest Service workers, and others—who were exposed to dioxins. These populations need to be studied in order to assure that all possible steps are taken to find the answers to the many questions that have been raised about dioxin exposure—both in terms of Vietnam veterans and the general citizenry. He agreed to do everything he could to move such separate legislation expeditiously through the House—although not necessarily in the exact form of the bill that I plan to call up immediately following consideration of H.R. 3892.

Mr. President, I greatly appreciate this cooperation from the distinguished gentleman from Virginia and look forward to working very closely with him and the Commerce Subcommittee chairman, my very close friend and colleague (Mr. WAXMAN) and my close associate of so many years, the subcommittee ranking minority member (Mr. CARTER).

Finally, Mr. President, regarding Agent Orange, I want to note that a compendium of documents relating to Federal activities on the Agent Orange issue will be printed in an appendix to the printed hearing record for the pending legislation—H.R. 3892 and S. 1039—which will be available from the committee early next year.

CONCLUSION

Mr. President, as I noted earlier, I believe that this compromise represents a fair resolution of the differences between the bills as passed by the two Houses and vindicates the Senate's position on many significant points. Thus, I recommend this compromise to the Senate today.

In closing, I want to thank again the chairman of the Subcommittee on Medical Facilities and Benefits on the House Committee on Veterans' Affairs (Mr. **Satterfield**) as well as the chairman of the full committee (Mr. **Roberts**) and the ranking minority member on the full committee and the subcommittee (Mr. **Hammerschmidt**) for their cooperation in fashioning this compromise agreement. I am also very grateful to my distinguished colleague, the ranking minority member of our committee, the Senator from Wyoming (Mr. **Simpson**) as well as the other members of the committee for their fine work on this measure.

In addition, I would like to recognize certain of the members of the House committee staff whose expertise and hard work helped make the development of this measure possible—Mack Fleming, Jack McDonell, Ralph Casteel, and Paul Mills—as well as the members of our committee staff who participated in this effort—Bill Brew, Ed Scott, Molly Milligan, Jon Steinberg, Cheryl Beversdorf, and Harold Carter. They were extremely ably assisted by Janice Orr, Terri Morgan, Becky Walker, Karen Anne Smith, Ann Garman, Jim MacRae, and Walter Klingner. I am also very grateful for the fine work of our legislative counsels—Hugh Evans in the Senate and Bob Cover in the House, and to the VA for its technical assistance.

Mr. President, I urge my colleagues to support the pending amendment.

EXPLANATORY STATEMENT OF H.R. 3892, THE VETERANS PROGRAMS EXTENSION AND IMPROVEMENT ACT OF 1979

TITLE I. EXTENSION AND IMPROVEMENT OF CERTAIN VETERANS' ADMINISTRATION HEALTH PROGRAMS

State veterans' home construction grant assistance program and increase in per diem payments to State homes

Both the Senate amendment (in section 101) and the House bill (in section 3(a)) would extend the authorizations of appropriations for the VA's program of Federal-State matching fund grants to States for the construction, expansion, remodeling or alteration of State veterans homes and both would authorize the appropriation of $15 million annually. Under the Senate amendment, this grant program would be extended through fiscal year 1982; the House bill would extend the program through fiscal year 1984. The Senate amendment, but not the House bill, also would amend the present limit on the amount any one State may receive in any one fiscal year—one-third of the total amount appropriated for the grant program for that fiscal year—so as to allow a State to receive not more than $3 million or one-third of the amount appropriated, whichever is greater.

On the length of the extension, the House recedes with an amendment authorizing the appropriation of such sums as may be necessary for fiscal years 1981 and 1982. The Senate recedes on the amendment to the limitation on the amount any one State may receive.

In adopting "such sums" authorizations for fiscal years 1981 and 1982, the Committees stress their view that they are not suggesting that an appropriation of less than $15 million is required for this very cost-effective program; indeed, in view of the backlog of $33.3 million in approvable projects, it is the Committees' view that at least $15 million is required, and the "such sums" provision is included to allow the Administrator to seek appropriation levels in excess of $15 million.

The Senate amendment (in section 103), but not the House bill, would provide for a 15-percent increase in per diem payments to State veterans' homes.

The House recedes with an amendment providing that the increase in per diem rates shall take effect on January 1, 1980, but for fiscal year 1980 only to the extent and for such amount as is specifically provided for in an appropriation Act.

With respect to the State homes programs under subchapter V of chapter 17 and subchapter III of chapter 81 of title 38, the Committees are not in agreement with the September 20, 1977, opinion of the General Counsel of the Veterans' Administration regarding the eligibility for such programs of the Commonwealth of Puerto Rico, which in the Committee's view, is presently so eligible. It is the Committees' understanding that, in light of this expression of congressional intent, the General Counsel will issue an opinion confirming the eligibility of Puerto Rico.

Exchange of medical information program

Section 102: Both the Senate amendment (in section 102) and the House bill (in section 3(b)) would extend the authorizations of appropriations for the VA's Exchange of Medical Information (EMI) program—the Senate amendment through fiscal year 1982 and the House bill through fiscal year 1984—and both would authorize the appropriation of $4 million annually. The Senate amendment, but not the House bill, would provide clear authority for the Administrator to enter into agreements with public and non-profit private organizations for cooperative health-care personnel education programs within the geographic areas served by VA health-care personnel facilities located in areas remote from major academic medical centers.

The House recedes.

Assistance to health manpower training institutions

Section 103: The House bill (in section 3(d)), but not the Senate amendment, would make permanent the annual $50 million appropriation authorization for the VA program of grants for physician and other health-personnel training institutions under chapter 82, (the authorizations of appropriations for which expired at the end of fiscal year 1979), would specify a termination date of December 31, 1979, for the Administrator's authority to enter into agreements under subchapter I to assist in the establishment of new State medical schools, and would delete the requirement that, for grants to affiliated medical schools and grants for the training of non-physician health-care personnel to be approved, such grants must result in the expansion of the number of physicians or other health-care personnel, respectively, being trained by the grant recipient.

The Senate recedes with amendments limiting the extension to three years with annual authorizations of appropriations of $15 million, $25 million, and $30 million for fiscal years 1980, 1981, and 1982, respectively, and terminating the authority for new subchapter I grants on September 30, 1979, rather than December 31, 1979.

The House bill's provision for a termination date of December 31, 1979, for the Administrator's authority to enter into agreements under subchapter I corresponded with the existing calendar-year basis of the authorities to enter into agreements under the chapter. Since the proposed extensions of authorizations of appropriations are on a fiscal-year basis and the VA has indicated that it has no plans to enter into any new agreements under subchapter I to assist in the establishment of additional State medical schools, the compromise agreement provides a September 30, 1979, termination date for this subchapter I authority.

In this connection, the Committees note that it is their intention that this expiration of the authority to enter into new agreements not be considered to preclude the Administrator and a State medical school developed with subchapter I assistance from subsequently entering into one or more supplemental agreements amending the existing agreement and that existing agreements may be amended after September 30, 1979, for any of the same kinds of purposes that are currently permissible, for example, for the purpose of increasing VA support for construction—to offset the effects of inflation on construction costs or for other appropriate reasons—in order to make it possible for the originally intended purpose of the agreement to be fulfilled.

TITLE II. MODIFICATIONS OF VETERANS HEALTH CARE AND RELATED BENEFITS

Beneficiary travel reimbursement

Section 201: The Senate amendment (in section 201), but not the House bill, would limit beneficiary travel reimbursement (except for travel by special vehicles such as ambulance or air ambulance) for persons other than veterans or persons receiving title 38 benefits in connection with a service-connected disability to those who are receiving or are eligible to receive pension (or who meet the income standard for the receipt of pension) under section 521 of title 38 and, in such cases, would limit reimbursement for any one trip to or from a VA facility to the excess over $4 until the veteran had absorbed $100 of unreimbursed travel expense during the year.

The compromise agreement repeals a provision in existing law that requires a person claiming travel reimbursement—except for travel with respect to a veteran receiving VA benefits for or in connection with a service-connected disability—to be determined, on the basis of an annual declaration and certification, to be unable to defray the cost of such travel and requires, instead, that the Administrator prescribe regulations pursuant to which certain individuals' abilities to defray the cost of travel may be determined and also exempts persons who meet the applicable income standards for pension eligibility under section 521 from any such determination requirement. The compromise agreement also incorporates the Administration's proposal from the Senate amendment to expand—from "veterans" to "persons"—the category of beneficiaries eligible for travel reimbursement without demonstrating inability to defray the costs of travel.

By eliminating the requirement of determinations of inability to defray such costs on the basis of "annual" declarations and requiring the Administrator to develop a regulatory scheme for evaluating the ability of needy, non-service-connected veterans to defray the cost of travel to VA facilities, the Committees intend that the VA tighten controls over the administration of such non-service-connected beneficiary travel reimbursement. The effect of the change from "veterans" to "persons" would be to include beneficiaries—certain dependents and survivors of certain service-connected disabled veterans—eligible for education and training benefits under chapter 35, as well as certain household members of certain veterans receiving chapter 17 health care.

The Senate bill (in section 201(b)), but not the House amendment, would make technical amendments to various subsections of chapter 17 to substitute a standard phrase, "travel and incidental expenses", for various forms of references to beneficiary travel benefits.

The House recedes with technical amendments.

Emergency contract hospital care

Section 202: The House bill (in section 1), but not the Senate amendment, would expand the current law provision for hospital care or medical services for a non-service-connected disability of a veteran receiving VA hospital care (or hospital care at a non-VA Federal government facility with which the VA has contracted) when the VA (or such other Federal government) facility is unable to provide the care required, by authorizing contract care or services for a non-service-connected disability whenever in the opinion of a VA-employed physician such emergency exists—regardless of whether the veteran is receiving VA hospital care.

The Senate recedes with amendments making technical changes and specifying that the furnishing of contract care and treatment is to continue only until the emergency no longer exists and the veteran can be safely transferred to a VA (or other Federal) facility.

The Committees intend that this provision be strictly construed so as to avoid any possibility of its misuse to pay for contract care in community facilities in situations that are not truly of an emergency nature or for such care for a period of time longer than necessary to stabilize the emergency condition sufficiently to allow the veteran to be transferred in safety to a VA (or other Federal) facility.

Chiropractic services

The Senate amendment (in section 202), but not the House bill, would provide for the reimbursement (or direct payment) of reasonable charges for chiropractic services, not otherwise covered by available health insurance or other reimbursement, furnished (prior to September 30, 1983) to certain veterans with neuromusculoskeletal conditions of the spine; and would limit the amount payable for such services furnished an individual veteran to $200 per year and total VA expenditures for chiropractic services to $4 million in any fiscal year.

The Senate recedes.

It is the understanding of both Committees that the VA generally has authority, which it has to date chosen not to use, to provide chiropractic services directly, through chiropractors whom it may employ, as part of hospital care as defined in section 601(5) (A) (i) of title 38 and medical services as defined in section 601(6), to any veteran eligible to receive such care or services who is in need of chiropractic services, and to provide such chiropractic services on a contract basis under the general criteria prescribed in section 601(4) (C) for the provision of care and treatment on a contract basis. Although the House Committee is opposed to the provision in the Senate amendment allowing the veteran to obtain chiropractic services at VA expense without any advance VA approval or authorization of the services, both Committees disagree with the VA's position that it should refuse to provide chiropractic services to veterans in every case and believe that chiropractic services for the treatment of musculoskeletal conditions of the spine may be beneficial and necessary in some cases. Therefore, the Committees urge the VA's Department of Medicine and Surgery to reevaluate its position and to use its existing authorities to provide, at least on a pilot basis, chiropractic services in appropriate cases as part of the hospital care or medical services furnished to veterans.

Outpatient eligibility for dental benefits for certain service-connected noncompensable conditions

The Senate amendment (in section 203), but not the House bill, would limit the furnishing of outpatient dental services, dental treatment, and related dental appliances to a veteran with a service-connected, noncompensable (zero-rated) dental condition or disability to only those veterans who have served on active duty for a period of at least 180 days and made application for such treatment within 6 months after discharge and as to whom the Department of Defense has not certified, in writing, that the veteran was provided, during the 90 days immediately prior to such veteran's discharge, a complete dental examination (including x-rays) and all appropriate dental services and treatment indicated by such examination.

The Senate recedes.

The House Committee was not convinced that there was sufficient evidence to indicate that the one-year period following discharge or release for making application for care for a service-connected, noncompensable dental condition or disability is excessive. Thus, the provision proposed in the Senate amendment to reduce that period to six months was deleted from the compromise agreement.

With respect to the proposed 180-day minimum-service requirement, the House Committee recognized that the proposal may have some merit as a reasonable precondition to eligibility for the dental-care benefit concerned, but took the position that, rather than impose such a minimum service requirement on a piecemeal basis with respect to one particular benefit, it would be preferable to consider such a requirement on a broader scale after a comprehensive review is made of the minimum service requirements for veterans' benefits generally for former members of the all-volunteer Armed Forces. In this connection, the Committees note that neither has yet had the opportunity to evaluate fully the implications of various bills generally dealing with these issues.

The Committees are in agreement that the dental services concerned should more properly be the primary responsibility of the Department of Defense to be furnished during the individual's period of active-duty service. However, the House Committee believes that, in light of the Department's current inability to furnish such services to the majority of service personnel and its apparent lack of intention to do so in the foreseeable future, it would be premature to enact the provision that would make ineligible for the VA services concerned an individual to whom the Department had certified that it had provided a complete dental examination and all indicated treatment within the last 90 days prior to the individual's discharge or release.

The Committees strongly urge the Administration to include in the Defense Department's budget for fiscal year 1981 and subsequent years provision for sufficient staff and funds to meet the dental care needs of active-duty personnel—at least to the extent of providing, as part of end-of-tour or separation physical examinations, adequate examinations (with x-rays) and treatment for conditions detected as a result thereof. If this were accomplished in a way deemed adequate by the Committees, they would reconsider—as the VA has urged—the need for continuing this post-service VA dental care benefit.

Section 203: The Senate amendment (in section 203), but not the House bill, would require the VA, before an individual veteran could receive dental care on a contract basis costing over $500 in any twelve-month period, to conduct an examination to determine if the furnishing of such services is reasonably necessary.

The House recedes with an amendment permitting the examination to be made by a dentist under contract to the VA where no VA dentist is available to do so (such as is the case with respect to contracting for a physician examination under present sections 601(4) (C) (ii) and 620(d) of title 38 and physician and psychological examinations in present section 612A(b) (1)), and clarifying that the $500-limitation applies to the cost of the care provided in any twelve-month period—not to expenditures within such period.

Nonprescription drugs, medicines, and supplies

The Senate amendment (in section 204), but not the House bill, would limit the furnishing of nonprescription drugs, medicines, and medical supplies in connection with non-service-connected outpatient care generally to those veterans with a service-connected disability, regardless of whether or not the condition for which the veteran is receiving care is service-connected, and to those veterans who are receiving or are eligible to receive pension (or who meet the income standard for receipt of pension) under section 521 of title 38; and would require the Administrator to promulgate regulations authorizing the furnishing of nonprescription drugs, medicines, and supplies as part of non-service-connected outpatient care in order to avoid substantial hardship that would result from the extraordinary cost to the veteran of obtaining such products commercially.

The Senate recedes.

Although the House Committee is opposed to any statutory prohibition on the furnishing of a medicine, drug, or supply that a VA physician orders, both Committees note that the Administrator has considerable discretion under present section 601(6) (A) (i) of title 38 to determine whether it is "reasonable or necessary" to provide any such item and to assure that such items are provided in reasonable, minimum quantities.

In this connection, however, the Committees do not believe that any medicine, drug, or supply that a physician or dentist appropriately orders for use in connection with the treatment of a service-connected condition or disability or any disability of a veteran with a 50-percent or more service-connected rating may reasonably be determined not to be either reasonable or necessary to be provided. With this caveat, the Committees believe that the VA presently has ample statutory authority to place administrative limitations on the provision of non-prescription items (such as aspirins, liniments, dressings, and cough syrups) and that, in the interest of more economical operation of VA health-care programs, the Department of Medicine and Surgery should establish system-wide guidelines aimed at providing reasonable limitations on the extent of the provision of such items.

Health benefits for veterans of Mexican border period and World War I

Section 204(a)(1): Both the Senate amendment (in section 208) and the House bill (in section 2) include provisions to address the non-service-connected, outpatient medical needs of veterans of World War I. Under the House bill, such veterans would have been made eligible to receive outpatient and contract care for non-service-connected disabilities on the same basis as such care is authorized for service-connected disabilities, but with an annual statutory limit of $26 million on expenditures for the care provided on the basis of the new eligibility. The Senate amendment would have established the category of non-service-connected World War I veterans as a new, fifth priority for VA outpatient care.

The compromise agreement authorizes VA outpatient care for veterans of World War I, as well as for veterans of the Mexican border period, on the same basis as is available under present section 612(g) of title 38 for housebound veterans or veterans in need of aid and attendance.

Under this provision, which will become effective on January 1, 1980, a veteran of either of these two periods of war would have full eligibility for outpatient care for a non-service-connected disability in VA facilities and would be eligible for contract out-patient care when the general conditions for the provision of contract care under section 601 are satisfied—that VA facilities (or other Federal facilities with which the Administrator contracts) are in capable of providing care economically because of geographical inaccessibility or are unable to provide the required care—and it is determined, on the basis of a physical examination, that the medical condition of the veteran precludes appropriate treatment in a VA (or other Federal) facility.

Home health services for veterans who are housebound or in need of regular aid and attendance

Section 204(a)(2): The Senate amendment (in section 205), but not the House bill, would authorize the VA to furnish home health service (with a $600 limit) to housebound veterans or veterans in need of aid and attendance.

The House recedes.

Amendments to CHAMPVA program

Section 205: The Senate amendment (in section 206), but not the House bill, would make consistent the medical care benefits for surviving spouses and children provided under the VA's CHAMPVA program and the Department of Defense's CHAMPUS program. Under present law, an eligible surviving spouse of a deceased veteran who remarries and whose subsequent marriage is terminated regains general title 38 benefit eligibility including CHAMPVA eligibility. However, an eligible surviving spouse of a person who dies on active duty does not regain CHAMPUS eligibility even though he or she remarries and the remarrige is terminated. The Senate amendment would remove this anomoly by making the surviving spouse in the latter case eligible for CHAMPVA benefits.

A similar anomoly exists in the case of eligibility for an eligible child pursuing full-time studies. A CHAMPUS-eligible child retains eligibility for such benefits if he or she incurs a physical or mental breakdown that causes a break in the studies, whereas a CHAMPVA-eligible child loses eligibility if there is a break in the course of studies. The Senate amendment would remove this disparity by providing that a CHAMPVA-eligible child would retain his or her eligibility on the same terms as a CHAMPUS-eligible child.

The House recedes with amendments making technical changes and providing that these new eligibilities for medical care benefits shall take effect on January 1, 1980, but, for fiscal year 1980, only to the extent and for such amount as is specifically provided for in an appropriations act.

TITLE III. VETERANS' ADMINISTRATION MEDICAL PERSONNEL AMENDMENTS AND MISCELLANEOUS PROVISIONS

Medical personnel staffing levels

Section 301: Both the Senate amendment (in section 207) and the House bill (in section 4) contain provisions related to staffing levels for the VA health-care system. Under the Senate amendment, before the cost-saving provisions included in the Senate amendment, could take and remain in effect, the Director of the Office of Management and Budget (OMB) would be required to have provided the VA with the health-care staffing levels for which Congressional appropriations were made. Provisions were also included for the Comptroller General to evaluate OMB's action in allocating the ceiling and to advise the Congress whether the appropriate personnel ceilings were provided. The House bill would have mandated not less than 191,513 FTE medical care and research personnel for fiscal year 1980, subject to the availability of appropriations, and would have mandated that personnel for any new VA health-care facility or program would be in addition to this level.

The compromise agreement requires the Director of OMB to provide to the VA the personnel ceiling for VA health-care staffing for which appropriations are made, but does not tie this requirement to any other VA program or authority or fixed ceiling. The compromise agreement also sets forth specific time frames, including specific deadlines with respect to appropriations action for fiscal year 1980, within which OMB must certify to the Congress that the funded personnel ceilings have been provided to the VA and the Comptroller General must advise the Congress on OMB's compliance with the law.

The Committees believe that it is essential that, when the Congress appropriates funds specifically designed for VA personnel levels, OMB not thwart the will of Congress by requiring the VA to use the funds so appropriated for other purposes (as occurred in fiscal year 1979 when funds appropriated for additional personnel were diverted, at OMB's direction, to cover in part the VA's cost of the Federal government pay raise).

The term "for which appropriations have been made for . . . [a particular] fiscal year" in subparagraph (D) of new paragraph (4) of section 5010(a), as used with respect to an appropriation Act, means the appropriations amount that is identified unequivocally in the legislative history of such Act (including the President's budget submissions for the appropriations account involved) as intended to support a specified employment level.

Qualifications of certain health professionals employed in Department of Medicine and Surgery

Section 302: The Senate amendment (in section 301), but not the House bill, would require that VA psychologists be licensed or certified by a State but would allow the VA a waiver authority not to exceed two years for any psychologist and would exempt psychologists employed by the VA as of May 1, 1979; and would require VA podiatrists and optometrists to be U.S. citizens.

The House recedes with an amendment to change the exemption date to December 31, 1979.

Reduction of probationary period for certain health professionals employed in Department of Medicine and Surgery

Section 303: The Senate amendment (in section 302), but not the House bill, would reduce the probationary period of VA title 38 medical employees from 3 years to 2 years.

The House recedes.

Sharing agreements for specialized medical resources

Section 304: The Senate amendment (in section 303), but not the House bill, would expand the authority of the VA to enter into sharing agreements to include sharing between VA hospitals and blood banks, organ banks, and similar institutions.

The House recedes but, in so doing, notes the concern that the VA must be judicious in entering into sharing agreements with institutions such as blood banks and organ banks to assure that the Federal government receives appropriate benefit from such arrangements and to avoid situations similar to that experienced in 1978 by the Kansas City VA Medical Center where the VA was put to great expense to support establishment of a private organ bank with no apparent benefit to the Federal government and appropriated funds were thus misused to support a private enterprise.

Special medical advisory group

Section 305: The compromise agreement includes a provision which amends the statutory authority of the Special Medical Advisory Group (SMAG—established pursuant to section 4112 of title 38) to require the inclusion on such group of a disabled veteran (intended to be a service-connected veteran) and to mandate as part of the continuing duties of SMAG the submission to the Administrator and the Congress of an annual report on its activities.

Technical amendment

Section 306: The compromise agreement includes a technical amendment to the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (Public Law 96-128) to correct a clerical error in an effective date provision.

Agent Orange study

Section 307: The Senate amendment (in section 304), but not the House bill, would mandate the Secretary of Health, Education, and Welfare, in consultation with other Federal departments and agencies, to conduct a scientific, epidemiological study of various populations, including individuals who served in the Armed Forces in Vietnam, to determine if there may be long-term health effects in humans from exposure to the class of chemicals known as "the dioxins" including exposure to the herbicide known as "Agent Orange."

The House recedes with an amendment directing that the study be restricted to individuals who served in the Armed Forces of the United States during the Vietnam conflict and that the study be designed and conducted by the Administrator of Veterans' Affairs pursuant to a protocol approved by the Director of the Office of Technology Assessment, who is also assigned responsibility for monitoring the VA's compliance with the protocol and reporting to the Congress at specified intervals on the execution of his responsibilities. The study provision also directs the President to assure that the VA study is fully coordinated with other Federal studies (past, on-going, or planned) and that all Federal efforts in the area of dioxin research be fully coordinated; and authorizes the appropriation of such sums as may be necessary for the conduct of the mandated study.

The Committees made these changes in the study provision because of the VA's responsibility for veterans' programs, access to the records of the veteran population, and extensive system of medical facilities. In addition, the Committees note their view that the VA, by virtue of its traditional mandate to provide services and benefits for veterans and their survivors is the Federal agency most likely to carry out the needed study with the requisite sympathy and understanding for the individuals concerned. The Committees also note that the VA has authority, pursuant to section 213 of title 38, to enter into contracts with private or public agencies or persons for any necessary services for or in connection with any portion of the mandated study. With reference to the subsection providing an authorization of appropriations "for the conduct of the study", the Committees note that it is their intention that this provision relate specifically to the actual conduct of the study, not to the design of the protocol. It is the opinion of the Committees that the VA has the existing resources within the funds previously appropriated by Congress for VA health-care research activities for the current fiscal year to fund the design of the protocol and that, therefore, activities to prepare the protocol should begin immediately following enactment of the Act with no delay to seek an appropriation for such purpose.

The Committees also stress the importance of the provision directing the President to assure (preferably through an interagency task force) that the mandated study be fully coordinated with other on-going or future governmental studies on possible adverse health effects related to exposure to dioxin so that all such studies will be scientifically valid and accomplished with maximum objectivity and efficiency.

Changes made in existing law

The following materials show the changes made in existing law by the compromise agreement.

Changes in existing law made by the compromise agreement are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 1—GENERAL

* * * * *

§ 111. Travel expenses

(a) Under regulations prescribed by the President pursuant to the provisions of this section, the Administrator may pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Veterans' Administration facility or other place in connection with vocational rehabilitation, counseling required by the Administrator pursuant to chapter 34 or 35 of this title, or for the purpose of examination, treatment, or care. In addition to the mileage allowance authorized by this section, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

(b) Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

(1) the mileage allowance authorized by subsection (a) hereof;

(2) actual travel expenses;

(3) the expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

(c) When any person entitled to mileage under this section requires an attendant (other than an employee of the Veterans' Administration) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

(d) The Administrator may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Veterans' Administration facility.

(e)(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

(2) In no event shall payment be provided under this section—

(A) unless the person claiming reimbursement has been determined, [based on an annual declaration and certification by such person] *pursuant to regulations which the Administrator shall prescribe,* to be unable to defray the expenses of such travel (except with respect to a [veteran] *person* receiving benefits for or in connection with a service-connected disability under *this title, a veteran receiving or eligible to receive pension under section 521 of this title, or a person whose annual income, determined in accordance with section 503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 521 of* this title);

(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation and;

(C) in excess of the actual expense incurred by such person as certified in writing by such person.

(3) In conducting investigations and determining rates under this section, the Administrator shall review and analyze, among other factors, the following factors:

(A)(i) Depreciation of original vehicle costs;

(ii) gasoline and oil costs;

(iii) maintenance, accessories, parts, and tire costs;

(iv) insurance costs; and

(v) State and Federal taxes.

(B) The availability of and time required for public transportation.

(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

(4) Before determining rates under this section, and not later than sixty days after the effective date of this subsection, and thereafter not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates the Administrator proposed to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.

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PART II—GENERAL BENEFITS

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

621. Power to make rules and regulations.
622. Statement under oath.
623. Furnishing of clothing.
624. Hospital care, medical services and nursing home care abroad.
626. Reimbursement for loss of personal effects by natural disaster.
627. Persons eligible under prior law.
628. Reimbursement of certain medical expenses.

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Subchapter I—General

§ 601. Definitions.

For the purposes of this chapter—

(1) The term "disability" means a disease, injury, or other physical or mental defect.

(2) The term "veteran of any war" includes any veteran of the Indian Wars, or any veteran awarded the Medal of Honor.

(3) The term "period of war" includes each of the Indian Wars.

(4) The term "Veterans' Administration facilities" means—

(A) facilities over which the Administrator has direct jurisdiction;

(B) Government facilities for which the Administrator contracts; and

(C) private facilities for which the Administrator contracts when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide (i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of section 612(f) of this title; (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving [hospital care] *medical services* in a facility described in clause (A) or (B) of this paragraph *until such time as the veteran can be safely transferred to any such facility;* (iv) hospital care for women veterans; or (v) hospital care, or medical services that will oviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and private facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but the authority of the Administrator under this subclause (except with respect to Alaska and Hawaii) shall expire on December 31, 1981, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico and to the Virgin Islands of the restrictions in this subclause with respect to hospital patient loads and incidence of provision of medical services.

(5) The term "hospital care" includes—

(A)(i) medical services rendered in the course of the hospitalization of any veteran, and (ii) [transportation] *travel* and incidental expenses pursuant to the provisions of section 111 of this title;

(B) such mental health services, consultation, professional counseling, and training for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and

(C)(i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, and (ii) [transportation] *travel* and incidental expenses for such dependent or survivor [of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation.] *under the terms and conditions set forth in section 111 of this title.*

(6) The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services—

(A) (i) surgical services, dental services and appliances as authorized in section 612 (b), (c), (d), and (e) of this title, optometric and podiatric services, and (except under the conditions described in section 612(f)(1)(A) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

(B) such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

(i) of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

(ii) in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(B) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital.

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, [necessary expenses of travel and subsistence] *travel and incidental expenses* of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of dependent or survivor of a veteran receiving care under the last sentence of section 613 (b) of this title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.

(7) The term "domiciliary care" includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title.

(8) The term "rehabilitative services" means such professional counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provided under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.

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Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

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§ 612. Eligibility for medical treatment

(a) Except as provided in subsection (b), the Administrator, within the limits of Veterans' Administration facilities, may furnish such medical services as the Administrator finds to be reasonably necessary to any veteran for a service-connected disability. The Administrator may also furnish to any such veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities. In the case of any veteran discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, such services may be so furnished for that disability, whether or not service-connected for the purposes of this chapter.

(b) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(1) which is service-connected and compensable in degree;

(2) which is service-connected, but not compensable in degree, but only (A) if it is shown to have been in existence at time of discharge or release from active military, naval, or air service and (B) if application for treatment is made within one year after such discharge or release, except that if a disqualifying discharge or release has been corrected by competent authority, application may be made within one year after the date of correction or the date of enactment of this exception, whichever is later;

(3) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(4) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

(6) from which a veteran of the Spanish-American War or Indian Wars is suffering;

(7) from which any veteran of World War I, World War II, the Korean conflict, or the Vietnam era who was held as a prisoner of war for a period of not less than six months is suffering; or

(8) from which a veteran who has a service-connected disability rated as total is suffering.

In any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of subsections (a) and (f) of this section and section 601(4)(C) of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Administrator shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 601(4)(C) of this title for contracting with private facilities and in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Administrator determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Administrator shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this subsection shall include a comment by the Administrator on the effect of the application of the criteria prescribed in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans.

(c) Dental services and related appliances for a dental condition of disability described in clause (2) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

(d) Dental appliances, wheelchairs, artificial limbs, trusses, special clothing, and similar appliances to be furnished by the Administrator under this section may be procured by the Administrator either by purchase or by manufacture, whichever the Administrator determines may be advantageous and reasonably necessary.

(e) Any disability of a veteran of the Spanish-American War or Indian Wars, upon application for the benefits of this section or outpatient medical services under section 624 of this title, shall be considered for the purposes thereof to be a service-connected disability incurred or aggravated in a period of war.

(f) The Administrator, within the limits of Veterans' Administration facilities, may furnish medical services for any disability on an outpatient or ambulatory basis—

(1) to any veteran eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or (to the extent that facilities are available) to obviate the need of, hospital admission, or (B) where such a veteran has been furnished hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care (for a period not in excess of twelve months after discharge from inhospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated); and

(2) to any veteran who has a service-connected disability rated at 50 per centum or more.

The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities).

(g) [Where any veteran] *In the case of any veteran who is a veteran of the Mexican border period or of World War I or who* is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound, or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance, the Administrator, within the limits of Veterans' Administration facilities, may furnish the veteran such medical services as the Administrator finds to be reasonably necessary. *The Administrator may also furnish to any such veteran home health services under the terms and conditions set forth in subsection (f) of this section.*

(h) The Administrator shall furnish to each veteran who is receiving additional compensation or allowance under chapter 11, or increased pension as a veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran. The Administrator shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

(i) Not later than ninety days after the effective date of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

(1) To any veteran for a service-connected disability.

(2) To any veteran described in subsection (f)(2) of this section.

(3) To any veteran with a disability rated as service-connected.

(4) To any veteran being furnished medical services under subsection (g) of this section.

(j) In order to assist the Secretary of Health, Education, and Welfare in carrying out national immunization programs pursuant to other provisions of law, the Administrator may authorize the administration of immunizations to eligible veterans (voluntarily requesting such immunizations) in connection with the provision of care for a disability under this chapter in any Veterans' Administration health care facility, utilizing vaccine furnished by the Secretary at no cost to the Veterans' Administration, and for such purpose, notwithstanding any other provision of law, the Secretary is authorized to provide such vaccine to the Veterans' Administration at no cost and the provisions of section 4116 of this title shall apply to claims alleging negligence or malpractice on the part of Veterans' Administration personnel granted immunity under such section.

§ 613. Medical care for survivors and dependents of certain veterans

(a) The Administrator is authorized to provide medical care, in accordance with the provisions of subsection (b) of this section, for—

(1) the [wife] *spouse* or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, [and]

(2) the [widow] *surviving spouse* or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability, *and*

(3) the surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct,

who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS).

(b) In order to accomplish the purposes of subsection (a) of this section, the Administrator shall provide for medical care in the same or similar manner and subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 (CHAMPUS), by—

(1) entering into an agreement with the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, the Secretary enters into to carry out such chapter 55, and under which the Administrator shall fully reimburse the Secretary for all costs and expenditures made for the purposes of affording the medical care authorized pursuant to this section; or

(2) contracting in accordance with such regulations as the Administrator shall prescribe for such insurance, medical service, or health plan as the Administrator deems appropriate.

In cases in which Veterans' Administration medical facilities are particularly equipped to provide the most effective care and treatment, the Administrator is also authorized to carry out such purposes through the use of such facilities not being utilized for the care of eligible veterans.

(c) For the purposes of this section, a child between the ages of eighteen and twenty-three (1) who is eligible for benefits under subsection (a) of this section, (2) who is pursuing a full-time course of instruction at an educational institution approved under chapter 36 of this title, and (3) who, while pursuing such course of instruction, incurs a disabling illness or injury (including a disabling illness or injury incurred between terms, semesters, or quarters or during a vacation or holiday period) which is not the result of such child's own willful misconduct and which results in such child's inability to continue or resume such child's chosen program of education at an approved educational institution shall remain eligible for benefits under this section until the end of the six-month period beginning on the date the disability is removed, the end of the two-year period beginning on the date of the onset of the disability, or the twenty-third birthday of the child, whichever occurs first..

§ 614. Fitting and training in use of prosthetic appliances; seeing-eye dogs

(a) Any veteran who is entitled to a prosthetic appliance shall be furnished such fitting and training, including institutional training, on the use of such appliance as may be necessary, whether in a Veterans' Administration facility or other training institution, or by outpatient treatment, including such service under contract, and including [necessary travel expenses] *travel and incidental expenses (under the terms and conditions set forth in section 111 of this title)* to and from such veteran's home to such hospital or training institution.

(b) The Administrator may provide seeing-eye or guide dogs trained for the aid of the blind to veterans who are entitled to disability compensation, and may pay [all necessary] travel *and incidental* expenses (*under the terms and conditions set forth in section 111 of this title*) to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs. The Administrator may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the handicap of blindness.

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Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

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§ 628. Reimbursement of certain medical expenses

(a) The Administrator may, under such regulations as the Administrator shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including [the necessary] travel *and incidental expenses under the terms and conditions set forth in section 111 of this title*), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible such veteran's entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

(3) Veterans' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

(b) In any case where reimbursement would be in order under subsection (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

(1) to the hospital or other health facility furnishing the care or services; or

(2) to the person or organization making such expenditure on behalf of such veteran.

* * * * *

Subchapter V—Payments to State Homes

§ 641. Criteria for payment

(a) The Administrator shall pay each State at the per diem rate of—

(1) [$5.50] *$6.35* for domiciliary care.

(2) [$10.50] *$12.10* for nursing home care, and

(3) [$11.50] *$13.25* for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veteran's care in such State home.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

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Subchapter I—Organization; General

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§ 4104. Additional appointments

There shall be appointed by the Administrator additional personnel as the Administrator may find necessary for the medical care of veterans, as follows:

(1) Physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries;

(2) Pharmacists, *psychologists*, physical therapists, occupational therapists, dietitians, and other scientific and professional personnel, such as bacteriologists, chemists, biostatisticians, and medical and dental technologists.

§ 4105. Qualifications of appointees

(a) Any person to be eligible for appointment to the following positions in the Department of Medicine and Surgery must have the applicable qualifications:

(1) Physicians—

hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Administrator, have completed an internship satisfactory to the Administrator, and be licensed to practice medicine, surgery, or osteopathy in a State;

(2) Dentist—

hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Administrator, and be licensed to practice dentistry in a State;

(3) Nurse—

have successfully completed a full course of nursing in a recognized school of nursing, approved by the Administrator, and be registered as a graduate nurse in a State;

(4) Director of a hospital, domiciliary, center or outpatient clinic—

have such business and administrative experience and qualifications as the Administrator shall prescribe;

(5) Podiatrist—

hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;

(6) Optometrist—

hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and be licensed to practice optometry in a State;

(7) Pharmacist—

hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Administrator, and be registered as a pharmacist in a State;

(8) Physical therapist, occupational therapist, dietitians, and other personnel shall have such scientific or technical qualifications as the Administrator shall prescribe;

(9) Physician assistants and expanded-function dental auxiliaries shall have such medical or dental and technical qualifications and experience as the Administrator shall prescribe[.]*;*

(10) Psychologist—

hold a doctoral degree in psychology from a college or university approved by the Administrator, have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Administrator, and be licensed or certified as a psychologist in a State, except that the Administrator may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that such psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.

(b) Except as provided in section 4114 of this title, no person may be appointed in the Department of Medicine and Surgery as physician, dentist, *podiatrist, optometrist,* nurse, physician assistant, or expanded-function dental auxiliary unless such person is a citizen of the United States.

(c) Notwithstanding any other provision of law, no person may be appointed under section 4104(1) of this title after the effective date of this subsection to serve in the Department of Medicine and Surgery in any direct patient-care capacity unless the Chief Medical Director determines, in accordance with regulations which the Administrator shall prescribe, that such person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such person to carry out such person's health-care responsibilities satisfactorily.

§ 4106. Period of appointments; promotions

(a) Appointments of physicians, dentists, podiatrists, optometrists, and nurses shall be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Administrator, without regard to civil-service requirements.

(b) Such appointments as described in subsection (a) of this section shall be for a probationary period of [three] *two* years and the record of each person serving under such appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Administrator, and if said board shall find him not fully qualified and satisfactory he shall be separated from the service.

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§ 4112. Special medical advisory group and other advisory bodies

(a) The Administrator shall establish a special medical advisory group composed of members of the medical, dental, podiatric, optometric, and allied scientific professions *and a disabled veteran,* nominated by the Chief Medical Director, whose duties shall be to advise the Administrator, through the Chief Medical Director, and the Chief Medical Director direct, relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery. The special medical advisory group shall meet on a regular basis as prescribed by the Administrator *and, not later than February 1 of each year, shall submit to the Administrator and the Congress a report on its activities during the preceding fiscal year*. The number, terms of service, pay, and allowances to members of such advisory group shall be in accord with existing law and regulations.

(b) In each case where the Administrator has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization, for the training or education of health service personnel, the Administrator shall establish an advisory committee (that is, deans committee, medical advisory committee, or the like). Such advisory committee shall advise the Administrator and the Chief Medical Director with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed and may be established on an institutionwide, multidisciplinary basis or on a regional basis whenever such is found to be feasible. Members of each such advisory committee shall be appointed by the Administrator and shall include personnel of the Veterans' Administration and the entity with which the Administrator has entered into such contract or agreement. The number of members and terms of members of each advisory committee shall be prescribed by the Administrator.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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Subchapter I—Acquisition and Operation of Medical Facilities

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§ 5010. Operation of medical facilities

(a)(1) The Administrator, subject to the approval of the President, is authorized to establish and operate not less than one hundred and twenty-five thousand hospital beds in medical facilities over which the Administrator has direct jurisdiction for the care and treatment of eligible veterans. The Administrator shall staff and maintain, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services.

(2) The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration medical facilities so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of hospital, nursing home, and domiciliary care, and of medical services furnished pursuant to section 612 of this title.

(3) The Chief Medical Director shall periodically analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and the Administrator shall annually advise each committee of the results of such analysis and the number of any additional beds and treatment capacities and the appropriate staffing and funds therefor found necessary to meet the needs of such veterans for such necessary care and services.

(4)(A) With respect to each law making appropriations for the Veterans' Administration, there shall be provided to the Veterans' Administration the funded personnel ceiling defined in subparagraph (D) of this paragraph and the funds appropriated therefor.

(B) In order to carry out the provisions of subparagraph (A) of this paragraph, the Director of the Office of Management and Budget shall, with respect to each such law (i) provide to the Veterans' Administration for the fiscal year concerned such funded personnel ceiling and the funds necessary to achieve such ceiling, and (ii) submit to the appropriate committees of the Congress and to the Comptroller General of the United States certification that the Director has so provided such ceiling. Not later than the thirtieth day after the enactment of such a law or, in the event of the enactment of such a law more than thirty days prior to the fiscal year for which such law makes such appropriations, not later than the tenth day of such fiscal year, the certification required in the first sentence of this subparagraph shall be submitted, together with a report containing complete information on the personnel ceiling that the Director has provided to the Veterans' Administration for the employees described in subparagraph (D) of this paragraph.

(C) Not later than the forty-fifth day after the enactment of each such law, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director of the Office of Management and Budget has complied with the requirements of such subparagraph in providing to the Veterans' Administration such funded personnel ceiling.

(D) For the purposes of this paragraph, the term "funded personnel ceiling" means with respect to any fiscal year, the authorization by the Director of the Office of Management and Budget to employ, (under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses) not less than the number of employees for the employment of which appropriations have been made for such fiscal year.

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Subchapter III—State Home Facilities for Furnishing Nursing Home Care

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§ 5033. Authorization of appropriations

(a) There is hereby authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1978, [and a like sum for the succeeding fiscal year] *a like sum for* *each of the two succeeding fiscal years, and such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982.* Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes and meeting the requirements of this subchapter.

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Subchapter I—Sharing of Medical Facilities, Equipment, and Information

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§ 5053. Specialized medical resources

(a) To secure certain specialized medical resources which otherwise might not be feasibly available, or to effectively utilize certain other medical resources, the Administrator may, when the Administrator determines it to be in the best interest of the prevailing standards of the Veterans' Administration medical care program, make arrangements, by contract or other form of agreement, as set forth in clauses (1) and (2) below, between Veterans' Administration hospitals and other hospitals (or other medical installations having hospital facilities, or *organ banks, blood banks, or similar institutions*) or medical schools or clinics in the medical community:

(1) for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a similar resource to be provided in a Veterans' Administration health care facility; or

(2) for the mutual use, or exchange of use, of specialized medical resources in a Veterans' Administration health care facility, which have been justified on the basis of veterans' care, but which are not utilized to their maximum effective capacity.

The Administrator may determine the geographical limitations of a medical community as used in this section.

* * * * *

§ 5054. Exchange of medical information

(a) The Administrator is authorized to enter into agreements with medical schools, hospitals, research centers, and individual members of the medical profession under which medical information and techniques will be freely exchanged and the medical information services of all parties to the agreement will be available for use by any party to the agreement under conditions specified in the agreement. In carrying out the purposes of this section, the Administrator shall utilize recent developments in electronic equipment to provide a close educational, scientific, and professional link between Veterans' Administration hospitals and major medical centers. Such agreements shall be utilized by the Administrator to the maximum extent practicable to create, at each Veterans' Administration hospital which is a part of any such agreement, an environment of academic medicine which will help such hospital attract and retain highly trained and qualified members of the medical profession.

(b) In order to bring about utilization of all medical information in the surrounding medical community, particularly in remote areas, and to foster and encourage the widest possible cooperation and consultation among all members of the medical profession in such community, the educational facilities and programs established at Veterans' Administration hospitals and the electronic link to medical centers shall be made available for use by the surrounding medical community. The Administrator may charge a fee for such services (on annual or like basis) at rates which the Administrator determines, after appropriate study, to be fair and equitable. The financial status of any user of such services shall be taken into consideration by the Administrator in establishing the amount of the fee to be paid. Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

(c) *The Administrator is authorized to enter into agreements with public and nonprofit private institutions, organizations, corporations, and other entities in order to participate in cooperative health-care personnel education programs within the geographical area of any Veterans' Administration health-care facility located in an area remote from major academic health centers.*

§ 5055. Pilot programs; grants to medical schools

(a) The Administrator may establish an Advisory Subcommittee on Programs for Excange of Medical Information, of the Special Medical Advisory Group, established under section 4112 of this title, to advise the Administrator on matters regarding the administration of this section and to coordinate these functions with other research and education programs in the Department of Medicine and Surgery. The Assistant Chief Medical Director charged with administration of the Department of Medicine and Surgery medical research program shall be an ex officio member of this Subcommittee.

(b) The Administrator, upon the recommendation of the Subcommittee, is authorized to make grants to medical schools, hospitals, and research centers to assist such medical schools, hospitals, and research centers in planning and carrying out agreements authorized by section 5054 of this title. Such grants may be used for the employment of personnel, the construction of facilities, the purchasing of equipment when necessary to implement such programs, and for such other purposes as will facilitate the administration of this section.

(c)(1) There is hereby authorized to be appropriated an amount not to exceed $3,500,000 for fiscal year 1976; $1,700,000 for the period beginning July 1, 1976, and ending September 30, 1976; $4,000,000 for fiscal year 1977; $4,000,000 for fiscal year 1978; and $4,000,000 for fiscal year 1979 *and for each of the three succeeding fiscal years*, for the purpose of developing and carrying out medical information programs under this section on a pilot program basis and for the grants authority in subsection (b) of this section. Pilot programs authorized by this subsection shall be carried out at Veterans' Administration hospitals in geographically dispersed areas of the United States.

(2) Funds authorized under this section shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent that such cost is determined by the Administrator to be incident to research, training, or demonstration activities carried out under this section.

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CHAPTER 82—ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

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§ 5070. Coordination with public health programs; administration

(a) The Administrator and the Secretary of Health, Education, and Welfare shall, to the maximum extent practicable, coordinate the programs carried out under this chapter and the programs carried out under section 309 and titles VII, VIII, and IX of the Public Health Service Act.

(b) The Administrator may not enter into any agreement under subchapter I of this chapter [or make any grant or provide other assistance under subchapter II or III of this chapter after the end of the seventh calendar year] after [the calendar year in which this chapter takes effect] *September 30, 1979.*

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Subchapter II—Grants to Affiliated Medical Schools

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§ 5082. Authorization of appropriations

[(a) There is further authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and a like sum for each of the six succeeding fiscal years, for carrying out programs authorized under this chapter.]

(a) There is authorized to be appropriated for carrying out programs authorized under this chapter $50,000,000 for the fiscal year ending June 30, 1979; a like sum for each of the six succeeding fiscal years; $15 million for the fiscal year ending September 30, 1980; $25 million for the fiscal year ending September 30, 1981; and $30 million for the fiscal year ending September 30, 1982.

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§ 5083. Grants

(a) Any medical school which is affiliated with the Veterans' Administration under an agreement entered into pursuant to this title may apply to the Administrator for a grant under this subchapter to assist such school, in part, to carry out, through the Veterans' Administration medical facility with which it is affiliated, projects and programs in furtherance of the purposes of this subchapter, except that no grant shall be made for the construction of any building which will not be located on land under the jurisdiction of the Administrator. Any such application shall contain such information in such detail as the Administrator deems necessary and appropriate.

(b) An application for a grant under this section may be approved by the Administrator only upon the Administrator's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the medical education (including continuing education) program of the school [and will result in a substantial increase in the number of medical students attending such school, provided there is reasonable assurance from a recognized accredited body or bodies approved for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare that the increase in the number of students will not threaten any existing accreditation or otherwise compromise the quality of the training at such school];

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out the Administrator's functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

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PUBLIC LAW 96-128—NOV. 28, 1979

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TITLE VI—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 601. (a)(1) Except as provided in paragraph (2) of this subsection, the amendments made by titles I and II and the provisions of section 101(b) shall take effect as of October 1, 1979.

(2) With respect to the amendment made by clause [1](*11*) of section 101(a), that portion of the amendment amending subsection (k) of section 314 to increase certain monthly rates of compensation shall take effect as of September 1, 1980, and that portion of the amendment amending such subsection to increase certain maximum monthly amounts of compensation shall take effect as of October 1, 1979.

(b) The amendments made by titles III, IV, and V shall take effect on the date of the enactment of this Act.

Mr. SIMPSON. Mr. President, on June 18, 1979, the Senate passed S. 1039, the "Veterans' Administration Health Resources and Program Extension Act of 1979," which was designed to maintain and improve the purposes and effectiveness of health-care service provided for our Nation's veterans. Earlier in the year the House of Representatives had passed H.R. 3892 containing many provisions similar to the Senate-passed measure.

Immediately after passage by the Senate of S. 1039, its provisions replaced those of H.R. 3892 and returned to the House for further action. The differences between H.R. 3892 and S. 1039 have now been compromised and agreed to by the Committees on Veterans' Affairs. The House of Representatives has now favorably acted on the compromise as contained in the amended H.R. 3892 and has returned it for our approval. I join other members of the Senate Committee on Veterans' Affairs in urging members of the Senate to vote for the compromise before us at this time.

The explanatory statement placed in the RECORD and accompanying the amended H.R. 3892 fully discusses the agreed changes in the bill as previously passed by the Senate.

S. 1039 and H.R. 3892 as passed by the Senate on June 18 contained three cost-savings provisions. One was a limitation on reimbursement for travel expenses, another relating to dental benefits, and the third concerning furnishing certain over-the-counter drugs. Senate action was based on the need in every department, agency, and phase of Government to exercise restraint in considering this year's budget.

The Veterans' Administration had stated to our Veterans' Affairs Committee that the cost savings that would result from enactment of the limitation travel reimbursement would enable "VA resources to be more effectively utilized." The VA stated that the cost savings realized by eliminating the provision of dental treatment to certain veterans would allow the VA to "refocus our resources to provide more extended and faster outpatient dental care," and the cost savings realized by "limiting the provision of nonprescription drugs, medicines, and supplies would permit the VA to reallocate scarce VA resources to areas were the need is more acute."

The position adopted by the Senate on June 18 on the three cost-savings provisions has not been fully maintained in the compromise with the other body.

As the ranking minority member of the Senate Committee on Veterans' Affairs, I should report that during the time we were considering this bill, most of those on our side of the aisle supported the administration's effort to effect economies and advocated cost-savings proposals as advanced by the VA. It is with regret that this initial action toward reasonable and responsible savings as contained in the Senate-passed bill has been severely restrained in the compromise. However, some good has resulted; some tightening of controls will result and language included in the explanatory statement should be helpful. Certainly all of us desire the best possible health care system for our Nation's veterans. We also want efficiency, fairness, and economy in every agency and department of Government.

The bill now before us does not sufficiently limit the furnishing of outpatient dental services, dental treatment, and related dental appliances for a veteran with a service-connected, noncompensable dental condition to only those veterans who have served on active duty for a period of at least 180 days and who have made application for such treatment within 6 months after discharge and as to whom the Department of Defense has not certified that the veteran was provided during the 90 days immediately prior to such veteran's discharge, a complete dental examination and all of the appropriate dental service indicated by such examination. This provision to reduce the period to 6 months has been deleted in the compromise reached with the House committee.

The House committee did recognize that the Senate proposed 180-day minimum service requirement may have merit as a reasonable precondition to eligibility for the dental-care benefit, but that there should be a comprehensive review of the minimum service requirements for veterans' benefits generally, before imposing a minimum service requirement to one particular benefit.

Language in the explanatory statement accompanying this bill strongly urges the administration to include in the Defense Department budget for fiscal year 1981 and subsequent years for sufficient staff and funds to meet the dental needs of active-duty personnel to take care of Defense Department personnel's dental needs and not leave such responsibility to the Veterans' Administration.

The amended bill now before us does accept the Senate-passed requirement that before an individual veteran could receive dental care on a contract basis costing more than $500 in any 12-month period, the VA conduct an examination to determine if the furnishing of such services is reasonably necessary. The examination is to be made by a dentist under contract to the VA where no VA dentist is available.

As to the Senate-passed provision limiting the furnishing of nonprescription drugs, medicines, and medical supplies in connection with non-service-connected disability to those veterans with a service-connected disability, the House would not agree to a statutory prohibition.

Both committees note that under section 601 of title 38 there is discretion for the VA to determine whether it is "reasonable or necessary" to provide any such items and to assure that such items are provided in reasonable, minimum quantities. In other words, our committees believe that the VA presently has sufficient statutory authority to place administrative limitations to the VA to provide nonprescription items, such as aspirins, liniments, dressings, and cough sirups.

Current law provides that a person traveling to and from a VA health-care facility in connection with a nonservice disability is entitled to reimbursement for travel expenses providing the veteran declares in writing that he cannot defray such costs. A veteran traveling to a VA facility for a service-connected condition may be reimbursed regardless of being able to defray the costs.

The Senate-passed bill would limit beneficiary travel reimbursement, except by special vehicles such as ambulance or air ambulance, for veterans having no service-connected disabilities to those who are receiving or are eligible to receive a veteran's pension or meet the income standard to receive a veteran's pension. The reimbursement would be limited for any one trip to or from a VA facility to the excess over $4 until the veteran had absorbed $100 of reimbursed travel expense during the year.

The compromise agreement does not place such a limitation into the law. The bill before us repeals a provision in existing law that requires a person claiming travel reimbursement, except for travel with respect to the receipt of VA benefits for or in connection with a service-connected disability, to be determined on the basis of an annual declaration and certification, to be able to defray the cost of such travel. This bill now requires, instead, that the Administrator prescribe regulations to tighten controls over the administration of nonservice-connected beneficiary travel reimbursement.

There has been much recent attention and concern over possible health hazards of dioxin contamination. During the period of the Vietnam conflict, until 1970, the U.S. forces in Vietnam used the herbicide known as "Agent Orange." The U.S. Government withdrew "Agent Orange" from Vietnam in 1970 restricting its use in the United States to commercial forestry and clearing for right-of-way use. Since the introduction of "Agent Orange" numerous medical complaints have been heard from individuals exposed to dioxins. In 1978 alone, approximately 1,100 persons entered VA hospitals with possible dioxin related ailments. Further study is definitely needed.

S. 1039, now H.R. 3892, the Senate-passed bill, contained provisions for the Secretary of Health, Education, and Welfare, in consultation with other Federal departments and agencies, to conduct a scientific, epidemiological study of various populations, including individuals who served in the Armed Forces in Vietnam, to determine if there may be long-term health effects in humans from exposure to chemicals known as "the dioxins" including exposure to the herbicide known as "Agent Orange."

The compromise before us today provides for the study but not by HEW. The study is to be restricted to individuals who served in the Armed Forces of the United States during the Vietnam conflict. It is to be designed and conducted by the Administrator of Veterans' Affairs pursuant to a protocol approved by the Director of the Office of Technology Assessment, who will also monitor the VA's efforts under the study and reporting to the Congress.

The study provision also directs the President to coordinate this study with other Federal studies in the area of dioxin research.

We recognize the importance of the study provided for in this compromise bill. We know of other studies and reports previously made and being made. The need for coordination is apparent. We stress the importance of this matter and especially that the study provided for be scientifically valid, objective, and efficient.

This bill will extend the authorizations and appropriations for the VA's program of Federal-State matching fund grants to States for the construction, expansion, remodeling, or alteration of State veterans' homes. The Federal Government has participated in a program of assistance to State veterans' homes since 1888 when Congress passed legislation to provide aid to State or territorial homes for the support of our Nation's soldiers and sailors. That program has been extended from time to time.

Under the bill now before us, the extension authorizes the appropriation of such sums as may be necessary for fiscal years 1981 and 1982. The committees stress that an appropriation of not less than $15 million yearly will be required. There is a current backlog of over $33 million in approvable projects. It is the view of our committees that the State home program is a proven and cost-effective means of providing care, especially nursing home and domiciliary care to our elderly veterans and family members of veterans. We need to prepare for the rapidly growing number of elderly veterans.

The bill continues to provide for the Senate-passed 15-percent increase in per diem payments to State veterans' homes. Since the last increase, the Consumer Price Index inflation figure is 23.4 percent. Certainly the 15-percent increase provided is fair and reasonable.

It is unfortunate that so much time has expired since this bill was considered on the floor of the Senate. Certainly the Senate Committee on Veterans' Affairs for several months has been ready to complete negotiations with our counterparts of the House of Representatives. It is my opinion that the compromise bill now before us is clearly inferior to the bill the Senate passed on June 18, 1979. But in all matters of compromise there must be some give and take, and changing of position, and consequently our Senate committee now brings to you for your approval H.R. 3892 as amended.

Mr. THURMOND. Mr. President, I rise in support of H.R. 3892, as amended, the "Veterans Programs Extension and Improvement Act of 1979." The basic purpose of this bill is to maintain and improve the quality of care within the health care delivery system of the Veterans' Administration.

The Senate Committee on Veterans' Affairs held hearings on April 10, 1979, and considered many of the legislative proposals that are before us today. Such proposals include the authorization of appropriations for the program of grants for the construction of State veterans' homes and for the exchange of medical information with private institutions by the VA. Also, the rates of per diem payments to State veterans' homes has been increased, plus authority has been given to the Administrator of Veterans' Affairs to propose regulations which would eliminate abuses in several health care programs. Finally, this measure includes several miscellaneous provisions concerning the qualifications for psychologists, and citizenship requirement for VA podiatrists and optometrists.

Mr. President, the proposal that is before us today originated in the Senate as S. 1039, and passed this body on June 18, 1979. The House-passed measure, H.R. 3892, and S. 1039 were considered by both the House and Senate Veterans' Affairs Committees and the pending measure is the result of our joint efforts. I, however, would like to express my concern for one provision which was not adopted by the House but was mentioned in the joint explanatory statement accompanying the House bill, H.R. 3892. This provision would have authorized chiropractic treatment to veterans on an outpatient basis. This measure was introduced as S. 196 and subsequently incorporated in S. 1039. It had 11 cosponsors—6 of whom were members of the Senate Veterans' Affairs Committee—and it would have authorized a 4-year pilot program with annual reimbursements on behalf of the veteran limited to $200. Total expenditures in any fiscal year for chiropractic services could not have exceeded $4 million.

Mr. President, it is my opinion and that of many Members of the Senate that this measure was meritorious and well founded. Chiropractic services have been recognized under a variety of State and Federal programs. In addition to the medicare program, reimbursement for chiropractic services also is currently provided for under the Federal Employees Compensation Act.

The total current chiropractic population of the United States is estimated to be 21.5 million. How many of this number are veterans is not known. However, the likelihood is overwhelming that a substantial number of veterans who receive medical care at VA facilities are either active or potential chiropractic patients.

The lack of readily available chiropractic care within the VA health-care system stands in sharp contrast to that under the medicare program, which is administered by the Department of Health, Education, and Welfare. Under the medicare program, it is typical for eligible persons in need of chiropractic care to seek and obtain the services of a doctor of chiropractic. That person is then reimbursed for the cost of such services. Clearly, veterans under the VA health-care system should not be relegated to a second class patient status.

Mr. President, the administration opposed S. 196, the original chiropractic bill which I introduced, on two grounds. First, the VA said it would be professionally unacceptable for veterans to prescribe their own type of care. Second, they said that veterans in need of manual manipulation of their spines could have such procedures performed at VA facilities by physiatrists or rehabilitation medicine specialists.

With regard to the first objection, Mr. President, the bill, as was reported by the Senate, narrowly circumscribed the circumstances under which the provision of chiropractic services would be paid by the VA. Specifically, reimbursement or direct payment for such services would be authorized only, first, if such services were for the treatment of a service-connected neuromusculoskeletal condition of the spine, or second, the veteran is one who has been furnished hospital care by the VA for a neuromusculoskeletal condition of the spine within a 12-month period prior to the provision of chiropractic services, or third, the veteran has a 50 percent or greater service-connected disability and has been furnished hospital care or medical services by the VA for a neuromusculoskeletal condition of the spine. In other words, it is clear that the VA, not the veteran, would determine that the veteran was suffering from a neuromusculoskeletal condition for which the veteran could seek chiropractic care.

With regard to the claim that the VA medical care system has the capability of providing necessary manual manipulation of the spine, Mr. President, the VA simply could not support this claim. In fact, at the committee hearing on April 10, the VA was unable to substantiate the extent to which it employed physiatrists and rehabilitation medicine specialists. It was further brought out that approximately only 1,000 physiatrists are in the United States today. Mr. President, it is clear that the VA does not have the capability to care for the chiropractic needs of veterans. Furthermore, the VA was unable to produce records that a referral of a veteran patient had ever been made to a doctor of chiropractic when confronted with testimony that veterans had made such requests and had been denied.

Finally, Mr. President, I would urge the VA to be more responsive to those veterans who request chiropractic care. Although the House did not accept the Senate's position on this measure, I am pleased that they joined with the Senate in offering this explanatory statement which expresses our mutual concerns for veterans in need of chiropractic care. Should the VA remain intransigent in this matter, I am hopeful that the House will join the Senate with the appropriate corrective legislation.●

Mr. CRANSTON. Mr. President, I am, as always, very grateful to our able ranking minority Member, Senator SIMPSON, for his cooperation and his most valuable assistance throughout the long process of consideration of this measure.

Mr. President, I now move that the Senate concur in the House amendments to the Senate amendments to H.R. 3892.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STUDY BY SECRETARY OF HEW ON EFFECTS OF DIOXINS

Mr. CRANSTON. Mr. President, on behalf of the ranking minority member of the Veterans' Affairs Committee, Senator Simpson, and myself, I submit a bill and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2096) to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure of dioxane.

The PRESIDING OFFICER. The bill will be considered as having been read twice by title, and there being no objection the Senate will proceed to consider the bill.

Mr. CRANSTON. Mr. President, this matter has been cleared on all sides with the two committees involved. It entails the provisions essentially the same as those passed twice before by the Senate—first in June of this year and then in August of this year, essentially the same as those prior Senate actions—as parts of the other bills, including the bill we have just acted on and passed.

This bill would require an epidemiological study of the effects in humans of exposure to dioxins, a matter of the greatest concern to thousands of Vietnam veterans and their families.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. JAVITS. Mr. President, reserving the right to object, and I will not object, is this the bill the Senator and I talked about?

Mr. CRANSTON. Yes, it is.

Mr. JAVITS. And it is a partial compromise on that part of the bill relating to Agent Orange which deals with veterans, is that correct?

Mr. CRANSTON. The Senator is correct. As I stated earlier during consideration of H.R. 3892, this bill is the second part of that compromise.

Mr. JAVITS. As I understand it, in the interest of veterans, this is the only thing that can be sweated out with the House, this particular compromise?

Mr. CRANSTON. That appears to be correct. We worked arduously with the House over a long period of time and this and section 307 of H.R. 3892 as just agreed to and the pending measure are the products.

Mr. JAVITS. It is my understanding that this may not be satisfactory to, perhaps, others who are interested in the same thing. But I have talked with the Senator about it and I am inclined to concur that the need for doing something prevails over the frustration of doing nothing for a time. Therefore, I shall go along with the Senator's proposition.

I would like to ask the Senator, also, whether it is intended now, through our Health Subcommittee, to take some action with respect to a study of this matter relating to civilians, other than veterans?

Mr. CRANSTON. That is what the pending bill would do.

Mr. JAVITS. That is the bill the Senator has now?

Mr. CRANSTON. The Senator is correct.

Mr. JAVITS. Well, as I say, there is dissatisfaction with the adequacy of this compromise. But I believe that it is better to do something than nothing. So I will interpose no objection.

When will the Senator deal with the veterans? Has that already been dealt with?

Mr. CRANSTON. We dealt with the veterans in the bill we just passed, in accordance with our conversation.

Mr. JAVITS. Now you are saying this is with nonveterans?

Mr. CRANSTON. Yes.

Mr. JAVITS. It was my understanding that the Senator was going to leave this particular bill at the desk for a time.

Mr. CRANSTON. No. The understanding was that we would pass this, because it is a very urgent matter, to proceed with the HEW study. I think the Senator has no concerns about the formula in this bill; it was the other bill that may have raised some concerns.

It is an urgent matter and I share the reservations that the Senator from New York has had. As I explained earlier, I think we have worked out the best possible compromise.

Mr. President, I believe that I have adequately explained this bill and its genesis in the course of my prior statement on the H.R. 3892 compromise, and my detailed floor statement of November 15 on H.R. 2282, so I do not propose to speak at length here. I want now only to stress that I believe that the comprehensive HEW study here called for could produce much important data with respect to the Agent Orange issue addressed more directly in section 307 of H.R. 3892 as just agreed to, and that the complementary provisions in both measures—subsection (c)—requiring Presidential efforts to assure full coordination and consultation should result in effective consultation and cooperation in these related efforts between HEW and the VA as well as with and among other appropriate agencies involved with this question.

Finally, Mr. President, I want to express my great appreciation to my colleague from New York (Mr. Javits) for his great help in reaching this beneficial result today and to the chairmen of the Committee on Labor and Human Resources (Mr. Williams) and the Subcommittee on Health and Scientific Research (Mr. Kennedy) and the ranking minority member of both the full Committee and the Subcommittee (Mr. Schweiker) for their tremendous spirit of cooperation in making it possible for us to move forward immediately at this time. Again, my fine colleague and friend from Wyoming (Mr. Simpson) has played a crucial role as the cosponsor of the amendment, and I thank him particularly for his help.

As I indicated earlier, Mr. President, I now look forward to working very closely with my colleagues in the House of Representatives to get this legislation enacted into law in the very near future so that the HEW study may begin as soon as possible.

Mr. JAVITS. I will interpose no objections.

Mr. CRANSTON. I thank the Senator from New York.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Secretary of Health, Education, and Welfare shall provide for the design of a protocol for and the conduct of an epidemiological study of various populations, such as chemical workers, agricultural workers, Forest Service workers, and others, who were exposed to any of the class of chemicals known as "the dioxins" produced during the manufacture of the various phenoxy herbicides to determine if there may be long-term adverse health effects in such persons from such exposure. The Secretary shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to such dioxins or other dioxins.

(2)(A)(i) The study conducted pursuant to paragraph (1) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(ii) The Director shall monitor the conduct of such study in order to assure compliance with such protocol.

(B)(i) Concurrent with the approval or disapproval of any protocol under subparagraph (A)(i), the Director of the Office of Technology Assessment shall submit to the appropriate committees of the Congress a report explaining the basis for the Director's action in approving or disapproving such protocol and providing the Director's conclusions regarding the scientific validity and objectivity of such protocol.

(ii) In the event that the Director has not approved such protocol during the 180 days following the date of the enactment of this Act, the Director shall (I) submit to the appropriate committees of the Congress a report describing the reasons why the Director has not given such approval, and (II) submit an update report on such initial report each sixty days thereafter until such protocol is approved.

(C) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in the second sentence of this subparagraph, a report on the Director's monitoring of the conduct of such study pursuant to subparagraph (A)(ii). A report under the preceding sentence shall be submitted before the end of the six-month period beginning on the date of the approval of such protocol by the Director, before the end of the twelve-month period beginning on such date, and annually thereafter until such study is completed or terminated.

(3) The study conducted pursuant to paragraph (1) shall be continued for as long after the submission of the report un-

der subsection (b)(2) as the Secretary may determine reasonable in light of the possibility of developing through such study significant new information on the long-term adverse health effects of exposure to dioxins.

(b)(1) Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress a report on the literature review and analysis conducted under subsection (a)(1).

(2) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (a)(2)(A)(i) and annually thereafter, the Secretary shall submit to the appropriate committees of the Congress a report containing (A) a description of the results thus far obtained under this study conducted pursuant to such subsection, and (B) such comments and recommendations as the Secretary and the heads of other departments, agencies, and instrumentalities of the Federal Government described in subsection (c) consider appropriate in light of such results.

(c) For the purpose of assuring that any study carried out by the Federal Government with respect to the adverse health effects in humans of exposure to dioxins is scientifically valid and is conducted with efficiency and objectivity, the President shall assure that—

(1) the study conducted pursuant to subsection (a) is fully coordinated with studies which are planned, are being conducted, or have been completed by other departments, agencies, and instrumentalities of the Federal Government and which pertain to the adverse health effects in humans of exposure to dioxins; and

(2) all appropriate coordination and consultation is accomplished between and among the Secretary and the heads of such departments, agencies, and instrumentalities that may be engaged, during the conduct of the study carried out pursuant to subsection (a), in the design, conduct, monitoring, or evaluation of such dioxin-exposure studies.

(d) There are authorized to be appropriated such sums as may be necessary for the conduct of the study required by subsection (a).

Mr. CRANSTON. I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. I thank all Senators for their great cooperation, particularly Senator SIMPSON, Senator JAVITS, Senator PERCY, the acting Republican leader, Senator TOWER, and others.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed with the consideration of Calendar Order Nos. 450 and 455.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALE OF CERTAIN EXCESS VESSELS

The bill (H.R. 5163) to authorize the sale to certain foreign nations of certain excess naval vessels, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PORT OF NEW YORK DISTRICT COMPACT

The PRESIDING OFFICER. The next bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 455, a bill (H.R. 4943) granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through its financing and effectuation of industrial development projects.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

UP AMENDMENT NO. 866

Mr. BAUCUS. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 866.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 43, after line 18, insert the following new section:

SEC. 4. Solely for purposes of funding for the fiscal year ending September 30, 1980, the Office of Rail Public Counsel shall be considered to be an office in the Interstate Commerce Commission; provided, however, that nothing in this section shall be construed to detract from the independent responsibility of the Office, pursuant to the provisions of section 10382(a) of title 49, United States Code, to represent the public interest in safe, efficient, reliable, and economical rail transportation.

Mr. BAUCUS. Mr. President, my amendment will insure that the Office of Rail Public Counsel continues to represent the public interest in proceedings before the Interstate Commerce Commission.

Congress enacted legislation in 1976 to create an agency to serve as an advocate for communities and rail users that would otherwise be unrepresented in rail proceedings affecting them. The Office of Rail Public Counsel was formally established in 1978 when its first Director was nominated by President Carter and confirmed by the Senate. The Office's recent projects involve directed service and route abandonment and reorganization proceedings concerning the Milwaukee Railroad, the Rock Island Railroad, and Amtrak.

Congress has recently reaffirmed its support of the Office of Rail Public Counsel. Indeed, the statute creating this agency has remained virtually untouched since its enactment, and the only substantive legislative actions affecting the agency have expanded its sphere of activities.

For instance, the recent Milwaukee Railroad Restructuring Act reaffirmed the Office's authority to participate in Bankruptcy Court proceedings, as well as Interstate Commerce Commission proceedings, and urged it "to take a more active role" in such court cases. Legislation authorizing $1.2 million for the Office of Rail Public Counsel for fiscal year 1980 was passed by the House and Senate and signed by President Carter during September of this year. In the meantime, a thorough review is in progress in the Oversight and Investigation Subcommittee of the House Committee on Interstate and Foreign Commerce. The subcommittee will report its recommendations on the Office of Rail Public Counsel's future in early 1980.

The Senate Committee on Appropriations provided $1.2 million to fund the agency in fiscal year 1980. Regrettably, the House refused to agree to this funding level, and unless my amendment is approved, the Office of Rail Public Counsel will be out of business in a matter of days.

The final transportation appropriations legislation provided an additional $600,000 to the Interstate Commerce Commission to perform Office of Rail Public Counsel functions during fiscal year 1980. The Commission, however, is an inappropriate unit to perform these functions, for both legal and practical reasons.

It would be required to perform as trial counsel and judge in the same cases, and is clearly unprepared to assist communities and rail users to develop persuasive arguments and evidence.

My amendment does not involve appropriations of new moneys. Rather, the Office will be established as a constituent organization of the Interstate Commerce Commission, so that the Office may use moneys that have already been appropriated to continue its independent efforts to represent the public interest in safe, efficient, reliable, and economical rail transportation.

Mr. President, the Office of Rail Public Counsel has done a superb job helping Montanans and other affected parties develop evidence and testimony for presentation in the Milwaukee Railroad reorganization proceedings.

The Office can continue to provide these valuable services in Amtrak proceedings and in reorganizations and abandonments involving other railroads.

Grain farmers throughout the United States continue to have severe rail transportation problems including inadequate car supply, abandonment of light-density branch lines, and excessive freight rates in some areas. The Office of Rail Public Counsel can and should represent grain producers and shippers in Interstate Commerce Commission proceedings.

Mr. President, we have spent a good part of this legislative session discussing our Nation's energy problems. The Nation's rail system is important to the energy problem as it provides the means of transporting coal and is the most efficient means of transporting bulk commodities over long distances.

In view of the serious problems faced by the rail industry, and the public interest and need for rail services, I believe that we would make a serious mistake if we let the Office of Rail Public Counsel be eliminated.

I urge the support of my colleagues for this important amendment to insure that the public interest in safe, efficient, reliable, and economical rail transportation is adequately represented.

Mr. TOWER. Will the Senator yield for a question?

Mr. BAUCUS. I yield.

Mr. TOWER. Is this the amendment being proposed by the Senator from Montana that has been cleared on this side?

Mr. BAUCUS. The Senator is correct.

Mr. JAVITS. Mr. President, I do not know of any clearance I have given to this amendment. Will the Senator let me go on?

Mr. President, we have been trying to get the consent of Congress to this compact, which is very important to us in respect of the Port of New York, for a long time. We are faced with a difficult situation, at the very end of the consideration of this matter.

I might say, too, that the consent of Congress to these compacts, if they are going to strangle these compacts and protract them endlessly, is going to speedily get very used up in terms of the States.

This is a very unfortunate example. In any case, Mr. President, at long last it is here. Now we have an amendment to it. This amendment the Senator says is of no interest to the port authority of New York. I really have no way of testing that at this moment, but I will take his word for it. It is certainly not worth cancelling out this bill.

We are advised if this goes over to the House with this amendment the bill is finished, forget it, and all this work has gone in vain.

We are also informed—and that is why I want to ask the Senator openly publicly and on the record—that the Senator from Montana, who is a friend of mine and whom I respect enormously, has no desire to kill our bill in terms of a compact between these two States, but that he feels strongly about his amendment, and that he feels that he can induce the House to take it.

If he can induce them to take it within a very modest period of time, say in this session, I would have no objection. But, Mr. President, if he cannot, I would not wish the matter to be then hung up, the bill not acted upon when it may come back here—I hope it does not, for his sake—without this amendment. I would not wish this bill to be hung up because he has an amendment which I allowed to go in and which kills our bill, after waiting so long and considering its meaningfulness to this very large tax-producing port, the Port of New York.

I would like to ask the Senator that very frankly. I am perfectly willing to rely on his good faith. I have every willingness to see him try to persuade the Judiciary Committee in the other body, and the other body, to take this bill with the amendment. It does not matter to me whether it is written into it or not, so long as it does not kill our bill or, again, delay it.

I would like to ask him, very frankly, his attitude and what he is willing to tell us as to what he is willing to do.

Mr. BAUCUS. Mr. President, I think it is important to set the matter clearly on the record. It is my intention that we proceed as well as we can, that is, first of all with the underlying bill. I agree with the Senator from New York that it is extremely important to his State and his part of the country.

I have no intention whatever of impeding the quick passage by the Congress of the underlying bill, the main vehicle here in question. However, I do also feel strongly that the Congress should adopt the amendment I propose because I think it, too, represents sound public policy, certainly as it affects transportation and the availability of the people to have counsel and representation before the Interstate Commerce Commission.

It would be my intention, if the Senator from New York graciously will not oppose this amendment on the present bill, that if in this conference with the other body——

Mr. JAVITS. In this session.

Mr. BAUCUS. In this session, before we adjourn some date this month.

If the other body does not agree to this amendment, then, yes, I would be more willing to let this amendment drop out so that the bill in question would pass unimpeded and without any difficulty whatsoever.

It would be my intention, however, to try to persuade the other body to agree to this amendment to this bill. That would be the best course for the Senator from New York and for the Senator from Montana.

But in the event the other body is not persuaded in this session within a matter of approximately 1 week, then I would firmly, frankly, and forthrightly state to the Senator that I would have no difficulty in agreeing to drop the amendment. I would find some other vehicle to get this amendment accepted.

Mr. JAVITS. I thank my colleague. On that basis, Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 866) was agreed to.

● Mr. MOYNIHAN. Mr. President, I rise to support the passage of H.R. 4943, which would grant the consent of Congress to the compact entered into by the States of New York and New Jersey for the establishment of industrial development projects and resource recovery facilities by the Port Authority of New York and New Jersey. This compact embellishes and enlarges the compact of 1921 between the two States, which created the Port of New York District and established the Port Authority of New York and New Jersey.

The industrial development sought from this new compact will benefit both States. Studies by New York and New Jersey indicate it will help reverse a three decade trend of declining employment, will assist in reducing the rate of unemployment among inner-city residents, and will provide incentives to keep and attract industry within the bi-State Port of New York District.

Mr. President, I know of no opposition to this compact. The industrial development envisioned in the compact is similar to that undertaken by other port agencies in the Nation. The legislatures and Governors of the respective States approved this compact in 1978. The House of Representatives passed H.R. 4943 on October 23 by a vote of 412 to 0, and the Senate Judiciary Committee has also recommended that it pass. I urge my colleagues to add their support to this important agreement.●

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4943), as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting Republican leader has no objection, I ask unanimous consent that the Senate proceed en bloc to the consideration of Calendar Orders Nos. 464 through 471.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

CHIEF OF THE CAPITOL POLICE

The bill (H.R. 5651) to establish by law the position of Chief of the Capitol Police, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–436), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill would establish the Office of the Chief of Capitol Police as a congressional office and provide for a gradual phasing out of 29 police officers of the Metropolitan Police Department of the District of Columbia presently detailed to the Capitol police force. This bill provides a fair and equitable means for the phase-out of the Metropolitan Police detail. The Capitol Police Board unanimously supports H.R. 5651 and has recommended that Chief James M. Powell continue in his present capacity as Chief of the Capitol Police. Chief Powell has served the Metropolitan

Police for 39 years and has been on detail to the Capitol Police since 1958.

The committee wishes to stress the fact that this bill is to apply only to those members of the Metropolitan Police who were detailed to the Capitol Police prior to the date of the enactment of this act. The committee is aware of the fact that the authority for detailing Metropolitan Police to the Capitol Police is contained each year in the Legislative Branch Appropriation Act. While the committee understands that the members of the Metropolitan Police are technically detailed each year to the Capitol Police, it also understands that the last new member to be so detailed was pursuant to a detail on November 10, 1975. No such detail can be made under law unless specifically requested by the Capitol Police Board. The Capitol Police Board has officially taken the position that as any such member so detailed to the Capitol Police retires or otherwise leaves the Capitol Police force, no replacement shall be requested from the Metropolitan Police force. The Chief of the Capitol Police has stated in testifying before the Committee on Legislative Branch Appropriations of the House of Representatives that as the Metropolitan members detailed to the Capitol Police have retired or left the Capitol Police, they have not been replaced since 1975 and that this is a continuing policy of the Capitol Police Board.

Accordingly, it is the understanding of the Committee that the policy of the Capitol Police Board not to request replacements will be continued until no further detailed members are authorized by law.

STATUE OF MOTHER JOSEPH

The concurrent resolution (S. Con. Res. 48) providing for the acceptance of a statue of Mother Joseph of the Sisters of Providence presented by the State of Wisconsin for the National Statuary Hall collection, and for other purposes, was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the statue of Mother Joseph of the Sisters of Providence, presented by the State of Washington for the National Statuary Hall collection in accordance with the provisions of section 1814 of the Revised Statutes (40 U.S.C. 187), is accepted in the name of the United States, and the thanks of the Congress are tendered to the State of Washington for the contribution of the statue of one of its most eminent personages, illustrious for her distinguished humanitarian services.

SEC. 2. The State of Washington is authorized to place temporarily in the rotunda of the Capitol the statue of Mother Joseph of the Sisters of Providence referred to in the first section of this concurrent resolution, and to hold ceremonies on May 1, 1980, in the rotunda on that occasion. The Architect of the Capitol is authorized to make the necessary arrangements therefor.

SEC. 3. (a) The proceedings in the rotunda of the Capitol at the presentation by the State of Washington of the statute of Mother Joseph of the Sisters of Providence for the National Statuary Hall collection, together with appropriate illustrations and other pertinent matter, shall be printed as Senate document. The copy for such document shall be prepared under the direction of the Joint Committee on Printing.

(b) There shall be printed five thousand additional copies of such document which shall be bound in such style as the Joint Committee on Printing shall direct, of which one hundred and three copies shall be for the use of the Senate and eighteen hundred and ninety-seven copies shall be for the use of the Members of the Senate from the State of Washington, and four hundred and forty-three copies shall be for the use of the House of Representatives, and two thousand five hundred and fifty-seven copies shall be for the use of the Members of the House of Representatives from the State of Washington.

SEC. 4. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the Governor of Washington.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–437), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The first section of the concurrent resolution would provide that the statue of Mother Joseph of the Sisters of Providence, presented by the State of Washington for the National Statuary Hall collection, be accepted in the name of the United States, and that the appreciation of the Congress be expressed to the State for the contribution of a statue of one of its most eminent personages, illustrious for her distinguished humanitarian services.

Section 2 would authorize the State of Washington to place temporarily in the rotunda of the Capitol the statue of Mother Joseph referred to above and to hold ceremonies on May 1, 1980, in the rotunda on said occasion. The Architect of the Capitol would be authorized to make the necessary arrangements therefor.

Section 3 would provide that the proceedings held in the rotunda of the Capitol be printed, together with appropriate illustrations and other pertinent matter, as a Senate document. The copy for such document would be prepared under the direction of the Joint Committee on Printing. There would be printed 5,000 additional copies of such document, which would be bound in such style as the joint committee shall direct, of which 103 copies would be for the use of the Senate, 1,897 copies would be for the use of the Members of the Senate from the State of Washington, 443 copies would be for the use of the House of Representatives, and 2,557 copies would be for the use of the Members of the House of Representatives from the State of Washington.

Section 4 would provide for the Secretary of the Senate to transmit a copy of the concurrent resolution to the Governor of Washington.

PRINTING OF "7TH EDITION OF THE IMMIGRATION AND NATIONALITY ACT WITH AMENDMENTS AND NOTES ON RELATED LAWS"

The concurrent resolution (H. Con. Res. 184) providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws," was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–438), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

House Concurrent Resolution 184 would authorize the printing of 12,000 additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with Amendments and Notes on Related Laws," of which 9,000 copies would be for the use of the House Committee on the Judiciary and 3,000 copies would be for the use of the Senate Committee on the Judiciary.

PRINTING OF "THE COST OF CLEAN AIR AND WATER"

The resolution (S. Res. 266) authorizing the printing of the report entitled "The Cost of Clean Air and Water" as a Senate document, was considered and agreed to, as follows:

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States in compliance with section 312(c) of the Clean Air Act, as amended, and section 516(b) of the Federal Water Pollution Control Act Amendments of 1972 entitled, "The Cost of Clean Air and Water" be printed, with illustrations, as a Senate document.

SEC. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Environment and Public Works.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–439), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

Senate Resolution 266 would provide (1) that the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with section 312(c) of the Clean Air Act, as amended, and section 516(b) of the Federal Water Pollution Control Act Amendments of 1972) entitled "The Cost of Clean Air and Water", be printed with illustrations as a Senate document; and (2) that there be printed 500 additional copies of such document for the use of the Committee on Environment and Public Works.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

The resolution (S. Res. 285) authorizing additional expenditures by the Committee on Foreign Relations for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Foreign Relations is authorized to expend from the contingent fund of the Senate, during the Ninety-sixth Congress, $30,000 in addition to the amount, and for the same purposes, specified in paragraph 1 of rule XXVI of the Standing Rules of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–440), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

Paragraph 1 of rule XXVI of the Standing Rules of the Senate (as adopted by S. Res. 274, 96th Congress, agreed to Nov. 14, 1979) authorized each standing committee of the Senate to expend not to exceed $10,000 per Congress for routine purposes.

Senate Resolution 285 would authorize the Committee on Foreign Relations to expend from the contingent fund of the Senate, during the 96th Congress, $30,000 in addition to the amount, and for the same purposes, specified in said paragraph 1 of rule XXVI.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

The resolution (S. Res. 286) authorizing supplemental expenditures by the Committee on Foreign Relations for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 75, Ninety-sixth Congress, agreed to March 7, 1979, is amended by striking out "$1,301,000" and inserting in lieu thereof "$1,464,000".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–441), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

Senate Resolution 286 would amend the annual expenditure-authorization of the Committee on Foreign Relations (S. Res. 75, 96th Congress agreed to Mar. 7, 1979) by increasing by $163,000—from $1,301,000 to $1,464,000—funds available to the committee for inquiries and investigations through February 29, 1980.

An explanation for the request is expressed in the following excerpt from the Committee on Foreign Relations report to accompany Senate Resolution 286 (S. Rept. 96–425):

The Committee on Foreign Relations finds at this time that the SALT legislation and international events concerning the Middle East, Taiwan and China have increased the activities in this committee dramatically. SALT and SALT-related expenses alone have been close to $180,000 due to the high reporting expenses, the use of consultants and contracts, and the addition on a temporary basis of new members of the staff. The situation with regard to Taiwan and China has been the same on a lesser scale. There has been high expense with regard to the Taiwan legislation as well as committee activity with respect to treaty termination. The Middle East Peace Package placed additional unexpected demands on the committee's resources.

The funds requested by this resolution could not have been included in the committee's annual authorization resolution (S. Res. 75, agreed to March 7, 1979) because at that time it was not known and could not have been foreseen that the Taiwan Enabling Legislation and the Middle East Peace Package would be brought before the committee and that the SALT debates would require an extraordinary amount of time.

AUTHORIZING THE ARCHITECT OF THE CAPITOL TO CONTRACT FOR PERSONAL SERVICES

The bill (S. 2069) to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Architect of the Capitol is authorized to contract for personal services with any firm, partnership, corporation, association, or other legal entity in the same manner as he is authorized to contract for personal services with individuals under the provisions of section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–442), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

Architectural and engineering services, as well as other services of a technical or professional nature, required in connection with major construction and other projects carried out by the Achitect of the Capitol are now procured on the basis of personal service contracts with individual professionals, and have been so procured since amendment of R.S. 3709, by section 9 of Public Law 600 of August 2, 1946, 79th Congress, 2d session, 60 Stat. 809, 41 U.S.C. 5.

In the last two decades, the form of practice of professionals throughout the Nation, has undergone substantial change. There has been an ever-widening trend to practice in the form of associations and professional corporations. The Congress has recognized this trend by authorizing executive branch agencies engaged in construction projects for the Government to contract with architectural and engineering firms, associations and corporations for such services, rather than solely with individuals.

The Architect of the Capitol has thus far not been afforded this opportunity. He is still required to contract with individual professionals for services for the projects which he is charged to carry out on behalf of the Congress and the Supreme Court. A congressional project could thus be deprived of the services of professionals best qualified to render such services, since some professionals consider it to be to their interest to practice and contract exclusively within the framework of their professional firm or corporation. For those who are willing to adjust their ordinary form of doing business to the present legislative branch requirement, detriments often arise in the form of tax and internal problems that seem unwarranted in view of the lack of necessity for such arrangements when these same firms contract with other Government agencies for similar work.

In addition, difficulties requiring contract modifications frequently arise in personal service contracts with individuals for major projects which generally extend over a number of years, because of demise, incapacity or other changed circumstances on the part of one of the signatories of such contract.

Enactment of the proposed legislation would simplify contract administration by the Architect of the Capitol and authorize him to contract with the best qualified professionals whether they practice as individuals or as members of a professional firm or corporation.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the measures were adopted en bloc.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OFFICIAL EXPENSES PAYABLE OR REIMBURSABLE FROM A SENATOR'S OFFICIAL EXPENSE ACCOUNT

The resolution (S. Res. 294) relating to official expenses payable or reimbursable from a Senator's official expense account, was next considered.

● Mr. PELL. Mr. President, the measure before the Senate, Senate Resolution 294, deserves the support of every Member of this body. The Committee on Rules and Administration reported this resolution without objection.

For far too long we have struggled without a clear and positive definition of what is a proper reimbursable official expense. For too long we have left unresolved the question whether each Senator may define for himself what is an official expense for purposes of the 10-percent official expense fund and the home office expense allowance.

Today, with Senate Resolution 294 we have the opportunity to put these unanswered questions to rest. With agreement to this resolution we will for the first time define "official expense" for purposes of these expenditures. We will confirm the fact that the statutory provisions of the 10-percent fund allow each Senator to determine the necessity of official expenses he decides to incur. But we will also confirm the fact that each Senator may not make the final determination that a given expenditure is an "official expense" reimbursable from public funds. The final determination on what is such an "official expense" is to be made by the Rules Committee.

For purposes of paragraphs (5) and (9) of title 2 section 58(a) of the United States Code, Senate Resolution 294 defines "official expense" in the familiar terms of the standards customarily associated with the Internal Revenue Service's definition of deductible ordinary and reasonable business expenses. To be an official expense, the expenditure must be for an "ordinary and necessary business expense incurred by a Senator and his staff in the discharge of their official duties." This is the basic and essential test.

But, the resolution also provides additional and more specific guidance. While each Senator's discretion to determine the "necessity" of official expenses made from his 10-percent office expense fund is virtually unquestionable, it is not absolute. Sections 2 and 3 of the resolution establish or reconfirm certain expenditures which cannot be deemed "official expenses" for purposes of payments with any public funds.

Each of us can live with the definitions and prescriptions of Senate Resolution 294. We will all benefit from the certainty it provides in guiding us in our use of public funds. I urge its adoption.●

Mr. CRANSTON. Mr. President, in 1977 when Senator Bentsen and I began our effort to give managerial responsibility over office accounts to Senators themselves, our purpose was to do away with the antiquated practice of limiting official expenditures to an arbitrary list, based on outdated practices. We had found that certain of our office expenses, while clearly official in nature, would not be reimbursed by the Senate because they were not on the Rules Committee list of approved expenses. The so-called 10-percent discretionary account which resulted from our efforts and which was adopted as part of the fiscal year 1978 legislative appropriations bill afforded us at last the opportunity to be reimbursed for such official expenditures—thus eliminating the need for unofficial office accounts for official expenses.

Shortly after the 10-percent account became operational, the need for guidelines for Senators in making decisions on expenditures from the account was raised by several Senators and the Rules Committee. A number of us involved in the 10-percent account effort met with the then chairman of the Rules Committee, Senator CANNON, and the then chairman of the Legislative Appropriations Subcommittee, Senator HUDDLESTON, to discuss how best to approach this situation.

Obviously in proposing the discretionary fund, I had no intention of opening the door for Senators or their staffs to use Federal funds for items or services where there is the least question that such expenditures are clearly for official purposes. I felt 2 years ago that the Rules Committee should publish a clear set of guidelines for Senators describing questionable expenditures. At that time I urged the Rules Committee to draw up a list of prohibited expenditures to serve as guidelines.

I am, therefore, pleased to see that the Rules Committee in Senate Resolution 294 has chosen this approach. I believe that Senate Resolution 294 is a fair and reasonable answer to the problem of guidelines. Moreover, I am glad to note that the committee has extended these guidelines to the home State expenses category.

I hope this action will once and for all lay to rest any suggestion that the 10-percent discretionary fund was intended to relax the bonds of fiscal discipline on official senatorial expenditures. We included in our legislation a section requiring complete disclosure by Senators of expenditures from the discretionary fund exactly because we wanted to discourage any uses to which questions might be raised.

With the Senate Resolution 294 prohibitions clearly spelled out, Senators will be able to exercise their own judgment on items or services purchased with discretionary funds secure in the knowledge that no arbitrary and hitherto unknown rules will be unveiled suddenly to thwart a legitimate official expenditure as so often happened back before the discretionary fund was adopted.

● Mr. HATFIELD. Mr. President, I rise in strong support of Senate Resolution 294. It is a moderate but necessary step, which will assist Senators by eliminating uncertainty in identifying appropriate expenditures from official office expense accounts; eliminate current problems in the administration of these accounts; and yet leave individual Members with wide flexibility and discretion in the use of these funds.

In 1977, the Senate, reacting to the excessively narrow categories of items which could be reimbursed from official office expense accounts, sought to introduce some flexibility into the system. Members wanted to be able to experiment with new office techniques and programs, and to fund these innovations through the logical mechanism—office expense accounts. Prior to this date, the accounts could only be used for items such as postage, long distance telephone charges outside of Washington, magazine and newspaper subscriptions, home State office expenses, and so forth. A new category of expenses, "Such other official expenses as the Senator determines are necessary," was established through an amendment introduced by Senator CRANSTON. This category was limited to 10 percent of the total fund available to a Senator.

The notion that Senators had unlimited discretion over this portion of their accounts was incorrect from the start. For example, the language of the new section stated that meals and entertainment could not be funded from it. In addition, the Committee on Rules and Administration has recognized and informed all Members that the account could not be used to overcome specific prohibitions or limitations in other laws. For example, the Senate provides money on an annual basis for a Senator's personal staff. That account is the sole source of funds for hiring staff, and a Senator may not supplement his clerk hire with his 10-percent money, regardless of whether "a Senator determines this to be necessary."

Similarly, the fund cannot be used to pay for travel expenses of a Member during the 60 days immediately prior to the date of a primary or general election, as there is a specific prohibition elsewhere in the law against the use of official funds for this purpose. To permit such use of the 10-percent funds would be to allow a Senator to do indirectly what the law bars him from doing directly—an interpretation impossible to justify.

Because Senators have thus never had unlimited discretion over the use of this fund, even in the face of the actual language used in the statute, the Rules Committee has faced a plethora of difficult questions about the appropriate uses of this account. This problem has been exacerbated by the passage of Senate Resolution 170, which requires that all vouchers for expenses over $25 be documented. Prior to the effective date of this resolution, the Rules Committee never knew the identity of expenses charged to the other general category in the account, "Home State office expenses." These expenses were merely charged to this particular category, and paid, as long as they were properly certified by the Senator, and did not exceed the limit of funds available. Now, however, the Rules Committee, because of the documentation requirement, is informed of the identity of these expenses, and the same problems have arisen with this category of expenses as we have seen with the 10 percent.

It is clear that Senators and their staffs do not know exactly what these two categories can be used for. This ambiguity could lead to a situation where a good faith expenditure is made for an item which is, unknowingly, and unfortunately reimbursable. It would be much preferable to have all Members know prior to a purchase or other commitment whether a particular expense can be reimbursed. In an attempt to clarify the existing uncertainty, the Rules Committee has reported Senate Resolution 294, which would, for the first time, define official expenses.

Particular items which could not be reimbursed under this account are clearly set forth in sections 2 and 3 of the resolution. Senators are left with their discretions, just as was intended by the Cranston amendment, but the problems for individual Senators, as well as with the administration of taxpayers' money, are eliminated.

I am convinced this proposal deserves the support of my colleagues, Mr. President, and I urge its passage.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 294) was agreed to, as follows:

S. Res. 294

Resolved, That this resolution applies to payments and reimbursements from the contingent fund of the Senate under paragraphs (5) and (9) of section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C 58(a)). For purposes of such paragraphs and this resolution, the terms "official office expenses" and "other official expenses" mean ordinary and necessary business expenses incurred by a Senator and his staff in the discharge of their official duties.

SEC. 2. The following expenses are not considered official office expenses or other official expenses and payment thereof or reimbursement therefor may not be made:

(1) commuting expenses, including parking fees incurred in commuting;

(2) expenses incurred for the purchase of holiday greeting cards, flowers, trophies, awards, and certificates;

(3) donations or gifts of any type;

(4) dues or assessments;

(5) expenses incurred for the purchase of radio or television time, or for space in newspaper or other print media (except classified advertising for personnel to be employed in a Senator's office);

(6) expenses incurred by an individual who is not an employee (except as specifically authorized by subsections (e) and (h) of such section 506);

(7) travel expenses incurred by an employee which are not reimbursable under subsection (e) of such section 506;

(8) relocation expenses incurred by an employee in connection with the commencement or termination of employment or a change of duty station; and

(9) compensation paid to an individual for personal services performed in a normal employer-employee relationship.

SEC. 3. Payment of or reimbursement for the following expenses is specifically prohibited by law and may not be made whether or not such expenses constitute official office expenses or other official expenses:

(1) expenses incurred for entertainment or meals (2 U.S.C. 58(a));

(2) payment of additional salary or compensation to an employee (2 U.S.C. 68); and

(3) expenses incurred for maintenance or care of private vehicles (Legislative Branch Appropriation Acts).

SEC. 4. This resolution shall apply with respect to expenses incurred on or after the date on which this resolution is agreed to.

Mr. TOWER. I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION TO DESIGNATE SENATOR LEVIN ACTING PRESIDENT PRO TEMPORE FOR A CERTAIN PURPOSE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Michigan (Mr. Levin) be designated Acting President pro tempore for the purpose of signing the enrollment on S. 1655.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TODAY UNTIL 8:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:45 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION TOMORROW OF SENATORS JEPSEN, MORGAN, AND LEVIN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, after the two leaders or their designees have been recognized under the standing order, Messrs. Jepsen, Morgan, and Levin be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX OF 1979

The Senate continued with consideration of the bill.

AMENDMENT NO. 711

(Purpose: To provide a tax credit to homebuilders for the construction of residences incorporating certain solar energy utilization characteristics)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be permitted to call up an amendment by Mr. Hart to the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I send to the desk an amendment by Mr. Hart and ask unanimous consent that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for Mr. Hart, Mr. Percy, Mr. Tsongas, Mr. Durkin, Mr. Baucus, Mr. Domenici, Mr. Heinz, Mr. Bradley, Mr. Leahy, Mr. Cranston, Mr. Levin, Mr. Metzenbaum, Mr. Hatfield, Mr. Sarbanes, Mr. Stewart, and Mr. DeConcini, proposes an amendment numbered 711.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 152, between lines 11 and 12, insert the following new section:

Sec. 272. Credit for Passive Solar Residential Construction.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by section 301, is amended by inserting immediately before section 45 the following new section:

"Sec. 44G. Credit for Passive Solar Residential Construction.

"(a) Allowance of Credit.—In the case of a builder of a new residential unit which incorporates a passive solar energy system, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined under the solar construction credit table which shall be prescribed by the Secretary, based on the ratio of the solar collection area to the house heating load.

"(b) Limitations.—

"(1) Maximum dollar amount per unit.—The amount of the credit allowed by subsection (a) shall not exceed $2,000 for a residential unit.

"(2) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) Definitions; Special Rules.—For purposes of this section—

"(1) Builder.—The term 'builder' means a person who is in the trade or business of building residential units and has a proprietary interest in the residential unit built.

"(2) New residential unit.—The term 'new residential unit' means any unit—

"(A) which is located in the United States,

"(B) which is designed for use as a residence,

"(C) which is a unit of a building having less than five residential units,

"(D) the construction of which is completed after April 5, 1979, and before January 1, 1986, and

"(E) which is ready for occupancy before such date.

"(3) Passive solar energy system.—The term 'passive solar energy system' means a system—

"(A) which contains—

"(i) a solar collection area,

"(ii) an absorber,

"(iii) a storage mass,

"(iv) a heat distribution method, and

"(v) heat regulation devices, and

"(B) which is installed in a new residential unit after April 5, 1979, and before January 1, 1986.

"(4) Solar collection area.—The term 'solar collection area' means an expanse of transparent or translucent material that—

"(A) is located on that side of the structure which faces (within 30 degrees) south, and

"(B) the position of which may be changed from vertical to horizontal in such a manner that the rays of the Sun directly strike an absorber.

"(5) Absorber.—The term 'absorber' means a hard surface that—

"(A) is exposed to the rays of the Sun admitted through a solar collection area,

"(B) converts solar radiation into heat, and

"(C) transfers heat to a storage mass.

"(6) Storage mass.—The term 'storage mass' means a dense, heavy material that—

"(A) receives and holds heat from an absorber and later releases the heat to the interior of the structure,

"(B) is of sufficient volume, depth, and thermal energy capacity to store and deliver adequate amounts of solar heat for the structure in which it is incorporated,

"(C) is located so that it is capable of distributing the stored heat directly to the habitable areas of the structure through a heat distribution method, and

"(D) has an area of direct irradiated material (that is, floors, walls, etc.) equal to or greater than the solar collection area.

"(7) Heat distribution method.—The term 'heat distribution method' means—

"(A) the release of radiant heat from a storage mass within the habitable areas of the structure, or

"(B) convective heating from a storage mass, through airflow paths provided by openings or by ducts (with or without the assistance of a fan or pump having a horsepower rating of less than 1 horsepower) in the storage mass, to habitable areas of a structure.

"(B) Heat regulation device.—The term 'heat regulation device' means—

"(A) shading or venting mechanisms to control the amount of solar heat admitted through solar collection areas; and

"(B) nighttime insulation or its equivalent to control the amount of heat permitted to escape from the interior of a structure.

"(9) House heating load.—The term 'house heating load' is the product of the number of square feet in the habitable floor area of the house multiplied by the insulation factor obtained from the insulation factor table under subsection (d)(1)(B).

"(10) Joint proprietary interest in residential unit.—If 2 or more builders have a proprietary interest in a residential unit, the credit allowable under subsection (a) shall be apportioned to each builder on the basis of his ownership interest in the residential unit.

"(d) Solar Construction Credit Table.—

"(1) Prescription of table.—After consultation with the Secretary of Energy and the Secretary of Housing and Urban Development, the Secretary by regulations shall—

"(A) prescribe a solar construction credit table, to which reference is made in subsection (a), which meets the requirements set forth in paragraph (2), and

"(B) prescribe a table of insulation factors, based on the amounts of insulation in floors, walls, and ceilings and the number of panes of glass in the windows of a structure, for 8 categories of residential units ranging from one having no added insulation to one having the maximum feasible amount of insulation.

"(2) Requirements for solar construction table.—

"(A) In general.—In order to meet the requirements of this paragraph, the table prescribed by the Secretary—

"(i) shall provide a credit at the rate of $60 for each 1 million Btu's of annual energy savings per residential unit, and

"(ii) shall set forth different amounts of credit for different ratios of solar collection area to house heating load and for residential units located in different areas of the United States.

"(3) Annual energy savings per residential unit.—For purposes of subparagraph (A), the annual energy saving for a residential unit shall be the amount by which the number of Btu's of nonsolar energy required to provide heat to a reference house for a calendar year exceeds the number of

Btu's of nonsolar energy required to heat a similar house, in the same or a similar location, which uses an incorporated passive solar energy system for a calendar year.

"(C) Reference house.—For purposes of subparagraph (B), the term 'reference house' means a residential unit with 1,500 square feet of habitable floor space and a heating load of 7.5 Btu's per square foot per degree day.

"(D) Heating load.—For purposes of subparagraph (C), the term 'heating load' means the product of the number of square feet of habitable floor space of a residential unit multiplied by the appropriate insulation factor, set forth in the table prescribed by the Secretary under paragraph (1)(B), for that unit.

"(c) Termination.—The credit allowable by subsection (a) shall not be allowed with respect to a residential unit the construction of which is completed after December 31, 1985.".

(b) Clerical Amendments.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 331, is amended by inserting immediately after the item relating to section 44F the following new item:

"Sec. 44G. Credit for passive solar residential construction.".

(2) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 331, is amended by striking out "and 44F" and inserting "44F, and 44G".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after April 5, 1979.

Mr. ROBERT C. BYRD. Mr. President, that means that the order for the recogniton of Messrs. Dole and Jackson has been temporarily laid aside for the purpose of offering this amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL TOMORROW AT 8:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 8:45 a.m. tomorrow morning.

The motion was agreed to; and, at 7:36 p.m., the Senate recessed until tomorrow, Friday, December 7, 1979, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate, December 6, 1979:

United Nations

H. Carl McCall, of New York, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Department of Energy

Thomas Eugene Stelson, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications), vice Omi Gail Walden, resigned.

The Judiciary

Harry T. Edwards, of Michigan, to be U.S. circuit judge for the District of Columbia Circuit, vice David L. Bazelon, retired.

In the Air Force

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Merton W. Baker, 398-14-4215FR, Regular Air Force.

Brig. Gen. Ernest A. Bedke, 519-38-7785FR, Regular Air Force.

Brig. Gen. Donald W. Bennett, 232-50-8473FR, Regular Air Force.

Brig. Gen. Richard T. Boverie, 499-32-6104FR, Regular Air Force.

Brig. Gen. John T. Buck, 386-26-6193FR, Regular Air Force.

Brig. Gen. Louis C. Buckman, 449-64-3696FR, Regular Air Force.

Brig. Gen. William J. Campbell, 387-26-0119FR, Regular Air Force.

Brig. Gen. John T. Chain, Jr., 161-28-5418FR, Regular Air Force.

Brig. Gen. Harry Falls, Jr., 237-26-4089FR, Regular Air Force.

Brig. Gen. Lawrence D. Garrison, 548-36-4414FR, Regular Air Force.

Brig. Gen. Guy L. Hecker, Jr., 424-38-0092 FR, Regular Air Force.

Brig. Gen. George J. Kertesz, 477-20-4143 FR, Regular Air Force.

Brig. Gen. James E. Light, Jr., 365-28-9187FR, Regular Air Force.

Brig. Gen. George C. Lynch, 574-09-1934FR, Regular Air Force.

Brig. Gen. John B. Marks, Jr., 437-38-3811FR, Regular Air Force.

Brig. Gen. Forrest S. McCartney, 535-24-8198FR, Regular Air Force.

Brig. Gen. Russell E. Mohney, 284-26-2591 FR, Regular Air Force.

Brig. Gen. Cornelius Nugteren, 503-30-5575 FR, Regular Air Force.

Brig. Gen. Waymond C. Nutt, 465-44-4751 FR, Regular Air Force.

Brig. Gen. John W. Ord, 542-16-9009FR, Regular Air Force, Medical.

Brig. Gen. John R. Paulk, 253-48-7056FR, Regular Air Force.

Brig. Gen. Kenneth L. Peek, Jr., 314-30-4967FR, Regular Air Force.

Brig. Gen. Marc C. Reynolds, 504-16-1608 FR, Regular Air Force.

Brig. Gen. Davis C. Rohr, 391-22-9105FR, Regular Air Force.

Brig. Gen. Robert D. Russ, 537-28-9188FR, Regular Air Force.

Brig. Gen. Richard K. Saxer, 287-26-1820FR, Regular Air Force.

Brig. Gen. Richard V. Secord, 302-24-7854FR, Regular Air Force.

Brig. Gen. Mele Vojvodich, Jr., 235-42-3435FR, Regular Air Force.

I nominate the following officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10 of the United States Code:

To be major general

Maj. Gen. Robert W. Bazley, 188-18-6278FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. William E. Brown, Jr., 137-22-1897FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Philip J. Conley, Jr., 035-20 5730FR, (brigadier general, Regular Air Force) U.S. Air Force.

Lt. Gen. Hans H. Driessnack, 064-22-2830FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Walter D. Druen, Jr., 228-26-0380FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Billy J. Ellis, 436-32-2398FR, (brigadier general, Regular Air Force) U.S. Air Force.

Brig. Gen. Harry Falls, Jr., 237-26-4089FR, (brigadier general, Regular Air Force) U.S. Air Force.

Lt. Gen. Lincoln D. Faurer, 208-12-8092FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. William D. Gilbert, 433-36-1600 FR, (brigadier general, Regular Air Force) U.S. Air Force.

Lt. Gen. Andrew P. Iosue, 023-20-5608FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. William J. Kelly, 021-12-9188 FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. John E. Kulpa, Jr., 158-20-2271 FR, (brigadier general, Regular Air Force) U.S. Air Force.

Lt. Gen. Richard L. Lawson, 479-24-4413 FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Howard W. Leaf, 353-18-3384 FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Thomas H. McMullen, 467-36-7147FR, (brigadier general, Regular Air Force) U.S. Air Force.

Lt. Gen. Freddie L. Poston, 267-18-2438FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Daryle E. Tripp, 096-22-9928FR, (brigadier general, Regular Air Force) U.S. Air Force.

Lt. Gen. Stanley M. Umstead, Jr., 577-38-1425FR, (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Hoyt S. Vandenberg, Jr., 579-34-3982FR, (brigadier general), Regular Air Force) U.S. Air Force.

To be brigadier general

Brig. Gen. Merton W. Baker, 398-14-4215 FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Donald W. Bennett, 232-50-8473 FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James R. Brown, 565-36-3216FR, (colonel, Regular Air Force) U.S. Air Force.

Lt. Gen. Kelley H. Burke, 419-20-0489FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. William J. Campbell, 387-26-0119FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. Van C. Doubleday, 261-32-7992 FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. James C. Enney, 283-35-1982FR (Colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Donald L. Evans, 570-22-6591 FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Lawrence D. Garrison, 548-36-4414FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. Fred A. Haeffner, 726-10-7498 FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. Charles C. Irions, 312-24-6750 FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. John H. Jacobsmeyer, Jr., 002-22-5332FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. Doyle E. Larson, 477-26-9917 FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James E. Light, Jr., 365-28-9187 FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. George C. Lynch, 574-09-1934 FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John B. Marks, Jr., 437-38-3811 FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Forrest S. McCartney, 535-24-8198FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. George D. Miller, 197-20-5982FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Russell E. Mohney, 284-26-2591FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Cornelius Nugteren, 503-30-5575FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. Jerome F. O'Malley, 171-24-0533R, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John W. Ord, 542-16-9009FR, (colonel, Regular Air Force) U.S. Air Force, Medical.

Brig. Gen. Marvin C. Patton, 524-22-0507FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John R. Paulk, 253-48-7056FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John T. Randerson, 098-22-5729FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Marc C. Reynolds, 504-16-1608FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Graham W. Rider, 381-26-5453FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Davis C. Rohr, 391-22-9105FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Richard K. Saxer, 287-26-1820FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. Stuart H. Sherman, Jr., 251-64-4005FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. Robert C. Taylor, 593-34-0070FR, (colonel, Regular Air Force) U.S. Air Force.

Maj. Gen. Wayne E. Whitlatch, 479-24-0179FR, (colonel, Regular Air Force) U.S. Air Force.

EXTENSIONS OF REMARKS

BUILDING TRADES AND PRODUCTIVITY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. LaFALCE. Mr. Speaker, one of the central components of the trade union movement in this country has been the building trades unions. They have always been in the forefront of the trade union movement, and they have made many valuable contributions to that movement and to the country as a whole.

In addition to their role in the trade union movement, the building trades have been instrumental in providing public and collective services which benefit both contractors and their own members. Apprentice programs, job information, and union discipline have all made solid contributions to the continued health and vitality of the construction industry. Those contributions have been very important for the country as a whole, because the construction industry plays a very significant role in the economy.

Although those contributions have long been obvious, some antiunion activists have alleged that the building trades and unions in general have had a negative effect on productivity and efficiency in industry. These allegations have most often been false, but the lack of hard and concrete statistical data on the effect of unionization on productivity had hampered effective rebuttals.

However, Prof. Steven G. Allen of North Carolina State University has recently finished an econometric study of productivity in the construction trades, which indicates that the antiunion activists have been dead wrong. His findings show that construction workers who belong to trade unions are approximately one-third more productive than nonunion workers, which is a highly significant difference from any viewpoint. Dr. Allen based his study on output, employment, capital services, and other pertinent data compiled nationally by the Federal Government; and that data covers every sector of the construction industry across the entire country.

Most tellingly, according to the Allen study, this productivity difference between union and nonunion workers in the construction industry holds true regardless of such factors as the size of the contracting firm involved, the amount of capital used, the age or education of the workers, the type of construction work, or the region of the country. That should lay to rest a great many myths and misunderstandings about unions in general and the building trades in particular.

A copy of this pioneering study can be obtained from Robert A. Georgine, president, Center To Protect Workers' Rights, suite 800, 1899 L Street NW., Washington, D.C. 20036.●

THE POPE'S VISIT TO TURKEY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. DERWINSKI. Mr. Speaker, it was just a few weeks ago when the entire country was electrified by the visit of Pope John Paul II to the United States. His trip received the overwhelming media attention which it fully deserved.

I have been disappointed, however, at the limited media attention given to the Pope's visit to Turkey last week. In a way, this was not only unique and delicate, but possibly the most historic mission which the energetic John Paul has undertaken so far.

The specific purpose of the trip was to shore up the Orthodox Christian community in Turkey. The Pope met with Orthodox Patriarch Demetrius I, "first among equals" of all patriarchs and bishops of the Eastern Orthodox Church. The patriarch has suffered under great restrictions and calculated insults from Turkish officials over the years, so the immediate impact of the Pope's visit is to protect the Orthodox Church from the steady pressure on its physical assets and call the situation to the attention of the world.

In another dramatic gesture, the Pope received the Armenian Bishop of Istanbul. The Turkish genocide of the Armenians before World War I was the first tragedy of that kind in modern history.

The Roman Catholics and Eastern Orthodox Churches separated in 1054. Since Constantinople was overrun by the Ottoman Turks in 1453, the patriarchs have faced constant harassment, and in the last 50 years, secular Turkish officials have continued the pattern.

Thus, the religious significance of greater communication between these two great church leaders, which could lead to ultimate reunification, cannot be overstated. The Pope's trip symbolizes a new and meaningful relationship which will buttress the spiritual, historical and legal rights of the patriarch to continue to function in the historic city of Constantinople.●

CAPITALISM

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. PAUL. Mr. Speaker, some honest intellectuals who oppose the free market apparently do so under the impression that top businessmen control of the economy when the Government does not. But this is far from the truth. In a free market, it is the consumer who is king. The consumer's desires are what determine every economic activity. Businessmen succeed only to the extent that they are able to satisfy consumer needs and wants.

Dr. Ludwig von Mises, the greatest economist of our century and one of its most eloquent defenders of freedom, delivered a series of lectures on capitalism, in 1959, in Argentina. Only recently found among his papers, these lectures are even more relevant to the 1980's than they were to the 1950's.

The following article was printed in the December issue of the Freeman, which is published by the Foundation for Economic Education. I would like to call this article's many insights to my colleagues' attention.

The article follows:

CAPITALISM

(By Ludwig von Mises)

Descriptive terms which people use are often quite misleading. In talking about modern captains of industry and leaders of big business, for instance, they call a man a "chocolate king" or a "cotton king" or an "automobile king." Their use of such terminology implies that they see practically no difference between the modern heads of industry and those feudal kings, dukes or lords of earlier days. But the difference is in fact very great, for a chocolate king does not rule at all, he serves. He does not reign over conquered territory, independent of the market, independent of his customers. The chocolate king—or the steel king or the automobile king or any other king of modern industry—depends on the industry he operates and on the customers he serves. This "king" must stay in the good graces of his subjects, the consumers; he loses his "kingdom" as soon as he is no longer in a position to give his customers better service and provide it at lower cost than others with whom he must compete.

Two hundred years ago, before the advent of capitalism, a man's social status was fixed from the beginning to the end of his life: he inherited it from his ancestors, and it never changed. If he was born poor, he always remained poor, and if he was born rich—a lord or a duke—he kept his dukedom and the property that went with it for the rest of his life.

As for manufacturing, the primitive processing industries of those days existed almost exclusively for the benefit of the wealthy. Most of the people (ninety percent or more of the European population) worked the land and did not come in contact with the city-oriented processing industries. This rigid system of feudal society prevailed in the most developed areas of Europe for many hundreds of years.

However, as the rural population expanded, there developed a surplus of people on the land. For this surplus of population without inherited land or estates, there was not enough to do, nor was it possible for them to work in the processing industries; the kings of the cities denied them access. The numbers of these "outcasts" continued to grow, and still no one knew what to do with them. They were, in the full sense of the word, "proletarians," outcasts whom the government could only put into the workhouse or the poorhouse. In some sections of Europe, especially in the Netherlands and in England, they became so numerous that, by the eighteenth century, they were a real menace to the preservation of the prevailing social system.

Today, in discussing similar conditions in places like India or other developing countries, we must not forget that, in eighteenth-century England, conditions were much worse. At that time, England had a population of six or seven million people, but of those six or seven million people, more than one million, probably two million, were simply poor outcasts for whom the existing social system made no provision. What to do with these outcasts was one of the great problems of eighteenth-century England.

Another great problem was the lack of raw materials. The British, very seriously, had to ask themselves this question: what are we going to do in the future, when our forests will no longer give us the wood we need for our industries and for heating our houses? For the ruling classes it was a desperate situation. The statesmen did not know what to do, and the ruling gentry were absolutely without any ideas on how to improve conditions.

THE START OF MASS PRODUCTION

Out of this serious social situation emerged the beginnings of modern capitalism. There were some persons among those outcasts, among those poor people, who tried to organize others to set up small shops which could produce something. This was an innovation. These innovators did not produce expensive goods suitable only for the upper classes; they produced cheaper products for everyone's needs. And this was the origin of capitalism as it operates today. It was the beginning of mass production, the fundamental principle of capitalistic industry. Whereas the old processing industries serving the rich people in the cities had existed almost exclusively for the demands of the upper classes, the new capitalist industries began to produce things that could be purchased by the general population. It was mass production to satisfy the needs of the masses.

This is the fundamental principle of capitalism as it exists today in all of those countries in which there is a highly developed system of mass production: Big business, the target of the most fanatic attacks by the so-called leftists, produces almost exclusively to satisfy the wants of the masses. Enterprises producing luxury goods solely for the well-to-do can never attain the magnitude of big businesses. And today, it is the people who work in large factories who are the main consumers of the products made in those factories. This is the fundamental difference between the capitalistic principles of production and the feudalistic principles of the preceding ages.

CONSUMER SOVEREIGNTY

When people assume, or claim, that there is a difference between the producers and the consumers of the products of big businesses, they are badly mistaken. In American department stores you hear the slogan "the customer is always right." And this customer is the same man who produces in the factory those things which are sold in the department stores. The people who think that the power of big business is enormous are mistaken also, since big business depends entirely on the patronage of those who buy its products; the biggest enterprise loses its power and its influence when it loses its customers.

Fifty or sixty years ago it was said in almost all capitalist countries that the railroad companies were too big and too powerful; they had a monopoly; it was impossible to compete with them. It was alleged that, in the field of transportation, capitalism had already reached a stage at which it had destroyed itself, for it had eliminated competition. What people overlooked was the fact that the power of the railroads depended on their ability to serve people better than any other method of transportation. Of course it would have been ridiculous to compete with one of these big railroad companies by building another railroad parallel to the old line, since the old line was sufficient to serve existing needs.

But very soon there came other competitors. Freedom of competition does not mean that you can succeed simply by imitating or copying precisely what someone else has done. Freedom of the press does not mean that you have the right to copy what another man has written and thus to acquire the success which this other man has duly merited on account of his achievements. It means that you have the right to write something different. Freedom of competition concerning railroads, for example, means that you are free to invent something, to do something, which will challenge the railroads and place them in a very precarious competitive situation.

In the United States the competition to the railroads—in the form of buses, automobiles, trucks, and airplanes—has caused the railroads to suffer and to be almost completely defeated, as far as passenger transportation is concerned.

CAPITALISM TRANSFORMED THE WORLD

The development of capitalism consists in everyone's having the right to serve the customer better and/or more cheaply. And this method, this principle, has, within a comparatively short time, transformed the whole world. It has made possible an unprecedented increase in world population.

In eighteenth-century England, the land could support only six million people at a very low standard of living. Today more than fifty million people enjoy a much higher standard of living than even the rich enjoyed during the eighteenth century. And today's standard of living in England would probably be still higher, had not a great deal of the energy of the British been wasted in what were, from various points of view, avoidable political and military "adventures."

These are the facts about capitalism. Thus, if an Englishman—or, for that matter, any other man in any country of the world—says today to his friends that he is opposed to capitalism, there is a wonderful way to answer him. "You know that the population of this planet is now ten times greater than it was in the ages preceding capitalism; you know that all men today enjoy a higher standard of living than your ancestors did before the age of capitalism. But how do you know that you are the one out of ten who would have lived in the absence of capitalism? The mere fact that you are living today is proof that capitalism has succeeded, whether or not you consider your own life very valuable."

DEVELOPMENT OF FACTORY SYSTEM

In spite of all its benefits, capitalism has been furiously attacked and criticized. It is necessary that we understand the origin of this antipathy. It is a fact that the hatred of capitalism originated not with the masses, not among the workers themselves, but among the landed aristocracy—the gentry of England and the European continent. They blamed capitalism for something that was not very pleasant for them: at the beginning of the nineteenth century, the higher wages paid by industry to its workers forced the landed gentry to pay equally higher wages to their agricultural workers. The aristocracy attacked the industries by criticizing the standard of living of the masses of the workers.

Of course—from our viewpoint, the workers' standard of living was extremely low; conditions under early capitalism were absolutely shocking, but not because the newly developed capitalist industries had harmed the workers. The people hired to work in factories had already been existing at a virtually subhuman level.

The famous old story, repeated hundreds of times, that the factories employed women and children and that these women and children, before they were working in factories, had lived under satisfactory conditions, is one of the greatest falsehoods of history. The mothers who worked in the factories had nothing to cook with; they did not leave their homes and their kitchens to go into the factories, they went into factories because they had no kitchens, and if they had a kitchen they had no food to cook in those kitchens. And the children did not come from comfortable nurseries. They were starving and dying. And all the talk about the so-called unspeakable horror of early capitalism can be refuted by a single statistic: precisely in these years in which British capitalism developed, precisely in the age called the Industrial Revolution in England, in the years from 1760 to 1830, precisely in those years the population of England doubled, which means that hundreds of thousands of children—who would have died in preceding times—survived and grew to become men and women.

TRADE BRINGS IMPROVEMENT

There is no doubt that the conditions of the preceding times were very unsatisfactory. It was capitalist business that improved them. It was precisely those early factories that provided for the needs of their workers, either directly or indirectly by exporting products and importing food and raw materials from other countries. Again and again, the early historians of capitalism have—one can hardly use a milder word—falsified history.

One anecdote they used to tell, quite possibly invented, involved Benjamin Franklin. According to the story, Ben Franklin visited a cotton mill in England, and the owner of the mill told him, full of pride: "Look, here are cotton goods for Hungary." Benjamin Franklin, looking around, seeing that the workers were shabbily dressed said: "Why don't you produce also for your own workers?"

But those exports of which the owner of the mill spoke really meant that he did produce for his own workers, because England had to import all its raw materials. There was no cotton either in England or in continental Europe. There was a shortage of food in England, and it had to be imported from Poland, from Russia, from Hungary. These exports were the payment for the imports of the food which made the survival of the British population possible. Many examples from the history of those ages will show the attitude of the gentry and aristocracy toward the workers. I want to cite only two examples. One is the famous British Speenhamland system. By this system, the British government paid all workers who did not get the minimum wage (determined by the government) the difference between the wages they received and this minimum wage. This saved the landed aristocracy the trouble of paying higher wages. The gentry would pay the traditionally low agricultural wage, and the government would supplement it, thus keeping workers from leaving rural occupations to seek urban factory employment.

Eighty years later, after capitalism's expansion from England to continental Europe, the landed aristocracy again reacted against the new production system. In Germany the Prussian Junkers, having lost many workers to the higher-paying capitalistic industries, invented a special term for the problem: "flight from the countryside"—Landflucht. And in the German Parliament, they discussed what might be done against this evil, as it was seen from the point of view of the landed aristocracy. Prince Bismarck, the famous chancellor of the German Reich, in a speech one day said, "I met a man in Berlin who once had worked on my estate, and I asked this man, 'Why did you leave the estate; why did you go away from the country; why are you now living in Berlin?' "

And, according to Bismarck, this man answered, "You don't have such a nice *Biergarten* in the village as we have here in Berlin, where you can sit, drink beer, and listen to music." This is, of course, a story told from the point of view of Prince Bismarck, the employer. It was not the point of view of all his employees. They went into industry because industry paid them higher wages and raised their standard of living to an unprecedented degree.

LIVING STANDARDS UNDER CAPITALISM

Today, in the capitalist countries, there is relatively little difference between the basic life of the so-called higher and lower classes; both have food, clothing, and shelter. But in the eighteenth century and earlier, the difference between the man of the middle class and the man of the lower class was that the man of the middle class had shoes and the man of the lower class did not have shoes. In the United States today the difference between a rich man and a poor man means very often only the difference between a Cadillac and a Chevrolet. The Chevrolet may be bought secondhand, but basically it renders the same services to its owners: he, too, can drive from one point to another. More than fifty percent of the people in the United States are living in houses and apartments they own themselves.

The attacks against capitalism—especially with respect to the higher wage rates—start from the false assumption that wages are ultimately paid by people who are different from those who are employed in the factories. Now it is all right for economists and for students of economic theories to distinguish between the worker and the consumer and to make a distinction between them. But the fact is that every consumer must, in some way or the other, earn the money he spends, and the immense majority of the consumers are precisely the same people who work as employees in the enterprises that produce the things which they consume.

Wage rates under capitalism are not set by a class of people different from the class of people who earn the wages: they are the same people. It is not the Hollywood film corporation that pays the wages of a movie star; it is the people who pay admission to the movies. And it is not the entrepreneur of a boxing match who pays the enormous demands of the prize fighters; it is the people who pay admission to the fight. Through the distinction between the employer and the employee, a distinction is drawn in economic theory, but it is not a distinction in real life; here, the employer and the employee utlimately are one and the same person.

There are people in many countries who consider it very unjust that a man who has to support a family with several children will receive the same salary as a man who has only himself to take care of. But the question is not whether the employer should bear greater responsibility for the size of a worker's family.

The question we must ask in this case is: Are you, as an individual, prepared to pay more for something, let us say, a loaf of bread, if you are told that the man who produced this loaf of bread has six children? The honest man will certainly answer in the negative and say, "In principle I would, but in fact I would rather buy the bread produced by a man without any children." The fact is that, if the buyers do not pay the employer enough to enable him to pay his workers, it becomes impossible for the employer to remain in business.

THE MEANING OF CAPITALISM

The capitalist system was termed "capitalism" not by a friend of the system, but by an individual who considered it to be the worst of all historical systems, the greatest evil that had ever befallen mankind. That man was Karl Marx. Nevertheless, there is no reason to reject Marx's term, because it describes clearly the source of the great social improvements brought about by capitalism. These improvements are the result of capital accumulation; they are based on the fact that people, as a rule, do not consume everything they have produced, that they save—and invest—a part of it.

There is a great deal of misunderstanding about this problem and—in the course of these six lectures—I will have the opportunity to deal with the most fundamental misapprehensions which people have concerning the accumulation of capital, the use of capital, and the universal advantages to be gained from such use. I will deal with capitalism particularly in my lectures about foreign investment and about that most critical problem of present-day politics, inflation. You know, of course, that inflation exists not only in this country. It is a problem all over the world today.

An often unrealized fact about capitalism is this: savings mean benefits for all those who are anxious to produce or earn wages. When a man has accrued a certain amount of money—let us say, one thousand dollars—and, instead of spending it, entrusts these dollars to a savings bank or an insurance company, the money goes into the hands of an entrepreneur, a businessman, enabling him to go out and embark on a project which could not have been embarked on yesterday, because the required capital was unavailable.

HOW CAPITAL CREATES JOBS

What will the businessman do now with the additional capital? The first thing he must do, the first use he will make of this additional capital, is to go out and hire workers and buy raw materials—in turn causing a further demand for workers and raw materials to develop, as well as a tendency toward higher wages and high prices for raw materials. Long before the saver or the entrepreneur obtain any profit from all of this, the unemployed worker, the producer of raw materials, the farmer, and the wage-earner are all sharing in the benefits of the additional savings.

Whether the entrepreneur will get something out of the project depends on the future state of the market and on his ability to anticipate correctly the future state of the market. But the workers as well as the producers of raw materials get the benefits immediately. Much was said, thirty or forty years ago, about the "wage policy," as they called it, of Henry Ford. One of Mr. Ford's great accomplishments was that he paid higher wages than did other industrialists or factories. His wage policy was described as an "invention," yet it is not enough to say that this new "invented" policy was the result of the liberality of Mr. Ford. A new branch of business, or a new factory in an already existing branch of business, has to attract workers from other employments, from other parts of the country, even from other countries. And the only way to do this is to offer the workers higher wages for their work. This is what took place in the early days of capitalism, and it is still taking place today.

When the manufacturers in Great Britain first began to produce cotton goods, they paid their workers more than they had earned before. Of course, a great percentage of these new workers had earned nothing at all before that and were prepared to take anything they were offered. But after a short time—when more and more capital was accumulated and more and more new enterprises were developed—wage rates went up, and the result was the unprecedented increase in British population which I spoke of earlier.

THEORY OF "IMPOVERISHMENT"

The scornful depiction of capitalism by some people as a system designed to make the rich become richer and the poor become poorer is wrong from beginning to end. Marx's thesis regarding the coming of socialism was based on the assumption that workers were getting poorer, that the masses were becoming more destitute, and that finally all the wealth of a country would be concentrated in a few hands or in the hands of one man only. And then the masses of impoverished workers would finally rebel and expropriate the riches of the wealthy proprietors. According to this doctrine of Karl Marx, there can be no opportunity, no possibility within the capitalistic system for any improvement of the conditions of the workers.

In 1865, speaking before the International Workingmen's Association in England, Marx said the belief that labor unions could improve conditions for the working population was "absolutely in error." The union policy of asking for higher wage rates and shorter work hours he called conservative—conservatism being, of course, the most condemnatory term which Karl Marx could use. He suggested that the unions set themselves a new, revolutionary goal: that they "do away with the wage system altogether," that they substitute "socialism"—government ownership of the means of production—for the system of private ownership.

If we look upon the history of the world, and especially upon the history of England since 1865, we realize that Marx was wrong in every respect. There is no western, capitalistic country in which the conditions of the masses have not improved in an unprecedented way. All these improvements of the last eighty or ninety years were made in spite of the prognostications of Karl Marx. For the Marxian socialists believed that the conditions of the workers could never be ameliorated. They followed a false theory, the famous "iron law of wages"—the law which stated that a worker's wages, under capitalism, would not exceed the amount he needed to sustain his life for service to the enterprise.

The Marxians formulated their theory in this way: if the workers' wage rates go up, raising wages above the subsistence level, they will have more children; and these children, when they enter the labor force, will increase the number of workers to the point where the wage rates will drop, bringing the workers once more down to the subsistence level—to that minimal sustenance level which will just barely prevent the working population from dying out.

But this idea of Marx, and of many other socialists, is a concept of the working man precisely like that which biologists use—and rightly so—in studying the life of animals. Of mice, for instance.

IMPROVED CONDITIONS DEPEND ON SOUND ECONOMIC POLICIES

If you increase the quantity of food available for animal organisms or for microbes, then more of them will survive. And if you restrict their food, then you will restrict their numbers. But man is different. Even the worker—in spite of the fact that Marxists do not acknowledge it—has human wants other than food and reproduction of his species.

An increase in real wages results not only in an increase in population, it results also, and first of all, in an improvement in the average standard of living. That is why today we have a higher standard of living in Western Europe and in the United States than in the developing nations of, say, Africa.

We must realize, however, that this higher standard of living depends on the supply of capital. This explains the difference between conditions in the United States and conditions in India; modern methods of fighting contagious diseases have been introduced in India—at least, to some extent—and the effect has been an unprecedented increase in population but, since this increase in population has not been accompanied by a corresponding increase in the amount of capital invested, the result has been an increase in poverty. A country becomes more prosperous in proportion to the rise in the invested capital per unit of its population.

But you have to remember that, in economic policies, there are no miracles. You have read in many newspapers and speeches, about the so-called German economic miracle—the recovery of Germany after its defeat and destruction in the Second World War. But this was no miracle. It was the application of the principles of the free market economy, of the methods of capitalism, even though they were not applied completely in all respects. Every country can experience the same "miracle" of economic recovery, although I must insist that economic recovery does not come from a miracle; it comes from the adoption of—and is the result of—sound economic policies.●

ISRAEL'S COURAGEOUS DECISION

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. OBEY. Mr. Speaker, the recent decision by the Israeli Government to drop deportation proceedings against the Palestinian mayor of Nablus is a responsible and far-sighted action which can only help the peace process now taking place between Israel and Egypt.

Mayor Bassam Shakaa, who had been jailed since November 11 by the Israeli authorities after allegedly organizing Palestinian resistance to Israel and voicing support for terrorist activities, was allowed to return to Nablus, the largest town in the West Bank, provided he exercise his duties as mayor in accordance with the law.

The military governor of the West Bank, Brig. Gen. Binyamin Ben-Eliezer, was quoted in today's Washington Post as saying "I believe this is proof of strength to be able to make unpleasant decisions," and I completely agree with his observation.

Israel's release of the mayor demonstrates its respect for the democratic process and for justice, which is a refreshing contrast to the activities taking place in another part of the Middle East.●

DEPORTATION OF IRANIAN STUDENTS

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. SHELBY. Mr. Speaker, the deplorable course of events in Iran and the reprehensible actions of the student terrorists have provoked deep-seated feelings of anger, hostility, and revenge here at home. While Iranian students in Tehran are holding American citizens hostage and demanding the extradition of the Shah so that he can face "revolutionary justice," Iranian students in the United States are echoing their demands and are in sympathy with their actions. Being alarmed and outraged over these events and although actions we can take to resolve the deplorable situation in Iran are severely limited by very practical realities, I have introduced a bill which would prevent Iranian students, as well as students from all other nations, from abusing this Nation's hospitality and becoming unwelcome disruptive agitators.

Specifically, my bill would amend the Immigration and Nationality Act to provide the following: First, directs the Attorney General to deport aliens on nonimmigrant visas who knowingly participate in a political demonstration, with a provision for the Attorney General to suspend such deportation if he determines that it is not in the best interest of the United States, second, speeds up the deportation process, removes judicial review in cases begun under the authority granted in this bill and establishes that any alien deported under the authority granted in this bill would be ineligible to receive a re-entry visa, and third, overturns regulations issued by the Immigration and Naturalization Service effective January 1, 1979, and requires nonimmigrant alien students to apply for an extension of temporary stay after expiration of their 1-year period of admittance.

Visitors in our country, instigated by irrational fanatics abroad, are currently causing disruptions that endanger peace. I believe this bill provides a degree of protection to our Government and our citizens from this kind of occurrence.●

CONSUMER-PATIENT RADIATION HEALTH AND SAFETY ACT OF 1979

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. LUKEN. Mr. Speaker, I am introducing legislation today to reduce unnecessary patient exposure to radiation by requiring that operators of medical and dental X-ray equipment be properly trained and certified. Mr. Speaker, it is important to note that while existing laws regulate the quality of X-ray equipment, patients' health and safety is jeopardized when untrained personnel operate the machinery. Today we are faced with increasing evidence of the link between radiation exposure and cancer, and are compelled to seek ways to limit unnecessary exposure. Yet, despite the risks from overuse or misuse of X-rays, only nine States now have restrictions on who may operate radiation equipment. The need to encourage States to develop credentialing programs is demonstrated by the following disturbing facts:

Approximately 90 percent of the manmade radiation to which the general public is exposed, including radiation from nuclear powerplants, is a result of medical and dental X-rays.

The Bureau of Radiologic Health estimates that 30 percent of diagnostic X-rays may be unnecessary, a significant portion of which result from poor operator technique.

The June 1979 report of the Interagency Task Force on the Health Effects of Ionizing Radiation found that the improper use and maintenance of equipment may result in radiation exposures to patients that are unnecessarily high, or that result in film unsuitable for diagnostic purposes. The FDA's nationwide evaluation of X-ray trends (NEXT) program demonstrated that a patient undergoing the same X-ray examination may receive more than 100 times as much radiation in one hospital or clinic as in another.

Mr. Speaker, I believe that the legislation I am introducing today is an improvement over legislation previously introduced in that it in no way infringes on the prerogatives of doctors in matters of medical judgment. The thrust of this legislation is to encourage efforts, at the State level, of adopting minimum standards insuring that unqualified personnel are not permitted to operate radiation machinery. This bill seeks to assist States in establishing accrediting and licensing programs, while protecting the safety of the public, which is now unfortunately being neglected.

At this point, I would like to have two excellent news articles on this issue inserted in the RECORD. From the Washington Post, "GAO Faults Federal, State Radiation Controls," December 4, 1979, and from the Washington Post, "Anybody Can Administer X-Rays," June 25, 1979.

In closing, I would like to note that the recommendations of the report of the Interagency Task Force on Radiation advocate the measures proposed in the legislation I am introducing today, and indeed call for stricter safeguards. I believe that at this time, my legislation represents a prudent approach to the problem of radiation safety, and I urge my colleagues to give it their support, and enact this bill as soon as possible.

The articles follow:

ANYBODY CAN ADMINISTER X-RAYS, CRITICS COMPLAIN

The government's main watchdog over medical X-rays was accused yesterday of "incredible" delay in creating guidelines to control the 130,000 doctors and technicians who give Americans 90 percent of their exposure to radiation.

The accusation was made before a House oversight subcommittee by Eleanor Walters of the Environmental Policy Institute.

Despite the fact that medical and dental X-raying far outweighs all other sources of possibly harmful radiation, including radiation from nuclear plants and materials, much of it is administered by untrained or ill-trained persons, the lawmakers were told.

Witnesses, including Dr. Herbert Abrams, Harvard radiology chairman, and Daniel Donohue, president of the American Society of Radiologic Technologists, said:

Between 130,000 and 170,000 men and women operate the nation's 250,000 pieces of medical X-ray equipment, but only 80,000 have shown their competence in voluntary certification or state licensing examinations.

Only 10 states (California, New York, New Jersey, Delaware, Oregon, Hawaii, Arizona, Montana, Kentucky and West Virginia) require licensing of X-ray technicians. Only California requires all persons who give X-rays, whether technicians or doctors, to pass a state examination.

Some 75 percent of all X-rays given by doctors are given by MDs other than radiologists, meaning in virtually all cases that they are untrained in keeping X-ray exposures to a minimum.

In most states any person at all—"anyone who walks off the street," said Walters—may operate an X-ray machine on unsuspecting patients.

The result of all these deficiencies is much unnecessary or excessive radiation, with long-range danger of cancer or genetic damage to the subjects.

John Villforth, director of the Department of Health, Education and Welfare's Bureau of Radiological Health, said early this year that medical radiation could be cut to half its present total without losing any medical benefits.

Villforth's agency has done little to accomplish this, Walters maintained.

In July 1977, she said, HEW Secretary Joseph A. Califano, Jr., said the bureau should develop standards for X-ray technicians, so more states could adopt effective licensing laws. Only in March of this year, she said, did the bureau finally publish a "notice of intent" to develop any standards.

This was the first step in a process by which the bureau hopes to publish final standards in December 1980. Walters called the delay "appalling," and said "it is inexcusable for only a handful of states" to require licensing of the persons who administer such a powerful and potentially harmful tool.

James Benson, the bureau's deputy director, agreed in an interview that "we ought to be going faster." He said the agency first tried in 1977 and 1978 to assemble a professional advisory group to write licensing standards but "all the administrative steps" currently required to do this in the federal government would have taken even longer.

Overall, however, he said the agency has done a great deal to reduce unneeded radiation given the fact that its legal authority is nonradiologist physician who owns an X-ray and related equipment, rather than controlling the way the equipment is used.

The overruse problem, said Harvard's Abrams, is not only a problem of training. The doctor who does his own X-raying has "a profound economic incentive to perform more examinations," he said. "In fact, the nonradiologist physician who owns an X-ray machine uses an average of twice as many X-rays as colleagues who refer patients to radiologists."

GAO FAULTS FEDERAL, STATE RADIATION CONTROLS

(By Victor Cohn)

Nearly a century after the discovery of radiation and its possible harm, there is still no comprehensive federal or state program to protect the public, the General Accounting Office said yesterday.

In a lengthy report, it summed up the radiation control programs in federal agencies and eight typical states, including Virginia, and concluded that:

Federal programs fail to cover many radiation sources in industry, in laboratories and in doctors' offices and hospitals, and often give only limited protection in areas they do cover.

In the eight states, too many radiation sources remain unregulated, coverage of regulated sources is highly limited and there is little assurance that hazards, once spotted, are corrected.

There is also inadequate coordination among responsible federal agencies, the GAO said, despite a similar June 1979 conclusion by a federal interagency task force and an October decision by President Carter to establish a new Radiation Policy Council.

The federal programs criticized were the supervision of general industrial radiation by the Labor Department's Occupational Safety and Health Administration, the Nuclear Regulatory Commission's nuclear industry controls and the supervision of medical-dental radiation by the Department of Health, Education, and Welfare's Bureau of Radiological Health.

The federal government depends mainly on the states, the GAO said, for a close watch on the X-ray machines and related devices in doctors' and dentists' offices and hospitals. These, and not nuclear reactors or industrial sources, cause more than 90 percent of public exposure to ionizing radiation: radiation that can affect matter, including human tissues.

Every state registers and inspects X-ray machines, the report said. But of the states studied—California, Colorado, Massachusetts, Missouri, North Carolina, Texas, Vermont, and Virginia—only California and Vermont have certification programs to try to make sure that X-ray operators know how to use their machines.

State officials said they did not have enough people or funds to supervise radiation sources. In Virginia, on-site inspections of radiation sources and X-ray machines were infrequent, despite the fact that in fiscal 1978, 273 dental X-ray devices and 48 medical X-ray machines were inspected and nearly half the dental and a fourth of the medical machines were out of compliance with safety rules.

During the GAO review, said agency officials, Virginia's radiation advisory board first proposed to start inspecting such machines on a regular schedule—every four years in hospitals, every six years in dentists' offices, every two years in doctors' offices.

GAO Comptroller General Elmer B. Staats said:

The NRC and the states should establish follow-up procedures to make sure serious nuclear industry violations are corrected.

The secretary of HEW should also develop ways to find out whether deficiencies, once identified, are corrected.

The new Radiation Policy Council should give high priority to evaluating and improving current federal and state programs.●

MILITARY LEAVE FOR FEDERAL EMPLOYEES

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mrs. SPELLMAN. Mr. Speaker, today I am introducing legislation to resolve a problem faced by thousands of Federal employees who are members of the National Guard or Armed Forces Reserves.

The National Guard and Reserves are required by law to participate in at least 2 weeks of training each year. The Department of Defense schedules the training on a fiscal year basis since, like all Federal agencies, its operations coincide with the Government's October 1 to September 30 budget schedule.

Federal employees, who incidentally, comprise 3 percent of the Nation's workforce, but almost 19 percent of our total Guard and Reserve forces, are granted 15 days each year to meet their active-duty obligations. Unfortunately, section 6323 of title 5, United States Code, requires that military leave be granted on a calendar-year basis, January 1 to December 31.

The conflict between "fiscal" and "calendar" years has created a serious problem for many civil servants. Quite frequently, they must attend two training sessions which take place in different fiscal years, but fall within one calendar year. When this occurs, they must supplement their military leave with annual leave or, in the event it has been exhausted, leave without pay. The National Federation of Federal Employees, which represents a large contingency of Government workers who are in the Guard or Reserves, estimates that as many as 7,500 individuals are faced with this prospect each calendar year.

I believe the intent of Congress was clear when it approved 15 days of annual military leave for Federal employees—they should not have to sacrifice either pay or benefits to serve in the Armed Forces. Yet, thousands of civil servants are having to do just that.

The bill which I have introduced proposes a simple, cost-free, solution to the problem. It amends section 6323 by striking the words "calendar year" and substituting "fiscal year" and would thus provide military leave for Federal employees on an annual basis coinciding with DOD's October 1 to September 30 training schedule for the Guard and Reserves. If enacted, Government workers no longer would be forced to use vacation time or lose pay in order to meet their military obligations.

I urge my colleagues to join me in support of this much-needed legislation.●

HOME HEATING FUEL CRISIS PART XI*

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. GILMAN. Mr. Speaker, I wish to once again draw the attention of my colleagues to the timely issue of our Nation's home heating fuel crisis.

The Department of Energy informs us that we have now met the goal of stockpiling 240 million barrels of home heating fuel, and most recently, the distribution of it into the pipelines and retailers' terminals. However, because existing distillate stocks will be rapidly drawn down as the winter months progress, they must be continuously replenished if the Nation is to maintain adequate supplies. The outlook for this replenishment and, therefore, any crisis, pivots on the tightening world crude oil supply situation. The situation at the moment, according to DOE statistics, is such that the gross crude oil imports for the 4 weeks ending November 23, 1979, average 6 million barrels a day, 6 percent below the average for the comparable period in 1978. Refined product imports average 1.7 million barrels a day for the period, 15.7 percent below the average for a comparable period in 1978. Gross U.S. imports of petroleum averaged 7.7 million barrels a day for the period, 8.3 percent below the average for the comparable period in 1978.

Yet the stocks of crude oil increased by 5.6 million barrels last week to stand at 355.6 million barrels on November 23, 1979. Stocks of distillate fuel oil stood at 241.9 million barrels last Friday, November 3, 0.3 million barrels above the revised stock levels for November 16, 1979 of 241.6 million barrels; 233.0 million barrels was the stock level for the comparable period in 1978. The reason for these changes, of course, lie in the decrease of oil consumption by the Nation as a whole, be it through industrial conservation, public conservation, or both, and the distribution of products refined and products supplied. Motor gasoline was supplied at a rate of 6.9 million barrels a day, 8.4 percent below a year ago. Distillate fuel oil was supplied at a rate of 3.6 million barrels a day, 2.2 million barrels above the rate a year ago.

In sum, what we have is an increase in the production and consumption of home heating fuel, and a decrease in the consumption of gasoline products. This is truly a situation that is delicately balanced by supply and demand. If oil supplies are cut short by any circumstances beyond our control, we will witness cold homes and a returning of the long gas lines. On the other hand, if the supplies remain constant, but the demands go up, such as that warranted by a colder winter or an increase in the use of automobiles, then the same shortage can occur. We are in a position of either event happening. Unfortunately, we do not control the weather, and we are certainly not controlling OPEC. Nor do we control the driving habits of the American motorist. Furthermore, the east coast recently had its earliest snowfall in over a century, and the Rockies had 26 inches of snow in a period of hours. The terrorism directed against the United States in Iran and Libya fires the OPEC extremists.

The Organization of Petroleum Exporting countries have abused their power to control supply inflicting monetary instability throughout the world.

There is an obvious need for a more orderly world market for oil. Mr. Speaker, I request that at the conclusion of my statement that there be printed in full two New York Times articles dated October 24 and October 29, 1979, that set forth the potential problems we are facing as a result of OPEC's abuse of its monopoly.

To overcome this perpetually looming threat, America must become energy conscious and proceed to devise an extensive energy policy as expeditiously as possible. According to Robert Stobaugh and Daniel Yergin, authors of "Energy Future," a report of the energy project at the Harvard Business School:

> It is clear that domestic oil, gas, coal, and nuclear cannot deliver vastly increased supplies, although it is equally clear that these sources cannot be ignored. America needs all of them. Broadly speaking, however, the nation has only two major alternatives for the rest of the country—to import more oil or to accelerate the development of conservation . . . this is the nature of the choice to be made.

The drive to reduce energy consumption has become, and should continue to be, a major objective of national policy, advocated by all levels of government. In addition to the need to conserve, programs must be initiated to develop sorely needed alternative sources of energy.

In addition, action must be undertaken to insure that the profiteering oil companies will not exploit the American consumer. As we approach the end of the first year of the 96th Congress, we should consider the reimposition of price controls on those products that are a life necessity, such as some heating fuel. And the Congress must place pending energy legislation on the front burner, acting decisively on those matters still confronting us, such as the windfall profits tax, the Energy Mobilization Board, synfuels, and the refinery incentives program.

I urge my colleagues to bear in mind the past spot shortages. OPEC's continuing price hikes and oil barrel diplomacy when deliberating these critical energy issues and to act in such a manner that will restrict their reoccurrences to an absolute minimum.

[From the New York Times, Oct. 29, 1979]

THE ENERGY DISASTER: II

(By Anthony Lewis)

CARACAS, VENEZUELA, October 28.—The next OPEC meeting is scheduled to be held in Caracas starting Dec. 17. Will there be another oil price increase? Venezuela's Minister of Energy and Mines, Humberto Calderon Berti, shook his head.

"We're not pushing," he said. "But it seems there will be."

The Venezuelan Government is in fact worried about the effect of the oil price spiral on the world. It is a democratic government, a congenial one from the United States' standpoint. It does not fit the stereotype of a feudal oil monopolist.

All that made what the energy minister had to say about the oil outlook particularly chilling. He said the price spiral was terrible for the poorer countries and bad for OPEC itself. But he did not see any early prospect of restraining it.

"The situation is cut of control," he said.

The spot market in Rotterdam is the place to get a realistic picture of oil price trends, Calderon Berti said—and the trend there is up. The OPEC ceiling fixed earlier this year is $23.50 a barrel, but on the spot market now $35 is not surprising. He said there had been some recent sales at $39 or $40.

"We hear that 30 percent of all OPEC oil is being sold on the spot market," Calderon Berti said. "That is six times the normal level."

Why was that happening? He said demand was above world production—perhaps 2 million barrels a day above. Buyers, worried about the political situation in some producing countries, were stockpiling.

The minister said he wished OPEC countries would keep oil away from the spot market by refusing to sell to brokers. Venezuela never sells to them, he said—only to users. But when asked whether there was any realistic chance of OPEC countries unanimously resisting the temptation of the spot market, he shrugged. What, then, was the answer?

"You have to control consumption," he said. "The world has to understand that production is not going to increase.

"We have to promote conservation in the world. More than half the countries do not even have an energy plan.

"The United States has had energy plans from three Presidents, starting with Nixon's Independence; and this one is going to fail, too. I think there is more support for it in Venezuela than in your own country. Why? Because you think in terms of Wyoming, Montana—your own state instead of the interests of the whole country."

Humberto Calderon Berti is a petroleum engineer, just 38 years old, who knows the United States. He studied at the University of Tulsa from 1966 to 1968. I asked what he thought the U.S. should be doing.

"First you have to make a real conservation effort," he said. "Forget about the big cars, the air-conditioned shopping centers.

"Then you ought to make a joint effort for energy in the Americas. For example, if you could get some geothermal energy in Central America, the oil could go elsewhere. I mean joint governmental efforts, because countries like Guatemala and Costa Rica don't have the money or technology to do it on their own, and they will probably not welcome the oil companies."

Next week Calderon Berti leaves for a month's tour of all the OPEC countries in the Middle East and Africa. In early December he will be in Dhahran for a meeting of an OPEC strategy committee, a first attempt by the organization to do some long-term thinking about prices and relations with the industrialized countries and the third world.

"The experience of recent years," he said, "is that every time we increase the price of oil, the price of what we buy goes up. So what's the use? We have to get together with the industrialized countries. We need a certain order."

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*Part XI is part of a series of reports on the home heating fuel crisis with Numbers 1 to 10 appearing in the Congressional Record on 9/17, 9/22, 9/29, 10/11, 10/19, 10/26, 11/9, 11/16, and 11/29 respectively.

The message is a reasonable one, and there is no doubt that the Venezuelan Government as a whole believes it. The expectations aroused by oil riches are having destabilizing effects here: This past week demonstrators demanding legislation for huge national wage increases clashed with police in Caracas. And the Government is worried about the effect of energy inflation on political stability in Caribbean and other nearby countries.

But reasonableness is in danger of being shouldered aside by the pressures of the oil market. Iran, unwilling to wait until Dec. 17, has asked for an earlier, emergency OPEC meeting. How long can Venezuela, or for that matter Saudi Arabia, hold its prices as others climb? There is no easy path in sight to Calderon Berti's goal of "a certain order."

[From the New York Times, Oct. 24, 1979]

OPEC'S USE OF MONOPOLY

(By Leonard Silk)

Reports of soaring oil-company profits in the third quarter have set off the predictable political explosion. But virtually no politician or Government official has proposed any action capable of reaching the real root of the problem of escalating oil prices: the use of monopoly power by the Organization of Petroleum Exporting Countries to restrict supply.

On the contrary, President Carter has taken a conciliatory attitude toward the major oil-exporting countries and has expressed his belief that their output is "at maximum levels now." He has said Saudi Arabia is already producing more oil than it wants to, and he has said he is aware that the Saudis believe it would better serve their self-interest to "leave it in the ground."

But the contention that Arab oil is really worth more in the ground is based on the assumption—apparently now accepted by the United States Government—that the price of oil will go on rising faster than world inflation. That expectation rests, in turn, on the belief that the OPEC strategy of restricting supply to raise prices will continue to work for years to come, even if the United States and other oil-importing countries manage to curb their demand for oil more than they have so far.

All OPEC members now believe that "a barrel of oil left in the ground today will be worth more tomorrow." The weak response of the United States encourages this belief and the brutal pricing strategy of the major oil-producing countries.

Indeed, Federal energy officials are now predicting a probable return of gasoline shortages in the early 1980's as the world economic slowdown ends. And they predict that the price of oil will climb to $86 a barrel a decade and a half from now.

Considering that oil prices have climbed more than seven-fold in just the last six years, a forecast of $86 a barrel for 1995 looks conservative. To be sure, that price does not include extra markups to keep pace with world inflation. If world prices were to keep climbing at an annual rate of 10 percent a year, by 1995 the price of that barrel of oil, adjusted for world inflation, would be $359.24. On Jan. 1, 1973, the price of a barrel of light Saudi crude was $2.10. Its cost of production was less than 25 cents and is said to be only about 35 cents now.

The President's acceptance of the Saudi's contention that they are producing all the oil they can neglects the fact that the Saudis have deliberately restricted the expansion of oil-producing capacity. Prof. M. A. Adelman, one of the world's leading authorities on the petroleum industry, regards the shrinkage of Saudi Arabian long-range plans as reflecting its desire to restrain output to maintain prices. At present, he says, the Saudis are operating only 15 fields out of 37 known fields. And many more might be discovered, if sought, he adds.

A few years ago, Professor Adelman notes, the Saudis planned to expand capacity to 20 million barrels daily, but this target has been cut far back. Current published reports are in a range of 12 million to 14 million barrels a day, but the Saudis are in no hurry to go that high. In Washington, Sheik Ahmed Zaki Yamani told Energy Secretary Charles W. Duncan, Jr. last week that the Saudis had not yet decided when they would drop back to their "permanent" production limit of 8.5 million barrels a day. They have been helping their American friends by continuing to produce 9.5 million barrels a day to make up for some of the drop in oil exports—about 2 million barrels a day—resulting from the Iranian upheaval.

John B. Connally, Jr., in his campaign for the Presidency has suggested that if the United States were to make Israel give back the land it won in the 1967 war the Arabs might be more generous to Americans with their oil. Sheik Yamani, in a television interview last week, hinted that there might be something to such logic. But whether this would be an effective way for the United States to coax a monopolist to relent on prices or supply is not obvious (especially when the monopoly bloc includes such anti-American nations as Iran, Iraq and Libya). A number of other industrial countries, such as France, West Germany and Japan, have tried to pursue the course of appeasement without noticeable results.

The opposite course of military pressure and attack is obviously fraught with extreme danger, intensified by the strong interest of the Soviet Union in gaining access to Middle Eastern oil.

But the long-run implications for American and worldwide inflation, balance-of-payments disorder, monetary instability and sluggish or negative growth resulting from the exercise of power by the oil cartel are so serious that some way needs to be found to control and respond to that monopoly power.●

ANTISHOPLIFTING CAMPAIGN

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mrs. BYRON. Mr. Speaker, today I would like to bring congressional attention to the vigorous antishoplifting campaign which is now underway in my congressional district and hometown, Frederick, Md.

The distributive education students from the Frederick County Vo-Tech Center have spearheaded a drive by local businessmen and organizations, elected officials, and Frederick County youths to work together to educate the public about the problems and penalties associated with shoplifting. To further this goal, the mayor of Frederick has proclaimed the week of December 10–16 as Shoplifting Prevention Week in Frederick County. During this week, the students will visit Frederick County public schools to make presentations on the seriousness of shoplifting. There will also be a poster and essay contest with special recognition given to the winners at the end of the week.

In conjunction with the Maryland State Department of Education and the Maryland State Bar Association, the students have already participated in a shoplifting prevention seminar at the Hilton Inn in Pikesville, Md. With the assistance of many worthy local organizations, the distributive education program at the Frederick County Vo-Tech Center earlier this year completed an antishoplifting display with supporting materials which was exhibited at the Frederick County Fair. In the months to come, the students will be speaking to various civic and professional organizations in Frederick County about their campaign to reduce losses caused by shoplifting and making the youth in Frederick County more aware that shoplifting is a serious crime.

Mr. Speaker, I support this fine effort and am pleased to add my voice to this unified drive against this costly and prevalent crime.●

LEGISLATION UNDER MEDICARE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. WHITEHURST. Mr. Speaker, today I am introducing legislation to provide coverage for influenza and pneumococcal vaccines under medicare. It adds a new subsection (G) to subsection (s)(2) of 42 U.S.C. 1395x which states that an additional service to be provided is "influenza and pneumococcal vaccines (subject to quantity limitations prescribed in regulations by the Secretary), including their administration to a particular patient."

The need for this provision was first brought to my attention by one of my constituents, Dr. Charles Lovell, about a year ago, and since that time I have been pursuing further documentation of the value of such a change in medicare regulations. I would like to call the attention of my colleagues to an excellent study completed by the Office of Technology Assessment in September of this year, dealing with pneumococcal vaccines; the section beginning on page 65 is particularly cogent in this regard.

In addition, there are two valuable articles on influenza immunization, "A Perspective on the Significance of Pandemic Influenza," by Joel Kavet, Sc.D., MPH; and "Economics of Influenza," by Herbert E. Klarman and David Guzick. I will be pleased to provide any of my colleagues who wish them copies of these last two.

I am hopeful that further documentation will be available from OTA, and I have requested that a parallel study be done by the OTA staff on influenza, similar to the work already completed on pneumonia.

While it is not possible to provide exact cost figures, it seems reasonable to me to assume that this immunization effort would ultimately provide cost savings, by preventing major illness in a number of older people, illness that would require hospitalization, often on a long-term basis. In addition, I believe that this provision would be an important step forward in helping to improve the quality of life for our older citizens.

I hope that prompt and favorable consideration of this bill will be possible.●

NEW MILWAUKEE LINES—RIGHT ON TRACK

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. MARLENEE. Mr. Speaker, pursuant to the requirements in Public Law 96–101, New Milwaukee Lines submitted their proposal to the Interstate Commerce Commission on December 1, 1979. I would like to remind my colleagues that the ICC has 30 days from December 1 to review the proposal and give its determination on the feasibility of New Milwaukee Lines, a consortium of shippers and labor. If the ICC deems the plan feasible, the plan must then be reviewed by the bankruptcy court to assure that the Milwaukee Railroad estate is treated in a fair manner. After which, the ESOP plan of New Milwaukee Lines will go into effect. I am pleased to share with my colleagues the executive summary of the New Milwaukee Lines proposal.

The proposal follows:

EXECUTIVE SUMMARY

INTRODUCTION

The Milwaukee Road filed its petition for reorganization on December 19, 1977. The reorganization proceeding has been complicated and costly litigation in which a wide range of parties—the Trustee, the railroad's creditors and shareholders, rail labor, shippers, various agencies of the Federal government, a number of states, and many others—have all been competing to protect their particular interests. The railroad has lost nearly $200 million since its petition was filed.

This past autumn was a particularly bleak period in the proceedings. In late September of 1979 the reorganization court found that the railroad was literally "cashless." The railroad's creditors introduced an analysis demonstrating persuasively that the scaled-down "Milwaukee II" system previously proposed by the Trustee was unlikely to survive. The parties to the reorganization proceedings seemed to be hopelessly at odds with each other with little, if any chance, that the main parties to the litigation would ever agree voluntarily to a compromise resolution. No early end to the crisis appeared possible.

On November 4, 1979, the President signed the Milwaukee Railroad Restructuring Act ("MRRA"). This statute ordered the Interstate Commerce Commission and the reorganization court to give prompt and expedited consideration to a plan for saving the railroad by reorganizing the Milwaukee into an employee and shipper-owned carrier operating a restructured and self-sustaining system. The statute provided funding to keep the entire railroad operating during the period required for consideration of this alternative and granted the reorganization court sweeping powers to quickly approve abandonments on all lines not included in the employee and shipper owned system. If an Employee-Shipper Ownership Plan, as contemplated in the statute is not approved by the commission and court and implemented by NewMil on or before April 1, 1980, MRRA precludes any directed service on the Milwaukee system until April 1, 1981.

New Milwaukee Lines ("New Mil"), a not for profit corporation created under the laws of the State of Washington, has been organized by concerned employees and shippers, joined by representatives of government, for the purpose of forming, obtaining funding for, and preparing and processing various applications for approvals for a new company that will purchase and operate a substantial portion of the bankrupt Milwaukee Railroad's present system.

The present document represents New Mil's specific Employee-Shipper Ownership Plan for the reorganization of the Milwaukee Road. Adoption of the proposals contained in this Plan will enable the most essential lines of the present Milwaukee Road to be operated as a money-making private railroad. The railroad proposed here will provide valuable, and rapidly improved, service to shippers and States that badly need rail transportation. Moreover, the proposals contained in this Plan, when coupled with the funding provisions and summary abandonment powers contained in the new statute, make it possible for the proposed reorganization to be accomplished on terms that are scrupulously fair to the railroad's creditors, shareholders, and employees. All of these interests receive substantially more generous treatment under the present Plan than they were accorded under any other plan that has been filed to date with the Commission. Indeed, based upon preliminary discussions with representatives of most of the major interests represented in the reorganization proceedings, NewMil is cautiously optimistic that the proposals contained in this Plan may form the basis for a reorganization of the carrier that will be supported by many, and possibly all, of the former antagonists.

This Executive Summary briefly describes the central elements of NewMil's Plan. Detailed discussions of each of the subjects treated here follow in the body of the Plan.

A. THE NEW RAILROAD'S SYSTEM

NewMil's Plan proposes that a new corporation ("New Railroad") be formed to operate a substantial portion, but not all, of the Milwaukee Road's present system. The routes to be included in the new system are shown on Map A. The proposed system extends from the North Coast Ports of Seattle, Tacoma and Portland through the Twin Cities to Milwaukee, Chicago, and Louisville, and also includes a number of important feeder lines. The system's base route mileage will be approximately 3,550 miles. Certain of the system's lines—those shown in green on Map A—are still being subjected to blocking and other analyses by New Milwaukee Lines' traffic consultants.

The new system proposed is for a single system comprised of (i) a base system for which the financial analysis is, with one exception, complete and (ii) contingent lines that will be included in the final system if (a) it can be determined that the line will make a positive cash contribution to the system (whether from operating revenues, surcharges or subsidies), (b) any required rehabilitation will be borne by a third party such as a state agency or shippers, (c) all contingent lines taken on a whole do not adversely affect the overall revenue and expense structure of the resulting system, and (d) arrangements for compensation to the Estate, for the included contingent lines do not adversely affect the cash flow or financial positions of the New Railroad during its first six years of operation. As discussed more fully in the body of the Plan, compensation to the Estate is required since the conclusion that the Plan is fair and equitable to the Estate assumes a system of base lines only. If contingent lines are added to this base system, the system's total route mileage will be increased accordingly.

B. THE NEW RAILROAD'S LEVEL OF SERVICE

New Railroad will concentrate all of the Milwaukee Road's present fleet of equipment and locomotives, and more than $540 million worth of modern new cars and rebuilt boxcars, on a system with approximately half as many route miles as the present Milwaukee system. New Railroad will immediately return to fully normalized maintenance on all of its equipment and track. In addition, an ambitious seven-year program of rehabilitation will be undertaken to return the track structure and equipment fleet to truly competitive levels.

These programs are designed to permit safe operations at 25 mile-per-hour speeds on all of New Railroad's major line segments by the end of its first year of operations and a minimum mainline speed of 40 miles per hour by the end of the third year of operations. By the end of 1984, the fifth year of operations, 85 percent of the system will have been rehabilitated to competitive track standards.

New Railroad's service will not only be faster than that provided by the Milwaukee today: Service will also be more frequent and more dependable. More and better equipment will be moving over a rationalized and rehabilitated system. The result will be improved turn-around times, significantly expanded ability to meet shipper demand, and predictable delivery dates.

New Railroad will employ approximately 7,900 employees in 1980. Approximately 9,200 employees will be needed by 1982. The present Plan encompasses commitments from rail labor to participate in an innovative labor management task force that will be created to fashion changes in operating practices, and an employee stock ownership plan ("ESOP") designed to give New Railroad's employees a substantial ownership stake in their company. Both will result in significant improvements in labor productivity for the new company.

Even more importantly, the Milwaukee's employees will be given a chance to operate a modernized and rehabilitated system. The Milwaukee's employees have managed to retain their reputation for high quality, loyal service despite the disintegration of the present system that has been going on around them. For the first time in years, these employees will be given an opportunity to show what they can do with a physical system that is as good as they are.

New Railroad will provide a level, and quality, of service that bears no resemblance to the performance of the present Milwaukee Road.

C. FINANCIAL PERFORMANCE

Based upon the detailed projections prepared by NewMil's expert consultants, and taking into account all projected rehabilitation expenditures, New Railroad is expected to lose money in its first two years of operation, then turn around during the third and fourth years, and make rapidly increasing profits thereafter. New Railroad's annual adjusted net income for the seventh year of the projected turn-around period is expected to be approximately $60 million. New Railroad is expected to attain a positive cash flow for the first time in its fourth year of operations and to have a cash flow of nearly $60 million by 1986. New Railroad's pro forma income and cash flow statements are attached as Exhibits VII–A and VII–B.

These projections reflect the fact that the revised system proposed in this Plan has an earning potential that the present Milwaukee system does not. By concentrating existing and new equipment, maintenance efforts, rehabilitation work and the labor force on the system's main money-making lines, the New

Railroad can pursue a realistic turn-around strategy that would not be possible if the available resources had to be spread over a much larger, and costlier, system.

Moreover, the new system's traffic configuration will differ sharply from that of the present system. Much of the Milwaukee's present system operates in areas plagued by substantial overcapacity in their general transportation systems. A number of the Milwaukee's lines, for example, cover routes that the Department of Transportation classifies as "corridors of excess capacity." All carriers that operate in these areas suffer from intense competition with each other, and from other modes of transportation, that has resulted in depressed rate structures. Moreover, the traffic moved in these areas is costly to carry by rail. Substantial pre-car costs are incurred because of the frequent switching and extensive yard times endemic in congested systems carrying large amounts of short-haul traffic. The Rock Island and the ICG are but the latest examples of marginal midwestern carriers that have found it difficult or impossible to survive under such conditions.

NewMil provides a realistic opportunity to deal with some of these problems. The Labor Management Task Force concept will be employed to help improve efficiency in moving cars through terminals. The Task Force will also be effective in helping to introduce operating efficiencies that can turn marginal traffic into profitable traffic and simultaneously strengthen the New Railroad positions in highly competitive markets.

The fact that other railroads are in financial trouble can lead to opportunities under the "401" process. New Railroad can work with other carriers directly and with the Federal Railroad Administration to address the problems of excess capacity. At the same time the New Railroad can strengthen the traffic flows in those markets to which it is committed and help other carriers improve traffic in areas that cannot be served by the New Railroad.

The new railroad proposed here is designed to seek a different kind of traffic. The long-haul, high revenue, relatively low cost per car, traffic available to the new company over the transcontinental mainline and other long-haul arteries in the present Milwaukee system offers the new system its best chance to survive and prosper. It is no accident that the five major railroads that provide transcontinental service to the west are today among the nation's healthiest rail carriers. These railroads have concentrated their efforts on developing traffic configurations that permit revenues to be maximized with minimal operation expense.

NewMil and its consultants regard the detailed financial projections contained in Exhibits VII–A through VII–G as conservative. Indeed, there is good reason to believe that these projections substantially understate New Railroads' true potential for successful financial performance. The projections have intentionally excluded a number of important opportunities that NewMil believes are likely to be available to New Railroad to significantly expand its tonnages of transcontinental and other long-haul traffic. Long-haul bulk commodity traffic—particularly in coal, grain, containerized export-import shipments and lumber—recently have become available to the Milwaukee in unprecedented volumes. Substantial growth in all such traffic is projected in the future. The consultants that prepared this Plan's financial projections, however, deliberately excluded the revenue opportunities created by these developments from their projections.

In order to ensure a conservative and cautious analysis, the projections were based instead on the traffic levels projected by Booz-Allen and Hamilton, the Trustee's expert consultants, coupled with a small number of specific movements discounted by an appropriate probability analysis described to the consultants in personal interviews they conducted with specific shippers. This methodology reflects the proper concern of NewMil's consultants that only conservatism and generally agreed-upon revenues be included in the financial forecasts upon which the various plans are based.

If this plan is approved and implemented, however, the new company will be running a railroad, not defending a methodology. NewMil believes that the forecasts used here show only a fraction of the actual revenue opportunities that will be available to a properly-managed, rehabilitated transcontinental carrier serving the Northern Tier in the coming decades.

NewMil believes that one additional factor will heavily influence the ability of New Railroad to make money. The employees of the present Milwaukee Road, many of whom are third and fourth generation members of "Milwaukee families," have a loyalty and concern for the success of this railroad not often encountered in any industrial enterprise. The major restructuring and rehabilitation of the system proposed in this Plan, the productivity commitments that rail labor has made, and the fact that these employees will become part owners of the new company through their ESOP, when combined with the traditional commitment that Milwaukee employees have always made to the success of their company, will ensure an employee contribution of profound importance to the financial performance of New Railroad.

D. IMPLEMENTATION OF THE PLAN

1. Assets to be Acquired and Acquisition Procedures: The plan would be implemented by the acquisition by New Railroad of all the assets necessary to operate the New System and the assumption of certain specified liabilities of the Milwaukee. After necessary proceedings under MRRA, implementation will proceed in two phases. In the first, assets to be transferred will be identified in greater detail and transition mechanics will be refined and expanded. These details described in the plan will be included in a comprehensive plan which will be submitted to the Reorganization Court with requests for the necessary orders authorizing and directing the transfer of assets and assumption of liabilities. Also, in this period, a preferred alternative transfer mechanism having certain advantages of economy, simplicity, and speed, but intended to accomplish the same result, will be explored to determine whether certain limitations apparently precluding its utilization for the ultimate transfers can be overcome. In the second phase the Reorganization Court will consider the mechanical transfer procedures contained in the acquisition plan and after proceedings limited to the consideration of those issues. will enter the necessary orders authorizing and directing the Trustee to take the necessary action to conclude the transaction.

Assets now committed to railroad service but not included in the New System would be ordered abandoned pursuant to the procedures established in MRRA; the Estate would therefore retain those assets free of the obligation for service, permitting prompt disposition thereof in the bankruptcy proceeding.

2. Capital Requirements and Financing for New Railroad: During the initial phase of the implementation process, arrangements would be completed for the financing of New Railroad. The financing would be accomplished by the issuance of redeemable preference shares of New Railroad under Section 505 of the 4R Act, the issuance of guaranteed debt obligations under Section 511 of the 4R Act, and borrowings guaranteed by the EDA or FMHA, or both, which would finance the acquisition of common stock by an ESOP trust, and by investment by shippers. The redeemable preference share financing will provide approximately $101 million in 1980 and 1981 for the purposes of rehabilitation and improvement of properties transferred to the New Railroad that carried high average daily tonnage during the previous three-year period. The guaranteed borrowings would provide approximately $22.8 million for equipment rehabilitation and a new yard at Fife, Washington. Federal financing programs, in general, offer to the New Railroad both the advantages of low average annual costs of capital and deferrals of debt service obligations to years of significantly improved performance.

3. Equity Ownership and Management of New Railroad: The ESOP trust would acquire, with funds provided under federal loan guarantee programs just described, $15 million of the common stock of the New Railroad. The preliminary investigation described in the plan indicates a willingness of shippers to invest at least $10 million in New Railroad. NewMil management anticipates that when the details of the plan are available for consideration by the shippers it will be possible to obtain shipper investment of $15 million in the form of common equity. This is consistent with NewMil's desire that the common stock of New Railroad be owned by the ESOP trust and the shippers in equal parts. The projections and the pro forma statements included in the plan reflect these financing assumptions, except that in the case of shipper investment they conservatively assume investment of $10 million in the form of a noncumulative 12 percent preferred stock.

The Board of NewMil has begun an ambitious program for the selection of a management team having the experience, background, commitment, and ability to insure the success of New Railroad, including a search for persons outside the Milwaukee Road and the NewMil organization to become New Railroad's chief executive officer and chief operating officer. In structuring new management strategy, NewMil recognizes the importance of continuity. NewMil's Board, reflecting the viewpoints of executives of shippers experienced in the operation of their own businesses and in the importance of transportation to the development of that business, representatives of local government having somewhat different perspectives and representatives of labor bringing yet a third viewpoint, is uniquely qualified for this task of management selection.

E. THE VALUE OF NEW MILWAUKEE LINES' PROPOSAL TO THE PRESENT CREDITORS AND SHAREHOLDERS OF THE MILWAUKEE ROAD

The NewMil Plan offers to the estate, under legal standards, an arrangement which is fair and equitable. Two alternative analyses of the impact on the estate are presented in the body of the Plan—an analysis based on present values to it of earnings power and of net liquidation values. Under either analysis, the estate is more valuable to creditors and stockholders without a railroad than with it. In addition, without the railroad the liabilities of the estate are significantly reduced, dramatically emphasizing that the NewMil Plan offers to the estate the most favorable opportunity for satisfying the interests of creditors and stockholders.

F. IMPORTANCE OF THE NEW MILWAUKEE LINES PROPOSAL TO THE PUBLIC INTEREST

Section 77 of the Bankruptcy Act requires that any plan of reorganization provide for the convenience and necessity of the shipping public, the well-being of employees, and fair treatment of the estate. Section 2(b) of the Milwaukee Railroad Restructuring Act recited a Congressional declaration that the "emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and the Nation which a cessation of essential services by the Milwaukee Road would otherwise cause."

NewMil believes that the employee-shipper ownership Plan proposed here would make an important contribution to the public interest.

The NewMil Railroad proposed in this Plan will provide desperately needed service—and, as the new company's equipment acquisition, normalized maintenance, and plant rehabilitation programs take effect, significantly improved service levels—to the communities and shippers that the system will serve. The need for this rail service is particularly pressing in the northern tier states, where available transportation service is presently substantially inadequate and where demand for such service is rising at a rapid rate.

The communities and companies that genuinely need the services that the present system provides will continue to receive service, and will receive more and better service, than they do now.

Moreover, the rehabilitated railroad proposed in this Plan will help preserve meaningful and genuine competition for the provision of rail services in large portions of the country that otherwise will become the sole province of the monopoly carrier. The preservation, and eventual strengthening, of this rail competition will yield favorable impacts on car supplies and rate levels throughout these areas. The importance of these competitive benefits will become even more significant as proposals for deregulation of railroads and as the steady escalation of diesel fuel prices, inexorably drive the prices of intermodal alternatives to unacceptable levels.

The proposals contained in this Plan would contribute to a rationalization of the present excess capacity in the midwestern rail network by reducing the Milwaukee's present concentration on local, short-haul, traffic in congested midwestern corridors of excess capacity and would tie the Milwaukee's remaining, essential midwestern traffic to the inherent strengths involved in a transcontinental system traversing areas that have a genuine, and growing, need for rail transportation.

New Railroad will not hire all of the existing system's employees, but it will provide employment for approximately 8,000 employees in its first year of operations, and it is anticipated that many more employees will be needed in the years immediately following as service levels expand to the projected levels. Moreover, these employees will no longer be confronted on a daily basis with the uncertainties and insecurities that have attended their employment in recent years by a sick and troubled carrier providing steadily deteriorating service and possessing no certain prospect of survival. New Railroad's employees will work for a genuinely viable, competitive, and growing railroad that will be providing profitable and aggressive service in expanding market areas.

The employee and shipper ownership features of the present Plan will place ownership of New Railroad in those interests most vitally concerned with the venture, and thereby create a built-in incentive for management, labor, and shippers to flexibly fashion a railroad that responds directly to the concerns of each of those interests. Important advances in the efficiency and productivity of operations will almost certainly result.

The agricultural communities of the northern tier, presently unable to move large volumes of grain to western ports for export, will receive improved and expanded service. The rapidly growing Puget Sound ports of Seattle and Tacoma, as well as the Columbia River ports, will be afforded the rail capacity to move import-export traffic in the volumes presently projected. Important concepts such as Milwaukee's successful Sprint train operation will be significantly expanded.

Moreover, the preservation of the essential portions of this railroad will contribute in two very important ways to resolution of this nation's current energy problems. On a consumption side, preserving the railroad's ability to continue to provide long-haul transcontinental freight service would represent one small but significant contribution to the formulation of a national freight transportation system designed to maximize fuel conservation. In a period of rising fuel prices and frequent shortages, this nation should be striving for a freight transportation network that moves long-haul traffic on trains and short-haul traffic on trucks.

On the supply side, the proposals contained in the present Plan would help protect the national interest in assuring that adequate transportation capacity will be available to move low sulfur western coal to market in the coming years. The service that will be provided by New Railroad will make available important rail capacity to move western coal into markets in the midwest, southeast, and—in a few years—the west, where it will be needed for domestic consumption and for export.

The Employees Shipper Ownership Plan proposed by New Milwaukee Lines offers a blueprint for preservation, not destruction, of a precious and irreplaceable national asset.●

RENEE McNETT—MANAGER, SAN PEDRO CHAMBER OF COMMUNITY DEVELOPMENT AND COMMERCE, 1974–79

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. ANDERSON of California. Mr. Speaker, I take pleasure in bringing to the attention of my colleagues today the notable accomplishments of one of San Pedro's finest citizens, Renee McNett. Widely known throughout the community for her dedicated work with the San Pedro Chamber of Community Development and Commerce as its manager and corporate secretary, this woman has, in the last 10 years, established herself as one of San Pedro's best-known residents.

Renee McNett came to San Pedro from Detroit, Mich., where she met and married her husband Ralph. Shortly after her arrival in the community, she joined the San Pedro Chamber to assume responsibilities that grew steadily over 3 years until April 1, 1974, when she became the top staff officer, chamber manager.

During the past 5 years, she has used her sales and other business experience to aid chamber officers in providing aggressive leadership and service to the local business community.

The extent of her active involvement in a great number of community activitis is truly remarkable, and a feat that could only be accomplished by the 70-hour workweek that she lives by. The professional and civic organizations, boards and committees, with which she has been active include the Business and Professional Women's Association, past president; the San Pedro Bay Historical Society; the board of directors of the San Pedro and Peninsula Hospital; the advisory board of the San Pedro Adult School; the city of Los Angeles Community Redevelopment Agency Committee; the Maritime Club; the San Pedro Civitan Club; the Toberman Settlement House; and many more.

Her contributions have received formal recognition. She is a recipient of the city of Los Angeles Community Service Award and the Business and Professional Women's Club Award for Membership.

Renee McNett will soon be leaving her position as chamber manager. This comes as sad news to her many friends and acquaintances in the entire South Bay area. It is, however, pleasing to know that with the change comes a well-deserved advancement in her career as she becomes managerial assistant in the Los Angeles accounting firm of Pettie, Stiritz & Smith.

My wife, Lee, joins me in expressing our sincere feelings of admiration and appreciation for all the work she has done to make San Pedro a better place to live. We also send our best wishes for a happy and prosperous future to Renee, her husband Ralph, and their children, Lee, Kahyran, Lisa, and Ann.●

BILL COMPENSATES TREASURY BILL HOLDERS FOR INADVERTENT LOSSES

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. GEPHARDT. Mr. Speaker, I am today introducing H.R. 6054, a bill to compensate investors in certain Treasury bills for loss of interest they sustained because Treasury, under unusual circumstances, was not able to mail checks for payment of these bills in time.

The Treasury bills in question were those that matured on April 26, May 3, and May 10, 1979. These were bills of $10,000 minimum purchased by consumers directly from the Treasury, not through brokers. Thus these are bills purchased almost entirely by relatively small private investors, in many cases older people on fixed incomes. The purchasers of these bills lost some potential interest on their funds because of the inadvertent delays in payment for these securities by the Treasury.

This was the first time any such delays have occurred affecting a substantial amount of bills. Treasury records indicate that some 3,000 accounts, with Treasury bills totaling $61 million, were affected by the delays. The average amount held in the accounts was approximately $20,000. The loss the investors sustained as a result of these delays is estimated to be about $150,000.

The delays which this legislation seeks to redress resulted from several circumstances, including the dramatic increase in the participation in the Treasury's book-entry system because of the historically high interest rates of recent months. In addition, during the month of April, five financing auctions had to be postponed because of the delay in the enactment of the new public debt ceiling legislation. This meant that these auctions had to be scheduled within an exceptionally short period, resulting in a heavy, congested workload. Also, in late April, the Treasury experienced some unusual failures of word processing equipment used to prepare check schedules.

Under this bill, the Treasury would be authorized to pay interest for delays, at the average 13-week Treasury bill investment rate that prevailed closest to the day on which the securities at issue had matured, for the period beginning the day after the dates on which the bills matured to the dates on which the Treasury checks in payment were mailed, with an additional 3 days allowed for mail delivery, as usual. This means that on a bill that matured on May 3, for example, where the check in payment was mailed several days late, compensation would be paid from the day following the maturity date to the date of mailing, plus 3 days for delivery.

Although the Treasury feels it is equitably bound to pay compensation for the delay that occurred, there is no authority of law under which it can pay interest on matured obligations. A legislative authorization is, therefore, necessary.

Under the proposed legislation, provision is also made to permit the Treasury to pay interest on other delayed mailings of payment on the same basis as for the three dates specified. This would enable the Department, for example, to compensate disadvantaged investors in the future if delays in the mailings of checks for principal, interest, or discount should occur because of such uncontrollable events as power failures or computer mishaps. The Treasury Department hopes such occasions will not recur, and is confident that in any event such occasions in the future would be rare. But prudence suggests the desirability of including authority in this bill to deal with such emergency situations.●

TRIBUTE TO JUDGE HAROLD LEVENTHAL

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. DODD. Mr. Speaker, it is difficult to find adequate words to honor the life and work of Judge Harold Leventhal. He epitomized the judicial model of sensitivity, objectivity, and insightfulness, in arbitrating from the bench. His decisions and essays on constitutional, criminal, and civil law eloquently reveal the democratic and humanitarian ideals that underscored all of his interpretations of the law.

We will all sorely miss Judge Leventhal's leadership as a staunch advocate of individual rights. In 1945, he served as an attorney for the prosecution during the trials of Nazi war criminals at Nuremburg. My father, who served as a prosecutor during the trials, had high praise, not only for Harold Leventhal's judicial brilliance, but also his compassion, wit, and sincere love for people.

Over the years Judge Leventhal never lost his sense of humor or his sense of justice, and future generations will always be inspired by the warmth of his spirit and the power of his words.●

TRADE PROBLEMS: RECOMMENDATIONS FOR ACTION (PART 2)

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. ROUSSELOT. Mr. Speaker, yesterday I brought to the attention of the House, hearings held by the Subcommittee on Trade in San Jose, November 30. The subject of that hearing was the competitive position of the American semiconductor industry. Today, I will continue to comment on the testimony presented at the hearing drawing special attention to the recommendations for action submitted by the Semiconductor Industry Association.

Today's installment includes those recommendations, as well as the testimony of Mr. Andrew Procassini, vice president—World Wide, Semiconductor Marketing, for Fairchild Camera and Instrument Corp. Mr. Procassini's remarks point out a "complex set of barriers" used by the Japanese to prevent foreign penetration of the Japanese integrated circuit market. This is a practice contrary to the goals of the recently signed general agreement on tariff and trade (GATT), the result of the multilateral trade negotiations. Mr. Procassini's statement deserves your close scrutiny and attention.

The testimony follows:

RECOMMENDATIONS FOR ACTION BY THE U.S. CONGRESS

(Presented by the Semiconductor Industry Association)

RECOMMENDATIONS

Our suggested remedies for the trade problems outlined here today fall into four basic categories:

(1) Meaningful remedies for disruptive imports and artificial pricing by the Japanese.

(2) Tax and financial incentives designed to keep the U.S. industry on a parity with the Japanese firms.

(3) Improved access to the Japanese market.

(4) Guidelines for investments by the Japanese firms in the United States.

(1) Japanese Imports. The key issue is artificial pricing. If the Japanese firms persist in disrupting free market forces in the U.S. market, our government must take steps to resolve the artificial pricing effects which will injure the U.S. industry by diluting our capital formation potential and learning curve benefits.

(2) Tax Incentives. Congress should establish a policy for the United States which provides incentives and other stimuli for those industrial sectors which we can reasonably expect to contribute disproportionately to the productivity, research strength, and trade strength of the national economy. Integrated circuits and computers would place high in this list. The incentives would relate to such parameters as innovation, exports, value added, employment (both qualitative and quantitative) and would stimulate intensified R. & D. and capital investment in the leading industries.

Specifically, we recommend the following:

Tax credits for year-to-year increases in research expenditures by fast growth, high technology firms;

Rollover provisions—capital gains tax deferral for reinvestment in new securities issues;

Liberalized depreciation, the net effect of which would be a three year write-off of equipment with a commensurate investment tax credit period;

Jointly funded cooperative research on university campuses in high technology areas; and

Tax credits for corporate contributions to universities, not to exceed 10 percent of total R. & D. expenditures by the corporation

(3) Access to Japanese Market. Our government should negotiate with Japan for immediate implementation of the MTN tariff cuts, inclusion of Nippon Telephone and Telegraph under the Government Procurement Code, and strict enforcement of the other non-tariff barrier codes.

Japan must immediately eliminate all discrimination against foreign-owned companies with respect to equal access to financing, research and customers.

The Japanese government must also cease all restrictive patent practices and allow foreign-owned companies to acquire Japanese semiconductor patents as freely and openly as the Japanese firms acquire American patents.

(4) Japanese Investments in the U.S. Congress should consider legislation which would tax U.S. operations of foreign-owned firms in an amount necessary to offset the structural advantages which they derive from foreign government target industry programs. If Japanese trade practices conducted from plants within our borders disrupt our markets or threaten the U.S.-based industry, appropriate steps must be taken to correct the situation.

STATEMENT OF MR. ANDREW PROCASSINI, VICE PRESIDENT, WORLD WIDE SEMICONDUCTOR MARKETING, FAIRCHILD CAMERA AND INSTRUMENT CORP.

My name is Andrew Procassini. I am the Vice President of World Wide Semiconductor Marketing at Fairchild Camera and Instrument Corp. I have spent six years attempting to develop the Japanese market for Fairchild, and I will summarize the non-tariff barriers in Japan. My background includes two years living in Japan as an executive in the Fairchild-TDK Joint Venture.

Mr. Chairman, the United States market is wide open to Europeans and Japanese alike for investment and imports. In contrast, the EEC maintains a much higher tariff rate of 17 percent on semiconductor products and has systematically taken a series of non-tariff actions which further impede imports from the United States. Further, some European competitors are not private firms, but state-owned or state-supported enterprises.

Although the Japanese claim that their widely publicized "formal" non-tariff barriers have been discarded, we see quite plainly the continuing effects of much more subtle non-tariff barriers. Dr. Noyce observed at the San Francisco hearing before the International Trade Commission:

"Like many discriminatory practices, the results speak for themselves and they speak quite loudly."

The best evidence of the restrictive practices is the data set out in Tables A–56 and A–59 of the ITC Report which allow one to compute the declining market share in Japan of integrated circuit shipments from the United States:

U.S. Share of Japanese Consumption

Year:	
1974	26.0%
1975	22.9%
1976	20.1%
1977	19.8%
1978	18.7%

A spokesman for the Japanese industry argued before the ITC that the Japanese trade barriers have been "liberalized," beginning in 1974. If the Japanese protectionist laws were modified, the effect has been negligible as the above data so clearly indicate. While Japanese companies invade the U.S. market, our hands are tied in Japan.

An important part of Japanese government policy has been to shelter their home markets for semiconductors integrated circuits and other manufactured products. They do this through a complex set of barriers which are contrary to all notions of free trade. As a consequence, foreign penetration of the total Japanese integrated circuit market has been declining. My conclusion is that the Japanese government wants neither foreign investment nor imports of manufactured goods, particularly products of high technology industries.

(a) Exclusion of Direct Investments. The levels of foreign investment in Japan have been significantly lower than those in other developed countries.[1] Certainly the Japanese market should be attractive to many investors. Why, then, is foreign investment so low? The answer lies with the restrictive governmental policies.

As a practical matter, acquisitions in Japan are limited to bankrupt companies which the government hopes to salvage. Japanese law apparently requires approval by the unanimous vote of the Board of Directors of an acquisition target firm which makes acquisitions by foreigners practically impossible unless the Japanese government consents. Similar restrictions do not exist in the United States and the major Japanese semiconductor firms are exercising their privilege under our laws to acquire U.S. firms (Nippon Electric—Electronic Arrays) or take equity positions in American high technology companies (Fujitsu—Amdahl). Acquisitions and joint ventures are also freely permitted in Western Europe and this strategy is being employed by both American and Japanese firms to strengthen their toehold in Europe. Once again, Japan simply does not play by the rules which govern trade and investment in advanced economies. Participation in target industry development programs is restricted to indigenous firms. Foreigners are excluded.

The ITC Report points out that Texas Instruments (TI) is the only American semiconductor company which has successfully established manufacturing facilities in Japan. TI virtually "shot their way in" in 1968, by threatening to file for an injunction against imports into the U.S. of most Japanese integrated circuits for alleged patent infringement unless the government of Japan allowed TI to establish a plant in Japan. To "comply" with investment laws, Japan selected Sony Corporation as a cosmetic joint venture partner for TI. In due course, TI commenced production and later bought out its partner, which was never active in management of the joint enterprise. Over the past decade, TI has expanded its facilities in Japan.

(b) Unsuccessful Joint Ventures. During the 1970's, other large American electronics firms attempted to establish manufacturing operations in Japan but lacked a bargaining chip like Texas Instruments. Motorola entered into a joint venture with Alps and constructed a factory in Honshu; Fairchild entered into a joint venture with TDK with intentions to vertically integrate backwards from semiconductor distribution to final assembly and eventually to wafer fabrication. Both ventures were unsuccessful and were dissolved. In recent years, we are told, the Japanese foreign direct investment law has been "liberalized" to permit wholly-owned manufacturing ventures to be formed. If foreign investment in Japan is the test of liberalization, the policy has failed. Foreign investment continues to decline in Japan.

Like Motorola and Fairchild, other investment overtures by American companies have been frustrated. The reasons are bureaucratic delays in obtaining licenses and permits, and the total absence of government of Japan financial or tax incentives to foreign investors. While Japanese firms entering the U.S. market hire away some of the best personnel from U.S. semiconductor companies, the Japanese government appears to foster the attitude among Japanese citizens that employment by alien firms is undesirable. It thus takes a considerable time for a foreign-owned de novo manufacturing or sales facility in Japan to hire and train a staff and to become effective and profitable. For example, after an intensive one year search, one U.S. semiconductor company was able to hire a native Japanese semiconductor salesman, but only from another U.S.-owned company. Obviously such personnel practices, which have no counterpart in either the United States or Western Europe, give the entrenched Japanese-owned companies significant advantages in their home market. Affirmative action is clearly needed to assure equal treatment of all investors in Japan.

The signal is clear. The Japanese government does not want foreign investment in Japan, particularly in target industries.

In contrast to the barriers to foreign investment in Japan, Japanese companies are taking advantage of U.S. Federal, State, and local investment incentives such as industrial revenue bonds and training subsidies to build factories in areas such as San Diego, Memphis, and Dallas, to mention just a few locations. Also, Japanese companies receive liberal investment incentives from the governments of the European Economic Community. Examples include the Nippon Electric investment in Ireland (tax holidays, cash grants, training subsidies), and Hitachi/NEC in the United Kingdom where the British National Enterprise Board allows foreign as well as domestic high technology ventures to draw on liberal grants and subsidies.

Most governments of "free" countries with developed economies are indifferent to the nationality of shareholders and welcome all investors, nationals and aliens alike, and offer financial incentives on equal terms. Japan stands alone in its discriminatory policies.

(b) Japanese Restrictions Against Semiconductor Imports. The Japanese systematically restrict imports of American semiconductors and particularly large scale integrated circuits. They do so in several ways which I will briefly discuss:

By maintaining high tariffs;

By frustrating attempts of American companies from quoting on new orders; and

By practicing customs harassment.

Let us deal with these barriers one by one (including contrasting conditions in Japan to those in the U.S. and other advanced nations):

The published Japanese customs duty on integrated circuits is 15 percent, and the applied rate is 12 percent. The government of Japan agreed at the Multilateral Trade Negotiations (MTN) in Geneva to reduce these tariffs to 4.2 percent, in stages over the next eight years. The United States' duty on semiconductors is 6 percent and will also drop to 4.2 percent over the same staging period. Efforts to accelerate the staging of the reduction were strongly resisted by the Japanese and hence were unsuccessful. The eight year stage-in period for the Japanese tariff reduction can be a lifetime of a product in our industry. Eight years ago, for example, the 16K RAM was unavailable commercially.

The actual tariff in Japan can be higher than 12 percent as American semiconductor firms are subjected to arbitrary tariff "uplifts," surcharges applied to invoice values of up to 10–15 percent on imports into Japan between related companies. Uplifts are to be eliminated under the MTN customs valuation code, and we hope that implementation by the Japanese will be prompt and consistent with the spirit of the Geneva accords.

In addition to high tariffs, the American companies encounter a myriad of barriers in gaining access to specifications necessary to quote on Japanese business.[2] This trait is unusual because Japanese firms pride themselves on flexibility in customer-supplier relationships.

Further, U.S. firms frequently cannot obtain duty rebates if they desire to reexport goods from Japan or can obtain such rebates only after extreme difficulty.

American semiconductor companies are not certified by the Japanese government for sales of integrated circuit products to a key Japanese telecommunications customer—Nippon Telephone and Telegraph.[3] One excuse given is that the U.S. firms have not participated in the government-sponsored research and development programs in the NTT labs.

It is true that U.S. firms do not participate, because foreign companies are permanently excluded from participation. The participating Japanese companies, however, while unable to purchase integrated circuits ("ICs") for sale to NTT, do purchase some American IC components for telecommunications systems being exported to foreign suppliers. This dichotomy leads to twin production lines in the Japanese plants—one inserting American ICs into the printed circuit boards for the export market; the other using indigenous parts.

The Japanese have vociforously defended their protectionist policies. For example, we hear a litany of excuses why the Japanese do not import more U.S. goods, which include:

Out-of-date and inefficient U.S. factories;

Declining U.S. labor productivity;

Poor U.S. quality and lack of quality control; and

The U.S. has forfeited export opportunities.

These arguments simply do not apply to the U.S. semiconductor industry. Our labor productivity is extremely high. Objective tests show that our quality is produced to any level specified or required by our customers worldwide. And our export effort has been remarkably successful—everywhere, that is, except Japan, where the governmental policies frustrate meaningful import competition.

To sum up, in my view anyone who applies the traditional Japanese arguments to the U.S. semiconductor industry simply does not know the history of our industry. We have not been reluctant exporters. As L. J. Sevin testified before the Joint Economic Committee, "we have . . . been stonewalled in Japan." ●

BURNING OF FLAG

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. SHELBY. Mr. Speaker, I have introduced legislation which would increase the penalty for desecration of the flag of the United States from, a fine of not more than $1,000, or imprisonment for not more than 1 year, or both, to a fine of not more than $5,000, or imprisonment for not more than 5 years, or both. This legislation would not change anything now contained in title 18, section 700, of the United States Code, other than increase the penalties. Thus, the definition of desecration (publicly mutilating, defacing, defiling, burning or trampling) remains the same. By increasing the penalties, the classification of the crime of desecration of the flag could be changed from that of a misdemeanor to a felony, if the punishment rendered is in excess of a $1,000 fine or 1-year imprisonment.

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[1] GAO Report, Chapter 9, Table 4, page 163.

[2] GAO Report, Chapter 4, "Telecommunications," p. 74 ("detailed specifications are generally not publicly discussed" by NTT).

[3] Barriers to sales to Nippon Telephone and Telegraph are documented in the GAO Report at pp. 74–76.

I am alarmed over the outrageous events that have transpired in our country recently and feel that my bill gives Congress an opportunity to register in a definitive way its disgust of the burning of our flag. It appears to me that it is time to reaffirm our traditional values and engender respect for the symbol of our great heritage. Already, Members of Congress have been receiving widespread criticism from their constituents for not demonstrating firmness in the face of these events. Suddenly it is no longer considered "old fashioned" to believe in one's country, and stand up for its ideals. My bill presents an opportunity to publicly address some of the intense scorn and ridicule to which our honored values are being subjected.●

REPEAL THE ANNUAL LIMITATION FOR SOCIAL SECURITY RECIPIENTS

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. GRASSLEY. Mr. Speaker, I am today introducing legislation that repeals the annual earnings test or limitation for social security recipients under title II of the Social Security Act. This will permit senior citizens to work as long, and as much, as they want without suffering a loss or reduction of benefits.

Considerations of equity demand that this action be taken. As you know, current law permits an individual to receive an unlimited amount of unearned income without a reduction in benefits. In other words, a citizen can receive, for example, $8,000 in interest or dividend income and still receive the full amount of social security he is entitled to. The individual who, for one reason or another, must continue working will, after reaching the current earnings limit of $4,500, see his or her benefits reduced by $1 for each $2 of earned income.

Economic factors also mitigate in favor of this proposal. Our Nation's current double-digit rate of inflation has served to disrupt the financial plans of millions of Americans who have reached, or are approaching, retirement age. No one knows better than they that the purchasing power of dollars laid away has shrunk. If they are able, these people ought to be encouraged to secure parttime or postcareer employment. Instead current law penalizes individuals who must supplement savings and social security in order to purchase the necessities of life.

I would like to advance another reason for eliminating the annual earnings ceiling. Those people who remain in the labor force will continue to pay Federal income taxes, and they will continue to pay social security taxes. This infusion of revenue will serve to offset any increased costs resulting from the earnings-limit repeal.

Mr. Speaker, I am disappointed that this idea was not included in recommendations made by the current administration or the Advisory Council on Social Security. I am hopeful that the legislative branch of Government will take action and pass this corrective legislation repealing the annual earnings limit for social security recipients.●

CHARGED PARTICLE BEAM WEAPONS. SHOULD WE? COULD WE?

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. PAUL. Mr. Speaker, our allies have been mighty quiet during the continuing Iranian atrocity. Apparently they put their concern for oil above their alliance with us.

I cannot blame the Germans or Japanese for putting their countries' interest first, but I do blame our Government for putting anything before our national self-interest.

A well-known defense analyst has told me that way over half of our defense budget is devoted to protecting other countries. Is it not about time we cut off some of this military welfare, especially for countries that have more money than we do, and used it to protect Americans?

I am convinced that we need to spend much more on R. & D. for defensive weapons to protect the American people, such as laser ABM's and particle beams. (The money would come from what is now spent overseas protecting others.) The November issue of "United States Naval Proceedings" has a most interesting article on the particle beam, by a military research associate at the Lawrence Livermore Laboratory. I would like to call some nontechnical excerpts from the article to my colleagues attention:

Charged Particle Beam Weapons. Should We? Could We?

(By Lt. Cmdr. William E. Wright, U.S. Navy)

The national news media, from magazine and newspaper articles to a CBS *60 Minutes* presentation, have focused considerable attention on the possible development of charged particle beam weapons, both here and in the Soviet Union. . . .

Despite possible obstacles, a modest national research program is in progress to determine whether charged particle beam weapons have a place in our future arsenal. Scientists most familiar with the program feel that the admittedly high-risk investigation must be conducted simply because the potential payoff is very large. If the remaining questions can be favorably resolved, a CPBW application could be the defense of ships from missile attack. Even upgraded versions of shipboard missile and gun systems will probably prove inadequate for coping with the much more capable antiship missiles of the future. If a CPBW can do the job, the value in terms of fleet survivability would be enormous. The capabilities of this potential weapon constitute a revolution greater than the leap from naval guns to guided missiles; radically new tactical thinking will be required to take maximum advantage of these new systems. . . .

A charged particle beam weapon, as the name implies, projects a high current pulse of electrons or ions in a beam from a nozzle. These particles can carry a great deal of energy and travel at nearly the speed of light. On striking a target, such as an incoming missile, the beam penetrates deeply and deposits its energy in a long, narrow cone throughout the target. For high-energy electrons, this cone can penetrate a few feet of solid aluminum, making shielding very difficult. Damage can be immediate and severe and includes nearly instantaneous high explosive detonation, structural damage, and electronics destruction or disruption by a variety of mechanisms.

Some conceivable missions for CPBWs are ballistic missile defense (both ground-based silo defense and space-based destruction of ICBMs in the boost phase), space-based antisatellite defense, and fleet defense against antiship missiles. There is great variation in the details of the CPBW systems required for each of these missions. We are concerned with the application which could have the most immediate interest to the Navy and which, since it is the least demanding, has the most promise of relatively near-term development—antiship missile defense (ASMD). . . .

The major component of the CPBW would be an accelerator which has a function similar to the electron gun in a television picture tube, although having far greater size and power. In addition to a weapon system based on firing electron beams, we could just as well use beams of protons or other ions.

The Stanford Linear Accelerator at Stanford University accelerates electrons to high energies for use in physics experiments. No one seriously considers a device of this type to be usable as a weapon. For one thing, it is 2 miles long. However, the use of this specific example will make the following discussion somewhat more clear; an accelerator designed for a weapon would have very different characteristics, such as higher current and lower electron energy, but the principles would be the same.

The energy contained in a pulse of electrons fired by an accelerator is equal to the product of the current, the accelerating voltage, and the duration of the pulse. The Stanford accelerator has 50 milliamps of electrons accelerated to a potential of 20 billion volts. The energy contained in the 1.6 microsecond pulse of electrons is therefore 1,600 joules, or 1.6 kilojoules. In each second, the accelerator fires 360 of these pulses for a total energy of about 0.6 megajoules. A practical weapon might put about three times this energy into one large pulse or a few pulses fired close together. It would thus have a bolt energy of 1.8 megajoules.

What is the significance of this amount of energy when deposited in a target? The bolt energy of 1.8 megajoules is roughly the energy released by one pound of high explosive. Not all of the beam energy would be translated into destructive shock waves in the target, but the analogy of embedding a small stick of dynamite deep inside the target is an apt one. The high energy of the Stanford accelerator's beam has, at times, made itself very apparent by literally exploding small metal structures when inadvertently directed at them by an equipment malfunction. Stopping electrons at such high energy is a difficult problem and is solved at Stanford by running the beam into the side of a hill.

Not all of the energy in a pulse reaches the target, however, because energy is lost during propagation through the air. There are several complex mechanisms causing this energy loss, but the loss is roughly proportional to the density of the air. Under normal conditions the pulse will lose half its energy after traveling about 200 meters. This would seem to limit the range of any CPBW severely, but the answer lies in what happens to the energy lost from the pulse. Much of it goes into heating the air along the path of the beam. In a few microseconds this hot air will expand, leaving a tube or "channel" of much lower density behind for the next pulse to follow with minimal energy loss. Using bolts consisting of a string of pulses may allow propagation over long distances.

Propagation through air also tends to scatter the electrons in the pulse so that the beam would gradually spread out and lose its effectiveness. Inhibiting this, however, is an effect without which a CPBW would probably be useless. The large currents in the beam create a magnetic field wrapped around the beam; the field, in turn, pinches the electrons closer together and keeps the beam from expanding. This effect works only when the beam is traveling through air or some other gas and is one of the reasons large currents are required. Typically, this "self-focusing" effect would keep the beam diameter down to a centimeter or so in air, so that when the beam hits the target, large quantities of energy are deposited in a very small volume. These high energy densities provide the beam its great lethality.

One great advantage any CPBW might have is the simple way it can be aimed at the target. The beam of electrons will curve in a magnetic field. Running the electron beam through a powerful magnet changes the direction. Change the current in the magnet's coils, and the beam direction can be altered at will. At least two types of nozzles could be built, one of which trains mechanically and uses the magnet for elevation. The other has two-axis magnetic steering, like the deflection coils on a television tube, and uses no moving parts. Very rapid slewing would be possible with this nozzle.

Other aspects of CPBW's also have great tactical significance. Much of the energy lost by electrons moving through air consists of high energy photons (gamma rays) emitted in a very narrow cone about the beam. This radiation can damage or disrupt electronics in arming, fuzing, guidance, and control circuits in the antiship missile, even though the beam may not score a direct hit. The short burst of high current in the beam also produces a very strong electromagnetic pulse. These phenomena associated with the beam could have significant effect on an enemy missile and may be sources of interference or damage to friendly systems if not properly controlled.

Some capabilities of the CPBW are radically new and will have a profound effect on our tactical thinking:

Essentially unlimited ammunition supply. Maximum firing rate could be used against hundreds of ASM attacks.

Very high rate of fire. An energy storage scheme could either boost peak firing rates for short periods or reduce the size requirements on the primary power source (for example, gas turbines).

Near speed-of-light velocities. Even if the effective bolt velocity required for channel formation is considered, target motion during propagation time is nearly zero and target maneuvering is irrelevant.

Extreme lethality. One hit can detonate the target warhead.

Very high slew rate obtainable since there are no moving parts. This enables nearly simultaneous engagement of multiple targets with only one CPBW. Slewing to a new target can be done without decreasing firing rate.

Unsaturable. A combination of lethality, firepower, and slew rate can be achieved to defeat any conceivable coordinated attack.

Relatively difficult to defeat with countermeasures.

All-weather operation.

Clearly, a weapon with these characteristics demands a careful examination of the most effective tactics for employment and of the concepts to be used in the controlling weapon system. Typical of the kind of new thinking required is the following argument. Reliable, rapid kill assessment has always been important in weapon system design, yet it is often very difficult to achieve. Surprisingly enough, however, kill assessment may be completely irrelevant for the point defense CPBW. In any engagement there are three actions that might be taken after making a kill determination: (1) if the target has been killed, shift fire to another threat; (2) if the target has been killed, cease firing to conserve ammunition; and (3) if the target has not yet been destroyed, bring additional weapons to bear, possibly releasing them from less threatening targets. Since our electron beam has an essentially unlimited ammunition supply, knowing exactly when to cease fire is not as important as in an ammunition-limited system. If there is only one threatening target within range, the tactics are obvious: fire at the target at full firing rate until the missile splashes, passes out of range, or hits the ship. In this case, a kill assessment is not important.

A characteristic of kill assessment is that it generally takes a significant amount of time. In the event of warhead detonation, of course, topside observers or tracking radar operators could detect destruction very quickly and relay the information to the man or machine in tactical control of the beam. Even this best case would take a few seconds, which is much too long for any meaningful engagement. A "soft-kill" might not be determined until the missile has splashed or flown past the ship. A Mach 1 missile will reach a ship from 1 kilometer in less than three seconds. The degree of sophistication in timing an attack in which more than one missile arrives within a three-second period surpasses current or planned capabilities of the United States and presumably those of the Soviet Union. If missiles arrive more than three seconds apart, they may be engaged as individual targets by firing at them continuously as long as they are in range and closing. If a multiple, simultaneous attack is mounted, a CPBW has the ability to engage several targets sequentially in only a few milliseconds with the extremely fast slew of an all-magnetic nozzle. Division of fire has been a tactically unsound idea in the past since the firing rate was low. A CPBW with an appropriate power source could fire perhaps 100 bolts per second, any one of which, if it were to hit the missile warhead, would destroy the missile. Thus, a logical tactic for engaging multiple targets would be to engage the first one as it crosses the range envelope, alternate between the first and second as soon as the second is in range, and add others to the rotation as they enter the envelope. Those which have been killed or pass by the ship would be dropped. A modification might be to increase the number of bolts fired at a given target as it neared the ship. Clearly, this calls for an extremely fast and sophisticated weapon control system in which men could play only a minimal role.

In the face of the capabilities of a properly integrated CPBW system, secondary batteries for point defense make little sense (of course, redundancy is wise to provide ability to withstand damage or in event of failure). Thus, the third reason for needing a kill assessment, allocation of additional assets, is also unimportant, because saturation of a CPBW is virtually impossible.

This line of thought establishes a trade-off between kill assessment and system characteristics. If the CPBW concept works, we can make a system that will work well without kill assessment; but if we can be assured of quick, accurate kill determinations, we might feel safe in reducing bolt rate and overall system size, weight, and cost. The possibility of trade-off suggests several lines of investigation for the physics and technology program.

SUBJECTIVE COMPARISON OF VARIOUS POINT DEFENSE ASMD CONCEPTS

	CPBW	Small caliber guns	Large caliber guns	Missiles	Guided projectiles	Lasers
Velocity	+	--	--	–	--	+
Firepower	+	+	--	--	--	+
Lethality	+	--	+	+	+	--
Sustained fire	+	+	+	--	--	+
Kill radius	– (+?)	–	+	+	+	–
Countermeasures	+	--	+	–	–	--
Range	?	–	+	+	+	–
Weather	+	+	+	+	–	--

+=an advantage.
–=a disadvantage.
--=a fatal flaw which cannot be overcome by merely improving performance.

Note: The implicit assumption is that the CPBW will work and that no fatal flaws will be found by the research program. Certainly no fatal flaws are obvious at the present.

Conceptual Tactical Characteristics of a Point Defense CPBW:

Range: 1–3 kilometers.

Firing rate: 100 bolts/second.

Lethality (hits to kill): 1 (1.8 megajoules/bolt).

Slew time: 10 milliseconds.

Velocity of pulse: 300,000 kilometers/second.

Effective bolt velocity: 1,000 kilometers/second.

Fuel consumption ("ammunition") (assuming 10 percent efficiency): 450 kilograms per second of sustained firing.

"Ammunition" capacity: 12,000 bolts in 20,000 gallon tank.

Other questions become apparent on reflection. How do we tactically employ to its greatest advantage a weapon capable of engaging several targets on a millisecond time scale? With decisions required on such a time scale, people will certainly be out of the immediate problem, which means tactical decisions must be made well before the engagement and programmed into the CPBW system. There are all sorts of trade-offs between bolt energy, range, average power, peak power, size and weight of the accelerator, and size and weight of power sources. Keeping in mind these trade-offs, what is the best set of weapon characteristics for a given ship and a given mission? This question can be answered only by a detailed study of tactical employment. . . .

Effectiveness of a weapon is strongly dependent on the countermeasures employed by the enemy. It has been suggested that a particle beam weapon could easily be defeated by supposedly simple expedients such as smoke screens, chaff, screening explosions which may deflect the beam, and decoys. In fact, a CPBW is probably the least susceptible of the weapon systems shown in Table 2. All these weapons have some sort of search and fire control system which would share nearly the same vulnerabilities; but at the close ranges permitted by the great destructiveness of the CPBW, countermeasures become much less effective. The beam itself penetrates deeply into the target so that shielding would be relatively ineffective. The beam would not have the weaknesses of a high energy laser which could be partially defeated by an ablative coating on the ASM, or of a small-caliber projectile which may be armored against. The multiple target situation of decoys could probably be fought more successfully by a rapid-firing CPBW than by any other weapon.

Deploying this host of countermeasures is no easy task for the enemy. These would force trade-offs upon him in terms of the size, speed, and maneuverability of the ASM, making it more susceptible to other systems. Recognizing that any given threat can be countered and that any given defense can be penetrated if one has the time and pays the price, we see that what a CPBW really buys for us is a much greater assurance of survivability in the 1990s. As a part of the "defense in depth" doctrine, a CPBW could make the enemy's job very difficult—and very costly. . . .●

DISTURBING DEVELOPMENTS IN OUR NATION'S EDUCATIONAL PROGRAMS

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. COLEMAN. Mr. Speaker, from a small beginning as a research and demonstration project in 1968, costing $7.5 million, the bilingual education program now costs $150 million—and by 1983, $400 million—and enjoys full stature as title VII of the Elementary and Secondary Education Act.

The initial goal of the program was worthwhile—to help youngsters whose native tongue is not English keep up with their studies as they gain proficiency in our language. In other words, if a student grew up speaking Spanish, a teacher could use Spanish to help him learn English in order to understand his lessons. Bilingual education would continue only until the child became fluent in English. But, as in all things bureaucratic, the program has grown beyond its intended scope and now threatens to undermine the historical mission of our educational system.

Now some bilingual education programs are including so-called "maintenance" aspects within their curriculums. In such programs children who have already become proficient in English are kept in special bilingual classes. This, I believe, promotes division, not harmony among our school children of differing cultures. Once a child becomes proficient in English the system has met its obligation, and I believe the child should move into the mainstream of our schools, not be funneled into special classes which are perceived as "different" or "off-limits" by their classmates.

And need I ask how schools are being forced to provide bilingual maintenance programs—the age-old threat of having their Federal funds cut off, of course.

It is unfortunate that this fear of funding cuts has clouded the real issue of our children and their right to quality education. A General Accounting Office report states that the U.S. Office of Education has flunked its assignment in regards to the notion that bilingual maintenance programs do, indeed, help children in their school work and in the job market. The real question is whether it is the Federal responsibility to finance and promote continuing attachments to ethnic languages and culture and whether the potential benefits outweigh the potential costs. Will the result be more harmony or more discord in American society?

Now that I have recounted the issues surrounding federally mandated bilingual programs, I would like to turn to what is potentially an even more troubling issue: The use of so-called black English in our schools.

A Federal court in Ann Arbor, Mich., has instructed the Ann Arbor School Board to make teachers aware of black English dialect and to advise them as to how to best use this knowledge to teach reading of standard English to students who speak black English. In so doing, the court was responding to a complaint alleging that the language gap between the teachers and their black English-speaking students was denying them the right to equal educational opportunity. Simply put, the students demanded that the teachers teach them reading in black English.

Few educators would disagree that a teacher's knowledge of the student's family and ethnic background is a valuable teaching tool. Insofar as the Ann Arbor decision states this, I agree. But my real fear is that, given the history of federally mandated bilingual programs, we will see massive new Federal intervention in our Nation's public schools; enormous new programs with their own special bureaucracies based on the same types of disputed sociological and educational research that gave rise to busing as a policy of Federal education?

There is some fear that the Ann Arbor case, incorrectly interpreted, would cause HEW to take the ball and run with black English in much the same way it did with students whose native tongue is not English. There is the very real possibility that HEW will interpret this case as authority to require school districts to teach black English as an end in itself and not as a means to help students to learn standard English. In addition, it is almost certain other dialects would emerge for the same treatment.

There are those who will interpret this approach to the Ann Arbor decision as unsympathetic to black concerns. But we should not flinch from a full discussion of this issue which, in my view, will have a significant impact on the educational and economic futures of countless children.

In studying this issue I found the most vehement opponent of black English to be the noted black columnist Carl T. Rowan. In a series of commentaries on this issue, Mr. Rowan assailed the Ann Arbor case as "sincere and well-meaning" but based on "the flimsiest of sociological-psychological assumptions. It is lunacy * * * to ask courts to sanctify linguistic failure by pretending it is a separate language and to delude youngsters into believing they can make it through life on black English."

"What black children need is not the right to go their own linguistic way in the name of 'black pride.' What they need is an end to this malarky that tells them they can fail to learn grammar, fail to develop vocabularies, ignore syntax, and embrace the mumbo-jumbo of ignorance."

Concluding, Mr. Rowan says: "The greatest burden blacks carry in America today, except for entrenched racism, is that black children are not being taught the importance of communication—of using the language of the society in which they hope to succeed."

Marvin Stone, in a recent lead editorial in U.S. News and World Report, expresses well my deep concern for Federal policies in this field of education. Stone writes:

> We question whether bilingual teaching is inevitable, whether it has to be so widespread or last so long and whether legally or morally the law has to be so drastically interpreted. The country already exhibits tendencies to break up into minorities that speak their own languages and live to themselves. There are persons who hail this as progress toward a plural society, but what it may really amount to is a hodgepodge that can't work together as a nation.

I have raised this issue today because I deeply believe it is the wrong direction for public education to take. While we can hope that it does not materialize, we should best learn from experience and be prepared to respond to it.●

NAHUM LAINER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. WAXMAN. Mr. Speaker, it gives me great pleasure to take this occasion to honor an outstanding member of the Los Angeles community—Mr. Nahum Lainer.

Nahum Lainer was born in Mexico and moved to Los Angeles at the age of nine. Like many who have made the transition from immigrant to full-fledged citizen, Nahum worked hard as a youngster and eventually earned a B.S. and M.B.A. from UCLA. He is now a certified public accountant specializing in real estate investments and development.

Following a family tradition of service to the community, Nahum Lainer has contributed his knowledge and understanding to numerous projects. He is a member of the board of directors and past vice president-treasurer of Camp Ramah of California, Inc.; a member of the board of directors of Sinai Temple, Los Angeles; national secretary, Solomon Schechter Day Schools Association; past member, board of directors of the University of Judaism and its Earl Warren Institute; past member, board of directors of Dubnoff Center; past member, Community Service Committee of Jewish Federation Council; and member United Jewish Welfare Fund.

Because of his special interest in religious education, inspired by his uncle who was Chief Rabbi of Mexico, Nahum Lainer has devoted himself, since 1971, to the Akiba Academy. Each of his three children is either a past, present, or future student of the academy. He has held positions of responsibility as a member of the board of directors and board of overseers, past benefit chairman, treasurer, executive vice president, and president.

In recognition of his splendid work, Akiba Academy will honor Nahum Lainer at a benefit dinner on January 26, 1980. I ask members to join with me, his wife Alice, and children Gary, Leslie and Nancy, in extending our congratulations and best wishes for the future.●

THE DRAFT DEBATE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. STARK. Mr. Speaker, the lead article in the November 1979 issue of "Policy Report," published by the Cato Institute considers "The Draft Debate."

The author, Christopher Jehn makes a strong defense of the All-Volunteer Armed Force—AVF—or what others have called the Volunteer Army.

Mr. Jehn, director of the Institute for Naval Studies at the Center for Naval Analyses in Alexandria, Va., notes that conscription has not been the rule in American history. He points out that a draft or selective service is coercive, is a tax on those who serve and, because the tax is hidden, it invites inefficient use of personnel.

Jehn, in his brief article, addresses most of the other arguments against the AVF. I believe he is right on target. However, I would argue that his statement that "racial discrimination is virtually nonexistent in the military," probably overstates the great strides in race relations that the military are achieving.

The article follows:

[From the Policy Report]

THE DRAFT DEBATE

(By Christopher Jehn)

The current debate about the success of the All-Volunteer Armed Force (AVF) and the necessity of resuming peacetime conscription is remarkably uninformed. Many relevant facts are often ignored or misrepresented.*

The argument for a volunteer military begins with the contention that conscription is inconsistent with our country's history and principles.[1] Peacetime conscription was first used in 1940. Though a draft was tried during the Civil War, conscription was not an important factor in wartime until World War I. Further, during the post-World War II period of peacetime conscription, about three-fourths of the military personnel on active duty were true volunteers.[2] Conscripts and conscription, then, not volunteers and voluntarism, are the exception in American history.

The most persuasive argument against conscription, however, is that it is immoral and inefficient. First, there can be no mistake that conscription is coercion, a serious and significant infringement of individual freedom. Second, conscription is a tax. Draftees and draft-induced volunteers are forced to serve at wages below what would be necessary to induce them to volunteer. This underpayment is a form of taxation that shifts some of the burden of national defense from the general population to draft-age men and women. Benjamin Franklin recognized these arguments while commenting on a judicial opinion concerning the impressment of American merchant seamen:

> But it may be said, to give the king's seamen merchant's wages would cost the nation too much, and call for more taxes. The question then will amount to this; whether it be just in a community, that the richer part should compel the poorer to fight for them and their properties for such wages as they think fit to allow, and punish them if they refuse? Our author tells us it is legal. I have not law enough to dispute his authority, but I cannot persuade myself it is equitable.[3]

Third, because the conscription tax is hidden (and hence the true costs of manpower are understated), conscription invites inefficient use of resources in the Defense Department. Finally, conscription imposes social costs on the nation, costs associated with draft avoidance (and enforcement) and the disruption of careers and educations, for example.

Despite these arguments, we might be willing to accept conscription if it were the only workable means of providing for the nation's defense. But it is not. The draft ended nearly seven years ago, and, criticisms in the press notwithstanding, the AVF has been a success. Most of the "problems" attributed to the AVF are not problems at all.

The AVF is said to cost too much, but this argument is specious. Careerists have always been volunteers, so only the cost of recruiting, training, and paying first-term personnel is at issue. If military pay is kept comparable to civilian pay, a return to conscription would save only about $250 million in recruiting costs. Cutting pay of first-term personnel could increase the saving by as much as $2.5 billion (or about 2 percent of the defense budget) if pay for junior personnel were lowered to the relative levels of the 1960s.[4] Such a pay cut is not likely, however, even with a return to conscription. Finally, while a return to conscription might reduce the cost of manpower to the Defense Department, it cannot reduce the cost to the nation. It merely redistributes the burden of that cost.

It is widely believed that the AVF is not attracting personnel in sufficient numbers or of sufficient quality. The argument, too, is largely groundless. Monthly recruiting shortfalls are undeniable and the source of many frontpage headlines. But for the last four years, reduced losses from the active force have offset these shortfalls so that the size of the total force has never fallen below 99 percent of the size authorized by Congress.

Quality is harder to measure than quantity. A complete quality measure would include not only such dimensions as mental ability, education, training, and experience, but others like motivation and morale. We do not have this ideal measure, but in terms of dimensions we can measure, the AVF compares favorably with its counterpart during the draft years of the 1960s and early 1970s. Today's recruits score as well or better on entrance exams and are just as likely to high school graduates as were recruits during the draft era. (Recruits of "below average" intelligence totaled 13 percent of enlistments in fiscal year 1965, but only 5 percent in 1978. In 1968, 68 percent of enlistees were high school graduates; in 1978, 77 percent were.) Perhaps most important, the enlisted force today has a higher percentage of high school graduates (88 percent than at any other time in history.

The picture is not so rosy for the reserve forces, a fact that has become part of the basis for another criticism of the AVF: It cannot meet mobilization requirements in the event of a major conventional war in Europe. Reinforcements and replacements for the active force must come from the reserves (including the National Guard) and from untrained individuals. Many critics of the AVF believe conscription is necessary to man the reserves and provide a source of untrained personnel at the start of a war.

Since the end of conscription in 1973, the selected reserve (personnel drilling regularly in reserve and National Guard units) has declined 12 percent, and the Individual Ready Reserve (the IRR, personnel serving the remainder of an initial six-year military obligation after a period of active duty) has declined almost 70 percent. On the surface these figures seem alarming, but they are only part of the story. For example, although it has declined in numbers, the selected reserve has steadily grown more experienced: In 1977, 68 percent of accessions to the selected reserve came from the active force, compared to only 32 percent in 1970. Though the IRR now numbers less than 400,000, there are other sources of trained personnel: Studies for the Department of Defense estimate that about 250,000 recent military retirees would be suitable for recall, as would over 1 million recently discharged individuals.

How serious the reserve situation is depends greatly on how sensible the requirements for reserve forces are. Reserve "requirements" are not immutable; they are a function of assumptions about future contingencies and about how active and reserve forces will be used.

In any event, there is no necessary connection between a voluteer military and inadequate reserve forces. Only recently have the reserve forces begun to receive the management attention given the active force. (The Army Reserve and Army National Guard did not begin using full-time recruiters until fiscal years 1977 and 1978, respectively.) Recruitment problems in the reserve forces have also been worsened by institutional discouragements to enlistment and reenlistment. Chief among these are an outmoded pay system and traditional training schedules that require new enlistees to leave their primary jobs for months to take

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Footnotes at end of article.

basic and initial skills training. The Defense Department has now recognized these defects and is studying ways to correct them. But doing so may require some new legislation. If Congress wants the AVF to fail in this area, it has the power to ensure that outcome.

Advocates of conscription argue that a functioning draft system is necessary both to provide enough enlistments in the early stages of a major war and to fill reserve units. This argument, although it has surface appeal, assumes that any war in which we would engage would be so unpopular that there would be no increase in enlistments at the outbreak of the war. In fact, an increase in enlistments has accompanied major crises (like Berlin in 1961) and the beginning of every war this country has entered (even Vietnam). Indeed, conscription in World War I was justified on the ground that valuable civilian laborers might otherwise volunteer, and during both world wars voluntary enlistments were eventually banned. Also, a draft, by itself, does not guarantee "quick response." Draftees, after all, take just as long to train as volunteers.

There are other alleged problems with the AVF. These include a "high" rate of turnover among first-term personnel (though turnover in the military is less than among similarly aged people in the civilian sector), a "shortage" of physicians (though there are relatively more physicians in the services today than during the draft years, despite military physicians' pay considerably lower than in the civilian sector), and a lack of representativeness. This last criticism is pernicious not only because it is largely untrue, but because a "representative" force seems intuitively desirable to many.

Contrary to popular belief, the AVF is at least as representative of the total population as was its draft-era counterpart. In terms of both geography and family income, today's enlisted recruit population faithfully mirrors the general population from which it is drawn.[5] The distribution of enlistments by geographical area and by family income is virtually identical to the distribution of the sixteen- to twenty-one-year-old male population. That is, neither the poor nor people from any specific geographic area are overrepresented. The highest income brackets are underrepresented, but that was true of the drafted forces, and for essentially the same reasons: The wealthy do not serve because they face opportunities that are more attractive than the military or because they are able to evade conscription.

Blacks are overrepresented in the enlisted force, as they were during the last years of the draft. (In fiscal year 1971, 13 percent of all enlistees were black. By 1978 blacks accounted for 23 percent of all first-term enlistments.) The difference now is that blacks are volunteers paid a competitive wage. Blacks find the military attractive (compared to whites, they reenlist at an even higher rate than they enlist) because racial discrimination is virtually nonexistent in the military. If this leads to a racially "unrepresentative" force, then the blame rests with the civilian sector, not with the AVF. The large number of blacks in the military represents progress on the part of the military, not the opposite. For most of our history, blacks have been underrepresented in the military. As late as 1940 the Army had only two black combat officers. It is hard to see how society (or blacks) would be better off if black access to the military were reduced.

The charge of lack of representativeness is still more irksome since it is never accompanied by a description of the consequences of underrepresentation. Will a more representative force fight better? Critics of the AVF do not address that question.

The military has never been representative of the general population. The very young, the old, the illiterate, the highly educated, the very wealthy, the women, and, until recently, the blacks have always been underrepresented. Those arguing for "better" representation do so in a very selective fashion. They first define the (unrepresentative) group they think should serve, and then complain if that group is not serving.

Most criticisms of the AVF, then, simply do not hold up under close scrutiny. That is not to say there are no problems. There are, but they are more accurately termed problems of the military manpower system than problems of a volunteer military. As such, they can be solved with means other than conscription. It would be especially tragic if an institution as alien to this country's history and principles as conscription is were adopted on the basis of erroneous premises.

FOOTNOTES

*Much of this article was previously published elsewhere.

[1] John L. Rafuse, "United States Experience with Volunteer and Conscript Forces," *Studies Prepared for the President's Commission on an All-Volunteer Armed Force,* Vol. II (Washington, D.C.: U.S. Government Printing Office, 1970).

[2] *Report of the President's Commission on an All-Volunteer Armed Force* (Washington, D.C.: U.S. Government Printing Office, 1970), p. 48 ff.

[3] Ibid., p. 24.

[4] For an excellent collection and analysis of facts about the current AVF see *America's Volunteers: A Report on the All-Volunteer Armed Forces* (Washington, D.C.: Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, 1978).

[5] Richard V. L. Cooper, *Military Manpower and the All-Volunteer Force* (Santa Monica, Calif.: The Rand Corporation, 1978), Chap. 10.●

THERE'S A WRONG IN THE AIR AND IT'S COSTING AMERICANS

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● **Mr. GORE.** Mr. Speaker, a lack of foresight and an insatiable appetite for energy have left this country vulnerable through the 1980's to oil supply interruptions from politically unstable OPEC producers. Our faint hope for energy independence in the next 30 years is thus dependent upon a rapid, comprehensive program of energy conservation and synthetic fuels development.

We would hope that our unfortunate experience with an oil-based economy would give us the wisdom of foresight. Yet, as we approach the turn of the century, we seem to be embarked on a policy which could bankrupt one of the most promising technologies of the future—fusion energy. A vital component of fusion technology is helium, and it will be needed in massive amounts. Helium is in relative abundance today, but because of massive blunders in the Nixon administration we are allowing today's helium production to escape into our atmosphere.

Prof. Roy Clark from Middle Tennessee State University has written a thoughtful article on the helium problem which I would like to share with my colleagues. As he points out, Congress can resolve this issue by giving the Federal Government authority to purchase and stockpile helium. Congressman JOHN DINGELL, the distinguished chairman of the Energy and Power Subcommittee, has introduced a bill which I have cosponsored, H.R. 2620, to establish such a helium storage program. I hope my colleagues will support this measure to insure a stable energy future for the next generation.

The article follows:

[From the Murfreesboro (Tenn.) News Journal, Sept. 2, 1979]

THERE'S A WRONG IN THE AIR AND IT'S COSTING AMERICANS

(By Roy Clark)

There is a country in the world which has under its land a valuable chemical element. This element is so rare that it is number 68 on a list of the abundance of elements in the Earth's crust. Despite the rarity of this element, estimates are that the country of which I speak has 718 billion cubic feet (bcf) of it as one of its natural resources.

At the present time this country uses about one bcf per year of this element, and at this rate one assumes they have a 718 year supply. Unfortunately this is not so, for they mine 16 bcf of this element per year and waste 15 bcf. The element is a gas, and it is allowed to escape into the atmosphere harmlessly but irretrievably. At this rate of waste the element can only last about 45 years.

But that is not all! This same country is investing over one billion dollars per year in research which, if successful, will utilize this very element in vast quantities. If the research in developing the hoped for new technologies, the demand for this rare element would skyrocket to 10 bcf per year or even more. Obviously, this country is some day going to need the element it now discards, and there is no way to ever recover it.

Let us not play this game any longer. The country is the United States of America and the element is helium, a gas so rare that it was discovered in the atmosphere of the sun before it was known to exist on Earth. Ours is the nation that is investing heavily in research, fusion research, superconducting-power-transmission research, superconducting-energy-storage research, all designed to solve the energy crisis and all requiring tremendous amounts of liquified helium. To liquify the helium for these applications is not difficult if the helium is available, but will there be any left?

Why then are we mining 16 bcf of helium per year and venting 15 bcf to the atmosphere? There is not reason. Helium is mixed in with the natural gas sources in Texas and Louisiana. Since it is one of the inert gases it does not burn or chemically do anything when the natural gas is used. It is lost to the atmosphere and so diluted that it will never be recovered. The only way to save it is to extract it from the natural gas before it goes to the consumer. This process, it turns out, is quite practical.

During the period 1960 to 1973 helium was extracted from natural gas in sixteen plants which sold some to science and industry, but sold most to the U.S. government. The government, in turn, stored it for future use. This federal helium conservation program was one of the wisest investments in the future ever passed by Congress.

Unfortunately it didn't seem wise to the "common sense" of some politicians. "Why," they asked, "do we have long term contracts to buy helium when there is no extensive use for it? Why should the government store all this gas that doesn't even burn?" Therefore in 1973 the Nixon administration cancelled the helium purchase contracts as an austerity measure. The recovery plants went out of the helium recovery business and thus we now lose this considerable natural resource for economic reasons.

The ironic part of this whole story is that natural gas itself, now so precious, was once thought to be a troublesome by-product of petroleum drilling. In the period 1930 to 1960 the United States vented or flared 119,000 bcf natural gas would certainly be handy to have to store it. Those trillions of cubic feet of natural gas would certainly be handy to have today, for we only have an estimated 200,000 bcf of natural gas left!

Can anything be done about the helium problem? Yes. There is in committee in the House of Representatives a bill, HR2620, which would reinstitute the processing and storage of helium gas streams. It is called "The Helium-Energy Act of 1979."

Chances for the passage of the bill are unclear. Some congressmen profess enthusiasm for the bill, or for some helium-saving bill. However, Bureau of the Mines Helium Division chief Ray Munnerlyn disagrees: "It's our impression from hearing the testimony that HR2620 has very little support outside of the subcommittee."

So what can you the public do? Write your congressmen, of course. Tell them you favor helium conservation legislation. Maybe enough hot air in Congress can save the most precious cold air of all, liquid helium.

EDITOR NOTE.—Dr. Roy W. Clark is professor in the department of chemistry and physics at Middle Tennessee State University and is one of six contributors to "The Ivory Tower." ●

THE TELEPHONE PRIVACY ACT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. ASPIN. Mr. Speaker, to respond to a growing invasion of the privacy of our homes, I am introducing today the Telephone Privacy Act.

In brief, this piece of legislation would allow any telephone subscriber to place a "no solicitors" sign on his telephone and prevent salespeople from putting an oral foot—if you will pardon the strain that places on the anatomy—inside the house.

The problem derives from the ease with which sales solicitations can be made by telephone.

Every day more than 4 million people object to "junk" call interruptions, according to the telephone marketing industry's own estimates.

I have been deluged with mail supporting this bill. But my office has also received some calls from firms who make telephone solicitations as a business and who insist their calls are well received and appreciated. One caller told my office. "Only 1 in 70 objects and, of course, the bulk of those people are nervous neurotics."

The industry's own figures show otherwise. The U.S. Institute of Marketing makes periodic surveys of telephone solicitations and reports that on an average day 12 million numbers are dialed and 7 million homes reached by people trying to sell something. Of those reached, the survey shows that 4.2 million refuse to listen to the advertising spiel and hang up. The other 2.8 million listen to the pitch and 460,000 buy the product.

There are 68 million homes with telephones in this country. So by the industry's own estimates, 1 home in every 16 is objecting each day to the intrusion of "junk" telephone calls.

Few of these people complain to the telephone companies because they know there is nothing that can now be done about the calls. This bill would give people who are irate over this kind of intrusion the power to do something about it.

The bill has four main points:

It requires the telephone companies to give every subscriber the opportunity to indicate at least once a year if they object to receiving unsolicited commercial telephone calls;

Any firm wishing to make such calls would have to obtain from the telephone companies the lists of those persons who have hung "no solicitors" signs on their phones and avoid calling them;

Violators could be fined up to $1,000 per call in violation. No prosecution could begin until after the 10th complaint against a firm had been received by the local U.S. attorney; this provision allows for the normal human errors that would occur when thousands of calls are made.

No charges would be imposed on subscribers; the costs to the telephone companies of complying with the law would be recovered through a structure of fees charged firms for renting the no-solicitation lists from the phone companies.

Let me note that this is not one of those recurring efforts to make life harder for commerce, to unleash a band of bureaucrats to interfere yet again in the workings of the marketplace. I have been contacted by many of the major firms that solicit by phone. Many of them make the point that they are concerned about those members of the public who are offended by their calls—calls that can interrupt a meal, drag you out of your bathtub or send you running into your house from the garden.

I am impressed by the firms that have told me they maintain what they call DNC lists, that is, "Do Not Call" lists. This bill in effect would simply apply the standards of the better firms to the entire industry.

I have also heard concern about the extra administrative burden this bill would impose on solicitors. But as I have visited these firms, I have been most impressed by their level of intricacy and sophistication. Solicitation calls are no longer made by phoning down the pages of the telephone book. Solicitors want to narrow their contacts to a rational list of potential customers. If you are selling a diaper service, you do not call everybody in the phone book; you arrange to get lists of new parents. Then you invest time in looking up the phone numbers. Some firms brag about having libraries of 10,000 telephone books. They talk of investing substantial sums before making a single call.

Therefore, Mr. Speaker, the additional burden of cleansing their lists of people who do not wish to be bothered is quite small.

However, we do face the potential problem of 50 different sets of laws. That would impose an intolerable burden. I have visited a firm in Maryland that places calls even to Alaska. Can you imagine the confusion if every solicitor had to master a different law for every State he wanted to call into?

Last year I made a survey of the 50 State legislatures. I found that more than 50 bills dealing with "junk" telephone calls had been introduced in 25 States.

This surge of legislation underscores the public's disgust with this growing invasion of privacy.

It also points up that we would all be better off with one Federal standard rather than a couple of dozen, often conflicting, State standards—a jungle of regulation.

My survey showed that last year five States passed legislation in this area. No two laws were identical.

The Alaska law, which took effect June 18, outlaws the use of recordings in telephone advertising unless the person called has given his consent previously in writing.

The Maryland law, which took effect July 1, bans the use of automated dialers with recorded messages for the purpose of soliciting sales.

The Virginia law, which also took effect July 1, prohibits the use of recorded sales messages on equipment that will not disconnect when the party on the other end hangs up.

The Wisconsin law, the first to take effect, on May 12, bans the use of recordings in telephone sales pitches.

The Florida bill, the last to take effect, bans the use of automatic dialers.

Altogether 52 bills were put before State legislators last year. The largest block—15—were similar to the Aspin bill. The second largest group—13—proposed a simple ban on the use of automatic dialing equipment. The other bills were scattered widely over 10 other approaches—such as calling for the use of asterisks in telephone books to indicate persons who do not want to receive such telephone calls or the defining of a telephone solicitation as a home solicitation, bringing the calls under the same restrictions as door-to-door salesmen. The 52 bills fall into 12 families of regulation—but every bill is different. Some of the bills so far introduced are of questionable constitutionality. You cannot ban telephone solicitation because business enjoys freedom of speech; the Supreme Court has repeatedly upheld commercial freedom of speech.

The 25 States in which "junk" call legislation was introduced last year are: Alabama, Alaska, Arizona, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Maryland, Massahcusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and Wisconsin.

Before closing I should explain the nature of the telephone solicitation business. It falls into three categories.

First, there is the classic system of live solicitors calling from phone banks. This has been around for decades.

Second, there is the "human-fronted tape." In this technique, a live worker is on the line when you answer in order to get the target customer on the line. Once the target is on, the human-front activates a tape recorder that plays the advertising spiel. This is the fastest growing form of telephone solicitation today. It enables the seller to use professional salesmen or nationally known personalities to sell a product or service.

Third, there is the automated dialer that dials either random or pre-stored numbers and then delivers a taped message. The main limitation to this system is the inability to assure the target customer is reached. The tape plays to whomever answers. The tape may try to sell acne cream to granddad or a subscription to a skin magazine to your 4-year-old. The machines are, however, inexpensive. They provide a potential for an invasion of privacy on a scale never before imagined.

For example, a British machine called the Computafone has received a U.S. patent. Its manufacturer tells me that a version that uses 30 telephone lines can place 3,600 calls each hour—that is one call a second. If the machine is used only from 8 a.m. to 10 p.m., just 193 of these Computafones would reach every one of this Nation's 68 million homes with telephones in only 7 days.

The Computafone can dial a number automatically, deliver a taped message such as an advertising spiel, and then record a response from the person called—all without any human attendant.

All this can be done by a machine which takes up only 1 square yard of floor space.

The British manufacturer—Donald Thorne of Trans World Telephones in Manchester, England—is himself concerned about the potential abuses of privacy. I am very concerned. The point is not to outlaw the equipment. Mr. Thorne's machine can be used for a lot of good purposes—calling up members of the National Guard during an emergency, phoning persons holding airline reservations to tell them of a delayed flight, and so forth. But we do need to regulate the telephone solicitation business to avoid invasions of privacy. And that is what the Telephone Privacy Act, which I introduce today along with 80 cosponsors, is designed to do.

The bill follows:

H.R. 6047

A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Telephone Privacy Act".

SEC. 2. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"PROHIBITION OF CERTAIN UNSOLICITED TELEPHONE CALLS

"SEC. 224. (a) (1) (A) No person may make or cause to be made any unsoliciated commercial telephone call to any telephone if the person who is the subscriber for such telephone has given notice, in accordance with subsection (b), that he does not wish to receive unsolicited commercial telephone calls.

"(B) No person shall cause to be made any unsolicited commercial telephone call to any telephone if such call is made entirely by authomatic equipment and has or may have a duration of more than one minute.

"(2) No such person may employ, or contract for, any other person to make any telephone call in violation of paragraph (1).

"(b) (1) Any person who is a telephone subscriber and who wishes not to receive unsolicited commerical telephone calls may notify the telephone company which provides telephone exchange service for such telephone that he does not wish to receive such calls. The Commission shall prescribe regulations—

"(A) specifying the manner in which such notification shall be given,

"(B) specifying the manner in which telephone companies shall make available in persons making unsolicited commercial telephone calls the names and telephone numbers of persons who do not wish to receive such calls, and

"(C) specifying the times at which and manner in which a subscriber may give or revoke such notification.

Regulations under subparagraph (C) shall require that a subscriber be given the opportunity to give such notification whenever a telephone is installed, and not less frequently than annually thereafter.

"(2) No telephone company may make any charge to a subscriber for the service of listing him as not wishing to receive unsolicited commercial telephone calls and the costs incurred by any telephone company to administer the provisions of this section shall be borne by those persons or institutions obtaining the names and telephone numbers of those subscribers who do not wish to receive unsolicited commercial calls under a fee structure to be prescribed by regulation of the Commission.

"(c) (1) Any person who violates subsection (a) of this section shall be fined not more than $1,000, or imprisoned not more than thirty days, or both. For purposes of this paragraph, each telephone call in violation of subsection (a) shall constitute a separate offense, but no person may be imprisoned for more than six months for any related series of violations.

"(2) No person may be prosecuted under paragraph (1) for a violation of subsection (a), unless (A) during the calendar year during which such violation occurred, the United States attorney for the judicial district in which such prosecution is brought has received at least ten written complaints of violations of such subsection by such person and (B) each of such ten complaints is made within fourteen days after the violation complained of.

"(d) For purposes of this section:

"(1) The term 'unsolicited commercial telephone call' means a commercial telephone call other than a call made—

"(A) in response to an express request of the person called, or

"(B) primarily in connection with a debt payment of which, or a contract performance of which, has not been completed at the time of such call.

"(2) The term 'commercial telephone call' means (under regulations of the Commission) any call made for business purposes by or on behalf of any business enterprise, other than a call made by an organization described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue Code of 1954 on its own behalf, by a political organization, or by a public opinion polling, or radio or television rating, organization.

"(3) The term 'telephone company' means any carrier (whether or not engaged in interstate or foreign communication) which provides telephone exchange service."

SEC. 3. (a) Section 2(a) of such Act is amended by striking out "The provisions" and inserting in lieu thereof "Subject to section 224, the provisions".

(b) Section 2(b) of such Act is amended by striking out "section 301" and inserting in lieu thereof "sections 224 and 301".

SEC. 4. The amendments made by this Act shall take effect on such date or dates (not later than eighteen months after the date of enactment of this Act) as the Federal Communications Commission shall prescribe by regulation.●

FAST AID TO THOSE IN KAMPUCHEA

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. DODD. Mr. Speaker, for too many years the world has witnessed human tragedy in Indochina. Civil war in Cambodia, known now as Kampuchea, has led to an almost complete destruction of crops in 1978, and is the reason why only 10 percent of that country's fields are presently under cultivation. For more than 75 percent of the Kampuchean population, relief from abroad will mean the difference between life and starvation.

The United States pledge of $69 million in relief, along with aid from the ICRC/UNICEF, the Catholic Relief Services, OXFAM, the World Food Program, and the International Red Cross are important first steps to ending this nightmare. Barriers will remain, however, until authorities in Phnom Penh begin to provide the transport routes necessary for speedy delivery of the food and medical supplies upon which millions of human beings have become dependent. The time has arrived when narrow political interests must be put aside so that the greater principles of human dignity can be realized. As long as Phnom Penh's primary concern is with its political rival, the Pol Pot regime, Kampucheans will continue to die needlessly.

Having reached the point where delay can only mean death for innocent Kampucheans, we must urge the Governments of Vietnam and the Soviet Union and officials in Phnom Penh to make available all possible means of transporting aid to those who need it desperately.●

AMERICAN MILITARY LEADERS SUPPORT THE PROPOSED SALT II AGREEMENT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. BINGHAM. Mr. Speaker, this morning I made a brief speech to call attention to the fact that many former and present military leaders support the ratification of the SALT II agreement with the Soviet Union. I said at that time that I would include a list of these leaders compiled by the Members of Congress for Peace Through Law SALT II Task Force into the extension of remarks section of the CONGRESSIONAL RECORD. That lists follows:

LIST

PRO-SALT RETIRED MILITARY OFFICERS

General Russell Dougherty (USAF), former Commander-In-Chief, Strategic Air Command (SAC).

Admiral Noel Gayler (USN), former Commander-In-Chief, U.S. Forces Pacific; Former Director, National Security Agency.

Admiral Isaac Kidd (USN), Former Commander-In-Chief, U.S. Atlantic Fleet.

Vice Admiral W. F. Raborn (USN), Former Director, CIA; Former Director, Polaris Program.

General Andrew Goodpaster (USA), Former Supreme Allied Commander, NATO; Superintendent, U.S. Military Academy, West Point, New York.

General James Keck (USAF), Former SAC Chief of Staff, Former SAC Vice Commander.

Lt. General Samuel V. Wilson (USA), Former Director, DIA; Former Deputy Assistant Secretary of Defense.

Lt. General Arthur S. Collins, Jr. (USA), Former Deputy Commander-In-Chief, U.S. Army in Europe.

General Donald Bennett (USA), Former Director, Defense Intelligence Agency.

Admiral James Holloway, USN-Retired, Former Chief of Naval Oprations.

Vice Admiral Gerald Miller, USN-Retired, Former Commander, First Fleet U.S. Atlantic Fleet.

Major General Franklin Davis, USA-Retired, Former President, National War College.

Rear Admiral Gene LaRocque, USN-Retired, Former Commandant, Inter-American Defense College; Director, Center For Defense Information; Former Commander of the 6th Fleet's Fast Carrier Task Group.

General Ray Furlong, USA-Retired; former Persident, Air University, Maxwell AFB.

Vice Admiral John Marshall Lee, USN-Retired, former Commander-In-Chief, Seventh Fleet Amphibious Force, Western Pacific, Former Vice Director, NATO Military Committee; Former Assistant Director, ACDA.

General Bruce Palmer, Jr., USA-Retired, Former Vice Chief of Staff of the Army, Former Commander of Readiness Command, USA.

Rear Admiral Stanley Fine, USN-Retired, Former Director of Budget and Reports, U.S. Navy Department.

General Melvin Zais, USA-Retired, Commander-In-Chief, Allied Land Forces, S.E. Europe, (NATO).

Admiral Daniel J. Murphy, USN-Retired, Now Under Secretary of Defense For Policy; Former Director of Anti-Submarine Warfare, and Ocean Surveillance Program, Office of CNO.

General Glenn Kent, USA-Retired, Former Director, Weapons Evaluation Group, Joint Chiefs of Staff, Joint Staff.

General Lauris Norstad (USA-Ret.), Former Supreme Allied Commander, NATO.

General James M. Gavin, Former Commander, 2nd Airborne Division, USA-Retired.

Brigadier General B. K. Gorwitz, USA-Retired, Commander, 23rd Infantry Division, Vietnam; Deputy Director, Center For Defense Informatior.

Vice Admiral Patrick Hannifin, USN-Retired, Former Director of Plans and Policy, Joint Chiefs of Staff; Former Assistant Director of CNO Plans, Policy, and Operations, U.S. Navy.

Brigadier General Douglas Kinnard, USA-Retired, Former Director of Budgets and Reports, U.S. Army Department.

Rear Admiral Arnold E. True, USN-Retired.

Rear Admiral William Lemos, USN-Retired.

PRO-SALT FORMER NATIONAL SECURITY OFFICIALS

William Colby, Former Director, Central Intelligence Agency.

Townsend Hoopes, Former Under Secretary of the Air Force.

Stuart Symington, Former Secretary of the Air Force; Former Senator on SASC, SFRC, and Joint Committee on Atomic Energy.

Clark Clifford, Former Secretary of Defense.

Mr. Jan Lodal, Former Strategic Analyst, National Security Council Staff.

Dr. Henry Kissinger, Former Secretary of State; Former Special Assistant to the President for National Security Affairs.

Paul Warnke, Former SALT II Ambassador; Former Assistant Secretary of Defense, International Security Affairs.

McGeorge Bundy, Former Special Assistant to the President for National Security Affairs.

W. Averill Harriman, Former Ambassador to the U.S.S.R.

Malcom Toon, Former Ambassador to the U.S.S.R.

George Kennan, Former Ambassador to the U.S.S.R.

John J. McCloy, Coordinator of U.S. Arms Control Activities, 1961–63; Former U.S. Military Governor and High Commissioner for Germany.

Dr. Herbert Scoville, Jr., Former Deputy Director, CIA; Former Assistant Director, Science and Technology, ACDA.

Robert Matteson, Former Director of White House Disarmament Staff.

George Ball, Former Under Secretary of State.

Adam Yarmolinsky, Former Principal Deputy Assistant Secretary of Defense; International Security Affairs, Former Counselor, ACDA.

Dr. Morton Halperin, Former Member, National Security Council Staff; Director, Center for National Security Studies.

Dr. Glenn T. Seaborg, Former Commissioner, Atomic Energy Commission.

Dr. W. K. H. Panofsky, Director, Stanford Linear Accelerator Center; Former Member, President's Science Advisory Committee; Former Member, Ad Hoc Group on Detection of Nuclear Explosions, Office of Director of Defense Research and Engineering.

Dr. Jack Ruina, Former Assistant Director, Defense Research and Engineering; Former Director, Advanced Research Projects Agency, Department of Defense.

Dr. George Kistiakowsky, Former Special Assistant to the President For Science and Technology.

Dr. Herbert York, Former Director of Defense, Research and Engineering, Former Director, Lawrence Radiation Laboratory, University of California, Livermore.

Dr. Hans Bethe, Former Director, Theoretical Physics Division, Los Alamos Scientific Laboratory, Former Member of the President's Science Advisory Committee.

Dr. Jerome B. Wiesner, Former Special Assistant to the President for Science and Technology.

Thomas J. McIntyre, Former Senator and Member of the Senate Armed Services Committee; President, Americans For SALT.

Dr. Richard Garwin, Former Member of Defense Science Board, Advisor to Secretary of Defense; Former Member of President's Science Advisory Committee, Chairman of Military Aircraft and Marine War Panels.●

APPLAUDING THE BRITISH EFFORTS IN AFRICA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. EDWARDS of California. Mr. Speaker, I would like to bring to the attention of my colleagues the thought provoking article by Representative STEPHEN SOLARZ which recently appeared in the Washington Star. In the article, Congressman SOLARZ aptly describes the recent negotiations in London. Beyond that, he explains what the successful conclusion of these negotiations portends for future relations between the United States and the continent of Africa. I think we all join with Mr. SOLARZ in applauding the British for their efforts.

While we reflect on the importance of these negotiations we must remember the past efforts of several Members of Congress whose diligence helped to make the Lancaster House negotiations possible.

Above all else, I wish to emphasize the leadership of Representative SOLARZ, chairman of the Subcommittee on Africa. It was his inspired leadership which helped us to fend off the countless attempts to lift sanctions.

His determination in resisting all efforts to lift sanctions must be viewed as an important step to the final resolution of the war in Zimbabwe-Rhodesia.

The article follows:

[From the Washington Star, Dec. 1, 1979]

TRIUMPHS OF AFRICAN DIPLOMACY

Assuming the Lancaster House talks on Zimbabwe-Rhodesia do not collapse near the finish line, we will have witnessed an historic breakthrough in the search for a peaceful resolution of the racial conflicts now raging in Southern Africa.

Undaunted by previous failures to facilitate a negotiated and internationally acceptable transition to majority rule in Zimbabwe-Rhodesia, Prime Minister Thatcher and Lord Carrington have steered the delicate negotiations toward a successful conclusion in one of the most brilliant diplomatic achievements of the postwar era.

Above and beyond what the London agreement would mean for the people of Zimbabwe-Rhodesia, over 20,000 of whom have already lost their lives in a bitter civil war, it would also improve the prospects for a settlement of the conflict in nearby Namibia.

If the London talks on Zimbabwe-Rhodesia can be followed by an agreement on Namibia, the twin triumphs of diplomacy over civil war in two Southern African nations should contribute significantly to the prospects for racial justice and political equality in South Africa as well. By providing tangible evidence that it is possible to reach constructive political agreements with nationalist forces, they should strengthen the hand of those South Africans who advocate similar accommodations and a genuinely free multiracial political and social system in their own country.

The Lancaster House negotiations should also produce beneficial consequences for the conduct of American foreign policy in Africa. For what has been at stake in the London negotiations is not only the fate and future of Zimbabwe-Rhodesia, but the validity and viability of the proposition that we must approach African problems in an African context rather than on the basis of Cold War rivalries.

Those of us who believed that African realities should be the primary consideration in formulating our African policy argued that however difficult it might be, a negotiated settlement of the conflict in Zimbabwe-Rhodesia was possible. We believed that with the help of the Frontline states, the Patriotic Front could be persuaded to stake its chances for power on the ballot box rather than the bullet.

Those who believed the Patriotic Front represented the cutting edge of Soviet expansionism in Southern Africa claimed, on the other hand, that the search for a settlement was doomed from the start, and that rather than engage in an effort to bring about a negotiated transition to an internationally acceptable version of majority rule, we should simply come to the aid of the Muzorewa regime.

Had we heeded the cries of those who urged an immediate lifting of sanctions throughout the spring and summer, however, it is doubtful that there would have been a London conference in the first place, let alone an agreement to end the war.

A unilateral American move six months ago to restore trade with Zimbabwe-Rhodesia would have left Bishop Muzorewa with little incentive to agree to the kind of concessions he was obligated to make in London. For it was only when it became clear to the bishop following the elections in Rhodesia last April that sanctions were not about to be lifted that he realized further constitutional changes were the price for international acceptability and recognition.

A premature congressional vote to lift sanctions would not only have precluded the possibility of a negotiated settlement, it would undoubtedly have resulted in a further intensification and internationalization of the armed struggle. It also would have put us in a position where we were the only nation in the world, other than South Africa, engaging in trade and commerce with Rhodesia—thereby giving the Soviet Union a golden opportunity to characterize us as the defenders of white domination while portraying themselves as the champions of majority rule.

Instead Congress set the stage for Lord Carrington's virtuoso diplomatic performance when the House, on June 28, voted 242–147 against an amendment which would have forced President Carter to lift sanctions against Zimbabwe-Rhodesia.

The sense of restraint and responsibility shown by the Congress has been amply rewarded by the Lancaster House results. It precluded another confrontation with Cuban troops in Africa. It prevented what would otherwise have been a diplomatic disaster.

But most importantly, it paved the way for a negotiated resolution of the conflict in Zimbabwe-Rhodesia while enhancing the prospects for the achievement of genuine majority rule throughout Southern Africa.●

CHANGES DUE IN THE 1980's

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. WYDLER. Mr. Speaker, at the annual meeting of the American Gas Association held in Detroit last month, Mr. Marshall Loeb, economics editor of Time, Inc., gave a fascinating speech. Mr. Loeb concentrated on the most significant changes that he anticipated in the 1980's that would have an impact on the lives of Americans.

The speech was very thought provoking and I have paraphrased Mr. Loeb's predictions of the 10 most significant changes that he sees occurring in the coming decade:

PARAPHRASED LOEB'S PREDICTIONS

1. FUTURE LABOR FORCE

The U.S. labor force will undergo major changes in the 1980's with full emergence of women in labor, business, government, etc. This will result in a significant increase in multi-person family incomes which will tend to increase the amount of disposable income per household. Also, during periods of recessions, the impact on the economy will be less severe since the probability of both husband and wife losing their jobs is less than a single income family wage earner losing his job.

2. RESOURCE LIMITATIONS

The 1980's will introduce a resource-limited era with limits on food, energy and minerals worldwide. All nations must adjust and the countries and companies that have significant resources or the capital to acquire these resources will prosper. In the United States, this will tend to favor those states that have major resources at the expense of the Northeast. The primary areas that will benefit most from this shift will be Appalachia, the Southwest and the Midwest.

3. FOREIGN AFFAIRS

In the 1980's the American foreign affairs emphasis will shift from East versus West to developing nations. Our relationship with the developing nations will become as important as our relationship with Russia.

4. INTERNATIONAL DEBT

The huge international debts that are required to finance imported oil are a potential time bomb that could detonate in the 1980's. The projected debt of the LDC's is $230 billion and they don't have the resources to pay off this debt. The likely result is bankruptcy of entire nations which could trigger some U.S. bank failures. To cope, a basket of currencies with less dependency on the U.S. dollar will be developed. This means that the U.S. will lose some independence of freedom in the economic arena.

5. ECONOMIC GROWTH

Economic growth in the United States during the 1980's will be slower than that experienced during the 1960's and 1970's. Also the growth will tend to be more uneven with parts of the U.S. continuing to achieve economic growth with other parts stagnate. Projected growth ranges between 2.1 percent and 2.5 percent per year and since the U.S. will still be experiencing population increases, real per capita income growth will be zero.

6. ENERGY

Energy demands and development will require some relaxation of today's overly strict environmental laws. The leaders in this fight to relax environmental standards will be blacks and the poor since they are impacted most severely if the economy can't grow due to lack of energy.

7. LIFESTYLE

The 1980's foresee an adjustment in the lifestyle of Americans as we adopt a conservation ethic. The lifestyles will more nearly approach those existing in Europe today. Primary trends will be toward:

(a) Smaller more fuel efficient cars;

(b) Smaller, better insulated homes;

(c) Less discretionary spending for nonessential items; and

(d) Less goods but an insistence upon better quality even though more costly. For example, instead of owning 10 suits, a businessman may only own four or five suits but they all would be of top quality.

8. FREE ENTERPRISE SYSTEM

The 1980's will see much debate concerning the fairness of the free enterprise system and the workings of a democracy. Much of the criticism and debate will come from both the left and the right due to a limited upward mobility in the economic system. This limited mobility will primarily be the result of reduced growth and higher real prices for energy and capital goods. Even though there will be much criticism of the current system it will survive and actually be stronger as a result of this re-assessment.

9. CAPITAL FORMATION

The United States will be forced to adopt policies that aid in capital formation and reduce the excessive regulatory burden on business. Capital formation required to keep investment constant based * * * GNP. This will be a major problem.

10. KEYS TO SUCCESS

There are five keys to national success in the 1980's:

(a) An economy with a strong and resource-rich agriculture base;

(b) An abundant base of domestic energy resources;

(c) A strong domestic base for other mineral resources;

(d) An advanced, highly automated industry; and

(e) An educated, skilled labor force and population.

In reviewing the nations of the world, only three qualify based on all five of the above criteria. These three are Canada, Australia, and the United States. Therefore, these nation's with the proper policies and leadership will emerge strong in the 1990's in relationship to the other leading industrialized nation's of the world.

I direct the attention of my colleagues who are from the Northeast to item No. 2, "Resource Limitations" where I think it is clear that the only way we can avoid severe resource limitations in energy costs is through the construction of nuclear plants in a reasonable regulatory climate.

My colleagues will note that items No. 4 and No. 6 on "International Debt" and "Energy" are critically important. The inflationary aspects of massive oil importation are even more drastic for developing countries than for the United

States. I think also that our synthetic fuels debate in the Congress has addressed relaxation of standards from today's overly strict environmental laws.

I must, however, emphasize that the poor and the unskilled, including many blacks, will undoubtedly be most concerned about having their energy demands met since they will be impacted most drastically if growth in our gross national product is slowed by lack of energy supply.●

THE REINDUSTRIALIZATION OF AMERICA

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. VANIK. Mr. Speaker, I would like to include in today's RECORD a copy of an editorial column by Joseph Kraft entitled, "Steeling America." Mr. Kraft makes a number of excellent comments on the need to rebuild our Nation's steel industry and industrial base through a "long-term strategy for the reindustrialization of America."

The Subcommittee on Trade began a series of hearings on the steel industry and industrial policy issues on November 30, in a field hearing in Los Angeles. We plan additional hearings in the near future. In the meantime, I invite ideas for specific proposals for consideration by the subcommittee. To convey more fully the concerns of the subcommittee, I would also like to include at this point in the RECORD my opening statement at the subcommittee's Los Angeles hearing:

STEELING AMERICA

(By Joseph Kraft)

The need to reindustrialize America finds overwhelming support in the massive shutdowns announced by U.S. Steel the other day. For steel is a basic business—a business the United States cannot abandon without changing the internal tone of the country and adversely affecting national security.

Reviving the steel industry, however, involves massive changes in the tax system. To be effective, those changes need to be set in the context of a comprehensive industrial policy.

By itself, the news from Big Steel is bad enough. The company will close 16 plants and drop 13,000 workers by 1981. The closings will be particularly hard on towns with large minority populations that are already in bad straits—for example, Youngstown, Ohio.

In moving to close down plants, U.S. Steel is only following a well-worn path. Bethlehem and Jones & Laughlin have already shut down major installations on a grand scale. Efficient producers of specialty steel such as Armco and Inland are diversifying into other fields. Kaiser has been trying—in vain, so far—to lay off its relatively new works at Fontana, Calif., on Japanese management.

Total American steel production has been nearly level for a couple of decades. Foreign competitors—notably the Japanese and the Germans—arc beating American firms in sales here and abroad. If the trends continue, the American steel industry will liquidate itself.

Some people assume it would be okay for this country to go out of the steel industry as long as arrangements were made for unemployed workers. But a huge number of jobs—at least half a million for the industry as a whole—are involved.

The jobs aren't just anywhere, either. They are mainly located in declining parts of the country—notably around the Great Lakes and the Mahoning Valley in southern Ohio and Pennsylvania—with large minority populations. Moreover, steel is critical to such basic industries as autos and construction, and it is a condition of military power—an indspensable element in the country's national security.

So one way or another, the United States is going to stay in the steel business. The question is how, and the beginning of an answer lies in identifying the industry's troubles.

High labor costs are a big part of the problem. Though labor costs in Japan and Germany have been rising rapidly and though the effect is magnified on international markets by changes in currency rates, the cost of labor in this country still outruns the cost in Japan by far and in Germany by at least a little. The reason seems to be a contract between American producers and steelworkers that regularly yields wage increases that outrun gains in output per man-hour.

Output per man-hour, or productivity, in the United States runs about 20 percent behind Japan and a little behind Germany. A main reason is that the Japanese and the Germans have relatively new plants that are built along waterways with access to the seas and that therefore benefit from reduced transport costs. A large part of the American industry, especially that located in the Mahoning Valley, is centered an old-fashioned plants built near the source of coal.

Then there is the environmental factor. The standards for clean air and water seem not to figure directly in most of the recent plant closings. But undoubtedly the need to make large investments in environmental equipment is a factor causing management to scrutinize old plants more rigorously and to pull back from building new plants.

The remedy, in these conditions, has to center around incentives to invest in new plants and equipment. Even if such incentives were desirable in themselves, which they are not, tariff measures and a suspension of environmental rules could not do the trick. The only good spur to modernization arises from tax write-offs.

But Congress will not, and should not, give steel a break on taxes unless assured of performance in other matters. Wage increases have to be held to a figure that does not spur inflation. At least some of the benefits ought to go to retrain workers for other, more rapidly growing industries. New plants need to be directed toward regions that serve the national interest with respect to pollution of air and water and concentration of population.

Decisions about wages, worker retraining and plant location, however, cannot be made out of the blue. Somebody has to develop notions about which industries are winners and which are losers, about which regions are ripe for expansion and which in need of contraction. Though nobody likes to say so, that amounts to a comprehensive policy—a long-term strategy for the reindustrialization of America.

STATEMENT

The U.S. International Trade Commission has just issued (9/28/79) a massive report on the nature of steel trade in the Western part of the United States. We are seeking to find out what those who produce, trade, and use steel on the West Coast think of the quality of that report. More importantly, the report just presents data—it makes no conclusions or recommendations. Therefore, we want to ask, where do we go from here? Does the report provide information that should encourage us to take certain actions against various forms of unfairly traded imports? The report stops at the end of 1978. We would like to find out what have been the trends this year—we are especially interested in how the Trigger Price Mechanism is working.

In the long-run, American steel is in a crisis. It is at a crossroads. U.S. Steel announced the closing of several major plants, including the one here at Torrence. Nationwide, 13,000 steel workers will lose their jobs.

We suspect that is just the beginning of a number of closings by various companies over the next four months. It is expected that at least 10 percent or more of America's steel capacity may be scrapped in the very near future. There are many reasons for this steel crisis—in fact, it is part of a world crisis of steel cutbacks and layoffs. The general state of the economy, government policies, inept leadership in the industry, excessive wage settlements by labor—they are all to blame. But we have not come to do an autoposy—or to cast blame—we have come to seek ways to make the future of the steel industry in this country better.

This Subcommittee and the tax-writing Ways and Means Committee are in a key position to help decide how to respond to this crisis and to determine what kind of steel policy and steel industry we should have in this nation.

Beginning with this hearing, and over the next several several months, we will be seeking to develop a public policy on certain fundamental questions:

How much domestic steel capacity does the United States need (and in what product lines)?

In those areas where plants are being scrapped and workers laid off, what should and what can be done to develop new, modern facilities and steel-employment jobs?

How can that capacity be maintained and the steel plants be made increasingly more efficient and modern?

We are looking at trade problems, but we are even more interested in helping to develop a coordinated, successful industrial policy for steel. We need to develop a national policy which will coordinate trade policy, tax laws, pollution and other regulatory programs, and anti-trust policy in such a way as to give America the steel industry it needs for the future.●

A SECOND CHANCE FOR FEDERAL RETIREES

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. LEHMAN. Mr. Speaker, today I am reintroducing with cosponsors H.R. 527, legislation to give a second chance to Federal retirees who did not elect survivor benefits at the time of their retirement.

Under current law, a Federal employee must choose to elect retirement benefits at the time of his retirement, or, if not married at that time, must decide he wants survivor benefits within 1 year from the date of his or her marriage.

This bill would give civil service retirees a year from the date of the bill's enactment or date of retirement to take advantage of this opportunity.

Our office has received numerous letters from retired senior citizens, who missed the opportunity to elect survivor benefits at the time of their retirement. Most of these people were not aware of their rights at that time. However, they are willing to pay back the necessary funds for this second opportunity.

There are also cases where individuals, although married at the time of their retirement, were in the midst of divorce proceedings, and decided not to elect survivor benefits. However, many of these individuals later remarried, and were then unable to elect survivor benefits for their new spouse. Passage of this bill would give relief to these deserving retirees.

Many of my colleagues have already indicated their desire to cosponsor this legislation, and I am hopeful that this bill to give our Federal retirees a second chance will be considered and passed in the near future.●

CONGRESSMAN LESTER L. WOLFF POSES QUESTIONS ABOUT UNITED STATES-CHINA RELATIONS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. DRINAN. Mr. Speaker, it has been nearly a year since the United States formally opened diplomatic relations with the People's Republic of China. During this period, the United States has worked with the PRC to develop programs of mutual interest and promote common goals such as the exchange of trade, scientific knowledge, and cultural exhibitions.

Perhaps the most significant proposal, in geopolitical terms, has been the administration proposal to extend most-favored-nation (MFN) to the PRC. As Representaitve LESTER L. WOLFF aptly points out in the attached article which appeared in the Christian Science Monitor, December 3, 1979, many fundamental questions about the shape and form of United States-China relations have to be answered before making this move. These questions will be the subject of hearings before the Subcommittee on Asian and Pacific Affairs, chaired by Representative WOLFF in the weeks ahead. I commend the gentleman from New York for formulating the hard questions that must be answered before giving our stamp of approval on the extension of MFN to China, and urge all Members to give this subject their close attention.

The article follows:

[From the Christian Science Monitor, Dec. 3, 1979]

THE CHINA CARD: A NEW HAND?

(By LESTER L. WOLFF)

The announcement by the administration that it is prepared to offer China most-favored-nation status independent of the Soviet Union raises anew the charge that the United States is playing the "China card" in world affairs.

Whether or not this is the case is a matter for endless debate. However, a case can be made that the most-favored-nation decision very definitely represents a departure from the previous policy of "even-handedness" in U.S.-China and U.S.-Soviet relations.

Some administration China policy experts now say that the "triangular relationship" is an outmoded concept, and that the U.S. must press ahead with the bilateral issues which are legitimate on their face regardless of the USSR. Thus, whether "China card" or not, the most-favored-nation issue, viewed as a departure from past U.S. policy, serves as a useful entry point in any effort to assess the development of the U.S.-China relationship, as well as the possible implications for overall U.S. foreign policy.

During his visit to the People's Republic of China in August, Vice President Mondale declared: "We are committed to joining with you to advance our many parallel strategic and bilateral interests. Thus, any nation which seeks to weaken or isolate you in world affairs assumes a stance counter to American interests."

Further, Mr. Mondale said, "Above all, both our political interests are served by your growing strength in all fields—for it helps to deter others who might seek to impose themselves on you. That is why deepening our economic, cultural, and political relations is so strategically important. . . ."

There are, I believe, any number of questions and concerns raised by the Vice President's remarks which merit close examination, no matter what one's views of the triangular relationship, and the relative importance of U.S.-Soviet relations versus U.S.-China relations.

Specifically:

What, in concrete terms, are our "many parallel strategic and bilateral interests"?

Do "our political interests" diverge at some point and, if so, where?

Again, in the Vice-President's words, we are committed to a "strong" and "modernizing" China in the decade, but is it not possible that a strong China may have interests which differ from what we perceive them to be today?

Additionally, it seems that an unstated assumption behind our China policy is that a PRC modernized by American assistance cannot help but become more accommodating to American interests, i.e. more moderate, more stable, and less inclined to use force to achieve its foreign policy goals. But is there any correlation between modernization, political stability, and a disinclination to use force to achieve national objectives? I can only caution that similar assumptions have historically bedeviled US-China relations and may again do so in the future.

Should China seek to extend its influence militarily in Asia, how far are we prepared to go to challenge China? A State Department official working on China has said that our position with respect to China's use of force against Vietnam was simply "accepting reality." How far are we prepared to go toward "accepting reality?" Is not that "reality" tantamount to recognition of Chinese "hegemony" in Asia?

If, in the event of renewed fighting along the Sino-Vietnamese border, the Soviet Union exerts military pressure on China, how far are we prepared to go in support of China?

All of these questions and more become increasingly vital in this still formative stage of US-China relations, and in this transitional stage of the triangular relationship, be it "outmoded" or not. And since past Peking visits by administration officials have tended to deepen US-China relations each time, it is imperative that these questions be addressed prior to the announced (but as yet unscheduled) mission of Defense Secretary Harold Brown, given the strategic implications inherent in Brown's position.

For my part, I have already stated that I am skeptical of the wisdom of throwing the triangular relationship out of balance. In particular, I have indicated that my position on the most-favored-nation issue is directly linked to the issue of China's peaceful behavior in the world, including any future "lessons" to Vietnam.

Clearly, these and other issues need to be explored in greater depth than is possible here. The subcommittee on Asian and Pacific affairs, which I have the honor to chair, will hold hearings to supplement the foreign affairs committee hearings on China scheduled for the next few weeks.

It's time we all put our cards on the table.●

TAIWAN AND THE OLYMPICS: ANOTHER U.S. SLAP

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. QUAYLE. Mr. Speaker, the announcement earlier this week that Taiwan will not be permitted to participate in next year's Olympic games under its own flag and anthem must be greeted with sorrow by friends of Taiwan, by those of us in the United States who still cherish the principles of friendship and mutual trust, and by members of the international community who value the concept of international sports competition freed of political manipulation.

In a vote conducted by mail, the results of which were announced in Lausanne, Switzerland, the International Olympic Committee has approved a plan under which the People's Republic of China will be invited to participate in next year's Olympic games. This will be the first mainland Chinese participation in the games since 1949, and the PRC will be joining under its own flag and anthem. Athletes from Taiwan will also be allowed to compete. To do so, however, the IOC has decided that they will not be allowed to use their name, "the Republic of China Olympic Committee," but must change it to the "Chinese Taipei Olympic Committee." In addition they will not be allowed to use their national flag or their national anthem, but instead will be required to participate under some substitute flag and anthem approved by the IOC.

On the face of it, this is a sad event. The Republic of China has been a faithful and responsible member of the International Olympic community, and therefore should have the same right to participate in the games under its own national symbols as any other member. Moreover, it appears that by adopting this plan the IOC has violated its own charter, which provides that all competing teams must use their national flags and anthems in the opening parade and in all medals-presentation ceremonies. This legal requirement has been blatantly and ostentatiously ignored by Lord Killanin, president of the IOC, who has made a large personal investment in Peking's participation in the games. What we are witnessing once again, is the sacrifice and further erosion of the once-fundamental principle that participation in international sporting events should remain free from political manipulation or coloration.

As if this were not enough, it is my great shame as an American to point out that the U.S. Government played an important role—perhaps the critical role—in producing this outcome. Earlier this year the State Department sent a letter to the American representative to the IOC, Julian K. Roosevelt, observing that the United States now recognizes the People's Republic of China as the sole government of China, and strongly implying that Taiwan's participation in the winter games at Lake Placid would cause "embarassment" to the United States. The letter went on to state that the United States hoped that some solution to the Chinese problem would be found which would avoid such an outcome. It is now believed that this letter caused a number of IOC members to change their earlier positions in support of Taiwan's free participation in the games, and may in fact have been the decisive factor in bringing about the IOC's latest decision.

This is gravely humiliating not only for Taiwan but also for the United States. The United States, it seems, is afraid of some negative reaction from Peking should Taiwan be allowed to freely participate at Lake Placid. U.S. officials are known to feel that such participation might upset the process of "normalization" of relations with Peking, and were therefore hoping "fervently" (to quote one recent report) that the IOC would take the step it did. According to one "diplomat," for Taiwan to join the Olympic games in this country under its own flag and anthem would create an uncomfortable diplomatic dilemma for the United States, "and this time it will be in the middle of primary season".

I have to ask, how craven has this Nation become, when we are so afraid of upsetting former enemies that we cannot stand up for our undisputed friends, and when we are willing, even anxious, to lean over backwards to actively undercut those friends, at the sacrifice of fundamental principles of both sport and of basic fairness. The United States, as host to the Olympic games, should be and is required to impartially welcome the participation of all nations in the games, whatever our Government's own political preferences might be. It is not for this administration to say what governments will and will not be welcome. To do so is a constructive violation of our international responsibility as host. To have actively taken a position opposing the free participation of our Taiwanese friends is also a violation of our moral responsibility as leader of the free world. Whether in the eyes of Taipei or of Peking, this pathetic yielding before weak or nonexistent pressures denotes a policy of weakness and fear, which can only undermine what little respect and credibility this Nation can still claim.●

INDIVIDUAL RETIREMENT ACCOUNTS

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. CONABLE. Mr. Speaker, I am introducing today, with my colleague from Illinois, Mr. ERLENBORN, a bill which allows participants in most qualified retirement plans to establish individual retirement accounts.

One of the major improvements made by the Employee Retirement Income Security Act of 1974 was to allow taxpayers not covered by a retirement plan to establish an IRA and make tax deductible contributions to the IRA. However, participants in qualified plans could not establish IRA's. This prohibition has caused considerable hardships in industries that have high turnovers, such as engineering and aerospace, and to individuals covered by plans with minimum retirement income benefits. Under the bill both of these groups would be able to establish an IRA and make tax deductible contributions to it while still participating in the qualified plan. A more detaled descritpion of the bill follows.

The bill amends current law and allows most retirement plan participants a tax deduction for amounts contributed to the retirement plan or an IRA equal to the lesser of 15 percent of "compensation" or $1,000. The extent an employee contributes to his retirement plan, the amount that can be contributed to an IRA is reduced.

The deduction is not available to an individual who claims a deduction for contributions to a "regular" IRA or a spousal IRA under current code section 219 or 220.

The bill does not apply to participants in retirement plans established by the Federal Government or a State or its political subdivision or an international organization.

The bill contains a special election that allows tax deductible contributions to be made to a special "Spousal IRA." The amount deducted cannot exceed, first, $1,000; second, 15 percent of "compensation"; or third, twice the amount contributed to the husband or wife's IRA, whichever is less.

The bill gives the Secretary of Treasury authority to issue regulations concerning the filing of reports in connection with this new deduction.

Current IRA rules are made applicable to IRA's established under the bill. For example, a deduction is not allowed in the case of contributions made after an individual has attained age 70½. However, contributions may be made for a taxable year until the date the Federal income tax return for that year must be filed.

Conforming estate and gift tax amendments are also made by the bill.

The bill is a continuation of the efforts made during the 95th Congress to have IRA benefits extended to retirement plan participants. We would hope that the differences that existed during the 95th Congress and this Congress can be reconciled so IRA benefits can be made available to plan participants at the earliest possible date. This would not only allow taxpayers to provide themselves with more adequate retirement income but would also produce increased savings and capital formation.

We urge our colleagues to join us so the bill can be promptly passed by the House of Representatives and enacted into law.●

HON. FRED RICHMOND TO CONDUCT NUTRITION SURVEILLANCE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. RICHMOND. Mr. Speaker, in April of this year, doctors working with the Field Foundation reported to Congress that our Federal food-assistance programs have brought a substantial improvement in the health of millions of poor Americans. But, they went on to say that millions continue to be undernourished, and that these cases are going undetected and untreated. Although we have made great progress in providing food assistance since we began in the late 1960's to address the problems of persistent hunger in America, we have made little progress in building a nutrition-surveillance system that permits prompt remedial action to specifically targeted groups. The need for such a system is underscored by the recent testimony given by a prominent medical doctor before a congressional committee:

> When we first started defining reportable illnesses, the major health threats were infectious diseases, but today the nutritional conditions we are talking about here are a major threat to the country now and deserve the same kind of mandated reporting and surveillance.

Our lack of preparedness in nutrition surveillance is outlined in a report published jointly by the Departments of Agriculture and Health, Education, and Welfare in 1978. The agencies found:

> (1) Inadequate resources at the Federal, State, and local level for data collection and analyses to provide estimates of prevalence of nutritional problems and changes over time in a clinic, community, or larger geographical area;
>
> (2) Insufficient nutrition personnel at the central, regional, and area office levels of Federal and State health agencies to provide the necessary technical assistance;
>
> (3) Ineffective quality control measures and inadequate measuring equipment at the local service which adversely affect the validity and reliability of the data collected;

(4) Inadequate training of health care providers to accurately assess nutritional status, record measurements, interpret data, and provide essential follow-up;

(5) Inability to obtain needed information on the entire population in a health service area;

(6) Surveillance activities are limited in geographic coverage, presently restricted to the pediatric population, and utilize only anthropometric and simple hematologic data;

(7) Lack of specific mandate requiring State and local health agencies to use uniform standards and criteria for nutrition screening and assessment; and

(8) Many children with nutrition problems who are eligible under the Early and Periodic Screening, Diagnosis and Treatment Program are not being identified and treated. This is a need for more technical assistance to States, greater coordination of information among programs, and greater awareness of the importance of nutrition.

In addition, the General Accounting Office reported in 1978 that nutrition surveillance data "often is untimely, insufficiently specific geographically, omits importance population groups and is inadequate for evaluating programs designed to improve nutritional health."

At this point, it would not be appropriate to immediately provide large sums of money to correct these deficiencies because so little thought has been devoted to describing exactly how an effective surveillance system would be structure and how Federal, State, and local responsibilities for the system would be divided. Consequently, I am introducing a joint resolution which directs the Secretary of Agriculture, in cooperation with the Secretary of Health, Education, and Welfare, to devise a specific plan for national nutrition surveillance that will permit and encourage remedial action in nutrition on an individual basis. The resolution asks that this plan, to be presented to the Congress by January 15, 1981, identify target groups to receive priority attention for nutrition surveillance, by geographic location, delineation of surveillance regions, proposed mechanisms for surveillance, and a description of Federal, State and local surveillance responsibilities.

I urge prompt action on this resolution, particularly in view of the dark economic picture we face. With unemployment and food and fuel prices rising at the current rates, we must take even greater precautions to see to it that no one is deprived of food because we did not know they were hungry.●

IRANIAN CRISIS PETITION

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. ALBOSTA. Mr. Speaker, I would like this body to take notice that on November 28, 1979, I was delivered a petition concerning the Iranian crisis by the students of the Corunna Middle School, Corunna, Mich. The petition preamble reads:

> We the students of the Corunna Middle School, Corunna, Michigan, denounce the Iranian Government's treatment of American citizens in Iran.

There are 480 signatories to the document.

The petition was presented to my office by Adam Lazar, Todd Morris, Matt Householder, Brad Little, John Jordan, Larry Cole, Scott Kurrle, Keith Compton, Jeff Thornton, and Jaime Wisniewski.

These students, through their teacher, Mr. David S. Lazar, of Corunna, Mich., have shown an active interest and involvement in securing the release of the hostages in the American Embassy in Tehran, Iran. They believe, as I do, that world opinion must be brought to focus on this outrageous violation of international law. Fellow Members of the House, I applaud the concern and patriotism of these students. I believe they speak well for the 10th District of Michigan.●

MODEST PROPOSAL FOR 1984

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. PAUL. Mr. Speaker, the great Dr. Milton Friedman has an article in the December 10 Newsweek that I would like to call to my colleagues' attention.

Dr. Friedman speculates on the extension of the "windfall profit" tax idea to housing, as the Federal Government's voracious appetite for the people's money increases in the 1980's.

Today the premise of this essay may be fiction, but I think it is already far too close to fact for comfort.

The article follows:

A MODEST PROPOSAL FOR 1984

(By Milton Friedman)

Senator Eager-to-Be-Re-elected introduced today a bill that would levy a Windfall Profits Tax on Real Estate. The bill is cosponsored by twenty other senators.

Said Senator Eager in introducing the bill: "President Carter's imaginative initiative of five years ago attacking the windfall profits of big oil companies has been highly successful. It has generated revenue that has enabled us to finance ever bigger and better government programs to help the poor, the old and the ill.

"Unfortunately, now that the last of the big oil companies has been nationalized, that source of revenue is disappearing. Much to everyone's surprise, the costs of the nationalized companies have risen much more rapidly than their revenues. They still enjoy a substantial excess of revenues over costs. However, that excess is barely enough to finance the growing budget of the Department of Energy—which has had to multiply its staff severalfold in order to administer the rationing of fuels and the control over their production that Congress was farsighted enough to legislate along with the windfall-profits tax.

"Revenue is still available for social programs from the taxes being paid by the remaining small independent oil producers. Although that source has been growing, it is wholly inadequate to meet the pressing needs of our poor, our old, our ill."

"UNDESERVED GAINS

"We must find a new source of revenue. What better source than the obscene windfall profits that are being reaped by those privileged citizens who own their own homes? Their homes have risen in value by leaps and bounds—sometimes by as much as five or ten times the initial cost. As President Carter stated in 1977 with respect to oil companies, the homeowners 'have no equitable claim to that enhanced value because it is unrelated to their activities or economic contributions.' The enhanced value arises entirely from fortuitous changes in market conditions, from actions of Congress and the several states directed at preserving the environment, which have unfortunately limited new construction—from the bold anti-inflation action of Congress in holding down construction wages, which has unaccountably been followed by a shortage of construction labor—and from the continuing inflation that Congress has been powerless to curb despite our best efforts.

"We must end profiteering by one class of our citizens—however numerous—at the expense of the rest of us—however few. Greedy homeowners have been denying shelter to the needy. They have been shamelessly pushing prices to intolerable levels. Persons who have sold their homes at inflationary prices have not even reinvested the proceeds in building other homes and thus reducing the housing shortage. No, they have spent much of the proceeds on high living.

"These unearned gains by right belong to the people as a whole, not to a selfish class of lucky homeowners. The bill I have introduced will make sure that the people as a whole get those gains."

"A NEW IRS

"We cannot tap these unjustified windfall profits by waiting until the homes are sold and then taxing the profits realized. Selfish homeowners could readily evade such a tax by refusing to sell their homes. Fortunately, President Carter has shown us how to solve that problem: impose an excise tax on the product and label it a windfall-profits tax. That is what my bill does. It would impose a windfall-profits tax on owned homes equal to 50 per cent of the annual rental value of the owned home, as estimated by the Internal Rental Service of the U.S. Treasury Department. The tax would be payable quarterly along with the advance estimated payments on income tax. To avoid evasion by renting instead of owning, the same tax would be levied on all rents received from dwelling units.

"To protect the poor, the old and the ill, my bill would exempt from this tax homes valued at less than $100,000, plus homes valued at less than $200,000, any of whose occupants are more than 75 years old or are permanently disabled or bedridden. In addition, it exempts homes owned by members of Congress, Cabinet officers, state governors and lieutenant governors and senior civil servants.

"Enactment of this tax will end one form of shameless exploitation of the disadvantaged among us. It will enable us to finance on a sound, noninflationary basis, the social programs that the public demands. It will join President Carter's windfall-profits tax as a landmark in the progress of intelligent social reform."●

DOE CAN LEARN A LESSON FROM NASA

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. CONYERS. Mr. Speaker, the problems that plague the operation of the Department of Energy are too numerous to mention. The energy crisis in the coming years, however, requires all of us to reflect upon the ways that national energy policy and management can be redirected and made effective to meet the problems that lie ahead.

An article published by Penthouse magazine in its January 1980 issue addresses one of the basic weakness of DOE, its management and planning problems. The author, Jerry Grey, is a former professor of aerospace science at Princeton and a consultant on energy and science matters to the United Nations and a variety of Federal agencies. His recommendation that DOE should examine the management practices at National Aeronautics and Space Administration (NASA) is one that Congress should consider.

The article follows:

LEARNING FROM NASA

(By Jerry Grey)

AEC, FPC, FEO, ERDA, NRC, FERC, DOE*—we're short of oil, but we seem to be drowning in a sea of alphabet soup. The proliferation of federal energy agencies clearly reflects the energy policy and management problems that are at the heart of "the great energy crisis of 1979." And Jimmy Carter's most recent contributions to the soup, the Energy Mobilization Board (EMB) and the Energy Security Corporation (ESC), have elicited groans of anguish from virtually all quarters.

Why is the federal energy program in such a mess? Part of the answer is embedded in history. Energy policy formulation in the U.S.—research and development as well as regulatory activity—has always been pretty much of a stepchild. Divided among numerour agencies with multiple responsibilities, our policy is totally inadequate for dealing with the present complexities of global energy supply and demand.

After several false starts, in October 1977 we finally got a full-fledged, cabinet-level Department of Energy. But the DOE, first under the guidance of experienced bureaucrat James Schlesinger and later under less experienced bureaucrat but apparently competent manager Charles Duncan, clearly has not yet begun to function. It's been over six years since the Arab oil embargo put the world on notice that energy blackmail would dominate the future, but the 20,000-strong, $10 billion-annual-budget DOE still lacks the ability to blow its own nose.

As Suffolk County (N.Y.) Congressman William Carney said: "Considering the track record of DOE, if it says there's going to be a problem, I'd figure there would not be." He described the agency as "twenty thousand people doing nothing but justifying their jobs."

Even that staid congressional watchdog agency the General Accounting Office has few favorable words for the DOE. Of the department's solar-building demonstration program, GAO says, "In spite of clear legislative and executive mandates, DOE has not embraced or even acknowledged its leadership and coordination responsibilities." And in an exhaustive analysis of the Department's Office of the Assistant Secretary for Conservation and Solar Applications, GAO had much to criticize: "As of May 4, 1979—one and one-half years after DOE was established—a complete Conservation and Solar Applications (CS) organizational structure had not been approved. . . . We have found no overall system for planning, no system of reports, and only the beginning of a system for monitoring projects. . . . Of 18 major milestones that were related to the [National Energy Conservation Policy] Act that were to be accomplished by March 2, 1979, only one was accomplished on time."

Good management practice? For a solar energy program that, in fiscal year 1980, is funded at well over $600 million by the U.S. taxpayers? Remember, solar energy is not just the dream of wild-eyed enthusiasts and eco-freaks; it is considered by many careful, sober technical and economic analysts to be a major energy source potentially capable of significantly reducing our dependence on foreign oil in the long term. But instead of a tightly knit, hard-hitting Office of Solar Resources, perhaps, to guide the spending of that $600-to-1,000 million 1980 budget (depending on what one considers "solar energy"), here's how DOE attempts to exploit this much-acclaimed potential solution to the energy crisis:

Solar research is assigned to DOE's Office of Research, whose director reports to the undersecretary of the department.

Solar technology is developed by the Office of the Assistant Secretary for Technology.

The implementation of solar energy in our economy is supposed to be accomplished by the Office of the Assistant Secretary for Conservation and Solar Applications.

The Solar Energy Research Institute—along with four regional solar energy centers, a National Solar Information Center, ten DOE regional offices, a National Center for Appropriate Technology, and literally dozens of state and local energy centers and officers—conducts and funds activities in all facets of solar energy.

With an organization like that, one could scarcely make good chicken soup, much less integrate a whole new family of technologies into a desperately energy-hungry economy.

What went wrong? Many people who seemed to be good managers have been involved in the various federal energy organizations—William Simon, John Sawhill, John O'Leary, Robert Seamans, James Schlesinger, Dale Myers, Charles Duncan. Why couldn't they patch Humpty-Dumpty together?

Part of the answer, of course, lies in the fact that every region, state, and city, every energy-developing or energy-consuming industry, every trade organization and labor union, and every political, environmental, consumer, social, and professional group promotes its own interests. And in a democracy, which must listen to and (at the very least) try to accommodate everyone, the result is stagnation. Nothing happens, because no group is willing to compromise its own provincial views.

But there do exist several examples of succesful accomplishments by federal agencies. Perhaps the most interesting and appropriate agency to consider is one whose mission is very different from that of DOE, but whose management and technological capabilities are remarkably well aligned with the job that needs to be done. NASA, the National Aeronautics and Space Administration, has pursued a tortuously difficult, relatively low-cost, and generally successful path in the organization, research, development, and—here's one most people don't fully recognize—commercialization of whole new industries.

Most people think of NASA as the outfit that brought those $24 billion rocks from the moon, but NASA (and its predecessor, the National Advisory Committee for Aeronautics) also spawned the $50 billion-per-year aviation industry—today the nation's second-largest employer—and many new small, but growing, space-related industries. Satellite communications alone, for example, will expand its gross from $1 billion in 1979 to $5–10 billion by the mid-1980s. And that's with essentially no federal budget support—just a good, old-fashioned, taxpaying, job-making, private-industry operation.

Indeed, aerospace and energy do have much in common. Both involve a broad spectrum of technical, economic, manufacturing, and distribution disciplines; both require careful consideration of safety as well as environmental and societal impacts; and the products of both serve the citizenry and hence require regulation. Moreover, both are actively supported by federal bureaucracies whose budgets and regulatory activities are overseen by congressional committees, and their functions are performed by a mix of Washington-based offices and research technology centers sprawled all across the country.

What, then, is the secret of NASA's rather consistent success as opposed to DOE's (and its predecessors') consistent failures? The answer is quite clearly, management practices.

DOE grew mainly by accretion. That's a tough act to manage, since each organization and each national laboratory has developed and set in concrete its own management practices. These need to be adapted and incorporated into an overall viable management scheme, and that's not easy. NASA, on the other hand, is a far more monolithic organization, with consistent management practices among its various offices and centers. Control over operations is tight enough to ensure effective management, but loose enough to preserve the flexibility of thought and action that is necessary to the development of innovative technology.

The reasons for NASA's good management record are clear. First, the agency dealt with only a single customer, the federal government, during its formative years, setting the basis for its compact management structure. Second, then-Sen. Lyndon B. Johnson insisted, when NASA was formed in 1958, that the agency's programs be subjected to annual congressional budget approval, rather than the five-year approval cycle typical of many other agencies. Although this practice creates yearly headaches for NASA administrators, the need to convince Congress that NASA's programs are not only necessary but also well managed is perhaps the most effective way to keep its management tough and on its toes.

In the few failures that NASA has had in recent years (current space-shuttle program delays and cost overruns and the premature demise of Skylab, for example) the real problems were not so much poor management as NASA's inability to exert the political clout necessary for securing proper budget and personnel allocations. But even under these circumstances—having to exploit space on a shoestring—the results speak for themselves: federal management of aerospace programs has been, overall, spectacularly successful. Even in the few energy programs DOE has asked NASA to help manage, the rate of accomplishment has been well above average. (Unfortunately, DOE has NASA involved mainly in the more distant solar technologies: large-scale windmills, photovoltaic [solar] converters, ocean thermal-electric conversion, and solar-power satellites. The near-term solar-program management mess was retained largely by DOE.)

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*Atomic Energy Commission, Federal Power Commission, Federal Energy Office, Energy Research and Development Administration, Nuclear Regulatory Commission, Federal Energy Regulatory Commission, Department of Energy.

God knows, we don't need yet another total reorganization of federal energy management, but certainly a streamlining seems to be in order. NASA has demonstrated its ability to roll with the budgetary punches, from the dominance in the 1960s of a single, overgenerously funded program—Apollo—to a multipurpose, multifaceted, closely budgeted operation that handles most of its tasks on time, at costs relatively close to budget, and with a remarkable record of accomplishment. That management philosophy, although not necessarily the management itself, could benefit the groggy, sprawling, and largely ineffectual Department of Energy.●

IMPROVED TRANSPORTATION ON AND TO THE MISSISSIPPI RIVER

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. GEPHARDT. Mr. Speaker, now that the U.S. District Court for the District of Columbia has ruled in the lawsuit brought by some railroads to stop the rebuilding of lock and dam 26 on the Mississippi River that the environmental impact statement was adequate and properly conducted. I sincerely hope that intermodal transportation systems can once again be combined to increase productivity in this vital sector of our economy. Along these lines, I want to bring to the attention of my colleagues some remarks recently made by Robert A. Kyle, president of Federal Barge Lines, Inc. in Missouri about intermodalism and what it could do to improve transport productivity. His remarks to the National Research Council of the Inland Waterway Committee here follow:

Intermodalism and Improved Transport Productivity

(Remarks by Robert A. Kyle)

It is a privilege for me today to talk to members and constituents of the National Research Council's Inland Waterway Committee. I hope that those of you who are visiting us from out of state are enjoying our Missouri hospitality. In addition to being a great place to live, we Missourians are also blessed with an abundant selection of transportation services. Our state is the headquarters of several of the more efficient and profitable railroads and is serviced by a network of east and west rail carriers in addition to the strong north-south group. More major barge lines call St. Louis home than any other city in the country, and the mighty Missouri, Mississippi and Illinois Rivers flow at our doorstep. Our interstate highway system allows truckers to deliver goods to the enormous population located in the heartland of the country in less than 24 hours. That's why the topic you have chosen for me, "Multimodal Cooperation Requirements," is one that people from the midwest can relate to and quite frankly is one of my favorite subjects.

There is a whole new dimension to intermodalism that has been quietly developing in the past few years and will accelerate to major new proportions in the 1980's. This is the interchange of millions of tons of bulk materials in the coordination of rail and water services.

Railroads are best equipped to handle bulk materials overland in huge volumes over long distances and water carriers are even better equipped to handle them over very long distances by the river system.

The combination of the best efficiencies of railroading and water transportation can and does make possible significant improvement in productivity in the vital and always expensive distribution process. Involved are the very big movements of coal to the electric utilities, food and feed grains for home consumption and for animal and chicken feeds, chemicals and fertilizers, ores of all kinds, and even steel products.

Any increase in costs of these products produces a major multiplying effect throughout the economy. Reductions of costs at the transportation level of production can play a substantial role in the inflationary battle. I should point out that transportation is a much more significant part of the end cost of bulk raw materials and semi-finished products than it is for the finished products.

Many of you are aware that the current figures on productivity trends are showing a sharp and alarming fall-off. Where productivity declines anywhere in the pipeline of production and distribution, inflationary forces build up, but particularly menacing is inflation in the early stages of production. And right there is where the water carrier can make a significant contribution.

It is axiomatic that one of the major weapons in the fight against inflation is improvement in productivity—greater efficiency in the use of resources.

It is a fundamental law of physics that it takes less effort to move a floated ton than a ton transported overland. Labor produces far more ton miles by water than by any overland means. A barge can carry five times its own weight compared, for example, to a freight car which carries only twice its own weight. A single towboat can push up to 50,000 tons; the same tonnage would require 15 to 20 locomotives and at least 500 freight cars. A barge takes less effort and costs far less to maintain than the equivalent string of freight cars. The water mode is at least 50 per cent more fuel efficient than the most efficient overland mode.

Finally, in terms of the cost of expanding capacity, a critical consideration in the inflation battle, both the public and private investment required for increased capacity are far less by water than by any overland mode.

So it is important news that a lot of planning is now going into promoting intermodal water-rail movements—promoting the efficient combination of the lowest cost means of transportation. Heavy investment is going into water-rail transfer facilities and more investment is on the way.

Government policies are in the making which, if adopted, should greatly encourage the coordination of the best efficiencies of water and rail. Too often in the past government has tended to think about railroads, water carriers and trucks in separate boxes. The transport legislation the DOT submitted earlier in the year produced nothing but hostility, hostility from the shippers or consumers of transportation, hostility from the railroads, hostility from the water carriers and hostility from the truckers. The net reaction is unfavorable and one reason may be the failure of the bill to recognize that transport is a system—an intermodal system.

But now there is a new Secretary of Transportation, Neil Goldschmidt, who comes from Portland, Oregon, a river city and a major sea port.

So there is a new opportunity with a new Secretary to make a new start, with new attitudes and a much more practical and less theoretical approach to transport issues. With the over-riding national objectives of combatting inflation and conserving precious fuel, a major objective on any new agenda should be combining the best economic and fuel efficiencies of the rail and water mode. Significant effort on this issue alone would be widely welcomed. A great deal of progress can be made.

I don't say we have finally solved the century-old reluctance of some railroads to join water carriers or yet talked the railroads out of participating in the environmental lawsuit on Locks and Dam 26, but there is evidence of some long-range thinking on these issues.

I take an optimistic view—along with some of those who have studied the potentials for traffic increase on the river and rail systems. The main economic imperative is the substantial savings in cost which come from combining the best efficiencies of railroads and water carriers on long distance moves of bulk materials. But there are other imperatives. Railroads are highly fuel efficient, but barges are even more fuel efficient. Combining both modes, where possible, would save precious fuel. Another is capacity. Take away a single bottleneck at Alton, Illinois and the Upper Mississippi which now handles 25 million tons a year could easily handle 45 million tons a year. The Illinois River system, which now carries 32 million tons could handle 60 million tons. The Ohio handled 151 million tons in 1976. It's design capacity is over 480 million tons and the bottlenecks are relatively minor.

The Lower Mississippi of course has unlimited capacity from St. Louis south. And the Great Lakes system has no visible limit. More intensive utilization of this unused capacity is by far the most cost-effective means of improving transport productivity and expanding transport capacity in the mid-America region for the millions of tons of heavy loading bulk commodities which now move long distances and, in the future, are expected to move even longer distances.

The river roadbed, of course, renews itself and cannot be worn out by the passage of traffic or time.

The recent studies which try to peer into the future assume the doubling of river traffic by the end of the century. The most recent, a report prepared for 17 mid-American states and the Maritime Administration, says that river traffic will increase from 440 million short tons in 1976 to more than 900,000,000 in the year 2000. The carriage of grains, coal, petroleum, fertilizers and chemicals will experience especially high growth. The report identifies a need for 1,000 new terminals along the rivers requiring local investment of nearly $9.5 billion.

The National Transportation Policy Study Commission predicted in June that there would be a tripling of coal traffic from rail to barge near St. Louis. This traffic is expected to rise from 14 million tons a year in 1985 to 53 million tons in the year 2,000. You have all read of the need for this country to double its coal production to 1.2 billion tons by 1990. Even if this figure may be slightly optimistic, it graphically outlines the enormous task that confronts the transportation modes in the 80's. This growth is going to require huge sums of capital. The cost of a new covered barge today is $250,000. The cost of covered hopper cars is $40,000. With figures like these it becomes apparent that the shipping public must use the most efficient mode or combination of modes if we are to have any hope of increasing the nation's productivity.

A main reason for optimism over the future of inland navigation is simply geography. The Mississippi, Arkansas, Ohio, Illinois, Missouri, and Great Lakes systems serve the industrial and agricultural heartland of the country. Most of the economic activity between the Rockies and the Alleghenies is within practical reach of inland water transport.

The major feeders to the rivers now are trucks. But in the 1980's, I predict the railroads will want to compete for that business more and more and thus extend the river gathering range far beyond the present truck range of 50 to 100 miles. Many of the midwest railroads are built on the east-west axis and are natural feeders to the rivers.

The increased river traffic will not be diverted from the railroads; it will stimulate increases in rail traffic. Stanley L. Crane, president of the highly successful Southern Railway, expects rail freight ton miles to increase 143 per cent by 1990 and rail market shares to go up 24 per cent. If we analyze the economics of rail-water movements, for example, we see substantial advantages for railroads. Let me just list a few.

Take an east-west railroad like the Milwaukee or the C&NW or the Burlington Northern. To reach the export markets in the Gulf for grain, they must agree with another railroad on divisions of an overall rate. That all-rail movement is subject to competition from the river with trucks feeding the river over long distances. There's a competitive ceiling on the all-rail rate. It is very likely, even certain, that the railroad can get a higher division connecting with the barge line than connecting with another railroad. Such a connecting railroad benefits from the efficiency of river service. Part of the saving will be passed on to the shipper, but part will be shared by the railroad in higher divisions.

The railroad also makes its higher profit per trip more frequently. Instead of the freight car going all the way to the Gulf and possibly waiting at congested terminals for unloading, it stays on the tracks of the originating line at all times. Control of utilization of the freight car is thus far better. The car may be loaded four or five times as often, at a higher division, using the barge connection, compared to lesser utilization with the all-rail connection. Even when the originating railroad has authority for the entire trip to the south, the same economics of car usage makes it advantageous to interline with barge lines.

Significantly higher utilization is of course the cheapest way to expand capacity.

If rails fail to compete with the trucks for the traffic connecting with barges that is more than 50 miles from the river, they are simply retiring voluntarily from a market in which it can make a better return for their investments. Shuttle movements between interior points and the river can broaden a railroad's entire market. A rail-water movement providing lower overall cost of transportation broadens the markets of the producers in the railroad's territory.

The growing process of improved rail-water coordination will need some policy help from government. Government could accelerate intermodal arrangements by a simple matter of promoting coordination, of talking it up and occasionally knocking heads together. This it has seldom seen fit to do.

The Iowa Department of Transportation surprised itself, the railroad involved and the barge lines with the success of just such a "talking it up" approach. It promoted a joint service between the Milwaukee Railroad and a barge line on grain. The service handled over 5,000,000 bushels of grain last year and is expected to handle three times that amount this year. The railroad is happy with expanded traffic at a good profit; the inland producer is getting about 7 cents a bushel more for his grain because of transportation savings and the barge lines like the business. Everybody is ahead.

Just this year a coal terminal in St. Louis began shipping western coal to a utility in Louisiana that was transported to the river by rail from Wyoming.

Our own company is constructing a similar facility 80 miles south of St. Louis at Cora, Illinois. When completed in 1980, it will be capable of handling 15 million tons of Illinois and western coal. I can assure you this would not have been possible if we had not had the cooperation of some progressive, economically bottom-line-type thinking railroad executives.

Most of the rail-water movements of coal on the Ohio River and from the west to the Mississippi are voluntary affairs within the present basic legal framework which is intended to encourage rail-water coordination.

But there have been situations in which the railroad would outright refuse to join with a water carrier. On those occasions it saw an opportunity to raise its rate to the port in order to force the traffic to go all-rail at a higher cost to the consumer.

While the law is clear enough and the Supreme Court has said often enough that the railroad has no right, by exploiting its monopoly of the services to the port, to deprive the inland shipper of the competitive rail-water alternative to an all-rail service, we think any new legislation should clarify and solidify this point. A current proposal to the Congress provides a clear prohibition of the practice of squeezing out the water carrier by the artificial manipulation of the rate to the port. It has been suggested that a treble damage penalty be introduced for such tactics.

The proposal simply preserves a shipper's right to a competitive alternative. The public is always better off when a competitive alternative is not artifically suppressed.

Removing barriers to intermodal ownership is sometimes mentioned as a way of promoting rail-water coordination.

Some of you may be surprised to hear that intermodal ownership *is* allowed. The limitation on a railroad owning a barge line is whether such ownership would "exclude, prevent or reduce" competition. This limitation is very like the present limitations on any merger. You can merge with anyone you like provided there is no "substantial lessening of competition leading to a monopoly." The present limitation on intermodal ownership seems to us reasonable for transportation as it is for the rest of the economy.

I have never met anyone who can cite a single advantage claimed for common ownership that cannot be achieved just as well by coordination without running the risk of substantial lessening of competition.

There is another kind of intermodalism I would like to suggest in closing. It is going on quietly as I speak. This is a major attempt by various organizations of shippers, by railroads, water carriers, truckers and the government to develop a new approach to solving transport problems. The issues are stubborn and involve naturally opposing interests. But there is a lot of good will for producing solutions that make sense. For instance, around St. Louis the railroads and regional leaders are engaged in a major evaluation program involving the modernization of railroad facilities.

The aim is to reduce switching costs, generally speed up rail car movement through the metropolitan region and to free up 1,000 acres for development. Relocation of the rail yards, which is estimated to take about 10 years, is expected to cost from $390 million to $560 million in 1990 dollars. Part of the current planning stage involves getting money from the Federal government and other sources. It's a good project and deserves everyone's support. And yet I suppose those bent on obstructionism could find extreme groups of one sort or another to hold it up as such groups have held up similar improvements for river services.

Obviously the shipping public and the ultimate consumer would not benefit if a group of barge lines joined with environmental groups to obstruct or impede such a worthwhile project, but even as I speak this kind of narrow thinking continues in the case of Locks and Dam 26 and several other river projects.

The challenges and burdens of transportation for the future are too demanding and too costly for these types of obstructionism. The loss in productivity gains to all modes are enormous, and they multiply with any delay in construction or start up of these beneficial projects. It behooves the leaders of this transportation industry to act responsibly. Even if all goes well and there are no artificial pranks and pratfalls, we will be lucky to meet the nation's needs in time.

If those who produce and those who consume transportation could arrive at a package that emphasized improved transport efficiency, there are few items in such a package that would have a greater impact than a major promotion reinforcing the current trend to the cost and energy saving rail-water coordination.●

HOMEOWNERS CAN SHARE WINDFALL

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. COLLINS of Texas. Mr. Speaker, we have heard that the windfall profits tax is actually an excise tax on U.S. crude oil sales. Huge revenues of the oil producers will by this tax be diverted from finding more oil.

Today I would like you to hear from Milton Friedman as reporting in a column in Newsweek for December 10. He looks into the future and sees another Government plan for funds in the form of a tax on the windfall profits of homeowners. Mr. Friedman says it like this, anticipating the dateline of 1984:

A MODEST PROPOSAL FOR 1984

(By Milton Friedman)

Senator Eager-to-Be-Re-elected introduced today a bill that would levy a Windfall Profits Tax on Real Estate. The bill is cosponsored by twenty other senators.

Said Senator Eager in introducing the bill: "President Carter's imaginative initiative of five years ago attacking the windfall profits of big oil companies has been highly successful. It has generated revenue that has enabled us to finance ever bigger and better government programs to help the poor, the old and the ill.

"Unfortunately, now that the last of the big oil companies has been nationalized, that source of revenue is disappearing. Much to everyone's surprise, the costs of the nationalized companies have risen much more rapidly than their revenues. They still enjoy a substantial excess of revenues over costs. However, that excess is barely enough to finance the growing budget of the Department of Energy—which has had to multiply its staff severalfold in order to administer the rationing of fuels and the control over their production that Congress was farsighted enough to legislate along with the windfall-profits tax.

"Revenue is still available for social programs from the taxes being paid by the remaining small independent oil producers. Although that source has been growing, it is wholly inadequate to meet the pressing needs of our poor, our old, our ill."

UNDESERVED GAINS

"We must find a new source of revenue. What better source than the obscene windfall profits that are being reaped by those privileged citizens who own their own homes? Their homes have risen in value by leaps and bounds—sometimes by as much as five or ten times the initial cost. As President Carter stated in 1977 with respect to oil companies, the homeowners 'have no equitable claim to that enhanced value because it is unrelated to their activities or economic contributions.' The enhanced value arises entirely from fortuitous changes in market conditions, from actions of Congress and the several states directed at preserving the environment, which have unfortunately limited new construction—from the bold anti-inflation action of Congress in holding down construction wages, which has unaccountably been followed by a shortage of construction labor—and from the continuing inflation that Congress has been powerless to curb despite our best efforts.

"We must end profiteering by one class of our ciitzens—however numerous—at the expense of the rest of us—however few. Greedy homeowners have been denying shelter to the needy. They have been shamefully pushing prices to intolerable levels. Persons who have sold their homes at inflationary prices have not even reinvested the proceeds in building other homes and thus reducing the housing shortage. No, they have spent much of the proceeds on high living.

"These unearned gains by right belong to the people as a whole, not to a selfish class of lucky homeowners. The bill I have introduced will make sure that the people as a whole get those gains."

A NEW IRS

We cannot tap these unjustified windfall profits by waiting until the homes are sold and then taxing the profits realized. Selfish homeowners could readily evade such a tax by refusing to sell their homes. Fortunately, President Carter has shown us how to solve that problem: impose an excise tax on the product and label it a windfall-profits tax. That is what my bill does. It would impose a windfall-profits tax on owned homes equal to 50 per cent of the annual rental value of the owned home, as estimated by the Internal Rental Service of the U.S. Treasury Department. The tax would be payable quarterly along with the advance estimated payments on income tax. To avoid evasion by renting instead of owning, the same tax would be levied on all rents received from dwelling units.

"To protect the poor, the old and the ill, my bill would exempt from this tax homes valued at less than $100,000, plus homes valued at less than $200,000, any of whose occupants are more than 75 years old or are permanently disabled or bedridden. In addition, it exempts homes owned by members of Congress, Cabinet officers, state governors and lieutenant governors and senior civil servants.

"Enactment of this tax will end one form of shameless exploitation of the disadvantaged among us. It will enable us to finance on a sound, noninflationary basis, the social programs that the public demands. It will join President Carter's windfall-profits tax as a landmark in the progress of intelligent social reform." ●

THE PALESTINIAN NATIONAL COVENANT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. WOLFF. Mr. Speaker, the destructive goals of the Palestinian Liberation Organization are sometimes not clear to Americans, in part because the organization and its supporters purposely mask or misinterpret PLO aims. I would like to take this opportunity to acquaint my colleagues with the true aims of the PLO, as espoused in their central document, the Palestinian National Covenant.

The Palestinian National Covenant contains the major tenets of the PLO's ideology. The central tenet of the covenant calls for the total repudiation of the existence of Israel. The claim that Israel should not exist is implied in almost half of the covenant's 33 articles. The demand for the demise of Israel becomes, by definition, a matter of "necessity and truth." According to the covenant, the Palestinians must have complete sovereignty over Palestine in order to realize their goals of self-determination, dignity, and freedom. This belief is complemented by the theory, also formulated as a definition, that the Jews are not a nation, and thus, do not deserve to have a state of their own.

The ideology of the PLO insists on achieving its goal completely. According to the PLO, the choices are clear cut—either the destruction of Israel or the collective death of the Palestinian people. Any compromise, even the existence of Israel in limited dimensions, constitutes a total defeat for the PLO.

The PLO's program to achieve their objectives includes terrorist activities aimed at Israel and her citizens. Indeed, history has shown us that the behavior of the PLO supports their words.

It is my belief that the United States cannot and should not recognize the PLO until such a time as the PLO officially declares that the State of Israel has a right to exist and all terrorist activities cease. I would like to share with you the following article that appeared in a local newspaper, how exactly we can recognize the PLO at this time.

The article follows:

THE P.L.O. WANTS TO BE RECOGNIZED

Here are 10 ways to recognize them:

1. Their victims are unarmed civilians, and they throw children from classroom windows:

2. They hijack and blow up civilian jetliners all over the world.

3. They promise to cut off oil to America by bombing super tankers.

4. They murder American diplomats in Beirut, Lebanon and Khartoum, Sudan.

5. They try to sabotage Mideast peace efforts, promising to "cut off the hands" of Carter, Sadat and Begin.

6. They claim to represent Palestinian rights, while assassinating Palestinian leaders who want peace.

7. They learn to kill in Russia, with Russian arms.

8. They support worldwide terror working with Italy's Red Brigade, Germany's Baader-Meinhof, Japan's Red Army and more.

9. They kill and maim Munich Olympic athletes, Christian Pilgrims and American tourists.

10. Their leader wears a gun at the UN as do his terrorists on their murderous raids.

Let's recognize the P.L.O. for exactly what it is!

(Prepared as a community service by the Anti-Defamation League of B'nai B'rith.)

(Sponsored by B'nai B'rith Lake Success Lodge, Lake Success Chapter, Bay Chapter, Great Neck Lodge, Great Neck Chapter.) ●

A RAPID DEPLOYMENT FORCE

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. COUGHLIN. Mr. Speaker, on November 29, 1979, Congressman John P. Murtha and I wrote to President Carter and Speaker O'Neill to urge the immediate development and consideration by Congress of specific proposals for a large, highly mobile rapid deployment force that could be used to protect American lives and property abroad and, when necessary, to rescue Americans from trouble spots. Such a force, we argued, would give the President the option—and the capability—to respond to emergencies like those which have developed in Iran, Pakistan, and other areas in recent weeks. An article in the Washington Post today reveals publicly for the first time that the President had ordered the creation of just such a rapid deployment force with the substantial air- and sealift capabilities Mr. Murtha and I envisioned. Our letter with a list of additional signers and the Post article follow:

House of Representatives,
Washington, D.C., November 29, 1979.

The President,
The White House,
Washington, D.C.

The Speaker,
The House of Representatives,
Washington, D.C.

Dear Mr. President and Mr. Speaker: Recent international events and, in particular, the assaults on U.S. embassies, the loss of two American lives, direct threats to others, and the destruction of U.S. property have left us and the American people deeply concerned about the erosion of the American position abroad. Although enormously frustrated by these events, we are nonetheless committed to the search for responsible solutions.

We recognize the necessity of restraint in the present situation because of the hostages as well as the fact that there are no easy answers. We do submit for your consideration, however, the following three-part proposal which we believe could help to prevent such situations from occurring in the future or at least improve our capacity to deal with them in the event they do.

1. While we realize that it is the responsibility of host countries to protect U.S. embassies, personnel and property in their countries, it is clear that we can no longer be certain that they will always fulfill this obligation. We believe the President should have the option—and the capability—of providing such protection when circumstances warrant. The existence of this capability should be known to other countries so that it could be activated (1) if the host country should seek assistance to protect American lives and property or (2) if the host country fails to discharge its responsibility to provide protection either through inability or unwillingness to do so.

2. The United States Marine Corps should immediately be directed to develop and submit to the Administration and Congress proposals for providing improved security for U.S. embassies, lives and property abroad. Such an urgent study should include an evaluation of the location, defensibility and potential for evacuation of sensitive facilities as well as a proposed code of conduct for personnel in such facilities in the event of emergency.

3. We believe these recommendations should also include the steps necessary to create within the Marine Corps a highly mobile rapid deployment force that could be used to defend American lives and property and, when necessary, to provide timely rescue operations. In order to maximize its deterrent effect and to enable it to respond simultaneously to more than one crisis situation, we believe the force should be large—possibly brigade-sized—and should be placed on 24-hour alert on the same basis as other critical air and naval strategic forces. Furthermore, we believe that such a rapid deployment force should have maximum flexibility including air and sea-lift capabilities as well as air-drop capabilities.

Congress should hold early hearings on these proposals with a view toward providing quickly whatever legislative authority, support, and coordination may be required to implement them.

Sincerely,

LAWRENCE COUGHLIN,
JOHN P. MURTHA,
Members of Congress.

LIST OF ADDITIONAL COSIGNERS

Mr. Wright, Mr. Michel, Mr. Zablocki, Mr. Broomfield, Mr. Montgomery, Mr. Lehman, Mr. Austin Murphy, Mr. Pashayan, Mr. Marks, Mr. Regula, Mr. Courter, Mr. Morgan Murphy, Mr. Cotter, Mr. Hutto.

Mr. Zeferetti, Mr. Livingston, Mr. Cleveland, Mr. Nichols, Mr. Derwinski, Mrs. Boggs, Mr. Robin Beard, Mr. Sensenbrenner, Mr. Hyde, Mr. Dickinson, Mr. Mazzoli, Mr. Mottl, Mr. Panetta, Mr. Dougherty, Mr. Hughes.

Mr. Whitehurst, Mr. Albosta, Mr. Oberstar, Mr. Gilman, Mr. Preyer, Mr. Rudd, Mr. Carter, Mr. Devine, Mr. Slack, Mr. Hamilton, Mr. Bonior, Mr. Pritchard, Mr. Hollenbeck, Mr. Clarence Brown, Mr. Rousselot.

Mr. Butler, Mr. Carney, Mr. Moore, Mr. Stockman, Mr. Latta, Mr. Fithian, Mr. Florio, Mrs. Snowe, Mr. Stewart, Mr. Markey, Mr. Clinger, Mr. George Brown, Mr. Hagedorn, Mr. Badham, Mr. Danielson.

Mr. Conte, Mr. Bethune, Mr. Quillen, Mr. Dicks, Mr. McCormack, Mr. Rose, Mr. Bill Young, Mr. Burgener, Mr. Kindness, Mr. Don Young, Mr. Whitley, Mr. Thomas, Mr. Mineta, Mr. Corman, Mr. Oberstar.

Mr. Kramer, Mr. McDade, Mr. Gilman, Mr. Udall, Mr. Fuqua, Mr. Jim Leach, Mr. Vander Jagt, Mr. Walker, Mr. Mendel Davis, Mr. Chappell, Mr. Gore, Mr. Lederer, Mr. Gaydos, Mr. Michael Myers, Mr. Rahall.

Mr. Robinson, Mr. Bereuter, Mr. Deckard, Mr. Mathis, Mr. Howard, Mr. McCloskey, Mr. Hightower, Mr. McHugh, Mr. Rinaldo, Mr. Thomas B. Evans, Mr. Archer.

[From the Washington Post, Dec. 6, 1979]

MARINES TO FORM RAPID REACTION FORCE

(By George C. Wilson)

Against the backdrop of the Soviet brigade in Cuba and turmoil in Iran, Marine leaders disclosed yesterday that they had been ordered to organize a 50,000-man spearhead for President Carter's Rapid Deployment Force.

The first of three brigades of 16,500 Marines will be ready for airlifting to distant trouble spots by 1983, Maj. Gen. Paul X. Kelley, Marine planning chief, said yesterday in describing the corps' role in the quick reaction force.

Although planning for this outfit, which the Army calls the Unilateral Corps, preceded the current crisis in Iran, Pentagon officials said that rising concern about the oil-rich Persian Gulf is providing a sense of urgency to implement these plans. The basic idea is to give the president more military options in the Third World than he has now.

Each brigade would be supported by five supply ships deployed ahead of time near likely trouble spots around the world. Kelley said a Marine brigade could operate on its own, though presumably not fight any kind of major battle, for 30 days before having to depend on the ships for resupply.

White House budget chiefs, in reviewing the Pentagon's fiscal 1981 money request, to be sent to Congress next month, have given their blessing to the Rapid Deployment Force. They have approved about $80 million to start developing a successor to the C5 transport plane for airlifting troops and supplies and $220 million for the first two of a fleet of cargo ships.

Defense officials said yesterday that over the next several years about $6 billion will go for the new CX transport aircraft, with about 50 planes costing $180 millilon each. Another $3 billion in the quick reaction force account is earmarked for 16 ships loaded with Marine gear and pre-positioned near likely areas of conflict.

The Army's 82nd Airborne Division and armored units from Ft. Hood, Tex., and Ft. Carson, Colo., are expected to be designated as part of the force. Their heavy tanks and other weaponry are expected to take up most of the space on the fleet of CX planes.

Navy leaders are cool to the idea of building special cargo ships for the Marines and deploying them near likely trouble spots. The admirals complain that such ships would take money out of their already-strained shipbuilding budget and predict that warships ultimately would have to be assigned to protect them.

Defense Secretary Harold Brown has overridden these objections. Not only has he directed the Marine Corps to bring its 50,000-member special airlift force into being by the mid-1980s, but he approved extra money so the corps does not have to go through with its planned cut of 10,000 men

To ease the corps' budget crunch, Marine Commandant Robert Barrow had decided to reduce his force from 189,000 to 179,000 by the end of fiscal 1981. The extra money approved by Brown, Kelley said, will enable the Marines to field a force of 185,200, a cut of only 3,800.

Kelley said the Marines wanted to brief reporters on the Rapid Deployment Force because some "of our friends" had gotten the idea that the corps' mission was being changed. He said that, on the contrary, the corps is enthusiastic about its new role.

"In looking at the 1980s," Kelley said, "It becomes obvious that we need a sharpen focus for the Third World."

The United States would "do well to sharpen that focus before we left it (Third World) slip through our fingers," he said.

Kelley said the Marines have traditionally designed their forces to go into battle in a hurry but that a "glaring deficiency" is the shortage of long-range planes to carry them to crises.

He said the present airlift force of 70 C5 transports and 234 C141s is not enough to carry troops and weaponry to distant points. The new CX cargo plane, he added, will help close that gap.

To fly one brigade of 16,500 Marines in a quick reaction unit would require 130 round trips of the following aircraft: 14 C5s; 102 C141s and 14 widebodied civilian transport planes pressed into service as part of what is called the Civil Reserve Air Fleet.

Kelley said the Marine brigade would not be targeted on any specific area of the world but could go anywhere. Asked about getting to the Persian Gulf, he said that one option would be to fly Marines from Okinawa to Diego Garcia in the Indian Ocean.

The transport planes, as well as the fighter-bombers which would support the Marine ground troops, would have to be refueled en route by Air Force flying tankers.

Although he did not volunteer it, when pressed by reporters Kelley said Diego Garcia could indeed become the "linchpin" as the United States increases its military presence for conflicts in the Mideast and Africa.

In the past, some members of Congress have been reluctant to increase the U.S. military presence on the island for fear of making the Indian Ocean a new area of confrontation for the superpowers, the United States and Soviet Union. Sen. Sam Nunn (D-Ga.), is leading a delegation of the Senate Armed Services Committee to the Persian Gulf early next year to assess the need for additional U.S. military facilities in the area, including Diego Garcia.

One staffer of the Senate Foreign Relations Committee, who observed the Senate effort of recent years restrict military activities on Diego Garcia, said: "That was a different era, Iran has changed all that." ●

HOW THE WORLD BANK MANAGES ITS MONEY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. McHUGH. Mr. Speaker, the management of the World Bank has been subjected to severe criticism in recent months by a number of Members of Congress who have consistently disagreed with the lending policies of that bank because of the political character of some of the nations receiving loans. Yet, the charter of the Bank explicitly prohibits it from taking such political considerations into account. For example, article IV, section 10, of the charter states:

> The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be

weighed impartially in order to achieve the purposes stated in Article I.

Since the Bank is enjoined to consider only economic factors in its decision-making, that places a high premium on the management of the resources of that institution. How well is the Bank doing in this respect? According to a recent article in the New York Times the Bank is doing an extremely good job.

According to senior analysts at Merrill Lynch, Pierce, Fenner and Smith, for example, "the quality of debt support behind the World Bank ranks among the premier AAA-rated securities available on the bond market today."

For the benefit of those who may not have seen this recent article, I am inserting a copy into the Record at this point. I think that this article points to the high level of professionalism of the management of this vital institution.

The article follows:

How the World Bank Manages Its Money—It Generates Yearly Profits of $40 Million

(Ey Clyde H. Farnsworth)

Washington.—Seated at a round table below clocks that give the time around the world, Araceli Gonzaga, a short-term money trader, is trying to squeeze out the best return possible on $110 million she was to invest for 32 days—until a scheduled payment for a bond sinking fund falls due. As she places the money at 13⅜ percent in New York, her colleague, Philip R. Spray, is busy getting interest-rate quotes from German banks, and Hugo J. H. Shielke, their boss, is on the phone trying to sell some two-year Treasury notes that he believes will soon go down in value.

The scene may be a common one on Wall Street or in a European financial center but not on Pennsylvania Avenue a few blocks from the White House. Mrs. Gonzaga is a Peruvian, Mr. Spray an American and Mr. Shielke a German, all employees of the World Bank. Here, in a fourth floor operations room in the sedate confines of the institution, a little-known trading operation has been growing until it is now a major player in the bond market.

To Eugene H. Rotberg, vice president and treasurer of the bank, there's nothing incompatible between the fourth-floor activity and the bank's primary role as the biggest lender to the world's poorest countries.

In fact, he says, the two functions are complementary. Portfolio management by the Rotberg-Shielke team of specialists has contributed an additional $40 million a year to the bank's profit over the last five years—which means more money to lend to the poor. Overall, the bank's net profit this year is expected to be $500 million.

The $40 million a year represents the difference between what the bank paid to borrow over this period and the higher amount it was able to earn by investing funds from the huge pool of money it has amassed.

Today that pool has grown to $10 billion, one of the largest sums in the non-OPEC world. And even in the swollen coffers of the Organization of Petroleum Exporting Countries the sums are respectable.

Such liquidity protects the bank from having to borrow when conditions are unfavorable. Huge companies, such as The International Business Machines Corporation and the Bell System, don't have such protection. Recently, both have come into the bond market at uncomfortable terms.

That won't happen to the World Bank, says Mr. Rothberg. Because American interest rates have been so high, for example, the World Bank has not borrowed in the United States for more than two years (although Mr. Rotberg believes rates have peaked and hints the bank may come back into the American market next year.)

"The bank has the flexibility to avoid adverse conditions in capital markets," says Michael S. Hyland, an analyst at the First Boston Corporation, "as well as the ability to adjust its lending program to changes in the level of borrowing costs. It can also select the location, amount and terms of its borrowings to an extent unparalleled by any other financial institution."

One problem that could prove troublesome for the bank is Iran, which owes the bank $550 million on loans made to that oil-producing nation before the 1973–74 quadrupling of oil prices. But Mr. Rotberg says he is not worried about an Iranian default. "We get payments every couple of weeks from them," he says.

In Iran's case there is another consideration—the central bank in Teheran as itself a creditor of the bank as the holder of $400 million of its obligations.

To date, the bank has experienced no loan losses or writeoffs on any of its operations. Even during the conflict in Lebanon, that nation continued making payments on its obligations.

Borrowers recognize they have too much at stake to default—continuation of their development efforts which depends on the bank's involvement. About half of all development financing is channeled through the World Bank and its two affiliates, the International Development Association and the International Finance Corporation.

Founded in 1946 as one of the pillars of the Bretton woods postwar economic structure, the bank, formally known as the International Bank for Reconstruction and Development, now lends about $8 billion a year.

It has received capital subscriptions from 135 countries and lent to 99 of the poorest of these to finance projects such as dams and roads to speed economic development. In more recent years it has channeled increasing amounts of money into programs that help people directly by expanding food and water supplies, improving educational systems and supporting other "basic needs."

Mr. Rotberg, who was a lawyer with the Securities and Exchange Commission before joining the bank 11 years ago, works in an office propped with artifacts from foreign travel and rows of books that include not only financial balance sheets but such reading matter as Virginia Woolf's Diaries. He pointed to a case filled with pastel-colored pieces of paper—bond certificates representing issues that the World Bank has sold to investors in 17 countries.

The bank has $28 billion of debt outstanding, of which less than $7 billion is held in the United States. Of the $28 billion, $8 billion is held by governments. The largest holders are Saudi Arabia, Venezula, West Germany, Japan, Yugoslavia, Nigeria and Iran.

The bank borrows at the same rates as most governments. It has to pay just a little bit more (30 to 50 basis points, a basis point being one-hundred of 1%) than the United States Government.

Although the bank has borrowed in 17 currencies, it runs no exposure to risks in exchange markets because it invests the proceeds in liquid assets in the same currency. The diversification of currencies—in effect the World Bank's currency basket—adds still more strength to the balance sheet.

Another factor is that most of the $28 billion of debt outstanding is covered by the aggregate capital subscriptions of the major non-Communist industrial countries.

Even though chances were high that the West German Mark, the Japanese yen and the Swiss franc would appreciate over the last two years, the World Bank has been a heavy borrower in these low interest-rate currencies.

As Mr. Rotberg explains it, what is saved in interest rates over, say, 20 years, the average maturity of World Bank obligations, more than compensates for the exchange-rate risk.

In both its borrowing and liquidity management programs the bank has earned plaudits from the professionals.

"In terms of their sophistication and use of computer tools, they are among the most intelligent operators anywhere in the market," comments H. Erich Heinemann, vice president and economist for Morgan, Stanley & Company. "We have a tremendous respect for their professionalism," says Irving M. Auerbach, vice president and economist for the bond firm of Aubrey, Lanston.

"In our opinion," according to Robert G. Smith and Wayne K. Mueller, senior analysts at Merrill Lynch, Pierce, Fenner and Smith Inc., "the quality of debt support behind the World Bank ranks among the premier AAA-rated securities available on the bond market today."

Mr. Rotberg's investment policy is to maintain liquidity in the $10 billion portfolio for an amount equal to 40 percent of the bank's anticipated cash needs over three years.

The $10 billion, at today's lending rates, is invested only in government securities up to five years and in commercial bank certificates of deposit.

Although Mr. Rotberg says he is convinced that American interest rates have peaked, this is not the unanimous view of the bank's investment specialists whose collective decisions in the management of the $10 billion portfolio are responsible for the relatively high return.

Under Mr. Shielke and another of Mr. Rotberg's proteges, Morton Lane, now president of the Discount Corporation of New York Futures, a financial-risk computer model was devised some half dozen years ago to measure uncertainty over interest-rate projections.

Each of the dozen .members of the investment group has to predict at regular intervals what rates will be for each maturity but only in terms of probabilities. "We want to be aware of the amount of uncertainty that we have," Mr. Rotberg observes. "We also want to admit to mistakes."

In the end the computer figures the collective odds upon which the portfolio decisions are based.

The typical investment officer in the fourth floor trading room has about six years of college education and most have two advanced degrees, such as the masters degree in mathematics held by Jacques R. Rolfo of France or the Ph. D. in economics held by Adnan Akant of Turkey.

There is also an alumnus of the Federal Reserve Bank of New York, John S. Hill, who was a senior economist on its Open Market Committee.

Mr. Rotberg, a former adjunct law professor at George Washington University Law School, had been chief counsel in the S.E.C.'s office of policy research before being tapped by Mr. McNamara to head the World Bank's financial operations a decade ago.

To John Gutfreund, managing partner of Salomon Brothers and another close watcher of the World Bank, "it was one of McNamara's blessings when he got Gene Rotberg. Gene is a careful and delicate taskmaster." ●

RONALD REAGAN'S VIEWS ON ISRAEL AS A VITAL ALLY AND ASSET TO THE UNITED STATES AND THE WEST

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. KEMP. Mr. Speaker, the current crisis in Iran has led to a rethinking of America's assets in the international arena, particularly in the Middle East. The loss of support for the United States has reached such serious proportions that the President was obliged to recommend that American citizens avoid travel in 11 nations in the Middle East. The single island of support for the United States—diplomatic as well as military—has been, and remains, the State of Israel.

This island of support for the United States is a strategic asset of the most important kind; an asset too frequently overlooked or even denigrated by the current State Department. Israel has displayed a willingness to permit her air bases to be used for the staging of selected military operations in Iran, and has been the only nation in the Middle East whose backing of the United States has been unswerving. Such support deserves a better reception than it has received from the Carter administration.

One national leader has demonstrated that he understands the strategic value of Israel to the United States: Ronald Reagan. In an essay published in the Washington Post, August 15, 1979: Governor Reagan succinctly summarized Israel's international posture:

> Israel has the democratic will, national cohesion, technological capacity, and military fiber to stand forth as America's trusted ally.

The administration has shown a disturbing inclination to dissipate America's strategic asset in the Middle East by placing severe diplomatic pressure amounting to coercion against Israel to force dangerous concessions on a political and territorial settlement in the Middle East. This is particularly true in light of Soviet attempts to break apart the Israel-Egypt Peace Treaty by supporting the KGB trained and financed Palestinian terrorist organizations.

So long as Israel is allowed to remain strong and independent, Israel will pose a powerful deterrent to Soviet ambitions in the Middle East. Without the presence of Israel, the Soviet ambition to dominate the entire region would be realized. Governor Reagan is perhaps the only national figure to have recognized that "Soviet planners must constantly take into account the effective dominance of the Israeli forces, especially its air force, over critical zones of access and transit in the region. In a moment of crisis the knowledge that their air force can create a zone of danger and uncertainty to the U.S.S.R. must greatly restrict Soviet options and thereby facilitate the tasks of American planners."

Governor Reagan has taken one of the most well-informed and farsighted positions on the current and future role of Israel in America's foreign policy in the Middle East of any contemporary public figure. I urge my colleagues to study the content of his views, as the Middle East continues to be a crucial issue not only in the forthcoming election but for American security in the next decade as well.

The article follows:

[From the Washington Post, Aug. 15, 1979]

RECOGNIZING THE ISRAELI ASSET

(By Ronald Reagan)

Stripped of rhetoric, the paramount American interest in the Middle East is to prevent the region from falling under the domination of the Soviet Union. Were Moscow, or even its radical allies in the region, allowed to establish dominance or acquire a stranglehold on the West's sources of petroleum, either at the wellhead or at various oil route chokepoints, the economies of the major industrial states would be jeopardized and the capacity of NATO and Japan to resist Soviet pressure would be dangerously impaired. Indeed, any American government which allowed oil supplies to its allies to be placed in question would almost certainly invite the neutralization of Western Europe and Japan, the encirclement of China, and—eventually—its own isolation.

The critical importance of the Middle East to American global interests should be obvious, and yet the policies of our government continue the gradual erosion of our influence and power in the region. Today, the Soviet Union is capitalizing on a vast military buildup by raising the level of risk in accordance with its perception of the strategic balance. The Soviet fleet now has the run of the Mediterranean, free access to the Indian Ocean and the Persian Gulf, and is extending its global reach.

This assertion of Soviet military power at both ends of the Middle East is evident in their string of bases and naval facilities in Iraq, Syria, South Yemen, Ethiopia and Libya. The armies of all these countries are largely dependent on Soviet equipment. The recent turmoil in Iran, Afghanistan, and Turkey—all bordering upon the Soviet Union—is ominous. Each of these non-Arab states is crucial to the balance of power between the Soviet Union and the West, and in each case chaos means a gain for the Kremlin and a deficit for American interests.

Meanwhile, the U.S. record is one of understatement and miscalculation regarding the extent of Soviet capabilities and Soviet interest in affecting or controlling the flow of oil from the Middle East, in base rights and in defense pacts. Swayed by the misleading abstraction of "détente," our policymakers have yet to achieve a clear understanding of the Soviet role in the region. Moscow's objectives and intentions continue to be viewed as opportunistic and not as an integral part of a major effort to alter the global balance of power.

The Iranian debacle is the most recent example of the extent to which U.S. indecision and ignorance of the challenge we face in the region obscure the true stakes. Continued instability fueled by our policies provides important opportunities to the Soviets to expand their sphere of influence and to deny or control oil resources vital to the Western economies. Meanwhile, those leaders in the area who have cast their fate with the United States now seriously question our political judgment and our ability and willingness to back our friends and to withstand threats to their survival. These developments, coupled with Brezhnev's unilateral public warning not to intervene in Iran, would indicate that the Soviet Union—not the United States—is poised to fill the power void left "East of Suez" by the British.

The Carter administration has yet to grasp that in this region conflict and tension are endemic, a condition traceable largely to the fragmented sectarian nature of Middle Eastern society. For example, territorial disputes among Arab states are persistent; ethnic and religious rivalries abound; conservative and radical attitudes regarding social change are continuously in conflict. The recent tragedy of the Lebanese civil war and the border war between the two Yemens earlier this year are two cases in point. Thus, the more critical issues dividing Arab states actually have little to do with Israel, even though the Jewish state has served as a convenient polemical rallying point in internal Arab conflicts.

The existence of Israel has served as a convenience for the Soviet Union as well, but Russian aims for control over the entire region existed long before Israel's birth in 1948. Without this bastion of liberal democracy in the heart of the area, the Kremlin would be confined to supporting militant regimes against pro-American conservative governments which would not be able to divert the attention and energies of the radicals away from themselves by using the "lightning rod" of the "Zionist State." Moreover, our own position would be weaker without the political and military assets Israel provides. Yet, American policy-makers downgrade Israel's geopolitical importance as a stabilizing force, as a deterrent to radical hegemony and as a military offset to the Soviet Union.

The fall of Iran has increased Israel's value as perhaps the only remaining strategic asset in the region on which the United States can truly rely; other pro-Western states in the region, especially Saudi Arabia and the smaller Gulf kingdoms, are weak and vulnerable. Israel's strength derives from the reality that her affinity with the West is not dependent on the survival of an autocratic or capricious ruler. Israel has the democratic will, national cohesion, technological capacity and military fiber to stand forth as America's trusted ally.

With a democratic political system like our own we need have no fear of Israel's political stability or of the rise of a radical, anti-American leadership at her helm. Her intelligence services provide critical guidance to ongoing regional development, the technical know-how of her specialists could be used to service American equipment in a crisis, and her facilities and airfields could provide a secure point of access if required at a moment of emergency. Further, Soviet planners must constantly take into account the effective dominence of the Israeli forces and especially its air force, over critical zones of access and transit in the region. In a moment of crisis the knowledge that their air force can create a zone of danger and uncertainty to the U.S.S.R. must greatly restrict Soviet options and thereby facilitate the tasks of American planners.

Specific Arab states such as Egypt—friendly to us at a particular moment—may be well able and prepared to take a front-line position in defense of Western security interests. To the extent that one or more can participate, so much the better; but such secondary links cannot substitute for a strong Israel in the ever-turbulent Middle East.

Therefore, it is foolhardy to risk weakening our most critical remaining regional strategic asset. Yet, if administration policies should serve to weaken Israel either through building the basis for a radical Palestinian state on her borders or through providing her with insufficient military assistance, the tasks of Kremlin planners dealing with the Middle East would be enormously eased and a determined barrier to Soviet expansionism in the region would have been withdrawn.

Only by full appreciation of the critical role the State of Israel plays in our strategic calculus can we build the foundation for thwarting Moscow's designs on territories and resources vital to our security and our national well-being.●

IT IS OUR CHOICE: GOVERNMENT OF THE PEOPLE OR OF THE BUREAUCRATS?

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, often elected representatives find themselves, much to their dismay, insulated by the Washington atmosphere and out of touch with the people they represent.

That is why I make it a practice to return to my district every single weekend and seek out the opinions of constituents.

The Sullivan, Ill., Progress, edited and published by Robert Best, offers an antidote for those afflicted with Potomac fever. Consistently, the Sullivan Progress editorial stance reflects the voice of the average American fed up with an ever-expanding Federal bureaucracy.

Once again this newspaper has spoken for those millions of Americans harassed, intiminated, and angered by the myriad of unelected bureaucrats and the alphabet soup of agencies that siphon billions out of the pockets of the taxpayers.

My colleagues would be doing themselves a favor to spend just a few moments reflecting upon Mr. Best's comments; he speaks for millions of voters.

The editorial follows:

Government of the People—Not Outfits Like OSHA, EPA and EEOC

Our American government as designed and enacted by our forefathers, intended that government should be of, by and for the people. In other words, our duly elected representatives were responsible to the voters, and those people were the first responsibility of those in office. The system although cumbersome to some degree worked for many years and it worked very well when compared to the other forms of governments in other nations.

However, there were those who thought it could be improved—so they labored and came forth with something best called a government by decree—a sort of ruling by arbitrary edicts issued by Washington bureaucrats who were not elected. So now we have such things as the Environmental Protection Agency, the Occupational Health and Safety Administration, the Equal Employment Opportunities Commission (you probably know them better as the EPA, OSHA and EEOC). In addition to these there are many more lesser such agencies. Americans are finding their lives and jobs constantly influenced—they call it "regulated"—by the flood of decrees issued by these bureaucrats who are in effect accountable to no one. Their departments were established by Congress, and "nit-picking" seems to be their main purpose. The never ending stream of orders issued by these bureaus has become a flood. In 1973, for instance it took over 35 thousand pages just to publish the new decrees. This increased another 10,000 pages for just about each year since then and no end in sight.

Doubtless you may think: "Well, what does all this have to do with me"? Plenty. It is the decrees of all these agencies that have a very great part in forcing prices ever higher and making life more difficult for everyone.

Take OSHA as an outstanding example: Even in cities as small as our own Sullivan, there are firms that felt the heavy hand of that outfit. Excellent safety records of examined firms are given no consideration. Instead OSHA demand immediate compliance with its rules and levies fines without hearings or trials. Those seeking to contest those often senseless orders have found they had little chance. Only recently have the courts become aware of the situation and curbed some activities. Another recent news story was to the effect that many of the "nit picking" rules were to be eliminated. Meanwhile OSHA has literally forced many business firms, both large and small, literally out of business with the loss of unknown thousands of vital jobs, simply through its uncompromising and often blustering rules and orders. Compliance with orders has caused great expense many times.

This business of Equal Employment Commission deserves comment. Under its rules, firms have been ordered to hire minorities without regard to their training and capabilities. Companies have been forced to add employees who do nothing except to level out the statistics. At times this bureau has even considered convicted criminals as a sizable minority and ordered their employment to places of public responsibility as one of the outstanding examples of their blundering incompetence.

The EPA, too, should come in for its share of discussion. By Congressional approval, that outfit has taken unto itself powers and authority seldom seen before in American history. Common sense often has little to do with its decrees. It can stop public works, private construction projects, and close down large industries by direct order or just harassment—and it has done so on many occasions. As it stands today, it is just about the most powerful branch of government having the power to influence the lives of more Americans in more ways than any other department—all that and without benefit of having to account for its actions, and almost always above any appeal that its victims dare to make.

The EPA come in for a big share of today's ever soaring prices—especially those on energy. Power companies today are being forced to spend billions of dollars for equipment to comply with clean air rules. There is no doubt that those companies were undoubtedly causing air pollution, but on the other hand, the government rules as they stand today offer no compromise of any kind. The orders must be obeyed, even though seeming impossible at times. Here again, a little common sense mixed with the rules would certainly have been of much benefit to the consumers. It is the same EPA that is also causing many cities much extra expense—Sullivan included—by forcing updating plants for various types of services offered.

Moderation seems to be a stranger when it comes to this government by decree. Congress is the body that created these monsters and dumped them on the unsuspecting taxpayers in the first place. The time has come when that same Congress should start reappraising each and every one of those federal agencies. Those that have outlived their usefulness should be eliminated entirely—now! There is no need to simply keep them in business for the sake of the jobs that have been created. At the same time, those unlimited powers granted to other agencies should be curbed.●

CHRYSLER WORKERS ELIGIBLE FOR TRADE ADJUSTMENT PAYMENTS

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. STOCKMAN. Mr. Speaker, the proponents of the Chrysler bailout legislation have attempted to create the impression that a failure of the company would throw hundreds of thousands of workers onto the welfare rolls. But precisely because the Congress had foreseen that the failure of an uncompetitive business can create a temporary hardship to its employees, we passed legislation long ago giving these workers special benefits.

The program to which I am referring is called trade adjustment assistance. It provides employees who lose their jobs because of the failure of their firm to compete successfully with imports a whole series of cash and training benefits. These workers can receive nearly 100 percent of their take-home pay for 1 year; free job training; 80 percent of the cost of relocating to a new area; and a flat "relocation payment" of $500.

There can be no doubt that this program would help Chrysler workers—some 36,000 laid-off Chrysler workers are already certified as eligible. These workers are employed at virtually every major Chrysler manufacturing and assembly plant.

The following is the announcement from the Department of Labor describing the successful petition of Chrysler workers for trade adjustment assistance. It also provides a good summary of how the trade adjustment assistance program operates. I urge all my colleagues to read this announcement. It demonstrates that we have already enacted legislation to take care of the Chrysler problem in a way that will improve, not harm, our Nation's productivity.

The material follows:

Trade Adjustment Assistance Approved for 36,000 Chrysler Autoworkers in Michigan, Missouri, Ohio, Indiana, Alabama, and Delaware

Approximately 36,000 workers at 27 Chrysler Corp. plants in six states have been certified by the Labor Department as eligible to apply for trade adjustment assistance. Department investigations indicated that the workers have been or may become unemployed as a result of increased imports of compact, intermediate, and standard size passenger size cars as well as pick-up trucks, general utility vehicles, and utility vans.

Following are the locations of the 27 Chrysler facilities whose workers have been certified with the estimated number of eligible workers and impact dates. Petitions for adjustment assistance were filed with the Labor Department by the United Automobile Workers Union (UAW) on Aug. 28, 1979, on behalf of workers and former workers producing passenger cars, trucks, and components for cars and trucks at 29 Chrysler assembly plants and auxiliary plants. Decisions are pending on the remaining two auxiliary plant cases (the New Process Gear Plant in East Syracuse, N.Y., and the Van Wert Complex in Van Wert, Ohio). The following criteria were met in the case of each group of certified workers: there were (1) increased imports of competitive products, (2) significant layoffs or threatened layoffs or underemployment, and (3) a decline in the facility's sales or production, and (4) increased imports contributed importantly to the job losses at the facility.

NAME AND LOCATION OF PLANT, NUMBER OF WORKERS, AND IMPACT DATE

Chrysler Assembly Plants:

Hamtramck Assembly Plant, Hamtramck, Mich., 3,200 workers. August 28, 1978.

Lynch Road Assembly Plant, Detroit, Mich., 2,400 workers. January 20, 1979.

Jefferson Assembly Plant, Detroit, Mich., 2,400 workers. May 1, 1979.

Warren Truck Assembly Plant, Warren, Mich., 4,300 workers. August 28, 1979.

St. Louis Assembly Plant, Fenton, Mo., 2,100 workers. August 28, 1978.

Newark Assembly Plant, Newark, Del., 1,500 workers. August 28, 1978.

Missouri Truck Assembly Plant, Fenton, Mo., 2,100 workers. May 1, 1979.

Chrysler Auxiliary Plants:

Detroit Forge/Eldon Ave. Axle, Detroit, Mich., 2,100 workers. August 28, 1978.

Mound Road Engine, Detroit, Mich., 2,100 workers. August 28, 1978.

Eight-Mile & Outer Drive Stamping, Detroit, Mich., 800 workers. August 28, 1978.

Mack Ave. Stamping, Detroit, Mich., 1,600 workers. August 28, 1978.

Detroit Trim, Detroit, Mich., 400 workers. August 28, 1978.

McGraw Glass, Detroit, Mich., 250 workers. August 28, 1978.

Trenton Engine Chemical Div., Trenton, Mich., 80 workers. August 28, 1978.

Huber Foundry, Detroit Mich., 525 workers. August 28, 1978.

Sterling Stamping, Sterling Heights, Mich., 800 workers. August 28, 1978.

Introl Div., Ann Arbor, Mich., 425 workers. November 1, 1978.

Warren Stamping, Warren, Mich., 1,100 workers. January 1, 1979.

New Castle Machining and Forge, New Castle, Ind., 1,400 workers. August 28, 1978.

Indianapolis Foundry, Indianapolis, Ind., 700 workers. August 28, 1978.

Indianapolis Electrical, Indianapolis, Ind., 1,000 workers. August 28, 1978.

Kokomo Transmission, Kokomo, Ind., 1,650 workers. November 1, 1978.

Kokomo Casting, Kokomo, Ind., 275 workers. November 1, 1978.

Fostoria Foundry, Fostoria, Ohio, 275 workers. August 28, 1978.

Toledo Machining, Perrysburg, Ohio, 650 workers. August 28, 1978.

Twinsburg Stamping, Twinsburg, Ohio, 1,600 workers. November 1, 1978.

Huntsville Electronics, Huntsville, Ala., 400 workers. January 1, 1979.

The Trade Act of 1974 provides that workers who believe they have been or will become totally or partially separated from employment as a result of increased imports may petition the Secretary of Labor for certification of eligibility to apply for adjustment assistance.

Assistance to workers under the Trade Act may include cash trade readjustment allowances, training, employment services (counseling, testing, and job placement services), job search grants, and relocation allowances.

The cash trade readjustment allowances amount to 70 percent of a worker's average weekly wage, not to exceed the national average weekly manufacturing wage, for up to 52 weeks. Generally the amount of the trade readjustment allowance is reduced by the amount of the unemployment insurance the worker receives. Workers may receive up to 26 additional weeks of allowances to complete approved training. Workers aged 60 or older when separated from their last job may receive up to 26 additional weeks of allowances. No worker may receive more than 78 weeks of allowances.

Workers separated on or after the impact date are eligible to apply for trade adjustment assistance under the Trade Act of 1974. Workers are not eligible for assistance if their last separation from adversely affected employment occurred before the impact date specified in the certification.

Payments of trade readjustment allowances, training, employment services, job search grants, and relocation allowances will be administered primarily through the state employment security agencies (Michigan Employment Security Commission, Missouri Division of Employment Security, Ohio Bureau of Employment Services, Indiana Employment Security Division, Alabama Department of Industrial Relations, and Delaware State Department of Labor) with funds provided by the Federal Government.

To be eligible, a worker must have been employed at the affected facility for at least six months out of the year prior to layoff.●

SENATOR WALLOP SPEAKS ON ABM SYSTEMS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 6, 1979

● Mr. PAUL. Mr. Speaker, Senator MALCOLM WALLOP delivered an extremely important and most eloquent speech before the Institute for Foreign Policy Analysis last September.

Senator WALLOP discusses the use of space-based laser ABM systems, which we have the technology to produce.

Instead of following the insane MAD policy of mutual assured destruction, the United States must concentrate on protecting our people and our cities from Soviet attack. Laser battle stations in space could do this, and they have the additional plus of being completely defensive weapons, posing no threat to anyone.

To pay for these battle stations, we need to realine our defense budget, and stop paying for the protection of other countries. I am convinced that the American people, if given the choice, would overwhelmingly vote to end military welfare for foreign nations, and use that money to pay for our national defense.

Because Senator WALLOP's speech is such a landmark in defense policy discussions, I call it to my colleagues' attention.

The speech follows:

ADDRESS BY SENATOR MALCOLM WALLOP

The nation is now in a position to choose whether or not it will defend itself against ballistic missles, and that technology certainly does not argue against the possibility for defense. Choice is generally painful, and important choices are unusually painful. Therefore, when important controversial decisions are to be made, most people can be counted on to discuss the least controversial aspects of the matter at hand. The SALT debate so far has conformed to this rule. Among the few notable exceptions are two statements, one by the New York Times, the other by the Secretary of Defense, Mr. Brown, which lay out the choices before the nation rather lucidly.

In his 1980 posture statement, Secretary Brown pointed out "It is tempting to believe . . . that the threat to destroy a number of cities—along with their population and industry—will serve as an all purpose deterrent." He went on to say "the forces required to implement such a threat can be relatively modest, and their size can be made substantially, though not completely, insensitive to changes in the posture of an opponent.

In that way at least our side of the arms race could be ended . . ." but, he concluded "unfortunately however, a strategy based on assured destruction alone is no longer wholly credible."

Secretary Brown notes that current technology would permit "counterforce and damage—limiting campaigns," but complains that no one could be certain how these would turn out, for either side. He acknowledges that "a strategy and a force structure designed only for assured destruction is not adequate for our purposes" but immediately adds "at the same time we have to admit that we have not developed a plausible picture of the conflict we are trying to deter."

Under the cover of that self-imposed ignorance, the Secretary goes on to reject plans for making our military capable of meaningful counterforce.

But Mr. Brown mentioned enough to whet a score of appetites: If damage limitation is possible, why not try it?

The New York Times poses the question more clearly. In an editorial on August 15, 1979 the Times said that "Rapid changes in strategic technology and theory" have made nonsense of arms control. The essence of arms control, the Times explained, is the willingness of both the U.S. and the Soviet Union to keep tens of millions of their own citizens hostage to the other's weapons. It said that "weapons could be safely limited so long as nuclear war means certain suicide . . . it seemed pointless to keep adding weapons if there was no profit in using them. If war means the end of civilization, why waste money to make the end more luxurious?"

But the Times noted that the Soviets have never accepted this, that "the Russians are said to be preparing not for suicide but for a war they could win", and the counterforce now makes it possible to limit damage.

The enemy, according to the Times, is the idea that it is desirable to safeguard populations from the effects of nuclear war. The Soviet Union and the United States, says the Times, "need to reaffirm that they will leave their populations forever hostage to any nuclear exchange." Failing that, it fears "there will be no end to the ambition for ever-better weapons and defenses. Any doctrine of limited nuclear war will have to mean virtually unlimited preparation for it."

Here then is the choice before which Mr. Brown and, I dare say, much of the nation recoils. On the one side there is potentially unlimited and unending preparation for limited wars, which may be very destructive and the outcome of which no one can predict. The burden may be heavy, and there is no assurance of how much protection will be achieved. On the other side there is limited preparation for Armageddon. The burdens are light, but they promise absolute safety from nuclear war. Of course there is every reason to believe that this promise is wholly fanciful, that preparations for Armageddon will not protect the nation from the real military threats it faces, and that, in the end, they are useless. No nation will use weapons which, when used, harm the enemy in a way which does not impair the enemy's ability to damage one's own country.

This, then, is the choice which each of us must make as a citizen. However, as professional in the field of arms and strategy we have another responsibility. It is up to us to inform ourselves and our colleagues regarding the possibilities which military technology offers, and to judge correctly how new technology should be used in the service of our country.

My own view is that responsible professionals have the duty to point out that potentially unlimited preparation for limited war is the normal condition of mankind, and that, in recorded history, only Americans have come up with a scheme for ending major war forever on the basis of everlasting mutual vulnerability. Technological genies, once out of their bottles, may be trained, but they will not get back in.

Arguments about the capabilities and promises of military technology are all too often skewed by unavowed doctrinal preferences. I regret that in the debate over ABM's in 1970, and in today's SALT debates participants shade their evaluations of the capabilities of weapons in order to support their doctrinal strategic preferences.

Secretary Brown, for example, in an appearance before the Armed Services Committee stated that defense and damage limitation are impossible, for both ourselves and for the Soviets. He said this knowing full well that the Soviet strategy combines counterforce, air defense, and civil defense in an explicit effort to limit damage. He said this knowing full well—because he says so in his unclassified posture statement—that the Soviets have developed an infrastructure for ballistic missile defense, and will soon be able to field such a defense quickly.

What are we to do? If the Soviets were willing to forego the considerable advantages which strategic superiority brings they might be persuaded to give up their capability for counterforce, and to let us roam Russia to make sure that they were not using technology to prepare meaningful defenses for themselves. But they are not willing to forego these advantages. Thus we are left with the choice between trying to gain for ourselves a higher degree of protection for ourselves than they have (though that protection can never be total) or trusting in the power of MAD's illusions.

We can gain protection from counterforce, and from making our land-based forces mobile. But nothing can make up for civil defense and active defense.

Nothing has so heartened me in recent years as the discovery that technology is about to give a tremendous advantage to defense weaponry over offensive weaponry. Particle beam weapons might have some limited use as point defenses. But space-based laser weapons are very much this side of the technologic horizon and they will offer excellent protection against exoatmospheric ballistic missiles to whichever advanced nation chooses to build them.

There are several ways of generating high-energy lasers. In the United States the highest levels of laser energy have been achieved by the rather simple process of burning chemical fuel (chiefly hydrogen and fluorine) in order to excite the molecules directly. This has produced powerful, continuous waves (CW) of infra-red (IR) light. Much progress has also been made in exciting molecules of inert gases (zenon and krypton) by electricity or by nuclear radiation. These "excimer" lasers produce ultra-violet (UV) light.

Lasers kill their targets by placing thermal energy (flux) upon them. Ultra-violet light delivers this energy four or five times more efficiently than does infra-red, because it is absorbed that much more easily. Therefore, ultra-violet lasers would be preferable as weapons. However, the less efficient infra-red lasers are much closer to being ready for use in space because they require so little heavy equipment.

Indeed, the main requirement for these chemical lasers is that the products of the chemical reaction be diffused very quickly into an area of very low pressure. The environment of space fills this requirement perfectly without serious expenditure of energy.

These chemical lasers are capable of power that is quite adequate for defending against ballistic missiles. One of the most heartening developments for the United States in recent years was the discovery that much less laser energy may be needed for defense against ballistic missiles than had been thought previously. This discovery flows from some realistic experiments of the effect of lasers on containers similar to the boosters of ballistic missiles.

The containers "hit" by the lasers in these tests had been placed under physical and thermal stresses approximating those which would be acting on a ballistic missile, soon after launching, just after it leaves the Earth's atmosphere. The amount of infrared laser flux needed to destroy these containers is the equivalent of several common household lightbulbs per square centimeter of the target.

The containers buckled or burst within about a second of being hit. The components of satellites now used by the Soviet Union and the United States for warning, intelligence, and communications are even more sensitive to lasers than are missile boosters. Most satellites in low orbit are so sensitive that existing lasers, even if based on the ground, could destroy or disable them by using far less than their full power. But, useful as they are for anti-satellite work, the true, obvious, usefulness of lasers lies in space-based defense against ballistic missiles.

The element of such a defense are well-known. Beside the laser itself, a large main mirror is needed to focus the beam at long distances. The larger the mirror, the larger the distance. The quantity of laser energy which destroyed missile-like targets in the above-mentioned tests could be projected four thousand miles away by a two megawatt laser using a mirror ten meters wide, or by a five megawatt laser using a four meter mirror. Laser mirrors of such sizes are certainly within the scope of technology in the United States, the Soviet Union, Western Europe, and Japan. Indeed, several ways of making such mirrors have been developed.

The other principal element is an accurate mechanism to point the laser at a target some three or four thousand miles away, to keep the laser on target for the second or so required for the kill, and to retarget the laser very rapidly. The development of such a device is strictly a problem of engineering. The several facets of the device's technology have existed for some years in the infra-red satellites used for early warning of launches of ballistic missiles, in the photographic intelligence satellites, and in the space telescope. As Aviation Week has reported, the improvement and integration of these techniques is underway in the United States—but quite without urgency.

There is outright reticence in much of the United States scientific and technical community toward putting together the several elements of space based laser BMD for the purpose of defense against ballistic missiles. The reason is clear—a widely, shared presumption that the Carter administration and its congressional allies, committed as they are to the doctrine of mutual assured destruction, would quickly stifle the work now in progress on the several elements. Indeed the administration is unfriendly to the system precisely because it could be used against Soviet missiles!

Assuming the United States chooses to provide itself with active defense, the first space-based laser battle stations incorporating the abovementioned elements could be in orbit by the mid 80's. They would work as follows. Each battle station would orbit the earth at an altitude of about 800 miles. With an effective range of some 3,000 miles, each station could cover about 10 percent of the Earth's surface—about 20 million square miles.

These battle stations would have to be moving in their orbits over the face of the planet, one would have to have some three dozen such stations in orbit in order to cover every spot on the globe at any given time. Each station would have enough fuel for about a thousand "shots"—meaning that each could theoretically handle the theoretical possibility that thousand missiles would be launched near-simultaneously under it. But, of course, Soviet missile sites are widespread, and several battle stations would be able to cover even a simultaneous launch.

Any nation which deployed three dozen of these first-generation chemical laser stations would be able to permit or deny to the rockets of any other nation the privilege of entry into space. The strategic implications need not be belaboured. But the strategic balance may be effected by fewer than three dozen stations. As few as ten would be sufficient to protect against a small-scale attack, such as one by 300 SS-18's against American land-based missiles, or against a reduced retaliatory strike, such as one by American missiles which had survived a counterforce attack.

The nature of this weapons system is such that it could operate safely in an automatic, guns-free mode. It could be programmed, say, to disregard launches of less than three missiles, but to shoot down all others. If the system made a mistake in peacetime, the worst it could do would be to shoot down one of the Soviet Union's attempts to launch a weather satellite. We coud apologize and pay for it. On the other hand, we could be confident that the system could keep clouds of missiles from descending on us. The point here is that space-based laser ABM is a wholly benign weapon.

It can only destroy missiles—weapons of mass destruction. Even in the worst of cases, in the hands of an evil genius or of an idiot, the weapon could not kill people (outside of some luckless astronaut) or destroy cities. Were the weapons to be focused on a single sun-bather on a beach, that person might have to turn over a bit more than usual to avoid his usual sunburn. The atmosphere would protect him from ill-effects.

Laser battle stations would be difficult to attack—they could destroy conventional interceptors, and turn their mirror against attacks by laser beams—nevertheless, they would not be invulnerable. Like all other weapons which have ever been devised, they would not be "absolute" or "ultimate," technology can no doubt find ways to exploit these systems' limited vulnerability. But one should not forgo the benefits of a generation of weapons—especially one which promises safety for one's own people rather than death for enemies—because a future generation may invent a counter-weapon just as one does not forgo eating today because one knows that hunger will come again tomorrow.●